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PROCEEDINGS AND DEBATES OF THE 104^{th} CONGRESS, SECOND SESSION

SENATE—*Thursday, March 21, 1996*

The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Lord, You know what is ahead today for the women and men of this Senate. Crucial issues confront them. Votes will be cast and aspects of the future of our Nation will be shaped by what is decided. And so, we say with the Psalmist:

> Show me Your ways, O Lord; teach me Your paths. Lead me in Your truth and teach me, for You are the God of my salvation; on You I wait all the day.—Psalm 25:4–5.
>
> 'I delight to do Your will, O my God, and Your law is within my heart.—Psalm 40:8.

We prepare for the decisions of today by opening our minds to the inflow of Your spirit. We confess that we need Your divine intelligence to invade our thinking brains and flood us with Your light in the dimness of our limited understanding.

We praise You, Lord, that when this day comes to an end we will have the deep inner peace of knowing that You heard and answered this prayer for guidance. In the name of Him who is the Truth. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Washington State is recognized.

SCHEDULE

Mr. GORTON. Mr. President, for the information of our colleagues, the Senate today will immediately resume consideration of the conference report to accompany the product liability bill for a period of 3 hours of debate, equally divided.

At 12 noon there will be two consecutive rollcall votes. The first will be on the adoption of the product liability conference report, and that vote will be immediately followed by a vote on the motion to invoke cloture on the motion to proceed to Senate Resolution 227, a resolution concerning the Special Committee To Investigate Whitewater and Related Matters.

Following those votes, the Senate will resume consideration of the grazing bill, and there will be 75 minutes for debate remaining on the Bumpers amendment, amendment No. 3556, as modified. A rollcall vote will occur on or in relation to that amendment immediately upon the expiration or yielding of debate time. Other votes are expected, and a late night session is possible in order to complete action on that grazing bill.

COMMONSENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. DEWINE). Under the previous order, the Senate will now proceed to the conference report to accompany H.R. 956. The time between now and 12 noon is equally divided.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 956), a bill to establish legal standards and procedures for product liability litigation, and for other purposes, having met, after full and fair conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, as we proceed toward the climax of the debate on product liability and a vote on the bill at noon, I believe it appropriate to state what I think the issues in this debate truly are. The question involved in whether or not we wish to reform the product liability litigation system of this country has, I think, primarily to do with the products that are available to the American people, the rapidity with which new products are researched, developed, introduced, and marketed, and the cost of those products to the people of the United States.

In each of these cases, the closely related question, of course, is the system of justice by which people who believe that they have been wronged get a determination as to whether or not such a wrong has been committed and how much compensation should be granted when a wrong is determined.

Our present legal system serves well neither of these goals. We have, in many areas, a frequent reduction in the number of companies that are willing to engage in vitally important businesses: a reduction from something like a dozen to one, in the producers of serum for whooping cough; a reduction from 20 to 2, in the number of companies willing to produce helmets, football helmets, for players, whether professional or college or high school or otherwise.

There is a constant fear on the part of product developers that the unpredictable costs of product liability litigation, whether or not it is successful, are simply greater than any potential profits that can be gained from the development and marketing of a product. For example, Science magazine has identified three U.S. laboratories that suspended or canceled research on promising AIDS vaccines. Union Carbide funded and developed a suitcase-size kidney dialysis unit for home use. It was sold to a foreign corporation after the company determined that potential liability risks under the present system of law made the product uneconomical.

Another company developed a phosphate fiber substitute for asbestos, the subject, obviously, of a tremendous amount of litigation. Not only was the product safe, it was biodegradable and environmentally sound. Although the product could have generated an estimated $100 million a year in revenues, the company concluded that plaintiffs' attorneys would make the product a target for expensive legal claims, and it was therefore too risky to market.

Another company developed a chemical process that would speed up the

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

natural bacterial decomposition of hazardous materials and might have been used to clean up hundreds of leaking underground storage sites. Despite its successful demonstration at several sites, the new technology was abandoned because the risk from potential lawsuits was too great.

In addition, even those companies that have been willing to stay in a particular business have been forced to increase the charges for the products they market, sometimes astronomically, in order to cover their cost of product liability litigation. Lederle Laboratories, which is now the lone maker of the DPT vaccine, all other manufacturers having abandoned the field, raised its price per dose from $2.80 in 1986 to $11.40 in 1987 to pay for the cost of lawsuits. One other company does continue to produce, solely out of a feeling of social responsibility.

This chart behind me indicates the litigation tax cost of a number of products produced and marketed in the United States: almost $24 for an 8-foot aluminum ladder; $3,000 for a heart pacemaker; $170 for a motorized wheelchair; 18 cents for a regulation baseball. There are example after example of the added costs to American consumers to pay for the lottery that is product liability litigation today.

What do we have in the litigation system itself? We have a system that is truly a lottery, one in which the average small claimant with a very minor injury is likely to recover much more than that person's actual losses, while the average seriously injured individual recovers much less, with a few lucky ones in a few States with high punitive damage award histories receiving much more. But the bottom line, the total cost, is that for every dollar which the system itself costs, every dollar that goes into the product liability litigation system, well under 50 cents goes to the victim. Mr. President, 50 cents or more goes to the lawyers, and an additional amount in transaction costs for related professions. There is no wonder the defense of the present system is so fierce.

So this bill is designed to do two things. It is designed, to a certain degree, to make more uniform and predictable the way in which the product liability litigation or claim system will work; to make it more just, actually to increase claimants' rights in some areas, like the statute of limitations; to reduce the cost of litigation and the overall transaction costs; to restore the competitiveness of American industry; to provide additional incentives for research, to develop, to offer for sale in the market widely the kinds of new and better medical devices, mechanical products, sporting goods that we, as Americans, have come to expect.

No one else in the world has a system like ours. No one else has a system more expensive, no one else has a system that so discourages research and development and marketing of new products.

Finally, Mr. President, we already have an example of how legislation like this works in the real world. In August 1994, less than 2 years ago, this Congress passed and this President signed an 18-year statute of repose for piston-driven aircraft, small aircraft. An industry that had almost been driven out of the United States—famous companies like Piper went into bankruptcy and others like Cessna, with barely one-tenth of the production that they had a decade earlier because of the cost of litigation—has now begun a recovery, a recovery which has proceeded much more rapidly, I think, even than the sponsors of that bill hoped, but one which is symbolized better than anything else by the construction of a new plant for Cessna at a cost of some $40 million to employ some 2,000 men and women at highly skilled, first-rate jobs, producing high-quality private aircraft for American purchasers.

This kind of legislation works, Mr. President. It works for the economy, it works for our consumers, it works for our system of justice. It should be passed and should become law.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I wonder if the Senator from South Carolina will yield me 15 minutes.

Mr. HOLLINGS. I will be delighted to yield the distinguished Senator 15 minutes.

Mr. KENNEDY. Mr. President, just in terms of schedules, I ask unanimous consent that the Senator from California be recognized for 15 minutes for her comments at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I think it is only appropriate that we look at the context in which this legislation has been presented to the Senate. Others have described the bill in great detail, and, if time permits, I will mention the various provisions in the bill that I find most objectionable. But I think this body and the American people ought to understand in a comprehensive way what is happening to consumer protections during the course of this Congress in this and other bills.

This bill is supported by a number of big business, special interest groups who have advanced a series of legislative and regulatory initiatives designed to protect those interests.

We cannot just look at this legislation in a vacuum, Mr. President. For example, we have to look at what is happening in the Appropriations Committees, where the appropriators are cutting back on inspections by the various agencies of Government responsible for protecting health and safety in the workplace. In the Occupational Safety and Health Administration, there is a 20-percent reduction in enforcement. In the Environmental Protection Agency, there is a 25-percent reduction in enforcement. The Consumer Product Safety Commission has been cut and is now at its lowest level of enforcement funding since 1972. Even the National Transportation Safety Administration is facing cuts, and that is an agency whose total enforcement budget is only about $8 million to begin with.

What is happening? The same forces that are supporting this tort-related legislation are trying to reduce protection for the American worker and the American consumer in the regulatory agencies by denying adequate enforcement of existing regulations.

Second, these same forces are proposing sweeping changes in the landmark legislation that established the regulatory agencies. In the Labor and Human Resources Committee, for example, last week we considered a bill to weaken the Occupational Safety and Health Act, and next week we're moving on to the Food and Drug Administration. In the OSHA bill, 90 percent of all the companies would be excluded from any kind of inspection at all. That so-called reform bill would reduce the penalties and reduce the kinds of enforcement mechanisms that would be available to OSHA.

So you have the cutbacks in inspections and you have the efforts by the same interests to reduce the effectiveness of the enforcement tools available to OSHA, FDA, EPA, and these other agencies. And at the same moment that is happening, we are presented with this product liability legislation. Anybody who believes that we are considering this in a vacuum does not understand what the legislative process is all about.

Nor are the limits on tort liability in this bill the only ones under consideration in this Congress. The Republican leadership in the House of Representatives has added medical malpractice liability limits to the bipartisan bill that Senator KASSEBAUM and I introduced. We will have a chance to debate that next month. And it was not long ago that we were debating the loser pays concept, an antiquated system used in Great Britain which is now being abandoned there because it fails to protect the consumers in that country. And no doubt we will again face proposals to create an "FDA Defense" under which medical devices or pharmaceuticals approved by the FDA would be immune from lawsuits, no matter how recklessly they are manufactured. How long are we going to have to wait for that particular proposal? And the list goes on and on.

So, Mr. President, we have to ask ourselves: What are the two major protections for American consumers?

They are the tort system and regulatory protection. Those are the twin pillars under which the American people are protected. They are the twin pillars that assure us of the safest food, the safest water and the safest consumer products available. They are the twin pillars for the protection of the American worker in the workplace and against environmental hazards.

But both pillars are under assault. That is the context in which this bill comes before the Senate.

The other context in which we operate is a Republican Congress that has told us over and over again that Washington does not know best. But in the tort area, which has been recognized for over 200 years as being a State prerogative, its a different ballgame. I suppose our good friends who are proposing this bill say, "All right, Washington knows best on this one."

Well under this bill, it appears that Massachusetts does not know best. Because even though my State legislature has decided that Massachusetts consumers should have the benefit of no statute of repose, this bill is going to impose a Federal 15-year period of repose on them. So there is going to be fewer protections for the people of Massachusetts because Washington knows best. Any State that has provided additional kinds of protections for their consumers, they are out of business.

We have been listening to a lot of speeches in the last year and a half about how Washington does not always know best, there is local knowledge, States can fulfill their responsibilities to the people. I hope we will hear a diminution of the number of those speeches, because what in this particular proposal it turns out that the special interests, the special business interests, know what is best for the American consumer. That is hogwash, Mr. President, absolute hogwash.

The American consumer wants to know who is going to be on their side. They want a safe workplace, safe food, inspections to ensure that we are going to have clean air, clean water, and a safe transportation system.

All those are under assault in this Congress, and now in this product liability bill we are going to immunize the major companies that may even willingly or knowingly commit grievous negligence. In 15 years after they put a ticking time bomb on the market they are going to be immunized under this statute of repose. So, Mr. President, we should understand that this really is not about the research costs. This is not about health and safety costs to the consumer.

What about those 2,700 women who died from perforated uteruses from the Dalkon shield before we passed the medical device legislation? We had those hearings. It was not long ago. You talk to individual after individual who appeared at those hearings and they say, "Why didn't someone do something to protect us? Why didn't someone speak out?" This is the responsibility of Government. Individual citizens have limited resources. They do not have the great financial resources to protect their interests alone.

So, Mr. President, I agree with those who say to the consumer—beware, beware. This legislation has a head of steam. It is bad enough. But, my friends, this is just the camel's nose under the tent with regard to the attack on consumer protections in this country.

For that reason, and for all of the reasons that have been outlined in considerable detail in my statement which I will include in the RECORD, I hope this bill will be rejected in the Senate. And I admire the President of the United States for standing up against the special big business interests. He understands the anticonsumer context in which this bill may come before him. He understands what I am saying about the camel's nose under the tent. He understands that the next bill he sees may include medical malpractice liability limits.

According to the Harvard public health study, tens of thousands of people died in hospitals in this country last year from negligence in the medical system. We will have an opportunity to debate that issue in the coming months.

So, Mr. President, this is a matter of fundamental protection of American consumers. These extreme regulatory reform and tort reform bills are poised to deprive the American people of the safest food in the world, the safest air and water in the world and the safest products on the market. We must not sacrifice the interests of the American consumer.

If we accept this bill, Mr. President—and if we did not have a President with the guts to stand up and veto it—we would be retreating on our commitment to the American consumer to protect them from death and serious bodily injury. I hope this bill is rejected, and I ask that the text of my prepared statement, be printed in the RECORD, along with an editorial from today's New York Times.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR EDWARD M. KENNEDY ON H.R. 956 THE PRODUCT LIABILITY CONFERENCE REPORT

I strongly oppose the conference report on the product liability bill, and I urge my colleagues to reject it, because it constitutes an unacceptable threat to the health and safety of American consumers.

This is not "common sense legal reform." It is special interest legislation of the worst kind. Our Republican friends pretend that it is designed to end current abuses of the legal system. In reality, this bill panders to the worst instincts of big business. President Clinton has promised to veto this bill, and it eminently deserves the veto it will get.

This bill has three grave flaws. It arbitrarily caps punitive damages against the most reckless manufacturers of deadly products. It nullifies the sound common law principle of joint and several liability. And it preempts State law in ways that are both unwise and unfair.

Even worse, this bill does not come before the Senate in isolation. It is part of a shameful pattern. It comes before the Senate at a time when the Republican Congress is waging an all-out assault on the health and safety of the American public:

So-called regulatory reform bills would drastically weaken the existing rules that protect public health and safety.

Republican appropriations bills would drastically slash enforcement funds for agencies that carry out the current health and safety laws.

And now, the entire tort system, which provides basic legal protections for the public against defective products, is under Republican attack in this bill.

This is not a liability reform bill at all—it is an avoid-liability bill. It is part of a Republican triple play against the health and safety of the American people by irresponsible business interests.

The strategy is all too clear—undermine the Government's ability to protect health and safety by slashing agency rules and budgets, then slam the courthouse door in the face of all those harmed by the lack of consumer protections.

Wise regulation, effective enforcement, and access to the courts are three basic pillars of consumer protection. Regulation is intended to prevent the manufacture of defective products in the first place. Enforcement keeps business honest. Tort law guarantees adequate remedies for victims of dangerous and unsafe products when regulation and enforcement fail.

The same business interests who support this bill are also urging Congress to weaken the regulatory protections and defund enforcement.

It is ironic that the many Republican supporters of this bill who preach respect for the States refuse to practice what they preach. This legislation is intentionally designed to ride roughshod over State law.

For the past year and a half, we have heard a great deal from the Republican majority about States' rights. On issues such as welfare, education and crime, the Republican majority says it wants to return power to the States.

But when it comes to making sure that big business is protected from lawsuits brought by injured consumers, suddenly "Washington knows best."

Tort law is traditionally a State responsibility. In fact, in recent years, many State legislatures have enacted genuine reforms to address the problems of frivolous lawsuits and excessive damage awards. Federal intervention is completely unnecessary—and in this case, counter-productive.

This bill is also very different from the securities litigation reform bill enacted earlier this year, which I supported. The integrity of the stock market is clearly a Federal concern, and Congress has legislated in that area for over 60 years. The field of product liability law, in contrast, has been the province of State legislatures for over 200 years. There is no compelling reason for substituting the judgment of Congress for the judgment of elected State officials and the State courts where the vast majority of these cases are resolved.

Our specific objections to this bill are numerous and serious. It denies adequate compensation to victims of defective products, and undermines necessary incentives for manufacturers to produce safe products.

The cap on punitive damages will limit the ability of the courts to punish the most flagrant conduct by reckless manufacturers. Punitive damages serve a valid purpose by deterring wrongful conduct that injures innocent victims. Such damages are especially justified as a deterrent against manufacturers who engage in intentional wrongful conduct, or who are recklessly indifferent to the safety of others. They should not be let off with a slap on the wrist. Such extreme misconduct must be fully punished in a manner that creates a clear deterrent to future wrongdoing.

The so-called "waiver" in the conference report is supposed to permit courts to exceed the cap in flagrant cases. But there is serious doubt about the constitutionality of that provision under the seventh amendment. If it is struck down, all that is left will be a rigid Federal cap on damages.

The nullification of the common law principle of "joint and several liability" is also unacceptable. It will severely hamper the ability of innocent victims to obtain compensation for their injuries. For at least 100 years, courts and State legislatures have recognized the unfairness of forcing an innocent party to bear the cost of other people's negligence, if one or more of the wrongdoers are available to pay compensation. That is a sensible rule, and Congress should not undermine it.

Proponents of Federal product liability reform say they want national standards for goods that are sold across State lines. But the conference report before us achieves no such uniformity. It preempts State laws in an uneven and unfair manner.

Punitive damage laws favorable to plaintiffs will be replaced by the new Federal standard. But laws prohibiting punitive damages altogether will stand. Similarly, the bill creates a 15-year Federal statute of repose, but permits State statutes of shorter length to remain in effect.

The end result is not uniformity, but unfairness. This bill is rigged to benefit negligent manufacturers and their insurance companies, while ignoring injured plaintiffs and the millions of American consumers who will no longer be protected adequately from dangerous and defective products.

All of these flaws were present in the Senate bill that many of us opposed. But the anticonsumer bias of this legislation became even worse after the conference with the House of Representatives.

For example, the Senate bill contained a 20-year statute of repose, but the conferees have adopted a 15-year period. As a result, after 15 years, manufacturers of even the most defectively designed or recklessly produced products are immunized from liability and will get off scot-free, no matter how much injury their products may cause.

In addition, types of products that qualify for this blatant protection are expanded dramatically. In the Senate bill, only workplace machinery was covered. But now, all durable goods, including common household products, are given this unjustified protection.

Massachusetts currently has no statute of repose, so this bill represents a major loss of protection for consumers in my State.

When the Senate debated this bill last year, I spoke at length in opposition to medical malpractice amendments. I am pleased that the conference report does not include such amendments. Nor does it include the so-called "FDA defense" in the House bill, which would prevent punitive damages in cases involving drugs or medical devices approved by the FDA.

But the bill does apply to manufacturers of drugs and medical devices, just as it applies to other products. The cumulative effect of the many anticonsumer provisions in the bill is to protect these manufacturers at the expense of the health and safety of the people who rely on these products.

This bill is nonsense, not common sense. It pretends to support the legitimate goals of reducing frivolous litigation and improving the civil justice system. In reality, it is special interest legislation that denies fair compensation to victims of negligence and limits the ability of the tort system to deal effectively with gross misconduct by business.

If this bill came off the factory assembly line, it would be labeled "unsafe for human use." And if the principle of quality control applies in the United States Senate, this bill would be soundly rejected. It is a sweetheart deal for business and insurance interests, and a raw deal for the public interest.

[From the New York Times, Mar. 21, 1996]

THE ANTI-CONSUMER ACT OF 1996

The Senate is preparing to vote today on a pernicious piece of anti-consumer legislation masquerading as product liability "reform." The measure is little more than a bipartisan gift to manufacturers and trade associations that supplemented their lobbying and generous campaign contributions with misleading propaganda exaggerating the problem of high verdicts. The bill would arbitrarily cap the punitive damages that juries may award—dangerously weakening the ability of the civil justice system to punish, and thereby deter, the reckless manufacture or sale of unsafe products.

If a majority of senators will not heed legitimate concerns about the measure's rollback of consumer protection, President Clinton must be prepared to make good on his veto threat.

The bill is a convenient exception to Capitol Hill's prevailing philosophy of devolving power to the states. It would compel all states, even in their own courts, to limit punitive damages. The phony rationale given is the need to create a single national commercial standard. But that standard would be applied only when it would benefit the manufacturers. The bill would override the product liability laws of states that allow unlimited punitive damages, for example, but it would impose no such damages on states that do not now have them.

Under the measure, plaintiffs who sue successfully for farm from faulty products could be compensated, as they should be, for medical expenses, lost wages, damaged property and other actual damages. But punitive damages, which are awarded by juries in cases of egregious misconduct, would be limited in most cases to $250,000 or two times actual damages, whichever is greater. That is hardly enough money to serve as a deterrent to major corporations.

Senator John D. Rockefeller 4th of West Virginia, a Democratic architect of this attack on civil justice, has suggested that President Clinton is trying to scuttle the bill to reward major campaign contributors, like trial lawyers. True, the American Association of Trial Lawyers has been one of Mr. Clinton's strongest political and financial backers. But by now it is laughable for Mr. Rockefeller to make purity an issue, given the far greater sums tossed into this fight by the powerful business interests amassed on the other side.

"For irresponsible companies willing to put profits above all else, the bill's capping of punitive damages increases the incentive to engage in the egregious misconduct of knowingly manufacturing and selling of defective products," Mr. Clinton said last week. On the merits, the President was right.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you very much, Mr. President.

I want to thank the Senator from Massachusetts for explaining, in his usual way, why this bill deserves to be defeated. Explaining that it is, in fact, part of a pattern of this Congress which continually brings up legislation that does not make life better for people, but in fact, puts them at risk. In fact, puts them at risk, whether it is cutting, as the Senator said, enforcement funds from the Environmental Protection Agency, or weakening our laws that have worked well to bring us the safest products in the world.

Mr. President, I come to this debate by asking a very straightforward question. I am not an attorney, and I tend to look at things in a different way. This is the question I ask: If a young woman, say age 21, is working in a factory and a faulty machine blows up in her face and she is disfigured beyond belief for the rest of her life, should the company who made that faulty product be penalized in such a way that they, and for that matter no other company, will ever make such a faulty product again? I say yes. I say yes.

The company that made that faulty product, and as you will see in many cases, knew they were doing it, should face damages that act as a deterrent for the future. This bill does just the opposite. It will let a company that made such a product, and other companies that might make such a product, off the hook. If we pass this bill, such a company, which might well have profits in the billions of dollars, will be given the equivalent of a slap on the wrist. Because those punitive damages meant to punish them—that is what punitive damages mean, punishment—will be so low they will not be large enough for them to care. Those are the brutal and cold facts. I wish they were not true, but they are true.

I have heard many businesses use words like this: "Oh, well, it is just a cost of doing business." "Just a cost of doing business." In other words, they will factor in lawsuits that go against them into their bottom line. I think the Senator from Washington has proved the point. They factor it into their bottom line. He shows it on his chart.

How cold can you get? If we cap punitive damages, as is put forth in this bill, we are taking the safest system in the world for consumers, changing it, and putting people at risk.

There are other problems in this bill that deal with the statute of repose. Some machinery has a lifetime of 30, or 40 years. In 15 years, those companies are completely off the hook under this bill.

I also join with the Senator from Massachusetts in thanking our President. He is taking the heat on this one. He is standing up for the consumers. He is standing up for future victims. He is standing up so that we will not have so many victims of faulty products.

I want to give you some examples of actual cases. We are going to take the case of the Pinto automobile, and a young man named Richard Grimshaw. The exploding Pinto tank is a very clear example of what I am talking about. The gas tank exploded and burned in rear-end collisions. Many of us remember this. The company knew this was a problem. It all came out in court. But they sold the car anyway after they did a cost-benefit analysis and found out it would save them $21 million to delay the corrections for 2 years.

What happened when that fatal decision was made? A 13-year-old boy from my State, Richard Grimshaw, was badly burned in a rear-end accident while driving from Anaheim to Barstow. In the words of the California State court judge who presided over Richard's lawsuit, he suffered "ghastly" burns over 60 percent of his body, had whole fingers burned off, and required 60 surgeries over a 10-year period.

That was 25 years ago. That tragic accident is still with Richard. For the rest of his life, it will be with Richard. Is that the kind of world we want to encourage, where a company figures it is more cost effective to delay fixing a dangerous product than to risk a lawsuit? I hope not. Yet, if this bill passes, my friends, that is what is going to happen in the boardrooms across America.

Now, not all people in business fall into that category, but unfortunately we have got to look at history, my friends, and learn from it. The memos clearly showed in the Pinto case that a calculated decision was made to delay fixing that car.

Let me read from the pen of the California State judge who upheld that award. In part, "Punitive damages remain the most effective remedy for consumer protection against defectively designed mass produced articles." "* * *. Punitive damages thus remain the most effective remedy." What does this bill do? It guts that. The court concluded, "Ford could have corrected the hazardous design defects at minimal cost but decided to defer defection of the shortcomings by engaging in a cost-benefit analysis, balancing human lives and limbs against corporate profits."

Mr. President, are we going to ignore this judge's warning and turn back the clock to a time when callous companies ruined the lives of children, like that boy in Barstow, because of their bottom line? God, I hope we do not do that. If we do, in this particular Congress, I hope this President sticks with it and vetoes this bill.

Did you ever hear about the baby crib story? Another example of a situation that happened in California in the 1970's. A baby crib company produced a dangerous crib where side slats would strangle a baby trying to climb out. Six babies were strangled and the company stopped selling the crib, but it refused to warn the existing owners that there was a problem. They refused to do that. So the parents of Gail Crusan, she was 13 months old, did not know it was a dangerous crib. The company even refused a request by the Consumer Product Safety Commission to issue a national press release. It took an award of $475,000 in punitive damages against the company to finally get them to notify parents who had bought that crib. Punitive damages did what the Government could not do. It caused the manufacturer to warn parents that their children were in cribs that could kill them.

What are we going to do? We are going to make it possible for future companies to put our children at risk. I do not want to go back to those days, Mr. President. The proponents of this bill want us to substitute the long arm of the U.S. Senate and the Congress for the local jury of peers who sit in a courtroom.

Again, I back up what my colleague from Massachusetts says. State control, local control, give them the welfare, give them the Medicaid, cancel national nursing home standards, let the local people decide—that is what we hear out of the Republicans in this Congress, day in and day out. But when it comes to this, protecting consumers, we are going to pass a weaker law and force it on the States? Not on my watch. Not if I can help it. And not on this President's watch. Not if he can help it.

I cannot believe the selective logic that we hear around here. When it suits this Republican Congress, they are all for shipping things back to the States. But when it is in their interest, keep the control in Washington. Boy, I tell you, there is not much shame about that. It simply does not add up.

Now, we hear talk about special interests. Face it, there are special interests here. There are the lawyers on the one side and there are the corporations on the other. So I want to look at who does not have an ax to grind. Who are they? Let me tell you some of the people who oppose this bill. They have no ax to grind. They are not on one special interest or the other. The Brain Injury Association, the Center for Auto Safety, Children Afflicted by Toxic Substances, Citizen Action, Coalition for Consumer Rights, Coalition to Stop Gun Violence, Consumer Federation of America, Consumers Union, the Gray Panthers, National Consumers League, National Hispanic Council on Aging, Public Citizen, Remove Intoxicated Drivers, U.S. Public Interest Research Group, Violence Policy Center, Nuclear Information and Resource Services, Clean Water Action, the Sierra Club, Dalkon Shield Information Network, DES Action USA, the Feminist Majority, the National Organization of Women, the National Women's Health Network, the National Women's Law Center, and Women Employed.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of all of these groups.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THIRTY-SEVEN CITIZEN GROUPS OPPOSING THE PRODUCT LIABILITY CONFERENCE REPORT

AFL–CIO.
Brain Injury Association.
Center for Auto Safety.
Children Afflicted by Toxic Substances.
Citizen Action.
Coalition for Consumer Rights.
Coalition to Stop Gun Violence.
Consumer Federation of America.
Consumers Union.
The Empower Program.
Gray Panthers.
International Association of Machinists and Aerospace Workers.
Int'l Union, United Automobile Aerospace & Agricultural Implement Workers of America.
Nat'l Conference of State Legislatures.
National Consumers League.
National Farmers Union.
National Hispanic Council On Aging.
Public Citizen.
Remove Intoxicated Drivers.
Safe Tables Our Priorities.
United Food and Commercial Workers.
U.S. Public Interest Research Group.
United Steelworkers of America.
Violence Policy Center.
Nuclear Groups:
Nuclear Information & Resource Service.
Public Citizen's Critical Mass.
Safe Energy Communication Council.
U.S. Public Interest Research Group.
Environmental Groups:
Clean Water Action.
Sierra Club.
Sierra Club Legal Defense Fund.
U.S. Public Interest Research Group.
Women's Groups:
Dalkon Shield Information Network.
DES Action USA.
Feminist Majority.
National Organization for Women.
National Women's Health Network.
National Women's Law Center.
Women Employed.

Mrs. BOXER. Mr. President, we should not look to the lawyers and we should not look to the companies. We should look to the people who stand up and speak for consumers and speak for victims.

Now, I think this bill is particularly tough on women. I do not know what has happened to this place, but do we forget things that just happened? Do we forget about the silicone gel breast implants which were introduced in the market in 1962 with no long-term testing before being placed inside women? Implant patients and some doctors were told by manufacturers that the implants were safe and would last a lifetime. However, the implants were found to leak or rupture, releasing silicone into the body, now known to migrate to the brain, liver, spinal fluid, and kidneys. Now many women with ruptured implants are sick with a variety of autoimmune diseases.

It was because of a lawsuit that included a punitive damage award of $6.5 million that the full extent of the hazards associated with silicone gel breast implants were brought to the public's attention. The availability of silicone gel breast implants were restricted only after Dow-Corning was held liable for punitive damages.

Do we not think more about women's health? Have we forgotten that? Have we forgotten the Copper-Seven IUD? The manufacturer knew for more than 10 years that their product could cause loss of fertility, serious infection, and the need to remove reproductive organs. Instead of doing anything about it, the manufacturer continued to earn profits and put millions of women at risk. A jury awarded one $7 million punitive damage award for what it determined to be the manufacturer's intentional misrepresentation of its birth control devices. Under this bill, that manufacturer would have had to pay $250,000, or double the plaintiff's compensatory damages, whichever is higher. We know in most cases women do not get as much in compensatory damages as men because women often earn less money. We know that. This bill is antiwomen. We should call it what it is.

How about the Dalkon shield? You heard the Senator from Massachusetts talk about that. It took eight punitive damage awards before A.H. Robins discontinued the Dalkon shield. A $7.5 million punitive damage award was awarded to a 27-year-old woman who had to have her uterus removed, rendering her sterile and in need of dangerous synthetic hormone treatments. That was extraordinary. But it took more than one punitive damage award. They made so much profit they kept on producing it. They concealed studies of the dangerous effects and even misled the doctors into prescribing the IUD.

If it takes multiple punitive damage awards to force a major corporation like A.H. Robins to stop selling dangerous products, how could dangerous products be stopped by this legislation which caps punitive damage awards to relatively low amounts? The Dalkon shield is yet another example of how the current system finally took a dangerous contraceptive off the market.

I cannot believe there are those in this body who feel that this legislation can make life better for the people of this country, just on the few examples that I have brought here today. To the contrary, it will put our people at great risk.

The Senator from Washington shows you with his chart that businesses write it into the bottom line.

The proponents of this legislation argue that the current system prevents women from having more choices when it comes to contraceptives. Well, I have a daughter, and a lot of you have daughters. Do you want to see dangerous contraceptives come on the market? Let me tell you unequivocally—and I will debate this point toe to toe with anyone in this Chamber—if the current system is preventing other Copper-7 IUD's or Dalkon shields, or other dangerous contraceptives from coming on the market, I say that is good. Because I do not want my daughter sterile, and I do not want my daughter sick, and I want her to have more children if she chooses to do that, and to live a healthy life. We want contraceptives, but we want them to be safe.

In conclusion, Mr. President, let there be no mistake as to what this conference report is all about. This is not proconsumer legislation. This legislation is anticonsumer. That is why every major consumer group in this country opposes it strongly.

The conference report is about protecting wrongdoers. Now, if some of my colleagues, for whom I have great respect, see it another way, that is their right. But I am here to call it the way I see it. It is designed to relieve corporate America of its proper legal duty to make safe products, represent them accurately, and treat consumers fairly.

I have seen no justification put forth thus far in this debate by the proponents of this conference report that leads me to believe that it will help our people. I believe it will, in fact, trample on the rights of American consumers. We, in this Senate, are the last line of defense of the rights of the American consumers and for working families. I tell you, we need to protect them from this legislation.

Again, I thank the President for getting out there and saying he is standing on the side of the consumers. To those who say, "He is doing it for lawyers," we can argue that from night until day, lawyers on one side, big business on the other. For some, that is a tough choice. That is not what the choice is about. The choice is about the consumer. The choice is about little babies in cribs. The choice is about women's reproductive health, safety in the workplace, at home, and when we are at leisure. That is what it is about. I say that this U.S. Senate should stand with the consumers. If you do that, you are fulfilling your responsibilities.

I thank the Chair, and I thank Senator HOLLINGS.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator, first, from Massachusetts, for his presentation this morning, in a most meaningful way and, of course, the Senator from California. She really keynoted the issue as it should be in a very cogent and persuasive fashion. When we say consumers, that is the people versus those making a profit on defective products, with shoddy manufacturing.

America is the safest place in the world to live. That is part and parcel, as mostly I would say, I guess, because of our State legislatures. The State legislatures have acted on the need of product liability provisions. They have acted and they have maintained their laws. But it now becomes an assault in the name of a cost of a hotel room, or a ski lift, and such nonsense as that, trying to really move the attention, I guess, of the Senators, thinking they, frankly, do not have much sense and will go along with that kind of nonsense. Thinking that Senators will not understand what the Senator from California is trying to emphasize—these are real life injuries, and the more we get into them in a very meaningful way, as we do in trial law practice, the less danger and injury has been caused. So I could not express my gratitude enough to the Senator from California. I wish we could go ahead and vote right now, but I will retain the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. Mr. President, I yield such time as the Senator from West Virginia may desire.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank my colleague. Mr. President, I am very happy that we are here this morning with this remaining part of the debate. Already, a variety of charges have been made, which have no basis in fact, as they relate to the product liability reform. But I think rather than to try to go into that, it would be better to focus on what this law is trying to do and why it is a good conference report.

In a matter of a couple of hours, we are going to pass this conference report. It will pass. The House and the Senate, for the first time, I believe, in recent history will have passed product liability tort reform. So it is an interesting and, I think, a rather noteworthy point of history.

We have had really a couple of decades of hearings, markups, and arguments. I remember one time a number of years ago we actually had 60 votes on cloture, and the majority leader at that time—it was still legal to do so—stopped the vote, actually stopped the vote. The Presiding Officer was not here in this body yet. For 45 minutes we waited, and all of a sudden, two "yes" votes became two "no" votes. I retain in a desk drawer in my office the sheet which is held at the Democratic desk, which shows how the numbers go up, and they went up to 57, 58, 59, and got to 60, and then it went from 60 to 59 to 58. So there is a lot of history on this. Of course, there is a lot of emotion. A lot of that emotion is justified. Some of it is not. But history, there is.

I expect the House to approve this report in short order and send it on to the President, who has a chance, I think, to do something remarkable and significant for this country, if he should choose to sign what will then be the legislation.

I regret that yesterday's debate demonstrated—and already this morning some, too—there are some very fundamental misunderstandings. I think some of the misunderstandings are very deliberate. They are deliberately put forward to obscure and obfuscate. I think the reason for that is understandable. Product liability tort reform law is not everybody's first choice of the day when they get up in the morning. They do not say, "How can I get deeper into product liability tort reform law?" Those of us who are not even lawyers understand best what I am talking about.

Therefore, it becomes easy to mislead. I suppose it is easy for the proponents, as well as for the opponents of this legislation, to mislead. But I think that the proponents have really tried not to mislead, to stick to what is in the legislation. The opponents have been vigorous in their work, which is part of the legislative process.

I want to emphasize that this conference report is only, Mr. President, about something called product liability reform. That is all it is. It does not pretend to be more. It does not pretend to solve the crisis in Bosnia or hunger in Rwanda, nor anything else. It is just about product liability reform.

It establishes some uniformity for consumers and businesses in our product liability system. That is what we attempted to do. That is it. Product liability reform. This is not broad civil justice reform. This is not an overreaching House contract item. This is not a bill that protects drug traffickers, or gun users, or those who sell drugs or guns. This is not an extreme bill. This is a limited bill.

The Senator from the State of Washington, who has been credible throughout this process, has been extraordinary, I think, in helping to discipline and to make sure that we sculpted this bill and then kept this bill basically in the form —virtually, with the main exception of the statute of repose—as the Senate passed it last May, which is almost a year ago.

One of the reasons for this long, long period of time is that it took a long time for the House to accept that we really meant it, and that when we said we were going to stick with the Senate bill, we really meant it, and that in fact we had to, in any event because it was a matter of mathematics. Yesterday we did not get 58 votes, we got 60 votes. Finally that was understood.

So what this bill does is establish a fair and a balanced commonsense rule which benefits both consumers and business persons, and it will create jobs. The Senator from Washington has discussed the aviation liability reform. I think it will improve product safety because it will allow manufacturers to make improvements.

Now, manufacturers often decline to make improvements to their product because they are afraid that if they make an improvement, it will infer somehow that their previous iteration of the same product was deficient or unsafe. So rather than take that chance they do not make the improvement. That does not help consumers.

I think it will encourage innovation. I know it is going to encourage innovation. And I think it will stimulate economic growth just as the aviation bill did.

I have to say once again that there are all kinds of ways of protecting the consumer. We can do it through being sure that there are punitive damages available. That is the reason for the additional amount that was added, and that is also the reason that at the suggestion of the Department of Justice we clarify, the additional amount to make it a stronger case should there be a constitutional challenge against it—because we are determined that there will be no cap on punitive damages except whatever the jury decides.

I am forced just by definition of the world that we live in to look at, once again, at our competition. You know that when people lose jobs in our country or do not gain jobs that they might gain, that is one of the worst things you can do to them. It is injuring them in a very severe way. It is depriving them of family and economic justice. In the case where it puts people on Medicaid, that is very obviously the consequence of that. Not having a job is a way to hurt somebody deep and hard.

In the European Economic Community, which has, I think, 350 million consumers—Europe is one of our huge competitors—there are 13 countries in that community. Those countries presumably have provinces, or whatever they call them. It does not make any difference. They overrun all of that, and they have one uniform product liability law for all of those countries because they want to be able to minimize transactional costs, maximize research and development, maximize jobs, and maximize their competition against the United States of America, which is their principal competitor. So they have banded together to do this because they know that, if they do that, they will have a leg up on us in terms of the creation of jobs.

Japan, which I think very few would argue is not a competitor to the United States economically, has just this year done the same thing. So they have a single uniform liability law for their entire nation. They do not sue a whole lot anyway. I think there are 13,000 lawyers in Japan, and there are 600,000 or 700,000 in the United States. Nevertheless, they are ready.

So they understand that the system that America has has very, very high transaction costs, and they understand that the high transaction costs exceed the compensation that is ultimately paid to the victims of defective products. That is great for lawyers—both for trial lawyers and defense lawyers. They are both equally guilty. But they get the money, not the victim. They get the majority of it. It used to be that in the Wild West people carried six-shooters, and they would just shoot. We have a different, more modern way of doing it now, and we destroy ourselves in other kinds of ways.

So these transaction costs, of course, are then real costs, and they have to be passed on to the consumers through higher priced products. People say when you pay more for a product that, "Well, that is the kind of argument people make." It is true. We pay more. The Senator from Washington is prepared to give all kinds of statistics about that. He did yesterday. We pay more. Consumers pay more so that the trial lawyers and the defense lawyers can make more. In a sense, I am not blaming them because that is the system of law that they live under, as do we. That is why we are trying to change the law—so as to bring some more common sense into this process.

The system's unpredictability and inefficiency are big items. Unpredictability is a bad thing. It is a bad thing. It is a lack of uniformity, a lack of predictability. It is harmful. It stifles innovation. It stifles research and development.

What is the very first thing that happens in this country? I have heard many times the distinguished Senator from South Carolina say this. When a company gets in trouble, or a company is up against a lawsuit, or a company is whatever for whatever reason in trouble, what is the first thing they do? They cut out research and development. That is the first thing they cut, which is, in fact in many instances, one of the last things they should cut.

It is just like a hospital. When a hospital gets in trouble financially, what is the first thing they do? They close the emergency room because it is the most expensive, which is often the last thing they should do in terms of the community they serve. But they act as they believe they have to act, and we have to understand that.

So, stifling innovation and keeping beneficial products off the market has handicapped American firms as they try to compete in a global marketplace. The current system is simply unfair, therefore, again to consumers and to businesses alike, and that is why we are projecting this conference report forward.

Of course, many of the States have fully recognized the inequities of the current system, as has been pointed out by a number on the other side of this argument. The States are very aggressive on this, and they have moved ahead to enact product liability reform. Thirty States have made major changes in joint and several, for example, and in most cases—virtually all cases—it is limiting joint and several. But by doing so, while solving some issues, they have inadvertently created other kinds of problems.

Only through Federal product liability reform can we, in this Senator's judgment, resolve the problems caused by the current State-by-State product liability system. State legislatures can be very helpful in this area, but it is virtually impossible for them to be uniform because they are all different.

We have 134 legislators in our State of West Virginia in the senate and house. They are not going to do the same thing that Ohio does, or that Kentucky does, or that Virginia or Maryland do. They are just not going to. So you have, in fact, 51 different laws relating to product liability in our country.

As I said yesterday, years and years ago I suppose that the majority of products made in the States were sold in those States. That is no longer true. Seventy percent of products made in the State of Ohio, and in the State of the Presiding Officer, if it is at the national average, are sold outside of Ohio. The same is true with the State of West Virginia, the State of Washington, and the State of South Carolina. So we are an interstate as well as an international economy. Therefore, we need uniformity at certain points to shape and adapt to that.

For this reason, State reform legislation—because of the 70 percent being shipped outside of the State of manufactured goods, less than 30 percent effectiveness is the standard for State law. I mean, by definition, they have to be less than 30 percent effective. On the other hand, all of the State citizens who sue in the State are governed by that State's product liability statute, and thus they fall victim to an antiquated system, and the people here want to protect them.

That is why the National Governors' Association recognized both the need for product liability reform and the necessity of Federal action to effectuate that reform. They did not say, well, States, you have to do a better job and do things more alike. They said, no, there have to be places where the Federal Government sets uniform standards.

The Senator from South Carolina was talking yesterday about how the States always want to have more power; they want to have the power shifted to them. That is the direction in which our country is going.

That is not the direction of the National Governors' Association on product liability and tort reform. They want more Federal action. That is why the American Legislative Exchange Council, not very well-known, but it is a bipartisan group of over 2,500 State legislators—that is a lot of them—representing all 50 States, three times has called upon Congress to enact product liability law which is Federal. That is why President Clinton has said that he supports the enactment of limited but meaningful product liability reform at the Federal level. He said that in a number of statements—in a letter to us, in a statement of policy to us—during the course of this debate. H.R. 956 contains that limited but meaningful product liability reform which makes common sense and which has measures which are good for ordinary consumers and businesses.

Incidentally, Mr. President, I wish to make one point. People keep referring—and even there was an article this morning in the Washington Post—to big business versus trial lawyers. On the business side, it is not big business which is really at stake here. It is small business. That is the reason for the support of the National Federation of Independent Businesses.

Mr. President, 98 percent of businesses in America are small. Those are the people who get put out of business most quickly. Those are the people who have the least cash reserve. Those are the people who live at the margins. Those are also places, we have long established, from where often the best ideas come. That is the overwhelming dynamic center of the American economy.

So H.R. 956 contains, as I have said, what I believe is needed.

Mr. President, I ask unanimous consent that a list describing the major provisions of the conference report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ROCKEFELLER. Mr. President, the conference report does, however, provide the following: legal fairness for product sellers; a rule to discourage illegal use of alcohol and drugs—we cannot stop it but to discourage it, certainly not to reward it—a proconsumer statute of limitations, an enormously proconsumer statute of limitations; a statute of repose that will stimulate jobs and economic growth; alternative dispute resolution as a way of settling some of these matters. It is voluntary, which is not so thrilling to me. I wish it were not. I wish it were mandatory, but it is voluntary. At least it is there. That is the way they do things in Japan. That is why they settle everything over there, which is not to say they do not have their economic problems, but product liability is not one of their problems. Punitive damages fairness is in this bill. Opponents of the bill say we cap punitive damages. Untrue. Untrue. I will not vote for legislation which caps punitive damages, as I would not vote for legislation that caps what lawyers can make. Part of me would like to, but I do not believe that because I believe the market should make that decision. But punitive damages are not capped.

We added the additional amount provision, originally called the judge additur provision, a suggestion which was endorsed by a number of high-up folks at the White House and then the whole idea for making sure that it was more constitutional came from the Department of Justice, which I presume to be the executive branch of Government. So there are no caps on punitive damages, and I will assert there could not be because I was a part of this bill. I was not going to go along with a bill that would allow such a thing.

There is several liability for noneconomic loss; workers compensation subrogation; biomaterials access assurance.

These, Mr. President, are some of the highlights.

Now, in winding up here, I should like to take a moment to comment on where we stand in the legislative process. I wish to be hopeful; I try to be hopeful; I am hopeful; I will insist on being hopeful; I will be everlastingly hopeful that the President will reconsider his decision to veto this product liability conference report and that in fact he will sign it. I firmly believe that the President can sign this bill, even recognizing that he will not support each of its provisions. There are some provisions that I think ought to be in this. There are some provisions which I think ought to be changed, some. Nobody gets everything they want. There are 535 people in the Congress.

Even though the President might not support each of its provisions, when the product liability conference report is considered in its totality, in balance with the need for this reform, I remain hopeful that the President will still seize this opportunity to participate in product liability reform which will benefit in fact the American people and the American economy. From my point of view, I stand ready to work with the President to achieve what I believe is our common goal, his goal, my goal, our goal, of fairly balancing what needs to be fixed in our broken product liability system, which he surely must recognize, while preserving important rights for consumers. This is not business versus consumers. We are trying to achieve a balance where each business and consumer gets certain improvements, and providing business with the predictability that they need to compete in today's economy.

In conclusion, because I do not know how much time is remaining—and I am not interested—I wish to thank a few people. First of all, I again wish to thank Senator GORTON, Senator SLADE GORTON from the State of Washington, G-O-R-T-O-N. That is his name. He has been absolutely incredible over the years and continues to be in this process—remarkable, calm, intellectual, unflappable, fair, flexible. It is just a stunning privilege to be able to work with SLADE GORTON and with his staff, Jeanne Bumpus, Trent Erickson; Commerce Committee staff, Lance Bultena. We spend a lot of time together. When you do these things, you get real close.

I thank all of the Democratic supporters, not that that is a convention full of people, but I thank each and every one of them and all of their staff. And, obviously and particularly, I want to thank my own staff: Jim Gottlieb, a superb lawyer—inventive, flexible, calm, tough, a great negotiator and a marvelous human being; Ellen Doneski, who is just indefatigable. She is just like some kind of a rolling army—cannot be stopped. She has a tremendous sense of humor, is relaxed, adamant, just puts her mind to this or other things. She is actually part of my health care staff, but she is so smart and so flexible she can get this mastered. She is not a lawyer, but do not tell anybody that because everybody thinks she is.

Then I want to thank another person who is not here because her fiance has been through, and is still going through, a terrible, terrible crisis, and that is Tamera Stanton, who is kind of here in spirit. When we were having this debate last year, she sat next to me. She is my legislative director, an extraordinary, brilliant, wonderful person who is now going through a very, very tough—but also encouraging—experience in terms of the health of her fiance, as they hope and plan to get married in June.

So, I am mindful of these people, grateful to these people, and I thank my colleagues for their forbearance.

Mr. President, I ask unanimous consent that numerous fact sheets, and a list and letter from small business organizations, be printed in the RECORD. I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

MAJOR PROVISIONS OF CONFERENCE REPORT

Legal Fairness For Product Sellers: Product sellers are held liable only for their own negligence or failure to comply with an express warranty. The product seller, however, remains liable as if it were the manufacturer if the manufacturer cannot be brought into court or is unable to pay a judgement. This provision assures injured persons will always have available an avenue for recovery, while relieving retailers and wholesaler-distributors of substantial unnecessary legal costs. The provision is "consumer neutral" and any attempt to characterize it another way lacks credibility.

Rule to Discourage Illegal Use of Alcohol and Drugs: The defendant has an absolute defense in a product liability action if the plaintiff was under the influence of intoxicating alcohol or illegal drugs and as a result this influence was more than 50 percent responsible for his or her own injuries. The alcohol/drug defense in H.R. 956 is consistent with law of the substantial majority of states implements sound public policy. It tells persons that if they are drunk or on drugs and that is the principal cause of an accident, they will not be rewarded through the product liability system. It also relieves law-abiding citizens from having to subsidize others' irresponsible conduct through higher consumer prices. This provision has not been controversial or challenged by professional consumer groups as unfair.

Pro-Consumer Statute of Limitation: H.R. 956 permits a plaintiff to file a complaint within 2 years after he or she discovers or should have discovered both the harm and its cause. This is a liberal, pro-claimant provision, which will be particularly helpful to persons who have been injured by products that result in latent inquiries (*e.g.*, drugs and chemicals). Contrary to the suggestion by some opponents, this provision will create a uniform, fair national standard which will open courthouse doors to plaintiffs in many states, such as Virginia.

Statue Of Repose Will Create Jobs and Stimulate Economic Growth: A limited statistic of repose of 15 years is established for durable goods used in the workplace, unless the defendant made an express warranty in writing as to the safety of the specified product involved, and the warranty was longer than the period of repose (15 years). Then, the statue of repose does not apply until that warranty period is complete. The statute of repose provision will not apply in cases involving a "toxic harm."

Strong support exists for this reform, particularly as a result of the enactment of the General Aircraft Revitalization Act of 1994, signed by President Clinton in August 1994, which created a federal eighteen year statute of repose of general aviation aircraft. This law has resulted in production of safer aircraft and the creation of thousands of new jobs and has not been perceived as unfair to consumers. A growing number of states have enacted legislation in this area as well. The statute of repose in H.R. 956 is both longer and more limited in scope than any existing law.

As one might expect, there are very few cases involving older workplace durable goods and they are generally won by defendants. Nevertheless, cases involving very old products bring about substantial legal costs and put American machine tool builders and other durable goods manufacturers at a disadvantage with foreign competitors. Foreign competitors rarely have machines in this country that are thirty or more years old, so they pay less liability insurance than their American competitors.

Alternative Dispute Resolution: Either party may offer to participate in a voluntary, non-binding state-approved alternative dispute resolution (ADR) procedure. This pro-consumer provision is intended to promote the use of ADR procedures, which can provide a quicker and cheaper mechanism of handling legal claims. This provision should help such individuals receive compensation for their claims more quickly and bypass the need to retain costly legal representation.

Punitive Damages Fairness: Punitive damages are quasi-criminal punishment for wrongdoing; they are a windfall to the claimant and have nothing to do with compensation for injury. H.R. 956 permits punitive damages to be awarded if a plaintiff proves, by clear and convincing evidence, that the harm was caused by the defendant's "conscious, flagrant indifference to the rights or safety of others." The standard is consistent with law in most states.

Punitive damages may be awarded against a larger business up to the greater of $250,000 or two times the claimant's total economic and noneconomic damages; against an individual or small business, punitive damages can be awarded up to the lesser of $250,000 or two times the claimant's total economic and noneconomic damages. The provision is "gender neutral" and places no limitation on compensatory damages (economic damages plus "noneconomic damages" such as pain and suffering). A special rule allows a judge to augment the punitive damages award against a big business when the "proportionate" award is "insufficient to punish the egregious conduct of the defendant." A controversial provision that would allow the defendant the right to a new trial if the court used this special power has been removed from the legislation and does not appear in the conference report—as Senator Gorton and I vowed it would not.

Approximately one-quarter of the States have set forth guidelines on punitive damages awards, including Illinois, Indiana, North Carolina, New Jersey, Oklahoma, and Texas in 1995. Because H.R. 956 is not preemptive, the outcome of many punitive damages cases involving larger businesses would not be affected. In some cases against small businesses, however, the outcome may help the business survive, because the bill limits the amount of punitive damages recoverable against a small business to $250,000. This is a particular benefit to the small business community, since an award exceeding $250,000 could virtually wipe out most small businesses.

Several Liability For Noneconomic Loss: The rule of joint liability, commonly called joint and several liability, provides that when two or more persons engage in conduct that might subject them to individual liability and their conduct produces a single, indivisible injury, each defendant will be liable for the total amount of damages. This system is unfair and blunts incentives for safety, because it allows negligent actors to under-insure and puts full responsibility on those who may have been only marginally at fault. Thus, a jury's specific finding that a defendant is minimally at fault gets overridden and the minor player in the lawsuit bears an unfair and costly burden.

Joint and several liability produces extreme harm for our society. For example, Julie Nimmons, CEO of Shutt Sports Group, Inc. in Illinois, has testified that joint liability has caused manufacturers of protective sporting goods equipment, such as safety helmets, to withdraw products from the market or be chilled from introducing new products. Recognizing the urgent need for reform of this unfair doctrine, 33 states have already abolished or modified the principle of joint and several liability.

H.R. 956 adopts a balanced approach between those who call for joint liability to be abolished and those who wish for it to remain unchecked. The legislation eliminates joint liability for "noneconomic damages" (e.g., damages for pain and suffering or emotional distress), while permitting the states to retain full joint liability with respect to economic losses (e.g., lost wages, medical expenses, and substitute domestic services). This means that each defendant will be liable for noneconomic damages in an amount proportional to its percentage of fault of the harm. This "fair share" rule is based on a joint liability reform enacted in California through a ballot initiative approved by the majority of voters in 1986. The same approach was enacted by the Nebraska legislature in 1991.

It has been argued by some opponents that the provision is "anti-women" because their economic damages may be lower than men and, for that reason, they depend on noneconomic or so-called "pain and suffering" damages. However, there has been absolutely no showing in California, a large and litigious state, that the California approach discriminated against any sex or any group. In fact, noted California trial attorney Suzell Smith has testified that the California law is fair and has worked well for consumers.

Workers' Compensation Subrogation: This provision preserves an employer's right to recover workers' compensation benefits from a manufacturer whose product harmed a worker unless the manufacturer can prove, by clear and convincing evidence, that the employer caused the injury. This provision would modify state law in a very positive way. It would create a new private incentive on employers to keep their workplace safe and achieve this goal without reducing the amount an injured employee can recover in a product liability action. This provision has not been challenged by professional groups as controversial or unfair.

Biomaterials Access Assurance: Millions of citizens depend on the availability of lifesaving and life-enhancing medical devices, such as pacemakers and hip and knee joints. The availability of these devices is critically threatened, however, because suppliers have ceased supplying basic raw materials to medical device manufacturers. A 1994 study by Aronoff Associates concluded that there are significant numbers of raw materials that are "at risk" of shortages in the immediate future. Suppliers have found that the risks and costs of responding to litigation related to medical technology far exceeds potential sales revenues, even though costs are *not* finding suppliers liable!

H.R. 956 will safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices. The provision was introduced in this Congress as S. 303, the "Biomaterials Access Assurance Act of 1995," by Senators Lieberman and McCain and was added to the Senate version of H.R. 956 during the Commerce Committee's markup. The provision, which has been the subject of hearings and enjoys very strong bipartisan support, will help prevent a public health crisis by limiting the liability of biomaterials suppliers to instances of genuine fault and establishing a procedure to ensure that suppliers—not manufacturers, can avoid litigation without incurring heavy legal costs. This provision is critically important to all Americans, particularly women, according to Phyllis Greenberger, Executive Director for the Society for the Advancement of Women's Health Research.

Ironically, even though this bipartisan provision would unquestionably provide a tremendous public health benefit and would not adversely affect consumers, it is not well understood by some and, therefore, becomes a target by those who are willing to concoct and perpetuate untruths in the desperate attempt to selfishly promote their own economic agenda. The fact is that this is a proconsumer provision which does not in any way limit the ability of claimants to seek recovery from medical device manufacturers; the provision recognizes the "common sense" principle that suppliers of basic materials, who are *not* currently found liable, should not be permitted to be indiscriminately hauled into court.

EXHIBIT 2

THE FACTS ON PRODUCT LIABILITY

Fact: There is no cap on economic or noneconomic damages. Claimants will continue to be able to recover whatever they are awarded in a court.

Fact: The statue of repose remains limited to durable goods in the workplace only. Statements being made that we now cover all goods are simply wrong.

Fact: Product sellers, lessors, or renters will NOT be protected from negligent entrustment liability. That is precisely why the "negligent entrustment" exception was moved to the product sellers section of the bill.

Fact: Dow Corning, and other companies who made or make breast implants will NOT be shielded from liability. Whether or not they supplied the silicone, they remain liable as manufacturers.

Fact: Drunk drivers, gun users, etc will NOT be protected from liability in any way. Opponents are intentionally trying to confuse harm caused by a product, which IS covered in the bill, and harm cause by the products' use by another, which is NOT covered in the bill and remains totally subject to existing state law. (See Sec 101 (15) and 102 (a)(1)—definition of product liability action includes only "harm caused by a product" not "use." This is a big difference.

Fact: In all states that permit punitive damages, they will continue to be available, and the "additional amount" provision will apply in all those states, regardless of whether caps are higher or lower in that state.

Fact: Tolling of the statue of limitations will be covered as they now are, by applicable state and federal law. For example, see 11 USC 108c automatic tolling in bankruptcy cases. Nothing in the bill or omitted from the bill will change state law on tolling.

Fact: State law will continue to control whether or not electricity, stem, etc is considered a product or not.

Fact: This is NOT one-way preemption, but a mix of state and federal rules. Products are in interstate commerce, and should be subject to more uniform rules for businesses and consumers.

Fact: 30 states have modified joint and several liability at this point. The federal proposal follows the California law affecting ONLY noneconomic damages.

PROVISION AND PRODUCT LIABILITY CONFERENCE REPORT, MARCH 13, 1996

Liability of Product Seller

Same as Senate bill—Product seller can be held liable as manufacturer only in limited circumstances.

Applicability/Preemption

Same as Senate bill—Applicable to product liability cases only.

Alternative Dispute Resolution

Same as Senate bill—Dispute Resolution (ADR), with no defendant loser pays provision.

Defenses Regarding Alcohol or Drugs

Same as Senate bill—Complete defense if claimant was more than 50 percent responsible.

Reduction for Misuse or Alteration

Same as Senate bill—Reduction of damages by the percentage of harm which is the result of the misuse or alteration.

Punitive Damages

Same as Senate bill: (a) Ceiling of greater of $250,000 or 2 × compensatory; (b) DeWine Amendment including assets in determination of damages; (c) DeWine small business amdt—limits punitive damage awards for business under 25 employees, to the lesser of $250,000 or 2 × compensatory damages; and (d) Judge can award an additional amount for punitive damages in egregious cases, under factors set forth in bill. [Clarification that judge can award all the way up to the initial jury award.]

Statute of Limitations

Same as Senate bill—Two years after date of discovery of the harm and cause of harm or date that these should have been discovered.

Statute of Repose

Retains Senate scope—Limits to 15 years for durable goods in the workplace only, with exception for toxic harm.

Joint and Several Liability for Noneconomic Loss

Same as Senate bill—Joint and several liability for all economic damages, and several liability for noneconomic damages.

Federal Cause of Action

Same as Senate bill—No new federal cause of action.

Biomaterials

Same as Senate bill—Biomaterial suppliers who furnish raw materials or component parts, but who are not manufacturers or sellers, are protected from liability; amendments addressing shell corporation concerns and deleting the certificate of merit requirement.

Is this one-way pre-emption?

This is a real red herring argument. The truth is this is a balanced bill—for consumers and for business. In some cases state law prevails, and in some cases, the federal law controls.

The goal of federal legislation, especially where you are dealing with interstate commerce, is uniformity, fairness, and predictability. It naturally follows that Federal laws very often must preempt inconsistent state laws. And this product liability bill allows maximum flexibility for the states within a uniform federal system.

The interpretation of which laws apply to which situations, is complicated (and is best left to the lawyers). But lets look at a few of the specifics of the bill:

If a state has a shorter statute of limitations, and many do, this bill makes it longer. Period. Which way is that preemption?

If a state has a statute of repose, this bill makes no change as to the time period, but does make sure that victims of toxic harm receive compensation regardless of the time that their injury is discovered.

If a state doesn't allow punitive damages, at all under current law, this bill makes no change in that state's laws.

In some states that do permit punitive damages, such as Colorado and Maryland, the standard for allowing punitive damages is lessened, not stricter. (The standard goes from one requiring proof "beyond a reasonable doubt" and "actual malice" to "clear and convincing evidence.)

If a state does permit punitive damages, I believe that the new federal rules will, for the first time, permit judicial flexibility in determining the amount of punitive damages, even if there is a cap on the amount of punitive damages under that state's law which is different that the new federal bill.

So, in summary, yes this bill does preempt state law in some situations. But to suggest that it is totally one-way is misleading at best.

The conference report is a tightly balanced bill seeking to make some uniformity out of a patchwork of conflicting state laws.

U.S. SENATE,
Washington, DC, March 20, 1996.

KATHERINE PRESCOTT,
National President, MADD, Irving, TX.

DEAR MS. PRESCOTT: Your letter of March 19 is wrong, and based on a totally incorrect quoting of the proposed law.

Your letter says that the product liability bill covers "harm caused by a product or product use." that is incorrect.

The legislation reads: "harm caused by a product" only.

You have been misinformed, perhaps intentionally, in an effort to convince you that cases of drunk driving would be covered under the bill. The fact is that cases of drunk driving or so-called dram shop cases would not be covered by this legislation.

In addition, those who "negligently entrust" a product, such as alcohol, resulting in drunk driving situations, would not be protected in any way under the law.

I will read your incorrect letter, and this response, into the CONGRESSIONAL RECORD today, and I expect you will want for me to include your retraction letter as well.

Kindly FAX your retraction to me immediately at 202–224–9575.

Thank you.

Sincerely,

JOHN D. ROCKEFELLER IV.

IMPACT OF FEDERAL PROVISIONS ELIMINATING JOINT AND SEVERAL LIABILITY FOR NONECONOMIC DAMAGES IN PRODUCT LIABILITY CASES

The Conference Committee version of the product liability bill is currently expected to retain the Senate bill's provision eliminating joint liability for noneconomic damages. This Federal law provision would not significantly change the law in those states which already either have eliminated or severely limited joint liability, or have imposed specific limitations on the award of noneconomic damages.

Twelve states have eliminated joint liability altogether: Alaska, Arizona, Colorado, Idaho, Indiana, Kansas, Kentucky, North Dakota, Tennessee, Utah, Vermont and Wyoming.

Two states have eliminated joint liability for noneconomic damages: California and Nebraska.

Ten states have otherwise limited the availability of joint liability as to noneconomic damages or damages generally, so as to make it significantly less likely that noneconomic damages would be subject to joint liability: Florida, Illinois, Iowa, Mississippi, Montana, New Hampshire, New Jersey, New York, Oregon, and Texas.

Three states have eliminated joint liability in cases in which the plaintiff is negligent: Georgia, Ohio and Oklahoma.

Five states (including three already mentioned) have capped awards of noneconomic damages: Alaska, California, Kansas, Maryland, Massachusetts and Michigan.

In all, 30 states have adopted measures that already limit the recovery of noneconomic damages. These include eight of the nine largest states in the union—California, New York, Texas, Florida, Illinois, Ohio, Michigan and New Jersey.

SMALL BUSINESS ORGANIZATIONS SUPPORTING PRODUCT LIABILITY REFORM

National Federation of Independent Business (600,000 small businesses).

National Association of Wholesaler-Distributors (156 trade associations representing 250,000 small businesses).

U.S. Chamber of Commerce (215,000 small businesses).

National Association of Manufacturers (10,000 small businesses).

Small Business Legislative Council.

National Association of Women Business Owners.

National Small Business United.

JOINT LETTER TO MEMBERS OF CONGRESS FROM AMERICAN SMALL BUSINESS LEADERS ON PRODUCT LIABILITY REFORM, APRIL 3, 1995

DEAR MEMBERS OF CONGRESS: On behalf of the nation's more than 21 million small and growing businesses, we are writing to strongly urge your support of S. 565, The Product Liability Fairness Act of 1995.

You know the problem: A single lawsuit can and has put many small business owners out of business.

For many small businesses, the explosion in product liability cases means it is simply impossible to find and keep affordable liability insurance.

You've heard the horror stories. (If you haven't, give us a call.)

Why should you care? Small businesses create virtually all the net new jobs in the economy. And businesses owned by women now employ more people than the entire Fortune 500 combined. While most of our company names are not household words, small business comprises the backbone of the nation's economy—from Main Street to Wall Street.

We need your help.

Product liability reform was the #1 issue at the White House Conference on Small Business in 1986. Finally, after more than a decade of struggle, product liability reform seems within our reach.

Please support S. 565, The Product Liability Fairness Act of 1995, and help protect U.S. consumers, workers and small businesses. Our future and the future of our nation's economy, depends on it.

Thank you for your support.

Gary Kushner, President, Kushner & Company, Inc., President, National Small Business United, Kalamazoo, Michigan
Carol Ann Schneider, President, Seek, Inc., President, Independent Business Association of Wisconsin
Patty DeDominici, President, National Association of Women Business Owners (NAWBO), Los Angeles, California
Willis T. White, President, California Black Chamber of Commerce, Burlingame, California
Thomas Gearing, President, The Patriot Company, Federal Reserve Board, Small Business Advisory Committee, Milwaukee, Wisconsin
Margaret M. Morris, NAWBO Chapter President, Chevy Chase, Maryland
Lewis G. Kranick, Chairman of the Board, Krandex Corporation, Wisconsin Delegation Chair—1986, White House Conference on Small Business, Milwaukee, Wisconsin
Linda Pinson, Principal, Out of Your Mind . . . and Into the Marketplace, NAWBO Financial Services Council, Tustin, California
Dale O. Anderson, President, Greater North Dakota Association, Bismarck, North Dakota
Chellie Campbell, President, Cameren Diversified Management, Inc., NAWBO Public Policy Council, Pacific Palisades, California
Brooke Miller, NAWBO Chapter President, St. Louis, Missouri
John F. Robinson, President & C.E.O., National Minority Business Council, Inc., New York, New York
Lucille Treganowan, President, Transmissions by Lucille, Inc., NAWBO Chapter President, Pittsburgh, Pennsylvania
Wanda Gozdz, President, W. Gozdz Enterprises, Inc., NAWBO Public Policy Council, Plantation, Florida
Frank A. Buethe, Manager, Advance Business Development Center, Green Bay Chamber of Commerce, Green Bay, Wisconsin
Rachel A. Owens, Family Business Specialist, Mass Mutual, NAWBO Chapter President, Irvine, California
Brenda Dandy, Vice President, Marine Enterprises International, Inc., NAWBO Financial Services Council, Baltimore, Maryland
Terry E. Tullo, Executive Director, National Business Association, Dallas, Texas
Tana S. Davis, Owner, Tana Davis C.P.A., NAWBO Chapter President, Encino, California
Mary G. Zahn, President, M.C. Zahn & Associates, NAWBO Public Policy Council, Philadelphia, Pennsylvania
Gary Woodbury, President, Small Business Association of Michigan
Hector M. Hyacinthe, President, Packard Frank Organization, Inc., New York Delegation Chair—1986, White House Conference on Small Business, Ardsley, New York
Mary Ellen Mitchell, Executive Director, Independent Business Association of Wisconsin, NSBU Council of Regional Executives, Madison, Wisconsin
Susan J. Winer, President, Stratenomics, Illinois Delegation Chair—1986, White House Conference on Small Business, Chicago, Illinois
Lucy R. Benham, Vice President, Keywelland Rosenfeld, P.C., NAWBO Public Policy Council, Troy, Michigan
Beverly J. Cremer, Chief Executive Officer, I & S Packaging, NAWBO Chapter President, Kansas City, Missouri
C. Virginia Kirkpatrick, President/Owner, CVK Personnel Management & Training Specialists, NAWBO Financial Services Council, St. Louis, Missouri
Mary Ann Ellis, President, American Speedy Printing, NAWBO Chapter President, Boynton Beach, Florida
Shaw Mudge, Jr., Vice President, Operations, Shaw Mudge & Company, Connecticut Delegation Chair—1986, White House Conference on Small Business, Stamford, Connecticut
Eunice M. Conn, Executive Director, Small Business United of Illinois, NSBJ Council of Regional Executives, Niles, Illinois
Ronald B. Cohen, President, Cohen & Company, Immediate Past President, NSBJ, Cleveland, Ohio
Hilda Heglund, Executive Director, Council of Small Business Executives, Metropolitan Milwaukee Association of Commerce, Milwaukee, Wisconsin

Karin L. Kane, Owner/Operator, Dorrino's Pizza, NAVBO Chapter President, Salt Lake City, Utah

Suzanne F. Taylor, President & Owner, S.T.A. Southern California, Inc., Vice President—Public Policy Council, NAWBO, South Laguna, California

Suzanne Pease, Owner, Ampersand Graphics, NAWBO Chapter President, Morganville, New Jersey

Maryjane Rebick, Co-Owner, Executive Vice President, Copy Systems, NAWBO Public Policy Council, Little Rock, Arkansas

Arlene Weis, President, Heart to Home, Inc., NAWBO Public Policy Council, Great Neck, New York

Deepay Mukerjee, President, R.F. Technologies, 1995 Delegate, White House Conference on Small Business, Lewiston, Maine

David Sahagun, Dealer, Castro Street Chevron, 1995 Delegate, White House Conference on Small Business, San Francisco, California

Dona Penn, Owner, Gigantic Cleaners, NAWBO Public Policy Council, Aurora, Colorado

Barbara Baranowski, Owner, Condo Getaways, NAWBO Chapter President, North Monmouth, New Jersey

Sheelah R. Yawitz, President, Missouri Merchants and Manufacturers Association, Chesterfield, Missouri

David R. Pinkus, Executive Director, Small Business United of Texas, Texas Delegation Chair—1986, White House Conference on Small Business, Austin, Texas

David P. Asbridge, Partner, Sunrise Construction, Inc., 1995 Delegate, White House Conference on Small Business, Rapid City, South Dakota

Marj Flemming, Owner, Expeditions in Leadership, 1995 Delegate, White House Conference on Small Business, Signal Mountain, Tennessee

Jo Lee Lutnes, Owner, Studio 7 Public Relations, 1995 Delegate, White House Conference on Small Business, Columbus, Nebraska

Margaret Lescrenier, Vice President, Gammex RMI, Small Business Committee Member, Wisconsin Manufacturers and Commerce

Gordon Thomsen, Chief Executive Officer, Trail King Industries, Inc., 1994 Small Business Administration National Exporter of the Year, Mitchell, South Dakota

Leri Slonneger, NAWBO Chapter President, Washington, Illinois

Shalmerdean A. Knuths, Co-Owner/Director of Administration, Rosco Manufacturing Company, 1995 Delegate, White House Conference on Small Business, Madison, South Dakota

Alan M. Shaivitz, President, Allan Shaivitz Associates, Inc., 1995 Delegate, White House Conference on Small Business, Baltimore, Maryland

Linda Butts, President/Owner, Prairie Restaurant & Bakery, Member, NFIB, Carrington, North Dakota

Malcolm N. Outlaw, Owner/President, Sunwest Mud Company, Board Member, Small Business United of Texas, Midland, Texas

Suzanne Martin, Council of Smaller Enterprises, Greater Cleveland Growth Association, NSBJ Council of Regional Executives, Cleveland, Ohio

David L. Condra, President, Dalcon Computer Systems, 1995 Delegate, White House Conference on Small Business, Nashville, Tennessee

Doris Morgan, Vice President, Cherrybank, 1995 Delegate, White House Conference on Small Business, Hazlehurst, Mississippi

Dr. Earl H. Hess, Lancaster Laboratories, Inc., Pennsylvania Delegation Chair—1986, White House Conference on Small Business, Lancaster, Pennsylvania

Ralph S. Goldin, President, Goldin & Stafford, Inc., 1995 Delegate, White House Conference on Small Business, Landover, Maryland

John C. Rennie, President, Pacer Systems, Inc., Past President, NSBU, Billerica, Massachusetts

Murray A. Gerber, President, Prototype & Plastic Mold Company, Inc., Connecticut Delegation Chair—1986, White House Conference on Small Business, Middletown, Connecticut

Robert E. Greene, Chairman & CEO, Network Recruiters, Inc., 1995 Delegate, White House Conference on Small Business, Bel Air, Maryland

Jule M. Scofield, Executive Director, Smaller Business Association of New England, Waltham, Massachusetts

Jack Kavaney, President, Gateway Properties, 1995 Delegate, White House Conference on Small Business, Bismarck, North Dakota

Leo R. McDonough, President, Pennsylvania Small Business United, Pittsburgh, Pennsylvania

Sarah Lumley, Co-Proprietor, Save-A-Buck Auto Sales, 1995 Delegate, White House Conference on Small Business, Sumter, South Carolina

David A. Nicholas, General Manager, Dapco Welding Supplies, Inc., Hagerstown, Maryland

Joan Frentz, NAWBO Chapter President, 1995 Delegate, White House Conference on Small Business, Louisville, Kentucky

Bruce A. Hasche, Controller, Sencore, Inc., South Dakota Delegation Chair—1995, White House Conference on Small Business, Sioux Falls, South Dakota

Michael J. McCurdy, Franchisee, 7-Eleven, 1995 Delegate, White House Conference on Small Business, Baltimore, Maryland

Robert G. Clark, President, Clark Publishing, Inc., 1995 Delegate, White House Conference on Small Business, Lexington, Kentucky

Michael Stocklin, President, Flathead Business & Industry Association, Kalispell, Montana

Van Billington, Executive Director, Retail Confectioners International, NSBC Council of Regional Executives, Glenview, Illinois

Daniel L. Biedenbender, Vice President, Atlas Iron & Wire Works, Inc., National Treasurer, American Subcontractors Association, Milwaukee, Wisconsin

Earl B. Chavis, Owner, CTM Tech, Inc., 1995 Delegate, White House Conference on Small Business, Florence, South Carolina

Patricia F. Moenert, President & Owner, Moenert Executive Realty, Inc., Boynton Beach, Florida

Rudolph Lewis, President, National Association of Home Based Businesses, Owings Mills, Maryland

Robert F. Taylor, President, Erie Manufacturing Company, Board of Directors, Council of Small Business Executives, Milwaukee, Wisconsin

Duane E. Smith, Administrative Partner, Charles Bailly & Company, 1995 Delegate, White House Conference on Small Business, Billings, Montana

Gary Batey, General Manager, Independent Cement Corporation, Hagerstown, Maryland

G. Jesse Flynn, C.E.O., Flynn Brothers Contracting, Inc., 1995 Delegate, White House Conference on Small Business, Louisville, Kentucky

Frank J. Tooke, Montana Society of CPAs, 1995 Delegate, White House Conference on Small Business, Miles City, Montana

Brenda B. Schissler, President, StaffMasters, 1995 Delegate, White House Conference on Small Business, Louisville, Kentucky

Henry Carson III, Vice President, Henry Carson Company, Member, South Dakota Family Business Council, Sioux Falls, South Dakota

Roy H. Hunt, President & C.E.O., Hunt Tractor, Inc., Kentucky Delegation Chair—1995, White House Conference on Small Business, Louisville, Kentucky

Susan D. Cutaia, President, Tiger Security Products, 1995 Delegate, White House Conference on Small Business, Boca Raton, Florida

Charles F. Hood, Franchisee, 7-Eleven, Member, Baltimore Franchise Owners Association, Jarr, Maryland

Kenneth D. Gough, President, Accurate Machine Products Corporation, Chairman, Small Business Committee, Tri-Health Business Alliance, Johnson City, Tennessee

James W. Kessinger, President, Anderson Packaging, Inc., Kentucky Delegation Vice-Chair—1995, White House Conference on Small Business, Lawrenceburg, Kentucky

Charles Aiken, Owner, Health Force of Columbia, 1995 Delegate, White House Conference on Small Business, Columbia, South Carolina

Kay Meurer, President, Discount Office Interiors, 1995 Delegate, White House Conference on Small Business, Louisville, Kentucky

Kevin R. Nyberg, President, Nyberg's Ace Hardware, Member, National Retail Hardware Association, Sioux Falls, South Dakota

Tom Everist, President, L.G. Everist, Inc., Sioux Falls, South Dakota

Lewis A. Shattuck, Executive Vice President, Barre Granite Association, Member, Associated Industries of Vermont, Barre, Vermont

Tom Batcheller, President, Zip Feed Mills, Inc., 1995 Delegate, White House Conference on Small Business, Sioux Falls, South Dakota

Lalit K. Sarin, President & C.E.O., Shelby Industries, Inc., 1995 Delegate, White House Conference on Small Business, Shelbyville, Kentucky

Christine S. Huston, Manager, Economic & Business Development, Indiana Chamber's Small Business Council, NSBU Council of Regional Executives, Indianapolis, Indiana

Dean M. Randash, President, NAPA Auto Parts, 1995 Delegate, White House Conference on Small Business, Helena, Montana

Luis G. Fernandez, M.D., Director, Trauma Services, Mother Frances Hospital, Member, American College of Surgeons, Tyler, Texas

Ed Grogan, President & C.E.O., Montana Medical Benefit Plan, 1995 Delegate, White House Conference on Small Business, Kalispell, Montana

David Davis, President, Advanced Home Care, Inc., 1995 Delegate, White House Conference on Small Business, Unicoi, Tennessee

- Joe Kropkowski, President, Baltimore Franchise Owners Association, Bel Air, Maryland
- Susan Szymczak, President, Safeway Sling USA, Inc., Member, Metropolitan Milwaukee Association of Commerce, Milwaukee, Wisconsin
- H. Victoria Nelson, Proprietor, Jarnel Iron & Forge, 1995 Delegate, White House Conference on Small Business, Hagerstown, Maryland
- Helen Selinger, President, Sloan Products Company, Inc., 1995 Delegate, White House Conference on Small Business, Matawan, New Jersey
- Charles B. Holder, President, Hol-Mac Corporation, 1995 Delegate, White House Conference on Small Business, Bay Springs, Mississippi
- Marguerite Tebbets, President, Window Pretties, Inc., President, Women Business Development Center, Kennebunk, Maine
- Catherine Pawelek, NAWBO Chapter President, Coral Gables, Florida
- Mak Gonzenbach, Vice President, Valley Queen Cheese Factory, Inc., 1995 Delegate, White House Conference on Small Business, Milbank, South Dakota
- Geoff Titherington, Owner, Bonanza, American Franchisees Association, Sanford, Maine
- Richard Watson, Executive Vice President, Walker Machine Products, Inc., National Screw Machine Products Association, Collierville, Tennessee
- Tonya G. Jones, President, Mark IV Enterprises, Inc., NFIE Guardian Advisory Council, 1995 Delegate, White House Conference on Small Business, Nashville, Tennessee

The PRESIDING OFFICER (Mr. COVERDELL). Who yields time?

The Chair recognizes the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, my distinguished colleague from West Virginia just thanked a group of people. I wondered who they were. I knew no lawyer who had ever tried a case in a courtroom would ever put up a bill of this kind. So, having sponsored this measure, they would have to have some extraneous help of some kind to fashion an abortion as this "conspiracy"—not conference—report. I emphasize "conspiracy," Mr. President.

The distinguished Senator from West Virginia says when you work with him, it is very close and everything else. Of course, he did not thank the Senator from South Carolina because we never got close because we never conferred and we never were told about a meeting. We could not see the draft. We heard first about this so-called conference, or conspiracy, report, with Richard Threlkeld on CBS at 7:20 last Thursday evening on the evening news, when he said it was coming up. I had yet to get a copy, even though I am a member of the conference, struggling around on Friday to try to find out what we were going to have.

The story down in the local press, the way they politically work it, was that the Senator from South Carolina was going to filibuster. We had not had a chance to debate. We had not had a chance to debate. But the point of the matter is that, as the Senator from West Virginia talks about small business, small business—look at the chart. That is not small business. I think he ought to talk more closely with the distinguished Senator from Washington, whom he has been working with, because they are not quite in step.

These heart pacemakers at $3,000, motorized wheelchairs, hotel bills, tonsillectomies, maternity stays, and all—maybe somebody is selling a baseball. We will let that one go by—18 cents. I hope we are not finding a Federal need up here, with all the States rights atmosphere, to all of a sudden pass a Federal law on account of 18 cents on the cost of a baseball.

We go through, and it is really sad, because, going right to the chart, we have never seen that before. I guess that is the option of those who do not have a case, to try to do it by sheer surprise. They came in first years ago—I will never forget it—and said there was a litigation explosion. You do not hear them arguing about the litigation explosion anymore.

They said there was an insurance crisis. We have here in the record that insurance companies are making billions and billions of dollars, so there is not that. Their reserves are up to an all-time high. They are doing great. So the insurance company is doing well, so you do not have that.

Then they had the matter of uniformity. Mr. President, they were going to get all the States together and have uniformity, but it is quite obvious that the many splendored thing, the test tube of federalism at the State level, clashed with that uniformity. And they created specific exemptions for those States who had more stringent requirements of an injured party. Those State laws could hold. Those who had less stringent laws would have to come under the stringent restrictions of this particular measure. So on the face of it, it showed absolutely no uniformity. So they gave up on uniformity, in a fashion.

Then they went to the matter of global competition. That is a sort of mystique around this Congress. We in Washington have discovered global competition. The matter of losing your job is psychological—the "anxiety society" they write about. "Downsizing." It is all so polite. Heck, they have been fired, and they moved the jobs overseas. Who has moved them? It is not global; it is us.

It is like the Spanish Civil War with the fifth column. Over half of what we are importing in here are American multinational generated. I used the figure that they had researched back in the late 1970's. It was 41 percent. I know over 50 percent of the imports are by 200 companies of the Fortune 500. They are the big, powerful people who can afford it. Small business cannot move overseas, but big business has moved overseas and continues, in a veritable hemorrhage. We explained it to everyone so they could understand the cost of manufacture. It was 30 percent of volume for the associates or workers, employees—you can save as much as 20 percent.

It is a given, if you move to a low-wage country, a $500 million company can save $100 million if they just keep their executive office here, their sales force, but move their manufacture to a low-wage country. They can move offshore and get rich, or they can continue to stay and work their own people and go broke. That is the trade policy of this Congress. These companies are not greedy. If I ran the company, if you ran the company, we would do the same thing. Competition has moved. So are we going to sit around here and wonder—what? That Congress is running around in a circle about term limits and all these other little funny things they can think of, including product liability that the States have long handled.

The distinguished Senator from Rhode Island got up and said "15 years, 15 years" the Congress has considered this issue. But the State of Rhode Island has responded. That is the mystery to me, that the proponents come around and act, all of a sudden, like they have discovered these things. Assume everything is true on that chart next to the Senator of Washington. What has the legislature of the State of Washington done about it? They have acted. The State of Georgia has acted. The State of South Carolina had product liability reform back in 1988. It was fully debated. But all of a sudden, we in Congress discover things. Why? Because we take a poll. None of these pollsters has ever served in public office, but they get the hot-button items, six or seven of them—and you have Victor Schwartz, that is a good one—saying how they went after the lawyers. They go after the doctors. Everybody is against the doctors, until they need one. Everybody is against the lawyers, until they need one. That is a given in society.

But you do not just pass Federal laws to vitiate the laws of the 50 States on a statute of repose. Take the referendum they had in the State of Arizona. The proponents of this measure say, "Forget about your referendum." They want to get back to the people, but "we are going to tell you from Washington what to do, State of Arizona, regardless of your referendum." So what is going on up here?

Now they come with the shunt. We are used to trying cases. You are limited to the record and the proof that you have, but this crowd just makes it up at the last minute. They have gone back to the products that have been kept off the market, and the shunt. I had not heard about the shunt, so we called up the Food and Drug Administration and they said there is no problem.

Yes, Dow has been cited by our distinguished colleagues from Connecticut and Washington as going broke. It ought to go broke. They will never make—and a lot of other companies will never make—those implants like that again and try to sell them like hot cakes. Yes, sirree, that is what happens in our society, and we repair that kind of nonsense that goes on. Innocent women going in and thinking they are getting a health cure and instead they are ending their lives.

So Dow does not sell them anymore, but Applied Silicon sells silicon, Neusal sells silicon. And we get another list of those—that little bit of material that goes into the shunt that takes the water off the brain. The inference of the Senators here trying to use that argument is that children and individuals are going to die unless we pass product liability at the Federal level. Come on.

Take that chart next to the Senator from Washington. If a pacemaker costs $3,000, that has far more intricate materials than a shunt. They would take pacemakers off the market if you followed the logic of their argument. You could not afford $3,000 for that. I question that figure, to tell you the truth. I wish I had a chance to try it. My mother passed on just a few years ago, dying at 95 years of age, but she had four pacemakers and we never paid that. Maybe it is cheaper in Georgia and South Carolina than up here in this land—$18,000.

But let us assume the truth. If the truth is there, then pacemakers have to get off the market, using the logic of the argument about the shunt and a little bit of silicon material that goes into it. Come on. It is available. It is a false argument.

We are going to have to have a legislative congressional committee appointed on ski lifts, because it is only $2. It is way more dangerous than $2. I have been on them. The Presiding Officer has been on them. Get on one of those things and find out they are only spending $2 for safety. We have to get that up.

That is the real Federal problem. Their little charts. They had the coffee chart yesterday. They took down the coffee chart. At least they have some shame. We proved that punitive damages award had been cut. The judges in New Mexico have sense, but the coffee case had no sense. When the proponents finally found that out, they took the chart down.

What do they do here? Assuming all of that, as I say, is true, they act like the States have never acted before. I wanted to emphasize, too, coming in with this thing. Now let me read you this particular ad by the American pharmaceutical research companies, which appeared on the Federal page of the Washington Post on March 27, 1995. Here is what the American pharmaceutical group of manufacturers advertise in this ad:

> Drug companies target major diseases with record R&D investment. Pharmaceutical companies will spend nearly $15 billion on drug research and development in 1995. New medicines in development for leading diseases include 86 for heart disease and stroke, 124 for cancer, 107 for AIDS and AIDS-related diseases, 19 for Alzheimer's, 46 for mental diseases, and 79 for infectious diseases.

In this ad the pharmaceutical companies include a bar graph showing their steady increase in R&D investment since 1977. They spent $1.3 billion in 1977, $2 billion in 1980, $3.2 billion in 1983, $4.7 billion in 1986, $7.3 billion in 1989, $11.5 billion in 1992, and an estimated $14.9 billion in 1995.

Maybe they will go out and research a new kind of silicon—they spent almost $15 billion on overall research in 1995. But if you listen to the Senator from Connecticut and the Senator from Washington, you would think you cannot get the drugs on account of product liability; the drug companies are all going out of business.

In fact, the foreign drug companies are all coming from Europe over here like gangbusters and investing. I will have a list before we end this debate this morning of the pharmaceutical companies joining in and they are not complaining. They are coming from Switzerland to South Carolina and Hoffmann-La Roche is not complaining about product liability. Wellcome is coming in with Glaxo in North Carolina. They are not complaining about product liability. We have product liability laws in our States.

What they do in this measure, Mr. President, if you read it, goes way too far. We see this the more we now have a chance to look at it and wonder why. For example, I wondered why MADD came out against this bill, and then when I read that provision about punitive damages and substances—let us have all the drunk drivers not worry about punitive damages, do not worry about punishment, go ahead, drive drunk. Here we have the finest movement under MADD at the Federal and the State level. But this crowd now wants to write a bill so zealous about punitive damages and getting rid of it—at least one Senator said he did not even believe in punitive damages—that I can tell you now that they said tell the drunk drivers to go ahead, do not worry about punishment, drive. Tell the trial judge that you are obligated under the common law to charge the jury with the law, but keep it a secret.

The Senator from West Virginia said we do not have a cap. I guess that is the part he is reading in the bill, because as far as the jury knows, there is no cap. Why? Because that is the law under the common law, but they have a provision in here where the judge does not tell the jury about the law.

Now come on, what kind of laws are we passing here? Tell the drunk drivers, "Go ahead, drive drunk." Tell the judge who has the responsibility to stay out of the facts of the case, to, by gosh, keep the law secret and then come around and have a new hearing on the facts in violation of the Constitution.

The Cessna crowd, tell them now with the statute of repose, "Don't worry about it, as long as the part would last for 15 years." Most of the planes I have been flying in are more than that. When you fly around in a State in small planes, you will find they are more than 15 years old. But tell Cessna that they can go like gangbusters, do not worry about the parts.

There, shoot the Maytag man. Put him out of business. He does not have to stand there and say, "My refrigerator is not going to catch fire. It is 30 years old, and they still haven't called me to repair it." Shoot the Maytag man.

Blow up the furnaces. I went through a textile plant just the other day. It is 100 years old, but the machinery is brand new. They are competitive. When I first started, the shunts, as they call them, in the weaving machines used to be about 200; then they got to 400, then 1,500. The Japanese made machines up above that, I do not know how many thousands. They have the newest machinery.

Yes, somebody in the plant may have been hurt. But now, hereafter, when you have to put all that investment in there, do not worry about the cost of the safety of the worker after the machine is 15 years old. I think they will close down the textile show we have in Greenville for new machinery because we are going to pass the law that after 15 years you can forget about how safe a machine is. There is no more product liability. They will take the hindmost. Just get hurt. Do not worry about it. Let society take care of the injuries and everything else because the national Congress, in the face of the State laws and provisions that are working extremely well as of now, decided exactly what to do.

The utilities, oh, heavens, we had a good half-hour show on yesterday about the utilities. The utilities, now they did not want to write strict liability, so they wrote a double negative in the particular provision. Of course, the distinguished Senator had a difficult time trying to answer the questions because you could tell the lawyers downtown wrote this thing, not the staff. If the staff had written it, you would have seen somebody getting cussed out for writing that kind of thing. But the lawyers downtown were writing that thing up. They did not want to mention what they really meant.

That is, for the utilities, do not worry about the highest degree of care we require in Georgia, South Carolina and the States of America because now we have a provision in here to tell the utilities to go ahead, forget about the highest degree of care.

Then, the corporate head was riding with his worker after work in the evening. They get into a wreck. A big trucking company runs the red light. The corporate head can get $16 million—no, excuse me, it says double economic damages. We had one corporate head making $16 million, so he could get a $32 million verdict. But the poor fellow sitting in the front seat with him has got a cap—the gentleman said it "ain't no cap" —but he gets $250,000. He is capped.

That is how the workers and consumers got this. The proponents of the bill discriminate against the people they say they are trying to help. They cannot name an organization of workers, consumers or others who are not affluent that favors this nonsense. The proponents come around and discriminate against those of modest means—the senior citizens, women, children.

Oh, on pain and suffering, well, they are compensated. They have to have another hurdle. We put in another hurdle for them regarding joint and several liability. Mr. President, they come right down to the wire.

I was watching this morning when the distinguished majority leader was on TV. He was talking about guns and the second amendment. Let me read two other amendments.

> In suits at common law [amendment VII], where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of common law.

They absolutely mandate it be reexamined by the trial judge. That is in violation of amendment VII.

Then amendment X:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to States respectively, or to the people.

The distinguished majority leader always comes and says, "Look, I have got here in my pocket" the 10th amendment—some carry around the contract. The distinguished senior Senator from West Virginia carries around the Constitution. The distinguished majority leader carries around the 10th amendment, until this.

When it comes to Medicaid, let the States handle it. When it comes to education, abolish the Department; that is a function of the States. When it comes to welfare, the Governors come in and say, let the States handle it. When it comes, by cracky, to crime, we have had a 2-year intramural around here trying to make sure that we get back to a program that we know did not work.

President Nixon put in LEAA, block grants, to the States. The next thing you know, they had a tank down in Hampton, VA, to protect the courthouse. I do not know what was going to attack the courthouse in Hampton. They had the Governor of Indiana buying a plane, a Beechcraft, so his wife could go and buy her clothes in New York. They were buying planes and buying tanks and everything else. Trying to get the money down to the officer on the beat was like delivering letters by way of a rabbit; you could not get it there.

At the time the city, the council, got it, the State, whatever, a politician got his hands on it. It was all for law enforcement, but law enforcement never saw it. But they say, "Oh, no, we've got to have block grants." After the experience where we had to abolish the LEAA, they come with this one on account of the political poll.

Lawyers. They have two giants, they say, the consumers and the trial lawyers, consumers and trial lawyers. The Senator from California emphasized what needs to be emphasized, and that is that we are looking out for individuals and individual injuries. It is not easy to try these injury cases. As we all know, less than 4 percent of all civil cases are product liability, less than 1 percent get to the courts, and product liability accounts for less than 1 percent of the cost of any of these products. They can keep on putting up charts, but the Conference Board refuted that. They said less than 1 percent of the cost of any of their articles were attributable to product liability. So what did we do? What did we do? We pass a totally unconstitutional measure. But more than anything else, Mr. President, the word "greed" has been used around here. I could not, in conscience, come and say, now, let us apply this all to injured individuals but not to injured businesses. Oh, no. No, no.

I see where United Airlines wants to sue that manufacturer of the baggage handler. It got loose up in Denver, that machine. We had one of those machines, Mr. President, when I was in college. It had the laundry where you sent your clothes over there, and it had a machine that ripped the buttons off your shirt and shot them through your socks. I know that machine now is up at the Denver airport. It tears up the package, rips into the bags, and skirts it into the gears, stopping everything.

So now, Mr. President, we have the business that can go ahead and get its way on punitive damages—do not worry about any $250,000, keeping it a secret, and then tell the trial judge later to start on his own factual findings and everything else like that in violation of the Constitution. Do not worry about any of that. Sue, like Pennzoil did Texaco—get a $10 billion verdict, $10.2 billion. That is more than all the product liability verdicts for injured matters in the last 20 years put together—$10.2 billion. Add them up. One business.

The overwhelming majority of product liability is businesses suing businesses. They believe when they get a bad product misrepresented, they ought to have a cause of action. But they have done everything in the world to put hurdles in this thing, unconstitutional provisions, separating the injured parties, separating the businesses out, making sure that the corporate heads and those of affluence get big economic damages. They can get big verdicts; not women, not children, not senior citizens who have retired. They have all of a sudden become second-class citizens.

That is the bill. It is a shame. I yield the floor.

Mr. GORTON. Mr. President, I think a few brief moments in outlining what this bill does and what it does not do may be particularly in order at this stage in the debate.

If we were to take at face value what we have heard from my distinguished colleague from South Carolina, coupled with his colleagues from Massachusetts and California, we would entirely lose sight of the fact that nothing in this bill limits in any respect the ability of any individual to recover a verdict in any court for all of the actual damages suffered by that individual as a result of what a jury may determine to have been a defective product.

Let me repeat that. The Presiding Officer, if he is injured by a defective product, will recover in the future, as he has in the past, all of his actual and provable damages. Obviously, there will be a difference in those damages from one person to another, even with similar injuries.

Second, Mr. President, nothing in this bill limits the ability of an injured person to recover as a result of a jury verdict all of the damages that jury may attribute to pain and suffering or to noneconomic damages.

I find the argument of the Senator from South Carolina particularly curious. He says this is a terrible bill because an executive making $2 million a year can recover more than someone making the minimum wage. Mr. President, that seems to me to be an argument that we ought to impose caps, caps that we have not imposed. Perhaps the Senator from South Carolina is suggesting a reform which no one, as far as I know, has ever proposed anywhere in the United States. That is, that there ought to be a cap on the economic damages that any individual can receive, and that if an individual making $100,000 loses a year of work, that person should not be able to recover any more than a person who makes $20,000, or vice versa. But that is a change in the law that, as far as I know, no one has ever proposed.

This bill allows you, Mr. President, to recover all of the actual damages that you have suffered as a result of an accident that is the fault of some product, including your lost wages, based on whatever your wages are. Is that unequal justice because some people have higher wages than others? I do not think so. It also allows the jury to award you or anyone else whatever it may determine in the way of noneconomic damages.

We did have a debate on this subject in this body the first time around, not in connection with punitive damages but in connection with medical malpractice. There was an attempt on the floor to put a ceiling on the amount of noneconomic damages that could be recovered in a medical malpractice case. That proposition lost on the floor of the Senate, Mr. President, and ultimately the entire medical malpractice section was taken out of the bill, to be dealt with separately.

This bill proposed no such limit in committee, no such limit on the floor when it was being debated last year, and has no such limitations now. What is limited in any respect is the imposition of punitive damage awards—by definition, an award that is above and beyond all of the damages caused by the defective product.

My distinguished friend and colleague who is so complimentary to me, the Senator from West Virginia, has said that he would not vote for a bill that had an absolute cap on punitive damages. This is a field in which we disagree. I would. In fact, I do not believe, as an individual Senator, that there is any place in the civil justice system for punitive damages at all. They are not permitted in tort litigation in the State of Washington and in a handful of other States.

There are very few serious arguments made that there is no justice available for civil litigants as a result. There is an extremely strong argument, it seems to me, against punitive damages at all. Why should any individual recover more than a jury thinks that individual has actually suffered, especially when there is no limitation on the ability of the jury to make an award for pain and suffering for noneconomic damages in addition to the proven actual damages in a case?

We have a system in this country that is peculiar with respect to punitive damages designed as punishment without any limitations whatever. Every criminal code, for every crime up to and including first-degree murder and treason, has some kind of limitation. You cannot be executed twice for two murders. But with respect to punitive damages, in most places there are no limitations at all.

The Supreme Court of the United States has asked us to address this issue. I think we ought to address this issue. We do address it in a modest fashion in this bill, a very modest fashion, but only punitive damages, not any of the actual losses to any plaintiff in a product liability action whatever.

If you heard only the arguments on the other side of this case, you would think everyone was being denied justice, that no one was going to be able to recover their losses, their actual damages in a piece of product liability litigation.

Why should there be some predictability, some limitation on punitive damages? First, of course, because under the present system there can be an infinite number of actions with respect to the same product. We have a sentence, a punishment imposed, not with all of the protections of the criminal code, not with the usual unanimous jury requirement, but just at the total, complete and unfettered discretion of juries.

I think, as I say, that it is a terribly poor system. I did not prevail in my debates with my allies on my own side of the aisle or with my friend from West Virginia. I cannot remember what the views of my friend from Connecticut are on the subject. So we have a form of control which is not a cap. The Senator from West Virginia is entirely correct with respect to that; however, nothing with respect to requiring a company or an individual to pay its full share of the damages that it has caused, whether noneconomic or economic.

Mr. President, this bill is about people. I spoke yesterday, and speak again today, briefly, about young Miss Tara Ransom in the State of Arizona who has spoken to Senator McCAIN and to people in my office about her silicon-based shunt for hydrocephalus.

The great and deep concern that she and thousands of others have about the availability of a medical device, which has literally given her life and made that life worth living, is that it is increasingly unavailable due to a present system of absolutely uncontrolled and unlimited punitive damages.

The next to the last paragraph in the article about this young lady from Arizona reads:

> The good news is that there are reform efforts underway in Arizona and at the Federal level. The Senate is planning to vote, as early as today, on legislation to place reasonable limits on punitive damages and eliminate unfair allocations of liability in all civil cases. This would protect all Americans —not just the manufacturers of medical products, but also small businesses, service providers, local governments, and non-profit groups. Above all, it would save children like Tara.

This is about American business, and competitiveness, and low prices for products. But it is even more about the people who use those products.

Finally, Mr. President, we get this nonsense about drunk drivers, this utter nonsense about the drunk drivers. Well, of course, nothing in this bill has anything to do with suing drunk drivers. The implication that it has something to do with suing the people who supply them with alcohol negligently, the so-called dram stop situation—well, this bill specifically says, "A civil action for negligent entrustment shall not be subject to the provisions of this section but shall be subject to any applicable State law."

That argument, Mr. President, is pure nonsense. This is a product liability bill. It is not a negligent entrustment bill. It has nothing to do with someone who deliberately sells a gun to someone to kill a third person, or deliberately allow someone to become drunk and is sued under dram stop statutes at all. It does have to do with product liability, with people like Tara Ransom, with companies like Cessna, with those who manufacture devices and therapeutic drugs, and a myriad of other products for the American people. It does have to do with giving them a better deal than the present system does, which is a lottery for plaintiffs and a bonanza for those who represent them.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield the distinguished Senator from Alabama 15 or more minutes, as he may require.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

Mr. HEFLIN. Mr. President, I just found out that Senator ROCKEFELLER is going to vote for the conference report. Senator GORTON has said that Senator ROCKEFELLER could never vote for a bill if it had a cap in it, a definite cap. And as I read it—now, maybe he can, in some way or another, explain this language —we have a language on page 10 of the report relating to punitive damages. First, the language in the report says the "greater" of two times the sum of the amount awarded to a claimant for economic loss and noneconomic loss, or $250,000. That is not a definite cap because the amount of economic loss and noneconomic loss is a variable. But language immediately thereafter says, "special rule." This applies to the rule on punitive damages for small businesses where these corporations have 25 employees or less. I might add that this language applies also to individuals. The "special rule" provides that punitive damages shall not exceed the "lesser" of two times the economic loss and noneconomic loss, or $250,000. So punitive damages cannot exceed, in any event, $250,000. So that is a definite, established cap.

I am not going to hold Senator ROCKEFELLER to that since he did not make the statement to me. He must have made that statement to Senator GORTON who is present on the floor. I would not want to put him in an embarrassing situation. But I think this special rule shows very definitely that there is a cap in the bill.

Now, that also points out that a lot of language in this bill is slyly inserted, and so craftily placed, that I think some of its key features have escaped a great number of people's attention. That is true with regard to the biomaterials provision. The biomaterials provisions, to which Senator LIEBERMAN refers regarding raw materials, also contains language regarding component parts. There are numerous implants that have component parts. I mentioned before that I have a pacemaker which has numerous component parts. There is a battery, and there are various wires that go down into the chambers of the heart that causes electrical charges to emit; it has various sensors and a computer that records the history of my heartbeats over a period of time. When doctors check it, they can check and see whether or not there was some unusual rhythm or unusual activity taking place. Basically under the provisions of title II, on an implant that has component parts, there is complete immunity in regard to the supplier of the component parts, or the raw materials of an implant.

Now, there is an exception in the event the manufacturer of the component part is also the manufacturer of the entire device or also the seller. But most medical devices are made from component parts, such as the batteries, and people furnish those separately. Title II gives complete immunity to suppliers with no chance to even discover whether or not there was any negligence on the part of the supplier. It is interesting to see where the crafty language is written. It indicates that "implant" means—and this is the definition on page 17 of the conference report—

> a medical device that is intended by the manufacturer of a device to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days, or to remain in contact with bodily fluids, or internal human tissue through a surgically produced opening for a period of less than 30 days.

Well, what is less than 30 days? I would assume that less than 30 days could mean 2 seconds or 1 second. It is very craftily designed. What is a surgically produced opening? Well, there is no definition in here, but a surgically produced opening would appear to me to be an opening in which you use surgical tools. Of course, that would mean that you normally think of a knife, of a scalpel, or of something like that. But what about intravenous materials, one of these locks where you tie it into you? You have devices where they put it in and out of your body, and they can put fluids into the body such as a blood transfusion. Consider a hypodermic needle—is that a surgical tube?

You have a situation where we find that title could have some applicability with a blood transfusion. We should consider where a blood transfusion occurs, and we know that blood has to be highly inspected and is subject to the highest standard of care because of AIDS and other matters. This bill is designed toward an interpretation that could mean that AIDS in blood is subject—where someone has made a mistake, who has been negligent or otherwise—to the provisions and the limitations and protections that are put within this bill.

It is very carefully crafted, as I pointed out yesterday, in inserting a comma in the definitions section of durable goods, now within the purview of the report is any type of a product that has a life of more than 3 years—baby cribs, lawn mowers, toasters, or virtually any type of kitchen appliance.

There are a great number of provisions in the bill that disturb me, in particular, the way that they are designed to favor the manufacturer or the seller, and it puts the injured party at such a disadvantage. For example, there is the misuse or alteration provision, which provides that in a product liability action, the damages of a defendant will be reduced by the percentage of responsibility for a claimant's harm attributable to the misuse or alteration. But I see problems where there could phantom defendants—the phantom defendants where there is nobody there to be held responsible—and they can try to invoke the several liability provisions in the report as to noneconomic damages. These phantoms are the ones that are all at fault and there is nobody left responsible for a claimant's injury.

Then we have a situation in regard to employer and coemployee, as to whether or not they might have misused or altered, or were at fault. So, in order to leave the impression on the jury, this bill requires that that be the last issue that is presented to a jury, because when they leave and go back to the jury room to decide, that is the last thing that they heard. So they are trying to put it off—the negligence or the lack of responsibility on the part of the manufacturer—and impose it on someone else and to give it to that person just as he goes into the jury room as the last thing that they hear that will be predominantly on their mind. Is that fair to the claimant?

There are numerous other aspects of that which disturb me. I suppose one of the things that I just cannot understand at all in regard to this is how—if it is good for the goose, why is it not good for the gander? And they exempt business losses. One business suing another business can bring his suit for commercial losses, losses of profit, unlimited amount, unlimited amount relative to punitive damages, and different statutes of limitation.

The Uniform Commercial Code, I assume, is uniform everywhere. I understand there are a few differences in it. But in our State in Alabama, you have a 4-year statute of limitations in regard to the Uniform Commercial Code. The conference report imposes a shorter 2-year statute of limitations.

The Senate-passed bill contained an exception to the 2-year statute-of-limitation provision stating that if a civil action under the bill is stayed or enjoined, the statute of limitation is suspended or tolled until the end of the injunction. That provision was deleted from the conference report. Is that fair? I think not.

I yield the floor.

The PRESIDING OFFICER (Mr. SHELBY). Who yields time?

Mr. GORTON. How much time remains?

The PRESIDING OFFICER. Thirty-four minutes.

Mr. GORTON. How much of that time does the Senator from Connecticut request?

I yield 15 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair. I thank my friend from the State of Washington.

Mr. President, I have been thinking as I listened to the debate this morning, and what preceded it yesterday and before that, that there is a way of thinking around the Capitol that is not the way of thinking that I hear back home in Connecticut. It is what I call either-or. You know if an idea is put forward by a Republican, no Democrat shall be for it. If an idea is put forward by a Democrat, no Republican should be for it, or, in this case, if something is good for business, it has to be bad for consumers. That does not figure, particularly if you look at the overall effects of this bill.

What I want to contend here is that because of the extraordinary work done by Senators GORTON and ROCKEFELLER, and by the conferees from the Senate and the House, this is a win-win bill.

This is a bill that is good for consumers and good for business. In that sense, it is good for our country overall.

There is a way in which the opponents to the legislation approach it with such skepticism, turning every word in the most potentially damaging light and not considering the intentions of the sponsors and the authors and the record that we have tried constantly to build on the floor.

Everybody in America knows, at least most everybody knows, that our civil justice system is not working well. I do not think anybody really can stand up and defend the status quo of the litigation system in America. Nothing is wrong with it. That is preposterous. The average person on the street—I stop them in Hartford, New Haven, Bridgeport—knows that lawsuits take too long; that people do not get justice in a timely fashion; that too much of the money goes to lawyers. They know that.

I think the question is, how are we going to make it better? Why should we make it better? Because of the specific problems and shortcomings of the current system I just referred to and also because the public, the people have as little faith as the people of our country do today in our system of justice. That is a profound problem that goes beyond tort reform and anything else. It strikes at the very heart of people's faith in the Government they have. Lord knows, we know they have enough lack of confidence in the legislative branch, maybe some in the executive, but it goes to the judicial as well.

I honestly believe, deeply believe that this bill—moderate, modest, sensible, small, incremental reform—is a step in the direction of beginning to restore some faith in the system, making it work for people who are injured and making sure that it does not destroy faith in the system by punishing people who are not guilty and letting those who are guilty often off without being punished.

So I say this is win-win. It is good for business and it is good for consumers. It will create jobs by removing a deterrent to innovation and investment. It will reduce consumer prices by making litigation less expensive. If 20 percent of the costs that we are paying for a ladder is litigation-related costs, the cost of that ladder is going to go down if we can reduce that litigation cost some, and it goes on and on throughout the system.

I wish to talk particularly again about this biomaterials section of the bill of which I am a cosponsor. It comes from something that is very real that is threatening something very good. The very real element here is that there is an unnatural shortage of raw materials. Judge HEFLIN referred to it. Thank God, Judge HEFLIN is healthy and well today because of the pacemaker he has. He is one of 8 million people who have benefited from medical implants of one kind or another. The device is put together by a manufacturer but it takes parts they buy from people who do not make these parts particularly for this purpose. They are not making much money on selling those parts. Batteries are one. The information I put into the RECORD yesterday shows that one of the manufacturers of batteries—a couple actually—used in pacemakers have stopped selling to the manufacturers of pacemakers because they are afraid they are going to get sued for something that is not their fault. They would just as well sell the batteries to somebody else where the chance of a lawsuit is not as great. They are not worried about the negligence. They are worried about what it is going to cost them if they get tied up in a lawsuit.

In the debate there is such skepticism expressed about these medical devices and pharmaceutical companies, et cetera. Sometimes when I look back and read history and I say, now, how far have we really come; how much better is the human race? I wonder if we have ascended very far in the way in which we deal with one another.

However, there is one way we can objectively show that there has been extraordinary progress in human experience and that is in our health. We are living longer. You can see it year-by-year. We are up, I guess, in the mid-seventies now in terms of average lifespan. A lot of that has to do with pharmaceuticals, these wonder drugs that have been invented. And a lot of it has to do with these medical devices that we are trying to protect by making sure that the manufacturers can continue to get the parts, the materials and the component parts, and are not frightened out of supplying those parts because of the fear of lawsuits.

I said yesterday, when I talked about the allegations, the opponents of this bill keep lighting fires around the periphery to sort of stop people from voting for the bill. Those of us who support it put out one or two fires and there are three more burning over here. And one of the fires has been lit about how this bill would affect the existing breast implant procedure. I said at length yesterday—I will not repeat it today—the bill will not impact this procedure. This is prospective, only affects people who may file claims later. Breast implants are not being done any more. They were stopped by the FDA, except for a small number of clinical trials in 1992.

With regard to new products, you cannot escape liability under the biomaterials section of this bill, if you are not just a supplier but you are a manufacturer or a seller or what you have done is negligently done in the sense that it violates either the contract requirements that the manufacturer has given you for the raw material or component part, which obviously would be for a part or material that is not negligently made, or the specifications for that part that are issued as part of the approval process. Every one of these medical devices has to go through the FDA before it can be sold and used to benefit people.

Senator GORTON has spoken about one young girl and the extraordinary benefit to her life from the shunt that was put in her brain. We had testimony at a hearing I conducted from a Mr. Martin Reily of Houston, TX, about his young child, Thomas, who was discovered when he was 8 months old to have water on the brain, hydrocephalus. Mr. Reily said:

> Jane and I will never forget the Saturday in late October 1985, when we learned that Thomas had hydrocephalus. We initially were told that based on the level of fluid accumulated on his brain and the resulting pressure, he would surely have brain damage, probably severe. Surgery to place a shunt in Thomas was scheduled for the first thing Monday morning [2 days later]. The hours from late Saturday to Monday morning were the longest and darkest we have ever experienced.
>
> The thought of waiting even 1 day to have the surgery was almost unbearable, for each minute that passed the pressure was building in Thomas' head, which could further damage him. . . .
>
> On Monday morning, Thomas received a shunt. Within hours, he was showing improvement. His lethargy disappeared. He was alert. He smiled again for the first time in weeks and even stood up in his hospital crib. Within 36 hours, we were back home with the new Thomas. How different the outcome would have been for Thomas that day without the availability of the medical device he so desperately needed.

What a miracle. Mr. Reily continues:

> Six months after his original surgery, Thomas' shunt clogged and required revision. In the 6 hours that Thomas waited for his shunt revision surgery, he became violently ill, vomiting continuously and finally becoming semi-comatose. Mercifully, his revision was successful and immediately he regained his old form, laughing and smiling while playing games in his hospital bed. Again, how different yet predictably sad and final would have been Thomas' fate without this medical device. As I reflect on Thomas' brief life, I see a child who has already overcome a lifetime of medical difficulties.
>
> * * * * *
>
> Early on, Thomas' mother and I went through a grieving process. We were grieving for the death of our vision of our perfect child. It was not until we let that vision go that we were able to see something much more beautiful; a young boy with an indomitable yet loving spirit who will not let his personal medical setbacks defeat him. I think that must be surely God's spirit living inside him.

Mr. Reily concluded:

> So I stand before you today, as the guardian of that spirit, as Thomas' father, beseeching you to do everything in your power to ensure that the biomaterials necessary for Thomas' medical implant device be readily available and of the highest quality. For some time in the future, perhaps next month or next year, Thomas will wake me in the middle of the night to tell me that his head hurts and that he thinks his shunt has broken. He will ask if we can go to the hospital to get a new one right away. I pray I will be able to give him the only acceptable answer.

It is remarkable testimony. We had other testimony that day from a most impressive woman, Peggy Phillips, who has worked for awhile as chief of congressional affairs for the Air Force Surgeon General, going to law school in the evening, getting home at 10 p.m., working until midnight, and so on, office work, very busy. "However, on November 26, 1986," as she says, "my life changed. I am told that I collapsed as I walked from my office to my car. I stopped breathing. I had no pulse. I had no blood flow to my brain, I was clinically dead."

The story ends happily. She agreed to have an automatic implantable cardioverter defibrillator put into her stomach.

"Following a few minor adjustments," she says, "life with the AICD has not been much different than before." She goes on to document changes that have occurred, and appeals to us to make sure that some of the simple parts of that AICD, which keeps her going, monitors her heartbeat, gives her a shock when there is a danger that her heart is going to stop, keeping her alive—that flow of materials is not going to stop.

These are consumers. Does this help business? It helps the businesses that make the medical devices; it helps Thomas Reily; it helps Peggy Phillips; it helps 8 million other people who are going to be kept alive, allowed to live normally by these devices.

Earlier this morning my friend from California made some references about the impact of this legislation—somewhat on breast implant cases which I have spoken to earlier—but on women generally. I do want to put into the RECORD a statement here. I am going to quote from it.

Phyllis Greenburger, who is the executive director of a group called the Society for the Advancement of Women's Health Research, testified on April 4, 1995, to that same Senate subcommittee, that, "* * * the current liability climate is preventing women from receiving the full benefits that science and medicine can provide. That," she says, "is the reason I am here before you today."

She went on to say:

> . . . there is evidence that maintaining the current liability system harms the advancement of women's health research.

She completed her testimony by stating:

> Manufacturers of raw materials, unwilling to risk lawsuits, are limiting, and in some cases, terminating the sale of their product for use in an implantable medical device. . . . The threat to health is further magnified in cases where suitable substitute materials are not available.
>
> Women may be disproportionately impacted by such a shortage simply because they live longer than men, and as a result, suffer more from chronic disease, increasing their chances of needing a medical device, such as hip or joint replacements. For those of us currently in good health, the loss of these substances seems inconsequential. Yet for those like Peggy Phillips . . . [Whom I spoke of before] and others suffering from osteoporosis, heart disease, rheumatoid arthritis, and other diseases, access to a full range of medical devices is crucial.

I wonder if I might ask the Senator from Washington for 5 more minutes?

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. The Senator from Nebraska also wishes to speak on our side. Will the Senator from Connecticut settle for 2?

Mr. LIEBERMAN. I will settle for 3.

Mr. GORTON. Fine.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. LIEBERMAN. A study by the Committee for Contraceptive Development, jointly staffed and administered by the National Research Council and the Institute of Medicine, found that only one major U.S. pharmaceutical company still invests in contraceptive research. Why? The study blamed the legal climate, fear of lawsuits, for this situation. H.R. 956, this bill before us, would make these drugs and other medical devices more available.

We have said over and over again, this bill protects the right of an injured plaintiff to get full recovery for damages, cost of medical care, loss of wages, any other provable item. It goes beyond, and says you can get recovery for noneconomic losses, intangibles like pain and suffering, from those who are responsible for the negligence.

It simply puts a small limit on punitive damages. In doing so, yes, it helps some businesses expand, provide the miraculous products I have talked about, sell products for less; but it helps millions of other people. In a way, the beneficiaries of this legislation are not so visible. That is why I read from this testimony. But they, and millions and millions of others of them, are counting on us to pass this bill to bring balance and trust back to our legal system.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, let me just for a minute respond.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I will yield to the distinguished Senator from Nebraska.

The distinguished Senator from Connecticut is very persuasive and I wanted to answer these pleading comments about "walking down the street" and "everybody knows the litigation system is in disrepair." Absolutely false, with respect to the civil justice system.

We have all seen the O.J. case and that jury of 12 let him go. But the American public jury did not let him go. Everybody knows that.

We have, here, just this past week, March 18, U.S. News & World Report:

> In New York City, a movement is under way to impeach Criminal Court Judge Laurin Duckman. A 33-year-old woman sought court protection from a former boyfriend, a convicted rapist, who had attacked her three times. Despite the beatings, Judge Duckman coolly noted that the woman was "bruised but not disfigured," lowered bail in the case and suggested that the man would stop bothering the woman if she gave back his dog. Three weeks later, the man shot her to death.

In another case:

> Police in a high-activity drug area at 5 a.m. noticed a slowly moving car with out-of-state plates. The car stopped, the driver popped the hood of the trunk and four men placed two large duffel bags inside. When police approached, the men moved away rapidly in different directions. One ran. Police searched the trunk and found 80 pounds of cocaine. The driver, a Michigan woman, confessed in a 40-minute videotaped statement, saying that this was just one of more than 20 large drug buys she had made in Manhattan. But Judge Baer ruled that police had conducted an unreasonable search. What about the men bolting from the scene? Since residents in the area regard cops as corrupt and abusive, opined the judge, it would have been unusual if the men hadn't run away, so fleeing was no cause for a search. In other words, the perps had reason to be suspicious of police, but police had no reason to be suspicious of the perps.

Come on. I ask unanimous consent to have this list of cases printed in the RECORD

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HOLLINGS. We are all disturbed about the criminal court system. But not, where the distinguished Senator from Connecticut served as the majority leader in the State legislature of Connecticut, he acts—"walking down the street," that he is the only one walking down the street talking.

Come on. We even had one former member went up as Governor and pull an income tax on the people of Connecticut, Governor Weicker. The people of Connecticut will respond, with leadership. And they do have a product liability statute in that State.

But these folks come and talk about fair. "Yes, I hope I can certainly get this shot so I can continue breathing." I mean, grown folks, men and women in the U.S. Senate, acting like this? That case would be thrown out. Talking about what is not good for the consumer, good for business.

I ask unanimous consent to have printed in the RECORD "Suing For Safety." It is by Thomas Lambert, Jr. I ask to have this printed in the RECORD, included with the "Stupid Court Tricks." Include them both.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HOLLINGS. Mr. President, that "Suing for Safety" gives case after case where it had not been good for the consumer. The consumer had to get a trial lawyer, had to go before 12 jurors in his community, had to go up on appeal and pay all the court costs and finally get a verdict.

Why is it good for the consumer and good for the business? On account of product liability. We have it at the

State level, and it is working. That is why I put that case in the Record.

We know what business does. Some businesses will cut corners, they will not give warnings, they try to save money. Everybody knows there were a few dollars in the Pinto case. Now we see time and again, week after week, recalls. They just recalled one of my cars to put another safety device on.

Why do you think that was done? On account of the trial lawyers. Product liability. That is why they have done it, and everybody in the Senate knows it. But the little poll says get rid of the lawyers, like Dick the Butcher in Henry VI, "Kill all the lawyers." That is a popular thing.

So that is what we have. I reserve the remainder of my time.

Exhibit 1

[From U.S. News & World Report, Mar. 18, 1996]

Stupid Court Tricks

(By John Leo)

Some judges and some judges' decisions are better than others. Here are some others:

In New York City, a movement is under way to impeach Criminal Court Judge Laurin Duckman. A 33-year-old woman sought court protection from a former boyfriend, a convicted rapist, who had attacked her three times. Despite the beatings, Judge Duckman coolly noted that the woman was "bruised but not disfigured," lowered bail in the case and suggested that the man would stop bothering the woman if she gave back his dog. Three weeks later, the man shot her to death. In another domestic violence case, Judge Duckman allowed a beater to go free hours after a jury had found him guilty. Last month, the man was charged with another attack on the same woman.

North of the border, the loopiest judicial decision of the year came when the Canadian Supreme Court ruled that drunkenness was a defense against rape charges. It ordered a new trial for a Montreal man who had been convicted of sexually assaulting a 65-year-old woman in a wheelchair. The court predicted that the alcohol defense would be rare, but within weeks drunks and addicts were being acquitted across Canada. Sanity prevailed, however. Parliament passed a law banning the drunkenness defense.

Judge Rosemary Barkett, a Clinton appointee, has brought sexual harassment litigation into the fifth grade. Writing for the majority on the 11th Circuit Court of Appeals last month, she said that the mother of a fifth grader who was repeatedly pestered by another fifth grader could sue the school district under Title IX of the 1972 Education Amendments. In a recent dissent in another case, Barkett implied that a statute requiring drug tests for some state jobs in Georgia may violate the First Amendment by seeking to keep persons "who might disagree with the current policy criminalizing drug use" out of government.

Another Clinton appointee, Judge Harold Baer, caused a spreading uproar with his colorful botching of a drug case. Police in a high-activity drug area at 5 a.m. noticed a slowly moving car with out-of-state plates. The car stopped, the driver popped the hood of the trunk and four men placed two large duffel bags inside. When police approached, the men moved away rapidly in different directions. One ran. Police searched the trunk and found 80 pounds of cocaine. The driver, a Michigan woman, confessed in a 40-minute videotaped statement, saying that this was just one of more than 20 large drug buys she had made in Manhattan. But Judge Baer ruled that police had conducted an unreasonable search. What about the men bolting from the scene? Since residents in the area regard cops as corrupt and abusive, opined the judge, it would have been unusual if the men hadn't run away, so fleeing was no cause for a search. In other words, the perps had reason to be suspicious of police, but police had no reason to be suspicious of the perps. Since the confession stemmed from the search, Baer threw it out. The prevailing New York opinion: Judge Baer is an idiot.

Can the state legally confiscate the property of innocent people? The U.S. Supreme Court said yes this month in a Detroit case. A 5-to-4 ruling allowed confiscation of a 1977 Pontiac half-owned by a woman after her husband was arrested for having sex with a prostitute in the car. The Wayne County prosecutor's office had sued to confiscate the car under Michigan's public nuisance statutes. In a dry dissent, Justice John Paul Stevens said that until this case, no state had "decided to experiment with the punishment of innocent third parties."

In a notably tortured decision, the federal 10th Circuit Court of Appeals ruled that a male prisoner who wishes to become a female is not entitled to get hormone injections at public expense under the 14th Amendment, but he may be entitled to them under the Eighth Amendment, which bans cruel and unusual punishment.

Much egg is on the faces of federal judges of the Fourth Circuit Court of Appeals for their handling of the Rodney Hamrick case. While serving prison time for threatening the life of President Reagan, Hamrick built five bombs and threatened to blow up a courthouse, an airplane and NAACP headquarters. While serving more time for threatening to kill the judge in his case, he built and mailed a bomb to a U.S. attorney who had prosecuted him. The bomb fizzled, scorching the envelope but not detonating. Hamrick was convicted, but a three-judge panel of the Fourth Circuit reversed the conviction on grounds that the bomb was not a deadly or dangerous weapon because it had been badly built. This decision flew in the face of a relevant Supreme Court ruling that even an unloaded gun could be considered dangerous. For some strange reason, Solicitor General Drew Days did not request a rehearing on the Hamrick ruling by all the judges of the entire Fourth Circuit. But the judges decided to do so on their own, and they narrowly upheld Hamrick's conviction. Eight judges thought that the faulty bomb qualified as dangerous, while six judges disagreed. No word yet from Drew Davis. Is anybody in charge here?

Exhibit 2

[From the Trial magazine, November 1983]

Suing for Safety

(By Thomas F. Lambert, Jr.)

It has been well and truly said, "If you would plant for a year, plant grain; for a decade, plant trees; but if you would plant for eternity, educate a man." For nearly four generations, ATLA has been teaching its men and women, and they have been demonstrating to one another, that you can sue for safety. Indeed, one of the most practical measures for cutting down accidents and injuries in the field of product failure is a successful lawsuit against the supplier of the flawed product. Here, as well as elsewhere in Tort Law, immunity breeds irresponsibility while liability induces the taking of preventive vigilence. The best way to make a merchant responsible is to make him accountable for harms caused by his defective products. The responsible merchant is the answerable merchant.

Harm is the tort signature. The primary aim at Tort Law, of the civil liability system, is compensation for harm. Tort law also has a secondary, auxiliary and supportive function—the accident prevention function or prophylactic purpose of tort law—sometimes called the deterrent or admonitory function. Accident prevention, or course, is even better than accident compensation, an insight leading to ATLA's longstanding credo: "A Fence at the Top of the Cliff Is Better Than an Ambulance in the Valley Below."

As trial lawyers say, however, "If you would fortify, specify." The proposition that you can sue for safety is readily demonstratable because it is laced and leavened with specifics. They swarm as easily to mind as leaves to the trees.

ACCIDENT PREVENTION THROUGH SUCCESSFUL SUITS IN THE PRODUCTS LIABILITY FIELD

(1) Case for Charcoal Briquets Causing Death from Carbon Monoxide. Liability was imposed on the manufacturer of charcoal briquets for the carbon monoxide death and injury of young men who used the briquets indoors to heat an unvented mountain cabin. The 10-pound bags read, "Quick to Give Off Heat" and "Ideal for Cooking in or Out of Doors." The manufacturer was guilty of failure to warn of a lethal latent danger. Any misuse of the product was foreseeable because it was virtually invited. Next time you stop in at the local supermarket or hardware store, glance at the label on the bags of charcoal briquets. In large capital letters you will find the following: "WARNING. DO NOT USE FOR INDOOR HEATING OR COOKING UNLESS VENTILATION IS PROVIDED FOR EXHAUSTING FUMES TO OUTSIDE. TOXIC FUMES MAY ACCUMULATE AND CAUSE DEATH." Liability here inspired and exacted a harder, more emphatic warning, once again reducing the level of excessive preventable danger.

(2) Case of the Exploding Cans of Drano. When granular Drano is combined with water, its caustic soda interacts with aluminum, another ingredient in its formula and produces intensive heat converting any water into steam at a rapid rate. If the mixture is confined, the pressure builds up until an explosion results. The manufacturer's use of a screw-on top in the teeth of such well known hazard was a design for tragedy. The expectable came to pass (as is the fashion with expectability). In Moore v. Jewel Tea Co., a 48-year-old housewife suffered total blindness from the explosion of a Drano can with a screw-on top, eventuating in a $900,000 compensatory and $10,000 punitive award to the wife and a $20,000 award to her husband for loss of conjugal fellowship.

A high school chemistry student could see that what was needed was a "flip top" or "snap cap" designed to come off at a pressure of, say, 15–20 pounds per square inch. After a series of adverse judgments, the manufacturer substituted the safer flip top. Of course, even the Drano flip top will be marked for failure if not accompanied by adequate testing and quality control. Capers involved a suit for irreversible blindness suffered by 10-year-old Joe Capers when the redesigned flip top of a can of Drano failed to snap off when the can fell into the bathtub and the caustic contents spurted 8½ feet high impacting Joe in the face and eyes with resulting total blindness. The shortcomings in testing the can with the reformulated design cost the company an award of $805,000. As a great Torts scholar has said, "Defective products should be scrapped in the factory, not dodged in the home."

Drayton v. Jiffee Chemical Corp., is a grim and striking companion case to the Drano decisions mentioned above, and it underscores the same engineering verities of those cases: the place to design out dangers is on the drawing boards or when prescribing the chemical formula. A one-year-old black girl suffered horrendous facial injuries, "saponification" or fusion of her facial features, when an uncapped container of Liquid-Plumr was inadvertently tipped over. At the time of the accident, this excessively and unnecessarily caustic drain cleaner was composed of 26 percent sodium hydroxide, i.e., lye. No antidote existed because, as the manufacturer knew, Liquid-Plumr would dissolve human tissue in a fraction of a second. To a child (or any human being) a chemical bath of this drain cleaner could be as disfiguring as falling into a pool of piranha fish. Liquid-Plumr, mind you, was a household product, which means that its expectable environment of use must contemplate the "patter of little feet," as the children's hour in the American home encompasses 24 hours of the day.

At the time of marketing this highly caustic drain cleaner, having made no tests as to its effect on human tissue, within the existing state of the art, the defendant could have reformulated the design to use 5 percent potassium hydroxide which would have been less expensive, just as effective and much safer. After some 59 other Liquid-Plumr injuries were reported to defendant, it finally reformulated its design to produce a safer product. In Drayton the defendant was allowed to argue in defense and mitigation that its management was new, that it had learned from its prior claims and litigation experience and that it had purged the enterprise of its prior egregious misconduct.

To open the courtroom door is often to open a school door for predatory producers.

(3) Case of the Tip-Over Steam Vaporizer. A tip-over steam vaporizer, true to that ominous description, was upset by a little girl who tripped over the unit's electric outlet cord on the way to the bathroom in the middle of the night. The sudden spillage of scalding water in the vaporizer's glass jar severely burned the 3-year-old child. The worst injuries in the world are burn injuries. The cause of the catastrophe was a loose-lidded top which could have been eliminated by adopting any one of several accessible, safe, practical, available, desirable and feasible design alternatives, such as a screw-on or child-guard top. The truth is that the manufacturer, Hankscraft, had experienced a dozen prior similar disasters. In the instant case, the little girl recovered a $150,000 judgment against the heedless manufacturer, impeaching the vaporizer's design because of lack of a screw-on or child-guard top. When the manufacturer, with icy indifference to the serious risks to infant users of its household product refused to take its liability carrier's advice to recall and redesign its loose-lidded vaporizer, persisting in its stubborn refusal when over 100 claims had been filed against it, the carrier finally balked and refused to continue coverage unless the company would recall and redesign. Then and only then did Hankscraft stir itself to redeem and correct the faulty design of its product, thereafter proudly proclaiming (and I quote), "Cover-lock top protects against sudden spillage if accidentally tipped." Once again Tort Law had to play professor and policeman and teach another manufacturer that safety does not cost: It pays. Under what might be called the Cost-Cost formula, the manufacturer will add safety features when it comes to understand that the cost of accidents is greater than the cost of their prevention. The Tip-Over Steam Vaporizer case is the most graphic example known to use showing that corporate management can be recalled to its social responsibilities by threat of stringent liability, enhanced by deserved civil punishment via punitive damages, and that belief in such a proposition is more than an ivory tower illusion.

A good companion case to the Tip-Over-Steam-Vaporizer case, serving the same Tort Touchstone of Deterrence, is the supremely instructive Case of the Remington Mohawk 600 Rifle. While a 14-year-old boy was seeking to unload one of these rifles, pushing the safety to the "off" position as required for the purpose, the rifle discharged with the bullet entering the boy's father's back, leaving him paralyzed and near death for a long time. The agony of his guilt, his feeling that he was to blame for his father's devastating injuries, pressed down on the boy's brow like a crown of thorns and almost unhinged his sanity. Assiduous investigation by the family's lawyer unearthed expert evidence of unsafe design and construction and lax quality control of the safety selector and trigger assemblies of the Mohawk 600.

The result of the exertions of the plaintiff's lawyer, deeply and redoubtedly involved in challenging the safety history of the rifle model, was a capitulation by Remington and an agreement to settle the father's claim (he was a seasoned and successful defense trial lawyer) for $6.8 million. Remington also wrote the son a letter, muting some of his anguish by stating that the weapon was the whole problem and that he was in no way responsible for his father's injuries. Then, facing the threat of cancelled coverage from its carriers for skyrocketing premiums in the projection of other multimillion dollar awards, Remington commendably served the public interest by announcing the recall campaign in which we see another electrifying example of Tort Law litigating another hazardous product feature from the market.

Remington's nationwide recall program affected 200,000 firearms; notices in newspapers and magazines similar to this one that appeared in the January 1979 issue of Field and Stream cut back on the harvest of hurt and heartbreak: "IMPORTANT MESSAGE TO OWNERS OF REMINGTON MODEL 600 AND 660 RIFLES, MOHAWK 600 RIFLES, AND XP–100 PISTOLS. Under certain unusual circumstances, the safety selector and trigger of these firearms could be manipulated in a way that could result in accidental discharge. The installation of a new trigger assembly will remedy this situation. Remington is therefore recalling all Model 600 rifles except those with a serial number starting with an 'A' . . . Remington recommends that prior to any further usage of guns included in the recall, they be inspected and modified if necessary. [Directions are then given for obtaining name and address of nearest Remington Recommended Gunsmith who would perform the inspection and modification service free of charge.]."

Tort Law forced Remington to look down the barrel and see what it was up against. Once again Tort Law was the death knell to excessive preventable danger.

For a wonderfully absorbing account of the Mohawk 600, see Stuart M. Speiser's justly praised Lawsuit (Horizon Press, New York, 1980) 348–55.

(4) Case of MER/29, the Anti-Cholesterol Drug Which Turned out to Cause Cataracts. Many trial lawyers will recall the prescription drug MER/29 marketed for its benign and benevolent effect in lowering blood cholesterol levels and treating hardening of the arteries but which turned out to have an unpleasant and unbargained-for effect on users, the risk of causing cataracts. As Peter DeVries recently observed, "There is nothing like a calamity to help us fight our troubles." Blatant fraud and suppression of evidence from animal experiments were proved on the manufacturer's part in the marketing of this dangerous drug. Who did more—the federal government or private trial lawyers—in getting this dangerous drug off the market and compensating the numerous victims left in its wake? The question carries its own answer. The United States drug industry has annual sales of 16 billion dollars per year, while the Food and Drug Administration has an annual budget of 65 million dollars to oversee all drug manufacture, production and safety. How can the foothills keep the Alps under surveillance? Worse, as shown by the MER/29 experience, enforcement of the law in that situation, far from being vigorous and vigilant, was lame, limp and lackluster. It was only private suits advanced by trial lawyers that furnished the real muscle of enforcement and sanction, compensation for victims, deterrence of wrongdoing, and discouragement of corporate attitudes toward the public recalling that attributed to Commodore Vanderbilt.

As to the indispensible role and mission of the trial lawyer in Suing for Safety, it should not be overlooked that the current Administration has moved to sharply restrict the regulation of product safety by the Consumer Product Safety Commission. The 1982 budget for the commission was reduced by 30 percent in the first round of Reagan Administration budget cuts and is marked for further cuts in the future.

As the Thalidomide, MER/29, Dalkon Shield, Asbestos, DES, Slip-into-Reverse Transmissions and Fuel Tank scandals have been starkly revealed, we have crime in the suites as well as crime in the streets. Corporate culpability calls for corporate accountability, and our society has developed no better instrument to encourage socially responsible corporate behavior than the vehicle of adverse judgments beefed up by punitive damages. In the MER/29 situation, for example, the criminal fines levied on the corporate producer and its executives were slap-on-the-wrist trivial when contrasted with the deterrent impact of punitive damage awards in current uncrashworthiness cases where flagrant corporate indifference to public safety was established.

Our leading scholar in the field of punitive damages, writing with verve and virtuosity on that subject, concluded in 1976 that punitive damages awards should be permitted in appropriate products liability cases. Writing in 1982 with the same unbeatable authority, Professor David G. Owen traces the ferment and developments of doctrine in the ensuing years and then delivers a conclusion informed by exhaustive research, seasoned reflection, and an obvious morality of mind. "I remain convinced of the need to retain this tool of legal control over corporate abuses. . . ."

(5) Case of the Infant Who Died from Drinking Toxic Furniture Polish Where Manufacturer Failed to Warn Mother to Keep Toxic Product out of Reach of Children. This

is the celebrated case of Spruill v. Boyle-Midway, Inc., in which a 14-month-old child reached over from his crib and pulled a doily off a bureau, causing a bottle of Old English Red Oil Furniture Polish, manufactured by the defendant, to fall into the toddler's crib. During the few minutes his mother was out of the room, the baby got the cap off the bottle and drank a little bit of the polish. He was dead within two days of resulting chemical pneumonia. The bottle had a separate warning about combustibility in letters ⅛ inch high, but only in the midst of other text entitled "Directions" in letters 1/32 inch high did it say "contains refined petroleum distillates. May be harmful if swallowed, especially by children." The mother testified that she saw the warning about combustibility but did not read the directions because she knew how to use furniture polish. In a negligence action against the maker, the jury found that both defendant and the baby's mother were negligent and awarded wrongful death damages to the child's father and siblings but not to the mother. The Fourth Circuit in keeping with the grain of modern authority held that it was irrelevant that the child's ingestion of the toxic polish was an unintended use of the product. The jury could properly find that in the absence of an adequate warning to the mother that she could read and heed—to keep the polish out of the reach of children—such misuse of the product was a foreseeable one. The defect was to be tested not only by intended uses but by foreseeable misuses.

The jury could find that the manufacturer's placement of the warning was designed more to conceal than reveal, especially in view of the grater prominence given the fire warning (⅛ of an inch compared to the Lilliputian print, 1/32 of an inch, as to the contents containing "refined petroleum distillates"). The poison warning could be found to fall short to what was required to convey to the average person the dangerous nature of this household product. The label suggested that harm from drinking the polish was not certain but merely possible, while experts on both sides agreed that a single teaspoon would be lethal to children.

The warning in short could properly be found to be inadequate—too soft, mispositioned and not sufficiently eye-arresting. Defendant admitted in answer to interrogatories that it knew of 32 prior cases of poisoning from ingestion of its "Old English Red Polish."

Did the imposition of liability in this seminal Spruill case supra stimulate, goad or spur the manufacturer to take safety measures against the foreseeable risk of ingestion by innocent children? A trip to the local hardware store a couples of days ago reveals that Old English Red Oil Polish now sports the following on its label: "DANGER HARMFUL OR FATAL IF SWALLOWED. COMBUSTIBLE. KEEP OUT OF REACH OF CHILDREN. SAFETY CAP."

An error is not a mistake unless you refuse to correct it.

(6) Case Holding Manufacturer of PAM (Intended to Keep Food from Sticking to Cooking Surfaces) Liable for Death of Teen-Ager from Inhalation of PAM's Concentrated Vapors. Harless v. Boyle-Midway Div. of Amer. Home Products, involved an increasing number of teenagers who were dying of a "glue-sniffing syndrome," inhaling the concentrated vapors of PAM, a household product intended to keep food from sticking to cooking surfaces. Originally, the manufacturer used only a soft warning on the can's label: "Avoid direct inhalation of concentrated vapors. Keep out of the reach of children." However, to the knowledge of defendant, the children continued sniffing and dying. Then the manufacturer, as an increasing number of lawsuits were pressed upon it for the preventable deaths of such children, changed the warning on its labels, shifting to harder warning: "CAUTION: Use only as directed, intentional misuse by deliberately concentrating and inhaling the contents can be fatal." This was, of course, a much harder and more emphatic warning. The Fifth Circuit held that it was reversible error to exclude plaintiff's evidence (in an action for the wrongful death of a PAM-sniffing 14-year-old) that no deaths had occurred from PAM sniffing after the defendant had hardened its warning by warning against the danger of death, the ultimate trauma.

On remand the jury brought in a verdict for the boy's estate in the amount of $585,000 with an additional finding by the jury that the lad's administrator was entitled to an award of punitive damages. Prior to the punitive damages suit, the case was settled for a total of $1.25 million. It was uncontested that prior to the lad's death the manufacturer knew of 45 inhalation deaths from foreseeable misuse of its product, and upon remand admitted to an additional 68 from the same expectable cause.

If you will examine the label on the can of PAM on your shelf, as the writer has just done, you will find: "WARNING: USE ONLY AS DIRECTED. INTENTIONAL MISUSE BY DELIBERATELY CONCENTRATING AND INHALING THE CONTENTS CAN BE HARMFUL OR FATAL." Once again the pressures of liability stimulated a producer to avoid excessive preventable dangers in its product's use by strengthening its warning label, thereby enhancing consumer protection.

(7) Case of the Poisonous Insecticide Holding That Warnings Must Contain Appropriate Symbols. Such as Skull and Crossbones, Where Manufacturer knows That Product May Be Used by Illiterate Workers (Spanish-Speaking Imported Puerto Rican Laborers) Who Would Not Understand English. This is the salutary holding in the celebrated case of Hubbard-Hall Chem. Co. v. Silverman. The First Circuit upheld judgments entered on jury verdicts for the wrongful death of two illiterate migrant farm workers who were imported by a Massachusetts tobacco farmer and killed by contact with a highly toxic insecticide manufactured and distributed by defendant. Even though the comprehensive and detailed danger warnings on the sacks fully complied with label requirements of the Department of Agriculture, the jury could properly find that because of the lack of a skull or crossbones or other comparable symbols the warning was inadequate. Use of the admittedly dangerous product by persons who were of limited education and reading ability was within the range of apprehension of the manufacturer. While evidence of compliance with governmental regulations was admissible, it was not decisive. Governmental standards are "minimums," a floor not a ceiling, and so far as adequate precautions are concerned, federal regulations do not oust the possibly higher common-law standards of the Commonwealth of Massachusetts.

The steady, unflagging pressures of litigation against the inertia, complacency and moral obtuseness of manufacturers have not only resulted in enhanced safety in the field of conscious design choices (substituting child-guard screw-on tops on tip-over steam vaporizers or over-the-axle fuel tanks for those mispositioned more vulnerably in front of the axle or adding rear-view mirrors to blind behemothic earth-moving machines whose design obstructs the vision of a reversing operator, etc.) But also in inducing product suppliers to reduce marketing defects in the products they sell by strengthening the adequacy of the instructions and warnings that accompany their products set afloat in the stream of commerce.

The net effect of such benign and beneficial litigation has been to improve the adequacy and efficacy of the educational information given to consumers by producers via improvements in the conspicuousness of warnings given; making them more prominent, eye-arresting, comprehensive, complete and emphatic; placing the warnings in more effective locations; avoiding ambiguous warning; extending warnings to the safe disposition of the product; and avoiding any dilution of the warnings given. In short, the bottom line, as indicated in the cited representative sampling of cases, is that successful lawsuits operate as safety incentives to "inspire" product suppliers to furnish instructions and warnings that are in ratio to the risk and in proportion to the perils attending foreseeable uses of the marketed products.

Here, too, we see the conspicuous usefulness of the lawsuit as the weapon for ferreting out marketing defects, whether ingenious or ingenuous, in selling dangerously defective products.

(8) Case of Marketing Carbon Tetrochloride Using Warnings Found to Be Inadequate Because Inconspicuous. Suppose a defendant sells carbon tetrachloride and places on all four sides of the can, in large letters, the words "Safety Kleen," and then uses small letters (Lippiputian print) to warn of the serious risk of using the cleaning fluid in an unventilated place (or places the fine print warning only on the bottom of the can). It requires no tongue of prophecy to predict that this warning will be found inadequate because too inconspicuous. It was so held in Maize v. Atlantic Refining Co. Not only was the warning inadequate because not conspicuous enough, but the representation of safety ("Safety Kleen") operated to dilute, weaken, and counteract the warning. Moreover, in Tampa Drug Co. v. Wait, the court upheld a judgment for the wrongful death of a 38-year-old husband who died from carbon tetrachloride poisoning after using a jug of the product to clean the floors of his home. While the label warned that the vapor from the liquid was harmful and that prolonged breathing of it or repeated contact with the skin should be avoided and that the product should only be used in well ventilated areas, the court with laser-beam accuracy ruled that the warning nonetheless could be found inadequate because of its failure to warn with qualitative sufficiency as to deadly effects or fatal potentialities which might follow from exposure to its fumes.

Decisions such as Maize and Wait supra were the prologue and predicate for the action taken by the FDA in 1970, under the Federal Hazardous Substances Act, to ban and outlaw carbon tetrachloride.

Torts archivists know that successful private lawsuits to recover for harm from products simply too dangerous to be sold at all, regardless of the completeness or urgency of the warning given, frequently lead to a recall and reformulation of the product's design or to a decision to ban the product from the market. Life and limb are too important to trade off against unmarketed inventory.

(9) Case of the 8-Year-Old Boy Who Choked to Death from Strangling on a Quarter-Inch

Rubber Rivet, Part of a Riviton Toy Kit Given Him for Christmas. This case will indeed rivet the attention (in the sense of attract, fasten and hold) of concerned citizens who wish to understand how the threat of liability operates as a spur to safety on the part of product producers. The present example involves a toymaker whose work is indeed "child's play."

Parker Brothers, a General Mills subsidiary headquartered some 18 miles north of Boston, had big plans for Riviton. This was a toy kit consisting of plastic parts, rubber rivets and a riveting tool with which overjoyed children could put together anything from a windmill to an airplane. In the first year on the market in 1977, the Riviton set seemed on its way to becoming one of those classic toys that parents will buy everlastingly. However, one of the 450,000 Riveton sets bought in 1977 ended up under the Christmas tree of an 8-year-old boy in Menomonee Falls, Wis. He played with it daily for three weeks. Then he put one of the quarter-inch-long rubber rivets into his mouth and choked to death. Ten months later, with Riveton sales well on their way to an expected $8.5 million for the year, a second child strangled on a rivet.

What should the company do? Just shrug off the two fatal child strangulations, ascribe the deaths to freakish mischance, try to shift the blame to parental failure to supervise and police their children at play, or assign responsibility to the child's abnormal misuse or abuse of their product? Could not the company cap its disavowal of responsibility by a bromidic disclaimer that, "After all, peanuts are the greatest cause of strangulation among children and nobody advocates the banning of the peanut."

However, as manufacturers, Parker Brothers well knew that they would be held liable to an expert's skill and knowledge in the particular business of toymaking and were bound to keep reasonably abreast of scientific knowledge, discoveries and hazards associated with toys in their expectable environment of use by unsupervised children in the home. The toymaker knew that the Riveton set must be so designed and accompanied by proper instructions and warnings that its parts would be reasonably safe for purposes for which it was intended but also for other uses which, in the hands of the inexperienced, impulsive and artless children, were reasonably foreseeable. When you manufacture for children, you produce for the improvident, the impetuous, the irresponsible. As a seasoned judge put it: "The concept of a prudent child, God forbid, is a grotesque combination." Much must be expected from children not to be anticipated when you are dealing with adults, especially the propensity of children to put dangerous or toxic or air-stopping objects into their mouths. The motto of childhood seems to be: "When in doubt, eat it." Knowledge of such childish propensity is imputed to all manufacturers who produce products, especially toys, which are intended for the use of or exposure to children. Cases abound to document this axiom.

Recently, Wham-O Manufacturing Co. of San Gabriel, Calif., voluntarily recalled its Water Wiggle, a garden hose attachment that drowned a child when it jammed in its throat. Still more recent, Mattel, Inc. of Hawthorne, Calif., initiated a recall of missiles fired by its Battlestar Gallactica toys when a 4-year-old boy inhaled one and died. The manufacturer of a "Play Family" set of toy figurines would have been well advised to pull from the market and redesign the small carved and molded figures in the toy set, intended for children of the teething age. A 14-month-old child swallowed one of the toy figures 1¾" high and ⅞" in diameter, and before it could be extricated from his throat at a hospital's emergency room, the child was reduced to vegetable status as a result of irreversible brain damage from the toy's windpipe blockage of air supply to the brain. The manufacturer's dereliction of design and lack of product testing were to cost it a $3.1 million jury verdict for the child and his parents.[24]

Against the marketing milieu and the legal setting sketched above, what should be the proper response of Parker Brothers, manufacturers of the Riviton toy set, when its executives learned of the second child's death from strangulation on the quarter-inch rubber rivet in the toy kit? Should they have tried to tough it out or luck it out in the well known lottery called "do nothing and wait and see"? The company was sensitive not only to the constraints of the law (liability follows the marketing of defective products), but also to the imperatives of moral duty and social responsibility, and the commercial value of an untarnished public image. Parker Brothers decided to halt sales and recall the toy. As the company president succinctly stated, "Were we supposed to sit back and wait for death No. 3?"

Business, the Frenchman observed, is a combination of war and sport. Tort Law pressures business to realize how profitless it may provide to war against children or to trifle and jest with their safety. The commendable conduct of Parker Brothers in this case is one of the most striking tributes we know to the deterrent value and efficacy of Tort Law and the example would make a splendid case study for the nation's business schools.

(10) Case of the Recycling Washing Machine That Pulled Out a Boy's Arm. In Garcia v. Halsett, the plaintiff, an 11-year-old boy, sued the owner of a coin-operated laundromat for injuries inflicted while he was using one of the washing machines in the launderette. He waited several minutes after the machine had stopped its spin cycle before opening the door to unload his clothing. As he was inserting his hand into the machine a second time to remove a second handful of clothes the machine suddenly recycled and started spinning, entangling his arm in the clothing, causing him serious resulting injuries. The evidence was clear that a common $2 micro switch—feasible, desirable, long available—would have prevented the accident by automatically shutting off the electricity in the machine when the door was opened. The reviewing court held the launderette owner strictly liable for defective design because the machine lacked a necessary safety device, an available micro switch. Shortly thereafter the defendant obtained 12 of these micro switches and installed them himself on the machines. Once again, the threat of tort liability serves to deter—the prophylactic purpose of Tort Law at work. The deterrent function of Tort Law is not just an idea in the air; it has landing gear, has come down to earth and gone to work.

SUMMARY

The foregoing 10 cases and categories are merely random and representative examples, not intended to be complete or exhaustive, of the deterrent aim and effect of Tort Law in the field of product failure or disappointment.

It needs to be emphasized that the preventive aim of Tort Law is pervasive and runs like a red thread throughout the entire corpus of Torts. For example, the private Tort litigation system has served, continues to serve, as an effective and useful therapeutic and prophylactic tool in achieving better health care for our people by discouraging and thereby reducing the incidence of medical mistakes, mishaps and "misadventures." An error does not become a mistake unless you refuse to correct it. For example, successful medical malpractice suits have induced hospitals and doctors to introduce such safety procedures as sponge counts, electrical grounding of anesthesia machines, the padding of shoulder bars on operating tables, and the avoidance of colorless sterilizing solutions in spinal anesthesia agents. Remember, the fraudulent butchery practiced on defenseless patients by the notorious Dr. John Nork was not unearthed, pilloried or ended by the vigilant action of hospital administrators, peer review groups, or medical societies but by successful, energetically pressed malpractice actions prosecuted by trial lawyers in behalf of the victimized patients.

So we come full circle and end as we began: Accident Prevention Is Better Than Accident Compensation: "A Fence at the Top of the Cliff Is Better Than an Ambulance in the Valley Below." A successful lawsuit and the pressures of stringent liability are one of the most effective means for cutting down on excessive preventable dangers in our risk-beleaguered society.

My hero in the foregoing chronicle of good lawyering has been the hard-working trial lawyer with his care, commitment and concern for public safety, the civil religion of us all.

He more than any other professional has proved that we can indeed Sue for Safety. My tribute to him is in words Raymond Chandler used to salute his hero: "Down these mean streets a man must go who is not himself mean, who is neither tarnished nor afraid."

PRODUCT LIABILITY DOES NOT EXTEND TO NEGLIGENT ENTRUSTMENT

Mr. ROCKEFELLER. Will the Senator from Washington yield for a question about the applicability of the bill?

Mr. GORTON. Yes, I would be glad to do so.

Mr. ROCKEFELLER. Mr. President, we have been seeing a lot of paper about this conference reports' effects on so-called dram shop laws which allow victims of drunk driving crashes to seek recovery from those individuals or establishments who negligently sell, or serve, alcoholic beverages to persons who are intoxicated or to minors who subsequently kill or injure someone while driving under the influence.

Mr. GORTON. Yes, we have. I believe those laws can be valuable and help enhance highway safety and antidrunk driving initiatives, as well as encourage the responsible service of alcoholic beverages. Section 104 of the conference report is an example of a provision in the very bill we are considering which tries, in a small way, to discourage alcohol and drug abuse in this country. Section 104 tells persons that, if they are drunk or on drugs and that is the principal cause of an accident, they will not be rewarded through the product liability system.

Mr. ROCKEFELLER. I agree. I am troubled that I continue to hear opponents of product liability reform, claim that these laws will be adversely affected by the proposed legislation.

Mr. GORTON. The short response, Senator, is these laws will not be adversely affected or affected in any way. The Senate Commerce Committee report, which has been adopted as the legislative history of the conference report, states unequivocally at page 25, footnote 90:

> [T]he provisions of the Act would not cover a seller of liquor in a bar who sold to a person who was intoxicated or a car rental agency that rents a car to a person who is obviously unfit to drive or a gun dealer that sells a firearm to a "straw man" fronting for children or felons. These actions would not be covered by the Act, because they involved a claim that the product seller was negligent with respect to the purchaser and not the product. Such actions would continue to be governed by state law.

Clearly, H.R. 956 will not in any way affect State law regarding the liability of those individuals who serve additional alcohol to persons who are obviously under the influence. Similarly, H.R. 956 will not affect State law regarding the liability of a product seller who fails to exercise reasonable care in selling a weapon, such as a handgun, to a minor or known criminals. The legislation also will not affect State law regarding the liability of a rental agency that fails to exercise reasonable care by renting an automobile to someone who, at the time, is obviously unfit to drive.

Mr. ROCKEFELLER. Mr. President, I think we should say to our colleagues that the product seller provision's application does not mean that these cases will be affected.

Mr. GORTON. The Senator is absolutely correct, these cases are not affected. First and foremost, this is a product liability bill and it applies to product liability actions. Product liability actions generally involve harm caused by alleged product defect.

As all are aware, the harm in cases involving drunk drivers is often severe, indeed, and may even mean the death of an innocent person or a child. It is important, however, to avoid the misleading arguments by those who oppose legal fairness and who intentionally attempt to confuse product liability actions, which are covered by the conference report, with negligent entrustment cases, which are not covered by the legislation. As in the past, they use attention-getting, but totally irrelevant examples, such as drunk driving cases and gun violence.

Mr. ROCKEFELLER. And that remains true, regardless of the fact that the applicability section of the conference report, says that the act applies to "any product liability action brought in any State or Federal Court on any theory for harm caused by a product." Is that not right?

Mr. GORTON. The reason for this broad definition is to assure that the bill covers all theories of product liability, such as negligence, implied warranty, and strict liability. It is not broadly defined in order to extend to cases beyond product liability, and certainly not to extend the bill to cases involving negligent entrustment, such as in cases involving the sale of alcohol to an obviously intoxicated individual or the sale of a gun to a known felon.

Mr. ROCKEFELLER. Mr. President, section 103 of the bill, the so-called product sellers provision, imposes liability when a product seller fails to exercise reasonable care with respect to a product. If a tavern owner fails to exercise reasonable care in selling alcohol to an intoxicated person, would that case be subject to the bill?

Mr. GORTON. No. The case against the tavern owner is based on the tavern owner's action; it is not based on an alleged defect in the product, that is, the alcohol. Cases in which a tavern owner sells alcohol to an intoxicated person involve negligent entrustment and are not subject to the provisions of the conference report; State law continues to apply.

To hold that such laws were affected by the bill would be a clear and obvious misconstruction of the bill. To make this clear, one only need look to the acts covered by product sellers in the conference report. This appears in the definition of product seller, which is set forth in sections 101(11)(B), 101(16)(A). H.R. 956 is applicable to product sellers, "but only with respect to those aspects of a product (or component part of a product) which are created or affected when before placing the product in the stream of commerce." The definition then addresses those things where the product seller "produces, creates, makes, constructs, designs, or formulates * * * an aspect of the product * * * made by another." This is classic product liability and simply does not apply to the negligent tavern owner.

Mr. ROCKEFELLER. And would you agree with me that the "product sellers" provision, as it applies to rented or leased products (section 103(c)(2)) in the conference report which states that a "'product liability action' means a civil action brought on any theory for harm caused by a product or product use," cannot be interpreted to mean use of alcohol, or use of a gun?

Mr. GORTON. The Senator is correct. First, the clarification is only included in the rented or leased products portion of the product seller provision. Thus, by way of example, in a situation where a car rental agency has exercised reasonable care with respect to maintaining and inspecting a vehicle, for example, the brakes, the engine, or the tires, and the person who shows up at the desk to rent the vehicle has an impeccable driving record, does not appear unfit to drive, and has a valid driver's license. The renter then takes the car and is subsequently involved in an accident. The product use language in section 103(c)(2) holds that the rental company cannot be held vicariously liable for the negligence of the renter simply because the company owns the product and has given permission for its use.

In contrast, if the rental agency rented a car to an obviously intoxicated person and that person was in a subsequent accident, then the rental agency would have been negligent in renting, or in negligently entrusting, the car to the person who was, at the time, obviously intoxicated. As spelled out clearly in the legislative history, "Such actions would continue to be governed by State law," and are not subject to H.R. 956.

Thus, even in the renter and lessor context, the distinction comes down to whether the seller was negligent as to the product, such as by failing to inspect the brakes, or negligent as to the person, such as by renting to a person with no driver's license and a notorious criminal record. H.R. 956 covers product liability actions; it does not cover negligent entrustment actions.

Mr. ROCKEFELLER. Thank you for that discussion. I hope it will help counter some of the misinformation that has been circulating regarding this provision. Is there any special provision of the bill that emphasizes what you have said here today?

Mr. GORTON. In fact, in order to address these very concerns you have thoughtfully raised, Senator, the product seller section specifically provides that the conference report does not cover negligent entrustment or negligence in selling, leasing or renting to an inappropriate party. Section 103(d) expressly states: "A civil action for negligent entrustment shall not be subject to the provisions of this Act, but shall be subject to any applicable State law." Frankly, I believe this provision is superfluous, and for this reason, it does not matter if, or where the provision appears in the conference report.

In sum, the product liability bill covers product liability, not negligent entrustment or failure to exercise reasonable care with regard to whom products are sold, rented or leased. H.R. 956 clearly would not cover "a seller of liquor in a bar who sold to a person who was intoxicated or a car rental agency that rents a car to a person who is obviously unfit to drive or a gun dealer that sells a firearm to a 'straw man' fronting for children or felons."

Mr. ABRAHAM. Mr. President, I rise today in support of H.R. 956, a bill to reform product liability law.

A few months ago, the 104th Congress took the first momentous step toward legal reform. Over President Clinton's veto, we passed H.R. 1056, a bill to reform securities litigation.

This legislation will significantly curb the epidemic of frivolous lawsuits that are diverting our Nation's resources away from productive activity and into transaction costs.

In passing H.R. 956, the Senate will be taking an equally important second step on the road toward a sane legal regime of civil justice.

Our current legal system, under which we spend $300 billion or 4.5 percent of our gross domestic product each year, is not just broken, it is falling apart.

This is a system in which plaintiffs receive less than half of every dollar spent on litigation-related costs. It is a system that forces necessary goods, such as pharmaceuticals that can treat a number of debilitating diseases and conditions, off the market in this country.

This is a system in which neighbors are turned into litigants. I was particularly struck by a recent example reported in the Washington Post. This case involved two 3-year-old children whose mothers could not settle a sandbox dispute—literally, a pre-school altercation in the sandbox—without going to court.

Something must be done about this situation and this litigious psychology, Mr. President, and this bill puts us on the road to real, substantive reform.

It institutes caps on punitive damages, thereby limiting potential windfalls for plaintiffs without in any way interfering with their ability to obtain full recovery for their injuries.

It provides product manufacturers with long-overdue relief from abusers of their products.

And it protects these makers, and sellers, from being made to pay for all or most noneconomic damages when they are responsible for only a small percentage.

First, as to punitive damages. No one wants to see plaintiffs denied full and fair compensation for their injuries. And this bill would do nothing to get in the way of such recoveries.

Unfortunately, punitive damages have come to be seen as part of the normal package of compensation to be expected by plaintiffs. George Priest of the Yale Law School reports that in one county, Bullock, AL, 95.6 percent of all cases filed in 1993–94 included claims for punitive damages.

Punitive damages are intended to punish and deter wrongdoing. When they become routine—one might say when they reach epidemic proportions—they end up hurting us all by increasing the cost of important goods and services.

For example, the American Tort Reform Association reports that, of the $18,000 cost of a heart pacemaker, $3,000 goes to cover lawsuits, as does $170 of the $1,000 cost of a motorized wheelchair and $500 of the cost of a 2-day maternity hospital stay.

We can no longer afford to allow this trend to continue. I am glad, therefore, that this bill begins to cap punitive damages—although in my judgment it only makes a beginning in that area.

I am particularly glad that the bill imposes a hard cap of $250,000 on punitive damages assessed against small businesses—the engine of growth and invention in our Nation.

Of course, punitive damage awards are not the only things increasing the costs of needed products.

Throughout the debate over civil justice reform I have been referring to the case of Piper Aircraft versus Cleveland. I use that example because it shows how ridiculous legal standards can literally kill an industry—as they did light aircraft manufacturing in America—and cost thousands of American jobs.

In Piper Aircraft, a man took the front seat out of his plane and intentionally attempted to fly it from the back seat. He crashed, not surprisingly, and his family sued and won over $1 million in damages on the grounds that he should have been able to fly safely from the back seat.

These are the kinds of decisions we must stop. Drunken plaintiffs, plaintiffs who abuse and misuse products—plaintiffs who blame manufacturers and sellers for their own misconduct—should not be rewarded with large sums of money. They may deserve our concern and sympathy, but we as a people do not deserve to pay for their misconduct through the loss of entire industries.

I am happy that this bill establishes defenses based on plaintiff inebriation and abuse of the product because I believe these defenses will benefit all Americans.

Finally, it seems clear to me that no manufacturer should be held liable for noneconomic damages which that individual or company did not cause.

In its common form, the doctrine of joint liability allows the plaintiff to collect the entire amount of a judgment from any defendant found partially responsible for the plaintiff's damages.

Thus, for example, a defendant found to be 1 percent responsible for the plaintiff's damages could be forced to pay 100 percent of the plaintiff's judgment.

This is unfair. And the unfairness is aggravated when noneconomic damages are awarded.

Noneconomic damages are intended to compensate plaintiffs for subjective harm, like pain and suffering, emotional distress, and humiliation.

Because noneconomic damages are not based on tangible losses, however, there are no objective criteria for calculating their amount. As a result, the size of these awards often depends more on the luck of the draw, in terms of the jury, than on the rule of law. Defendants can be forced to pay enormous sums for unverifiable damages they did not substantially cause.

This bill would reform joint liability in the product liability context by allowing it to be imposed for economic damages only, so that a defendant could be forced to pay for only his proportionate share of noneconomic damages.

As a result, plaintiffs would be fully compensated for their out-of-pocket losses, while defendants would be better able to predict and verify the amount of damages they would be forced to pay.

This reform thus would address the most pressing concerns of plaintiffs and defendants alike.

Mr. President, problems will remain with our civil justice system after this bill is made into law—if this bill is signed by President Clinton and made law.

Charities and their volunteers will remain unprotected from frivolous lawsuits.

Our municipalities will remain exposed to profit-seeking plaintiffs.

And the nonproducts area of private civil law in general will remain unreformed—3-year-olds and their mothers may still end up in court over a sandbox altercation.

In the last session I and some of my colleagues fought for more extensive, substantive, and programmatic reforms to our civil justice system. These were consistently turned back.

I believe at this point it is time for us to consider more neutral, procedural reforms, such as in the area of Federal conflicts rules, to rationalize a system we cannot seem to tame.

But I am certain, Mr. President, that this bill marks an important step toward a fairer, more reasonable and less expensive civil justice system.

This is why I am frustrated that President Clinton has threatened to veto this bill.

The President has stated repeatedly that he would support balanced, limited product liability reform. He has been singularly unhelpful in his opposition to more far-reaching reforms that would do more for American workers and consumers. But he has claimed that he would support product liability reform.

Now the President is claiming that this legislation is somehow "unfair to consumers."

Mr. President, is a system in which fifty-seven cents of every dollar awarded in court goes to lawyers and other transaction costs fair to consumers of legal services?

Is it really pro-consumer to have a system in which, as reported in a conference board survey, 47 percent of firms withdraw products from the marketplace, 25 percent discontinue some form of research, and 8 percent lay off employees, all out of fear of lawsuits?

Please tell me, Mr. President, are consumers helped by a system in which, according to a recent Gallup survey, one out of every five small businesses decides not to introduce a new product, or not to improve an existing one, out of fear of lawsuits?

The clear answer, I believe, is that consumers are hurt by our out-of-control civil justice system, a system which makes them pay more for less sophisticated and updated goods.

I respectfully suggest that President Clinton look beyond the interests of his friends among the trial lawyers to the interests of the American people as a whole.

If he looks to that interest he will find a nation hungry for reform, yearning to be freed from a civil justice system that is neither civil nor just, seeking protection from egregious wrongs, but not willing to sacrifice necessary goods, important public and voluntary services, and the very character of their communities to a system that no longer produces fair and predictable results.

If we in this chamber consult the interest of the people, Mr. President, we will pass this bill. If President Clinton consults that primary interest, he will sign the bill and make it law.

Mr. President, I yield the floor.

Ms. SNOWE. Mr. President, for those who were becoming skeptical, the conference report before us demonstrates that bipartisanship is still alive and well in the U.S. Congress.

First, I would like to express my appreciation to those who have contributed so greatly to the completion of this legislation—not only in the 104th Congress, but in some cases for more than a decade. The chairman of the Commerce Committee, Senator PRESSLER, has been instrumental in shepherding this legislation from the committee, to the Senate floor, into conference, and now back to the Senate floor. Also, Senator ROCKEFELLER and Senator GORTON—whose commitment and leadership on this issue have been unsurpassed in the Senate, and without whose efforts we would not be voting on this conference report today—were invaluable in crafting this legislation.

As I stated during the markup of S. 565 in the Senate Commerce Committee, and later during consideration of the bill on the floor of the Senate, I believe there is a compelling case for product liability reform in this country.

I firmly believe the legislation the Senate adopted early last year was a critical and long overdue first step to reforming an area of law that touches each and every one of us as consumers in America. Therefore, I am now eager to see a well-conceived and balanced bill accomplishing this goal enacted during the 104th Congress. It is a goal I think we can and should reach. I believe the conference report before us is well-conceived and balanced, and am particularly pleased that it contains the punitive damage cap I offered, and which was adopted, during consideration of the Senate bill.

In my statement on product liability on the floor of the Senate many months ago, I established my own personal checklist of critical issues I believed this legislation ought to address to make the bill fair, equitable, and effective. That is now also true for this conference report.

First, we must allow safe consumer products to be developed to meet consumer needs, and ensure that consumers can seek reasonable compensation when injuries and damages occur.

Second, the law must dissuade consumers from filing frivolous lawsuits, without discouraging Americans who have substantive complaints from filing legitimate suits.

Third, a uniform law must encourage companies to police the safety of their own products—both by providing incentives for excellence in safety and strong punishment when product safety is breached.

Last, and perhaps most importantly, one of our fundamental goals must be to ensure that this legislation protects the interests of the average American consumer who makes hefty use of products, but knows little of their innate safety or risk.

I believe that this conference report—like the Senate-passed bill—meets these criteria. One component of this conference report that I considered crucial to fulfilling these requirements is the cap on punitive damages.

To understand the issue of a punitive damage cap, I think it is valuable to remember what punitive damages are—and are not. I believe this issue is particularly important before today's vote because of recent reports in various news sources that have confused a cap on punitive damages with a cap on pain and suffering, or a cap on economic damages.

Punitive damages are punishment that serve an invaluable role in deterring quasi-criminal behavior by businesses. They have nothing to do with providing compensation to a person who has been harmed and are not intended in any way to make the plaintiff whole. That purpose is served by compensatory damages, which provide recovery for both economic damages—which include lost wages and medical expenses—and noneconomic damages, which include pain and suffering and other losses, such as those caused by the loss of one's sight, appendage, or reproductive organs.

One of the overriding problems in our current system is the absence of any consistent, meaningful standards for determining whether punitive damages should be awarded and—if so—in what amounts. The absence of consistent standards not only leads to widely disparate and runaway punitive awards, but it also affects the settlement process. Individuals and companies that are sued often face a catch-22: pay high legal fees to fight a case through trial, verdict, and appeal—or simply settle out of court for any amount less than these anticipated legal fees.

Even for the defendant who recognizes the cost of proving innocence to be too great, or simply hopes to avoid the lottery nature of a possible punitive award—seeking a settlement carries a hidden cost. The lack of a uniform national standard—or simply the existence of vague State standards—forces the defendant to include a punitive premium in their settlements, even when the likelihood of a punitive award is small or even nonexistent. In addition, the high reversal rate of punitive damage awards underscores the absence of clear and understandable rules.

Therefore, in establishing a cap, I considered it vital that the measure we chose be fair, uniform, act as adequate punishment, and serve as an adequate deterrent. I believe a cap based on compensatory damages accomplishes all of these objectives, which is why I fought to include such a measure in the Senate bill. This measure is fair because it is blind to the socioeconomic position of the plaintiff. In addition, because a punitive cap that includes noneconomic damages in its formula is inherently unpredictable, one cannot argue that a business with quasi-criminal intents will be able to predict the ultimate cost of all possible punitive claims and make a financial decision to produce a dangerous product.

At the same time, I do not believe that a cap based on a measure of economic damages alone would accomplish all of these objectives in all circumstances. Although such a measure might serve as adequate punishment and act as an adequate deterrent in many cases, it relies too greatly on the economic position of the plaintiff in establishing a sufficient level of punishment.

While the Senate bill also included an additur provision that allowed the judge to impose a higher punitive damage award in particularly egregious circumstances—and this conference report also includes a modified additur provision—I believe the measure based on compensatory damages will work for everyone and will subject egregious offenders to strong punishment. This standard is fair and nondiscriminatory. It will apply to all litigants equally—whether you are a man or woman, wealthy or poor, a child or an adult. Therefore, I am particularly pleased that the conference report before us maintains the Snowe amendment on punitive damages. And while I believe that the additur will be proven to be unnecessary due to the inherently even-handed and unpredictable nature of total compensatory damages, I accept its inclusion in the conference report as a means of providing the opportunity for additional punishment in cases where a judge—staying within the parameters set by the jury—deems it necessary.

Mr. President, the bill before us—as outlined by Senators GORTON and ROCKEFELLER—is a targeted bill that brings common sense and reform to one class of lawsuits: those pertaining to product liability. I believe this legislation is sound and will benefit consumers and businesses. As a result, I share the disappointment of other Members of this body in President Clinton's statement that he would veto this bipartisan legislation. At the least, I found it surprising that President Clinton opposes legislation that he endorsed as a member of the National Governors' Association when he was Governor Clinton. I remain hopeful that President Clinton will reconsider his opposition in the coming days. I think a strong bipartisan vote in favor of this legislation is just what the President needs in order to see the light on this issue.

Mr. President, we must be able to show the American people that we not only considered this essential and historic legislation, but that we passed it with strong bipartisan support as well. There is simply no question that, if enacted, this reform will have a positive and wide-ranging impact on millions of Americans. Thank you, Mr. President, I yield the floor.

Mr. COHEN. Mr. President, I continue to oppose the product liability reform bill for two main reasons: it unnecessarily intrudes upon the prerogatives of our State governments and the purported problem the bill attempts to address—the impact of punitive damages—is overstated.

For over two centuries, tort law has been developed by our common law courts and State legislatures. The same is true for our contract law, real property law, insurance law, and a host of other subjects. The core principles of tort law are the same across the country, but each State has adjusted its laws to suit its individual needs, experimented with liability reforms, and attempted to strike a careful balance the interests of business and consumers.

The Federal product liability bill would put an end to this era of local experimentation and adjustment. Instead, it would contribute to the trend of the last half century of centralizing power in Washington. Unfortunately, the product liability bill will be only the first step in this process. Once it is completed other interests will follow with pleas for Federal intervention. And eventually the States will be stripped of yet another area of authority. This trend runs entirely counter to the generally accepted principle that the Federal Government is too big and that more authority should be returned to the States and localities.

Ironically, we are taking this step at a time when the States are vigorously engaged in the topic of tort reform. Just this year, New Jersey, Indiana, Wisconsin, Illinois, and Texas have passed tort reform legislation. In fact, since 1986, 31 States have altered their product liability laws, 30 States limit the amount of punitive damages in some manner and 41 States have changed or abolished the rule of joint and several liability. With this much activity on the state level, there is no justification for this sweeping, intrusive Federal bill.

I also believe that the case for tort reform has been exaggerated. Unfortunately, the debate over this legislation has been driven more by anecdote and horror stories than objective facts. Indeed, the dearth of solid, unbiased research led the Wall Street Journal to conclude last year that "Truth Is the First Casualty of the Tort-Reform Debate."

A review of some data collected by the Bureau of Justice Statistics, a neutral arbiter on this topic, demonstrates that runaway jury verdicts are not as great of a problem as the tort reform advocates suggest. The study showed that courts in the 75 largest counties in the country decided 762,000 civil cases in 1992. Punitive damages were awarded in only 364 of these cases—.04 percent. Only 360 of the 762,000 cases involved product liability. Punitive damages were awarded in only three of those cases. And the total amount of punitive damages awarded was only $40,000.

The study also suggests that if we are looking to solve problems with the application of punitive damages, perhaps we should be addressing other areas of the law. Of the cases in which the plaintiff won a jury verdict, punitive damages were awarded in 30 percent of all slander cases, 21 percent of all fraud cases, but only 2 percent of all product liability cases.

I do not deny that there have been abusive cases where excessive awards have been made for minor injuries. But to address this problem, we need to do more to punish attorneys who bring frivolous cases or use the force of the legal system to coerce companies to settle meritless claims. We also need to encourage judges to intervene when juries run amok. Instead of taking these steps, this bill places caps on damages and limits the ability of injured parties to collect judgments imposed against wrongdoers. In essence, it limits the ability of those with meritorious claims to gain full compensation in order to rid the system of shameful cases that should have never been filed in the first place.

In my view, this is an unwise approach that will do damage to our principle of federalism. I will vote against this conference report.

Mrs. MURRAY. Mr. President, I would like to explain why I voted against this product liability conference report.

All of us in this room have heard horrific stories about people who got hurt when they did stupid or silly things with a product and then recovered tremendous amounts of money from innocent businesses. Those few stories have gotten a lot of mileage. They have gotten us to a conference report that takes power from consumers and gives it to corporations.

Mr. President, I am a mother who wants to be responsible for passing laws that improve the chances for my children to live healthy, safe lives. I am glad that victims have used the current State-based product liability laws to force manufacturers to make safe toys, nonflammable pajamas, and cars and trucks that don't explode. The current legal system forced companies to be responsible or face the possibility of significant financial loss.

I also want to be responsible for passing laws that provide the hard working men and women of this country an opportunity to be fully compensated for injuries that are a direct result of products they use in the workplace. This conference report makes it much harder for our workers to recover damages from those responsible for their injuries. It is designed to give advantage to corporations and disadvantage to our workers through its limits on joint liability for noneconomic damages, on punitive damages, and on seller liability, as well as its broadly drawn defenses to liability, such as the statute of repose.

In addition, I want to support legislation that allows our citizens to trust that the medical devices they are receiving are safe. So many women needlessly suffered when the maker of silicone gel breast implants refused to heed initial warning signs that their product was flawed. Today, there is no dispute that there is a strong correlation between silicone breast implants and serious health disorders, including joint and muscle pain, tremors, and autoimmune diseases. And, unfortunately, not all of the victims of these implants are known. For those who have not yet filed, this bill will block them from seeking redress from this grossly negligent company. That is wrong.

Finally, I want to be responsible for legislation that improves our citizens' quality of life. This bill could severely limit lawsuits involving products that damage the environment, such as pesticides and toxic chemicals. In particular, the provision addressing joint and several liability could make it nearly impossible for victims to receive full and fair compensation for harm caused by a mixture of toxic substances where a victim is unable to prove the percentage of damage caused by each chemical. Especially now, when we see efforts to scale back Government's role in environmental protection, the civil justice system is an even more important mechanism for deterring environmental degradation.

I know that responsible businesses feel threatened by the current system. I believe we should seek to reform and improve our system. But this approach is too sweeping. We need to take smaller steps and make more incremental reforms.

Mr. President, I have voted against this conference report for all of the above reasons. I cannot support a products liability law that shifts power from the States to the Federal Government and takes power away from our children, the elderly and working people and gives it to the companies that produce harmful products.

Mr. DOMENICI. Mr. President, today I am pleased to support the conference agreement on product liability litigation reform—reached after tremendous efforts by my colleagues in both the House and Senate. The Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], and the Senator from West Virginia [Mr. ROCKEFELLER] deserve a lot of credit for putting together a thoughtful, bi-partisan approach to solving the problems associated with products liability lawsuits. This is a bill that President Clinton should sign.

I also must commend the House conferees, particularly the distinguished chairman of the House Judiciary Committee, Mr. Hyde, for their willingness to reach a compromise on some of the more controversial provisions in their bill, in order that we could successfully pass a conference report that still will have a positive impact on our products liability litigation system. There are some, and I am among them, who would have liked to see a conference report which went even further on some issues than the agreement we have before us. However, I realize that we would have had a difficult time passing a more expansive and comprehensive legal reform bill. Clearly some reform is better than no reform at all. Our legal system needs it.

I have watched the products liability reform debate over the past several months with great interest. There was a time when many believed that this type of legal reform would not be possible. No one, least of all me, underestimates the power of the trial lawyers to derail even the most reasonable lawsuit reform efforts. Senator DODD and I fought for years to fix our Nation's securities class-action system, and late last year the Congress overrode President Clinton's veto of the bill and enacted comprehensive securities litigation reform. I hope that the President will examine this bill closely, because if he does, the only conclusion he should reach is that this is a reasonable, commonsense approach to reform that is good for the country.

There can be no doubt that our current products liability system extracts tremendous costs from the business community and from consumers. The great expense associated with products liability lawsuits drives up the cost of producing and selling goods, and these costs are passed on to the American consumer. I have heard many tell me about how half of the cost of a $200 football helmet is associated with products liability litigation, and how $8 out of the cost of a $12 vaccine goes to products liability costs. We can no longer afford to require our consumers to pay this tort tax.

Because of the high costs associated with products liability litigation, American companies often find it difficult to obtain liability insurance. The insurance industry has estimated that the current cost to business and consumers of the U.S. tort system is over $100 billion. Insurance costs in the United States are 15 to 20 times greater than those of our competitors in Europe and Japan. Much of this money ends up in the pockets of lawyers, who exploit the system and reap huge fee awards while plaintiffs go under compensated. Meanwhile, businesses which create jobs and prosperity in America suffer.

For companies involved in the manufacture of certain products, like machine tools, medical devices, and vaccines, this means that beneficial products go undeveloped, or after they are developed, they do not make it to the marketplace out of fear of generating a products liability lawsuit. This hampers our competitiveness abroad, and limits the products available to consumers. Harvard Business School Prof. Michael Porter has written about how products liability affects American competitiveness. He has written:

> In the United States . . . product liability is so extreme and uncertain as to retard innovation. The legal and regulatory climate places firms in constant jeopardy of costly, and, as importantly, lengthy product liability suits. The existing approach goes beyond any reasonable need to protect consumers, as other nations have demonstrated through more pragmatic approaches.

In the case of manufacturers of vaccines and other medical devices, the cost of our unreasonable and certainly un-pragmatic products liability litigation system often means that potentially life-saving innovations never make it to the American public. Products liability adds $3,000 to the cost of a pacemaker, and $170 to the cost of a motorized wheelchair. It also has caused the DuPont Co. to cease manufacturing the polyester yarn used in heart surgery out of fears of products liability litigation. Five cents worth of yarn cost them $5 million to defend a case, and DuPont decided that they simply could not afford further litigation costs. Now, foreign companies manufacture the yarn, but will not sell it in the United States out of fear of also being sued. These are products which could save lives and improve the quality of living for all Americans.

In cases where a truly defective product has injured an individual, the litigation process is too slow, too costly and too unpredictable. This bill, because it creates a Federal system of products liability law, will return some certainty to a system that now often undercompensates those really injured by defective products and overcompensates those with frivolous claims.

Those injured by defective products often must wait 4 or 5 years to receive compensation. This leads some victims to settle more quickly in order to receive relief within a reasonable time. Companies often must expend huge amounts of money in legal fees to settle or litigate these long, complicated cases. These again are resources that could be better spent developing new products or improving the designs of existing ones.

I believe that the most important reform in this conference report is the way it treats punitive damages. As their name implies, punitive damages are designed to punish companies and deter future wrongful conduct. They are assessed in these cases in addition to the actual damages suffered by injured victims.

Unfortunately, these damages do not do much, except line the pockets of lawyers. They serve relatively little deterrent purpose and led former Supreme Court Justice Lewis Powell to describe them as inviting "punishment so arbitrary as to be virtually random." Justice Powell wisely has commented that because juries can impose virtually limitless punitive damages, they act as "legislator and judge, without the training, experience, or guidance of either." Justice Powell is absolutely correct, and I applaud the drafters of this bill for dealing with the problems associated with these types of damages.

The Washington Post also agrees that punitive damages reform is necessary. An editorial in support of the conference report printed last week notes that "there are no ground rules for judges and juries in this area" and that "the whole thing is like a lottery, which is terribly unfair." The editorial concludes that "the compromise should be accepted by both houses and signed by the President."

Reform of punitive damages will return some common sense to the system. Huge punitive damage awards threaten to wipe out small businesses and charitable organizations and I applaud the conferees for providing special protection for these important entities, which are particularly vulnerable to legal extortion by trial lawyers.

By capping the amount of punitive damages available in product liability cases and raising the legal threshold for an award of punitive damages, the conference report will relieve some of the pressure on even the most innocent defendant to settle or face an award which could potentially bankrupt the company. It however reasonably allows judges some flexibility to go above the cap in truly egregious cases, where increased punitive damages might be warranted.

The conferees also have taken the wise step to reform joint liability, without limiting the ability of plaintiffs to recover their economic damages. The new law will abolish joint liability for noneconomic damages, like pain and suffering, but allows States to retain it for economic damages like hospital bills. This will reduce the pressure on defendants who are only nominally responsible for the injury to settle the case or risk huge liability out of proportion to their degree of fault, while ensuring that injured victims get compensated for their out-of-pocket loss.

The compromise also limits liability in cases where the victim altered or misused the allegedly defective product in an unforeseeable way. It simply is unfair to hold manufacturers liable in cases where consumers use products in ways for which they were not intended. It also is unfair to hold defendants liable in cases where the plaintiff's use of alcohol or drugs significantly contributed to their injury. I am happy to see that the new law will provide an absolute defense in such cases.

Mr. President, as I said earlier, I am no stranger to legal reform. Many of those who are responsible for this important and well-crafted legislation were cosponsors of the securities reform bill Senator DODD and I authored earlier this Congress. Our tort system is badly in need of reform, and the conference report on products liability before us is a step in the right direction. I support it, and I hope that my colleagues and the President will as well.

Ms. MOSELEY-BRAUN. Mr. President, I voted for S. 565, the Senate product liability bill, when it was before the Senate last May, and I support this conference report, which is, in virtually all of its essential provisions, identical to that bill. I supported the bill last year, and I continue to support it now, because I believe that Federal product liability reform makes sense for Americans, and because it makes sense for America.

Let's be clear what product liability reform is and is not about. It is not about an explosion of litigation that our courts physically cannot handle. It is about the chilling effect that product liability judicial decisions in one State can have on businesses across the Nation.

It is not about making it more difficult for Americans injured by products to get justice from those who injured them. It is about reducing the number of frivolous suits and unnecessary legal costs.

It is not about tilting the playing field in favor of business and against consumers or employees. It is about taking a step toward making the playing field more level for consumers, employees and businesses all across this Nation.

And it is not about taking powers away from States in order to disadvantage ordinary Americans. Rather, it is a narrow, carefully crafted approach to reform based on the realities of commerce today.

The basic fact that underlies this bill is that commerce is not local, but national and international. Over 70 percent of what is manufactured in Illinois is sold elsewhere, and Illinois is not unique in that regard. Because commerce is national, and indeed, increasingly international, the laws of any one State are simply not effective in establishing product liability standards for manufacturers in that State. Our Nation's Governors have recognized that fact, which is why the National Governor's Association has three times unanimously approved resolutions supporting Federal product liability reform.

Article I, section 8 of the Constitution grants Congress the power to regulate interstate commerce. Given the interstate and international nature of commerce, and the importance of having a healthy climate for manufacturing here in the United States, reform is essential, both so we can compete successfully in an ever-more competitive world marketplace and so we can generate the kind of economic growth needed to offer every American the opportunity to achieve the American Dream.

Achieving that dream depends on being able to find a good job at good wages, jobs that make it possible for American families to purchase their own homes and to send their children to college, and that suggests a healthy climate for manufacturing—which tends to produce the kinds of jobs Americans want and need—is in our national interest.

The current fragmented product liability system offers less certainty than a casino. That lack of certainty means that the current product liability system imposes costs far greater than the amounts awarded to successful plaintiffs, or the costs involved in defending and pursuing product liability cases. It adds costs to products, even when a company has never been sued, and unnecessary higher costs hurt consumers, and hurt job creation. And, while it is impossible to quantify, there is no doubt that the current product liability system causes some companies not to produce some products. That, too, means fewer good paying manufacturing jobs.

I do not suggest that Americans who might be injured by products should sacrifice their rights to redress for their injuries in order to help our economy generate new, good paying jobs—and this bill does not ask that of any American. But we must all remember that Americans aren't just consumers; they don't have just one interest at stake. Instead of dividing Americans from one another, therefore, we should be working together for the kind of reform that is in all of our interests.

By creating greater certainty, by reducing unnecessary cost, and by addressing the inadvertent chilling effect the current system has on new product creation, product liability reform will help generate new economic growth, and new jobs. And reform will add to the competitiveness of U.S. manufacturing, something that is essential in this ever more competitive world economy.

Some continue to argue that we should leave this issue to the States to address. However, the fact is that, given today's economic realities—and tomorrow's—product liability, no less than health care and other components of our social safety net, is a legitimate and necessary subject for Federal action. And the fact is is that the right kind of product liability reform, like the right kind of health care reform, and the right kind of welfare reform, and expand opportunity, and help create a brighter future for Americans individually and for our Nation collectively.

While this bill is not perfect, I think that, in general, it is the right kind of reform. It will bring greater uniformity to product liability law. It will help cut out the unnecessary costs the current product liability system imposes on businesses, consumers, and employees. And it tries very hard to appropriately balance the competing concerns involved.

I know that some Americans do not share the view that Federal product liability reform is needed, and that there are a number of concerns regarding specific provisions of the bill. I think it is worth noting, however, that the conference report now before us is, with very modest changes, the bill this Senate sent to conference. I ask unanimous consent, Mr. President, that a table comparing the original Senate bill and the conference report be printed in the RECORD at the conclusion of my remarks.

I know the statute of repose has generated some controversy. I would simply point out three things. First, the 15-year statute of repose applies to workplace goods only.

Second, no State with a statute of repose provides a more liberal time period than the one in the conference report; and

Third, the bill permits plaintiffs in every State to file a complaint after she or he discovers or should have discovered both the harm and its cause, a provision that is particularly important to plaintiffs who have trouble identifying the cause of the injury they suffered. For example, a person who developed a cancer many years after exposure to a chemical would be able to file suit anytime up to 2 years after the link between the chemical, and the harm he or she suffered, was identified.

The punitive damages provision has also been controversial. However, this provision is virtually identical to the bill as it passed the Senate last year. And it is more proconsumer than the laws in about half of the States.

Moreover, the bill does not put a hard cap on punitive damages. For cases involving all but the smallest of businesses, it allows punitive damages to be imposed up to the greater of $250,000 or twice the plaintiff's economic and noneconomic damages, including pain and suffering, and allows the judge in the case to increase the award by up to double those limits—in other words, to go up to four times the plaintiff's economic and noneconomic damages—if necessary "to punish the egregious conduct of the defendant." This approach was modeled on a recommendation made by the American College of Trial Lawyers, and it will permit huge punitive damages awards in cases where such awards are justified by the nature of the conduct and the severity of the harm involved, even when the harm is mostly noneconomic in nature.

As to the concerns regarding joint and several liability, I think it is worth pointing out that the conference report, like the original Senate-passed bill, only eliminates joint and several liability for noneconomic damages. This formulation is already the law in California, and it provides reasonable protection both for plaintiffs and for businesses who have only a minor involvement in the harm suffered by the plaintiff, but who can be held responsible for the entire amount of damages if the other defendants in the case are not able to pay their share of the amount awarded.

It is also worth noting that the conference report does not contain the broad, unjustified preemption of State civil justice systems that was in the House-passed bill, provisions that could of undermined the civil rights of Americans, and which would have almost casually overturned our whole State justice system. And it does not contain the medical malpractice provisions that were in the House bill, provisions that did not and do not belong in a product liability bill.

Moreover, the conference report does not contain the so-called FDA excuse that I strongly opposed in the last Congress. The bill that emerged from conference is the kind of narrow, carefully tailored approach that was needed, and the only approach that I could possibly support.

Mr. President, I said in 1994 that the problems present in our product liability system are problems that this body must address. Last year, when the product liability bill was before the Senate, I reiterated my view that reform is necessary, and I supported S. 565 as a reasonable approach to achieving that necessary reform. The conference report before now before us does not contain the provisions from the House bill that I believe have no place in this legislation. And, as I said at the outset of my remarks, it is close to identical to the bill I voted for last May. I therefore voted for cloture yesterday, and will vote in favor of sending this conference report to the President. I hope he will reconsider his position, and sign it, because enacting this bill into law is in the interest of every American.

Mr. President, I want to conclude by congratulating Senators GORTON and ROCKEFELLER for their leadership in bringing the bill to this point. I particularly want to thank my colleague from West Virginia. He went to great lengths to consult with me, and with other Senators, and to make all of us part of that conference, even though we technically were not among the conferees. I greatly appreciate his commitment to the kind of balanced, narrowly crafted reform that is so greatly needed and so long overdue. I am pleased to have this opportunity to vote with him, and with the other supporters on a set of reforms that are based on common sense, and that make sense for America.

Mr. KERRY. Mr. President, our laws play an important role in fostering a competitive economic environment by establishing ground rules for fair competition and by helping to reduce the costs of doing business. But our laws play an even more critical role in protecting the rights of individuals, workers, and consumers. Congress, therefore, has a special responsibility to ensure that the laws we write are reasonable and fair.

The conference report on H.R. 956, the so-called Common Sense Product Liability Reform Act of 1996, fails the "reasonable and fair" test.

The conference report, if enacted, will take away the rights U.S. citizens enjoy today in seeking redress for harm caused by unsafe products while giving manufacturers no incentive to produce safer products. This conference report is not fair to the working men and women of this country. It is biased against low-income individuals, women, and the elderly and it is plain dangerous for consumers. The products liability conference report will overturn the laws of every State and, I fear, will do great harm.

Consider that every year thousands of workers are injured or killed as a direct result of defects in products they use in the workplace. For many of them, the tort system is the only recourse for full redress of their injuries. Yet, this conference report will make it harder for workers to hold fully accountable those who cause the injury. The limits on joint liability for noneconomic damages, on punitive damages, on seller liability and the greatly expanded coverage under the statute of repose are all one-sided. Together, these provisions clearly favor wealthy corporations at the expense of working Americans.

The 15-year statute of repose would affect more than one-half of the products claims filed against machine tool manufacturers. Under the conference report, workers injured by defective machinery 15 years after first delivery would be prohibited from seeking to prove in court that even a grossly negligent manufacturer was responsible for their injury. On the other hand, the right of the business to pursue an action against the same manufacturer for commercial loss would be fully preserved.

The conference report would cap punitive damages at $250,000 or two times compensatory damages, whichever is greater, except in cases involving small businesses with fewer than 25 employees, where punitives would be capped at $250,000 or two times compensatories, whichever is the lesser amount. Such limits clearly undermine the deterrent value of punitive damages.

The threat of punitive damages has in part contributed to the recall, discontinuance, or change in the use of many dangerous and defective products, including the Ford Pinto, asbestos, the Dalkon shield, the Suzuki Samurai, heart valves, and silicone breast implants. Punitive damages have also helped make products safer: the redesign of the Jeep CJ-5; adding guards to chainsaws; the replacement of lap-belts with rear-seat three-point safety belts in passenger cars; the use of roll bars on farm tractors; warnings on toxic household chemicals; the use of flame-retardant fabric in children's sleepwear; and the list goes on and on. The conference report will defang the threat inherent in punitive damages.

But perhaps the most disturbing aspect of this legislation is that Ford Motor calculated that it was cheaper under the current tort system to settle rather than to try to protect the lives of every Pinto owner with a recall. The manufacturers of silicone breast implants calculated it was cheaper under the current tort system to continue selling implants that their own sales force reported had leakage problems rather than to alert the more than 1 million women in this country with implants about the danger of the products. Playtex calculated it was cheaper to continue to market its super-absorbent tampon than to try to warn women about the deadly effects of toxic shock syndrome. If Ford Motor, Dow, Playtex, and other major manufacturers failed to take corrective action to make their products safer under the present tort system, there is no reason to expect this conference report will encourage them to act more responsibly.

Would anyone settle for $250,000 in exchange for losing a loved one to death by a product that the manufacturer knew was unsafe? If this conference report becomes law, no one would be able to get even $250,000 because there is not a lawyer in this country who would take the case. No law firm could afford to go up against companies like Ford Motor or Dow or others with their host of attorneys and huge legal budgets and an infinite ability to push motions and appeals to the limit and slow down the process to their advantage. It just would not happen.

Proponents of this legislation stress that the current tort system is biased against them: they point to insurance rates that disable American manufacturers by forcing them to pay 10 to 50 times more for product liability insurance than their foreign competitors; they claim there is an "explosion" in products liability litigation, with uncontrollable punitive damages awards; and they argue that the present system of "lottery" liability, where liability differs from state to state, does not enhance the safety of U.S. products. The proponents are wrong on each of these points.

Over the past decade, products liability insurance cost 26 cents per $100 of retail product sales, or about $26 on the price of a $10,000 automobile. Two recent reports by the National Association of Insurance Commissioners confirm there is no "crisis" in the cost of product liability insurance. In fact, the Association reported in January 1995 that earned premiums for product liability have steadily dropped from more than $2.1 billion in 1989 to $1.6 billion in 1994—a drop of 26 percent. The Association pointed to shifts to self-insurance and competition in the industry as reasons for the decline, but did not mention tort reform as a factor. Moreover, the Association reported in October 1995 that the premium volume for product liability insurance premiums has remained virtually flat from 1986 through 1994.

The so-called explosion in products cases is another myth. While consumer products are responsible for some 39,000 deaths and 30 million injuries each year, a 1993 study by Boston's Suffolk University Law School and Northeastern University found there were only 355 awards in products suits from 1965 through 1990, and that half of these were overturned or reduced. Indeed, the National Center for State Courts reported that product liability cases accounted for .0036 percent of the total civil case load in 1992, and the Legal Times reported that products claims in Federal courts declined by 36 percent from 1985 to 1991. In my own State of Massachusetts, there were absolutely no punitive damages awarded in products cases; punitive damages are only permitted in wrongful death cases.

The conference report on H.R. 956 will not resolve the problem of 51 different products liability laws in the United States. On the contrary, it will only serve to further complicate the tort system and tilt it strongly in favor of manufacturers and against consumers. The conference report contains only one-way preemption.

The conference report places caps on punitive damages in products cases, yet allows the laws to stand in the 39 States where those laws prohibit punitive damage awards or where they place more restrictions on victims' rights. On the other hand, the conference report does not require that these States award punitive damages.

The conference report preempts State law on misuse or alteration of a product only to the extent State law is inconsistent with the conference report, meaning that the 37 States that provide a complete defense to liability in some cases of product misuse or alteration would not be preempted.

The conference report prohibits lawsuits involving durable goods that are more than 15 years old, but specifically preserves State laws with shorter limitations.

The Products Liability Fairness Act, S. 565, will overturn the laws of every State that enable people who have been harmed by unsafe or faulty products from obtaining full and fair recovery. It will prevent citizens from holding wrongdoers accountable. It will preempt legitimate claims that deserve to be heard. It will strip citizens of their rights and it should be rejected.

I cannot support legislation that would have placed limits on punitive damages for the family of the 5-year-old boy in New Bedford, MA, who died in a house fire after igniting a couch with matches. I cannot support legislation that would have limited damages for the family of the 8-month-old boy who suffered second and third degree burns on his arms, legs and back in a house fire that started when the bedding in his crib was ignited by a portable electric heater that had been placed within 6 inches of his crib to keep him warm.

I surely cannot support legislation that would have limited the liability of the big corporations in Woburn, MA, whose highly toxic pollutants killed and injured children. The Woburn case, in which eight working class families sued two of our Nation's biggest corporations because they suspected the companies had polluted the water supply with highly toxic industrial solvents, took 9 years. The young attorney that pleaded the case spent $1 million of his own money on it. The jury ultimately found one of the companies negligent, and the scientific research done during the 9-year trial demonstrated the link between the industrial solvents in the water supply and human disease. The company is now helping to cleanup the polluted aquifer. The attorney has said that if this bill were law today, he would never have considered the case.

Mr. President, the conference report on H.R. 956 will take away the right every American enjoys today through the jury box to force accountability for dangerous, careless or reckless behavior. In the jury box, every American can bring about positive change. If we take away this fundamental right, we will have compromised our Nation's core values.

The conference report promotes the interests of business at the expense of the rights of consumers. It will create a nightmarish new legal thicket that should be avoided rather than embraced. After we have argued all the complicated points of law, after we have poured over horror story after horror story, the issues boil down to one simple point: this bill is not fair, it is not reasonable and it should be rejected.

Mr. GLENN. Mr. President, I rise in support of this legislation and want to commend the efforts of Senators ROCKEFELLER and GORTON on their work. This legislation has been needed for a long time and I am pleased that we will be taking this positive step forward today.

I have been concerned for years about our current product liability system and I believe that meaningful reform is long overdue. I believe that this bill will benefit both consumers and businesses. Under our current system, manufacturers of products are subject to a patchwork of varying State laws which contribute to unpredictable outcomes. In some cases plaintiffs receive less than they deserve and in others, plaintiffs receive too much. Because of the unpredictability, cases that are substantially similar receive very different results.

The Congress is currently debating the proper role of the Federal Government across a broad range of issue areas. Many believe that functions now conducted at the Federal level should be moved to the States. On this issue I believe that we need a more uniform system of product liability and therefore Federal standards are necessary.

I believe this legislation will improve the competitiveness of our industries which means jobs. I also believe that the biomaterials provisions will help insure that much needed medical devices will remain available to many Americans. Because of liability concerns many products are becoming unavailable. Examples include materials used in heart valves, artificial blood vessels, and other medical implants. In Cincinnati, OH, Fusite, a part of Emerson Electric Co., has been in business since 1943. They supply glass-to-metal sealed hermetic terminals. One terminal body is used by the makers of implantable batteries in heart pacemakers. In 1995, because of the liability concerns, Fusite determined it would no longer supply this product.

The current system is unfair to consumers. Much too much money is spent on litigation rather than compensation and the high cost of product liability insurance means higher costs for consumers.

Without doubt an injured party deserves fair compensation, however the cost of litigation is substantial. More and more is spent on legal fees and less is spent on important areas such as research and development. In some cases manufacturers decide not to invest in or develop new products because of product liability concerns. Ultimately this burden of product liability makes our companies less competitive in world markets than foreign companies.

I have been particularly concerned that as we reform our product liability laws we do not affect the rights of individuals to bring suits when they have been harmed. On the contrary, it is my intent to bring rationality to a system that has become more like a lottery. For me, legal reform does not mean putting a padlock on the court house door.

There are several very important improvements that this legislation will provide. A statute of repose of fifteen years is established. Joint liability is abolished for noneconomic damages in product liability cases. Defendants are liable only in direct proportion to their responsibility for harm. Therefore, fault will be the controlling factor in the award of damages, not the size of a defendant's wallet.

Another important area is punitive damages. Although I am concerned about the establishment of caps on punitive damages, I believe that the judge additur provision included in the bill will allow for appropriate punitive damages in egregious cases.

Mr. President, not every provision in this legislation is written the way I would have preferred, but I believe that it is significant reform and urge its passage.

Mr. GORTON. Mr. President, I would like to clarify an issue I discussed in a lengthy, and frankly, rather confusing colloquy with my colleague from North Dakota, Mr. DORGAN.

Mr. DORGAN sought clarification of a provision on the Product Liability Conference Report dealing with the way in which this legislation will apply to utilities. Although I had characterized a change made in conference as technical, he asserted that the change was substantive.

The intent of the bill is to cover all products. This intent is expressed in the comprehensive definition of a product found in section 101(14) of the conference report, which defines products to include "any object, substance, mixture, or raw material in a gaseous, liquid, or solid state * * *." This definition clearly encompasses electricity, water delivered by a utility, natural gas, and steam. To simplify this discussion I will refer only to electricity.

Another goal of the legislation, however, is to leave in place state determinations of when electricity is a product. Most States treat the transmission of electricity as a service. For this reason, the Senate bill excluded electricity from the definition of product. This exclusion, however, overlooked the fact that once electricity has passed through a customer's meter, many States consider it to be a product, and subject it to a strict liability standard.

Because of this oversight, the Senate provision created an unintended conflict between the two goals of this bill: First to cover all products, and second, to leave undisturbed the state determination of whether or not electricity is a product. The desire to meet both these goals is reflected on page 24, footnote 86, of the Committee on Commerce, Science, and Transportation Report on the Senate bill. But to repeat, the language of the Senate did not do what it needed; it exempted electricity, whether or not it was treated as a product by state law and whether or not it was subject to a rule of strict liability.

In conference, the statutory language was made explicitly consistent with those dual intentions. That is to say, the bill should respect state choice as to whether or not a utility is a product, but the bill should apply evenly to all products. Consequently, language was added to the conference report saying that electricity was excluded from the definition of product, unless it was subject under State law to strict liability, that is to say, is treated as a product.

Senator DORGAN is correct that the conference report does change the substance of this provision. I think it does so wisely and in order to make the legislation clearly express our intent.

Mr. SPECTER. Mr. President, after extensive deliberation, on a very close call, I have decided to vote against the conference report on product liability legislation.

This is a close question for me because the conference report corrects my concern on punitive damages and there is a need to make American business more competitive in world markets to provide economic expansion and job opportunities.

In the final analysis, my judgment is that the disadvantages of the bill outweigh the advantages. For example, the 15-year statute of repose would deny recovery to injured parties from products intended for and used long after 15 years.

The changes in the law involving workmen's compensation make it more difficult for plaintiffs to recover where a coworker or the employer is at fault. That provision also limits the employer's traditional subrogation rights leading to the opposition of homebuilders, workmen's compensation insurance carriers and other business interests because workmen's compensation costs will escalate.

The conference report further limits the manufacturers' liability in cases where injuries result from a defective product where alcohol has been used. A defective seat belt is supposed to protect the car's driver regardless of his/her condition.

This vote against the conference report is consistent with my vote yesterday for cloture. As I said in my statement on yesterday's vote, I believe the Senate's final determination on product liability legislation should be decided by majority vote rather than the super majority of 60 required for cloture.

A decision on whether to support cloture depends upon a variety of factors such as whether there should be more debate to fully air the issue or whether a constitutional issue or some other fundamental issue is involved which warrants a super majority of 60.

On this bill on the merits, I believe it should be decided by the traditional majority vote because it is such a close question without an underlying constitutional issue or some other fundamental matter. On the merits of the bill, in my judgment the disadvantages outweigh the advantages.

Mr. GRAMS. Mr. President, today is a day of victory and celebration for America's manufacturers, consumers, and taxpayers. Congress has finally succeeded in taking the first important step in overhauling our Nation's badly broken product liability system.

Mr. President, I would like to commend my colleagues, Senators GORTON and ROCKEFELLER for their endless hours of hard work and commitment to enacting long-needed product liability reforms. This truly is a significant accomplishment.

Unfortunately, the President has already issued his press release stating that he will stop this important bill—dead in its tracks—with his veto pen. Despite bipartisan support, he claims this bill fails to "fairly balance the interests of consumers with those of manufacturers and sellers." Mr. President, I disagree.

This bill is a good compromise; it's fair; and it does protect sellers, manufacturers and most importantly, consumers.

Mr. President, too many people today are filing lawsuits in the hopes that they will hit the jackpot even if there is little merit to their case. The lawyers get wealthy, but under our current system, that wealth comes at the expense of America's consumers.

Our society has become so accustomed to suing that a recent study showed that 90 percent of all U.S. companies can expect to be named in a product liability lawsuit. Furthermore, 89 percent of Americans believe that "too many lawsuits are being filed in America today."

Mr. President, the price tag of lawsuits is astronomical. In fact, some experts have estimated that the total cost of all lawsuits filed in America exceeds $300 billion each year. And according to the Product Liability Coordinating Committee, the cost of product liability lawsuits, alone, ranges anywhere from $80 to $120 billion annually.

American consumers ultimately pay the price of frivolous lawsuits which are paralyzing our country's economic growth and ability to create new jobs. Instead, prices increase and jobs are eliminated when businesses close, downsize or decline new product introduction for fear of a frivolous lawsuit.

As a former small businessman, I understand how devastating the threat of a potential lawsuit can be on any company. Our laws have created a hostile business climate that has compromised the competitive position of many companies, forcing them to reduce salaries or lay off employees to avoid going out of business.

Companies who are sued have two choices: endure a lengthy and costly trial in the hopes of proving their innocence or settle out of court to save trial costs. Small businesses don't have the time or resources to spend countless days in a courtroom when they are struggling to make payroll and meet customer needs.

Everyone agrees that an injured person should have a day in court, and this legislation will not prevent legal recourse for justifiable claims. However, it will put an end to the fishing expeditions that trial attorneys use to extract huge, unwarranted settlements from businesses fearful of protracted litigation costs.

Businesses, taxpayers, and consumers can no longer bear this burden, making passage of this legislation critical. Americans understand that our current system is a litigation lottery which increases the costs consumers pay when they purchase a product. It even forces companies to lay-off employees.

Far too often, the cost of meeting these outrageous judgments eats up resources that could have gone toward new jobs and better salaries. The President and the trial lawyers are kidding themselves if they believe these costs are not passed on to you and me as consumers. Appropriately, this is called the tort tax.

Mr. President, most of my colleagues know that I am a strong opponent of tax increases of any kind. I believe the Product Liability Conference Report will lessen the tort tax on America's consumers.

This legislation addresses many of the problems in our current system. It limits manufacturer liability when a product is misused or altered by the user; it caps punitive damages to twice the compensatory damages or $250,000, whichever is greater; it allows judges the flexibility to impose higher damages in extreme cases; and, it eliminates joint and several liability for certain damages, such as pain and suffering, so defendants pay only for the damages they cause—not those caused by others.

In addition to the overall benefits consumers will enjoy after enactment of this bill, Minnesota will see an additional benefit. The reality is our current system is stifling technological innovation, in particular, the production of medical devices.

Mr. President, Minnesota is a world leader in the development of lifesaving medical technology and this industry is a vital part of Minnesota's growing economy.

In 1994, there were 568 registered medical device establishments in Minnesota. Furthermore, Minnesota ranks 2nd in the Nation with over 16,000 people employed in medical device manufacturing.

More than 11 million Americans rely on implanted medical technologies to sustain or enhance the quality of their lives. Many of these products are manufactured in my State including artificial joints, cardiac defibrillators, drug infusion pumps and heart valves.

Unfortunately, many suppliers of the raw materials used to make medical devices are restricting the use of their products in medical implants for fear of exposing themselves to costly product liability litigation.

Suppliers of raw materials play no role in the design or manufacture of the medical device and courts have consistently found them free from liability. Unfortunately, the costs of the lawsuit "discovery" process are surpassing the profits raw material suppliers will receive from selling their products to device manufacturers.

If biomaterials suppliers refuse to sell their raw materials to America's medical device companies, device manufacturers are forced to either substitute another material, which many times is impossible, or discontinue production of a device which is fulfilling a vital need for patients.

A recent example was highlighted in the Wall Street Journal by a mother whose daughter suffers from hydrocephalus, or water on the brain. The only medical therapy that treats this is a surgically implanted device, called a shunt, made of silicone.

Fifty-thousand Americans depend on shunts to keep them alive, but because of recent lawsuits, companies who supply silicone for the production of devices like shunts are no longer willing to sell the raw materials. This situation is devastating to patients who desperately need these lifesaving devices.

Essentially, this legislation's Biomaterials Access Assurance provision would allow suppliers of the raw materials or biomaterials used to make medical devices, to obtain dismissal, without extensive discovery or other legal costs, in certain tort suits in which plaintiffs allege harm from a finished medical device.

This provision would allow raw materials suppliers to be dismissed from lawsuits if the generic raw material used in the medical device met contract specifications, and if the biomaterials supplier cannot be classified as either a manufacturer or seller of the medical device. Most importantly, this provision would not affect the ability of plaintiffs to sue manufacturers or sellers of medical devices.

As the chairman of the Senate's Medical Technology Caucus, I would like to thank the Senator from Connecticut for all his hard work to ensure that the Product Liability bill recognizes the urgency of providing much-needed relief to suppliers of bio-materials who have no direct role in the raw material's ultimate use as a "biomaterial" in a medical device.

Mr. President, I would like to note that even President Clinton recognizes this provision as "a laudable attempt to ensure that suppliers of biomaterials will provide sufficient quantities of their products" to medical device manufacturers.

The bill before us today is the first step in the right direction, but certainly not the last. While we have made great progress toward reforming our current system, I believe we should do more. We need to extend protections to America's consumers in civil liability cases which have devastated local girl scout troops, neighborhood little leagues and community recreational organizations.

Furthermore, Congress should pass medical malpractice reforms to ensure that the doctor-patient relationship is protected from lawyers. Doctors complain that many times they are forced to order unnecessary tests just to protect themselves against frivolous lawsuits. This practice called "defensive medicine" costs our country over $15 billion each year.

Mr. President, the Senate should adopt this first step and continue moving forward to reform our overall liability system. Failing to enact this legislation will result in even higher costs to customers, fewer products developed and fewer jobs as companies downsize to adjust to increasingly high legal costs.

I urge my colleagues to recognize the positive impact this legislation will have on countless businesses across our country. Ultimately, it will benefit the employees whose jobs will be secured as a result of enactment of this long overdue legislation, while at the same time, we continue to protect consumers seeking judgements against companies who have manufactured faulty products.

Mr. DORGAN. Mr. President, today the Senate will vote on the conference report on H.R. 956, the Common Sense Product Liability Legal Reform Act of 1996. I intend to vote in favor of this legislation because I believe that modest legislation in this area is necessary.

The issue of product liability reform is one of those circumstances where I think there is some truth on both sides. Tort reform is by its very nature controversial. The ability of citizens to seek redress through the courts for harm caused to them is a very important right we must respect and protect. At the same time, it is a fact that our court system in the United States is deluged with a flood of lawsuits, many of which have no merit.

Unfortunately, the excesses of some force a reaction that affects everyone. I appreciate the sensitivity with which we in the Congress must proceed in passing any Federal legislation that reforms tort laws. I realize that because of our court system and because of the activism of well meaning consumer advocates, our Nation does have safer cars, toys, and other products. If it had not been for key cases that put the fire to the feet of corporations who would rather cut corners to enhance the bottom line than concern themselves with the safety of consumers, I am convinced that there would be more exploding cars and more dangerous toys that hurt children.

Deadly and dangerous products such as asbestos, flammable children's pajamas, and exploding Ford Pintos were all removed from the market only after action was taken in court to hold the manufacturers of these products accountable. Because these cases occurred, our lives are safer as a result. There have been many cases where manufacturers were legitimately held liable for their negligent or egregious actions.

However, these cases do not tell the entire story about our tort system. Unfortunately, there are so many other cases that may have little merit that are filed, not with the goal to seek fair compensation or change the behavior of a manufacture, but are filed with a goal to get rich quick. The result is that many manufacturers and businesses are strangled in liability cases that defy common sense. These cases don't help consumers.

It seems to me that Federal action is warranted in the area of product liability suits. But, I believe that any Federal action in this area must be modest and narrowly construed. Over the past few years, I have been an active participant in the development of this legislation. In the 103d Congress, I fought against a provision that would have provided complete immunity to manufacturers of medical products and aircraft manufacturers from all punitive damage awards. The FDA/FAA defense provision, as it was called, took this reform effort way too far in my judgment. That is why I fought to have the provision removed and if this provision existed in the legislation before the Senate today, I would be voting no.

Fortunately, the bill sponsors saw fit to not include the FDA/FAA defense provision in the conference report we are considering today. As a result, we have a bill which I believe advances some modest reform without closing the door on consumers who legitimately need to look to the courts for compensation.

I believe it is important to advance this modest tort reform legislation. It is my hope that if this legislation becomes law, it will result in more reasonableness in our tort system.

I am under no illusions that this legislation is going to create a perfect world in the courts. However, I hope this legislation will create a better world that restores some moderation to excessive litigation, while not destroying the rights of consumers to seek redress for their grievances in the courts.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. Mr. President, I yield 5 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. EXON. Mr. President, I thank the Chair and thank my friend and colleague from Washington. I signed the conference report with regard to the product liability measure that is before us. I recommend that the Senate accept this. I hope the President will not veto it, as he has threatened.

I have been listening to the debate, and I have studied this issue for a long, long time. Over 20 years ago, when I had the opportunity to serve my State as Governor, we worked on and we enacted a piece of legislation that is related to this whole area. It was with regard to malpractice in the health care field. There were concerns about that. I listened to both sides at that time. I finally decided, in the best interest of Nebraska, that malpractice piece of legislation should go into effect to provide adequate and better health care, to keep everyone involved.

I must say, that was one of the early pieces of legislation with regard to placing caps on malpractice legislation, and I must say that it has been a resounding success in Nebraska.

I recognize and have heard the debate on both sides of the issue, and, as so often is the case, Mr. President, we do not pass perfect legislation here, but ignoring the problem that we have today, that we have had for all of these years—this is as near a place we can solve it with what I think is a reasonable piece of legislation, a piece of legislation that where, if there is gross misconduct on the part of the manufacturer or the inventor, there is some relief.

I think we accomplish very little by citing this case and citing that case. If we continue with that kind of a proposition, we will simply confuse the public at large, and maybe the House and Senate, that we should do nothing. I think if there is one thing that is obvious, it is that we have to do something. I think the "something" is this bill that has been carefully crafted, that has been worked out in committee, that has been worked out in the conference between the House and the Senate, and I believe if there was ever a true workable compromise, this is a principal example.

So, I simply salute the people who have provided the leadership in this over the years. I hope the bill will be resoundingly approved by the Senate with our vote around noontime today. Maybe we can get on with solving this problem. There is a problem. No one can deny that. I am sure many of my colleagues feel very strongly that this is a bad piece of legislation. It is not a perfect piece of legislation, but it is a piece of legislation that has been carefully crafted, compromised. I think it is the best we can do under the circumstances, and I believe we should do it.

I intend to vote enthusiastically in support of this legislation. I thank the Chair and thank my friend from Washington.

Mr. GORTON. Mr. President, I yield 5 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 5 minutes.

Mr. ROCKEFELLER. Mr. President, I thank the distinguished Senator from Washington. The debate now is about over, and we are about to vote. We are about to vote on a bill which I think is profoundly important, not only in the symbolism of it but in the reality. You cannot have an engine in a car that is invented by 51 separate people who do not communicate with each other and expect the engine to move the car forward.

Similarly, you cannot protect and extend predictability and fairness and consumer protection—for example, as witness the statute of limitations—to help people in this country get justice from injury, from defective products if the engine that they have to depend upon is invented by 51 separate people who never talk to each other, and then somebody turns the key on and who knows where the system goes, or where the car goes. Probably nowhere.

We have a system that works particularly well for a few. We have, however, a system that works particularly poorly for the most. It is the job, it seems to me, of the U.S. Senate and the U.S. Congress to try to improve the condition and the lot of our people in a fair and balanced manner. One cannot reasonably come into this Chamber all the time and say, "I'm only going to do things which will help an injured person but pay no attention to other aspects of their life," for example, whether they are employed, whether they have a reasonable expectation of having a job.

What we have tried to do in this product liability conference report is to make a fair, reasonable balance between the interests of consumers and business. We have done that. We have had asserted constantly against us that we have not, assertions which are made every year we discuss these things, which are wrong.

So now we are prepared to do something, and I fully expect the Senate will adopt this conference report. It is an important bill. I repeat that I hope the President of the United States, who I think very much wants to sign a product liability reform bill—in fact, I am told very directly that he wants to sign a product liability bill. The question is what condition must it be in. I think we are presenting the President with a fair bill, one in which the Senate did not try to expand beyond products, one in which the Senate rejected virtually all other suggestions in which the only basic change was the statute of repose.

It is a very good bill. There is no other way to say it than that. I also want to thank the Senator from Connecticut, Senator LIEBERMAN, for his enormous role in all of this product liability debate, and his chief of staff, Bill Bonvillian, who is also an extraordinary person, who has been unbelievably kind and attentive to my legislative director, Tamera Stanton, to whom I referred earlier, who is going through a difficult situation just now.

This is fair. This is the way America ought to work. The bill, I believe, will pass. I can only pray that the President will sign it. I thank the President and yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from South Carolina has 12 minutes.

Mr. HOLLINGS. How much, Mr. President?

The PRESIDING OFFICER. The Senator has 12 minutes.

Mr. HOLLINGS. I thank the distinguished Chair. I want to reserve time for the distinguished minority leader, the Senator from South Dakota, who just notified us he would like a little time here.

Mr. President, I rise to urge my colleagues to reject this legislation. The only thing that stands in the way of an act of Congress overturning 200 years of State law and placing severe restrictions on the civil rights of American citizens is the vote on this conference report.

Some try to simplify this issue as a debate between trial lawyers and manufacturers. But this issue is larger than that. This matter goes to the heart of our Nation's constitutional federalism. I am convinced that to the extent Congress can selectively preempt State law, override State constitutions, overturn State legislative decisions, and dictate to State judges and juries the standards they must follow on matters that have nothing to do with Federal constitutional rights, then States essentially have lost their sovereignty. Maintaining an independent civil justice system is the essence of a free state. This freedom, however, would be seriously eroded by this bill.

I. STATE SOVEREIGNTY/DUAL FEDERALISM

The stated purpose of this bill is to erect barriers regarding the use of the civil justice system for redress of injuries caused by dangerous products. However, I would remind my colleagues that, unlike the judicial systems of other countries, the American judicial system is rooted in democratic principles of individual redress, the right to a jury trial, and reliance on the people to resolve disputes. These were principles established by the Founding Fathers when they adopted the 7th and 10th amendments to the Constitution. Surely, issues such as whether to limit access to courts, limit redress remedies, or penalize citizens for merely bringing suits were considered by the Founding Fathers, as well as the judges and State officials that have administered our system of justice for over 200 years. But they decided against such measures, and opted instead to maintain a system that features free access to the courts, common law, and giving the people the ultimate authority to resolve conflicts.

The supporters of this bill, however, are seeking to overturn this longstanding American history and judicial precedent. They would prefer to ram through this sweeping and unprecedented legislation.

I am, indeed, confounded that the Senate is even considering this legislation. At the beginning of this Congress, Member after Member came to the floor during consideration of S. 1, the unfunded mandates bill, to declare that this would be the Congress of States' rights, where Government would be returned to the people. The Jeffersonian democracy of government was revived. If we've heard it once, we've heard it a million times, that State and local governments know best how to protect the health and safety of their citizens, and that they do not need Congress telling them what to do. How many times did we hear that the one clear message sent by the voters in November 1994 was that the people wanted to get the Federal Government off their backs and out of their pockets?

The 10th amendment, lost in the shuffle for many years, was given new light. The majority leader himself, in his opening address to the new Congress, proclaimed:

> . . . America has reconnected us with the hopes for a nation made free by demanding a Government that is more limited. Reigning in our government will be my mandate, and I hope it will be the purpose and principal accomplishment of the 104th Congress.
>
> . . . We do not have all the answers in Washington, D.C. Why should we tell Idaho, or the State of South Dakota, or the State of Oregon, or any other State that we are going to pass this Federal law and that we are going to require you to do certain things . . .

The majority leader went on to say:

> . . . Federalism is an idea that power should be kept close to the people. It is an idea on which our nation was founded. But there are some in Washington—perhaps fewer this year than last—who believe that our states can't be trusted with power. . . . If I have one goal for the 104th Congress, it is this: That we will dust off the 10th Amendment and restore it to its rightful place.

If we are going to respect the 10th amendment, Mr. President, then we must be consistent.

But consistency is not something in which this Congress seems to be interested. The same Congress that has championed States rights regarding welfare is now advancing the power of the Federal Government over State civil courts. It appears that some believe the States have all the answers when it comes to welfare and education, but for some reason are incapable of running their own courts.

To the extent any reforms are needed, the States already have instituted such measures. Since 1986, over 40 States have enacted tort reform legislation. This includes my home State of South Carolina, which enacted a major tort reform measure in 1988. The States—through their work with members of the bar, the chamber of commerce, the insurance industry, and consumer groups—have addressed concerns about the tort system, and have crafted legislation they believe is in the best interest of their citizens. The proponents of this bill, however, would override the enormous and commendable efforts and time the States have devoted to this issue, and force their own brand of reform on the States.

Ironically, during the 1994 elections, when many of those who now so vehemently champion States rights were elected, the people of Arizona considered a State-wide tort reform referendum that consisted of many of the initiatives in this conference agreement. By a 2-to-1 vote, the people of Arizona rejected the referendum. Now some Members would like to reward them by using their Federal power to force on the citizens of Arizona the initiatives they soundly rejected at the ballot box.

II. REFUTATION OF CLAIMS REGARDING NEED OF LEGISLATION

The conference report contains a number of "findings" regarding the need for this legislation. Most of the findings are repeats of the various claims that have been made over the last decade. Nevertheless, it is necessary again to set the record straight with the facts.

Finding No. 1 states:

> Our nation is overly litigious, the civil justice system is overcrowded, sluggish, and excessively costly and the costs of lawsuits, both direct and indirect, are inflicting serious and unnecessary injury on the national economy.

Rebuttal:

This is the old litigation explosion claim. However, there has never been any evidence of a litigation explosion as the following data demonstrate:

A 1991 Rand study found that only 2 percent of Americans injured by products ever file a lawsuit.

A 1994 report by the National Center for State Courts found that product liability cases are less than 1 percent of all civil filings.

A 1995 study by the National Center for State Courts found that, of the 2 percent of lawsuits that are filed, 90 percent are disposed of by nontrial, such as dismissals or settlements.

In June 1994, the New York Times featured a front page story on how juries are growing tougher on plaintiffs. Citing the latest research by Jury Verdicts Research, Inc., the Times stated that plaintiffs' success rates in product liability cases have dropped from 59 to 41 percent between 1989 and 1994. A 1995 report by the National Center for State Courts shows that tort filings have declined 6 percent since 1991.

Profs. James Henderson, a supporter of State product liability reform, and Theodore Eisenberg of Cornell University released a study in 1992, which showed that product liability filings had declined by 44 percent by 1991. They concluded that by "most measures, product liability has returned to where it was at the beginning of the decade," beginning in the 1980's.

BUSINESS LITIGATION

Where is the real litigation explosion? It is in the corporate board rooms. According to professor Marc Galanter of the University of Wisconsin Law School, the real litigation explosion in recent years has involved businesses suing each other, not injured persons seeking redress of their rights. He found that business contract filings in Federal courts increased by 232 percent between 1960 and 1988, and by 1988 comprised the largest category of civil cases in the Federal courts.

In August 1995, the National Law Journal released the findings of its study of judicial emergencies in Federal courts. The study found that 33 percent of the judicial emergencies involved business litigation.

Between 1989 and 1994, of the 83 largest civil damage awards nationwide, 73 percent involved business suits. Between 1987 and 1994, just 76 of the top business verdicts alone accounted for more than $10 billion. They included: Litton Systems versus Honeywell, a patent infringement dispute—$1.2 billion; Rubicon Petroleum versus Amoco, a breach of contract dispute—$500 million, including $250 million in punitive damages; Amoco Chemical versus Certain Lloyds of London, a breach of contract dispute—$425 million, including $341 million in punitive damages; Avia Development versus American General Reality Investment, a breach of contract—$309 million, including $262 million in punitive damages. Of course, this does not include the greatest verdict of them all—the $10.5 billion awarded in 1985 in the Pennzoil versus Texaco case.

Notwithstanding the excessiveness of business suites, however, the bill specifically exempts business litigation from the legislation.

II. COMPETITIVENESS

Finding No. 2 of the conference report states:

> Excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability have a direct and undesirable effect on interstate commerce by increasing the cost and decreasing the availability of goods and services.

Rebuttal:

To refute these unfounded claims about competitiveness, I simply cite the comments of Mr. Jerry Jasinowski, president of the National Association of Manufacturers [NAM], that appeared in the Washington Post editorial section on Sunday, March 17, 1996. Mr. Jasinowski severely decried those who have criticized American business competitiveness.

According to Mr. Jasinowski: the American industrial renaissance over the last 4 years has restored the United States "to the top spot among the world's economies." While some are "busy berating our capitalist system, the U.S. economy has become the envy of the industrialized world." "The American economy has quietly grown richer—gaining 8 million new jobs since 1992 and putting the unemployment rate at an historically low 5.5 percent." "In the past 25 years"—during the midst of the so-called product liability crisis—"U.S. employment has increased 59 percent and we have created more than 5 times as many net jobs as all the countries of Europe combined."

OTHER STUDIES ON COMPETITIVENESS

Mr. Jasinowski's editorial affirms other studies which have found no evidence relating product liability to U.S. competitiveness.

A 1987 Conference Board survey of risk managers of 232 corportions shows that product liability costs for most businesses are 1 percent or less of the final price of products, and have very little impact on larger economic issues such as market share or jobs.

The Rand Corporation found that less than 1 percent of U.S. manufacturers are ever named in a product liability lawsuit, and that "available evidence does not support the notion that product liability is crippling American business."

In 1991, the GAO released a study of the effects of product liability on competitiveness, and stated that it could find "no acceptable methodology for relating product liability to competitiveness."

FINDINGS ON INSURANCE COSTS

Finding No. 7 states:

> The unpredictability of damage awards is inequitable to both plaintiffs and defendants and has added considerably to the high cost of liability insurance, making it difficult for producers, consumers, volunteers, and nonprofit organizations to protect themselves from liability with any degree of confidence and at a reasonable cost.

Rebuttal:

The claim that there was an insurance crisis was one of the first justifications put forth by supporters of the legislation in the 1980's. However, there is ample evidence that there never was, and is not currently, a product liability insurance crisis.

A study released in March 1995 by Bob Hunter of the Consumer Federation of America, who was formerly the Texas Insurance Commissioner, shows that product liability insurance costs for U.S. businesses amount to no more than 26 cents for every $100 of total costs.

In January 1995, the National Association of Insurance Commissioners reported that between 1989 and 1993 product liability insurance premiums declined by 26 percent.

According to the Insurance Information Institute, insurance companies' surplus, assets minus liabilities, rose from $29 billion to over $230 billion between 1977 and 1995. Surplus is the money available after all losses and bills have been paid. These figures show that, to the extent there was an insurance downfall, it sure was not felt by the insurance industry.

Additionally, according to the testimony of the American Insurance Association [AIA], the legislation will have no effect on insurance rates anyway.

UNIFORMITY

Finding No. 10 states:

> The rules of law governing product liability actions, damage awards, and allocations of liability have evolved inconsistently within and among the states, resulting in a complex, contradictory, and uncertain regime that is inequitable to both plaintiffs and defendants and unduly burdens interstate commerce.

Rebuttal:

This finding is part of the proponents' claim regarding uniformity. However, contrary to the proponents' claims, the bill does not, and is not intended to, create uniformity. State law is preempted in this bill only to the extent it favors defendant corporations. For example, with respect to punitive damages, the legislation would not disturb the law in the State of Washington since that State prohibits punitive damages, but would preempt the law in South Carolina, which permits punitive awards.

The Chief Justices of the States have indicated that the legislation is likely to create considerable confusion, and lead to more litigation, as a result of the varying interpretations and applications of its provisions by different State courts.

The bill imposes its own set of rules on State courts without imposing the same rules directly on the Federal courts. Because of the absence of a Federal cause of action, Federal courts will hear cases involving the legislation only if there is diversity of citizenship or location of the parties.

CONFERENCE REPORT HURTS CONSUMERS MORE THAN SENATE BILL

Proponents continue to state that the conference report is not expanded beyond the Senate amendment. However, the conference agreement extends well beyond the Senate amendment in undercutting the rights of victims. The bill now limits victims' rights to be compensated for harm caused by energy and utility related disasters, such as hazardous gas storage facilities, and negligent entrustment cases, including the unlawful sale of dangerous products to minors. In addition, the statute of repose has been reduced from 20 to 15 years. Once restricted to workplace products, this provision has also been expanded to cover any product that has an expected life span of more than 3 years. Further, products now covered by the legislation include used cars, elevators, children's toys, and medical devices made for handicapped citizens.

The bill has retained the abolition of joint liability for pain and suffering damages. The restriction is applicable even if there is proof that defendants worked together as a joint venture, or as parent and subsidiary.

The bill has maintained discriminatory punitive damages caps. By basing the cap on income and wealth, the bill permits higher punitive awards for individuals with the most economic advantages. In an effort to rectify the disparate treatment of high income and low income victims, a provision was added on the Senate floor to permit judges to increase punitive awards beyond the cap. Federal judges, and judges in most State jurisdictions, however, are constitutionally prohibited from increasing damages without the consent of the parties. Indeed, we find it hard to believe that any defendant would consent to higher punitive awards. The proponents stated the constitutional issue would be resolved in conference. The conference agreement, however, has actually enhanced the power of judges to increase damages, all but ensuring the provision will be deemed unconstitutional. The end result will be that additur will be removed, and the discriminatory cap will remain. Additionally, we question why Congress would pass a law it recognizes as unfair, and then shift the responsibility to judges to rectify the problem.

CONCLUSION

Simply put, Mr. President, there is no product liability crisis. Indeed, if there are problems that need to be examined in the tort system, they already are being addressed by the States, where this issue belongs.

This legislation is the epitome of congressional arrogance. It takes away from the States an area of the law that has been reserved to the States for 200 years.

What will this bill do? It will make it more difficult for consumers to be compensated for their harm from products; it will shield from liability manufacturers which consciously manufacture defective products; it will take away from the States rules of law they have carefully developed; and it will remove incentives for manufacturers to make their products safe. These are some of the results of this bill, results which are not in the best interests of our citizens.

I conclude by urging my colleagues to reject cloture on this conference report. Despite years of effort, no case has ever been made for Federal product liability law. The proponents move from claim to claim about the need for this bill, because they know that this is a sham. If there ever was special interest legislation, it is this bill. It is special interest at the expense of the constitutional and civil liberties of the American people. I urge my colleagues not to be misled by the proponents' claims, and to vote against this conference report.

There are so many things to say in the limited time. But section 106(b)(3)(C) refers to a general aviation statute of repose limitation period. It is for 18 years. That is the way the distinguished Senator from Washington started talking about this bill yesterday. It was all about Cessna and aviation and everything else like that.

All the provisions of the products bill apply to general aviation, so there are no longer protections for people injured, of course, on the ground or the air ambulance people, even though the 1994 law provided those protections. But what I wonder about, if this general aviation provision of 18 years has done such a remarkable revival of the aviation industry, why are we limiting it? There we go.

No. The Senator from Nebraska says there is a real problem and everybody knows it. That is absolutely false. We know that the States have taken care of this problem. Yes, there is a political problem, because Presidential politics has preempted everything up here in Washington.

I saw some article in one of the magazines about the campaign starting. The campaign started early last year. In 100 days we were going to do this, get rid of everybody, 10 things in the Contract, we are going to pass them in 100 days, and whoopee. And we were off, and everything else of that kind—until reality set in.

But now there is the time of some embarrassment, since some of these things have not been passed—and for very, very good reason. A good reason, of course, assuming the truth of everything that the Senator from Connecticut says, is that the State Legislature of Connecticut is ready, willing, able, alert, and responsive. He was a majority leader of it. The State of Connecticut has taken care of these problems. We all take care of these problems in the several States.

But right to the point, this bill is a travesty, Mr. President. The Presiding Officer knows it. It separates people. It separates them according to their economic worth. That is a dastardly thing to do. I cannot see people of good sense and reason voting for a thing of this kind and hoping the President will sign it. The President knows the facts. He has reiterated them in the letter. He said, if it is so good and so fair, as they plead, then why does it not apply to business—the very people who drew it up? This thing was drafted by business, of business, for business, greedy business. That is what it has been for, and the proponents all know it.

I say that advisedly. I have gotten every business award you can find. I am proud of them. I work closely with business. We have more business coming to our State than all these other States that these Senators represent. I challenge them to compete with us on taking care of business. That has been my 40-year record of public service.

So I know when they step over the line. The fact of the matter is, there is a small segment, Victor Schwartz and his crowd, stepping over the line that has picked up the political fever of "kill all the lawyers." It is the business of travesty that increases the legal costs for those trying to really try their cases. They know that these are contingency fees.

So if you get a good verdict, and it is a punitive damage verdict, you do OK. We put in the RECORD where punitive damages have disciplined these businesses. Thank heavens it has because we are all safer on account of it. That is why we get the recalls, because the manufacturers are put on notice. The proponents know that is why we are getting the recalls in our society. But now they have to go through a whole new hearing. And they talk about simplicity and transaction costs.

How can they claim simplicity with all the different proceedings they have here now, trying to limit legal costs? They tell the utilities they can forget about strict liability, they can forget about the highest degree of care. The Senator from North Dakota and the Senator from Washington got into a very clear dialog about simple negligence. Let the boilers blow up, let the gas blow up, let it explode. The highest degree of care now is no longer required under this bill.

Yes, we put in the RECORD about the drunk drivers. I reiterate, in the letter of MADD in opposition, Mothers Against Drunk Drivers, they oppose this bill. They know and they read and they understand and they stand by their particular opposition.

It encourages the lack of care with that statute of repose on manufacturers. Manufacturers here are exercising the highest degree of care. They are not in these other lands. But now the proponents want to talk about global competition. I have touched on that. They are competing with themselves. They want to take down the high degree of care by overriding the strict liability. Punitive damages is another thing that has given us safe products in this land, safe places to work, safe places to sleep, safe drugs and food, and everything else of that kind.

More than anything else, Mr. President, it is just patently unconstitutional. Amendment VII:

> In suits of common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States. . . .

This particular bill says reexamine it at the trial court level, but keep it a secret. The judge is supposed to charge the jury under the law, stay out of the facts. But this bill says, by gosh, reexamine it in violation of amendment VII. Of course, it ignores amendment X that the distinguished majority leader has run all over the entire United States talking about, saying, "I've got one thing here in my pocket, the 10th amendment."

These folks all come up here and act like they never heard of the States from which they were sent. The States have acted on product liability over the 15 years that the Senator from Rhode Island complained about. They have acted very judiciously. It is not a problem. It is a little political gimmick in the contract. It is a shame and disgrace that we have taken up the time of the National Congress on this matter that the States have taken care of.

I reserve the remainder of my time. How many minutes do I have?

The PRESIDING OFFICER. The Senator from South Carolina has 3 minutes 30 seconds.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. I thank the distinguished Senator from South Carolina for yielding. I will use whatever leader time I may require to finish my statement.

Let me commend the Senator from South Carolina for the arguments he has again made in his summary on this debate. I applaud him for the leadership and the effort he has put forth. I very enthusiastically endorse his position. Let me also thank the distinguished Senators from Washington and from West Virginia and from Connecticut that have, as well as they have, brought this bill closer to a bill that is reasonable.

As the distinguished Senator from South Carolina said, Mr. President, it is ironic in the extreme that, in this era of devolution, in this era of States rights, in this era of empowering States with more opportunities to deal with issues at the local level, this Congress, of all Congresses, would now pass a bill that says the Federal Government knows better. It is especially ironic that this Congress would say the Federal Government knows better on an issue as profound as this, affecting victims in the worst set of circumstances.

I respect the Presiding Officer for his consistency in suggesting that devolution and new Federalism, or whatever we call it, ought to be sustained, regardless of the issue, that we ought not pick issues depending on the special interests, that we really have a responsibility to be consistent.

Certainly in this case it would require, I believe, a second look. We can do better than this. We can do better than what we are going to be voting on this afternoon.

I am very troubled by a couple of provisions. One in particular troubles me. Mr. President, to say that someone working on a defective piece of machinery is going to be protected if that machinery is functional for 15 years, but not for 16 years, to me is amazing. To ask people on the work line, to ask people on the combine, to ask people in whatever set of working circumstances they face, to accept the risk that this equipment is going to hold out after that period is more than I can support. To ask American companies to live up to their obligation, to understand how important it is that people working on assembly lines or in a field have the protection and the certainty and the opportunity to come to work knowing they will be able to come home whole is not too much to ask. A 20-year statute of repose is not too much to ask.

Mr. President, the other issue has to do with component parts. We have gone through some terrible situations in the last several years involving defective component parts. One example involves women who were given breast implants that were defective, when it was well known that a component of the breast implants posed severe health risks in the body of a woman. Now to immunize from liability people who manufacture defective component parts and to say we are going to, through statute, give them our blessing is wrong. It is wrong.

Mr. President, we can do better than this. We have to do better than this. Those of us opposing this bill will continue to do so. This fight is not over. The President has said in no uncertain terms this bill will be vetoed. I predict we will have more than enough votes to sustain a veto.

Again, this fight is not over. We can do better than this. We ought to do better than this. In working with the President, the Presiding Officer and others, we will. I yield the floor.

Mr. GORTON. Mr. President, I yield 3 minutes to the Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the Senator from Washington. I commend the Senator from Washington and the Senator from West Virginia for bringing to the floor of the Senate a reasonable, moderate product liability bill which the President ought to sign.

The representations in this Chamber that we should do better and could do better belie the current performance of this Chamber, which for 15 years has sought to enact a bill like this, but never really brought one forward that could be passed. This is a bill that can be passed.

There can be debate about whether or not there is a litigation explosion in this country. Some can say we have too much litigation or too little. Let me give you a fact. The fact is that tort costs are 2.3 percent of the Gross Domestic Product in the United States, according to the Tillinghast study. That is 2½ times the world average. In short, we have the most expensive tort liability system in the world. It is time for us to change that. We must stop wasting money by exchanging it between the trial lawyers and punitive damage recipients instead of using it to create the competitive and economic edge that will allow us to be successful—to create jobs and build equipment, and to grow this economy. We need to revitalize the industrial base of the United States of America.

Uniform standards in product liability law would help return good products to the markets, reduce the price of consumer goods, and break the legal shackles on American businesses to help them become more competitive internationally.

This bill will make products safer. Litigation, which we have had plenty of, stifles innovation that makes products safe. Overall product safety in the United States improved steadily in the first half of this century, when a much more limited liability system was in effect. We need to make sure that safety, not greed, is what is emphasized by our laws in this area.

Let me make another point. We need to make this fundamentally clear: No person will be denied the right to recover actual damages under this bill. Every cent of damages, even damages for pain and suffering previously that has been available, is available under this bill. The bill has limits on punitive damages, but those are damages to punish. Those are not damages to make a person whole for what has happened to them.

One last point that I raise, this bill was pared down from what it ought to be and what it should be—in an effort to accommodate the President. We ought to really be extending some tort reform protection to our charities. This bill does not provide protection to churches, to voluntary and charitable organizations, which means there will be no liability protection for volunteers in the Little League, the American Red Cross, the Salvation Army, the American Cancer Society, for people who run soup kitchens. We need an explosion of people helping solve America's endemic social pathologies. What do we have in the United States instead? A tort system which threatens everyone who tries to help his neighbor with the potential of bankrupting liability.

Dick Aft, president of the United Way & Community Chest of Cincinnati, put it this way, "The litigious climate imposes a cost for all charities, costs that can be measured in resigning trustees, lost volunteer hours and sky-high insurance premiums. These are tough times for charities. The last thing we need is a legal system that adds to our burden."

Mr. President, as long as our litigation system forces a would-be volunteer to consider whether the risks of being sued outweigh the benefits of contributing one's time and talent to charitable organizations efforts to solve society's problems will continue to be unnecessarily stymied.

In order to try to entice the President of the United States to go back to his previous position supporting federal product liability reform, the Senate has had to take the protections for non-profits out of this bill. Then the President still comes out and opposes the bill. As a result, I do not know how to trust the President on anything he says. He previously said he supports it. Now he says he does not.

Maybe we should distrust his latest representation that he will veto this. We should pass this legislation and give the President a chance to flip-flop back to the right side of the agenda, and I do not mean political right, I mean right versus wrong as a matter of good government policy. This bill is right, it provides a reasonable framework to do business in the United States. It will protect consumers. I believe it should be enacted for the good of consumers and the good of the country.

Mr. GORTON. I yield 30 seconds to the Senator from Virginia.

Mr. WARNER. I thank the distinguished managers of the bill. I strongly support the bill and commend the managers of this bill.

Mr. President, this is a jobs bill. It throws a liferaft to small business. Small business today is being buffeted in the turbulent seas of lawsuits, yet it affords adequate protection in litigation for those who are wrongfully hurt.

Mr. President, I rise in support of the Commonsense Product Liability and Legal Reform Act of 1996. I do so because I believe that this bill is strongly proconsumer. The opponents of this bill may claim to be defending the rights of the injured. Well, this bill not only defends their rights to be fairly compensated for injuries caused by defective products, but also defends the rights of the rest of us not to pay for the outrageous verdicts, settlements, and insurance payments that American businesses pass on to consumers because of our broken legal system.

It is important to remember what exactly this bill does. There are a number of commonsense provisions which nobody besides the trial lawyers could oppose. For example, no longer would companies be liable when the injured party was drunk, on drugs, or otherwise responsible for their own injuries, or when the consumer had altered the product. It also would provide protection to companies producing biomaterials for use in medical implants: These sections are necessary to allow these companies to help save lives and to worry less about being sued for merely providing raw materials which ended up in a heart valve or pacemaker.

Then there is the issue of punitive damages which have been the subject of so much discussion. Again, it is important to remember what punitive damages are. Imagine a plaintiff injured by a defective product, say a car with faulty brakes which causes an accident. The plaintiff will be able to recover every last penny of lost income, medical costs, and financial losses he can demonstrate. In addition, he will be entitled to recover for pain and suffering as the jury sees fit and in relation to the injuries suffered. Then, on top of being completely compensated, he can ask for punitive damages which may have no relation to the amount he received for compensatory damages. Sometimes punitive damages are granted, sometimes not: more often a company is forced to settle a case to avoid the possibility of a outrageous jury verdict. This is a pure lottery having nothing to do with the injuries suffered by the plaintiff which mainly benefits the lawyer working on a contingent fee. It is a crazy way to dispense justice.

My State of Virginia has recognized this problem and placed a reasonable cap on punitive damages. But Virginians buy products produced in other States and pay for the costs of this legal lottery created by the legal systems in other States. President Clinton says that this bill usurps the power of the States. Commerce, however, is nationwide and where States are placing undue burdens on interstate commerce, Congress is correct to step in and make reforms.

Now remember also that when President Clinton was Governor, he endorsed uniform legislation for punitive damages. Even the Washington Post has recognized that the President and the opponents of this bill are on the side of the trial attorneys, rather than American consumers and businesses.

I urge that the Senate move to consideration of this badly needed legislation and that it be enacted as soon as possible.

Mr. GORTON. Mr. President, article 1, section 8 of the Constitution of the United States reads in part as follows: "The Congress shall have power to regulate commerce among the several States." The purposes of this bill, as outlined in this bill, read as follows:

> Based upon the powers contained in Article 1, Section 8, Clause 3 of the 14th amendment of the United States Constitution, the purposes of this act are to promote the free flow of goods and services, to lessen burdens on interstate commerce, and to uphold the constitutionally protected due process by, (1), establishing certain uniform legal principles of product liability which provide a fair balance among the interests of product users, manufacturers and product sellers; (2), placing reasonable limits on damages over and above the actual damages suffered by a claimant; (3), ensuring the fair allocation of liability in civil actions; (4), reducing the unacceptable cost and delays of our civil justice system caused by excessive litigation which harm both plaintiffs and defendants; (5), establishing greater fairness, rationality, and predictability, in the civil justice system.

That is precisely what this bill is designed to do, Mr. President. That is precisely what this bill does.

I yield the remaining 2 minutes to the distinguished chairman of the Commerce Committee.

Mr. PRESSLER. Mr. President, I rise in strong support of this legislation. I want to pay tribute to both Senator ROCKEFELLER and Senator GORTON who have had such great courage, leading this controversial bill and bringing it here. This is perhaps one of the most important pieces of legislation this Congress will consider because of the benefits it will have for small business.

Senator GORTON, who has appeared before the Supreme Court 14 times, is a legal expert. His expertise in explaining this bill, both in the committee and on the floor, have been very, very valuable. This bill would not be here without Senator SLADE GORTON. He has been able to explain this bill, the technical parts of it.

Senator ROCKEFELLER, in my opinion has shown great courage. I wanted to use my time to pay tribute to those two leaders who have fought so long and hard through the committee.

I strongly support this legislation.

Mr. GORTON. Mr. President, I simply would like to say after this extended debate, not only over the period of the last 2 days but over the period of the last year, and for that matter several Congresses, that it is wonderful to have at least this phase of it completed. This very important element in the reform of our country's legal system would not have been completed with this degree of success without the help of both many Members and a significant number of staff.

When one names names, one runs the risk of leaving out many people who deserve credit, but particular credit from my perspective belongs to Lance Bultena of the Commerce Committee staff, and my own Jeanne Bumpus and Trent Erickson. Together they have put in so many hours on this subject that it cannot possibly be measured, and have done a wonderful job in educating and advising me.

For Senator ROCKEFELLER, Jim Gottlieb, a magnificent and skilled attorney, and Ellen Doneski have provided similar services. All of my cosponsors I wish to thank. All those who voted with me, I wish to thank. Most particularly, however, is the Senator from West Virginia [Mr. ROCKEFELLER]. We have come to be close personal friends during the course of the many years that we have worked together on this subject. He is a wonderful, thoughtful, and hard-working individual. In this connection, he is a courageous individual with the willingness to take on a majority of his own party and his own President.

His devotion to the public interest is not exceeded by any Member of this body. The ability to become such a close personal friend has been an important ancillary privilege of leading the debate on product liability.

With that, Mr. President, I am sure it is time to move on.

Mr. President, I yield the remainder of our time.

The PRESIDING OFFICER. The question is on agreeing to the conference report to accompany H.R. 956.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] is necessarily absent.

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 46 Leg.]

YEAS—59

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Frist
Glenn
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kohl
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Murkowski
Nickles
Nunn
Pell
Pressler
Pryor
Rockefeller
Santorum
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—40

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
D'Amato
Daschle
Feingold
Feinstein
Ford
Graham
Harkin
Heflin
Hollings
Inouye
Kennedy
Kerry
Lautenberg
Leahy
Levin
Mikulski
Moynihan
Murray
Reid
Robb
Roth
Sarbanes
Shelby
Simon
Simpson
Specter
Wellstone
Wyden

NOT VOTING—1

Kerrey

So the conference report was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WHITEWATER DEVELOPMENT CORP. AND RELATED MATTERS

CLOTURE MOTION

The PRESIDING OFFICER (Mr. FAIRCLOTH). Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Senate Resolution 227, regarding the Whitewater extension:

Alfonse D'Amato, Dan Coats, Phil Gramm, Bob Smith, Mike DeWine, Bill Roth, Bill Cohen, Jim Jeffords, R.F. Bennett, John Warner, Larry Pressler, Spencer Abraham, Conrad Burns, Al Simpson, John H. Chafee, Frank H. Murkowski.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to Senate Resolution 227 shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] is necessarily absent.

The yeas and nays resulted—yeas 52, nays 46, as follows:

[Rollcall Vote No. 47 Leg.]

YEAS—52

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—2

Jeffords
Kerrey

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

PRIVILEGE OF THE FLOOR

Mr. GORTON. Mr. President, I ask unanimous consent that A.J. Martinez of Senator BENNETT's staff be permitted privilege of the floor during consideration of the Public Rangelands Management Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC RANGELANDS MANAGEMENT ACT

The PRESIDING OFFICER. The Chair lays before the Senate, S. 1459, the Public Rangelands Management Act, with 75 minutes equally divided on the Bumpers amendment.

The clerk will report.

The bill clerk read as follows:

A bill (S. 1459) to provide for uniform management of livestock grazing on Federal land, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Domenici amendment No. 3555, in the nature of a substitute.

Bumpers modified amendment No. 3556 (to amendment No. 3555), to maintain the current formula used to calculate grazing fees for small ranchers with 2,000 animal unit months [AUM's] or less, with certain minimum fees, and establish a separate grazing fee for large ranchers with more than 2000 AUMs.

AMENDMENT NO. 3556, AS MODIFIED

Mr. DOMENICI. Mr. President, Senator BUMPERS is here. Might I inquire of Senator BUMPERS, we do not need our entire 37 minutes. Is there any chance, in the interest of moving the Senate's business along, you might get by with a little less of your time so that we could vote a little earlier?

Mr. BUMPERS. I am quite sure we will not use all of our time, either. We will be happy to yield the balance of such time. I only know of two people on this side, Senator JEFFORDS and I, who will be speaking.

Mr. DOMENICI. Thank you. Mr. President, on this side, might I say in earshot of staff and administrative assistants, that some Republican Senators have indicated they want to speak on this very amendment. Senator CAMPBELL has indicated, the distinguished Senator from the State of Colorado; I think Senator CRAIG has indicated that he would like to speak; and perhaps a couple of others. Let me put the word out, we are trying very hard to move this bill along and use as little time on the amendments as possible. If you could get hold of me, perhaps I could set up a time, and perhaps we could agree at a certain time that Senator CAMPBELL will speak for 8 or 9 minutes. If we can work to arrange that, I will not have to be here anxiously wondering who is coming because they will have a time set.

Mr. President, let me suggest that this amendment with reference to grazing fees, if it were adopted and if it becomes law, would put out of business, in this Senator's opinion, hundreds and hundreds of small ranches and ranching families that have been the backbone of this kind of activity for a long time. Let me yield myself 5 minutes and see if I can make the case for that, and then I will yield back to Senator BUMPERS.

Mr. President, first of all, this amendment attempts to set up a two-tier fee system. That two-tier system that is established here, the distinguished Senator indicates it is only going to have an impact on the very large ranches. I want to get to that in a moment to try to make sure that the Senate understands that all grazing permits do not have the same tenure. Some are for 3 months, some are for 5 months during the year. In a State like New Mexico, parts of Arizona, parts of California, and parts of a few of the other States that have year-long grazing.

Some private property, small portion of State property, and Federal leases make up a ranching unit in a State like mine. We are called water-based States. Essentially, the water and everything is on that unit. So you do not move the cattle off to public property for part of the year. The livestock are there all the time.

As a consequence, when the distinguished Senator who had in mind that this would be just for very, very large ranches, those numbers did not take into consideration a ranch in New Mexico, Arizona, or California, that had 12-month-a-year permits and was substantially—that is, a lot of the property—federally controlled. I will come back to that point when I get the actual numbers.

Having laid the foundation to establish this fact that it will apply to small ranches, not large ranches, that are on a 12-month basis and have a lot of public domain, let me tell you what we try to do in the bill. We attempt to increase the grazing fee 37-percent. We intend it go up to $1.85. This is a 37-percent increase. Now, Mr. President, in addition to a 37-percent increase, we are aware of the fact that you cannot have ranching units continue to operate, and have prices go arbitrarily up in total disregard for the market, based upon what the State might charge for completely different land. Ours is based upon the 3-year rolling average of the gross value of the commodity, which takes into account such things, Mr. President, as this year where cattle prices have come down 30 percent to 35 percent. It is obvious you should not be increasing fees. You could not on private land. The market would not bear that. You should not increase it arbitrarily under a formula when the gross value of the product is coming down.

I stress gross value. Senator BUMPERS, in the mining reform debate, has always wanted gross value. We use gross value.

In addition, we use it on figuring out the interest component, so we get a market movement, the 10-year average of the 6-month Treasury bills, so that we have a very good way to establish stability and let the leases go up, but not go up in total disregard to the market.

Now, Mr. President, under the Bumpers proposal, the permits could be as much as $3 per animal unit per month up to $10 per month. I must say to the Senate, not even Secretary Babbitt, in his wildest dreams about what we should charge, had anything like $5, $6, $7, or $10, which some of the permits would be worth under the Bumpers proposal. And he had $4.60 once and came off that because everybody told him it was absolutely ludicrous and the ranchers would go broke.

Incidentally, the Department of Interior and Secretary Babbitt never supported, and to this day do not support, having two different fee schedules, depending upon the size of the ranch and the number of units and the number of cattle you graze, for a lot of reasons. It is arbitrary. It was said it will not work, and obviously there are many other reasons.

I note that the distinguished Senator from Arkansas would suggest that because States have a different fee schedule, we should follow them. I want to make three or four points about that. First, Senators must note that many of the State leases are exclusive leases. That means the only thing you can do on them is graze. From the very beginning, the Federal leases are not exclusive. They must be used for multiple purposes. That is a very different concept of what you can use it for. If you can only use it for that, to the exclusion of all the other uses, obviously, it would be worth more.

Likewise, many States have very few regulations, as compared to the Federal Government, making it more attractive for the rancher. Last but not least, for the most part, the State lands are a very small portion of a unit of ranching. The Federal land is more often a very large part of that unit. And so, to be able to exist, you have to have stability on that Federal side, and you have to have something that is reasonably consistent with a formula that acts upon the price of the commodity, such as ours.

I will put in the RECORD that under the amendment which purports to save small ranches, and charge large ranches a lot more—I will give you just two numbers. If 95 percent of a unit is Federal land—and there are a number of those—in the State of New Mexico, the maximum number of cows that you can have on this ranch to get into the lower-tier price is 176—not 500, not 1,000, but 176. The ranching unit could be between 50 and 95 percent Federal land, and the number of head would be between 334 and 176.

Mr. President, this just shows when you try to establish these arbitrary formulas, you have to find out really everything that is involved.

I ask unanimous consent that this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PERCENTAGE OF NEW MEXICO RANCHES WITH VARIOUS LEVELS OF RELIANCE ON FEDERAL LAND FOR GRAZING CAPACITY

Reliance on Federal land	0–5 percent	5–50 percent	50–95 percent	>95 percent
Percent of all ranches in New Mexico	49	21	26	5
Max. number of cows for small rancher exemption to apply	>3,340	3,340–334	334–176	176–167

Adapted from Torell et al. (1992).

Mr. DOMENICI. Mr. President, this amendment will not, as it purports to, have any positive effect on small ranchers staying in business in New Mexico and in the other States of the Union. There is a lot more to say, but distinguished Senators are here on our side. I have used 8 minutes, which means we have about 25 minutes left.

Senator CAMPBELL, how much time would you like?

Mr. CAMPBELL. About 10 minutes.

Mr. DOMENICI. The Senator from Wyoming needs 10 minutes. As soon as Senator BUMPERS yields the floor—does he want to speak now? We can yield to Senator BUMPERS for 8 or 10 minutes and come back and have them use their time.

Mr. BUMPERS. Is the Senator yielding the floor?

Mr. DOMENICI. I was trying to get an agreement so we would know who was speaking on our side.

Mr. BUMPERS. I do not have a schedule in mind. I do not have a certain length of time that I am going to speak. I will yield myself such time as I will use.

Mr. DOMENICI. On our side, when one of our Senators is able to get the floor, we have agreed that Senator CAMPBELL will speak for 10 minutes, and the Senator from Wyoming will speak for 10 minutes.

I yield the floor.

The PRESIDING OFFICER (Mr. GREGG). Who yields time?

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. CAMPBELL. Mr. President, before I stepped on the floor a few minutes ago, something happened. I have a friend that came here from Colorado. He ranches out there. He was teasing me, and he said, "What is Congress' only Indian doing in here defending the cowboys?" I have to tell you, Mr. President, I had a good laugh with him, but this is not about cowboys and Indians. This is about real families. Some happen to be Indians, who are cowboys, by the way.

Anybody who knows the ranch lifestyle out West knows that ranchers grew up with guns. They learn how to use them from childhood, and they get good with them. They use them for protection and for hunting. I guess the first thing they learn about guns is that you try to hit what you aim at. I have to tell you, I admire my colleague from Arkansas and, certainly, Senator JEFFORDS, too, but they are not going to hit what they are aiming at.

As I understand both of their amendments, it is like hunting a wolf that gets in your lambs or your calves with a shotgun. You may get the wolf, but with a scatter-gun approach, you get everything else, too.

I believe Senator BUMPERS' amendment and Senator JEFFORDS', too, is really aimed at corporate freeloaders. But by putting everybody in the same category, it is certainly going to hit ranchers that are full-time ranchers, with no other income except ranching. I think that is a very sad mistake. I think they should both be opposed. To put them in the same category is simply not fair.

They are trying to define, as I understand both amendments, the difference between real ranchers and nonranchers. But the approach they have taken puts the large ranchers and the small ranchers in the same category as the nonranchers. And so when we hear the debate, they often use Hewlett-Packard, Simplot, Anheuser-Busch, and many of the big corporations who, somehow, in the past, have gotten some of the permits and, in fact, probably use them as tax writeoffs or some kind of a tax structure in order to get tax breaks from the products they are producing. But they are not what we call "real ranchers." I do not think anybody here from the West is trying to defend people who have used the ranching industry for a tax writeoff. What we are trying to defend and protect are the real ranchers, the family ranchers.

There was some reference made to ranchers who have made it big. Clearly, some ranchers have made some money. As Senator GRAMM, our friend from Texas, said, "Welcome to America." What is wrong with that if they made it by honest labor, made the ranch grow, and have weathered storms, drought, wolves, cats, and everything, and they managed to make a little more money and invest in something else or buy some more land? What in the world is wrong with that in this country? Yet, when they succeed, they are sort of put in the category of preying on the American public and somehow taking advantage of the American public because they have succeeded.

I think that also is not only unfair but it is wrong. This shotgun approach very clearly of putting the ranchers in the same category as those people who use ranching as a tax break is simply wrong to do.

Senator BUMPERS said yesterday—I mentioned it last night—that we should watch where the money goes. And I have to tell you, I live among family ranchers. I know where the money goes. It goes to Main Street by and large—to the hardware stores, to the movie theaters, to the used car lots, to the school districts through property taxes, to the fire district, and to every other special district you can imagine. Very little goes to recreational pursuits. If they have any money left usually it is put back into the herd, or into the land, or some way to improve their own family lot. They do not, I know, take vacations to Nice, France, or to Montserrat, or somewhere else like the corporate people do that the Senator is aiming to get.

So I think both of these amendments are probably going to miss the target and get the wrong people.

We also dealt a little bit last night with the question about fair market value. And the accusation, of course, is that ranchers on public lands are not paying a fair market value because, if you compare it with what the rancher is paying on private lands, it is much lower. That is right. It is probably much lower.

We have a small ranch. And we sometimes let other ranchers rent some of our pasture. And I know there is a difference. But there is also a difference in the amount of work they have to put up with on private land, whether it is rotating the fields, whether it is irrigation, or a lot of other things that come into play that make the difference.

To try to charge the person on public lands the same amount I frankly just think would simply run a lot of them out of business, and it simply will not work. I often compare that question of fair market value with some of the other things that we have out West. I live near Durango, CO. Durango is near a world famous archaeological site called Mesa Verde, a cliff dwelling that everybody in this country knows about. It is run by the National Park Service. If you go to the cliff dwellings it costs you $3—as I recall from the last time I went—to go in, for an adult to get really a great historic cultural experience. You can stay in there for half a day, or all day, for that $3.

Just down the road apiece in downtown Durango is another cultural and historic activity. It is in private ownership. It is the old train called "The Durango to Silverton Train." It has been there 100 years. That old train carries about 250,000 people every year, and you get a marvelous western experience. But it costs you about $30 to go on that train. If you say that we are not getting fair market value from the things that are being done on public land, maybe we ought to raise the park fee to $30 to compare it with the other experiences that people are getting a few miles away on the train. If you said that to the people in this audience, or to the people watching the proceedings today, most of them would tell you that you are nuts. They simply will not pay it.

Yesterday, I mentioned the zoo in Denver. It cost $6 when you go to the zoo. You see wild animals. They are caged but they are basically wild, whether it is deer, or elk, or bear, or wolves. Yet, when you go into the national forests you can often see those same animals for free. Maybe we ought to charge everybody that goes in the forests $6 so we get a fair market value for viewing those animals as they get when they go to the zoo.

I could go on and on about the difference it would cost. Go cut a Christmas tree. You need a $5 permit from the Forest Service. But it cost $5 per foot if you go downtown. If you suggested to people that we are going to charge $5 a foot when they go into the forest to cut a Christmas tree, you would have a rebellion on your hands.

So I think the whole discussion of fair market value simply does not wash.

So I want to come in and restate my opinion on this. I think we ought to leave this bill alone. It has been worked on for virtually years. I have been involved in it myself for over a decade. Senator DOMENICI has taken a leadership role in bringing to the floor of the Senate what I think is about as good a balance as we could put together.

I hope my colleagues will resist any attempt to change that and oppose both the Bumpers amendment and the Jeffords amendment.

Thank you, Mr. President. I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield myself such time as I may use.

First, I want to point out that while this is commonly referred to as a western issue, it is also a national issue. The 270 million acres of land that people control to graze cattle in the United States belong to the taxpayers of America. The public land may be located in Wyoming. It may also be located in Wyoming, Idaho, or Nevada. However, it is owned by the taxpayers. And 100 United States Senators have a solemn duty to protect the taxpayers' interests.

Unhappily, these so-called "western issues" somehow or other fall into the category of what my mother used to say as "Everybody's business is nobody's business." Unless you have a significant number of grazing permits in your State, you do not immerse yourself into these kind of issues.

Why am I involved in it? No. 1, I sit on the committee from whence the Domenici bill was reported out. No. 2, I am an unabashed environmentalist and I am concerned about the conditions of the rangeland. Third, and above all, I am totally committed to fairness.

Yesterday afternoon, speaking on this amendment, I pointed out that when I first discovered that the U.S. Government was selling its land for $2.50 an acre for miners to mine gold and silver, I was utterly awestruck and did not believe it. I found out that it was indeed true. That law is still on the books. The mining law was originally intended to encourage people to go west and help small mom- and pop-mining operations succeed.

As I delved into the mining law, I discovered that it ain't mom and pop at all. Who is it? Who is mining the billions and billions and billions of dollars worth of gold, silver, platinum, and palladium off of Federal lands? It "ain't" mom and pop. It is Bannister Resources, the biggest gold company in the world, who bought the gold for $2.50 an acre. They are still doing it. It is Newmont Mining Co., one of the biggest gold producers in the world. It is Crown Butte, and the list goes on. It is not mom and pop. It is the biggest corporations—not in America but in the world—who are mining not only gold but mining the U.S. Treasury which also happens to belong to the taxpayers of America.

So when I began studying the grazing issue I found that, No. 1, the amount of money involved is infinitesimal. It is about $2 billion worth of gold that is being mined off Federal land every year, for which we do not get a dime—$2 billion worth. All of the 22,000 grazing permits in this Nation only produce $25 million. I would be willing to forsake all of the grazing fees except for just the element of fairness. It is not that much money. But it is not fair.

So what is my amendment about? I invite you to look at a chart.

We permit our public rangelands to people on the basis of what we call an AUM. That is an "animal unit month." Right now we receive $1.35 per AUM for every cow, or horse, or five sheep that graze on Federal lands under these permits. The fee was $1.85 in 1986. It is $1.35 now.

So who are these people that have the permits—these little mom and pop ranchers you have been hearing about?

Here they are. Here are the 91 percent of the small ranchers my colleagues on the other side say they want to protect. Count me in, Mr. President. I do, too. My amendment would cost less by the year 2005 than the amendment of the Senator from New Mexico would cost, so do not talk to me about who is being fair to small ranchers. These 91 percent of the permittees control only 40 percent of the animal unit months. They are not hurt under my amendment. They should have no squawk at all. Do not shed any tears for them because of my amendment.

What else does my amendment do? Look at the right-hand side of that chart. Mr. President, 60 percent—60 percent—of the animal unit months are held by this 9 percent. Nine percent of the permittees own 60 percent of the AUM's. If you want to think of it in pure terms of acreage, 2 percent of the permittees own 50 percent of the 270 million acres.

Is that fair? You say yes. Let me add something else to the equation then. Who is that 9 percent of the permittees? There they are. This is just a smattering, just a small list. Anheuser-Busch, the 80th biggest corporation in America. In 1994, they were on Forbes list as the 80th. Anheuser-Busch has 4 permits controlling more than 8,000 AUM's. My amendment only raises the fees on people who have more than 2,000 AUM's. Yes, my amendment would affect Anheuser-Busch. My amendment would affect Newmont Mining Co,, the biggest gold company in this country. Newmont Mining Co. controls 12,000 AUM's. Small mom and pop operation. Poor little old rancher out there struggling to survive. Biggest gold company in the United States.

Who else? Hewlett-Packard. Maybe you have one of their computers in your home. Poor little old rancher Hewlett-Packard, we have got to protect them. Hewlett-Packard runs cattle on only 100,000 acres of public rangelands. They run cattle on those public rangelands because those lands adjoin their ranch.

What are we doing here? It is sickening. Here is a man—one Senator rose in the Chamber yesterday and said he is a wonderful man, a very engaging person, a good citizen. I do not know him. I am sure people who know him like him a lot—an 85-year-old billionaire, not a small mom and pop rancher, a billionaire, J.R. Simplot, from the State of Idaho. What does he have? Well, he is not all that big. He only has 50,000 AUM's. Mom and pop rancher?

Here is a Japanese company. They control 6,000 AUM's on 40,000 acres. You look at those. The list goes on and on. I have another list here. I am not going to bore you with all of them. The biggest corporations of the United States of America mining the U.S. Treasury, and who can blame them as long as they know this body is not going to do anything about it.

A Senator who is no longer here, a Republican Senator, whom I admired very much, when I first took on the mining issue I walked over to him, and I said, "I need a Republican colleague to cosponsor this bill if we are going to change the mining laws of this country." I explained to him how the Department of the Interior actually issued deeds to people for $2.50 an acre that had billions of dollars' worth of gold under it. I said, "All you have to do is put up 4 stakes for every acre you want to claim. If you find gold underneath, it is yours for $2.50 an acre. How about joining me in this crusade?" He said, "I'd like to, but I think I will go to Nevada and start staking claims." At least he was honest about it. He was being facetious, of course,

All we are saying in our amendment is that Anheuser-Busch and Hewlett-Packard and people like that are going to have to pay an average of what you would pay if you were renting State lands. The States cannot afford to give away the public domain like we do. They do not own the public domain. They own some land. The State of Arkansas owns some of its lands. Your respective States own some of the lands there, too. If those little mom and pop operators go to the State of Montana or the State of Wyoming and say, "I would like to lease some of this land for $1.35," they would laugh them out of the State capitol building.

The Senator from Colorado just left the floor. You want a permit in Colorado? Not for $1.35 per AUM but $6.50. They are not stupid. Do you know what else? There is a line of people waiting for a permit in Colorado.

Then look at Wyoming. Go into Cheyenne and say, "I would like a permit on some State lands to graze some cattle." No. 1, they would say, "We are sorry; we do not have any land at the moment, but if we did it would cost you $3.50 an AUM," not $1.35 like "Uncle Sucker" gets. And in Montana, the home of my distinguished good friend across the floor, $4.05.

Our amendment says to that 9 percent, mostly America's biggest corporations, we would rather you leave the land and make it available to small people to make a living, but if you insist on keeping it, we want you to at least pay the weighted average for permits that the State lets in the State where your land is located. Who can quarrel about that?

Mr. President, I will close by just simply saying two things. You know who my amendment affects? Ten percent, 10 percent of the permittees, and they are the biggies. Only one State, Nevada, would have more than 10 percent of its permittees covered by my amendment. I did not know until I looked this over.

For the interest of my colleagues who may or may not be in the Chamber but who I hope are listening, here is how your State would be affected: Arizona, 10 percent; California, 8 percent; Colorado, 5 percent; Idaho, 7 percent; Montana, North Dakota, and South Dakota, 2 percent; Nevada, 39 percent; New Mexico, 10 percent; Oregon, Washington, 8 percent; Utah, 10 percent; Wyoming, 9 percent.

Is it any wonder people think campaign contributions play a role in what happens around here? There is no justification for allowing this to happen. Since 1981, the grazing fee for cattle grazing on private lands has gone from $7.88 to $11.20 per AUM. The fee on State lands has increased from $3.22 to $5.58, and Federal grazing fees in real dollars have gone from $2.31 to $1.61, to this year's $1.35.

I say to my colleagues, I would like to appeal not only to your sense of fairness but to your sense of compassion. At a time when 100 Senators committed to a balanced budget and we are cutting education, we are cutting environmental funds and housing funds and school lunches and Medicaid and Medicare, and everything that is necessary to give people at least a fighting chance at a piece of the action, a piece of the rock, we allow things like this to go on. It is unconscionable.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THOMAS. Mr. President, I yield myself 1 minute, and I want to yield to my colleague from Montana.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I guess I am sorry the Senator has suggested anyone who does not agree with him is a victim of contributions. I think that is not a very appropriate remark.

Mr. BUMPERS. Senator, I want to apologize for that remark. I am sorry. There is a certain personal thing in that, and I regret it. I regret I said it. I am sorry.

Mr. THOMAS. Mr. President, there are a couple of things I think are important here. One is the predication of this idea. This amendment is based on the idea that there is a subsidy here.

Yesterday I reported on the Pepperdine University study, an unbiased study that indicates very clearly this is not a subsidy. If you come from this area, where we have 8 inches of rain instead of 40, you will find that this is not a subsidy and Pepperdine University says that Montana ranchers—this was in Montana—who rely on Federal lands do not have a competitive advantage over those who do not.

Second, it seems to me we enter here into a great deal of class warfare which I think is unnecessary. Yesterday, the Rock Springs Grazing Association was mentioned as one of these corporate robbers. Let me tell you what the Rock Springs Grazing Association is. It was started in 1909 in southwestern Wyoming to stop overgrazing which was taking place in the Red Desert, which, by the way, is the largest grazing district in the whole BLM in this country. The association breaks down roughly this way: 550,000 deeded acres are in here. This is what is called the checkerboard; 450,000 are leased from private and 900,000 are Federal permits in the checkerboard. They are all intermixed. There is no fencing. You cannot use one from the other. There are 11,000 there.

What is the association? It is 64 shareholders, 64 family ranchers, that is who it is. It is not a corporation. It is 64 family ranchers that use that.

So I think, really, when we take a look at this thing, as I said yesterday, this is a unique circumstance. It is very easy to come from somewhere else and say, "This is the way it is at home." Well, this is not home. This is a unique aspect where your State is 80 percent owned by the Federal Government. We do have some feeling about it. It is our economic future.

I yield 4 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank the manager of the bill. Let us just talk about it from an environmental standpoint.

Basically, what the amendment of my friends from Arkansas and Vermont does, or the amendments do, is throws us right back into this old class warfare again, the "haves" and the "have-nots." Nobody is asking for that kind of situation.

There is no doubt in my mind, my friend from Arkansas is a dedicated and a wild environmentalist. Every figure that we can give you is backed up by facts, that there is more wildlife on public lands now than ever in the history of this country. When you take off grazing management—we cannot tell the antelope not to graze the same time the cattle do, or the deer, or the elk. They all have the same forage. They all get along on the same range. That is why we have more of them now.

But when the management of that resource goes away, do you know what goes away? Water. And, folks, nothing living goes out there in that country without water. Strictly from an environmental standpoint, pull all the cattle off, get all the people out of there, and watch that range turn into the way it was at the turn of the century, with nothing on it—no life, no water. Wind erosion is rampant. That is what we get into.

If these amendments prevail, the impact it has on cooperative—as my friend from Wyoming said. These things sound big, but they are a bunch of little folks who throw together enough to run their cattle and their sheep. Rock Springs, WY is a perfect example.

Another thing, we have two cooperative agreements, in Fleece Creek and Wall Creek. This is where environmental groups, U.S. Fish and Wildlife, Montana Fish and Wildlife, the Stock Growers, BLM, and the Forest Service, all got together and made out a grazing pattern and developed a plan, to where they can graze and where they cannot graze on what part of the year.

Do you know what? It is working. It is working on the ground. It is working because local groups got together and solved a problem, instead of going down this road of throwing everything back into the courts again, into an adversarial environment in which we have to do business, because it cracks up communities both within and from without.

I know there are folks around here, in the sound of my voice, who say as soon as some outsider comes into our town and tries to make a decision for us, what happens? Polarization.

Montana has three fees. There are different fees for different Federal lands, State lands—but, you know, there is a lot of difference in the lands, the carrying capacity, what they will produce, where they are, access. There is a multitude of factors that go into it before you set a rental. Private lands are pretty accessible. You have somebody going up those gravel roads every day. Some of these Federal lands you cannot even get to unless you are on horseback, and that is another cost that has to go into the grazing fees.

So there is the difference. If I take an acre out of Arkansas, maybe I want to give the same price for an acre in southeast Arkansas as I do for an acre in northwest Arkansas. Are they the same? Will they produce the same, just because it is designated a State land? I do not think so.

The same is true out where we live, too.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BURNS. So, from an environmental standpoint, this is an antienvironmental vote if you take everything into consideration, and I ask for its defeat.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. Mr. President, I believe the Senator from Arkansas has yielded me time.

The PRESIDING OFFICER. The Senator yields to the Senator from Vermont?

Mr. BUMPERS. I yield such time as he may wish to use.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, this is not the first time we have had these issues raised. I have been here, now—this is my 8th year. I do not know how many times we have had this issue raised.

I remember when I first raised these issues in the early 1990's, I learned a lot about what the situation was in the West. In fact, I even traveled out to Wyoming and met with ranchers and saw the land and examined the situation. At that time there were assurances from those who were out there saying, "Yes, we know we have to raise the grazing fees. We know that they are too low. We know that it is not fair, relative to those who graze on private lands and State lands."

What has happened since that time? Have the rates gone up? Have they made an effort to try to remove the inequities between these beef producers and other beef producers who are grazing on State lands and private lands? No. The fee has gone down, whereas, the private land fees have gone up. The State land fees have gone up; the fees on the Federal lands have gone down.

I also just point out for those who wonder what happened between the time I offered this amendment yesterday and now—I want to thank Senator BUMPERS and Senator DOMENICI for incorporating my second-degree amendment into the original Bumpers amendment—it is that yesterday I had second-degreed the amendment of the Senator from Arkansas. They agreed that my concept of trying to help the small farmers out was a valid one and ought to be adopted. So that was done. So you have now the Bumpers-Jeffords amendment.

Mr. THOMAS. Will the Senator yield?

Mr. JEFFORDS. Yes.

Mr. THOMAS. Does the Senator recognize that under this bill the rate goes up 40 percent, under the bill as Senator DOMENICI presents it?

Mr. JEFFORDS. That may be. But in the interim it has gone down, so you have not gotten to ground zero yet.

Mr. THOMAS. This bill brings it up 40 percent.

Mr. JEFFORDS. But 40 percent of what, though? That is the problem.

Mr. THOMAS. Higher than yours.

Mr. JEFFORDS. But a lot lower than it should have been relative to what it has been, is my point. In fact, mine is low, if you consider that my amendment is to help the small farmers out. So in the sense that you want to help out the small farmer, as I do, then perhaps you would want to vote for this amendment so that you can improve that aspect of the amendment.

I do not have a problem with that, because that is not my problem. My problem is with giving a huge subsidy, which would happen without my amendment, to the corporate entities and the large owners that are going to get a huge benefit without any need or any rationale for it.

The Senator from Arkansas has gone through, and I went through yesterday, the people that are going to be benefited by this. Yesterday, you heard on the floor a great deal about the merits and detractions of the underlying bill. Whether or not we agree on the merits of the bill, I think the majority of this body can agree on the merits of this amendment, which is now included in the amendment you will be voting on, that is, the Bumpers amendment.

My amendment is very simple. It protects 90 percent of the ranchers. So, I do not understand why anyone can disagree with it. Small ranchers, who embody the history of the West, are going to get a benefit better than the underlying bill. But it also rectifies an ongoing injustice relative to the large users of the AUM's.

For 9 percent of the ranchers, the large, wealthy corporate ranchers that consume over 60 percent of the total AUM's—over 60 percent of the total AUM's—who forage on public land, this amendment will simply have them pay the same price—the same price—that they would pay if it were State lands, that the rancher using the rangeland next to them are currently paying to the States. Now, how in the world can that be inequitable, wrong or inappropriate to say that those on Federal lands who are huge corporate owners should not pay the same as they are paying on the State lands?

Organizations who have been calling for sound spending in the balanced budget, such as the Cato Institute—that is a conservative organization—believe it is time to change the fee structure. I was told several years ago, "Yeah, we're going to change the fee structure." The Cato Institute has been promoting grazing fee reform for years, highlighting the need to adjust needs to reflect their true value so you would not have that inequity between those that are grazing on State lands and those that are grazing on private lands and the rest of the beef farmers of this country.

I spoke to this issue yesterday, as did my colleague from Arkansas, quite thoroughly, I might add. I want to reiterate that this amendment not only makes good budget sense, but it makes good common sense. There is no reason why a large rancher on Federal land should be paying up to five times less to use what is basically the same land that his neighbor is grazing just because he is sending his check to Washington instead of to the State capital.

The point has been made that there are a lot of wild animals grazing on this. There are a lot of wild animals grazing on the State lands and a lot of wild animals grazing on the private lands. So there is no inequity to be rationalized out by giving a lower fee on the Federal lands.

But there are other benefits of this amendment I want to discuss today. Farmer protection, land stewardship, and local input.

First, as I mentioned, this bill protects the small rancher by keeping the grazing fee he or she pays low. We are all aware of the plummeting beef prices and the economic hardships facing these ranchers. I firmly believe that we have a responsibility for the success of small ranchers. But I tell you, my dairy producers, they do not get a higher milk price when the price of grain goes up. No way. But they are trying to say now, when the price of the beef goes down, they should allow the price of the rangeland to go down. That does not happen to those on State lands or private lands.

Not only by keeping their fee low for the small farmers, but by raising additional revenue that we could return to the local governments—this money would go back to the local governments for range improvements, most of it—by increasing the fee to the large ranchers, additional revenue will come into the Range Betterment Fund, a program that has helped countless ranchers.

Second, by addressing the large ranchers, this amendment will begin to reduce the significant proportion of the environmental degradation taking place on the public lands. Studies have shown that it is the large ranchers who are causing ecological degradation of the public lands. So the ones we are giving the most benefit to are the ones that are causing the most damage.

Currently, the low Federal grazing fee encourages overstocking on Federal lands, which has been shown to be detrimental to the environment and the grazing lands. A comparison of the size of herds on Federal lands versus the average size on private and State lands shows that Federal lands bear a much higher number of large ranching operations than the other lands. Why? Of course; it is cheaper.

Third, this amendment brings the Federal grazing program closer to the local level. In the past years, on numerous issues, we have heard from

State and local government that they want greater participation in the decisionmaking. This amendment accommodates this request by saying the fee will be at the State level. My amendment will make the system more equitable and make it more responsive to local ranchers.

Yesterday, Senator DOMENICI discussed how one program cannot fit all ranchers. But by leaving the fee schedule as it is in the Domenici bill, we are making one size fit all. This amendment will put more flexibility into the fee system. Large ranchers will be paying what their neighbors on State lands are paying, not what everyone else in the West is paying. As land costs and transportation costs, fee costs and beef prices in the State change, all things will be taken into consideration, and the State fee will change, and the Federal fee for large ranchers will also change.

Again, in summary, let me emphasize how this amendment not only makes good balanced budget sense, but also good environmental and economic sense. Although this amendment is fairly simple in its concept, it builds upon many of the themes in Senator DOMENICI's bill. It protects the small rancher and promotes good land stewardship, and it brings the Federal grazing program closer to the local level. It is time we face this issue. We have been talking about it for years and years and years with promises of review and promises of change and promises otherwise. What has happened? Nothing has happened. The fee is going down again.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THOMAS. Mr. President, I yield 4 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, in my comments here on the floor, I will simply make two points: First, this has been described repeatedly as having something to do with balancing the budget. We are being told how many millions—by implication, billions—of dollars of corporate welfare are going to the huge ranchers because of the Domenici bill. I would like to put that in context, Mr. President.

If the revenue projections of the Secretary's proposed raise in grazing fees are met, which I do not believe they will be, we will generate in increased revenue less money than it took us to put the subway in between the Capitol and the Hart Building. We are not talking about enough money to make any difference whatsoever in terms of the balanced budget circumstance. I repeat, Mr. President, it cost us more to renovate the subway cars running between the Capitol and the Hart Building than the administration will generate in increased fees if their projections are correct.

I do not believe their projections are correct for this very reason. That is a tiny amount of money as far as the Federal Government is concerned. The amount of increased grazing fees is an enormous amount of money for those families who are living, literally, on the edge right now. They will be unable to pay the increased amount called for by the Secretary, so they will go out of business. We will not only not get the increases the Secretary is projecting, we will not get any money at all.

I believe the Federal revenues will go down rather than up if the Domenici position is not maintained. I believe that we will see significant financial damage throughout all parts of the rural West. That is my first point.

My second point, Mr. President, is illustrated with this photograph. Some of you may have seen the pictures that were in full-page ads in the New York Times and the Washington Post and other national publications in which this part of the land was shown in a photograph. The question was asked, whose public lands are they? The implication was that we were getting degradation on the lands. I have heard that again here—degradation on the lands.

Well, I call your attention to the lower photograph. Maybe it is difficult to see across the Senate. It is very clear that the riparian areas in this part of rural Utah are substantially better off in the lower photograph, the more recent photograph, than they were in the first paragraph. What is the difference? The first photograph was taken before grazing was allowed in the area, before the cattle were allowed to get into the area, break up the hard crust of the land with their hooves, allow water to get below the ground surface, allow seeds that were in the air to take root and fertilize the ground with their urine and defecation. We see here lush, lush growth in the riparian area. We see a better environmental circumstance than we saw before the cattle were there.

I wish every Member of this body could have been here last night when the senior Senator from Wyoming [Mr. SIMPSON] had a series of photographs showing 100 years' difference in the State of Wyoming. In every case, the environment was substantially better 100 years later because cattle had been in it.

This is an environmental vote, Mr. President, and the proper environmental vote is to vote with Senator DOMENICI.

Mr. President, I appreciate the leadership shown by my colleague, Senator DOMENICI in bringing this legislation to the floor. I am pleased to join with many of my colleagues in support of this revised and significantly improved legislation.

Grazing of livestock on western Federal lands has been increasingly and unfairly referred to as a subsidized form of welfare. Yet, the western livestock industry is key to preserving the social, economic, and cultural base of rural communities in the West. This lifestyle helped open the West to productive development and responsible stewardship. Grazing is a healthy way to sustain and utilize renewable resources.

We are all familiar with the administration's highly controversial regulations, and the significant impact on the way grazing on public lands are to be managed. I believe these regulations pose a serious threat to the stability of the industry.

The Interior Department's Bureau of Land Management and the Agriculture Departments U.S. Forest Service manage 268 million acres, or 37 percent of the 720 million acres of public and private rangelands in the West. The State of Utah is 69 percent controlled by the Federal Government. We have 22 million acres of BLM lands and an additional 8 million acres of Forest Service lands. Detractors of grazing speak of continued rangeland degradation, yet the professional range managers for these agencies have admitted that Federal rangelands are in the best condition they have been in this century. Great strides have been made in improving the range lands through the use of partnerships and promotion of good stewardship. Furthermore, through shared stewardship with the livestock industry and the general public, populations of wildlife are increasing and stabilizing, and water quality on Federal lands has improved significantly. I believe that S. 1459 will eliminate the controversy caused by the administration's grazing regulations and help mitigate the firestorm they caused in the West.

I am as concerned about the public's right to be part of the planning and decisionmaking process as I am about the bureaucratic quagmire caused by frivolous appeals and protests. Our legislation provides for full public participation in the planning process, allows for protest by affected interests and encourages public involvement through the Resource Advisory Committees and the NEPA process. The general public has the opportunity to comment on actions and site specific NEPA documents, by attending scoping meetings, hearings, and by responding to requests for comments by the agencies.

Since the BLM and U.S. Forest Service offer service to the same list of customers, often from the same building. This legislation would cut bureaucratic redtape and simplify the management of livestock grazing by simply managing all Federal land grazing by the same rules, regardless of jurisdiction. This makes it convenient for the permittee and/or lessee and greatly reduces conflict while reducing the costs of Federal land management.

Grazing is only one of the many uses that occur on Federal lands. This legislation supports and strengthens the concepts of multiple use management, which is basic to the management strategies of both agencies. The privileges of all Americans to access and use these lands is protected. The investments made by the livestock operator in range improvements, which have significantly helped wildlife, are protected. Our legislation seeks to eliminate the on-going clash over water between State and Federal levels by simply recognizing each State's right to allocate and manage water in their jurisdiction.

Mr. President, I believe this legislation provides a vehicle for our professional Federal land managers to join with livestock men and women in managing our Federal rangelands. We can do this while protecting the rights and privileges of all Americans, enhancing wildlife and riparian values and maintaining the viability of the livestock industry in the West. Grazing on Federal lands is economically and socially important in my State and in the West. I encourage my colleagues to support this legislation in the hope that common sense can once again prevail in Federal land management decisions.

I ask unanimous consent to have a summary printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY

State Land grazing fees can be higher because the states are generally not shackled by the regulatory burden carried by Federal Land management agencies.

In some western states, because of the checkerboard effect, state lands are managed by federal land managers by default.

SIZE OF RANGELAND PERMITS, BLM NATIONALLY

	Number of permits	Percent of total permits	Number of AUM's (millions)	Percent of total AUM's
<100 AUM's	8,600	45	1.6	12
>100–500 AUM's	8,600	45	5.5	41
>500 AUM's	1,900	10	6.2	46

Very few of the "large" ranchers (over 2000 aums in Bumpers amendment) are owned by major corporations such as Turner Broadcasting or Prudential. However, many of the family ranches in this category are incorporated for tax purposes, thereby meeting the definition of "corporate ranches."

The majority of these ranches (over 2000 aums) are family owned corporations and most make 100% of their income from federal land grazing.

Because their sole source of income is from federal lands and tend to be heavy indebted, they are probably the most susceptible to even moderate increases in fees.

These ranchers tend to be the best stewards of BLM lands because they live on the land, not in Los Angeles.

These ranches tend to invest heavily in federal land multiple use range improvements and generally have the lowest management costs to the federal land managers.

Bottom line: If they fail, there could be significant ecological changes on federal lands, major range improvements will not occur and costs to the federal government could increase due to the higher cost associated with management of numerous small permits.

Mr. BUMPERS. I yield myself such time as I may consume.

Mr. President, the Senator from Montana a moment ago discussed a large grazing association, individual ranchers, and he said that they would be considered somebody who had more than 2,000 AUM's.

Senator, our bill specifically—specifically—takes care of that. Your association in Montana would be judged according to the AUM's of each individual member, not the association.

No. 2, my good friend from Utah, and I have utmost respect for him, began his statement by saying that we talk about this amendment producing millions and billions in balancing the budget. I have said time and time again the amount of money in this would not wet a whistle. If my amendment passed, it might accidentally produce up to $13 million a year.

But, Senator, I have also said the issue here is not money except in the context of fairness. It is not fair for us to have a law on the books under the guise of helping small ranchers make a living out West, and allowing the biggest corporations in America to slurp up that land and deprive the very people you say you want to defend from grazing permits.

That is the ultimate fairness we are talking about. That is all that my amendment does. My amendment affects less—repeat, less—than 10 percent of the 22,000 permittees in this country. Who are they? Need I repeat it? The biggest corporations in America, slurping up the lands that ought to be used by your small ranchers who need the land, who could make a living on it.

Class warfare? Somebody used that term a moment ago. How foolish can you get? We are not talking about class warfare. We are talking about a basic, elemental fairness. Some day these issues are going to catch on with the American public. Right now, the American public does not have a clue about grazing fees.

I might say they are beginning to hone in on these mining claims. That is getting to be a topic across the country. It has only taken 7 years to raise the voters' awareness slightly on that issue. Not one single State except Nevada will suffer a raise in rates for more than 10 percent of the permittees in that State. Montana and the Dakotas all combined, only 2 percent of their permittees.

I hope that the Senators from Montana and from the Dakotas certainly would vote for my amendment because they would never know it passed out there.

Let me just say, Senator JEFFORDS and I may not prevail, but it will be sort of like my fights with Betty Bumpers. Those I win are just not over. I plead with my colleagues to think very seriously about whether you want to go home, and on those rare occasions when somebody says, "Senator, how did you vote on the grazing fee bill," you will have a good answer. If you vote against this amendment, you are going to have some tall explaining to do. I yield the floor.

Mr. CRAIG. Mr. President, I yield myself 6 minutes.

Mr. President, let me tell the Senator from Arkansas how I am going to vote. I am going to vote against the Senator from Arkansas and his amendment and the amendment that he has modified. In doing that, I will vote for fairness and equity and balance in the sale of a publicly held resource, the public grass of the public land States of this Nation.

What the Senator from Arkansas did not tell you is that he has never asked for a two-tiered rise in the sale of the trees of the Ozark's St. Francis forest. The reason is because he thinks it is fair that the largest timber companies in the world and the smallest man with a sawmill in his backyard ought to pay the same price for trees.

The only thing the Senator from Arkansas has done, and I agree with him, is say the small mill operator ought to be given some advantage through small business set-asides. I think we have agreed with that over the years. But the tree he buys or that Boise Cascade buys is sold on the market at the same price.

Now, when it comes to selling the grass of the public lands, that grass should be sold in a fair way. Those who are buying it ought to be able to purchase it in a fair way. Should we ask that a blade of grass bought by a small rancher be less in value than one bought by a large rancher? No. I think when the Energy and Natural Resources Committee of this Senate—who took it as their responsibility this year to revise grazing law, grazing policy, and we did. I say to the Senator from Arkansas, we heard you. We heard the American people that public land grazing policy ought to be adjusted and changed.

We introduced a bill earlier this year. It was not as pleasing to some as it ought to be. The Senator from New Mexico and I pulled that bill back, along with our colleague from Wyoming and other Western States, reviewed it, and reached out to a variety of public interest groups.

They made 27 different recommendations, and we pooled those recommendations together. The legislation you have before you today does a variety of things, but one thing it does is it raises grazing fees. It puts in place a new formula. It brings about a fairness and equity that every permittee that is a rancher, large or small, who has grazing on public lands, agrees with, and that is that the fees ought to go up. But what I do not believe in—and I do not think the Senator from Arkansas wants to do it—is to establish class warfare in the selling of public resources for the public good.

We do not say to rich people who go to the U.S. parks, "Oh, I am sorry, you are a millionaire, so you have to pay $2 more to use the campground." Maybe we should. Maybe the Senator from Arkansas ought to propose that. What about the backpacker that pays the fee to enter a wilderness area? Should they pay more if their portfolio says they are a multimillion dollar person? I think not.

We in this country have always spoken to fairness, equity, and reasonable values. But what the Senator has offered is not fair, not equitable, and, in my opinion, it is class warfare. It makes great headlines in the newspapers.

So if it is none of those things, what is it? Why is the Senator asking for this kind of dramatic change from the policy that the committee he serves on has crafted? I do not think it is anything to do about money, and he has admitted that. Whether you charge the big multimillion-dollar ranchers much, much more for the going market rate of grass than you would the smaller—the Senator from Utah said it would not even pay for the subway the Senate purchased a year ago. And if it would not, then what is the issue? The issue is power and control, to get a few more folks off the land so we can have a different image or a different idea as to how the lands ought to be managed. That is what we are really talking about here.

I sincerely believe—coming from a public land State, where ranching is an important part of our economy—that it is good public policy to have a sound grazing policy in our country that says that grass ought to be grazed in a reasonable fashion, that it is a resource of our country that ought to be utilized for the development and the growth of red protein, for the consumption of our country and for the health of our citizens. We have always held that value in this country. What we have done over time is change the way the lands are managed, and that is fair. We should not be managing the grazing lands of the West the way they were managed in 1935, and we are not. The public is telling us today that they ought to be managed differently in 1996 than they were in 1995. Our legislation does that.

So we accept change. We should accept change. But I plead with the Senator from Arkansas to accept fairness and equity. Public resources, whether it is the campground, whether it is the trail, whether it is the log, minerals, or grass, what we are talking about here is that it should be managed responsibly, and it should be marketed in a fair and equitable fashion.

We have never in this country engaged in class warfare, nor should we now, whether it is the sale of public grass, the sale of the public tree, or the public resources. I plead with my colleagues in the Senate to vote down the amendment of the Senator from Arkansas.

Mr. CAMPBELL. Mr. President, raising the grazing fees under the Bumpers amendment is fundamentally unfair to ranchers. This proposal does not fully consider the investments that ranchers already have made in building their lots.

In addition, the profit margins for many ranchers is small, and many ranchers already have fallen into bankruptcy. Raising the fees as this amendment proposes to do will make things even more difficult for ranchers and may force more ranchers to exit the business during the next few years.

Mr. President, a look at the increasing losses suffered by ranchers paints a bleak picture. In the business of ranching, analysts consider the industry average for the "estimated calf break-even" prices in tracking trends.

In the industry, we refer to the "calf break-even price" to mean the cost of supporting a cow to produce a calf for a year divided by the weight of the calf. There are many costs associated with supporting cows, such as summer pasture, winter feed, breeding costs, health costs, veterinary visits, and medications. Producers in the northern regions, including my home State of Colorado, have even higher winter feed costs and have to pay more out-of-pocket expenses for the winter.

In the fall of 1993, the estimated industry average calf break-even price was $81.95 per 100 weight. The average profit was $42 per head.

Since then, however, the industry average shows increasing losses.

In 1994, the break-even price was $80.78 per 100 weight, but there was a $12 per head loss.

In 1995, the break-even price was $80.41 per 100 weight, but the losses increased to an average of $59 per head.

For 1996, industry analysts already are predicting another year of losses which will be even to or greater than the losses incurred in 1995.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a table which shows the industry average for the "estimated calf break-even" prices and the average losses sustained by the producers. I also ask unanimous consent to have printed a second table in the RECORD which reflects the average sale price and profit or loss per hundred weight.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 1—COW/CALF PRODUCER PROFITABILITY

[Industry average for costs versus returns]

Year	Estimated [1]	Profit/loss (per head)
1993	$81.95	[2] $42
1994	80.78	[3] 12
1995	80.41	[3] 59
1996	TDB	([4])

[1] Estimated calf break-even prices (per 100 weight).
[2] Profit.
[3] Loss.
[4] Projected loss is even to or greater than less in 1995.

TABLE 2—COW/CALF PRODUCER PROFITABILITY

[Industry average sale price and profit/loss per hundred weight]

Year	Est. calf break-even (per 100 weight)	Avg. sale price (per 100 weight)	Profit/loss (per 100 weight)
1993	$81.95	$94.50	+$12.55
1994	80.78	78.36	−2.42
1995	80.41	63.43	−16.98
1996	TBD	TDB	([1])

[1] Projected loss is even to or greater than loss in 1995.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, how much time do I have?

The PRESIDING OFFICER. Five minutes, 25 seconds.

Mr. BUMPERS. Mr. President, I yield to my distinguished colleague, Senator JEFFORDS, 2 minutes.

Mr. JEFFORDS. Mr. President, if you only listened to the facts right now, you would come out with completely different conclusions than you would from the positions people have been taking here. Let us remind ourselves, as far as this class warfare argument, just yesterday all of my friends voted in favor of the product liability bill, which has quite a different situation for small and big business. Why? Because small business obviously gets a greater hit, with a smaller amount of money. Well, the measure we are dealing with now will have a fee lower for the small farmers, the small users. All your small farmers—the only ones you are going to benefit, or the only ones my friends arguing so strongly against me are going to benefit, are the large corporate guys, the ones that do not need any help, the ones getting a benefit far above what the present price is for State lands, which we would charge them for private lands.

So why in the world do my colleagues, who want to give all their smaller farmers a lower rate, want to vote against the amendment that would do that, when it only charges the wealthy and huge corporate ranchers the same as they pay on State lands? It does not make any sense at all. I do not understand it. It is just because we are so used to taking positions on one side or the other, and you cannot recognize when we are doing something to benefit you. It is purely to establish a system of equity and sense in the fee system.

I urge all my colleagues to vote for the Bumpers-Jeffords amendment. I yield the remainder of my time.

The PRESIDING OFFICER (Mr. THOMAS). Who yields time?

Mr. DOMENICI. How much time remains?

The PRESIDING OFFICER. The Senator from Arkansas has 3 minutes, 30 seconds. The Senator from New Mexico has 1 minute.

Mr. BUMPERS. Mr. President, the Senator from Idaho raised a question about timber. I do not understand the relevance of it. We do set aside timber for small business people. Even so, timber is sold on a competitive basis.

If you want to start leasing 270 million acres of public rangelands for grazing on a competitive basis, I may or may not vote for that, but we do not do that. Do you know how you get a permit? You have to own land. Hewlett-Packard may own 400 acres of land, which they have to do in order to be eligible for a permit. If they have a 400-acre ranch that they own themselves, they can run cattle on 100,000 acres of Federal land.

I am telling you something else. You could not pry these permits from permittees with a wedge. They literally hand these permits down from generation to generation. Under the current regulations, the term of a permit is 12 years. The Senator from New Mexico, his bill originally considered 15 years—is it 15 or 12 now?

Mr. DOMENICI. I believe it is 12.

Mr. BUMPERS. Twelve years is a long time. You cannot compare timber sales, which are let competitively, to a permit which you give some corporation like Anheuser-Busch or Hewlett-Packard, simply because they own a few hundred acres in their own right, give them 50,000 to 100,000 acres to raise cattle on for $1.35 a month per cow.

Everybody here knows what this is—corporate welfare, pure and simple, just like the Market Promotion Program where we give McDonald's money to advertise the Big Mac in Moscow. That is more of the same. Here we are trying to make just a small dent and say that these big corporations who own 60 percent of this 270 million acres pay at least what the State would charge you if you were renting lands from the State.

Why is it that the Government only receives $1.35, and that is way under what any State in the Nation charges for the same thing? It is politics. It is corporate welfare. And it is grossly unfair. I plead with my colleagues to come in here and search their consciences about whether this is right or wrong.

Should we allow this practice to continue? As I say, these things are so patently unfair. They never go away, Senators. They never go away. Let us address it now. If my amendment is not perfect, we will go to conference and make it perfect.

My fee is actually less than the fee of the Senator from New Mexico in the year 2005. We are not talking about what we are charging the small ranchers; we are talking about what Hewlett-Packard, Newmont Mining, Anheuser-Busch, and the biggest corporations in America ought to pay.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. Mr. President, how much time remains?

The PRESIDING OFFICER. One minute.

Mr. DOMENICI. I wonder if I could get 1 additional minute. Does Senator BUMPERS object?

Mr. BUMPERS. Not at all.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I want to give two reasons why you should vote against Senator BUMPERS' amendment. First of all, let me suggest that if this were an issue of politics, if this were an issue of how many people are ranchers and cowboys in the State of New Mexico versus those that are not, the politics would be to vote for the Bumpers amendment and put all the small ranchers in New Mexico out of business because there are not very many of them. This argument about the big corporate users—I am not here trying to protect them. They will protect themselves. I am here to protect the small guy.

Let me tell you, in Arizona, New Mexico, parts of California, and in other States, this amendment that is pending will say to ranchers with 176 animal units who use it year long, "You are a big rancher, and you pay up to $10 in some States, and you are out of business." That is what this amendment will do. For another huge portion of them, 354 head will qualify as being large under that amendment that we are debating. They are not big ranchers. They will go broke under this formula.

And last, my second point, Senator BINGAMAN, who has been working on this for a long time, has a bill, and what do you think his fee schedule is? His fee schedule is exactly the same as that in the Domenici bill. I think he has looked at it. He does not agree with everything that we are for, but he does agree that the fee schedule that is being sought by Senator BUMPERS is outrageously high for many, many ranchers in the United States. And if you want them to quit, fold up their tents and go home, vote for the amendment that the Senator from Arkansas has before us.

Mr. BUMPERS. Mr. President, I ask unanimous consent to be granted 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, Karl Hess, Jr., a senior fellow at the Cato Institute—that is not exactly the citadel of liberalism down here—says:

> Domenici's bill is bad for ranchers, bad for public lands, and bad for the American taxpayer. It will not improve management of public lands and it will not be a fix for the hard economic times now faced by ranchers. What it will do, however, is deepen the fiscal crisis of the public land grazing program by plunging it into an ever-deepening deficit. If western ranchers insist on supporting this bill and the additional costs associated with it, they should be prepared to pay the price.

The PRESIDING OFFICER. The time has expired.

Mr. DOMENICI. Mr. President, I move to table the Bumpers amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico to lay on the table the amendment, as modified, of the Senator from Arkansas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 48 Leg.]

YEAS—52

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brown
Bryan
Burns
Campbell
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
Daschle
Dole
Domenici
Dorgan
Faircloth
Feinstein
Ford
Frist
Gorton
Gramm
Grams
Grassley
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Shelby
Simpson
Stevens
Thomas
Thurmond

NAYS—47

Akaka
Biden
Boxer
Bradley
Bumpers
Byrd
Chafee
Cohen
DeWine
Dodd
Exon
Feingold
Glenn
Graham
Gregg
Harkin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Roth
Santorum
Sarbanes
Simon
Smith
Snowe
Specter
Thompson
Warner
Wellstone
Wyden

NOT VOTING—1

Kerrey

So the motion to lay on the table the amendment (No. 3556), as modified, was agreed to.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent Amy Lueders, a congressional fellow, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. I also ask unanimous consent that Philip Kosmacki, who is a fellow in Senator WELLSTONE's office, be granted the privilege of the floor for the remainder of the debate and voting on S. 1459.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, Senator BINGAMAN is to be recognized for an amendment; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. Might I say, from the Republican side, there are no time limitations on this amendment. I do not believe we want to speak a long time on it. There are a lot of Senators who would like to get some votes behind them here today. I am going to do everything I can to accommodate, without jeopardizing Senator BINGAMAN and those who support him having their opportunities to speak on the floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 3559 TO AMENDMENT NO. 3555

(Purpose: An amendment in the nature of a substitute to the Domenici substitute to S. 1459, the Public Rangelands Improvement Act of 1995)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] for himself, Mr. DORGAN, Mr. REID, Mr. BRYAN, and Mr. DASCHLE, proposes an amendment numbered 3559 to amendment No. 3555.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BINGAMAN. Mr. President, this is a substitute amendment I am offering on behalf of myself, Senator DORGAN, Senator REID, Senator BRYAN, and Senator DASCHLE. I know there will be at least three other Senators who wish to speak in favor of this substitute.

Mr. President, there are some basic differences between the bill as proposed, Senate bill 1459, and the substitute that I have just sent to the desk and which we are going to vote on here at some point. Senate bill 1459 deals with BLM land and Forest Service land.

Let me just say generally what I believe it does in regard to each of those. On BLM land, it repeals all the existing regulations the Department of the Interior has in place with regard to grazing on BLM land. It would also put in statutory form a significant amount of the policy that has previously been handled by regulation in the Department of the Interior with regard to BLM land, grazing on BLM land.

Then it states that with regard to any subject that is not covered by this new statute, Senate bill 1459, it would reinstate the old regulations which were developed during James Watts' administration in the early 1980's and which have been in place since that time. So that is what it does on BLM land.

On Forest Service land, it changes the statutory law that the Forest Service has operated under for grazing in our national forests for at least 60 years. It changes it in a way that, in my view at least, encourages more use of the national forest for grazing rather than less use of the national forest for grazing. That is the underlying bill, Senate bill 1459.

The substitute I and my colleagues have offered here has a very different purpose. Its purpose is to identify the portions of the new BLM regulations that have raised legitimate concerns among people who are affected by them, and it proposes that we legislate new statutory policy in those areas. The goal of the amendment is to ensure that the public maintains adequate input into the process of policymaking on our public lands, ensure that land managers have adequate authority to maintain the health of our public lands and, of course, maintain the use of our public lands for all of our citizens.

The substitute that I want to address here works to accomplish these goals. I believe it will provide real stability for permittees and lessees as well. In some detail, I would like to describe, first, what the substitute does and then some of the things that it clearly does not do.

First of all, what the substitute does. I have a chart here, Mr. President, that tries to identify the key policy changes contained in this substitute and the issues we have tried to address. As I said before, what we have tried to do is listen to the concerns of people who are permittees and lessees, listen to the concerns of others who have need to use the land or desire to use the public land, and put in statute those things we believe need to be statutorily provided for because they are not adequately covered by existing regulations.

We otherwise leave in place the existing regulations on the BLM land, and, of course, we do not apply most of this bill—all but three provisions of this bill do not apply to the Forest Service. We allow the Forest Service to continue to administer the lands under the existing law that they have in place.

The first thing we have changed is that we provided that "interested publics," as described in the existing regulations of the Department of the Interior, are replaced by a definition of "affected interests." Now, what does this mean?

One of the complaints we heard from ranchers about these new Department of the Interior regulations was that those regulations expanded the group of people who were entitled to be consulted or notified about grazing decisions. The old regulations provided that, in order to be notified, you had to be a so-called affected interest, as determined by the Bureau of Land Management.

Under the new regulations, anyone who is part of the interested public—that is the phrase that is used in the new regulations; the "interested public"—anyone who is part of the interested public has a right to be notified.

In our view, this was a legitimate concern by ranchers. They did not believe that anybody who just had an interest should be given equal standing to be notified. What we have done in this substitute is return to the old language in the old regulation instead of the broader definition of an "interested public." We believe that that is an appropriate change in the law that responds to a legitimate concern that was raised and brought to our attention.

The second item here is regarding NEPA, the National Environmental Policy Act. A concern was raised, again by permittees and lessees, that the application of NEPA had become so pervasive by the land management agencies that many of the actions and decisions which the permittees and, in fact, the agencies considered to be fairly routine and not posing any threat to the environment, they were being required to go through long procedures under NEPA, and it was slowing down the process of getting a response from the agencies.

Let me point out that this is not something you can blame on Secretary Babbitt. There is a lot of criticism of Secretary Babbitt from many corners here in this debate. But he cannot be blamed for this. Neither can Dan Glickman, our Secretary of Agriculture. This requirement that applies NEPA to all of these different activities applied before those two individuals ever came into office. It is not the result of regulations that have been adopted; it is the result of the law that we in the Congress passed.

The question is, how do we deal with the problem? Senate bill 1459 tries to deal with the problem of NEPA application to all of these routine activities by essentially saying that NEPA only applies in the preparation of a land use plan and saying that, after that, any action or decision related to grazing is not covered by NEPA and therefore NEPA does not have to be complied with with regard to those other items.

In our view, that exemption is too broad. We propose a much more limited exception for NEPA. We say that renewal and transfer of grazing permits, and only the renewal and transfer of grazing permits or leases, can be done without complying with NEPA; that that can only happen where it is determined by the Secretary that the renewal or transfer will not involve significant changes in management practice or use and that significant environmental damage is not occurring or imminent. But where he can determine there is no significant change in management practice or use and no significant damage is imminent, then clearly he can go ahead and renew a lease or transfer a lease or a permit without complying with NEPA.

We have done one other thing, Mr. President, with regard to NEPA. That is, we have included in the substitute a provision that directs both the head of the BLM and the head of the Forest Service to prepare a list of NEPA so-called categorical exclusions for nonsignificant grazing activities. The effect of having categorical exclusions for nonsignificant grazing activities will be to expedite the process. This is not a new loophole or a change in NEPA; it is a clear congressional direction that they should, under NEPA as it now exists, go ahead and use these categorical exclusions.

In our view, this is a much more limited and targeted way to deal with the problem of routine concerns that are not involving significant damage to the environment. It addresses the specific problem. It does not blow a major hole in the application of NEPA to everything that relates to grazing except that at the land-use-plan level.

The next item I want to mention is that in our substitute we reinstate grazing advisory boards. Again, Mr. President, this is a change in the existing regulations. The new regulations that were adopted this last year eliminated grazing advisory boards. They became, essentially, defunct. They had not been appointed, and the Secretary did not reestablish those in the new regulations. We have done what I believe the underlying bill does, and that is to provide for the reestablishment of these grazing advisory boards.

In my view, it is appropriate to do so because they would provide a significant forum that ranchers, permittees, and lessees could use to have input. Half of the membership is to be made up of permittees and lessees, and half to be made up of other local individuals chosen by the Secretary.

Another change that we have adopted in this substitute, another provision, is that we do adopt the grazing fee formula that is in S. 1459, but we have put in a stabilizing provision. We have put in a minimum fee of $1.50 per animal unit month. This would involve some slight increase from $1.35, which is what the formula now results in, to $1.50 per month. Then the fee would go ahead and be whatever fee was higher than that, if the new fee that Senator DOMENICI devised would call for that.

Quite frankly, I do not know if that is the exact right level of the fee. I do not think that the main issue here is how much money can be obtained from people for use of this land. I think that is a very secondary issue. The main issue here is what laws do we put in place to preserve the health of the rangeland.

The next provision deals with indirect control. The indirect control provision is removed from the affiliate provisions. This is a fairly arcane item. The concern here is that looking at renewals, permittees were being held accountable for actions of people who were not under their control. That was the concern that was brought to us.

To the extent that problem exists, we have corrected it in our substitute. The new regulations that are in place can look at actions of persons under the indirect control of the permittee. Our substitute bill makes it clear that the BLM could only consider the actions of the permittee and persons under that permittee's direct control in deciding whether or not to renew that lease or that permit. That is a very small item that was called to our attention and seemed legitimate.

The next item is the surcharge exemption. In cases where subleasing is occurring, the new regulations provide an exemption from any surcharge only for sons and daughters of the permittee or the lessee. We heard the complaint from permittees and lessees that that was too narrow a provision, that there should be an exemption from surcharges for other immediate family members, as well. So we have put a provision in saying that the surcharge exemption should be expanded to include a spouse, a child, or a grandchild. Again, we have proposed a specific solution to a specific concern that was drawn to our attention or brought to our attention.

The next item on our list is for fallback standards and guidelines. The substitute that we are proposing does not require any minimum national standard or guideline. Instead, the Secretary, in consultation with the resource advisory councils, the grazing advisory boards, appropriate State and local government and educational institutions, and after providing an opportunity for public participation, will establish statewide or regional standards and guidelines. We believe that is more acceptable to many of the people involved. That seemed like a reasonable resolution of that problem from our perspective.

The final item I have is the resource advisory councils and the grazing advisory boards are to be involved in developing criteria and standards for conservation use and temporary nonuse. Our substitute expressly provides for conservation use. That is a major difference between our bill and the underlying bill.

The resource advisory councils and grazing advisory boards should be consulted when the Secretary develops criteria and standards. Conservation use can be conducted if the agency approves the use, because it is necessary to promote rangeland resource protection, and the use is consistent with the land use plan. A permittee under our proposal does not need to be engaged in the livestock business to practice conservation use.

When I spoke yesterday about the underlying bill and read the letter from the Nature Conservancy where they expressed their concern about this in the underlying bill, the substitute makes it clear that they do not need to pass a test, a threshold test, of being in the livestock business in order to attain a permit and engage in conservation use.

Now, what we have done is to leave the decision to the land management agency as to whether or not to permit or to allow a permit to be transferred to a person who wants to use it for a conservation use. In my view, that discretion is appropriate. It is important this issue is resolved both for the permittees and the lessees who reside in our States.

The underlying bill authorizes coordinated resource management agreements which could be, presumably, used for conservation purposes. It appears that under the underlying bill, a rancher could agree to enter into a conservation agreement with other groups, but those groups—groups such as the Nature Conservancy—cannot by themselves hold a permit and enter into a conservation use. We try to correct that problem.

Mr. President, this is a fairly good description or a fairly complete description of what is in our bill and a summary of the problems that were brought to our attention as a result of the new regulations of the Department of the Interior. We did solicit concerns from permittees and lessees and others who had problems. With the exception of these provisions, we do allow those regulations to remain in place.

We had several speeches on the floor yesterday about how both the Department of the Interior through BLM and the Department of Agriculture through the Forest Service were, in the view of some, trying to run the ranchers off the land; they were trying to end this way of life that the cowboy has had historically in the West. I have heard those speeches, Mr. President. I have heard them now for several years. I just need to say for all my colleagues to hear that I do not think that reflects the reality that I see in my home State.

I do not dispute that there have been instances where one or both of those agencies have overstepped, or where permittees and lessees have been unfairly treated, but I also do not dispute that there are some provisions in the existing regulations of the Department of Interior that should be changed. We have tried to change those in this proposed substitute.

I want all of my colleagues to know that what we are trying to do in the substitute is to correct specific problems that have been pointed out to us. We are not trying to create new problems. It is a very difficult balance that is required between those who graze on the land and those who want to use the land for other purposes. I believe the agencies themselves have been trying to find that balance, sometimes ineffectively, but they have been trying to.

I believe Senate bill 1459 will bring imbalance to this relationship. For that reason, I do not support it. I think our substitute is preferable. I will briefly recite the concerns I have with S. 1459 later in the debate, Mr. President.

I see I have a colleague here from North Dakota anxious to speak. I yield the floor.

Mr. DORGAN. Mr. President, I commend the Senator from New Mexico, [Senator BINGAMAN]. I want to follow his statement with some observations of my own about the substitute that he offers with myself and others today on this issue.

I view this issue not only from a national perspective, but also, especially, from the perspective of western North Dakota. That is where I was raised, where I grew up. It includes the grasslands and badlands and a lot of wonderful territory. I have, when I was younger, ridden a horse with my father through most of the badlands and much of western North Dakota. I have spent a lot of time on horseback, riding across those wonderful tracts of land. I do not have any interest, in any way, in injuring the scenic value, in interrupting the multiple use, or in preventing the American public, who owns much of this land in western North Dakota, from having full access to and full use of the land.

But I also know from having been there, especially when I was younger with my father, and since then as a public official, I have been there visiting ranches and going to meetings with ranchers and others. I also know there are a lot of people who live out in western North Dakota, who make their living out on a family ranch, who invest a little money, maybe raise some cattle, do not quite know what the price will be when they get to the point where they are going to sell cattle. They have an enormous risk. They rent some land to graze on. They pay a grazing fee to the Federal Government and run some cattle on that land. Most of them have an interest in treating that land well. They understand that stewardship. Most of them are environmentalists, in my judgment. Most of them care about wildlife and care about the shape that land is in.

I thought it would be interesting to read for my colleagues a letter from Merle Jost, from Grassy Butte, ND, because there is a lot of hyperbole about these issues. People stand up and wave their arms and talk about the Bingaman substitute, the Domenici bill, or this or that, or the other approach will destroy wildlife, destroy hunting, destroy the scenic beauty. I have heard all of these things. I have some feelings about what we ought to do and ought not to do today. But I want to say to you that on behalf of a lot of people out in my part of the country, who are trying to make a living and do a good job and be good stewards of the land, they also care about the same things that many of us care about in here, that stand up and talk about wildlife. Here is a letter from Merle Jost:

> As I write this letter, the deer are sneaking into the bird feeder—guess I'll have to put out more sunflower seeds.
>
> There goes another bunch—after the pheasant food—more of that. There goes a flock of sharptales—to dine on my oat bales.
>
> The antelope are in the alfalfa field again. Oh, well, spring coming; they will soon scatter. My neighbor to the north is feeding 200 turkeys these days. He deserves a medal—turkeys are hell.
>
> My neighbor to the east has 30 deer a night—eating ground feed out of his augers.

I see a lot of press conferences screaming about ranchers wrecking this and that or destroying this and that. He said, "We support wildlife." He is right. Anybody that knows much about ranching could exist with the wildlife in western North Dakota. This is an issue for a lot of people, an issue for ranchers. It is an issue for people who also want to use that public land for hiking, for hunting, for a whole range of issues. That land will be, and ought to be, open to multiple uses.

We are here because, especially in my part of the country, ranchers who are involved in the use of that land for grazing purposes—that is one of the uses—have had some difficulty with respect to the management of that land. Let me give you an example. One permittee, the McKenzie County Grazing Association, has been denied a permit for a dozen years to construct a crossfence along a pipeline corridor in this allotment. He was going to construct it at his expense. A dozen years, no permit. The Forest Service agrees that the fence would improve the range conditions. But only now, after pressure from the association, are they going through the scoping process.

Another permittee is unable to construct a water pipeline into a crested wheat-grass area, which the Forest Service also agrees would result in better range conditions. Why? Because, after 3½ years, the Forest Service has not been able to do a biological survey. It is not that somebody says it is not a good idea. It is a good idea and ought to be done. But the landlord is not able to do the survey, does not have the money, does not, apparently, have the will, or is not interested in the speed to do a survey. So 3½ years later, something that probably ought to be done, and will be done at the expense of the rancher on public lands, is not even started. Ranchers say, "Wait a second, why can we not get answers and have better stewardship on the part of the managers of this land?" It is a reasonable request.

When those of us who evaluate these things look over these kinds of complaints—I have concluded that we ought to respond to them. There ought to be a better management scheme and management system on these public lands so that in those areas where we have grazing use, those who are grazing these lands, if they need to have a water pipe come in, or have a water tank moved, or construct a fence someplace, you ought not have to wait 18 months or 12 years for answers about that. That is what this is about. It is not about anything more than that.

I have seen editorials in the last couple of days that talk about this is a land grab, and that this is giving public property to the ranchers, this is turning the keys over to the ranchers, it is trying to disrupt multiple use, and it means turning our back on wildlife. That is not the case.

Now, we have before us a couple of choices today. One is the Bingaman-Dorgan substitute, which we now offer on the floor of the Senate. The other is the underlying Domenici bill. Let me say this about the Domenici bill. It has changed some, and I think along the way it has been improved some. I think it could be and should be improved more. But the fact is, it has moved. This has been a process over a series of months where there have been a series of changes. The Bingaman substitute, which we offer, I think, is a better solution. They are, in fact, almost identical with respect to title II. The substantial differences in the substitute are in title I. Let me go through a couple of points with respect to the substitute and why I think it is a better approach.

First of all, it is a better way to construct law. It is a shorter piece of legislation. The Domenici bill started with the proposition they were going to—I said in the committee that the Domenici bill is really a letter to Secretary Babbitt. There is a better way to write to him than to write 95 pages of codifications of regulations. I do not think you ought to codify regulations in law. I respect the fact that there are some problems with the Babbitt regulations. What Senator BINGAMAN and I are trying to do is determine, with the ranchers and others, what are the problems, and then address the solutions to the problem. That is the best way to legislate. That is what the substitute does.

We, I think, come to a better conclusion and a more appropriate conclusion on the issue of public participation. These are, and will be, multiple-use lands. Hunters have a right to these lands; hikers have a right to these lands; and a myriad of other users have a right to these properties, and that will remain the circumstances under the legislation we have proposed. They will remain in a situation where they will have access to these decisions, and they will be consulted as affected interests on the major decisions, and the significant decisions about the use of these lands.

We also recognize that we are addressing some language in this legislation to respond to real problems ranchers face. We do this, as Senator BINGAMAN said appropriately, in a manner designed to solve problems, not create new problems. I think that our approach is an approach that addresses legitimately the problems that ranchers have described to us—and they are real problems—but doing it in a way that does not cause additional problems and does not diminish the opportunities of other multiple users to use this property.

One of the issues that we were at odds about, which was never resolved in a whole series of negotiations we had, was the issue of conservation use. I firmly believe that conservation use ought to be available. If an organization such as The Nature Conservancy wants to have a permit on 500 acres in North Dakota for its own reasons and has decided it does not want to graze cattle on that, I think that ought to be allowed. It is explicitly prohibited in the underlying Domenici substitute. That is one of the areas we were simply never able to resolve.

Would I want there to be a circumstance where someone came in and said they were going to take all of that grassland in western North Dakota and make it conservation use and graze nothing on it? No, I would not want that. The fact is that too much of western North Dakota is already becoming a wilderness area without a designation because too many people are leaving. We need more people coming to our part of the country. My home county, which is in western North Dakota, has lost 20 percent of its population in the last 15 years.

So, would I think it is appropriate for us to have a circumstance where an organization comes in and tries to buy it all up and says, "By the way, we bought it for the purpose of deciding not to graze it"? No; I would not support that. But do I, on the other hand, believe that we ought to expressly prohibit someone from taking a small tract of land for the purpose of trying to nurture some specific kind of wildlife and then say to them that they cannot get a permit and decide not to graze that? I do not think that is appropriate either. We have had circumstances, even in our State, where it has been to the benefit of all of the surrounding ranchers that a conservation use on a small acreage has helped all of the other surrounding ranchers who are grazing other acreage, with respect to wildlife production.

So I think the expressed prohibition in the Domenici bill is inadvisable.

In the substitute that Senator BINGAMAN and I have offered, in title II, we incorporate a portion of title I which deals with a conditional NEPA exemption for permit renewal and transfers. We think that makes sense. We think what you ought to do is invoke NEPA when you have significant actions. We think that when you have insignificant actions, such as a permit transfer renewal, which is not a significant action and which would not affect the condition or circumstances of that land, we think that NEPA should not be traded.

So those are the kinds of things that we have included in this substitute. I have mentioned three of them. But there are about 10 that make this substitute a much more advisable piece of legislation for this Senate to enact.

I feel very strongly that the kinds of things we have done in this substitute are the kinds of initiatives that are designed to address the problems that have been brought to us by ranchers, but to address the problems in a way that does not cause other problems or does not restrict in any unfair way others who want access to and have every right to have access to this property.

Let me conclude, without going through all of the details of the substitute because I think Senator BINGAMAN has done an excellent job of that, by ending where I began.

I would not come to the floor of the Senate supporting any initiative under any condition if I felt it was an attempt by anybody to grab land for one specific interest in western North Dakota. These lands are owned by the public. The public has a right for multiple use of these properties. That right shall remain. But I also understand, having grown up there, that this land has been populated for many, many years by a lot of families out there struggling to make a living raising cattle. One use of this land has been grazing, and the circumstances under which this land has been managed have in some cases been acceptable but in other cases been deficient. Both of us, Senator BINGAMAN and I, as well as Senator DOMENICI, are offering initiatives today to say we would like to address those problems. We address them in different ways. I think ours is preferable to Senator DOMENICI's. I say that, at the end of the day, I hope the Senate will have spoken in a way that says these are real problems, here is a solution that is appropriate and is a satisfactory solution that solves the problems without creating additional problems.

Mr. President, with that, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The distinguished Senator from New Mexico is recognized.

Mr. DOMENICI. Might I ask Senator BINGAMAN if he has any idea of how many more speakers he might have?

Mr. BINGAMAN. Mr. President, in response, I know that Senator DASCHLE wanted to speak for a very short period, and I know that Senator REID asked to be allowed to speak for up to 45 minutes. Senator REID had a meeting at 3, and he will get here as quickly as he can. We just sent word to see if Senator DASCHLE is able to speak now.

Those are the only two that I am aware of that want to speak. There may be others.

Mr. DOMENICI. Did the Senator indicate that Senator DASCHLE would like to speak now?

Mr. BINGAMAN. I indicated that we are trying to check to see when he wants to speak.

Mr. DOMENICI. We do not need very much time at this point.

Does the Senator from Idaho want to speak to the water issue? Could he take a short amount of time in his succinct way to address this important issue?

Mr. CRAIG. No more than 5 minutes.

Mr. DOMENICI. I yield 5 minutes to the distinguished Senator, Senator CRAIG.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. I thank my colleague for yielding.

Mr. President, I will be succinct. But I do think that we have a great concern about Senator BINGAMAN's substitute and how he deals with water. It is very clear in our legislation that the States have primacy in all water issues and that the Federal Government must comply with State water law. We know that Congress after Congress has affirmed this very position. In the Democrat substitute that Senator BINGAMAN has offered, it declares that new water rights shall be acquired, perfected, maintained, and administered in connection with all livestock grazing in accordance with State law.

The key word here is "new" water rights. The Democrat substitute makes no provision against the extortion of water rights as a condition to grant a grazing permit or leased range improvements, cooperative agreements, or range improvement permits as provided in the Republican substitute, nor does the Democrat substitute require that the Secretary follow State law with regard to water rights ownership and appropriation as provided in the Republican substitute. Both substitutes protect valid existing water rights, but the operative word here is "new." Let me repeat, "new" water rights.

What about all water rights? What about existing water rights? Does anyone seriously believe that this Secretary of the Interior, who I think helped write this legislation, is not concerned about water and trying to grab back as much water as he can off the lands where valid and existing water rights have already existed?

In the 1995 appropriation act, the Secretary of the Interior tried directly to assert Federal ownership and control over all water rights on Federal lands. This time he plans to do it indirectly through this kind of legislation by talking about dealing only with new water rights and leaving it up to his solicitor to interpret the language of excluding all existing water rights.

Mr. President, this is a concern that I hope, if my interpretation of it is wrong, the Senator from New Mexico, the junior Senator, will correct. We know where Secretary Babbitt is. He is very clear, and he has even sidestepped NEPA and the ESA to stage a media event with his friends and special interests in the Grand Canyon with an artificial flood event that could jeopardize important ruins, threaten endangered species, and jeopardize blue ribbon trout fisheries.

I say this in all sincerity. I hope that the junior Senator from New Mexico could clarify for me because it is very important that we stay within State law on this water issue; that we stay with "existing and new water rights." I believe his legislation speaks only to "new," and that must be clarified. I hope he can do that.

I yield back the remainder of my time.

Mr. BINGAMAN. Mr. President, let me just respond to the questions because I think what has been raised is a classic red herring. In the West, many more people have been killed for water than for infidelity to their spouse, and I think this is obviously a hot button issue. We have provided as explicitly and as clearly as we can understand the English language that valid existing water rights are protected. We say on page 11, line 14, "Valid Existing Water Rights." That is the title of the sentence, or the section. It says, "Nothing in this title shall be construed as affecting valid existing water rights." Period.

I do not know how to make it any clearer than that.

In the previous sentence, we say, "No Federal reserved water rights." We say, "Nothing in this title shall be construed as creating an express or implied reservation of water rights in the United States."

So we have covered the exact concern that the Senator from Idaho is raising.

In the previous sentence we say:

> New water rights shall be acquired, perfected, maintained, or administered in connection with livestock grazing on public lands in accordance with State law.

That is appropriate. Clearly that is what we intended the law to be. And we have covered valid existing rights in section (c) of that same section. I do not understand what the issue can be. If there is a more plain-English way to say that valid existing water rights are not affected than to say "nothing in this title shall be construed as affecting valid existing water rights," I would like to hear it.

Mr. CRAIG. Will the Senator yield?

Mr. BINGAMAN. I am glad to yield.

Mr. CRAIG. If the Senator had said "all" water rights, I would agree with him. The Senator did not. His amendment explicitly singles out "new" water rights. It is very important that we have that understood for the record, and it is important, I think, if we are to protect these State rights and individual rights, that language comply with the bill of the senior Senator from New Mexico because it clearly sets out that whole issue.

Is there a reason for a singling out of "new" versus the interpretation of, and excluding all existing rights?

Mr. BINGAMAN. Mr. President, what I said before was that we have the section, section 112, broken down into three subsections. The first section deals with new water rights. The second section deals with Federal reserved water rights. The third section deals with existing water rights. So we have covered all three. I do not understand what the problem is. We have covered existing water rights in section (c). We have covered new water rights in section (a). We have covered Federal reserved water rights in section (b). What is the problem?

Mr. CRAIG. It is this Senator's opinion that by selectively singling out "new" water rights, you leave open to opinion by a very unfriendly solicitor and by a very unfriendly State water rights Secretary this issue. I think the question must be closed or you place those water rights in jeopardy.

Mr. BINGAMAN. Obviously, differences of opinion are what makes for horse races, Mr. President, and the Senator from Idaho can believe what he will about what the language provides. I can tell him that my intent was and our intent was in drafting this language to make it crystal clear that with regard to existing water rights, with regard to new water rights, with regard to Federal reserved water rights, we were not changing the law. And that is what we say.

Mr. CRAIG. Yes. Will the Senator yield?

Mr. BINGAMAN. I am glad to yield.

Mr. CRAIG. I think the Senator has answered my question.

The Senator has argued an interpreted point of view. We can stumble around on interpretations when it comes to western water. The Senator and I must be in agreement with exactly what is said or the Solicitor of the Department of the Interior will jump squarely into that hole.

Now, I believe the language of the senior Senator from New Mexico is much clearer. It says, "No water rights on Federal lands shall be acquired, perfected, owned, controlled, maintained, administered or transferred in connection with livestock grazing permits other than in accordance with State law concerning the use and appropriation of water within the State."

The Senator and I both know that water is critical in the West and water is especially critical as it relates to the grazing on these arid public lands, and who controls that water oftentimes controls the grazing. We already know the position of this Interior Department on water. They want it. They want to control it. In 1995, the Secretary went directly at us on that. We must not allow this to be interpreted. I hope that the Senator could agree with the language that appears on page 19, section 124 under "Water Rights of the Underlying Bill, S. 1459."

Mr. BINGAMAN. Again, Mr. President, I think the Senator from Idaho is pointing out a problem that does not exist. I think we have made it very clear that with regard to existing water rights, with regard to new water rights, with regard to Federal reserved water rights, there is nothing in this bill and there is nothing intended in this bill that is to change the law with regard to it. That is exactly what we have said. That is exactly what we mean.

There is no hole for the Solicitor of the Department of the Interior to jump into. There is no ambiguity here that needs an interpretation. Nobody in the committee raised this issue. The Senator chairs the appropriate subcommittee. This was not raised. This language has remained unchanged through the markup. Nobody has raised this concern until right now on the Senate floor. I do not think it is a valid concern. That is my response.

Mr. CRAIG. Will the Senator yield for one more question?

Mr. DOMENICI. Mr. President, I will yield another minute.

The PRESIDING OFFICER. The junior Senator from New Mexico has the floor unless he yields.

Mr. BINGAMAN. I will yield the floor.

Mr. DOMENICI. I yield 1 minute to the distinguished Senator, Senator CRAIG.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. I only say to the junior Senator from New Mexico that his language was not at issue because it was not the document that makes it to the floor of the Senate coming out of the committee for the one area of the committee of jurisdiction that I was responsible for.

All I say is I believe there is a difference. I believe there is an opportunity to interpret. I think it ought to be closed, and the way that can be closed is for the Senator to accept the language in section 124 of the language of the senior Senator from New Mexico. If the Senator will do that, I then have no argument.

Mr. DOMENICI. Wait a minute. The Senator will have no argument with that provision.

Mr. CRAIG. I thank the Senator for the clarification—with that provision.

Mr. BINGAMAN. Mr. President, I respond that if we could pick up the Senator's vote for our substitute, we clearly would be willing to consider that. But I should say that our language is, in my mind, very clear and clearer than the language in the underlying bill. So I suggest that the Senator accept our language rather than we accept his.

Mr. CRAIG. Returning to my time, when you speak of no water rights, that is all. That is inclusive. And when we speak specifically of no action, no water rights unless they are in accordance with State law, you have broken it out and allowed interpretation. I know this solicitor and I know this Secretary of the Interior, and I know westerners do not trust them. And this is one Senator who does not trust them either. I do not want to give them a chance to play interpretive games with western water.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The senior Senator from New Mexico.

Mr. DOMENICI. Does the Senator from Wyoming desire a couple of minutes?

Mr. THOMAS. Just a couple of minutes.

Mr. DOMENICI. I yield 2 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, in general terms, it seems to me that what we have been doing in Congress for a year, year-and-a-half and continue to do is to try to find a way to cut through some of the kinds of regulations, maintain the effort without all of the difficulties, and one of the places—and I have worked very closely with it—is NEPA. I think we have to remember that NEPA was designed and developed as a process for major Federal action, major Federal action. That is precisely what we have done in the Domenici bill, is to hold that to major Federal action.

Now, the problem that has happened in the past, particularly with the Forest Service—we did it this year; we had to go through with some legislation—was that it was uncertain, it was uncertain, so the lawyers over at Justice and over at the Department of Agriculture said to the Department, said to the Forest Service, "Look, you have to do it. It doesn't say to in the law, but it is uncertain, and the Secretary may decide or may not decide." And that is how we ended up with all the NEPA things on grazing allotments. We have been through that the whole year long.

This substitute continues with that kind of uncertainty, and it says you do not have to do it if the Secretary does this, if the Secretary does that. We will end up right back as the subject of lawsuits.

Mr. President, that is precisely what we are trying to avoid, and the substitute puts us right back in that field where in the other one we have tried to make it clear that the NEPA requirement is there, the NEPA process is there for land use planning, the NEPA process is not there for those rather mundane, daily decisions that are made on grazing allotments and the kinds of things that in no stretch would constitute major Federal action.

That is where we are. So I just think that the whole point of this thing is to try to do away with that ambiguity. And the fact is that this substitute puts it right back there.

I do not understand what the sponsor was talking about on surcharge. There are two opportunities within the Domenici bill for subleasing. One, of course, is in the case of death or illness. The other is with a cooperative agreement, which we have had. You have to have an agreement with the agency to have subleasing. We want to continue with that. It is a very important part of grazing in our part of the country and our bill does that. This one does not talk about subleasing. It simply talks about surcharges.

So I think that moves away from what we are seeking to do. It is a matter of conservation use. There is an opportunity for conservation use. I think, though, if you are going to have a land use plan which requires grazing, which is part of the community, and part of what upholds these communities is grazing, then to say maybe you do not need to have any grazing, that you dissociate base land—we went through our map yesterday. There is a very real relationship between base land and winter feed, for wildlife or livestock, and these leases. The idea that you can come in from Cincinnati and have a lease, here, with none of the other portions that go with it, is not realistic. That does not reveal much understanding of the way these lands are interdependent.

So I think the Domenici bill, in these cases, deals both with conservation nonuse—it allows that, with an agreement with the agency—it allows for subleasing, and it deals with the surcharge. But most important of all, it clarifies this area of NEPA process.

Mr. President, I feel very strongly that the substitute simply weakens this process that we have been through for so long a time.

I yield the floor.

Mr. DOMENICI. Does the Senator desire some additional time? I will be pleased to yield 5 more minutes, because we are waiting for Senator REID. He will not be here for some time, so we are going to use up some time.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. DOMENICI. I yield 5 minutes.

Mr. THOMAS. Mr. President, I know we are talking here about the whole question of our bills. I do want to talk about how important it is that we have passage of this bill and I am pleased that, in the process of the discussion, it has been demonstrated that there is not a great deal of difference here. We have already talked about the fact that these fees do not amount to a great deal, in terms of money. But we are talking here, now, about trying to establish a long-term economy in our States. We are talking about stability in the area of grazing. We are talking about moving some of the decisions more close to the States and to the users.

Of course this is public land. I understand that. That is why we are so careful and so clear in the Domenici bill, to say this is multiple use. There can be no question about that. This question of dominant use is simply not a valid observation.

But we do need to begin to involve more closely, people who are in the area. For instance, Secretary Babbitt came out to the West all last year and the year before. We had these series of meetings. He talked to all these folks and, yet, came back with his proposal last year that was exactly the same as it was when it began.

We need to involve, for instance, land-grant colleges in the development of the policy that is involved here. We need to involve State departments of agriculture. And we are there to do that. We need to make it a situation where communities can depend upon this economy. It is one that is very important.

I think, most of all, what is not understood generally, and I know why—because it is unique to the West—is that these lands are interdependent. These are low-production lands, for the most part, these BLM lands. They do depend on winter feed. They depend on deeded land for winter feed. They depend on deeded land for water. Sometime earlier this afternoon someone was saying you could have 400 acres of base land and lease 100,000 animal units. That is not the case. You cannot do that. You have to have someplace to take care of this livestock in the wintertime.

So we are looking for some balance here. I think we have worked at this, now, for more than a year. We have made considerable accommodations. Both the Senators from New Mexico have worked at this, and I salute both of them.

We have some basic difference. One of them, I think, is bureaucracy. I think we are seeking to reduce bureaucracy. Frankly, I think the substitute increases bureaucracy. We do not need to deal with that. We need to deal with NEPA. It is there, clearly there. I am the chairman of the subcommittee that is taking a look at the NEPA process and we need to find ways to reduce some of that bureaucracy.

I met with the new supervisor of the Black Hills Forest 2 weeks ago. They are in the midst of a forest plan. He has documents higher than his desk, the things they have done.

The people on the ground are beginning to understand that we need to reduce that NEPA process. Not do away with the purpose, not do away with input, not reduce the opportunity for people to participate, but not to have that process in the minutia of the management of a grazing unit.

We also need to do something with the forest. I think the Domenici bill treats it very well. It says "substantially the same." Our folks feel very strongly about that. There is no real reason to have two unique opportunities here. We have not told them to be exactly the same. We said you should be substantially the same.

So, I think we have made a great deal of progress here. Frankly, other than the water thing, the department does not want this because they like what they have. But I can tell you they have not moved very fast on the implementation of their regulations. If we do not make some changes now, a year from now, if they are still there, Babbitt is still there, you will see a real rush to change. I believe that very strongly. Now is our opportunity to soften some of those kinds of things that we think are difficult and troublesome.

We have this opportunity. So I really feel very strongly about the efforts that we have made. We have accommodated the other side to a great extent. And now we have a few areas in which we have different views. I think the one we just talked about in water is a different view. I happen to have the idea that States rights are very important in water. We have part of that in the agriculture bill that is going on right now. The water, when you live in a State where much of the water comes from snow pack, and much of it on the forest, then you have to have some real strong State rights in water. We make some progress, we make some progress in that.

I certainly encourage my colleagues to support this bill. I think we can pass it here in a very short while. I hope we do not accept the substitute and go back into this maze of NEPA regulations that are not necessary to have the proper outcome.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to say to my good friend from Wyoming, I kind of got myself carried away for a bit, because all the previous debate was under a time limit. But we are not under one now. So, nobody has to ask for time. They just have to get the floor.

As a parliamentary inquiry, am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I want to speak for a few minutes and I want to say to anyone on the other side who arrives, who wants to speak, in the interests of an early evening I will try to cut it short when anyone arrives who wants to speak.

First, I would like to say that an awful lot has been said across this land about the National Environmental Policy Act as it applies to grazing leases. We have heard across this land those who side with the environmentalists, or those who are at least joined together in an effort to minimize the use of the public domain by the grazing community—we have heard talk about the National Environmental Policy Act as it applies to grazing as if it were the Bible for environmental protection. I mean that in both contexts of the Bible—specific and ancient. Neither is true.

The Bureau of Land Management, the entire Bureau of Land Management, does not use National Environmental Policy Act statements to control, manage, or evaluate the public domain.

Let me repeat. They do not use them. Frankly, I commend them. Just because there is a request for a National Environmental Policy Act implementation, or a NEPA statement, does not mean that it is the best, that it is even the prescribed, that it is even close to being the appropriate way to evaluate the environmental impact and the overall management, or land use as it pertains to managing a permit. The reason is because nobody had in mind when they drew up NEPA that we would even consider applying NEPA to a grazing permit and its renewal.

I say that because I have read the early history, and I cannot find anything in it that refers to such. Mr. President, do you know what it says? It says, if there is a major Federal action, then NEPA applies.

I cannot believe that with thousands upon thousands of grazing permits that anyone really believed that every time one of those was going to be renewed that it was a major Federal action. Again, the Bureau of Land Management does not use them. Frankly, the reason was precisely stated on the record at a hearing. No. 1, they are not very good for this kind of evaluation. No. 2, they are very, very expensive, anywhere from $50,000 to $1 million. And No. 3, they are very, very time consuming, anywhere from a quick turnaround of 6 months to a year and a half.

Frankly, accolades to the Bureau of Land Management for saying that does not even apply to grazing permits on the public domain lands.

How many times has it been written across this land by those who oppose the Domenici bill that you are taking away environmental protection because you are abolishing and abandoning NEPA? Let me repeat, NEPA does not apply today to the issuance of Bureau of Land Management grazing permits, and I have just told you why, because there is nothing magical about it being the only evaluating tool around to determine whether a 50,000-acre grazing permit in a State which might have 20 million acres or 30 million acres—there is nobody saying that is a major Federal action.

Let us move over to the other part of the public lands, the Forest Service. The best that can be said about NEPA and the Forest Service is that there has been a gradual movement in this administration in the last 3 years to use NEPA on public lands of the Forest Service where grazing is involved. It was used sparingly for the very reasons I just stated. But there are those who want no grazing on the public domain. They have had mottos to speak of how long cattle can be on the public domain. "Cattle free in '93" was a cry not too many years ago. I am glad they have not won yet, but we have been moving in that direction.

That kind of entity will begin filing lawsuits against the Forest Service, and sure enough, we will get some court someplace that will interpret this to mean NEPA applies to even the renewal of a grazing permit, and then they will come and tell us that is the law.

The law is what Congress says is the law. We are asking Congress in this bill to make sure the Bureau of Land Management's policy remains intact. We are also asking that with reference to the Forest Service and the Bureau of Land Management that there be one major use for NEPA, and it is big and it is important, and it is appropriate in its full implementation.

NEPA will be applied to the Forest Service and the BLM when the land use plan is developed for a national forest that is being reviewed for all of the various competing uses. A full environmental impact statement will be obtained; all the citizens will be involved. As the plan is put together, there will be rights to go to court, to litigate. But we contend in this bill, contrary to what my friend, Senator BINGAMAN, provides, we provide that beyond that, you use other tools to evaluate, not NEPA. I do not think that is antienvironment.

Senator BINGAMAN chooses to say there may be other cases. It is left up to the discretion of the Secretary. Frankly, I do not want to do that. This whole problem is before the Senate because of this Secretary of the Interior. That is why we are here, because Secretary Bruce Babbitt declared a war on the ranchers and decided that he would go all one way. How am I going to sit here with the understanding that he might be around for a while and give him the authority to determine when we are going to use environmental impact statements on the public domain when we have a bill right here before us? This is the place to decide it. We determine the law. I do not believe we should open that approach to the thousands of permits on the public domain. It is not the right tool.

Because I am standing here saying that does not mean for one second that I am for degrading the public domain. I am saying that a NEPA statement can be used for long delays, for reasons never intended by the act and, in particular, by those who would like to see ranching off the public domain. I do not want to sit here and hide under a tent and say that does not exist, because it does.

But I want to make one more point, one more time. The environmental impact statement approach to assessment is not currently being used on the BLM land day by day for issuances or renewals, and it is being used sparingly by the Forest Service. If there ever was a time when we had an opportunity to take a look at this, it is right now. Let us see how we really ought to apply it and how it ought to be done.

Frankly, I am so tired of having people interpret the bill that I have written and write reports and use this famous word "may." "It may have an impact." They do not tell you it will. That last report by the Congressional Research Service, if you read it, they have about six or eight mays—m-a-y. They do not say it will, they say it may.

I would like to say, as I read my friend and colleague's bill, I can find a lot of "mays" that I am sure he did not intend. But if I sent it over to the Congressional Research Service and said, "You look at it my way," they will say, "Maybe it does the following and maybe it does the following."

For instance, in our bill, we unequivocally state that nothing in this legislation shall change the rights, privileges and all the other things that you talk about for hunting and fishing. We put it in because we kept getting bombarded that we were trying to take away fishing rights and hunting rights. I might say that provision is not in the bill you produced, the bill before the Senate. It may be that since that provision is not in there, there may be a serious negative effect against trout fishing and hunting under the BINGAMAN substitute.

I hope everybody is listening carefully to what I am saying, because that is the way the underlying bill we have before us has been treated more times than not. I can go through and cite a number of others. The substitute before us does not iterate or reiterate that multiple use is the order of the day, if I understand from the staff who have read it. It does not say that.

Senator BINGAMAN would say, I am sure, it does not have to be in there. I would say, like some of those who have reported on the Domenici-Craig bill, "Well, since it isn't in there, it may be intended to have a negative impact on multiple use."

I am not suggesting Senator BINGAMAN intended that. But neither do I believe others ought to insinuate that our bill does that when they have some difference of opinion, or when they approach the interpretation from a position that I do not have.

I do not intend to go through Senator BINGAMAN's bill in detail. But I want to say one more time—and perhaps a better way than yesterday; and it is good that the distinguished Senator from Rhode Island is in the Chamber because I have talked to him about this issue for a number of times—let me say to the U.S. Senate, sometimes we come to the floor and talk politics and sometimes we exaggerate our position and sometimes we state or understate, depending upon how the debate proceeds, but this Senator, from the State of New Mexico, one of the most beautiful States in America, this Senator who has seen more wilderness created in New Mexico under bills that I have introduced than any in history, I do not intend to spoil the public domain nor to turn it over to one of the myriad of multiple users.

If I thought for a minute that the bill I have before the U.S. Senate was calculated to make the public domain worse or to degrade it, or to take away the power of the Forest Service managers and the BLM managers, I would tell everybody to vote against it today. I am not here for that reason. I am here simply because I am convinced that multiple use can be made to work. It is the law of the land. I think it should continue to be. But I do not believe ranching can continue under the regulations established by Secretary of the Interior Bruce Babbitt.

I believe if those stay in effect there will be no more ranching. For those who would say, wait a minute, Senator, it has been in effect for 6 months, well they are written such that none of the impact will occur for a long time. If the Secretary has time to implement them, he will not implement them until after the election. I do not say that very often. But I believe that from the very soul of myself that this Secretary made a mistake when he adopted the so-called "Babbitt Rangeland Reform '94 regulations." If I were a poet I would phrase something about that.

Anyway, we are going to do away with Secretary Bruce Babbitt's set of regulations and substitute some that we think will manage the range properly, and do three very important things—stabilize the public domain from the standpoint of the ranching community so that they are not on a constant roller coaster depending upon the administration, depending upon the regulator, depending upon who gets them into court under some lawsuit.

We will try to stabilize it at a level and we will see, once and for all, can ranching as a way of life exist in the public domain in America? This may be a debate about whether you want to have any more cowboys out in the West that are true, or whether you want them all to come from Hollywood. This may be the debate. There will be plenty of it in Hollywood because it is a fantastic culture. The lifestyle is tremendous.

I did not come from that lifestyle. I did not know anything about it when I became a Senator. In fact, I was from a place where you could be city folk in the State of New Mexico; that was Albuquerque. Anywhere else, because the towns are all smaller, I probably would have been somewhat associated with ranching. I was not, but I have been since then.

I believe we ought to stabilize that environment without jeopardizing the other multiple users. I think there is a chance of doing that. The only thing that stands in the way is a vote here in the Senate and a pen in the hand of the President of the United States. He will have the last shot when we get this bill through here. I hope we can get this accomplished.

My third point is, that for those who insist that the ranching community are abusers of the public domain, that the community is not a conservation community, for those who insist that they are the ones who will ruin the range and the other people will preserve the range, that they are the ones against wild animals and habitat, let me suggest they are the best conservationists around. Let me suggest, but for their actions, habitat would disappear in many areas of America. Not just a little bit, but in a manifold manner it would start disappearing.

Those who live and work on the land provide the water, they provide the management, and yes, a few riparian areas have been overgrazed because of the water being short in other areas, but most ranchers take as good a care of the resources as they possibly can. So I am here because I have confidence that this system will work, but I do not have one bit of confidence that multiple use will be preserved with equanimity and fairness for all to use if we leave the Babbitt regulations in place. It is just that simple.

I commend my friend, Senator BINGAMAN, my cohort from New Mexico, because to some extent he agrees. He does not come before the Senate saying we want to leave every one of Secretary Bruce Babbitt's regulations in place. He has selectively decided some of them must go. I believe our bill is fairer for the ranching community and is more apt to add stability to the range and protect the other users.

So this may be the last word I have on this. I would not have spoken this long if there were Members on the other side ready to speak. I see Senator BRYAN is here. I yield the floor, and I thank the Senate for listening.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. I thank the Chair, and I thank my friend, the distinguished senior Senator from New Mexico, for yielding the floor.

Mr. President, most of those who are privileged to represent the West on both sides of the political divide recognize that we need to enact responsible grazing legislation that balances the concerns of the livestock industry with the concerns of the conservation community. It is in seeking that illusive goal of balance that we find ourselves operating from a slightly different approach.

In my view, notwithstanding the best efforts of the distinguished senior Senator from New Mexico, his bill fails to achieve that balance and, in my view, would seriously threaten the multiple-use concept which has governed public land policy for decades. It is for that reason that I rise this afternoon to support the substitute amendment offered by the distinguished junior Senator from New Mexico, which I believe represents a preferred course of action. The Bingaman substitute is a thoughtful, balanced approach to correct what is wrong with the current grazing regulations.

Let me just also note for the RECORD, Mr. President, that each summer on the occasion of our recess I spend most of that recess traveling throughout rural Nevada. Today Nevada, paradoxically, is the fastest growing State in the country, although 87 percent of the total land area is under Federal jurisdiction. It is also one of the most urban States in the country, with most of the population located in the metropolitan Las Vegas area, which today exceeds 1 million people, and in northern Nevada in the so-called Truckee Meadows, embracing Reno-Sparks. One might logically say it extends to Carson City and Douglas County, that they are as well in a metropolitan area.

Although rural Nevada represents a small part of the population, I have been concerned, since the time I first assumed statewide office in 1979 as attorney general, with the concerns of those good people who choose, as our colleague and friend, Senator DOMENICI, points out, a lifestyle which has been part of the heritage of the West and part of the heritage of our State.

Their concerns are legitimate. They are good people. They work hard. They want to protect a livelihood and a lifestyle which is terribly important to them. It is for that reason, Mr. President, for the last 6 months I have been a participant in a bipartisan group of western Senators and their staffs in an effort to reach a consensus on grazing legislation.

Notwithstanding the hours of effort made on both sides of the political aisle, it is my view the negotiations failed because of the approach insisted upon by the distinguished senior Senator from New Mexico, that is, his insistence on using S. 1459, his bill, as a baseline for discussions. Because of that methodology or that approach, which sought to codify a series of old grazing regulations, superimposing a new series of regulations and statutory provisions as well, it became very difficult to modify his bill, and ultimately we failed to achieve a consensus in working out an issue which we all share a legitimate interest in resolving.

I would note that some improvements were made to the Domenici bill, as a result of our discussions. But I have never been of the view that Congress should micromanage grazing policy to the extent that is provided for in the Domenici bill. For example, the bill limits public participation in grazing decisions by listing seven arbitrary instances in which an "affected interest"—those are words of art—occur and individuals are entitled to be notified of a proposed grazing decision. It denies the public the opportunity to protest a grazing decision; it exempts on-the-ground grazing management decisions from the National Environment Policy Act; and finally, it does not target specific, troublesome regulations for repeal, rather, it contains a blanket repeal of all the current BLM grazing regulations.

What we are presenting here today in the Domenici bill in many respects takes a step back from the policies originally established during the Reagan administration under the tenure of Interior Secretary James Watt. To put that in some context, the former Secretary has been accused of many things, but he has never been accused of being an environmentalist. I believe we ought to make the necessary changes to the so-called rangeland reform proposals that have been offered under Secretary Babbitt.

Efforts to limit the public's right to be involved in grazing decisions will not, in my opinion, bring stability to the ranching industry, nor will it improve rangeland conditions. It will only lead to continued turmoil and lawsuits that are a drain on the resources of both the ranching community and the Federal Government.

By way of contrast, the substitute amendment offered by Senator BINGAMAN, which I am pleased to cosponsor, reflects a balanced approach that, in my opinion, addresses the legitimate concerns of the ranching industry. I repeat, again, I believe that there are many such legitimate concerns.

It also addresses the equally valid concern and interests of the conservation community. It does not arbitrarily repeal the current grazing regulations and replace them with an inflexible statutory scheme which, in my view, S. 1459 would create.

For example, in response to concerns raised by Nevada ranchers and others, the Bingaman substitute waives the application of NEPA for permit renewals and transfers unless significant changes are made. It contains expedited NEPA provisions where grazing activities would not have a significant effect on the environment. I believe those are positive and instructive changes that meet some of the concerns raised by the Nevada ranchers. It also reinstates the grazing advisory boards and expands the surcharge exemption to include spouses and grandchildren, or children which Nevada ranchers have raised.

On the other hand, however, in response to concerns expressed by conservation groups, those who enjoy the public land for outdoor recreational use, whether hunting, fishing or hiking, these organizations, as well, have legitimate interests. I believe the Bingaman substitute protects public involvement in grazing decisions and requires that other public land values, as important as grazing is, it is not the only important public land value that needs to be protected, but wildlife is given equal consideration in the decisionmaking process in the goal of achieving a balance, recognizing that we want to be fair to Nevada ranchers, we want to make sure they are able to continue to use the public lands as they have for generations and to provide for themselves and their families.

We also need to recognize that the West has changed. The demand made upon public lands for outdoor recreational uses have grown exponentially over the years, as Nevada in my own lifetime has gone from a State whose population the year I started school in Las Vegas in 1942 had slightly more than 100,000. We used to say, somewhat tongue-in-cheek but true, that every person, every man, woman, and child in Nevada, could be comfortably seated in the Los Angeles coliseum in 1942. Today, it is the fastest growing State in the Nation. Our population, small by contrast with some of our larger States, is 1.6 million. So the uses of public land, where we strike that balance, is very important to this Senator in making sure that public recreational values are considered in the decisionmaking process, as well as grazing interests.

In addition, the substitute offered by Senator BINGAMAN specifically authorizes conservation use so that nonranching entities can hold a permit and rest an allotment if the practice is not deemed inconsistent with the land use. Conservation use, as a management practice, is particularly important to us in southern Nevada. It is an integral part of the Clark County's Habitat Conservation Plan, a plan devised in response to the concerns advanced by many about the federally listed endangered species, the desert tortoise. Without that habitat conservation plan, a moratorium might very well have gone into effect with potentially catastrophic economic impacts for those of us who make southern Nevada our home. That habitat conservation plan was a compromise achieved as a result of the ability to use conservation use as a management practice.

Another important provision of the Bingaman substitute concerns the use of the portion of grazing fees that are returned to the States and dispensed to local grazing boards. The substitute provides that these funds may only be used for on-the-ground range improvements and for the support of local public schools in the counties in which the fees were generated. Currently, those fees are subject, in my opinion, to an abuse, an unconscionable abuse, in that these moneys are currently being used to finance lobbying activities and litigation.

Nye County, NV, has used more than $40,000 of these funds to finance a legal battle against the BLM, where they have asserted a claim of ownership over all of BLM publicly administered land in Nye County. This is indefensible. I acknowledge that my friends and neighbors in Nye County have every right to avail themselves of the Federal court system to make these claims, but they do not, in my view, have the right to rely on federal grazing fees returned to local grazing boards to fight these causes. Those ought to be confined to on-the-ground improvements for public schools in the county in which the fees are generated.

The Bingaman substitute, in my view, strikes an appropriate balance by reinstating the grazing boards but prohibiting this outrageous behavior and improper use of these funds.

As I began, I mentioned over the year I have had a chance to visit extensively with Nevada's ranchers and to hear their legitimate concerns about the new grazing regulations, concerns that I feel should be, but are not, addressed by the legislation before us today. The ranchers I have met with are honest, hard-working people who asked Congress, in essence, to set ground rules for grazing on public lands that will bring a sense of stability to the ranching community. If stability is of paramount concern to the ranching community, it is my view that S. 1459 is not the answer.

Finally, Mr. President, let me conclude by reminding my colleagues that the administration has promised to veto S. 1459 as it is currently written. Our only hope, if we are interested in achieving that stability and balance to which I have addressed myself earlier this afternoon, is to enact a balanced piece of legislation which the administration can sign into law.

For those reasons, I strongly encourage my colleagues to join me in the Bingaman substitute so this issue can be put to rest and a sense of stability can be brought to our friends and neighbors in the ranching communities. I yield the floor.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Montana.

Mr. BURNS. I thank the Chair. My statement will not be very long, but I just wanted to make a couple of comments. We just completed debate on the salvage timber, and the package offered by Senator BINGAMAN is, at best, described as yet another example of a mindset that prevails here in Washington, DC.

Yesterday, I stated in this body that in order to answer that question, we, this generation—this generation—if we are to hand over to the next generation, our children and our grandchildren, a better Earth than we were handed, a world that will sustain them and their daily needs for food and fiber, we have to approach the way the Federal Government writes rules and regulates them.

In the salvage logging debate, there were examples of actions taken by local authorities to protect the integrity of the law and the intent of the law. It has, in my State, brought some peace to the woods. There are examples of how land managers went the extra mile involving the local groups in the decisionmaking process of salvage. The involvement was loggers, environmental groups, local government, and land managers themselves. We should really congratulate the region I director of the U.S. Forest Service, because he used that process to determine a timber sale and used the same guidelines that we have always used, adhering to current environmental law. As dedicated as he is to the forest, he used all of those, and the result was that local folks signed off on the salvage sale.

Forest health is the goal, and it was then. Salvage is part of that goal. It is a dual goal. Loggers have gone back to work, mills are turning out wood products again for Americans—all Americans—and we are having and using forest resources that have been tied up in the courts for a long time.

Decisions that are made on the ground work best. Yet, this substitute calls for decisions to be made thousands of miles away from the resource that is now being used by all Americans, we all benefit.

At this point, I want to associate myself with the words of my friend from Iowa last night, Senator GRASSLEY, in his brief statement made on this floor. There are times in this country when we who are involved in agriculture get a little bit timid about what we do, telling the people what we do. Well, I am here to tell you it is about time, and this country better wake up and realize what the production of food and fiber does for this Nation. Yes, we like to call ourselves agriculturalists, proclaiming the importance of it. I think we get timid because we go under the false assumption that everybody understands and knows the importance of agriculture and knows that we produce the largest segment of the GDP in this country, over 20 percent. Yet, that GDP has produced a raw product by less than 2 percent of the population. It is also the largest export this country has. In other words, we feed the world.

Now, why do we so distrust the direction in which the present Secretary of the Interior is taking us? Can I cite one example? Wolf reintroduction into Yellowstone Park. Hearings all over the West. We did not hear a lot of support for that. Yet, it has caused some polarization of groups that actually share the same goal in my State—share the same goal of a better world and, yes, the environment. But the actions of the Federal Government and the arrogance of this particular occurrence have damaged the relationship within and without the communities in Montana. Not only is it expensive, spending your tax dollars, but if you contrast that, exactly the same thing is happening in Glacier National Park. But that is a natural migration of wolves from Canada. That does not seem to get any headlines in the newspaper. In that area of Montana, there is hardly any contact between man and wolf because, basically, both have learned the hard reality of the rules of survival. One never hears of that occurrence. Yet, we have wolves up there in Glacier Park and in the Bob Marshall. But one hears of the artificial introduction of that animal into that Yellowstone Park, which, in my opinion, is doomed to fail.

There are different fee rates. In my opinion, there is one main problem of this debate. We are trying to find the answer to a very, very difficult question. I say this: We are trying to recommend a policy of "one size fits all," when there are differences in the lands, the topography, thus, the production capability of the lands. Those differences are huge.

I guess that is why I so strongly recommend that we allow all the major decisions to be made on the ground locally, to involve local people. There is no way that we, in Montana, run and manage our range the same way as they do in New Mexico, Colorado, Nevada, or anywhere else. There are different soils, different growing seasons, different weather conditions, different patterns, all dictating managing our range differently. It is just like privately owned land. All Federal lands and locales are not alike. The management scheme has to be different to attain the same result. Anyone who has ever had anything to do with land understands that. I understand that. I was raised on a small farm of 160 acres, with two rocks and one section of dirt in northwest Missouri. Every acre was not the same on that little 160 acres either. But you knew how to handle them. You farmed each one sort of differently in order to get the desired results.

That is hard to explain to folks who have not had a personal relationship with the land or a real understanding of it. Most times, they do not care about the knowledge, or the common sense, or even less caring and respect for the thousands of families who have the sense, knowledge, history, and responsibility to manage this land that sustains them, and the rest of America, as well.

Let us not go backwards. Let us make those decisions on the ground. The Bingaman substitute takes us backward. Let us force people to sit down and talk, but let us base our decisions on the right decisions and on what has to happen on rangeland. Take the management. If hunters are worried about access, in the Domenici bill there is express language dealing with access. If you are worried about wildlife, we have already given you the figures that we have more wildlife today than ever in the history of this country. Water quality, that, too. Once you take the management of the land away—and this could well do it because there are folks who do not have a real good understanding—then we are in real trouble in the communities that derive a living from this resource. It is resource management.

So what I suggest and what I tell my colleagues is to defeat the Bingaman substitute and let us pass the Domenici bill, because there have been so many hours and so much work that has gone into this bill, working with the administration and with everybody concerned. No, everybody will not get everything they want. But everybody is going to want what they get. Let us put people into the equation whenever we start talking about resource management on public lands because real people are involved and will be impacted.

Mr. President, I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I rise in support of the Bingaman substitute. In August of 1994, as a member of the Interior Appropriations Subcommittee, when we were attempting to work out differences with the House, we had adopted in that conference a measure that was debated long on this Senate floor. In fact, the debate went on for several weeks. Four or five cloture votes were held on that matter. I believe we got 57 votes on several occasions, but we were never able to reach that magic figure of 60 to terminate debate and go forward with a revision of the grazing law. Had we done so, Mr. President, we would not be here today debating whether or not the Babbitt regulations were good or bad. We would have been working under a series of rules that would bind one administration to another. Ranchers would have had some defined rules in law to work under. They would have been able to obtain loans on their property, and there would be peace and quiet in "Ranchland U.S.A." The problem is, however, Mr. President, that there were those who felt it was better not to adopt that.

Following the unsuccessful effort to invoke cloture, even though the majority of this body and the other body approved the compromise, Secretary of Interior Babbitt issued a series of regulations that are now in effect. The proposed compromise that was debated so long and hard here in my opinion was better than the Babbitt regulations, much more defined, not nearly as complicated, direct to the point, and would have allowed the ranchers of western America to be able to determine how they should run their properties. There were many months that went by before the regulations were promulgated. They were phased in. The ranchers even today really do not know for sure what the impact of those regulations are going to be. They are all in effect. They certainly are not as disastrous as prophesied by a number of people.

I say this: I think what has gone on this past year has been constructive. It has been educational, I think. I extend my appreciation to the western Senators, particularly Senator CRAIG THOMAS and Senator JOHN KYL. Those two Republicans and this Senator were appointed by the western Senators to try to come up with a compromise. We were making great headway when the House ducked grazing reform and reconciliation, and had the work terminated that we had done. But even that was not a failure because the work that I did with the Senator from Wyoming and the Senator from Arizona was helpful in the next wave of negotiations that we had. Senator DOMENICI's first bill that was offered had around 65 pages in it. After indicating to him that the bill was too complex, too broad, he came out with another draft about half that size. That is what we have been working from.

We have made progress. There are matters in this Domenici bill that are ones that I asked to be put in that bill. I appreciate that. Progress has been made. That is one reason that the debate today is not as acrimonious as it was in August 1994. The debate is constrained. It is deliberative and constructive. I have listened to almost all of the debate that has taken place, and I think it is something that the Senate should feel good about.

But I reiterate that we would have been better off, there would have been finality, if we had adopted the compromise of August 1994 that came out of Interior appropriations.

We are now faced with reality. We have been told by the administration that if the Domenici bill is adopted it will be vetoed. I think it is quite clear that, if it is vetoed, the veto will be sustained. That is one reason I feel so strongly about the alternative, the substitute, that has been put together by a group of western Democratic Senators. I believe that we could prevail upon the President not to veto that bill.

I understand the importance of livestock grazing in the western part of the United States. The small town that I was raised in southern Nevada had both mining and ranching. I worked as a boy and as a young man for those permittees of grazing in the southern part of the State around Searchlight. I did all kinds of things for them. Most of it was manual labor. But I understand—having gone out and taken water to cattle, taken feed to the cattle, cleaned out wells, generally helped those ranchers maintain their ranch on this very arid land—how important it is.

Most all ranchers, Mr. President, are hard working, good citizens—really the epitome of what is good about our country. They have great respect for the land. They consider it their land. I have no problem with that. But, Mr. President, we have talked today about western ranchers in a flattering way. And I repeat that the vast majority of those in the ranching community are good citizens. There are some who are not. There are the so-called proverbial rotten apples that spoil the barrel. What did they do? There are all kinds of things that these few rotten apples do. One is they deny access to public land. Others do not have a concern for the continued health of the land.

Mr. President, in 1986 we debated in this body the Forest Service Wilderness bill for the State of Nevada. There had been 25-plus years since the Wilderness Act was passed. And Nevada basically had not done their work. I worked on that for a long time. Even though I started in the House of Representatives before I came here, after Senator BRYAN arrived in the Senate we were finally able to get it passed preserving in Nevada beautiful land.

Nevada is the most mountainous State in the Union. Most people think it is arid with no greenery on it. That is not true. We have great mountain meadows and streams. We have animal life, antelope, and mountain sheep. We even have mountain goats in Nevada, and beaver, and eagles. It is beautiful country. After the wilderness bill was passed some ranchers in Nevada blocked off their land. As an excuse for not allowing hunters onto public lands they said it was because of wilderness. It is simply not true.

We have, for example, in northern Nevada a public land rancher who has blocked access to public lands on a road that was public in the mid-1800's to the mid-1980's. This same individual has harassed hunters on public land that come near his land. Also, this individual rides his horse onto public lands in an effort to disrupt hunting. Not coincidentally this same individual operates a guide service, and has a financial incentive to disrupt public hunting. He wants it to be private hunting. It is only one rotten apple. But it is enough to spoil the barrel.

Another example that has been brought to my attention is a grazing permittee in northern Nevada who, armed with a rifle, harassed hunters on public lands.

Mr. President, we need to ensure that the legitimate users of the public lands are not prohibited from hunting on these public lands, nor prohibited from using these public lands, nor even discouraged from using these public lands.

We need legislation that will provide land managers with the flexibility to protect the environment with multiple use without placing an administrative burden or undue restriction on hunters.

Mr. President, as my colleague from the State of Nevada indicated, when he started high school there were less than 100,000 people in the State of Nevada. We are now approaching 2 million—not large by the standards of the State of Pennsylvania, the State represented by the Chair. But it is a big State in our mind, and we have tens of thousands, now in the hundreds of thousands of hunters throughout the State of Nevada. It used to be, when my colleague and I were young men growing up in Nevada, that rangelands were used basically by no one other than cattlemen, but it is not that way anymore. There is competition for those lands: off-road vehicle users, all-terrain vehicle users, snowmobilers, backpackers, cross-country skiers, and family outings to go on picnics. There is lots of competition for those public lands in addition to the hunters and fishers and the ranchers.

We need to make sure that those people who ranch on public lands treat them the way they should treat the lands. They are not the lands of the individual rancher. They are public lands and should be treated accordingly.

As I have indicated, in the past, ranchers have had the public lands to themselves. The West is different today with many competing uses for these public lands. We cannot go backward. Today, in Nevada, we have had a tremendous increase, as I have indicated, in the number of hunters and other people who want to use the land. Because of these competing interests, it is essential we get a bill that provides for a balanced approach to multiple use. The Domenici proposal does not adequately provide for this.

Now, Mr. President, as I complimented my friend from Wyoming, my friend from Arizona, I also compliment the senior Senator from New Mexico. He has come some ways in this bill, and I appreciate that very much. I also compliment the junior Senator from New Mexico who I think with this alternate proposal has done a good job in really framing the issues before this body.

As I have indicated, a balanced approach to multiple use is not adequately contained in this bill. It elevates a single use of the public lands above other multiple uses, and it reduces the agency ability to protect the rangeland environment and limits citizen involvement in public lands management.

It is not my goal to prohibit livestock on public lands, although that is how some opponents of the Domenici bill were characterized yesterday. I think that I have had as much experience as most western Senators, more than others, in grazing land, ranch land generally. It is not my ultimate goal to prohibit livestock grazing. I think we should maintain it. I think grazing livestock, if done right, makes land healthier. It makes it better. But it has to be done right. And we have to allow the land managers to make sure that those few rotten apples that are going to spoil the barrel are taken from the barrel, they have the ability to take the rotten apple out of the barrel.

That is all we are asking in this alternative, this substitute. The substitute represents a compromise designed to provide a balance between providing stability to the livestock industry and the need for the BLM and Forest Service to have the flexibility necessary to responsibly manage Federal grazing lands and ensure multiple uses of the public lands.

My concerns with this bill of my friend, the senior Senator from New Mexico, I will talk about. The alternative prohibits use of the State's share of grazing fees for litigation, ensuring that the money is used to benefit the land or community, that is, making improvements in the land, riparian improvements, other improvements on the land. Currently, in Nevada, the State's share of Federal grazing fees is being used to sue the Federal or State government like the Nye County case, the so-called Sagebrush Rebellion II case. I have to tell you, frankly, Mr. President, everyone knew in the beginning that case was a loser. You would not have to graduate from Harvard Law School; I do not think you would have to graduate from Harvard elementary school to understand that that effort was doomed to failure.

In spite of that and the demagoguery that went forward based upon it, they used these moneys which were intended to be spent on the land in Nevada, improving water holes, fixing streams, building a road maybe—that is not what they used it for. They used in Nevada almost $300,000 of Federal moneys for legal counsel, foundation, associations, lawyers generally. This money was wasted, a total waste.

The bill that has been propounded by the senior Senator from New Mexico makes a provision for that. It does a good job. It is not as good as the substitute, but it is fine. It says those moneys can still be used for lawyers for administrative hearings. I do not think they should be able to use them even for that, and we have plugged that hole in the substitute.

The money that comes from these grazing fees that is returned to the States, Mr. President, I want used to improve the land, not to be spent on litigation or lobbying activities.

As I have indicated, the Domenici bill restricts the use of the State's share of the grazing fees, but it provides a number of loopholes. It may allow States to continue to use Federal moneys for lobbying and administrative appeals. We need these moneys used to improve the land.

The Domenici bill excludes grazing activities, management actions and decisions from NEPA.

The substitute that I am cosponsoring represents a compromise between sportsmen and ranchers. The renewal or transfer of permits is not subject to NEPA unless it will involve significant changes in management practices or significant environmental damage is occurring or is imminent.

This is not good enough. For example, when a rancher's permit comes up for renewal, if he or she has been a good steward of the land and has maintained the health of the land, that renewal will not be subject to NEPA nor should it be. If, however, as a result of an ongoing drought caused by nature or bad management practices of the rancher environmental damage has occurred or is occurring, renewal would be subject to a NEPA review.

That does not sound unreasonable. It also provides a mechanism to exclude grazing actions such as moving a fence or moving a stock tank from NEPA. That is what the alternative does, that is what the substitute does, when the activity is determined to have a significant impact on the environment. That is the way it should be.

The Domenici bill does not provide for public participation up front in the decisionmaking process. What this is going to cause is a lot more litigation because you cannot stop people from filing lawsuits, and that is what they will do early on. So what we need is to continue some semblance of administrative proceedings on these decisions that have been made. This will avoid litigation.

Yesterday, in the debate, it was stated that the Domenici bill does not take away rights from fishermen and hunters. I respectfully submit that perhaps the Domenici bill might not limit sportsmen's right to access. It does, however limit their access to the process. Sportsmen and other users of the public lands are precluded from involvement in the development of grazing decisions. They should be involved, because, Mr. President, they have rights to that public land. It does not involve the public up front in the decisionmaking process, and it should.

The substitute that I am cosponsoring allows persons defined as "affected interests" to be consulted on significant grazing actions and decisions taken by the Secretary. No formal, complicated process is mandated. What it does, though, is strike a reasonable balance between the Secretary's regulations, which would include involvement by the "interested public," and the Domenici bill, which provides for participation only after a draft decision has been made.

In the Domenici bill, only permittees and lessees are able to protest proposed management decisions. This is wrong. All other citizens could be excluded from taking an active role in a protest and appeal process. This restricts the ability to resolve conflicts early and, I believe, cheaply. So, in our substitute, affected interests are allowed to protest proposed decisions, allowing these conflicts to be resolved earlier and more informally, without litigation.

I also say that there are some who think, if you just eliminate this affected interest ability to challenge some of these administrative decisions, they are not going to challenge them. They will do it, but they will do it in the courts.

The Domenici bill limits the managers' ability to tailor and develop terms and conditions to protect winter forage for elk and deer, nesting habitat of game birds, water resources for wildlife, and water quality, and healthy riparian interests. Only allotments under an allotment management plan can have terms and conditions attached. But this will not work, because only 20 percent of the permits are currently under an allotment management plan.

So, under their proposal, 80 percent of the permits simply would not be under terms and conditions. And it would limit the manager's ability to do anything about tailoring and developing terms and conditions to protect the things that I have already outlined.

Allotment management plans look to the lands in a specific area and prescribe the livestock grazing practices necessary to meet multiple users' objectives. They can be costly and time consuming to complete. So we cannot decree that 100 percent of them be done. But, to the contrary, we cannot take away the managers' ability to put reasonable conditions on the land. The substitute balances the need for the BLM to have adequate authority to properly manage the public lands to ensure their long-term health with the need for ranchers to have some stability in terms and conditions of the grazing permit that we have talked about.

The proposed substitute ensures that ranchers will not be subject to arbitrary changes in the terms and conditions of a grazing permit. I think that should make the ranchers feel secure. One of the things we talked about when we had this long debate in August of 1994 was the fact that we needed to give the ranching community stability. We needed to give the ranching community certainty, so they could go forward and borrow money, make improvements. Here it is, almost 2 years later, and things are more uncertain than they have ever been. I respectfully submit, my friends who so badly want to get the Domenici bill passed, for what? The President is going to veto this bill. No matter what happens when we get it out of the House, the President said he is going to veto it.

I think we would do much better if we came with a bill that would be approved, that will be voted for by a majority of the Democratic Senators from the western part of the United States, and I am sure we could have some influence on the President to sign the bill.

Mr. President, the Domenici bill impedes permittees from employing proven restoration techniques, such as conservation use, by threatening permit loss if they do not make grazing use under the terms and conditions of a grazing permit.

What this means is that if someone wants to purchase a grazing permit, they cannot do it unless they want to ranch on it, unless they want to graze on it. It was stated last night that the minority chose to make nonuse of public lands a dominant use. This simply is not true. I recognize what the benefits of conservation nonuse can provide to the environment, and I believe it should be an option available to permittees.

In Southern Nevada, because of an endangered species problem, an animal called the desert tortoise, construction basically was brought to a grinding halt in the Las Vegas area.

Mr. President, we were able to work out our problems very quickly. One of the ways we were able to work out our problems under the terms of the Endangered Species Act was we had a conservation nonuse program. Clark County, NV, where Las Vegas is located, along with the Nature Conservancy, holds allotments in conservation nonuse for the benefit of this endangered species and allowed us to get back to work in building the most rapidly growing city and State in the United States.

Under our substitute, conservation use may be approved for periods up to 10 years if consistent with the land use plan. This is important. I will also suggest I do not know what my friends on the other side of the aisle are worried about, or I should say my friend the senior Senator from New Mexico, because under the present rules and regulations in the law, there is not a big line forming for people to sign up for conservation nonuse. It is used infrequently, but when it is used, it is important.

I repeat, there is not a long line of institutions or people saying, "I want a conservation nonuse permit." It does not happen very often, but when it does, it is important.

If the Domenici bill were approved, it, in effect, would deny citizens of this country the ability to hold a grazing permit. I think that is wrong. In our substitute, permittees do not have to be in the livestock business to hold a permit.

Another problem I have with the bill of my friend from New Mexico is it requires managers—that is, someone from BLM or Forest Service—to provide 48 hours of advance notice to the rancher that they are going to take a look at the land. It inhibits the ability to manage the land. It also limits the flexibility of the manager to do complete monitoring. Mr. President, who are they trying to protect? They are trying to protect one of the bad apples. That is the only type of individual who would be concerned about someone coming on their land to see if they were grazing too many cattle in a riparian area or whatever else they were doing to degrade the environment.

So the substitute I am cosponsoring with others does not require advance notification for monitoring or inspection.

Also yesterday, it was stated that proponents of the Domenici bill were not here to defend the chief executive office's tycoons who bought some of this land out West. I acknowledge that. I think that is probably true. The subleasing provisions, though, of the Domenici bill limits the ability of the Forest Service and BLM to manage subleasing.

What do I mean by this? What I mean by this is if someone named Tom Jones has a grazing permit, under our provision, if he wanted to sublease this to his children or grandchildren, he could do it. But if he wanted to sublease it to Bob Jones from the State of Arizona or the State of New Mexico or someplace else, he would not be able to do it. The permit should run to the permittee and should not give them the right to start leasing Federal land and making money on it. That, in effect, is what they have been doing. It should be stopped. We should not allow subleasing unless it is to family members.

I would also suggest, Mr. President, that the Domenici legislation requires excessive amounts of costly time for monitoring rangeland studies and other delays before management actions that protect the environment can be implemented. That is not the right way to go. Agencies do not have the money nor the manpower to monitor all allotments. Our substitute allows agencies to rely on both monitoring data—and that means things they have actually seen—monitoring data, information they have collected, and also objective data that they have seen in making their decisions.

The Domenici bill excludes groups such as Ducks Unlimited, Trout Unlimited, and other hunting and fishing groups and State agencies from entering into cooperative agreements for the development of a permanent range improvement or development of a rangeland.

Mr. President, 5,000 cooperative agreements for range improvements are currently issued to nonpermittees. And 503 of these are in Nevada alone, representing about 15 percent of all range improvement permits and cooperative agreements in the State. The DOMENICI bill would dramatically limit agencies to leverage funds for range improvements. That is something we should not allow to happen.

The substitute that I am cosponsoring allows nonpermittees to enter into cooperative agreements.

Mr. President, in short, the Domenici substitute is certainly better than the first draft we got of the bill. I say here that I appreciate the work that has been done by all western Senators. I am especially grateful to the staffs of all western Senators who have spent hours and days and weeks trying to come up with this. And there has been a spirit of cooperation. I wish we could have arrived at a bipartisan bill. We could not. But the issues have been narrowed significantly as a result of our sitting down and spending this endless time together.

In conclusion, Mr. President, what I believe that the substitute offers is balance. It provides balance between multiple uses and ensuring that no one use is put on a higher plane than any other.

The bill by my friend, the senior Senator from New Mexico, does not provide this balance. It elevates a single use of the public lands, grazing, above other multiple uses. That is not right. This is not what public lands are all about.

I extend my appreciation to the junior Senator from New Mexico for his tireless efforts in coming up with what I think is a veto-proof bill, one that we should all join in supporting, get it out of the House, get it signed and allow Nevada ranchers and other western ranchers to get about their business.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, for the last 2 days we have discussed the merits and shortcomings of the Public Rangelands Management Act. It is apparent that this is a complicated debate, riddled with hyperbole and misunderstanding.

Let no one misunderstand, however, the context within which this debate has been conducted. There exists today throughout the West a palpable sense of economic anxiety that has its roots in the issuance of new grazing regulations by the Department of the Interior 2½ years ago; regulations that fueled fear among ranchers that they face a campaign by the Government to permanently remove them from Federal lands.

This apprehension about Government insensitivity to the economic realities of ranching is tangible in my State of South Dakota and widespread throughout the West. Moreover, it has been aggravated by a prolonged period of extremely low cattle prices coupled with record high feed costs.

There is no doubt in my mind, Mr. President, that ranchers' frustration with current Federal grazing policy is justified. Their grievances are both procedural and substantive.

It was apparent that the regulations issued by the Interior Department in 1993 were conceived and issued in a manner that discounted the views of ranchers who earn their livelihood from public land.

Those rules clearly reflect the dominant views and interests of other users, including environmentalists, conservationists, sportsmen and other recreationists. While these groups all have legitimate interests in the quality of Federal land management, the new rules simply do not strike a fair balance among competing uses.

Like the first law of thermodynamics, every political action has a political reaction. The political reaction in the West to the new grazing rules was one of outrage and protest. Many in the ranching community understandably began to demonize these regulations. The legislation we are considering today was conceived in reaction to those rules.

But unlike the laws of physics, in politics the appropriate reaction is not always an equal and opposite reaction. Often a political reaction does not solve problems, but rather only recasts them.

That is the case with S. 1459. And that is why I will oppose the bill, and why I have worked with many of my Western States Democratic colleagues to develop an alternative to it.

The Bingaman substitute solves many problems for ranchers without harming the interests of other users of Federal lands. For grasslands ranchers in South Dakota and elsewhere, it would create a separate management regime apart from the National Forest System—a system that is ill-suited to dealing with the unique requirements of Federal rangeland.

Moreover, the Bingaman substitute overrides the language in the current regulations with respect to the United States Government perfecting all the water rights on Federal land. It places NEPA analysis in its proper perspective, ensuring that agency resources are spent evaluating the impacts of decisions that truly will effect the environment. And, it establishes a realistic fee formula with which ranchers can live.

In other words, the Bingaman substitute addresses the legitimate concerns of ranchers in the West. It represents a better way of addressing prevailing concerns about Federal grazing policy.

I do not question the commitment or motives of my colleagues who developed the committee bill. They have attempted to redress a serious matter through a serious effort. But their product moves Federal policy too far back in the opposite direction to the detriment of other public policy goals.

S. 1459 strikes me as an overreaction to a very real threat to American ranchers. It will not bring us closer to a reasonable and balanced compromise. It will simply shift the equilibrium. If this bill is enacted, I suspect it will not be long before we are back here on the Senate floor debating the same issue from the opposite perspective.

Mr. President, while we need grazing reform, S. 1459 shifts the balance past the sensible middle ground we should be seeking. Let me elaborate.

To begin with, S. 1459 curtails public input beyond what I consider to be reasonable or necessary by restricting the ability of the public to be involved in the development of grazing proposals and to challenge specific decisions.

What does this mean for users of Federal lands: campers, hikers, and scientists to name a few?

It means that those who may know and use the land will have their opportunity for input into the decisionmaking process restricted, despite the fact that they may be able to offer very credible and useful advice. It means that recreational users will no longer be able to challenge a decision they feel precludes them from having access to lands they have a right to use.

In contrast, Senator BINGAMAN's alternative retains the rights of ranchers and other interested parties to protest management decisions—a provision that exists in current law.

This is a very important point. The opportunity for public comment, protest, and appeal has become one of the most contentious elements in the grazing policy debate.

The history of public involvement by various interest groups has not always been constructive. Appeals and protests have not always been used to offer useful advice or to ensure that decisions are faithful to the letter and spirit of the law. On occasion, they have been used to delay and derail reasonable decisions, sometimes on the basis of flimsy or irrelevant evidence or argument.

Despite this acknowledgment, I am voting today to protect the public's right to comment on decisions that affect the public's lands. The course that some propose—to curtail comment process—is one that I do not feel can be justified by the historical evidence. Only through the unfettered competition of ideas will we be able to ensure development of the very best policies. No process of government should be sheltered by legal artifice from the force of a compelling argument. The management of our public lands demands no less a standard.

I am also concerned that S. 1459 creates an unworkable system for holding title to range improvements. The Bingaman alternative retains the title to permanent range improvements in the name of the United States, while the committee bill would share the title between the United States and the ranchers. Under the substitute, ranchers are compensated for their expenses if they give up the permit or the land use changes and they can no longer graze the land.

Further, S. 1459 restricts the ability of those outside the livestock business to obtain permits for conservation purposes. No longer would a Nature Conservancy be able to obtain permits and rest the land in conservation use. It simply is not fair to prohibit nonlivestock entities from obtaining permits to use Federal lands.

The Bingaman alternative amendment allows anyone meeting basic requirements to obtain permits and rest the land in conservation use. The Nature Conservancy does this with 24 permits now and the Republican bill would curtail this ability.

In addition, S. 1459 significantly restricts the flexibility of the land managers to ensure adequate flows of water on Federal lands. If this proposal is enacted, the Federal Government will no longer be able to protect fish and wildlife populations on Federal lands. Under the substitute, no such punitive restrictions would be imposed.

Taken together, and particularly when read in the context of the objectives of the bill, these provisions persuade me that S. 1459 goes too far in one direction and fails to strike a reasonable balance among the multiple uses of public lands. It is not a solution to favor one group of users of the public lands over another. To manage this resource in a fair and equitable manner, a careful balance must be struck that responsibly addresses the legitimate concerns of all the public land users.

Passage of S. 1459 will not end the debate over grazing in the west. In its current form, this legislation will be vetoed, and that veto will be sustained. Under that scenario, we will not have accomplished anything except to have provided more grist for the political mill.

The Bingaman substitute will not please everyone.

Environmentalists may feel that in some respects it is too generous to the ranching community, while ranchers may feel that it does not adequately insulate them from appeals, protests, red tape and the whims of the Federal Government.

I believe it strikes a fair balance.

The Bingaman substitute will protect the public's right to participate in grazing management decisions. It will ensure that Federal land managers have the authority and flexibility to guarantee sound stewardship of the land and protection of fish and wildlife populations. It will allow conservation organizations the opportunity to obtain permits and rest the land.

In short, Senator BINGAMAN offers a sound, fair, and moderate amendment that will establish security for western ranchers, while genuinely protecting the interests of other users of the land. And, I believe, it can be signed into law.

I sincerely want to resolve this issue—for the permittees and lessees who reside in our States; for the communities that rely on the livestock industry; for the users of the public land; and for the American public in general. The uncertainty surrounding the management of the public lands must be clarified.

I believe the Bingaman approach will allow us to achieve our common goal—healthy public rangelands. I urge my colleagues to support the Bingaman substitute.

Mr. PRESSLER. Mr. President, ever since Department of the Interior Secretary, Bruce Babbitt, proposed Rangeland Reform '94, I have worked with other western Senators to pass meaningful legislation addressing the concerns raised in Secretary Babbitt's proposal. The bill before the Senate is the result of those efforts.

While we were able to postpone implementation of Secretary Babbitt's misguided reforms for some time, Rangeland Reform '94 is now operative. It became effective August 21, 1995. Ranchers are expecting and should get relief from those regulations. We must pass S. 1459.

Ranchers in South Dakota have told me one thing: Rangeland Reform '94 must be changed. Many of those reforms could have a detrimental impact on ranching operations in South Dakota. The Secretary's reforms are shortsighted, weigh in too heavy on the side of environmental extremists and could drive many hard-working ranchers off the land.

Hardest hit would be our young farmers and ranchers. Many have just started ranching on their own. These young farmers and ranchers are our future. They are agriculture's future. Yet they are the ones that could be most hurt if Rangeland Reform '94 is allowed to stand. I have heard from a number of ranchers who are more concerned with Rangeland Reform '94 than they are with low cattle prices. Now that is quite a statement. It clearly shows why this bill must be passed.

The legislation before us today represents nearly 2 years of hard work by many Senators and a vast number of individuals of different interest and professions who are most affected by Federal rangeland policies. I also want to commend the Senate staff who worked to develop our reforms into legislation. They worked late into the night and on weekends.

I do want to note that the bill has been significantly modified since it was first introduced last year. Every effort was made to reach a bipartisan consensus. Over the last 6 months Western States Senators from both sides of the aisle worked hard to reach a compromise that could ultimately be passed.

S. 1459 has bipartisan support and strong support throughout the country. I ask unanimous consent that a letter describing this support be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. Mr. President, many South Dakota organizations support this bill. First of all it is strongly supported by South Dakota ranchers. It is also supported by the South Dakota Public Lands Council, the South Dakota Farm Bureau, the South Dakota Sheep Growers Association, and the

South Dakota Stock Growers, to name a few.

Let me outline specifically what this bill would do. Under S. 1459:

Ranchers who depend on the use of public lands would be able to continue operating in an economically viable manner.

Multiple-use management objectives would be achieved.

The rights of sportsmen, like hunters and fishers, would be protected and their use of Federal lands would not be restricted.

Water rights for livestock management grazing would be in accordance with State laws.

Local input from virtually every key interest into the management of public lands would be assured.

I urge my colleagues to keep in mind the fundamental goal of the legislation to remove a clearly objectionable rangeland policy.

If left alone, Rangeland Reform '94 will have a detrimental effect on ranching operations in South Dakota. Many of these reforms are short-sighted, take away local input and control, and could drive many ranchers off the land.

It is clear that extreme environmental groups support Rangeland Reform '94 and are waging a baseless scare campaign on S. 1459.

Supporters of Rangeland Reform '94 are spreading the laughable charge that this bill would hurt wildlife and restrict hunting on Federal lands.

I say this is laughable because it simply is not true. All one has to do is read the bill which specifically states:

> Nothing [in this title] shall be construed as limiting or precluding hunting or fishing activities on national Grasslands in accordance with applicable Federal and State laws, nor shall appropriate recreational activities be limited or precluded.

I originally had two important improvements to S. 1459. One was included in the bill and the second I intend to offer as an amendment. South Dakotans made it abundantly clear of the need for local and public input. I worked with Senator DOMENICI on an amendment to require consultation with State, local, and other interests in land-use policies and land-conservation programs for the national grasslands.

All users of Federal lands should have a voice in land-use policies. This added input will provide needed suggestions on better grazing practices that will protect the land and enhance wildlife management.

After discussing this with Senator DOMENICI, my amendment was included in S. 1459 as reported. I thank Senator DOMENICI and Senator CRAIG for working with me on this proposal.

The second improvement is designed to address concerns expressed by sportsmen. South Dakota is probably the best hunting and fishing State in the Nation. I know there may be others who may disagree, but I will gladly promote South Dakota as a sportsmen's haven.

Sportsmen have expressed concerns that S. 1459 could limit use of Federal lands for hunting, fishing, and other recreational purposes. My amendment would reinforce Federal policy to protect the interests of sportsmen who hunt and fish and use our public rangelands for sport. My amendment would preserve the rights of hunters, fishermen, and other sport enthusiasts to use Federal lands.

I hope this amendment can be accepted and made part of the bill.

Mr. President, the Congress needs to pass S. 1459. The bill would address the problems with Rangeland Reform '94, provide needed stability to farmers and ranchers, and help preserve the social, economic, and cultural base of rural communities in the western States. Current use of Federal lands could be greatly restricted in future years without S. 1459. I urge its adoption.

EXHIBIT 1

MARCH 14, 1996.

Hon. LARRY PRESSLER,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR PRESSLER: The undersigned organizations represent the diverse interests of millions of citizens who currently participate in the multiple use of America's public lands. On their behalf, we strongly urge you to support S. 1459, the Public Rangelands Management Act. This bill is the result of innumerable hours of bipartisan negotiations. It fosters balanced multiple use management of our public lands, resource protection and public participation. We have the following reasons for asking your support for this legislation:

The bill maintains widespread public participation in the management of federal lands. For the cost of a postcard, any individual or organization may qualify as an "affected interest" under the bill simply by writing to the Secretary to express concern for the management of grazing on a specific federal grazing allotment. They will then receive notice of and an opportunity for comment and consultation on proposed decisions made by the Secretary of the Interior affecting that particular federal parcel. Public participation extends down to the level of designation of allotment boundaries, development of allotment management plans, increasing or decreasing the use of the land by permittees, issuance and modification of permits and reports evaluating monitoring data applicable to a permit.

The legislation maintains the "multiple use" of public lands. There are those in the environmental community who would have you believe this bill somehow establishes ranching as a dominant use. You need not accept the word of these environmentalists or our word; the legislation speaks for itself. The bill states simply and clearly that "multiple use as set forth in current law has been, and continues to be, a guiding principle in the management of public lands and national forests." Section 102 states that nothing shall affect valid existing rights, reservations, agreements or authorizations. The bill specifically states that nothing in the bill shall be construed as limiting or precluding hunting or fishing activities on federal lands in accordance with applicable federal and state laws, nor shall appropriate recreational activities be limited or precluded. The canard raised by these environmentalists that this bill would somehow lock in current livestock usage levels is simply wrong (see Section 101(a)).

The issue of NEPA compliance is important. The National Environmental Policy Act was well intended for the protection of the environment with regard to major federal actions. Unfortunately, over the decades since its passage, NEPA has been used by obstructionists as a tool to put a stranglehold on any use of federal lands. The statutorily required major federal action has devolved to the digging of a single post hole on federal lands. Everyone familiar with current agency interpretations of NEPA realizes the system is badly broken. The reality is that agency officials are not getting out on the land and monitoring multiple use; they are desk bound by NEPA paper shuffling and the fear of litigation. The NEPA provisions in the bill will protect the environment, restore the original intent of NEPA and free up federal land managers to do their job, all while saving the public money.

The Public Rangelands Management Act is a major cost saver for the federal government. The Congressional Budget Office has scored the new grazing fee formula contained in the bill and determined that enactment would decrease direct federal spending by about $21 million over the 1996 to 2000 period. CBO estimates that offsetting receipts would increase by about $28 million over the same period. The western livestock industry supports this new formula at a time when cattle prices are at a 13 year low. Ranchers are stepping up to the plate and expressing a willingness to pay more during the hard times.

If enacted, S. 1459, the Public Rangelands Management Act will be the first major revision of federal lands grazing activities since the 1934 Taylor Grazing Act. The time has come to restore common sense to the management of the federal lands and to allow ranchers utilizing those lands to continue the production of food and fiber. Support responsible land management, prudent resource conservation and continued multiple use of national lands. Please support S. 1459.

Sincerely,

Agricultural Retailers Association; American Chianina Association; American Farm Bureau Federation; American Forest and Paper Association; American Gelbvieh Association; American Horse Council; American International Charolais Association; American National Cattle Women; American Sheep Industry Association; Arizona Cattle Feeders' Association; Arizona Cattle Growers Association; Arizona Farm Bureau Federation; Arizona State Cowbelles; Arizona Wool Producers Association; Association of National Grasslands; Black Hills Regional Multiple Use Coalition; California Cattlemen's Association; California Farm Bureau Federation; California Public Lands Council; California Wool Growers Association; Cochise Grand Cattle Growers; Colorado Cattlemen's Association; Colorado Cattle Feeders Association; Colorado Farm Bureau; Colorado Public Lands Council; Colorado Woolgrowers Association; Dixie Escalante Rural Electric Association; Empire Sheep Producers, NY; Florida Cattlemen's Association; Gem State Hunters Association; Idaho Cattlemen's Association; Idaho Dairymen's

Association; Idaho Farm Bureau Federation; Idaho Food Producers Association; Idaho Hunters' Association; Idaho Mint Growers Association; Idaho State Grange; Idaho Wool Growers Association; Independent Petroleum Association of America; Indiana Sheep Breeders Association; Iowa State Grange; Kansas Sheep Association; Michigan Cattlemen's Association; Michigan State Grange; Mississippi Cattlemen's Association; Montana Association of Grazing Districts; Montana Farm Bureau Federation; Montana Public Lands Council; Montana Stockgrowers Association; Montana Wool Growers Association; National Association of Counties; National Association of State Departments of Agriculture; National Cattlemen's Beef Association; National Grange; National Lumber and Building Material Dealers Association; National Mining Association; Nebraska Cattlemen; Nevada Cattlemen's Association; Nevada Farm Bureau Federation; New Mexico Farm and Livestock Bureau; North Dakota Lamb & Wool Producers; North Dakota Stockmen's Association; Oregon Cattlemen's Association; Oregon Farm Bureau Federation; Oregon Sheep Growers Association; Ozona Wool & Mohair; Public Lands Council; Regional Council of Rural Counties, California; Rocky Mountain Oil & Gas Association; Roswell Wool, New Mexico; South Dakota Public Lands Council; South Dakota Sheep Growers Association; South Dakota Stockgrowers; Southern Timber Purchaser's Council; Tennessee Cattlemen's Association; Texas Sheep & Goat Raisers Association; Texas & Southwestern Cattle Raisers Association; Utah Cattlemen's Association; Utah Farm Bureau Federation; Utah Wool Growers Association; Utah Wool Marketing; Washington Cattlemen's Association; Washington Farm Bureau; Washington State Grange; Wilderness Unlimited, California; Wyoming Farm Bureau Federation; Wyoming Stock Growers Association; Wyoming Wool Growers Association.

Mr. HATCH. Mr. President, I rise today in support of S. 1459, the Public Rangeland Management Act. I am proud to be a cosponsor of this bill. And, I congratulate Senator DOMENICI and others who have worked so hard to balance the many interests involved in this legislation.

Livestock grazing has always played a major role in our western lifestyle, providing a number of important economic, social, and cultural benefits to all Americans. Utah's rangelands are a renewable resource that can be used and reused without sharing the land. In fact, grazing has become a natural part of the ecological system. A 1990 report from the Bureau of Land Management states that "Public rangelands are in a better condition than at any time in this century." ["State of Public Rangelands 1990," U.S. Bureau of Land Management, emphasis supplied.] This is true because livestock grazers, armed with the latest available knowledge, have become wise users of the resources available to them.

There have been instances in the past of overgrazing to the detriment of the land and the local ecology; today these cases are the exception. Now we hold those who abuse our lands responsible for their actions.

Mr. President, let me state clearly that the Public Rangeland Management Act provides no relief or protection to bad actors on our rangelands. Instead, it reinforces all environmental laws as they relate to grazing on public lands. This is as it should be.

But, Mr. President, I am extremely concerned for the plight of livestock producers in Utah and throughout the United States. I am not aware of any cattle producers in Utah who are making a profit. There are a number of factors contributing to this devastating trend. But when I ask them what we can do to help, they unanimously plead for stability—stability in the fees they are charged and stability in the laws and regulations they must obey.

In Utah most of the livestock producers are small family-owned cattle and sheep operations. An increasing number of these families who have paid for grazing permits on public land, will be unable to afford to use the. They will simply be unable to survive under the difficult regulations promulgated by the Secretary of the Interior known as Rangeland reform 94. Even the possibility that these regulations will be implemented has been sufficient cause for many lenders to hold back their money rather than provide necessary loans to ranchers. Lenders know the business, and they know that Secretary Babbitt's proposal is bad for the industry. Without the necessary credit these families have little hope for survival.

Mr. President, it breaks my heart to watch as families, who have been in the livestock business for generations—in some cases since before Utah became a State—are forced to pull up their stakes and fold up the family business. These families have withstood terrible winters, devastating droughts, the depression, and other economic downturns. But faced with an all powerful, antipathetic Federal Government, their ability to endure is coming to an end.

Considering the serious situation of our livestock industry, one might wonder how far S. 1459 goes to provide for their relief.

Some fear that S. 1459 exempts grazers from some environmental laws. There is absolutely no ground for this fear. The language in this bill could not more clearly reinforce all environmental laws, and it does nothing to impede future changes or additions to current environmental law.

Some who oppose the bill believe it would restrict the use of permitted lands from sportsmen and recreationists. They are dead wrong. Senator DOMENICI went so far as to add an amendment to this bill stating plainly that multiple use of permitted land would not be inhibited in any way. Mr. President, those who continue to criticize the bill for this reason must oppose the idea of grazing on public lands altogether, because it is clear that this concern has been addressed.

Mr. President, even with the difficulty faced by families in the livestock industry, there are still those who argue that we do not raise grazing fees high enough. The truth is that this bill raises grazing fees by 30 to 40 percent from current law, generating millions more revenue for the Treasury than in the past.

These critics point to the higher fees that are charged for forage on private lands. But, there can be little comparison made between grazing on private land and grazing on public land. On one hand, the private landowner must provide all the livestock management services as well as continual forage. Of course private owners charge more, they provide all the necessary services for grazers and must maintain them. On public lands, it is the grazers who are required to install and maintain stock water ponds, fences, and other improvements at their own expense.

Before he was named as Secretary of the Interior, Bruce Babbitt said that "multiple use has run its course."—Public Lands Reform Vital, Denver Post, Mar. 9, 1990. This view is certainly disheartening to use in the West, and I, for one, regret that Secretary Babbitt has set in motion a number of challenges to multiple use. The Rangeland Reform '94 plan is amount the most difficult.

Besides putting grazing fees at a level that is sure to run a host of ranchers off of public lands, Secretary Babbitt's Rangeland Reform '94 proposal would lay down a long list of new standards and regulations that address all public grazing in a one-shoe-fits-all approach. This approach just does not make sense. Every grazing district throughout the country has its own set of challenges and resources that must be dealt with to ensure sustainable use of that area.

S. 1459, the Public Rangeland Management Act, would set into law a framework for managing our lands according to each district's specific needs. And I might add that it would do so while keeping all current environmental protections in full force and effect. This bill would also set into law a fee formula that, although much higher than current law, would provide stability for families in the livestock business and their creditors. Fees should not be set by political appointees who come and go, and who bring with them differing philosophies of public land management.

Again, I commend Senator DOMENICI, Senator MURKOWSKI, and all my colleagues who have worked to develop this compromise legislation. This bill is long overdue. When this process began the need for these reforms was great. Since then, that need has taken on great urgency. We must pass this bill without delay.

Mr. KEMPTHORNE. Will the Senator from New Mexico yield for a question?

Mr. DOMENICI. I would be pleased to yield for a question.

Mr. KEMPTHORNE. It is my understanding that the grazing bill S. 1459, the Public Rangelands Management Act does not affect the issue of grazing on national parks and national wildlife refuges.

Mr. DOMENICI. The Senator from Idaho is correct.

Mr. KEMPTHORNE. The reason I ask that question is that on many national wildlife refuges, including at least two in my own State, grazing is a traditional use of refuge lands originating in some cases before the land was acquired by the Fish and Wildlife Service.

Mr. DOMENICI. Have grazing rights been continued on those refuges?

Mr. KEMPTHORNE. It has taken a lot of effort to get the administration to admit that grazing rights on the refuges were retained by the previous landowners when the land was transferred to the Fish and Wildlife Service. As things stand right now, there may be room for some optimism that grazing will continue both as a retained right, and as a wildlife management technique.

Mr. DOMENICI. I thank the Senator from Idaho for his observation.

Mr. KEMPTHORNE. I thank the Senator from New Mexico.

Mr. HATFIELD. Mr. President, I support Senator DOMENICI's Public Rangelands Management Act. I had hoped to support a substitute or a series of amendments to address the concerns I expressed in the Energy and Natural Resources Committee meetings. However, we are faced with an amendment that fails to address my concerns and a substitute that goes beyond the changes that I believe we called for in the Domenici bill.

I am concerned with two aspects of S. 1459—public participation and flexible management. We could have done a better job in these two areas.

Affected interests should be consulted and allowed to protest and appeal decisions;

Site-specific NEPA analysis should be allowed when it is determined to be useful; and

A permittee or lessee should not have to be engaged in the livestock business and own base property in order to practice conservation use.

The substitute makes an attempt to address these two areas, but fails in other respects:

It continues to advocate two distinct range management programs, one for the Forest Service and one for the Bureau of Land Management;

It fails to adequately address the water rights issue; and

It does not adequately credit permittees for their rangeland investments.

I oppose the amendment offered by Senators BUMPERS and JEFFORDS for the following reasons:

It would create two classes of rangeland users without improving natural resource management;

It would become an administrative nightmare for the regulatory agencies; and

It is bad policy for Government to "reward" small operators or "penalize" large operators. The goal is to charge a fair fee to all.

I therefore will support Senator DOMENICI's bill. I see it as a reasonable, if flawed, attempt to bring closure to this longstanding issue.

The long and often contentious rangeland management debate reflects the profound ties that we as a Nation feel for our public lands. These ties are more than economic or sentimental. They are true bonds we hold to our Nation's past and its future.

The decades of debate have not been wasted. They have produced information that is leading to new management strategies and cooperation where previously rancor prevailed. We now have an inspiring number of coalitions of ranchers, conservation groups, and State and Federal agencies working together voluntarily to improve rangelands.

In Southeastern Oregon's Trout Creek, for example, permittees are working together with Oregon Trout (a private conservation organization) and State and Federal agencies to improve riparian areas and resolve conflicts between big game and livestock. Their efforts have been very successful in improving range conditions on private, State, and Federal lands.

The Malapai Border Project in my esteemed colleagues' State of New Mexico offers another example of cooperative management. Here, permittees, the Nature Conservancy, and State and Federal officials have come together voluntarily to solve regional ecosystem problems. Through their efforts, we hope to stop the encroachment of brush into grasslands.

These and other examples should encourage us all. The condition of our grasslands is improving and should continue to do so if we work together.

It is interesting to observe the evolution of grazing fee proposals. For years grazing fees provided the hot button for all sides of the argument. Ranchers let us know loud and clear that their fees were high enough. Today, by and large, they support the legislation before us, which would increase the fees. This change of heart reflects a better understanding of the issues and a desire to respond to others' concerns.

We need to capitalize on this spirit and ensure that it grows. It is too easy to focus on remaining differences and go away convinced that they are too great to resolve. If we do this, we will inspire the cooperation necessary to resolve the remaining differences.

It is my hope that my Senate colleagues will work in conference, in cooperation with the House and the administration, to make the adjustments necessary to address my continuing concerns.

Mr. KEMPTHORNE. Mr. President, the final analysis is clear. Rangelands need grazing in order to be healthy. Given that understanding, do we work with the stewards now on the land to improve range health, and find the right balance of grazing? Or do we focus instead on regulations that will have the end result of driving many of those stewards off the range?

The second alternative is unacceptable to me, and should be to all of us here. But under the regulations now in place, that is the direction we are headed. Innovative managers, like conservation award winner Bud Purdy from Picabo, ID, are seeing their children leave a generations-old tradition because of the uncertainty of depending on Federal lands. And this all despite his nationally recognized conservation projects.

We should be encouraging, not discouraging, private enterprise and individual initiative. We should be looking out for the best interests of the public in the long term. Creating vast empty wastelands is not in the best interest of the American public, and it is the responsibility of this body to set policy that will plot the course to protect environmental health and economic stability for rural communities.

Mr. Chairman, as you might have guessed, this debate is a source of great frustration for me. The focus of this Congress, and supposedly of the administration, is to reduce and simplify government, to serve the public better by decreasing overhead cost, reducing needless oversight and review, and improving cooperation with the private sector. But the regulations which the administration implemented last August fly in the face of those goals.

We have to ask ourselves what our priorities are. Ranching is a primary industry across the West. Do we want to tap into the resources that industry has to offer, to encourage conservation and cooperation, to foster stewardship and local management? Or do we want to micromanage from the top down, effectively pulling the rug out from under fragile rural economies?

Mr. President, there are efforts underway as we speak to support rural America. The President is supporting an aggressive rural development program that is being included in the farm bill. But does it make sense to undertake a significant rural development program on the one hand while implementing regulations that will stifle development on the other?

Mr. President, I believe the answer is clear, and further, that Senator DOMENICI's bill is the better path to achieving those goals. I urge my colleagues to support this bill.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. There are no other Senators on our side desiring to speak on this matter. I will speak maybe 3 to 4 minutes.

Mr. President, let us talk a minute about public input into decisionmaking. Senate bill 1459, as introduced, has been criticized for its provisions regarding public involvement in management decisions regarding grazing activities on Federal lands.

In fact, Mr. President, under the Domenici substitute amendment, public involvement has been expanded. For the first time the public will be given an opportunity to comment on reports by the Secretary of the Interior, and Secretary of Agriculture, summarizing range-monitoring data. The only area where the role of the public has been somewhat diminished is in the area of protests. Let me talk about that a minute.

Under the Domenici substitute, protests cannot be filed by so-called affected interests on very limited types of decisions, such as proposed decisions on applications for grazing permits or leases or relating to terms and conditions of grazing permits or leases or range improvement permits. Other types of protests are allowed, as are appeals of final decisions under the Domenici substitute.

The reason for limiting protests, Mr. President, is very simple: We have found that we need to reduce the potential for filing vexatious and frivolous objections by individuals not even remotely affected by proposed decisions on specific grazing allotments. We want the Government to work better, not worse. We want decisions to be implemented without being protested, then appealed and delayed, and then delayed some more.

Mr. President, the substitute defines an affected interest to include individuals and organizations that have expressed in writing to the Secretary concern for the management of livestock grazing on specific allotments for the purpose of receiving notice and an opportunity for comment and informal consultation on proposed decisions of the Secretary affecting allotments.

As a result of being affected interests, an individual or organization can receive notice of and the opportunity to comment on summary reports of resource conditions as well as proposals and final decisions. They can also appeal final decisions, assuming they have standing to appeal.

If an individual organization is an affected interest, notice of a proposed decision will allow a reasonable opportunity for comment and informal consultation regarding the proposed decision within 30 days, for designation or modification of allotment boundaries, development, revision or termination of allotment management plans, increase or decrease of permitted use, issuance, renewal of transfer of grazing permits, modification of terms and conditions, reports, evaluating monitoring data and the issuance of temporary nonrenewable permits.

In addition to all of the above, Mr. President, public participation occurs in the following areas under this substitute: First, resource advisory councils; second, grazing advisory councils; third, all the FLPMA processes, development of land use plans and amendments thereto.

The NEPA process, where it is used in land use planning, is used to its absolute maximum. It Is also applicable in the development of standards and guidelines.

It is not accurate, nor is it fair, to argue that 1459 or the substitute amendment to it significantly diminishes public participation in management decisions affecting grazing allotments. The intent of our legislation is to ensure fair and frequent public participation by interested individuals, but to curb frivolous and vexatious attempts by outsiders to micromanage—not macromanage, but micromanage—grazing on the public domain from a distance of 2,000 miles away.

In short, our bill attempts to keep those who would file with a 32-cent stamp, from Boston, on a postcard, from spawning administrative and judicial litigation. That brings livestock grazing and economic activity in the West to a halt. This happens with more frequency than you might imagine. We think we have the right amount, which is a very significant amount of public participation, in the right type of decision points.

In some areas, our bill goes further than the Bingaman substitute; in others, it does not go as far. But I believe public participation is maintained in a very broad way and is very significant in this bill.

Mr. President, I have a number of responses in writing that I have written out with reference to other contentions that have been made here on the floor. I do not think, in the interest of time, that I will go through each and every one of them. But there are some significant differences in conservation partnerships that are allowed, cooperative partnerships, than have been stated here on the floor.

The only thing that concerns us and that is epitomized in our bill, is after the land use plan is put together, we do not permit those who would like to get rid of grazing to come in and pick the very best land and say, "We'd like to take all the cattle off. We have enough money to pay for it. We would like to turn it into nothing more than a nongrazing area."

We think there are other, better ways to improve conservation measures without doing that to the public domain. I might indicate that even in States which have a very, very broad-based approach to conservation uses, instead of just pure grazing, this idea of going and picking leases, picking the best of leases and taking them out of grazing and putting them into an exclusive conservation use, has been denied at the State level, not only in New Mexico but in other States.

Mr. President, another criticism of S. 1459 is that it provides for cooperative range improvement agreements with permittees and lessees only. Had Senator BINGAMAN read the Domenici substitute amendment, he would have known that his criticism of S. 1459 is utterly baseless. Section 105(b) directs the Secretary, where appropriate, to authorize and encourage coordinated resource management practices. Such practices shall be for the purposes of promoting good stewardship and conservation of multiple use rangeland resources. And, such practices can be authorized under a cooperative agreement with a permittee or lessee, or an organized group of permittees or lessees.

Language was specifically added at the urging of some conservation groups to provide that such cooperative agreements could include other individuals, organizations, or Federal land users irrespective of the mandatory qualifications required to obtain a grazing permit required by S. 1459 or any other act. This was done so that non-permittee or non-lessee conservation groups could voluntarily make improvements on the public rangelands.

So, Mr. President, contrary to what Senator BINGAMAN claims, a cooperative agreement is not limited to just permittees and lessees. Anyone can enter into a cooperative agreement with a permittee or a lessee and voluntarily make range improvements on grazing allotments.

I hope, Mr. President, that Senator BINGAMAN isn't suggesting that we should discourage or prohibit this type of voluntary rangeland stewardship, because one of the groups that urged us to change section 105 voluntarily makes $3 million in range improvements each year, based on funds raised at dinners and benefits. If Senator BINGAMAN wants to make it the policy of the United States that we should not allow this type of voluntarism, I think our colleagues should be skeptical about supporting his substitute.

Next, Mr. President, it has been said that S. 1459 denies the right of affected interests to protest grazing decisions on public land and national forests by providing that only an applicant, permittee, or lessee may protest a proposed decision. Again, Senator BINGAMAN should read the Domenici substitute more carefully. Either that, or he must be confused about what the Domenici substitute actually does. Section 151(b) of the Domenici substitute requires the authorized officer to send copies of a proposed decision to "affected interests."

Section 155(b) requires the Secretary to notify "affected interests" of seven different kinds of proposed decisions: first, the designation or modification of allotment boundaries; second, the development, revision, or termination of allotment management plans; third, the increase or decrease of permitted use; fourth, the issuance, renewal, or transfer of grazing permits or leases; fifth, the modification of terms and conditions of permits or leases; sixth, reports evaluating monitoring data for a permit or lease; and seventh, the issuance of temporary nonrenewable use permits.

Section 151(c)(3) states that any notice of a proposed decision to an affected interest must state that "any protest to the proposed decision must be filed not later than 30 days after service."

The only limitation on protests is found in section 152, which states, "an applicant, permittee, or lessee may protest a proposed decision under section 151 in writing to the authorized officer within 30 days after service of the proposed decision."

If there is a limitation on the filing of protests by affected interests, Mr. President, the Domenici substitute does not allow affected interests to file protests on very limited types of decisions, such as proposed decisions on an application for a grazing permit or lease, or relating to a term or condition of a grazing permit or lease or a range improvement permit. Each of these types of issues, Mr. President, involve the contract-like relationship between the permittee or lessee and the United States. In our view, these are the type of decisions that do not warrant armchair quarterbacking and second-guessing by those who want to micromanage livestock grazing on the public lands.

Other types of protests are allowed—as I have already more than adequately explained—as are appeals of final decisions, under the Domenici substitute.

On this one, Mr. President, Senator BINGAMAN is wrong again. So is the Congressional Research Service attorney who analyzed the bill for Senator BINGAMAN.

Next, Mr. President, Senator BINGAMAN claims that under S. 1459 only ranchers would qualify to appeal a final decision affecting the public lands. This is false. Persons who are aggrieved by a final decision of an authorized officer can appeal such a decision, so long as the agency's standing requirements can be met. The same would be true for a judicial appeal of a final agency action.

The reference to the Administrative Procedure Act simply clarifies that a person must actually be aggrieved—actually injured—as set forth in the APA and case law interpreting it. This does not mean that someone whose interest might be affected, or who might suffer some unknown injury at some point in the future can sue.

Mr. President, what we are trying to do here is to eliminate frivolous and vexatious administrative and judicial appeals by those who are not actually adversely affected by a land manager's decision, but who oppose grazing on public lands or have some particular ax to grind.

Senator BINGAMAN seems to think that being an "affected interest" should automatically confer rights to bring administrative or judicial appeals of final decisions. He cites the language in section 154 that states "being an affected interest as described in section 104(3) shall not in and of itself confer standing to appeal a final decision upon any individual or organization."

Mr. President, under the administrative case law of the Interior Board of Land Appeals, a clear distinction has been made as to the appeal rights of "affected interests" as opposed to those "whose interests may be adversely affected." The IBLA has ruled in several cases, Mr. President, that being "deemed" to be an "affected interest" does not automatically confer upon a person a right to appeal. The Interior Department's regulations state that only a person "whose interest is adversely affected by a final decision may appeal to an administrative law judge." (Donald K. Majors, 123 IBLA 142, 146 (1992).)

Mr. President, the Domenici substitute is consistent with the Interior Department's regulations.

Senator BINGAMAN also claims that S. 1459 exempts on-the-ground management from NEPA. NEPA has been eliminated in site-specific situations. He cites a CRS analysis that states that elimination of site-specific analysis is a significant change in current law and procedures. In place of NEPA, S. 1459 proposes a review of resource conditions.

The Domenici substitute states that grazing permit or lease issuance, renewal, or transfer are not "major Federal actions" significantly affecting the environment under NEPA. This will spare the Government the time and expense—1½ years per EIS at a cost of about $1 million per EIS—of doing full-blown EIS' on the more than 20,000 grazing permits and leases on BLM and Forest Service lands.

Also, the Republican substitute places NEPA consideration of grazing activities at the appropriate place: at the land use or forest plan level. The Republican substitute does not trivialize the NEPA process by requiring an EIS for simple decisions such as where to locate a watering tank or whether a fence should be built.

What Senator BINGAMAN and the CRS analysis ignores is that the measure of whether NEPA analysis is done on "site-specific management" is whether "site-specific management"—and it is not clear what Senator BINGAMAN means by this term—constitutes a major Federal action significantly affecting the quality of the environment within the meaning of NEPA. The Bureau of Land Management does not now perform NEPA analysis on grazing permit renewals, so this is not a significant change from current procedures.

Current law does not require NEPA analysis on "site specific management." Current law requires NEPA analysis of major Federal actions significantly affecting the environment. For Senator BINGAMAN to say that S. 1459 eliminates NEPA analysis of site specific management is a gross mischaracterization of the process and of what NEPA requires. And, as I already mentioned, decisions on the location of a stock watering tank or construction of a fence cannot possibly be considered "major Federal actions."

Finally, Mr. President, Senator BINGAMAN is trying to dupe everyone into believing that the Domenici substitute eliminates NEPA analysis of grazing activities, and places instead a simple review of resource conditions. The facts about what the Domenici substitute does are these: first, NEPA analysis would be required at the BLM land use plan—also known as the resource management plan—level and at the Forest plan level. NEPA is not eliminated. Let me repeat—NEPA is not eliminated.

Mr. President, let me just say that the Bingaman substitute would not require the completion of any analysis under NEPA on renewals and transfers unless the Secretary determines that the renewal or transfer would involve significant changes in management practices or use, or that significant environmental damage is occurring or is imminent. Nowhere does the Bingaman substitute specify what "significant" is.

Second, Mr. President, the Domenici substitute would require monitoring of resource condition at an interval of no less than every 6 years. This is not required now. Neither BLM or the Forest Service conduct monitoring with any regularity, if at all.

Third, notwithstanding Senator BINGAMAN's complaints that monitoring data consists of very specific measures of vegetative attributes, or that, in many cases, it is not available, the Domenici substitute will ensure—for the first time—that adequate monitoring data are available to BLM and the Forest Service. Why is this so important? Because—for the first time—monitoring can help guide the agencies in determining whether grazing activities or land management practices should be changed to protect the public rangelands. The substitute of Senator BINGAMAN would do no such thing.

So, Mr. President, how in the world can Senator BINGAMAN criticize the Domenici substitute?

Last, Mr. President, Senator BINGAMAN claims that, under S. 1459, the public is not given a say in range improvements.

While no specific provision is made in the Domenici substitute for a public say in range improvements—just as the Bingaman substitute does not specifically give the public a role in range improvements—an opportunity for such input would be welcomed through input from the resource advisory councils and grazing advisory councils.

I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me just summarize my response on a few of these areas, and then I think we will have concluded the debate as far as I am aware on this substitute amendment.

I wanted to talk briefly about three issues. First, the NEPA issue that was raised by several of my colleagues, and the difference between our bill and the underlying Senate bill 1459 on NEPA application; second, the opportunity to protest, which Senator DOMENICI was just referring to; then the question that was raised earlier in the debate about why our own substitute did not have a specific provision reserving the right of people to hunt and fish or otherwise use the public lands.

First on NEPA, let me state my understanding of NEPA. The statement I think was made earlier by my colleague that NEPA today is not applied or used in the management of the BLM lands. My understanding is very different, Mr. President. My understanding is the National Environmental Policy Act sets up a procedure which applies to all of the Federal land management agencies and essentially says that when you take an action or make a decision, you need to determine by virtue of the National Environmental Policy Act whether there is an impact, a major Federal impact on the environment.

You can do it one of three ways. If you are fairly confident that there is no impact on the environment to speak of, and it is clear that what you are doing is consistent with decisions you have otherwise made, you can make an administrative determination, and that is in compliance with NEPA, but you are complying with NEPA, as I understand it, by making an administrative determination that nothing more is required. If you think possibly a more serious impact on the environment might be involved you can, instead, make an environmental assessment, and only once you have made an environmental assessment and determined that there will be a significant impact on the environment are you required to do a full-blown environmental impact statement.

Now, whether you do an administrative determination or whether you do an environmental assessment or whether you do the full-blown environmental impact statement, the BLM in this case is complying with NEPA, so the notion that the BLM is not in compliance with NEPA in the way they presently operate and the way they have historically operated is just wrong. In fact, when you look at the CEQ regulations—not the new regulations that Secretary Babbitt promulgated—in the CEQ regulations, it is made very clear that based on regulation 1501.4, based on the environment assessment, the agency will make its determination on whether to prepare an environmental impact statement.

My understanding is that the BLM did comply with that. In most cases they determine that they should do an environmental assessment before renewing leases. We are trying to address that in our substitute, as I have explained here, and I think everybody concedes we are saying that NEPA should not apply when you are just renewing a lease, when you are just renewing a permit, unless there is some evidence that there is a change in the management or some evidence that there is danger to the land involved or to the environment. That is the first point on NEPA.

On the opportunity to protest, under our bill, under this proposed substitute we are offering, the department will determine whether or not a particular group or person is an affected interest. Not everybody who writes in or contacts the department is necessarily an affected interest. If a third-grade class in Hartford, CT, wants to write and they say they are an affected interest on the land in a ranch in New Mexico, it is very doubtful that any Secretary would determine that they were an affected interest under the language of our substitute. We have made it clear that the Secretary is given discretion as to look at whether or not a group is, in fact, affected.

If they are affected, we provide they have an opportunity to protest. Now, the CRS report, which I know some are critical of, let me state I think they make a very good point here. They say a protest is similar to a predecisional appeal that gives the public an opportunity to object to a proposal, gives the agency an opportunity to change or modify its course before committing itself to a final course of action.

That is all we are saying. We are not saying that someone should have legal rights as such, except to state their position and do so at a stage in the process before a final decision is made. That is not permitted under the underlying bill. It is permitted in our substitute. I think, clearly, it should be permitted.

Again, it should be permitted for those who are determined to be affected interests—not for the so-called interested public, which is what the current Department of Interior regulations refer to. We have corrected that. We agree that is an overly broad category, the interested public. So we have said in the case of an affected interest, if you are determined to be an affected interest you should have a right to protest before they finalize the decision.

The other area I wanted to particularly point out, I know my colleague had said that someone could raise an objection to our bill on the grounds that we did not specify that hunting and grazing are, in fact, permitted. Well, we did not. I point out that the reason we did not is that in our bill we made it very clear that our legislation is not an amendment to all of the different statutes that are being amended in the underlying legislation. The underlying legislation, by its very language, section 102, page 5, says,

> The Act applies to the Taylor Grazing Act, Federal Land Policy Management Act, Public Range Improvement Act, Organic Administration Act of 1897, the Multiple Use Sustained Yield Act of 1960, the Forest and Rangeland Renewable Resource Planning Act, the National Forest Management Act.

Since they are saying that all of those acts are modified or changed to the extent necessary by this, they then have to come back later in that same section 102, and say nothing in this title shall limit or preclude the Federal language from being used for hunting, fishing, recreation, watershed management, et cetera.

We did not have that same proviso in there because we are not affecting those acts. Nothing in our bill affects those earlier acts. We are proposing very limited statutes which have the effect of correcting regulatory provisions that we had concerns about. That is a basic reason why we did not repeat that same provision that the Senator from New Mexico has in his earlier bill.

I gather he wants to speak in response to that.

Mr. DOMENICI. I just wanted to say, Senator, and ask you if you would turn to the section called Applications of the Act on page 5. It says, "This act applies to," and then it says, "(1) the management of grazing on Federal land by the Secretary of Interior under * * *." So it is the management of grazing as affected by these acts.

All I said about your failure to include the provision was that somebody, if they wanted to treat your bill like they have treated my bill, would say, why does it not have in that language that says it in no way would affect, and all I said was somebody might write—since that is not there, maybe it affects them in some adverse way.

I do not believe with that language which says "grazing on Federal land," that we are changing these acts. It is the management of grazing on Federal land.

Mr. BINGAMAN. Mr. President, let me respond that there are a great many groups and individuals around the country very concerned about preserving hunting and fishing rights. To my knowledge, none of them have raised concerns about whether our legislation impinges upon those or our proposed substitute impinges upon those rights, or fails to adequately protect those rights. I think those concerns have been raised about the underlying bill. Senate bill 1459, not about our substitute. So I think this is a problem which is not real, in my view.

Mr. President, I will conclude my comments by just going back to the basic point that I think needs to be understood by our colleagues. In putting together our substitute, which we are getting ready to vote on, we sent a letter to my colleague, Senator DOMENICI, in September of last year. It was signed by myself, Senators DORGAN, DASCHLE, BRYAN, and REID, all five of us, who have spoken here on this issue. We sent a letter saying that, in our view, the only way we should go forward and develop legislation that would do what needs to be done here is to identify the problems that exist in the new grazing regulations and then legislate corrections to those, legislate solutions to those, correct the specific problems that have been pointed out. Do not go beyond that and create new problems.

I believe that we have done that in the substitute. We have tried to strike a balance between those who graze the land, the authority of those who graze the land, and the authority of those who want to use the land for other purposes. I believe that balance is very important to maintain. I fear that the underlying bill gives us an imbalance, which we will be back here trying to correct in future years, if the underlying bill were to become law. With that, I believe we have concluded debate on this.

I yield the floor.

Mr. DOMENICI. Mr. President, before I move to table the Bingaman amendment, I want to say to Senator BINGAMAN, and other Senators who have worked with him on that side of the aisle, obviously, even with reference to the Domenici amendment, your work has not been in vain because we changed it rather dramatically in response to various meetings we held with Senator BINGAMAN, and the other Senators he mentioned. A number of changes have been made since he suggested them, and the major one was made because of a suggestion Senator BINGAMAN made—that we not provide by statute to wipe out all of the regulations and say these are the regulations. We left many of the old regulations in place, which he recommended we do. I thought that was a major change. That it reduced the bill by two-thirds in length, if nothing else, should be good. Many of us think we ought to have fewer words rather than more. In many areas we have complimented their efforts.

We believe that the Domenici amendment will create the balance, and that it will create more of a certainty for the ranching community to continue to exist. At the same time, it will protect all the other interests.

With that, Mr. President, I move to table the Bingaman amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. BURNS). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New Hampshire [Mr. GREGG] is necessarily absent.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] and the Senator from New Jersey [Mr. BRADLEY] are necessarily absent.

The result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 49 Leg.]

YEAS—57

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Inouye
Jeffords
Kassebaum
Kempthorne
Kohl
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wyden

NAYS—40

Akaka
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

NOT VOTING—3

Bradley
Gregg
Kerrey

So the motion to lay on the table the amendment (No. 3559) was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. As I understand it, there is a request for the yeas and nays on final passage.

Mr. PRESSLER. Mr. President, I still have an amendment.

Mr. DOMENICI addressed the Chair.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. As I understand it, the Senator from South Dakota has an amendment.

Mr. DOMENICI. We are going to fix that right now and then vote on it.

Mr. DOLE. There has also been a request for final passage on the Taiwan resolution which has been agreed to. That can be the second vote, and then everybody can vote and leave.

UNANIMOUS-CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 165

Mr. DOLE. Mr. President, I also ask unanimous consent at this time that when the Senate receives from the House House Joint Resolution 165, the continuing resolution, it be deemed considered read three times, passed, and the motion to reconsider be laid upon the table, all without any intervening action or debate.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

The Chair hears none, and it is so ordered.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Is there a sufficient second on the yeas and nays on final passage of S. 1459, the grazing bill?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. And on Taiwan.

The PRESIDING OFFICER. And on Taiwan? Without objection, it is so ordered.

The yeas and nays were ordered.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DOMENICI. Could we have a bit of order.

The PRESIDING OFFICER. May we have order, please. All conversations should be removed to the cloakrooms.

AMENDMENT NO. 3560 TO AMENDMENT NO. 3555

(Purpose: Amendment To make clear the intent of title II to preserve sporting activities on the National Grasslands)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 3560 to amendment No. 3555.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 202(a)(3), after "preserving" insert "sporting,".

In section 202(b), strike "hunting, fishing, and recreational activities" and insert "sportsmen's hunting and fishing and other recreational activities".

In section 205(f), strike "HUNTING, FISHING, AND RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding hunting or fishing activities" and insert "SPORTSMEN'S HUNTING AND FISHING AND OTHER RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding sportsmen's hunting or fishing activities".

Mr. PRESSLER. Mr. President, my amendment is designed to address a concern expressed by sportsmen in South Dakota. South Dakota is probably the best hunting and fishing State in the Nation. I know there may be others who may disagree, but I will gladly promote South Dakota as a sportsman's haven.

Mr. WELLSTONE. I object.

Mr. DOMENICI. Could we have order, Mr. President.

The PRESIDING OFFICER. Could we have order. And the Chair will withhold comment.

Mr. PRESSLER. Mr. President, this amendment reinforces Federal policy to protect the interests of sportsmen who hunt and fish and use our public rangelands for sport. My amendment would preserve the rights of hunters, fishermen and recreationalists to use Federal lands.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. PRESSLER. I will yield.

Mr. FORD. The longer the Senator talks, the less chance this amendment has of passing.

Mr. DOMENICI. I thank the Senator.

Mr. PRESSLER. Mr. President, I hope this amendment can be accepted and made a part of the bill.

Mr. DOMENICI addressed the Chair.

Mr. President, I wonder if the Senator would agree for a moment to set his amendment aside.

Mr. PRESSLER. I will.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATIONS TO AMENDMENT NO. 3555

Mr. DOMENICI. I send to the desk a Pressler amendment and two other technical amendments in behalf of Senator CAMPBELL and Senator DORGAN and one in behalf of Senator BURNS. They have been approved by Senator BINGAMAN in behalf of the minority. I send them to the desk and ask that my amendment be modified to include those amendments.

The PRESIDING OFFICER. Without objection, the underlying amendment is so modified.

The modifications are as follows:

In section 202(a)(3), after "preserving" insert "sporting,".

In section 202(b), strike "hunting, fishing, and recreational activities" and insert "sportmen's hunting and fishing and other recreational activities".

In section 205(f), strike "HUNTING, FISHING, AND RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding hunting or fishing activities" and insert "SPORTSMEN'S HUNTING AND FISHING AND OTHER RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding sportsmen's hunting or fishing activities".

On page 7, line 7, strike paragraph (7) in its entirely and insert a new paragraph (7) as follows:

"(7) maintain and improve the condition of Federal land for multiple-use purposes, including but not limited to wildlife and habitat, consistent with land use plans and other objectives of this section. "

On page 9, line 10, after "Service" insert' "in the 16 contiguous Western States".

On page 21, line 17, strike "and" and insert in lieu thereof "or".

On page 21, line 21, strike "A grazing permit or lease shall reflect such ", and insert in lieu thereof "The authorized officer shall ensure that a grazing permit or lease will be consistent with appropriate".

On page 18, line 23, strike "or" and insert in lieu thereof "and".

On page 6, strike the present text in lines 9–13 and insert in lieu thereof the following: "Nothing in this title shall affect grazing in any unit of the National Park System, National Wildlife Refuge System or on any lands that are not federal lands as defined in this title."

On page 13, line 22: add the following subsection:

"(4) State Grazing Districts established under state law."

On page 29, line 20: add the following subsection:

"(i) STATE GRAZING DISTRICTS.—Resource Advisory Councils shall coordinate and cooperate with State Grazing Districts established pursuant to state law."

On page 31, line 13: add the following subsection:

"(f) STATE GRAZING DISTRICTS.—Grazing Advisory Councils shall coordinate and cooperate with State Grazing Districts established pursuant to state law."

AMENDMENT NO. 3560 WITHDRAWN

Mr. PRESSLER. Mr. President, I withdraw my amendment.

Mr. DOMENICI. Senator PRESSLER has withdrawn his amendment.

Mr. President, I believe we are ready for final passage. Is that correct?

AMENDMENT NO. 3555, AS MODIFIED

The PRESIDING OFFICER. If there is no objection, the substitute amendment is agreed to.

The amendment (No. 3555), as modified, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

UNANIMOUS-CONSENT AGREEMENT—HOUSE CONCURRENT RESOLUTION 149

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, on behalf of the leader, who did not read the unanimous-consent request, I ask unanimous consent that following the vote on passage of S. 1459, the grazing bill, the Senate proceed immediately to the consideration of House Concurrent Resolution 149 regarding Taiwan, with Senator Thomas to be recognized to offer an amendment, the amendment be considered agreed to, and the Senate immediately vote on adoption of House Concurrent Resolution 149, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Chair.

VOTE

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New Hampshire [Mr. GREGG] is necessarily absent.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] and the Senator from New Jersey [Mr. BRADLEY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 50 Leg.]

YEAS—51

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Burns
Campbell
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Pressler
Santorum
Shelby
Simpson
Smith
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Chafee
Cohen
Daschle
DeWine
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Simon
Snowe
Wellstone
Wyden

NOT VOTING—3

Bradley
Gregg
Kerrey

So the bill (S. 1459), as amended, was passed.

The text of the bill will be printed in a future edition of the RECORD.

Mr. DOMENICI. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I wish to acknowledge the following staff for their important contribution to the passage of S. 1459, and I ask unanimous consent that their names be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD; as follows:

Charles Gentry and Gary Ziehe of Senator DOMENICI's staff.

Energy Committee Majority Staff: Gary Ellsworth, Jim Bierne, Mike Poling, and Jo Meuse.

The personal staff of the following members:

Dan Naatz—Senator THOMAS.
Ric Molen—Senator BURNS.
Nils Johnson—Senator CRAIG.
Rhea Suh—Senator CAMPBELL.
Kevin Cook and Greg Smith—Senator KYL.

Energy Committee Minority Staff: David Brooks and Tom Williams.

The personal staff of the following members:

Damon Martinez—Senator BINGAMAN.
Eric Washburn—Senator DASCHLE.
Mike Eggl and Doug Norrell—Senator DORGAN.
Bret Heberle—Senator BRYAN.
Bob Barbour and Peter Arapis—Senator REID.
Bryan Cavey and Kurt Rich—Senator BAUCUS.
Kevin Price—Senator CONRAD.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

DOMESTIC VIOLENCE HOTLINE

Mr. WELLSTONE. Mr. President, if I could just say this. I announced last week that as a part of the Violence Against Women Act we now have a national domestic violence hotline. Senator BIDEN, of course, did so much work on this, as did many others. Every day I come out and show this. It is 1–800–799–SAFE; and the TTD number for the hearing-impaired is 1–800–787–3224.

Mr. President, I spoke about this issue last week. But every day I want to announce this number for women and children and those who need to make this call. I thank the Chair.

EXPRESSING THE SENSE OF THE CONGRESS THAT THE UNITED STATES IS COMMITTED TO MILITARY STABILITY IN TAIWAN STRAIT

The PRESIDING OFFICER. The clerk will report the concurrent resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 148) expressing the sense of the Congress that the United States is committed to military stability in Taiwan Strait and the United States should assist in defending the Republic of China (also known as Taiwan) in the event of invasion, missile attack, or blockade by the People's Republic of China.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

AMENDMENT NO. 3562

(Purpose: To amend the resolution)

Mr. THOMAS. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. THOMAS] for himself, Mr. HELMS, Mr. DOLE, Mr. MURKOWSKI, Mr. PELL, Mr. SIMON, Mr. MACK, Mr. GRAMS, Mr. PRESSLER, Mr. BROWN, Mr. LUGAR, Mr. D'AMATO, Mr. WARNER, Mr. FORD, Mr. LIEBERMAN, Mr. ROTH, Mr. NICKLES, Mr. HATCH, Mr. GORTON, Mr. CRAIG, Mr. SANTORUM, Mr. DORGAN, Mr. ROBB, Mr. ROCKEFELLER, Mr. BRYAN, and Ms. MOSELEY-BRAUN proposes an amendment numbered 3562.

Mr. THOMAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The amendment is as follows:

Strike out all after the resolving clause and insert in lieu thereof the following:

"That it is the sense of the Congress—

"(1) to deplore the missile tests and military exercises that the People's Republic of China is conducting from March 8 through March 25, 1996, and view such tests and exercises as potentially serious threats to the peace, security, and stability of Taiwan and not in the spirit of the three United States-China Joint Communiqués;

"(2) to urge the Government of the People's Republic of China to cease its bellicose actions directed at Taiwan and enter instead into meaningful dialogue with the Government of Taiwan at the highest levels, such as through the Straits Exchange Foundation in Taiwan and the Association for Relations Across the Taiwan Strait in Beijing, with an eye towards decreasing tensions and resolving the issue of the future of Taiwan;

"(3) that the President should, consistent with section 3(c) of the Taiwan Relations Act of 1979 (22 U.S.C. 3302(c)), immediately consult with Congress on an appropriate United States response to the tests and exercises should the tests or exercises pose an actual threat to the peace, security, and stability of Taiwan;

"(4) that the President should, consistent with the Taiwan Relations Act of 1979 (22 U.S.C. 3301 et seq.), reexamine the nature and quantity of defense articles and services that may be necessary to enable Taiwan to maintain a sufficient self-defense capability in light of the heightened military threat; and

"(5) that the Government of Taiwan should remain committed to the peaceful resolution of its future relations with the People's Republic of China by mutual decision."

Amend the preamble to read as follows:

"Whereas the People's Republic of China, in a clear attempt to intimidate the people and Government of Taiwan, has over the past 9 months conducted a series of military exercises, including missile tests, within alarmingly close proximity to Taiwan;

"Whereas from March 8 through March 15, 1996, the People's Republic of China conducted a series of missile tests within 25 to 35 miles of the 2 principal northern and southern ports of Taiwan, Kaohsiung and Keelung;

"Whereas on March 12, 1996, the People's Republic of China began an 8-day, live-ammunition, joint sea-and-air military exercise in a 2,390 square mile area in the southern Taiwan Strait;

"Whereas on March 18, 1996, the People's Republic of China began a 7-day, live-ammunition, joint sea-and-air military exercise between Taiwan's islands of Matsu and Wuchu

"Whereas these tests and exercises are a clear escalation of the attempts by the People's Republic of China to intimidate Taiwan and influence the outcome of the upcoming democratic presidential election in Taiwan;

"Whereas through the administrations of Presidents Nixon, Ford, Carter, Reagan, and Bush, the United States has adhered to a "One China" policy and, during the administration of President Clinton, the United States continues to adhere to the "One China" policy based on the Shanghai Communiqué of February 27, 1972, the Joint Communiqué on the Establishment of Diplomatic Relations Between the United States of America and the People's Republic of China of January 1, 1979, and the United States-China Joint Communiqué of August 17, 1982;

"Whereas through the administrations of Presidents Carter, Reagan, and Bush, the United States has adhered to the provisions of the Taiwan Relations Act of 1979 (22 U.S.C. 3301 et seq.) as the basis of continuing commercial cultural, and other relations between the people of the United States and the people of Taiwan and, during the administration of President Clinton, the United States continues to adhere to the provisions of the Taiwan Relations Act of 1979;

"Whereas relations between the United States and the People's Republic of China rest upon the expectation that the future of Taiwan will be settled solely by peaceful means;

"Whereas the strong interest of the United States in the peaceful settlement of the Taiwan question is one of the central premises of the three United States-China Joint Communiqués and was codified in the Taiwan Relations Act of 1979;

"Whereas the Taiwan Relations Act of 1979 states that peace and stability in the Western Pacific "are in the political, security, and economic interests of the United States, and are matters of international concern";

"Whereas the Taiwan Relations Act of 1979 states that the United States considers "any effort to determine the future of Taiwan by other than peaceful means, including by boycotts, or embargoes, a threat to the peace and security of the western Pacific area and of grave concern to the United States";

"Whereas the Taiwan Relations Act of 1979 directs the President to "inform Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom";

"Whereas the Taiwan Relations Act of 1979 further directs that "the President and the Congress shall determine, in accordance with constitutional process, appropriate action by the United States in response to any such danger";

"Whereas the United States, the People's Republic of China, and the Government of Taiwan have each previously expressed their commitment to the resolution of the Taiwan question through peaceful means; and

"Whereas these missile tests and military exercises, and the accompanying statements made by the Government of the People's Republic of China, call into serious question the commitment of China to the peaceful resolution of the Taiwan question: Now, therefore, be it."

Amend the title so as to read: "Expressing the sense of Congress regarding missile tests and military exercises by the People's Republic of China.".

Mr. THOMAS. Mr. President, under the order I believe we are to vote. I ask unanimous consent for 2 minutes—1 minute for the Senator from Alaska, 1 minute for the Senator from Louisiana.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I am pleased the Senate will vote on this timely issue regarding the current situation in the Taiwan Strait. I am referring, of course, to the military action by the People's Liberation Army to intimidate the people of Taiwan on the eve of the first Democratic, direct election of their President.

The executive branch has criticized, correctly, the military exercises. The administration has backed up its words by sending a naval presence to monitor the exercises in the Taiwan Strait. The House has passed its own resolution. It is time for the U.S. Senate to also go on record deploring the military threat of the People's Republic of China, and recommitting the United States to the terms and conditions of the Taiwan Relations Act.

Senator THOMAS, the majority leader, Senator HELMS, and I, along with our staffs, have been in close consultation with the administration and with our colleagues on the other side of the aisle to address their concerns, and am pleased that we have crafted a compromise that will have broad bipartisan support. I think it is important for the leaders of the People's Republic of China to understand that America is united in maintaining the historical commitments we have made to Taiwan.

The Taiwan Relations Act clearly states that peace and stability in the Western Pacific are in the political, security, and economic interests of the United States, and makes clear that U.S. policy is to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic interests of the United States.

The amendment we have offered makes five important points. First, the amendment directs the President to consult with the Congress, as required by the Taiwan Relations Act, when it is determined that there is a threat to the security or the social or economic system of the people of Taiwan.

I do not believe this threshold has been met, both because the People's Republic of China ended the missile tests as scheduled on March 15 and one of its naval exercises on March 20 and because the People's Republic of China has indicated that it does not plan to attack Taiwan. We will have to wait and see if their actions match their words.

Second, the amendment directs the President and Congress, as required by the Taiwan Relations Act, to reexamine the nature and quantity of defense articles and services that may be necessary to enable Taiwan to maintain a sufficient self-defense capability in light of the heightened threat. The purpose of this commitment, of course, is to deter China from considering any type of attack.

I am pleased that United States officials and officials from the Republic of China met this week to discuss additional sales of necessary defensive weapons. I hope the approved list is sufficient to maintain their self-defensive capability. I wonder, for example, whether the Patriot system that is scheduled for delivery in late 1997 is timely or adequate given the recent missile tests?

Third, the amendment deplores the missile tests and other military exercises that have the potential to disrupt air and shipping routes. The missile tests resulted in four unarmed warheads falling in waters near Taiwan's northern and southern ports. The naval exercises using live ammunition encroach upon international shipping lanes. These actions call into question the commitment of the People's Republic of China to the peaceful resolution of the future of Taiwan.

Fourth, the amendment calls on the People's Republic of China to cease its threats, and instead enter into a constructive dialog with the Government of the Republic of China on Taiwan, perhaps through their informal organizations, the Straits Exchange Foundation in Taiwan and the Association for Relations Across the Taiwan Straits in Beijing. In the past, these two organizations have dealt with many other issues between the two countries, from fishing to highjackers, and have helped fuel the enormous investment in mainland China by Taiwanese investors, estimated at some $20 billion.

Finally, the amendment notes that the Government of the Republic of China should remain committed to the peaceful resolution of its future relations with the People's Republic of China by mutual decision, consistent with government policy.

Mr. President. I do not believe that China is on the verge of attacking Taiwan. I also do not believe that China's scare tactics will have their intended affect on Taiwan. When the roar of the military tests have subsided, and the last vote is counted in Taiwan, I hope the two sides will pursue a course of constructive dialog. Until the time, the United States must maintain its vigilance and monitor events in the Taiwan Strait.

Before I conclude, Mr. President, I want to comment on one issue that is related to the debate surrounding this resolution, an that is Congress' role in the visit of President Lee Teng-hui to his alma mater. There are some who have blamed that visit, and Congress' role in bringing about that visit, for the current crisis. Mr. President, that is simply not the case. I would refer my friends to a recent op-ed in the New York Times by Christopher Sigur that points out that it was not that visit, but the prospect of democracy in Taiwan, that has so upset the leaders in Beijing.

As Mr. Sigur notes, until recently, both China and Taiwan had implicitly recognized the island's de facto independence and dealt with it peacefully. They negotiated Taiwan's participation in numerous international institutions, from the Asian Development Bank and the Asia Pacific Economic Cooperation forum to the Olympics by sidestepping the independence question.

But as Taiwan moved closer to a full fledged democracy with the December parliamentary elections and the March Presidential elections, Beijing's leaders saw the island moving toward a less predictable future, because, of course, in a democracy, there will be many different voices that the leadership must accommodate.

All of this came at a time when Beijing is preparing to take over Hong Kong and thus test Chairman Deng's "One Country, Two Systems" proposition. In addition, the leadership in Beijing is still in transition as Chairman Deng fades from the scene.

Finally, Mr. President, I would argue that our own administration contributed to hardening the People's Republic of China's reaction to a private visit by Lee Teng-hui by not issuing the visa initially and assuring Beijing that this private visit did not constitute a departure from the "One China" policy. Instead, Secretary of State Christopher told President Jiang Zemin that such a visit would not occur, and therefore caused the President to lose face when the decision was reversed.

The United States was right to allow President Lee to return to his alma mater. The United States is right to continue to sell defensive weapons to Taiwan. And the United States is right to go on record deploring the recent missile tests and military exercises. Although these actions are condemned by the People's Republic of China they are consistent with United States policy under the four joint communiques with the Peoples Republic of China and the Taiwan Relations Act, the law of the land.

Mr. President, China must understand that missile diplomacy does not work. This amendment sends that message, and I ask my colleagues for their support.

Mr. President, I ask unanimous consent that the New York Times article, as well as a recent op-ed I authored in the Wall Street Journal entitled "What We Owe Taiwan" be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WHY TAIWAN SCARES CHINA

(By Christopher J. Sigur)

In the debate over China's military exercises in the Taiwan Strait, few have discussed a fundamental reason for its actions: Taiwan's emerging democracy. China's main concern is not any movement toward independence but rather the effects of Taiwanese democracy on the island's foreign policy.

Until recently, both China and Taiwan had implicitly recognized the island's de facto independence and dealt with it peacefully. They negotiated Taiwan's participation in numerous international institutions, from the International Monetary Fund to the Olympics, by sidestepping the independence question. China tolerated Taiwan's efforts to open embassies abroad. But the military exercises in the strait show that this implicit understanding is in tatters.

What has changed? With its first-ever direct presidential elections on Saturday, Taiwan will become a full-fledged democracy.

President Lee Teng-hui's controversial visit to Cornell University last summer was a symptom of Taiwanese democracy. To stay in power in a democracy, of course, one must respond to the opposition's views. The opposition in Taiwan does not want reunification with the mainland and has increasingly demanded international recognition of the island. Hence, President Lee's campaign to rejoin the United Nations, his trips to Asia, Latin America and Europe (which have been termed "vacation diplomacy") and the push to have Congress grant him a United States visa.

It is naive to think that if only Mr. Lee had chosen not to go to Cornell, if only he had not offered the United Nations a $1 billion gift in an apparent attempt to gain a seat, China would not be acting so belligerently.

Beijing's leaders recognize that Mr. Lee's actions are prodded by democracy and it horrifies them. China's state newspapers often refer to Taiwan's "demands for independence in the guise of democratization," clearly linking one with the other.

What the People's Republic sees across the strait is a China whose people are ready to choose their own leaders, with all the demands that makes on a political system: regularly scheduled elections, a free press and political parties that must take their opponents' ideas seriously, because you never know who will be in power tomorrow. Beijing is not prepared to accept this model in Taiwan or on the mainland.

Thus, even if Mr. Lee renounced Taiwan's United Nations bid, canceled all his overseas trips and closed his country's few embassies, both he and Beijing would recognize that the moves are meaningless. Democracy institutionalizes uncertainty, and neither Beijing nor Taiwan could predict how the voters would react. China may not have liked seeing Taiwan under the firm grip of the Nationalists for the last four decades, but at least they were predictable.

The United States must recognize that it has a fundamental interest in promoting Chinese democracy, and in protecting its sole example in Taiwan. Thus, we must warn China in no uncertain terms that we will not sit idly by if Taiwanese democracy is threatened, encouraged our allies to make similar declarations and continue to back up our words with a show of American naval power.

Democracy's uncertainties will only increase the threats to the security and economic stability of the entire region. The United States is vital to any long-term solution. The Chinese on both sides of the strait are unlikely to reach a solution unless Washington keeps them talking.

WHAT WE OWE TAIWAN

(By Frank Murkowski)

President Nixon must be spinning in his grave.

When he first opened relations with Beijing some 20 years ago, Nixon believed that Asia could not progress if China remained isolated. His actions promised to help that country enter into a new and constructive relationship with the rest of the modern world. But Beijing's recent self-defeating actions can only turn back the pages of history and cripple China's economic progress.

Beijing's decision to start missile tests near Taiwan—and it is to be hoped nothing worse—effectively imposes a miniblockade of Taiwan's two major ports prior to Taiwan's first free presidential elections on March 23. The tests, while probably intended to affect the election, have ramifications beyond the Taiwan Strait.

For that reason, Sen. Craig Thomas (R., Wyo.) and I have introduced in the Senate a resolution recommitting us to the Taiwan Relations Act of 1979, which clearly states that America believes that peace and stability in the area are in the "political, security and economic interests of the United States."

The Taiwan Relations Act, which is the law of the land, commits the U.S. to "resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people of Taiwan."

We must remind Beijing that the decision of the U.S. to establish diplomatic relations with China was "based upon the expectation that the future of Taiwan will be determined by peaceful means."

Some China-watchers are inclined to rationalize Beijing's behavior. Apologists have blamed China's belligerence on the firm stands taken by Congress. But today it is clear that China, not Congress, is to blame for the current state of U.S.-China relations. Time and again, before and after the 1989 Tiananmen Square attack on student protesters, China's rulers have shown themselves to be almost oblivious to the fact that a larger world—one that is sensitive to human rights concerns, capable of helping improve China's quality of life, and with a firm belief in religious and political freedom—exists beyond the borders of the People's Republic of China.

President Jiang Zemin and his lieutenants must understand that this is why the U.S. finds China's missile diplomacy unacceptable. We support the peaceful settlement of differences between China and Taiwan, and cannot idly watch a peaceful, democratically be threatened—and certainly not attacked militarily.

We must, furthermore, continue selling Taiwan defense weapons to help counter any thoughts China might have of using military force against the island. Along with these weapons, we must let the leaders in Beijing know that threats are useless as tools of foreign policy and are the rusted relics of diplomacy from a bygone and dangerous era.

China's leaders must know that economic gains will evaporate if continued military threats (or worse) create havoc in East Asia. Beijing's officials must understand they cannot conduct business as usual with the world if missiles start falling. They also need to know that fear of war is every bit as chilling to investment as the real thing.

Congress should congratulate the people of Taiwan for their continued steps toward democracy. Congress should also state its support for the people of Taiwan to become involved in international organizations. Taiwan has emerged as a force for democracy and stability in Asia, and its people should be represented. The U.S. must continue at the same time to encourage a true dialogue between Beijing and Taipei that will lead to understanding and conciliation, rather than threats and confrontation.

With this latest round of threats against Taiwan—and the U.S.—it is time to step back and gather forces to support reason and dialogue, rather than the rumblings of hostility and war.

President Nixon was correct in seeing the vast potential importance of China as a world economic power. But more than 20 years later, the world still waits for Beijing to abandon its totalitarian ways and to behave consistently as a civilized nation.

Mr. MURKOWSKI. I thank the Chair and commend the Senator from Wyoming for his effort in this regard.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, when the matter originally came up, I strongly opposed the resolution because it seemed to be a shift of ground away from the Shanghai Communique which has been the basis for almost a quarter of a century of our relationship to China.

Mr. President, we are deeply grateful, Senator NUNN, Senator FEINSTEIN, and I, and others, who had serious objection to the resolution in its original form.

With Senator THOMAS, Senator MURKOWSKI, and others, we are now working this out in a balanced way that makes clear that this Nation continues to adhere to the one-China policy, as enunciated in the Shanghai Communique and the communiques since that time under five American presidents. I believe it is not a perfect resolution, but it is a balanced resolution. On that basis, I can vote for it. I thank the Chair.

The PRESIDING OFFICER. The question in on agreeing to the amendment.

The amendment (No. 3562) was agreed to.

Mr. NUNN. Mr. President, the current tension in the Taiwan Strait creates a very dangerous situation. While

I do not believe that China intends to invade Taiwan, there is always the risk that accident or miscalculation could lead to conflict. China's actions have been precipitated by its perception that Taiwan is unilaterally seeking independence. While I regret that it is necessary, I applaud the decision by President Clinton to send two carrier battle groups to the region.

I would have preferred that no legislation or concurrent resolutions be passed by Congress in the current tense situation but I am opposed to the resolution passed by the other body and believe that it is necessary for the Senate to go on record on this important matter.

Mr. President, the concurrent resolution we are considering this afternoon is reasoned and responsible and is designed to make a constructive contribution to the situation. It is important because it recognizes that the one China policy that is based upon the three United States-China joint communiques has been and is being adhered to by the United States. It is important because it deplores the People's Republic of China's recent military actions and urges China to cease its action and to enter into a meaningful dialogue with Taiwan. It is important because it reminds everyone of the provisions of the Taiwan's Relations Act. And finally it is important because it states that the Government of Taiwan should remain committed to the peaceful resolution of its future relations with China by mutual decision.

Mr. President, as I noted in my floor speech on United States-China relations last month, the framework of the three communiques and the Taiwan Relations Act has served both sides of the Taiwan Strait as well as the United States well for almost 16 years. That framework made possible the relaxation of tensions in the Strait; has encouraged Taiwan to abolish martial law and become a prosperous democracy; made available to the Chinese on the mainland that talent and capital of the people on Taiwan; it played a major role in China's drive for modernization; and it produced a sense of security for China, for Taiwan, and the region. The thrust of this concurrent resolution is to remind both sides of the Taiwan Strait of these facts and to encourage them to maintain that framework—both its letter and its spirit.

Mr. President, I would like to repeat what I said at the end of last month's floor speech because it continues to sum up my thinking on this subject and is, I believe, totally consistent with this concurrent resolution.

> Americans feel close to the people of Taiwan and are proud of their accomplishments. The people of Taiwan have made enormous strides economically and politically. They are an example to much of the developing world.
>
> It is important for the United States, as a friend, to be clear with the Taiwanese that they must not misjudge China on the question of Taiwan independence.
>
> It is important that the people of Taiwan understand that a unilateral declaration of Taiwan's independence would be inconsistent with United States foreign policy as set forth and followed by President Nixon, President Ford, President Carter, President Reagan, President Bush, and President Clinton.
>
> It is also important for the Chinese to understand that the United States values its friendship and relationship with the people on Taiwan. It is crucial that the Chinese understand that if China uses force to resolve the Taiwan issue, the United States will not stand idly by but will surely respond.
>
> For our part, the U.S. should make it very clear that we will oppose either side's attempt to change the status quo either by the use of force by Beijing or by unilateral declaration of independence by Taiwan. The United States position should be clear that we are prepared to live with any outcome negotiated in good faith between China and Taiwan. The future of Taiwan must be settled by mutual agreement between the parties, not by the unilateral actions of either. For that to happen, Taipei must stop its political provocations and Beijing must stop its military provocations.
>
> The people of China and the people of Taiwan should resume a high-level dialogue to foster clear understandings and increased cooperation. Enormous progress has been made in economic cooperation and people-to-people contacts and visits on both sides of the Strait. While economic development and people-to-people cooperation are emphasized, political questions are complicated and emotional and their resolution will require a long-term effort. This will involve a trait for which the Chinese people are famous—patience.

Mr. President, I support this concurrent resolution.

Mr. KEMPTHORNE. Mr. President, I strongly support the resolution currently before the Senate reiterating this Nation's support for the people of Taiwan. I rise to speak about the recent escalation in military operations by the People's Republic of China—Mainland China—in the Taiwan Strait which is intended to intimidate the Republic of China—Taiwan. Mainland China announced on March 5, 1996, that it would test fire surface-to-surface missiles off the coast of Taiwan from March 8 through 15. China has made good on its threat and began missile firing and conducting amphibious live ammunition exercises on the southern tip of the Taiwan Strait on March 12. China plans to continue these exercises through March 24. The missile tests have forced the rerouting of commercial flights out of the Chiang kai-shek International Airport and have also impacted the shipping operations of the southern seaport of Kaohsioung. It has become painfully obvious that China's sole purpose in conducting these exercises is to attempt to demoralize the people and destabilize the government of Taiwan.

I am deeply concerned, as are other Members of Congress, with the rise in military activities in the Taiwan Strait meant to influence the first-ever Taiwanese presidential election on March 23, 1996. The importance of this election cannot be understated. It is the first election of president by popular vote in the 5,000-year history of China. The actions taken by mainland China have further hindered United States-China relations already convulsed by China's human rights violations, its failure to adequately deter the pirating of United States products in violation of copyright laws and suspected exportation and proliferation of nuclear equipment and technologies.

The primary reason for the renewed China-Taiwan tension is an ongoing power struggle within the Chinese government. The hardliners are using the Taiwan issue to exploit and capitalize on a vacuum in leadership caused by the continued failing health of Deng Xiaoping. These same hardliners will do whatever necessary to boost their own stock while simultaneously devaluing the stock of rivals.

The 1979 Taiwan Relations Act proclaims American support for the peaceful reunification of Taiwan and the mainland, and commits the United States to help Taiwan defend itself in case of Chinese aggression. The recent activity by the Clinton administration which includes the deployment of the carrier battle group U.S.S. *Independence* to the region to be joined later in the month by the U.S.S. *Nimitz* and its support ships, although a step in the right direction, does not clearly define our commitment to democracy in the region. The possibility of miscalculation leading to war cannot be ruled out as the Beijing government has refused to renounce the use of force against Taiwan.

With a population of more than 21 million people, Taiwan has much to contribute to the world. Its robust and vibrant economy ranks among the 20 largest in the world. Taiwan has one of the largest foreign exchange reserves of any nation with assets of approximately $100 billion. Taiwan has improved its record on human rights and routinely holds free and fair elections in a multiparty system. Taiwan has over the years demonstrated its continued support for humanitarian efforts through its contributions and response to international disasters, environmental destruction and famine relief operations. Additionally, Taiwan is a member of the Asian Development Bank and Asia-Pacific Economic Cooperation group.

In the face of psychological intimidation and outward aggression, the Taiwanese people stand firm in their commitment to full democracy. As stated by President Lee and Premier Lien, the Taiwanese presidential election will be held as scheduled. The Taipei government has repeatedly and adamantly expressed its pursuit of national reunification and strong opposition to Taiwan independence. Taiwan would like nothing more than to strengthen the cross-

Taiwan Strait relation and further the security and prosperity of the Asia-Pacific region.

It must be made clear and in very specific terms that China's actions endanger the peace and security in the region and therefore merit condemnation by all peace-loving countries of the world. I am sure I speak for a number of my colleagues when I urge the Administration to make a more definitive commitment to Taiwan's sovereignty. I ask that the President take every measure necessary to ensure that the pursuit of democracy and democratic practices are not fettered by Chinese intimidation and aggression.

Mr. GRAMS. Mr. President, I rise in strong support for the Senate amendment to H. Con. Res. 148, a resolution which expresses strong House opposition to the Chinese military exercises in the Taiwan Strait. The Senate amendment contains the language of S. Con. Res. 43, which I have cosponsored.

The Senate amendment, drafted by the chairman of the East Asia and Pacific Subcommittee of the Foreign Relations Committee, Mr. THOMAS, and cosponsored by Senators DOLE, HELMS, MURKOWSKI, myself and others, is similar to the House resolution yet sends an equally strong message to China that the United States views the missile tests as a threat to Taiwan, contrary to the spirit of the Taiwan Relations Act as well as the three United States-China Joint Communiques.

Mr. President, we are all painfully aware of the sensitivity portrayed by China to any effort by Taiwan to cultivate relationships with other nations. These actions have been wrongfully perceived to be efforts to pursue independence. The Taiwanese Government denies the allegations.

I am disappointed that China has gone to this extreme to counter what it believes is a growing interest in independence among the Taiwanese people. Even though the Democratic Progressive Party, which supports independence, has picked up a few seats in the Taiwan Parliament, it appears to be far from a threat in the presidential election of March 23. The major party, the National Party, has supported future unification.

While the administration has recently sent elements of the United States 7th Fleet to provide support for Taiwan, these Chinese exercises have been conducted for over 8 months. There has been a very weak response by the administration until this time. I feel compelled to ask the question of why these exercises occurred in the first place. Why have we let our relationship with China deteriorate to the point where military exercises that threaten Taiwan, where sales of nuclear materials continue, and where many other disputes and differences have worsened with China.

It should be an important United States foreign policy objective to set our relationship with China back on track. The administration must place this as a very high priority before the situation worsens. Constant, high-level communication with Chinese leaders may have enabled us to avoid these harmful disputes.

We must work toward ensuring that, after the March 23 election, both China and Taiwan begin a high-level dialog to decrease tensions and to resolve the issue of the future of Taiwan. This must be done in a peaceful manner, consistent with the Taiwan Relations Act and the Three Communiques.

The harm done by the military exercises will not make this an easy task.

I urge support for the Senate amendment to the House resolution.

Mr. SANTORUM. Mr. President, the People's Republic of China has conducted a series of missile tests in the last few weeks in a clear attempt to intimidate the people of Taiwan as they prepare for the first direct democratic election of President. These military exercises are not in the spirit of the three United States China Joint Communiques and serve as a threat to the peace, security, and stability of Taiwan.

I join my other colleagues who have cosponsored H. Con. Res. 148 in condemning the recent actions of the Chinese Government. This action severely tests the assumption that was set when we normalized relations with the People's Republic of China in 1979. We did so on the expectation that the future of Taiwan would be settled solely by peaceful means. We codified this commitment and understanding in the Taiwan Relations Act. In this legislation, we state clearly that America believes that peace and stability in the area are in the political, security and economy interests of the United States. This Act also commits the United States to reset any resort to force or other coercion that would jeopardize the security of Taiwan's people.

I urge the Chinese Government to honor the intent of the Joint Communiques and the Taiwan Relations Act by seeking a peaceful solution to this situation through dialog with Taiwan, and by ceasing their military actions.

Mr. DASCHLE. Mr. President, I am pleased to cosponsor the amendment to the resolution, H. Con. Res. 168, condemning the missile tests and military exercises being conducted by the People's Republic of China near Taiwan.

Last week I suggested that China's missile tests and military exercises have been dangerous and provocative. Unfortunately, tensions between China and Taiwan have not subsided. In fact, with Taiwan's first democratic Presidential election just around the corner, China's rhetoric continues loud and unabated.

The Clinton administration has gone to great lengths to warn China about the potential consequences of its actions and to underscore United States policy that the future of Taiwan must be resolved by peaceful means. I am pleased the Senate has joined in sending a strong signal to China.

With one clear voice, the Senate is now on record deploring the missile tests China has been conducting near Taiwan and recognizing that such tests are a potentially serious threat to peace and stability in the region. As I mentioned last week, China's missile tests and military exercises are dangerous in and of themselves, and they increase the chances of an accident that could cause tensions to spiral out of control.

It is important to emphasize that this resolution also supports the commitment of the United States, China, and Taiwan to resolve the future of Taiwan through peaceful means. United States policy clearly stipulates that the future of Taiwan should be determined peacefully. Taiwan has made similar overtures. China must also begin conducting itself in a way that reaffirms its commitment to that goal.

China can do just that by ceasing its attempts to intimidate the people of Taiwan and influence their upcoming Presidential election. This resolution urges China to cease missile tests and military exercises and enter into "meaningful dialog" with Taiwan. I completely agree, and it seems to me that Beijing should begin to communicate with Taiwan in a nonthreatening and peaceful way rather than carrying out reckless missile tests and military exercises.

I hope the resolution adopted by the Senate today will encourage China to resolve its differences with Taiwan peacefully.

Mr. PELL. Mr. President, this resolution is a thoughtful, appropriate response to recent developments in the Taiwan Strait. With this resolution, the Senate deplores the People's Republic of China's recent missile tests and military exercises in the Taiwan Strait as an unwarranted and dangerous attempt to intimidate Taiwan as it prepares to hold direct presidential elections this Saturday. It calls on China to return to negotiations at the highest levels between the two governments, negotiations which have successfully resolved a number of issues in the past. The resolution also reiterates our long-standing policy that maintaining peace and stability in the region is in the interest of the United States and that we expect Taiwan's future to be resolved peacefully and in a way that satisfies the Chinese on both sides of the Taiwan Strait.

As a sponsor of this resolution, I urge all parties involved to move away from provocative measures and to find new ways to de-escalate tensions. It is incumbent upon all parties to avoid taking steps which could lead unexpectedly, through mistake or miscalculation, to a conflict that no one wants.

Now is the time for calmer voices to prevail and I hope that all governments will listen for them.

I think this is a thoughtful and appropriate response, worked in a bipartisan way. It is a resolution we can support with pride.

The PRESIDING OFFICER. The question on agreeing to House Concurrent Resolution 148, as amended. The yeas and nays are ordered. The clerk will call the roll. The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New Hampshire [Mr. GREGG] is necessarily absent.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] and the Senator from New Jersey [Mr. BRADLEY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 51 Leg.]

YEAS—97

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

NOT VOTING—3

Bradley
Gregg
Kerrey

So, the concurrent resolution (H. Con. Res. 148) was agreed to.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I ask unanimous consent that I may proceed as in morning business for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPERFUND LEGISLATION

Mr. CHAFEE. Mr. President, I come to the floor today to join Senator SMITH, the distinguished chairman of the subcommittee of the Environment and Public Works which deals with Superfund. Let me take a moment to describe our progress and plans for Superfund reform.

The Superfund Program is our most troubled environmental statute. No one could disagree that the Congress should enact Superfund reform this year. No one is happy with the status quo—not industry, not environmentalists, not insurers, not State and local governments, not even the EPA and other Federal agencies.

Superfund reform is No. 1 priority of my committee in 1996.

Senator SMITH introduced S. 1285, the Accelerated Cleanup and Environmental Restoration Act, last September 29. This reform package represents a remarkable improvement over the status quo, and it is deserving of widespread support. I am a cosponsor.

Since introduction, Senator SMITH and I have met with the minority members of the subcommittee and administration for countless hours to explain the bill, make technical changes, and clarify its intent where needed. We have solicited the views of interested outsiders. As a result of these discussions, we have incorporated numerous changes, large and small, into the bill.

These negotiations, which are still continuing, have been productive, and I hope and expect that they will lead to a bill that garners widespread bipartisan support in the Senate, a bill that satisfies the President's often-stated desire to fix this program, a bill that he can and should sign.

At this point in our process, as our negotiations move into some of the more difficult issues, Senator SMITH and I agreed that it is important to give members of this body, as well as those outside parties interested in Superfund reform, an opportunity to look at, and comment upon, the results of our negotiations to date. The document, a staff draft that will be printed in today's CONGRESSIONAL RECORD, represents a snapshot of the current status of our negotiations. In a few moments, Senator SMITH will offer more detailed comments on this new draft of the Superfund bill.

All sides in our negotiations have justifiably reserved final judgment until negotiations are complete and important constituencies have had the chance to analyze and comment on the final product.

As we move forward, we want to provide opportunities to receive formal comments on the bill. In the next few days we will schedule hearings on the bill to occur as soon as possible after the Easter recess. We hope that we can reach substantive agreement on a bipartisan bill by that time, or else use the hearings to further explore the remaining areas of difference. We plan to move on to a markup and prepare the bill for floor action as soon as we can this spring.

I want to express my appreciation the ranking member of the committee, Senator BAUCUS, and the Superfund Subcommittee, Senator LAUTENBERG, for their contributions to the process. I also want to thank the administration for their efforts in these negotiations.

Most of all I would like to thank Senator SMITH for the many hours he and his staff have devoted to keeping Superfund reform on-track and moving forward. This is no easy task. Superfund is a complex and controversial program, and progress is always difficult in the best of circumstances, not to mention in a Presidential election year. We have a very good chance to enact Superfund reform this year, and if we do, a great deal of the credit should go to Senator SMITH.

Mr. SMITH. Mr. President, I want to thank my friend and colleague from Rhode Island, Senator CHAFEE, for working with me to enact a comprehensive Superfund reform measure. As Senator CHAFEE oulined, on September 29, 1995, I introduced S. 1285, the Accelerated Cleanup and Environmental Restoration Act. This legislation, which was cosponsored by Senator CHAFFEE and nine other members, was an effort to provide comprehensive reform of this troubled program.

I would like to thank Senator CHAFEE, the chairman of the Environment and Public Works Committee for his strong support in this effort. Over the last year, he and I have worked cooperatively to reform this program, and it is because of his assistance that I believe that this legislation can be passed this year.

As Senator CHAFEE has mentioned, he and I are here today to continue the process toward making sure that reasonable Superfund reform legislation will reach the floor this Spring. To achieve this goal, our respective staffs have spent more than 150 hours with Democrats on the Senate Environment Committee as well as representatives of the Environmental Protection Agency, the Justice Department, and the White House working toward achieving a bipartisan consensus toward reauthorizing the Superfund Program.

In a few moments, I will ask to be entered into the RECORD a copy of a staff discussion draft outlining changes that Senator CHAFEE and I are willing to make to achieve bipartisan consensus on this issue. As Senator CHAFEE stated, this is a snapshot of where we currently are in negotiations.

Let me be clear: this draft includes changes that I found to be constructive and reasonable—without compromising the underlying principles necessary for real Superfund reform. I remain committed to passing a strong bill that reduces litigation and accelerates clean up. As Senator CHAFEE indicated, the committee intends to hold a hearing the week we return from the Easter recess. At that point in time, interested parties will have the opportunity to testify on a final product that will be used for markup. Additional agreements and disagreements will be worked out in the normal committee process through amendment.

Before I describe some of the details of this proposal, I would like to say a few words what this draft is and what it is not. During the last few months our staffs have met with hundreds of individuals who are interested in the future of this program, and who have provided us with specific comments about S. 1285. We have carefully weighted these comments, and this staff discussion draft, in part, is intended to respond to some of those concerns.

This draft is also intended to address some of the concerns that have been raised by Governors, the Clinton administration, Senate Democrats, as well as other interested parties. While this language represents a good faith effort address some of these concerns, these changes have not been agreed to by any other parties, and we are continuing to negotiate and address concerns that have been raised. Indeed, there are areas of this bill, including Federal facilities issues, amendments to the Resource Conservation and Recovery Act and natural resource damages, that we have not yet had the opportunity to fully address in these negotiations.

Nonetheless, as Senator CHAFEE has pointed out, we wanted to provide a window into our ongoing negotiations, and allow interested parties to have the opportunity to comment on these proposed changes. And again, it is important for me to stress that a final product will be forthcoming. Where we are in agreement, we will agree. Where we are in disagreement, we will agree to disagree, and move on with the process.

One area I do want to spend some time on this evening is the issue of liability reform. As many of my colleagues may know, when we released our initial liability reform proposal in September, there were some Members on our side of the aisle who felt that we had limited our horizons too much when we proposed a 50-percent tax credit for pre-1980 disposal activities. Although I was convinced, and continue to believe that our proposal had a great deal of merit, we have nonetheless decided to modify this section to address these concerns.

The liability proposal in the staff discussion draft, I believe, will provide significant liability reform, and will vastly diminish the scope and nature of ongoing litigation. In particular, our proposal would have the effect of eliminating liability for parties at multiparty disposal sites—those sites where there was an off-site generator or transporter—for disposal activities that occurred prior to December 11, 1980. These sites involve some of the most contentious and expensive litigation in the Superfund Program and have only helped to slow down the pace of cleanups.

This litigation has not helped to address this important environmental problem, but instead, has hindered the ability to protect human health and the environment in the shortest time possible. By providing orphan share contribution for these costs, I believe that we will not only significantly reduce the contentious nature of this litigation, but our reforms will allow these sites to be cleaned up faster.

Our liability proposal provides that deminimis parties, such as small mom and pop businesses, will be eliminated from the liability net if they were responsible for disposing of less than 1 percent of the volume of materials at a site prior to December 11, 1980, or if they disposed less than 200 pounds or 110 gallons of materials at an NPL site. This change will significantly reduce the number of parties at these sites who are needlessly dragged into the quagmire of litigation. Our legislation will not only eliminate their liability, but it will also provide for an up-front determination that they are not subject to this damaging and costly litigation process.

In addition, this staff discussion draft also provides a 10 percent cap on the total amount of liability for those municipalities whose potential liability resulted only from generating or transporting municipal solid waste or sewage sludge. This change, combined with the orphan share contribution for pre-1980 disposal at multiparty sites, will provide significant relief for cities and towns caught in the Superfund liability net.

I would be remiss if I did not discuss changes that we have proposed to make in the remedy selection portion of S. 1285. In the legislation we introduced in September, we proposed eliminating the requirements under current law that mandate the use of applicable, relevant, and appropriate State and Federal environmental cleanup laws. Both Senator CHAFEE and I received a significant number of comments from States about this provision. After a good deal of reflection, we decided to provide that applicable State and Federal cleanup laws can be applied to these hazardous waste cleanups.

There are a number of other issues that have been raised about the remedy selection portion of this legislation, including provisions related to groundwater cleanup, that we have not modified at this time. However, I do want to note that these issues are under discussion, and this draft does not represent our final proposal on this section.

Mr. President, Senator CHAFEE and I are here on the floor today to declare that Superfund reform is alive and well. As Senator CHAFEE has mentioned, he and I are here today to continue the process towards making sure that significant Superfund reform legislation will reach the floor this Spring. While our colleagues have not heard much from us recently, this does not mean we have not been working hard—we have. This is not to say that we still don't have a ways to go—we do.

I believe that the discussions we have been involved in over the last few weeks have been fruitful and have been conducted in good faith. Our colleagues, the President, and all parties involved in this program have frequently stated that they want comprehensive Superfund reform. Frankly, given its inadequacies, we simply can not afford to push Superfund reform off for another year. If our colleagues, including those on both sides of the aisle—as well as those in the White House—can keep the rhetoric down, we believe that we can pass a comprehensive Superfund reauthorization bill this year that will ensure faster, safer and cheaper cleanups.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that I be able to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TAIWAN RESOLUTION

Mrs. FEINSTEIN. Mr. President, I want to thank the Senator from Wyoming, Senator THOMAS, for his leadership on the issue of the resolution which was just passed by a vote of 97 to 0 in this body. I thank him for his cooperative approach to finding a text that all parties could agree on. I also express my thanks and admiration to the Senator from Louisiana, Senator JOHNSTON, and the Senator from Georgia, Senator NUNN, for their understanding of this issue and their efforts to craft a responsible resolution.

I would also like to thank Senators MURKOWSKI, HELMS, SIMON, and PELL, and the distinguished majority leader, and their staffs, for working with all of us in a cooperative spirit on this resolution.

Mr. President, in the last 2 weeks we have watched as China has tested four missiles in close proximity to Taiwan, and the People's Liberation Army has conducted live-ammunition military exercises in the Taiwan Strait.

These tests and exercises are, obviously, aimed at showing in a militant fashion China's depth of feeling about the Taiwan issue and, many believe, to influence the Taiwanese election which will take place in a 2 short days.

It is unfortunate, I believe, that China has chosen to express its displeasure through the use of military threats. It is wrong, and the United States is right to deplore it. The United States has for over 24 years adhered to a One China policy that is based, in part, on the understanding that China will not seek to resolve its differences with Taiwan through other than peaceful means.

Our One China policy, of course, is also based on an understanding that Taiwan will not make any efforts to resolve its differences with China unilaterally or through any effort or move toward independence.

Clearly, a number of Taiwan's actions over the past several months—including President Lee Teng-hui's visit to the United States, Taiwanese military exercises concurrent with that visit, and an ongoing campaign for a seat at the United Nations—have called into question whether Taiwan is sincere in its statements that it opposes independence.

This resolution, then, sends two messages. It says to the Chinese that their use of military threats against Taiwan is unacceptable and represents a potential threat to United States interests in the western Pacific. President Clinton has deployed the USS Independence and the USS Nimitz to the region to monitor events. China must understand that the use of force against Taiwan would have grave consequences.

In addition, the resolution says to Taiwan that it must avoid provocative actions that cast doubt on its commitment not to pursue independence and, instead, to work for eventual peaceful reunification. Taiwan's security is important to the United States, but the United States will not sanction actions by Taiwan that raise tensions unnecessarily.

The One China policy is the essential element of the United States-China-Taiwan relationship. This policy has been the acknowledged framework that has served all three parties well for some two decades: The United States and China have been able to conduct normal relations befitting two great powers; China has entered into a period of dynamic economic growth; the United States and Taiwan have developed extensive economic and cultural ties; Taiwan has become the single largest investor in China, with over $20 billion in investments on the mainland; and, Taiwan has prospered and moved toward a democracy of which its people can be rightfully proud.

With all of these benefits flowing from the One China policy, and the fact that in a poll a week ago in Taiwan only 8 percent of the people favored independence and the overwhelming majority preferred the status quo, no one should take any precipitous action which would threaten to undermine the One China policy. In the aftermath of the Taiwan election, all three parties must move to restore balance to this relationship by reaffirming the One China policy.

China's concern, as relayed to me from its highest leadership, has been that Taiwan will not say that it endorses a One China policy and speaks with two tongues.

Mr. President, I would like to introduce into the RECORD a directive from Premier Lien Chan, the number two official of the Republic of China. His directive was made in writing on March 5. It was made public by Patrick Tyler, the Beijing reporter for the New York Times. I called the Taiwan office and received a copy of it. It is on two pages.

The part that I would like to quote is as follows:

> I reiterate that the Republic of China government is adamant in its pursuit of national reunification and strong opposition to Taiwan independence.

When I called the Chinese Ambassador and made clear that this had been presented in writing, he made the point that it is presented in English but that it has appeared nowhere in Taiwan in Chinese.

I ask unanimous consent to have the directive printed in the RECORD, if I may, at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A DIRECTIVE FROM PREMIER LIEN CHAN, THE EXECUTIVE YUAN, REPUBLIC OF CHINA, MARCH 5, 1996

It is the responsibility of the government of the Republic of China to preserve peace and stability in and around the Taiwan Straits in order to ensure public welfare and the security of the nation. Since July 1995, the Chinese communists have conducted several military exercises. Thanks to the unity of our people and proper measures taken by our government, the Taiwan, Penghu, Kinmen, and Yatsu area has remained stable.

Early this morning, the mainland authorities announced plans to launch missiles in waters to the northwest and southwest of Taiwan between March 8 and March 15, 1996. This action clearly is aimed at influencing the ROC's ninth presidential and vice presidential election, destroying the peace in the Taiwan Straits, and endangering regional peace and stability. On behalf of the ROC Government, I wish to express the strongest protest, and call upon the mainland authorities to cancel this provocation. We will hold Peking responsible for any unfortunate consequences which arise from this action.

Facing this situation, the Executive Yuan has directed the concerned agencies to make the following preparation:

(1) The ROC armed forces have been directed by the government to maintain a state of alert, and are prepared to meet all possible actions of the Peking regime. They will continue to monitor military activity on the mainland closely provide instant reports, and take all necessary measures immediately, as the need arises.

(2) We have already adopted necessary measures to ensure the safety of our fishermen and normal air and sea transportation in the vicinity.

(3) We will continue to maintain law and order, stabilize the financial sector, and maintain normal economic activities.

(4) The ROC's ninth presidential and vice presidential election, a historic event to be held on March 23rd, shall be carried out as planned.

I reiterate that the ROC Government is adamant in its pursuit of national reunification and strong opposition to Taiwan independence. This election is being carried out in accordance with the Constitution of the Republic of China, and is in line with the will of the ROC people, and with world trends.

The outcome of this election will not affect our position on cross-Straits relations; nor will it alter our government's steadfast pursuit of national reunification.

It has also been, and still is, the longstanding policy of the ROC Government to strengthen cross-Straits exchange and negotiation while promoting positive interaction. The difference in political systems and ways of life across the Taiwan Straits is the main obstacle to reunification. However, this is not an issue that can be resolved by military means. An atmosphere that is conducive to reunification can be created only by relying on patience, promoting understanding through step-by-step exchange, dissolving hostility, and pursuing a way of life that is most beneficial to the Chinese on both sides of the Straits. Popular will has indicated time and again that it is the common aspiration of the people on both sides to see the end of cross-Straits enmity and promote mutual benefits and prosperity on the basis of peace.

The government of the Republic of China has already decided that, in the future, it will foster consensus on a concrete and feasible proposal that will make a historic contribution to the development of cross-Straits peace and to the security and prosperity of the Asia-Pacific region. The mainland authorities should not unilaterally distort our position and repeatedly take actions that damage the bonds between the people on either side of the Taiwan Straits. This only hampers cross-Straits exchanges and progress toward reunification.

I hope that the entire body of ROC citizens will remain calm and rational during this period, and continue to trust and support their government. The government will take appropriate and effective measures, and handle the situation with caution and in a manner that ensures full protection to the welfare of the people.

Mrs. FEINSTEIN. Mr. President, I think it is very important that this directive, which clearly states that it is the policy of the Taiwanese Government to pursue national reunification and strongly oppose independence, be known by the world.

Now there will be a window of opportunity following Saturday's election for resumption of the Cross-Straits Initiative that was derailed last summer after Lee Teng-hui's visit. This dialogue, conducted by China's Association for Relations Across the Taiwan Straits and Taiwan's Straits Exchange Foundation, offers a unique opportunity to begin to meet and discuss the major issues concerning reunification.

China has for some time offered Taiwan direct air service. As you know, today the plane leaves Taiwan, it appears to land at Macao, it changes its flight number, and it goes on to China. This is not necessary. China is prepared to once again offer, as its Vice Foreign Minister told 10 U.S. Senators who were present at a meeting last week, direct sea service and direct postal service.

I ardently urge both parties to sit down at the table and begin to discuss issues around which there is a common interest. One has to be a One China policy. The second has to be peaceful reunification. The third has to be steps taken to achieve both of the foregoing.

I think the peace, security, and stability of Asia, and perhaps the world, are at stake in these discussions.

I earnestly and sincerely implore the parties, both the People's Republic of China and the Republic of China, to sit down at the table, to end these military exercises, and to resolve a peaceful reunification for the future.

I thank the Chair for your indulgence.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

THE NOMINATION OF CMDR. ROBERT STUMPF

Mr. COATS. Mr. President, I would like to address the issue concerning the procedures used by the Senate Armed Services Committee in evaluating nominations and, in particular, the nomination of Cmdr. Robert E. Stumpf.

The Senate Armed Services Committee has received considerable public criticism since the Secretary of the Navy removed Commander Stumpf from the promotion list.

The committee, and some of its members, have been the subject of numerous articles in the media relating to both substantive and procedural issues concerning this matter. Much of the material that has appeared in the media reports has been inaccurate and incomplete. Some of the material has been written by Commander Stumpf's lawyer. Others quote either Commander Stumpf, his attorney, or both.

To this point, members of the Armed Services Committee have not responded publicly on the substance of the information provided to the committee by the Navy, nor on the deliberations conducted within the executive session. This is in accordance with established committee rules and procedures, including procedures designed to protect the privacy and reputation of nominees, with appropriate regard for the rights of Commander Stumpf.

Last Thursday, Senator THURMOND, as the chairman of the Armed Services Committee, on behalf of the committee, placed a statement in the RECORD which began by reciting the chronology of events concerning the nomination of Commander Stumpf. I do not think there is any doubt or debate about the sequence of events. But I want to review those events for the RECORD.

On March 11, 1994, the President submitted various nominations for promotion in the Navy to the grade of captain (O–6), including a list containing the nomination of Commander Stumpf. On the same date, the Assistant Secretary of Defense, in the letter required by the committee on all Navy and Marine Corps nominees, advised the committee that none of the officers had been identified as potentially implicated on matters related to Tailhook. After careful review, the list was reported favorably to the Senate on May 19, 1994, and all nominations on the list were confirmed by the Senate on May 24, 1994.

Subsequent to the Senate's confirmation of this promotion list, but prior to the appointment by the President of Commander Stumpf to the grade of captain, the committee was advised by the Department of Defense that the March 11, 1994, letter had been in error because the Navy had failed to inform the Office of the Secretary of Defense that Commander Stumpf had been identified as potentially implicated in Tailhook.

As a result, on June 30, 1994, the Armed Services Committee requested that the Navy withhold action on the promotion of Commander Stumpf until the committee had an opportunity to review the information that had not been made available to the Senate during its confirmation proceedings. It was entirely appropriate that the committee request the withholding of Commander Stumpf's promotion once it had been notified of the Navy's failure to report the potential implication of Commander Stumpf in Tailhook-related activities.

It is also worth noting that the Armed Services Committee has no capacity to investigate nominations on its own. The committee must rely solely on the information provided by the Department of Defense, which, in this case, was incomplete.

On April 4, 1995, the Navy provided the committee with the report of investigation and related information concerning Commander Stumpf. And I would note this is not all the information related to Commander Stumpf for his case. The committee is still receiving documents relating to that particular case. And subsequently, the Navy provided additional information in response to requests from the committee. And those requests are ongoing.

On October 25, 1995, the committee met in closed session, consistent with its longstanding practice, to consider a number of nominations and to further consider the matter involving Commander Stumpf. After due consideration, the committee directed the chairman and ranking member to advise the Secretary of the Navy that, and I quote:

> Had the information regarding Commander Stumpf's activities surrounding Tailhook 91 been available to the committee, as required, at the time of the nomination, the committee would not have recommended that the Senate confirm his nomination to the grade of captain.

The committee also directed that the letter advise the Secretary that, and again I quote from the letter:

> The committee recognizes that, in light of the Senate having earlier given its advice and consent to Commander Stumpf's nomination, the decision to promote him rests solely with the executive branch.

A draft letter was prepared, reviewed by the Senate legal counsel, made available for review by all members of the committee, and was transmitted to the Secretary on November 13, 1995. On December 22, 1995, the Secretary of the Navy removed Commander Stumpf's name from the promotion list.

The committee met next on March 12, 1996, to review the committee's procedures for considering Navy and Marine Corps nominations in the aftermath of Tailhook. At that meeting, the committee again reviewed the proceedings concerning Commander Stumpf.

I do not think many people outside the committee fully understand the committee's procedures in handling controversial nominations. Just to make it clear, when the committee is notified by the Department of Defense that there is potentially adverse information concerning a nominee, that nomination moves to a separate, more deliberate track than those nominations about which there is no adverse information. The committee staff is required to research the information provided by the Department of Defense and to brief the members in an executive or closed session. Attendance at these executive sessions is limited to Members of the Senate and committee counsel. These restrictions are designed to minimize the number of people who may learn of information which may be very personal, sometimes inflammatory, and may involve allegations which have been found to not be substantiated.

Following a procedure developed late in the 103d Congress, the chairman and ranking member of the Personnel Subcommittee are charged with reviewing those cases prior to an executive session. In the case of Commander Stumpf, the committee followed those procedures precisely.

The committee met in executive session on October 25, 1995, to discuss a series of nominations, as I indicated. Seven Tailhook-related nominations were considered that day. For the record, those members present voted to favorably recommend two of the seven and to return five of the nominations to the executive branch at the end of the first session. The one remaining Tailhook-related individual discussed during that meeting was Commander Stumpf.

On December 22, 1995, as I earlier indicated, Secretary Dalton removed Commander Stumpf from the promotion list. Following that action by the Secretary of the Navy, a number of public articles, some written by Commander Stumpf's defense team, questioned the committee's integrity, its processes and its judgment. These allegations have been characterized by misinformation, distortions of the record, and misstatement of the facts.

Numerous articles and sources have questioned the committee's procedures related to Tailhook nominations, alleging that the prospect of confirmation of service members nominated for promotion but involved in Tailhook are "slim."

The records of the committee show that the committee has received 23 nominations of service members potentially implicated in Tailhook. Only eight of those have been rejected by the committee. To put this in perspective, the committee has confirmed 43,270 Navy and Marine Corps officers since 1992.

A published article says that "one member of the committee now maintains that there were reasons other than Tailgate for rejecting Commander Stumpf." There have been other allegations that the committee had information other than that provided by the Navy. An article in the March 1996 edition of the Armed Forces Journal says that Commander Stumpf and Mr. Gittins, Commander Stumpf's attorney, believe there were anonymous phone calls to the committee. These allegations imply that the committee based its conclusions concerning Commander Stumpf on information which was unknown to Commander Stumpf and the Navy.

While it is true that on occasion the committee does receive information from outside sources, since the committee does not have the capacity to independently investigate, committee procedures are to refer such information to the Department of Defense. In Commander Stumpf's case, there was no outside information provided to the committee. The committee did not consider any material other than that provided by the Navy when it determined that, as the November 13, 1995 letter to Secretary Dalton states, "Had the information regarding Commander Stumpf's activities surrounding Tailhook '91 been available to the committee as required at the time of the nomination, the committee would not have recommended that the Senate confirm his nomination to the grade of captain."

Mr. President, unfortunately, misrepresentations and misstatement of the facts related to the committee deliberations on this matter have put the Armed Services Committee at a severe disadvantage. Our policy has been to protect the confidentiality of the nominee, and we are limited in our ability to respond.

Certainly in this case, the nominee, Commander Stumpf, does not share our concern. In fact, a Wall Street Journal article dated March 12, 1996, stated that Commander Stumpf and his attorneys have indicated that the committee should feel free to tell the entire world whatever it is that Senators think they know about him. It is noteworthy, Mr. President, that Commander Stumpf, in a letter to the chairman of the Armed Services Committee dated March 13, 1996, requested that he be permitted to testify before the committee but in a closed hearing, not open to the public or the media.

Mr. President, I believe it is important that our Senate colleagues be advised that the committee, in reviewing nominations for promotion, carefully examines each individual case and, among other criteria, believes the standard set forth in title X of the United States Code pertaining to the responsibilities of a commander entitled "Requirement for exemplary conduct" are applicable, and I quote from title X:

> All commanding officers and others in authority in the naval service are required to show in themselves a good example of virtue, honor, patriotism, and subordination; to be vigilant in inspecting the conduct of all persons who are placed under their command; to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Navy, all persons who are guilty of them; and to take all necessary and proper measures, under the laws, regulations, and customs of the naval service to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge.

This standard, Mr. President, is repeated verbatim in article 1131 of the U.S. Navy Regulations issued in 1990. There are similar provisions in title X which pertain to the other services, as well as other provisions relating to members of the armed services.

The committee does not take lightly these statutory and regulatory standards. Nor do they take lightly their constitutional responsibilities to provide their advice and consent on military nominations.

A number of articles that have been written have referred to Senator NUNN's involvement in the committee's deliberations and decisions. While Senator NUNN has exercised his due diligence in this case, as he does with every other matter before the Senate Armed Services Committee, I would like to state for the record that as chairman of the Subcommittee on Personnel of the Senate Armed Services Committee, I take responsibility for the procedures used by the subcommittee staff to review military nominations and I fully stand by those procedures used by the staff in carefully reviewing the nominations presented to the committee by the executive branch, including the procedures used to evaluate the nomination of Commander Stumpf.

I have reviewed that material in depth. I have personally and carefully evaluated the file on Commander Stumpf. I have discussed the matter at length with the staff and I have concluded that, based exclusively—exclusively on the facts presented to the committee by the Department of Defense with due regard for the statutory and regulatory standards governing the conduct of military commanders and officers, as well as long-established military precedents, that I could not recommend approval of Commander Stumpf's nomination to the committee.

Each member of the committee is, of course, free to accept or reject any recommendation, and I certainly respect those who have come to a different conclusion in this matter. Each member is free to separately evaluate all of the material available to the committee on this nomination or any nomination. Each member is, of course, free to debate the case for or against either Commander Stumpf's nomination or any other nomination. In the final analysis, of course, each member is free to vote yea or nay on any particular case.

I am disappointed that so many in the media followed the well-intentioned but misinformed lead of those who do not know the facts of the case and the committee's deliberations. The Armed Services Committee is an important part of the institution of the Senate. Everyone in this body is hurt when the Senate Armed Services Committee is vilified and members cannot respond because of loyalty to rules and procedures put in place to protect the confidentiality of the matters before it and the nominees before its consideration.

Mr. President, I look forward to a time when respect for the privacy of an individual and respect for such a great institution as the U.S. Navy is not overridden by the desire of a journalist or an attorney or any others to take advantage of a situation to forward their own agenda.

The Secretary of the Navy has removed Commander Stumpf from the promotion list. The committee no longer has any nomination before it pertaining to Commander Stumpf. The committee has no legal authority to take any further action concerning the promotion of Commander Stumpf at this time.

As in every case in which a military nominee has been removed from a promotion list, the only process by which Commander Stumpf can be renominated for promotion is to be selected by another promotion board and be nominated by the President again, or, alternately, directly nominated by the President under his authority, granted by article 2 of the Constitution.

As I have stated before, the decision of the committee after due deliberation was that, had the information regarding Commander Stumpf's activities surrounding Tailhook '91 been available to the committee as required at the time of the nomination, the committee would not have recommended that the Senate confirm his nomination to the grade of captain. That was the committee's determination then. That is the committee's determination now. Nothing that has transpired since has altered the committee's decision.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I am pleased to join with the leaders of the Subcommittee on Personnel of the Armed Services Committee, Senator COATS and Senator BYRD, in addressing the review of the military nominations in the aftermath of Tailhook, including the nomination of Commander Robert Stumpf, U.S. Navy. Senator COATS has addressed this matter with extreme accuracy in an absolutely factual presentation, for which I applaud him, in making that presentation.

The review of military nominations, particularly those involving adverse information, is a responsibility taken very seriously by the members of the Armed Services Committee, as the Chair well knows, being a member of that committee. This is a responsibility that the Constitution assigns to the Senate and the Senate has assigned to the Committee on Armed Services, as its, in effect, agent, to make recommendations to the full Senate. Within the committee, the responsibility of making recommendation on military nominations rests with the leadership of the Subcommittee on Personnel.

Senator COATS and Senator BYRD, as chairman and ranking member of the Subcommittee on Personnel, have fulfilled this responsibility with skill, dignity, and absolute fairness. They have provided the committee with serious, sober, and balanced recommendations on military nominations.

When the committee considered the promotion of Commander Stumpf on October 25, 1995, I listened, as other members did, with care to the presentation made by Senator COATS on behalf of himself and Senator BYRD. I found his assessment to be persuasive and I voted in favor of the recommendation of Senator COATS and Senator BYRD, that Commander Stumpf not be promoted.

The subject of Commander Stumpf's promotion has been the subject of some attention in the Department of the Navy, among those who follow Naval aviation, and in the news media. I am pleased to join Senator COATS, Senator BYRD, and others, in placing this matter in the proper perspective.

On March 13, 1996, the Armed Services Committee issued a statement concerning the committee's consideration of the promotion of Commander Stumpf, U.S. Navy.

I ask unanimous consent that statement be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

On March 11, 1994, the President submitted various nominations for promotion in the Navy to the grade of Captain (O–6), including a list containing the nomination of Commander Stumpf. On the same date, the Assistant Secretary of Defense, in the letter required by the committee on all Navy and Marines Corps nominees, advised the committee that none of the officers had been identified as potentially implicated on matters related to Tailhook. The list was reported favorably to the Senate on May 19, 1994, and all nominations on the list were confirmed by the Senate on May 24, 1994.

Subsequent to the Senate's confirmation of the list, but prior to the appointment by the President of Commander Stumpf to the grade of Captain, the committee was advised by the Department of Defense that the March 11, 1994 letter had been in error because the Navy had failed to inform the Office of the Secretary of Defense that Commander Stumpf had been identified as potentially implicated in Tailhook. On June 30, 1994, the committee requested that the Navy withhold action on the promotion until the committee had an opportunity to review the information that had not been made available to the Senate during the confirmation proceedings.

On April 4, 1995, the Navy provided the Committee with the report of the investigation and related information concerning Commander Stumpf, and subsequently provided additional information in response to requests from the committee. On October 25, 1995, the committee met in closed session—consistent with longstanding practice—to consider a number of nominations and to consider the matter involving Commander Stumpf. The committee directed the Chairman and Ranking Member to advise the Secretary of the Navy that "had the information regarding Commander Stumpf's activities surrounding Tailhook '91 been available to the committee, as required, at the time of the nomination, the committee would not have recommended that the Senate confirm his nomination to the grade of Captain." The committee also directed that the letter advise the Secretary that: "The committee recognizes that, in light of the Senate having earlier given its advice and consent to Commander Stumpf's nomination, the decision to promote him rests solely with the Executive Branch." A draft letter was prepared, made available for review by all members of the committee, and was transmitted to the Secretary on November 13, 1995. On December 22, 1995, the Secretary of the Navy removed Commander Stumpf's name from the promotion list.

The committee met on March 12, 1996, to review the committee's procedures for considering Navy and Marine Corps nominations in the aftermath of Tailhook. At that meeting, the committee reviewed the proceedings concerning Commander Stumpf.

The committee, in considering the promotion of Commander Stumpf, acted in good faith and in accordance with established rules and procedures, including procedures designed to protect the privacy and reputation of nominees, with appropriate regard for the rights of Commander Stumpf. The Chief of Naval Operations has testified that he believes such confidentiality should be maintained. The committee made its November 13, 1995 recommendation based upon information that was made available by the Navy.

At the present time, no nomination concerning Commander Stumpf is pending before the committee, and the Secretary of the Navy has removed his name from the promotion list. The committee has been advised by the Navy's General Counsel that this administrative action taken by the Secretary of the Navy is final and that the Secretary cannot act unilaterally to promote Commander Stumpf.

The committee notes that much of the material that has appeared in the media about the substantive and procedural issues concerning this matter, is inaccurate and incomplete.

As with any nominee whose name has been removed from a promotion list, Commander Stumpf remains eligible for further nomination by the President. If he is nominated again for promotion to Captain, the committee will give the nomination the same careful consideration it would give any nominee.

Mr. NUNN. Mr. President, I believe that statement has already been alluded to by my friend from Indiana. Commander Stumpf had a distinguished military record, including decorated combat service. That record was considered strongly by the committee in the review of his promotion.

The Navy also provided the committee with information, subsequent to his confirmation by the Senate, which raised issues about Commander Stumpf's qualifications for promotion to a higher grade.

As with almost any nomination involving such information, factual information, reasonable people can disagree on whether the information considered by the committee disqualified Commander Stumpf for promotion. I respect my colleagues, and others, who come to a different conclusion than I.

The significance of the committee's statement that has just been printed in the RECORD is that both those who support Commander Stumpf's promotion and those who do not support his promotion have agreed that the Armed Services Committee, quoting the committee, "* * * acted in good faith and in accordance with established rules and procedures, including procedures designed to protect the privacy and reputation of nominees, with appropriate regard for the rights of Commander Stumpf." That was a unanimous statement of the Armed Services Committee.

In addition, all the members of the committee agreed, "Much of the material that appeared in the media about the substance and procedural issues surrounding this matter is inaccurate and incomplete." That, too, was a unanimous opinion of the Armed Services Committee, including both those who favored the Stumpf nomination and those who did not.

The inaccurate stories, unfortunately, continue. The March 15 Washington Times asserts, for example, that there was, "* * * an effort to rescind the committee's November 1995 letter," recommending that Commander Stumpf not be promoted. That statement in the Washington Times is misleading. I was there for the whole meeting. No such motion was made or voted on. No such motion was ever made or voted on in the committee.

PROCEDURES OF THE SENATE ARMED SERVICES COMMITTEE FOR THE CONSIDERATION OF NOMINATIONS

Mr. President, before addressing issues that have been raised about the Committee's consideration of CDR Stumpf, I would like to summarize the Committee's procedures for handling Navy and Marine Corps nominations in the aftermath of Tailhook.

The Department of Defense provides the committee with a letter on all flag and general officer nominees in the Army, Navy, Air Force, and Marine Corps advising the Committee of any potentially adverse information since the individual's last confirmation.

In 1992, when the committee learned of the serious flaws in the Navy's Tailhook investigations, we established a similar requirement for Navy and Marine Corps nominees of all grades—a procedure that was supported by all members of the committee. The then-chairman and ranking minority member of the Manpower Subcommittee, Senator GLENN and Senator MCCAIN, were instrumental in establishing that process. Had we not done so, it is doubtful we could have moved any Navy/Marine Corps nominations through the Senate in view of the serious concern in the Senate about the inability of the Navy to investigate itself and identify those who were involved in misconduct or leadership deficiencies.

In August 1993, the Department of Defense proposed that the Tailhook procedure be modified in view of the completion of the additional investigations, and the Committee concurred. Under the modified procedure, DOD notifies the Committee as to whether any nominee was identified as potentially implicated by the Department of Defense Inspector General or by the Department of the Navy. With respect to any individual so identified, DOD advises us of the status of any administrative or disciplinary action. In April 1995, Senator Thurmond, as Chairman, specifically rejected a request from the Department of the Navy to change these procedures, noting that decision would have to be made by the Committee.

It is the longstanding policy of the committee—under both Republican and Democratic chairmen—that when we consider adverse information about a nominee—whether related to Tailhook or any other matter—we do so in closed session. Senate Rule 26.5(b)(3) authorizes a closed hearing when the matters to be discussed "will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual."

The committee's practice of conducting nomination proceedings involving adverse information in closed session is based upon concern for the interests of the military officers whose nominations are pending before the committee. In the overwhelming majority of cases, the adverse information provided to the committee involves minor infractions which have been addressed internally by DOD and which the committee determines to be not disqualifying.

In view of the fact that adverse information about an officer considered by the committee is determined to be not disqualifying in most cases, few if any officers would want this information to be considered in a public session. In the relatively few cases where the Committee does not take favorable action, neither the Service nor the officer normally seeks to publicize the adverse information. When the committee publicly discusses the basis for rejecting a nomination, it normally is in the context of a report on systemic problems.

CONSIDERATION OF THE PROMOTION OF CDR STUMPF

The committee's traditional procedures for reviewing nominations in closed session, as well as the procedures for considering Navy and Marine Corps nominations in the aftermath of Tailhook, were in place when the committee considered the promotion of Commander Stumpf. As I noted earlier, the members of the committee who supported his promotion as well as those who opposed the promotion have agreed the committee followed the appropriate procedures in addressing this matter, and the letter so indicates. That opinion, apparently, is not shared by Commander Stumpf's attorney, Mr. Charles Gittins.

Although the committee took no steps to publicize its October 25, 1995 decision to recommend that Commander Stumpf not be promoted, nor did the committee release any of the information that led the committee to recommend against his promotion, Commander Stumpf's attorney has made repeated public comments about the committee's consideration of Commander Stumpf's promotion.

In the December 19, 1995, Washington Times, Commander Stumpf's attorney, Mr. Gittins, was quoted as accusing the committee of operating on the basis of "rumor and innuendo."

A CBS Evening News interview on January 8, 1996, quoted Commander Stumpf's attorney as stating his client was removed from the promotion list as a result of "blackmail."

In the January 31, 1996, Washington Times, Commander Stumpf's attorney was quoted as stating that the decision was a result of "political pressure and threats to Navy programs."

In a February 2 op-ed piece in the Washington Times entitled "Get the Senate Out of the Navy," Commander Stumpf's attorney asserted that his client was not promoted as a result of "political pressure" and that the Armed Services Committee was acting "for political advantage."

He concluded: "Senator McCarthy may be gone, but McCarthyism lives on in the Senate."

These statements have spawned a host of editorials, columns and letters which have painted a picture of this matter which, as noted in the statement issued by the committee on March 13—with unanimous committee approval—"is inaccurate and incomplete."

For the last 3 months, Commander Stumpf's counsel and advocates have argued his case in the public arena, citing only those portions of the material favorable to his cause. Material that would have given a complete picture of the basis for the committee's recommendation has not been released, was not released by Commander Stumpf, was not released by his attorney, and has not been released by the committee, because the committee has been restrained by a self-imposed gag order. Why have we not responded? Because we play by the rules, and we do not release materials from our nomination files without a vote by the committee.

It is interesting to note that those of us who have been under attack—and I appreciate very much the statement of the Senator from Indiana—those who have been under attack have not leaked anything in self-defense or in any other way. Nothing has been leaked on the committee's side of the issue. So it is an interesting kind of committee restraint here.

Indeed, the committee has shown remarkable restraint. As Members of the Senate know, I believe we should conduct most—not all—most nomination proceedings involving adverse information in a closed session. I discussed this matter at length in a speech I delivered on this floor on October 16, 1991, in the aftermath of the proceedings on the nomination of Justice Clarence Thomas, which was in the Judiciary Committee, not our committee.

I also believe, however, that when a nominee chooses to place his or her version of the facts in the public arena and challenges the motives and the good faith of the committee—indeed, statements like McCarthyism, and so forth—the committee must find an appropriate way to respond.

Although the committee provided a general response on March 13, the committee decided at that time to not release specific information about Commander Stumpf. There is no nomination now pending before the committee. The committee deferred to the views of the Chief of Naval Operations, Admiral Boorda, who testified in a public hearing on March 12 when I asked him a question, that they did not favor public dissemination of nomination information in this case. That is the view of the Chief of Naval Operations.

While I do not concur in that view because of the unique circumstances of this matter being handled, in effect, in a public relations matter in the public arena, since it results in a one-sided public presentation of information, I understand and respect those who believe we should not release any information when this matter is no longer pending before the committee. I deferred to that view in committee, because it was, obviously, the view of the majority.

The committee has agreed, however, that it is appropriate for Senators to identify the areas in which the statements in the media are inaccurate and incomplete.

CONSIDERATION OF COMMANDER STUMPF'S NOMINATION IN CLOSED SESSION

Commander Stumpf's attorney, in the December 19, 1995, Washington Times, is quoted as criticizing action of the Armed Services Committee because the committee has "operated behind closed doors" when considering his client's case.

As I noted earlier, the committee considers adverse information in closed session. We do that all the time. That is our normal operating procedure, and that is done in order to protect the reputation of nominees, a process that is strongly supported by the U.S. military. As far as I know, all branches of the military support that procedure, as well as the civilian leadership of the Department of Defense.

Prior to the committee's October 25, 1995, decision to recommend Commander Stumpf not be promoted, the committee received no letter from his attorney requesting that we proceed on this nomination in open session. We received no such letter, no such information, no such request, according to all the information I have received, checking with both majority staff and minority staff.

Commander Stumpf's attorney apparently made a tactical decision not to request an appearance or an open session. Having made that decision, how can he now fault the committee for reviewing the promotion in closed session in accordance with longstanding committee procedure, which we do on all nominations that have adverse information of a personal nature.

It is not clear Commander Stumpf's attorney wants this matter to be considered in public. The March 12 Wall Street Journal reported, "Commander Stumpf and his attorney say that the committee should feel free to tell the whole world whatever it is the Senators think they know about him."

That was a story for public consumption. That was a PR story. Yet, on March 13, 1996, as the committee was completing our review of Tailhook matters, the committee received a letter from Commander Stumpf faxed from his attorney's law firm, I am told, in which he asked to meet with the committee "in closed session."

Mr. President, I ask unanimous consent that the letter from Commander Stumpf, as well as Chairman THURMOND's response, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. NUNN. Mr. President, I note that the letter I just referred to from Commander Stumpf faxed to us on March 13, 1996, was dated February 13, even though it was faxed to us on March 13. I have to assume that was a typographical error, unless there is another explanation. I am informed by the majority staff that the committee did not receive such a request until March 13 and certainly did not receive that prior to our review of Commander Stumpf's promotion in 1995.

Mr. President, just in case anyone does not understand what it means to hold a closed session, let me make it clear. It is a proceeding in which the public is excluded. The press is excluded. Virtually all staff are excluded. The hearing record is not published. Under the Senate rules, Senators are specifically prohibited from disclosing information received in a closed session. When we hold a closed session, the committee is not free to tell the whole world what transpired before the committee.

In light of Admiral Boorda's request that the information regarding Commander Stumpf not be released to the public, and in view of Commander Stumpf's request to proceed in closed session, the committee decided during its deliberations last week to not release materials from the nomination files. While I personally believe the materials should have been released in light of the decision by Commander Stumpf's attorney to selectively release information to the public, I respected the views of others—and still do—who felt the material should not be released at that time.

Having decided on March 13 not to release the material in deference to the Navy and Commander Stumpf's privacy interests, the committee now finds itself subjected to yet another misleading story as a result of a statement in the press attributed to Commander Stumpf's attorney.

A March 19, 1996, AP wire story states that he "has no objection" if the committee releases its material on Commander Stumpf. According to the story, Commander Stumpf's attorney said, "I've told them they can release anything they want."

Mr. President, I have received no such communication from Commander Stumpf's attorney. I have been informed again by majority staff that Senator THURMOND, the chairman of the committee, has received no such communication. I assume Senator COATS and Senator BYRD have received no such communication, and they are indicating that is accurate.

I have no idea with whom the attorney, Mr. Gittins, is communicating, but it is not the Senate Armed Services Committee. Mr. President, if these press accounts accurately quote Commander Stumpf's lawyer—and I always allow that the press reports could be inaccurate—it would appear that the rules of the Senate and the committee designed to protect the privacy of nominees are being manipulated to imply a willingness to support and release information when, in fact, no such willingness has been communicated to the committee nor, as far as I know, to the Navy. I do not know what has been communicated to the Navy, but I certainly have not had any indication that Commander Stumpf's attorney has said to the Navy, "Please release the information," or, "You have our permission to release all the information."

First, counsel is quoted as criticizing the committee for having closed sessions; then the press reports that the officer whose privacy is being protected by the committee wants everything made public. Then the Chief of Naval Operations, who supports the promotion and said so in the committee, says the material should not be made public. Subsequently, the officer requests a closed session. After the committee issues a statement reaffirming its commitment to the officer's privacy interests, his counsel is quoted as saying he told the committee again, "They can release anything they want," even though no such communication had been received by the committee.

If Commander Stumpf's attorney wants all the information related to his client released to the press, he should clearly communicate his views to the committee and the Navy. I suggest a letter would be the normal way to communicate. The Navy has full authority to release all documents related to Commander Stumpf, including the investigation into matters relating to Tailhook, the recommendations of the chain of command, and the final action taken on that investigation by the Navy. All of that can be released, and then the Senate can decide whether the committee was correct or not. The news media can then make their judgment accordingly.

PROCEDURAL CONSIDERATIONS

In the December 19, 1995, Washington Times, Commander Stumpf's attorney is quoted as stating the committee denied his client the opportunity "to face his accusers, cross-examine them and test the so-called evidence that the committee had collected."

The March 1996 Armed Forces Journal International reported that "Stumpf and Gittins asked to speak to the Senators on the committee, offered to testify, and attempted to discover what new evidence the committee had uncovered. All requests were refused."

Mr. President, I am informed again by majority staff that the committee received no letter from Commander Stumpf's counsel, prior to the committee action on October 25, 1995, requesting his client be allowed to testify before the committee, nor did counsel for Commander Stumpf submit a request to discover additional information.

The materials provided by the Navy make it clear that CDR Stumpf was well aware that the matter of his promotion was pending before the Committee. On June 30, 1995, he received the statutorily required notice from the Navy that his promotion was being delayed, and he was specifically notified that his involvement in Tailhook was under review by the Armed Services Committee.

The majority staff has advised me that the committee received one letter from CDR Stumpf's counsel, dated August 2, 1995, prior to completion of our review on October 25, 1995. That letter provided counsel's view of CDR Stumpf's military record and the proceedings involving his client in the aftermath of Tailhook. The only specific request of Chairman THURMOND set forth in the letter was to "end the delay in the SASC review." CDR Stumpf's attorney noted that he was available for discussions, but did not make any specific request regarding testimony by his client or discovery of evidence:

> Should you or your staff have any questions, please do not hesitate to call. Further, I would be pleased to review with you or a member of your staff the facts as they were established at the Court of Inquiry.

From the Committee's perspective, this did not constitute a request that his client be permitted to testify at a Committee hearing, nor did it constitute a request for further information about the materials under review by the Committee.

CDR Stumpf's counsel apparently chose to proceed without submitting a specific request for a hearing, without submitting a specific request that his client be permitted to testify, and without submitting a specific request for further details about information available to the Committee. If discussions with individual members or staff raised any questions about the Committee's willingness to entertain such requests, he had the opportunity to provide an unambiguous request in writing. He did not do so. Whether his tactical decisions at the time were in the best interests of his client is not a matter for the Committee to judge.

Each one of those matters, if clearly communicated to the Committee, would have been given appropriate consideration. It is well known that nomination proceedings are not criminal trials. They are not formal evidentiary proceedings. They are designed to assess the fitness of a nominee for higher office. If counsel for a nominee believes that the informality of a nomination proceeding is inappropriate in his client's case, then it is his responsibility to bring his concerns to the attention of the Committee. If he does not do so, it is puzzling for him to now claim that his client was denied rights that he did not request when the matter was pending before the Committee.

RELIANCE ON INFORMATION PROVIDED BY THE NAVY

Commander Stumpf's attorney is quoted in the December 19, 1995, Washington Times as stating that the committee's decision to recommend that he not be promoted was based on "rumor and innuendo and anonymous phone calls."

As the Senator from Indiana said very clearly, that is flat wrong. The committee's recommendation was based on the records of the fact-finding board that reviewed Commander Stumpf's activities relating to Tailhook—the Navy fact-finding board—as well as other documents officially transmitted to the committee by the Navy.

I am informed by the Navy that Commander Stumpf had full opportunity at the fact-finding board to testify, to present evidence, and to cross-examine witnesses.

Mr. President, that is the record that we have been primarily focusing on. The Navy has advised the committee that it has provided all of these materials to Commander Stumpf, so he knows what these materials are. The committee did not rely on rumors. The committee did not rely on innuendo. The committee certainly did not rely on anonymous phone calls.

An op-ed piece by CDR Stump's attorney in the February 2, 1996 Washington Times states that the Senate relies on "largely false and discredited allegations of misconduct collected by the Pentagon inspector general . . . to make their decisions on Navy promotion nominations." That is an inaccurate and incomplete description of the Committee's procedures for reviewing Navy and Marine Corps nominations in the aftermath of Tailhook. After the Navy turned the Tailhook matter over to the DOD Inspector General, the IG conducted an investigation. The results of the investigation were returned by the IG to the Navy for further proceedings, including administrative or disciplinary proceedings where appropriate. DOD/IG materials do not provide the primary source of information used by the Committee. In virtually all cases, including the case of CDR Stumpf, the Committee has relied primarily on material from the proceedings conducted by the Navy after the DOD/IG investigation, as well as related documents provided by the Navy.

It is noteworthy, however, that in at least one well known, contested nomination, many Senators placed significant reliance on information developed by the DOD Inspector General, rather than in a Navy proceeding. That was the nomination of Admiral Kelso to retire in grade, in which the military judge in a Tailhook court-martial, Captain William T. Vest, Jr., opined that Admiral Kelso observed misconduct at Tailhook, whereas the DOD Inspector General, who reviewed the judge's opinion in light of the IG's investigations, concluded that Admiral Kelso did not observe the misconduct. As one who fought hard on the Senate floor for ADM Kelso's confirmation, I do not believe that Navy and Marine Corps nominees would want the Committee to preclude consideration of such material from the DOD/IG.

Commander Stumpf's attorney, in a February 2, 1996, op-ed article, attempted to analogize his client's case to that of Adm. Joseph Prueher. According to Commander Stumpf's attorney in this February 2, 1996, op-ed piece in the Washington Times, "Just last Friday, the Senate failed to vote to confirm Adm. Joseph Prueher as Commander, U.S. Pacific Command. The reason? A few Senators, bowing to feminist pressure, decided to revisit, for the third time, Admiral Prueher's handling of a sexual harassment case while superintendent of the U.S. Naval Academy."

Mr. President, I am sure that the Navy, as well as Admiral Prueher, were just as surprised as I was to learn on February 2 from Commander Stumpf's attorney that Admiral Prueher's confirmation had not gone through. The Senate received Admiral Prueher's nomination on Wednesday, January 10; the Armed Services Committee reported him out of committee on Friday, January 26; and the Senate unanimously confirmed him on Tuesday, January 30, 2 days before the op-ed piece appeared in the Washington Times. The date of the admiral's confirmation, January 30, was the first day the Senate was in session after the nomination was reported out of committee. That is prompt action by any standard.

Moreover, the date of Admiral Prueher's confirmation by the Senate, January 30, was 2 days before Commander Stumpf's attorney wrote in the Washington Times that the Senate was "bowing to feminist pressure."

In the same article, Commander Stumpf's attorney stated: "The Senate now fancies itself as a super selection board, reviewing de novo executive branch promotion decisions for political advantage." That opinion has been echoed by others, such as the statement in the March 1996 Armed Forces Journal International that "Cmdr. Stumpf is being sacrificed on the altar of political correctness."

As I noted earlier in my statement, Senator COATS and Senator BYRD, as leaders of the Personnel Subcommittee, have the unenviable task of taking the lead in reviewing nominations involving adverse information. I have been chairman of the Manpower Subcommittee. That is the first subcommittee I headed after I became a member of the committee. I know how hard that job is. It is one of the most important jobs, one of the most difficult jobs. I think we owe both Senator COATS and Senator BYRD a great deal of gratitude for the work they do. They have given the committee a serious, sober recommendation in each case based on the merits.

I do not believe that anyone can seriously argue that they or the committee have gained any political advantage by taking on this responsibility. If there is any political advantage attached to it, then someone is going to have to explain it to me. After being in the Senate for 24 years, I cannot think of anything that has less political advantage to it than this tough, hard, but absolutely essential job.

This is not something that the Senate grabbed. This is something that the Constitution of the United States gives to the Senate, a responsibility. We are doing our constitutional duty. If anyone does not think the Senate ought to be involved—"get the Senate out of the Navy"—then they ought to change the Constitution of the United States. This is our duty. It is our duty. As long as I am on the committee, I, for one, will continue to exercise that duty.

Mr. President, the committee has a keen appreciation for the values that differentiate military service from civilian society, the requirements of good order and discipline in the armed forces, and the standards of responsibility and accountability applicable to military commanders—including their responsibility and accountability for the morale and welfare of their troops.

The committee also has a clear understanding that a promotion is not a reward for past service; it is a judgment on the fitness of an officer for higher levels of command and responsibility.

Mr. President, it has been the traditional practice of the Committee on Armed Services to look primarily to the statutes, regulation, and time-honored customs of military service in assessing adverse information on a nominee.

One of those standards is the affirmative obligation of commanding officers, under section 5947 of title 10, United States Code, to demonstrate "a good example of virtue, * * * to be vigilant in inspecting the conduct of all persons who are placed under their command; to guard against and suppress all dissolute and immoral practices; * * * and to take all necessary and proper measures, under the laws, regulations, and customs of the naval service, to promote and safeguard the morale, the physical well-being, and general welfare of the officers * * * under their command or charge."

Article 0802.1 of the Navy regulations makes it clear that commanding officers operate under a higher standard of responsibility, and that they are not relieved of that responsibility simply because they are not present during misconduct or a mishap:

> The responsibility of the commanding officer for his or her command is absolute, except when, and to the extent to which, he or she has been relieved therefrom by competent authority or as provided in these regulations. The authority of the commanding officer is commensurate with his or her responsibility. While the commanding officer may, at his or her discretion, and when not contrary to regulations, delegate authority to subordinates for the execution of details, such delegation of authority shall in no way relieve the commanding officer of continued responsibility for the safety, well-being and efficiency of the entire command.

Article 0802.4 of the Navy Regulations places a special responsibility on commanding officers with respect to their conduct and the conduct of their subordinates:

> The commanding officer and his or her subordinates shall exercise leadership through personal example, moral responsibility and judicious attention to the welfare of persons under their control or supervision. Such leadership shall be exercised in order to achieve a positive, dominant influence on the performance of persons in the Department of the Navy.

Mr. President, these are not post-Tailhook standards. These are not "politically correct" rules of the nineties foisted on the Navy by "feminist pressure." Those standards were in effect at the time of Tailhook and reflect bedrock principles of good order and discipline.

The committee also looks to the standards in section 654(a) of title 10, United States Code, which states:

> (8) Military life is fundamentally different from civilian life in that—
>
> (A) the extraordinarily responsibilities of the armed forces, the unique conditions of military service, and the critical role of unit cohesion, require that the military community, while subject to civilian control, exist as a specialized society; and
>
> (B) the military society is characterized by its own laws, rules, customs, and traditions, including numerous restrictions on personal behavior, that would not be acceptable in civilian society.
>
> (9) The standards of conduct for members of the armed forces regulate a member's life for 24 hours each day commencing upon entry on active duty and not ending until that person is discharged or otherwise separated from the armed forces.
>
> (10) Those standards of conduct, including the Uniform Code of Military Justice, apply to a member of the armed forces at all times that the member has a military status, whether the member is on base or off base, and whether the member is on duty or off duty.

Those findings reflect some of the most fundamental, enduring values of military service.

Mr. President, the Armed Services Committee has reviewed Navy and Marine Corps nominations in the aftermath of Tailhook, including CDR Stump's promotion, in the context of these well-known military standards. In light of these standards, it would have been irresponsible for the Committee to ignore adverse information related to a nominee's conduct or leadership at Tailhook '91, set forth in information provided to the Committee by the Department of Defense—particularly in view of the military significance of that event.

Tailhook 1991 was designed and promoted to showcase the aviation components of the Department of the Navy. The Navy actively encouraged members to attend to enhance their professional military development.

The Navy provided significant financial, logistical, and personnel support—including featured presentations by the Secretary of the Navy, the Chief of Naval Operations, the Assistant Chief of Staff (Air Warfare), and numerous other Navy and Marine Corps officers and civilian officials. Many military personnel traveled under government orders, which paid for their transportation, food, and lodging. Over 1,700 were transported at government expense,

Tailhook 1991 was a showcase event where all officers, particularly those in command, were under an obligation to ensure that their conduct, and that of their subordinates would represent the very best in the U.S. Navy and U.S. Marine Corps. The failure of some to demonstrate appropriate standards of conduct and leadership is an appropriate consideration in assessing an officer's fitness for promotion.

Mr. President, I also reject any suggestion that the committee acted out of political motivation or as a result of outside pressures.

Mr. President, I personally talked to every Secretary of the Navy since Tailhook came up and every Chief of Naval Operations since Tailhook came up. I have cautioned them against overreacting. I have cautioned them against denial of due process for individuals accused of inappropriate behavior. I have cautioned them against unlawful command influence. I have done that personally. I have felt it was my responsibility to counsel the Navy not to overreact and to give to their own members the kind of due process that they deserve.

During my tenure as chairman I assured every civilian and military leader of the Department of Defense and the Department of the Navy involved in nominations that the committee would carefully consider each nomination on the merits, and that they should not hesitate to recommend promotion in any case where the Navy deemed it appropriate.

The committee has ensured that when the Navy recommends promotion in a case involving a Tailhook certification, we are provided with the Navy's official information, not rumor, innuendo, or anonymous information.

When the committee has received information from the Navy bearing on an individual's conduct or leadership at Tailhook, we have considered it carefully and judiciously on a case-by-case basis.

Let us look at the facts. Since Tailhook, the committee has approved 36,839 Navy nominations, 6,431 Marine nominations, a total of 43,270 nominations in the Navy and Marine Corps since Tailhook. During that period, how many have we not recommended because of Tailhook matters? A total of 8; 8, a total of 8. You would not think that from some of the hysteria going on in some of the news coverage, particularly editorials that I have seen.

Let me repeat, the committee has approved 43,270 Navy and Marine Corps nominations and turned down only 8 since Tailhook came up. During the same period, 15 officers who were the subject of administrative action by the Navy as a result of Tailhook have been confirmed by the Senate. These figures clearly demonstrate that the committee has reviewed each of these nominations involving a Tailhook certification on the merits.

While reasonable people could come to different conclusions on those who were recommended, as well as those who were disapproved, the fact is, we have not indiscriminately rejected anyone who had been investigated in connection with Tailhook. I have personally taken the floor of the Senate to try to get nominations through and have succeeded virtually in every case, with the help of the committee and the good judgment of the Senate, that were bitterly opposed here on the floor relating the Tailhook.

I think people ought to have a little knowledge of history. I do not expect people to understand everything that has been done, but there ought to be some slight knowledge and acknowledgement of the history of how we handled this whole matter of Tailhook.

Someone ought to recall also the Secretary of the Navy decided that the Navy botched this investigation so badly that he himself, back in 1992, in a previous administration, removed the Navy from the investigative responsibilities because it had been so badly botched.

It is also important to contrast the Senate's action with the results of action taken within the executive branch. As a result of the actions taken by the Navy and Marine Corps, 39 officers have had their careers adversely affected. Twelve officers were rejected by promotion boards, another 12 who were selected by a board subsequently were removed from a promotion list within the executive branch, and another 15 officers resigned or retired before being considered for promotion after receiving adverse administrative action by the Navy. In other words, the number of officers whose careers have been adversely affected by the Navy outnumbers the officers returned by the Senate by a ratio of more than 4 to 1.

Mr. President, this Committee has a strong record of support for military nominations, even in the face of considerable criticism. We have been willing to take the political heat. We did it in the case of Admiral Kelso. We did it in the case of Admiral Mauz. We did it in the case of Admiral Prueher. We have done it in the case of 15 nominees who were confirmed even though administrative action had been taken against them as a result of Tailhook. There was no political advantage in our action, but we did it because it was the right thing to do.

OVERSIGHT, LEADERSHIP, AND RESPONSIBILITY

Mr. President, the Armed Services Committee has a vital oversight role over the Armed Forces, including matters involving nomination and promotions. The Navy failed to provide the Armed Services Committee with the information required to assess Commander Stumpf.'' fitness for promotion prior to the Senate's vote on his nomination. It was incumbent on this committee to conduct a review of that promotion when information was belatedly turned over to the committee.

I am informed by majority staff that, prior to the Committee's October 25, 1995, decision to recommend that Commander Stumpf not be promoted, his attorney did not raise a legal objection to the propriety of the committee's review. Although the obvious outcome of any such review would be a communication to the Secretary of the Navy regarding the merits of Commander Stumpf's promotion, counsel did not raise a legal objection to any communication from the committee to the Secretary. Counsel for Commander Stumpf was well aware of the committee's review of his client's promotion, as reflected in his August 2, 1995, letter to Senator THURMOND discussing the review and the action taken by the Secretary of the Navy to delay Commander Stumpf's promotion. The letter vigorously supported the merits of his client's promotion and requested that the committee complete its review. The letter, however, did not state any legal objection to the committee's review, the action of Secretary Dalton in delaying the promotion, or to any communication from the committee to the Secretary on the merits of the promotion.

As I noted earlier, the committee's letter of November 13, 1995, specifically advised the Secretary of the Navy that:

> The committee recognizes that, in light of the Senate having given its advice and consent to Commander Stumpf's nomination, the decision to promote him or not to promote him rests solely within the executive branch.

Let me repeat that, Mr. President. We made it very clear that "the decision to promote him or not to promote him rests solely within the executive branch." Mr. President, those were not idle words. We fully recognized that the Secretary of the Navy—acting under a delegation of authority from the President—has unfettered discretion under section 629 of title 10, United States Code, to remove or not remove the name of an officer from a selection board list.

On December 22, 1995, Secretary Dalton directed that Commander Stumpf's name be removed from the promotion list.

Mr. President, I would like to make my own position clear.

These are tough decisions. I do not quarrel with anyone who comes to a different conclusion. They involve subjective judgment. Different people draw the line between right and wrong in different places. Based upon the information available at the time, we made our decision. I made my judgment about right and wrong, and I made my judgment about the question of leadership. That judgment was based on the recommendation, the very thoughtful recommendation, of Senator COATS and Senator BYRD.

Others may have a different definition of right and wrong. Others may have a different definition of leadership. They have every right to their perspective. All of us have some obligation to strive for consistency in drawing the line, consistency between officers who may have been involved in similar circumstances. To draw one line for officers in the Navy and another line for officers in the Marine Corps relating to the same event, to me, is totally unacceptable.

The promotion process must ensure that all officers meet the high standards of conduct and leadership that demonstrate potential for leadership at a higher grade. This is appropriate not just for the Navy, but for the Army, Air Force, and for the Marine Corps. Does the Navy now want to set a standard for leadership lower than the Marines? Does the Navy want to set a standard of leadership lower than the Army? Does the Navy want to set a standard of leadership lower than the United States Air Force? That is a question that the Navy leadership has to answer.

Mr. President, if the Navy's withholding of information prior to the Senate's confirmation of Commander Stumpf was the result of administrative error, then the Navy's administrative process needs review and overhaul. These administrative errors deprived Secretary Perry, the Secretary of Defense, of the information he needed to make his recommendations to the U.S.

Senate and to the President. These administrative errors deprived the Armed Services Committee of the information that we needed to make a recommendation to the Senate. These administrative errors deprived the Senate of the information it needed prior to deciding whether Commander Stumpf should have been confirmed.

In closing, Mr. President, I make the following points: First, my review of the material provided to the committee by the Navy, including the record of the conduct, review, and disposition of the proceedings of the factfinding board confirms my assessment that Senator COATS' recommendation to the committee was sound, and that the committee's October 25, 1995, recommendation that Commander Stumpf not be promoted was appropriate.

Second, it was appropriate to the committee to communicate its recommendation to the Secretary of the Navy, particularly in light of the Navy's failure to provide the committee with the information it had pledged to provide prior to the committee's recommendation to the Senate that Commander Stumpf be confirmed.

Third, it was appropriate for the committee to remind Secretary Dalton that he had unfettered direct discretion to promote or not promote Commander Stumpf, which we did in the letter. If Secretary Dalton believed in December that Commander Stumpf's promotion was warranted, he could have promoted him at that time. The letter made that absolutely clear.

Fourth, the executive branch has an obligation to conduct a thorough review of adverse information with respect to all nominations, including but not limited to Tailhook. In terms of the issues of conduct and leadership bearing on the individual's fitness for promotion, the question in Commander Stumpf's case, for example, was not whether he was guilty of a crime, but whether he met the standards of leadership that would qualify him for a promotion to a higher grade.

Fifth, the executive branch must strive for consistency in its approach to military nominations, and consistency is essential for fairness. Although each proposed nomination must be judged on its own merits and its own facts, it is critical that careful attention be paid to issues of consistent treatment, particularly when adverse information is related to a single event such as Tailhook. The Navy leadership has effectively forced 39 officers to retire or resign or has removed their names from promotion lists for Tailhook-related matters. The committee has a very difficult time justifying favorable action on other nominees whose conduct or leadership deficiencies appear to be worse than those who were not nominated or who were forced to retire or resign by the United States Navy.

Sixth, the Navy should determine whether Commander Stumpf's attorney is serious about the public release of information concerning his client. If so, the Navy should not be selective in the release of information. The Navy should make available a complete record of proceedings concerning Commander Stumpf in the aftermath of Tailhook, including the full record of proceedings, review, recommendations, and action on the fact-finding board. If they do, there will be no mystery anymore and everybody can make their own considered judgment.

Seventh, after learning that the Navy had failed to provide the committee with information about Commander Stumpf, prior to the committee's action on his nomination, the committee requested the Navy to provide "a complete description of the conduct, review and disposition of the allegations concerning Commander Stumpf." The Navy provided information to the committee in response to this request. Subsequent to the committee's October 25, 1995, meeting on Commander Stumpf's nomination, the Navy has provided the committee with additional information, including information on the review and disposition of the allegations concerning Commander Stumpf, which we asked for to begin with. The Navy needs to explain why, after failing to provide the commitee with timely information prior to the confirmation of Commander Stumpf by the Senate, the Navy subsequently did not provide the committee with complete information on the review and disposition of the allegations.

Finally, Mr. President, and what I number as eighth, section 629 of title 10, United States Code, provides that "An officer whose name is removed from a list continues to be eligible for consideration of promotion." As noted in the statement issued by the committee on March 13 with respect to Commander Stumpf, quoting from the letter, "If he is nominated again for promotion to captain, the committee will give the nomination the same careful consideration it would give to any nominee."

I certainly concur in that. For my part, I would carefully consider any information that might be presented by Commander Stumpf or on his behalf. I would consider the full record of information provided by the executive branch, and I would certainly take into consideration the views of my colleagues on the Armed Services Committee on both sides of this issue, before reaching a final conclusion on the merits of such a nomination, should it be submitted to the Senate.

Mr. President, I close by saying I do not believe that the committee held Commander Stumpf responsible for the Navy's administrative errors. If Commander Stumpf is nominated in the future, I would separate these matters, and I would view the Navy's administrative errors as separate and apart from Commander Stumpf's nomination.

EXHIBIT 1

ROBERT E. STUMPF,
2616 BOUSH QUARTER,
Virginia Beach, VA, February 13, 1996.

Hon. STROM THURMOND,
Chairman, Senate Armed Services Committee, U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: As it appears that the Committee continues to have lingering concerns about my promotion and my attendance at the Tailhook 1991 Symposium, it may be beneficial to the Committee to hear from me personally. Accordingly, I respectfully request to meet with the Committee in closed session at the earliest opportunity to address Committee questions or concerns.

Very truly yours,
ROBERT E. STUMPF,
Commander, USN.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, March 14, 1996.

Commander ROBERT E. STUMPF,
2616 Boush Quarter, Virginia Beach, VA.

DEAR COMMANDER STUMPF: This is in response to your letter dated February 13, 1996. It was first received by Committee via telefax on March 13, 1996.

I understand your request to appear before the Committee in closed session. However, at present there is no nomination before the Committee concerning you. Should a nomination concerning you be presented to the Committee in the future, your request will be given appropriate consideration.

Sincerely,
STROM THURMOND,
Chairman.

Mr. BYRD. Mr. President, I listened with great interest to the remarks by both Mr. COATS, the distinguished Senator from Indiana, and by Mr. NUNN, the distinguished Senator from Georgia.

First of all, with reference to the work that has been done on this particular subcommittee, I want to pay tribute to the Senator from Indiana, Mr. COATS. As far as I am concerned, between the two of us, he has done by far the major part of the work. He has shouldered the workload and he has done it professionally and with great skill and exceedingly well. I admire his courage for taking the position that he is taking on this particular issue here this evening.

Mr. President, with reference to the Senator from Georgia, I came to the Senate 38 years ago, at which time there was a very distinguished Georgian by the name of Richard Brevard Russell, who was chairman of the Senate Committee on Armed Services. I became a member of that committee 2 years after I had become a Member of the Senate, and I served with Senator Russell on that committee.

In these 38 years, Mr. President, I have seen some great chairmen of that committee, chairmen from both parties. But in my considered judgment—

and I realize that I have my own flaws and I am capable of erring in my judgment—the two greatest chairmen of the Armed Services Committee in my 38 years here have been those two distinguished Senators from the State of Georgia. Senator Richard Russell was someone whom I adopted as my mentor. He never knew that, but in my own heart I admired him so greatly that I tried to follow in his footsteps and study the rules and precedents of the Senate. It was my resolution which, when adopted by the Rules Committee of the Senate and by the Senate, brought about the naming of what was then the Old Senate Office Building, the Richard Brevard Russell Building. That is how much I admired Senator Russell.

I admire this distinguished Senator from Georgia, Senator NUNN, who will be retiring from the Senate at the end of this year, no less, insofar as his skill is concerned and handling of the work of the committee. I have marveled at the organization of the committee and the organization, work, and dedication of the Senator from Georgia. I have often said to others that Senator NUNN is probably the finest chairman of the committee that we have had in the Senate.

Now, Napoleon once had a general staff officer in his army by the name of Michel Ney. Well, Marshal Ney was cut off from the rest of the army of Napoleon, and he had to fight his way through thousands of Cossacks, which he did. He came to the River Dnieper and he crossed it. In so doing, he lost all of his guns, but he finally was reunited with the other units of Napoleon's army. When Napoleon heard that Ney had escaped and had returned, he was overjoyed. He said to some of the other officers, "I have 400 million francs in the cellars of the Tuileries, and I would gladly give them all for the ransom of my good companion in arms." That was the old palace in Paris, which later burned down. "I have 400 million francs in the cellars of the Tuileries, and I would gladly give them all for the ransom of my good companion in arms." That is how much Napoleon prized this officer, General Ney.

Well, I feel that way about Senator NUNN, and I am proud to be associated with him and with the distinguished Senator from Indiana in their remarks here today. I will be very brief.

I wish to associate myself with the remarks made by the distinguished Senator from Georgia, the ranking member of the Committee on Armed Services, on the matter of the promotion of Commander Robert Stumpf, U.S. Navy.

It is very clear to me that the committee has acted with great responsibility in the handling of the so-called Tailhook 1991 events, and attempted to protect the rights of the individuals involved while working closely with the Navy and the Department of Defense to get to the bottom of the events that did occur. It is vitally important that the Navy be consistent and forthright in its consideration of the individual cases that still are pending, and take every step to insure that the lessons learned from the scandal can be absorbed and remedies can be implemented.

In the light of these considerations, it is disappointing to see the kind of recent attacks that have been leveled at the Armed Services Committee by the media, and by Commander Stumpf's attorney.

I believe that Commander Stumpf's nomination was clearly prejudiced by the incredible administrative ineptness that accompanied his nomination. According to the well-established procedures that had been put into place by the committee, in cooperation with the Navy, adverse information that was associated with Tailhook should have been forwarded to the committee when this nomination for promotion to captain was first provided to the committee. It is extremely unfortunate that only after the fact, that is, after the nomination was approved by the Senate, did the committee learn of the results of a board of inquiry into Commander Stumpf's participation at Tailhook.

The issue that is at the heart of this matter, Mr. President, is the question of consistency of standards by which we hold commanding officers in the Navy accountable for their actions. Senator NUNN has itemized in detail the standards that exist in the law and in Navy regulations, and they are engraved on the long honorable traditions of the Navy. Commander Stumpf, like all commanding officers, bears a heavy responsibility not only for his own actions, but also for the actions of the officers and men under his command. That is what this unfortunate affair is really all about.

It was William Wordsworth who said, "No matter how lofty you are in your department, the responsibility for what the lowliest assistant is doing is yours."

Frederick the Great of Prussia said, that, "The quality of the troops depends directly on that of the officers: a good colonel; a good battalion."

That is why the committee acted properly in holding up those standards as a mirror by which to judge the qualifications of commanding officers for further promotion, given what happened in the hospitality suites of the Las Vegas Tailhook convention hotel. It is not a pretty picture, and the record in the case of Commander Stumpf is complete enough, in my judgment, to call his nomination into serious question. Given the visibility of Commander Stumpf, and his professional achievements as an airman in combat in Desert Storm, and as a role model as the flight leader of the Blue Angels Navy Demonstration Team, what we do here in terms of his promotion is all the more important. It is the job of the committee to reconcile this matter and make a considered judgment based on standards, not on personalities.

Additionally, while Senators may well differ in their judgment as to the seriousness of the charges brought against Commander Stumpf regarding his performance as a commanding officer during the Tailhook convention, the failure of the Navy to provide the committee with all pertinent information readily available to the Navy, makes the situation far worse for his nomination. We have the appearance of a coverup of vital information bearing on his nomination. How could such an administrative error have, in good faith, occurred? Clearly the information was pertinent to his nomination, in that the committee did inform the Secretary of the Navy that it would not have agreed to Commander Stumpf's promotion, had it been provided the information at the time when the Stumpf nomination was pending before the committee.

I think it is important to look further into this vital omission—and I have not spoken with the chairman of the Personnel Subcommittee about this—but it would be my hope that consideration might be given to having the DOD inspector general investigate the matter. If there is a flaw in the way in which, after all this time and furor over Tailhook, the paper trail is provided to the Committee, then it should be corrected. If there was an intention on the part of one or another element of the Navy bureaucracy that thought it was doing Commander Stumpf a favor by not providing the committee with this information, then it should be known that a great disservice was done to Commander Stumpf and to the Navy by the omission.

Mr. President, as the Senator from Georgia has pointed out, Commander Stumpf has engaged an attorney who seems to think that his client has something to gain by attacking the procedures and integrity of the Armed Services Committee. The usage of the terms "McCarthyism," "blackmail," and operating on the basis of "rumor" in describing the committee's actions in the matter are ludicrous, and further prejudice his client's case. Commander Stumpf, in my opinion, would be far better off with no attorney than with the advice he is currently getting.

The committee has decided to keep the record of the nomination confidential, but if further action is warranted, such as a resubmission by the Navy of the nomination, then I think the record should be open for all to see. Lay it all out. It should be opened entirely.

Additionally, Commander Stumpf has asked for a hearing by the committee, and I think that request should be granted if his nomination is resubmitted by the Navy. But the hearing and the record should be out in the open. Let the sunshine in.

Commander Stumpf's lawyer has openly attacked the committee, there is a campaign underway to impugn the procedures of the committee. The committee has little choice but to open the record. All the facts should be on the table. Senators can judge for themselves whether the Navy's own standard of conduct for commanding officers was breached substantially enough for the nomination to be rejected.

Mr. President, fame is a vapor; popularity, an accident; riches take wings; those who cheer today may curse tomorrow; only one thing endures—character. And it is the character of the Navy here that is at stake.

I would not want to send my grandsons into an organization that I thought would destroy character. I would expect the organization to be one that would build character. And it is the character of the Navy that we are concerned about.

Mr. President, I thank again Senator NUNN, and I thank Senator COATS for the fine work that they have done. And I regret that they have been made to suffer as a result of their efforts to do the right thing by all concerned.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I thank the Chair.

Mr. President, first I would like to be associated with the remarks in this regard by the chairman of the Personnel Subcommittee, my friend and colleague from Indiana, and with the statement that was made by my longtime friend and seatmate, Senator NUNN from Georgia, and, last but not least, the excellent summation just given to the U.S. Senate by a Member of this body who we all cherish and recognize for his sound leadership and common sense over the years.

Mr. President, I do not take any pleasure at all in making the remarks that I am about to make. It would have been much easier to just skip it and not say anything. But I am very much moved by the unfair attacks on the Armed Services Committee on which the four Members now in the Senate have served for a long, long time. For myself, this will be my 18th year. And I come to the floor to give my views as briefly as I can. I have no written statement, but I am speaking from my heart on this matter that I think is being glossed over.

Mr. President, I have not been happy with the majority on the committee, both Democrats and Republicans, for what I feel has been a folding like an accordian into the spotlight of pressure by the press that has been brought on this particular issue.

I take no pleasure in this, Mr. President, because as a veteran of World War II—and 2 years of that overseas—I was taken over there by the U.S. Navy, and they brought me back. I have a very soft spot in my heart for the Navy of the United States of America. There is no better navy anywhere—nor do I suggest there ever has been—than the men and women that make up the U.S. Navy today. And I am proud of all of them. But I wish to raise some questions and cite some examples tonight on what I feel are some holes, if you will, in some places—not a lot—but in some places in the top leadership of this Navy that have been spotted and brought out into the light with several events of the last few years.

Talking about the Navy, I am not going to go into my record with votes and the leadership positions that I have taken for the Navy in a whole series of areas. I guess the only serious difference I ever had with regard to some of the initiatives of the U.S. Navy was over the reincarnation of the battleships, which I said was nonsense at the time. It was a multimillion-dollar fiasco. We brought four battleships back into commission when we obviously did not need them. But, under the leadership of the Navy, the Congress of the United States was convinced otherwise. We are still paying for that costly mistake. But do we not all make mistakes? I think I was right on that, but I believe that event was the only time in my 18 years of service in the Armed Services Committee that I had serious disagreement with the U.S. Navy.

I emphasize again that I do not condemn the Navy as a whole. But I am here to support the outstanding efforts by Senator COATS, Senator NUNN, Senator BYRD, and others who have taken on the dragon in this case—the dragon being certain key parts of leadership of the U.S. Navy. That is not easy to do, but it is something that has to be done.

I cite, for example, that—while I think Tailhook, we can all agree, was not one of the finer moments of the great history of the U.S. Navy—it may be that it has been overshadowed, and I join with Senator NUNN in his comments. I have heard him say it. Let us not overreact to things of this nature. But we have to act. That is part of our responsibility in the Armed Services Committee.

I stood on this floor to give an example of how in Tailhook and everybody within 100 miles of Las Vegas during that weekend, that riotous weekend, I might say, of "fun loving fun," I guess, by primarily some of the officers of this man's Navy—and sometimes boys will be boys—leadership people should not be boys, and that is my concern and that is my major problem without condemning any of them or all of them.

I have not been one of those who sanctimoniously says it was such a terrible thing that we have to do something about it. I stood at that desk in the Chamber and provided the leadership for the Armed Services Committee with a lot of serious debate with regard to not retiring a very famous, very capable, top leadership man in the U.S. Navy, an admiral who happened to be at Tailhook but was not involved in any of these things. And I stood there and took the advice of SAM NUNN and others of saying let us keep this in perspective. So we retired that outstanding admiral and did not take away his top-grade retirement as some in this body wished to do. So I simply give that as an example that this Senator is not consumed by Tailhook, but I am concerned about Tailhook.

I emphasize once again that we have a great Navy, but some in the leadership of that great organization have let that organization down in recent years. Let me cite one or two examples. I do not know whether they have been talked about by my friends and colleagues before or not. There certainly has been, though, a most unfortunate series, unfortunate series, Mr. President, of serious and distressing shortcomings in part of the U.S. Navy in the last few years.

Without going into any detail, I would simply cite the problems of cheating and scandal and sex at the Naval Academy in Annapolis that we finally seem to be getting turned around, but there was too much of it. I would simply say that one of the most distressing things that I ever saw practiced by certain select leadership, not everybody, was the coverup of the blowup of the *Iowa* battleship, one of those four that I referenced earlier that I thought should never have been brought back in any event.

Just so you will remember, my colleagues in the Senate, that was the case where after a high-level naval investigation of the blowup on the battleship *Iowa* that caused 130 some deaths. The Navy leadership, part of it, came forth with a program that it was the responsibility of two homosexuals. Well, it turned out later when some of us wanted proof, that the two homosexuals were not involved at all; it was a typical case of the old-boy network working very effectively in part of the coverup. They were not successful, but they almost were.

I would simply like to mention in that regard also the glossy coverup, or not so glossy coverup, that the U.S. Navy, some of its leaders, did after Tailhook was exposed in the press. We would not have had the difficulty that we are in today with Commander Stumpf nor would he have his difficulties at least to this extent were it not for the fact that key leadership in the U.S. Navy again fouled up by not following a very simple procedure that was well-known to all of the leadership of the U.S. Navy when Commander Stumpf's nomination came up, and I am sure that Senator COATS and Senator NUNN went into that in great detail.

Then there was another serious situation with regard to the spy scandal of a marine in Moscow in our Embassy. That was a tough blow.

I simply say, Mr. President, that all of these attacks that have been made on the integrity of the Armed Services Committee in the press are nonsense. And for rules and reasons, those of us who are knowledgeable of the full extent of this situation for the protection of the innocent and not to inflame the story are not privileged to talk about it in detail. One editorial that I read said that was McCarthyism, keeping the secret to ourselves like Joe McCarthy did. Well, those of us who have had the top secrets of the United States of America with us and live with us all the time we have been in the Senate know our responsibility and know how to live up to the commitments that we make while editorial writers are not so constrained.

I thought one of the most disgusting articles that I read on this was by the Detroit News. I do not know anything about the Detroit News except that they printed an editorial on Friday, March 15, 1996: "Commander Stumpf Gets Blacklisted." They then go on to launch an all-out attack on Senator CARL LEVIN, who most of us on both sides of the aisle recognize as one of the most decent, most fair, sound men in the Senate. But the Detroit News was very critical. Let me quote from that:

> Senator Levin and his aides refused to discuss Commander Stumpf's case or the workings of the Armed Services Committee, or anything else for that matter. Citing his allegiance to striking unions, he refuses to talk to the News but his committee colleagues lack so handy an excuse.

CARL LEVIN is one of my best friends in the Senate. I came here with him. And for the Detroit News to attack that fine U.S. Senator in the manner they did is unconscionable. And many other members of the press including our own Navy Times, of course. The Navy Times in an editorial of March 11, 1996, says "Commander Stumpf is a Marked Man:"

> The Senate can strike a blow for naval aviation safety right now by dropping the Tailhook "acid test" now used to block some aviator promotions.

And at the bottom of the editorial, the last paragraph:

> But Tailhook was nearly 5 years ago. It's time for the sore to heal. It's time to abandon that list and help the men and women of naval aviation get back to the basics of safe flying.

Five years is not very long. I also cite, for the record, an excellent statement in this regard made by a nonmember of the Armed Services Committee, Senator GRASSLEY of Iowa, printed in the CONGRESSIONAL RECORD of March 13, 1996, on S. 1999.

Senator GRASSLEY goes on to say that he feels that the flagging of officers who were promoted, who were investigated, should be and should continue to be brought to the attention of the Armed Services Committee. And I agree.

That does not mean, as Senator COATS and Senator NUNN and Senator BYRD have pointed out, that we blacklist these people at all. That is not the way we work. I simply say that the major reason that Commander Stumpf has had some trouble was, once again, the top leadership of the U.S. Navy failed to do the routine thing when they submitted Stumpf to the Armed Services Committee for us to discharge our responsibilities that we have sworn to uphold. They just forgot.

It was a legitimate error. I do not believe it was intentional, but it was another error, another shortcoming of some of the leadership of the U.S. Navy.

I simply say that the Armed Services Committee, nor any of its members, are at fault. Yet, our integrity is being questioned because of what we collectively did and thought was our duty.

Let me close, if I might, by giving my own personal view, without detailing any of the information at my disposal that, for good reasons, I am sworn to protect. I know most or all of the details, some of them sordid, about Tailhook. I happen to feel that Commander Stumpf may be being overly criticized for some things. It is true, in the opinion of this Senator, that he was not in that room at a time when an act was taking place that I think would have probably guaranteed that he not be recommended for promotion. He got out in time. But he did not do anything about anything that he saw going on.

But I simply say and emphasize once again that I am not one of those who feel that Commander Stumpf should be blacklisted, should be eliminated for consideration—and I emphasize consideration—by the Armed Services Committee in carrying out its responsibilities. My view is that circumstances following the unfortunate foul-up by the top echelon in the U.S. Navy in not giving us the information is the main reason for the problem.

But what happened after that? And this is something that I feel very strongly about. After that happened, we began to see articles appearing, although none of the authors came to see me. The old boy network took over for a top gun.

Let me emphasize that again. The old boy network took over for a top gun and dedicated themselves to seeing, as quickly as possible, that the promotion was granted.

I think—and I am very much upset with Commander Stumpf—that he did not take the first logical step that he could, should, and had the right to take, by appealing to a board that looks after these things, called the correction board. No, he bypassed that, because the other top guns and their supporters went to work by lobbying.

So it seems to me that if and when I have a responsibility to discharge, as one member, my duties as one member of the Armed Services Committee, I would not, having known what I know, interfere with Stumpf's promotion on the basis of Tailhook. Some other Members may not see it that way. But I am very much concerned about an individual that we look to, and certainly is one of the finest performing officers that we have today in the U.S. Navy, there is no question about that, but there are other things that we look for when we go through the promotion scheme. In all likelihood, Commander Stumpf, if and when he is promoted—as I think he will be, eventually, to captain; he is very likely to become an admiral someday. There are lots of things beside your ability to fly and your courage in battle that play into the promotion role.

As much as anything else, I simply say that as far as this Senator is concerned, the hiring of a lawyer without going through the proper procedures is a step in the wrong direction and emphasizes what I am most concerned about in this particular matter, and that is that the Navy, unto themselves, with the machoism that they show time and time again, decided they were going to get the Armed Services Committee, regardless of our faithfulness, regardless of what we have done, regardless of what we will do as members of that committee in the future.

And the crowning blow, although I recognize that he has a right to do it, was a Washington Post news story of March 19 that I will submit for the RECORD. The headline is "Tailhook Figure Files Suit Over Navy Promotion." Going to the courts, hiring a lawyer to get what he wants and is probably entitled to, it seems to me was not the wise way to proceed.

I ask unanimous consent the article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Some will disagree with me, probably, about Commander Stumpf. But the main reason for my appearing on the floor tonight was to try to set the record straight as to the legitimate role that the Armed Services Committee has played in this matter. We played the role right by the book.

I happen to feel, when Commander Stumpf comes before us again, he may be approved. He might get my support. But I will be asking some questions about why the lawsuit, why the full-court press by some of his friends, trying to discredit, by their actions, the legitimate steps and actions and decisions made by the Armed Services Committee?

Mr. President, I think we have not heard the last of this matter. I think it is just another bungled handling of a situation by certain top leadership in the U.S. Navy, and I will simply say to Commander Stumpf that had the information been furnished to us when it was not about what happened, or that he was even at that Tailgate party 5 years ago, I would have voted to send Stumpf on through after I took a look and had a thorough briefing on what the allegations against him were. I do not think they were that serious.

But the U.S. Navy is the one that caused Commander Stumpf his problem. His friends are in the Armed Services Committee.

Mr. President, I yield the floor.

EXHIBIT 1

TAILHOOK FIGURE FILES SUIT OVER NAVY PROMOTION

A former commander of the Blue Angels squadron, who was cleared of wrongdoing in the Tailhook scandal, has accused Navy Secretary John H. Dalton of improperly blocking his promotion to captain.

In a suit filed Friday in federal court in Alexandria, Cmdr. Robert E. Stumpf said Dalton bowed to political pressure from Capitol Hill. Stumpf, stationed at Oceana Naval Air Station in Virginia Beach, asked that he be given his promotion as of July 1995.

Stumpf's was one of the most high-profile cases resulting from the 1991 Tailhook convention of Navy aviators, in which dozens of women and female officers complained of sexual harassment. A three-officer panel found that Stumpf left a Las Vegas hotel suite before a stripper performed oral sex on an officer.

The suit said Congress approved Stumpf's promotion after Dalton inadvertently failed to notify Capitol Hill of Stumpf's Tailhook connection. Dalton, pressured by the Senate Armed Services Committee, withdrew Stumpf from a promotion list in December.

The suit said federal law allows a promotion approved by Congress to be canceled only if an officer "is mentally, physically, morally or professionally unqualified."

MORNING BUSINESS

Mr. COATS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING THE PARTICIPANTS IN THE SOUTH DAKOTA HIGH SCHOOL BOYS' BASKETBALL TOURNAMENT

Mr. DASCHLE. Mr. President, today I want to commend the hard work, competitive spirit, and teamwork recently exhibited by thousands of young people across South Dakota during the State High School Boys' Basketball Tournament.

Each year during late February and early March, towns from across the State come together in support of their high school basketball teams in district, regional, and State tournaments. This exciting period culminated last week with three teams from across South Dakota winning State championships in their respective divisions.

There is a tremendous amount of pride that each community in South Dakota feels for its high school sports teams. Having grown up in one of those communities, I know that each time a high school team is successful, its community glows with the same accomplishment. Communities like these are still proud of their young people's abilities, their hard work, and their determination to work together and achieve a common goal, both on and off the court.

Today, I would like to congratulate all of the teams who participated in this year's tournaments. In particular, I would like to commend the high schools of Warner, Douglas, and Mitchell for having earned their respective State boys' basketball championship titles in 1996. Clearly, these schools exemplify the commitment to excellence and teamwork that all South Dakota high schools share with their communities.

HOW MUCH FOREIGN OIL BEING CONSUMED BY UNITED STATES? HERE'S TODAY'S WEEKLY BOX SCORE

Mr. HELMS. Mr. President, the American Petroleum Institute reports that, for the week ending March 15, the U.S. imported 7,145,000 barrels of oil each day, 752,000 barrels more than the 6,393,000 barrels imported during the same period a year ago.

Americans now rely on foreign oil for more than 50 percent of their needs, and there are no signs that this upward trend will abate.

The increasingly dangerous U.S. dependency on foreign oil must be addressed by those who care about restoring domestic production of oil—by U.S. producers using American workers.

The American people should consider the economic calamity that will occur if and when foreign producers shut off our supply, or double the already enormous cost of imported oil flowing into the U.S.—now 7,145,000 barrels a day. We must not delay in seeking to solve this troubling problem.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, 4 years ago when I commenced these daily reports to the Senate it was my purpose to make a matter of daily record the exact Federal debt as of the close of business the previous day.

In that first report—February 27, 1992—the Federal debt the previous day stood at $3,825,891,293,066.80, as of the close of business. The point is, the Federal debt has since shot further into the stratosphere.

As of yesterday at the close of business, a total of $1,233,906,465,897.14 has been added to the Federal debt since February 26, 1992, meaning that as of the close of business yesterday, Wednesday, March 20, 1996, the exact Federal debt stood at $5,059,797,758,963.94. (On a per capita basis, every man, woman, and child in America owes $19,131.71 as his or her share of the Federal debt.)

FRANKLIN N. MEISSNER DAY ON THE SOUTH SHORE

Mr. KENNEDY. Mr. President, I am honored to take this opportunity to pay tribute to one of Massachusetts' finest citizens, Franklin N. Meissner, and his contributions to the business community on the south shore of Massachusetts.

Next Tuesday, March 26, the South Shore Chamber of Commerce will be honoring Frank Meissner, who is the chamber's past chairman. The south shore chamber is currently the second largest chamber of commerce in Massachusetts, and it is also one of the largest suburban business organizations in the country. With its substantial resources and its committed membership, the chamber has been an instrumental factor in promoting economic growth and community development that benefits all families in southern Massachusetts.

Frank Meissner has been deeply involved in all of these initiatives and he deserves great credit for their success. He is currently the president of Electro Switch Corp., which employs almost 300 people. He also serves as director of both the Bank of Braintree and the South Shore Hospital, and is also the past president and still an active member of the Weymouth Rotary Club.

I congratulate Frank Meissner for his many achievements and for his leadership in so many effective ways for the people of the South Shore. March 26 is truly Franklin N. Meissner Day on the south shore, and all of us are proud of him.

GREEK INDEPENDENCE DAY

Mr. KENNEDY. Mr. President, I am honored to be a sponsor of the resolution designating March 25, 1996 as Greek Independence Day.

On this, the 175th anniversary of Greek independence from the Ottoman Empire, we honor the courageous struggle by the Greeks to regain their freedom. After being ruled by the Ottoman Turks for four centuries, the people of Greece were able to restore democracy for the Nation where democracy was first born in the ancient world.

The people of Greece have made extraordinary contributions to all nations of the world, and no country has benefited more from these contributions than the United States. It has been said that except for the blind forces of nature, nothing moves in this world which is not Greek in origin. Our Founding Fathers modeled our own system of democratic government on the basic principles of democracy of ancient Greece, and over 3-million Greek-Americans today continue to make valuable contributions to all aspects of American life. This resolution, in commemorating Greek Independence Day, also commemorates the close and enduring ties between our two nations. Long may they flourish.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1266. An act to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

H.R. 1787. An act to amend the Federal Food, Drug, and Cosmetic Act to repeal the saccharin notice requirement.

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

At 2:59 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence Senate:

H.J. Res. 165. Joint resolution making further appropriations for the fiscal year 1996, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–503. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Agriculture, Nutrition, and Forestry.

"JOINT RESOLUTION

"Whereas, the federal budget allocates less heating assistance for low-income homeowners than provided in previous years; and

"Whereas, food stamp assistance under certain circumstances is linked to heating assistance; and

"Whereas, the significant reduction in heating assistance to 54,000 households in Maine, 12,000 of which involve subsidized housing and 7,000 of this 12,000 involve elderly households, will have a severe impact on Maine people, especially those receiving food stamps; and

"Whereas, cuts to the Low-Income Home Energy Assistance Program are concurrent with cutbacks in the prescription drug program, increases in Medicare premiums and the loss of food stamps. These cuts will be especially hard felt by Maine seniors and the disabled community who rely on these programs in their day-to-day existence; now, therefore, be it

"*Resolved*, That we, your Memorialists, respectfully recommend and urge the Congress of the United States to change current federal policy to allow persons who meet the eligibility requirements for food stamps but who do not receive heating assistance under the Low-Income Home Energy Assistance Program to receive food stamps in the same amount as they would have received had they received heating assistance; and be it further

"*Resolved*, That we, your Memorialists, respectfully recommend and urge the Congress of the United States to restore heating assistance and weatherization funds that have been recently cut in order that states such as Maine, which ranks 33rd in the nation with respect to median household income, do not have to make the choice whether people starve or freeze; and be it further

"*Resolved*, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation."

POM–504. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Agriculture, Nutrition, and Forestry.

"HOUSE JOINT MEMORIAL 4017

"Whereas, nonnative noxious weeds pose a substantial and significant threat to the economic welfare of the citizens of the state of Washington in that noxious weeds are detrimental or destructive of crops, fruit, trees, shrubs, valuable plants, forage, other cultivation, and agricultural plants or produce; and

"Whereas, in recognition of the substantial threat to economic welfare, the state of Washington has mandated the control and eradication of nonnative noxious weeds on all privately held and state-held lands, which has up to this time been effectively managed by the state of Washington; and

"Whereas, nonnative noxious weeds continue to proliferate and burgeon on lands that are the property of the United States of America, or under the control of the United States; and

"Whereas, the failure of the federal government of the United States to control or eradicate nonnative noxious weeds poses a substantial and significant threat to the economic welfare of the citizens of the state of Washington in that these weeds are detrimental or destructive of crops, fruits, trees, shrubs, valuable plants, forage, other cultivation, and agricultural plants or produce; and

"Whereas, this nonfeasance and malfeasance of the federal government, committed by and through the principal instrumentality of the United States Forest Service, is in direct violation of federal law and regulation; namely, the Carlson-Foley Act and Federal Noxious Weed Act; and

"Whereas, the previously mentioned unrestrained propagation and exponential reproduction of nonnative noxious weeds is an exigent economic and agricultural peril; and

"Now, therefore, your Memorialists respectfully pray that Congress recognize the enormous threat to the economic and agricultural welfare of the state of Washington, caused by the failure of the federal government to control or eradicate the agricultural and economic menacing nonnative noxious weeds, within the borders of the state of Washington and upon property of the United States of America or property under control of the United States, and as much, immediately direct all federal instrumentalities and agencies managing or controlling this property to comply with all relevant laws and regulations regarding control or eradication of nonnative noxious weeds in the state of Washington; and be it

"*Resolved*, That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM–505. A resolution adopted by the Senate of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Banking, Housing, and Urban Affairs.

"RESOLUTION

"Whereas, commencing on January 7, 1996, the Commonwealth suffered from the loss of lives and severe property and economic damages as a result of the Blizzard of 1996, which was followed by unreasonable thaws, torrential rains and resulting flooding; and

"Whereas, the President of the United States has declared this entire Commonwealth a major disaster area because of extensive flooding, making individuals and businesses eligible for disaster assistance for flood damages, but not for similar blizzard-related damages; and

"Whereas, the President of the United States has also declared that 17 of 58 counties in this Commonwealth affected by flooding are eligible for Federal public disaster assistance on account of the flooding; and

"Whereas, the cost of responding to the Blizzard of 1996 left many municipalities without sufficient resources to react to and recover from severe flooding which resulted when melting snow and ice combined with heavy rain across this Commonwealth; and

"Whereas, the Federal Government has yet to acknowledge that the Blizzard of 1996 and the resulting flooding were related events that combined to cause a single major disaster; and

"Whereas, failure to treat the blizzard and flooding as one major disaster will result in undue hardship; and

"Whereas, failure to include the 41 additional counties among those declared eligible for Federal public disaster assistance will result in the lack of sufficient funds to return many communities in this Commonwealth to an acceptable level of public health and safety; and

"Whereas, the threat of additional snow and rain continues to present serious risk to the health, safety and welfare of the citizens of this Commonwealth; and

"Whereas, the Commonwealth and its citizens, businesses and municipalities are in need of immediate and comprehensive financial assistance to recover from the combined effects of snow, ice and flooding that resulted from the Blizzard of 1996; therefore, be it

"*Resolved*, That the Senate join with the Governor in respectfully petitioning the President of the United States to direct the Federal Emergency Management Agency to:

"(1) acknowledge that the Blizzard of 1996 and resulting flooding were related events that combined to cause a single major disaster;

"(2) declare 41 additional counties eligible to receive Federal public disaster assistance as a result of that disaster; and

"(3) expedite the process of providing and prioritizing disaster assistance; and be it further

"*Resolved*, That a copy of this resolution be delivered to the President of the United States and the Director of the Federal Emergency Management Agency for immediate action; and be it further

"*Resolved*, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania."

POM–506. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation.

"ASSEMBLY JOINT RESOLUTION NO. 41

"Whereas, it is necessary for the United States to seize the opportunities presented by commercial space activity and, for the benefit of all Americans, regain the position of leadership in this highly competitive, multi-billion dollar international market; and

"Whereas, investment in commercial space activity will lead to the creation of jobs, the expansion of economic opportunity, and the continuance of American world-leadership; and

"Whereas, it is important to assess where America stands in a rapidly expanding world marketplace and the direction in which America needs to proceed in order to compete in that marketplace; and

"Whereas, the United States was once the world leader in the provision of commercial space launch services and has, over the past few years, ceded this leadership to the European Space Agency, which now controls over 60 percent of this booming industry; and

"Whereas, in the newly emerging low-earth orbit satellite market, the area where California has the best opportunity to lead, the Chinese have taken the inside track, assisted in part by the favorable trade policies of the present federal administration; and

"Whereas, California is uniquely well-placed to serve as one of the leading commercial spaceport locations in the nation; and

"Whereas, enactment of a national spaceport program will put the United States in a stronger position to compete in the commercial space activity industry because it will enable this nation to fill in the missing piece of the commercial space activity circle, launch facilities; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California hereby declares its support for the enactment of a national spaceport program; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–507. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Commerce, Science, and Transportation.

"HOUSE JOINT MEMORIAL 4014

"Whereas, Washington's economy depends heavily on international trade, shipbuilding, seafaring, and tourism; and

"Whereas, the United States merchant marine continues to play a vital role in meeting the economic, military defense, and international aid objectives of our nation; and

"Whereas, the cruise ship industry has grown on average 9.3 percent annually since 1980 and is expected to double by the year 2000; and

"Whereas, the cruise ship trade, which now features Alaska, could grow even faster if it also featured Washington state; and

"Whereas, the cruise ship industry could potentially provide an additional one hundred million dollars to the Washington state economy if a United States coastwise cruise ship trade were established, with United States vessels transporting passengers between Washington state and other states, such as Alaska; and

"Whereas, representatives from United States ports, labor organizations, government agencies, and the maritime industry have met to develop an agreement on the successful advancement of a United States coastwise cruise ship trade; and

"Whereas, the United States Congress has been considering legislation that provides financial incentives and operating provisions to effectively establish a United States coastwise cruise ship trade;

"Now, therefore, your memorialists respectfully pray that the United States Congress and President William J. Clinton establish a United States cruise ship industry, thereby developing a United States cruise ship registry, United States jobs, and a United States coastwise cruise ship trade, be it

"*Resolved*, That copies of this Memorial be immediately transmitted to the Honorable William J. Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM–508. A resolution adopted by the Senate of the Legislature of the State of Washington; to the Committee on Commerce, Science, and Transportation.

"SENATE RESOLUTION 1996–8695

"Whereas, tourism is of vital economic and cultural importance to the states and provinces of the Pacific Northwest comprised of Washington, Alaska, Alberta, British Columbia, Idaho, Montana, and Oregon; and

"Whereas, the State and Provincial governments of the Pacific Northwest are members of the Pacific Northwest Economic Region, a nonprofit public-private partnership established to promote regional economic cooperation; and

"Whereas, the States and Provinces of the Pacific Northwest Region expend in excess of $50 million per year to promote the tourism industry and attract millions of tourists from throughout North America and the World; and

"Whereas, the tourism industry constitutes billions of dollars in economic activity for the States and Provinces of the Pacific Northwest Region; and

"Whereas, the States and Provinces of the Pacific Northwest Economic Region have undertaken numerous collaborative and innovative tourism initiatives that have been successful in promoting tourism in the region and have laid the ground work for ongoing cooperative tourism development efforts; and

"Whereas, current proposals before Congress to establish a National Tourism Board and a National Tourism Organization to develop a national travel and tourism strategy to promote tourism in the United States is of considerable importance to the States of the Pacific Northwest; and

"Whereas, participation on the National Tourism Board and the National Tourism Organization is of vital interest and importance to the States of the Pacific Northwest; now, therefore, be it

"*Resolved*, that the Senate of the state of Washington respectfully request that a public and a private sector representative of the Pacific Northwest Economic Region be appointed to the National Tourism Board and the National Tourism Organization respectively; and be it further

"*Resolved*, That copies of this resolution be immediately transmitted to the Honorable William J. Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM–509. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

"ASSEMBLY JOINT RESOLUTION NO. 39

"Whereas, the Clinton Administration has proposed to end the United States Army Corps of Engineers' involvement in flood control projects in this state; and

"Whereas, the flooding that arose from the March storms resulted in catastrophic damages to lives and property, including statewide agricultural losses of $363,700,000, following $97,000,000 in losses in January; and

"Whereas, the recent storms illustrate the need to maintain the proactive and cooperative efforts of the federal government and the state to anticipate flood control needs; and

"Whereas, the citizens of the state are calling upon the federal government to continue the 80-year presence of the United States Army Corps of Engineers in this state, and allow the corps to continue working successfully with state and local officials in preparing and implementing flood control projects and policies; and

"Whereas, the federal proposal to withdraw the United States Army Corps of Engineers from active involvement in state flood control efforts, thus ending the working relationship between the federal government and the state regarding flood control, should be reviewed critically; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California recognizes the importance of preserving the existing partnership between the United States Army Corps of Engineers and the state in pursuing flood control projects, and respectfully memorializes the President and Congress of the United States to review and reevaluate the federal proposal to end the involvement of the United States Army Corps of Engineers in flood control projects in the state; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-510. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Environment and Public Works.

"HOUSE JOINT MEMORIAL 4043

"Whereas, the proposed conference mark for Mitchell Act funds is three and one-half million dollars less than the previous fiscal year; and

"Whereas, this proposed cut to Mitchell Act funds is in addition to cuts to this fund source over the past several years; and

"Whereas, the Mitchell Act was created to mitigate for the loss of naturally spawning salmon due to the federal power system developed on the Columbia River; and

"Whereas, a reduction in Mitchell Act funds will significantly reduce the quantity of hatchery-produced salmon produced in the Columbia River; and

"Whereas, reduced Mitchell Act funding will make it significantly more difficult to enter into an equitable treaty with Canada under the United States/Canada Pacific Salmon Treaty and will result in increased levels of wild salmon being harvested by Canadian fishers; and

"Whereas, commercial fishing families already hard hit by the effects of adverse ocean conditions, endangered species act restrictions, and recent natural disasters will be dealt yet another blow if full Mitchell Act funding is not restored; and

"Whereas, local economies dependent on cash inflow from recreational fishing activity will also be severely impacted by the effects of reduced Mitchell Act funding; and

"Whereas, Federal funding for fish hatcheries on the Columbia River is of critical importance to the states of Washington, Oregon, and Idaho;

"Now, therefore, your Memorialists respectfully pray that full Mitchell Act funding of eighteen and one-half million dollars be restored, be it

"*Resolved*, That copies of this Memorial be immediately transmitted to the Honorable William J. Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM-511. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION NO. 22

"Whereas, social security laws, with respect to the taxing of social security as income at the federal level, have not been changed since the additional law was passed in 1983; and

"Whereas, social security is still taxable if personal income is more than twenty-five thousand dollars ($25,000) if single, or thirty-two thousand dollars ($32,000) if married; and

"Whereas, during that period of time, inflation has increased more than 35 percent, with no change in the limits of taxable income; and

"Whereas, on top of the initial tier of social security taxes, a federal law that imposes an additional higher social security tax was recently enacted whereby, under specified conditions, in the case of a single person earning thirty-four thousand dollars ($34,000) and a married couple earning forty-four thousand dollars ($44,000), 85 percent of social security benefits are added to taxable income without an upward shift in the first tier threshold of taxable income; and

"Whereas, senior income increases at a very low percentage but the amount of social security that is taxed is increasing each year; and

"Whereas, the people who are affected by this inflation are the people who can least afford it; and

"Whereas, those income limits, which include both social security and any tax-free income, no longer represent a fair amount of earnings to warrant tax on social security; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the Congress and the President to enact appropriate legislation which would provide that the two tier taxation of social security benefits be eliminated by allowing a single person to earn thirty-four thousand dollars ($34,000) and a married couple to earn forty-four thousand dollars ($44,000) before any portion of their social security income is taxed, and that those income limits be indexed to inflation; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Chairpersons of the House and Senate Committees on Aging, and to each Senator and Representative from California in the Congress of the United States."

POM-512. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION NO. 19

"RESOLUTION CHAPTER 78

"Whereas, section 405 of Title 42 of the United States Code mandates that states collect the social security account numbers of parents when birth certificates are issued; and

"Whereas, due to their common use as individual identifiers by both the public and private sectors, social security account numbers are essential tools for enforcing child support obligations because many of the child support enforcement actions mandated by federal law cannot be successfully undertaken without the use of social security account numbers; and

"Whereas, California has made tremendous progress in collecting delinquent child support orders through use of the state's tax collection agency, the Franchise Tax Board, and by refusing to issue or renew licenses if an individual is delinquent in paying his or her child support; and

"Whereas, these are model child support enforcement programs that have been adopted in several other states; and

"Whereas, these programs will not continue to be successful without utilization of the obligor's social security account number; and

"Whereas, a further exception to federal law is needed for documents used to enforce child support orders, specifically, marriage certificates and family law court documents; and

"Whereas, in many cases, these documents represent the only real opportunity to obtain the social security account numbers of the petitioner and respondent; and

"Whereas, social security account numbers are not provided on the marriage certificate at the beginning of the marriage, nor on the dissolution court documents at the end of the marriage, or on documents relating to the establishment of paternity, and consequently, the gathering of this information is entirely dependent on voluntary cooperation of the petitioner and the respondent; and

"Whereas, as of December 31, 1994, there were 2,304,362 Title IV-D cases, of which 1,126,422 were cases in which either a parent of the assets of a parent had not yet been located; and

"Whereas, it is essential that federal law be amended to allow the inclusion of social security account numbers on applications for licenses and certificates of marriage and on family law court records, and that federal law be further clarified to permit the continued maintenance of social security account numbers on court and other public agency records where the numbers were collected prior to October 1, 1990, and to permit states to make the social security account numbers available to child support agencies for the exclusive purpose of child support enforcement in accordance with federal and state law: Now, therefore, be it

"*Resolved, by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend federal law (42 U.S.C.A. Sec. 405) to allow social security account numbers to be included on applications for licenses and certificates of marriage and on records related to petitions for dissolution of marriage, and to clarify that social security account numbers on court and other public agency records may be maintained if they were collected prior to October 1, 1990, and permit states to make the social security account numbers available to child support agencies for the exclusive purpose of child support enforcement in accordance with federal and state law; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States."

POM-513. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION 24

"Whereas, the ancient civilization of Assyria, located in Bet-Nahirain (Mesopotamia) in what is now modern day Iraq, was renown for its art and culture; and

"Whereas, in the eighth century B.C. King Assurnasirpal II of Assyria built the palace at Nimrud which contained highly descriptive bas-relief sculptures; and

"Whereas, an Assyrian relief from the palace at Nimrud was recently purchased at auction for $11.9 million by an anonymous buyer; and

"Whereas, Assyrians who are in diaspora throughout the world today are united in their vehement objection to the illicit sale and trafficking of Assyrian ancient antiquities and artifacts; and

"Whereas, the illicit sale and trafficking of ancient antiquities and artifacts is not limited to Assyrian artifacts but involves the cultural treasures of historical civilizations throughout the world, from the ancient temples of Angkor Wat in Cambodia, to Native American villages in the United States; and

"Whereas, the United Nations Educational, Scientific and Cultural Organization

(UNESCO) is seeking to establish an international code of ethics for art dealers and cultural professionals to help combat the rise in illicit trafficking of cultural antiquities and artifacts throughout the world; and

"Whereas, the illicit sale and purchase of cultural and antiquities and artifacts by personal art collectors diminishes their educational and aesthetic value, denigrates the history, art, legacy, and culture of the ancient civilizations that created those antiquities and artifacts, displays a lack of sensitivity toward the descendants of those civilizations, and demonstrates disrespect for the cultural heritage of all of humankind; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to take measures to halt the illicit sale and trafficking of cultural antiquities, including Assyrian artifacts, and to support the efforts of UNESCO to combat this serious problem; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–514. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on Finance.

"SENATE RESOLUTION NO. 222

"Whereas, an excellent highway network is vitally important to Michigan's economic well-being. All of the components of the state's economy are closely tied to the quality of the roadways used in transporting goods, services, and people throughout Michigan; and

"Whereas, Michigan's ability to maintain our transportation infrastructure is seriously impaired by the current policies of the federal government with regard to the federal gas tax each individual and business pays with every gallon of gasoline purchased. This unfair system costs the state hundreds of millions of dollars each year. The result is an increasing problem with the conditions of our roads and bridges; and

"Whereas, the largest element of the overall gas tax is the federal gas tax, which represents 18.4 cents of each dollar of gasoline sold. Of all of the states required to forward taxes to the federal government each year, Michigan ranks among the lowest in the ratio of gas tax revenues being returned to the citizens who paid the tax. In 1993, for example, $733.7 million was paid to the Federal Highway Trust Fund, and only $520.1 million was returned, a loss of $213.6 million, a loss that sets Michigan at a distinct disadvantage when making road improvements. Considering the inequitable manner in which this money is reallocated to the states of the union, it is clear that Michigan is bearing an oppressive burden through this taxation, a development of the tax structure that must be changed; and

"Whereas, adding to Michigan's tremendous burden, during the years 1990–1995, our state contributed $1.168 billion to federal deficit reduction, dollars that were initially collected to improve transportation routes in Michigan. This amount comprises approximately 20 percent of the total amount levied on Michigan citizens for the years 1990–1995. In addition, by 1999 Michigan's total contributions to deficit reduction are expected to total $2.099 billion, an amount that would certainly enable us to better maintain our roads and highways; and

"Whereas, clearly, Michigan is at a great disadvantage with states that receive far higher returns on their gas tax dollars marked for road improvements. In effect, we are subsidizing transportation maintenance and projects elsewhere when improvements are so desperately needed in our own state; and

"Whereas, with the new approaches to budgetary matters in Washington and a renewed willingness to examine the true costs of all spending policies, the time is right to remedy this unjust situation; now, therefore, be it

"*Resolved by the Senate,* That we urgently and respectfully request the Congress of the United States to return to Michigan all of the revenue from the federal gas tax collected in Michigan; and be it further

"*Resolved,* That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Michigan congressional delegation with the request that each member review this issue and offer a formal response to this body, the Michigan State Senate."

POM–515. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on Finance.

"SENATE RESOLUTION NO. 223

"Whereas, the quality of Michigan roadways has a great deal to do with the state's competitiveness in attracting and retaining jobs for our citizens. Every individual and every business in Michigan is affected when Michigan roads suffer from insufficient maintenance. Finding the means to meet this financial challenge is of the utmost importance to both state and local policymakers as we prepare for the twenty-first century; and

"Whereas, the difficult task of providing excellence in transportation in Michigan is made far worse by some of the current practices of the federal government with regard to the allocation of money raised by the federal gas tax; and

"Whereas, the current practices of the federal government with regards to the allocation of dollars raised by the federal tax make it difficult for Michigan to improve and expand its transportation system. Of the states required to send money to the federal government, in accordance with the federal funding formula, Michigan sends significantly more money to Washington than it receives back. In 1993, for example, Michigan paid a total of $733.7 million to the Federal Highway Trust Fund, and only $520.1 million was returned; and

"Whereas, in addition, even more money designated for return to Michigan, and several other states, is being withheld by federal transportation authorities. This money is critical to our transportation infrastructure and a vital component of the state's economic well-being.

"Whereas, the current budget debate offers an opportunity to reexamine this critical aspect of public spending. This examination should include immediately correcting the gross inequities in allocating the funds generated by the federal gas tax; now, therefore, be it

"*Resolved by the Senate,* That we respectfully, but urgently, ask the Congress of the United States to release to the states, including Michigan, any federal road funding due under the gas tax formula but currently being held back by the federal government; and be it further

"*Resolved,* That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Michigan congressional delegation with the request that each member review this issue, offering a formal response to this body, the Michigan State Senate."

POM–516. A resolution adopted by the Senate of the Legislature of the State of Washington; to the Committee on Finance.

"SENATE RESOLUTION 1996–8696

"Whereas, the Pacific Northwest Region comprising of Washington, Alaska, British Columbia, Alberta, Montana, Idaho, and Oregon contains numerous border crossings between the United States and Canada; and

"Whereas, cultural, social, and economic exchanges between the citizens, organizations, and businesses of the region have historically been and continue to be an integral part of the regions economic and cultural development; and

"Whereas, the historically close and constant ties between the two countries of Canada and the United States have been forged and maintained by continuous cultural exchanges ranging from fraternities, social, sports, and business clubs to name but a few; and

"Whereas, the rapid changes in global affairs require countries to renew and enhance their ties with neighboring states and countries; and

"Whereas, millions of individuals cross the borders of the Pacific Northwest per annum including numerous tourists expending billions of dollars in the United States and Canada; and

"Whereas, a border crossing fee as proposed by current federal legislation would adversely impact both the economy, culture, and quality of life for many of the regions' citizens; now, therefore, be it

"*Resolved,* That the Senate of the state of Washington opposes any proposal that would levy a fee on any individuals crossing the borders of the United States; and be it further

"*Resolved,* That copies of this resolution be immediately transmitted to the Honorable William J. Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, each member of Congress from the State of Washington, Oregon, Montana, and Idaho, and the Secretary of the United States Customs and Immigration Department."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG:

S. 1632. A bill to prohibit persons convicted of a crime involving domestic violence from owning or possessing firearms, and for other purposes; to the Committee on the Judiciary.

S. 1633. A bill to provide for school bus safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEVIN (for himself, Mr. DOLE, Mr. DASCHLE, Mr. INOUYE, and Mr. D'AMATO):

S. 1634. A bill to amend the resolution establishing the Franklin Delano Roosevelt Memorial Commission to extend the service of certain members; to the Committee on Rules and Administration.

By Mr. DOLE (for himself, Mr. Thurmond, Mr. Stevens, Mr. Helms, Mr. Cochran, Mr. Warner, Mr. Lott, Mr. Kyl, Mr. Smith, Mr. Inhofe, Mr. Nickles, Mr. Kempthorne, Mr. Abraham, Mr. McCain, Mrs. Hutchison, Mr. Coats, Mr. Cohen, Mr. Santorum, Mr. Mack, and Mr. Domenici).

S. 1635. A bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes; to the Committee on Armed Services.

By Mr. WYDEN:

S. 1636. A bill to designate the United States Courthouse under construction at 1030 Southwest 3rd Avenue, Portland, Oregon, as the "Mark O. Hatfield United States Courthouse," and for other purposes; to the Committee on Environment and Public Works.

By Mr. HARKIN:

S. 1637. A bill to amend the Internal Revenue Code of 1986 to revise the tax rules on expatriation, and for other purposes; to the Committee on Finance.

By Mr. PRESSLER (for himself, Mr. Glenn, Mr. D'Amato, Mr. Kerrey, Mr. Bennett, and Mrs. Feinstein):

S. 1638. A bill to promote peace and security in South Asia; to the Committee on Foreign Relations.

By Mr. DOLE (for himself, Mr. Thurmond, Mr. Warner, and Mr. Gramm):

S. 1639. A bill to require the Secretary of Defense and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Defense with reimbursement from the Medicare program for health care services provided to Medicare-eligible beneficiaries under TRICARE; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG:

S. 1632. A bill to prohibit persons convicted of a crime involving domestic violence from owning or possessing firearms, and for other purposes; to the Committee on the Judiciary.

FIREARMS LEGISLATION

• Mr. LAUTENBERG. Mr. President, today I am introducing legislation that would prohibit individuals who have been convicted of a crime involving domestic violence from owning or possessing firearms.

Under current Federal law, Mr. President, it is illegal for people convicted of felonies to possess firearms. Yet many people who engage in serious spousal or child abuse ultimately are not charged with or convicted of felonies. At the end of the day, maybe following a plea bargain, they are convicted of misdemeanors. And these people are still free under Federal law to possess firearms.

This legislation will close this loophole, and will help keep guns out of the hands of people who have proven themselves to be violent and a threat to those closest to them. The legislation would add to the list of persons disqualified from owning or possessing a firearm individuals who have been convicted of any crime involving domestic violence, regardless of the length, term, or manner of punishment. This includes violent crimes committed by a spouse, former spouse, paramour, parent, guardian or similar individual.

Mr. President, although there is a growing awareness about the problem of domestic violence, in many places, even today, these outrageous acts are not taken as seriously as other forms of brutal behavior. Yet each year an estimated 2 million women are victimized by domestic violence. That is 10 times the number of women who are diagnosed with breast cancer. Of those 2 million women, nearly 6,000 die at the hands of men who at least at one time claimed to love them. About 70 percent of the time, those hands are holding a gun.

Mr. President, much of the killing and maiming associated with domestic violence could not happen but for the presence of a firearm. The New England Journal of Medicine reports that in households with a history of battering, a gun in the home increases the likelihood that a woman will be murdered fivefold. Often, the only difference between a battered woman and a dead woman is the presence of a gun.

Acts of domestic violence, by their nature, are especially dangerous and require special attention. These crimes involve people who have a history together, and who perhaps share a home or a child. These are not violent acts between strangers, and they do not arise from a chance meeting. Even after a split, the individuals involved often by necessity have a continuing relationship of some sort. The husbands, boyfriends, and former husbands who commit these crimes often have a record of violent and threatening behavior. And yet, frequently, these men are being permitted to possess firearms—with no legal restrictions.

The statistics and data are clear. Domestic violence, no matter how it is labeled, leads to more domestic violence. And guns in the hand of convicted spouse abusers lead to death.

To me, Mr. President, it is a simple proposition. Those guilty of acts of domestic violence should not be trusted to acquire or possess a gun. Period.

Mr. President, this legislation would save the lives of many innocent Americans. But it also would send a message about our Nation's commitment to ending domestic violence, and about our determination to protect the millions of women and children who suffer from this abuse.

I hope my colleagues will support the bill, and ask unanimous consent that a copy of the legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1632

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(33) The term 'crime involving domestic violence' means a felony or misdemeanor crime of violence, regardless of length, term, or manner of punishment, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim under the domestic or family violence laws of the jurisdiction in which such felony or misdemeanor was committed.".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by striking "or" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting "; or"; and

(C) by inserting after paragraph (8) the following new paragraph:

"(9) is under indictment for, or has been convicted in any court of, any crime involving domestic violence."; and

(2) in subsection (g)—

(A) by striking "or" at the end of paragraph (7);

(B) in paragraph (8), by striking the comma and inserting "; or"; and

(C) by inserting after paragraph (8) the following new paragraph:

"(9) who is under indictment for, or has been convicted in any court, or any crime involving domestic violence,".

SEC. 3. RULES AND REGULATIONS.

Section 926(a) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) regulations providing for the effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(9) or (g)(9) of section 922.".

SEC. 4. RESTORATION OF CIVIL RIGHTS AFTER CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by striking the period at the end and inserting the following: "; or such restoration of civil rights occurs following conviction of a crime of domestic violence (as defined in section 921(a)(33)). A conviction of a crime of domestic violence shall not be considered to be a conviction for purposes of this chapter if the conviction is reversed or set aside based on a determination that the conviction is invalid, or if the person has been pardoned, unless the authority that grants the pardon expressly states that the person may not ship, transport, possess, or receive firearms.".

SEC. 5. ADMINISTRATIVE RELIEF FROM CERTAIN FIREARM PROHIBITIONS.

(a) In General.—Section 925(c) of title 18, United States Code, is amended—

(1) in the first undesignated sentence, by inserting "(other than a person convicted of a crime of domestic violence as defined in section 921(a)(33))" before "who is prohibited"; and

(2) in the fourth undesignated sentence—

(A) by inserting "person (other than a person convicted of a crime of domestic violence as defined in section 921(a)(33)) who is a" before "licensed importer"; and

(B) by striking "his" and inserting "the person's".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to—

(1) application for administrative relief and actions for judicial review that are pending on the date of enactment of this Act; and

(2) applications for administrative relief filed, and actions for judicial review brought, after the date of enactment of this Act.●

By Mr. LAUTENBERG:

S. 1633. A bill to provide for schoolbus safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE OMNIBUS SCHOOL TRANSPORTATION SAFETY ACT OF 1996

●Mr. LAUTENBERG. Mr. President, today I am introducing legislation, the Omnibus School Transportation Safety Act of 1996, that would improve the safety of schoolbus travel.

The legislation would require background checks of schoolbus drivers, establish minimum proficiency standards for such drivers, and promote advanced technologies that can help prevent schoolbus accidents. In addition, the bill calls for a variety of studies that could improve schoolbus safety and increase the information on bus safety available to school districts and parents.

Mr. President, America's schoolchildren have a right to safe transportation to and from school. And we have a responsibility to do everything we can to guarantee that safety.

To ensure our children's safety, we first must ensure that bus drivers are decent individuals who will not harm their passengers. Unfortunately, sexual deviants often are attracted to driving a schoolbus because the job gives them easy access to children who are the focus of their sexual desires.

Children who ride on schoolbuses, particularly those in elementary school, are extremely vulnerable to physical abuse. They are too young to comprehend what is being done to them and too small to physically defend themselves from an attack. As a nation, we have a responsibility to provide as much protection as possible to this vulnerable population. My bill therefore would require all States to perform a Federal background check on potential schoolbus drivers before they are allowed to be alone with our children.

Eighteen States—Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Michigan, Mississippi, New Jersey, New York, Ohio, Oregon, Pennsylvania, Utah, Virginia, Washington, and Louisiana—already conduct State and Federal background checks on their drivers. My amendment generally would not affect how these States administer their programs.

Fourteen States—Hawaii, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, North Carolina, Rhode Island, Texas, West Virginia, Nebraska, Illinois, and Wisconsin—currently perform only State background checks. This is well-meaning, but insufficient. A convicted sexual deviant can easily move to one of these States, receive a clean background check, and begin driving his prey to and from school. My bill therefore would require those States to participate in the nationwide, Federal program.

There also are 18 States—Alabama, Arkansas, Georgia, Idaho, Indiana, Iowa, Kansas, Maine, Montana, Nevada, New Mexico, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Vermont, and Wyoming—that have no background checks for their schoolbus drivers. There is no rational reason why these States should not do more to protect their citizens.

Mr. President, during the 2 months after California instituted Federal criminal background checks in 1990, it screened out 150 convicted sex offenders, child molesters, and violent criminals who tried to get permits to drive schoolbuses. This is shocking and my bill would address this problem.

Beyond requiring background checks for prospective schoolbus drivers, Mr. President, my bill includes a variety of provisions designed to reduce schoolbus accidents.

During the past 10 years, 300 school-age pedestrians under 19 years of age have died in schoolbus-related crashes. Two-thirds were killed by their own schoolbus. Half of all school-age pedestrians killed by schoolbuses in the past 10 years were 5- and 6-year-olds. On average, 21 school-age pedestrians are killed by schoolbuses each year, and 9 are killed by other vehicles involved in schoolbus-related crashes.

Mr. President, as a nation, we need to do much more to prevent schoolbus accidents. This bill attacks the problem on a number of fronts.

First, it would establish proficiency standards for schoolbus drivers.

Mr. President, driving a schoolbus with 40 young, screaming children is a unique skill that deserves specialized training. Unfortunately, many drivers are distracted when their young passengers are noisy or otherwise disruptive, and the results can be tragic. Inattention is one of the two factors most often reported by police for schoolbus drivers striking school-age pedestrians.

Bus drivers already are required to possess a commercial driver's license with a general endorsement for those driving vehicles with more than 15 passengers. However, there are no Federal standards specifically directed to schoolbus drivers. My bill would require the Secretary of Transportation to prescribe such standards.

Mr. President, some States already prescribe a level of proficiency for schoolbus drivers, but many do not. My bill generally would not interfere with existing State programs, but it would ensure that all schoolbus drivers meet a minimum standard of proficiency.

Another way that my bill would reduce schoolbus accidents is by assisting States to develop safer places for children to enter and leave their bus. For example, States could make bus stops more safe by increasing their visibility. Similarly, States could establish special safe areas in which children could disembark from busses, away from traffic.

The legislation also would require the Secretary of Transportation to promote the use and reduce the cost of hazard warning systems or sensors that alert schoolbus drivers of pedestrians or vehicles in, or approaching, the path of the schoolbus. These types of warning systems can be critical in saving the lives of young people. Unfortunately, many school districts have failed to invest in such systems. One reason is that their cost can be high. We need to explore ways to reduce those costs.

Another provision in the bill would require the Secretary to improve training materials on schoolbus safety and to improve the distribution and availability of such materials to schools for use by the student safety patrols. The most effective way to protect schoolchildren is to teach them to protect themselves. The Department of Transportation can do more in this area.

My legislation also would promote research into the possibility of installing safety belts in schoolbuses.

Mr. President, in addition to the loss of life attributed to schoolbus accidents that I mentioned earlier, approximately 10,000 schoolbus passengers are injured every year. Most injuries occur during side and rollover collisions. In this type of collision, the compartmentalized seat does not protect children, who can fall up to 8 feet to strike the roof, windows, other seats, and other children.

To reduce these types of injuries, the State of New Jersey requires the installation and use of safety belts in all schoolbuses. New Jersey's State law in this area was adopted after a study by the New Jersey Office of Highway Traffic Safety into the safety of lap seatbelts in large school vehicles. That study concluded that installation of seatbelts in all schoolbuses would improve vehicles' overall safety performance. The study recommended that schoolbuses be required to be equipped with seatbelts, which led to later enactment of the New Jersey law.

Mr. President, I support this law and believe it should be adopted on a Nation-wide basis. It is nearly impossible for a bus without belts to rollover without causing injuries or death.

However, I recognize that some in Washington believe more information is needed before establishing such a Federal requirement.

One cause of this skepticism is that the Federal Government does not study crashes in which there are no injuries. The National Transportation Safety Board only investigates bus crashes where there are severe injuries or fatalities. Therefore, the data they collect do not accurately reflect the benefits of safety belts in schoolbuses.

A bus with safety belts costs an average of $1,000 more than a bus without belts. With an estimated schoolbus life of 15 years, seatbelt installation would cost approximately $66 per bus per year.

Children are already required to wear seatbelts in cars. Installation of seatbelts on the standard size schoolbuses would reinforce the importance of wearing seatbelts, reduce injuries to our children, cost relatively little to install and maintain, and overall, makes schoolbus transportation safer for our children.

My bill would require the National Highway Traffic Safety Administration [NHTSA] to study the safety impact of safety belts on schoolbuses. It specifically requires that NHTSA evaluate the real life consequences of New Jersey's safety belt law. I am hopeful that the resulting study will help end the longstanding debate on this issue, so we can move forward to protect the lives of our Nation's children.

Mr. President, this legislation also requires the Secretary of Transportation to begin a rulemaking process to determine the feasibility and practicability of: First, decreasing the flammability of materials used in the construction of the interiors of schoolbuses; second, informing purchasers of schoolbuses on the secondary market that those buses may not meet current NHTSA standards; and third, establishing construction and design standards for wheelchairs used in the transportation of students in schoolbuses.

The bill also requires the Secretary to conduct a variety of studies designed to provide an accurate data base of schoolbus safety information. In addition, the bill, in response to requests from some States, calls for Federal guidelines on the securing in a schoolbus of children under the age of five, and on measures to facilitate their evacuation in an emergency.

Mr. President, the Omnibus School Transportation Safety Act of 1996 is comprehensive legislation that would dramatically reduce deaths and injuries of children associated with schoolbus accidents.

I hope my colleagues will support the bill, and ask unanimous consent that the text of the legislation, along with a section-by-section analysis of the bill, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1633

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus School Transportation Safety Act of 1996".

(b) FINDINGS.—The Congress finds the following:

(1) In the United States, school buses travel more than 4,000,000,000 miles each year to transport approximately 25,000,000 children to and from school and various school-related activities.

(2) School buses are specifically designed to carry children safely to and from school, and generally are operated by educational agencies that receive Federal assistance for educational activities.

(3) On the average, each year in the United States—

(A) 17 occupants are killed while riding school buses, of which—

(i) 10 pupils are killed while riding type I school buses with a gross weight rating of greater than 10,000 pounds, and those school buses are predominantly used in the United States;

(ii) 2 pupils are killed while riding other vehicles used as school buses; and

(iii) 5 drivers are killed while driving school buses;

(B) 38 children are killed in loading zones surrounding school buses;

(C) 480 children are seriously injured while riding school buses; and

(D) 160 children are seriously injured while boarding or leaving school buses.

(4) Although most crashes involving school buses are minor, some examples of serious crashes that have had tragic consequences, include—

(A) the school bus crash that occurred in Alton, Texas;

(B) the school bus crash that occurred in October of 1995, in Fox River Grove, Illinois; and

(C) the recent school bus crash outside of Green Bay, Wisconsin, that killed the driver.

(5) Each year approximately 35,000 school buses are manufactured in the United States. The components for those buses are produced in various locations throughout the United States. The few companies that manufacture those buses ship the buses throughout the United States and to foreign countries.

(6) Numerous Federal laws, including subtitle VI of title 49, United States Code, regulate school buses as commercial motor vehicles. Subtitle VI of title 49, United States Code, provides for—

(A) motor vehicle safety standards under chapter 311 of that subtitle; and

(B) the regulation of commercial motor vehicle operators under chapter 313 of that subtitle.

SEC. 2. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) BUS.—The term "bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons.

(2) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" means a local educational agency (as that term is defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) that receives Federal funds.

(3) NATIONAL CRIMINAL HISTORY BACKGROUND CHECK SYSTEM.—The term "national criminal history background check system" has the meaning given that term in section 5(6) of the National Child Protection Act of 1993 (42 U.S.C. 5119c(6)).

(4) NEWLY EMPLOYED.—With respect to the employment of a school bus driver by an employer, the term "newly employed" applies to the initial employment of an individual who has not been similarly employed by that employer.

(5) POSTSECONDARY INSTITUTION.—The term "postsecondary institution" means an institution of higher education, as that term is defined in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)).

(6) PRIVATE SCHOOL.—The term "private school" includes any private postsecondary institution.

(7) SCHOOL BUS.—The term "school bus"—

(A) means a bus that is used for purposes that include carrying pupils to and from a public or private school or school-related events on a regular basis; and

(B) does not include a transit bus or a school-chartered bus.

(8) SCHOOL-CHARTERED BUS.—The term "school-chartered bus" means a bus that is operated under a short-term contract with State, local, or private school authorities, which have acquired exclusive use of the bus at a fixed charge in order to provide transportation for a group of pupils to a special school-related event.

(9) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(10) STATE.—The term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 3. PROFICIENCY STANDARDS FOR SCHOOL BUS DRIVERS.

(a) PROFICIENCY STANDARDS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations establishing proficiency standards for school bus drivers (including drivers of school-chartered buses) who are required under applicable State law to possess a commercial driver's license to operate a school bus.

(b) EXEMPTION FOR CERTAIN STATES.—The regulations issued under subsection (a) shall provide that a State may use State proficiency standards, in lieu of the standards established by such regulations, if—

(1) the State proficiency standards are established before the date on which the proficiency standards under such regulations are established; and

(2) the Secretary determines that such State proficiency standards are as rigorous as the proficiency standards under such regulations.

(c) DEMONSTRATION OF PROFICIENCY.—Upon the establishment of the proficiency standards under subsection (a), each school bus driver referred to in such subsection shall demonstrate (at such intervals as the Secretary shall prescribe) to the employer of the driver, the local educational agency, the State licensing agency, or other person or agency responsible for regulating school bus drivers, the proficiency of that driver in operating a school bus in accordance, as the case may be, with the proficiency standards—

(1) established by the regulations issued under subsection (a); or

(2) established by the State concerned and determined by the Secretary to be as rigorous as the proficiency standards established by the regulations issued under subsection (a).

SEC. 4. CRIMINAL BACKGROUND CHECKS OF SCHOOL BUS DRIVERS.

(a) PROHIBITION ON EMPLOYMENT PENDING CHECK.—Notwithstanding any other provision of law, no local educational agency, private school, or contractor providing school transportation services to a local educational agency or private school, may newly employ an individual as a driver of a school bus of, or on behalf of, the agency or private school before the completion of a background check of that individual through the national criminal history background check system to determine whether the individual has been convicted of a crime which would warrant barring the person from duties as a driver of a school bus.

(b) BACKGROUND CHECK PROCEDURES.—

(1) IN GENERAL.—Each State shall establish procedures for conducting a background check under this section.

(2) REQUIREMENTS FOR PROCEDURES.—The procedures established under this subsection shall include the designation of an agency of the State to—

(A) carry out the background checks; and

(B) meet the guidelines set forth in section 3(b) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(b)).

(c) LIMITATION ON LIABILITY.—A local educational agency, private school, or a contractor providing school transportation services to a local educational agency or private school shall not be liable in an action for damages on the basis of a criminal conviction of a person employed by that agency or contractor as a school bus driver if—

(1) a background check of the person was conducted under this section; and

(2) the conviction was not disclosed to the local agency, private school, or contractor providing such transportation services pursuant to the background check.

(d) FEES.—

(1) IN GENERAL.—The Director of the Federal Bureau of Investigation may impose and collect a fee for providing assistance in the conduct of a background check under this section. The amount of such fee may not exceed the actual cost to the Federal Bureau of Investigation for providing such assistance.

(2) MONITORING.—The Attorney General of the United States shall monitor the collection of fees under this subsection for purposes of ensuring that—

(A) the fees are collected on a uniform basis; and

(B) the amounts collected reflect only the actual cost to the Federal Bureau of Investigation of providing assistance in the conduct of background checks under this section.

(e) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply to an individual newly employed by a local educational agency, private school, or contractor providing school transportation services to a local educational agency or private school beginning on the later of—

(A) the date that is 60 days after the date of enactment of this Act; or

(B) the date on which the State agency in which the local educational agency, private school, or contractor providing such transportation services is located establishes the procedures required under subsection (c).

(2) BACKGROUND CHECKS CONDUCTED BY THE FBI.—

(A) IN GENERAL.—To the maximum extent practicable, during the period specified in subparagraph (B), a local educational agency, private school, or contractor providing school transportation services shall request that the Federal Bureau of Investigation conduct a background check with fingerprints of each individual newly employed by the local educational agency, private school, or contractor as a school bus driver of the local educational agency, private school, or contractor.

(B) PERIOD OF APPLICABILITY.—Subparagraph (A) shall apply to a local educational agency, private school, or contractor providing school transportation services during the period beginning on the date of enactment of this Act and ending on the date of applicability of this section, as determined under paragraph (1).

(f) FUNDING.—

(1) VIOLENCE PREVENTION PROGRAMS.—Section 4116(b)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7116(b)(5)) is amended by striking "and neighborhood patrols" and inserting "neighborhood patrols, and criminal background checks of potential drivers of school buses under section 4 of the Omnibus School Transportation Safety Act of 1996".

(2) INNOVATIVE EDUCATION ASSISTANCE.—Section 6301(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7351(b)) is amended—

(A) by striking "and" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(9) the carrying out of criminal background checks of potential drivers of school buses under section 4 of the Omnibus School Transportation Safety Act of 1996.".

SEC. 5. DEVELOPMENT OF INTELLIGENT VEHICLE-HIGHWAY SYSTEMS FOR SCHOOL BUS SAFETY.

Section 6055(d) of the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) ensure that 1 or more operational tests advance the use and reduce the cost of intelligent vehicle-highway system technologies (including hazard warning systems or sensors) that alert school bus drivers of pedestrians or vehicles in, or approaching, the path of the school bus.".

SEC. 6. STUDY OF OCCUPANT RESTRAINTS IN SCHOOL BUSES.

(a) STUDY.—The National Transportation Safety Board organized under chapter 11 of title 49, United States Code, shall conduct a study on the safety consequences of the requirement of the State of New Jersey for lap belts in school buses.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Chairman of the National Transportation Safety Board shall submit to the Congress a report containing the findings of the study conducted under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Transportation Safety Board to carry out this section $100,000, which shall remain available until expended.

SEC. 7. TRAFFIC ENGINEERING ACTIVITIES TO IMPROVE SCHOOL BUS SAFETY.

Notwithstanding any other provision of law, the Secretary shall ensure that each State receiving aid to conduct highway safety programs under section 402(c) of title 23, United States Code, may utilize a portion of such aid for the purpose of conducting traffic engineering activities in order to improve the safe operation of school buses.

SEC. 8. DETERMINATION OF PRACTICABILITY AND FEASIBILITY OF CERTAIN SAFETY AND ACCESS REQUIREMENTS FOR SCHOOL BUSES.

(a) COMMENCEMENT OF RULEMAKING PROCESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall commence or continue to carry out a rulemaking process to determine the feasibility and practicability of—

(1) a requirement for a decrease in the flammability of the materials used in the construction of the interiors of school buses;

(2) a requirement that individuals, local educational agencies, or companies that sell in the secondary market school buses that may be used in interstate commerce inform purchasers of those buses that those buses may not meet applicable National Highway Transportation Safety Administration standards or Federal Highway Administration standards; and

(3) the establishment of construction and design standards for wheelchairs used in the transportation of pupils in school buses.

(b) FINAL RULE.—Not later than 30 months after the date of enactment of this Act, the Secretary shall issue a final regulation providing for any requirement or standard referred to in paragraph (1), (2), or (3) of subsection (a) that the Secretary determines to be feasible and practicable.

(c) REPORT TO CONGRESS.—If the Secretary makes a determination that a requirement or standard referred to in paragraph (1), (2), or (3) is not feasible or practicable, not later than the date specified in subsection (b), the Secretary shall prepare and submit to the Congress a report that provides the reasons for that determination.

SEC. 9. GUIDELINES FOR SAFE TRANSPORTATION OF CHILDREN BY SCHOOL BUS.

The Administrator of the National Highway Traffic Safety Administration shall develop and disseminate guidelines for ensuring the safe transportation in school buses of children under the age of 5. Those guidelines shall include recommendations for the evacuation of such children from such buses in the event of an emergency.

SEC. 10. DISSEMINATION OF INFORMATION ON SCHOOL BUS SAFETY.

(a) DISSEMINATION OF INFORMATION.—In carrying out research on highway safety under section 403 of title 23, United States Code, in consultation with the appropriate officials or representatives of the American Automobile Association, State educational agencies, and highway safety organizations, the Secretary shall provide for the improvement of—

(1) training materials on school bus safety; and

(2) the distribution and availability of such materials to public and private schools for use by the student safety patrols of those schools and to appropriate law enforcement agencies.

(b) FUNDING.—Notwithstanding any other provision of law, of the funds made available to the Secretary for research on highway safety and traffic conditions under section 403 of title 23, United States Code, for each of fiscal years 1996 through 2001, $100,000 shall be available for each of those fiscal years for the purposes of carrying out this section.

SEC. 11. STUDY AND REPORT ON SCHOOL BUS SAFETY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall carry out a study to determine—

(A) the extent to which public transit vehicles (as defined by the Secretary) are engaged in school bus operations;

(B) the point at which a public transit vehicle is sufficiently engaged in such operations as to be considered a school bus for purposes of regulation under Federal law; and

(C) the differences between school bus operations carried out directly by schools or local educational agencies and school bus operations carried out by schools or local educational agencies by contract or tripper service (as defined by the Secretary).

(2) AREAS.—The study conducted under this subsection shall address the differences between the services and operations referred to in paragraph (1)(C) in terms of—

(A) crash injury data;

(B) driver and carrier requirements;

(C) passenger transportation requirements;

(D) routes and operational requirements that affect safety;

(E) vehicle attributes that affect safety;

(F) bus construction and design standards;

(G) Federal and State operating assistance (per passenger, per mile, per hour);

(H) total operating costs;

(I) Federal and State capital assistance (per passenger, per mile, per hour);

(J) total capital costs; and

(K) any other factor that the Secretary considers appropriate.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the committees described in paragraph (2) a report on the results of the study carried out under subsection (a).

(2) COMMITTEES.—The committees referred to in paragraph (1) are—

(A) the Committee on Environment and Public Works of the Senate;

(B) the Committee on Commerce, Science, and Transportation of the Senate;

(C) the Committee on Appropriations of the Senate;

(D) the Committee on Transportation and Infrastructure of the House of Representatives;

(E) the Committee on Commerce of the House of Representatives; and

(F) the Committee on Appropriations of the House of Representatives.

SEC. 12. IMPROVED INTERSTATE SCHOOL BUS SAFETY.

(a) APPLICABILITY OF FEDERAL MOTOR CARRIER SAFETY REGULATIONS TO INTERSTATE SCHOOL BUS OPERATIONS.—Section 31136 of title 49, United States Code, is amended—

(1) by striking the second sentence of subsection (e); and

(2) by adding at the end the following new subsection:

"(g) APPLICABILITY TO SCHOOL TRANSPORTATION OPERATIONS OF LOCAL EDUCATIONAL AGENCIES.—Not later than 18 months after the date of enactment of this subsection, the Secretary shall issue regulations making the relevant commercial motor carrier safety regulations issued under subsection (a) applicable to all interstate school transportation operations by local educational agencies (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)).".

(b) EDUCATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop and implement an education program informing all local educational agencies that those agencies are required to comply with the Federal commercial motor vehicle safety regulations issued under section 31136 of title 49, United States Code, when providing interstate transportation on a school bus vehicle to and from school-sanctioned and school-related activities.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

OMNIBUS SCHOOL TRANSPORTATION SAFETY ACT OF 1996—SECTION BY SECTION

Sec. 1: Short Title; Findings.

Sec. 2: Definitions.

Sec. 3: Directs the Secretary to prescribe proficiency standards for school bus drivers.

At present, school bus drivers are required to have a Commercial Drivers License (CDL). However, CDL training for bus drivers is geared primarily towards commercial motor carrier drivers. "Inattention" and "failure to yield" were the factors most often reported by police for school bus drivers striking a school-age pedestrian. A school bus driver faces unique driving and pupil control situations that current CDL training does not address. This section will require school bus drivers to be trained to handle these unique situations before they are allowed on the road.

Sec. 4: Requires states to conduct federal background checks with fingerprints of prospective school bus drivers.

School bus drivers are alone and off of school property with students for extended periods of time. At present, 18 States conduct Federal background checks, 14 States only do state background checks, and 18 States do no background checks on potential drivers. State background checks are not sufficient. Someone can easily move from one State to another and leave their criminal history behind. This provision is designed to ensure that parents know who is alone with their children. Just 2 months after requiring fingerprint criminal background checks, California screened out 150 convicted sex offenders, child molesters and violent criminals who tried to get permits to drive school buses. Funding to assist states that are not already committing resources to this type of activity is provided through the Department of Education's crime free school program.

Sec. 5: Directs the Secretary to do one or more operation tests to advance the use and reduce the cost of hazard warning systems that alert school bus drivers of pedestrians or vehicles in, or approaching, the path of the school bus.

Two out of every three children killed in school bus related accidents are killed outside the school bus. Many are struck by their own school bus. The causes vary from driver inattentiveness, blind spots, or children's clothing being caught on a part of the bus causing the bus to drag the child to death. These accidents occur in the bus' "danger zone." While there are electronic devices on the market that are designed to detect and warn drivers when an object is in the danger zone, most are expensive and have reliability problems. The goal of this section is to increase the reliability and reduce the cost of existing technology.

Sec. 6: Directs to the National Transportation Safety Board to study the safety consequences of required use of safety belts in New Jersey school buses.

Approximately 10,000 school bus passengers are injured every year. Most injuries and fatalities in the bus occur during side and rollover collisions. In these types of collisions the "compartmentalized" seat does not protect children who fall about eight feet and strike the roof, windows, seats and other children. Safety belts have been standard equipment in passenger automobiles for quite some time, and they have proven to be effective life-saving and injury-preventing devices. However, not all school buses are required to be equipped with seat belts.

The debate on whether or not safety belts should be required on school buses is heated. However, the lack of sufficient data, makes an accurate estimate on the effectiveness of school bus seat belts very difficult. Therefore, my bill directs the National Transportation Safety Board to study the safety consequences of the use of safety belts in New Jersey school buses. New Jersey is the only State which has mandatory school bus safety belt use and it will provide an excellent opportunity for researchers to build the base of knowledge on this subject that we need to determine if safety belts in school buses should be the norm.

Sec. 7: Provides aid for the purpose of conducting traffic engineering activities in order to improve the safe operation of school buses in the "danger zone."

An overwhelming number of students are killed during the loading and unloading of the school bus. Proper engineering of loading and unloading zones will improve the safety and reduce the number of accidents and fatalities which take place in the "danger zone." This provision will allow States to utilize section 402(C) funds to assist in the development of safety guidelines for the construction and selection of school bus loading and un-loading zones.

Sec. 8: Requires the Secretary to begin a rulemaking process to determine the feasibility and practicality of:

A requirement for a decrease in the flammability of the materials used in the construction of the interiors of school buses;

A requirement that sellers of school buses in the secondary market inform purchasers that such buses may not meet current National Highway Transportation Safety Administration or Federal Highway Administration standards and;

Establishing construction and design standards for wheelchairs used in the transportation of students in school buses.

Reduction of the flammability of material in school buses continues to be on the National Transportation Safety Board's most wanted list. NTSB made this recommendation after the 1988 Carrollton, KY bus accident. In that incident, a pre-1977 school bus was struck by a pick-up truck. The bus' gas tank was ruptured and a fire ensued, engulfing the entire bus. The bus driver and 26 bus passengers were fatally injured. Had stricter flammability requirements been in effect during construction of this bus the NTSB believes more of the passengers could have escaped the bus without serious injury.

Used school buses are a popular form of transportation for church groups and civic organizations. Unfortunately, many of these groups believe that school buses are built to the highest safety standards available. This is not the case. Therefore, the bill would require that potential purchasers of used buses are made aware of this fact so they can modify their uses of the bus based upon the level of safety the bus offers in certain situations.

While there are Federal standards relating to how wheelchairs must be secured into school buses, there are no standards for the wheelchairs themselves. This provision is designed to ensure that students who use a wheelchair are afforded maximum protection in case of a school bus accident.

Sec. 9: Requires NHTSA to develop and disseminate guidelines on securing children under the age of five in school buses and on evacuating those same children from school buses.

For one reason or another school districts are beginning to transport more and more children below the age of five in traditional school buses. Most, if not all, school buses and school bus seats are designed to accommodate and protect children age five and older. In addition, state laws and common sense dictate that children under the age of four use a car seat when riding in a motor vehicle. Many communities are struggling with the appropriate way to safely transport children below the age of five in school buses. This provision would require NHTSA to develop guidelines on securing young children in school buses. The provision also addresses the problems evacuation of children in car seats could pose in an emergency.

Sec. 10: Requires the Secretary to improve and distribute school bus safety information.

Every year approximately 20 children are killed outside their school bus. They are either struck by their own bus or by another vehicle. One of the most effective ways to prevent these types of accidents is to properly educate children and their parents to these dangers. While a variety of safety information is available, it is not widely distributed. This provision would require the Secretary to review existing safety material, make improvements if necessary and then ensure that the material is adequately distributed to children and parents.

Sec. 11: Require the Secretary to carry out a study to determine the following:

The extent to which public transit vehicles are engaged in school bus operations;

The point at which a public transit vehicle is sufficiently engaged in such operations as to be considered a school bus for purposes of regulation under Federal law and;

The differences between school bus operations carried out directly by schools or school districts and school bus operations carried out by schools or school districts by contract.

Federal law prohibits school districts from contracting out to the local municipal bus service to carry out the school district's pupil transportation activities. However, there are some specific exceptions to this rule. With present budget pressures school districts are increasingly looking to take advantage of these exceptions also known as "tripper service." This provision is designed to determine how many communities may be using tripper service as a means of school transportation, at what point a municipal bus engaged in tripper service should be considered a school bus, and the differences between contracted school bus operations and non-contracted school bus operations.

Sec. 12: Extends the applicability of Federal Motor Carriers Safety Regulations to the school transportation operations of Local Education Agencies.

When operating across State lines, school buses almost without exception must use the same highways—many of them high-speed arteries—as other vehicles. The speeds attained are considerably greater and there is an elevated risk of associated driver fatigue. This fact underscores the need for comprehensive and consistent application of the FMCSR's to any school bus operating across state lines when engaged in school-related and sanctioned activities.

Since their inception in 1935, the FMCSR's have been incrementally modified. For example, in 1989 the FHWA issued modifications which for the first time subjected all interstate contractor-operated school transportation operations to the FMCSR's. In 1994, the FHWA extended application of the FMCSR's to most interstate private bus operations such as scout groups and churches. My bill would extend the applicability of FMCSR's to buses used by local education agencies which are used in interstate commerce.

Sec. 13: Authorization of Appropriations.●

By Mr. DOLE (for himself, Mr. THURMOND, Mr. STEVENS, Mr. HELMS, Mr. COCHRAN, Mr. WARNER, Mr. LOTT, Mr. KYL, Mr. SMITH, Mr. INHOFE, Mr. NICKLES, Mr. KEMPTHORNE, Mr. ABRAHAM, Mr. MCCAIN, Mrs. HUTCHISON, Mr. COATS, Mr. COHEN, Mr. SANTORUM, Mr. MACK, and Mr. DOMENICI):

S. 1635. A bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes; to the Committee on Armed Services.

THE DEFEND AMERICA ACT OF 1996

Mr. DOLE. Mr. President, today I rise to introduce legislation which will have a profound impact on America's future. I am pleased to be joined by the chairman of the Armed Services and Foreign Relations Committees, the chairman of the Defense Appropriations Subcommittee, the Republican leadership, and other Republicans strongly interested in missile defense, in introducing the Defend America Act of 1996. An identical bill is being introduced in the House by the Speaker and the chairmen of the Appropriations Committee and the National Security Committee, among others. This bill addresses the most fundamental responsibility the U.S. Government has to its citizens: to protect them from harm. At present, the United States has no defense—I repeat—no defense against ballistic missiles.

The Defend America Act of 1996 answers the question of whether Americans should be protected from the threat of ballistic missile attack with a resounding "Yes." There should be no doubt that we have the technical capability to defend our great Nation from the growing threat of ballistic missiles. What we need is the will and the leadership. We have seen no leadership from the White House on this issue. Indeed, we have witnessed a complete denial from the highest levels of the administration that there is even a threat to the United States. President Clinton vetoed the fiscal year 1996 Defense authorization bill because it required developing a national missile defense system for deployment by the end of 2003. President Clinton refuses to defend America preferring to rely on the false protection of the cold-war-era antiballistic missile [ABM] treaty.

The cold war is over and the threat from ballistic missiles is real and growing. Among others, North Korea, Iran, Libya, Iraq, and Syria are seeking to obtain weapons of mass destruction and ballistic missile delivery systems. China and Russia have been engaged in transferring related components and technologies.

Just last week, the former Director of the Central Intelligence Agency, James Woolsey testified before the House National Security Committee on his views of the threat posed by ballistic missiles—as well as the current national intelligence estimate on this threat. I would like to quote from his testimony:

> We are in the midst of an era of revolutionary improvements in missile guidance. These improvements will soon make ballistic missiles much more effective for blackmail purposes . . . even without the need for warheads containing weapons of mass destruction. . . .
>
> With such guidance improvements, it is quite reasonable to believe that within a few years Saddam or the Chinese rulers will be able to threaten something far more troubling . . .

Woolsey went on to say:

> But, in current circumstances, nuclear blackmail threats against the United States may be effectively posed by North Korean intermediate ranged missiles targeted on Alaska or Hawaii, or by Chinese ICBM's targeted on Los Angeles.

With respect to the national intelligence estimate, Woolsey criticized the narrow focus of the estimate which concentrated on indigenous intercontinental ballistic missile development—as opposed to the transfer of such components and technology. As Woolsey pointed out, since the end of the cold war, Russia, China, and North Korea have been actively exporting missile technology and components. Furthermore, Woolsey noted that the national intelligence estimate only looked at the threat to the 48 continental States. Well, the last time I checked, Alaska and Hawaii were part of the United States. The bottom line is that the threat is real and we cannot wait for it to arrive on our doorstep before we act. As former Assistant Secretary of Defense Richard Perle stated before the National Security Committee, and I quote:

> If we achieve a defensive capability a little before it is absolutely necessary, no harm will have been done. But if we are too late, the result could be catastrophic. In cases like this, it is always wise to err on the side of too much, too soon, rather than too little, too late.

Mr. President, this legislation establishes a clear policy to deploy a national missile defense [NMD] system by the end of 2003, that is capable of providing a highly effective defense of U.S. territory against limited, unauthorized, or accidental ballistic missile attacks. The bill also specifies the components of a national missile defense system that are to be developed for deployment, including: An interceptor system, fixed ground-based radars, space-based sensors, and battle management, command, control, and communications.

To implement this policy, this legislation directs the Secretary of Defense to: Promptly initiate planning to meet this deployment goal; conduct by the end of 1998, an integrated systems test using NMD components; to use streamlined acquisition procedures to reduce cost and increase efficiency; and to develop a follow-on NMD program.

The Secretary of Defense is also required to submit a detailed report to the Congress no later than March 15, 1997, which outlines his plans for implementing this policy, the estimate costs associated with the development and deployment of the NMD system, a cost and operational effectiveness analysis of follow-on options, and a determination of the point at which NMD development would conflict with the ABM Treay.

With respect to the ABM Treaty, the legislation urges the President to bring the Russians on board, by pursuing high-level discussions with Russia to amend the ABM Treaty to allow for the deployment of the NMD system specified in this act. If the Russians do agree, the legislation requires any agreement to be submitted to the Senate for advice and consent. However, if a satisfactory agreement is not reached within a year of the date of enactment of this legislation, the President and Congress will consider U.S. withdrawal from the ABM Treaty.

Mr. President, deploying a national missile defense system—which will protect all 50 States—should be our top defense priority. The Defend America Act lays out a realistic and responsible course by which we can do so.

A national missile defense system will not only defend, it will deter—by reducing the incentive of rogue regimes to acquire ballistic missiles and weapons of mass destruction.

I hope that the White House is listening. Republicans are united and clear in their message that America must be defended. We are ready to exercise leadership to fulfill our responsibility to all Americans to protect them from ballistic missile attack.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Defend America Act of 1996".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Although the United States possesses the technological means to develop and deploy defensive systems that would be highly effective in countering limited ballistic missile threats to its territory, the United States has not deployed such systems and currently has no policy to do so.

(2) The threat that is posed to the national security of the United States by the proliferation of ballistic missiles is significant and growing, both quantitatively and qualitatively.

(3) The trend in ballistic missile proliferation is toward longer range and increasingly sophisticated missiles.

(4) Several countries that are hostile to the United States (including North Korea, Iran, Libya, and Iraq) have demonstrated an interest in acquiring ballistic missiles capable of reaching the United States.

(5) The Intelligence Community of the United States has confirmed that North Korea is developing an intercontinental ballistic missile that will be capable of reaching Alaska or beyond once deployed.

(6) There are ways for determined countries to acquire missiles capable of threatening the United States with little warning by means other than indigenous development.

(7) Because of the dire consequences to the United States of not being prepared to defend itself against a rogue missile attack and the long-lead time associated with preparing an effective defense, it is prudent to commence a national missile defense deployment effort before new ballistic missile threats to the United States are unambiguously confirmed.

(8) The timely deployment by the United States of an effective national missile defense system will reduce the incentives for countries to develop or otherwise acquire intercontinental ballistic missiles, thereby inhibiting as well as countering the proliferation of missiles and weapons of mass destruction.

(9) Deployment by the United States of a national missile defense system will reduce concerns about the threat of an accidental or unauthorized ballistic missile attack on the United States.

(10) The offense-only approach to strategic deterrence presently followed by the United States and Russia is fundamentally adversarial and is not a suitable basis for stability in a world in which the United States and the states of the former Soviet Union are seeking to normalize relations and eliminate Cold War attitudes and arrangements.

(11) Pursuing a transition to a form of strategic deterrence based increasingly on defensive capabilities and strategies is in the interest of all countries seeking to preserve and enhance strategic stability.

(12) The deployment of a national missile defense system capable of defending the United States against limited ballistic missile attacks would (A) strengthen deterrence at the levels of forces agreed to by the United States and Russia under the START I Treaty, and (B) further strengthen deterrence if reductions below START I levels are implemented in the future.

(13) Article XIII of the ABM Treaty envisions "possible changes in the strategic situation which have a bearing on the provisions of this treaty".

(14) Articles XIII and XIV of the treaty establish means for the parties to amend the treaty, and the parties have in the past used those means to amend the treaty.

(15) Article XV of the treaty establishes the means for a party to withdraw from the treaty, upon six months notice "if it decides that extraordinary events related to the subject matter of this treaty have jeopardized its supreme interests".

(16) Previous discussions between the United States and Russia, based on Russian President Yeltsin's proposal for a Global Protection System, envisioned an agreement to amend the ABM Treaty to allow (among other measures) deployment of as many as four ground-based interceptor sites in addition to the one site permitted under the ABM Treaty and unrestricted exploitation of sensors based within the atmosphere and in space.

SEC. 3. NATIONAL MISSILE DEFENSE POLICY.

(a) It is the policy of the United States to deploy by the end of 2003 a National Missile Defense system that—

(1) is capable of providing a highly-effective defense of the territory of the United States against limited, unauthorized, or accidental ballistic missile attacks; and

(2) will be augmented over time to provide a layered defense against larger and more sophisticated ballistic missile threats as they emerge.

(b) It is the policy of the United States to seek a cooperative transition to a regime that does not feature an offense-only form of deterrence as the basis for strategic stability.

SEC. 4. NATIONAL MISSILE DEFENSE SYSTEM ARCHITECTURE.

(a) REQUIREMENT FOR DEVELOPMENT OF SYSTEM.—To implement the policy established in section 3(a), the Secretary of Defense shall develop for deployment an affordable and operationally effective National Missile Defense (NMD) system which shall achieve an initial operational capability (IOC) by the end of 2003.

(b) ELEMENTS OF THE NMD SYSTEM.—The system to be developed for deployment shall include the following elements:

(1) An interceptor system that optimizes defensive coverage of the continental United States, Alaska, and Hawaii against limited, accidental, or unauthorized ballistic missile attacks and includes one or a combination of the following:

(A) Ground-based interceptors.

(B) Sea-based interceptors.

(C) Space-based kinetic energy interceptors.

(D) Space-based directed energy systems.

(2) Fixed ground-based radars.

(3) Space-based sensors, including the Space and Missile Tracking System.

(4) Battle management, command, control, and communications (BM/C^3).

SEC. 5. IMPLEMENTATION OF NATIONAL MISSILE DEFENSE SYSTEM.

The Secretary of Defense shall—

(1) upon the enactment of this Act, promptly initiate required preparatory and planning actions that are necessary so as to be capable of meeting the initial operational capability (IOC) date specified in section 4(a);

(2) plan to conduct by the end of 1998 an integrated systems test which uses elements (including BM/C^3 elements) that are representative of, and traceable to, the national missile defense system architecture specified in section 4(b);

(3) prescribe and use streamlined acquisition policies and procedures to reduce the cost and increase the efficiency of developing the system specified in section 4(a); and

(4) develop an affordable national missile defense follow-on program that—

(A) leverages off of the national missile defense system specified in section 4(a), and

(B) augments that system, as the threat changes, to provide for a layered defense.

SEC. 6. REPORT ON PLAN FOR NATIONAL MISSILE DEFENSE SYSTEM DEVELOPMENT AND DEPLOYMENT.

Not later than March 15, 1997, the Secretary of Defense shall submit to Congress a report on the Secretary's plan for development and deployment of a national missile defense system pursuant to this Act. The report shall include the following matters:

(1) The Secretary's plan for carrying out this Act, including—

(A) a detailed description of the system architecture selected for development under section 4(b); and

(B) a discussion of the justification for the selection of that particular architecture.

(2) The Secretary's estimate of the amount of appropriations required for research, development, test, evaluation, and for procurement, for each of fiscal years 1997 through 2003 in order to achieve the initial operational capability date specified in section 4(a).

(3) A cost and operational effectiveness analysis of follow-on options to improve the effectiveness of such system.

(4) A determination of the point at which any activity that is required to be carried out under this Act would conflict with the terms of the ABM Treaty, together with a description of any such activity, the legal basis for the Secretary's determination, and an estimate of the time at which such point would be reached in order to meet the initial operational capability date specified in section 4(a).

SEC. 7. POLICY REGARDING THE ABM TREATY.

(a) ABM TREATY NEGOTIATIONS.—In light of the findings in section 2 and the policy established in section 3, Congress urges the President to pursue high-level discussions with the Russian Federation to achieve an agreement to amend the ABM Treaty to allow deployment of the national missile defense system being developed for deployment under section 4.

(b) REQUIREMENT FOR SENATE ADVICE AND CONSENT.—If an agreement described in subsection (a) is achieved in discussions described in that subsection, the President shall present that agreement to the Senate for its advice and consent. No funds appropriated or otherwise available for any fiscal year may be obligated or expended to implement such an amendment to the ABM Treaty unless the amendment is made in the same manner as the manner by which a treaty is made.

(c) ACTION UPON FAILURE TO ACHIEVE NEGOTIATED CHANGES WITHIN ONE YEAR.—If an agreement described in subsection (a) is not achieved in discussions described in that subsection within one year after the date of the enactment of this Act, the President and Congress, in consultation with each other, shall consider exercising the option of withdrawing the United States from the ABM Treaty in accordance with the provisions of Article XV of that treaty.

SEC. 8. ABM TREATY DEFINED.

For purposes of this Act, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, and signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

Mr. THURMOND. Mr. President, I am extremely proud to be a principal cosponsor of the Defend America Act of 1996, which was introduced by Senator DOLE today. This legislation will fill a glaring void in U.S. national security policy by requiring the deployment of a national missile defense system by 2003 that is capable of defending the United States against a limited, accidental, or unauthorized ballistic missile attack.

Ironically, most Americans already believe that we have such a system in place. This assumption is understandable since under the Constitution the President's first responsibility is to provide for the defense of the American homeland. Unfortunately, the current President has decided that this obligation is one that can be indefinitely delayed. I join Senator DOLE and others today in proclaiming that the time has come to end America's complete vulnerability to ballistic missile blackmail and attack.

The President and senior members of the administration have argued that there is no threat to justify deployment of a national missile defense system. This is simply not true. The political and military situation in the former Soviet Union has deteriorated, leading to greater uncertainty over the control and security of Russian strategic nuclear forces. China is firing missiles near Taiwan as if it were a skeet range, and has even made veiled threats against the United States. North Korea is developing an intercontinental ballistic missile that will be capable of reaching the United States once deployed. Other hostile and unpredictable countries, such as Libya, Iran, and Iraq, have made clear their desire to acquire missiles capable of reaching the United States. The technology and knowledge to produce missiles and weapons of mass destruction is available on the open market.

China's recent provocations against Taiwan highlight the need for the United States to deploy a national missile defense system as soon as possible. Although veiled threats against the United States may be only saber rattling, American military and political leaders should not ignore them. If the United States possessed even a limited national missile defense system, U.S. decision-makers would have a much greater degree of flexibility in considering our military and diplomatic options. A vulnerable America is not only subject to missile attack, but also to blackmail and intimidation.

Last year, President Clinton vetoed the Defense authorization bill mainly because it called for deployment of a national missile defense system. The administration argued that there was no need for such a system, that the threat is 10 or 15 years away. China has clearly illustrated how their judgment is flawed. The threat is here today.

If the situation should deteriorate between China and Taiwan, President Clinton will almost certainly regret the fact that the United States has no means of dealing with Chinese missile threats other than by our own nuclear threats. This is hardly a credible response. A national missile defense system, on the other hand, would eliminate the risk and uncertainty that would surely occur if China and the United States engaged in a series of nuclear threats and counterthreats. This would be an invitation for disaster. If we had an operational national missile defense system, we could confidently deal with Chinese missile threats and pursue our policies and objectives without intimidation.

The other important factor to bear in mind when considering the need for a national missile defense system, is that such a system can actually discourage countries from acquiring long-range missiles in the first place. In this sense, we should view national missile defense as a powerful nonproliferation tool, not just something to be considered some time in the future as a response to newly emerging threats.

The policy advocated in the Defend America Act of 1996 is virtually identical to that contained in the fiscal year 1996 Defense Authorization Act, which was passed by Congress and vetoed by the President. Like the legislation vetoed by the President, the Defend America Act of 1996 would require that the entire United States be protected against a limited, accidental, or unauthorized attack by the year 2003. It differs from the vetoed legislation in that it provides the Secretary of Defense greater flexibility in determining the precise architecture for the system.

The Defend America Act of 1996 urges the President to begin negotiations to amend the AMB Treaty to allow for deployment of an effective system. But it also recommends that, if these negotiations fail to produce acceptable amendments within 1 year, Congress and the President should consider withdrawing the United States from the ABM Treaty. Nothing in this legislation, however, requires or advocates abrogation or violation of the ABM Treaty.

Mr. President, 3 months ago, the President of the United States vetoed the Defense authorization bill because he opposed the deployment of a system to defend the American people against ballistic missile attack. Today, I am honored to join Senator DOLE in sending a clear message—we will not stand idly by while the United States remains undefended against a real and growing threat. The legislation we are introducing today will fulfill a constitutional, strategic, and moral obligation that has been neglected for 4 years.

Mr. MCCAIN. Mr. President, I am proud to cosponsor this legislation to establish a policy for deploying a national defense system for the United States. This bill, the National Missile Defense Act of 1996, returns the United States on a clear path toward deploying a system to defend the American people against limited, accidental, or unauthorized ballistic missile attacks.

In 1991, the Congress enacted the first Missile Defense Act, in a bipartisan effort to give direction to the Strategic Defense Initiative program, now known as the Ballistic Missile Defense program. The need for theater missile defense systems had been tragically demonstrated during the Persian Gulf war, and it was clear that the potential threats to our continent would continue to exist, even with the collapse of the Soviet Union.

Subsequently, that policy was watered down and its deployment objectives were delayed time and again. I congratulate Senator DOLE for taking the lead today in restoring much-needed direction to our national missile defense efforts.

Our Nation has invested over $38 billion on missile defense programs over the past 15 years, with very little effective defensive capability to show for it. We are at a turning point in the development of capabilities to effectively defend our citizens and our troops deployed overseas from the devastating effects of ballistic missile attacks.

We should focus our missile defense programs on the risk of accidental or unauthorized missile launch, missile proliferation in the Third World, and particularly the risk of theater missile attacks on our forces and allies.

Deployment of effective, mobile theater missile defense systems for our troops in the field should be our first priority. To do so requires an evaluation of the many ongoing research programs to determine which demonstrates the most promise for deployable capability against battlefield missile attacks.

I am greatly disappointed that the administration chose to ignore Congressional direction and cut the theater missile defense funding approved by the Congress last year. The core programs identified in the fiscal year 1996 Defense authorization bill, including both lower and upper tier systems, must be fully funded to ensure the most effective protection for our troops in the field. I fully expect Congress to restore the funding and restate the programmatic direction to make these systems available to our forces.

At the same time, we must develop a deployment plan for an initial national missile defense system to provide an effective defense of U.S. territory against limited ballistic missile attacks. This bill establishes a goal of 2003 to deploy such a system and directs the Secretary of Defense to develop a plan to implement that goal. It is now up to the Congress to provide the funding to develop and procure the most cost-effective system.

Both efforts, toward theater and national missile defense systems, must balance the critical need for defenses with the reality of fiscal constraints. Every effort should be made to engage our allies both financially and technically in developing these systems.

Mr. President, the threat of proliferation is too great to ignore. We must not replace the nuclear confrontation of the cold war with vulnerability to dictators, extremists, and nations who threaten us with nuclear blackmail, or our forces and allies with missile attack. Without effective, deployed missile defense systems, we remain at risk.

I intend to work with Senator DOLE to achieve early passage of this legislation in the Senate, and I urge President Clinton to approve it to ensure the safety of the American people.

Mr. WARNER. Mr. President, I am proud to join the Republican leadership of both the Senate and the House, and all Republican members of the Senate Armed Services Committee, as an original cosponsor of the Defend America Act of 1996. I call on all Members of Congress to join us in our effort to protect the citizens of the United States from ballistic missile attack.

Earlier this year, President Clinton's veto of the Defense authorization bill forced us to reluctantly drop the important national missile defense provisions that we had included in that bill. At that time, we promised that we would be back with separate legislation to provide for the defense of the United States. With the introduction of today's legislation, we have fulfilled that promise and will continue the fight until this legislation is enacted into law—over President Clinton's veto, if necessary.

Many Americans find it hard to believe that we currently have no system in place which could defend our Nation against even a single intercontinental ballistic missile strike. This, despite the fact that Russia and China currently have the capability to reach our shores with their intercontinental ballistic missiles; and North Korea is well on its way to deploying a long-range missile capable of striking Alaska. In addition, over 30 nations now have short-range ballistic missiles—30 nations, many hostile to the United States. As China's saber rattling against Taiwan continues, we hear reports of veiled threats from China of a missile attack against California—something they are very capable of doing. And today's papers report that Iraq continues to possess Scud missiles.

The need for defenses against these capabilities is clear. The cold war may be over, but the desire of more and more nations to acquire ballistic missiles is growing.

But the Clinton administration believes there is no threat, and they have presented the Congress with a defense budget request which "slow rolls" our ballistic missile defense efforts. The American people deserve better.

That is why I have long been in the forefront of the Republican effort to provide both our troops deployed overseas and Americans here at home with adequate defenses to counter the very real threat of ballistic missile attack. I drafted the Missile Defense Act of 1991 which—in the aftermath of the Iraqi Scud missile attacks—set the United States on the path to acquiring and deploying theater and national missile defense systems. I also joined with my Republican colleagues on the Armed Services Committee in drafting the Missile Defense Act of 1995, an update of the earlier Missile Defense Act. Unfortunately, as I mentioned earlier, President Clinton's veto stopped that Republican effort to defend Americans.

The Defend America Act calls for the deployment of a national missile defense [NMD] system to protect the United States against limited, unauthorized or accidental ballistic missile attacks. It is important to emphasize that we are talking about a limited system—one that would provide a highly effective capability against a limited ballistic missile attack. This is precisely the type of defensive system we need to deal with the threats we are facing in the post-cold-war world.

A key difference between the Defend America Act and the missile defense legislation adopted last year, is that the current bill does not require the deployment of a specific NMD system. Rather, it establishes the requirement to deploy a system by a date certain, but leaves it to the Secretary of Defense to propose a plan by March 15, 1997, to implement this requirement. This is a prudent approach which focuses the debate on the real issue—do you want to defend the American people against ballistic missile attacks?

Mr. President, we all remember the Iraqi Scud missile attacks on our forces in Saudi Arabia, and our friends in Israel. I was in Tel Aviv during the last Scud attack—February 18, 1991.

I do not want to see U.S. citizens subjected to the terror I witnessed in Israel. I pray that we never see a time when Americans are forced to carry gas masks around because some madman is threatening our shores. We owe it to our citizens to take action now—before it is too late—to provide them with effective defenses against these types of attacks.

Mr. SMITH. Mr. President, I rise in strong support of the legislation introduced today by Senator DOLE regarding national missile defense. I am proud to be an original cosponsor, and I want to commend Senator DOLE for his steadfast commitment to defending America.

Mr. President, our Nation is walking a very dangerous tightrope. For reasons that are unknown and certainly inconceivable to most Americans, President Clinton refuses to defend our country against ballistic missiles, even though the technology to do so is available today.

The truth is our Nation is absolutely, completely vulnerable to ballistic missiles. We have no defense whatsoever against a missile targeted on our territory, our industry, our national treasures, or our people. The Patriot missiles that everyone remembers from Desert Storm 5 years ago are not capable of stopping a long-range missile. In fact, they can only defend very small areas against short-range missiles. The Patriot is a point-defense system that we send along with our troops when they go into harm's way.

But here at home we have no defenses against long-range missiles based in China, in Russia, or in North Korea. We have no defenses against the missiles that Iran, Iraq, Syria, and Libya are so vigorously seeking to acquire. That is the truth. That is a fact. And that is unacceptable.

When told of this situation, the vast majority of Americans become enraged. They cannot understand why their elected Representatives would leave them defenseless against the likes of Saddam Hussein, Mu'ammar Qadhafi, or Kim Jong-Il. They cannot understand why the tax dollars that they contribute for national defense are not being used to protect them. Frankly, they have every right to be upset. There is simply no excuse.

The Congress agrees with the American people and took action last year to defend all Americans against ballistic missiles, whatever their source. In the Defense authorization bill for fiscal year 1996, Congress established a program to develop and deploy a national missile defense system for the United States. This program was not some elaborate star wars concept, but rather, a very modest yet capable ground-based system that would provide a limited defense of America against accidental, unauthorized, or hostile missile attacks.

But President Clinton vetoed the Defense bill specifically because of the requirement to defend America. In fact, in his statement of administration policy, the President called national missile defense quote "unwarranted and unnecessary."

Mr. President, that is a very insightful quote, and it gets right to the heart of the differences between President Clinton, Presidential candidate BOB DOLE, and the Republican Congress. To President Clinton, providing for the common defense is "unwarranted and unnecessary." To the Congress and Senator DOLE, it is the most fundamental of our constitutional responsibilities.

Simply put, this is a defining issue. It is an issue that defines our Nation's character and commitment to its people. It is an issue that defines the two parties. It is an issue that defines the very basic difference between two men who are seeking the Presidency. It is an issue that history will undoubtedly look back and pass judgment upon and, for better or worse, it is an issue that will define our generation.

Mr. President, if we fail to take action to defend America now, while we still have the chance, we will certainly regret it. At some point in the very near future, we will have waited too long. The theoretical threat of a hostile ballistic missile launch will have become a reality. And we will have no defense against it.

What will it take for President Clinton to recognize this threat? Must a ballistic missile equipped with a chemical, biological, or nuclear warhead rain down upon citizens before he will act? Must tens of thousands of Americans perish before he corrects this terrible vulnerability?

To those of us who are cosponsoring this legislation, the answer is, "No." The time to act is now, not tomorrow. Our Nation is in jeopardy. Ballistic missiles and weapons of mass destruction are spreading throughout the world and we cannot stop them. In fact, some 30 nations currently possess, or are actively acquiring, weapons of mass destruction and the missiles to deliver them.

Just yesterday, the United Nations admitted that Iraq is covertly storing up to 16 ballistic missiles armed with chemical or biological warheads. Iraq is the most inspected and thoroughly monitored country in the world. If we cannot find these missiles in the deserts of Iraq, how can we expect to track them in the mountains and valleys of China, North Korea, Iran, or Syria?

The answer is, We can't, and even if we could, we have no system to counter them. The only solution is to develop missile defenses. This bill does just that, and would require that our Nation deploy a national missile defense system capable of protecting all Americans by the year 2003.

Mr. President, this is not about politics. It is not about partisanship. It is about national security and keeping faith with those who elected us and those who depend upon us to safeguard their lives and property. If we ignore this obligation, we will have failed in our most fundamental constitutional responsibility. To me that is unacceptable. It runs against every principle that I stand for, and as long as I have a breath in my body, I will fight to prevent that from happening.

Mr. President, I want to again thank the distinguished majority leader for bringing this issue before the Senate. He does our Nation a profound service by highlighting the missile defense issue, and I am proud to cosponsor this important legislation.

I yield the floor.

By Mr. HARKIN:

S. 1637. A bill to amend the Internal Revenue Code of 1986 to revise the tax rules on expatriation, and for other purposes; to the Committee on Finance.

THE EXPATRIATION TAX REFORM ACT OF 1996

• Mr. HARKIN. Mr. President, the time has come to close one of the most outrageous tax loopholes on our books today. In fact, it is so outrageous, it's hard to believe.

But today a small number of very wealthy individuals—often billionaires—can renounce their U.S. citizenship in order to avoid paying their fair share of taxes. And under current law, those same individuals can still live in the United States for up to half a year—tax-free.

That's right. Amazingly, the current tax code has a loophole big enough for the super rich to fly their private jets right through. I call it the Benedict Arnold loophole. You can turn your back on the country that made you rich—to get even richer.

In many cases, those same people come right back to the United States. They spend up to 6 months here and claim to be citizens of another country just so they can skip out on their tax bill.

In one case, for example, a very wealthy American acquired citizenship in Belize, a small country along the Caribbean coast. Soon thereafter, Belize tried to set up a counsel's office in Florida where their new citizen had his factories. That way their new "counsel" could live in the U.S. for a large part of the year without paying his U.S. taxes. Ultimately, this was not allowed, but these types of games should be stopped once and for all.

Hard working, tax paying, middle-class Americans have every right to be outraged by these tax loopholes. They are costing Americans about $1.5 billion. And the money these wealthy tax cheats fail to pay is adding to our debt and to the bill that our kids will one day be forced to pay. That's unconscionable.

The bill I am introducing today says enough is enough: It's time to close the Benedict Arnold loophole. My legislation provides that if these so called "expatriates" spend 30 days in the United States they must pay their full taxes as a resident alien. Essentially, they would be treated like a resident alien, similar to how a U.S. citizen is treated.

In addition, my bill provides that—upon renouncing their citizenship—these individuals would pay taxes on all of their gains, including those not yet sold. Under current law they can effectively escape paying their fair share of taxes by delaying the sale of their assets through available loopholes. The Senate passed a provision in last year's Budget Reconciliation bill, but it was gutted in conference.

Where there is a problem with a bilateral tax treaty, the Secretary of the Treasury may waive the provision for that individual.

I hope that the bill I am introducing today become law this year. I urge the Senate to support and pass this common sense measure that will save taxpayer $1.5 billion.•

By Mr. PRESSLER (for himself, Mr. GLENN, Mr. D'AMATO, Mr.

KERREY, Mr. BENNETT, and Mrs. FEINSTEIN):

S. 1638. A bill to promote peace and security in South Asia; to the Committee on Foreign Relations.

THE SOUTH ASIA PEACE AND SECURITY PROMOTION ACT OF 1996

Mr. PRESSLER. Mr. President, today along with my colleagues, Senators GLENN, D'AMATO, JOHN KERRY, BENNETT, and FEINSTEIN, I am introducing legislation in an effort to restore credibility to our Nation's already damaged nuclear nonproliferation policy. Nonproliferation is one of our most important national security concerns, if not the most important. Even the President admitted last year that no issue is more important to the security of all people than nuclear nonproliferation.

At present, our efforts in this area are tied to another vital goal: the promotion of peace and security in South Asia. I have visited South Asia. I have said before it is a region of striking contrasts—a region of such enormous potential clouded by tension and instability.

As all of us well know, last year President Clinton requested, and Congress agreed to, a one time exception and partial repeal of one our most important nonproliferation laws: the so-called Pressler amendment. The Pressler amendment, approved by Congress in 1985, prohibits United States military and nonmilitary assistance to Pakistan, including arms sales, so long as Pakistan possesses a nuclear explosive device. The Senate had an extensive debate on this subject last fall. As a result of last year's exception—known as the Brown amendment—approximately 370 million dollars' worth of American military goods is scheduled for delivery to Pakistan.

The Brown amendment was very controversial. The central point of the controversy was the fact that the Brown amendment was both waiving and repealing nuclear nonproliferation law without obtaining one concrete nonproliferation concession from Pakistan. We have never provided that kind of exception to any other country before. That was one of the central reasons why I opposed the Brown amendment. I feared it would send the worst possible message: Nuclear proliferation pays.

The Clinton administration lobbied the Congress quite heavily on the Brown amendment. The administration even tried to convince Members of Congress that Pakistan did make a nonproliferation concession. The Clinton administration claimed its support for the Brown amendment was based in part on an understanding it believed it had with the Government of Pakistan. On August 3, 1995, Acting Secretary of State Peter Tarnoff stated the context of this understanding in a letter to the distinguished ranking member and former chairman of the Armed Services Committee, Senator NUNN:

> Pakistan knows that the decision to resolve the equipment problem is based on the assumption that there will be no significant change on nuclear and missile non-proliferation issues of concern to the United States.

Frankly, at the time, I felt the justification was too weak at best and unbelievable at worst. I say that from the standpoint of experience. You see, the Pressler amendment was passed with a similar assurance from Pakistan. Let me remind my colleagues that the Pressler amendment was designed to ensure that Pakistan—at that time our Nation's third largest foreign aid recipient—continued to receive United States assistance. We had an understanding that Pakistan would not develop a bomb program, and in return, we would pass the Pressler amendment so that our existing laws would not result in a United States aid cutoff. As we all know, they did build a bomb program, and continued to receive U.S. taxpayer dollars. So I had some serious misgivings and a sense of foreboding when the Clinton administration stated it was basing its support of the Brown amendment on an assurance from Pakistan.

But that was then, this is now. Now we have a clear, unequivocal statement by the Director of Central Intelligence that Pakistan did not accept the administration's position in August. This is what Director John Deutch told the Senate Select Committee on Intelligence on February 22:

> Mr. Chairman, the intelligence community continues to get accurate and timely information on Chinese activities that involve inappropriate weapons technology assistance to other countries: nuclear technology to Pakistan, M-11 missiles to Pakistan, cruise missiles to Iran.

For the record, I would like to point out that the Director said "M-11 missiles," not "M-11 missile technology."

So, the administration's assumption that the Government of Pakistan would freeze development of its bomb program was erroneous. Our intelligence community has found "accurate and timely information" that Pakistan has, indeed, made significant changes on nuclear and missile proliferation issues of concern to the United States. The nuclear technology to which Director Deutch alluded would allow Pakistan a 100-percent increase in its capacity to make enriched uranium, the explosive material of nuclear weapons. The M-11s are modern, mobile, nuclear capable ballistic missiles and clearly intended to be the principal delivery system of the Pakistani nuclear weapons system.

With the underlying assumption of the administration's position now destroyed, there is no longer any justification for the administration's support of the Brown amendment. The administration has the authority to put the Brown amendment on hold. Federal law specifically states that if the President determines that a country has delivered or received "nuclear enrichment equipment, materials or technology," no funds may be made available under the Foreign Assistance Act of 1961, which would include military equipment purchased with Foreign Military Sales [FMS]. All the President needs to do is enforce our nonproliferation laws and most, if not all of the military equipment provided by the Brown amendment remains undelivered. That is what I urged the President to do last month.

Sadly, even though Pakistan broke its assurance to the Clinton administration, it has been reported yesterday that the President intends to go through with the transfer. This is stunning news. The Brown amendment alone was a tough blow to our nonproliferation policy. Now the Clinton administration is preparing to cripple our already shaken credibility as an enforcer of nuclear nonproliferation. If that is the President's decision, and I certainly hope he reconsiders, then the law requires that he make an appropriate certification to the Congress. This gives Congress two options: First, it could disapprove of the President's certification. Under the law it would have 30 days to do that. Or, should a certification not be forthcoming, it could enact the legislation I am introducing today. This bill, which I introduce with bipartisan support, simply repeals the Brown amendment.

Mr. President, I believe passage of this legislation is necessary if our Nation's nuclear nonproliferation policy is to have any credibility. Indeed, beyond the simple policy justifications for this legislation, I urge my colleagues to keep in mind the circumstance that brings me to the floor today. As I stated a moment ago, Pakistan's receipt of nuclear technology from China is a sanctionable offense, as is its receipt of M-11 missile technology. What makes these offenses disturbing is that they were occurring while Pakistan was lobbying the administration and Congress to waive and partially repeal nuclear nonproliferation law. Equally disturbing are reports that members of the Clinton administration knew of the ring magnet transfer at that time, but did not divulge this information to members of Congress. The irony would be humorous if the issue wasn't so serious.

I believe that if all my colleagues were aware of this blatant violation of our non-proliferation laws last fall, the Brown amendment would have failed. Indeed, a supporter of the Brown amendment, Congressman DOUG BEREUTER, admitted that if the Brown amendment was reconsidered, its passage would be unlikely. I am confident enough that this Congress understands the seriousness of this matter and would agree that we need to repeal the

Brown amendment or at least suspend its implementation until the underlying policy of the administration is restored—that being the return of the ring magnets and the M-11s from Pakistan to China.

Mr. President, finally a word about South Asia. Also on February 22, CIA Director Deutch named South Asia as his No. 1 worry in the annual world wide threat assessment. He noted, "the potential for conflict is high." Just a few weeks ago, the Washington Post reported that Pakistan is preparing for a possible nuclear weapons test. Even a limited nuclear exchange between Pakistan and India would result in deaths and destruction on an unprecedented scale in world history. Under the circumstances, I feel it would be the height of irresponsibility to allow for military aid to one side in such an unstable environment. The aftermath of the Brown amendment is proof that our relationship with India is impacted by United States nonproliferation policy. Because of India's unsafeguarded nuclear program, there is no United States-Indian agreement for nuclear cooperation. United States military cooperation with India is virtually nonexistent. The United States will not export certain forms of missile equipment and technology to India and any other goods that are related to weapons of mass destruction. It is true that United States sanctions have not been invoked against India, but that is because India has not violated its commitments under United States law.

I stand ready to seek a commonsense approach to improve our relations with all the countries in South Asia. We need a commonsense approach to deal with the problems in that troubled region. Illicit narcotics trafficking, terrorism, economic stagnation, and weapons proliferation are just some of the issues that plague South Asia. We must seek ways to help these countries address all these problems. I am ready to start that process. We can start by repealing the Brown amendment and begin working on an approach that serves the mutual interests of the people of the United States and the people of South Asia.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1638

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROMOTION OF PEACE AND SECURITY IN SOUTH ASIA.

(a) FINDINGS.—Congress makes the following findings:

(1) The American people fervently desire that all the peoples of South Asia enjoy peace and share an increased sense of security.

(2) The peace and security of South Asia are threatened by an arms race, particularly the spread of weapons of mass destruction and their modern delivery systems.

(3) Congress has granted both a one-time exception to and partial repeal of United States nuclear nonproliferation laws in order to permit the Government of Pakistan to receive certain United States military equipment and training and limited economic aid.

(4) The exception and partial repeal was based on direct assurances to the United States Government that "there will be no significant change on nuclear and missile nonproliferation issues of concern to the United States".

(5) The Director of Central Intelligence has informed Congress that Pakistan has taken recent delivery of "nuclear technology" and "M-11 missiles" from the People's Republic of China.

(6) The justification for the exception to and partial repeal of United States nonproliferation laws is no longer valid.

(b) REPEAL.—Section 620E of the Foreign Assistance Act of 1961 (22 U.S.C. 2375) is amended to read as if the amendments made to such section by section 559 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107) had not been made.

Mr. KERRY. Mr. President, last September the Senate approved an amendment offered by Senator BROWN that allowed the administration to deliver hundreds of millions of dollars worth of military equipment to Pakistan. In doing so, we decided to ignore Pakistan's continuing efforts to acquire nuclear weapons and the ballistic missiles to carry them, and we turned our backs on United States non-proliferation law and international arms control agreements. Today, I am pleased to cosponsor a bill being introduced by Senator PRESSLER that will repeal this misguided provision and will help put U.S. nonproliferation policy back on track.

During Senate consideration of the Brown amendment, the proponents, including the administration, argued that transferring the military equipment would remove what had become an irritant in our relations with Pakistan and would result in enhanced cooperation on nonproliferation issues. Unfortunately, the opposite has happened.

Even as we debated the Brown amendment we had clear and convincing evidence that Pakistan had received M-11 ballistic missiles from China—a sanctionable offense under the Missile Technology Control Regime. We now know that Pakistan also has continued to pursue its Nuclear Weapons Program. In an unclassified hearing earlier this year, Director of Central Intelligence John Deutch testified to the Intelligence Committee that he was especially concerned about Pakistani efforts to acquire nuclear technology. Although he did not provide details, the press has reported that last summer China sent Pakistan specialized magnets for use in centrifuges to produce enriched uranium. Such a transfer would violate the 1994 Nuclear Non-Proliferation Act. Finally, Director Deutch told the Intelligence Committee that Pakistan was likely to test a nuclear weapon if India did, hardly the restraint we were promised.

Since the late 1970's the Pakistani Government has repeatedly assured the United States that it does not possess nuclear weapons despite our certainty that it does. As recently as November of 1994, Prime Minister Bhutto said in an interview with David Frost "We have neither detonated one, nor have we got nuclear weapons." Now they are practicing the same deception with regard to acquiring missiles from China. In July of 1995, a press release from the Pakistan Embassy asserted that "Pakistan has not acquired the M-11 or any other missile from China that violates the Missile Technology Control Regime." The evidence to the contrary is, in my opinion, overwhelming.

Pakistan has been a friend and ally of the United States since its independence. But how many times can you let a friend mislead you and how many times can you let a friend put you in danger before you are forced to change the nature of the relationship. This is not a question of whether we want good relations with Pakistan. Of course we do. We want good relations with all countries, but the proliferation of weapons of mass destruction and the delivery systems to carry them is far more important to our national security than relations with any one country. Indeed, this is one of the most important national security issues facing us today.

I congratulate my colleague from South Dakota for his leadership on this issue and I am pleased to cosponsor his legislation. I hope that we can address this issue before the transfer of this equipment is completed.

By Mr. DOLE (for himself, Mr. THURMOND, Mr. WARNER, and Mr. GRAMM):

S. 1639. A bill to require the Secretary of Defense and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Defense with reimbursement from the Medicare Program for health care services provided to Medicare-eligible beneficiaries under TRICARE; to the Committee on Finance.

MEDICARE SUBVENTION LEGISLATION

Mr. DOLE. Mr. President, today I am pleased to introduce legislation which will demonstrate the cost effectiveness of Medicare reimbursement to the Department of Defense [DOD] for treatment of military beneficiaries age 65 and older. This bill will enable these individuals to enroll in Tricare Prime and be treated in military hospitals.

CURRENT SYSTEM IS FLAWED

As I am sure my colleagues know, Tricare is DOD's new managed health care program. While Tricare has merit, it also has flaws: It bars all Medicare-eligible retirees and family members from enrolling in Tricare Prime. In fact, all career military members and their families eventually will be affected, because even those who enroll now will be dropped from Tricare at age 65, when they become eligible for Medicare. In my view, this breaks long standing health care commitments to retirees, may increase costs, and affect military readiness.

IDENTIFYING THE PROBLEM

Current law inadvertently encourages DOD and Medicare to work against each other. As the defense budget tightens, DOD has a strong incentive to push older retirees and families out of the military medical system and back into Medicare, although Medicare probably costs both the Government and retirees more money than care under the military system. Theoretically, Medicare-eligible retirees may still use military hospitals on a space-available basis. However, space-available care is rapidly becoming nonexistent as military facilities downsize and Tricare expands across the country.

MEDICARE SUBVENTION IS THE SOLUTION

It seems to me, the solution to this problem is to change the law to allow Medicare subvention, allowing Medicare to reimburse DOD for care provided to older beneficiaries enrolling in Tricare Prime or otherwise using military hospitals.

DEMONSTRATION TEST OF MEDICARE SUBVENTION

We need to demonstrate to the interested parties, Department of Health and Human Services, and Department of Defense, that subvention is indeed a feasible and cost-effective program. Therefore I am introducing the legislation which gives those agencies the authority to conduct such a test. I believe this test will justify implementing subvention and allow those eligible military retirees over 65 to participate in Tricare Prime and receive care in military hospitals.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1639

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEMONSTRATION PROJECT FOR MEDICARE REIMBURSEMENT OF DEPARTMENT OF DEFENSE FOR HEALTH CARE PROVIDED TO MEDICARE-ELIGIBLE BENEFICIARIES UNDER TRICARE.

(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Defense and the Secretary of Health and Human Services shall enter into an agreement in order to carry out a demonstration project under which the Secretary of Health and Human Services reimburses the Secretary of Defense, on a capitated basis, from the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for certain health care services provided by the Secretary of Defense to medicare-eligible military beneficiaries through the TRICARE program.

(b) PROJECT REQUIREMENTS.—(1)(A) The Secretary of Defense shall budget for and expend on health care services in each region in which the demonstration project is carried out an amount equal to the amount that the Secretary would otherwise budget for and expend on such services in the absence of the project.

(B) The Secretary may not be reimbursed under the project for health care services provided to medicare-eligible military beneficiaries in a region until the amount expended by the Secretary to provide health care services in that region exceeds the amount budgeted for health care services in that region under subparagraph (A).

(2) The agreement between the Secretary of Defense and the Secretary of Health and Human Services shall provide that the cost to the medicare program of providing services under the project does not exceed the cost that the medicare program would otherwise incur in providing such services in the absence of the project.

(3) The authority of the Secretary of Defense to carry out the project shall expire 3 years after the date of the commencement of the project.

(c) REPORTS.—Not later than 14 months after the commencement of the demonstration project under subsection (a), and annually thereafter until the year following the year in which the project is terminated, the Secretary of Defense and the Secretary of Health and Human Services shall jointly submit to Congress a report on the demonstration project. The report shall include the following:

(1) The number of medicare-eligible military beneficiaries provided health care services under the project during the previous year.

(2) An assessment of the benefits to such beneficiaries of receiving health care services under the project.

(3) A description of the cost-shifting, if any, among medical care programs of the Department of Defense that results from the project.

(4) A description of the cost-shifting, if any, from the Department to the medicare program that results from the project.

(5) An analysis of the effect of the project on the following:

(A) Access to the military medical treatment system, including access to military medical treatment facilities.

(B) The availability of space and facilities and the capabilities of medical staff to provide fee-for-service medical care.

(C) Established priorities for treatment of beneficiaries under chapter 55 of title 10, United States Code.

(D) The cost to the Department of providing prescription drugs to the beneficiaries described in subparagraph (C).

(E) The quality of health care provided by the Department.

(F) Health care providers and medicare-eligible military beneficiaries in the communities in which the project is carried out.

(6) An assessment of the effects of continuing the project on the overall budget of the Department for health care and on the budget of each military medical treatment facility.

(7) An assessment of the effects of continuing the project on expenditures from the medicare trust funds under title XVIII of the Social Security Act.

(8) An analysis of the lessons learned by the Department as a result of the project.

(9) Any other information that the Secretary of Defense and the Secretary of Health and Human Services jointly consider appropriate.

(d) REVIEW BY COMPTROLLER GENERAL.—Not later than December 31 each year in which the demonstration project is carried out under this section, the Comptroller General shall determine and submit to Congress a report on the extent, if any, to which the costs of the Secretary of Defense under the TRICARE program and the costs of the Secretary of Health and Human Services under the medicare program have increased as a result of the project.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "medicare-eligible military beneficiary" means a beneficiary under chapter 55 of title 10, United States Code, who is entitled to benefits under part A of title XVIII of the Social Security Act.

(2) The term "TRICARE program" means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of that title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

ADDITIONAL COSPONSORS

S. 704

At the request of Mr. SIMON, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 1139

At the request of Mr. LOTT, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1139, a bill to amend the Merchant Marine Act, 1936, and for other purposes.

S. 1150

At the request of Mr. SANTORUM, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 1150, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the Marshall Plan and George Catlett Marshall.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1183, a bill to amend the Act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for coverage under the act, and for other purposes.

S. 1188

At the request of Mr. SANTORUM, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1188, a bill to provide marketing quotas and a price support program for the 1996 through 1999 crops of quota and additional peanuts, to terminate marketing quotas for the 2000 and subsequent crops of peanuts, and to provide a price support program for the 2000 through 2002 crops of peanuts, and for other purposes.

S. 1317

At the request of Mr. D'AMATO, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 1317, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1995, and for other purposes.

S. 1355

At the request of Mr. DORGAN, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 1355, a bill to amend the Internal Revenue Code of 1986 to end deferral for U.S. shareholders on income of controlled foreign corporations attributable to property imported into the United States.

S. 1470

At the request of Mr. MCCAIN, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1470, a bill to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the Social Security earnings limit for individuals who have attained retirement age, and for other purposes.

S. 1521

At the request of Mr. DOLE, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1521, a bill to establish the Nicodemus National Historic Site in Kansas, and for other purposes.

S. 1597

At the request of Mr. DORGAN, the names of the Senator from Illinois [Mr. SIMON], the Senator from Nebraska [Mr. EXON], the Senator from West Virginia [Mr. BYRD], the Senator from Arkansas [Mr. PRYOR], the Senator from Colorado [Mr. CAMPBELL], the Senator from Iowa [Mr. HARKIN], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 1597, a bill to amend the Internal Revenue Code of 1986 to discourage American businesses from moving jobs overseas and to encourage the creation of new jobs in the United States, and for other purposes.

S. 1610

At the request of Mr. BOND, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1612

At the request of Mr. HELMS, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

SENATE RESOLUTION 202

At the request of Mr. ABRAHAM, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Mississippi [Mr. COCHRAN], the Senator from South Dakota [Mr. DASCHLE], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Texas [Mr. GRAMM], the Senator from Oregon [Mr. HATFIELD], the Senator from Texas [Mrs. HUTCHISON], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. JEFFORDS], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Massachusetts [Mr. KERRY], the Senator from Vermont [Mr. LEAHY], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Michigan [Mr. LEVIN], the Senator from Mississippi [Mr. LOTT], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Alaska [Mr. STEVENS], and the Senator from Tennessee [Mr. THOMPSON] were added as cosponsors of Senate Resolution 202, a resolution concerning the ban on the use of United States passports for travel to Lebanon.

AMENDMENTS SUBMITTED

THE PUBLIC RANGELANDS MANAGEMENT ACT OF 1996 NATIONAL GRASSLANDS MANAGEMENT ACT OF 1996

BINGAMAN (AND OTHERS) AMENDMENT NO. 3559

Mr. BINGAMAN (for himself, Mr. DORGAN, Mr. REID, Mr. BRYAN, and Mr. DASCHLE) proposed an amendment to amendment No. 3555 proposed by Mr. DOMENICI to the bill (S. 1459) to provide for uniform management of livestock grazing on Federal land, and for other purposes; as follows:

In lieu of the matter proposed insert the following new language:

SECTION 101. SHORT TITLE.

This title may be cited as the "Public Rangelands Management Act of 1996".

SEC. 102. DEFINITIONS.

As used in this title, the term—

(1) "public land" has the same meaning as given in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e));

(2) "Secretary" means the Secretary of the Interior, or where appropriate, the Secretary acting through the Bureau of Land Management; and

(3) "Secretary of Agriculture" means, where appropriate, the Secretary acting through the Forest Service.

SEC. 103. APPLICABILITY.

(a) BUREAU OF LAND MANAGEMENT LANDS.—This title shall apply to the grazing of livestock on public lands administered by the Secretary. Except as otherwise provided in this title, grazing on public lands administered by the Secretary shall be managed in accordance with applicable laws and regulations.

(b) FOREST SERVICE LANDS.—(1) Except as provided in section 113 (concerning the applicability of NEPA provisions), section 115 (establishing a new grazing fee formula), and section 116 (concerning expenditures of grazing fee receipts) livestock grazing on National Forest System lands in the sixteen contiguous Western States shall be managed in accordance with applicable laws and regulations.

(2) None of the provisions of this title shall apply to livestock grazing on National Forest System lands outside of the sixteen contiguous Western States. Livestock grazing on those lands shall be administered by the Secretary of Agriculture in accordance with applicable laws and regulations.

(c) NATIONAL GRASSLANDS.—Livestock grazing on the National Grasslands shall be administered in accordance with title II of this Act, except that sections 113 and 115 of title I shall also apply to the National Grasslands.

(d) COORDINATED MANAGEMENT.—(1) The Secretary and the Secretary of Agriculture shall seek to provide, to the maximum extent practicable, for consistent and coordinated grazing activities and management practices on lands in the sixteen contiguous Western States administered by the Forest Service (excluding the National Grasslands) and the Bureau of Land Management, consistent with the laws governing the public lands and the National Forest System.

(2) To the extent current regulations are inconsistent with the provisions of this title, the Secretary and the Secretary of Agriculture, as necessary, shall promulgate new regulations in accordance with this title.

SEC. 104. RANGELAND HEALTH STANDARDS AND GUIDELINES.

(a) IN GENERAL.—The Secretary, in consultation with the Resource Advisory Councils established in section 108, the Grazing Advisory Boards established in section 109, and appropriate State and local governmental and educational entities, and after providing an opportunity for public participation, shall establish State-wide or regional standards and guidelines to ensure the health and continued improvement of public land range conditions: *Provided, however*, That nothing in this title shall be construed as requiring the establishment of a minimum national standard for public land range conditions.

(b) CRITERIA.—Such standards and guidelines shall seek to ensure that—

(1) watersheds are in, or are making significant progress toward properly functioning condition;

(2) upland soils exhibit stability and infiltration and permeability rates that are appropriate to soil type, climate, and landform;

(3) ecological processes, including the hydrological cycle, nutrient cycle, and energy flow are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities;

(4) water quality complies with State water quality standards; and

(5) healthy, productive, and diverse native plant and animal populations are being supported.

(c) INCORPORATION.—Standards and guidelines developed for a specific region pursuant to this section shall, upon completion, be incorporated by operation of law into applicable land use plans. Standards and guidelines shall also be incorporated into allotment management plans and the terms and conditions of grazing permits and leases.

SEC. 105. PUBLIC PARTICIPATION.

(a) IN GENERAL.—In developing and revising land use plans, allotment management plans, activity plans, and rangeland standards and guidelines, the Secretary shall provide appropriate opportunities for public participation.

(b) AFFECTED INTEREST.—An individual or organization that has expressed in writing to the Secretary concern for the management of livestock grazing on specific allotments and who has been determined by the Secretary to be an affected interest, shall be consulted on significant grazing actions and decisions taken by the Secretary. Such consultation shall include, but need not be limited to, providing notice of the proposed action or decision and the reasons therefore, and a reasonable time in which to submit comments on the proposed action or decision.

(c) ABILITY TO PROTEST.—An applicant, permittee, lessee, or affected interest shall be entitled to protest proposed decisions of the Secretary.

SEC. 106. TERMS AND CONDITIONS.

(a) IN GENERAL.—The Secretary shall include such reasonable terms and conditions in a grazing permit or lease as the Secretary determines to be appropriate to achieve management and resource condition objectives.

(b) MODIFICATION.—Following careful and considered consultation, cooperation, and coordination with lessees, permittees, and other affected interests, the Secretary may modify terms and conditions of a grazing permit or lease if monitoring data or objective evidence shows that present grazing use is not meeting management and resource condition objectives.

(c) MONITORING.—(1) Monitoring shall be conducted at a sufficient level to enable the Secretary to determine the effectiveness of management toward meeting management and resource condition objectives and to issue decisions or enter into agreements requiring management changes. The Secretary shall seek to ensure that monitoring is conducted in a timely and consistent manner.

(2) Monitoring shall be conducted according to regional or State-wide scientifically-based criteria and protocals. The criteria and protocals shall be developed by the Secretary in consultation with applicable Resource Advisory Councils, Grazing Advisory Boards, and appropriate State entities.

SEC. 107. RANGE IMPROVEMENTS.

(a) PERMANENT IMPROVEMENTS.—(1) The Secretary may authorize the installation of permanent range improvements by permittees, lessees, or other parties pursuant to cooperative agreements. Title to permanent range improvements constructed or installed after the date of enactment of this title shall be in the name of the United States.

(2) If the Secretary cancels a grazing permit or lease in whole or in part in order to devote the lands covered by the permit to another public purpose, including disposal, the permittee or lessee shall receive from the United States reasonable compensation for the adjusted value of the permittee's or lessee's interest in authorized permanent improvements placed or constructed on the lands covered by the canceled permit or lease. The adjusted value shall be determined by the Secretary, not to exceed fair market value of the terminated portion of the permittee's or lessee's interest therein.

(b) TEMPORARY IMPROVEMENTS.—The Secretary may authorize the installation of temporary range improvements by permittees, lessees, or other parties pursuant to range improvements permits. Title to temporary range improvements shall be in the name of the permittee or lessee, where no part of the cost for the improvement is borne by the United States

(c) VALID EXISTING RIGHTS.—Nothing in this section shall affect valid existing rights to range improvements existing prior to the date of enactment of this title.

(d) NO INTEREST IN LANDS.—A range improvement permit or cooperative agreement does not convey to a permittee or lessee any right, title, or interest in any lands or resources held by the United States.

SEC. 108. RESOURCE ADVISORY COUNCILS.

(A) ESTABLISHMENT.—The Secretary, in consultation with the Governors of the affected States, shall establish and operate Resource Advisory Councils on a regional, State, or planning area level to provide advice on management issues for all lands administered by the Bureau of Land Management within such State or regional area, except where the Secretary determines that there is insufficient interest in participation on a council to ensure that membership can be fairly balanced in terms of the points of view represented and the functions to be performed.

(b) DUTIES.—Each Resource Advisory Council shall advise the Secretary regarding the preparation, amendment, and implementation of land use and activity plans for public lands and resources within its area.

(c) MEMBERSHIP.—(1) The Secretary, in consultation with the Governor of the affected State or States, shall appoint the members of each Resource Advisory Council. A council shall consist of not less than 9 members and not more than 15 members.

(2) In appointing members to a Resource Advisory Council, the Secretary shall provide for balanced and broad representation from among various groups, including but not limited to, permittees and lessees, other commercial interests, recreational users, representatives of recognized environmental or conservation organizations, educational, professional, or academic interests, representative of State and local government or governmental agencies, Indian tribes, and other members of the affected public.

(3) The Secretary shall appoint at least one elected official of general purpose government serving the people of the area to each Resource Advisory Council.

(4) No person may serve concurrently on more than one Resource Advisory Council.

(5) Members of a Resource Advisory Council must reside in one of the States within the geographic jurisdiction of the council.

(d) SUBGROUPS.—A Resource Advisory Council may establish such subgroups as the council deems necessary, including but not limited to working groups, technical review teams, and rangeland resource groups

(e) TERMS.—Resource Advisory Council members shall be appointed for 2-year terms. Members may be appointed to additional terms at the discretion of the Secretary.

(f) PER DIEM EXPENSES.—Resource Advisory Council members shall serve without compensation as such, but shall be reimbursed for travel and per diem expenses while on official business, as authorized by 5 U.S.C. 5703.

(g) FEDERAL ADVISORY COMMITTEE ACT.—Except to the extent that it is inconsistent with this section, the Federal Advisory Committee Act shall apply to the Resource Advisory Councils established under this section.

(h) OTHER FLPMA ADVISORY COUNCILS.—Nothing in this section shall be construed as modifying the authority of the Secretary to establish other advisory councils under section 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739).

SEC. 109. GRAZING ADVISORY BOARDS.

(a) ESTABLISHMENT.—For each district office of the Bureau of Land Management in the sixteen contiguous Western States having jurisdiction over more than 500,000 acres of public lands subject to commercial livestock grazing, the Secretary, upon the petition of a simple majority of livestock lessees and permittees under the jurisdiction of such office, shall establish and maintain at least one Grazing Advisory Board of not more than 15 members.

(b) FUNCTION.—The function of the Grazing Advisory Boards established pursuant to this section shall be to provide advice to the Secretary concerning management issues directly related to the grazing of livestock on public lands within the area administered by the district office.

(c) MEMBERS.—(1) The number of members on each Grazing Advisory Board shall be determined by the Secretary. Members shall serve for a term of 2 years. One-half of the members of each board shall consist of livestock representatives who shall be lessees or permittees in the area administered by the district office and who shall be chosen by the lessees and permittees in the area through an election prescribed by the Secretary. The remaining members shall be appointed by the Secretary from among residents of the area, to represent other interests.

(2) No person may serve concurrently on more than one Grazing Advisory Board.

(d) PER DIEM EXPENSES.—Grazing Advisory Board members shall serve without compensation as such, but shall be reimbursed for travel and per diem expenses while on official business, as authorized by 5 U.S.C. 5703.

(e) FEDERAL ADVISORY COMMITTEE ACT.—Except to the extent that it is inconsistent with this section, the Federal Advisory Committee Act shall apply to the Grazing Advisory Boards established under this section.

SEC. 110. ALLOTMENT MANAGEMENT PLANS.

Where practicable, feasible, and appropriate, the Secretary shall develop allotment management plans (or other activity plans serving as the functional equivalent thereof). Such plans shall be prepared in consultation, cooperation and coordination with permittees or lessees, Resource Advisory Councils, Grazing Advisory Boards, and affected interests.

SEC. 111. CONSERVATION AND TEMPORARY NON-USE.

(a) IN GENERAL.—(1) The Secretary may approve a request by a permittee or lessee for temporary non-use or conservation use if such use is determined by the Secretary to be not inconsistent with the applicable land use plans, allotment management plans, or other applicable plans.

(2) In developing criteria and standards for conservation use and temporary non-use, the Secretary shall consult with applicable Resource Advisory Councils and Grazing Advisory Boards.

(b) CONSERVATION USE.—(1) Conservation use may be approved for periods of up to ten years when, in the determination of the Secretary, the proposed conservation use will promote rangeland resource protection or enhancement of resource values or uses, including more rapid progress toward achieving resource condition objectives.

(2) Conservation use shall be a voluntary action on the part of a permittee or lessee. No such use shall be approved by the Secretary unless requested by a permittee or lessee.

(c) TEMPORARY NON-USE.—Temporary non-use for reasons including but not limited to financial conditions or annual fluctuations of livestock, may be approved by the Secretary on an annual basis for no more than 3 consecutive years.

(d) The Secretary shall not approve applications for non-renewable grazing permits and leases for areas for which conservation use has been authorized. Forage made available as a result of temporary non-use may be made available to qualified applicants.

(e) DEFINITION.—As used in this section, the term—

(1) "conservation use" means an activity, excluding livestock grazing, on all or a portion of a grazing allotment for the purposes of—

(A) protecting the land and its resources from destruction or unnecessary injury.

(B) improving rangeland conditions; or

(C) enhancing resource values, uses, or functions;

(2) "temporary non-use" means the authorized withholding, on an annual basis, of all or a portion of permitted livestock use, in response to a request of a permittee or lessee.

SEC. 112. WATER RIGHTS.

(a) IN GENERAL.—New water rights shall be acquired, perfected, maintained, or administered in connection with livestock grazing on public lands in accordance with State law.

(b) NO FEDERAL RESERVED WATER RIGHT.—Nothing in this title shall be construed as creating an express or implied reservation of water rights in the United States.

(c) VALID EXISTING RIGHTS.—Nothing in this title shall be construed as affecting valid existing water rights.

SEC. 113. NEPA COMPLIANCE.

(a) RENEWALS OR TRANSFERS.—Unless the Secretary or the Secretary of Agriculture, as appropriate, determines that the renewal or transfer of a grazing permit or lease will involve significant changes in management practices or use, or that significant environmental damage is occurring or is imminent, the renewal or transfer of such permit or lease shall not require the completion of any analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) RANGELAND MANAGEMENT ACTIVITIES.—(1) The Secretary and the Secretary of Agriculture shall expedite the consideration of applications for non-significant grazing activities on Federal lands administered by the respective Secretary, including the development of a list of activities (or mandatory eligibility criteria) that would constitute a "categorical exclusion" from consideration under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) where the Secretary concerned determines that such activities would not have a significant effect on the environment.

(2) Nothing in this subsection shall preclude the Secretary or the Secretary of Agriculture, as appropriate, from requiring additional analysis where the Secretary concerned determines that the proposed activity may have a significant effect on the environment.

SEC. 114. GRAZING FEE SURCHARGE.

No grazing fee surcharge shall be imposed for grazing use by a spouse, child, or grandchild of the permittee or lessee on the lands covered by the permit or lease.

SEC. 115. GRAZING FEE.

(a) IN GENERAL.—(1) The fee for each animal unit month in a grazing fee year to be determined by the Secretary and the Secretary of Agriculture shall be equal to the three-year average of the total gross value production for beef cattle for the three years preceeding the grazing fee year, multiplied by the ten-year average of the United States Treasury Securities six-month bill "new issue" rate, divided by twelve: *Provided*, That the grazing fee shall not be less than $1.50 per animal unit month.

(2) The gross value of production for beef cattle shall be determined by the Economic Research Service of the Department of Agriculture in accordance with subsection (e)(1).

(b) DEFINITION OF ANIMAL UNIT MONTH.—For billing purposes only, the term "animal unit month" means one month's use and occupancy of range by—

(1) one cow, bull, steer, heifer, horse, burro, or mule; or seven sheep or goats; each of which is six months of age or older on the date on which the animal begins grazing on Federal land;

(2) any such animal regardless of age if the animal is weaned on the date on which the animal begins grazing on Federal lands; and

(3) any such animal that will become twelve months of age during the period of use authorized under a grazing permit or lease.

(c) LIVESTOCK NOT COUNTED.—There shall not be counted as an animal unit month the use of Federal land for grazing by an animal that is less than six months of age on the date which the animal begins grazing on Federal land and that is the natural progeny of an animal on which a grazing fee is paid if the animal is removed from the Federal land before becoming twelve months of age.

(d) OTHER FEES AND CHARGES.—(1) A service charge shall be assessed for each crossing permit, transfer of grazing preference, and replacement or supplemental billing notice except in a case in which the action is initiated by the authorized officer.

(2) The fees and charges under section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734(a)) shall reflect processing costs and shall be adjusted periodically as costs change.

(3) Notice of a change in a service charge shall be published in the Federal Register.

(e) CRITERIA FOR ERS.—(1) The Economic Research Service of the Department of Agriculture shall continue to compile and report the gross value of production of beef cattle, on a dollars-per-bred-cow basis for the United States, as currently published in "Economic Indicators of the Farm Sector: Cost of Production—Major Field Crops and Livestock and Dairy" (Cow-calf production cash costs and returns).

(2) For the purposes of a determining a grazing fee for a given grazing fee year, the gross value of production (as defined in subsection (a)) for the previous calendar year shall be made available to the Secretary and the Secretary of Agriculture, and published in the Federal Register, on or before February 15 of each year.

SEC. 116. USE OF STATE SHARE OF GRAZING FEE RECEIPTS.

Section 10 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (43 U.S.C. 315i) is amended—

(1) in subsection (a), by striking "the benefit of" and inserting in lieu thereof "investment in all forms of on-the-ground improvements that benefit rangeland resources, and for support of local public schools in"; and

(2) in subsection (b), by striking "the benefit of" and inserting in lieu thereof "investment in all forms of on-the-ground improvements that benefit rangeland resources, and for support of local public schools in".

SEC. 117. CONSIDERATION OF ACTIONS BY AFFILIATES.

In issuing or renewing grazing permits or leases, the Secretary may only consider acts undertaken by—

(1) the permittee or lessee;

(2) persons under the direct control of the permittee or lessee; or

(3) persons acting in collusion with the permittee or lessee.

TITLE II—MANAGEMENT OF NATIONAL GRASSLANDS

SEC. 201. SHORT TITLE.

This title may be cited as the "National Grasslands Management Act of 1996".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the inclusion of the National Grasslands within the National Forest System has prevented the Secretary of Agriculture from effectively administering and promoting grassland agriculture on National Grasslands as originally intended under the Bankhead-Jones Farm Tenant Act;

(2) the National Grasslands can be more effectively managed by the Secretary of Agriculture if administered as a separate entity outside of the National Forest System; and

(3) a grazing program on National Grasslands can be responsibly carried out while protecting and preserving recreational, environmental, and other multiple uses of the National Grasslands.

(b) PURPOSE.—The purpose of this title is to provide for improved management and more efficient administration of grazing activities on National Grasslands while preserving and protecting multiple uses of such lands, including but not limited to preserving hunting, fishing, and recreational activities, and protecting wildlife and wildlife habitat in accordance with applicable laws.

SEC. 203. DEFINITIONS.

As used in this title, the term—

(1) "National Grasslands" means those areas managed as National Grasslands by the Secretary of Agriculture under title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1012) on the day before the date of enactment of this title; and

(2) "Secretary" means the Secretary of Agriculture.

SEC. 204. REMOVAL OF NATIONAL GRASSLANDS FROM NATIONAL FOREST SYSTEM.

Section 11(a) of the Forest and Rangeland Renewable Resource Planning Act of 1974 (16 U.S.C. 1609(a)) is amended by striking the phrase "the national grasslands and land utilization projects administered under title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525; 7 U.S.C. 1010–1012)".

SEC. 205. MANAGEMENT OF NATIONAL GRASSLANDS.

(a) IN GENERAL.—The Secretary, acting through the Chief of the Forest Service, shall manage the National Grasslands as a separate entity in accordance with this title and the provisions and multiple use purposes of title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1012).

(b) CONSULTATION.—The Secretary shall provide timely opportunities for consultation and cooperation with interested State and local governmental entities and others in the development and implementation of land use policies and plans, and land conservation programs for the National Grasslands.

(c) GRAZING ACTIVITIES.—In furtherance of the purpose of this title, the Secretary shall administer grazing permits and implement grazing management decisions in consultation, cooperation, and coordination with local grazing associations and other grazing permit holders.

(d) REGULATIONS.—The Secretary shall promulgate regulations to manage and protect the National Grasslands, taking into account the unique characteristics of the National Grasslands and grasslands agriculture conducted under the Bankhead-Jones Farm Tenant Act. Such regulations shall facilitate the efficient administration of grazing and provide protection for environmental values, including but not limited to wildlife and wildlife habitat, and Federal lands equivalent to that on units of the National Forest System.

(e) Conforming Amendment to Bankhead-Jones Act.—Section 31 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010) is amended to read as follows:

"To accomplish the purposes of title III of this Act, the Secretary is authorized and directed to develop a separate program of land conservation and utilization for the National Grasslands, in order thereby to correct maladjustments in land use, and thus assist in promoting grassland agriculture and secure occupancy and economic stability of farms and ranches, controlling soil erosion, reforestation, preserving and protecting natural resources, protecting fish and wildlife and their habitat, developing and protecting recreational opportunities and facilities, mitigating floods, preventing impairment of dams and reservoirs, developing energy resources, conserving surface and subsurface moisture, protecting the watersheds of navigable streams, and protecting the public lands, health, safety, and welfare, but not to build industrial parks or commercial enterprises.".

(f) Hunting, Fishing, and Recreational Activities.—Nothing in this title shall be construed as limiting or precluding hunting or fishing activities on National Grasslands in accordance with applicable Federal and State laws, nor shall appropriate recreational activities be limited or precluded.

(g) Valid Existing Rights.—Nothing in this title shall affect valid existing rights, reservations, agreements, or authorizations. Section 1323(a) of Public Law 96-487 shall continue to apply to non-Federal lands and interests therein within the boundaries of the National Grasslands.

(h) Fees and Charges.—Fees and charges for livestock grazing on the National Grasslands shall be determined in accordance with section 115 of this Act, except that the Secretary may adjust the grazing fee to compensate for approved conservation practice expenditures.

PRESSLER AMENDMENT NO. 3560

Mr. PRESSLER proposed an amendment to amendment No. 3555 proposed by Mr. Domenici to the bill (S. 1459) to provide for uniform management of livestock grazing on Federal land, and for other purposes; as follows:

In section 202(a)(3), after "preserving" insert "sporting,".

In section 202(b), strike "hunting, fishing, and recreational activities" and insert "sportsmen's hunting and fishing and other recreational activities".

In section 205(f), strike "Hunting, Fishing, and Recreational Activities.—Nothing in this title shall be construed as limiting or precluding hunting or fishing activities" and insert "Sportsmen's Hunting and Fishing and Other Recreational Activities.—Nothing in this title shall be construed as limiting or precluding sportsmen's hunting or fishing activities".

THE PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1996

MURKOWSKI AMENDMENT NO. 3561

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill (H.R. 1296) to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I—THE PRESIDIO OF SAN FRANCISCO

SECTION 101. FINDINGS.

The Congress finds that—

(1) the Presidio, located amidst the incomparable scenic splendor of the Golden Gate, is one of America's great natural and historic sites;

(2) the Presidio is the oldest continuously operated military post in the Nation dating from 1776, and was designated a National Historic Landmark in 1962;

(3) preservation of the cultural and historic integrity of the Presidio for public use recognizes its significant role in the history of the United States;

(4) the Presidio, in its entirety, is a part of the Golden Gate National Recreation Area, in accordance with Public Law 92-589;

(5) as part of the Golden Gate National Recreation Area, the Presidio's significant natural, historic, scenic, cultural, and recreational resources must be managed in a manner which is consistent with sound principles of land use planning and management, and which protects the Presidio from development and uses which would destroy the scenic beauty and historic and natural character of the area and cultural and recreational resources;

(6) removal and/or replacement of some structures within the Presidio must be considered as a management option in the administration of the Presidio; and

(7) the Presidio will be managed through an innovative public/private partnership that minimizes cost to the United States Treasury and makes efficient use of private sector resources.

SECTION 102. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF THE INTERIOR.

(a) Interim Authority.—the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to manage leases in existence on the date of this Act for properties under the administrative jurisdiction of the Secretary and located at the Presidio. Upon the expiration of any such lease, the Secretary may extend such lease for a period terminating not later than 6 months after the first meeting of the Presidio Trust. The Secretary may not enter into any new leases for property at the Presidio to be transferred to the Presidio Trust under this Title, however, the Secretary is authorized to enter into agreements for use and occupancy of the Presidio properties which are assignable to the Trust and are terminable within 30 days notice by the Trust. Prior to the transfer of administrative jurisdiction over any property to the Presidio Trust, and notwithstanding section 1341 of title 31 of the United States Code, the proceeds from any such lease shall be retained by the Secretary and such proceeds shall be available, without further appropriation, for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties. The Secretary may adjust the rental charge on any such lease for any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to properties and infrastructure within the Presidio.

(b) Public Information and Interpretation.—The Secretary shall be responsible, in cooperation with the Presidio Trust, for providing public interpretive services, visitor orientation and educational programs on all lands within the Presidio.

(c) Other.—Those lands and facilities within the Presidio that are not transferred to the administrative jurisdiction of the Presidio Trust shall continue to be managed by the Secretary. The Secretary and the Presidio Trust shall cooperate to ensure adequate public access to all portions of the Presidio. Any infrastructure and building improvement projects that were funded prior to the enactment of this Act shall be completed by the National Park Service.

(d) Park Service Employees.—(1) Any career employee of the National Park Service, employed at the Presidio at the time of the transfer of lands and facilities to the Presidio Trust, shall not be separated from the Service by reason of such transfer, unless such employee is employed by the Trust, other than on detail. The Trust shall have sole discretion over whether to hire any such employee or request a detail of such employee.

(2) Any career employee of the National Park Service employed at the Presidio on the date of enactment of this Title shall be given priority placement for any available position within the National Park System notwithstanding any priority reemployment lists, directives, rules, regulations or other orders from the Department of the Interior, the Office of Management and Budget, or other federal agencies.

SECTION 103. ESTABLISHMENT OF THE PRESIDIO TRUST.

(a) Establishment.—There is established a wholly owned government corporation to be known as the Presidio Trust (hereinafter in this Title referred to as the "Trust").

(b) Transfer.—(1) Within 60 days after receipt of a request from the Trust for the transfer of any parcel within the area depicted as Area B on the map entitled "Presidio Trust Number 1," dated December 7, 1995, the Secretary shall transfer such parcel to the administrative jurisdiction of the Trust. Within one year after the first meeting of the Board of Directors of the Trust, the Secretary shall transfer to the Trust administrative jurisdiction over all remaining parcels within Area B. Such map shall be on file and available for public inspection in the offices of the Trust and in the offices of the National Park Service, Department of the Interior. The Trust and the Secretary may jointly make technical and clerical revisions in the boundary depicted on such map. The Secretary shall retain jurisdiction over those portions of the building identified as number 102 as the Secretary deems essential for use as a visitor center. The Building shall be named the "William Penn Mott Visitor Center". Any parcel of land, the jurisdiction over which is transferred pursuant to this subsection, shall remain within the boundary of the Golden Gate National Recreation Area. With the consent of the Secretary, the Trust may at any time transfer to the administrative jurisdiction of the Secretary any other properties within the Presidio which are surplus to the needs of the Trust and which serve essential purposes of the Golden Gate National Recreation Area. The Trust is encouraged to transfer to the administrative jurisdiction of the Secretary open space areas which have high public use potential and are contiguous to other lands administrated by the Secretary.

(2) Within 60 days after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively which records, equipment, and other personal property are deemed to be necessary for the immediate administration of the properties to be transferred, and the Secretary shall immediately transfer such personal property to the Trust. Within one year after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively what, if any, additional records, equipment, and other personal property used by the Secretary in the administration of the properties to be transferred should be transferred to the Trust.

(3) The Secretary shall transfer, with the transfer of administrative jurisdiction over any property, the unobligated balance of all funds appropriated to the Secretary, all leases, concessions, licenses, permits, and other agreements affecting such property.

(4) At the request of the Trust, the Secretary shall provide funds to the Trust for preparation of such plan, hiring of initial staff and other activities deemed by the Trust as essential to the establishment of the Trust prior to the transfer of properties to the Trust.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The powers and management of the Trust shall be vested in a Board of Directors (hereinafter referred to as the "Board") consisting of the following 7 members:

(A) the Secretary of the Interior or the Secretary's designee; and

(B) six individuals, who are not employees of the federal Government, appointed by the President, who shall possess extensive knowledge and experience in one or more of the fields of city planning, finance, real estate development, and resource conservation. At least one of these individuals shall be a veteran of the Armed Services. At least 3 of these individuals shall reside in the San Francisco Bay Area. The President shall make the appointments referred to in this subparagraph within 90 days after the enactment of this Act and shall ensure that the fields of city planning, finance, real estate development, and resource conservation are adequately represented. Upon establishment of the Trust, the Chairman of the Board of Directors of the Trust shall meet with the Chairman of the Energy and Natural Resources Committee of the United States Senate and the Chairman of the Resources Committee of the United States House of Representatives.

(2) TERMS.—Members of the Board appointed under paragraph (1)(B) shall each serve for a term of 4 years, except that of the members first appointed, 3 shall serve for a term of 2 years. Any vacancy in the Board shall be filled in the same manner in which the original appointment was made, and any member appointed to fill a vacancy shall serve for the remainder of the term for which his or her predecessor was appointed. No appointed member may serve more than 8 years in consecutive terms.

(3) QUORUM.—Four members of the Board shall constitute a quorum for the conduct of business by the Board.

(4) ORGANIZATION AND COMPENSATION.—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the authorized activities of the Trust. Board members shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Trust.

(5) LIABILITY OF DIRECTORS.—Members of the Board of Directors shall not be considered federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act and the Ethics in Government Act, and the provisions of chapter 11 of title 18, United States Code.

(6) MEETINGS.—The Board shall meet at least three times per year in San Francisco and at least two of those meetings shall be open to the public. Upon a majority vote, the Board may close any other meetings to the public. The Board shall establish procedures for providing public information and opportunities for public comment regarding policy, planning, and design issues through the Golden Gate National Recreation Area Advisory Commission.

(7) STAFF.—The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates.

(8) NECESSARY POWERS.—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

(9) TAXES.—The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of California, and its political subdivisions, including the City and County of San Francisco.

(10) GOVERNMENT CORPORATION.—(A) The Trust shall be treated as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31 of the United States Code.

(B) At the end of each calendar year, the Trust shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a comprehensive and detailed report of its operations, activities, and accomplishments for the prior fiscal year. The report also shall include a section that describes in general terms the Trust's goals for the current fiscal year.

SECTION 104. DUTIES AND AUTHORITIES OF THE TRUST.

(a) OVERALL REQUIREMENTS OF THE TRUST.—The Trust shall manage the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio under its administrative jurisdiction using the authorities provided in this section, which shall be exercised in accordance with the purposes set forth in section 1 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes," approved October 27, 1972 (Public Law 92–589; 86 Stat. 1299; 16 U.S.C. 460bb), and in accordance with the general objectives of the General Management Plan (hereinafter referred to as the "management plan") approved for the Presidio.

(b) The Trust may participate in the development of programs and activities at the properties transferred to the Trust. The Trust shall have the authority to negotiate and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation or governmental entity, including, without limitation, entities of federal, State and local governments as are necessary and appropriate to finance and carry out its authorized activities. Any such agreement may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b). The Trust shall establish procedures for lease agreements and other agreements for use and occupancy of Presidio facilities, including a requirement that in entering into such agreements the Trust shall obtain reasonable competition. The Trust may not dispose of or convey fee title to any real property transferred to it under this Title. Federal laws and regulations governing procurement by Federal agencies shall not apply to the Trust. The Trust, in consultation with the Administrator of Federal Procurement Policy, shall establish and promulgate procedures applicable to the Trust's procurement of goods and services including, but not limited to, the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition. Such procedures shall conform to laws and regulations related to federal government contracts governing working conditions and wage scales, including the provisions of 40 U.S.C. Sec. 276a–276a6 (Davis-Bacon Act).

(c) The Trust shall develop a comprehensive program for management of those lands and facilities within the Presidio which are transferred to the administrative jurisdiction of the Trust. Such program shall be designed to reduce expenditures by the National Park Service and increase revenues to the federal government to the maximum extent possible. In carrying out this program, the Trust shall be treated as a successor in interest to the National Park Service with respect to compliance with the National Environmental Policy Act and other environmental compliance statutes. Such program shall consist of—

(1) demolition of structures which in the opinion of the Trust, cannot be cost-effectively rehabilitated, and which are identified in the management plan for demolition,

(2) evaluation for possible demolition or replacement those buildings identified as categories 2 through 5 in the Presidio of San Francisco Historic Landmark District Historic American Buildings Survey Report, dated 1985,

(3) new construction limited to replacement of existing structures of similar size in existing areas of development, and

(4) examination of a full range of reasonable options for carrying out routine administrative and facility management programs.

The Trust shall consult with the Secretary in the preparation of this program.

(d) To augment or encourage the use of non-federal funds to finance capital improvements on Presidio properties transferred to its jurisdiction, the Trust, in addition to its other authorities, shall have the following authorities subject to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.):

(1) The authority to guarantee any lender against loss of principal or interest on any loan, provided that (A) the terms of the

guarantee are approved by the Secretary of the Treasury, (B) adequate subsidy budget authority is provided in advance in appropriations acts, and (C) such guarantees are structured so as to minimize potential cost to the federal Government. No loan guarantee under this Title shall cover more than 75 percent of the unpaid balance of the loan. The Trust may collect a fee sufficient to cover its costs in connection with each loan guaranteed under this Act. The authority to enter into any such loan guarantee agreement shall expire at the end of 15 years after the date of enactment of this Title.

(2) The authority, subject to appropriations, to make loans to the occupants of property managed by the Trust for the preservation, restoration, maintenance, or repair of such property.

(3) The authority to issue obligations to the Secretary of the Treasury, but only if the Secretary of the Treasury agrees to purchase such obligations after determining that the projects to be funded from the proceeds thereof are credit worthy and that a repayment schedule is established and only to the extent authorized in advance in appropriations acts. The Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such notes or obligations acquired by the Secretary of the Treasury under this subsection. Obligations issued under this subparagraph shall be in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. No funds appropriated to the Trust may be used for repayment of principal or interest on, or redemption of, obligations issued under this paragraph.

(4) The aggregate amount of obligations issued under this subsection which are outstanding at any one time may not exceed $50,000,000.

(e) The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities for the purpose of carrying out its duties. The Trust shall maintain a liaison with the Golden Gate National Park Association.

(f) Notwithstanding section 1341 of title 31 of the United States Code, all proceeds received by the Trust shall be retained by the Trust, and such proceeds shall be available, without further appropriation, for the administration, preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties under its administrative jurisdiction. Upon the Request of the Trust, the Secretary of the Treasury shall invest excess moneys of the Trust in public debt securities with maturities suitable to the needs of the Trust.

(g) The Trust may sue and be sued in its own name to the same extent as the federal government. Litigation arising out of the activities of the Trust shall be conducted by the Attorney General; except that the Trust may retain private attorneys to provide advice and counsel. The District Court for the Northern District of California shall have exclusive jurisdiction over any suit filed against the Trust.

(h) The Trust shall enter into a Memorandum of Agreement with the Secretary, acting through the Chief of the United States Park Police, for the conduct of law enforcement activities and services within the those portions of the Presidio transferred to the administrative jurisdiction of the Trust.

(i) The Trust may adopt, amend, repeal and enforce bylaws, rules and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised. The Trust is authorized, in consultation with the Secretary, to adopt and to enforce those rules and regulations that are applicable to the Golden Gate National Recreation Area and that may be necessary and appropriate to carry out its duties and responsibilities under this Title. The Trust shall give notice of the adoption of such rules and regulations by publication in the Federal Register.

(j) For the purpose of compliance with applicable laws and regulations concerning properties transferred to the Trust by the Secretary, the Trust shall negotiate directly with regulatory authorities.

(k) INSURANCE.—The Trust shall require that all leaseholders and contractors procure proper insurance against any loss in connection with properties under lease or contract, or the authorized activities granted in such lease or contract, as is reasonable and customary.

(l) BUILDING CODE COMPLIANCE.—The Trust shall bring all properties under its administrative jurisdiction into compliance with federal building codes and regulations appropriate to use and occupancy within 10 years after the enactment of this Title to the extent practicable.

(m) LEASING.—In managing and leasing the properties transferred to it, the Trust consider the extent to which prospective tenants contribute to the implementation of the General Management Plan for the Presidio and to the reduction of cost to the Federal Government. The Trust shall give priority to the following categories of tenants: tenants that enhance the financial viability of the Presidio and tenant that facilitate the cost-effective preservation of historic buildings through their reuse of such buildings.

(n) REVERSION.—If, at the expiration of 15 years, the Trust has not accomplished the goals and objectives of the plan required in section (105)(b) of this Title, then all property under the administrative jurisdiction of the Trust pursuant to section (103)(b) of this Title shall be transferred to the Administrator of the General Services Administration to be disposed of in accordance with the procedures outlined in the Defense Authorization Act of 1990 (104 Stat. 1809), and any real property so transferred shall be deleted from the boundary of the Golden Gate National Recreation Area. In the event of such transfer, the terms and conditions of all agreements and loans regarding such lands and facilities entered into by the Trust shall be binding on any successor in interest.

SECTION 105. LIMITATIONS ON FUNDING.

(a)(1) From amounts made available to the Secretary for the operation of areas within the Golden Gate National Recreation Area, not more than $25,000,000 shall be available to carry out this Title in each fiscal year after the enactment of this Title until the plan is submitted under subsection (b). Such sums shall remain available until expended.

(2) After the plan required in subsection (b) is submitted, and for each of the 14 fiscal years thereafter, there are authorized to be appropriated to the Trust not more than the amounts specified in such plan. Such sums shall remain available until expended. Of such sums, not more than $3 million annually shall be available through the Trust for law enforcement activities and services to be provided by the United States Park Police at the Presidio in accordance with section 104(h) of this Title.

(b) Within one year after the first meeting of the Board of Directors of the Trust, the Trust shall submit to Congress a plan which includes a schedule of annual decreasing federally appropriated funding that will achieve, at a minimum, self-sufficiency for the Trust within 15 complete fiscal years after such meeting of the Trust.

(c) The Administrator of the General Services Administration shall provide necessary assistance to the Trust in the formulation and submission of the annual budget request for the administration, operation, and maintenance of the Presidio.

SECTION 106. GENERAL ACCOUNTING OFFICE STUDY.

(a) Three years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct an interim study of the activities of the Trust and shall report the results of the study to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives. The study shall include, but shall not be limited to, details of how the Trust is meeting its obligations under this Title.

(b) In consultation with the Trust, the General Accounting Office shall develop an interim schedule and plan to reduce and replace the federal appropriations to the extent practicable for interpretive services conducted by the National Park Service, and law enforcement activities and services, fire and public safety programs conducted by the Trust.

(c) Seven years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct a comprehensive study of the activities of the Trust, including the Trust's progress in meeting its obligations under this Title, taking into consideration the results of the study described in subsection (a) and the implementation of plan and schedule required in subsection (b). The General Accounting Office shall report the results of the study, including any adjustments to the plan and schedule, to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives.

TITLE II—MINOR BOUNDARY ADJUSTMENTS AND MISCELLANEOUS PARK AMENDMENTS

SECTION 201. YUCCA HOUSE NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—The boundaries of Yucca House National Monument are revised to include the approximately 24.27 acres of land generally depicted on the map entitled "Boundary—Yucca House National Monument, Colorado", numbered 318/80,001–B, and dated February 1990.

(b) MAP.—The map referred to in subsection (a) shall be one file and available for public inspection in appropriate offices of the National Park Service of the Department of the Interior.

(c) ACQUISITION.—

(1) IN GENERAL.—Within the lands described in subsection (a), the Secretary of the Interior may acquire lands and interests in lands by donation.

(2) The Secretary of the Interior may pay administrative costs arising out of any donation described in paragraph (1) with appropriated funds.

SECTION 202. ZION NATIONAL PARK BOUNDARY ADJUSTMENT.

(a) ACQUISITION AND BOUNDARY CHANGE.—The Secretary of the Interior is authorized to acquire by exchange approximately 5.48 acres located in the SW¼ of Section 28, Township 41 South, Range 10 West, Salt Lake Base and Meridian. In exchange therefor the Secretary is authorized to convey all right, title, and interest of the United States in and to approximately 5.51 acres in Lot 2 of Section 5, Township 41 South, Range 11 West, both parcels of land being in Washington County, Utah. Upon completion of such exchange, the Secretary is authorized to revise the boundary of Zion National Park to add the 5.48 acres in section 28 to the park and to exclude the 5.51 acres in section 5 from the park. Land added to the park shall be administered as part of the park in accordance with the laws and regulations applicable thereto.

(b) EXPIRATION.—The authority granted by this section shall expire two years after the date of the enactment of this Title.

SECTION 203. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY ADJUSTMENT.

The boundary of Pictured Rocks National Lakeshore is hereby modified as depicted on the a entitled "Area Proposed for Addition to Pictured Rocks National Lakeshore," numbered 625–80, 043A, and dated July 1992.

SECTION 204. INDEPENDENCE NATIONAL HISTORICAL PARK BOUNDARY ADJUSTMENT.

The administrative boundary between Independence National Historical Park and the United States Customs House along the Moravian Street Walkway in Philadelphia, Pennsylvania, is hereby modified as generally depicted on the drawing entitled "Exhibit 1, Independence National Park, Boundary Adjustment", and dated May 1987, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to accept and transfer jurisdiction over property in accord with such administrative boundary, as modified by this section.

SECTION 205. CRATERS OF THE MOON NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) BOUNDARY REVISION.—The boundary of Craters of the National Monument, Idaho, is revised to add approximately 210 acres and to delete approximately 315 acres as generally depicted on the map entitled "Craters of the Moon National Monument, Idaho, Proposed 1987 Boundary Adjustment", numbered 131–80,008, and dated October 1987, which map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

(b) ADMINISTRATION AND ACQUISITION.—Federal lands and interests therein deleted from the boundary of the national monument by this section shall be administered by the Secretary of the Interior through the Bureau of Land Management in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and Federal lands and interests therein added to the national monument by this section shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto. The Secretary is authorized to acquire private lands and interests therein within the boundary of the national monument by donation, purchase with donated or appropriated funds, or exchange, and when acquired they shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto.

SECTION 206. HAGERMAN FOSSIL BEDS NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

Section 302 of the Arizona-Idaho Conservation Act of 1988 (102 Stat. 4576) is amended by adding the following new subsection:

"(d) To further the purposes of the monument, the Secretary is also authorized to acquire from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange not to exceed 65 acres outside the boundary depicted on the map referred to in section 301 and develop and operate thereon research, information, interpretive, and administrative facilities. Lands acquired and facilities developed pursuant to this subsection shall be administered by the Secretary as part of the monument. The boundary of the monument shall be modified to include the lands added under this subsection as a noncontiguous parcel.".

SECTION 207. WUPATKI NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

The boundary of the Wupatki National Monument, Arizona, is hereby revised to include the lands and interests in lands within the area generally depicted as "Proposed Addition 168.89 Acres" on the map entitled "Boundary—Wupatki and Sunset Crater National Monuments, Arizona", numbered 322–80,021, and dated April 1989. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Subject to valid existing rights, Federal lands and interests therein within the area added to the monument by this section are hereby transferred without monetary consideration or reimbursement to the administrative jurisdiction of the National Park Service, to be administered as part of the monument in accordance with the laws and regulations applicable thereto.

SECTION 208. NEW RIVER GORGE NATIONAL RIVER.

Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–15) is amended by striking out "NERI–80,023, dated January 1987" and inserting "NERI–80,028, dated January 1993".

SECTION 209. GAULEY RIVER NATIONAL RECREATION AREA.

(a) Section 201(b) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww(b)) is amended by striking out "NRA–GR/20,000A and dated July 1987" and inserting "GARI–80,001 and dated January 1993".

(b) Section 205(c) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–4(c) is amended by adding the following at the end thereof; "If project construction is not commenced within the time required in such license, or if such license is surrendered at any time, such boundary modification shall cease to have any force and effect.".

SECTION 210. BLUESTONE NATIONAL SCENIC RIVER.

Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65) is amended by striking out "WSR–BLU/20,000, and dated January 1987" and inserting "BLUE–80,004, and dated January 1993".

SECTION 211. ADVISORY COMMISSIONS.

(a) KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK.—(1) This subsection under this Title may be cited as the "Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1995".

(2) Notwithstanding section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(7)), the Na Hoa Pili O Kaloko-Honokohau, the Advisory Commission for Kaloko-Honokohau National Historical Park, is hereby re-established in accordance with section 505(f), as amended by paragraph (3) of this section.

(3) Section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(7)), is amended by striking "this Act" and inserting in lieu thereof, "the Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1995".

(b) WOMEN'S RIGHTS NATIONAL HISTORICAL PARK.—(1) This subsection under this Title may be cited as the "Women's Rights National Historical Park Advisory Commission Re-establishment Act of 1995."

(2) Not withstanding section 1601(h)(5) of Public Law 96–607 (16 U.S.C. 410ll(h)(5)), the advisory commission for Women's Rights National Historical Park is hereby re-established in accordance with section 1601(h), as amended by paragraph (3) of this section.

(3) Section 1601(h)(5) of Public Law 96–607 (16 U.S.C. 410ll(h)(5)), is amended by striking "this section" and inserting in lieu thereof, "the Women's Rights National Historical Park Advisory Commission Re-establishment Act of 1995".

SECTION 212. AMENDMENT TO BOSTON NATIONAL HISTORIC PARK ACT.

Section 3(b) of the Boston National Historical Park Act of 1974 (16 U.S.C. 410z–1(b)) is amended by inserting "(1)" before the first sentence thereof and by adding the following at the end thereof:

"(2) The Secretary of the Interior is authorized to enter into a cooperative agreement with the Boston Public Library to provide for the distribution of informational and interpretive materials relating to the park and to the Freedom Trail.".

SECTION 213. CUMBERLAND GAP NATIONAL HISTORICAL PARK.

(a) REMOVAL OF RESTRICTIONS.—The first section of the Act of June 11, 1940, entitled "An Act to provide for the establishment of the Cumberland Gap National Historical Park in Tennessee, Kentucky, and Virginia: (54 Stat. 262, 16 U.S.C. 261 et seq.) is amended by striking out everything after the words "Cumberland Gap National Historical Park" and inserting a period.

(b) USE OF APPROPRIATED FUNDS.—Section 3 of such Act (16 U.S.C. 263) is amended by inserting "or with funds that may be from time to time appropriated for the purpose," after "funds".

SECTION 214. WILLIAM O. DOUGLAS OUTDOOR CLASSROOM.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the National Park Service, is authorized to enter into cooperative agreements, as specified as subsection (b), relating to Santa Monica Mountains National Recreation Area (hereafter in this Title referred to as "recreation area") in accordance with this section.

(b) COOPERATIVE AGREEMENTS.—The cooperative agreements referred to in subsection (a) are as follows:

(1) A cooperative agreement with appropriate organizations or groups in order to promote education concerning the natural and cultural resources of the recreation area and lands adjacent thereto. Any agreement entered into pursuant to this paragraph—

(A) may provide for Federal matching grants of not more than 50 percent of the total cost of providing a program of such education;

(B) shall provide for visits by students or other beneficiaries to federally owned lands within the recreation area;

(C) shall limit the responsibility of the Secretary to providing interpretation services concerning the natural and cultural resources of the recreation area; and

(D) shall provide that the non-Federal party shall be responsible for any cost of carrying out the agreement other than the cost of providing interpretation services under subparagraph (C).

(2) A cooperative agreement under which—

(A) the Secretary agrees to maintain the facilities at 2600 Franklin Canyon Drive in Beverly Hills, California, for a period of 8 fiscal years beginning with the first fiscal year for which funds are appropriated pursuant to this section, and to provide funding for programs of the William O. Douglas Outdoor Classroom or its successors in interest that utilize those facilities during such period; and in return; or

(B) the William O. Douglas Outdoor Classroom, for itself and any successors in interest with respect to such facilities, agrees that at the end of the term of such agreement all right, title, and interest in and to such facilities will be donated to the United States for addition and operation as part of the recreation area.

(c) EXPENDITURE OF FUNDS.—Federal funds may be expended on non-Federal property located within the recreation area pursuant to the cooperative agreement described in subsection (b)(2).

(d) LIMITATIONS.—(1) The Secretary may not enter into the cooperative agreement described in subsection (b)(2) unless and until the Secretary determines that acquisition of the facilities described in such subsection would further the purposes of the recreation area.

(2) This section shall not be construed as authorizing an agreement by the Secretary for reimbursement of expenses incurred by the William O. Douglas Outdoor Classroom or any successor in interest that are not directly related to the use of such facilities for environmental education and interpretation of the resources and values of the recreation area and associated lands and resources.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the 8-year period beginning October 1, 1995, not to exceed $2,000,000 to carry out this section.

SECTION 215. MISCELLANEOUS PROVISIONS.

(a) NEW RIVER CONFORMING AMENDMENTS.—Title XI of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m-15, et seq.) is amended by adding the following new section at the end thereof:

"SEC. 1117. APPLICABLE PROVISIONS OF OTHER LAW.

(a) COOPERATIVE AGREEMENTS.—The provisions of section 202(e)(1) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww-1(e)(1)) shall apply to the New River Gorge National River in the same manner and to the same extent as such provisions apply to the Gauley River National Recreation Area.

(b) REMNANTS OF LANDS.—The provisions of the second sentence of section 203(a) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww-2(a)) shall apply to tracts of land partially within the boundaries of the New River Gorge National River in the same manner and to the same extent as such provisions apply to the tracts of land only partially within the Gualey River National Recreation Area.".

(b) BLUESTONE RIVER CONFORMING AMENDMENTS.—Section 3(a) (65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by striking "leases" in the fifth sentence and inserting in lieu thereof "the lease" and in the seventh sentence by striking "such management may be continued pursuant to renewal of such lease agreement. If requested to do so by the State of West Virginia, the Secretary may not terminate such leases and assume administrative authority over the areas concerned." and inserting in lieu thereof the following" "if the State of West Virginia so requests, the Secretary shall renew such lease agreement with the same terms and conditions as contained in such lease agreement on the date of enactment of this paragraph under which the State management shall be continued pursuant to such renewal. If requested to do so by the State or West Virginia, or as provided in such lease agreement, the Secretary may terminate or modify the lease and assume administrative authority over all or part of the areas concerned.".

SECTION 216. GAULEY ACCESS.

Section 202(e) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww-1(e) is amended by adding the following new paragraph at the end thereof:

"(4) ACCESS TO THE RIVER.—Within 90 days after the date of enactment of this subsection, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate setting forth a plan to provide river access for non-commercial recreational users within the Gauley River National Recreation Area. The plan shall provide that such access shall utilize existing public roads and rights-of-way to the maximum extent feasible and shall be limited to providing access for such non-commercial users.".

SECTION 217. VISITOR CENTER.

The Secretary of the Interior is authorized to construct a visitor center and such other related facilities as may be deemed necessary to facilitate visitor understanding and enjoyment of the New River Gorge National River and the Gauley River National Recreation Area in the vicinity of the confluence of the New and Gauley Rivers. Such center and related facilities are authorized to be constructed at a site outside of the boundary of the New River Gorge National River or Gauley River National Recreation Area unless a suitable site is available within the boundaries of either unit.

SECTION 218. EXTENSION.

For a 5-year period following the date of enactment of this Act, the provisions of the Wild and Scenic Rivers Act applicable to river segments designated for study for potential addition to the wild and scenic rivers system under subsection 5(b) of that Act shall apply to those segments of the Bluestone and Meadow Rivers which were found eligible in the studies completed by the National Park Service in August 1983 but which were not designated by the West Virginia National Interest River Conservation Act of 1987 as part of the Bluestone National Scenic River or as part of the Gauley National Recreation Area, as the case may be.

SECTION 219. BLUESTONE RIVER PUBLIC ACCESS.

Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1271 and following) is amended by adding the following at the end thereof: "In order to provide reasonable public access and vehicle parking for public use and enjoyment of the river designated by this paragraph, consistent with the preservation and enhancement of the natural and scenic values of such river, the Secretary may, with the consent of the owner thereof, negotiate a memorandum of understanding or cooperative agreement, or acquire lands or interests in such lands, or both, as may be necessary to allow public access to the Bluestone River and to provide, outside the boundary of the scenic river, parking and related facilities in the vicinity of the area known as Eads Mill.".

SECTION 220. LIMITATION ON PARK BUILDINGS.

The 10th undesignated paragraph (relating to a limitation on the expenditure of funds for park buildings) under the heading "MISCELLANEOUS OBJECTS, DEPARTMENT OF THE INTERIOR", which appears under the heading "UNDER THE DEPARTMENT OF THE INTERIOR", as contained in the first section of the Act of August 24, 1912 (37 Stat. 460), as amended (16 U.S.C. 451), is hereby repealed.

SECTION 221. APPROPRIATIONS FOR TRANSPORTATION OF CHILDREN.

The first section of the Act of August 7, 1946 (16 U.S.C. 17j-2), is amended by adding at the end the following:

"(j) Provide transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service.".

SECTION 222. FERAL BURROS AND HORSES.

Section 9 of the Act of December 15, 1971 (16 U.S.C. 1338a), is amended by adding at the end thereof the following: "Nothing in this Title shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this Title, or the provisions of section 47(a) of title 18, United States Code, use motor vehicles, fixed-wing aircraft, or helicopters, or to contract for such use, in furtherance of the management of the National Park System, and section 47(a) of title 18, United States Code, shall be applicable to such use.".

SECTION 223. AUTHORITIES OF THE SECRETARY OF THE INTERIOR RELATING TO MUSEUMS.

(a) FUNCTIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), is amended—

(1) in paragraph (b) of the first section, by striking out "from such donations and bequests of money"; and

(2) by adding at the end thereof the following:

"SEC. 2. ADDITIONAL FUNCTIONS.

"(a) In addition to the functions specified in the first section of this Act, the Secretary of the Interior may perform the following functions in such manner as he shall consider to be in the public interest:

"(1) Transfer museum objects and museum collections that the Secretary determines are no longer needed for museum purposes to qualified Federal agencies that have programs to preserve and interpret cultural or natural heritage, and accept the transfer of museum objects and museum collections for the purposes of this Act from any other Federal agency, without reimbursement. The head of any other Federal agency may transfer, without reimbursement, museum objects and museum collections directly to the administrative jurisdiction of the Secretary of the Interior for the purpose of this Act.

"(2) Convey museum objects and museum collections that the Secretary determines are no longer needed for museum purposes, without monetary consideration but subject to such terms and conditions as the Secretary deems necessary, to private institutions exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and to non-Federal governmental entities if the Secretary determines that the recipient is dedicated to the preservation and interpretation of natural or cultural heritage and is qualified to manage the property, prior to any conveyance under this subsection.

"(3) Destroy or cause to be destroyed museum objects and museum collections that the Secretary determines to have no scientific, cultural, historic, educational, esthetic, or monetary value.

"(b) The Secretary shall ensure that museum collections are treated in a careful and deliberate manner that protects the public interest. Prior to taking any action under subsection (a), the Secretary shall establish a systematic review and approval process, including consultation with appropriate experts, that meets the highest standards of the museum profession for all actions taken under this section.".

(b) APPLICATION AND DEFINITIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), as amended by subsection (a), is further amended by adding the following:

"SEC. 3. APPLICATION AND DEFINITIONS.

"(a) APPLICATION.—Authorities in this Act shall be available to the Secretary of the Interior with regard to museum objects and museum collections that were under the administrative jurisdiction of the Secretary for the purposes of the National Park System before the date of enactment of this section as well as those museum objects and museum collections that may be acquired on or after such date.

"(b) DEFINITION.—For the purposes of this Act, the terms 'museum objects' and 'museum collections' mean objects that are eligible to be or are made part of a museum, library, or archive collection through a formal procedure, such as accessioning. Such objects are usually movable and include but are not limited to prehistoric and historic artifacts, works of art, books, documents, photographs, and natural history specimens.".

SECTION 224. VOLUNTEERS IN PARKS INCREASE.

Section 4 of the Volunteers in the Parks Act of 1969 (16 U.S.C. 18j.) is amended by striking out "1,000,000" and inserting in lieu thereof "$1,750,000".

SECTION 225. COOPERATIVE AGREEMENTS FOR RESEARCH PURPOSES.

Section 3 of the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and for other purposes" approved August 18, 1970 (16 U.S.C. 1a-2), is amended—

(1) in paragraph (i), by striking the period at the end and thereof and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following:

"(j) enter into cooperative agreements with public or private educational institutions, States, and their political subdivisions, or private conservation organizations for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and, pursuant to any such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance for mutually agreed upon research projects, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate; except that this paragraph shall not waive any requirements for research projects that are subject to the Federal procurement regulations.".

SECTION 226. CARL GARNER FEDERAL LANDS CLEANUP DAY.

The Federal Lands Cleanup Act of 1985 (Public Law 99-402; U.S.C. 169i-169i-1) is amended by striking the terms "Federal Lands Cleanup Day" or "Federal Lands National Cleanup Day" each place they occur and inserting in lieu thereof, "Carl Garner Federal Lands Cleanup Day."

SECTION 227. FORT PULASKI NATIONAL MONUMENT, GA.

Section 4 of the Act of June 26, 1936 (ch. 844; 49 Stat. 1979), is amended by striking ": *Provided*, That" and all that follows and inserting a period.

SECTION 228. LAURA C. HUDSON VISITOR CENTER.

(a) DESIGNATION.—The visitor center at Jean Lafitte National Historical Park, located at 419 Rue Decatur in New Orleans, Louisiana, is hereby designated as the "Laura C. Hudson Visitor Center."

(b) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the visitor center referred to in subsection (a) shall be deemed to be a reference to the "Laura C. Hudson Visitor Center".

SECTION 229. UNITED STATES CIVIL WAR CENTER.

(a) FINDINGS.—The Congress finds that—

(1) the sesquicentennial of the beginning of the Civil War will occur in the year 2011;

(2) the sesquicentennial will be the last significant opportunity for most Americans alive in the year 2011 to recall and commemorate the Civil War;

(3) the Civil War Center in Louisiana State University in Baton Rouge, Louisiana, has as its principal missions to create a comprehensive database that contains all Civil War materials and to facilitate the study of the Civil War from the perspectives of all ethnic cultures and all professions; academic disciplines, and occupation;

(4) the two principal missions of the Civil War Center are consistent with commemoration of the sesquicentennial;

(5) the missions of the Civil War Institute at Gettysburg College parallel those of the Civil War Center; and

(6) advance planning to facilitate the four-year commemoration of the sesquicentennial is required.

(b) DESIGNATION.—The Civil War Center, located on Raphael Semmes Drive at Louisiana State University in Baton Rouge, Louisiana, (hereinafter in this section referred to as the "center") shall be known and designated as the "United States Civil War Center".

(c) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the center referred to in subsection (b) shall be deemed to be a reference to the "United States Civil War Center".

(d) FLAGSHIP INSTITUTIONS.—The center and the Civil War Institute of Gettysburg College, located at 233 North Washington Street in Gettysburg, Pennsylvania, shall be the flagship institutions for planning the sesquicentennial commemoration of the Civil War.

TITLE III—ROBERT J. LAGOMARSINO VISITOR CENTER

SECTION 301. DESIGNATION.

The visitor center at the Channel Islands National Park, California, is designated as the "Robert J. Lagomarsino Visitor Center".

SEC. 302. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the visitor center referred to in section 301 is deemed to be a reference to the "Robert J. Lagomarsino Visitor Center".

TITLE VI—ROCKY MOUNTAIN NATIONAL PARK VISITOR CENTER

SECTION 401. VISITOR CENTER.

The Secretary of the Interior is authorized to collect and expend donated funds and expend appropriated funds for the operation and maintenance of a visitor center to be constructed for visitors to and administration of Rocky Mountain National Park with private funds on lands located outside the boundary of the park.

TITLE V—CORINTH, MISSISSIPPI, BATTLEFIELD ACT

SECTION 501. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the sites located in the vicinity of Corinth, Mississippi, that were Designated as a National Historic Landmark by the Secretary of the Interior in 1991 represent nationally significant events in the Siege and Battle of Corinth during the Civil War; and

(2) the landmark sites should be preserved and interpreted for the benefit, inspiration, and education of the people of the United States.

(b) PURPOSE.—The purpose of this Title is to provide for a center for the interpretation of the Siege and Battle of Corinth and other Civil War actions in the Region and to enhance public understanding of the significance of the Corinth Campaign in the Civil War relative to the Western theater of operations, in cooperation with State or local governmental entities and private organizations and individuals.

SECTION 502. ACQUISITION OF PROPERTY AT CORINTH, MISSISSIPPI.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Title as the "Secretary") shall acquire by donation, purchase with donated or appropriated funds, or exchange, such land and interests in land in the vicinity of the Corinth Battlefield, in the State of Mississippi, as the Secretary determines to be necessary for the construction of an interpretive center to commemorate and interpret the 1862 Civil War Siege and Battle of Corinth.

(b) PUBLICLY OWNED LAND.—Land and interests in land owned by the State of Mississippi or a political subdivision of the State of Mississippi may be acquired only by donation.

SECTION 503. INTERPRETIVE CENTER AND MARKING.

(a) INTERPRETIVE CENTER.—

(1) CONSTRUCTION OF CENTER.—The Secretary shall construct, operate, and maintain on the property acquired under section 502 a center for the interpretation of the Siege and Battle of Corinth and associated historical events for the benefit of the public.

(2) DESCRIPTION.—The center shall contain approximately 5,300 square feet, and include interpretive exhibits, an auditorium, a parking area, and other features appropriate to public appreciation and understanding of the site.

(b) MARKING.—The Secretary may mark sites associated with the Siege and Battle of Corinth National Historic Landmark, as designated on May 6, 1991, if the sites are determined by the Secretary to be protected by State or local governmental agencies.

(c) ADMINISTRATION.—The land and interests in land acquired, and the facilities constructed and maintained pursuant to this

Title, shall be administered by the Secretary as a part of Shiloh National Military Park, subject to the appropriate laws (including regulations) applicable to the Park, the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.).

SECTION 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated such sums as are necessary to carry out this Title.

(b) CONSTRUCTION.—Of the amounts made available to carry out this Title, not more than $6,000,000 may be used to carry out section 503(a).

TITLE VI—WALNUT CANYON NATIONAL MONUMENT BOUNDARY MODIFICATION

SECTION 601. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that:

(1) Walnut Canyon National Monument was established for the preservation and interpretation of certain settlements and land use patterns associated with the prehistoric Sinaguan culture of northern Arizona.

(2) Major cultural resources associated with the purposes of Walnut Canyon National Monument are near the boundary and are currently managed under multiple-use objectives of the adjacent national forest. These concentrations of cultural resources, often referred to as "forts", would be more effectively managed as part of the National Park System.

(b) PURPOSE.—The purpose of this Title is to modify the boundaries of the Walnut Canyon National Monument (hereafter in this Title referred to as the "national monument") to improve management of the national monument and associated resources.

SECTION 602. BOUNDARY MODIFICATION.

Effective on the date of enactment of this Act, the boundaries of the national monument shall be modified as depicted on the map entitled "Boundary Proposal—Walnut Canyon National Monument, Coconino County, Arizona", numbered 360/80,010, and dated September 1994. Such map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior. The Secretary of the Interior, in consultation with the Secretary of Agriculture, is authorized to make technical and clerical corrections to such map.

SECTION 603. ACQUISITION AND TRANSFER OF PROPERTY.

The Secretary of the Interior is authorized to acquire lands and interest in lands within the national monument, by donation, purchase with donated or appropriated funds, or exchange. Federal property within the boundaries of the national monument (as modified by this Title) is hereby transferred to the administrative jurisdiction of the Secretary of the Interior for management as part of the national monument. Federal property excluded from the monument pursuant to the boundary modification under section 603 is hereby transferred to the administrative jurisdiction of the Secretary of Agriculture to be managed as a part of the Coconino National Forest.

SECTION 604. ADMINISTRATION.

The Secretary of the Interior, acting through the Director of the National Park Service, shall manage the national monument in accordance with this Title and the provisions of law generally applicable to units of the National Park Service, including "An Act to establish a National Park Service, and for other purposes" approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4).

SECTION 605. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out this Title.

TITLE VII—DELAWARE WATER GAP

SECTION 701. PROHIBITION OF COMMERCIAL VEHICLES.

(a) IN GENERAL.—Effective at noon on September 30, 2005, the use of Highway 209 within Delaware Water Gap National Recreation Area by commercial vehicles, when such use is not connected with the operation of the recreation area, is prohibited, except as provided in subsection (b).

(b) LOCAL BUSINESS USE PROTECTED.—Subsection (a) does not apply with respect to the use of commercial vehicles to serve businesses located within or in the vicinity of the recreation area, as determined by the Secretary.

(c) CONFORMING PROVISIONS.—

(1) Paragraphs (1) through (3) of the third undesignated paragraph under the heading "ADMINISTRATIVE PROVISIONS" in chapter VII of title I of Public Law 98–63 (97 Stat. 329) are repealed, effective September 30, 2005.

(2) Prior to noon on September 30, 2005, the Secretary shall collect and utilize a commercial use fee from commercial vehicles in accordance with paragraphs (1) through (3) of such third undesignated paragraph. Such fee shall not exceed $25 per trip.

TITLE VIII—TARGHEE NATIONAL FOREST LAND EXCHANGE

SECTION 801. AUTHORIZATION OF EXCHANGE.

(a) CONVEYANCE.—Notwithstanding the requirements in the Act entitled "An Act to Consolidate National Forest Lands", approved March 20, 1922 (16 U.S.C. 485), and section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) that Federal and non-Federal lands exchanged for each other must be located within the same State, the Secretary of Agriculture may convey the Federal lands described in section 802(a) in exchange for the non-Federal lands described in section 802(b) in accordance with the provisions of this Title.

(b) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Except as otherwise provided in this Title, the land exchange authorized by this section shall be made under the existing authorities of the Secretary.

(c) ACCEPTABILITY OF TITLE AND MANNER OF CONVEYANCE.—The Secretary shall not carry out the exchange described in subsection (a) unless the title to the non-Federal lands to be conveyed to the United States, and the form and procedures of conveyance, are acceptable to the Secretary.

SECTION 802. DESCRIPTION OF LANDS TO BE EXCHANGED.

(a) FEDERAL LANDS.—The Federal lands referred to in this Title are located in the Targhee National Forest in Idaho, are generally depicted on the map entitled "Targhee Exchange, Idaho-Wyoming—Proposed, Federal Land", dated September 1994, and are known as the North Fork Tract.

(b) NON-FEDERAL LANDS.—The non-Federal lands referred to in this Title are located in the Targhee National Forest in Wyoming, are generally depicted on the map entitled "Non-Federal land, Targhee Exchange, Idaho-Wyoming—Proposed", dated September 1994, and are known as the Squirrel Meadows Tract.

(c) MAPS.—The maps referred to in subsections (a) and (b) shall be on file and available for inspection in the office of the Targhee National Forest in Idaho and in the office of the Chief of the Forest Service.

SECTION 803. EQUALIZATION OF VALUES.

Prior to the exchange authorized by section 801, the values of the Federal and non-Federal lands to be so exchanged shall be established by appraisals of fair market value that shall be subject to approval by the Secretary. The values either shall be equal or shall be equalized using the following methods:

(1) ADJUSTMENT OF LANDS.—

(A) PORTION OF FEDERAL LANDS.—If the Federal lands are greater in value than the non-Federal lands, the Secretary shall reduce the acreage of the Federal lands until the values of the Federal lands closely approximate the values of the non-Federal lands.

(B) ADDITIONAL FEDERALLY-OWNED LANDS.—If the non-Federal lands are greater in value than the Federal lands, the Secretary may convey additional federally owned lands within the Targhee National Forest up to an amount necessary to equalize the values of the non-Federal lands and the lands to be transferred out of Federal ownership. However, such additional federally owned lands shall be limited to those meeting the criteria for land exchanges specified in the Targhee National Forest Land and Resource Management Plan.

(2) PAYMENT OF MONEY.—The values may be equalized by the payment of money as provided in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

SECTION 804. DEFINITIONS.

For purpose of this Title:

(1) The term "Federal lands" means the Federal lands described in section 802(a).

(2) The term "non-Federal lands" means the non-Federal lands described in section 802(b).

(3) The term "Secretary" means the Secretary of Agriculture.

TITLE IX—DAYTON AVIATION

Section 201(b) of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419, approved October 16, 1992), is amended as follows:

(1) In paragraph (2), by striking "from recommendations" and inserting "after consideration of recommendations".

(2) In paragraph (4), by striking "from recommendations" and inserting "after consideration of recommendations".

(3) In paragraph (5), by striking "from recommendations" and inserting "after consideration of recommendations".

(4) In paragraph (6), by striking "from recommendations" and inserting "after consideration of recommendations".

(5) In paragraph (7), by striking "from recommendations" and inserting "after consideration of recommendations".

TITLE X—CACHE LA POUDRE

SECTION 1001. PURPOSE.

The purpose of this Title is to designate the Cache La Poudre River National Water Heritage Area within the Cache La Poudre River Basin and to provide for the interpretation, for the educational and inspirational benefit of present and future generations, of the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Area.

SECTION 1002. DEFINITIONS.

As used in this Title:

(1) AREA.—The term "Area" means the Cache La Poudre River National Water Heritage Area established by section 1003(a).

(2) COMMISSION.—The term "Commission" means the Cache La Poudre River National Water Heritage Area Commission established by section 1004(a).

(3) GOVERNOR.—The term "Governor" means the Governor of the State of Colorado.

(4) PLAN.—The term "Plan" means the water heritage area interpretation plan prepared by the Commission pursuant to section 1008(a).

(5) POLITICAL SUBDIVISION OF THE STATE.—The term "political subdivision of the State" means a political subdivision of the State of Colorado, any part of which is located in or adjacent to the Area, including a county, city, town, water conservancy district, or special district.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SECTION 1003. ESTABLISHMENT OF THE CACHE LA POUDRE RIVER NATIONAL WATER HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State of Colorado the Cache La Poudre River National Water Heritage Area.

(b) BOUNDARIES.—The boundaries of this Area shall include those lands within the 100-year flood plain of the Cache La Poudre River Basin, beginning at a point where the Cache La Poudre River flows out of the Roose velt National Forest and continuing east along said floodplain to a point one quarter of one mile west of the confluence of the Cache La Poudre River and the South Platte Rivers in Weld County, Colorado, comprising less than 35,000 acres, and generally depicted as the 100-year flood boundary on the Federal Flood Insurance maps listed below:

(1) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0146B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(2) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0147B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(3) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0162B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(4) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0163C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(5) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0178C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(6) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080102 0002B, February 15, 1984. Federal Emergency Management Agency, Federal Insurance Administration.

(7) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0179C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(8) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0193D, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(9) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0194D, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(10) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0208C, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(11) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0221C, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(12) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0605D, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(13) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080264 0005A, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(14) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0608D, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(15) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0609C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(16) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0628C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(17) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080184 0002B, July 16, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(18) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0636C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(19) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0637C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

As soon as practicable after the date of enactment of this Title, the Secretary shall publish in the Federal Register a detailed description and map of the boundaries of the Area.

(c) PUBLIC ACCESS TO MAPS.—The maps shall be on file and available for public inspection in—

(1) the offices of the Department of the Interior in Washington, District of Columbia, and Denver, Colorado; and

(2) local offices of the city of Fort Collins, Larimer Country, the city of Greeley, and Weld County.

SECTION 1004. ESTABLISHMENT OF THE CACHE LA POUDRE RIVER NATIONAL WATER HERITAGE AREA COMMISSION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the Cache La Poudre River National Water Heritage Area Commission.

(2) FUNCTION.—The Commission, in consultation with appropriate Federal, State, and local authorities, shall develop and implement an integrated plan to interpret elements of the history of water development within the Area.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 15 members appointed not later than 6 months after the date of enactment of this Title. Of these 15 members—

(A) 1 member shall be a representative of the Secretary of the Interior which member shall be an ex officio member;

(B) 1 member shall be a representative of the Forest Service, appointed by the Secretary of Agriculture, which member shall be an ex officio member;

(C) 3 members shall be recommended by the Governor and appointed by the Secretary, of whom—

(i) 1 member shall represent the State;

(ii) 1 member shall represent Colorado State University in Fort Collins; and

(iii) 1 member shall represent the Northern Colorado Water Conservancy District;

(D) 6 members shall be representatives of local governments who are recommended by the Governor and appointed by the Secretary, of whom—

(i) 1 member shall represent the city of Fort Collins;

(ii) 2 members shall represent Larimer County, 1 of which shall represent agriculture of irrigated water interests;

(iii) 1 member shall represent the city of Greeley;

(iv) 2 members shall represent Weld County, 1 of which shall represent agricultural or irrigated water interests; and

(v) 1 member shall represent the city of Loveland; and

(E) 3 members shall be recommended by the Governor and appointed by the Secretary, and shall—

(i) represent the general public;

(ii) be citizens of the State; and

(iii) reside within the Area.

(2) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members of the Commission from among members appointed under subparagraph (C), (D), or (E) of paragraph (1). The chairperson shall be elected for a 2-year term.

(3) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(c) TERMS OF SERVICE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each member of the Commission shall be appointed for a term of 3 years and may be reappointed.

(2) INITIAL MEMBERS.—The initial members of the Commission first appointed under subsection (b)(1) shall be appointed as follows:

(A) 3-YEAR TERMS.—The following initial members shall serve for a 3-year term:

(i) The representative of the Secretary of the Interior.

(ii) 1 representative of Weld County.

(iii) 1 representative of Larimer County.

(iv) 1 representative of the city of Loveland.

(v) 1 representative of the general public.

(B) 2-YEAR TERMS.—The following initial members shall serve for a 2-year term:

(i) The representative of the Forest Service.

(ii) The representative of the State.

(iii) The representative of Colorado State University.

(iv) The representative of the Northern Colorado Water Conservancy District.

(C) 1-YEAR TERMS.—The following initial members shall serve for a 1-year term:

(i) 1 representative of the city of Fort Collins.

(ii) 1 representative of Larimer County.

(iii) 1 representative of the city of Greeley.

(iv) 1 representative of Weld County.

(v) 1 representative of the general public.

(3) PARTIAL TERMS.—

(A) FILLING VACANCIES.—A member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of their term.

(B) EXTENDED SERVICE.—A member of the Commission may serve after the expiration of that member's term until a successor has taken office.

(d) COMPENSATION.—Members of the Commission shall receive no compensation for their service on the Commission.

(e) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

SECTION 1005. STAFF OF THE COMMISSION.

(a) STAFF.—The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out the duties of the Commission.

(1) APPOINTMENT AND COMPENSATION.—Staff appointed by the Commission—

(A) shall be appointed without regard to the city service laws and regulations; and

(B) shall be compensated without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(c) STAFF OF OTHER AGENCIES.—

(1) FEDERAL.—Upon request of the Commission, the head of a Federal agency may detail, on a reimbursement basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the Commission's duties. The detail shall be without interruption or loss of civil service status or privilege.

(2) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(3) STATE.—The Commission may—

(A) accept the service of personnel detailed from the State, State agencies, and political subdivisions of the State; and

(B) reimburse the State, State agency, or political subdivision of the State for such services.

SECTION 1006. POWERS OF THE COMMISSION.

(a) HEARINGS.—

(1) IN GENERAL.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to carry out this Title.

(2) SUBPOENAS.—The Commission may not issue subpoenas or exercise any subpoena authority.

(b) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(c) MATCHING FUNDS.—The Commission may use its funds to obtain money from any source under a program or law requiring the recipient of the money to make a contribution in order to receive the money.

(d) GIFTS.—

(1) IN GENERAL.—Except as provided in subsection (e)(3), the Commission may, for the purpose of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services received from any source.

(2) CHARITABLE CONTRIBUTIONS.—For the purpose of section 170(c) of the Internal Revenue Code of 1986, a gift to the Commission shall be deemed to be a gift to the United States.

(e) REAL PROPERTY.—

(1) IN GENERAL.—Except as provided in paragraph (2) and except with respect to a leasing of facilities under section 6(c)(2), the Commission may not acquire real property or an interest in real property.

(2) EXCEPTION.—Subject to paragraph (3), the Commission may acquire real property in the Area, and interests in real property in the Area—

(A) by gift or device;

(B) by purchase from a willing seller with money that was given or bequeathed to the Commission; or

(C) by exchange.

(3) CONVEYANCE TO PUBLIC AGENCIES.—Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate non-Federal public agency, as determined by the Commission. The conveyance shall be made—

(A) as soon as practicable after acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used in furtherance of the purpose for which the Area is established.

(f) COOPERATIVE AGREEMENTS.—For the purpose of carrying out the Plan, the Commission may enter into cooperative agreements with Federal agencies, State agencies, political subdivisions of the State, and persons. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action that may affect the implementation of the Plan.

(g) ADVISORY GROUPS.—The Commission may establish such advisory groups as it considers necessary to ensure open communication with, and assistance from Federal agencies, State agencies, political subdivisions of the State, and interested persons.

(h) MODIFICATION OF PLANS.—

(1) IN GENERAL.—The Commission may modify the Plan if the Commission determines that such modification is necessary to carry out this Title.

(2) NOTICE.—No modification shall take effect until—

(A) any Federal agency, State agency, or political subdivision of the State that may be affected by the modification receives adequate notice of, and an opportunity to comment on, the modification;

(B) if the modification is significant, as determined by the Commission, the Commission has—

(i) provided adequate notice of the modification by publication in the area of the Area; and

(ii) conducted a public hearing with respect to the modification; and

(C) the Governor has approved the modification.

SECTION 1007. DUTIES OF THE COMMISSION.

(a) PLAN.—The Commission shall prepare, obtain approval for, implement, and support the Plan in accordance with section 9.

(b) MEETINGS.—

(1) TIMING.—

(A) INITIAL MEETING.—The Commission shall hold its first meeting not later than 90 days after the date on which its last initial member is appointed.

(B) SUBSEQUENT MEETINGS.—After the initial meeting, the Commission shall meet at the call of the chairperson or 7 of its members, except that the commission shall meet at least quarterly .

(2) QUORUM.—Ten members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(3) BUDGET.—The affirmative vote of not less than 10 members of the Commission shall be required to approve the budget of the Commission.

(c) ANNUAL REPORTS.—Not later than May 15 of each year, following the year in which the members of the Commission have been appointed, the Commission shall publish and submit to the Secretary and to the Governor, an annual report concerning the Commission's activities.

SECTION 1008. PREPARATION, REVIEW, AND IMPLEMENTATION OF THE PLAN.

(a) PREPARATION OF PLAN.—

(1) IN GENERAL.—Not later than 2 years after the Commission conducts its first meeting, the Commission shall submit to the Governor a Water Heritage Area Interpretation Plan.

(2) DEVELOPMENT.—In developing the Plan, the Commission shall—

(A) consult on a regular basis with appropriate officials of any Federal or State agency, political subdivision of the State, and local government that has jurisdiction over or an ownership interest in land, water, or water rights within the Area; and

(B) conduct public hearings within the Area for the purpose of providing interested persons the opportunity to testify about matters to be addressed by the Plan.

(3) RELATIONSHIP TO EXISTING PLANS.—The Plan—

(A) shall recognize any existing Federal, State, and local plans;

(B) shall not interfere with the implementation, administration, or amendment of such plans; and

(C) to the extent feasible, shall seek to coordinate the plans and present a unified interpretation plan for the Area.

(b) REVIEW OF PLAN.—

(1) IN GENERAL.—The Commission shall submit the Plan to the Governor for his review.

(2) GOVERNOR.—The Governor may review the Plan and if he concurs in the Plan, may submit the Plan to the Secretary, together with any recommendations.

(3) SECRETARY.—The Secretary shall approve or disapprove the Plan within 90 days. In reviewing the Plan, the Secretary shall consider the adequacy of—

(A) public participation; and

(B) the Plan in interpreting, for the educational and inspirational benefit or present and future generations, the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Area.

(c) DISAPPOVAL OF PLAN.—

(1) NOTIFICATION BY SECRETARY.—If the Secretary disapproves the Plan, the Secretary shall, not later than 60 days after the date of disapproval, advise the Governor and the Commission of the reasons for disapproval, together with recommendations for revision.

(2) REVISION AND RESUBMISSION TO GOVERNOR.—Not later than 90 days after receipt

of the notice of disapproval, the Commission shall revise and resubmit the Plan to the Governor for review.

(3) RESUBMISSION TO SECRETARY.—If the Governor concurs in the revised Plan, he may submit the revised Plan to the Secretary who shall approve or disapprove the revision within 60 days. If the Governor does not concur in the revised Plan, he may resubmit it to the Commission together with his recommendations for further consideration and modification.

(d) IMPEMENTATION OF PLAN.—After approval by the Secretary, the Commission shall implement and support the Plan as follows:

(1) CULTURAL RESOURCES.—

(A) IN GENERAL.—The Commission shall assist Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations in the conservation and interpretation of cultural resources within the Area.

(B) EXCEPTION.—In providing the assistance, the Commission shall in no way infringe upon the authorities and policies of a Federal agency, State agency, or political subdivision of the State concerning the administration and management of property, water, or water rights held by such agency, political subdivision, or private persons or entities, or affect the jurisdiction of the State of Colorado over any property, water, or water rights within the Area.

(2) PUBLIC AWARENESS.—The Commission shall assist in the enhancement of public awareness of, and appreciation for, the historical, recreational, architectural, and engineering structures in the Area, and the archaeological, geological, and cultural resources and sites in the Area—

(A) by encouraging private owners of identified structures, sites, and resources to adopt voluntary measures for the preservation of the identified structure, site, or resource; and

(B) by cooperating with Federal agencies, State agencies, and political subdivisions of the State in acquiring, on a willing seller basis, any identified structure, site, or resource which the Commission, with the concurrence of the Governor, determines should be acquired and held by an agency of the State.

(3) RESTORATION.—The Commission may assist Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations in the restoration of any identified structure or site in the Area with consent of the owner. The assistance may include providing technical assistance for historic preservation, revitalization, and enhancement efforts.

(4) INTERPRETATION.—The Commission shall assist in the interpretation of the historical, present, and future uses of the Area—

(A) by consulting with the Secretary with respect to the implementation of the Secretary's duties under section 1010;

(B) by assisting the State and political subdivisions of the State in establishing and maintaining visitor orientation centers and other interpretive exhibits within the Area;

(C) by encouraging voluntary cooperation and coordination, with respect to ongoing interpretive services in the Area, among Federal agencies, State agencies, political subdivisions of the State, nonprofit organizations, and private citizens, and

(D) by encouraging Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations to undertake new interpretive initiatives with respect to the Area.

(5) RECOGNITION.—The Commission shall assist in establishing recognition for the Area by actively promoting the cultural, historical, natural, and recreational resources of the Area on a community, regional, statewide, national, and international basis.

(6) LAND EXCHANGES.—The Commission shall assist in identifying and implementing land exchanges within the State of Colorado by Federal and State agencies that will expand open space and recreational opportunities within the flood plain of the Area.

SECTION 1009. TERMINATION OF TRAVEL EXPENSES PROVISION.

Effective on the date that is 5 years after the date on which the Secretary approves the Plan, section 5 is amended by striking subsection (e).

SECTION 1010. DUTIES OF THE SECRETARY.

(a) ACQUISITION OF LAND.—The Secretary may acquire land and interests in land within the Area that have been specifically identified by the Commission for acquisition by the Federal government and that have been approved for such acquisition by the Governor and the political subdivision of the State where the land is located by donation, purchase with donated or appropriated funds, or exchange. Acquisition authority may only be used if such lands cannot be acquired by donation or exchange. No land or interest in land may be acquired without the consent of the owner.

(b) TECHNICAL ASSISTANCE.—The Secretary shall, upon the request of the Commission, provide technical assistance to the Commission in the preparation and implementation of the Plan pursuant to section 1008.

(c) DETAIL.—Each fiscal year during the existence of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, 2 employees of the Department of the Interior to enable the Commission to carry out the Commission's duties under section 1007.

SECTION 1011. OTHER FEDERAL ENTITIES.

(a) DUTIES.—Subject to section 1001, a Federal entity conducting or supporting activities directly affecting the flow of the Cache La Poudre River through the Area, or the natural resources of the Area shall consult with the Commission with respect to such activities;

(b) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary or Administrator of a Federal agency may acquire land in the flood plain of the Area by exchange for other lands within such agency's jurisdiction within the State of Colorado, based on fair market value: *Provided*, That such lands have been identified by the Commission for acquisition by a Federal agency and the Governor and the political subdivision of the State or the owner where the lands are located concur in the exchange. Land so acquired shall be used to fulfill the purpose for which the Area is established.

(2) AUTHORIZATION TO CONVEY PROPERTY.—The first sentence of section 203(k)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)(3)) is amended by striking "historic monument, for the benefit of the public" and inserting "historic monument or any such property within the State of Colorado for the Cache La Poudre River National Water Heritage Area, for the benefit of the public".

SECTION 1012. EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS, RESTRICTIONS, AND SAVINGS PROVISIONS.

(a) EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS.—

(1) VOLUNTARY COOPERATION.—In carrying out this Title, the Commission and Secretary shall emphasize voluntary cooperation.

(2) RULES, REGULATIONS, STANDARDS, AND PERMIT PROCESSES.—Nothing in this Title shall be considered to impose or form the basis for imposition of any environmental, occupational, safety, or other rule, regulation, standard, or permit process that is different from those that would be applicable had the Area not been established.

(3) ENVIRONMENTAL QUALITY STANDARDS.—Nothing in this Title shall be considered to impose the application or administration of any Federal or State environmental quality standard that is different from those that will be applicable had the Area not been established.

(4) WATER STANDARDS.—Nothing in this Title shall be considered to impose any Federal or State water use designation or water quality standard upon uses of, or discharges to, waters of the State or waters of the United States, within or adjacent to the Area, that is more restrictive than those that would be applicable had the Area not been established.

(5) PERMITTING OF FACILITIES.—Nothing in the establishment of the Area shall abridge, restrict, or alter any applicable rule, regulation, standard, or review procedure for permitting of facilities within or adjacent to the Area.

(6) WATER FACILITIES.—Nothing in the establishment of the Area shall affect the continuing use and operation, repair, rehabilitation, expansion, or new construction of water supply facilities, water and wastewater treatment facilities, stormwater facilities, public utilities, and common carriers.

(7) WATER AND WATER RIGHTS.—Nothing in the establishment of the Area shall be considered to authorize or imply the reservation or appropriation of water or water rights for any purpose.

(b) RESTRICTIONS ON COMMISSION AND SECRETARY.—Nothing in this Title shall be construed to vest in the Commission or the Secretary the authority to—

(1) require a Federal agency, State agency, political subdivision of the State, or private person (including an owner of private property) to participate in a project or program carried out by the Commission or the Secretary under the Title;

(2) intervene as a party in an administrative or judicial proceeding concerning the application or enforcement of a regulatory authority of a Federal agency, State agency, or political subdivision of the State, including, but not limited to, authority relating to—

(A) land use regulation;
(B) environmental quality;
(C) licensing;
(D) permitting;
(E) easements;
(F) private land development; or
(G) other occupational or access issue;

(3) establish or modify a regulatory authority of a Federal agency, State agency, or political subdivision of the State, including authority relating to—

(A) land use regulation;
(B) environmental quality; or
(C) pipeline or utility crossings;

(4) modify a policy of a Federal agency, State agency, or political subdivision of the State;

(5) attest in any manner the authority and jurisdiction of the State with respect to the acquisition of lands or water, or interest in lands or water;

(6) vest authority to reserve or appropriate water or water rights in any entity for any purpose;

(7) deny, condition, or restrict the construction, repair, rehabilitation, or expansion of water facilities, including stormwater, water, and wastewater treatment facilities; or

(8) deny, condition, or restrict the exercise of water rights in accordance with the substantive and procedural requirements of the laws of the state.

(c) SAVINGS PROVISION.—Nothing in this Title shall diminish, enlarge, or modify a right of a Federal agency, State agency, or political subdivision of the State—

(1) to exercise civil and criminal jurisdiction within the Area; or

(2) to tax persons, corporations, franchises, or property, including minerals and other interests in or on lands or waters within the urban river corridor portions of the Area.

(d) ACCESS TO PRIVATE PROPERTY.—Nothing in this Title requires an owner of private property to allow access to the property by the public.

SECTION 1013. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated not to exceed $50,000 to the Commission to carry out this Act.

(b) MATCHING FUNDS.—Funds may be made available pursuant to this section only to the extent they are matched by equivalent funds or in-kind contributions of services or materials from non-Federal sources.

TITLE XI—GILPIN COUNTY, COLORADO LAND EXCHANGE

SECTION 1101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares that—

(1) certain scattered parcels of Federal land located within Gilpin County, Colorado, are currently administered by the Secretary of the Interior as part of the Royal Gorge Resource Area, Canon City District, United States Bureau of Land Management;

(2) these land parcels, which comprises approximately 133 separate tracts of land, and range in size from approximately 38 acres to much less than an acre have been identified as suitable for disposal by the Bureau of Land Management through its resource management planning process and are appropriate for disposal; and

(3) even though the Federal land parcels in Gilpin County, Colorado, are scattered and small in size, they nevertheless by virtue of their proximity to existing communities appear to have a fair market value which may be used by the Federal Government to exchange for lands which will better lend themselves to Federal management and have higher values for future public access, use and enjoyment, recreation, the protection and enhancement of fish and wildlife and fish and wildlife habitat, and the protection of riparian lands, wetlands, scenic beauty and other public values.

(b) PURPOSE.—It is the purpose of this Title to authorize, direct, facilitate and expedite the land exchange set forth herein in order to further the public interest by disposing of Federal lands with limited public utility and acquire in exchange therefor lands with important values for permanent public management and protection.

SECTION 1102. LAND EXCHANGE.

(a) IN GENERAL.—The exchange directed by this Title shall be consummated if within 90 days after enactment of this Act, Lake Gulch, Inc., a Colorado Corporation (as defined in section 1104 of this Title) offers to transfer to the United States pursuant to the provisions of this Title the offered lands or interests in land described herein.

(b) CONVEYANCE BY LAKE GULCH.—Subject to the provisions of section 1103 of this Title, Lake Gulch shall convey to the Secretary of the Interior all right, title, and interest in and to the following offered lands—

(1) certain lands comprising approximately 40 acres with improvements thereon located in Larimer County, Colorado, and lying within the boundaries of Rocky Mountain National Park as generally depicted on a map entitled "Circle C Church Camp", dated August 1994, which shall upon their acquisition by the United States and without further action by the Secretary of the Interior be incorporated into Rocky Mountain National Park and thereafter be administered in accordance with the laws, rules and regulations generally applicable to the National Park System and Rocky Mountain National Park;

(2) certain lands located within and adjacent to the United States Bureau of Land Management San Luis Resource Area in Conejos County, Colorado, which comprise approximately 3,993 acres and are generally depicted on a map entitled "Quinlan Ranches Tract", dated August 1994; and

(3) certain lands located within the United States Bureau of Land Management Royal Gorge Resource Area in Huerfano County, Colorado, which comprise approximately 4,700 acres and are generally depicted on a map entitled "Bonham Ranch-Cucharas Canyon", dated June 1995: *Provided, however*, That it is the intention of Congress that such lands may remain available for the grazing of livestock as determined appropriate by the Secretary in accordance with applicable laws, rules, and regulations: *Provided further*, That if the Secretary determines that certain of the lands acquired adjacent to Cucharas Canyon hereunder are not needed for public purposes they may be sold in accordance with the provisions of section 203 of the Federal Land Policy and Management Act of 1976 and other applicable law.

(c) SUBSTITUTION OF LANDS.—If one or more of the precise offered land parcels identified above is unable to be conveyed to the United States due to appraisal or other problems, Lake Gulch and the Secretary may mutually agree to substitute therefor alternative offered lands acceptable to the Secretary.

(d) COVEYANCE BY THE UNITED STATES.—(1) Upon receipt of title to the lands identified in subsection (a) the Secretary shall simultaneously convey to Lake Gulch all right, title, and interest of the United States, subject to valid existing rights, in and to the following selected lands—

(A) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 18, Lots 118–220, which comprise approximately 195 acres and are intended to include all federally owned lands in section 18, as generally depicted on a map entitled "Lake Gulch Selected Lands", dated July 1994;

(B) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 17, Lots 37, 38, 39, 40, 52, 53, and 54, which comprise approximately 96 acres, as generally depicted on a map entitled "Lake Gulch Selected Lands", dated July 1994; and

(C) certain unsurveyed lands located in Gilpin County, Colorado, Township 3 South, Range, 73 West, Sixth Principal Meridian, Section 13, which comprise approximately 11 acres, and are generally depicted as parcels 302–304, 306 and 308–326 on a map entitled "Lake Gulch Selected Lands", dated July 1994: *Provided, however*, That a parcel or parcels of land in section 13 shall not be transferred to Lake Gulch if at the time of the proposed transfer the parcel or parcels are under formal application for transfer to a qualified unit of local government. Due to the small and unsurveyed nature of such parcels proposed for transfer to Lake Gulch in section 13, and the high cost of surveying such small parcels, the Secretary is authorized to transfer such section 13 lands to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate to carry out the basic intent of the map cited in this subparagraph.

(2) If the Secretary and Lake Gulch mutually agree, and the Secretary determines it is in the public interest, the Secretary may utilize the authority and direction of this Title to transfer to Lake Gulch lands in sections 17 and 13 that are in addition to those precise selected lands shown on the map cited herein, and which are not under formal application for transfer to a qualified unit of local government, upon transfer to the Secretary of additional offered lands acceptable to the Secretary or upon payment to the Secretary by Lake Gulch of cash equalization money amounting to the full appraised fair market value of any such additional lands. If any such additional lands are located in section 13 they may be transferred to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate as long as the Secretary determines that the boundaries of any adjacent lands not owned by Lake Gulch can be properly identified so as to avoid possible future boundary conflicts or disputes. If the Secretary determines surveys are necessary to convey any such additional lands to Lake Gulch, the costs of such surveys shall be paid by Lake Gulch but shall not be eligible for any adjustment in the value of such additional lands pursuant to section 206(f)(2) of the Federal Land Policy and Management Act of 1976 (as amended by the Federal Land Exchange Facilitation Act of 1988) (43 U.S.C. 1716(f)(2)).

(3) Prior to transferring out of public ownership pursuant to this Title or other authority of law any lands which are contiguous to North Clear Creek southeast of the City of Black Hawk, Colorado in the County of Gilpin, Colorado, the Secretary shall notify and consult with the County and City and afford such units of local government an opportunity to acquire or reserve pursuant to the Federal Land Policy and Management Act of 1976 or other applicable law, such easements or rights-of-way parallel to North Clear Creek as may be necessary to serve public utility line or recreation path needs: *Provided, however*, That any survey or other costs associated with the acquisition or reservation of such easements or rights-of-way shall be paid for by the unit or units of local government concerned.

SECTION 1103. TERMS AND CONDITIONS OF EXCHANGE.

(a) EQUALIZATION OF VALUE.—

(1) The values of the lands to be exchanged pursuant to this Title shall be equal as determined by the Secretary of the Interior utilizing comparable sales of surface and subsurface property and nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law.

(2) In the event any cash equalization or land sale moneys are received by the United

States pursuant to this Act, any such moneys shall be retained by the Secretary of the Interior and may be utilized by the Secretary until fully expended to purchase from willing sellers land or water rights, or a combination thereof, to augment wildlife habitat and protect and restore wetlands in the Bureau of Land Management's Blanca Wetlands, Alamosa County, Colorado.

(3) Any water rights acquired by the United States pursuant to this section shall be obtained by the Secretary of the Interior in accordance with all applicable provisions of Colorado law, including the requirement to change the time, place, and type of use of said water rights through the appropriate State legal proceedings and to comply with any terms, conditions, or other provisions contained in an applicable decree of the Colorado Water Court. The use of any water rights acquired pursuant to this section shall be limited to water that can be used or exchanged for water that can be used on the Blanca Wetlands. Any requirement or proposal to utilize facilities of the San Luis Valley Project, Closed Basin Diversion, in order to effectuate the use of any such water rights shall be subject to prior approval of the Rio Grande Water Conservation District.

(b) Restrictions on Selected Lands.—(1) Conveyance of the selected lands to Lake Gulch pursuant to this Title shall be contingent upon Lake Gulch executing an agreement with the United States prior to such conveyance, the terms of which are acceptable to the Secretary of the Interior, and which—

(A) grant the United States a covenant that none of the selected lands (which currently lie outside the legally approved gaming area) shall ever be used for purposes of gaming should the current legal gaming area ever be expanded by the State of Colorado; and

(B) permanently hold the United States harmless for liability and indemnify the United States against all costs arising from any activities, operations (including the strong, handling, and dumping of hazardous materials or substances) or other acts conducted by Lake Gulch or its employees, agents, successors or assigns on the selected lands after their transfer to Lake Gulch: *Provided, however*, That nothing in this Title shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of the selected lands prior to or on the date of their transfer to Lake Gulch.

(2) Conveyance of the selected lands to Lake Gulch pursuant to this Title shall be subject to the existing easement of Gilpin County Road 6.

(3) The above terms and restrictions of this subsection shall not be considered in determining, or result in any diminution in, the fair market value of the selected land for purposes of the appraisals of the selected land required pursuant to section 1102 of this Title.

(c) Revocation of Withdrawal.—The Public Water Reserve established by Executive order dated April 17, 1926 (Public Water Reserve 107), Serial Number Colorado 17321, is hereby revoked insofar as it affects the NW¼SW¼ of Section 17, Township 3 South, Range 72 West, Sixth Principal Meridian, which covers a portion of the selected lands identified in this Title.

SECTION 1104. MISCELLANEOUS PROVISIONS.

(a) Definitions.—As used in this Title:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Lake Gulch" means Lake Gulch, Inc., a Colorado corporation, or its successors, heirs or assigns.

(3) The term "offered land" means lands to be conveyed to the United States pursuant to this Title.

(4) The term "selected land" means lands to be transferred to Lake Gulch, Inc., or its successors, heirs or assigns pursuant to this Title.

(5) The term "Blanca Wetlands" means an area of land comprising approximately 9,290 acres, as generally depicted on a map entitled "Blanca Wetlands", dated August 1994, or such land as the Secretary may add thereto by purchase from willing sellers after the date of enactment of this Act utilizing funds provided by this Title or such other moneys as Congress may appropriate.

(b) Time Requirement for Completing Transfer.—It is the intent of Congress that unless the Secretary and Lake Gulch mutually agree otherwise the exchange of lands authorized and directed by this Title shall be completed not later than 6 months after the date of enactment of this Act. In the event the exchange cannot be consummated within such 6-month-time period, the Secretary, upon application by Lake Gulch, is directed to sell to Lake Gulch at appraised fair market value any or all of the parcels (comprising a total of approximately 11 acres) identified in section 1102(d)(1)(C) of this Title as long as the parcel or parcels applied for are not under formal application for transfer to a qualified unit of local government.

(c) Administration of Land Acquired by United States.—In accordance with the provisions of section 206(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)), all lands acquired by the United States pursuant to this Title shall upon acceptance of title by the United States and without further action by the Secretary concerned become part of and be managed as part of the administrative unit or area within which they are located.

TITLE XII—BUTTE COUNTY, CALIFORNIA LAND CONVEYANCE

SECTIN 1201. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds and declares that—

(1) certain landowners in Butte County, California who own property adjacent to the Plumas National Forest have been adversely affected by certain erroneous surveys;

(2) these landowners have occupied or improved their property in good faith and in reliance on erroneous surveys of their properties that they believed are accurate; and

(3) the 1992 Bureau of Land Management dependent resurvey of the Plumas National Forest will correctly establish accurate boundaries between such forest and private lands.

(b) Purpose.—It is the purpose of this Title to authorize and direct the Secretary of Agriculture to convey, without consideration, certain lands in Butte County, California, to persons claiming to have been deprived of title to such lands.

SECTION 1202. DEFINITIONS.

For the purpose of this Title—

(1) the term "affected lands" means those Federal lands located in the Plumas National Forest in Butte County, California, in sections 11, 12, 13, and 14, township 21 north, range 5 East, Mount Diablo Meridian, as described by the dependent resurvey by the Bureau of Land Management conducted in 1992, and subsequent Forest Service land line location surveys, including all adjoining parcels where the property line as identified by the 1992 BLM dependent resurvey and National Forest boundary lines before such dependent resurvey are not coincident;

(2) the term "claimant" means an owner of real property in Butte County, California, whose real property adjoins Plumas National Forest lands described in subsection (a), who claims to have been deprived by the United States of title to property as a result of previous erroneous surveys; and

(3) the term "Secretary" means the Secretary of Agriculture.

SECTION 1203. CONVEYANCE OF LANDS.

Notwithstanding any other provision of law, the Secretary is authorized and directed to convey, without consideration, all right, title, and interest of the United States in and to affected lands as described in section 1202(1), to any claimant or claimants, upon proper application from such claimant or claimants, as provided in section 1204.

SECTION 1204. TERMS AND CONDITIONS OF CONVEYANCE.

(a) Notification.—Not later than 2 years after the date of enactment of this Act, claimants shall notify the Secretary, through the Forest Supervisor of the Plumas National Forest, in writing of their claim to affected lands. Such claim shall be accompanied by—

(1) a description of the affected lands claimed;

(2) information relating to the claim of ownership of such lands; and

(3) such other information as the Secretary may require.

(b) Issuance of Deed.—(1) Upon a determination by the Secretary that issuance of a deed for affected lands is consistent with the purpose and requirements of this Title, the Secretary shall issue a quitclaim deed to such claimant for the parcel to be conveyed.

(2) Prior to the issuance of any such deed as provided in paragraph (1), the Secretary shall ensure that—

(A) the parcel or parcels to be conveyed have been surveyed in accordance with the Memorandum of Understanding between the Forest Service and the Bureau of Land Management, dated November 11, 1989;

(B) all new property lines established by such surveys have been monumented and marked; and

(C) all terms and conditions necessary to protect third party and Government Rights-of-Way or other interests are included in the deed.

(3) The Federal Government shall be responsible for all surveys and property line markings necessary to implement this subsection.

(c) Notification to BLM.—The Secretary shall submit to the Secretary of the Interior an authenticated copy of each deed issued pursuant to this Title no later than 30 days after the date such deed is issued.

SECTION 1205. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out the purposes of this Title.

TITLE XIII—CARL GARNER FEDERAL LANDS CLEANUP DAY

SECTION 1301.

The Federal Lands Cleanup Act of 1985 (36 U.S.C. 169i—169i-1) is amended by striking the terms "Federal Lands Cleanup Day" each place it appears and inserting "Carl Garner Federal Lands Cleanup Day."

TITLE XIV—ANAKTUVUK PASS LAND EXCHANGE

SECTION 1401. FINDINGS.

The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act (94 Stat. 2371), enacted on December 2, 1980, established Gates of the Arctic National Park and Preserve and Gates of the Arctic Wilderness. The village of

Anaktuvuk Pass, located in the highlands of the central Brooks Range, is virtually surrounded by these national park and wilderness lands and is the only Native village located within the boundary of a National Park System unit in Alaska.

(2) Unlike most other Alaskan Native communities, the village of Anaktuvuk Pass is not located on a major river, lake, or coastline that can be used as a means of access. The residents of Anaktuvuk Pass have relied increasingly on snow machines in winter and all-terrain vehicles in summer as their primary means of access of pursue caribou and other subsistence resources.

(3) In a 1993 land exchange agreement, linear easements were reserved by the Inupiat Eskimo people for use of all-terrain vehicles across certain national park lands, mostly along stream and river banks. These linear easements proved unsatisfactory, because they provided inadequate access to subsistence resources while causing excessive environmental impact from concentrated use.

(4) The National Park Service and the Nunamiut Corporation initiated discussions in 1985 to address concerns over the use of all-terrain vehicles on park and wilderness land. These discussions resulted in an agreement, originally executed in 1992 and thereafter amended in 1993 and 1994, among the National Park Service, Nunamiut Corporation, the City of Anaktuvuk Pass, and Arctic Slope Regional Corporation. Full effectuation of this agreement, as amended, by its terms requires ratification by the Congress.

SECTION 1402. RATIFICATION OF AGREEMENT.

(a) RATIFICATION.—

(1) IN GENERAL.—The terms, conditions, procedures, covenants, reservations and other provisions set forth in the document entitled "Donation, Exchange of Lands and Interests in Lands and Wilderness Redesignation Agreement Among Arctic Slope Regional Corporation, Nunamiut Corporation, City of Anaktuvuk Pass and the United States of America" (hereinafter referred to in this Title as "the Agreement"), executed by the parties on December 17, 1992, as amended, are hereby incorporated in this Title, are ratified and confirmed, and set forth the obligations and commitments of the United States, Arctic Slope Regional Corporation, Nunamiut Corporation and the City of Anaktuvuk Pass, as a matter of Federal law.

(2) LAND ACQUISITION.—Lands acquired by the United States pursuant to the Agreement shall be administered by the Secretary of the Interior (hereinafter referred to as the "Secretary") as part of Gates of the Arctic National Park and Preserve, subject to the laws and regulations applicable thereto.

(b) MAPS.—The maps set forth as Exhibits C1, C2, and D through I to the Agreement depict the lands subject to the conveyances, retention of surface access rights, access easements and all-terrain vehicle easements. These lands are depicted in greater detail on a map entitled "Land Exchange Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,039, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the offices of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska. Written legal descriptions of these lands shall be prepared and made available in the above offices. In case of any discrepancies, Map No. 185/80,039 shall be controlling.

SECTION 1403. NATIONAL PARK SYSTEM WILDERNESS.

(a) GATES OF THE ARCTIC WILDERNESS.—

(1) REDESIGNATION.—Section 701(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2417) establishing the Gates of the Arctic Wilderness is hereby amended with the addition of approximately 56,825 acres as wilderness and the rescission of approximately 73,993 acres as wilderness, thus revising the Gates of the Arctic Wilderness to approximately 7,034,832 acres.

(2) MAP.—The lands redesignated by paragraph (1) are depicted on a map entitled "Wilderness Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,040, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the office of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska.

(b) NOATAK NATIONAL PRESERVE.—Section 201(8)(a) of the Alaska National Interest Land Conservation Act (94 Stat. 2380) is amended by—

(1) striking "approximately six million four hundred and sixty thousand acres" and inserting in lieu thereof "approximately 6,477,168 acres"; and

(2) inserting "and the map entitled "Noatak National Preserve and Noatak Wilderness Addition" dated September 1994" after "July 1980".

(c) NOATAK WILDERNESS.—Section 701(7) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417) is amended by striking "approximately five million eight hundred thousand acres" and inserting in lieu thereof "approximately 5,817,168 acres".

SECTION 1404. CONFORMANCE WITH OTHER LAW.

(a) ALASKA NATIVE CLAIMS SETTLEMENT ACT.—All of the lands, or interests therein, conveyed to and received by Arctic Slope Regional Corporation or Nunamiut Corporation pursuant to the Agreement shall be deemed conveyed and received pursuant to exchanges under section 22(f) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1621(f)). All of the lands or interests in lands conveyed pursuant to the Agreement shall be conveyed subject to valid existing rights.

(b) ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—Except to the extent specifically set forth in this Title or the Agreement, nothing in this Title or in the Agreement shall be construed to enlarge or diminish the rights, privileges, or obligations of any person, including specifically the preference for subsistence uses and access to subsistence resources provided under the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

TITLE XV—ALASKA PENINSULA SUBSURFACE CONSOLIDATION

SECTION 1501. DEFINITIONS.

As used in this Title.

(1) AGENCY.—The term agency—

(A) means—

(i) any instrumentality of the United States; and

(ii) any Government corporation (as defined in section 9101(1) of title 31, United States Code); and

(B) includes any element of an agency.

(2) ALASKA NATIVE CORPORATION.—The term "Alaska Native Corporation" has the same meaning as is provided for "Native Corporation" in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) FEDERAL LANDS OR INTEREST THEREIN.—The term "Federal lands or interests therein" means any lands or properties owned by the United States (i) which are administered by the Secretary, or (ii) which are subject to a lease to third parties, or (iii) which have been made available to the Secretary for exchange under this section through the concurrence of the director of the agency administering such lands or properties; provided, however, excluded from such lands shall be those lands which are within an existing conservation system unit as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)), and those lands the mineral interest for which are currently under mineral lease.

(4) KONIAG.—The term "Koniag" means Koniag, Incorporated, which is a regional Corporation.

(5) REGIONAL CORPORATION.—The term "Regional Corporation" has the same meaning as is provided in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(6) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of the Interior.

(7) SELECTION RIGHTS.—The term "selection rights" means those rights granted to Koniag, pursuant to subsections (a) and (b) of section 12, and section 14(h)(8), of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613(h)(8)), to receive title to the oil and gas rights and other interests in the subsurface estate of the approximately 275,000 acres of public lands in the State of Alaska identified as "Koniag Selections" on the map entitled "Koniag Interest Lands, Alaska Peninsula", dated May 1989.

SECTION 1502. VALUATION OF KONIAG SELECTION RIGHTS.

(a) Pursuant to subsection (b) hereof, the Secretary shall value the Selection Rights which Koniag possesses within the boundaries of Aniakchak National Monument and Preserve, Alaska Peninsula National Wildlife Refuge, and Becharof National Wildlife Refuge.

(b) VALUE.—

(1) IN GENERAL.—The value of the selection rights shall be equal to the fair market value of—

(A) the oil and gas interests in the lands or interests in lands that are the subject of the selection rights; and

(B) in the case of the lands or interests in lands for which Koniag is to receive the entire subsurface estate, the subsurface estate of the lands or interests in lands that are the subject of the selection rights.

(2) APPRAISAL.—

(A) SELECTION OF APPRAISER.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Title the Secretary and Koniag shall meet to select a qualified appraiser to conduct an appraisal of the selection rights. Subject to clause (ii), the appraiser shall be selected by the mutual agreement of the Secretary and Koniag.

(ii) FAILURE TO AGREE.—If the Secretary and Koniag fail to agree on an appraiser by the date that is 60 days after the date of the initial meeting referred to in clause (i), the Secretary and Koniag shall, by the date that is not later than 90 days after the date of the initial meeting, each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal.

(B) STANDARDS AND METHODOLOGY.—The appraisal shall be conducted in conformity with the standards of the Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)).

(C) SUBMISSION OF APPRAISAL REPORT.—Not later than 180 days after the selection of an appraiser pursuant to subparagraph (A), the appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(3) DETERMINATION OF VALUE.—

(A) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of the receipt of the appraisal report under paragraph (2)(c), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

(B) ALTERNATIVE DETERMINATION OF VALUE.—

(i) IN GENERAL.—Subject to clause (ii), if Koniag does not agree with the value determined by the Secretary under subparagraph (A), the procedures specified in section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716 (d)) shall be used to establish the value.

(ii) AVERAGE VALUE LIMITATION.—The average value per acre of the selection rights shall not be less than the value utilizing the risk adjusted discount cash flow methodology, but in no event may exceed $300.

SECTION 1503. KONIAG ACCOUNT.

(a) IN GENERAL.—

(1) the Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein which are in the State of Alaska for the Selection Rights.

(2) If the value of the federal property to be exchanged is less than the value of the Selection Rights established in section 1501, and if such federal property to be exchanged is not generating receipts to the federal government in excess of one million dollars per year, then the Secretary may exchange the federal property for that portion of the Selection Rights having a value equal to that of the federal property. The remaining selection rights shall remain available for additional exchanges.

(3) For the purposes of any exchange to be consummated under this Title II, if less than all the selection rights are being exchanged, then the value of the selection rights being exchanged shall be equal to the number of acres of selection rights being exchanged multiplied by a fraction, the numerator of which is the value of all the selection rights as determined pursuant to Section 202 hereof and the denominator of which is the total number of acres of selection rights.

(b) ADDITIONAL EXCHANGES.—If, after ten years from the date of the enactment of this Title, the Secretary was unable to conclude such exchanges as may be required to acquire all of the selection rights, he shall conclude exchanges for the remaining selection rights for such federal property as may be identified by Koniag, which property is available for transfer to the administrative jurisdiction of the Secretary under any provision of law and which property, at the time of the proposed transfer to Koniag is not generating receipts to the federal government in excess of one million dollars per year. The Secretary shall keep Koniag advised in a timely manner as to which properties may be available for such transfer. Upon receipt of such identification by Koniag, the Secretary shall request in a timely manner the transfer of such identified property to the administrative jurisdiction of the Department of the Interior. Such property shall not be subject to the geographic limitations of section 206(b) of the Federal Land Policy and Management Act and may be retained by the Secretary solely for purposes of transferring it to Koniag to complete the exchange. Should the value of the property so identified by Koniag be in excess of the value of the remaining selection rights, then Koniag shall have the option of (i) declining to proceed with the exchange and identifying other property or (ii) paying the difference in value between the property rights.

(c) REVENUES.—Any property received by Koniag in an exchange entered into pursuant to subsection (a) of (b) of this section shall be deemed to be an interest in the subsurface for purposes of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) provided, however, should Koniag make a payment to equalize the value in any such exchange, then Koniag will be deemed to hold an undivided interest in the property equal in value to such payment which interest shall not be subject to the provisions of section 9(j).

SECTION 1504. CERTAIN CONVEYANCES.

(a) INTERESTS IN LANDS.—For the purposes of section 21 (c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620 (e)), the receipt of consideration, including, but not limited to, lands, cash or other property, by a Native Corporation for the relinquishment to the United States of land selection rights granted to any Native Corporation under such Act shall be deemed to be an interest in land.

(b) AUTHORITY TO APPOINT AND REMOVE TRUSTEE.—In establishing a Settlement Trust under section 39 of such Act (43 U.S.C. 1629c), Koniag may delegate, in whole or in part, the authority granted to Koniag under subsection (b)(2) of such section to any entity that Koniag may select without affecting the status of the trust as a Settlement Trust under such section.

TITLE XVI—STERLING FOREST

SECTION 1601. FINDINGS.

The Congress finds that—

(1) the Palisades Interstate Park Commission was established pursuant to a joint resolution of the 75th Congress approved in 1937 (Public Resolution No. 65; ch. 706; 50 Stat. 719), and chapter 170 of the Laws of 1937 of the State of New York and chapter 148 of the Laws of 1937 of the State of New Jersey;

(2) the Palisades Interstate Park Commission is responsible for the management of 23 parks and historic sites in New York and New Jersey, comprising over 82,000 acres;

(3) over 8,000,000 visitors annually seek outdoor recreational opportunities within the Palisades Park System;

(4) Sterling Forest is a biologically diverse open space on the New Jersey border comprising approximately 17,500 acres, and is a highly significant watershed area for the State of New Jersey, providing the source for clean drinking water for 25 percent of the State;

(5) Sterling Forest is an important outdoor recreational asset in the northeastern United States, within the most densely populated metropolitan region in the Nation;

(6) Sterling Forest supports a mixture of hardwood forests, wetlands, lakes, glaciated valleys, is strategically located on a wildlife migratory route, and provides important habitat for 27 rare or endangered species;

(7) the protection of Sterling Forest would greatly enhance the Appalachian National Scenic Trail, a portion of which passes through Sterling Forest, and would provide for enhanced recreational opportunities through the protection of lands which are an integral element of the trail and which would protect important trail viewsheds;

(8) stewardship and management costs for units of the Palisades Park System are paid for by the States of New York and New Jersey; thus, the protection of Sterling Forest through the Palisades Interstate Park Commission will involve a minimum of Federal funds;

(9) given the nationally significant watershed, outdoor recreational, and wildlife qualities of Sterling Forest, the demand for open space in the northeastern United States, and the lack of open space in the densely populated tri-state region, there is a clear Federal interest in acquiring the Sterling Forest for permanent protection of the watershed, outdoor recreational resources, flora and fauna, and open space; and

(10) such an acquisition would represent a cost effective investment, as compared with the costs that would be incurred to protect drinking water for the region should the Sterling Forest be developed.

SECTION 1602. PURPOSES.

The purposes of this title are—

(1) to establish the Sterling Forest Reserve in the State of New York to protect the significant watershed, wildlife, and recreational resources within the New York-New Jersey highlands region;

(2) to authorize Federal funding, through the Department of the Interior, for a portion of the acquisition costs for the Sterling Forest Reserve;

(3) to direct the Palisades Interstate Park Commission to convey to the Secretary of the Interior certain interests in lands acquired within the Reserve; and

(4) to provide for the management of the Sterling Forest Reserve by the Palisades Interstate Park Commission.

SECTION 1603. DEFINITIONS.

In this title:

(1) COMMISSION.—The term "Commission" means the Palisades Interstate Park Commission established pursuant to Public Resolution No. 65 approved August 19, 1937 (ch. 707; 50 Stat. 719).

(2) RESERVE.—The term "Reserve" means the Sterling Forest Reserve.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SECTION 1604. ESTABLISHMENT OF THE STERLING FOREST RESERVE.

(a) ESTABLISHMENT.—Upon the certification by the Commission to the Secretary that the Commission has acquired sufficient lands or interests therein to constitute a manageable unit, there is established the Sterling Forest Reserve in the State of New York.

(b) MAP.—

(1) COMPOSITION.—The Reserve shall consist of lands and interests therein acquired by the Commission within the approximately 17,500 acres of lands as generally depicted on the map entitled "Boundary Map, Sterling Forest Reserve", numbered SRF–60,001 and dated July 1, 1994.

(2) AVAILABILITY FOR PUBLIC INSPECTION.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of the Commission and the appropriate offices of the National Park Service.

(c) TRANSFER OF FUNDS.—Subject to subsection (d), the Secretary shall transfer to the Commission such funds as are appropriated for the acquisition of lands and interests therein within the Reserve.

(d) CONDITIONS OF FUNDING.—

(1) AGREEMENT BY THE COMMISSION.—Prior to the receipt of any Federal funds authorized by this Title, the Commission shall agree to the following:

(A) CONVEYANCE OF LANDS IN EVENT OF FAILURE TO MANAGE.—If the Commission fails to manage the lands acquired within the Reserve in a manner that is consistent with this Title, the Commission shall convey fee title to such lands to the United States, and the agreement stated in this subparagraph shall be recorded at the time of purchase of all lands acquired within the Reserve.

(B) CONSENT OF OWNERS.—No lands or interest in land may be acquired with any Federal funds authorized or transferred pursuant to this title except with the consent of the owner of the land or interest in land.

(C) INABILITY TO ACQUIRE LANDS.—If the Commission is unable to acquire all of the lands within the Reserve, to the extent Federal funds are utilized pursuant to this title, the Commission shall acquire all or a portion of the lands identified as "National Park Service Wilderness Easement Lands" and "National Park Service Conservation Easement Lands" on the map described in section 1604(b) before proceeding with the acquisition of any other lands within the Reserve.

(D) CONVEYANCE OF EASEMENT.—Within 30 days after acquiring any of the lands identified as "National Park Service Wilderness Easement Lands" and "National Park Service Conservation Easement Lands" on the map described in section 1604(b), the Commission shall convey to the United States:

(i) conservation easements on the lands described as "National Park Service Wilderness Easement Lands" on the map described in section 1604(b), which easements shall provide that the lands shall be managed to protect their wilderness character; and

(ii) conservation easements on the lands described as "National Park Service Conservation Easement Lands" on the map described in section 1604(b), which easements shall restrict and limit development and use of the property to that development and use that is—

(I) compatible with the protection of the Appalachian National Scenic Trail; and

(II) consistent with the general management plan prepared pursuant to section 1605(b).

(2) MATCHING FUNDS.—Funds may be transferred to the Commission only to the extent that they are matched from funds contributed by non-Federal sources.

SECTION 1605. MANAGEMENT OF THE RESERVE.

(a) IN GENERAL.—The Commission shall manage the lands acquired within the Reserve in a manner that is consistent with the Commission's authorities and with the purposes of this title.

(b) GENERAL MANAGEMENT PLAN.—Within 3 years after the date of enactment of this title, the Commission shall prepare a general management plan for the Reserve and submit the plan to the Secretary for approval.

SECTION 1606. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

(b) LAND ACQUISITION.—Of amounts appropriated pursuant to subsection (a), the Secretary may transfer to the Commission not more than $17,500,000 for the acquisition of lands and interests in land within the Reserve.

TITLE XVII—TAOS PUEBLO LAND TRANSFER

SECTION 1701. LAND TRANSFER.

(a) TRANSFER.—The parcel of land described in subsection (b) is hereby transferred without consideration to the Secretary of the Interior to be held in trust for the Pueblo de Taos. Such parcel shall be a part of the Pueblo de Taos Reservation and shall be managed in accordance with section 4 of the Act of May 21, 1933 (48 Stat. 108) (as amended, including as amended by Public Law 91-550 (84 Stat. 1437)).

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is the land that is generally depicted on the map entitled "Land transferred to the Pueblo of Taos—proposed" and dated September 1994, comprises 764.33 acres, and is situated within sections 25, 26, 35, and 36, Township 27 North, Range 14 East, New Mexico Principal Meridian, within the Wheeler Peak Wilderness, Carson National Forest, Taos County, New Mexico.

(c) CONFORMING BOUNDARY ADJUSTMENTS.—The boundaries of the Carson National Forest and the Wheeler Peak Wilderness are hereby adjusted to reflect the transfer made by subsection (a).

(d) RESOLUTION OF OUTSTANDING CLAIMS.—The Congress finds and declares that, as a result of the enactment of this Act, the Taos Pueblo has no unresolved equitable or legal claims against the United States on the lands to be held in trust and to become part of the Pueblo de Taos Reservation under this Title.

TITLE XVIII—SKI FEES

SECTION 1801. SKI AREA PERMIT RENTAL CHARGE.

(a) The Secretary of Agriculture shall charge a rental charge for all ski area permits issued pursuant to section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), or the 9th through 20th paragraphs under the heading "SURVEYING THE PUBLIC LANDS" under the heading "UNDER THE DEPARTMENT OF THE INTERIOR" in the Act of June 4, 1897 (30 Stat. 34, chapter 2), on National Forest System lands. Permit rental charges for permits issued pursuant to the National Forest Ski Area Permit Act of 1986 shall be calculated as set forth in subsection (b). Permit rental charges for existing ski area permits issued pursuant to the Act of March 4, 1915, and the Act of June 4, 1897, shall be calculated in accordance with those existing permits: *Provided*, That a permittee may, at the permittee's option, use the calculation method set forth in subsection (b).

(b)(1) The ski area permit rental charge (SAPRC) shall be calculated by adding the permittee's gross revenues from lift ticket/year-round ski area use pass sales plus revenue from ski school operations (LT+SS) and multiplying such total by the slope transport feet percentage (STFP) on National Forest System land. The amount shall be increased by the gross year-round revenue from ancillary facilities (GRAF) physically located on national forest land, including all permittee or subpermittee lodging, food service, rental shops, parking other ancillary operations, to determine the adjusted gross revenue (AGR) subject to the permit rental charge. The final rental charge shall be calculated by multiplying the AGR by the following percentages for each revenue bracket and adding the total for each revenue bracket:

(A) 1.5 percent of all adjusted gross revenue below $3,000,000;

(B) 2.5 percent for adjusted gross revenue between $3,000,000 and $15,000,000;

(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000; and

(D) 4.0 percent for the amount of adjusted gross revenue that exceed $50,000,000.

Utilizing the abbreviations indicated in this subsection the ski area permit fee (SAPF) formula can be simply illustrated as:

SAPF=((LT+SS)STFP)+GRAF=AGR; AGR%BRACKETS

(2) In cases where ski areas are only partially located on national forest lands, the slope transport feet percentage on national forest land referred to in subsection (b) shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992. Revenues from Nordic ski operations shall be included or excluded from the rental charge calculation according to the percentage of trails physically located on national forest land.

(3) In order to ensure that the rental charge remains fair and equitable to both the United States and the ski area permittees, the adjusted gross revenue figures for each revenue bracket in paragraph (1) shall be adjusted annually by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year. No later than 5 years after the date of enactment of this Act and every 10 years thereafter the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives a report analyzing whether the ski area permit rental charge legislated by this Act is returning a fair market value rental to the United States together with any recommendations the Secretary may have for modifications of the system.

(c) The rental charge set forth in subsection (b) shall be due on June 1 of each year and shall be paid or pre-paid by the permittee on a monthly, quarterly, annual or other schedule as determined appropriate by the Secretary in consultation with the permittee. Unless mutually agreed otherwise by the Secretary and the permittee, the payment or prepayment schedule shall conform to the permittee's schedule in effect prior to enactment of this Act. To reduce costs to the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual rental charge calculation brackets and rates) to be used for rental charge calculation and submitted with the rental charge payment. Information provided on such forms shall be compiled by the Secretary annually and kept in the Office of the Chief, U.S. Forest Service.

(d) The ski area permit rental charge set forth in this section shall become effective on June 1, 1996 and cover receipts retroactive to June 1, 1995: Provided, however, That if a permittee has paid rental charges for the period June 1, 1995, to June 1, 1996, under the graduated rate rental charge system formula in effect prior to the date of enactment of this Act, such rental charges shall be credited toward the new rental charge due on June 1, 1996. In order to ensure increasing rental charge receipt levels to the United States during transition from the graduated rate rental charge system formula to the formula of this Act, the rental charge paid by any individual permittee shall be—

(1) for the 1995–1996 permit year, either the rental charge paid for the preceding 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher;

(2) for the 1996–1997 permit year, either the rental charge paid for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher;

(3) for the 1997–1998 permit year, either the rental charge for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher.

If an individual permittee's adjusted gross revenue for the 1995–1996, 1996–1997, or 1997–1998 permit years falls more than 10 percent below the 1994–1995 base year, the rental charge paid shall be the rental charge calculated pursuant to this Act.

(e) Under no circumstances shall revenue, or subpermittee revenue (other than lift ticket, area use pass, or ski school sales) obtained from operations physically located on non-national forest land be included in the ski area permit rental charge calculation.

(f) To reduce administrative costs of ski area permittees and the Forest Service the terms "revenue" and "sales", as used in this section, shall mean actual income from sales and shall not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities or employee lift tickets, discounts, or other goods or services (except for bartered goods and complimentary lift tickets) for which the permittee does not receive money.

(g) In cases where an area of national forest land is under a ski area permit but the permittee does not have revenue or sales qualifying for rental charge payment pursuant to subsection (a), the permittee shall pay an annual minimum rental charge of $2 for each national forest acre under permit or a percentage of appraised land value, as determined appropriate by the Secretary.

(h) Where the new rental charge provided for in subsection (b)(1) results in an increase in permit rental charge greater than one half of one percent of the permittee's adjusted gross revenue as determined under subsection (b)(1), the new rental charge shall be phased in over a five year period in a manner providing for increases of approximately equal increments.

(i) To reduce federal costs in administering the provisions of this Act, the reissuance of a ski area permit to provide activities similar in nature and amount to the activities provided under the previous permit shall not constitute a major Federal action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

SECTION 1802. WITHDRAWALS.

Subject to valid existing rights, all lands located within the boundaries of ski area permits issued prior to, on or after the date of enactment of this Act pursuant to authority of the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), and the Act of June 4, 1897, or the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) are hereby and henceforth automatically withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Such withdrawal shall continue for the full term of the permit and any modification, reissuance, or renewal thereof. Unless the Secretary requests otherwise of the Secretary of the Interior, such withdrawal shall be canceled automatically upon expiration or other termination of the permit and the land automatically restored to all appropriation not otherwise restricted under the public land laws.

TITLE XIX—THE SELMA TO MONTGOMERY NATIONAL HISTORIC TRAIL

SECTION 1901.

That section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end thereof the following new paragraph.

"(20) The Selma to Montgomery National Historic Trail, consisting of 54 miles of city streets and United States Highway 80 from Brown Chapel A.M.E. Church in Selma to the State Capitol Building in Montgomery, Alabama, traveled by voting rights advocates during March 1965 to dramatize the need for voting rights legislation, as generally described in the report of the Secretary of the Interior prepared pursuant to subsection (b) of this section entitled "Selma to Montgomery" and dated April 1993. Maps depicting the route shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered in accordance with this Act, including section 7(h). The Secretary of the Interior, acting through the National Park Service, which shall be the lead Federal agency, shall cooperate with other Federal, State and local authorities to preserve historic sites along the route, including (but not limited to) the Edmund Pettus Bridge and the Brown Chapel A.M.E. Church.".

TITLE XX—UTAH PUBLIC LANDS MANAGEMENT ACT

SECTION 2001. DESIGNATION OF WILDERNESS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the following lands in the State of Utah are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) Certain lands in the Desolation Canyon Wilderness Study Area comprised of approximately 291,130 acres, as generally depicted on a map entitled "Desolation Canyon Proposed Wilderness" and dated December 3, 1995, and which shall be known as the Desolation Canyon Wilderness.

(2) Certain lands in the San Rafael Reef Wilderness Study Area comprised of approximately 57,982 acres, as generally depicted on a map entitled "San Rafael Reef Proposed Wilderness" and dated December 12, 1995, and which shall be known as the San Rafael Reef Wilderness.

(3) Certain lands in the Horseshoe Canyon Wilderness Study Area (North) comprised of approximately 26,118 acres, as generally depicted on a map entitled "Horseshoe/Labyrinth Canyon Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Horseshoe/Labyrinth Canyon Wilderness.

(4) Certain lands in the Crack Canyon Wilderness Study Area comprised of approximately 20, 293 acres, as generally depicted on a map entitled "Crack Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Crack Canyon Wilderness.

(5) Certain lands in the Muddy Creek Wilderness Study Area comprised of approximately 37,245 acres, as generally depicted on a map entitled "Muddy Creek Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Muddy Creek Wilderness.

(6) Certain lands in the Sids Mountain Wilderness Study Area comprised of approximately 44,308 acres, as generally depicted on a map entitled "Sids Mountain Proposed Wilderness" and dated December 12, 1995, and which shall be known as the Sids Mountain Wilderness.

(7) Certain lands in the Mexican Mountain Wilderness Study Area comprised of approximately 33,558 acres, as generally depicted on a map entitled "Mexican Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mexican Mountain Wilderness.

(8) Certain lands in the Phipps-Death Hollow Wilderness Study Area comprised of approximately 41,445 acres, as generally depicted on a map entitled "Phipps-Death Hollow Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Phipps-Death Hollow Wilderness.

(9) Certain lands in the Steep Creek Wilderness Study Area comprised of approximately 21,277 acres, as generally depicted on a map entitled "Steep Creek Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Steep Creek Wilderness.

(10) Certain lands in the North Escalante Canyons/The Gulch Wilderness Study Area comprised of approximately 101,896 acres, as generally depicted on a map entitled "North Escalante Canyons/The Gulch Proposed Wilderness" and dated October 3, 1995, and which shall be known as the North Escalante Canyons/The Gulch Creek Wilderness.

(11) Certain lands in the Scorpion Wilderness Study Area comprised of approximately 16,693 acres, as generally depicted on a map entitled "Scorpion Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Scorpion Wilderness.

(12) Certain lands in the Mt. Ellen-Blue Hills Wilderness Study Area comprised of approximately 65,355 acres, as generally depicted on a map entitled "Mt. Ellen-Blue Hills Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mt. Ellen-Blue Hills Wilderness.

(13) Certain lands in the Bull Mountain Wilderness Study Area comprised of approximately 11,424 acres, as generally depicted on a map entitled "Bull Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Bull Mountain Wilderness.

(14) Certain lands in the Fiddler Butte Wilderness Study Area comprised of approximately 22,180 acres, as generally depicted on a map entitled "Fiddler Butte Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Fiddler Butte Mountain Wilderness.

(15) Certain lands in the Mt. Pennell Wilderness Study Area comprised of approximately 18,619 acres, as generally depicted on a map entitled "Mt. Pennell Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mt. Pennell Wilderness.

(16) Certain lands in the Mt. Hillers Wilderness Study Area comprised of approximately 14,746 acres, as generally depicted on a map entitled "Mt. Hillers Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mt. Hillers Wilderness.

(17) Certain lands in the Little Rockies Wilderness Study Area comprised of approximately 49,001 acres, as generally depicted on a map entitled "Little Rockies Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Little Rockies Wilderness.

(18) Certain lands in the Mill Creek Canyon Wilderness Study Area comprised of approximately 7,846 acres, as generally depicted on a map entitled "Mill Creek Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mill Creek Canyon Wilderness.

(19) Certain lands in the Negro Bill Canyon Wilderness Study Area comprised of approximately 8,321 acres, as generally depicted on a map entitled "Negro Bill Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Negro Bill Canyon Wilderness.

(20) Certain lands in the Floy Canyon Wilderness Study Area comprised of approximately 28,794 acres, as generally depicted on a map entitled "Floy Canyon Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Floy Canyon Wilderness.

(21) Certain lands in the Coal Canyon Wilderness Study Area and the Spruce Canyon

Wilderness Study Area comprised of approximately 56,673 acres, as generally depicted on a map entitled "Coal/Spruce Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Coal/Spruce Canyon Wilderness.

(22) Certain lands in the Flume Canyon Wilderness Study Area comprised of approximately 47,247 acres, as generally depicted on a map entitled "Flume Canyon Proposed Wilderness" and dated December 12, 1995, and which shall be known as the Flume Canyon Wilderness.

(23) Certain lands in the Westwater Canyon Wilderness Study Area comprised of approximately 26,657 acres, as generally depicted on a map entitled "Westwater Canyon Proposed Wilderness" and dated December 12, 1995, and which shall be known as the Westwater Canyon Wilderness.

(24) Certain lands in the Beaver Creek Wilderness Study Area comprised of approximately 24,620 acres, as generally depicted on a map entitled "Beaver Creek Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Beaver Creek Wilderness.

(25) Certain lands in the Fish Springs Wilderness Study Area comprised of approximately 36,142 acres, as generally depicted on a map entitled "Fish Springs Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Fish Springs Wilderness.

(26) Certain lands in the Swasey Mountain Wilderness Study Area comprised of approximately 34,803 acres, as generally depicted on a map entitled "Swasey Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Swasey Mountain Wilderness.

(27) Certain lands in the Parunuweap Canyon Wilderness Study Area comprised of approximately 19,107 acres, as generally depicted on a map entitled "Parunuweap Canyon Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Parunuweap Wilderness.

(28) Certain lands in the Canaan Mountain Wilderness Study Area comprised of approximately 32,395 acres, as generally depicted on a map entitled "Canaan Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Canaan Mountain Wilderness.

(29) Certain lands in the Paria-Hackberry Wilderness Study Area comprised of approximately 94,805 acres, as generally depicted on a map entitled "Paria-Hackberry Proposed Wilderness" and dated December 3, 1995, and which shall be known as the Paria-Hackberry Wilderness.

(30) Certain lands in the Escalante Canyon Tract 5 Wilderness Study Area comprised of approximately 756 acres, as generally depicted on a map entitled "Escalante Canyon Tract 5 Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Escalante Canyon Tract 5 Wilderness.

(31) Certain lands in the Fifty Mile Mountain Wilderness Study Area comprised of approximately 125,823 acres, as generally depicted on a map entitled "Fifty Mile Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Fifty Mile Mountain Wilderness.

(32) Certain lands in the Howell Peak Wilderness comprised of approximately 14,518 acres, as generally depicted on a map entitled "Howell Peak Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Howell Peak Wilderness.

(33) Certain lands in the Notch Peak Wilderness Study Area comprised of approximately 17,678 acres, as generally depicted on a map entitled "Notch Peak Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Notch Peak Wilderness.

(34) Certain lands in the Wah Wah Mountains Wilderness Study Area comprised of approximately 41,311 acres, as generally depicted on a map entitled "Wah Wah Mountains Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Wah Wah Wilderness.

(35) Certain lands in the Mancos Mesa Wilderness Study Area comprised of approximately 48,269 acres, as generally depicted on a map entitled "Mancos Mesa Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mancos Mesa Wilderness.

(36) Certain lands in the Grand Gulch Wilderness Study Area comprised of approximately 52,821 acres, as generally depicted on a map entitled "Grand Gulch Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Grand Gulch Wilderness.

(37) Certain lands in the Dark Canyon Wilderness Study Area comprised of approximately 67,099 acres, as generally depicted on a map entitled "Dark Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Dark Canyon Wilderness.

(38) Certain lands in the Butler Wash Wilderness Study Area comprised of approximately 24,888 acres, as generally depicted on a map entitled "Butler Wash Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Butler Wash Wilderness.

(39) Certain lands in the Indian Creek Wilderness Study Area comprised of approximately 6,742 acres, as generally depicted on a map entitled "Indian Creek Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Indian Creek Wilderness.

(40) Certain lands in the Behind the Rocks Wilderness Study Area comprised of approximately 14,169 acres, as generally depicted on a map entitled "Behind the Rocks Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Behind the Rocks Wilderness.

(41) Certain lands in the Cedar Mountains Wilderness Study Area comprised of approximately 325,647 acres, as generally depicted on a map entitled "Cedar Mountains Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Cedar Mountains Wilderness.

(42) Certain lands in the Deep Creek Mountains Wilderness Study Area comprised of approximately 70,735 acres, as generally depicted on a map entitled "Deep Creek Mountains Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Deep Creek Mountains Wilderness.

(43) Certain lands in the Nutters Hole Wilderness Study Area comprised of approximately 3,688 acres, as generally depicted on a map entitled "Nutters Hole Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Nutters Hole Wilderness.

(44) Certain lands in the Cougar Canyon Wilderness Study Area comprised of approximately 4,370 acres, including those lands located in the State of Nevada, as generally depicted on a map entitled "Cougar Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Cougar Canyon Wilderness.

(45) Certain lands in the Red Mountain Wilderness Study Area comprised of approximately 9,216 acres, as generally depicted on a map entitled "Red Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Red Mountain Wilderness.

(46) Certain lands in the Deep Creek Wilderness Study Area comprised of approximately 3,063 acres, as generally depicted on a map entitled "Deep Creek Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Deep Creek Wilderness.

(47) Certain lands in the Dirty Devil Wilderness Study Area comprised of approximately 75,301 acres, as generally depicted on a map entitled "Dirty Devil Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Dirty Devil Wilderness.

(48) Certain lands in the Horseshoe Canyon South Wilderness Study Area comprised of approximately 11,393 acres, as generally depicted on a map entitled "Horseshoe Canyon South Proposed Wilderness" and dated September 18, 1995, and which shall be known as the 49 Wilderness.

(49) Certain lands in the French Spring-Happy Canyon Wilderness Study Area comprised of approximately 13,766 acres, as generally depicted on a map entitled "French Spring-Happy Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the French Spring-Happy Canyon Wilderness.

(50) Certain lands in the Road Canyon Wilderness Study Area comprised of approximately 33,783 acres, as generally depicted on a map entitled "Grand Gulch Proposed Wilderness" and dated December 8, 1995, and which shall be known as the Road Canyon Wilderness.

(51) Certain lands in the Fish & Owl Creek Wilderness Study Area comprised of approximately 16,562 acres, as generally depicted on a map entitled "Grand Gulch Proposed Wilderness" and dated December 8, 1995, and which shall be known as the Fish & Owl Creek Wilderness.

(52) Certain lands in the Turtle Canyon Wilderness Study Area comprised of approximately 27,480 acres, as generally depicted on a map entitled "Desolation Canyon Proposed Wilderness" and dated December 3, 1995, and which shall be known as the Turtle Canyon Wilderness.

(53) Certain lands in the The Watchman Wilderness Study Area comprised of approximately 664 acres, as generally depicted on a map entitled "The Watchman Proposed Wilderness" and dated December 8, 1995, and which shall be known as the The Watchman Wilderness.

(b) MAP AND DESCRIPTION.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior (hereafter in this Title referred to as the "Secretary") shall file a map and a legal description of each area designated as wilderness by subsection (a) with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Each such map and description shall have the same force and effect as if included in this Title, except that corrections of clerical and typographical errors in each such map and legal description may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, and the office of the State Director of the Bureau of Land Management in the State of Utah, Department of the Interior.

SECTION 2002. ADMINISTRATION OF WILDERNESS AREAS.

(a) In General.—Subject to valid existing rights, each area designated by this Title as wilderness shall be administered by the Secretary in accordance with this Title, the Wilderness Act (16 U.S.C. 1131 et seq.), and section 603 of the Federal Land Policy and Management Act of 1976. Any valid existing rights recognized by this Title shall be determined under applicable laws, including the land use planning process under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712). Any lands or interest in lands within the boundaries of an area designated as wilderness by this Title that is acquired by the United States after the date of enactment of this Act shall be added to and administered as part of the wilderness area within which such lands or interests in lands are located.

(b) Management Plans.—The Secretary shall, within five years after the date of the enactment of this Act, prepare plans to manage the areas designated by this Title as wilderness.

(c) Livestock.—(1) Grazing of livestock in areas designated as wilderness by this Title, where established prior to the date of the enactment of this Act, shall—

(A) continue and not be curtailed or phased out due to wilderness designation or management; and

(B) be administered in accordance with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in House Report 9601126.

(2) Wilderness shall not be used as a suitability criteria for managing any grazing allotment that is subject to paragraph (1).

(d) State Fish and Wildlife.—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1131(d)(7)), nothing in this Title shall be construed as affecting the jurisdiction or responsibilities of the State of Utah with respect to fish and wildlife management activities, including water development for fish and wildlife purposes, predator control, transplanting animals, stocking fish, hunting, fishing and trapping.

(e) Prohibition of Buffer Zones.—The Congress does not intend that designation of an area as wilderness by this Title lead to the creation of protective perimeters or buffer zones around the area. The fact that nonwilderness activities or uses can be seen, heard, or smelled from areas within a wilderness shall not preclude such activities or uses up to the boundary of the wilderness area.

(f) Oil Shale Reserve Number Two.—The area know as "Oil Shale Reserve Number Two" within Desolation Canyon Wilderness (as designated by section 2001(a)(1)), located in Carbon County and Uintah County, Utah, shall not be reserved for oil shale purposes after the date of the enactment of this Title and shall be under the sole jurisdiction of and managed by the Bureau of Land Management.

(g) Roads and Rights-of-Way as Boundaries.—Unless depicted otherwise on a map referred to by this Title, where roads form the boundaries of the areas designated as wilderness by this Title, the wilderness boundary shall be set back from the center line of the road as follows:

(1) 300 feet for high standard roads such as paved highways.

(2) 100 feet for roads equivalent to high standard logging roads.

(3) 30 feet for all unimproved roads not referred to in paragraphs (1) or (2).

(h) Cherry-stemmed Roads.—(1) The Secretary may not close or limit access to any non-Federal road that is bounded on one or both sides by an area designated as wilderness by this Title, as generally depicted on a map referred to in section 2002, without first obtaining written consent from the State of Utah or the political subdivision thereof with general jurisdiction over roads in the area.

(2) Any road described in paragraph (1) may continue to be maintained and repaired by any such entity.

(i) Access.—Reasonable access, including the use of motorized equipment where necessary or customarily or historically employed, shall be allowed on routes within the areas designated wilderness by this Title in existence as of the date of enactment of this Act for the exercise of valid-existing rights, including, but not limited to, access to existing water diversion, carriage, storage and ancillary facilities and livestock grazing improvements and structures. Existing routes as of such date may be maintained and repaired as necessary to maintain their customary or historic uses.

(j) Land Acquisition by Exchange or Purchase.—The Secretary may offer to acquire from nongovernmental entities lands and interests in lands located within or adjacent to areas designated as wilderness by this Title. Lands may be acquired under this subsection only by exchange, donation, or purchase from willing sellers.

(k) Motorboats.—As provided in section 4(d)(1) of the Wilderness Act, within areas designated as wilderness by this Title, the use of motorboats, where such use was established as of the date of enactment of this Act, may be permitted to continue subject to such restrictions as the Secretary deems desirable.

(l) Disclaimer.—Nothing in this Title shall be construed as establishing a precedent with regard to any future wilderness designation, nor shall it constitute an interpretation of any other Act or any wilderness designation made pursuant thereto.

SECTION 2003. WATER RIGHTS.

(a) No Federal Reservation.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising from the designation of areas as wilderness by this Title.

(b) Acquisition and Exercise of Water Rights Under Utah Law.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities on any lands designated as wilderness by this Title pursuant to the substantive and procedural requirements of the State of Utah. Nothing in this Title shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands. Within areas designated as wilderness by this Title, all rights to water granted under the laws of the State of Utah may be exercised in accordance with the substantive and procedural requirements of the State of Utah.

(c) Exercise of Water Rights Generally Under Utah Laws.—Nothing in this Title shall be construed to limit the exercise of water rights as provided under Utah State laws.

(d) Certain Facilities Not Affected.—Nothing in this Title shall affect the capacity, operation, maintenance, repair, modification, or replacement of municipal, agricultural, livestock, or wildlife water facilities in existence as of the date of enactment of this Act within the boundaries of areas designated as wilderness by this Title.

(e) Water Resource Projects.—Nothing in this Title or the Wilderness Act shall be construed to limit or to be a consideration in Federal approvals or denials for access to or use of the Federal lands outside areas designated wilderness by this Title for development and operation of water resource projects, including (but not limited to) reservoir projects. Nothing in this subsection shall create a right of access through a wilderness area designated pursuant to this title for the purposes of such projects.

SECTION 2004. CULTURAL, ARCHAEOLOGICAL, AND PALEONTOLOGICAL RESOURCES.

The Secretary is responsible for the protection (including through the use of mechanical means) and interpretation (including through the use of permanent improvements) of cultural, archaeological, and paleontological resources located within areas designated as wilderness by this Title.

SECTION 2005. NATIVE AMERICAN CULTURAL AND RELIGIOUS USES.

In recognition of the past use of portions of the areas designated as wilderness by this Title by Native Americans for traditional cultural and religious purposes, the Secretary shall assure nonexclusive access from time to time to those sites by Native Americans for such purposes, including (but not limited to) wood gathering for personal use of collecting plants or herbs for religious or medicinal purposes. Such access shall be consistent with the purpose and intent of the Act of August 11, 1978 (42 U.S.C. 1996; commonly referred to as the "American Indian Religious Freedom Act").

SECTION 2006. MILITARY OVERFLIGHTS.

(a) Overflights Not Precluded.—Nothing in this Title, the Wilderness Act, or other land management laws generally applicable to the new areas of the Wilderness Preservation System (or any additions to existing areas) designated by this Title, shall restrict or preclude overflights of military aircraft over such areas, including military overflights that can be seen or heard within such units.

(b) Special Use Airspace.—Nothing in this Title, the Wilderness Act, or other land management laws generally applicable to the new areas of the Wilderness Preservation System (or any additions to existing areas) designated by this Title, shall restrict or preclude the designation of new units of special use airspace or the use or establishment of military flight training rules over such areas.

(c) Communications or Tracking Systems.—Nothing in this Title, the Wilderness Act, or other land management laws generally applicable to new areas of the Wilderness Preservation System (or any additions to existing areas) designated by this Title shall be construed to require the removal of existing communication or electronic tracking systems from areas designated as wilderness by this Title, to prohibit the maintenance of existing communications or electronic tracking systems within such new wilderness areas, or to prevent the installation of portable electronic communication or tracking systems in support of military operations so long as installation, maintenance, and removal of such systems does not require construction of temporary or permanent roads.

SECTION 2007. AIR QUALITY.

(a) In General.—The Congress does not intend that designation of wilderness areas in the State of Utah by this Title lead to reclassification of any airshed to a more stringent Prevented of Significant Deterioration (PSD) classification.

(b) ROLE OF STATE.—Air quality reclassification for the wilderness areas established by this Title shall be the prerogative of the State of Utah. All areas designated as wilderness by this Title are and shall continue to be managed as PSD Class II under the Clean Air Act unless they are reclassified by the State of Utah in accordance with the Clean Air Act.

(c) INDUSTRIAL FACILITIES.—Nothing in this Title shall be construed to restrict or preclude construction, operation, or expansion of industrial facilities outside of the areas designated as wilderness by this Title, including the Hunter Power Facilities, the Huntington Power Facilities, the Intermountain Power Facilities, the Bonanza Power Facilities, the Continental Lime Facilities, and the Brush Wellman Facilities. The permitting and operation of such projects and facilities shall be subject to applicable laws and regulations.

SECTION 2008. WILDERNESS RELEASE.

(a) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712 and 1782).

(b) RELEASE.—Except as provided in subsection (c), any public lands administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1783(c)). Such lands shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712). Such lands shall not be managed for the purpose of protecting their suitability for wilderness designation.

(c) CONTINUING WILDERNESS STUDY AREAS STATUS.—The following wilderness study areas which are under study status by States adjacent to the State of Utah shall continue to be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)):

(1) Bull Canyon: UT00800419/CO00100001.

(2) Wrigley Mesa/Jones Canyon/Black Ridge Canyon West; UT00600116/117/CO00700113A.

(3) Squaw/Papoose Canyon; UT00600227/CO00300265A.

(4) Cross Canyon; UT00600229/CO00300265.

SECTION 2009. EXCHANGE RELATING TO SCHOOL AND INSTITUTIONAL TRUST LANDS.

(a) FINDINGS.—The Congress finds that—

(1) approximately 242,000 acres of school and institutional trust lands are located within or adjacent to areas designated as wilderness by this Title, including 15,000 acres of mineral estate;

(2) such lands were originally granted to the State of Utah for the purpose of generating support for the public schools through the development of natural resources and other methods; and

(3) it is in the interest of the State of Utah and the United States for such lands to be exchanged for interests in Federal lands located outside of wilderness areas to accomplish this purpose.

(b) EXCHANGE.—The Secretary is authorized to accept on behalf of the United States title to all school and institutional trust lands owned by the State of Utah described in Subsection (c)(1) that may be exchanged for lands or interests therein owned by the United States described in Subsection (c)(2) as provided in this section. The exchange of lands under this section shall be subject to valid existing rights, including (but not limited to) the right of the State of Utah to receive, and distribute pursuant to state law, 50 percent of the revenue, less a reasonable administrative fee, from the production of minerals that are leased or would have been subject to leasing pursuant to the Mineral Leasing Act (30 U.S.C. 191 et seq).

(c) STATE AND FEDERAL EXCHANGE LANDS DESCRIBED.—

(1) SCHOOL AND INSTITUTIONAL TRUST LANDS.—The school and institutional trust lands referred to in this section are those lands generally depicted as "Surface and Mineral Offering" on the map entitled "Proposed Land Exchange Utah (H.R. 1745)" and dated December 6, 1995, which—

(A) are located within or adjacent to areas designated by this Title as wilderness; and

(B) were granted by the United States in the Utah Enabling Act to the State of Utah in trust and other lands which under State law must be managed for the benefit of the public school system or the institutions of the State which are designated by the Utah Enabling Act.

(2) FEDERAL LANDS.—The Federal lands referred to in this section are the lands located in the State of Utah which are generally depicted as "Federal Exchange Lands" on the map referred to in paragraph (1).

(d)(1) LAND EXCHANGE FOR EQUAL VALUE.—The lands exchanged pursuant to this section shall be of approximate equal value as determined by nationally recognized appraisal standards.

(2) PARTIAL EXCHANGES.—If the State of Utah so desires, it may identify from time to time by notice to the Secretary portions of the lands described in subsection (c)(1) which it is prepared to exchange together with a list of the portion of the lands in subsection (c)(2) which it intends to acquire in return. In making its selections, the state shall work with the Secretary to minimize or eliminate the retention of federal inholdings or other unmanageable federal parcels as a consequence of the transfer of federal lands, or interests therein, to the state. Upon receipt of such notice, the Secretary shall immediately proceed to conduct the necessary valuations. The valuations shall be completed no later than six months following the state's notice. The Secretary shall then enter into good faith negotiations with the state concerning the value of the lands, or interests therein, involved in each proposed partial exchange. If the value of the lands or interests therein are not approximately equal, the Secretary and the State of Utah shall either agree to modify the lands to be exchanged within the partial exchange or shall provide for a cash equalization payment to equalize the value. Any cash equalization payment shall not exceed 25 percent of the value of the land to be conveyed. The State shall submit all notices of exchange within four years of the date of enactment of this Act.

(3)(i) DEADLINE AND DISPUTE RESOLUTION.—If, after one year from the date of enactment of this Act, the Secretary and the State of Utah have not agreed upon the final terms of some or all of the individual exchanges initiated by the state pursuant to subsection (d)(2), including the value of the lands involved, notwithstanding any other provisions of law, the United States District Court for the District of Utah, Central Division, shall have jurisdiction to hear, determine, and render judgment on the value of any and all lands, or interests therein, involved in the exchange.

(ii) No action provided for in this subsection may be filed with the court sooner than one year and later than five years after the date of enactment of this Act. Any decision of the District Court under this section may be appealed in accordance with the applicable laws and rules.

(4) TRANSFER OF TITLE.—The transfer of lands or cash equalizations shall take place within sixty days following agreement on an individual partial exchange by the Secretary and the Governor of the State of Utah, or acceptance by the governor of the terms of an appropriate order of judgment entered by the district court affecting that partial exchange. The Secretary and the State shall each convey, subject to valid existing rights, all right, title and interest to the lands or interests therein involved in each partial exchange.

(e) DUTIES OF THE PARTIES AND OTHER PROVISIONS RELATING TO THE EXCHANGE.—

(1) MAP AND LEGAL DESCRIPTION.—The State of Utah and the Secretary shall each provide to the other legal descriptions of the lands under their respective jurisdictions which are to be exchanged under this section. The map referred to in subsection 9c)(1) and the legal descriptions provided under this subsection shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management and the office of the State Director of the Bureau of Land Management in the State of Utah, Department of the Interior.

(2) HAZARDOUS MATERIALS.—The Secretary and the State of Utah shall inspect all pertinent records and shall conduct a physical inspection of the lands to be exchanged pursuant to this Title for the presence of any hazardous materials as presently defined by applicable law. The results of those inspections shall be made available to the parties. The responsibility for costs of remedial action related to such materials shall be borne by those entities responsible under existing law.

(3) PROVISIONS RELATING TO FEDERAL LANDS.—(A) The enactment of this Act shall be construed as satisfying the provisions of section 206(a) of the Federal Land Policy and Management Act of 1976 requiring that exchanges of lands be in the public interest.

(B) The transfer of lands and related activities required of the Secretary under this section shall not be subject to the National Environmental Policy Act of 1969.

(C) The value of Federal lands transferred to the State under this section shall be adjusted to reflect the right of the State of Utah under Federal law to share the revenues from such Federal lands, and the conveyances under this section to the State of Utah shall be subject to such revenue sharing obligations as a valid existing right.

(D) Subject to valid existing rights, the Federal lands described in subsection (c)(2) are hereby withdrawn from disposition under the public land laws and from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from operation of the Geothermal Steam Act of 1970, and from the operation of the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following). The Secretary shall have the authority to extend any existing leases on such Federal lands prior to consummation of the exchange.

(4) PROCEEDS FROM LEASE AND PRODUCTION OF MINERALS AND SALES AND HARVESTS OF TIMBER.—

(A) Collection and Distribution.—The State of Utah, in connection with the management of the school and institutional trust lands described in subsections (c)(2) and (d), shall upon conveyance of such lands, collect and distribute all proceeds from the lease and production of minerals and the sale and harvest of timber on such lands as required by law until the State, as trustee, no longer owns the estate from which the proceeds are produced.

(B) Disputes.—A dispute concerning the collection and distribution of proceeds under subparagraph (A) shall be resolved in accordance with State law.

(f) Administration of Lands Acquired by the United States.—The lands and interests in lands acquired by the United States under this section shall be added to and administered as part of areas of the public lands, as indicated on the maps referred to in this section or in section 2002, as applicable.

SECTION 2010. LAND APPRAISAL.

Lands and interests in lands acquired pursuant to this title shall be appraised without regard to the presence of a species listed as threatened or endangered pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SECTION 2011. SAND HOLLOW LAND EXCHANGE.

(a) Definitions.—As used in this section:

(1) District.—The term "District" means the Water Conservancy District of Washington, County, Utah.

(2) Secretary.—The term "Secretary" means the Secretary of the Interior.

(3) Bulloch Site.—The term "Bulloch Site" means the lands located in Kane County, Utah, adjacent to Zion National Park, comprised of approximately 1,380 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(4) Sand Hollow Site.—The term "Sand Hollow Site" means the lands located in Washington County, Utah, comprised of approximately 3,000 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(5) Quail Creek Pipeline.—The term "Quail Creek Pipeline" means the lands located in Washington County, Utah, comprised of approximately 40 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(6) Quail Creek Reservoir.—The term "Quail Creek Reservoir" means the lands located in Washington County, Utah, comprised of approximately 480.5 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(7) Smith Property.—The term "Smith Property" means the lands located in Washington County, Utah, comprised of approximately 1,550 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(b) Exchange.—

(1) In General.—Subject to the provisions of this Title, if within 18 months after the date of the enactment of this Act, the Water Conservancy District of Washington County, Utah, offers to transfer to the United States all right, title, and interest of the District in and to the Bulloch Site, the Secretary of the Interior shall, in exchange, transfer to the District all right, title, and interest of the United States in and to the Sand Hollow Site, the Quail Creek Pipeline and Quail Creek Reservoir, subject to valid existing rights.

(2) Water Rights Associated with the Bulloch Site.—The water rights associated with the Bulloch Site shall not be included in the transfer under paragraph (1) but shall be subject to an agreement between the District and the Secretary that the water remain in the Virgin River as an instream flow from the Bulloch Site through Zion National Park to the diversion point of the District at the Quail Creek Reservoir.

(3) Withdrawal of Mineral Interests.—Subject to valid existing rights, the mineral interests underlying the Sand Hollow Site, the Quail Creek Reservoir, and the Quail Creek Pipeline are hereby withdrawn from disposition under the public land laws and from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from the operation of the Geothermal Steam Act of 1970, and from the operation of the Act of July 31, 1947, commonly known as the "Materials Act of 1947" (30 U.S.C. 601 et seq.).

(4) Grazing.—The exchange of lands under paragraph (1) shall be subject to agreement by the District to continue to permit the grazing of domestic livestock on the Sand Hollow Site under the terms and conditions of existing Federal grazing leases or permits, except that the District, upon terminating any such lease or permit, shall fully compensate the holder of the terminated lease or permit.

(c) Equalization of Values.—The value of the lands transferred out of Federal ownership under subsection (b) either shall be equal to the value of the lands received by the Secretary under subsection (c) or, if not, shall be equalized by—

(1) to the extent possible, transfer of all right, title, and interest of the District in and to lands in Washington County, Utah, and water rights of the District associated thereto, which are within the area providing habitat for the desert tortoise, as determined by the Director of the Bureau of Land Management;

(2) transfer of all right, title, and interest of the District in and to lands in the Smith Site and water rights of the District associated thereto; and

(3) the payment of money to the Secretary, to the extent that lands and rights transferred under paragraphs (1) and (2) are not sufficient to equalize the values of the lands exchanged under subsection (b).

(d) Management of Lands Acquired by United States.—Lands acquired by the Secretary under this section shall be administered by the Secretary, acting through the Director of the Bureau of Land Management, in accordance with the provisions of law generally applicable to the public lands, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(e) National Environmental Policy Act of 1969.—The exchange of lands under this section is not subject to section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

TITLE XXI—FORT CARSON—PINON CANYON MILITARY LANDS WITHDRAWAL

SECTION 2101. WITHDRAWAL AND RESERVATION OF LANDS AT FORT CARSON MILITARY RESERVATION.

(a) Withdrawal.—Subject to valid existing rights and except as otherwise provided in this Title, the lands at the Fort Carson Military Reservation that are described in subsection (c) are hereby withdrawn from all forms of appropriations under the public land laws, including the mining laws, the mineral and geothermal leasing laws, and the mineral materials disposal laws.

(b) Reservation.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering, training, and weapons firing; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) Land Description.—The lands referred to in subsection (a) comprise approximately 3,133.02 acres of public land and approximately 11,415.16 acres of federally-owned minerals in El Paso, Pueblo, and Fremont Counties, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Base", dated March 2, 1992, and filed in accordance with section 2003.

SECTION 2102. WITHDRAWAL AND RESERVATION OF LANDS AT PINON CANYON MANEUVER SITE.

(a) Withdrawal.—Subject to valid existing rights and except as otherwise provided in this title, the lands at the Pinon Canyon Maneuver Site that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, the mineral and geothermal leasing laws, and the mineral materials disposal laws.

(b) Reservation.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering and training; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) Land Description.—The lands referred to in subsection (a) comprise approximately 2,517.12 acres of public lands and approximately 130,139 acres of federally-owned minerals in Los Animas County, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Maneuver Area—Pinon Canyon Site", dated March 2, 1992, and filed in accordance with section 2003.

SECTION 2103. MAPS AND LEGAL DESCRIPTIONS.

(a) Preparation.—As soon as practicable after the date of enactment of this Title, the Secretary of the Interior shall publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this Act.

(b) Legal Effect.—Such maps and legal descriptions shall have the same force and effect as if they were included in this Title, except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) Location of Maps.—Copies of such maps and legal descriptions shall be available for public inspection in the offices of the Colorado State Director and the Canon City District Manager of the Bureau of Land Management, and the Commander, Fort Carson, Colorado.

(d) Costs.—The Secretary of the Army shall reimburse the Secretary of the Interior for the costs of implementing this section.

SECTION 2104. MANAGEMENT OF WITHDRAWN LANDS.

(a) Management Guidelines.—(1) Except as provided in section 2005, during the period of withdrawal the Secretary of the Army shall manage for military purposes the lands covered by this Title and may authorize use of such lands covered by the other military departments and agencies of the Department of Defense, and the National Guard, as appropriate.

(2) When military operations, public safety, or national security, as determined by

the Secretary of the Army, require the closure of roads or trails on the lands withdrawn by this Title commonly in public use, the Secretary of the Army is authorized to take such action, except that such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. Appropriate warning notices shall be kept posted during closures.

(3) The Secretary of the Army shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands as a result of military activities and may seek assistance from the Bureau of Land Management in suppressing such fires. The memorandum of understanding required by this subsection (c) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for the transfer of funds from the Department of the Army to the Bureau of Land Management as compensation for such assistance.

(b) MANAGEMENT PLAN.—Not later than 5 years after the date of enactment of this Act, the Secretary of the Army, with the concurrence of the Secretary of the Interior, shall develop a plan for the management of acquired lands and lands withdrawn under sections 2001 and 2002 of this Title for the period of the withdrawal. Such plan shall—

(1) be consistent with applicable law;

(2) include such provisions as may be necessary for proper resource management and protection of the natural, cultural, and other resources and values of such lands; and

(3) identify those withdrawn and acquired lands, if any, which are to be open to mining, or mineral or geothermal leasing, including mineral materials disposal.

(c) IMPLEMENTATION OF MANAGEMENT PLAN.—(1) The Secretary of the Army and the Secretary of the Interior shall enter into a memorandum of understanding to implement the management plan described in subsection (b).

(2) The duration of any such memorandum of understanding shall be the same as the period of withdrawal under section 2007.

(3) The memorandum of understanding may be amended by agreement of both Secretaries.

(d) USE OF CERTAIN RESOURCES.—Subject to valid existing rights, the Secretary of the Army is authorized to utilize sand, gravel, or similar mineral or mineral material resources from lands withdrawn by this Title, when the use of such resources is required for construction needs of the Fort Carson Military Reservation or Pinon Canyon Maneuver Site.

SECTION 2105. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.

Except as provided in section 2004(d) of this title, the Secretary of the Interior shall manage all withdrawn and acquired mineral resources within the boundaries of the Fort Carson Military Reservation and Pinon Canyon Maneuver Site in accordance with section 12 of the Military Lands Withdrawal Act of 1986 (Public Law 99-606; 100 Stat. 3466), as applicable.

SECTION 2106. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing and trapping on the lands withdrawn and reserved by this Title shall be conducted in accordance with section 2671 of title 10, United States Code.

SECTION 2107. TERMINATION OF WITHDRAWAL AND RESERVATION AND EFFECT OF CONTAMINATION.

(a) TERMINATION DATE.—The withdrawal and reservation established by this Title shall terminate 15 years after the date of the enactment of this Act.

(b) DETERMINATION OF CONTINUING MILITARY NEED.—(1) At least three years prior to the termination under subsection (a) of the withdrawal and reservation established by this Title, the Secretary of the Army shall advise the Secretary of the Interior as to whether or not the Department of the Army will have a continuing military need for any of the lands after the termination date.

(2) If the Secretary of the Army concludes under paragraph (1) that there will be a continuing military need for any of the lands after the termination date established by subsection (a), the Secretary of the Army, in accordance with applicable law, shall evaluate the environmental effects of renewal of such withdrawal and reservation, shall hold at least one public hearing in Colorado concerning such evaluation, and shall thereafter file an application for extension of the withdrawal and reservation of such lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals for military uses. The Secretary of the Interior shall notify the Congress concerning such filing.

(3) If the Secretary of the Army concludes under paragraph (1) that prior to the termination date established by subsection (a), there will be no military need for all or any of the lands withdrawn and reserved by this Act, or if, during the period of withdrawal, the Secretary of the Army shall file a notice of intention to relinquish with the Secretary of the Interior.

(c) DETERMINATION OF CONTAMINATION.—Prior to the filing of a notice of intention to relinquish pursuant to subsection (b)(3), the Secretary of the Army shall prepare a written determination as to whether and to what extent the lands are contaminated with explosive, toxic, or other hazardous materials. A copy of the determination made by the Secretary of the Army shall be supplied with the notice of intention to relinquish. Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(d) EFFECT OF CONTAMINATION.—(1) If any land which is the subject of a notice of intention to relinquish under subsection (b)(3) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Army, determines that decontamination is practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination, the land could be opened to the operation of some or all of the public land laws, including the mining laws, the Secretary of the Army shall decontaminate the land to the extent that funds are appropriated for such purpose.

(2) If the Secretaries of the Army and the Interior conclude either that the contamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible, or that the lands cannot be decontaminated sufficiently to allow them to be opened to the operation of the public land laws, or if Congress declined to appropriate funds for decontamination of the lands, the Secretary of the Interior shall not be required to accept the lands proposed for relinquishment.

(3) If, because of their contaminated state, the Secretary of the Interior declines under paragraph (2) to accept jurisdiction of the lands proposed for relinquishment, or if at the expiration of the withdrawal made by the Title the Secretary of the Interior determines that some of the lands withdrawn by this Title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(A) the Secretary of the Army shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(B) after the expiration of the withdrawal, the Secretary of the Army shall undertake no activities on such lands except in connection with decontamination of such lands; and

(C) the Secretary of the Army shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of the subsection.

(4) If the lands are subsequently decontaminated, upon certification by the Secretary of the Army that the lands are safe for all nomilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(5) Nothing in this Title shall affect, or be construed to affect, the Secretary's obligations, if any, to decontaminate such lands pursuant to applicable law, including but not limited to the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 9601 et seq.), and the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.).

(e) PROGRAM OF DECONTAMINATION.—Throughout the duration of the withdrawal and reservation made by the Title, the Secretary of the Army, to the extent funds are made available, shall maintain a program of decontamination of the lands withdrawn by this Title at least at the level of effort carried out during fiscal year 1992.

(f) ACCEPTANCE OF LANDS PROPOSED FOR RELINQUISHMENT.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over those lands proposed for relinquishment, is authorized to revoke the withdrawal and reservation established by this Title as it applies to the lands proposed for relinquishment. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of the public land laws, including the mining laws if appropriate.

SECTION 2108. DELEGATION.

The function of the Secretary of the Army under this Act may be delegated. The functions of the Secretary of the Interior under this Title may be delegated, except that the order referred to in section 2007(f) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SECTION 2109. HOLD HARMLESS PROVISION.

(a) IN GENERAL.—The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injuries or damages to persons or property suffered in the course of any mining, mineral activity, or geothermal leasing activity conducted on lands comprising the Fort Carson Military Reservation or Pinon Canyon Maneuver Site, including liabilities to non-Federal entities under sections 107 or 113 of the

Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9607 and 9613, or section 7003 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6973.

(b) INDEMNIFICATION.—Any party conducting any mining, mineral or geothermal leasing activity on such lands shall indemnify the United States and its departments or agencies thereof against any costs, fees, damages, or other liabilities, including costs of litigation, arising from or related to such mining activities, including costs of minerals disposal, whether arising under the Comprehensive Environmental Resource Compensation and Liability Act, the Resource Conservation and Recovery Act, or otherwise.

SECTION 2110. AMENDMENTS TO MILITARY LANDS WITHDRAWAL ACT OF 1986.

(a) USE OF CERTAIN RESOURCE.—Section 3(f) of the Military Lands Withdrawal Act of 1986 (Public Law 99-606; 100 Stat. 3461) is amended by adding at the end a new paragraph (2) as follows:

"(2) Subject to valid existing rights, the Secretary of the military department concerned may utilize sand, gravel, or similar mineral or material resources from lands withdrawn for the purposes of this Act when the use of such resources is required for construction needs on the respective lands withdrawn by this Act.".

(b) TECHNICAL CORRECTION.—Section 9(b) of the Military lands Withdrawal Act of 1986 (Public Law 99-606; 100 Stat. 3466) is amended by striking "7(f)" and inserting in lieu thereof, "8(f)".

SECTION 2111. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out this Title.

TITLE XXII—SNOWBASIN LAND EXCHANGE ACT

SECTION 2201. FINDINGS AND DETERMINATION.

(a) FINDINGS.—The Congress finds that—

(1) in June 1995, Salt Lake City, Utah, was selected to host the 2002 Winter Olympic Games and the Snowbasin Ski Resort, which is owned by the Sun Valley Company, was identified as the site of six Olympic events: the men's and women's downhills, men's and women's Super-Gs, and men's and women's combined downhills;

(2) in order to adequately accommodate these events, which are traditionally among the most popular and heavily attended at the Winter Olympic Games, major new skiing, visitor, and support facilities will have to be constructed at the Snowbasin Ski Resort on land currently administered by the United States Forest Service;

(3) while certain of these new facilities can be accommodated on National Forest land under traditional Forest Service permitting authorities, the base area facilities necessary to host visitors to the ski area and the Winter Olympics are of such a nature that they should logically be located on private land;

(4) land exchanges have been routinely utilized by the Forest Service to transfer base area lands to many other ski areas, and the Forest Service and the Sun Valley Company have concluded that a land exchange to transfer base area lands at the Snowbasin Ski Resort to the Sun Valley Company is both logical and advisable;

(5) an environmental impact statement and numerous resource studies have been completed by the Forest Service and the Sun Valley Company for the lands proposed to be transferred to the Sun Valley Company by this Title;

(6) the Sun Valley Company has assembled lands with outstanding environmental, recreational, and other values to convey to the Forest Service in return for the lands it will receive in the exchange, and the Forest Service has identified such lands as desirable for acquisition by the United States; and

(7) completion of a land exchange and approval of a development plan for Olympic related facilities at the Snowbasin Ski Resort is essential to ensure that all necessary facilities can be constructed, tested for safety and other purposes, and become fully operational in advance of the 2002 Winter Olympics and earlier pre-Olympic events.

(b) DETERMINATION.—The Congress has reviewed the previous analyses and studies of the lands to be exchanged and developed pursuant to this Title, and has made its own review of these lands and issues involved, and on the basis of those reviews hereby finds and determines that a legislated land exchange and development plan approval with respect to certain National Forest System Lands is necessary to meet Olympic goals and timetables.

SECTION 2202. PURPOSE AND INTENT.

The purpose of this Title is to authorize and direct the Secretary to exchange 1,320 acres of federally-owned land within the Cache National Forest in the State of Utah for lands of approximately equal value owned by the Sun Valley Company. It is the intent of Congress that this exchange be completed without delay within the period specified by section 2104.

SECTION 2203. DEFINITIONS.

As used in this Title—

(1) the term "Sun Valley Company" means the Sun Valley Company, a division of Sinclair Oil Corporation, a Wyoming Corporation, or its successors or assigns; and

(2) the term "Secretary" means the Secretary of Agriculture.

SECTION 2204. EXCHANGE.

(a) FEDERAL SELECTED LANDS.—(1) Not later than 45 days after the final determination of value of the Federal selected lands, the Secretary shall, subject to this Title, transfer all right, title, and interest of the United States in and to the lands referred to in paragraph (2) to the Sun Valley Company.

(2) The lands referred to in paragraph (1) are certain lands within the Cache National Forest in the State of Utah comprising 1,320 acres, more or less, as generally depicted on the map entitled "Snowbasin Land Exchange—Proposed" and dated October 1995.

(b) NON-FEDERAL OFFERED LANDS.—Upon transfer of the Federal selected lands under subsection (a), and in exchange for those lands, the Sun Valley Company shall simultaneously convey to the Secretary all right, title and interest of the Sun Valley Company in and to so much of the following offered lands which have been previously identified by the United States Forest Service as desirable by the United States, or which are identified pursuant to paragraph (5) prior to the transfer of lands under subsection (a), as are of approximate equal value to the Federal selected lands:

(1) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, which comprise approximately 640 acres and are generally depicted on a map entitled "Lightning Ridge Offered Lands", dated October 1995.

(2) Certain lands located within the Cache National Forest in Weber County, Utah, which comprise approximately 635 acres and are generally depicted on a map entitled "Wheeler Creek Watershed Offered Lands-Section 2" dated October 1995.

(3) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, and lying immediately adjacent to the outskirts of the City of Ogden, Utah, which comprise approximately 800 acres and are generally depicted on a map entitled "Taylor Canyon Offered Lands", dated October 1995.

(4) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, which comprise approximately 2,040 acres and are generally depicted on a map entitled "North Fork Ogden River-Devil's Gate Valley", dated October 1995.

(5) Such additional offered lands in the State of Utah as may be necessary to make the values of the lands exchanged pursuant to this Title approximately equal, and which are acceptable to the Secretary.

(c) SUBSTITUTION OF OFFERED LANDS.—If one or more of the precise offered land parcels identified in paragraphs (1) through (4) of subsection (b) is unable to be conveyed to the United States due to appraisal or other reasons, or if the Secretary and the Sun Valley Company mutually agree and the Secretary determines that an alternative offered land package would better serve long term public needs and objectives, the Sun Valley Company may simultaneously convey to the United States alternative offered lands in the State of Utah acceptable to the Secretary in lieu of any or all of the lands identified in paragraph (1) through (4) of subsection (b).

(d) VALUATION AND APPRAISALS.—(1) Values of the lands to be exchanged pursuant to this Title shall be equal as determined by the Secretary utilizing nationally recognized appraisal standards and in accordance with section 206 of the Federal Land Policy and Management Act of 1976. The appraisal reports shall be written to Federal standards as defined in the Uniform Appraisal Standards for Federal Land Acquisitions. If, due to size, location, or use of lands exchanged under this Title, the values are not exactly equal, they shall be equalized by the payment of cash equalization money to the Secretary or the Sun Valley Company as appropriate in accordance with section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)). In order to expedite the consummation of the exchange directed by this Title, the Sun Valley Company shall arrange and pay for appraisals of the offered and selected lands by a qualified appraiser with experience in appraising similar properties and who is mutually acceptable to the Sun Valley Company and the Secretary. The appraisal of the Federal selected lands shall be completed and submitted to the Secretary for technical review and approval no later than 120 days after the date of enactment of this Act, and the Secretary shall make a determination of value not later than 30 days after receipt of the appraisal. In the event the Secretary and the Sun Valley Company are unable to agree to the appraised value of a certain tract or tracts of land, the appraisal, appraisals, or appraisal issues in dispute and a final determination of value shall be resolved through a process of bargaining or submission to arbitration in accordance with section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

(2) In order to expedite the appraisal of the Federal selected lands, such appraisal shall—

(A) value the land in its unimproved state, as a single entity for its highest and best use as if in private ownership and as of the date of enactment of this Act;

(B) consider the Federal lands as an independent property as though in the private marketplace and suitable for development to its highest and best use;

(C) consider in the appraisal any encumbrance on the title anticipated to be in the conveyance to Sun Valley Company and reflect its effect on the fair market value of the property; and

(D) not reflect any enhancement in value to the Federal selected lands based on the existence of private lands owned by the Sun Valley Company in the vicinity of the Snowbasin Ski Resort, and shall assume that private lands owned by the Sun Valley Company are not available for use in conjunction with the Federal selected lands.

SECTION 2205. GENERAL PROVISIONS RELATING TO THE EXCHANGE.

(a) IN GENERAL.—The exchange authorized by this Title shall be subject to the following terms and conditions:

(1) RESERVED RIGHTS-OF-WAY.—In any deed issued pursuant to section 5(a), the Secretary shall reserve in the United States a right of reasonable access across the conveyed property for public access and for administrative purposes of the United States necessary to manage adjacent federally-owned lands. The terms of such reservation shall be prescribed by the Secretary within 30 days after the date of the enactment of this Act.

(2) RIGHT OF RESCISSION.—This Title shall not be binding on either the United States or the Sun Valley Company if, within 30 days after the final determination of value of the Federal selected lands, the Sun Valley Company submits to the Secretary a duly authorized and executed resolution of the Company stating its intention not to enter into the exchange authorized by this Title.

(b) WITHDRAWAL.—Subject to valid existing rights, effective on the date of enactment of this Act, the Federal selected lands described in section 5(a)(2) and all National Forest System lands currently under special use permit to the Sun Valley Company at the Snowbasin Ski Resort are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws) and from disposition under all laws pertaining to mineral and geothermal leasing.

(c) DEED.—The conveyance of the offered lands to the United States under this Title shall be by general warranty or other deed acceptable to the Secretary and in conformity with applicable title standards of the Attorney General of the United States.

(d) STATUS OF LANDS.—Upon acceptance of title by the Secretary, the land conveyed to the United States pursuant to this Title shall become part of the Wasatch or Cache National Forests as appropriate, and the boundaries of such National Forests shall be adjusted to encompass such lands. Once conveyed, such lands shall be managed in accordance with the Act of March 1, 1911, as amended (commonly known as the "Weeks Act"), and in accordance with the other laws, rules and regulations applicable to National Forest System lands. This subsection does not limit the Secretary's authority to adjust the boundaries pursuant to section 11 of the Act of March 1, 1911 ("Weeks Act"). For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Wasatch and Cache National Forests, as adjusted by this Title, shall be considered to be boundaries of the forests as of January 1, 1965.

SECTION 2206. PHASE I FACILITY CONSTRUCTION AND OPERATION.

(a) PHASE I FACILITY FINDING AND REVIEW.—(1) The Congress has reviewed the Snowbasin Ski Area Master Development Plan dated October 1995 (hereinafter in this section referred to as the "Master Plan"). On the basis of such review, and review of previously completed environmental and other resource studies for the Snowbasin Ski Area, Congress hereby finds that the "Phase I" facilities referred to in the Master Plan to be located on National Forest System land after consummation of the land exchange directed by this Title are limited in size and scope, are reasonable and necessary to accommodate the 2002 Olympics, and in some cases are required to provide for the safety of skiing competitors and spectators.

(2) Within 60 days after the date of enactment of this Act, the Secretary and the Sun Valley Company shall review the Master Plan insofar as such plan pertains to Phase I facilities which are to be constructed and operated wholly or partially on National Forest System lands retained by the Secretary after consummation of the land exchange directed by this Title. The Secretary may modify such Phase I facilities upon mutual agreement with the Sun Valley Company or by imposing conditions pursuant to subsection (b) of this section.

(3) Within 90 days after the date of enactment of this Act, the Secretary shall submit the reviewed Master Plan on the Phase I facilities, including any modifications made thereto pursuant to paragraph (2), to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives for a 30-day review period. At the end of the 30-day period, unless otherwise directed by Act of Congress, the Secretary may issue all necessary authorizations for construction and operation of such facilities or modifications thereof in accordance with the procedures and provisions of subsection (b) of this section.

(b) PHASE I FACILITY APPROVAL, CONDITIONS, AND TIMETABLE.—Within 120 days of receipt of an application by the Sun Valley Company to authorize construction and operation of any particular Phase I facility, facilities, or group of facilities, the Secretary, in consultation with the Sun Valley Company, shall authorize construction and operation of such facility, facilities, or group of facilities, subject to the general policies of the Forest Service pertaining to the construction and operation of ski area facilities on National Forest System lands and subject to reasonable conditions to protect National Forest System resources. In providing authorization to construct and operate a facility, facilities, or group of facilities, the Secretary may not impose any condition that would significantly change the location, size, or scope of the applied for Phase I facility unless—

(1) the modification is mutually agreed to by the Secretary and the Sun Valley Company; or

(2) the modification is necessary to protect health and safety. Nothing in this section shall be construed to affect the Secretary's responsibility to monitor and assure compliance with the conditions set forth in the construction and operation authorization.

(c) CONGRESSIONAL DIRECTIONS.—Notwithstanding any other provision of law, Congress finds that consummation of the land exchange directed by this Title and all determinations, authorizations, and actions taken by the Secretary pursuant to this Title pertaining to Phase I facilities on National Forest System lands, or any modifications thereof, to be nondiscretionary actions authorized and directed by Congress and hence to comply with all procedural and other requirements of the laws of the United States. Such determinations, authorizations, and actions shall not be subject to administrative or judicial review.

SECTION 2207. NO PRECEDENT.

Nothing in section 2104(d)(2) of this Title relating to conditions or limitations on the appraisal of the Federal lands, or any provision of section 2106 relating to the approval by the Congress or the Forest Service of facilities on National Forest System lands, shall be construed as a precedent for subsequent legislation.

TITLE XXIII—COLONIAL NATIONAL HISTORICAL PARK

SECTION 2301. COLONIAL NATIONAL HISTORICAL PARK.

(a) TRANSFER AND RIGHTS-OF-WAY.—The Secretary of the Interior (hereinafter in this Title referred to as the "Secretary") is authorized to transfer, without reimbursement, to York County, Virginia, that portion of the existing sewage disposal system, including related improvements and structures, owned by the United States and located within the Colonial National Historical Park, together with such rights-of-way as are determined by the Secretary to be necessary to maintain and operate such system.

(b) REPAIR AND REHABILITATION OF SYSTEM.—The Secretary is authorized to enter into a cooperative agreement with York County, Virginia, under which the Secretary will pay a portion, not to exceed $110,000, of the costs of repair and rehabilitation of the sewage disposal system referred to in subsection (a).

(c) FEES AND CHARGES.—In consideration for the rights-of-way granted under subsection (a), and in recognition of the National Park Service's contribution authorized under subsection (b), the cooperative agreement under subsection (b) shall provide for a reduction in, or the elimination of, the amounts charged to the National Park Service for its sewage disposal. The cooperative agreement shall also provide for minimizing the impact of the sewage disposal system on the park and its resources. Such system may not be enlarged or substantially altered without National Park Service concurrence.

SECTION 2302. INCLUSION OF LAND IN COLONIAL NATIONAL HISTORICAL PARK.

Notwithstanding the provisions of the Act of June 28, 1938 (52 Stat. 1208; 16 U.S.C. 81b et seq.), limiting the average width of the Colonial Parkway, the Secretary of the Interior is authorized to include within the boundaries of Colonial National Historical Park and acquire by donation, exchange, or purchase with donated or appropriated funds—

(1) the lands or interests in lands described as lots 30 to 48, inclusive;

(2) the portion of lot 49 that is 200 feet in width from the existing boundary of Colonial National Historical Park;

(3) a 3.2-acre archaeological site, as shown on the plats titled "Page Landing At Jamestown being a subdivision of property of Neck O Land Limited Partnership" dated June 21, 1989, sheets 2 and 3 of 3 sheets and bearing National Park Service Drawing Number 333.80031; and

(4) all or a portion of the adjoining lot number 11 of the Neck O Land Hundred Subdivision, with or without improvements.

SECTION 2303. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Title.

TITLE XXIV—WOMEN'S RIGHTS NATIONAL HISTORICAL PARK

SECTION 2401. INCLUSION OF OTHER PROPERTIES.

Section 1601(c) of Public Law 96-607 (16 U.S.C. 410ll) is amended to read as follows: "To carry out the purposes of this section there is hereby established the Women's Rights National Historical Park (hereinafter in this section referred to as the "park"). The park shall consist of the following designated sites in Seneca Falls and Waterloo, New York:

"(1) Stanton House, 32 Washington Street, Seneca Falls;

"(2) dwelling, 30 Washington Street, Seneca Falls;

"(3) dwelling, 34 Washington Street, Seneca Falls;

"(4) lot, 26-28 Washington Street, Seneca Falls;

"(5) former Wesleyan Chapel, 126 Fall Street, Seneca Falls;

"(6) theater, 128 Fall Street, Seneca Falls;

"(7) McClintock House, 16 East Williams Street, Waterloo;

"(8) Hunt House, 401 East Williams Street, Waterloo;

"(9) not to exceed 1 acre, plus improvements, as determined by the Secretary, in Seneca Falls for development of a maintenance facility

"(10) dwelling, 1 Seneca Street, Seneca Falls;

"(11) dwelling, 10 Seneca Street, Seneca Falls;

"(12) parcels adjacent to Wesleyan Chapel Block, including Clinton Street, Fall Street, and Mynderse Street, Seneca Falls; and

"(13) dwelling, 12 East Williams Street, Waterloo.".

SECTION 2402. MISCELLANEOUS AMENDMENTS.

Section 1601 of Public Law 96-607 (16 U.S.C. 410ll) is amended by redesignating subsection (i) as "(i)(1)" and inserting at the end thereof the following new paragraph:

"(2) In addition to those sums appropriated prior to the date of enactment of this paragraph for land acquisition and development, there is hereby authorized to be appropriated an additional $2,000,000.".

TITLE XXV—FRANKLIN D. ROOSEVELT FAMILY LANDS

SECTION 2501. ACQUISITION OF LANDS.

(a) IN GENERAL.—(1) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire, by purchase with donated or appropriated funds, donation, or otherwise, lands and interests therein in the following properties located at Hyde Park, New York identified as lands critical for protection as depicted on the map entitled "Roosevelt Family Estate" and dated September 1994—

(A) the "Open Park Hodhome Tract", consisting of approximately 40 acres, which shall be the highest priority for acquisition;

(B) the "Top Cottage Tract", consisting of approximately 30 acres; and

(C) the "Poughkeepsie Shopping Center, Inc. Tract", consisting of approximately 55 acres.

(b) ADMINISTRATION.—Lands and interests therein acquired by the Secretary pursuant to this Title shall be added to, and administered by the Secretary as part of the Franklin Delano Roosevelt National Historic Site or the Eleanor Roosevelt National Historic Site, as appropriate.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated not to exceed $3,000,000 to carry out this Title.

TITLE XXVI—GREAT FALLS HISTORIC DISTRICT, NEW JERSEY

SECTION 2601. FINDINGS.

Congress finds that—

(1) the Great Falls Historic District in the State of New Jersey is an area of historical significance as an early site of planned industrial development, and has remained largely intact, including architecturally significant structures;

(2) the Great Falls Historic District is listed on the National Register of Historic Places and has been designated a National Historic Landmark;

(3) the Great Falls Historic District is situated within a one-half hour's drive from New York City and a 2 hour's drive from Philadelphia, Hartford, New Haven, and Wilmington;

(4) the District was developed by the Society of Useful Manufactures, an organization whose leaders included a number of historically renowned individuals, including Alexander Hamilton; and

(5) the Great Falls Historic District has been the subject of a number of studies that have shown that the District possesses a combination of historic significance and natural beauty worthy of and uniquely situated for preservation and redevelopment.

SECTION 2602. PURPOSES.

The purposes of this Title are—

(1) to preserve and interpret, for the educational and inspirational benefit of the public, the contribution to our national heritage of certain historic and cultural lands and edifices of the Great Falls Historic District, with emphasis on harnessing this unique urban environment for its educational and recreational value; and

(2) to enhance economic and cultural redevelopment within the District.

SECTION 2603. DEFINITIONS.

In this Act:

(1) DISTRICT.—The term "District" means the Great Falls Historic District established by section 5.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SECTION 2604. GREAT FALLS HISTORIC DISTRICT.

(a) ESTABLISHMENT.—There is established the Great Falls Historic District in the city of Paterson, in Passaic County, New Jersey.

(b) BOUNDARIES.—The boundaries of the District shall be the boundaries specified for the Great Falls Historic District listed on the National Register of Historic Places.

SECTION 2605. DEVELOPMENT PLAN.

(a) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may make grants and enter into cooperative agreements with the State of New Jersey, local governments, and private nonprofit entities under which the Secretary agrees to pay not more than 50 percent of the costs of—

(1) preparation of a plan for the development of historic, architectural, natural, cultural, and interpretive resources within the District; and

(2) implementation of projects approved by the Secretary under the development plan.

(b) CONTENTS OF PLAN.—The development plan shall include—

(1) an evaluation of—

(A) the physical condition of historic and architectural resources; and

(B) the environmental and flood hazard conditions within the District; and

(2) recommendations for—

(A) rehabilitating, reconstructing, and adaptively reusing the historic and architectural resources;

(B) preserving viewsheds, focal points, and streetscapes;

(C) establishing gateways to the District;

(D) establishing and maintaining parks and public spaces;

(E) developing public parking areas;

(F) improving pedestrian and vehicular circulation within the District;

(G) improving security within the District, with an emphasis on preserving historically significant structures from arson; and

(H) establishing a visitors' center.

SECTION 2606. RESTORATION, PRESERVATION, AND INTERPRETATION OF PROPERTIES.

(a) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the owners of properties within the District that the Secretary determines to be of historical or cultural significance, under which the Secretary may—

(1) pay not more than 50 percent of the cost of restoring and improving the properties;

(2) provide technical assistance with respect to the preservation and interpretation of the properties; and

(3) mark and provide interpretation of the properties.

(b) PROVISIONS.—A cooperative agreement under subsection (a) shall provide that—

(1) the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes;

(2) no change or alteration may be made in the property except with the agreement of the property owner, the Secretary, and any Federal agency that may have regulatory jurisdiction over the property; and

(3) if at any time the property is converted, used, or disposed of in a manner that is contrary to the purposes of this Act, as determined by the Secretary, the property owner shall be liable to the Secretary for the greater of—

(A) the amount of assistance provided by the Secretary for the property; or

(B) the portion of the increased value of the property that is attributable to that assistance, determined as of the date of the conversion, use, or disposal.

(c) APPLICATIONS.—

(1) IN GENERAL.—A property owner that desires to enter into a cooperative agreement under subsection (a) shall submit to the Secretary an application describing how the project proposed to be funded will further the purposes of the District.

(2) CONSIDERATION.—In making such funds available under this section, the Secretary shall give consideration to projects that provide a greater leverage of Federal funds.

SECTION 2607. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this Title—

(1) $250,000 for grants and cooperative agreements for the development plan under section 6; and

(2) $50,000 for the provision of technical assistance and $3,000,000 for the provision of other assistance under cooperative agreements under section 7.

TITLE XXVII—RIO PUERCO WATERSHED

SECTION 2701. FINDINGS.

Congress finds that—

(1) over time, extensive ecological changes have occurred in the Rio Puerco watershed, including—

(A) erosion of agricultural and range lands;

(B) impairment of waters due to heavy sedimentations;

(C) reduced productivity of renewable resources;

(D) loss of biological diversity;

(E) loss of functioning riparian areas; and

(F) loss of available surface water;

(2) damage to the watershed has seriously affected the economic and cultural well-being of its inhabitants, including—

(A) loss of communities that were based on the land and were self-sustaining; and

(B) adverse effects on the traditions, customs, and cultures of the affected communities;

(3) a healthy and sustainable ecosystem is essential to the long-term economic and cultural viability of the region;

(4) the impairment of the Rio Puerco watershed has caused damage to the ecological and economic well-being of the area below the junction of the Rio Puerco with the Rio Grande, including—

(A) disruption of ecological processes;

(B) water quality impairment;

(C) significant reduction in the water storage capacity and life expectancy of the Elephant Butte Dam and Reservoir system due to sedimentation;

(D) chronic problems of irrigation system channel maintenance; and

(E) increased risk of flooding caused by sediment accumulation;

(5) the Rio Puerco is a major tributary of the Rio Grande, and the coordinated implementation of ecosystem-based best management practices for the Rio Puerco system could benefit the larger Rio Grande system;

(6) the Rio Puerco watershed has been stressed from the loss of native vegetation, introduction of exotic species, and alteration of riparian habitat which had disrupted the original dynamics of the river and disrupted natural ecological processes;

(7) the Rio Puerco watershed is a mosaic of private, Federal, tribal trust, and State land ownership with diverse, sometimes differing management objectives;

(8) development, implementation, and monitoring of an effective watershed management program for the Rio Puerco watershed is best achieved through cooperation among affected Federal, state, local, and tribal entities;

(9) the Secretary of the Interior, acting through the Director of the bureau of Land Management, in consultation with Federal, State, local, and tribal entitles and in cooperation with the Rio Puerco Watershed Committee, is best suited to coordinate management efforts in the Rio Puerco Watershed; and

(10) accelerating the pace of improvement in the Rio Puerco Watershed on a coordinated, cooperative basis will benefit persons living in the watershed as well as downstream users on the Rio Grande.

SECTION 2702. MANAGEMENT PROGRAM.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management shall—

(1) in consultation with the Rio Puerco Management Committee established by section 4—

(A) establish a clearinghouse for research and information on management within the area identified as the Rio Puerco Drainage Basin, as depicted on the map entitled "the Rio Puerco Watershed" dated June 1994, including—

(i) current and historical natural resource conditions; and

(ii) data concerning the extent and causes of watershed impairment; and

(B) establish an inventory of best management practices and related monitoring activities that have been or may be implemented within the area identified as the Rio Puerco Watershed Project, ad depicted on the map entitled "the Rio Puerco Watershed" dated June 1994; and

(2) provide support to the Rio Puerco Management Committee to identify objectives, monitor results of ongoing projects, and develop alternative watershed management plans for the Rio Puerco Drainage Basin, based on best management practices.

(b) RIO PUERCO MANAGEMENT REPORT.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall prepare a report for the improvement of watershed conditions in the Rio Puerco Drainage Basin described in subsection (a)(1).

(2) CONTENTS.—The report under paragraph (1) shall—

(A) identify reasonable and appropriate goals and objectives for landowners and managers in the Rio Puerco watershed;

(B) describe potential alternative actions to meet the goals and objectives, including proven best management practices and costs associated with implementing the actions;

(C) recommend voluntary implementation of appropriate best management practices on public and private lands;

(D) provide for cooperative development of management guidelines for maintaining and improving the ecological, cultural, and economic conditions on public and private lands;

(E) provide for the development of public participation and community outreach programs that would include proposals for—

(i) cooperative efforts with private landowners to encourage implementation of best management practices within the watershed; and

(ii) Involvement of private citizens in restoring the watershed;

(F) provide for the development of proposals for voluntary cooperative programs among the members of the Rio Puerco Management Committee to implement best management practices in a coordinated, consistent, and cost-effective manner;

(G) provide for the encouragement of, and support implementation of, best management practices on private lands; and

(H) provide for the development of proposals for a monitoring system that—

(i) builds on existing data available from private, Federal, and State sources;

(ii) provides for the coordinated collection, evaluation, and interpretation of additional data as needed or collected; and

(iii) will provide information to—

(I) assess existing resource and socioeconomic conditions;

(II) identify priority implementation actions; and

(III) assess the effectiveness of actions taken.

SECTION 2703. RIO PUERCO MANAGEMENT COMMITTEE.

(a) ESTABLISHMENT.—There is established the Rio Puerco Management Committee (referred to in this section as the "Committee").

(b) MEMBERSHIP.—The Committee shall be convened by a representative of the Bureau of Land Management and shall include representatives from—

(1) the Rio Puerco Watershed Committee;

(2) affected tribes and pueblos;

(3) the National Forest Service of the Department of Agriculture;

(4) the Bureau of Reclamation;

(5) the United States Geological Survey;

(6) the Bureau of Indian Affairs;

(7) the United States Fish and Wildlife Service;

(8) the Army Corps of Engineers;

(9) the Natural Resources Conservation Service of the Department of Agriculture;

(10) the State of New Mexico, including the New Mexico Environment Department of the State Engineer;

(11) affected local soil and water conservation districts;

(12) the Elephant Butte Irrigation District;

(13) private landowners; and

(14) other interested citizens.

(c) DUTIES.—The Rio Puerco Management Committee shall—

(1) advise the Secretary of the Interior, acting through the Director of the Bureau of Land Management, on the development and implementation of the Rio Puerco Management Program described in section 3; and

(2) serve as a forum for information about activities that may affect or further the development and implementation of the best management practices described in section 3.

(d) TERMINATION.—The Committee shall terminate on the date that is 10 years after the date of enactment of this Act.

SECTION 2704. REPORT.

Not later than the date that is 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives a report containing—

(1) a summary of activities of the management program under section 3; and

(2) proposals for joint implementation efforts, including funding recommendations.

SECTION 2705. LOWER RIO GRANDE HABITAT STUDY.

(a) IN GENERAL.—The Secretary of the Interior, in cooperation with appropriate State agencies, shall conduct a study of the Rio Grande that—

(1) shall cover the distance from Caballo Lake to Sunland Park, New Mexico; and

(2) may cover a greater distance.

(b) CONTENTS.—The study under subsection (a) shall include—

(1) a survey of the current habitat conditions of the river and its riparian environment;

(2) identification of the changes in vegetation and habitat over the past 400 years and the effect of the changes on the river and riparian area; and

(3) an assessment of the feasibility, benefits, and problems associated with activities to prevent further habitat loss and to restore habitat through reintroduction or establishment of appropriate native plant species.

(c) TRANSMITTAL.—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary of the Interior shall transmit the study under subsection (a) to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives.

SECTION 2706. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out sections 1, 2, 3, 4, and 5 a total of $7,500,000 for the 10 fiscal years beginning after the date of enactment of this Act.

TITLE XXVIII—COLUMBIA BASIN

SECTION 2801. LAND EXCHANGE.

The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to convey to the Boise Cascade Corporation (hereinafter referred to as the "Corporation"), a corporation formed under the statutes of the State of Delaware, with its principal place of business at Boise, Idaho, title to approximately seven acres of land, more or less, located in sections 14 and 23, township 36 north, range 37 east, Willamette Meridian, Stevens County, Washington, further identified in the records of the Bureau of Reclamation, Department of the Interior, as Tract No. GC–19860, and to accept from the Corporation in exchange therefor, title to approximately one hundred and thirty-six acres of land located in section 19, township 37 north, range 38 east and section 33, township 38 north, range 37 east, Willamette Meridian, Stevens County, Washington, and further identified in the records of the Bureau of Reclamation, Department of the Interior, as Tract No. GC–19858 and Tract No. GC–19859, respectively.

SECTION 2802. APPRAISAL.

The properties so exchanged either shall be approximately equal in fair market value or if they are not approximately equal, shall be equalized by the payment of cash to the Corporation or to the Secretary as required or in the event the value of the Corporation's lands is greater, the acreage may be reduced so that the fair market value is approximately equal: *Provided*, That the Secretary shall order appraisals made of the fair market value of each tract of land included in the exchange without consideration for improvements thereon: *Provided further*, That any cash payment received by the Secretary shall be covered in the Reclamation Fund and credited to the Columbia Basin project.

SECTION 2803. ADMINISTRATIVE COSTS.

Costs of conducting the necessary land surveys, preparing the legal description of the lands to be conveyed, performing the appraisals, and administrative costs incurred in completing the exchange shall be borne by the Corporation.

SECTION 2804. LIABILITY FOR HAZARDOUS SUBSTANCES.

(a) The Secretary shall not acquire any lands under this Title if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601)).

(b) Notwithstanding any other provision of law, the United States shall have no responsibility or liability with respect to any hazardous wastes or other substances placed on any of the lands covered by this Title after their transfer to the ownership of any party, but nothing in this Act shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of such lands on the date of their transfer to the ownership of another party. The Corporation shall indemnify the United States for liabilities arising under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601), and the Resource Conservation Recovery Act (42 U.S.C. 6901 et seq.).

SECTION 2805. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this Title.

TITLE XXIX—GRAND LAKE CEMETERY

SECTION 2901. MAINTENANCE OF CEMETERY IN ROCKY MOUNTAIN NATIONAL PARK.

(a) AGREEMENT.—Notwithstanding any other law, not later than 6 months after the date of enactment of this Act, the Secretary of the Interior shall enter into an appropriate form of agreement with the town of Grand Lake, Colorado, authorizing the town to maintain permanently, under appropriate terms and conditions, a cemetery within the boundaries of the Rocky Mountain National Park.

(a) CEMETERY BOUNDARIES.—The cemetery shall be comprised of approximately 5 acres of land, as generally depicted on the map entitled "Grand Lake Cemetery" and dated February 1995.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—The Secretary of the Interior shall place the map described in subsection (b) on file, and make the map available for public inspection, in the headquarters office of the Rocky Mountain National Park.

(d) LIMITATION.—The cemetery shall not be extended beyond the boundaries of the cemetery shown on the map described in subsection (b).

TITLE XXX—OLD SPANISH TRAIL

SECTION 3001. DESIGNATION.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"(36) The Old Spanish Trail, beginning in Santa Fe, New Mexico, proceeding through Colorado and Utah, and ending in Los Angeles, California, and the Northern Branch of the Old Spanish Trail, beginning near Espanola, New Mexico, proceeding through Colorado, and ending near Crescent Junction, Utah."

TITLE XXXI—BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR

SECTION 3101. BOUNDARY CHANCES.

Section 2 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by striking the first sentence and inserting the following new sentence: "The boundaries shall include the lands and water generally depicted on the map entitled Blackstone River Valley National Heritage Corridor Boundary Map, numbered BRV–80–80,011, and dated May 2, 1993.".

SECTION 3102. TERMS.

Section 3(c) of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by inserting immediately before the period at the end the following: ", but may continue to serve after the expiration of this term until a successor has been appointed".

SECTION 3103. REVISION OF PLAN.

Section 6 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by adding at the end the following new subsection:

"(d) REVISION OF PLAN.—(1) Not later than 1 year after the date of enactment of this subsection, the Commission, with the approval of the Secretary, shall revise the Cultural Heritage and Land Management Plan. The revision shall address the boundary change and shall include a natural resource inventory of areas or features that should be protected, restored, managed, or acquired because of their contribution to the understanding of national cultural landscape values.

"(2) No changes other than minor revisions may be made in the approved plan as amended without the approval of the Secretary. The Secretary shall approve or disapprove any proposed change in the plan, except minor revisions, in accordance with subsection (b).".

SECTION 3104. EXTENSION OF COMMISSION.

Section 7 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended to read as follows:

"TERMINATION OF COMMISSION

"SEC. 7. (a) TERMINATION.—Except as provided in subsection (b), the Commission shall terminate on the date that is 10 years after the date of enactment of the Blackstone River Valley National Heritage Corridor Amendments Act of 1995.

"(b) EXTENSION.—The Commission may be extended for an additional term of 10 years if—

"(1) not later than 180 days before the termination of the Commission, the Commission determines that an extension is necessary to carry out this Title;

"(2) the Commission submits a proposed extension to the appropriate committees of the Senate and the House of Representatives; and

"(3) the Secretary, the Governor of Massachusetts, and the Governor of Rhode Island each approve the extension.

"(c) DETERMINATION OF APPROVAL.—The Secretary shall approve the extension if the Secretary finds that—

"(1) the Governor of Massachusetts and the Governor of Rhode Island provide adequate assurances of continued tangible contribution and effective policy support toward achieving the purposes of this Title; and

"(2) the Commission is effectively assisting Federal, State, and local authorities to retain, enhance, and interpret the distinctive character and nationally significant resources of the Corridor.".

SECTION 3105. IMPLEMENTATION OF THE PLAN.

Subsection (c) of section 8 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended to read as follows:

"(c) IMPLEMENTATION.—(1) To assist in the implementation of the Cultural Heritage and Land Management Plan in a manner consistent with purposes of this Title, the Secretary is authorized to undertake a limited program of financial assistance for the purpose of providing funds for the preservation and restoration of structures on or eligible for inclusion on the National Register of Historic Places within the Corridor which exhibit national significance or provide a wide spectrum of historic, recreational, or environmental education opportunities to the general public.

"(2) To be eligible for funds under this section, the Commission shall submit an application to the Secretary that includes—

"(A) a 10-year development plan including those resource protection needs and projects critical to maintaining or interpreting the distinctive character of the Corridor; and

"(B) specific descriptions of annual work programs that have been assembled, the participating parties, roles, cost estimates, cost-sharing, opr cooperative agreements necessary to carry out the development plan.

"(3) Funds made available pursuant to this subsection shall not exceed 50 percent of the total cost of the work programs.

"(4) In making the funds available, the Secretary shall give priority to projects that attract greater non-Federal funding sources.

"(5) Any payment made for the purposes of conservation or restoration of real property or structures shall be subject to an agreement either—

"(A) to convey a conservation or preservation easement to the Department of Environmental Management or to the Historic Preservation Commission, as appropriate, of the State in which the real property or structure is located; or

"(B) that conversion, use, or disposal of the resources so assisted for purposes contrary to the purposes of this Title, as determined by the Secretary, shall result in a right of the United States for reimbursement of all funds expended upon such resources or the proportion of the increased value of the resources attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

"(6) The authority to determine that a conversion, use, or disposal of resources has been carried out contrary to the purposes of this Title in violation of an agreement entered into under paragraph (5)(A) shall be solely at the discretion of the Secretary.".

SECTION 3106. LOCAL AUTHORITY.

Section 5 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), is amended by adding at the end the following new subsection:

"(j) LOCAL AUTHORITY AND PRIVATE PROPERTY NOT AFFECTED.—Nothing in this Title shall be construed to affect or to authorize the Commission to interfere with—

"(1) the rights of any person with respect to private property; or

"(2) any local zoning ordinance or land use plan of the Commonwealth of Massachusetts or a political subdivision of such Commonwealth.".

SECTION 3107. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), as amended, is further amended—

(1) in subsection (a), by striking "$350,000" and inserting "$650,000"; and

(2) by amending subsection (b) to read as follows:

"(b) DEVELOPMENT FUNDS.—For fiscal years 1996, 1997, and 1998, there is authorized to be appropriated to carry out section 8(c), $5,000,000 in the aggregate.".

TITLE XXXII—CUPRUM, IDAHO RELIEF

SECTION 3201. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that:

(1) In 1899, the citizens of Cuprum, Idaho, commissioned E.S. Hesse to conduct a survey describing these lands occupied by their community. The purpose of this survey was to provide a basis for the application for a townsite patent.

(2) In 1909, the Cuprum Townsite patent (Number 52817) was granted, based on an aliqot parts description which was intended to circumscribe the Hesse survey.

(3) Since the day of the patent, the Hesse survey has been used continuously by the community of Cuprum and by Adams Country, Idaho, as the official townsite plat and basis for conveyance of title within the townsite.

(4) Recent boundary surveys conducted by the United States Department of Agriculture, Forest Service, and the United States Department of the Interior, Bureau of Land Management, discovered inconsistencies between the official aliquot parts description of the patented Cuprum Townsite and the Hesse survey. Many lots along the south and east boundaries of the townsite are now known to extend onto National Forest System lands outside the townsite.

(5) It is the determination of Congress that the original intent of the Cuprum Townsite application was to include all the lands described by the Hesse survey.

(b) PURPOSE.—It is the purpose of this Title to amend the 1909 Cuprum Townsite patent to include those additional lands described by the Hesse survey in addition to other lands necessary to provide an administratively acceptable boundary to the National Forest System.

SECTION 3202. AMENDMENT OF PATENT.

(a) The 909 Cuprum Townsite patent is hereby amended to include parcels 1 and 2, identified on the plat, marked as "Township 20 North, Range 3 West, Boise Meridian, Idaho, Section 10: Proposed Patent Adjustment Cuprum Townsite, Idaho" prepared by Payette N.F.—Land Survey Unit, drawn and approved by Tom Betzold, Forest Land Surveyor, on April 25, 1995. Such additional lands are hereby conveyed to the original patentee, Pitts Ellis, trustee, and Probate Judge of Washington County, Idaho, or any successors or assigns in interest in accordance with State law. The Secretary of Agriculture may correct clerical and typographical errors in such plat.

(b) The Federal Government shall survey the Federal property lines and mark and post the boundaries necessary to implement this section.

SECTION 3203. RELEASE.

Notwithstanding section 120 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9620), the United States shall not be liable and shall be held harmless from any and all claims resulting from substances or petroleum products or any other hazardous materials on the conveyed land.

TITLE XXXIII—ARKANSAS AND OKLAHOMA LAND EXCHANGE

SECTION 3301. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that:

(1) The Weyerhaeuser Company has offered to the United States Government an exchange of lands under which Weyerhaeuser would receive approximately 48,000 acres of Federal land in Arkansas and Oklahoma and all mineral interests and oil and gas interests pertaining to these exchanged lands in which the United States Government has an interest in return for conveying to the United States lands owned by Weyerhaeuser consisting of approximately 180,000 acres of forested wetlands and other forest land of public interest in Arkansas and Oklahoma and all mineral interests and all oil and gas interest pertaining to 48,000 acres of these 180,000 cares of exchanged lands in which Weyerhaeuser has an interest, consisting of:

(A) certain lands in Arkansas (Arkansas Ouachita lands) located near Poteau Mountain, Caney Creek Wilderness, Lake Ouachita, Little Missouri Wild and Scenic River, Flatside Wilderness and the Ouachita National Forest;

(B) certain lands in Oklahoma (Oklahoma lands) located near the McCurtain County Wilderness, the Broken Bow Reservoir, the Glover River, and the Ouachita National Forest; and

(C) certain lands in Arkansas (Arkansas Cossatot lands) located on the Little and Cossatot Rivers and identified as the "Pond Creek Bottoms" in the Lower Mississippi River Delta section of the North American Waterfowl Management Plan;

(2) acquisition of the Arkansas Cossatot lands by the United States will remove the lands in the heart of a critical wetland ecosystem from sustained timber production and other development;

(3) the acquisition of the Arkansas Ouachita lands and the Oklahoma lands by the United States for administration by the Forest Service will provide an opportunity for enhancement of ecosystem management of the National Forest System lands and resources;

(4) the Arkansas Ouachita lands and the Oklahoma lands have outstanding wildlife habitat and important recreational values and should continue to be made available for activities such as public hunting, fishing, trapping, nature observation, enjoyment, education, and timber management whenever these activities are consistent with applicable Federal laws and land and resource management plans; these lands, especially in the riparian zones, also harbor endangered, threatened and sensitive plants and animals and the conservation and restoration of these areas are important to the recreational and educational public uses and will represent a valuable ecological resource which should be conserved;

(5) the private use of the lands the United States will convey to Weyerhaeuser will not conflict with established management objectives on adjacent Federal lands;

(6) the lands the United States will convey to Weyerhaeuser as part of the exchange described in paragraph (1) do not contain comparable fish, wildlife, or wetland values;

(7) the values of all lands, mineral interests, and oil and gas interests to be exchanged between the United States and Weyerhaeuser are approximately equal in value; and

(8) the exchange of lands, mineral interests, and oil and gas interests between Weyerhaeuser and the United States is in the public interest.

(b) PURPOSE.—The purpose of this Title is to authorize and direct the Secretary of the Interior and the Secretary of Agriculture, subject to the terms of this Title, to complete, as expeditiously as possible, an exchange of lands, mineral interests, and oil and gas interests with Weyerhaeuser that will provide environmental, land management, recreational, and economic benefits to the States of Arkansas and Oklahoma and to the United States.

SECTION 3302. DEFINITIONS.

As used in this Title:

(a) LAND.—The terms "land" or "lands" mean the surface estate and any other interests therein except for mineral interests and oil and gas interests.

(b) MINERAL INTERESTS.—The term "mineral interests" means geothermal steam and heat and all metals, ores, and minerals of any nature whatsoever, except oil and gas interests, in or upon lands subject to this Title including, but not limited to, coal, lignite, peat, rock, sand, gravel, and quartz.

(c) OIL AND GAS INTERESTS.—The term "oil and gas interests" means all oil and gas of any nature, including carbon dioxide, helium, and gas taken from coal seams, (collectively "oil and gas").

(d) SECRETARIES.—The term "Secretaries" means the Secretary of the Interior and the Secretary of Agriculture.

(e) WEYERHAEUSER.—The term "Weyerhaeuser" means Weyerhaeuser Company, a company incorporated in the State of Washington.

SECTION 3303. EXCHANGE.

(a) EXCHANGE OF LANDS AND MINERAL INTERESTS.—

(1) IN GENERAL.—Subject to paragraph (a)(2) and notwithstanding any other provision of law, within 90 days after the date of the enactment of this Title, the Secretary of Agriculture shall convey to Weyerhaeuser, subject to any valid existing rights, approximately 20,000 acres of Federal lands and mineral interests in the State of Arkansas and approximately 28,000 aces of Federal lands and mineral interests in the State of Oklahoma as depicted on maps entitled "Arkansas-Oklahoma Land Exchange—Federal Arkansas and Oklahoma Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries.

(2) OFFER AND ACCEPTANCE OF LANDS.—The Secretary of Agriculture shall make the conveyance to Weyerhaeuser if Weyerhaeuser conveys deeds of title to the United States, subject to limitations and the reservation described in subsection (b) and which are acceptable to and approved by the Secretary of Agriculture to the following:

(A) approximately 120,000 acres of lands and mineral interests owned by Weyerhaeuser in the State of Oklahoma, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oklahoma Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries;

(B) approximately 35,000 acres of lands and mineral interests owned by Weyerhaeuser in the State of Arkansas, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Ouachita Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries; and

(C) approximately 25,000 acres of lands and mineral interests owned by Weyerhaeuser in the State of Arkansas, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Cossatot Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries.

(b) EXCHANGE OF OIL AND GAS INTERESTS.—

(1) IN GENERAL.—Subject to paragraph (b)(2) and notwithstanding any other provision of law, at the same time as the exchange for land and mineral interests is carried out pursuant to this section, the Secretary of Agriculture shall exchange all Federal oil and gas interests, including existing leases and other agreements, in the lands described in paragraph (a)(1) for equivalent oil and gas interests, including existing leases and other agreements, owned by Weyerhaeuser in the lands described in paragraph (a)(2).

(2) RESERVATION.—In addition to the exchange of oil and gas interests pursuant to paragraph (b)(1), Weyerhaeuser shall reserve oil and gas interests in and under the lands depicted for reservation upon a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oil and Gas Interest Reservation Lands", dated February 1996 and available for public inspection in appropriate offices of the Secretaries. Such reservation shall be subject to the provisions of this Title and a Memorandum of Understanding jointly agreed to by the Forest Service and Weyerhaeuser. Such Memorandum of Understanding shall be completed no later than 60 days after date of enactment of this Title and shall be transmitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives. The Memorandum of Understanding shall not become effective until 30 days after it is received by the Committees.

(c) GENERAL PROVISIONS.—

(1) MAPS CONTROLLING.—The acreage cited in this Title is approximate. In the case of a discrepancy between the description of lands, mineral interests, or oil and gas interests to be exchanged pursuant to subsection (a) and the lands, mineral interests, or oil and gas interest depicted on a map referred to in such subsection, the map shall control. Subject to the notification required by paragraph (3), the maps referenced in this Title shall be subject to such minor corrections as may be agreed upon by the Secretaries and Weyerhaeuser.

(2) FINAL MAPS.—Not later than 180 days after the conclusion of the exchange required by subsections (a) and (b), the Secretaries shall transmit maps accurately depicting the lands and mineral interests conveyed and transferred pursuant to this Title and the acreage and boundary descriptions of such lands and mineral interests to the Committees on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(3) CANCELLATION.—If, before the exchange has been carried out pursuant to subsections (a) and (b), Weyerhaeuser provides written notification to the Secretaries that Weyerhaeuser no longer intends to complete the exchange, with respect to the lands, mineral interests, and oil and gas interests that would otherwise be subject to the exchange, the status of such lands, mineral interests, and oil and gas interests shall revert to the status of such lands, mineral interests, and oil and gas interests as of the day before the date of enactment of this Title and shall be managed in accordance with applicable law and management plans.

(4) WITHDRAWAL.—Subject to valid existing rights, the lands and interests therein depicted for conveyance to Weyerhaeuser on the maps referenced in subsections (a) and (b) are withdrawn from all forms of entry and appropriation under the public land laws (including the mining laws) and from the operation of mineral leasing and geothermal steam leasing laws effective upon the date of the enactment of this Title. Such withdrawal shall terminate 45 days after completion of the exchange provided for in subsections (a) and (b) or on the date of notification by Weyerhaeuser of a decision not to complete the exchange.

SECTION 3304. DESIGNATION AND USE OF LANDS ACQUIRED BY THE UNITED STATES.

(a) NATIONAL FOREST SYSTEM.—

(1) ADDITION TO THE SYSTEM.—Upon approval and acceptance of title by the Secretary of Agriculture, the 155,000 acres of land conveyed to the United States pursuant to Section 3303(a)(2) (A) and (B) of this Act shall be subject to the Act of March 1, 1911 (commonly known as the "Weeks Law") (36 Stat. 961, as amended), and shall be administered by the Secretary of Agriculture in accordance with the laws and regulations pertaining to the National Forest system.

(2) PLAN AMENDMENTS.—No later than 12 months after the completion of the exchange required by this Title, the Secretary of Agriculture shall begin the process to amend applicable land and resource management plans with public involvement pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1604).

(b) OTHER.

(1) ADDITION TO THE NATIONAL WILDLIFE REFUGE SYSTEM.—Once acquired by the United States, the 25,000 acres of land identified in section 3303(a)(2)(C), the Arkansas Cossatot lands, shall be managed by the Secretary of the Interior as a component of the Cossatot National Wildlife Refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee).

(2) PLAN PREPARATION.—Within 24 months after the completion of the exchange required by this Title, the Secretary of the Interior shall prepare and implement a single refuge management plan for the Cossatot National Wildlife Refuge, as expanded by this Title. Such plans shall recognize the important public purposes served by the nonconsumptive activities, other recreational activities, and wildlife-related public use, including hunting, fishing, and trapping. The plan shall permit, to the maximum extent practicable, compatible uses to the extent that they are consistent with sound wildlife management and in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable laws. Any regulations promulgated by the Secretary of the Interior with respect to hunting, fishing, and trapping on those lands shall, to the extent practicable, be consistent with State fish and wildlife laws and regulations. In preparing the management plan and regulations, the Secretary of the Interior shall consult with the Arkansas Game and Fish Commission.

(3) INTERIM USE OF LANDS.—

(A) IN GENERAL.—Except as provided in paragraph (2), during the period beginning on the date of the completion of the exchange of lands required by this Title and ending on the first date of the implementation of the plan prepared under paragraph (2), the Secretary of the Interior shall administer all lands added to the Cossatot National Wildlife Refuge pursuant to this Title in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable laws.

(B) HUNTING SEASONS.—During the period described in subparagraph (A), the duration of any hunting season on the lands described in subsection (1) shall comport with the applicable State law.

SECTION 3305. OUACHITA NATIONAL FOREST BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—Upon acceptance of title by the Secretary of Agriculture of the lands conveyed to the United States pursuant to Section 3303(a)(2) (A) and (B), the boundaries of the Ouachita National Forest shall be adjusted to encompass those lands conveyed to the United States generally depicted on the appropriate maps referred to in section 3303(a). Nothing in this section shall limit the authority of the Secretary of Agriculture to adjust the boundary pursuant to section 11 of the Weeks Law of March 1, 1911. For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Ouachita National Forest, as adjusted by this Title, shall be considered to be the boundaries of the Forest as of January 1, 1965.

(b) MAPS AND BOUNDARY DESCRIPTIONS.—Not later than 180 days after the date of enactment of this Title, the Secretary of Agriculture shall prepare a boundary description of the lands depicted on the map(s) referred to in section 3303(a)(2) (A) and (B). Such map(s) and boundary description shall have the same force and effect as if included in this Title, except that the Secretary of Agriculture may correct clerical and typographical errors.

Mr. MURKOWSKI. Mr. President, it is my understanding that on Monday the Senate will proceed to the consideration of various bills reported by the

Committee on Energy and Natural Resources. It is my intention at that time to offer an amendment in the nature of a substitute to H.R. 1296, a bill to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, and for other purposes.

TAIWAN CONCURRENT RESOLUTION

THOMAS (AND OTHERS) AMENDMENT NO. 3562

Mr. THOMAS (for himself, Mr. HELMS, Mr. DOLE, Mr. MURKOWSKI, Mr. PELL, Mr. SIMON, Mr. MACK, Mr. GRAMS, Mr. PRESSLER, Mr. BROWN, Mr. LUGAR, Mr. D'AMATO, Mr. WARNER, Mr. FORD, Mr. LIEBERMAN, Mr. ROTH, Mr. NICKLES, Mr. HATCH, Mr. GORTON, Mr. CRAIG, Mr. SANTORUM, Mr. DORGAN, Mr. ROBB, Mr. ROCKEFELLER, Mr. BRYAN, Ms. MOSELEY-BRAUN, Mr. KERRY, Mr. DASCHLE, and Mrs. FEINSTEIN) proposed an amendment to the concurrent resolution (H. Con. Res. 148) expressing the sense of the Congress that the United States is committed to the military stability of the Taiwan Straits and United States military forces should defend Taiwan in the event of invasion, missile attack, or blockade by the People's Republic of China; as follows:

Strike out all after the resolving clause and insert in lieu thereof the following:

"That it is the sense of the Congress—

"(1) to deplore the missile tests and military exercises that the People's Republic of China is conducting from March 8 through March 25, 1996, and view such tests and exercises as potentially serious threats to the peace, security, and stability of Taiwan and not in the spirit of the three United States-China Joint Communiqués;

"(2) to urge the Government of the People's Republic of China to cease its bellicose actions directed at Taiwan and enter instead into meaningful dialogue with the Government of Taiwan at the highest levels, such as through the Straits Exchange Foundation in Taiwan and the Association for Relations Across the Taiwan Strait in Beijing, with an eye towards decreasing tensions and resolving the issue of the future of Taiwan;

"(3) that the President should, consistent with section 3(c) of the Taiwan Relations Act of 1979 (22 U.S.C. 3302(c)), immediately consult with Congress on an appropriate United States response to the tests and exercises should the tests or exercises pose an actual threat to the peace, security, and stability of Taiwan;

"(4) that the President should, consistent with the Taiwan Relations Act of 1979 (22 U.S.C. 3301 et seq.), reexamine the nature and quantity of defense articles and services that may be necessary to enable Taiwan to maintain a sufficient self-defense capability in light of the heightened military threat; and

"(5) that the Government of Taiwan should remain committed to the peaceful resolution of its future relations with the People's Republic of China by mutual decision."

Amend the preamble to read as follows:

"Whereas the People's Republic of China, in a clear attempt to intimidate the people and Government of Taiwan, has over the past 9 months conducted a series of military exercises, including missile tests, within alarmingly close proximity to Taiwan;

"Whereas from March 8 through March 15, 1996, the People's Republic of China conducted a series of missile tests within 25 to 35 miles of the 2 principal northern and southern ports of Taiwan, Kaohsiung and Keelung;

"Whereas on March 12, 1996, the People's Republic of China began an 8-day, live-ammunition, joint sea-and-air military exercise in a 2,390 square mile area in the southern Taiwan Strait;

"Whereas on March 18, 1996, the People's Republic of China began a 7-day, live-ammunition, joint sea-and-air military exercise between Taiwan's islands of Matsu and Wuchu;

"Whereas these tests and exercises are a clear escalation of the attempts by the People's Republic of China to intimidate Taiwan and influence the outcome of the upcoming democratic presidential election in Taiwan;

"Whereas through the administrations of Presidents Nixon, Ford, Carter, Reagan, and Bush, the United States has adhered to a "One China" policy and, during the administration of President Clinton, the United States continues to adhere to the "One China" policy based on the Shanghai Communiqué of February 27, 1972, the Joint Communiqué on the Establishment of Diplomatic Relations Between the United States of America and the People's Republic of China of January 1, 1979, and the United States-China Joint Communiqué of August 17, 1982;

"Whereas through the administrations of Presidents Carter, Reagan, and Bush, the United States has adhered to the provisions of the Taiwan Relations Act of 1979, (22 U.S.C. 3301 et seq.) as the basis for continuing commercial, cultural, and other relations between the people of the United States and the people of Taiwan and, during the administration of President Clinton, the United States continues to adhere to the provisions of the Taiwan Relations Act of 1979;

"Whereas relations between the United States and the People's Republic of China rest upon the expectation that the future of Taiwan will be settled solely by peaceful means;

"Whereas the strong interest of the United States in the peaceful settlement of the Taiwan question is one of the central premises of the three United States-China Joint Communiqués and was codified in the Taiwan Relations Act of 1979;

"Whereas the Taiwan Relations Act of 1979 states that peace and stability in the western Pacific "are in the political, security, and economic interests of the United States, and are matters of international concern";

"Whereas the Taiwan Relations Act of 1979 states that the United States considers "any effort to determine the future of Taiwan by other than peaceful means, including by boycotts, or embargoes, a threat to the peace and security of the western Pacific area and of grave concern to the United States";

"Whereas the Taiwan Relations Act of 1979 directs the President to "inform Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom";

"Whereas the Taiwan Relations Act of 1979 further directs that "the President and the Congress shall determine, in accordance with constitutional process, appropriate action by the United States in response to any such danger";

"Whereas the United States, the People's Republic of China, and the Government of Taiwan have each previously expressed their commitment to the resolution of the Taiwan question through peaceful means; and

"Whereas these missile tests and military exercises, and the accompanying statements made by the Government of the People's Republic of China, call into serious question the commitment of China to the peaceful resolution of the Taiwan question: Now, therefore, be it,"

Amend the title so as to read: "Expressing the sense of Congress regarding missile tests and military exercises by the People's Republic of China."

THE ACCELERATED CLEANUP AND ENVIRONMENTAL RESTORATION ACT OF 1996

SMITH (AND CHAFEE) AMENDMENT NO. 3563

(Ordered to lie on the table.)

Mr. SMITH (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed by them to the bill (S. 1285) to reauthorize and amend the Comprehensive Environmental Recovery, Compensation, and Liability Act of 1980, and for other purpose; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Accelerated Cleanup and Environmental Restoration Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—COMMUNITY PARTICIPATION

Sec. 101. Community response organizations; technical assistance grants; improvement of public participation in the Superfund decisionmaking process.

TITLE II—STATE ROLE

Sec. 201. Delegation to the States of authorities with respect to national priorities list facilities.

TITLE III—VOLUNTARY CLEANUP

Sec. 301. Assistance for qualifying State voluntary response programs.
Sec. 302. Brownfield characterization program.
Sec. 303. Treatment of security interest holders and fiduciaries as owners or operators.
Sec. 304. Federal Deposit Insurance Act amendment.
Sec. 305. Contiguous properties.
Sec. 306. Prospective purchasers and windfall liens.
Sec. 307. Safe harbor innocent landholders.

TITLE IV—SELECTION OF REMEDIAL ACTIONS

Sec. 401. Definitions.
Sec. 402. Selection and implementation of remedial actions.
Sec. 403. Remedy selection methodology.
Sec. 404. Remedy selection procedures.
Sec. 405. Completion of physical construction and delisting.
Sec. 406. Transition rules for facilities currently involved in remedy selection.

Sec. 407. Judicial review.
Sec. 408. National Priorities List.

TITLE V—LIABILITY

Sec. 501. Liability exceptions and limitations.
Sec. 502. Contribution from the Fund for certain retroactive liability.
Sec. 503. Allocation of liability for certain facilities.
Sec. 504. Liability of response action contractors.
Sec. 505. Release of evidence.
Sec. 506. Contribution protection.
Sec. 507. Treatment of religious, charitable, scientific, and educational organizations as owners or operators.
Sec. 508. Common carriers.
Sec. 509. Limitation on liability for response costs.

TITLE VI—FEDERAL FACILITIES

Sec. 601. Transfer of authorities.
Sec. 602. Limitation on criminal liability of Federal officers, employees, and agents.
Sec. 603. Innovative technologies for remedial action at Federal facilities.
Sec. 604. Federal facility listing.
Sec. 605. Federal facility listing deferral.
Sec. 606. Transfers of uncontaminated property.

TITLE VII—NATURAL RESOURCE DAMAGES

Sec. 701. Restoration of natural resources.
Sec. 702. Assessment of damages.
Sec. 703. Consistency between response actions and resource restoration standards and alternatives.
Sec. 704. Miscellaneous amendments.

TITLE VIII—MISCELLANEOUS

Sec. 801. Result-oriented cleanups.
Sec. 802. National Priorities List.
Sec. 803. Obligations from the fund for response actions.
Sec. 804. Remediation waste.

TITLE IX—FUNDING

Subtitle A—General Provisions

Sec. 901. Authorization of appropriations from the Fund.
Sec. 902. Orphan share funding.
Sec. 903. Department of Health and Human Services.
Sec. 904. Limitations on research, development, and demonstration programs.
Sec. 905. Authorization of appropriations from general revenues.
Sec. 906. Additional limitations.
Sec. 907. Reimbursement of potentially responsible parties.

TITLE I—COMMUNITY PARTICIPATION

SEC. 101. COMMUNITY RESPONSE ORGANIZATIONS; TECHNICAL ASSISTANCE GRANTS; IMPROVEMENT OF PUBLIC PARTICIPATION IN THE SUPERFUND DECISIONMAKING PROCESS.

(a) AMENDMENT.—Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended by striking subsection (e) and inserting the following:

"(e) COMMUNITY RESPONSE ORGANIZATIONS.—

"(1) ESTABLISHMENT.—The Administrator shall create a community response organization for a facility that is listed or proposed for listing on the National Priorities List—

"(A) if the Administrator determines that a representative public forum will be helpful in promoting direct, regular, and meaningful consultation among persons interested in remedial action at the facility; or

"(B) at the request of—

"(i) 50 individuals residing in, or at least 20 percent of the population of, the area in which the facility is located;

"(ii) a representative group of the potentially responsible parties; or

"(iii) any local governmental entity with jurisdiction over the facility.

"(2) RESPONSIBILITIES.—A community response organization shall—

"(A) solicit the views of the local community on various issues affecting the development and implementation of remedial actions at the facility;

"(B) serve as a conduit of information to and from the community to appropriate Federal, State, and local agencies and potentially responsible parties;

"(C) serve as a representative of the local community during the remedial action planning and implementation process; and

"(D) provide reasonable notice of and opportunities to participate in the meetings and other activities of the community response organization.

"(3) ACCESS TO DOCUMENTS.—The Administrator shall provide a community response organization access to documents in possession of the Federal Government regarding response actions at the facility that do not relate to liability and are not protected from disclosure as confidential business information.

"(4) COMMUNITY RESPONSE ORGANIZATION INPUT.—

"(A) CONSULTATION.—The Administrator (or if the remedial action plan is being prepared or implemented by a party other than the Administrator, the other party) shall—

"(i) consult with the community response organization in developing and implementing the remedial action plan; and

"(ii) keep the community response organization informed of progress in the development and implementation of the remedial action plan.

"(B) TIMELY SUBMISSION OF COMMENTS.—The community response organization shall provide its comments, information, and recommendations in a timely manner to the Administrator (and other party).

"(C) CONSENSUS.—The community response organization shall attempt to achieve consensus among its members before providing comments and recommendations to the Administrator (and other party), but if consensus cannot be reached, the community response organization shall report or allow presentation of divergent views.

"(5) TECHNICAL ASSISTANCE GRANTS.—

"(A) PREFERRED RECIPIENT.—If a community response organization exists for a facility, the community response organization shall be the preferred recipient of a technical assistance grant under subsection (f).

"(B) PRIOR AWARD.—If a technical assistance grant concerning a facility has been awarded prior to establishment of a community response organization—

"(i) the recipient of the grant shall coordinate its activities and share information and technical expertise with the community response organization; and

"(ii) 1 person representing the grant recipient shall serve on the community response organization.

"(6) MEMBERSHIP.—

"(A) NUMBER.—The Administrator shall select not less than 15 nor more than 20 persons to serve on a community response organization.

"(B) NOTICE.—Before selecting members of the community response organization, the Administrator shall provide a notice of intent to establish a community response organization to persons who reside in the local community.

"(C) REPRESENTED GROUPS.—The Administrator shall, to the extent practicable, appoint members to the community response organization from each of the following groups of persons:

"(i) Persons who reside or own residential property near the facility;

"(ii) Persons who, although they may not reside or own property near the facility, may be adversely affected by a release from the facility.

"(iii) Persons who are members of the local public health or medical community and are practicing in the community.

"(iv) Representatives of Indian tribes or Indian communities that reside or own property near the facility or that may be adversely affected by a release from the facility.

"(v) Local representatives of citizen, environmental, or public interest groups with members residing in the community.

"(vi) Representatives of local governments, such as city or county governments, or both, and any other governmental unit that regulates land use or land use planning in the vicinity of the facility.

"(vii) Members of the local business community.

"(D) PROPORTION.—Local residents shall comprise not less than 60 percent of the membership of a community response organization.

"(E) PAY.—Members of a community response organization shall serve without pay.

"(7) PARTICIPATION BY GOVERNMENT REPRESENTATIVES.—Representatives of the Administrator, the Administrator of the Agency for Toxic Substances and Disease Registry, other Federal agencies, and the State, as appropriate, shall participate in community response organization meetings to provide information and technical expertise, but shall not be members of the community response organization.

"(8) ADMINISTRATIVE SUPPORT.—The Administrator shall provide administrative services and meeting facilities for community response organizations.

"(9) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a community response organization.

"(f) TECHNICAL ASSISTANCE GRANTS.—

"(1) DEFINITIONS.—In this subsection:

"(A) AFFECTED CITIZEN GROUP.—The term 'affected citizen group' means a group of 2 or more individuals who may be affected by the release or threatened release of a hazardous substance, pollutant, or contaminant at any facility on the State Registry or the National Priorities List.

"(B) TECHNICAL ASSISTANCE GRANT.—The term 'technical assistance grant' means a grant made under paragraph (2).

"(2) AUTHORITY.—

"(A) IN GENERAL.—In accordance with a regulation issued by the Administrator, the Administrator may make grants available to affected citizen groups.

"(B) AVAILABILITY OF APPLICATION PROCESS.—To ensure that the application process for a technical assistance grant is available to all affected citizen groups, the Administrator shall periodically review the process and, based on the review, implement appropriate changes to improve availability.

"(3) SPECIAL RULES.—

"(A) NO MATCHING CONTRIBUTION.—No matching contribution shall be required for a technical assistance grant.

"(B) AVAILABILITY IN ADVANCE.—The Administrator shall make all or a portion (but not less than $5,000 or 10 percent of the grant amount, whichever is greater) of the grant amount available to a grant recipient in advance of the total expenditures to be covered by the grant.

"(4) LIMIT PER FACILITY.—

"(A) 1 GRANT PER FACILITY.—Not more than 1 technical assistance grant may be made with respect to a single facility, but the grant may be renewed to facilitate public participation at all stages of response action.

"(B) DURATION.—The Administrator shall set a limit by regulation on the number of years for which a technical assistance grant may be made available based on the duration, type, and extent of response action at a facility.

"(5) AVAILABILITY FOR FACILITIES NOT YET LISTED.—Subject to paragraph (6), 1 or more technical assistance grants shall be made available to affected citizen groups in communities containing facilities on the State Registry as of the date on which the grant is awarded.

"(6) FUNDING LIMIT.—

"(A) PERCENTAGE OF TOTAL APPROPRIATIONS.—Not more than 2 percent of the funds made available to carry out this Act for a fiscal year may be used to make technical assistance grants.

"(B) ALLOCATION BETWEEN LISTED AND UNLISTED FACILITIES.—Not more than the portion of funds equal to ⅛ of the total amount of funds used to make technical assistance grants for a fiscal year may be used for technical assistance grants with respect to facilities not listed on the National Priorities List.

"(7) FUNDING AMOUNT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of a technical assistance grant may not exceed $50,000 for a single grant recipient.

"(B) INCREASE.—The Administrator may increase the amount of a technical assistance grant, or renew a previous technical assistance grant, up to a total grant amount not exceeding $100,000, to reflect the complexity of the response action, the nature and extent of contamination at the facility, the level of facility activity, projected total needs as requested by the grant recipient, the size and diversity of the affected population, and the ability of the grant recipient to identify and raise funds from other non-Federal sources.

"(8) USE OF TECHNICAL ASSISTANCE GRANTS.—

"(A) PERMITTED USE.—A technical assistance grant may be used to obtain technical assistance in interpreting information with regard to—

"(i) the nature of the hazardous substances located at a facility;

"(ii) the work plan;

"(iii) the facility evaluation;

"(iv) a proposed remedial action plan, a remedial action plan, and a final remedial design for a facility;

"(v) response actions carried out at the facility; and

"(vi) operation and maintenance activities at the facility.

"(B) PROHIBITED USE.—A technical assistance grant may not be used for the purpose of collecting field sampling data.

"(9) GRANT GUIDELINES.—

"(A) IN GENERAL.—Not later than 90 days after the date of enactment of this paragraph, the Administrator shall develop and publish guidelines concerning the management of technical assistance grants by grant recipients.

"(B) HIRING OF EXPERTS.—A recipient of a technical assistance grant that hires technical experts and other experts shall act in accordance with the guidelines under subparagraph (A).

"(g) IMPROVEMENT OF PUBLIC PARTICIPATION IN THE SUPERFUND DECISIONMAKING PROCESS.—

"(1) IN GENERAL.—

"(A) MEETINGS AND NOTICE.—In order to provide an opportunity for meaningful public participation in every significant phase of response activities under this Act, the Administrator shall provide the opportunity for, and publish notice of, public meetings before or during performance of—

"(i) a facility evaluation, as appropriate;

"(ii) announcement of a proposed remedial action plan; and

"(iii) completion of a final remedial design.

"(B) INFORMATION.—A public meeting under subparagraph (A) shall be designed to obtain information from the community, and disseminate information to the community, with respect to a facility concerning the Administrator's facility activities and pending decisions.

"(2) PARTICIPANTS AND SUBJECT.—The Administrator shall provide reasonable notice of an opportunity for public participation in meetings in which—

"(A) the participants include Federal officials (or State officials, if the State is conducting response actions under a delegated or authorized program or through facility referral) with authority to make significant decisions affecting a response action, and other persons (unless all of such other persons are coregulators that are not potentially responsible parties or are government contractors); and

"(B) the subject of the meeting involves discussions directly affecting—

"(i) a legally enforceable work plan document, or any significant amendment to the document, for a removal, facility evaluation, proposed remedial action plan, final remedial design, or remedial action for a facility on the National Priorities List; or

"(ii) the final record of information on which the Administrator will base a hazard ranking system score for a facility.

"(3) LIMITATION.—Nothing in this subsection shall be construed—

"(A) to provide for public participation in or otherwise affect any negotiation, meeting, or other discussion that concerns only the potential liability or settlement of potential liability of any person, whether prior to or following the commencement of litigation or administrative enforcement action;

"(B) to provide for public participation in or otherwise affect any negotiation, meeting, or other discussion that is attended only by representatives of the United States (or of a department, agency, or instrumentality of the United States) with attorneys representing the United States (or of a department, agency, or instrumentality of the United States); or

"(C) to waive, compromise, or affect any privilege that may be applicable to a communication related to an activity described in subparagraph (A) or (B).

"(4) EVALUATION.—

"(A) IN GENERAL.—To the extent practicable, before and during the facility evaluation, the Administrator shall solicit and evaluate concerns, interests, and information from the community.

"(B) PROCEDURE.—An evaluation under subparagraph (A) shall include, as appropriate—

"(i) face-to-face community surveys to identify the location of private drinking water wells, historic and current or potential use of water, and other environmental resources in the community;

"(ii) a public meeting;

"(iii) written responses to significant concerns; and

"(iv) other appropriate participatory activities.

"(5) VIEWS AND PREFERENCES.—

"(A) SOLICITATION.—During the facility evaluation, the Administrator (or other person performing the facility evaluation) shall solicit the views and preferences of the community on the remediation and disposition of hazardous substances or pollutants or contaminants at the facility.

"(B) CONSIDERATION.—The views and preferences of the community shall be described in the facility evaluation and considered in the screening of remedial alternatives for the facility.

"(6) ALTERNATIVES.—Members of the community may propose remedial action alternatives, and the Administrator shall consider such alternatives in the same manner as the Administrator considers alternatives proposed by potentially responsible parties.

"(7) INFORMATION.—

"(A) THE COMMUNITY.—The Administrator, with the assistance of the community response organization under subsection (g) if there is one, shall provide information to the community and seek comment from the community throughout all significant phases of the response action at the facility.

"(B) TECHNICAL STAFF.—The Administrator shall ensure that information gathered from the community during community outreach efforts reaches appropriate technical staff in a timely and effective manner.

"(C) RESPONSES.—The Administrator shall ensure that reasonable written or other appropriate responses will be made to such information.

"(8) NONPRIVILEGED INFORMATION.—Throughout all phases of response action at a facility, the Administrator shall make all nonprivileged information relating to a facility available to the public for inspection and copying without the need to file a formal request, subject to reasonable service charges as appropriate.

"(9) PRESENTATION.—

"(A) DOCUMENTS.—

"(i) IN GENERAL.—The Administrator, in carrying out responsibilities under this Act, shall ensure that the presentation of information on risk is complete and informative.

"(ii) RISK.—To the extent feasible, documents prepared by the Administrator and made available to the public that purport to describe the degree of risk to human health shall, at a minimum, state—

"(I) the distribution of risk, including upperbound and lowerbound estimates of the incremental risk;

"(II) the population or populations addressed by any estimates of the risk;

"(III) the expected risk or central estimate of the risk for the specific population;

"(IV) the reasonable range or other description of uncertainties in the assessment process; and

"(V) the assumptions that form the basis for any estimates of such risk posed by the facility and a brief explanation of the assumptions.

"(B) COMPARISONS.—The Administrator, in carrying out responsibilities under this Act, shall provide comparisons of the level of risk from hazardous substances found at the facility to comparable levels of risk from those hazardous substances ordinarily encountered by the general public through other sources of exposure.

"(10) REQUIREMENTS.—

"(A) LENGTHY REMOVAL ACTIONS.—Notwithstanding any other provision of this subsection, in the case of a removal action taken in accordance with section 104 that is expected to require more than 180 days to complete, and in any case in which implementation of a removal action is expected to obviate or that in fact obviates the need to conduct a long-term remedial action—

"(i) the Administrator shall, to the maximum extent practicable, allow for public participation consistent with paragraph (1); and

"(ii) the removal action shall achieve the goals of protecting human health and the environment in accordance with section 121(a)(1).

"(B) OTHER REMOVAL ACTIONS.—In the case of all other removal actions, the Administrator may provide the community with notice of the anticipated removal action and a public comment period, as appropriate.".

(b) ISSUANCE OF GUIDELINES.—The Administrator of the Environmental Protection Agency shall issue guidelines under section 117(e)(9) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as added by subsection (a), not later than 90 days after the date of enactment of this Act.

TITLE II—STATE ROLE

SEC. 201. DELEGATION TO THE STATES OF AUTHORITIES WITH RESPECT TO NATIONAL PRIORITIES LIST FACILITIES.

(a) IN GENERAL.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 302, is amended by adding at the end the following:

"SEC. 135. DELEGATION TO THE STATES OF AUTHORITIES WITH RESPECT TO NATIONAL PRIORITIES LIST FACILITIES.

"(a) DEFINITIONS.—In this section:

"(1) COMPREHENSIVE DELEGATION STATE.—The term 'comprehensive delegation State', with respect to a facility, means a State to which the Administrator has delegated authority to perform all of the categories of delegable authority.

"(2) DELEGABLE AUTHORITY.—The term 'delegable authority' means authority to perform (or ensure performance of) all of the authorities included in any 1 or more of the categories of authority:

"(A) CATEGORY A.—All authorities necessary to perform technical investigations, evaluations, and risk analyses, including—

"(i) a preliminary assessment or facility evaluation under section 104;

"(ii) facility characterization under section 104;

"(iii) a remedial investigation under section 104;

"(iv) a facility-specific risk evaluation under section 129(b)(4); and

"(v) any other authority identified by the Administrator under subsection (b).

"(B) CATEGORY B.—All authorities necessary to perform alternatives development and remedy selection, including—

"(i) a feasibility study under section 104; and

"(ii)(I) remedial action selection under section 121 (including issuance of a record of decision); or

"(II) remedial action planning under section 129(b)(5); and

"(iii) any other authority identified by the Administrator under subsection (b).

"(C) CATEGORY C.—All authorities necessary to perform remedial design, including—

"(i) remedial design under section 121; and

"(ii) any other authority identified by the Administrator under subsection (b).

"(D) CATEGORY D.—All authorities necessary to perform remedial action and operation and maintenance, including—

"(i) a removal under section 104;

"(ii) a remedial action under section 104 or section 10 (a) or (b);

"(iii) operation and maintenance under section 104(c); and

"(iv) any other authority identified by the Administrator under subsection (b).

"(E) CATEGORY E.—All authorities necessary to perform information collection and allocation of liability, including—

"(i) information collection activity under section 104(e);

"(ii) allocation of liability under section 132;

"(iii) a search for potentially responsible parties under section 104 or 107;

"(iv) settlement under section 122; and

"(v) any other authority identified by the Administrator under subsection (b).

"(F) CATEGORY F.—All authorities necessary to perform enforcement, including—

"(i) issuance of an order under section 106(a);

"(ii) a response action cost recovery under section 107;

"(iii) imposition of a civil penalty or award under section 109 (a)(1)(D) or (b)(4);

"(iv) settlement under section 122; and

"(v) any other authority identified by the Administrator under subsection (b).

"(3) DELEGATED STATE.—The term 'delegated State' means a State to which delegable authority has been delegated under subsection (c), except as may be provided in a delegation agreement in the case of a limited delegation of authority under subsection (c)(5).

"(4) DELEGATED AUTHORITY.—The term 'delegated authority' means a delegable authority that has been delegated to a delegated State under this section.

"(5) DELEGATED FACILITY.—The term 'delegated facility' means a non-federal listed facility with respect to which a delegable authority has been delegated to a State under this section.

"(6) NONCOMPREHENSIVE DELEGATION STATE.—The term 'noncomprehensive delegation State', with respect to a facility, means a State to which the Administrator has delegated authority to perform fewer than all of the categories of delegable authority.

"(7) NONDELEGABLE AUTHORITY.—The term 'nondelegable authority' means authority to—

"(A) make grants to community response organizations under section 117; and

"(B) conduct research and development activities under any provision of this Act.

"(8) NON-FEDERAL LISTED FACILITY.—The term 'non-federal listed facility' means a facility that—

"(A) is not owned or operated by a department, agency, or instrumentality of the United States in any branch of the Government; and

"(B) is listed on the National Priorities List.

"(b) IDENTIFICATION OF DELEGABLE AUTHORITIES.—

"(1) IN GENERAL.—The President shall by regulation identify all of the authorities of the Administrator that shall be included in a delegation of any category of delegable authority described in subsection (a)(2).

"(2) LIMITATION.—The Administrator shall not identify a nondelegable authority for inclusion in a delegation of any category of delegable authority.

"(c) DELEGATION OF AUTHORITY.—

"(1) IN GENERAL.—Pursuant to an approved State application, the Administrator shall delegate authority to perform 1 or more delegable authorities with respect to 1 or more non-Federal listed facilities in the State.

"(2) APPLICATION.—An application under paragraph (1) shall—

"(A) identify each non-Federal listed facility for which delegation is requested;

"(B) identify each delegable authority that is requested to be delegated for each non-Federal listed facility for which delegation is requested; and

"(C) certify that the State, supported by such documentation as the State, in consultation with the Administrator, considers to be appropriate, has—

"(i) statutory and regulatory authority (including appropriate enforcement authority) to perform the requested delegable authorities in a manner that is protective of human health and the environment;

"(ii) resources in place to adequately administer and enforce the authorities; and

"(iii) procedures to ensure public notice and, as appropriate, opportunity for comment on remedial action plans, consistent with sections 117 and 129.

"(3) APPROVAL OF APPLICATION.—

"(A) IN GENERAL.—Not later than 60 days after receiving an application under paragraph (2) by a State that is authorized to administer and enforce the corrective action requirements of a hazardous waste program under section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), and not later than 120 days after receiving an application from a State that is not authorized to administer and enforce the corrective action requirements of a hazardous waste program under section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), unless the State agrees to a greater length of time for the Administrator to make a determination, the Administrator shall—

"(i) issue a notice of approval of the application (including approval or disapproval regarding any or all of the facilities with respect to which a delegation of authority is requested or with respect to any or all of the authorities that are requested to be delegated); or

"(ii) if the Administrator determines that the State does not have adequate legal authority, financial and personnel resources, organization, or expertise to administer and enforce any of the requested delegable authority, issue a notice of disapproval, including an explanation of the basis for the determination.

"(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of all or any portion of an application within the applicable time period under subparagraph (A), the application shall be deemed to have been granted.

"(C) RESUBMISSION OF APPLICATION.—

"(i) IN GENERAL.—If the Administrator disapproves an application under paragraph (1), the State may resubmit the application at any time after receiving the notice of disapproval.

"(ii) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of a resubmitted application within the applicable time period under subparagraph (A), the resubmitted application shall be deemed to have been granted.

"(D) NO ADDITIONAL TERMS OR CONDITIONS.—The Administrator shall not impose any term or condition on the approval of an application that meets the requirements stated in paragraph (2) (except that any technical deficiencies in the application be corrected).

"(E) JUDICIAL REVIEW.—The State (but no other person) shall be entitled to judicial review under section 113(b) of a disapproval of a resubmitted application.

"(4) DELEGATION AGREEMENT.—On approval of a delegation of authority under this section, the Administrator and the delegated State shall enter into a delegation agreement that identifies each category of delegable authority that is delegated with respect to each delegated facility.

"(5) LIMITED DELEGATION.—

"(A) IN GENERAL.—In the case of a State that does not meet the requirements of paragraph (2)(C) the Administrator may delegate to the State limited authority to perform, ensure the performance of, or supervise or otherwise participate in the performance of 1 or more delegable authorities, as appropriate in view of the extent to which the State has the required legal authority, financial and personnel resources, organization, and expertise.

"(B) SPECIAL PROVISIONS.—In the case of a limited delegation of authority to a State under subparagraph (A), the Administrator shall specify the extent to which the State shall be considered to be a delegated State for the purposes of this Act.

"(d) PERFORMANCE OF DELEGATED AUTHORITIES.—

"(1) IN GENERAL.—A delegated State shall have sole authority (except as provided in paragraph (6)(B), subsection (e)(4), and subsection (g)) to perform a delegated authority with respect to a delegated facility.

"(2) AGREEMENTS FOR PERFORMANCE OF DELEGATED AUTHORITIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a delegated State may enter into an agreement with a political subdivision of the State, an interstate body comprised of that State and another delegated State or States, or a combination of such subdivisions or interstate bodies, providing for the performance of any category of delegated authority with respect to a delegated facility in the State if the parties to the agreement agree in the agreement to undertake response actions that are consistent with this Act.

"(B) NO AGREEMENT WITH POTENTIALLY RESPONSIBLE PARTY.—A delegated State shall not enter into an agreement under subparagraph (A) with a political subdivision or interstate body that is, or includes as a component an entity that is, a potentially responsible party with respect to a delegated facility covered by the agreement.

"(C) CONTINUING RESPONSIBILITY.—A delegated State that enters into an agreement under subparagraph (A)—

"(i) shall exercise supervision over and approve the activities of the parties to the agreement; and

"(ii) shall remain responsible for ensuring performance of the delegated authority.

"(3) COMPLIANCE WITH ACT.—

"(A) NONCOMPREHENSIVE DELEGATION STATES.—A noncomprehensive delegation State shall implement each applicable provision of this Act (including regulations and guidance issued by the Administrator) so as to perform each delegated authority with respect to a delegated facility in the same manner as would the Administrator with respect to a facility that is not a delegated facility.

"(B) COMPREHENSIVE DELEGATION STATES.—

"(i) IN GENERAL.—A comprehensive delegation State shall implement applicable provisions of this Act or of similar provisions of State law in a manner comporting with State policy, so long as the remedial action that is selected protects human health and the environment to the same extent as would a remedial action selected by the Administrator under section 121.

"(ii) COSTLIER REMEDIAL ACTION.—

"(I) IN GENERAL.—A delegated State may select a remedial action for a delegated facility that has a greater response cost (including operation and maintenance costs) than the response cost for a remedial action that would be selected by the Administrator under section 121, if the State pays for the difference in cost.

"(II) NO COST RECOVERY.—If a delegated State selects a more costly remedial action under subclause (I), the State shall not be entitled to seek cost recovery under this Act or any other Federal or State law from any other person for the difference in cost.

"(4) JUDICIAL REVIEW.—An order that is issued under section 106 by a delegated State with respect to a delegated facility shall be reviewable only in United States district court under section 113.

"(5) DELISTING OF NATIONAL PRIORITIES LIST FACILITIES.—

"(A) DELISTING.—After notice and an opportunity for public comment, a delegated State may remove from the National Priorities List all or part of a delegated facility—

"(i) if the State makes a finding that no further action is needed to be taken at the facility (or part of the facility) under any applicable law to protect human health and the environment consistent with section 121(a) (1) and (2);

"(ii) with the concurrence of the potentially responsible parties, if the State has an enforceable agreement to perform all required remedial action and operation and maintenance for the facility or if the cleanup will proceed at the facility under section 3004 (u) or (v) of the Solid Waste Disposal Act (42 U.S.C. 6924 (u), (v)); or

"(iii) if the State is a comprehensive delegation State with respect to the facility.

"(B) EFFECT OF DELISTING.—A delisting under subparagraph (A) (ii) or (iii) shall not affect—

"(i) the authority or responsibility of the State to complete remedial action and operation and maintenance;

"(ii) the eligibility of the State for funding under this Act;

"(iii) notwithstanding the limitation on section 104(c)(1), the authority of the Administrator to make expenditures from the Fund relating to the facility; or

"(iv) the enforceability of any consent order or decree relating to the facility.

"(C) NO RELISTING.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Administrator shall not relist on the National Priorities List a facility or part of a facility that has been removed from the National Priorities List under subparagraph (A).

"(ii) CLEANUP NOT COMPLETED.—The Administrator may relist a facility or part of a facility that has been removed from the National Priorities List under subparagraph (A) if cleanup is not completed in accordance with the enforceable agreement under subparagraph (A)(ii).

"(6) COST RECOVERY.—

"(A) RECOVERY BY A DELEGATED STATE.—Of the amount of any response costs recovered from a responsible party by a delegated State for a delegated facility under section 107—

"(i) 25 percent of the amount of any Federal response cost recovered with respect to a facility, plus an amount equal to the amount of response costs incurred by the State with respect to the facility, may be retained by the State; and

"(ii) the remainder shall be deposited in the Hazardous Substances Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1986.

"(B) RECOVERY BY THE ADMINISTRATOR.—

"(i) IN GENERAL.—The Administrator may take action under section 107 to recover response costs from a responsible party for a delegated facility if—

"(I) the delegated State notifies the Administrator in writing that the delegated State does not intend to pursue action for recovery of response costs under section 107 against the responsible party; or

"(II) the delegated State fails to take action to recover response costs within a reasonable time in light of applicable statutes of limitation.

"(ii) NOTICE.—If the Administrator proposes to commence an action for recovery of response costs under section 107, the Administrator shall give the State written notice and allow the State at least 90 days after receipt of the notice to commence the action.

"(iii) NO FURTHER ACTION.—If the Administrator takes action against a potentially responsible party under section 107 relating to a release from a delegated facility, the delegated State may not take any other action for recovery of response costs relating to that release under this Act or any other Federal or State law.

"(e) FEDERAL RESPONSIBILITIES AND AUTHORITIES.—

"(1) REVIEW USE OF FUNDS.—

"(A) IN GENERAL.—The Administrator shall review the certification submitted by the Governor under subsection (f)(8) not later than 120 days after the date of its submission.

"(B) FINDING OF USE OF FUNDS INCONSISTENT WITH THIS ACT.—If the Administrator finds that funds were used in a manner that is inconsistent with this Act, the Administrator shall notify the Governor in writing not later than 120 days after receiving the Governor's certification.

"(C) EXPLANATION.—Not later than 30 days after receiving a notice under subparagraph (B), the Governor shall—

"(i) explain why the Administrator's finding is in error; or

"(ii) explain to the Administrator's satisfaction how any misapplication or misuse of funds will be corrected.

"(D) FAILURE TO EXPLAIN.—If the Governor fails to make an explanation under subparagraph (C) to the Administrator's satisfaction, the Administrator may request reimbursement of such amount of funds as the Administrator finds was misapplied or misused.

"(E) REPAYMENT OF FUNDS.—If the Administrator fails to obtain reimbursement from the State within a reasonable period of time, the Administrator may, after 30 days' notice to the State, bring a civil action in United States district court to recover from the delegated State any funds that were advanced for a purpose or were used for a purpose or in a manner that is inconsistent with this Act.

"(2) WITHDRAWAL OF DELEGATION OF AUTHORITY.—

"(A) DELEGATED STATES.—If at any time the Administrator finds that contrary to a certification made under subsection (c)(2), a delegated State—

"(i) lacks the required financial and personnel resources, organization, or expertise to administer and enforce the requested delegated authorities;

"(ii) does not have adequate legal authority to request and accept delegation; or "(iii) is failing to materially carry out the State's delegated authorities,

the Administrator may withdraw a delegation of authority with respect to a delegated facility after providing notice and opportunity to correct deficiencies under subparagraph (D).

"(B) STATES WITH LIMITED DELEGATIONS OF AUTHORITY.—If the Administrator finds that a State to which a limited delegation of authority was made under subsection (c)(5) has materially breached the delegation agreement, the Administrator may withdraw the delegation after providing notice and opportunity to correct deficiencies under subparagraph (D).

"(C) NO WITHDRAWAL WITH 1 YEAR OF APPROVAL.—The Administrator shall not withdraw a delegation of authority within 1 year after the date on which the application for delegation is approved (including approval under subsection (c)(3) (B) or (C)(ii)).

"(D) NOTICE AND OPPORTUNITY TO CORRECT.—If the Administrator proposes to withdraw a delegation of authority for any or all delegated facilities, the Administrator shall give the State written notice and allow the State at least 90 days after the date of receipt of the notice to correct the deficiencies cited in the notice.

"(E) FAILURE TO CORRECT.—If the Administrator finds that the deficiencies have not been corrected within the time specified in a notice under subparagraph (D), the Administrator may withdraw delegation of authority after providing public notice and opportunity for comment.

"(F) JUDICIAL REVIEW.—A decision of the Administrator to withdraw a delegation of authority shall be subject to judicial review under section 113(b).

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the authority of the Administrator under this Act to—

"(A) take a response action at a facility listed on the National Priorities List in a State to which a delegation of authority has not been made under this section or at a facility not included in a delegation of authority; or

"(B) perform a delegable authority with respect to a facility that is not included among the authorities delegated to a State with respect to the facility.

"(4) EMERGENCY REMOVAL.—

"(A) NOTICE.—Before performing an emergency removal action under section 104 at a delegated facility, the Administrator shall notify the delegated States of the Administrator's intention to perform the removal.

"(B) STATE ACTION.—If, after receiving a notice under subparagraph (A), the delegated State notifies the Administrator within 48 hours that the State intends to take action to perform an emergency removal at the delegated facility, the Administrator shall not perform the emergency removal action unless the Administrator determines that the delegated State has failed to act within a reasonable period of time to perform the emergency removal.

"(C) IMMEDIATE AND SIGNIFICANT DANGER.—If the Administrator finds that an emergency at a delegated facility poses an immediate and significant danger to human health or the environment, the Administrator shall not be required to provide notice under subparagraph (A).

"(5) PROHIBITED ACTIONS.—Except as provided in subsections (d)(6)(B), (e)(4), and (g) or except with the concurrence of the delegated State, the President, the Administrator, and the Attorney General shall not take any action under section 104, 106, 107, 109, 121, or 122 in performance of a delegable authority that has been delegated to a State with respect to a delegated facility.

"(f) FUNDING.—

"(1) IN GENERAL.—The Administrator shall provide grants to or enter into contracts or cooperative agreements with delegated States to carry out this section.

"(2) NO CLAIM AGAINST FUND.—Notwithstanding any other law, funds to be granted under this subsection shall not constitute a claim against the Fund or the United States.

"(3) DETERMINATION OF COSTS ON A FACILITY-SPECIFIC BASIS.—The Administrator shall—

"(A) determine—

"(i) the delegable authorities the costs of performing which it is practicable to determine on a facility-specific basis; and

"(ii) the delegable authorities the costs of performing which it is not practicable to determine on a facility-specific basis; and

"(B) publish a list describing the delegable authorities in each category.

"(4) FACILITY-SPECIFIC GRANTS.—The costs described in paragraph (3)(A)(i) shall be funded as such costs arise with respect to each delegated facility.

"(5) NONFACILITY-SPECIFIC GRANTS.—

"(A) IN GENERAL.—The costs described in paragraph (3)(A)(ii) shall be funded through nonfacility-specific grants under this paragraph.

"(B) FORMULA.—The Administrator shall establish a formula under which funds available for nonfacility-specific grants shall be allocated among the delegated States, taking into consideration—

"(i) the cost of administering the delegated authority;

"(ii) the number of sites for which the State has been delegated authority;

"(iii) the types of activities for which the State has been delegated authority;

"(iv) the number of facilities within the State that are listed on the National Priorities List or are delegated facilities under section 127(d)(5);

"(v) the number of other high priority facilities within the State;

"(vi) the need for the development of the State program;

"(vii) the need for additional personnel;

"(viii) the amount of resources available through State programs for the cleanup of contaminated sites; and

"(ix) the benefit to human health and the environment of providing the funding.

"(6) PERMITTED USE OF GRANT FUNDS.—A delegated State may use grant funds, in accordance with this Act and the National Contingency Plan, to take any action or perform any duty necessary to implement the authority delegated to the State under this section.

"(7) COST SHARE.—

"(A) ASSURANCE.—A delegated State to which a grant is made under this subsection shall provide an assurance that the State will pay any amount required under section 104(c)(3).

"(B) PROHIBITED USE OF GRANT FUNDS.—A delegated State to which a grant is made under this subsection may not use grant funds to pay any amount required under section 104(c)(3).

"(8) CERTIFICATION OF USE OF FUNDS.—

"(A) IN GENERAL.—Not later than 1 year after the date on which a delegated State receives funds under this subsection, and annually thereafter, the Governor of the State shall submit to the Administrator—

"(i) a certification that the State has used the funds in accordance with the requirements of this Act and the National Contingency Plan; and

"(ii) information describing the manner in which the State used the funds.

"(B) REGULATIONS.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue a regulation describing with particularity the information that a State shall be required to provide under subparagraph (A)(ii).

"(g) COOPERATIVE AGREEMENTS.—Nothing in this section shall affect the authority of the Administrator under section 104(d)(1) to enter into a cooperative agreement with a State, a political subdivision of a State, or an Indian tribe to carry out actions under section 104.

"(h) NON-NATIONAL PRIORITIES LIST FACILITIES.—

"(1) DEFINITIONS.—In this subsection, the term 'non-National Priorities List facility' means a facility that is not, and never has been, listed on the National Priorities List and that is not owned or operated by a department, agency, or instrumentality of the United States.

"(2) FINALITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a determination that a response action at a non-National Priorities List facility or portion of a non-National Priorities List facility is complete under State law is final, and the facility shall not be subject to further response action notwithstanding any provision of this Act or any other Federal law.

"(B) EXCEPTION FOR EMERGENCY REMOVALS.—The Administrator may conduct an emergency removal action under the authority of section 104 subject to the notice requirement of section 135(e)(4) at a non-National Priorities List facility.".

(b) STATE COST SHARE.—Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)) is amended—

(1) by striking "(c)(1) Unless" and inserting the following:

"(c) MISCELLANEOUS LIMITATIONS AND REQUIREMENTS.—

"(1) CONTINUANCE OF OBLIGATIONS FROM FUND.—Unless";

(2) by striking "(2) The President" and inserting the following:

"(2) CONSULTATION.—The President"; and

(3) by striking paragraph (3) and inserting the following:

"(3) STATE COST SHARE.—

"(A) IN GENERAL.—The Administrator shall not provide any remedial action under this section unless the State in which the release occurs first enters into a contract or cooperative agreement with the Administrator providing assurances deemed adequate by the Administrator that the State will pay, in cash or through in-kind contributions, a specified percentage of the costs of the remedial action and operation and maintenance costs.

"(B) ACTIVITIES WITH RESPECT TO WHICH STATE COST SHARE IS REQUIRED.—No State cost share shall be required except for remedial actions under section 104 and facilities with respect to which there is an exemption under section 107(r).

"(C) SPECIFIED PERCENTAGE.—

"(i) IN GENERAL.—The specified percentage of costs that a State shall be required to share shall be the lower of 10 percent or the percentage determined under clause (ii).

"(ii) MAXIMUM IN ACCORDANCE WITH LAW PRIOR TO 1996 AMENDMENTS.—

"(I) On petition by a State, the Director of the Office of Management and Budget (referred to in this clause as the 'Director'), after providing public notice and opportunity for comment, shall establish a cost share percentage, which shall be uniform for all facilities in the State, at the percentage rate at which the total amount of anticipated payments by the State under the cost share for all facilities in the State for which a cost share is required most closely approximates the total amount of estimated cost share payments by the State for facilities that would have been required under cost share requirements that were applicable prior to the date of enactment of this subparagraph, adjusted to reflect the extent to which the State's ability to recover costs under this Act were reduced by reason of enactment of amendments to this Act by the Accelerated Cleanup and Environmental Restoration Act of 1996.

"(II) The Director may adjust a State's cost share under this clause not more frequently than every 3 years.

"(D) INDIAN TRIBES.—In the case of remedial action to be taken on land or water held by an Indian Tribe, held by the United States in trust for Indians, held by a member of an Indian Tribe (if the land or water is subject to a trust restriction on alienation), or otherwise within the borders of an Indian reservation, the requirements of this paragraph shall not apply.".

(c) USES OF FUND.—Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended by inserting after paragraph (6) the following:

"(7) GRANTS TO DELEGATED STATES.—Making a grant to a delegated State under section 135(f).".

(d) RELATIONSHIP TO OTHER LAWS.—

(1) IN GENERAL.—Section 114(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9614(b)) is amended by striking "removal" each place it appears and inserting "response".

(2) CONFORMING AMENDMENT.—Section 101(37)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(37)(B)) is amended by striking "section 114(c)" and inserting "section 114(b)".

TITLE III—VOLUNTARY CLEANUP

SEC. 301. ASSISTANCE FOR QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.

(a) DEFINITION.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following:

"(39) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAM.—The term 'qualifying State voluntary response program' means a State program that includes the elements described in section 133(b).".

(b) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 501, is amended by adding at the end the following:

"SEC. 133. QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.

"(a) ASSISTANCE TO STATES.—The Administrator shall provide technical and other assistance to States to establish and expand qualifying State voluntary response programs that include the elements listed in subsection (b).

"(b) ELEMENTS.—The elements of a qualifying State voluntary response program are the following:

"(1) Opportunities for technical assistance for voluntary response actions.

"(2) Adequate opportunities for public participation, including prior notice and opportunity for comment in appropriate circumstances, in selecting response actions.

"(3) Streamlined procedures to ensure expeditious voluntary response actions.

"(4) Oversight and enforcement authorities or other mechanisms that are adequate to ensure that—

"(A) voluntary response actions will protect human health and the environment and be conducted in accordance with applicable Federal and State law; and

"(B) if the person conducting the voluntary response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed.

"(5) Mechanisms for approval of a voluntary response action plan.

"(6) A requirement for certification or similar documentation from the State to the person conducting the voluntary response action indicating that the response is complete.".

(c) FUNDING.—Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611), as amended by section 201(b), is amended by inserting after paragraph (7) the following:

"(8) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.—For assistance to States to establish and administer qualifying State voluntary response programs, during the first 5 full fiscal years following the date of enactment of this subparagraph, in a total amount to all States that is not less than 2 percent and not more than 5 percent of the amount available in the Fund for each such fiscal year, distributed among each of the States that notifies the Administrator of the State's intent to establish a qualifying State voluntary response program and each of the States with a qualifying State voluntary response program in the amount that is equal to the total amount multiplied by a fraction—

"(A) the numerator of which is the number of facilities in the State that, as of September 29, 1995, were listed on the Comprehensive Environmental Response, Compensation, and Liability Information System (not including facilities that are listed on the National Priorities List); and

"(B) the denominator of which is the total number of such facilities in the United States.".

(d) COMPLIANCE WITH ACT.—A person that conducts a voluntary response action under this section at a facility that is listed or proposed for listing on the National Priorities List shall implement applicable provisions of this Act or of similar provisions of State law in a manner comporting with State policy, so long as the remedial action that is selected protects human health and the environment to the same extent as would a remedial action selected by the Administrator under section 121(a).

SEC. 302. BROWNFIELD CHARACTERIZATION PROGRAM.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 301(b), is amended by adding at the end the following:

"SEC. 134. BROWNFIELD CHARACTERIZATION PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATIVE COST.—The term 'administrative cost' does not include the cost of—

"(A) investigation and identification of the extent of contamination;

"(B) design and performance of a response action; or

"(C) monitoring of natural resources.

"(2) BROWNFIELD FACILITY.—The term 'brownfield facility' means—

"(A) a parcel of land that contains an abandoned, idled, or underused commercial or industrial facility, the expansion or redevelopment of which is complicated by the presence or potential presence of a hazardous substance; but

"(B) does not include—

"(i) a facility that is the subject of a removal or planned removal under title I;

"(ii) a facility that is listed or has been proposed for listing on the National Priorities List or that has been delisted under section 135(d)(5);

"(iii) a facility that is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u) or 6928(h)) at the time at which an application for a grant or loan concerning the facility is submitted under this section;

"(iv) a land disposal unit with respect to which—

"(I) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

"(II) closure requirements have been specified in a closure plan or permit;

"(v) a facility with respect to which an administrative order on consent or judicial consent decree requiring cleanup has been entered into by the United States under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or title XIV of the Public Health Service Act (commonly known as the 'Safe Drinking Water Act') (42 U.S.C. 300f et seq.);

"(vi) a facility that is owned or operated by a department, agency, or instrumentality of the United States; or

"(vii) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

"(3) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a general purpose unit of local government;

"(B) a land clearance authority or other quasi-governmental entity that operates under the supervision and control of or as an agent of a general purpose unit of local government;

"(C) a regional council or group of general purpose units of local government;

"(D) a redevelopment agency that is chartered or otherwise sanctioned by a State; and

"(E) an Indian tribe.

"(b) BROWNFIELD CHARACTERIZATION PROGRAM.—

"(1) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to provide interest-free loans for the site characterization and assessment of brownfield facilities.

"(2) ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT.—

"(A) IN GENERAL.—On approval of an application made by an eligible entity, the Administrator may make interest-free loans out of the Fund to the eligible entity to be used for the site characterization and assessment of 1 or more brownfield facilities.

"(B) APPROPRIATE INQUIRY.—A site characterization and assessment carried out with the use of a loan under subparagraph (A) shall be performed in accordance with section 101(35)(B).

"(C) REPAYMENT.—

"(i) IN GENERAL.—An eligible entity that receives a loan under subparagraph (A) shall agree to repay the full amount of the loan within 10 years after the date on which the loan is made.

"(ii) DEPOSIT IN FUND.—Repayments on a loan under subparagraph (A) shall be deposited in the Fund.

"(3) HAZARDOUS SUBSTANCE SUPERFUND.—Notwithstanding section 111 of this Act or any provision of the Superfund Amendments and Reauthorization Act of 1986 (100 Stat. 1613), there is authorized to be appropriated out of the Fund $15,000,000 for each of the first 5 fiscal years beginning after the date of enactment of this section, to be used for making interest-free loans under paragraph (2).

"(4) MAXIMUM LOAN AMOUNT.—A loan under subparagraph (A) shall not exceed, with respect to each brownfield facility covered by the loan, $100,000 for any fiscal year or $200,000 in total.

"(5) SUNSET.—No amount shall be available from the Fund for purposes of this section after the fifth fiscal year after the date of enactment of this section.

"(6) PROHIBITION.—No part of a loan under this section may be used for payment of penalties, fines, or administrative costs.

"(7) AUDITS.—The Inspector General of the Environmental Protection Agency shall audit all loans made under paragraph (2) to ensure that all funds are used for the purposes described in this section and that all loans are repaid in accordance with paragraph (2).

"(8) AGREEMENTS.—Each loan made under this section shall be subject to an agreement that—

"(A) requires the eligible entity to comply with all applicable State laws (including regulations);

"(B) requires that the eligible entity shall use the loan exclusively for purposes specified in paragraph (2); and

"(C) contains such other terms and conditions as the Administrator determines to be necessary to protect the financial interests of the United States and to carry out the purposes of this section.

"(9) LEVERAGING.—An eligible entity that receives a loan under paragraph (1) may use the loaned funds for part of a project at a brownfield facility for which funding is received from other sources, but the loan funds shall be used only for the purposes described in paragraph (2).

"(c) LOAN APPLICATIONS.—

"(1) IN GENERAL.—Any eligible entity may submit an application to the Administrator, through a regional office of the Environmental Protection Agency and in such form as the Administrator may require, for a loan under this section for 1 or more brownfield facilities.

"(2) APPLICATION REQUIREMENTS.—An application for a loan under this section shall include—

"(A) an identification of each brownfield facility for which the loan is sought and a description of the redevelopment plan for the area or areas in which each facility is located, including a description of the nature and extent of any known or suspected environmental contamination within the area;

"(B) an analysis that demonstrates the potential of the grant to stimulate economic development on completion of the planned response action, including a projection of the number of jobs expected to be created at the facility after remediation and redevelopment and, to the extent feasible, a description of the type and skill level of the jobs and a projection of the increases in revenues accruing to Federal, State, and local governments from the jobs; and

"(C) information relevant to the ranking criteria stated in paragraph (4).

"(3) APPROVAL.—

"(A) INITIAL LOANS.—On or about March 30 and September 30 of the first fiscal year following the date of enactment of this section, the Administrator shall make loans under this section to eligible entities that submit applications before those dates that the Administrator determines have the highest rankings under ranking criteria established under paragraph (4).

"(B) SUBSEQUENT LOANS.—Beginning with the second fiscal year following the date of enactment of this section, the Administrator shall make an annual evaluation of each application received during the prior fiscal year and make loans under this section to eligible entities that submit applications during the prior year that the Administrator determines have the highest rankings under the ranking criteria established under paragraph (4).

"(4) RANKING CRITERIA.—The Administrator shall establish a system for ranking loan applications that includes the following criteria:

"(A) The extent to which a loan will stimulate the availability of other funds for environmental remediation and subsequent redevelopment of the area in which the brownfield facilities are located.

"(B) The potential of the development plan for the area in which the brownfield facilities are located to stimulate economic development of the area on completion of the cleanup, such as the following:

"(i) The relative increase in the estimated fair market value of the area as a result of any necessary response action.

"(ii) The potential of a loan to create new or expand existing business and employment opportunities (particularly full-time employment opportunities) on completion of any necessary response action.

"(iii) The estimated additional tax revenues expected to be generated by economic redevelopment in the area in which a brownfield facility is located.

"(iv) The estimated extent to which a loan would facilitate the identification of or facilitate a reduction of health and environmental risks.

"(v) The financial involvement of the State and local government in any response action planned for a brownfield facility and the extent to which the response action and the proposed redevelopment is consistent with any applicable State or local community economic development plan.

"(vi) The extent to which the site characterization and assessment or response action and subsequent development of a brownfield facility involves the active participation and support of the local community.

"(vii) Such other factors as the Administrator considers appropriate to carry out the purposes of this section.".

SEC. 303. TREATMENT OF SECURITY INTEREST HOLDERS AND FIDUCIARIES AS OWNERS OR OPERATORS.

(a) DEFINITION OF OWNER OR OPERATOR.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), as amended by section 301(a), is amended—

(1) in paragraph (20)—

(A) in subparagraph (A) by striking the second sentence; and

(B) by adding at the end the following:

"(E) SECURITY INTEREST HOLDERS.—

"(i) IN GENERAL.—The term 'owner or operator' does not include a person that, without participating in the management of a vessel or facility, holds an indicium of ownership primarily to protect the person's security interest in a vessel or facility.

"(ii) PARTICIPATING IN MANAGEMENT.—A security interest holder—

"(I) shall be considered to be participating in management of a vessel or facility only if the security interest holder has undertaken—

"(aa) responsibility for the hazardous substance handling or disposal practices of the vessel or facility; or

"(bb) overall management of the vessel or facility encompassing day-to-day decisionmaking over environmental compliance or over an operational function (including functions such as those of a plant manager, operations manager, chief operating officer, or chief executive officer), as opposed to financial and administrative aspects, of a vessel or facility; and

"(II) shall not be considered to be participating in management solely on the ground that the security interest holder—

"(aa) serves in a capacity or has the ability to influence or the right to control the operation of a vessel or facility if that capacity, ability, or right is not exercised;

"(bb) acts, or causes or requires another person to act, to comply with an applicable law or to respond lawfully to disposal of a hazardous substance;

"(cc) performs an act or omits to act in any way with respect to a vessel or facility prior to the time at which a security interest is created in a vessel or facility;

"(dd) holds, abandons, or releases a security interest;

"(ee) includes in the terms of an extension of credit, or in a contract or security agreement relating to an extension of credit, a covenant, warranty, or other term or condition that relates to environmental compliance;

"(ff) monitors or enforces a term or condition of an extension of credit or a security interest;

"(gg) monitors or undertakes 1 or more inspections of a vessel or facility;

"(hh) requires or conducts a response action or other lawful means of addressing a release or threatened release of a hazardous substance in connection with a vessel or facility prior to, during, or on the expiration of the term of an extension of credit;

"(ii) provides financial or other advice or counseling in an effort to mitigate, prevent, or cure a default or diminution in the value of a vessel or facility;

"(jj) exercises forbearance by restructuring, renegotiating, or otherwise agreeing to alter a term or condition of an extension of credit or a security interest; or

"(kk) exercises any remedy that may be available under law for the breach of a term or condition of an extension of credit or a security agreement.

"(iii) FORECLOSURE.—Legal or equitable title acquired by a security interest holder through foreclosure (or the equivalent of foreclosure) shall be considered to be held primarily to protect a security interest if the holder undertakes to sell, re-lease, or otherwise divest the vessel or facility in a reasonably expeditious manner on commercially reasonable terms.

"(iv) DEFINITION OF SECURITY INTEREST.—In this subparagraph, the term 'security interest' includes a right under a mortgage, deed of trust, assignment, judgment lien, pledge, security agreement, factoring agreement, or lease, or any other right accruing to a person to secure the repayment of money, the performance of a duty, or any other obligation.

"(F) FIDUCIARIES.—

"(i) IN GENERAL.—The term 'owner or operator' does not include a fiduciary that holds legal or equitable title to, is the mortgagee or secured party with respect to, controls, or manages, directly or indirectly, a vessel or facility for the purpose of administering an estate or trust of which the vessel or facility is a part."; and

(2) by adding at the end the following:

"(40) FIDUCIARY.—The term 'fiduciary' means a person that is acting in the capacity of—

"(A) an executor or administrator of an estate, including a voluntary executor or a voluntary administrator;

"(B) a guardian;

"(C) a conservator;

"(D) a trustee under a will or a trust agreement under which the trustee takes legal or equitable title to, or otherwise controls or manages, a vessel or facility for the purpose of protecting or conserving the vessel or facility under the rules applied in State court;

"(E) a court-appointed receiver;

"(F) a trustee appointed in proceedings under title 11, United States Code;

"(G) an assignee or a trustee acting under an assignment made for the benefit of creditors; or

"(H) a trustee, or a successor to a trustee, under an indenture agreement, trust agreement, lease, or similar financing agreement, for debt securities, certificates of interest of participation in debt securities, or other forms of indebtedness as to which the trustee is not, in the capacity of trustee, the lender.".

(b) LIABILITY OF FIDUCIARIES AND LENDERS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

"(n) LIABILITY OF FIDUCIARIES.—

"(1) IN GENERAL.—The liability of a fiduciary that is liable under any other provision of this Act for the release or threatened release of a hazardous substance from a vessel or facility held by a fiduciary may not exceed the assets held by the fiduciary that are available to indemnify the fiduciary.

"(2) NO INDIVIDUAL LIABILITY.—Subject to the other provisions of this subsection, a fiduciary shall not be liable in an individual capacity under this Act.

"(3) EXCEPTIONS.—This subsection does not preclude a claim under this Act against—

"(A) the assets of the estate or trust administered by a fiduciary;

"(B) a nonemployee agent or independent contractor retained by a fiduciary; or

"(C) a fiduciary that causes or contributes to a release or threatened release of a hazardous substance.

"(4) SAFE HARBOR.—Subject to paragraph (5), a fiduciary shall not be liable in an individual capacity under this Act for—

"(A) undertaking or directing another to undertake a response action under section 107(d)(1) or under the direction of an on-scene coordinator designated by the Administrator or the Coast Guard to coordinate and direct responses under subpart D of the National Contingency Plan or by the lead agency to coordinate and direct removal actions under subpart E of the National Contingency Plan;

"(B) undertaking or directing another to undertake any other lawful means of addressing a hazardous substance in connection with a vessel or facility;

"(C) terminating the fiduciary relationship;

"(D) including, monitoring, or enforcing a covenant, warranty, or other term or condition in the terms of a fiduciary agreement that relates to compliance with environmental laws;

"(E) monitoring or undertaking 1 or more inspections of a vessel or facility;

"(F) providing financial or other advice or counseling to any party to the fiduciary relationship, including the settlor or beneficiary;

"(G) restructuring, renegotiating, or otherwise altering a term or condition of the fiduciary relationship;

"(H) administering a vessel or facility that was contaminated before the period of service of the fiduciary began; or

"(I) declining to take any of the actions described in subparagraphs (B) through (H).

"(5) DUE CARE.—This subsection does not limit the liability of a fiduciary if the fiduciary fails to exercise due care and the failure causes or contributes to the release of a hazardous substance.

"(6) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

"(A) affect the rights or immunities or other defenses that are available under this Act or other applicable law to any person;

"(B) create any liability for any person; or

"(C) create a private right of action against a fiduciary or against a Federal agency that regulates lenders.

"(o) LIABILITY OF LENDERS.—

"(1) DEFINITIONS.—In this subsection:

"(A) ACTUAL BENEFIT.—The term 'actual benefit' means the net gain, if any, realized by a lender due to an action.

"(B) EXTENSION OF CREDIT.—The term 'extension of credit' includes a lease finance transaction—

"(i) in which the lessor does not initially select the leased vessel or facility and does not during the lease term control the daily operations or maintenance of the vessel or facility; or

"(ii) that conforms to all regulations issued by any appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))) and any appropriate State banking regulatory authority.

"(C) FORECLOSURE.—The term 'foreclosure' means the acquisition of a vessel or facility through—

"(i) purchase at sale under a judgment or decree, a power of sale, a nonjudicial foreclosure sale, or from a trustee, deed in lieu of foreclosure, or similar conveyance, or through repossession, if the vessel or facility was security for an extension of credit previously contracted;

"(ii) conveyance under an extension of credit previously contracted, including the termination of a lease agreement; or

"(iii) any other formal or informal manner by which a person acquires, for subsequent disposition, possession of collateral in order to protect the security interest of the person.

"(D) LENDER.—The term 'lender' means—

"(i) a person that makes a bona fide extension of credit to, or takes a security interest from, another party;

"(ii) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or any other entity that in a bona fide manner is engaged in the business of buying or selling loans or interests in loans;

"(iii) a person engaged in the business of insuring or guaranteeing against a default in the repayment of an extension of credit, or acting as a surety with respect to an extension of credit, to another party; and

"(iv) a person regularly engaged in the business of providing title insurance that acquires a vessel or facility as a result of an assignment or conveyance in the course of underwriting a claim or claim settlement.

"(E) NET GAIN.—The term 'net gain' means an amount not in excess of the amount realized by a lender on the sale of a vessel or facility less acquisition, holding, and disposition costs.

"(F) VESSEL OR FACILITY ACQUIRED THROUGH FORECLOSURE.—The term 'vessel or facility acquired through foreclosure'—

"(i) means a vessel or facility that is acquired by a lender through foreclosure from a person that is not affiliated with the lender; but

"(ii) does not include such a vessel or facility if the lender does not seek to sell or otherwise divest the vessel or facility at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements.

"(2) LIABILITY LIMITATION.—

"(A) IN GENERAL.—The liability of a lender that is liable under any other provision of this Act for the release or threatened release of a hazardous substance at, from, or in connection with a vessel or facility shall be limited to the amount described in subparagraph (E) if the vessel or facility is—

"(i) a vessel or facility acquired through foreclosure;

"(ii) a vessel or facility subject to a security interest held by the lender;

"(iii) a vessel or facility held by a lessor under the terms of an extension of credit; or

"(iv) a vessel or facility subject to financial control or financial oversight under the terms of an extension of credit.

"(B) AMOUNT.—The amount described in this subparagraph is the excess of the fair market value of a vessel or facility on the date on which the liability of a lender is determined over the fair market value of the vessel or facility on the date that is 180 days before the date on which the response action is initiated, not to exceed the amount that the lender realizes on the sale of the vessel or facility after subtracting acquisition, holding, and disposition costs.

"(3) EXCLUSION.—This subsection does not limit the liability of a lender that causes or contributes to the release or threatened release of a hazardous substance.

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

"(A) affect the rights or immunities or other defenses that are available under this Act or other applicable law to any person;

"(B) create any liability for any person; or

"(C) create a private right of action against a lender or against a Federal agency that regulates lenders.".

SEC. 304. FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following:

"SEC. 45. FEDERAL BANKING AND LENDING AGENCY LIABILITY.

"(a) DEFINITIONS.—In this section:

"(1) FEDERAL BANKING OR LENDING AGENCY.—The term 'Federal banking or lending agency'—

"(A) means the Corporation, the Resolution Trust Corporation, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, a Federal Reserve Bank, a Federal Home Loan Bank, the Department of Housing and Urban Development, the National Credit Union Administration Board, the Farm Credit Administration, the Farm Credit System Insurance Corporation, the Farm Credit System Assistance Board, the Farmers Home Administration, the Rural Electrification Administration, the Small Business Administration, and any other Federal agency acting in a similar capacity, in any of their capacities, and their agents or appointees; and

"(B) includes a first subsequent purchaser of the vessel or facility from a Federal banking or lending agency, unless the purchaser—

"(i) would otherwise be liable or potentially liable for all or part of the costs of the removal, remedial, corrective, or other response action due to a prior relationship with the vessel or facility;

"(ii) is or was affiliated with or related to a party described in clause (i);

"(iii) fails to agree to take reasonable steps necessary to remedy the release or threatened release or to protect public health and safety in a manner consistent with the purposes of applicable environmental laws; or

"(iv) causes or contributes to any additional release or threatened release on the vessel or facility.

"(2) FACILITY.—The term 'facility' has the meaning stated in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

"(3) HAZARDOUS SUBSTANCE.—The term 'hazardous substance' means a hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)).

"(4) RELEASE.—The term 'release' has the meaning stated in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

"(5) RESPONSE ACTION.—The term 'response action' has the meaning stated in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

"(6) VESSEL.—The term 'vessel' has the meaning stated in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

"(b) FEDERAL BANKING AND LENDING AGENCIES NOT STRICTLY LIABLE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a Federal banking or lending agency shall not be liable under section 106 or 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606, 9607) for the release or threatened release of a hazardous substance at or from a vessel or facility (including a right or interest in a vessel or facility) acquired—

"(A) in connection with the exercise of receivership or conservatorship authority, or the liquidation or winding up of the affairs of an insured depository institution, including a subsidiary of an insured depository institution;

"(B) in connection with the provision of a loan, a discount, an advance, a guarantee, insurance, or other financial assistance; or

"(C) in connection with a vessel or facility received in a civil or criminal proceeding, or administrative enforcement action, whether by settlement or by order.

"(2) ACTIVE CAUSATION.—Subject to section 107(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(d)), a Federal banking or lending agency that causes or contributes to a release or threatened release of a hazardous substance may be liable for a response action pertaining to the release or threatened release.

"(3) FEDERAL OR STATE ACTION.—Notwithstanding subsection (a)(1)(B), if a Federal agency or State environmental agency is required to take a response action because a subsequent purchaser—

"(A) fails to agree to take reasonable steps necessary to remedy a release or threatened release or to protect public health and safety in a manner consistent with the purposes of applicable environmental laws; or

"(B) causes or contributes to any additional release or threatened release on the vessel or facility,

the subsequent purchaser shall reimburse the Federal agency or State environmental agency for the costs of the response action in an amount not to exceed the increase in the fair market value of the vessel or facility attributable to the response action.

"(c) LIEN EXEMPTION.—Notwithstanding any other law, a vessel or facility held by a subsequent purchaser described in subsection (a)(1)(B) or held by a Federal banking or lending agency shall not be subject to a lien for costs or damages associated with the release or threatened release of a hazardous substance existing at the time of the transfer.

"(d) EXEMPTION FROM COVENANTS TO REMEDIATE.—Notwithstanding section 120, a Federal banking or lending agency shall be exempt from any law requiring the agency to grant a covenant warranting that a response action has been, or will in the future be, taken with respect to a vessel or facility acquired in a manner described in subsection (b)(1).

"(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

"(1) affect the rights or immunities or other defenses that are available to any party under this Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or any other law;

"(2) create any liability for any party;

"(3) create a private right of action against an insured depository institution or lender, a Federal banking or lending agency, or any other party, except as provided in subsection (b)(3);

"(4) preempt, affect, apply to, or modify a State law or a right, cause of action, or obligation under State law, except that the liability of a Federal banking or lending agency for a response action under a State law shall not exceed the value of the interest of the agency in the asset giving rise to the liability; or

"(5) preclude a Federal banking or lending agency from agreeing with a State to transfer a vessel or facility to the State in lieu of any liability that might otherwise be imposed under State law.".

SEC. 305. CONTIGUOUS PROPERTIES.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)), as amended by section 303(b), is amended by adding at the end the following:

"(p) CONTIGUOUS PROPERTIES.—

"(1) NOT CONSIDERED TO BE AN OWNER OR OPERATOR.—A person that owns or operates real property that is contiguous to or otherwise similarly situated with respect to real property on which there has been a release or threatened release of a hazardous substance and that is or may be contaminated by the release shall not be considered to be an owner or operator of a vessel or facility under subsection (a) (1) or (2) solely by reason of the contamination if—

"(A) the person did not cause, contribute, or consent to the release or threatened release; and

"(B) the person is not liable, and is not affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.

"(2) COOPERATION, ASSISTANCE, AND ACCESS.—Notwithstanding paragraph (1), a person described in paragraph (1) shall provide full cooperation, assistance, and facility access to the persons that are responsible for response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

"(3) ASSURANCES.—The Administrator may—

"(A) issue an assurance that no enforcement action under this Act will be initiated against a person described in paragraph (1); and

"(B) grant a person described in paragraph (1) protection against a cost recovery or contribution action under section 113(f).".

SEC. 306. PROSPECTIVE PURCHASERS AND WINDFALL LIENS.

(a) DEFINITION.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), as amended by section 303(a)(2), is amended by adding at the end the following:

"(41) BONA FIDE PROSPECTIVE PURCHASER.—The term 'bona fide prospective purchaser' means a person that acquires ownership of a facility after the date of enactment of this paragraph, or a tenant of such a person, that establishes each of the following by a preponderance of the evidence:

"(A) DISPOSAL PRIOR TO ACQUISITION.—All active disposal of hazardous substances at the facility occurred before the person acquired the facility.

"(B) INQUIRIES.—

"(i) IN GENERAL.—The person made all appropriate inquiries into the previous ownership and uses of the facility and the facility's real property in accordance with generally accepted good commercial and customary standards and practices.

"(ii) STANDARDS AND PRACTICES.—The standards and practices referred to in paragraph (35)(B)(ii) or those issued or adopted by the Administrator under that paragraph shall be considered to satisfy the requirements of this subparagraph.

"(iii) RESIDENTIAL USE.—In the case of property for residential or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.

"(C) NOTICES.—The person provided all legally required notices with respect to the discovery or release of any hazardous substances at the facility.

"(D) CARE.—The person exercised appropriate care with respect to each hazardous substance found at the facility by taking reasonable steps to stop any continuing release, prevent any threatened future release and prevent or limit human or natural resource exposure to any previously released hazardous substance.

"(E) COOPERATION, ASSISTANCE, AND ACCESS.—The person provides full cooperation, assistance, and facility access to the persons that are responsible for response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

"(F) RELATIONSHIP.—The person is not liable, and is not affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.".

(b) AMENDMENT.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607), as amended by section 305, is amended by adding at the end the following:

"(q) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

"(1) LIMITATION ON LIABILITY.—Notwithstanding subsection (a), a bona fide prospective purchaser whose potential liability for a release or threatened release is based solely on the purchaser's being considered to be an owner or operator of a facility shall not be liable as long as the bona fide prospective purchaser does not impede the performance of a response action or natural resource restoration.

"(2) LIEN.—If there are unrecovered response costs at a facility for which an owner of the facility is not liable by reason of subsection (n)(1)(C) and each of the conditions described in paragraph (3) is met, the United States shall have a lien on the facility, or may obtain from appropriate responsible party a lien on any other property or other assurances of payment satisfactory to the Administrator, for such unrecovered costs.

"(3) CONDITIONS.—The conditions referred to in paragraph (1) are the following:

"(A) RESPONSE ACTION.—A response action for which there are unrecovered costs is carried out at the facility.

"(B) FAIR MARKET VALUE.—The response action increases the fair market value of the facility above the fair market value of the facility that existed 180 days before the response action was initiated.

"(C) SALE.—A sale or other disposition of all or a portion of the facility has occurred.

"(4) AMOUNT.—A lien under paragraph (2)—

"(A) shall not exceed the increase in fair market value of the property attributable to the response action at the time of a subsequent sale or other disposition of the property;

"(B) shall arise at the time at which costs are first incurred by the United States with respect to a response action at the facility;

"(C) shall be subject to the requirements of subsection (l)(3); and

"(D) shall continue until the earlier of satisfaction of the lien or recovery of all response costs incurred at the facility.".

SEC. 307. SAFE HARBOR INNOCENT LANDHOLDERS.

(a) AMENDMENT.—Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(35)) is amended by striking subparagraph (B) and inserting the following:

"(B) KNOWLEDGE OF INQUIRY REQUIREMENT.—

"(i) ALL APPROPRIATE INQUIRIES.—To establish that the defendant had no reason to know of the matter described in subparagraph (A)(i), the defendant must show that, at or prior to the date on which the defendant acquired the facility, the defendant undertook all appropriate inquiries into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices.

"(ii) STANDARDS AND PRACTICES.—The Administrator shall by regulation establish as standards and practices for the purpose of clause (i)—

"(I) the American Society for Testing and Materials (ASTM) Standard E1527–94, entitled 'Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process'; or

"(II) alternative standards and practices under clause (iii).

"(iii) ALTERNATIVE STANDARDS AND PRACTICES.—

"(I) IN GENERAL.—The Administrator may by regulation issue alternative standards and practices or designate standards developed by other organizations than the American Society for Testing and Materials after conducting a study of commercial and industrial practices concerning the transfer of real property in the United States.

"(II) CONSIDERATIONS.—In issuing or designating alternative standards and practices under subclause (I), the Administrator shall consider including each of the following:

"(aa) The results of an inquiry by an environmental professional.

"(bb) Interviews with past and present owners, operators, and occupants of the facility and the facility's real property for the purpose of gathering information regarding the potential for contamination at the facility and the facility's real property.

"(cc) Reviews of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records to determine previous uses and occupancies of the real property since the property was first developed.

"(dd) Searches for recorded environmental cleanup liens, filed under Federal, State, or local law, against the facility or the facility's real property.

"(ee) Reviews of Federal, State, and local government records (such as waste disposal records), underground storage tank records, and hazardous waste handling, generation, treatment, disposal, and spill records, concerning contamination at or near the facility or the facility's real property.

"(ff) Visual inspections of the facility and facility's real property and of adjoining properties.

"(gg) Specialized knowledge or experience on the part of the defendant.

"(hh) The relationship of the purchase price to the value of the property if the property was uncontaminated.

"(ii) Commonly known or reasonably ascertainable information about the property.

"(jj) The degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate investigation.

"(iv) SITE INSPECTION AND TITLE SEARCH.—In the case of property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.".

(b) STANDARDS AND PRACTICES.—

(1) ESTABLISHMENT BY REGULATION.—The Administrator of the Environmental Protection Agency shall issue the regulation required by section 101(35)(B)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as added by subsection (a), not later than 1 year after the date of enactment of this Act.

(2) INTERIM STANDARDS AND PRACTICES.—Until the Administrator issues the regulation described in paragraph (1), in making a determination under section 101(35)(B)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as added by subsection (a), there shall be taken into account—

(A) any specialized knowledge or experience on the part of the defendant;

(B) the relationship of the purchase price to the value of the property if the property was uncontaminated;

(C) commonly known or reasonably ascertainable information about the property;

(D) the degree of obviousness of the presence or likely presence of contamination at the property; and

(E) the ability to detect the contamination by appropriate investigation.

TITLE IV—SELECTION OF REMEDIAL ACTIONS

SEC. 401. DEFINITIONS.

Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), as amended by section 306(a), is amended by adding at the end the following:

"(42) ACTUAL OR PLANNED OR REASONABLY ANTICIPATED FUTURE USE OF THE LAND AND WATER RESOURCES.—The term 'actual or planned or reasonably anticipated future use of the land and water resources' means—

"(A) the actual use of the land, surface water, and ground water at a facility on the date of submittal of the proposed remedial action plan; and

"(B)(i) with respect to land—

"(I) the use of land that is authorized by the zoning or land use decisions formally adopted, at or prior to the time of the initiation of the facility evaluation, by the local land use planning authority for a facility and the land immediately adjacent to the facility; and

"(II) any other reasonably anticipated use that the local land use authority, in consultation with the community response organization (if any), determines to have a substantial probability of occurring based on recent (as of the time of the determination) development patterns in the area in which the facility is located and on population projections for the area; and

"(ii) with respect to water resources, the future use of the surface water and ground water that is potentially affected by releases from a facility that is reasonably anticipated, by a local government or other governmental unit that regulates surface or ground water use or surface or ground water use planning in the vicinity of the facility, on the earlier of—

"(I) the date of issuance of the first record of decision; or

"(II) the initiation of the facility evaluation.

"(43) SIGNIFICANT ECOSYSTEM.—The term 'significant ecosystem', for the purpose of section 121(a)(1)(B), means an ecosystem that exhibits a uniqueness, particular value, or historical presence or that is widely recognized as a significant resource at the national, State or local level.

"(44) VALUABLE ECOSYSTEM.—The term 'valuable ecosystem' means an ecosystem that is a known source of significant human or ecological benefits for its function.

"(45) SUSTAINABLE ECOSYSTEM.—The term 'sustainable ecosystem' means an ecosystem that has redundancy and resiliency sufficient to enable the ecosystem to continue to function and provide benefits within the normal range of its variability notwithstanding exposure to hazardous substances resulting from releases.

"(46) ECOLOGICAL RESOURCE.—The term 'ecological resource' means land, fish, wildlife, biota, air, surface water, and ground water within an ecosystem.

"(47) SIGNIFICANT RISK TO ECOLOGICAL RESOURCES THAT ARE NECESSARY TO THE SUSTAINABILITY OF A SIGNIFICANT ECOSYSTEM OR VALUABLE ECOSYSTEM.—The term 'significant risk to ecological resources that are necessary to the sustainability of a significant ecosystem or valuable ecosystem' means the risk associated with exposures and impacts resulting from the release of hazardous substances which together reduce or eliminate the sustainability (within the meaning of paragraph (45)) of a significant ecosystem or valuable ecosystem.".

SEC. 402. SELECTION AND IMPLEMENTATION OF REMEDIAL ACTIONS.

Section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621) is amended—

(1) by striking the section heading and subsections (a) and (b) and inserting the following:

"SEC. 121. SELECTION AND IMPLEMENTATION OF REMEDIAL ACTIONS.

"(a) GENERAL RULES.—

"(1) SELECTION OF MOST COST-EFFECTIVE REMEDIAL ACTION THAT PROTECTS HUMAN HEALTH AND THE ENVIRONMENT.—

"(A) IN GENERAL.—The Administrator shall select a remedial action that is the most cost-effective means of achieving the goals of protecting human health and the environment as stated in subparagraph (B) using the criteria stated in subparagraph (C).

"(B) GOALS OF PROTECTING HUMAN HEALTH AND THE ENVIRONMENT.—

"(i) PROTECTION OF HUMAN HEALTH.—A remedial action shall be considered to protect human health if, considering the expected exposures associated with the actual or planned or reasonably anticipated future use of the land and water resources, the remedial action achieves a residual risk—

"(I) from exposure to carcinogenic hazardous substances, pollutants, or contaminants such that cumulative lifetime additional cancer from exposure to hazardous substances from releases at the facility range from 10^{-4} to 10^{-6} for the affected population; and

"(II) from exposure to noncarcinogenic hazardous substances, pollutants, or contaminants at the facility that does not pose an appreciable risk of deleterious effects.

"(ii) PROTECTION OF THE ENVIRONMENT.—A remedial action shall be considered to protect the environment if, based on the actual or planned or reasonably anticipated future use of the land and water resources, the remedial action will protect against significant risks to ecological resources that are necessary to the sustainability of a significant ecosystem or valuable ecosystem and will not interfere with a sustainable functional ecosystem.

"(C) COMPLIANCE WITH FEDERAL AND STATE LAWS.—

"(i) SUBSTANTIVE REQUIREMENTS.—

"(I) IN GENERAL.—Subject to clause (iii), a remedial action shall—

"(aa) comply with the substantive requirements of all promulgated standards, requirements, criteria, and limitations under each Federal law and each State law relating to the environment or to the siting of facilities (including a State law that imposes a more stringent standard, requirement, criterion, or limitation than Federal law) that is applicable to the conduct or operation of the remedial action or to determination of the level of cleanup for remedial actions; and

"(bb) comply with or attain any other promulgated standard, requirement, criterion, or limitation under any State law relating to the environment or siting of facilities that applies to the conduct or operation of remedial actions under this Act, as determined by the State, after the date of enactment of the Accelerated Cleanup and Environmental Restoration Act of 1996, through a rulemaking procedure that includes public notice, comment, and written response comment, and opportunity for judicial review, but only if the State demonstrates that the standard, requirement, criterion, or limitation is consistently applied to remedial actions under State law.

"(II) IDENTIFICATION OF FACILITIES.—Compliance with a State standard, requirement, criterion, or limitation described in subclause (I) shall be required at a facility if the standard, requirement, criterion, or limitation has been identified by the State to the Administrator in a timely manner as being applicable to the facility.

"(III) PUBLISHED LISTS.—Each State shall publish a comprehensive list of the standards, requirements, criteria, and limitations that the State may apply to remedial actions under this Act, and shall revise the list periodically, as requested by the Administrator.

"(IV) CONTAMINATED MEDIA.—Compliance with this clause shall not be required with respect to return, replacement, or disposal of contaminated media or residuals of contaminated media into the same media in or very near then-existing areas of contamination onsite at a facility.

"(ii) PROCEDURAL REQUIREMENTS.—Procedural requirements of Federal and State standards, requirements, criteria, and limitations (including permitting requirements) shall not apply to response actions conducted onsite at a facility.

"(iii) WAIVER PROVISIONS.—

"(I) DETERMINATION BY THE PRESIDENT.—The Administrator shall evaluate and determine if it is not appropriate for a remedial action to attain a Federal or State standard, requirement, criterion, or limitation as required by clause (i).

"(II) SELECTION OF REMEDIAL ACTION THAT DOES NOT COMPLY.—The Administrator may select for a facility a remedial action that meets the requirements of subparagraph (B) but does not comply with or attain a Federal or State standard, requirement, criterion, or limitation described in clause (i) if the Administrator makes any of the following findings:

"(aa) IMPROPER IDENTIFICATION.—The standard, requirement, criterion, or limitation was improperly identified as an applicable requirement under clause (i)(I)(aa) and fails to comply with the rulemaking requirements of clause (i)(I)(bb).

"(bb) PART OF REMEDIAL ACTION.—The selected remedial action is only part of a total remedial action that will comply with or attain the applicable requirements of clause (i) when the total remedial action is completed.

"(cc) GREATER RISK.—Compliance with or attainment of the standard, requirement, criterion, or limitation at the facility will result in greater risk to human health or the environment than alternative options.

"(dd) TECHNICALLY IMPRACTICABILITY.—Compliance with or attainment of the standard, requirement, criterion, or limitation is technically infeasible from an engineering perspective or unreasonably costly.

"(ee) EQUIVALENT TO STANDARD OF PERFORMANCE.—The selected remedial action will attain a standard of performance that is equivalent to that required under a standard, requirement, criterion, or limitation described in clause (i) through use of another approach.

"(ff) INCONSISTENT APPLICATION.—With respect to a State standard, requirement, criterion, limitation, or level, the State has not consistently applied (or demonstrated the intention to apply consistently) the standard, requirement, criterion, or limitation or level in similar circumstances to other remedial actions in the State.

"(gg) BALANCE.—In the case of a remedial action to be undertaken solely under section 104 or 132 using amounts from the Fund, a selection of a remedial action that complies with or attains a standard, requirement, criterion, or limitation described in clause (i) will not provide a balance between the need for protection of public health and welfare and the environment at the facility, and the need to make amounts from the Fund available to respond to other facilities that may present a threat to public health or welfare or the environment, taking into consideration the relative immediacy of the threats presented by the various facilities.

"(III) PUBLICATION.—The Administrator shall publish any findings made under subclause (II), including an explanation and appropriate documentation.

"(D) REMEDY SELECTION CRITERIA.—In selecting a remedial action from among alternatives that achieve the goals stated in subparagraph (B), the Administrator shall balance the following factors, ensuring that no single factor predominates over the others:

"(i) The effectiveness of the remedy in protecting human health and the environment.

"(ii) The reliability of the remedial action in achieving the protectiveness standards over the long term.

"(iii) Any short-term risk to the affected community, those engaged in the remedial action effort, and to the environment posed by the implementation of the remedial action.

"(iv) The acceptability of the remedial action to the affected community.

"(v) The implementability and technical feasibility of the remedial action from an engineering perspective.

"(vi) The reasonableness of the cost.

"(2) TECHNICAL INFEASIBILITY AND UNREASONABLE COST.—

"(A) MINIMIZATION OF RISK.—If the Administrator, after reviewing the remedy selection criteria stated in paragraph (1)(C), finds that achieving the goals stated in paragraph (1)(B), is technically infeasible from an engineering perspective or unreasonably costly, the Administrator shall evaluate remedial measures that mitigate the risks to human health and the environment and select a technically practicable remedial action that will most closely achieve the goals stated in paragraph (1) through cost-effective means.

"(B) BASIS FOR FINDING.—A finding of technical impracticability may be made on the basis of a determination, supported by appropriate documentation, that, at the time at which the finding is made—

"(i) there is no known reliable means of achieving at a reasonable cost the goals stated in paragraph (1)(B); and

"(ii) it has not been shown that such a means is likely to be developed within a reasonable period of time.

"(3) PRESUMPTIVE REMEDIAL ACTIONS.—A remedial action that implements a presumptive remedial action issued under section 128 shall be considered to achieve the goals stated in paragraph (1)(B) and balance adequately the factors stated in paragraph (1)(C).

"(4) GROUND WATER.—

"(A) IN GENERAL.—A remedial action shall protect uncontaminated ground water that is suitable for use as drinking water by humans or livestock in the water's condition at the time of initiation of the facility evaluation.

"(B) CONSIDERATIONS.—A decision under subparagraph (A) regarding remedial action for ground water shall take into consideration—

"(i) the actual or planned or reasonably anticipated future use of the ground water and the timing of that use;

"(ii) any attenuation or biodegradation that would occur if no remedial action were taken; and

"(iii) the criteria stated in paragraph (1)(C).

"(C) OFFICIAL CLASSIFICATION.—For the purposes of subparagraph (A), there shall be no presumption that because ground water is suitable for use as drinking water by humans or livestock, such use is the actual or planned or reasonably anticipated future use of the ground water.

"(D) UNCONTAMINATED GROUND WATER.—A remedial action for protecting uncontaminated ground water may be based on natural attenuation or biodegradation so long as the remedial action does not interfere with the actual or planned or reasonably anticipated future use of the ground water.

"(E) CONTAMINATED GROUND WATER.—A remedial action for contaminated ground water may include point-of-use treatment.

"(5) OTHER CONSIDERATIONS APPLICABLE TO REMEDIAL ACTIONS.—A remedial action that uses institutional and engineering controls shall be considered to be on an equal basis with all other remedial action alternatives.";

(2) by redesignating subsection (c) as subsection (b), and, in the first sentence of that subsection, by striking "5 years" and inserting "7 years";

(3) by striking subsection (d); and

(4) by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

SEC. 403. REMEDY SELECTION METHODOLOGY.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

"SEC. 127. FACILITY-SPECIFIC RISK EVALUATIONS.

"(a) USES.—

"(1) IN GENERAL.—A facility-specific risk evaluation shall be used to—

"(A) identify the significant components of potential risk posed by a facility;

"(B) screen out potential contaminants, areas, or exposure pathways from further study at a facility;

"(C) compare the relative protectiveness of alternative potential remedies proposed for a facility; and

"(D) demonstrate that the remedial action selected for a facility is capable of protecting human health and the environment considering the actual or planned or reasonably anticipated future use of the land and water resources.

"(2) COMPLIANCE WITH PRINCIPLES.—A facility-specific risk evaluation shall comply with the principles stated in this section to ensure that—

"(A) actual or planned or reasonably anticipated future use of the land and water resources is given appropriate consideration; and

"(B) all of the components of the evaluation are, to the maximum extent practicable, scientifically objective and inclusive of all relevant data.

"(b) RISK EVALUATION PRINCIPLES.—A facility-specific risk evaluation shall—

"(1) be based on actual or plausible estimates of exposure considering the actual or planned or reasonably anticipated future use of the land and water resources;

"(2) be comprised of components each of which is, to the maximum extent practicable, scientifically objective, and inclusive of all relevant data;

"(3) use chemical and facility-specific data and analysis (such as toxicity, exposure, and fate and transport evaluations) in preference to default assumptions;

"(4) use a range and distribution of realistic and plausible assumptions when chemical and facility-specific data are not available;

"(5) use mathematical models that take into account the fate and transport of hazardous substances, pollutants, or contaminants, in the environment instead of relying on default assumptions; and

"(6) use credible hazard identification and dose/response assessments.

"(c) RISK COMMUNICATION PRINCIPLES.—The document reporting the results of a facility-specific risk evaluation shall—

"(1) contain an explanation that clearly communicates the risks at the facility;

"(2) identify and explain all assumptions used in the evaluation, all alternative assumptions, the policy or value judgments used in choosing the assumptions, and whether empirical data conflict with or validate the assumptions;

"(3) present—

"(A) a range and distribution of exposure and risk estimates, including, if numerical estimates are provided, central estimates of exposure and risk using—

"(i) the most plausible assumptions or a weighted combination of multiple assumptions based on different scenarios; or

"(ii) any other methodology designed to characterize the most plausible estimate of risk given the scientific information that is available at the time of the facility-specific risk evaluation; and

"(B) a statement of the nature and magnitude of the scientific and other uncertainties associated with those estimates;

"(4) state the size of the population potentially at risk from releases from the facility and the likelihood that potential exposures will occur based on the actual or planned or reasonably anticipated future use of the land and water resources; and

"(5) compare the risks from the facility to other risks commonly experienced by members of the local community in their daily lives and similar risks regulated by the Federal Government.

"(d) REGULATIONS.—Not later than 18 months after the date of enactment of this section, the Administrator shall issue a final regulation implementing this section that promotes a realistic characterization of risk that neither minimizes nor exaggerates the risks and potential risks posed by a facility or a proposed remedial action.

"SEC. 128. PRESUMPTIVE REMEDIAL ACTIONS.

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue a final regulation establishing presumptive remedial actions for commonly encountered types of facilities with reasonably well understood contamination problems and exposure potential.

"(b) PRACTICABILITY AND COST-EFFECTIVENESS.—Such presumptive remedies must have been demonstrated to be technically practicable and cost-effective methods of achieving the goals of protecting human health and the environment stated in section 121(a)(1)(B).

"(c) VARIATIONS.—The Administrator may issue various presumptive remedial actions based on various uses of land and water resources, various environmental media, and various types of hazardous substances, pollutants, or contaminants.

"(d) ENGINEERING CONTROLS.—Presumptive remedial actions are not limited to treatment remedies, but may be based on, or include, institutional and standard engineering controls.".

SEC. 404. REMEDY SELECTION PROCEDURES.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 403, is amended by adding at the end the following:

"SEC. 129. REMEDIAL ACTION PLANNING AND IMPLEMENTATION.

"(a) IN GENERAL.—

"(1) BASIC RULES.—

"(A) PROCEDURES.—A remedial action with respect to a facility that is listed or proposed for listing on the National Priorities List shall be developed and selected in accordance with the procedures set forth in this section.

"(B) NO OTHER PROCEDURES OR REQUIREMENTS.—The procedures stated in this section are in lieu of any procedures or requirements under any other law to conduct remedial investigations, feasibility studies, record of decisions, remedial designs, or remedial actions.

"(C) LIMITED REVIEW.—In a case in which the potentially responsible parties prepare a remedial action plan, only the work plan, facility evaluation, proposed remedial action plan, and final remedial design shall be subject to review, comment, and approval by the Administrator.

"(D) DESIGNATION OF POTENTIALLY RESPONSIBLE PARTIES TO PREPARE WORK PLAN, FACILITY EVALUATION, PROPOSED REMEDIAL ACTION, AND REMEDIAL DESIGN AND TO IMPLEMENT THE REMEDIAL ACTION PLAN.—In the case of a facility for which the Administrator is not required to prepare a work plan, facility evaluation, proposed remedial action, and remedial design and implement the remedial action plan—

"(i) if a potentially responsible party or group of potentially responsible parties—

"(I) expresses an intention to prepare a work plan, facility evaluation, proposed remedial action plan, and remedial design and to implement the remedial action plan (not including any such expression of intention that the Administrator finds is not made in good faith); and

"(II) demonstrates that the potentially responsible party or group of potentially responsible parties has the financial resources and the expertise to perform those functions, the Administrator shall designate the potentially responsible party or group of potentially responsible parties to perform those functions; and

"(ii) if more than 1 potentially responsible party or group of potentially responsible parties—

"(I) expresses an intention to prepare a work plan, facility evaluation, proposed remedial action plan, and remedial design and to implement the remedial action plan (not including any such expression of intention that the Administrator finds is not made in good faith); and

"(II) demonstrates that the potentially responsible parties or group of potentially responsible parties has the financial resources and the expertise to perform those functions, the Administrator, based on an assessment of the various parties' comparative financial resources, technical expertise, and histories of cooperation with respect to facilities that are listed on the National Priorities List, shall designate 1 potentially responsible party or group of potentially responsible parties to perform those functions.

"(E) APPROVAL REQUIRED AT EACH STEP OF PROCEDURE.—No action shall be taken with respect to a facility evaluation, proposed remedial action plan, remedial action plan, or remedial design, respectively, until a work plan, facility evaluation, proposed remedial action plan, and remedial action plan, respectively, have been approved by the Administrator.

"(F) NATIONAL CONTINGENCY PLAN.—The Administrator shall conform the National Contingency Plan regulations to reflect the procedures stated in this section.

"(2) USE OF PRESUMPTIVE REMEDIAL ACTIONS.—

"(A) PROPOSAL TO USE.—In a case in which a presumptive remedial action applies, the Administrator (if the Administrator is conducting the remedial action) or the preparer of the remedial action plan may, after conducting a facility evaluation, propose a presumptive remedial action for the facility, if the Administrator or preparer shows with appropriate documentation that the facility fits the generic classification for which a presumptive remedial action has been issued and performs an engineering evaluation to demonstrate that the presumptive remedial action can be applied at the facility.

"(B) LIMITATION.—The Administrator may not require a potentially responsible party to implement a presumptive remedial action.

"(b) REMEDIAL ACTION PLANNING PROCESS.—

"(1) IN GENERAL.—The Administrator or a potentially responsible party shall prepare and implement a remedial action plan for a facility.

"(2) CONTENTS.—A remedial action plan shall consist of—

"(A) the results of a facility evaluation, including any screening analysis performed at the facility;

"(B) a discussion of the potentially viable remedies that are considered to be reasonable under section 121(a) and how they balance the factors stated in section 121(a)(1)(C);

"(C) a description of the remedial action to be taken;

"(D) a description of the facility-specific risk-based evaluation under section 127 and a demonstration that the selected remedial action will satisfy sections 121(a) and 128; and

"(E) a realistic schedule for conducting the remedial action, taking into consideration facility-specific factors.

"(3) WORK PLAN.—

"(A) IN GENERAL.—Prior to preparation of a remedial action plan, the preparer shall develop a work plan, including a community information and participation plan, which generally describes how the remedial action plan will be developed.

"(B) SUBMISSION.—A work plan shall be submitted to the Administrator, the State, the community response organization, the local library, and any other public facility designated by the Administrator.

"(C) PUBLICATION.—The Administrator or other person that prepares a work plan shall publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice announcing that the work plan is available for review at the local library and that comments concerning the work plan can be submitted to the preparer of the work plan, the Administrator, the State, or the local community response organization.

"(D) FORWARDING OF COMMENTS.—If comments are submitted to the Administrator, the State, or the community response organization, the Administrator, State, or community response organization shall forward the comments to the preparer of the work plan.

"(E) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a work plan, the Administrator shall—

"(i) identify to the preparer of the work plan, with specificity, any deficiencies in the submission; and

"(ii) require that the preparer submit a revised work plan within a reasonable period of time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

"(4) FACILITY EVALUATION.—

"(A) IN GENERAL.—The Administrator (or the preparer of the facility evaluation) shall conduct a facility evaluation at each facility to characterize the risk posed by the facility by gathering enough information necessary to—

"(i) assess potential remedial alternatives, including ascertaining, to the degree appropriate, the volume and nature of the contaminants, their location, potential exposure pathways and receptors;

"(ii) discern the actual or planned or reasonably anticipated future use of the land and water resources; and

"(iii) screen out any uncontaminated areas, contaminants, and potential pathways from further consideration.

"(B) SUBMISSION.—A draft facility evaluation shall be submitted to the Administrator for approval.

"(C) PUBLICATION.—Not later than 30 days after submission, or in a case in which the Administrator is preparing the remedial action plan, after the completion of the draft facility evaluation, the Administrator shall publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice announcing that the draft facility evaluation is available for review and that comments concerning the evaluation can be submitted to the Administrator, the State, and the community response organization.

"(D) AVAILABILITY OF COMMENTS.—If comments are submitted to the Administrator, the State, or the community response organization, the Administrator, State, or community response organization shall make the comments available to the preparer of the facility evaluation.

"(E) NOTICE OF APPROVAL.—If the Administrator approves a facility evaluation, the Administrator shall—

"(i) notify the community response organization; and

"(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

"(F) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a facility evaluation, the Administrator shall—

"(i) identify to the preparer of the facility evaluation, with specificity, any deficiencies in the submission; and

"(ii) require that the preparer submit a revised facility evaluation within a reasonable period of time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

"(5) PROPOSED REMEDIAL ACTION PLAN.—

"(A) SUBMISSION.—In a case in which a potentially responsible party prepares a remedial action plan, the preparer shall submit the remedial action plan to the Administrator for approval and provide a copy to the local library.

"(B) PUBLICATION.—After receipt of the proposed remedial action plan, or in a case in which the Administrator is preparing the remedial action plan, after the completion of the remedial action plan, the Administrator shall cause to be published in a newspaper of general circulation in the area where the facility is located and posted in other conspicuous places in the local community a notice announcing that the proposed remedial action plan is available for review at the local library and that comments concerning the remedial action plan can be submitted to the Administrator, the State, and the community response organization.

"(C) AVAILABILITY OF COMMENTS.—If comments are submitted to a State or the community response organization, the State or community response organization shall make the comments available to the preparer of the proposed remedial action plan.

"(D) HEARING.—The Administrator shall hold a public hearing at which the proposed remedial action plan shall be presented and public comment received.

"(E) APPROVAL.—

"(i) IN GENERAL.—The Administrator shall approve a proposed remedial action plan if the plan—

"(I) contains the information described in section 127(b); and

"(II) satisfies section 121(a).

"(ii) DEFAULT.—If the Administrator fails to issue a notice of disapproval of a proposed remedial action plan in accordance with subparagraph (G) within 90 days after the proposed plan is submitted, the plan shall be considered to be approved and its implementation fully authorized.

"(F) NOTICE OF APPROVAL.—If the Administrator approves a proposed remedial action plan, the Administrator shall—

"(i) notify the community response organization; and

"(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

"(G) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a proposed remedial action plan, the Administrator shall—

"(i) inform the preparer of the proposed remedial action plan, with specificity, of any deficiencies in the submission; and

"(ii) request that the preparer submit a revised proposed remedial action plan within a reasonable time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

"(6) IMPLEMENTATION OF REMEDIAL ACTION PLAN.—A remedial action plan that has been approved or is considered to be approved under paragraph (5) shall be implemented in accordance with the schedule set forth in the remedial action plan.

"(7) REMEDIAL DESIGN.—

"(A) SUBMISSION.—A remedial design shall be submitted to the Administrator, or in a case in which the Administrator is preparing the remedial action plan, shall be completed by the Administrator.

"(B) PUBLICATION.—After receipt by the Administrator of (or completion by the Administrator of) the remedial design, the Administrator shall—

"(i) notify the community response organization; and

"(ii) cause a notice of submission or completion of the remedial design to be published in a newspaper of general circulation and posted in conspicuous places in the area where the facility is located.

"(C) COMMENT.—The Administrator shall provide an opportunity to the public to submit written comments on the remedial design.

"(D) APPROVAL.—Not later than 90 days after the submission to the Administrator of (or completion by the Administrator of) the remedial design, the Administrator shall approve or disapprove the remedial design.

"(E) NOTICE OF APPROVAL.—If the Administrator approves a remedial design, the Administrator shall—

"(i) notify the community response organization; and

"(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

"(F) NOTICE OF DISAPPROVAL.—If the Administrator disapproves the remedial design, the Administrator shall—

"(i) identify with specificity any deficiencies in the submission; and

"(ii) allow the preparer submitting a remedial design a reasonable time (which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator) in which to submit a revised remedial design.

"(c) JUDICIAL REVIEW.—

"(1) FINAL ACTION.—Notwithstanding any other provision of this Act or any other law, an approval or disapproval of a remedial action plan described in paragraph (2), shall be final action of the Administrator subject to judicial review in United States district court.

"(2) APPLICATION AND SUBSECTION.—A remedial action plan is described in this paragraph if—

"(A) the plan is approved or disapproved after the date of enactment of this section; and

"(B) the capital cost of the remedial action under the plan is projected to cost more than $15,000,000 for any operating unit that is the subject of a separately enforceable remedial action plan or more than $27,000,000 for an entire facility.

"(d) ENFORCEMENT OF REMEDIAL ACTION PLAN.—

"(1) NOTICE OF SIGNIFICANT DEVIATION.—If the Administrator determines that the implementation of the remedial action plan has deviated significantly from the plan, the Administrator shall provide the implementing party a notice that requires the implementing party, within a reasonable period of time specified by the Administrator, to—

"(A) comply with the terms of the remedial action plan; or

"(B) submit a notice for modifying the plan.

"(2) FAILURE TO COMPLY.—

"(A) CLASS ONE ADMINISTRATIVE PENALTY.—In issuing a notice under paragraph (1), the Administrator may impose a class one administrative penalty consistent with section 109(a).

"(B) ADDITIONAL ENFORCEMENT MEASURES.—If the implementing party fails to either comply with the plan or submit a proposed modification, the Administrator may pursue all additional appropriate enforcement measures pursuant to this Act.

"(e) MODIFICATIONS TO REMEDIAL ACTION.—

"(1) DEFINITION.—In this subsection, the term 'major modification' means a modification that—

"(A) fundamentally alters the interpretation of site conditions at the facility;

"(B) fundamentally alters the interpretation of sources of risk at the facility;

"(C) fundamentally alters the scope of protection to be achieved by the selected remedial action;

"(D) fundamentally alters the performance of the selected remedial action; or

"(E) delays the completion of the remedy by more than 180 days.

"(2) MAJOR MODIFICATIONS.—

"(A) IN GENERAL.—If the Administrator or other implementing party proposes a major modification to the plan, the Administrator or other implementing party shall demonstrate that—

"(i) the major modification constitutes the most cost-effective remedial alternative that is technologically feasible and is not unreasonably costly; and

"(ii) that the revised remedy will continue to satisfy section 121(a).

"(B) NOTICE AND COMMENT.—The Administrator shall provide the implementing party, the community response organization, and the local community notice of the proposed major modification and at least 30 days' opportunity to comment on any such proposed modification.

"(C) PROMPT ACTION.—At the end of the comment period, the Administrator shall promptly approve or disapprove the proposed modification and order implementation of the modification in accordance with any reasonable and relevant requirements that the Administrator may specify.

"(3) MINOR MODIFICATIONS.—Nothing in this section modifies the discretionary authority of the Administrator to make a minor modification of a record of decision or remedial action plan to conform to the best science and engineering, the requirements of this Act, or changing conditions at a facility.".

SEC. 405. COMPLETION OF PHYSICAL CONSTRUCTION AND DELISTING.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 404, is amended by adding at the end the following:

"SEC. 130. COMPLETION OF PHYSICAL CONSTRUCTION AND DELISTING.

"(a) IN GENERAL.—

"(1) PROPOSED NOTICE OF COMPLETION AND PROPOSED DELISTING.—Not later than 60 days after the completion by the Administrator of physical construction necessary to implement a response action at a facility, or not later than 60 days after receipt of a notice of such completion from the implementing party, the Administrator shall publish a notice of completion and proposed delisting of the facility from the National Priorities List in the Federal Register and in a newspaper of general circulation in the area where the facility is located.

"(2) PHYSICAL CONSTRUCTION.—For the purposes of paragraph (1), physical construction necessary to implement a response action at a facility shall be considered to be complete when—

"(A) construction of all systems, structures, devices, and other components necessary to implement a response action for the entire facility has been completed in accordance with the remedial design plan; or

"(B) no construction, or no further construction, is expected to be undertaken.

"(3) COMMENTS.—The public shall be provided 30 days in which to submit comments on the notice of completion and proposed delisting.

"(4) FINAL NOTICE.—Not later than 60 days after the end of the comment period, the Administrator shall—

"(A) issue a final notice of completion and delisting or a notice of withdrawal of the proposed notice until the implementation of the remedial action is determined to be complete; and

"(B) publish the notice in the Federal Register and in a newspaper of general circulation in the area where the facility is located.

"(5) FAILURE TO ACT.—If the Administrator fails to publish a notice of withdrawal within the 60-day period described in paragraph (4)—

"(A) the remedial action plan shall be deemed to have been completed; and

"(B) the facility shall be delisted by operation of law.

"(6) EFFECT OF DELISTING.—The delisting of a facility shall have no effect on—

"(A) liability allocation requirements or cost-recovery provisions otherwise provided in this Act;

"(B) any liability of a potentially responsible party or the obligation of any person to provide continued operation and maintenance;

"(C) the authority of the Administrator to make expenditures from the Fund relating to the facility; or

"(D) the enforceability of any consent order or decree relating to the facility.

"(7) FAILURE TO MAKE TIMELY DISAPPROVAL.—The issuance of a final notice of completion and delisting or of a notice of withdrawal within the time required by subsection (a)(3) constitutes a nondiscretionary duty within the meaning of section 310(a)(2).

"(b) CERTIFICATION.—A final notice of completion and delisting shall include a certification by the Administrator that the facility has met all of the requirements of the remedial action plan (except requirements for continued operation and maintenance).

"(c) FUTURE USE OF A FACILITY.—

"(1) FACILITY AVAILABLE FOR UNRESTRICTED USE.—If, after completion of physical construction, a facility is available for unrestricted use and there is no need for continued operation and maintenance, the potentially responsible parties shall have no further liability under any Federal, State, or local law (including any regulation) for remediation at the facility, unless the Administrator determines, based on new and reliable factual information about the facility, that the facility does not satisfy section 121(a).

"(2) FACILITY NOT AVAILABLE FOR ANY USE.—If, after completion of physical construction, a facility is not available for any use or there are continued operation and maintenance requirements that preclude use of the facility, the Administrator shall—

"(A) review the status of the facility every 7 years; and

"(B) require additional remedial action at the facility if the Administrator determines, after notice and opportunity for hearing, that the facility does not satisfy section 121(a).

"(3) FACILITIES AVAILABLE FOR RESTRICTED USE.—The Administrator may determine that a facility or portion of a facility is available for restricted use while a response action is under way or after physical construction has been completed. The Administrator shall make a determination that uncontaminated portions of the facility are available for unrestricted use when such use would not interfere with ongoing operations and maintenance activities or endanger human health or the environment.

"(d) OPERATION AND MAINTENANCE.—The need to perform continued operation and maintenance at a facility shall not delay delisting of the facility or issuance of the certification if performance of operation and maintenance is subject to a legally enforceable agreement, order, or decree.

"(e) CHANGE OF USE OF FACILITY.—

"(1) PETITION.—Any person may petition the Administrator to change the use of a facility described in subsection (c) (2) or (3) from that which was the basis of the remedial action plan.

"(2) GRANT.—The Administrator may grant a petition under paragraph (1) if the petitioner agrees to implement any additional remedial actions that the Administrator determines are necessary to continue to satisfy section 121(a), considering the different use of the facility.

"(3) RESPONSIBILITY FOR RISK.—When a petition has been granted under paragraph (2), the person requesting the change in use of the facility shall be responsible for all risk associated with altering the facility and all costs of implementing any necessary additional remedial actions.".

SEC. 406. TRANSITION RULES FOR FACILITIES CURRENTLY INVOLVED IN REMEDY SELECTION.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 405, is amended by adding at the end the following:

"SEC. 131. TRANSITION RULES FOR FACILITIES INVOLVED IN REMEDY SELECTION ON DATE OF ENACTMENT.

"(a) NO RECORD OF DECISION.—

"(1) OPTION.—In the case of a facility or operable unit that, as of the date of enactment of this section, is the subject of a remedial investigation and feasibility study (whether completed or incomplete), the potentially responsible parties or the Administrator may elect to follow the remedial action plan process stated in section 129 rather than the remedial investigation and feasibility study and record of decision process under regulations in effect on the date of enactment of this section that would otherwise apply if the requesting party notifies the Administrator and other potentially responsible parties of the election not later than 90 days after the date of enactment of this section.

"(2) SUBMISSION OF FACILITY EVALUATION.—In a case in which the potentially responsible parties have or the Administrator has made an election under subsection (a), the potentially responsible parties shall submit the proposed facility evaluation within 180 days after the date on which notice of the election is given.

"(b) REMEDY REVIEW BOARDS.—

"(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this section, the Administrator shall establish 1 or more remedy review boards (referred to in this subsection as a 'remedy review board'), each consisting of at least 3 independent technical experts, to review petitions under paragraphs (3) and (4).

"(2) GENERAL PROCEDURE.—

"(A) COMPLETION OF REVIEW.—The review of a petition submitted to a remedy review board shall be completed not later than 180 days after the receipt of the petition unless the Administrator, for good cause, grants additional time.

"(B) COSTS.—All costs of review by a remedy review board shall be borne by the petitioner.

"(C) DECISIONS.—At the completion of the 180-day review period, a remedy review board shall issue a written decision including responses to all comments submitted during the review process with regard to a petition.

"(D) OPPORTUNITY FOR COMMENT AND MEETINGS.—In reviewing a petition, a remedy review board shall provide an opportunity for all interested parties, including representatives of the State and local community in which the facility is located, to comment on the petition and, if requested, to meet with the remedy review board.

"(E) REVIEW BY THE ADMINISTRATOR.—

"(i) IN GENERAL.—The Administrator shall have final review of any decision of a remedy review board.

"(ii) STANDARD OF REVIEW.—In conducting a review of a decision of a remedy review board, the Administrator shall accord substantial weight to the remedy review board's decision.

"(iii) REJECTION OF DECISION.—Any determination to reject a remedy review board's decision must be approved by the Administrator or the Assistant Administrator for Solid Waste and Emergency Response.

"(F) DECISION OF THE BOARD.—A decision of a remedy review board decision under subparagraph (B) and the Administrator's review of a decision under subparagraph (E) shall be subject to judicial review under section 113(h).

"(3) CONSTRUCTION NOT BEGUN.—

"(A) PETITION.—In the case of a facility or operable unit with respect to which a record of decision has been signed but construction has not yet begun prior to the date of enactment of this section, the implementor of the record of decision may file a petition with a remedy review board not later than 90 days after the date of enactment of this section to determine whether an alternate remedy under section 127 should apply to the facility or operable unit.

"(B) CRITERIA FOR APPROVAL.—Subject to subparagraph (C), a remedy review board shall approve a petition described in subparagraph (A) if—

"(i) the alternative remedial action proposed in the petition satisfies section 121(a);

"(ii) the alternative remedial action achieves a cost savings of at least $1,500,000.

"(iii) implementation of the alternative remedial action will not result in a substantial delay in the implementation of a remedial action.

"(C) REVIEW OF COMMENTS.—A remedy review board may reject or modify a petition under subparagraph (A), even though the petition meets the criteria stated in subparagraph (B), based on a review of comments submitted by persons other than the petitioner.

"(D) CONTENTS OF PETITION.—A petition described in subparagraph (A) shall rely on risk assessment data that were available prior to issuance of the record of decision but shall consider the actual or planned or reasonably anticipated future use of the land and water resources.

"(E) INCORRECT DATA.—Notwithstanding subparagraph (B) and (D), a remedy review board may approve a petition if the petitioner demonstrates that technical data generated subsequent to the issuance of the record of decision indicates that the decision was based on faulty or incorrect information.

"(4) ADDITIONAL CONSTRUCTION.—

"(A) PETITION.—In the case of a facility or operable unit with respect to which a record of decision has been signed and construction has begun prior to the date of enactment of this section, but for which additional construction or long-term operation and maintenance activities are anticipated, the implementor of the record of decision may file a petition with a remedy review board within 90 days after the date of enactment of this section to determine whether an alternative remedial action should apply to the facility or operable unit.

"(B) CRITERIA FOR APPROVAL.—Subject to subparagraph (C), a remedy review board shall approve a petition described in subparagraph (A) if—

"(i) the alternative remedial action proposed in the petition is protective of human health and the environment in accordance with the standards of section 121, as in effect prior to the date of enactment of this section;

"(ii) implementation of the alternative remedial action will not result in a substantial delay in the implementation of a remedial action; and

"(iii)(I) the petitioner demonstrates that the selected remedial action is inconsistent with the most recent version of any guidance issued by the Administrator prior to the date of enactment of this section concerning the selection or implementation of any remedial action; or

"(II) the alternative remedial action employs a phased remedial approach which, if successful would preclude the need for full implementation of the selected remedial action.

"(C) REVIEW OF COMMENTS.—A remedy review board may reject or modify a petition under subparagraph (A), even though the petition meets the criteria stated in subparagraph (B), based on a review of comments submitted by persons other than the petitioner.

"(D) INCORRECT DATA.—Notwithstanding subparagraph (B), a remedy review board may approve a petition if the petitioner demonstrates that technical data generated subsequent to the issuance of the record of decision indicates that the decision was based on faulty or incorrect information.

"(5) DELAY.—In determining whether an alternative remedial action will substantially delay the implementation of a remedial action of a facility, no consideration shall be given to the time necessary to review a petition under paragraph (3) or (4) by a remedy review board or the Administrator.".

SEC. 407. JUDICIAL REVIEW.

(a) REVIEW OF CERTAIN ACTIONS.—Section 113(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(h)) is amended by adding at the end the following:

"(6) An action under section 129(c).".

(b) STAY.—Section 113(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(b)) is amended by adding at the end the following: "In the case of a challenge under section 113(h)(6), the court may stay the implementation or initiation of the challenged actions pending judicial resolution of the matter.".

SEC. 408. NATIONAL PRIORITIES LIST.

(a) REVISION OF NATIONAL CONTINGENCY PLAN.—

(1) AMENDMENTS.—Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) is amended—

(A) in subsection (a)(8) by adding at the end the following:

"(C) provision that in listing a facility on the National Priorities List, the Administrator shall not include any parcel of real property at which no release has actually occurred, but to which a released hazardous substance, pollutant, or contaminant has migrated in ground water that has moved through subsurface strata from another parcel of real estate at which the release actually occurred, unless—

"(i) the ground water is in use as a public drinking water supply or was in such use at the time of the release; and

"(ii) the owner or operator of the facility is liable, or is affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed."; and

(B) by adding at the end the following:

"(h) LISTING OF PARTICULAR PARCELS.—

"(1) DEFINITION.—In subsection (a)(8)(C) and paragraph (2) of this subsection, the term 'parcel of real property' means a parcel, lot, or tract of land that has a separate legal description from that of any other parcel, lot, or tract of land the legal description and ownership of which has been recorded in accordance with the law of the State in which it is located.

"(2) STATUTORY CONSTRUCTION.—Nothing in subsection (a)(8)(C) shall be construed to limit the Administrator's authority under section 104 to obtain access to and undertake response actions at any parcel of real property to which a released hazardous substance, pollutant, or contaminant has migrated in the ground water.".

(2) REVISION OF NATIONAL PRIORITIES LIST.—The President shall revise the National Priorities List to conform with the amendment made by paragraph (1) not later that 180 days of the date of enactment of this Act.

TITLE V—LIABILITY

SEC. 501. LIABILITY EXCEPTIONS AND LIMITATIONS.

(a) IN GENERAL.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607), as amended by section 306(b), is amended by adding at the end the following:

"(r) 10-PERCENT LIMITATION FOR MUNICIPAL SOLID WASTE AND SEWAGE SLUDGE.—No person or group of persons (other than the United States or a department, agency, or instrumentality of the United States) shall be liable for more than 10 percent of total response costs at a facility listed on the National Priorities List, in the aggregate, incurred after the date of enactment of this subsection if—

"(1) the person is liable solely under subparagraph (C) or (D) of subsection (a)(1); and

"(2) the arrangement for disposal, treatment, or transport for disposal or treatment, or the acceptance for transport for disposal or treatment, involved only municipal solid waste or sewage sludge.

"(s) DE MINIMIS CONTRIBUTOR EXEMPTION.—In the case of a vessel or facility that is not owned by the United States and is listed on the National Priorities List, no person described in subparagraph (C) or (D) of subsection (a)(1) (other than the United States or any department, agency, or instrumentality of the United States) shall be liable to the United States or to any other person (including liability for contribution) under Federal or State law for any costs under this section incurred after the date of enactment of this subsection, if no activity specifically attributable to the person resulted in—

"(1) the disposal or treatment of more than 1 percent of the volume of material containing a hazardous substance at the vessel or facility prior to December 11, 1980; or

"(2) the disposal or treatment of not more than 200 pounds or 110 gallons of material containing hazardous substances at the vessel or facility prior to January 1, 1996, or such greater or lesser amount as the Administrator may determine by regulation.

"(t) SUCCESSOR LIABILITY.—The liability of a person that has purchased assets from another person that is otherwise liable under this section shall be determined in accordance with the law of the State in which the vessel or facility is located.".

(b) CONFORMING AMENDMENT.—Section 107(a) is amended by striking "of this section" and inserting ", the limitation stated in subsection (r), and the exemption stated in subsection (s)".

(c) EFFECTIVE DATE AND TRANSITION RULES.—The amendments made by this section—

(1) shall take effect with respect to an action under section 106, 107, or 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606, 9607, and 9613) that becomes final on or after the date of enactment of this Act; but

(2) shall not apply to an action brought by any person under section 107 or 113 of that Act (42 U.S.C. 9607 and 9613) for costs or damages incurred by the person before the date of enactment of this Act.

SEC. 502. CONTRIBUTION FROM THE FUND FOR CERTAIN RETROACTIVE LIABILITY.

Section 112 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9612) is amended by adding at the end the following:

"(g) CONTRIBUTION FROM THE FUND FOR CERTAIN RETROACTIVE LIABILITY.—

"(1) COMPLETION OF OBLIGATIONS.—A person that is subject to an administrative order issued under section 106 or has entered into a settlement decree with the United States or a State as of the date of enactment of this subsection shall complete the person's obligations under the order or settlement decree.

"(2) CONTRIBUTION.—A person described in paragraph (1) shall receive contribution from the Fund for any portion of the costs incurred for the performance of the response action after the date of enactment of this subsection—

"(A) if the person is not liable for such costs by reason of the de minimis contributor exemption under section 107(s); or

"(B) if and to the extent the person's allocated share, as determined under section 503, is funded by the orphan share under section 503(l)(2)(B).

"(3) APPLICATION FOR CONTRIBUTION.—

"(A) IN GENERAL.—Contribution under this section shall be made upon receipt by the Administrator of an application from the person requesting contribution.

"(B) PERIODIC APPLICATIONS.—Application may be made no more frequently than every 6 months after such payments are made or such costs are incurred, commencing 6 months after the enactment of this subsection.

"(4) REGULATIONS.—Contribution shall be made in accordance with such regulations as the Administrator shall issue within 180 days after the date of enactment of this section.

"(5) DOCUMENTATION.—The regulations under paragraph (4) shall, at a minimum, require that an application for contribution contain such documentation of costs and expenditures as the Administrator considers necessary to ensure compliance with this subsection.

"(6) EXPEDITION.—The Administrator shall develop and implement such procedures as may be necessary to provide contribution to such persons in an expeditious manner, but in no case shall a contribution be made later than 1 year after submission of an application under this subsection.

"(7) CONSISTENCY WITH NATIONAL CONTINGENCY PLAN.—No contribution shall be made under this subsection unless the Administrator determines that such costs are consistent with the National Contingency Plan.".

SEC. 503. ALLOCATION OF LIABILITY FOR CERTAIN FACILITIES.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 406, is amended by adding at the end the following:

"SEC. 132. ALLOCATION OF LIABILITY FOR CERTAIN FACILITIES.

"(a) DEFINITIONS.—In this section:

"(1) ALLOCATED SHARE.—The term 'allocated share' means the percentage of liability assigned to a potentially responsible party by the allocator in an allocation report under section 132(j)(6).

"(2) ALLOCATION PARTY.—The term 'allocation party' means a party, named on a list of parties that will be subject to the allocation process under this section, issued by an allocator under subsection (g)(3)(A).

"(3) ALLOCATOR.—The term 'allocator' means an allocator retained to conduct an allocation for a facility under subsection (f)(1).

"(4) MANDATORY ALLOCATION FACILITY.—The term 'mandatory allocation facility' means—

"(A) a non-federally owned vessel or facility listed on the National Priorities List with respect to which response costs are incurred after the date of enactment of this section, and at which one or more potentially responsible parties are liable or potentially liable for status or conduct after December 11, 1980;

"(B) a non-federally owned vessel or facility listed on the National Priorities List with respect to which response costs are incurred after the date of enactment of this section, and with respect to which no person is liable or potentially liable pursuant to section 107(a)(1) (C) or (D) for conduct prior to December 11, 1980;

"(C) a federally owned vessel or facility listed on the National Priorities List with respect to which response costs are incurred after the date of enactment of this section, and with respect to which 1 or more potentially responsible parties (other that a department, agency, or instrumentality of the United States) are liable or potentially liable for status or conduct after December 11, 1980; and

"(D) a federally owned vessel or facility listed on the National Priorities List with respect to which response costs are incurred after the date of enactment of this section, and with respect to which one or more of the potentially responsible parties is not a department, agency, or instrumentality of the United States and with respect to which no person is liable or potentially liable pursuant to section 107(a)(1) (C) or (D) for conduct prior to December 11, 1980.

"(5) ORPHAN SHARE.—The term 'orphan share' means the total of the allocated shares determined by the allocator under section 132(l).

"(b) ALLOCATIONS OF LIABILITY.—

"(1) MANDATORY ALLOCATIONS.—For each mandatory allocation facility involving 2 or more potentially responsible parties (including 1 or more potentially responsible parties that are qualified for de minimis contributor exemption under section 107(s)), the Administrator shall conduct the allocation process under this section.

"(2) REQUESTED ALLOCATIONS.—For a facility (other than a mandatory allocation facility) involving 2 or more potentially responsible parties, the Administrator shall conduct the allocation process under this section if the allocation is requested in writing by a potentially responsible party that has—

"(A) incurred response costs with respect to a response action; or

"(B) resolved any liability to the United States with respect to a response action in order to assist in allocating shares among potentially responsible parties.

"(3) PERMISSIVE ALLOCATIONS.—For any facility (other than a mandatory allocation facility or a facility with respect to which a request is made under paragraph (2)) involving 2 or more potentially responsible parties, the Administrator may conduct the allocation process under this section if the Administrator considers it to be appropriate to do so.

"(4) ORPHAN SHARE.—An allocation performed at a vessel or facility identified under subsection (b) (2) or (3) shall not require payment of an orphan share under subsection (l) or reimbursement under subsection (t).

"(5) EXCLUDED FACILITIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of the allocation process only, this section does not apply to a response action at a mandatory allocation facility for which there was in effect as of the date of enactment of this section, a settlement, decree, or order that determines the liability and allocated shares of all potentially responsible parties with respect to the response action.

"(B) AVAILABILITY OF ORPHAN SHARE.—For any mandatory allocation facility that is otherwise excluded by subparagraph (A) and for which there was not in effect as of the date of enactment of this section a final judicial order that determined the liability of all parties to the action for response costs incurred after the date of enactment of this section, an allocation shall be conducted for the sole purpose of determining the availability of orphan share funding pursuant to subsection (l)(2) for any response costs incurred after the date of enactment of this section.

"(6) SCOPE OF ALLOCATIONS.—An allocation under this section shall apply to—

"(A) response costs incurred after the date of enactment of this section, with respect to a mandatory allocation facility described in subsection (a)(3) (A), (B), (C), or (D); and

"(B) response costs incurred at a facility that is the subject of a requested or permissive allocation under subsection (b) (2) or (3).

"(7) ORPHAN SHARE FACILITY.—Any non-federally owned vessel or facility that is listed on the National Priorities List at which at least 1 person is liable or potentially liable under section 107(a)(1) (C) or (D) for conduct prior to December 11, 1980, and at which no person is liable or potentially liable for status or conduct after December 11, 1980, shall be considered to be an orphan share facility, and all response costs incurred at the vessel or facility after the date of enactment of this section shall be paid by the orphan share.

"(8) OTHER MATTERS.—This section shall not limit or affect—

"(A) the obligation of the Administrator to conduct the allocation process for a response action at a facility that has been the subject of a partial or expedited settlement with respect to a response action that is not within the scope of the allocation;

"(B) the ability of any person to resolve any liability at a facility to any other person at any time before initiation or completion of the allocation process, subject to subsection (l)(3);

"(C) the validity, enforceability, finality, or merits of any judicial or administrative order, judgment, or decree, issued prior to the date of enactment of this section with respect to liability under this Act; or

"(D) the validity, enforceability, finality, or merits of any preexisting contract or agreement relating to any allocation of responsibility or any indemnity for, or sharing of, any response costs under this Act.

"(c) MORATORIUM ON LITIGATION AND ENFORCEMENT.—

"(1) IN GENERAL.—No person may assert a claim for recovery of a response cost or contribution toward a response cost (including a claim for insurance proceeds) under this Act or any other Federal or State law in connection with a response action—

"(A) for which an allocation is required to be performed under subsection (b)(1); or

"(B) for which the Administrator has initiated the allocation process under this section,

until the date that is 120 days after the date of issuance of a report by the allocator under subsection (j)(6) or, if a second or subsequent report is issued under subsection (q), the date of issuance of the second or subsequent report.

"(2) PENDING ACTIONS OR CLAIMS.—If a claim described in paragraph (1) is pending on the date of enactment of this section or on initiation of an allocation under this section, the portion of the claim pertaining to response costs that are the subject of the allocation shall be stayed until the date that is 120 days after the date of issuance of a report by the allocator under subsection (j)(6) or, if a second or subsequent report is issued under subsection (q), the date of issuance of the second or subsequent report, unless the court determines that a stay would result in manifest injustice.

"(3) TOLLING OF PERIOD OF LIMITATION.—

"(A) BEGINNING OF TOLLING.—Any applicable period of limitation with respect to a claim subject to paragraph (1) shall be tolled beginning on the earlier of—

"(i) the date of listing of the facility on the National Priorities List if the listing occurs after the date of enactment of this section; or

"(ii) the date of initiation of the allocation process under this section.

"(B) END OF TOLLING.—A period of limitation shall be tolled under subparagraph (A) until the date that is 180 days after the date of issuance of a report by the allocator under subsection (j)(6), or of a second or subsequent report under subsection (q).

"(4) LATER ACTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), until the date that is 180 days after the date of issuance of a report by the allocator under subsection (j)(6) or of a second or subsequent report under subsection (q), the Administrator shall not issue an order under section 106 after the date of enactment of this section in connection with a response action for which an allocation is required to be performed under subsection (b)(1) to any party that, based on the initial list of parties compiled pursuant to subsection (d)(5) appears to be entitled to full orphan share funding under section (l)(2)(B).

"(B) EMERGENCIES.—Subparagraph (A) does not preclude an order requiring the performance of a removal action that is necessary to address an emergency at a facility.

"(C) SUBSEQUENT ALLOCATION REPORT.—If, after the date of enactment of this section, the Administrator issues an order under section 106 to a party that the allocator subsequently determines is entitled to full funding for the party's allocated share pursuant to section (l)(2)(B)—

"(i) all response costs incurred by the party after the date of enactment of this section shall be reimbursed; and

"(ii) the party's obligations under the order shall cease 90 days after the issuance of the allocator's report under subsection (j)(6) or a second report under subsection (q).

"(5) RETAINED AUTHORITY.—Except as specifically provided in this section, this section does not affect the authority of the Administrator to—

"(A) exercise the powers conferred by section 103, 104, 105, 106, or 122;

"(B) commence an action against a party if there is a contemporaneous filing of a judicial consent decree resolving the liability of the party;

"(C) file a proof of claim or take other action in a proceeding under title 11, United States Code; or

"(D) require implementation of a response action at an allocation facility during the conduct of the allocation process.

"(d) INITIATION OF ALLOCATION PROCESS.—

"(1) RESPONSIBLE PARTY SEARCH.—For each facility described in paragraph (2), the Administrator shall initiate the allocation process as soon as practicable by commencing a comprehensive search for all potentially responsible parties with respect to the facility under authority of section 104.

"(2) FACILITIES.—The Administrator shall initiate the allocation process for each—

"(A) mandatory allocation facility;

"(B) facility for which a request for allocation is made under subsection (b)(2); and

"(C) facility that the Administrator considers to be appropriate for allocation under subsection (b)(3).

"(3) TIME LIMIT.—The Administrator shall initiate the allocation process for a facility not later than the earlier of—

"(A) the date of completion of the facility evaluation or remedial investigation for the facility; or

"(B) the date that is 60 days after the date of selection of a removal action.

"(4) SUBMISSION OF INFORMATION AT ALLOCATION FACILITIES.—Any person may submit information to the Administrator concerning a potentially responsible party for a facility that is subject to a search, and the Administrator shall consider the information in carrying out the search.

"(5) INITIAL LIST OF PARTIES.—

"(A) IN GENERAL.—As soon as practicable after initiation of an allocation process for a facility, the Administrator shall publish, in accordance with section 117(d), a list of all potentially responsible parties identified for a facility.

"(B) TIME LIMIT.—The Administrator shall publish a list under paragraph (1) not later than 120 days after the commencement of a comprehensive search.

"(C) COPY OF LIST.—The Administrator shall provide each person named on a list of potentially responsible parties with—

"(i) a copy of the list; and

"(ii) the names of not less than 25 neutral parties—

"(I) who are not employees of the United States;

"(II) who are qualified to perform an allocation at the facility, as determined by the Administrator; and

"(III) at least some of whom maintain an office in the vicinity of the facility.

"(D) PROPOSED ALLOCATOR.—A person identified by the Administrator as a potentially responsible party may propose an allocator not on the list of neutral parties.

"(e) SELECTION OF ALLOCATOR.—

"(1) IN GENERAL.—As soon as practicable after the receipt of a list under subsection (d)(5)(C), the potentially responsible parties named on the list shall—

"(A) select an individual to serve as allocator by plurality vote on a per capita basis; and

"(B) promptly notify the Administrator of the selection.

"(2) VOTE BY REPRESENTATIVE.—The representative of the Fund shall be entitled to cast 1 vote in an election under paragraph (1).

"(3) ELIGIBLE ALLOCATORS.—The potentially responsible parties shall select an allocator under paragraph (1) from among individuals—

"(A) named on the list of neutral parties provided by the Administrator;

"(B) named on a list that is current on the date of selection of neutrals maintained by the American Arbitration Association, the Center for Public Resources, or another nonprofit or governmental organization of comparable standing; or

"(C) proposed by a party under subsection (d)(5)(D).

"(4) UNQUALIFIED ALLOCATOR.—

"(A) IN GENERAL.—If the Administrator determines that a person selected under paragraph (1) is unqualified to serve, the Administrator shall promptly notify all potentially responsible parties for the facility, and the potentially responsible parties shall make an alternative selection under paragraph (1).

"(B) LIMIT ON DETERMINATIONS.—The Administrator may not make more than 2 determinations that an allocator is unqualified under this paragraph with respect to any facility.

"(5) DETERMINATION BY ADMINISTRATOR.—If the Administrator does not receive notice of selection of an allocator within 60 days after a copy of a list is provided under subsection (d)(5)(C), or if the Administrator, having given a notification under paragraph (4), does not receive notice of an alternative selection of an allocator under that paragraph within 60 days after the date of the notification, the Administrator shall promptly select and designate a person to serve as allocator.

"(6) JUDICIAL REVIEW.—No action under this subsection shall be subject to judicial review.

"(f) RETENTION OF ALLOCATOR.—

"(1) IN GENERAL.—On selection of an allocator, the Administrator shall promptly—

"(A) using the procurement procedures authorized by section 109(e), contract with the allocator for the provision of allocation services in accordance with this section; and

"(B) notify each person named as a potentially responsible party at the facility that the allocator has been retained.

"(2) DISCRETION OF ALLOCATOR.—A contract with an allocator under paragraph (1) shall give the allocator broad discretion to conduct the allocation process in a fair, efficient, and impartial manner.

"(3) PROVISION OF INFORMATION.—

"(A) IN GENERAL.—Not later than 30 days after the selection of an allocator, the Administrator shall make available to the allocator and to each person named as a potentially responsible party for the facility—

"(i) any information or documents furnished under section 104(e)(2); and

"(ii) any other potentially relevant information concerning the facility and the potentially responsible parties at the facility.

"(B) PRIVILEGED INFORMATION.—The Administrator shall not make available any privileged information, except as otherwise authorized by law.

"(4) RECOVERY OF CONTRACT COSTS.—The costs of the Administrator in retaining an allocator under paragraph (1) shall be considered to be a response cost for all purposes of this Act.

"(g) ADDITIONAL PARTIES.—

"(1) IN GENERAL.—Any person may propose to the allocator the name of an additional potentially responsible party at a facility, or otherwise provide the allocator with information pertaining to a facility or to an allocation, until the date that is 60 days after the later of—

"(A) the date of issuance of the initial list described in subsection (d)(5)(A); or

"(B) the date of retention of the allocator under subsection (f)(1)(A).

"(2) NEXUS.—Any proposal under paragraph (1) to add a potentially responsible party shall include all information reasonably available to the person making the proposal regarding the nexus between the additional potentially responsible party and the facility.

"(3) FINAL LIST.—

"(A) IN GENERAL.—The allocator shall issue a final list of all parties that will be subject to the allocation process (referred to in this section as the 'allocation parties') not later than 120 days after publication of the initial list under subsection (d)(5)(A).

"(B) STANDARD.—The allocator shall include each party proposed under paragraph (1) in the final list of allocation parties unless the allocator determines that the party is not liable under section 107.

"(C) IDENTIFICATION OF DE MINIMIS CONTRIBUTORS.—

"(i) IN GENERAL.—In compiling the final list of allocation parties, the allocator shall identify, to the extent possible, all parties entitled to the de minimis contributor exemption under section 107(s) and provide a list of the parties identified to the Administrator.

"(ii) NOTIFICATION OF EXEMPTION.—Not later than 60 days after receipt of the list, the Administrator shall provide to each party identified on the list a written notification of the party's entitlement to the de minimis contributor exemption unless the Administrator publishes a written determination that—

"(I) no rational interpretation of the facts before the allocator supports the allocator's decision; or

"(II) the allocator's decision was directly and substantially affected by bias, procedural error, fraud, or unlawful conduct.

"(iii) NO JUDICIAL REVIEW.—Any determination by the Administrator under this subparagraph shall not be subject to judicial review.

"(D) EFFECT.—If the allocator determines that there is an inadequate basis in law or fact to conclude that a party is liable based on the information presented by the nominating party or otherwise available to the allocator, the nominated party's costs (including reasonable attorney's fees) shall be borne by the party that proposed the addition of the party to the allocation.

"(h) FEDERAL, STATE, AND LOCAL AGENCIES.—

"(1) IN GENERAL.—Other than as set forth in this Act, any Federal, State, or local governmental department, agency, or instrumentality that is named as a potentially responsible party or an allocation party shall be subject to, and be entitled to the benefits of, the allocation process and allocation determination under this section to the same extent as any other party.

"(2) ORPHAN SHARE.—The Administrator or the Attorney General shall participate in the allocation proceeding as the representative of the Fund from which any orphan share shall be paid.

"(i) POTENTIALLY RESPONSIBLE PARTY SETTLEMENT.—

"(1) SUBMISSION.—At any time prior to the date of issuance of an allocation report under subsection (j)(6) or of a second or subsequent report under subsection (q), any group of potentially responsible parties for a facility may submit to the allocator a private allocation for any response action that is within the scope of the allocation under subsection (b)(6).

"(2) ADOPTION.—The allocator shall promptly adopt a private allocation under paragraph (1) as the allocation report if the private allocation—

"(A) is a binding allocation of 100 percent of the recoverable costs of the response action that is the subject of the allocation; and

"(B) does not allocate a share to—

"(i) any person who is not a signatory to the private allocation; or

"(ii) any person whose share would be part of the orphan share under subsection (l), unless the representative of the Fund is a signatory to the private allocation.

"(3) WAIVER OF RIGHTS.—Any signatory to a private allocation waives the right to seek from any other party for a facility—

"(A) recovery of any response cost that is the subject of the allocation; and

"(B) contribution under this Act with respect to any response action that is within the scope of the allocation.

"(j) ALLOCATION DETERMINATION.—

"(1) ALLOCATION PROCESS.—An allocator retained under subsection (f)(1) shall conduct an allocation process culminating in the issuance of a written report with a nonbinding equitable allocation of percentage shares of responsibility for any response action that is within the scope of the allocation under subsection (b)(6).

"(2) IDENTIFICATION OF DE MINIMIS CONTRIBUTORS.—

"(A) IN GENERAL.—If all parties entitled to the de minimis contributor exemption were not previously identified under subsection (g)(3)(C), the allocator's report under paragraph (1) shall identify all parties entitled to the de minimis contributor exemption under section 107(s).

"(B) PROCEDURE.—If a party is identified under subparagraph (A), the Administrator shall follow the procedural requirements of subsection (g)(3)(C)(ii).

"(2) COPIES OF REPORT.—An allocator shall provide the report issued under paragraph (1) to the Administrator and to the allocation parties.

"(3) INFORMATION-GATHERING AUTHORITIES.—

"(A) IN GENERAL.—An allocator may request information from any person in order to assist in the efficient completion of the allocation process.

"(B) REQUESTS.—Any person may request that an allocator request information under this paragraph.

"(C) AUTHORITY.—An allocator may exercise the information-gathering authority of the Administrator under section 104(e), including issuing an administrative subpoena to compel the production of a document or the appearance of a witness.

"(D) DISCLOSURE.—Notwithstanding any other law, any information submitted to the allocator in response to a subpoena issued under paragraph (4) shall be exempt from disclosure to any person under section 552 of title 5, United States Code.

"(E) ORDERS.—In the event of contumacy or a failure of a person to obey a subpoena issued under paragraph (4), an allocator may request the Attorney General to—

"(i) bring a civil action to enforce the subpoena; or

"(ii) if the person moves to quash the subpoena, to defend the motion.

"(F) FAILURE OF ATTORNEY GENERAL TO RESPOND.—If the Attorney General fails to provide any response to the allocator within 30 days of a request for enforcement of a subpoena or information request, the allocator may retain counsel to commence a civil action to enforce the subpoena or information request.

"(4) ADDITIONAL AUTHORITY.—An allocator may—

"(A) schedule a meeting or hearing and require the attendance of allocation parties at the meeting or hearing;

"(B) sanction an allocation party for failing to cooperate with the orderly conduct of the allocation process;

"(C) require that allocation parties wishing to present similar legal or factual positions consolidate the presentation of the positions;

"(D) obtain or employ support services, including secretarial, clerical, computer support, legal, and investigative services; and

"(E) take any other action necessary to conduct a fair, efficient, and impartial allocation process.

"(5) CONDUCT OF ALLOCATION PROCESS.—

"(A) IN GENERAL.—The allocator shall conduct the allocation process and render a decision based solely on the provisions of this section, including the allocation factors described in subsection (k).

"(B) OPPORTUNITY TO BE HEARD.—Each allocation party shall be afforded an opportunity to be heard (orally or in writing, at the option of an allocation party) and an opportunity to comment on a draft allocation report.

"(C) RESPONSES.—The allocator shall not be required to respond to comments.

"(D) STREAMLINING.—The allocator shall make every effort to streamline the allocation process and minimize the cost of conducting the allocation.

"(6) ALLOCATION REPORT.—

"(A) DEADLINE.—

"(i) IN GENERAL.—The allocator shall provide a written allocation report to the Administrator and the allocation parties not later than 180 days after the date of issuance of the final list of allocation parties under subsection (g)(3)(A) that specifies the allocation share of each potentially responsible party and any orphan shares, as determined by the allocator.

"(ii) EXTENSION.—On request by the allocator and for good cause shown, the Administrator may extend the time to complete the report by not more than 90 days.

"(B) BREAKDOWN OF ALLOCATION SHARES INTO TIME PERIODS.—The allocation share for each potentially responsible party with respect to a mandatory allocation facility at which 1 or more persons are liable or potentially liable pursuant to section 107(a)(1) (C) or (D) for conduct prior to December 11, 1980, shall be comprised of percentage shares of responsibility stated separately for status or conduct prior to December 11, 1980, and status or conduct on or after December 11, 1980.

"(k) EQUITABLE FACTORS FOR ALLOCATION.—The allocator shall prepare a nonbinding allocation of percentage shares of responsibility to each allocation party and to the orphan share, in accordance with this section and without regard to any theory of joint and several liability, based on—

"(1) the amount of hazardous substances contributed by each allocation party;

"(2) the degree of toxicity of hazardous substances contributed by each allocation party;

"(3) the mobility of hazardous substances contributed by each allocation party;

"(4) the degree of involvement of each allocation party in the generation, transportation, treatment, storage, or disposal of hazardous substances;

"(5) the degree of care exercised by each allocation party with respect to hazardous substances, taking into account the characteristics of the hazardous substances;

"(6) the cooperation of each allocation party in contributing to any response action and in providing complete and timely information to the allocator; and

"(7) such other equitable factors as the allocator determines are appropriate.

"(l) ORPHAN SHARES.—

"(1) IN GENERAL.—The allocator shall determine whether any percentage of responsibility for the response action shall be allocable to the orphan share.

"(2) MAKEUP OF ORPHAN SHARE.—The orphan share shall consist of—

"(A) any share that the allocator determines is attributable to an allocation party that is insolvent or defunct and that is not affiliated with any financially viable allocation party;

"(B) any share that the allocator determines is attributable to an allocation party (other than a department, agency, or instrumentality of the United States) at a vessel or facility at which one or more persons is liable or potentially liable pursuant to section 107(a)(1) (C) or (D) for status or conduct prior to December 11, 1980, to the extent such allocation party's share is based on status or conduct prior to December 11, 1980; and

"(C) the difference between the aggregate share that the allocator determines is attributable to a person and the aggregate share actually assumed by the person in a settlement with the United States if—

"(i) the person is eligible for an expedited settlement with the United States under section 122 based on limited ability to pay response costs;

"(ii) the liability of the person is eliminated, limited, or reduced by any provision of this Act; or

"(iii) the person settled with the United States before the completion of the allocation.

"(3) UNATTRIBUTABLE SHARES.—A share attributable to a hazardous substance that the allocator specifically determines was disposed at the site prior to December 11, 1980, but which cannot be attributed to any identified and viable party shall be considered an orphan share. All other unattributable shares shall be distributed among the allocation parties and the orphan share in accordance with the allocated share assigned to each.

"(m) INFORMATION REQUESTS.—

"(1) DUTY TO ANSWER.—Each person that receives an information request or subpoena from the allocator shall provide a full and timely response to the request.

"(2) CERTIFICATION.—An answer to an information request by an allocator shall include a certification by a representative that meets the criteria established in section 270.11(a) of title 40, Code of Federal Regulations (or any successor regulation), that—

"(A) the answer is correct to the best of the representative's knowledge;

"(B) the answer is based on a diligent good faith search of records in the possession or control of the person to whom the request was directed;

"(C) the answer is based on a reasonable inquiry of the current (as of the date of the answer) officers, directors, employees, and agents of the person to whom the request was directed;

"(D) the answer accurately reflects information obtained in the course of conducting the search and the inquiry;

"(E) the person executing the certification understands that there is a duty to supplement any answer if, during the allocation process, any significant additional, new, or different information becomes known or available to the person; and

"(F) the person executing the certification understands that there are significant penalties for submitting false information, including the possibility of a fine or imprisonment for a knowing violation.

"(n) PENALTIES.—

"(1) CIVIL.—

"(A) IN GENERAL.—A person that fails to submit a complete and timely answer to an information request, a request for the production of a document, or a summons from an allocator, submits a response that lacks the certification required under subsection (m)(2), or knowingly makes a false or misleading material statement or representation in any statement, submission, or testimony during the allocation process (including a statement or representation in connection with the nomination of another potentially responsible party) shall be subject to a civil penalty of not more than $10,000 per day of violation.

"(B) ASSESSMENT OF PENALTY.—A penalty may be assessed by the Administrator in accordance with section 109 or by any allocation party in a citizen suit brought under section 310.

"(2) CRIMINAL.—A person that knowingly and willfully makes a false material statement or representation in the response to an information request or subpoena issued by the allocator under subsection (m) shall be considered to have made a false statement on a matter within the jurisdiction of the United States within the meaning of section 1001 of title 18, United States Code.

"(o) DOCUMENT REPOSITORY; CONFIDENTIALITY.—

"(1) DOCUMENT REPOSITORY.—

"(A) IN GENERAL.—The allocator shall establish and maintain a document repository containing copies of all documents and information provided by the Administrator or any allocation party under this section or generated by the allocator during the allocation process.

"(B) AVAILABILITY.—Subject to paragraph (2), the documents and information in the document repository shall be available only to an allocation party for review and copying at the expense of the allocation party.

"(2) CONFIDENTIALITY.—

"(A) IN GENERAL.—Each document or material submitted to the allocator or placed in the document repository and the record of any information generated or obtained during the allocation process shall be confidential.

"(B) MAINTENANCE.—The allocator, each allocation party, the Administrator, and the Attorney General—

"(i) shall maintain the documents, materials, and records of any depositions or testimony adduced during the allocation as confidential; and

"(ii) shall not use any such document or material or the record in any other matter or proceeding or for any purpose other than the allocation process.

"(C) DISCLOSURE.—Notwithstanding any other law, the documents and materials and the record shall not be subject to disclosure to any person under section 552 of title 5, United States Code.

"(D) DISCOVERY AND ADMISSIBILITY.—

"(i) IN GENERAL.—Subject to clause (ii), the documents and materials and the record shall not be subject to discovery or admissible in any other Federal, State, or local judicial or administrative proceeding, except—

"(I) a new allocation under subsection (q) or (v) for the same response action; or

"(II) an initial allocation under this section for a different response action at the same facility.

"(ii) OTHERWISE DISCOVERABLE OR ADMISSIBLE.—

"(I) DOCUMENT OR MATERIAL.—If the original of any document or material submitted to the allocator or placed in the document repository was otherwise discoverable or admissible from a party, the original document, if subsequently sought from the party, shall remain discoverable or admissible.

"(II) FACTS.—If a fact generated or obtained during the allocation was otherwise discoverable or admissible from a witness, testimony concerning the fact, if subsequently sought from the witness, shall remain discoverable or admissible.

"(3) NO WAIVER OF PRIVILEGE.—The submission of testimony, a document, or information under the allocation process shall not constitute a waiver of any privilege applicable to the testimony, document, or information under any Federal or State law or rule of discovery or evidence.

"(4) PROCEDURE IF DISCLOSURE SOUGHT.—

"(A) NOTICE.—A person that receives a request for a statement, document, or material submitted for the record of an allocation proceeding, shall—

"(i) promptly notify the person that originally submitted the item or testified in the allocation proceeding; and

"(ii) provide the person that originally submitted the item or testified in the allocation proceeding an opportunity to assert and defend the confidentiality of the item or testimony.

"(B) RELEASE.—No person may release or provide a copy of a statement, document, or material submitted, or the record of an allocation proceeding, to any person not a party to the allocation except—

"(i) with the written consent of the person that originally submitted the item or testified in the allocation proceeding; or

"(ii) as may be required by court order.

"(5) CIVIL PENALTY.—

"(A) IN GENERAL.—A person that fails to maintain the confidentiality of any statement, document, or material or the record generated or obtained during an allocation proceeding, or that releases any information in violation of this section, shall be subject to a civil penalty of not more than $25,000 per violation.

"(B) ASSESSMENT OF PENALTY.—A penalty may be assessed by the Administrator in accordance with section 109 or by any allocation party in a citizen suit brought under section 310.

"(C) DEFENSES.—In any administrative or judicial proceeding, it shall be a complete defense that any statement, document, or material or the record at issue under subparagraph (A)—

"(i) was in, or subsequently became part of, the public domain, and did not become part of the public domain as a result of a violation of this subsection by the person charged with the violation;

"(ii) was already known by lawful means to the person receiving the information in connection with the allocation process; or

"(iii) became known to the person receiving the information after disclosure in connection with the allocation process and did not become known as a result of any violation of this subsection by the person charged with the violation.

"(p) REJECTION OF ALLOCATION REPORT.—

"(1) REJECTION.—The Administrator and the Attorney General may jointly reject a report issued by an allocator only if the Administrator and the Attorney General jointly publish, not later than 180 days after the Administrator receives the report, a written determination that—

"(A) no rational interpretation of the facts before the allocator, in light of the factors required to be considered, would form a reasonable basis for the shares assigned to the parties; or

"(B) the allocation process was directly and substantially affected by bias, procedural error, fraud, or unlawful conduct.

"(2) FINALITY.—A report issued by an allocator may not be rejected after the date that is 180 days after the date on which the United States accepts a settlement offer (excluding an expedited settlement under section 122) based on the allocation.

"(3) JUDICIAL REVIEW.—Any determination by the Administrator or the Attorney General under this subsection shall not be subject to judicial review unless 2 successive allocation reports relating to the same response action are rejected, in which case any allocation party may obtain judicial review of the second rejection in a United States district court under subchapter II of chapter 5 of part I of title 5, United States Code.

"(4) DELEGATION.—The authority to make a determination under this subsection may not be delegated to any officer or employee below the level of an Assistant Administrator or Acting Assistant Administrator or an Assistant Attorney General or Acting Assistant Attorney General with authority for implementing this Act.

"(q) SECOND AND SUBSEQUENT ALLOCATIONS.—

"(1) IN GENERAL.—If a report is rejected under subsection (p), the allocation parties shall select an allocator under subsection (e) to perform, on an expedited basis, a new allocation based on the same record available to the previous allocator.

"(2) MORATORIUM AND TOLLING.—The moratorium and tolling provisions of subsection (c) shall be extended until the date that is 180 days after the date of the issuance of any second or subsequent allocation report under paragraph (1).

"(3) SAME ALLOCATOR.—The allocation parties may select the same allocator who performed 1 or more previous allocations at the facility, except that the Administrator may determine under subsection (e) that an allocator whose previous report at the same facility has been rejected under subsection (p) is unqualified to serve.

"(r) SETTLEMENTS BASED ON ALLOCATIONS.—

"(1) DEFINITION.—In this subsection, the term 'all settlements' includes any orphan share allocated under subsection (l).

"(2) IN GENERAL.—Unless an allocation report is rejected under subsection (p), any allocation party at a mandatory allocation facility (including an allocation party whose allocated share is funded partially or fully by orphan share funding under subsection (l)) shall be entitled to resolve the liability of the party to the United States for response actions subject to allocation if, not later than 90 days after the date of issuance of a report by the allocator, the party—

"(A) offers to settle with the United States based on the percentage share specified by the allocator; and

"(B) agrees to the other terms and conditions stated in this subsection.

"(3) PROVISIONS OF SETTLEMENTS.—

"(A) IN GENERAL.—A settlement based on an allocation under this section—

"(i) may consist of a cash-out settlement or an agreement for the performance of a response action; and

"(ii) shall include—

"(I) a waiver of contribution rights against all persons that are potentially responsible parties for any response action addressed in the settlement;

"(II) a covenant not to sue that is consistent with section 122(f) and, except in the case of a cash-out settlement, provisions regarding performance or adequate assurance of performance of the response action;

"(III) a premium, calculated on a facility-specific basis and subject to the limitations on premiums stated in paragraph (5), that reflects the actual risk to the United States of not collecting unrecovered response costs for the response action, despite the diligent prosecution of litigation against any viable allocation party that has not resolved the liability of the party to the United States, except that no premium shall apply if all allocation parties participate in the settlement or if the settlement covers 100 percent of the response costs subject to the allocation;

"(IV) complete protection from all claims for contribution regarding the response action addressed in the settlement; and

"(V) provisions through which a settling party shall receive prompt reimbursement from the Fund under subsection (s) of any response costs incurred by the party for any response action that is the subject of the allocation in excess of the allocated share of the party, including the allocated portion of any orphan share.

"(B) RIGHT TO REIMBURSEMENT.—A right to reimbursement under subparagraph (A)(ii)(V) shall not be contingent on recovery by the United States of any response costs from any person other than the settling party.

"(4) REPORT.—The Administrator shall report annually to Congress on the administration of the allocation process under this section, providing in the report—

"(A) information comparing allocation results with actual settlements at multiparty facilities;

"(B) a cumulative analysis of response action costs recovered through post-allocation litigation or settlements of post-allocation litigation;

"(C) a description of any impediments to achieving complete recovery; and

"(D) a complete accounting of the costs incurred in administering and participating in the allocation process.

"(5) PREMIUM.—In each settlement under this subsection, the premium authorized—

"(A) shall be determined on a case-by-case basis to reflect the actual litigation risk faced by the United States with respect to any response action addressed in the settlement; but

"(B) shall not exceed—

"(i) 5 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 80 percent and less than 100 percent of responsibility for the response action;

"(ii) 10 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 60 percent and not more than 80 percent of responsibility for the response action;

"(iii) 15 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 40 percent and not more than 60 percent of responsibility for the response action; or

"(iv) 20 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for 40 percent or less of responsibility for the response; and

"(C) shall be reduced proportionally by the percentage of the allocated share for that party paid through orphan funding under subsection (l).

"(s) FUNDING OF ORPHAN SHARES.—

"(1) REIMBURSEMENT.—For each settlement agreement entered into under subsection (r), the Administrator shall promptly reimburse the allocation parties for any costs incurred that are attributable to the orphan share, as determined by the allocator.

"(2) ENTITLEMENT.—Paragraph (1) constitutes an entitlement to any allocation party eligible to receive a reimbursement.

"(3) AMOUNTS OWED.—Any amount due and owing in excess of available appropriations in any fiscal year shall be paid from amounts made available in subsequent fiscal years, along with interest on the unpaid balances at the rate equal to that of the current average market yield on outstanding marketable obligations of the United States with a maturity of 1 year.

"(4) DOCUMENTATION AND AUDITING.—The Administrator—

"(A) shall require that any claim for reimbursement be supported by documentation of actual costs incurred; and

"(B) may require an independent auditing of any claim for reimbursement.

"(t) POST-ALLOCATION CONTRIBUTION.—

"(1) IN GENERAL.—Subject to paragraph (2), an allocation party (including a party that is subject to an order under section 106 or a settlement decree) that incurs costs after the date of enactment of this section for implementation of a response action that is the subject of an allocation under this section to an extent that exceeds the percentage share of the allocation party, as determined by the allocator, shall be entitled to prompt reimbursement of the excess amount, including any orphan share, from the Fund, unless the allocation report is rejected under subsection (p).

"(2) EXCEPTION.—No person whose allocated share is fully funded by the orphan share pursuant to subsection (l)(2)(B) shall be subject to an order pursuant to section 106 issued after the date of enactment of this section.

"(3) NOT CONTINGENT.—The right to reimbursement under paragraph (1) shall not be contingent on recovery by the United States of a response cost from any other person.

"(4) TERMS AND CONDITIONS.—

"(A) RISK PREMIUM.—A reimbursement shall be reduced by the amount of the litigation risk premium under subsection (r)(5) that would apply to a settlement by the allocation party concerning the response action, based on the total allocated shares of the parties that have not reached a settlement with the United States.

"(B) TIMING.—

"(i) IN GENERAL.—A reimbursement shall be paid out during the course of the response action that was the subject of the allocation, using reasonable progress payments at significant milestones.

"(ii) CONSTRUCTION.—Reimbursement for the construction portion of the work shall be paid out not later than 120 days after the date of completion of the construction.

"(C) EQUITABLE OFFSET.—A reimbursement is subject to equitable offset or recoupment by the Administrator at any time if the allocation party fails to perform the work in a proper and timely manner.

"(D) INDEPENDENT AUDITING.—The Administrator may require independent auditing of any claim for reimbursement.

"(E) WAIVER.—An allocation party seeking reimbursement waives the right to seek recovery of response costs in connection with the response action, or contribution toward the response costs, from any other person.

"(F) BAR.—An administrative order shall be in lieu of any action by the United States or any other person against the allocation party for recovery of response costs in connection with the response action, or for contribution toward the costs of the response action.

"(u) POST-SETTLEMENT LITIGATION.—

"(1) IN GENERAL.—Subject to subsections (q) and (r), and on the expiration of the moratorium period under subsection (c)(4), the Administrator may commence an action under section 107 against an allocation party that has not resolved the liability of the party to the United States following allocation and may seek to recover response costs not recovered through settlements with other persons.

"(2) ORPHAN SHARE.—The recoverable costs shall include any orphan share determined under subsection (l), but shall not include any share allocated to a Federal, State, or local governmental agency, department, or instrumentality.

"(3) IMPLEADER.—A defendant in an action under paragraph (1) may implead an allocation party only if the allocation party did not resolve liability to the United States.

"(4) CERTIFICATION.—In commencing or maintaining an action under section 107 against an allocation party after the expiration of the moratorium period under subsection (c)(4), the Attorney General shall certify in the complaint that the defendant failed to settle the matter based on the share that the allocation report assigned to the party.

"(5) RESPONSE COSTS.—

"(A) ALLOCATION PROCEDURE.—The cost of implementing the allocation procedure under this section, including reasonable fees and expenses of the allocator, shall be considered as a necessary response cost.

"(B) FUNDING OF ORPHAN SHARES.—The cost attributable to funding an orphan share under this section—

"(i) shall be considered as a necessary cost of response cost; and

"(ii) shall be recoverable in accordance with section 107 only from an allocation party that does not reach a settlement and does not receive an administrative order under subsection (r) or (t).

"(v) NEW INFORMATION.—

"(1) IN GENERAL.—An allocation under this section shall be final, except that any settling party, including the United States, may seek a new allocation with respect to the response action that was the subject of the settlement by presenting the Administrator with clear and convincing evidence that—

"(A) the allocator did not have information concerning—

"(i) 35 percent or more of the materials containing hazardous substances at the facility; or

"(ii) 1 or more persons not previously named as an allocation party that contributed 15 percent or more of materials containing hazardous substances at the facility; and

"(B) the information was discovered subsequent to the issuance of the report by the allocator.

"(2) NEW ALLOCATION.—Any new allocation of responsibility—

"(A) shall proceed in accordance with this section;

"(B) shall be effective only after the date of the new allocation report; and

"(C) shall not alter or affect the original allocation with respect to any response costs previously incurred.

"(w) ALLOCATOR'S DISCRETION.—The Administrator shall not issue any rule or order that limits the discretion of the allocator in the conduct of the allocation.

"(x) ILLEGAL ACTIVITIES.—Section 107 (n), (o), (p), (q), (r), (s), (t), and (u), section 112(g), and (l)(2)(B) shall not apply to any person whose liability for response costs under section 107(a)(1) is otherwise based on any act, omission, or status that is determined by a court or administrative body of competent jurisdiction, within the applicable statute of limitation, to have been a violation of any Federal or State law pertaining to the treatment, storage, disposal, or handling of hazardous substances if the violation pertains to a hazardous substance, the release or threat of release of which caused the incurrence of response costs at the vessel or facility.".

SEC. 504. LIABILITY OF RESPONSE ACTION CONTRACTORS.

(a) LIABILITY OF CONTRACTORS.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)), as amended by section 303(a), is amended by adding at the end the following:

"(G) LIABILITY OF CONTRACTORS.—

"(i) IN GENERAL.—The term 'owner or operator' does not include a response action contractor (as defined in section 119(e)).

"(ii) LIABILITY LIMITATIONS.—A person described in clause (i) shall not, in the absence of negligence by the person, be considered to—

"(I) cause or contribute to any release or threatened release of a hazardous substance, pollutant, or contaminant;

"(II) arrange for disposal or treatment of a hazardous substance, pollutant, or contaminant;

"(III) arrange with a transporter for transport or disposal or treatment of a hazardous substance, pollutant, or contaminant; or

"(IV) transport a hazardous substance, pollutant, or contaminant.

"(iii) EXCEPTION.—This subparagraph does not apply to a person potentially responsible under section 106 or 107 other than a person associated solely with the provision of a response action or a service or equipment ancillary to a response action.".

(b) National Uniform Negligence Standard.—Section 119(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(a)) is amended—

(1) in paragraph (1) by striking "title or under any other Federal law" and inserting "title or under any other Federal or State law"; and

(2) in paragraph (2)—

(A) by striking "(2) Negligence, etc.—Paragraph (1)" and inserting the following:

"(2) Negligence and intentional misconduct; application of state law.—

"(A) Negligence and intentional misconduct.—

"(i) In general.—Paragraph (1)"; and

(B) by adding at the end the following:

"(ii) Standard.—Conduct under clause (i) shall be evaluated based on the generally accepted standards and practices in effect at the time and place at which the conduct occurred.

"(iii) Plan.—An activity performed in accordance with a plan that was approved by the Administrator shall not be considered to constitute negligence under clause (i).

"(B) Application of state law.—Paragraph (1) shall not apply in determining the liability of a response action contractor under the law of a State if the State has adopted by statute a law determining the liability of a response action contractor.".

(c) Extension of Indemnification Authority.—Section 119(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)(1)) is amended by adding at the end the following: "The agreement may apply to a claim for negligence arising under Federal or State law.".

(d) Indemnification Determinations.—Section 119(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)) is amended by striking paragraph (4) and inserting the following:

"(4) Decision to indemnify.—

"(A) In general.—For each response action contract for a vessel or facility, the Administrator shall make a decision whether to enter into an indemnification agreement with a response action contractor.

"(B) Standard.—The Administrator shall enter into an indemnification agreement to the extent that the potential liability (including the risk of harm to public health, safety, environment, and property) involved in a response action exceed or are not covered by insurance available to the contractor at the time at which the response action contract is entered into that is likely to provide adequate long-term protection to the public for the potential liability on fair and reasonable terms (including consideration of premium, policy terms, and deductibles).

"(C) Diligent efforts.—The Administrator shall enter into an indemnification agreement only if the Administrator determines that the response action contractor has made diligent efforts to obtain insurance coverage from non-Federal sources to cover potential liabilities.

"(D) Continued diligent efforts.—An indemnification agreement shall require the response action contractor to continue, not more frequently than annually, to make diligent efforts to obtain insurance coverage from non-Federal sources to cover potential liabilities.

"(E) Limitations on indemnification.—An indemnification agreement provided under this subsection shall include deductibles and shall place limits on the amount of indemnification made available in amounts determined by the contracting agency to be appropriate in light of the unique risk factors associated with the cleanup activity.".

(e) Indemnification for Threatened Releases.—Section 119(c)(5)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)(5)(A)) is amended by inserting "or threatened release" after "release" each place it appears.

(f) Extension of Coverage to All Response Actions.—Section 119(e)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(e)(1)) is amended—

(1) in subparagraph (D) by striking "carrying out an agreement under section 106 or 122"; and

(2) in the matter following subparagraph (D)—

(A) by striking "any remedial action under this Act at a facility listed on the National Priorities List, or any removal under this Act," and inserting "any response action,"; and

(B) by inserting before the period at the end the following: "or to undertake appropriate action necessary to protect and restore any natural resource damaged by the release or threatened release".

(g) Definition of Response Action Contractor.—Section 119(e)(2)(A)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(e)(2)(A)(i)) is amended by striking "and is carrying out such contract" and inserting "covered by this section and any person (including any subcontractor) hired by a response action contractor".

(h) Surety Bonds.—Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619) is amended—

(1) in subsection (e)(2)(C) by striking ", and before January 1, 1996,"; and

(2) in subsection (g)(5) by striking ", or after December 31, 1995".

(i) National Uniform Statute of Repose.—Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619) is amended by adding at the end the following:

"(h) Limitation on Actions Against Response Action Contractors.—

"(1) In general.—No action may be brought as a result of the performance of services under a response contract against a response action contractor after the date that is 7 years after the date of completion of work at any facility under the contract to recover—

"(A) injury to property, real or personal;

"(B) personal injury or wrongful death;

"(C) other expenses or costs arising out of the performance of services under the contract; or

"(D) contribution or indemnity for damages sustained as a result of an injury described in subparagraphs (A) through (C).

"(2) Exception.—Paragraph (1) does not bar recovery for a claim caused by the conduct of the response action contractor that is grossly negligent or that constitutes intentional misconduct.

"(3) Indemnification.—This subsection does not affect any right of indemnification that a response action contractor may have under this section or may acquire by contract with any person.

"(i) State Standards of Repose.—Subsections (a)(1) and (h) shall not apply in determining the liability of a response action contractor if the State has enacted a statute of repose determining the liability of a response action contractor.".

SEC. 505. RELEASE OF EVIDENCE.

(a) Timely Access to Information Furnished Under Section 104(e).—Section 104(e)(7)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(e)(7)(A)) is amended by inserting after "shall be available to the public" the following: "not later than 14 days after the records, reports, or information is obtained".

(b) Requirement To Provide Potentially Responsible Parties Evidence of Liability.—

(1) Abatement actions.—Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606(a)) is amended—

(A) by striking "(a) In addition" and inserting the following: "(a) Order.—"

"(1) In general.—In addition"; and

(B) by adding at the end the following:

"(2) Contents of order.—An order under paragraph (1) shall provide information concerning the evidence that indicates that each element of liability described in section 107(a)(1) (A), (B), (C), and (D), as applicable, is present.".

(2) Settlements.—Section 122(e)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622(e)(1)) is amended by inserting after subparagraph (C) the following:

"(D) For each potentially responsible party, the evidence that indicates that each element of liability contained in section 107(a)(1) (A), (B), (C), and (D), as applicable, is present.".

SEC. 506. CONTRIBUTION PROTECTION.

Section 113(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)(2)) is amended in the first sentence by inserting "or cost recovery" after "contribution".

SEC. 507. TREATMENT OF RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS AS OWNERS OR OPERATORS.

(a) Definition.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)), as amended by section 502(a), is amended by adding at the end the following:

"(H) Religious, charitable, scientific, and educational organizations.—The term 'owner or operator' includes an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is organized and operated exclusively for religious, charitable, scientific, or educational purposes and that holds legal or equitable title to a vessel or facility.".

(b) Limitation on Liability.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607), as amended by section 306(b), is amended by adding at the end the following:

"(u) Religious, Charitable, Scientific, and Educational Organizations.—

"(1) Limitation on liability.—Subject to paragraph (2), if an organization described in section 101(20)(I) holds legal or equitable title to a vessel or facility as a result of a charitable gift that is allowable as a deduction under section 170, 2055, or 2522 of the Internal Revenue Code of 1986 (determined without regard to dollar limitations), the liability of the organization shall be limited to the lesser of the fair market value of the vessel or facility or the actual proceeds of the sale of the vessel or facility received by the organization.

"(2) CONDITIONS.—In order for an organization described in section 101(20)(I) to be eligible for the limited liability described in paragraph (1), the organization shall—

"(A) provide full cooperation, assistance, and vessel or facility access to persons authorized to conduct response actions at the vessel or facility, including the cooperation and access necessary for the installation, preservation of integrity, operation, and maintenance of any complete or partial response action at the vessel or facility;

"(B) provide full cooperation and assistance to the United States in identifying and locating persons who recently owned, operated, or otherwise controlled activities at the vessel or facility;

"(C) establish by a preponderance of the evidence that all active disposal of hazardous substances at the vessel or facility occurred before the organization acquired the vessel or facility; and

"(D) establish by a preponderance of the evidence that the organization did not cause or contribute to a release or threatened release of hazardous substances at the vessel or facility.

"(3) LIMITATION.—Nothing in this subsection affects the liability of a person other than a person described in section 101(20)(G) that meets the conditions specified in paragraph (2).".

SEC. 508. COMMON CARRIERS.

Section 107(b)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(b)(3)) is amended by striking "a published tariff and acceptance" and inserting "a contract".

SEC. 509. LIMITATION ON LIABILITY FOR RESPONSE COSTS.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607), as amended by section 505(b), is amended by adding at the end the following:

"(v) LIMITATION ON LIABILITY OF RAILROAD OWNERS.—Notwithstanding subsection (a)(1), a person that does not impede the performance of a response action or natural resource restoration shall not be liable under this Act to the extent that liability is based solely on the status of the person as a railroad owner or operator of a spur track, including a spur track over land subject to an easement, to a facility that is owned or operated by a person that is not affiliated with the railroad owner or operator, if—

"(1) the spur track provides access to a main line or branch line track that is owned or operated by the railroad;

"(2) the spur track is 10 miles long or less; and

"(3) the railroad owner or operator does not cause or contribute to a release or threatened release at the spur track.".

TITLE VI—FEDERAL FACILITIES

SEC. 601. TRANSFER OF AUTHORITIES.

Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) is amended by striking subsection (g) and inserting the following:

"(g) TRANSFER OF AUTHORITIES.—

"(1) DEFINITIONS.—In this section:

"(A) INTERAGENCY AGREEMENT.—The term 'interagency agreement' means an interagency agreement under this section.

"(B) TRANSFER AGREEMENT.—The term 'transfer agreement' means a transfer agreement under paragraph (3).

"(C) TRANSFEREE STATE.—The term 'transferee State' means a State to which authorities have been transferred under a transfer agreement.

"(2) STATE APPLICATION FOR TRANSFER OF AUTHORITIES.—A State may apply to the Administrator to exercise the authorities vested in the Administrator under this Act at any facility located in the State that is—

"(A) owned or operated by any department, agency, or instrumentality of the United States (including the executive, legislative, and judicial branches of government); and

"(B) listed on the National Priorities List.

"(3) TRANSFER OF AUTHORITIES.—

"(A) DETERMINATIONS.—The Administrator shall enter into a transfer agreement to transfer to a State the authorities described in paragraph (2) if the Administrator determines that—

"(i) the State has the ability to exercise such authorities in accordance with this Act, including adequate legal authority, financial and personnel resources, organization, and expertise;

"(ii) the State has demonstrated experience in exercising similar authorities;

"(iii) the State has agreed to be bound by all Federal requirements and standards under section 129 governing the design and implementation of the facility evaluation, remedial action plan, and remedial design; and

"(iv) the State has agreed to abide by the terms of any interagency agreement or agreements covering the Federal facility or facilities with respect to which authorities are being transferred in effect at the time of the transfer of authorities.

"(B) CONTENTS OF TRANSFER AGREEMENT.—A transfer agreement—

"(i) shall incorporate the determinations of the Administrator under subparagraph (A); and

"(ii) in the case of a transfer agreement covering a facility with respect to which there is no interagency agreement that specifies a dispute resolution process, shall require that within 120 days after the effective date of the transfer agreement, the State shall agree with the head of the Federal department, agency, or instrumentality that owns or operates the facility on a process for resolution of any disputes between the State and the Federal department, agency, or instrumentality regarding the selection of a remedial action for the facility; and

"(iii) shall not impose on the transferee State any term or condition other than that the State meet the requirements of subparagraph (A).

"(4) EFFECT OF TRANSFER.—

"(A) STATE AUTHORITIES.—A transferee State—

"(i) shall not be deemed to be an agent of the Administrator but shall exercise the authorities transferred under a transfer agreement in the name of the State; and

"(ii) shall have exclusive authority to exercise authorities that have been transferred.

"(B) EFFECT ON INTERAGENCY AGREEMENTS.—Nothing in this subsection shall require, authorize, or permit the modification or revision of an interagency agreement covering a facility with respect to which authorities have been transferred to a State under a transfer agreement (except for the substitution of the transferee State for the Administrator in the terms of the interagency agreement, including terms stating obligations intended to preserve the confidentiality of information) without the written consent of the Governor of the State and the head of the department, agency, or instrumentality.

"(5) SELECTED REMEDIAL ACTION.—The remedial action selected for a facility under section 129 by a transferee State shall constitute the only remedial action required to be conducted at the facility, and the transferee State shall be precluded from enforcing any other remedial action requirement under Federal or State law, except for—

"(A) any corrective action under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) that was initiated prior to the date of enactment of this subsection; and

"(B) any remedial action in excess of remedial action under section 129 that the State selects in accordance with paragraph (10).

"(6) DEADLINE.—

"(A) IN GENERAL.—The Administrator shall make a determination on an application by a State under paragraph (2) not later than 120 days after the date on which the Administrator receives the application.

"(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of an application within the time period stated in subparagraph (A), the application shall be deemed to have been granted.

"(7) RESUBMISSION OF APPLICATION.—

"(A) IN GENERAL.—If the Administrator disapproves an application under paragraph (1), the State may resubmit the application at any time after receiving the notice of disapproval.

"(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of a resubmitted application within the time period stated in paragraph (6)(A), the resubmitted application shall be deemed to have been granted.

"(8) JUDICIAL REVIEW.—A disapproval of a resubmitted application shall be subject to judicial review under section 113(b).

"(9) WITHDRAWAL OF AUTHORITIES.—The Administrator may withdraw the authorities transferred under a transfer agreement in whole or in part if the Administrator determines that the State—

"(A) is exercising the authorities, in whole or in part, in a manner that is inconsistent with the requirements of this Act;

"(B) has violated the transfer agreement, in whole or in part; or

"(C) no longer meets one of the requirements of paragraph (3).

"(10) STATE COST RESPONSIBILITY.—The State may require a remedial action that exceeds the remedial action selection requirements of section 121 if the State pays the incremental cost of implementing that remedial action over the most cost-effective remedial action that would result from the application of section 129.

"(11) DISPUTE RESOLUTION AND ENFORCEMENT.—

"(A) DISPUTE RESOLUTION.—

"(i) FACILITIES COVERED BY BOTH A TRANSFER AGREEMENT AND AN INTERAGENCY AGREEMENTS.—In the case of a facility with respect to which there is both a transfer agreement and an interagency agreement, if the State does not concur in the remedial action proposed for selection by the Federal department, agency, or instrumentality, the Federal department, agency, or instrumentality and the State shall engage in the dispute resolution process provided for in the interagency agreement, except that the final level for resolution of the dispute shall be the head of the Federal department, agency, or instrumentality and the Governor of the State.

"(ii) FACILITIES COVERED BY A TRANSFER AGREEMENT BUT NOT AN INTERAGENCY AGREEMENT.—In the case of a facility with respect to which there is a transfer agreement but no interagency agreement, if the State does not concur in the remedial action proposed for selection by the Federal department, agency, or instrumentality, the Federal department, agency, or instrumentality and the State shall engage in dispute resolution as provide in paragraph (3)(B)(ii) under which the final level for resolution of the dispute shall be the head of the Federal department, agency, or instrumentality and the Governor of the State.

"(iii) FAILURE TO RESOLVE.—If no agreement is reached between the head of the Federal department, agency, or instrumentality and the Governor in a dispute resolution process under clause (i) or (ii), the Governor of the State shall make the final determination regarding selection of a remedial action. To compel implementation of the State's selected remedy, the State must bring a civil action in United States district court.

"(B) ENFORCEMENT.—

"(i) AUTHORITY; JURISDICTION.—An interagency agreement with respect to which there is a transfer agreement or an order issued by a transferee State shall be enforceable by a transferee State or by the Federal department, agency, or instrumentality that is a party to the interagency agreement only in the United States district court for the district in which the facility is located.

"(ii) REMEDIES.—The district court shall—

"(I) enforce compliance with any provision, standard, regulation, condition, requirement, order, or final determination that has become effective under the interagency agreement;

"(II) impose any appropriate civil penalty provided for any violation of an interagency agreement, not to exceed $25,000 per day;

"(III) compel implementation of the selected remedial action; and

"(IV) review a challenge by the Federal department, agency, or instrumentality to the remedial action selected by the State under this section, in accordance with section 113(j).

"(12) COMMUNITY PARTICIPATION.—If, prior to the date of enactment of this section, a Federal department, agency, or instrumentality had established for a facility covered by a transfer agreement a facility-specific advisory board or other community-based advisory group (designated as a 'site-specific advisory board', a 'restoration advisory board', or otherwise), and the Administrator determines that the board or group is willing and able to perform the responsibilities of a community response organization under section 117(e)(2), the board or group—

"(A) shall be considered to be a community response organization for the purposes of section 117 (e) (2), (3), (4), and (9), and (g) and sections 127 and 129; but

"(B) shall not be required to comply with, and shall not be considered to be a community response organization for the purposes of, section 117 (e) (1), (5), (6), (7), or (8) or (f).".

SEC. 602. LIMITATION ON CRIMINAL LIABLIITY OF FEDERAL OFFICERS, EMPLOYEES, AND AGENTS.

Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) is amended by adding at the end the following:

"(i) CRIMINAL LIABILITY.—Notwithstanding any other provision of this Act or any other law, an officer, employee, or agent of the United States shall not be held criminally liable for a failure to comply, in any fiscal year, with a requirement to take a response action at a facility that is owned or operated by a department, agency, or instrumentality of the United States, under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), or any other Federal or State law unless—

"(1) the officer, employee, or agent has not fully performed any direct responsibility or delegated responsibility that the officer, employee, or agent had under Executive Order 12088 (42 U.S.C. 4321 note) or any other delegation of authority to ensure that a request for funds sufficient to take the response action was included in the President's budget request under section 1105 of title 31, United States Code, for that fiscal year; or

"(2) appropriated funds were available to pay for the response action.".

SEC. 603. INNOVATIVE TECHNOLOGIES FOR REMEDIAL ACTION AT FEDERAL FACILITIES.

(a) IN GENERAL.—Section 311 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660) is amended by adding at the end the following:

"(h) FEDERAL FACILITIES.—

"(1) DESIGNATION.—The President may designate a facility that is owned or operated by any department, agency, or instrumentality of the United States, and that is listed or proposed for listing on the National Priorities List, to facilitate the research, development, and application of innovative technologies for remedial action at the facility.

"(2) USE OF FACILITIES.—

"(A) IN GENERAL.—A facility designated under paragraph (1) shall be made available to Federal departments and agencies, State departments and agencies, and public and private instrumentalities, to carry out activities described in paragraph (1).

"(B) COORDINATION.—The Administrator—

"(i) shall coordinate the use of the facilities with the departments, agencies, and instrumentalities of the United States; and

"(ii) may approve or deny the use of a particular innovative technology for remedial action at any such facility.

"(3) CONSIDERATIONS.—

"(A) EVALUATION OF SCHEDULES AND PENALTIES.—In considering whether to permit the application of a particular innovative technology for remedial action at a facility designated under paragraph (1), the Administrator shall evaluate the schedules and penalties applicable to the facility under any agreement or order entered into under section 120.

"(B) AMENDMENT OF AGREEMENT OR ORDER.—If, after an evaluation under subparagraph (A), the Administrator determines that there is a need to amend any agreement or order entered into pursuant to section 120, the Administrator shall comply with all provisions of the agreement or order, respectively, relating to the amendment of the agreement or order.".

(b) REPORT TO CONGRESS.—Section 311(e) of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(e)) is amended—

(1) by striking "At the time" and inserting the following:

"(1) IN GENERAL.—At the time"; and

(2) by adding at the end the following:

"(2) ADDITIONAL INFORMATION.—A report under paragraph (1) shall include information on the use of facilities described in subsection (h)(1) for the research, development, and application of innovative technologies for remedial activity, as authorized under subsection (h).".

SEC. 604. FEDERAL FACILITY LISTING.

Section 120(h)(4)(C) of the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9620(h)(4)(C)) is amended by adding at the end the following:

"(v) On identification of parcels of uncontaminated property under this paragraph, the President may provide notice that the listing does not include the identified uncontaminated parcels.".

SEC. 605. FEDERAL FACILITY LISTING DEFERRAL.

Paragraph (3) of section 120(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(d)), as designated by section 604, is amended by inserting after "persons" the following: ", but an appropriate factor as referred to in section 105(a)(8)(A) may include the extent to which the Federal agency has arranged with the Administrator or with a State to respond to the release or threatened release under other legal authority".

SEC. 606. TRANSFERS OF UNCONTAMINATED PROPERTY.

Section 120(h)(4)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(4)(A)) is amended in the first sentence by striking "stored for one year or more,".

TITLE VII—NATURAL RESOURCE DAMAGES

SEC. 701. RESTORATION OF NATURAL RESOURCES.

(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), as amended by section 504(b), is amended by adding at the end the following:

"(52) BASELINE.—The term 'baseline' means the condition or conditions that would have existed at a natural resource had a release of hazardous substances not occurred.

"(53) COMPENSATORY RESTORATION.—The term 'compensatory restoration' means the provision of ecological services lost as a result of injury to or destruction or loss of a natural resource from the initial release giving rise to liability under section 107(a)(2)(C) until primary restoration has been achieved with respect to those services.

"(54) ECOLOGICAL SERVICE.—The term 'ecological service' means a physical or biological function performed by an ecological resource, including the human uses of such a function.

"(55) PRIMARY RESTORATION.—The term 'primary restoration' means rehabilitation, natural recovery, or replacement of an injured, destroyed, or lost natural resource, or acquisition of a substitute or alternative natural resource, to reestablish the baseline ecological service that the natural resource would have provided in the absence of a release giving rise to liability under section 107(a)(2)(C).

"(56) RESTORATION.—The term 'restoration' means primary restoration and compensatory restoration.".

(b) LIABILITY FOR NATURAL RESOURCE DAMAGES.—

(1) AMENDMENT.—Section 107(a) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)) is amended—

(A) by inserting "IN GENERAL.—" after "(a)";

(B) by striking "Notwithstanding" and inserting the following:

"(1) PERSONS LIABLE.—Notwithstanding";

(C) by redesignating paragraphs (1), (2), (3), and (4) (as designated prior to the date of enactment of this Act) as subparagraphs (A), (B), (C), and (D), respectively, and adjusting the margins accordingly;

(D) by striking "hazardous substance, shall be liable for—" and inserting the following: "hazardous substance,

shall be liable for the costs and damages described in paragraph (2).

"(2) COSTS AND DAMAGES.—A person described in paragraph (1) shall be liable for—

";

(E) by striking subparagraph (C) of paragraph (2), as designated by subparagraph (D), and inserting the following:

"(C) damages for injury to, destruction of, or loss of the baseline ecological services of natural resources, including the reasonable costs of assessing such injury, destruction, or loss caused by a release; and";

(F) by striking "The amounts" and inserting the following:

"(3) INTEREST.—The amounts"; and

(G) in the first sentence of paragraph (3), as designated by subparagraph (F), by striking "subparagraphs (A) through (D)" and inserting "paragraph (2)".

(2) CONFORMING AMENDMENTS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended—

(A) in subsection (d)(3) by striking "the provisions of paragraph (1), (2), (3), or (4) of subsection (a) of this section" and inserting "subsection (a)";

(B) in subsection (f)(1) by striking "subparagraph (C) of subsection (a)" each place it appears and inserting "subsection (a)(2)(C)".

(c) NATURAL RESOURCE DAMAGES.—Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)) is amended—

(1) by inserting "NATURAL RESOURCE DAMAGES.—" after "(f)";

(2) by striking "(1) NATURAL RESOURCES LIABILITY.—In the case" and inserting the following:

"(1) LIABILITY.—

"(A) IN GENERAL.—In the case";

(3) in paragraph (1)(A), as designated by paragraph (2)—

(A) in the first sentence by inserting "the baseline ecological services of" after "loss of";

(B) in the third and fourth sentences, by striking "to restore, replace, or acquire the equivalent" each place it appears and inserting "for restoration";

(C) by inserting after the fourth sentence the following: "Sums recovered by an Indian tribe as trustee under this subsection shall be available for use only for restoration of such natural resources by the Indian tribe. A restoration conducted by the United States, a State, or an Indian tribe shall proceed only if it is technologically practicable, cost-effective, and consistent with all known or anticipated response actions at or near the facility."; and

(D) by striking "The measure of damages in any action" and all that follows through the end of the paragraph and inserting the following:

"(B) LIMITATIONS ON LIABILITY.—

"(i) MEASURE OF DAMAGES.—The measure of damages in any action under subsection (a)(2)(C) shall be limited to the reasonable costs of restoration and of assessing damages.

"(ii) NONUSE VALUES.—There shall be no recovery under this Act for any impairment of non-use values.

"(iii) NO DOUBLE RECOVERY.—A person that obtains a recovery of damages, response costs, assessment costs, or any other costs under this Act for injury to, destruction of, or loss of a natural resource caused by a release shall not be entitled to recovery under or any other Federal or State law for injury to or destruction or loss of the natural resource caused by the release.

"(iv) NO RETROACTIVE LIABILITY.—

"(I) COMPENSATORY RESTORATION.—There shall be no recovery from any person under this section for the costs of compensatory restoration for a natural resource injury, destruction, or loss that occurred prior to December 11, 1980.

"(II) PRIMARY RESTORATION.—There shall be no recovery from any person under this section for the costs of primary restoration if the natural resource injury, destruction, or loss for which primary restoration is sought and the release of the hazardous substance from which the injury resulted occurred wholly before December 11, 1980.

"(v) BURDEN OF PROOF ON THE ISSUE OF THE DATE OF OCCURRENCE OF A RELEASE.—The trustee for an injured, destroyed, or lost natural resource bears the burden of demonstrating that any amount of costs of compensatory restoration that the trustee seeks under this section is to compensate for an injury, destruction, or loss (or portion of an injury, destruction, or loss) that occurred on or after December 11, 1980."; and

(4) by adding at the end the following:

"(3) SELECTION OF RESTORATION METHOD.—When selecting appropriate restoration measures, including natural recovery, a trustee shall select the most cost-effective method of achieving restoration.".

SEC. 702. ASSESSMENT OF DAMAGES.

(a) DAMAGE ASSESSMENTS.—Section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)) is amended by striking subparagraph (C) and inserting the following:

"(C) DAMAGE ASSESSMENT.—

"(i) REGULATION.—A natural resource damage assessment conducted for the purposes of this Act made by a Federal, State, or tribal trustee shall be performed, to the extent practicable, in accordance with—

"(I) the regulation issued under section 301(c); and

"(II) generally accepted scientific and technical standards and methodologies to ensure the validity and reliability of assessment results.

"(ii) FACILITY-SPECIFIC CONDITIONS AND RESTORATION REQUIREMENTS.—Injury determination, restoration planning, and quantification of restoration costs shall, to the extent practicable, be based on an assessment of facility-specific conditions and restoration requirements.

"(iii) USE BY TRUSTEE.—A natural resource damage assessment under clause (i) may be used by a trustee as the basis for a natural resource damage claim only if the assessment demonstrates that the hazardous substance release in question caused the alleged natural resource injury.

"(iv) COST RECOVERY.—As part of a trustee's claim, a trustee may recover only the reasonable damage assessment costs that were incurred directly in relation to the site-specific conditions and restoration measures that are the subject of the natural resource damage action.".

(b) REGULATIONS.—

(1) NEW REGULATIONS.—Section 301 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9651) is amended by striking subsection (c) and inserting the following:

"(c) REGULATIONS FOR DAMAGE ASSESSMENTS.—

"(1) IN GENERAL.—The President, acting through Federal officials designated by the National Contingency Plan under section 107(f)(2), shall issue a regulation for the assessment of restoration damages and assessment costs for injury to, destruction of, or loss of natural resources resulting from a release of a hazardous substance for the purposes of this Act.

"(2) CONTENTS.—The regulation under paragraph (1) shall—

"(A) specify protocols for conducting assessments in individual cases to determine the injury, destruction, or loss of baseline ecological services of the environment;

"(B) identify the best available procedures to determine damages for the reasonable cost of restoration and assessment;

"(C) take into consideration the ability of a natural resource to recover naturally and the availability of replacement or alternative resources; and

"(D) specify an appropriate mechanism for the cooperative designation of a single lead decisionmaking trustee at a site where more than one Federal, State, or Indian tribe trustee intends to conduct an assessment, which designation shall occur not later than 180 days after the date of first notice to the responsible parties that a natural resource damage assessment will be made.

"(3) BIENNIAL REVIEW.—The regulation under paragraph (1) shall be reviewed and revised as appropriate every 2 years.".

(2) INTERIM PROVISION.—Until such time as the regulations issued pursuant to the amendment made by paragraph (1) become effective, the regulations issued under section 301(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9651(c)) shall remain in effect and shall be applied, subject to challenge on any ground, in the same manner and to the same extent as if this Act had not been enacted, except to the extent that those regulations are inconsistent with this Act or an amendment made by this Act.

SEC. 703. CONSISTENCY BETWEEN RESPONSE ACTIONS AND RESOURCE RESTORATION STANDARDS AND ALTERNATIVES.

(a) RESTORATION STANDARDS AND ALTERNATIVES.—Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)), as amended by section 701(b)(4), is amended by adding at the end the following:

"(4) CONSISTENCY WITH RESPONSE ACTIONS.—A restoration standard or restoration alternative selected by a trustee for a facility listed or proposed for listing on the National Priorities List shall not be duplicative of or inconsistent with actions undertaken pursuant to section 104, 106, 121, or 129.".

(b) RESPONSE ACTIONS.—

(1) ABATEMENT ACTION.—Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606(a)) is amended by adding at the end the following: "The President shall not take action under this subsection except such action as is necessary to protect the public health and the baseline ecological services of the environment.".

(2) LIMITATION ON DEGREE OF CLEANUP.—Section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(a)), as amended by section 402(1), is amended by adding at the end the following:

"(7) LIMITATION.—

"(A) IN GENERAL.—The Administrator shall not select a remedial action under this section that goes beyond the measures necessary to protect human health and the environment and restore the baseline ecological services of the environment.

"(B) CONSIDERATIONS.—In evaluating and selecting remedial actions, the Administrator shall take into account the potential for injury to or destruction or loss of a natural resource resulting from such actions.

"(C) NO LIABILITY.—No person shall be liable for injury to or destruction or loss of a natural resource resulting from a response action or remedial action selected by the Administrator that is properly implemented without negligence or other improper performance on the part of a potentially responsible party or other person acting at the direction of a potentially responsible party.".

SEC. 704. MISCELLANEOUS AMENDMENTS.

Section 113(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)(1)) is amended in the third sentence by inserting "and natural resource damages" after "costs".

TITLE VIII—MISCELLANEOUS

SEC. 801. RESULT-ORIENTED CLEANUPS.

(a) AMENDMENT.—Section 105(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by inserting after paragraph (10) the following:

"(11) procedures for conducting response actions, including facility evaluations, remedial investigations, feasibility studies, remedial action plans, remedial designs, and remedial actions, which procedures shall—

"(A) use a results-oriented approach to minimize the time required to conduct response measures and reduce the potential for exposure to the hazardous substances, pollutants, and contaminants in an efficient, timely, and cost-effective manner;

"(B) require, at a minimum, expedited facility evaluations and risk assessments, timely negotiation of response action goals, a single engineering study, streamlined oversight of response actions, and consultation with interested parties throughout the response action process;

"(C) be subject to the requirements of sections 117, 120, 121, and 129 in the same manner and to the same degree as those sections apply to response actions; and

"(D) be required to be used for each remedial action conducted under this Act unless the Administrator determines that their use would not be cost-effective or result in the selection of a response action that achieves the goals of protecting human health and the environment stated in section 121(a)(1)(B).".

(b) AMENDMENT OF NATIONAL HAZARDOUS SUBSTANCE RESPONSE PLAN.—Not later than 180 days after the date of enactment of this Act, the Administrator, after notice and opportunity for public comment, shall amend the National Hazardous Substance Response Plan under section 105(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)) to include the procedures required by the amendment made by subsection (a).

SEC. 802. NATIONAL PRIORITIES LIST.

Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605), as amended by section 408(a)(1)(B), is amended by adding at the end the following:

"(i) NATIONAL PRIORITIES LIST.—

"(1) ADDITIONAL VESSELS AND FACILITIES.—

"(A) LIMITATION.—

"(i) IN GENERAL.—After the date of the enactment of this subsection, the President may add vessels and facilities to the National Priorities List only in accordance with the following schedule:

"(I) Not more than 30 vessels and facilities in 1996.

"(II) Not more than 25 vessels and facilities in 1997.

"(III) Not more than 20 vessels and facilities in 1998.

"(IV) Not more than 20 vessels and facilities in 1999.

"(V) Not more than 10 vessels and facilities in 2000.

"(VI) Not more than 10 vessels and facilities in 2001.

"(VII) Not more than 10 vessels and facilities in 2002.

"(ii) RELISTING.—The relisting of a vessel or facility under section 135(d)(5)(C)(ii) shall not be considered to be an addition to the National Priorities List for purposes of this subsection.

"(B) PRIORITIZATION.—The Administrator shall prioritize the vessels and facilities added under subparagraph (A) on a national basis in accordance with the threat to human health and the environment presented by each of the vessels and facilities, respectively.

"(C) STATE CONCURRENCE.—A vessel or facility may be added to the National Priorities List under subparagraph (A) only with the concurrence of the State in which the vessel or facility is located.

"(2) SUNSET.—

"(A) NO ADDITIONAL VESSELS OR FACILITIES.—The authority of the Administrator to add vessels and facilities to the National Priorities List shall expire on December 31, 2002.

"(B) LIMITATION ON ACTION BY THE ADMINISTRATOR.—At the completion of response actions for all vessels and facilities on the National Priorities List, the authority of the Administrator under this Act shall be limited to—

"(i) providing a national emergency response capability;

"(ii) conducting research and development;

"(iii) providing technical assistance; and

"(iv) conducting oversight of grants and loans to the States.".

SEC. 803. OBLIGATIONS FROM THE FUND FOR RESPONSE ACTIONS.

Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)(1)) is amended—

(1) in subparagraph (C) by striking "consistent with the remedial action to be taken" and inserting "not inconsistent with any remedial action that has been selected or is anticipated at the time of any removal action at a facility.";

(2) by striking "$2,000,000" and inserting "$4,000,000"; and

(3) by striking "12 months" and inserting "2 years".

SEC. 804. REMEDIATION WASTE.

(a) DEFINITIONS.—Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) is amended by adding at the end the following:

"(42) DEBRIS.—The term 'debris'—

"(A) means—

"(i) a solid manufactured object exceeding a 60 millimeter particle size;

"(ii) plant or animal matter; and

"(iii) natural geologic material; but

"(B) does not include material that the Administrator may exclude from the meaning of the term by regulation.

"(43) IDENTIFIED CHARACTERISTIC WASTE.—The term 'identified characteristic waste' means a solid waste that has been identified as having the characteristics of hazardous waste under section 3001.

"(44) LISTED WASTE.—The term 'listed waste' means a solid waste that has been listed as a hazardous waste under section 3001.

"(45) MEDIA.—The term 'media' means ground water, surface water, soil, and sediment.

"(46) REMEDIATION ACTIVITY.—The term 'remediation activity' means the remediation, removal, containment, or stabilization of—

"(A) solid waste that has been released to the environment; or

"(B) media and debris that are contaminated as a result of a release.

"(47) REMEDIATION WASTE.—The term 'remediation waste' means—

"(A) solid and hazardous waste that is generated by a remediation activity; and

"(B) debris and media that are generated by a remediation activity and contain a listed waste or identified characteristic waste.

"(48) STATE VOLUNTARY REMEDIATION PROGRAM.—The term 'State voluntary remediation program' means a program established by a State that permits a person to conduct remediation activity at a facility under general guidance or guidelines without being subject to a State order or consent agreement specifically applicable to the person.".

(b) IDENTIFICATION AND LISTING.—Section 3001 of the Solid Waste Disposal Act (42 U.S.C. 6921) is amended by adding at the end the following:

"(j) REMEDIATION WASTE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a person that manages remediation waste that is an identified characteristic waste or listed waste or that contains an identified characteristic waste or listed waste shall be subject to the requirements of this subtitle (including regulations issued under this subtitle, including the regulation for corrective action management units published in section 264.552, Code of Federal Regulations, and the regulation for temporary units published in section 264.553, Code of Federal Regulations, or any successor regulation).

"(2) EXCEPTIONS.—

"(A) REQUIREMENTS UNDER SECTION 3004.—Media and debris generated by a remediation activity that are identified characteristic wastes or listed wastes or that contain an identified characteristic waste or a listed waste shall not be subject to the requirements of section 3004 (d), (e), (f), (g), (j), (m), or (o).

"(B) PERMIT REQUIREMENTS.—No Federal, State, or local permit shall be required for the treatment, storage, or disposal of remediation waste that is conducted entirely at the facility at which the remediation takes place.

"(3) REMEDIATION WASTE SUBJECT TO ORDERS, CONSENT AGREEMENTS, VOLUNTARY REMEDIATION PROGRAMS, AND OTHER MECHANISMS.—

"(A) REQUIREMENTS NOT APPLICABLE.—Notwithstanding paragraph (1), a person that manages remediation waste that—

"(i) is identified characteristic waste or listed waste or that contains an identified characteristic waste or listed waste; and

"(ii) is subject to a Federal or State order, Federal or State consent agreement, a State voluntary remediation program, or such other mechanism as the Administrator considers appropriate,

shall not be subject to the requirements of this subtitle (including any regulation under this subsection) unless the requirements are specified in the Federal or State order, Federal or State consent agreement, State voluntary cleanup program, or other mechanism, as determined by the Administrator.

"(B) ENFORCEMENT.—Unless other enforcement procedures are specified in the order, consent agreement, or other mechanism, a person described in subparagraph (A) (except a person that manages remediation waste under a State voluntary remediation program) shall be subject to enforcement of the requirements of the order, consent agreement, or other mechanism by use of enforcement procedures under section 3008.".

(c) REGULATION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue a regulation implementing section 3001(j) of the Solid Waste Disposal Act, as added by subsection (b).

TITLE IX—FUNDING

Subtitle A—General Provisions

SEC. 901. AUTHORIZATION OF APPROPRIATIONS FROM THE FUND.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended in the first sentence by striking "not more than $8,500,000,000 for the 5-year period beginning on the date of enactment of the Superfund Amendments and Reauthorization Act of 1986, and not more than $5,100,000,000 for the period commencing October 1, 1991, and ending September 30, 1994" and inserting "a total of $8,500,000,000 for fiscal years 1996, 1997, 1998, 1999, and 2000".

SEC. 902. ORPHAN SHARE FUNDING.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)), as amended by section 301(c), is amended by inserting after paragraph (8) the following:

"(9) ORPHAN SHARE FUNDING.—Payment of orphan shares under section 132.".

SEC. 903. DEPARTMENT OF HEALTH AND HUMAN SERVICES.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (m) and inserting the following:

"(m) HEALTH AUTHORITIES.—There are authorized to be appropriated from the Fund to the Secretary of Health and Human Services to be used for the purposes of carrying out the activities described in subsection (c)(4) and the activities described in section 104(i), $50,000,000 for each of fiscal years 1996, 1997, 1998, 1999, and 2000. Funds appropriated under this subsection for a fiscal year, but not obligated by the end of the fiscal year, shall be returned to the Fund.".

SEC. 904. LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (n) and inserting the following:

"(n) LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.—

"(1) ALTERNATIVE OR INNOVATIVE TECHNOLOGIES RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.—

"(A) LIMITATION.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000, not more than $20,000,000 of the amounts available in the Fund may be used for the purposes of carrying out the applied research, development, and demonstration program for alternative or innovative technologies and training program authorized under section 311(b) other than basic research.

"(B) CONTINUING AVAILABILITY.—Such amounts shall remain available until expended.

"(2) HAZARDOUS SUBSTANCE RESEARCH, DEMONSTRATION, AND TRAINING.—

"(A) LIMITATION.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000 not more than $20,000,000 of the amounts available in the Fund may be used for the purposes of section 311(a).

"(B) FURTHER LIMITATION.—No more than 10 percent of such amounts shall be used for training under section 311(a) for any fiscal year.

"(3) UNIVERSITY HAZARDOUS SUBSTANCE RESEARCH CENTERS.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000, not more than $5,000,000 of the amounts available in the Fund may be used for the purposes of section 311(d).".

SEC. 905. AUTHORIZATION OF APPROPRIATIONS FROM GENERAL REVENUES.

Section 111(p) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(p)) is amended by striking paragraph (1) and inserting the following:

"(1) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund—

"(i) for fiscal year 1996, $250,000,000;

"(ii) for fiscal year 1997, $250,000,000;

"(iii) for fiscal year 1998, $250,000,000;

"(iv) for fiscal year 1999, $250,000,000; and

"(v) for fiscal year 2000, $250,000,000.

"(B) ADDITIONAL AMOUNTS.—There is authorized to be appropriated to the Hazardous Substance Superfund for each such fiscal year an amount, in addition to the amount authorized by subparagraph (A), equal to so much of the aggregate amount authorized to be appropriated under this subsection and section 9507(b) of the Internal Revenue Code of 1986 as has not been appropriated before the beginning of the fiscal year.".

SEC. 906. ADDITIONAL LIMITATIONS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by adding at the end the following:

"(q) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAM.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000, not more than $25,000,000 of the amounts available in the Fund may be used for the purposes of subsection (a)(7) (relating to qualifying State voluntary response programs).

"(r) BROWNFIELD CLEANUP ASSISTANCE.—For each of fiscal years 1996 through 2000, not more than $15,000,000 of the amounts available in the Fund may be used to carry out section 134(b).

"(s) COMMUNITY RESPONSE ORGANIZATION.—For the period commencing October 1, 1995, and ending September 30, 2000, not more than $15,000,000 of the amounts available in the Fund may be used to make grants under section 117(f) (relating to Community Response Organizations).

"(t) RECOVERIES.—Effective beginning October 1, 1995, any response cost recoveries collected by the United States under this Act shall be credited as offsetting collections to the Superfund appropriations account.".

SEC. 907. REIMBURSEMENT OF POTENTIALLY RESPONSIBLE PARTIES.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)), as amended by section 902, is amended by inserting after paragraph (9) the following:

"(10) REIMBURSEMENT OF POTENTIALLY RESPONSIBLE PARTIES.—If—

"(A) a potentially responsible party and the Administrator enter into a settlement under this Act under which the Administrator is reimbursed for the response costs of the Administrator; and

"(B) the Administrator determines, through a Federal audit of response costs, that the costs for which the Administrator is reimbursed—

"(i) are unallowable due to contractor fraud;

"(ii) are unallowable under the Federal Acquisition Regulation; or

"(iii) should be adjusted due to routine contract and Environmental Protection Agency response cost audit procedures,

a potentially responsible party may be reimbursed for those costs.".

NOTICE OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. STEVENS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings regarding the global proliferation of weapons of mass destruction, part II.

This hearing will take place on Friday, March 22, 1996 in room 342 of the Dirksen Senate Office Building. For further information, please contact Daniel S. Gelber of the Subcommittee staff at 224–9157.

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I wish to announce that the Special Committee on Aging will hold a hearing on Thursday, March 28, 1996, at 9:30 a.m., in room 562 of the Dirksen Senate Office Building. The hearing will discuss adverse drug reactions and the effects on the elderly.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Thursday, March 21, 1996, in open session, to receive testimony from the unified commanders on their military strategies, operational requirements, and the defense authorization request for fiscal year 1997 and the future years defense programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 2 p.m. on Thursday, March 21, 1996 to receive testimony on Department of the Navy shipbuilding programs in review of the defense authorization request for fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GORTON. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, March 21, at 9:00 a.m. for a hearing on the Tenth Amendment Enforcement Act of 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, March 21, 1996 at 10:00 a.m. in SH216.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to hold a meeting during the session of the Senate on Thursday, March 21, 1996. The committee will be in executive session at 9:00 a.m. on S. 1578, The Individuals With Disabilities in Education Act [IDEA].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a hearing on Thursday, March 21, 1996, at 10:30 a.m., in room 428A of the Russell Senate Office Building, to conduct a hearing focusing on "S. 1574, the HUBZones Act of 1996—Revitalizing Inner Cities and Rural America."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GORTON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 21, 1996, at 2 p.m. to hold a closed briefing for members on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT AND STRUCTURE

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on HUD Oversight and Structure, of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, March 21, 1996, to conduct a hearing on the 1992 Federal Housing Enterprises Safety and Soundness Act as it affects Fannie Mae and Freddie Mac.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, March 21, 1996, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to review S. 305, a bill to establish the Shenandoah Valley National Battlefields and Commission in the Commonwealth of Virginia; H.R. 1091, a bill to improve the National Park System in the Commonwealth of Virginia; S. 1225, a bill to require the Secretary of the Interior to conduct an inventory of historic sites, buildings, and artifacts in the Champlain Valley and the upper Hudson River Valley; S. 1226, a bill to require the Secretary of the Interior to prepare a study of battlefields of the Revolutionary War and the War of 1812, to establish an American Battlefield Protection Program; and S.J. Res. 42, a joint resolution designating the Civil War Center at Louisiana State University as the U.S. Civil War Center, making the center the flagship institution for planning the sesquicentennial commemoration of the Civil War.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 2:30 p.m. on Thursday, March 21, 1996, in open session, to receive testimony on the readiness of the Guard and Reserve to support the national military strategy.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CORPORATE SUBSIDY REVIEW, REFORM AND TERMINATION COMMISSION

• Mr. McCAIN. Mr. President, last year, I introduced bipartisan legislation to establish a Corporate Subsidy Review, Reform, and Termination Commission.

The proposed eight-member panel, styled after the military base closing commission would review Federal programs as well as provisions of the U.S. Tax Code to identify those that unduly subsidize specific profit-making companies, select industries, or segments of an industry in a manner that is unfair or anticompetitive and has no compelling public benefit. The Commission would recommend to Congress specific reforms and or termination of such subsidies, and Congress would consider the package under limited procedures spelled out in the legislation.

The establishment of such a Commission, though an inferior alternative to Congress taking action directly, has become necessary because Congress does not appear willing or able to eliminate or significantly reform corporate subsidies.

In these times of budget austerity, we are asking millions of Americans—from families who receive food stamps to our men and women in uniform—to sacrifice in order to stop the Nation's fiscal bleeding. As a matter of simple fairness, we have a moral obligation to ensure that corporate interests share the burden.

The Cato and Progressive Policy Institutes, have identified 125 Federal programs that subsidize industry to the tune of $85 billion every year, and PPI found an additional $30 billion in tax loopholes to powerful industries.

Mr. President, I want to make clear, I am sure there are a number of programs which could be classified as a corporate subsidy which may serve a public interest. And, every Senator in this Chamber, including this Senator, have supported at one time or another a variety of these programs.

So, no one is pure or innocent on the question of corporate subsidies. But, blame is not the issue, that's only an oft-used diversion. The issue is what is required of us today to reduce the debt that grown larger every day, eating up a greater percentage of the budget in debt service and submerging the prospects of our children as they are required to spend an evergrowing portion of their life to pay our bills.

Under such circumstances, we are compelled to take a harder, more judicious, look at corporate subsidies and eliminate those that are not justified and do not have a compelling public interest.

As the Public Policy Institute observed,

> The President and Congress can break the current impasse and substantially reduce both spending and projected deficits * * * if they are willing to eliminate or reform scores of special spending programs and tax provisions narrowly targeted to subsidize influential industries.

Let me conclude, Mr. President, by acknowledging that I do not really like the idea of commissions. In some instances reasonable and well-intentioned people may disagree on what is pork as opposed to a necessary and vital program. But in many instances we know what can and should be eliminated. The reality, however, is that Members will simply not gore their own ox, unless others are forced to do the same. As with military base closures—the mentality is—we either all go together or we do not go at all. Perhaps that is the only fair way to do it.

An independent corporate pork commission with privileged and expedited procedures to ensure congressional action would help us even better define what is an unnecessary and unwarranted corporate subsidy, and it will help us depoliticize the process, guarantee that the pain is shared, and might be the only realistic means of achieving the meaningful reform that the public and our dire fiscal circumstances demand.

I look forward to working with my colleagues to refine a commission and congressional consideration process that is fair, targeted, and appropriate.•

TRIBUTE TO CF INDUSTRIES, INC.

• Mr. BREAUX. Mr. President, I rise today along with my colleagues: Mr. GRAHAM and Mr. MACK of Florida, Mr. SIMON and Mrs. MOSELEY-BRAUN of Illinois, and Mr. JOHNSTON of Louisiana, to pay tribute to CF Industries, Inc., which is celebrating its 50th anniversary this year. CF is an interregional farm supply cooperative owned by 11 regional cooperatives in the United States and Canada. CF's nitrogen, phosphate, and potash products reach over 1 million farmer-owners who depend on the CF system to manufacture and distribute agricultural fertilizers to them. We would like to congratulate CF and its employees on the high-quality products and services they have provided to the Nation's farmers over the past 50 years and their commitment to sound environmental, health, and safety practices.

Established in 1946 as Central Farmers Fertilizer Co., CF began as a broker for sales of fertilizer products to farmer-members with the goal of becoming the Nation's major fertilizer supplier for the agricultural cooperative community. Through 1960, CF evolved from a broker to a manufacturer and distributor of fertilizer products.

Today, CF has become more than the founding members have ever envisioned. CF manufacturing plants include nitrogen fertilizer complexes in Donaldsonville, LA, and Medicine Hat, AB, Canada, as well as extensive phosphate mining and manufacturing facilities in Florida. CF plants have the capacity to produce more than 8 million tons of fertilizer products annually. In 1995, CF sales totaled over $1.3 billion.

Products are distributed to farmer-members in 46 States and two Canadian provinces through an extensive system. CF has ownership and lease positions in 63 regional terminals and warehouses. Total storage capacity of CF distribution terminals and warehouses is in excess of 2.4 million tons of product.

In closing, Mr. President, we want to express our good wishes to CF Industries, Inc., and its employees as they continue to respond to the needs of the cooperative community and look to providing high-quality products and services into the 21st century.•

THE 100TH ANNIVERSARY OF ST. PAUL'S EVANGELICAL LUTHERAN CHURCH

• Mr. ABRAHAM. Mr. President, I rise today to congratulate St. Paul's Evangelical Lutheran Church of Northville, MI, on their 100th anniversary. Just over 100 years ago, a group of German speaking residents began meeting on Sunday mornings, forming what was to become the Evangelical Lutheran Church of the Reformation of Northville. On August 30, 1896, the congregation celebrated Holy Communion for the first time.

Remembering the verse in Proverbs, "The fear of the Lord is the beginning of wisdom," the congregation started a Christian Day School in September with seven children attending the first semester. Less than 1 year later, St. Paul's church purchased the deed to property on Elm Street. The church still resides at that location.

On November 28, 1948, ground was broken for the new church building. Dedicated in February 1950, the Gothic building contained three beautiful stained glass windows located above the altar symbolizing the Holy Trinity. Other windows throughout the nave tell the story of Christ's apostles.

Since 1896, the congregation at St. Paul's has met faithfully on Sunday mornings. The Day School continues to serve families of St. Paul's and the Northville community.

Again, congratulations to this community. I wish it many more years of fellowship and worship.•

ICI EXPORT LTD.

• Mr. DODD. Mr. President, it has come to my attention that ICI Export Ltd. was erroneously listed among the "Corporations and companies cited in the international media as having commercial activities with the Republic of Cuba" in the CONGRESSIONAL RECORD of March 5, 1996. ICI Export Ltd., which is in no way affiliated with ICI Americas, Inc., has not existed since 1992. I ask that the attached letter from William A. Meaux of ICI Americas, Inc. be printed in the RECORD.

The letter follows:

ICI AMERICAS INC.,
Washington, DC, March 12, 1996.

Hon. CHRISTOPHER DODD,
Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATOR DODD: Thank you very much for your offer to correct the erroneous listing of ICI Export Ltd. in the Congressional Record of March 5, 1996, on page S 1490. The listing of ICI Export Ltd. by the U.S.-Cuba Trade and Economic Council, Inc. is in error. ICI Export does not exist, has not existed since 1992, and is not affiliated with any company in the ICI group. After 1992, it is our understanding that ICI Export Ltd. became Zeneca International Ltd. located at 10 Stanhope Gate in London, England. Zeneca International Ltd. is not affiliated with, does not own, and is not owned by, ICI Americas or any other ICI company. We are very grateful for your offer to correct this inaccuracy in the RECORD.

Sincerely,

WILLIAM A. MEAUX.•

RECOGNIZING ILLINOIS WESLEYAN UNIVERSITY

• Mr. SIMON. Mr. President, the Illinois Wesleyan University Titans Men's Basketball Team recently placed third in the Nation among NCAA Division III schools. The Titans head coach, Denny Bridges, has been with the team for 31 years. He is one of the winningest coaches in Division III basketball. The university ought to be proud of its coach and players.

We should also recognize the quality education that the school offers. Illinois Wesleyan was recently ranked by U.S. News and World Report in the top 5 among Liberal Arts universities in the United States.

I commend the university and its basketball team. They deserve our accolades.•

THE 75TH ANNIVERSARY OF THE JACKSON LIONS HOST CLUB

• Mr. ABRAHAM. Mr. President, I rise today to congratulate the 75th anniversary of the Jackson Lions Host Club. For 75 years, members of this outstanding organization have been providing care and assistance to the handicapped and less fortunate as well as contributing both physical and monetary resources toward a brighter future.

In 1921 at the International Host Lions Club Convention, Helen Keller challenged the delegates to dedicate their charitable outreach to the blind. The Jackson club has been generously meeting this challenge, furnishing free Leader Dogs, promoting the enactment of the White Cane Law, and supporting numerous other civic projects and local charities.

Once again, I would like to congratulate this organization and to encourage the spirit of giving that its members have demonstrated in so many ways.•

COMMENDING THE ANTI-DEFAMATION LEAGUE FOR THEIR EFFORTS TO COMBAT HATE CRIMES

• Mr. SIMON. Mr. President, I applaud the Anti-Defamation League [ADL] for its continuing work to expose and combat hate crimes, and to bring your attention to its most recent "Audit of Anti-Semitic Incidents." For the past 17 years, the ADL has compiled data about anti-Jewish attacks. Their efforts in the collection of data and the development of programs regarding anti-Semitic acts increase public awareness of this problem, and help generate constructive solutions. I commend ADL for continuing this important endeavor and would like to share with you some of their recent findings.

In 1995, the total number of anti-Semitic incidents reported to the Anti-Defamation League—including acts against property and persons—was

1,843. I am pleased to report that this total represents a decrease of 223 incidents, or 11 percent, from the 1994 total of 2,066. This is the largest decline in 10 years. Unfortunately, the decline is contrasted with the seriousness of many of the incidents reported. For the fifth straight year in a row, acts of anti-Semitic harassment against individuals outnumber incidents of vandalism against institutions and other property. In 1995, the 1,116 incidents of harassment account for 61 percent of all incidents, compared to 727 accounts of vandalism. Fortunately, the 1,116 incidents of harassment, threats, and assaults represents a decrease of 81, or 7 percent from the 1994 total of 1,197, which was the highest on record. Although it is encouraging to see the number of harassments down from previous years, I am troubled that incidents of harassment remain one of the dominant forms of anti-Semitic activity.

Although the ADL audit provides useful statistics about anti-Semitism generally, it is particularly revealing to consider specific incidents. One particularly violent incident occurred in Cincinnati, OH, when a group of four youths assaulted the son of a community rabbi, chasing him for about a block before they caught him outside of the synagogue and beat him until he collapsed on the street. The ADL also reported an incident of arson in New York City, at Freddy's Fashion Mart, where eight people, including the arsonist himself, died. At Fresno State College, following the assassination of Israeli Prime Minister Yitzhak Rabin, the student-run newspaper printed an article calling Rabin, "The most despicable mass murderer the 20th century has seen, making Hitler look like Big Bird."

Sadly, 1995 saw a large number of anti-Semitic incidences on college campuses. One disturbing incident occurred at the University of Pennsylvania. On March 24, two students were walking in an area immediately off campus. Derogatory epithets were shouted at them by two students sitting on the porch of a private home. When the Jewish students confronted them, one of the two went into the house and returned brandishing a shotgun which he used to threaten the Jewish students, who quickly fled the scene.

On another somber note, the number of arrests made in conjunction with anti-Semitic hate crimes was 108, a significant decrease of 33 from last year's arrest total of 141. This may be attributed to either fewer crimes or underreporting of crime instances. However, the number of arrests is still relatively high, which is encouraging. Law enforcement agencies have been making intensive efforts to refine procedures for investigation of hate crimes, with the assistance of the ADL and other human relations organizations.

In closing, I again want to commend the ADL for its outstanding and important work and ask that portions of the ADL report be printed in the RECORD.

The material follows:

AUDIT OF ANTI-SEMITIC INCIDENTS—1995

THE FINDINGS

In 1995, the total number of anti-Semitic incidents reported to the Anti-Defamation League—including acts against both property and persons—was 1,843. This total, comprising reports from 42 states and the District of Columbia, represents a decrease of 223 incidents, or 11 percent, from the 1994 total of 2,066.

The four states reporting the highest totals of anti-Semitic incidents of all kinds in 1995 were: New York (370), California (264), New Jersey (228), and Florida (152). These four states account for 1,014 of the 1,843 incidents reported (55 percent).

The 1995 audit reveals the following new developments:

(1) The decline in violent crime in the U.S. that has been reported by Federal and municipal law enforcement in 1995 carries over into anti-Semitic bias incidents as well. The overall 11 percent decline reflected in this year's Audit is the first since 1992, and the largest decline in 10 years. Thus, the Audit statistics mirror the state of crime in American society. Enhanced security awareness by Jewish institutions, steadily improving law enforcement action, and passage of hate crimes legislation have likely contributed to this decline.

(2) The decline is contrasted with the seriousness of many of the incidents reported. An extremely violent arson incident in New York City led to several deaths. In addition, the number of cemetery desecrations (one of the most serious and hurtful forms of vandalism, which affects an entire community) actually increased over 1994.

(3) The number of incidents occurring on the college campus shows the first decline since 1987, and only the second since the Audit began separately counting such incidents in 1984. In 1995, 118 campus incidents occurred, a decrease of 25 (17 percent) from the 1994 total of 143.

In addition to the aforementioned findings, the 1995 figures maintain two important trends noted in the 1994 ADL study:

(1) For the fifth straight year, acts of anti-Semitic harassment outnumber incidents of vandalism. In 1995, the 1,116 incidents of harassment account for 61 percent of all incidents, vs. 727 incidents of vandalism. The number of harassments and assaults in 1995 dropped by 81, or 7 percent, from 1994.

(2) As in previous years, of the total of 727 incidents of vandalism, the number of vandalism incidents committed against public properly locations (362)—i.e., public school buildings, bridges, and sign posts—in 1995 was more than twice that committed against synagogues and other Jewish institutional targets (145). (The remaining 220 vandalism incidents were perpetrated against privately owned property.) This pattern continues a trend seen over the previous five years. Vandals, it seems, are still opting for the more numerous and harder-to-protect public locations rather than the generally better secured and increasingly more aware Jewish institutions. In recent years, such institutions have also become better protected by more intensive law enforcement action.

FEWER INCIDENTS—BUT MANY STILL VERY SERIOUS

In contrast to the overall decline in incidents reported in 1995, there were several particularly troubling incidents which took place over the last year.

On November 11, 1995, the FBI arrested four suspects in a foiled attempt to bomb several offices of civil rights organizations around the country, including ADL Regional Offices. Willie Ray Lampley, Cecilia Lampley, Larry Wayne Crow, and John Dare Baird had been allegedly conspiring since August 1995 to build homemade bombs out of ammonium nitrate, fuel oil, and other ingredients to destroy the ADL Houston office, a second unnamed ADL office, the Southern Poverty Law Center in Montgomery, Alabama, and two other targets to be decided by the "Tri-State Militia."

The FBI became aware of the plans on a tip from local law enforcement sources in South Dakota, and closely monitored the development plot through the use of undercover informants and surveillance. All of the suspects were arrested without incident, and indicted on Federal charges.

On December 8th, Roland Smith entered Freddy's Fashion Mart on Harlem's historic 125th Street in New York City. According to the New York Times (Dec. 9, 10), he then produced a revolver and yelled "It's on now!" and ordered all blacks to leave the store. After this he began to fire the gun, and to spread a flammable liquid over the racks of clothing in the store, before igniting them. When the fire department had finally extinguished the flames, 8 people were dead, including Smith. An additional 4 people were wounded.

Fred Harari, the Jewish owner of Freddy's, was involved in a landlord-tenant dispute with Sikhulu Shange, the black owner of the Record Shack, a store subletting an adjacent property. (The entire property was actually owned by the United House of Prayer for All People, a Black church). Mr. Shange enlisted the support of the 125th Street Vendors Association, which organized demonstrations outside of Freddy's. Though it started as a simple economic dispute, the demonstrators quickly began to characterize it in terms of a white Jewish-owned business trying to force a black business off 125th Street. In late November, Mr. Harari complained that the demonstrations, which was supported by community newspapers and radio stations, were taking an anti-Semitic tone, and were laced with increasingly violent racist rhetoric.

On Saturday, February 18, members of the Ohev Shalom Synagogue in York, PA, arrived for services to find a severed pig's head mounted on the front door. The community quickly rallied behind the efforts of law enforcement officials to apprehend the perpetrator, and support the synagogue. At a vote on a motion to condemn the incident, town supervisor Lori Mitrick states that the Jewish community should know "this is not just an embarrassment to them, it is an embarrassment to all decent human beings."

Determined police work led to the eventual arrest and conviction of 22-year-old Mason E. Aldrich for institutional vandalism, desecration of venerated objects, and criminal conspiracy. He was sentenced to 23 months in jail and ordered to perform 120 hours of community service, including 15 hours of cultural awareness programming with ADL.

In interviews leading up to his October 16 Million Man March, the Nation of Islam leader Louis Farrakhan sought to justify his referring to Jews and others as "blood suckers." On Reuters Television, Farrakhan explained, "Many of the Jews who owned the homes, the apartments in the black community, we considered them bloodsuckers because they took from our community but didn't offer anything back to our community." Minister Farrakhan was interviewed by many national news programs in the weeks leading up to the march, interspersing many of his remarks with thinly veiled conspiracy theory anti-Semitism.

In addition to the above incidents, other troubling acts included the beating of a rabbi's son in Cincinnati, OH, and the intimidation of the cast of a play about the Holocaust in Honolulu, HI. At the University of Pennsylvania, two Jewish students were threatened by other students brandishing a shotgun, after being taunted with anti-Semitic epithets. In California, a home-made fire-bomb was thrown at a synagogue. The bomb did not detonate, and the synagogue was spared. (Please see Examples of Harassment, Threats and Assaults, p. 4; Campus Incidents, p. 9; and A Look at Some Noteworthy Incidents, p. 13, for more information.)

HARASSMENT, THREATS, AND ASSAULTS

In 1995, the number of incidents of anti-Semitic harassment, threats, and assaults directed at Jewish individuals and institutions totaled 1,116. This total represents a decrease of 81, or 7 percent from the 1994 total of 1,197, which was the highest on record.

This category of incidents covers a large variety of intimidating and hostile acts, including: slanderous anti-Semitic and neo-Nazi hate literature mailed or disseminated in public places; slurs directed against Jewish individuals walking to synagogue services or campus gatherings; speeches given on campus containing anti-Semitic language; Holocaust-denial advertisements in campus newspapers; a threatening phone call to a synagogue or Jewish school; as well as direct physical violence against Jewish persons as a result of their identity. Although many incidents of harassment are not crimes, they continue to constitute overt and painful expressions of anti-Semitic hatred.

While it is encouraging that the number of harassments is down from previous years, a troubling trend has been maintained in the 1995 totals. As in past years, incidents of harassment are significantly more common than incidents of vandalism. While any expression of anti-Semitic behavior is troubling, the high number of these more personalized attacks is a cause for particular concern.

EXAMPLES OF HARASSMENT, THREAT, AND ASSAULT INCIDENTS

The following is a representative sampling of 1995 incidents of anti-Semitic harassment, threats, and assaults in the 20 states reporting the highest totals of such acts.

1. New York (200 incidents) March—Upon leaving a dance club late at night, a group of men was approached by several people who asked if they were Jewish. When they responded that they were, one of them was beaten with a "Club" anti-car-theft device. (New York City)
2. California (175) August—A car with four young men in it drove past a group of campers and staff at a JCC camp and shouted profanities and anti-Semitic epithets. (San Diego)
3. Florida (102) October—Police officers and social workers received messages on their beepers leading them to call the Children of the Reich hate line, with a message threatening Jews and African-Americans.
4. New Jersey (97) January/February—Community leaders were threatened with bodily harm if they supported an application to erect a new synagogue building. (Closter)
5. Connecticut (51) February—An anti-Semitic, Holocaust-denying letter was sent to a Jewish newspaper. (Hartford)
6. Ohio (50) November—Soon after the assassination of Israeli Prime Minister Yitzhak Rabin, a spectator at a Cleveland Browns football game held a sign saying, "They killed the wrong Jew," a reference to Art Modell, the owner of the team who decided to move it to Baltimore. (Cleveland)
7. Massachusetts (47) June—A 74-year-old Russian immigrant was assaulted by his neighbor, who yelled, "F__ __ __ing Jew—go back to Russia." (Brighton)
8. Maryland (44) May—A Holocaust information center received numerous anti-Semitic phone calls after its phone number was posted on the Internet. (Baltimore)
9. Illinois (40) August—A man was walking on a downtown street wearing a sandwich board sign which read, "HIROSHIMA + NAGASAKI Were (and are) JEWISH ATROCITIES." (Chicago)
10. Pennsylvania (36) April—A synagogue nursery school received a letter which stated, "Fuel oil fertilizer. Jews go boom." (Western Pennsylvania)
11. Missouri (31) March—The Aryan Revolutionary Army passed out flyers stating that the "only good Jew is a dead Jew." (St. Louis)
12. Georgia (27) April—A high school history teacher asserted in class that the Jews control the media and film industry. (Atlanta)
13. District of Columbia (21)—A U.S. Congressman received anti-Semitic hate mail including, "How is it that a Jew backs a Nazi?" and "You Jews cause trouble all around the world and then try to hide behind your religion," and imagery such as swastikas and other offensive drawings.
14. Minnesota (20) February—The National Socialist American Workers Freedom Movement, a neo-Nazi group, distributed flyers questioning the Holocaust and filled with virulently anti-Semitic statements. (Minneapolis)
15. Texas (20) February—A 15-year-old Jewish student was assaulted by a gang of 15 skinheads. He escaped without serious injury. (Alamo Heights)
16. Colorado (16) October—A threatening message was left on the voice mail of the ADL Regional Office, stating, "Hello, is this the rabbi? F__ __ __ you. Six million more, hey six zillion more!" (Denver)
17. Wisconsin (16) April—A letter addressed to the Executive Director of the Jewish Council said "Death to all jews [sic]. Six million more!!! May you be next!!!" (Milwaukee)
18. Washington (13) April—A package of dog feces was left on the front porch of a Jewish family, with the message, "Happy Passover from Congregation Beth Shalom."
19. North Carolina (11) January—Skinhead hate literature was distributed at a flea market by Gary Lauck's National Socialist German Workers Party. (Fayetteville)
20. Virginia (11) January—Anti-Semitic hate literature from the National Alliance was left in people's driveways. (Henrico County) ●

COMPREHENSIVE TERRORISM PREVENTION ACT

Mr. COATS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 735, a bill to prevent and punish acts of terrorism, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 735) entitled "An Act to prevent and punish acts of terrorism, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Effective Death Penalty and Public Safety Act of 1996".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CRIMINAL ACTS

Sec. 101. Protection of Federal employees.
Sec. 102. Prohibiting material support to terrorist organizations.
Sec. 103. Modification of material support provision.
Sec. 104. Acts of terrorism transcending national boundaries.
Sec. 105. Conspiracy to harm people and property overseas.
Sec. 106. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.
Sec. 107. Expansion and modification of weapons of mass destruction statute.
Sec. 108. Addition of offenses to the money laundering statute.
Sec. 109. Expansion of Federal jurisdiction over bomb threats.
Sec. 110. Clarification of maritime violence jurisdiction.
Sec. 111. Possession of stolen explosives prohibited.
Sec. 112. Study and recommendations for assessing and reducing the threat to law enforcement officers from the criminal use of firearms and ammunition.

TITLE II—INCREASED PENALTIES

Sec. 201. Mandatory minimum for certain explosives offenses.
Sec. 202. Increased penalty for explosive conspiracies.
Sec. 203. Increased and alternate conspiracy penalties for terrorism offenses.
Sec. 204. Mandatory penalty for transferring a firearm knowing that it will be used to commit a crime of violence.
Sec. 205. Mandatory penalty for transferring an explosive material knowing that it will be used to commit a crime of violence.
Sec. 206. Directions to Sentencing Commission.
Sec. 207. Amendment of sentencing guidelines to provide for enhanced penalties for a defendant who commits a crime while in possession of a firearm with a laser sighting device.

TITLE III—INVESTIGATIVE TOOLS

Sec. 301. Study of tagging explosive materials, detection of explosives and explosive materials, rendering explosive components inert, and imposing controls of precursors of explosives.
Sec. 302. Exclusion of certain types of information from wiretap-related definitions.
Sec. 303. Requirement to preserve record evidence.
Sec. 304. Detention hearing.
Sec. 305. Protection of Federal Government buildings in the District of Columbia.
Sec. 306. Study of thefts from armories; report to the Congress.

TITLE IV—NUCLEAR MATERIALS

Sec. 401. Expansion of nuclear materials prohibitions.

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

Sec. 501. Definitions.
Sec. 502. Requirement of detection agents for plastic explosives.
Sec. 503. Criminal sanctions.
Sec. 504. Exceptions.
Sec. 505. Effective date.

TITLE VI—IMMIGRATION-RELATED PROVISIONS

Subtitle A—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

Sec. 601. Funding for detention and removal of alien terrorists.

PART 2—EXCLUSION AND DENIAL OF ASYLUM FOR ALIEN TERRORISTS

Sec. 611. Denial of asylum to alien terrorists.
Sec. 612. Denial of other relief for alien terrorists.

Subtitle B—Expedited Exclusion

Sec. 621. Inspection and exclusion by immigration officers.
Sec. 622. Judicial review.
Sec. 623. Exclusion of aliens who have not been inspected and admitted.

Subtitle C—Improved Information and Processing

PART 1—IMMIGRATION PROCEDURES

Sec. 631. Access to certain confidential INS files through court order.
Sec. 632. Waiver authority concerning notice of denial of application for visas.

PART 2—ASSET FORFEITURE FOR PASSPORT AND VISA OFFENSES

Sec. 641. Criminal forfeiture for passport and visa related offenses.
Sec. 642. Subpoenas for bank records.
Sec. 643. Effective date.

Subtitle D—Employee Verification by Security Services Companies

Sec. 651. Permitting security services companies to request additional documentation.

Subtitle E—Criminal Alien Deportation Improvements

Sec. 661. Short title.
Sec. 662. Additional expansion of definition of aggravated felony.
Sec. 663. Deportation procedures for certain criminal aliens who are not permanent residents.
Sec. 664. Restricting the defense to exclusion based on 7 years permanent residence for certain criminal aliens.
Sec. 665. Limitation on collateral attacks on underlying deportation order.
Sec. 666. Criminal alien identification system.
Sec. 667. Establishing certain alien smuggling-related crimes as RICO-predicate offenses.
Sec. 668. Authority for alien smuggling investigations.
Sec. 669. Expansion of criteria for deportation for crimes of moral turpitude.
Sec. 670. Miscellaneous provisions.
Sec. 671. Construction of expedited deportation requirements.
Sec. 672. Study of prisoner transfer treaty with Mexico.
Sec. 673. Justice Department assistance in bringing to justice aliens who flee prosecution for crimes in the United States.
Sec. 674. Prisoner transfer treaties.
Sec. 675. Interior repatriation program.
Sec. 676. Deportation of nonviolent offenders prior to completion of sentence of imprisonment.
Sec. 677. Authorizing state and local law enforcement officials to arrest and detain certain illegal aliens.

TITLE VII—AUTHORIZATION AND FUNDING

Sec. 701. Firefighter and emergency services training.
Sec. 702. Assistance to foreign countries to procure explosive detection devices and other counter-terrorism technology.
Sec. 703. Research and development to support counter-terrorism technologies.
Sec. 704. Sense of Congress.

TITLE VIII—MISCELLANEOUS

Sec. 801. Study of State licensing requirements for the purchase and use of high explosives.
Sec. 802. Compensation of victims of terrorism.
Sec. 803. Jurisdiction for lawsuits against terrorist states.
Sec. 804. Study of publicly available instructional material on the making of bombs, destructive devices, and weapons of mass destruction.
Sec. 805. Compilation of statistics relating to intimidation of Government employees.
Sec. 806. Victim Restitution Act of 1995.
Sec. 807. Overseas law enforcement training activities.
Sec. 808. Closed circuit televised court proceedings for victims of crime.
Sec. 809. Authorization of appropriations.

TITLE IX—HABEAS CORPUS REFORM

Sec. 901. Filing deadlines.
Sec. 902. Appeal.
Sec. 903. Amendment of Federal rules of appellate procedure.
Sec. 904. Section 2254 amendments.
Sec. 905. Section 2255 amendments.
Sec. 906. Limits on second or successive applications.
Sec. 907. Death penalty litigation procedures.
Sec. 908. Technical amendment.
Sec. 909. Severability.

TITLE X—INTERNATIONAL COUNTERFEITING

Sec. 1001. Short title.
Sec. 1002. Audits of international counterfeiting of United States currency.
Sec. 1003. Law enforcement and sentencing provisions relating to international counterfeiting of United States currency.

TITLE XI—BIOLOGICAL WEAPONS RESTRICTIONS

Sec. 1101. Short title.
Sec. 1102. Attempts to acquire under false pretenses.
Sec. 1103. Inclusion of recombinant molecules.
Sec. 1104. Definitions.
Sec. 1105. Threatening use of certain weapons.
Sec. 1106. Inclusions of recombinant molecules and biological organisms in definition.

TITLE XII—COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT

Sec. 1201. Establishment.
Sec. 1202. Duties.
Sec. 1203. Membership and administrative provisions.
Sec. 1204. Staffing and support functions.
Sec. 1205. Powers.
Sec. 1206. Report.
Sec. 1207. Termination.

TITLE XIII—REPRESENTATION FEES

Sec. 1301. Representation fees in criminal cases.

TITLE XIV—DEATH PENALTY AGGRAVATING FACTOR

Sec. 1401. Death penalty aggravating factor.

TITLE XV—FINANCIAL TRANSACTIONS WITH TERRORISTS

Sec. 1501. Financial transactions with terrorists.

TITLE I—CRIMINAL ACTS

SEC. 101. PROTECTION OF FEDERAL EMPLOYEES.

(a) HOMICIDE.—Section 1114 of title 18, United States Code, is amended to read as follows:

"§1114. Protection of officers and employees of the United States

"Whoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished, in the case of murder, as provided under section 1111, or in the case of manslaughter, as provided under section 1112, or, in the case of attempted murder or manslaughter, as provided in section 1113.".

(b) THREATS AGAINST FORMER OFFICERS AND EMPLOYEES.—Section 115(a)(2) of title 18, United States Code, is amended by inserting ", or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or" after "assaults, kidnaps, or murders, or attempts to kidnap or murder".

SEC. 102. PROHIBITING MATERIAL SUPPORT TO TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—That chapter 113B of title 18, United States Code, that relates to terrorism is amended by adding at the end the following:

"§2339B. Providing material support to terrorist organizations

"(a) OFFENSE.—Whoever, within the United States, knowingly provides material support or resources in or affecting interstate or foreign commerce, to any organization which the person knows is a terrorist organization that has been designated under section 212(a)(3)(B)(iv) of the Immigration and Nationality Act as a terrorist organization shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) DEFINITION.—As used in this section, the term 'material support or resources' has the meaning given that term in section 2339A of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end the following new item:

"2339B. Providing material support to terrorist organizations.".

SEC. 103. MODIFICATION OF MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended read as follows:

"§2339A. Providing material support to terrorists

"(a) OFFENSE.—Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for or in carrying out, a violation of section 32, 37, 81, 175, 351, 831, 842 (m) or (n), 844 (f) or (i), 956, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 2155, 2156, 2280, 2281, 2332, 2332a, 2332b, or 2340A of this title or section 46502 of title 49, or in preparation for or in carrying out the concealment or an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.

"(b) DEFINITION.—In this section, the term 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.".

SEC. 104. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.

(a) OFFENSE.—Title 18, United States Code, is amended by inserting after section 2332a the following:

"§2332b. Acts of terrorism transcending national boundaries

"(a) PROHIBITED ACTS.—

"(1) Whoever, involving any conduct transcending national boundaries and in a circumstance described in subsection (b)—

"(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any individual within the United States; or

"(B) creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the United States or by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the United States;

in violation of the laws of any State or the United States shall be punished as prescribed in subsection (c).

"(2) Whoever threatens to commit an offense under paragraph (1), or attempts or conspires to do so, shall be punished as prescribed in subsection (c).

"(b) JURISDICTIONAL BASES.—The circumstances referred to in subsection (a) are—

"(1) any of the offenders travels in, or uses the mail or any facility of, interstate or foreign commerce in furtherance of the offense or to escape apprehension after the commission of the offense;

"(2) the offense obstructs, delays, or affects interstate or foreign commerce, or would have so obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

"(3) the victim, or intended victim, is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

"(4) the structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, used by, or leased to the United States, or any department or agency thereof;

"(5) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

"(6) the offense is committed in those places within the United States that are in the special maritime and territorial jurisdiction of the United States.

Jurisdiction shall exist over all principals and co-conspirators of an offense under this section, and accessories after the fact to any offense under this section, if at least one of such circumstances is applicable to at least one offender.

"(c) PENALTIES.—

"(1) Whoever violates this section shall be punished—

"(A) for a killing or if death results to any person from any other conduct prohibited by this section by death, or by imprisonment for any term of years or for life;

"(B) for kidnapping, by imprisonment for any term of years or for life;

"(C) for maiming, by imprisonment for not more than 35 years;

"(D) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

"(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

"(F) for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

"(G) for threatening to commit an offense under this section, by imprisonment for not more than 10 years.

"(2) Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section; nor shall the term of imprisonment imposed under this section run concurrently with any other term of imprisonment.

"(d) LIMITATION ON PROSECUTION.—No indictment shall be sought nor any information filed for any offense described in this section until the Attorney General, or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions, makes a written certification that, in the judgment of the certifying official, such offense, or any activity preparatory to or meant to conceal its commission, is a Federal crime of terrorism.

"(e) PROOF REQUIREMENTS.—

"(1) The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

"(2) In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

"(f) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction—

"(1) over any offense under subsection (a), including any threat, attempt, or conspiracy to commit such offense; and

"(2) over conduct which, under section 3 of this title, renders any person an accessory after the fact to an offense under subsection (a).

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'conduct transcending national boundaries' means conduct occurring outside the United States in addition to the conduct occurring in the United States;

"(2) the term 'facility of interstate or foreign commerce' has the meaning given that term in section 1958(b)(2) of this title;

"(3) the term 'serious bodily injury' has the meaning prescribed in section 1365(g)(3) of this title;

"(4) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) the term 'Federal crime of terrorism' means an offense that—

"(A) is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and

"(B) is a violation of—

"(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 (relating to biological weapons), 351 (relating to congressional, cabinet, and Supreme Court assassination, kidnapping, and assault), 831 (relating to nuclear weapons), 842(m) or (n) (relating to plastic explosives), 844(e) (relating to certain bombings), 844(f) or (i) (relating to arson and bombing of certain property), 956 (relating to conspiracy to commit violent acts in foreign countries), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property), 1362 (relating to destruction of communication lines), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of energy facility), 1751 (relating to Presidential and Presidential staff assassination, kidnapping, and assault), 2152 (relating to injury of harbor defenses), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and violence outside the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture) of this title;

"(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954; or

"(iii) section 46502 (relating to aircraft piracy), or 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.

"(h) INVESTIGATIVE AUTHORITY.—In addition to any other investigatory authority with respect to violations of this title, the Attorney General shall have primary investigative responsibility for all Federal crimes of terrorism, and the Secretary of the Treasury shall assist the Attorney General at the request of the Attorney General.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter 113B of title 18, United States Code, that relates to terrorism is amended by inserting after the item relating to section 2332a the following new item:

"2332b. Acts of terrorism transcending national boundaries.".

(c) STATUTE OF LIMITATIONS AMENDMENT.—Section 3286 of title 18, United States Code, is amended by—

(1) striking "any offense" and inserting "any non-capital offense";

(2) striking "36" and inserting "37";

(3) striking "2331" and inserting "2332";

(4) striking "2339" and inserting "2332a"; and

(5) inserting "2332b (acts of terrorism transcending national boundaries)," after "(use of weapons of mass destruction),".

(d) PRESUMPTIVE DETENTION.—Section 3142(e) of title 18, United States Code, is amended by inserting ", 956(a), or 2332b" after "section 924(c)".

(e) CONFORMING AMENDMENT.—Section 846 of title 18, United States Code, is amended by striking "In addition to any other" and all that follows through the end of the section.

SEC. 105. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.

(a) IN GENERAL.—Section 956 of chapter 45 of title 18, United States Code, is amended to read as follows:

"§956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country

"(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons are located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States shall, if any of the conspirators commits an act within the jurisdiction of the United States to *effect any object of the conspiracy, be punished as provided in subsection (a)(2).*

"(2) The punishment for an offense under subsection (a)(1) of this section is—

"(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

"(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

"(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons are located, to damage or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years.".

(b) CLERICAL AMENDMENT.—The item relating to section 956 in the table of sections at the beginning of chapter 45 of title 18, United States Code, is amended to read as follows:

"956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country.".

SEC. 106. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) AIRCRAFT PIRACY.—Section 46502(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking "and later found in the United States";

(2) so that paragraph (2) reads as follows:

"(2) There is jurisdiction over the offense in paragraph (1) if—

"(A) a national of the United States was aboard the aircraft;

"(B) an offender is a national of the United States; or

"(C) an offender is afterwards found in the United States."; and

(3) by inserting after paragraph (2) the following:

"(3) For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—Section 32(b) of title 18, United States Code, is amended—

(1) by striking ", if the offender is later found in the United States,"; and

(2) by inserting at the end the following: "There is jurisdiction over an offense under this subsection if a national of the United States was on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United States. For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act.".

(c) MURDER OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 1116 of title 18, United States Code, is amended—

(1) in subsection (b), by adding at the end the following:

"(7) 'National of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))."; and

(2) in subsection (c), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(d) PROTECTION OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 112 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "'national of the United States'," before "and"; and

(2) in subsection (e), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(e) THREATS AND EXTORTION AGAINST FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "'national of the United States'," before "and"; and

(2) in subsection (d), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

(f) KIDNAPPING OF INTERNATIONALLY PROTECTED PERSONS.—Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States."; and

(2) by adding at the end the following: "For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(g) VIOLENCE AT INTERNATIONAL AIRPORTS.—Section 37(b)(2) of title 18, United States Code, is amended—

(1) by inserting "(A)" before "the offender is later found in the United States"; and

(2) by inserting "; or (B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))" after "the offender is later found in the United States".

(h) BIOLOGICAL WEAPONS.—Section 178 of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding the following at the end:

"(5) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

SEC. 107. EXPANSION AND MODIFICATION OF WEAPONS OF MASS DESTRUCTION STATUTE.

Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "AGAINST A NATIONAL OR WITHIN THE UNITED STATES" after "OFFENSE";

(B) by inserting ", without lawful authority" after "A person who";

(C) by inserting "threatens," before "attempts or conspires to use, a weapon of mass destruction"; and

(D) by inserting "and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce" before the semicolon at the end of paragraph (2);

(2) in subsection (b)(2)(A), by striking "section 921" and inserting "section 921(a)(4) (other than subparagraphs (B) and (C))";

(3) in subsection (b), so that subparagraph (B) of paragraph (2) reads as follows:

"(B) any weapon that is designed to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;";

(4) by redesignating subsection (b) as subsection (c); and

(5) by inserting after subsection (a) the following new subsection:

"(b) OFFENSE BY NATIONAL OUTSIDE THE UNITED STATES.—Any national of the United States who, without lawful authority and outside the United States, uses, or threatens, attempts, or conspires to use, a weapon of mass destruction shall be imprisoned for any term of years or for life, and if death results, shall be punished by death, or by imprisonment for any term of years or for life.".

SEC. 108. ADDITION OF OFFENSES TO THE MONEY LAUNDERING STATUTE.

(a) MURDER AND DESTRUCTION OF PROPERTY.—Section 1956(c)(7)(B)(ii) of title 18, United States Code, is amended by striking "or extortion;" and inserting "extortion, murder, or destruction of property by means of explosive or fire;".

(b) SPECIFIC OFFENSES.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting after "an offense under" the following: "section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member),";

(2) by inserting after "section 215 (relating to commissions or gifts for procuring loans)," the following: "section 351 (relating to Congressional or Cabinet officer assassination),";

(3) by inserting after "section 793, 794, or 798 (relating to espionage)," the following: "section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce),";

(4) by inserting after "section 875 (relating to interstate communications)," the following: "section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),";

(5) by inserting after "1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution)," the following: "section 1111 (relating to murder), section 1114 (relating to protection of officers and employees of the United States), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),";

(6) by inserting after "section 1203 (relating to hostage taking)," the following: "section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),";

(7) by inserting after "section 1708 (theft from the mail)," the following: "section 1751 (relating to Presidential assassination),";

(8) by inserting after "2114 (relating to bank and postal robbery and theft)," the following: "section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),"; and

(9) by striking "of this title" and inserting the following: "section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), section 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code".

SEC. 109. EXPANSION OF FEDERAL JURISDICTION OVER BOMB THREATS.

Section 844(e) of title 18, United States Code, is amended by striking "commerce," and inserting "interstate or foreign commerce, or in or affecting interstate or foreign commerce,".

SEC. 110. CLARIFICATION OF MARITIME VIOLENCE JURISDICTION.

Section 2280(b)(1)(A) of title 18, United States Code, is amended—

(1) in clause (ii), by striking "and the activity is not prohibited as a crime by the State in which the activity takes place"; and

(2) in clause (iii), by striking "the activity takes place on a ship flying the flag of a foreign country or outside the United States,".

SEC. 111. POSSESSION OF STOLEN EXPLOSIVES PROHIBITED.

Section 842(h) of title 18, United States Code, is amended to read as follows:

"(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, or pledge or accept as security for a loan, any stolen explosive materials which are moving as, which are part of, which constitute, or which have been shipped or transported in, interstate or foreign commerce, either before or after such materials were stolen, knowing or having reasonable cause to believe that the explosive materials were stolen.".

SEC. 112. STUDY AND RECOMMENDATIONS FOR ASSESSING AND REDUCING THE THREAT TO LAW ENFORCEMENT OFFICERS FROM THE CRIMINAL USE OF FIREARMS AND AMMUNITION.

(a) The Secretary of the Treasury, in conjunction with the Attorney General, shall conduct a study and make recommendations concerning—

(1) the extent and nature of the deaths and serious injuries, in the line of duty during the last decade, for law enforcement officers, including—

(A) those officers who were feloniously killed or seriously injured and those that died or were seriously injured as a result of accidents or other non-felonious causes; and

(B) those officers feloniously killed or seriously injured with firearms, those killed or seriously injured with, separately, handguns firing handgun caliber ammunition, handguns firing rifle caliber ammunition, rifles firing rifle caliber ammunition, rifles firing handgun caliber ammunition and shotguns; and

(C) those officers feloniously killed or seriously injured with firearms, and killings or serious injuries committed with firearms taken by officers' assailants from officers, and those committed with other officers' firearms; and

(D) those killed or seriously injured because shots attributable to projectiles defined as "armor piercing ammunition" under 18, §921(a)(17)(B) (i) and (ii) pierced the protective material of bullet resistant vests and bullet resistant headgear; and

(2) whether current passive defensive strategies, such as body armor, are adequate to counter the criminal use of firearms against law officers; and

(3) the calibers of ammunition that are—

(A) sold in the greatest quantities; and

(B) their common uses, according to consultations with industry, sporting organizations and law enforcement; and

(C) the calibers commonly used for civilian defensive or sporting uses that would be affected by any prohibition on non-law enforcement sales of such ammunition, if such ammunition is capable of penetrating minimum level bullet resistant vests; and

(D) recommendations for increase in body armor capabilities to further protect law enforcement from threat.

(b) In conducting the study, the Secretary shall consult with other Federal, State and local officials, non-governmental organizations, including all national police organizations, national sporting organizations and national industry associations with expertise in this area and such other individuals as shall be deemed necessary. Such study shall be presented to Congress twelve months after the enactment of this Act and made available to the public, including any data tapes or data used to form such recommendations.

(c) There are authorized to be appropriated for the study and recommendations such sums as may be necessary.

TITLE II—INCREASED PENALTIES

SEC. 201. MANDATORY MINIMUM FOR CERTAIN EXPLOSIVES OFFENSES.

(a) Increased Penalties for Damaging Certain Property.—Section 844(f) of title 18, United States Code, is amended to read as follows:

"(f) Whoever damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any personal or real property in whole or in part owned, possessed, or used by, or leased to, the United States, or any department or agency thereof, or any institution or organization receiving Federal financial assistance shall be fined under this title or imprisoned for not more than 25 years, or both, but—

"(1) if personal injury results to any person other than the offender, the term of imprisonment shall be not more than 40 years;

"(2) if fire or an explosive is used and its use creates a substantial risk of serious bodily injury to any person other than the offender, the term of imprisonment shall not be less than 20 years; and

"(3) if death results to any person other than the offender, the offender shall be subject to the death penalty or imprisonment for any term of years not less than 30, or for life.".

(b) Conforming Amendment.—Section 81 of title 18, United States Code, is amended by striking "fined under this title or imprisoned not more than five years, or both" and inserting "imprisoned not more than 25 years or fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both".

(c) Statute of Limitation for Arson Offenses.—

(1) Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§3295. Arson offenses

"No person shall be prosecuted, tried, or punished for any non-capital offense under section 81 or subsection (f), (h), or (i) of section 844 of this title unless the indictment is found or the information is instituted within 7 years after the date on which the offense was committed.".

(2) The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

"3295. Arson offenses.".

(3) Section 844(i) of title 18, United States Code, is amended by striking the last sentence.

SEC. 202. INCREASED PENALTY FOR EXPLOSIVE CONSPIRACIES.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 203. INCREASED AND ALTERNATE CONSPIRACY PENALTIES FOR TERRORISM OFFENSES.

(a) Title 18 Offenses.—

(1) Sections 32(a)(7), 32(b)(4), 37(a), 115(a)(1)(A), 115(a)(2), 1203(a), 2280(a)(1)(H), and 2281(a)(1)(F) of title 18, United States Code, are each amended by inserting "or conspires" after "attempts".

(2) Section 115(b)(2) of title 18, United States Code, is amended by striking "or attempted kidnapping" both places it appears and inserting ", attempted kidnapping, or conspiracy to kidnap".

(3)(A) Section 115(b)(3) of title 18, United States Code, is amended by striking "or attempted murder" and inserting ", attempted murder, or conspiracy to murder".

(B) Section 115(b)(3) of title 18, United States Code, is amended by striking "and 1113" and inserting ", 1113, and 1117".

(4) Section 175(a) of title 18, United States Code, is amended by inserting "or conspires to do so," after "any organization to do so,".

(b) Aircraft Piracy.—

(1) Section 46502(a)(2) of title 49, United States Code, is amended by inserting "or conspiring" after "attempting".

(2) Section 46502(b)(1) of title 49, United States Code, is amended by inserting "or conspiring to commit" after "committing".

SEC. 204. MANDATORY PENALTY FOR TRANSFERRING A FIREARM KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 924(h) of title 18, United States Code, is amended by striking "imprisoned not more than 10 years, fined in accordance with this title, or both." and inserting "subject to the same penalties as may be imposed under subsection (c) for a first conviction for the use or carrying of the firearm.".

SEC. 205. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(o) Whoever knowingly transfers any explosive materials, knowing or having reasonable cause to believe that such explosive materials will be used to commit a crime of violence (as defined in section 924(c)(3) of this title) or drug trafficking crime (as defined in section 924(c)(2) of this title) shall be subject to the same penalties as may be imposed under subsection (h) for a first conviction for the use or carrying of the explosive materials.".

SEC. 206. DIRECTIONS TO SENTENCING COMMISSION.

The United States Sentencing Commission shall forthwith, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired, amend the sentencing guidelines so that the chapter 3 adjustment relating to international terrorism only applies to Federal crimes of terrorism, as defined in section 2332b(g) of title 18, United States Code.

SEC. 207. AMENDMENT OF SENTENCING GUIDELINES TO PROVIDE FOR ENHANCED PENALTIES FOR A DEFENDANT WHO COMMITS A CRIME WHILE IN POSSESSION OF A FIREARM WITH A LASER SIGHTING DEVICE.

Not later than May 1, 1997, the United States Sentencing Commission shall, pursuant to its authority under section 994 of title 28, United

States Code, amend the sentencing guidelines (and, if the Commission considers it appropriate, the policy statements of the Commission) to provide that a defendant convicted of a crime shall receive an appropriate sentence enhancement if, during the crime—

(1) the defendant possessed a firearm equipped with a laser sighting device; or

(2) the defendant possessed a firearm, and the defendant (or another person at the scene of the crime who was aiding in the commission of the crime) possessed a laser sighting device capable of being readily attached to the firearm.

TITLE III—INVESTIGATIVE TOOLS

SEC. 301. STUDY OF TAGGING EXPLOSIVE MATERIALS, DETECTION OF EXPLOSIVES AND EXPLOSIVE MATERIALS, RENDERING EXPLOSIVE COMPONENTS INERT, AND IMPOSING CONTROLS OF PRECURSORS OF EXPLOSIVES.

(a) STUDY.—The Attorney General, in consultation with other Federal, State and local officials with expertise in this area and such other individuals as the Attorney General deems appropriate, shall conduct a study concerning—

(1) the tagging of explosive materials for purposes of detection and identification;

(2) technology for devices to improve the detection of explosives materials;

(3) whether common chemicals used to manufacture explosive materials can be rendered inert and whether it is feasible to require it; and

(4) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials and whether it is feasible to require it.

(b) EXCLUSION.—No study undertaken under this section shall include black or smokeless powder among the explosive materials considered.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section. The Attorney General shall make the report available to the public.

SEC. 302. EXCLUSION OF CERTAIN TYPES OF INFORMATION FROM WIRETAP-RELATED DEFINITIONS.

(a) DEFINITION OF "ELECTRONIC COMMUNICATION".—Section 2510(12) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by inserting "or" at the end of subparagraph (C); and

(3) by adding a new subparagraph (D), as follows:

"(D) information stored in a communications system used for the electronic storage and transfer of funds;"

(b) DEFINITION OF "READILY ACCESSIBLE TO THE GENERAL PUBLIC".—Section 2510(16) of title 18, United States Code, is amended—

(1) by inserting "or" at the end of subparagraph (D);

(2) by striking "or" at the end of subparagraph (E); and

(3) by striking subparagraph (F).

SEC. 303. REQUIREMENT TO PRESERVE RECORD EVIDENCE.

Section 2703 of title 18, United States Code, is amended by adding at the end the following:

"(f) REQUIREMENT TO PRESERVE EVIDENCE.—A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records, and other evidence in its possession pending the issuance of a court order or other process. Such records shall be retained for a period of 90 days, which period shall be extended for an additional 90-day period upon a renewed request by the governmental entity.".

SEC. 304. DETENTION HEARING.

Section 3142(f) of title 18, United States Code, is amended by inserting "(not including any intermediate Saturday, Sunday, or legal holiday)" after "five days" and after "three days".

SEC. 305. PROTECTION OF FEDERAL GOVERNMENT BUILDINGS IN THE DISTRICT OF COLUMBIA.

The Attorney General is authorized—

(1) to prohibit vehicles from parking or standing on any street or roadway adjacent to any building in the District of Columbia which is in whole or in part owned, possessed, used by, or leased to the Federal Government and used by Federal law enforcement authorities; and

(2) to prohibit any person or entity from conducting business on any property immediately adjacent to any such building.

SEC. 306. STUDY OF THEFTS FROM ARMORIES; REPORT TO THE CONGRESS.

(a) STUDY.—The Attorney General of the United States shall conduct a study of the extent of thefts from military arsenals (including National Guard armories) of firearms, explosives, and other materials that are potentially useful to terrorists.

(b) REPORT TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report on the study required by subsection (a).

TITLE IV—NUCLEAR MATERIALS

SEC. 401. EXPANSION OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "nuclear material" each place it appears and inserting "nuclear material or nuclear byproduct material";

(2) in subsection (a)(1)(A), by inserting "or the environment" after "property";

(3) so that subsection (a)(1)(B) reads as follows:

"(B)(i) circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property or the environment; or (ii) such circumstances are represented to the defendant to exist;";

(4) in subsection (a)(6), by inserting "or the environment" after "property";

(5) so that subsection (c)(2) reads as follows:

"(2) an offender or a victim is a national of the United States or a United States corporation or other legal entity;";

(6) in subsection (c)(3), by striking "at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and";

(7) by striking "or" at the end of subsection (c)(3);

(8) in subsection (c)(4), by striking "nuclear material for peaceful purposes" and inserting "nuclear material or nuclear byproduct material";

(9) by striking the period at the end of subsection (c)(4) and inserting "; or";

(10) by adding at the end of subsection (c) the following:

"(5) the governmental entity under subsection (a)(5) is the United States or the threat under subsection (a)(6) is directed at the United States.";

(11) in subsection (f)(1)(A), by striking "with an isotopic concentration not in excess of 80 percent plutonium 238";

(12) in subsection (f)(1)(C) by inserting "enriched uranium, defined as" before "uranium";

(13) in subsection (f), by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(14) by inserting after subsection (f)(1) the following:

"(2) the term 'nuclear byproduct material' means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;";

(15) by striking "and" at the end of subsection (f)(4), as redesignated;

(16) by striking the period at the end of subsection (f)(5), as redesignated, and inserting a semicolon; and

(17) by adding at the end of subsection (f) the following:

"(6) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(7) the term 'United States corporation or other legal entity' means any corporation or other entity organized under the laws of the United States or any State, district, commonwealth, territory or possession of the United States.".

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

SEC. 501. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following:

"(o) 'Convention on the Marking of Plastic Explosives' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

"(p) 'Detection agent' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

"(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

"(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

"(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

"(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

"(5) any other substance in the concentration specified by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, which has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

"(q) 'Plastic explosive' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form have a vapor pressure less than 10^{-4} Pa at a temperature of 25°C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.".

SEC. 502. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding at the end the following:

"(l) It shall be unlawful for any person to manufacture any plastic explosive which does not contain a detection agent.

"(m)(1) it shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive which does not contain a detection agent.

"(2) Until the 15-year period that begins with the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive which was imported, brought into, or manufactured in the United States before the effective

date of this subsection by or on behalf of any agency of the United States performing military or police functions (including any military Reserve component) or by or on behalf of the National Guard of any State.

"(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive which does not contain a detection agent.

"(2)(A) During the 3-year period that begins on the effective date of this subsection, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before such effective date by any person.

"(B) Until the 15-year period that begins on the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State.

"(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the effective date of this subsection, to fail to report to the Secretary within 120 days after the effective date of this subsection the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may by regulations prescribe.".

SEC. 503. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

"(a) Any person who violates subsections (a) through (i) or (l) through (o) of section 842 of this title shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 504. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "(l), (m), (n), or (o) of section 842 and subsections" after "subsections";

(2) in subsection (a)(1), by inserting "and which pertains to safety" before the semicolon; and

(3) by adding at the end the following:

"(c) It is an affirmative defense against any proceeding involving subsection (l), (m), (n), or (o) of section 842 of this title if the proponent proves by a preponderance of the evidence that the plastic explosive—

"(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

"(A) research, development, or testing of new or modified explosive materials;

"(B) training in explosives detection or development or testing of explosives detection equipment; or

"(C) forensic science purposes; or

"(2) was plastic explosive which, within 3 years after the effective date of this paragraph, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located. For purposes of this subsection, the term 'military device' includes shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.".

SEC. 505. EFFECTIVE DATE.

The amendments made by this title shall take effect 1 year after the date of the enactment of this Act.

TITLE VI—IMMIGRATION-RELATED PROVISIONS

Subtitle A—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

SEC. 601. FUNDING FOR DETENTION AND REMOVAL OF ALIEN TERRORISTS.

In addition to amounts otherwise appropriated, there are authorized to be appropriated for each fiscal year (beginning with fiscal year 1996) $5,000,000 to the Immigration and Naturalization Service for the purpose of detaining and removing alien terrorists.

PART 2—EXCLUSION AND DENIAL OF ASYLUM FOR ALIEN TERRORISTS

SEC. 611. DENIAL OF ASYLUM TO ALIEN TERRORISTS.

(a) IN GENERAL.—Section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)) is amended by adding at the end the following: "The Attorney General may not grant an alien asylum if the Attorney General determines that the alien is excludable under subclause (I), (II), or (III) of section 212(a)(3)(B)(i) or deportable under section 241(a)(4)(B).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply to asylum determinations made on or after such date.

SEC. 612. DENIAL OF OTHER RELIEF FOR ALIEN TERRORISTS.

(a) WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended by adding at the end the following new sentence: "For purposes of subparagraph (D), an alien who is described in section 241(a)(4)(B) shall be considered to be an alien for whom there are reasonable grounds for regarding as a danger to the security of the United States.".

(b) SUSPENSION OF DEPORTATION.—Section 244(a) of such Act (8 U.S.C. 1254(a)) is amended by striking "section 241(a)(4)(D)" and inserting "subparagraph (B) or (D) of section 241(a)(4)".

(c) VOLUNTARY DEPARTURE.—Section 244(e)(2) of such Act (8 U.S.C. 1254(e)(2)) is amended by inserting "under section 241(a)(4)(B) or" after "who is deportable".

(d) ADJUSTMENT OF STATUS.—Section 245(c) of such Act (8 U.S.C. 1255(c)) is amended—

(1) by striking "or" before "(5)", and

(2) by inserting before the period at the end the following: ", or (6) an alien who is deportable under section 241(a)(4)(B)".

(e) REGISTRY.—Section 249(d) of such Act (8 U.S.C. 1259(d)) is amended by inserting "and is not deportable under section 241(a)(4)(B)" after "ineligible to citizenship".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date if final action has not been taken on them before such date.

Subtitle B—Expedited Exclusion

SEC. 621. INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.

(a) IN GENERAL.—Subsection (b) of section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended to read as follows:

"(b)(1)(A) If the examining immigration officer determines that an alien seeking entry—

"(i) is excludable under section 212(a)(6)(C) or 212(a)(7), and

"(ii) does not indicate either an intention to apply for asylum under section 208 or a fear of persecution,

the officer shall order the alien excluded from the United States without further hearing or review.

"(B) The examining immigration officer shall refer for an interview by an asylum officer under subparagraph (C) any alien who is excludable under section 212(a)(6)(C) or 212(a)(7) and has indicated an intention to apply for asylum under section 208 or a fear of persecution.

"(C)(i) An asylum officer shall promptly conduct interviews of aliens referred under subparagraph (B).

"(ii) If the officer determines at the time of the interview that an alien has a credible fear of persecution (as defined in clause (v)), the alien shall be detained for an asylum hearing before an asylum officer under section 208.

"(iii)(I) Subject to subclause (II), if the officer determines that the alien does not have a credible fear of persecution, the officer shall order the alien excluded from the United States without further hearing or review.

"(II) The Attorney General shall promulgate regulations to provide for the immediate review by a supervisory asylum office at the port of entry of a determination under subclause (I).

"(iv) The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

"(v) For purposes of this subparagraph, the term 'credible fear of persecution' means (I) that it is more probable than not that the statements made by the alien in support of the alien's claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

"(D) As used in this paragraph, the term 'asylum officer' means an immigration officer who—

"(i) has had professional training in country conditions, asylum law, and interview techniques; and

"(ii) is supervised by an officer who meets the condition in clause (i).

"(E)(i) An exclusion order entered in accordance with subparagraph (A) is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence.

"(ii) In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of exclusion entered under subparagraph (A).

"(2)(A) Except as provided in subparagraph (B), if the examining immigration officer determines that an alien seeking entry is not clearly and beyond a doubt entitled to enter, the alien shall be detained for a hearing before a special inquiry officer.

"(B) The provisions of subparagraph (A) shall not apply—

"(i) to an alien crewman,

"(ii) to an alien described in paragraph (1)(A) or (1)(C)(iii)(I), or

"(iii) if the conditions described in section 273(d) exist.

"(3) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien whose privilege to enter is so challenged, before a special inquiry officer for a hearing on exclusion of the alien.".

(b) CONFORMING AMENDMENT.—Section 237(a) of such Act (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1), by striking "Deportation" and inserting "Subject to section 235(b)(1), deportation", and

(2) in the first sentence of paragraph (2), by striking "If" and inserting "Subject to section 235(b)(1), if".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

SEC. 622. JUDICIAL REVIEW.

(a) PRECLUSION OF JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) by amending the section heading to read as follows:

"JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION, AND SPECIAL EXCLUSION"; and

(2) by adding at the end the following new subsection:

"(e)(1) Notwithstanding any other provision of law, and except as provided in this subsection, no court shall have jurisdiction to review any individual determination, or to entertain any other cause or claim, arising from or relating to the implementation or operation of section 235(b)(1). Regardless of the nature of the action or claim, or the party or parties bringing the action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or other equitable relief not specifically authorized in this subsection nor to certify a class under Rule 23 of the Federal Rules of Civil Procedure.

"(2) Judicial review of any cause, claim, or individual determination covered under paragraph (1) shall only be available in habeas corpus proceedings, and shall be limited to determinations of—

"(A) whether the petitioner is an alien, if the petitioner makes a showing that the petitioner's claim of United States nationality is not frivolous;

"(B) whether the petitioner was ordered specially excluded under section 235(b)(1)(A); and

"(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence and is entitled to such review as is provided by the Attorney General pursuant to section 235(b)(1)(E)(i).

"(3) In any case where the court determines that an alien was not ordered specially excluded, or was not properly subject to special exclusion under the regulations adopted by the Attorney General, the court may order no relief beyond requiring that the alien receive a hearing in accordance with section 236, or a determination in accordance with section 235(c) or 273(d).

"(4) In determining whether an alien has been ordered specially excluded, the court's inquiry shall be limited to whether such an order was in fact issued and whether it relates to the petitioner.".

(b) PRECLUSION OF COLLATERAL ATTACKS.—Section 235 of such Act (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

"(d) In any action brought for the assessment of penalties for improper entry or re-entry of an alien under section 275 or section 276, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under this section or sections 236 and 242.".

(c) CLERICAL AMENDMENT.—The item relating to section 106 in the table of contents of such Act is amended to read as follows:

"Sec. 106. Judicial review of orders of deportation and exclusion, and special exclusion.".

SEC. 623. EXCLUSION OF ALIENS WHO HAVE NOT BEEN INSPECTED AND ADMITTED.

(a) IN GENERAL.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this title, an alien found in the United States who has not been admitted to the United States after inspection in accordance with section 235 is deemed for purposes of this Act to be seeking entry and admission to the United States and shall be subject to examination and exclusion by the Attorney General under chapter 4. In the case of such an alien the Attorney General shall provide by regulation an opportunity for the alien to establish that the alien was so admitted.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 90 days after the date of the enactment of this Act.

Subtitle C—Improved Information and Processing

PART 1—IMMIGRATION PROCEDURES

SEC. 631. ACCESS TO CERTAIN CONFIDENTIAL INS FILES THROUGH COURT ORDER.

(a) LEGALIZATION PROGRAM.—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)) is amended—

(1) by inserting "(i)" after "except that the Attorney General", and

(2) by inserting after "title 13, United States Code" the following: "and (ii) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

"(I) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

"(II) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the legalization application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant".

(b) SPECIAL AGRICULTURAL WORKER PROGRAM.—Section 210(b) of such Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting ", except as allowed by a court order issued pursuant to paragraph (6)" after "consent of the alien", and

(2) in paragraph (6), by inserting after subparagraph (C) the following:

"Notwithstanding the previous sentence, the Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used (i) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated, or (ii) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the special agricultural worker application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant.".

SEC. 632. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.

Section 212(b) of the Immigration and Nationality Act (8 U.S.C. 1182(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by striking "If" and inserting "(1) Subject to paragraph (2), if"; and

(3) by adding at the end the following new paragraph:

"(2) With respect to applications for visas, the Secretary of State may waive the application of paragraph (1) in the case of a particular alien or any class or classes of aliens excludable under subsection (a)(2) or (a)(3).".

PART 2—ASSET FORFEITURE FOR PASSPORT AND VISA OFFENSES

SEC. 641. CRIMINAL FORFEITURE FOR PASSPORT AND VISA RELATED OFFENSES.

Section 982 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after paragraph (5) the following new paragraph:

"(6) The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate, section 1541, 1542, 1543, 1544, or 1546 of this title, or a violation of, or conspiracy to violate, section 1028 of this title if committed in connection with passport or visa issuance or use, shall order that the person forfeit to the United States any property, real or personal, which the person used, or intended to be used, in committing, or facilitating the commission of, the violation, and any property constituting, or derived from, or traceable to, any proceeds the person obtained, directly or indirectly, as a result of such violation."; and

(2) in subsection (b)(1)(B), by inserting "or (a)(6)" after "(a)(2)".

SEC. 642. SUBPOENAS FOR BANK RECORDS.

Section 986(a) of title 18, United States Code, is amended by inserting "1028, 1541, 1542, 1543, 1544, 1546," before "1956".

SEC. 643. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

Subtitle D—Employee Verification by Security Services Companies

SEC. 651. PERMITTING SECURITY SERVICES COMPANIES TO REQUEST ADDITIONAL DOCUMENTATION.

(a) IN GENERAL.—Section 274B(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking "For purposes" and inserting "(A) Except as provided in subparagraph (B), for purposes", and

(2) by adding at the end the following new subparagraph:

"(B) Subparagraph (A) shall not apply to a request made in connection with an individual seeking employment in a company (or division of a company) engaged in the business of providing security services to protect persons, institutions, buildings, or other possible targets of international terrorism (as defined in section 2331(1) of title 18, United States Code).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to requests for documents made on or after the date of the enactment of this Act with respect to individuals who are or were hired before, on, or after the date of the enactment of this Act.

Subtitle E—Criminal Alien Deportation Improvements

SEC. 661. SHORT TITLE.

This subtitle may be cited as the "Criminal Alien Deportation Improvements Act of 1995".

SEC. 662. ADDITIONAL EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), as amended by section 222 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), is amended—

(1) in subparagraph (J), by inserting ", or an offense described in section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses)," after "corrupt organizations)";

(2) in subparagraph (K)—

(A) by striking "or" at the end of clause (i),

(B) by redesignating clause (ii) as clause (iii), and

(C) by inserting after clause (i) the following new clause:

"(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or";

(3) by amending subparagraph (N) to read as follows:

"(N) an offense described in paragraph (1)(A) or (2) of section 274(a) (relating to alien smuggling) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;";

(4) by amending subparagraph (O) to read as follows:

"(O) an offense (i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 18 months;"

(5) in subparagraph (P), by striking "15 years" and inserting "5 years", and by striking "and" at the end;

(6) by redesignating subparagraphs (O), (P), and (Q) as subparagraphs (P), (Q), and (U), respectively;

(7) by inserting after subparagraph (N) the following new subparagraph:

"(O) an offense described in section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph;"; and

(8) by inserting after subparagraph (Q), as so redesignated, the following new subparagraphs:

"(R) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

"(S) an offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness, for which a sentence of 5 years' imprisonment or more may be imposed;

"(T) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to convictions entered on or after the date of the enactment of this Act, except that the amendment made by subsection (a)(3) shall take effect as if included in the enactment of section 222 of the Immigration and Nationality Technical Corrections Act of 1994.

SEC. 663. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ADMINISTRATIVE HEARINGS.—Section 242A(b) of the Immigration and Nationality Act (8 U.S.C. 1252a(b)), as added by section 130004(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended—

(1) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (A) and inserting "or", and

(B) by amending subparagraph (B) to read as follows:

"(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.";

(2) in paragraph (3), by striking "30 calendar days" and inserting "14 calendar days";

(3) in paragraph (4)(B), by striking "proccedings" and inserting "proceedings";

(4) in paragraph (4)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively; and

(B) by adding after subparagraph (C) the following new subparagraphs:

"(D) such proceedings are conducted in, or translated for the alien into, a language the alien understands;

"(E) a determination is made for the record at such proceedings that the individual who appears to respond in such a proceeding is an alien subject to such an expedited proceeding under this section and is, in fact, the alien named in the notice for such proceeding;".

(5) by adding at the end the following new paragraph:

"(5) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in the Attorney General's discretion.".

(b) LIMIT ON JUDICIAL REVIEW.—Subsection (d) of section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a), as added by section 130004(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended to read as follows:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) PRESUMPTION OF DEPORTABILITY.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by inserting after subsection (b) the following new subsection:

"(c) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 664. RESTRICTING THE DEFENSE TO EXCLUSION BASED ON 7 YEARS PERMANENT RESIDENCE FOR CERTAIN CRIMINAL ALIENS.

The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final.".

SEC. 665. LIMITATION ON COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.

(a) IN GENERAL.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

"(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to criminal proceedings initiated after the date of the enactment of this Act.

SEC. 666. CRIMINAL ALIEN IDENTIFICATION SYSTEM.

Section 130002(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended to read as follows:

"(a) OPERATION AND PURPOSE.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien identification system. The criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.".

SEC. 667. ESTABLISHING CERTAIN ALIEN SMUGGLING-RELATED CRIMES AS RICO-PREDICATE OFFENSES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting "section 1028 (relating to fraud and related activity in connection with identification documents) if the act indictable under section 1028 was committed for the purpose of financial gain," before "section 1029";

(2) by inserting "section 1542 (relating to false statement in application and use of passport) if the act indictable under section 1542 was committed for the purpose of financial gain, section 1543 (relating to forgery or false use of passport) if the act indictable under section 1543 was committed for the purpose of financial gain, section 1544 (relating to misuse of passport) if the act indictable under section 1544 was committed for the purpose of financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) if the act indictable under section 1546 was committed for the purpose of financial gain, sections 1581–1588 (relating to peonage and slavery)," after "section 1513 (relating to retaliating against a witness, victim, or an informant),";

(3) by striking "or" before "(E)"; and

(4) by inserting before the period at the end the following: ", or (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain".

SEC. 668. AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (n),

(2) by redesignating paragraph (o) as paragraph (p), and

(3) by inserting after paragraph (n) the following new paragraph:

"(o) a felony violation of section 1028 (relating to production of false identification documents), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title or a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens); or".

SEC. 669. EXPANSION OF CRITERIA FOR DEPORTATION FOR CRIMES OF MORAL TURPITUDE.

(a) IN GENERAL.—Section 241(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(II)) is amended to read as follows:

"(II) is convicted of a crime for which a sentence of one year or longer may be imposed,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 670. MISCELLANEOUS PROVISIONS.

(a) USE OF ELECTRONIC AND TELEPHONIC MEDIA IN DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien".

(b) CODIFICATION.—

(1) Section 242(i) of such Act (8 U.S.C. 1252(i)) is amended by adding at the end the following: "Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(2) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) is amended by striking "and nothing in" and all that follows through "1252(i))".

(3) The amendments made by this subsection shall take effect as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416).

SEC. 671. CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.

No amendment made by this Act shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 672. STUDY OF PRISONER TRANSFER TREATY WITH MEXICO.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Congress a report that describes the use and effectiveness of the Prisoner Transfer Treaty with Mexico (in this section referred to as the "Treaty") to remove from the United States aliens who have been convicted of crimes in the United States.

(b) USE OF TREATY.—The report under subsection (a) shall include the following information:

(1) The number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the Treaty.

(2) The number of aliens described in paragraph (1) who have been transferred pursuant to the Treaty.

(3) The number of aliens described in paragraph (2) who have been incarcerated in full compliance with the Treaty.

(4) The number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty.

(5) The number of aliens described in paragraph (4) who are incarcerated in State and local penal institutions.

(c) EFFECTIVENESS OF TREATY.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the Treaty. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address the following areas:

(1) Changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(2) Changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(3) Changes in the Treaty that may be necessary to increase the number of aliens convicted of crimes who may be transferred pursuant to the Treaty.

(4) Methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty.

(5) Any recommendations of appropriate officials of the Mexican Government on programs to achieve the goals of, and ensure full compliance with, the Treaty.

(6) An assessment of whether the recommendations under this subsection require the renegotiation of the Treaty.

(7) The additional funds required to implement each recommendation under this subsection.

SEC. 673. JUSTICE DEPARTMENT ASSISTANCE IN BRINGING TO JUSTICE ALIENS WHO FLEE PROSECUTION FOR CRIMES IN THE UNITED STATES.

(a) ASSISTANCE TO STATES.—The Attorney General, in cooperation with the Commissioner of Immigration and Naturalization and the Secretary of State, shall designate an office within the Department of Justice to provide technical and prosecutorial assistance to States and political subdivisions of States in efforts to bring to justice aliens who flee prosecution for crimes in the United States.

(b) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Attorney General shall compile and submit to the Congress a report which assesses the nature and extent of the problem of bringing to justice aliens who flee prosecution for crimes in the United States.

SEC. 674. PRISONER TRANSFER TREATIES.

(a) NEGOTIATION.—Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of the enactment of this Act, bilateral prisoner transfer treaties. The focus of such negotiations shall be to expedite the transfer of aliens unlawfully in the United States who are incarcerated in United States prisons, to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts, and to eliminate any requirement of prisoner consent to such a transfer.

(b) CERTIFICATION.—The President shall submit to the Congress, annually, a certification as to whether each prisoner transfer treaty in force is effective in returning aliens unlawfully in the United States who have committed offenses for which they are incarcerated in the United States to their country of nationality for further incarceration.

SEC. 675. INTERIOR REPATRIATION PROGRAM.

Not later than 180 days after the date of enactment of this Act, the Attorney General and the Commissioner of Immigration and Naturalization shall develop and implement a program in which aliens who previously have illegally entered the United States not less than 3 times and are deported or returned to a country contiguous to the United States will be returned to locations not less than 500 kilometers from that country's border with the United States.

SEC. 676. DEPORTATION OF NONVIOLENT OFFENDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.

(a) IN GENERAL.—Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended to read as follows:

"(h)(1) Except as provided in paragraph (2), an alien sentenced to imprisonment may not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, supervised release, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

"(2) The Attorney General is authorized to deport an alien in accordance with applicable procedures under this Act prior to the completion of a sentence of imprisonment—

"(A) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), and (ii) such deportation of the alien is appropriate and in the best interest of the United States; or

"(B) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), (ii) such deportation is appropriate and in the best interest of the State, and (iii) submits a written request to the Attorney General that such alien be so deported.

"(3) Any alien deported pursuant to this subsection shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens deported under paragraph (2).".

(b) REENTRY OF ALIEN DEPORTED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) amended by adding at the end the following new subsection:

"(c) Any alien deported pursuant to section 242(h)(2) who enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of deported aliens as may be available under this section or any other provision of law.".

SEC. 677. AUTHORIZING STATE AND LOCAL LAW ENFORCEMENT OFFICIALS TO ARREST AND DETAIN CERTAIN ILLEGAL ALIENS.

(a) IN GENERAL.—Notwithstanding any other provision of law, to the extent permitted by relevant State and local law, State and local law enforcement officials are authorized to arrest and detain an individual who—

(1) is an alien illegally present in the United States and

(2) has previously been convicted of a felony in the United States and deported or left the United States after such conviction,

but only after the State or local law enforcement officials obtain appropriate confirmation from the Immigration and Naturalization Service of the status of such individual and only for such period of time as may be required for the Service to take the individual into Federal custody for purposes of deporting or removing the alien from the United States.

(b) COOPERATION.—The Attorney General shall cooperate with the States to assure that information in the control of the Attorney General, including information in the National Crime Information Center, that would assist State and local law enforcement officials in carrying out duties under subsection (a) is made available to such officials.

TITLE VII—AUTHORIZATION AND FUNDING

SEC. 701. FIREFIGHTER AND EMERGENCY SERVICES TRAINING.

The Attorney General may award grants in consultation with the Federal Emergency Management Agency for the purposes of providing specialized training or equipment to enhance the capability of metropolitan fire and emergency service departments to respond to terrorist attacks. To carry out the purposes of this section, there is authorized to be appropriated $5,000,000 for fiscal year 1996.

SEC. 702. ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVE DETECTION DEVICES AND OTHER COUNTER-TERRORISM TECHNOLOGY.

There is authorized to be appropriated not to exceed $10,000,000 for fiscal years 1996 and 1997 to the President to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States or puts United States nationals at risk—

(1) in obtaining explosive detection devices and other counter-terrorism technology; and

(2) in conducting research and development projects on such technology.

SEC. 703. RESEARCH AND DEVELOPMENT TO SUPPORT COUNTER-TERRORISM TECHNOLOGIES.

There are authorized to be appropriated not to exceed $10,000,000 to the National Institute of Justice Science and Technology Office—

(1) to develop technologies that can be used to combat terrorism, including technologies in the areas of—

(A) detection of weapons, explosives, chemicals, and persons;

(B) tracking;

(C) surveillance;

(D) vulnerability assessment; and

(E) information technologies;

(2) to develop standards to ensure the adequacy of products produced and compatibility with relevant national systems; and

(3) to identify and assess requirements for technologies to assist State and local law enforcement in the national program to combat terrorism.

SEC. 704. SENSE OF CONGRESS.

It is the sense of Congress that, whenever practicable recipients of any sums authorized to be appropriated by this Act, should use the money to purchase American-made products.

TITLE VIII—MISCELLANEOUS

SEC. 801. STUDY OF STATE LICENSING REQUIREMENTS FOR THE PURCHASE AND USE OF HIGH EXPLOSIVES.

The Secretary of the Treasury, in consultation with the Federal Bureau of Investigation, shall conduct a study of State licensing requirements for the purchase and use of commercial high explosives, including detonators, detonating cords, dynamite, water gel, emulsion, blasting agents, and boosters. Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to Congress the results of this study, together with any recommendations the Secretary determines are appropriate.

SEC. 802. COMPENSATION OF VICTIMS OF TERRORISM.

(a) REQUIRING COMPENSATION FOR TERRORIST CRIMES.—Section 1403(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(d)(3)) is amended—

(1) by inserting "crimes involving terrorism," before "driving while intoxicated"; and

(2) by inserting a comma after "driving while intoxicated".

(b) FOREIGN TERRORISM.—Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(6)(B)) is amended by inserting "are outside the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18, United States Code), or" before "are States not having".

SEC. 803. JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES.

(a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES.—Section 1605 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph—

"(A) if the act occurred in the foreign state against which the claim has been brought and the claimant has not afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration;

"(B) if the claimant or victim was not a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act) when the act upon which the claim is based occurred; or

"(C) if the act occurred in the foreign state against which the claim has been brought and that state establishes that procedures and remedies are available in such state which comport with fundamental fairness and due process."; and

(2) by adding at the end the following:

"(e) For purposes of paragraph (7) of subsection (a)—

"(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991;

"(2) the term 'hostage taking' has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

"(3) the term 'aircraft sabotage' has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

"(f) No action shall be maintained under subsection (a)(7) unless the action is commenced not later than 10 years after the date on which the cause of action arose. All principles of equitable tolling, including the period during which the foreign state was immune from suit, shall apply in calculating this limitation period.".

(b) EXCEPTION TO IMMUNITY FROM ATTACHMENT.—

(1) FOREIGN STATE.—Section 1610(a) of title 28, United States Code, is amended—

(A) by striking the period at the end of paragraph (6) and inserting ", or"; and

(B) by adding at the end the following new paragraph:

"(7) the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.".

(2) AGENCY OR INSTRUMENTALITY.—Section 1610(b)(2) of such title is amended—

(A) by striking "or (5)" and inserting "(5), or (7)"; and

(B) by striking "used for the activity" and inserting "involved in the act".

(c) APPLICABILITY.—The amendments made by this title shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

SEC. 804. STUDY OF PUBLICLY AVAILABLE INSTRUCTIONAL MATERIAL ON THE MAKING OF BOMBS, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.

(a) STUDY.—The Attorney General, in consultation with such other officials and individuals as the Attorney General deems appropriate, shall conduct a study concerning—

(1) the extent to which there are available to the public material in any medium (including print, electronic, or film) that instructs how to make bombs, other destructive devices, and weapons of mass destruction;

(2) the extent to which information gained from such material has been used in incidents of domestic and international terrorism;

(3) the likelihood that such information may be used in future incidents of terrorism; and

(4) the application of existing Federal laws to such material, the need and utility, if any, for additional laws, and an assessment of the extent to which the First Amendment protects such material and its private and commercial distribution.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section. The Attorney General shall make the report available to the public.

SEC. 805. COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.

(a) FINDINGS.—Congress finds that—

(1) threats of violence and acts of violence are mounting against Federal, State, and local government employees and their families in attempts to stop public servants from performing their lawful duties;

(2) these acts are a danger to our constitutional form of government; and

(3) more information is needed as to the extent of the danger and its nature so that steps can be taken to protect public servants at all levels of government in the performance of their duties.

(b) STATISTICS.—The Attorney General shall acquire data, for the calendar year 1990 and each succeeding calendar year about crimes and incidents of threats of violence and acts of violence against Federal, State, and local government employees in performance of their lawful duties. Such data shall include—

(1) in the case of crimes against such employees, the nature of the crime; and

(2) in the case of incidents of threats of violence and acts of violence, including verbal and implicit threats against such employees, whether or not criminally punishable, which deter the employees from the performance of their jobs.

(c) GUIDELINES.—The Attorney General shall establish guidelines for the collection of such data, including what constitutes sufficient evidence of noncriminal incidents required to be reported.

(d) ANNUAL PUBLISHING.—The Attorney General shall publish an annual summary of the data acquired under this section. Otherwise such data shall be used only for research and statistical purposes.

(e) EXEMPTION.—The United States Secret Service is not required to participate in any statistical reporting activity under this section with respect to any direct or indirect threats made against any individual for whom the United States Secret Service is authorized to provide protection.

SEC. 806. VICTIM RESTITUTION ACT OF 1995.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "may order, in addition to or, in the case of a misdemeanor, in lieu of any other penalty authorized by law" and inserting "shall order"; and

(ii) by adding at the end the following: "The requirement of this paragraph does not affect the power of the court to impose any other penalty authorized by law. In the case of a misdemeanor, the court may impose restitution in lieu of any other penalty authorized by law.";

(B) by adding at the end the following:

"(4) In addition to ordering restitution to the victim of the offense of which a defendant is convicted, a court may order restitution to any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(B) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (b)—

(A) by striking "and" at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and";

(5) in subsection (c) by striking "If the court decides to order restitution under this section, the" and inserting "The";

(6) by striking subsections (d), (e), (f), (g), and (h);

(7) by redesignating subsection (i) as subsection (m); and

(8) by inserting after subsection (c) the following:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restitution order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender. A restitution order shall direct the offender to give appropriate notice to victims and other persons in cases where there are multiple victims or other persons who may receive restitution, and where the identity of such victims and other persons can be reasonably determined.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution to each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution to victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful; and

"(B) notify the court and the interested parties when an offender is 30 days in arrears in meeting those obligations; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

SEC. 807. OVERSEAS LAW ENFORCEMENT TRAINING ACTIVITIES.

The Director of the Federal Bureau of Investigation is authorized to support law enforcement training activities in foreign countries for the purpose of improving the effectiveness of the United States in investigating and prosecuting transnational offenses.

SEC. 808. CLOSED CIRCUIT TELEVISED COURT PROCEEDINGS FOR VICTIMS OF CRIME.

(a) IN GENERAL.—Notwithstanding any provision of the Federal Rules of Criminal Procedure to the contrary, in order to permit victims of crime to watch criminal trial proceedings in cases where the venue of the trial is changed—

(1) out of the State in which the case was initially brought; and

(2) more than 350 miles from the location in which those proceedings originally would have taken place;

the courts involved shall, if donations under subsection (b) will defray the entire cost of doing so, order closed circuit televising of the proceedings to that location, for viewing by such persons the courts determine have a compelling interest in doing so and are otherwise unable to do so by reason of the inconvenience and expense caused by the change of venue.

(b) NO REBROADCAST.—No rebroadcast of the proceedings shall be made.

(c) LIMITED ACCESS.—

(1) GENERALLY.—No other person, other than official court and security personnel, or other persons specifically designated by the courts, shall be permitted to view the closed circuit televising of the proceedings.

(2) EXCEPTION.—The courts shall not designate a person under paragraph (1) if the presiding judge at the trial determines that testimony by that person would be materially affected if that person heard other testimony at the trial.

(d) DONATIONS.—The Administrative Office of the United States Courts may accept donations to enable the courts to carry out subsection (a). No appropriated money shall be used to carry out such subsection.

(e) DEFINITION.—As used in this section, the term "State" includes the District of Columbia and any other possession or territory of the United States.

SEC. 809. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for each of fiscal years 1996 through 2000 to the Federal Bureau of Investigation such sums as are necessary—

(1) to hire additional personnel, and to procure equipment, to support expanded investigations of domestic and international terrorism activities;

(2) to establish a Domestic Counterterrorism Center to coordinate and centralize Federal, State, and local law enforcement efforts in response to major terrorist incidents, and as a clearinghouse for all domestic and international terrorism information and intelligence; and

(3) to cover costs associated with providing law enforcement coverage of public events offering the potential of being targeted by domestic or international terrorists.

TITLE IX—HABEAS CORPUS REFORM

SEC. 901. FILING DEADLINES.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

"(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

"(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

"(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

"(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

"(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim shall not be counted toward any period of limitation under this subsection.".

SEC. 902. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§2253. Appeal

"(a) In a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.

"(b) There shall be no right of appeal from a final order in a proceeding to test the validity of a warrant to remove to another district or place for commitment or trial a person charged with a criminal offense against the United States, or to test the validity of such person's detention pending removal proceedings.

"(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

"(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

"(B) the final order in a proceeding under section 2255.

"(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

"(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).".

SEC. 903. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"Rule 22. Habeas corpus and section 2255 proceedings

"(a) APPLICATION FOR THE ORIGINAL WRIT.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application shall be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge shall not be permitted. The applicant may, pursuant to section 2253 of title 28, United States Code, appeal to the appropriate court of appeals from the order of the district court denying the writ.

"(b) CERTIFICATE OF APPEALABILITY.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, an appeal by the applicant for the writ may not proceed unless a district or a circuit judge issues a certificate of appealability pursuant to section 2253(c) of title 28, United States Code. If an appeal is taken by the applicant, the district judge who rendered the judgment shall either issue a certificate of appealability or state the reasons why such a certificate should not issue. The certificate or the statement shall be forwarded to the court of appeals with the notice of appeal and the file of the proceedings in the district court. If the district judge has denied the certificate, the applicant for the writ may then request issuance of the certificate by a circuit judge. If such a request is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or its representative, a certificate of appealability is not required.".

SEC. 904. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

"(A) the applicant has exhausted the remedies available in the courts of the State; or

"(B)(i) there is an absence of available State corrective process; or

"(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

"(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

"(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.";

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

"(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

"(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

"(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.";

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

"(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that—

"(A) the claim relies on—

"(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

"(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

"(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense."; and

(5) by adding at the end the following new subsections:

"(h) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

"(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.".

SEC. 905. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second and fifth undesignated paragraphs; and

(2) by adding at the end the following new undesignated paragraphs:

"A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

"(1) the date on which the judgment of conviction becomes final;

"(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

"(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

"(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

"Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

"A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

"(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

"(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.".

SEC. 906. LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.

(a) CONFORMING AMENDMENT TO SECTION 2244(a).—Section 2244(a) of title 28, United States Code, is amended by striking "and the petition" and all that follows through "by such inquiry." and inserting ", except as provided in section 2255.".

(b) LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.—Section 2244(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

"(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless—

"(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

"(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

"(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

"(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

"(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

"(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

"(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

"(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

"(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.".

SEC. 907. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2263. Filing of habeas corpus application; time requirements; tolling rules.
"2264. Scope of Federal review; district court adjudications.
"2265. Application to State unitary review procedure.
"2266. Limitation periods for determining applications and motions.

"§2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by statute, rule of its court of last resort, or by another agency authorized by State law, a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsels to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2261(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application shall recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus application under section 2254 within the time required in section 2263;

"(2) before a court of competent jurisdiction, in the presence of counsel, unless the prisoner has competently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254; or

"(3) a State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution in the case, unless the court of appeals approves the filing of a second or successive application under section 2244(b).

"§2263. Filing of habeas corpus application; time requirements; tolling rules

"(a) Any application under this chapter for habeas corpus relief under section 2254 must be filed in the appropriate district court not later than 180 days after final State court affirmance of the conviction and sentence on direct review or the expiration of the time for seeking such review.

"(b) The time requirements established by subsection (a) shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) from the date on which the first petition for post-conviction review or other collateral relief is filed until the final State court disposition of such petition; and

"(3) during an additional period not to exceed 30 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus application under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus application within the time period established by this section.

"§2264. Scope of Federal review; district court adjudications

"(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

"(1) the result of State action in violation of the Constitution or laws of the United States;

"(2) the result of the Supreme Court recognition of a new Federal right that is made retroactively applicable; or

"(3) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

"(b) Following review subject to subsections (a), (d), and (e) of section 2254, the court shall rule on the claims properly before it.

"§2265. Application to State unitary review procedure

"(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) To qualify under this section, a unitary review procedure must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2261(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) Sections 2262, 2263, 2264, and 2266 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in such sections shall be understood as referring to unitary review under the State procedure. The reference in section 2262(a) to 'an order under section 2261(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the 180-day limitation period under section 2263 shall be deferred until a transcript is made available to the prisoner or counsel of the prisoner.

"§2266. Limitation periods for determining applications and motions

"(a) The adjudication of any application under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

"(b)(1)(A) A district court shall render a final determination and enter a final judgment on any application for a writ of habeas corpus brought under this chapter in a capital case not later than 180 days after the date on which the application is filed.

"(B) A district court shall afford the parties at least 120 days in which to complete all actions, including the preparation of all pleadings and briefs, and if necessary, a hearing, prior to the submission of the case for decision.

"(C)(i) A district court may delay for not more than one additional 30-day period beyond the period specified in subparagraph (A), the rendering of a determination of an application for a writ of habeas corpus if the court issues a written order making a finding, and stating the reasons for the finding, that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the applicant in a speedy disposition of the application.

"(ii) The factors, among others, that a court shall consider in determining whether a delay in the disposition of an application is warranted are as follows:

"(I) Whether the failure to allow the delay would be likely to result in a miscarriage of justice.

"(II) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate briefing within the time limitations established by subparagraph (A).

"(III) Whether the failure to allow a delay in a case, that, taken as a whole, is not so unusual or so complex as described in subclause (II), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government continuity of counsel, or would deny counsel for the applicant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

"(iii) No delay in disposition shall be permissible because of general congestion of the court's calendar.

"(iv) The court shall transmit a copy of any order issued under clause (i) to the Director of the Administrative Office of the United States Courts for inclusion in the report under paragraph (5).

"(2) The time limitations under paragraph (1) shall apply to—

"(A) an initial application for a writ of habeas corpus;

"(B) any second or successive application for a writ of habeas corpus; and

"(C) any redetermination of an application for a writ of habeas corpus following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

"(3)(A) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

"(B) No amendment to an application for a writ of habeas corpus under this chapter shall be permitted after the filing of the answer to the application, except on the grounds specified in section 2244(b).

"(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

"(B) The State may enforce a time limitation under this section by petitioning for a writ of mandamus to the court of appeals. The court of appeals shall act on the petition for a writ or mandamus not later than 30 days after the filing of the petition.

"(5)(A) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the district courts with the time limitations under this section.

"(B) The report described in subparagraph (A) shall include copies of the orders submitted by the district courts under paragraph (1)(B)(iv).

"(c)(1)(A) A court of appeals shall hear and render a final determination of any appeal of an order granting or denying, in whole or in part, an application brought under this chapter in a capital case not later than 120 days after the date on which the reply brief is filed, or if no reply brief is filed, not later than 120 days after the date on which the answering brief is filed.

"(B)(i) A court of appeals shall decide whether to grant a petition for rehearing or other request for rehearing en banc not later than 30 days after the date on which the petition for rehearing is filed unless a responsive pleading is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the responsive pleading is filed.

"(ii) If a petition for rehearing or rehearing en banc is granted, the court of appeals shall hear and render a final determination of the appeal not later than 120 days after the date on which the order granting rehearing or rehearing en banc is entered.

"(2) The time limitations under paragraph (1) shall apply to—

"(A) an initial application for a writ of habeas corpus;

"(B) any second or successive application for a writ of habeas corpus; and

"(C) any redetermination of an application for a writ of habeas corpus or related appeal following a remand by the court of appeals en banc or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

"(3) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

"(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

"(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

"(5) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.".

(b) TECHNICAL AMENDMENT.—The table of chapters at the beginning of part VI of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

"154. Special habeas corpus procedures in capital cases .... 2261".

(c) EFFECTIVE DATE.—Chapter 154 of title 28, United States Code (as added by subsection (a)) shall apply to cases pending on or after the date of enactment of this Act.

SEC. 908. TECHNICAL AMENDMENT.

Section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) is amended by amending paragraph (9) to read as follows:

"(9) Upon a finding that investigative, expert, or other services are reasonably necessary for

the representation of the defendant, whether in connection with issues relating to guilt or the sentence, the court may authorize the defendant's attorneys to obtain such services on behalf of the defendant and, if so authorized, shall order the payment of fees and expenses therefor under paragraph (10). No ex parte proceeding, communication, or request may be considered pursuant to this section unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be transcribed and made a part of the record available for appellate review.".

SEC. 909. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstances shall not be affected thereby.

TITLE X—INTERNATIONAL COUNTERFEITING

SEC. 1001. SHORT TITLE.

This title may be cited as the "International Counterfeiting Prevention Act of 1996".

SEC. 1002. AUDITS OF INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) IN GENERAL.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary"), in consultation with the advanced counterfeit deterrence steering committee, shall—

(1) study the use and holding of United States currency in foreign countries; and

(2) develop useful estimates of the amount of counterfeit United States currency that circulates outside the United States each year.

(b) EVALUATION AUDIT PLAN.—

(1) IN GENERAL.—The Secretary shall develop an effective international evaluation audit plan that is designed to enable the Secretary to carry out the duties described in subsection (a) on a regular and thorough basis.

(2) SUBMISSION OF DETAILED WRITTEN SUMMARY.—The Secretary shall submit a detailed written summary of the evaluation audit plan developed pursuant to paragraph (1) to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act.

(3) 1ST EVALUATION AUDIT UNDER PLAN.—The Secretary shall begin the first evaluation audit pursuant to the evaluation audit plan no later than the end of the 1-year period beginning on the date of the enactment of this Act.

(4) SUBSEQUENT EVALUATION AUDITS.—At least 1 evaluation audit shall be performed pursuant to the evaluation audit plan during each 3-year period beginning after the date of the commencement of the evaluation audit referred to in paragraph (3).

(c) REPORTS.—

(1) IN GENERAL.—The Secretary shall submit a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of each evaluation audit conducted pursuant to subsection (b) within 90 days after the completion of the evaluation audit.

(2) CONTENTS.—In addition to such other information as the Secretary may determine to be appropriate, each report submitted to the Congress pursuant to paragraph (1) shall include the following information:

(A) A detailed description of the evaluation audit process and the methods used to develop estimates of the amount of counterfeit United States currency in circulation outside the United States.

(B) The method used to determine the currency sample examined in connection with the evaluation audit and a statistical analysis of the sample examined.

(C) A list of the regions of the world, types of financial institutions, and other entities included.

(D) An estimate of the total amount of United States currency found in each region of the world.

(E) The total amount of counterfeit United States currency and the total quantity of each counterfeit denomination found in each region of the world.

(3) CLASSIFICATION OF INFORMATION.—

(A) IN GENERAL.—To the greatest extent possible, each report submitted to the Congress under this subsection shall be submitted in an unclassified form.

(B) CLASSIFIED AND UNCLASSIFIED FORMS.—If, in the interest of submitting a complete report under this subsection, the Secretary determines that it is necessary to include classified information in the report, the report shall be submitted in a classified and an unclassified form.

(d) SUNSET PROVISION.—This section shall cease to be effective as of the end of the 10-year period beginning on the date of the enactment of this Act.

(e) RULE OF CONSTRUCTION.—No provision of this section shall be construed as authorizing any entity to conduct investigations of counterfeit United States currency.

SEC. 1003. LAW ENFORCEMENT AND SENTENCING PROVISIONS RELATING TO INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) FINDINGS.—The Congress hereby finds the following:

(1) United States currency is being counterfeited outside the United States.

(2) The 103d Congress enacted, with the approval of the President on September 13, 1994, section 470 of title 18, United States Code, making such activity a crime under the laws of the United States.

(3) The expeditious posting of agents of the United States Secret Service to overseas posts, which is necessary for the effective enforcement of section 470 and related criminal provisions, has been delayed.

(4) While section 470 of title 18, United States Code, provides for a maximum term of imprisonment of 20 years as opposed to a maximum term of 15 years for domestic counterfeiting, the United States Sentencing Commission has failed to provide, in its sentencing guidelines, for an appropriate enhancement of punishment for defendants convicted of counterfeiting United States currency outside the United States.

(b) TIMELY CONSIDERATION OF REQUESTS FOR CONCURRENCE IN CREATION OF OVERSEAS POSTS.—

(1) IN GENERAL.—The Secretary of State shall—

(A) consider in a timely manner the request by the Secretary of the Treasury for the placement of such number of agents of the United States Secret Service as the Secretary of the Treasury considers appropriate in posts in overseas embassies; and

(B) reach an agreement with the Secretary of the Treasury on such posts as soon as possible and, in any event, not later than December 31, 1996.

(2) COOPERATION OF TREASURY REQUIRED.—The Secretary of the Treasury shall promptly provide any information requested by the Secretary of State in connection with such requests.

(3) REPORTS REQUIRED.—The Secretary of the Treasury and the Secretary of State shall each submit, by February 1, 1997, a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate explaining the reasons for the rejection, if any, of any proposed post and the reasons for the failure, if any, to fill any approved post by such date.

(c) ENHANCED PENALTIES FOR INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.—Pursuant to the authority of the United States Sentencing Commission under section 994 of title 28, United States Code, the Commission shall amend the sentencing guidelines prescribed by the Commission to provide an appropriate enhancement of the punishment for a defendant convicted under section 470 of title 18 of such Code.

TITLE XI—BIOLOGICAL WEAPONS RESTRICTIONS

SEC. 1101. SHORT TITLE.

This Act may be cited as the "Biological Weapons Enhanced Penalties Act of 1996.".

SEC. 1102. ATTEMPTS TO ACQUIRE UNDER FALSE PRETENSES.

Section 175(a) of title 18, United States Code, is amended by inserting "attempts to acquire under false pretenses, after "acquires,".

SEC. 1103. INCLUSION OF RECOMBINANT MOLECULES.

Section 175 of title 18, United States Code, is amended by inserting "recombinant molecules," after "toxin," each place it appears.

SEC. 1104. DEFINITIONS.

Section 173 of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting "or naturally occurring or bioengineered component of any such microorganism, virus, or infectious substance," after "infectious substance";

(2) in paragraph (2)—

(A) by inserting "the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances" after "means"; and

(B) by inserting ", and includes" after "production";

(3) in paragraph (4), by inserting "or a molecule, including a recombinant molecule," after "organism".

SEC. 1105. THREATENING USE OF CERTAIN WEAPONS.

Section 2332a of title 18, United States Code, is amended by inserting ", threatens," after "uses, or".

SEC. 1106. INCLUSION OF RECOMBINANT MOLECULES AND BIOLOGICAL ORGANISMS IN DEFINITION.

Section 2332a(b)(2)(C) of title 18, United States Code, is amended by striking "disease organism" and inserting "biological agent or toxin, as those terms are defined in section 178".

TITLE XII—COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT

SEC. 1201. ESTABLISHMENT.

There is established a commission to be known as the "Commission on the Advancement of Federal Law Enforcement" (in this title referred to as the "Commission").

SEC. 1202. DUTIES.

The Commission shall investigate, ascertain, evaluate, report, and recommend action to the Congress on the following matters:

(1) In general, the manner in which significant Federal criminal law enforcement operations are conceived, planned, coordinated, and executed.

(2) The standards and procedures used by Federal law enforcement to carry out significant Federal criminal law enforcement operations, and their uniformity and compatibility on an interagency basis, including standards related to the use of deadly force.

(3) The criminal investigation and handling by the United States Government, and the Federal law enforcement agencies therewith—

(A) on February 28, 1993, in Waco, Texas, with regard to the conception, planning, and *execution of search and arrest warrants that resulted in the deaths of 4 Federal law enforcement officers and 6 civilians;*

(B) regarding the efforts to resolve the subsequent standoff in Waco, Texas, which ended in the deaths of over 80 civilians on April 19, 1993; and

(C) concerning other Federal criminal law enforcement cases, at the Commission's discretion, which have been presented to the courts or to the executive branch of Government in the last 25 years that are actions or complaints based upon claims of abuse of authority, practice, procedure, or violations of constitutional guarantees, and which may indicate a pattern or problem of abuse within an enforcement agency or a sector of the enforcement community.

(4) The necessity for the present number of Federal law enforcement agencies and units.

(5) The location and efficacy of the office or entity directly responsible, aside from the President of the United States, for the coordination on an interagency basis of the operations, programs, and activities of all of the Federal law enforcement agencies.

(6) The degree of assistance, training, education, and other human resource management assets devoted to increasing professionalism for Federal law enforcement officers.

(7) The independent accountability mechanisms that exist, if any, and their efficacy to investigate, address, and correct systemic or gross individual Federal law enforcement abuses.

(8) The extent to which Federal law enforcement agencies have attempted to pursue community outreach efforts that provide meaningful input into the shaping and formation of agency policy, including seeking and working with State and local law enforcement agencies on Federal criminal enforcement operations or programs that directly impact a State or local law enforcement agency's geographic jurisdiction.

(9) Such other related matters as the Commission deems appropriate.

SEC. 1203. MEMBERSHIP AND ADMINISTRATIVE PROVISIONS.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 5 members appointed as follows:

(1) 1 member appointed by the President pro tempore of the Senate.

(2) 1 member appointed by the minority leader of the Senate.

(3) 1 member appointed by the Speaker of the House of Representatives.

(4) 1 member appointed by the minority leader of the House of Representatives.

(5) 1 member (who shall chair the Commission) appointed by the Chief Justice of the Supreme Court.

(b) DISQUALIFICATION.—A person who is an officer or employee of the United States shall not be appointed a member of the Commission.

(c) TERMS.—Each member shall be appointed for the life of the Commission.

(d) QUORUM.—3 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(e) MEETINGS.—The Commission shall meet at the call of the Chair of the Commission.

(f) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day, including travel time, during which the member is engaged in the performance of the duties of the Commission.

SEC. 1204. STAFFING AND SUPPORT FUNCTIONS.

(a) DIRECTOR.—The Commission shall have a director who shall be appointed by the Chair of the Commission.

(b) STAFF.—Subject to rules prescribed by the Commission, the Director may appoint additional personnel as the Commission considers appropriate.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed per day the daily equivalent of the maximum annual rate of basic pay payable for GS-15 of the General Schedule.

SEC. 1205. POWERS.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purposes of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it. The Commission may establish rules for its proceedings.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chair of the Commission, the head of that department or agency shall furnish that information to the Commission.

(d) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this title.

(e) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission. The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) FAILURE TO OBEY SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to the United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

(f) IMMUNITY.—The Commission is an agency of the United States for the purpose of part V of title 18, United States Code (relating to immunity of witnesses).

SEC. 1206. REPORT.

The Commission shall transmit a report to the Congress and the public not later than 2 years after a quorum of the Commission has been appointed. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with the Commission's recommendations for such actions as the Commission considers appropriate.

SEC. 1207. TERMINATION.

The Commission shall terminate 30 days after submitting the report required by this title.

TITLE XIII—REPRESENTATION FEES

SEC. 1301. REPRESENTATION FEES IN CRIMINAL CASES.

(a) IN GENERAL.—Section 3006A of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by redesignating paragraphs (4), (5) and (6) as paragraphs (5), (6), and (7), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) DISCLOSURE OF FEES.—The amounts paid under this subsection, for representation in any case, shall be made available to the public."; and

(2) in subsection (3) by adding at the end of the following:

"(4) DISCLOSURE OF FEES.—The amounts paid under this subsection for services in any case shall be made available to the public.".

(b) FEES AND EXPENSES AND CAPITAL CASES.—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended to read as follows:

"(10)(A) Compensation shall be paid to attorneys appointed under this subsection at a rate of not less than $75, and not more than $125, per hour for in-court and out-of-court time, Fees and expenses shall be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (9) at the rates and in the amounts authorized under section 3006A of title 18, United States Code.

"(B) The amounts paid under this paragraph for services in any case shall be made available to the public.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to cases commenced on or after the date of the enactment of this Act.

TITLE XIV—DEATH PENALTY AGGRAVATING FACTOR

SEC. 1401. DEATH PENALTY AGGRAVATING FACTOR.

Section 3592(c) of title 18, United States Code, is amended by adding after paragraph (15) the following:

"(16) MULTIPLE KILLINGS OR ATTEMPTED KILLINGS.—The defendant intentionally kills or attempts to kill more than one person in a single criminal episode.".

TITLE XV—FINANCIAL TRANSACTIONS WITH TERRORISTS

SEC. 1501. FINANCIAL TRANSACTIONS WITH TERRORISTS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting before section 2333 the following:

"§2332c. Financial transactions

"(a) Except as provided in regulations made by the Secretary of State, whoever, being a United States person, knowing or having reasonable cause to know that a country is a country that has been designated under section 6(j) of the Export Administration Act (50 U.S.C. App. 2405) as a country supporting international terrorism; engages in a financial transaction with that country, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) As used in this section—

"(1) the term 'financial transaction' has the meaning given that term in section 1956(c)(4); and

"(2) the term 'United States person' means any United States citizen or national, permanent resident alien, juridical person organized under the laws of the United States, or any person in the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter of title 18, United States Code, to which the amendment of subsection (a) was made is amended by inserting before the item relating to section 2333 the following new item:

"2332c. Financial transactions.".

Mr. COATS. Mr. President, I ask unanimous consent that the Senate disagree to the amendments of the House, agree to the request for a conference, and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, the Presiding Officer (Mr. SMITH) appointed Mr. HATCH, Mr. THURMOND, Mr. SIMPSON, Mr. BIDEN, and Mr. KENNEDY conferees on the part of the Senate.

ORDERS FOR MONDAY, MARCH 25, 1996

Mr. COATS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Monday, March 25; further, that immediately following the prayer, the Journal of proceedings be approved to date, no resolutions come over under the rule, the call of the Calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to the consideration of calendar No. 300, H.R. 1296, the Presidio legislation; and further, that Senator MURKOWSKI be recognized at that time to offer a substitute amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. COATS. Mr. President, for the information of all Senators, the Senate will debate the Presidio legislation on Monday. No rollcall votes will occur during Monday's session. Senators are expected to offer and debate their amendments to H.R. 1296 on Monday. Any votes ordered on those amendments will be stacked to occur during Tuesday's session.

ADJOURNMENT UNTIL 10 A.M., MONDAY, MARCH 25, 1996

Mr. COATS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:22 p.m., adjourned until Monday, March 25, 1996, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 21, 1996:

DEPARTMENT OF STATE

KENNETH C. BRILL, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CYPRUS.

GENTA HAWKINS HOLMES, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO AUSTRALIA.

THOMAS C. HUBBARD, OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE PHILIPPINES AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PALAU.

DAY OLIN MOUNT, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ICELAND.

GLEN ROBERT RASE, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BRUNEI DARUSSALAM.

DEPARTMENT OF JUSTICE

CALVIN D. BUCHANAN, OF MISSISSIPPI, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF MISSISSIPPI FOR THE TERM OF 4 YEARS, VICE ROBERT Q. WHITEWELL, RESIGNED.

HOUSE OF REPRESENTATIVES—*Thursday, March 21, 1996*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mrs. WALDHOLTZ].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 21, 1996.

I hereby designate the Honorable ENID G. WALDHOLTZ to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As the days lengthen and the Sun brightens our hours, so may we anticipate the renewal of the bounty of Your creation. When we see the blossoms of nature, may they recall for us the seasons of our own lives; as we await the warmth of the days, may we remember the warmth of Your grace that is ever with us. In all things, O God, may we experience the wonders of Your love and so live our lives with strength and hope. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New Jersey [Mr. PALLONE] come forward and lead the House in the Pledge of Allegiance.

Mr. PALLONE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment a bill of the House of the following title:

H.R. 3019. An act making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3019) "An act making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATFIELD, Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. GORTON, Mr. MCCONNELL, Mr. MACK, Mr. BURNS, Mr. SHELBY, Mr. JEFFORDS, Mr. GREGG, Mr. BENNETT, Mr. CAMPBELL, Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. KERREY, Mr. KOHL, and Mrs. MURRAY to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 942. An act to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes;

S. 956. An act to establish a Commission on Structural Alternatives for the Federal Courts of Appeals;

S. Con. Res. 47. Concurrent resolution to provide for a Joint Congressional Committee on Inaugural Ceremonies; and

S. Con. Res. 48. Concurrent resolution authorizing the rotunda of the United States Capitol to be used on January 20, 1997, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States.

The message also announced that pursuant to sections 276h–276k, of title 22, United States Code, the Chair, on behalf of the Vice President, appoints Mrs. HUTCHISON as the chairperson of the Senate delegation to the Mexico-United States Interparliamentary Union during the 2d session of the 104th Congress.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain ten 1-minutes on each side.

VETO PRESIDENT POISED TO STRIKE AGAIN

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Madam Speaker, bowing to special interests, the veto President is poised to strike again. The President who stopped welfare reform, tax cuts, and a balanced budget announced this past weekend that he will veto a bipartisan legal reform bill.

As Governor of Arkansas, the President called for just this type of legislation to limit frivolous lawsuits and sky-high punitive damage awards. But as President, the special interest lobbying group of trial lawyers is a heavy contributor to his reelection campaign.

Democrat Senator JAY ROCKEFELLER said it best: "Special interests and raw political considerations in the White House have overridden sound policy judgment."

Raw political considerations drove the President to veto welfare reform after he promised to "end welfare as we know it." Political considerations made the President veto tax cuts and a balanced budget after he promised both. It is time for Bill Clinton to consider the American people—and not special interest lobbyists—for a change.

ANOTHER CONTINUING RESOLUTION

(Mr. PALLONE asked was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Madam Speaker, here they go again. Again the Republican leadership is going to bring up today another one of these stopgap funding measures, the continuing resolution. I think many people have forgotten that the Government was closed down on two occasions, at least two occasions, by the Republicans in this last year, and they are still moving forward with these temporary spending measures, last week and now again this week, for 1 more week. What it means is a great deal of uncertainty back in our districts, particularly when it comes to education.

Many teachers are now getting pink slips and being told they are going to be laid off. The school boards do not know whether they are going to have funding for education because of the continual assault against education. They are proposing the largest cut in

□This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the history of this country in education, over $3 billion. It is not fair, because the American people have told us over and over again that education is a priority, that they want to prioritize in terms of funding here.

Why should we be cutting back on education funding at the Federal Government and making the local school boards have to pay more in their taxes, in their local property taxes? It is not fair. We should put a stop to it.

THE PRESIDENTIAL VETO THREAT

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Madam Speaker, the vicious, vindictive veto looms over the American people once again, this time threatening the lives and health of 8 million Americans who right at this moment, because of their health problems, have medical devices in their bodies, heart valves, pacemakers, brain shunts, a whole host of things, knee replacements, hip replacements. But the availability of these medical devices is threatened by the veto that the President has threatened to issue because of some quarrel that he has with other elements of the Trial Lawyers Association, et cetera.

Now, the suppliers of these medical devices, elements of the medical devices, are going out of business, in many respects because they are being sued out of their existence. What we have tried to do with the measure that is about to be vetoed is to make sure that the suppliers will feel comfortable in sending these supplies for the medical devices to be made available to the American people.

CONTINUED ATTACK ON THE AMERICAN EDUCATION SYSTEM

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Madam Speaker, once again today we are going to have a continuing resolution. What is continuing about this resolution is the resolution of the Republicans to continue to attack the American education system.

In this continuing resolution, once again the Republican Party will put forth the largest cuts to education in the history of this country. They will put forth cuts in programs of title I to put in jeopardy those children in our school systems that most need an education. They will put forth cuts in the DARE Program, the program that brings our community police, our young children, and the campaign against drugs in schools and drugs in young people's lives together. They will cut that program. Over $3 billion in cuts will be in this continuing resolution, which continues their assault on our education system.

They do this at a time when more and more parents are revaluing education because they now understand how terribly important it is to the future of their children's success and our economic existence. The Republicans should stop this attack on the American education system.

LET US PUT AN END TO PARTISANSHIP

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Madam Speaker, here we go again. As the American people look to this Congress to find innovative solutions, the guardians of the old order, those who tell us that big government is always the best answer, those who would confuse the process of education with the Washington bureaucrats in the Department of Education, seek to strike fear in the heart of every American.

We do not need to be involved in name calling. In fact, we need to get past partisanship. That is why, Madam Speaker, I noted with interest the comment of the junior Senator from the State of Nebraska in talking about the proposed budget of the President of the United States. "The budget, this budget, is the same smoke and mirrors. It is ridiculous. They are just not serious."

Madam Speaker, the fact is we will always have differences, but let us work together constructively, end the fear mongering, and solve problems for America.

AMERICA LOSING JOBS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, the standard of living in America is going down. Family income dropped from $30,000 in 1989 to $27,000 in 1993. But economists still say "Don't worry, NAFTA is creating jobs."

Let us check out those jobs. One million jobs were created by temporary agencies; 800,000 jobs, restaurants and bars; 400,000 jobs, health clubs and casinos; 400,000 jobs in Government.

The truth is, the American worker is losing a factory job with full benefits and is now washing dishes and waiting on tables. But Government economists still tell us this is an unfair study, that 1989 was actually a boom year.

Boom year? Beam me up, Madam Speaker. The truth is, with economists like this, the only growth industry in America is our bars, restaurants, and Government, and we pay for all of it.

Madam Speaker, I yield back the balance of these jobs.

ENERGY SECURITY

(Mr. WATTS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATTS of Oklahoma. Madam Speaker, as we note the fifth anniversary this month of the successful conclusion of the Persian Gulf war, we must also rededicate ourselves to achieving energy security. Five years after defeating Saddam Hussein's armies, America still depends on other nations to meet the majority of our petroleum needs. We as Americans face the prospect of depending on foreign nations, often unstable nations, to provide us with up to 68 percent of our oil supply within the next 20 years. That is a dependence on foreign oil that America should not be exposed to.

America does not lack for proven oil reserves. Today, the House Resources Committee has scheduled a hearing on America's oil and natural gas resource base and Federal initiatives to encourage domestic oil and gas exploration. I strongly urge my colleagues to pay close attention to this hearing. Experts from the industry will discuss the promise of oil and natural gas development in America. For example, did you know we have over 60 years worth of proven oil and gas reserves waiting to be developed? Why are we not relying on our own resources rather than on unstable foreign resource?

Today at the Resources Committee we will hear answers from America's oil and natural gas industry on how we, as leaders of this Nation, can help make America more secure against the threat of oil supply disruptions. I strongly encourage my colleagues to listen.

CONTINUING RESOLUTIONS HURTING AMERICA'S CHILDREN

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Madam Speaker, today House Republicans will bring up another temporary funding bill to keep the Government running for another week. Sound familiar? It should, because that is exactly what happened last week.

If enacted, this will be the 11th temporary spending bill to become law this year. Republicans are lurching from one temporary bill to the other, desperately clinging to their deep cuts in education and environmental protection.

It is almost halfway through the Federal fiscal year, and Republicans still have not funded major parts of the Government for the rest of the year. Among those paying the price for these budget games are local school districts. Many have already let teachers go because they still do not know if they will get enough funding to hire them for next year. This is unfair to our Nation's children, who will suffer from larger classes and less help with basic skills like reading and writing. But who asked for these deep education cuts? Certainly not working families, who overwhelmingly support funding for education.

Let us not hold education hostage to politics.

AMERICA TOO DEPENDENT ON FOREIGN OIL

(Mr. THORNBERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THORNBERRY. Madam Speaker, those who do not learn from the mistakes of the past are condemned to repeat them. It has been 5 years since the gulf war, and yet the United States has not yet seemed to learn the dangers of being dependent on others for our energy needs.

In fact, the United States is more dependent on foreign oil than ever before. More than 50 percent of our oil is imported, with about 20 percent coming from the Persian Gulf. We continue to lose producing wells, independent exploration and producing companies, as well as expertise. Talk about downsizing and exporting jobs—more than 500,000 jobs have been lost in oil and gas. And yet we go right along—acting as though domestic energy production is a luxury rather than a necessity of life in an unstable world.

Madam Speaker, it's time we learned from the past and take steps now to put us on the road to energy independence.

ASSAULT ON PUBLIC EDUCATION

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Madam Speaker, still high on the agenda of this Gingrich Congress is the assault on public education. It began last year with school lunch. You will remember the Speaker's assault and attempt to destroy a program that had enjoyed 50 years of bipartisan support to assure and guarantee school lunches for our Nation's young people. Then it was on to college. Let us add $5,000, the Speaker said, to the cost of going to college for those families that have struggled to get their kids through public school.

This year it is back to our smallest children. It is the program of giving not a Head Start, but a wrong start, to millions of American children. In my hometown it means cutting prekindergarten for 2,300 children in half. That is the program of placing obstacles in the way of opportunity for America's young children.

I know Speaker GINGRICH was very gleeful yesterday at this microphone as he blocked educational opportunities for immigrant children. Well, what about all the people that have been here and spent all of their lives and generations in this country and the hopes and aspirations of their parents? Let us stand up against this assault on public education.

□ 1015

BIG GOVERNMENT AND EDUCATION

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Madam Speaker, as we have heard this morning the rhetoric from the other side about education, let us talk about education in this country for just 1 second. Since the mid-1960's, the Great Society, billions of dollars thrown at education, and where are our kids today? Where are students today? Has money helped the education in this country coming from the Federal Government? I say no.

The SAT scores have gone down. Drugs have gone up. Illegitimacy has gone up. Where is education in this country today? Billions of dollars thrown at it from the Federal Government. I think it is time we give it back to the parents and the communities and let them give their children a good education.

WHICH REPUBLICAN MEMBERS TRUSTS HAMAS?

(Mr. EDWARDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS. Madam Speaker, this morning I saw one of the most blessed sights that any husband or parent could ever see: My wife, cuddling in her arms, our 3-month-old son, both of them happy, healthy, and safe. But as I left them, I was haunted by the words spoken by a Republican House Member on the floor in this House last Wednesday when that person said: "I trust Hamas more than I trust my own Government."

Madam Speaker, Hamas is a terrorist organization that proudly murders innocent women and children. Every parent and every person in America should be outraged that a Member of this Congress could place trust in terrorists that would destroy the lives of innocent children and the families who love them. The Republican Member of this House who made this extremist, morally repugnant statement owes it to his or her colleagues and the people of this Nation to admit his or her identity.

BIG GOVERNMENT AND OUR CHILDREN

(Mr. LARGENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LARGENT. Madam Speaker, we have heard this morning about the cruel Republicans cutting education. Let us talk about our children for just a minute. Less than a month ago, the President of the United States stood at that podium and said the era of big government is over. Now, everybody on this side of the aisle stood up and applauded when he said that, and nobody on this side said anything about it. They sat in their seats.

Why was that? Because nobody believed him when he said that. The era of big government is not over. Otherwise, why is the President asking for more and more money? Why is this a concern for our children? Why should parents be concerned about government continuing to spend more and more money? I will tell you why. A child born today will owe $187,109 over their lifetime just to pay their share of the interest on the national debt.

If we continue things, the status quo in Washington, they will face an effective tax rate of 84 percent in their lifetime; 84 cents of every dollar they earn will go to the government at one level. That is wrong. Let us do make the savings and think about our children and the future.

"WHO DO YOU TRUST?"

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Madam Speaker, the entire world has been shocked, appalled, and reviled by the latest wave of terrorist attacks by Hamas in Israel. More than 50 innocent men, women, and children have been killed by suicide bombings in Jerusalem and Tel Aviv.

So I was similarly shocked and reviled to hear a comment made on the House floor last week in the course of debate on the so-called antiterrorist bill. The gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary, said this: "Early in the day standing back there, I heard a dear friend of mine, a great Republican say, 'I trust Hamas more than I trust my own Government.'"

He went on to say those words hurt. Those words do hurt indeed. But who, Madam Speaker, who, Mr. HYDE, who on the Republican side really believed they could trust Hamas more than our own Government? Who among my colleagues truly believes they can trust a terrorist organization that sends suicide bombers to rob innocent children more than the U.S. Government?

Madam Speaker, the American people have a right to know who among their elected Representatives trusts Hamas more than the United States. Until that person steps forward, or is identified, a cloud hangs over each and every Republican Member of this House.

COLORECTAL CANCER

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Madam Speaker, I yield to the gentleman from New York [Mr. TOWNS].

Mr. TOWNS. Madam Speaker, I rise today to discuss the health issue that is very important to a vulnerable population; namely, Medicare beneficiaries. This year, colorectal cancer will claim an estimated 54,000 lives. This is the second leading cancer killer in the United States; 134,000 new cases of colorectal cancer will be diagnosed this year, most of them in the elderly population. And we are talking about cutting Medicare.

Madam Speaker, we know that early detection will save lives and save money. The technology exists to eradicate more than 90 percent of colorectal cancer in this country. Let us work toward a Medicare package or preventative benefits, one which will include colorectal cancer screening. It makes good health sense, and it makes good economic sense.

I urge my colleagues to move forward in addressing this disease in the Medicare population, the group most vulnerable to colorectal cancer.

VOTE AGAINST REPEAL OF ASSAULT WEAPON BAN

(Mr. MCDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCDERMOTT. Madam Speaker, the Bible says, by your deeds ye shall know them. Now last week by amendment, the Republicans gutted the terrorism bill. Many people asked why did they take out the guts of that bill? By their own words, from the gentleman from Illinois [Mr. HYDE], we know the answer: Because Members on the Republican side trust Hamas more than they trust their own Government.

They were afraid that, if we put the power in the hands of the Government to deal with terrorism, we might turn our eyes away from the Middle East and come to look at some of the organizations in this country. People on this floor have forgotten Oklahoma City. People have forgotten what has happened.

Madam Speaker, we cannot allow our Government to be powerless in the face of terrorist organizations wherever they come from. Now, tomorrow we are going to add insult to injury. The police officers of this country want the assault weapon ban kept in place. But the Republicans, led by the Speaker, are going to bring out a repeal of that ban to this floor to put those guns on the street again.

I urge my colleagues to vote against that bill.

WE CAN FIGHT TERRORISM WITHOUT VIOLATING OUR CONSTITUTION

(Mr. MCINNIS asked and was given permission to address the House for 1 minute.)

Mr. MCINNIS. Madam Speaker, I yield to my good friend, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Madam Speaker, I thank the gentleman for yielding to me.

The so-called antiterrorism bill infringed upon the liberties, the constitutional rights of the people of this country. While we are concerned about law and order and fighting terrorism, we do not want to violate the Constitution and hurt the liberties that our forefathers gave to us.

My colleagues on the other side are saying because we did not vote for the terrorism bill the way they wanted it, that we are sanctioning the terrorist activities that took place in Israel where 50 or 60 people were killed by terrorist activities by the Hamas organization. That is a ludicrous argument. We hate that just as much as anybody. We deplore those actions. We want to see those people brought to justice, and our Government is doing everything possible to stop that terrorism, not only there but in the United States.

But in the process, we must not violate the constitutional rights and liberties of American citizens.

A REPUBLICAN MEMBER TRUSTS HAMAS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Madam Speaker, the fact of the matter is that the antiterrorism bill passed last week in this body allows Hamas to raise funds in the United States of America, to raise their funds to go out and to kill innocent men and women and children. We had one Member, a colleague from the Republican side of the aisle, say that it was he or she who trusted Hamas more than they trust their own government.

Let me tell my colleagues, how can any Member trust a despicable organization, a bloodthirsty and terrorist organization? The pain and the misery that Hamas has caused may be abstract for some of my colleagues, but it is not for me, and it is not for my constituents. Last year my constituent Joan Davenney of Woodbridge, CT, was in Israel. She was a teacher at the Ezra Academy on a fellowship in Israel studying ways to improve curriculum at her school, a decent, wonderful young woman. Let me say that she was on one of those buses. She was killed by the terrorist organization Hamas. A sad day indeed when Republicans can defend Hamas on this floor.

THE PRESIDENT WILL NOT ASK SECRETARY O'LEARY TO RESIGN

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Madam Speaker, Vice President GORE, in his national performance review, indicated that Clinton's Secretary of Energy, Secretary O'Leary, and the Department of Energy, was 40 percent inefficient in their environmental management and it is going to cost the taxpayers $70 billion over the next 30 years.

Madam Speaker, what does that mean to taxpayers or what is that like? What is the equivalent of being 40 percent inefficient? That is like filling your car with gasoline, putting 10 gallons of it in, or running 10 gallons out of the pump and 4 of it goes on the ground and 6 of it goes in your tank. That is like sitting down at a restaurant, for every five bites you attempt to take, two of them end up in your lap. That is like sending your child to school and expecting your child to sleep for more than 2½ hours every day.

Forty percent inefficient, I think that is too much for the taxpayers. Seventy billion dollars, too much of a burden for the taxpayers. Yet it is condoned by Mr. Clinton. He will not call for reforms. He will not abolish the waste. He will not ask Secretary O'Leary to resign.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 165, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1996, AND WAIVING REQUIREMENT OF CLAUSE 4(B) OF RULE XI WITH RESPECT TO CERTAIN RESOLUTIONS REPORTED FROM COMMITTEE ON RULES

Mr. MCINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 386 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 386

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 165) making further continuing appropriations for the fiscal year 1996, and for other purposes. The joint resolution shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit. The motion to recommit may include instructions only if offered by the minority leader or his designee.

SEC. 2. The requirement of clause 4(b) of rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported from that committee before April 1, 1996, and providing for consideration or disposition of any of the following measures.

(1) A bill making general appropriations for the fiscal year ending September 30, 1996, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

(2) A bill or joint resolution that includes provisions making further continuing appropriations for the fiscal year 1996, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

(3) A bill or joint resolution that includes provisions increasing or waiving (for a temporary period or otherwise) the public debt limit under section 3101(b) of title 31, United States Code, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

The SPEAKER pro tempore (Mr. BURTON of Indiana). The gentleman from Colorado [Mr. MCINNIS] is recognized for 1 hour.

Mr. MCINNIS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During the consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 386 is a closed rule providing for consideration in the House with 1 hour of debate equally divided between the chairman and ranking minority member of the Committee on Appropriations. The rule orders the previous question to final passage without intervening motion except one motion to recommit which, if containing instructions, may only be offered by the minority leader or his designee.

Section 2 of the proposed rule merely waives the requirement of clause 4(b) of rule 11 for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House for resolutions reported from the Rules Committee before April 1, 1996, under certain circumstances.

This narrow waiver will only apply to special rules providing for the consideration or disposition of any measures, amendments, conference reports, or items in disagreement from a conference that make general appropriations for fiscal year 1996, include provisions making continuing appropriations for fiscal year 1996, or any bill, or joint resolution, that includes provision increasing or waiving the public debt limit. The Rules Committee recognized the need for expedited procedures to bring these legislative measures forward as soon as possible. Mr. Speaker, House Resolution 386 is straightforward, and it was reported by the Committee on Rules by voice vote.

In order to prevent a Government shutdown and provide the conferees on the omnibus continuing resolution adequate time to iron out the differences between the House, Senate, and administration, House Joint Resolution 165 is necessary. The legislation will keep the Government operating through March 29, and in the case of AFDC and the Foster Care Program through April 3. I urge my colleagues to support House Resolution 386 and the underlying legislation, House Joint Resolution 165.

□ 1030

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule is proof positive that the Republican majority cannot finish the job they were sent to Washington to do. It seems to me that in addition to bringing about the revolution they have spoken of so often in the past 15 months, their responsibility, as the majority party, is to make sure that the trains run on time. Well, Mr. Speaker, not only have the trains not run on time in this Republican Congress, we have had to live through two major train wrecks, and now, nearly 7 months into fiscal year, most of the train is still off the tracks.

But, Mr. Speaker, my Republican colleagues have added insult to injury by asking this House to once again impose martial law. And what does martial law do, Mr. Speaker? Quite simply, martial law allows a majority to disregard the rules that they once so vigorously defended when they were in the minority. For 4 continuous months the House has operated under procedures that, had they been imposed by the Democrats, my Republican friends would have screamed bloody murder.

Today the Republican leadership plans to bring up the sixth martial law resolution of the 104th Congress. The resolution allows the Speaker to bypass the regular committee process and bring legislation immediately to the House floor without the normal 1-day layoff period required by the rules of the House. Usually this extraordinary authority is granted only in the final days of a session as adjournment approaches. But under, Republican control, the House has operated under martial law continuously for 4 months, from November 15 through March 15. Today they plan to extend that authority again until April 1.

In the Democratic 103d Congress the House operated under martial law for a total of 5 days with no martial law resolution lasting more than 1 day. In this Republican Congress a single martial law resolution, House Resolution 330, lasted 50 days. In the Democratic 103d Congress each martial law resolution applied to only one bill. Under the Republican control all martial law resolutions have applied to entire classes of bills encompassing everything from spending bills to Bosnia.

So, Mr. Speaker, I am going to make an offer my Republican colleagues should not be able to refuse. Let us go back to regular order and use the rules which have in previous Congresses served both the majority and the minority. Let us not circumvent the rules and undercut the democratic process in an effort to cover up the fact that the Republican majority cannot do its job.

I intend to oppose ordering the previous question in order to be able to offer an alternative rule which strikes the martial law provisions recommended by the Committee on Rules Republicans. I think that after 7 months of delay, if the Republican majority is serious about finally funding the Federal Government, the very least the Republican majority can do is offer the Members of the House the opportunity to take the time to read the bill. Martial law does not give anyone, Republican or Democrats, such an opportunity.

So I would encourage those Members across the aisle who are serious about maintaining democratic, with a small "d," principles to vote again the previous question and to support my alternative to the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think initially here we need to clarify a couple of points.

Mr. Speaker, I think at the very initial stages here we need to correct or clarify some of the statements made by my respected friend, the gentleman from the State of Texas [Mr. FROST]. Circumvent the rules? I think the gentleman is confused. This is the rule. That is why we are down here today.

The gentleman and I were both in the Committee on Rules last night. The gentleman did not ask for two rules. We had a voice vote. I did not see this kind of vigorous debate in the Committee on Rules last night. This is kind of a blind side that we are getting down here.

What we are asking for is approval of a rule, and then from that rule let us go into the debate. Let us talk about he comes up with this magic phantom word called martial law. Again, in due respect to the gentleman from Texas, I call it economic common sense. What does he want to do? Stop the Government?

Of course, some leadership on the Democratic Party would like to stop the Government because this is an election year. This is a very convenient time to try to put blame on the Republicans, who have brought more economic sense to this Government than any governing part of this body has brought for 40 years.

We have got some tough decisions to make here. We have got to move this thing forward. We have got negotiations going on between the administration, the President of the United States, between the U.S. Senate and between the U.S. House. We need to allow them some continued time for these kind of negotiations.

We are changing, Mr. Speaker, the habits of this House. We are changing 40 years, in my opinion, of bad habits. We cannot do it overnight. My colleague has got to allow the parties good faith, and he has got to allow them time so that these good-faith negotiations can continue. I do not think it helps the negotiations, it certainly does not help the relations between the two parties on this House floor, to use some of the types of exaggerations that I have just seen in the previous statement.

I would urge my colleagues, look beyond the political aspect of this, put aside the fact that we are in an election year right now, and let us move toward the best interests of this country, and that is called economic common sense.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

If I understand the previous speaker, he is generally making two points. One is that the ends justify the means; and, two, that democracy is a very dangerous thing. What law we are asking for is that this House follow the rules of this House that have been followed for years and years when Democrats were in the majority. The question is are we going to suspend the rules of the House and not require a 1-day layover, a simple 24-hour layover for the House to have a chance to read bills before bringing up a rule on the floor of the House. We very rarely did that when we were in the majority, and only at the end of a session, and only for 1 day at a time.

The new majority wants to suspend the rules of the House for 4 months. I guess they consider democracy very dangerous. The ends perhaps do justify the means in their view, not in mine.

Mr. Speaker, I reserve the balance of my time.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let us again address the points from the fine gentleman from the State of Texas. We have got to have a bill by Friday. Does my colleague want to shut the Government down? We have to have a bill by Friday.

Now, I am sorry we cannot allow for time through next week and the following week to read some of the things that the gentleman would like to read. The fact is this Government continues second by second.

Now, we can either allow it to continue on Friday, or we can shut it down.

Now, today is Thursday. That means we have less than 24 hours, or about 24 hours, to do something to keep this Government operating. It is the Republicans' priority to keep the Government on course, but to run it on an economic course that is going to make common sense to the average taxpayer in this country, and that is a balanced budget.

Furthermore, I think it is important to understand that the waiver that we have talked about here, the narrow waiver, it is allowed by the rules. Suspension of the rules is a rule. The gentleman from Texas [Mr. FROST] has many years of experience on the Committee on Rules; he is a very capable individual. He knows this is not undemocratic; that is how the rules are written. We are utilizing the rules. I would be called out of order, the Speaker would not allow me to continue this debate today, if it was not in the rules. If I am not authorized to be on this floor with this proposal, which, as the gentleman from Texas admitted, the Democrats used while they were in the majority, if I were not allowed to do that, it would not be in the rules. Of course it is allowed.

We have got to have this, Mr. Speaker. We have got to continue to allow this Government to operate in a fiscally sound manner.

Now, again it is a dramatic change in the last 40 years of leadership in this House. In the last 40 years of leadership in this House we have accumulated a debt that is about $38 million an hour. In other words, our Government, right now, is spending about $38 million an hour more than it is bringing in. We cannot do that. No country in the history of civilization, no free country in the history of civilization, has survived with the kind of economic factors that we now have in place the way this Government has been run the last 40 years.

The gentleman from Texas [Mr. FROST] knows it, the gentlemen and the gentlewomen from all the 50 States in this Union know it. We have got to face up to fiscal reality, and that means that we have got to get some resolution, we have got to allow time for negotiations, and this rule allows it, and that joint resolution will allow the Government to operate in a commonsense, good judgment fashion.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Michigan [Mr. BONIOR], the Democratic whip.

Mr. BONIOR. I thank the gentleman from Texas [Mr. FROST] for yielding the time this morning.

Mr. Speaker, the distinguished political analyst, Kevin Phillips, has said that this is the most unproductive Congress in the last 50 years. I have been here 20 years, and I have never seen this place run so poorly, so inefficiently, and without care and deliberation.

What this resolution we have before us does, is say to virtually all Members of the Congress, at least the House, and all of the public, "You can't participate."

Now, what do we mean when we say martial law? The gentleman from Texas [Mr. FROST] has referred to this word, martial law. It means that the Speaker and the majority leader can bring legislation to this floor without going through the committee structure, without hearings, without giving us even a day's notice, bring it right to the floor, and we vote on it, and, as Mr. FROST has said earlier, this is being done for the fourth month in a row. Seventy-three percent of all the bills that have been brought to the House floor have gone right to the floor without committee consideration or approval this year, 73 percent.

Mr. Speaker, we started this Congress by shutting down voices, by closing the Black Caucus, the Women's Caucus, the Hispanic Caucus, and then there was an attack on public television, there was an attack on the Endowment for the Arts, closing down those important voices in our society, and now it has gotten to the point where Members of this body cannot even participate in committee hearings or committee votes, everything dumped right on the floor.

Mr. Speaker, the tragedy with this is it is not getting anything done. It is not getting anything done. This is the sixth martial law resolution we have had on the floor. We are going to be into our 12th continuing resolution in a few minutes.

□ 1045

Yet, we still have not done five appropriation bills from the 1996 fiscal year. We are going backward. We are not getting anything done. It is not me saying it, it is respected Republicans on the outside who are looking in and saying, "What in God's name is going on up there?"

How does this affect the general public? When you stop and you go and you stop and you go in terms of these resolutions, you throw a lot of uncertainty out there into the public. School boards and school officials all across the country are trying to plan their school year in September. They are trying to figure out how many teachers they need next year, they are trying to figure out the curricula, they are trying to figure out class size. They cannot do that because we have not dealt with the education budget of this Nation from a Federal perspective.

The cuts that have been proposed by the Republicans have been in the neighborhood of $3.3 billion, cuts in the

DARE Program, the Safe and Drug-free Schools Program, cuts in the Title I Program, which is for math and reading; 40,000 to 50,000 teachers getting pink-slipped all over the country, because they have not done their business.

This is a Congress of do little and delay. They have done little and they have delayed, and they have delayed. My friend, the gentleman from Colorado [Mr. McInnis], has had the nerve to stand up here and talk about shutting down the Government. They shut down the Government twice at the cost of $1.5 billion. That is what it costs to shut the Government down, $1.5 billion.

Mr. Speaker, there is a better way to run this place. The fair way to do it is to let the public participate, the Members participate, have up and down votes, give us a chance to offer the amendments that are necessary to keep our schools open, to take care of our toxic waste sites. We have toxic waste sites that are not being dealt with because they have not provided the money.

There is a better way to do this, Mr. Speaker. I ask my colleagues to vote against this rule, and to look closely at what the gentlemen on the other side of the aisle and the gentlewomen on the other side of the aisle are offering us in the 12th continuing resolution, which is closed for debate and for consideration by most of the Members of this body and by the American people.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is obvious from the previous remarks that we are into an election year. Let us look at the remarks made by the gentleman from Michigan. First of all, clearly, none of this would have happened, and I do not believe the gentleman's statistics are right. If 50,000 or 40,000 teachers got their pink slips because we said the Government had to operate with a balanced budget, maybe, if in fact that many got pink slips as a direct result of the negotiations here, it happened because President Clinton vetoed and vetoed and vetoed and vetoed and vetoed the budgets that we have given to him.

We are trying to get cooperation from this President. I can tell the Members, we have moved the President a long ways. Did Members ever think we would see this President saying that the era of big Government is over? Did we ever think we would see this President talking about a balanced budget? Finally we have gotten him to that point in the negotiations, but this takes time.

Mr. Speaker, let me point out, too, to assist the gentleman from Michigan, we have a Webster's dictionary up here. He keeps using this words "martial law," as if the gentleman knows what it says. He is not using it in its proper context. Let me talk about martial law, as given to us by the Webster's dictionary: "Martial law," "The law temporarily imposed upon an area by State or national military forces," military forces, "when civil authority is broken down, or during wartime military operations."

If the gentleman wants to continue to use the term "martial law," then he should clearly stand up here at the podium and talk about, under his definition of martial law, the times the Democrats used it in 1993. I have it right here. House Resolution 61, February 3, 1993, they did exactly the same thing. It is allowed under the rules. House Resolution 111, March 3, 1993, allowed under the rules. House Resolution 142, March 30, allowed under the rules, the same exact thing.

Mr. Speaker, if the gentleman and the gentlewomen from the other side there are trying to continue this argument, which clearly is a diversion from what we need to do, that is to cooperate toward a balanced budget, to cooperate keep this Government operating, if they want to continue to divert attention by using these terms, they should apply them to themselves. We are learning from them. We are using the rules. I could go on and on with this.

I think it is critical to understand that while the President has continued to veto, veto, veto, veto, and veto, we must, as a result of those vetoes, continue to negotiate, negotiate, negotiate, and negotiate. Do Members know what is going to happen as a result of those negotiations? At some point we are going to reach a compromise, a compromise that is good for the American people.

I know the gentleman from Michigan [Mr. Bonior], and I must say right off the bat, I am not educated at an Ivy League school. I went to a very small school in the mountains of Colorado. I think I am very capable, but not able to quote great scholars. He quotes a distinguished scholar about his analysis of what is happening here in the U.S. House.

Let me quote a couple of people: My buddy Al. He is a rancher, he is not an Ivy League graduate, but do you know what he analyzed? He said "It is about time, it is about time that somebody insisted that this Government, that this Congress, run its budget like every average American citizen has to do. It is about time somebody had enough guts to stand up to the bureaucracy in Washington, D.C. and demand that a balanced budget be in place. It is about time somebody called the President on these vetoes after veto after veto."

Those are the kinds of quotes I can give. I can talk about Linda, I can talk about Betsy. These are just common folk out there. They know what it means to have a balanced budget. They have to balance their checkbook. So let us not use these diversionary tactics, first of all, by using this term "martial law," unless, of course, you want to apply it to yourselves, as you used it for the last several years.

Let us talk about unity in working toward a balanced budget to bring this Government to an economic, sensible, type of plan that will move us forward in a positive fashion.

Mr. Speaker, let me say that sometimes it is easy for people who observe us debating on this floor to go away with a pretty pessimistic attitude. I am optimistic about the future of this country. I think we have a great future ahead of us. But we do have some responsibilities that we have to carry forward, so the greatness of this country can continue. Those responsibilities right now center on fiscal responsibility. In order for us to get to that fiscal responsibility, we need to pass this rule.

Mr. Speaker, I should point out once again, and again, we can tell it is an election year. We were just in the Committee on Rules last night, so I have lost my memory on what occurred. We did not see this kind of rancor last night. We did not see this kind of debate in the Committee on Rules. In fact, this passed on a voice vote. Do Members know why? Because it is a procedure that has been used in the past, it is a procedure that is necessary to keep this Government from shutting down by tomorrow. I urge that Members support the rule. I urge that we support the House joint resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, what we have before us today is conclusive proof that the governing Republican majority in this Congress is both incompetent and does not care about democracy. The gentleman just mentioned that Democrats suspended the rules during the last Congress. We did that for 5 days on five different occasions, 1 day at a time. They have done it for 4 months now, and they want to do it even longer than that. There is a basic disagreement on democracy, on how we should function as a democratic institution.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. Nadler].

Mr. NADLER. Mr. Speaker, the remarks of the gentleman from Colorado are irrelevant * * * He talks about the suspension of the rules, as if——

Mr. McINNIS. Mr. Speaker, I ask that the words be stricken, the words of the gentleman be stricken.

Mr. NADLER. Mr. Speaker, I did not refer to the gentleman in any way. I said his remarks.

Mr. McINNIS. The gentleman referred to the gentleman from Colorado. I ask that those words be stricken.

Mr. NADLER. Mr. Speaker, I said those remarks were * * * I did not say he was.

The SPEAKER pro tempore. (Mr. BURTON of Indiana). The gentleman will suspend. The gentleman will be seated.

The Clerk will report the words.

□ 1055

Mr. NADLER. Mr. Speaker, rather than waste time, I will withdraw the remarks.

The SPEAKER pro tempore. Without objection, the gentleman withdraws the remarks.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York may proceed in order.

Mr. NADLER. Mr. Speaker, let me say that most of what the gentleman from Colorado was saying is irrelevant to the point that we are making. The relevance of the balanced budget, the merits of the economics of both sides of the House and of the President are not what is at issue here. What is at issue is an abuse of the rules of the House.

The procedure for suspending the rules and what we call martial law is for an emergency. Instead, it is being used for every single day of this Congress, every single day of this Congress, not to give Members the right to read the bills, to have a bill on the floor without a 1-day layover so we can read them and look at them, to take bills away from committees, put them on the floor without consideration. In an emergency, maybe. The gentleman says it is an emergency. The Government will shut down unless there is a continuing resolution.

No. 1, why do we not have a continuing resolution, instead of lasting a week or two, that lasts until a budget agreement is reached or for the balance of the year? But forgetting that, if that is the emergency, why does the gentleman not ask for a rule that suspends the 1-day rule for 1 day for this bill? Not for another few weeks and keep it going that way.

The gentleman says it is within the rules to suspend the rules. Of course. There is that emergency provision, but this is an abuse of it. Lots of things can be done legally. The Reichstag passed the Enabling Act to give certain powers to the chancellor legally. That was an abuse of an emergency provision. Look what it led to.

I do not compare this to that, but it is the same abuse that eliminates democratic procedures. There is no necessity for it. Let them have a 1-day suspension, if necessary, so we can do this continuing resolution that is made necessary by the irresponsibility of the Republicans by not bringing it up earlier and by refusing lengthy CR's.

But let us not let that excuse be used to say we need to suspend the rules so that the Speaker can at any time bypass the committee, bring brand new legislation to the floor without even a day for Members to read it and a day for the Members of the public to read it. That, sir is an abuse of the Members and of the public.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

I certainly respect the comments from the gentleman from New York, and I think that his point is a valid point. It is that exact reasoning from the gentleman from New York that the Democrats, when they were running this House floor and they had control of the Rules Committee, used exactly what he is talking about, using the word "emergency."

Let me refer the gentleman from New York to House Resolution 111, this is March 3, 1993, relating to the emergency unemployment compensation. We can go on from there to House Resolution 150 on March 30, 1993, making emergency appropriations. We can move on from there to House Resolution 153, making emergency appropriations, so on and so forth.

Mr. Speaker, I am going to try and pull us back. I would love to engage in debate with the gentlemen from the other side of the aisle. I think it is exciting. But the fact is we have got to get on with business. The fact is we need to keep this Government up and operating. The fact is we need to operate this Government in an economic, fiscally sane way. So let us pull it back to where we are today.

What are we debating right now? We are debating a rule. This is not the first time that this rule has been debated. In the past this rule has been utilized when the Democrats controlled the chair up there, and now the Republicans intend to use this rule. We need to have it.

Yesterday we debated this rule in the Rules Committee. We did not see this kind of vigorous debate in the Rules Committee. The only time we have seen this kind of vigorous debate is when we are down here on the House floor. Because up in the Rules Committee, we know that we have got to cooperate to keep this Government open tomorrow. That is what we are down to. We are down to 1 day. We are down to 24 hours.

Some would say, well, why did you let it get this close? The fact is very simple. We have got good-faith negotiations going on right now between the administration, between the Senate and between the House.

We can shortcut those negotiations. If we do, it is going to shortcut all of us. It is going to fall way short of a goal that I think, once we put the politics aside, once we put the election year aside, a goal that we want, for this country to be fiscally sound.

We should support this rule. This rule is important for us to move on. As I said, and again I stress this, this rule has been used in the past when the Democrats headed the Rules Committee, and we are using it today. It is not a subversion of democratic procedure. It is an allowed rule up there. The reason for it is for the very kind of circumstances that we face today.

The option, of course, is to go ahead, vote down the rule, as has been proposed by some Members who have taken the opposite stance of mine, and close down the Government tomorrow. We do not think it is necessary to close down the Government tomorrow.

We think you should support this rule and help us keep the Government open. We think your idea of closing down the Government by voting down this rule is not a good idea. It does not make sense. Work with us on this. Help us keep this Government operating for the next few days while the negotiations continue.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, the gentleman from Colorado movingly referred a moment or two ago to his friends in Colorado who speak common sense and my friends, Betsy and Al and others, are of much the same mind. They know a couple of things, too. They know people have to pay their bills on time, and they sure hate it when they lose their job because somebody else did not do their job. That is what this debate is about.

There is a lot of talk about martial law and whether it is an unusual remedy. It depends on the circumstances. Yes, Democrats did use it for 5 days over a 2-year period and then limited it to one bill at a time. In the Republican majority in this Congress, not yet finished, they have used it for 4 months and covered whole classes of bills.

The definition of an emergency is interesting. They are approaching the definition of emergency about as long as Fidel Castro and Chiang Kai-shek and Generalissimo Franco used their definitions of emergency.

Because what is this martial law resolution? It permits you to skip committees, it permits you to avoid 1-day layovers so Members can read bills. It sets up a situation so your representatives do not know what is in those bills when they vote on them. This is a very, very serious matter. Now they want another one, the 11th this year, to go until April 1, not 1 day, not one bill, April 1.

The gentleman from Colorado speaks about economic common sense. Let us talk about common sense, economic common sense. We are 6 months into the 1996 budget year. Incidentally, they are already trying to work up the 1997 budget even though we do not have a 1996 budget yet. We are 6 months into the 1996 budget year. There have been 11 temporary spending resolutions and another 2 weeks of uncertainty coming up. This is businesslike?

Because the Republican leadership cannot operate the House and cannot agree on a budget, others must suffer. When this next continuing resolution expires on April 1, the West Virginia school boards, 55 of them, will have had to have laid off 226 teachers, 90 aides and denied title I reading and math services to 6,500 students. That is economic common sense, I ask you?

The gentleman says that economic common sense is necessary. What kind of economic common sense is it that costs teachers, that costs parents, that costs children these opportunities, and is only going to suffer more setbacks?

Let me talk about why they want martial law or why I believe that what happens because of martial law, because nobody knows what will be in the bills that come to the floor. Understandably, they do not know yet. They have not written them. They do not know yet what is in them. But I have to be honest, given what has come in the past, I would not want to know what is in them, either, because it is just better that way.

What finally bothers me is when I hear this analogy that somehow if we do not vote for this, we are 2 days away from the deadline and you are going to shut the Government down.

I tried that in my school, too. It does not matter what school you went to, we all tried the same thing. I would go to the teacher and I would say, "You know, 2 days, I didn't have enough time." The teacher would say, "Yeah, Bob, but you had 6 months to work on this budget."

Actually you had a year because you were supposed to have started a year before. I am not impressed and I do not think the American people are impressed, either. That is why this martial law is not good for the Congress and not good for the democracy.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from West Virginia is an excellent speaker. He presents his points well, but I think we need to look at the substance of the points.

First of all, one of the points that the gentleman from West Virginia says, "Hey, we're 6 months into this process and we still don't have an agreement." I will tell you why we do not have an agreement, is because of that veto pen down there at the White House, veto, veto, veto, veto.

When you talk about the difficulties that we have had on a compromise up here, you should also point out, to be fair to all parties listening to this debate, that there are three parties in this negotiation: The administration, President Clinton; the U.S. Senate; and the U.S. House. On some occasions the U.S. House and the U.S. Senate have come to a compromise and it has been the administration which has vetoed these bills and caused this kind of delay.

But let me also say, in fairness to the economic history of the last 40 years, it does make economic sense, if necessary, to delay this process if we can move this country toward a balanced budget, if we can get this country to quit spending more than it brings in.

Sure, you can look at the record of the last 40 years and say there were not very many times, if any, and I do not know that history for sure, but even if there were not any times that they went 6 months beyond that deadline, take a look at the product that we got. The product that we have got is a government that spends $40 million an hour on its debt more than it brings in. The product we have got is it now requires every man, woman, and child in this country to pick up $18,000 on their share of what is going to be necessary to get us out of debt.

It is kind of like running a credit card. Most of us have credit cards. Sure, if you can continue to use the credit card and charge and charge and charge and charge, and nobody ever calls you on it or nobody ever forces you to pay up the bill, then it is pretty easy not to delay buying something because you do not have the money. You just go down and charge it. That is what has happened for 40 years. Now before we let you use the charge card, we are saying, "Wait a minute. Look at how much we owe on the charge card."

Certainly we are going to have to spend some money. Obviously education is a priority for all of us. Obviously we have to have a defense. But we need to spend the money more efficiently. Before we just go down and willy-nilly charge anything we want, we have got to be careful with that credit card. That is what we are saying. That is what these negotiations are about.

I think further, let me say to the gentleman from West Virginia, he continues to use the words "martial law," but at least the gentleman from West Virginia also applied that term when the Democrats had the Rules Committee. I would venture to say to the gentleman from West Virginia, the Democrats did not use martial law when they utilized this rule. We are not using martial law by utilization of this rule.

I read the definition over here from Webster's dictionary, martial law, which involves military forces. It is the utilization of the rules to get us to a common point. That common point, which you are coming to very resistantly, and you are tugging and you are pulling getting to that point but you are moving to that point, is a balanced budget for this country. I think that is the essence of what we have to get to.

You say we misuse the title of emergency. Well, folks, we are going to have an emergency in 24 hours. The clock is ticking. It is ticking second by second. That clock right up there, 24 hours from today, if you do not cooperate with us, you are going to shut this Government down.

We do not want the Government shut down. We want a government that is going to operate in an efficient manner and we are asking for your cooperation to give us some more time for good-faith negotiations. Is that too much to ask from you? I do not think so.

Last night when we were in the Rules Committee, they did not think so. We did not have this kind of argument last night in Rules. Let us pass this rule, let us get a good, healthy debate on the floor and let us keep the Government open.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3½ minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Well, you may not want it shut down this morning, but you were mighty proud to shut it down twice last year. You use this term "civil disorder." You say that martial law is something that we bring into play when there is civil disorder.

Well, what better term to describe the mess that you have made of this Government? Coming to the American people and bragging about your power to shut down the Government, not once but twice, costing the American taxpayer $1.5 billion, frittered away by this Republican leadership, totally and completely wasted so that they could have their Government shutdowns. What do they propose today? Well, they want to erect a monument to the mismanagement, to the failures of this Gingrich Congress.

This year after those two Government shutdowns, what have they given us? Loud talk and long weekends. It took them 3 weeks to celebrate Valentine's Day, breaking from this Congress. They come in and they break a little after noon.

There are people across America that these Republican colleagues of ours simply do not understand. They are working families. They are facing a tough time trying to make ends meet. If they for 1 week were to handle their business in the total mismanagement fashion of our Republican colleagues, taking 5 and 6-day weekends, taking 3 weeks for Valentine's Day, working part-time, asking to be paid full time, and caring about the real problems of the American people no time, then those ordinary working families would be out without a job in their own situation.

At the same time, we find ourselves in these sputtering spurts of Government that occur here with the same kind of extremist rhetoric that we heard all of last year from day one. When Republicans over in the other body hear the cry of the American people and approve money so that we can keep Head Start going instead of giving our young children a wrong start, keep our teachers going with Federal support of education, the response from the House Republican leadership is that the Senate Republicans have somehow been spineless, rather than to commend them for their willingness to finally come around and listen to the American people.

There are programs for young people in this country that are going to be shut down unless this kind of extremism can be put to a halt. We got just this week another example of that same kind of extremism, where we have one Member of this body coming and saying that he heard right here in the House a great Republican say, "'I trust Hamas more than I trust my own government.' Those words hurt."

They do indeed hurt, and they hurt not just the pride of this body. They hurt ordinary working families across this country, because they are the ones that are being savaged, that are being impacted by this kind of extremism in the House that has the Government operating literally from 1 day to the next, without the planning that our local school boards need and our Government agencies need to do their job.

☐ 1115

So what is proposed as a solution? What this rule does is to say they think the solution to it all is to do one thing: Give Speaker NEWT GINGRICH more power. I do not believe the American people think the Speaker needs more power. I think they view him as part of the problem instead of part of the solution.

This allows him to come forward with more sneak attacks, just like tomorrow. Every time the American people realize what is happening to them, they come up with some sneak attack and some distraction piece of legislation. There is only one good feature of this resolution that our Republican colleagues are offering, and that is this authority is going to expire on April 1. Yes, they quite appropriately picked April Fools' Day. I say the American people are not going to be fooled again by this kind of nonsense.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I find it somewhat amusing that the gentleman defines a sneak attack as an attack that comes tomorrow. That is not too sneaky if it is coming tomorrow.

Second of all, the gentleman talks about how the Republicans have stretched Valentine's Day for 3 weeks. I would let the gentleman from Texas know, I actually got to spend Valentine's Day with my wife, and I wish I could have figured out how to stretch that for 3 weeks, because it was a wonderful day.

Let us get back to the rule here. You want to vote against this rule, then you want to shut down the Government. That is how simple the choice is. It is the bottom line. We can talk about quotes here and there, and we can bring in posters and jump up and down and talk about all these kind of things. But the fact is, if you want to vote against the rule, you vote to shut the Government down tomorrow. No way around it. It is that simple. If you vote against the rule, you shut down the Government tomorrow.

I do not think that is what you really want to do. I think what you really want to do is cause a little havoc, and that is certainly within the debate here. I do not think that is going to get us anywhere. I think we have to pull back, unify, and work towards a balanced budget. You talk about the word "extreme," this word "extreme." What I think most Americans would define as extreme is that you up here, some of you, decide to vote against a rule, this is a procedure, a procedure that has been used by the Democrats, a procedure used by the Republicans, that you would vote against a rule just to demonstrate a point to shut down the Government tomorrow.

Do not shut it down. You do not need to shut the Government down tomorrow. That would be an extreme move. I would hope that the gentleman from Texas votes for this rule, because if you do not vote for the rule, then I think the next logical step is using the definition of the word "extreme." It shuts the Government down.

Again, let me remind my colleagues, last night when we were in the Committee on Rules, we did not have this kind of debate. The members of the Committee on Rules on both sides of the aisle understood that we need to continue to operate the Government. They understood that we can operate in a positive fashion. Now we have got a little insurgence, coming over here today saying, hey, this is a bad rule. For some reason, we could use the rule, but you cannot use the rule. We see all these kinds of words being used, "extreme, extreme, extreme."

I would suggest we use the words "veto, veto, veto," and once we are through with that debate, let us get to the issue at hand, and that is to vote "yes" on this rule so we can keep the Government from closing down tomorrow.

This is serious business. If we do not pass this rule, this Government is shutting down tomorrow. So let me urge all of my colleagues, let me say to you, Democrats, if you really want to push it, you may win the battle, you may beat the rule, but you are going to lose the war. And who loses if you lose? We all lose. Tomorrow we have got to keep this Government operating. There is no reason. In the past there has been, I think, logical argument on both sides that you have to bring an operation to halt that is spending $38 million an hour more than it brings in. But tomorrow, you do not have that kind of justification. You do not need to shut this Government down. Vote "yes" on this rule and keep the Government in operation.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, my colleague on the other side of the aisle is a little confused. I have listened to him and listened to him and tried to understand what he is saying. He obviously is confused. Let me see if I can set it straight.

We are not suggesting that the CR should not be brought up. The CR will be brought up today, should be brought up today, even under what we are suggesting. The only thing that we are asking is that the martial law provision of this rule be stripped out. Strip that out, you still bring the CR up today, because the CR is laid over 24 hours. That is all we are asking.

The gentleman seems to be very, very confused. He seems to think that if we won the previous question and we were able to strip out the martial law provision, that the CR could not come up. That is not the case at all. The CR would come up. It would be the next order of business.

I guess perhaps the staff on the other side may explain that to the gentleman, that even if we win, that the CR will be voted on today. I know it is a little hard to follow, what goes on around this place sometimes, but we are not suggesting the CR should not be brought up. We are suggesting it should be brought up, voted on today, so the Government can stay open.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, today what we are seeing and what we are listening to is another consequence of the incompetence of those who run this House. The resolution that we debate will grant Speaker GINGRICH extraordinary powers to bypass the regular process of this body and to bring bills immediately to the floor. What does this mean? No time to read the bills, no time to understand what is being voted on, no time for committees to air the process.

It is a subterfuge, a way in which you want to hide what you truly want to do.

We have precedent here: The Medicare debate, its Medicare debate, one hearing on dismantling the Medicare Program, which serves 99 percent of the seniors in this Nation. However, we were able to expose what our Republican colleagues wanted to do about Medicare, and now they have backed off of that issue.

This is a subterfuge tactic to hide what they want to do. The incompetent management has consequences in the lives of working families. Medicare is an example. As we lurch now from one short-term spending bill to another, citizens, businesses, have no idea what the Federal Government is about. My State of Connecticut, the educators are contemplating cutting reading, writing, mathematics programs, for our kids, the programs that talk about making our schools safe for our kids, providing the opportunity for high school students through school to work to be able to move into a profession. College loans will be cut. They do not know in my State of Connecticut what the Federal Government wants to do in funding for education. They are unable to plan for the school year.

I say to my colleague from Colorado that your friend Al's children are in serious jeopardy. Let us not give NEWT GINGRICH any more powers. Let us do the people's business, pass a budget that reflects the values and priorities of this Nation.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do find the previous Speaker's comments entertaining, but I think it is important for us to address the comments of substance, and those are the comments from the gentleman from Texas. The gentleman from Texas is correct, I am confused, because last night in the Committee on Rules, we offered two separate rules specifically to the gentleman from Texas. I remember his comments. I was there. I was right opposite him. We said to the gentleman from Texas, "Mr. FROST, would you like two rules?" The answer was no.

Now, why two rules? One rule, if you are having a problem with the waiver of the bill, then we will give you a separate rule on the continuing resolution which will stop the Government from shutting down tomorrow. Then you can have a separate rule on this debate on the waiver or on the procedure we are using.

The gentleman from Texas said no. Now I am confused. If he is not attempting to shut down the Government tomorrow, why did he not ask for separate rules last night? It is very clear. The fact is, there is a little game playing going on here. That is OK. We are in a debate. But it gets real, real serious here in about 24 hours. You are going to shut down that Government if you vote "no" on this rule.

Last night, if you were really serious about your objections to the waiver we have requested, you should have asked, you had the opportunity to ask, and you did not ask, for a separate rule. You could have had a separate rule. You did not ask. You did not go after it for the continuing resolution.

Then maybe some of the comments you would have made would have had more merit to me. As we stand right now, we are playing, again as I say, a very serious game with the lives of 240 million Americans when we do not need to. We do not need to shut down the Government tomorrow. We are not at that point in a crisis. We are not at that point in our negotiations where it requires a shutdown, where we walk off the job. Let us stay on the job. The way we stay on the job is you vote "yes" on this rule. If you want to shut down the Government, then go ahead with this game playing, vote "no" on the rule, and then we will see who is confused tomorrow night at about midnight.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, I rise today against this closed rule. This is just another example of this 2-year experiment, which we have to call the Republican control of Congress. I think in order to evaluate this experiment, we need certain things. We need to look at issues and numbers.

The first issue is priorities. This Republican Congress wants to cut $3 billion this year from education. Another number, 22. It has decided, this Republican Congress, to cut 22 percent of the environmental protection moneys. That is the protection for health for our children.

Another issue, failures. Another number, 11. This Republican Congress has tried to shut down the Government, or actually failed to keep the Government going, 11 times.

Now, in 208 years, that has never happened before. The U.S. Congress has never threatened to shut down the Government 11 times.

Another failure is five, and another number, five. That is the number of appropriations bills from last year that have not yet been passed this year.

Value, what about value? Well, there is the number 133,000. That is what Members of Congress get paid in order to run the Government, in order to do their job. Well, I would say that the Republican majority has not been able to do its job, so I would say that the American public really has not got their money's worth from this Republican control of Congress.

Mr. Speaker, I rise against this closed rule, another closed rule, and I rise against the priorities of this Republican Congress.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to the gentlewoman, let me tell you, there is a big priority right here in front of you, it is in front of me, and it is in front of every one of our colleagues, and that is if you do not vote on this rule and we lose the rule and we shut down the Government tomorrow, that should not be the priority, the shutdown of the Government. We do not need it. The negotiations are not there.

Our priority, the Republican leadership's priority, is to try to keep this Government operating. Now we are trying to negotiate in good faith with the President. All we get is veto, veto, veto, veto, veto, veto, veto, but we think we can negotiate something. We think we should continue the good faith negotiation.

We do not think you need to shut down the Government tomorrow to prove your point that you are displeased with the Committee on Rules. If you are unhappy with the Committee on Rules, come up and have your representative on the Committee on Rules entertain a motion.

Certainly yesterday the members of the Democratic Party on the Committee on Rules had every right, they did not do it, they could have done it, but they did not do it, to offer a motion to have two separate rules. In fact, it was members of the Republican side of the aisle on the Committee on Rules that asked the gentleman from Texas [Mr. FROST], on the Democrat side, would they like two separate rules? The answer was no.

I will tell Members, the cooperation last night in the Committee on Rules was good. It was excellent. But you cannot hardly believe in less than 24 hours the cooperation we saw upstairs in the Committee on Rules has developed into this. There has not been any tough negotiations or disagreements between us in the last 12 hours. What brought this on?

Come on folks. We have got to keep this Government going. We can do it. Vote "yes" on this rule. It is absolutely essential if we want to keep the Government operating.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I sympathize with the gentleman from Colorado. He has been left all alone on his side to defend this latest trampling of open procedures, and he is a little testy because he apparently thought he had a nice deal worked out last night and democracy has broken out on the floor of the House. I understand that is unsettling, but he has to learn to live with it.

On the other hand, I want to give him credit. Some people think others do not learn things. Clearly he at least has learned that shutting down the Government is a terrible idea. He has several times today talked about how outrageous it is to shut down the Government. One would not infer from that he is part of the majority that made a habit of shutting down the Government as a deliberate tactic. People boasted about shutting down the Government.

Well, they have learned that was not a good thing and the gentleman from

Colorado has the zeal of a convert against shutting down the Government. He has joined Government-shutters-down-anonymous. We are on a 12-step program. Unfortunately, it does not include democracy.

What we are being told here is you may not continue to debate these issues openly. You may not have the rules which say you got to wait a day so we can study this big thing. He says you better do this in a hurry or we will shut the Government down.

Why is that the case? Because the Republican majority has not been able to run the place sufficiently to give us enough time. So, yes, they have created an emergency from which they now want to profit.

They are asking us to sacrifice democratic procedures on the altar of their own incompetence. I agree, it is an imposing altar. I have never seen incompetence so dazzlingly displayed. But I do not think that is a justification for shutting down fair procedures.

What is their justification? "Well, you guys did it, too. You guys did it." Every time we talk about one more procedural outrage, they go to the history books and they say "Hey, the Democrats once did that."

Well, as I recall, the Republicans ran in 1994 on a slogan of "Throw the bums out. They have run the House unfairly, they have been undemocratic." Speaker GINGRICH, whe he was still Speaker, before he kind of deposed himself and put ARMEY in charge, he used to talk about that.

Now what do we have? Every time the Republicans get in a bind because of their own incompetence, they decide to do some shortcut that they used to attack us for. So they used to run on the slogan "Throw the bums out." Then they decided to take power and emulate us, and this year apparently their slogan for reelection will be, "Keep the bums in."

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think there ought to be a new song and dance out there called veto and spend, veto and spend, veto and spend. The gentleman ought to mention a little of that in his comments, the gentleman from Massachusetts.

But let me also say to the gentleman from Massachusetts, I respect his compliment that I have unilaterally had to take on speaker after speaker after speaker here for the last hour. Bring on your best. I think I can handle it. I am ready for it.

The issue here is not whether or not we have had a great debate in the last hour, and I think we have. Certainly it has been somewhat entertaining. The fact is this: If we do not pass this rule, if we carry through with the gentleman's comments to vote no on this rule and this rule loses, we will close this Government down tomorrow.

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As I have said, there are times where it may be necessary to close down the Government for a temporary period of time. This is not one of those times. My colleagues do not need to bring this battle upon themselves. Do not do it. Do not do it to the American people.

Vote "yes" on this rule and keep that Government operating tomorrow. I can tell the Republicans intend to vote "yes" on this rule. We do not think it is time to close down the Government, and we urge them to reconsider their strategy of closing down the Government tomorrow. Do not do it. Vote "yes" on the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, today is another one of those sad days in the history of the 104th Congress. Today, once again, you are seeing the Democratic minority gagged basically by the Republican majority. They are going to, by passing this rule, be able to take up legislation in the foreseeable future all the way to the 1st of April, approximately, without going through the normal process of the rules of the House.

This is not new to the 104th Congress. This is a way that the 104th Congress, under Speaker GINGRICH, has operated for over a year. Yet, a little over a year ago in this well, the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules, said that we were going to have openness in this Congress, we were going to have over 75 percent of the open rules. Where is the open rule?

So far this year, major legislation, the farm bill, antiterrorism, today we will finish immigration, all of those, major legislation, every one of them, closed rule, semi-closed rule. No open rule. Not letting Members who are elected by their constituents to this house, to this democratic body, any democracy at all, not letting them talk about their amendments and offer their amendments.

Mr. Speaker, no, there is no democracy in this great House of Representatives. This bulwark, this great light for every other nation, we do not have democracy. We have a dictatorship, a strong dictatorship, one that rules with an iron hand and tells Members they do not have to participate. In fact, we cannot even participate in the operation of this House and what legislation goes and what amendments are offered and even what debate is had.

They are limiting time. Even if we get to offer an amendment, opponents to it cannot get up and speak unlimited on it and discuss it. No, no, 10 minutes, 15 minutes for a major amendment. Why? Because they want to run this House with an iron hand, not with openness, not with democracy. There is no democracy in this House of Representatives.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

It is awfully hard not to like the gentleman from Missouri. His comments are amusing, but his comments certainly are not relevant here. He talks about the fact that I, as a representative of the majority party here today, am trying to gag the minority party. I think he probably had 20 speakers, I have spoken this entire time, he has had 20 speakers. There is no gagging going on here.

Let me just say that these comments are all fine, and it may play good for the liveliness of this debate because sometimes these rule debates get pretty boring; but the fact is this. Your President, our President, the President of the United States agrees with this continuing resolution. He does not want to shut down the Government tomorrow. So I urge my colleague to call his President, call our President, call the Democratic National Committee and say, should we really vote no on this rule and shut this Government down? Is this the right strategy to pursue, to shut down the Government tomorrow? It is a darned risky strategy. I do not think they are going to succeed.

Mr. Speaker, I am trying to offer some advice to the Democrats over there that are urging a "no" vote. Do not do it, it will backfire on you. Do not shut down the Government. Work with us on this rule. Cooperate with us. The President is going to sign it. It does not take a rocket scientist to figure this thing out. We have got to keep the Government operating tomorrow.

The gentleman talks about fairness and a gag, the minority leader has the right to offer the final amendment tomorrow to the gentleman from Missouri. We did not gag him. We did not gag any of them in the last hour. There is plenty of time for debate. But do not let that debate run the next 24 hours and shut this Government down. Because if they do, they are making a mistake. We do not need to shut the Government down.

Vote "yes" on this rule or take the option of shutting it down. Do not do the latter because it will hurt every man, woman, and child in this country.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge a "no" vote on the previous question. If the previous question is defeated, I shall offer an amendment to the rule which will provide an open rule for consideration of a clean continuing resolution without the martial law provisions. These extraordinary procedures would allow the House to bring up a series of budget bills without the normal 1-day layover period required by the rules. It's time to return to the regular order and live by the rule which protects the rights of Members on both sides of the aisle.

I include for the RECORD the text of the amendment I would offer if the previous question were defeated.

AMENDMENT TO H. RES. 386

On page 2, strike all after line 9 through the end of the resolution.

On page 1, strike lines 1 and 2 and insert: "*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the joint reso-"

On page 2, line 4, after the period add the following:

"After general debate the joint resolution shall be considered for amendment under the five-minute rule. At the conclusion of consideration of the joint resolution for amendment the Committee shall rise and report the joint resolution to the House with such amendments as many have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the joint resolution."

Explanation: The amendment to the resolution strips out the martial law provisions of the rule and provides on open rule for consideration of the short-term continuing resolution.

Mr. Speaker, every single rule the House has adopted this session has been a restrictive rule; yes, you heard that correctly, the Republican House has so far adopted 100 percent restrictive rules in this session. And if it is adopted, the rule before us will leave that 100 percent purely restrictive rules record intact.

This is the 62d restrictive rule reported out of the Rules Committee this Congress.

In addition more than 72 percent of the legislation considered this session has not been reported from committee—8 out of 11 measures brought up this session have been unreported.

At this point I include the following information for the RECORD.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 101	To transfer a parcel of land to the Taos Pueblo Indians of New Mexico.	H. Res. 51	Open	N/A.
H.R. 400	To provide for the exchange of lands within Gates of the Arctic National Park Preserve.	H. Res. 52	Open	N/A.
H.R. 440	To provide for the conveyance of lands to certain individuals in Butte County, California.	H. Res. 53	Open	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D; 1R.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min. each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	N/A.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1977	Interior Appropriations	H.Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments preprinted before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority. ***RULE AMENDED***.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title..	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min.); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	ID.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliley amendment (30 min.) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; provides that the first order of business will be the managers amendments (10 min.), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional Record.	N/A.
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min.) If adopted, it is considered as base text; Pre-printing gets priority.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D
H.R. 743	The Teamwork for Employees and Managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a Senate hook-up after adoption.	1D
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes).	1D
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes).	1D
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min.); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min.); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min.) on regulatory reform.	5R
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A.
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A.
H.R. 1788	Amtrak Reform and Privatization Act of 1995	H. Res. 289	Open; waives all points of order against the bill's consideration; makes in order the Transportation substitute modified by the amend in the report; Bill read by title; waives all points of order against the substitute; makes in order a managers amend as the first order of business, if adopted it is considered base text (10 min.); waives all points of order against the amendment; Pre-printing gets priority.	N/A.
H.R. 1350	Maritime Security Act of 1995	H. Res. 287	Open; makes in order the committee substitute as original text; makes in order a managers amendment which if adopted is considered as original text (20 min.) unamendable; pre-printing gets priority.	N/A.
H.R. 2621	To Protect Federal Trust Funds	H. Res.	Closed; provides for the adoption of the Ways & Means amendment printed in the report. 1 hr. of general debate.	N/A.
H.R. 1745	Utah Public Lands Management Act of 1995	H. Res. 303	Open; waives cl 2(l)(6) of rule XI and sections 302(f) and 311(a) of the Budget Act against the bill's consideration. Makes in order the Resources substitute as base text and waives cl 7 of rule XVI and sections 302(f) and 308(a) of the Budget Act; makes in order a managers' amend as the first order of business, if adopted it is considered base text (10 min)..	N/A.
H.Res. 304	Providing for Debate and Consideration of Three Measures Relating to U.S. Troop Deployments in Bosnia.	N/A	Closed; makes in order three resolutions; H.R. 2770 (Dornan), H. Res. 302 (Buyer), and H. Res. 306 (Gephardt); 1 hour of debate on each..	1D; 2R
H. Res. 309	Revised Budget Resolution	H. Res. 309	Closed; provides 2 hours of general debate in the House.	N/A.
H.R. 558	Texas Low-Level Radioactive Waste Disposal Compact Consent Act	H. Res. 313	Open; pre-printing gets priority	N/A.
H.R. 2677	The National Parks and National Wildlife Refuge Systems Freedom Act of 1995.	H. Res. 323	Closed; consideration in the House; self-executes Young amendment	N/A.
PROCEDURE IN THE 104TH CONGRESS 2D SESSION				
H.R. 1643	To authorize the extension of nondiscriminatory treatment (MFN) to the products of Bulgaria.	H. Res. 334	Closed; provides to take the bill from the Speaker's table with the Senate amendment, and consider in the House the motion printed in the Rules Committee report; 1 hr. of general debate; previous question is considered as ordered. ** NR.	N/A.
H.J. Res. 134 H. Con. Res. 131	Making continuing appropriations/establishing procedures making the transmission of the continuing resolution H.J. Res. 134.	H. Res. 336	Closed; provides to take from the Speaker's table H.J. Res. 134 with the Senate amendment and concur with the Senate amendment with an amendment (H. Con. Res. 131) which is self-executed in the rule. The rule provides further that the bill shall not be sent back to the Senate until the Senate agrees to the provisions of H. Con. Res. 131. ** NR.	N/A.
H.R. 1358	Conveyance of National Marine Fisheries Service Laboratory at Gloucester, Massachusetts.	H. Res. 338	Closed; provides to take the bill from the Speakers table with the Senate amendment, and consider in the house the motion printed in the Rules Committee report; 1 hr. of general debate; previous quesetion is considered as ordered. ** NR.	N/A.
H.R. 2924	Social Security Guarantee Act	H. Res. 355	Closed; ** NR	N/A.
H.R. 2854	The Agricultural Market Transition Program	H. Res. 366	Restrictive; waives all points of order against the bill; 2 hrs of general debate; makes in order a committee substitute as original text and waives all points of order against the substitute; makes in order only the 16 amends printed in the report and waives all points of order against the amendments; circumvents unfunded mandates law; Chairman has en bloc authority for amends in report (20 min.) on each en bloc..	5D; 9R; 2 Bipartisan.
H.R. 994	Regulatory Sunset & Review Act of 1995	H. Res. 368	Open rule; makes in order the Hyde substitute printed in the Record as original text; waives cl 7 of rule XVI against the substitute; Pre-printing gets priority; vacates the House action on S. 219 and provides to take the bill from the Speakers table and consider the Senate bill; allows Chrmn. Clinger a motion to strike all after the enacting clause of the Senate bill and insert the text of H.R. 994 as passed by the House (1 hr) debate; waives germaneness against the motion; provides if the motion is adopted that it is in order for the House to insist on its amendments and request a conference.	N/A.
H.R. 3021	To Guarantee the Continuing Full Investment of Social Security and Other Federal Funds in Obligations of the United States.	H. Res. 371	Closed rule; gives one motion to recommit, which if it contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	N/A.
H.R. 3019	A Further Downpayment Toward a Balanced Budget	H. Res. 372	Restrictive; self-executes CBO language regarding contingency funds in section 2 of the rule; makes in order only the amendments printed in the report; Lowey (20 min), Istook (20 min), Crapo (20 min), Obey (1 hr); waives all points of order against the amendments; give one motion to recommit, which if contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	2D/2R.
H.R. 2703	The Effective Death Penalty and Public Safety Act of 1996	H. Res. 380	Restrictive; makes in order only the amendments printed in the report; waives all points of orer against the amendments; gives Judiciary Chairman en bloc authority (20 min.) on enblocs; provides a Senate hook-up with S. 735. ** NR.	6D; 7R; 4 Bipartisan.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 2202	The Immigration and National Interest Act of 1995	H. Res. 384	Restrictive; waives all points of order against the bill and amendments in the report except for those arising under sec. 425(a) of the Budget Act (unfunded mandates); 2 hrs. of general debate on the bill; makes in order the committee substitute as base text; makes in order only the amends in the report; gives the Judiciary Chairman en bloc authority (20 min.) of debate on the en blocs; self-executes the Smith (TX) amendment re: employee verification program..	12D; 19R; 1 Bipartisan.
H.J. Res. 165	Making further continuing appropriations for FY 1996	H. Res. 386	Closed; provides for the consideration of the CR in the House and gives one motion to recommit which may contain instructions only if offered by the Minority Leader; the rule also waives cl 4(b) of rule XI against the following: an omnibus appropriations bill, another CR, a bill extending the debt limit. ** NR.	N/A.

*Contract Bills, 67% restrictive; 33% open. ** All legislation 1st Session, 53% restrictive; 47% open. *** Legislation 2d Session, 91% restrictive; 9% open. **** All legislation 104th Congress 62% restrictive; 38% open. ***** NR indicates that the legislation being considered by the House for amendment has circumvented standard procedure and was never reported from any House committee. ****** Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103d Congress. N/A means not available.

Mr. FROST. Mr. Speaker, as I stated earlier, I am asking for a "no" vote on the previous question. This matter, we fully explored this matter today. I would only point out to the gentleman on the other side the concept of martial law really was a concept that was talked about by a Member on his side of the aisle during preceding Congresses, the gentleman from Pennsylvania, Mr. WALKER, who is still with us, and he may want to discuss that with Mr. WALKER some time. But it is Mr. WALKER, who when we were in the majority, stood up at that microphone when they were in the minority and railed against this procedure time and time again. I have not seen Mr. WALKER on the floor today.

Mr. Speaker, I would be interested to share his observations at this point because he was the leading proponent on your side of the aisle for not suspending the rules, for not doing what you are doing today and have done for 4 months now. I urge my colleagues to vote down the previous question and to proceed with the consideration of this measure in an orderly manner.

Mr. Speaker, I yield back the balance of my time.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let us first start out by advising the gentleman from Texas that the gentleman from Missouri [Mr. GEPHARDT] is the one who first utilized this rule in this fashion. Second of all, I do consider the gentleman from Texas a professional friend. We have had a good working business relationship. But let me offer a little advice. Do not shut down the Government in a battle over this rule. It is not right. It is not going to work, and it is going to backfire on you.

Now, from a political viewpoint, maybe it would benefit the Republicans for you to take the hit on this deal, but you do not need to take the hit. I am putting myself above that partisanship and worrying about 250 million people, 230 million people in this country. We do not need to shut the Government down. That is exactly what you are doing by urging what is, in essence, a "no" vote on the rule. Let us pass the rule. Let us get some more negotiating time for the good-faith negotiations that are going on between the President, the U.S. Senate and the U.S. House.

Mr. Speaker, on this issue of the rule, the gentleman from Texas [Mr. FROST] had the opportunity last night to entertain the type of motions that he is now having introduced into the RECORD. In fact, he did not bring it up on his own initiative, as certainly he had in the past, but he did not bring it up last night. I am not being critical of that point. The point I am making is the chairman of the committee, the Republican chairman, offered to the gentleman from Texas the opportunity to do exactly what he is attempting to do today on the floor.

Mr. Speaker, now they have revised their strategy, and I think their strategy is headed straight for a Government shutdown as that hand moves 24 hours on that clock. We do not want to close this Government down. We should not want to close this Government down. Let us keep the Government open. Let us vote "yes" on the rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BURTON of Indiana). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. McINNIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 234, nays 187, not voting 10, as follows:

[Roll No. 80]

YEAS—234

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—187

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—10

Collins (IL)
Forbes
Johnston
Moakley
Radanovich
Scarborough
Stark
Stokes
Waters
Williams

□ 1159

Ms. RIVERS and Mr. COYNE changed their vote from "yea" to "nay."

Mr. GILMAN changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. SCARBOROUGH. Mr. Speaker, on rollcall No. 80, I was unavoidably detained and was unable to vote. Had I been present, I would have voted "yea."

The SPEAKER pro tempore (Mr. BURTON of Indiana). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 237, noes 183, not voting 11, as follows:

[Roll No. 81]

AYES—237

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—183

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Wise
Woolsey
Wynn
Yates

NOT VOTING—11

Collins (IL)
Cox
Farr
Johnston
Moakley
Radanovich
Solomon
Stark
Stokes
Waters
Williams

□ 1208

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1972

Ms. FURSE. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1972.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

REPEALING TEA IMPORTATION ACT OF 1897

Mr. KLUG. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2969) to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897 and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Tea Tasters Repeal Act of 1996".

SEC. 2. REPEAL OF TEA IMPORTATION ACT OF 1897.

The Tea Importation Act (21 U.S.C. 41 et seq.) is repealed.

SEC. 3. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. KLUG] is recognized for 1 hour.

Mr. KLUG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2969, the Federal Tea Tasters Repeal Act of 1996. This bipartisan legislation repeals the Tea Importation Act of 1897 by eliminating the Federal Board of Tea Experts. It was favorably reported by the Committee on Ways and Means on February 29.

This bill ends the antiquated and outdated requirement that each lot of imported tea meet taste standards recommended to the Secretary of Health and Human Services by the Federal Board of Tea Experts.

The bill also ends the imposition of a Customs Service fee on tea imports that partly finances tea quality inspections. The cost to the taxpayer for matching teas to the quality standards of the Tea Board is over $170,000 each year. Tea is the only food or beverage for which the Food and Drug Administration samples every lot upon entry for comparison to a quality standard recommended by a Federal board.

I believe there is no justification for tea being held to a higher Federal standard on behalf of the tea industry, which should assume responsibility for the competitive quality of its products. The Board of Tea Experts is outdated and the taxpayer's money could be more efficiently used elsewhere.

Under the Federal Food, Drug, and Cosmetic Act of 1938, the FDA will continue to examine and sample imported tea for compliance with health and safety standards. The FDA will ensure that tea is held to the same high level of safety and quality as every other food and beverage entering the United States.

I applaud the sponsors of this bill for introducing a measure which strikes a blow for good government by reducing an unnecessary regulatory burden on American industry and the lives of American citizens.

I urge my colleagues to support passage of the bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—RETURNING TO THE SENATE S. 1518, REPEALING TEA IMPORTATION ACT OF 1897

Mr. CRANE. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a privileged resolution (H. Res. 387) returning to the Senate the bill S. 1518, and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 387

Resolved, That the bill of the Senate (S. 1518) to eliminate the Board of Tea Experts by prohibiting funding for the Board and by repealing the Tea Importation Act of 1897, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

Mr. CRANE (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The resolution constitutes a question of privilege.

The gentleman from Illinois [Mr. CRANE] is recognized for 30 minutes.

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution is necessary to return to the Senate the bill S. 1518, because it contravenes the constitutional requirement that revenue measures shall originate in the House of Representatives. S. 1518 would repeal an import restriction found in current law, and therefore contravenes this constitutional requirement.

S. 1518 proposes to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897. Under the act, it is unlawful to import to the United States tea which is substandard, and the importation of all such tea is prohibited, except as provided in the Harmonized Tariff Schedule of the United States.

The repeal of this provision would have a direct effect on customs revenues. The proposed change in our tariff laws is a revenue-affecting infringement on the House's prerogatives, which constitutes a revenue measure in the constitutional sense. Therefore, I am asking that the House insist on its constitutional prerogatives.

There are numerous precedents for the action I am requesting. For example, on July 21, 1994, the House returned to the Senate S. 729, prohibiting the import of specific products which contain more than specified quantities of lead. On February 25, 1992, the House returned to the Senate S. 884, requiring the President to impose sanctions, including import restrictions, against countries that fail to eliminate large-scale drift net fishing. On October 31, 1991, House returned to the Senate S. 320, including provisions imposing, or authorizing the imposition of, a ban on imports in connection with export administration.

I want to emphasize that this action does not constitute a rejection of the Senate bill on its merits. Adoption of this privileged resolution to return the bill to the Senate should in no way prejudice its consideration in a constitutionally acceptable manner.

The proposed action today is procedural in nature, and is necessary to preserve the prerogatives of the House to originate revenue matters. It makes it clear to the Senate that the appropriate procedure for dealing with revenue measures is for the House to act first on a revenue bill, and for the Senate to accept it or amend it as it sees fit.

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Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. BURTON of Indiana). Does any Member on the minority side seek recognition?

Mr. CRANE. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 165 and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, pursuant to House Resolution 386, I call up the joint resolution (H.J. Res. 165) making further continuing appropriations for the fiscal year 1996, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 165 is as follows:

H.J. RES. 165

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 104–99 is further amended by striking out "March 22, 1996" in sections 106(c), 112, 126(c), 202(c), and 214 and inserting in lieu thereof "March 29, 1996", and that Public Law 104–92 is further amended by striking out "March 22, 1996" in section 106(c) and inserting in lieu thereof "April 3, 1996".

The SPEAKER pro tempore. Pursuant to House Resolution 386, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] each will control 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I come before the House again today regarding funding for the remaining fiscal year 1996 appropriations bills. I do hope that we will have everyone's help to prevent a Government shutdown and allow the House and the Senate conferees on the omnibus wrap-up continuing resolution time to close out this fiscal year and get on with the business of the Congress.

On Tuesday evening, the Senate concluded action on H.R. 3019, the omnibus continuing resolution, making a further downpayment toward a balanced budget. This was a big bill in the House because it addressed big problems. In the Senate it became a bigger bill because they added funding for the District of Columbia as well as providing additional funding, with some offsets, for programs in education and the environment.

We have begun analyzing the differences between the House and the Senate bill, and I might add that the Senate amendment is some 933 pages long, so it has taken us some effort to do so, and we are trying to find out additional offsets to pay for these program increases without exceeding our budget allocations. I have talked with Senator HATFIELD, distinguished chairman of the Appropriations Committee in that body, and it is our intention to get together informally this afternoon to begin the process of working out the differences between the two bodies on the omnibus bill. Both of us are asking the administration to join with us in concluding the business of fiscal year 1996 so that we can indeed move on to the pending budget for fiscal year 1997.

I might just point out that regardless of what happens on this bill or subsequent ones, by December 31, 1996, this year, the 104th Congress ceases to exist. It is going to be over. And in the interim we have about 4 months that are going to be predominantly taken up by the election season, if you will. So that really only leaves between now and the middle of September for active, ongoing effort to conclude the business of Congress.

We have got lots of policy initiatives to deal with from the authorizing committees, and we have to conclude the fiscal year 1997 appropriations process, which entails 13 bills which must pass the House, pass the Senate, go to conference, pass both Houses again, and be ultimately sent to the President and signed by the President. That means we have a great deal of business to do for fiscal year 1997, and here we are still contemplating the effort in fiscal year 1996, primarily because the President vetoed three of the bills under consideration and because the fourth bill, the Labor-Health bill, languished in the Senate for some 9 months because our liberal friends over there decided to just filibuster it and keep it from coming up for consideration.

In addition, the District of Columbia bill, which should have been sent to the President a month or two ago, was not because of some few Members' concern about a little $3 million school voucher program which would allow poor youngsters to go to private schools. They do not want to take on the NEA, the National Education Association, and all of those great stalwart protectionist organizations which protect the great quality education provided by our public schools today, or lack thereof; they just do not want to let the camel's nose get under the tent, and have opposed the possibility of poor youngsters going to quality schools. As a result, the District of Columbia bill has been hung up, and now the Senate has included that bill in this omnibus wrap-up effort which we are going to be considering in conference over the next 8 days.

But obviously since the Senate did not complete their business until Tuesday, and here it is Thursday, and for the last 24 hours we have been evaluating the 933 pages of additions that the Senate put on our effort, we need some time for the conference to do its work. We begin today, we will work through the next 8 to 10 days, and we hope to be concluded before the close of business on Friday next. If we are, we will be delighted, because that will wrap up the fiscal year 1996 season. Then we can go on to the fiscal year 1997 season.

I regret that we have to be here today, but our work is not yet completed. I do believe that we have to keep Government open. We tried doing the other in the past, and that was not a pleasant experience for anybody. So we come here to try to keep Government open while Congress does its business on the remaining stages of the process for fiscal year 1996.

The bill I bring before the Members today keeps Government operational through March 29 with the exception of two programs, the AFDC and the foster care program, which we carry through into law through April 3 to allow continuity of the bureaucratic effort to make sure that people who are entitled to the benefits under those programs actually get those benefits.

But we really must have this extension. I expect some prolonged debate here today, much as we had last week on a similar 1-week extension. I would like to think that despite whatever debate we have, the issue is not that controversial, that the vast majority of our Members will ultimately vote for this bill, and that we can go about the business of the conference and conclude fiscal year 1996 once and for all.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 6 minutes to the gentleman from Michigan [Mr. BONIOR], the distinguished minority whip.

Mr. BONIOR. Mr. Speaker, I thank my friend from Wisconsin for yielding me the time. Let me just say, with due respect to my friend from Louisiana, that this is indeed controversial, at least it is on our side of the aisle, and I will tell the Members why.

We had a rather interesting, heated and enlightening debate on the rule that governs the discussion of this resolution. The objection from this side of the aisle is that we are continuing stop-and-go Government. Stop-and-go Government is not good for this country, it is not good for this Congress, and we are doing it under such a closed procedure. We are in our sixth martial law resolution right now.

What does that mean? That means basically that the folks out there in the country have been shut out from the process, from testifying at hearings, from having their input into legislation. Members of this body have been shut out from their committee work. This is all being done out of the leader's and the Speaker's office, coming right to the floor. We have been at it now for 4 months like this. Seventy-three percent of all legislation that has come to the floor this year has bypassed the committees, come right to the floor. Why have a committee structure?

Mr. Speaker, this is distressing because it runs roughshod over the rules and the traditions of this great institution. This is supposed to be a deliberative body. It is supposed to look at legislation, discuss it, have people come and give witness to whether it is on-track or off-track. Yet here we are jamming through another resolution.

The reason we are doing this, the gentleman from Louisiana is correct in this, is to give a little bit more space so they can do the work that they were supposed to have gotten done 6 months ago. The budget was supposed to be finished 6 months ago. Here we are with five appropriation bills unfinished.

That is maybe all well and good in terms of discussion in this institution, and people are saying, "Well, what does that have to do with me out there in America?" What it has to do with people out there in America is that it gives them no sense of where this country is going, where their school district is going to in terms of education. Let me use education as an illustration of the incompetence of this do-nothing and delay Congress that we are in now.

Mr. Speaker, when is this assault on education going to end? For 15 months now you have been talking about giving our kids a better life. You have come to the well, you have made that case, but time and again you have denied our children in this country the skills that they need to have a better life.

You started off the beginning of this Congress by cutting school lunch, and then you attacked student loans. You wanted to take $17 billion out of student loans, so kids could climb that ladder of success? No, you have brought that ladder up and you have said, "We can't afford it."

Then, after the student loan debate, you have gone after a very important program called DARE, safe and drug-free school program. We are talking about cuts of $3 billion plus in this fiscal year in education as a result of this inaction and this stop-and-go. DARE is just one of the programs that is going to be affected. It is a great program. It deals with drug abuse in our schools and for our children.

What these cuts will do, Mr. Speaker, is put approximately 13,000 DARE officials out of work. It will deny literally millions of our kids the opportunity to get the education they need to say no to drugs.

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In addition to that, title I, a program that helps our young people in math and science, is going to be cut. It is going to be cut by $1 billion, if you take this over the course of the full year.

Now, school districts across the country right now are trying to plan for September. They are making decisions about how large the classes are going to be, they are making decisions about how many teachers they are going to have. Across this Nation, this week and next week, 40,000 to 50,000 teachers are going to get pink slips and classes are going to be enlarged because you cannot get your act together to let us know where the budget is going to be on education.

Now, the Speaker likes to refer to public education as subsidized public dating. He actually said that. This is much more than subsidized public dating. This is about the best investment that we can make in this country, investing in our young people today, and they know that. They know what they earn will depend upon what they learn.

This is the 12th time in 5 months that we have had a stopgap continuing resolution, the 12th time. You cannot run a government that way. You cannot do it. It does not work, and it has proved it does not work.

Mr. Speaker, I encourage my colleagues this afternoon to vote against this resolution. It denies us the opportunity to restore those education funds, to restore those cuts in the Environmental Protection Agency, to restore those Superfund cuts so we can clean up our toxic waste sites and our dumps and disposal sites. We need to have that opportunity, so we can get on with the business of this country.

I urge my colleagues to vote against this resolution.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am absolutely astounded. I just heard the distinguished whip from the minority party say he wants to vote against this simple bill to keep Government going for 1 week. He gives a lot of reasons, but basically instead of allowing the committee to do its business and go ahead and go to conference and work out the bigger issues by a week from Friday, he wants to shut the Government down. He would totally shut the 9 departments, I think, maybe 10 departments, and the entire District of Columbia down, because he is frustrated about a program that he says works.

I would like to comment on the DARE Program. First of all, I would like to make this point: He says we have not done our job. We are talking about the labor-health-education-human services bill that passed this House at the end of July 1995. It passed this House, and whoever is responsible dutifully took it from the House of Representatives over to the Senate and delivered it to them. Every time someone wanted to bring it up for discussion in the other body, the Democrats stood up and objected and filibustered it.

Now, I want it to be clear that the gentleman is accusing the majority of creating a situation whereby this bill was not funded.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Wisconsin. I am just replying to the minority whip, if I might.

Mr. OBEY. Mr. Speaker, I thank my good friend for yielding, but I would suggest if you are going to point out the history of the Senate, that you point out the complete and accurate history of the Senate. The fact is that there were objections to consideration of that bill from both sides of the aisle, not just once, but many times more than once, on both sides of the aisle, as we both well now know.

Mr. LIVINGSTON. Mr. Speaker, reclaiming my time, the issue of striker replacement was repugnant to the liberals on the other side. I personally turned on the television and watched the proceedings and watched one of the liberal Democrats object to the bringing up of this bill.

The fact is it is the normal process for the House to pass a bill and the Senate to pass a bill and to meet in conference. This bill has never been conferenced, because the bill never got out of the Senate. Now, it is absolutely impossible to draw the conclusion that anybody in the House of Representatives, Republican or Democrat, is responsible for that state of affairs.

Mr. Speaker, if I might go on, the DARE Program, it is Safe and Drug-Free Schools. As I pointed out last week, this is a program that has got a wonderful name, an absolutely fantastic name, until you start to understand that in the implementation of that program, it often goes terribly awry. In Talbot County, VA, they spent grant money on disc jockeys and guitarists for a dance, lumber to build steps for an aerobics class, and school administrators spent over $175,000 on a retreat to a St. Michaels resort. I think that is in Maryland on the Eastern Shore. Nice place.

Additionally, a single school district in Texas, the Alomar Independent School District, received a grant of $13. How many bureaucrats had to get together and huddle in a room for how many weeks to figure out that we have got to give this district a $13 grant? And all for a good cause, mind you, to promote the advocacy of Safe and Drug-Free Schools, to discourage children from using drugs.

What is the history during the entire Clinton administration. After the Clinton administration decimated its own drug abuse office in the White House by 85 percent of its budget, what is the history? Drug abuse among teenagers went up, not down. This program does not work.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, I would hope that we can cut through the bull gravy and focus on what is really happening here today. The fact is that this proposal really represents the majority party's determination to keep Government running on the installment plan. They do not have enough gas in the tank to get the car down the road apiece, so what they are doing is driving the Government about a block and then they have to get renewed authority and fill up the gas tank to get the Government to go down another block. That is no way to drive a car, it is no way to run a railroad, it is certainly no way to run a government.

What you really are doing, by extending the ability to operate on a week-to-week basis, is you are playing weekly Russian roulette with local school districts, with veterans, with recipients of government assistance and a wide variety of programs. It is an immature way to run a government, and it ought to stop.

This is the 12th time, the 12th time, that we have now had a temporary continuing resolution before us. In 2 weeks we will be one-half of the way through the fiscal year, and yet 70 percent of the domestic appropriations will still not be in law.

Now, why is that? It is because the majority in this House insisted on passing through this House an extreme ideological agenda under which you slashed funding for education by 15 percent, you slashed job training by 18 percent, you slashed environmental cleanup enforcement by one-third. You attached a laundry list of special interest legislative riders to these appropriations bills, and to protect the public interest the President vetoed a number of the bills.

The Education and Labor proposal was so extreme that the Republican-dominated Senate added more than $3 billion to at least partially restore the draconian cuts that you made in education, in manpower training, in summer jobs, and the like.

Because of the extreme nature of that bill, we have not even yet been able to get to conference. The chairman just says "Why don't you let the committee do its work and go to conference?" Why does the committee not bring up the motion to appoint conferees? You cannot even have a conference until conferees are first appointed. The last time I looked, there is a dispute between the majority leader and the Speaker about process on the floor, so we cannot even officially get to conference because of yet another internal division within the Republican Party leadership in this House.

Meanwhile, what is happening? What is happening is because they cannot get the decisions made, they are saying "OK, let us run the Government on a reduced funding basis a week at a time." So they are funding education at a low level, which is going to require the layoff of a good many teachers and teachers' aides. They are preventing us from continuing to clean up all of the Superfund sites that we ought to be cleaning up, and then what do they do? They gin up a smokescreen. And the gentleman says, "well," he justifies the cuts in drug free schools by pointing out something that some idiotic administrator did at the local level in a city or two to justify cutting back by a huge amount in that entire program.

I would like to take just a minute to run through some of the arguments the gentleman is making. He argues, for instance, about what has happened to drug free schools. Let me say to the chairman of the committee, I will have unanimous-consent requests at the proper time to remove funding for virtually any of these items that you name. If you do not like the fact, for instance, as the gentleman indicated, that we had cosmetology schools being funded under the Student Aid Program, fine. I will ask unanimous consent to strike all funding for cosmetology schools.

You mentioned last week you did not like the fact that there were massage schools being funded. I will have the unanimous-consent request to eliminate all funding for massage schools. I hope the gentleman will support that unanimous-consent request.

I will have a number of other unanimous-consent requests.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, while the gentleman is in the business of asking for unanimous-consent requests, would he join with me in asking for a unanimous-consent request that might obviate the need for continuing to come back in this manner? Would he join with me in just striking the date March 29 and inserting the date September 30 on the issue pending before us here today? That way we would not have to come back. We would not have to go to conference. We would go ahead and be done with this whole doggone thing.

Mr. OBEY. Mr. Speaker, reclaiming my time, let us take a look at what the effect of that would be on the local school districts. You would require local school districts to lay off 40,000 teachers. Am I going to support a unanimous-consent request for that? Absolutely not.

It means you would nail in the large reductions in Federal support for School to Work programs. Am I going to support a unanimous-consent request to do that? Absolutely not.

It means you would nail in the huge reductions in enforcement for environmental cleanup. You think I am going to support a unanimous-consent request to do that? Absolutely not.

I will offer a unanimous-consent request to eliminate some of the abuses of funding which the gentleman claimed he was concerned about last week, but I am not going to support a unanimous-consent request that will tell schoolteachers that 40,000 of you are going to get pink slips so you can continue to provide tax cuts in your budget for very wealthy people making over $200,000 a year. If you want to offer a responsible unanimous-consent request, I will be happy to entertain it. But it is not responsible to suggest that local school districts should lay off 40,000 teachers because you've got a political dispute within the leadership of the Republican Party in this House. That is not responsible and the gentleman knows that.

So let me simply say that what is at stake here is whether or not we are going to vote for a continuing resolution which cooperates in the strategy by which we tell working families, for instance, that we are going to raise the cost of their getting student loans by $10 billion over the next 7 years.

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We are not going to cooperate in that kind of an agenda. What ought to happen here is very simple. Instead of bringing these silly, stop-and-go, week-by-week extensions to the floor, what my colleagues ought to do is go into that conference and recognize they need to restore funding for the NLRB, they need to more fully restore funding for education. They need to fully restore more funding for environmental cleanup.

They need to buy into some of the offsets that the administration has suggested to pay for those programs. They need to drop the extraneous special interest language which is going to let timber companies rip up the Tongass Forest, which is going to allow other special interests to get away with murder in the environmental field. And they need to rip up some of the other special interest language that they have attached to these appropriation bills.

Mr. Speaker, that is what the President is asking for. That is the rational thing to do. That is what they ought to do rather than running the risk every week that the Government is going to shut down again.

Mr. LIVINGSTON. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. PORTER], the distinguished chairman of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations.

Mr. PORTER. Mr. Speaker, I feel like I have walked into the middle of the same movie I was in a week ago. Why are we debating this matter? This is the same thing we did last week. Mr. Speaker, we might as well just play the tapes of last week's debate. All the same things are being said all over again.

Mr. Speaker, the gentleman from Wisconsin, I think he has got that "tax cuts for the rich" down like a mantra. He says it over and over again and cannot remember what the words are, they just pour out the same way.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from Wisconsin.

Mr. OBEY. Is the gentleman making a unanimous-consent request to play the tape again so we can stop going through this charade?

Mr. PORTER. Mr. Speaker, I will make that unanimous consent.

Mr. OBEY. Mr. Speaker, I would agree to that request.

Mr. PORTER. Why do we not yield back the balance of the time and vote then? Would the gentleman agree to that?

Mr. Speaker, what we are having here in Washington lately is about 70 percent politics and about 30 percent substance. While politics are always going to be a part of it, I think what the American people expect of us is 30 percent politics and 70 percent substance, or even more.

We have to reverse all of this. There is way too much politics involved.

Mr. Speaker, the President has just sent to the Congress a budget that is 90 percent politics and 10 percent substance. It ramps up spending in a lot of areas. I agree with the gentleman on some of the areas he mentioned earlier and some of the special interests that are not contributing at all to deficit reduction and ought to. But the President very easily ramps up spending and plays to every special interest group in our country saying we are going to do better for you in this, better for you in that, better for you in another thing. And he does it without any responsibility for the bottom line, and that is for the country as a whole.

Mr. Speaker, he sends up a budget that has in it cuts that are made only in the last 2 years after he is constitutionally out of office that he knows very well would be impossible to be made because they are so huge and they are in the discretionary spending side alone. He plays the same old game of playing to seniors and farmers and union people and the like with no responsibility for where the money is coming from to pay for it.

Where is it coming from? Well, it is coming from adding to the deficit, that is where it is coming from. We were asking future generations to pay our bills. That is the old way of doing it in Washington. It has been done for years, and here we are attempting again apparently to do it all over again.

The fall election, Mr. Speaker, is going to be about whether we are going to continue to do business in the old way and play the special interest politics game or not. Whether we are going to change to a new way, to take responsibility for the country, to ask people not what they get out of the process but what they are willing to give to the process to make it work for all the American people, to look at everything that Government does to ensure that it is worth doing in the first place. That it is something that has to be done through Government in Washington and can only be done there, to decide our priorities and to make certain that the money is spent to get results for people.

That is what has been failing to happen over and over and over again in Washington. It is money that is shoveled out the door to serve interests rather than getting results for people. It is time that we change this process and that we make Government work for people and that we stop playing the special interest game and the political games that are so evident throughout the President's budget and throughout all of these debates.

It is time that we get control of this process. It is time that we behave responsibly. It is time that we work budgets within a framework of fiscal responsibility and not ask people in the future to pay for what we receive from Government today.

So I would say to the gentleman from Wisconsin, yeah, let us just play the tape. It is all the same old stuff over and over again. It is all the same old banter. It is all the class warfare and playing the special interest game. Let us get on with it. Let us get this job done. Let us get the substance done. That is what the American people expect of us and not just politics as usual.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, we do not have either the President's budget or the Republican budget before us today. What we have before us is a proposition which continues the reduced funding levels of education and environmental protection which will threaten the environmental future of the country and the educational future of our children. That is what is before us today.

But if we are going to mention the President's budget, let me simply point out the gentleman can say all he wants about how too many of the budget cuts in the President's budget are in the outyears.

Mr. Speaker, let me simply point out that in the seventh year of the budget which my colleague voted for, the budget reductions in the seventh year in the Republican budget are larger in the seventh year than they are in President Clinton's. Now, my colleague may not know that fact, but that is a fact.

So I would suggest that, if he is concerned about reliance upon outyear cuts, I think he ought to look in the mirror because the budget that he supported has deeper cuts in the seventh year than the President has.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 1 minute and 30 seconds.

Mr. Speaker, the point was made earlier that this practice of a lot of continuing resolutions coming directly to the floor and not going to committee, is highly unusual. I think it is important to point out for the record that in fact it is not unusual. In 1985, when the Democrats controlled the House of Representatives, we had three continuing resolutions that went directly to the floor. In 1986, there were six continuing resolutions that went directly to the floor; two in 1987; five in 1991; three in 1993.

The point is nobody likes the process that we have engaged in, but we are where we are because the President vetoed three of the major appropriations bills just before Christmas, prompting the expulsion of thousands of Federal employees from their jobs at Christmas time. And the other bill, the labor HHS bill, was hung up in the Senate because it was filibustered for 9 months until really now.

So as distasteful as this whole process is, it has been done before. It will be done again. The old adage that you do not look at sausage and laws being made because it is troublesome is painfully apparent in this particular process we are working our way through. I think for the Democrats, the minority's position seems to be to vote against this bill and close down Government because they do not like provisions that are being discussed in the conference in H.R. 3019; that is ludicrous. It just does not even make sense.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. REGULA], the distinguished chairman of the Subcommittee on Interior.

Mr. REGULA. Mr. Speaker, just a few comments on the interior portion of the omnibus bill that will be coming before us in the near future in the form of a conference report.

Obviously, it was very difficult to meet all the needs with the allocation that we had. The final product that we put out was $1.7 billion under the President's request. Now, that is $1.7 billion that we are not loading on to future generations. What that means is that, when young people in the next century, soon to be upon us, want to borrow money to buy a house, it will be at a reasonable interest rate instead of an inflated rate. If we can reduce the deficit and ensure to the marketplace that we are going to achieve a balanced budget over the next 7 years, I think we would see a dramatic decrease in interest rates. Even now, of course, that translates into jobs, as people start businesses, as they expand businesses, as we gain a larger share of the export market because the cost of production is reduced by not having the high overhead of interest rates, and I remember the late 1970's when we were up at something like 21 percent. So the potential benefits are enormous.

Mr. Speaker, in structuring the interior bill, we did all that we could to make our contribution. We divided our responsibilities into must-do's, need-to-do's and nice-to-do's. On the must-do's, we kept the funding for the parks flat, a little bit of increase but relatively flat, and said manage it better. They are doing that.

We did the same thing with the forests. The cut of timber we allowed was at the President's number. So it was not a case of cutting below in that instance because we recognized that the availability of timber is very important, wood for housing. When we had the bill on initially, I had a piece of 2-by-4 to illustrate what has happened to prices for lumber, and this affects of course the price that young people need to pay when they build or buy a house.

So I think what we tried to do was recognize that the agencies that dealt with people, the parks, the forests, fish and wildlife facilities, BLM, and they also have a lot of facilities that are used by people on a multiple use basis, we kept that funding level so they would have the people and the ability to respond.

We eliminated the Bureau of Mines. I noticed in the President's 1997 budget he takes credit for eliminating Bureau of Mines, which we have done already in 1996. He has become a budget cutter.

What we did is took care of the things that we had to do on the must-do's. We finished facilities that were under way because that was important. If there was a repairs, for example, we put—and this has just been recently—$2 million in the CR to take care of the C&O Canal because thousands of people enjoy that every week. Those sorts of things are must-do's.

Now when we got the nice-to-do's, build new visitor centers, buy more land, we did not do it because let us take care of what we have.

Mr. Speaker, all I am saying is that we are trying to be responsive and be reasonable and to get the job done but not do it at the expense of loading an enormous burden of debt on future generations. I think they will thank us for it when they go to buy that house and maybe get a mortgage at 5 percent instead of 8, 9, or 10 percent. They will thank us when they are not saddled with all the costs that go with the debt burden that this Government has.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the previous speaker just gave a wonderful speech on the reasons to have debt reduction and deficit reduction. The problem is that has nothing whatsoever to do with this bill and nothing whatsoever to do with the budget that the gentleman voted for.

If the gentleman will check the numbers, he can talk about bringing interests rates down all he wants, but the budget that he is trying to foist onto the American people has a deficit which goes up next year. It does not go down. If he can explain to me how interest rates are going to go down as the deficit goes up, he is a whole lot smarter than Alan Greenspan.

☐ 1300

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding me this time.

I took the floor last week when we had this debate and said I felt like I was at the Groundhog Day movie. My colleagues know how every morning the alarm went off, the guy gets out of bed, and they run through the same day. But even in the Groundhog Day movie they did not do it 12 times, because they figured the audience could not even take that. And here we are with the 12th time.

Now the gentleman from Louisiana says continuing resolutions are not new, we have had those in prior Congresses. He is right; we have. But it seems to me the other side seems to think we have to hit our full 40-years score in one 6-month period. Our colleagues are about to throw as many continuing resolutions up on the scoreboard as it took us to accumulate over 40 years, and I want to say that is not something we were proud of. We tried to have as few as possible.

I think the reason is because it is impossible to manage, it is impossible to plan, when we have this lurching, and jerking, and week to week, and will it continue, will it shut down?

But the real bottom line is we now have out there school boards all over America trying to decide whether they give teachers pink slips, whether 40,000 teachers are going to get a pink slip, because we are going to slash education at such a low level.

As my colleagues know, my concept had always been the family was the seat of virtue in this country. That is where we plant the seeds of virtue, in the family, and our job is to try and help that family raise that child, and one of the ways we try and help through the Federal level is with some supplemental money to education so that we have safe schools, drug-free schools, we have remedial education and math and science and reading. Those are key things that school districts need extra help with, and I cannot stand here and say it is a great idea to gut that, nor can I stand here, as spring has broken out over America, and say it is a great idea to cancel many of the environmental programs and, while America is going green, we are going to go brown.

That is why this is happening, and I think the time has come to end this.

Mr. LIVINGSTON. Mr. Speaker, I yield 3 minutes and 30 seconds to the distinguished gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker and my colleagues, I rise in support of this continuing resolution and to correct some of the implications of comments that have been made about its impact on the environment.

First, let us put a lot of politicking aside. This continuing resolution is for 1 week, 7 days. It is not permanent policy, although I think much of it would be reasonable policy for the rest of the year.

We need another week's continuing resolution because until recently, and very candidly, the administration has not been willing to bargain, and bargaining, the last time I checked, did not mean simply holding out until the other side capitulates.

So now real bargaining seems possible, and we ought not to shut down the Government while that negotiation continues. Again, this is only about 1 week. Not even Congress can cause much damage in that time.

Concerning the environment, this resolution is obviously not perfect, but it moves responsibly in the right direction pending further negotiations. It provides more dollars to the Environmental Protection Agency than either the House or the Senate passed, not enough, but a good start until the President comes to the negotiation table.

Similarly, with the riders. I prefer no riders. Maybe that is where we will end up. But by and large, these are not the kind of damaging riders that the House debated last year.

Take the Tongass, for example. The Tongass rider in this bill is a compromise that I helped negotiate with the Alaskan delegation and other concerned parties that allows the scientific planning process to continue. Let me stress that: That allows the scientific planning process to continue, and it will not increase actual timbering in that important national forest.

So let us not waste a lot of time trying to score political points when we are on the verge of serious negotiations. Let us pass this harmless 1-week bill. We can do so in good conscience.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, the gentleman is exactly wrong about the Tongass because the Tongass provision still contains a waiver of ANILCO and NEPO as far as environmental safeguards are concerned. All it has is the safeguards provided in a contract, which were not nearly as much as provided for.

Mr. BOEHLERT. Reclaiming my time, my distinguished colleague from Illinois knows full well the budget realities, the dollars and cents of it all. There will not be an increased timber cut in the Tongass. That is something that I strongly believe is the right policy. I do not want that. I think my distinguished colleague, the gentleman from Ohio [Mr. REGULA], has worked very well and very diligently on this.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, I just want to point out on the Tongass that the allowable cut with the money we put in is less than has been true in the fiscal year 1995 and fiscal 1994. We have actually reduced the cut, recognizing, of course, some of the differences of opinion. But I think that is an important fact that ought to be brought out here.

Mr. BOEHLERT. And I am so glad the gentleman did, Mr. Speaker, and I want to thank him publicly for the outstanding work he has done and all the help he has given us to try to fashion a responsible compromise that was environmentally sensitive, and that is very important.

Mr. OBEY. Mr. Speaker, I yield myself 2 minutes.

I simply note that earlier in the year we were told, "Let's just pass a 45-day continuing resolution. That will give us enough time to work out the long-term budget problems." That expired. Then they brought to the floor another continuing resolution. Then last week they brought to the floor another one, saying, "Let's pass one to keeping the Government going for a week. That will be enough time to work out our problems." Now they are here saying the same thing they said the previous week, "Just give us another week. We will work out the problems."

Meanwhile, I still see no indication that the gentlemen on that side of the aisle are willing to back away from the environmental riders that are holding us up on the Interior bill. I see no indication that they are willing to restore the funding the President has asked so that we do not have to lay off 40,000 teachers.

The problem is that every week that they continue with this "government on the installment plan" they push local school districts further and further to the point where they have to lay off teachers. We do not want that done. We want them to get down to the business now, deal with the regular long-term CR rather than continuing this "let's pretend" extension of the Government under which you are continuously week by week squeezing the guts out of education and squeezing the guts out of our ability to enforce the law when it comes to environmental cleanup.

That is the problem we face here today. And we believe sincerely that the way that you are running this House is going to greatly increase and enhance the likelihood that, in fact, they are going to either have to come up with another CR next week or else they are going to have to shut the Government down next week.

I mean every week it is the same thing. When are we going to get serious and simply resolve the differences on the long-term resolution. Otherwise they are using that as an opportunity to gouge every local school district in the country.

Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding this time to me.

I just want to clear up a point. The gentleman from New York who was in the well was saying that the Tongass provisions, the rape and ruin of America's only temperate rain forest, have not been corrected. In fact, what they have done under this legislation is put in place a harvest plan for that forest that has already been found to be flawed scientifically, that is unsustainable and will lead to the overcutting of that rain forest, and then they put hurdles in the place of replacing that. So, in fact, they have gone from having a plan for 2 years to having a plan that essentially is in perpetuity that will lead to the overharvesting and the stripping of that forest and its resources. It is the only temperate rain forest that we have in North America, and it ought to be protected, and it ought to be harvested in a scientifically acceptable and understandable fashion.

Mr. Speaker, that is not what this legislation does. It overrides the scientists, puts in place a plan that was rejected already by the scientists, and then says that is the method by which we will harvest the Tongass Forest. That is why it continues to be unacceptable to the administration, to the American people, and to those of us who care about reasonable forest practices.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. I thank the gentleman from Wisconsin [Mr. OBEY] for yielding this time to me.

To put it crudely, my colleagues, this is indeed a lousy way to do the people's business. These weekly CR's are Government by political hiccup. It is atrocious that ideology, and stubbornness, and extremists, and extremism and hostage-taking have been substituted for what in previous Congresses had been a rational and timely consideration of and passage of the Nation's budget and appropriations process. These CR's come weekly, many of them. This is the 12th, as we have heard, the 12th continuing resolution.

The gentleman from Wisconsin [Mr. OBEY] and a couple of others have mentioned what I know each of my colleagues has heard in their own offices, and that is that school boards are apoplectic about this situation. Many teachers do not know if they are going to have their contracts renewed or at what salary levels.

It is not true that the environment is not suffering. Public lands acquisition has been put on hold. Necessary construction on public lands has been put on hold. EPA enforcement has been slowed in some areas almost to a stop. There has been disruption in the Superfund work, and I can tell my colleagues, in that I have two great national parks, all or part within my State of Montana, that the morale of Park Service workers is the lowest I have ever seen it, and that may be true throughout the Federal system.

Let me say in closing, what I said at the beginning. Crudely put, this is a lousy way to do the people's business. It is perhaps no wonder that for 40 years the American people kept the current majority in the minority. If this is the way they do the public's business, they will probably be put in the minority again with good reason.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, this is indeed the same speeches and same thing this Congress did last week, and the month before, and the week before, and the weekend before that, but there really is something different: It is a week later, and another week of cuts, significant cuts in education, and the environment, and important other areas. One week, Mr. Speaker, 1 week, 45 days.

I voted for the 45-day temporary spending bill because I thought that it was fair to give time to work this out, and so I voted "yes" for those 45 days of cuts. But yet now, it is another week, and another week, and another week. At some point, we say "no."

As my colleagues know, education and the environment, like Caesar, can die by 100 cuts just as easily as 1, and the impact is very clear, Mr. Speaker. In West Virginia, when this temporary spending bill expires, and they are asking for another one, 226 teachers will have gotten their pink slips, 90 aides; 6,500 students that benefit from the math and reading programs that are so important will no longer be eligible.

Mr. Speaker, whether it is the environmental cleanup, the toxic waste cleanup, the education programs, the job training programs, this is no way to do business.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman from Wisconsin for yielding this time to me.

Mr. Speaker, this is an unfortunate procedure. This is an unfortunate year. This is an unfortunate Congress.

I agree with the gentleman from Montana who spoke that the judgment that will have been made of this Congress, is that it is probably the worst-run Congress in 50 years. That is the sentiment expressed by Kevin Phillips, a very conservative Republican columnist; not my view, but I share that view. And today we see another result of that.

□ 1315

I do not believe, frankly, that the chairman of the committee would want this to happen. I have said that before. I do not think the Chair of any of our subcommittees would want that to happen. I am speaking of the Republican chairs. I frankly think it is central management that is to blame for this, but I want to say that I supported the last continuing resolution, a CR, as we call it, or perhaps "completely ridiculous," as the American public must view it.

I supported it because obviously I want to see the 56,000 Federal employees that I represent remain on the job doing the work that America expects of them, and being paid for that work. But the fact of the matter is I am going to oppose this resolution, because what is happening is, in my opinion, part strategy and part an admission of failure; strategy to the extent that it is, as the gentleman from West Virginia, said, death by a thousand cuts; just drip, drip, drip, drip; cut, cut, cut, cut, education, environment, energy assistance for old people and poor people; drip, drip, cut, cut.

Mr. Speaker, this is not a responsible action to take. The Contract With America talked about personal responsibility. I have said it before, but in point of fact, we have abrogated our responsibility to the American public to handle the finances of this Nation responsibly. This is not responsible management of the Congress.

Mr. Speaker, these 1-week CR's are unprecedented. This is the 12th extension, because we cannot get our business done in this Congress. Mr. Speaker, it is not because the President is vetoing so many bills. In fact, this President has vetoed fewer bills than either George Bush or Ronald Reagan. Let us be responsible. Let us fund at least the balance of this fiscal year, halfway through it.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LEWIS], chairman of the Subcommittee on VA, HUD, and Independent Agencies of the Committee on Appropriations.

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I must say my colleague, the gentleman from Maryland, very much was helping us all focus upon the point. There is little doubt that the American public knows full well that we need to reduce the rate of growth of Government, because the past rate of growth of Government has taken us to a deficit that is pushing $5 trillion. The American public further knows that in their own households they have to be able to pay their bills, and if consistently they do not pay their bills, they eventually declare bankruptcy.

Mr. Speaker, some suggest that a $5 trillion deficit has a tremendously negative impact upon our economy. The problem is not the result of cuts, but rather the result of spend, spend, spend, spend. This Congress, dominated by one party for 40 years, moved us toward this horrendous condition. In the short time the gentleman from Maryland and I have been together on this committee, the majority, the former majority: spend, spend, spend. Never could they find a program that was not working, never cancel a program whenever you create one, but expand it; spend, spend, spend, spend; tax, tax, tax, tax. Mr. Speaker, that is not the way to solve the problems of our people or our Government. Indeed, it is time for a change.

If the President would work with us instead of vetoing bills, we would not have to be here today. Indeed, Mr. Speaker, it is time for a change.

Mr. LIVINGSTON. Mr. Speaker, I reserve the balance of my time, and I reserve the right to close.

Mr. OBEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have a simple choice here today. We can continue to pass 1-week continuing resolutions, which will force our school districts within the next 3 or 4 weeks to begin laying off 40,000 teachers; we can continue in place the policy of the majority party that will make it much more difficult for 1 million kids to learn how to read and how to deal with math; we can continue the process of cutting deeply into the school-to-work program, which largely enables kids who are not planning to go to college to get some help in transitioning from high schools to the world of work; we can continue to cripple the ability of the Government to protect the public interest from environmental damage by continuing the very large reductions in environmental cleanup that we have in the bill; or we can decide that we have had enough of that, and we are going to ask that those funds be restored.

This issue is not about how much will be spent, because the President has offered offsets to every single dollar he wants to put back in this budget for education and for environment. The majority party simply made a decision that they want to buy twice as many B-2 bombers as the Pentagon asked for, and then they want to pay for it by taking it out of education and out of worker training and out of environmental cleanup. We think those are dumb priorities.

Mr. Speaker, the gentleman can talk all he wants. He invents this fictitious list of about 760 Federal programs that are supposedly for education. If the gentleman wants to take out air traffic controller training, he is the chairman of the committee. Why does he not do it? He is not a helpless victim. If he wants to eliminate NIH kidney research, which they ludicrously count as an education program, if he wants to eliminate NIH heart research, which he ludicrously counts as an education program, if he wants to eliminate FBI advanced police training, go ahead, offer the motion. He is the chairman of the committee. He has the power to do so. We do not think it is a good idea to eliminate those things.

The President's budget recommends the consolidation or elimination of 70 education programs so we can focus our money where it is needed most in the education area. Yet, we get this smokescreen pointing to some little silly action here or there at the local level to justify the fact that they are trying to impose on this country the largest reduction in support for education in the history of the country.

We do not think that is a good way to help middle-class families raise their living standards and help give their kids decent jobs. We do not think it is a good idea to raise the cost of getting student loans by $10 billion over the next 7 years. We think we ought to get about the business of keeping the Government open full time, rather than this week-to-week nonsense.

Mr. Speaker, I urge Members to end the nonsense and vote against this silly piece of legislation.

Mr. LIVINGSTON. I yield myself such time as I may consume, Mr. Speaker.

Mr. Speaker, I think it is interesting to hear my friend, the gentleman from Wisconsin, talk about how we could do this or how we could do that. The fact is, we tried to take out all those programs and zero them out. The gentleman voted against the bill.

Now the gentleman says, well, he is willing to stand up and give me a unanimous consent request to get rid of such screwy things as an Ounce of Prevention Council, that funds 2 billion dollars worth of a glossy magazine, because they have not done anything else. Hopefully he will join with us in reducing the extremely dumb grants of $175,000 for school administrators to go on a St. Michael's resort retreat under safe and drug-free schools, or buy lumber for the steps of aerobics classes. Hopefully he would like to join with us and strike the good old President's favorite AmeriCorps Program, which, in Baltimore, the average cost per participant of a volunteer is some $50,000.

Mr. Speaker, he said that he wants to strike the unnecessary and wasteful, yet never have I heard him offer one single cut, ever. He always wants to spend more money, more programs, tax the American people. We have got 726 education programs, each with their own bureaucracy, each with their own beneficiaries. it does not matter how duplicative, wasteful, unnecessary, or redundant they may be.

The point is, the gentleman talks a good game, but the fact is, all he wants to do is tell the American taxpayer to pay more money so he can tell them how it can best be spent.

This is a simple request to keep the Government working so the conference can go into action between the House and Senate and we can send the President a final bill. Mr. Speaker, they would close down the Government. They are hoping to vote unanimously against this and get a few Republican votes and just close down the Government so they can say, "I told you so." Is that the answer? Does that help all the beneficiaries of the various programs the gentleman is concerned about? I think not.

The point is, Mr. Speaker, they do not have a leg to stand on, because the American people have caught on to their game. They have said, "We have paid enough taxes, and you have misspent it time and time and time again, and the time has come to quit, to streamline, to strike the redundant and the necessary programs, to try to make government work as efficiently as business works, to downsize the government, the bureaucratic conglomerate that Washington has created."

He talks about the harm that would happen to education if our downsizing goes through. The fact of the matter is 30 years ago the Federal Government did not give $1 to education. It was always the State and local responsibilities. Now the Federal Government pays between $20 and $30 billion in education, and we pile on the regulations, we pile on the restrictions, we pile on the bureaucracy, we extract the money from the American people and tell them what we did for them, and the quality of education goes down. Look at the charts. Look at the statistics. American pupils, students throughout America, are going lousy today compared with what we did 20 years ago.

When are we ever going to restore common sense to the American budget? never, if the gentleman from Wisconsin has his way.

Mr. STOKES. Mr. Speaker, I rise in opposition House Joint Resolution 165, the 12th short-term continuing resolution for the current fiscal year. Where will it end? How many stopgap measures will it take for our Republican colleagues to realize that this is not the way to operate the Government?

After two GOP-politically contrived shutdowns, which cost the American people over a billion dollars, action is still pending on five major appropriations bills. This week-to-week, piecemeal, and part-time management of the Nation's Government must end. Funding for nine critical Federal agencies is in jeopardy including the Departments of Education, Housing and urban Development, Labor, Health and Human Services, and Veterans Affairs. These agencies provide vital services upon which families across the country depend.

Mr. Speaker, this needless and continuing disruption of the lives of the American people is irresponsible. This is the 12th continuing resolution in less than 6 months. Our Nation's children are among the hardest hit by the Republicans' budget. While hard-working parents are raising their children, telling them to study hard, play by the rules, and you will succeed, our colleagues on the other side of the aisle are destroying the very foundation upon which that philosophy was built.

I know the children and families in my district, in Cleveland, OH, as well as those throughout the State, and across the country will suffer as a result of the Republicans' mean spirited budget. Over $3 billion is gutted from education, the largest cut in history. Where will our disadvantaged children, who need and want to learn, turn for teaching assistance in basic reading, writing, and arithmetic, when the GOP-measure cuts over a billion dollars from title I alone? Approximately 40 thousand teachers would be eliminated. In Ohio, 1,300 title I teachers would be removed from the classroom, 32,000 children would suffer.

School systems across the country would suffer from the $266 million cut in the Safe and Drug-free Schools Program. Ohio's students would suffer from an over $8 million cut. This would make it nearly impossible to maintain effective violence and substance-abuse prevention programs. Most programs would be destroyed. Children must be provided a safe, crime-free environment in which to learn.

Communities and States would be denied the funding they need to provide youth and adults vocational education training. This program would be devastated by the Republicans' $185 million cut. Ohio's students would suffer tremendously from the loss of $7 million in basic grant funding alone.

Mr. Speaker, the cuts in education coupled with those in critical employment training programs including the elimination of the Summer Jobs Program, and the $362 million cut in dislocated workers' assistance would threaten the quality of life for hundreds of thousands of hard-working families across the country.

The elimination of the Summer Jobs Program alone means that over 600,000 students would be denied the opportunity to gain the skills they need to enter the work force. The cut in the dislocated workers' program means that workers who have been laid-off through no fault of their own would be denied the assistance they need to reenter the work force. It is estimated that over 20 million workers will be permanently laid-off in 1996 alone.

Mr. Speaker, the American people need and want to work. Our children and their families must not be denied the resources necessary to help them achieve their highest academic and economic potential. In this era of escalating global competitiveness, the American people must be equipped with the knowledge and skills necessary to earn a living wage.

Furthermore, this short-term fix still does not dismiss the fact that what is ultimately being proposed by our colleagues on the other side would: Jeopardize the welfare of millions of veterans, who are dependent upon a certain level of interaction from the Secretary of Veterans Affairs, by restricting the Secretary's travel; threaten the security of millions of elderly and low-income Americans who, without adequate Federal assisted housing, are at-risk of going homeless; add to the growing ranks of persons living in the streets as a result of their appalling reductions to homeless programs; endanger the environment by cutting EPA funding for programs that maintain clean air and keep our drinking water safe; and imperil the public's health by reducing Superfund efforts to clean up hazardous waste sites.

Mr. Speaker, America must protect and invest appropriately in her No. 1 resource, the American people—to do otherwise is fiscally irresponsible. I strongly urge my colleagues to stand up for children, and to stand up for families. Let's go back to the budget negotiation table and restore the Nation's investment in human capital including education, summer jobs, health care services, employment training, veterans's services, the environment, and housing. Vote "no" on House Joint Resolution 165.

The SPEAKER pro tempore. All time has expired.

REQUEST TO OFFER AMENDMENT

Mr. OBEY. Mr. Speaker, in light of the express concern of the chairman of the committee about retreats or administrative personnel, student vacations, cosmetology schools, et cetera, I offer an amendment, and I ask unanimous consent that notwithstanding the operation of the previous question on this amendment, that I be permitted to offer the amendment at this point, which would read as follows:

At the end of the joint resolution, add the following new section:

SEC. 101. Notwithstanding any other provision of law—

(a) none of the funds made available under this Act for the Safe and Drug Free Schools Program and the Title 1 Compensatory Education Program for Disadvantaged Students shall be used to pay the costs of disc jockeys, aerobics classes, retreats for administrative personnel, and student vacations; and

(b) none of the funds made available under this Act may be used to administer any program subsidizing massage therapy and cosmetology schools.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. LIVINGSTON. Reserving the right to object, Mr. Speaker, the fact is that I probably will object to this in a second, but I want to point out that the gentleman will have ample opportunity in the conference that begins today informally and will be more formalized as we go through the next 10 days, so he will have an opportunity to strike these programs.

If he is sincere, if he really means what he says, I will join with him to strike the money for this waste and this inefficiency. But Mr. Speaker, I would point out that the gentleman is grandstanding here. The request before the House of Representatives is simply to extend the existing CR's for 1 week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. LIVINGSTON. Mr. Speaker, this gentleman is constrained to object, because the gentleman from Wisconsin [Mr. OBEY] will have his opportunity later on.

The SPEAKER pro tempore. Objection is heard.

Pursuant to House Resolution 386, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

□ 1330

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. BURTON of Indiana). Is the gentleman opposed to the joint resolution?

Mr. OBEY. Mr. Speaker, I most certainly am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY moves to recommit the joint resolution, H.J. Res. 165, to the Committee on Appropriations with instructions to report the resolution back promptly with an amendment to provide the necessary funding during the period of the joint resolution to avert all layoffs of instructional school personnel whose salaries are paid in whole or in part by programs of the Department of Education for the 1996–1997 academic year.

Mr. LIVINGSTON. Mr. Speaker, I reserve a point of order on the gentleman's amendment. We have just now received it and I would like to have a chance to read it.

The SPEAKER pro tempore. The gentleman from Louisiana reserves a point of order.

The gentleman from Wisconsin [Mr. OBEY] is recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, let me explain what we have just seen and let me explain this motion. The majority party is insisting that we pass a resolution which continues in place lower funding levels that cut some $3 billion out of education and continue very savage reductions in environmental cleanup legislation.

They argue the necessity to do that because the chairman has pointed out the abuse of a few programs. I just tried to offer a motion directed to eliminating every single abuse the gentleman just mentioned. I asked unanimous consent that they eliminate under safe and drug-free schools the ability to fund programs such as the gentleman just objected to. I also asked that under this bill we eliminate all funding for schools of cosmetology and massage therapy because the gentleman has objected to those.

The gentleman then accuses me of a smokescreen for responding to the criticisms he has made in existing programs. He said, "Why don't we fix it when we go into conference?" Why do we not fix it right now? I would suggest what is really at stake here is they are desperately trying to hang onto the money they are cutting out of education so they can funnel it into their tax cuts for very wealthy people. And I do not think we ought to lay off 40,000 teachers so they can give a gift to their rich contributors.

So what I am saying is simply this. In this recommit motion, we are simply asking the committee to go back into committee and to restore all of the funds necessary so that no local school district has to lay off any teaching personnel.

What this motion does is ensure that those local school districts will have the Federal funds they need to pay for the teachers and other instructional personnel to provide the reading and math classes for disadvantaged kids, to hire guidance counselors, to provide antidrug abuse and drug prevention education to both teachers and students, to retain teachers and counselors to help students make a successful transition from schools to jobs, and to the jobs they need.

What this simply says is, do not fund your tax cuts by cutting the guts out of personnel in the local school districts. That is what it says. I urge a vote for the motion.

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. LIVINGSTON] is recognized for 5 minutes in opposition to the motion.

Mr. LIVINGSTON. Mr. Speaker, I withdraw my reservation and speak in opposition to the motion to recommit.

The fact is that if the gentleman's motion to recommit were granted and were adopted by this House, the entire guts of the bill before us would be virtually obviated, would be wiped out, and we would be forced to either report today a conference agreement on the overall four bills that remain outstanding, actually five counting the District of Columbia, or else Government would shut down.

I do not think that the other side is serious when they say that they want the Government to shut down. But the fact is if they all vote in unison for this motion to recommit and some of our Members vote for it, the likelihood is that the Government could indeed shut down with respect to those departments which are covered by the five outstanding bills.

I think that that would be a terrible thing to happen.

I know, I hear all of the pleas of mercy for the beneficiaries of the multitudinous numbers of redundant, unnecessary, and crazy programs that the taxpayers have been forced to fund under the outstanding bills, but the fact is that the same beneficiaries would be really in trouble if we were to create a procedural vote, adopt their motion to recommit, and just close the Government down.

In 1 week, the Department of Education would not be able to figure out the cost of impact of the Obey amendment. So all those teachers we heard about, and I question the figures that they were using, but all those teachers that we heard about, that they say they are concerned about, would be automatically not getting any Federal funding and that would be ludicrous. That would be absolutely absurd.

So if you want to close the Government down, go ahead and vote for the Obey motion to recommit. If you want to keep an orderly process and show that Government can operate, albeit no matter how ugly the process sometimes gets, then we would urge that you vote against the motion to recommit, vote for this 1-week extension, and hopefully by the end of the next week, a week from tomorrow, we will, in fact, have a conference agreement which will wrap up and conclude action for fiscal year 1996 on all of the outstanding bills.

That is my fondest hope, it is my desire, and I am going to work every hour that I can to make sure that comes to pass. But we need a "no" vote on the motion to recommit or else this Government is going to shut down.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the joint resolution.

The vote was taken by electronic device, and there were—yeas 192, nays 230, not voting 9, as follows:

[Roll No. 82]

YEAS—192

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green

Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NAYS—230

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zimmer

NOT VOTING—9

Collins (IL)
Johnston
Moakley
Radanovich
Roukema
Stark
Stokes
Waters
Zeliff

□ 1354

Mr. TIAHRT, Mr. SCHIFF, and Mrs. CUBIN changed their vote from "yea" to "nay."

Mr. DOGGETT changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BURTON of Indiana). The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. LIVINGSTON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 244, noes 180, not voting 7, as follows:

[Roll No. 83]

AYES—244

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dixon
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—180

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Barton
Becerra
Beilenson
Bentsen
Berman
Bevill
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Moran
Murtha

Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sawyer
Scarborough
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Yates

NOT VOTING—7

Collins (IL)
Johnston
Moakley
Radanovich
Stark
Stokes
Waters

□ 1406

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR ALL COMMITTEES TO SIT TODAY AND THE BALANCE OF THE WEEK DURING THE 5-MINUTE RULE

Mr. ARMEY. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore (Mr. LAHOOD). The Clerk will report the motion.

The Clerk read as follows:

Mr. ARMEY moves pursuant to clause 2(i) of rule XI that for today and the balance of the week all committees be granted special leave to sit while the House is reading a measure for amendment under the 5-minute rule.

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARMEY] is recognized for 1 hour.

Mr. ARMEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have a good deal of important business ahead of us, both on the floor and in the committees, during this week and the next. It is, of course, out of consideration for the Members on the floor and in the committees relative to their pending district work period that I make this request. I want to appreciate for a moment the Members of the body on both sides of the aisle for their cooperation with me with respect to this request.

Mr. Speaker, for purposes of debate only, I am happy to yield 5 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I first wish to thank the gentleman from Texas for yielding the time.

Mr. Speaker, the gentleman from California has now just arrived, and I was waiting until he got here.

Mr. FAZIO of California. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from California.

Mr. FAZIO of California. Mr. Speaker, I want to thank the gentleman from Missouri not only for yielding but for that introduction.

Mr. VOLKMER. Mr. Speaker, I will be frank about it. I really have nothing to say about this. We are going to let the gentleman from California speak for a few minutes and tell the Members about what happened.

Mr. FAZIO of California. Mr. Speaker, would my friend from Missouri yield for a second?

Mr. VOLKMER. Mr. Speaker, I yield to the gentleman all the time I have.

Mr. FAZIO of California. That is what I wanted to know, how much time he was yielding to me.

The SPEAKER pro tempore. Without objection, the gentleman from Missouri [Mr. VOLKMER] yields 5 minutes to the gentleman from California [Mr. FAZIO].

There was no objection.

Mr. FAZIO of California. Mr. Speaker, we had an interesting session this morning, however brief it may have been. Interesting in the sense that it, I think, is perhaps too typical of the kind of hearings that we are seeing here in the House of Representatives. Unfortunate in that it did not include a balanced presentation on a very important issue to Members of this House.

In fact, I think to the country at large, and that is how we deal with the question of voter education, how we deal with the issue of expenditures that are made outside the Federal election process. We had invited almost 25 groups from all across the spectrum, from Common Cause and the Sierra Club to the Christian Coalition and Citizens for a Sound Economy. Yet, when it came time to hold the hearing, the only people who were brought to the witness table, theoretically, they chose not to come. In my view that was the right decision, those people representing working men and women, organized labor.

Mr. Speaker, now, it is easy to demonize our foes in this area, and both parties certainly have a preponderance of friends from one side of the spectrum to the other which they often like to demonize. But if we are going to hold hearings that really get to the root cause of how we can reform our political system, we cannot play favorites. We cannot just hold up those people representing the interest of working people because they have priorities and they have concerns that do not know in the direction the majority wants to go in.

We have seen too much of this when the AARP was brought up before a Senate committee because they were standing up for Social Security, or critical of some of the Medicare reform proposals. I just simply wanted my colleagues to know, and I think I speak for every member of our committee, that this behavior of the Committee on House Oversight today is going to inflame passions here, is going to create an impossible environment for us to work this most important issue of campaign finance reform in.

There are many, many groups spending hundreds of millions of dollars without limitation, without any attribution to any individual, no disclosure at all, who are working hand in glove with the majority in this House to affect its agenda. We were not willing or able to hear any of the testimony that might have enlightened us about that. It was only to go after people who in the minds of, I guess, the majority of that committee, were associated with the Democratic Caucus. I feel very much compelled to object to that process.

Every member of our committee absented ourselves from the hearing today because we felt it was an inquisition. It was a kangaroo court designed to embarrass people who are merely spending, legally, their dues to put across a point of view to help educate their members and hopefully to impact on the Members in this body before they make a number of mistakes.

Mr. Speaker, I would simply close by saying this side of the aisle is prepared to work on these issues as long as we come to the table in a bipartisan manner. I am told in the aftermath of our decision to leave that we were told the room was not big enough, the table was not large enough to bring all the various interests together to discuss this. We only had to select one. Well, I think that is a metaphor that concerns me. The table ought to be big enough for all of the interest groups and all the points of view in this country to be heard.

When we single out people, then we make enemies of people. Then I think we are doing a lot of damage to this process. As long as the working people of this country want to be heard in this institution legally through their organizations that they pay dues to, we ought to listen to them and we ought to accommodate them. We ought not to single them out and take vengeance on them simply because they have another point of view that is unpopular with the majority.

□ 1415

Mr. ARMEY. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I thank the majority leader for yielding me this time, and I want to thank my colleague from California for once again letting the chairman know of his interest in making sure that there is no hearing in which labor unions have to present any testimony about anything at all. Today's hearing was, in fact, the fourth hearing in a series of hearings, which are the most extensive in the history of this Congress on the campaign finance bills that were passed in the 1970's.

Our hearings started off in a bipartisan way. We had the Speaker of the House and the minority leader of the House talk about their vision of where they wanted to go. We also had all of the Members who have introduced legislation who want to see change in campaign finance laws. In fact, there were so many Members, we had to carry some over to the second hearing.

In the second hearing we heard from corporations, we heard from people who believe constitutionally they have a right to form political action committees, we heard from labor unions about the narrow segment of union political activity under the Federal Election Commission.

In our third hearing we had national chairmen of both the Democratic and Republican Parties talking about how the law unnecessarily hamstrings political parties, in their opinion, vis-a-vis labor unions and other groups who are able to participate in the process far beyond political parties, and on a bipartisan basis those leaders urged us to look at changing the law affecting political parties.

This is the fourth hearing in our series of hearings. It seemed entirely appropriate since less than 1 week from now labor unions are meeting here in Washington to discuss increasing their dues to put more than $35 million into the political arena, which they have, and I will not yield at this time because I would like to finish my statement, in which the workers who are paying for this have no knowledge under the law, either under the FEC, or the Labor Department, or the NLRB, National Labor Relations Board, as to where and how much money is spent in the political process. The people who participate in elections, the voters, do not under the law have any understanding, or idea, of how much money because it simply is not required under current law to be reported. We invited the president of the AFL–CIO, the president of the Teamsters, and the secretary-treasurer of the AFL–CIO to provide us with some understanding of this involvement in the political process. We fully intend to go forward with additional hearings to hear from other groups.

What was the response of the minority to yet one more hearing to get a full, complete understanding of participation in this process? Either within or outside the law? Either through sheer arrogance or fear the union leaders decided they would not show up and the Democrats would not participate in the hearing.

Who did we have testifying that made it so slanted, so misrepresentative? We had two individuals from the Congressional Research Service, individuals who are pledged in their testimony to be fair and bipartisan; in fact, so much so that every opening statement of a witness from the Congressional Research Service has to state as much. We had professors of economics and labor to help us to understand that under the law, in an incomparable way, labor unions can participate in the political process without any, without any, requirement to disclose to the public when and how that money is spent, but, even more fundamentally, to the people who contribute the money themselves. That information is so shocking, so important to the Democrats, that they have to walk out of a committee and refuse to have people come to the committee so that the American people can understand when and how labor unions influence elections.

Mr. ARMEY. Mr. Speaker, I thank the two gentlemen from California for that scintillating debate, and, if I might, I would like to thank the gentleman from Missouri for having made it possible.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. LAHOOD). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARMEY].

The motion was agreed to.

A motion to reconsider was laid on the table.

IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 384 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2202.

□ 1420

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing Border Patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes with Mr. BONILLA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, March 20, 1996, amendment No. 18 printed in part 2 of House Report 104–483, offered by the gentleman from California [Mr. DREIER] had been disposed of.

It is now in order to consider amendment No. 19 printed in part 2 of House Report 104–483, as modified by the order of the House of March 19, 1996.

AMENDMENT, AS MODIFIED, OFFERED BY MR. CHRYSLER

Mr. CHRYSLER. Mr. Chairman, I offer an amendment, as modified, made in order by the rule.

The CHAIRMAN. The Clerk will designate the amendment, as modified.

The text of the amendment, as modified, is as follows:

Amendment, as modified, offered by Mr. CHRYSLER: Strike from title V all except section 522 and subtitle D.

The CHAIRMAN. Under the rule, the gentleman from Michigan [Mr. CHRYSLER] and a Member opposed, the gentleman from Texas [Mr. SMITH], each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CHRYSLER].

Mr. CHRYSLER. Mr. Chairman, I yield 15 minutes to the gentleman from California [Mr. BERMAN], and I ask unanimous consent that he be able to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CHRYSLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me first start out by addressing some unfortunate distortions concerning our amendment. Our amendment does not increase immigration levels, and it does not touch the welfare restrictions in the bill. It does keep families together. Our amendment will simply restore the legal immigration categories that are defined under current law, strike the cuts in permanent employer-sponsored immigration, and keep refugees' admission at the current annual limit.

It is simply wrong that this immigration reform bill prohibits adult children, brothers, sisters, and parents from immigrating to the United States. That is right. Under this bill, no American citizen will be able to apply for a visa for their close family members. The excuse being used for the closing the door on the families of American citizens is that we need to give more family visas to former illegal aliens who were granted amnesty in 1986. Mr. Chairman, slamming the door on immediate family members of U.S. citizens in order to give former illegal immigrants more visas for their families is unconscionable.

I also have a difficult time with the bill's definition of family as only spouses, minor children, and parents with health insurance coverage. I believe that brothers, sisters, parents without long-term health care coverage, and children over the age of 21 are all part of the nuclear family. In the interests of families and keeping families together, our amendment will restore the current definition of "family" to include spouses, children, parents, and siblings.

Mr. Chairman, in a country of 260 million people, 700,000 legal immigrants is not an exorbitant amount. There is simply no need to cut legal immigration, people who play by the rules and wait their turn, to 500,000. We are all immigrants and descendants of immigrants. In fact, 12 percent of the Fortune 500 companies were started by immigrants.

There are numerical caps on family immigration, per-country limits, and income requirements placed on sponsors. My amendment does not change any of these requirements.

In addition, title 6 in this bill will place restrictions on immigrants from receiving welfare benefits as well as increase the income requirement on sponsors to 200 percent of the poverty level. I fully support these requirements, and my amendment does not change these provisions in the bill.

Immigrants who go through all of the legal channels to come into this country should not be lumped into the same category as those who choose to ignore our laws and come into our country illegally. I agree with most of the illegal immigration reforms that are included in the bill, and I would like to vote for an immigration reform bill that cracks down on illegal immigration. But I cannot justify voting for drastic cuts in legal immigration because of the problems of illegal immigration. These are clearly two distinct issues that must be kept separate.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment, and I yield 5 minutes of my time to the gentleman from Texas [Mr. BRYANT], and I ask unanimous consent that he may be permitted to yield blocks of time to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Texas [Mr. BRYANT] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there are many reasons why over 80 percent of the American people want legal immigration reform, and there are many reasons why this legislation has attracted such widespread support, such as from organizations like the National Federation of Independent Business, the Hispanic Business Roundtable, the Traditional Values Coalition, United We Stand America, and, as of today, our endorsement by the United States Chamber of Commerce.

The reasons to support immigration reform and oppose this killer amendment are these: First, now is the time to reform legal immigration. Four times in the past 30 years Congress has acted to substantially increase legal immigration. There was the Immigration Act of 1965, the Refugee Act of 1980, the Immigration Reform and Control Act of 1986, and the Immigration Act of 1990.

The Commission on Immigration Reform has recommended a permanent legal immigration system of 550 admissions per year plus an additional 150,000 per year for 5 years to reunify close families. This bill is very close to those recommendations. In fact, it actually exceeds those recommendations and, for that reason, is very generous.

Second, this amendment hurts American families and workers. A fundamental problem in our current immigration system is that more than 80 percent of all illegal immigrants are now admitted without reference to their skills or education. Thirty-seven percent of recent immigrants lack a high school education, compared to just 11 percent of those who are native born. Experts agree that this surplus of unskilled immigrants hurts those Americans who can least afford it, those at the lowest end of the economic ladder.

The Commission on Immigration Reform said, "Immigrants with relatively low education skills compete directly for jobs and public benefits with the most vulnerable of Americans particularly those who are unemployed and under employed, and they total 17 million today."

□ 1430

The Bureau of Labor Statistics estimates that low-skilled immigration accounted for up to 50 percent of the decline in real wages among those Americans who dropped out of high school. The bill addresses this problem by reducing the primary source of unskilled immigration, eliminating the unskilled worker category in employment-based immigration, but the bill actually increases the number of visas available for high-skilled and educated immigrants. Mr. Chairman, this amendment eliminates these reforms. This is the last thing we need to do, hurt Americans who work with their hands and are struggling in today's economy.

Third, this amendment will continue the crisis in illegal immigration. This status quo amendment will continue to drive illegal immigration. The myth is that millions of people are waiting patiently for their visas outside of the United States. The reality is very different. Large numbers of aliens waiting in line for visas are actually present in the United States illegally. This amendment will do absolutely nothing to solve this problem. The backlogs will increase, as will the numbers of those backlogged applicants who decide not to wait and instead choose to enter the United States illegally. Meanwhile, we can expect the backlogs to continue to grow.

Setting priorities means making choices. The elimination of the category for siblings was proposed as early as 1981 by the Hessburgh Commission on Immigration Policy, and the elimination of all categories for adult children and siblings was recommended by the Jordan Commission.

Today, a 3-year-old little girl and her mother could be separated, a continent away, from the father living in the United States as a legal immigrant. Meanwhile, in the same city, in the same country, we would be admitting a 50-year-old adult brother of a U.S. citizen.

The amendment is immigration policy as usual. It is a decision not to make a decision, not to set priorities, and not to have a real debate over what level of immigration is in the national interest. These extended family members, more than any other, contribute to the phenomenon of chain migration, under which the admission of a single immigrant over time can result in the admissions of dozens of increasingly distant family members. Without reform of the immigration system, chain migration of relatives who are distantly related to the original immigrant will continue on and on and on.

We need to remember that immigration is not an entitlement, it is a privilege. An adult immigrant who decides to leave his or her homeland to migrate to the United States is the one who has made a decision to separate from their family. It is not the obligation of U.S. immigration policy to lessen the consequences of that decision by giving the immigrant's adult family members an entitlement to immigrate to the United States.

One point raised by the gentleman from Michigan I want to respond to. That is in regard to the question, Does the bill favor the families of former illegal aliens over the families of citizens. The answer is no. The backlog clearance provisions of the bill give first preference to those who are not relatives of legalized aliens. These will be the first family members under the backlog clearance.

Last, this amendment allows continued abuse of the diversity program. Currently, diversity visas are often given to illegal aliens, those who deliberately have chosen not to wait in line, but to break our immigration law. The diversity program has turned into a permanent form of amnesty for illegal aliens.

The bill eliminates the eligibility for illegal aliens and reserves diversity visas to those who have obeyed our laws. It also raises the educational and skills standards for diversity immigrants so we are not admitting still more unskilled and uneducated immigrants.

Mr. Chairman, I want to close by saying to an overwhelming majority of Americans, we hear you. We understand why we need to put the interests of families and workers and taxpayers first. To the National Federation of Independent Business, the Hispanic Business Round Table, the United We Stand America, the Traditional Values Coalition, and the United Chamber of Commerce, thank you for our endorsement.

Mr. Chairman, today we have the opportunity of a generation. We have the opportunity to reform a legal immigration system, but to do so we must vote no on this status quo amendment, we must vote no to kill legal immigration reform.

Mr. Chairman, I reserve the balance of my time.

Mr. CHRYSLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to just say that the report that the gentleman referred to on the Bureau of Labor Statistics was done by a graduate student and it had a BLS disclaimer on it, and also the comment was made that "I think we made a mistake on this one."

Mr. Chairman, I yield 30 seconds to the gentlewoman from Connecticut [Mrs. JOHNSON], the distinguished chairman of the Committee on Standards of Official Conduct.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of the Chrysler-Berman amendment. The case has not been made for reform of our legal immigration system. The backlog is the result of the past immigration reform effort and will be taken care of by the system. Any abuse of the welfare system by legal aliens will be taken care of by the strengthening of the sponsors obligations in this bill and the provision in the welfare reform bill.

Mr. Chairman, I rise in strong support of the Chrysler-Berman amendment, and I urge my colleagues to vote likewise.

Mr. Chairman, I appreciate the hard work and leadership of my colleague from Texas, LAMAR SMITH, and strongly support the provisions in the bill that would stem the flow of illegal aliens that now impose unfair financial burdens on many States.

Increasing the number of border patrol agents, improving border barriers, and cracking down on document fraud are all forceful steps in the right direction. In addition, limiting the number of public benefits available to illegal aliens—while still allowing emergency medical care and school lunches for children—should help States reduce the now truly overwhelming costs of providing public benefits for illegal aliens.

But while I agree that illegal immigration is a problem that must be addressed by Congress, I am not convinced that our legal immigration program needs reform, and I am concerned that our hard working legal immigrants have been unfairly criticized during debate on this issue. Most immigrants come to this country in search of a better life for themselves and their families, not to receive a welfare check. The strong work ethic of immigrants has fueled American economic strength throughout our history and will continue to do so. These immigrants deeply cherish the freedoms and opportunities of their adopted country, having left behind family, friends, and the familiarity of their native land to come here.

H.R. 2202 would significantly restrict the admission of parents of U.S. citizens, admit only a small number of adult children, and eliminate the current preference categories for adult children and brothers and sisters of U.S. citizens. Some say we need to do this because immigrants are more prone to use welfare benefits. Though there are areas of concern, particularly in regard to the elderly immigrant and the refugee populations, welfare use among working age immigrants is about the same as in the nonimmigrant population. It's especially illogical to reduce legal immigration on the grounds of welfare use, when other parts of the bill will address the matter by strengthening the obligation of sponsors to support immigrants and when our welfare reform bill will reduce access to benefits by limiting the eligibility for benefits of legal aliens and illegal immigrants.

You will also hear supporters of restricting legal immigration say that people enter the country legally with tourist and student visas and then overstay them. This is true and a legitimate problem—however, it has nothing to do with our family based immigration system. Those who overstay their visas are nonimmigrants, not family sponsored immigrants. Do we punish family members overseas who are patiently waiting to enter the country through legal methods because this country is not able to adequately track temporary visitors and students who have overstayed their time here? Of course we shouldn't. The provision that pilots a new tracking program to make sure that visitors return to their country of origin is far more appropriate.

Finally, you will hear that we must limit legal immigration in order to reduce the backlog of family-sponsored immigrants now waiting to enter this country. This backlog does exist and does need to be addressed but we do not need to eliminate the visas for the adult children and siblings of U.S. citizens in order to do so. The backlog is due to our one-time Amnesty Program in the 1980's overtime is will be cleared. We do not have to give out extra visas in the name of backlog reduction at the expense of the family-sponsored immigrants now on the waiting lists. These are people who have chosen to wait patiently for years in order to come to America through the proper and legal methods. Do we punish them by denying them admittance when their perseverance and values prove that they are just the kind of people who would thrive given the opportunities America has to offer?

I met with legal immigrants in my district who have been the best citizens a country could hope for—bright, hard working, and raising children who will continue in their footsteps. It pains and angers them to know that legal immigrants like themselves might not be able to reunite their families, see their siblings, their parents, or their adult children as their neighbors.

Finally, I want to acknowledge a teach in Connecticut named Jean Hill who was recognized in the 1995 Connecticut Celebration of Excellence Program for a lesson she taught in her elementary school class. It's a lesson from which we all could learn. Titled "We Came To America, Too" foreign students study the Pilgrim's voyage to America and then compare that experience to their own voyage to the United States and Connecticut. They learn that they are no different from our Nation's first immigrants—immigrants who went on to create the country we know today. We are a nation of immigrants, each with the potential to make this country a better place. So I ask my colleagues, when you find yourself swept up in the tide of antilegal immigration fervor this week—stop—remember your own heritage—and that we came to America, too.

Mr. BERMAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this debate is really about one's vision of America. I think it is fundamentally wrong to take the justifiable anger about our failure to deal with the issue of illegal immigration and piggyback on top of that anger a drastic, in 5 years, 40 percent cut in permanent legal immigration, a cause and a force that has been good for this country; 8 out of 10 Americans polled say, "Deal with the problem of illegal immigration before you touch legal immigration."

I hereby reaffirm my commitment to participate when the Senate, as they will, sends us over a legal reform mechanism, to participate and support legal reforms; not these drastic and draconian reforms, but reforms that deal with situations in the legal immigration system that can be changed. But do not make it part of this bill. Build a base for this. Legal immigration has been good for this country. Preserve that existing system. Do not tear it apart. Do not tear family unification apart.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, what is really at stake in the consideration of the Chrysler-Berman amendment is whether we are going to do anything meaningful with regard to numbers in this whole debate.

The fact of the matter is that legal immigration accounts for about 1 million people a year coming into the country. Illegal immigration, which we all want to stop, accounts for about 300,000 a year. If Members are concerned, as I am, about the fact that in about 4 years we are going to have twice as many people in this country as we had at the end of World War II, and by the year 2050 we are going to have 400 million people, it is conservatively estimated to be that, and we do not want to see our country have that many people in it, and I do not, then we have to stand up and face the need to deal with the question of legal immigration, because that is where the numbers are.

If we do not, we will have skipped that opportunity to really deal with the problem, and we will then have a situation where there will be a bunch of Members going around there beating their breasts, talking about how tough they got on illegal immigrants, but they avoided the tough question where the interest groups are putting the pressure on everybody; that is, the question of legal immigration.

Mr. Chairman, I submit to the Members, that is not in the national interest. We will have made the decision, if we vote for the Chrysler-Berman amendment, not to set priorities, not to set levels of immigration in the national interest, and not to address the problem of chain migration, all of which were addressed in the Jordan Commission, which recommended significant cuts, bringing us back below the 1991 levels of legal immigration.

I would point out once again, from 1981 to 1985 we had about 2.8 million legal immigrants coming to the country. From 1991 to 1995, we had 5 million come into the country. We have to deal with the question of legal immigration, or admit to the country that we are afraid to act.

Mr. CHRYSLER. Mr. Chairman, I would just point out that the GAO proved that, on average, it takes 12 years for an immigrant to bring over the next immigrant.

Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Kansas [Mr. BROWNBACK], the cosponsor of this amendment.

Mr. BROWNBACK. Mr. Chairman, I would like to recognize the gentleman from Michigan [Mr. CHRYSLER], the gentleman from California [Mr. BERMAN], and also the gentleman from Texas [Mr. SMITH], for the excellent work they have done on the issue of immigration.

Mr. Chairman, I would like to point out a couple of things. I rise in strong support of the Chrysler amendment. I think the bill as it is currently written would cut legal immigration far too far. According to the State Department, and I have a chart up here showing the numbers from the State Department, it would cut legal immigration a minimum of 30 percent, and maybe as much as 40 percent. That is simply too much.

The Chrysler amendment has broad support from the Christian Coalition to the AFL–CIO, from the Wall Street Journal editorial page to the L.A. Times. It has broad support because it just simply goes too far, the current bill does.

Mr. Chairman, the Senate has split this legislation already, legal and illegal immigration. We should pass this amendment, deal with illegal immigration aggressively, as the gentleman from Texas [Mr. SMITH] has dealt with illegal immigration very aggressively, and then take up the issue of legal immigration with the Senate bill.

Finally, I would just like to plead with my fellow Members, we are a Nation of immigrants. Congress should preserve this proud tradition and not threaten it. Ronald Reagan, in his final address to the Nation, spoke often and spoke then of America being a shining city on a hill, and in his mind it was a city that was teeming with people of all kinds, living in peace and harmony. Then he went on to say, "And if this city has walls, the walls have doors, and the doors are open to those with the energy and the will and the heart to get in. That is the way I saw it, that is the way I see it," is what Ronald Reagan said then. That is the way we should see it. Support the Chrysler amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would simply point out that State Department speculation is fine, but facts are better. If individuals will look at the bill and add up the figures, they will see that we average 700,000 for each of the next 5 years.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I rise in opposition to the amendment and in strong support of the reform of our legal immigration system contained in H.R. 2202.

The bill would allow an average of 700,000 legal immigrants annually for the next 5 years, then 570,000 per year. This is comparable to the average number of legal immigrants coming to this country every year since the 1965 Immigration Act was enacted—600,000. This doesn't close America's doors.

What it does do is put more priority on immigrants with skills that American employers need. We will continue to accept the same number of employment-based immigrants. It also puts more priority on admitting spouses and minor children of immigrants, thus reunifying nuclear families.

The reduction in immigration is primarily in the area of adult relatives of immigrants. Under current law, these all get preference over immigrants with skills but no relatives already here. This misallocation of priorities will be changed by the bill. In most cases those grown-up children don't continue to live with their parents. We just have to make a decision as to what is more important, reuniting 10 year olds with their parents, or 30 year olds? In some cases, a sibling will be brought to this country, go home and marry, thus reuniting a family that was never disunited.

On the other hand, this amendment will increase legal immigration to the United States by 500,000 over 5 years. This is not what the American people want. This amendment will keep all that is wrong with our current legal immigration system. We need to make changes. Let us make them now.

Mr. BERMAN. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, No. 1, the last comment of the gentlewoman is simply inaccurate. The author of the bill knows that. There was a technical correction made in the rules, and this bill simply returns to existing law.

Second, the State Department says it is not 1 million people a year coming in now, it is 800,000 coming in through permanent legal immigration.

Third, the gentleman from Kansas [Mr. BROWNBACK] was right, and the gentleman from Texas [Mr. SMITH] is wrong. His bill will result in a cut of 30 percent, and a 40-percent cut in overall numbers.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Chairman, I rise today to express my strong support for the Chrysler-Berman amendment. This amendment will repeal the antifamily, antigrowth provisions of the underlying bill.

While I support H.R. 2202's attempts to control illegal immigration, I believe that the issue of legal immigration should be addressed at a later time by separate legislation. The issues of legal and illegal immigration are separate and distinct issues, and should be addressed in separate bills.

As the bill is currently drafted, after a 5-year transition period, H.R. 2202 cuts legal immigration by 40 percent—a level unprecedented in the last 70 years. In one fell swoop, H.R. 2202 slashes family immigration by approximately one-third. In addition to arbitrarily reducing the number of family members admitted each year, the bill completely eliminates major eligibility categories. H.R. 2202 not only eliminates visa categories for adult children and siblings but would also unfairly wipe out the corresponding backlogs of visa applications. Individuals who have played by the rules, paid necessary fees, and waited patiently for as many as 15 years would be summarily rejected for legal immigration.

The bill also places nearly insurmountable obstacles for parents and adult children who are attempting to legally reunite with family members. H.R. 2202's restrictive family based immigration policies undermine American families and American family values.

In addition to my concerns regarding family based immigration, H.R. 2202 is an antigrowth bill. As our economy grows, the job base expands. Both the Wall Street Journal and the Washington Times editorial pages have noted that the U.S. economy benefits from legal immigration. In fact, in a recent Cato Institute study, not one economist surveyed believed that reducing legal immigration would increase economic growth. In addition, not one economist believed that reducing the level of legal immigration would increase Americans' standard of living.

As drafted, H.R. 2202 is an antifamily and antigrowth bill. I urge Members to support the Chrysler-Berman-Brownback amendment so that we can address the issues of illegal and legal immigration thoroughly and responsibly through separate pieces of legislation.

□ 1445

Mr. BRYANT of Texas. Mr. Chairman, I yield myself 30 seconds, simply to say that I think it is extremely unfair and extremely inaccurate for the advocates of this amendment to describe the bill as antifamily. It is not antifamily.

What it does is recognize what the Jordan Commission observed, and that is that we have chain migration and we cannot continue forever allowing everyone who is allowed to come into the country legally to bring in brothers and sisters. That is really what is at stake here. The same recommendation was made in 1981 by Father Hessburgh's commission. It is not a radical proposal. What is radical is the idea of doing nothing, which is what they advocate, and letting the population increase to 500 million people in this country.

Mr. CHRYSLER. Mr. Chairman, I yield myself such time as I may consume.

Let me just add that I do not know anyone who does not consider their brothers and sisters extended family.

Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois [Mr. CRANE], a cosponsor of the amendment.

Mr. CRANE. I thank the gentleman for yielding me the time, and I compliment him on his amendment.

Mr. Chairman, I think there are many good provisions of H.R. 2202 dealing with illegal immigration, and adding approximately 6,000 people to monitoring our borders certainly can address that problem. But what we are proposing in the current language, unless the Chrysler amendment is adopted, to me runs contrary to all our values.

Just stop and think where your ancestors came from. Why did they join the cosmic race here? It was for the same reasons that we enjoy being Americans. It is the land of opportunity and the home of the brave, and we enjoy a degree of personal liberty that is unprecedented. Looking at the historic figures, the first time we deviated from our traditional policy was with the Chinese Exclusion Act in 1882. We locked Chinese out for a decade. Then in 1924 we started establishing quotas and we discriminated against the Orient in that package.

This kind of thing is inconsistent with our historic tradition. Our percentage of immigrants in this country today is infinitely lower than it was for the first 150 years. I urge Members to support the Chrysler amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to point out to some of my friends on the other side of the issue, they may not be aware that the new figures for the 1995 immigration levels are in. The 1995 level was 715,000. Under this bill we average 700,000 each for the next 5 years. I might concede a 2-percent reduction at most.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. I yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, I just wanted to briefly ask the gentleman from Texas a question. That is, having listened to the comments of the gentleman from California [Mr. DOOLEY], with which I generally agree, that is, that kind immigration and illegal immigration are rather separate subjects and for various purposes deserve to be discussed separately. It is the case that this amendment merely splits the two so that they can be discussed separately, or is it rather the case that the effect of the amendment would be to strike out all of the parts of the bill for good that deal with legal immigration?

Mr. SMITH of Texas. Mr. Chairman, that is an excellent question by my friend from California. In point of fact the whole thrust behind this amendment is not to reform legal immigration. In fact, it is to kill any reform that we have in legal immigration. There is no separate legal immigration reform bill on the House side as there is on the Senate side. The gentlemen who have put forth this amendment to my knowledge have not proposed one amendment to reform legal immigration. I think that is very regrettable.

Mr. Chairman, I reserve the balance of my time.

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Chairman, I rise in strong support of the Berman-Chrysler amendment.

Proponents of H.R. 2202 have argued that it is profamily. On the contrary, this legislation would eliminate whole categories of family sponsored immigration.

Let me talk if I can for one moment about Mary Ward. Mary Ward emigrated to America at the turn of the century from County Down, Ireland. Mary Ward became a citizen in her late 50's and raised a family and worked as a domestic, passing on the very values that we cherish and honor in this Nation. Mary Ward was as patriotic as any American in this institution, and loved the opportunities that it brought to her family.

Our goal here should be to separate legal from illegal immigration. Legal immigration serves this Nation very well. We acknowledge that illegal immigration is a problem. But where I live there are thousands of Polish-Americans and Russian-Americans and Franco-Americans and Italian-Americans and Irish-Americans and Asian-Americans. They add to the fiber and fabric and strength of this country. They do not subtract from it. In many instances they are more patriotic and more loyal than those who have been here for decades and decades and decades, and we should not forget about that in this debate.

In our haste to address this crisis, let us not make the mistake of penalizing those who love the notion and idea that someday they might be called an American.

Think as you vote on this about Mary Ward from County Down, Ireland. Mary Ward was my grandmother.

Mr. BRYANT of Texas. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. BEILENSON].

Mr. SMITH of Texas. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. BEILENSON].

The CHAIRMAN. The gentleman from California [Mr. BEILENSON] is recognized for 4 minutes.

Mr. BEILENSON. Mr. Chairman, I thank the gentlemen for yielding me the time.

Mr. Chairman, I rise in strong opposition to the amendment.

Supporters of eliminating the bill's reductions in legal immigration argue that legal and illegal immigration are separate and distinct issues, and therefore ought to be dealt with in separate bills. But we all know that if these provisions are dropped now, the chances of the House acting on legal immigration reform this year are very slim indeed.

The fact is, legal and illegal immigration are related because they both affect the size of our country's population. And, we are letting too many people into our country.

What Congress does with regard to both types of immigration will determine how many newcomers our communities will have to absorb, how fierce the competition for jobs will be, and how much the quality of life in the United States will change in the coming decades.

Fueled by both legal and illegal immigration, the population of the United States is growing faster than that of any other industrialized country. By the end of this decade—less than 4 years from now—our population will reach 275 million, more than double its size at the end of World War II. Unless we reduce our high rate of immigration—the highest in the world—our population will double again in just 50 years.

Middle-range Census Bureau projections show our population rising to nearly 400 million by the year 2050, an increase the equivalent of adding 40 cities the size of Los Angeles.

But many demographers believe it will actually be much worse, and alternative Census Bureau projections agree. If current immigration trends continue—and that's what we're debating here—our population will exceed half a billion by the middle of the next century—a little more than 50 years from now.

Immigration now accounts for half our—and that rate of growth—proportion is growing. Post-1970 immigrants, and their descendants have been responsible for U.S. population increases of nearly 25 million—half the growth of those years.

In other words, much of what demographers consider our natural growth rate is actually the result of the large number of immigrants in our country—and the great majority of them have come here legally.

As recently as 1990, the Census Bureau predicted that the population of the United States would peak, and then level off, a few decades from now. Since 1994, however, because of unexpectedly high rates of legal immigration, the Bureau has changed its projections, and now sees our population growing unabated into the late 21st century—when it will reach 700 million, 800 million, a billion Americans—unless we start acting now to lower our levels of legal immigration.

Those of us who represent communities where large numbers of immigrants settle have long felt the effects of our Nation's high rate of immigration. Our communities are already being overwhelmed by the burden of providing educational, health, and social services for the newcomers.

With a population of 500 million or more, our problems, of course, will be much, much greater. With twice as many people, we can expect to have at least twice as much crime, twice as much congestion, and twice as much poverty.

We will also face demands for twice as many jobs, twice as many schools, and twice as much food. At a time when many of our communities are already straining to educate, house, protect, and provide services for the people we have right now, how will they cope with the needs and problems of twice as many people or more?

Without a doubt, our ability in the future to provide the basic necessities of life, to ensure adequate water and food supplies, to dispose of waste, to protect open spaces and agricultural land, to control water and air pollution, to fight crime and educate our children, is certain to be tested in ways we cannot even imagine.

But however we look at it, our current rate of population growth clearly means that future generations of Americans cannot possibly have the quality of life that we ourselves have been fortunate enough to have enjoyed.

The reductions in legal immigration in this bill are very reasonable, and humane. They are based on the well-thought-out recommendations of the Jordan Commission, whose purpose was to develop an immigration policy that serves the best interests of our Nation as a whole. These proposed changes are designed to enhance the benefits of immigration, while protecting against the potential harms.

Reducing the rate of legal immigration, as the bill in its current form would do, constitutes a modest, but absolutely essential, response to the enormous problems our children and grandchildren will face in the next century if we do not reduce the huge number of new residents the United States accepts each year, beginning now.

I strongly urge Members to reject the Chrysler-Berman-Brownback amendment.

Mr. CHRYSLER. Mr. Chairman, I yield myself 10 seconds.

I would just like to point out that the Senate split their immigration bill, so there will be a separate legal immigration bill that will come before the House.

Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. GILMAN], the distinguished chairman of the Committee on International Relations.

Mr. GILMAN. I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in strong support of the Chrysler-Berman-Brownback amendment to separating the unique concerns of legal and illegal immigration.

Proponents of deep cuts in legal immigration are blurring this distinction in order to make it difficult for us to vote against sorely needed illegal immigration reform. They know that their cuts in legal immigration cannot pass on merit alone.

Immigrant bashers argue that America needs to take a time out and limit or provide a moratorium. In the 1920's, they say, we experienced unprecedented economic growth the last time the United States had such a policy.

Mr. Chairman, in response to those specious arguments: One, that was no time out. That was a policy based on xenophobia and racism.

Two, moreover, when our Nation endured an unprecedented depression in the 1930's, the same restrictive immigration policy was in place.

I am disappointed with the anti-immigration forces who have denied us a chance to address the restrictive asylum and humanitarian parole provisions that were included in H.R. 2202.

Accordingly, I urge my colleagues to support this important Chrysler-Berman-Brownback amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BILBRAY], whom I understand is the only Member of Congress who can see the southern border from his home.

Mr. BILBRAY. Mr. Chairman, my mother happened to be the first Australian war bride to become a U.S. citizen. She emigrated in 1944. I have cousins who would love to emigrate to the United States right now. But let me tell Members, I am sworn to represent the people of my district here in America, and I am not sworn to represent my cousins in Australia or to represent certain businesses that would love to be able to bring my cousins in to work for them. I am sworn to represent the general population of the 49th District of the great State of California.

□ 1500

I think that we ought to be up front about this. Who are we serving here with the Chrysler amendment, who is going to benefit from this, and is it going to be the people of the United States?

Mr. Chairman, it is not only our right to have an immigration policy for the good of the American national interests, it is our responsibility as Members of Congress to make sure our decisions on immigration are for the good of America, and America first. In the words my mother said to me when I asked her loyalty between Australia and the United States, she said "America, America must take care of America first and that will help the rest of the world."

Mr. BERMAN. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, U.S. law does not allow you to petition for your cousins, your uncles, your nieces, your nephews. It would not under this bill, it does not under existing law, and it never has. Bogus arguments should be dispensed with quickly.

Second, the gentleman from Texas [Mr. BRYANT] says 1 million people a year come in, to show how bad it is. The gentleman from Texas [Mr. SMITH] says "I just got information, 715,000 a year come in. Our bill only cuts by 15,000."

The gentlemen from Texas [Mr. BRYANT] and [Mr. SMITH] are right about the number. What they do not say is that for the first 5 years, his bill allows 700,000, and it then has a massive 30 percent drop in legal immigration to far below that. That is the accurate story.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Chairman, I rise today as the daughter of immigrants in favor of removing the poorly designed and unfairly restrictive legal immigration provisions from the bill before us. I strongly support and have cosponsored the tough measures in this legislation to crack down on illegal immigration. But, like most Americans, although not some that we have just heard from, I believe that legal immigration is the lifeblood of this country, enriching our Nation economically and culturally.

We should, of course, be open to reasonable reforms in our legal immigration policy, but H.R. 2202 goes too far. By the year 2002, as we have already heard, the bill will cut legal immigration by 40 percent, and the bill's cap on refugee admissions, which, fortunately, has already been removed, would effectively have ended our historical commitment to helping those who, like my father, who grew up in Nazi Germany, flee oppression and genocide.

H.R. 2202 includes important and effective tools for fighting illegal immigration. Let us not bind those changes to the unacceptable legal immigration cuts in title IV.

Mr. CHRYSLER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. DAVIS], a cosponsor of this amendment.

Mr. DAVIS. Mr. Chairman, I thank my friend for yielding.

Mr. Chairman, first of all I want to commend the gentleman from Texas for taking on a tough issue. I rise reluctantly to oppose his position on this and support this amendment.

This amendment continues the current level of immigration. It allows children and the brothers and sisters of immigrants to apply for immigration. Otherwise they are barred for the most part.

This amendment does not affect the changes in this bill regarding immigrant eligibility for public benefits and it does not affect the provisions relating to illegal immigration, but family reunification has long been a principal purpose of U.S. immigration policy. This bill's provisions barring adult children in particular turns that principle on its head by ensuring that many families will never become whole.

Why would a child who turns 26 automatically be considered extended family and not allowed to immigrate under his parents' sponsorship? Many of these adult children are exactly the type of Americans this country needs. They help in their prime working years, working in many cases in family-owned businesses, helping them to prosper. They save, invest, and give back to their communities.

I see the pioneer spirit in this country alive and well in the shops in my district where you have much of this. They also help care for their elderly parents and reduce the elderly's use of social services.

Mr. Chairman, I ask approval of this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise today in opposition to the Berman-Chrysler-Brownback amendment to H.R. 2202.

This bill was drafted in response to concerns echoed across this Nation about the influx of immigrants in this country, both legal and illegal. However, a vote for this amendment is a vote to kill any attempt to pass legal immigration reform in the 104th Congress.

We are a country of immigrants. Our ancestors came here for the promise of a better life and a better place to raise their families. They wanted the American dream. This bill does not deny this dream to anyone. Contrary to what has been said about this bill, it maintains America's historic generosity toward legal immigration and places a priority on uniting families.

Our current system of legal immigration is clearly flawed. There is currently a backlog of 1.1 million spouses and young children of legal immigrants who are forced to wait years to join their families. H.R. 2202 provides for the highest level of legal immigration in 70 years, averaging 700,000 per year over the next 5 years.

People should not be fooled into believing the rhetoric that only illegal immigration needs reform. The unfortunate fact is that the majority of illegal immigrants in this country entered the country legally with tourist visas. But our Government gives them every incentive to stay here illegally after their temporary visa has expired. Just by virtue of being here, they are automatically entitled to generous Government assistance for health care, food stamps, and education benefits. Where is the incentive to leave?

We can put up bigger fences, hire more border patrol agents, and establish a fool-proof system to detect fraudulent documents. However, until we reform legal immigration, we will continue to face the same problems.

The Berman-Chrysler-Brownback amendment will kill legal immigration reform. H.R. 2202 fairly and generously reforms legal immigration, and I encourage all of my colleagues to vote "no" on this amendment.

Mr. BERMAN. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, with respect to the population projections, I just want to remind everyone of the demographer Malthus, who looked at population projections in the early 19th century and concluded that by the end of the 19th century, there is no way in the world there would be enough food in the world to feed the people.

I have great faith in the capacity of technology and the economy to grow, and I believe that is going to deal with the particular issue of our future ability to handle the population.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BECERRA], my friend on the Committee on the Judiciary.

Mr. BECERRA. Mr. Chairman, I support the efforts of the Chrysler amendment to try to have a reasoned debate on legal immigration separate from the very impassioned debate on illegal immigration. I would urge Members to support that particular amendment.

Let me say that the whole issue here is about family-based immigration. That is all we are talking about here. In order for someone to be able to come into this country under the provisions being debated, you must have an American petition to have that particular individual come to the country. This issue of chain migration is a false one. By the time you have someone come into this country, it usually takes 12 to 13 years before that individual can then petition to have anyone who is an immediate relative—not a distant relative—come into this country. So this issue of chain migration is really a quarter century long before you see any additional relatives possibly having the chance to come in, if even that soon.

There is no chain migration. What we do have though, if we continue to go this course with H.R. 2202, is a lack of family-based immigration, where brothers, sisters, children, and parents will not have an opportunity to join their U.S. citizen relatives.

Mr. Chairman, I urge a "yes" vote on this particular amendment.

Mr. CHRYSLER. Mr. Chairman, I yield myself 10 seconds.

Mr. Chairman, I would just point out that there are provisions in the illegal portion of the bill dealing with the problems of visa overstayers and they are not entitled in title IV.

Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. CHABOT], a member of the Committee on the Judiciary.

Mr. CHABOT. Mr. Chairman, I rise in very strong support of the Chrysler amendment, because I deeply value the fundamental character of this Nation as a land of hope and opportunity and because I cherish our unique American heritage as a country of immigrants, united by shared values, a strong work ethic, and a commitment to freedom. Let us not tarnish that heritage or ignore our greatest strength, which is our people.

Our legal immigration system doubtless could use reform, and other titles of this bill will make some useful changes, but I do not believe the rush to do something about the very real problems of illegal immigration should cloud our treatment of people who play by the rules and who come here legally and add to our human capital.

Should we crack down on illegal immigration? Yes. Absolutely. Let us, for example, not let welfare be a magnet for illegal immigrants to come here, and let us beef up our border patrols. But legal immigration is a separate and distinct issue. Let us split the issues of legal and illegal immigration and let each be determined upon its merits.

Mr. Chairman, I urge a vote for American family values, and I urge support for the Chrysler amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I think that there are two great political issues that face this country. One is welfare reform and the other is immigration reform. Unfortunately, the two of them are inextricably linked together. When you consider the fact that 21 percent of all immigrant households receive some form of assistance, when you consider that for the 12-year period between 1982 and 1994 that the applications for SSI by immigrant families increased some 580 percent compared with only a 49-percent increase for native Americans, then you have to say that the two are linked together. Unfortunately, if we do not address one, it is going to be almost impossible to address and solve the other.

So I would urge that we defeat the amendment that is before the House.

Mr. BERMAN. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, this amendment does not touch title VI of the bill. Title VI requires before any legal immigrant can participate in any variety of public benefit programs, including Medicaid, AFDC, SSI, that you have to deem the family sponsor's income. Our amendment does not touch that particular reform.

Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Chairman, the guiding principle in our Nation's immigration policy should be to reward controlled legal immigration and dissuade illegal immigration.

As an American-born son of legal immigrants, I can tell you this bill sends the wrong message. Instead of saying to potential immigrants that if you play by the rules, wait your turn, and follow the law, you will benefit by becoming a permanent resident, we say, we're going to treat you just about the same as an illegal immigrant.

The cuts in legal immigration hurt family reunification efforts and show the hypocrisy of a Congress that promotes family values.

Why does this family friendly Congress want to prohibit the adult sons, daughters, brothers, and sisters of U.S. citizens from entering the country? Legal immigration reinforces family structure, upholds family values, and benefits the Nation.

Creating a hardship for U.S. citizens by permanently separating them from their close family members does not promote family values. It disintegrates the fabric of American values and jeopardizes the Nation's future. We can fight illegal immigration and preserve family-centered legal immigration by supporting this amendment.

Mr. CHRYSLER. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in support of this amendment. Legal immigration is a basic building block in the cultural development of our United States. The family is an American tradition. When we talk about our families, we do not simply speak of our spouse or our young children. The tradition extends to our grown children, our parents, our brothers and sisters.

For years we have told new immigrants that if they play by the rules, their family members will be able to join them. Now, as many as 2 million people may be told that they are no longer qualified family members.

Having a visa petition approved may not be a guarantee that a person will actually receive the visa. However, there was an implicit act of good faith when INS approved the petitions and the people began their wait. To break faith with such a strong American tradition sends a strong message and does not address the real concerns of illegal immigration.

Our immigrant population strengthens the diversity upon which our great country is built. As a former immigrant and naturalized American, I urge us to stand up for our families, our traditions, and strike the cuts in legal immigration.

☐ 1515

Mr. SMITH of Texas. Mr. Chairman, I just want to point out that the reason we have the record percentage, 21 percent of all legal immigrants on welfare today, is because we admit over 80 percent of all legal immigrants with absolutely no regard to their education or skill levels. That is the reason we have the problem.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I do not think there is any question that we need and must face both legal immigration reform and illegal reform. If we vote for this amendment today, we are going to kill legal immigration reform in this Congress.

Why do we need it? Why do we need to attack and change family unification principles that have been in the law for quite some time? I will tell my colleagues why, because the system is broken, because we have a backlog. Millions of close family ties, people who we would like to see be able to come over here have to wait up to 20 years to come over. The system is not working. The brothers and sisters cannot continue to be brought in under the kind of preference we have today and leave any room for seed immigrants, that is, those who can provide skills and special things we would like to see but who have no relatives here at all.

Why should just being a relative be the primary reason you get to come here? We have to have balance in our system. The current legal immigration system is imbalanced, out of whack. We need to change it.

Now, there is nothing draconian about the legal reforms we have here today. If we look at what happened in 1990, we increased legal immigration in a bill that passed this Congress and went and was signed into law by 40 percent. This bill reduces it by 20 percent. So we are kind of compromising.

Over the next 5 years under this bill we will add 3½ million new legal immigrants to this Nation which, except for the legalization years that we had right after 1986, will be the greatest increase in legal immigration in American history in the last 70 years.

This is a very generous legal immigration bill that the gentleman from Texas [Mr. SMITH] has crafted. But what it is doing is extremely important. It is trying to give us an opportunity which business and all of us should be pleased with to get more seed immigrants since almost none can come in today who have no family ties but who have skills and things they can offer America and should be allowed to come to this country and get rid of the backlog of those people who are close family relatives who really should come here, the children and spouses and so forth, instead of having the broken system we have today.

So I implore my colleagues to vote against the amendment. As well-meaning as it may be, it is not a good amendment. Keep legal immigration in this bill and allow it to exist, because a vote for this amendment kills legal immigration reform.

Mr. BERMAN. Mr. Chairman, I yield myself 15 seconds.

Of the 500 fastest growing companies in this country, 12 percent are headed by legal immigrants. They are, again, a source of economic strength, the creation of jobs, the growth of our economy.

Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Chairman, this amendment deals with striking the family immigration sections of the bill in order to address these issues in a more seemly and deliberative manner, and I agree with that. If we are for family values, we need to value families; and that is what the Berman amendment would do. However, disapproval of the Berman amendment will also have implications for the business community.

I recently received a letter from a Mr. Yao, who lives in Mountain View, CA. I cannot read his whole letter, but I can excerpt from it. He is a senior scientist at his company, an American company, and is originally from China. When he started with the company, it was a very small company, but it has since experienced rapid growth and expansion. Its products are well received. In fact, the company received an award for outstanding achievement from the White House.

The major reason why the company has done so well is that Mr. Yao has designed all of the antennas that the company sells and in fact is the holder of a number of patents. However, a few years ago, he missed his daughter in China so much that he was going to take his patents and go home to China. However, the company, fearing to lose him and to lose their business, petitioned to make him a permanent resident so that his daughter could come here. He wrote to me to say that she is now 30 years old, and he is desperate to see her, but she cannot come for a visit because of the pending application.

Mr. Chairman, I guess the upshot is that, if the Smith bill passes without the Berman amendment, Mr. Yao can take his patents and go home to China. Then we can have the opportunity to compete with a Chinese company that he founds instead of dominating our economic adversaries abroad.

I think it is worth noting that one of the fastest growing companies in our country, Intel, was founded by an immigrant. Sun Microsystems was founded by immigrants. The Java computer technology that is taking off on the Internet was devised by an immigrant. We are shooting ourselves in the foot if we fail to adopt the Berman amendment, economically, and also hurting families.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the Bureau of Labor Statistics reports that the high level of immigration is responsible for 50 percent of the decline in real wages for America's lowest skilled workers, that is, those who did not complete high school. Yet, Members stand on the floor of the House and tell us that we have an obligation to continue a system of chain migration in which, when immigrants decide to bring their spouse and children and come to the United States, they also are allowed later to bring in their adult children and their brothers and their sisters.

Well, I submit that 20 years of experts recommending that we change this ought to give us a heads up about something, and that is simply this. If you do not want to leave your brothers and sisters and do not want to leave your adult children, then do not leave them. The American people have no obligation to tell all the people of the world that when you immigrate here you can bring family members other than one's spouse, minor children, and parents. We cannot continue to allow new arrivals to bring brothers and sisters and adult children with them as well, and expect to maintain a manageable population size.

What about our high school dropouts? What about our low-wage workers? It is not fair to continue driving down their wages with an immigration policy that disregards the interests of low skilled American workers.

Mr. CHRYSLER. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, the backlog the gentleman from Florida was referring to is the 1 million former illegal aliens that were granted amnesty in 1986. Giving extra visas to former illegal aliens instead of U.S. citizens is unconscionable.

Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Chairman, I rise in strong support of the Chrysler amendment and in support of legal immigration. America is a nation of immigrants. My grandfather came to America from Norway when he was 16 years old. Like most immigrants, he sought a better life for himself and his family. Three years after becoming a citizen, he was drafted, and served with distinction in the battle of the Argonne in World War I. And his story is one of only millions of immigrant stories, of hope and opportunity, and of service to our Nation.

If someone is in our country legally, and paying taxes, they should be able to receive the benefits that their tax dollars pay for.

Legal immigrants are hardworking, taxpaying contributors to our society. Legal immigrants most often have intact families, college degrees, and are working. Overall, immigrants generate $25 to $30 billion a year in tax revenues—far more than the cost of services they may consume.

There is a problem with illegal immigration in our country. We need to take strict steps to reduce and eliminate illegal immigration. But let's not destroy what has contributed to America's greatness for past centuries. Let's not treat legal immigrants as though they had broken the law, when they are law abiding.

In his farewell address to the Nation, President Ronald Reagan recalled his favorite metaphor of America as a shining city. President Reagan stated that "If there had to be city walls, the walls had doors and the doors were open to anyone with the will and heart to get here. That's how I saw it and see it still." I share Ronald Reagan's vision of immigration; the same vision that brought my grandfather to these shores and ancestors for generations to come.

Mr. SMITH of Texas. Mr. Chairman, first I want to say to my colleague, the gentleman from California [Mr. BERMAN], that I appreciate what he said about the ownership of businesses by immigrants, and I trust that he will feel better about the bill when I remind him that we are actually increasing the number of skilled immigrants whom we admit in the country under H.R. 2202. We want immigrants who are going to come here to work, to produce and contribute to our communities and to own and operate businesses.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. GALLEGLY], the chairman of the task force on immigration reform.

Mr. GALLEGLY. Mr. Chairman, as someone that has dealt with the issue of illegal immigration in this great House for the last 10 years, I have focused my energy on trying to find ways to stop the unchecked flow of illegal immigration.

Initially I was opposed to having legal and illegal immigration combined, but the more I have studied this issue, the more I realize that we cannot deal with one without the other. We are a very generous nation. We allow more people to legally immigrate to this country every year than all of the rest of the countries in the world combined. This bill continues to provide that ability for those to continue to immigrate here. I ask you to oppose this amendment and let us address the issue of immigration once and for all in a way that will stop illegal immigration and we cannot do it without addressing legal as well.

Mr. BERMAN. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE], a member of the committee.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman very much, and I would like to place, Mr. Chairman, a personal face on this whole question of legal immigration.

I rise in support of the separation in this legislation of legal immigration from illegal immigration. Claudia Gonzales left her family in Houston as a teenager to care for her grandparents in Mexico. She rejoined her family in Houston at age 23 where she has begun a new job and is attending school.

Mr. Chairman, under this bill, legal residents would be prohibited from sponsoring their sons and daughters over the age of 21, hard-working sons and daughters. The adult children could be deportable or have no preferential treatment in gaining legal residency. Claudia's father said, who has lived here since 1967: I have worked hard here and pay taxes. What am I going to say to my son 21 and my daughter who is 23?

Mr. Chairman, that is the real face of legal immigrants, hard-working taxpayers. I offered a bill that would have allowed parents to be brought here. Now we have a situation where parents and children cannot be united.

Mr. Chairman, I clearly think with all respect to those who worked so hard on this issue, we would do well to pay respect to hard-working legal immigrants and to acknowledge that it is now time to separate the legislation and treat illegal immigration separately.

Mr. Chairman, I rise today in support of the Chrysler-Berman-Brownback-Crane-Dooley-Davis amendment, which would strike the parts of title V—subtitles A, B, and C—that would virtually prevent American citizens from sponsoring their adult children, siblings, and parents; reduce America's support for refugees; and place additional experience requirements that will complicate companies' ability to hire skilled foreign scientists and engineers.

The current legal immigration system is specifically designed to strengthen families by reuniting close family members and fueling prosperity by attracting hardworking individuals. We must not abandon these principles. At a time when strong family bonds are more important than ever, restrictions in family based immigration will hurt legal immigrant families in America.

It is disturbing to think that Government policy will keep such families, even parents and their children, apart just because a child is older than 21 years of age. Energetic young people, about to enter the work force, are exactly the type of new Americans that complement the existing work force. Not only will they fuel our economy along with our existing population, but they will be here to care for their aging parents. Most Americans do not think that their children, at any age, are ever distant family members.

I recently read about a family in my hometown of Houston who would be affected if this legislation became law. Claudia Gonzales left her family in Houston as a teenager to care for her grandparents in Mexico. She rejoined her family in Houston at age 23 where she has begun a new job and is attending school. Under this bill, legal residents would be prohibited from sponsoring their sons and daughters over the age of 21. The adult children could be deportable or have no preferential treatment in gaining legal residency. Claudia's father, who has lived here since 1967, said: "I've worked hard here and paid taxes. What am I going to say to my son, who is 21, and my daughter, who is 23, if they have to leave this country? I will respect every single day the laws of this country. But this one would be unjust and I denounce this law that would hurt many families."

Similarly, barring entry of brothers and sisters of U.S. citizens because of the current backlog in that visa category is especially unfair to the citizens and their siblings who have followed the rules and waited patiently in line—some for 15 years or more.

H.R. 2202 imposes nearly insurmountable obstacles for U.S. citizens seeking to bring their own mothers and fathers to the United States. The legislation enables the U.S. Government to control and overrule the decisions of families by requiring that U.S. citizens purchase high levels of insurance for their parents and lowers the priority for the parents' visa category. This category will only receive visas if any are left over from other categories. The State Department projects that within 3 years after the law takes effect no visas will be available for parents.

In addition, H.R. 2202 would require citizens and legal residents to show that their income will be 200 percent above the poverty line in order to bring their parents, minor children, or spouses to the United States. More than 35 percent of Americans—over 91 million people—have incomes below 200 percent of the poverty line. The bill will have a devastating impact on American families who will be barred from living in the United States with their own husbands, wives, and children.

The centerpiece of U.S. immigration policy is, and should be, family reunification. It is consistent with our Nation's values when we allow U.S. citizens to reunite with their spouses, children—both minors and adults—their parents, and their siblings. This policy is good not only for the individuals involved, but for the Nation as a whole. Our policy of family reunification brings in energetic, committed new Americans who work hard, pay their taxes, and enrich the country economically and socially. There is little rationale for limiting opportunities for family reunification, when the end results are so positive for everyone involved.

Since when is America not big enough for the parents of its citizens? A recent CNN USA Today poll shows that immigrants come with strong family values and a strong work ethic. These are values we ought to be promoting, not undermining.

Proposed restrictions in employment-based immigration will hurt the U.S. economy. It is crucial that the American workplace reflects the international character of its customers and responds to both domestic and international competitive pressures. Achieving such a work force requires looking beyond the U.S. labor market. Employees, researchers, and professors possessing both innovative technical skills and multicultural competence ensures our economic viability in world markets.

Placing a cap on the number of refugees admitted to the United States ignores the leadership role of this country in providing protection and safe harbor to those fleeing political and religious persecution. Strict levels of refugee admissions ignore the changing and urgent nature of refugee situations. U.S. policy should maintain the flexibility to respond appropriately to emergency situations.

Mr. Chairman, today, and throughout history, immigrants have come to the United States in pursuit of the American dream, to make a better life for themselves and their children. They come to the United States to join the work force and their families, to educate their children and contribute to the communities where they live, their professions and the American economy. They enrich us with their diverse cultures and languages, and with their skills, education, business, and artistic talents. The United States, a nation of immigrants, has welcomed individuals from around the world who came here seeking better economic futures or fleeing political persecution. We must not abandon this history. I urge my colleagues to support their amendment.

Mr. CHRYSLER. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I want to thank my good friend for yielding time to me and especially thank him for his leadership.

Mr. Chairman, I strongly support the Chrysler-Berman-Brownback amendment, which will help keep the focus where it belongs, on the real danger of illegal immigration, not on orderly legal immigration by close relatives of U.S. citizens. I am particularly troubled by the provision in the current bill that would cut off eligibility for so-called adult children unless they meet a series of new tests, including economic dependency. Ironically, supporters justify these restrictions by suggesting that we somehow protect nuclear families by excluding other relatives. Most Americans I think would be surprised, perhaps shocked comes closer to describe it, to know that if their 21-year-old daughter or son gets a job, he or she is no longer a member of your nuclear family and can never live with you again.

The present language in the bill also virtually eliminates the Attorney General's power to use the humanitarian parole to deal with compelling cases at the margins of our immigration laws. Most congressional offices have had to deal with cases in which an American family has adopted an orphan overseas or wishes to sponsor a relative for a sick family, only to run up against a brick wall. Humanitarian parole is gone.

Mr. Chairman, I urge support for the Chrysler amendment.

Mr. SMITH of Texas. Mr. Chairman, I just want to remind the gentleman from New Jersey that the bill actually has an additional 10,000 visas for humanitarian purposes that the Attorney General can disseminate.

Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE], a former practicing immigration attorney.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, as he noted, I did practice immigration law, am proud of the fact I helped people from more than 70 countries immigrate to the United States during my career as an immigration lawyer, all law-abiding citizens and hard working. Many people here have noted how important it is that we maintain our Nation as a nation of immigrants. Most of us can go back just a few generations and find family members who immigrated to this country, my grandfather, my wife's parents.

Mr. Chairman, there is no question that with this bill, we are going to continue to do that, continue to be the most generous nation on earth in terms of our immigration policy. But if this amendment is passed, it does not simply split legal immigration reforms, which are needed, both to help the immigration process and to limit it from illegal immigration, it will kill it outright. We have got to defeat this amendment because of the fact that our legal immigration process needs to be reformed.

We need to help immediate family members be reunified more quickly. Young married couples with young children, they need to be able to come here more quickly when one member qualifies for a visa than to have that separation taking place for years, as it does now. How do we pay for that? By breaking immigration chains that have very remote connections.

□ 1530

Now, my colleagues say, how can a brother or sister be a remote connection? The fact of the matter is it takes 20 years now for a member of a family to come to this country and go through the process it takes to petition for another member to come. So we are not talking about a situation where the family member got left behind last year and we want to bring them to this country. It is a matter of having to reform this process to be fair to everybody and fair to everyone in this country.

This chart shows the problem. First, the highest line shows the immigration trend over the next 55 years under current law. The second line shows the trend with the reforms in this bill. Forty million people is the difference involved there.

My colleagues, we need reasonable immigration reform. We will still be very generous. Oppose this amendment and support the bill.

Mr. BERMAN. Mr. Chairman, I yield 30 seconds to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Chairman, this debate can more appropriately be called debate over discrimination, not a debate over immigration. What we are seeing in collecting both legal and illegal immigrants is that we are going to treat legal immigrants as if they are illegal aliens. To me, this is no more than policy by prejudice and analysis by anecdote.

Mr. Chairman, I ask my colleagues to support the Berman amendment so we can differentiate between the two issues here.

I rise today in support of the Chrysler-Brownback amendment and in support of the generations of immigrants who have built this country into the great Nation that it is today.

This debate can be more appropriately called a debate over discrimination—not immigration. H.R. 2202 places drastic restrictions on legal immigrants—essentially treating them like second-class citizens who do not deserve the rights and privileges that are afforded native-born Americans.

This short-sighted action is a part of the unfortunate anti-immigrant fervor that has swept up this House and swept across the Nation. This is of great concern to me as the land of liberty, freedom, equality, and hope will have the image of being an unwelcoming closed nation. This is a troubling image—one that goes directly against the cornerstone principles of America.

It is a travesty that in an effort to curb illegal immigration, the authors of this bill have chosen to blatantly discriminate against those individuals who are in this country legally. Not only do the legal immigrant provisions make it extremely difficult for families to be reunited, but they also deprive parents and children of assistance should they fall upon hard times. Under this bill, more than one third of all Americans will be unable to sponsor a family member—simply because they are not wealthy enough. No longer will a grown child, a brother or sister be able to join their family here in the United States. Could any of you imagine being separated from family members so close? I certainly cannot.

These provisions will only hinder many new Americans who are trying to put the right foot forward and adapt to a new country. While I agree that measures must be taken to encourage individuals to stay off the welfare rolls, denying taxpayers assistance simply because they weren't born in this country is reprehensible.

In our rush to ensure that we are not allowing foreigners to sneak across our borders and live off the fruits of our labor, we have lost sight of what "America" means. Have we forgotten the foundation that this great Nation was built upon? The dreams, hopes, and aspirations that embody America were first envisioned by our forefathers who immigrated here in search of freedom and prosperity.

I am also deeply troubled at the tone that this debate has taken. Rather than looking broadly at the problem of illegal immigration, we have chosen to fixate on one source of our problem—our southern border. Have we forgotten that we have a border to the north? That we have two long coasts with many harbors and ports? Are not these open doors to Canadians? To Irish? But there is silence here, while the debate is filled with sound and fury over the menace to our south. This is not right. It is blind and unfair. It fans the flames of prejudice. It makes it possible for a bill to deal so callously with our legal immigrants.

My State of Rhode Island is enriched by the many people who have brought their cultures and traditions to this great Nation to build a life for themselves and for future generations. I am proud of these hard-working Americans, who each day go to work, pay taxes, and make their contribution toward creating a stronger United States.

The Chrysler-Berman amendment is a vote for equity for all Americans—new and old. It will ensure that hard-working, tax-paying legal residents of this country are treated with decency and fairness. We owe them at least this much.

Mr. CHRYSLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is important to restore the rights to U.S. citizens to petition for their brothers and sisters and adult children to come to America.

There are currently provisions to prevent immigrants from becoming public charges, and there are additional welfare restrictions in this bill. The amendment does not change these welfare restrictions.

In addition, the Senate split their immigration bill. So we will see legal immigration reform this year in the House.

I ask my colleagues to support this profamily amendment and vote "yes" for this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to point out to my friend, the gentleman from Michigan [Mr. CHRYSLER], who just spoke, that the reason we have the record-level 21 percent of all legal immigrants on welfare is because we do admit over 80 percent without any regard to skills or education.

The problem with this amendment is that it will continue the status quo. The bill tries to increase the percentage of individuals who are admitted on the basis of skills and education. This amendment would leave us right where we are, and over 80 percent would be admitted without any regard to that.

Mr. Chairman, I would like to cite some studies that have been done on the question of how legal immigrants, competition with legal immigrants, depresses wages and costs jobs, and I just do not see how the proponents of this amendment can ignore these studies when we know we are dealing with real lives and real hardship.

According to the Bureau of Labor Statistics, immigration was responsible for 50 percent of the decline in real wages for America's lowest scale workers, those who did not complete high school. A recent study by the Economic Policy Institute says that in the high-immigration States of Arizona, California, Florida, New York, and Texas, that men's wages were 2.6 percent and women's wages 3.1 percent below the average for other States that were not high-immigration States.

Dr. Frank Morris, the immediate past president of the Council of Historically Black Graduate Schools, said there can be no doubt that our current practice of permitting more than 1 million legal and illegal immigrants per year into the United States, into our already difficult low-skilled labor markets, clearly leads to both wage depression and the de facto displacement of African-American workers with low skills.

The Urban Institute says this. The immigration reduces the weekly earnings of less-skilled African-American men and women and also that group most clearly and severely disadvantaged by newly arrived immigrants is other recent immigrants. A 10-percent increase in the number of immigrants reduces other immigrants' wages by 9 to 10 percent.

Finally, in a book by Julian Simon, the patrol saint of the open-borders proponents, he says this: "There is no doubt that workers in some industries suffer immediate injury from the addition of immigrant workers in these same categories."

Mr. Chairman, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. BERMAN. Mr. Chairman, I have a parliamentary inquiry. Could it please be indicated who has the right to close?

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] has the right to close.

Mr. BERMAN. And how much time is remaining?

The CHAIRMAN. The gentleman from California [Mr. BERMAN], has 2 minutes remaining; the gentleman from Michigan [Mr. CHRYSLER] has 30 seconds remaining, and the gentleman from Texas [Mr. SMITH] has 1 minute and 15 seconds remaining.

Mr. BERMAN. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Chairman, I thank the gentleman for yielding this time to me.

I rise in strong support of the Chrysler-Berman-Brownback amendment. It is a refreshingly bipartisan amendment, and that is because it is the right thing to do.

This bill is well intentioned. It talks about the legitimate problem, which is illegal immigration. Unfortunately, it goes too far because it tries to make changes in legal immigration. We do not have a problem with legal immigration, and as I listened to the debate, I have not heard one articulated.

The fact of the matter is we are all immigrants. We are all the descendants of immigrants, some voluntary, and some, like myself, on an involuntary basis. But the point is we all came to America.

America is a beacon to immigrants. But this bill would reduce legal immigration by 40 percent over 5 years, and yet there has been no rationale presented to justify why we should shut people out of our country, why we should pull families apart.

Why are we doing this?

This bill is not trying to increase immigration. I realize we cannot accept everyone, but there is no reason to significantly reduce the level of immigration.

There are those who want to suggest immigrants are a burden on our society. Not legal immigrants. They earn $240 billion, they pay $90 billion in taxes. They only consume $5 billion in benefits. Clearly, we need legal immigrants. We ought to vote for this amendment.

Mr. CHRYSLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to say that there is not a fixed number of jobs in America, as an American businessman for 25 years. Job totals have more than doubled from 1960 to 1995, so immigrants do not take jobs, jobs from natives and actually the bill does, indeed, cut legal immigration from 775,000 to 542,000 in 2002, and I think that is unconscionable because I think we are going to need all the workers we can get as we move into a growth opportunity that we are going to have in this country.

Mr. SMITH of Texas. Mr. Chairman, I reserve the balance of my time.

Mr. BERMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Abe Lincoln used to say calling a tail a leg does not make it one. No matter how many times you cite 21 percent of legal immigrants on welfare, it is wrong. Saying it a lot of times does not make it true.

The Urban Institute says 7 percent less than the average American who did not come here as a legal immigrant relies on welfare, 7 percent less than the average.

Second, you can cite a graduate student who is working at the Bureau of Labor Statistics for a survey, Manhattan Institute, a survey, top economists in the country of all ideologies and persuasions. Eighty-one percent said legal immigration is very helpful to the economy. The other 19 percent said it is slightly helpful to the economy. No one said it hurts the economy.

We have put together a coalition on this amendment, with the great work of my colleagues, the gentleman from Michigan [Mr. CHRYSLER] and the gentleman from Kansas [Mr. BROWNBACK] and the gentleman from California [Mr. DOOLEY] and the gentleman from Virginia [Mr. DAVIS] and the gentleman from Illinois [Mr. CRANE], that includes the AFL–CIO, the Leadership Conference on Civil Rights, the Christian Coalition, the Americans for Tax Reform, a whole slew of organizations that believe in economic growth, family values and family reunification.

I urge that the Committee of the Whole adopt this amendment.

Mr. SMITH of Texas. Mr. Chairman I yield such time as she may consume to the gentlewoman for New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in strong opposition to this gutting amendment. This amendment would destroy this bill's ability to reform our notoriously deficient immigration laws.

No one will argue that immigrants have not formed the backbone of our country. Immigrants from all over the world have helped make this great Nation what it is today. And, they will continue to bring America forward in the 21 century.

But, we can no longer espouse an open border/open port immigration policy. In the face of increasing corporate mergers, downsizing, and technological advancement, our economy cannot absorb greater numbers of immigrants, let alone provide jobs to those people who have been laid off or can't find work.

This is a gutting amendment that refuses to recognize the problems that legal immigration causes for our country and hard-working American taxpayers.

Over half of the 400,000 illegal aliens who come to the United States every year come here legally and overstay their visas. Over 80 percent of all admitted legal immigrants are low skilled and uneducated which has resulted in a drop of 50 percent in real wages for those who never graduate from high school. Legal immigrants receive $25 billion more in public benefits than they pay in taxes, including a 580 percent surge in their SSI payments over the past 12 years.

Mr. Chairman, these figures are startling and totally unacceptable. They are a direct result of our misguided immigration policies of 1986 and 1990 which first granted amnesty to 2.7 million illegal aliens, and second almost tripled employment-based visas and removed limits on family-related categories for immediate relatives.

Consequently, legal immigration and sponsorship have ballooned. They continue to drain our welfare system and slow our economy by taking away jobs from those already here. We can no longer idly sit by and watch this happen when our own citizens are living below the poverty level, without health care, without jobs.

That is why we must restructure our current legal immigration system now. H.R. 2202 does this fairly and sensibly: By offering preference to nuclear families—spouses, minor/dependent children up to age 25, and parents whose health care is prepaid—and highly skilled workers, by allowing entrance to at least 50,000 annual backlogged nuclear family members, and by keeping categories for refugees and diversity visas. Even with the bill's numerical limits, we will still be admitting 600,000 to 700,000 legal immigrants annually. Could anyone say that these levels are not generous? I think not.

Mr. Chairman, it is impossible to implement immigration reform without tackling legal immigration. Legal immigration feeds illegal immigration, and feeds on our welfare system. This amendment would not only gut this legislation, but it would perpetuate both of these problems. We cannot let this happen.

I urge my colleagues to oppose this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Mark Twain said, "First you get your facts straight, then you can distort them all you want." I am afraid that we have heard some of that just a minute ago. In point of fact, when we consider both cash and noncash benefits, there is 21 percent, a record high percentage, of legal immigrants on welfare.

The point, though, of this amendment is, it is a motion to kill, it is not just a motion to strike. There is no separate legal immigration reform bill on the House side, and, as I mentioned awhile ago, the proponents have not offered any amendments to try to improve our legal immigration system.

This amendment simply makes a bad situation worse. It will keep the status quo. It will keep the huge backlogs. It will keep the long waits, and, in fact, it will allow them to grow larger and longer.

Legal immigration drives illegal immigration. Today almost half of the illegal immigrants in the country today actually came over here on legitimate visa, typically tourist visas, and then overstayed, and that is the result of these huge backlogs and long waits, which is what the bill fixes and what the amendment ignores.

Also, Mr. Chairman, I have to say that one of the worst reasons to go back to the status quo is because we have a broken legal immigration system that depresses wages and costs jobs. The American people know immigration can hurt them because they have to compete with them. This amendment ignores the wishes of the vast majority of the American people: 83 percent want us to control immigration including a majority of African-Americans and Hispanics.

Mr. Chairman, I appreciate the fact that the National Federation of Independent Business, the Chamber of Commerce, United We Stand, Hispanic Business Roundtable and Traditional Values Coalition have all endorsed this bill.

Mr. LAZIO of New York. I rise today in support of the Chrysler-Brownback amendment which separates the issue of legal and illegal immigration. Without a doubt, we need to tackle illegal immigration in this country. Hundreds of thousands of illegal immigrants pour across our border every year, and quite frankly, people have a right to be angry. Illegal aliens are after all illegal and their presence is a reflection of the Federal Government's inability to address the problem. According to the INS, there are an estimated 4 million illegal aliens in the United States. New York's share of this figure is 449,000, or 13 percent. This bill gets tough on illegal immigration, and I commend Chairman SMITH for his hard work and diligence in tackling this issue.

But I remain unconvinced that we need to target those who play by the rules, work within the process, and legally immigrate to this country. Those who are illegal aliens are breaking the law. There are tens of thousands of family members who have obeyed the law and are within the legal immigration process who would have the door slammed in their faces should this provision remain in the bill.

I have heard many of my colleagues talk about how we are a Nation of immigrants, and then in the same breath argue that we need to cut the number of legal immigrants. Although it is argued that the decrease is modest, the question is whether it is really necessary. I have heard the argument that this reduction in legal immigration is profamily. But I find it ironic that many of the groups that I have heard from in New York that would be most affected, such as Irish, Italian, and Jewish groups, among others, have told me that this would divide families, not unite them.

Some have argued that legal family-based immigrants have less to contribute, and there is always the threat that they will become a public charge. But keeping families—including extended families—intact, is culturally and empirically, a way to keep people off the public dole, especially among many foreign cultures from which these individuals come. Besides, there are other provisions in the bill which address this without excluding these individuals.

As someone who grew up in the shadow of the Statue of Liberty, and, like most of us, is a descendant of immigrants, I believe that legal immigration enriches our country, rather than pulling it down. Those who have come to this country to make a better life for themselves, and their families, have given our Nation its strength and its unique character. It is simply unfair to punish those who follow the rules for the sins of those who do not. I urge a "yes" vote on this amendment.

Mr. MATSUI. Mr. Chairman, much of the debate that we have had over the last 2 days is a discussion of what steps we should take to address the serious illegal immigration problem facing our Nation. That is an important debate, and I welcome it. There may be differences in this Chamber about what steps will be most effective in addressing the problem of illegal immigration, but we are in agreement that we must act and act quickly.

We should complete the illegal immigration debate and send legislation to the President. I rise in strong support of the amendment being offered by Mr. CHRYSLER, Mr. BERMAN, and Mr. BROWNBACK because I firmly believe that we should separately address the far more controversial and questionable contention that legal immigration is having a negative impact on the United States. The House should affirm, as the Senate Judiciary Committee has, that it is absolutely inappropriate to view legal immigration as a part of the same problem as illegal immigration.

When we talk about legal immigrants, we are talking about individuals who have waited patiently to enter our Nation, who have come here and contributed a tremendous amount to our society, our economy, and our tax base. I would call my colleagues' attention to observations made by the chairman of the Federal National Mortgage Association, James Johnson, in assessing the results of a recent survey by the association. Mr. Johnson wrote the following about legal immigrants in the Wall Street Journal:

> [T]hey are optimistic about our Nation's future; and they are willing to work and save to buy a home. That desire translates into millions of American jobs—in homebuilding, real estate, mortgage banking, furniture and appliance manufacturing, and the dozens of other industries that are dependent on a strong housing market. They hold significant economic power which, if realized, translates into jobs for Americans and prosperity for our Nation. . . . Before Congress enacts legislation to further restrict immigration, it should consider what the costs of "people protectionism" are likely to be for neighborhoods, job creation and the democratic ideals upon which our Nation was founded.

While opponents of this amendment will argue that there is a demand for legal immigration reform, a prominent Republican pollster has found that 80 percent of Americans believe that we should address the problem of illegal immigration first. This polling also suggests that seven of every eight Americans oppose penalizing those who have played by the rules in applying to immigrate to the United States. Yet this bill would slam the door on many individuals who have done exactly that—applied for visas and waited as long as 17 years to legally enter the United States.

We ought to reserve judgment on the question of whether changes are warranted in our legal immigration policy until we have taken effective steps to address illegal immigration. Let us move forward with that work before taking radical and unwarranted steps such as denying our citizens the right to reunite with their siblings, adult children, or parents.

I thank Mr. BERMAN, Mr. CHRYSLER, and Mr. BROWNBACK for offering this important amendment, and I strongly urge all of my colleagues to support it.

Mr. REED. Mr. Chairman, I rise in support of this amendment. I do so as someone who believes strongly in immigration reform. In fact, I was one of three Democrats who voted in support of H.R. 2202 when it was considered by the Judiciary Committee.

However, I believe the House should address the very different issues of legal and illegal immigration in separate legislation.

I support reasonable restrictions on legal immigration: the United States has the right and responsibility to ensure that only those who are likely to become productive citizens may immigrate to our shores. I would not support this amendment if I thought it was an effort to derail these initiatives.

But the issues of legal immigration should not be considered in the context of the emotionally charged debate on illegal immigration. Addressing illegal immigration involves criminal laws, border enforcement, deportation issues, and workplace enforcement. The policy decisions to be made regarding legal immigration are completely different and by being thrown in with what is essentially a law enforcement debate have been, I believe, distorted.

For example, the House ought to consider more carefully the impact of redefining 'family member' for immigration purposes in a way that excludes parents of U.S. citizens, as well as most children over age 21. Most Americans do not believe that any of their children, regardless of how old they are, are distant family members. The bill arbitrarily denies millions of U.S. citizens who have played by the rules and waited in line, in many cases for as long as a decade after having paid fees and gotten applications approved, the opportunity to sponsor and reunite with an overseas family member.

Again, I am not an opponent of reducing the levels of immigration or of ensuring that immigrants who are admitted are able to support themselves.

But Mr. Chairman, legal immigrants pay their taxes and abide by our laws. They are integral parts of our communities. We should give them the respect they deserve and treat the issues of legal and illegal immigration separately.

Ms. PELOSI. Mr. Chairman, I rise in support of the Berman, Brownback and Chrysler amendment, which strikes the provisions in this legislation which reduce and restrict legal immigration.

I agree with my colleagues that we must curb illegal immigration responsibly and effectively. However, as the Berman, Brownback and Chrysler amendment recognizes, the issue of legal immigration is clearly distinct and separate.

Legal immigration is currently tightly controlled and regulated. Yet this legislation proposes the largest cut in immigration in nearly 70 years.

Lawful and orderly family reunification contributes to strengthening American families. Yet almost ¾ of the bill's reductions in the number of legal immigrants admitted come in family-related categories.

Provisions in this legislation make it impossible for legal immigrants to be united with some family members. Under this legislation, virtually no Americans would be able to sponsor their parents, adult children or siblings for immigration. Not all Americans subscribe to the restrictive definition of family imposed in the bill—nor should they.

America has long been a haven for refugees seeking freedom from political, religious and gender persecution. Yet this bill would cut in half our current ability to offer asylum to people in dire need.

Immigrants today who come to our country through legal means are not at all different from immigrants of generations past—our parents or grandparents. They should have every opportunity to reunite their families. They should have every opportunity to contribute to our economy and culture. They have played by the rules. They should not be punished.

I urge my colleagues to recognize the extraordinary benefits to our country of legal immigration and support the Berman, Brownback, and Chrysler amendment.

Mr. UNDERWOOD. Mr. Chairman, I rise today in support of the Chrysler-Berman-Brownback amendment to H.R. 2202.

In its current form, H.R. 2202 dramatically reduces family-related immigration. About three-fourth of the bill's reductions in the number of legal immigrants come in the family-related category. It eliminates the current preference category for brothers and sisters of U.S. citizens. The bill limits the number of adult children immigrants admitted to include only those who are financially dependent upon their parents, unmarried, and between the ages of 21 and 25. It also allows parents of citizens to be admitted only if the health insurance is prepaid by the sponsor.

What practical effect will these provisions have on law-abiding Americans who want to reunite with members of their immediate nuclear family? According to this legislation, virtually no American would be able to sponsor their parents, adult children or brothers and sisters for immigration. If your only son or daughter turns 21 then he or she ceases to be a part of your "nuclear" family and would never be able to immigrate once he or she turns 26. If you have a brother or sister, they're not part of your nuclear family either. And if you cannot afford the type of health and nursing home care required in the bill then your mother and father are not part of your nuclear family either.

While the Chrysler-Berman-Brownback amendment would strike these provisions, I would point out that there is one area which it does not cover. Unfortunately, this amendment does not deal with the so-called 200% rule. Another title of the bill requires that an individual sponsoring an immigrant must earn more than 200 percent of the poverty line. This provision effectively means that about 46 percent of all Americans cannot sponsor a relative to enter the United States. The message this sends to all Americans is that in the future we will continue to be a Nation of immigrants, but only rich immigrants.

On Guam, we put a high premium on the role of families, which includes mothers, fathers, sons, daughters, and brothers. In our community, supporting families means helping them stay together. That's what we consider family values.

If this bill becomes law, it will have a definite practical effect on many families, particularly those of Filipino descent, on Guam. It will prevent many of them from reuniting with their brothers and sisters, even though in some cases they have waited for upwards of 10 to 15 years. Furthermore, it will shut out all future family reunification, even in categories that were not eliminated, for many immigrants on Guam because they do not earn over 200 percent of the poverty line or cannot afford to pay for their parents' health insurance.

In each of the cases of sponsoring families, you are talking about people who have played by the rules. They have worked through the system and petitioned to be reunited with their nuclear family. They have waited patiently. Now we will turn our backs on them.

These proposed restrictions and eliminations of entire categories is unwarranted and unnecessary. The Chrysler-Berman-Brownback amendment would strike these restrictions and restore the current system which supports family-based reunification.

I urge my colleagues to vote in favor of the Chrysler-Berman-Brownback amendment to restore the family categories and reject these arcane provisions. While I regret that it does not cover the 200 percent rule, I believe that its passage will make the bill better than what we have in the current bill.

Mr. KIM. Mr. Chairman, I rise in support of the Brownback-Chrysler-Berman amendment. As one of the few first generation legal immigrants in Congress, I am offended by the merging of the initiatives to combat illegal aliens with legal immigration reform. While I strongly support legislative efforts to both eliminate illegal immigration and substantially reform legal immigration, there is a significant difference between these two issues.

Illegal aliens have knowingly and willingly violated the law by entering the United States without permission. They defraud the taxpayer. On the contrary, legal immigrants have patiently waited, paid all the requisite fees and deposits, and followed all the rules and regulations for resettling in the United States. They will soon be proud, patriotic citizens. They dutifully pay their fair share of taxes. They join current citizens in totally opposing illegal aliens and their criminal actions. Thus, to consider the status of these two, totally opposite groups in the same bill is both unfair and an insult to legal immigrants.

The Brownback amendment gives this House the opportunity to deal with illegal and legal immigration issues separately—as they should be.

Without reservation, I strongly endorse the tough, anti-illegal immigration provisions in H.R. 2202. As a member of the Republican Task Force on Immigration Reform, I helped craft some of these very provisions and I am committed to enacting them into law and enforcing them in the field. Mr. Chairman, we have the votes to pass these important barriers to illegal immigration and thereby help stem the tide of illegal immigration that is engulfing my State of California. Let's do it now.

The Brownback-Chrysler amendment does not affect in any way our anti-illegal alien initiatives. Furthermore, I disagree and challenge the validity of the claims by critics of the Brownback-Chrysler amendment that it is nothing more than a back door attempt to scuttle legal immigration reform. From my perspective, it is not.

I agree fully with immigration Subcommittee Chairman Lamar Smith that our country's legal immigration system and priorities are in desperate need of reform. And, while I do not agree with every, single legal immigrant-related provision in H.R. 2202, overall I support the bill's priority for immediate family unification and I understand the need to slow down the current rate of immigration by reducing the number of annual visas. I am ready and willing to consider and pass comprehensive legal reform legislation today. It is needed.

But, I again stress, that we should deal with legal immigration independently of legislation combating illegal aliens so as to ensure that these two very different issues are not confused. The Brownback-Chrysler amendment affords us this opportunity and I urge its passage.

Mr. ORTIZ. Mr. Chairman, I rise in support of the Chrysler, Berman, Brownback amendment and ask unanimous consent to revise and extend my remarks. This provision would enable the bill to be divided into separate legislation to deal with illegal and legal immigration reform. This is the key aspect to the immigration debate.

The greatest danger to an immigration debate in this country is the merging and confusing of issues concerning legal and illegal immigration. In truth they have nothing to do with one another. Legal immigrants strengthen America. They should not be linked with those who come here illegally.

Illegal immigration on the other hand is a matter that has reached enormous proportions and which Congress must pursue earnestly. I strongly support efforts to halt illegal immigration by strengthening our borders. I also strongly support increasing the number of border patrol agents along our borders and providing them with the resources needed to get the job done.

Those who enter this country illegally exert strain on our economy and Nation. As Representative of a border district, I am uniquely aware of the burden that illegal immigration poses on local communities. Illegal immigration must be curtailed but it is a mistake to link this important goal with legal immigration.

For these reasons, I urge my colleagues to vote in support of the Berman, Brownback, Chrysler amendment.

Mr. RICHARDSON. Mr. Chairman, almost all Americans realize the value of past immigration. They look with pride at their ancestors, who came to this country full of energy with empty pockets and were able to succeed and improved the quality of life of all Americans.

Yet, many people doubt the value of immigration today. Too many Americans wrongly believe that today's immigrants drain our economy and use far more welfare than native-born citizens. There is nothing further from the truth.

Today's immigrants come to this country with the same desire, energy, and enthusiasm to succeed and looking for opportunities, not guarantees.

I have one of these immigrants working in my office. A legislative fellow now on my office staff arrived in this country only 7 years ago without knowing English and with only a ninth grade education.

In only 5 years, this young woman managed to learn English, get a high school diploma and graduate from the School of Foreign Service at Georgetown University. She, like many of those immigrants who came to this country within the past 100-plus years, came with empty pockets and a tremendous desire to succeed and take advantage of the opportunities that America still offers.

The Chrysler, Berman, and Brownback amendment would keep the doors open to law abiding immigrants, who like the fellow in my office, come to this country not only looking for a better life, but also bring with them the desire and energy that has made America a great Nation.

Mr. PASTOR. Mr. Chairman, I rise in support of this pro-family, pro-immigration amendment.

The issues of legal and illegal immigration are not, and should not, be linked to one another. It is unfortunate that the anger, frustration, and misinformation over illegal immigration has been used to target hard-working, law-abiding, legal immigrants. Focusing our efforts on reducing illegal immigration is a responsible and proper undertaking. Slashing legal immigration, however, as H.R. 2202 does, is like fighting crime by imprisoning the innocent. While the Chrysler-Berman-Brownback amendment does not eliminate all the evils contained in this bill, it does strike some of the most blatantly xenophobic and anti-family provisions of the legislation.

The legislation, as you know, would reduce legal immigration by 40 percent over 5 years. Whole categories of legal immigration would be eliminated and excessive restrictions would be placed on the sponsors of legal immigrants. Under the bill, parents of U.S. citizens would no longer be able to migrate to the United States unless they are covered by health insurance and long-term health care policies, a requirement that is clearly beyond the means of many Americans. It is unconscionable that only the wealthy will be able to bring their parents into this country.

In addition, the bill guarantees that families of legal immigrants will forever remain divided. The unmarried adult sons and daughters of U.S. citizens and legal permanent residents are all but prohibited from joining their parents. Should brothers and sisters of U.S. citizens be able to migrate to the United States and live with one another? Not according to the sponsors of the legislation; under H.R. 2202, this category of immigration is completely eliminated. I ask the supporters of these provisions: Is America not big enough for the parents, children,and siblings of its citizens?

Mr. Chairman, though it has been said several times before, it must be said again. We are a Nation of immigrants. Ours is a proud, though not unblemished, history of providing hope and opportunity to people from all nations who are willing to work hard and abide by our laws. This bill turns that history on its head and does so by striking at one of our most cherished institutions—the nuclear family.

Legal immigrants have provided the United States with a rich return on its investment. Legal immigrants and foreign-born citizens work hard and contribute to the economy well beyond the cost of services that they consume. It is estimated that 77 percent of the foreign-born population is gainfully employed, compared to 74 percent of native-born Americans. In addition, immigrants generate $285 billion in income and pay more than $70 billion in taxes annually—$25 billion more than they receive in benefits. Legal immigrants and naturalized citizens also contribute immeasurably to the rich mixture of cultures and heritages that can only be found in the United States. I find strength and pride in this diversity, not fear and anxiety.

Mr. Chairman, H.R. 2202 is, without a doubt, a bill that is bad for America. The Chrysler-Berman-Brownback amendment removes some, but not all, of the draconian measures in the legislation. I urge my colleagues to support the amendment and oppose final passage of the bill.

The CHAIRMAN. All time has expired on this amendment.

The question is on the amendment, as modified, offered by the gentleman from Michigan [Mr. CHRYSLER].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SMITH of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, noes 183, not voting 10, as follows:

[Roll No. 84]

AYES—238

Abercrombie
Ackerman
Allard
Andrews
Armey
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bishop
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bunn
Camp
Campbell
Cardin
Chabot
Chapman
Christensen
Chrysler
Clay
Clayton
Clyburn
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Crane
Danner
Davis
de la Garza
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dunn
Durbin
Edwards
Engel
English
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
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Jackson (IL)
Jackson-Lee (TX)
Jacobs
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Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
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Kildee
Kim
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Knollenberg
LaFalce
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LaTourette
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Levin
Lewis (CA)
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Watt (NC)
Waxman
Weldon (FL)
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White
Williams
Woolsey
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Yates
Young (FL)
Zimmer

NOES—183

Archer
Bachus
Baker (CA)
Baker (LA)
Ballenger
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Barrett (NE)
Bartlett
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Beilenson
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Ehlers
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Everett
Ewing
Fawell
Fields (TX)
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Franks (CT)
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Hall (TX)
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Johnson, Sam
Jones
Kasich
Kingston
Kolbe
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Lewis (KY)
Lightfoot
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Lipinski
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Lucas
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McCollum
McCrery
McDade
McKeon
Metcalf
Meyers
Minge
Molinari
Montgomery
Moorhead
Myers
Nethercutt
Neumann
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Norwood
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Obey
Oxley
Packard
Parker
Petri
Pickett
Pombo
Pomeroy
Quillen
Ramstad
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Rogers
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Royce
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Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
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Smith (TX)
Smith (WA)
Solomon
Spence
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Stenholm
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Traficant
Vucanovich
Wamp
Watts (OK)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Zeliff

NOT VOTING—10

Collins (IL)
Johnston
Moakley
Radanovich
Rose
Stark
Stockman
Stokes
Waters
Wise

□ 1600

Mr. LUCAS, Mrs. CHENOWETH, and Mr. KASICH changed their vote from "aye" to "no."

Messrs. DE LA GARZA, McINTOSH, and WELDON of Florida changed their vote from "no" to "aye."

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

Mr. CHAIRMAN. It is now in order to consider amendment No. 20 printed in part 2 of House Report 104-483.

Does the gentleman from Texas [Mr. BRYANT] wish to offer this amendment?

Mr. BRYANT of Texas. Mr. Chairman, the preceding amendment having been adopted, the Bryant amendment as listed is rendered moot. I do not wish to offer it at this time.

The CHAIRMAN. It is now in order to consider amendment No. 21 printed in part 2 of House Report 104-483.

AMENDMENT OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROHRABACHER: Amend section 808 of the bill to read as follows:

SEC. 808. LIMITATION ON ADJUSTMENT OF STATUS OF INDIVIDUALS NOT LAWFULLY PRESENT IN THE UNITED STATES.

(a) IN GENERAL.—Section 245(i) (8 U.S.C. 1255), as added by section 506(b) of the Department of State and Related Agencies Appropriations Act, 1995 (Public Law 103-317, 108 Stat. 1765), is amended—

(1) in paragraph (1), by inserting "pursuant to section 301 of the Immigration Act of 1990 is not required to depart from the United States and who" after "who" the first place it appears; and

(2) by adding at the end of paragraph (2) the following: "For purposes of subparagraph (A), the ground of inadmissibility described in section 212(a)(9) shall not apply.".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(1) shall apply to applications for adjustment of status filed after September 30, 1996.

(2) The amendment made by subsection (a)(2) shall take effect on the title III-A effective date (as defined in section 309(a)).

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. ROHRABACHER] and a Member opposed, the gentleman from Texas [Mr. BRYANT], will each control 5 minutes.

The Chair recognizes the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment will close an immigration loophole opened 2 years ago by a rider to the fiscal year 1995 Commerce-State-Justice appropriations bill. This loophole, which was put into the bill by Senator KENNEDY, rewards many illegal aliens who are in the United States illegally. Let me repeat that. This only deals with people who are in the United States illegally by allowing them to apply for permanent resident status and remain here while their applications are pending. That was the loophole that was put into that bill by Senator KENNEDY.

While waiting for their applications to be adjudicated, these illegal aliens are considered PRUCOL, Persons Residing Under Color of Law. Those individuals that we are talking about are here illegally, but they are then eligible for several taxpayer-funded government benefits.

This loophole also has serious repercussions for the security of our Nation. Under the Kennedy loophole, certain people who sneak across our border or illegally overstay their visas can apply for permanent resident status at the local INS office. That is right, right here in the United States, in their local communities, at the local INS office.

Even these aliens who have flagrantly violated our immigration laws are now able to avoid an examination by the State Department officials in their home countries because they are applying to the INS here locally. In their home countries may be, however, the only place where information such as criminal records or terrorist activities can be found. Thus, the INS does not have the availability of that information when looking at this request, but the State Department would have had that information.

Allowing these lawbreakers to apply for permanent status in the United States, rather than having to return to their home countries to do so, circumvents a screening process that has been carefully established to protect our country's security. If the records are in their native countries, how can the INS employees whose job it is to look at this request thoroughly investigate the backgrounds of these illegal aliens?

Last year I asked the General Accounting Office to investigate the impact of this new law. During the first 5 months this loophole was in effect, nearly 80,000 illegal aliens used it to stay in the United States. INS officials anticipated that that number would double by the end of 1995.

This means that possibly as many as 160,000 illegal aliens now have access to public assistance benefits who otherwise would not have had access had this loophole not been snuck into the law. We must stretch even further our overstrained welfare system to cover these people who broke our law to come here in the first place.

This new provision of law is an absolute travesty. To reward those who have consciously violated our immigration law is an insult not only to the citizens of this country but to those persons in foreign countries who have obeyed our laws and are now waiting in line for their turn.

I hope Members will join the gentleman from Texas [Mr. SMITH] and myself in supporting this amendment to close this loophole which rewards people who have flagrantly violated our laws, people who are here illegally, and also puts our country at a security risk.

Mr. Chairman, I reserve the balance of my time.

Mr. BRYANT of Texas. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Chairman, I rise in strong opposition to the Rohrabacher amendment.

Mr. Chairman, I guess to some extent I am a little mystified as to why this would even be proposed. Years ago before I ran for Congress, I taught immigration law, at the University of Santa Clara. At the time I pointed out to my students that the provision that this amendment would reinstate made absolutely no sense whatsoever.

The correction that is now part of current law makes a lot of practical sense. For people who are here, who entered the United States legally and who have become legal residents under the current law, there is absolutely no reason to force them to buy an airplane ticket, go to an American consulate overseas and then reenter the United States. The correction that the Rohrabacher amendment seeks to undo recognizes that.

I will give an example, a circumstance where this might happen. You have a student who legally enters the United States under an F visa to attend graduate school. The individual receives their Ph.D. in physics. They graduate, and for 2 days they are not employed until they receive a temporary visa to do research in a high-tech Silicon Valley company. Later they fall in love and get married, and the U.S. citizen spouse decides to petition for the individual to make them a permanent resident.

Under the current law, you can pay a penalty fee to the U.S. Treasury and have your paperwork done here so long as you did not work in an unauthorized capacity. However, the Rohrabacher amendment would say, "No, no, you can't do that. Instead you have to buy an airplane ticket, go to the overseas consulate, get your visa there, and then come back."

There is no benefit to the U.S., there is no benefit to the integrity of our immigration laws. There is no benefit to anyone. There is no benefit to the U.S. citizen spouse, the company or anyone else. The only one who benefits are the travel agents and United Airlines. I would rather have the money go to the Immigration and Naturalization Service in the form of fees.

This has nothing to do with illegal immigrations. It has nothing to do with anything but having a sensible, pragmatic approach to having our immigration laws work smoothly.

I would add that for the business community in particular, they were strong advocates of this change in the law, because having an individual pulled out of a company to do paperwork abroad can disrupt the flow of important high-tech work, and when there is no good reason for the U.S. Government to do this, it makes no sense.

I strongly urge opposition to the Rohrabacher amendment.

Mr. ROHRABACHER. Mr. Chairman, who has the right to close?

The CHAIRMAN. The gentleman from Texas [Mr. BRYANT] has the right to close.

Mr. ROHRBACHER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the gentleman from Texas [Mr. SMITH] joins me in supporting this amendment because it closes a loophole which, although it has been presented today by my colleague from California as being somewhat innocent, means that 160,000 illegal aliens who otherwise would have to go to their home countries in order to have their status readjusted now can remain in the United States.

What does that mean? What that means is during that time period when it may take years, maybe 5 or 6 years, those people are eligible for government benefits. The questions we have to ask ourselves, if someone did overstay their visa, even if it was a graduate student from a university, why should that person who violated our law be provided a status in which they would be able to partake from government benefits?

Also that graduate student, for all we know, is a criminal in his home country. The loophole that we are closing permits the State Department to thoroughly investigate the background of those people because they have those resources in the person's home country. For security's sake, for the sake of a strained budget, I would propose that we close this loophole.

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Mr. BRYANT of Texas. Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. BECERRA].

The Chairman. The gentleman from California [Mr. BECERRA] is recognized for 2 minutes.

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, let me make sure I make this as clear as I can: Section 245(i) within the Immigration and Naturalization Act, which this amendment by the gentleman from California [Mr. ROHRABACHER] would repeal, does not permit anyone to gain lawful permanent residence who would otherwise be disqualified. So if you are someone who crossed over our border without documents, you cannot qualify for adjustment to status to be a permanent resident. This only applies in the cases where people would otherwise qualify. You cannot be eligible for this program unless you meet the criteria.

What this particular provision in the code currently does is it just takes away the fiction of having someone fly back home just to submit an application to the U.S. consulate office in that country of origin and then come back here, because the person will be entitled to come back. These are people who will be entitled to gain lawful permanent resident status.

Let me give you a quick example. If an engineer is working on a project that terminates prematurely, and this person cannot line up new employment immediately and fill out all the immigration paperwork quickly enough, the engineer would need to make a planned trip back home to the country of origin to get the green card that he or she is entitled to get. That would disrupt work, school, other things in lining up the new employment, but the person would ultimately qualify. What 245(i) was meant to do within the act was to take care of this situation.

We charge these particular individuals much higher sum to apply for permanent residency status. The reason we do that is we say to them rather than pay for the airline ticket to go back and submit paperwork to the consulate office, which is already overworked, give the money directly to the INS and let them use it immediately. That is one of the reasons why we got close to $100 million last year to do work for the INS, for border enforcement activities, for filling out paperwork for those naturalizing, and also helping people become U.S. citizens who are lawful permanent residents and have the right to be here.

This is a good provision in the law. It does not allow those who are crossing illegally to come in. This is not a good amendment. Defeat the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. ROHRABACHER].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 22 printed in part 2 of House Report 104-483.

AMENDMENT OFFERED BY MR. POMBO

Mr. POMBO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. POMBO:

Subtitle B—Guest Worker Visitation Program

SEC. 821. SHORT TITLE.

This subtitle may be cited as the "Temporary Agricultural Worker Amendments of 1996".

SEC. 822. NEW NONIMMIGRANT H-2B CATEGORY FOR TEMPORARY AGRICULTURAL WORKERS.

(a) ESTABLISHMENT OF NEW CLASSIFICATION.—Section 101(a)(15)(H)(ii) (8 U.S.C. 1101(a)(15)(H)(ii)) is amended by striking "or (b)" and inserting "(b) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States pursuant to section 218A to perform such agricultural labor or services of a temporary or seasonal nature, or (c)".

(b) NO FAMILY MEMBERS PERMITTED.—Section 101(a)(15)(H) (8 U.S.C. 1101(a)(15)(H)) is amended by striking "specified in this paragraph" and inserting "specified in this subparagraph (other than in clause (ii)(b))".

(c) DISQUALIFICATION IF CONVICTED OF OWNERSHIP OR OPERATION OF A MOTOR VEHICLE IN UNITED STATES WITHOUT INSURANCE.—Section 214 (8 U.S.C. 1184) is amended by adding at the end the following:

"(l)(1) An alien may not be admitted (or provided status) as a temporary worker under section 101(a)(15)(H)(ii)(b) if the alien (after the date of the enactment of this subsection) has been convicted of owning (or knowingly operating) a motor vehicle in the United States without having liability insurance that meets applicable insurance requirements of the State in which the alien is employed or in which the vehicle is registered.

"(2) An alien who is admitted or provided status as such a worker who is so convicted shall be considered, on and after the date of the conviction and for purposes of section 241(a)(1)(C), to have failed to comply with a condition for the maintenance of status under section 101(a)(15)(H)(ii)(b)."

(d) CONFORMING REDESIGNATION.—Subsections (c)(5)(A) and (g)(1)(B) of section 214 (8 U.S.C. 1184) are each amended by striking "101(a)(15)(H)(ii)(b)" and inserting "101(a)(15)(H)(ii)(c)".

SEC. 823. ALTERNATIVE AGRICULTURAL TEMPORARY WORKER PROCESS USING ATTESTATIONS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 218 the following:

"ALTERNATIVE AGRICULTURAL TEMPORARY WORKER PROGRAM

"SEC. 218A. (a) CONDITION FOR THE EMPLOYMENT OF H-2B ALIENS.—

"(1) IN GENERAL.—No alien may be admitted or provided status as an H-2B alien (as defined in subsection (n)(4)) unless—

"(A) the employment of the alien is covered by a currently valid labor condition attestation which—

"(i) is filed by the employer, or by an association on behalf of the employer, for the occupation in which the alien will be employed;

"(ii) has been accepted by the qualified State employment security agency having jurisdiction over the area of intended employment; and

"(iii) states each of the items described in paragraph (2) and includes information identifying the employer or association and agricultural job opportunities involved; and

"(B) the employer is not disqualified from employing H-2B aliens pursuant to subsection (g).

"(2) CONTENTS OF LABOR CONDITION ATTESTATION.—Each labor condition attestation filed by or on behalf of, an employer shall include the following:

"(A) WAGE RATE.—The employer will pay H-2B aliens and all other workers in the occupation not less than the prevailing wage for similarly employed workers in the area of employment, and not less than the applicable Federal, State or local statutory minimum wage.

"(B) WORKING CONDITIONS.—The employment of H-2B aliens will not adversely affect the working conditions with respect to housing and transportation of similarly employed workers in the area of employment.

"(C) LIMITATION ON EMPLOYMENT.—An H-2B alien will not be employed in any job opportunity which is not temporary or seasonal, and will not be employed by the employer in any job opportunity for more than 10 months in any 12-consecutive-month period.

"(D) NO LABOR DISPUTE.—No H-2B alien will be employed in any job opportunity which is vacant because its former occupant is involved in a strike, lockout or work stoppage in the course of a labor dispute in the occupation at the place of employment.

"(E) NOTICE.—The employer, at the time of filing the attestation, has provided notice of the attestation to workers employed in the occupation in which H-2B aliens will be employed.

"(F) JOB ORDERS.—The employer will file one or more job orders for the occupation (or occupations) covered by the attestation with the qualified State employment security agency no later than the day on which the employer first employs any H-2B aliens in the occupation.

"(G) PREFERENCE TO DOMESTIC WORKERS.—The employer will give preference to able, willing and qualified United States workers who apply to the employer and are available at the time and place needed, for the first 25 days after the filing of the job order in an occupation or until 5 days before the date employment of workers in the occupation begins, whichever occurs later.

"(3) ESTABLISHMENT AS PILOT PROGRAM; RESTRICTION OF ADMISSIONS TO PILOT PROGRAM PERIOD.—

"(A) IN GENERAL.—The program under this section is deemed to be a pilot program and no alien may be admitted or provided status as an H-2B alien under this section except during the pilot program period specified in subparagraph (B).

"(B) PILOT PROGRAM PERIOD.—

"(i) IN GENERAL.—Subject to clause (ii), the pilot program period under this subparagraph is the period (ending on October 1, 1999) during which the employment eligibility verification system is in effect under section 274A(b)(7) (as amended by the Immigration in the National Interest Act of 1995).

"(ii) CONSIDERATION OF EXTENSION.—If Congress extends such verification system, Congress shall also extend the pilot program period under this subparagraph for the same period of time.

"(C) ANNUAL REPORTS.—The Comptroller General shall submit to Congress annual reports on the operation of the pilot program under this section during the pilot program period. Such reports shall include an assessment of the program and of the need for foreign workers to perform temporary agricultural employment in the United States.

"(4) LIMITATIONS ON NUMBER OF VISAS.—

"(A) IN GENERAL.—In no case may the number of aliens who are admitted or provided status as an H-2B alien in a fiscal year exceed the numerical limitation specified under subparagraph (B) for that fiscal year.

"(B) NUMERICAL LIMITATION.—The numerical limitation specified in this subparagraph for—

"(i) the first fiscal year in which this section is applied is 250,000; and

"(ii) any subsequent fiscal year is the numerical limitation specified in this subparagraph for the previous fiscal year decreased by 25,000.

"(b) FILING A LABOR CONDITION ATTESTATION.—

"(1) FILING BY EMPLOYERS—Any employer in the United States is eligible to file a labor condition attestation.

"(2) FILING BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—An agricultural association may file a labor condition attestation as an agent on behalf of its members. Such an attestation filed by an agricultural association acting as an agent for its members, when accepted, shall apply to those employer members of the association that the association certifies to the qualified State employment security agency are members of the association and have agreed in writing to comply with the requirements of this section.

"(3) PERIOD OF VALIDITY.—A labor condition attestation is valid from the date on which it is accepted by the qualified State employment security agency for the period of time requested by the employer, but not to exceed 12 months.

"(4) WHERE TO FILE.—A labor condition attestation shall be filed with such agency having jurisdiction over the area of intended employment of the workers covered by the attestation. If an employer, or the members of an association of employers, will be employing workers in an area or areas covered by more than one such agency, the attestation shall be filed with each such agency having jurisdiction over an area where the workers will be employed.

"(5) DEADLINE FOR FILING.—An employer may file a labor condition attestation at any time up to 12 months prior to the date of the employer's anticipated need for workers in the occupation (or occupations) covered by the attestation.

"(6) FILING FOR MULTIPLE OCCUPATIONS.—A labor condition attestation may be filed for one or more occupations and cover one or more periods of employment.

"(7) MAINTAINING REQUIRED DOCUMENTATION.—

"(A) BY EMPLOYERS.—Each employer covered by an accepted labor condition attestation must maintain a file of the documentation required in subsection (c) for each occupation included in an accepted attestation covering the employer. The documentation shall be retained for a period of one year following the expiration of an accepted attestation. The employer shall make the documentation available to representatives of the Secretary during normal business hours.

"(B) BY ASSOCIATIONS.—In complying with subparagraph (A), documentation maintained by an association filing a labor condition attestation on behalf of an employer shall be deemed to be maintained by the employer.

"(8) WITHDRAWAL.—

"(A) COMPLIANCE WITH ATTESTATION OBLIGATIONS.—An employer covered by an accepted labor condition attestation for an occupation shall comply with the terms and conditions of the attestation from the date the attestation is accepted and continuing throughout the period any persons are employed in an occupation covered by such an accepted attestation, whether or not H-2B aliens are employed in the occupation, unless the attestation is withdrawn.

"(B) TERMINATION OF OBLIGATIONS.—An employer may withdraw a labor condition attestation in total, or with respect to a particular occupation covered by the attestation. An association may withdraw such an attestation with respect to one or more of its members. To withdraw an attestation the employer or association must notify in writing the qualified State employment security agency office with which the attestation was filed of the withdrawal of the attestation. An employer who withdraws an attestation, or on whose behalf an attestation is withdrawn by an association, is relieved of the obligations undertaken in the attestation with respect to the occupation (or occupations) with respect to which the attestation was withdrawn, upon acknowledgement by the appropriate qualified State employment security agency of receipt of the withdrawal notice. An attestation may not be withdrawn with respect to any occupation while any H-2B aliens covered by that attestation are employed in the occupation.

"(C) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by the employer under any other law or regulation as a result of recruitment of United States workers under an offer of terms and conditions of employment required by the H-2B program is unaffected by withdrawal of a labor condition attestation.

"(c) EMPLOYER RESPONSIBILITIES AND REQUIREMENTS FOR EMPLOYING H-2B NONIMMIGRANTS.—

"(1) REQUIREMENT TO PAY THE PREVAILING WAGE.—

"(A) EFFECT OF THE ATTESTATION.—Employers shall pay each worker in an occupation covered by an accepted labor condition attestation at least the prevailing wage in the occupation in the area of intended employment. The preceding sentence does not require employers to pay all workers in the occupation the same wage. The employer may, in the sole discretion of the employer, maintain pay differentials based on experience, tenure with the employer, skill, or any other work-related factor, if the differential is not based on a criterion for which discrimination is prohibited by the law and all workers in the covered occupation receive at least the prevailing wage.

"(B) PAYMENT OF QUALIFIED STATE EMPLOYMENT SECURITY AGENCY DETERMINED WAGE SUFFICIENT.—The employer may request and obtain a prevailing wage determination from the qualified State employment security agency. If the employer requests such a determination, and pays the wage determined, such payment shall be considered sufficient to meet the requirement of this paragraph if the H-2B workers—

"(i) are employed in the occupation for which the employer possesses an accepted labor condition attestation, and for which the employer or association possesses a prevailing wage determination by the qualified State employment security agency, and

"(ii) are being paid at least the prevailing wage so determined.

"(C) RELIANCE ON WAGE SURVEY.—In lieu of the procedures of subparagraph (B), an employer may rely on other information, such as an employer generated prevailing wage survey and determination, which meets criteria specified by the Secretary by regulation. In the event of a complaint that the employer has failed to pay the required wage, the Secretary shall investigate to determine if the information upon which the employer relied complied with the criteria for prevailing wage determinations.

"(D) ALTERNATE METHODS OF PAYMENT PERMITTED.—

"(i) IN GENERAL.—A prevailing wage may be expressed as an hourly wage, a piece rate, a task rate (described in clause (ii)), or other incentive pay system, including a group rate (described in clause (iii)). The requirement to pay at least the prevailing wage in the occupation and area of intended employment does not require an employer to pay by the method of pay in which the prevailing rate is expressed. However, if the employer adopts a method of pay other than the prevailing rate, the burden of proof is on the employer to demonstrate that the employer's method of pay is designed to produce earnings equivalent to the earnings that would result from payment of the prevailing rate.

"(ii) TASK RATE.—For purposes of this subparagraph, a task rate is an incentive payment based on a unit of work performed such that the incentive rate varies with the level of effort required to perform individual units of work.

"(iii) GROUP RATE.—For purposes of this subparagraph, a group rate is an incentive payment system in which the payment is shared among a group of workers working together to perform the task.

"(E) REQUIRED DOCUMENTATION.—The employer or association shall document compliance with this paragraph by retaining on file the employer or association's request for a determination by a qualified State employment security agency and the prevailing wage determination received from such agency or other information upon which the employer or association relied to assure compliance with the prevailing wage requirement.

"(2) REQUIREMENT TO PROVIDE HOUSING AND TRANSPORTATION.—

"(A) EFFECT OF THE ATTESTATION.—The employment of H-2B aliens shall not adversely affect the working conditions of United States workers similarly employed in the area of intended employment. The employer's obligation not to adversely affect working conditions shall continue for the duration of the period of employment by the employer of any H-2B aliens in the occupation and area of intended employment. An employer will be deemed to be in compliance with this attestation if the employer offers at least the benefits required by subparagraphs (B) through (D). The previous sentence does not require an employer to offer more than such benefits.

"(B) HOUSING REQUIRED.—

"(i) HOUSING OFFER.—The employer must offer to H-2B aliens and United States workers recruited from beyond normal recruiting distance housing, or a housing allowance, if it is prevailing practice in the occupation and area of intended employment to offer housing or a housing allowance to workers who are recruited from beyond normal commuting distance.

"(ii) HOUSING STANDARDS.—If the employer offers housing to such workers, the housing shall meet (at the option of the employer) applicable Federal farm labor housing standards or applicable local or State standards for rental, public accommodation, or other substantially similar class of habitation.

"(iii) CHARGES FOR HOUSING.—An employer who offers housing to such workers may charge an amount equal to the fair market value (but not greater than the employer's actual cost) for utilities and maintenance, or such lesser amount as permitted by law.

"(iv) HOUSING ALLOWANCE AS ALTERNATIVE.—In lieu of offering housing to such workers, at the employer's sole discretion on an individual basis, the employer may provide a reasonable housing allowance. An employer who offers a housing allowance to such a worker under this subparagraph shall not be deemed to be a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) merely by virtue of providing such housing allowance.

"(v) SECURITY DEPOSIT.—The requirement, if any, to offer housing to such a worker under this subparagraph shall not preclude an employer from requiring a reasonable deposit to protect against gross negligence or willful destruction of property, as a condition for providing such housing.

"(vi) DAMAGES.—An employer who offers housing to such a worker shall not be precluded from requiring a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

"(C) TRANSPORTATION.—If the employer provides transportation arrangements or assistance to H-2B aliens, the employer must offer to provide the same transportation arrangements or assistance (generally comparable in expense and scope) for other individuals employed by the employer in the occupation at the place of employment who were recruited from beyond normal commuting distance.

"(D) WORKERS' COMPENSATION.—If the employment covered by a labor condition attestation is not covered by the State workers' compensation law, the employer must provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the workers' employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

"(E) REQUIRED DOCUMENTATION.—

"(i) HOUSING AND TRANSPORTATION.—No specific documentation is required to be maintained to evidence compliance with the requirements of subparagraphs (B) and (C). In the event of a complaint alleging a failure to comply with such a requirement, the burden of proof shall be on the employer to show that the employer offered the required benefit to the complainant, or that the employer was not required by the terms of this paragraph to offer such benefit to the complainant.

"(ii) WORKERS' COMPENSATION.—The employer shall maintain copies of certificates of insurance evidencing compliance with subparagraph (D) throughout the period of validity of the labor condition attestation.

"(3) REQUIREMENT TO EMPLOY ALIENS IN TEMPORARY OR SEASONAL AGRICULTURAL JOB OPPORTUNITIES.—

"(A) LIMITATIONS.—

"(i) IN GENERAL.—The employer may employ H-2B aliens only in agricultural employment which is temporary or seasonal.

"(ii) SEASONAL BASIS.—For purposes of this section, labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year.

"(iii) TEMPORARY BASIS.—For purposes of this section, a worker is employed on a temporary basis where the employment is intended not to exceed 10 months.

"(B) REQUIRED DOCUMENTATION.—No specific documentation is required to demonstrate compliance with the requirement of subparagraph (A). In the event of a complaint, the burden of proof shall fall on the employer to show that the employment meets such requirement.

"(4) REQUIREMENT NOT TO EMPLOY ALIENS IN JOB OPPORTUNITIES VACANT BECAUSE OF A LABOR DISPUTE.—

"(A) IN GENERAL.—No H-2B alien may be employed in any job opportunity which is vacant because its former occupant is involved in a strike, lockout, or work stoppage in the course of a labor dispute in the occupation at the place of employment.

"(B) REQUIRED DOCUMENTATION.—No specific documentation is required to demonstrate compliance with the requirement of subparagraph (A). In the event of a complaint, the burden of proof shall fall on the employer to show that the job opportunity in which the H-2B alien was employed was not vacant because the former occupant was on strike, locked out, or participating in a work stoppage in the course of a labor dispute in the occupation at the place of employment.

"(5) NOTICE OF FILING OF ATTESTATION AND SUPPORTING DOCUMENTATION.—

"(A) IN GENERAL.—The employer shall—

"(i) provide notice of the filing of a labor condition attestation to the appropriate certified bargaining agent (if any) which represents workers of the employer in the occupation (or occupations) at the place of employment covered by the attestation; or

"(ii) in the case where no appropriate bargaining agent exists, post notice of the filing of such an attestation in at least two conspicuous locations where applications for employment are accepted.

"(B) PERIOD FOR POSTING.—The requirement for a posting under subparagraph (A)(ii) begins on the day the attestation is filed, and continues through the period during which the employer's job order is required to remain active pursuant to paragraph (6)(A).

"(C) REQUIRED DOCUMENTATION.—The employer shall maintain a copy of the notice provided to the bargaining agent (if any), together with evidence that the notice was provided (such as a signed receipt of evidence of attempt to send the notice by certified or registered mail). In the case where no appropriate certified bargaining agent exists, the employer shall retain a copy of the posted notice, together with information as to the dates and locations where the notice was displayed.

"(6) REQUIREMENT TO FILE A JOB ORDER.—

"(A) EFFECT OF THE ATTESTATION.—The employer, or an association acting as agent for its members, shall file the information necessary to complete a local job order for each occupation covered by an accepted labor condition attestation with the appropriate local office of the qualified State employment security agency having jurisdiction over the area of intended employment, or with the State office of such an agency if workers will be employed in an area within the jurisdiction of more than one local office of such an agency. The job orders shall remain on file for 25 calendar days or until 5 calendar days before the anticipated date of need for workers in the occupation covered by the job order, whichever occurs later. The job order shall provide at least the minimum terms and conditions of employment required for participation in the H-2B program.

"(B) DEADLINE FOR FILING.—A job order shall be filed under subparagraph (A) no later than the date on which the employer files a petition with the Attorney General for admission or extension of stay for aliens to be employed in the occupation for which the order is filed.

"(C) REQUIRED DOCUMENTATION.—The office of the qualified State employment security agency which the employer or association provides with information necessary to file a local job order shall provide the employer with evidence that the information was provided in a timely manner as required by this paragraph, and the employer or association shall retain such evidence for each occupation in which H-2B aliens are employed.

"(7) REQUIREMENT TO GIVE PREFERENCE TO QUALIFIED UNITED STATES WORKERS.—

"(A) FILING 30 DAYS OR MORE BEFORE DATE OF NEED.—If a job order is filed 30 days or more before the anticipated date of need for workers in an occupation covered by a labor condition attestation and for which the job order has been filed, the employer shall offer to employ able, willing, and qualified United States workers who apply to the employer and who will be available at the time and place needed for the job opportunities covered by the attestation until 5 calendar days before the anticipated date of need for workers in the occupation, or until the employer's job opportunities in the occupation are filled with qualified United States workers, if that occurs more than 5 days before the anticipated date of need for workers in the occupation.

"(B) FILLING FEWER THAN 30 DAYS BEFORE DATE OF NEED.—If a job order is filed fewer than 30 days before the anticipated date of need for workers in an occupation covered by such an attestation and for which a job order has been filed, the employer shall offer to employ able, willing, and qualified United States workers who are or will be available at the time and place needed during the first 25 days after the job order is filed or until the employer's job opportunities in the occupation are filled with United States workers, regardless of whether any of the job opportunities may already be occupied by H-2B aliens.

"(C) FILING VACANCIES.—An employer may fill a job opportunity in an occupation covered by an accepted attestation which remains or becomes vacant after expiration of the required preference period specified in subparagraph (A) or (B) of paragraph (6) without regard to such preference.

"(D) JOB-RELATED REQUIREMENTS.—No employer shall be required to initially employ a worker who fails to meet lawful job-related employment criteria, nor to continue the employment of a worker who fails to meet lawful job-related standards of conduct and performance, including failure to meet minimum productivity standards after a 3-day break-in period.

"(E) REQUIRED DOCUMENTATION.—No specific documentation is required to demonstrate compliance with the requirements of this paragraph. In the event of a complaint, the burden of proof shall be on the complainant to show that the complainant applied for the job and was available at the time and place needed. If the complainant makes such a showing, the burden of proof shall be on the employer to show that the complainant was not qualified or that the preference period had expired.

"(8) REQUIREMENTS OF NOTICE OF CERTAIN BREAKS IN EMPLOYMENT.—

"(A) IN GENERAL.—The employer (or an association in relation to an H-2B alien) shall notify the Service within 7 days if an H-2B alien prematurely abandons the alien's employment.

"(B) OUT-OF-STATUS.—An H-2B alien who abandons the alien's employment shall be considered to have failed to maintain nonimmigrant status as an alien described in section 101(a)(15)(H)(ii)(b) and shall leave the United States or be subject to deportation under section 241(a)(1)(C)(i).

"(d) ACCEPTANCE BY QUALIFIED STATE EMPLOYMENT SECURITY AGENCY.—The qualified State employment security agency shall review labor condition attestations submitted by employers or associations only for completeness and obvious inaccuracies. Unless such an agency finds that the application is incomplete or obviously inaccurate, the agency shall accept the attestation within 7 days of the date of filing of the attestation, and return a copy to the applicant marked 'accepted'.

"(e) PUBLIC REGISTRY.—The Secretary shall maintain a registry of all accepted labor condition attestations and make such registry available for public inspection.

"(f) RESPONSIBILITIES OF THE QUALIFIED STATE EMPLOYMENT SECURITY AGENCIES.—

"(1) DISSEMINATION OF LABOR MARKET INFORMATION.—The Secretary shall direct qualified State employment security agencies to disseminate nonemployer-specific information about potential labor needs based on accepted attestations filed by employers. Such dissemination shall be separate from the clearance of job orders through the Interstate and Intrastate Clearance Systems, and shall create no obligations for employers except as provided in this section.

"(2) REFERRAL OF WORKERS ON QUALIFIED STATE EMPLOYMENT SECURITY AGENCY JOB ORDERS.—Such agencies holding job orders filed by employers covered by approved labor condition attestations shall be authorized to refer any able, willing, and qualified eligible job applicant who will be available at the time and place needed and who is authorized to work in the united States, including H-2B aliens who are seeking additional work in the United States and whose eligibility to remain in the United States pursuant to subsection (h) has not expired, on job orders filed by holders of accepted attestations.

"(g) ENFORCEMENT AND PENALTIES.—

"(1) ENFORCEMENT AUTHORITY.—

"(A) INVESTIGATION OF COMPLAINTS.—The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting an employer's failure to meet a condition specified in subsection (a) or an employer's misrepresentation of material facts in such an application. Complaints may be filed by any aggrieved person or organizations (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, respectively. The Secretary shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

"(B) WRITTEN NOTICE OF FINDINGS AND OPPORTUNITY FOR APPEAL.—After an investigation has been conducted, the Secretary shall issue a written determination as to whether or not any violation described in paragraph (2) has been committed. The Secretary's determination shall be served on the complainant and the employer, and shall provide an opportunity for an appeal of the Secretary's decision to an administrative law judge, who may conduct a de novo hearing.

"(2) REMEDIES.—

"(A) BACK WAGES.—Upon a final determination that the employer has failed to pay wages as required under this section, the Secretary may assess payment of back wages due to any United States worker or H-2B alien employed by the employer in the specific employment in question. The back wages shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

"(B) FAILURE TO PAY WAGES.—Upon a final determination that the employer has failed to pay the wages required under this section, the Secretary may assess a civil money penalty up to $1,000 for each failure, and may recommend to the Attorney General the disqualification of the employer from the employment of H-2B aliens for a period of time determined by the Secretary not to exceed 1 year.

"(C) OTHER VIOLATIONS.—If the Secretary, as a result of an investigation pursuant to a complaint, determines that an employer covered by an accepted labor condition attestation has—

"(i) filed an attestation which misrepresents a material fact; or

"(ii) failed to meet a condition specified in subsection (a),

the Secretary may assess a civil money penalty not to exceed $1,000 for each violation. In determining the amount of civil money penalty to be assessed, the Secretary shall consider the seriousness of the violation, the good faith of the employer, the size of the business of the employer being charged, the history of previous violations by the employer, whether the employer obtained a financial gain from the violation, whether the violation was willful, and other relevant factors.

"(D) PROGRAM DISQUALIFICATION.—

"(i) 3-YEARS FOR SECOND VIOLATION.—Upon a second final determination that an employer has failed to pay the wages required under this section, the Secretary shall report such determination to the Attorney General and the Attorney General shall disqualify the employer from the employment of H-2B aliens for a period of 3 years.

"(ii) PERMANENT FOR THIRD VIOLATION.—Upon a third final determination that an employer has failed to pay the wages required under this section, the Secretary shall report such determination to the Attorney General and the Attorney General shall disqualify the employer from any subsequent employment of H-2B aliens.

"(3) ROLE OF ASSOCIATIONS.—

“(A) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf a labor condition attestation is filed by an association acting as its agent is fully responsible for such attestation, and for complying with the terms and conditions of this section, as though the employer had filed the attestation itself. If such an employer is determined to have violated a requirement of this section, the penalty for such violation shall be assessed against the employer who committed the violation and not against the association or other members of the association.

“(B) VIOLATION BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing a labor condition attestation on its own behalf as an employer is determined to have committed a violation under this subsection which results in disqualification from the program under paragraph (2)(D), no individual member of such association may be the beneficiary of the services of an H-2B alien in an occupation in which such alien was employed by the association during the period such disqualification is in effect, unless such member files a labor condition attestation as an individual employer or such an attestation is filed on the employer's behalf by an association with which the employer has an agreement that the employer will comply with the requirements of this section.

“(h) PROCEDURE FOR ADMISSION OR EXTENSION OF H-2B ALIENS.—

“(1) ALIENS WHO ARE OUTSIDE THE UNITED STATES.—

“(A) PETITIONING FOR ADMISSION.—An employer or an association acting as agent for its members who seeks the admission into the United States of H-2B aliens may file a petition with the District Director of the Service having jurisdiction over the location where the aliens will be employed. The petition shall be accompanied by an accepted and currently valid labor condition attestation covering the petitioner. The petition may be for named or unnamed individual or multiple beneficiaries.

“(B) EXPEDITED ADJUDICATION BY DISTRICT DIRECTOR.—If an employer's petition for admission of H-2B aliens is correctly filled out, and the employer is not ineligible to employ H-2B aliens, the District Director (or the Director's designee) shall approve the petition within 3 working days of receipt of the petition and accepted labor condition attestation and immediately (by fax, cable, or other means assuring expedited delivery) transmit a copy of the approved petition to the petitioner and to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

“(C) UNNAMED BENEFICIARIES SELECTED BY PETITIONER.—The petitioning employer or association or its representative shall approve the issuance of visas to beneficiaries who are unnamed on a petition for admission granted to the employer or association.

“(D) CRITERIA FOR ADMISSIBILITY.—

“(i) IN GENERAL.—An alien shall be admissible under this section if the alien is otherwise admissible under this Act and the alien is not debarred pursuant to the provisions of clause (ii).

“(ii) DISQUALIFICATION.—An alien shall be debarred from admission or being provided status as an H-2B alien under this section if the alien has, at any time—

“(I) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

“(II) has otherwise violated a term or condition of admission to the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

“(E) PERIOD OF ADMISSION.—The alien shall be admitted for the period requested by the petitioner not to exceed 10 months, or the remaining validity period of the petitioner's approved labor condition attestation, whichever is shorter, plus an additional period of 14 days, during which the alien shall seek authorized employment in the United States. During the 14-day period following the expiration of the alien's work authorization, the alien is not authorized to be employed unless the original petitioner or a subsequent petitioner has filed an extension of stay on behalf of the alien.

“(F) ISSUANCE OF IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—

“(i) IN GENERAL.—The Attorney General shall cause to be issued to each H-2B alien a card in a form which is resistant to counterfeiting and tampering for the purpose of providing proof of identity and employment eligibility under section 274A.

“(ii) DESIGN OF CARD.—Each card issued pursuant to clause (i) shall be designed in such a manner and contain a photograph and other identifying information (such as date of birth, sex, and distinguishing marks) that would allow an employer to determine with reasonable certainty that the bearer is not claiming the identity of another individual, and shall—

“(I) contain a fingerprint or other biometric identifying data (or both);

“(II) specify the date of the aliens authorization as an H-2B alien;

“(III) specify the expiration date of the alien's work authorization; and

“(IV) specify the alien's admission number or alien file number.

“(2) EXTENSION OF STAY.—

“(A) APPLICATION FOR EXTENSION OF STAY.—If a petitioner seeks to employ an H-2B alien already in the United States, the petitioner shall file an application for an extension of stay. The application for extension of stay shall be accompanied by a currently valid labor condition attestation.

“(B) LIMITATION ON FILING AN APPLICATION FOR EXTENSION OF STAY.—An application may not be filed for an extension of an alien's stay for a period of more than 10 months, or later than a date which is 2 years from the date of the alien's last admission to the United States as a H-2B alien, whichever occurs first. An application for extension of stay may not be filed during the pendency of an alien's previous authorized period of admission, nor after the alien's authorized stay in the United States has expired.

“(C) WORK AUTHORIZATION UPON FILING AN APPLICATION FOR EXTENSION OF STAY.—An employer may begin employing an alien already in the United States in H-2B status on the day the employer files its application for extension of stay with the Service. For the purpose of this requirement, the term ‘filing’ means sending the application by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of receipt of the application. The employer shall provide a copy of the employer's application for extension of stay to the alien, who shall keep the application with the alien's identification and employment eligibility card as evidence that the extension has been filed and that the alien is authorized to work in the United States. Upon approval of an application for extension of stay, the Service shall provide a new employment document to the alien indicating a new validity date, after which the alien is not required to retain a copy of the application for extension of stay.

“(D) LIMITATION ON EMPLOYMENT AUTHORIZATION OF H-2B ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY CARD.—An expired identification and employment eligibility card, together with a copy of an application for extension of stay, shall constitute a valid work authorization document for a period of not more than 60 days from the date of application for the extension of stay, after which time only a currently valid identification and employment eligibility card shall be acceptable.

“(3) LIMITATION ON AN INDIVIDUAL'S STAY IN H-2B STATUS.—An alien having status as an H-2B alien may not have the status extended for a continuous period longer than 2 years unless the alien remains outside the United States for an uninterrupted period of 6 months. An absence from the United States may break the continuity of the period for which an H-2B visa is valid. If the alien has resided in the United States 10 months or less, an absence breaks the continuity of the period if its lasts for at least 2 months. If the alien has resided in the United States 10 months or more, an absence breaks the continuity of the period if it lasts for at least one-fifth the duration of the stay.

“(i) TRUST FUND TO ASSURE WORKER RETURN.—

“(1) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund (in this section referred to as the ‘Trust Fund’) for the purpose of providing a monetary incentive for H-2B aliens to return to their country of origin upon expiration of their visas under this section.

“(2) WITHHOLDING OF WAGES; PAYMENT INTO THE TRUST FUND.—

“(A) IN GENERAL.—Employers of H-2B aliens shall—

“(i) withhold from the wages of their H-2B alien workers an amount equivalent to 25 percent of the wages of each H-2B alien worker and pay such withheld amount into the Trust Fund in accordance paragraph (3); and

“(ii) pay to the Trust Fund an amount equivalent to the Federal tax on the wages paid to H-2B aliens that the employer would be obligated to pay under the Federal Unemployment Tax Act and the Federal Insurance Contributions Act.

Amounts withheld under clause (i) shall be maintained in such interest bearing account with such a financial institution as the Attorney General shall specify.

“(3) DISTRIBUTION OF FUNDS.—The amounts paid into the Trust Fund and held pursuant to paragraph (2)(A)(i), and interest earned thereon, shall be paid by the Attorney General as follows:

“(A) REIMBURSEMENT OF EMERGENCY MEDICAL EXPENSES.—To reimburse valid claims for reimbursement of emergency medical services furnished to H-2B aliens, to the extent that sufficient funds are not available on an annual basis from the Trust Fund pursuant to paragraphs (2)(A)(ii) and (4)(B).

“(B) PAYMENTS TO WORKERS.—Amounts paid into the Trust Fund on behalf of a worker, and interest earned thereon, less a pro rata reduction for any payments made pursuant to subparagraph (A), shall be paid by the Attorney General to the worker if—

“(i) the worker applies to the Attorney General (or the designee of the Attorney General) for payment within 30 days of the expiration of the alien's last authorized stay in the United States as a H–2B alien;

“(ii) in such application the worker establishes that the worker has complied with the terms and conditions of this section; and

“(iii) in connection with the application, the worker tenders the identification and employment authorization card issued to the worker pursuant to subsection (h)(1)(F) and establishes that the worker is identified as the person to whom the card was issued based on the biometric identification information contained on the card.

“(4) ADMINISTRATIVE EXPENSES AND EMERGENCY MEDICAL EXPENSES.—The amounts paid into the Trust Fund and held pursuant to paragraph (2)(A)(ii), and interest earned thereon, shall be paid by the Attorney General as follows:

“(A) ADMINISTRATIVE EXPENSES.—First, to the Attorney General, the Secretary of Labor, and the Secretary of State in amounts equivalent to the expenses incurred by such officials in the administration of section 101(a)(15)(H)(ii)(b) and this section.

“(B) REIMBURSEMENT OF EMERGENCY MEDICAL SERVICES.—Any remaining amounts shall be available on an annual basis to reimburse hospitals for emergency medical services furnished to H–2B aliens as provided in subsection (k)(2).

“(5) REGULATIONS.—The Attorney General shall prescribe regulations to carry out this subsection.

“(j) INVESTMENT OF TRUST FUND.—

“(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in the Secretary's judgement, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

“(A) on original issue at the price; or

“(B) by purchase of outstanding obligations at the market price.

The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

“(2) SALE OF OBLIGATION.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

“(3) CREDITS TO TRUST FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

“(4) REPORT TO CONGRESS.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Attorney General) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as both a House and a Senate document of the session of the Congress to which the report is made.

“(k) REIMBURSEMENT OF COST OF EMERGENCY MEDICAL SERVICES.—

“(1) IN GENERAL.—The Attorney General shall establish procedures for reimbursement of hospitals operated by a State or by a unit of local government (or corporation owned or controlled by the State or unit) for the reasonable cost of providing emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services) in the United States to H–2B aliens for which payment has not been otherwise reimbursed.

“(2) SOURCE OF FUNDS FOR REIMBURSEMENT.—Funds for reimbursement of hospitals pursuant to paragraph (1) shall be drawn—

“(A) first under subsection (i)(4)(B), from amounts deposited in the Trust Fund under subsection (i)(2)(A)(ii) after reimbursement of certain administrative expenses; and

“(B) then under subsection (i)(3)(A), to the extent that funds described in subparagraph (A) are insufficient to meet valid claims, from amounts deposited in the Trust Fund under subsection (i)(2)(A)(i).

“(l) MISCELLANEOUS PROVISIONS.—

“(1) APPLICABILITY OF LABOR LAWS.—Except as provided in paragraphs (2), (3), and (4), all Federal, State, and local labor laws (including laws affecting migrant farm workers) applicable to United States workers shall also apply to H–2B aliens.

“(2) LIMITATION OF WRITTEN DISCLOSURE IMPOSED UPON RECRUITERS.—Any disclosure required of recruiters under section of 201(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1821(a)) need not be given to H–2B aliens prior to the time their visa is issued permitted entry into the United States.

“(3) EXEMPTION FROM FICA AND FUTA TAXES.—The wages paid to H–2B aliens shall be excluded from wages subject to taxation under the Federal Unemployment Tax Act and under the Federal Insurance Contributions Act.

“(4) INELIGIBILITY FOR CERTAIN PUBLIC BENEFITS PROGRAMS.—

“(A) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subparagraph (B), any alien provided status as an H–2B alien shall not be eligible for any Federal or State or local means-tested public benefit program.

“(B) EXCEPTIONS.—Subparagraph (A) shall not apply to the following:

“(i) EMERGENCY MEDICAL SERVICES.—The provision of emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services).

“(ii) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

“(iii) SHORT-TERM EMERGENCY DISASTER RELIEF.—The provision of non-cash, in-kind, short-term emergency disaster relief.

“(m) CONSULTATION ON REGULATIONS.—

“(1) REGULATIONS OF THE SECRETARY.—The Secretary shall consult with the Secretary of Agriculture, and the Attorney General shall approve, all regulations dealing with the approval of labor condition attestations for H–2B aliens or enforcement of the requirements for employing H–2B aliens under an approved attestation.

“(2) REGULATIONS OF THE ATTORNEY GENERAL.—The Attorney General shall consult with the Secretary of Agriculture on all regulations dealing with the approval of petitions for admission or extension of stay of H–2B aliens or the requirements for employing H–2B aliens or the enforcement of such requirements.

“(n) DEFINITIONS.—For the purpose of this section:

“(1) AGRICULTURAL ASSOCIATION.—The term ‘agricultural association’ means any nonprofit or cooperative association of farmers, growers, or ranchers incorporated or qualified under applicable State law, which recruits, solicits, hires, employs, furnishes, or transports any agricultural workers.

“(2) AGRICULTURAL EMPLOYMENT.—The term ‘agricultural employment’ means any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1986 and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

“(3) EMPLOYER.—The term ‘employer’ means any person or entity, including any independent contractor and any agricultural association, that employs workers.

“(4) H–2B ALIEN.—The term ‘H–2B alien’ means an alien admitted to the United States or provided status as a nonimmigrant under section 101(a)(15)(H)(ii)(b).

“(5) QUALIFIED STATE EMPLOYMENT SECURITY AGENCY.—The term ‘qualified State employment security agency’ means a State employment security agency in a State in which the Secretary has determined that the State operates a job service that actively seeks to match agricultural workers with jobs and participates in a multi-State job service program in States where significant supplies of farm labor exist.

“(6) SECRETARY.—The term ‘Secretary’ means the Secretary of Labor.

“(7) UNITED STATES WORKER.—The term ‘United States worker’ means any worker, whether a United States citizen, a United States national, or an alien, who is legally permitted to work in the job opportunity within the United States other than aliens admitted pursuant to this section.”

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 218 the following new item:

“Sec. 218A. Alternative agricultural worker program.”.

At the end of section 308(g)(10), add the following:

(H)(i) Section 214(l)(2), as added by section 822(c), is amended by striking “241(a)(1)(C)” and inserting “237(a)(1)(C)”.

(ii) Section 218A(c)(8)(B), as inserted by section 823(a), is amended by striking “deportation under section 241(a)(1)(C)(i)” and inserting “removal under section 237(a)(1)(C)(i)”.

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. POMBO] and a Member opposed will each control 30 minutes of time.

The Chair recognizes the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to offer an amendment that I believe accomplishes two very important goals. First, and most important, my amendment creating a pilot guest worker program makes H.R. 2202 a better bill—a more effective bill—that will strengthen our ability to curb illegal immigration. Second, my amendment will ensure that should H.R. 2202 create shortages in the availability of seasonal, agricultural labor, that non-Americans can be used—on a temporary basis—to pick the crops and manage the herds. This is in everyone's best interest.

Contrary to some of the rhetoric on this issue, my amendment supports and enhances immigration control. The increased employer sanctions already in H.R. 2202 for hiring illegals—coupled with strong incentives to leave this country when the growing season ends—creates a vast improvement over current law. Added to that is the mandatory withholding of 25 percent of the worker's salary to be returned to his country of origin and collected when he returns. Even now, without the sanctions in H.R. 2202 or the incentives to leave in my amendment, very few alien agricultural workers overstay their visas. We can expect even this small number to drop under my proposal.

This pilot program represents a substantial improvement over current law and provides numerous sanctions and incentives to stem the tide of illegals coming to America.

At the same time, this pilot program would allow non-Americans to provide the farm and ranch labor when—and only when—we cannot find Americans to do it. Every consumer enjoys lowcost food benefits from this.

My amendment accomplishes this not through loopholes or underenforcement of law, but rather by creating a workable program addressing a real shortage of Americans able and willing to provide seasonal farm and ranch labor, accompanied with strict control and enforcement.

I also want to reiterate that this program would only be used if there is a shortage in American labor. If all those who say that there will be no shortage of workers are right—then this program will never be used and that's fine. But should these people be wrong, my amendment provides an insurance policy against fields of rotting, unharvested crops, which inevitably raises food prices.

Finally, this amendment will not cost one American job. Any American who wants to do this work must be given the opportunity—as is already the case with the H2-A program.

Currently, the only program designed to address this shortage of farm and ranch labor is the H-2A program. Anyone familiar with that program can speak of its shortcomings and constraints, and why it is largely unworkable for the agricultural needs of many States. It is my hope that the pilot program in my amendment can serve as the model for replacing the current H-2A program.

My amendment is supported by an unprecedented coalition of nearly 70 State and Federal agricultural organizations including the American Farm Bureau, National Cattlemen's Association, National Council of Agricultural Employers, and many others. I urge my colleagues to support this pilot program as both an important tool to fight illegal immigration and as an insurance policy against unharvested food, closed farms and higher food costs. Please vote "yes" on the Pombo-Chambliss amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member opposed to this amendment?

Mr. GOODLATTE. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Virginia [Mr. GOODLATTE] is recognized for 30 minutes.

Mr. GOODLATTE. Mr. Chairman, I yield 15 minutes of my time to the gentleman from California [Mr. BERMAN], and I ask unanimous consent that he may be permitted to yield blocks of time to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as a Committee on Agriculture member, I too have heard the concerns of agriculture employers who call the current H-2A guest worker program unworkable and thus understand that my colleagues want to give the growers a program that works. I agree that growers need some relief and must be able to depend on a reliable source of foreign workers.

But the Pombo-Chambliss amendment takes the completely wrong approach. We should not create an entirely new, untested, massive guest worker program when we have a program already. Let us fix the H-2A program instead.

The Pombo-Chambliss amendment creates an institutionalized program which could bring up to 250,000 aliens into our country per year.

The Goodlatte compromise amendment is based on hearings held on the H-2A program in both the Committee on Agriculture and Committee on the Judiciary. It will cap the number of visas available for H-2A workers at 100,000. Seventeen thousand guest workers are currently coming into the United States under the H-2A program. That allows for a very substantial increase. It pays for workers' way home, it protects American workers by making sure that guest workers do not adversely affect wages and working conditions of American workers, and it will also require that growers actively recruit for U.S. workers before they can get guest workers. It lifts the burdensome regulations on growers, such as the 50 percent rule and the 3-4 guarantee, and cuts 33 percent off the application processing time for the H-2A certification.

Take a lesson from the history books. The Bracero Program was the beginning of our illegal immigration problem we are attempting to curb in H.R. 2202. Hundreds of thousands of braceros became accustomed to the American standard of living and wages. Once the Bracero Program ended, many braceros resorted to coming to this country illegally. That trend continues today.

Supporters of the Pombo-Chambliss amendment claim unless we create a massive new guest worker bureaucracy, the illegal immigration patterns begun with the Bracero Program will simply grow. How can it get any worse? National organizations representing the growers have on the record stated that at any given time, at least 50 percent of their work force is comprised of illegal aliens. If we enact the H-2B program in the Pombo-Chambliss amendment, we will simply take the inroad we have made in H.R. 2202 to cut illegal immigration and throw them away.

This program will let in 250,000 unskilled foreign workers a year. That is four times the number of skilled workers we are going to admit. We are limiting the number of visas for family reunification. What is the point if we create this new program? This flies in the fact of evidence that there is now a great surplus of domestic farm workers. In the agriculture counties of California, there has been a 10 to 20 percent unemployment rate even in the summer months of peak demand by growers. The research director of the U.S. Commission on Agricultural Workers, which was evenly balanced with grower representatives, stated that there is and has been for many years an overall agricultural labor surplus in the United States and there will not be a labor shortage in the future. H.R. 2202's employment verification system is voluntary. Agriculture employers do not have to use it unless they choose to.

Even if the 25 percent of the seasonal labor force which is presently illegal were to magically disappear, there will still be no shortage. The U.S. Commission on Immigration Reform, headed by the late Barbara Jordan, recently found that if the supply of illegal farm workers dried up tomorrow or if growers chose to stop hiring illegal workers, the supply of work-authorized farm workers is ample, even in peak harvest months.

Let me talk about some of the specific problems with the Pombo-Chambliss H–2B program. This program would gut protections for guest workers and U.S. workers. It is an attestation program. The current H–2A system is a certification program. Under a certification procedure, an employer has to prove to the Secretary of Labor that it has met certain conditions before the Secretary will permit the entry of an alien worker.

With an attestation program, such as the one set up by Pombo-Chambliss, there are no controls on the number of foreign workers a grower brings in until after the growing season is over. The Secretary will permit the entry of an alien worker based on the employer promising it will meet certain conditions in the future. Only if an interested party, such as a union, complains to the Secretary that the employer is not fulfilling an attestation, will the Secretary initiate an investigation.

This type of program invites abuse. It has no practical provision for enforcement. In addition, no mechanism for enforcement exists for its recordkeeping and other requirements. Guest workers cannot be expected to leave the United States and return home when their work contracts end. The program that currently exists, that previously existed, has taught us that lesson. The lure of American jobs at much higher pay than available back home is just too great. Once settled and plugged into their job networks, they will then encourage their families and friends to come illegally and join them. We must stop this trend from continuing. Let us fix the H–2A program, not create an immigration nightmare.

Mr. Chairman, I urge my colleagues to oppose the Pombo-Chambliss amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BERMAN. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas [Mr. BRYANT], the ranking member of the subcommittee.

Mr. BRYANT of Texas. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, this should be an easy decision for all of us. This is an amendment that proposes to allow 250,000 foreign workers to come into the country to do work that could be done by American workers.

We have already been through this once. In 1986 we faced this situation, and many will remember that we at that time granted amnesty to what ultimately were, I think, 1.1 million people that had become workers on whom growers principally in southern California were dependent.

It was the hardest vote and the most difficult decision of the entire bill. We did it because it was the right thing to do. We should not be in a position to have to do it again. That is exactly where this amendment is going to lead us.

Second, we have got to get away from this idea that we have the obligation or the need to bring foreign workers into the country in order to deal with our economic needs. The fact of the matter is, there is a surplus of seasonal farm workers, and in fact even now 50 percent of seasonal farm workers live in poverty. There is a surplus of these folks. There are thousands of them available.

Mr. Chairman, I submit to the authors of the amendment and to those listening to this debate that there is not any credible study that indicates there is a need to bring in 250,000 people to do work on our farms in this country, and I urge Members to vote against it.

□ 1630

It will clearly, in my view, lead to not only making life more miserable for folks that do very tough work at very low wages already by, in effect, reinstating the old bracero program, but it also will lead to increased illegal immigration because we are not being realistic if we expect guest workers to leave at the end of every worker contract. That simply is not going to happen. They are going to stay here.

In fact, the terms of the amendment allow them to stay as long as 2 years if their initial stay is extended and to do so legally. We have got to start sticking up for American workers. We have an American work force that can do this work. Maybe they do not want to do it at dirt-level wages. Maybe they need to have their wages raised. But we have the people to do this work.

We ought not to pass this amendment. We ought not to vote in favor of letting 250,000 people come into the country to do work that ought to be done and can be done and will be done by American workers.

Mr. BERMAN. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas [Mr. DE LA GARZA], the ranking Democrat on the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman, under ordinary circumstances, I would be interested in supporting an amendment of this nature, but the way that we have handled this bill throughout the day, I must oppose it. One cannot say to people, you cannot bring your mother, you cannot bring your father, you have to speak English, you cannot come, we do not want you, get the dickens out of this country, but if you come to work temporarily when we can withhold 25 percent of your wages, when we can tell you if you have insurance for your car and not have insurance for your car, then you can come and work.

I can get all the workers we want in my congressional district, and they are good hard workers. But in the spirit in which we are dealing here today, to me it is insulting, it is demeaning. These will be indentured servants in the United States of America, indentured to individuals who will withhold under law 25 percent of their pay, maybe or maybe not get housing or be charged for housing or forced to buy it at the ranch store or the company store.

It is bad as it is, but I cannot accept all of the other things that are coming through. We are almost to the point where I am tempted to offer an amendment that anyone who is a descendant of a foreigner has to go back to the country of origin. That is about what we are up to. We even might want to change my name from GARZA to CRANE. It has gotten to the point where it is now ridiculous.

If we have problems with population, we work on the numbers, work on the numbers legitimately. I do not have any objection if we are overpopulated. But let me say to my California friends, if not one more alien comes to California, by 2012 California is more than 50 percent Asian and Hispanic. So, listen to that; 12, 15 more years, more than 50 percent, no matter what else is done. So I would think that we would be interested in seeing what we can do legally.

Mr. Chairman, if my colleagues are interested in numbers, I am with them. We have to work on that. But saying they are going to be terrorists, they are going to come blow the countryside apart, they are going to come and destroy the Government, they are only talking about Mexico and Central America, and they have to admit that. They have to admit that.

Anyone that does not look like, I do not know, the gentleman from California [Mr. POMBO] and I look alike. But maybe like the gentleman from California [Mr. BERMAN] then his is OK. If he looks like Mr. POMBO and me, he is not OK, throw him out, send him back. I cannot support this under this, the way that we are handling it.

Mr. POMBO. Mr. Chairman, I thank the former ranking member, and I do agree with many of his sentiments. I hope in the future we do have a chance to work on this.

Mr. Chairman, I yield 1½ minutes to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Chairman, I rise in support of the Pombo-Chambliss amendment to H.R. 2202 to establish a pilot program to allow temporary, and I want to underline temporary, guest workers into this country to help out in the agricultural industry. This amendment is carefully constructed to allow only guest workers into this country after, after a series of steps have been taken to find domestic workers to fill agricultural jobs.

In addition, the bill provides strong incentives for guest workers to return to their native homeland by withholding 25 percent of their wages until they return home. In addition, the number of workers allowed in this country has a capped span of 3 years.

Mr. Chairman, I just would like to point out how important this is to my district on the central coast of California and give an example of how this is important to a farm in my district. The Logoluso Farms in my district is located in Cuyama, a very isolated area. They farm 1,100 acres of Fuji apples and they are going to need at least 600 workers at peak harvest time.

Now they are very concerned as to where the labor is going to be coming from because their farm, their acreage, is located some 60 miles away from the nearest small town. A temporary guest worker program that mandates strict labor conditions be met along with adequate housing facilities is a safety valve needed in case the labor supply cannot be met domestically. Most importantly, there are strong incentives here in this amendment, and I would just ask that my colleagues vote in favor of this amendment.

Mr. GOODLATTE. Mr. Chairman, I reserve the balance of my time.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. JONES].

Mr. JONES. Mr. Chairman, I thank the gentleman from California for yielding me the time.

Mr. Chairman, my district consists of approximately 18,000 farms. Most of these farms engage in the production of cucumbers, sweet potatoes, tobacco, and peanuts, very labor-intensive work. Roughly 80 percent of the produce in my district is harvested by seasonal migrant workers. Throughout our Nation, as in North Carolina, seasonal workers have helped labor-intensive farm commodities to become the fastest growing sector of the U.S. agricultural world.

However, farmers in the South are having a very difficult time finding people to do farm work. If it was not for the migrant workers, our farmers would not be able to harvest their crops. We need to guarantee our farmers an ample supply of legal workers. The Pombo-Chambliss amendment creates a workable solution to this important issue. It admits temporary workers by creating a 3-year pilot program with an annual cap on the number of workers admitted.

Congress is trying to control illegal immigration, not destroy the work force of the American farmer. Please support the Pombo amendment.

Mr. POMBO. Mr. Chairman, I yield 1½ minutes to the gentleman from North Carolina [Mr. FUNDERBURK].

Mr. FUNDERBURK. Mr. Chairman, H.R. 2202 provides comprehensive reform of our immigration laws but ignores an irrefutably broken H–2A program. This H–2A program has failed to provide temporary migrant farm workers when domestic workers are unavailable. The Pombo-Chambliss amendment is an essential part of illegal immigration control. It admits workers temporarily and provides guarantees they will return home and not remain. Twenty-five percent of the workers' wages are withheld until they return to their home countries. Future participation is barred if workers don't return home on time. This program has a users' fee that pays for the government administrative costs.

The Goodlatte amendment tinkers with a broken H–2A program rather than fixing it, but in fact makes a bad program worse.

First and foremost, we must assure an adequate work force during harvest. Without this Pombo amendment, our cucumber, sweet potato, tobacco and other farmers could be out of business, meaning a tremendous loss of food and jobs in the Second District of North Carolina—something we can't afford. Therefore, Mr. Speaker, I strongly urge my colleagues to vote "yes" on Pombo and "no" on Goodlatte.

Mr. GOODLATTE. Mr. Chairman, I reserve the balance of my time.

Mr. BERMAN. Mr. Chairman, before I yield to the gentleman from North Dakota, I just want to point out that in the gentleman from North Carolina's district, rural unemployment is now 9 percent.

Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. POMEROY], a member of the Committee on Agriculture.

Mr. POMEROY. Mr. Chairman, I thank the gentleman for yielding me the time.

The statistic just quoted shows exactly what this bill is about. This bill is not about desperately needed workers to fulfill jobs. This is about having a cheap supply of labor to hold wages down. There have been some in favor of immigration reform that want to have it both ways: Crack down on immigration, triple fence the border, but by golly, do not disrupt our ability to get that cheap supply of unskilled labor up from south of the border. They want to have it both ways, but you cannot have it both ways.

Mr. Chairman, I am reminded a bit of how the French chose to construct their defense in anticipation of World War II. They constructed an invincible line called the Maginot Line, and it was to withhold any German attack. The Germans flanked the Maginot Line and of course rendered the defense useless. We build triple fences, our Maginot Line against immigration, and we are going to provide the transport. We ourselves are going to allow the transport of unskilled workers up from Mexico around the fences and on to farms where they can wander off and become a continuing part of the illegal immigration problem this country has had an experience with.

Make no bones about it, the Pombo amendment blows a hole in everything we are trying to do to crack down on illegal immigration and that will even more be the case when the other immigration reforms take effect under the law. Already we see under the guest worker program overstays represent 12 percent of the program, meaning 12 percent of the workers stay longer than they are authorized to under the program. That will only increase if this amendment should be incorporated into this law.

Mr. Chairman, in addition, we have a revenue estimate today from the Congressional Budget Office that shows a loss in revenue of $23 million and an increase in direct spending of $67 million if the Pombo amendment is enacted. This amendment would cost us at a minimum $90 million a year while compounding the illegal immigration, unskilled worker problem in our country. Please join me in voting down this amendment.

AMENDMENT OFFERED BY MR. CONDIT TO THE AMENDMENT OFFERED BY MR. POMBO

Mr. CONDIT. Mr. Chairman, I offer an amendment to the amendment.

The CHAIRMAN. The Clerk will designate the amendment to the amendment.

The text of the amendment to the amendment is as follows:

Amendment offered by Mr. CONDIT to the amendment offered by Mr. POMBO.

In section 823(a), in the section 218A(a)(3)(B) of the Immigration and Nationality Act inserted by such section, add at the end the following:

"(iii) CONSEQUENCES OF PERMANENT EXTENSION.—If the Congress makes the program under this section permanent, Congress shall provide for a two-year phase out of admissions (and adjustments of status) of nonimmigrants under section 101(a)(15)(H)(ii)(a). In the case of such a phase out, the Attorney General and the Secretary of Labor shall provide for the application under this section of special procedures (in the case of occupations characterized by other than a reasonably regular workday or workweek) in the same manner as special procedures are provided for under regulations in such a case for the nonimmgrant workers under section 101(a)(15)(H)(ii)(a).

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. CONDIT] and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from California [Mr. CONDIT].

PARLIAMENTARY INQUIRIES

Mr. BECERRA. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BECERRA. Mr. Chairman, at this time we are moving on to the amendment by the gentleman from California [Mr. CONDIT], in which case 5 minutes will be accorded to both those supporting and those opposing.

My parliamentary inquiry is, what happens to the time that had been allotted for the Pombo amendment? Does that remain at the end of the debate of the Condit amendment?

The CHAIRMAN. All remaining time would be reserved on the Pombo amendment that is currently pending.

Mr. BERMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BERMAN. Mr. Chairman, as I understand the amendment from the gentleman from California, it is an amendment to the Pombo amendment.

The CHAIRMAN. The gentleman is correct.

Mr. BERMAN. Under the rule, an individual opposed to the amendment has 5 minutes of time to control; is that correct?

The CHAIRMAN. The gentleman is correct.

Mr. BERMAN. So this will be 5 minutes in addition to the remaining time on the Pombo amendment.

The CHAIRMAN. The gentleman is correct.

The Chair recognizes the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Chairman, I yield myself such time as I may consume.

First of all, let me commend the gentleman from California [Mr. POMBO] and the gentleman from Georgia [Mr. CHAMBLISS] for their efforts in this issue. They both have demonstrated leadership, and my amendment to their amendment is a friendly amendment and it is pretty straightforward.

□ 1645

It simply says and assures that should the pilot guest worker program established by this amendment gain permanent status, that we will be left with only one guest worker program. As it stands right now, if the Pombo amendment passes, Pombo-Chambliss, it will create two guest worker programs. I do not believe that is the intent of the Committee on Agriculture, nor is it the intent of the author of the amendment to create two programs.

So basically what it does, simply, whenever it becomes permanent, it will be one program, and it will encompass all the people that need to be serviced under a guest worker program.

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Mr. CONDIT. I yield to the gentleman from California.

Mr. POMBO. The gentleman is correct. The intention of the amendment, because it is a pilot program and is a temporary program, if it were to be made a permanent program, the repeal of the H-2A program so that we would have one program, would be the intention of the committee. And I would support the gentleman's amendment and accept it.

Mr. CONDIT. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member opposed to the amendment offered by the gentleman from California?

Mr. BERMAN. Yes, Mr. Chairman, I rise in opposition to the amendment to the amendment.

The CHAIRMAN. The gentleman from California [Mr. BERMAN] is recognized for 5 minutes.

Mr. BERMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not intend to call for a rollcall vote on this amendment. It is the Pombo amendment, with or without the Condit amendment, that I seek to defeat.

Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, today we are here to debate immigration reform. Most people agree that immigration reform needs cutting back on the number of illegal immigrants entering this country. Some would go further to say that it means cutting the number of legal immigrants entering this country. Never mind the problems each of us may have with the bill, at least we can debate these issues on the merits. But this amendment, the Pombo amendment before us, flies in the face of the purported goals.

The gentleman from California [Mr. POMBO] is offering an amendment that would open a back door to allow 250,000 foreign agricultural workers into this country.

What is the power behind this amendment?

It is agribusinesses. Agribusinesses want to circumvent the market system by carving out a giant government loophole in the immigration system, and while everybody knows that there is no shortage of labor in this country, agribusinesses insist that there is.

In simple terms, agribusiness is saying that this immigration bill goes too far. It is saying that it does not want to pay fair wages for legal farm workers. Agribusiness is saying that bringing a quarter of a million foreign agricultural workers into this country will help control illegal immigration. This is tantamount to saying that one can put out a fire with gasoline. We cannot have it both ways, my colleagues.

For too long the U.S. Government has granted select agricultural growers a privilege which few other industries have. Many of us remember the old Bracero program, which brought in and contracted Mexican workers to come here and work. I saw that program in action. As a young man, I went to the Central Valley in California, and I picked crops, and I saw the squalor and the deprivation in which these people worked and had to live.

Mr. Chairman, we cannot commit this mistake again in this country. It would be scandalous. It would be insidious.

Instead of allowing to bring in foreign workers with virtually no rights, agricultural employers should turn to market methods for recruiting American workers. It is simple, it is simple to recruit them. Just offer American workers adequate pay, decent wages decent working conditions, and let us stop the deception that we are seeing here with this amendment.

Mr. Chairman, I urge my colleagues to not repeat those mistakes of history and vote "no" for the Pombo amendment.

Mr. CONDIT. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Come on, folks. The operative word in the gentleman from California's statement that he just spoke was "was." He is talking about yesterday.

I know it is not useful sometimes, or even politic, to deal factually with amendments in front of us on this floor, but this is not the re-creation of a guest worker or Bracero program from 20 or 30 years ago. We can relive the problems, if my colleagues want to, in a kind of a nostalgic way and talk about Wilga, and talk about workers rights, but, come on. This is 1996.

Let us take a look at what is the Pombo amendment actually requires.

No. 1, we got to give preference to U.S. workers. Now, unemployment figures have been cited in various counties. Let me tell my colleagues unemployment figures and willing workers are two different things. Sometimes they are night and day. But if people are willing to work, they have got a job. We do not go without jobs. Our problem is we have difficulty sometimes finding willing workers, especially in peak harvest periods when, for example, in a 7-day period in Fresno County more than 50,000 people are needed to pull those what were grapes, now sun-dried into raisins, down onto the ground, put them on clean paper, and in a very short period of time prepare that product for market. I say to my colleagues, you need labor when you need it in the agricultural arena.

Starvation wages? The Pombo amendment says,

> You have to pay at least the prevailing wage in the occupation area, at least the prevailing wage, and you have to pay it the same to the U.S. worker and the alien. You have to provide comparable transportation, U.S. worker and alien. You have got to cover all of the alien workers, as you do U.S. workers, with Workmen's Comp, comparable insurance. You have to go through a whole series of procedures. You have got to guarantee these aliens don't replace striking workers. You have got a procedure here that says these workers will receive every opportunity that workers who otherwise would be working will receive with one additional factor, they can only be here 10 months, a portion of their wages are withheld, that portion that's withheld is paid interest, and that pot of money, which is the reason these people came here in the first place, that pot of money is available to them if they go home on time. If they don't go home on time, they lose the pot of money

I heard a figure in which 12 percent of these individuals move away from those jobs. Guess what percent of the workers who run across the border and risk their lives in freeway traffic, what percent of those folks go home when the job is up? The answer is zero, 100 percent of those people do not.

Without a responsible program to allow people who want to work to come in to work when the work is needed we are going to have more illegals. The Pombo amendment is a creative, positive 1996 respective amendment, and I ask for its adoption.

Mr. BERMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before I yield I might just point out that in Kern County, the base county of the gentleman from California who just spoke, I wonder what the 13.6 percent unemployed people in that county will say about this effort to go.

Mr. Chairman, I yield 1½ minutes to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Chairman, this is a powerfully bad program that should not be enacted. I find it ironic that we are hearing for the last 2 days how terrible it is that we have all these people coming into our country, we do not want these people in our country, we do not want these people who cannot pass an English test to come to our country. But we do want them if they will be cheap labor, we do want them if it is going to be easy for us to send them home like they are widgets at the end of a period of time.

Mr. Chairman, that is not how this country should act. That is not how this country should operate.

Let us look at the people who are going to be coming to work in this program. These are people who are coming here for a better life. They would not be coming here if they were not doing better economically, and the proponents of this program are saying at the end of this time they are just going to go home. Well, Mr. Chairman, I do not think they are just going to go home because they came here to have a better life, and then we are going to have more problems with more people in prison, we are going to have more problems with more people on welfare because they are still going to have a better life, even if they are living in the underground in the United States, many times, than in their old communities.

Now people say that we need this. I find it ironic that the proponents of this program who are pushing so hard do not want to rely on the time-tested notion of using the free market. This is a capitalistic society. If there is a shortage of workers, and we hear people talking about unemployment rates of 13 percent, 9 percent, I will tell my colleagues how we can get more workers: Pay them more. Pay them more money, and they will come. That is how we have done it for hundreds of years.

Let us continue to do it, Mr. Chairman, Let us not have this program. Let us defeat this program and help American workers.

Mr. CONDIT. Mr. Chairman, I yield the balance of my time to the gentleman from Florida [Mr. DEUTSCH].

The CHAIRMAN. The gentleman from Florida is recognized for 30 seconds.

Mr. DEUTSCH. Mr. Chairman, I rise today to speak in favor of this amendment. I represent a district that provides most of the tropical foliage for the United States. Without passage of the Pombo-Chambliss amendment, the immigration bill will severely hurt U.S. agricultural producers in south Florida. This bill will make it tougher to hire workers during peak harvesting periods.

Some of my colleagues will argue that this amendment hurts American workers by allowing employers to hire illegal immigrants. This is simply not true. In fact, the Pombo-Chambliss amendment requires an employer to give preference to U.S. workers for a minimum of 25 days before the position can be offered to an immigrant. Moreover, no aliens can be employed at a position which is open due to strikes or labor disputes.

Let us be clear. This amendment helps the American economy. And it does not sacrifice our desire to stem the tide of illegal immigrants. It allows agricultural producers to hire guest workers only when there is a temporary shortage of American workers. It requires employers to withhold 25 percent of the guest workers pay until they return home. Finally, those immigrants that violate this program can be deported and prevented from participating with this program in the future. This amendment does not weaken the immigration bill. Rather, it enhances the effectiveness of this bill and helps the American economy.

Mr. BERMAN. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. FARR], a member of the Committee on Agriculture.

Mr. FARR of California. Mr. Chairman, I rise in opposition to this amendment. I represent a lot of agriculture, 2.4 billion dollars' worth of agriculture, and what we do in agriculture is we honor labor, and this Congress honors labor. We are always talking about productivity and how great American workers are. We have done that with the autoworker industry and the aerospace industry, and we ought to be doing it more with farm labor supply. We have got 18-percent unemployment in most rural counties in America.

This is not an issue about labor shortage. This is an issue about wages. If my colleagues think people will not go out and do hard work, just look at all the people that flee to Alaska when they can catch salmon and have to work all day and night to do it because the wages they get out of that process is very high.

I urge my colleagues to really honor American labor. Honor farm productivity by not allowing 250,000 foreigners to come in and say to this country, "You can't do your own work." We produce quality agriculture in America, we can do it with our own labor. We do not need a foreign supply. Vote "no" on the Pombo amendment.

PARLIAMENTARY INQUIRY

Mr. BERMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BERMAN. Mr. Chairman, am I to understand that there is no time left in opposition to the Condit amendment?

The CHAIRMAN. The gentleman is correct.

There is no time left on the Condit amendment only.

Mr. BERMAN. That is the Condit amendment which amends, but does not improve, the Pombo amendment?

The CHAIRMAN. It is the amendment that amends the Pombo amendment.

The question is on the amendment offered by the gentleman from California [Mr. CONDIT] to the amendment offered by the gentleman from California [Mr. POMBO].

The amendment to the amendment was agreed to.

□ 1700

Mr. POMBO. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I just want to say today that I do support the Pombo amendment, because we have a problem today in agriculture. We have a problem with illegal immigrants working in our agriculture. The most conservative estimates are 50 to 60 percent of those working in our fields today across this Nation are in this country illegally. That was confirmed by the Jordan Commission. Most of them have their families, one, two, three, four members here, most of which are living on public subsidies.

Mr. Chairman, we are here today and we have been here for the past 3 days debating legislation that will significantly reduce the number of illegal immigrants in this country. All this amendment says is that if we can prove that there is a need for temporary guest labor to keep the crops from rotting in the fields, then we will allow a limited number of workers into this country to prevent that from happening, based on the following provisions:

One, it must be proven that there is no domestic labor available to fill these jobs. Also, the employer must assume all financial responsibility for any and all benefits that would be a burden to the taxpayer. Further, temporary workers could not bring family workers along with them. Further, the program must provide a strong, positive verification provision through the use of biometric data, and it must include strong financial incentives for the workers to return to their homeland after the job is done, in the form of withheld wages.

Mr. Chairman, these are the elements that the Pombo amendment provides for. We know the existing H-2A program is unworkable. If it were not, we probably would not be here today. We can do better. We must do better. The Pombo amendment provides for that. I urge my colleagues to support this amendment.

Mr. GOODLATTE. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. SMITH], chairman of the Subcommittee on Immigration and Claims of the Committee on the Judiciary.

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, this amendment will have a devastating impact on immigration policy. It will lead to increased illegal immigration. It would lawfully admit a quarter of a million individuals who otherwise would be called illegal aliens. If Congress is serious about reducing illegal immigration, we will reject this amendment.

The legitimate and understandable needs of American fruit and vegetable growers will be met by the Goodlatte amendment, which we will consider in just a few minutes. This amendment would worsen our illegal immigration crisis by letting in 250,000 unskilled guest workers in the first year alone. Guest workers are not going to leave when their work ends. This is a lesson to be learned from guest worker programs around the world. The lure of American jobs at significantly higher pay than in the homelands is just too great.

There will be no labor shortage in the future. Some growers are concerned that the employment eligibility quick-check system in this bill will reveal their farm workers to be illegal aliens, but we have made the verification system voluntary. If growers do not want to use it, they do not have to use it. Under a voluntary system, any rationale for a new guest worker program simply vanishes.

Even if part of the seasonal agricultural labor force that is presently illegal were to disappear, there would still be no shortage. The bill contains a backlog reduction program that will add substantial numbers of new permanent residents who are likely to go into agricultural work. The program will provide approximately 500,000 visas for spouses and children of permanent residents, to eliminate the current 1 million-plus backlog.

Supporters of the amendment seem to forget that we already have an agricultural guest worker program. It is called the H-2A program. I know that growers have had concern about the workability of the program, but the Goodlatte amendment will address every concern the growers raised at hearings we have had on the H-2A program. The current guest worker program does not provide a grower with foreign guest workers unless he or she has shown that there are no available American workers.

The amendment that we are considering requires no recruitment on the part of the growers. One of the most fundamental principles of immigration law is that foreign workers should not displace qualified American workers. That would be violated by this amendment. The current guest worker program should be improved. We know that. That is exactly what the Goodlatte amendment will do in just a few minutes.

Mr. Chairman, I urge my colleagues to defeat Pombo and support the Goodlatte amendment. It does meet the legitimate needs of growers without striking at the heart of our efforts to reduce illegal immigration. Vote "no" on the Pombo amendment and "yes" on the Goodlatte amendment.

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from California [Mr. BECERRA], from the Subcommittee on Immigration and Claims of the Committee on the Judiciary.

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, we are in a situation where we just finished a day and a half worth of debate, where we were talking about eliminating about 300,000 visas for U.S. citizens to be able to bring in their family members, their parents, their children, their brothers, their sisters. Now we are dealing with an amendment that says, "Let us bring in 250,000 imported foreign workers to do work in our fields."

Mr. Chairman, probably the worst part about this amendment is the following: In 1992, the rural unemployment rate in the United States was 11 percent. It was even higher for young people working in rural areas. It was close to 19 percent. A substantial number of those that are employed in rural areas, about 40 percent, earned wages below the poverty threshold for a family of four. Real wages for rural workers have declined between 1979 and 1992 by over $1 an hour.

The rural unemployment rate is even more pronounced in those areas and in those counties with high concentrations of migrant and seasonal agricultural workers, the same kind of people that we want to import from other countries. Even during the peak months of agricultural labor demand, we still see very high rates of unemployment.

During July 1995, which is a very high, peak time of year for agricultural work, in California, in 19 of the biggest counties of California dealing with agriculture, 17 of those 19 counties had double-digit unemployment rates. Only two of those counties did not have unemployment rates in the rural areas below 10 percent. One county had an unemployment rate exceeding 32 percent. Yet, most of these folks that we are talking about importing in to do agricultural work would go into those areas of California with these high rates of unemployment.

Mr. Chairman, one other very disturbing aspect of the Pombo amendment. It would dispense with any requirement that the Government verify that growers are in fact experiencing labor shortages, and that the growers have made a good-faith effort to recruit domestic American workers. This amendment would simply ask that growers self-attest that they made efforts to recruit locally, without any independent verification. This amendment should be defeated.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Chairman, I stand in strong support of the Pombo amendment. The main arguments against this amendment are that supposedly there are a lot of workers in America who will be displaced by guest workers, and that they will be displaced by the intent of providing lower wages.

The fact, again, is that the Pombo amendment requires that American workers get first crack at the job. It requires that they must get that crack without having to compete against guest workers. Employers must list job opportunities with the job service and give qualified U.S. workers the first preference for the first 25 days. There is no incentive to use guest workers if there are U.S. workers available.

What about the issue of wages? The fact is that farm work is one of the highest paying low-skill, entry-level occupations in the United States. The average hourly wage for field and livestock workers in 1995 was $6.12 per hour, almost $2 above the minimum wage. The average for piece rate workers was $7.30 per hour. The fact is that since the Immigration Reform and Control Act was passed in 1986, farm wages have outperformed nonfarm wages 35 to 27 percent. Mr. Chairman, this is a good amendment, and it will help.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. LOBIONDO].

Mr. LOBIONDO. Mr. Chairman, I rise in strong support of the Pombo amendment to create a 3-year agriculture guestworker program.

Mr. Chairman, by all accounts the current guestworker program needs to be reformed because it is not working for farmers or for guestworkers. And it is clear that this immigration bill will reduce the number of foreign workers available to farmers. As the Agriculture Committee Report on the Pombo amendment states, "Without an adequate guestworker program, illegal immigrants fill the void. The Department of Labor estimates that 25 percent of the 1.6 million agricultural workers are illegal aliens."

Let me repeat: Without an adequate guestworker program, illegal immigrants fill the void.

The new H–2B program created by the Pombo amendment will fix the problems with the current program and help eliminate the use of illegal aliens in agriculture. And by requiring growers to hire U.S. citizens if they are available, this program will not displace American jobs.

Some opponents have characterized this amendment as nothing but a benefit to agri-business. This is simply not the case. I represent numerous family growers with small farms in southern New Jersey. These growers depend on short-term labor, but the present program is difficult and cumbersome to use. The small, family growers in southern New Jersey and around the country need a new guestworker program.

Mr. Chairman, let's not pretend we are cracking down on illegal immigration by opposing the Pombo amendment. This amendment will help to reduce the number of illegal farm workers by creating a workable program for Americas farmers.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. COOLEY].

Mr. COOLEY. Mr. Chairman, I rise today in support of the Pombo amendment, and against the Goodlatte amendment.

For those Members who see the Goodlatte amendment as a compromise on the guest worker program, don't be fooled.

The Goodlatte amendment is another Band-Aid fix to the H–2A program—and fails to provide growers with a workable system for hiring temporary workers.

The current H–2A program is a program only a bureaucrat could love.

Like most government-run programs, it's too complex—time-consuming—and inflexible for the real world.

Our produce industry in eastern and southern Oregon will be devastated if they don't have the ability to hire farm workers in a timely manner.

As we begin to crack down on immigration, our growers need a program that will strike a balance between their needs—and those who fear that a guest worker program will lead to more illegal immigration.

The Pombo amendment strikes that balance.

I urge my colleagues to support the Pombo amendment, and oppose the Goodlatte amendment.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of the Pombo-Chambliss amendment. This amendment is vital to the success of immigration reform.

Without this amendment immigration reform could have the unintended consequence of causing a widespread labor shortage for American agriculture.

That in turn could cause the industry to lose valuable markets to foreign competition and could cause hardships to millions of American consumers by raising the cost of the food they buy.

The Pombo-Chambliss amendment creates a new H–2B guest worker program that is farmer friendly, while respecting our need to control immigration.

Simply put, it would allow workers to enter our country on a temporary basis and return to their country when their term of employment is over.

The provision cuts paperwork and administrative costs dramatically.

Mr. Chairman, my State of Idaho is representative of much of the Nation on this issue.

Even though Idaho is a Northwestern State, guest workers provide an essential source of labor for our agricultural industry.

The president of the Idaho Farm Bureau Federation wrote me an impassioned plea for this amendment, Mr. Chairman.

He argues that without the Pombo-Chambliss amendment, the Farm Bureau cannot support H.R. 2202.

This amendment is also strongly supported by such agriculture groups as the Western Range Association, the Idaho Cattlemen's Association, and the Idaho-Oregon Fruit and Vegetable Association.

The Pombo-Chambliss amendment is essential to making H.R. 2202 good law. I urge a yea vote.

Mr. Chairman, I include for the RECORD the letter from the Idaho Farm Bureau Federation.

The letter referred to is as follows:

IDAHO FARM BUREAU FEDERATION,
Boise, Idaho, March 15, 1996.

Re Pombo amendment—nonimmigrant H2–B category for temporary agricultural workers.

Hon. HELEN CHENOWETH,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN CHENOWETH: Thank you for your letter of March 6 and the opportunity to respond to Congressman Pombo's amendment to H.R. 2202.

H.R. 2202 does three things that could adversely effect the number of agricultural workers in this country. This legislation will significantly increase interior enforcement seeking to find illegal aliens at their places of employment, increase border interdiction, and impose some sort of employment eligibility verification.

It is imperative that a temporary alien worker program be included in H.R. 2202. This can be accomplished with the adoption of the Pombo amendment. The temporary alien worker program, coupled with the verification process already outlined in H.R. 2002 will help assure agricultural employers that they and their employees are complying with the law. The three year pilot program established by Rep. Pombo's amendment will help meet the administrative and labor supply needs of the agricultural industry.

The Idaho Farm Bureau Federation can support H.R. 2202 with the inclusion of the Pombo amendment. It is of utmost importance that the Pombo amendment be included in original form, without amendment. Without the Pombo amendment, the Idaho Farm Bureau Federation will oppose H.R. 2202 or any immigration reform legislation that does not consider the needs of our industry.

Thank you very much for your time and consideration in this matter.

Sincerely,

V. THOMAS GEARY,
President.

Mr. POMBO. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, I could not disagree more with my respected colleague, the gentleman from Texas [Mr. SMITH]. I joined with my colleague in cosponsoring his bill, but we badly need the Pombo amendment. I will tell the Members why. We will never have an effective program to contain illegal immigration without having an effective, reasonable, and legitimate program for temporary guest workers in this country. I quote from statistics prepared for none other than Senator EDWARD M. KENNEDY in 1980, a report at his request when he chaired the Senate Committee on the Judiciary. This report reads the following: "Illegal immigration was brought to a halt in the mid-1950's by a greatly increased law enforcement effort on the part of the U.S. Government, combined with a subsequent expansion of the bracero program as a substitute legal means of entry."

□ 1715

Without question the Bracero program was also instrumental in ending the illegal alien problem of the mid 1940's and 1950's. It should be noted that throughout its duration, and particularly during the 1950's, one of the major arguments used in support of the Bracero program was that it offered an alternative and therefore at least a partial solution to the illegal alien problem. The other part of the solution was effective law enforcement, which this Smith bill does do. Here is the graph. Here it shows what happened. We went from over 1 million apprehensions of illegals in 1954 to where it was brought down in 1959 to just over 45,000.

Mr. Chairman, history shows this program works. We need to incorporate this into the Smith bill to give us the maximum protection against illegal immigration. Today the Labor Department's own statistics say that 25 percent of the seasonal agricultural workers self-identify as illegals. The INS will tell you that indeed it is much higher. Support the Pombo amendment. Oppose the Goodlatte amendment.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. LEWIS].

Mr. LEWIS of Kentucky. Mr. Chairman, I rise today in support of the Pombo-Chambliss amendment.

One of the promises I made to the farmers in Kentucky's second district was to help relieve the regulatory burden the Federal Government has placed on them.

Mr. Chairman, this amendment will cut paperwork, save farmers money and better control illegal immigration.

Our farmers must be able to obtain the needed and legal work force to competitively compete in the growing world market, so they can continue to provide the safe and abundant supply of food and other agricultural products Americans have come to expect.

I challenge anyone here to tell a Kentucky farmer there are enough domestic workers. Again and again farmers tell me that one of the biggest problems they face is a willing and qualified work force. These jobs are mostly seasonal, temporary, and there simply are not enough domestic workers to do the hard work for short periods that are still a big part of agriculture production needs.

It is important to note this amendment requires employers to give preference to U.S. workers who apply for these jobs, ensuring that domestic workers are not displaced.

I urge my colleagues to vote "yes" on the Pombo-Chambliss amendment.

Mr. GOODLATTE. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I want to respond briefly to my good friend from California [Mr. DOOLITTLE] and the comments he made a while ago. Actually the chart that he showed shows the exact opposite, if I may say so.

At the beginning of the Bracero program we had an increase in the number of illegal aliens coming into the country. The decrease that was caused was not by the Bracero program. It was by President Eisenhower instituting what was then called Operation Wetback that effectively sealed the border. It had nothing to do with the Bracero program. The reduction in illegal aliens was because of the President's policy at that time. The Bracero program at the beginning of it actually increased the number of illegal aliens coming in, because more people were encouraged to come and try to get into the country.

Mr. GOODLATTE. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in reluctant opposition to the amendment of my good friend from California [Mr. POMBO] to create a new guest worker program. At a time when our focus is on reducing immigration levels, the Pombo amendment attempts to allow an additional 250,000 nonskilled temporary workers to help the agricultural industry because they feel there will not be a sufficient work force once this legislation becomes law.

We know that there is currently a surplus of agricultural workers in this country. We know that half of the illegal aliens currently working in this country remain here past their visa time. We know that the work force has helped to drive down the wages to agricultural workers to the point where most low-skilled U.S. citizens simply cannot afford to take these jobs.

Knowing this, do we fix these problems by creating another program out of fear of what could happen? Or do we reform our current H-2A program to create a compromise solution while continuing to address a problem that actually has happened?

The problem is that our immigration system is broken. Our agricultural workers' wages are down because the system is broken. The last thing we should do now is bring in more temporary agricultural workers who will not want to leave.

We do not want to create more problems for farmers with the INS. I think the Pombo amendment will do that. We do not want to create more problems for our farmers with legal aid. We do not want more conflict with the local job market.

Local people in your community will not be hired if there is a flood of foreign workers who wages may sound high, but far too often the foreman, the person in charge of bringing in these workers, often takes much of that money away from the workers.

I urge a "no" vote on the Pombo amendment and an "aye" vote on the Goodlatte amendment.

Mr. BERMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Chairman, I rise in support of the Pombo amendment.

Mr. Chairman, I rise today to express my support for the Pombo-Chambliss amendment to H.R. 2202. As a representative from one of the leading agricultural production regions in the United States, I am concerned with the potential impact of H.R. 2202 on the agricultural labor force.

Measures in H.R. 2202 to control illegal immigration through effective border and interior enforcement and improving the employment verification system could significantly reduce the work force currently entering the United States illegally and working with false documentation, I support those efforts.

At the same time, we must recognize that the agricultural industry in the United States has historically been faced with a need to supplement the domestic work force, especially during peak harvesting periods. Agricultural employers estimate that between 50 and 70 percent of the seasonal work force find employment using fraudulent employment eligibility documents. if provisions included in H.R. 2202 are enacted, agricultural growers could be facing a severe shortage of skilled seasonal workers during peak employment periods.

History has shown that the current H-2A program has been a regulatory and bureaucratic nightmare, rendering the program unusable for the vast majority of agricultural employers. Thus agriculture has no reliable means for ensuring an adequate supply of temporary and seasonal workers if the border and interior enforcement measures included in this legislation are really effective in controlling the entry of undocumented workers.

An adequate supply of skilled seasonal labor is necessary to maintain the competitiveness of U.S. labor intensive agriculture, and to maintain the jobs and livelihood of hundreds of thousands of farmers, U.S. farm workers, and workers in related industries. I urge you to support the Pombo-Chambliss amendment.

Mr. BERMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I rise in opposition to the amendment.

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Chairman, I think it is time to talk about illegal immigration when we talk about the Pombo amendment. We have talked a lot about that in these last few days. Now we are talking about bringing in a quarter of a million agricultural workers a year, and we are saying that that will do nothing to increase illegal immigration. That is a ludicrous idea.

As someone who worked in the immigration field for many, many years, I have been thinking as I have heard the rhetoric today, who are these people? Not the farmers, but who are the people that will leave their families behind for months at a time, come to America, work very hard in hot fields, picking crops for very modest wages? Who are these people?

These are people who are desperate for a better way of life and they do not plan to go home. They will send their money back to their families so their families will have something to live on.

I do not have anything against these people. I admire their courage. But I also know they will not go home.

The 25 percent of the wages that would be withheld from these individuals is probably less than what they would pay to a coyote to come across the border today. So to think that we are somehow going to be remedying the problem of illegal immigration by bringing in a quarter of a million desperate agricultural workers a year is absolutely ludicrous.

Those who would say with a straight face that we are doing something about illegal immigration in a bill that contains the Pombo amendment should have red faces indeed. I urge everyone to oppose the amendment.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise today in support of this amendment which will ensure a steady supply of labor for one of the most important sectors of our economy.

The issue before us today is quite simple: The illegal immigration provisions in the underlying bill could create a shortage of labor in the agricultural sector of our economy. This must not be allowed to happen and the gentleman from California's amendment is, in my view, a reasonable attempt to ensure the continued survival of labor-intensive agriculture.

Mr. Chairman, a series of joint hearings held late last year made it clear that agriculture had legitimate concerns which had not yet been addressed. In responding to these concerns, this amendment installs a workable mechanism for importing needed labor. It caps the number of program participants, and permits the entry of legal temporary farm workers only when American workers cannot be found. Producers are required to pay a decent wage and ensure humane treatment and living conditions for their workers.

The House must understand, Mr. Chairman, that the competitiveness of U.S. agriculture—especially the fruit and vegetable industry—depends on a reliable labor supply. It is also important to note the thousands of U.S. jobs that depend on the continued success of these industries. We should accept the amendment offered by the gentleman from California and provide agriculture the labor it needs to survive.

Mr. POMBO. Mr. Chairman, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I yield myself 15 seconds to respond to the last speaker.

The Center for Immigration Studies just released a study by Wallace Huffman, professor of economics and agricultural economics at Iowa State University, finding that the complete elimination of the supply of illegal labor, and we know we are not going to accomplish that with any of the legislation we have here, but the complete elimination would only result in a 1 percent increase in U.S. imports of fruits and vegetables.

Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. PASTOR].

Mr. PASTOR. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, a lot has been said about this amendment, how we are going to deter illegal immigration. But the motive, Mr. Chairman, is greed. That is the motive, greed. Right now with undocumented people, we are keeping the wages on the fields low. Once they are gone, we want to bring in guest workers to keep the wages low. It is greed, Mr. Chairman.

Today we hear how these guest workers will be treated, housing, decent wages. Mr. Chairman, in practical terms, the industry is going to get around it by hiring labor contractors who will not give the guest workers the time of day. They will abuse them, they will use them and send them back.

Mr. Chairman, it is a bad amendment and I would ask for a "no" vote.

Mr. BERMAN. Mr. Chairman, I reserve the balance of my time.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. COLLINS].

Mr. COLLINS of Georgia. Mr. Chairman, I rise in support of the Pombo-Chambliss temporary guest worker amendment. First, I want to thank my colleague from California and my neighboring colleague from Georgia for addressing this issue.

Currently there is a shortage of farm labor in many parts of this country. This is definitely the case in my home State of Georgia. A major reason for this shortage is clear. The U.S. Government's welfare system has lowered the work ethic in many areas of the labor market and has almost ruined the farm labor. As a result of this shortage, farmers are forced to import laborers from other countries.

Until we break the cycle of dependency on the Federal Government, their will continue to be a great need for seasonal agricultural labor. American farmers should not be forced to bear the burden of misguided social programs. In fact, Mr. Chairman, farmers tell me it is difficult for their paycheck to compete with that of the welfare check.

This guest worker amendment offers a viable remedy. It establishes a process through which farmers can acquire legal immigrant labor when no domestic workers are available. Bear in mind that under this amendment, farmers must still look to the domestic market labor first.

This amendment will provide a means to track and ensure the return of imported laborers, something the existing program does not do. Additionally, the number of immigrants brought in is based on need, which will vary from year to year.

Further, the amendment extends work visas for a maximum of only 10 months and the program bans aliens who overstay from future participation. As an additional incentive, 25 percent of the laborer's paycheck is withheld until they return home.

On another point, Mr. Chairman, the recent farm bill removes many restrictions on how much farmers will be able to plant. As a result, farm production will dramatically increase over the next few years, creating a greater need for farm labor than ever before.

I urge my colleagues to support the Pombo-Chambliss amendment. It will help the farmers throughout this country obtain labor because they do not have the labor force today to draw from.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. KINGSTON].

□ 1735

Mr. KINGSTON. Mr. Chairman, I thank the gentleman from California for yielding me time.

Mr. Chairman, I support the Pombo-Chambliss amendment, but, you know, it is not my first choice and it is not the first choice of the farmers in Georgia. The first choice of the farmers in Georgia are American workers, and the Pombo-Chambliss amendment will not change that a bit. American workers will still get the first crack at these jobs.

But, sadly, if you ate fresh fruit or vegetables today at lunchtime, whether you were in New York, Washington, DC, New Jersey, or Georgia, those vegetables probably were picked not by a migrant worker, but probably by an illegal alien. The Pombo-Chambliss amendment responsibly addresses this problem by allowing guest workers to come over here, but, unlike the current broken system, it withholds some of their pay, so that when they return home, then they get the rest of it.

This is a responsible choice, but, again, it is a second choice. The first choice of the American farmers is the same choice as the American people, and that is welfare reform.

In Glennville, GA, a small town in the First District that I represent, an onion farmer told me recently that he pays $9 an hour for people to pick Vidalia onions, but he cannot get Americans to do the work because they make too much money enjoying the public largesse that we call welfare reform.

We have a President who was elected, among other reasons, because he promised to end welfare as we know it. Well, so far he has not submitted a welfare reform bill, and he has vetoed the only one that came across his desk.

I believe that the choice of the American farmers is still going to be American workers. Then they want welfare reform. But in the absence of that, support the Pombo-Chambliss amendment, because it is our only chance to assure an abundant food supply and having it picked today and on your plate fresh tonight at dinner time.

Mr. BERMAN. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I simply would point out that in San Joaquin County, the home county of my friend from California, the author of the amendment, unemployment is 12.2 percent. In the counties of the gentleman from Georgia [Mr. KINGSTON], who just spoke, rural unemployment is 19.3 percent, 11.9 percent, 10.4 percent, and 10.3 percent.

Mr. Chairman, I yield one minute 45 seconds to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, this amendment must be rejected because it simply is ludicrous on its face.

The American public watching this debate must wonder if we have lost our minds. We spend a day-and-a-half trying to decrease illegal immigration into the country. We have spent months trying to reform the welfare system. The entire country is worried by wage anxiety and their jobs.

Now we have an amendment on the floor that allows you to drive down wages of American workers, allows you not to employ American workers who are desperately looking for jobs, and undermines the idea of taking able-bodied Americans and putting them to work and taking them off of welfare. That is what this Pombo amendment does.

For the employer, they self-certify. They say, "I cannot find anybody; bring my workers from Mexico or some other country." We know in a highly regulated program that those people overstay their visa six times what tourist or education visas overstay.

We are asking for illegal immigrants. The notion that somehow you are going to say to people, "Well, just go home," we have people now who risk their life, pay thousands of dollars to come here, with no job. Now we bring them here with a job for 10 months, we pay them, and we say, "By the way, would you mind going home?"

Have you lost your mind? Have you simply lost your mind with respect to what is a concern of the American public? Are you so deep into the agribusiness corporations of this country that you cannot see what bothers Americans when they see unemployment rates of 19 percent? Our Central Valley runs double digit unemployment rates around the year, and you want to bring in people to take away their jobs?

We have people in the gentleman's district and Mr. DOOLEY's district and my district and Mr. CONDIT's district sitting on the streets looking for work. Your answer is to say open the borders, to say, "Come here, we will pay your way, and we will hope you go home?"

"We hope you go home?" No, this is unacceptable.

Mr. POMBO. Mr. Chairman, I yield myself one minute to respond to my colleague from California.

Mr. Chairman, it is very interesting that the gentleman is so concerned about the unemployment in my districts, after he stole all the water from my farmers. It is very interesting that all of a sudden he is interested in the unemployment in my district, when he tries to shut down my farms through the Endangered Species Act or Clean Water Act. All of a sudden he is interested in the unemployment in my district.

I am sure that the gentleman misspoke when he said that we were going to hope that they go home. They are required to go home. And if he wants to know what the American people are really angry about, I think it is partly what has gone on on this floor today.

We have got half these guys down here who want to give them welfare, who want to give them anything that they want, but if they want to come in and work, oh, we do not want that. We do not want anybody to come in and work. But if they want welfare, if they want free education, if they want free medical care, all of that, hey, that is all right. That is fine. But if they want to work, oh, no, no, no, this program is crazy.

Now, we are talking about good, decent people who want a job and want to come in and work, and there is nothing wrong with that.

Mr. BERMAN. Mr. Chairman, I yield 45 seconds to my friend, the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Chairman, I thought the whole purpose of this bill was to cut down people coming into this country. I voted against NAFTA because I did not want to send American jobs to Mexico. Unfortunately, the majority voted to send American jobs to Mexico. But the only thing worse than NAFTA is bringing in a bunch of Mexicans to take American jobs.

Now, that is what this is all about. If you are for your folks, vote against it. If you are for those folks, vote for the Pombo amendment.

Mr. POMBO. Mr. Chairman, I yield 4 minutes to the coauthor of this amendment, the gentleman from Georgia [Mr. CHAMBLISS].

Mr. CHAMBLISS. Mr. Chairman, I rise today and urge my colleagues to support the Pombo-Chambliss amendment, which establishes a pilot program for temporary agricultural workers in this country. This amendment would allow farmers all over the country to harvest their crops using a workable program.

The farm labor shortage is not a California problem, it is not a Georgia problem, it is a nationwide problem. In the Southeast alone we have seen increased production of fruits and vegetables in the last 10 years. This has greatly impacted the farm labor situation in my State. These seasonal crops are handpicked crops: Peaches, tomatoes, other vegetables, tobacco.

In the past, the farm labor consisted of generations of family members living on the farm and working on the farm. Those family farms are disappearing. Therefore, the labor pools are disappearing. Farmers desperately need workers who are willing to work seasonally. But to use this program, this legislation requires that the farmer first look to the American people for those workers. If they can find American workers to do the work, they must hire Americans. But, unfortunately, that is not the case. They are simply not able to find those workers.

This amendment solves other problems, too. No. 1, it is temporary. They can work for no more than 10 months at a time. Second, it circumvents a crop disaster by allowing farmers to plant and harvest their crops in a timely manner. Third, and most importantly, it requires that the guest workers that are allowed in legally, that are now coming in illegally, to return home in order to get the 25 percent of their paycheck that is withheld. We do this with the understanding that those workers must go home.

Why is this amendment needed? The reason is very simple: The current system simply does not work, and that is why we need a new system put in place that will allow our farmers a strong supply of workers to harvest their crops.

Now, the gentleman from California [Mr. THOMAS] hit this on the head a little bit earlier. Folks, this is 1996. We have talked about old programs that do not work anymore or old programs that cause problems. This is 1996. If those folks who have gotten up here and have read these figures that some bureaucrat in Washington put together, and I am sure I am fixing to hear in my home county there is an unemployment in the rural areas of x percent, let me tell you, if those same folks that believe those figures will go home and talk to their farmers, like I do every weekend when I go to Colquitt County or Bacon County or Berrien County or Bleckley County, those farmers are the ones that I care about and they are the ones that tell me I cannot get my crops harvested without using these workers.

Now, if as the opponents of this bill suggest, that there is a large pool of workers out there to draw from, then the provisions of this bill will not take effect, and I do not understand why they oppose it on that basis. If there are American workers that want to go to work, the farmers must put them to work. But first of all, in my State the Georgia Department of Labor must certify that there is a shortage of workers in the rural areas where the application for the provisions of this bill are asked to take effect.

If there is a shortage declared, only then may this bill come into effect. And even then there must be a notice posted that this bill, there are workers coming in to perform this certain agricultural work. If there are farmers that come in and say hey, I see where in the case that the gentleman from Georgia [Mr. KINGSTON] referred to, that the farmer is willing to pay me $9 an hour to pick onions, that job must go to an American worker. But I can tell you, folks, you are sticking your head in the sand if you think that American workers are out there to do the work.

Please pass this bill. It is a good bill. It is going to make this program workable.

Mr. BERMAN. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California is recognized for 1 minute and 45 seconds.

Mr. BERMAN. Mr. Chairman, the arguments we just heard in this Chamber are the same arguments that were given to justify slavery before the Civil War. If we could find American, or in that case, free people, to do the work, we would not need to rely on slaves.

Let me tell you, this is the most audacious amendment I could imagine on this bill, because this is an amendment that in the name and in the context of trying to do something meaningful about illegal immigration, creates a program which is going to result in the most massive entry of guest workers who every economist in agriculture will tell you are one-way immigrants. The overstay rate, even in the highly, tightly regulated H-2A program is six times as high, six times as high, as the overstay rate for tourists, students or people here on other nonimmigrant visas.

You are opening up a blatant, massive loophole in a serious effort to try and do something about illegal immigration. And what for? Rather than figuring out the ways to the reform of the welfare system, through the utilization of the 1.1 million agricultural workers legalized in 1987, through the recruitment, the training, the effort, private and public, to help agriculture get more U.S. workers doing this particular work.

The unemployment rates in these counties are astoundingly high. There is a massive surplus. The Department of Labor says at any given time, 190,000 agricultural workers are unemployed, 12 percent unemployment rates at the peak season in agriculture.

Please defeat the Pombo amendment. Do not undermine this bill like that. Do not destroy American jobs like that.

Mr. POMBO. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California is recognized for 2 minutes.

Mr. POMBO. Mr. Chairman, I would just like to conclude by saying that this program that we are trying to adopt is needed. There is a shortage of legal labor in America today. But if my colleague is correct and there is no shortage of labor, then this program will never be used, because they would have to certify that there is a labor shortage, that there is no domestic workers who are able and willing to do the work.

☐ 1745

They would have to certify that they could not find domestic workers to do the work. They would have to meet all Federal, State, and local labor laws in order to employ people under the guest worker program.

We have heard a lot about illegal immigration. This is not illegal immigration. This is a legal and controlled program. We have heard about the H-2A program. The H-2A program does not work, or else there would not be the need to install this type of a program.

The gentleman from Virginia [Mr. GOODLATTE] is going to bring up an amendment shortly here today to try and change the H-2A program to work, and, quite frankly, his effort fails miserably. It makes it worse than it currently is. It is not an alternative to our amendment. We have heard a lot about the 250,000 figure. That was not my amendment. That was the Goodlatte amendment that the gentleman put on in the Committee on Agriculture.

My effort was to try to develop some type of a formula that would ensure that we not have any more come in under the Guest Worker Program than was absolutely necessary.

In short, in closing, Mr. Chairman, I would just like to say we do have a problem in this country. We have a serious problem with immigration in this country. But what makes people angry, what makes people mad is those people who illegally come into the country or legally come into the country and take advantage of it, who have never provided anything and take advantage of that service.

What this program is saying is that we want to take care of our domestic issues and we want to reward those who work.

Mr. GOODLATTE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I believe the gentleman from California [Mr. BERMAN] is absolutely correct. This is an audacious amendment to this bill. Just an hour ago, we defeated the legal reforms in this legislation. We took them all out that would have had some modest reduction in legal immigration, and now what do we have? We are going to go the opposite direction and add 250,000 new workers in this country.

The gentleman is correct, the amendment that he offered in the Committee on Agriculture had no limit. I offered an amendment to put the 250,000 cap on it. Before that it had no limit. It could have had half a million new workers, as one of the people from California who testified in the committee indicated would occur. We would have a half a million new workers. We could have a million new workers. This undercuts the rights of the American people and we cannot accept an amendment like this.

We have a program right now, the H-2A program for agricultural workers. It allows no limit. It has 17,000 participants. The gentleman from California [Mr. POMBO] and others have complained that it is not an effective program. I have offered six modifications of that program, so many that I am sure the gentleman from California [Mr. BERMAN] thinks I have offered too many. Yet, the gentleman says my amendment makes it worse. It does not do that. It improves the program considerably.

There has been, unfortunately, material circulated that claims that we add to the burden of farmers with regard to the three-quarter rule. We do not do that. We improve the three-quarter rule to say that, if you bring workers into the country under the current program and they work less time than contracted because of weather conditions or pests, that they do not have to be paid for that portion of the time. My amendment improves the current law and makes it workable.

We do not need an amendment that increases the number of people authorized to work in this country by the enormous amount that this program or before it was modified to even higher amounts. We need to reform immigration, not open it wide open. We have very high unemployment in many, many rural areas in this country. We need to also take into account the fact that with welfare reform we are going to be asking millions of Americans to leave the welfare rolls and to take work.

Mr. Chairman, now is not the time to increase immigration. Now is the time to defeat this amendment.

Mr. HASTINGS of Washington. Mr. Chairman, I rise in strong support of the Pombo-Chambliss amendment to implement an effective guestworker program

Mr. Chairman, my constituents in central Washington State are no different from the great majority of Americans who support immigration reform. But my constituents realize that our biggest industry—agriculture—must be protected.

The fact of the matter is that agriculture is a seasonal business. Pruning, thinning, and harvesting all have their time throughout the year. These activities are labor intensive. And the labor required has historically been migrant labor. To not recognize this basic fact places a huge burden on the largest industry in Washington State.

The Pombo-Chambliss amendment addresses this concern and, at the same time transfers the enforcement burden to the Department of Labor to correct what was a shortcoming of the 1986 Immigration Reform and Control Act.

At the same time, in conjunction with a strengthened Border Patrol, the Pombo amendment would reduce illegal immigration by providing incentives for seasonal workers to comply with our immigration laws.

I strongly support this commonsense proposal, and encourage my colleagues to vote "yes" on the Pombo-Chambliss amendment.

Mr. CLAY. Mr. Chairman, I rise to oppose the Pombo-Chambliss amendment.

This amendment seeks to establish a new agricultural guestworker program, not in place of the existing temporary agricultural worker program, but in addition to it.

Recently, the bipartisan commission on immigration reform, chaired by our former colleague, the late Barbara Jordan, studied the issue of introducing a new agricultural guestworker program and reached an unambiguous conclusion.

> The Commission believes that an agricultural guestworker program, sometimes referred to as a revisiting of the "bracero agreement," is not in the national interest and unanimously and strongly agrees that such a program would be a grievous mistake.

The amendment before us would increase illegal immigration, reduce employment opportunities for U.S. citizens, and depress the wages and working conditions of U.S. farmworkers.

The current H-2A program includes preferences for and protections of U.S. workers. This amendment substantially weakens those protections by providing an alternative means of bringing in foreign workers, regardless of whether a true labor shortage exists.

Current law ensures that foreign workers are not brought into the United States for the purpose of undermining the wages and working standards of U.S. agricultural workers. The Pombo-Chambliss amendment would ensure that foreign workers will be brought in for just that purpose.

Current law requires employers to provide housing and transportation to agricultural workers, areas where the documented abuse of migrant workers has been greatest. This amendment effectively wipes out those protections.

It is hard to imagine a more nefarious proposal. I urge its defeat.

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Pombo/Chambliss amendment modifying the agriculture guestworker program to allow more guestworkers to enter the country. It does not make sense that a bill which aims to limit immigration would endorse a program that loosens immigration restrictions.

There is no evidence of a shortage of agricultural workers in the United States. Almost half of the farmworkers in the U.S. currently cannot find work in agriculture. This amendment makes it easier to hire alien temporary workers than under current law, which would make that unemployment problem worse.

This amendment very clearly promotes the unemployment of American agricultural workers and the exploitation of foreign agricultural workers. It will result in denying jobs to U.S. farmworkers, decreasing wages and unsafe working conditions. The amendment provides weaker worker protection than the current H-2A program.

Under this amendment, employers would no longer be responsible for housing for guestworkers. Since affordable farmworker housing, especially in my home State of California, is in short supply, we would be ensuring an increase in homelessness.

The Pombo/Chambliss amendment is not fair to the American farmworker or the foreign worker. I urge my colleagues to vote against this amendment.

Mr. RICHARDSON. Mr. Chairman, this amendment is a big paradox.

The main purpose of the Immigration in the National Interest Act of 1995 is to reduce, specifically, illegal immigration and secure jobs for Americans. Yet, the Pombo/Chambliss amendment does exactly the opposite. It exacerbates the very problems that this bill is trying to correct.

This amendment would modify the current temporary agriculture worker program known as H-2A to make it easier for agricultural companies to bring in hundreds of thousands of new, exploitable workers to harvest the Nation's crops.

This will increase illegal immigration, will increase unemployment of American workers and will exploit guestworkers.

According to immigration experts, past guestworker programs, like the bracero program, led to today's illegal immigration problems since it permitted the so-called braceros to establish networks that allowed them to continue their employment after the termination of their contract.

Furthermore, this amendment does not protect American farmworkers from the stagnation and decline in prevailing wages caused by the presence of foreign workers.

In addition, this amendment does not ensure that American workers are recruited before employers seek foreign help. Instead, it removes the statutory regulation to locate qualified U.S. workers before employers are allowed to hire foreign workers.

The amendment would also hurt foreign farmworkers since it has no requirement for growers to provide transportation, housing, and written contracts to the guestworkers.

In short, there is absolutely no reason to support this amendment which would increase illegal immigration, deny jobs to U.S. farmworkers, degrade working conditions and allow abusive treatment of foreign workers.

The CHAIRMAN. All time on this amendment has expired.

The question is on the amendment offered by the gentleman from California [Mr. POMBO], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. POMBO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 242, not voting 9, as follows:

[Roll No. 85]

AYES—180

Armey
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bevill
Bilirakis
Bishop
Bliley
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Callahan
Calvert
Camp
Campbell
Canady
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Deutsch
Dickey
Dooley
Doolittle
Dreier
Dunn
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Forbes
Fox
Funderburk
Gallegly
Gekas
Gillmor
Gilman
Goodling
Gordon
Graham
Greenwood
Gunderson
Gutknecht
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Houghton
Hutchinson
Inglis
Johnson (CT)
Jones
Kelly
Kim
Kingston
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Pickett
Pombo
Pryce
Quillen
Riggs
Roberts
Rose
Salmon
Sanford
Saxton
Schaefer
Seastrand
Shadegg
Shuster
Sisisky
Skelton
Smith (MI)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stump
Tanner
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Walker
Walsh
Watts (OK)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOES—242

Abercrombie
Ackerman
Allard
Andrews
Archer
Bachus
Baesler
Baldacci
Barcia
Barrett (WI)
Barton
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bilbray
Blute
Boehlert
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Burton
Buyer
Cardin
Castle
Chabot
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dornan
Doyle
Duncan
Durbin
Edwards
Ehrlich
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)

Filner
Flake
Flanagan
Foglietta
Foley
Ford
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gonzalez
Goodlatte
Goss
Green
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hefley
Hilliard
Hinchey
Hoke
Holden
Horn
Hostettler
Hoyer
Hunter
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
Klug
LaFalce
Lantos
Largent
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Miller (CA)
Minge
Mink
Molinari
Mollohan
Moran
Murtha
Nadler
Neal
Ney
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Poshard
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Rivers
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sawyer
Scarborough
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Skaggs
Skeen
Slaughter
Smith (NJ)
Smith (TX)
Stenholm
Stockman
Studds
Stupak
Talent
Tate
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Waldholtz
Wamp
Ward
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Williams
Wilson
Wise
Woolsey
Wynn
Yates
Zimmer

NOT VOTING—9

Clay
Collins (IL)
Hayes
Johnston
Moakley
Radanovich
Stark
Stokes
Waters

□ 1808

Messrs. PARKER, HEFNER, PICKETT, LAZIO of New York, and EWING changed their vote from "no" to "aye."

So the amendment, as amended, was rejected.

The result of the vote was announced as recorded.

The CHAIRMAN. It is now in order to consider amendment No. 24, printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. GOODLATTE

Mr. GOODLATTE. Mr. Chairman, I offer an amendment.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GOODLATTE: After section 810, insert the following new section (and conform the table of contents accordingly):

SEC. 811. CHANGES IN THE H-2A PROGRAM.

(a) PLACING RESPONSIBILITY FOR CERTIFICATION WITHIN THE INS.—Section 218 (8 U.S.C. 1188) is amended—

(1) by striking "Secretary of Labor" and "Secretary" each place either appears (other than in subsections (b)(2)(A), (c)(4), and (g)(2)) and inserting "Attorney General"; and

(2) by amending paragraph (3) of subsection (g) to read as follows:

"(3) There are authorized to be appropriated for each fiscal year such sums as may be necessary for the purpose of enabling the Attorney General and the Secretary of Labor to make determinations and certifications under this section and of enabling the Secretary of Labor to make determinations and certifications under section 212(a)(5)(A)(i).".

(b) REDUCTION IN TIME REQUIRED FOR POSITIVE RECRUITMENT.—Section 218 (8 U.S.C. 1188) is amended—

(1) in subsection (b)(4), by adding at the end the following: "The employer shall not be required to engage in positive recruitment for more than 20 days.", and

(2) in subsection (c)(1), by striking "60 days" and inserting "40 days".

(c) ELIMINATION OF 50 PERCENT RULE.—Section 218 (8 U.S.C. 1188(c)(3)) is amended by amending subparagraph (B) to read as follows:

"(B) An employer is not required, in order for its labor certification to remain effective, to provide employment to United States workers who apply for employment after the end of the required period of positive recruitment.".

(d) PERMITTING HOUSING ALLOWANCE.—Section 218(c)(4) (8 U.S.C. 1188(c)(4)) is amended by inserting "(A)" after ".—" and by adding at the end the following:

"(B) In lieu of offering housing under subparagraph (A), an employer may provide a reasonable housing allowance, but only if housing is reasonably available in the area of employment.".

(e) MODIFIED ¾ RULE.—Section 218(c)(3) (8 U.S.C. 1188(c)(3)) is amended by adding at the end the following new subparagraph:

"(C) An employer, in order for its labor certification to remain effective, shall guarantee to offer an H–2A worker at least 8 hours of employment in each of at least ¾ of the workdays in which the task (or tasks) for which the H-2A worker was hired to perform are being performed. The employer is not required to guarantee to offer an H-2A worker employment in any portion of the total periods during which the work contract and all extensions thereof are in effect.

(f) CAP.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended)

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) under section 101(a)(15)(H)(ii)(a) may not exceed 100,000, or".

(g) EFFECTIVE DATE.—The H-2A amendments made by this section shall apply to applications for certification filed on or after October 1, 1996, and to fiscal years beginning on or after such date.

The CHAIRMAN. Pursuant to the rule, the gentleman from Virginia [Mr. GOODLATTE] and a Member opposed each will be recognized for 15 minutes.

The Chair recognizes the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Chairman, many of the Members from agricultural areas noted problems with the H–2A agricultural worker program that currently exists.

□ 1815

Mr. Chairman, this amendment is an amendment to the current guest worker program, the H-2A program. My amendment will significantly improve it. I have listened to the concerns of the growers who have come to speak to me and have streamlined the guest worker program that now exists to make it more grower-friendly.

Unlike the changes proposed by the gentleman from California [Mr. POMBO] to the guest worker program, my amendment does not create a new program. It fixes the current one. In addition, it works within the spirit of the bill by fixing the number of aliens allowed into the country at 100,000. Why do we have a 100,000 cap? Because even though only 17,000 workers used this program last year, we are making significant improvements to the program, and want to make sure that we do not have an unreasonable number of people utilizing this program from outside of the country.

In recent years, about 17,000 farm workers have been granted visas each year under the H–2A guest worker program. The Goodlatte amendment provides for an increase to 100,000 workers. This will more than meet any needs of fruit and vegetable growers that are not being met by domestic farm workers.

Many fruit and vegetable growers assert that the big problem with the H–2A program is that the Department of Labor administers in bad faith, intending to make it unworkable and unattractive to growers. My amendment transfers the certification process from the Department of Labor to the Immigration and Naturalization Service. This move will ensure that the fundamentally sound H–2A program is administered fairly.

Growers also complain that it takes too long to get workers under the current H–2A program. They must file applications at least 60 days before the date of employment. My amendment slashes this period by 33 percent and creates a 40-day application period. it will ensure growers the workers they need when they need them.

The Goodlatte H-2A guest worker compromise amendment modifies the three-quarter guarantee to answer the concerns of growers. Under the current H–2A guest worker program, growers must pay guest workers for 75 percent of the agreed work contract period, and under 20 CFR section 655, they must pay an average of at least 8 hours of work a day for that 75 percent period, even if the harvest is cut short by weather or pests. A copy of this three-quarter guarantee regulation is available to those who would like to see it, because there has been a suggestion that we make the three-quarter requirement more onerous. Actually, we make it better.

The Goodlatte amendment requires that the grower pay his guest workers for three-quarters of the time the harvest actually takes. This ensures that growers hit by setbacks are not further burdened. Under Goodlatte, they will still have to pay for 8-hour workdays, just as they do now, but for a fewer number of days if their harvest period is shortened.

The Goodlatte amendment will prevent growers from having to pay guest workers for days that they do not work if the contract period is cut short. My amendment repeals the unfair 50-percent rule. Fruit and vegetable growers have told me that the H–2A program's 50-percent rule is patently unfair. The rule requires a grower to hire any domestic farm workers who apply for work under the H–2A guest worker program, as long as they have completed half their work contract period, even if the grower already has all the workers needed. My amendment repeals this rule.

My amendment also allows growers to pay a housing allowance. Fruit and vegetable growers want to be allowed to pay actual housing. The Goodlatte amendment permits housing allowances. If housing is reasonably available in the area, guest workers will not be forced into homelessness.

Mr. Chairman, I urge Members to support this amendment. It addresses the concerns of the agriculture community, but does not allow our borders to open for one segment of the economy. The Goodlatte amendment controls illegal immigration while providing our fruit and vegetable growers with the labor they need to harvest their produce. I urge the adoption of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I rise in opposition to the Goodlatte amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] is recognized for 15 minutes.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, earlier today I expressed my vehement opposition to the Pombo amendment. I rise now to voice my strong opposition to the Goodlatte amendment.

The proponents of this amendment would have us believe that it addresses the problems contained in the Pombo amendment and therefore, it is a more moderate, more acceptable proposal. In short, it's being sold as Pombo "Lite."

Don't be fooled by the packaging. The Goodlatte amendment is just as bad as Pombo and maybe worse.

Mr. Goodlatte is seeking to make it easier for agribusiness to bring foreign workers into the United States. Simultaneously, the amendment would eliminate, I repeat, eliminate essential worker protections that exist under current law.

The Goodlatte amendment would eliminate the requirement for employers to seek qualified U.S. workers through State employment services.

The Goodlatte amendment would eliminate the requirement to provide housing for their foreign workers. Employers, who are now required to provide housing for their workers, would only be required to give a housing allowance. But only if housing is reasonably available in the area.

Don't you believe it.

I've worked in the labor camps that these guestworkers would be herded into. Yes, that was some years ago, but conditions have not changed. They don't have running water or indoor plumbing, they crowd dozens of workers into unheated hovels. In short, the growers literally enslave these workers to reduce their overhead and increase their profits. Just how long do you think these guestworkers will endure these squalid conditions before they escape to seek a better life? How long do you think it will take for these hard-working and industrious guestworkers to find that there are better paying jobs and better conditions under which to work?

It's time to treat agribusiness like the other industries—make it compete for labor and pay fair wages to U.S. farmworkers.

I urge my colleagues to vote no on this misguided amendment.

Mr. GOODLATTE. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. SMITH], chairman of the Subcommittee on Immigration and Claims of the Committee on the Judiciary.

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I urge my colleagues to support the Goodlatte amendment. We already have an agricultural guest worker program. It is called the H–2A program. The Goodlatte amendment makes needed changes. It ensures a program that works for farmers and yet one that retains the bedrock protections for American workers.

The Goodlatte amendment responds to the complaints from fruit and vegetable growers and the complaints that they have lodged against the H–2A program. There is a widespread belief among growers that the Department of Labor administers the program in bad faith, intending to make it so unworkable that it will not be used. The Goodlatte amendment transfers the upfront certification process from Labor to the INS. This move will ensure both that growers get the workers they need, and that program abuse will not go uncorrected.

Mr. Chairman, growers complain about the time it takes to get H–2A workers, that they must file applications at least 60 days before the date of need. The Goodlatte amendment cuts this period by 20 days. It ensures growers will get the workers they need when they need them.

Growers believe the current 50 percent rule is unfair. The rule requires a grower to hire any domestic farm workers who apply for work until the H–2A guest workers have completed half their work contract period, eve if the grower already has all the workers needed. The Goodlatte amendment repeals this rule.

Growers also complain about the H–2A program's three-quarters rule. This rule requires that they pay guest workers for 75 percent of the agreed work contract period, even if the harvest is cut short by weather or pests. The Goodlatte amendment requires that a grower pay his guest workers for three-quarters of the time the harvest actually takes. This assists growers hit by setbacks while protecting guest workers.

Fruit and vegetable growers want to be allowed to pay guest workers a housing allowance instead of having to build actual housing. The Goodlatte amendment permits housing allowances if housing is reasonably available in the area. This ensures that guest workers will not be forced into homelessness.

The Goodlatte amendment sets a ceiling of 100,000 guest workers per year. In recent years, about 17,000 to 19,000 aliens have been granted visas under the H–2A program. This ceiling is large enough to meet the needs of farmers who want to replace illegal workers with legal workers. By keeping the requirement of recruiting and hiring U.S. workers first, the Goodlatte amendment would meet the needs without undermining U.S. immigration policy and harming domestic workers.

Mr. Chairman, I urge my colleagues to vote yes on the Goodlatte amendment. It is good for guest workers and it is good for growers.

Mr. CONYERS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would ask the gentleman from California [Mr. TORRES] whether or not his vehement opposition to Pombo is stronger than his strong opposition to Goodlatte.

Mr. TORRES. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

Mr. TORRES. Mr. Chairman, I would say to the gentleman, a little bit.

Mr. CONYERS. I would ask the gentleman, a little bit what?

Mr. TORRES. A little bit more.

Mr. CONYERS. The gentleman objects to the Pombo amendment more than the Goodlatte amendment, or the Goodlatte amendment more than the Pombo amendment?

Mr. TORRES. Mr. Chairman, I object to both of them. I think it is an equal state. Goodlatte has new packaging. It is Pombo Lite.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. BERMAN], a member of the Committee on the Judiciary.

Mr. BERMAN. Mr. Chairman, I thank the ranking member of the Committee on the Judiciary for yielding me 3 minutes.

Mr. Chairman, I am glad the ranking member did not ask me that question, because the gentleman from Virginia [Mr. GOODLATTE], the sponsor of this amendment, was eloquent and effective in his opposition to the Pombo amendment, and I am very grateful for this.

Mr. Chairman, the problem with his amendment here, because I know it was well-intentioned, because I know how he wants to handle these issues, but the problem is that it fundamentally erodes and existing requirement in the H-2A program that U.S. workers have priority. We can debate whether that makes sense or not, but to me, when we get rid of the 50-percent rule, we get rid of the requirement that a U.S. worker who comes for a job gets priority over the guest worker coming from the foreign country.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, the difference between the current H-2A program and the Pombo amendment is that the H-2A program requires an independent third party to certify whether there is a need for the workers. That is the big objection to the earlier legislation that we just defeated.

The difference here is that we have to have an independent party, the U.S. Government, certify that workers are needed. If they certify they do not have them, what difference does it make whether or not there is a 50-percent rule? It is unfair, if an independent party says there are not sufficient workers available, to tell a grower that they cannot use more than 50 percent labor.

Mr. BERMAN. Reclaiming my time that I so generously yielded the gentleman, Mr. Chairman, the way the gentleman has written this amendment, first of all, Mr. Chairman, the gentleman is absolutely right; one major difference is that that was a self-attest anticipation. "Growers, say certain things, get workers." This requires an independent, no longer Department of Labor, if I recall correctly, but an independent Government certification.

But the gentleman cuts off the growers' obligation to recruit U.S. workers 20 days before the season even begins. When you are dealing with migrant workers, they know the patterns of labor in this area. They come into an area to get hired just as you get into the peak harvest season. By eliminating the obligation to hire U.S. workers 20 days before the start of the growing season, and we do not need to be doing that, we are wiping out, in effect, the priority for U.S. workers. That is the problem I have.

Under the existing situation, that priority still exists. The Department of Labor certifies whether or not there will be a need, but if U.S. workers show up, U.S. workers have priority. I think U.S. workers should have priority in these kinds of programs.

In addition, Mr. Chairman, the fundamental change the gentleman is making, right now they have to provide housing for farmworkers. By giving this allowance, the gentleman knocks out the housing requirement. He makes an assumption there will be housing available.

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Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume to respond to the gentleman from California.

Mr. Chairman, I agree with the gentleman 100 percent that U.S. workers should have the priority in every instance. But the fact of the matter is that while we still require them to actively recruit and we should require them to actively recruit U.S. workers, it has to be done in such a fashion that once that recruitment period is over, there is a reasonable amount of time to get the paperwork processed and get workers there when they have actively recruited and have not been able to get those workers.

My amendment simply requires that they have a little more time, 20 more days, to get that paperwork processed and get the workers there. We have had many instances, in fact some of the people on the other side of the last amendment spoke about the fact that they go through the process, by the time all the work is done they are halfway through the harvest season and they do not get the opportunity to get the workers when they need them.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I will be very quick. What do you do? All right, you have made a recruitment, you do not think you have workers available, it has been certified by the Government. As you are approaching your harvest season, 150 U.S. workers coming from the earlier crop show up. Are these people turned down because 10 days from now they will be getting some foreign guest workers? Do they turn these U.S. workers down and say, "No, no job available for you because I've already gotten approval to bring in 100 foreign guest workers?"

It is all how you want to balance this thing. When you are dealing with people who make on an average of $5,000 a year, they are our lowest paid workers, I think we have been tilting so heavily on the side of agribusiness that this is one little protection they have. Do not eviscerate that. That is my problem with your amendment.

Mr. GOODLATTE. Mr. Chairman, I respect that, but, reclaiming my time, let me say two things.

First of all, given the fact, as we have heard all day here, that there is a need for workers, those workers are going to find employment.

Second, if you have already entered into a contractual relation with somebody to have somebody come and do some work because you have established that you could not find a U.S. worker, what are you going to do when those people arrive?

That is the bottom line. You have got to have an arrangement in advance. You have got to give U.S. workers the maximum opportunity to have an opportunity to apply for the job. But then once they apply and you hire them, and you still have a need for additional workers and you enter into a contractual relationship, you have got to be able to enter into that contract and have a reasonable amount of time to get that processed before they come.

That is all we are asking with that amendment. It is eminently fair, both to the U.S. workers who can also enter into contracts and get the priority, but if they do not, then the farmer has the opportunity to get the work in a timely fashion, so that they get it and get the crop harvested. That is all we are asking for. It is eminently reasonable and I would think the gentleman would accept it.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, we have a guest worker program. It is now called the H-2A program, it used to be called the H-2 program. It has certain conditions. This year, 17,000 agricultural workers came in under those requirements.

The difference between 17,000 and it shooting up in the case of your amendment to the 100,000 cap is the balance and retention between the potential for domestic workers. The moment you cut off the requirement to hire 20 days before the season starts, in every situation what you will find is the department saying, "Since I can't promise them X number of workers when that season starts, I'm going to have to grant his petition.

The only thing that keeps this process honest is the requirement to continue to recruit, to prioritize and hire

U.S. workers if they show up, and to hire them at any point 50 percent through the season. Fifty percent through the season was done for the benefit of the growers. Once the guy had been there for 50 percent of the time, do not displace him because somebody now showed up. Let them finish the entire season.

You are taking what was done for the benefit of the growers and you are totally repealing it, and that is the big problem I have with your amendment.

Mr. CONYERS. Mr. Chairman, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the fact of the matter is, as the gentleman well knows, we put a cap on this program to make sure that there was a limitation because of the fact that with only 17,000 using it right now, we know that there are far more people than that out there who would utilize it, who are utilizing illegal immigrants right now. Therefore, we wanted to make sure that we had every encouragement on growers to have every effort made to recruit U.S. workers. And they are going to have to make every effort to recruit U.S. workers if, as they say, they use a half a million illegal immigrants right now.

So the 100,000 cap is, I think, a very, very stringent cap, but also we have to make the program usable within that cap. Obviously, with 17,000 legal workers and a half a million illegal workers, we do not have a reasonable program right now. So let us modify the program, make some improvements, and still protect U.S. workers.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the one problem with the amendment that my friend from Virginia has not discussed is that it eliminates the requirement to provide workers with free housing. The H-2A employers must provide or pay for housing for their workers. This amendment replaces the housing provision with a housing allowance but, quote, only if housing is reasonably available in the area of employment, end quote.

I find that restrictive, onerous and another sop to the growers, who probably would rejoice in having us revisit this measure as we did in 1986.

I think that we have got a problem here. It is tough enough to get Americans to do this kind of labor, and to make it harder for them to get under the program by the eliminations or restrictions around the recruiting process I think is not good. I will not say it is un-American, but it sure does not help the few Americans that want to work in this very onerous area.

Remember, the pay is bad, the conditions are horrible, the work is temporary. Maybe that is why we have to bring in people to work on it. So the few Americans that are willing to work in this field, I would encourage them to do so.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Virginia.

Mr. GOODLATTE. I thank the gentleman for yielding.

Mr. Chairman, the important thing to note here is that only in places where housing is widely available do we allow a grower to issue a housing allowance instead of to provide the housing itself. That is only a matter of flexibility, not only for the grower but also for the worker. Because if you are providing them with an allowance, they then have the opportunity to choose the housing they want rather than the place that the grower might choose for them and assign to them. I think it makes far more sense to give that kind of flexibility for the benefit of both the worker and the grower.

Mr. CONYERS. I appreciate that. I have heard this kind of argument that we know what is best for the workers. They do not want this. Their organizations that support them do not want it. But really if they need it, they would be happy to have it.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

Mr. BERMAN. Our real difference is you say 17,000 guest workers, half a million illegal immigrants working in our fields. Got to do something. I say we legalized 1.1 million agricultural workers in 1986. We have double-digit unemployment in almost every rural county in America, astronomical unemployment in the areas that most want this, Western agriculture, and what we need to do is the government working with agriculture, welfare reform, going back to the people who left the fields and who know how to pick.

This is honorable work. There are Americans who will do this work if they do not have alternatives, and if there is decent pay and good working conditions. This should be our focus, not trying to figure out how to do this guest worker thing where they really do not go back. I mean, huge numbers we lose. That is the problem. I think that should be our focus.

Mr. CONYERS. Mr. Chairman, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not disagree with anything the gentleman says. The fact of the matter is, though, the difference between 500,000 and 100,000 is 400,000 people. There is plenty of room there to work on welfare reform and improving opportunities for U.S. citizens, and we certainly want to do that.

The problem is, and you have acknowledged earlier that the current H-2A program does not work well and, as a result, reforms are needed. We disagree on exactly what those reforms should be, but if we have a program and it only utilizes 17,000 people but there are a half a million out there working illegally, it seems to me that some reform of that program is in order.

I would appreciate the gentleman working with us on making the program work a little better, and in return I am giving you something that I would hope that you would want, and that is a cap on the program. There is no cap on the H-2A program right now. If Government works with agriculture to make this program work better without these amendments, we would have a program that had no limit on it. Let us have a good compromise that puts a cap on it but makes it more workable.

Mr. BERMAN. Mr. Speaker, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, if we had a verification system in this bill that went into effect immediately, I think the gentleman's request would be incredibly reasonable.

We have the most voluntary and ephemeral verification system left in this bill now. Do we think tomorrow there are not going to be any more undocumented workers employed in agriculture? They are not vanishing. There is no system for them to vanish.

There is no meaningful verification in this bill. The gentleman tried to get it but he lost, and I voted with him. We both lost. So when you do that verification, come back to me and I will talk to you about a good transition guest worker program.

Mr. GOODLATTE. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Why am I suspicious? The gentleman from Virginia [Mr. GOODLATTE] is a wonderful human being with whom I have enjoyed a great relationship. But there are little problems. Housing eliminates the requirement to provide workers with free housing. Then he explains, "It's for the workers' benefit, JOHN," not to worry.

Reduces the required time to recruit domestic workers. "That will help Americans, so don't worry about that."

Eliminates the 50-percent rule. "No problem," he says.

Eliminates the three-fourths guarantee. Good explanation for it.

What I am beginning to think, this is a great solution in search of a problem. And I will tell the gentleman, there is another little nervous provision in here from my point of view. The certification of the workers goes from the Department of Labor to the Immigration and Naturalization Service.

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Does that raise a red light with anybody in this body besides me? One other person, a few more.

Look, INS is particularly unqualified to make labor certifications. They are looking for people who do not belong here. So these things, I would say to the gentleman from Virginia [Mr. GOODLATTE], make me reluctant to be enthusiastic about this amendment. As a matter of fact, it does not lead me to the strong opposition of the gentleman from California [Mr. TORRES], or the vehement opposition that he had on Pombo, but I cannot support it. I think that the arguments presented by our resident expert on the Committee on the Judiciary, the gentleman from California [Mr. BERMAN], are overwhelming and persuasive.

Mr. Chairman, I urge defeat of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Chairman, may I ask the gentleman from Michigan if he has any other speakers?

Mr. CONYERS. No, sir, I do not.

Mr. GOODLATTE. Mr. Chairman, as the gentleman from Michigan has the right to close, I yield myself such time as I may consume to conclude.

Mr. Chairman, let me say to my good friend from Michigan that I am disappointed, because it seems to me that we have lost all opportunity here to find a middle ground, to try to work together to improve a program that we both agree is a bad program. We worked together to make sure that we did not have an out of control program that allowed 250,000 new workers in the country, but now here we have an opportunity to make the program work a little better so that growers have the opportunity to meet their needs when they truly can justify them, when they can have an independent certification by a Government agency that the need exists and in exchange we put a cap on the program of 100,000 workers.

It seems to me that is fair to everybody involved, and that is what I strove to do. In fact, my offering this amendment I think was very careful in making the case that the other amendment was not needed. So it disappoints me that the gentleman would attack these modest reforms we are making, including one that simply says for both the worker and the grower, hey, why have a specific grower tell the worker where they have got to live? That is crazy. If there is adequate housing in the area, allow the worker to choose their own housing by giving them a housing allowance. It does not eliminate the requirement to give them free housing. It simply says when it is done, they both can have a little flexibility in the process.

So I think these modifications are needed by our agricultural industry in this country. I think these modifications are very reasonable and workable, and I think that this is a vast improvement over the current program. I would urge the Members of the House to support it. Let us not both defeat the amendment and leave a failed nonworkable program out there. Let us do the reasonable thing in the middle, which is to take the current program, reform it, and make it better.

Mr. Chairman, I yield back the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Michigan is recognized for 1½ minutes.

Mr. CONYERS. Mr. Chairman, more sneaking reservations continue to crop up. Let me call the attention of the gentleman from Virginia [Mr. GOODLATTE] to the fact that the growers like this idea. If the gentleman had only contacted the National Council of Loraza that represents the workers, they would have come back to you, we would not have to do what I am going to propose now.

Because of his integrity and our close working relationship on the committee, why do we not work together, as the gentleman says, and he withdraw this amendment, and I promise him, with all the good faith I can muster, that I and the gentleman from California [Mr. BERMAN], will sit with him and try to work out the program?

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I would just say, we have had this conversation. I am for trying to streamline and deal with the problems and the impediments that exist in the existing H-2A program. The administration is committed to doing that. There would be ample opportunity in the conference committee to work out a program that would be good for agriculture and be good for workers and be supported bipartisanly.

In all fairness, the gentleman from Virginia [Mr. GOODLATTE], did not discuss with us his proposal. I asked my friend, the chairman of the subcommittee, if he would involve me in alternatives to the Pombo amendment, but he did not, so we were sort of left out in the cold.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I would be very anxious to work with the gentleman on making this amendment better, but I would encourage him to support the amendment, and then we can work together to improve it.

Mr. CONYERS. Mr. Chairman, reclaiming my time, I urge opposition to this amendment.

Mr. THOMAS. Mr. Chairman, hired labor is one of the most important and costly inputs in farming. U.S. farmers spent more than $15 billion on hired labor expenses in 1992—one out of every 8 dollars of farm production expenses. For the labor-intensive fruit, vegetable and horticultural section, labor accounts for 35 to 45 percent of production costs.

The labor-intensive fruit, vegetable and horticultural specialties sector accounted for more than $23 billion of agricultural sales in 1992, an increase of 32 percent for 5 years earlier. The competitiveness of U.S. agriculture depends upon the continued availability of hired labor at reasonable cost. U.S. farmers, including producers of labor-intensive perishable commodities, compete directly with producers in other countries for market share in both U.S. and foreign commodity markets.

U.S. farmers are producing for global markets and competing at world market prices. More than one-third of U.S. fruit and vegetable production is now exported. On the other hand, about one-quarter of our fruit and vegetable consumption is now imported. If the labor supply is restricted and production costs rise, U.S. growers will lose market share to overseas producers. This decline in production will cost thousands of U.S. workers their jobs. Based on relative shares of agricultural production, at least one-quarter of the job loss will be in California.

The availability of adequate seasonable labor has enable U.S. producers to expand production and exports of labor-intensive commodities. This has created tens of thousands of jobs for U.S. workers in "upstream" and "downstream" industries. Appropriately three off-farm jobs depend directly on each on-farm job.

In California, due to the nature of the crops and the vast geographical and seasonal range, this need for labor over a short period is particularly intense. California is about 900 miles long, north to south. If you transpose it to the east coast we are talking about a distance from approximately the north of Florida almost to Massachusetts. Obviously, you have a significant timeframe in terms of growing. In this regard, the existing H–2A program has failed to be a reliable source of temporary and seasonal agricultural workers. The regulatory burdens leave employers waiting with uncertainty and anxiety whether they will be certified by the Department of Labor to obtain workers in a timely manner.

What American farmers require is a temporary worker program which addresses these concerns. Recently the Agriculture Committee passed an amendment to H.R. 2202, sponsored by Congressman RICHARD POMBO of California, which would create a streamlined, temporary agricultural worker program. The Pombo amendment would create a 3-year pilot program with an annual cap of 250,000 workers admitted per year decreasing by 25,000 each year for the final 2 years of the program. Agricultural work generally is characterized by periods of peak demand for migratory workers that cannot be met by domestic labor sources. Under the Pombo language, employers would file attestations with the Department of Labor indicating the number of workers needed, as well as the specific terms of employment. Qualified U.S. workers would always receive first preference for these jobs. It is essential that such a proposal which protects agricultural labor needs to be included in the final language.

In contrast, the Goodlatte amendment is not adequate protection for the agricultural community. The Goodlatte language proposes to swap one bureaucracy for another by moving the H–2A certification process from the Department of Labor to the Department of Justice. Further, the Goodlatte amendment imposes an unrealistic cap of 100,000 annual admissions under the H–2A program. As an example of this inadequacy, raisin growers in Fresno County employ nearly 51,000 agricultural workers between late August and late September each year; under the Goodlatte amendment's cap, if any significant portion of these workers are found to be employment ineligible by a verification system, or are interdicted at the border or detected by border enforcement, it is an open question whether there will be sufficient slots under the cap to meet the raisin producer's needs at that point in the growing season.

The Goodlatte amendment also proposes a significantly tighter three-quarter guarantee than that currently applied to the H–2A program. The amendment would mandate an 8-hour workday, a requirement that would be impossible to meet on many days due to uncontrollable weather or crop conditions. Under the language of Goodlatte, if as few as one-quarter of the workdays were not full 8-hour workdays, the grower would be required to pay workers for periods of no work, regardless of how much work was provided on the remaining days, clearly unreasonable to the agriculture community.

Mr. Speaker, amending H.R. 2202 with a workable temporary and season agricultural worker program is essential to achieve true immigration reform. The end result of failure to provide a legal temporary alien worker program for U.S. agriculture will be to reduce U.S. farm production and agribusiness employment.

The following agricultural organizations urge your support for the Pombo/Chambliss amendment. We strongly oppose the Goodlatte amendment

National Council of Agricultural Employers;

Agri-labor Support Organization;

Agricultural Affiliates from Western New York;

Agricultural Producers;

American Association of Nurserymen;

American Farm Bureau Federation;

American Mushroom Institute;

California Farm Bureau;

California Floral Council;

California Grape & Tree Fruit League;

Colorado Sugarbeet Growers Association;

Florida Citrus Mutual;

Florida Citrus Packers;

Florida Farm Bureau;

Florida Fruit & Vegetable Association;

Florida Nurserymen & Growers Association;

Florida Strawberry Growers Association;

Frank B. Logoluso Farms;

Frederick County Fruit Growers;

Fresno County Farm Bureau (CA);

Fruit Growers League of Jackson County, Oregon;

Grower Shipper Vegetable Association of Central California;

Grower Shipper Vegetable Association of Santa Barbara and San Obispo Counties;

Hanes City Citrus Growers Association;

Hood River Grower-Shipper Association;

Illinois Specialty Growers Association;

International Apple Institute;

Michigan Asparagus Advisory Board;

Michigan Farm Bureau Federation;

Midwest Food Processors Association;

National Association of State Departments of Agriculture;

National Cattlemen's Association;

National Christmas Tree Association;

National Cotton Council;

National Council of Farmer Cooperatives;

National Peach Council;

National Watermelon Association; New England Apple Council; New York Apple Association, Inc.; Nisei Farmers League; North Carolina Apple Growers Clearinghouse; North Carolina Growers Association; North Carolina Sweet Potato Commission; Northern Christmas Trees & Nursery; Oregon Farm Bureau Federation, Patterson Firm (MA); Shoreham Cooperative Apple Producers, Association (VT); Snake River Farmers Association;

Society of American Florists; Sod Growers Association of Mid-America (IL); Sugar Cane Growers Co-op of Florida; Sun-Maid Growers of California; Texas Citrus & Vegetable Association; Texas and Southwestern Cattle Raisers Association; Texas Cotton Ginner's Association; Tobacco Growers Association of North Carolina, Inc.; United Agribusiness League; United Fresh Fruit & Vegetable Association; Valley Growers Cooperative (NY);

Ventura County Agricultural Association; Vidalia Onion Business Council; Virginia Agricultural Growers Association, Inc.; Virginia State Horticultural Society; WASCO County Fruit & Produce League; Washington Growers Clearing House Association; Washington Growers League; Washington State Horticultural Association; Western Growers Association; Wisconsin Christmas Tree Producers Association; and Wisconsin Nursery Association.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. GOODLATTE].

The question was taken; and the chairman announced that the noes appeared to have it.

Mr. GOODLATTE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Virginia Mr. GOODLATTE will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 28 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR BURR

Mr. BURR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BURR: At the end of subtitle B of title VIII insert the following new section:

SEC. 837. EXTENSION OF H-1A VISA PROGRAM FOR NON-IMMIGRANT NURSES.

Effective as if included in the enactment of the Immigration Nursing Relief Act of 1989 (Public Law 101–238), section 3(d) of such Act (103 Stat. 2103) is amended—

(1) by striking "To 5-YEAR PERIOD",

(2) by striking "5-year", and

(3) by inserting "and ending at the end of the 6-month period beginning on the date of the enactment of the Immigration in the National Interest Act of 1995" after "Act".

The CHAIRMAN. Pursuant to the rule, the gentleman from North Carolina [Mr. BURR] and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. BURR].

Mr. BURR. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I rise today to urge my colleagues to support this amendment to allow a 6 month extension of the H-1A nonimmigrant nurse program which expired in September. Our country's nursing homes and senior health care providers will face a dire situation unless we act now to temporarily reauthorize the program.

It allows health care facilities to bring foreign registered nurses into the country on a temporary basis. These nurses are not taking American jobs, because they fill needed positions in rural areas where there is a shortage of American nurses. These shortages continue, despite fiscal year 1995 and 1996 appropriations of $78 million each year for the National Health Service Corps Scholarship and Loan Program to recruit American nurses for these rural areas.

Mr. Chairman, we are asking for a six month extension. During this time the concerned committees will have the opportunity to examine the program and develop a long-term solution to the shortage of qualified nurses in rural America. I strongly urge my colleagues to vote for this amendment.

The CHAIRMAN. Does any Member seek time in opposition to the amendment?

Mr. CONYERS. Mr. Chairman, I seek time in opposition to the amendment.

The CHAIRMAN. The gentleman from Michigan is recognized for 5 minutes.

Mr. CONYERS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, briefly, this amendment would extend the temporary program and allow foreign nurses into the United States for another six months. Case closed. I mean, we need more foreign nurses coming into the United States for longer periods of time like Hershey needs candy bars. So that is not a good deal, because the current supply of nurses is adequate and may even increase in the coming years due to the downsizing of the American health industry. I hope my colleague will answer this before the debate is over.

Mr. BURR. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I strongly support this amendment. I think everybody needs to understand what it is. It is simply a period of time during which the committee, the subcommittee, in particular, on Immigration, can listen to all sides of this and make a reasoned decision.

There are a lot of folks in rural areas who have been telling us there is still a nurse shortage, they do need the foreign nurse program for that purpose. In some of the urban areas, the nursing organizations are very concerned, because they say they do not need it any more.

Maybe we can craft something that would be responsible for everybody. So the rural folks, if they really have a shortage, can have that relieved, and the urban areas can also be free of anything that might be impeding their having domestic homegrown nurses. I do not know the answer. I am not sure about it.

But I would like to have the time as a member of the subcommittee to consider this. We have not been having that time. I think we should leave the nurse program alone and create the period of time that is created in this amendment. I think the gentleman from North Carolina has produced a good one.

So I urge an "aye" vote to leave the opportunity there for the subcommittee over 6 months to consider the matter, have hearings, and so forth. I urge the adoption.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Chairman, the H–1A nurses program was established to deal with a nursing shortage that has now evaporated. I understand the claim is that this program is still necessary for rural communities. However, it is important to note that four-fifths of the nurses who entered under the H–1A program went to metropolitan areas. In fact, one-third of them went to New York City. For those rural areas that need nurses, they have the ability to petition for nurses under the H–1B Program, and they should certainly utilize that.

This extraordinary program that was useful for our country at one time expired in September, and it should stay dead. We had 6,000 nurses enter from Canada and Mexico under NAFTA in 1994 alone. Many nurses that came in through this program, and many more are still coming in through NAFTA.

We have a nursing surplus right now, and the New England Journal of Medicine is predicting a 54 percent decrease in hospital beds. We are going to be awash in nurses. I urge opposition to the amendment.

Mr. BURR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just wish the gentlewoman had an opportunity to go to rural North Carolina and see the shortages

Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois, [Mr. RUSH].

Mr. RUSH. Mr. Chairman, I rise today to support the amendment offered by my colleague, Mr. BURR from North Carolina, that will extend the H–1A non-immigrant nurse program for 6 months.

Mr. Chairman, the effect of the sunset of this program was brought to my attention by Sister Elizabeth Von Straten, who is my constituent and who serves as the President-CEO of Saint Bernard Hospital which is also in my district. Saint Bernard Hospital has employed nurses solely from the H–1A program since 1991 when it was determined that they could save over 3 million dollars a year in nursing salaries.

Without this program the hospital is forced to rely on registry nurses. Registry Nurses require a salary that is double that of the H–1A nurse or they will not work in the Englewood area. This program provides qualified foreign nurses at a cost saving that enables Saint Bernard to continue to serve as the only remaining hospital in an area designated both as one of Chicago's health professional shortages area and also as a medically undeserved area.

Mr. Chairman, the Englewood community needs to have this hospital. Of the patients that are served by Saint Bernard, 86 percent are below 150 percent of poverty. These is a 3,600 to 1 patient to physician ratio and all of the hospital patients are on Medicaid or Medicare.

The Hospital is also the largest employer in Englewood with 640 full time positions in an area that is one of the most economically depressed communities in the Chicago area.

Mr. Chairman, I want to give my colleagues a thumb-nail sketch of the role Saint Bernard Hospital plays in one of Chicago's most impoverished neighborhoods. It represents their only beacon of hope. The glow of that beacon dimmed last September 30.

That's when the H–1A visa program for nonimmigrant nurses was sunseted. If we do not extend this program in order to determine the impact that ending the program will have on Hospitals like Saint Bernard's and communities like Englewood then the beacon of hope will become pitch dark.

Mr. Chairman, Saint Bernard Hospital must have at least this temporary 6 month extension of the H–1A visa program to determine how to keep serving the residents of Englewood who depend on them for jobs and health care.

This is truly a matter of life and death.

Mr. Chairman, I urge my colleagues to support the Burr amendment to extend the H–1A visa program for 6 months.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Chairman, I rise in opposition to the Burr amendment. The Burr amendment will allow an outdated program to continue, and it will do real harm to American nurses. We must protect American nurses and American workers.

The H–1A program, which passed in 1990, allowed an unlimited number of foreign nurses to enter the United States. However, the medical industry has changed radically in the last six years. Not only do we no longer need the foreign nurses, we actually have a potential glut of nurses in this country.

Simply put, we have more nurses than we have jobs. The hospital industry has gone through a massive restructuring. As hospitals have merged, closed or "scaled back" in order to become more competitive, the number of nursing positions has decreased. At the time, the pool of nurses is actually increasing.

We simply do not have a need or the jobs for the H–1A nurses. The H–1A visas sunsetted on September 1, 1995. We should allow the program to end. Think about the American nurses who have dedicated their lives to helping sick people. Let's face it, people do not become nurses to get rich or to become famous—they do it to help others. The least that we can do is to make sure that American nurses have jobs. I urge you to defeat the Burr amendment.

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Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey [Mr. FRELINGHUYSEN].

Mr. FRELINGHUYSEN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to this amendment. The H–1A temporary visa program was created in 1990 as a result of a nursing crisis shortage of the 1980's. While I acknowledge the very real need for foreign nurses in those years, this program expired in September 1995, and I see no need to revive or perpetuate this program. Therefore, I oppose this amendment.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. BRYANT], ranking Democrat, who has led this immigration bill as well as he could under the circumstances.

Mr. BRYANT of Texas. Mr. Chairman, I just want to say that in the subcommittee we had hearings on parts of this bill. We had no hearings on this. No evidence was brought forth to tell us if there was a need to import nurses to take the jobs of American nurses that are working today. Without any evidence of that and with clear evidence having been brought forth in this debate that there is no need whatsoever for this program to be extended, I strongly urge Members to vote no.

The fact of the matter is that these American nurses deserve to be able to compete for jobs inside of our domestic economy without having to worry about imported workers working more cheaply.

Mr. BURR. Mr. Chairman, this is a health care issue, it is not a nursing issue. I do not think it is outdated to supply adequate care to Americans.

Mr. Chairman, I yield 20 seconds to the gentleman from Texas [Mr. SMITH] who has worked so hard on the immigration bill.

Mr. SMITH of Texas. Mr. Chairman, I want to thank the gentleman for offering this amendment.

The amendment will provide for a 6-month extension of H-1A nonimmigrant program for nurses as originally enacted by the Immigration Nursing Relief Act of 1989. I support this extension of the H-1A program which originally was effective for just 5 years. This will permit the Subcommittee on Immigration and Claims to conduct hearings and otherwise investigate the competing interests relevant to this program.

Mr. Chairman, I thank the gentleman from North Carolina [Mr. BURR] for taking the lead on this issue. I urge my colleagues to support this extension of the nurses program.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I urge a "no" vote on this amendment.

This is a classic case. I was very active in supporting the extension of the nurses program in the 1990 bill. The problem has been solved. A combination of recruitment, of this incorporation of many of the people who came here to work in nursing, all of these things have taken care of the shortage. I have heard from no hospital in the areas of greatest need that need this program.

I would suggest that this amendment be defeated. Organized labor opposes this. This is going to displace available U.S. workers. I urge it be defeated.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from California, Mr. XAVIER BECERRA.

Mr. BECERRA. Mr. Chairman, I thank the gentleman for saying my name so well.

I, too, stand in opposition to the amendment. We have no evidence that there is a need for this. We should preserve jobs in our hospitals and our clinics for the nurses that have gone through the programs in this country and are ready to serve the people that are in need of medical care.

Mr. Chairman, there is no need to reach out at this time. There was a perceived need back in the early 1990s. If there was a need, it has been met by those temporary or foreign nurses that came in. We do not need the program. It expired last year. There is no need to revive it. Let us get on with this and let us preserve jobs that are available for American nurses.

Mr. BURR. Mr. Chairman, let me say, as we started this debate, that the American Hospital Association has just called in support of this amendment, as well as the American Health Care Association.

Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, there is probably no one in this House that has more affection for American nurses. And I do not think this bill will hurt American nurses. My mother was a nurse and is retired now.

But folks, this is not unreasonable, what we are asking to do here. I saw an editorial, in the American Journal of Nursing, January 1996, that is a couple months ago, which said that the only true nursing shortage that currently exists exists in rural America, accounting for 92.4 percent of the remaining shortage areas.

There is truly a question in this country if there is a nursing shortage in rural America. And all we are asking to do here, this is not unreasonable, is simply extend this program for 6 months so that we, as an immigration subcommittee, as promised by our chairman, the gentleman from Texas [Mr. SMITH], can conduct hearings. We do not want to put American workers out of jobs, but if we truly have shortages in rural areas, which the American Journal of Nursing says we do, as in January 1996, then we need to find out. We need to have these hearings and extend this bill, if necessary.

I ask Members to vote for this, 6 months only.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. BURR] has expired.

The gentleman from Michigan [Mr. CONYERS] has 1½ minutes remaining.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would remind the gentleman from Tennessee [Mr. BRYANT] that the nurses do not want this. I am glad the gentleman is reading the nurses' literature, but here is what the nurses union say.

> Recent restructuring and downsizing of hospitals and other health care facilities have caused the displacement of thousands of qualified nurses. They should be put back to work before still another program is instituted to import nurses from abroad.

Dated, March 21, 1996.

Mr. Chairman, I yield the balance of my time to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I rise in opposition to the amendment.

The program which the gentleman seeks to restore was originally created to address a short-term shortage of qualified nurses. The shortage has been addressed and no longer exists.

In fact, changes in the structure and management of the Health Care System makes it likely that we will soon have a large pool of American nurses from which employers may recruit. In addition, the most recently available statistics indicate that the number of graduate nurses continues to increase.

Even if this should not be the case, nurses could still be recruited from Mexico and Canada under NAFTA; more than 6,000 nurses entered the United States under NAFTA in 1994. Nurses may also be recruited under H-1B Visa Program and the permanent employment-based Immigration Program.

I urge Members to join me in rejecting the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. BURR].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. CONYERS Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from North Carolina [Mr. BURR] will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the rule, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 24 offered by the gentleman from Virginia [Mr. GOODLATTE]; and amendment No. 28 offered by the gentleman from North Carolina [Mr. BURR].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. GOODLATTE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia [Mr. GOODLATTE] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 59, noes 357, not voting 15, as follows:

[Roll No. 86]

AYES—59

Allard
Andrews
Archer
Bartlett
Barton
Bateman
Bilbray
Bilirakis
Bliley
Boucher
Brownback
Bryant (TN)
Campbell
Clinger
Combest
Davis
Ehrlich
Ensign
Fields (TX)
Foley
Fowler
Frelinghuysen
Gekas
Geren
Goodlatte
Gunderson
Gutknecht
Hefley
Hostettler
Houghton
Hutchinson
Johnson, Sam
Kingston
Latham
Linder
McCollum
Moran
Myers
Myrick
Ney
Oxley
Parker
Quillen
Ramstad
Rogers
Roukema
Saxton
Schaefer
Shaw
Smith (MI)
Smith (TX)
Stearns
Stenholm
Tauzin
Taylor (NC)
Thomas
Wicker
Young (AK)
Young (FL)

NOES—357

Abercrombie
Ackerman
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bass
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hoyer
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Nadler
Neal
Nethercutt
Neumann
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Rahall
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Scarborough
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stockman
Stump
Stupak
Talent
Tanner
Tate
Taylor (MS)
Tejeda
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Zeliff
Zimmer

NOT VOTING—15

Barr
Bunn
Clay
Collins (IL)
DeLay
Dicks
Johnston
Moakley
Radanovich
Rose
Stark
Stokes
Studds
Waters
Wilson

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Messrs. WYNN, MOORHEAD, PACKARD, SHADEGG, WAMP, and DUNCAN changed their vote from "aye" to "no."

Mr. CAMPBELL changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DELAY. Mr. Chairman, on rollcall No. 86, I was unavoidably detained due to my attendance at the funeral of a close friend. Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MR. BURR

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from North Carolina [Mr. BURR] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 154, noes 262, not voting 15, as follows:

[Roll No. 87]

AYES—154

Abercrombie
Allard
Archer
Armey
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bevill
Bilbray
Bliley
Boehner
Boucher
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Camp
Campbell
Canady
Chambliss
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Crane
Crapo
Cremeans
Cubin
de la Garza
Deal
Dickey
Doolittle
Dornan
Dreier
Durbin
Ewing
Fawell
Fields (TX)
Foley
Fowler
Funderburk
Gekas
Geren
Gilchrest
Goodlatte
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Jones
Kaptur
Kelly
Kim
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Laughlin
Lewis (CA)
Lewis (KY)
Lincoln
Linder
Livingston
Lucas
McCollum
McCrery
McInnis
McIntosh
McKeon
Mica
Miller (FL)
Mink
Moorhead
Myers
Myrick
Nethercutt
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Payne (VA)
Pickett
Pombo
Portman
Quillen
Riggs
Roberts
Rogers
Rush
Salmon
Sanford
Schaefer
Schiff
Seastrand
Shadegg
Shuster
Skeen
Smith (MI)
Smith (TX)
Solomon
Souder
Stenholm
Stockman
Stump
Tanner
Tauzin
Taylor (NC)
Tejeda
Thornberry
Torkildsen
Upton
Vucanovich
Walker
Wamp
Weldon (FL)
White
Wicker
Young (AK)
Zeliff

NOES—262

Ackerman
Andrews
Bachus
Baesler
Baldacci
Barcia
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Bilirakis
Bishop
Blute
Boehlert
Bonilla
Bonior
Bono
Borski
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Callahan
Calvert
Cardin
Castle
Chabot
Chapman
Chenoweth
Clayton
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Cunningham
Danner
Davis
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gallegly
Ganske
Gejdenson
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NOT VOTING—15

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The Clerk announced the following pair:

On this vote:

Mr. DeLay for, with Mr. Radanovich against.

Mrs. ROUKEMA and Messrs. PETERSON of Minnesota, COOLEY, HOBSON, SAXTON, LONGLEY, SHAW, and Ms. PRYCE changed their vote from "aye" to "no."

Mr. LAHOOD and Mr. PICKETT changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mrs. MORELLA. Mr. Chairman, I rise in opposition to H.R. 2202.

In fairness, this bill is more acceptable now than it was when it first came to the floor on Tuesday. Several of my principal concerns have been addressed. In particular, adoption of the Chrysler-Berman amendment deleting unneeded reforms to our system of legal immigration has put this bill back on track to addressing the primary immigration problem which our constituents have identified—illegal immigration. In addition, the change under the manager's amendment allowing for the filing of asylum petitions within 180 days instead of the 30 days in the original bill recognizes the concern which I and others had expressed regarding the impossibility for most people of filing a complete claim in 30 days. Finally, adoption of the Schiff-Smith amendment removing caps on annual refugee admissions restores the humaneness of U.S. refugee policy and assures necessary flexibility to respond to global events.

I regret that the same humaneness and compassion is not reflected in the provisions in this bill dealing with children. To allow States the option to deny an illegal alien child, who cannot be held responsible for his or her presence in this country, the right to an education is not only unconstitutional, but also cruel to the child and counterproductive for our communities. What is the point of the Constitution if we are to decide that States may opt out of assuring its guarantees? The same can be said for the bill's provisions denying Medicaid, AFDC, and food stamps to U.S. citizen children whose parents are illegal aliens. Failure of the House to adopt the Velázquez amendment relegates these Americans to second class status. I hope these provisions will be removed in conference.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to H.R. 2202, the Immigration in the National Interest Act. Let me state from the beginning that I strongly object to this legislation's failure to distinguish between legal and illegal immigration. Exploiting concerns about illegal immigration, H.R. 2202 unreasonably limits the number of immigrants who can be legally admitted to the United States. This restriction clearly violates the basic tenets of fairness and justice upon which our Nation, a nation of immigrants, was founded. I believe that America must honor its pledge of being a nation that will reunite families, provide asylum to a reasonable number of refugees, and protect the legitimate rights of both American workers and legal immigrants.

The Immigration in the National Interest Act would cut the number of immigrants who can be legally admitted to the United States annually by more than 200,000 persons. This draconian attack on America's immigrant population would be accomplished by dramatically limiting the number of family immigration visas, and by cutting in half the number of people granted asylum. Slashing legal immigration by 30 percent and refugee admission by 50 percent is unconscionable.

Mr. Speaker, it is also important to emphasize that most of the legal immigrants entering the United States are allowed for the purpose of family reunification. Our current policy requires that they are coming to this country to join an immediate relative who has been granted permanent residency status. It is incomprehensible that provisions in H.R. 2202 would attack our national policy of family reunification. This bill's drastic reductions in the number of legal family reunification through numerical caps and earnings tests will have only one result, families will be divided.

In addition to hurting American families, H.R. 2202 recklessly cuts the U.S. participation in humanitarian efforts by limiting the number of refugees who can enter the United States by 50 percent. This heartless exclusion of persons fleeing oppression and war is not only contrary to the interest of refugees, it also damages America's role as a world power. It would be an abdication of the U.S. humanitarian leadership worldwide to support this provision of H.R. 2202.

Another harmful element of this legislation is its requirement that both the sponsoring individual or family and the immigrant have an income of 200 percent of the poverty level. These unreasonably high family-sponsor caps will ultimately result in the disproportionate exclusion of the families of poor and minority immigrants. Such unreasonable and blatant discriminatory immigration policies should be actively resisted.

There are numerous other harmful provisions in this measure—including making illegal immigrants ineligible for most Federal benefits and establishing a telephone verification of citizenship policy—that compel me to oppose it. The unjustified hostility to legal immigration this bill fosters is simply un-American.

It is important to recognize that the history of the United States is largely one of immigration, and that this nation is rich because of its blend of cultures and ethnic backgrounds. America is a nation of immigrants that—without their creativity, intelligence, and vitality—would not have achieved the greatness with which it is recognized. This shortsighted legislation will impose an unbalanced and unfair set of priorities that will hurt America much more than it would help.

Mr. Speaker, the truth about H.R. 2202 is that it fails to not only distinguish between legal and illegal immigration, but that it reflects some of my colleagues' desires to sacrifice the interests and obligations of the American people in exchange for isolationism. I urge my colleagues to vote against this bill.

Mr. DIXON. Mr. Chairman, few areas of the Nation confront the challenges and suffer the impacts of illegal immigration as much as southern California. I strongly support provisions of H.R. 2202 which seek to control this problem through enhancements in our borders, increases in the numbers of border control agents, and increases in penalties for smuggling and document fraud. I will vote for passage of H.R. 2202, as amended, and continue to support the substantial increases in funding for the Immigration and Naturalization Service to stem the tide of illegal immigration.

However, I have reservations about several of the provisions of this legislation, and will carefully scrutinize the conference agreement on this legislation prior to giving that bill my support. I want to specifically highlight my strong objections to inclusion of the amendment which grants States the option to deny all public education to illegal aliens.

The amendment may be good politics. Clearly, it is appealing to many who are concerned about tight education budgets and the need to spend what moneys are available on American children, rather than educating those illegally in the country. However, the amendment is harsh in its treatment of children; is highly questionable as a disincentive to illegal immigration; and will create far more problems for schools and communities impacted by illegal immigration than it seeks to rectify.

I fail to understand how proponents of this measure believe that creating a situation where school officials will be forced to determine a student's legal immigration status will be beneficial to our educational systems. The costs of educating these children will merely be shifted to the administrative burden of determining immigrant status.

We will not be controlling illegal immigration by keeping some young people out of school. What we will be doing is putting those same young people on our streets, unattended and unsupervised. This is hardly the result that many in our communities are seeking as they look to Congress to address illegal immigration. Moreover, stigmatizing certain school children in this manner, can only lead to potential discrimination against those children who may merely look different.

Claiming the provision as a disincentive to illegal immigration is questionable, at best. I do not believe that a free education for their children is a primary incentive among individuals seeking to enter the United States illegally.

Yes, we have a problem with illegal immigration. But punishing children not legally in this country through no fault of their own, while placing the burdens of defining who is and who is not legal on our public educational system, is a misguided attempt at solving that problem.

With these reservations in mind, I support the legislation before us as we continue to enhance federal efforts to control our borders and ease the burdens of illegal immigration on our communities, cities, and States.

Mr. MARTIN. I rise today in support of the Immigration in the National Interest Act, H.R. 2202.

I am pleased that we are finally addressing one of the most important problems facing America today, I am of course referring to the issue of Immigration reform.

As I have traveled around my District over the last few weeks from senior centers to Main Street the one issue about which people have repeatedly expressed concern is our failed immigration policy. These visits with my constituents reinforce my belief that we must institute common sense immigration reforms.

The United States of America has always been known as a land of immigrants—the melting pot or in today's climate of political correctness, "the tossed salad" of the world.

Over the last 200 years, millions of families have traveled thousands of miles to embrace opportunities found only in America. In fact, my grandparents traveled from Italy to settle in North Jersey where they built a successful business, raised four children and truly fulfilled the American dream.

Unfortunately, we have gotten away from the brand of immigration represented by my grandparents and others of that proud generation. Today, illegal immigration and fraudulent legal immigration runs rampant through our system.

Mr. Speaker, nearly 20 percent of the legal immigrants in this country are on welfare. Furthermore, one-quarter of all federal prisoners are illegal aliens. Does this sound like an immigration policy that is operating at 100 percent efficiency, Mr. Speaker? I think not.

Neither did the bipartisan Commission on Immigration Reform headed by the late Barbara Jordan. The Commission concluded, "The United States must have a more credible immigration policy that deters unlawful immigration while supporting our national interest in immigration."

As a member of the Congressional Task Force on Immigration, I strongly support the commission's findings.

H.R. 2202 is a strong, but fair bill, Mr. Speaker. It establishes a positive framework to prevent illegal aliens from feeding at the public trough. I do not believe it is extreme to stop the flow of federal taxpayer dollars to illegal immigrants.

Mr. Speaker, enactment of H.R. 2202 would reduce illegal immigration by 50 percent over the next 5 years. By stemming the tide of illegal immigration now, we will preserve American jobs for Americans. In fact, this legislation may be the most pro-job and pro-family bill we consider in the 104th Congress.

Some of my colleagues in this body would like to separate legal immigration reform from illegal immigration reform. I, on the other hand, do not believe that we can address one problem without fixing the other.

H.R. 2202 is a family friendly bill that does not attempt to deprive members of the immediate family of legal residents from relocating to the United States. This legislation recognizes the importance and strength of family relationships by providing no annual limitation to the immigration of immediate family members to citizens of the United States.

In fact, H.R. 2202 will allow more legal immigrants into the United States on an annual basis than we have admitted 60 of the last 65 years.

In short, Mr. Speaker, H.R. 2202 places more emphasis on proactive measures that eliminate the incentives to illegally enter the country, while still providing ample room for immigrants who truly desire to pursue the American dream.

In closing, I urge my colleagues to support this much needed immigration reform.

Mr. YOUNG of Florida. Mr. Chairman, the problem of illegal immigration has reached historic proportions. Past attempts by Congress to reform immigration laws have provided nothing more than greater incentives and promised benefits for illegal aliens. The result is the present system which actually encourages immigrants to come to America illegally.

Today, I am proud to support an historic change in our Nation's immigration policy. Today, we are going to pass a reform bill with real teeth in it. A bill that cracks down on illegal immigrants already here, and one that secures our borders against future immigrants who would seek to enter illegally. Past legislation this House has considered, which I strongly opposed, did nothing to alleviate the problems of illegal immigration. At long last, I look forward to supporting a bill which acknowledges these problems and takes action to address them.

While past legislation sent the message you could come to the U.S. illegally and expect to receive welfare benefits, food stamps and free health care, this legislation finally puts an end to this outrage. As a Member from the State of Florida, I have seen first-hand the financial burden these ill-gotten attempts at reform have placed on States forced to bear the brunt of this failed immigration policy. Past Congresses refused to stop the excessive flow of illegal immigrants and to eliminate the enormous costs associated with this broken system. Today, we own-up to our responsibilities with a hard-nosed approach that substantially increases border control, provides the Immigration and Naturalization Service with the tools necessary to find and deport illegal aliens, and pays for the Federal Government's financial obligations to the States.

Mr. Chairman, my State of Florida has long been overburdened by the flood of illegal immigration. Since the Mariel boatlift in 1980, we have been the destination of a disproportionate number of immigrants, making us the third-largest recipient of immigrants among our 50 States. Although immigration policy is the sole jurisdiction of the United States Government, history has proven that States like Florida are typically left with the cost and responsibility of providing expensive social services to illegal aliens.

With the enactment of H.R. 2202, we have an opportunity to minimize the enormous expenses that we force upon our States by denying most public benefits to illegal aliens, removing public charges, and holding sponsors personally responsible for the financial well-being of an immigrant they bring into our country. Most importantly, this bill requires the Federal Government to reimburse States and localities for any expenses incurred from providing federally mandated services to illegal immigrants. Based upon various formulas, it is estimated that the State of Florida has spent an average of $651 million per year from 1989–1993, or a total of $3.25 billion for services provided to illegal immigrants. If the costs to local governments are included, the total burden rises to $15 billion for that same 5-year period.

Unlike past immigration reform bills, H.R. 2202 will actually discourage the illegal entry of immigrants by increasing our border control agents by 5,000 personnel, improving physical barriers along our borders, including a triple-layer fence, authorizing advanced border equipment to be used by the Immigration and Naturalization Service, and instituting an effective removal process to discharge illegal immigrants with no documentation. This bill provides the Department of Justice with 25 new U.S. Attorneys General and authorizes 350 new INS inspectors to investigate and prosecute aliens and alien smugglers.

This bill also strongly supports the American worker by cracking down on the use of fraudulent documents that illegal immigrants use to get American jobs and by enforcing strict penalties for employers who knowingly violate these laws. The Department of Labor is authorized 150 new investigators to enforce the bill's labor provisions barring the employment of illegal aliens.

Mr. Chairman, the American people demand that Congress take action to secure our borders against illegal immigrants. With the explosion in the amount of drugs and criminals coming across our borders, and with the flood of illegal immigrants, many of whom settle in Florida, it is eminently important that we do all we can to protect our national borders.

While past Congresses refused to address this national crisis, today we deliver, with a much needed and long overdue first step in this renewed effort. Today we will approve legislation with unprecedented prevention and enforcement mechanisms. The message to illegal aliens is no longer one of indifference. The new message is simple—try to enter the United States illegally and we will find and deport you, should you get in, we will find and deport you, and should you remain in hiding, don't expect much in the way of support.

Mr. GALLEGLY. Mr. Chairman, after having a conversation with Mr. GOODLING, the chairman of the opportunities committee, I wish to clarify, for the record, section 606 of H.R. 2202.

The Department of Education recently signed a computer matching agreement with the Social Security Administration which is to go into effect for the 1996–1997 school year.

The purpose of the matching program is to ensure that the requirements of section 484(a) of the Higher Education Act of 1965 are met.

This matching program will enable the Department of Education to confirm that the social security number and the citizenship status of applicants for financial assistance under Title IV of the Higher Education Act are valid at the time of application.

I would further note that the details of the matching arrangement can be found in the Federal Register publications of March 23, 1995, September 21, 1995, and December 1, 1995.

The matching agreement addresses my concerns about the verification of a student's status and eligibility for student aid.

However, we all know that statutory language is a much better source of authority than regulations. So, I just want to make sure that the verification takes place, that's all. That's why I have included the statutory language. If the Attorney General and the Secretary of Education agree that the matching agreement adequately meets the verification requirements of section 606 of the bill, then that is fine with me.

Mr. SMITH of New Jersey. Mr. Chairman, I wish to call attention to the important action of the House in deleting the proposed "refugee cap" which would have made dramatic cuts in the number of refugees the United States accepts each year. In particular, the "refugee cap" would have necessitated the elimination of the in-country programs for Jews and Evangelical Christians in the former Soviet Union, and for pro-American political prisoners, religious dissidents and other people at risk of persecution by the Communist government of Viet Nam.

POLITICAL AND RELIGIOUS DISSIDENTS AROUND THE WORLD

Make no mistake: the proposals for refugee cuts do not reflect a decline in the worldwide level of political, racial, and religious persecution. The dictatorship in Nigeria recently staged a public hanging of eight members of the Ogoni ethnic minority, including highly respected novelist and environmental activist Ken Saro-Wiwa. Iran followed up by sentencing a member of its Baha'i religious minority to death for a crime it calls "national apostasy."

VIETNAMESE POLITICAL AND RELIGIOUS DISSIDENTS

Nor is the upsurge in persecution limited to so-called "pariah" regimes. A week after Warren Christopher raised the flag on the new United States Embassy in Viet Nam, the government of that country staged two show trials—apparently to disabuse its own people of the idea that economic and diplomatic relations with the West would lead to greater respect for human rights. Six of the nation's top Buddhist leaders were sentenced to long prison terms for persisting in their refusal to join the state church. Nine people were convicted of "using freedom and democracy to injure the national unity" because they had requested permission to hold a conference on the subject of democracy. So this is no time to think about shutting down the Orderly Departure Program for people who have suffered for their pro-American, pro-freedom beliefs and associations. Nor is it a time to think about dumping thousands more high-risk political and refugees, currently long-time residents of refugee camps in Hong Kong and Southeast Asia, back to persecution in the Workers' Paradise. Yet this is what the international refugee bureaucracy is about to do. The United States has traditionally stood against this sort of thing, even when our efforts were regarded as unhelpful by the governments of other nations and by officials of international organizations. We must recapture that proud American tradition of resistance to persecution and solace for the persecuted—and not just when it is convenient or popular.

PERSECUTION OF JEWS

The Subcommittee on International Operations and Human Rights, of which I have the honor of serving as Chairman, recently heard expert testimony on the persecution of Jews around the world. Our witnesses testified about the continued survival, as we face the turn of the Twenty-First Century and celebrate the fiftieth anniversary of the war that ended the Holocaust—of systematic and severe mistreatment of Jews, simply because they are Jews.

The recent firebombings in Jerusalem, which killed many innocent people, show that there is literally nowhere in the world where Jews are safe from hatred and violence. But the worst problems appear to be in places that have a history of anti-Semitism combined with an unstable present and an uncertain future.

The hearing on persecution of Jews was conducted with the active assistance of a number of organizations that have been instrumental in helping to keep the attention of Congress focussed on this issue, including the World Jewish Congress, the Anti-Defamation League of B'nai B'rith, the Union of Councils for Soviet Jews, the National Conference on Soviet Jewry, the National Jewish Coalition, the Hebrew Immigrant Aid Society, and the Council of Jewish Federations. Our witnesses—including academic experts, a former member of the Russian Duma, and several people who are themselves refugees from persecution—told us about the situation in the newly independent states of the former Soviet Union. We also heard accounts of persecution in Iran and Syria. These are certainly among the worst cases, but it is important to remember that anti-Semitism and the violence it brings in its wake are not confined to one or two regions of the world. The evidence is unfortunately all around us: the bombing of a synagogue in Argentina, the "skinhead" movement in Western Europe, resurgent ethnic politics in Central and Eastern Europe, even the desecration of a small Jewish cemetery by the dictatorship that rules Burma.

The situation of Jews in the former Soviet Union is particularly important, not only because the struggle for the freedom of Soviet Jewry was among the finest hours of the American people, but also because the story could still end badly. There has been a tendency in recent years, even among those of us who fought long and hard for the rescue of Soviet Jews, to feel that now we can relax. Unfortunately, the free world has a long history of relaxing too soon. In the case of Jews living in the former Soviet Union, what we must avoid is slamming the door too soon. It is true that the Twentieth Century totalitarian states based on ideologies that are anti-God and anti-human being, such as Nazism and Communism, may have had a capacity to do evil whose scope and degree was unique in all human history. Evil, however, takes many forms and respects no boundaries. The year in which Zhirinovsky begins his campaign for President is not the year in which we should decide that the coast is clear for ex-Soviet Jews.

This hearing also helped us to assess the performance of our government, and of international institutions such as the United Nations High Commissioner for Refugees, in responding to the pleas of the Jewish communities that are at risk around the world. Our government had to be prodded for years before it made freedom of emigration for persecuted Soviet Jews a foreign policy priority. More recently, our foreign policy establishment was also slow to recognize and react to the persecution of Jews in Iraq.

We must remind ourselves, and then we must remind our government, that refugee policy is not just an inconvenient branch of immigration policy. Human rights policy is not just a subset of trade policy. The protection of refugees, the fight for human rights around the world, are about recognizing that good and evil really exist in the world. They are also about recognizing that we are all brothers and sisters. If we recognize these truths, we can build a coalition to preserve and strengthen United States policies designed to protect our witnesses today—and to protect all others who are persecuted because of their religion, race, nationality, or political beliefs—and to restore these policies to the place they deserve as a top priority in American foreign policy.

Mr. Speaker, the former Soviet refugee program has already been reduced from 35,000 refugees in fiscal year 1995 to 30,000 in fiscal year 1996. Although the governments of the newly independent states do not endorse the persecution of these groups, in many cases have been unwilling or unable to prevent it. Instability and resurgent ultra-nationalism and anti-Semitism counsel against a premature closing of the door to members of these historically persecuted groups.

PERSECUTION OF CHRISTIANS

The Subcommittee on International Operations and Human Rights also recently heard expert testimony on the persecution of Christians around the world. To the best of my knowledge, it was the first hearing of its kind, ever. Our witnesses testified about the systematic and severe mistreatment—including but not limited to harassment, discrimination, imprisonment, beatings, torture, enslavement, and even violent death—meted out to believers simply because they are believers.

The subject of religious persecution is a familiar one for the Subcommittee on International Operations and Human Rights. This subcommittee and its members have held hearings, introduced resolutions, and otherwise helped to focus the attention of Congress and the nation on the persecution of Soviet Jews, of Bosnian Muslims, of Bahais in Iran, of Buddhists in Tibet and Viet Nam, and of others who have been oppressed for practicing their chosen faith. This, however, is the first hearing to focus specifically on persecuted Christians, and to do so in a way that makes clear this is not an isolated or occasional outrage, but one that is perpetrated every day upon millions of people around the world.

We held the hearing on worldwide persecution of Christians in order to advance several important goals. First, the very act of bearing witness is important in itself. Even if we could accomplish nothing else this afternoon, we would have an obligation to shed light on facts that need to be known, and to give a forum to voices that need to be heard.

We hope, however, to accomplish much more. In this age when human rights are always in danger of subordination to other objectives—whether the love of money, the feat of immigrants and refugees, or the desire to get along with governments that mistreat their own people—we need to be reminded that when people are persecuted in distant lands, it is often because they are like us. The victims we so often ignore, whether the issue is refugee protection or most-favored-nation status for China, are usually the very people who share our values. We need to see their faces, and to be reminded that they are our brothers and sisters.

It is also important that we assess the performance of our government, and of international institutions such as the United Nations High Commissioner for Refugees, in responding to the pleas of persecuted Christians. In the past we have heard that these institutions have been reluctant to acknowledge the plight of persecuted Christians. Most of us can remember the Pentecostals who sought refuge in the U.S. Embassy in Moscow during the 1980s, and who were finally rescued only after they had been pressured and cajoled for months to leave because they were cluttering up the courtyard. The so-called "Comprehensive Plan of Action" for Southeast Asian asylum seekers has returned thousands of Christians, including priests, nuns, ministers, and seminarians, to Viet Nam after they were callously labeled "economic migrants." And applications for asylum or refugee status from Christians who have managed to escape from Islamic extremist regimes have typically been rejected, despite the draconian punishments often administered against them.

Finally, and perhaps most important, the hearing afforded an opportunity for a broad coalition of respected voices, from Amnesty International to the Southern Baptist Convention and the Family Research Council, to bear witness to their own recognition of the plight of persecuted Christians. This is an issue that should unite liberals and conservatives, Republicans and Democrats, even internationalists and isolationists. Whatever our differences, we are Americans. There are such things as American values, and there are some things Americans will not tolerate. We can build a coalition to restore the protection of these oppressed believers—and of all others who are persecuted because of their religion, race, nationality, or political beliefs—as a top priority in American foreign policy. The continuing persecution of Christian religious demonstrates—and too often the turning of a deaf ear by U.S. officials and others charged with refugee protection—is yet another reason that this is a terrible time to talk about reducing the scope of U.S. refugee programs.

SLAVERY IN MAURITANIA AND SUDAN

The Subcommittee on International Operations and Human Rights also held a hearing on the practice of chattel slavery, which is still widespread in Mauritania and Sudan. Most of us had believed, until quite recently, that this horrible practice belonged only to the past. But several of our witnesses testified of having seen it first hand, having spoken with slaves and with slave masters.

According to accounts by anti-slavery activists, including some of our witnesses, chattel slavery in Mauritania and in the Sudan is substantially identical to slavery as it was practiced in other centuries. It represents the subjugation of one race by another, and often of members of one religious group by members of another. It frequently includes the grossest forms of degradation of women and children. Slavery is not to be confused with similar institutions, such as serfdom or indentured servitude: however wrong these institutions are, they involve only the ownership of one person's labor by another. In true slavery, the master owns the slave's body. He owns the right to decide whom the slave will marry. When babies are born, the master owns the babies, and can buy them and sell them. True slavery is about treating people as though they were not people, as though they were things without souls.

In the modern world, we often speak of "fundamental human rights." Sometimes we say these words without thinking about what they mean. I believe that the idea of human rights has meaning only if rights are God-given, inalienable, and indivisible. Slavery is the ultimate denial of all these ideas. Toleration of slavery, even when it is far away and in another country, is the ultimate statement of radical cultural relativism. We must do whatever it takes to abolish slavery, not only because its victims are our brothers and sisters, but also because as long as there is anyone in the world who is a slave, none of us is truly free.

VICTIMS OF FORCED ABORTION AND FORCED STERILIZATION

Finally, Mr. Chairman, I must point out that even at our current levels of refugee admission, the number of refugee spots we allocate for people fleeing the People's Republic of China—one of the most repressive regimes on Earth—is zero. This is particularly tragic in light of the continuing recurrence of one of the most gruesome human rights violations in the history of the world: forced abortion.

On Good Friday of last year, thirteen Chinese women in INS detention were moved to a deportation holding center in Bakersfield, California. Five of these women had fled China after being forced to have abortions. Others had been forcibly sterilized, or had escaped after being ordered to undergo abortion and/or sterilization. Their asylum claims were rejected. Some of them were deported to Ecuador. It appears that the deportation of the remaining women to the PRC is imminent.

These women and others like them may be forced back to China because of a novel and bizarre interpretation of U.S. asylum law, under which those who resist forced abortion or forced sterilization are regarded as common criminals rather than victims of persecution. After all, they did break the law—and never mind what kind of law they broke. Never mind fundamental human rights and broken lives. A law is a law, and people who break a forced-abortion law or any other law must be sent back to take their punishment. This is the kind of thinking we are up against. This is why we need section 522 of this bill, which would restore the humane policy of regarding victims of forced abortion and forced sterilization as refugees. It is also one of the reasons we need a resettlement program for Chinese refugees.

The anti-life, anti-woman interpretation of the refugee laws, which has resulted in denials of asylum to women fleeing forced abortion, was adopted by INS in August 1994. It reversed the long-standing policy of granting asylum to applicants who can prove a well-founded fear of forced abortion, forced sterilization, or other forms of persecution for resistance to the PRC coercive population control program.

Section 522 would restore the traditional interpretation and save these women. Such a provision should not be controversial. Almost all Americans, whatever their views on the moral and political questions surrounding abortion, regard forced abortion and forced sterilization as particularly gruesome violations of fundamental human rights.

Mr. Speaker, this provision is not about immigrants, it is about refugees. Contrary to some of the scare tactics that have been used from time to time against protecting victims of forced abortion and forced sterilization, such protection has been tried in the past, and has not brought billions of economic migrants from China or anywhere else. This provision will protect a tiny handful of genuine refugees—the 13 Bakersfield women and a few others every year—who face a gruesome fate if we send them back, or who have already suffered such a fate.

It is important that we put aside myths and consider the facts:

The number of people involved is very small. Section 522 of this bill has a track record. It simply restores the law as it was interpreted from 1987 through 1993. It also imposes a statutory cap of 1,000 refugees and asylees. This statutory cap is unfortunate and unnecessary, but it probably will not make any difference. The number of people granted asylum on the ground of persecution for resistance to the PRC population control policy was between 100 and 150 per year—not 1.2 billion.

Each applicant would be required to prove his or her case. Section 522 does not enact a special rule for people who resist the PRC population control program. It merely gives each applicant an opportunity to prove his or her case under exactly the same rules as every other applicant. The only change this provision would make from current law is to restore eligibility for an applicant who can prove that he or she individually had a well-founded fear of forced abortion, forced sterilization, or other persecution for resistance to the population control policy—or has actually been subjected to such measures.

It's the right thing to do. Forced abortion, forced sterilization, and other severe punishments inflicted on resisters to the PRC program are persecution on account of political opinion. PRC officials have repeatedly attacked resisters as political and ideological criminals. The infliction of extraordinarily harsh punishment is also generally regarded as evidence that those who inflict such punishment regard the offenders not as ordinary lawbreakers but as enemies of the state.

Forced abortions often take place in the very late stages of pregnancy. Sometimes the procedure is carried out during the process of birth itself, either by crushing the baby's skull with forceps as it emerges from the womb or by injecting formaldehyde into the soft spot of the head.

Especially harsh punishments have been inflicted on persons whose resistance is motivated by religion. According to a recent Amnesty International report, enforcement measures in two overwhelmingly Catholic villages in northern China have included torture, sexual abuse, and the detention of resisters' relatives as hostages to compel compliance. The campaign is reported to have been conducted under the slogan "better to have more graves than more than one child."

The dramatic and well-publicized arrival of a few vessels containing Chinese "boat people" has tended to obscure the fact that these people have never amounted to more than a tiny fraction of the undocumented immigrants to the United States. The total number of Chinese boat people who arrived during the years our more generous asylum policy was in force, or who were apprehended while attempting to do so, was fewer than 2000. This is the equivalent of a quiet evening on the border in San Diego.

Nor is there evidence that denying asylum to people whose claims are based on forced abortion or forced sterilization will be of any use in preventing false claims. People who are willing to lie in order to get asylum will simply switch to some other story. The only people who will be forced to return to China will be those who are telling the truth—who really do have a reasonable fear of being subjected to forced abortion or forced sterilization. The solution to credibility problems is careful case-by-case adjudication, not wholesale denial.

Finally, we should be extremely careful about forcibly repatriating asylum seekers to China in light of evidence that a number of those sent back by the United States since 1993 have been subjected to extended terms in "re-education camps," forced labor, beatings, and other harsh treatment.

Mr. Chairman, on the one hand we tell people not come here illegally to apply for asylum, not even if they are fleeing persecution. But then we fail to use the legal tools at our disposal, the programs specifically provided by law, to assist thee vulnerable people in escaping persecution in ways that do not violate immigration laws. It is a serious deficiency that should be addressed by the allocation of an adequate number of places for refugees from persecution at the hands of the totalitarian regime in Beijing.

Mr. LATOURETTE. Mr. Chairman, as the House of Representatives considered overhauling our nation's immigration policies, members had an opportunity to separate legal immigration from illegal immigration issues. I supported efforts to delete the legal immigration provisions from H.R. 2002, the "Immigration in the National Interest Act."

Some might question my motivation for doing this, however, it is my contention that just as the problems relating to legal and illegal immigration are different, so too are the solutions. You could argue that the work of a brain surgeon and a barber both involve the human head, yet no one would think of going to a barber for brain surgery or a brain surgeon for a haircut. This is precisely the type of ill-conceived logic we employ if we attempt to lump illegal and legal immigration into one reform package.

The two issues deserve separate consideration, and that is why I supported the measure to give each reform vehicle the attention it deserves. The U.S. Senate has already seen fit to separate legal from illegal immigration, again with the belief that our proposed reforms of legal immigration go too far. The legal immigration provisions contained in H.R. 2002 would drastically reduce legal immigration—up to 40 percent by some estimates. It also would reduce the potential for families to be reunited and would decimate the intake of refugees. History has not been kind to us as a nation when we have followed similar paths before.

During the 104th Congress, I have had the great pleasure of serving as a member of the Council for the U.S. Holocaust Memorial Museum in Washington. In my capacity on council, I have had been afforded the time and luxury to delve deeper into the history surrounding the Holocaust, and I have paid particular attention to the emigration of Jews from Germany in the 1930s. It strikes me that as we consider reforming our legal immigration policy, we should study this tragic period in history carefully, as there are many lessons to be learned.

In July 1938, delegates from 32 countries including the United States, France and Great Britain met at the Evian Hotel in Evian, France, for what has become known as the Evian Conference. The purpose of this conference was to determine what these countries should do in response to the thousands of Jewish refugees who were shunned both by their home country and abroad. Unfortunately, little was accomplished at the Evian Conference because no country was willing or had the fortitude to accept large numbers of Jews, including the U.S.

Since the early 1930s, Jews had been fleeing Germany for a variety of reasons. Initially, the German government encouraged those who could flee to do so, and to take whatever possessions they could with them. Eventually, however, the Nazis made this increasingly more difficult, slapping emigration taxes on Jews and making it impossible for them to survive elsewhere because their funds were tied up in German banks.

The anti-Jewish sentiment in Germany, as we all know, was oppressive. The Nazis wanted to make Germany a place devoid of Jews. As a result, Jews fled by the tens of thousands, often entire families at once. They sought refuge in Western Europe, the U.S., Central and South America, and even China. It is believed that as many as 90,000 Jews emigrated from Germany to the U.S. during this period in history, and many more would have come to our fair land had the U.S. been more willing to accept them. Unfortunately, we were not.

Our country's unwillingness to accept these Jewish refugees took a most tragic turn in May 1939, for it was at this time that the *S.S. St. Louis*, a German passenger ship, left Germany for Cuba. There were nearly 1,000 Jews on board the *St. Louis* as it headed toward Havana, yet when it finally reached its destination the ship was turned away by Cuban authorities. The *St. Louis* then pleaded with U.S. officials to let the nearly 1,000 refugees enter America, yet the U.S. denied the ship permission to land and denied entry visas to the refugees. In June 1939, the ship turned around and returned to Europe.

Fortunately for those on board the *St. Louis*, the countries of Great Britain, France, the Netherlands and Belgium agreed to accept the Jewish refugees, although this blessing would be brief and mixed. The following year, in 1940, German forces occupied the region. Many of the passengers aboard the *St. Louis*—those same passengers America turned away—were dealt the cruelest of fates. Many were subjected in their new homelands to the same horrors from which they had fled—the full wrath of the Holocaust—ghettos, concentration camps, deportations and death chambers.

Fear, prejudice and ignorance allowed America to turn its back on those who sought refuge here in May 1939, with the most tragic of outcomes. America is supposed to be a haven for those oppressed by other nations; it is supposed to be the land of hope and opportunity. Ours is a country that welcomes those who want to come here, contribute to society, and live the American dream.

It is regrettable that we as a nation have been unable to respond to the severe problems of illegal immigration in a sensible, meaningful way. It would be just as regrettable to gut a rich heritage of providing safe harbor for those who seek to come here legally because we cannot deal with a failed illegal immigration policy.

As a nation, we must take full responsibility for our generosity in welcoming others to our land, and full responsibility when that generosity backfires or fails. In separating legal from illegal immigration reform, we have our best chance to answer that call to responsibility. Just as we should not reward those who refuse to make a difference as Americans, we should not punish those who come here and strive to do so. Throughout history, legal immigrants have enriched our economy and the goodness of our country.

We will never know what kind of productive lives those aboard the *St. Louis* might have led on American soil because we did not give them the chance. It is a shame we will always bear. Legislative action or inaction in Europe and the United States contributed greatly to a tragedy we cannot repeat.

Ours is a country made up of immigrants, and the rich tapestry we enjoy is because so many people, including many of our own grandparents and great-grandparents, had the hear and the will to come here. More importantly, the United States had the heart and the will to welcome them, and it is not something to relinquish now.

Mr. SMITH of New Jersey. Mr. Chairman, the United States has always been a beacon of hope and opportunity for generations of people who come to our shores searching for what cannot be found in any other nation on Earth. Few of us here are not the heirs of immigrant determination to make a better life for families and loved ones—or to seek a safe haven from repression. Some of our colleagues in the House are themselves living proof that this Nation continues to be enriched by the strong immigrant community which is our heritage.

However, Mr. Chairman, today the people of the United States are faced with a new challenge from which we cannot back away—the challenge of illegal immigration.

Illegal immigration has reached epidemic proportions in the United States. Each year our borders are flooded with many thousands of people who enter the United States undocumented, usually unskilled, often without the resources to provide for their own needs.

Mr. Chairman, it is currently estimated that there are between 2 and 4 million illegal immigrants in the United States, with about 300,000 added to that number each year. I want to emphasize that these are estimates—the numbers could be even larger than the estimates. According to a study by the Rand Institute, one-half of all illegal immigrants enter the United States by crossing the land border. Many use fraudulent documents to derive benefits from social programs, thus depriving U.S. citizens, legal residents, and refugees who deserve these benefits and robbing taxpayers of millions of dollars.

Twice this House has attempted to right this wrong. Twice President Clinton vetoed those attempts. Thousands of people each year blatantly disregard U.S. laws but are rewarded once they arrive here. This magnet of benefits draws people from all over the world who simply abuse the system with no intent on ever contributing. This is wrong. And once again we have the opportunity to address the issue. We must remain firm in our commitment to provide for those who are in need, to offer assistance to those who experience temporary setbacks. But we cannot simply be a well from which all may draw without ever giving back, or with no intention of ever leaving the well.

But the welfare problem is only one symptom of the illegal immigration epidemic. Jobs of U.S. citizens and legal residents are affected by the number of illegal immigrants willing to work longer hours for lower wages. Illegal immigrants reduce the employment opportunities of low-skilled workers, and even of skilled workers in areas where the economy is already weak and opportunities less plentiful. According to a New York Times article by Roger Waldinger, a professor of sociology at U.C.L.A., says that the African-American community suffers the most from jobs lost to illegal immigration. Legal immigrants are also hurt by the growing influx of illegal immigrants, their opportunities decreased and the hopes they brought with them dimmed or extinguished. Many of these U.S. citizens and legal immigrants are then forced into dependency on social programs, increasing the cost that illegal immigration imposes on the American public.

Not only does illegal immigration cost jobs, it also costs wages. Statistics show that low-skilled workers may experience as much as a 50 percent decline in real wages and that the growing number of illegal immigrants is leading to an increased wage gap between skilled and unskilled workers.

I have in my office stacks of reports from the Immigration and Naturalization Service, documenting hundreds of illegal immigrants who are employed here illegally. The jobs they hold are jobs that rightfully belong to U.S. citizens and lawful residents.

But there are more symptoms of this epidemic. U.S. prisons are overflowing with criminal aliens—and the vast majority of these are illegal immigrants. In addition to the stacks of reports from the INS which document the employment of illegal aliens, there are pages of reports on the growing number of illegal immigrants who are involved in criminal activity. Many of them enter our judicial and prison systems where, again, millions of dollars are spent on dealing with their criminal activities.

Those who enter the United States illegally and who continue to violate our laws—especially those who by violence add to the growing problem of violent crime and fear in this country—do not deserve to stay here. Like other violent criminals, they have complete disregard for the values that U.S. citizens and legal immigrants hold dear and strive for each day.

It is no secret that I support the plight of refugees who seek relief from oppression in their homelands. This empathy for people who love freedom is a basic tenet of our American tradition. But such empathy should not be confused with support for those—regardless of nationality—who would instill fear and terror on the law-abiding citizens of our Nation.

I should also make clear that I do not mean to imply that most immigrants—or even most illegal immigrants—come here to commit violent crimes. Many undocumented immigrants are driven by the same economic and social factors that cause all of us to want to improve our situations in life. But the United States is first and foremost a nation of laws, and we have a right to insist on obedience to the law.

Mr. Chairman, earlier I quoted the Rand Institute's figure that 50 percent of all illegal immigrants come to the U.S. by crossing our land border. We owe a word of support and commendation to the men and women who make up our border patrols and stave off hundreds of people who otherwise would have gotten into the United States without documentation. They place their lives on the line each day to protect the integrity of our borders. They are our first and best line of defense against illegal immigration. They are overworked and in need of more support. We must do everything we can to strengthen our border patrol and improve this first line of defense.

The elimination of any epidemic calls for strong and decisive measures. This epidemic of illegal immigration demands the same. Eliminate the benefits that illegal immigrants receive when they arrive. Enforce and strengthen the laws which prohibit the hiring of illegal immigrants. Protect U.S. jobs for U.S. workers, especially for those who are most harmed when their jobs are given to illegal immigrants. Deal swiftly and decisively with criminal aliens through expedited deportation proceedings. These measures are only a start to address this epidemic. But we must start somewhere.

Mr. DEFAZIO. Mr. Chairman, our national policy regarding immigration is overdue for change. We need to balance our proud history of diversity with the economic reality of high national unemployment and over-burdened social services. We must consider reforms that address the needs of U.S. citizens first and recognize the fiscal reality of Federal and State government.

Congress is now considering a major proposal to dramatically change our Nation's immigration policy. I support the goal of ending illegal immigration. But I also believe we must reduce the number of people legally immigrating to our Nation. We simply cannot hold the door open for every one of the world's dissatisfied citizens. Continued high immigration hurts our environment, it hurts our low wage workers and it is increasingly hurting higher skill and higher wage workers, as well. High levels of immigration may have been a boon to our Nation at one time. They have ceased to make any sense today.

Representative BERMAN has proposed an amendment to strike the legal immigration provisions of the bill. I'm concerned that if we eliminate the attempt in this bill to reform the Nation's legal immigration policy—as flawed as this bill's legal immigration reforms may be—the impetus for reform will die. I, therefore, cannot support his amendment.

I'll continue to work for tighter borders and responsible immigration control, and press for strong protection for our Nations work force.

Mr. FRANKS of New Jersey. Mr. Speaker, I rise in support of H.R. 2202, the Immigration in the National Interest Act. I want to bring to my colleagues' attention to one particular provision of this measure that will strengthen America's asylum laws.

America's asylum laws are intended to provide refuge for aliens whose lives or freedom are threatened on account of their race, religion, nationality, membership in a particular social group or political opinion. But our current asylum system is riddled with abuse. For example, 31 percent of aliens who apply for asylum never show up for the INS interview that is scheduled to evaluate the legitimacy of their asylum claim. In addition, thousands of aliens who are in the process of being deported claim political asylum at the very last opportunity, thereby triggering a lengthy process of hearings and appeals which further delay deportation.

Last August I introduced legislation, H.R. 2182, that would prohibit an alien from seeking asylum in the United States if the alien had first traveled through a country that offers political asylum. These countries are called countries of safe haven. My legislation sought to restore the integrity of our asylum laws by requiring asylum seekers to remain in the first country that would offer them safe haven in an effort to seek better economic opportunities in the United States would be prohibited from entering our country with certain exceptions.

I am pleased that the gentleman from Texas [Mr. SMITH] has adopted many elements of my legislation in H.R. 2202.

Mr. Speaker, H.R. 2202 closes the loopholes in our current system, restores the original intent of our asylum laws and maintains generous asylum policies for those fleeing persecution and oppression. I strongly support passage of this bill.

Mr. VENTO. Mr. Chairman I rise today in support of an amendment I drafted to address a fundamental problem being experienced by legal U.S. residents, the Hmong. This measure would expedite the naturalization of Hmong people who served in Special Guerrilla Forces assisting the U.S. military during the Vietnam War.

My amendment corrects a serious problem affecting Hmong people in the United States today who served alongside United States soldiers in Southeast Asia. It expedites the naturalization of aliens who served in these units in Laos and their spouses or widows by waiving the language requirement and the residency requirement aliens normally must meet. These two significant barriers to citizenship today affect the Hmong in a unique manner.

From 1960 to 1975 Hmong people of all ages fought and died alongside United States soldiers in units recruited, trained, and funded by the CIA. During the war, between 10,000 and 20,000 Hmong tragically were killed in combat and as the conflict resulted in a bitter conclusion, 100,000 Hmong had to flee to refugee camps to survive the persecution and retribution that surely would have followed. The Hmong stood loyally by the United States during the long bitter course of the Vietnam War, but because the Hmong did not serve in regular United States military units, they are not eligible for expedited naturalization as other uniformed U.S. veterans and others may be. The Vento amendment would remedy this problem and inequity.

Current law permits aliens or noncitizen nationals who served honorably during World War I, World War II, the Korean conflict, and the Vietnam war to be naturalized regardless of age, period of residence or physical presence in the United States. In other words, there is established precedent for modifying naturalization requirements for U.S. military service by non-U.S. citizens. In fact, Congress included provisions expediting the naturalization of World War II Filipino Scouts during consideration of the 1990 immigration bill. My amendment would continue our long tradition of recognizing the service of those who come to the aid of the United States in times of war. Ironically, most past conflicts did not preclude the nonnational United States service persons from returning to their homeland, so their plight, in most cases, is not as desperate as the Hmong involvement in a conflict with a difficult result.

The percentage of Hmong who served in the Special Guerrilla Hmong units who have achieved United States citizenship is very low in great part today because the Hmong have found passing the citizenship test difficult. By waiving the language requirement my amendment would lift the greatest obstacle the Hmong face in becoming American citizens. The late arrival of some Hmong who have often served 10 to 15 years in the Hmong unit and then have spent another 10 or even 20 years in Asian refugee camps should not now have a 5-year residency requirement, hence the Vento amendment waives this proviso.

I want to emphasize that my amendment does not open new immigration channels nor does it confer veteran's status on Hmong patriots. Those who served in the Special Guerrilla units will not be made eligible for veteran's benefits under my amendment.

As I mentioned earlier in my statement, Congress has included provisions for other nonnationals, the Filipino Scouts, in omnibus immigration legislation as recently as 1990. Given the heavy legislative agenda we face for the remainder of the 104th Congress, this will almost certainly be our best opportunity to consider this necessary but modest effort to recognize the service of the Hmong veterans who fought so bravely and sacrificed so much for America.

The practical impact is the citizenship and privilege to participate in our U.S. democracy—to have the right of preference in immigration and family reunification—a significant and humanitarian impact. But, in my mind's eye, of equal value is the United States Congress' and the United States Government's recognition and the honor we bestow on the Hmong patriots who lost so many lives in Southeast Asia and saved many American lives. I urge my colleagues to support this Vento amendment which honors the Hmong and their outstanding service to our Nation.

Mr. Chairman, I'm including some personal examples of Minnesota Hmong, some from my neighborhood and close to my deceased grandparents' home. These examples of the personal history, the biographies of Hmong soldiers' experiences in Southeast Asia underline the importance and significance of their lives and service. The Hmong may not pass the language tests but they know inherently the cost of freedom and the price they have paid means that they have passed the test in a more important and special way. The following monographs illustrate that implicitly.

Mr. COLEMAN. Mr. Speaker, I rise today in strong support of the Chabot-Conyers amendment to the Immigration Act of 1995 (H.R. 2202). What we have before us today is a bill that is discriminatory and ill-conceived.

This bill proposes to create a national data system that must be used by all employers to verify the identity and employment eligibility of every person hired in the United States. The bill would establish a massive and costly data retrieval system to access information from existing Government databases at the Social Security Administration and the INS.

This 1–800–BIG BROTHER system would compel employers to have each new hire approved by the Federal Government. This is a costly, intrusive, and ineffective measure.

To begin with, the system would rely on highly flawed Government data. The INS database slated for use in this system has missing or incorrect information 28 percent of the time, while the Social Security Administration has faulty data 17 percent of the time. In previous pilot projects run by the INS and SSA, over 50 percent of the people who the systems could not verify were, in fact, legally authorized workers.

With tens of millions of Americans entering the job market each year, even an almost impossible low 1 percent error rate could still cause thousands of Americans to be wrongly denied work each year. Consequently, millions of American workers are at risk because of seriously flawed Government data.

I am proud to represent El Paso, whose 650,000 citizens, residents, and children of immigrants have successfully integrated bilingualism and biculturalism into their education system, health care facilities, and economy. El Paso's population is 70 percent Hispanic. If passed, this bill will have a devastating effect on my district by entering Big Brother into their daily lives.

Imagine how this Big Brother system would affect the citizens of El Paso. Hundreds of thousands of El Pasoans could be at the mercy of this faulty system.

People whose appearance, accent or family background make them seem foreign will be screened out of jobs as employers attempt to avoid the inevitable problems which the verification process will cause. The verification system will also be easily susceptible to abuse by merchants and business people who use the worker registry as a powerful tool to harass, and privately check up on whoever they choose, for other purposes.

In wake of the Proposition 187, merchants in California began requesting immigration documents from Latino and Asian customers in restaurants and banks.

I believe the recent xenophobic rhetoric being used by some in the Republican Party is a thinly veiled attempt to blame national problems on newcomers or those who are of a different ethnicity than the majority. These efforts contribute to an atmosphere of hostility. I find it dangerous and counterproductive to start a process which would lead only to spiraling harassment and discrimination in the workplace.

Further, the system is imperfect and has massive loopholes. False documents with accurate numbers will enable undocumented workers to avoid detection and employers who knowingly hire undocumented workers under the table will continue to do so despite the system.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in opposition to H.R. 2202 as amended. Although I have long been, and will continue to be, a supporter of many of the initiatives contained in the bill to fight illegal immigration, I must vote against the bill because of some of the more extreme provisions.

In my home State of Texas, illegal immigration is indeed a problem, and I support the strong border protection provisions of the legislation. I also want to acknowledge the Texan cosponsors of the bill. Mr. SMITH and Mr. BRYANT, for their hard work in crafting this legislation.

I was most gratified that the House adopted an amendment which removed the legal immigration provisions of the bill, which allows this distinct issue to be dealt with under separate legislation. The Senate has already moved to divide the legal and illegal provisions, and I believe this is the wisest course for this House to follow.

For just a moment, I would like to comment about legal immigration. I remain a strong supporter of legal immigration, which has a positive benefit on America. Not only does legal immigration assist our country culturally, it also helps our economy. Legal immigrants to the United States pay $25 billion a year more in taxes than they receive in services. Usually, immigrants are of working age, which explains their benefit to the overall economy. The

United States admitted 7.5 million legal immigrants in the 1980's, yet in that decade the unemployment rate fell. Legal immigrants begin business in this country, which employ Americans. In sum, legal immigration is a tradition in America which improves our lives.

With respect to the provisions of H.R. 2202, I have objections to the bill, which I hope can be worked out in conference. The House adopted a provision which will give States the option to deny public education to illegal aliens. This provision, which will be challenged in court and is likely unconstitutional, is mean-spirited and does not advance the goals of the overall bill. These children that seek an education will now be turned away, while educators will be turned into Immigration and Naturalization Service workers, adding to their burden unnecessarily. And what will these children do? Does the House really expect something positive from turning children out of the school house and into the street? This is one reason I oppose the bill in its current form, and I hope this provision is deleted in conference.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. RIGGS) having assumed the chair, Mr. BONILLA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2202), to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, pursuant to House Resolution 384, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BRYANT OF TEXAS

Mr. BRYANT of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BRYANT of Texas. In its present form, I am, Mr. Speaker.

The SPEAKER pro temore. The Clerk will report the motion to recommit.

The Clerk read the motion, as follows:

Mr. BRYANT of Texas moves to recommit the bill, H.R. 2202, back to the Committee on the Judiciary with instructions to report the bill back forthwith with the following amendment:

Amend section 806 to read as follows:

SEC. 806. CHANGES RELATING TO H-1B NONIMMIGRANTS.

(a) ATTESTATIONS.—

(1) COMPENSATION LEVEL.—Section 212(n)(1)(A)(i) (8 U.S.C. 1182(n)(1)(A)(i)) is amended—

(A) in subclause (I), by inserting "100 percent of" before "the actual wage level",

(B) in subclause (II), by inserting "100 percent of" before "the prevailing wage level", and

(C) by adding at the end the following: "is offering and will offer during such period the same benefits and additional compensation provided to similarly-employed workers by the employer, and".

(2) DISPLACEMENT OF UNITED STATES WORKERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following new subparagraph:

"(E)(i) The employer—

"(I) has not, within the six-month period prior to the filing of the application, laid off or otherwise displaced any United States worker (as defined in clause (ii)), including any worker obtained by contract, employee leasing, temporary help agreement, or other similar basis, in the occupational classification which is the subject of the application and in which the nonimmigrant is intended to be (or is) employed; and

"(II) within 90 days following the application, and within 90 days before and after the filing of a petition for any H-1B worker pursuant to that application, will not lay off or otherwise displace any United States worker in the occupational classification which is the subject of the application and in which the nonimmigrant is intended to be (or is) employed.

"(ii) For purposes of this subparagraph, the term 'United States worker' means—

"(I) a citizen or national of the United States;

"(II) an alien lawfully admitted to the United States for permanent residence; and

"(III) an alien authorized to be so employed by this Act or by the Attorney General.

"(iii) For purposes of this subparagraph, the term 'laid off', with respect to an employee, means the employee's loss of employment, other than a discharge for cause or a voluntary departure or voluntary retirement.".

(3) RECRUITMENT OF UNITED STATES WORKERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by paragraph (2), is further amended by inserting after subparagraph (E) the following new subparagraph:

"(F) The employer, prior to filing the application, attempted unsuccessfully and in good faith to recruit a United States worker for the employment that will be done by the alien whose services are being sought, using recruitment procedures that meet industry-wide standards and offering wages that are at least—

"(i) 100 percent of the actual wage level paid by the employer to other individuals with similar experience and qualifications for the specific employment in question, or

"(ii) 100 percent of the prevailing wage level for individuals in such employment in the area of employment,

whichever is greater, based on the best information available as of the date of filing the application, and offering the same benefits and additional compensation provided to similarly-employed workers by the employer.".

(4) DEPENDENCE ON H-1B WORKERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by paragraphs (2) and (3), is further amended by inserting after subparagraph (F) the following new subparagraph:

"(G)(i) Whether the employer is dependent on H-1B workers, as defined in clause (ii) and in such regulations as the Secretary of Labor may develop and promulgate in accordance with this paragraph.

"(ii) For purposes of clause (i), an employer is 'dependent on H-1B workers' if the employer—

"(I) has fewer than 41 full-time equivalent employees who are employed in the United States and employs four or more nonimmigrants under section 101(a)(15)(H)(i)(b); or

"(II) has at least 41 full-time equivalent employees who are employed in the United States, and employs nonimmigrants described in section 101(a)(15)(H)(i)(b) in a number that is equal to at least ten percent of the number of such full-time equivalent employees.

"(iii) In applying this subparagraph, any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as a single employer under this subparagraph. Aliens with respect to whom the employer has filed such an application shall be treated as employees, and counted as nonimmigrants under section 101(a)(15)(H)(i)(b), under this paragraph.".

(5) JOB CONTRACTORS.—(A) Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by paragraphs (2) through (4), is further amended by inserting after subparagraph (G) the following new subparagraph:

"(H) In the case of an employer that is a job contractor (within the meaning of regulations promulgated by the Secretary of Labor to carry out this subsection), the contractor will not place any H-1B employee with another employer unless such other employer has executed an attestation that the employer is complying and will continue to comply with the requirements of this paragraph in the same manner as they apply to the job contractor.".

(B) Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended by adding at the end the following new subparagraph:

"(E) The provisions of this paragraph shall apply to complaints respecting a failure of another employer to comply with an attestation described in paragraph (1), that has been made as the result of the requirement imposed on job contractors under paragraph (1)(H), in the same manner that they apply to complaints of a petitioner with respect to a failure to comply with a condition described in paragraph (1) by employers generally.".

(b) SPECIAL RULES FOR EMPLOYERS DEPENDENT ON H-1B WORKERS.—Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following new paragraph:

"(3)(A) No alien may be admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) if the employer who is seeking the services of such alien has attested under paragraph (1)(G) that the employer is dependent on H–1B workers unless the following conditions are met:

"(i) The Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that the employer who is seeking the services of such alien is taking steps described in subparagraph (C) (including having taken the step described in subparagraph (D)).

"(ii) The alien has demonstrated to the satisfaction of the Secretary of State and the Attorney General that the alien has a residence abroad which he has no intention of abandoning.

"(B)(i) It is unlawful for a petitioning employer to require, as a condition of employment by such employer, or otherwise, that the fee described in subparagraph (A)(i), or any part of it, be paid directly or indirectly by the alien whose services are being sought.

"(ii) Any person or entity which is determined, after notice and opportunity for an administrative hearing, to have violated clause (i) shall be subject to a civil penalty of $5,000 for each violation, to an administrative order requiring the payment of the fee described in subparagraph (A)(i), and to disqualification for 1 year from petitioning under section 204 or 214(c).

"(iii) Any amount determined to have been paid, directly or indirectly, to the fund by the alien whose services were sought, shall be repaid from the fund or by the employer, as appropriate, to such alien.

"(C)(i) An employer who attests under paragraph (1)(G) to dependence on H–1B workers shall take timely, significant, and effective steps (including the step described in subparagraph (D)) to recruit and retain sufficient United States workers in order to remove as quickly as reasonably possible the dependence of the employer on H–1B workers.

"(ii) For purposes of clause (i), steps under clause (i) (in addition to the step described in subparagraph (D)) may include the following:

"(I) Operating a program of training existing employees who are United States workers in the skills needed by the employer, or financing (or otherwise providing for) such employees' participation in such a training program elsewhere.

"(II) Providing career development programs and other methods of facilitating United States workers in related fields to acquire the skills needed by the employer.

"(III) Paying to employees who are United States workers compensation that is equal in value to more than 105 percent of what is paid to persons similarly employed in the geographic area.

The steps described in this clause shall not be considered to be an exhaustive list of the significant steps that may be taken to meet the requirements of clause (i).

"(iii) The steps described in clause (i) shall not be considered effective if the employer has failed to decrease by at least 10 percent in each of two consecutive years the percentage of the employer's total number of employees in the specific employment in which the H–1B workers are employed which is represented by the number of H–1B workers.

"(iv) The Attorney General shall not approve petitions filed under section 204 or 214(c) with respect to an employer that has not, in the prior two years, complied with the requirements of this subparagraph (including subparagraph (D)).

"(D)(i) The step described in this subparagraph is payment of an amount consistent with clause (ii) by the petitioning employer into a private fund which is certified by the Secretary of Labor as dedicated to reducing the dependence of employers in the industry of which the petitioning employer is a part on new foreign workers and which expends amounts received under this subclause consistent with clause (iii).

"(ii) An amount is consistent with this clause if it is a percent of the value of the annual compensation (including wages, benefits, and all other compensation) to be paid to the alien whose services are being sought, equal to 5 percent in the first year, 7.5 percent in the second year, and 10 percent in the third year.

"(iii) Amounts are expended consistent with this clause if they are expended as follows:

"(I) One-half of the aggregate amounts are expended for awarding scholarships and fellowships to students at colleges and universities in the United States who are citizens or lawful permanent residents of the United States majoring in, or engaging in graduate study of, subjects of direct relevance to the employers in the same industry as the petitioning employer.

"(II) One-half of the aggregate amounts are expended for enabling United States workers in the United States to obtain training in occupations required by employers in the same industry as the petitioning employer.

(c) Increased Penalties for Misrepresentation.—Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended—

(1) in subparagraph (C) in the matter before clause (i), by striking "(1)(C) or (1)(D)" and inserting "(1)(C), (1)(D), (1)(E), or (1)(F) or to fulfill obligations imposed under subsection (b) for employers defined in subsection (a)(4)";

(2) in subparagraph (C)(i), by striking "$1,000" and inserting "$5,000";

(3) by amending subparagraph (C)(ii) to read as follows:

"(ii) the Attorney General shall not approve petitions filed with respect to that employer (or any employer who is a successor in interest) under section 204 or 214(c) for aliens to be employed by the employer—

"(I) during a period of at least 1 year in the case of the first determination of a violation or any subsequent determination of a violation occurring within 1 year of that first violation or any subsequent determination of a nonwillful violation occurring more than 1 year after the first violation;

"(II) during a period of at least 5 years in the case of a determination of a willful violation occurring more than 1 year after the first violation; and

"(III) at any time in the case of a determination of a willful violation occurring more than 5 years after a violation described in subclause (II)."; and

(3) in subparagraph (D), by adding at the end the following: "If a penalty under subparagraph (C) has been imposed in the case of a willful violation, the Secretary shall impose an additional civil monetary penalty on the employer in an amount equalling twice the amount of backpay.".

(d) Limitation on Period of Authorized Admission.—Section 214(g)(4) (8 U.S.C. 1184(g)(4)) is amended—

(1) by inserting "or section 101(a)(15)(H)(ii)(b)" after "section 101(a)(15)(H)(i)(b)"; and

(2) by striking "6 years" and inserting in lieu thereof "3 years".

(e) Requirement for Residence Abroad.—Section 101(a)(15)(H)(i)(b) (8 U.S.C. 1101(a)(15)(H)(i)(b)) is amended by inserting "who has a residence in a foreign country which he has no intention of abandoning," after "212(j)(2),".

(f) Effective Dates.—

(1) Except as provided in paragraph (2), the amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

(2) The amendments made by subsection (d) shall apply with respect to offenses occurring on or after the date of enactment of this Act.

Mr. BRYANT of Texas (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. Bryant] is recognized for 5 minutes in support of his motion to recommit.

Mr. BRYANT of Texas. Mr. Speaker, the motion to recommit incorporates an amendment which the Committee on Rules would not allow us to offer in the course of the debate on the immigration bill which would change the current law in a way that is beneficial and positive for American workers.

The current law allows people to enter this country on temporary work visas, up to 65,000 a year, and to be put to work in companies where often they take the jobs of American workers.

The fact of the matter is, that between 1992 and 1995 we had 234,000 foreign temporary workers enter the country and take the jobs of American workers. Mr. Speaker, the H–1B program that was created in 1990 was designed to alleviate some short-term needs with some temporary worker visas. It has now turned into a program in which companies have replaced, in some cases, entire departments with imported workers coming in on temporary visas, and they are allowed to stay as long as 6 years.

This motion to recommit would change that program, and would say that, U.S. workers can not be laid off and replaced with H–1B foreign workers, that the temporary visa will only be good for 3 years not 6. It would require that employers dependent on H–1B workers would have to take timely, significant, and effective steps to recruit and retain sufficient U.S. workers to remove that dependency.

It is an outrage that we have had situations in this country where companies have brought in large numbers of temporary H–1B workers. They have asked their domestic work force to train the imported workers. Then they have fired the domestic workers and put to work the newly trained foreign workers that were brought in under the H–1B program. It should not be permitted. This motion to recommit would forbid it forever in the future.

Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. Conyers.].

Mr. CONYERS. Mr. Speaker, first of all, I congratulate my colleague on the Committee on the Judiciary, the gentleman from Texas, [Mr. BRYANT], for an incredibly diligent job.

The motion here to recommit with the amendment may be the most important vote we may consider this year from the perspective of the American worker, because it puts before us the identical immigration reform bill, with just one exception, and here it is: that American companies should attempt to recruit American workers for skilled jobs before trying to recruit foreign workers for these jobs.

☐ 1945

That is what it is about, that is all it is about. The administration has produced a record of 8 million new jobs. Some of the Republican candidates, by contrast, or one in particular is still figuring out that jobs is a major issue with Americans. It translates here into the GOP leadership.

The Rules Committee blocked this amendment and so we are bringing it up now in a motion to recommit. Please support this motion to recommit whether you are a Republican or a Democrat.

Mr. BRYANT of Texas. I thank the gentleman for his comments.

Mr. Speaker, I would point out that under this motion to recommit employers who are dependent on H-1B orders would have to take effective steps to recruit and retain U.S. workers to remove that dependency, and that U.S. workers could not be laid off and replaced with H-1B workers.

Mr. Speaker, I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for yielding. I strongly support his amendment. This amendment should have been allowed in the rules. We should have been able to debate this on the floor.

I just want to take 15 seconds of my time to indicate that in this bill, which is coming up for final passage, is what I believe to be an unconstitutional and just horrible on public policy amendment with respect to children and public schools. I am going to support this bill because it is so much better than it was through this House. If this amendment does not come out in conference committee, I will oppose the bill on the floor when it comes back from conference with every ounce of my energy.

Mr. BRYANT of Texas. Mr. Speaker, I would simply conclude by saying that this motion to recommit would put into the immigration bill a provision that ensures that U.S. workers cannot be laid off and replaced with foreign temporary workers. Every Member of this House ought to vote in the interest of the American work force for the motion to recommit.

Mr. SMITH of Texas. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman from Texas is recognized for 5 minutes.

Mr. SMITH of Texas. Mr. Speaker, the gentleman from Texas [Mr. BRYANT] and I have been through a lot on a year-long journey to implement immigration reform legislation. I feel like we are a little like the two characters in Lonesome Dove, Woodrow and Gus. While we may sometimes disagree, I am not going to take any shots at my partner in this endeavor. Instead, I do want to tell my colleagues why this is such a good bill and why it puts the interest of American families, workers, and taxpayers first.

This legislation will reduce illegal immigration and reform legal immigration. It will help secure our borders, reduce crime, and protect jobs for American citizens. It will encourage legal immigrants to be productive members of our communities and ease the burden on the hardworking taxpayers.

For only the fourth time this century, Congress now considers comprehensive immigration reform. I thank my colleagues for their patience, for their interest, and for their support. I urge my colleagues to vote "no" on the motion to recommit and "yes" on final passage.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BRYANT of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the bill.

The vote was taken by electronic device, and there were—ayes 188, noes 231, not voting 12, as follows:

[Roll No. 88]

AYES—188

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clayton
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Ensign
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Miller (CA)
Minge
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Regula
Richardson
Rivers
Roemer
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stockman
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velázquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates
Zimmer

NOES—231

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Eshoo
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder

Livingston
Lofgren
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Ramstad
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—12

Clay
Collins (IL)
DeLay
Johnston
Moakley
Radanovich
Rose
Stark
Stokes
Studds
Waters
Wilson

□ 2005

The Clerk announced the following pair:

On this vote:

Mr. Stokes for, with Mr. Radanovich against.

Mr. STOCKMAN changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER (Mr. RIGGS). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 333, noes 87, not voting 12, as follows:

[Roll No. 89]

AYES—333

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Deutsch
Dickey
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kildee
Kim
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Ramstad
Reed
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—87

Abercrombie
Becerra
Beilenson
Bonior
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Campbell
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
de la Garza
Dellums
Diaz-Balart
Dicks
Dingell
Doggett
Engel
Evans
Fattah
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
King
LaFalce
Lewis (GA)
Lofgren
Markey
Martinez
Matsui
McDermott
McKinney
Meehan
Meek
Mink
Mollohan
Morella
Nadler
Neal
Oberstar
Olver
Ortiz
Owens
Pastor
Payne (NJ)
Pelosi
Rahall
Rangel
Richardson
Ros-Lehtinen
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Scott
Serrano
Skaggs
Thompson
Torres
Towns
Velazquez
Ward
Watt (NC)
Woolsey
Wynn
Yates

NOT VOTING—12

Clay
Collins (IL)
Dornan
Johnston
Moakley
Radanovich
Rose
Stark
Stokes
Studds
Waters
Wilson

□ 2013

The Clerk announced the following pair:

On this vote:

Mr. Radanovich for, with Mr. Stokes against.

Ms. ESHOO changed her vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DORNAN. Mr. Speaker, on rollcall number 89, the immigration bill, had I been present, I would have voted aye. This bill was so important to me and I worked so hard on it. I was on the Senate floor, and out of courtesy turned off my beeper. I thought it would be a 15-minute vote, not a 5-minute vote. That is a vigorous up, thumbs up, aye vote.

GENERAL LEAVE

Mr. INGLIS of South Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. HEFLEY). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2202, IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

Mr. INGLIS of South Carolina. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 2202, the Clerk be authorized to correct section numbers, cross-references, the table of contents, and punctuation, and to make such stylistic, clerical, technical, conforming, and other changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 125, GUN CRIME ENFORCEMENT AND SECOND AMENDMENT RESTORATION ACT OF 1996

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–490) on the resolution (H. Res. 388) providing for consideration of the bill (H.R. 125) to repeal the ban on semiautomatic assault weapons and the ban on large capacity ammunition feeding devices, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON S. 4, LINE ITEM VETO ACT

Mr. CLINGER submitted the following conference report and statement on the Senate bill (S. 4) to grant the power to the President to reduce budget authority:

CONFERENCE REPORT (H. REPT. 104–491)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4), to grant the power to the President to reduce budget authority, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Line Item Veto Act".

SEC. 2. LINE ITEM VETO AUTHORITY.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) is amended by adding at the end the following new part:

"PART C—LINE ITEM VETO

"LINE ITEM VETO AUTHORITY

"SEC. 1021. (a) IN GENERAL.—Notwithstanding the provisions of parts A and B, and subject to the provisions of this part, the President may, with respect to any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States, cancel in whole—

"(1) any dollar amount of discretionary budget authority;

"(2) any item of new direct spending; or

"(3) any limited tax benefit;

if the President—

"(A) determines that such cancellation will—

"(i) reduce the Federal budget deficit;

"(ii) not impair any essential Government functions; and

"(iii) not harm the national interest; and

"(B) notifies the Congress of such cancellation by transmitting a special message, in accordance with section 1022, within five calendar days (excluding Sundays) after the enactment of the law providing the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit that was canceled.

"(b) IDENTIFICATION OF CANCELLATIONS.—In identifying dollar amounts of discretionary budget authority, items of new direct spending, and limited tax benefits for cancellation, the President shall—

"(1) consider the legislative history, construction, and purposes of the law which contains such dollar amounts, items, or benefits;

"(2) consider any specific sources of information referenced in such law or, in the absence of specific sources of information, the best available information; and

"(3) use the definitions contained in section 1026 in applying this part to the specific provisions of such law.

"(c) EXCEPTION FOR DISAPPROVAL BILLS.—The authority granted by subsection (a) shall not apply to any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit contained in any law that is a disapproval bill as defined in section 1026.

"SPECIAL MESSAGES

"SEC. 1022. (a) IN GENERAL.—For each law from which a cancellation has been made under this part, the President shall transmit a single special message to the Congress.

"(b) CONTENTS.—

"(1) The special message shall specify—

"(A) the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit which has been canceled, and provide a corresponding reference number for each cancellation;

"(B) the determinations required under section 1021(a), together with any supporting material;

"(C) the reasons for the cancellation;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the cancellation;

"(E) all facts, circumstances and considerations relating to or bearing upon the cancellation, and to the maximum extent practicable, the estimated effect of the cancellation upon the objects, purposes and programs for which the canceled authority was provided; and

"(F) include the adjustments that will be made pursuant to section 1024 to the discretionary spending limits under section 601 and an evaluation of the effects of those adjustments upon the sequestration procedures of section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(2) In the case of a cancellation of any dollar amount of discretionary budget authority or item of new direct spending, the special message shall also include, if applicable-

"(A) any account, department, or establishment of the Government for which such budget authority was to have been available for obligation and the specific project or governmental functions involved;

"(B) the specific States and congressional districts, if any, affected by the cancellation; and

"(C) the total number of cancellations imposed during the current session of Congress on States and congressional districts identified in subparagraph (B).

"(c) TRANSMISSION OF SPECIAL MESSAGES TO HOUSE AND SENATE.—

"(1) The President shall transmit to the Congress each special message under this part within five calendar days (excluding Sundays) after enactment of the law to which the cancellation applies. Each special message shall be transmitted to the House of Representatives and the Senate on the same calendar day. Such special message shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session.

"(2) Any special message transmitted under this part shall be printed in the first issue of the Federal Register published after such transmittal.

"CANCELLATION EFFECTIVE UNLESS DISAPPROVED

"SEC. 1023. (a) IN GENERAL.—The cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect upon receipt in the House of Representatives and the Senate of the special message notifying the Congress of the cancellation. If a disapproval bill for such special message is enacted into law, then all cancellations disapproved in that law shall be null and void and any such dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall be effective as of the original date provided in the law to which the cancellation applied.

"(b) COMMENSURATE REDUCTIONS IN DISCRETIONARY BUDGET AUTHORITY.—Upon the cancellation of a dollar amount of discretionary budget authority under subsection (a), the total appropriation for each relevant account of which that dollar amount is a part shall be simultaneously reduced by the dollar amount of that cancellation.

"DEFICIT REDUCTION

"SEC. 1024. (a) IN GENERAL.—

"(1) DISCRETIONARY BUDGET AUTHORITY.—OMB shall, for each dollar amount of discretionary budget authority and for each item of new direct spending canceled from an appropriation law under section 1021(a)—

"(A) reflect the reduction that results from such cancellation in the estimates required by section 251(a)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 in accordance with that Act, including an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear; and

"(B) include a reduction to the discretionary spending limits for budget authority and outlays in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985 for each applicable fiscal year set forth in section 601(a)(2) by amounts equal to the amounts for each fiscal year estimated pursuant to subparagraph (A).

"(2) DIRECT SPENDING AND LIMITED TAX BENEFITS.—(A) OMB shall, for each item of new direct spending or limited tax benefit canceled from a law under section 1021(a), estimate the deficit decrease caused by the cancellation of such item or benefit in that law and include such estimate as a separate entry in the report prepared pursuant to section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(B) OMB shall not include any change in the deficit resulting from a cancellation of any item of new direct spending or limited tax benefit, or the enactment of a disapproval bill for any such cancellation, under this part in the estimates and reports required by sections 252(b) and 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(b) ADJUSTMENTS TO SPENDING LIMITS.—After ten calendar days (excluding Sundays) after the expiration of the time period in section 1025(b)(1) for expedited congressional consideration of a disapproval bill for a special message containing a cancellation of discretionary budget authority, OMB shall make the reduction included in subsection (a)(1)(B) as part of the next

sequester report required by section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(c) EXCEPTION.—Subsection (b) shall not apply to a cancellation if a disapproval bill or other law that disapproves that cancellation is enacted into law prior to 10 calendar days (excluding Sundays) after the expiration of the time period set forth in section 1025(b)(1).

"(d) CONGRESSIONAL BUDGET OFFICE ESTIMATES.—As soon as practicable after the President makes a cancellation from a law under section 1021(a), the Director of the Congressional Budget Office shall provide the Committees on the Budget of the House of Representatives and the Senate with an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear.

"EXPEDITED CONGRESSIONAL CONSIDERATION OF DISAPPROVAL BILLS

"SEC. 1025. (a) RECEIPT AND REFERRAL OF SPECIAL MESSAGE.—Each special message transmitted under this part shall be referred to the Committee on the Budget and the appropriate committee or committees of the Senate and the Committee on the Budget and the appropriate committee or committees of the House of Representatives. Each such message shall be printed as a document of the House of Representatives.

"(b) TIME PERIOD FOR EXPEDITED PROCEDURES.—

"(1) There shall be a congressional review period of 30 calendar days of session, beginning on the first calendar day of session after the date on which the special message is received in the House of Representatives and the Senate, during which the procedures contained in this section shall apply to both Houses of Congress.

"(2) In the House of Representatives the procedures set forth in this section shall not apply after the end of the period described in paragraph (1).

"(3) If Congress adjourns at the end of a Congress prior to the expiration of the period described in paragraph (1) and a disapproval bill was then pending in either House of Congress or a committee thereof (including a conference committee of the two Houses of Congress), or was pending before the President, a disapproval bill for the same special message may be introduced within the first five calendar days of session of the next Congress and shall be treated as a disapproval bill under this part, and the time period described in paragraph (1) shall commence on the day of introduction of that disapproval bill.

"(c) INTRODUCTION OF DISAPPROVAL BILLS.—(1) In order for a disapproval bill to be considered under the procedures set forth in this section, the bill must meet the definition of a disapproval bill and must be introduced no later than the fifth calendar day of session following the beginning of the period described in subsection (b)(1).

"(2) In the case of a disapproval bill introduced in the House of Representatives, such bill shall include in the first blank space referred to in section 1026(6)(C) a list of the reference numbers for all cancellations made by the President in the special message to which such disapproval bill relates.

"(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—(1) Any committee of the House of Representatives to which a disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the seventh calendar day of session after the date of its introduction. If any committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill, except that such a motion may not be made after the committee has reported a disapproval bill with respect to the same special message. A motion to discharge may be made only by a Member favoring the bill (but only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

"(2) After a disapproval bill is reported or a committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. If reported and the report has been available for at least one calendar day, all points of order against the bill and against consideration of the bill are waived. If discharged, all points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed, shall be confined to the bill, and shall not exceed one hour equally divided and controlled by a proponent and an opponent of the bill. The bill shall be considered as read for amendment under the five-minute rule. Only one motion to rise shall be in order, except if offered by the manager. No amendment to the bill is in order, except any Member if supported by 49 other Members (a quorum being present) may offer an amendment striking the reference number or numbers of a cancellation or cancellations from the bill. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

"(3) Appeals from decisions of the Chair regarding application of the rules of the House of Representatives to the procedure relating to a disapproval bill shall be decided without debate.

"(4) It shall not be in order to consider under this subsection more than one disapproval bill for the same special message except for consideration of a similar Senate bill (unless the House has already rejected a disapproval bill for the same special message) or more than one motion to discharge described in paragraph (1) with respect to a disapproval bill for that special message.

"(e) CONSIDERATION IN THE SENATE.—

"(1) REFERRAL AND REPORTING.—Any disapproval bill introduced in the Senate shall be referred to the appropriate committee or committees. A committee to which a disapproval bill has been referred shall report the bill not later than the seventh day of session following the date of introduction of that bill. If any committee fails to report the bill within that period, that committee shall be automatically discharged from further consideration of the bill and the bill shall be placed on the Calendar.

"(2) DISAPPROVAL BILL FROM HOUSE.—When the Senate receives from the House of Representatives a disapproval bill, such bill shall not be referred to committee and shall be placed on the Calendar.

"(3) CONSIDERATION OF SINGLE DISAPPROVAL BILL.—After the Senate has proceeded to the consideration of a disapproval bill for a special message, then no other disapproval bill originating in that same House relating to that same message shall be subject to the procedures set forth in this subsection.

"(4) AMENDMENTS.—

"(A) AMENDMENTS IN ORDER.—The only amendments in order to a disapproval bill are—

"(i) an amendment that strikes the reference number of a cancellation from the disapproval bill; and

"(ii) an amendment that only inserts the reference number of a cancellation included in the special message to which the disapproval bill relates that is not already contained in such bill.

"(B) WAIVER OR APPEAL.—An affirmative vote of three-fifths of the Senators, duly chosen and sworn, shall be required in the Senate—

"(i) to waive or suspend this paragraph; or

"(ii) to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

"(5) MOTION NONDEBATABLE.—A motion to proceed to consideration of a disapproval bill under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

"(6) LIMIT ON CONSIDERATION.— (A) After no more than 10 hours of consideration of a disapproval bill, the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or to table.

"(B) A single motion to extend the time for consideration under subparagraph (A) for no more than an additional five hours is in order prior to the expiration of such time and shall be decided without debate.

"(C) The time for debate on the disapproval bill shall be equally divided between the Majority Leader and the Minority Leader or their designees.

"(7) DEBATE ON AMENDMENTS.—Debate on any amendment to a disapproval bill shall be limited to one hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.

"(8) NO MOTION TO RECOMMIT.—A motion to recommit a disapproval bill shall not be in order.

"(9) DISPOSITION OF SENATE DISAPPROVAL BILL.—If the Senate has read for the third time a disapproval bill that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of a disapproval bill for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate disapproval bill, agree to the Senate amendment, and vote on final disposition of the House disapproval bill, all without any intervening action or debate.

"(10) CONSIDERATION OF HOUSE MESSAGE.—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on a disapproval bill shall be limited to not more than four hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the

House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

"(f) CONSIDERATION IN CONFERENCE—

"(1) CONVENING OF CONFERENCE.—In the case of disagreement between the two Houses of Congress with respect to a disapproval bill passed by both Houses, conferees should be promptly appointed and a conference promptly convened, if necessary.

"(2) HOUSE CONSIDERATION.—(A) Notwithstanding any other rule of the House of Representatives, it shall be in order to consider the report of a committee of conference relating to a disapproval bill provided such report has been available for one calendar day (excluding Saturdays, Sundays, or legal holidays, unless the House is in session on such a day) and the accompanying statement shall have been filed in the House.

"(B) Debate in the House of Representatives on the conference report and any amendments in disagreement on any disapproval bill shall each be limited to not more than one hour equally divided and controlled by a proponent and an opponent. A motion to further limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(3) SENATE CONSIDERATION.—Consideration in the Senate of the conference report and any amendments in disagreement on a disapproval bill shall be limited to not more than four hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

"(4) LIMITS ON SCOPE.—(A) When a disagreement to an amendment in the nature of a substitute has been referred to a conference, the conferees shall report those cancellations that were included in both the bill and the amendment, and may report a cancellation included in either the bill or the amendment, but shall not include any other matter.

"(B) When a disagreement on an amendment or amendments of one House to the disapproval bill of the other House has been referred to a committee of conference, the conferees shall report those cancellations upon which both Houses agree and may report any or all of those cancellations upon which there is disagreement, but shall not include any other matter.

"DEFINITIONS

"SEC. 1026. As used in this part:

"(1) APPROPRIATION LAW.—The term 'appropriation law' means an Act referred to in section 105 of title 1, United States Code, including any general or special appropriation Act, or any Act making supplemental, deficiency, or continuing appropriations, that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States.

"(2) CALENDAR DAY.—The term 'calendar day' means a standard 24-hour period beginning at midnight.

"(3) CALENDAR DAYS OF SESSION.—The term 'calendar days of session' shall mean only those days on which both Houses of Congress are in session.

"(4) CANCEL.—The term 'cancel' or 'cancellation' means—

"(A) with respect to any dollar amount of discretionary budget authority, to rescind;

"(B) with respect to any item of new direct spending—

"(i) that is budget authority provided by law (other than an appropriation law), to prevent such budget authority from having legal force or effect;

"(ii) that is entitlement authority, to prevent the specific legal obligation of the United States from having legal force or effect; or

"(iii) through the food stamp program, to prevent the specific provision of law that results in an increase in budget authority or outlays for that program from having legal force or effect; and

"(C) with respect to a limited tax benefit, to prevent the specific provision of law that provides such benefit from having legal force or effect.

"(5) DIRECT SPENDING.—The term 'direct spending' means—

"(A) budget authority provided by law (other than an appropriation law);

"(B) entitlement authority; and

"(C) the food stamp program.

"(6) DISAPPROVAL BILL.—The term 'disapproval bill' means a bill or joint resolution which only disapproves one or more cancellations of dollar amounts of discretionary budget authority, items of new direct spending, or limited tax benefits in a special message transmitted by the President under this part and—

"(A) the title of which is as follows: 'A bill disapproving the cancellations transmitted by the President on ______', the blank space being filled in with the date of transmission of the relevant special message and the public law number to which the message relates;

"(B) which does not have a preamble; and

"(C) which provides only the following after the enacting clause: 'That Congress disapproves of cancellations ______', the blank space being filled in with a list by reference number of one or more cancellations contained in the President's special message, 'as transmitted by the President in a special message on ______', the blank space being filled in with the appropriate date, 'regarding ______.', the blank space being filled in with the public law number to which the special message relates.

"(7) DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY.—(A) Except as provided in subparagraph (B), the term 'dollar amount of discretionary budget authority' means the entire dollar amount of budget authority—

"(i) specified in an appropriation law, or the entire dollar amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included;

"(ii) represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law;

"(iii) required to be allocated for a specific program, project, or activity in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law;

"(iv) represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law; and

"(v) represented by the product of the estimated procurement cost and the total quantity of items required to be provided in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law.

"(B) The term 'dollar amount of discretionary budget authority' does not include—

"(i) direct spending;

"(ii) budget authority in an appropriation law which funds direct spending provided for in other law;

"(iii) any existing budget authority rescinded or canceled in an appropriation law; or

"(iv) any restriction, condition, or limitation in an appropriation law or the accompanying statement of managers or committee reports on the expenditure of budget authority for an account, program, project, or activity, or on activities involving such expenditure.

"(8) ITEM OF NEW DIRECT SPENDING.—The term 'item of new direct spending' means any specific provision of law that is estimated to result in an increase in budget authority or outlays for direct spending relative to the most recent levels calculated pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(9) LIMITED TAX BENEFIT.—(A) The term 'limited tax benefit' means—

"(i) any revenue-losing provision which provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries under the Internal Revenue Code of 1986 in any fiscal year for which the provision is in effect; and

"(ii) any Federal tax provision which provides temporary or permanent transitional relief for 10 or fewer beneficiaries in any fiscal year from a change to the Internal Revenue Code of 1986.

"(B) A provision shall not be treated as described in subparagraph (A)(i) if the effect of that provision is that—

"(i) all persons in the same industry or engaged in the same type of activity receive the same treatment;

"(ii) all persons owning the same type of property, or issuing the same type of investment, receive the same treatment; or

"(iii) any difference in the treatment of persons is based solely on—

"(I) in the case of businesses and associations, the size or form of the business or association involved;

"(II) in the case of individuals, general demographic conditions, such as income, marital status, number of dependents, or tax return filing status;

"(III) the amount involved; or

"(IV) a generally-available election under the Internal Revenue Code of 1986.

"(C) A provision shall not be treated as described in subparagraph (A)(ii) if—

"(i) it provides for the retention of prior law with respect to all binding contracts or other legally enforceable obligations in existence on a date contemporaneous with congressional action specifying such date; or

"(ii) it is a technical correction to previously enacted legislation that is estimated to have no revenue effect.

"(D) For purposes of subparagraph (A)—

"(i) all businesses and associations which are related within the meaning of sections 707(b) and 1563(a) of the Internal Revenue Code of 1986 shall be treated as a single beneficiary;

"(ii) all qualified plans of an employer shall be treated as a single beneficiary;

"(iii) all holders of the same bond issue shall be treated as a single beneficiary; and

"(iv) if a corporation, partnership, association, trust or estate is the beneficiary of a provision, the shareholders of the corporation, the partners of the partnership, the members of the association, or the beneficiaries of the trust or estate shall not also be treated as beneficiaries of such provision.

"(E) For purposes of this paragraph, the term 'revenue-losing provision' means any provision which results in a reduction in Federal tax revenues for any one of the two following periods—

"(i) the first fiscal year for which the provision is effective; or

"(ii) the period of the 5 fiscal years beginning with the first fiscal year for which the provision is effective.

"(F) The terms used in this paragraph shall have the same meaning as those terms have generally in the Internal Revenue Code of 1986, unless otherwise expressly provided.

"(10) OMB.—The term 'OMB' means the Director of the Office of Management and Budget.

"IDENTIFICATION OF LIMITED TAX BENEFITS

"SEC. 1027. (a) STATEMENT BY JOINT TAX COMMITTEE.—The Joint Committee on Taxation shall review any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 that is being prepared for filing by a committee of conference of the two Houses, and shall identify whether such bill or joint resolution contains any limited tax benefits. The Joint Committee on Taxation shall provide to the committee of conference a statement identifying any such limited tax benefits or declaring that the bill or joint resolution does not contain any limited tax benefits. Any such statement shall be made available to any Member of Congress by the Joint Committee on Taxation immediately upon request.

"(b) STATEMENT INCLUDED IN LEGISLATION.—(1) Notwithstanding any other rule of the House of Representatives or any rule or precedent of the Senate, any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 reported by a committee of conference of the two Houses may include, as a separate section of such bill or joint resolution, the information contained in the statement of the Joint Committee on Taxation, but only in the manner set forth in paragraph (2).

"(2) The separate section permitted under paragraph (1) shall read as follows: 'Section 1021(a)(3) of the Congressional Budget and Impoundment Control Act of 1974 shall ______ apply to ______.', with the blank spaces being filled in with—

"(A) in any case in which the Joint Committee on Taxation identifies limited tax benefits in the statement required under subsection (a), the word 'only' in the first blank space and a list of all of the specific provisions of the bill or joint resolution identified by the Joint Committee on Taxation in such statement in the second blank space; or

"(B) in any case in which the Joint Committee on Taxation declares that there are no limited tax benefits in the statement required under subsection (a), the word 'not' in the first blank space and the phrase 'any provision of this Act' in the second blank space.

"(c) PRESIDENT'S AUTHORITY.—If any revenue or reconciliation bill or joint resolution is signed into law pursuant to Article I, section 7, of the Constitution of the United States—

"(1) with a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) only to cancel any limited tax benefit in that law, if any, identified in such separate section; or

"(2) without a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) to cancel any limited tax benefit in that law that meets the definition in section 1026.

"(d) CONGRESSIONAL IDENTIFICATIONS OF LIMITED TAX BENEFITS.—There shall be no judicial review of the congressional identification under subsections (a) and (b) of a limited tax benefit in a conference report.".

SEC. 3. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress or any individual adversely affected by part C of title X of the Congressional Budget and Impoundment Control Act of 1974 may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this part violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered; and the jurisdictional statement shall be filed within 30 calendar days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

SEC. 4. CONFORMING AMENDMENTS.

(a) SHORT TITLES.—Section 1(a) of the Congressional Budget and Impoundment Control Act of 1974 is amended by—

(1) striking "and" before "title X" and inserting a period;

(2) inserting "Parts A and B of" before "title X"; and

(3) inserting at the end the following new sentence: "Part C of title X may be cited as the 'Line Item Veto Act of 1996'.".

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end the following:

"PART C—LINE ITEM VETO

"Sec. 1021. Line item veto authority.
"Sec. 1022. Special messages.
"Sec. 1023. Cancellation effective unless disapproved.
"Sec. 1024. Deficit reduction.
"Sec. 1025. Expedited congressional consideration of disapproval bills.
"Sec. 1026. Definitions.
"Sec. 1027. Identification of limited tax benefits.".

(c) EXERCISE OF RULEMAKING POWERS.—Section 904(a) of the Congressional Budget Act of 1974 is amended by striking "and 1017" and inserting ", 1017, 1025, and 1027".

SEC. 5. EFFECTIVE DATES.

This Act and the amendments made by it shall take effect and apply to measures enacted on the earlier of—

(1) the day after the enactment into law, pursuant to Article I, section 7, of the Constitution of the United States, of an Act entitled "An Act to provide for a seven-year plan for deficit reduction and achieve a balanced Federal budget."; or

(2) January 1, 1997;

and shall have no force or effect on or after January 1, 2005.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the title of the bill, insert the following: "An Act to give the President line item veto authority with respect to appropriations, new direct spending, and limited tax benefits.".

And the House agree to the same.

BILL CLINGER,
GERALD SOLOMON,
JIM BUNNING,
PORTER GOSS,
PETER BLUTE,
Managers on the Part of the House.

TED STEVENS,
BILL ROTH,
FRED THOMPSON,
THAD COCHRAN,
JOHN MCCAIN,
PETE V. DOMENICI,
CHUCK GRASSLEY,
DON NICKLES,
PHIL GRAMM,
DAN COATS,
JIM EXON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4) to grant the power to the President to reduce budget authority, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

BACKGROUND AND NEED FOR THE LEGISLATION

The American people consistently cite runaway federal spending and a rising national debt as among the top issues of national concern. Over the past fifteen years alone, the national debt of the United States has quintupled. From 1789 through 1981, our total national debt amounted to $1 trillion. Yet today, just fifteen years later, that debt exceeds $5 trillion, and without significant reforms an additional $1 trillion will be added over the next four years. This astonishing growth in federal debt has fueled public support for measures to ensure greater fiscal accountability in Washington. This legislation, along with other measures to balance the federal budget considered in the 104th Congress, moves to meet that demand by enhancing the President's ability to eliminate wasteful federal spending and to cancel special tax breaks.

No one would contend that a line item veto on its own will be enough to restrain spending and bring the federal budget into balance. However, a January 1992 GAO report indicates that this type of fiscal discipline could have a significant impact upon federal spending, concluding that if Presidents had applied this authority to all matters objected to in Statements of Administration Policy on spending bills in the fiscal years 1984 through 1989, spending could have been reduced by a six-year total of about $70 billion.

The conference report on S.4, the Line Item Veto Act, delegates limited authority to the President to cancel new spending and limited tax benefits. This authority is in addition to the President's existing authority under the Impoundment Control Act of 1974 (title X of the Congressional Budget Act). The Impoundment Control Act permits the President to submit proposed rescissions of discretionary budget authority to Congress, but prohibits those rescissions from taking effect without congressional approval. In addition to applying solely to appropriation laws, the statutory provisions of the Impoundment Control Act have proven too restrictive. While Congress has initiated and passed rescissions on its own, Congress has agreed to only $23.7 billion of $74 billion in rescissions proposed by Presidents (both Democrat and Republican) since enactment of title X in 1974.

PURPOSE

The purpose of the conference report is to promote savings by placing the onus on Congress to overturn the President's cancellations of spending and limited tax benefits. In addition, recognizing that discretionary spending represents only about one-third of the entire federal budget, the conference report expands the President's current rescission authority to include both new direct spending and limited tax benefits.

Under the conference report, the President may cancel any dollar amount of discretionary budget authority in an appropriation law or its accompanying reports, or may cancel any item of new direct spending or limited tax benefit from an authorization or revenue act. After notifying Congress of his cancellations in a special message, the Congress is given a specified period for expedited review of the President's proposal.

If Congress fails to enact disapproving legislation within the period for expedited consideration, the savings are set aside for deficit reduction through a lockbox mechanism.

SUMMARY OF THE SENATE BILL

The Senate bill was introduced by Senator Dole on Wednesday, January 4, 1995. On March 20, 1995, the Senate began consideration. During consideration in the Senate, Senator Dole (for himself, and Senators McCain, Coats and Domenici) offered an amendment in the form of a substitute.

The Senate bill gives the President line item veto authority by dis-aggregating certain types of bills under a procedure known as "separate enrollment." Separate enrollment requires that the enrolling clerks of the House and Senate separately enroll each item of spending in an appropriation bill and each item of new direct spending or any targeted tax benefit contained in an authorizing bill. Each of these individual bills is presented to the President. The President may exercise his Article I power to veto any one, or all, of the individual bills. The Congress may exercise its Constitutional prerogative to override the President's veto(es).

According to the Senate bill, the House and Senate Appropriations Committees report appropriation measures following current procedure except that any appropriation bill reported by the Committee must contain the same level of detail as is provided in the Committee report that accompanies the bill. This requirement ensures that appropriation bills do not contain large dollar lump sums with the details directing how the money should be expended noted only in the committee report.

An authorization bill that contains an item of new direct spending or a targeted tax benefit that is brought to the floor must contain such provision in a separate section and must identify the item of new direct spending or the targeted tax benefit in the report that accompanies the bill.

Any appropriation or authorization bill that fails to comply with the above requirements is subject to a point of order that may only be waived by a three-fifths vote of the House or Senate.

Upon passage of an appropriation or authorization bill, the enrolling clerk of the originating House is required to enroll each item contained in the legislation separately. After all the items are enrolled as separate bills, both the House and Senate vote on all the bills en bloc prior to their submittal to the President.

The provisions of the bill become effective on the date of enactment and sunset in five years.

As defined in the bill, an item in an appropriation bill is:

(1) any numbered section;

(2) any unnumbered paragraph; or

(3) any allocation or suballocation contained in a numbered section or an unnumbered paragraph made to conform to the level of detail in the accompanying report.

The following items are not required to be separately enrolled:

(1) provisions that do not appropriate funds;

(2) provisions that do not direct the expenditures of funds for a specific project; and

(3) provisions that create an express or implied obligation to expend funds and

(a) rescind budget authority;

(b) limit, condition or otherwise restrict the expenditure of budget authority; or

(c) place a condition on the expenditure of budget authority by explicitly prohibiting the use of the funds.

By not separately enrolling the items just noted, language that places restrictions or conditions on the expenditure of funds, also known as fencing language, may not be separately vetoed apart from some dollar amount.

An item in an authorization bill is (1) any numbered section, or (2) any unnumbered paragraph that provides new direct spending or a new targeted tax benefit.

A targeted tax benefit is any provision that (1) the Joint Committee on Taxation estimates would lose revenue in the first fiscal year and over the five fiscal years covered by the budget resolution, and (2) provides more favorable treatment to a taxpayer or a targeted group of taxpayers when compared to a similarly situation taxpayer or group of taxpayers.

The Senate bill contains a "lockbox" provision, a prohibition on emergency spending bills containing non-emergency spending items, and a sunset of all tax provisions at least every 10 years.

Finally, the Senate bill contains provisions allowing a Member of Congress to challenge the constitutionality of the bill under expedited procedures and a severability clause stating that if any one provision of the Act is found to be unconstitutional, the remainder of the Act will be held harmless.

SUMMARY OF THE HOUSE AMENDMENT

The House amendment is based on the "enhanced rescission" format. It authorizes the President to rescind all or part of any discretionary budget authority or veto any targeted tax benefit if the President determines that such rescission; (1) will help reduce the federal budget deficit; (2) will not impair any essential government functions; and (3) will not harm the national interest.

The amendment requires the President to notify the Congress of such a rescission or veto by special message within 10 days (excluding Sundays) after enactment of an appropriation Act providing such budget authority or a revenue or reconciliation Act containing a targeted tax benefit.

The amendment allows the President in each special message to propose to reduce the appropriate discretionary spending limit by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message. It also requires the President to submit a separate special message for each appropriation Act and for each revenue or reconciliation Act. The President may only transmit one special message for each Act.

The House amendment makes such a rescission effective unless the Congress enacts a disapproval bill. Any budget authority rescinded is no longer available for obligation and a tax benefit is not effective unless the Congress passes a disapproval bill within 20 days, and assuming a veto, overrides that veto within 5 days.

The House amendment provides special procedures for consideration of a rescission disapproval bill in each House.

Upon receipt of the President's special message, if a disapproval bill is introduced, it is referred to the appropriate committee. The specific form of a disapproval bill is noted in the House amendment, and such disapproval bill must be introduced within 3 days in order to qualify for the special procedures in the House. The Senate committee is not required to report the bill and there is no provision mandating discharge.

The House committee to which the bill is referred shall report it without amendment, and with or without recommendation, no later than the eighth calendar day of session after the date of its introduction. If the Committee fails to report the bill, it is in order to move that the House discharge the bill from committee.

After a bill is discharged from Committee, it is in order to move that the House move to consideration of the bill. All points of order against the bill and its consideration are waived and the motion is highly privileged. Motions to reconsider the vote by which the motion is agreed to or disagreed to are not in order.

Consideration of the bill is limited to two hours equally divided between proponents and opponents of the bill. Amendments to the bill are not in order, except that a Member may make a motion to strike the disapproval of any rescission(s) of budget authority if such a motion is supported by at least 49 other Members. Motions to reconsider the vote on the disapproval bill are not in order. It is only in order in the House to consider one disapproval bill with respect to any specific Presidential rescission message.

If a rescission disapproval bill is considered by the Senate, debate is limited to 10 hours to be divided equally and controlled by the Majority and Minority leaders. Debate on any motions or appeals in connection with the bill are limited to one hour each, divided equally. Motions to further limit debate are not debatable. A motion to recommit is not in order unless such motion is to recommit the bill with instructions that it be reported back within one day.

Further, the House amendment mandates that it is not in order in the Senate to consider any rescission disapproval bill relating to any matter other than the items noted in the President's special message. Amendments to a rescission disapproval bill are not in order. The provisions noted in this paragraph may only be waived by an affirmative vote of three-fifths of the Senate.

The House amendment provides for annual General Accounting Office (GAO) reports on Presidential use of the line item veto authority. It also specifically prohibits the President from using the authority under the Act to change prohibitions or limitations (fencing language) in an appropriation Act.

The bill generally defines a targeted tax benefit as a provision in a revenue or reconciliation Act that provides a tax deduction, credit, exclusion, preference, or concession to 100 or fewer beneficiaries.

Finally, the bill provides a process for expedited judicial review of provisions of this Act.

CONFERENCE AGREEMENT

Section 1. Short title

This bill, when enacted, may be cited as the "Line Item Veto Act."

Sec. 2. Line item veto authority

Section 2 of the conference report amends title X of the Congressional Budget and Impoundment Control Act of 1974 to add a new part C comprising sections 1021 through 1027.

In general, part C grants the President the authority to cancel in whole any dollar amount of discretionary budget authority provided in an appropriation law or any item of new direct spending or limited tax benefit contained in any law. Congress has the authority to delegate to the President the ability to cancel specific budgetary obligations in any particular law in order to reduce the federal budget deficit.

The conferees note that while the conference report delegates new powers to the President, these powers are narrowly defined and provided within specific limits. The conference report includes specific definitions, carefully delineates the President's cancellation authority, and provides specific limits on this cancellation authority. The delegation of this cancellation authority is not separable from the President's duties to comply with these restrictions. To the extent the President broadly applies this new cancellation authority or reaches beyond these limits to expand the application of this new authority, the President will be reaching beyond the delegation of these authorities. Given the significance of this delegation, the conference report includes a sunset of this authority.

Sec. 1021. Line item veto authority

Section 1021(a) permits the President to cancel in whole any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit contained in any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States. The cancellation may be made only if the President determines such cancellation will reduce the federal budget deficit and will not impair any essential government function or harm the national interest. In addition the President must make any cancellations within five days of the date of enactment of the law from which the cancellations are made, and must notify the Congress by transmittal of a special message within that time.

The conferees specifically include the requirement that a bill or joint resolution must have been signed into law in order to clarify that the cancellation authority only becomes effective after the President has exercised the constitutional authority to enact legislation in its entirety. This requirement ensures that the President affirmatively demonstrates support for the underlying legislation from which specific cancellations are then permitted.

The term "cancel" was specifically chosen, and is carefully defined in section 1026. The conferees intend that the President may use the cancellation authority to surgically terminate federal budget obligations. The cancellation authority is specifically limited to any entire dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit. The cancellation authority does not permit the President to rewrite the underlying law, nor to change any provision of that law. The President may only terminate the obligation of the Federal Government to spend certain sums of money through a specific appropriation or mandatory payment, or the obligation to forego the collection of revenue otherwise due to the Federal Government in the absence of a limited tax benefit.

Likewise, the terms "dollar amount of discretionary budget authority," "item of new direct spending," and "limited tax benefit" have been carefully defined in order to make clear that the President may only cancel the entire dollar amount, the specific legal obligation to pay, or the specific tax benefit. "Fencing language" may not be canceled by the President under this authority. This means that the President cannot use this authority to modify or alter any aspect of the underlying law, including any restriction, limitation or condition on the expenditure of budget authority, or any other requirement of the law.

The conferees intend that, even once the federal obligation to expend a dollar amount or provide a benefit is canceled, all other operative provisions of the underlying law will remain in effect. If the President desires a broader result, then the President must either ask Congress to modify the law or exercise the President's constitutional power to veto the legislation in its entirety.

The lockbox provision of the conference report has also been included to maintain a system of checks and balances in the President's use of the cancellation authority. Any credit for money not spent, or for revenue foregone, is dedicated to deficit reduction through the operation of the lockbox mechanism. This ensures that the President does not simply cancel a particular dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit in order to increase spending in other areas.

Section 1021(b) requires the President to consider legislative history and information referenced in law in identifying cancellations. It also requires that the President use the definitions in section 1026, and provides that the President use any sources specified in the law or the best available information.

Section 1021(c) states that the President's cancellation authority shall not apply to a disapproval bill, as defined in section 1026. The provision is intended to prevent an endless loop of cancellations.

Sec. 1022. Special messages

Section 1022 provides that, if the President cancels provisions within a law, a special message must be submitted to Congress. A separate special message must be submitted for each law from which a cancellation is made.

Similar to the requirements in section 1012 of the Impoundment Control Act of 1974, the conference report requires that the President's special message include relevant supporting material about each cancellation and its budgetary impact. The conferees intend this requirement to ensure that the Congress and the public receive sufficient information with which to judge the President's action.

Specifically, the President's special message must include:

(1) the dollar amount of discretionary budget authority, items of new direct spending or limited tax benefits which have been canceled;

(2) corresponding reference numbers of each cancellation;

(3) the determinations required under section 1021 and any supporting material;

(4) the reasons for each cancellation;

(5) the estimated fiscal, economic and budgetary effect of each cancellation (to the maximum extent practicable);

(6) all facts, circumstances and considerations relating to each cancellation;

(7) the estimated effect of each cancellation upon the objects, purposes and programs for which the canceled authority was provided (to the maximum extent practicable); and

(8) the adjustments that will be made pursuant to section 1024 ("Deficit Reduction") to the discretionary spending limits under section 601 of the Budget Act and an evaluation of the effects of those adjustments upon sequestration procedures.

The President's special message must specify any account, department or establishment of the government and any specific project or governmental functions impacted by each cancellation.

The conference report requires that, if applicable, the special message include the specific states and congressional districts impacted and the total number of cancellations imposed during the current session of Congress on those states and congressional districts. This is to ensure that the Congress has information to determine if there is a disproportionate impact on a particular state or congressional district.

The President's special message must be transmitted to the House of Representatives and to the Senate within five calendar days (excluding Sundays) of enactment (by the President's signature) of the law to which any cancellations apply. It is the intention of the conferees that the President's cancellations be made as soon as possible after the enactment of the law. The maximum time of five calendar days is provided to ensure that all supporting material required for inclusion in the special message can be provided by the Administration. It is the view of the conferees that additional time (beyond five calendar days) would unnecessarily prolong the process.

The special message must be transmitted to both Houses of Congress on the same day, and must be received by the Clerk of the House and to the Secretary of the Senate if either House is not in session on that day.

Any special message must be printed in the first issue of the Federal Register published after the transmittal.

Sec. 1023. Cancellation effective unless disapproved

Upon receipt of the President's special message in both the House of Representatives and the Senate, each dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit identified in the special message is immediately canceled. The cancellation of a dollar amount of discretionary budget authority automatically rescinds the funds. With respect to an item of new direct spending or a limited tax benefit, the cancellation renders the provision void, such that the obligation of the United States has no legal force or effect.

The cancellation of a dollar amount of discretionary budget authority, an item of new direct spending, or a limited tax benefit is nullified only if a disapproval bill is enacted into law. The conferees intend that, if a disapproval bill is enacted, the President shall expend the funds or implement a provision as originally directed by Congress. The effective date for any cancellation disapproved in a disapproval bill is the original date provided in the law to which the cancellation applied.

Section 1023(b) provides that, when a dollar amount of discretionary budget authority canceled by the President is part of a larger sum in an appropriation law, such cancellation will result in the commensurate reduction of each relevant appropriation account by that dollar amount. These reductions are a necessary conforming change to ensure that all sums required to be spent by the appropriation law accurately reflect the cancellation contained in the President's message. This is a technical mechanism to maintain mathematical consistency and does not grant the President any additional authority.

To illustrate the mechanism for commensurate reductions in discretionary budget authority the conferees provide the following example:

The FY '96 Agriculture Appropriations Act (Public Law 104–37) appropriates a total of $421,929,000 for agricultural research and education, of which $49,846,000 is made available for special grants for agriculture research. The conference report accompanying this law contains a table that allocates the $49,846,000 total into lesser dollar amounts all of which correspond to individual research programs. This table includes, for example, a $3,758,000 allocation for: "Wood Utilization Research (OR, MS, NC, MN, ME, MI)".

Assuming the President exercised the authority to cancel this $3,758,000, this dollar amount would be automatically subtracted from the $421,929,000 total and from the $49,846,000 earmark. If the $3,758,000 was included in any other larger dollar amount in the appropriation law, then all such other dollar amounts would likewise be simultaneously reduced by $3,758,000.

Sec. 1024. Deficit reduction

Section 1024 establishes a deficit reduction, or "lockbox", procedure for the cancellations of discretionary budget authority, new direct spending, or limited tax benefits. The conference report's lockbox procedures are incorporated into existing procedures governing discretionary spending limits and pay-as-you-go requirements under the Balanced Budget and Emergency Deficit Control Act.

The conference report requires the Office of Management and Budget (OMB) to estimate the discretionay budget authority and outlay savings that result from cancellations from an appropriation law and include those calculations as part of the estimate OMB must submit to Congress under section 251 of the Balanced Budget and Emergency Deficit Control Act. The conference report also requires OMB to calculate a reduction to the spending caps that is equal to the budget authority reduction and related outlay savings that result from a cancellation.

After the expiration of the time period for congressional consideration of a disapproval bill plus 10 days, OMB is required to adjust the spending caps downward by the amount of budget authority and outlay savings in its next sequester report.

In the case of the cancellation of direct spending or limited tax benefits, OMB is required to estimate the deficit decrease as a separate entry in its pay-as-you-go report to Congress. In order to ensure that the savings from the cancellation of new direct spending or limited tax benefits are devoted to deficit reduction and are not available to offset a deficit increase in another law, the conference report provides that the savings from these cancellations shall not be included in the pay-as-you-go balances under the Balanced Budget and Emergency Deficit Control Act. Similarly, if a disapproval bill is enacted that overturns the cancellation of an item of direct spending or a limited tax benefit, OMB will not score this legislation as increasing the deficit under pay as you go.

Section 1024 also requires the Congressional Budget Office (CBO) to submit its estimate of the savings resulting from a cancellation to the Budget Committees of House and Senate. This is consistent with existing provisions in the Balanced Budget and Emergency Deficit Control Act which require CBO estimates and require OMB to make comparisons of its estimates with those made by CBO. The conferees expect CBO and the Budget Committees to carefully monitor OMB's estimates of cancellations.

The conferees intend that any savings from a cancellation be dedicated to deficit reduction and not used as an offset for future spending. The conference report is silent on congressional enforcement mechanisms because existing scoring conventions will have the effect of dedicating any savings from these cancellations to deficit reduction. Under existing congressional scoring conventions, CBO and the Budget Committees only score the budgetary impacts that directly result from legislation. The cancellation of an item will represent an administrative action and will not be scored as savings. Therefore, the savings from a cancellation will not be available as an offset for congressional scoring purposes. During the period for consideration of a disapproval bill CBO should not score the cost associated with a disapproval of a cancellation.

If there is an effort to include in legislation a cancellation already made by the President and claim the savings from such a cancellation as an offset for a provision that increases the deficit, the conferees expect the Budget Committees to ensure these savings are not used as an offset.

Sec. 1025. Expedited congressional consideration of disapproval bills

Section 1025 adopts the House provision with modifications providing for expedited procedures to consider disapproval bills. The conferees clearly intend this language to stand separate and apart from the language currently found in part B of title X of the Budget Act with regard to consideration of proposed rescissions, reservations, and deferrals of budget authority. The language of the conference report is directed solely at Congress' ability to respond to the cancellation authority of the Executive and is in no way intended to impact on or be defined by existing title X procedures.

The conference report provides Congress with 30 calendar days of session to consider a disapproval bill under expedited procedures. A "calendar day of session" is defined as only those days during which both Houses of Congress are in session. It is assumed Congress would want to act quickly on any disapproval bills. This time period is available to provide Congress with flexibility to schedule consideration of a disapproval bill during a busy legislative session.

During this time period, a disapproval bill may qualify for the expedited procedures in each House. However, upon the expiration of this period, a disapproval bill may no longer qualify for these expedited procedures in the House of Representatives. In the Senate, a disapproval bill which began consideration under these expedited procedures may continue within such procedures notwithstanding the expiration of the time period.

Upon final Congressional adjournment, if a disapproval bill relating to a special message was pending before either House of Congress or any committee thereof or was pending before the President (i.e. a pocket veto), and the time period has not expired, a new disapproval bill with respect to the same message may be introduced within the first five calendar days of session of the next Congress. This disapproval bill qualifies for the expedited procedures outlined above and the period for Congressional consideration begins anew.

A special Presidential message relating to a law could include a number of cancellations. In establishing expedited procedures for the consideration of a disapproval bill, the conference report seeks to find a balance between providing a procedure to guarantee that Congress can quickly disapprove the President's cancellations while giving Congress the flexibility to pick and choose among the cancellations to include in the disapproval bill. In both Houses of Congress, quick action is encouraged in that only one bill may ultimately be acted upon for each special message using these expedited procedures.

It should be noted that the expedited procedures provide strict time limitations at all stages of floor consideration of a disapproval bill. The conferees intend to provide both Houses of Congress with the means to expeditiously reach a resolution and to foreclose any and all delaying tactics (including, but clearly not limited to: extraneous amendments, repeated quorum calls, motions to recommit, or motions to instruct conferees). The conferees believe these expedited procedures provide ample time for Congress to consider the President's cancellations and work its will upon them.

Section 1025(a) provides for the receipt and referral of the special message in both Houses of Congress. Upon the cancellation of a dollar amount of discretionary budget authority, an item of direct spending or a limited tax benefit under section 1021(a), the President must transmit to Congress a special message outlining the cancellation as required by section 1022.

When Congress receives this special message it shall be referred to the Budget Committees and the appropriate committee or committees in each House. For example, the message pertaining to the cancellation of a dollar amount of discretionary budget authority from an appropriation law would be referred to the Committee on Appropriations of each House. A special message pertaining to the cancellation of an item of direct spending would be referred to the authorizing committee or committees of each House from which the original authorization law derived. Any special message relating to more than one committee's jurisdiction, i.e. a cancellation message from a large omnibus law such as a reconciliation law, shall be referred to the appropriate committees in each House. Each special message shall be printed as a document of the House of Representatives.

Procedures in the House of Representatives

In order for a disapproval bill to qualify for the expedited procedures in the House of Representatives as outlined in section 1025(b), it must meet two requirements.

First, a disapproval bill must meet the definition of a disapproval bill as set forth in section 1026. Second, the disapproval bill must be introduced no later than the fifth calendar day of session following the receipt of the President's special message. Any disapproval bill introduced after the fifth calendar day of session is subject to the regular rules of the House of Representatives regarding consideration of a bill.

Any disapproval bill introduced in the House of Representatives must disapprove all of the cancellations in the special message to which the disapproval bill relates. Each such disapproval bill must include in the first blank space referred to in section 1026(6)(C) a list of the reference numbers for all of the cancellations made by the President in that special message.

Any disapproval bill introduced pursuant to 1025(c) shall be referred to the appropriate committee or committees. It is not the intention of the conferees that a disapproval bill pursuant to a special message regarding a reconciliation law be referred to the Budget Committee. Any committee or committees of the House of Representatives to which such a disapproval bill has been referred shall report it without amendment, and with or without recommendation, not later than the seventh calendar day of session after the date of its introduction.

If any committee fails to report the disapproval bill within that period, it shall be in order for any Member of the House to move that the House discharge that committee from further consideration of the bill. However, such a motion is not in order after the committee has reported a disapproval bill with respect to the same special message. This motion shall only be made by a Member favoring the bill and shall be made one day after the calendar day on which the Member offering the motion has announced to the House that Member's intention to make such a motion and the form of that motion. Furthermore, this motion to discharge shall only be made at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member gives the House proper notice.

This motion to discharge shall be highly privileged. Debate on the motion shall be limited to not more than one hour and shall be equally divided between a proponent and an opponent. After completion of debate, the previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion was agreed to or not agreed to shall not be in order. It shall not be in order to consider more than one such motion to discharge a disapproval bill pertaining to a particular special message.

After a disapproval bill has been reported or a committee has been discharged from further consideration, it shall be in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the disapproval bill. If the bill has been reported, the report on the bill must be available for at least one calendar day prior to consideration of the bill. All points of order against the bill and its consideration, except a point of order pertaining to a one-day layover requirement, shall be waived. If the bill has been discharged, all points of order against the bill and its consideration shall be waived. The motion that the House resolve into the Committee of the Whole shall be highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate on the disapproval bill shall be confined to the bill and shall not exceed one hour equally divided between and controlled by a proponent and an opponent of the bill. After completion of the one hour of general debate, the bill shall be considered as read for amendment under the five minute rule. Only one motion that the Committee rise shall be in order unless that motion is offered by the manager of the bill.

No amendment shall be in order, except that any Member, if supported by forty-nine other Members (a quorum being present), may offer an amendment striking the reference number or reference numbers of a cancellation or cancellations from the disapproval bill. This process allows Members the opportunity to narrow the focus of the disapproval bill, striking references to cancellations they do not wish to disapprove, while retaining in the disapproval bill references to cancellations they wish to overturn. A vote in favor of the disapproval bill is a vote to spend the money the President sought to cancel. A vote against the disapproval bill is a vote to agree with the President to cancel the spending.

No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. At the conclusion of consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without any intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

All appeals of decisions of the Chair relating to the application of the rules of the House of Representatives to this procedure for consideration of the disapproval bill shall be decided without debate.

It shall be in order to consider only one disapproval bill pertaining to each special message under these expedited messages except for consideration of a similar Senate bill. However, if the House has already rejected a disapproval bill with respect to the same special message as that to which the Senate bill refers, it shall not be in order to consider that bill.

In the event of disagreement between the two Houses a conference should be promptly convened. It shall be in order to consider a conference report in the House of Representatives provided such report has been available to the House for one calendar day (excluding Saturdays, Sundays or legal holidays, unless the House is in session on such a day) and the accompanying statement has been filed in the House.

Debate in the House of Representatives on the conference report and any amendments in disagreement on any disapproval bill shall each be limited to not more than one hour equally divided and controlled by a proponent and an opponent. A motion to further limit debate shall not be debatable. A motion to recommit the conference report shall not be in order and it shall not be in order to reconsider the vote by which the conference report is agreed to or disagreed to.

Procedures in the Senate

Any member of the Senate may introduce a disapproval bill containing any combination of cancellations included in the President's special message. The disapproval bill shall be referred to the appropriate committee or committees. If necessary, referral to multiple committees is permissible to accommodate disapproval bills which relate to cancellations from omnibus bills (i.e. reconciliation bills). A committee shall report the bill with or without amendment within seven days during which the Senate is in session or be discharged. A disapproval bill received from the House of Representatives shall not be referred but shall be automatically placed on the Calendar. It is the intent of the conferees that only one disapproval bill for each special Presidential message be considered under the expedited procedures. This however, is not meant to limit the Senate's ability to choose between a Senate-originated and a House-originated disapproval bill, it is intended that there be only one legislative vehicle.

A motion to proceed to the consideration of a disapproval bill is not debatable. Section 1025(e)(6) provides a ten hour overall limitation for the floor consideration of a disapproval bill. Except as provided in section 1025(e)(9) (which addresses disposition of a Senate disapproval bill), this limit on consideration is intended to cover all floor action with regard to a disapproval bill. This section is specifically meant to preclude the offering of amendments or the making of dilatory motions after the expiration of the 10 hours. Consideration of a message from the House of Representatives with respect to a disapproval bill is limited to four hours, as is consideration of a conference report and any amendments reported in disagreement. Again the intent of the conferees is to preclude the offering of amendments or motions after the expiration of time so as to facilitate the adoption of any conference report or the disposition of any message from the House. In limiting the time for consideration the conferees do not intend to allow the process to be halted by the delay in the making of necessary and appropriate motions. Therefore motions to concur, disagree or disagree and request a new conference may be made at the expiration of time.

Amendments to a disapproval bill, whether offered in committee or from the floor of the Senate, are strictly limited to those amendments which either strike or add a cancellation that is included in the President's special message. The conferees note that these expedited procedures are reserved solely for disapproval bills which overturn one or more cancellations contained in a President's special message. No other matter may be included in such bills. To enforce this restriction in the Senate, a point of order (which may be waived by a three-fifths vote) would lie against any amendment that does anything other than strike or add a cancellation within the scope of the special message. To the extent that extraneous items are added to disapproval bills, and the Senate has not waived the point of order against such an item, the conferees intend that such legislation would no longer qualify for the expedited procedures.

The conference report also provides that any conferees on a disapproval bill must include any cancellations upon which the two Houses have agreed and may include any or all cancellations upon which the two Houses have disagreed, but may not include any cancellations not committed to the conference.

Sec. 1026. Definitions

(1) Appropriation Law. As used in this Act, the term "appropriation law" includes any Act which provides general, special, supplemental, deficiency, or continuing appropriations of federal funds, which has been presented to the President in accordance with

Article I, section 7 of the Constitution of the United States, and which has been affirmatively signed into law by the President.

(2) Calendar Day. The term "calendar day" means a standard 24-hour period beginning at midnight.

(3) Calendar Day of Session. The term "calendar day of session" means only those days on which both Houses of Congress are in session. This definition excludes periods of recess and adjournment by either House.

(4) Cancel. In the case of discretionary budget authority, the term "cancel" means to rescind an entire dollar amount. The term rescind is clearly understood through long experience between the Executive and Legislative branches with respect to appropriated funds. The conferees do not intend that any new interpretation be applied to the term rescind, but rather intend to narrow the scope of cancellation authority as compared with the authority provided under section 1012 of the Budget Act.

For items of new direct spending, three definitions are provided to specifically tailor the cancellation authority to the type of direct spending involved. In the case of direct spending that is budget authority provided by law other than an appropriation law, the term cancel means to prevent that budget authority from having legal force or effect. For example, in the case of budget authority that provides authority to contract for a particular project, the effect of a cancellation by the President would be to foreclose the ability of the Federal Government to enter into an agreement to pay the amount of money provided in the law. The cancellation affects only the money that would otherwise be spent, and may not be used to alter or terminate any condition contained in the law.

For entitlement authority, the term cancel means that the President may prevent the specific provision that results in the deficit-increasing obligation of the Federal Government from having legal force or effect. The cancellation affects only the legal obligation to pay a benefit, and does not change or affect any other aspect of the law.

With respect to direct spending that is conducted through the food stamp program, the term cancel means that the President may prevent the specific provision of law that results in an increase in expenditures from having legal force or effect. Again, the authority is narrowly defined, and is limited only to eliminating the increase in food stamp obligations that would otherwise occur. No other aspect of the law could be altered, terminated or otherwise affected.

Finally, with respect to limited tax benefits, the term cancel means to prevent the specific provision of law that provides the benefit from having legal force or effect. Again, the authority granted the President is very narrow—only to collect the tax that would otherwise not be collected or to deny the credit that would otherwise be provided. The President may not change, alter, or modify any other aspect of the law.

(5) Direct Spending. The term "direct spending" is an existing term that is defined in section 250(8) of the Balanced Budget and Emergency Deficit Control Act of 1985. The conference report makes technical modifications to the definition to make it appropriate for use in part C of title X, but the conferees intend the term "direct spending" to have the same meaning as it does under the Balanced Budget and Emergency Deficit Control Act.

(6) Disapproval Bill. For the purposes of the conference report, the term "disapproval bill" is defined as a bill or a joint resolution which only disapproves one or more cancellations of dollar amounts of discretionary budget authority, items of new direct spending or limited tax benefits in a special message transmitted by the President under section 1022.

The disapproval bill is defined to include a list by reference number of one or more of the cancellations in the President's special message, allowing the opportunity for amendments relating to specific cancellations. The structure of the disapproval bill is carefully defined and proscribed to ensure that only a list of reference numbers identifying cancellations from a particular special message, and nothing, more are included in a bill that is eligible for the expedited procedures that are provided under section 1025. Since it is the intent of the conferees to ensure that the expedited procedures are reserved for bills that only disapprove any or all of the President's cancellations, the definition is designed to ensure that matters beyond the scope of the President's special message are not permitted to be added to a disapproval bill. However, the conferees recognize the legitimate interest members may have in limiting the focus of a disapproval bill to include only a subset of the cancellations in a President's special message.

Specifically, a disapproval bill referencing the President's cancellations has the following title: "A bill disapproving the cancellations transmitted by the President on ______," with the blank space being filled with the date of transmission of the relevant special message and the number of the relevant public law.

The disapproval bill does not have a preamble and provides only the following: "That Congress disapproves of cancellations ______, as transmitted by the President in a special message on ______, regarding ______." The first blank space is to be filled in with a list by reference number of one or more of the cancellations contained in the President's special message. The second blank space is to be filled in with the date of transmission of the President's special message. The third blank space is to be filled in with the number of the public law in which the special message relates.

(7) Dollar Amount of Discretionary Budget Authority. The term "dollar amount of discretionary budget authority" is carefully defined in section 1026(7) in order to ensure that the President's authority to cancel discretionary spending in appropriation laws is clearly delineated. The conference report delegates the authority to the President to cancel in whole any dollar amount specified in an appropriation law.

In addition, to increase the President's discretion, the conference report allows the President to cancel a dollar amount of budget authority provided in an appropriation law by specific amounts identified by the Congress in the statement of managers, the governing committee report, or other law. By limiting the delegation of authority, the conferees intend to preclude arguments between the Executive and Legislative Branches and to ensure that the delegation is not overbroad or vague. As is described in further detail below, the conferees have sought to provide the President the ability to rescind entire dollar amounts, even if not specified as a dollar amount in the law itself, so long as the dollar amount can be clearly identified and is in an indivisible whole with which Congress has previously agreed.

The conferees note that the definition specifically excludes certain types of budget authority that are addressed by other provisions in part C of title X, as well as any restriction, condition, or limitation that Congress places on the expenditure of budget authority or activities involving such expenditure. The exclusion of restrictions, conditions, or limitations is included to make clear that the President may not use the authority delegated in section 1021(a) to cancel anything other than a specific dollar amount of budget authority.

The cancellation authority cannot be used to change, alter, modify, or terminate any policy included by Congress, other than by rescinding a dollar amount. Obviously, if the Congress has included a restriction in the law that prohibits the expenditure of budget authority for any activity, there is no dollar amount to be rescinded by the President, nor would any money be saved for use in reducing the federal budget deficit, which is a requirement for the use of the authority provided under section 1021(a).

As described in subparagraph (A)(i), the President may cancel the entire dollar amount of budget authority specified in an appropriation law. The term "entire" means just that; the President may rescind, or "line out" the dollar amount of budget authority specified in the law, so that the dollar amount provided in the law becomes zero after the cancellation. For example, in Public Law 104-37, the Agriculture Appropriations Act for Fiscal Year 1996, $49,486,000 was provided in the law for special grants for agriculture research. Using the authority granted under section 1021(a)(1), as defined under section 1026(7)(A)(i), the President could cancel only the entire $49,486,000.

Further, again under subparagraph (A)(i), if the appropriation law does not include a specific dollar amount, but does include a specific proviso that requires the allocation of a specific dollar amount, then the President may rescind the entire dollar amount that is required by the proviso. A fictitious example of what the conferees intend in this case follows:

An appropriation law includes a provision that states "for the operation and maintenance of the Army, $1,400,000,000, provided Fort Fictitious is maintained at Fiscal Year 1995 levels,". In this instance, the President could ascertain what the operation of Fort Fictitious cost in FY 1995, and could rescind that entire amount from the $1.4 billion provided for Army O&M. The conferees note that the President would have to take the entire dollar amount required to operate Fort Fictitious in FY 1995, and could not simply take part of that amount. It is intended to be an all or nothing decision.

As a further specific illustration, the conferees note that the General Construction Account in Public Law 104-46, the Energy and Water Development Appropriations Act, 1996, states:

"$804,573,000 to remain available until expended, of which such sums as necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri * * *"

In this example, the President could cancel the entire $804,573,000 or could cancel an amount equal to the entire dollar amount that would be required to fund the rehabilitation costs of the Lock and Dam 25 project, noting in his message all information as required by section 1022.

In subparagraph (A)(ii) the President is given the authority to rescind the entire dollar amount represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report that accompanies an appropriation law. The term "governing committee report" is included to address the fact that the current practice in preparing the statement of managers for a conference report on an appropriation law is to simply address changes that were made in the statutory language and the accompanying committee reports, thus leaving intact and incorporation by reference tables, charts, and explanatory text in one of the two committee reports that were not modified by the conference.

An example of the authority described in subparagraph (A)(ii) is found in the Conference Report accompanying the FY 1996 Military Construction Appropriations Act (Public Law 104–32). The statement of managers accompanying the conference report contains a chart denoting allocations of dollars to various installations and projects. On page 38 there is an allocation of $10,400,000 for a physical fitness center at the Bremerton Puget Sound Naval Shipyard. Except for this chart there is no other reference to the physical fitness center in either the statute or narrative explanation in the Conference Report. Under the authority provided by the definition in subparagraph (A)(ii), the President could cancel the entire $10,400,000 provided for the physical fitness center, but could not cancel only a part of that amount.

The inclusion of subparagraph (A)(ii) is not intended to give increased legal weight or authority to documents that accompany the law that is enacted. Rather, as an exercise of its authority to specify the terms of the delegation to the President, Congress is choosing to use those documents as a means of allowing the President increased discretion to reduce dollar amounts of discretionary budget authority provided in an appropriation law. In order to ensure that the delegated authority is clear, the conferees have limited that authority to dollar amounts identified by Congress in the appropriation law, the accompanying statement of managers, the governing committee report or other law. Since Congress often provides detailed identification of dollar amounts in the accompanying documents, they represent an agreed upon set of dollar amounts that the President may rescind in their entirety.

Subparagraph (A)(iii) has been included by the conferees to address a specific circumstance where neither the appropriation law nor the accompanying statement of managers or committee reports include any itemization of a dollar amount provided in that appropriation law. However, another law mandates that some portion of the dollar amount provided in the appropriation law be allocated to a specific program, project, or activity that can be quantified as a specific dollar amount. In this case, the President could rescind the entire dollar amount required to be allocated by the other law, since that dollar amount has been identified by Congress as a specific dollar amount that must be spent. As is the case with the earlier provisions, the President could not rescind part of the dollar amount mandated by the other law. It is an all or nothing decision. Likewise, the President could not use the cancellation authority to change, alter, or modify in any way the other law.

An example of the authority provided in subparagraph (A)(iii) is found in section 132 of Public Law 104–106, the National Defense Authorization Act for Fiscal Year 1996. Section 132 states that "Of the amounts appropriated for Fiscal Year 1996 in the National Defense Sealift Fund, $50,000,000 shall be available only for the Director of the Advanced Research Projects Agency for advanced submarine technology activities." In this example the President could "look through" the appropriation law to the authorization law that mandates that $50 million is available only for advanced submarine technology activities, and could cancel the entire $50 million.

However, had the appropriation law contained a provision that contradicted or otherwise made the mandate in the authorization law ineffective with respect to the allocation of the National Sealift Fund, then the President would not be able to use the amount in the authorization law as the basis for the cancellation of a dollar amount of discretionary budget authority. As with appropriation laws, the President cannot use the authority in subparagraph (A)(iii) to change, alter, or modify any provision of the authorization law.

Subparagraphs (A)(iv) and (A)(v) are variations on the authority granted in clauses (i) through (iii), and are intended to address the circumstance where Congress does not specify in the appropriation law, the accompanying documents, or other law a specific dollar amount, choosing instead to require the purchase of a particular quantity of goods. Subparagraphs (A)(iv) and (A)(v) allow the President to rescind the entire dollar amount of discretionary budget authority represented by the quantity specified in the law or documents. To determine the specific dollar amount, the President is required to multiply the estimated procurement cost by the total quantity of items specified in the law of documents. The President may then rescind the entire dollar amount represented by the product of those two figures. The conferees expect that the President will use the best available information, as represented by the President's budget submission or binding contract documents, to estimate the procurement cost.

The conferees have included the following examples in order to more clearly explain the definition of dollar amount of discretionary budget authority as defined by section 1026(7). These examples are used solely for illustrative purposes and the conferees are in no way commenting on the merit of any of these programs. The conferees do not intend for these examples to represent all instances where cancellation authority may be used.

The FY 1996 Agriculture Appropriations Act (Public Law 104–37) appropriates $49,846,000 in special grants for agriculture research. The Conference Report accompanying this law contains a table that allocates the $49,846,000 total into lesser dollar amounts all of which correspond to individual research programs. This table, for example, contains a $3,758,000 allocation for "Wood Utilization Research (OR, MS, MN, ME, MI)".

Using the definition in section 1026(7)(A)(i) and (ii), the President could cancel either the entire $49,846,000 specified in the statute or the entire $3,758,000 described in the chart in the Conference Report. However, because the Congress did not break down the allocations for each state associated with this project the President would not have the authority to take a portion of the $3,758,000 allocated to wood utilization research.

The conferees intend that cancellation authority only applies to whole items. If an item (or project) occurs in more than one state, and the law or a report that accompanies an appropriation law lists an item (project) and then lists a series of states, it is the entire item that must be canceled.

In the example listed above, "Wood Utilization Research" appears in the report as: "Wood Utilization Research (OR, MS, NC, MN, ME, MI)."

The conferees believe it is important to note that this line in the report must be canceled in its entirety. The President's cancellation authority is strictly limited. The President has no authority in this example to cancel wood utilization research for Michigan only.

To further illustrate this example, the conferees submit the following example that corresponds to a chart contained in the same conference report: "Aflatoxin (IL), 133,000; Human Nutrition (AR), 425,000; Human Nutrition (IA), 473,000; Wool Research (TX, MT, WY) 212,000."

In this case, the President may cancel aflatoxin (IL), Human Nutrition (AR), Human Nutrition (IA), and/or Wool Research (TX, MT, WY). Although there are two human nutrition research projects listed in two different states, because of the manner in which they are listed, each project may be separately canceled. Again, the President may only cancel the entire wool research program and may not cancel only wool research in Texas.

Section 1026(7)(B) describes what is not included in the definition of "dollar amount of discretionary budget authority." Subparagraphs (B)(i) and (B)(ii) exclude items of new direct spending, for which cancellation authority is provided under other sections of part C of title X. Subparagraph (B)(iii) excludes from the definition any budget authority canceled or rescinded in an appropriation law in order to ensure that those cancellations or rescissions cannot be undone by the President using the cancellation authority.

As described earlier, subparagraph (B)(iv) excludes from the definition any restriction, condition, or limitation in an appropriation law or the accompanying statement of managers or governing committee report on the expenditure of budget authority or on activities involving such expenditure. The following two examples illustrate the conferees' intent that the President cannot use the cancellation authority to alter the Congressional policies included in these restrictions, conditions, or limitations.

The Labor, Health and Human Services and Education and Related Agencies Appropriations Act, H.R. 1217, as amended by the Senate Appropriations Committee contained the following section:

"SEC. 103. No amount of funds appropriated in this Act for fiscal year 1996 may be used to implement, administer, or enforce any executive order, or other rule or order, that prohibits Federal contracts with, or requires that debarment of, or imposes other sanction on, a contractor on the basis that such contractor or organizational unit thereof has permanently replaced lawfully striking workers."

The President's cancellation authority only applies to entire dollar amounts. The above example of "fencing language" is a limitation and contains no dollar amount. Therefore, the President has no authority to alter or cancel this statement of Congressional policy.

If a limitation or condition on spending—"fencing language"—is not written as a separate numbered or unnumbered paragraph, but instead is written as a proviso to an appropriated amount, the President still has no power to cancel the proviso.

The Energy and Water Development Appropriations Act, 1996, (Public Law 104-46), Title II, Department of the Interior, General Administrative Expenses, states:

> "For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $48,150,000, of which $1,400,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377); *Provided*, that no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

Using this example, the President may cancel $48,150,000 or the $1,400,000 noted, but may not cancel or alter in any way the proviso restricting the use of other appropriated funds contained in this Act.

The conference report also allows the President to cancel the entire amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included. The conferees recognize that from time to time, budget authority may be mandated to be spent on a specific program or project without a specific dollar amount being listed. However, in order to comply with the proviso, the President would have to expend appropriated funds.

(8) Item of New Direct Spending. The term "item of new direct spending" means a provision of law that results in an increase in budget authority or outlays relative to the baseline set forth pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

Under the Balanced Budget and Emergency Deficit Control Act of 1985, a reauthorization or an extension of a major entitlement program would not result in an increase in direct spending. As a consequence, such legislation would not constitute an item of new direct spending pursuant to the conference report. This does not mean that legislation must result in a net increase in spending in order to be subject to this cancellation authority. A provision of a future law that increases direct spending would be subject to the President's cancellation authority whether or not it is offset by another provision that reduces direct spending or increases revenues in the same law.

Unlike an appropriation law, which specifically designates a dollar amount for a specific program, direct spending can arise from a number of interactions among provisions in a new law, other provisions in that same new law, and underlying law. The conference report provides the President with the authority to cancel the legal obligation provided by the new law that results in new direct spending. The cancellation authority is limited to the specific provisions in the new law signed by the President that result in the legal obligation to expend funds and does not extend to other previously enacted laws.

The following are examples of direct spending increases that have been enacted. These examples are given to illustrate how cancellation authority could apply to similar items of new direct spending if included in a law to which part C of title X would apply. These examples are used solely for illustrative purposes and the conferees are in no way commenting on the merit of any of these programs. The conferees do not intend for these examples to represent all instances where cancellation authority may be used.

The 1995 Balanced Budget Act included provisions that increased direct spending, but this Act was vetoed in its entirety by the President using his Constitutional authority and thus no provisions of that Act would be subject to the cancellation authority under part C. In the Omnibus Budget Reconciliation Act of 1993, the Congress enacted provisions that led to a net reduction in direct spending of $78.8 billion over five years. While this law led to a net reduction in direct spending, it included several provisions that increased direct spending. More specifically, the following are selected examples of provisions that increased direct spending that illustrate how the President's cancellation authority could be applied:

Section 13982 increased Forest Service payments and section 13983 increased Bureau of Land Management (BLM) payments to counties affected by the Northern Spotted Owl. These provisions were estimated to increase direct spending by $43 million in fiscal year 1994 and $215 million over the period of fiscal years, 1994-1998. The President could cancel the entire amount of the legal obligation created by section 13982 for the Forest Service to make payments or the entire amount of the legal obligation in section 13983 for BLM to make payments.

Sections 13811 through 13813 dealt with Customs overtime pay, additional benefits, and user fees. Section 13812(c) provided cash awards for foreign language proficiency to Customs Officers that was estimated to increase direct spending by $2 million in fiscal year 1994 and $10 million over the period of fiscal years 1994-98. The President could cancel that legal obligation for the entire amount of funding provided for cash awards to Customs Officers. However, the President could not reach to provisions that reduced direct spending, such as the extension of Customs fees and overtime reform or other provisions that did not directly deal with an increase in direct spending.

Sections 13901 through 13971 of the law made a number of changes to the food stamp program that were estimated to lead to a net increase indirect spending of $56 million in fiscal year 1994 and $2.7 billion over the period of fiscal years 1994-1998. More specifically, section 13923 increased direct spending by raising the asset test and indexed this asset test for inflation for determining eligibility for food stamps. The President would have the authority to cancel the entire specific legal obligation so that the increase in the asset test would have no legal force or effect. In addition, the President could cancel the entire legal obligation to make the inflation adjustment so that this asset test would not be indexed for inflation. However, the President's cancellation authority would not apply to provisions that did not affect direct spending or reduced direct spending, such as section 13951 that expedited claim collections and adjustments to error rate calculations.

(9) Limited Tax Benefit. In general, a "limited tax benefit" is any provision under the Internal Revenue Code that is either (1) a revenue-losing provision that provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries (unless the effect of the provision is that all similarly situated persons receive the same treatment); or (2) a provision that provides transitional relief to 10 or fewer beneficiaries.

The number of beneficiaries affected by a provision is determined by considering each fiscal year in which the provision will be in effect; if the number of beneficiaries falls below the requisite threshold for any one of those fiscal years, the provision could be identified as a limited tax benefit. For purposes of determining the number of beneficiaries, certain individuals and businesses would be aggregated: all businesses and associations which are related (within the meaning of Internal Revenue Code sections 707(b) and 1563(a)) would be treated as one beneficiary; all qualified plans of a single employer would be treated as one beneficiary; all holders of the same bond issue would be treated as one beneficiary. However, individual shareholders of a corporation, partners of a partnership, members of an association, or beneficiaries of a trust would not be counted as separate beneficiaries simply because a benefit is provided to the respective corporation, partnership, association, or trust.

Revenue-losing Provisions that Affect 100 or Fewer Beneficiaries. A provision is defined as "revenue-losing" if it results in a reduction in federal tax revenues for any one of the following two periods: (1) the first fiscal year for which the provision is effective; or (2) the period of the five fiscal years beginning with the first fiscal year for which the provisions is effective.

A revenue losing provision that affects 100 or fewer beneficiaries is not a limited tax benefit if one of the exceptions is met. First, if a provision has the effect of providing all persons in the same industry or engaged in the same activity with the same treatment, the item is not a limited tax benefit even if there are 100 or fewer persons in the affected industry. For example, a provision that sets forth the depreciation treatment for equipment that is used only by automobile manufacturers will not be treated as a limited tax benefit solely because there are fewer than 100 automakers located in the United States.

Similarly, a provision that provides the same treatment for all persons who engage in research and development activities, or all persons who adopt children, or all persons who engage in drug testing, would not be treated as a limited tax benefit simply because 100 or fewer persons are expected to engage in that activity in any of the fiscal years in which the provision is effective. In such circumstances, the benefit is provided as an incentive to anyone who chooses to engage in the activity rather than to a closed group of specific taxpayers.

A second exception applies to provisions that have the effect of extending all persons owning the same type of property, or issuing the same type of investment instrument, the same treatment. For example, a provision that sets forth the depreciation treatment for a highly-specialized type of computer equipment that is owned by fewer than 100 taxpayers (who are not necessarily in the same industry) would not be treated as a limited tax benefit as long as any person who purchases such equipment is entitled to the same treatment. Similarly, a provision that affects the deductibility of interest with respect to certain types of debt instruments would not be a limited tax benefit, as long as any person who issued that type of debt instrument receives the same treatment.

The conference report further clarifies that a provision is not a limited tax benefit if the only reason the provision affects different persons differently is because of (1) the size or form of the business or association involved (e.g., a provision that gives preferential treatment to small businesses); (2)

general demographic conditions affecting individuals, such as their income level, marital status, number of dependents, or tax return filing status; (3) the amount involved (e.g., a cap based on the dollar amount of a taxpayer's investment or the number of units produced by a taxpayer); or (4) a generally-available election provided under the Internal Revenue Code (e.g., if taxpayers who engage in a certain activity are given a choice between two alternative treatments, and fewer than 100 taxpayers are expected to choose one of the alternatives).

Transition Rules

Any Federal tax provision that provides temporary or permanent transitional relief to 10 or fewer beneficiaries in any fiscal year would be a limited tax benefit except to the extent that the provision provides for the retention of prior law for all binding contracts (or other legally enforceable obligations) in existence on a date contemporaneous with Congressional action specifying such a date. For example, a provision in a chairman's mark which retains current law with respect to binding contracts in existence on the date the mark is released would not be a limited tax benefit. In addition, a technical correction to previously enacted law (if it is scored as having no revenue effect) would not be a limited tax benefit for this purpose.

This provision covering transition rules is intended to address the type of special rules used extensively in prior tax legislation. For example, in the Tax Reform Act of 1986 (the "1986 Act"), which included a number of revenue raising tax provisions, various specifically identified taxpayers were provided special rules that exempted them from treatment under the general revenue raising provisions. One provision in the 1986 Act changed the rules for how multinational corporations could allocate interest expenses for foreign tax credit purposes. The provision included a favorable rule for banks, and also included a special exception allowing "certain" non-banks to use the favorable bank rule. The special exception applied to any corporation if "(A) such corporation is a Delaware corporation incorporated on August 20, 1959, and (B) such corporation was primarily engaged in the financing of dealer inventory or consumer purchases on May 29, 1985, and at all times thereafter before the close of the taxable year." Public Law 99–514, 100 Stat. 2548, sec. 1215(c)(5). If 10 or fewer taxpayers were expected to benefit from the special exception, this provision would constitute a limited tax benefit under the conference agreement definition, and would be subject to the President's cancellation authority.

The conferees submit the following two examples for what may or may not be a limited tax benefit. All examples are used solely for illustrative purposes and the conferees are in no way commenting on their merit. Furthermore, the conferees do not intend for these examples to represent all instances where cancellation authority may be used.

The Omnibus Reconciliation Act of 1993 included a provision that created an income tax credit for entities that make qualified cash contributions to one of 20 "community development corporations" to be selected by the Secretary of Housing and Urban Development using certain selection criteria.

Under the conference report, the Joint Committee on Taxation (JCT) would estimate how many contributions would be designated as eligible for the credit, based on the information available to the Committee at the time the legislation was being considered. If the JCT determined more than 100 contributors would benefit from the credit, then the provision could not be canceled. If fewer than 100 contributors were estimated to benefit from the provision, then the provision could be canceled.

If the conference report did not include the information from JCT in the required form, then the President would have the authority to make the determination.

H.R. 831 (enacted in the 104th Congress) included a provision to restore a prior-deduction for 25 percent of the amount paid for health insurance for self-employed individuals and the individuals' spouses. The 25 percent deduction had expired after December 31, 1993. H.R. 831 restored the 25-percent deduction for 1994 and increased the deduction to 30 percent for taxable years beginning after 1994.

Under the conference report, this provision would not be a limited tax benefit because it applies to all self-employed individuals who purchase their own health insurance, and thus this provision would benefit more than 100 individuals.

(10) OMB. The term "OMB" means the Director of the Office of Management and Budget.

Sec. 1027. Identification of limited tax benefits

The conferees intend to limit the authority delegated to the President by Congress under section 1021 with respect to the application of that authority to limited tax benefits. A limited tax benefit is a carefully delineated provision under the definition in section 1026(9). This section ensures the proper application of this definition, and hence the President's cancellation authority, to any tax provision. The conference report provides the conferees on any revenue or reconciliation measure with the opportunity to identify for the President what may constitute a limited tax benefit, under the procedures in this section, in each revenue or reconciliation law.

The conference report states that the JCT shall examine any revenue or reconciliation bill or joint resolution (that amends the Internal Revenue Code) prior to its filing by a committee of conference in order to determine whether or not that bill or joint resolution contains any limited tax benefits under the definition in section 1026(9). The statement from the JCT shall state that the bill either contains no limited tax benefits or contains limited tax benefits.

In the case of a revenue or reconciliation bill or joint resolution containing one or more limited tax benefits the statement shall list each of those provisions. In the case of a revenue or reconciliation bill or joint resolution containing no limited tax benefits, the statement shall state that determination. This statement shall be submitted to the conference committee on such a bill or joint resolution and shall be made available by the JCT to any Member of Congress upon request.

If the conference report includes the information from the JCT and that information identifies provisions in the conference report which quality as limited tax benefits under the definition in section 1026(9), then the President may cancel those, and only those, items as identified. On the other hand, if such a conference report contains a statement from the JCT stating that there are no provisions in the conference report qualifying under the definition in section 1026(9) as a limited tax benefit, then the President may not exercise the cancellation authority under section 1021(a)(3) because Congress has provided that no tax provisions are eligible for cancellation under this authority.

The conference report specifies how the information provided by JCT may be included in the bill. At the end of the bill, the permitted separate section should read as follows: "Section 1021(a) of the Congressional Budget and Impoundment Control Act of 1974 shall ______ apply to ______", with the blank spaces being filled in with the appropriate information. In the case in which the JCT identifies limited tax benefits in a conference report, the word "only" would appear in the first blank and a list of all of the provisions of the bill or joint resolution identified by the JCT in that Committee's statement shall appear in the second blank. In the case in which the JCT declares that there are no limited tax benefits in the conference report, the word "not" would appear in the first blank and the phrase "any provision of this Act" would appear in the second blank.

The conferees intend that the decision to include the information provided by JCT in the bill or joint resolution that amends the Internal Revenue Code shall be left to the discretion of the appropriate conferees. With respect to any potential violations or any rules relating to the scope of a conference, the conferees intend that the inclusion of such an identification shall not constitute a violation of any rules of the House of Representatives or the Senate, respectively.

In the event the legislation amending the Internal Revenue Code is signed into law that does not contain the information provided by JCT, any identification of what constitutes a limited tax benefit under the definition in section 1026(9) may be made by the President. If any provision qualifies as a limited tax benefit (within the confines of the definition of such a benefit in section 1026(9)) and the President identifies such a benefit, the President may exercise the cancellation authority under section 1021(a)(3).

Section 3. Judicial review

Any Member of Congress or other adversely affected individual is given standing to seek declaratory judgement and injunctive relief on the ground that any provision of this law violates the Constitution. Suit must be brought in the United States District Court for the District of Columbia. A copy of any complaint brought under this Act must be promptly filed with the Secretary of the Senate and Clerk of the House, and each House reserves the right to intervene in any action according to its own internal rules.

Appeals from the District Court must be filed within 10 calendar days after an order is entered and may be taken directly to the Supreme Court of the United States. A period of 30 calendar days is provided for filing a jurisdictional statement with the Supreme Court, and the conference report prohibits any single Justice from issuing a stay of the District Court's order. Both the District Court and the Supreme Court are directed to advance on the docket and expedite to the greatest extent possible any action brought with regard to the constitutionality of this law.

Section 4. Conforming amendments

Section 4 makes three conforming amendments. First, this section amends the short title of the Congressional Budget and Impoundment Control Act of 1974 to clarify that the short title of Impoundment Control Act shall refer to parts A and B of title X. The amendment further specifies that part C of title X shall be cited as the Line Item Veto Act of 1996.

Second, section 4 makes a conforming amendment to the table of contents in the

Congressional Budget and Impoundment Control Act to include a listing of the contents of part C, referencing sections 1021 through 1027.

Third, section 4 amends section 940(a) of the Congressional Budget Act of 1974 to clarify that the provisions of sections 1025 and 1027, relating to Congressional consideration of a disapproval bill and identification of limited tax benefits, in an exercise of the rulemaking powers of the House of Representatives and the Senate. As a result, sections 1025 and 1027 are considered part of the rules of each House, respectively, and it supersedes other rules only to the extent that it is inconsistent with those rules. This is also a recognition of the constitutional right of both Houses to change these rules at any time, in any manner and to the same extent as in the case of any other rule of each House.

Section 5. Effective dates

Section 5 provides an effective date of the earlier of (1) the day after the enactment of an Act entitled "An Act to provide for a seven-year plan for deficit reduction and achieve a balanced Federal budget."; or (2) January 1, 1997. It provides that this part shall sunset January 1, 2005.

BILL CLINGER,
GERALD SOLOMON,
JIM BUNNING,
PORTER GOSS,
PETER BLUTE,
Managers on the Part of the House.

TED STEVENS,
BILL ROTH,
FRED THOMPSON,
THAD COCHRAN,
JOHN MCCAIN,
PETE V. DOMENICI,
CHUCK GRASSLEY,
DON NICKLES,
PHIL GRAMM,
DAN COATS,
JIM EXON,
Managers on the Part of the Senate.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.J. Res. 165. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

The message also announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 956) "An Act to establish legal standards and procedures for product liability litigation, and for other purposes.".

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 148. Concurrent resolution expressing the sense of the Congress that the United States is committed to military stability in the Taiwan Strait and the United States should assist in defending the Republic of China (also known as Taiwan) in the event of invasion, missile attack, or blockade by the People's Republic of China.

APPOINTMENT OF CONFEREES ON H.R. 3019, BALANCED BUDGET DOWN PAYMENT ACT, II

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. OBEY moves that the managers on the part of the House at the conference of the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 3019, be instructed to:

(a) agree to the position in the Senate amendment increasing funding above the levels in the House bill for programs of the Department of Education;

(b) agree to the position in the Senate amendment increasing funding above the levels in the House bill for programs of the Environmental Protection Agency;

(c) agree to the position in the Senate amendment that provides a minimum of $975,000,000 from within the $1,903,000,000 provided for Local Law Enforcement Block Grants within the Department of Justice for the Public Safety and Community Policing grants pursuant to title I of the Violent Crime Control and Law Enforcement Act of 1994 (COPS on the beat program);

(d) agree to the position in the Senate amendment increasing funding above the levels in the House bill for job training and worker protection programs of the Department of Labor;

(e) agree to the position in the Senate amendment deleting Title V of the House bill placing onerous new red tape requirements on Federal grantees; and

(f) agree to the position in the Senate amendment specifying a maximum grant award of $2500 under the Pell Grant Program; and

(g) agree to the position in the Senate amendment providing fiscal year 1997 funding of $1,000,000,000 for the Low-Income Energy Assistance Program of the Department of Health and Human Services.

Mr. OBEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. OBEY] is recognized for 30 minutes.

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume.

I know Members want to get out of here, and I join in that sentiment. It was not my choice to deal with this issue tonight, but we are dealing with it. So I would like Members to know what it is that we are asking them to vote on.

What we have pending before the House is a motion to go to conference on the long term. The chairman of the committee has just moved that the House go to conference on the long-term continuing resolution. Earlier today, we passed another one of our week-to-week CRs.

Mr. Speaker, the problem we face is that with the five bills that still are not in law, the five appropriation bills for this fiscal year, those bills have come in at a rate of about $25 billion below the amount being asked for by the President of the United States. The President has indicated that if language differences can be eliminated so that we can remove some of the special interest language provisions that have been inserted in the bill, that he is willing to sign off on the bill if he can get roughly $8 billion back out of that $25 billion. So he is asking for about 30 cents on the dollar.

The Senate, rather than providing the 30 cents on the dollar, has added back about $3.8 billion, which represents about 14 cents out of every dollar that the President wanted. In my view, we are not going to be able to finish that conference by the end of next week unless we can cut through a lot of the fog and recognize that where we have to start in that conference is at the Senate level. So what I am trying to do here tonight is to bring us closer to that point.

What this motion would do is instruct the conferees to accept the Senate increases in education, which would mean increases in Goals 2000, an increase of $814 million in chapter 1. We are asking to put $814 million in for title I because we think that we should make it easier, not harder, for kids to learn how to read and to learn how to deal with math.

Mr. Speaker, we are asking to put back $200 million for safe and drug-free schools because we think that our communities are going to be safer and our kids healthier if they learn at an early age to stay away from drugs.

We are adding $8 million for charter schools, some additional money in the education area, including vocational and adult education. We are asking to add back $137 million for Head Start, which is what the Senate has added back. In the Labor Department, we are asking that funding be added back for school-to-work programs, for dislocated worker assistance, for one stop career shopping, for summer youth, $635 million for summer youth.

Mr. Speaker, we are asking in the Veterans, HUD and independent agencies bill that we add $115 million for operating programs to the EPA, including enforcement activities, $300 million for EPA, States and tribal assistance grants, water and wastewater infrastructure financing. The Senate bill added $50 million or $150 million for EPA Superfund program. We are asking that we accept the Senate judgment on those programs.

We are also asking to accept the Senate level for the cops on the beat program rather than the House insisting on its block grant program as a substitute for the cops on the beat program. We think that program has been demonstrated to be successful. The President places a very high priority on that item and will not sign a bill, in my judgment, unless we do considerably better than the Senate has done on this program. We intend in conference to insist on a higher level for cops on the beat than the Senate has provided, but what we want to do is to try to begin the process at least recognizing as the Senate did that we have to restore at least 50 percent of that going in.

Mr. Speaker, we are also asking that Members delete the Istook amendment, which in essence creates a huge blizzard of paperwork on most of the groups who have the temerity to want to comment to their elected Representatives on the actions that we are taking. We think they have that right, and the Istook amendment gets in the way of that.

We are also asking that we restore $1 billion for the low-income heating assistance program and take the Pell grant program up to maximum grants of $2,500 rather than the amount in the House bill.

We believe that that is the very minimum that is necessary to get the conference off to a good start. It is my firm belief that in fact we will have to go further in those restorations before the President signs the bill.

The President is not going to settle for 15 cents on the dollar, as the Senate has provided. He is going to insist that we do a better job than that in protecting education, protecting environmental cleanup, protecting our efforts to fight crime.

I would ask for a yea vote on the motion.

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. LIVINGSTON] is recognized for 30 minutes.

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GOODLING], distinguished chairman of the Committee on Economic and Educational Opportunities.

Mr. GOODLING. Mr. Speaker, I would caution my colleagues to be very, very careful about this, what appears to be a very, very attractive package, particularly when talking about areas in education. I would not tie the conferees hands until we know exactly where these offsets are and how legitimate those offsets are.

Mr. Speaker, I would encourage Members not to fall victim to something that sounds awfully, awfully good, particularly for those of us who deal in the education field, because the offsets may end up eventually being Members' favorite programs, because at the present time they probably could be more smoke and mirrors than anything else.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank all of my colleagues for their indulgence. I shall not take much time.

We have here a motion to instruct conferees. We are in the process of appointing the conferees so that they can begin the conference. I am hopeful that this is the beginning of the end for the fiscal year 1996 bills.

The conferees will go into session and will deliberate and I expect we will report back toward the end of next week and that we will produce a bill that can pass both Houses and be sent to the President and will be signed into law and we can move on to fiscal year 1997.

Mr. Speaker, let me say that my friend from Wisconsin has raised a number of issues for additional spending. He wishes to spend a lot of money on a lot of different programs. He wishes us to conform with the Senate on some of the additional spending that they have had, and of course he is not satisfied with the bill as it left the House.

On education, I would only point out that the Federal Government, which has not traditionally throughout the history of this Nation been involved in education, has been since roughly 1970 or shortly before and now pays about 6 percent of the total education tab. Roughly $23–$25 billion is what we pay, the American taxpayer pays, through the Federal Treasury. The U.S. taxpayer pays roughly $23 billion for education in this country, to be dispensed through the United States Treasury, but the taxpayers also pay another $200 billion-plus in the States and localities on education.

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The fact is that education is primarily the province of the local and the State government, and while we can always look for more ways to spend more money, we are never going to make a dent with our involvement.

I have to point out the fact that since the Federal Government has become involved, grades for the scholastic aptitude tests for students at all levels of education have declined, not increased, so it is hard to make the argument that Federal payment for education bills has really accomplished much of anything.

That being the case, we are going to meet with the Senate, and we are going to have to come to a conclusion. I would only point out to my colleagues that, if we accept the gentleman's proposal to instruct conferees, we might as well not go to conference because the gentleman from Wisconsin [Mr. OBEY] would have us agree to virtually all of the Senate's positions on a fistful of issues, practically all of which would indeed cost more money.

Now in the House passed bill, we are within our budget caps. If we spend more money, we have to pay for it or else we will be in excess of our budget that we have passed in this House and that passed in the Senate before. I am not sure that we can come up with additional pay-fors for additional spending. It is good to be a very excruciating debate between us, and Members of the Senate, and both parties, and then also to work out an agreement with the President where he feels comfortable enough to sign it. It is going to be a difficult negotiation.

I would urge my colleagues to vote "no" on the motion to instruct. Let us go to conference with some flexibility to negotiate. Do not give us a mandate to agree to their proposals. If we have a mandate that is given us by bipartisan Members of this House, the fact is that the conference will be over very quickly whether or not the President ultimately decides to sign the bill.

But I would urge my colleagues to stick with the committee, not weaken us before we go to conference. Vote "no" on the motion to instruct, and let us go home for the evening.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself just 30 seconds.

The Senate has offset all of the funding that they have provided so they do not add to spending levels for this fiscal year, and all of the items for fiscal year 1997 will be constrained by the caps, as everyone knows. So this is not an issue of how much spending there shall be. This is an issue of where that spending ought to be targeted.

Mr. Speaker, I yield back the balance of my time.

Mr. LIVINGSTON. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore (Mr. HEFLEY). The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 194, nays 207, not voting 30, as follows:

[Roll No. 90]

YEAS—194

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Ehlers
Engel
English
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fox
Frank (MA)
Franks (CT)
Frost
Furse
Gejdenson
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Heineman
Hilliard
Hinchey
Holden
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McHugh
McKinney
McNulty
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Pastor
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Quinn
Rahall
Ramstad
Rangel
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Weldon (PA)
Weller
Williams
Wise
Woolsey
Wynn

NAYS—207

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hoke
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Knollenberg
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manzullo
McCollum
McCrery
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—30

Barton
Boehner
Clay
Collins (IL)
de la Garza
Dicks
Forbes
Gephardt
Gibbons
Hayes
Johnston
Kolbe
Lazio
Manton
McDade
Meehan
Moakley
Owens
Payne (NJ)
Radanovich
Rose
Roth
Stark
Stockman
Stokes
Studds
Waters
Waxman
Wilson
Yates

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The Clerk announced the following pair:

On this vote:

Mr. Stokes for, with Mr. Radanovich against.

Mr. ZELIFF changed his vote from "aye" to "no."

Mr. BERMAN changed his vote from "no" to "aye."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. HEFLEY). Without objection, the Chair appoints the following conferees:

For consideration of the House Bill (except for section 101(c)) and the Senate amendment (except for section 101(d)), and modifications committed to conference:

Messrs. LIVINGSTON, MYERS of Indiana, YOUNG of Florida, REGULA, LEWIS of California, PORTER, ROGERS, SKEEN, and WOLF, Mrs. VUCANOVICH, and Messrs. LIGHTFOOT, CALLAHAN, WALSH, OBEY, YATES, STOKES, BEVILL, MURTHA, WILSON, DIXON, HEFNER, and MOLLOHAN.

For consideration of section 101(c) of the House bill, and section 101(d) of the Senate amendment, and modifications committed to conference:

Messrs. PORTER, YOUNG of Florida, BONILLA, ISTOOK, MILLER of Florida, DICKEY, RIGGS, WICKER, LIVINGSTON, OBEY, STOKES, and HOYER, Ms. PELOSI, and Mrs. LOWEY.

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

WOMEN IN PUBLIC SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut (Ms. DeLAURO) is recognized for 5 minutes.

GENERAL LEAVE

Ms. DeLAURO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

Ms. DeLAURO. Mr. Speaker, I am honored to join Congresswoman LUCILLE ROYBAL-ALLARD tonight in kicking-off this series of special orders recognizing women from around the Nation for their accomplishments in public service. Congresswoman ROYBAL-ALLARD and myself organized this series of special orders this evening with the Women's Caucus in celebration of Women's History Month. Due to the overwhelming participation in this event, I will keep my remarks brief. I thank all of my colleagues who will be speaking this evening in recognition of the tremendous accomplishments and contributions of women in public service.

Mr. Speaker, I am proud to announce the names of two extraordinary women from the third Congressional District of Connecticut who have been selected for acknowledgement during Women's History Month 1996. These women were selected by a committee I organized, comprised of over 20 women leaders in my district. The committee included members of the business community, civic organizations, cultural, and religious groups. The Women of the Year for Women's History Month 1996 are Mrs. Anne Calabresi and State Senator Toni Harp.

Anne Calabresi is a cornerstone of community life in New Haven. She has been active in the organization of major city initiatives and events like the World of Difference Project. Sponsored by the Anti-Defamation League, the World of Difference Project has been working to end discrimination and forge community understanding in New Haven for the past 4 years. Anne works with the Special Olympics, which brought thousands of athletes and spectators to New Haven last year and also serves as the chairwomen of the Leadership Education and Athletics in Partnership [LEAP] program. Presently, she is serving as the vice-president of the International Festival of Arts and Ideas which will be held in New Haven this June. This festival attracts the best of international, national, regional, and local performers and artists. In addition to the educational and cultural benefits, the festival spurs tourism and economic development in New Haven. Whatever the endeavor, Anne's peers applaud her enormous energy, enthusiasm and love for the city of New Haven. She is indefatigable and is a source of information for all.

I am also proud to recognize State Senator Toni Harp tonight. State Senator Harp is a strong community leader and eloquent advocate for the needs of New Haven residents at our State Capitol. She is the ranking member on the Connecticut State Legislature's Public Health Committee. Toni is praised by her peers for her ability to balance out her professional duties at Hill Health Center in New Haven, her legislative duties in Hartford and her love and devotion for her family. On the State and Federal level, she has been a strong advocate for women, seniors and children, and working families. She is described as an excellent listener and someone who is not afraid to stand up and be heard on issues including affirmative action, child welfare and the advancement of women. Toni presently serves on the Board of Directors for the Connecticut Student Loan Foundation and as the treasure of the Legislative Black and Puerto Rico Caucus.

I thank Anne Calabresi and State Senator Harp for their tireless efforts and countless contributions to our community. I am proud to acknowledge them during Women's History Month. Both women are true rolemodels for young women and girls.

At this time, I am happy to yield the remainder of my time to the coordinator of this series of Special orders, Congresswoman ROYBAL-ALLARD.

□ 2100

Ms. ROYBAL-ALLARD. Mr. Speaker, I thank the gentlewoman for yielding.

Although I am going to be speaking later, I just wanted to take this opportunity to thank my colleague the gentlewoman from Connecticut [Ms. DELAURO] for joining me in sponsoring this event and for helping to make this tribute to women possible. She is to be commended for her deep commitment to helping to elevate the status of women in this country.

HONORING MRS. SENORINA RENDON AS WOMAN OF THE YEAR FOR CALIFORNIA'S 33D CONGRESSIONAL DISTRICT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. ROYBAL-ALLARD] is recognized for 5 minutes.

Ms. ROYBAL-ALLARD. Mr. Speaker, I would like to thank my colleagues who have joined us to commemorate women's history month by recognizing outstanding women in our Nation.

Throughout the month of March, we in this country honor women from the past and present, who have, each in their own way, made a positive difference in their communities and toward the betterment of our Nation.

These women come from all walks of life, cultures and economic backgrounds.

They are the women who work in our fields and our factories, in Federal, State and local governments and in the armed services in defense of our country. They are the women who work hard at home to preserve the family, the very foundation of our country.

The struggles and pioneering efforts of the women who came before us, and the courage and determination of the women of today, have opened new opportunities for all of us.

It was not that long ago when women were thought of only as mothers, daughters, sisters, and men's wives.

The fact that I am here this evening celebrating Women's History Month with my colleagues, many of whom are women, is indicative of the changing role of women in our society.

We all know, however, that there is significant room for improvement.

Even today, working women still earn only 70 cents for every dollar paid to their male counterparts, the glass ceiling has still not been shattered, women are still victims of sexual harassment at both work and school, gender equity in education is not yet a reality, and women are still much more likely to live in poverty than men.

But because of women such as those we are honoring tonight, I am confident that we will not only continue to elevate the status of women, but strengthen our communities and our society as a whole.

This evening, I would like to recognize one of the many women in my district who embodies this spirit, Mrs. Senorina Rendon.

Mrs. Rendon, a resident of the city of South Gate CA, has always been an active force in her community.

She is a member of the South Gate PTA and formerly served as its president.

She combats the problem of gang violence in her community, through her work with police officers and local youth.

For the past 6 years, Mrs. Rendon has been the president of the South Gate High School parents group, where she works to motivate parents to get involved in their children's education.

Her ultimate goal is to give all the students in her community the opportunity to attend college.

Mrs. Rendon knows first hand the benefits of education.

While volunteering in her community, and raising six children, all of whom have graduated from high school and two from college thus far, Mrs. Rendon herself has gone back to school to continue her own education.

Mrs. Rendon exemplifies the utmost dedication to both family and community.

She is a shining example of an outstanding woman in public service and I am honored that she is the "woman of the year" for the 33d Congressional District.

Mr. Speaker, I yield the remainder of my time to the gentleman from Utah [Mr. ORTON].

TRIBUTE TO MARTHA HUGHES CANNON IN CONJUNCTION WITH WOMEN'S HISTORY MONTH

Mr. ORTON. I thank the gentlewoman for yielding.

Mr. Speaker, in conjunction with Women's History Month, I rise today to pay tribute to an extraordinary woman in the political history of our Nation: Martha Hughes Cannon.

Born on July 1, 1857, Martha Hughes Cannon led a distinguished life that included completing medical school at the age of 23, starting a medical practice in Utah, working tirelessly for the cause of women's suffrage, establishing Utah's first training school for nurses, and becoming the first woman in the history of our Nation to be elected to a State Senate.

Martha Hughes Cannon was elected to the Utah State Senate in 1896—her achievement all the more noteworthy since she ran in a field that pitted her against her husband, Angus M. Cannon. As a State senator, she introduced legislation to provide education for deaf and blind children, to create a State board of health, and to provide for rules and regulations in a number of sanitation and public health areas.

In 1898, she traveled to Washington to deliver a powerful speech to a Congressional Committee in favor of granting women the right to vote in the United States.

This year, Utah celebrates the 100th anniversary of its statehood. As part of statehood celebrations, a statue of Martha Hughes Cannon will be unveiled in the Utah State Capitol rotunda on July 24, 1996. It is a fitting tribute to her tremendous contribution to our State.

WOMEN'S HISTORY MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Mrs. SEASTRAND] is recognized for 5 minutes.

Mrs. SEASTRAND. Mr. Speaker, it is a wonderful privilege to stand here to commemorate Women's History Month. I stand before you tonight to share my belief that the 104th Congress has done so much to further the cause of women, women and their rights, which is so important not only to me but to my mother and to my daughter Heidi.

I speak of women's rights in the broadest sense. I believe that the interests of women are inseparable from those of the rest of our Nation. Women, men, children all have a stake in the strength and prosperity of America. What is good for our country is good for all of us.

We in this Congress have taken great strides towards balancing the Federal budget, restraining an intrusive government, and limiting military interventionism. These are noble goals. Though yet to be fully attained, they are within the reach of this Congress and will benefit men and women alike.

The continuing struggle to balance the budget through the judicious restraint of Federal spending is fraught with implications for women's rights. Successfully balancing the budget will provide the following benefits for women and all Americans:

It is going to create 6.1 million new job opportunities in the early part of the 21st century. The best way to promote opportunities for women is to create an economy which can accommodate all those who wish to work.

A balanced budget would also bring a 2 percent decline in interest rates. Women would have easier access to home, business, and education loans, thereby increasing their economic and educational opportunities.

A balanced budget would definitely mean that we would have a future free of debt. We as mothers would bequeath to our children a future of greater opportunity and a government of increased virtue and vitality.

We in this Congress have labored mightily to scale back the size and scope of an overly intrusive government. With the restraint of government comes an increase in liberty and enterprise. Excessive regulation is the bane of the individual entrepreneur.

The Republican Party has vigorously championed the elimination of needless bureaucratic obstacles for private enterprise. In an increasingly competitive job market women can only benefit from an environment which encourages the creation of small business. Government must step out of the way of the women entrepreneur.

By opposing the overtly and overly interventionist policies of the Clinton Administration, we of this Congress have done our best to keep our troops home and their families together. The deployment of United States soldiers to Bosnia serves no American interest and needlessly puts the lives of our young men and women, in jeopardy. The women who have been sent to Bosnia have had to leave their families, their husbands, their children behind. The women whose husbands have been deployed are left with added financial and parenting responsibilities. Restraining foreign intervention is good for women and good for our country.

Mr. Speaker, as we take time to reflect upon the contributions of women throughout history, let us not diminish their legacy by concentrating narrowly upon the ideological agenda of a few. Those great women who came before us struggled for equality of opportunity, not the equality of result. They struggled for increased liberty, not the security bestowed by government.

We in the Republican Party are the rightful inheritors of this noble legacy. Our efforts to promote individual liberty mirror those wonderful women's struggles for freedom of opportunity. Let us act worthy of them by continuing to fight for a much brighter future, one in which the strength and dignity of women are allowed to flourish in an atmosphere of liberty and abundance.

HONORING OFELIA LOZANO AS WOMAN OF THE YEAR FOR CALIFORNIA'S 34TH CONGRESSIONAL DISTRICT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. TORRES] is recognized for 5 minutes.

Mr. TORRES. Mr. Speaker, I thank the gentlewoman from Connecticut [Ms. DELAURO] and the gentlewoman from California [Ms. ROYBAL-ALLARD] for calling this special order tonight to honor women and the contribution of women to the Nation of America.

Mr. Speaker, today I have the distinct privilege and honor of naming longtime Pico Rivera resident and community activist Ofelia Lozano as the 34th Congressional District's Woman of the Year.

Since moving to Pico Rivera 39 years ago, Ofelia has unselfishly given of her time and energy to a myriad of causes which have made our city a better place to live and the future a better place to grow up.

She has been a member of the Pio Pico Women's Club for the past 25 years, serving as its president and vice president.

She has also been active with the Pico Rivera Christmas Basket Committee, an exemplary organization committed to distributing food to the needy, to seniors and to a number of youth athletic teams.

But perhaps her most noted contribution has been her untiring efforts on behalf of North Park Middle School and its nationally recognized and award-winning marching band. In the band's early years, it was Ofelia Lozano who raised much needed funds to permit the band to compete, and now that the band has been selected to play in next year's Rose Bowl game and the Rose Bowl parade, it is Ofelia Lozano who again has committed countless hours to helping the band meet its goal of raising the $10,000 that it needs to play in that parade.

Mr. Speaker, Ofelia Lozano is not only worthy of this recognition but most importantly deserving of it. She is a true friend and an ardent supporter of the youth of Pico Rivera. She indeed exemplifies the modern woman, the activist, the mother, who is out there struggling on behalf of all the duties that she has, yet she has time to give to her community, to her city, to the children of our city and to this Nation. Indeed, I congratulate her.

Mr. TORRES. Mr. Speaker, I yield to the gentlewoman from New York [Mrs. LOWEY].

HONORING AMY PAULIN AS WOMAN OF THE YEAR FOR NEW YORK'S 18TH CONGRESSIONAL DISTRICT

Mrs. LOWEY. Mr. Speaker, I thank my colleagues the gentlewoman from California [Ms. ROYBAL-ALLARD] and the gentlewoman from Connecticut [Ms. DELAURO] for organizing this tribute to women from around the country who have made extraordinary contributions to their communities.

I am here to honor an outstanding constituent, Amy Paulin of Scarsdale, NY. Amy, like myself, the mother of three children, has dedicated herself to the women and families of Westchester County. In fact, Amy was selected the 1995 Woman of the Year by a coalition of women in my district.

The list of Amy's community activities fills pages and in each role she has epitomized the concept of citizenship.

Amy was president of the League of Women Voters for 3 years. While Amy was president, the league registered 2,000 voters, and issued nonpartisan Voters Guides to 85 percent of the voters in Westchester County. In addition, the league sponsored debates for political candidates and was actively involved in shaping local legislation.

□ 2115

One of the highlights of Amy's presidency was her success at urging the creation of the Westchester County

Board of Legislators Task Force on Families. When Amy realized that no board committees addressed women and children's issues, she brought it to the attention of the chair of the county board. Then, Amy led a successful lobbying effort that convinced the board that such a task force was indeed necessary. Amy is currently the only citizen-member of the task force, which just released a very important report on Westchester County's response to child abuse.

In addition to Amy's superb work with the league, she sits on the board of: The Westchester Children's Association, the Westchester Women's Agenda, the YWCA of White Plains, the Westchester Coalition for Legal Abortion, the UJA-Federation Scarsdale Women's Campaign, and the Scarsdale Middle School P.T.A.

As you can see, Amy's commitment to women and families is very serious. Westchester County has benefited from her tireless efforts on behalf of our families. I am honored to have the opportunity to honor Amy Parlin as Woman of the Year.

HONORING KATHARINE HOUGHTON HEPBURN DURING WOMEN'S HISTORY MONTH

The SPEAKER pro tempore (Mrs. SEASTRAND). Under a previous order of the House, the gentlewoman from Connecticut [Mrs. JOHNSON] is recognized for 5 minutes.

Mrs. JOHNSON of Connecticut. Madam Speaker, I first want to commend my colleagues for the attention they have brought to Women's History Month. Their hearings, seminars, and legislative measures have focused much needed attention on women—their health, their reproductive rights and the need for gender equity in class and on the courts. I am pleased to be a part of tonight's activity saluting extraordinary women from our districts and from around the world.

I rise today to salute Connecticut's Katharine Houghton Hepburn, one of the earliest advocates for gender equity in education and reproductive rights for women. Her name may sound familiar for other reasons as she was the mother of actress Katharine Hepburn. But not enough is known about her own achievements. Orphaned at 14, it's been said that her mother's dying words to her were "get an education"—and she did, entering Bryn Mawr's Class of 1899 at the age of 16.

She obtained degrees in chemistry and physics—precisely because those were the subjects she most dreaded, and later earned a master's degree in art history from Radcliffe.

After college, Katharine Houghton married a prominent Connecticut doctor and became a determined suffragist and an outspoken birth control advocate. Her opposition was formidable. Connecticut State obscenity laws at the time made it illegal to mail any information on birth control and it was even a crime for doctors to distribute birth control information or tell anyone where it might be obtained. In a 1941 interview, Houghton said that when she confronted Connecticut State Legislators with the birth control issue, they were embarrassed and terrified. "They nudged each other like schoolboys," she said, "but after ten years of it, they got used to us." And one can only imagine what her neighbors of upscale Fenwick, CT, thought of her views. Houghton once said that they were worried her campaign to make birth control available for all women would only lead to their corruption. She responded by saying:

> We are not trying to produce immorality * * * we are trying to explain the use of human intelligence to control human nature.

At the same time, her work on behalf of the suffragist movement continued. And in 1920, right after the 36th State gave women the right to vote, Connecticut Democrats approached Houghton and asked her to run for the U.S. Senate. Connecticut had not yet ratified the 19th amendment, though, so she continued with the task at hand. As her daughter's fame grew, so did her own and in 1933, she led a procession of women up to Capitol Hill to push for a bill that would have permitted physicians to distribute birth control information. Among the marchers—Margaret Sanger and Amelia Earhart. Houghton worried that her activities would harm her daughter's burgeoning acting career. But Katharine Hepburn strongly supported her mother's work. "I detest the newspaper's reference to her as Katharine Hepburn's mother," she said, "My mother is important. I am not." Let's all remember Katharine Houghton's importance today. She fought for women when the country, her State, and even her own neighborhood, were opposed to her causes. But she continued on for decades for most of her life—inspiring women and creating an America that would make good on her promise of equal opportunity and equal justice for all.

Madam Speaker, I would like to yield now to my friend and colleague from North Carolina [Mrs. EVA CLAYTON].

Mrs. CLAYTON. Madam Speaker, I thank the gentlewoman for yielding to me, and thank my colleagues who have arranged this special tribute to women.

Madam Speaker, as we celebrate Women's History Month, I think of the numerous contributions women have made to make this world a better place to live.

When I look at the First Congressional District of North Carolina, I find an extraordinary woman, a woman who is a fine example of womanhood who has dedicated her life to improving the lives of others. She has taken on many difficult task, oftentimes sacrifing herself and spending her own money to improve the lives of others.

She is a living legend in North Carolina. She is Mrs. Alice Ballance, a mother, a grandmother, and businesswoman.

Her commitment to her family and community has made her stand head and shoulders above the masses. She is many things to many people, but above all she is a champion of the disadvantaged and children.

"Miss Alice" as she is affectionately known around Bertie County in the First Congressional District of North Carolina, has proven again and again her commitment to being a model citizen. "Miss Alice" has maintained close ties to her community, church, and family, and has worked tirelessly to improve the lives of the poor and disadvataged citizens of her county. She organized and established child and adult care for the children and seniors of her county.

Her activism dates back to the civil rights era of the sixties. She has testified before the U.S. Senate on behalf of North Carolinians and founded the People's Program on Poverty to assist the needy citizens of Bertie County. She has been recognized by several national and regional organizations for her many community activities.

Mr. Speaker, today I salute a woman who is part of our rich and proud history in North Carolina. A woman whose contribution to our society has made North Carolina a better place to live.

She is the essence of leadership, the epitome of statesmanship, and the embodiment of selflessness and commitment.

More importantly, she is not afraid to fight for her principles and to stand up for her beliefs. Pride, achievement, and success are her watchwords. Alice Ballance has paved the road of opportunity for women like me and I am happy to name her North Carolina's First Congressional District, Woman of the Year.

HONORING HELEN RUDEE AND ELIZABETH TERWILLIGER DURING WOMEN'S HISTORY MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. WOOLSEY] is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, first of all I would like to thank my colleagues and good friends for organizing this Women of the Year special order as part of our Women's History Month celebration.

Madam Speaker, I come to the floor of the House this evening to honor two outstanding women, Helen Rudee and Elizabeth Terwilliger, from the Sixth Congressional District of California.

When talking about Helen Rudee, it is hard not to sound repetitive because

Helen Rudee was the first in just about everything she has done. Helen was the first woman president of the Santa Rosa Board of Education. She was the first woman on the Sonoma County Board of Supervisors. And she was the board's first chairwoman. In addition to her outstanding record in elected office, Helen raised four children and participated in just about every volunteer organization in Sonoma County.

This year, Helen is the recipient of the Konocti Girl Scout Council Jewel of a Woman Award for sharing her leadership skills with other young women in our community. It is truly fitting that we recognize Helen during Women's History Month. Helen Rudee is a woman who has made history, and she continues to make history.

I am also proud to honor Elizabeth Terwilliger, a real life trail blazer, who in 1991 was the recipient of President George Bush's Points of Light Award.

Long before environment became a household word, Elizabeth Terwilliger pioneered environmental education in Marin County. Now in her eighties, she continues to lead children, teachers, parents, and grandparents on hiking, canoeing, and bicycling adventures 6 days a week.

Mrs. Terwilliger's tireless commitment to our environment has inspired other volunteers to form the nonprofit Terwilliger Nature Education Center. Where every year, over 65,000 San Francisco Bay Area children enjoy the spectacular beauty of Marin County's trails, marshes, and beaches because of the Terwilliger Center.

Again, it is my great honor to recognize Helen Rudee and Elizabeth Terwilliger as 1996 Women of the Year. They have left an indelible mark on Sonoma and Marin Counties, and their legacy will inspire generations to come.

Madam Speaker, I yield now to the gentlewoman from New York, CAROLYN MALONEY.

Mrs. MALONEY. I thank the gentleman for yielding, and I likewise join her in thanking ROSA DELAURO and LUCILLE ROYBAL-ALLARD for organizing this special order in honor of women during Women's History Month.

Madam Speaker, I rise today to honor as my Woman of the Year a former Congressman, New York's tireless advocate for women, Bella Abzug. On behalf of women everywhere, I salute this remarkable woman, whose dedication and courage deserves recognition as we honor her and as we follow her lead.

Bella, who was born the same year that women won the right to vote, has spent her entire life fighting for women's rights. As a Member of Congress she wrote the first law banning discrimination against women in obtaining credit, and she initiated an organization which has become known as the Congressional Caucus on Women's Issues.

Today, Bella continues her advocacy for women with her Women's Environment and Development Organization, a group which will soon introduce its Contract with American Women.

Today, in a Congress far more hostile to women's rights than any I can remember, I will do what Bella would appreciate the most, honor her spirit by reminding our adversaries that we will refuse to lose. We will succeed in overcoming the anti-women actions of this Congress because we have millions of women with us across this country.

Madam Speaker, we will succeed, because brave women Like Bella Abzug have taught us how to succeed.

Madam Speaker, I rise today to honor, as my "woman of the year", former Congresswoman and tireless advocate for women's rights—Bella Abzug.

On behalf of women everywhere, I salute this remarkable woman, whose dedication and courage deserve recognition—as we honor her, and, as we follow her lead.

Bella, who was born the same year women won the right to vote, has spent her entire life fighting for women's rights.

As a member of Congress, she wrote the first law banning discrimination against women in obtaining credit; and, she initiated what became known as the Congressional Caucus on Women's Issues.

Today, Bella continues her advocacy for women with her Women's Environment & Development Organization [WEDO], a group which will soon introduce it's "Contract with American Women."

Today, in a Congress far more hostile to women's rights than any I remember, I will do what I think Bella would appreciate the most—honor her spirit by reminding our adversaries that we refuse to lose.

We will succeed in overcoming the anti-woman actions of this Congress because we have women like Bella with us.

Madam Speaker, We will succeed, because brave women like Bella Abzug have taught us how to succeed.

From every possible forum, Bella Abzug has spent her entire life fighting for women's rights.

In 1970, Bella became the first woman to run for and win a seat in Congress on a women's rights and peace platform.

Her term in office was far too short—only 6 years. But, her accomplishments however, were many.

She wrote the first law banning discrimination against women in obtaining credit, loans, and mortgages. She introduced precedent-setting bills on comprehensive child care, social security for homemakers, abortion rights, and Gay rights. One of the earliest votes Bella cast was to approve the Equal Rights Amendment, and, she introduced a resolution proclaiming August 26th Women's Equality Day. The resolution was approved and signed into law by President Nixon.

Bella's work in and outside of Congress led to her national and international renown as a forceful and tenacious organizer of women. She held the first planning sessions for the National Women's Political Caucus [NWPS] in her office, and, in 1971 became its first co-Chair. Since its inception, the NWPC has been a major force in recruiting women to run for office; in maintaining a database of women in politics; and in putting women's issues on the national and international agendas.

Today, Bella has turned her attentions to women's rights in the global arena. Bella is the Co-founder of the Women's Environment & Development Organization [WEDO]. WEDO is an international network which organizes women to help save the planet from worsening environmental threats, and from pollution and poverty.

As co-Chair of WEDO, Bella presided over the World Women's Congress for a Healthy Planet, held in Miami in 1991. The women's agenda which emerged from that Congress became the focus of activities used in connection with preparations for the Earth Summit in Rio de Janeiro in 1992, which Bella and WEDO leaders from around the world participated in.

Most recently, I am pleased to say that Bella was a key organizer at the extremely successful Fourth U.N. World Conference on Women in Beijing, China in September of 1995. I was proud to join Bella in Beijing, and I am proud to continue working with her to "Bring Beijing Home." Bella and the WEDO network continue to work at the United Nations, organizing women's caucus meetings at subsequent major international conferences of particular concern to women.

Bella's international work has been recognized as crucial to the inclusion of women's perspectives, demands, and participation in policy-making in U.N. platforms for action and resulting programs.

Madam Speaker, in honoring Bella Abzug here today, it is impossible to include all the contributions she has made to the advancement of women's rights. So, we must merely recognize and honor the enormity of her life's work. And, we must take up her baton to ensure continuation of her work—especially in this 104th Congress, the most hostile Congress to women's rights in my memory.

We face a great deal more than the 104th Congress' hostility toward women. We must also face the following facts: 96 percent of our country's top executives are males; the more a professional field is dominated by women, the lower the pay scale; women are the sole breadwinners in more than 25 percent of the world's families; and prostitution and pornography are the only industries in which women earn more than men.

Today, I rise to inform this Congress that in the honor and spirit of Bella Abzug, whom I put forward as my "Woman of the Year," that we refuse to lose.

We will succeed in enacting legislation which will counter the anti-woman actions of the extremists of the 104th Congress. We will succeed in enacting pro-woman legislation because women like Bella have blazed the way. We will succeed because over 150 years of women who faced greater obstacles than we do did not give up.

We will succeed because Bella succeeded before us. We will succeed because of those that fought before her. We will succeed because we have a perpetual and ever-forward looking movement of women righting relentlessly for equal rights.

We will follow Bella's lead, and remind ourselves that, "It's up to the women!"

Mr. FRAZER. Madam Speaker, I rise to address the House on this very important special order celebrating March as Women's History Month. First, I want to thank the distinguished Member from California, Ms. WOOLSEY, for holding this special order.

It gives me great pride to celebrate the accomplishments of an outstanding African-American educator from St. Croix, VI, Mrs. Eulalie Rohlsen Rivera. Mrs. Eulalie Rohlsen Rivera was born August 2, 1909, in Frederiksted, St. Croix. She earned her assistant-grade teachers license in 1932 and her principal license in 1934. Mrs. Rivera grew up in the Ebenezer Orphanage on St. Croix. During her teens she was assigned to teach the kindergarten class. This assignment launched her teaching career. She briefly taught at the Christiansted Kindergarten and later at the Diamond School from there she went on to teach at La Princesse School and the Claude Markoe School where she remained until her retirement in 1974.

Mrs. Rivera is truly a great civic leader. She gave of her time and talents to such organizations as the Women's League of St. Croix, Frederiksted Democratic Club, Frederiksted Hospital Auxiliary, Lutheran Church Sunday School, St. Croix Business and Professional Women's Club, League of Women Voters of St. Croix, Committee on Aging, and the Friends of Denmark.

In 1967 Mrs. Rivera was named "Woman of the Year" by the Frederiksted Business and Professional Women's Club and "Teacher of the Year" at the Claude O. Markoe School.

On February 19, 1974 the Legislature of the Virgin Islands renamed the Grove Place Elementary School, the Eulalie Rivera School. In 1980, still striving to make a difference in the lives of children and teachers in the Virgin Islands, Mrs. Rivera ran for Virgin Islands Board of Education in 1982 and won. She served two terms, one term as vice chairman of the board. She retired from the board in 1985 but returned to serve two additional terms.

Mrs. Rivera is a prime example of dedicated public service and civil leadership. It is this legacy which makes her an outstanding African-American female.

Madam Speaker, it gives me great pride to celebrate the accomplishments of another outstanding African-American educator from St. Thomas, Virgin Islands, Ms. Jane Eliza Tuitt.

Ms. Tuitt was born in Hanna's Rest, St. Croix on January 8, 1908. Her education started in the public school system of St. Croix, but at the age of 8 she was sent to Antigua, to attend the Thomas Oliver Robinson Memorial School, the cultural center of the West Indies. After graduation at the age of 10, she returned to St. Thomas to continue her secondary education. In 1931, she entered Hampton University and earned a bachelors degree, and later returned to receive a Masters Degree from Columbia University in New York. She continued her advanced studies at Cornell University and New York University.

Ms. Tuitt dedicated her entire adult life, to the education of the young people in the Virgin Islands. Her professional career in education started in 1923 as an elementary school teacher in St. Thomas. In 1935, she accepted the principalship of Christiansted Grammar School, but after three months she journeyed to St. Thomas where she joined the faculty of Charlotte Amalie High School as a science teacher. Climbing the educational ladder, she served as Supervisor of Elementary Education, from 1945–47, Assistant Superintendent of Education of St. Thomas 1947–55, Director of Elementary Schools 1955–56, Acting Commissioner of Education 1956–58, and Assistant Commissioner of Education 1958–63, and Commissioner of Education from 1963–66.

In 1966, she left the Department of Education to become Associate Dean at the University of the Virgin Islands, where she also served as chair of the Teacher Education Division and Professor of Education. She retired from the university in 1971.

Ms. Tuitt was an outstanding role model for teachers and students in the Virgin Islands. Here legacy and contributions to education have been noted by Hampton University, by awarding her outstanding Alumnae. She also, established Jane E. Tuitt Scholarship Fund, at the University of the Virgin Islands, which is awarded to students in teacher education, nursing, business, science mathematics, social science, and the humanities.

Ms. WATERS. Madam Speaker, I rise to thank Congresswoman ROYBAL-ALLARD and Congresswoman DELAURO for providing this opportunity for us to highlight women who have had an impact on our lives and on the lives of others in our communities and in our Nation. Today we are here to honor a Woman of the Year, someone who we know to be an exceptional person from our district, who we seek to recognize for her leadership in a particular issue or field.

I am so proud and delighted to honor Ms. Kai Parker from Gardena, CA, in my district. Ms. Parker is an advocate for children, an activist in the community, a member of several boards and commissions, and a political appointee—serving as the Gardena Human Resources Commissioner.

Kai Parker has devoted her life to helping people reach their highest potential, from young children to seniors. In her current position as executive office coordinator of the Special Projects Bureau of Operations within the Department of Children Services in the County of Los Angeles, she has worked tirelessly to serve the children of Gardena, specifically children who come from foster homes. She has developed numerous, highly successful programs to develop skills and instill pride in people who come from disadvantaged backgrounds. Kai, herself, was raised in public housing, overcoming many obstacles along the way to her success. So she knows how self-respect can empower people to work hard and take them as far as they can go.

I had the opportunity to visit one of Kai's programs in Gardena called the African-Centered Saturday School. This program aims to provide a safe, nurturing environment for children who have been directed into the child custody system. Many of these children have been placed in protective custody, in a foster home, or with relatives, to distance them from parents who harmed them or who could not properly care for them. These are not bad kids, they are just unsafe. Many have experienced severe physical and emotional abuse, neglect, abandonment, poverty, substance abuse, developmental disabilities, educational handicaps, and many other serious social disorders. Yet, oftentimes, they still love their parents and do not understand what is happening to them. Kai has worked to decrease their trauma by loving them and empowering them to help themselves and turn their lives around.

Let me tell you about this program which serves 35 children between the ages of 6 months and 13 years. Those who attend Saturday School every Saturday from 9 a.m. to 3 p.m. receive academic instruction and tutoring, nutritious meals, and health care. They participate in field trips, special community events, recreation, and cultural activities. And this program is almost totally privately funded (after a jump-start from the city of Gardena).

One of the most important features of Saturday School is that the children are exposed to and encouraged to learn more about the African culture. They are taught about their African ancestors and their traditions and food, they learn Swahili, and through that they develop a sense of nobility, which in turn highlights their self-esteem. This program enriches their knowledge of their culture and of themselves. It seeks to instill pride in them so that, throughout their lives, the children will have a strong sense of who they are, as well as a vision of where they may want to go in their future.

Kai Parker's program, in only 2 years, has visibly developed and empowered the inner-city children it is designed to assist, as well as the community. It has brought together the whole Los Angeles community, or village, to help create whole citizens of these wonderful kids. From the donated church space to the tutoring offered by members of the Los Angeles Board of Education, community members from all walks of life volunteer to protect children. Thank you so much, Kai Parker, for creating this exemplary, highly successful program, and for all your inspirational work on behalf of our community.

One more thing. I am proud to say that Kai and I both work together as members of the Black Women's Forum. She has too many credentials and awards to list, but I must say that her efforts in helping welfare children and troubled youth through her many successful programs, from Saturday School to Summer Youth Institute Camps, have changed many lives. I commend her efforts to improve people's lives and am honored to name her my "Woman of the Year" from the 35th district of California.

Mr. FROST. Madam Speaker, as part of Women's History Month, I am pleased to have the opportunity to select Mrs. Izean Davidson, of Fort Worth, TX, as Woman of the Year.

Mrs. Izean Davidson, a life long Texan, has spent 42 years as an educator in the Texas public school system, serving as a classroom teacher and reading specialist. A leader in her community, Mrs. Davidson is a strong advocate for teaching the highest social and academic values to young adults. As a member of the Baker Chapel African Methodist Episcopal Church, she has worked tirelessly to implement programs which build self esteem and inspire young Texans.

In addition, Mrs. Davidson has participated in various organizations, boards and committees, including: the Fort Worth Mayor's Council, NAACP Board of Directors, Delegate to the National Democratic Convention for three successive terms, and Fort Worth Commission of the Status of Women.

It is an honor and a privilege to know Mrs. Izean Davidson. Clearly, her hard work and dedication to public service have improved the lives of many people in Fort Worth as well as in the State of Texas. I am proud to recognize Mrs. Davidson's contribution to women's history during this special month.

Mr. STOKES. Madam Speaker, I want to express my appreciation to our colleague, the gentle lady from the District of Columbia, ELEANOR HOLMES NORTON, for leading this important special order. This evening, she has reserved time so that we can have meaningful dialogue on the issue of women, wages, and jobs. It is a topic of paramount importance to this Congress and the Nation.

As I join my colleagues this evening, I am reminded that many years ago, a widowed mother scrubbed floors to earn a living and to provide an education for her two sons. Trying to balance raising a family and working a low-paying job, I recall that the family endured many hardships and struggles. This woman was my mother, Louise Stokes. As I join you today, I would like to remind my colleagues that women continue to face these same types of obstacles.

I am disappointed that this Republican-controlled Congress which came to Capitol Hill armed with its "Contract with America" and "Personal Responsibility" initiatives has not only neglected women, but they have sought to destroy decades of progress. During this Congress, we have been forced to defend womens' rights. We have fought to protect the programs which impact the lives of women and their families, including school lunch and child care programs, tax incentives for working families, and the elimination of the glass ceiling so that women and minorities can advance in the workplace.

Mr. Speaker, the issue of women in the workplace is particularly significant. In greater numbers, in more occupations, and for more years of their lives than ever before, today's women constitute nearly half of our Nation's work force. Unfortunately, they are still earning considerably less than their male counterparts. Although the passage of the equal pay act in 1963 attempts to ensure equal wages for men and women, in today's market, a woman earns 71 cents for every dollar of her male counterpart. Further, despite increased access to higher education, women with a college education earn, on the average, only slightly more than men with a high school diploma, and they earn about $10,000 a year less than men with comparable education.

While we focus tonight's special order on the status of women, we are reminded of how their lives touch the lives of millions of America's children. If we look at statistics, never has the number of working women with young children been higher—67 percent of women with children under the age of 18 are working or seeking employment. As such, child care is of paramount concern to working women and to women interested in entering the work force.

As you may know, this issue greatly affects our Nation's low-income women. In fact, the Republican welfare reform proposal, H.R. 4, includes provisions which would cause major reductions in child care funding. This would have a devastating impact on the ability of single parents to become employed. If we are serious about ending welfare, then we must be willing to make the investment and provide the vehicle that is so necessary to achieving this goal. To do anything less is an injustice to our children.

Mr. Speaker, I join Congresswoman NORTON and others gathered in the House Chamber as we reaffirm our commitment to addressing the needs of women throughout the Nation. Pay equity, child care, and equality in the job market, are goals that can be and must be achieved. We stand today challenging our colleagues to join in this important effort.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would like to take this opportunity to recognize my friend, and idol, the late Congresswoman Barbara Jordan as Woman of the Year. She was a renaissance woman, eloquent, fearless, and peerless in her pursuit of justice and equality.

Congresswoman Jordan began her public career as a Texas State senator. She served her country with great distinction as a Member of Congress and as a member of the House Judiciary Committee.

She exalted us all to strive for excellence, to stand fast for justice and fairness, and to yield to no one in the matter of defending and upholding the most sacred principles of Democratic Government.

Barbara Jordan was a lawyer, legislator, scholar, author, and Presidential adviser. She was immensely gifted, and used every bit of her talent and skill to address, improve, and dignify the conditions of human life.

In the tradition of Frederick Douglass, Martin Luther King Jr., and Thurgood Marshall, she challenged the Federal Government and the American people to uphold the principles set forth in the American Constitution.

She gained national prominence in the 1970's as a member of the House Judiciary Committee during the impeachment hearings of President Richard Nixon. Her eloquent statement regarding her faith in the Constitution helped the Nation to focus on the principle that all elected officials, including the President, must abide by the mandates of the Constitution. We know what it took for Barbara Jordan to say "yea" when the House Judiciary Committee roll was called on July 30, 1974, and we are still admiring her for it.

During her tenure in Congress, Congresswoman Barbara Jordan was a leader on issues relating to voting rights, consumer protection, energy, and the environment. She leaves the American people, particularly Members of Congress, a powerful legacy of commitment to freedom, integrity in government, and belief in human progress.

We realize that Barbara Jordan was a tremendous moral force and she was calling upon all of us to account for our conscience as a nation. Her untimely death leaves a great void in our national leadership, and she is sorely missed as we grapple with the great moral issues of the day.

Mr. WARD. Mr. Speaker, in recognition of Women's History Month, I rise today to honor one of the many admirable women in my district who will go down in history for who she is and what she has accomplished.

Dr. Judith Greenwell Green is a dentist and community activist, who lives a ministry of meeting human and community needs, particularly those of children.

Dr. Green has practiced dentistry since 1987, is an adjunct professor of dentistry and when no one else would, she signed on to be the Dental Director for the Jefferson County Corrections Department, serving the jail's population.

In 1988, Dr. Green said she accepted a call from God for her to help save homeless children. She and her husband, James, then adopted a sibling group of three. Two years later they adopted another sibling group of three. In 1992, a sibling group of two joined the Green family. In 1995, two baby boys were adopted bringing the total of special needs children in the Green family to 10, joining with two biological children.

Along with meeting the demands of her family life and her career, she is very active in her community. She serves on numerous boards and committees, including the Leadership Louisville Board of Directors, Presbyterian Community Center, Muhammad Ali Museum, Wednesday's Child, Metro United Way Allocation Committee, Adoptive Parents of Kentucky, Blended Families, Kentucky Foster Care Review Board, Head Start Policy Council, Kentucky One Church One Child Committee, and the PTA's of King Elementary, Meyzeek Middle, and Central High schools and Community Catholic School.

Dr. Green is a member of several professional, civic, and community organizations including the Louisville Coalition of 100 Black Women, Junior League, Alpha Kappa Alpha Sorority, Business and Professional Women, Rams Football Booster Club, Imani School of Martial Arts Booster Club, YMCA Black Achievers, Kentucky Association of Women Dentists, and the American Dental Societies.

Dr. Green's awards, honors, and recognitions include the Kentucky One Church One Child Parents of the Year plaque, Kentucky Foster Care Review Board Outstanding Commitment to Children, and Louisville, Coalition of 100 Black Women service award.

Dr. Green is a Master Adoptive Presenter who speaks often to various religious, civic, and social organizations, espousing that her foster children have brought into her home and her life. She is a frequent lecturer for the Kentucky Cabinet for Human Resources Adoption and Foster Care training programs.

I am very proud of Dr. Green and pleased that she graces my community with all that she does. She truly deserves to be called Woman of the Year and serves as a wonderful tribute to all women who dedicate their lives to family and community, during Women's History Month.

Mr. UNDERWOOD. Mr. Speaker, I join my colleagues today in celebrating Women's History Month and in honoring the countless number of women in public service to our communities and our Nation.

We pay special tribute to women pioneers who have opened doors to many professions previously occupied by men only. We say thanks to such special women such as:

Jeannette Rankin of Montana who was the first woman to be elected in her own right to the U.S. House of Representatives;

Frances Perkins who was the first woman to serve as Secretary of Labor;

Barbara Jordan who was the first African-American to win election to the House of Representatives since Reconstruction; and to

PATSY MINK of Hawaii, who is the first Asian-American woman in the U.S. Congress.

We are where we are today with respect to women in public service because of long-term struggles to overcome ingrained habits of discrimination against women. And today we have a better understanding of the abilities and contributions which women have, for centuries, demonstrated to their families, to their local communities, and to the world as a whole.

Over the last few decades, we have seen a reassessment of the principle of equality of opportunity and the principle of social values. This reevaluation has helped to catapult women into leadership roles.

Prior to the establishment of affirmative action policies and the enactment of equal employment opportunity laws, there were hundreds of professions which were exclusively, de facto, for males only. Take, for example, law enforcement professions, managers in the government sector, or careers in the military officer ranks. Women were considered not qualified for these jobs and, in fact, were discouraged from applying or considering these professions. But women did not accept the "women need not apply" warnings. Women fought for their rights and insisted that employers cease and desist from these discriminatory policies. By breaking down barriers to entry and advancement in these fields, we now have female midshipmen at the U.S. Naval Academy, female police officers, and many women at the middle- and upper-management levels at local, State, and Federal government offices across the country.

Although history does not always reflect women's contributions to the social order, we are experiencing an increase in the number of women who are role models in the community and leaders in public service. It makes common sense to practice the policy of inclusion and equal opportunity. It makes sense to utilize the talents of women who have been responsible for nurturing our young and keeping our families together. And it makes sense to acknowledge women's contributions to strengthening and enriching the values of our society.

I am pleased to join in this tribute to women in public service. I am also proud to note that the congressional district I represent, The Territory of Guam, has a tradition of providing numerous opportunities for women to be involved in public service. I am attaching, for the RECORD, a listing of women of Guam who are leaders in the executive, legislative, and judicial levels of the Government of Guam, as well as women leaders in the private sector and numerous boards and commissions. I salute all of these women and extend to them a warm Si Yu'os Ma'ase—thank you—for their dedication and service to the community. They are an inspiration to all of us who aspire to maintain a more just and compassionate society.

WOMEN IN PUBLIC SERVICE

EXECUTIVE BRANCH

Lt. Governor Madeleine Bordallo—highest position held by a woman in Guam.

First Lady Geraldine Gutierrez—serves as the overall chairperson of several community committees.

Female Heads of Agencies: Taling Taitano, Guam Housing and Urban Renewal Authority; Zeny Custodio, Bureau of Women's Affairs; Anna Marie Sablan, Kumision i Fino Chamorro; Michelle B. Santos, Government of Guam Retirement Fund; Deborah J. Bordallo, Guam Council on the Arts & Humanities; Ginger Underwood, Guam Educational & Telecommunications Corp. (KGTF); Helen Ripple, Guam Memorial Hospital Authority; Jeanette Sablan Tanos, Dept. of Mental Health and Substance Abuse; Christine Scott-Smith, Guam Public Library; Ann B. Gutierrez, Guam Finance Commission; Elfrieda Koshiba, Compact Impact Information Program; and Katherine B. Aguon, Political Status Education Coordinating Commission.

Deputy Directors: Rebecca Olsen-Quintanilla, Dept. of Administration; Frances J. Balajadia, Bureau of Budget; Aurora Cabanero, Dept. of Mental Health and Substance Abuse; Therese Cruz-Paulino, Guam Visitors Bureau; Jeanne M. B. Pangelinan, Guam Council on the Arts & Humanities; Elizabeth M. Blas, Guam Election Commission; Elizabeth Hamilton, Guam Public Library; Andrea Finona, Guam U. S. Passport Office; Stacy Cruz, Guam Occupational Information Coordinating Committee; and Lydia T. Cruz, Chamorro Land Trust Commission.

Lourdes T. Pangelinan is the only woman who has served as the permanent Chief of Staff for the Governor of Guam. Others have served in acting capacities.

Dr. Rosa Roberta Carter has been the only female President of the University of Guam.

LEGISLATIVE BRANCH

Since 1986, women represented nearly ⅓ of the membership of the Guam Legislature. 1990 was the peak year when seven women were elected to serve in the 22nd Guam Legislature.

The highest vote-getter for a legislative campaign was a woman in the following years: 1986—Marilyn D.A. Manibusan (R); 1988—Madeleine Z. Bordallo (D); and 1990—Doris Flores Brooks (R).

The highest offices that female legislators have assumed are: Vice Speaker—Katherine B. Aguon; Legislative Secretary—Pilar Lujan, Elizabeth Arriola, Judith Won Pat-Borja; and Rules Committee Chairperson—Herminia Dierking.

Current Members: Senator Judith Won Pat-Borja (D), Legislative Secretary Chairperson, Committee on Education; Senator Lou A. Leon Guerrero (D), Assistant Majority Leader Chairperson, Committee on Health; Senator Hope A. Cristobal (D) (member of Commission on Self-Determination), Chairperson, Committee on Federal and Foreign Affairs; Senator Carlotta Leon Guerrero (R); Senator Elizabeth Barrett-Anderson (former Guam Atty. General); and Senator Joanne M. S. Brown (R).

Past Members: Lagrimas Leon Guerrero Untalan (Territorial Party)*; Cynthia Johnston Torres (Territorial Party)*; Katherine B. Aguon (R); Carmen Artero Kasperbauer (R); Madeleine Z. Bordallo (D); Elizabeth P. Arriola (D); Pilar C. Lujan (D); Marilyn D.A. Manibusan (R); Herminia Duenas Dierking (D); Marcia K. Hartsock (D); Martha Cruz Ruth (R); Doris Flores Brooks (R); and Marilyn Won Pat (D).

Total Democratic Women: 9

Total Republican Women: 8

*Both women were the first to be elected in the Guam Legislature in 1954

The highest staff position held by a female in the Guam Legislature is that of the Deputy Director, currently being held by Dorothy Perez.

JUDICIAL BRANCH

3 of 7 judges in the Supreme Court are women: Judge Janet Healy-Weeks; Judge Frances Tydingco-Gatewood; and Judge Katherine A. Maraman.

2 of the 3 full-time Supreme Court Justice nominees are women: Judge-nominee Janet Healy-Weeks and Judge-nominee Monessa Lujan.

VILLAGE MAYORS

Current: Isabel Haggard (Mayor of Piti) also Vice President, Mayor's Council of Guam; Rossana D. San Miguel (Mayor of Chalan Pago); Doris Palacios (Vice Mayor of Dededo); and Teresita C. Borja (Vice Mayor Tamuning).

Some Past Members: Patricia Quinata (Mayor of Dededo) and Cecilia Quinata Morrison (Mayor of Umatac).

BOARDS OF COMMISSIONS

Guam law requires all Government of Guam boards and commissions to maintain at least two female members.

Several Key Boards have Female Chairs: Guam Airport Authority—Pilar Cruz Lujan and Chamorro Land Trust Commission - Carol Ibanez.

POLITICAL PARTIES

Republican Party: Marilyn D.A. Manibusan was the first and to date, the only female chairperson of the Republican Party. She held office in 1986 and Pilar Cruz is currently the Vice Chairperson of Guam's Republican Party.

Democratic Party: Priscilla Tenorio Tuncap was the first female chairperson for the Democratic Party—(1990–1992) and Pilar Cruz Lujan is the current party chairperson, having been elected this past year. Nationwide, Madeleine Z. Bordallo is the longest-serving national committee woman on the Democratic National Committee. She has served in this capacity since the Kennedy era.

BUSINESS COMMUNITY

Antoinette Duenas Sanford is the only woman to have served as the Chairperson of the Guam Chamber of Commerce

Eloise Baza has served as the first female President of the Guam Chamber of Commerce for the last several years.

HONORING ADA LOIS SIPUEL FISHER AND HELEN COLE DURING WOMEN'S HISTORY MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. WATTS] is recognized for 5 minutes.

Mr. WATTS of Oklahoma. Madam Speaker, there have been two special women throughout my life, my deceased mother, Helen Watts, and my gracious wife, Frankie Watts, and, of course, my four wonderful daughters.

During this month of March, dedicated as National Women's Month, tonight I would like to pay tribute to two very special women from the great State of Oklahoma that have influenced my political life, Ada Lois Sipuel Fisher and Helen Cole.

Madam Speaker, Ada Lois Sipuel Fisher was born in Chickasha, OK, to parents only one generation removed from slavery. She received her bachelor's degree from Langston University and then in 1946, applied to the all-white University of Oklahoma law school. Because Oklahoma had no separate law school for blacks, she contended, the State's official policy of separate but equal education was illusory. Her simple request for an equal education sparked controversy across the country.

Ada Lois Sipuel Fisher was a strong woman who endured many trying times and eventually triumphed. Her effort to enroll in the University of Oklahoma in January 1946, would take Thurgood Marshall and more than three years and two trips to the Supreme Court. Ms. Fisher carried herself with dignity throughout the entire ordeal. Her patience and courage eventually won the support of thousands of Oklahomans, including the university president, and it also won justice for her and thousands of others who would follow in her footsteps.

Ada Lois Sipuel Fisher graduated from law school in 1951, earned a masters in history in 1968, and then spent many years as a professor and chair of social sciences at Langston University. In 1992, in recognition of her lifetime of serving, she was appointed a member of the board of regents of the university of Oklahoma.

The Sipuel Case was a legal landmark which pointed the way to the elimination of segregation in all of American public education. This woman's strength and positive attitude made Oklahoma a better State, and it made the United States a better nation.

Another dynamic Oklahoman is State senator, Helen Cole. Helen Cole is a native Oklahoman who has spent her career dedicated to helping others through public service in Oklahoma. She served in a variety of political offices including the State Republican Committee, Cleveland County precinct judge, and the State House of Representatives.

Throughout her life as a public servant, Helen Cole has championed many cases. She is deeply concerned with the drug problem in America and works to educate people through Alcohol and Drug Centers. She is also involved in promoting ethics in government and belongs to the League of Women voters where she strives to encourage others to take an active role in government.

In addition to her public achievements, Senator Cole is a wife and a mother. She is as dedicated to her family as she is in her service to our great State. She has been a rock of Gibraltar in difficult times for many, she has been a friend to me, a consultant, and a prayer partner. She has truly been a shining star. Mr. Speaker, it gives me great honor to recognize Ada Lois Sipuel Fisher and Helen Cole today. They are women who represent great integrity and principle—women we Oklahomans are proud to call our own.

☐ 2130

CHANGE IN ORDER OF TAKING SPECIAL ORDER

The SPEAKER pro tempore (Mrs. SEASTRAND). The gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Mr. PALLONE. Madam Speaker, I ask unanimous consent to substitute for the gentlewoman from Texas.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ON ARMS TRANSFER TO PAKISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Madam Speaker, I rise to express my strong opposition to the impending shipment of United States arms to Pakistan. The administration proposes shipping 368 million dollar's worth of conventional arms to Pakistan, despite the recent revelations that Pakistan received nuclear technology from China last year. While I have often come to well of the House to defend this administration's foreign policy, in this case I must express my complete opposition to the direction that we are going by in providing sophisticated and de-stabilizing weapons to Pakistan, a country that has repeatedly broken their assurances to us about their nuclear weapons development and acquisition intentions.

A provision in the Foreign Operations appropriations legislation that finally became law earlier this year would authorize the transfer of $368 million in sophisticated conventional weaponry, including three Navy P-3C antisubmarine aircraft, 28 Harpoon missiles, 360 AIM-9L missiles, and other Army and Air Force equipment. This provision, known as the Brown amendment, after its Senate sponsor, passed the Senate last year. Although the provision was never debated in the House, it carried in conference. I drafted a letter to the conferees, which was signed by 40 other Members from both sides of the aisle urging that this provision not be included in the bill. But, owing in large part to the support of the administration and the influence of the pro-Pakistan lobby, the provision was included in the bill and became law.

As far back as last summer, many of us in Congress—Democrats and Republicans, Members of both bodies—argued that providing these weapons to Pakistan was a bad idea, giving Pakistan's ongoing determinations to develop nuclear weapons, it involvement in arming, training, and financing terrorist movements and its often open hostility to Western interests. Last summer, it was reported that Pakistan received Chinese M-11 missiles, in direct violation of the Missile Technology Control Regime. These missiles are capable of carrying nuclear warheads, and can strike cities within a 275-mile radius. It was reported last year that Pakistan developed its nuclear weapons from a blueprint provided by the People's Republic of China, and Pakistan then gave this blueprint to Iran. Pakistan remains an unstable nation, where the military does not seem to be under strong civilian control, a country which supports the embargo of Israel and does not recognize the State of Israel.

Then came the revelations early this year, based on intelligence information, that Pakistan purchased 5,000 ring magnets from the People's Republic of China in late 1994 and early 1995. These ring magnets are used to enrich uranium, a key component for making nuclear weapons. This transfer, which Pakistan has repeatedly denied to the administration and the Congress, is a direct violation of the Glenn-Symington Amendment and the 1994 amendment to the Non-Proliferation Act. When the Senate and the Foreign Ops Conferees considered the Brown amendment, this information was not known. I believe that this information would most certainly have swung a few votes—had it been available.

By way of a little history: during the last decade, Pakistan was the third largest recipient of United States foreign military assistance. Pakistan asked for the help of the United States in becoming conventionally strong militarily and in exchange promised—promised—not to develop or obtain nuclear weapons. By 1985, United States intelligence had strong evidence that Pakistan was receiving United States arms while going back on its word about developing nuclear capability. As a form of leverage, the Congress in 1985 enacted the Pressler amendment, named for its Senate sponsor, requiring an annual Presidential certification that Pakistan does not have a nuclear device. In 1990, with overwhelming evidence of Pakistan's nuclear program, President Bush invoked the Pressler amendment. The United States essentially said: Yes, Pakistan has the bomb. Thus, all U.S. military assistance was ended—including weapons already contracted for and paid for but not delivered. Pakistani officials could not have been surprised, knowing these ramifications when they officially agreed to the enactment of the Pressler amendment in 1985. The only surprises may have been that they got caught and that the full penalty of the law was imposed.

It is important to recognize that Pakistan has not agreed to do anything in exchange for the release of the seized equipment. In 1993, President Clinton did offer to return all or some of the weapons in the pipeline if Pakistan would agree to cap its nuclear program. Pakistan rejected this offer. In fact, by receiving the ring magnets from China, Pakistan was continuing to act—in defiance of the United States—to further its nuclear ambitions.

Finally, the administration came up with a compromise: While 28 F-16 fighter jets would not be delivered to Pakistan—they already have 40 F-16's—the 368 million dollars' worth of equipment would be delivered with no strings attached.

What we are doing, Mr. Speaker, is ending the ban on providing weapons to Pakistan, and receiving nothing in return.

The delivery of these weapons comes just about a month before the general elections in India, Pakistan's neighbor. Tensions between these two South Asian nations remain high. Pakistan has fought three wars with India during the past 48 years.

Clearly, India will see the delivery of these weapons as a slap in the face. The opposition BJP party in India, which has already gained in strength, is running on a platform promising a much harder line in terms of relations with Pakistan, relations with the United States, and India's own nuclear weapons development program. While this story may be buried on the back pages of American newspapers, I can guarantee you that the delivery of the United States weapons to Pakistan will be page 1 news in India—to the benefit of those forces in Indian society that oppose the recent move toward closer commercial and strategic cooperation between India and the United States. The United States has in the past few years become India's largest trading partner. Why are we jeopardizing this important new economic relationship?

Mr. Speaker, I have nothing against improved relations with Pakistan, but I believe this goal should be achieved through economic means. The Government of Pakistan devotes much too large of a share of its scarce resources to the military, to the detriment of the people. If the administration wants to engage Pakistan, let's engage them with more trade and support for democracy building institutions.

Nuclear nonproliferation is and should be a top U.S. foreign policy goal in this post-cold-war world. The Pressler amendment has been a pillar of America's nonproliferation efforts. We should not weaken this law with waivers or loopholes.

Pakistan keeps giving us every reason to keep the Pressler amendment in force.

Mr. Speaker, I will be working with some of my colleagues to enact a resolution of disapproval for this weapons transfer, and I hope we can achieve broad, bipartisan support. Providing these weapons to Pakistan would be a grave error that would threaten the stability of South Asia, international nuclear nonproliferation and the interests and prestige of the United States.

HONORING EUNICE MERRILL, WOMAN OF THE YEAR FOR THE FIFTH DISTRICT OF ALABAMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. CRAMER] is recognized for 5 minutes.

Mr. CRAMER. Madam Speaker, it is an honor to come before the House tonight to pay tribute to a very special woman from the Fifth District of Alabama. She is Mrs. Eunice Merrill from Huntsville, AL.

Many years ago, at a time when there were very few women in Alabama running their own businesses, Miss Eunice opened Eunice's Country Kitchen.

It is a place where people of all ages and all stations in life gather together. It is truly a crossroads in our community, where everyone can share breakfast and a common table.

The food and the conversation are big attractions, but one of the main reasons people come from all around is Miss Eunice herself.

She treats everyone who walks through her door like they are family, whether they are long-time friends or first-time customers. No matter how early it is or how busy it is, Eunice always has a smile and a kind word for every person.

While she is beloved for her kindness and her hospitality, Miss Eunice is revered for her extraordinary work for charity, especially on behalf of the Arthritis Foundation.

But, last November, Mr. Speaker, tragedy struck Miss Eunice. She was leaving her house for work at 4 o'clock in the morning, as she did most every morning to begin fixing breakfast for her customers.

As she walked from her house to her car, Miss Eunice was brutally attacked and robbed. She was rushed to a hospital to undergo emergency surgery.

Not only did she survive the attack, but after a week's stay in the hospital, at the age of 78, Miss Eunice was back at work.

She didn't even postpone the fundraiser she had organized for the Arthritis Foundation, which she held, just as she planned, on the very first day she returned.

Mr. Speaker, Mrs. Eunice Merrill is a glowing testament to the heart and strength of the human spirit. While her story of survival is inspiring, it is simply one chapter in a life story of faith and perseverance.

I am proud, Mr. Speaker, to stand here tonight to honor the Woman of the Year for the Fifth District of Alabama, Mrs. Eunice Merrill.

MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of Florida. Madam Speaker, I rise today to talk about the Medicare program, because we are about to receive the 1996 report from the board of trustees of the Medicare program. It was just a year ago that we received the 1995 report, in April 1995, stating that Medicare was going bankrupt. The report from the board of trustees stated that it was going to be running out of money this year and all the reserves of the Medicare program would be totally exhausted in 7 more years. And the trustees of the Medicare program are basically appointees of the Clinton administration, the Secretary of HHS, Donna Shalala, Secretary of Treasury, Mr. Rubin, the Secretary of Labor, Mr. Reich and others. This is a bipartisan report.

The fact is Medicare is going bankrupt. And what I want to talk about today is what has happened since the last report, as we are about to receive the 1996 report.

From my area in Florida, I have a very large number of seniors. In fact I have more seniors in my congressional district than any other congressional district in the United States. It is very important for all the seniors in my district. It is important to me personally. I have an 87-year-old mother who is on Medicare. But it is also important for all the people in my district because of the jobs and the impact on the economy.

Sarasota Memorial Hospital is the second largest employer in Sarasota County in Florida. So it is a jobs issue that is important, to take care of the seniors in my district, and it is something that we need to fight for and save. It is not a political issue. Medicare is too important an issue to be played with as politics.

Well, what did Congress do during the past year about the Medicare program? First of all, we listened. I sent letters out and asked for advice from my constituents and received over 1,000 responses. Members in Congress held over 1,000 town hall meetings all over the United States asking for input and advice, what they should do about the Medicare program. We listened, and we listened well, and got ideas. We came up with a plan.

Two things we found out: One is, Medicare is in crisis; and the other item we learned is, it is full of waste, fraud and abuse. Those are the two things that kept getting repeated time and time again. We have a major problem with the Medicare program. We understand that. We need to do something about it. And it is the waste, fraud and abuse. So what did Congress do?

Congress passed the Medicare Preservation Act last year, and the Medicare Preservation Act had a tough waste, fraud and abuse program. It had stiff penalties for anybody that participated in fraud in the program. And it provided rewards for those that discovered fraud in the program.

I remember at one of my town meetings a mobile home park in Palmetto, FL, a lady standing up, saying about the illustration of fraud. She was admitted to the hospital and got a bill later for her own autopsy. That is the crazy things that were happening.

What we are offering were incentives. She could report this, and she would have a reward for finding out that problem and reporting it and getting a reward from the Medicare program.

So we focused on a waste, fraud and abuse program within the Medicare program. Our program saved Medicare from going bankrupt. But it continued to spend more money every year. In fact, right now the Medicare program spends $4,800 for every man and woman in the Medicare program. Over 7 years we were going to increase that to $7,100 per person in Medicare. That is a $2,300 increase over 7 years, more money every year. There are no cuts being proposed in Medicare. And it was a good program, giving seniors more choices.

So we did not just talk about Medicare. We acted.

The House passed a bill. The Senate passed a bill, and we jointly sent a plan to save the Medicare program to the President.

What happened? Well, sadly the President decided to play politics with it. He played politics by vetoing the Medicare plan that we proposed. He did not come up with any solutions or ideas. All he did was take political advantage saying, let us scare those seniors and scare them of Republicans. And that is too bad, because Medicare is too important to scare seniors over. It is too important to play politics with it.

Bill Clinton vetoed that plan. When he vetoed it, he knew secret information at that time that Medicare was in worse shape than the trustees reported last April. Because on February 5 of this year, in a New York Times article, we find out that Medicare is going bankrupt much faster than 7 years. It is in worse financial shape than we were told by the trustees in April of 1995. And when Bill Clinton vetoed that bill in December, he vetoed a plan that was in serious financial trouble. And yet he still has not offered any solution.

We need to face the Medicare problem. We have a good plan, and Bill Clinton needs to stop playing politics and give use the solution to Medicare, too.

DR. WENDE LOGAN-YOUNG, WOMAN OF THE YEAR FROM THE 28TH DISTRICT OF NEW YORK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Ms. SLAUGHTER] is recognized for 5 minutes.

Ms. SLAUGHTER. Madam Speaker, I rise tonight to pay tribute to Wende Logan-Young. The Woman of the Year from the 28th District of New York is a friend, a daughter, a sister, a mother, and a grandmother in addition to being a doctor, a radiologist, and a pioneer in mammography and breast care. She has received awards too numerous to detail here but the list dates back to 1966 when she was honored as Outstanding Young Woman of the Year.

In the years since, Dr. Wende Logan-Young has become renowned for her untiring dedication to improving women's health. In 1976, Dr. Logan-Young established this Nation's first free-standing mammography center devoted exclusively to breast cancer detection. The Elizabeth Wende Breast Cancer Clinic, named in honor of her mother, has the unique goal of providing quality mammography and breast care to women in a comfortable and timely manner. Caring for 1,000 patients a week, the clinic has served the needs of hundreds of thousands of women since its inception. Unlike the typical physician's office, the clinic has the familiar feel of home. In one visit, every patient has her mammogram, has it interpreted fully and has all needed additional testing. Knowing how traumatic and anxiety producing the experience of breast cancer screening can be, Dr. Wende Logan-Young has created a healing, comforting environment. This year, the clinic celebrated its 20th anniversary.

In addition to caring for her patients, Dr. Logan-Young has served on numerous academic and professional organizations, including the American Cancer Society, American College of Radiology, and the National Cancer Institute of Canada. The author of many medical journal articles, the doctor has just completed the first volume of a three volume set of textbooks for radiologists providing a practical guide to breast cancer diagnosis.

As chair of the women's health task force and a long-time advocate of increased funding for breast cancer research, I take great personal satisfaction in honoring a pioneer in the field of breast cancer research and service. Please join me in giving recognition to this outstanding Woman of the Year from the 28th District of New York, Dr. Wende Logan-Young.

WOMEN IN PUBLIC SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas, Ms. EDDIE BERNICE JOHNSON, is recognized for 5 minutes.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, in the United States the history of women in public service is both significant and meaningful. Unfortunately, our history does not always adequately recognize these women's contributions.

Historically, women have received limited space in the history books, and few have questioned their absence. However, today we are all faced with the challenge to eliminate the negative stereotypes, myths, lies, and distortions about women's role in the progress of time.

In celebration of Women's History Month, I would like to recognize DeMetris Sampson as the Woman of the Year from the 30th Congressional District of Texas.

Ms. Sampson's activities are multifaceted. For the past 1½ years, she has chaired the task force on liquor related businesses near schools. As chairwoman, she has successfully formulated and lobbied for State law changes as well as local ordinance and administrative changes to address the proliferation of alcohol establishments located near Dallas schools.

In addition, Ms. Sampson has served for the past 9 years on the domestic violence task force for the city of Dallas. She has been instrumental in formulating changes in the law for the city's legislative package which is designed to protect battered spouses from repeat offenders.

The task force has also worked to focus the attention of the municipal, family, and criminal judiciary on domestic violence issues and reforms.

In 1991, Ms. Sampson was appointed to the East Texas State University board of regents by Gov. Ann Richards. Currently, she serves as the vice chairperson of the board.

In recognition of her work in the city of Dallas, Ms. Sampson was recently named the recipient of the Dr. Martin Luther King Junior Justice Award.

She is a successful practicing attorney and prominent community activist, and it is an honor to recognize DeMetris Sampson as the Woman of the Year. Through her tireless work and dedication Ms. Sampson is truly one of this Nation's greatest public servants.

GEORGIA AYERS, WOMAN OF THE YEAR FROM FLORIDA'S 17TH DISTRICT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Mrs. MEEK] is recognized for 5 minutes.

Mrs. MEEK of Florida. Madam Speaker, in our celebration of Women's History Month, we have chosen to honor exceptional women in public service. I rise here tonight to honor the Woman of the Year from my congressional district, Ms. Georgia Ayers, of Miami, FL.

Over the decade I have known Georgia Ayers, she has been a living example of the ideals of community service. She has dedicated her tremendous talents and energies—her life—to benefit others. She not only believes in helping those who have less in life—regardless of their race, creed, or gender, but she lives it. She started with few advantages herself, but chose to give her life to helping others get ahead.

Her awards and honors fill pages, and are a testimony to the respect she enjoys from Dade County's diverse communities. Just a few of the groups who have honored her include: the U.S. Coast Guard, the American

Cancer Society, the Southern Christian Leadership Conference, the National Conference of Christians and Jews, the Dade County Public Schools, the Dade County Community Action Agency, and Miami-Dade Community College, which is the largest community college in the entire Nation.

In a world where people's words don't always match their actions, Georgia Ayers stands out as direct, honest, and committed. Her actions match her words. With Ms. Ayers, you know where she stands on an issue and exactly what she wants to do about it, and her word is her bond. Yes, honest, plain-speaking and hardworking people can still make a difference in our society. Georgia Ayers is a shining example.

Of all the projects that Georgia Ayers has been involved in, perhaps the most important has been her work with young people in trouble with the law. Programs she has developed have turned around young people's lives and helped them find and establish their places as valued members of the community. In helping these youngsters, whose voices are often not heard in our society, she reminds me of the passage from the Bible "whatsoever you do to the least of these, you do to Me."

Georgia Ayers' leadership shows all of us what one dedicated woman can accomplish. In 1995, the Southern Christian Leadership Conference honored Ms. Ayers with the Dr. Martin Luther King, Jr. Award. She is well-deserving of this great honor, for her leadership reminds me of a paraphrase of Dr. King's remarks about the church. The role of a civic leader in our society is to be a thermostat—a changer of society, rather than a thermometer, which simply measures rather than molds popular thinking.

Georgia Ayers shows that one strong woman can be that thermostat, and can change society for the better. Her life inspires and challenges us all. Like Georgia Ayers, if more of us took it upon ourselves to become thermostats instead of thermometers, I have no doubt that the temperature of human compassion and dignity on the Earth could be raised to levels beyond what we can even imagine today.

Again, I thank Georgia Ayers for her exceptional leadership and service. She is truly deserving of being honored as the Woman of the Year.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLAY (at the request of Mr. GEPHARDT), after 4 p.m. today and the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. ROYBAL-ALLARD) to revise and extend their remarks and include extraneous material:)

Ms. DELAURO, for 5 minutes, today.

Ms. ROYBAL-ALLARD, for 5 minutes, today.

Mr. YATES, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. CRAMER, for 5 minutes, today.

Mr. ORTON, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mrs. LOWEY, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. TORRES, for 5 minutes, today.

Mr. SAWYER, for 5 minutes, today.

Mr. WARD, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

Mrs. MEEK of Florida, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. SANDERS, for 5 minutes, today.

(The following Members (at the request of Mr. LAZIO of New York) to revise and extend their remarks and include extraneous material:)

Mr. WATTS of Oklahoma, for 5 minutes, today.

Mrs. KELLY, for 5 minutes, today.

Mr. MILLER of Florida, for 5 minutes, today.

Mr. HOEKSTRA, for 5 minutes, today.

Mrs. MORELLA, for 5 minutes, on March 22.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. ROYBAL-ALLARD) and to include extraneous matter:)

Ms. DELAURO

Mrs. MALONEY.

Mr. SERRANO.

Mr. TOWNS.

Mr. TORRES in two instances.

Mr. KANJORSKI.

Mr. VENTO.

Mr. FAZIO.

Mr. CRAMER.

Mr. MENENDEZ.

Mr. MORAN.

Mr. EVANS.

Mr. HALL of Ohio.

Mr. GEPHARDT.

Mr. SABO.

Mr. STARK.

Mr. ACKERMAN.

Ms. WATERS.

Mr. SCHUMER.

Mr. HAMILTON.

(The following Members (at the request of Mr. MILLER of Florida) and to include extraneous matter:)

Mr. FRELINGHUYSEN.

Mrs. KELLY.

Mr. HAMILTON.

Mr. REED.

Mr. PAYNE of New Jersey.

Mr. CASTLE.

(The following Members (at the request of Mr. LAZIO) and to include extraneous matter:)

Mr. WALKER.

Mrs. ROUKEMA in two instances.

Ms. ROS-LEHTINEN.

Mr. WATTS of Oklahoma.

Mr. HUNTER.

Mr. CRANE.

Mr. GILMAN.

Mr. LIVINGSTON.

Mr. LAZIO.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 956. An act to establish a Commission on Structural Alternatives for the Federal Courts of Appeals; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1266. An act to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

H.R. 1787. An act to amend the Federal Food, Drug and Cosmetic Act to repeal the saccharin notice requirement.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 1266. An act to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

H.R. 1787. An act to amend the Federal Food, Drug and Cosmetic Act to repeal the saccharin notice requirement.

ADJOURNMENT

Mr. MILLER of Florida. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 41 minutes p.m.) the House adjourned until Friday, March 22, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2279. A letter from the Chair, Architectural and Transportation Barriers Compliance Board, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2280. A letter from the Secretary of Transportation, transmitting the Department's report entitled "Tanker Navigation Safety

Standards, Crew Qualifications and Training," pursuant to Public Law 101–380, section 4111(c) (104 Stat. 516); to the Committee on Transportation and Infrastructure.

2281. A letter from the Secretary of Transportation, transmitting the Department's report entitled "Tanker Simulator Training," pursuant to Public Law 101–380, section 4111(c) (104 Stat. 516); to the Committee on Transportation and Infrastructure.

2282. A letter from the Secretary of Energy, transmitting the Department's report entitled "Beyond 2000: A Vision for the American Metal Casting Industry," pursuant to Public Law 101–425, section 10 (104 Stat. 919); to the Committee on Science.

2283. A letter from the Administrator, National Oceanic and Atmospheric Administration, transmitting the National Oceanic and Atmospheric Administration's [NOAA] deep seabed mining report, pursuant to 30 U.S.C. 1469; jointly, to the Committees on Resources and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROBERTS: Committee on Agriculture. Supplemental report on H.R. 2202. A bill to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes (Rept. 104–469, Pt. 4). Ordered to be printed.

Mr. SOLOMON: Committee on Rules. House Resolution 388. Resolution providing for consideration of the bill (H.R. 125) to repeal the ban on semiautomatic assault weapons and the ban on large capacity ammunition feeding devices (Rept. 104–490). Referred to the House Calendar.

Mr. CLINGER: Committee of Conference. Conference report on S. 4. An act to grant the power to the President to reduce budget authority (Rept. 104–491). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DEFAZIO (for himself, Ms. FURSE, Mr. BUNN of Oregon, and Mr. COOLEY):

H.R. 3134. A bill to designate the U.S. Courthouse under construction at 1030 Southwest 3d Avenue, Portland, OR, as the "Mark O. Hatfield United States Courthouse," and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. ENGEL (for himself, Mr. ACKERMAN, Mr. MANTON, Mr. SERRANO, Mrs. LOWEY, and Mr. FLAKE):

H.R. 3135. A bill to amend the Elementary and Secondary Education Act of 1965 to allow certain counties flexibility in spending funds; to the Committee on Economic and Educational Opportunities.

By Mr. ARCHER:

H.R. 3136. A bill to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit; to the Committee on Ways and Means, and in addition to the Committees on the Budget, Rules, the Judiciary, Small Business, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BUNNING of Kentucky:

H.R. 3137. A bill to amend the Internal Revenue Code of 1986 to clarify the reasonable cause exception from the penalty for failures to file tax returns or pay taxes; to the Committee on Ways and Means.

By Mr. CANADY:

H.R. 3138. A bill to amend title XVIII of the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FORBES:

H.R. 3139. A bill to redesignate the U.S. Post Office building located at 245 Centereach Mall on Middle Country Road in Centereach, NY, as the "Rose Y. Caracappa United States Post Office Building"; to the Committee on Government Reform and Oversight.

By Mr. FOX:

H.R. 3140. A bill to prohibit gifts by lobbyists to Members of the House of Representatives, Senators, and officers and employees of the House of Representatives and the Senate; to the Committee on the Judiciary.

By Mr. HEFLEY (for himself and Mr. SCHAEFER):

H.R. 3141. A bill to amend title 49, United States Code, relating to scheduled passenger air service at reliever airports; to the Committee on Transportation and Infrastructure.

By Mr. HEFLEY.

H.R. 3142. A bill to establish a demonstration project to provide that the Department of Defense may receive Medicare reimbursement for health care services provided to certain Medicare-eligible covered military beneficiaries; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KENNEDY of Massachusetts (for himself, Mr. STARK, Mr. DEFAZIO, Mr. COSTELLO, and Mr. EVANS):

H.R. 3143. A bill to prohibit the use of funds for the construction or operation of the National Ignition Facility or any other facility that uses inertial confinement fusion at the Lawrence Livermore National Laboratory, California; to the Committee on National Security.

By Mr. LIVINGSTON (for himself, Mr. GINGRICH, Mr. ARMEY, Mr. SPENCE, Mr. GILMAN, Mr. KASICH, Mr. HYDE, Mr. YOUNG of Florida, Mr. HUNTER, and Mr. HOKE):

H.R. 3144. A bill to establish a U.S. policy for the deployment of a national missile defense system, and for other purposes; to the Committee on National Security, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MORELLA (for herself and Mr. SCHUMER):

H.R. 3145. A bill to amend the Public Health Service Act to prohibit health insurance discrimination with respect to victims of domestic violence; to the Committee on Commerce, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RADANOVICH:

H.R. 3146. A bill to provide for the exchange of certain Federal lands in the State of California for certain non-Federal lands, and for other purposes; to the Committee on Resources.

H.R. 3147. A bill to provide for the exchange of certain Federal lands in the State of California managed by the Bureau of Land Management of certain non-Federal lands, and for other purposes; to the Committee on Resources.

By Mr. SAXTON (for himself and Mr. SMITH of New Jersey):

H.R. 3148. A bill to direct the Secretary of Health and Human Services to make matching payments to the State of New Jersey for activities to determine the incidence of cancer among residents of the Toms River area; to the Committee on Commerce.

By Mr. SHAW (for himself, Mrs. JOHNSON of Connecticut, Mr. PAYNE of Virginia, Mr. JACOBS, Mr. BUNNING of Kentucky, Mr. CHRISTENSEN, Mr. BILBRAY, and Mr. BURR):

H.R. 3149. A bill to permit the approval and administration of drugs and devices to patients who are terminally ill; to the Committee on Commerce.

By Mr. VENTO:

H.R. 3150. A bill to expand and enhance the Federal Government commitment to eliminating crime in public housing and other federally assisted low-income housing projects, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. WATTS of Oklahoma:

H.R. 3151. A bill to require the Secretary of Defense and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Defense with reimbursement from the Medicare Program for health care services provided to Medicare-eligible beneficiaries under TRICARE; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOUCHER (for himself and Mr. QUILLEN):

H.J. Res. 166. Joint resolution granting the consent of Congress to the mutual aid agreement between the city of Bristol, VA, and the city of Bristol, TN; to the Committee on the Judiciary.

By Mr. TALENT:

H.J. Res. 167. Joint resolution proposing an amendment to the Constitution of the United States to limit the judicial power of the United States; to the Committee on the Judiciary.

By Mr. Archer:

H. Res. 387. Resolution returning to the Senate the bill S. 1518; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. Volkmer and Mr. Christensen.

H.R. 103: Mr. Mascara and Mrs. Fowler.

H.R. 125: Mr. Taylor of Mississippi.

H.R. 303: Mr. Volkmer and Mr. Christensen.

H.R. 789: Mr. Skelton.

H.R. 911: Mr. Mascara.

H.R. 922: Mr. Towns.

H.R. 1023; Mr. Clay, Mr. Tauzin, Mr. Faleomavaega, Mr. Bunning of Kentucky, Mr. Spratt, Mr. Coble, Mr. Bunn of Oregon, Mr. Boucher, and Mr. McCrery.

H.R. 1044: Mr. Largent.

H.R. 1090: Mr. Farr.

H.R. 1131: Mr. Camp and Mr. Neumann.

H.R. 1136: Mr. Fazio of California, Mr. Gene Green of Texas, Mr. Rahall, Mr. Quillen, Mr. Dixon, Mr. Pastor, Mr. Wilson, Mr. Stearns, Mr. Farr, Mr. Berman, and Mr. Flanagan.

H.R. 1314: Mr. Pickett.

H.R. 1406: Mr. Poshard, Mr. Gibbons, Mr. LaTourette, Mr. Oberstar, Mr. Rose, Mr. Brewster, Mr. Vento, and Mr. Manton.

H.R. 1484: Mr. Lipinski, Ms. Lofgren Mr. Lewis of Georgia, Mr. Bevill, Mr. Hilliard, and Mr. English of Pennsylvania.

H.R. 1496: Mr. Menendez.

H.R. 1619: Mr. Coleman.

H.R. 1711: Mr. Hastert and Mr. Sensenbrenner.

H.R. 1932: Mr. Petri, Mr. Bereuter, and Mr. Hayes.

H.R. 2011: Mr. Levin.

H.R. 2193: Mr. Wilson, Mr. Stark, Mr. Radanovich, Ms. Eshoo, Mr. Sensenbrenner, Ms. Jackson-Lee, and Mr. Chapman.

H.R. 2214: Mr. Abercrombie and Mr. Olver.

H.R. 2270: Mr. Ensign.

H.R. 2450: Mr. Parker, Mr. Largent, Mr. Holden, and Mr. Bliley.

H.R. 2497: Mr. Bryant of Tennessee, Mr. Burr, Mr. Petri, Ms. Pryce, Mr. Hancock, and Mrs. Vucanovich.

H.R. 2697: Ms. Woolsey and Mr. Torres.

H.R. 2777: Mr. Vento.

H.R. 2779: Mr. Sensenbrenner.

H.R. 2807: Mr. Petri and Mr. Walsh.

H.R. 2811: Mrs. Kelly, Mr. Spence, Mr. Jacobs, Mr. Fattah, Mr. Myers of Indiana, and Mr. King.

H.R. 2856: Mr. Klink.

H.R. 2893: Mr. Horn, Mr. Bachus, and Mr. Visclosky.

H.R. 2900: Mr. Latham, Mr. Hilliard, Mr. Norwood, Mr. Crapo, Mr. Zeliff, Mr. Clement, Mr. Bachus, Mr. Kennedy of Rhode Island, Mr. Towns, and Mr. Montgomery.

H.R. 2931: Mr. Vento.

H.R. 2959: Mr. Ensign, Ms. Molinari, and Mr. Underwood.

H.R. 3002: Mr. Ehrlich and Mr. Johnson of South Dakota.

H.R. 3048: Mr. Barrett of Wisconsin and Ms. Pryce.

H.R. 3070: Mr. Hastert, Mr. Gillmor, Mr. Stearns, Mr. Klug, Mr. Norwood, and Mr. Weller.

H.R. 3086: Mr. Calvert, Mr. Thomas, Mr. Duncan, and Mr. English of Pennsylvania.

H.J. Res. 100: Mr. Christensen.

H.J. Res. 159: Mr. Shuster, Mr. Smith of New Jersey, Mr. Pombo, and Mr. Crapo.

H. Con. Res. 10: Mr. Roemer and Mr. Cooley.

H. Con. Res. 47: Mr. Jacobs and Mr. Rahall.

H. Con. Res. 51: Mr. Bilirakis.

H. Con. Res. 102: Mr. Clyburn, Mr. Torres, and Ms. Eshoo.

H. Con. Res. 127: Mr. Latham, Mr. Calvert, and Mr. Barcia of Michigan.

H. Res. 49: Mr. Sanders.

H. Res. 345: Mr. Ackerman and Mr. Faleomavaega.

H. Res. 347: Mr. Jacobs, Mr. Scarborough, Mr. Hinchey, Mr. Abercrombie, and Mr. Lewis of Georgia.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1972: Ms. Furse.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3136

(Public Debt Limit)

Offered By: Mr. Smith of Michigan

Amendment No. 1: At the end, add the following new sections:

SEC. 2. LIMITATION ON ISSUANCE OF PUBLIC DEBT OBLIGATIONS AFTER DECEMBER 31, 2001.

(a) In General.—No obligation subject to the limitation under section 3101(b) of title 31, United States Code, may be issued to the public after December 31, 2001. The preceding sentence shall not apply to any obligation (or series of obligations) issued to refund an obligation issued before January 1, 2002.

(b) Special Rule.—Upon the enactment of a joint resolution declaring a national emergency, subsection (a) is suspended for the 6-month period beginning upon such date of enactment. Congress and the President may, by law, extend such 6-month period of such declaration of war or national emergency is still in effect.

SEC. 3. SHORT-TERM BORROWING AFTER FISCAL YEAR 2001.

(a) In General.—In addition to any other authority provided by law, the Secretary of the Treasury may issue obligations of the United States in an amount not to exceed $50 billion. The maturity date of the obligations may not extend beyond 120 days after their issuance. In any event, obligations issued under this section shall mature at the end of the fiscal year in which they were issued.

(b) Obligations Exempt From Public Debt Limit.—Obligations issued under subsection (a) shall not be taken into account in applying the limitation in section 3101(b) of title 31, United States Code.

SEC. 4. LIMITATION ON AMOUNT OF PUBLIC DEBT LIMIT.

An increase in the limitation under section 3101(b) of title 31, United States Code, shall not be effective to the extent such limitation after such increase is greater than—

(1) $5,432,000,000,000 during the fiscal year ending on September 30, 1997,

(2) $5,682,000,000,000 during the fiscal year ending on September 30, 1998,

(3) $5,908,000,000,000 during the fiscal year ending on September 30, 1999, and

(4) $6,116,000,000,000 during any fiscal year ending on or after September 30, 2000.

The preceding sentence shall apply notwithstanding any other provision of law unless such other law actually amends or repeals the preceding sentence.

EXTENSIONS OF REMARKS

ASSAULT WEAPONS BAN REPEAL

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. CONYERS. Mr. Speaker, an UZI is one of the assault weapons considered a weapon of choice for drug traffickers, street gangs, and paramilitary extremist groups. The NRA and the Republican majority want to make this and other cop-killing guns readily available. To do that, they will have to repeal the assault weapons ban—a ban that over 70 percent of the American public favors because it makes the streets safer for our children.

UZI's have no purpose other than to kill people. They are not hunting weapons, they are not used for target practice, they are just used to kill people.

An UZI pistol was used on May 16, 1993, when a man who had been kicked out of a rural Fresno, CA, bar returned the next day with a friend and opened fire, killing seven people and wounding two others. This was the worst massacre in Fresno's history.

An UZI semiautomatic rifle was one of the guns used by James Oliver Huberty, an out-of-work security guard, when he walked into a San Ysidro, CA, McDonald's and killed 21 people.

If we want to avoid more massacres like these, we need to maintain the assault weapons ban.

It is America's children, not the National Rifle Association that this Congress should be protecting. But tomorrow, when many of my colleagues vote to repeal the assault weapons ban, they will be voting to give violent criminals everywhere greater access to deadly weapons that can be used to murder our children, our parents, our brothers and sisters, and our friends.

The Republican party is always claiming that it stands on principle. Now it can stand on the principle of more dead children.

WINNERS OF THE PHOENIXVILLE AREA CHAMBER OF COMMERCE PRESIDENT'S DAY ESSAY CONTEST

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise today to pay tribute to Michelle Lin Byrd, Rosalind Newsholme, John Davison, Jenni Kirkhoff, and David Rourke, the winners of the Phoenixville Area Chamber of Commerce President's Day Essay Contest. I am submitting for the record each of their winning essays. Each of these students has composed a remarkable essay applauding a President who had to make a necessary, but unpopular decision, such as the decision made by President Lincoln to issue the Emancipation Proclamation. Other winning entries included Truman's decision to fire MacArthur, his decision to drop the atomic bomb on Japan, Ford's pardoning of Nixon, and Roosevelt's introduction of the New Deal. Each of these controversial decisions was, in retrospect, in the best interests of the American people despite being initially met with uncertainty and opposition.

The leaders of our time are met with the same difficult decisions, and we must continue to act in the best interest of the American people. One of the most important decisions that faces us today concerns education. However, the decision to cultivate the education of our children should not be met with controversy or skepticism. As a former teacher and the father of five, I believe the highest priority for our school system is teaching our students about the rich history of America. Learning about the history of the United States, including the mistakes of our Forefathers and their great triumphs, is the key to good citizenship and involvement in Government. George Santayana once said that "those who do not remember the past are condemned to repeat it." By understanding the actions and events of our ancestors, we can create a better future.

I hope that all of the entrants of the Phoenixville Area Chamber of Commerce President's Day Contest, not just the students recognized here, will gain a new appreciation for the importance of our history. Perhaps some insight gained through their research will influence some of these students to become involved in their government.

Mr. Speaker, I commend these students for their achievement and I know that my colleagues join me in honoring the success of these outstanding students. I would like to thank the Phoenixville Area Chamber of Commerce for offering this opportunity to the students of Phoenixville, and I would also like to thank The Phoenix for printing the winning essays and for promoting the contest.

HARRY S. TRUMAN

Harry S. Truman, our thirty-third president, was born on May 8, 1884 in Lamar, Missouri. He was a member of the democratic party and was in office from 1945 to 1953. Truman worked his way up in politics from judge to senator to vice president and finally to president of the United States. When Roosevelt died on April 12, 1945 Truman became president. He had a difficult task of learning to be effective in his office because Roosevelt had made no effort to train him for his future responsibilities. He learned simply by dealing with the problem that faced him.

Truman tried to carry out the politics that Roosevelt had begun to establish. This included the unconditional surrender of Germany on May 8th and the establishing of the United Nations. Truman then had to make a decision about the World War II. He had to make a decision that might end up being unpopular. Truman decided to use the atomic bomb against Japan. He believed that this would end the war quickly and save lives. He thought that it would put the United States in a position to help revolutionize Japanese life. When people look back at the situation now there seems to have been other ways to end the war, such as negotiated settlements, but these options were not as obvious back then. Truman made the decision he thought that would be the best decision.

Presidents of the past, the present and the future have and will make choices that will be unpopular but necessary. I believe that of the choices of the past have made the United States the great country that we are privileged to live in today.

FRANKLIN D. ROOSEVELT

Franklin D. Roosevelt was the 32nd President of the United States of America. As President, he had to make a lot of decisions. Some of them were popular and some were not. A very unpopular decision at the time was his New Deal. The New Deal was to have unemployment insurance, retirement programs, wage and hour laws, housing for the poor, and jobs for the needy all as the responsibility of the Federal Government. It is important to remember that this was the 1930's when nothing like this existed. However, many people didn't like this decision because it was very new and they didn't trust it. They also thought that the government was trying to interfere with their lives. Employers didn't like the minimum wage and hours because they had less power over their workers. Although the New Deal was unpopular at the time, people started getting used to it and began to accept it. It is now all a very necessary part of the American way of life. I think that in a way this decision was good because it shows how our government is for the people.

GERALD R. FORD

Gerald Ford, our 38th president, was the only president elected neither to the presidency nor to the vice presidency. He attempted during his term to restore the nation's confidence in a government tarnished by the Watergate scandal.

Ford became vice president when Richard Nixon's vice president Spiro T. Agnew resigned. Nine months later, on August 9, 1974, President Nixon resigned as president under threat of impeachment, and Gerald Ford was sworn in as our president.

One of his first and most debatable acts was to pardon Nixon for all federal crimes he might have committed in office. This made him extremely unpopular. I think this was a necessary decision, because, we couldn't let this drag on and on, like the O.J. Simpson trial. This country had a high inflation rate and the highest unemployment rate since the depression. These were more important problems to solve than Watergate. It was time for the nation to start healing and get on with the important issues facing the American people.

In his two and a half years as president Gerald Ford lowered the inflation rate from 11.2 to 5.3 percent, he also lowered the unemployment rate. Even after all this he could

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

not win the presidential election in 1976, because, the public only remembered him as the man who pardoned Richard Nixon.

TRUMAN FIRES MACARTHUR

In 1951 this headline shook the U.S. and the world. On April 5 Harry Truman was furious at MacArthur and decided he must go. For five days he kept this secret until they could decide on a replacement. They decided on Lieut. General Matthew Ridgway.

The reporters were summoned at 1:00 a.m. The press got hand-out sheets from the press secretary: "With deep regret, I have concluded that General of the Army Douglas MacArthur is unable to give his wholehearted support to the policies and directives issued to them in the manner provided by our laws and the Constitution."

Why the 1:00 a.m. summons? The White House's lame explanation was timing for the general, since it was then midafternoon in Tokyo. But that wasn't the real reason at all; the news had been timed to make the morning newspapers and catch the Republicans in bed.

The man he fired was a military hero, idolized by many. MacArthur had done a superb job as Supreme Commander for the Allied Powers in the reconstruction of Japan. Truman himself admired MacArthur's soldiering.

But MacArthur was strong minded and had set himself firmly against the policy of Truman. Douglas MacArthur would not compromise his views of what was right and necessary. The clash between the two was slow in building, but the end was inevitable.

The Senate and Congress were divided over Truman's decision. The American public supported MacArthur. When MacArthur returned to the states he was a General of the Army, stripped of his commands and without assignment, yet the U.S. was waiting to sweep him up in a tremendous greeting all the way to Manhattan's tickertaped Broadway. His words had brought public dismissal and reprimand from his Commander in Chief, yet the Congress of the U.S. honored him by asking him to address them. When he did give his speech before Congress he was given a standing ovation.

In my opinion Truman firing MacArthur was the most unpopular decision ever made by an American president.

ABRAHAM LINCOLN

In 1861 Abraham Lincoln was elected 16th President of the United States. When he took office, and during the early stages of the Civil War, President Lincoln wanted to preserve the American Union of which slavery was a part. There was great pressure upon him to free the slaves but he refused. He had no wish to interfere with slavery where it already existed. Lincoln declared that he was fighting to save the Union, not to free the slaves. As the Civil War progressed, the Northerners demanded the end to slavery.

In 1863 President Lincoln issued the Emancipation Proclamation declaring that slaves be free. Lincoln repeatedly urged all states to free their slaves. In 1865 The Emancipation Proclamation cleared the way for Amendment 13 to the constitution ending slavery throughout the United States and declaring all men to be created equal.

President Lincoln's decision not to end slavery at the beginning of the Civil War appealed to some people but not to others. Lincoln made this choice not for popularity but because he thought it was the right decision for the Union's people. Despite the pressure to end slavery Lincoln made the decision to end slavery when he thought it was best for the Union.

The choices President Lincoln made helped to cause his assassination. A President makes decisions every day regarding our country. They make the best choices they can although they cannot please everyone. President Lincoln made what he thought was the best decision for the Union. John Wilkes Booth, his assassin, did not agree.

TRIBUTE TO RAY GILMARTIN

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mrs. ROUKEMA. Mr. Speaker, I rise today to offer my heartfelt congratulations to my friend Ray Gilmartin on being honored by West Bergen Mental Healthcare. On Sunday, March 24, Ray will be presented with the West Bergen's Distinguished Service Award.

I cannot think of a person who is more deserving of this honor. I have known Ray and Gladie Gilmartin for many years and have seen the seriousness of their commitment to their community.

Those across America who know Ray know him as a distinguished captain of industry. Since he earned his MBA from Harvard Business School just a few short years ago, he has had a meteoric rise in the business world. He now serves as chairman, president and chief executive officer of Merck & Co., the world's largest pharmaceutical concern. He previously served in the same capacity at another premier firm, Becton Dickinson & Co. of Franklin Lakes, NJ.

He is a national leader in health care. An active participant in health industry affairs, Ray is a member of the board of the Pharmaceutical Research & Manufacturers of America and Project HOPE, a nonprofit organization conducting educational programs in the health sciences. He is also chairman-elect of the Healthcare Leadership Council, a national coalition that promotes cutting-edge health care reform.

Closer to home, those who know Ray know him as a passionate supporter of a wide range of community activities. In addition to his chairmanship of the board of Valley hospital in Ridgewood, his public service activities also include serving as a board member at Union College in Schenectady, NY., the United Negro College Fund, the Associates of Harvard Business School, the New Jersey State Chamber of Commerce, and the Ethics Resource Center. He is also a member of the Business Roundtable and the Business Council and a trustee of the Conference Board and the Committee for Economic Development. He is also a member of the board of the Providian Corp. and PSE&G.

My husband, Dr. Richard Roukema, and I are proud of our longtime association with West Bergen Mental Healthcare. For years, West Bergen Mental Healthcare has served effectively northern New Jersey's population of the mentally ill, in effect, speaking for those who cannot speak for themselves. Further, West Bergen responds to crises in our community in a way that no other organization can. And now, this effective and caring organization is reaching out to children and youth in a way it has not ever before. Its Center for Children and Youth in Ramsey provides counseling and psychotherapy for youngsters aged 2 to 18 regardless of their ability to pay.

Mr. Speaker, America's communities could all use more dedicated community-minded organizations like this. But fundamentally, organizations like this could all use more dedicated supporters like Ray Gilmartin. He is a shining example of the volunteer community service that makes America strong.

TRIBUTE TO CAPT. MICHAEL W. KIGHT, MONTEBELLO POLICE DEPARTMENT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. TORRES. Mr. Speaker, I rise today to pay tribute to Montebello P.D. Capt. Michael W. Kight on the occasion of his retirement. Captain Kight spent more than 30 years protecting the interests and enhancing the safety of our community.

Captain Kight was born in Los Angeles, CA, and attended local schools, including east Los Angeles and Cerritos Colleges, where he earned his associate of arts degree in police science. He began his law enforcement career in 1964, serving as a patrol officer with the City of Bell Police Department. On July 30, 1972, Captain Kight was hired as a police officer with the Montebello Police Department, where he served for the past 24 years.

Captain Kight quickly proved himself to be a natural leader, providing direction, leadership, and expertise in law enforcement. He rapidly rose through the ranks, becoming senior officer in 1974; patrol sergeant in 1975; detective sergeant in 1980; lieutenant in 1987; and captain of field services in 1988. He was awarded exceptional performance pay in 1979, when he significantly exceeded performance standards for management of his employees. In 1983, he was awarded exceptional performance pay for reducing overtime hours and increasing the arrests and clearance in the detective bureau. Again in 1985, he was awarded exceptional performance pay for his outstanding handling of an internal affairs investigation. In 1994, he was awarded the prestigious Career Contribution Management Award in recognition of his high standards of excellence and dedication to superior service to the residents of Montebello.

Michael W. Kight has demonstrated a lifelong commitment to his chosen field of law enforcement, earning him the respect and admiration of his colleagues and community. On Saturday, March 23, 1996, his friends, family, and staff members will congratulate him on his retirement from the Montebello Police Department, and thank him for his years of exceptional service.

Mr. Speaker, I ask my colleagues to join me in paying tribute to Michael W. Kight, one of our community's finest law enforcement officers and public servants.

IN SUPPORT OF WOMEN'S HISTORY MONTH

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. SABO. Mr. Speaker, I rise today to express my support for Women's History Month. Women make contributions to our society every day—all year long. But this month offers a special opportunity to acknowledge and to raise awareness about women's contributions in all aspects of our culture—including health, education, public service, and the arts. Minnesota has produced strong female civic leaders who have worked to enhance the lives of others through their endowments to the community. Today, I rise to recognize some Minnesota women in particular, who have enriched our community and advanced the women's movement on a national level.

In its earlier years, Minnesota was fortunate to have many women from diverse backgrounds who were committed to improving the lives of average Minnesotans. For instance, Nellie Griswold Francis (1874–1969) and Mattie Porter Jackson (1854–1946), two African-Americans, were instrumental in the early civil rights movement. Eleanore Harriet Bresky (1882–1952), a Russian-American, was a member of the National Woman's Party, as was Minneapolis-born, Agnes Myrtle-Cain (1894–1980), who also was a legislator and a union activist. Ruth Tokuka Nomura Tanbara (1907–), a Japanese-American, was an economist and an early YWCA social worker. I commend organizations like the Minnesota Women's History Month Project who increase awareness and bring attention to these women. Led by Judy Yaeger Jones, this group is one of only four State-based organizations in the country researching and promoting the history of women's lives within their communities.

Few people have fought as tirelessly and for a social cause as did Clara Ueland (1860–1927), working for the congressional passage and Minnesota legislature ratification of the nineteenth amendment in 1919. As a leader in the suffrage movement, she served as the last president of the Minnesota Women Suffrage Association and later, as the first president of the Minnesota League of Women Voters. An historic leader in Minnesota history, Clara Ueland truly embodied the character and ability needed to advance women's suffrage.

Too numerous to mention here, hundreds of other women in Minnesota have held prominent roles in the State's political, judicial, social and cultural history. I am proud to recognize my mother's second cousin, Congresswoman Coya Knutson, who was the first and, as yet, the only Minnesota woman to serve in the U.S. House of Representatives. She served in the State House of Representatives from 1951–54 and was elected from 1955–59 as a Democratic Member of Congress. Another pioneer, Minnesota Supreme Court Associate Justice Rosalie Wahl, was the first woman to sit on the State's highest court and a person who fought to erase racial and gender bias from the courts. Two other women have made a difference in Minnesota politics: Gladys Brooks, who served three terms on the Minneapolis City Council and was a candidate for mayor, and Judge Diana Murphy, who has served as a State judge, U.S. District Judge for the District of Minnesota, and is currently on the U.S. Court of Appeals for the Eighth Circuit and is a director of the Bush Foundation and the United Way of the Minneapolis Area.

Countless other Minnesota women have been outspoken social activists, particularly within the feminist movement. Among them, Gloria Jean Griffin was the coordinator and co-founder of the Minnesota Women's Consortium in 1980. She and Grace Harkness, the legislative director of the Women's Consortium (1980–present) worked at this association of 170 organizations dedicated to full equality for women and as a resource and referral center for women seeking help and support. Additionally, Arvonne Fraser served as President Clinton's U.S. Representative to the United Nations Commission on the Status of Women in 1993–94. She was also the National President of the Women's Equity Action League in the early 1970's and was named the International Citizen of the Year 1995 by the city of Minneapolis.

Representing education, children, health, and the arts, I would like to recognize four women who have excelled in these areas. Jean Keffeler is the immediate past Chair of the Board of Regents of the University of Minnesota and was recently reappointed to a second 6-year term on the board. Luanne Larsen Nyberg was the founder and executive director of the Children's Defense Fund-Minnesota (1985–95), an organization dedicated to increased state government and community commitment to meeting children's basic needs. Dr. Jane Hodgson defied the medical establishment in the 1930's, deciding to go to medical school when men were predominantly physicians. In 1992, she was recognized with the Elizabeth Blackwell Award from the American Medical Women's Association for her work in keeping abortion legal. Finally, in the last 20 years, Libby Larsen has become one of the most important and successful composers in the United States, winning a Grammy Award in 1994 and continuing the fine tradition of a strong cultural and arts community in the Twin Cities.

As I stated last month regarding Black History Month, I would like to recognize again Ethel Ray Nance (1899–1992), the first black woman hired by the Minnesota Legislature and the first black policewoman in Minnesota. Further, Mayor Sharon Sayles Belton, elected in 1993, is the first African-American and the first female mayor of Minneapolis and of course, Nellie Stone Johnson, has been one of the most outspoken and thoughtful leaders in Minnesota's African-American community.

I am proud to recognize and acknowledge the influence and contributions these and all women have made in Minnesotan's lives. I thank them for their service to the State, the women's movement, and the United States of America. Mr. Speaker, as we observe Women's History Month, I commend each of these women for their contributions to our society.

TRIBUTE TO JOHN CAPELLUPO

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. GEPHARDT. Mr. Speaker, I rise to honor my friend and fellow St. Louisan John Capellupo, who is retiring as president of McDonnell Douglas Aerospace after a career that has spanned much of the last half of this century. It is fitting to recognize Cap for his work on behalf of his country, his company, and his community.

During his many years in the aerospace industry, Cap has built an impressive record of substantial and long-lasting contributions to our Nation through the technical development and management of some of our most important defense programs. He has shaped aircraft, missile, space, and technology programs that will provide for our national defense for decades to come.

Born in Minnesota and raised in Illinois, John began his aerospace career with McDonnell Aircraft Co. in 1957. He cut his teeth on programs like the F–101B fighter, the Super Talos missile, and other programs we now read about in aviation or military history books. Several years later, in the mid-1970's, a well-seasoned and experienced John Capellupo began working on a revolutionary new aircraft program, one that would eventually give birth to the F/A–18 *Hornet*, the world's first fighter designed to master both aerial dogfights and ground attack missions. Ultimately, he would lead the *Hornet* program into maturity and, to this day, throughout industry, Government, and the military, he is known as the father of the F/A–18.

In February 1989, John left the F/A–18 program to become president of McDonnell Douglas Missile Systems Co. In early 1990, he became deputy president of the company's commercial airliner operation, Douglas Aircraft Co., in Long Beach, CA. In May 1991, he returned to St. Louis to assume his current position as president of what is now McDonnell Douglas Aerospace.

Thousands of the hard-working people from my district are employed by McDonnell Douglas and work for John. These are the men and women who design, test, and build F–15s for the Air Force; AV–8Bs, F/A–18s, and T–45s for the Navy and Marines Corps; and Harpoon, SLAM, and JDAM munitions. They respect and admire the man they know simply as Cap, who has led them successfully through both the good times and the bad times over the years.

Personally, I have known Cap for almost 20 years. He and I have worked together on a broad range of issues, from those directly affecting our national security to ones that are vitally important to local St. Louis workers. Throughout this lengthy and productive association, I have developed the utmost respect for him as an individual and complete admiration for his professional achievements. I am honored to recognize him here today, and wish him a very happy retirement.

STEPHANIE WENDEROTH OF MADISON, A TRUE HOMETOWN HERO

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Ms. DELAURO. Mr. Speaker, I rise today to honor Stephanie Wenderoth, a teen from my district whose bravery and quick thinking saved three children from a fire that virtually destroyed their home last month.

Stephanie was babysitting for Hailey, Kendall, and Miller Carroll when a fire broke out in the living room of the Carroll's home in Madison, CT. Stephanie sent Hailey and Kendall running to the home of a neighbor, then dropped to her knees and crawled through thick smoke to find 3-year-old Miller. She found him after crawling through a thick cloud of smoke, then ran with him out of the house. Stephanie and Miller emerged from the fire covered with soot, but safe.

Mr. Speaker, the dictionary defines courage as: mental or moral strength to venture, persevere, and withstand danger, fear or difficultly. Stephanie Wenderoth has demonstrated exceptional courage that serves as an inspiration to citizens of all ages. As an asthmatic, crawling through the smoke was difficult, but Stephanie did not hesitate to take the risk and through her courage saved the lives of three children.

In this day and age when genuine heroes are all too rare in our society, Stephanie dismisses attention to her feat by calling it "just part of my job as a babysitter." Such modesty is yet another admirable trait of this extraordinary young woman. As her Representative in the U.S. House, I rise today to honor Stephanie Wenderoth as a true hometown hero.

TRIBUTE TO MARTIN BEGUN

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mrs. MALONEY. Mr. Speaker, I rise tonight to bring to the attention of my colleagues the outstanding achievements of a community leader who is truly dedicated to public service.

Martin S. Begun serves as senior associate dean of the New York University School of Medicine and vice president of external affairs of New York University Medical Center. Dean Begun serves as liaison to government officials on the city, State and Federal level. In addition, Marty oversees the public affairs and alumni relations offices of NYU Medical Center and School of Medicine.

In July of 1995, in tribute to his years of activism and leadership in the Jewish community, Marty also assumed the presidency of the Jewish Community Relations Council of New York. JCRC is a representative organization encompassing over 60 major civic, communal, educational and religious groups within New York City's diverse Jewish community.

As long as I have known Marty, he has been deeply involved in community service. He is a man who lives by the Talmudic maxim: "If I am not for myself, who will be? and if I'm only for myself, what am I?"

Marty has worked tirelessly to raise the standards of the NYU Medical School. That is a critical task which affects Americans nationwide. Three medical schools in New York, NYU Medical School included, train approximately 15 percent of all doctors who practice medicine in the United States. What is good for NYU Medical School is good for the American people.

Marty is always up-to-date on public policy. A long-time advocate for compassionate care for the homeless mentally ill, Marty often advises prominent public figures on the subjects of health care, public health, community relations and Jewish affairs. He was an excellent resource for me when health care reform was at the top of the national agenda in the 103d Congress. He advised me on the viability of the Clinton health plan, taking into consideration how it would impact not just the hospital and the medical school, but my constituents and New York City in general.

While he sees the big picture, Marty never loses sight of the details. Throughout his tenure at NYU, Marty has seen to it that expansion of the NYU Medical Center complex has been carried out with great sensitivity to quality of life in the community.

Until 1994, Marty also served the city of New York for 18 years as chairman of the community services board of the city's department of mental health, mental retardation and alcoholism services. He continues to sit on the boards of the executive committee of the Associated Medical Schools of New York, and, by appointment of the Governor of New York State, on the Battery Park City Authority.

Mr. Speaker, for all of his good work; for his compassion; for his commitment to his community, his city and his country, Marty Begun has earned a reputation as mensch. I owe Marty a debt of gratitude for doing so much fine work in my district. And the city of New York owes him much, much more.

SUERJEE LEE WINS HIGH PRAISE FOR HELPING IMPROVE TWIN CITIES COMMUNITY

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. VENTO. Mr. Speaker, I rise today to congratulate a young Minnesotan, Ms. Suerjee Lee, for being recognized with the Prudential Spirit of Community Award. Ms. Lee is receiving the award for her volunteerism in the Twin Cities community, and is one of only two youths in my home State of Minnesota to be honored this year.

Her volunteer efforts span many segments of the community. She spends time with elderly residents of a nearby nursing home and serves as a mentor for special education students at her school. Ms. Lee is also involved in a project called Fresh Force, a volunteer organization which performs a variety of community service activities. One such activity included beautification of the Mississippi riverfront by removing trash from the area. Recently, she was selected to represent St. Paul's Battle Creek School Fresh Force Program at a regional meeting of Fresh Force program participants. It is for this hard work and her dedication to our community and its citizens that she is being honored.

In addition to her volunteer efforts, Ms. Lee, who is an eighth-grader at Battle Creek Middle School, still finds time to remain an excellent student and participate in student government.

Eight years ago she entered public school unable to speak English. Now, not only is she fluent in English, she is an "A" student and, therefore, a member of the National Honor Society. She also holds the position of vice president of Battle Creek Middle School's Student Council.

A selection committee will soon choose 10 individuals from the list of State winners of the Prudential Spirit of Community Award to be their national award winners. Regardless of that decision, the citizens of the Twin Cities community and Battle Creek Middle School have already received a higher honor and great benefit, Suerjee Lee's leadership and hard work on behalf of the future of our community. Her efforts not only serve to improve the lives of our citizens and improve the quality of life in the Twin Cities, she has demonstrated the importance of volunteerism and community activism to all who know her. I join the entire community in congratulating Ms. Lee for winning this prestigious award and in thanking her for her efforts on behalf of our community and its citizens.

TRIBUTE TO ROBERT T. ACKER

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. HUNTER. Mr. Speaker, I rise today to recognize the extraordinary service and dedication of a constituent in my district, Mr. Robert T. Acker of El Cajon, CA. Robert is a devoted member of this community serving the city of El Cajon for the past 30 years, 14 of these as city manager. He is soon retiring and I would like to take a moment to commend his dedicated service in local government and community programs.

A Holtville native, Robert is a graduate of San Diego State University [SDSU] with a master's degree in economics. After service in the U.S. Army, he went to work as an appraiser for the San Diego County Assessor's Office and in 1966, was hired as an administrative analyst for the city of El Cajon where he was promoted to city manager in 1982.

During his tenure as city manager, Robert has enthusiastically participated in dedications of public buildings including the El Cajon Fire Headquarters, the El Cajon Community Center, and the El Cajon Library. He is spirited and has always strongly advocated city improvements and prosperity.

Robert's involvement and accomplishments extend well beyond serving as the city manager of El Cajon. Aside from working as an assistant professor in public administration at SDSU, he also served as a member of the San Diego Transit Corporation Board of Directors, the City/County Managers Association, the Ducks Unlimited Steering Committee, the International City Management Association, the National Rifle Association, and the El Cajon Lions Club. This involvement in community service has assisted in raising funds for projects such as Canine Companions, El Cajon Boys and Girls Club, San Diego Service for the Blind, Home of Guiding Hands, Drug Awareness Resistance Education, Tijuana Orphanage Support, and Christmas Baskets for Needy Families.

Robert is a symbol of commitment and dedication to his fellow citizens and community. He has pledged a great share of his life to the service of others and he has surely made El Cajon a better place to live. Today, let us honor him for his unwavering contributions. I hope retirement can afford him the enjoyment of his hobbies hunting, fishing, gun collecting, and spending time with his wife and daughter, Susan and Kathryn. Mr. Robert Acker is well-deserving and I wish him great happiness in his future endeavors.

WHY WE NEED THE KASSEBAUM-KENNEDY GROUP-TO-INDIVIDUAL CONVERSION PROVISIONS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. STARK. Mr. Speaker, over the years, I've received many letters from around the Nation on the need for national health insurance reform.

Many of these writers would be helped by a provision in Kassebaum-Kennedy: the right to buy an individual policy after leaving a group policy, and not having one's pre-existing conditions excluded permanently. Many insurance companies oppose this provision but passing this law is the least we can do for our constituents.

The following letters make the case:

DEAR MR. CONGRESSMAN, I am a 50-year-old male who was recently laid off due to a corporate merger. I have continued Cobra health insurance program through my former employer, for myself and wife, at my own expense of $281 per month.

I have accepted a position with a small company and applied for the medical insurance offered by them with John Alden Life Ins. Co. This has been in process for several weeks, and I have now received this enclosed letter refusing us coverage due to my "condition".

I have had a seizure disorder since my late teens which is totally controlled by medication and has not incapacitated me at any time. I am periodically checked by the doctor and lead a perfectly normal and active life.

This is the first time during 30 plus years in the work force with previous employers that I have ever been refused medical coverage. It imposes an extreme financial burden on us, and the ultimate horror is that we could be wiped out should there be any medical crisis which can happen to anyone at anytime.

What, Mr. Congressman, can be done about something like this, and where do we turn when suddenly judged uninsurable?

A MAN FROM CALIFORNIA.

MR. STARK: As a retired employee of Southeast Banking Corporation, my medical coverage ceased on September 20.

First, I believe it is outrageous that retired employees be advised after the fact that coverage was terminated, and not given the opportunity to seek alternative coverage in a timely manner.

Further, since Southeast was self insured and Metropolitan was merely the administrator, there is no policy to which we can convert.

Furthermore, I am advised by Metropolitan that due to a pre-existing condition (Parkinson's) of my wife, they have no coverage available for her and that they doubt if any insuror in the country would write coverage. And the Florida Insurance Commissioners Office claims that they have no jurisdiction over self-insured groups, plus enrollment in the State assigned risk program has been closed.

So, the long and the short of it is, we are out on the street. What am I to do?

DEAR CONGRESSMAN STARK, I am sure that you would be interested and concerned about what has recently happened to me as an older, retired adult, in relation to an extreme inequity in the health care system. What happened to me is as follows.

I retired as a result of a heart problem in 1989, and in 1990, I had a bypass surgery. I was covered by Kaiser Permanente Health Plan at the time, and I have been covered by them for the past 32 years. I was still carried by the engineering company from which I retired, but without my knowledge, my company discontinued the Kaiser health plan as of June, 1992. Not having been notified by either my ex-employer nor Kaiser, I continued to use the medical services, and even had an elective hernia operation in June. On June 26th, Kaiser sent a letter notifying me that I was no longer covered. Upon contacting them by phone, I was told of the circumstances, and was advised to apply under an individual membership. I complied and immediately applied, but I was rejected quickly by the Medical Review Board at Kaiser citing the reason as "arteriosclerotic heart disease".

MAN FROM CALIFORNIA.

DEAR CONGRESSMAN PETE STARK, I'm 13 years old and, a resident of San Leandro, California. When I was 10 months old my pulmonary artery had to be opened. At that time I had Health insurance. Unfortunately, after I recovered from the open heart surgery, my families insurance dropped my coverage. Due to the fact that my parents are self-employed, I have been without Health insurance for roughly 12 years.

Thank you for your time.

DEBORAH FROM HAYWARD, CALIF.

DEAR REP. STARK: My husband and I have been what we would call middle class for all our married life. We both held down good paying jobs and worked hard all our life. Two and one-half years ago I had three heart attacks in one month. I could no longer work for quite some time, having spent many weeks in the hospital. My husband has been treated for hypertension for some years, and it became obvious he must sell our business because of this and his worry over me, plus the fact that I could no longer work with him at our business. This was an unprofitable sale, business was poor and we had to share the proceeds with a partner in our business. He applied for and was paid Unemployment Comp. for several months until he obtained work. Since he returned to the workplace at age 59, it was very difficult to secure a well paying position, but he is a hard worker and he can provide for our needs at this time, except for health insurance coverage. I have returned to work part time only, as my health does not permit me full time employment. After paying into Unemployment for the eight (8) years we were in business, he has now been notified he was not eligible to collect unemployment at all, because the Unemployment Board decided he did not have good cause to sell the business and therefore, demand a repayment of $3,000 he was paid. We are appealing this ruling, but I have gotten far afield of my subject I am afraid . . .

As we had group health coverage for both of us and our employees in our business, we have kept up that coverage until this month. We have been covered by Prudential Ins. for approximately 10 years. Each six (6) months the premium was raised 15 percent until this month it went to $576 per month. We have been paying this premium each month from our savings (from the sale of the business and it was intended to be for our retirement). But now it has been depleted and we no longer can pay for the coverage. We have been unsuccessful in locating other coverage because of the two year wait for "pre-existing" conditions, I for my heart problems, he for hypertension. Also, not being in a "group" the cost was as much as we were paying Prudential for a group coverage.

I am very apprehensive about the fact that if either of us becomes ill enough for hospitalization, we will be shunned aside because we have no insurance. My medication is very expensive, realizing a total expense of over $300 per month, and my husbands hypertension medication is $68 per month. We are struggling to make ends meet with these drug expenses and other obligations in this depressed economy.

There is no where to turn it seems. We have an "insurance pool" here in Fla. for people like us without insurance, but having looked into it, we would be paying far more for this coverage than we have been to Prudential, and we would be waiting for the 2 year waiting period for "pre-existing" conditions again.

A WOMAN FROM FLORIDA.

CONSUMERS FOR QUALITY CARE,
Los Angeles, CA, August 8, 1994.

DEAR MEMBER OF THE CALIFORNIA CONGRESSIONAL DELEGATION: Just last week, on August 2, the Ninth Circuit ruled that ERISA preempts one of California's most important consumer protections: the requirement that insurance companies continue to pay health insurance benefits to a sick or injured patient even if the patient's participation in a health insurance plan is terminated by an employer or insurance company.

If ever there was an example which illustrates why Congress should amend ERISA as part of health care reform, this case is it.

Vanessa Serrato was eighteen years old, a high school student with a promising future, when she was struck by a drunk driver. During subsequent surgery to amputate her leg, Vanessa went into cardiac arrest. She suffered profound and permanent brain damage, and lapsed into a coma.

At the time of the accident, Vanessa was in a position that one would assume to be enviable: she was covered by not one, but two health insurance policies. One was issued by Massachusetts Mutual Life, under a policy provided to her mother by her employer; the other by John Hancock Mutual Life, under a policy issued to her father by his employer. The Mass Mutual policy provided $1 million in benefits; John Hancock's policy offered unlimited benefits. Both policies promised to cover the needs of a catastrophically injured patient like Vanessa.

Less than one year after the accident, however, Massachusetts Mutual Life terminated Vanessa's coverage when her mother's employer ceased operations in California. At the same time, John Hancock terminated her health care benefits when her father's employer substituted a different insurer for John Hancock. California's case law requires, as a matter of public policy, that patients who are injured or fall ill during the period when a policy is in force and reasonably expect that their policy will provide long term benefits are entitled to continue to receive the benefits. But both insurers refused to pay for the medical treatment and services Vanessa desperately required.

The young woman, who was entitled to coverage under two policies, instead was left with nothing. Her mother takes care of her at home; Vanessa's poor condition reflects the fact that she has not received the care she needs.

Vanessa Serrato's parents brought suit on her behalf against both health insurers and the employers through whom the insurance was provided. She argued that under California's vesting law, once she became disabled her right to the benefits vested, and the insurance companies could not terminate that right. She asked that her medical bills be paid, and that the companies pay her attorneys' fees for having to bring a lawsuit. But the federal district court dismissed the case, ruling that California's vesting rule is preempted by ERISA under the U.S. Supreme Court's 1987 decision in *Pilot Life* v. *Dedeaux*.

* * *

Sincerely yours,
JAMIE COURT,
Consumers For Quality Care.
MARIA FERRER,
Health Access.
HARVEY ROSENFIELD,
Consumer Advocate.
GERRI DALLECK,
Center For Health Care Rights.
TERRY MCBRIDE,
Consumers For Safe Medicine.

JEWISH WAR VETERANS

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to the Jewish War Veterans of the United States of America upon the celebration of the organization's 100th anniversary. On Saturday, March 23, the Wyoming Valley Chapter will commemorate this important anniversary at its annual banquet in Wilkes-Barre, PA. I am pleased to have been asked to participate in this event.

Since its founding in 1896, the Jewish War Veterans organization has been a patriotic voice of American Jews who proudly served in the U.S. military. Founded by men who wore the blue uniform of the victorious Union Army and Navy during the Civil War, its membership has subsequently included Jewish military personnel who have answered the call to colors since 1861, and continue the tradition of service in the peace-keeping force in Bosnia.

At its first roll call, held at the Lexington Opera House in New York City in 1896, 63 Jewish Civil War veterans were recorded present at what was then called a gathering of the Hebrew Union Veterans. From that time until World War I, the JWV merged with other organizations and promoted the recognition of Jewish veterans. One of its members, Ben Altheimer, was widely recognized for greatly influencing President Woodrow Wilson in designating June 14 as Flag Day.

During the years following World War I, the JWV became active in protesting the Jewish discrimination in Poland, Romania and Galicia. In 1924, the organization changed its name to Jewish War Veterans of the Wars of the Republic. The next year, the JWV published the first issue of its national magazine entitled "Jewish Veteran." For 75 years the publication has continued to be mailed to all JWV members. The JWV became increasingly more active in politics over the next several years, lobbying Congress for veterans' legislation on a regular basis. By 1939, 277 posts had formed and an organization for teenagers, the sons of JWV had been formed.

Meeting 10 days after the bombing of Pearl Harbor, the JWV's National Executive Committee promulgated its "Emergency Program for Victory" which called for a comprehensive civilian program to support the war effort. The program was successful in selling $250 million in war bonds to make a significant contribution to the war effort. The JWV continued to fight for veterans causes and provide support for veterans families through World War II.

Mr. Speaker, in the 50 years following World War II the membership of the JWV grew as did its political strength and social influence. Always an advocate for its members and never declining a challenge, the Jewish War Veterans has taken its place among the most respected veterans organizations in the world. In my congressional district, the Wyoming Valley Chapter of the Jewish War Veterans is extremely active. Its membership is comprised of some of the most decorated and distinguished veterans in the Commonwealth, including Samuel Greenberg of Kingston, who served as National Commander of the Jewish War Veterans in 1984 and 1985. Another Kingston resident, Attorney Joseph J. Savitz, served the Jewish War Veterans as the organization's National Judge Advocate in 1961 and 1962.

Mr. Speaker, during my tenure in the U.S. Congress, working closely with the veterans in my district has been one of my greatest pleasures. I am extremely proud of my friendship with these dedicated men and women. The members of the Wyoming Valley Chapter of the Jewish War Veterans are to be commended for their continued advocacy, leadership, and heartfelt concern for the well being of our Nation's veterans. I am proud to have their friendship and congratulate this organization on its 100th anniversary.

TRIBUTE TO MAYOR BERNARD KETTLER

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate Woodcliff Lake Mayor Bernard Kettler on being honored with the annual Lincoln Award by the Woodcliff Lake, NJ, Republican Club. I can think of no better example of the solid American values of service to community, participation in local government, civic pride, and concern for fellow citizens. This award is certainly well deserved.

Bernie Kettler served residents of Woodcliff Lake as a councilman for 9 years and as mayor for 14 years. During his quarter century of public service, he provided outstanding leadership in the development of the town during a critical period of major growth and change. He distinguished himself throughout Bergen County as a respected and innovative leader. He represented his community with dignity, integrity, and pride. He was always a strong Republican, providing the leadership and optimism which contributed greatly to Republican victories and many years of successful Republican government.

The Marine Corps veteran of World War II moved to Woodcliff Lake in 1963 and soon became involved in local issues. He was sworn in to his first term as councilman in January 1967 and rose to the position of council president. He began his career as mayor in 1981. His administration was responsible for a beautification program, sanitation improvements, establishment of a recycling program, and many other contributions. He spearheaded a proactive stance on the difficult affordable housing issue that allowed Woodcliff Lake to meet its legal obligations while maintaining the character of the town. His efforts contributed greatly to Woodcliff Lake's position as a first-class and desirable community.

Bernie also served as president of the Passaic Valley Mayors Association and participated in many regional initiatives such as the Joint Insurance Fund. He served on the Bergen County Solid Waste Advisory Committee and many other county-level panels.

Bernie has also had an extensive and successful business career in the food industry. He introduced and established distribution of three national food brands and managed more than $50 million in sales volume on the east coast for some of the largest manufacturers in the United States.

Speaking on a personal basis, Mayor Bernie Kettler has been one of my staunchest, most loyal, and truest supporters dating back to those first months when I first faced the formidable task of running for nomination as a candidate for Congress. We look back on them as the good old days but they were most challenging to all of us. Bernie became one of my most trusted advisors and supporters. I have always respected and valued his counsel.

He is a graduate of Gettysburg College, where he received a bachelor's degree in economics and political science. He and his wife, Marie, make their home in Woodcliff Lake.

They have three children: Thomas, Sarah, and Mary Jean, and one granddaughter, Kate.

RECOGNITION OF ST. PAUL HIGH SCHOOL STUDENTS, SANTA FE SPRINGS, CA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. TORRES. Mr. Speaker, I rise to pay tribute to the young and aspiring students of St. Paul High School in Santa Fe Springs, CA. Each year I have the privilege of meeting a new group of seniors as they visit New York City and Washington, DC.

I am delighted that this fine group of young men and women had the opportunity to enjoy Broadway plays, the Statue of Liberty, and the excitement of the Big Apple. While in Washington, the St. Paul students took a whirlwind tour of its many famous sights: the White House, the Bureau of Engraving and Printing, the Supreme Court, the Library of Congress, and the Washington, Lincoln and Jefferson monuments by night. I was lucky enough to fit into their tight schedule when they visited me at the House of Representatives.

Mr. Robert McNeil, the school's trip leader and respected civics teacher, deserves much credit for organizing these annual trips and for motivating so many young students to reach beyond their natural talents. His academic and professional background make him a respected leader and a brilliant teacher. This year's group of advanced placement students included Jesahel Alarcon, Chris Arehart, Shonnyce Baker, Faby Barragan, Susie Benson, Laura Boersma, Elenor Burciaga, Andrea Burke, Monique Fuentes, Susan Mancia, Jill Ortega, and Edward Raco. Also joining the group were Jeanine Casas, Paul Contreras, Anna Garcia, and Mark Neria.

Although the students of St. Paul High School got the last bit of winter and some Washington snow on their visit, I trust their visit will remain a warm memory. I look forward to hearing from each of them in the future. I am certain much success lies ahead and, perhaps, one or two of these young men and women will come back to Washington to make their career.

Mr. Speaker, I ask my colleagues here assembled to join me in recognition of this fine group of students and Mr. Robert McNeil of St. Paul High School.

NANCY GRIGSBY NAMED WOMAN OF THE YEAR OF OHIO'S THIRD DISTRICT

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. HALL of Ohio. Mr. Speaker, I am pleased to select Nancy Grigsby as the Woman of the Year of Ohio's Third District. Nancy is my choice for Woman of the Year because of her exceptional and compassionate commitment to help victims of domestic violence in Dayton, OH. She is the executive director of Artemis Center for Alternatives to Domestic Violence.

Nancy has done outstanding work with battered women for 16 years. In 1980–81 she worked as a crisis counselor at the YWCA Battered Women's Project, where she was struck by the bleak predicament of battered women, and the gross inequities which they face in society. Her concern for these women motivated her to cofound Artemis in 1984. This nonresidential organization provides counseling, legal services, children's therapy, and a 24-hour crisis hotline to battered women, men, and children who have filed criminal charges against a family member who has assaulted them.

Victims of domestic violence often face stigmatization in our society, which makes it especially difficult for them to come forward and receive help. In addition, if a battered woman tries to leave home she faces a 75-percent higher risk of becoming a homicide victim. Because of this threat, only 1 out of 39 battered women will opt to move into a shelter. Nonresidential services like Artemis are therefore necessary to meet the needs of victims who cannot leave home.

In addition to her efforts at Artemis, Nancy was the legislative committee chair of the Ohio Domestic Violence Network from 1990 to 1994. She is a member of the Child Protection Task Force of Montgomery County, a member of the Domestic Violence Subcommittee of the Criminal Justice Policy Council of Montgomery County, and a member of the Endangering Children Subcommittee of the Criminal Justice Policy Council, Montgomery County. Through her work on all these fronts, Nancy has significantly contributed to the Dayton community by relieving emotional, physical, and mental suffering of victims who are not even safe from attack within their own homes.

LANDMINES—AN IMMEDIATE THREAT

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. EVANS. Mr. Speaker, the carnage wreaked on innocent civilians by antipersonnel landmines has become well-known. It is estimate that over 2,000 innocent men, women, and children are killed or maimed each year by these hideous and barbaric devices. Yet, nothing has brought the landmine crisis home to the American public until we contemplated sending our own young soldiers to the minefields of Bosnia.

According to the United Nations, there are over 8 million landmines in Bosnia alone. One of them recently killed a young sergeant. He was the first American killed in the former Yugoslavia. According to the experts, he might not be the last.

Landmines potentially pose the largest threat to our troops in Bosnia. However, the Department of Defense has been at odds with international efforts to eliminate them. For too long, we have only heard from the Pentagon of the benefits of these weapons to our forces. The cost of antipersonnel (AP) landmines to our fighting men and women has too often been ignored until we have to fight and face them. In Vietnam, a third of our casualties came from landmines. They will continue to take their awful toll in future conflicts on our soldiers and innocent men, women, and children, until the international community decides to do something about the problem.

Our Nation could be leading the charge to eliminate these weapons. Unfortunately, there has not been a serious effort to seek a ban on the use of these weapons. This has led to marginal results that forced the participants, out of embarrassment, to postpone the conclusion of the review conference until later this spring. Without our leadership, a ban on AP landmines will not happen.

This fall, Congress took a big step in asserting this leadership by passing a one-year moratorium on the use of AP landmines. And now the military is finally taking a hard look at the landmine crisis. According to an article in Sunday's New York Times, Chairman of the Joint Chiefs of Staff, General Shalikashvili has ordered a review of the Pentagon's longstanding opposition to a ban on the use of landmines.

I applaud General Shalikashvili for his review of this issue. He is obviously listening to the many American combat vets, both officer and enlisted, who know how much these weapons have cost us in American lives and limbs compared to their limited military value.

In a speech before the United Nations just over a year ago, President Clinton stated our Nation's goal of a ban on antipersonnel landmines. I hope that General Shalikashvili's review, along with the progress being made internationally, will bring this goal closer to realization. Twenty-two nations now support a ban on these weapons. U.S. leadership, in the form of a call for an immediate ban, could make this a reality.

The prestige of the President, along with the support of our Department of Defense, can move nations. This goal is achievable. Considering the terrible toll antipersonnel landmines are taking on civilians and soldiers, we must act now.

CUTS IN EDUCATION

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. FAZIO of California. Mr. Speaker, I rise today to talk about the effects of the Republican cuts in education funding on my district in California.

We're all aware of the draconian reductions in funding for education programs across the country.

Children all over America will pay a heavy price for the majority party's insistence on slashing the Federal commitment to education.

School districts, too, will suffer as they try to budget and plan for the 1996–97 school year without knowing what to expect from the Federal Government.

For example, funding for title I was reduced by 17.1 percent in one of the continuing resolutions passed earlier this year.

This means a $122.8 million reduction for California. In Sacramento, the school district estimates that $2 million will have to be cut from the district budget, eliminating as much as $65,000 for some of the neediest schools.

Seven to eight schools and approximately 100 teachers and teacher's aides would be cut from the title I program effecting almost 3,300 students. Reading tutorial sites would be closed and educational technology programs would also be eliminated.

My colleagues, the cuts to title I alone are cause for outrage—but when they are added to the cuts to students loans, school lunch programs, job training programs, and Goals 2000—it is hard to fully grasp the impact of these cuts on our children.

Let's not lose sight of the commitment that brings us here today—let us put our children first and reject these mean—spirited cuts.

THANK YOU AND HAPPY ANNIVERSARY TO THE MEN AND WOMEN OF THE ELSMERE FIRE COMPANY

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. CASTLE. Mr. Speaker, I rise today to pay tribute to the Elsmere Fire Company on the occasion of its 75th anniversary of leadership and service to the community and the town of Elsmere in my home State of Delaware. For myself, and on behalf of the citizens of the First State, I would like to thank the Elsmere Fire Company for its many years of dedicated service.

As is typical of the fire departments in Delaware, the Elsmere Fire Company is comprised of dedicated men and women who volunteer their time and talents to help prevent or battle fires and perform emergency medical services for our citizens. In today's world, many fire departments find it difficult to recruit and retain volunteers. With the pressures of work and family, many find it had to complete the rigorous fire service training. Yet the Elsmere Fire Company has remained a vital and integral part of its community with strong support that has allowed it to grow with the needs of its community. I am particularly grateful and proud of this community's efforts.

At a recent fire company banquet for the volunteers, many were recognized for various areas of service with the department, and many others were honored for decades of service. It is important that the Elsmere Fire Company continue to be able to recruit and retain young men and women who are committed to this outstanding form of public service. The support for the Elsmere Fire Company is strong and the tradition of service is solid.

Although I have not listed all the members of the Elsmere Fire Company, I hope that they all realize how deeply their efforts are appreciated. This company can be proud of its 75 years of dedicated service. Your community tanks you for your commitment and concern.

INTRODUCTION OF DOLE-WATTS MEDICARE SUBVENTION BILL

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. WATTS of Oklahoma. Mr. Speaker, today I am pleased to join with Senator BOB DOLE in taking the first step toward reopening our Nation's military hospitals to Medicare eligible military retirees. I am introducing legislation today that will launch a demonstration project to underscore the cost-effectiveness of Medicare reimbursement to the Department of Defense for the treatment of military beneficiaries aged 65 and older at these facilities.

The Department of Defense's new managed health care program, Tricare, replaced the traditional military health care program CHAMPUS [Civilian Health and Medical Program of the Uniformed Services]. While medical treatment may be improved under Tricare for many members and retirees of the Nation's armed services, Medicare eligible military retirees are not so lucky because Tricare does not provide for their care at military hospitals except on a space available basis.

With the acceleration of military down-sizing and base closings, fewer and fewer military retirees will be eligible for treatment at military hospitals. This is unacceptable. When our Nation's servicemen and women made their commitment to serve our country, we guaranteed them lifetime health care at military facilities. Tricare undercuts that commitment for Medicare eligible beneficiaries and breaks the contract we made with America's retired military personnel.

The legislation that I have introduced today will allow for a Medicare subvention demonstration which permits the Health Care Financing Administration to repay the Department of Defense for medical services provided to these Medicare eligible retirees. The demonstration project I propose will not contribute to additional costs to the Medicare program and does not change the manner or process under which the Secretary of Defense currently budgets for health care services.

I believe that Medicare subvention will prove to be not only feasible and cost-effective, but more importantly, it is the continuation of our contract with America's service men and women. I invite my colleagues to join as cosponsors of this important legislation and maintain the commitment we have made with our Nation's military personnel.

TRIBUTE TO CF INDUSTRIES, INC.

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. CRANE. Mr. Speaker, I rise today along with my colleagues: Mr. GIBBONS and Mr. BILIRAKIS of Florida; Mr. POSHARD, Mr. LAHOOD and Mr. WELLER of Illinois; Mr. LATHAM of Iowa; Mr. MYERS, Mr. BURTON and Mr. HOSTETTLER of Indiana; Mr. TAUZIN of Louisiana; Mr. BARRETT of Nebraska; Mr. POMEROY of North Dakota; and Mr. CHABOT of Ohio, to pay tribute to CF Industries, Inc. CF Industries is an interregional fertilizer manufacturing cooperative, which this year is celebrating its fiftieth anniversary of providing service and agricultural products to the Nation's farmer cooperatives. Over 1 million farmers and ranchers in 46 States and two Canadian provinces depend on CF and its eleven regional member companies to distribute nitrogen, phosphate and potash fertilizers in a timely and cost effective manner. We congratulate CF on its high quality service and products over the past fifty years as well as its commitment to environmental, health, and safety practices.

CF began in 1946 as a broker of fertilizers for its farmer-owners. CF then branched out into manufacturing and by 1960 came closer to its goal of being the Nation's major fertilizer supplier for the agricultural cooperative community.

Today, CF manufacturing plants have the capacity to produce more than 8 million tons of fertilizer products annually. In 1995, CF sales totaled over $1.3 billion. CF manufacturing plants include nitrogen fertilizer complexes in Donaldsonville, LA and Medicine Hat, Alberta, Canada, as well as extensive phosphate mining and manufacturing facilities in Florida. CF's headquarters are located in Long Grove, IL.

The extensive distribution system operated by CF allows products to reach their regional member cooperatives and, ultimately, their farmer-owners. CF has ownership and lease positions in 63 regional terminals and warehouses. Total storage capacity of CF's distribution terminals and warehouses is in excess of 2.4 million tons of product.

We would like to close, Mr. Speaker, in expressing our best wishes to CF and its employees as they look forward to providing good quality products and services to their members for the next 50 years.

INTRODUCTION OF NATIONAL MISSILE DEFENSE ACT

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. LIVINGSTON. Mr. Speaker, I am introducing today the Defend America Act of 1996.

Just a few short weeks ago, during consideration of the National Defense Authorization Act, S. 1124, I stood in this Chamber with Chairman SPENCE and my colleagues on the Authorization Committee and said that Members of this Republican controlled House would not be party to one of the most irresponsible acts of negligence on the part of this or any administration. It is no secret to this body that I am speaking of the administration's decision to leave the American people defenseless against a ballistic missile attack.

On that day, Chairman FLOYD SPENCE and I vowed that Congress would initiate its own legislation to make certain that ballistic missile defense is one of our Nation's highest priorities. Today, along with Speaker GINGRICH, Chairman FLOYD SPENCE, and other leadership in the House, we are making good on that promise. Today, we are introducing the Defend America Act of 1996. This legislation stands in sharp contrast to the Clinton administration's philosophy. It is an unequivocal statement in favor of defending the United States from ballistic missile attack. Let me list some of the differences between the Congress and the administration as outlined in this legislation:

First, unlike the administration's weak, noncommittal approach, known as, 3 plus 3, this legislation calls for a firm deployment date of 2003 for a National Missile Defense [NMD] system. The administration claims it will develop an NMD capability within 3 years. But, a decision to deploy will not be made for 3 years, in 1999, and only if a threat emerges. My friends, there is no need to invent a threat. An article in the New York Times, January 23, 1996, records China's veiled threat to use a nuclear missile against Los Angeles. What more do we need?

Second, we call for an NMD system that can defend the United States and its terrorities. The administration's proposal leaves open the possibility that Alaska and Hawaii would be left defenseless. We know North Korea is already developing a long-range missile that is capable of hitting points in Alaska and Hawaii. Given these facts, it is hard to image the President of the United States proposing to defend only part of the Nation against missile attack. Yet, it seems that this is exactly what the administration is intent on doing.

Third, this legislation does not limit the ballistic missile architecture simply to comply with an outdated, obsolete treaty. Rather, it permits the Pentagon to develop an effective National Missile Defense system that will be able to counter emerging threats and defend the American people.

Ladies and gentlemen, this legislation will ensure that the next time China makes a veiled threat to use nuclear weapons against Los Angeles, the United States has a response that does not include a massive nuclear lay down and the destruction of thousands of lives.

TRIBUTE TO REV. JAMES R. GREEN, JR.

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. TOWNS. Mr. Speaker, there is no greater calling than service to God. I am honored to recognize Rev. James R. Green, Jr., the pastor of Universal Baptist Church on the occasion of 12th pastoral anniversary.

Reverend Green's pursuit of ministerial service was cultivated from the faith and actions of his grandfather, who was a devoted servant and preacher of the gospel. In keeping with his Christian faith, Reverend Green founded the Association of Brooklyn Clergy for Community Development [ABCCD] to be advocated on behalf of human services, housing, and economic development.

Reverend Green's activism and faith have been bolstered by his avid pursuit of education. He has received degrees from Long Island University, The Manhattan Bible Institute, the Trinity Theological Seminary, and is currently working on a D. Min. in pastoral care.

The vision, unselfishness, and dedication of Pastor Green is an example of spiritual empowerment. His efforts to educate young children through the creation of a God-centered school is truly commendable. It is my pleasure to introduce Reverend Green to my House colleagues.

CSIS AMERICAN-UKRAINIAN ADVISORY COMMITTEE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. GILMAN. Mr. Speaker, as cochairman of the Congressional Study Group on Ukraine, I applaud the American-Ukrainian Advisory Committee for the constructive policy recommendations contained in a communique issued at its third meeting, which was held in New York City on November 17 and 18. The committee is a high-level group of distinguished Americans and the Ukrainians, chaired by President Jimmy Carter's national security advisor, Zbigniew Brzezinski, and sponsored by the Center for Strategic and International Studies, a highly regarded policy research institute in the Nation's Capital.

The committee's communique, with 22 recommendations encompassing the areas of security policy, economic reform, and business investment, provides a strategic blueprint for enhancing American-Ukrainian relations on the grounds that an independent and secure Ukraine is good for Europe and its stability and is an important geopolitical interest of the United States. Its key recommendations, to which I invite my colleagues' attention, are:

A clear articulation by the United States of its vision of European security architecture and development of a consistent, long-term United States policy toward Ukraine that views and supports an independent, democratic, and economically successful Ukraine as a Central European state and a key factor of security and stability in Europe as a whole;

Creation of a ministerial-level United States-Ukrainian Joint Commission to deal with key issues such as energy supplies and security, environmental protection, and combating organized crime;

Extend eligibility to Ukraine under the NATO Participation Act of 1994 and encourage and support Ukraine's active participation in the Partnership for Peace Program;

Facilitate Ukraine's participation and integration into a variety if European multilateral institutions;

Acceleration and broadening of the Ukrainian Government's privitization program;

Renewed commitment by the Ukrainian Government, with international support, to implementing real macroeconomic stabilization;

Establishment by the Ukrainian Government of clear property and contract rights to protect and enforce foreign and domestic investors' rights; and

Creation of a joint American-Ukrainian Business Forum for business leaders to discuss business opportunities and obstacles in both countries.

After centuries under harsh imperial rule, Ukraine emerged from the wreckage of the Soviet Union as a New Independent State which wants to belong to an expanded European Community. As one who has long supported the struggle of the Ukrainian people to free themselves from Moscow's yoke, I strongly believe that Ukraine's continued independence and its development as a democracy based on a market economy are vitally important elements in promoting enduring peace in Europe.

TRIBUTE TO DR. MARY EDWARDS WALKER

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mrs. KELLY. Mr. Speaker, today I rise in honor of Women's History Month to acknowledge the formidable accomplishments of a fellow New Yorker, Dr. Mary Edwards Walker.

Disregarding the prejudices of the 1840's and 1850's which looked with scandalized disapproval on attempts by women to join professions, Mary Edwards Walker successfully struggled to pursue her ambition to study medicine. Graduating from Syracuse Medical College in 1855, she became one of the first women physicians in the country.

In 1865, Dr. Walker became the first and only women to receive the Congressional Medal of Honor for bravely serving as a surgeon in the Union Army during the Civil War. She held this title with distinction for 35 years until the Adverse Action Medal of Honor Board took it away from her, claiming her status with the Army had been ambiguous. It wasn't until 58 years after her death that she reclaimed the honor she rightfully deserved.

Dr. Walker stood alone as an activist for women in a time when women thought their role in society was unchangeable. She fought for what she believed instead of just accepting what she was told.

The efforts of trailblazers like Dr. Walker made it possible for me to be standing here in the well today. As a woman and a Member of Congress, I am grateful for Dr. Walker's legacy and will work to uphold it for future generations of young women.

A TRIBUTE TO DALE ANDERSON

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. FRELINGHUYSEN. Mr. Speaker, today I rise to pay tribute to Dale Anderson, in honor of his retirement after serving as the mayor of the Borough of Florham Park for the last dozen years. This Saturday, Dale will be honored by the Florham Park Jaycees and the borough's mayor and council as the 1995 recipient of the Distinguished Service Award for his dedication to making his community a better place to live.

Anyone who knows Dale Anderson can assure you of his love and dedication to Florham Park. He and his wife Carole have resided in the borough for the past 30 years where they have raised three children. Dale's first involvement in public service came as a member of the Florham Park Jaycees and he served as its president from 1970 to 1971. Dale's service with the Jaycees launched him into what would become a 20-year commitment to public service.

As a sales representative with International Business Machines [IBM], Dale Anderson used the lessons he learned in the business world and applied them to managing municipal affairs. Like any salesman worth his salt, Dale took a "hands on," personal approach to governing, whether it was managing the annual budget of Florham Park or welcoming a new Fortune 500 company in his community's highly skilled work force and ideal public facilities and services. During his tenure on the council and then as mayor from 1984 to 1995, Dale Anderson presided over a period of unparalleled economic growth in Florham Park. He also worked to provide recreational and other activities for children and adults in his home town.

Mr. Speaker, it is often said that a leader reflects the people he represents and Dale Anderson's service to his community confirms this. The Borough of Florham Park was established by an independent and concerned group of citizens almost a century ago and Dale Anderson and the people that he serves are committed to the same high standards as its founders. These qualities are what makes Florham Park a wonderful place to work and raise a family and it is what made Dale Anderson such an effective leader.

Mr. Speaker, I want to honor Dale Anderson for his commitment to one of the communities that makes New Jersey's 11th Congressional the envy of the Nation. And I congratulate him on receiving the 28th Annual Distinguished Service Award—he is certainly deserving.

IN MEMORY OF FRANK ACOSTA

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. MORAN. Mr. Speaker, I rise to recognize the passing of a constituent of mine, Mr. Frank Acosta. Frank dedicated his life to serving his country and his community. His lifetime of service to the United States, the city of Falls Church and to the greater community of which we are a part demonstrates the tremendous importance of every person who seeks to improve our community.

Frank served as a marine in World War II and later as a reporter, Federal employee, member of the school board, citizens' employee review board, and senior citizens' commission; but Frank will be remembered most for his long-term service on the Falls Church Electoral Board. Frank always looked for a way to give something back to his community, and he certainly succeeded.

It would be impossible to count the number of lives Frank touched with his tireless dedication to his community. If we could each share just a fraction of the vision that Frank dreamed for his community, the world would be a far better place. I ask my colleagues to take a moment to remember Frank Acosta, and all of the other public servants like Frank who work every day to improve their communities.

An article about Frank Acosta follows:

[From Falls Church News-Press, Feb. 29, 1996]

FALLS CHURCH PILLAR, FRANK ACOSTA DIES

(By Margaret Jones)

Frank Acosta's death at age 77 marked the end of a long, distinguished career as journalist and public servant. Native of New York City and graduate of the College of William and Mary, he moved to this area in 1938 and started his journalistic career here as a reporter for the Washington Daily News.

A former neighbor recalls that, while working for the Washington Star in 1948, Frank was sent to Donora, PA to cover the first air inversion disaster. For four days, a toxic fog settled over the town, resulting in 20 deaths and the hospitalization of thousands. His coordination of press relations and reportage of this early serious pollution event attracted the notice of the Department of Agriculture which hired him to work on communications in that Department.

While engaged in that capacity, Frank became interested in the deterioration of the Potomac River and was instrumental in the filming of a six-part documentary titled "Our Beautiful Potomac". This series, according to the same source, did not emphasize gloom and doom but rather put forward ideas on how restoration of the waters might be brought about. Sparked by Frank's vision, this documentatory was shown not only on WRC but also aired nationally.

During his long employment with the Department of Health, Education and Welfare in communications and public affairs, he worked to develop a public health system for American Indians and on legislation which resulted in the Emergency Medical Technicians Act of 1975.

At the core of Frank Acosta's persona was his thoughtfulness, consideration of others and feeling of responsibility to his fellow man. This started within his immediate and large family and found a natural extension in the community in which he lived. Appointed in December 1995 to the Senior Citizens Commission, he had previously served as a member of the School Board and is perhaps best remembered for his long-time service on the Electoral Board. In that capacity, he served four 3-year terms from 1982 until 1994 and was a member when Debbie Taylor was hired as City Registrar in 1985. From 1987 until 1990 he served as secretary of the Falls Church Citizens Employee Review Board.

His wife Elizabeth pre-deceased him in 1994. Because of her literary interests, a memorial fund in her name was established at the Mary Riley Styles Library. The family suggests that, in lieu of flowers, memorial remembrances to Frank Acosta also be sent to the Library to establish a fund in his name.

Surviving members of this large and tightly knit family include five children and their families: JoMarie Acosta; Francis T. (Happy) Acosta; Andrew Acosta and Ann Crane and their children Ariel, Marie and David; Elizabeth (Ibby) and Patrick McCauley and their children Hannah Marie Burke and Emily Mitchell; Philip and Jody Acosta and their children Caitlin, Claire and Jake. Also surviving are five sisters; Julie Wiatt, Helen Townsend, Celeste Cooper, Angie McCleskey and Anita Dolan.

At Monday's Falls Church City Council meeting, a number of statements in honor of Frank Acosta's memory were made. Ruth Chekov, chair of the Senior Citizens' Commission, said his death "is like the passing of an era." Acosta had served on the Senior Commission last year.

Long-time friend Lou Olom said, "Frank was a stalwart in devotion to the city." He was, Olom said, "as energetic and productive a citizen as this city has had. . . . This city did not just happen, but came about because of the activity of so many citizens like Frank."

Council member Jane Scully said, "Frank was an enormously special person," and cited his role in the passage of the George Mason school bond referendum.

City Manager David Lasso cited Acosta's "sense of humor, balance and perspective," and expressed gratitude for his words of assurance last fall.

State Delegate Bob Hull reported that the State Legislature was adjourned in the memory of Frank Acosta on Tuesday.

OPPOSITION TO THE DEATH PENALTY AND ANTITERRORISM ACT

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. SERRANO. Mr. Speaker, I rise in opposition to H.R. 2703, the so-called, Death Penalty and Anti-Terrorism Act. While I would support legislation to thwart domestic terrorism, I am troubled, deeply troubled, with the extreme and unconstitutional provisions in this legislation. Correct me if I am wrong, Mr. Speaker, but since when have we as a nation addressed an issue like terrorism—something that we can all agree on—by trampling the rights of the very people that we aim to protect? This is the United States of America, and as lawmakers we are sworn to implement legislation benefiting society within the parameters of the Constitution. Unfortunately, I do not see that happening today. I believe Congress can come up with a more palatable antiterrorism bill that will be tough on our enemies domestic and foreign, but fair to the innocent.

First, the legislation gives the President power to blacklist organizations as terrorist organizations without judicial review. It goes further by violating our first amendment right to support any legal activity or associate with any organization that we choose. I do not say this to encourage those who may support terrorist activities. On the contrary, what I am saying is that we have laws on the books that forbid supporting illegal terrorist activities, but this legislation takes it much further by limiting our constitutional right of association.

Second, the definition of support is too broad. If an organization abroad has branches in America, this measure would make it illegal to contribute to charitable operations remotely related to these groups.

Finally, the bill goes even further by allowing the FBI to investigate individuals with ties to terrorist organizations without proof that they knowingly supported terrorist activities or had any reasonable knowledge that an individual or organization could possibly be engaged in terrorist activities. Present law prohibits supporting terrorist activities. When they enacted the current law, Congress saw fit to maintain the first amendment protection of legal activities.

Numerous other flaws in the bill could impede on citizens' rights: the habeas corpus provisions; the good faith exemption from the exclusionary rule for wiretapping; as well as the secret evidence measures for deportation.

As I mentioned earlier, Mr. Speaker, I support taking a strong stand against terrorists. I think we should punish individuals for illegal activities. But, certainly we do not address heinous terrorist acts with the kind of heinous constitutional violations found in this bill.

DR. JOHN HENRIK CLARKE—MASTER TEACHER

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. PAYNE of New Jersey. Mr. Speaker, in the first century, Pliny the Elder noted that "There is always something new out of Africa." As we approach the 21st century, that statement is still extremely valid. There are many scholars who track this phenomenon, but there is no one more renowned than Dr. John Henrik Clarke.

Dr. Clarke, a master teacher, always avails himself of opportunities to share his knowledge. This weekend he will visit Newark, NJ to participate in a lecture series sponsored by the New Jersey Black Issues Convention.

In 1991, during the Congressional Black Caucus Legislative Conference, I had the honor and pleasure of convening a workshop in which Dr. Clarke participated. His presentation was simply spellbinding. Everyone sensed and appreciated his labor of love—teaching. I am sure my fellow New Jerseyans will come away from this lecture equally stimulated and satisfied.

John Henrik Clarke was born on January 1, 1915, in Union Springs, AL. He grew up in Georgia and moved to New York City in 1933 where he wanted to pursue a career as writer. After 4 years of military service, he attended New York University and majored in history and world literature. From his early years Professor Clarke studied the history of the world and the history of African people in particular.

As a writer of fiction he has published over 50 short stories. His articles and conference papers on African and African-American history, politics, and culture have been published in leading journals throughout the world. He has written or edited over 21 books.

Dr. Clarke has taught African history for 20 years and presently in professor emeritus of African world history in the Department of Africana and Puerto Rican Studies at Hunter College in New York City, and a former distinguished visiting professor of African history at the Africana Studies and Research Center at Cornell University. He has received over a dozen citations for excellence in teaching and has received several honorary doctor of letters degrees. He was accepted into the Alpha Beta Upsilon Chapter of the honor society of historians, Phi Alpha Theta.

Mr. Speaker, I encourage anyone who has an opportunity to learn from Dr. Clarke to seize it.

TRIBUTE TO BARBARA AUSTIN LUCAS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. TOWNS. Mr. Speaker, in the borough of Brooklyn there is an institution called Bridge Street A.M.E. Church which serves as a beacon of light and a source of spiritual sustenance for its parishioners. Assistant Pastor Barbara Austin Lucas contributes greatly to the positive activities and energies that flow from the church. Reverend Barbara has impeccable academic credentials. She graduated with honors from Tufts University, received masters degrees from Boston University and Colgate Rochester Divinity School, and earned her Ed.D at Union Theological Seminary and Teachers College, Columbia University.

Reverend Barbara has traveled throughout the Western Hemisphere as well as the continent of Africa in her quest to seek knowledge and spread goodwill. An organizer by nature, Barbara is responsible for the Sisters Sharing Convocation in Buffalo, a program that focused on African-American women addressing solutions to critical problems that beset the black community. She is also a member of the Missionary Society, the Brooklyn Historical Society, the NAACP, and Church Women United.

A devoted mother and wife, Reverend Lucas has three children, Kemba, Hakim, and Kareem. She also works with her husband, the Reverend Frederick A. Lucas, Jr., pastor of Bridge Street A.M.E. Church. Reverend Lucas has been the recipient of numerous awards, including the Outstanding Young Women of America, the Sister Sharing Award, and the Church Woman of the Year Award. I am pleased to recognize her unique achievements and contributions.

ONE HUNDREDTH ANNIVERSARY OF PARK SLOPE CIVIC COUNCIL

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. SCHUMER. Mr. Speaker, I am proud to call attention to a distinguished organization, the Park Slope Civic Council, serving the community of Park Slope, Brooklyn, for several generations, and hopefully many more to come. The tireless work and courageous leadership exhibited by the members of the council have helped make Park Slope the caring and close-knit community it is today. As a longtime resident of Park Slope, I have witnessed the positive contributions made by this group and feel grateful for their commitment to improving the quality of life for my neighbors and their families. I wish them continued success and prosperity as they unite in celebration of their 100th anniversary.

It is not too often that a small group of civic-minded leaders join hands in furthering the needs and interests of their community. Yet, this group is exemplary for making Park Slope a special place to live and grow up. For a number of years the residents of Park Slope have benefitted from a wide range of civic projects championed by the council. I am honored to have such a courageous and innovative organization working to unify the people of my neighborhood and district. I hope that the Park Slope Civic Council will continue serving its community for another 100 years as they are acknowledged for their remarkable leadership.

HONORING JOURNALIST CRISTINA SARALEGUI

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. MENENDEZ, Mr. Speaker, I rise today to pay tribute to Cristina Saralegui, a distinguished journalist and talk show host committed to making a difference in her community. Cristina will be honored during afternoon ceremonies on March 22 by the communities of Union City, West New York, and Jersey City.

Cristina's contributions to her family, profession and community are numerous. Born in Havana, Cuba, Cristina was destined to become a renowned public personality from an early age. She was raised in the image of her grandfather, Don Francisco Saralegui, known as "The Paper Czar" throughout Latin America for his prolific magazine publishing endeavors. In 1960 at the age of 12, Cristina left Cuba for Florida, where she later attended the University of Miami, majoring in mass communications and writing.

Cristina's involvements in the field of journalism are diverse. While still in college, she participated in an internship with Vanidades, the No. 1 ranked women's magazine in Latin America. In 1979, Cristina's exceptional ability as a journalist led to her being named editor-in-chief of Cosmopolitan En Espanol magazine, a position she held for 10 years. In 1989, Cristina launched her own television program "El Show de Cristina," which has become a No. 1 rated talk show viewed by over 100 million people worldwide in 18 countries. Cristina also utilizes her talents by hosting a daily show on the radio called "Cristina Opina". Rounding out her successful mastery of the media is a monthly magazine Cristina La Revista through which Cristina endeavors to improve the lives of Hispanic-Americans and assists them in becoming more productive members of their communities.

Cristina's legendary commitment to Hispanic-Americans has been long recognized. She was recognized by the Council on Women's issues as a "No-Nonsense American Woman" for being a premier role model. The stipend received from this award was donated to the American Foundation for AIDS Research, where Cristina serves as a member of the National Council. Other citations received by our esteemed honoree include being named a "Legendary Woman of Miami," and a "Corporate Leader Award" from the National Network of Hispanic Women.

It is an honor to have such an outstanding and considerate individual visit my district. Cristina Saralegui exemplifies the tremendously positive influence one person can have on the lives of many. I am certain my colleagues will rise with me and honor this remarkable woman.

UNFUNDED MANDATES AND CBO ESTIMATES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. HAMILTON. Mr. Speaker, the Unfunded Mandates Reform Act of 1995 is intended to assist Congress in its consideration of proposed legislation by providing the development of information about the nature and size of mandates in proposed legislation. The Congressional Budget Office is directed by that statute to help in developing such information.

I am concerned that the Congressional Budget Office estimate received by the International Relations Committee on the conference report on H.R. 1561, the America Overseas Interest Act, was not helpful in meeting the purpose of the law.

My concerns are detailed in the exchange of letters that follows.

U.S. CONGRESS
CONGRESSIONAL BUDGET OFFICE
Washington, DC, March 12, 1996.

Hon. BENJAMIN A. GILMAN,
Chairman, Committee on International Relations, Washington, DC.

DEAR MR. CHAIRMAN: In response to the request of your staff, the Congressional Budget Office has reviewed the Conference Report to H.R. 1561, the Foreign Relations Authorization Act, Fiscal Years 1996 and 1997, as reported on March 8, 1996. The bill would consolidate various foreign affairs agencies, authorize appropriations for the Department of State and related agencies, and address other matters in foreign relations.

The bill would impose no intergovernmental or private sector mandates as defined by Public Law 104-4 and would have no direct budgetary impacts on state, local, or tribal governments.

We are preparing a separate federal cost estimate for later transmittal.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Pepper Santahicia, for effects on state, local, and tribal governments; and Eric Labs, for impacts on the private sector.

Sincerely,

JAMES L. BLUM,
(For June E. O'Neill, Director).

U.S. CONGRESS, COMMITTEE
ON INTERNATIONAL RELATIONS,
Washington, DC, March 20, 1996.

June E. O'Neill,
Director, Congressional Budget Office,
Washington, DC.

DEAR MS. O'NEILL: I write to register my concern with your letter of March 12, in which you provided a partial Congressional Budget Office estimate on the conference report on H.R. 1561, the Foreign Relations Authorization Act for Fiscal Years 1996 and 1997. I also would like a copy of your complete cost estimate on the conference report.

I have two major concerns with your March 12 letter.

First, you addressed the letter only to the "unfunded mandates" estimate required by P.L. 104-4 (the "Unfunded Mandates Reform Act of 1995"). It would be more useful to Members to have the cost estimate for an entire bill or conference report submitted at once. Separating CBO estimates on different issues in the same bill and supplying such estimates at different times leaves CBO vulnerable to question about its procedures, and diminishes its helpfulness for Members.

Second, I also question the "unfunded mandates" estimate you provided. You state that H.R. 1561 "would impose no intergovernmental or private sector mandates as defined by Public Law 104-4 and would have no direct budgetary impacts on state, local, or tribal governments." In my view, this assertion is not supportable when applied to several specific provisions in the conference report. These four provisions are:

Section 1104: Requires the President to certify: (1) that either Thailand, Hong Kong, Malaysia, and Indonesia keep refugee camps open or that Vietnam will expand its refugee interview programs; and (2) that any Vietnamese, Cambodians, or Laotians who cite the Lautenberg provisions (automatically allowing in refugees from certain countries) will be allowed into the United States without having to provide any additional proof.

Section 1253: Prohibits use of Department of State funding (migration and refugee assistance) for the involuntary return of any person claiming a well founded fear of persecution.

Section 1255: Adds to the definition of a refugee anyone who claims he or she is a victim of or has good reason to believe he or she may become the victim of coercive population control practices.

Section 1256: Prohibits State Department funds (migration and refugee assistance) to be used to "effect the involuntary return" of any person to a country where there are substantial grounds to believe they are in danger of being subjected to torture.

These four provisions have the potential of greatly expanding the states' burden of caring for refugees. Today, states pay on average at least $3,000-4,000 to support one refugee for a year. These financial responsibilities apply to every new refugee introduced into a state's population. Even if states are able to step out of some existing responsibilities, they cannot do so immediately. Changing regulations, adopting new laws, negotiating with the federal government, takes time. And when the groups of people who qualify for state benefits is changed, litigation will almost always result.

It seems to me that all four provisions create a strong likelihood of increased costs to states that could easily reach the $50 million threshold set by the Unfunded Mandates Act of 1985. If states may be subject to increased costs as a result of these provisions, the provisions will have a "direct budgetary impact." And if the federal government is imposing new financial burdens for states, it is creating unfunded mandates.

Given the difficulty in analyzing precisely costs in areas with a large number of unknown factors, such as how many individuals might enter the United States if these provisions were to become law, I do not think it possible to conclude in absolute terms that these four provisions do not impose direct budgetary impacts on state governments and do not create unfunded mandates.

The recently enacted Unfunded Mandates Reform Act of 1995 is intended specifically "to assist Congress in its consideration of proposed legislation" by "providing for the development of information about the nature and size of mandates in proposed legislation." I did not find your March 12 letter helpful in meeting the purpose of this law.

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

INDIAN AMERICANS DOMINATE U.S. HOTEL INDUSTRY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1996

Mr. ACKERMAN. Mr. Speaker, I call to the attention of my colleagues an article entitled "Hospitality is Their Business, Indian-Americans' Rooms-to-Riches Success Story." This article appeared in the business section of today's New York Times.

Mr. Speaker, as this article correctly points out, Indian Americans are now the dominant force in the domestic hotel industry. Today, Indian Americans own 12,000 hotel and motel properties. This translates into 46 percent of America's economy hotels and 26 percent of the United States total lodging. This is truly an amazing and impressive accomplishment.

Mr. Speaker, Congress is in the midst of a long and protracted debate on how to reform our Nation's immigration laws. Many of my colleagues have endorsed the idea of sharply reducing the number of legal immigrants to this country as part of this overhaul of our immigration policies. I believe that any Member who reads this article will have to seriously question and ultimately reject that proposal. We are a nation of immigrants. Immigrants have built this country into the economic powerhouse of the Western World. Indian Americans are one of our country's most visible success stories. As Joel Kotkin, a senior fellow at Pepperdine University, stated in the article, "These Indians are modern Horatio Algers."

Mr. Speaker, I urge my colleagues to closely review this important article. I know my colleagues join me in saluting the Indian American community on its speculator success in the hotel industry. We need more entrepreneurs such as the Indian Americans described in this article who are willing to become self-sufficient, productive, and profitable members of our society.

[From the New York Times, Mar. 21, 1996]

HOSPITALITY IS THEIR BUSINESS

(By Edwin McDowell)

In the quarter-century that people of Indian ancestry have been emigrating to the United States in sizable numbers, they have carved out a steadily bigger share of the nation's hotel industry. Starting with no-name motels, they soon graduated to Days Inn, Econo Lodge, Rodeway and other economy franchises.

Today, with more than 12,000 properties, Indian-Americans own 46 percent of America's economy hotels and 26 percent of the nation's total 45,000 lodgings.

"We used to be isolated in a few states in the South," said Ravi Patel, whose Charlotte, N.C., company, Sree Inc., owns 20 hotels. "Now we're almost everywhere."

They are also moving up. A new generation is buying properties like Sheratons, Radissons and Hiltons, adding an upscale chapter to an immigrant success story.

The first wave of motel ownership was propelled by the Indian-Americans' strong family ties, close-knit communities and a willingness to invest years of sweat. This latest wave represents a break with tradition and a willingness to tackle bigger, more complex challenges. But the original community still provides the backing, as today's entrepreneurs pool the resources of extended families and borrow from fellow Indian-Americans, for whom a handshake is often sufficient collateral.

"These Indians are modern Horatio Algers," said Joel Kotkin, a senior fellow at the Pepperdine University Institute for Public Policy in Malibu, Calif. "They're willing to start in marginal and sometimes risky areas that native-born Americans are not interested in going into, and working incredibly long hours."

Ramesh Gokal, who bought a 26-room hotel in North Carolina soon after coming to the United States in 1976, is now president of Knights Inn, a chain of about 180 franchised economy hotels. Children of the industry pioneers are establishing their own companies and using newly acquired knowledge of capital markets to build budding empires.

"My parents' generation did business by having x dollars, buying y goods and selling for z," said Karim Alibhai, the kinetic 32-year-old president and chief executive of Gencom American Hospitality, a family-owned hotel group in Houston. "At the roadside hotels they ran, the management philosophy was get guests in and out, and have the maids clean the rooms."

But these days, "you have to know administration, management and how to use Wall Street to invest and to grow," added Mr. Alibhai, who was born in Kenya and majored in economics at Rice University. (Many Indian-American hotelkeepers came to America by way of Africa, where their families had lived for several generations in many cases.)

In Mr. Alibhai's case, the big plans are not just talk. In September, he co-sponsored a $350 million initial public offering of a real estate investment trust, one of the largest in United States history. Paine Webber was the lead investment banker and Mr. Alibhai was initially the biggest individual shareholder.

Today Gencom affiliates, which began with a single Best Western that Mr. Alibhai's parents bought in 1979 after emigrating from Kenya, own all or part of 47 hotels in 13 states. Properties include the 759-room Radisson New Orleans, the 650-room Sheraton Astrodome in Houston as well as Marriotts, Hiltons and boutique hotels in Boston and San Antonio. Revenues are expected to exceed $200 million this year.

Like his parents, Mr. Alibhai said, he "worked the desk, drove the shuttle van to the airport and learned to fix the sewer plant." In the three years after finishing college in 1984, years in which the Houston hotel industry bled red ink, he still did odd jobs at the hotel, but spent most of his time learning the business.

"Operating during that recession was my M.B.A.," said Mr. Alibhai, a trim, tennis-playing executive whose office is in a sleek Houston high-rise. In 1987, with the economy looking up but hotel values still down, Mr. Alibhai began buying distressed properties, often jointly with other Indian-Americans.

"That's when the real learning process began," he said, "not just acquiring the properties but convincing lenders who had tightened their purse strings to finance me. I had to change their perception of Indians as being identified with low-end hotels."

In many ways, Mr. Alibhai's world of revenue streams, variable inflation rates for assessing potential purchases and structuring deals with investment bankers is alien to the generation of his 60-year-old father, Akber, who is in charge of purchasing for Gencom.

"The older generation is still very cautious about sharing information, like the cost of hotels," said Jay Patel of Colorado Springs, a 43-year-old native of Zimbabwe who is part owner of seven hotels in Colorado and California. "The younger generation is much more forthcoming."

There are other differences.

"When you come from India and Africa, your view of labor is very different," Mr. Alibhai said. "People are thankful just to have a job. That's their bonus. Here, employees also want to feel appreciated. I prefer this system." Most of Gencom's corporate employees are given stock or bonuses, he said.

In the early years, Indian-Americans had problems typical of many newcomers in trying to get financing and insurance. By their account, insurers in the early 1980's suddenly canceled property insurance to all Indian hotel owners, believing them to be part of an Indian conspiracy to buy properties and burn them down to collect insurance money.

"We were turned down by about 200 insurance companies, until we convinced underwriters that these immigrants were outstanding risks," said Ron Thomas, a vice president of United Insurance Agencies in Muncie, Ind., who is widely admired by Indian hotel owners for his early efforts on their behalf.

Discrimination also took other forms, including boasts by rivals that their properties were "American owned."

Much of the more blatant bias began to wane with the formation of an Indian hotel owners' association in 1989, vigorously supported by Henry R. Silverman, the chairman of HFS Inc., and Michael A. Leven, then president of Days Inn. Starting with about 100 members, the group now numbers more than 4,000 hotel-keepers.

"Indian franchisees have been the engine of growth for the entire economy-hotel sector," said Mr. Silverman, whose company's franchises include Days Inn, Knights Inn and Super 8. "They were willing to build with their own capital when no one else was willing to."

For all their success, though, Indian-Americans have stayed away from luxury hotels and five-star resorts, and often from full-service hotels, mainly because of their cost but also for cultural and religious reasons.

"Most Indian hotel owners here are Hindus from Gujarat state and don't do well with anything involving alcohol and meat," said Mr. Patel of Colorado Springs. (Most Hindus from the western state of Gujarat are vegetarians, according to the Indian Embassy in Washington, and most Gujarati women do not drink.)

But younger Indians feel differently. "They realize you can offer meat and alcohol to your guests, because it's all part of the hotel business," Mr. Patel added.

"Within the next five years you'll see a lot of us owning luxury properties, like Ritz-Carltons," said Tushar Patel, the 31-year-old president of Tarsadia Hotels in Costa Mesa, Calif. About half of Tarsadia's 13 properties—including the 440-room Clarion Hotel at the San Francisco airport—are full-service hotels, with restaurants and bars.

Tushar Patel, by the way, is not related to Jay Patel of Colorado Springs, unless distantly, or to most of the thousands of other Patels who own hotels in the United States. Almost all Patels, even those from Africa, trace their ancestry to Gujarat, where hospitality is highly regarded.

In the United States, many Indian immigrants turned to lodging because they could buy cheap motels, they could live rent free and the family could work the front desk, clean rooms, do laundry and make repairs.

When they stepped up to franchised properties, for as little as $20,000 plus 8 percent of revenues, the Indians acquired not only toll-free reservation systems and the benefit of bulk purchases, but an education about prices, payrolls and bookkeeping.

"We'll soon have eight hotels and we're looking to open a 200-room one soon, and it's no big deal," said S. Jay (you guessed it) Patel of Alpharetta, GA. "Now we're experienced enough to know we can handle it."

His father, J.K. Patel, left a 10-year career with Barclays Bank in Kenya to come to America in 1978, spending six months looking for a business before buying a hotel in South Carolina. The elder Mr. Patel attributes the Indians' success in this country to "the way we were brought up."

Parents instilled the need for education and trust between families and among their own ethnic group. "In January I did a deal with an Indian partner in Dallas for two hotels," said Mr. Alibhai of Gencom. "We shook hands, and before the contracts were signed I wired him several million dollars."

Arvind Patel, who with his wife, Bhavna, owns a 39-room Days Inn in West Point, Miss., cites another factor—the willingness of extended families and acquaintances to provide financial help.

"We work together as a team," said Arvind Patel, a native of Tanzania. "A lot of families give you $10,000, even $30,000, without charging you interest and without any collateral. They figure one day you may help them."

But like many Indians, these Patels are branching out and moving up, building an 81-room Wingate Inn and a 58-room Hampton Inn elsewhere in Mississippi. Meantime, both continue working a full shift each day behind the desk of their Days Inn, with their 12-year-old son and 10-year-old daughter pitching in on weekends.

"And if our help doesn't show up," Mrs. Patel said, "my husband and I still clean the rooms."

Many of the older Indian-Owned motels were long ago refurbished, if only to measure up as franchises—a method the Indians quickly saw as a route to financial independence. Some properties have been kept for the next generation, but most have been sold to a newer wave of Indian immigrants.

When Indian-Americans graduate from college, many have chosen to become doctors, engineers, lawyers and accountants. "But in most families at least one son or daughter will become hoteliers, because they realize it isn't the hard work it was for us," said J.K. Patel, the former Barclays banker. "The difference is, we used to man the desk ourselves. The new generation likes sitting in the office and delegating the work."

HOUSE OF REPRESENTATIVES—*Friday, March 22, 1996*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Through our experiences we are aware, O God, that the events of life contain all the emotions of the human spirit. There are moments of triumph and moments of loss; there are days of glory and days of remorse; there are times of laughter and times of tears; there is the reality of hatred and suspicion and there is the reality of love. In all these experiences, we pray, gracious God, that we will hold to Your forgiving and assuring word, trusting in Your grace and comforted by Your peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Illinois [Mr. GUTIERREZ] come forward and lead the House in the Pledge of Allegiance.

Mr. GUTIERREZ led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 10 Members on each side for 1-minute speeches.

TRIBUTE TO NYPD OFFICER KEVIN GILLESPIE

(Mr. KING asked and was given permission to address the House for 1 minute.)

Mr. KING. Mr. Speaker, in the current film, "City Hall," the fictional mayor of New York City portrayed by Al Pacino says, "There is one thing I will never get over. That is the murder of a police officer." As a Member of Congress, as an American, and as the son of a New York police lieutenant, I could not agree more emphatically with that statement.

Mr. Speaker, this past Monday in my home parish of St. William the Abbot Church in Seaford, I attended the funeral of a police officer, Kevin Gillespie, a New York City police officer that was gunned down in the line of duty last March 14, 1996. Police Officer Gillespie was a cop's cop.

Those who murdered him personified the very worst of the criminal elements in our society. They had been previously convicted of crimes, ranging from attempted murder to assault and armed robbery. The triggerman who fired the 9-millimeter slug into Kevin Gillespie's neck is a two-time violent offender. One of his accomplices was out on $25,000 bail for an armed robbery arrest in January, a crime committed while he was out on parole.

Mr. Speaker, our criminal justice system has lost touch with the American people and is failing in its job.

Mr. Speaker, I commend Governor Pataki for removing the Bronx district attorney for refusing to carry out the death penalty in this case, and I offer my condolences to Officer Gillespie and his family.

Mr. Speaker, in the current film, "City Hall," the fictional mayor of New York City portrayed by Al Pacino says, "as Mayor, there is one thing that I will never get over, that is the murder of a police officer." As a Member of Congress, as an American, and as the son of a New York City police lieutenant, I could not agree more emphatically with that statement.

This Monday in my parish of St. William the Abbot in Seaford, I attended the funeral of a murdered New York City police officer. Highly decorated NYPD Officer Kevin Gillespie was brutally gunned down on the night of March 14, 1996. Officer Gillespie leaves behind his wife Patty and two young sons, Danny, age 7, and Bobby, age 4. A Marine Corps veteran of the gulf war, Kevin Gillespie was recognized by his fellow officers and by the people he served as truly one of "New York's Finest."

Throughout his career, first with the New York City Housing Police and then with the NYPD, Officer Gillespie distinguished himself as a very special cop. Because of his spirit, dedication, and skill, he was selected for the elite street crime unit.

Working with this unit on the night of March 14, Officer Gillespie was killed, and his partner, Terence McAllister, wounded, while attempting to apprehend a gang of three suspected car-jackers traveling in a stolen BMW. The three felons were all on parole. Collectively they had been convicted of a series of crimes ranging from attempted murder to assault and armed robbery. The triggerman who fired a 9mm slug into Kevin Gillespie's neck, Angel Diaz, is a two-time violent offender and one of his accomplices, Jesus Mendez, was on $25,000 bail for an armed robbery arrest in January. Even though arrested for a clear violation of his parole, this career criminal was allowed to make bail, walk the streets, and ultimately, commit murder.

Mr. Speaker, in its current state, the criminal justice system represents a clear and present danger to American society. Liberal judges and juries set free vicious criminals to again prey on the innocent. Unless the absolute surety of severe punishment for serious crimes once again becomes the law of the land, we are all in jeopardy.

When a civil society's first line of defense against mayhem and chaos—our police—can be killed with impunity, none of us are safe. Those who would attack with deadly force a police officer must understand that they will pay the ultimate price. The murder of a police officer is a depraved act. It displays absolute contempt for society and total indifference to human life. There is only one fitting punishment for a cop killer.

I strongly support the imposition of the death penalty for certain heinous crimes. The death penalty should be applied without question or consideration for those found guilty of murdering a police officer. There may be some argument as to the deterrent effect of such a policy—I believe that the death penalty does serve as strong deterrent. There can be no disagreement, however, over the fact, that if dealt with properly, the despicable felon who gunned down Officer Gillespie will never again threaten society.

There is no question that the death penalty should be sought in the case of Angel Diaz and his accomplices, Jesus Mendez and Ricardo Morales. On this matter I am in complete agreement with New York Governor George Pataki, New York Attorney General Dennis Vacco, and New York City Mayor Rudy Giuliani. I commend each of these men for their stand, and completely support Governor Pataki's right to remove Bronx District Attorney Robert Johnson from the case for refusing to seek the death penalty.

Mr. Speaker, Kevin Gillespie died in the line of duty doing his job for his fellow citizens. Ten thousand police officers attended his funeral to demonstrate their support for him. We must honor Police Officer Gillespie's memory by carrying out our duty and standing with the men and women of law enforcement against the violent, vicious criminals who prey upon law-abiding citizens.

Mr. Speaker, Police Officer Kevin Gillespie died as he lived—with courage, with dignity, and with faith in God. And now I ask this House to pay its own tribute to this outstanding man. Please join me as I express my regret at the loss of Police Officer Kevin Gillespie and my profoundest condolences to his wife Patty, his sons Danny and Bobby, and to his entire family.

REIN IN IRS' UNCONSTITUTIONAL POWERS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Republican Party's new bill makes great strides in protecting taxpayers' rights. I commend them for including one of my provisions that allows a taxpayer to sue the IRS up to $1 million for reckless collections. But this bill is not a great bill. It stops short.

The truth is the bill leaves out changing the burden of proof in a tax case. And after all the hype, ladies and gentlemen, a taxpayer in a civil tax case will still be considered guilty in the eyes of the law and must prove their innocence.

Once again the IRS reaches in, the IRS wins, the taxpayers lose. The IRS says it will cost too much money.

Mr. Speaker, if the IRS scored the Constitution, they would throw out the Bill of Rights.

I say it is time to tell these ratch-a-frachen, bric-a-bracken bunch of pantaloomases that the taxpayers run this show, not the IRS.

The Republican Party could do something the Democrats did not have the courage to do, and we have allowed the taxpayers to be treated as dogs, guilty before the law. Shame, Congress. Let us make it a great bill.

ENSURE DOMESTIC SUPPLY OF OIL

(Mr. COMBEST asked and was given permission to address the House for 1 minute.)

Mr. COMBEST. Mr. Speaker, 5 years ago today, the costs of depending on foreign oil came due with our first downpayment on the gulf war. The House voted $42 billion to pay the military costs of ejecting Saddam Hussein from his king-of-the-hill grab of Middle East oil supplies.

Let us not make another multibillion-dollar investment to protect foreign oil. Let's at least take a fraction of that amount to ensure a ready domestic supply.

America needs a floor price that investors can bank on, regulatory relief and tax incentives to get rigs and roughnecks back into the fields.

As Intelligence Committee chairman, I say that our national security is just as threatened by our dependence on the unpredictable lifeline of foreign oil—as if we were to depend on another country for our daily bread.

Today, America imports half of its crude oil—this is a national security threat that must not stand. Like our gulf war commanders, America must draw a line in the sand and say 50 percent dependence is enough—500,000 jobs lost is enough—and 5 years to focus on oil supplies here at home is more than enough.

SAVE THE ASSAULT WEAPONS BAN

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, in the extremist world of this Republican Congress, things just get stranger every day.

Today's outrage is the Republican concept of rights. What rights do the American people have?

Quality, affordable health care for our seniors? That's not a right.

Head Start and student loans and immunizations for our children? Those aren't rights.

How about job training, a decent minimum wage, and economic security for American workers? No rights there.

But owning an Uzi submachinegun that can fire over 100 rounds a minute and is designed to terrorize our communities? Now that is a right.

What my Republican friends have really forgotten is a sense of right and wrong.

What is absolutely right is for this Congress to take every step possible to protect our families, our children, and our neighborhoods from senseless gun violence.

What is absolutely wrong is to care more about a few thousand bucks from the NRA than keeping our kids and communities safe.

Today let's vote for our kids instead of for the cash. Vote to protect our families and save the assault weapons ban.

WHO TO TRUST, WASHINGTON OR THE AMERICAN PEOPLE

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, my good friend from Illinois, through overstatement and exaggeration, once again indulges in pure fantasy. The fact is that the rights of every American are best protected when we uphold this document, the Constitution of the United States. The fact is that the most publicized murder of this decade, indeed of this half century, involved a knife. The fact is that in other democracies where there is gun control, violence with guns has not been eliminated. Look at the recent tragedy in Scotland.

The fact is, Mr. Speaker, it comes down to this question: Who do you trust? Do you trust law-abiding American citizens, or do you trust a bloated bureaucracy, willing to strip Americans of their rights and privileges?

That is the question confronting this Congress. Who do you trust? Washington, or the American people.

PAID FOR BY THE NRA

(Mr. MEEHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MEEHAN. Mr. Speaker, good morning and welcome to the U.S. House of Representatives. Today's debate has been bought and paid for by the National Rifle Association. And boy was it expensive. It cost:

Soft money contributions of $308,000 to the Republican National Party Committees.

Nearly $2 million in special interest PAC contributions, 78 percent or $1.4 million of it going to Republicans.

The NRA spent another $1.5 million in independent expenditures, $1.2 million of which went to support Republican candidates.

And how about those reformers—the Republican House freshmen. They want this vote today. And there is little wonder.

The NRA shelled out $235,000 in special interest PAC money to House freshmen in the 1993–94 election cycle, 44 percent of the NRA's total PAC contributions.

Mr. Speaker, from day one this Congress has been responsive only to the powerful special interests that funnel high dollar campaign donations to the GOP. Today is just another glaring example.

ADVENTURES IN FANTASYLAND

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, recently Bill Clinton submitted the details of his fiscal year 1997 budget. I think it is safe to call this new budget adventures in fantasyland.

The adventure begins with the illusion of serious Medicare reform. Not real Medicare reform, mind you, just empty rhetoric and fake concern. Then, we'll proceed to fictitious welfare reform where all we get are vetoes and a lot of hot air.

After that, we'll travel to the tax cut mirage where tax relief seems almost within grasp, then disappears the closer we get.

Mr. Speaker, the American people now the drill by now. They have a President unwilling to keep his promises, one who hides behind politics to avoid making the tough choices.

This new budget is not a serious attempt to end big government. Really, it is just an image, a fantasy, another broken promise.

ASSAULT WEAPONS

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, assault weapons. The narcotic of the NRA. The weapon of choice for lunatics bent on slaughtering large numbers of their fellow men, women, and children.

Congress banned these killing machines. The public is disgusted with gun violence. But now a radical wing of the Republican Party, which controls decisionmaking in the House of Representatives, has decided to legalize these crowd-killing devices again.

Why? Promises made, and promises kept. Promises made and promises kept. The NRA has come to town to redeem a promise, and the Republicans who made this deadly deal are about to keep it.

The whole world is watching. It is appalled that a Nation soaked in the blood of gun violence would legalize the more efficient massacre of innocents.

Let us stop this Congress before it hurts people across this country.

WELFARE

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, do you remember who said "I will change welfare as we know it"? The answer to this question is not a $64,000 question. In fact, we all know who said it: The same individual who said that the era of big government is over, except we want it to last a little longer.

I wonder what the President really meant, or was it just another one of his hollow promises?

I do not blame my friends on the other side of the aisle, because I know pretty much where many of you stand. You said where you stand. You have been honest and straightforward about it. Many of you want to spend more money. I understand that. Many of you are less concerned about the inefficiency and the nonproductiveness of some of these plans.

I simply want to know where the President stands, not what he says. Is it candidate Clinton who wants to change welfare as we know it, or is it the current President who has vetoed every major reform?

Then again, it is an election year.

REPUBLICAN CUTS TO EDUCATION NOT NECESSARY

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, the Republican cuts in education are not necessary to balance the budget. Today's newspapers across our country report that the Nation's deficit this year is $145.6 billion, down from $163.5 billion last year, and half the $292 billion of 4 years ago under a Republican administration.

We have made great strides in reducing the deficit without the outrageous cuts in education. But the Republicans continue to insist on attacking public education and continue to govern piecemeal. The uncertainty about Federal funding has caused chaos in our local schools as they wait for final word on future funding for levels of elementary and secondary education programs. Today as we continue on the GOP's road, school districts across our Nation may be forced to lay off 40,000 teachers because of the funding uncertainty, and increase class sizes and cause an additional decline in the quality of education.

The American people want our children to be educated, but the Republicans refuse to give up on their extreme course of deep cuts education funding.

The American people want a balanced budget without these education cuts.

□ 1015

THE TAX BURDEN

(Mr. LEWIS of Kentucky asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, Reader's Digest recently did a poll that showed that Americans believed that the maximum tax burden a family of four should face is 25 percent. That is what Americans think is a fair tax burden.

But reality shows that, today, the total tax burden—State, local, Federal—is near 40 percent. Mr. Speaker, and if I may strike a moralistic tone, this is wrong. It is wrong that Americans have to suffer under a nearly 40-percent tax rate. It is a recipe for disaster for us here in Washington to pass bill after bill, year after year, just to make sure the Washington bureaucracy has enough money, and while the country goes further and further in debt.

How much is enough? Forty percent? Fifty percent? How long before our children start paying an 80-percent tax rate?

Mr. Speaker, Washington taxes too much because Washington spends too much. Bill Clinton's latest budget totally fails to address the reality that we need to cut Washington taxes and cut Washington spending.

THE ASSAULT WEAPONS BAN

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker I do not profess to be an expert on the issue of the assault weapons ban. But I have heard from two people I would consider experts on the issue: Samuel Scott, chief of police in Fontana, CA and Dennis Hegwood, chief of police in Rialto, CA—both cities in my district. They are both against any effort to repeal the assault weapons ban.

Even without the support of police chiefs and other national police organizations, recently released statistics prove why we should maintain the assault weapons ban.

During the late 1980's assault weapons accounted for about 8 to 10 percent of all guns traced by law enforcement, even though assault weapons accounted for only about 1 percent of the guns in private hands. However, the number of assault weapons traces initiated in the first 8 months of 1995, 1 year after the ban's enactment, fell for the first time in recent years from prior year's level. There were 510 fewer assault weapons traced to crime in the first 8 months of 1995 than were traced during the same period in 1994—an 18-percent reduction over a 1-year period.

I seem to recall that my Republican friends across the aisle want to base every judgment about Government programs and agencies on statistical data. Well, the statistical data proves that this is an effective law.

I also seem to recall that my Republican friends across the aisle like to think they are members of the law-and-order party. Well, law and order from coast to coast favors maintaining the assault weapons ban.

It is time that Republicans live by the standards they impose on themselves and maintain the assault weapons ban.

GOOD NEWS AND BAD NEWS ON THE BUDGET

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, I think we should sort of start with positive news, and the good news is that the President gave us a budget that balances in 7 years.

Mr. Speaker, I was trying to remember what was happening just 2 years ago, what the Democrats, what the liberals, what the tax and spend people were saying. I looked up in the Committee on the Budget records of what Leon Panetta said. He said that we are heading toward down as low as a $70 billion deficit, or overspending, by the year 2003, and that is where we should be.

The good news is that we have changed the debate in Washington. Now everybody is saying yes, we need a balanced budget. It is the right thing to do for the economy. It is the right thing to do as far as our kids and our grandkids. I think it is interesting to note in the President's budget that he has $234 billion more taxes than the Republican proposal. He has $357 billion more spending than the Republican proposal. It tends to be tax and spend. It is balanced. Although President Clinton often says there is not a government program for every problem, he has incorporated most government Washington solutions in his budget.

THE GUN DEBATE IS REALLY ABOUT MONEY

(Mr. ROEMER asked and was given permission to address the House for 1 minute.)

Mr. ROEMER. Mr. Speaker, we are going to have a debate today about banning or removing the ban on such dangerous weapons as streetsweepers and AK–47's. But I, sadly, think the debate is not about the substantive issues that we are going to hear about and the danger of these guns and the safety of the citizens, but it is going to be about one thing and one thing alone. It is going to be about this; money.

It is going to be about the old adage: bought lock, stock, and barrel. Locking up people's election, getting stocks and putting them back in this Chamber and stuffing money down the barrel of their guns.

Now, we can either have new politics and reform about the public interests or we can continue to have these same old debates about special interests. We can either clean up our campaign coffers and get political reform, or we can continue to see the same old politics and the same old thing.

THE WERNLE HOME

(Mr. McINTOSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McINTOSH. Mr. Speaker, today I rise with a report from Indiana. Today's report lists the Wernle home in Richmond, IN, that Ruthie and I have visited. It was founded over 100 years ago by the Lutheran Church as an orphanage. Today Rev. Paul Knecht and Mike Wilson run the Wernle home as a home for young boys and girls, many of them from abused families, to give them a chance for a better life. For older children, they are prepared for independent living and GED testing, and children learn responsibility.

They have a chance to earn a $5 allowance each weeks by performing tasks around the Wernle home. They are also taught community skills as they play and work together in their daily lives. The Wernle home receives a lot of support from local businesses in Richmond, IN: the McDonald's, the local newspaper, the Palladium-item, Van's Meats, the symphony and many other business and community groups.

It is the children at Wernle home, children who come in all sizes, races, and religions who those men and women are working to give a better life. The good folks at the Wernle home are Hoosier heroes, and I raise them up today and commend their efforts. The magic of the Wernle home is a smile in the child who is loved.

REPEAL THE ASSAULT WEAPONS BAN? A POLITICAL DEATH WISH

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, the House votes today on a bill to repeal the assault weapons ban, a political death wish in the most literal sense possible.

Please think about what Dion, Ty, and Aaron would say about this.

One night in 1993, these three high school students from Westminster, CO, were driving home, minding their own business, when out of the dark, without any warning or cause, another young person in a car pulled up beside them and started firing.

Dion was hit five times, Ty twice, Aaron once. Luckily, none of them died. But they were all shot, and shot so many times, because the person shooting at them had a AK–47.

Mr. Speaker what in the world is a weapon like that doing on the streets of Colorado?

It was not there because any hunter needed it. It was there because the gangs and the criminals and the psychos want to use it to kill as many people as they can and to outgun the police.

In September 1993, one of them was used on these three young men. Please, for God's sake do not repeal the ban on these awful weapons.

WELCOME TO A NEW DEMOCRACY

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, the Chinese civilization is the world's oldest continuous one. The Chinese are rightfully proud of their civilization and culture. This weekend the Chinese people on Taiwan will undertake a historic event that has never occurred in 4,000 years of Chinese history. For the very first time, the Chinese on Taiwan will vote directly for its president. I heartily applaud this act of self-determination. This act of popularly electing a president is in accord with the very principle of democracy.

Mr. Speaker, I want to extend my most heartfelt congratulations from one of the world's oldest democratic republics to one of the youngest. To this end, I have submitted a House concurrent resolution extending our congratulations to the free noncommunist republic of China on Taiwan.

THE ASSAULT WEAPONS BAN

(Mr. ACKERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ACKERMAN. Mr. Speaker, I rise today in utter amazement that we are even going to consider repealing the assault weapons ban. Here are provisions of law designed to keep weapons of war off of our streets and to prevent citizens from being slaughtered and our law enforcement officials from being outgunned. Yet the majority party insists we would be better off without the ban. I find that difficult to believe.

Mr. Speaker, when President Bush banned the importation of assault weapons in 1989, the number of such rifles traced to crime dropped by 45 percent. In the year of the ban on domestic assault weapons, the effect of such attacks has dropped an additional 18 percent. Despite these encouraging results, assault weapons still pose a major danger to Americans, particularly to our law enforcement officers, and I for one cannot turn my back on the valiant police officers in my district in New York City and Long Island.

Mr. Speaker, I beg my colleagues, do not defile the memory of those who died in the massacre on the Long Island Railroad. Do not sell your vote for the blood money of the NRA. Listen to the painful and courageous cries of the victims, your constituents and our police officers, law enforcement officials, and not to the special interests and the blood money of the NRA.

EVERGLADES RESTORATION

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I do not want to yell today. I want to thank this Chamber. I want to thank the conferees of the Senate and the House who have agreed to put $200 million in the budget for the Everglades restoration in Florida. The administration proposed a tax to fund the Everglades restoration. We proposed a solution, an immediate infusion of $200 million, plus vital lands to protect the fragile Everglades in Florida, protecting water supplies, protecting our second largest national park, and doing so in a bipartisan fashion.

Mr. Speaker, I commend my colleagues, particularly Speaker GINGRICH, Senators DOLE and MACK, and the 299 Members of this House who supported the efforts of environmental protection. This Congress, when it wants to, can work together in a bipartisan spirit. I hope we do more bipartisan efforts in the future in order to bring this Nation to the point of pride that it once was where it can restore the pride in ourselves and our abilities to govern, lower the rhetoric, lower the anxiety and allow us to proceed in an orderly fashion for democracy.

TITLE I EDUCATION FUNDING

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, 10 days from now, the State of Georgia could begin laying off teachers due to Republican cuts to title I education funding. According to the Republicans, these cuts are necessary to balance the budget. Mr. Speaker, I have a hard time believing that. Especially when those same Republicans increased military spending by $7 billion for pork-barrel projects the Pentagon didn't ask for.

Moreover, Mr. Speaker, today's budget impasse is a direct result of Republicans insisting on $177 billion in tax breaks skewed to the wealthy. It's no wonder Congress' approval raring is so low.

I suppose, Mr. Speaker, the GOP plans to deal with declining geography test-scores by reducing school funding, so we can buy the bombs necessary to eliminate the countries our children can't find on a map anyway.

I guess that's one way of boosting geography test scores.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1202

Mr. GENE GREEN of Texas. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1202.

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Is there objection to the request of the gentleman from Texas?

There was no objection.

GUN BAN REPEAL ACT OF 1995

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 388, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 388

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 125) to repeal the ban on semiautomatic assault weapons and the ban on large capacity ammunition feeding devices. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The bill, as amended, shall be debatable for one hour equally divided and controlled by Representative Chapman of Texas or Representative Barr of Georgia and Representative Conyers of Michigan or his designee. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except one motion to recommit. The motion to recommit may include instructions only if offered by the minority leader or his designee.

□ 1030

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. Mr. Speaker, during consideration of the resolution, all time yielded is for purposes of debate only.

Mr. Speaker, this rule provides for the consideration of the Gun Crime Enforcement and Second Amendment Restoration Act under a closed rule. The amendment in the nature of a substitute printed in the report accompanying the rule is considered as adopted.

Now, Mr. Speaker, ordinarily I would favor a more open process, but this particular bill presents issues which have been widely debated, which every Member of this body understands thoroughly. Most Members were familiar with the issues in this bill before they were even sworn in as Members of the House. While this particular bill was not reported by the Committee on the Judiciary, subcommittee hearings in the Committee on the Judiciary were held on the subject of this bill, extensive hearings.

This rule provides for 1 hour of general debate equally divided between the proponents and opponents. The proponents' time will be controlled by the gentleman from Georgia [Mr. BARR] and the gentleman from Texas [Mr. CHAPMAN] on a bipartisan basis, thus ensuring both parties will be fairly represented. The time of the opponents will be controlled by the gentleman from Michigan [Mr. CONYERS], the ranking member of the Committee on the Judiciary. In the Committee on Rules the gentleman from Michigan agreed that he would provide half of the time in opposition to the gentleman from Connecticut [Mr. SHAYS] and other Republicans, thus insuring an equal division of time among the parties on both sides of this issue so we can be sure that this is going to be a fair and open debate.

The rule also provides for a motion to recommit which, if containing instructions, may only be offered by the minority leader, or his designee. This means that the minority will have the opportunity to get a vote on their best alternative proposal, and that is as it should be, Mr. Speaker.

This is a fair rule which will allow the House to consider a highly contentious issue in a balanced way and still enable Members to have time to return to their districts in time to meet with their constituents this weekend, and it is an important weekend coming up.

It is no secret that I have long been a proponent of the right of law-abiding citizens to have firearms to protect themselves, which is especially important in rural areas such as the 10,000 square miles in rural New York that I represent. It has frequently been said that guns do not commit crimes, people commit those crimes, and when people commit crimes, no matter what the weapon, we should throw the book at them, and that is what this bill does.

This bill does two things. It increases the penalties on those lawbreakers who use guns in the course of violent Federal crime or Federal drug traffic offenses, and it also contains provisions repealing the ineffective ban on certain semiautomatic weapons.

Mr. Speaker, the ban on certain semiautomatic weapons has not been effective in stopping crime anywhere in this country. No one has been prosecuted under the 1½-year-old statute that banned magazines, and fewer than three people have been prosecuted for violating the States' semiautomatic firearms ban. Think about that. More than 85 percent of the semiautomatic firearms banned under the 1994 law are rifles, the type of firearms least likely to be used in the commission of any crime. According to FBI uniform crime reports, rifles of any description, including those the law defines as so-called assault weapons, are used in, listen to this, less than 3 percent of homicides every year, less than 3 percent. In other words it is totally irrelevant.

Banning guns does not reduce violent crime. Prosecuting violent criminals and putting them behind bars is the only proven method for controlling violent crime. Historically throughout the history of this country that is true. States with the highest increases in imprisonment rates are among the States with the greatest decreases in violent crime. That is a fact. And those jurisdictions with the most restrictive gun controls, like right here in Washington, DC, continue to register the highest per capita homicide rates, the most murders than anywhere else in the Nation.

Mr. Speaker, the inescapable conclusion is that the way to stop crime is to put the criminals in prison, not take away from law-abiding citizens the right to defend themselves from criminals. Therefore, I would ask for a yes vote on the previous question on this rule, a yes vote on adoption of the rule, so that the House may proceed expeditiously to consider the Gun Crime Enforcement and Second Amendment Restoration Act. That is what we are here to do today, we have a commitment to bring this bill to the floor, and, regardless how my colleagues feel about it, it lets them vote their own conscience.

That is what this bill is all about.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of March 21, 1996]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	59	60
Modified Closed [3]	49	47	24	25
Closed [4]	9	9	15	15
Total	104	100	98	100

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[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of March 21, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of March 21, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands.	
H. Res. 309 (12/18/95)	C	H.Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	O	H.R. 558	Texas Low-Level Radioactive	A: voice vote (12/20/95).
H. Res. 323 (12/21/95)	C	H.R. 2677	Natl. Parks & Wildlife Refuge	Tabled (2/28/96).
H. Res. 366 (2/27/96)	MC	H.R. 2854	Farm Bill	PQ: 228–182 A: 244–168 (2/28/96).
H. Res. 368 (2/28/96)	O	H.R. 994	Small Business Growth	
H. Res. 371 (3/6/96)	C	H.R. 3021	Debt Limit Increase	A: voice vote (3/7/96).
H. Res. 372 (3/6/96)	MC	H.R. 3019	Cont. Approps. FY 1996	PQ: voice vote A: 235–175 (3/7/96).
H. Res. 380 (3/12/96)	MC	H.R. 2703	Effective Death Penalty	A: 251–157 (3/13/96).
H. Res. 384 (3/14/96)	MC	H.R. 2202	Immigration	PQ: 233–152 A: voice vote (3/19/96)
H. Res. 386 (3/20/96)	C	H.J. Res. 165	Further Cont. Approps	PQ: 234–187 A: 237–183 (3/21/96)
H. Res. 388 (3/21/96)	C	H.R. 125	Gun Crime Enforcement	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when the Committee on Rules met yesterday afternoon to consider this rule, I made two points I feel are worth repeating here for the benefit of all Members of the House.

The first point relates directly to the consideration of the ban on assault weapons. In the 103d Congress, I believe a serious error was made when the House was not given the opportunity to take a final up or down vote on this issue. Given the controversy surrounding issues relating to gun ownership, these issues should be addressed directly, not buried in other legislative proposals, as was the assault weapon ban in 1994. Consequently, the desire of a great many Members to have a direct vote on this issue is understandable.

However, it is how we are getting to this direct vote that I find peculiar and out of the ordinary. I noted yesterday afternoon that it is unusual, though not unheard of, for the Committee on Rules to take legislation away from a committee with jurisdiction and report it directly to the floor. Section 34.1 of chapter 17 of Deschler's specifically grants the Committee on Rules that authority and this procedure was indeed used when Democrats were in the majority. In fact, our tally shows that 15 percent of the rules reported during the 103d Congress governed the debate on bills which had not been reported from their committee of jurisdiction.

But, I am concerned that the Republican majority has adopted this practice for the consideration of nearly every legislative proposal that is brought to the full House. In this session, 75 percent of the bills we have voted on have not been reported from committee of jurisdiction. In other words, no votes have been taken in the committee or committees of jurisdiction on three-quarters of the bills considered by the House this session.

The Republican leadership would do well to read this small pamphlet entitled "How Our Laws Are Made." Every office has copies. They are used to send as educational materials for schools and citizens who are interested in the legislative process. The language is not hard to understand. Please let me read a pertinent passage:

> Perhaps the most important phase of the congressional process is the action by committees. That is where the most intensive consideration is given to the proposed measures . . .

This short book goes on to describe committee deliberation, committee voting, the preparation of committee reports, and how that committee action and those reports are used as part of the legislative history of bills which later become laws. This book neatly sums up the accountability directly attributable to the committee process.

But, Mr. Speaker, in the direction we are heading, it seems that the Rules Committee will be the only committee in the remainder of the 104th Congress. All other committees will be irrelevant. Mr. Speaker, if that is the intention of the Republican majority, it might be necessary for the House to reprint this small pamphlet to reflect the new Republican realities.

In closing, let me say that because there is no committee report to reflect the debate in the committee of jurisdiction, I believe it is vitally important that all sides of this issue be allowed an opportunity to speak. Consequently, it is my intention to yield time to Democrats who both support and oppose this rule and who both support and oppose this legislation.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I rise in strong opposition to this rule. This is a shameful day in this House. This rule adds little glory. No hearings, no committee votes, only 1 hour of debate on one of the most important issues that will affect us. This assault weapons ban was brought to the floor faster than a Uzi's bullet.

Why? It was brought to the floor so quickly so the Nation will not see it coming.

Today Speaker GINGRICH is launching a sneak attack, and the American people are being ambushed. Seventy-five percent of all Americans do not want Uzis. They do not want AK–47's. They do not want any of these killing machines on American streets.

But we will not have a chance to debate that in full. One hour of debate on this, one of the most important issues we will grapple with? I have great respect for my colleague from New York, and I think he is a fair, fine gentleman, but this is not one of his finest hours.

No one in America is fooled by a few extra sections in the bill. As the gentleman from Texas [Mr. FROST] said, the Committee on Rules wrote this bill. We may as well not have committee hearings, and we did not have committee hearings.

Some say we had hearings. The two hearings that the opposition is pointing to were held before this bill or its predecessor bill was even introduced. There have been no hearings, none, not one, in this Congress on the assault weapon ban repeal, and the rule is more fitting of a dictatorship than a democracy.

Speaker GINGRICH is launching this sneak attack for one simple reason, because he knows the American people vehemently disagree with him, but he must kiss the ring of the NRA, and thus we have this shameful, shameful, shameful procedure.

Mr. SOLOMON. Mr. Speaker, I proudly yield 2 minutes to the gentleman from Georgia [Mr. BARR], a freshman Member of this body and one of the major sponsors of this legislation, along with the gentleman from Texas [Mr. CHAPMAN], a Democrat.

Mr. BARR of Georgia. I thank the gentleman for yielding this time to me.

Mr. Speaker, my esteemed colleague from New York talks about a sneak attack so that the people will not see it coming. People in this body know that the gentleman from New York [Mr. SCHUMER] sees these things coming even when they are not coming. He knows fully when they are coming up, how they are coming up, and he marshals his forces better than any Member of this Congress when these issues come up.

This is hardly a sneak attack. This is an issue, Mr. Speaker, that the American people know. This is an issue, Mr. Speaker, that every Member of this body, every one of the 435 Members of this body, every one of the 100 members of the other body, know backwards, and they know it forwards, they know it sideways. There is no single issue in this 104th Congress, or the 103d, or the 102d, Mr. Speaker, that is more well known, more fully debated than the issue of how to protect American citizens against crimes involving firearms.

The rule that the gentleman from New York [Mr. SOLOMON] has come forward with, Mr. Speaker, has itself been fully debated. The issue has been fully debated at hearings.

My colleague from New York expresses great surprise and dismay that the bill which we are considering here today may have been introduced after the hearings. Mr. Speaker, is that not the best time to introduce a bill, after there have been hearings on the issue so that the bill can be crafted, fine-tuned and honed so that it reflects the input from citizens and from interest groups and from other Members as this legislation does?

The procedures in which we are about to embark today, Mr. Speaker, have been fully aired, are being fully aired, in the hallways, in this Chamber, in committee rooms, and in homes all across America. It is high time that this body stood up unafraid, unabashed, undefensive and said there is a better way to protect American citizens, to make sure that those people who cry out for protection are indeed protected. It is this legislation.

□ 1045

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS] the ranking member on the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I would say to the gentleman from Georgia [Mr. BARR] the hearings the gentleman is talking about had nothing to do with the bill that is on the floor today. Maybe the gentleman remembers it or maybe he forget it, but to represent that we have had these hearings, that this has been considered in the manner that the gentleman suggests, is not quite accurate, sir. That is why I take this time to point that out. Sorry the gentleman was not paying attention.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER]

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The gentleman from Missouri [Mr. VOLKMER] is recognized for 3 minutes.

Mr. VOLKMER. Mr. Speaker, there are not many times, but there are some times when the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules, and I agree. This is one of these times that I strongly agree, and I think just as strongly as the gentleman from New York on this issue.

Mr. Speaker, I would like to address my remarks basically to those Members that were not here in August 1994 and September 1994, because those that were know how they voted and know why they voted, and basically it is the same vote. However, those who were not here in 1994 know that if they do not know much about guns, I think Members should educate themselves before they vote on this issue. I would like to help them just a little bit.

In the first place, these guns that were banned, the few semi-automatics that were banned are no different, are no different from the semi-automatic that I use every year that I go hunting for deer in Missouri in my district. They work the very same way. They just look different. They are no different, they are no different. They were in that same bill in 1994 that banned a few semi-automatics that they call assault weapons, that are not, Mr. Speaker, they are not. I can tell the Members why in a minute.

Look at that list. Those are the ones that the gentleman from New York [Mr. SCHUMER] and all the other ones say, "These are okay. These are fine." There are Uzis on there. Yes, there are Uzis on here. They are fine. There are all kinds of semi-automatics on here. Every one of them are semi-automatics. They are fine. The only difference is the way they look.

Mr. Speaker, I can take my deer rifle, and if I paint it black and if I put a metal folding stock on it, the gentleman from New York [Mr. SCHUMER] would say that it should be banned because of the way it looks. The ones that were banned, all these semi-automatics, look bad. They look like they might be a military weapon, but they are not a military weapon.

I would just like to tell those Members that have not voted on this, Mr. Speaker, have no fear. What was done in 1994 in the crime bill has necessitated some of us to be here to fight to try and save other programs. But one thing that was done in 1994 in that crime bill that has not stopped any crime was the ban on semi-automatic rifles. It has not stopped any crime. The FBI will tell you, less than 1 percent of the crimes are used with these weapons.

I would like to ask the Members, what is the difference between a ball bat that is red and one that is black and one that is just plain clear wood? Is there any difference? I do not know of any difference. They all hit the ball. If you have the right batter, they can do home runs. Another batter might just hit a single, but they are all the same.

If I take that ball bat, that black one, it looks ugly. I should not let a batter use it because it is ugly. That is what the ban is all about, no different. Ball bats are all the same. These semi-automatic rifles are all the same, but the ones that have been banned, they just do not look good. That is why the gun banners say they should be banned.

Mr. FROST. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan [Mr. CONYERS.]

Mr. CONYERS. Mr. Speaker, that is the kind of rhetoric Members are going to get all day. We are going to constantly get the baseball bat analogy and a lot of other silliness, when the fact of the matter is that this list was shortened because of the people that support the NRA that made us shorten the list. We wanted a longer line. Now that we do not have it, well, it should be a lot longer. Why is it not a lot longer?

Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I would ask the gentleman, who was in charge? He was not allowed, his Democrat leadership did not allow him?

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I just heard the most idiotic statement I have ever heard here. I really have. None of us had anything to do with this list. It was the proponents. There, the gentleman from New York [Mr. SCHUMER] and the gentlewoman in the Senate, the gentlewoman from California, made up this list, nobody else. They did not have to have a list. They could have had every semiautomatic and tried to ban it. They would not have succeeded.

Mr. FROST. Mr. Speaker, as I indicated in my opening remarks, I am yielding to Democrats on both sides of the issue. There are some Democrats who agree with this legislation and some who oppose it.

Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Speaker, this notion that we cannot make a difference because if we ban so many, we are not banning all of them, or if you cannot save all crime, you are not going to try to save any at all, is just bogus.

Our responsibility in this House is to do what we are able to do. That is our responsibility. If we are able to save anyone's life because we ban these weapons of war that spray bullets and kill people indiscriminately, then we should do so. I cannot believe in this House, a week after the kids were mowed down in Scotland, that you have the nerve to bring this bill up.

In the opening of this debate, you said we should have known about this bill before we were elected to the 104th Congress. I will tell you, we knew about this bill. Americans knew about this bill, my family knew about this bill. We did not have to read the NRA questionnaire to know about this bill. Families like mine all across this country know all too well what damage weapons can do, and you want to arm our people even more. You want to add more magazines to the assault weapons so they can spray and kill even more people.

Shame on you. What in the world are you thinking when you are opening up the debate on this issue? Mr. Chairman, this is nothing but a sham, to come on this floor and say you are going to have an open and fair debate about assault weapons. My God, all I have to say to you is, play with the devil, die with the devil.

There are families out there, Mr. Chairman, and the gentleman will never know what it is like, because they do not have someone in their family killed. It is not the person who is killed, it is the whole family that is affected.

Furthermore, people will say, and I have heard this argument already, this is not effective because it is not cutting crime, you are not cutting crime. That is the wrong question. It is not about cutting crime, it is about cutting the number of people who get killed by these assault weapons. You are asking the wrong question. It is not about crime, it is about the families and victims of crime. That is what we are advocating, in prosposing this ban. That is why we should keep this ban in place.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before the gentleman leaves the floor, and I have a great respect for he and his family, but I am going to tell him something, when he stands up and questions the integrity of those of us that have this bill on the floor, the gentleman ought to be a little more careful. Let me tell you why.

Mr. KENNEDY of Rhode Island. Tell me why.

Mr. SOLOMON. My wife lives alone 5 days a week in a rural area in upstate New York. She has a right to defend herself when I am not there, and don't you ever forget it.

Mr. KENNEDY of Rhode Island. You know the facts about this. You have guns in the home that are going to be used against your own family members. You know what the evidence is.

The SPEAKER pro tempore. (Mr. TAYLOR of North Carolina). The gentleman from New York has the time.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. VOLKMER. Following the previous speaker, the gentleman from Rhode Island [Mr. KENNEDY], who spoke so eloquently, I will agree, there was, I heard and I saw, because I turned and saw, there was applause and clapping in the galleries. We have rules in this House concerning that. I would like for the Chair to address the gallery and inform them of the rules of the House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all persons in the gallery that they are here as guests of the House; that any manifestation of approval or disapproval of proceedings is in violation of the rules of the House.

Mr. SOLOMON. Mr. Speaker, I yield 30 seconds to the gentleman from Georgia, Mr. BOB BARR, one of the sponsors of this legislation.

Mr. BARR of Georgia. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the previous speaker on the other side speaks very loudly, if not eloquently, but some of his analogies, some of his terms are rather confusing. He talks about the devil. The devil is the person with a gun in his hand who murders anybody in this country. That is the devil. That is the person to which this legislation today is aimed. It is the devil in Scotland who murdered 16 children and their teacher in a country that bans virtually every type of weapon, every type of handgun. That is no guarantee of anything. We must have this legislation to protect against exactly what the gentleman from Massachusetts is talking about.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, why are we here? It is murderously irresponsible for this House to take up this action today. There are only two forces in this country that want us to consider this measure: The National Rifle Association, and the Republican leadership of this House.

When I go back to my district, I go through the grocery stores and I do not have anybody stopping me and saying, "Mr. BARRETT, Mr. BARRETT, we have to get those AK-47's back on the street." When I take my son to preschool, I do not have anybody saying, "Mr. BARRETT, Mr. BARRETT, we have to get those Uzis back on the playgrounds." When I go to church, I do not have anybody stop me and say, "We have to get those Tech-9's back in the hands of those criminals."

The gentleman from Georgia [Mr. BARR] talks about the devil, the devil does this. You can give the devil his due, but do not give the devil then an assault weapon. It is wrong to put those weapons into the arms of people who want to kill Americans.

Mr. Speaker, we have a chance today to do what is right. We have a chance today to say to the NRA, take your money, take your money. We do not want it in our campaigns. You want to buy us, lock, stock, and barrel? No. We do not want your blood money, because it is murderously irresponsible to put AK-47's on the streets of America. It is murderously irresponsible to put Uzis on playgrounds in this country. It is murderously irresponsible to put street sweepers on Long Island trains.

Mr. Speaker, let us end this carnage. Let us end what happened in San Francisco. Let us end what happened in Long Island. Let us make sure that we do not have a Scotland situation in this country.

Mr. Speaker, to do that, we only have to do one thing today. That is to say no to the NRA. It is something that 70 percent of the people in this country want us to do, and it is something that every single Member of this body should do today.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Albuquerque, NM, Mr. STEVE SCHIFF, one of the most qualified men to serve in this body because of his prior experience before he came, and a member of the Committee on the Judiciary.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the rule and in support of the bill.

During the period of time I have been in the U.S. Congress, I have voted both for and against gun control. I have found each vote to be inherently controversial, because this is a very difficult issue. I have, however, never seen an issue in which there was so much misinformation being cast about. I think there are two serious areas of information about the kinds of weapons we are talking about here.

To begin with, Mr. Speaker, they are not assault weapons. Assault weapons are automatic weapons; that means a machinegun or submachinegun; pull the trigger, and the gun continues to fire for as long as it has bullets. Indeed, I have seen national news programs where they are talking about this bill, and they are showing the public fully automatic weapons.

Not one of the weapons we are talking about in this bill is an assault weapon. Not one of the weapons we are talking about in this bill is an automatic weapon. They are not AK-47's and Uzis of the automatic type. But that is what the public has been told over and over again, and would like to believe.

The fact is that each of these firearms shoots one bullet with one pull of the trigger. There is no functional difference between any of the firearms that are mistakenly, I think deliberately, mistakenly called assault weapons in this bill, and weapons which are not called assault weapons. In fact, the way this bill describes assault weapons, or I should say, real assault weapons, real automatic weapons, machineguns, submachineguns, have been regulated for decades, and I think they ought to be.

□ 1100

I do not propose to change that. The weapons we are talking about here are called assault weapons mistakenly based upon their appearance.

For example, if a certain rifle has the ability to carry a bayonet, under this existing legislation that makes it an assault weapon. I invite the next speaker who is speaking against our bill and in favor of the current legislation to explain how if a weapon can carry a bayonet it is somehow more lethal as a firearm. But none of the speakers for the legislation are going to talk about that because they want to mislead the American people into believing we are talking about something different than bayonets. But that is exactly what we are talking about.

I was a career prosecutor before I had the privilege of being elected to the House of Representatives, and during all the years I was prosecuting criminals, none of them ever led a bayonet charge.

So I hope it can be explained rationally why saying that a bayonet on a weapon or the ability to carry a bayonet should make it illegal.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. SCHIFF. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I agree 100 percent with the gentleman that it has been a misstatement all along that these are assault weapons.

I do not believe that even the opponents of the legislation, the proponents of the ban, would ever think about sending our troops into Bosnia and all around the world with this type of weapon.

In every place they go, even in Third-World countries, they are going to be outfought in any firefight because those people have real assault weapons. Those are the automatics. None of these are automatics.

Mr. SCHIFF. Reclaiming my time, the gentleman is exactly correct. The misimplication is being made that these are automatic weapons, that these are machineguns and submachine guns. It just is not true.

They are weapons that have certain visual characteristics like in being able to carry a bayonet which has no meaning as a firearm but that is what makes it illegal under the current legislation, which makes no sense to me.

Mr. Speaker, I want to bring up one other issue that I think has been confused, and, that is, statistics about how often these weapons as opposed to other firearms are used in the commission of a crime.

I asked Director Magaw that question in a letter several months ago. He is Director of the Bureau of Alcohol, Tobacco and Firearms. He responded that the U.S. Government does not keep official records of how many of the weapons they are calling assault weapons are used in crimes, so he could give me no information. Yet 2 days ago, I saw in USA Today the statement that the ATF says that 10 percent of all violent crimes use these weapons. Apparently that came from some group that supports the current legislation giving that information to a reporter.

The Bureau of Alcohol, Tobacco and Firearms denies that statement. They do not support it.

And so there is no credible information being kept about whether these firearms are used in crimes any more than any other kind of firearm. Of course since they all shoot the same, they are all going to function the same, anyway. But I think it is significant to note that an administration that says these firearms are more deadly than other firearms does not keep official records of are they used in crimes.

I think there is a place for gun control in crime fighting. The best law we have on the books is a law that has been on the books for many years. It is a Federal crime for a convicted felon to have possession of a firearm, any firearm. It does not matter what kind. But that law has not been strongly enforced by this administration or by the last two administrations.

As a member of the Committee on the Judiciary, I have tried to get the Clinton administration to agree to prosecute all convicted felons found in possession of a firearm. They refuse to do it.

As a member of Judiciary, I then tried to get the Clinton administration to set a minimum standard to say, for example, that if a convicted felon was released in the last year from a penitentiary for a violent crime, then if that person is caught with a firearm, guarantee to prosecute that person. They refuse to guarantee it.

We have two suspects for a horrendous series of five homicides. Every homicide is horrendous, but we have five homicides in which we have two suspects. Both of these suspects were recently released from the penitentiary. Both of these suspects were in the possession of firearms, and these are the kinds of people that the Federal Government will not prosecute until it is too late. They should be prosecuted when they are found with a firearm.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I rise in support of this rule and in support of repealing this ban.

There is a lot of emotion to this argument and justifiably and understandably so. I think there also need to be some facts and some statistics if you are going to write policy in the halls of this House.

There is a lot of reference to Scotland, a tragedy that is seared in the minds of all of us. Let us talk about Scotland for a second. Great Britain has some of the tightest and most restrictive gun control laws in the world. Great Britain requires a permit for any type of firearm. In Scotland, the person who committed those atrocities was apparently carrying four handguns, not the type of firearm at all at issue on the floor of this House. That person had been issued permits despite the fact that he had clear mental problems.

There are some times you cannot control it. That is what happened in Scotland. But that should not be an issue here on this floor.

The reason I support repealing this ban, I guess are the same reasons I made when I argued against the ban 2 years ago. This is not what you need to fight crime.

The statistics are quite clear on this. If you want to look at the FBI or the Bureau of Justice statistics, this type of firearm at most is used in 3 percent and most say around 1 percent of all crimes.

Does anyone really feel there has been a significant difference because these firearms are statistically or theoretically banned? I do not think so.

If this has been so effective, then there must have been a wave of prosecutions against those who manufacture or possess or transfer these firearms. How many prosecutions have there been since 1994, since this was passed? One. One prosecution pending today in this country. That is not in my State or in your State. For the entire country.

My concern with this legislation is it is cosmetic, that this ban on so-called assault weapons is cosmetic. Two firearms that shoot the same bullet at the same speed, the same velocity with the same impact. And they are semiautomatic. That means that they fire a bullet with each pull of the trigger.

They are not machineguns. They are not automatic. They are semiautomatic. Yet one is banned and one is not. That is cosmetic legislation and we do not need it here on the floor of the House.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. I thank my friend from Texas for yielding me this time.

Mr. Speaker, I have been listening to the different speakers all talk about different statistics, one saying one thing, another person saying another thing. That is why I am so disappointed that we have this rule on the floor and we are voting on the issue without having public hearings. We are not experts in law enforcement. The experts in law enforcement should have had an opportunity to come before this Congress and give us their best information as to how the assault weapon ban is working, so that we could vote intelligently on the subject so we could have that debate in our committees where we should have it.

What are we afraid of? Bringing the experts before us?

The assault weapon ban is a reasonable attempt at trying to get weapons out of the hands of people who want to cause harm and kill our citizens. It is a reasonable effort to have less guns on the street, less assault weapons on the street. It has saved lives and will continue to save lives.

It represents a minimal inconvenience to law-abiding citizens, a minimal inconvenience to save lives on the streets. It was a reasonable effort.

In my State of Maryland, we have statistics from our law enforcement people showing it has worked, that it has reduced the number of crimes in Baltimore. It has worked with State laws that we have passed working together to try to get guns out of the hands of criminals. That is what this is about.

It is beyond me that we want to in a couple of hours repeal the assault weapon ban without giving the public an opportunity to be heard on the subject as to the specific legislation that we have before us. That is not what this legislation is all about. That is not what this Congress is all about.

If we differ on the underlying facts, why do we not have the public hearings before this Congress in order to get the facts before us before we are called upon to vote?

I think we all understand the reason why we are not going to be afforded that opportunity. I urge my colleagues to reject this legislation.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

This bill before us does two things. Yes, it repeals a gun ban; but, yes, it increases penalties for those lawbreakers who use guns in the course of a violent Federal crime. The reason that language is in here is because of two Members, one named FRED HEINEMAN of North Carolina but primarily this gentleman I am going to introduce, JON CHRISTENSEN of Omaha, NE. His bill the Hard Time for Gun Crimes Act, contains this legislation. It is because of him that it is in here today. I commend him for it.

Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Speaker, I thank the gentleman from New York. It is with that that I rise today in strong support of this rule, this balanced rule that I believe will send a strong message to those criminals in America who continue to prey upon our citizens.

I believe that this debate will let us focus on the real answer, and, that is, that getting tougher on those that prey upon our society will not be tolerated any longer.

Just last week I introduced H.R. 3085, the Hard Time for Gun Crimes Act of 1996, which made it clear that anyone who commits a felony with a gun should plan on spending the next few decades behind bars, no exceptions.

While my bill provided for stiffer mandatory penalties than the measure which we will be debating shortly, it does include my language that takes it from a serious Federal violent crime to all Federal violent crimes and all drug-related crimes. By adding stiffer penalties, though, for the crimes committed with guns, we will be able to keep those who prey upon our society behind bars for a long, long time instead of being freed by the slick criminal trial lawyers who allow these slugs of society to walk our streets because of legal technicalities.

Mr. Speaker, I want to thank the chairman of the Rules Committee for allowing us to focus in on the real answer to crime, because I do not believe that gun control is crime control. But this rule today will allow us to really focus in on what I believe will be an answer to America's problems.

I urge the passage of both this rule and this very important piece of legislation.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Speaker, I have heard from nearly 100 police chiefs and sheriffs in California begging the Congress not to repeal the assault weapons ban. It occurs to me that the police chiefs and the sheriffs know a whole lot more about this than the politicians in this House who have received contributions from the NRA and who are doing the bidding of their funders.

The police do not want to face off against assault weapons on the street, but I think if we vote for this assault weapon ban repeal, we are saying it is OK for the police to face off against criminals with assault weapons in the course of their jobs.

Earlier in this Congress we passed the Congressional Accountability Act that said we would live by the same rules as those we passed for other Americans. So as we consider this bill, what is missing in this rule is an amendment to remove the metal detectors from the U.S. Capitol. Let us see how we like having citizens armed with assault weapons in our gallery. We should do that if we ask police officers to live with assault weapons.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Speaker, I rise in strong opposition to the rule and H.R. 125 which would repeal the assault weapons ban. There is absolutely no good reason for Congress to repeal this ban. It is needed, it works, and the American people support it.

More than one-third of all police killed with guns from January 1994 to September 1995 were slain by illegal assault weapons. Although these assault weapons account for only 1 percent of privately owned firearms in the United States, they are 8 times more likely to be used in crime than other guns.

That is why police chiefs in my district, James Goulart of Belmont, CA; Lucy Carlton of Los Altos; Dennis Wick of Half Moon Bay; and Cliff Gerst of the San Carlos police department oppose this legislation. Poll after poll demonstrates broad support for the assault weapons ban by the American people.

Talk about a beltway mentality. You are not paying attention to the American people. This is a march to folly. Barbara Tuckman was right. Oppose the rule, oppose the legislation.

□ 1115

Mr. SOLOMON. Mr. Speaker, we have got a lot of new Members in this body, and they are all young and they are out there, and they are real fighters. One of those is this gentleman.

I yield 2 minutes to the gentleman from Indiana [Mr. HOSTETTLER].

Mr. HOSTETTLER. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules, for yielding me this time.

I listened to a very impassioned speech from my office from my fellow colleague freshman from Rhode Island, and I had to come down and speak to the fact that I totally agree with one of the points that he made, and that is that this Congress must do what it can do to end these violent crimes in America.

But that is just the point. What can this Congress do? Well, there are things that Congress can do, and there are things explicitly placed in our Constitution that speak of those things that Congress cannot do. Specifically, the second amendment to the Constitution, which says this, and I quote, "A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

What this, what a majority in this House, did in 1994 and what this Government did in 1994 is did what the Constitution said it cannot do. It infringed on the right of people to keep and bear arms.

Today I ask for my colleagues' support on this rule and on this bill so that we can undo what this Government did in 1994, what the Constitution said that it cannot do.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I thank my friend and colleague, the gentleman from Texas, for yielding time to me.

Mr. Speaker, I am appalled.

We knew that the extreme Republicans made promises to their special interest friends. We knew that the NRA has too much influence over this Republican Congress.

But I could not believe that it was this bad. I could not believe that that this body would endanger innocent lives.

Republicans say they want to fight crime. Instead, they fight to put military weapons into the hands of common thugs.

This bill means that more police officers will sacrifice their lives to defend our homes—our neighborhoods—our communities. This bill means that more innocent children will be gunned down in our Nation's streets.

Our families will give their lives to pay the debt Republicans owe their special interest friends. The NRA and their money cannot bring back the lives that will be lost—sacrificed to their extreme agenda.

Reject this radical, this dangerous, this sick, and obscene proposal.

These weapons are weapons and tools of death, violence, and destruction.

Reject this proposal.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON], one of the most respected members of this entire body.

Mr. EMERSON. I thank the distinguished chairman for yielding.

Mr. Speaker, I rise in support of the rule and in support of the measure before the House.

I rise today to voice my full and absolute support for the repeal of President Clinton's gun ban instituted in 1994. I have anxiously awaited this opportunity to restore the second amendment rights of all Americans, which were unjustifiably stripped away by one of the worst laws this country has ever seen. The Constitution deserves far more respect than it was afforded when the Clinton gun ban was signed into law, and today Congress can and must reaffirm one of the fundamental ideals which form the bedrock of our democracy.

Mr. Speaker, it's past time that we junked the laws that sully and undermine our second amendment liberties, which our forebears knew to be a fundamental part of a free society. Just as free speech, free religion, and other guarantees are essential to the future of a free people, so too is the freedom to keep and bear arms. All contribute to the protection of an individual's basic right to life and liberty.

The Clinton gun ban is another example of mistaking gun control with crime control. There is a problem with guns in this country, but that problem does not involve law-abiding citizens and sportsmen. The problem is with criminals who trample on our laws and continue to threaten our neighborhoods. These are the individuals who must pay for their offenses and their complete disregard for the laws of our society—not the good people in southern Missouri and throughout America. This legislation provides the much needed penalties to punish and deter criminal activity.

I would also like to take a minute to set the record straight on the so-called assault weapons targeted by the 1994 law. The firearms affected by this law are not at all the extra lethal, military-grade instruments that gun ban advocates would have you believe. They are not machineguns and they do not spray bullets. The term assault rifle is nothing more than misleading rhetoric generated by the antigun lobby and the liberal media. Fact is, there is no functional difference between the semiautomatic firearms prohibited by the Clinton law and those that are exempted. The reality is that the gun ban is a part of an effort to establish even more stringent controls on firearms that are appropriately and legitimately owned by Americans.

Mr. Speaker, I urge my colleagues to pass this important legislation in order to return to the people of this country the second amendment rights to which they are entitled. We need to hold true to the great legacy of our Founding Fathers, and make sure that constitutional principles are preserved.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VALÁZQUEZ. Mr. Speaker, I rise today to express my deep disgust with the extremist tactics of the Republican majority. Their drive-by method of bringing this repeal to the floor is the height of irresponsibility.

You should be ashamed of yourselves, letting the NRA pistol whip you again. Stop playing election year politics with people's lives.

Without the assault weapons ban our city streets will become killing fields. Police officers, like the two ambushed in New York City yesterday, will be cut down in the line of fire. Children's hopes and dreams will be dashed by a spray of bullets. Their blood will be on your hands.

Mr. Speaker, the truth of this vote is that the IRA is collecting its GOP IOU. But, today's sneak attack on the American people will not go unanswered. Rest assured, next November voters will make a very special payback to those who turned on them. I urge all of my colleagues to oppose this bill.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

(Mr. FROST asked and was given permission to revise and extend his remarks and include extraneous material.)

Mr. FROST. Mr. Speaker, every single rule the House has adopted this session has been a restrictive rule; you heard that correctly, the Republican House has so far adopted 100 percent restrictive rules in this session. And if it is adopted, the rule before us will leave that 100 percent purely restrictive rules record intact.

This is the 63d restrictive rule reported out of the Rules Committee this Congress.

In addition, 75 percent of the legislation considered this session has not been reported from committee—9 out of 12 measures brought up this session have been unreported.

I include the following material for the RECORD:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 101	To transfer a parcel of land to the Taos Pueblo Indians of New Mexico.	H. Res. 51	Open	N/A.
H.R. 400	To provide for the exchange of lands within Gates of the Arctic National Park Preserve.	H. Res. 52	Open	N/A.
H.R. 440	To provide for the conveyance of lands to certain individuals in Butte County, California.	H. Res. 53	Open	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min. each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	N/A.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1977	Interior Appropriations	H.Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments preprinted before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 Of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority. ***RULE AMENDED***.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title.	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min.); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	ID.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min.) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min.), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional record.	N/A.
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min.) If adopted, it is considered as base text; Pre-printing gets priority.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes).	1D
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes).	1D
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min.); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min.); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min.) on regulatory reform.	5R
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A.
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A.
H.R. 1788	Amtrak Reform and Privatization Act of 1995	H. Res. 289	Open; waives all points of order against the bill's consideration; makes in order the Transportation substitute modified by the amend in the report; Bill read by title; waives all points of order against the substitute; makes in order a managers amend as the first order of business, if adopted it is considered base text (10 min.); waives all points of order against the amendment; Pre-printing gets priority.	N/A.
H.R. 1350	Maritime Security Act of 1995	H. Res. 287	Open; makes in order the committee substitute as original text; makes in order a managers amendment which if adopted is considered as original text (20 min.) unamendable; pre-printing gets priority.	N/A.
H.R. 2621	To Protect Federal Trust Funds	H. Res.	Closed; provides for the adoption of the Ways & Means amendment printed in the report. 1 hr. of general debate.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1745	Utah Public Lands Management Act of 1995	H.Res. 303	Open; waives cl 2(l)(6) of rule XI and sections 302(f) and 311(a) of the Budget Act against the bill's consideration. Makes in order the Resources substitute as base text and waives cl 7 of rule XVI and sections 302(f) and 308(a) of the Budget Act; makes in order a managers' amend as the first order of business, if adopted it is considered base text (10 min).	N/A.
H.Res. 304	Providing for Debate and Consideration of Three Measures Relating to U.S. Troop Deployments in Bosnia.	N/A	Closed; makes in order three resolutions; H.R. 2770 (Dorman), H.Res. 302 (Buyer), and H.Res. 306 (Gephardt); 1 hour of debate on each.	1D; 2R
H.Res. 309	Revised Budget Resolution	H.Res. 309	Closed; provides 2 hours of general debate in the House	N/A.
H.R. 558	Texas Low-Level Radioactive Waste Disposal Compact Consent Act	H.Res. 313	Open; pre-printing gets priority	N/A.
H.R. 2677	The National Parks and National Wildlife Refuge Systems Freedom Act of 1995.	H. Res. 323	Closed; consideration in the House; self-executes Young amendment	N/A.
PROCEDURE IN THE 104TH CONGRESS 2D SESSION				
H.R. 1643	To authorize the extension of nondiscriminatory treatment (MFN) to the products of Bulgaria.	H. Res. 334	Closed; provides to take the bill from the Speaker's table with the Senate amendment, and consider in the House the motion printed in the Rules Committee report; 1 hr. of general debate; previous question is considered as ordered. ** NR.	N/A.
H.J. Res. 134 H. Con. Res. 131	Making continuing appropriations/establishing procedures making the transmission of the continuing resolution H.J. Res. 134.	H. Res. 336	Closed; provides to take from the Speaker's table H.J. Res. 134 with the Senate amendment and concur with the Senate amendment with an amendment (H. Con. Res. 131) which is self-executed in the rule. The rule provides further that the bill shall not be sent back to the Senate until the Senate agrees to the provisions of H. Con. Res. 131. ** NR.	N/A.
H. R. 1358	Conveyance of National Marine Fisheries Service Laboratory at Gloucester, Massachusetts.	H. Res. 338	Closed; provides to take the bill from the Speakers table with the Senate amendment, and consider in the house the motion printed in the Rules Committee report; 1 hr. of general debate; previous quesetion is considered as ordered. ** NR.	N/A.
H.R. 2924	Social Security Guarantee Act	H. Res. 355	Closed; ** NR	N/A.
H.R. 2854	The Agricultural Market Transition Program	H. Res. 366	Restrictive; waives all points of order against the bill; 2 hrs of general debate; makes in order a committee substitute as original text and waives all points of order against the substitute; makes in order only the 16 amends printed in the report and waives all points of order against the amendments; circumvents unfunded mandates law; Chairman has en bloc authority for amends in report (20 min.) on each en bloc.	5D; 9R; 2 Bipartisan.
H.R. 994	Regulatory Sunset & Review Act of 1995	H.Res 368	Open rule; makes in order the Hyde substitute printed in the Record as original text; waives cl 7 of rule XVI against the substitute; Pre-printing gets priority; vacates the House action on S. 219 and provides to take the bill from the Speakers table and consider the Senate bill; allows Chrmn. Clinger a motion to strike all after the enacting clause of the Senate bill and insert the text of H.R. 994 as passed by the House (1 hr) debate; waives germaneness against the motion; provides if the motion is adopted that it is in order for the House to insist on its amendments and request a conference.	N/A.
H.R. 3021	To Guarantee the Continuing Full Investment of Social security and Other Federal Funds in Obligations of the United States.	H.Res 371	Closed rule; gives one motion to recommit, which if it contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	N/A.
H.R. 3019	A Further Downpayment Toward a Balanced Budget	H.Res. 372	Restrictive; self-executes CBO language regarding contingency funds in section 2 of the rule; makes in order only the amendments printed in the report; Lowey (20 min), Istook (20 min), Crapo (20 min), Obey (1 hr); waives all points of order against the amendments; give one motion to recommit, which if contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	2D/2R.
H.R. 2703	The Effective Death Penalty and Public Safety Act of 1996	H. Res. 380	Restrictive; makes in order only the amendments printed in the report; waives all points of orer against the amendments; gives Judiciary Chairman en bloc authority (20 min.) on enblocs; provides a Senate hook-up with S. 735. ** NR.	6D; 7R; 4 Bipartisan.
H.R. 2202	The Immigration and National Interest Act of 1995	H. Res. 384	Restrictive; waives all points of order against the bill and amendments in the report except for those arising under sec. 425(a) of the Budget Act (unfunded mandates); 2 hrs. of general debate on the bill; makes in order the committee substitute as base text; makes in order only the amends in the report; gives the Judiciary Chairman en bloc authority (20 min.) of debate on the en blocs; self-executes the Smith (TX) amendment re: employee verification program.	12D; 19R; 1 Bipartisan.
H.J. Res. 165	Making further continuing appropriations for FY 1996	H. Res. 386	Closed; provides for the consideration of the CR in the House and gives one motion to recommit which may contain instructions only if offered by the Minority Leader; the rule also waives cl 4(b) of rule XI against the following: an omnibus appropriations bill, another CR, a bill extending the debt limit. ** NR.	N/A.
H.R. 125	The Gun Crime Enforcement and Second Amendment Restoration Act of 1996.	H. Res. 388	Closed; self-executes an amendment; provides one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee. ** NR.	N/A

*Contract Bills, 67% restrictive; 33% open. **All legislation 1st Session, 53% restrictive; 47% open. *** All legislation 2d Session. 92% restrictive; 8% open. **** All legislation 104th Congress 63% restrictive; 37% open. ***** NR indicates that the legislation being considered by the House for amendment has circumvented standard procedure and was never reported from any House committee. ****** Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103d Congress. N/A means not available.

Mr. FROST. To date 9 out of 12 bills considered under rules in the 2d session of the 104th Congress, or 75 percent, have been considered under an irregular procedure which circumvents the standard committee procedure. They are as follows: H.R. 1643, to authorize the extension of nondiscriminatory treatment [MFN] to the products of Bulgaria; House Joint Resolution 134, making continuing appropriations for fiscal year 1996; H.R. 1358, conveyance of National Marine Fisheries Service Laboratory at Gloucester, MA; H.R. 2924, the Social Security Guarantee Act; H.R. 3021, to guarantee the continuing full investment of social security and other Federal funds in obligations of the United States; H.R. 3019, a further down payment toward a balanced budget; H.R. 2703, the Effective Death Penalty and Public Safety Act of 1996; House Joint Resolution 165, making further continuing appropriations for fiscal year 1996; and H.R. 125, the Crime Enforcement and Second Amendment Restoration Act of 1996.

Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, there are pictures now, there are 19 specific weapons that are restricted by the existing legislation. What I want people in this Chamber and I want people who are watching on TV to look at, which of these guns are used for hunting, maybe it is the Steyr Aug., which is one of the weapons. You can take a look at it for yourself. Is that a weapon used for hunting? Maybe it is the Fabrique Nationale, which is another one. Maybe that is a weapon used for hunting. Maybe it is the Tec-9 or the AK-47 or the Uzi or the Street Sweeper.

You know, sometimes, I mean, look for yourself, America, this is what we are talking about today. This is what we are talking about today. These are not weapons that people use for hunting. In fact, if you use one of these weapons for hunting, you could not eat the animal because the animal would not exist anymore.

Who uses these weapons? Drug dealers, terrorists, the scum of our society. That is who my Republican colleagues are protecting today.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, "Leave it alone." That is what the majority of Americans are saying. If we allow this issue to rise from the dead, it will kill people. There is one reason to prefer this ban: Criminals prefer assault weapons. That is their weapon of choice in killing cops, one-third of whom are killed by assault weapons. That is their weapon of choice. It is 8 times more likely to be used in a crime.

The difference between this ban and a pitiful substitute provision of the majority is interesting to note. The ban has brought an 18-percent decrease in the use of these weapons. The majority wants us to use mandatory prison terms, after killing a cop, after killing individuals, then put them in jail for as long as you can keep them.

The ban says, "Get the guns before they get us." Do not leave it until after-the-fact remedies. Get them now.

They are trying to get us even as I speak.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

You know, everything we hear on that side of the aisle is you know, "Get the guns, take the guns away." Well, let me tell you something, if we taught some discipline to these children as they were growing up and as they become young adults, maybe we would not have these problems.

Let us get some family values back. Let us let these parents do their job. Do not take guns away from law-abiding citizens.

Mr. Speaker, I yield such time as he might consume to the gentleman from Georgia [Mr. BARR], one of the original sponsors of this legislation.

Mr. BARR of Georgia. Mr. Speaker, I thank by colleague from New York for yielding me this time.

I do find it somewhat ironic that in the middle of this debate we hear from the gentlewoman, whom I admire greatly, from Washington, DC, who represents a jurisdiction which has banned handguns for a generation yet continues to suffer under one of the highest murder rates, the highest assault rates in the country.

Mr. Speaker, the time has come to educate those watching this debate today. I have to my left a chart which contains two pictures unadulterated, nothing magical here, two guns, guns that are absolutely identical in terms of their firing power, their firing mechanism, absolutely identical. Whatever this one can do, this one can do likewise. Why? Because they are the same gun. What then makes this gun a good gun, according to the proponents of the Clinton gun ban and our opponents here today and this one a bad gun, according to the proponents of the Clinton-Schumer gun ban and the opponents of our legislation here today?

It is not anything that has to do with its lethalness. It is not anything to do with its firepower. It is not anything to do with its accuracy. It is not anything to do with how many times or how quickly somebody can squeeze off two rounds or more. It has to do with the Dianne Feinstein syndrome, and that is it looks mean. It looks different, and therefore it must be different; it must be more lethal, it must be more dangerous, it must be more deadly.

This illustrates, Mr. Speaker, probably more than any other words can, the ridiculousness of the arguments on the other side. If indeed the arguments on the other side and those making those arguments were truly consistent, were truly honest about their real agenda here, they would be trying to ban both guns because if this one is dangerous, then this one must be dangerous too because it is exactly the same gun. Of course, they are not saying that, or are they?

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to this political payoff to the gun lobby. At a time when hard-working families across America are struggling against the tougher odds, this Congress should be focusing on their interests and not on special interests.

Since NEWT GRINGRICH took over this Congress, he has been paying off political IOU's. They allowed the pollution lobbyists to rewrite our Nation's environmental laws, then they rammed through their Medicare cuts to pay off their political contributors, and now they want to put assault weapons back on the streets of this Nation because the gun lobby is calling in its chits.

My constituents and my police officers in Connecticut say to me in no uncertain terms, assault weapons do not belong in the hands of drug dealers and street thugs. Say "no" to the gun lobby, say "no" to the special interests, and say "no" to this political payoff. Support the ban on assault weapons.

Mr. SOLOMON. Mr. Speaker, I yield myself such time such time as I might consume.

I am not going to have the gentlewoman's words taken down. She came very close to it when she says the Speaker of this House is paying off. That means a political bribe. Let us be a little careful. Let us keep it up here. Otherwise I can stand up and say, why is President Clinton vetoing the product liability bill? Because of a payoff to the trail lawyers of this Nation? We do not need to get into those kinds of conversations. Let us stick to the subject here.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. MEEHAN].

Mr. MEEHAN. Mr. Speaker, with all due respect, I think the record speaks for itself. Why else would we be here, because between January 1993 and November 1994, the NRA donated $308,000 in soft money contributions to the Republican National Committee.

□ 1130

Now, these Republican freshmen that were going to shake up the place, well, they demanded this vote today. Guess what? The NRA donated $235,000 in special interest PAC money to House freshmen in the 1993–94 election cycle. That was 44 percent of the total NRA contributions from PAC's.

The NRA gave large PAC contributions to four of the five House freshmen appointed by Speaker GINGRICH to his firearms legislation task force.

In the 1993–94 election cycle, the NRA donated $1,853,000 in PAC contributions, 78 percent going to Republicans.

In the 1993–94 election cycle, the NRA spent $1.5 million on independent expenditures, $1.2 which went to support Republican candidates.

In the 1993–94 election cycle, the NRA spent $1.93 million in communications costs to support Republican candidates.

Mr. Speaker, that is why we are here.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, well, sometimes I wonder how much the gentleman that just spoke, how much he might get from the trial lawyers. I would ask him, does that affect his vote?

I do not think so. The man is a man of integrity.

Mr. MEEHAN. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. Mr. Speaker, it is very, very obvious why we are here. These guys have taken millions and millions of dollars from special interest PAC's.

Mr. Speaker, the whole country is watching this debate. The whole country is watching it. Seventy percent of the American people are opposed to this.

Mr. SOLOMON. Mr. Speaker, reclaiming my time, the gentleman is not kidding anyone. The gentleman stands up and says that 73 percent of it went to Republicans. What happened to the 27 percent? Is he questioning the integrity of the other side of the aisle?

Mr. Speaker, let me get back on the subject. I would like to respond to a few comments that have been made about this rule. It is very important, since we are nearing the end of the debate. I would refer this to my good friend, the gentleman from Texas [Mr. FROST] because he and the gentleman from Michigan [Mr. CONYERS] and some others have brought up the subject.

First, this rule is similar to the rule provided in the last Congress for consideration of the bill that banned certain semiautomatic weapons. It is almost identical to the one when they were in power. That rule, House Resolution 416, I think sponsored by, I do not know if Mr. FROST carried it or Mr. BEILENSON, provided for consideration of an amendment in the nature of a substitute, and further provided, and I quote, because I want the gentleman to listen to this, "No amendment to the committee amendment in the nature of a substitute and no other amendment to the bill shall be in order."

Thas is exactly what we have here on the floor today. I do not say that the Democrats were right 2 years ago, and I do not say we are right today.

I would just like to respond further, like this rule, the rule in the last Congress provided for "one motion to recommit, with or without instructions." You have exactly the same opportunity that you gave us 2 years ago. So in both instances, opponents of the bill will be allowed the opportunity to offer one final amendment, or alternative, before the final passage vote.

Second, the gentleman from New York [Mr. SCHUMER] is he on the floor? Where is my good friend? There he is, over there. The gentleman testified before the Committee on Rules he would like to be able to offer a motion to strike, what was it, section 4? Section 4 from the bill, only if we allowed other amendments to be offered.

Now, to quote my good friend, "Otherwise he was satisfied with an up or down vote." That is exactly what we have given my good friend. I gave him exactly what he asked for.

I would just add that he will still have the right to offer the motion to strike under the motion to recommit with instructions permitted under this rule. You can still do this, you or anyone else.

Third, the gentleman from Michigan, where he is, my good friend over there, Mr. CONYERS, now the ranking member of the Committee on the Judiciary, complained this bill was not reported from any committee. That is true. We know that. But I would also observe for the RECORD that when the gentleman from Michigan was chairman, what was that committee you were chairman of before last year, oh, Committee on Government Operations, in the last Congress, he allowed, our good friend Mr. CONYERS allowed his committee to be discharged of a number of unreported bills that were considered by the House. The same situation here. No difference.

These included, and just in case you are writing up there, you know, these included a whole host of bills, H.R. 1578, H.R. 4600, both which provided for an expedited rescission process. Never reported from any committee. H.R. 3400, the Reinventing Government Act; H.R. 4604, to establish direct spending targets; H.R. 4092, the Violent Crime Control Act. Really? The Violent Crime Control Act; and H.R. 4907, the Full Budget Disclosure Act.

So the gentleman is well familiar with the practice of bringing unreported bills to the floor from his own committee when he was the chairman, and my good friend, the gentleman from Texas [Mr. FROST], who has been on the Committee on Rules as long as I have, if not longer, was there and voted to do just that.

As I indicated in the Committee on Rules yesterday, I fully expect that most of these bills we bring to this floor will be reported by a committee. You all know that I believe in the committee system, and I am going to do my best to make sure that they are. But there will be occasions in the future, as there have been in the past, under Democrat control and under Republican control, when unreported bills will be brought to the floor.

The House always has a right to determine whether or not we are going to pass this rule. If you do not like it, vote it down. But I am going to tell you something, and I have to say it from my heart, I served for 16 years in the minority. I was gaged. I could not get these product liability reform bills, medical malpractice, my flag amendment. I could not get any of these things on the floor. I was gagged.

So if we are in some kind of a rush now, I apologize, but we have got so much to do in such a short time. Maybe that is what this is all about.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 15 seconds to the gentleman from Massachusetts [Mr. MEEHAN] who wanted to correct the RECORD on one point.

Mr. MEEHAN. Mr. Speaker, just for the record, for my friend the gentleman from New York [Mr. SOLOMON] I have never taken any political action committee money. Maybe you should try it.

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield, why not take a poll of everybody on both sides of the aisle?

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, in response to the gentleman from New York [Mr. SOLOMON] only 15 percent of the rules in the last Congress involved bills that were taken away from committees, whereas we are talking about 75 percent in this session.

Second, when the assault weapons ban was brought to the floor last Congress, it was reported by the Committee on the Judiciary. It went through the committee process. This repeal has not gone through the committee process. That was the point I was making.

Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I do not question the motives on either side. Both sides make a point. The second amendment was not drafted to protect duck hunting. On the other hand, strapping a Stinger missile on your back and citing a second amendment right is a little extreme here, folks.

I think we need some balance, and the charges of politics are always amusing to me. This is not Kiwanis and Democrats; they gained the majority over these votes last year. Now, I support the limited ban. I am going to continue to support the limited ban.

But the problem in America today is we have the NRA on one side and the police on the other, and they are both good guys, they are separate and apart. And no matter what law you pass, nothing good can come from it until we bring both good guys together.

I am disappointed that my amendment, which would have created a commission to bring the NRA in, the police in, and the Congress in, to fashion out some understanding of a law we might all live with, that America can live with. I am hoping, Mr. Chairman, that you look at that in the future.

Mr. Speaker, let me say this: I am going to support a limited ban, but if we do not bring the NRA and the police together, you are whistling Dixie here.

Mr. SCHUMER. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Speaker, this is something we have tried to do, and the NRA has refused.

Mr. SOLOMON. Mr. Chairman, I yield 1 minute to the gentleman from West Palm Beach, FL [Mr. FOLEY], another outstanding new Member of this body, who represents part of my old hometown, Okeechobee.

Mr. FOLEY. Mr. Speaker, let me ask a question of the chairman of the Committee on Rules. Is it not a Democratic sponsor of the base bill, the gentleman from Texas [Mr. CHAPMAN]?

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield, the gentleman is a very honorable Member, too, the gentleman from Texas, Mr. JIM CHAPMAN.

Mr. FOLEY. Mr. Speaker, reclaiming my time, there is a lot of debate and the accusation is it is the Republicans selling out to the NRA. But it is a Democratic sponsor. The Republican leadership has allowed a Democratic bill on the floor for debate.

First of all, let us make a point, folks. Guns do not kill the people, it is who is behind the trigger that kills the person. We keep trying to blame inanimate objects for crime.

A serious problem in America, child abuse, physical and sexual abuse is going on; not created by a weapon; destruction of our children nonetheless.

Let us work together in this Chamber to stop crimes, get after the perpetrators, bring swift justice, quit death row appeals time and time again, Wayne Gacey, 20 years, $5 million of appeals, on death row, killed 33 young people. Not with a machine gun, not with a knife, he killed 30 young men. $5 million on death row appeals.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Speaker, I rise in strong opposition to this legislation to repeal the current ban on the manufacture or sale of assault weapons.

This is truly a sad day for the House of Representatives. Traditionally, it has been the sole prerogative and duty of the Speaker to schedule legislation for consideration on the floor of the House. But today, our schedule is under the control of an outside interest—the National Rifle Association.

No hearings were held on this legislation, there was no committee markup and we were only given 1 day's notice that the bill was being brought to the floor. But we do not really need a hearing record or a committee report to accompany this bill because we are not here to serve in our constitutional role as Federal legislators. Today is nothing more than a payback to the powerful and PAC-rich NRA. The new majority promised them a vote. And today they get it.

Mr. Speaker, as a former New York City police officer, I know how extraordinarily dangerous these weapons are. And let's be very clear. Assault weapons are not used to hunt game or for normal recreational purposes. Quite simply, assault weapons are designed and used to kill human beings—all too often police officers. That is why every major police organization is strongly opposed to this legislation.

Proponents of this legislation who are hiding behind the second amendment should be ashamed. The second amendment protects the right of Americans to keep and bear arms. It does not guarantee every drug lord or street thug easy access to cop killing semiautomatic assault weapons.

Mr. Speaker, this is, indeed, the people's House. Let's return it to them by overwhelmingly rejecting this hideous legislation.

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, the so-called ban has been neither the Armageddon for gun owners that was predicted during last year's debate nor the panacea for the problem of violent crime in America predicted by the advocates. The truth is, it did not ban much of anything, not the sale, only the future manufacture of a few weapons, chosen for cosmetic reasons. And even if it was not a real ban, have we not learned that prohibition does not work well in America? That is it.

I did not support the ban, because I said it would have little or no effect, it was symbolic; nor will I support the repeal here today and trigger an endless series of debates on this issue, while this House avoids the real debate on the real issues that bring violent crime to the streets of America.

Where are the 100,000 new cops? The majority will not give us the 100,000 new police in America. They say we cannot afford it. Where are the prevention programs, so we do not have another generation of dangerous criminals in America? They have been eliminated by the new majority.

Those are the things we should be debating here today on the floor, and this debate distracts from that.

Mr. FROST. Mr. Speaker, I yield the balance of my time to the gentlewoman from California [Ms. PELOSI].

The SPEAKER pro tempore. The gentlewoman from California [Ms. PELOSI] is recognized for 1½ minutes.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong opposition to the repeal of the ban. Mr. Speaker, as you are well aware, 3 years ago at 101 California Street, a mad gunman using an assault weapon went in and, in a matter of seconds, snuffed out the lives and futures of many young people in a law firm there. And now the Republican leadership wants to repeal the ban that so many of the victims of that assault worked so hard for.

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Mr. Speaker, the Republican leadership in this House talks a good act about caring about victims' rights. I do, too. We all talked about it a great deal in the course of the crime bill. Where are they when it comes to victims' rights when we are talking about the assault weapons? The victims of all of these assaults have called out, crusaded for this ban. I have here a long list, Mr. Speaker, not only of the victims but of the law enforcement agencies, the California State Sheriffs' Association, the California Police Chiefs' Association, lists and lists and lists of police departments and sheriffs' departments from across the State of California, the medical community, religious organizations, victims, and their families.

Mr. Speaker, in public opinion surveys, 72 percent of the people of California support the ban. So I say to these people, how do we explain to them why my colleagues are bringing this repeal to the floor, a repeal that the President has said he will veto? You tell me how I can explain to Michelle Scully, who lost her husband. Shall I just tell her that Members could not say no to the National Rifle Association?

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The gentleman from New York [Mr. SOLOMON] is recognized for 3 minutes and 15 seconds.

Mr. SOLOMON. Mr. Speaker, I thought I would come over here and just talk to my good friends on this side of the aisle. This bill, the rule here, brings a bill before us that does two things. It, first of all, repeals the ineffective ban on certain semiautomatic weapons, but more importantly, it increases the penalties on those lawbreakers who use guns in the course of a violent crime or Federal drug trafficking, which is even more important.

The ban, my friends, on these semiautomatic weapons has not been effective at all, and let me tell you why. No one has been prosecuted under this 1½-year-old statute. No one has been prosecuted. Fewer than three people have been prosecuted for violating the statute's semiautomatic firearms ban. Listen to this. More than 85 percent of the semiautomatic weapons firearms banned under this 1994 law are rifles, and yet the type of firearms that are least used in committing crimes are rifles. Think about that.

Mr. Speaker, according to the FBI Uniform Crime Reports, rifles of any description, including those this law defines as so-called assault weapons, which they are not, they are deer rifles, are used in less than 3 percent of the homicides, in the murders in this country. Less than 3 percent.

Banning guns does not reduce violent crime, you know it and I know it. Prosecuting violent criminals and putting them behind bars is the only proven method for controlling violent crime, and you know that and I know that, too. States with the highest crime imprisonment rates are among the States with the greatest decreases in violent crime. You think about that. The States you come from, if you have tough laws that put people in jail for committing crimes, you have less crime than the other States.

Mr. Speaker, the inescapable conclusion is that the way to stop crime is to put criminals in prison, not take away the rights of law-abiding citizens. I resent it. As I mentioned before, I am here in Washington 5 days a week. I live in rural New York up in the mountains, and my wife has the right to defend herself. She has the right to have weapons in her house. All these little feet in the door are attempts to take away those rights. That is why we need to repeal this ban and we need to stiffen the laws against these people, these inhumane, indecent people that would take other people's lives.

Come over here and vote for this rule, and then vote to repeal the ban and vote to stiffen the penalties on those people that commit crimes with guns.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 244, nays 166, not voting 21, as follows:

[Roll No. 91]

YEAS—244

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bevill
Bilirakis
Bliley
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Campbell
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger

Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cramer
Crane
Crapo
Cremeans
Cubin
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dornan
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Foley
Forbes
Fowler
Franks (CT)
Frisa
Frost
Funderburk
Gallegly
Gekas
Geren
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kanjorski
Kelly
Kim
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Laughlin
Lazio
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Murtha
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Portman
Poshard
Quillen
Rahall
Regula
Richardson
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Traficant
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Young (AK)
Zeliff

NAYS—166

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bilbray
Bishop
Blute
Boehlert
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Clayton
Coleman
Collins (MI)
Condit
Conyers
Coyne
Davis
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gonzalez
Greenwood
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
LaFalce
Lantos
LaTourette
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moran
Morella
Nadler
Neal
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Porter
Pryce
Quinn
Ramstad
Rangel
Reed
Rivers
Roemer
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Spratt
Studds
Thompson
Torkildsen
Torres
Torricelli
Towns
Upton
Velazquez
Vento
Visclosky
Ward
Watt (NC)
Waxman
Woolsey
Wynn
Yates
Young (FL)
Zimmer

NOT VOTING—21

Calvert
Clay
Clyburn
Collins (IL)
Cox
Cunningham
Dreier
Gibbons
Johnston
Lewis (CA)
McKeon
Moakley
Moorhead
Myers
Radanovich
Rose
Schroeder
Shaw
Stark
Stokes
Waters

□ 1206

The Clerk announced the following pairs:

On this vote:

Mr. Radanovich for, with Mrs. Collins of Illinois against.

Mr. Lewis of California for, with Mr. Moakley against.

Mr. Calvert for, with Mr. Johnston of Florida against.

Messrs. SAXTON, LEVIN, and LEACH changed their vote from "yea" to "nay."

Mr. GILLMOR changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BARR. Mr. Speaker, pursuant to House Resolution 388, I call up the bill (H.R. 125), to repeal the ban on semiautomatic assault weapons and the ban on large capacity ammunition feeding devices, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. WALKER). Pursuant to House Resolution 388, the amendment printed in House Report 104-490 is adopted.

The text of H.R. 125, as amended, is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gun Crime Enforcement and Second Amendment Restoration Act of 1996".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) One of the primary duties of government is to protect its citizens from armed violent criminals. America's cherished liberty and the social and economic prosperity of its communities are dependent upon government's ability to maintain public safety.

(2) Criminals, by definition, operate outside the law and routinely acquire firearms when they so desire. Banning specific types of firearms has no effect on the moral behavior of those who choose to inflict harm on innocent citizens.

(3) the most effective way to protect the public from gun-wielding violent criminals is to arrest, convict, and incarcerate such predators, and to ensure that they serve sentences of sufficient length to prevent them from returning quickly to the streets.

SEC. 3 ARMED VIOLENT CRIMINAL APPREHENSION DIRECTIVE.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Attorney General of the United States shall establish an armed violent criminal apprehension program consistent with the following requirements:

(1) Each United States attorney shall designate at least 1, assistant United States attorney to prosecute armed violent criminals.

(2) Each United States attorney shall establish an armed violent criminal apprehension task force comprised of appropriate law enforcement representatives. The task force shall develop strategies for removing armed violent criminals from the streets, taking into consideration—

(A) the importance of severe punishment in deterring armed violent crime;

(B) the effectiveness of Federal and State laws pertaining to apprehension and prosecution of armed violent criminals;

(C) the resources available to each law enforcement agency participating in the task force;

(D) the nature and extent of the violent crime occurring in the district for which the United States attorney is appointed; and

(E) the principle of limited Federal involvement in the prosecution of crimes traditionally prosecuted in State and local jurisdictions.

(3) Not less frequently than monthly, the Attorney General shall require each United States attorney to report to the Department of Justice the number of defendants charged with, or convicted of, violating section 922(g) or 924 of title 18, United States Code, in the district for which the United States attorney is appointed.

(4) Not less frequently than twice annually, the Attorney General shall submit to the Congress a compilation of the information received by the Department of Justice pursuant to paragraph (3) and a report on all waivers granted under subsection (b).

(b) WAIVER AUTHORITY.—

(1) REQUEST FOR WAIVER.—A United States attorney may request the Attorney General to waiver the requirements of subsection (a) with respect to the United States attorney.

(2) PROVISION OF WAIVER.—The Attorney General may waive the requirements of subsection (a) pursuant to a request made under paragraph (1), in accordance with guidelines which shall be established by the Attorney General. In establishing the guidelines, the Attorney General shall take into consideration the number of assistant United States attorneys in the office of the United States attorney making the request and the level of violent crime committed in the district for which the United States attorney is appointed.

(c) ARMED VIOLENT CRIMINAL DEFINED.—As used in this section, the term "armed violent criminal" means a person who is accused of violating section 922(g)(1) of title 18, United States Code, having been previously convicted of a violent crime, or who is accused of violating section 924 of such title.

(d) SUNSET.—This section shall have no force or effect after the 5-year period that begins 180 days after the date of the enactment of this Act.

SEC. 4. REPEAL OF THE PROHIBITIONS RELATING TO SEMIAUTOMATIC ASSAULT WEAPONS AND LARGE CAPACITY AMMUNITION FEEDING DEVICES.

(a) Section 922 of title 18, United States Code, is amended by striking subsections (v) and (w) and by striking the appendix.

(b) Section 921(a) of such title is amended by striking paragraph (30).

(c) Section 921(a)(31)(A) of such title is amended—

(1) by striking "manufactured after the date of enactment of the Violent Crime "Control and Law Enforcement Act of 1994"; and

(2) by striking "; or that can be readily restored or converted to accept,".

(d) Section 923(i) of such title is amended by striking the last 2 sentences.

(e) Section 924(a)(1)(B) of such title is amended by striking "(r), (v), or (w)" and inserting "or (r)".

(f) Section 110104 of the Violent Crime Control and Law Enforcement Act of 1994 (18 U.S.C 921 note) is repealed.

SEC. 5. MANDATORY PRISON TERMS FOR POSSESSING, BRANDISHING, OR DISCHARGING A FIREARM OR DESTRUCTIVE DEVICE DURING A FEDERAL CRIME THAT IS A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME.

Section 924(c) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively; and

(2) by striking paragraph (1) and inserting the following:

"(1) A person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(A) possesses a firearm, shall, in addition to the sentence imposed for the crime of violence or drug trafficking crime, be sentenced to imprisonment for 5 years;

"(B) brandishes a firearm, shall, in addition to the sentence imposed for the crime of violence or drug trafficking crime, be sentenced to imprisonment for 10 years; or

"(C) discharges a firearm with the intent to injure another person, shall, in addition to the sentence imposed for the crime of violence or drug trafficking crime, be sentenced to imprisonment for 20 years;

except that if the firearm is a short-barreled rifle or short-barreled shotgun, or is equipped with a large capacity ammunition feeding device, such additional sentence shall be imprisonment for 10 years more than the term of imprisonment that would otherwise be imposed under this paragraph, and if the firearm is a machinegun or destructive device or is equipped with a firearm silencer or firearm muffler, such additional sentence shall be imprisonment for 30 years.

"(2) In the case of the second or subsequent conviction of a person under this subsection—

"(A) if the person possessed a firearm during and in relation to such second or subsequent crime of violence or drug trafficking crime, the person shall, in addition to the sentence imposed for such second or subsequent offense, be sentenced to imprisonment for not less than 20 years;

"(B) if the person brandished a firearm during and in relation to such second or subsequent crime of violence or drug trafficking crime, the person shall, in addition to the sentence imposed for such second or subsequent offense, be sentenced to imprisonment for not less than 25 years; or

"(C) if the person discharged a firearm with the intent to injure another person during and in relation to such second or subsequent crime of violence or drug trafficking crime, the person shall, in addition to the sentence imposed for such second or subsequent offense, be sentenced to imprisonment for not less than 30 years;

except that if the firearm is a machinegun or destructive device or is equipped with a firearm silencer or firearm muffler, the person shall, in addition to the sentence imposed for such second or subsequent offense, be sentenced to life imprisonment.

"(3)(A) Notwithstanding any other provision of law, the court shall not impose a probationary sentence on any person convicted of a violation of this subsection, nor shall a term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used.

"(B) No person sentenced under this subsection shall be released for any reason whatsoever during a term of imprisonment imposed under this subsection.".

Under the rule, gentleman from Georgia [Mr. BARR] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Georgia [Mr. BARR].

Mr. BARR of Georgia. Mr. Speaker, I ask unanimous consent to yield half of the time allocated to me to the gentleman from Texas [Mr. CHAPMAN], an original sponsor of this legislation to whom this entire body owes a round of thanks, and I ask unanimous consent that he be allowed to control his time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to yield 15 minutes of my time to the distinguished gentleman from Connecticut [Mr. SHAYS], a leader on the Committee on Government Reform and Oversight, and I ask that he be given permission to yield time in blocks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Georgia [Mr. BARR].

Mr. BARR of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, rarely would I use the Washington Post to illustrate a point, but today I must. As we begin debate today, Mr. Speaker, on this important self-defense anticriminal legislation, I must draw the attention of this body to the Washington Post, and a very unusual juxtaposition of articles therein, which really frame this debate.

The debate is a debate between Washington values and American values, Washington values as illustrated by the Washington Post's spin on this issue, quoting the title of this article here, "Assault Gun Ban's Ricochet," and it goes on with the usual Washington spin, the usual Washington pap, the inside-the-Beltway stuff, that talks about some hidden agenda here, these extremists, this NRA, and it goes on and on with its Washington values, its Washington spin.

Immediately below and to the left, Mr. Speaker, is an article that really tells us what this debate is about.

□ 1315

It is about American values and a fear of the American people against criminals. It is about the American value that is enshrined in our Constitution that people like Suzonna Moore have the right to defend themselves because of rampant crime in our streets, not just our Nation's Capital, but especially in our Nation's Capital, and all across America.

According to the article, Mr. Speaker, this woman, an average American citizen, has felt the need to go out and buy a gun because she is not, her family is not, her house is not, her business is not being protected by the government, by the laws that we currently have on the books. We are here today to protect her and to protect millions of other American families against thugs and other criminals who would use firearms to blow away our friends, our husbands, our wives, our mothers, our parents, and our children.

Mr. Speaker, there are too many murders in America, far too many. What can we do in this body to alleviate that? Mr. Speaker, what can we do in this body to alleviate the pain that families, friends of men and women and children murdered by monsters on our streets and in our homes and in our businesses? Their pain, which we heard graphically about yesterday and read graphically about in the paper today, cannot and will not be alleviated by passing laws that say that our mothers and fathers, our husbands and wives, cannot defend themselves against heavily armed thugs.

Their pain cannot, will not, Mr. Speaker, be alleviated by laws that tell would-be murderers that "If you, the murderers of America attack our families and if you do so with guns that have larger capacity magazines, you will be guaranteed to outgun your victims." Rather, Mr. Speaker, the paid of these good, honest, hard-working American citizens who have lost loved ones to thugs, using guns of whatever sort, can be alleviated and can only be alleviated by the knowledge that their neighbors and themselves will, if this bill today is enacted, be able to fully defend themselves, and by the assurance that no longer would police officers such as Robert Perkins of Chicago, IL, be gunned down by a thug who has previously been convicted of shooting an Army officer in the face with a shotgun, and who was on parole at the time that he then murdered the police officer.

Mr. Speaker, these bereaved families would like to have this assurance and are entitled to the assurance, because this legislation would make it impossible for someone who shot a U.S. Army officer in the face to be paroled. He would be in jail for at least 30 years without parole. If he used a firearm with a large capacity magazine, Mr. Speaker, he would serve, under this legislation which President Clinton, if he is indeed interested in being tough on criminals, would sign; if a high capacity magazine was used in that crime, that person, in addition to the 30-year minimum mandatory sentence, would receive an additional 10-year minimum mandatory sentence.

Mr. Speaker, that is how we attack the problem illustrated in the paper today. That is how we go to those families who have been up here on the Hill with heart-rending legitimate stories of murder in their communities and in their homes, that is how we can give them some small measure of assurance that this will not continue to happen in America, by allowing our citizens and our families to fully protect themselves against thugs, and by the assurance that at least in our Federal system, at least in our Federal system, that what happens to other people, the same thing will happen to them, that they will be put away, and put away for a long, long time.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I would say to the dear gentleman from Georgia [Mr. BARR], if he would reread the Washington Post, which he does not like much anyway, it has nothing to do with assault weapons, the measure that is before us today.

Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. SCHUMER], the one man in the House of Representatives that has worked consistently across the year when he was the chairman of the Subcommittee on Crime of the Committee on the Judiciary, and throughout his career on crime issues, the leader on the assault weapons ban.

Mr. SCHUMER. Mr. Speaker, I thank the gentleman for yielding time to me, and for his leadership and generosity on this issue.

Mr. Speaker, if there is a word that describes this House today, it is "shame." This is one of the most shameful days in the history of this House. Barely 18 months ago, we passed the assault weapons ban, a ban that saves lives every day. Who, who outside the sordid world of the Washington Beltway, could believe that we would repeal this law today? Yet, today, the Speaker, the gentleman from Georgia [Mr. GINGRICH] and the Republican majority opened fire on the ban. Who could believe that this Congress wants to put the Uzi's and the AK-47's, the MAC-10's and the TEC-9's and all the other killing machines, back on our streets? NEWT GINGRICH has bent his knee and is kissing the ring of the NRA, even though most of his own Republican colleagues know that this rash step is the wrong thing to do.

No matter how big a debt the Republican majority owes the NRA, the overwhelming majority——

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WALKER). The gentleman from New York [Mr. SCHUMER] is reminded that the rules of the House do not allow personal attack on the House floor. The gentleman should confine his remarks to the subject matter at hand.

Mr. SCHUMER. I believe I am confining myself to the subject matter, Mr. Speaker. And the Republican majority will pay a price for ignoring the majority of American people in November. I wish every Member of this House could look into the face of the survivors of the assault weapons mayhem, as I have. I wish every Member would talk to the families that have lost sons and daughters and wives and husbands to the assault weapon madness, as I have. They would know that these guns do not just look bad, they are bad.

Ask the victims, the surviving wives and husbands and fathers and children and mothers, are they happy that the people who did these crimes are put in jail? They are. Maybe they would want a longer sentence. But what they would want most of all is that those criminals never had the guns to begin with so their loved ones would be alive today.

Assault weapons are disproportionately used in crime. They make up less than 1 percent of all the guns in the country, and yet they have accounted for 8 percent of the guns traced in crimes. The American gun owners throughout America are onto the NRA's lies that an automatic weapon ban would somehow take the guns away from law-abiding citizens. This law has been in effect for over a year, and the truth is not a single gun covered by it has been taken away from any law-abiding citizen.

Mr. Speaker, those who favor this repeal say that it is not the guns, it is the criminals we should go after. Fine. If they really believe that, then why do we not allow the visitors to walk into this Chamber and into the halls of this House with Uzi's and AK-47's and MAC-10's? Why do we not just junk our metal detectors? That, Mr. Speaker, is what we are asking every cop in America to do today if we repeal this ban.

This Congress, Mr. Speaker, has become more and more extreme. First, the Republican majority put the special interests above the pocketbooks of ordinary Americans. Now the Republican majority is putting the special interests of the Washington gun lobby above the lives of ordinary Americans. By bowing to the NRA and the extreme right, this House is putting the lives of American men, women, and children at risk. This is shameful, Mr. Speaker, shameful. The American people are scratching their heads in wonderment. This House should bow its head in shame.

Mr. CHAPMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me make sure that all Members of the House understand that this legislation is composed of three relatively simple elements. First is a repeal of she so-called assault rifle ban contained in the 1994 crime bill. Second, it contains a requirement that our Attorney General orders each U.S. attorney in America to designate, specify, and assign at least one assistant U.S. attorney to prosecute armed violent criminals, I think something needs to be done.

Third, this bill that we consider today will add enhanced minimum mandatory penalties on criminals who use firearms in the commission of a Federal crime. As trite as it may sound to some, it is the criminals who wreak the havoc on the families and the victims in this country. It is an outrage, and I do not think a single Member of this House would disagree when we see once- or twice-convicted criminals, criminals who have perhaps served time for a violent crime, who are paroled, and once again are put in a position where they are allowed and where circumstances allow that they can once again prey on the law-abiding in America.

As a former district attorney of 8 years, as is my colleague, the gentleman from Georgia [Mr. BARR], a prosecuting attorney, I can tell the Members that there are some, unfortunately, even some very young Americans, who by the time, I would suggest, they have gotten to the point that they can take a gun and point it in the face of a fellow person, a fellow citizen, when they have reached that point in their criminal career, then rehabilitation is probably beyond their reach.

When they have done that and been convicted and sent to jail, and they are out again and they do it again, it is time to lock up the violent criminals, it is time to throw away the key. It is time to punish those who wreak the kind of havoc on our families that we see as a result of gun violence.

It may sound trite, but I often wonder if we were here today debating how we could stop drunk driving, if someone would suggest the way that we stop the carnage on the highway, we stop the harm and the damage to families that are wreaked on those families by those that get drunk and drive, if someone came in here and said, "I have got the answer. Let's make driving Rolls Royces illegal. Let's ban Rolls Royces, to stop drunk driving and stop the crime they do," that makes about as much sense as what this Congress did in 1994.

It seems to me that we should understand, it is the driver of the vehicle who creates and causes the damage. It is the person bent on crime, bent on violence, bent on destruction, bent on thievery or robbery or whatever criminal mischief they have, that we in this Congress owe an obligation to our constituents and to this country to protect them by locking those people up. That is what this legislation will do.

That is why it is so important that today we pass this bill and tell our fellow constituents and our fellow Americans, "If you do this crime with a gun, you are gone. You are away. You will not be out there on parole, in society, where you can continue to wreak your havoc with the families and lives of innocent citizens."

Mr. Speaker, I think what we are about today is important legislation, not only protecting constitutional rights of all Americans, but doing so in a way that gives Americans the real protection they need from the violent criminals they may face in unknown circumstances. I urge a vote yes for this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield myself 10 seconds to express my appreciation to the chairman of the Committee on Rules for recommending to the primary holders of time that all sides within each party be given time, and specifically, to the gentleman from Michigan [Mr. CONYERS], for honoring that request and yielding time to the minority within the majority that strongly opposes repeal of the automatic weapons ban.

Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in strong opposition to this so-called Second Amendment Restoration Act.

This bill has precious little to do with our Constitution. It has everything to do with turning back the clock and repealing the assault weapons ban—a ban that is strongly supported by police officers everywhere—a ban that has been embraced by the American people.

Now, let us be clear, I have always supported the rights to legitimately owned weapons for sportsmen, hunters, and other law-abiding citizens. But this military-style assault weapons ban is, in the opinion of virtually every law enforcement authority in the country, an essential component of a comprehensive anticrime and anticriminal strategy.

This bill is necessary to give law enforcement the tools to attack the interstate gun running that goes on in these United States.

Let us be clear. This vote is a matter of conscience. The ban of military-style assault weapons was a rejection of "politics as usual" and an endorsement of "law and order."

My colleagues, the ban must stand.

We owe it to the law enforcement officers across this Nation—the men and women who put their lives on the line each and every day. They should not have to face Uzis and Streetsweepers and high-capacity clips as they work to protect our families.

And we owe it to the victims of gun violence, such as Amy Locicero Federici, of Hawthorne, NJ, who died in a hail of gunfire along the Long Island commuter railroad.

I would urge my colleagues to stand with law enforcement—to stand with the victims of violence—to stand with America's children—to defeat the repeal of this common-sense assault weapons ban.

Vote for the people, not the special interests.

☐ 1230

Mr. BARR of Georgia. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the previous speaker spoke of the police and police officers, and the gentleman from New York [Mr. SCHUMER] did, of course, likewise.

Let us lay something before the American people. Some police officers, some police chiefs endorse the gun ban. Some do not.

The gentleman from New York [Mr. SCHUMER] speaks repeatedly of police chiefs supporting the Clinton-Schumer gun ban. And, as I said, some do. But that is not nearly the end of the story.

Other chiefs and thousands of line officers across this country, not only feel otherwise but know otherwise, such as the Police Benevolent Association. They know that the 1994 gun ban and any gun ban shifts the balance of power away from victims and toward the criminals.

These officers know that a responsible citizenry with the capability to defend itself against well-armed criminals and thugs who will always, I repeat, always have the ability to obtain whatever weapons they want, whenever they want, is a safer citizenry. There are very real examples which we will discuss.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I do not know where my friend the distinguished member of the Judiciary Committee [Mr. BARR] was yesterday, but the Fraternal Order of Police were here again to beg us not to repeal this ban. The International Association of Police Chiefs are unanimous in opposing this repeal of the weapons ban. The Sheriffs Association. The National Association of Police Officers. Every organization of police in the United States of America supports the assault weapons ban. Every one. All. 100 percent. No exceptions. And so the gentleman unfortunately is in error.

Mr. Speaker, I reserve the balance of my time.

Mr. CHAPMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, what was banned back in 1994? The weapons are not assault weapons.

Assault weapons are weapons that are used in time of war by our military. They are automatic weapons.

To educate those Members that do not know much about guns, all you have to do to fire 10, 15, 25 rounds with an automatic weapon, which is truly an assault weapon, which is only what our military have. They do not have any of these guns. Even Third World countries do not have these kind of guns.

All you have to do is you pull the trigger, and you keep pulling it and the gun keeps firing. That is an automatic weapon. That is an assault weapon.

These are not automatic weapons. Not a one of them we are talking about today.

They are semiautomatic rifles. They are the same thing as has been said before as the gentleman from New Mexico pointed out, the gentleman from Florida has pointed out. They are no different than what I use when I go hunting. The only difference is it is cosmetic. It is what they look like. And because they look like military-type weapons, they get banned. But they do not kill, they do not hurt, they do not maim any different than the same one that I use when I go deer hunting.

What is the purpose of banning these? It is to lead the people out there, the general public, to believe that this House, the Senate, and the President really did something about stopping crime, to make you feel good. It is a feel-better thing. Because it did not do that and it will not do that. Crime is going to continue, because crime is caused by the person who uses that gun, no matter what it is, or uses the knife or uses the ball bat or whatever they use to kill somebody or maim somebody.

Mr. Speaker, I want to address right now my words to the members of the media, especially Dan Rather who I heard last night say that these are rapid-fire assault weapons. The trouble with Peter Jennings, Dan Rather, Tom Brokaw, and people like that who come from the big cities, they do not know anything about guns.

These are not rapid-fire guns, gentlemen. When you talk about this bill this evening on the network news, please call it what it is. It is a semiautomatic. To fire it, you have to pull the trigger each time. That is what you have to do.

It is no different than the hunting rifles that people use all the time in this country to hunt with. No different. And why they are called assault weapons, well, that is just a misnomer that the proponents of gun control have come up with to lead the people to believe that we are really doing something about crime.

Vote to repeal this ban. Let us get really on to putting criminals behind bars and stopping crime.

Mr. SHAYS. Mr. Speaker, I yield myself 10 seconds to just say that strong crime control laws and assault weapon bans are not mutually exclusive. We need both.

Mr. Speaker, with that I yield 1 minute and 40 seconds to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, I rise in strong opposition to this legislation.

Mr. Speaker, I understand the NRA's position on the second amendment, that individuals have an absolute right to bear arms and any attempt to restrict that right is a direct violation of the Constitution. I understand that argument. I do not buy it.

Under the first amendment, a person cannot yell "fire" in a crowded theater. I do not understand people who think the second amendment should enable someone to fire into a crowded theater. If we can put responsible restrictions on free speech, our most fundamental right, why can we not do the same, put responsible restrictions on the right to bear arms?

It is the slippery slope, they will tell us: Once we ban one weapon, the next thing we know, the Government will be knocking on our door to take away all our guns.

Keep in mind, the slope goes both ways. As technology continues to advance, weapons are increasingly becoming capable of killing more and more people in one fell swoop.

Is there no weapon that supporters of this bill think should be prohibited in the public interest? Should we allow people to drive tanks down the street, or have biological or nuclear weapons in their possession? Of course not. That is unreasonable. And so is this proposal.

Why is it that most police organizations support the ban on these weapons? It is because our good neighbors who put their lives on the line to protect the public are increasingly being outgunned, and this is not just a feeling they have, an impression, it is a fact.

The rest of the world looks on in wonderment and fear a we go out of our way to facilitate this carnage.

I urge my colleagues to oppose this measure which does nothing to help law-abiding citizens but a great deal to help gang members and other criminals. I see no reason to bring back weapons no civilian needs but criminals prefer. It seems to me we are catering to the wrong crowd.

Mr. BARR of Georgia. Mr. Speaker, I yield 30 seconds to the gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. Mr. Speaker, I want to thank the gentleman from Georgia for using my language of H.R. 698 as the basis of this good bill.

This legislation reaffirms our commitment to defend the Constitution and it also includes enhanced penalties for criminal use of a gun in Federal crimes. This legislation does what the original gun ban legislation could never have done: It fights crime.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. NADLER], a member of the committee who has worked on this subject matter for a considerable period of time.

Mr. NADLER. Mr. Speaker, we have had no hearings, very little time to debate, so let me give my colleagues a picture that is worth a thousand words.

This is Police Officer Richard Morrisey who was shot by a crazed gunman in East Chester, NY, yesterday. His partner Officer Michael Frey was killed before he could get out of his car. In all, more than 100 rounds were fired from inside the house. The crazed gunman killed a police officer, his own grandmother, his dog, and himself.

He did not have an assault weapon, but imagine the firepower and the additional carnage if he had.

Cops tell us that military style assault weapons present the greatest danger to officers and civilians alike.

These weapons turn murderous nuts like the one in East Chester yesterday or the Long Island Railroad into killing machines, able to fire multiple rounds quickly without reloading.

What is the message we are sending to the family of Officer Frey and to our constituents who want to live free from fear?

Is the NRA really more important than the lives of cops and law-abiding citizens?

My colleagues, just say no to this abomination.

Mr. SHAYS. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. I thank the gentleman for yielding me the time.

Mr. Speaker, a little earlier a gentleman on the other side of the aisle made mention of an automobile not being banned because people are killed, but the automobiles do have standards set upon them to help prevent that: Brakes, seat belts, frame structure, a whole range of other things.

Also an earlier speaker on this side of the aisle talks about American values when talking about this issue, and I would say massive accumulation of high-tech weapons is not about American values.

At the time the Constitution was ratified, the only two choices of weapons you had was a smooth bore musket or a musket with rifling, not Uzi's, TEC–9's and a whole range of other things which, even though they are semiautomatic, you can get off about 100 to 120 rounds a minute and maybe even more.

The Constitution protects people's rights right now to hunt, target shoot, defend themselves, or collect.

The bill we passed a couple of years ago defends that right and statutorily protects 650 weapons that you can choose from. The American values and the Constitution allows for diversity of opinion, and it is my opinion that we should not repeal the assault weapons manufacturing ban.

Mr. BARR of Georgia. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM], the distinguished chairman of the Subcommittee on Crime and Criminal Justice.

Mr. MCCOLLUM. I thank the gentleman for yielding me the time.

Mr. Speaker, I think the point here today can be best illustrated by this chart I have put up here.

This is a good gun. This is a bad gun. This gun is banned. This gun right down here is exactly the same weapon as that one up there, precisely the same weapon. The same company makes it, it has the same firepower, the same killing power, and yet we have banned one and we have not banned the other simply because of looks.

What we have got in the assault weapons ban is a sham. What we should be doing is what this bill does, and this bill does what needs to be done, it puts deterrence into the law and it says, "Hey. If you use a weapon, a gun, in any Federal crime, you're going to get 5 years for simply possessing it, 10 years for brandishing it and 15 years in jail for firing that gun and double that if you commit a second crime. And if you use a clip with 10 or more cartridges, you get not only that, you get the first crime, the first offense for possession 10 years, the second 20, and the third 30."

□ 1245

So that is what we should be doing. This particular assault weapon ban is ridiculous. We should not have passed it in the first place. Repealing it today is common sense. I urge a vote to repeal it.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman from Florida [Mr. MCCOLLUM], is a Tec-9 a good gun or a bad gun?

Well, let us talk about, the gentleman from Missouri [Mr. VOLKMER], automatic and semiautomatic weapons. They tested, among, in the San

Jose police department, they test-fired an Uzi, a 30-round magazine was emptied in slightly less than 2 seconds on full automatic, while the same magazine was emptied in just 5 seconds on semiautomatic. In other words, on semiautomatic assault weapons, you can fire 300 rounds a minute. The only reason it could not be done is the magazine will not hold that many. It can be done because here is a police test. It can be done. Oh, you do not like 300? How about 150 a minute?

Mr. CHAPMAN. Mr. Speaker, I yield 2¼ minutes to the gentleman from Oklahoma [Mr. BREWSTER].

Mr. BREWSTER. Mr. Speaker, I do not know if the gentleman from Michigan [Mr. CONYERS] has ever had a gun in his hand.

Mr. CONYERS. If the gentleman will yield, you do not need to know that.

Mr. BREWSTER. Mr. Speaker, it is physically impossible. It cannot be done.

I rise this afternoon to support H.R. 125. It is about time we set the record straight on the gun ban debate. The misinformation campaign waged by antigun groups and echoed in the media has intentionally distorted the issue.

What is an assault weapon? Just as in the general public, I am sure there are Members in this House who cannot distinguish between a fully automatic weapon and a semiautomatic weapon. The firearms banned by last session's legislation are ugly, but I have run across some very nice people in the world who are not so pretty. What a firearm looks like has nothing to do with how a firearm functions. When the media talks about the need to ban semiautomatic firearms, they hold up and point to fully automatic weapons like the much-publicized Uzi and AK-47's and other automatic weapons, which have been illegal for more than 40 years.

As the bill's language states, banning specific types of firearms has no effect on the behavior of those who commit violent crimes with firearms. The only sure way to keep gun-wielding violent criminals off the streets is to put them away in prison for a long, long time.

This legislation provides a real solution. It gets tough on criminals who use a firearm in violent criminal acts. Under this bill, convicted armed criminals will be sentenced to a minimum of 5 years in prison and not less than 20 years for a second offense.

A person who discharges a firearm while committing a violent crime must be sentenced to a minimum of 20 years in prison and not less than 30 years for a second offense.

If we can put criminals away and keep them away, we will reduce crime. Law-abiding gunowners want these criminals off the streets. They do not care whether they are using a gun, a knife, or a baseball bat. We must have swift, sure justice. We cannot continue to ask law-abiding Americans to forgo their constitutional right to own a firearm.

I urge my colleagues on both sides of the aisle to protect rights of law-abiding gunowners. Let us be tough on criminals, for a change, by voting for H.R. 125.

Mr. SHAYS. Mr. Speaker, I yield 30 seconds to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding me this time.

Here is the American values and the Constitution, which allows for diversity of opinion. The difference between these two weapons, this has a collapsible stock. It can be hidden in a small big, easier to walk into McDonald's or a bank; it provides also a pistol grip which makes it a lot easier to hold the weapon down while shooting it fast, and an extended magazine gives you a much larger capacity for bullets, which means if you walk into McDonald's or some other place, if you have some crazy nut, he is going to be able to kill more people with this gun than with this gun.

Mr. SHAYS. Mr. Speaker, I yield 1 minute to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I thank the gentleman for yielding me this time.

Almost 2 years ago this House debated and passed the semiautomatic assault weapon ban. It made eminent sense to pass that legislation then to keep these weapons of war from falling into the hands of criminals. It makes even more sense to keep the ban now. The ban is working. It is fighting crime. It is helping our police officers, and it is protecting our law-abiding citizens.

Since its enactment, the number of assault weapons used in crime has dropped 18 percent, and that will increase as fewer and fewer are available. Assault weapons are harder for criminals to get. The price of these has tripled in that same period of time, and after many decades of rising crime in America, we have finally started to reduce our crime rate.

The assault weapon ban is strongly supported by law enforcement officials. It makes their job safer. Every major law enforcement organization supports the ban. The ban is supported by 80 percent of the American people, who strongly feel criminals should not have assault weapons.

This also is a public safety issue. It is an anticrime issue. We must vote to continue the ban.

Mr. BARR of Georgia. Mr. Speaker, I yield myself 10 seconds.

The gentleman from Delaware is very learned, but he must know there are major police organizations that do not support the gun ban, that do not support gun control, such as the Police Benevolent Association, representing thousands of police officers.

Mr. Speaker, I yield 1¼ minutes to the gentleman from North Carolina [Mr. HEINEMAN], a distinguished member of the firearms legislation task force committee.

Mr. HEINEMAN. Mr. Speaker, today I rise for two purposes: first, to inform my colleagues that H.R. 125 has been substantially changed through language that I was privileged to include in the bill yesterday; second, to explain why this language improves this legislation.

The 1994 weapons ban was simply misguided legislation and cosmetic. The 1994 bill penalizes those who lawfully own firearms and at the same time ignores those individuals who commit crimes with firearms.

My language corrects the 1994 bill by imposing severe sentences on individuals who carry, display, or use firearms during the commission of a crime. The language also incorporates a balance between public safety and the right to bear arms by law-abiding citizens.

With the language included in H.R. 125, this bill will rain thunder, not cosmetics, on those individuals who carry, display, or use firearms during the committing of a crime.

I ask my colleagues to vote for H.R. 125.

With the Heineman language included, H.R. 125 is now effective crime legislation, and I join my colleagues in stating that the Southern States PBA, comprised of 16,000 police officers, does not support the ban.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE], one of our very thoughtful members of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, you know, I wonder on today, March 22, 1996, why this legislation is on the floor of the House. We have just heard a confusing announcement of who is for it and who is against it.

Let me tell you why it is here: Because the victims are dead. That is why it is here. There are no victims to lobby and be able to say that we are not here because of these kinds of violent weapons. This was the bill yesterday, H.R. 125, 1 page, 1 page to ban the repeal of assault weapons.

We know what happened: Politics got into this, and so they caused the confusion that this is an anticrime piece of legislation.

Now it is some 10 pages long. It is a joke. All they are doing is saying, "We want to repeal the assault weapons ban, and we will cloud the issue with a ruling about violent crime. We can penalize criminals."

We are all against it. What are we going to do about dead police officers, what are we going to do about Steve Posado's wife, who was gunned down in a San Francisco law firm with an automatic weapon?

Vote this legislation down. It is a masquerade.

It is a disgrace.

Mr. Speaker, I must rise in opposition to H.R. 125, the Gun Crime Enforcement and Second Amendment Restoration Act. The House leadership has brought this bill to floor without hearings or a markup in the Crime Subcommittee or the full Judiciary Committee. This process is an outrage. In fact, this bill is only being considered because of promises made to very influential special interest groups.

First of all, we must clear up the confusion over the ban on semiautomatic weapons in the 1994 crime law. Contrary to popular belief, provisions in the 1994 crime law only banned 19 semiautomatic weapons. Moreover, persons who already owned such weapons prior to the new law could still lawfully possess such weapons. Additionally, it is important to point out that approximately 650 rifles and shotguns were exempted from the new law. The ban on those 19 semiautomatic weapons has been a great success. Such weapons were used primarily by individuals who engage in criminal activity. The question that I raise is what law-abiding citizen has need for an Uzi or a gun commonly known as a "Street Sweeper"? This ban has had no effect on Americans who are hunters and sportsmen.

The ban on those 19 semiautomatic weapons is fully supported by all major law enforcement organizations, such as the National Sheriffs' Association and the International Association of Chiefs of Police. The membership of these organizations are on the front line in the war on crime and they know first-hand the importance of keeping these assault weapons off of the streets of America.

This bill is a bad bill because it also repeals the provisions of the 1994 crime law that makes the use of a semiautomatic weapon during a Federal crime or violence or drug trafficking punishable by 5 years in prison. Furthermore, it repeals the provision in current law that makes it a Federal offense to manufacture or sell these assault weapons.

Finally, let me add that the majority of the American people support this ban because it has made a difference in making their communities safe. In fact, statistics indicate that assault weapons make up 1 percent of all guns but are 18 times more likely than other guns to be used to kill police officers or to be traced to other criminal activity.

I urge my colleagues to defeat H.R. 125. It is a terrible bill. It is unnecessary and will contribute to greater criminal activity across the Nation.

Mr. CHAPMAN. Mr. Speaker, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I am for this repeal. I have for 18 years been against gun control because I think it is feel-good that does not work. So after 18 years, I have 100 percent voting record with the NRA.

Now let me say something about the NRA: The NRA, in my opinion, in the last few years, because of its hierarchy, has become an apparatus to elect right-wing politicians to State legislatures and to this Congress.

And the members of the NRA ought to understand the partisanship of that group, and if you do not believe it, think of this: President Reagan and President Bush both opposed major legislation that the NRA was for, and they were for major legislation that the NRA was against, and nobody in America knows it because of the partisanship of the NRA.

I vote on this issue on the policy of it. But I must say that the NRA has indeed become an apparatus to elect right-wingers.

Mr. SHAYS. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE], the distinguished chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, this is a very painful vote, because there are great arguments on both sides and there are great people on both sides. I do not see the point of polarizing this. This is across the lines of politics and party and geography.

But I, after much wrestling with this idea, this issue, come out opposed to H.R. 125. At the same time, I strongly support the second amendment. I believe every American has the right to keep and bear arms. But as the first amendment guaranteeing free speech has reasonable restrictions, copyright, trademarks, slander, libel, obscenity, fire in a crowded theater, it does not impair the rigor of the first amendment to have reasonable restrictions on it, so the second amendment can endure and flourish with reasonable restrictions.

I do not think the kid next door should have a flamethrower or a Howitzer or a 5-inch .38. And so where you draw the line? It seems to me hunters have a right to hunting rifles, hunting guns. A person has a right to a pump shotgun to protect his home, and I am told that is the weapon that will do it. Target shooters have a right to weapons.

But an Uzi, an AK-47, has no legitimate purpose in the civilian population. It may have a purpose during war because all they can do is kill a lot of people in a hurry. But it seems to me the promiscuous proliferation, forgive the alliteration, of these weapons among youth gangs in cities, who many times can outgun the police, is stupid.

It is not an impairment of the second amendment to say "no." Take your hunting rifle, take your shotgun, take your target pistol and your target rifle, but an AK-47, a Street Sweeper, belongs in the arsenal under lock and key.

Now, this bill is a statement. I know that. It does not do much. The definition of an assault weapon is kind of vague and fuzzy. But it is a statement that there are too many guns out there.

They are killing instrumentalities. They are too available to people unfit and unsuited physically and temperamentally and emotionally to use them, and there ought to be a limit. And if this cuts down the millions of guns that are available to people who are unsuited to use them, then it is worthwhile. It only lasts 10 years. We have used up 2. It sunsets, then it does not make them illegitimate, it just says no more importation and no more manufacture.

□ 1300

Let us give it a chance, and maybe some lives. But I do not think this violates the second amendment. I think it is a reasonable restriction.

Mr. BARR of Georgia. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Mexico [Mr. SCHIFF], a Member of the Committee on the Judiciary.

Mr. SCHIFF. Mr. Speaker, this debate is not about firepower. True rapid fire automatic weapons, military assault weapons, have been banned for years, and they should be banned. What can make a weapon an assault weapon, and thereby illegal under the current legislation, is whether is carries a bayonet. The same rifle with a bayonet can be illegal as an assault weapon under this legislation. The same rifle without a bayonet can be a legal weapon. I invite any proponent of the current legislation to explain exactly how whether a weapon can carry a bayonet makes sense.

Second of all, Director Magaw of the Bureau of Alcohol, Tobacco and Firearms, has told me that the Federal Government does not keep records of when what they call assault weapons are used in crimes. If the chief Government enforcer of Federal firearms law says the Government does not keep records of when such weapons are used in crime, I think that makes any statistics being thrown out here about the use of these weapons in crime and how they have been affected, if at all, by the current legislation, very, very suspect.

Mr. CONYERS. Mr. Speaker, I yield myself 10 seconds for the attention of the gentleman from New Mexico [Mr. SCHIFF].

Now, STEVE, you know that there is a floating list of requirements, and that bayonet mount that you keep laying up here is 1 of 7 or 10 items. So, please stop taking advantage of the House. As a matter of fact, it is folding-telescoping stock, protruding pistol grip, bayonet mount that drives you furious, threaded muzzle or flash suppressor, or grenade launcher. All of those are stated.

Mr. Speaker, I yield 10 seconds to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SHAYS. Mr. Speaker, I yield 10 seconds to the gentleman from New Mexico.

The SPEAKER pro tempore. The gentleman from New Mexico is recognized for 20 seconds.

Mr. SCHIFF. Mr. Speaker, I wonder if anyone in Michigan committed a crime recently with a grenade launcher?

Mr. CONYERS. I do not know, and you do not either. That is not the point.

Mr. SCHIFF. The gentleman gave me the time. Any two of those items, including a grenade launcher, can make a weapon illegal under the current legislation. None of that has anything to do with firepower. If any or all of the matters the gentleman listed had anything to do with firepower, do a demonstration. Put the two weapons next to each other and prove your point.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, in the last Congress we passed an historic crime bill that included a ban on assault weapons, and it was supported by 80 percent of the public. It is hard to believe that we are here today. So why are we here? Because the NRA donated a lot of money to Republican campaigns, and the NRA expects a return on its investment, and now it wants its money's worth. This is absolutely wrong. It is a wrong time for us to turn our back on our Nation.

Just yesterday in my district in Eastchester, NY, a lunatic killed a police officer in the line of duty with a high-powered rifle. The police do not need less protection from maniacs with guns; they need more.

Mr. SHAYS. Mr. Speaker, I yield one minute to our distinguished colleague, the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I thank my friend from Connecticut, who is also one of our bipartisan leaders on the issue of campaign finance reform. I mention that because I think this bill goes more to the need for campaign finance reform than it says about assault weapons. You know, the fact is that this bill is not going any place, it is going to be vetoed. There are far more important things we need to be doing.

But the three-quarters of the American people support the ban, because they know it is reasonable and is working, can only conclude this bill is coming up because the NRA convention is coming up, and our Members wanted to have some of that $2 million they are going to be parceling out.

So in the interest of restoring the individual reputation of the Members and the institutional credibility of this body, is it not time that Members, both Democrats and Republicans alike, when they precede their remarks in favor of this bill or who plan to vote for this bill, publicly disclose how much they in fact have taken from the NRA and whether they intend to continue taking money from the NRA? That is the kind of complete disclosure and real campaign finance reform. It is time to do the public's interest instead of PAC's.

Mr. ROHRABACHER. Mr. Speaker, is the gentleman questioning the motives of his colleagues?

The SPEAKER pro tempore. The gentleman from California has not been recognized. The gentleman from California is out of order.

Mr. BARR of Georgia. Mr. Speaker, I am proud to yield 30 seconds to the gentleman from Indiana [Mr. BUYER], a distinguished member of the Committee on the Judiciary.

Mr. BUYER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I just want to state that through this whole debate, gun control is not crime control. Here in Washington, where the possession of handguns are illegal, you can walk right out that Capitol Hill door and you see windows that have bars on them in homes and businesses, and, to me, it is highly reflective that the wrong people are behind bars.

People are living in fear in this town. What this is about is giving citizens the opportunity to defend themselves from the real thugs. It is the thugs, it is the criminals, who pull the trigger. We should have greater deterrence to go after them. That is what this bill does.

Mr. CONYERS. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, I would like the gentleman from California [Mr. ROHRABACHER] to know that, yes, motives were being raised by the gentleman from Virginia [Mr. MORAN].

Mr. Speaker, I yield 30 seconds to the gentlewoman from New York [Mrs. MALONEY], a distinguished member of the Committee on Government Operations.

Mrs. MALONEY. Mr. Speaker, this bill is extreme. Three out of four Americans support the assault weapons ban. Two out of three gun owners support the assault weapons ban.

This bill contradicts what the Republican majority claims they stand for. You cannot be anticrime and pro-Uzi. You cannot be pro-family and pro-AK-47.

This debate is not a question of hunting and self-defense. Assault weapons are not used for hunting purposes. Only drug dealers use Uzis for self-defense. The only real question is, is there anything the Republican majority will not do for the NRA?

Mr. CHAPMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Speaker, my commitment is to protect this Nation's law abiding citizens, or, more importantly, to allow them to protect themselves.

I am deeply concerned about the terrible toll that violent crime takes on our society. Decent people are being held hostage by a small but brutally violent segment of our population. Our response? Criminals serve increasingly smaller portions of already short sentences, while we take rights away from their victims.

The FBI statistics prove that banning guns does not address the growing crime rate. Less than 3 percent of murders in this country involve semiautomatic weapons. A person has a 95-percent greater chance of being killed by a blunt object than a rifle. Maybe we should ban knives and fists, which are responsible for 15 and 5 percent of homicides respectively.

The right to keep and bear arms is a basic guarantee of our Constitution, and, no, this right has not outlived its purpose in today's world. We must renew and strengthen this right for our law abiding citizens. The way to fight crime, Mr. Speaker, is to punish criminals for the crimes they commit by imposing harsh penalties and assuring that they are served. If you want to join me in encouraging States to do this, cosponsor my bill, House Concurrent Resolution 105.

Mr. Speaker, I urge my colleagues to remember who we are talking about in this debate. Taking guns from Americans does not make them safer because the criminals will still have them. We cannot solve our crime problem by limiting an honest citizen's right to own a firearm. Our commitment, Mr. Speaker, should be to allow our people to protect themselves.

Please support House Resolution 125 and please cosponsor House Concurrent Resolution 105.

Mr. SHAYS. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Illinois [Mr. PORTER]

Mr. PORTER. Mr. Speaker, oh, nonsense. Strong law enforcement and stiff penalties and reasonable gun control measures are not alternatives. We can and we should do both of them.

The NRA began losing the American people when it failed to follow most law enforcement officers who support Brady and a ban on certain assault weapons. Many NRA members are not absolutists. They realize that the Supreme Court never interpreted the constitution to say that people may own and use any weapon they want in our country. They realize that with rights in our free society go responsibilities, responsibilities to the rest of society.

No one wants to take guns from law abiding citizens who use them for sport or hunting purposes or for protection. But it is time the NRA should respect and be responsible to the 75 to 80 percent of the American people who say that reasonable gun control laws are not too much to ask.

Mr. BARR of Georgia. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. CHRISTENSEN], whose hard time for hard criminals is included in this bill.

Mr. CHRISTENSEN. Mr. Speaker, I stand up for the fact that this has tough mandatory sentencing for those criminals.

Mr. Speaker, I rise today in strong support of the measure before us today. This legislation makes it clear that problem with guns in our society is not the guns but the felons who use them.

While the most contentious debate today will be over the unnecessary ban on certain semiautomatic firearms, I have worked hard to make sure that this legislation would include another important provision.

Section 5 of this bill will dramatically increase the penalties for possessing, brandishing, or discharging a firearm during the commission of a Federal felony.

This section, which is similar to the Hard Time for Gun Crimes Act which I introduced last week, provides stiff mandatory sentences for anyone who commits a crime with a gun, with even stiffer sentences for those who discharge a firearm while committing a crime.

This bill sends a clear message that we need to keep society's most violent felons behind bars. Americans have zero tolerance for violent crime, so our justice system should too. Our families and children should not be afraid to walk to school, go to the grocery store, and leave their windows open at night.

I believe firmly that gun control is not crime control. Why would someone willing to commit murder respect gun control laws?

Gun control, while often well-intentioned, has simply failed. We have over 22,000 gun control laws on the books today. Controlling those who use guns in a criminal way is far more effective than cracking down on the vast majority of law-abiding citizens who own firearms for hunting and their own protection.

We should work to keep those who would misuse guns in jail. No more slick criminal defense attorneys pushing criminals to freedom through legal loopholes. No more soft sentences after teary speeches before the bench. No more legal gymnastics setting criminals free after a fraction of their allotted time in jail.

I have worked hard to get language included in this bill which would keep violent criminals behind bars, and section 5 of this bill is going to do just that. I applaud and thank the leadership for including increased penalties for crimes committed with guns in this important legislation.

Mr. BARR of Georgia. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I thank my colleague from Georgia for yielding me time. Let me ask my colleagues, how many gun control laws are on the books? Twenty thousand? Twenty thousand are on the books. And where are most of those laws applying? Washington, DC.

You know, it is appropriate when my colleague from Georgia talked about the Washington Post. There was an article today that got my attention that showed crime has increased in Washington, DC, since 1995, 14 percent.

A Lieutenant Duckett there, president of the Black Police Caucus, said gun control has not worked in Washington, DC. The only people who have guns are the criminals.

Washington, DC, is often referred to as "the crime capital of the country." Guess what folks? DC has one of the strictest gun control laws in the entire country.

In fact, Lt. Lowell K. Duckett, president of the Black Police Caucus said citizens are right to arm themselves. He also said "Gun control has not worked in DC. The only people who have guns are the criminals."

Lieutenant Duckett further stated, "DC has one of the strictest gun laws in the Nation," it also has one of the highest murder rates.

And so, criminals are armed while good, law-abiding citizens are not. In the wild west at least both sides were armed.

Now, criminals are armed and dangerous—citizens are the one's living in a prison-like atmosphere.

Mr. CONYERS. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, the gentleman from Michigan [Mr. BARCIA] my dear friend and Democratic colleague, and I are going to continue our discussion at the annual Jefferson-Jackson Day dinner at Covell Hall in Detroit tomorrow. So stay tuned.

Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. MARKEY] who has worked very hard on this matter.

Mr. MARKEY. Mr. Speaker, the second amendment does not allow Americans to own tanks or bazookas or grenade launchers or assault weapons. But the chief lobbyist of the NRA testified before Congress this year that anyone should be able to own them.

I cannot believe that we are actually debating on the floor of Congress whether the American people are safer with these guns on or off the streets. But we are debating it today. Why? Promises made and promises kept, ladies and gentlemen. Promises made and promises kept. The NRA has come to town to redeem a promise, and the Republican freshmen who made this deadly deal are about to keep it.

Do not insult our police officers, who are sick and tired of having their fellow officers gunned down by crackpots. Do not insult the mothers and fathers of elementary school children sprayed with 106 rounds in Stockton, CA. Do not insult the American people, who saw their own White House peppered with gunfire by a lunatic with an assault weapon.

Stop this Congress before it hurts somebody. Vote no.

Mr. CHAPMAN. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

☐ 1315

Mr. WISE. Mr. Speaker, there is too much crime and too much violence in these crimes. That is why I support doing away with the gun ban because it is false advertising. It does not deal with these problems. This ban, the existing ban, deals with how a firearm looks. Does it have a bayonet mount or a flash suppressor? Then it is banned. But a gun, a firearm that shoots the same bullet at the same velocity with the same impact but looks different, that can be legal.

Mr. Speaker, the FBI and the Department of Justice statistics themselves show that one has a greater chance of being murdered tonight with a steak knife or by fish or feet than by one of these types of firearms. My experience is that criminals who want to commit a crime with a gun are going to get a gun, it does not matter what it is.

What we can do is what is in this bill, and that is make sure that they do the time. Let us make sure that there is a stiff mandatory sentence so that they are removed from society. Fighting crime requires more than simple feel-good-but-accomplish-little legislation.

Mr. SHAYS. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, what did former Presidents Reagan and Bush, former Senator Barry Goldwater, a majority of law enforcement officials and a majority of the American public and many members of the NRA have in common? They all supported the ban on assault weapons that we passed in the 103d Congress, and they continue to do so.

We are not talking about hunting weapons. We are talking about firearms whose only purpose is to kill large numbers of people as quickly as possible. Hundreds of firearms are still available to sportsmen and to those who want it for self-defense. Assault weapons are disproportionately used for criminal purposes. I want my colleagues to know that that ban in the 103d Congress has made a difference because we have found that, with the ban in place, 18.4 percent fewer assault weapons were traced to crime in the first 8 months of 1995 than in the first 8 months of 1994, the first such decline in recent years.

I urge my colleagues very earnestly to vote against this repeal.

The SPEAKER pro tempore. The Chair would again announce the times. The gentleman from Georgia [Mr. BARR] has 4 minutes remaining, the gentleman from Michigan [Mr. CONYERS] has 4 minutes and 10 seconds remaining, the gentleman from Texas [Mr. CHAPMAN] has a minute and a quarter, the gentleman from Connecticut [Mr. SHAYS] has 3½ minutes remaining. The gentleman from Georgia [Mr. BARR] is entitled to close the debate.

Mr. BARR of Georgia. Mr. Speaker, I yield 30 seconds to the gentleman from Georgia [Mr. COLLINS].

Mr. COLLINS of Georgia. Mr. Speaker, in the previous debate, one of our colleagues said the scum of the Earth uses these weapons. I say to my colleagues, let us get rid of the scum. But let me say something, the scum will use anything to kill with.

Let me tell my colleagues about a couple of them in Georgia. We had one who shot a police officer with a shotgun, let him bleed to death. We got rid of that scum, we executed him. I witnessed it. Let me tell about another scum who took a club and beat a woman's head to a pulp. We got rid of that scum. We executed him. We got over 100 scums waiting on death row with the same punishment. Let us get rid of the scum, not law abiding citizens.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Speaker, we knew it was coming, and now the payoff to the NRA has finally arrived. It is common knowledge that the NRA pumped $1.4 million into supporting extremist candidates. As a result, Speaker GINGRICH now has the votes to advance the NRA agenda.

Mr. Speaker, this vote is a shame for this House. This vote, Mr. Speaker, amounts to nothing more than a big payback. No wonder Congress' approval rating has sunk so low.

Mr. CHAPMAN. Mr. Speaker, I reserve the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield 1 minute and 10 seconds to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I want to share with my colleagues a letter addressed to the Members of the House of Representatives written in May 1994:

> We are writing to urge your support for a ban on the domestic manufacture of military-style assault weapons. This is a matter of vital importance to the public safety.

I will not read the rest of the letter, but those are the two opening sentences of a letter signed by former Republican President Gerald Ford, former Democratic President Jimmy Carter, former Republican President Ronald Reagan. This is not radical stuff. The letter goes on to refer to the 1989 import ban that resulted in an impressive 40-percent drop in the imported assault weapons, passed, administratively by President Bush, Republican President Bush. That import ban is mirrored in this ban on assault weapons.

All this does is to prevent the domestic manufacture of the very same weapons a Republican President prevented the import of. Logical, simple, fair. That is why the American people support it.

The second amendment was not drawn with modern weapons in mind. And as the development of modern communications technology has required us to modernize the communications law, so the development of modern weaponry available on our markets has required us to modernize first our import policy and then our domestic law.

Mr. BARR of Georgia. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, the ban means wasting the time and limited resources of our police and courts. The police will spend their time disarming potential victims instead of going after youth gangs who are terrorizing our inner cities. This mentality of the ban would send the authorities after religious eccentrics down in Waco.

Let us focus on the criminal. Let us not waste the time and resources of our police on disarming innocent people who just want to defend themselves but have never committed a crime. That is the mentality that burned those people out in Waco, and that is what my colleagues are fostering today.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, let me tell my colleagues what this shameful debate is all about. Rather than risk offending the NRA, Speaker GINGRICH would rather risk the lives of policemen and innocent people.

Today I received a letter from a Chicago policeman who puts his life on the line every day fighting gangs in that city. He sent me clippings of policemen killed in Chicago by these assault weapons and begged me to vote against this ban. The choice before this House is between the police and the gun lobby. The choice is between the safety of the men and women who put the badges on and put their lives on the line every day and the political power of the gun lobby. Vote no on this shameful bill.

Mr. CHAPMAN. Mr. Speaker, I reserve the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield 30 seconds to the gentleman from Kentucky [Mr. WARD], a former Peace Corps volunteer.

Mr. WARD. Mr. Speaker, I appreciate the nonpartisanship of getting the time from the Republican side because I want to remind the House of the tragedy that took place in Louisville, KY, at the Standard Gravure plant. People were working when a disgruntled former employee came in with one of these weapons and killed eight people. He wounded horribly my wife's first cousin.

I introduced a ban on these weapons in 1989 in Kentucky. I would be embarrassed to be a part of this body when it is repealed. I stand with our police, with our police chiefs, and with the American people and urge defeat of this repeal.

Mr. BARR of Georgia. Mr. Speaker, if I might inquire as to how much time is remaining on all sides.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. BARR] has 3 minutes remaining. The gentleman from Connecticut [Mr. SHAYS] has 1 minute and 50 seconds remaining. The gentleman from Michigan [Mr. CONYERS] has 3 minutes and 10 seconds remaining. The gentleman from Texas [Mr. CHAPMAN] has 1¼ minutes remaining.

Mr. BARR of Georgia. Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentlewoman from Florida [Ms. BROWN].

Ms. BROWN of Florida. Mr. Speaker, how low can you go? This 104th Congress has hit a new low. The NRA, I mean the GOP leadership, showed me the old saying is true, he who has the gold makes the rule. Law enforcement officers from my district have told me how critical it is to keep the assault ban in place. No one needs an AK-47 to defend their home or to go hunting unless they are hunting people. We must think about the message Congress is sending to young people of America by saying assault weapons are OK.

Sometimes you just don't appreciate how good something is until it is gone. Today, I truly miss Speaker Foley for his fairness in allowing debate on the important issues. We used to sing a song, "How Low Can You Go?" This 104th Congress has hit a new low. The NRA, I mean the GOP leadership, shows me that the old saying is true, "He who has the gold, makes the rules."

Mr. Speaker, I rise today in the strongest opposition to repealing the ban on assault weapons. I voted in 1994 to put a ban on deadly assault weapons because they are responsible for the deaths of too many of my people. It is unconscionable for responsible legislators to repeal this important ban. Without hearings or committee action, and only 1 hour of floor debate, it seems the reason for today's vote is so the majority party can pay back the NRA. That's not good enough for me or the people in my district who want to keep this ban in place.

Law enforcement officials from all over my district have told me how critical it is to keep the assault ban in place. Police Chief Wayland Clifton, of Gainesville, FL, says:

> The incidence of violent crime, especially involving firearms, is on the rise in America. This fact is confirmed by numerous studies conducted by the Department of Justice. . . . Many times, instances of mass violence and multiple homicides are worse when assault weapons are used. The weapons, due to their nature, provide criminals with greater firepower, thus these weapons pose a greater risk to both police officers and potential victims.

Even though assault weapons make up less than 1 percent of all guns, they are 18 times more likely to be cop-killers. Police support this ban because outlawing assault weapons saves the lives of police and the general public.

There is already proof that the ban is working to lower rates of violent crime. The number of assault weapons traces initiated in the first 8 months of 1995 dropped from 1994 levels. According to tracing data collected by BATF, assault weapons, as a percentage of all gun traces, fell for the second year in a row, from

5 percent in 1994 to 4.3 percent in 1995. Despite these encouraging trends, assault weapons are still a major threat to Americans, and especially law enforcement officers.

Finally, I have talked with the families of too many victims of guns too easily obtained. No one needs an AK–47 to defend their home or to go hunting—unless you are hunting people. We must think about the message Congress sends to the young people of America. What kind of message do we send by saying assault weapons are OK? The ban on deadly assault weapons must stay in place.

GAINESVILLE POLICE DEPARTMENT,
Gainesville, FL, March 21, 1996.

Hon. CORRINE BROWN,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE CORRINE BROWN: I understand that a vote on H.R. 125 regarding a proposal to lift the ban on assault weapons is scheduled for March 22, 1996. The ban on assault weapons is very important to law enforcement, so I am seeking your assistance on this matter.

As you well know, the incidence of violent crime, especially involving firearms, is on the rise in America. This fact is confirmed by numerous studies conducted by the Department of Justice. In addition to these statistics regarding the degree of victimization, the newspapers provide anecdotal evidence about the severity of violent crime in America. Many times, instances of mass violence and multiple homicides are exacerbated when assault weapons are used. These weapons, due to their nature, provide criminals with greater firepower, thus these weapons pose a greater risk to both police officers and potential victims.

Therefore, to alleviate the potential threat that assault weapons pose to our citizens, I urge that you vote against H.R. 125 and not lift the ban on assault weapons.

Sincerely,

WAYLAND CLIFTON, Jr.,
Chief of Police.

Mr. SHAYS. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. CAMPBELL], our newest Member but also a former Member.

Mr. CAMPBELL. Mr. Speaker, you cannot deter somebody who, having shot weapons at innocent people, turns the weapon on himself and kills himself. No amount of enhanced penalties can deter that person, and that is exactly what happened in Kileen, TX; Louisville, KY; Stockton, CA; Jacksonville, CA; 101 California Street in San Francisco, and those are just since I first entered the Congress.

Mr. Speaker, the size of the clip, the ability to shoot rapidly, these are characteristics which give the power to kill to people who are insane in these instances, and increasing penalties does nothing to deter them.

Last, to those of my colleagues who care so much about the Constitution, the second amendment begins that, "A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed." It begins with the words, "A well-regulated militia." What the assault weapons ban does is well-regulate that militia. The militia constitute the armed citizenry. It is our duty to regulate them.

Mr. BARR of Georgia. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Speaker, I thank the gentleman for yielding, and I find it interesting the gentleman from California who just spoke about the second amendment of the Constitution failed to emphasize the fact that it is not the militia's right to keep and bear arms. The Constitution clearly says that it is the people's right to keep and bear arms.

Mr. Speaker, I also want to make something very clear about the NRA. This is nothing but a smokescreen to divert the attention of the real debate here. I am here to tell Members, the NRA did not support me. They heavily supported my opponent, and yet the NRA is right on this issue and right on second amendment rights.

Mr. Speaker, this is not a political issue. This is an issue of citizens' rights, because the real issue is not guns. The real issue here is crime. We banned the so-called assault weapons and we still have crime. As a result, some will argue that we need to ban many more guns, and that argument, Mr. Speaker, is offensive. It is offensive to common sense, and it is offensive to the Constitution. We need to punish criminals, not inanimate objects. Mr. Speaker, we need to reserve the fundamental rights of the American people.

When we address the issue of violent crime, we must remember the second item of our Bill of Rights, the rights of the people to keep, the rights of the people, not the militia, the people, to keep and bear arms, shall not be infringed. Let us address the real problem of crime, Mr. Speaker, and let us undo the damage that has been done to the constitutional rights of law-abiding Americans.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Speaker, this vote boils down to one question: How much is a life worth? How large a campaign check from the gun lobby is big enough to convince you to put these guns back on the street, $1,000 from the NRA, $5,000? To put the life of a police officer in grave danger, to put a child in an early grave?

□ 1330

Because of these guns, they mean combat, they mean assault, they mean killing. This vote shows that the Republicans never wanted a Contract With America; they wanted to combat within America.

How many children were able to avoid a drive-by shooting? How many police officers made it safely back home because of this ban? Let us keep the ban and keep our children and our communities safe.

Mr. CHAPMAN. Mr. Speaker, I yield myself the balance of the time.

The SPEAKER pro tempore (Mr. WALKER). The gentleman from Texas is recognized for 1¼ minutes.

Mr. CHAPMAN. Mr. Speaker, I will take these last few seconds to talk mainly to my Democratic colleagues about the circumstances we find ourselves in today. As a strong, strong proponent and always having been a strong proponent of second amendment rights, I know that this debate has been permeated, not just today, with innuendo about who may be influencing whose elections, but has been permeated by politics throughout the entire history of this debate. I know there have been references to 1994, when the gun ban became law as a part of the 1994 crime bill, and I look at my colleagues today on both sides of the aisle, and I see a lot of new Members that are here, Republican friends and Republican colleagues, and I see a lot of missing Democrats, Democrats that were here in the 103d Congress that are no longer with us.

Mr. Speaker, the dean of the Congress, Jack Brooks, my good friend from the Ninth District of Texas, is not here today. He at that time was chairman of the Committee on the Judiciary because Democrats were in a majority in the 103d Congress.

Yes, politics played in the debate as this became law, as my colleagues see, because we never got Congress to vote up or down on an assault rifle ban. We passed it in the House; we, those that were here at the time; but there were not the votes to pass it in the Senate.

Because of that, I say to the Members, we are fighting about Medicare, Medicaid, student loans and other issues today. We ought to repeal this nonsense. Let us support H.R. 125.

Mr. SHAYS. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, Americans have the constitutional right to bear arms and the Government has the constitutional responsibility to regulate that right. Repeal of the assault weapons ban was not and is not part of the Contract With America. It never got past the first cut. Our Contract With America is about balancing our Federal budget, getting our financial house in order, saving our trust funds from bankruptcy for future generations, and transforming our caretaking, social and corporate welfare society into a caring opportunity society.

Logical gun control legislation and strong crime control are not mutually exclusive. We need both. I urge my colleagues to reject this amendment, this bill.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. I thank the gentleman for yielding me the time.

Mr. Speaker, the gentleman from Georgia [Mr. BARR] opened this debate by saying that this was a choice between American values and Washington values. I agree, but not quite in the context in which he put it. It is a choice between American values, where 70 percent of the American public are saying keep these assault weapons banned, where the policemen of America are saying please keep these assault weapons banned. And Washington values, political payoffs to special interests, Republican payoffs to the NRA; that is what this is all about.

The Republican Party can no longer claim to be the party of law and order because they are saying if it is a choice between police and the NRA, they choose the NRA. This is a shame and a disgrace.

Mr. CONYERS. Mr. Speaker, I yield 20 seconds to the gentleman from Minnesota [Mr. LUTHER].

Mr. LUTHER. Mr. Speaker, I rise in opposition to this bill because Congress should not repeal a law which, based on the best information available to us, appears to be saving lives of Americans.

I come from a family of hunters in Minnesota, like many of my constituents, but this bill is not about weapons used to hunt animals. It is about allowing the proliferation of weapons which are today used to hunt human beings. I do not want my children and the other children in my district to live in that kind of a world.

Mr. CONYERS. Mr. Speaker, I yield 10 seconds to the gentleman from California [Mr. FARR].

Mr. FARR. Mr. Speaker, the message in America is we want less guns in our communities. Every child is listening to that. Less guns, not more guns. Keep the promise to our children, vote "no."

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. So they want to repeal the assault weapons ban?

Mr. Speaker, I just passed through the hall, and I saw Sarah and Jim Brady out there, decent people. So my colleagues want to repeal it? All they have to do is walk past them, and it should teach them a lesson.

Look, if only one person in America is saved by gun control, I want to see every gun controlled because some of these people do not even need to have a gun in their hands, they are already bad enough without that.

So all over this country, those gun barons, they should go tell the NRA I said—Mr. Speaker, my colleagues are cutting off my time.

The SPEAKER pro tempore (Mr. WALKER). The time of the gentlewoman has expired.

Mrs. MEEK of Florida. I appeal the ruling of the Chair, Mr. Speaker.

The SPEAKER pro tempore. That is not in order. The time that was yielded to the gentlewoman from Florida [Mrs. MEEK] has expired.

Mrs. MEEK of Florida. I appeal the ruling because I was not given 30 seconds.

The SPEAKER pro tempore. The time is controlled, and the time of the gentlewoman has expired.

Mrs. MEEK of Florida. Mr. Speaker, I am owed more time.

The SPEAKER pro tempore. The gentlewoman's time has expired.

Mr. CONYERS. Mr. Chairman, I yield 10 additional seconds to the gentlewoman from Florida.

Mrs. MEEK of Florida. Mr. Speaker, my colleagues will never shut up my mouth.

All I want to say is that I wish we could control these guns, and a ban on all these weapons is what America needs. So, if they want to repeal the assault weapons ban, they should go out in the hall and talk to Sarah and Jim Brady. My colleagues are behind the curve.

The SPEAKER pro tempore. The time of the gentlewoman from Florida has again expired.

Mr. BARR of Georgia. Mr. Speaker, I have no other speakers other than myself, and I reserve my time to close.

The SPEAKER pro tempore. The gentleman from Michigan has 30 seconds remaining.

Mr. CONYERS. I yield 15 seconds to the distinguished gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, let us talk about facts.

Mr. Speaker, let us talk about facts.

Mr. Speaker, let us talk about facts.

Of the 92 police officers that we have records of who were killed in the line of duty, 33 were killed by weapons that are covered in this bill, 33 of 92. Let me read their names: William Christian, Jr.—

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DEUTSCH. John J. Novabilski, April 26, 1995, John Norcross, April 20, 1995, John McLaughlin, April 20, 1995——

The SPEAKER pro tempore. The time of the gentleman from Florida has expired.

Mr. DEUTSCH. Timothy Howe, April 14, 1995, Daniel Doffyn, March 8, 1995——

The SPEAKER pro tempore. The House will be in order. The gentleman from Florida will be in order.

Mr. DEUTSCH. Henry J. Daly, Michael J. Miller, Martha Dixon-Martinez——

The SPEAKER pro tempore. The House will be in order. The gentleman from Florida is in violation of House rules.

Mr. SOLOMON. Mr. Speaker, the gentleman is violating House rules. He ought to be escorted off the floor.

The SPEAKER pro tempore. The gentleman from Florida [Mr. DEUTSCH] is reminded that he has a responsibility to obey the rules of the House, and that display beyond the time recognized was outside the bounds of good judgment.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, to close the debate on our side, I yield the balance of my time to the distinguished gentleman from New York [Mr. SCHUMER] who opened this debate.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York [Mr. SCHUMER] for 15 seconds.

Mr. SCHUMER. Mr. Speaker, one of the few times the American people were proud of this body in the last few years is when we had the courage, the courage to override the special interests and pass the assault weapons ban. Let us not undo that. Let us stand tall, be proud, and do the right thing.

Mr. BARR. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker. I rise in vehement opposition to H.R. 125, which would repeal a major part of the 1994 crime bill. The assault weapon ban is law today, and there is no compelling evidence that it should be repealed.

In 1994, I was one of a group of Republicans to advocate for a compromise crime bill that included the assault weapons ban. Part of that compromise was the authorization of a critical study that will tell Congress exactly how well the ban is working. This bill on the floor today contains a provision to terminate this study—forcing us to stick our heads in the sand when it comes to fully understanding the issue. This tells me that sponsors of this repeal don't even want to know the facts.

I firmly support the right of law-abiding citizens to keep and bear arms, but this right is not unlimited.

Finally, Mr. Speaker, this misguided legislation is taking valuable time from our work on important issues. We still haven't finished last year's budget yet, and we have a lot of work to do on balancing the budget. We must pass real welfare reform, and address health care insurance reform which is needed to allow millions of Americans to obtain coverage.

I urge my colleagues to uphold this ban, and get back to our No. 1 propríty—balancing the budget.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, the regular order of the House should be to uphold the assault weapons ban.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. ROYBAL-ALLARD].

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in strong opposition to this bill.

Mr. Speaker, I rise in strong opposition to H.R. 125, a measure that is consistent with the Republican majority's theme for the 104th Congress: "Promises paid for, promises kept."

Today's consideration of the assault weapons ban repeal fulfills the Republican leadership's commitment to the National Rifle Association, but is nothing short of a betrayal to the safety of the American public. Indeed, as characterized by an editorial in today's edition of the Los Angeles Times, in view of the likely Senate filibuster and a certain Presidential veto, this House vote is little more than a blatant special interest payback that has become the hallmark of the NRA.

The American people know that the violence that is ripping apart our families, classrooms, and communities throughout the Nation is nothing short of a crisis. That is why the polls have consistently shown that between 77 and 80 percent of Americans support an assault weapons ban. The ban is also supported by law enforcement agencies, including every police chief in my district. Whenever a law enforcement officer is shot, it is 18 times more likely that an assault weapon was used.

The reason the Republicans and the NRA are trying to overturn this Democratic-passed law is because the law is working. Attorney General Janet Reno has estimated that the number of assault weapons traced to crime has dropped 18 percent since the law took effect. In the past 2 years, thousands of people with criminals records have been denied access to these weapons.

That is why I supported the original assault weapons ban. I will vote against its repeal. This law balances the legitimate concerns of law-abiding gunowners against the need to take affirmative steps to curb senseless violence in our communities. The assault weapons ban is a carefully crafted compromise measure. It targets 19 specific styles of semiautomatic weapons, while exempting approximately 650 rifles and shotguns and privately owned assault weapons purchased before the bill's date of enactment. The banned assault weapons are not firearms that can be used for hunting and sporting purposes—they are designed to kill people and are the weapons of choice for street gangs and drug traffickers because they intimidate as efficiently as they kill.

At a time when drive-by shootings and the murder of innocent bystanders is on the rise, we must not retreat from this Congress' obligation to make our streets safer. I urge my colleagues to join forces with the enforcement organizations, medical associations, the American Bar Association, the National League of Cities, the U.S. Conference of Mayors, and the National Association of Counties, among others, and defeat H.R. 125.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Oregon [Ms. FURSE]

Ms. FURSE. Mr. Speaker, I rise in strong opposition to this outrageous bill.

Mr. BARR. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, it is important for the American people, those here today and those listening to these proceedings, to recognize and to remember that protection of the American people, protection of our wives, our husbands, our children, our parents, our friends, and our associates is a bipartisan issue, and that is why the bill that we have here today is a bipartisan bill, a strong, a strong bipartisan bill because people on both sides of the aisle recognize that our Government is failing to perform.

Mr. Speaker, the protection of the American public is what this bill is all about. The people on the other side of the aisle think that they have a monopoly on people who have suffered, on people who continue to suffer, and on people who will suffer as a result of criminal activities against them, criminal actions against them.

Mr. Speaker, they do not have a monopoly. I would like them to hear about some people, as the gentleman from New York [Mr. SCHUMER] knows, because he was at the hearings, who have exhibited uncommon valor and a tremendous sense of courage when they came before our committee, when they came before the American people testified.

Were it not for, were it not for our ability to defend ourselves, Miss Sharon Ramboz of Maryland would be dead today, and her family. Mr. Charmaine Klaus from Waterford, MI, would be dead today, and his family. Mr. Phil Murphy from Tucson, AZ; and the list goes on and on. These are American people, husbands, wives, children, parents who need the protection afforded by our second amendment, and no Member of this body, Republican or Democrat, should belly up to the bar, should have to be defensive about standing up to our Constitution.

Support this bill.

Mr. OWENS. Mr. Speaker, I rise in vehement opposition to the Gun Crime Enforcement and Second Amendment Restoration Act, H.R. 125. This bill is an abominable action that is a Republican assault on sane gun control laws. It is disgustingly apparent that H.R. 125 is motivated by the Republican juggernaut bank-rolled by the NRA.

H.R. 125 would repeal current law which prohibits the possession, manufacture, and transfer of many of the most egregious manhunting weapons that proliferate American communities—TEC–9, Colt AR–15, and TEC–22. In a country where there is one gun per adult already in circulation—or 210 million guns—this repeal would be deadly.

Only in America is the safety of children, women, men, and families sacrificed for political, as well as economic profit. Most other industrialized countries have a virtual ban on handgun sales, which account for the vast difference in homicide rates between the United States and other nations. In 1990, handguns killed only 22 people in Great Britain, 13 in Sweden, 91 in Switzerland, 87 in Japan, 10 in Australia, and 68 in Canada. The United States infamous handgun fatalities statistic totaled 10,567.

Facts and compassion do not drive this Republican Congress. We should not be surprised by yet another affront to human decency and protection. Ironically, under this bill, the hunters will have their way. They will now be able to hunt with Uzi's and street sweepers. As ridiculous as this sounds, it is ridiculous to vote for H.R. 125. I strongly encourage my colleagues in the other chamber of Congress to oppose this travesty.

Mr. UNDERWOOD. Mr. Speaker, I rise today in opposition to H.R. 125, which would repeal the ban on assault weapons. I take this position today in response to concerns raised by the Guam chief of police, Jack S. Shimizu, who recently contacted me in opposition to the repeal on the ban on assault weapons.

Most police officers on the front lines of law enforcement on Guam will tell you the same thing. One of the Guam Police Department's biggest challenges is with the influx and use of "ice." The violence and crime associated with the spread of "ice" is affecting our entire community and tearing families apart.

And any police officer will confirm the link between drugs and assault weapons. Assault weapons are the weapons of choice with these drug lords. They are not being used, nor necessary, for hunting. They are being used by drug lords simply to solidify their power to transport illegally "ice" into our island.

In order for the Guam Police Department to fight the island's war on "ice," they need every tool at their disposal. The ban on assault weapons is not a panacea. It will not stop crime or crack down on illegal drugs in and of itself. But it is helpful and an additional tool in the arsenal of the police department.

I would like to submit for my colleagues' consideration a copy of a letter I received from Mr. Jack S. Shimizu, the chief of police at the Guam Police Department, for the RECORD.

GOVERNMENT OF GUAM,
GUAM POLICE DEPARTMENT,
GMF, Guam.

DEAR CONGRESSMAN UNDERWOOD. On behalf of the Guam Police Department (GPD), I strongly urge you to relate GPD's opposition on the congressional bill for repealing the 1994 ban on assault weapons to the Committee on the Judiciary in the House of Representatives. As nearly every law enforcement agency and officer across the nation will tell you, such a repeal not only threatens any gains our department has made in the Territory's "War on Ice and Dangerous Drugs" but it heightens the danger our officers may face in confronting the criminal element engaged in drug trafficking who will be provided the opportunity to legitimately acquire such weapons if the ban is lifted.

Dangerous drugs and guns nearly always go hand in hand and the legitimate access to assault weapons by virtue of repealing such a ban does nothing more than provide the criminal element a legitimate way to outgun law enforcement. Therefore, I respectfully request that you make known GPD's opposition to the repeal attempt on the ban on assault weapons which serve no legitimate, practical or reasonable purpose.

Sincerely,

J.S. SHIMIZU.

Mr. LAZIO of New York. Mr. Speaker, after careful deliberation, I supported the ban when the House approved it in 1994. My decision to vote in favor of the ban was not one that I made lightly. I was aware then, as I am now, that this ban is not perfect. But I came away from the debate 2 years ago with the belief that despite any flaws, this limited ban is a reasonable attempt to prevent the use of weapons that are designed solely for the destruction of human life.

Many factors went into my decision then which still apply today. The most significant of these factors was the support of the ban by both national and local law enforcement organizations and officials. In New York, this includes the Suffolk County Policemen's Benevolent Association, the Deputy Sheriff's Benevolent Association, the Superior Officers Association of Suffolk, the Police Conference of New York, as well as New York City's police commissioner and the president of New York City's Patrolman's Benevolent Association. National groups include the Fraternal Order of Police, with over 230,000 members, the National Association of Police Organizations, the International Association of Chiefs of Police, and the Federal Law Enforcement Officer's Association. All are experts on crime, and as a former criminal prosecutor, I respect their collective judgment on public safety. In addition, all living former Presidents support the ban.

I have been, and I remain, a staunch supporter of a law-abiding citizens' second amendment right to own a firearm. But as one who firmly believes in the sanctity of our Constitution, I simply do not believe that the second amendment, or any amendment to the Constitution is an unlimited right, and neither did the drafters. The freedoms of religion, speech, and the press are not absolute, and neither is the right to bear arms. With each of these sacred rights, exceptions are made in the most extreme cases. An individual cannot display obscene material, and the press cannot defame an individual. Likewise with the right to bear arms, I believe that this exception should be made in the case of a semiautomatic assault weapon. It for this reason I urge a "no" vote on the repeal of this ban.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to oppose the repeal of the ban on assault weapons. It is my wish that a police officer never has to confront a suspect armed with a firearm fitted with a grenade launcher, which is outlawed as part of the ban. It is difficult to imagine a legitimate purpose in private ownership of a grenade launcher.

The weapons identified in the ban are not uncommon on the streets of Dallas. The Bureau of Alcohol, Tobacco and Firearms estimates that there are two million military-style assault weapons on the streets today. Dallas narcotics officers have often encountered Intratec-9 firearms when executing a raid or apprehending a suspect. These firearms, with clips containing 32 rounds, have been the gun of choice for drug dealers. The Dallas Police Department has seized 24 Intratec-9's, 66 AK–47's and 3 street sweeper shotguns during 1995. These firearms are explicitly named in the ban.

Mr. Speaker, more than three-fourths of the American public support this ban. Adding provisions to this bill that increases penalties for gun related crimes is simply a gimmick to divert attention from this legislative payoff to the NRA, and will do nothing to stop those crimes if assault weapons are legally available again on the streets. Current law bans only a short list of specified semiautomatic assault weapons—weapons used almost exclusively by organized crime, gangs, and drug cartels—while specifically exempting more than 650 sporting firearms from the ban.

Statistics show that even though these assault weapons make up less than 1 percent of all guns, they are 18 times more likely than other guns to be cop-killers, and 16 times more likely to be traced to crime than other firearms. Police support outlawing assault weapons in order to protect the lives of police, as well as the general public.

Mr. Speaker, I urge my colleagues to uphold the ban.

Mr. FOGLIETTA. Mr. Speaker, 2 years ago I came to the floor to fight for a ban on assault weapons. At that time, I told the story of Michelle Cutner, a 7-year-old from Philadelphia. It was the next to the last day of school and Michelle's mother picked her up at the Chester Elementary School. As she stopped at a corner store to buy chips, Jerome Whitaker, a 15-year-old who was quarreling with a friend, took out a TEC–9 and started shooting. One of the bullets hit Michelle and killed her. The carnage continues in Philadelphia. Four months ago, three young friends sitting in a minivan were riddled with 40 rounds of gunfire from a semiautomatic rifle while sitting in a van. One of the victims, Joseph Gill, was 16 years old.

Mr. Speaker, how many more little girls like Michelle have to die from the bullet of a TEC–9? How many more young men will die in a hail of bullets? How many more police officers will be gunned down because bulletproof vests cannot resist the spray of AK–47's or Uzi's? I urge my colleagues to join me on behalf of kids like Michelle and Joseph, and so many others like them, and vote against this assault on the assault weapons ban.

Mr. ROEMER. Mr. Speaker, I rise in strong opposition to H.R. 125, an attempt by the gun lobby to throw away proven legislation enacted by Congress to save the lives of U.S. citizens and police officers. If the gun lobby has its way, there will be no more assault weapons ban, but there will be a lot more bloodshed.

The survival of assault weapons is completely dependent on the campaign funds of the gun lobby—bought lock, stock, and barrel. This allusion is to the three main components of a gun which together comprise essentially the entire weapon. That is what comes to mind when I think of the gun lobby's partnership with assault weapons advocates.

The misleading statements about second amendment rights by the gun lobby should not obscure the fact that the majority of Americans, including gun owners, want assault weapons off our streets and out of our school yards.

Clearly, the assault weapons ban is working to reduce bloodshed and save lives. The city of Chicago, for instance, seized 127 assault weapons in the first 6 months of 1995—almost a 50-percent decline from the first 6 months of 1994.

Simply put, there is no justification for repealing the assault weapons ban. It is unthinkable that in our society, we would allow citizens to walk the streets armed with guns equipped with hand grenade launchers, flash suppressors, and bayonet mounts.

It is important to make clear that the assault weapons ban has not in any way taken guns out of the hands of any law abiding citizen because all it does is stop the manufacture and importation of these killing machines.

And while I support the use of assault weapons to arm certain law enforcement officials and military personnel in areas like Bosnia and other hostile areas, it is clear that no one needs an AK–47 assault rifle or a TEC–9 assault pistol to defend their home or go deer hunting. They are simply designed to kill large numbers of people quickly.

Mr. Chairman, I urge my colleagues to stand up to the gun lobby and oppose H.R. 125 to stop further bloodshed at the hands of violent criminals, and instead, to save the lives of our citizens and our brave police officers.

Mr. RICHARDSON. Mr. Speaker, the banning of certain types of guns is an infringement on the rights of citizens to protect their families.

Criminals who want to use such weapons can continue to obtain them illegally.

Military-style weapons are involved in less than a fraction of all serious crime, and the assault weapons ban does not keep crime off the streets.

Taking away the rights of law-abiding citizens to own firearms is not the answer to stopping crime.

The crime bill passed, because it contained many provisions to help small communities in fighting crime, but it went too far in criminalizing these weapons.

I have always opposed banning certain types of weapons, and this law must be repealed, because it criminalizes otherwise law-abiding citizens.

Mr. HORN. Mr. Speaker, why are we attempting to repeal a ban that is supported by an overwhelming majority of the American people—and is saving lives?

In the year following the ban's enactment there was an 18 percent drop in the number of assault weapons linked to crimes. Repealing this ban will ensure more bloodshed and more lives lost. Poll after poll has shown that 80 percent of the American public consistently supports this ban.

It is ludicrous for the House to vote against the wishes of 80 percent of the American people. It is a travesty to repeal a law that saves lives.

Attached is a letter from the chief of police of Downey, CA.

CITY OF DOWNEY,
December 7, 1995.

Congressman STEVE HORN,
4010 Watson Plaza Drive, #160,
Lakewood, CA.

DEAR STEVE: I have been told that Congressman Gingrich will be asking for a vote to repeal the assault weapons ban. I would strongly urge you not to support any type of vote that would weaken or repeal the current state of the law.

Enclosed is a letter of support I sent to Senator Feinstein earlier this year. It makes no difference whose name gets plugged in, as from my point of view it is absolutely irresponsible to consider support of H.R. 1488, the repeal of the assault weapons ban.

I trust you take the time to contact all the Los Angeles County Chiefs of Police. You will find total support of the current law.

Yours for professional law enforcement.

GREGORY C. CALDWELL,
Chief of Police.

CITY OF DOWNEY,
April 3, 1995.

Senator DIANNE FEINSTEIN,
U.S. Senate,
11111 Santa Monica Blvd., Ste. 915,
Los Angeles, CA.

DEAR SENATOR FEINSTEIN: I appreciate your asking for my input regarding Senator Dole's position on repealing the "ill conceived" gun ban passed as part of last year's crime bill.

As a 28-year law enforcement professional I feel I could speak volumes on gun control and the issues associated with gun control. However, I do not feel that is too important at this time. It seems that getting to the point is what is important.

If Senator Dole believes that any portion of the current gun ban is "ill conceived," I find it most difficult to find words to describe Senator Dole's thoughts to repeal. I must presume that Senator Dole has laid down his soul and good judgment to the National Rifle Association. That is truly unfortunate for a man of seemingly such good character and thought.

Again, recognizing all the present arguments, please allow an emotional argument or question. Knowing that military-style assault weapons fit the needs of sporting America, especially those urban hunters bent on human destruction,will Senator Dole help? Will Senator Dole come out and help our local cops clean up the mess of these urban hunters? Will the NRA help? Oh, excuse me, I forgot—guns don't kill, people kill.

Senator Feinstein, keep up the fight against allowing the manufacture, sale or transfer of military-style assault weapons, copycat models and the ammunition clip guidelines. If anything, the current controls should be just a baseline because they are not yet enough.

We have a tough job fighting off politicians who are willing to sell out to the NRA hiding behind the Constitution. As long as we have these sellouts, our urban hunters will continue to have great success.

If I can be of any other help regarding this issue or more responsible gun control issues, please feel free to call on me.

Yours for professional law enforcement.

GREGORY C. CALDWELL,
Chief of Police.

Mr. RADANOVICH. Mr. Speaker, I rise in support of the bill to repeal the ban on certain types of assault weapons.

This proposal carries great importance to my constituents in the 19th District of California. Many of the men and women I represent live in remote areas. "911" does not insure an instant emergency response for them. Lives are at stake here, Mr. Chairman, and it is essential that we move to protect those who legally try to protect themselves.

Althouth the framers of our Constitution hardly envisioned a society so besieged with violence as our current culture, they understood the constant need to be on guard, to defend our liberties.

If we were to infringe on the American public's right to bear arms, surely that would be to breach the spirit of our laws and the essence of our Constitution's second amendment. That provision of the Bill of Rights is explicit.

A vote to repeal the weapons ban is my vote of confidence in America's Constitution and America's people. In passing this legislation today, Congress demonstrates a respect for the integrity of those who penned the words of our country's most profound accomplishment.

Mr. COSTELLO. Mr. Speaker, I rise today in support of the legislation sponsored by Congressman JIM CHAPMAN which would repeal the assault weapons ban included in the comprehensive anti-crime package of 1994.

Voting on this issue is not difficult for me, because I strongly believe that my position on this legislation is correct. I opposed the assault weapons ban in 1994 when it came up as part of the crime bill, and I still oppose the ban.

The ban, one of the most controversial parts of the 1994 anticrime law, was ill-conceived and poorly drafted. The ban has burdened the rights of the American people to own guns, but has had no effect on crime.

This bill not only repeals the onerous ban, it also gets tougher on criminals. Instead of imposing more limits on law-abiding citizens, the bill goes in the other direction and slaps tougher penalties on criminals who use a firearm while committing a violent Federal crime.

The current ban arbitrarily restricts certain weapons, since it is virtually impossible to distinguish a semiautomatic assault weapon from other semiautomatic weapons that are used for sport and hunting. The features designated in the 1994 crime law that define which weapons are banned and merely cosmetic, and have no effect on the action of the firearm. Any firearm—banned or not—is equally capable of being abused by criminals or madmen, or used by law-abiding citizens for self protection or hunting. And, according to the FBI, all types of military-style weapons are involved in less than 1 percent of all murders and less than 1 percent of all serious crime.

No matter how much we all want to halt violent crimes committed with firearms, the fact is that banning certain firearms will do nothing to stop these tragic crimes. Studies overwhelmingly show that gun control laws—like those which ban all guns in Washington, DC, which has a very high gun-related crime rate—have no impact on stopping criminals from obtaining whatever firearm is necessary for perpetrating their crimes. The ban on semi-automatic assault weapons simply kept certain guns from law-abiding citizens, but has done nothing to disarm criminals.

Mr. Speaker, as a former police officer and the father of a police officer, I can testify that unlike the current ban, this bill will take steps to get violent criminals off the street. That is why I urge my colleagues to support the Chapman bill.

Mr. LEWIS of California. Mr. Speaker, I have long championed our second amendment right to bear arms. Time after time, I have voted against misguided attempts to limit or restrict our rights to buy and own guns or ammunition. As you may know, I have strongly opposed and voted against both the Brady bill and the assault weapons ban.

I have always been a strong supporter of law enforcement but I believe that we need to solve our crime problems directly and not by curbing the constitutionally protected rights of law abiding citizens. The ban on semi-automatic weapons will not stop criminals from procuring these firearms. The only people who will not have access to illegal weapons are law abiding citizens. Our Federal Government needs to protect law abiding citizens and not take away their means with which to protect themselves. It is for these reasons that I support efforts to repeal the assault weapons ban.

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to express my extreme disappointment with the majority leadership of this Congress for revisiting the assault weapons ban which passed the House in 1994. I think it fair to say that we are considering legislation to repeal the law today because the majority leaders "owe" the gun lobby. This is just one more example of how our agenda is being driven by interest groups with big pacs.

I am also shocked that the leadership has so thoroughly circumvented the committee process on this legislation. We should have had hearings. Before we consider repealing the law we should first know if it has been successful. What do our police officers think? Do they want to see the ban repealed? Has it helped save lives? Has it been effective? It is absolutely absured and outrageous that there has been no consideration or debate of this issue.

Mr. Speaker, I believe in self-defense. However, I do not believe one needs an AK–47 to defend himself. AK–47s can shoot 106 rounds in 2 minutes. They are high speed machine guns that have been used for shooting sprees. Patrick Purdy, using an AK–47, killed 5 small children and their teacher, while wounding 29 others on a playground in stockton, CA. What about the defense of these children? Whose concern is that? Those of use and who support the assault weapons ban are trying to make the would a little safer for our children.

Furthermore, every major national law enforcement organization in the country supports a ban on semi-automatic assault weapons. These are the cops on the beat in Miami and Ft. Lauderdale. They see no purpose for assault weapons, and I trust their judgment. I support the men and women who are fighting crime on our streets.

Mr. Speaker, with this vote we have to ask ourselves if we want a society that permits the sale of machine guns or we want a society that controls gratuitous weapons? A majority of Americans agree with me, Mr. Speaker. They believe in reducing bloodshed and saving lives. They support the ban on assault weapons and so should this Congress.

Mr. LEVIN. Mr. Speaker, we are here today as a gesture.

An extreme gesture, to be sure, but a gesture nonetheless.

It is not a gesture to the American people. Seventy percent of the American people support the assault weapons ban.

It is not a gesture to law enforcement. Every major law enforcement group in the country wants Uzi and Street Sweepers off the streets.

In fact, the Attorney General's office says that crimes involving assault weapons were down 18.4 percent during the first 8 months of the ban.

It is not even a legislative gesture, because this legislative proposal is going nowhere. The Senate won't go along with it. Everyone knows that. And even if it does, President Clinton will veto it to protect Americans from rapid fire weapons designed to kill.

So let's be very clear about the meaning of this gesture. It is a political gesture, because the people who currently control the House of Representatives are paying off an IOU to one interest group, the National Rifle Association.

I support the second amendment. I support the exercise of rights under that amendment. The assault weapons ban does not interfere with the rights of hunters and the right of self defense. But as a number of police chiefs have told me, assault weapons involved here are weapons of war. It is an extreme position to defend their general ownership in a civil society.

Mr. SMITH of Michigan. Mr. Speaker, the vote on repeal of assault weapons is not an easy vote. The reason is there are strong philosophical and practical arguments on both sides. On the one hand, we have the second amendment of the U.S. Constitution which protects the citizen's right to bear arms. This is an outgrowth of the fact that for centuries authoritarian governments maintained their power over the populace through the banning of weapons. We may look to Scotland, where in the early 14th century William Wallace led the Scottish freedom uprising against the British. The Scots were forced to use rocks, and homemade weapons because the English had banned Scots from having arms.

The other side of the issue can be looked at from the view of the proper role of government. As John Locke pointed out in 1689 in his "Second Treatise on Civil Government," a document that was the intellectual underpinning of our own Constitution, the reason we form governments is to protect life, liberty, and property. Anarchy leads to the strong coercing the weak. In order to reduce the total amount of coercion in society we give up the legal use of force to a government whose function is to protect each individual citizen from one another. The question then becomes, does the ban on assault weapons provide an efficient and reasonable means of protecting individuals from threat of force by other individuals? Again, we may look to Scotland, where just last week several children were killed before the police were able to intervene. Does the ban on assault weapons effectively reduce the chances that you will be coerced by another armed citizen?

The tradeoff is between our constitutional right to bear arms and the reason for government in the first place: protection of life, liberty, and property. Those of us who feel our right to bear arms is diminished greatly by the banning of these weapons and that the threat to our person from our fellow citizens is little reduced by the ban will vote for the bill. Those who feel these weapons add little to our freedom to protect ourselves from our government and that the existence of these weapons threatens our personal safety will vote against the bill. For many of us, the evidence is not clear on either side. On the whole, I believe there is strong evidence that crime will be reduced by getting tougher on the criminal that is committing the crime, rather then focusing on the weapon they use. This legislation does this by establishing strong minimum mandatory sentences for criminals who use firearms in the commission of Federal crimes and requiring the Attorney General to order each U.S. attorney to designate at least one assistant U.S. attorney to prosecute armed violent criminals, and makes sure the Department of Justice prosecutes armed violent criminals. Thus I will vote for the bill.

Mr. VENTO. Mr. Speaker, I rise in strong opposition to H.R. 125. Congress addressed this issue on a bipartisan basis and enacted the assault weapons ban in 1994. Today, just over 1 year later, we are back to square one—not because this law has caused some sort of hardship for the American people, but because of strictly partisan politics. The Republican leadership is repaying a political debt to the National Rifle Association [NRA].

Since the enactment of this law I have yet to hear of an incident of hardship on sportsmen or women—no hunters have missed deer season because they couldn't buy a TEC–DC9 or an AK–47. The simple fact is that the assault weapon ban works as intended—to keep military weapons off the streets of our communities and out of the hands of criminals.

Annually, 22 million households are affected by crime. Violent crime has increased 25 percent in the past 5 years. Today, criminals ironically are often better equipped with unregulated para-military weapons than our police officers who are trying to maintain law and order on our streets. Unfortunately, guns are appearing in our schools. Gang violence is spreading beyond the troubled city areas. Citizens are justifiably upset about the erosion of public safety and they are right in demanding that something be done about it.

The law which the Republican leadership is sacrificing at the alter of the NRA bans dangerous and destructive military-style weapons. It saves lives and bans semi-automatic weapons that can be easily converted into machine guns. There are the weapons of choice of naive and hardened law breakers. Human assault weapons—people-killing weapons—must be kept out of hands of the deranged, malevolent, and malcontent. Such weapons cause carnage on the streets of our Nation and they must be removed to stop the escalation and cycle of homicide that has tragically come to be the poster which too often today symbolizes life in the United States. Certainly the right to bear arms does not mean you should be able to run abound with a grenade launcher, street sweeper, or other military hardware. The primary purpose, perhaps the only purpose, of these assault type military weapons is the assault on another person, and there is no place on our streets for such a weapon.

The 1994 assault weapon ban is a positive element in an overall effort to reduce violence in our society. Congress in not obligated to the special interest groups such as the NRA and must respond to facts not fears—we must say no to the repeal and yes to the commonsense rules and laws of a civilized society. Congress is obligated to the people of this Nation and to our law enforcement officials, who overwhelmingly support the ban on assault weapons, to take these guns off the street and out of the hands of criminals.

This law works to save lives, to make our lives and that of those we represent safer. What kind of message will we send if today this House disregards the public's view and acts with disdain to symbolically strike down this commonsense law. This action, this process, this proposal is the type of action that causes the people we represent to hold this Congress in such disdain—special interest dominated and the public interest disregarded.

I urge my colleagues to vote "no" on this shortsighted and destructive legislation.

Mr. DEFAZIO. Mr. Speaker, the assault weapons ban was political theater by the Democrats. It was brought to the floor and passed because the President's pollster said it would be a hot issue for Democrats in the fall election. Repealing the ban is equally cynical political theater by the Republicans.

The fact is that the assault weapons ban has done nothing to stem violent crime. By the same token, it has caused little or no significant inconvenience for gun owners. I saw no reason to enact the ban in the first place and voted against it; I see no reason to continue this debate over symbolic measures here today. I'll oppose this repeal effort for the same reason I opposed the ban in the first place: it is symbol over substance. What we do here today will have little effect on violent crime and little effect on the rights of lawful gun owners.

After this meaningless debate is behind us, I'll continue to support the rights of law-abiding citizens to keep and bear arms. And I'll continue my staunch support for measures that will stop violent crime and put criminals who use guns behind bars for a very long time.

When the so-called assault weapons ban was first before the House, I voted against it. I said then and I'll say today that banning these weapons would do nothing to reduce violent crime in America. In fact, the ban didn't ban much of anything.

Consider this: the assault weapons ban specifically prohibits sale of the Colt AR–15, which is capable of firing up to 30 rounds of .223 caliber ammunition, each shot requiring a squeeze of the trigger. However, the bill specifically allows the continued sale of the Ruger Mini–14, which is capable of firing up to 30 rounds of .223 caliber ammunition, each shot requiring a squeeze of the trigger. The only difference between the two is that the Colt rifle looks more threatening. The ultimate irony, of course, is that the assault weapons ban didn't even make it illegal to sell AR–15's or any of the other weapons supposedly banned by the bill. It merely prohibited their future manufacture and made existing stocks more expensive.

In January of this year a man walked into an office building in Portland, OR, carrying a supposedly banned AK–47. He shot two people and took a number of others hostage before being apprehended by the police. Thankfully, no one was killed. The story is interesting for two reasons. First, he was using a supposedly banned assault rifle that he had legally purchased in 1995—after the assault weapons ban took effect. Second, he could just as easily have been using an equally dangerous rifle like the Ruger Mini–14, which was not banned by the so-called assault weapons ban.

If this repeal is adopted today, next year or the year after another ban will be offered that could be even more intrusive to legitimate gun owners. So let's quit kidding the American people into thinking this charade means anything. The debate here today is about people's emotions, not about measures that will actually reduce violent crime.

First, our system of justice must provide stiff sentences for criminals who use guns and for multiple violent offenders. Our communities desperately need more police on the streets. Unfortunately, Republican leaders are doing everything they can to cut funding we passed to put 100,000 new cops on the street.

Equally important, however, is a commitment to early intervention and prevention for at-risk youth. Until we as a society can begin to undo the harm that has been done to the hopes of millions of Americans, violent crime will almost certainly continue to plague us.

Let's do the people's business here and quit playing these cynical political games. Let's stop the debate over symbol and move on to substance.

Mr. BEREUTER. Mr. Speaker, this Member supports certain provisions of H.R. 125 that increase the mandatory minimum sentences for committing crimes while possessing, brandishing, or discharging a firearm. Tough penalties are certainly needed. However, these provisions are not enough to change his support for the assault weapons ban. This Member previously voted for a ban on the manufacture and import of certain assault weapons because that was the rational, responsible, and constitutional thing to do. Furthermore, over 72 percent of the residents of the First Congressional District of Nebraska supported this vote.

Mr. FAZIO of California. Mr. Speaker, I rise today to offer my continued support for the assault weapons ban passed by the Congress in 1994. Passed with the overwhelming support of national law enforcement organizations, this new law is working to reduce bloodshed and save lives.

During the late 1980's, assault weapons accounted for about 8–10 percent of all guns traced to crimes by law enforcement, even though assault weapons accounted for only about 1 percent of the guns in private hands. The number of assault weapons traced to crime in the first months of 1995 fell for the first time in recent years from the prior year's level. These impressive statistics indicate that the use of assault weapons in crime is now declining. My colleagues, this law is working.

The attempt by the Republican leadership to derail the successes of the assault weapons ban is nothing more than poorly disguised political opportunism. This is a payback—pure and simple.

But this vote should not disguise the fact that the overwhelming majority of the American public, including gun owners, wants assault weapons off our streets and out of our school yards.

When we debated this bill 2 years ago, the legislation was narrowly drawn to protect the right of all law-abiding Americans to own firearms both for hunting and other sporting purposes, as well as for their own self-defense.

Assault weapons are the weapons of choice for terrorists, mass murderers, drug dealers, gang members, drive-by shooters, and cop killers. They also continue to be used against their well-armed opponents—police officers.

For the safety of our children and those who are sworn to protect them, vote against this bill and maintain the assault weapons ban.

Mr. NORWOOD. Mr. Speaker, in spite of what the liberal media would have us believe, the semiautomatic weapons outlawed by the 1994 assault weapons ban are seldom used in crimes. According to the Bureau of Alcohol, Tobacco, and Firearms, for every 4000 violent crimes reported in this country, there was only one of these weapons involved. In fact, we would accomplish more by banning kitchen knives.

What the bill we debate today accomplishes is real crime control—by cracking down on criminals who use guns, instead of law-abiding gunowners.

The sheriffs and district attorneys in my district tell me they don't need more gun control, they need the ability to take gun-carrying criminals off the street, and that's what H.R. 125 does.

For any criminal in possession of a gun while committing a crime, this bill provides for a mandatory minimum sentence of 5 years in prison. For pulling that gun during a crime, 10 years. For firing it, 20 years. And if the weapon used is a sawed-off rifle or shotgun, they automatically get an extra 10 years in prison added to these sentences.

Furthermore, subsequent violent or drug-related crimes are punished by 20 years for having a gun, 25 years for pulling it, and 30 years for firing it. And if the gun is a machinegun, or has a silencer or flash suppressor, the sentence is life in prison.

Compare this to the 1994 crime bill's 10-year sentence for crimes involving semiautomatic assault weapons, and it's easy for both sides of the aisle to determine that this bill does for gun-crime prevention what the assault-weapons ban will never do.

Mr. Speaker, I urge passage of H.R. 125 to put real teeth into gun control against criminals, instead of using the issue of crime as an excuse to attack the Bill of Rights.

Mr. MENENDEZ. Mr. Speaker, I rise in strong opposition to H.R. 125.

We are voting to repeal a ban on assault weapons and large capacity ammunition clips that is supported overwhelmingly by police who put their lives on the line for us. They call the weapons banned by the 1994 law cop killer guns.

In a recent study by Handgun Control, assault weapons accounted for 17.4 percent of fatal police shootings. In another study, 18.5 percent of the shootings, where the gun was identified, involved a gun with a large-capacity magazine of more than 10 rounds.

This ban has widespread support from the people who care for gunshot victims—doctors, nurses and medical personnel; religious leaders who are trying to end the violence in our communities; the teachers and administrators who are concerned about guns in our schools; responsible gunowners who want to end gun violence; and the children whose very future is put at risk.

The Bureau of Alcohol, Tobacco and Firearms data revealed that although semiautomatic assault weapons comprise less than one percent of the privately owned guns in America, they account for 8.4 percent of all firearms traced to crime from 1988 to 1991.

During 1986–1991, 20,526 assault weapons were traced to crime, and of those, 1,349 were specifically traced to murders in the United States and 4,031 were linked to drug traffickers. The congressional assault weapons ban did not take guns out of the hands of law abiding citizens who legally owned their weapons before the enactment of the assault weapons ban in 1994.

The Members who vote for the repeal of the assault weapons ban are voting for a bill that will resume manufacturing and importation of killing machines. After President Bush banned the importation of assault weapons in 1989, the number of imported assault weapons traced to crime dropped 45 percent the next year. If we vote against repealing the ban, we will be giving the assault weapons ban the time it deserves to reduce gun violence and save more lives.

I ask that my colleagues vote against this bill. We can save more lives by keeping assault weapons off our streets.

The SPEAKER pro tempore. All time has expired.

Pursuant to House Resolution 338, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. Yes, Mr. Speaker, I certainly am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONYERS moves to recommit the bill to the Committee on the Judiciary.

□ 1345

The SPEAKER pro tempore (Mr. WALKER). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BARR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 239, noes 173, not voting 19, as follows:

[Roll No. 92]

AYES—239

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bevill
Bilirakis
Bishop
Bliley
Boehner
Bonilla
Bono

Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cramer
Crane
Crapo
Cremeans
Cubin
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dornan
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Franks (CT)
Frisa
Frost
Funderburk
Gallegly
Gekas
Geren
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Inglis
Istook
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kelly
Kim
Kingston
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Mascara
McCollum
McCrery
McHugh
McInnis
McIntosh
Metcalf
Mica
Mollohan
Montgomery
Murtha
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Portman
Poshard
Quillen
Rahall
Regula
Richardson
Riggs
Roberts
Rogers
Rohrabacher
Rose
Roth
Royce
Salmon
Sanford
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Young (AK)
Zeliff

NOES—173

Abercrombie
Ackerman
Andrews
Baesler
Barrett (WI)
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bilbray
Blute
Boehlert
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Campbell
Cardin
Castle
Clayton
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Coyne
Davis
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gonzalez
Greenwood
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Horn
Houghton
Hoyer
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klug
LaFalce
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Matsui
McCarthy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Moran
Morella
Nadler
Neal
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Porter
Pryce
Quinn
Ramstad
Rangel
Reed
Rivers
Roemer
Ros-Lehtinen
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Smith (NJ)
Spratt
Studds
Thompson
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Ward
Watt (NC)
Waxman
Woolsey
Wynn
Yates
Young (FL)
Zimmer

NOT VOTING—19

Calvert
Clay
Collins (IL)
Cox
Cunningham
Dreier
Gibbons
Johnston
Lewis (CA)
McKeon
Moakley
Moorhead
Myers
Radanovich
Schroeder
Shaw
Stark
Stokes
Waters

☐ 1401

The Clerk announced the following pairs:

On this vote:

Mr. Radanovich for, with Mrs. Collins of Illinois against.

Mr. Camp for, with Mr. Moakley against.

Mr. Cox for, with Mr. Johnston against.

Mr. WATT of North Carolina changed his vote from "aye" to "no."

Mr. TAUZIN changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXTENSION

Mr. McKEON. Mr. Speaker, on Friday, March 22, 1996, I was in California, and therefore, was absent for consideration of H.R. 125. If I had been present for recorded vote No. 92 on passage of H.R. 125, I would have voted "aye."

H.R. 125, the Gun Crime Enforcement and Second Amendment Restoration Act, repeals the misguided prohibition on the manufacture, transfer, and possession of semiautomatic assault weapons. I have consistently opposed any ban on these types of weapons.

The notion that assault weapons are disproportionately used in committing crimes is false. The Bureau of Alcohol, Tobacco and Firearms estimates that there is approximately one assault weapon traced for every 4,000 violent crimes reported to the police. Clearly, these are not the weapons of choice for criminals.

Furthermore, I believe that crime deterrence lies not in gun control but in the enforcement and strengthening of our laws. For example, H.R. 125 enhances our laws by creating mandatory minimum prison sentences for violent or drug-related crimes committed with a gun and establishing Federal task forces in each U.S. attorney's district to coordinate State and local law enforcement officers in Federal prosecution efforts.

Finally, despite predictions that the assault weapon ban would significantly reduce crime in America, it has become apparent that, in fact, the only effect the ban has had was to place more restrictions on honest law-abiding gunowners.

GENERAL LEAVE

Mr. BARR. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. WALKER). Is there objection to the request of the gentleman from Georgia?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT, MONDAY, MARCH 25, 1996 TO FILE CONFERENCE REPORT ON H.R. 2854, FEDERAL AGRICULTURAL IMPROVEMENT AND REFORM ACT OF 1996

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Monday, March 25, 1996, to file the conference report on H.R. 2854, the Federal Agricultural Improvement and Reform Act of 1996.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF SENATE AMENDMENTS TO H.R. 1833, PARTIAL BIRTH ABORTION BAN ACT

Mrs. WALDHOLTZ, from the Committee on Rules, submitted a privileged report (Rept. No. 104–492) on the resolution (H. Res. 389) providing for consideration of the Senate amendments to the bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I would inquire of the gentleman from Texas the schedule for this week and next week.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we have concluded our legislative business for the week and I am happy to announce that the Members are now free to return to their districts and families.

Next Monday, March 25, the House will meet in pro forma session at 2 p.m. There will be no legislative business that day.

On Tuesday, March 26, the House will meet at 12:30 p.m. for morning hour and 2 p.m. for business to consider a number of suspensions, as follows:

H. Con. Res. 146, 1996 Special Olympics Torch Relay;

H. Con. Res. 147, 1996 National Peace Officers' Memorial Service;

H. Res. 345, expressing concern about the deterioration of human rights in Cambodia;

H. Res. 379, expressing the Sense of the House concerning the anniversary of the massacre of Kurds by the Iraqi Government;

H. Con. Res. 102, concerning the emancipation of the Iranian Baha'i Community;

H.J. Res. 158, to recognize the Peace Corps on the occasion of the 35th anniversary and the Americans who have served as Peace Corps volunteers; and

H.R. 3121, to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions and to authorize the transfer of naval vessels to certain foreign countries.

If any recorded votes are ordered on Tuesday, they will be held until 5 p.m. on Wednesday, March 27.

On Wednesday, the House will meet at 2 p.m. for legislative business. We will dispose of the Senate amendments to H.R. 1833, the Partial Birth Abortion Ban Act.

On Thursday, March 28 the House will meet at 10 a.m. to take up the conference report to H.R. 2854, the Agricultural Market Transition Act, and also H.R. 3103, the Health Coverage Availability and Affordability Act of 1996.

On Friday, March 29, it is our hope that the House will consider an appropriations conference report for fiscal year 1996. We will also consider a bill to increase the debt ceiling.

Mr. BONIOR. I thank my colleague for his information.

Mr. Speaker, I just have two questions. Does the gentleman anticipate bringing up the product liability bill next week?

Mr. DELAY. If the gentleman will yield further, we do not know that, but the gentleman knows that a conference report can be brought up at any time.

Mr. BONIOR. Let me then ask the gentleman, your leadership has announced that the Passover/Easter recess would begin next Friday. Can you give assurances to the House that we will complete business by next Friday? Or is there still some thought that we may in fact have to go into the weekend or the following week?

Mr. DELAY. I think the gentleman knows that we are trying to put 1996 behind us as far as the spending and debt limit is concerned. Unless the President vetoes those two bills, we expect to be out by no later than 6 p.m. on Friday.

ADJOURNMENT TO MONDAY, MARCH 25, 1996

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the house adjourns today, it adjourn to meet at 2 p.m. on Monday next.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TUESDAY, MARCH 26, 1996

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, March 25, 1996, it adjourn to meet at 12:30 p.m. on Tuesday, March 26 for morning hour debates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON WEDNESDAY, MARCH 27, 1996

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, March 26, 1996, it adjourn to meet at 2 p.m. on Wednesday, March 27.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

WHO DO YOU TRUST—HAMAS OR THE USA?

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, there is a Member of this Congress, a Republican, who has told one of his colleagues that he "trusts Hamas more than he trusts our own Government." That is an outrageous and morally repugnant statement, Mr. Speaker.

Hamas is a terrorist organization that targets, maims, and kills innocent men, women, and children. Which Member of Congress thinks they can trust that sick and twisted group more than our own Government. Whoever believes this doesn't deserve the right and privilege to serve in this Congress.

Mr. Speaker, this anonymous Republican Member has disgraced him or herself and cast a cloud over the entire Congress. The Members and the American people deserve an explanation and an apology.

Who among you? Who among you believes such a thing? Step forward and explain yourself. The American people are watching and waiting. For shame, Mr. Speaker, for shame.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

GUN CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, in this often contentious debate about gun control, I wanted to talk for a bit about why I supported lifting the ban on so-called assault weapons, but I would like to move beyond that, as well, as to what can be done.

I supported lifting the ban because I do not think it has made much of a difference and I do not think it works. I also think that it is really false advertising.

The fact of the matter is that this type of firearm that is sought to be banned is responsible at best, according to the Department of Justice, for something like 3 percent of violent crimes and many suggest in those statistics that it could be as low as 1 percent of violent crimes. Yet this is where 100 percent of the debate has rested for 2 years.

I also oppose the ban on so-called assault weapons because I never have understood why it is that you can take two firearms and one looks a certain way, perhaps it has a bayonet mount on it or it has a flash suppressor or a folding stock, one firearm looks one way, another firearm looks another way but they both fire the same bullet at the same speed, at the same impact and they are both semiautomatic, yet one is banned and one is not. Once again , it seemed to me to be cosmetic.

Third is because if these are indeed the cause of a lot of violent crime, then why is it that since this ban was passed, well over a year ago, why is it that there has only been one—that is right—one prosecution in the entire country under this law?

So for those reasons, I have opposed this existing ban.

I did support the present bill to lift the ban because it did something else, as well. It created mandatory sentencing for crimes committed with firearms. It put people away. If you commit the crime with this kind of gun or any kind of gun, you are going to jail for a certain amount of time. That is what is needed. My experience is that people who intend to commit a crime with a firearm are not paying attention to laws.

We have laws already that it is illegal to carry a concealed weapon without a permit; any minor that is under 18, it is illegal for them to possess a handgun under existing law. Of course felons are not permitted to have firearms and on it goes. If they are going to commit a crime, they are going to get a gun.

□ 1415

Now, what I really propose, though, is to take the challenge that a newspaper issued to me recently. It is a fair challenge: If you do not believe in gun control, and I do not, then what is it that you would do? The first thing I would do is to make sure strict penalties are implemented so people understand if they commit a crime with a firearm, they are going to jail. At the Federal level this Government has been lax on that. It is time to toughen up. It is time to enforce existing laws that are on the books.

Second, though, is to lower the decibel level on this issue. There are well-meaning people on both sides of this issue. In fact, there is a lot of disagreement. So can we focus where we agree? Can we focus on a coordinated community campaign?

The fact of the matter is there is too much violence, there is too much crime. Yes, there is too much use of guns in this crime. But that is going to be dealt with by dealing with the heart, by dealing with the soul, by dealing with education, by dealing with the attitude. What is it that causes people in our society to become violent? What is it that makes people somehow think the first thing you do is pick up a gun instead of the absolutely last unthinkable thing you do? That is what needs to be dealt with.

This can be a call for all of us in our community, churches, business groups, our schools, our parents, our teachers, to become involved in dispute resolution processes, to look and study what it is that can be done in our community, how can we work together to make sure that young persons growing up do not think violence is the first resort, how is it newspapers, community journalism, resources at their disposal, how is it newspapers can be involved in surveying what can be done across our country and bringing that home so all of us in the community can understand, so newspapers can focus on successful efforts, role models and community organizing and dispute resolution and their teaching and their education? How is it that newspapers can help focus people's attention, the young person's attention, as to what happens in these types of crimes? What is it that can be done within the community?

Ladies and gentlemen, Mr. Speaker, we are not going to solve the problem of gun control on the floor of this House. What we can do, though, is to seek to bring this country together around fighting violence and make sure those who commit crimes with guns, yes, are put away, more importantly, guns are not to be used lightly, and taken lightly, and we can begin focusing on how we can work together instead of we can be split apart. Only by working together are we going to resolve the problems in the challenge of violence and crime and too much use of guns.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under a previous order of the House, the gentlewoman from Maryland [Mrs. MORELLA] is recognized for 5 minutes.

[Mrs. MORELLA addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

A SAD WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, some might say that this was the week that was. It is gone now. But we have to live by what we accomplished. We will have to go back to our constituents and be able to defend the legitimacy of the U.S. Congress in its legislative agenda, whether it helps or hurts. I do not know about anyone else, Mr. Speaker, but the Mac that is in front of us here kills. I know it kills because I sat in a committee on the Judiciary hearing, called by Congressman SCHUMER yesterday, and heard several victims speak about assault weapons killing. These witnesses told stories of a tragedy on a New York train. The victims of a son in a DC police station. They also talked about the loss of a wife and a mother in a San Francisco law firm. They did not talk from bitterness from the perspective of I do not love this country, but they lost their loved ones, and they were simply pleading for a reasonable ear to listen to their outcry and their outrage. And you know what? They said we could do something about it. And that was to maintain the ban on assault weapons.

I committed to them yesterday that I would listen to them. Tragically, today that outcry, that plea, that eloquent silence of their lost loved one fell on deaf ears because we did not listen.

Today we now have repealed the ban on assault weapons as it winds its way to the U.S. Senate. Yet as we do that, we found a colleague on the Republican side noting the words quoted in the CONGRESSIONAL RECORD, "I trust Hamas more, terrorists that provided several bombings in Israel, more than I trust my own Government." These are the words that have generated a weakened antiterrorist bill. The week that was.

These are the words that generated into the repeal of the assault weapons ban. "I trust the Hamas more than I trust my Government."

Ladies and gentlemen, we must stand up for what is right in this country, belief in the American flag. When I say to you that was the week that was, we now have an education policy that cuts $3.3 billion, so we have an attack on Goals 2000, several of our title programs that help children to learn, closing the door on education. That was the week that was.

Tomorrow I will join in with your people who will be spending the day trying to register to get a summer job, a mere opportunity to be exposed to a work experience. I had such a young person in my office. They called one day and said they could not come to work because they did not have the proper clothes to wear in an office. I said, "If you have got to wear a paper bag, come on, because it is about you having an experience." But right now, in the budget of the United States of America, we have no money for summer jobs for our youth. Some of those dollars could be utilized to help their parents during troubling times.

This was the week that was. The Hamas statement; $3.3 billion cut from education; now the assault weapons going forth in this Nation; and, yes, an indictment of what we believe in for our children; no summer jobs for young people across this Nation; young people who are trying every day to stand up for what is right, young people who are trying not to be in gangs.

I do not know about my colleagues, but this was a very sad week. But we have another next week, and I am going to try my hardest to work on behalf of the American people and the great people of the 18th Congressional District.

TRIBUTE TO THE ALL-AMERICAN JUNIOR GUILDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. HOUGHTON] is recognized for 5 minutes.

Mr. HOUGHTON. Mr. Speaker, this clearly has not been a happy day here. We have talked about issues that divide rather than bring us together. But I would like to talk about something that does bring us together. It is something that happened several weeks ago when a group from the district that I represent, in upstate New York, in Jamestown, NY, came down and entertained and gave joy and perspective to a whole group of us, those of us who were particularly interested in the Appalachian Regional Commission and the things that it did.

Frankly, I would like to talk about this in a way that is sort of unusual. I would like to talk about names, and if you would bear with me, Mr. Speaker, I would like to talk about the names involved, this the All-American Junior Guilders, great young group of people, happy, positive, the people who are going to be leading our country in the years ahead. They are associated with the Lucille Ball Threater. Lucille Ball incidentally, was born in upstate New York. And the driver and the life giver of this group is a lady called Helen Merrill. She has been involved with the theater for over 30 years and has been the spark of this thing, and you just feel better just seeing her and being around her.

They performed at lots of pretty significant places: the White House, Oprey Land, Disney World, Kennedy Center. These kids range in age from about 7 to 16. It is an all-volunteer organization. It really makes you proud to sort of be with them.

What I would like to do, if you would bear with me, is let me mention some of the names and it is going to be a long list, but I think it is important that each person as an individual is recognized here.

First of all, there is a lady called Mrs. Lucille Miller, who is the musical director. She has been a great help for Helen Merrill. Then there is Mary Jane Gerstel, choreographer; Jim Jones, technical director; Bob Servis, on drums; and Tiffany Wakeley, student assistant to the director. All people who keep this organization alive as kids go from grade to grade to grade.

What I would like to do is to mention the names of these children. They are all from upstate New York. I am very proud of the fact that they are, because I was born and brought up there and they are terrific people.

Let me just mention them:

Leah Gerstel, Chad Wakeley, Tiffany Gale Wakeley, Nichole Adams, Alycia Anderson, Ashley Arnone, Trisha Configlio, Jamielee Bonfiglio-Davis, Beth Ann Calzone, Laura Calzone, Erik Carlson-Coulter, Shane Comber, Lindsay Ann Coons, Jillian D'Angelo, Rachel D'Angelo, Carmaine Davis, Steve Davis, Kara DeAngelo, Mary Evelyn Demarco, Alexis Denn, Chelsea Denn, Melissa Rachelle Ferraro, Andrew Freeman, Kevin Fuller, Rachael Gerstel, Nicole Gullo, Alan Paul Gustafson, Jr., Scott Hannon, Shawn Hannon, Jessica Herron, Emily Huffman, Holly Louise Jones, Cory King, Chrystal Kota, Katie McMaster, Jennifer Lynn Murray, Ashley Muscarella, Jamin Scott Peace, Lynnsey Penna, Rachael Penna, Aubrey Perlee, Francis Peterson, Brenda Proestler, Anthony Sali, Lindsey Michelle Saullo, Crystal Swan, and Jessica Wheeler.

There is so much that we talk about in terms of the unhappiness of this world. These people give us happy memories. They are the light of our future, and I am very proud to mention their names and to be associated with them.

CANCER CLUSTER IN OCEAN COUNTY, NJ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SAXTON] is recognized for 5 minutes.

Mr. SAXTON. Mr. Speaker, I take out this special order this afternoon to bring to the attention of my colleagues a very, very important and a very, very unhappy circumstance that has occurred in my district. Many of you may have watched the CBS Evening News last night and observed an alarming segment of the news about a situation in Toms River, NJ. Toms River is in Dover Township in Ocean County.

Unfortunately, over the past several years, the rate of brain and central nervous system cancers in children has increased very dramatically. As a matter of fact, it has increased far beyond what would be expected if you looked at some kind of a national average or at a normal town. In Ocean County itself, as a matter of fact, 54 children have been diagnosed with brain or central nervous system cancer since between 1979 and 1991, just those several years. This is a rate which is far in excess of what we would expect to find.

In Toms River, there were eight children diagnosed with those types of cancers when you would expect an average of maybe two. So this is obviously many times higher than we would expect and has created a very difficult situation and, of course, has frightened many of us who live in that area.

Back in New Jersey, there are a number of efforts under way to try and do something about this, about this situation, and of course, before we can do anything about it, the situation has to be defined so that we can know what caused it.

There are citizens groups which have formed. For example, there is a citizens group which is very, very active which is know as Oceans of Love. Its leader, a lady by the name of Linda Gillick, who has been very active over the years, has done much good for families that have been affected. As a matter of fact, here 17-year-old son, Michael, is one of the children that is affected by this condition.

Also back in New Jersey, State Senator Andrew Ciesla and his two running mates in the State assembly, Assemblyman Holzapsef and Assemblyman Wolfe, have introduced legislation to provide $400,000 to go toward a definition of the problem, to try to study the situation, to find out what it is that may have caused the situation to occur.

□ 1430

Here in the Congress, on a bipartisan basis, we are taking steps to try to do likewise. The administration has been brought into this, the Clinton administration has been brought into this, and I understand there is a good possibility that assets of the Federal Government will be made available through the administration.

Yesterday, I, together with a number of other concerned Members of Congress, introduced legislation here to match the State bill of $400,000, so we would have a total of $800,000 to look at this problem and provide a study and report so we can take corrective measures once we know what has happened.

Mr. Speaker, as this bill proceeds through the legislative channels here in Washington, I hope that we will have support, and I am sure we will have support, of Members from both sides of the aisle. This is obviously a situation which must be corrected. There are some suspected carcinogens in the area which need to be looked at, which need to be studied, which may be the root cause. Of course, this needs to be looked at more carefully in order to make sure that we know what it is that is happening.

Last night there was a meeting in the township, and 1,000 community members showed up to express their concern. If you could read the accounts of that or hear from the people who were there, you would understand just how difficult and frightening this situation is.

So, Mr. Speaker, I hope that we will be able to move with dispatch, either through the administration or through the Congress or both, to bring to bear the assets, the financial capabilities, and the personnel which are embodied in the Federal Government, in order to quickly and efficiently define this situation, define a solution to the situation, and get this episode behind us.

Mr. Speaker, I thank you for the opportunity to express these thoughts here this afternoon.

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT MUST ITSELF BE ABOVE REPROACH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 minute.

Ms. SLAUGHTER. Mr. Speaker, I am very concerned today. I am very concerned about the ability of the House Committee on Standards of Official Conduct to conduct its business in a fair and impartial manner, because of press reports that we have seen throughout this Congress expressing doubts about the committee's failure to uphold the bipartisan standard of fairness for which it is well-know.

Just yesterday I read a press report about a new breach or possible breach of impartiality, where the committee was accused of communicating with a Member who was under review. Surely, Mr. Speaker, this must not happen. It is totally unacceptable.

The group in this House that is charged and given the privilege of maintaining the ethics and the decorum of this House must not itself come under reproach.

Mr. Speaker, I include for the RECORD an article by Larry Margasak on this issue.

ETHICS COMMITTEE REBUKES LAWMAKER, LETS HIM ANNOUNCE IT

(By Larry Margasak, Associated Press Writer)

WASHINGTON (AP)—In an unusual arrangement, the House ethics committee privately rebuked Rep. David M. McIntosh, R-Ind., but allowed him to announce the action in generally favorable terms.

Committee Chairman Nancy Johnson refused to publicly release the panel's letter sent to McIntosh on Tuesday. The letter criticized his distribution of materials at a hearing and religious comments made by an aide.

The letter found, however, that no rules were violated and two ethics complaints against McIntosh were dismissed.

Johnson's action broke with the usual practice of publicly releasing letters that complete ethics cases.

In this instance, the only hints of the letter's criticism came in a news release from McIntosh written with an assist from the committee.

The congressman's spokesman, Chris Jones, said, "The committee asked us to include certain things in the news release." Those items, in the last paragraph of McIntosh's seven-paragraph statement, made references to the ethics panel's concerns.

Congressional sources familiar with the letter, speaking on condition of anonymity, said it was far more critical than McIntosh suggested in his news release.

The complaints were based on McIntosh's actions at a Sept. 28 hearing of a House Government Reform subcommittee he chairs and improper remarks by a subcommittee staffer about a Jewish holiday.

McIntosh displayed a poster and distributed a letter resembling the stationery of the Alliance for Justice, a coalition of civil rights and public interest lobbying groups. The document purported to list amounts of federal grants received by the group's member organizations.

The documents included no disclaimer saying they had been prepared by McIntosh's staff, and listed grants for at least two groups that say they receive no federal money. The poster also was displayed on the House floor.

The improper remarks came in a conversation between a subcommittee staffer, John Praed, and Alliance for Justice counsel Deborah Lewis.

According to Lewis, she asked for more preparation time for the subcommittee hearing because of the Jewish Rosh Hashanah holiday.

She said she would be off that day and Praed asked, "Does that mean you have to work Christmas?"

McIntosh's version praised the Committee on Standards of Official Conduct the ethics committee for its "fair and nonpartisan consideration of the complaints" and for reaffirming "the soundness of the ethics process." It quoted a Democratic lawmaker supporting McIntosh.

But the final paragraph of the news release the portion the committee wanted to include changes the tone somewhat.

After noting the ethics panel accepted McIntosh's statement that he had no intention to mislead at the hearing, the lawmaker hinted at the committee's concerns.

"House members should not use anyone's letter or letterhead and add any extraneous comments because of the potential for confusion about who added the extraneous comments," the release said. McIntosh agreed to adopt the policy in the future.

"The committee also indicated concern about questions made by a former subcommittee staff member in preparing for a subcommittee hearing," McIntosh's news release acknowledged.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. RIGGS] is recognized for 5 minutes.

[Mr. RIGGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

THE WEEK THAT WAS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, this indeed was a week that was, but I hope this is no indication of what our future may be. This is the week where we cut $3.5 billion from education funds. Yes, this is the week where we denied aliens who are here on the soil access to free education. Yes, this is the week where we also gave, I think, a very poor example that we have to have assault weapons in order to feel protected in the sanctity of our home.

Mr. Speaker, this was the week that was. But I hope and pray this is no indication about the future that is to come.

Mr. Speaker, our Nation deserves a future that is worthy of its past.

In the past, we led the world in education. Today, we trail many nations in Europe and Asia.

In the past, we adequately invested in education, spending 10 percent of our funds. Today, we spend roughly 1 percent, and worse, our colleagues on the other side of the aisle want to cut another 25 percent of those funds.

It should, therefore, not surprise us, Mr. Speaker, that Japan, which now leads America in education, also leads America in the sale of many products and services.

It should not surprise us that we have a balance of trade deficit with Japan.

Education and our economic position are tied together.

We all know the old adage, "If you build a better mousetrap, the world will beat a path to your door."

We can not build better mousetraps without a solid foundation of education in this country.

We cannot compete globally, without education at home.

Yet, Members of this House have voted to further cripple education by making the largest cuts in America's history, with overall funding of the Department of Education likely to be reduced by 25 percent.

These cuts will affect basic reading, writing and math skills—skills that shape the workers and managers of tomorrow.

These cuts will mean fewer computers in the classroom, and worse, fewer teachers to educate and train our future work force.

These cuts could mean that some 45,000 teachers will get layoff notices in April, making classrooms more crowded and teaching more difficult.

We must restore these cuts, we must invest in education to provide greater educational opportunities for America's children, America's families and America's workers—so that they will be ready to meet the challenges of the changing global economy.

Japan and China recognize the value of education.

That is why they are using their resources and sending more and more of their young people to the United States for an education.

They know now what we knew before, that education is the key to the future. But, too many of our colleagues have closed their eyes to the past.

Instead of upholding our brilliant past, they want to push us deeper into a dark future.

But, there is a light at the end of the tunnel.

The Senate by a wide margin, Democrats and Republicans, have voted to restore education cuts.

The House should join the Senate.

In addition, the President has submitted a budget, indeed a balanced budget.

The President's budget continues investments in education.

While some would cut the education budget by 20 percent, the President proposes to increase the budget by 20 percent over its 1993 level.

While some would cut the education budget over 7 years, the President invests $61 billion more in that budget.

The President would invest $1 billion more in title I education funds for basic and advanced skills assistance.

The President's budget increases Pell Grants, Safe and Drug Free School Funds, Charter Schools, the School to Work Program and Goals 2000.

The President's budget invests $2 billion in Technology Literacy Challenge—bringing to the fingertips of every child in America access to computer training and learning.

And, the President's budget provides a $10,000 tuition tax deduction to help working families afford college.

I urge my colleagues to join the Senate and join the President.

Now is not the time to give up on our children.

America's future should be as bright as its past.

COMMENTS ON CORRESPONDENTS DINNER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, I had no intention really of using this time today. It is more by circumstance that I take it.

Last night, after our long day's work here, I went home. I was having my dinner with my wife, and we turned on the TV and I was checking on C-SPAN to see if in fact we were having any further floor action on subjects that interested me. I got into the Correspondents Dinner downtown in Washington.

I believe that is a dinner traditionally where the correspondents and the top leaders of our country get together and, in a good natured and good humored way, poke fun at each other; they get together and have some time of friendship and fellowship, take time out from their schedules. It is usually an enjoyable circumstance.

I would say that I thought that President Clinton did an extremely good job of carrying the mood, making a fine presentation. I enjoyed what he had to say. I think everybody there did. I think Speaker GINGRICH did also. I thought his remarks were appropriate, on target, amusing, and it was a good thing going on.

Then, Mr. Speaker, we had a monologue from a gentleman, who I guess is a talk show host, named Don Imus, that I think went well beyond anything that should be tolerated on the public airways. I realize it is a free country, and I am in no way suggesting that people do not have a right to say or do what they want, to speak what they want. I would never take that right away from Mr. Imus.

But I certainly feel that what he had to say went beyond inappropriate. It was excruciating, it was embarrassing, it was certainly blood sport. It was far more mean than it was amusing. I consider it not washing dirty laundry, but reveling in dirty laundry. And I wonder why anybody would take joy or have any particular participation in something that certainly went beyond decency and went beyond respect, particularly when we are talking about the President of the United States and the Speaker of the House, of this institution.

I make these observations because I hope that the people who organize this dinner in the future will get principal speakers who will deal with the spirit of what this evening was supposed to apply itself to, which is in fact some good natured time of fellowship among people who have tremendously difficult decisions to make, tremendously difficult jobs here, who work long days at great personal sacrifice.

I think we are certainly all human beings and we all have our little failures, but to go and systematically try and demean people, which is what the purpose of the monologue was, seems to me to be immensely disrespectful, and, again, I hope those folks will not have a speaker like that again. I think it ruined the evening.

Fortunately, this is a free country. We are very happy that this is a free country. We just passed in this body something called the V chip, so we do not have to watch violence on TV. My TV set has a V chip already. It is called an off button, and, as a free citizen in a free country, I exercise my prerogative to turn off Mr. Imus. I hope others will do the same if they feel the same way I do about his performance last night.

GUN CONTROL AND CRIME CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BUYER] is recognized for 5 minutes.

Mr. BUYER. Mr. Speaker, I come to the floor today to talk about the vote that we just had here recently on the repeal of the assault weapons ban and measures to enforce statutes with regard to criminals who use a weapon in the commission of a crime. I want to talk about our judicial system at the Federal level and how it impacts at the local level.

During the debate, I only had about 30 seconds. It was a limited debate. This was a debate that could have gone on on this floor for a long time, so I understand why the Committee on Rules had to limit the debate.

But one thing really I believe is very clear, is that there are, and I do not question the sincerity from two different groups that we saw in this debate, you have got those people who believe with all their heart that if we just get all the guns off the streets, that there will be no crime in our society. Then there are those, of whom I am in the camp, that believes gun control is not crime control, and understands the right of free citizens to own and bear arms and the protections of the second amendment of the Constitution.

But, folks, I do recognize, and those of us who live in this town in Washington and have to work here, that when you go out in those streets and you see those homes and you see the businesses here in the city whereby it is illegal to possess a handgun, and in those homes and in those businesses are citizens who live in fear, it is clear that the wrong people are behind bars in this town, as the thugs continue to roam the streets. So as we live in a free society, if in fact you live in fear, you are not free.

□ 1445

This bill was about giving law abiding citizens the opportunity to live in freedom and not in fear.

What did not get sufficient time in the debate, what I believe was the substance of the bill, was increasing the penalties for the use of a weapon in the commission of a crime. In the last session of Congress, there was a great debate about increasing the penalties on criminals that use a firearm, and it was knocked down in the 1994 crime act. I was very upset that that happened. Let me talk for a moment about that.

In this bill, what we have done is, if a thug walks into a 7-Eleven and he has got, stuck in his pants, he has a handgun right here, for the fact that he just walks in there and he has it and if his buddy pulls his gun, they both are arrested. For the fact that he had possession of a firearm in the commission of that crime, even though he never pulled it, it is a mandatory minimum of 5 years. I believe that deterrent is very important. If he pulls that weapon and he brandishes that weapon to incite fear in that individual, to rob them or hurt them or maim them, even to threaten to kill them, minimum 10 years. If in fact he discharges that firearm, 20 years.

You might say, my gosh, Congressman, that is very harsh. You are right. That is harsh. Because there are those of us that believe if you use a weapon in the commission of a crime, it better be a harsh penalty. And let us send that signal out there to the thugs, because to me the real assault weapon is the thug who pulls the trigger.

Let us talk about theories of punishment in our judicial system. The theories of punishment, as I serve on the Committee on the Judiciary, I talk about it so often with my colleagues, theories of punishment are prevention, education, rehabilitation, restitution, retribution, and deterrence. So in prevention, whether they are programs in our communities for youth activities in our cities and towns or multi-drug task forces, or take education, the DARE Program, in our schools, rehabilitation, whether it is by alcohol, drug or schooling within our prisons. How about restitution to the victim, retribution to the criminal and deterrence. We need a proper balance of all of these in our society. There is a great need, because of victims crying out that they are not being heard. And when they are not heard, it breeds individual vigilantism in our society.

So we need a proper balance. That is what we are trying to strike here in our society for the benefit of all mankind.

A BUSY WEEK

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, we are concluding today's session, the session for the week, going home. And it has been a very busy week. I will not say it has been a very fruitful week but certainly we have been very busy.

I am looking forward to going home and talking to my constituents for 12 hours in an all night teach-in that I will be holding at the Borough of Manhattan Community College from 7 p.m. Saturday night to 7 a.m. Sunday morning. We are having this all night teach-in because there is just not enough time to talk about all of the things that need to be talked about in this very critical period in the life of our Nation. There are forces moving very rapidly and overnight they want to remake America.

The Speaker of the House has said that politics is war without blood and that he wants to remake America, and we are trying to remake America in a very short period of time. The fallout is hurting a lot of people.

In New York State and New York City it seems that the Governor and the mayor want to get ahead of the Republican majority here in Congress. They are have instituted certain cruel harassing programs that are worse than anything we have yet passed here in this House. So our people need to know a whole lot about what is going on. We need to talk about just exactly what is happening, and there is not enough time to do it in a regular day.

Mr. Speaker, also, if we want to get people together who are experts and can throw some light on this subject, they are too busy, they cannot stay long or, if we have an opportunity to talk, the amount of time available is too little. So I will have a marathon teach-in, all night long, 12 hours.

We are going to talk about the fiscal future of New York City, the fiscal future of New York City. The discussion begins with a discussion of what is happening here in Washington because the fiscal future of New York City is inextricably interwoven with the policies that are generated here in Washington, our Capital. I am going to start by talking about the fact that New York City is often discussed on the floor of the House of Representatives. People often talk about New York City and New York State. It is the favorite target of the Speaker of the House. Speaker GINGRICH often refers to New York State and New York City as a welfare State and a welfare city. For that reason, the people of New York need to understand the perspective of our relationship with Washington better.

We are called a welfare State, welfare city. We are often accused of draining, being a drain on the Nation, and yet New York City pays taxes to the tune of $9 billion more into the Federal Government than it received back in 1994. New York City, the city alone, paid taxes of $9 billion more to the Federal Government than it received back from the Federal Government in various forms of aid.

In that same year, 1994, New York State paid $18.9 billion more. The total of New York State, the city and all the other parts of New York State, paid $18.9 billion more to the Federal Government than we received back from the Federal Government. The year before that, in 1993, New York State paid $23 billion more to the Federal Government than we received back from the Federal Government. So New Yorkers need to know in this all-night teach-in we are going to start by talking about the fact that our city is not bankrupt. Our city is not broke. Our State is not bankrupt. Our State is not broke.

Mr. Speaker, it is baffling. We do not quite understand why Members on the floor of the House of Representatives like to single out New York City. New York City is often singled out, and New York State, for its high expenditures on Medicare and Medicaid. Well, after we take away our high expenditures for Medicare and Medicaid, which are the highest in the country, I admit that. I can think of no more noble way to expend public funds than by taking care of the sick, the infirm, the elderly in nursing homes. That is a noble way to expend funds.

Yes, if there is waste, we want to get rid of the waste. If there is corruption, we want to get rid of the corruption. We do not have any money to spend for anything except the intended purposes. But even if we take away the high expenditures for Medicare and Medicaid, New York City is still paying more and New York State is still paying more to the Federal Government than they are getting back from the Federal Government. Stop and seriously consider it.

According to the formulas in the way things are arranged here in Washington, New Yorkers, New York City people have to pay for 25 percent of their Medicare costs, and then again the State pays another 25 percent, which means that New York State pays 50 percent of its Medicare costs while Mississippi only pays a small fraction of its Medicare costs. Most of it is paid by the Federal Government, and other Southern States pay only a small fraction of their total Medicare and Medicaid costs. The rest is paid for by the Federal Government.

The result of all this is that in 1994, the Southern States combined—I mention the Southern States because often the Blue Dogs and the Republicans and various people are the ones who are criticizing New York. Certainly the Speaker of the House is from Georgia and he is a major critic of New York. The Southern States combined receive $625 billion more from the Federal Government in terms of aid than they pay in to the Federal Government.

Mr. Speaker, Mississippi gets the highest amount. In 1994, Mississippi got $6 billion more from the Federal Government than the people of Mississippi paid in taxes to the Federal Government. In Georgia, in 1994, the people got $2 billion more from the Federal Government than the people of Georgia paid to the Federal Government. The county in the country, in all of the United States of America, the one county which received the highest per capita in Federal aid, the highest amount of money in Federal aid was the county represented by the Speaker of the House.

Speaker GINGRICH's county received more money per person from the Federal Government than any other county in the United States of America. So why is New York City constantly being lambasted? Why is New York State constantly being lambasted? I suppose we should call upon some psychologists and students of human nature because not only was it the case in 1994, when New York paid $18.9 billion more to the Federal Government than it received in Federal aid, but in 1993, we paid $23 billion more to the Federal Government than we received in Federal aid. But this has been the case for the last 20 years.

The last 20 years, New York State has consistently paid more into the Federal Government than it has received from the Federal Government. Why do the States that are recipients of the money who always pay less to the Federal Government than they receive become the critics of New York? That is a challenging study of human nature. Why are we kicked in the pants and why are we spat upon because of our generosity?

If we were to have complete States' rights as some Members are proclaiming economic States' rights, and if everything was block granted and the State was left on its own, New York would have no budget problems. If we had the $18.9 billion from 1994, and probably 1995 will show a similar pattern, if we had the money that we pay into the Federal Government, which is so much greater than we get from the Federal Government, we could balance our budgets. We could take care of all our problems.

In my all-night teach-in, I want to let New Yorkers know this. I am going to let the people who live in my district know this, constituents know this, because they are assuming a posture of fatalism. Too many people, too many people, those who are using the day care centers and do not find that they are able to find places anymore, those who are being laid off in various city departments, those who are being denied public assistance, Aid to Families with Dependent Children, harassed, too many people have given up already, and they say that the city cannot do any better.

It is not a matter of an administration which is unduly harassing people who need Aid to Families with Dependent Children. It is a matter of the situation is such that the city cannot do any better. The city is almost broke. It is about to go bankrupt. It cannot do any better. The all-night teach-in is designed to let people know this is not true, that New York City is a wealthy State, New York State is a wealthy State, and there are many ways we can do better.

So I am looking forward to this all-night teach-in because it will give us a chance to have the kind of dialog necessary in this critical period when there are forces moving to remake America. They want to overnight change the way America is. They want a revolution. Revolutions are always dangerous because the people who are the strongest are sometimes the dumbest, and the people who are the strongest and the dumbest can do a lot of damage before you can get them back under control.

It has been a busy week, and we have seen some of this dumbness played out here in Washington. Some of the stupidest are here in Washington.

At this very moment, the 32,000 young people in New York City who got jobs last summer in the Summer Youth Employment Program do not know whether they are going to be able to get jobs this time because it is a federally funded program. Last year, 32,000 young people were employed in the Summer Youth Employment Program in New York City. Across the country, in other big cities, and in some suburban areas, youngsters were employed in summer youth employment programs who could not get jobs in any other way.

□ 1500

That program has existed for the last 20 years. It has been steadily cut. When I was commissioner of the community development agency responsible for parts of the program in 1968, 90,000 young people in New York got jobs in the summer program. It went from 90,000 in 1968 to 32,000 in 1995. The reduction was so great that we went down to one-third the total amount of the original program. But it is still a very important program.

We do not want to go from 90,000 to zero, and right now there is zero in the budget for the Summer Youth Employment Program. There is no budget for the Summer Youth Employment Program. That kind of stupidity is still prevailing here in Washington.

I do not know why the Republican majority targets programs for young people. I do not know why they went after the School Lunch Program and reduced the School Lunch Program. I do not know why they went after the Title I Program. Title I has been reduced by one-seventh, $1.1 billion taken from tile I designed to help youngsters in elementary and secondary schools across the country. Ninety percent of the school districts in America get some part of title I funds. Why is the Republican Majority insisting on going after young people?

We are supposed to be a family-oriented Congress and we hear the words "family orientation," "family values" all the time, but the children are the target of the Republican majority in this Congress. They went after school lunch programs, they have gone after title I programs.

The only body in the history of Washington since the very beginning of the Head Start Program, the only body to cut the Head Start Program is this Republican-controlled majority here in the House of Representatives. We cut Head Start by $300 million. That cut is still hanging over the head of the Head Start Program.

Head Start cut back $300 million; title I cut by $1.1 billion; Summer Youth Program last year was about $650 million, that is cut, now zero at this point. All of those actions by the Republican-controlled Congress and House of Representatives add up to a war on children. The war to remake America is first a war on children, a war on education.

The President released his budget earlier in the week. As I said before, it has been a busy week. The President released his budget and in that budget he has less for a tax cut than the Republican-proposed budget. He is proposing, I think, $100 billion over a 7-year period in tax cuts.

Among the tax cuts that President Clinton proposes is a cut which would allow parents who are paying tuition for children to deduct tuition costs. Up to $10,000 in tuition costs can be deducted under President Clinton's tax cut plan. I think there is no more noble tax deduction that you could give than a tax deduction that relates to the education of young people.

I have three sons and all three of my sons are out of school already, but I assure you it was a very difficult period to put three sons through college. I was glad when the last one graduated and only a few years ago I paid off the last parent's loans.

It was a very difficult situation when it comes to putting young people through college. It gets more expensive all the time, and so President Clinton has moved in a direction which will help family. I do not think you can have more of a family orientation than that. At the same time it will help the economy of the country by providing the kind of high-skilled, highly trained individuals that we get only when people go to college. There is a certain kind of training needed now that requires that you go to college.

In addition to that, the President's tax cut includes the $500 per child tax deduction increase, an increase of $500 per child. Again, it is family-oriented, and I must say that the Republicans also have that in their proposed tax cuts. At least we are guaranteed that there will be agreement on a tax cut, a tax deduction for children, $500 per child increase in the coming budget because both groups agree.

But, in general, the President has stayed the course and kept in his budget the money which allows for increases in education. Not only does the President not accept the cuts of Head Start or the cuts of title I or the cut of the Summer Youth Employment Program, but the President puts additional money in there for education. The only basic increase in the President's budget is money for education and job training. Those are the two areas that are increased.

We know that Americans are suffering, families are suffering a great deal of anxiety now because of the fact that there is a great gap in the income of the 10-percent who make the most money in this country and those at the bottom whose wages have stagnated in the last 20 years.

There is a need to deal with that in many ways and one way, of course, to deal with that is to make sure we have the proper education and the proper training. We cannot emphasize too much the necessity to take the initiative on education and maintain the initiative on education.

During this busy week we also took up the immigration bill. The immigration bill is very important to me and to my district. I do not know of any other district in the country that probably has as many legal immigrants as my district has. I have not checked it, so I do not know, but I know that according to the last census 150,000 of the 581,000 people in my district are not citizens; 150,000 of the 581,000 people in my district are not citizens, and I interpret that to mean that they are legal immigrants because the illegal immigrants do not allow themselves to be counted. Illegal immigrants do not come forward and do not get counted.

The people who have been counted and who have admitted that they are not citizens is a staggering number of 150,000 in my congressional district. The 11th Congressional District of Brooklyn has more than one-third of all the immigrants who are legal and who are counted in the census in New York City. New York City has between 400,000 and 500,000 legal immigrants and 150,000 of them are in my district.

The immigration bill is very important. These are people who are hoping to become citizens. We have an intense drive on telling everybody who can become a citizen, do become a citizen as rapidly as you can. You need to defend your own interests, your own rights.

We think that the attack on immigrants reflected in the immigration bill, that attack is unwarranted. We think that the attack on immigrants is un-American. Never before have the people of America attacked immigration. Immigration has always been the great source of new life and new blood in America. We are a country of immigrants.

Why all the sudden are immigrants considered bad people? Immigrants helped to build the country. Right now in the country we have fewer immigrants than any period in history. In New York City we have 400,000 to 500,000 immigrants, whereas 20 years ago 1.5 million people in New York City were immigrants.

Why are we attacking immigrants with such intensity and hostility now? Is it because the immigrants now are not white? Most of the immigrants are Asians or Hispanic, or they are people of African descent from the Caribbean area. Is the attack another form of racism? I think so. We have fewer immigrants.

According to a New York Times editorial, the immigrants in New York earn on average greater income than a lot of other people who have been there longer than they have been. The immigrants in New York put back into the economy a large amount of money because they serve as entrepreneurs or are very active in many different ways in the economy of the city. The immigrants of New York are a benefit to New York.

In fact, one of the things I am going to talk about in the all-night teach-in that I will be hosting at Lower Manhattan Community College will be diversity and the contribution of immigrants to New York City.

One of the great strengths of our city is that it is a diverse city. The population is one of the most diverse in the country, just as the population of the country as a whole is a diverse population, and that is one of the great strengths of America.

People of all kinds from all over the world live here. It is not a weakness; it is definitely a strength. We should not, through hostile immigration legislation, turn our backs on what is a self-evident truth. All of a sudden we have grown very stupid and very dumb.

We are blinded by racism which tells us that we do not want Hispanic immigrants or we do not want Asian immigrants or any black immigrants from the Caribbean area. We are blinded by the truth of the matter, and that is that immigrants have always contributed to our Nation through immigration and our diversity puts us in a position that is advantageous in the rest of the world.

As we move in this so-called global economy and the United States is competing for global markets with other nations, because of our diversity we will always have a salesman out there in that marketplace, no matter where the marketplace is, we can have a salesman that looks just like the people there, who talks like the people there, and who can share a cultural heritage of the people there, whether you are talking about the Pacific Rim countries or you are talking about China. China is now the third largest economy in the world. We have a lot of Chinese in this country. They are not in any way a liability. The Chinese are an asset.

There are a lot of Koreans. Korea is a bustling economy. I visited Korea a few years ago, the City of Seoul, where three of my relatives, a uncle and two brothers were in the Korean war. They were in Korea during the time of the war, and they know the City of Seoul as a city which was totally demolished by the communists.

The City of Seoul is one of the most beautiful cities in Asia now. The City of Seoul has probably more people than the City of New York right now. Not only did they rebuilt the city for the residents individually, tremendous rows and rows of apartment houses and stores and all kinds of buildings, but they have built into the city a park system which is second to none to take care of the open air needs of their citizens.

We have a lot of Koreans in New York. We have a lot of Koreans in the rest of the country. We will interchange with them in a very profitable way in the future. The diversity helps New York City. The diversity helps the Nation as a whole.

I would like to report good news. In the debate on the immigration bill somebody convinced somebody, because we had bipartisan support, for a separation of the legal immigrant issues from the illegal immigrant issues. Many have counseled that for some time and begged for it. We thank the President and the White House for coming out at the last minute, but they did come out in support of a separation of legal immigrant issues from the issues of how to take care of illegal immigrants.

Nobody is going to stand on this floor and countenance illegality of any kind. Illegal immigration is a representation of the inadequacy of our Government to take care of its basic business of guarding the borders and making certain that certain laws are enforced. Illegal immigration is a signal that there is a tremendous incompetence in the way that we handle certain matters. We should move to end that incompetence.

Maybe we are not allocating enough resources. We should move to do that. But we should not be preyed upon by illegal immigrants, just as we should not be subject to the ravages of any other kind of illegal activities. We did vote and I am happy to report to my constituents and to many others that basic issues of how to handle legal immigration, how to establish new numbers, how to deal with families being reunited, a number of issues were separated out, and this bill in the end finally dealt mostly with illegal immigration.

There were some bad moments, and there was a provision voted in that said that immigrants coming into this country must be proficient in English. That, I think, is a step in the wrong direction, and there were some other things that I consider steps in the wrong direction, but we did get the separation of the legal immigration issues from the illegal.

One other thing was voted down, and that was an attempt by the corporations to bring in selected personnel so that they could drive down the costs of doing business. The same people who argue that we should limit immigration in general, the same people who have made war on immigration in general suddenly want to make an exception. They want to bring in computer programmers. They want to bring in people from countries where salaries are much lower for technicians and professionals, and use them to undercut the wages of professionals and technicians in this country, including nurses.

In particular there was a specific vote on nurses. Now, at a time when we had a need for nurses, nurses came from other countries and filled that need and many or some have become citizens. I do not want to make war on any particular ethnic group or country that provided nurses when we needed nurses, but this Nation does not need to import nurses from abroad at this point. They are closing nursing schools in New York City and New York State. There are nurses who are being laid off in hospitals, large numbers of nurses experiencing great anxiety at the restructuring of hospitals in ways that utilize less nurses and endanger the welfare of patients.

Nurses are planning a big march here in Washington for May 10. Independent nurses are coming to Washington on May 10 because they are very upset and very concerned, not only about what is happening to their profession, but also concerned about the implications of what is happening to their profession to the health of their patients.

I applaud the independent nurses who will be coming here on May 10. I applaud the action taken by the Members of the House of Representatives yesterday to vote down the provision which would allow more foreign nurses to come in and undercut the salaries and the working conditions to nurses that are here already.

Finally, today, in this busy week we voted on the repeal of the ban on assault weapons. In my all-night teach-in which is focused on the fiscal year of New York City that will take place tomorrow, Saturday, from 7 p.m. to 7 a.m. Sunday morning, we will not focus a great deal on crime and violence and the ban on assault weapons but certainly it will be a part of the discussion.

□ 1515

You cannot discuss New York City without discussing the need to lessen the amount of crime. You cannot discuss New York City without dealing with what guns have done to New York City and the surrounding area or what guns have done to the Nation as a whole. You cannot discuss New York City without understanding that the city cannot survive with its very strong gun control policies and laws unless we do something in the Nation's Capital to relieve New York City and all the other big cities of the burden of guns.

There are too many guns in America. Too many guns in America. We are the only industrialized nation, other than South Africa, which permits widespread ownership of guns, and as a result we have too many murders and too many deaths by gunshot wounds. It was 16,000 people 2 years ago. I do not know what the latest figures are because they are not compiled completely, but 16,000 people in 1 year died from gunshot wounds in America.

At the same time less than 100 people died as a result of gunshot wounds in Japan and the same thing was true in Britain and in Germany and in France. Very small numbers of people died as a result of gunshot wounds in countries which have policies which restrict the ownership of guns.

We voted in the last Congress to get rid of, to ban the manufacture of assault weapons in this country. Under Ronald Reagan we had already voted to ban the importation of assault weapons. So we didn't want to bring assault weapons from outside. Last Congress we decided we don't want to manufacture them in this country. That is all the ban on assault weapons did, it stopped the manufacture of assault weapons in this country. It specified the kind of weapons.

So why do we have it on the floor today to repeal it? Why did we have on the floor a law to get rid of a law which had gotten rid of assault weapons?

Across America the public pays a high toll. Yesterday, in the suburbs of New York City, a man with a rifle killed a policeman and held all the law enforcement officers at bay for 12 hours before they finally got into his house and found that he had killed himself. The pattern plays itself out over and over again. The large numbers of guns generate violence at a level that would not exist if the guns were not there.

Yes, people will be violent. Yes, people will get angry, but the more guns there are, the more deadly the violence; the more deadly the anger. Any civilized nation should be able to clearly see that if you lessen the number of guns, you will lessen the number of deaths due to gunshot. You will decrease the murder rate, you will decrease the serious crime rate.

We say we care about the public. We say we want to lower the dangers for crime. We say we want to make people feel safer, but we come to the floor, and we repeal in a law—and it was not a close vote. I do not think they have enough votes to override a veto, but it was not a close vote.

The repeal of the ban on assault weapons took place. That has great implications for New York City, and we will talk about it because the health and welfare of the city, the ability of the city to expand its major industry and the major industry in New York City is tourism.

People come from all over the world to see New York City. Every educated person who knows about cities in the world want to see New York City at some time in their lifetime. We are going to try to make it cheaper for people to come there. We also have to make certain people feel safe. And the safety of New York City is dependent on policies that take place in Washington.

We have very tough gun control laws. You cannot own a gun in New York City without a gun permit. You cannot own a gun in New York State without a gun permit, and the criteria for issuing guns in New York State and New York City are very, very strict. But people bring illegal guns in from Virginia, from Texas, from all over the country because we still have illegal guns being sold in many States. Guns being sold are not illegal in those States, but they are illegal in New York. But they are transported to New York.

We need to make guns illegal, the purchase of guns illegal anywhere in the country. But that is not our total major subject. It has a bearing and it is most unfortunate that we voted today, the majority voted today to repeal the ban on assault weapons.

Next week we will have another busy week. We are going to deal with a minimum health care bill. We have gone away from 2 years ago from a comprehensive bill offered by the Clinton administration, a comprehensive health care bill which wanted to move the country toward universal health care. We were moving in the right direction. We were moving in the direction to catch up with the rest of the industrialized nations.

All of the industrialized nations of the world, again except South Africa, all of the industrialized nations of the world except South Africa have universal health care programs except South Africa and the United States. In this country we still have 40 million people, many of them poor children, who are not covered by any kind of health care plan; 40 million.

So we were moving 2 years ago, a little more than 2 years ago toward a comprehensive health care plan which would deal with the provision of health care for all families and for all individuals.

Now, next week, we are going to have what I call a minimum, a bare minimum health care bill on the floor. We are going to be discussing a health care bill which is only going to make a few cosmetic changes in the way health care service is delivered. We are going to deal with portability, an ability to allow people to carry their health care plan from one company to another if they change jobs.

We are going to deal with people who retire and how they deal with the health care of those who have retired. We are going to deal with a few little issues affecting people who already have health care plans. We will do nothing next week, nothing, absolutely nothing, zero, to help people who have no health care plans whatsoever.

I think in this proposal next week there will be some Democratic proposals which will take the Kennedy-Kassebaum bill, and Democrats have agreed, generally, to support what Kennedy-Kassebaum are proposing and not to support what the Republican majority will put on the floor next week.

We will take the Kennedy-Kassebaum bill and try to add a provision for equal deductibility for entrepreneurs and some small businesses. In other words, we are going to try to have people who are on their own now, who have their own business be able to make the same kind of deductions on their taxes for health care that many corporations are allowed to take now. In other words, we call it the equal deductibility for entrepreneurs provision.

That is a small change, again, but it is very important. The large amounts of people have been thrown out of their corporate jobs. They no longer are tied to a big health care plan. They are on their own, as entrepreneurs and small business people, and they need a health care plan which deals with their problems. If they were able to deduct more of their health care payments from their taxes, it would solve a big problem for a large number of Americans who have been caught in the middle. So we want to add that.

The other thing that is important about next week is that there is no discussion in next week's schedule for Medicaid. Medicaid is a health care plan that does cover poor people, very poor people. You have to meet a means test. You have to be eligible in order to get Medicaid.

Now, Medicaid is not being discussed next week, but a shadow, a deadly shadow, a deadly silence hangs over Medicaid. There have been proposals that Medicaid will be changed drastically. Not only will the budget for Medicaid be cut, but the eligibility requirements, the fact that in the law the Federal Government stands behind the payment for health care of any person who meets the means test, any person who is poor enough to qualify for Medicaid will receive Medicaid, that entitlement will be taken away. The entitlement is threatened.

Not only has the entitlement been threatened by the Republican majority here in this Congress, but the entitlement is also threatened by the Governors' Conference. Both Democratic and Republican Governors have agreed that they would like to take away the Federal entitlement. They want to take away the Federal entitlement and have the States totally in charge of the health care of the poorest people.

They want to run the Medicaid Program under a block grant arrangement. A block grant arrangement means the Federal Government will give the State a set amount of money, and when the State runs out of money the State is supposed to make up the difference or the State will cut off the service. It means that we have gone a long way in the 30 years since Medicaid started, but we will be going backward rapidly.

Medicaid is the one definite step toward universal health care coverage for everybody. Medicaid is the one step the Government has taken in that direction.

By the way, it is important to point out that Medicaid, two-thirds of the money spent for Medicaid goes to cover the cost of nursing homes for the elderly. Two-thirds of the Medicaid funds go to cover the cost of nursing homes for the elderly. Only one-third goes to poor families. So you are jeopardizing the ability of elderly people to have nursing home care when you deal with taking away the entitlement for Medicaid.

Many elderly people have Medicare, but if you are really ill for a certain period of time, even with Medicare, it costs you a certain amount of money. You have to pay some portion of the cost. And when people are ill for a long time and run out of money, they move from Medicare to Medicaid in order to qualify, in order to be able to pay the fees for a nursing home.

So nursing homes are filled with people who started out that they were middle class before they got so ill that they ran out of resources, and they are, in the end, paid for by Medicaid in nursing homes. So all of this is threatened.

There is a shadow hanging over the head of Medicaid, a deadly silence about Medicaid in this capital. The White House is too silent, the leadership of the Senate is too silent, the leadership of the House is too silent. When all this silence settles, past experience has shown us that the silence means that somebody is about to pull a fast one; that suddenly we will find Medicaid on our desk one day, a rapid movement to the passage of Medicaid legislation, and it will not be good legislation. There is going to be a rapid attempt to rush through a take away of the entitlement for Medicaid.

We must be vigilant. We must watch. At my all-night teach-in I intend to talk to my constituents about the need to watch and be vigilant about Medicaid, the need to make certain every elected official at the State, city, and Federal level is aware of the fact that there is a great threat to Medicaid, the entitlement.

There is a double need to put the pressure on the Congress. There are many Congressmen who say they do not want anything to happen to Medicaid, but they are sitting silent and nothing is happening while the deadly silence surrounding Medicaid moves in on us like a fog, that is the kind of fog that strangles people with asthma.

So next week will be a busy week as we consider health care. I hope that my colleagues who care about health care for poor people will be vigilant and watch for a possible last-minute trick on Medicaid.

Finally, let me just talk about the all-night teach-in in a little more detail. Why are we having an all-night teach-in? As I said before, there is so much that needs to be said until we have to set aside the time to say it.

We cannot have a town meeting which lasts for 2 hours and people are ready to run. There are experts who need to talk. We can't hear them at any other time because they are busy during the day on various jobs and there are people who have grievances and who are living in the middle of the results of this so-called revolution to remake America, people who have great anxiety about what is come.

Some people in New York City and New York State are already suffering because the Governor of New York State and the mayor of New York City have gotten ahead of the revolution here in Washington.

□ 1530

They need to be heard. So we are going to have an alternating situation where we will spend part of the time listening to people who have a great deal to tell us about specifically what is happening in their lives and their agencies and their institutions, and the other time will be for experts who will explain to them the nature of what is happening politically, the nature of what is happening economically.

And then another part of the time will be used to talk about creative solutions to the problem. We do not want to have 12 hours of whining. We have people who are coming to make vision statements, to tell us how we can solve the problems that are afflicting our big cities in general and specifically how we can solve some of the problems that are afflicting New York City.

We are going to break it up into segments and there will be 1-hour segments. We will start off with vision statements. James Forbes, one of the leading ministers in New York City, will led off with a vision statement. We have the actor-activist Archie Davis who is going to make a vision statement about where he thinks New York City ought to be going.

Why do we have a person like Archie Davis? Because New York City's future is all tied up with the tourism industry. The one industry that is growing in New York City is tourism, the major industry.

Now, tourism strikes most people in America as a strange industry. We have been acclimated and educated not to understand how much money is generated by people traveling into a place and spending their money.

The average tourist coming to New York City spends $600 a visit. The $600 goes into the economy, it creates jobs, it creates revenue, it creates a whole atmosphere which allows other entrepreneurs to be able to develop their businesses and profits.

So tourism is a big industry. It is a big industry all across the country, by the way. Many big cities have had a great increase in tourism, other than New York City. In fact, New York City, the tourism rate of growth has slowed down because other cities are being visited by tourists in greater and greater numbers.

We have to deal with that and make certain that in the coming next 5 to 10 years, we take actions to encourage more people to come to New York City.

But tourism to the Members of the Congress who say they have vision, tourism to the Members of the Congress who want to go forward to the year 2000 and talk as if they are a member of the cyberspace generation and they know everything and they are going to lead us into a great new future, tourism to them is not an industry.

The Congress criticized the President for spending money to promote tourism. We have just closed down in the Department of Commerce the office of tourist promotion. The office that is designated to promote tourism in the U.S. Government is gone. There is no agency in the U.S. Government promoting tourism in the Nation as a whole. We are the only nation in the world, the only industrialized nation that does not have at the national level an ongoing effort to promote tourism, to get people to come from all over the world into our Nation and its cities, countryside, whatever, and spend their money. We are the most backward people in the world on that issue. We do not see it. We had an effort going forward. The President even had a conference on tourism. The White House had a conference on tourism. I tried to get a report on the conference. They do not have the money to print up the report.

I congratulate the White House for its vision, I congratulate the Department of Commerce for its vision, but it came under attack from this Congress. The Neanderthals of this Congress have defended giving McDonald's Federal subsidies in order to promote hamburgers abroad. We give Federal subsidies to the fur industry to promote furs abroad. We give subsidies to a number of those industries to promote those industries abroad. The same Neanderthals cannot see that McDonald's does not need any help to promote hamburgers abroad but we should be promoting our own cities, our own wonders. The Grand Canyon is something that people all over the world want to see. It is not a city, but people all over the world are willing to spend money to come see the Grand Canyon.

The sea coasts, the gulf coast of Florida, the California coast, all kinds of great features we have in this Nation that people all over the world want to come and see. The exploding middle class throughout the world wants to travel.

One of the features of middle-class people is that they have disposable income. When the disposable income gets through taking care of the immediate normal luxuries, the immediate normal luxuries dealing with the TV set, refrigerator, a house, the next level of desire that takes over is the desire to travel.

This is a pattern of middle-class people all across the world. They want to travel once they reach a certain level.

Just consider for a moment what happens in an economy like the Chinese economy. The Chinese economy is now the third largest economy in the world. Overnight China has eclipsed a number of nations and become the third largest economy in the world. How did they do that? Because one of the features of economies is that economies are very much interrelated with people. If you have a billion people, automatically you have an advantage. If you can ever get yourself organized and have that society organized in a certain way, a billion people will automatically generate a lot of wealth.

Consider yourself out there selling shoestrings or pencils to a billion people. Just a shoestring or a pencil sold in China, you have got hundreds of millions of people who are going to buy it. Just the impact of the numbers is staggering.

This Nation has a little more than 250 million people. Two hundred fifty million people is one-quarter of the Chinese population. It is expected that in the next 4 or 5 years, China will have a middle class which is about one-quarter of its population. That means that 250 million Chinese will be in that middle class in the next 4 or 5 years. If one-tenth of those 250 million decide to travel to America, you have 25 million people coming into this country just from China in the next 4 or 5 years. There will be a great boom in tourism.

Then you have the other Asian countries. Japan already has the second largest number of tourists coming into this country. I think Germany has the largest number. Japan has the second largest number. But you will have a big boom, a big increase when the other Asian/Pacific rim countries increase their travel into this country. Then you have eastern Europe where people have not been able to travel and there is a new middle class in eastern Europe. Then you have South Africa. And we should not leave out the booming middle class in South America. So there will be a great increase in all the cities of tourism. And it would be greater if you had some kind of planning setup at the level of the Federal Government.

New York City needs a planning process. It could double the number of tourists. The number of tourists that came into New York City was 24 million last year. Twenty-four million tourists came into New York, most of them from other parts of the United States. About 5 million came from foreign countries.

If in 5 years we could double that amount of tourists coming into New York City, we could double the amount of money earned from tourism. How much money does tourism generate in the economy of New York City? Last year it generated $54 billion. Do you hear what I say? In various forms, $54 billion.

Of that amount, $13 billion was collected in revenue by the city, revenue collected in various ways: Revenue collected from the hotel tax, which has been lowered greatly now, revenue collected mainly from the income of those people who work in the tourism industry, and as a result of the tourist industry, they had an income and they paid taxes. Revenue collected as a result of the increase in the property values. Revenue collected in the restaurant tax. Everybody eats when they come to New York, or when they go anywhere else.

So just one industry, if we were to take a creative approach to increasing it. How do you increase the tourism industry in New York City? Any business traveler to New York knows right away our biggest problem. Our biggest problem is the high cost of hotels. The high cost of accommodations in New York is a barrier to more people coming. We now have 24 million a year and almost 25 million expected this year. Then if we remove the barrier of the high cost of hotels, we could have millions more.

In New York, most people who come stay in hotels. If you go to Paris or to Rome or to Berlin or anywhere in Europe, they have high-priced hotels, they have hostels for youth, they have dormitories for families, and they have camping grounds right in the city for people who want to just camp. They have all kinds of alternative accommodations so that the tourist does not have to spend all of their money on accommodations, on housing.

If they do not have to spend all their money on housing, then they put the money into the economy in restaurants, they go to visit museums, they go to plays and shows and other forms of entertainment. At the same time, all of them eat, of course, in a restaurant, and many of them buy large amounts of retail goods in the stores.

So a simple feat has to be performed in New York. But nobody has ever looked at the situation and said, "Let's do that." They have said instead, "New York is getting less and less money from taxes, we're going to go broke, so let's cut the services of the schools, let's keep cutting the schools." The schools in New York have become a joke almost because we keep cutting. "Let's cut the schools. Let's cut the day care. Let's cut the senior citizens' programs." And finally, "Let's cut health care. Let's sell hospitals." The mayor is proposing to sell hospitals, or lease hospitals.

A more creative approach is to improve the industries that are naturally growth industries in our city. Medical-related industry is also a natural growth industry. We should not be selling hospitals, we should be expanding hospitals.

Because a population of 8 million people, it is hard for most people to comprehend. Eight million people in one place, very compact, very dense, 8 million people is a population that not only needs health care services but they are diverse.

Any disease known to mankind, you are going to have it in New York City because of the diversity of the population. Which means that any cure, any regimen, any protocol that can be developed for a disease or for a condition can be developed in New York City. Medical research should not be leaving New York City as it is now. The medical research industry should be expanded in New York City. That is another source of income for the city.

The city has a million schoolchildren, a million kids in our public school system.

It has 200,000 college students in the City University of New York system. We have great private schools like New York University, Columbia University, Fordham University. You add up all the students in higher education and you are talking about 300,000 to 350,000 students in higher education within the borders of New York City.

So education byproducts, educational technology products, any computerized products, any products requiring imagination and creativity, the production of those kinds of products should be encouraged in New York City.

Those are the kinds of things we are going to talk about in the all-night teach-in. We want to answer the doomsayers. We want to answer the people who stand on the floor of the House and say that New York City is a drain on the Federal Government because it has too much welfare and too much of our Federal money goes to take care of Medicaid and Medicare and other problems in New York City. Not only is that a lie, it is a big lie.

Currently New York City is paying more money into the Federal Government than we are getting back. I cannot repeat the figure too often. In 1994 we paid $9 billion more in taxes to the Federal Government than we got back from the Federal Government. New York City alone.

New York State as a whole paid $18.9 billion more to the Federal Government than we got back from the Federal Government in 1994.

In 1993, the figure was $23 billion. New York State paid $23 billion more to the Federal Government than we got back in various forms of aid from the Federal Government. So New York City is not a basket case dependent on the Federal Government. On the contrary, there are many States in the country that get more from the Federal Government than they pay into the Federal Government, and they are the problem.

Mr. Speaker, in closing, I just want to remind you that we cannot talk too much about the present condition that we find ourselves in in the country in general. And in New York City on this Saturday night from 7 p.m. to 7 a.m., 7 p.m. Saturday night to 7 a.m. Sunday morning, we will have an all-night teach-in giving everybody an opportunity to deal with the problem that New York City has as a result of the attempt to remake America.

☐ 1545

The Republicans in this House of Representatives have said that they want to remake America. The Republicans in this House of Representatives have said that politics is war and blood, they do not care if some people have casualties. We do not want New York City residents to be casualties. We do not think they have to be casualties. We think this city, our city, can defend itself, first by energizing its assets.

We do not think the mayor is correct when he says that the only way he can solve the city's problems is by cutting the budget for education, cutting the budget for schools, the only way to solve the problem is by cutting the hospitals, selling the hospitals, the only way to solve the problem is by harassing the people who need welfare, whose children are on aid to families with dependent children. We do not think we need to close our nursing homes. We think the seniors of New York can be taken care of in the future as they have in the past. We have some of the best senior citizens centers in the country. We want to keep it that way.

The city has the resources. We want to talk about what the city has to do in terms of changing Federal policies and changing State policies which strangle the city. We want to talk about certain policies the city itself promulgates. The city gives too much tax incentives to businesses to stay. The city allows the State to trick it into a formula where they give school aid on the basis of attendance rather than on the basis of enrollment. There are a number of policies that have to be changed. In addition to changing policies, and all New Yorkers have to fight to get these policies changed at the Federal, State, and city level. We have to take actions to get more creative efforts launched by the city to increase those industries in the city which are naturally compatible with industries for New York City, industries related to tourism, industries related to medical research, industries related to education and students and the talent of the faculty and students of our colleges and universities, and those things can happen and provide a positive answer to the problem of the remaking of America.

Yes, if America is to be remade, do not try to do it in 2 years. We do not need a revolution. We can have an evolution. Part of the evolution of cities like New York should call upon their citizens and get the best possible wisdom from those citizens to deal with the problem of remaking our cities into forms which allow them to be self-sufficient and self-supporting.

We can take care of our own problems. We need the Federal Government to get off our back in New York. Everybody needs to know they have to participate if we are to do this. I will see everyone at the all-night teach-in at Manhatten Community College, corner of Chamber Street and West Side Highway, from 7 p.m. to 7 a.m. I urge all interested persons to join us there, and we will have a dialog that is good for the city, good for the State, and good for the country.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MYERS of Indiana (at the request of Mr. ARMEY), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HASTINGS of Florida) to revise and extend their remarks and include extraneous material:)

Mr. WISE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. BUYER) to revise and extend their remarks and include extraneous material:)

Mr. HOUGHTON, for 5 minutes, today.

Mr. SAXTON, for 5 minutes, today.

Mr. RIGGS, for 5 minutes, today.

Mr. GOSS, for 5 minutes, today.

Mr. BUYER, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. SLAUGHTER, for 1 minute, today.

Mrs. CLAYTON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HASTINGS of Florida) and to include extraneous matter:)

Mr. DURBIN.

Mr. FILNER.

Mr. RICHARDSON.

Mrs. MALONEY in two instances.

Mr. TORRICELLI.

Mr. TEJEDA.

Mr. WARD.

Mr. BONIOR.

Mr. LEVIN.

(The following Members (at the request of Mr. BUYER) and to include extraneous matter:)

Mr. FRANKS of New Jersey.

Mr. RADANOVICH.

Mr. BAKER of California.

Mr. HYDE.

Mr. KING in two instances.

Mr. ZIMMER.

(The following Members (at the request of Mr. OWENS) and to include extraneous matter:)

Mr. GUNDERSON.
Mr. MORAN.
Mr. MENENDEZ.
Ms. MCCARTHY.
Mr. OWENS.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 942. An act to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes; to the Committee on the Judiciary. Also referred to the Committee on Small Business and the Committee on Rules.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 165. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S.J. Res. 38. A joint resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 48 minutes p.m.), under its previous order, the House adjourned until Monday, March 25, 1996, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2284. A letter from the Chairman, Federal Trade Commission, transmitting the 18th annual report to Congress on the administration of the Fair Debt Collection Practices Act, pursuant to 15 U.S.C. 1692m; to the Committee on Banking and Financial Services.

2285. A letter from the Executive Director, Thrift Depositor Protection Oversight Board, transmitting a supplement to the final report of the RTC as required by section 10 of the Coastal Barrier Improvement Act of 1990, pursuant to Public Law 101-591, section 10(a)(1) (104 Stat. 2939); to the Committee on Banking and Financial Services.

2286. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Korea (Transmittal No. 12-96), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

2287. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Norway for defense articles and services (Transmittal No. 96-36), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

2288. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1995, pursuant to 5 U.S.C. 552b; to the Committee on Government Reform and Oversight.

2289. A letter from the Assistant Secretary (Legislative Affairs and Public Liaison), Department of the Treasury, transmitting a list of all the locations of all tobacco product vending machines located in Federal buildings over which the Treasury Department has jurisdiction, pursuant to Public Law 104-52, section 636(c) (109 Stat. 508); jointly, to the Committees on Government Reform and Oversight and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. WALDHOLTZ: Committee on Rules. House Resolution 389. Resolution providing for the consideration of the Senate amendments to the bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions (Rept. 104-492). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BAKER of California:

H.R. 3152. A bill to permit the Federal Government to provide funding for wetland creation and improvement through the construction of upland dredge material disposal facilities and funding for upland dredge material disposal, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. DELAY (for himself, Mr. CONDIT, Mr. DOOLEY, Mr. BARR, Mr. BISHOP, Mr. BRYANT of Tennessee, Mr. CHRISTENSEN, Mr. CLEMENT, Mr. COBLE, Mr. COMBEST, Mr. CRAMER, Mr. CUNNINGHAM, Mr. DORNAN, Mr. EMERSON, Mr. ENGLISH of Pennsylvania, Mr. EWING, Mr. FOLEY, Mr. HASTINGS of Washington, Mr. HAYES, Mr. KIM, Mr. LARGENT, Mr. LATOURETTE, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. LIVINGSTON, Mr. MCINTOSH, Mr. NEY, Mr. NORWOOD, Mr. SCARBOROUGH, Mr. TOWNS, Mr. TRAFICANT, and Mr. WAMP):

H.R. 3153. A bill to amend title 49, United States Code, to exempt from regulation the transportation of certain hazardous materials by vehicles with a gross vehicle weight rating of 10,000 pounds or less; to the Committee on Transportation and Infrastructure.

By Mr. BARRETT of Wisconsin:

H.R. 3154. A bill to increase the penalty for trafficking in powdered cocaine to the same level as the penalty for trafficking in crack cocaine, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCCOLLUM (for himself, Mr. MICA, and Ms. BROWN of Florida):

H.R. 3155. A bill to amend the Wild and Scenic Rivers Act by designating the Wekiva River, Seminole Creek, and Rock Springs Run in the State of Florida for study and potential addition to the national wild and scenic rivers system; to the Committee on Resources.

By Mr. TIAHRT (for himself, Mr. SOUDER, Mr. HOSTETTLER, Mr. LARGENT, Mrs. MYRICK, Mr. DORNAN, Mr. HUTCHINSON, Mr. PETE GEREN of Texas, and Mr. ENGLISH of Pennsylvania):

H.R. 3156. A bill to amend the Indian Child Welfare Act of 1978 to exempt voluntary child custody proceedings from coverage under that act, and for other purposes; to the Committee on Resources.

By Mr. TORRICELLI:

H.R. 3157. A bill to amend the Internal Revenue Code of 1986 to allow the establishment of individual training accounts; to the Committee on Ways and means.

By Mr. HOYER (for himself, Mrs. MORELLA, Mr. WYNN, Ms. NORTON, Mr. WOLF, Mr. MORAN, and Mr. DAVIS):

H. Con. Res. 153. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby; to the Committee on Transportation and Infrastructure.

By Mr. HOKE:

H. Res 390. Resolution concerning the prohibition on the use of United States passports for travel to Lebanon; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 392: Mr. ENGLISH of Pennsylvania.

H.R. 739: Mr. ARMEY.

H.R. 1050: Mr. JACKSON.

H.R. 1279: Mr. ISTOOK, Mr. THORNBERRY, and Mr. BATEMAN.

H.R. 1386: Mr. STOCKMAN, Mr. NORWOOD, Mr. WILSON, and Mr. BILBRAY.

H.R. 1406: Mr. DINGELL, Mr. BENTSEN, Mr. KENNEDY of Rhode Island, Mr. HASTINGS of Florida, Mr. DREIER, Mr. SOLOMON, Ms. JACKSON-LEE, Mr. TAYLOR of Mississippi, Mr. MATSUI, Mr. POMEROY, Ms. PELOSI, and Mr. SERRANO.

H.R. 1496: Mr. TATE.

H.R. 1619: Mr. MATSUI.

H.R. 1684: Mr. BACHUS, Mr. BUNNING of Kentucky, Mr. CLINGER, Mr. CRANE, Mr. DE LA

GARZA, Mr. DELAY, Mr. DREIER, Ms. ESHOO, Mr. FARR, Mrs. FOWLER, Mr. HEINEMAN, Mr. JEFFERSON, Mr. KOLBE, Mr. MCCRERY, Mr. MANTON, Mr. ROGERS, Mr. BARTLETT of Maryland, Mr. COLLINS of Georgia, Mr. DEFAZIO, Mr. DURBIN, Mr. ENGEL, Mr. GALLEGLY, Mr. KANJORSKI, Mr. LIGHTFOOT, Mr. MEEHAN, Mr. MENENDEZ, Mrs. MINK of Hawaii, Mr. MURTHA, Mr. VISCLOSKY, Mr. WILLIAMS, Mr. YOUNG of Alaska, Mr. LEACH, Mr. BAKER of Louisiana, Ms. BROWN of Florida, Mr. BROWN of California, Mr. BROWNBACK, Mr. CALVERT, Mr. CHRISTENSEN, Mrs. CLAYTON, Miss COLLINS of Michigan, Mr. DELLUMS, Mr. FIELDS of Louisiana, Mr. FOX, Mr. GOODLING, Mr. HYDE, Mr. LINDER, Ms. MCCARTHY, Mr. MCDERMOTT, Mr. MCKEON, Mr. MCNULTY, Mr. MOORHEAD, Mr. NEAL of Massachusetts, Mr. RICHARDSON, Mr. SANFORD, Mr. SHADEGG, Mr. STUDDS, Mr. TIAHRT, Mr. TORKILDSEN, Mr. WICKER, and Mr. ZIMMER.

H.R. 1776: Ms. MCKINNEY, Mr. LEWIS of Georgia, Mr. JACKSON, Mr. HILLIARD, Ms. KAPTUR, Ms. WATERS, Mr. GILCHREST, Mr. BONILLA, Mr. NORWOOD, Mr. STUMP, Mr. TATE, Mr. METCALF, Mr. TIAHRT, Mrs. CHENOWETH, and Mr. GUTKNECHT.

H.R. 2060: Mr. SANFORD, Mr. HEFLEY, Mr. ROTH, Mr. BOEHNER, Mr. NORWOOD, Mr. INGLIS of South Carolina, Mr. BURTON of Indiana, and Mr. BACHUS.

H.R. 2066: Mr. RIGGS, Mr. WELDON of Florida, Mr. GREENWOOD, Mr. MCINTOSH, Mr. SOUDER, Mr. CASTLE, Mr. BALLENGER, Mr. GRAHAM, Mr. LONGLEY, Mr. HUTCHINSON, Mr. STARK, and Mr. HOKE.

H.R. 2167: Mr. BORSKI.

H.R. 2214: Mr. BILBRAY and Mr. WATTS of Oklahoma.

H.R. 2241: Mr. GILCHREST.

H.R. 2247: Mr. CLYBURN, Mr. FROST, Mr. JACOBS, Ms. KAPTUR, Mr. LEWIS of Georgia, Mr. MATSUI, and Mr. VISCLOSKY.

H.R. 2270: Mr. WELDON of Florida.

H.R. 2275: Mr. BARR, Mr. ROGERS, and Mr. UNDERWOOD.

H.R. 2364: Mr. BONO.

H.R. 2450: Mr. ENGLISH of Pennsylvania, Mr. TORRES, and Mr. WYNN.

H.R. 2531: Mrs. LINCOLN.

H.R. 2536: Mr. COBLE, Mr. JACOBS, and Mr. MINGE.

H.R. 2566: Mr. BROWNBACK.

H.R. 2579: Mr. LONGLEY.

H.R. 2727: Mr. EMERSON.

H.R. 2757: Mr. ACKERMAN, Mrs. WALDHOLTZ, Mr. LIPINSKI, Mr. TATE, and Mr. LAHOOD.

H.R. 2764: Mr. DOYLE, Mr. DORNAN, and Mr. CALVERT.

H.R. 2798: Mr. FRANKS of Connecticut.

H.R. 2827: Mr. CLYBURN.

H.R. 2834: Ms. WOOLSEY.

H.R. 2893: Mr. LAHOOD and Mr. BARCIA of Michigan.

H.R. 2911: Mr. MCCOLLUM, Mr. ENGLISH of Pennsylvania, Mr. ZIMMER, and Mr. HERGER.

H.R. 2925: Mr. GUTKNECHT, Mr. MINGE, Mr. WELLER, Mr. STOCKMAN, Mr. WILSON, and Mr. EHRLICH.

H.R. 2931: Mr. KENNEDY of Massachusetts.

H.R. 2994: Mr. SMITH of New Jersey and Mr. ENGLISH of Pennsylvania.

H.R. 3010: Mr. HOKE and Mr. CONDIT.

H.R. 3043: Mr. CALVERT.

H.R. 3065: Mr. TAUZIN.

H.R. 3095: Mr. WICKER.

H.R. 3118: Mr. SMITH of New Jersey and Mr. BILIRAKIS.

H.R. 3123: Mr. CANADY.

H.R. 3130: Mr. FILNER, Ms. WOOLSEY, and Mr. LUTHER.

H.R. 3141: Mr. SKAGGS.

H.R. 3142: Mr. TEJEDA, Mr. BONILLA, Mr. FRAZER, Mr. SCARBOROUGH, Mr. ENGLISH of Pennsylvania, Mr. SMITH of New Jersey, and Mr. BREWSTER.

H.R. 3148: Mr. ZIMMER.

H. Con. Res. 100: Mr. SAM JOHNSON of Texas, Mr. EMERSON, Mr. HOLDEN, Mr. TAYLOR of Mississippi, Mr. DAVIS, Mr. SCARBOROUGH, Mr. MCKEON, Mr. MOORHEAD, Mr. PACKARD, Mr. BARRETT of Nebraska, Mr. PETRI, Mr. DOOLITTLE, Mr. FOLEY, Mr. CLEMENT, Mr. LEWIS of California, Mr. WELDON of Florida, Mr. HASTERT, and Mr. GOODLATTE.

H. Con. Res. 134: Mr. HASTINGS of Washington and Mr. SKEEN.

H. Res. 345: Mr. POMBO.

H. Res. 385: Mr. ENGLISH of Pennsylvania.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1202: Mr. GENE GREEN of Texas.

DISCHARGE PETITIONS

Under clause 3 of rule XXVII, the following discharge petitions were filed:

Petition 12, March 21, 1996, by Mrs. SMITH of Washington on House Resolution 373, has been signed by the following Members: Linda Smith, Tom A. Coburn, Lloyd Doggett, Peter G. Tokildsen, Marge Roukema, Martin T. Meehan, Charles E. Schumer, Christopher Shays, John J. Duncan, Jr., Stephen Horn, Peter Blute, and Sam Brownback. Folios: e-19-Date: 03-22-96 21:19-Subformat:

H.R. 3065: Mr. TAUZIN.

H.R. 3095: Mr. WICKER.

H.R. 3103: Mr. CASTLE.

H.R. 3118: Mr. SMITH of New Jersey and Mr. BILIRAKIS.

H.R. 3123: Mr. CANADY.

H.R. 3130: Mr. FILNER, Ms. WOOLSEY, and Mr. LUTHER.

H.R. 3141: Mr. SKAGGS.

H.R. 3142: Mr. TEJEDA, Mr. BONILLA, Mr. FRAZER, Mr. SCARBOROUGH, Mr. ENGLISH of Pennsylvania, Mr. SMITH of New Jersey, and Mr. BREWSTER.

H.R. 3148: Mr. ZIMMER.

H. Con. Res. 100: Mr. SAM JOHNSON of Texas, Mr. EMERSON, Mr. HOLDEN, Mr. TAYLOR of Mississippi, Mr. DAVIS, Mr. SCARBOROUGH, Mr. MCKEON, Mr. MOORHEAD, Mr. PACKARD, Mr. BARRETT of Nebraska, Mr. PETRI, Mr. DOOLITTLE, Mr. FOLEY, Mr. CLEMENT, Mr. LEWIS of California, Mr. WELDON of Florida, Mr. HASTERT, and Mr. GOODLATTE.

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EXTENSIONS OF REMARKS

TRIBUTE TO STUDENTS PARTICIPATING IN OPERATION VALENTINE

HON. FRANK TEJEDA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. TEJEDA. Mr. Speaker, I rise to pay tribute to the students of R. T. Barrera Elementary School, Pearsall Intermediate School, and La Vernia High School for writing valentines to our Armed Forces stationed in Bosnia. These valentines were sent to our troops through the Operation Valentine program, a nationwide valentine writing campaign designed to boost the morale of our men and women serving in the U.S. military in Bosnia. Through the pens and pencils of these children, more than 150 valentines of love and support were sent to uplift our troops.

A 1st grade student from R. T. Berrera Elementary School wrote, "I am a first grade student in Roma, Texas. Thank you for being so proud of our country. We miss you and we want you to come home."

A student from Pearsall Intermediate School wrote his valentine addressed to "Dear soldier." He went to say, "I am from Pearsall, TX. I am 9 years old. I like football. My favorite team is Dallas Cowboys. They are champions. We miss you. We are proud because you are peacekeepers. * * *"

La Vernia High School also expressed support. Members of the La Vernia High School Student Council wrote 50 valentines to both mobile forces and land forces stationed in Bosnia. One of these valentines, written by an 11th grade student council member, stated: "Happy Valentine Day * * * you are admired and appreciated for everything you have accomplished and sacrificed for our country, you are respected and supported (no matter what you might do). Never forget that you are a leader and looked-up to by me and the rest of our Nation. Stay safe * * * and always remember that you are in our prayers."

These wishes are just a few of the scores of valentines that young people across my district wrote to our soldiers involved in the Bosnian peacekeeping mission. I commend all the schools for supporting our Armed Forces, and I am honored to share their remarks with my colleagues today. I speak from experience—letters from home, expressing love and support for a soldier while stationed overseas, uplifts morale and keeps spirits high. I trust these valentines will do just that.

SALUTE TO ALL ISLAND HANDICAPPED SPORTS, INC. SLED HOCKEY TEAM

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. KING. Mr. Speaker, I rise today to salute a very special group of athletes, the All Island Handicapped Sports, Inc. sled hockey team. This outstanding collection of sportsmen has done themselves, and all of Long Island, proud, representing New York at the Wendy's International Sled Hockey Tournament in Hamilton, Ontario, Canada.

The team defeated Hamilton, 3 to 2, on a goal by Tony Fitzgerald, assisted by Larry Northorn, and two goals by Vic Calise with assists from Larry Northorn, Rich Northorn III, James Abatino, and Tony Fitzgerald.

Downing Kitchener/Elmvale, 3 to 1, the team was led by scorers Fitzgerald, Larry Northorn, Calise, and William Schwarz. Defeating a determined Chicago squad 4 to 2, the team reached the gold medal round against a very tough Kingston, Canada team.

Although downed 7 to 0 by Kingston, the New York team earned the tournament's silver medal. Throughout the tournament, the New York team got stellar goal tending from Ryan Bora, hard-hitting defense from Dr. Stephen Mordecai, William Schwarz, Chuck Albert, and Donald Saracen, and excellent line play from Joey Messing, Vito Giambruno, Zachary Lynn, Gregory Nelson, Anthony Donaroma, Jonathan Rotkin, and Mark Turan.

Every member of the team can be proud of earning the tourney's silver medal. As a fan of the Brooklyn Dodgers, I would like to offer the All Island Handicapped Sports team the following encouragement: wait 'til next year—I know you can bring home the gold.

NEW YORK SLED HOCKEY ROSTER

James Abatino #62, Chuck Albert #8, Ryan Borja #20, Victor Calise #9, Anthony Donaroma #3, Anthony Fitzgerald #22, Vito Giambruno #83, Zachary Lynn #1, and Dr. Stephen Martucci #2

Joseph Messina #52, Gregory Nelson #13, Lawrence Northorn #60, Richard Northorn III #14, Jonathan Rotkin #5, William Schwarz #16, Donald Sorokin #32, and Mark Turan #99.

IN RECOGNITION OF DOROTHY BARNES

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. HALL of Texas. Mr. Speaker, one of the privileges that I have most enjoyed as a Member of the House of Representatives is the opportunity to offer assistance to the hundreds of veterans who reside in the Fourth District of Texas, and today I would like to recognize and pay tribute to someone who has devoted countless hours in this cause—Dorothy Bateman Barnes, whose exemplary service as the Van Zandt County Veterans Service Officer has earned her the respect and gratitude of those veterans who have called on her for help.

"Dottie" Barnes was appointed to the veterans post in August, 1984. A native of Wills Point in Van Zandt County, she contributed to the war effort in the 1940's while working in the accounting office of North American Aviation. Years of Federal Government service followed, the last 7 with the Department of Defense. Her late husband, Maj. (Ret.) Matthew J. Barnes, was a veteran of World War II and the Korean war, and was wounded in the Korean war and left for dead but managed to escape. This ordeal gave Mrs. Barnes a heightened awareness of veterans' needs and an empathy for their plight.

Known for her dedication, professionalism, and long hours of service, Mrs. Barnes was presented the Outstanding Veterans Service Officer of the Year award for the Dallas Region in 1991, having been selected from 200 officers for the annual award. Commenting on the award, she stated, "My main purpose in life is serving the veterans of this county and anybody else who walks through my door." In addition, she was given a Distinguished Service Ward by the United States Marine Corps League and has received frequent commendations from the Van Zandt County Judges and Commissioners. The county's consultant on the Americans With Disabilities Act stated that Mrs. Barnes "may be one of the best veterans services officers in the country."

Veterans Service Officers routinely provide an array of assistance to veterans—including compensation and pension matters, hospitalization, insurance, transportation, education, G.I. home and farm loans, disability retirement, military records, and others. Mrs. Barnes provides all these services—and more. She works long hours and takes paperwork home with her at night in an effort to provide efficient service to those in need. She organized the first veterans' health screening clinic in the area, which continues to be an overwhelming success.

In addition to the long hours that she devotes to veterans, Mrs. Barnes somehow finds time for a number of other worthy causes. She is a member of both the Canton and Wills Point Chambers of Commerce, a member of the Business and Professional Women's Club, holds lifetime memberships in the Wills Point Historical Society, the Van Zandt County Genealogical Society, and the Van Zandt County Friends of the Library. She served as chairman of the Van Zandt County Historical Commission for a number of years, is the current vice-chairman, and was chairman of the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

county's Sesquicentennial Committee. She is also a certified nursing home ombudsman and is chairman of the Selective Service Board for the East Texas area.

In recognition of her outstanding service to the county, Mrs. Barnes was named Van Zandt County Citizens of the Year in 1987. She also received an Award of Achievement and Appreciation from the Wills Point Chamber of Commerce and was given an Award of Merit for Outstanding Achievements from the Genealogical Society.

Mr. Speaker, Van Zandt County is truly fortunate to have a veterans service officer with the depth of experience, compassion, and integrity that Mrs. Barness brings to her job—and a citizen so devoted to community service. Dorothy Barnes embodies the highest ideals of both government service and civic responsibility, and she deserves our profound gratitude and respect. I ask my colleagues to join me today in paying tribute to this outstanding American.

TRIBUTE TO TEXAN WHO WILL OFFICIATE AT OLYMPICS

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I ask my colleagues to join me today in a tribute to a great citizen of Texas, Mr. Herbert Allen, Sr., who has been selected as one of the track officials for the Summer Olympics Games in Atlanta, this coming summer.

Mr. Allen is very deserving of this opportunity and responsibility. He has officiated the Texas State High School Track and Field Championships and the Texas Relays at the University of Texas at Austin for the past 6 years and served as referee of the State High School Track and Field Championships. He also officiated the Olympic Trials in 1992, the NCAA Track and Field Championships in 1992 and 1993, the Mobil Track and Field Championships from 1989 through 1995, the Youth National Track and Field Championships from 1992 through 1995, and the Junior Olympics Track and Field Championships last year.

Mr. Allen also coached at Klein High School, taking the Bearkats to the State final-four baseball tournament in Austin in 1983. He was the first African-American baseball coach to take a team to the Class 5A Final Four and was named the Houston Post High School Baseball Coach of the Year in 1983. Later that same year, Mr. Allen coached the North All-Stars to a 5–3 victory in the Astrodome in the Texas High School All-Star Baseball Game. In 1986, Mr. Allen was honored with induction into the Texas High School Coaches Hall of Honor.

Mr. Allen's job this summer will be on the field officiating the long jump and triple jump events, during the Olympic Games, July 22 through August 4. He will also work the Olympic Trials in June.

Congratulations to a great Texan, Herbert Allen, Sr.

ST. PATRICK'S DAY 1996: A DAY OF CELEBRATION AND DEDICATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mrs. MALONEY. Mr. Speaker, we are all looking forward to St. Patrick's Day festivities back home.

For me, the upcoming celebrations bring back memories of the wonderful friends I made in Ireland last year when I accompanied President Clinton on his historic visit to that beautiful country—and of the message they conveyed in their words and actions: We want peace.

For those of us involved with Irish issues, the recent setbacks brought true heartache. But that's why now, more than ever, the United States must stand firm in its commitment to help the Irish people win a lasting peace.

Perhaps our best opportunity to do this is by promoting opportunities for economic growth in Northern Ireland and the Republic. This will be mutually beneficial, since one-third of all foreign business in the Republic is United States-owned.

We've already taken several steps toward that goal. President Clinton has appointed a Special Envoy for Economic Initiatives on Ireland, and the White House convened a conference on trade and investment in Ireland. This week I was proud to vote to continue funding for the International Fund for Ireland.

But I firmly believe we must do more. Along with my New York colleagues PETER KING and TOM MANTON, I have introduced H.R. 2844, the Ireland Economic Development Act. My bill would authorize the issuance of loan guarantees for economic development and job creation activities in the Republic of Ireland and Northern Ireland.

I think Dan O'Kennedy said it best: "Prosperity and peace go hand in hand—that's why the Irish American Unity Conference strongly supports H.R. 2844, the Ireland Economic Development Act."

I urge all my colleagues who are friends of Ireland to cosponsor H.R. 2844 before going home this St. Patrick's Day.

And every Member of this Congress should support the MacBride Principles, which I and 226 other Members of Congress cast our vote for earlier this week.

I authored the New York City MacBride Principles Contract Compliance Law, which made it illegal for the city of New York to award contracts to companies which discriminate against Catholic workers in Northern Ireland.

We should have a zero tolerance policy for discrimination: That's the statement we make when we vote for the MacBride Principles.

Last, but by no means least, my heart goes out to all the families still threatened with cruel separation by deportation proceedings. I am committed to continuing my work on this issue with members of the Ad Hoc Committee for Irish Affairs, and I urge my colleagues to get involved.

We all love taking part in the fun of St. Patrick's Day celebrations. But this year, as we put on our green shirts, we must all resolve to roll up our sleeves and do the hard work to help realize a bright and promising future for Ireland and her people.

LEGISLATION TO AMEND FOREIGN ASSISTANCE INTRODUCED

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. GILMAN. Mr. Speaker, I am pleased to introduce legislation which amends the Foreign Assistance Act [FAA] and the Arms Export Control Act [AECA] to make improvements to certain defense and security assistance provisions under those acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes.

There are two titles to this bill. The first title—Defense and Security Assistance—is nearly identical to the text of title 31 of H.R. 1561, the American Overseas Interests Act, which the Committee on International Relations marked up and reported out during the first session of the 104th Congress.

Title I amends authorities under the FAA and the AECA to revise and consolidate security assistance authorities, in particular by eliminating outdated policy and statutory language. In addition, this title moves provisions which have been carried on annual appropriations measures into permanent authorization law where they belong. In other words, title I of this bill fulfills the committee's responsibilities as an authorizing committee.

Title II of this bill—Transfer of Naval Vessels to Certain Foreign Countries—authorizes the transfer of 10 ships to the following countries: Egypt, 1; Mexico 2; New Zealand, 2; Portugal, 1; Taiwan, 4; and Thailand 1. Eight of these ships are being sold, one is being leased, and one is a grant transfer (Portugal).

Legislation authorizing the transfer of these naval vessels is required by section 7307(a) of title X (U.S.C.) which provides in part that "a naval vessel that is in excess of 3,000 tons or that is less than 20 years of age may not be disposed of to another nation (whether by sale, lease, grant, loan, barter, transfer, or otherwise) unless the disposition of that vessel is approved by law * * *" Each naval vessel proposed for transfer in this legislation displaces in excess of 3,000 tons and/or is less than 20 years of age.

The United States will incur no costs for the transfer of the naval vessels under this legislation. In addition to the revenue generated by the sale of eight of these ships, which amounts to over $70 million, title II of this bill will also generate over $500 million in revenue to the public treasury and private firms for repair, reactivation, services, and future ammunition sales.

I commend this bill to the Members of the House of Representatives and, in particular, to the Committee on International Relations.

NATUROPATHY ADVANCES IN PUERTO RICO

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. RICHARDSON. Mr. Speaker, I am pleased to be able to advise my colleagues in the House that the Legislation and Governor of the Commonwealth of Puerto Rico have committed themselves to provide legislation which would license and regulate the practice of naturopathy in Puerto Rico, and at the same time, assure to the citizens of Puerto Rico the freedom to be able to continue to select health-care practitioners of their choice. I commend the Legislature and the Governor of the Commonwealth for this commitment.

As Members of the House may already know, modern naturopathy was introduced into Puerto Rico in the 1950's. Subsequent thereto, traditional naturopathy began to be promoted earnestly in the 1960's. However, it was not until the 1970's that naturopathy began to flourish in the island paradise, largely as a result of the efforts of Dr. Carmen Martinez, Dr. Ivan Martinez, and Dr. Norman Gonzalez.

In the 1980's, the profession of naturopathy began to organize with the establishment in 1981, of the Puerto Rico Association of Naturopaths [PRAN]. In 1983, PRAN established a Self-Examining Board and Continued Education, and called for legislation to regulate the practice of naturopathy. The legislation was opposed by certain groups wishing to limit economic competition and the legislation ultimately died. Another legislation effort was launched in 1985, but once again, the legislation died. Other aborted legislative efforts followed but each were unsuccessful. The current legislative effort, unfortunately, is facing strong opposition from the leadership of certain medical doctors in spite of 90-percent support from the citizens, including health-care practitioners, as reflected in a February, 1996, poll.

Late in 1995, the Puerto Rico Supreme Court, in a four-to-three decision, confirmed a lower court decision that held that naturopathy was a part of medicine and consequently, only a licensed medical doctor could practice naturopathy. This decision led to such an uproar throughout the Commonwealth that the legislature and Governor enacted a law which established a 1-year moratorium delaying the implementation of the decision of the Puerto Rico Supreme Court while enabling the legislature and Governor the opportunity to present and enact legislation to license and regulate the practice of naturopathy. This moratorium, which recognized and established the naturopathic profession as a different science, separate from conventional Naturopathic Associations which is composed of PRAN, the Puerto Rico Association of Naturologists, the Christian Federation of Naturopaths, and other supporting organizations.

In February of this year, Senate bill 1329 was introduced and hearings were expected shortly in both the Senate and House. The bill is a comprehensive bill designed to recognize and regulate the naturopathic profession in Puerto Rico who practice traditional naturopathy. The bill includes provisions to certify the competency of, and license, the existing naturopaths in Puerto Rico, which approximates 200 doctors. It also establishes a mechanism to examine and license future naturopaths who have successfully completed a comprehensive educational curriculum in naturopathy.

Unfortunately, legislation to extend, and possibly alter the existing moratorium, is now being considered by the Senate majority party leadership in response to lobbying from the leadership of certain medical doctors.

During the next several weeks, other colleagues and I will report further in the House regarding the progress of naturopathic legislation in Puerto Rico. We will also report on further developments in the naturopathic profession in Puerto Rico. Each of us warmly applauds those members of the Puerto Rico Legislature and the Governor who hold steadfast to their original commitment to the people of Puerto Rico to regulate the naturopathic profession.

TRIBUTE TO R. HUGH "PAT" UHLMANN

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Ms. McCARTHY. Mr. Speaker, I rise today to pay tribute to a distinguished business and civic leader, R. Hugh "Pat" Uhlmann, who would have celebrated his 80th birthday Sunday, March 17. Born on St. Patrick's Day 1916, Mr. Uhlmann died February 7, 1996 having contributed his generosity and kindness to our community throughout those years. Mr. Uhlmann always will be remembered as a renaissance man with a bright mind and warm heart. His principal in life defined his every action: what is hateful to you, do not do unto others.

A talented and highly successful businessman, Mr. Uhlmann spent 50 years as a member of the Kansas City Board of Trade, where he began his career as a grain trader in 1938. He was president in 1960–61. After serving our Nation during World War II, Mr. Uhlmann rejoined Uhlmann Grain Co. Later, he was vice-president of Midland Flour Milling Co. before buying control of Standard Milling Co. with his father and brother, Paul, in 1951. The name was changed to the Uhlmann Co. in 1981. He served as president, chairman, and chairman emeritus.

Mr. Uhlmann was a trail blazer for Jewish Kansas Citians. He was often the first Jewish person appointed to boards or accepted into business and social clubs in Kansas City, opening the door for others who would follow. Mr. Uhlmann encouraged many Kansas City businesses to hire their first Jewish employee. Mr. Uhlmann was also committed to opening doors for other minorities. He was a voice for tolerance who spoke quietly, but effectively. Many families and individuals of all backgrounds have been touched by Mr. Uhlmann's sincere interest in helping others. One son recalls a winter day when he watched from a window as his father gave a stranger outside the coat he was wearing. When queried, Mr. Uhlmann explained that the man had just lost his job, was down on his luck, and needed the coat far more than he did.

Mr. Uhlmann's energy and generosity will have a lasting effect on our community. He was a founding member of Friends of the Zoo, president of the Friends of Art, a trustee of Children's Mercy Hospital, Rockhurst College and a contributing member of many other civic, religious, cultural and educational institutions.

His unique blend of humor and intellect led to opportunities as a radio commentator and columnist. His love of life was displayed through numerous hobbies; reading, gardening, cooking, golfing, fishing, and horseback riding. Longtime friend Henry Bloch of H&R Block said that Mr. Uhlmann often served lunches in his office and that it was an honor to be invited. These lunches were an opportunity for lively exchange of ideas and commentary on key issues and a chance to experience Mr. Uhlmann's culinary talent. Mr. Uhlmann took up painting at age 74 and won awards for his work. Mr. Uhlmann left this world with a lifetime of exhilarating experiences unmatched by most people.

His most lasting legacy is his family. Mr. Uhlmann said he knew when he met his wife, Helen Jane, 57 years ago that they would marry. Theirs was a marriage of unconditional love, loyalty, and fun that makes most enviable. In the written memorial Mr. Uhlmann wrote of Helen Jane: "I sit here with tears in my eyes thinking how close we have been and what a beautiful life we have had . . . When I found out about my cancer, her love, concern, encouragement and high spirits that she put on for my benefit have made it possible for me to go on." Pat and Helen Jane's three children, Patricia Rich, John and Robert, are the pride of his life. While Pat also adored his seven grandchildren he loved all children. He enjoyed telling wonderful stories and he had a way of bringing out the child in all of us.

Pat Uhlmann has been an inspiration in my life and has enriched the people of Kansas City in ways few individuals have ever achieved. He will indeed be missed.

REOPENING OF THE SAN DIEGO SYMPHONY

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. FILNER. Mr. Speaker, I rise today to mark the revival of the San Diego Symphony Orchestra on March 15, 1996. Two months ago, the orchestra was silenced—and there appeared to be little hope for its restoration.

The orchestra's reawakening was the result of generous gifts from the Price Charities and the Jacobs Family Trust, an outburst of support from the community as a whole, and most of all from the musicians of the San Diego Symphony. Not only did each musician forgo more than $2,700 in lost salary, but their work and dedication to their institution inspired community support.

Although not all of my constituents attend the San Diego Symphony, even those who stay at home made very clear their belief that San Diego needs a great professional orchestra. Every major metropolitan area in this country has such an institution at the heart of its musical life. San Diego Symphony Orchestra musicians teach our children how to play musical instruments and provide our children's first exposure to serious music. Symphony musicians play for other artistic institutions in the community, such as opera and ballet companies, and perform in our schools, churches, and synagogues, making all of them shine with their professionalism. And the symphony brings our downtown to life at night providing lifeblood to many businesses.

The San Diego Symphony Orchestra is as important to our community's health as are the Chargers, the Padres, first-rate hospitals, and our major institutions of learning. The San Diego Symphony has not only provided San Diego with great music, but has brought great musicians to live in our community and, through its internationally recognized recordings, has let the world know that San Diego is not only a great place to visit, but is one of America's great cities.

That is why I have consistently fought for support of the arts. The arts are a vital part of the American adventure and a major American industry. Support for the arts not only enriches us spiritually; it is a wonderful investment in our economy and in our children. In this era of global competition, in no area do we compete more effectively than in the arts.

Let us hope that the generosity of the Jacobs Family Trust and the Price Charities and the dedication, generosity, and solidarity of the musicians will allow the San Diego Symphony to serve all the residents of the San Diego area for many more decades of excellence.

RESOLUTION ON TAIWAN ILL-CONCEIVED AND ILL-TIMED

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. SKAGGS. Mr. Speaker, when the House voted on House Concurrent Resolution 148 concerning the defense of Taiwan I voted "present." This was the first time since I came to Congress that I voted this way on final passage of a piece of legislation. I want to explain why I did so.

This measure should never have been brought to the floor of the House of Representatives for a vote in the first place. Both the timing and the content of the resolution could only create new doubts in the minds of people on both sides of the Taiwan Straits about a crucial aspect of American foreign policy. And creating new doubts inherently creates new dangers. That, at a time when our objective ought to be to defuse a situation that's already complicated and dangerous.

What do I mean? Well, a vote in favor sends a dangerous and confusing message about the extent of the American commitment to defend Taiwan. It would encourage those in Taiwan who want to push for independence, leading them to believe the United States would intervene if China reacted militarily. A vote against, however, sends the wrong message to China, giving the Beijing Government the mistaken impression that the Congress is not united in its condemnation of China's recent aggressive attitude and behavior.

Either a "yes" or a "no" was contrary to the interests of my country, so I voted "present."

The distinguished chairman of the International Relations Committee, Mr. GILMAN, has said that the resolution is meant to be a reaffirmation of current policy concerning United States relations with China and Taiwan as set forth in the Taiwan Relations Act [TRA]. Unfortunately, the resolution includes a commitment that does not appear in the TRA. Paragraph 7 states that the United States should "assist in defending them (Taiwan) against invasion, missile attack, or blockade by the People's Republic of China." This language could confuse China and Taiwan by giving the appearance that the United States has ratcheted up our commitment to the defense of Taiwan.

What is our policy toward Taiwan?

For 24 years under six Presidents we have followed a one-China policy. This policy was set out in three communiques and was enacted into law as the TRA. It has been and continues to be the policy of the United States that any effort to determine the future of Taiwan by other than peaceful means is of grave concern to the United States. The TRA specifies that the United States "will make available to Taiwan such defense articles and defense services as may be necessary to enable Taiwan to maintain a sufficient defense capability."

This Congress and the American people are united in their opposition to attempts by the Government of China to bully and coerce the people of Taiwan. The President has said that the United States will promptly meet our obligation under the TRA to respond to any threat to Taiwan's security.

A resolution reiterating our commitment to a peaceful resolution of differences across the Taiwan Straits would have been a helpful measure. But this resolution is different, and potentially seriously destabilizing. It can be read to imply a very significant change in policy, a change with extremely problematic consequences. It can be read to give the impression of a division between the President and the Congress. It is an irresponsible piece of legislation that should never have come up.

RECOGNIZING THE 240th BIRTHDAY OF AARON BURR

HON. RICHARD BURR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. BURR. Mr. Speaker, February 6 marked the 240th birthday of Aaron Burr, who was born in 1756. Aaron Burr had no direct descendants, but many of us in the Burr family are collaterally related. And during this year marking Aaron Burr's 240th birthday, I would like to take this opportunity to share with my colleagues some of the positive contributions Aaron Burr made to our great Nation.

Aaron Burr was a colonel in the Revolutionary War and was the third Vice President of the United States. He was born in Newark, NJ, and graduated from Princeton with the highest academic record yet achieved. His father, Rev. Aaron Burr, Sr., and grandfather, Rev. Jonathan Edwards, were the second and third presidents of Princeton. Aaron Burr participated in the 600 mile winter march on the fort at Quebec as an aide to General Montgomery. During the assault, Montgomery was mortally wounded and Burr attempted to carry the man to safety. Burr also served on Gen. George Washington's staff and spent the winter of 1778 at Valley Forge. Assignment took him to the Hudson Valley and several skirmishes with the enemy. He distinguished himself in New Jersey at the Battle of Monmouth on June 28, 1778.

Following the Revolutionary War, Aaron Burr practiced law in New York City and pursued an interest in politics. After serving in the New York State Legislature and the U.S. Senate, he ran on the Republican ticket for the Presidency with Thomas Jefferson. While it was intended that Jefferson would be President and Burr Vice President, the Electoral College's initial vote resulted in a tie vote between the two men. The election was then thrown into the House of Representatives, which eventually elected Jefferson as President and Burr as his Vice President.

Aaron Burr's finest accomplishment during his tenure as Vice President occurred during the impeachment trial of Supreme Court Associate Justice Samuel Chase. In 1804, Jefferson was incensed at the Federalist-dominated judiciary. He feared that it would nullify an act of Congress by declaring the act unconstitutional and thereby subverting the will of the people. As Vice President, Aaron Burr presided over the impeachment trial that began on February 4, 1805, with the Jeffersonians hoping that Burr would lean their way. Aaron Burr, however, acted impartially and Chase was acquitted on all counts. The newspapers of both parties agreed that although the trial began as a political inquest, it ended as a memorable example of judicial procedure at its best. One of the papers reported that Burr conducted the trial "with the dignity and impartiality of an angel, but with the rigor of the devil."

I would like to thank the Aaron Burr Association, which is dedicated to presenting a more balanced view of our third Vice President, for their assistance in providing research for this account of Aaron Burr's contributions to our young Nation.

SALUTE TO ALEXANDER MELESHKA

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. KING. Mr. Speaker, I rise today to salute Alexander Meleshka, one of my constituents from Farmingdale, NY, and a proud veteran of our "Crusade in Europe." Serving with the U.S. Army's 3rd Infantry Division, Mr. Meleshka saw combat in France. His unit, the

3rd Battalion of the 15th Infantry Regiment, became involved in a particularly fierce battle in October 1944, while seizing a bridge over the Mortagne River.

In the fight to take the bridge before the enemy could demolish it, Mr. Meleshka distinguished himself under fire. The first man in his unit across the bridge, Mr. Meleshka was taken prisoner by the Germans and transported to Stalag 7.

At Stalag 7, Mr. Meleshka, who spoke Russian and several other languages, was moved by the plight of the camp's 150 or so Russian prisoners. Abandoned by their own nation's brutal Communist dictator and subject to inhumane treatment dictated by the racist policies of their Nazi captors, the Russian prisoners faced slow death.

Throughout his captivity, Mr. Meleshka regularly risked severe punishment and even death to assist the Russians. By smuggling small portions of food to our captive allies, Mr. Meleshka certainly saved lives. His behavior exemplified the American ideas of doing the right thing, standing up for the underdog, and coming to the aid of a friend in need. His actions demonstrated what the war was all about.

Some 50 years after the end of World War II, Mr. Meleshka was recognized for his bravery and humanity by Russian President Boris Yeltsin when he was awarded the Gold Commemorative Medal of the 50th Anniversary of Victory in the Great Patriotic War. Mr. Speaker, I believe that our Nation should also recognize Mr. Meleshka for his deeds. He is truly an American hero.

TRIBUTE TO LILLIAN MAE BRECKEL

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a loyal Democrat and community volunteer, Lillian Mae Breckel of Tyler, TX, who died recently at the age of 92. She devoted a lifetime of service to the causes she embraced—particularly the Smith County Democratic Party and her church—and she leaves behind a legacy of accomplishment and a loving family.

Mrs. Breckel was an active member of the Smith County Democrats. She served on the party's membership committee, was an alternate delegate to State conventions, and was a member of the Women's Democratic Organization. She believed so completely in the democratic process that she was willing to place her name on the ballot, running for State representative from District IV and as a candidate for the Tyler City Council and mayor. It is testimony to her devotion that officers of the Smith County Democratic Party served as honorary pallbearers at her funeral.

She also was devoted to her church. She helped organize Trinity Baptist Church, York Baptist Church, and Dill City First Baptist Church. She was church pianist for each of these churches, taught Sunday School, and also served as chairman of the finance committee of the Smith County Baptist Association.

Her community involvement extended to other worthwhile causes. She served on the volunteer council for Denton State School and served as past-president of the American Businesswomen's Association, past oracle of Royal Neighbors of America, and past noble grand of Tyler Rebekah Lodge 142.

Wherever she volunteered her talents, Mrs. Breckel's presence was felt—and will be missed. Most of all, her pride and happiness came from her family—some of whom visited with me and Mary Ellen in our Rockwall home. She is survived by her son, Henry Austin Breckel of Dallas; daughter and son-in-law, Kathlea and Richard Florey of Tyler; three grandchildren and three great-grandchildren. Mr. Speaker, on behalf of her family and many friends who loved her, I ask my colleagues to join me today in paying our last respects to this outstanding citizen—Lillian Mae Breckel.

TRIBUTE TO A GREAT TEXAS WOMAN

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I ask my colleagues to join me today in a tribute to a woman who has made a career out of championing women's issues. At age 76, Ms. Louise Raggio, who still practices law full-time at her firm, Raggio & Raggio in Dallas, is known as the Lone Star State's First Lady of women's legal rights.

In the 1950s, attorney Raggio fought to allow women to serve on juries. In the 1960s she led a group of legal experts in crafting the Texas Marital Property Act of 1967 that gave married women equal rights to control property and conduct business. With the success of that law, Mrs. Raggio helped pave the way for passage of the Equal Rights Amendment and other national women's rights legislation. A decade later, she helped write the Texas Family Code of 1979, the world's first fully codified set of family laws.

Mrs. Raggio has also achieved many firsts in her 40-year career, including being the first woman prosecutor for Dallas County, first women director of the State Bar of Texas, first woman trustee and chair of the Texas Bar Foundation and first recipient of the Dallas Bar Association's Outstanding Trial Lawyer Award. In 1995, she received the American Bar Association's Margaret Brent Women Lawyers of Achievement Award, placing her among other outstanding recipients Attorney General Janet Reno, Supreme Court Justice Ruth Bader Ginsberg, and former U.S. Representative Barbara Jordan.

For all of these reasons and more, I submit this tribute here today, for a great Texas lady.

IN HONOR OF CYPRUS FREEDOM FIGHTERS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the historic achievements of brave Greek-Cypriot freedom fighters. They are being honored by Justice for Cyprus and the Cyprus Federation of America, two philanthropic organizations that trace their roots back to Cyprus.

On April 1st, we will celebrate the 41st anniversary of Ethniki Organosis Kyprion Agoniston [EOKA]. This organization is a group of dynamic Cypriot freedom fighters who struck the first blow for independence for Cyprus. More than four decades ago, their acts of courage led to a 4-year struggle against British colonization and occupation.

EOKA's struggle for independence is joined with the American colonists who struggled against the British colonization and occupation in America over 200 years ago. These Greek-Cypriot lovers of democracy and freedom not only fought for Cyprus' independence, but they also fought on the battlefield against tyranny during world War II.

Today we commemorate all the heroes of Cyprus including Gregorious Afxentiou, Kyriakos Matsis, Evaghoras Pallikarides, and Michael Karaolis, who gave their lives for freedom. By their sacrifice, they join America's Revolutionary War hero Patrick Henry, who freely gave of his life and summed up his commitment to freedom with the statement, "Give me liberty or give me death."

Cyprus became independent in 1960. Unfortunately, liberation was short lived; Turkey invaded Cyprus in 1974. Today, one third of Cyprus remains occupied by Turkey. Once again, these heroes have been called upon to fight for the liberty and independence of their country.

On this day, we celebrate freedom. When migrating to the United States, the Greek-Cypriots brought with them their love of Cyprus, culture and democracy. The Cyprus Federation of America, Justice for Cyprus, and EOKA serve as important links with Cyprus' past, but also act as a springboard for its future. These organizations remain committed to the campaign for freedom and human rights in Cyprus today. They also help young Greek-Cypriot Americans who will play an important role in the growth and success of the United States.

So Mr. Speaker, I ask that my colleagues join me in the commemoration of Cypriot freedom fighters and in wishing the people of Cyprus long-lasting peace and liberty.

TRIBUTE TO LOIS VELLIQUETTE ON HER RETIREMENT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to an outstanding public servant in northwest Ohio. On March 31 of this year, Lois Velliquette, a Federal employee for over 36 years, will retire.

Lois can look back on her career with great pride. During the course of her service, she has held clerical, technical, and claims representative positions. Because of her extensive experience, she has become a recognized expert in many areas with the office and has received numerous performance awards for her work. Through her caring and dedicated efforts, she has literally improved the lives of a tremendous number of Sandusky residents.

Americans would not be able to enjoy the blessings of our country without the tireless dedication of those who have the talent and willingness to work for the community. It is for this reason we owe a special debt of gratitude to people like Lois, who have done an outstanding job first with the Department of the Army and for the last 31 years with the Social Security Administration.

Mr. Speaker, we have often heard that America works because of the unselfish contributions of her citizens. I know that Ohio is a much better place to live because of the dedication and countless hours of effort given by Lois Velliquette. While she may be leaving her official capacity, I know she will continue to be actively involved in those causes dear to her.

I ask my colleagues to join me in paying a special tribute to Lois, and wishing her all the best in the years ahead.

HONORING GREEK INDEPENDENCE DAY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. BONIOR. Mr. Speaker, I am pleased to join the Greek community to celebrate the 175th anniversary of Greek independence.

On March 25, 1821, the Archbishop of Patras blessed the Greek flag at the Aghia Lavra Monastery near Kalavrita, marking the beginning of the Greek war of independence in which nearly 400 years of Ottoman rule were turned aside.

Ancient Greece was the birthplace of democratic values. It brought forth the notion that the ultimate power to govern belongs in the hands of the people. It inspired a system of checks and balances to ensure that one branch of government does not dominate any other branch.

These ideals inspired our Founding Fathers as they wrote the Constitution. In the words of Thomas Jefferson, "to the ancient Greeks * * * we are all indebted for the light which led ourselves out of Gothic darkness."

Together we face many challenges today, including the territorial integrity of Imia in the Aegean Sea and the demilitarization of Cyprus. If freedom and democracy, which were born in Greece, can tear down the Berlin Wall and break apart the Soviet Union, then I know that we can work together to bring those ideals once again to Cyprus.

Today, the United States is enriched not only by Greek principles but also by its sons and daughters. Greek-Americans have made major contributions to American society, including our arts, sports, medicine, religion, and politics.

My home State of Michigan has been enhanced by the Greek community. In Macomb and St. Clair Counties, we are served by St. John's Greek Orthodox Church and Assumption Greek Orthodox Church. These institutions provide a multitude of community services and add to the rich diversity of the area.

Mr. Speaker, I join the people of Greece and those of Greek ancestry around the world in celebrating Greek Independence Day. I salute all of them for the tremendous contributions to freedom and human dignity which they have made.

HAZARDOUS MATERIALS TRANSPORTATION BILL

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. DELAY. Mr. Speaker, I rise on behalf of small business owners who find themselves caught up in an expensive regulatory maze left by amendments to the Hazardous Materials Transportation Act passed in 1990. This act greatly broadened the Secretary of Transportation's authority to regulate the transportation of hazardous materials. Though it was intended for large carriers of toxic materials which can pose a risk to public health or safety, it has spilled over and poisoned the small business man instead.

One study, which focused on the pest control industry, found that compliance of these rules and regulations cost the industry $135 million annually. These costs arise from truly burdensome Federal regulations which require pest control operators and employees to keep complex documents and markings for shipping and containers on a daily basis. And all of this is for small quantities of relatively benign materials, most of which are nearly identical to pest control products which we can all buy in home supply and garden stores—like Raid, for example.

The legislation I have developed will relieve these burdens while maintaining the same high standards for safety. My bill simply amends the Hazardous Materials Transportation Act by providing an exemption for small commercial vehicles which are transporting common "Raid" like materials which do not pose a risk to public health or safety.

Specifically, a vehicle with a gross weight of 10,000 pounds or less will be exempted unless it is transporting a material, such as a fumigant, which the Secretary of Transportation deems to require placarding.

Let us keep small business healthy. With this bill we can stop poisoning the small business man with unneeded regulations that hurt both him and us. I hope you will join myself and my colleagues who have cosponsored this important legislation.

IN HONOR OF J.C. COLLINS

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. DURBIN. Mr. Speaker, I rise to congratulate Mr. J.C. Collins of Bethalto, IL. Mr. Collins has been chosen as the 1995 Inductee of the National Mens' Ministries Christian Hall of Excellence, by the national Assemblies of God denominational headquarters in Springfield, MO. This honor is equivalent to a national layman of the year award for the Assemblies of God.

Mr. Collins was chosen for this award from among the 50 State inductees of the State Assemblies of God. He had earlier been named the Illinois State Inductee by the State Assemblies of God denominational headquarters in Carlinville, IL.

He has faithfully served his church, the First Assembly of God in Cottage Hills, IL, as a deacon, assistant Sunday school superintendent, and youth leader. He has been a Sunday school teacher for 30 years. He has supervised almost all of the church's construction projects, including the church itself, the houses, and all the buildings that belong to the church.

He has been active for decades with Gideons International, spreading the Gospel and passing out Bibles in schools, hospitals, hotels, and colleges.

When Mr. Collins retired in 1988 from his work as a construction supervisor, after 41 years at Laclede Steel Co. in Alton, IL, he prayed for the opportunity to make 10 trips overseas to help build churches. Since then he has made 11 trips, including Belgium, the former Czechoslovakia, Lesotho, Mexico, Germany, and the former East Germany when the Berlin Wall was coming down. He is now planning trips to Belgium and El Salvador.

J.C. Collins was born in Marshall County, KY, on February 8, 1926. He entered the U.S. Armed Forces when he was 17 years old, and he was promoted to staff sergeant by the time he was 18. During his military service he worked on researching German V–2 rockets on the White Sands Proving Ground.

Mr. Collins married his lovely wife, Ruby Scott, on December 9, 1944, in Mineral Wells, TX. They are blessed with two daughters, Wanda Collins Burgund and Patricia Collins Moran, and four grandchildren, Brian Hendricks, Stephanie Burgund Krienitz, Rachel Moran, and Alicia Moran. Following their father's and grandfather's strong and positive spiritual influence, all of Mr. Collins' children and grandchildren are active in their local churches.

I congratulate Mr. J.C. Collins and wish him and his family the very best in the future.

HONORING JAMES R. NUNES

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. BAKER of California. Mr. Speaker, in an era when crime is all too frequently a part of our daily lives, it is good to know there are brave, capable men and women who each day protect and serve the American people.

James R. Nunes is one of these persons. His 33 years of service as a law enforcement officer have been exemplary to his colleagues and rewarding to those he has served. For the past 26 years, he has been a member of the Pleasant Hill, CA police force; the past 17 of these years, he has been Chief of the Pleasant Hill force.

During his tenure, Chief Nunes has played an active role in putting police on the beat, developing effective youth, crime prevention and DARE programs, and other meaningful anticrime and community-building efforts. His understanding of the needs of future law enforcement led to the construction of an outstanding new police facility. And his role in the California Peace Officers Association, his study at the FBI National Academy, and his ongoing commitment to professional development in a variety of positions and organizations have enabled him to stay on the cutting edge of leadership.

It is a pleasure for me to recognize Chief Nunes, and to wish him every success in all his future endeavors.

IN HONOR OF FOOD & FRIENDS

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. MORAN. Mr. Speaker, I rise today to salute a group of people that have done so much for the people of the Washington Metropolitan area. Food & Friends, an organization dedicated to feeding nutritious meals to homebound people with AIDS, is preparing to celebrate Thanks A Million Day. One week from today, Food & Friends will deliver its one millionth meal.

The number of HIV positive and AIDS cases in the Washington area has increased exponentially in just a few years, ranking Washington fifth for the highest number of AIDS cases in the Nation. Fortunately, also on the exponential rise is the determination and capability of the people at Food & Friends. When the group was founded in 1988 it served 30 clients per day. Today 450 area homebound people with AIDS receive 1,350 nutritious meals every day at no cost to Food & Friends clients.

Providing physical sustenance is vital to HIV positive people, and people with AIDS. Volunteer visits for their spiritual sustenance are equally important. Food & Friends works alongside other AIDS service programs, including those which offer support groups and legal advice. In addition they provide nutrition, education and counseling services to the HIV community by a trained and licensed dietitian. Food & Friends provides companionship and life sustaining nutrition enhancing their clients quality of life.

Mr. Speaker, I am proud to see my constituents, along with the constituents of my metropolitan area colleagues, working side by side to serve this group of people so in need. Whether by volunteering to deliver meals, dedicating professional services, or contributing to the United Way Combined Federal Campaign, our friends have helped to make the lives of Food & Friends clients a little easier. I applaud their work to help the people in their own community, and as I join my metropolitan area colleagues at Thanks A Million Day, I urge you to join us in thanking this wonderful organization for the invaluable service it provides; in essence, food and friends.

SECOND ANNIVERSARY OF DURHAM WOODS EXPLOSION

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. FRANKS of New Jersey. Mr. Speaker, tomorrow is the second anniversary of the Durham Woods natural gas pipeline explosion.

On that fateful night, the residents of Edison, NJ were startled out of their sleep by the tremendous explosion that ripped through the Durham Woods apartment complex.

A 36-inch natural gas pipeline had ruptured, sending men, women, and children fleeing from their homes in a race for their lives against a roaring wall of fire.

Miraculously, only one person died. Twenty-nine others escaped with only minor injuries.

Although the physical rebuilding of Durham Woods is complete, this horrendous explosion has left lingering fears about the hidden dangers of natural gas pipelines.

Unfortunately, Congress has been slow to act to pass pipeline safety legislation. Although the House Transportation and Infrastructure Committee, of which I am a member, quickly passed a pipeline safety bill in the opening months of the 104th Congress, this bill still has not been voted on by the full House.

This delay is precluding some important new safety measures from becoming law that could help prevent another Durham Woods-type disaster.

For example, although it may never be precisely determined what caused the Durham Woods blast, authorities strongly suspect that a gouge, found in the pipeline after the explosion, had weakened the pipeline and precipitated the blast.

Nationally, the single largest cause of pipeline accidents is excavating crews or other workers accidently damaging pipelines. But in far too many instances, the damage is never reported to the pipeline operator. After the incident, the weakened pipe begins to deteriorate and the risk of an explosion increases.

A proposal I drafted that was included in the House pipeline safety bill addressed this problem. My proposal would establish a tough new Federal crime that would punish anyone who damages a pipeline and does not promptly report the damage to the authorities. Violators would not only be hit with a hefty fine of $25,000, but would face a jail term of 5 years.

Another provision in the pipeline safety bill of particular importance to any constituents concerns the one-call system. All States currently have some form of one-call system which requires construction crews to contact a central office before beginning any excavation work near a pipeline. But the success of these programs is often hindered by a lack of knowledge about the program or how it works. An important feature of the pipeline safety bill encourages pipeline companies and the States to launch public education programs aimed at all businesses which conduct excavating activities. This education program would increase compliance with one-call systems, which play an essential role in keeping pipelines safe.

Mr. Speaker, while I am working to get Congress to pass a pipeline safety bill, I believe that improving pipeline safety is not solely the responsibility of the Government. The pipeline companies that own and operate natural gas pipelines should be improving their own safety programs. Improving the safety of their pipelines and increasing the public's confidence not only makes good business sense, it is the right thing to do.

Therefore, today I am calling on Texas Eastern, who owns the pipeline that immolated Durham Woods 2 years ago, to voluntarily make a commitment to upgrade their safety procedures. Specifically, I request that Texas Eastern take immediate steps to install a remote control valve system on its pipelines in New Jersey. A remote control valve system would allow the flow of natural gas to be shut off by a human operator in case of a leak or a fissure in the pipeline. If a remote control valve was in place near the rupture that caused the Durham Woods explosion, this disaster may have been avoided.

Mr. Speaker, Texas Eastern shouldn't wait for a law that would require it to make its pipelines safer. Moreover, this Congress shouldn't have to wait for the next pipeline disaster before it is prodded into passing a pipeline safely bill. My constituents have been waiting 2 years for a response from their Government, and for Texas Eastern to install remote control valves. They should be required to wait no longer.

THE ROLE OF EMPLOYERS

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. WALKER. Mr. Speaker, we are engaged in a great economic debate in this country. As information technologies transform our economy, and economic competition becomes increasingly globalized, we must decide how to address the challenges before us.

Companies, along with their owners and managers, have been called insensitive to worker concerns and uninterested in anything but the bottom line. An eloquent defense of the role of employers in our culture has been made this past week. In a speech before the Economic Club of Detroit, the chairman and chief executive officer of the Chrysler Corp., Robert J. Eaton, makes clear why the economic survival and success of the Nation's employers is positive for their workers and for the communities where they are located.

Therefore, Mr. Speaker, I am pleased to include in the RECORD at this point excerpts of the text of the Eaton speech.

EXCERPTS BY ROBERT J. EATON, CHAIRMAN AND CEO, CHRYSLER CORPORATION

It's open season on big business and CEOs. Party, that's because it's an election year and beating up on Wall Street and Corporate America is a cheap way to get votes or sell papers. This is old-fashioned, empty-headed, tub-thumping populism.

The Democrats lost Congress because people got mad at Washington. Now the plan is to get the voters mad at somebody else. And on the right you have Pat Buchanan. He's mad at big government, big business, the United Nations, the Chinese, the Japanese and the Mexicans (Mexicans on both sides of the border, by the way). Pat's mad at just about everybody.

So all this current fear and loathing directed at American corporations should not be surprising. It's being orchestrated to move political and economic agendas.

But that's not to say that Americans today don't have some very legitimate fears. They do. And they are rational fears about holding onto a good job if they have one, and getting one if they don't.

A New York Times reporter went into a big department store in the Ginza recently and found 14 clerks in the jewelry department ready to wait on him. He then gushed about how enlightened Japan's full-employment policy is, and condemned the U.S. business community (and I'm quoting), "where executives get bonuses for massacring their employees."

We can copy the Japanese. We can have 14 clerks to sell you a watch. We only need to do three things:

We have to close our borders to foreign competition.

We have to convince American consumers to pay $50 for a melon.

And we have to stop giving the owners of American companies a fair return on their investment.

That's all. That's how the Japanese have done it.

I don't think Americans are going to shut out foreign goods. I don't think Americans will pay $50 for a melon. And I don't think the owners of America's companies are going to stop demanding a fair return.

In Japan, the owners of a company happen to be large banks and other members of that company's keiretsu. They're more like partners than owners. It's different here, and one of the key elements of the current national debate we're having is who owns our corporations, who runs them, and for whose benefit.

Well, there have been some changes over the years.

Large institutional investors like mutual funds and pension funds now own more than half the stock in American companies today—maybe as much as 60 percent. In 1980 it was 40 percent. In 1970 it was 19 percent. Go back much further than that and these institutions were inconsequential.

In 1980, they managed about $1.9 trillion. In 1990, the figure was $6.3 trillion. Last year they managed more than $10 trillion.

They are big, and they have enormous clout, and in the past decade they have decided to use that clout.

Let me give you a list of companies that all of you will recognize: American Express, IBM, Westinghouse, Apple Computer, Eli Lilly, Eastman Kodak, Scott Paper, Borden. In just one year—1993—the CEOs of those eight companies were bounced, in no small measure due to pressure from institutional investors.

Most of the institutions don't follow the old Wall Street rule that says if you don't like the company, sell the stock. Some are so big and own such large chucks of individual companies that selling the stock simply isn't practical. So today, if they don't like a company, they may try to change it.

They have a right to. They are the owners. Or at least they've been empowered to act for the real owners—their shareholders.

Now here's the rub.

These institutions have one central goal, and that's to get consistent, year-in and year-out returns from the companies in their portfolios. They need these returns because their individual shareholders do follow the old Wall Street rule—if they're not satisfied, they sell!

At the same time, people like me and others who run companies like to think of ourselves as builders. We think five and ten years ahead. We like to invest in the future. We also like to have a few shekels in the bank for hard times.

And in spite of what the public hears and reads, we do care about protecting jobs, and we are concerned about our communities, and we do understand our social obligations.

So there's some natural tension between the need to provide returns and the need to build the company.

Most of us in this room work for large corporations. We want those companies to be successful ten years from now as well as today, so we take a long view at work.

But most of us have also turned over a substantial part of our personal net worth to the managers of these funds. And what do we look at in evaluating their performance?

Returns!

So if we don't like the kind of pressure these funds put on our companies, we can't point fingers. "Them" is "us."

The power of these institutions is simply a reality that we have to deal with. And there is no doubt that they have changed the way companies are run today.

Professor John Pound of Harvard, in fact, says that big corporations are no longer "managed" they are "governed." The new owners of Corporate America are not content to hire a management team and then passively judge the results; they want a say in the plans and policies of the company as well.

Pound also believes—and I'm quoting now—that "politics will replace takeovers as the defining tool for corporate governance challenges, and the marketplace of ideas will replace the frenzied activity that dominated the financial marketplace in the 1980s."

I happen to agree with him. And frankly, I think that's healthy. Not comfortable necessarily, but probably healthy.

He's talking about "politics" with a small "P," of course. He's talking about open, public discourse on corporate issues that up to now have generally been settled in the board room. That's not a clean way to make decisions. Management would rather do it the old way. Public debate often lends itself to all the low-rent machinations of politics with the big "P"—from news media leaks, to hidden agendas, to the use of pressure groups.

So, it isn't comfortable, but I think it's a big step up from the back alley intrigues of the '80s when companies were bought or sold and broken up or consolidated without any debate at all.

Chrysler, as you all know, was caught up in a public debate like this for ten months. We came to a resolution in which everyone was a winner and nobody was a loser. And by everyone, I mean shareholder, employees, suppliers and everyone else with a stake in the company.

Communication was the key. Fortunately, we'd always maintained open communication with the institutional investors who own most of the company. We stepped it up. I personally visited a large number of them. So did other members of our management team. We did something quite unusual. We took outside board members with us. On a number of occasions, I would leave and let the board member and the fund manager talk one on one.

We had a simple story that combined solid performance over the past few years with a compelling strategy for the future.

None of our institutional owners asked us to change direction. Not one of them told us to compromise the future for the sake of today.

If there's a lesson for other companies, large and small, it's that maintaining open lines of communication with these institutional investors is no longer a courtesy, as it was a few years ago. It is now a critical part of a company's strategic planning.

Today, though, these new owners are under some scrutiny themselves. The concentration of economic power that they represent is new, and therefore it's a bit frightening. Their short-term focus is a concern. Their activism is a challenge for management.

And yet, I'm hard pressed to find many examples of these institutions acting irresponsibly toward successful, well managed companies. The list of corporations I read a few minutes ago was a list of companies that had problems. They were companies where changes needed to be made.

These large institutional investors must accept the responsibilities of ownership. I think, for the most part, they do. That includes stepping in when a company seems to have lost direction. But it also includes allowing a company to meet its responsibilities to other stakeholders besides the shareholders.

There's raging debate all over the world today about where a company's first allegiance should be, to the shareholders or the stakeholders. Is a company in business only to make money for its owners, or is it there to provide jobs? Is it right to focus on the bottom line, or are there social responsibilities that should come first? And what about the customers?

The Economist magazine last month did a long piece on this issue. They compared the recent performance of the traditional "stakeholder" economies of Japan and most of Western Europe with the "shareholder" economies of the United States and the United Kingdom.

They make a strong case that over the past 10 or 15 years the "shareholder" companies of the U.S. and U.K. have been doing a better job of taking care of "stakeholders" than the stakeholder companies of Japan and Germany have been doing.

Companies that focus on making money become more competitive, and that in turn means more economic growth, and more jobs, and all the other results that "stakeholders" care about.

In both Japan and Germany, the false promise of lifetime employment is ending. They should have known better. A boss who can guarantee a job for life is like a doctor who promises that you'll never get sick or a preacher who promises you a place in heaven. It's too good to be true, so it isn't.

We don't have the keiretsu like the Japanese that help insulate managers. We don't have a large bank ownership of major corporations like both Japan and Germany that helps guarantee "patient" capital. All that would be illegal here. And we don't have codetermination and other social legislation like they do in Europe that sometimes gives employees as much say in major decisions as managers and owners.

Instead, we have owners who raise hell when they don't get the returns they expect. And companies have to listen. And companies change. And they provide those owners with their returns. And in the process, they usually get stronger.

Chrysler has added more than 15,000 hourly workers in the past five years. Those are not replacements, those are new jobs. We're in the process of building components in this country that we used to have to buy from Japan, because we've gotten more productive and it's cheaper to build here now.

Our goal was not to increase employment. Our goal was to get more competitive. New jobs and more security for the existing ones are simply results of being more competitive.

Chrysler is about to announce grants totaling $5 million for the arts in Southeastern Michigan. But nowhere in our strategic planning did we say "take care of the arts." We're able to do it only because we focused on a different priority—financial success.

Chrysler, Ford and General Motors have been generous to this community for decades. We are major participants in the new Greater Downtown Partnership that is just being announced. But our real contribution has simply been staying in business. That's our role, and when we're successful, the whole community benefits.

Some people, like Senator Kennedy and Secretary Reich, wants to create the stakeholder economies of Germany and Japan here. They want to force companies to become a Big Brother. Washington has failed at it, so now let Corporate America do it. But they've discovered the allure of "stakeholder" politics at just the time it's losing its luster overseas.

The Japanese aren't building auto plants in Japan. They are closing them. They are building plants here, in America. So are the Germans—Mercedes in Alabama and BMW in South Carolina.

Has anybody else noticed that all the recent stories about ugly American corporations firing people left and right are butting up against other stories about the low unemployment rate in the country? Unemployment in Germany is almost 11 percent, and in this country it's 5.5 percent? I can pretty much guarantee you that saddling American companies with the same burdens that German companies have will get our unemployment numbers up too, if that's the idea.

America is the model for economic growth for most of the rest of the world. Some countries flirted with the Japanese model for a while, but now they've realized that it wasn't all it was cracked up to be.

Our securities markets are particularly important. There is nothing like them anywhere in the world. They are big. They are broad. They are unparalleled in their ability to raise capital.

But they are also messy. They punish inefficiency, sometime brutally. They can be capricious. They can be unfair. They can be perverse. It's almost expected these days that the markets rise on bad news and dive on good news. There is no human feeling to the markets, and sometimes no discernible evidence of human intelligence, either.

But they work. That's all they have going for them—over time, they work. And they work better than markets anywhere else.

The critics and the fear-mongers are missing an important point about those markets, by the way: They've become eqalitarian. Through 401(k)s, IRAs, pension funds, and easy-to-access mutual funds, more than a third of all adult Americans are in the market.

The market used to be just for plutocrats. Today the ownership of American business is spread throughout the population.

The "new ownership" of Corporate America is rapidly becoming most of America.

That's healthy. It also helps to burst the bluster of the redistribution of wealth crowd. At least it would if more people understood that fact.

Corporate America has always had a PR problem. We haven't found a way to dress up certain economic realities so we can take them out in public. Making money is still considered tacky in some circles. Creating wealth for society doesn't carry much cache. Focusing on the bottom line is simply greed.

We haven't made the case that our end goal is not "making money," it's perpetuating ourselves so we can serve all our constituencies.

We can't even seem to cut through all the propaganda about American workers going backward. Real per capita income has risen steadily. So has median family income. Secretary Reich never uses those figures. He uses other measures which are less relevant.

And he never mentions the obvious fact that people do move up from one economic quintile to another. They don't all just stay put. They work hard, get better jobs, and make more money. Low income people become middle class, and middle class people become well-off. That's the American way, and it still happens.

There's no question, however, that some new dynamics are at work. The concentration of power within the large institutional investors is one. It's not necessarily good, and it's not necessarily bad. It's not something to resolve; it's just something else to manage.

Downsizing and layoffs are part of the price of becoming more competitive. The price for not doing it, however, is much higher in both economic and human terms.

The good part about globalization is that it allows American workers to participate more fully in the world economy. The bad part about globalization is that it forces American workers to participate more fully in the world economy.

The torrent of gloom today is mindless, however. The economy is strong. It's growing at a sustainable rate. Inflation is low and stable. Employment numbers are excellent. It looks like Mr. Greenspan is pulling off his soft landing. The stock market is going bananas.

American companies are leaner and meaner than they've been in years. American productivity is once again the envy of the world.

And American executives are not the ogres portrayed by the press in recent weeks. Big business has become an election-year straw man for those who like to pit American against American by promoting the politics of fear and envy.

There are some real problems to solve. We need to keep the economy strong, to improve our schools, to cut the budget deficit, to pay for health care, to keep Social Security solvent, and that's just the top of the list.

We need to stand together to do these things.

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There are some real problems to solve. We need to keep the economy strong, to improve our schools, to cut the budget deficit, to pay for health care, to keep Social Security solvent, and that's just the top of the list.

We need to stand together to do these things. We need to have some confidence that we, as a nation, are all moving in the same direction.

But it's a sure thing that we'll never accomplish any of these if we let a bunch of demagogues herd us down the past to class warfare.

THE AMERICA WE SEEK

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. HYDE. Mr. Speaker, there is no more troubling issue confronting Americans than that of abortion. The highly respected publication, National Review, March 25, 1996, has performed a signal service by publishing a very thoughtful article on this question signed by 45 of America's finest scholars, all of whom have thought long and hard about this volatile subject. I commend this article to my colleagues' careful attention.

THE AMERICA WE SEEK; A STATEMENT OF PRO-LIFE PRINCIPLE AND CONCERN

Americans are conducting the sixth presidential election campaign since the Supreme Court decreed a virtually unlimited "right" to abortion in Roe v. Wade and its companion case, Doe v. Bolton. Over the past 23 years, the abortion debate has been about abortion, of course; but it has also been a debate about the kind of society America is and seeks to be. Throughout our national history, few issues have so sharply focused attention on the fundamental purposes of the American democratic experiment. For, in the abortion debate, we are required to confront an urgent moral issue: Who is to be included in the community of the commonly protected?

The following statement of principle, endorsed by a broad spectrum of pro-life organizational leaders and scholars, is the result of consultations held over the past several months at the Ethics and Public Policy Center in Washington, D.C. The statement aims to clarify the principles on which the pro-life movement stands, to articulate a pro-life vision of the American future, and to suggest a set of political, legal, and cultural strategies that are capable of translating that vision into reality. The signatories, who join the statement as individuals, offer this statement to the pubic in the hope that it will raise the level of public discourse on this highly controversial issue, and thus strengthen American democracy. The signatories are deeply grateful to NATIONAL REVIEW for opening its pages to their ideas and concerns.

Twenty-three years after the Supreme Court's Roe v. Wade and Doe v. Bolton decisions, the conscience of the American people remains deeply troubled by the practice of abortion on demand. Because of these two decisions, abortion is legal at any time in pregnancy, for virtually any reason, in every state. This constitutes an almost completely unrestricted private license to judge who will live and who will die.

That America has the most permissive abortion regime among the world's democracies is a betrayal of the American promise of justice for all. That is why a new sense of moral concern is stirring throughout our country in this election year. That is why millions of Americans have refused to accept the Court's 1992 admonition in Planned Parenthood v. Casey to stop debating the issue.

2. To those weary of this argument, it may seem that there is nothing more to be said on this matter of abortion. We disagree.

Survey research tells us that the American people do not want a legal regime of abortion on demand for any reason, at any time during a pregnancy. We believe we have an obligation to employ the arts of democratic persuasion to help reinstitute legal protection for all unborn children.

The extent of the abortion license and its reach into other areas of law and public policy is widely underestimated. We believe that, as citizens of the United States, we have the responsibility to discuss with our fellow citizens the facts of the abortion license and its impact on our common life.

Many women in crisis earnestly seek alternatives to abortion. We believe we ought to encourage those alternatives and help to provide them.

3. Pro-life service to women in crisis and pro-life advocacy on behalf of legal reform are expressions of our highest ideals as citizens of the United States. We affirm the nobility of the American democratic experiment in ordered liberty. We affirm the rule of law and the principle of equal protection under the law, even as we work to reform constitutional and statutory law so that the American legal system is, once again, congruent with the Founders' claim that the inalienable right to life is one of the great moral truths on which American democracy rests. We want an America that is open, hospitable, and caring—a community of civic friendship in which neighbors reach out to assist neighbors in distress.

4. The abortion license has helped to erode the moral foundations of the American civic community. Right now we are not the country we ought to be. That distress is, to us, a sign of moral vitality. We speak now because we seek to defend the America we love. We speak to promote the cause of an America in which women and men, together, rebuilding the fabric of civil society by acknowledging our common responsibility to serve and protect the weakest and most vulnerable among us. We speak for a rebirth of freedom in these United States: a freedom that finds its fulfillment in goodness.

VICTIMS OF THE LICENSE

5. Americans of every race, economic condition, religion, and political persuasion share a common concern today for what some have called a national "virtue deficit." As a country, we have not paid sufficient attention to nurturing those habits of heart and mind that make democratic self-government possible and that undergird what the Framers of the Constitution called "civic virtue." We believe that the abortion license is a critical factor in America's virtue deficit.

6. Abortion kills 1.5 million innocent human beings in America every year. There is no longer any serious scientific dispute that the unborn child is a human creature who dies violently in the act of abortion. This brute fact is the root of our national distress over the abortion license. Abortion kills: few would now deny that. But in order to defend the private "right" to lethal violence that is the essence of abortion, proponents of the license frequently resort to euphemisms like "products of conception" and "the termination of pregnancy."

The public dialogue is not coarsened by depictions of the reality of abortion. But a coarsening of our common life has taken place; it is evident in the lack of moral revulsion that follows one newspaper's accurate description of an abortion procedure that "breaks . . . apart" the "fetus" before "it" is "suctioned out of the uterus" or "extracted."

7. The abortion license hurts women. Some (including the narrow Supreme Court majority in the 1992 *Casey* decision) contend that the license is necessary to ensure social and economic gains for women. It is ever more clear, though, that women pay a huge price for abortion. By providing an alleged technological "fix" for unintended pregnancy, the license has encouraged widespread male irresponsibility and predatory male sexual behavior. Abortion-on-demand has given an excuse to a man who shirks his responsibilities, claiming that the child he helped conceive ought to have been aborted, or that the woman who declined to abort may not impose on him any responsibility for her "lifestyle choice."

Fathers have also been harmed and dehumanized by the abortion license. Some watch their children killed against their will; others learn to their distress only much later that a child they would have raised is dead. Even when agreeing to support the abortion decision, fathers, like mothers, suppress their grief deny heir protective instincts, and otherwise damage themselves when they allow the killing of their own children. Abortion contributes to the marginalization of fatherhood in America, which many agree is a primary cause of the alarming breakdown of American family life.

The license has thus poisoned relationships between women and men, even as it has done serious harm to the thousands of women who now suffer from the effects of post-abortion grief. The women of America do not need abortion to be full participants in our society. To suggest otherwise is to demean women, to further distort relationships between women and men, and to aggravate the difficulties of re-creating in America a community of virtue and mutual responsibility.

THE PUBLIC DIMENSION

8. Abortion is not simply a matter of private "choice." Rather, the abortion license cuts to the heart of America's claim to being a law-governed democracy, in which equality before the law is a fundamental principle of justice. The abortion license also threatens the cultural foundations of our democratic political community. For if it becomes a settled matter in American law and in American public morality that there is, in fact, a private "right" to use lethal violence to "solve" personal, family, or social problems, then the claim of American democracy to be an expression of the people's commitment to "establish justice" will be undermined, just as it was when the law claimed the "right" to exclude certain Americans from its full protection on the basis of race. Thus the abortion issue is the crucial civil-rights issue of our time.

9. A sweeping abortion license was defined unilaterally by the Supreme Court without recourse to the normal procedures of democratic debate and legislation. This in itself wounded American democracy. And the Court's persistent refusal to permit the American people to debate the basic issue of an alleged "right to abortion" in their legislatures continues to damage our democracy by alienating tens of millions of Americans from their institutions of government.

10. The Court's definition of a "right to abortion"—first enunciated as a "privacy right," then as a "liberty right" under the Fourteenth Amendment—has had other damaging effects. The language of "rights" puts the dilemma of unwanted pregnancy into a legal-adversarial context, pitting mother against child, and even father against mother. But as the common experience of humanity—and, increasingly, the findings of science—demonstrates, what hurts one party in this most intimate of human relationships hurts both parties. The America we seek is an America in which both mother and child are the subjects of our concern and our community's protection. To abuse the language of "rights" in this matter further advances the demeaning practice of reducing all human relationships in America to matters of adversarial adjudication. This is a prescription for democratic decay. For democracy rests on the foundations of civil society, and in a truly civil society, relationships between people have a far richer moral texture than that suggested by adversarial procedure.

11. The Court's vain attempt to justify the abortion license in terms of an all-encompassing right of personal autonomy has begun to infect other areas of the law. Thus the "autonomy" logic of the Court's 1992 Casey decision is now invoked as a warrant for a constitutional "right" to euthanasia. And if it were followed to its conclusion, this logic would require us to consider such profound human relationships as the bond between husband and wife, or the bond between parents and children, to be nothing more than matters of contract, with the claims of the autonomous individual trumping all other claims. Enshrined by the Court to legalize abortion on demand, this autonomy logic threatens to give us an America in which the only actors of consequence are the individual and the state; no other community, including the community of husband and wife, or the community of parents and

children, will have effective constitutional standing.

12. The Supreme Court's insistence on a "right" to abortion has had other disturbing effects on our public life. This "right" has been used to justify the abridgment of First Amendment freespeech rights, as when sidewalk counselors are threatened with legal penalties for proposing protection and care to women in crisis at the crucial moment of decision outside an abortion clinic. This "right" has been used by the Federal Government to coerce state governments into providing abortions, even when state legislatures or popular referenda have clearly registered the people's unwillingness to use public funds for elective abortions. The abortion "right" has distorted our national healthcare debate, as well as the debate over welfare reform. It has even had an impact on U.S. foreign policy. American attempts to impose the "right" on the rest of the world at the 1994 Cairo world conference on population and the 1995 Beijing world conference on women have been deeply resented by other countries, as have U.S. attempts to promote abortion overseas through foreign aid.

13. The Court's attempt to define a "right" to abortion has polarized institutions and professions that were once among the bulwarks of American civil society. Professional associations of lawyers, academics, teachers, and civil servants have been divided by attempts to enlist their resources and prestige in support of abortion on demand, and in opposition to any effort to regulate abortion even in ways held constitutional by the Supreme Court. The medical profession has been deeply divided over its relationship to the abortion license. That the practice of abortion on demand is now widely recognized within the medical community as contradictory to the most deeply held values of the profession of healing is, we believe, a sign of hope. Yet some medical groups now threaten to reverse this trend by coercion—for example, by requiring medical residency programs to teach and perform abortion techniques. There are also disturbing signs of the corrupting influence of the abortion license in other professions. History has been rewritten to provide specious justification for *Roe* v. *Wade*. The teaching of law has been similarly distorted, as have political theory and political science. Such extremism underlines the unavoidable public character of the abortion license. The abortion license has a perverse Midas quality—it corrupts whatever it touches.

THE WAY AHEAD

14. Our goal is simply stated: we seek an America in which every unborn child is protected in law and welcomed in life. Legal reform and cultural renewal must both take place if America is to experience a new birth of the freedom that is ordered to goodness. We have just described, in this statement, the nature, sources, and dimension of our concern. Now, as pro-life leaders and scholars, we want to propose a program of action which we believe will appeal to Americans with open minds and hearts on this issue.

15. Means are always available to enable women to overcome the burdens that can accompany pregnancy and child-rearing. There are always alternatives to abortion. To legacy of *Roe* v. *Wade* involves a massive denial of this truth and deformation of social attitudes and practices so pervasive that women are actually encouraged to have abortions as the "easier" road to the goals that an unexpected pregnancy appears to threaten. As individuals and as a society, we bear a common responsibility to make sure that all women know that their own physical and spiritual resources, joined to those of a society that truly affirms and welcomes life, are sufficient to overcome whatever obstacles pregnancy and child-rearing may appear to present. Women instinctively know, and we should never deny, that this path will involve sacrifice. But this sacrifice must no longer remain a one-way street. In particular men must also assume their proper share of the responsibilities that family life—indeed, civilization itself—requires.

16. The pro-life movement must redouble its efforts to provide alternatives to abortion for women in crisis. There are now over 3,000 pregnancy-care centers in the United States, providing medical, educational, financial, and spiritual assistance to women who, facing the dilemma of a crisis pregnancy, bravely choose to carry their unborn children to term. We support an expansion of this service to our neighbors, so that by the turn of the century what we believe to be true today has become unmistakably clear to every American woman: No one in the United States has to have an abortion.

17. The overwhelming majority of Americans believe that adoption is preferable to abortion. We must streamline and simplify the legal procedures involved in adoption, while providing effective support to those married couples who choose to adopt.

18. the abortion license is inextricably bound up with the mores of the sexual revolution. Promotion of the pro-life cause also requires us to support and work with those who are seeking to re-establish the moral linkage between sexual expression and marriage, and between marriage and procreation. We believe that a renewal of American democracy as a virtuous society requires us to honor and promote an ethic of self-command and mutual responsibility, and to resist the siren song of the false ethic of unbridled self-expression.

19. Service to women in crisis, the promotion of adoption, and the restoration of sound sexual morality are essential if we are to experience a national cultural renewal that will help to sustain legal reform of the abortion license. The way in which we pursue the latter is also crucial, both to cultural renewal and legal reform.

We pledge ourselves to exercise the arts of democratic persuasion in advancing our legal agenda. We urge Congress and the courts to reconsider their ill-advised restriction on the rights of pro-life activists.

We unequivocally reject the use of violence in the pro-life cause as contrary to the central moral principles of our movement. For more than 23 years, we have worked within the democratic process to advance the protection of all innocent human life, and we will continue to do so.

20. The unborn child in America today enjoys less legal protection than an endangered species of bird in a national forest. In this situation, we believe a broad-based legal and political strategy is essential. There are many steps to be taken on the road to an America in which every unborn child is protected in law and welcomed in life. Thus we find no contradiction between a rigorous adherence to our ultimate goal and the pursuit of reforms that advance us toward that goal. Legal reforms that fall short of our goal, but that help move us toward it, save lives and aid in the process of moral and cultural renewal.

21. In its 1992 Casey decision, the Supreme Court agreed that the State of Pennsylvania could regulate the abortion industry in a number of ways. These regulations do not afford any direct legal protection to the unborn child. Yet experience has shown that such regulations—genuine informed consent, waiting periods, parental notification—reduce abortions in a locality, especially when coupled with positive efforts to promote alternatives to abortion and service to women in crisis. A national effort to enact Pennsyvlania-type regulations in all fifty states would be a modest but important step toward the America we seek.

22. Congress also has the opportunity to contribute to legal reform of the abortion license. A number of proposals are now being debated in the Congress, including bans on certain methods of abortion and restrictions on federal funding of abortions. We believe that Congress should adopt these measures and that the President should sign them into law. Any criminal sanctions considered in such legislation should fall upon abortionists, not upon women in crisis. We further urge the discussion of means by which Congress could recognize the unborn child as a human person entitled to the protection of the Constitution.

23. The right to life of the unborn will not be secured until it is secure under the Constitution of the United States. As it did in *Brown* v. *Board of Education* (when it rejected the *Plessy* v. *Ferguson* doctrine of "separate but equal" as an adequate expression of rights secured under the Fourteenth Amendment), the Supreme Court could reject the "central finding" of *Roe* v. *Wade*, that abortion on demand is required by an unenumerated "right to privacy" protected in part by the Fourteenth Amendment. The claim that such a correction of error would damage the Court's authority is belied by the experience of *Brown* v. *Board of Education*, and by the fact that the Court has corrected its own erroneous interpretations of the Constitution on scores of other occasions.

A more enduring means of constitutional reform is a constitutional amendment both reversing the doctrines of *Roe* v. *Wade* and *Casey*, and establishing that the right to life protected by the Fifth and Fourteenth Amendments extends to the unborn child. Such an amendment would have to be ratified by three-fourths of the states: a requirement that underlines the importance of establishing a track record of progressive legal change on behalf of the unborn child at the state and local levels.

Even with a constitutional amendment, every path to the protection and welcome we seek for unborn children requires the re-empowerment of the people of the United States and their elected representatives to debate and resolve the specific statutory enactments that will govern the question of abortion. A constitutional amendment, in other words, is not a self-executing instrument that will end the debate on abortion. It will, rather, correct a gross misinterpretation of the Constitution (as was required to reverse the grievous errors of the *Dred Scott* decision) and require states to debate and adopt policies that do not violate the unborn child's right to life.

Such a process does not, we emphasize, amount to the determination of moral truth by majority rule. Rather, it requires conforming fundamental constitutional principle to a fundamental moral truth—that abortion is the unwarranted taking of an innocent human life. Such a process also respects the role of representative government in fashioning policies that will ultimately secure that principle in practice. The project of constitutional reform on this issue, as on the precedent issues of slavery and segregation, is to bring our legal system into congruence with basic moral truths about the human person.

AN APPEAL TO OUR NEIGHBORS

24. We believe the pro-life cause is an expression of the premise and promise of American democracy. The premise is that we are all created equal; the promise is that there is justice for all. For all the reasons cited above, the abortion license has done grave damage to America: it has killed tens of millions of unborn children, caused untold anguish to their mothers, and marginalized fathers in our society. The renewal of American democracy according to the highest ideals of the Founders requires us to stand for the inalienable right to life of the unborn, to stand with women in crisis, and to stand against the abortion license.

25. Few Americans celebrate the abortion license today. For many who are troubled by the license and its impact on our society, to be "reluctantly pro-choice" is now thought to be the responsible position. We respectfully urge those of our neighbors who hold that position to reconsider. We ask them to ponder the relationship between the abortion license and the crisis of family life in America. We ask them to reconsider whether radical autonomy is a sufficient understanding of freedom. We ask them to reflect, again, on the morality of abortion itself. We ask them to think about the social impact of a legally defined private "right" to lethal violence.

We ask them to ask themselves: "Is American society, today, more hospitable, caring, and responsible than it was before *Roe* v. *Wade*?" We believe the answer is "No." Problems that the proponents of abortion claimed the license would help alleviate—such as childhood poverty, illegitimacy, and child abuse—have in fact gotten worse, throughout every level of our society, since *Roe* v. *Wade*. Thus we respectfully ask our neighbors to consider the possibility of a connection—cultural as well as legal—between the virtue deficit in contemporary American life and the abortion license.

26. The pro-life movement is about affirmation. Thus we ask our neighbors, of whatever political persuasion or current conviction on the matter of abortion, to engage in a great national debate about the America we seek, and the relationship of the abortion license to that future. We ask all Americans to join with us in providing effective, compassionate service to women in crisis. Work on alternatives to abortion and on the reform of adoption laws and procedures can create the conditions for a new dialogue on the future of abortion law and practice in America. We are ready for that new conversation. We invite all our neighbors to join us.

Mary Cunningham Agee, The Nurturing Network; Don Argue, National Association of Evangelicals; Hadley Arkes, Amherst College; Gary Bauer, Family Research Council; Robert P. Casey, Fund for the American Family, Campaign for the American Family; Samuel B. Casey, The Center for Law and Religious Freedom, Christian Legal Society; Charles W. Colson, Prison Fellowship; Guy M. Condon, Care Net; Marjorie Dannenfelser, Susan B. Anthony List; Midge Decter, Author; John J. DiIulio, Jr., Princeton University; Bernard Dobranski, The Catholic University of America, School of Law;

James C. Dobson, Focus on the Family;

Jean Bethke Elshtain, University of Chicago;

Clarke D. Forsythe, Americans United for Life;

Elizabeth Fox-Genovese, Emory University;

Wanda Franz, National Right to Life Committee;

Edward McGlynn Gaffney, Valparaiso University, School of Law;

Robert P. George, Princeton University;

Mary Ann Glendon, Harvard University;

David P. Gushee, Southern Baptist Theological Seminary;

Russell Hittinger, Catholic University of America;

Kay C. James, Robertson School of Government, Regent University;

Phillip E. Johnson, University of California at Berkeley, School of Law;

William Kristol, Project for the Republican Future;

Beverly LaHaye, Concerned Women for America;

Richard Land, Christian Life Commission; Southern Baptist Convention;

Glenn C. Loury, Boston University;

Frederica Mathewes-Green, National Women's Coalition for Life;

Michael W. McConnell, University of Chicago, School of Law;

Gilbert Meilaender, Oberlin College;

Bernard N. Nathanson, MD, Center of Clinical and Research Ethics, Vanderbilt University;

Richard John Neuhaus, Institute on Religion and Public Life;

David Novak, University of Virginia;

Michael Novak, American Enterprise Institute;

Marvin Olasky, University of Texas at Austin,

Frank A. Pavone, Priests for Life;

Ralph Reed, Christian Coalition;

Victor G. Rosenblum, Northwestern University;

Ronald J. Sider, Evangelicals for Social Action;

David M. Smolin, Cumberland Law School, Samford University;

David Stevens, MD, Christian Medical and Dental Society;

Jim Wallis, Sojourners;

George Weigel, Ethics and Public Policy Center; and

Jack C. Willke, MD, Life Issues Institute.

BLANCA SANDOVAL, A DEVOTED MOTHER AND EXEMPLARY INDIVIDUAL

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mr. MENENDEZ. Mr. Speaker, I rise today to honor a very distinguished and outstanding individual from my district. Blanca Sandoval has been a devoted mother and someone who has inspired many of her fellow community members. In recognition of her gracious work and outstanding accomplishments, Mrs. Sandoval will have her 90th birthday celebration at Las Palmas Restaurant in west New York.

Mrs. Sandoval was born on March 20, 1906, in Trinidad, Cuba. She grew up in the province of Las Villas and was living in Havana before arriving in this country. She married a decorated naval lieutenant, Laudelino Gronnig, and had three children. Asnaldo, Miriana, and Blancy were raised during a difficult period in Cuban history. The family constantly dealt with the harassment and intimidation of a brutal dictatorship.

In search of liberty and freedom, Mrs. Sandoval and her husband sought to emigrate from the island of Cuba so they could be reunited with their children. Unfortunately, Mr. Gronnig never got to see his children in the United States because he was repeatedly denied departure. He died in Cuba before he could be reunited.

Miriana and Blancy arrived in the United States in 1971, and their brother subsequently joined them. It was 11 years later that Mrs. Sandoval was reunited with her family. She quickly learned to love her adopted homeland and is now looking forward to becoming a citizen. She is well respected by her friends and neighbors and is known to them as Mima.

Blanca Sandoval is adored by her children, grandchildren, and great-grandchildren. I am proud to have such a loving and caring individual residing in my district.

CHRISTINE McMULLAN, PULASKI ASSOCIATION'S WOMAN OF THE YEAR

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 22, 1996

Mrs. MALONEY. Mr. Speaker, I rise today to pay tribute to Christine McMullan, honored by the Pulaski Association as Woman of the Year. I ask my colleagues to join me and the Pulaski Association in recognizing Mrs. McMullan's contributions to community and civic groups in the 14th Congressional District of New York.

Christine McMullan is to be commended for years of dedicated involvement in her community through several fraternal organizations. She currently serves as the president and chief executive officer of the Polish National Alliance, a fraternal insurance company. In the past, Mrs. McMullan has served as president of the New York, New Jersey & New England Fraternal Congresses and president of the State section of the National Fraternal Congress of America, which serves 10 million members. Her many years of dedicated participation in these organizations, all of which require community involvement for membership, show her to be a committed servant in the public interest.

As a leader in several fraternal organizations, Mrs. McMullan must be recognized for the individual groups she is involved with. Currently, Mrs. McMullan serves on the boards of the Greenpoint Y.M.C.A., the Brooklyn Chamber of Commerce, the Kosciuszko Foundation, and the Polish American Organizations and Endeavors. In the past, she has served on the parish council and other committees of St. Stanislaus Kostka Church, and as president of the Krakowianki & Gorale Children's Polish Folk Dance & Song Ensemble. She has been involved with the Greenpoint Civic Council and the Polish Slavic Center.

Christine McMullan is a native of the Greenpoint section of Brooklyn, NY. She graduated with honors from St. Stanislaus Kostka School in 1956. She was equally as successful at All Saints High School where she was on the dean's honor list each year. She later attended the Drake Institute School of Business Administration, and took courses in insurance at New York University and Purdue University.

Mr. Speaker, I am pleased to pay tribute today, with the Pulaski Association and my colleagues in this body, to Mrs. Christine McMullan for her continuing contributions to the Polish community and to civic groups in the 14th Congressional District of New York.

HOUSE OF REPRESENTATIVES—*Monday, March 25, 1996*

The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mr. UPTON].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 25, 1996.

I hereby designate the Honorable FRED UPTON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

When our spirits are strong, O God, You invite us to do good works of service to others and when our spirits are low, You forgive us and make us whole. In all the moments of life, we are inspired to the works of righteousness and justice by becoming Your hands and feet in our world and so being reliable stewards of Your many mercies. Strengthen us this day, O God, and make us whole so we will serve You and our neighbor in all we do. In Your name we pray. Amen.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Mississippi [Mr. MONTGOMERY] come forward and lead the House in the Pledge of Allegiance.

Mr. MONTGOMERY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate disagrees to the amendments of the House to the bill (S. 735) "An act to prevent and punish acts of terrorism, and for other purposes," agrees to a conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATCH, Mr. THURMOND, Mr. SIMPSON, Mr. BIDEN, and Mr. KENNEDY, to be the conferees on the part of the Senate.

MISSISSIPPI STATE UNIVERSITY IS GOING TO THE BIG DANCE

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, my school, Mississippi State University, is going to the big dance. By beating the University of Cincinnati last night, Mississippi State has earned the right to be one of the final four playing in Meadowlands this weekend. State will play Syracuse; and Kentucky will play the University of Massachusetts. The winners will play each other next Monday night for the title of best college basketball team in the Nation.

Mississippi State has beaten Virginia Commonwealth University, Princeton, University of Connecticut, and Cincinnati to make it to the final four.

State is truly a Cinderella team. They were not expected to make it this far. In fact, in the history of the NCAA tournaments, no Mississippi university or college team has ever made it to the final eight, much less the final four.

Win or lose at the big dance, the State of Mississippi and its people are very proud of this wonderful group of coaches and athletes who have brought nationwide recognition to Mississippi State University in Starkville, MS, a part of my congressional district.

The SPEAKER pro tempore. The Chair would ask the gentleman from Mississippi if he has a further statement about the Michigan Wolverines making the final four in the hockey playoffs?

Mr. MONTGOMERY. Mr. Speaker, I am sorry. I am not quite familiar with that, but I will be next time.

NATIONAL EMERGENCY WITH RESPECT TO ANGOLA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–189)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on International Relations, and ordered to be printed:

To the Congress of the United States:

I hereby report to the Congress on the developments since September 26, 1995, concerning the national emergency with respect to Angola that was declared in Executive Order No. 12865 of September 26, 1993. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

On September 26, 1993, I declared a national emergency with respect to Angola, invoking the authority, inter alia, of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) and the United Nations Participation Act of 1945 (22 U.S.C. 287c). Consistent with United Nations Security Council Resolution 864, dated September 15, 1993, the order prohibited the sale or supply by United States persons or from the United States, or using U.S.-registered vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles, equipment and spare parts, and petroleum and petroleum products to the territory of Angola other than through designated points of entry. The order also prohibited such sale or supply to the National Union for the Total Independence of Angola ("UNITA"). United States persons are prohibited from activities that promote or are calculated to promote such sales or supplies, or from attempted violations, or from evasion or avoidance or transactions that have the purpose of evasion or avoidance, of the stated prohibitions. The order authorized the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, as might be necessary to carry out the purposes of the order.

1. On December 10, 1993, the Treasury Department's Office of Foreign Assets Control ("FAC") issued the UNITA (Angola) Sanctions Regulations (the "Regulations") (58 Fed. Reg. 64904) to implement the President's declaration of a national emergency and imposition of sanctions against Angola (UNITA). There have been no amendments to the Regulations since my report of September 18, 1995.

The Regulations prohibit the sale or supply by United States persons or from the United States, or using U.S.-registered vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles, equipment and spare parts, and petroleum and petroleum products to UNITA or to the territory of Angola other than through designated points. United States persons are also prohibited from activities that promote or are calculated to promote such sales or supplies to UNITA or Angola, or from any transaction by any United States persons that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Executive order. Also prohibited are transactions by United States persons, or involving the use of U.S.-registered vessels or aircraft, relating to transportation to Angola or UNITA of goods the exportation of which is prohibited.

The Government of Angola has designated the following points of entry as points in Angola to which the articles otherwise prohibited by the Regulations may be shipped: *Airports:* Luanda and Katumbela, Benguela Province; *Ports:* Luanda and Lobito, Benguela Province; and Namibe, Namibe Province; and *Entry Points:* Malongo, Cabinda Province. Although no specific license is required by the Department of the Treasury for shipments to these designated points of entry (unless the item is destined for UNITA), any such exports remain subject to the licensing requirements of the Departments of State and/or Commerce.

2. The FAC has worked closely with the U.S. financial community to assure a heightened awareness of the sanctions against UNITA—through the dissemination of publications, seminars, and notices to electronic bulletin boards. This educational effort has resulted in frequent calls from banks to assure that they are not routing funds in violation of these prohibitions. United States exporters have also been notified of the sanctions through a variety of media, including special fliers and computer bulletin board information initiated by FAC and posted through the U.S. Department of Commerce and the U.S. Government Printing Office. There have been no license applications under the program.

3. The expenses incurred by the Federal Government in the 6-month period from September 18, 1995, through March 25, 1996, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Angola (UNITA) are reported to be about $226,000, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel) and the Department of State (particularly the Office of Southern African Affairs).

I will continue to report periodically to the Congress on significant developments, pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 25, 1996.*

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the House stands in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 7 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1530

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. UPTON) at 3 o'clock and 49 minutes p.m.

CONFERENCE REPORT ON H.R. 2854

Mr. ROBERTS submitted the following conference report and statement on the bill (H.R. 2854), to modify the operation of certain agricultural programs:

CONFERENCE REPORT (H. REPT. 104-494)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2854), to modify the operation of certain agricultural programs, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Agriculture Improvement and Reform Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AGRICULTURAL MARKET TRANSITION ACT

Subtitle A—Short Title, Purpose, and Definitions

Sec. 101. Short title and purpose.
Sec. 102. Definitions.

Subtitle B—Production Flexibility Contracts

Sec. 111. Authorization for use of production flexibility contracts.
Sec. 112. Elements of contracts.
Sec. 113. Amounts available for contract payments.
Sec. 114. Determination of contract payments under contracts.
Sec. 115. Payment limitations.
Sec. 116. Violations of contract.
Sec. 117. Transfer or change of interest in lands subject to contract.
Sec. 118. Planting flexibility.

Subtitle C—Nonrecourse Marketing Assistance Loans and Loan Deficiency Payments

Sec. 131. Availability of nonrecourse marketing assistance loans.
Sec. 132. Loan rates for marketing assistance loans.
Sec. 133. Term of loans.
Sec. 134. Repayment of loans.
Sec. 135. Loan deficiency payments.
Sec. 136. Special marketing loan provisions for upland cotton.
Sec. 137. Availability of recourse loans for high moisture feed grains and seed cotton.

Subtitle D—Other Commodities

CHAPTER 1—DAIRY

Sec. 141. Milk price support program.
Sec. 142. Recourse loan program for commercial processors of dairy products.
Sec. 143. Consolidation and reform of Federal milk marketing orders.
Sec. 144. Effect on fluid milk standards in State of California.
Sec. 145. Milk manufacturing marketing adjustment.
Sec. 146. Promotion.
Sec. 147. Northeast Interstate Dairy Compact.
Sec. 148. Dairy export incentive program.
Sec. 149. Authority to assist in establishment and maintenance of one or more export trading companies.
Sec. 150. Standby authority to indicate entity best suited to provide international market development and export services.
Sec. 151. Study and report regarding potential impact of Uruguay Round on prices, income, and Government purchases.
Sec. 152. Promotion of United States dairy products in international markets through dairy promotion program.

CHAPTER 2—PEANUTS AND SUGAR

Sec. 155. Peanut program.
Sec. 156. Sugar program.

Subtitle E—Administration

Sec. 161. Administration.
Sec. 162. Adjustments of loans.
Sec. 163. Commodity Credit Corporation interest rate.
Sec. 164. Personal liability of producers for deficiencies.
Sec. 165. Commodity Credit Corporation sales price restrictions.

Subtitle F—Permanent Price Support Authority

Sec. 171. Suspension and repeal of permanent price support authority.
Sec. 172. Effect of amendments.

Subtitle G—Commission on 21st Century Production Agriculture

Sec. 181. Establishment.
Sec. 182. Composition.
Sec. 183. Comprehensive review of past and future of production agriculture.
Sec. 184. Reports.
Sec. 185. Powers.
Sec. 186. Commission procedures.
Sec. 187. Personnel matters.
Sec. 188. Termination of Commission.

Subtitle H—Miscellaneous Commodity Provisions

Sec. 191. Options pilot program.
Sec. 192. Risk management education.
Sec. 193. Crop insurance.
Sec. 194. Establishment of Office of Risk Management.
Sec. 195. Revenue insurance.
Sec. 196. Administration and operation of noninsured crop assistance program.

TITLE II—AGRICULTURAL TRADE

Subtitle A—Amendments to Agricultural Trade Development and Assistance Act of 1954 and Related Statutes

Sec. 201. Food aid to developing countries.
Sec. 202. Trade and development assistance.
Sec. 203. Agreements regarding eligible countries and private entities.

Sec. 204. Terms and conditions of sales.
Sec. 205. Use of local currency payment.
Sec. 206. Value-added foods.
Sec. 207. Eligible organizations.
Sec. 208. Generation and use of foreign currencies.
Sec. 209. General levels of assistance under Public Law 480.
Sec. 210. Food Aid Consultative Group.
Sec. 211. Support of nongovernmental organizations.
Sec. 212. Commodity determinations.
Sec. 213. General provisions.
Sec. 214. Agreements.
Sec. 215. Use of Commodity Credit Corporation.
Sec. 216. Administrative provisions.
Sec. 217. Expiration date.
Sec. 218. Regulations.
Sec. 219. Independent evaluation of programs.
Sec. 220. Authorization of appropriations.
Sec. 221. Coordination of foreign assistance programs.
Sec. 222. Micronutrient fortification pilot program.
Sec. 223. Use of certain local currency.
Sec. 224. Farmer-to-farmer program.
Sec. 225. Food security commodity reserve.
Sec. 226. Protein byproducts derived from alcohol fuel production.
Sec. 227. Food for progress program.
Sec. 228. Use of foreign currency proceeds from export sales financing.
Sec. 229. Stimulation of foreign production.

Subtitle B—Amendments to Agricultural Trade Act of 1978

Sec. 241. Agricultural export promotion strategy.
Sec. 242. Implementation of commitments under Uruguay Round Agreements.
Sec. 243. Export credits.
Sec. 244. Market access program.
Sec. 245. Export enhancement program.
Sec. 246. Arrival certification.
Sec. 247. Compliance.
Sec. 248. Regulations.
Sec. 249. Trade compensation and assistance programs.
Sec. 250. Foreign Agricultural Service.
Sec. 251. Reports.
Sec. 252. Foreign market development cooperator program.

Subtitle C—Miscellaneous Agricultural Trade Provisions

Sec. 261. Edward R. Madigan United States Agricultural Export Excellence Award.
Sec. 262. Reporting requirements relating to tobacco.
Sec. 263. Triggered export enhancement.
Sec. 264. Disposition of commodities to prevent waste.
Sec. 265. Debt-for-health-and-protection swap.
Sec. 266. Policy on expansion of international markets.
Sec. 267. Policy on maintenance and development of export markets.
Sec. 268. Policy on trade liberalization.
Sec. 269. Agricultural trade negotiations.
Sec. 270. Policy on unfair trade practices.
Sec. 271. Agricultural aid and trade missions.
Sec. 272. Annual reports by agricultural attaches.
Sec. 273. World livestock market price information.
Sec. 274. Orderly liquidation of stocks.
Sec. 275. Sales of extra long staple cotton.
Sec. 276. Regulations.
Sec. 277. Emerging markets.
Sec. 278. Reimbursement for overhead expenses.
Sec. 279. Labeling of domestic and imported lamb and mutton.
Sec. 280. Import assistance for CBI beneficiary countries and the Philippines.
Sec. 281. Studies, reports, and other provisions.
Sec. 282. Sense of Congress concerning multilateral disciplines on credit guarantees.
Sec. 283. International Cotton Advisory Committee.

TITLE III—CONSERVATION

Subtitle A—Definitions

Sec. 301. Definitions applicable to highly erodible cropland conservation.

Subtitle B—Highly Erodible Land Conservation

Sec. 311. Program ineligibility.
Sec. 312. Conservation reserve lands.
Sec. 313. Good faith exemption.
Sec. 314. Expedited procedures for granting variances from conservation plans.
Sec. 315. Development and implementation of conservation plans and conservation systems.
Sec. 316. Investigation of possible compliance deficiencies.
Sec. 317. Wind erosion estimation pilot project.

Subtitle C—Wetland Conservation

Sec. 321. Program ineligibility.
Sec. 322. Delineation of wetlands; exemptions to program ineligibility.
Sec. 323. Consultation and cooperation requirements.
Sec. 324. Application of program ineligibility to affiliated persons.
Sec. 325. Clarification of definition of agricultural lands in memorandum of agreement.
Sec. 326. Effective date.

Subtitle D—Environmental Conservation Acreage Reserve Program

Sec. 331. Environmental conservation acreage reserve program.
Sec. 332. Conservation reserve program.
Sec. 333. Wetlands reserve program.
Sec. 334. Environmental quality incentives program.
Sec. 335. Conservation farm option.
Sec. 336. Repeal of superseded authorities.

Subtitle E—Conservation Funding and Administration

Sec. 341. Conservation funding and administration.
Sec. 342. State technical committees.
Sec. 343. Public notice and comment for revisions to certain State technical guides.

Subtitle F—National Natural Resources Conservation Foundation

Sec. 351. Short title.
Sec. 352. Definitions.
Sec. 353. National Natural Resources Conservation Foundation.
Sec. 354. Composition and operation.
Sec. 355. Officers and employees.
Sec. 356. Corporate powers and obligations of the Foundation.
Sec. 357. Administrative services and support.
Sec. 358. Audits and petition of Attorney General for equitable relief.
Sec. 359. Release from liability.
Sec. 360. Authorization of appropriations.

Subtitle G—Forestry

Sec. 371. Office of International Forestry.
Sec. 372. Cooperative work for protection, management, and improvement of National Forest System.
Sec. 373. Forestry incentives program.
Sec. 374. Optional State grants for forest legacy program.

Subtitle H—Miscellaneous Conservation Provisions

Sec. 381. Conservation activities of Commodity Credit Corporation.
Sec. 382. Floodplain easements.
Sec. 383. Resource conservation and development program.
Sec. 384. Repeal of report requirement.
Sec. 385. Flood risk reduction.
Sec. 386. Conservation of private grazing land.
Sec. 387. Wildlife habitat incentives program.
Sec. 388. Farmland protection program.
Sec. 389. Interim moratorium on bypass flows.
Sec. 390. Everglades ecosystem restoration.
Sec. 391. Agricultural air quality research oversight.

TITLE IV—NUTRITION ASSISTANCE

Sec. 401. Food stamp program.
Sec. 402. Commodity distribution program; commodity supplemental food program.
Sec. 403. Emergency food assistance program.
Sec. 404. Soup kitchen and food bank program.
Sec. 405. National commodity processing.

TITLE V—AGRICULTURAL PROMOTION

Subtitle A—Commodity Promotion and Evaluation

Sec. 501. Commodity promotion and evaluation.

Subtitle B—Issuance of Orders for Promotion, Research, and Information Activities Regarding Agricultural Commodities

Sec. 511. Short title.
Sec. 512. Findings and purpose.
Sec. 513. Definitions.
Sec. 514. Issuance of orders.
Sec. 515. Required terms in orders.
Sec. 516. Permissive terms in orders.
Sec. 517. Assessments.
Sec. 518. Referenda.
Sec. 519. Petition and review of orders.
Sec. 520. Enforcement.
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TITLE I—AGRICULTURAL MARKET TRANSITION ACT

Subtitle A—Short Title, Purpose, and Definitions

SEC. 101. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Market Transition Act".

(b) PURPOSE.—It is the purpose of this title—

(1) to authorize the use of binding production flexibility contracts between the United States and agricultural producers to support farming certainty and flexibility while ensuring continued compliance with farm conservation and wetland protection requirements;

(2) to make nonrecourse marketing assistance loans and loan deficiency payments available for certain crops;

(3) to improve the operation of farm programs for milk, peanuts, and sugar; and

(4) to establish a commission to undertake a comprehensive review of past and future production agriculture in the United States.

SEC. 102. DEFINITIONS.

In this title:

(1) AGRICULTURAL ACT OF 1949.—Except in section 171, the term "Agricultural Act of 1949" means the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), as in effect prior to the suspensions under section 171(b)(1).

(2) CONSIDERED PLANTED.—The term "considered planted" means acreage that is considered planted under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) and such other acreage as the Secretary considers fair and equitable.

(3) CONTRACT.—The terms "contract" and "production flexibility contract" mean a production flexibility contract entered into under section 111.

(4) CONTRACT ACREAGE.—The term "contract acreage" means 1 or more crop acreage bases established for contract commodities under title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) that would have been in effect for the 1996 crop (but for suspension under section 171(b)(1)).

(5) CONTRACT COMMODITY.—The term "contract commodity" means wheat, corn, grain sorghum, barley, oats, upland cotton, and rice.

(6) CONTRACT PAYMENT.—The term "contract payment" means a payment made under this subtitle pursuant to a contract.

(7) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(8) EXTRA LONG STAPLE COTTON.—The term "extra long staple cotton" means cotton that—

(A) is produced from pure strain varieties of the Barbadense species or any hybrid thereof, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and

(B) is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

(9) FARM PROGRAM PAYMENT YIELD.—The term "farm program payment yield" means the farm program payment yield established for the 1995 crop of a contract commodity under section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465). The Secretary shall adjust the farm program payment yield for the 1995 crop of a contract commodity to account for any additional yield payments made with respect to that crop under subsection (b)(2) of the section.

(10) LOAN COMMODITY.—The term "loan commodity" means each contract commodity, extra long staple cotton, and oilseed.

(11) OILSEED.—The term "oilseed" means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

(12) PRODUCER.—The term "producer" means an owner, operator, landlord, tenant, or sharecropper who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. In determining whether a grower of hybrid seed is a

producer, the Secretary shall not take into consideration the existence of a hybrid seed contract.

(13) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(14) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(15) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

Subtitle B—Production Flexibility Contracts

SEC. 111. AUTHORIZATION FOR USE OF PRODUCTION FLEXIBILITY CONTRACTS.

(a) OFFER AND TERMS.—The Secretary shall offer to enter into a production flexibility contract with an eligible owner or producer described in subsection (b) on a farm containing eligible cropland. Under the terms of a contract, the owner or producer shall agree, in exchange for annual contract payments, to—

(1) comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(2) comply with applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.);

(3) comply with the planting flexibility requirements of section 118; and

(4) use the land subject to the contract for an agricultural or related activity, but not for a nonagricultural commercial or industrial use, as determined by the Secretary.

(b) ELIGIBLE OWNERS AND PRODUCERS DESCRIBED.—The following producers and owners shall be eligible to enter into a contract:

(1) An owner of eligible cropland who assumes all or a part of the risk of producing a crop.

(2) A producer (other than an owner) on eligible cropland with a share-rent lease of the eligible cropland, regardless of the length of the lease, if the owner enters into the same contract.

(3) A producer (other than an owner) on eligible cropland who cash rents the eligible cropland under a lease expiring on or after September 30, 2002, in which case the owner is not required to enter into the contract.

(4) A producer (other than an owner) on eligible cropland who cash rents the eligible cropland under a lease expiring before September 30, 2002. The owner of the eligible cropland may also enter into the same contract. If the producer elects to enroll less than 100 percent of the eligible cropland in the contract, the consent of the owner is required.

(5) An owner of eligible cropland who cash rents the eligible cropland and the lease term expires before September 30, 2002, if the tenant declines to enter into a contract. In the case of an owner covered by this paragraph, contract payments shall not begin under a contract until the lease held by the tenant ends.

(6) An owner or producer described in any preceding paragraph regardless of whether the owner or producer purchased catastrophic risk protection for a 1996 crop under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)).

(c) TENANTS AND SHARECROPPERS.—In carrying out this subtitle, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(d) ELIGIBLE CROPLAND DESCRIBED.—Land shall be considered to be cropland eligible for coverage under a contract only if the land has contract acreage attributable to the land and—

(1) for at least 1 of the 1991 through 1995 crops, at least a portion of the land was enrolled in the acreage reduction program authorized for a crop of a contract commodity under section 101B, 103B, 105B, or 107B of the Agricultural Act of 1949 or was considered planted;

(2) was subject to a conservation reserve contract under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) whose term expired, or was voluntarily terminated, on or after January 1, 1995; or

(3) is released from coverage under a conservation reserve contract by the Secretary during the period beginning on January 1, 1995, and ending on the date specified in section 112(a)(2).

(e) QUANTITY OF ELIGIBLE CROPLAND COVERED BY CONTRACT.—Subject to subsection (b)(4), an owner or producer may enroll as contract acreage all or a portion of the eligible cropland on the farm.

(f) VOLUNTARY REDUCTION IN CONTRACT ACREAGE.—Subject to subsection (b)(4), an owner or producer who enters into a contract may subsequently reduce the quantity of contract acreage covered by the contract.

SEC. 112. ELEMENTS OF CONTRACTS.

(a) TIME FOR CONTRACTING.—

(1) COMMENCEMENT.—To the extent practicable, the Secretary shall commence entering into contracts not later than 45 days after the date of enactment of this title.

(2) DEADLINE.—Except as provided in paragraph (3), the Secretary may not enter into a contract after August 1, 1996.

(3) CONSERVATION RESERVE LANDS.—

(A) IN GENERAL.—At the beginning of each fiscal year, the Secretary shall allow an eligible owner or producer on a farm covered by a conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) that terminates after the date specified in paragraph (2) to enter into or expand a production flexibility contract to cover the contract acreage of the farm that was subject to the former conservation reserve contract.

(B) AMOUNT.—Contract payments made for contract acreage under this paragraph shall be made at the rate and amount applicable to the annual contract payment level for the applicable crop. For the fiscal year in which the conservation reserve contract is terminated, the owner or producer subject to the production flexibility contract may elect to receive either contract payments or a prorated payment under the conservation reserve contract, but not both.

(b) DURATION OF CONTRACT.—

(1) BEGINNING DATE.—The term of a contract shall begin with—

(A) the 1996 crop of a contract commodity; or

(B) in the case of acreage that was subject to a conservation reserve contract described in subsection (a)(3), the date the production flexibility contract was entered into or expanded to cover the acreage.

(2) ENDING DATE.—The term of a contract shall extend through the 2002 crop, unless earlier terminated by the owner or producer.

(c) ESTIMATION OF CONTRACT PAYMENTS.—At the time the Secretary enters into a contract, the Secretary shall provide an estimate of the minimum contract payments anticipated to be made during at least the first fiscal year for which contract payments will be made.

(d) TIME FOR PAYMENT.—

(1) IN GENERAL.—An annual contract payment shall be made not later than September 30 of each of fiscal years 1996 through 2002.

(2) ADVANCE PAYMENTS.—

(A) FISCAL YEAR 1996.—At the option of the owner or producer, 50 percent of the contract payment for fiscal year 1996 shall be made not later than 30 days after the date on which the contract is entered into and approved by the Secretary and the owner or producer.

(B) SUBSEQUENT FISCAL YEARS.—At the option of the owner or producer for fiscal year 1997 and each subsequent fiscal year, 50 percent of the annual contract payment shall be made on December 15 or January 15 of the fiscal year. The owner or producer may change the date selected under this subparagraph for a subsequent fiscal year by providing advance notice to the Secretary.

SEC. 113. AMOUNTS AVAILABLE FOR CONTRACT PAYMENTS.

(a) FISCAL YEAR AMOUNTS.—The Secretary shall, to the maximum extent practicable, expend the following amounts to satisfy the obligations of the Secretary under all contracts:

(1) For fiscal year 1996, $5,570,000,000.
(2) For fiscal year 1997, $5,385,000,000.
(3) For fiscal year 1998, $5,800,000,000.
(4) For fiscal year 1999, $5,603,000,000.
(5) For fiscal year 2000, $5,130,000,000.
(6) For fiscal year 2001, $4,130,000,000.
(7) For fiscal year 2002, $4,008,000,000.

(b) ALLOCATION.—The amount made available for a fiscal year under subsection (a) shall be allocated as follows:

(1) For wheat, 26.26 percent.
(2) For corn, 46.22 percent.
(3) For grain sorghum, 5.11 percent.
(4) For barley, 2.16 percent.
(5) For oats, 0.15 percent.
(6) For upland cotton, 11.63 percent.
(7) For rice, 8.47 percent.

(c) ADJUSTMENT.—The Secretary shall adjust the amounts allocated for each contract commodity under subsection (b) for a particular fiscal year by—

(1) adding an amount equal to the sum of all repayments of deficiency payments required under section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) for the commodity;

(2) adding an amount equal to the sum of all refunds of contract payments received during the preceding fiscal year under section 116 for the commodity; and

(3) subtracting an amount equal to the amount, if any, necessary during that fiscal year to satisfy payment requirements for the commodity under sections 103B, 105B, or 107B of the Agricultural Act of 1949 for the 1994 and 1995 crop years.

(d) ADDITIONAL RICE ALLOCATION.—In addition to the adjustments required under subsection (c), the amount allocated under subsection (b) for rice contract payments shall be increased by $8,500,000 for each of fiscal years 1997 through 2002.

(e) EXCLUSION OF CERTAIN AMOUNTS FROM CONTRACT PAYMENTS.—Any amount added pursuant to paragraphs (1) and (2) of subsection (c) to the amount available under subsection (a) for a fiscal year and paid to owners and producers under a contract shall not be treated as a contract payment for purposes of section 115(a) of this title or section 1001(1) of the Food Security Act of 1985 (7 U.S.C. 1308(1)). However, the amount of a payment covered by this subsection may not exceed $50,000 per person.

(f) EFFECT OF PAYMENT LIMITATION.—The amount available under subsection (a) for a fiscal year shall be reduced by an amount equal to the total amount of contract payments for the fiscal year that owners and producers forgo as a result of operation of the payment limitation under section 1001(1) of the Food Security Act of 1985 (7 U.S.C. 1308(1)).

SEC. 114. DETERMINATION OF CONTRACT PAYMENTS UNDER CONTRACTS.

(a) INDIVIDUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—For each contract, the payment quantity of a contract commodity for each fiscal year shall be equal to the product of—

(1) 85 percent of the contract acreage; and

(2) the farm program payment yield.

(b) ANNUAL PAYMENT QUANTITY OF CONTRACT COMMODITIES.—The payment quantity of each contract commodity covered by all contracts for each fiscal year shall be equal to the sum of the amounts calculated under subsection (a) for each individual contract.

(c) ANNUAL PAYMENT RATE.—The payment rate for a contract commodity for each fiscal year shall be equal to—

(1) the amount made available under section 113 for the contract commodity for the fiscal year; divided by

(2) the amount determined under subsection (b) for the fiscal year.

(d) ANNUAL PAYMENT AMOUNT.—The amount to be paid under a contract in effect for each fiscal year with respect to all contract commodities covered by the contract shall be equal to the sum of the products of—

(1) the payment quantity determined under subsection (a) for each of the contract commodities covered by the contract; and

(2) the corresponding payment rate for the contract commodity in effect under subsection (c).

(e) REDUCTION IN PAYMENT AMOUNT.—The contract payment determined under subsection (d) for an owner or producer for a fiscal year shall be immediately reduced by the amount of any repayment of deficiency payments that is required under section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) and is not repaid as of the date the contract payment is determined. The Secretary shall be required to collect the required repayment, or any claim based on the required repayment, as soon as the contract payment is determined.

(f) ASSIGNMENT OF CONTRACT PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to contract payments under this section. The owner or producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require in the contract, of any assignment made under this subsection.

(g) SHARING OF CONTRACT PAYMENTS.—The Secretary shall provide for the sharing of contract payments among the owners and producers subject to the contract on a fair and equitable basis.

SEC. 115. PAYMENT LIMITATIONS.

(a) APPLICABILITY OF PAYMENT LIMITATIONS.—Sections 1001 through 1001C of the Food Security Act of 1985 (7 U.S.C. 1308 through 1308–3), as amended by this section, shall be applicable to contract payments made under this subtitle.

(b) PAYMENT LIMITATIONS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) LIMITATION ON PAYMENTS UNDER PRODUCTION FLEXIBILITY CONTRACTS.—The total amount of contract payments made under the Agricultural Market Transition Act to a person under 1 or more production flexibility contracts during any fiscal year may not exceed $40,000.

"(2) LIMITATION ON MARKETING LOAN GAINS AND LOAN DEFICIENCY PAYMENTS.—The total amount of the payments specified in paragraph (3) that a person shall be entitled to receive under the Agricultural Market Transition Act for 1 or more contract commodities and oilseeds during any crop year may not exceed $75,000.

"(3) DESCRIPTION OF PAYMENTS SUBJECT TO LIMITATION.—The payments referred to in paragraph (2) are the following:

"(A) Any gain realized by a producer from repaying a marketing assistance loan under section 131 of the Agricultural Market Transition Act for a crop of any loan commodity at a lower level than the original loan rate established for the loan commodity under section 132 of the Act.

"(B) Any loan deficiency payment received for a loan commodity under section 135 of the Act.

"(4) DEFINITIONS.—In this title, the terms 'contract commodity', 'contract payment', 'loan commodity', 'oilseed', and 'production flexibility contract' have the meaning given those terms in section 102 of the Agricultural Market Transition Act.".

(c) CONFORMING AMENDMENTS.—

(1) Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended—

(A) in subsection (a)(1), by striking "under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.)"; and

(B) in subsection (b)(1), by striking "under the Agricultural Act of 1949".

(2) Section 1001C(a) of the Act (7 U.S.C. 1308–3(a)) is amended—

(A) by striking "For each of the 1991 through 1997 crops, any" and inserting "Any";

(B) by striking "production adjustment payments, price support program loans, payments, or benefits made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.)," and inserting "loans or payments made available under the Agricultural Market Transition Act,"; and

(C) by striking "during the 1989 through 1997 crop years".

SEC. 116. VIOLATIONS OF CONTRACT.

(a) TERMINATION OF CONTRACT FOR VIOLATION.—Except as provided in subsection (b), if an owner or producer subject to a contract violates a requirement of the contract specified in section 111(a), the Secretary shall terminate the contract with respect to the owner or producer on each farm in which the owner or producer has an interest. On the termination, the owner or producer shall forfeit all rights to receive future contract payments on each farm in which the owner or producer has an interest and shall refund to the Secretary all contract payments received by the owner or producer during the period of the violation, together with interest on the contract payments as determined by the Secretary.

(b) REFUND OR ADJUSTMENT.—If the Secretary determines that a violation does not warrant termination of the contract under subsection (a), the Secretary may require the owner or producer subject to the contract—

(1) to refund to the Secretary that part of the contract payments received by the owner or producer during the period of the violation, together with interest on the contract payments as determined by the Secretary; or

(2) to accept a reduction in the amount of future contract payments that is proportionate to the severity of the violation, as determined by the Secretary.

(c) FORECLOSURE.—

(1) EFFECT OF FORECLOSURE.—An owner or producer subject to a contract may not be required to make repayments to the Secretary of amounts received under the contract if the contract acreage has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate to provide fair and equitable treatment.

(2) RESUMPTION OF OPERATION.—This subsection shall not void the responsibilities of the owner or producer under the contract if the owner or producer continues or resumes operation, or control, of the contract acreage. On the resumption of operation or control over the contract acreage by the owner or producer, the provisions of the contract in effect on the date of the foreclosure shall apply.

(d) REVIEW.—A determination of the Secretary under this section shall be considered to be an adverse decision for purposes of the availability of administrative review of the determination.

SEC. 117. TRANSFER OR CHANGE OF INTEREST IN LANDS SUBJECT TO CONTRACT.

(a) TERMINATION.—Except as provided in subsection (c), a transfer of (or change in) the interest of an owner or producer subject to a contract in the contract acreage covered by the contract shall result in the termination of the contract with respect to the acreage, unless the transferee or owner of the acreage agrees to assume all obligations under the contract. The termination shall be effective on the date of the transfer or change.

(b) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the contract if the modifications are consistent with the objectives of this subtitle, as determined by the Secretary.

(c) EXCEPTION.—If an owner or producer who is entitled to a contract payment dies, becomes incompetent, or is otherwise unable to receive the contract payment, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary.

SEC. 118. PLANTING FLEXIBILITY.

(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on contract acreage on a farm.

(b) LIMITATIONS AND EXCEPTIONS REGARDING FRUITS AND VEGETABLES.—

(1) LIMITATIONS.—The planting of fruits and vegetables (other than lentils, mung beans, and dry peas) shall be prohibited on contract acreage.

(2) EXCEPTIONS.—Paragraph (1) shall not limit the planting of a fruit or vegetable—

(A) in any region in which there is a history of double-cropping of contract commodities with fruits or vegetables, as determined by the Secretary, in which case the double-cropping shall be permitted;

(B) on a farm that the Secretary determines has a history of planting fruits or vegetables on contract acreage, except that a contract payment shall be reduced by an acre for each acre planted to the fruit or vegetable; or

(C) by a producer who the Secretary determines has an established planting history of a specific fruit or vegetable, except that—

(i) the quantity planted may not exceed the producer's average annual planting history of the fruit or vegetable in the 1991 through 1995 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(ii) a contract payment shall be reduced by an acre for each acre planted to the fruit or vegetable.

Subtitle C—Nonrecourse Marketing Assistance Loans and Loan Deficiency Payments

SEC. 131. AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE LOANS.

(a) NONRECOURSE LOANS AVAILABLE.—For each of the 1996 through 2002 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm. The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under section 132 for the loan commodity.

(b) ELIGIBLE PRODUCTION.—The following production shall be eligible for a marketing assistance loan under subsection (a):

(1) In the case of a marketing assistance loan for a contract commodity, any production by a producer on a farm containing eligible cropland covered by a production flexibility contract.

(2) In the case of a marketing assistance loan for extra long staple cotton and oilseeds, any production.

(c) COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.) during the term of the loan.

(d) ADDITIONAL OUTLAYS PROHIBITED.—The Secretary shall carry out this subtitle in such a manner that there are no additional outlays under this subtitle as a result of the reconstitution of a farm that occurs as a result of the combination of another farm that does not contain eligible cropland covered by a production flexibility contract.

SEC. 132. LOAN RATES FOR MARKETING ASSISTANCE LOANS.

(a) WHEAT.—

(1) LOAN RATE.—Subject to paragraph (2), the loan rate for a marketing assistance loan under section 131 for wheat shall be—

(A) not less than 85 percent of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than $2.58 per bushel.

(2) STOCKS TO USE RATIO ADJUSTMENT.—If the Secretary estimates for any marketing year that the ratio of ending stocks of wheat to total use for the marketing year will be—

(A) equal to or greater than 30 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 10 percent in any year;

(B) less than 30 percent but not less than 15 percent, the Secretary may reduce the loan rate for wheat for the corresponding crop by an amount not to exceed 5 percent in any year; or

(C) less than 15 percent, the Secretary may not reduce the loan rate for wheat for the corresponding crop.

(b) FEED GRAINS.—

(1) LOAN RATE FOR CORN.—Subject to paragraph (2), the loan rate for a marketing assistance loan under section 131 for corn shall be—

(A) not less than 85 percent of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not more than $1.89 per bushel.

(2) STOCKS TO USE RATIO ADJUSTMENT.—If the Secretary estimates for any marketing year that the ratio of ending stocks of corn to total use for the marketing year will be—

(A) equal to or greater than 25 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 10 percent in any year;

(B) less than 25 percent but not less than 12.5 percent, the Secretary may reduce the loan rate for corn for the corresponding crop by an amount not to exceed 5 percent in any year; or

(C) less than 12.5 percent, the Secretary may not reduce the loan rate for corn for the corresponding crop.

(3) OTHER FEED GRAINS.—The loan rate for a marketing assistance loan under section 131 for grain sorghum, barley, and oats, respectively, shall be established at such level as the Secretary determines is fair and reasonable in relation to the rate that loans are made available for corn, taking into consideration the feeding value of the commodity in relation to corn.

(c) UPLAND COTTON.—

(1) LOAN RATE.—Subject to paragraph (2), the loan rate for a marketing assistance loan under section 131 for upland cotton shall be established by the Secretary at such loan rate, per pound, as will reflect for the base quality of upland cotton, as determined by the Secretary, at average locations in the United States a rate that is not less than the smaller of—

(A) 85 percent of the average price (weighted by market and month) of the base quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

(B) 90 percent of the average, for the 15-week period beginning July 1 of the year preceding the year in which the crop is planted, of the 5 lowest-priced growths of the growths quoted for Middling $1\frac{3}{32}$-inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year preceding the year in which the crop is planted between the average Northern European price quotation of such quality of cotton and the market quotations in the designated United States spot markets for the base quality of upland cotton), as determined by the Secretary.

(2) LIMITATIONS.—The loan rate for a marketing assistance loan for upland cotton shall not be less than $0.50 per pound or more than $0.5192 per pound.

(d) EXTRA LONG STAPLE COTTON.—The loan rate for a marketing assistance loan under section 131 for extra long staple cotton shall be—

(1) not less than 85 percent of the simple average price received by producers of extra long staple cotton, as determined by the Secretary, during 3 years of the 5-year period ending July 31 of the year preceding the year in which the crop is planted, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(2) not more than $0.7965 per pound.

(e) RICE.—The loan rate for a marketing assistance loan under section 131 for rice shall be $6.50 per hundredweight.

(f) OILSEEDS.—

(1) SOYBEANS.—The loan rate for a marketing assistance loan under section 131 for soybeans shall be—

(A) not less than 85 percent of the simple average price received by producers of soybeans, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of soybeans, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not less than $4.92 or more than $5.26 per bushel.

(2) SUNFLOWER SEED, CANOLA, RAPESEED, SAFFLOWER, MUSTARD SEED, AND FLAXSEED.—The loan rate for a marketing assistance loan under section 131 for sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed, individually, shall be—

(A) not less than 85 percent of the simple average price received by producers of sunflower seed, individually, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of sunflower seed, individually, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; but

(B) not less than $0.087 or more than $0.093 per pound.

(3) OTHER OILSEEDS.—The loan rates for a marketing assistance loan under section 131 for other oilseeds shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan rate available for soybeans, except in no event shall the rate for the oilseeds (other than cottonseed) be less than the rate established for soybeans on a per-pound basis for the same crop.

SEC. 133. TERM OF LOANS.

(a) TERM OF LOAN.—In the case of each loan commodity (other than upland cotton or extra long staple cotton), a marketing assistance loan under section 131 shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

(b) SPECIAL RULE FOR COTTON.—A marketing assistance loan for upland cotton or extra long staple cotton shall have a term of 10 months beginning on the first day of the month in which the loan is made.

(c) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for any loan commodity.

SEC. 134. REPAYMENT OF LOANS.

(a) REPAYMENT RATES FOR WHEAT, FEED GRAINS, AND OILSEEDS.—The Secretary shall permit a producer to repay a marketing assistance loan under section 131 for wheat, corn, grain sorghum, barley, oats, and oilseeds at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 132, plus interest (as determined by the Secretary); or

(2) a rate that the Secretary determines will—

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodity by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodity; and

(D) allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally.

(b) REPAYMENT RATES FOR UPLAND COTTON AND RICE.—The Secretary shall permit producers to repay a marketing assistance loan under section 131 for upland cotton and rice at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 132, plus interest (as determined by the Secretary); or

(2) the prevailing world market price for the commodity (adjusted to United States quality and location), as determined by the Secretary.

(c) REPAYMENT RATES FOR EXTRA LONG STAPLE COTTON.—Repayment of a marketing assistance loan for extra long staple cotton shall be at the loan rate established for the commodity under section 132, plus interest (as determined by the Secretary).

(d) PREVAILING WORLD MARKET PRICE.—For purposes of this section and section 136, the Secretary shall prescribe by regulation—

(1) a formula to determine the prevailing world market price for each loan commodity, adjusted to United States quality and location; and

(2) a mechanism by which the Secretary shall announce periodically the prevailing world market price for each loan commodity.

(e) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE FOR UPLAND COTTON.—

(1) IN GENERAL.—During the period ending July 31, 2003, the prevailing world market price for upland cotton (adjusted to United States quality and location) established under subsection (d) shall be further adjusted if—

(A) the adjusted prevailing world market price is less than 115 percent of the loan rate for upland cotton established under section 132, as determined by the Secretary; and

(B) the Friday through Thursday average price quotation for the lowest-priced United States growth as quoted for Middling (M) $1\frac{3}{32}$-inch cotton delivered C.I.F. Northern Europe is greater than the Friday through Thursday average price of the 5 lowest-priced growths of upland cotton, as quoted for Middling (M) $1\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe (referred to in this section as the "Northern Europe price").

(2) FURTHER ADJUSTMENT.—Except as provided in paragraph (3), the adjusted prevailing world market price for upland cotton shall be further adjusted on the basis of some or all of the following data, as available:

(A) The United States share of world exports.

(B) The current level of cotton export sales and cotton export shipments.

(C) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for upland cotton (adjusted to United States quality and location).

(3) LIMITATION ON FURTHER ADJUSTMENT.—The adjustment under paragraph (2) may not exceed the difference between—

(A) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling 1$\frac{3}{32}$-inch cotton delivered C.I.F. Northern Europe; and

(B) the Northern Europe price.

SEC. 135. LOAN DEFICIENCY PAYMENTS.

(a) AVAILABILITY OF LOAN DEFICIENCY PAYMENTS.—Except as provided in subsection (d), the Secretary may make loan deficiency payments available to producers who, although eligible to obtain a marketing assistance loan under section 131 with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for payments under this section.

(b) COMPUTATION.—A loan deficiency payment under this section shall be computed by multiplying—

(1) the loan payment rate determined under subsection (c) for the loan commodity; by

(2) the quantity of the loan commodity that the producers on a farm are eligible to place under loan but for which the producers forgo obtaining the loan in return for payments under this section.

(c) LOAN PAYMENT RATE.—For purposes of this section, the loan payment rate shall be the amount by which—

(1) the loan rate established under section 132 for the loan commodity; exceeds

(2) the rate at which a loan for the commodity may be repaid under section 134.

(d) EXCEPTION FOR EXTRA LONG STAPLE COTTON.—This section shall not apply with respect to extra long staple cotton.

SEC. 136. SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON.

(a) COTTON USER MARKETING CERTIFICATES.—

(1) ISSUANCE.—Subject to paragraph (4), during the period ending July 31, 2003, the Secretary shall issue marketing certificates or cash payments to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

(A) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1$\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

(B) the prevailing world market price for upland cotton (adjusted to United States quality and location) does not exceed 130 percent of the loan rate for upland cotton established under section 132.

(2) VALUE OF CERTIFICATES OR PAYMENTS.—The value of the marketing certificates or cash payments shall be based on the amount of the difference (reduced by 1.25 cents per pound) in the prices during the 4th week of the consecutive 4-week period multiplied by the quantity of upland cotton included in the documented sales.

(3) ADMINISTRATION OF MARKETING CERTIFICATES.—

(A) REDEMPTION, MARKETING, OR EXCHANGE.—The Secretary shall establish procedures for redeeming marketing certificates for cash or marketing or exchange of the certificates for agricultural commodities owned by the Commodity Credit Corporation in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates. Any price restrictions that would otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subsection.

(B) DESIGNATION OF COMMODITIES AND PRODUCTS.—To the extent practicable, the Secretary shall permit owners of certificates to designate the commodities and products, including storage sites, the owners would prefer to receive in exchange for certificates. If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of the certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending with the date of the presentation of the certificate to the Commodity Credit Corporation.

(C) TRANSFERS.—Marketing certificates issued to domestic users and exporters of upland cotton may be transferred to other persons in accordance with regulations issued by the Secretary.

(4) EXCEPTION.—The Secretary shall not issue marketing certificates or cash payments under paragraph (1) if, for the immediately preceding consecutive 10-week period, the Friday through Thursday average price quotation for the lowest priced United States growth, as quoted for Middling (M) 1$\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under this subsection, exceeds the Northern Europe price by more than 1.25 cents per pound.

(5) LIMITATION ON EXPENDITURES.—Total expenditures under this subsection shall not exceed $701,000,000 during fiscal years 1996 through 2002.

(b) SPECIAL IMPORT QUOTA.—

(1) ESTABLISHMENT.—The President shall carry out an import quota program that provides that, during the period ending July 31, 2003, whenever the Secretary determines and announces that for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1$\frac{3}{32}$-inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificates issued under subsection (a), exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota.

(2) QUANTITY.—The quota shall be equal to 1 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(3) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under paragraph (1) and entered into the United States not later than 180 days after the date.

(4) OVERLAP.—A special quota period may be established that overlaps any existing quota period if required by paragraph (1), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (c).

(5) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(A) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(B) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(C) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(D) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(6) DEFINITION.—In this subsection, the term "special import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(c) LIMITED GLOBAL IMPORT QUOTA FOR UPLAND COTTON.—

(1) IN GENERAL.—The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) QUANTITY.—The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(B) QUANTITY IF PRIOR QUOTA.—If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) PREFERENTIAL TARIFF TREATMENT.—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) DEFINITIONS.—In this subsection:

(i) SUPPLY.—The term "supply" means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

(I) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;

(II) production of the current crop; and

(III) imports to the latest date available during the marketing year.

(ii) DEMAND.—The term "demand" means—

(I) the average seasonally adjusted annual rate of domestic mill consumption during the most recent 3 months for which data are available; and

(II) the larger of—

(aa) average exports of upland cotton during the preceding 6 marketing years; or

(bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(iii) LIMITED GLOBAL IMPORT QUOTA.—The term "limited global import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(E) QUOTA ENTRY PERIOD.—When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(2) NO OVERLAP.—Notwithstanding paragraph (1), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (b).

SEC. 137. AVAILABILITY OF RECOURSE LOANS FOR HIGH MOISTURE FEED GRAINS AND SEED COTTON.

(a) HIGH MOISTURE FEED GRAINS.—

(1) RECOURSE LOANS AVAILABLE.—For each of the 1996 through 2002 crops of corn and grain sorghum, the Secretary shall make available recourse loans, as determined by the Secretary, to

producers on a farm containing eligible cropland covered by a production flexibility contract who—

(A) normally harvest all or a portion of their crop of corn or grain sorghum in a high moisture state;

(B) present—

(i) certified scale tickets from an inspected, certified commercial scale, including a licensed warehouse, feedlot, feed mill, distillery, or other similar entity approved by the Secretary, pursuant to regulations issued by the Secretary; or

(ii) field or other physical measurements of the standing or stored crop in regions of the United States, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan under this subsection was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to a facility maintained by the users of corn and grain sorghum in a high moisture state; and

(D) comply with deadlines established by the Secretary for harvesting the corn or grain sorghum and submit applications for loans under this subsection within deadlines established by the Secretary.

(2) Eligibility of acquired feed grains.—A loan under this subsection shall be made on a quantity of corn or grain sorghum of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(A) the acreage of the corn or grain sorghum in a high moisture state harvested on the producer's farm; by

(B) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the corn or grain sorghum was obtained.

(3) High moisture state defined.—In this subsection, the term "high moisture state" means corn or grain sorghum having a moisture content in excess of Commodity Credit Corporation standards for marketing assistance loans made by the Secretary under section 131.

(b) Recourse Loans Available for Seed Cotton.—

(1) Upland cotton.—For each of the 1996 through 2002 crops of upland cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, to producers on a farm containing eligible cropland covered by a production flexibility contract.

(2) Extra long staple cotton.—For each of the 1996 through 2002 crops of extra long staple cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, on any production.

(c) Repayment Rates.—Repayment of a recourse loan made under this section shall be at the loan rate established for the commodity by the Secretary, plus interest (as determined by the Secretary).

Subtitle D—Other Commodities

CHAPTER 1—DAIRY

SEC. 141. MILK PRICE SUPPORT PROGRAM.

(a) Support activities.—The Secretary of Agriculture shall support the price of milk produced in the 48 contiguous States through the purchase of cheese, butter, and nonfat dry milk produced from the milk.

(b) Rate.—The price of milk shall be supported at the following rates per hundredweight for milk containing 3.67 percent butterfat:

(1) During calendar year 1996, $10.35.
(2) During calendar year 1997, $10.20.
(3) During calendar year 1998, $10.05.
(4) During calendar year 1999, $9.90.

(c) Purchase Prices.—The support purchase prices under this section for each of the products of milk (butter, cheese, and nonfat dry milk) announced by the Secretary shall be the same for all of that product sold by persons offering to sell the product to the Secretary. The purchase prices shall be sufficient to enable plants of average efficiency to pay producers, on average, a price that is not less than the rate of price support for milk in effect under subsection (b).

(d) Special Rule for Butter and Nonfat Dry Milk Purchase Prices.—

(1) Allocation of purchase prices.—The Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that will result in the lowest level of expenditures by the Commodity Credit Corporation or achieve such other objectives as the Secretary considers appropriate. Not later than 10 days after making or changing an allocation, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the allocation. Section 553 of title 5, United States Code, shall not apply with respect to the implementation of this section.

(2) Timing of purchase price adjustments.—The Secretary may make any such adjustments in the purchase prices for nonfat dry milk and butter the Secretary considers to be necessary not more than twice in each calendar year.

(e) Refunds of 1995 and 1996 Assessments.—

(1) Refund required.—The Secretary shall provide for a refund of the entire reduction required under section 204(h)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446e(h)(2)), as in effect on the day before the amendment made by subsection (g), in the price of milk received by a producer during calendar year 1995 or 1996, if the producer provides evidence that the producer did not increase marketings in calendar year 1995 or 1996 when compared to calendar year 1994 or 1995, respectively.

(2) Exception.—This subsection shall not apply with respect to a producer for a particular calendar year if the producer has already received a refund under section 204(h) of the Agricultural Act of 1949 for the same fiscal year before the effective date of this section.

(3) Treatment of refund.—A refund under this subsection shall not be considered as any type of price support or payment for purposes of sections 1211 and 1221 of the Food Security Act of 1985 (16 U.S.C. 3811 and 3821).

(f) Commodity Credit Corporation.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(g) Conforming Repeal.—Effective on the first day of the first month beginning after the date of enactment of this title, section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is repealed.

(h) Period of Effectiveness.—This section (other than subsection (g)) shall be effective only during the period beginning on the first day of the first month beginning after the date of enactment of this title and ending on December 31, 1999. The program authorized by this section shall terminate on December 31, 1999, and shall be considered to have expired notwithstanding section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907).

SEC. 142. RECOURSE LOAN PROGRAM FOR COMMERCIAL PROCESSORS OF DAIRY PRODUCTS.

(a) Recourse Loans Available.—Under such reasonable terms and conditions as the Secretary may prescribe, the Secretary shall make recourse loans available to commercial processors of eligible dairy products to assist the processors to manage inventories of eligible dairy products and assure a greater degree of price stability for the dairy industry during the year. The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

(b) Amount of Loan.—The Secretary shall establish the amount of a loan for eligible dairy products, which shall reflect a milk equivalent value of $9.90 per hundredweight of milk containing 3.67 percent butterfat. The rate of interest charged participants under this section shall not be less than the rate of interest charged the Commodity Credit Corporation by the United States Treasury.

(c) Period of Loan.—The original term of a recourse loan made under this section may not extend beyond the end of the fiscal year in which the loan is made. At the end of the fiscal year, the Secretary may extend the loan for an additional period not to exceed the end of the next fiscal year.

(d) Definition of Eligible Dairy Products.—In this section, the term "eligible dairy products" means cheddar cheese, butter, and nonfat dry milk.

(e) Effective Date.—This section shall be effective beginning January 1, 2000.

SEC. 143. CONSOLIDATION AND REFORM OF FEDERAL MILK MARKETING ORDERS.

(a) Amendment of Orders.—

(1) Required consolidation.—The Secretary shall amend Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to limit the number of Federal milk marketing orders to not less than 10 and not more than 14 orders.

(2) Inclusion of California as separate order.—Upon the petition and approval of California dairy producers in the manner provided in section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, the Secretary shall designate the State of California as a separate Federal milk marketing order. The order covering California shall have the right to reblend and distribute order receipts to recognize quota value.

(3) Related issues addressed in consolidation.—Among the issues the Secretary is authorized to implement as part of the consolidation of Federal milk marketing orders are the following:

(A) The use of utilization rates and multiple basing points for the pricing of fluid milk.

(B) The use of uniform multiple component pricing when developing 1 or more basic formula prices for manufacturing milk.

(4) Effect of existing law.—In implementing the consolidation of Federal milk marketing orders and related reforms under this subsection, the Secretary may not consider, or base any decision on, the table contained in section 8c(5)(A) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)(A)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, as added by section 131 of the Food Security Act of 1985.

(b) Expedited Process.—

(1) Use of informal rulemaking.—To implement the consolidation of Federal milk marketing orders and related reforms under subsection (a), the Secretary shall use the notice and comment procedures provided in section 553 of title 5, United States Code.

(2) Time limitations.—

(A) Proposed amendments.—The Secretary shall announce the proposed amendments to be made under subsection (a) not later than 2 years after the date of enactment of this title.

(B) Final amendments.—The Secretary shall implement the amendments not later than 3 years after the date of enactment of this title.

(3) EFFECT OF COURT ORDER.—The actions authorized by this subsection are intended to ensure the timely publication and implementation of new and amended Federal milk marketing orders. In the event that the Secretary is enjoined or otherwise restrained by a court order from publishing or implementing the consolidation and related reforms under subsection (a), the length of time for which that injunction or other restraining order is effective shall be added to the time limitations specified in paragraph (2) thereby extending those time limitations by a period of time equal to the period of time for which the injunction or other restraining order is effective.

(c) FAILURE TO TIMELY CONSOLIDATE ORDERS.—If the Secretary fails to implement the consolidation required under subsection (a)(1) within the time period required under subsection (b)(2)(B) (plus any additional period provided under subsection (b)(3)), the Secretary may not assess or collect assessments from milk producers or handlers under such section 8c for marketing order administration and services provided under such section after the end of that period until the consolidation is completed. The Secretary may not reduce the level of services provided under the section on account of the prohibition against assessments, but shall rather cover the cost of marketing order administration and services through funds available for the Agricultural Marketing Service of the Department.

(d) REPORT REGARDING FURTHER REFORMS.—

(1) REPORT REQUIRED.—Not later than April 1, 1997, the Secretary shall submit to Congress a report—

(A) reviewing the Federal milk marketing order system established pursuant to section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in light of the reforms required by subsection (a);

(B) describing the efforts underway and the progress made in implementing the reforms required by subsection (a); and

(C) containing such recommendations as the Secretary considers appropriate for further improvements and reforms to the Federal milk marketing order system.

(2) EFFECT OF OTHER LAWS.—Any limitation imposed by Act of Congress on the conduct or completion of reports to Congress shall not apply to the report required under this section, unless the limitation specifically refers to this section.

SEC. 144. EFFECT ON FLUID MILK STANDARDS IN STATE OF CALIFORNIA.

Nothing in this Act or any other provision of law shall be construed to preempt, prohibit, or otherwise limit the authority of the State of California, directly or indirectly, to establish or continue to effect any law, regulation, or requirement regarding—

(1) the percentage of milk solids or solids not fat in fluid milk products sold at retail or marketed in the State of California; or

(2) the labeling of such fluid milk products with regard to milk solids or solids not fat.

SEC. 145. MILK MANUFACTURING MARKETING ADJUSTMENT.

(a) MAXIMUM ALLOWANCES ESTABLISHED.—No State shall provide for a manufacturing allowance for the processing of milk in excess of—

(1) $1.65 per hundredweight of milk for milk manufactured into butter and nonfat dry milk; and

(2) $1.80 per hundredweight of milk for milk manufactured into cheese.

(b) MANUFACTURING ALLOWANCE DEFINED.—In this section, the term "manufacturing allowance" means—

(1) the amount by which the product price value of butter and nonfat dry milk manufactured from a hundred pounds of milk containing 3.5 pounds of butterfat and 8.7 pounds of milk solids not fat resulting from a State's yield and product price formulas exceeds the class price for the milk used to produce those products; or

(2) the amount by which the product price value of cheese manufactured from a hundred pounds of milk containing 3.5 pounds of butterfat and 8.7 pounds of milk solids not fat resulting from a State's yield and product price formulas exceeds the class price for the milk used to produce cheese.

(c) EFFECT OF VIOLATION.—If the Secretary determines following a hearing that a State has in effect a manufacturing allowance that exceeds the manufacturing allowance authorized in subsection (a), the Secretary shall suspend purchases of cheddar cheese, butter, and nonfat dry milk produced in that State until such time as the State complies with such subsection.

(d) EFFECTIVE DATE; IMPLEMENTATION.—This section (other than subsection (e)) shall be effective during the period beginning on the first day of the first month beginning after the date of enactment of this title and ending on December 31, 1999. During that period, the Secretary may exercise the authority provided to the Secretary under this section without regard to the issuance of regulations intended to carry out this section.

(e) CONFORMING REPEAL.—Effective on the first day of the first month beginning after the date of enactment of this title, section 102 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e–1) is repealed.

SEC. 146. PROMOTION.

(a) CONGRESSIONAL PURPOSE.—Section 1999B(a) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6401(a)) is amended—

(1) by redesignating paragraphs (6), (7) and (8) as paragraphs (7), (8) and (9), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) the congressional purpose underlying this subtitle is to maintain and expand markets for fluid milk products, not to maintain or expand any processor's share of those markets and that the subtitle does not prohibit or restrict individual advertising or promotion of fluid milk products since the programs created and funded by this subtitle are not extended to replace individual advertising and promotion efforts;".

(b) CONGRESSIONAL POLICY.—Section 1999B(b) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6401(b)) is amended to read as follows:

"(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of powers provided in this subtitle, of an orderly procedure for developing, financing, through adequate assessments on fluid milk products produced in the United States and carrying out an effective, continuous, and coordinated program of promotion, research, and consumer information designed to strengthen the position of the dairy industry in the marketplace and maintain and expand domestic and foreign markets and uses for fluid milk products, the purpose of which is not to compete with or replace individual advertising or promotion efforts designed to promote individual brand name or trade name fluid milk products, but rather to maintain and expand the markets for all fluid milk products, with the goal and purpose of this subtitle being a national governmental goal that authorizes and funds programs that result in government speech promoting government objectives.".

(c) RESEARCH.—Section 1999C(6) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6402(6)) is amended to read as follows:

"(6) RESEARCH.—The term 'research' means market research to support advertising and promotion efforts, including educational activities, research directed to product characteristics, product development, including new products or improved technology in production, manufacturing or processing of milk and the products of milk.".

(d) VOTING.—

(1) INITIAL REFERENDA.—Section 1999N(b)(2) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6413(b)(2)) is amended by striking "all processors" and inserting "fluid milk processors voting in the referendum".

(2) SUSPENSION OR TERMINATION.—Section 1999O(c) of such Act (7 U.S.C. 6414(c)) is amended—

(A) in paragraph (1), by striking "all processors" and inserting "fluid milk processors voting in the preceding referendum"; and

(B) in paragraph (2)(B), by striking "all processors" and inserting "fluid milk processors voting in the referendum".

(e) DURATION.—Section 1999O(a) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6414(a)) is amended by striking "1996" and inserting "2002".

SEC. 147. NORTHEAST INTERSTATE DAIRY COMPACT.

Congress hereby consents to the Northeast Interstate Dairy Compact entered into among the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont as specified in section 1(b) Senate Joint Resolution 28 of the 104th Congress, as placed on the calendar of the Senate, subject to the following conditions:

(1) FINDING OF COMPELLING PUBLIC INTEREST.—Based upon a finding by the Secretary of a compelling public interest in the Compact region, the Secretary may grant the States that have ratified the Northeast Interstate Dairy Compact, as of the date of enactment of this title, the authority to implement the Northeast Interstate Dairy Compact.

(2) LIMITATION ON MANUFACTURING PRICE.—The Northeast Interstate Dairy Compact Commission shall not regulate Class II, Class III, or Class III–A milk used for manufacturing purposes or any other milk, other than Class I (fluid) milk, as defined by a Federal milk marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c) reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(3) DURATION.—Consent for the Northeast Interstate Dairy Compact shall terminate concurrent with the Secretary's implementation of the dairy pricing and Federal milk marketing order consolidation and reforms under section 143.

(4) ADDITIONAL STATES.—Delaware, New Jersey, New York, Pennsylvania, Maryland, and Virginia are the only additional States that may join the Northeast Interstate Dairy Compact, individually or otherwise, if upon entry the State is contiguous to a participating State and if Congress consents to the entry of the State into the Compact after the date of enactment of this title.

(5) COMPENSATION OF COMMODITY CREDIT CORPORATION.—Before the end of each fiscal year that a Compact price regulation is in effect, the Northeast Interstate Dairy Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from the projected rate of increase in milk production for the fiscal year within the Compact region in excess of the projected national average rate of the increase in milk production, as determined by the Secretary.

(6) MILK MARKETING ORDER ADMINISTRATOR.—At the request of the Northeast Interstate Dairy Compact Commission, the Administrator of the applicable Federal milk marketing order issued under section 8(c)5 of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted

with amendments by the Agricultural Marketing Agreement Act of 1937, shall provide technical assistance to the Compact Commission and be compensated for that assistance.

(7) Further Conditions.—The Northeast Interstate Dairy Compact Commission shall not prohibit or in any way limit the marketing in the Compact region of any milk or milk product produced in any other production area in the United States. The Compact Commission shall respect and abide by the ongoing procedures between Federal milk marketing orders with respect to the sharing of proceeds from sales within the Compact region of bulk milk, packaged milk, or producer milk originating from outside of the Compact region. The Compact Commission shall not use compensatory payments under section 10(6) of the Compact as a barrier to the entry of milk into the Compact region or for any other purpose. Establishment of a Compact over-order price, in itself, shall not be considered a compensatory payment or a limitation or prohibition on the marketing of milk.

SEC. 148. DAIRY EXPORT INCENTIVE PROGRAM.

(a) Duration.—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a–14(a)) is amended by striking "2001" and inserting "2002".

(b) Sole Discretion.—Section 153(b) of the Food Security Act of 1985 (15 U.S.C. 713a–14(b)) is amended by inserting "sole" before "discretion".

(c) Elements of Program.—Section 153(c) of the Food Security Act of 1985 (15 U.S.C. 713a–14(c)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(3) by adding at the end the following:

"(3) the maximum volume of dairy product exports allowable consistent with the obligations of the United States as a member of the World Trade Organization is exported under the program each year (minus the volume sold under section 1163 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1731 note) during that year), except to the extent that the export of such a volume under the program would, in the judgment of the Secretary, exceed the limitations on the value set forth in subsection (f); and

"(4) payments may be made under the program for exports to any destination in the world for the purpose of market development, except a destination in a country with respect to which shipments from the United States are otherwise restricted by law.".

(d) Market Development.—Section 153(e)(1) of the Food Security Act of 1985 (15 U.S.C. 713a–14(e)(1)) is amended—

(1) by striking "and" and inserting "the"; and

(2) by inserting before the period the following: ", and any additional amount that may be required to assist in the development of world markets for United States dairy products".

(e) Maximum Allowable Amounts.—Section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14) is amended by adding at the end the following:

"(f) Required Funding.—

"(1) In general.—Except as provided in paragraph (2), the Commodity Credit Corporation shall in each year use money and commodities for the program under this section in the maximum amount consistent with the obligations of the United States as a member of the World Trade Organization, minus the amount expended under section 1163 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1731 note) during that year.

"(2) Volume limitations.—The Commodity Credit Corporation may not exceed the limitations specified in subsection (c)(3) on the volume of allowable dairy product exports.".

SEC. 149. AUTHORITY TO ASSIST IN ESTABLISHMENT AND MAINTENANCE OF ONE OR MORE EXPORT TRADING COMPANIES.

The Secretary of Agriculture shall, consistent with the obligations of the United States as a member of the World Trade Organization, provide such advice and assistance to the United States dairy industry as may be necessary to enable that industry to establish and maintain one or more export trading companies under the Export Trading Company Act of 1982 (15 U.S.C. 4001 et seq.) for the purpose of facilitating the international market development for and exportation of dairy products produced in the United States.

SEC. 150. STANDBY AUTHORITY TO INDICATE ENTITY BEST SUITED TO PROVIDE INTERNATIONAL MARKET DEVELOPMENT AND EXPORT SERVICES.

(a) Indication of Entity Best Suited To Assist International Market Development for and Export of United States Dairy Products.—The Secretary of Agriculture shall indicate which entity or entities autonomous of the Government of the United States, which seeks such a designation, is best suited to facilitate the international market development for and exportation of United States dairy products, if the Secretary determines that—

(1) the United States dairy industry has not established an export trading company under the Export Trading Company Act of 1982 (15 U.S.C. 4001 et seq.) for the purpose of facilitating the international market development for an exportation of dairy products produced in the United States on or before June 30, 1997; or

(2) the quantity of exports of United States dairy products during the 12-month period preceding July 1, 1998 does not exceed the quantity of exports of United States dairy products during the 12-month period preceding July 1, 1997 by 1.5 billion pounds (milk equivalent, total solids basis).

(b) Funding of Export Activities.—The Secretary shall assist the entity or entities identified under subsection (a) in identifying sources of funding for the activities specified in subsection (a) from within the dairy industry and elsewhere.

(c) Application of Section.—This section shall apply only during the period beginning on July 1, 1997 and ending on September 30, 2000.

SEC. 151. STUDY AND REPORT REGARDING POTENTIAL IMPACT OF URUGUAY ROUND ON PRICES, INCOME, AND GOVERNMENT PURCHASES.

(a) Study.—The Secretary of Agriculture shall conduct a study, on a variety by variety of cheese basis, to determine the potential impact on milk prices in the United States, dairy producer income, and Federal dairy program costs, of the allocation of additional cheese granted access to the United States as a result of the obligations of the United States as a member of the world Trade Organization.

(b) Report.—Not later than June 30, 1997, the Secretary shall report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives the results of the study conducted under this section.

(c) Rule of Construction.—Any limitation imposed by Act of Congress on the conduct or completion of studies or reports to Congress shall not apply to the study and report required under this section, unless the limitation specifically refers to this section.

SEC. 152. PROMOTION OF UNITED STATES DAIRY PRODUCTS IN INTERNATIONAL MARKETS THROUGH DAIRY PROMOTION PROGRAM.

Section 113(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)) is amended by adding at the end the following new sentence: "For each of fiscal years 1997 through 2001, the Board's budget may provide for the expenditure of revenues available to the Board to develop international markets for, and to promote within such markets, the consumption of dairy products produced in the United States from milk produced in the United States.".

CHAPTER 2—PEANUTS AND SUGAR

SEC. 155. PEANUT PROGRAM.

(a) Quota Peanuts.—

(1) Availability of loans.—The Secretary shall make nonrecourse loans available to producers of quota peanuts.

(2) Loan rate.—The national average quota loan rate for quota peanuts shall be $610 per ton.

(3) Inspection, handling, or storage.—The loan amount may not be reduced by the Secretary by any deductions for inspection, handling, or storage.

(4) Location and other factors.—The Secretary may make adjustments in the loan rate for quota peanuts for location of peanuts and such other factors as are authorized by section 162.

(5) Offers from handlers.—If a producer markets a quota peanut crop, meeting quality requirements for domestic edible use, through the marketing association loan for two consecutive marketing years and the Secretary determines that a handler provided the producer with a written offer, upon delivery, for the purchase of the quota peanut crops at a price equal to or in excess of the quota support price, the producer shall be ineligible for quota price support for the next marketing year. The Secretary shall establish the method by which a producer may appeal a determination under this paragraph regarding ineligibility for quota price support.

(b) Additional Peanuts.—

(1) In general.—Subject to paragraph (2), the Secretary shall make nonrecourse loans available to producers of additional peanuts at such rates as the Secretary finds appropriate, taking into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets.

(2) Limitation.—The Secretary shall establish the support rate on additional peanuts at a level estimated by the Secretary to ensure that there are no losses to the Commodity Credit Corporation on the sale or disposal of the peanuts.

(3) Announcement.—The Secretary shall announce the loan rate for additional peanuts of each crop not later than February 15 preceding the marketing year for the crop for which the loan rate is being determined.

(c) Area Marketing Associations.—

(1) Warehouse storage loans.—

(A) In general.—In carrying out subsections (a) and (b), the Secretary shall make warehouse storage loans available in each of the producing areas (described in section 1446.95 of title 7 of the Code of Federal Regulations (January 1, 1989)) to a designated area marketing association of peanut producers that is selected and approved by the Secretary and that is operated primarily for the purpose of conducting the loan activities. The Secretary may not make warehouse storage loans available to any cooperative that is engaged in operations or activities concerning peanuts other than those operations and activities specified in this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(B) Administrative and supervisory activities.—An area marketing association shall be used in administrative and supervisory activities relating to loans and marketing activities under this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(C) ASSOCIATION COSTS.—Loans made to the association under this paragraph shall include such costs as the area marketing association reasonably may incur in carrying out the responsibilities, operations, and activities of the association under this section and section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a).

(2) POOLS FOR QUOTA AND ADDITIONAL PEANUTS.—

(A) IN GENERAL.—The Secretary shall require that each area marketing association establish pools and maintain complete and accurate records by area and segregation for quota peanuts handled under loan and for additional peanuts placed under loan, except that separate pools shall be established for Valencia peanuts produced in New Mexico.

(B) ELIGIBILITY TO PARTICIPATE IN NEW MEXICO POOLS.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of the 1996 and subsequent crops, Valencia peanuts not physically produced in the State of New Mexico shall not be eligible to participate in the pools of the State.

(ii) EXCEPTION.—A producer of Valencia peanuts may enter Valencia peanuts that are produced in Texas into the pools of New Mexico in a quantity not greater than the average annual quantity of the peanuts that the producer entered into the New Mexico pools for the 1990 through 1995 crops.

(C) TYPES OF PEANUTS.—Bright hull and dark hull Valencia peanuts shall be considered as separate types for the purpose of establishing the pools.

(D) NET GAINS.—Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed only to producers who placed peanuts in the pool and shall be distributed in proportion to the value of the peanuts placed in the pool by each producer. Net gains for peanuts in each pool shall consist of the following:

(i) QUOTA PEANUTS.—For quota peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool.

(ii) ADDITIONAL PEANUTS.—For additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts.

(d) LOSSES.—Losses in quota area pools shall be covered using the following sources in the following order of priority:

(1) TRANSFERS FROM ADDITIONAL LOAN POOLS.—The proceeds due any producer from any pool shall be reduced by the amount of any loss that is incurred with respect to peanuts transferred from an additional loan pool to a quota loan pool by the producer under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)(8)).

(2) PRODUCERS IN SAME POOL.—Further losses in an area quota pool shall be offset by reducing the gain of any producer in the pool by the amount of pool gains attributed to the same producer from the sale of additional peanuts for domestic and edible export use.

(3) OFFSET WITHIN AREA.—Further losses in an area quota pool shall be offset by any gains or profits from additional peanuts (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) owned or controlled by the Commodity Credit Corporation in that area and sold for domestic edible use, in accordance with regulations issued by the Secretary. This paragraph shall not apply to profits or gains from a farm with 1 acre or less of peanut production.

(4) FIRST USE OF MARKETING ASSESSMENTS.—The Secretary shall use funds collected under subsection (g) (except funds attributable to handlers) to offset further losses in area quota pools. The Secretary shall transfer to the Treasury those funds collected under subsection (g) and available for use under this paragraph that the Secretary determines are not required to cover losses in area quota pools.

(5) CROSS COMPLIANCE.—Further losses in area quota pools, other than losses incurred as a result of transfers from additional loan pools to quota loan pools under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)(8)), shall be offset by any gains or profits from quota pools in other production areas (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) in such manner as the Secretary shall by regulation prescribe.

(6) OFFSET GENERALLY.—If losses in an area quota pool have not been entirely offset under the preceding paragraphs, further losses shall be offset by any gains or profits from additional peanuts (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) owned or controlled by the Commodity Credit Corporation and sold for domestic edible use, in accordance with regulations issued by the Secretary. This paragraph shall not apply to profits or gains from a farm with 1 acre or less of peanut production.

(7) SECOND USE OF MARKETING ASSESSMENTS.—The Secretary shall use funds collected under subsection (g) and attributable to handlers to offset further losses in area quota pools. The Secretary shall transfer to the Treasury those funds collected under subsection (g) and available for use under this paragraph that the Secretary determines are not required to cover losses in area quota pools.

(8) INCREASED ASSESSMENTS.—If use of the authorities provided in the preceding paragraphs is not sufficient to cover losses in an area quota pool, the Secretary shall increase the marketing assessment for producers established under subsection (g) by such an amount as the Secretary considers necessary to cover the losses. The increased assessment shall apply only to quota peanuts in the production area covered by the pool. Amounts collected under subsection (g) as a result of the increased assessment shall be retained by the Secretary to cover losses in that pool.

(e) DISAPPROVAL OF QUOTAS.—Notwithstanding any other provision of law, no loan for quota peanuts may be made available by the Secretary for any crop of peanuts with respect to which poundage quotas have been disapproved by producers, as provided for in section 358–1(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(d)).

(f) QUALITY IMPROVEMENT.—

(1) IN GENERAL.—With respect to peanuts under loan, the Secretary shall—

(A) promote the crushing of peanuts at a greater risk of deterioration before peanuts of a lesser risk of deterioration;

(B) ensure that all Commodity Credit Corporation inventories of peanuts sold for domestic edible use must be shown to have been officially inspected by licensed Department inspectors both as farmer stock and shelled or cleaned in-shell peanuts;

(C) continue to endeavor to operate the peanut program so as to improve the quality of domestic peanuts and ensure the coordination of activities under the Peanut Administrative Committee established under Marketing Agreement No. 146, regulating the quality of domestically produced peanuts (under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937); and

(D) ensure that any changes made in the peanut program as a result of this subsection requiring additional production or handling at the farm level shall be reflected as an upward adjustment in the Department loan schedule.

(2) EXPORTS AND OTHER PEANUTS.—The Secretary shall require that all peanuts in the domestic and export markets fully comply with all quality standards under Marketing Agreement No. 146.

(g) MARKETING ASSESSMENT.—

(1) IN GENERAL.—The Secretary shall provide for a nonrefundable marketing assessment. The assessment shall be made on a per pound basis in an amount equal to 1.1 percent for each of the 1994 and 1995 crops, 1.15 percent for the 1996 crop, and 1.2 percent for each of the 1997 through 2002 crops, of the national average quota or additional peanut loan rate for the applicable crop.

(2) FIRST PURCHASERS.—

(A) IN GENERAL.—Except as provided under paragraphs (3) and (4), the first purchaser of peanuts shall—

(i) collect from the producer a marketing assessment equal to the quantity of peanuts acquired multiplied by—

(I) in the case of each of the 1994 and 1995 crops, .55 percent of the applicable national average loan rate;

(II) in the case of the 1996 crop, .6 percent of the applicable national average loan rate; and

(III) in the case of each of the 1997 through 2002 crops, .65 percent of the applicable national average loan rate;

(ii) pay, in addition to the amount collected under clause (i), a marketing assessment in an amount equal to the quantity of peanuts acquired multiplied by .55 percent of the applicable national average loan rate; and

(iii) remit the amounts required under clauses (i) and (ii) to the Commodity Credit Corporation in a manner specified by the Secretary.

(B) DEFINITION OF FIRST PURCHASER.—In this subsection, the term "first purchaser" means a person acquiring peanuts from a producer except that in the case of peanuts forfeited by a producer to the Commodity Credit Corporation, the term means the person acquiring the peanuts from the Commodity Credit Corporation.

(3) OTHER PRIVATE MARKETINGS.—In the case of a private marketing by a producer directly to a consumer through a retail or wholesale outlet or in the case of a marketing by the producer outside of the continental United States, the producer shall be responsible for the full amount of the assessment and shall remit the assessment by such time as is specified by the Secretary.

(4) LOAN PEANUTS.—In the case of peanuts that are pledged as collateral for a loan made under this section, the producer portion of the assessment shall be deducted from the proceeds of the loan. The remainder of the assessment shall be paid by the first purchaser of the peanuts. For purposes of computing net gains on peanuts under this section, the reduction in loan proceeds shall be treated as having been paid to the producer.

(5) PENALTIES.—If any person fails to collect or remit the reduction required by this subsection or fails to comply with the requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of peanuts involved in the violation; by

(B) the national average quota peanut rate for the applicable crop year.

(6) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

(h) CROPS.—Subsections (a) through (g) shall be effective only for the 1996 through 2002 crops of peanuts.

(i) POUNDAGE QUOTAS.—

(1) IN GENERAL.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358–1 (7 U.S.C. 1358–1)—

*(i) in the section heading, by striking "**1991 THROUGH 1997 CROPS OF**";*

(ii) in subsections (a)(1), (b)(1)(B), (b)(2)(A), (b)(2)(C), and (b)(3)(A), by striking "of the 1991 through 1997 marketing years" each place it appears and inserting "marketing year";

(iii) in subsection (a)(3), by striking "1990" and inserting "1990, for the 1991 through 1995 marketing years, and 1995, for the 1996 through 2002 marketing years";

(iv) in subsection (b)(1)(A)—

(I) by striking "each of the 1991 through 1997 marketing years" and inserting "each marketing year"; and

(II) in clause (i), by inserting before the semicolon the following: ", in the case of the 1991 through 1995 marketing years, and the 1995 marketing year, in the case of the 1996 through 2002 marketing years";

(v) in subsection (b)(1), by adding at the end the following:

"(D) CERTAIN FARMS INELIGIBLE FOR QUOTA.—Effective beginning with the 1998 crop, the Secretary shall not establish a farm poundage quota under subparagraph (A) for a farm owned or controlled by—

"(i) a municipality, airport authority, school, college, refuge, or other public entity (other than a university used for research purposes); or

"(ii) a person who is not a producer and resides in another State.";

(vi) in subsection (b)(2), by adding at the end the following:

"(E) TRANSFER OF QUOTA FROM INELIGIBLE FARMS.—Any farm poundage quota held at the end of the 1996 marketing year by a farm described in paragraph (1)(D) shall be allocated to other farms in the same State on such basis as the Secretary may by regulation prescribe."; and

(vii) in subsection (f), by striking "1997" and inserting "2002";

(B) in section 358b (7 U.S.C. 1358b)—

*(i) in the section heading, by striking "**1991 THROUGH 1995 CROPS OF**"; and*

(ii) in subsection (c), by striking "1995" and inserting "2002";

(C) in section 358c(d) (7 U.S.C. 1358c(d)), by striking "1995" and inserting "2002"; and

(D) in section 358e (7 U.S.C. 1359a)—

*(i) in the section heading, by striking "**FOR 1991 THROUGH 1997 CROPS OF PEANUTS**"; and*

(ii) in subsection (i), by striking "1997" and inserting "2002".

(2) ELIMINATION OF QUOTA FLOOR.—Section 358–1(a)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(a)(1)) is amended by striking the second sentence.

(3) TEMPORARY QUOTA ALLOCATION.—Section 358–1 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1) is amended—

(A) in subsection (a)(1), by striking "domestic edible, seed," and inserting "domestic edible use (except seed)"; and

(B) in subsection (b)(2)—

(i) in subparagraph (A), by striking "subparagraph (B) and subject to"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) TEMPORARY QUOTA ALLOCATION.—

"(i) ALLOCATION RELATED TO SEED PEANUTS.—Temporary allocation of quota pounds for the marketing year only in which the crop is planted shall be made to producers for each of the 1996 through 2002 marketing years as provided in this subparagraph.

"(ii) QUANTITY.—The temporary quota allocation shall be equal to the pounds of seed peanuts planted on the farm, as may be adjusted and determined under regulations prescribed by the Secretary.

"(iii) ADDITIONAL QUOTA.—The temporary allocation of quota pounds under this paragraph shall be in addition to the farm poundage quota otherwise established under this subsection and shall be credited, for the applicable marketing year only, in total, to the producer of the peanuts on the farm in a manner prescribed by the Secretary.

"(iv) EFFECT OF OTHER REQUIREMENTS.—Nothing in this section alters or changes the requirements regarding the use of quota and additional peanuts established by section 358e(b).".

(4) UNDERMARKETINGS.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358–1(b) (7 U.S.C. 1358–1(b))—

(i) in paragraph (1)(B), by striking "including—" and clauses (i) and (ii) and inserting "including any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).";

(ii) in paragraph (3)(B), by striking "include—" and clauses (i) and (ii) and inserting "include any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7)."; and

(iii) by striking paragraphs (8) and (9); and

(B) in section 358b(a) (7 U.S.C. 1358b(a))—

(i) in paragraph (2), by striking "(including any applicable under marketings)"; and

(ii) in paragraph (3), by striking "(including any applicable undermarketings)".

(5) DISASTER TRANSFERS.—Section 358–1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)), as amended by paragraph (4)(A)(iii), is amended by adding at the end the following:

"(8) DISASTER TRANSFERS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), additional peanuts produced on a farm from which the quota poundage was not harvested and marketed because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, may be transferred to the quota loan pool for pricing purposes on such basis as the Secretary shall by regulation provide.

"(B) LIMITATION.—The poundage of peanuts transferred under subparagraph (A) shall not exceed the difference between—

"(i) the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm; and

"(ii) the total farm poundage quota, excluding quota pounds transferred to the farm in the fall.

"(C) SUPPORT RATE.—Peanuts transferred under this paragraph shall be supported at 70 percent of the quota support rate for the marketing years in which the transfers occur. The transfers for a farm shall not exceed 25 percent of the total farm quota pounds, excluding pounds transferred in the fall.".

(6) SALE OR LEASE.—Section 358b(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b(a)) is amended—

(A) by striking paragraph (1) and inserting the following:

"(1) SALE AND LEASE AUTHORITY.—

"(A) SALE OR LEASE WITHIN SAME STATE.—Subject to subparagraph (B) and such terms and conditions as the Secretary may prescribe, the owner, or operator with the permission of the owner, of a farm in a State for which a farm poundage quota has been established may sell or lease all or any part of the poundage quota to any other owner or operator of a farm within the same State for transfer to the farm. However, any such lease of poundage quota may be entered into in the fall or after the normal planting season—

"(i) if not less than 90 percent of the basic quota (the farm quota and temporary quota transfers), plus any poundage quota transferred to the farm under this subsection, has been planted or considered planted on the farm from which the quota is to be leased; and

"(ii) under such terms and conditions as the Secretary may by regulation prescribe.

"In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization. A fall transfer or a transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.

"(B) PERCENTAGE LIMITATIONS ON SPRING TRANSFERS.—Spring transfers under subparagraph (A) by sale or lease of a quota for farms in a county to any owner or operator of a farm outside the county within the same State shall not exceed the applicable percentage specified in this subparagraph of the quotas of all farms in the originating county (as of January 1, 1996) for the crop year in which the transfer is made, plus the total amount of quotas eligible for transfer from the originating county in the preceding crop year that were not transferred in that year or that were transferred through an expired lease. However, not more than an aggregate of 40 percent of the total poundage quota within a county (as of January 1, 1996) may be transferred outside of the county. Cumulative unexpired transfers outside of a county may not exceed for a crop year the following:

"(i) For the 1996 crop, 15 percent.

"(ii) For the 1997 crop, 25 percent.

"(iii) For the 1998 crop, 30 percent.

"(iv) For the 1999 crop, 35 percent.

"(v) For the 2000 and subsequent crops, not more than an aggregate of 40 percent of the total poundage quota within the county as of January 1, 1996.

"(C) CLARIFICATION REGARDING FALL TRANSFERS.—The limitation in subparagraph (B) does not apply to 1-year fall transfers, which in all cases may be made to any farm in the same State.

"(D) EFFECT OF TRANSFER.—Any farm poundage quota transferred under this paragraph shall not result in any reduction in the farm poundage quota for the transferring farm if the transferred quota is produced or considered produced on the receiving farm."; and

(B) by adding at the end the following:

"(4) TRANSFERS IN COUNTIES WITH SMALL QUOTAS.—Notwithstanding paragraphs (1) and (2), in the case of any county in a State for which the poundage quota allocated to the county was less than 100,000 pounds for the preceding year's crop, all or any part of a farm poundage quota may be transferred by sale or lease or otherwise from a farm in the county to a farm in another county in the same State.".

SEC. 156. SUGAR PROGRAM.

(a) SUGARCANE.—The Secretary shall make loans available to processors of domestically grown sugarcane at a rate equal to 18 cents per pound for raw cane sugar.

(b) SUGAR BEETS.—The Secretary shall make loans available to processors of domestically grown sugar beets at a rate equal to 22.9 cents per pound for refined beet sugar.

(c) REDUCTION IN LOAN RATES.—

(1) REDUCTION REQUIRED.—The Secretary shall reduce the loan rate specified in subsection (a) for domestically grown sugarcane and subsection (b) for domestically grown sugar beets if the Secretary determines that negotiated reductions in export subsidies and domestic subsidies provided for sugar of other major sugar growing, producing, and exporting countries in the aggregate exceed the commitments made as part of the Agreement on Agriculture.

(2) EXTENT OF REDUCTION.—The Secretary shall not reduce the loan rate under subsection (a) or (b) below a rate that provides an equal measure of support to that provided by other major sugar growing, producing, and exporting countries, based on an examination of both domestic and export subsidies subject to reduction in the Agreement on Agriculture.

(3) ANNOUNCEMENT OF REDUCTION.—The Secretary shall announce any loan rate reduction to be made under this subsection as far in advance as is practicable.

(4) DEFINITIONS.—In this subsection:

(A) AGREEMENT ON AGRICULTURE.—The term "Agreement on Agriculture" means the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

(B) MAJOR SUGAR COUNTRIES.—The term "major sugar growing, producing, and exporting countries" means—

(i) the countries of the European Union; and

(ii) the 10 foreign countries not covered by subparagraph (A) that the Secretary determines produce the greatest quantity of sugar.

(d) TERM OF LOANS.—

(1) IN GENERAL.—A loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

(A) the end of the 9-month period beginning on the first day of the first month after the month in which the loan is made; or

(B) the end of the fiscal year in which the loan is made.

(2) SUPPLEMENTAL LOANS.—In the case of a loan made under this section in the last 3 months of a fiscal year, the processor may repledge the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

(A) be made at the loan rate in effect at the time the second loan is made; and

(B) mature in 9 months less the quantity of time that the first loan was in effect.

(e) LOAN TYPE; PROCESSOR ASSURANCES.—

(1) RECOURSE LOANS.—Subject to paragraph (2), the Secretary shall carry out this section through the use of recourse loans.

(2) NONRECOURSE LOANS.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is established at, or is increased to, a level in excess of 1,500,000 short tons raw value, the Secretary shall carry out this section by making available nonrecourse loans. Any recourse loan previously made available by the Secretary under this section during the fiscal year shall be changed by the Secretary into a nonrecourse loan.

(3) PROCESSOR ASSURANCES.—If the Secretary is required under paragraph (2) to make nonrecourse loans available during a fiscal year or to change recourse loans into nonrecourse loans, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for sugar beets and sugarcane delivered by producers served by the processor. The Secretary may establish appropriate minimum payments for purposes of this paragraph.

(f) MARKETING ASSESSMENT.—

(1) SUGARCANE.—Effective for marketings of raw cane sugar during the 1996 through 2003 fiscal years, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of marketings during fiscal year 1996, 1.1 percent of the loan rate established under subsection (a) per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing); and

(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.375 percent of the loan rate established under subsection (a) per pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

(2) SUGAR BEETS.—Effective for marketings of beet sugar during the 1996 through 2003 fiscal years, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

(A) in the case of marketings during fiscal year 1996, 1.1794 percent of the loan rate established under subsection (a) per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed; and

(B) in the case of marketings during each of fiscal years 1997 through 2003, 1.47425 percent of the loan rate established under subsection (a) per pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed.

(3) COLLECTION.—

(A) TIMING.—A marketing assessment required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation not later than 30 days after the end of each month. Any cane sugar or beet sugar processed during a fiscal year that has not been marketed by September 30 of the year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

(4) PENALTIES.—If any person fails to remit the assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

(A) the quantity of cane sugar or beet sugar involved in the violation; by

(B) the loan rate for the applicable crop of sugarcane or sugar beets.

(5) ENFORCEMENT.—The Secretary may enforce this subsection in a court of the United States.

(g) FORFEITURE PENALTY.—

(1) IN GENERAL.—A penalty shall be assessed on the forfeiture of any sugar pledged as collateral for a nonrecourse loan under this section.

(2) CANE SUGAR.—The penalty for cane sugar shall be 1 cent per pound.

(3) BEET SUGAR.—The penalty for beet sugar shall bear the same relation to the penalty for cane sugar as the marketing assessment for sugar beets bears to the marketing assessment for sugarcane.

(4) EFFECT OF FORFEITURE.—Any payments owed producers by a processor that forfeits any sugar pledged as collateral for a nonrecourse loan shall be reduced in proportion to the loan forfeiture penalty incurred by the processor.

(h) INFORMATION REPORTING.—

(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

(2) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

(3) MONTHLY REPORTS.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

(i) CROPS.—This section (other than subsection (f)) shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.

Subtitle E—Administration

SEC. 161. ADMINISTRATION.

(a) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall carry out this title through the Commodity Credit Corporation.

(b) LIMITATION ON EXPENDITURE OF COMMODITY CREDIT CORPORATION FUNDS.—

(1) GENERAL POWERS AND RESPONSIBILITIES.—Section 4 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b) is amended—

(A) in the first sentence of subsection (g), by inserting before the period the following: ", except that obligations under all such contracts or agreements (other than reimbursable agreements under section 11) for equipment or services relating to automated data processing, information technologies, or related items (including telecommunications equipment and computer hardware and software) may not exceed $170,000,000 in fiscal year 1996 and not more than $275,000,000 in the 6-fiscal year period beginning on October 1, 1996, unless additional amounts for such contracts and agreements are provided in advance in appropriation Acts"; and

(B) in subsection (h), by striking "shall have power to acquire personal property necessary to the conduct of its business but".

(2) REIMBURSABLE AGREEMENTS.—Section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i) is amended by adding at the end the following: "After September 30, 1996, the total amount of all allotments and fund transfers from the Corporation under this section (including allotments and transfers for automated data processing or information resource management activities) for a fiscal year may not exceed the total amount of the allotments and transfers made under this section in fiscal year 1995.".

(3) REPORTING REQUIREMENTS.—Section 13 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714k) is amended by adding at the end the following: "In addition to the annual report, the Corporation shall submit to Congress on a quarterly basis an itemized report of all expenditures over $10,000 made under section 5 or 11 during the period covered by the report, including expenditures in the form of allotments or fund transfers to other agencies and departments of the Federal Government.".

(c) DETERMINATIONS BY SECRETARY.—A determination made by the Secretary under this title shall be final and conclusive.

(d) REGULATIONS.—Not later than 90 days after the date of enactment of this title, the Secretary and the Commodity Credit Corporation, as appropriate, shall issue such regulations as are necessary to implement this title. The issuance of the regulations shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804) relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly know as the "Paperwork Reduction Act").

SEC. 162. ADJUSTMENTS OF LOANS.

(a) ADJUSTMENT AUTHORITY.—The Secretary may make appropriate adjustments in the loan rates for any commodity for differences in grade, type, quality, location, and other factors.

(b) MANNER OF ADJUSTMENT.—The adjustments under the authority of this section shall, to the maximum extent practicable, be made in such manner that the average loan level for the commodity will, on the basis of the anticipated incidence of the factors, be equal to the level of support determined as provided in this title.

(c) ADJUSTMENT ON COUNTY BASIS.—The Secretary may establish loan rates for a crop for producers in individual counties in a manner that results in the lowest such rate being 95 percent of the national average loan rate, except that such action shall not result in an increase in outlays. Adjustments under this subsection shall not result in an increase in the national average loan rate for any year.

SEC. 163. COMMODITY CREDIT CORPORATION INTEREST RATE.

Notwithstanding any other provision of law, the monthly Commodity Credit Corporation interest rate applicable to loans provided for agricultural commodities by the Corporation shall be 100 basis points greater than the rate determined under the applicable interest rate formula in effect on October 1, 1995.

SEC. 164. PERSONAL LIABILITY OF PRODUCERS FOR DEFICIENCIES.

(a) IN GENERAL.—Except as provided in subsection (b), no producer shall be personally liable for any deficiency arising from the sale of the collateral securing any nonrecourse loan made under this title unless the loan was obtained through a fraudulent representation by the producer.

(b) LIMITATIONS.—Subsection (a) shall not prevent the Commodity Credit Corporation or the Secretary from requiring a producer to assume liability for—

(1) a deficiency in the grade, quality, or quantity of a commodity stored on a farm or delivered by the producer;

(2) a failure to properly care for and preserve a commodity; or

(3) a failure or refusal to deliver a commodity in accordance with a program established under this title.

(c) ACQUISITION OF COLLATERAL.—In the case of a nonrecourse loan made under this title or the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), if the Commodity Credit Corporation acquires title to the unredeemed collateral, the Corporation shall be under no obligation to pay for any market value that the collateral may have in excess of the loan indebtedness.

(d) SUGARCANE AND SUGAR BEETS.—A security interest obtained by the Commodity Credit Corporation as a result of the execution of a security agreement by the processor of sugarcane or sugar beets shall be superior to all statutory and common law liens on raw cane sugar and refined beet sugar in favor of the producers of sugarcane and sugar beets and all prior recorded and unrecorded liens on the crops of sugarcane and sugar beets from which the sugar was derived.

SEC. 165. COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS.

(a) GENERAL SALES AUTHORITY.—The Commodity Credit Corporation may sell any commodity owned or controlled by the Corporation at any price that the Secretary determines will maximize returns to the Corporation.

(b) NONAPPLICATION OF SALES PRICE RESTRICTIONS.—Subsection (a) shall not apply to—

(1) a sale for a new or byproduct use;

(2) a sale of peanuts or oilseeds for the extraction of oil;

(3) a sale for seed or feed if the sale will not substantially impair any loan program;

(4) a sale of a commodity that has substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage;

(5) a sale for the purpose of establishing a claim arising out of a contract or against a person who has committed fraud, misrepresentation, or other wrongful act with respect to the commodity;

(6) a sale for export, as determined by the Corporation; and

(7) a sale for other than a primary use.

(c) PRESIDENTIAL DISASTER AREAS.—

(1) IN GENERAL.—Notwithstanding subsection (a), on such terms and conditions as the Secretary may consider in the public interest, the Corporation may make available any commodity or product owned or controlled by the Corporation for use in relieving distress—

(A) in any area in the United States (including the Virgin Islands) declared by the President to be an acute distress area because of unemployment or other economic cause, if the President finds that the use will not displace or interfere with normal marketing of agricultural commodities; and

(B) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) COSTS.—Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making a commodity available under paragraph (1) beyond the cost of the commodity to the Corporation incurred in—

(A) the storage of the commodity; and

(B) the handling and transportation costs in making delivery of the commodity to designated agencies at 1 or more central locations in each State or other area.

(d) EFFICIENT OPERATIONS.—Subsection (a) shall not apply to the sale of a commodity the disposition of which is desirable in the interest of the effective and efficient conduct of the operations of the Corporation because of the small quantity of the commodity involved, or because of the age, location, or questionable continued storability of the commodity.

Subtitle F—Permanent Price Support Authority

SEC. 171. SUSPENSION AND REPEAL OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) AGRICULTURAL ADJUSTMENT ACT OF 1938.—

(1) SUSPENSIONS.—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1996 through 2002 crops of loan commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this title and ending on December 31, 2002:

(A) Parts II through V of subtitle B of title III (7 U.S.C. 1326–1351).

(B) Subsections (a) through (j) of section 358 (7 U.S.C. 1358).

(C) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a).

(D) Subsections (a), (b), (d), and (e) of section 358d (7 U.S.C. 1359).

(E) Part VII of subtitle B of title III (7 U.S.C. 1359aa–1359jj).

(F) In the case of peanuts, part I of subtitle C of title III (7 U.S.C. 1361–1368).

(G) In the case of upland cotton, section 377 (7 U.S.C. 1377).

(H) Subtitle D of title III (7 U.S.C. 1379a–1379j).

(I) Title IV (7 U.S.C. 1401–1407).

(2) REPORTS AND RECORDS.—Effective only for the 1996 through 2002 crops of peanuts, the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting before "all brokers and dealers in peanuts" the following: "all producers engaged in the production of peanuts,".

(b) AGRICULTURAL ACT OF 1949.—

(1) SUSPENSIONS.—The following provisions of the Agricultural Act of 1949 shall not be applicable to the 1996 through 2002 crops of loan commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this title and ending on December 31, 2002:

(A) Section 101 (7 U.S.C. 1441).

(B) Section 103(a) (7 U.S.C. 1444(a)).

(C) Section 105 (7 U.S.C. 1444b).

(D) Section 107 (7 U.S.C. 1445a).

(E) Section 110 (7 U.S.C. 1445e).

(F) Section 112 (7 U.S.C. 1445g).

(G) Section 115 (7 U.S.C. 1445k).

(H) Section 201 (7 U.S.C. 1446).

(I) Title III (7 U.S.C. 1447–1449).

(J) Title IV (7 U.S.C. 1421–1433d), other than sections 404, 412, and 416 (7 U.S.C. 1424, 1429, and 1431).

(K) Title V (7 U.S.C. 1461–1469).

(L) Title VI (7 U.S.C. 1471–1471j).

(2) REPEALS.—The following provisions of the Agricultural Act of

(A) Section 101B (7 U.S.C. 1441–2).

(B) Section 103B (7 U.S.C. 1444–2).

(C) Section 105B (7 U.S.C. 1444f).

(D) Section 107B (7 U.S.C. 1445–3a).

(E) Section 108B (7 U.S.C. 1445c–3).

(F) Section 113 (7 U.S.C. 1445h).

(G) Subsections (b) and (c) of section 114 (7 U.S.C. 1445j).

(H) Sections 205, 206, and 207 (7 U.S.C. 1446f, 1446g, and 1446h).

(I) Sections 406 and 427 (7 U.S.C. 1426 and 1433f).

(3) POTENTIAL PRICE SUPPORT FOR RICE.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441), as suspended by paragraph (1), is amended by adding after subsection (d) the following:

"(e) RICE.—The Secretary shall make available to producers of each crop of rice on a farm price support at a level that is not less than 50 percent, or more than 90 percent of the parity price for rice as the Secretary determines will not result in increasing stocks of rice to the Commodity Credit Corporation.".

(c) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

SEC. 172. EFFECT OF AMENDMENTS.

(a) EFFECT ON PRIOR CROPS.—Except as otherwise specifically provided in this title and notwithstanding any other provision of law, this title and the amendments made by this title shall not affect the authority of the Secretary to carry out a price support or production adjustment program for any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law in effect immediately before the date of enactment of this title.

(b) LIABILITY.—A provision of this title or an amendment made by this title shall not affect the liability of any person under any provision of law as in effect before the date of enactment of this title.

Subtitle G—Commission on 21st Century Production Agriculture

SEC. 181. ESTABLISHMENT.

There is established a commission to be known as the "Commission on 21st Century Production Agriculture" (in this subtitle referred to as the "Commission").

SEC. 182. COMPOSITION.

(a) MEMBERSHIP AND APPOINTMENT.—The Commission shall be composed of 11 members, appointed as follows:

(1) Three members shall be appointed by the President.

(2) Four members shall be appointed by the Chairman of the Committee on Agriculture of the House of Representatives in consultation with the ranking minority member of the Committee.

(3) Four members shall be appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate in consultation with the ranking minority member of the Committee.

(b) QUALIFICATIONS.—At least 1 of the members appointed under each of paragraphs (1), (2), and (3) of subsection (a) shall be an individual who is primarily involved in production agriculture. All other members of the Commission shall be appointed from among individuals having knowledge and experience in agricultural production, marketing, finance, or trade.

(c) TERM OF MEMBERS; VACANCIES.—A member of the Commission shall be appointed for the life of the Commission. A vacancy on the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(d) TIME FOR APPOINTMENT; FIRST MEETING.—The members of the Commission shall be appointed not later than October 1, 1997. The Commission shall convene its first meeting to carry out its duties under this subtitle 30 days after 6 members of the Commission have been appointed.

(e) CHAIRPERSON.—The chairperson of the Commission shall be designated jointly by the Chairman of the Committee on Agriculture of the House of Representatives and the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate from among the members of the Commission.

SEC. 183. COMPREHENSIVE REVIEW OF PAST AND FUTURE OF PRODUCTION AGRICULTURE.

(a) INITIAL REVIEW.—The Commission shall conduct a comprehensive review of changes in the condition of production agriculture in the United States since the date of enactment of this title and the extent to which the changes are the result of this title and the amendments made by this title. The review shall include the following:

(1) An assessment of the initial success of production flexibility contracts in supporting the economic viability of farming in the United States.

(2) An assessment of economic risks to farms delineated by size of farm operation (such as small, medium, or large farms) and region of production.

(3) An assessment of the food security situation in the United States in the areas of trade, consumer prices, international competitiveness of United States production agriculture, food supplies, and humanitarian relief.

(4) An assessment of the changes in farmland values and agricultural producer incomes since the date of enactment of this title.

(5) An assessment of the extent to which regulatory relief for agricultural producers has been enacted and implemented, including the application of cost/benefit principles in the issuance of agricultural regulations.

(6) An assessment of the extent to which tax relief for agricultural producers has been enacted in the form of capital gains tax reductions, estate tax exemptions, and mechanisms to average tax loads over high- and low-income years.

(7) An assessment of the effect of any Federal Government interference in agricultural export markets, such as the imposition of trade embargoes, and the degree of implementation and success of international trade agreements and United States export programs.

(8) An assessment of the likely affect of the sale, lease, or transfer of farm poundage quota for peanuts across State lines.

(b) SUBSEQUENT REVIEW.—The Commission shall conduct a comprehensive review of the future of production agriculture in the United States and the appropriate role of the Federal Government in support of production agriculture. The review shall include the following:

(1) An assessment of changes in the condition of production agriculture in the United States since the initial review conducted under subsection (a).

(2) Identification of the appropriate future relationship of the Federal Government with production agriculture after 2002.

(3) An assessment of the personnel and infrastructure requirements of the Department of Agriculture necessary to support the future relationship of the Federal Government with production agriculture.

(4) An assessment of economic risks to farms delineated by size of farm operation (such as small, medium, or large farms) and region of production.

(c) RECOMMENDATIONS.—In carrying out the subsequent review under subsection (b), the Commission shall develop specific recommendations for legislation to achieve the appropriate future relationship of the Federal Government with production agriculture identified under subsection (a)(2).

SEC. 184. REPORTS.

(a) REPORT ON INITIAL REVIEW.—Not later than June 1, 1998, the Commission shall submit to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the initial review conducted under section 183(a).

(b) REPORT ON SUBSEQUENT REVIEW.—Not later than January 1, 2001, the Commission shall submit to the President and the congressional committees specified in subsection (a) a report containing the results of the subsequent review conducted under section 183(b).

SEC. 185. POWERS.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this subtitle, conduct such hearings, sit and act at such times, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) ASSISTANCE FROM OTHER AGENCIES.—The Commission may secure directly from any department or agency of the Federal Government such information as may be necessary for the Commission to carry out its duties under this subtitle. On the request of the chairperson of the Commission, the head of the department or agency shall, to the extent permitted by law, furnish such information to the Commission.

(c) MAIL.—The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

(d) ASSISTANCE FROM SECRETARY.—The Secretary shall provide to the Commission appropriate office space and such reasonable administrative and support services as the Commission may request.

SEC. 186. COMMISSION PROCEDURES.

(a) MEETINGS.—The Commission shall meet on a regular basis (as determined by the chairperson) and at the call of the chairperson or a majority of its members.

(b) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

SEC. 187. PERSONNEL MATTERS.

(a) COMPENSATION.—Each member of the Commission shall serve without compensation, but shall be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, when engaged in the performance of Commission duties.

(b) STAFF.—

(1) APPOINTMENT.—The Commission shall appoint a staff director, who shall be paid at a rate not to exceed the maximum rate of basic pay under section 5376 of title 5, United States Code, and such professional and clerical personnel as may be reasonable and necessary to enable the Commission to carry out its duties under this subtitle without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or any other provision of law, relating to the number, classification, and General Schedule rates.

(2) LIMITATION ON COMPENSATION.—No employee appointed under this subsection (other than the staff director) may be compensated at a rate to exceed the maximum rate applicable to level GS–15 of the General Schedule.

(c) DETAILED PERSONNEL.—On the request of the chairperson of the Commission, the head of any department or agency of the Federal Government is authorized to detail, without reimbursement, any personnel of the department or agency to the Commission to assist the Commission in carrying out its duties under this section. The detail of any individual may not result in the interruption or loss of civil service status or other privilege of the individual.

SEC. 188. TERMINATION OF COMMISSION.

The Commission shall terminate on submission of the final report required by section 184.

Subtitle H—Miscellaneous Commodity Provisions

SEC. 191. OPTIONS PILOT PROGRAM.

(a) PILOT PROGRAMS AUTHORIZED.—Until December 31, 2002, the Secretary of Agriculture may conduct a pilot program for 1 or more agricultural commodities supported under this title to ascertain whether futures and options contracts can provide producers with reasonable protection from the financial risks of fluctuations in price, yield, and income inherent in the production and marketing of the commodities. The pilot program shall be an alternative to other related programs of the Department of Agriculture.

(b) DISTRIBUTION OF PILOT PROGRAM.—For each agricultural commodity included in the pilot program, the Secretary may operate the pilot program in not more than 100 counties, except that not more than 6 of the counties may be located in any 1 State. The pilot program for a commodity shall not be operated in any county for more than 3 of the 1996 through 2002 calendar years.

(c) ELIGIBLE PARTICIPANTS.—In operating the pilot program, the Secretary may enter into contract with a producer who—

(1) is eligible for a production flexibility contract, a marketing assistance loan, or other assistance under this title;

(2) volunteers to participate in the pilot program;

(3) operates a farm located in a county selected for the pilot program; and

(4) meets such other eligibility requirements as the Secretary may establish.

(d) NOTICE TO PRODUCERS.—The Secretary shall provide notice to each producer participating in the pilot program that—

(1) the participation of the producer is voluntary; and

(2) neither the United States, the Commodity Credit Corporation, the Federal Crop Insurance Corporation, the Department of Agriculture, nor any other Federal agency is authorized to guarantee that participants in the pilot program will be better or worse off financially as a result of participation in the pilot program than the producer would have been if the producer had not participated in the pilot program.

(e) CONTRACTS.—The Secretary shall set forth in each contract under the pilot program the

terms and conditions for participation in the pilot program and the notice required by subsection (d).

(f) ELIGIBLE MARKETS.—Trades for futures and options contracts under the pilot program shall be carried out on commodity futures and options markets designated as contract markets under the Commodity Exchange Act (7 U.S.C. 1 et seq.)

(g) RECORDKEEPING.—A producer participating in the pilot program shall compile, maintain, and submit (or authorize the compilation, maintenance, and submission) of such documentation as the regulations governing the pilot program require.

(h) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall fund and operate the pilot program through the Commodity Credit Corporation. To the maximum extent practicable, the Secretary shall operate the pilot program in a budget neutral manner.

(i) CONFORMING REPEAL.—The Options Pilot Program Act of 1990 (subtitle E of title XI of Public Law 101–624; 7 U.S.C. 1421 note) is repealed.

SEC. 192. RISK MANAGEMENT EDUCATION.

In consultation with the Commodity Futures Trading Commission, the Secretary shall provide such education in management of the financial risks inherent in the production and marketing of agricultural commodities as the Secretary considers appropriate. As part of such educational activities, the Secretary may develop and implement programs to facilitate the participation of agricultural producers in commodity futures trading programs, forward contracting options, and insurance protection programs by assisting and training producers in the usage of such programs. In implementing this authority, the Secretary may use existing research and extension authorities and resources of the Department of Agriculture.

SEC. 193. CROP INSURANCE.

(a) CATASTROPHIC RISK PROTECTION.—

(1) SINGLE DELIVERY.—Section 508(b)(4) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(4)) is amended by adding at the end the following:

"(C) DELIVERY OF COVERAGE.—

"(i) IN GENERAL.—In full consultation with approved insurance providers, the Secretary may continue to offer catastrophic risk protection in a State (or a portion of a State) through local offices of the Department if the Secretary determines that there is an insufficient number of approved insurance providers operating in the State or portion of the State to adequately provide catastrophic risk protection coverage to producers.

"(ii) COVERAGE BY APPROVED INSURANCE PROVIDERS.—To the extent that catastrophic risk protection coverage by approved insurance providers is sufficiently available in a State (or a portion of a State) as determined by the Secretary, only approved insurance providers may provide the coverage in the State or portion of the State.

"(iii) TIMING OF DETERMINATIONS.—Not later than 90 days after the date of enactment of this subparagraph, the Secretary shall announce the results of the determinations under clause (i) for policies for the 1997 crop year. For subsequent crop years, the Secretary shall make the announcement not later than April 30 of the year preceding the year in which the crop will be produced, or at such other times during the year as the Secretary finds practicable in consultation with affected crop insurance providers for those States (or portions of States) in which catastrophic coverage remains available through local offices of the Department.

"(iv) CURRENT POLICIES.—This clause shall take effect beginning with the 1997 crop year. Subject to clause (ii) all catastrophic risk protection policies written by local offices of the Department shall be transferred to the approved insurance provider for performance of all sales, service, and loss adjustment functions. Any fees in connection with such policies that are not yet collected at the time of the transfer shall be payable to the approved insurance providers assuming the policies. The transfer process for policies for the 1997 crop year with sales closing dates before January 1, 1997, shall begin at the time of the Secretary's announcement under clause (iii) and be completed by the sales closing date for the crop and county. The transfer process for all subsequent policies (including policies for the 1998 and subsequent crop years) shall begin at a date that permits the process to be completed not later than 45 days before the sales closing date.".

(2) WAIVER OF MANDATORY LINKAGE.—Section 508(b)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(7)) is amended by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—Effective for the spring-planted 1996 and subsequent crops (and fall-planted 1996 crops at the option of the Secretary), to be eligible for any payment or loan under the Agricultural Market Transition Act, for the conservation reserve program, or for any benefit described in section 371 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008f), a person shall—

"(i) obtain at least the catastrophic level of insurance for each crop of economic significance in which the person has an interest; or

"(ii) provide a written waiver to the Secretary that waives any eligibility for emergency crop loss assistance in connection with the crop.".

(3) SPECIAL RULE FOR 1996.—

(A) EFFECTIVE PERIOD.—This paragraph shall apply only to the 1996 crop year.

(B) AVAILABILITY.—During a period of not less than 2 weeks, but not more than 4 weeks, beginning on the date of enactment of this title, the Secretary shall provide producers with an opportunity to obtain catastrophic risk protection insurance under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) for a spring-planted crop, and limited additional coverage for malting barley under the Malting Barley Price and Quality Endorsement. The Federal Crop Insurance Corporation may attach such limitations and restrictions on obtaining insurance during this period as the Corporation considers necessary to maintain the actuarial soundness of the crop insurance program.

(C) ATTACHMENT.—Insurance coverage under any policy obtained under this paragraph during the extended sales period shall not attach until 10 days after the application.

(D) CANCELLATION.—During the extended period, a producer may cancel a catastrophic risk protection policy if—

(i) the policy is a continuation of a policy that was obtained for a previous crop year; and

(ii) the cancellation request is made before the acreage reporting date for the policy for the 1996 crop year.

(b) CROP INSURANCE PILOT PROJECT.—

(1) COVERAGE.—The Secretary of Agriculture shall develop and administer a pilot project for crop insurance coverage that indemnifies crop losses due to a natural disaster such as insect infestation or disease.

(2) ACTUARIAL SOUNDNESS.—A pilot project under this paragraph shall be actuarially sound, as determined by the Secretary and administered at no net cost.

(3) DURATION.—A pilot project under this paragraph shall be of two years' duration.

(c) CROP INSURANCE FOR NURSERY CROPS.—Section 508(a)(6) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)(6)) is amended by adding at the end the following:

"(D) ADDITION OF NURSERY CROPS.—Not later than 2 years after the date of enactment of this subparagraph, the Corporation shall conduct a study and limited pilot program on the feasibility of insuring nursery crops.".

(d) MARKETING WINDOWS.—Section 508(j) of the Federal Crop Insurance Act (7 U.S.C. 1508(j)) is amended by adding at the end the following:

"(4) MARKETING WINDOWS.—The Corporation shall consider marketing windows in determining whether it is feasible to require planting during a crop year.".

(e) FUNDING.—

(1) MANDATORY EXPENSES.—Section 516(a)(2) of the Federal Crop Insurance Act (7 U.S.C. 1516(a)(2)) is amended—

(A) by inserting "and" at the end of subparagraph (A);

(B) by striking "; and" at the end of subparagraph (B) and inserting a period; and

(C) by striking subparagraph (C).

(2) FUNDING OF SALES COMMISSIONS.—Section 516(b) of the Federal Crop Insurance Act (7 U.S.C. 1516(b)) is amended—

(A) in paragraph (1)—

(i) by striking "(A) IN GENERAL" and all that follows through "subparagraph (B), in" and inserting "In"; and

(ii) by striking subparagraph (B); and

(B) in paragraph (2)(B), by striking "subject to paragraph (1)(B),".

(3) OTHER EXPENSES.—Section 516(b)(2)(A) of the Federal Crop Insurance Act (7 U.S.C. 1516(b)(2)(A)) is amended by striking ", noninsured assistance benefits,".

(f) LIMITATION ON MULTIPLE BENEFITS FOR SAME LOSS.—Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended by adding at the end the following:

"(n) LIMITATION ON MULTIPLE BENEFITS FOR SAME LOSS.—If a producer who is eligible to receive benefits under catastrophic risk protection under subsection (b) is also eligible to receive assistance for the same loss under any other program administered by the Secretary, the producer shall be required to elect whether to receive benefits under this title or under the other program, but not both. A producer who purchases additional coverage under subsection (c) may also receive assistance for the same loss under other programs administered by the Secretary, except that the amount received for the loss under the additional coverage together with the amount received under the other programs may not exceed the amount of the actual loss of the producer.".

SEC. 194. ESTABLISHMENT OF OFFICE OF RISK MANAGEMENT.

(a) ESTABLISHMENT.—The Department of Agriculture Reorganization Act of 1994 is amended by inserting after section 226 (7 U.S.C. 6932) the following new section:

"SEC. 226A. OFFICE OF RISK MANAGEMENT.

"(a) ESTABLISHMENT.—Subject to subsection (e), the Secretary shall establish and maintain in the Department an independent Office of Risk Management.

"(b) FUNCTIONS OF THE OFFICE OF RISK MANAGEMENT.—The Office of Risk Management shall have jurisdiction over the following functions:

"(1) Supervision of the Federal Crop Insurance Corporation.

"(2) Administration and oversight of all aspects, including delivery through local offices of the Department, of all programs authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

"(3) Any pilot or other programs involving revenue insurance, risk management savings accounts, or the use of the futures market to manage risk and support farm income that may be established under the Federal Crop Insurance Act or other law.

"(4) Such other functions as the Secretary considers appropriate.

"(c) ADMINISTRATOR.—

"(1) APPOINTMENT.—The Office of Risk Management shall be headed by an Administrator who shall be appointed by the Secretary.

"(2) MANAGER.—The Administrator of the Office of Risk Management shall also serve as Manager of the Federal Crop Insurance Corporation.

"(d) RESOURCES.—

"(1) FUNCTIONAL COORDINATION.—Certain functions of the Office of Risk Management, such as human resources, public affairs, and legislative affairs, may be provided by a consolidation of such functions under the Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

"(2) MINIMUM PROVISIONS.—Notwithstanding paragraph (1) or any other provision of law or order of the Secretary, the Secretary shall provide the Office of Risk Management with human and capital resources sufficient for the Office to carry out its functions in a timely and efficient manner.".

(b) FISCAL YEAR 1996 FUNDING.—From funds appropriated for the salaries and expenses of the Consolidated Farm Service Agency in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996 (Public Law 104–37), the Secretary of Agriculture may use such sums as necessary for the salaries and expenses of the Office of Risk Management established under subsection (a).

(c) CONFORMING AMENDMENT.—Section 226(b) of the Act (7 U.S.C. 6932(b)) is amended by striking paragraph (2).

SEC. 195. REVENUE INSURANCE.

Section 508(h) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)) is amended by adding at the end the following:

"(9) REVENUE INSURANCE PILOT PROGRAM.—

"(A) IN GENERAL.—Not later than December 31, 1996, the Secretary shall carry out a pilot program in a limited number of counties, as determined by the Secretary, for crop years 1997, 1998, 1999, and 2000, under which a producer of wheat, feed grains, soybeans, or such other commodity as the Secretary considers appropriate may elect to receive insurance against loss of revenue, as determined by the Secretary.

"(B) ADMINISTRATION.—Revenue insurance under this paragraph shall—

"(i) be offered through reinsurance arrangements with private insurance companies;

"(ii) offer at least a minimum level of coverage that is an alternative to catastrophic crop insurance;

"(iii) be actuarially sound; and

"(iv) require the payment of premiums and administrative fees by an insured producer.".

SEC. 196. ADMINISTRATION AND OPERATION OF NONINSURED CROP ASSISTANCE PROGRAM.

(a) OPERATION AND ADMINISTRATION OF PROGRAM.—

(1) IN GENERAL.—In the case of an eligible crop described in paragraph (2), the Secretary of Agriculture shall operate a noninsured crop disaster assistance program to provide coverage equivalent to the catastrophic risk protection otherwise available under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)). The Secretary shall carry out this section through the Consolidated Farm Service Agency (in this section referred to as the "Agency").

(2) ELIGIBLE CROPS.—

(A) IN GENERAL.—In this section, the term "eligible crop" means each commercial crop or other agricultural commodity (except livestock)—

(i) for which catastrophic risk protection under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) is not available; and

(ii) that is produced for food or fiber.

(B) CROPS SPECIFICALLY INCLUDED.—The term "eligible crop" shall include floricultural, ornamental nursery, and Christmas tree crops, turfgrass sod, seed crops, aquaculture (including ornamental fish), and industrial crops.

(3) CAUSE OF LOSS.—To qualify for assistance under this section, the losses of the noninsured commodity shall be due to drought, flood, or other natural disaster, as determined by the Secretary.

(b) APPLICATION FOR NONINSURED CROP DISASTER ASSISTANCE.—

(1) TIMELY APPLICATION.—To be eligible for assistance under this section, a producer shall submit an application for noninsured crop disaster assistance at a local office of the Department. The application shall be in such form, contain such information, and be submitted at such time as the Secretary may require.

(2) RECORDS.—A producer shall provide records, as required by the Secretary, of crop acreage, acreage yields, and production.

(3) ACREAGE REPORTS.—A producer shall provide reports on acreage planted or prevented from being planted, as required by the Secretary, by the designated acreage reporting date for the crop and location as established by the Secretary.

(c) LOSS REQUIREMENTS.—

(1) REQUIRED AREA LOSS.—A producer of an eligible crop shall not receive noninsured crop disaster assistance unless the average yield for that crop, or an equivalent measure in the event yield data are not available, in an area falls below 65 percent of the expected area yield, as established by the Secretary.

(2) PREVENTED PLANTING.—Subject to paragraph (1), the Secretary shall make a prevented planting noninsured crop disaster assistance payment if the producer is prevented from planting more than 35 percent of the acreage intended for the eligible crop because of drought, flood, or other natural disaster, as determined by the Secretary.

(3) REDUCED YIELDS.—Subject to paragraph (1), the Secretary shall make a reduced yield noninsured crop disaster assistance payment to a producer if the total quantity of the eligible crop that the producer is able to harvest on any farm is, because of drought, flood, or other natural disaster as determined by the Secretary, less than 50 percent of the expected individual yield for the crop, as determined by the Secretary, factored for the interest of the producer for the crop.

(d) PAYMENT.—The Secretary shall make available to a producer eligible for noninsured assistance under this section a payment computed by multiplying—

(1) the quantity that is less than 50 percent of the established yield for the crop; by

(2)(A) in the case of each of the 1996 through 1998 crop years, 60 percent of the average market price for the crop (or any comparable coverage determined by the Secretary); or

(B) in the case of each of the 1999 and subsequent crop years, 55 percent of the average market price for the crop (or any comparable coverage determined by the Secretary); by

(3) a payment rate for the type of crop (as determined by the Secretary) that—

(A) in the case of a crop that is produced with a significant and variable harvesting expense, reflects the decreasing cost incurred in the production cycle for the crop that is—

(i) harvested;

(ii) planted but not harvested; and

(iii) prevented from being planted because of drought, flood, or other natural disaster (as determined by the Secretary); and

(B) in the case of a crop that is not produced with a significant and variable harvesting expense, is determined by the Secretary.

(e) YIELD DETERMINATIONS.—

(1) ESTABLISHMENT.—The Secretary shall establish farm yields for purposes of providing noninsured crop disaster assistance under this section.

(2) ACTUAL PRODUCTION HISTORY.—The Secretary shall determine yield coverage using the actual production history of the producer over a period of not less than the 4 previous consecutive crop years and not more than 10 consecutive crop years. Subject to paragraph (3), the yield for the year in which noninsured crop disaster assistance is sought shall be equal to the average of the actual production history of the producer during the period considered.

(3) ASSIGNMENT OF YIELD.—If a producer does not submit adequate documentation of production history to determine a crop yield under paragraph (2), the Secretary shall assign to the producer a yield equal to not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Secretary for continuous years), as specified in regulations issued by the Secretary based on production history requirements.

(4) PROHIBITION ON ASSIGNED YIELDS IN CERTAIN COUNTIES.—

(A) IN GENERAL.—

(i) DOCUMENTATION.—If sufficient data are available to demonstrate that the acreage of a crop in a county for the crop year has increased by more than 100 percent over any year in the preceding 7 crop years or, if data are not available, if the acreage of the crop in the county has increased significantly from the previous crop years, a producer must provide such detailed documentation of production costs, acres planted, and yield for the crop year for which benefits are being claimed as is required by the Secretary. If the Secretary determines that the documentation provided is not sufficient, the Secretary may require documenting proof that the crop, had the crop been harvested, could have been marketed at a reasonable price.

(ii) PROHIBITION.—Except as provided in subparagraph (B), a producer who produces a crop on a farm located in a county described in clause (i) may not obtain an assigned yield.

(B) EXCEPTION.—A crop or a producer shall not be subject to this subsection if—

(i) the planted acreage of the producer for the crop has been inspected by a third party acceptable to the Secretary; or

(ii)(I) the County Executive Director and the State Executive Director recommend an exemption from the requirement to the Administrator of the Agency; and

(II) the Administrator approves the recommendation.

(5) LIMITATION ON RECEIPT OF SUBSEQUENT ASSIGNED YIELD.—A producer who receives an assigned yield for the current year of a natural disaster because required production records were not submitted to the local office of the Department shall not be eligible for an assigned yield for the year of the next natural disaster unless the required production records of the previous 1 or more years (as applicable) are provided to the local office.

(6) YIELD VARIATIONS DUE TO DIFFERENT FARMING PRACTICES.—The Secretary shall ensure that noninsured crop disaster assistance accurately reflects significant yield variations due to different farming practices, such as between irrigated and nonirrigated acreage.

(f) CONTRACT PAYMENTS.—A producer who has received a guaranteed payment for production, as opposed to delivery, of a crop pursuant to a contract shall have the production of the producer adjusted upward by the amount of the production equal to the amount of the contract payment received.

(g) USE OF COMMODITY CREDIT CORPORATION.—The Secretary may use the funds of the

Commodity Credit Corporation to carry out this section.

(h) EXCLUSIONS.—Noninsured crop disaster assistance under this section shall not cover losses due to—

(1) the neglect or malfeasance of the producer;

(2) the failure of the producer to reseed to the same crop in those areas and under such circumstances where it is customary to reseed; or

(3) the failure of the producer to follow good farming practices, as determined by the Secretary.

(i) PAYMENT AND INCOME LIMITATIONS.—

(1) DEFINITIONS.—In this subsection:

(A) PERSON.—The term "person" has the meaning provided the term in regulations issued by the Secretary. The regulations shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308).

(B) QUALIFYING GROSS REVENUES.—The term "qualifying gross revenues" means—

(i) if a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue from the farming, ranching, and forestry operations of the person; and

(ii) if less than a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue of the person from all sources.

(2) PAYMENT LIMITATION.—The total amount of payments that a person shall be entitled to receive annually under this section may not exceed $100,000.

(3) LIMITATION ON MULTIPLE BENEFITS FOR SAME LOSS.—If a producer who is eligible to receive benefits under this section is also eligible to receive assistance for the same loss under any other program administered by the Secretary, the producer shall be required to elect whether to receive benefits under this section or under the other program, but not both.

(4) INCOME LIMITATION.—A person who has qualifying gross revenues in excess of the amount specified in section 2266(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) (as in effect on November 28, 1990) during the taxable year (as determined by the Secretary) shall not be eligible to receive any noninsured assistance payment under this section.

(5) REGULATIONS.—The Secretary shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and equitable application of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), the general payment limitation regulations of the Secretary, and the limitations established under this subsection.

(j) CONFORMING REPEAL.—Section 519 of the Federal Crop Insurance Act (7 U.S.C. 1519) is repealed.

TITLE II—AGRICULTURAL TRADE

Subtitle A—Amendments to Agricultural Trade Development and Assistance Act of 1954 and Related Statutes

SEC. 201. FOOD AID TO DEVELOPING COUNTRIES.

(a) IN GENERAL.—Section 3 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691a) is amended to read as follows:

"SEC. 3. FOOD AID TO DEVELOPING COUNTRIES.

"(a) POLICY.—In light of the Uruguay Round Agreement on Agriculture and the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least-Developed and Net-Food Importing Developing Countries, the United States reaffirms the commitment of the United States to providing food aid to developing countries.

"(b) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) the President should initiate consultations with other donor nations to consider appropriate levels of food aid commitments to meet the legitimate needs of developing countries; and

"(2) the United States should increase its contribution of bona fide food assistance to developing countries consistent with the Agreement on Agriculture.".

(b) CONFORMING AMENDMENT.—Section 411 of the Uruguay Round Agreements Act is amended by striking subsection (e) (19 U.S.C. 3611).

SEC. 202. TRADE AND DEVELOPMENT ASSISTANCE.

Section 101 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701) is amended—

(1) by striking "developing countries" each place it appears and inserting "developing countries and private entities"; and

(2) in subsection (b), by inserting "and entities" before the period at the end.

SEC. 203. AGREEMENTS REGARDING ELIGIBLE COUNTRIES AND PRIVATE ENTITIES.

Section 102 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1702) is amended to read as follows:

"SEC. 102. AGREEMENTS REGARDING ELIGIBLE COUNTRIES AND PRIVATE ENTITIES.

"(a) PRIORITY.—In selecting agreements to be entered into under this title, the Secretary shall give priority to agreements providing for the export of agricultural commodities to developing countries that—

"(1) have the demonstrated potential to become commercial markets for competitively priced United States agricultural commodities;

"(2) are undertaking measures for economic development purposes to improve food security and agricultural development, alleviate poverty, and promote broad-based equitable and sustainable development; and

"(3) demonstrate the greatest need for food.

"(b) PRIVATE ENTITIES.—An agreement entered into under this title with a private entity shall require such security, or such other provisions as the Secretary determines necessary, to provide reasonable and adequate assurance of repayment of the financing extended to the private entity.

"(c) AGRICULTURAL MARKET DEVELOPMENT PLAN.—

"(1) DEFINITION OF AGRICULTURAL TRADE ORGANIZATION.—In this subsection, the term 'agricultural trade organization' means a United States agricultural trade organization that promotes the export and sale of a United States agricultural commodity and that does not stand to profit directly from the specific sale of the commodity.

"(2) PLAN.—The Secretary shall consider a developing country for which an agricultural market development plan has been approved under this subsection to have the demonstrated potential to become a commercial market for competitively priced United States agricultural commodities for the purpose of granting a priority under subsection (a).

"(3) REQUIREMENTS.—

'(A) IN GENERAL.—To be approved by the Secretary, an agricultural market development plan shall—

"(i) be submitted by a developing country or private entity, in conjunction with an agricultural trade organization;

"(ii) describe a project or program for the development and expansion of a commercial market for a United States agricultural commodity in a developing country, and the economic development of the country, using funds derived from the sale of agricultural commodities received under an agreement described in section 101;

"(iii) provide for any matching funds that are required by the Secretary for the project or program;

"(iv) provide for a results-oriented means of measuring the success of the project or program; and

"(v) provide for graduation to the use of non-Federal funds to carry out the project or program, consistent with requirements established by the Secretary.

"(B) AGRICULTURAL TRADE ORGANIZATION.—The project or program shall be designed and carried out by the agricultural trade organization.

"(C) ADDITIONAL REQUIREMENTS.—An agricultural market development plan shall contain such additional requirements as are determined necessary by the Secretary.

"(4) ADMINISTRATIVE COSTS.—

"(A) IN GENERAL.—The Secretary may make funds made available to carry out this title available for the reimbursement of administrative expenses incurred by agricultural trade organizations in developing, implementing, and administering agricultural market development plans, subject to such requirements and in such amounts as the Secretary considers appropriate.

"(B) DURATION.—The funds may be made available to agricultural trade organizations for the duration of the applicable agricultural market development plan.

"(C) TERMINATION.—The Secretary may terminate assistance made available under this subsection if the agricultural trade organization is not carrying out the approved agricultural market development plan.".

SEC. 204. TERMS AND CONDITIONS OF SALES.

Section 103 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1703) is amended—

(1) in subsection (a)(2)(A)—

(A) by striking "a recipient country to make"; and

(B) by striking "such country" and inserting "the appropriate country";

(2) in subsection (c), by striking "less than 10 nor"; and

(3) in subsection (d)—

(A) by striking "recipient country" and inserting "developing country or private entity"; and

(B) by striking "7" and inserting "5".

SEC. 205. USE OF LOCAL CURRENCY PAYMENT.

Section 104 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1704) is amended—

(1) in subsection (a), by striking "recipient country" and inserting "developing country or private entity"; and

(2) in subsection (c)—

(A) by striking "recipient country" each place it appears and inserting "appropriate developing country"; and

(B) in paragraph (3), by striking "recipient countries" and inserting "appropriate developing countries".

SEC. 206. VALUE-ADDED FOODS.

Section 105 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1705) is repealed.

SEC. 207. ELIGIBLE ORGANIZATIONS.

(a) IN GENERAL.—Section 202 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) NONEMERGENCY ASSISTANCE.—

"(1) IN GENERAL.—The Administrator may provide agricultural commodities for nonemergency assistance under this title through eligible organizations (as described in subsection (d)) that have entered into an agreement with the Administrator to use the commodities in accordance with this title.

"(2) LIMITATION.—The Administrator may not deny a request for funds submitted under this

subsection because the program for which the funds are requested—

"(A) would be carried out by the eligible organization in a foreign country in which the Agency for International Development does not have a mission, office, or other presence; or

"(B) is not part of a development plan for the country prepared by the Agency."; and

(2) in subsection (e)—

(A) in the subsection heading, by striking "PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES" and inserting "ELIGIBLE ORGANIZATIONS";

(B) in paragraph (1)—

(i) by striking "$13,500,000" and inserting "$28,000,000"; and

(ii) by striking "private voluntary organizations and cooperatives to assist such organizations and cooperatives" and inserting "eligible organizations described in subsection (d), to assist the organizations";

(C) by striking paragraph (2) and inserting the following:

"(2) REQUEST FOR FUNDS.—To receive funds made available under paragraph (1), an eligible organization described in subsection (d) shall submit a request for the funds that is subject to approval by the Administrator."; and

(D) in paragraph (3), by striking "a private voluntary organization or cooperative, the Administrator may provide assistance to that organization or cooperative" and inserting "an eligible organization, the Administrator may provide assistance to the eligible organization".

(b) CONFORMING AMENDMENTS.—Section 207 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726a) is amended—

(1) in subsection (a)(1), by striking "a private voluntary organization or cooperative" each place it appears and inserting "an eligible organization"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "private voluntary organizations and cooperatives" and inserting "eligible organizations"; and

(B) in paragraph (2), by striking "organizations, cooperatives," and inserting "eligible organizations".

SEC. 208. GENERATION AND USE OF FOREIGN CURRENCIES.

Section 203 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1723) is amended—

(1) in subsection (a), by inserting ", or in a country in the same region," after "in the recipient country";

(2) in subsection (b)—

(A) by inserting "or in countries in the same region," after "in recipient countries,"; and

(B) by striking "10 percent" and inserting "15 percent";

(3) in subsection (c), by inserting "or in a country in the same region," after "in the recipient country,"; and

(4) in subsection (d)(2), by inserting "or within a country in the same region" after "within the recipient country".

SEC. 209. GENERAL LEVELS OF ASSISTANCE UNDER PUBLIC LAW 480.

Section 204 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "amount that" and all that follows through the period at the end and inserting "amount that for each of fiscal years 1996 through 2002 is not less than 2,025,000 metric tons.";

(B) in paragraph (2), by striking "amount that" and all that follows through the period at the end and inserting "amount that for each of fiscal years 1996 through 2002 is not less than 1,550,000 metric tons."; and

(C) in paragraph (3), by adding at the end the following: "No waiver shall be made before the beginning of the applicable fiscal year."; and

(2) in subsection (b)(1), by inserting before the period at the end the following: "and that not less than 50 percent of the quantity of the bagged commodities that are whole grain commodities be bagged in the United States".

SEC. 210. FOOD AID CONSULTATIVE GROUP.

Section 205 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1725) is amended—

(1) in subsection (a), by striking "private voluntary organizations, cooperatives and indigenous non-governmental organizations" and inserting "eligible organizations described in section 202(d)(1)";

(2) in subsection (b)—

(A) in paragraph (2), by striking "for International Affairs and Commodity Programs" and inserting "of Agriculture for Farm and Foreign Agricultural Services";

(B) in paragraph (4), by striking "and" at the end;

(C) in paragraph (5), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(6) representatives from agricultural producer groups in the United States.";

(3) in the second sentence of subsection (d), by inserting "(but at least twice per year)" after "when appropriate"; and

(4) in subsection (f), by striking "1995" and inserting "2002".

SEC. 211. SUPPORT OF NONGOVERNMENTAL ORGANIZATIONS.

(a) IN GENERAL.—Section 306(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1727e(b)) is amended—

(1) in the subsection heading, by striking "INDIGENOUS NON-GOVERNMENTAL" and inserting "NONGOVERNMENTAL"; and

(2) by striking "utilization of indigenous" and inserting "utilization of".

(b) CONFORMING AMENDMENT.—Section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732) is amended by striking paragraph (6) and inserting the following:

"(6) NONGOVERNMENTAL ORGANIZATION.—The term 'nongovernmental organization' means an organization that works at the local level to solve development problems in a foreign country in which the organization is located, except that the term does not include an organization that is primarily an agency or instrumentality of the government of the foreign country.".

SEC. 212. COMMODITY DETERMINATIONS.

Section 401 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1731) is amended—

(1) by striking subsections (a) through (d) and inserting the following:

"(a) AVAILABILITY OF COMMODITIES.—No agricultural commodity shall be available for disposition under this Act if the Secretary determines that the disposition would reduce the domestic supply of the commodity below the supply needed to meet domestic requirements and provide adequate carryover (as determined by the Secretary), unless the Secretary determines that some part of the supply should be used to carry out urgent humanitarian purposes under this Act.";

(2) by redesignating subsections (e) and (f) as subsections (b) and (c), respectively; and

(3) in subsection (c) (as so redesignated), by striking "(e)(1)" and inserting "(b)(1)".

SEC. 213. GENERAL PROVISIONS.

Section 403 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733) is amended—

(1) in subsection (b)—

(A) in the subsection heading, by striking "CONSULTATIONS" and inserting "IMPACT ON LOCAL FARMERS AND ECONOMY"; and

(B) by striking "consult with" and all that follows through "other donor organizations to";

(2) in subsection (c)—

(A) by striking "from countries"; and

(B) by striking "for use" and inserting "or use";

(3) in subsection (f)—

(A) by inserting "or private entities, as appropriate," after "from countries"; and

(B) by inserting "or private entities" after "such countries"; and

(4) in subsection (i)(2), by striking subparagraph (C).

SEC. 214. AGREEMENTS.

Section 404 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1734) is amended—

(1) in subsection (a), by inserting "with foreign countries" after "Before entering into agreements";

(2) in subsection (b)(2)—

(A) by inserting "with foreign countries" after "with respect to agreements entered into"; and

(B) by inserting before the semicolon at the end the following: "and broad-based economic growth"; and

(3) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Agreements to provide assistance on a multi-year basis to recipient countries or to eligible organizations—

"(A) may be made available under titles I and III; and

"(B) shall be made available under title II.".

SEC. 215. USE OF COMMODITY CREDIT CORPORATION.

Section 406 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736) is amended—

(1) in subsection (a), by striking "shall" and inserting "may";

(2) in subsection (b)—

(A) by striking "this Act" and inserting "titles II and III"; and

(B) by striking paragraph (4) and inserting the following:

"(4) the vessel freight charges from United States ports or designated Canadian transshipment ports, as determined by the Secretary, to designated ports of entry abroad;"; and

(3) by striking subsection (d).

SEC. 216. ADMINISTRATIVE PROVISIONS.

Section 407 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting "or private entity that enters into an agreement under title I" after "importing country"; and

(B) in paragraph (2), by adding at the end the following: "Resulting contracts may contain such terms and conditions as the Secretary determines are necessary and appropriate.";

(2) in subsection (c)—

(A) in paragraph (1)(A), by inserting "importer or" before "importing country"; and

(B) in paragraph (2)(A), by inserting "importer or" before "importing country";

(3) in subsection (d)—

(A) by striking paragraph (2) and inserting the following:

"(2) FREIGHT PROCUREMENT.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or other similar provisions of law relating to the making or performance of Federal Government contracts, ocean transportation under titles II and III may be procured on the basis of full and open competitive procedures. Resulting contracts may contain such terms and conditions as the Administrator determines are necessary and appropriate."; and

(B) by striking paragraph (4);

(4) in subsection (g)(2)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(D) an assessment of the progress towards achieving food security in each country receiving food assistance from the United States Government, with special emphasis on the nutritional status of the poorest populations in each country."; and

(5) by striking subsection (h).

SEC. 217. EXPIRATION DATE.

Section 408 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736b) is amended by striking "1995" and inserting "2002".

SEC. 218. REGULATIONS.

Section 409 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736c) is repealed.

SEC. 219. INDEPENDENT EVALUATION OF PROGRAMS.

Section 410 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736d) is repealed.

SEC. 220. AUTHORIZATION OF APPROPRIATIONS.

Section 412 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f) is amended—

(1) by striking subsections (b) and (c) and inserting the following:

"(b) TRANSFER OF FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, the President may direct that up to 15 percent of the funds available for any fiscal year for carrying out any title of this Act be used to carry out any other title of this Act.

"(2) TITLE III FUNDS.—The President may direct that up to 50 percent of the funds available for any fiscal year for carrying out title III be used to carry out title II."; and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 221. COORDINATION OF FOREIGN ASSISTANCE PROGRAMS.

Section 413 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736g) is amended by striking "this Act" each place it appears and inserting "title III".

SEC. 222. MICRONUTRIENT FORTIFICATION PILOT PROGRAM.

Title IV of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1731 et seq.) is amended by adding at the end the following:

"SEC. 415. MICRONUTRIENT FORTIFICATION PILOT PROGRAM.

"(a) IN GENERAL.—Subject to the availability of practical technology and to cost effectiveness, not later than September 30, 1997, the Secretary, in consultation with the Administrator, shall establish a micronutrient fortification pilot program under this Act. The purpose of the program shall be to—

"(1) assist developing countries in correcting micronutrient dietary deficiencies among segments of the populations of the countries; and

"(2) encourage the development of technologies for the fortification of whole grains and other commodities that are readily transferable to developing countries.

"(b) SELECTION OF PARTICIPATING COUNTRIES.—From among the countries eligible for assistance under this Act, the Secretary may select not more than 5 developing countries to participate in the pilot program.

"(c) FORTIFICATION.—Under the pilot program, whole grains and other commodities made available to a developing country selected to participate in the pilot program may be fortified with 1 or more micronutrients (including vitamin A, iron, and iodine) with respect to which a substantial portion of the population in the country is deficient. The commodity may be fortified in the United States or in the developing country.

"(d) TERMINATION OF AUTHORITY.—The authority to carry out the pilot program established under this section shall terminate on September 30, 2002.".

SEC. 223. USE OF CERTAIN LOCAL CURRENCY.

Title IV of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1731 et seq.) (as amended by section 222) is amended by adding at the end the following:

"SEC. 416. USE OF CERTAIN LOCAL CURRENCY.

"Local currency payments received by the United States pursuant to agreements entered into under title I (as in effect on November 27, 1990) may be utilized by the Secretary in accordance with section 108 (as in effect on November 27, 1990).".

SEC. 224. FARMER-TO-FARMER PROGRAM.

Section 501 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737) is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

"(6) to the extent that local currencies can be used to meet the costs of a program established under this section, augment funds of the United States that are available for such a program through the use of foreign currencies that accrue from the sale of agricultural commodities under this Act, and local currencies generated from other types of foreign assistance activities, within the country where the program is being conducted."; and

(2) in subsection (c)—

(A) by striking "0.2" and inserting "0.4";

(B) by striking "1991 through 1995" and inserting "1996 through 2002"; and

(C) by striking "0.1" and inserting "0.2".

SEC. 225. FOOD SECURITY COMMODITY RESERVE.

(a) IN GENERAL.—Title III of the Agricultural Act of 1980 (7 U.S.C. 1736f–1 et seq.) is amended to read as follows:

"TITLE III—FOOD SECURITY COMMODITY RESERVE

"SEC. 301. SHORT TITLE.

"This title may be cited as the 'Food Security Commodity Reserve Act of 1996'.

"SEC. 302. ESTABLISHMENT OF COMMODITY RESERVE.

"(a) IN GENERAL.—To provide for a reserve solely to meet emergency humanitarian food needs in developing countries, the Secretary of Agriculture (referred to in this title as the 'Secretary') shall establish a reserve stock of wheat, rice, corn, or sorghum, or any combination of the commodities, totalling not more than 4,000,000 metric tons for use as described in subsection (c).

"(b) COMMODITIES IN RESERVE.—

"(1) IN GENERAL.—The reserve established under this section shall consist of—

"(A) wheat in the reserve established under the Food Security Wheat Reserve Act of 1980 as of the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996;

"(B) wheat, rice, corn, and sorghum (referred to in this section as 'eligible commodities') acquired in accordance with paragraph (2) to replenish eligible commodities released from the reserve, including wheat to replenish wheat released from the reserve established under the Food Security Wheat Reserve Act of 1980 but not replenished as of the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996; and

"(C) such rice, corn, and sorghum as the Secretary may, at such time and in such manner as the Secretary determines appropriate, acquire as a result of exchanging an equivalent value of wheat in the reserve established under this section.

"(2) REPLENISHMENT OF RESERVE.—

"(A) IN GENERAL.—Subject to subsection (h), commodities of equivalent value to eligible commodities in the reserve established under this section may be acquired—

"(i) through purchases—

"(I) from producers; or

"(II) in the market, if the Secretary determines that the purchases will not unduly disrupt the market; or

"(ii) by designation by the Secretary of stocks of eligible commodities of the Commodity Credit Corporation.

"(B) FUNDS.—Any use of funds to acquire eligible commodities through purchases from producers or in the market to replenish the reserve must be authorized in an appropriations Act.

"(c) RELEASE OF ELIGIBLE COMMODITIES.—

"(1) EMERGENCY ASSISTANCE.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), to meet unanticipated need, the Secretary may release eligible commodities in any fiscal year, without regard to the availability of domestic supply of the commodities, to provide emergency assistance to developing countries under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).

"(B) RELEASE FOR EMERGENCY ASSISTANCE.—If the eligible commodities needed to meet unanticipated need cannot be made available in a timely manner under normal means for obtaining eligible commodities for food assistance because of unanticipated need for emergency assistance as provided under section 202(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722(a)), the Secretary may in any fiscal year release from the reserve—

"(i) up to 500,000 metric tons of wheat or the equivalent value of eligible commodities other than wheat; and

"(ii) up to 500,000 metric tons of any eligible commodities under this paragraph that could have been released but were not released in prior fiscal years.

"(C) WAIVER OF MINIMUM TONNAGE REQUIREMENTS.—Nothing in this paragraph shall require a waiver under section 204(a)(3) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724(a)(3)) as a prerequisite for the release of eligible commodities under this paragraph.

"(2) EMERGENCY FOOD ASSISTANCE.—Notwithstanding any other provision of law, eligible commodities designated or acquired for the reserve established under this section may be released by the Secretary to provide, on a donation or sale basis, emergency food assistance to developing countries at such time as the domestic supply of the eligible commodities is so limited that quantities of the eligible commodities cannot be made available for disposition under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) (other than disposition for urgent humanitarian purposes under section 401 of the Act (7 U.S.C. 1731)).

"(3) PROCESSING OF ELIGIBLE COMMODITIES.—Eligible commodities that are released from the reserve established under this section may be processed in the United States and shipped to a developing country when conditions in the recipient country require processing.

"(4) EXCHANGE.—The Secretary may exchange an eligible commodity for another United States commodity of equal value, including powdered milk, pulses, and vegetable oil.

"(5) USE OF NORMAL COMMERCIAL PRACTICES.—To the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section, the Secretary shall use the usual and customary channels, facilities, arrangements, and practices of trade and commerce to carry out this subsection.

"(d) MANAGEMENT OF ELIGIBLE COMMODITIES.—The Secretary shall provide—

"(1) for the management of eligible commodities in the reserve established under this section as to location and quality of eligible commodities needed to meet emergency situations; and

"(2) for the periodic rotation or replacement of stocks of eligible commodities in the reserve to avoid spoilage and deterioration of the commodities.

"(e) TREATMENT OF RESERVE UNDER OTHER LAW.—Eligible commodities in the reserve established under this section shall not be—

"(1) considered a part of the total domestic supply (including carryover) for the purpose of subsection (c) or for the purpose of administering the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.); and

"(2) subject to any quantitative limitation on exports that may be imposed under section 7 of the Export Administration Act of 1979 (50 U.S.C. App. 2406).

"(f) USE OF COMMODITY CREDIT CORPORATION.—

"(1) IN GENERAL.—Subject to the limitations provided in this section, the funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of eligible commodities owned or controlled by the Commodity Credit Corporation shall not apply.

"(2) REIMBURSEMENT.—

"(A) IN GENERAL.—The Commodity Credit Corporation shall be reimbursed for the release of eligible commodities from funds made available to carry out the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.).

"(B) BASIS FOR REIMBURSEMENT.—The reimbursement shall be made on the basis of the lesser of—

"(i) the actual costs incurred by the Commodity Credit Corporation with respect to the eligible commodity; or

"(ii) the export market price of the eligible commodity (as determined by the Secretary) as of the time the eligible commodity is released from the reserve.

"(C) SOURCE OF FUNDS.—The reimbursement may be made from funds appropriated for subsequent fiscal years.

"(g) FINALITY OF DETERMINATION.—Any determination by the Secretary under this section shall be final.

"(h) TERMINATION OF AUTHORITY.—

"(1) IN GENERAL.—The authority to replenish stocks of eligible commodities to maintain the reserve established under this section shall terminate on September 30, 2002.

"(2) DISPOSAL OF ELIGIBLE COMMODITIES.—Eligible commodities remaining in the reserve after September 30, 2002, shall be disposed of by release for use in providing for emergency humanitarian food needs in developing countries as provided in this section.".

(b) CONFORMING AMENDMENT.—Section 208(d) of the Agricultural Trade Suspension Adjustment Act of 1980 (7 U.S.C. 4001(d)) is amended by striking paragraph (2) and inserting the following:

"(2) APPLICABILITY OF CERTAIN PROVISIONS.—Subsections (c), (d), (e), and (f)(2) of section 302 of the Food Security Commodity Reserve Act of 1996 shall apply to commodities in any reserve established under paragraph (1), except that the references to 'eligible commodities' in the subsections shall be deemed to be references to 'agricultural commodities'.".

SEC. 226. PROTEIN BYPRODUCTS DERIVED FROM ALCOHOL FUEL PRODUCTION.

Section 1208 of the Agriculture and Food Act of 1981 (7 U.S.C. 1736n) is repealed.

SEC. 227. FOOD FOR PROGRESS PROGRAM.

The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "(b)(1)" and inserting "(b)"; and

(ii) in the first sentence, by inserting "intergovernmental organizations," after "cooperatives,"; and

(B) by striking paragraph (2);

(2) in subsection (e)(4), by striking "203" and inserting "406";

(3) in subsection (f)—

(A) in paragraph (1)(B), by striking "in the case of the independent states of the former Soviet Union,";

(B) by striking paragraph (2);

(C) in paragraph (4), by inserting "for each of fiscal years 1996 through 2002" after "may be used"; and

(D) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(4) in subsection (g), by striking "1995" and inserting "2002";

(5) in subsection (j), by striking "shall" and inserting "may";

(6) in subsection (k), by striking "1995" and inserting "2002";

(7) in subsection (l)(1)—

(A) by striking "1991 through 1995" and inserting "1996 through 2002"; and

(B) by inserting ", and to provide technical assistance for monetization programs," after "monitoring of food assistance programs"; and

(8) in subsection (m)—

(A) by striking "with respect to the independent states of the former Soviet Union";

(B) by striking "private voluntary organizations and cooperatives" each place it appears and inserting "agricultural trade organizations, intergovernmental organizations, private voluntary organizations, and cooperatives"; and

(C) in paragraph (2), by striking "in the independent states".

SEC. 228. USE OF FOREIGN CURRENCY PROCEEDS FROM EXPORT SALES FINANCING.

Section 402 of the Mutual Security Act of 1954 (22 U.S.C. 1922) is repealed.

SEC. 229. STIMULATION OF FOREIGN PRODUCTION.

Section 7 of the Act of December 30, 1947 (61 Stat. 947, chapter 526; 50 U.S.C. App. 1917), is repealed.

Subtitle B—Amendments to Agricultural Trade Act of 1978

SEC. 241. AGRICULTURAL EXPORT PROMOTION STRATEGY.

(a) IN GENERAL.—Section 103 of the Agricultural Trade Act of 1978 (7 U.S.C. 5603) is amended to read as follows:

"SEC. 103. AGRICULTURAL EXPORT PROMOTION STRATEGY.

"(a) IN GENERAL.—The Secretary shall develop a strategy for implementing Federal agricultural export promotion programs that takes into account the new market opportunities for agricultural products, including opportunities that result from—

"(1) the North American Free Trade Agreement and the Uruguay Round Agreements;

"(2) any accession to membership in the World Trade Organization;

"(3) the continued economic growth in the Pacific Rim; and

"(4) other developments.

"(b) PURPOSE OF STRATEGY.—The strategy developed under subsection (a) shall encourage the maintenance, development, and expansion of export markets for United States agricultural commodities and related products, including high-value and value-added products.

"(c) GOALS OF STRATEGY.—The strategy developed under subsection (a) shall have the following goals:

"(1) Increase the value of United States agricultural exports each year.

"(2) Increase the value of United States agricultural exports each year at a faster rate than the rate of increase in the value of overall world export trade in agricultural products.

"(3) Increase the value of United States high-value and value-added agricultural exports each year.

"(4) Increase the value of United States high-value and value-added agricultural exports each year at a faster rate than the rate of increase in the value of overall world export trade in high-value and value-added agricultural products.

"(5) Ensure that to the extent practicable—

"(A) all obligations undertaken in the Uruguay Round Agreement on Agriculture that significantly increase access for United States agricultural commodities are implemented to the extent required by the Uruguay Round Agreements; or

"(B) applicable United States laws are used to secure United States rights under the Uruguay Round Agreement on Agriculture.

"(d) PRIORITY MARKETS.—

"(1) IDENTIFICATION OF MARKETS.—In developing the strategy required under subsection (a), the Secretary shall annually identify as priority markets—

"(A) those markets in which imports of agricultural products show the greatest potential for increase; and

"(B) those markets in which, with the assistance of Federal export promotion programs, exports of United States agricultural products show the greatest potential for increase.

"(2) IDENTIFICATION OF SUPPORTING OFFICES.—The President shall identify annually in the budget of the United States Government submitted under section 1105 of title 31, United States Code, each overseas office of the Foreign Agricultural Service that provides assistance to United States exporters in each of the priority markets identified under paragraph (1).".

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate should conduct a thorough review of agricultural export and food aid programs not later than December 31, 1998; and

(2) the review should examine what changes, if any, need to be made in the programs as a result of the effects of the Agricultural Market Transition Act, the Uruguay Round agreements, changing world market conditions, and such other factors as the Committees consider appropriate.

(c) ELIMINATION OF REPORT.—

(1) IN GENERAL.—Section 601 of the Agricultural Trade Act of 1978 (7 U.S.C. 5711) is repealed.

(2) CONFORMING AMENDMENT.—The last sentence of section 603 of the Agricultural Trade Act of 1978 (7 U.S.C. 5713) is amended by striking ", in a consolidated report," and all that follows through "section 601" and inserting "or in a consolidated report".

SEC. 242. IMPLEMENTATION OF COMMITMENTS UNDER URUGUAY ROUND AGREEMENTS.

(a) IN GENERAL.—Title I of the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.) is amended by adding at the end the following:

"SEC. 106. IMPLEMENTATION OF COMMITMENTS UNDER URUGUAY ROUND AGREEMENTS.

"Not later than September 30 of each year, the Secretary shall evaluate whether the obligations undertaken by foreign countries under the Uruguay Round Agreement on Agriculture are being fully implemented. If the Secretary has reason to believe (based on the evaluation) that any *foreign country, by not implementing the obligations of the country, may be significantly constraining an opportunity for United States agricultural exports, the Secretary shall—*

"(1) submit the evaluation to the United States Trade Representative; and

"(2) transmit a copy of the evaluation to the Committee on Agriculture, and the Committee on Ways and Means, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, of the Senate.".

(b) Monitoring Compliance With Sanitary and Phytosanitary Measures.—Section 414 of the Agricultural Trade Act of 1978 (7 U.S.C. 5674) is amended by adding at the end the following:

"(c) Monitoring Compliance With Sanitary and Phytosanitary Measures.—The Secretary shall monitor the compliance of World Trade Organization member countries with the sanitary and phytosanitary measures of the Agreement on Agriculture of the Uruguay Round of Multilateral Trade Negotiations of the General Agreement on Tariffs and Trade. If the Secretary has reason to believe that any country may have failed to meet the commitment on sanitary and phytosanitary measures under the Agreement in a manner that adversely impacts the exports of a United States agricultural commodity, the Secretary shall—

"(1) provide such information to the United States Trade Representative of the circumstances surrounding the matter arising under this subsection; and

"(2) with respect to any such circumstances that the Secretary considers to have a continuing adverse effect on United States agricultural exports, report to the Committee on Agriculture, and the Committee on Ways and Means, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Finance, of the Senate—

"(A) that a country may have failed to meet the sanitary and phytosanitary commitments; and

"(B) any notice given by the Secretary to the United States Trade Representative.".

SEC. 243. EXPORT CREDITS.

(a) Export Credit Guarantee Program.—Section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622) is amended—

(1) in subsection (a)—

(A) by striking "Guarantees.—The" and inserting the following: "Guarantees.—

"(1) In general.—The"; and

(B) by adding at the end the following:

"(2) Supplier credits.—In carrying out this section, the Commodity Credit Corporation may issue guarantees for the repayment of credit made available for a period of not more than 180 days by a United States exporter to a buyer in a foreign country.";

(2) in subsection (f)—

(A) by striking "(f) Restrictions.—The" and inserting the following:

"(f) Restrictions.—

"(1) In general.—The"; and

(B) by adding at the end the following:

"(2) Criteria for determination.—In making the determination required under paragraph (1) with respect to credit guarantees under subsection (b) for a country, the Secretary may consider, in addition to financial, macroeconomic, and monetary indicators—

"(A) whether an International Monetary Fund standby agreement, Paris Club rescheduling plan, or other economic restructuring plan is in place with respect to the country;

"(B) whether the country is addressing issues such as—

"(i) the convertibility of the currency of the country;

"(ii) adequate legal protection for foreign investments;

"(iii) the viability of the financial markets of the country; and

"(iv) adequate legal protection for the private property rights of citizens of the country; or

"(C) any other factors that are relevant to the ability of the country to service the debt of the country.";

(3) by striking subsection (h) and inserting the following:

"(h) United States Agricultural Commodities.—The Commodity Credit Corporation shall finance or guarantee under this section only United States agricultural commodities.";

(4) in subsection (i)—

(A) by striking paragraph (1);

(B) by striking "Institutions.—A financial" and inserting the following: "Institutions.—

"(1) In general.—A financial";

(C) by striking "(2) is" and inserting the following:

"(A) is";

(D) by striking "(3) is" and inserting the following:

"(B) is"; and

(E) by adding at the end the following:

"(2) Third country banks.—The Commodity Credit Corporation may guarantee under subsections (a) and (b) the repayment of credit made available to finance an export sale irrespective of whether the obligor is located in the country to which the export sale is destined."; and

(5) by striking subsection (k) and inserting the following:

"(k) Processed and High-Value Products.—

"(1) In general.—In issuing export credit guarantees under this section, the Commodity Credit Corporation shall, subject to paragraph (2), ensure that not less than 25 percent for each of fiscal years 1996 and 1997, 30 percent for each of fiscal years 1998 and 1999, and 35 percent for each of fiscal years 2000, 2001, and 2002, of the total amount of credit guarantees issued for a fiscal year is issued to promote the export of processed or high-value agricultural products and that the balance is issued to promote the export of bulk or raw agricultural commodities.

"(2) Limitation.—The percentage requirement of paragraph (1) shall apply for a fiscal year to the extent that a reduction in the total amount of credit guarantees issued for the fiscal year is not required to meet the percentage requirement.".

(b) Funding Levels.—Section 211 of the Agricultural Trade Act of 1978 (7 U.S.C. 5641) is amended by striking subsection (b) and inserting the following:

"(b) Export Credit Guarantee Programs.—

"(1) Export credit guarantees.—The Commodity Credit Corporation shall make available for each of fiscal years 1996 through 2002 not less than $5,500,000,000 in credit guarantees under subsections (a) and (b) of section 202.

"(2) Limitation on origination fee.—Notwithstanding any other provision of law, the Secretary may not charge an origination fee with respect to any credit guarantee transaction under section 202(a) in excess of an amount equal to 1 percent of the amount of credit to be guaranteed under the transaction, except with respect to an export credit guarantee transaction pursuant to section 1542(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5622 note).".

(c) Definition of United States Agricultural Commodity.—Section 102(7) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(7)) is amended by striking subparagraphs (A) and (B) and inserting the following:

"(A) an agricultural commodity or product entirely produced in the United States; or

"(B) a product of an agricultural commodity—

"(i) 90 percent or more of the agricultural components of which by weight, excluding packaging and added water, is entirely produced in the United States; and

"(ii) that the Secretary determines to be a high value agricultural product.".

(d) Regulations.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations to carry out the amendments made by this section.

SEC. 244. MARKET ACCESS PROGRAM.

(a) Change of Name.—

(1) In general.—Section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) is amended—

*(A) in the section heading, by striking "**MARKET PROMOTION PROGRAM**" and inserting "**MARKET ACCESS PROGRAM**"; and*

(B) by striking "marketing promotion program" each place it appears and inserting "market access program".

(2) Conforming amendments.—

(A) Section 1302 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 7 U.S.C. 5623) is amended—

*(i) in the section heading, by striking "**MARKET PROMOTION PROGRAM**" and inserting "**MARKET ACCESS PROGRAM**"; and*

(ii) in subsection (b), by striking "market promotion program" each place it appears and inserting "market access program".

(B) Section 211(c) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)) is amended—

(i) in the subsection heading, by striking "Marketing Promotion Programs" and inserting "Market Access Programs";

(ii) by striking "market promotion activities" and inserting "market access activities";

(iii) in paragraph (1), by striking "market development program" and inserting "market access program"; and

(iv) in paragraph (2), by striking "marketing promotion program" and inserting "market access program".

(b) Use of Funds.—Section 203(f) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(f)) is amended by adding at the end the following:

"(4) Use of funds.—Funds made available to carry out this section—

"(A) shall not be used to provide direct assistance to any foreign for-profit corporation for the corporation's use in promoting foreign-produced products;

"(B) shall not be used to provide direct assistance to any for-profit corporation that is not recognized as a small-business concern described in section 3(a) of the Small Business Act (15 U.S.C. 632(a)), excluding—

"(i) a cooperative;

"(ii) an association described in the first section of the Act entitled 'An Act To authorize association of producers of agricultural products', approved February 18, 1922 (7 U.S.C. 291); and

"(iii) a nonprofit trade association; and

"(C) may be used by a United States trade association, cooperative, or small business for individual branded promotional activity related to a United States branded product, if the beneficiaries of the activity have provided funds for the activity in an amount that is at least equivalent to the amount of assistance provided under this section.".

(c) Funding.—Effective October 1, 1995, section 211(c)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)(1)) is amended—

(1) by striking "and" after "1991 through 1993,"; and

(2) by striking "through 1997," and inserting "through 1995, and not more than $90,000,000 for each of fiscal years 1996 through 2002,".

SEC. 245. EXPORT ENHANCEMENT PROGRAM.

(a) In General.—Effective October 1, 1995, section 301(e) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)) is amended by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—The Commodity Credit Corporation shall make available to carry out the program established under this section not more than—

"(A) $350,000,000 for fiscal year 1996;

"(B) $250,000,000 for fiscal year 1997;

"(C) $500,000,000 for fiscal year 1998;

"(D) $550,000,000 for fiscal year 1999;

"(E) $579,000,000 for fiscal year 2000;

"(F) $478,000,000 for fiscal year 2001; and

"(G) $478,000,000 for fiscal year 2002.".

(b) PRIORITY FUNDING FOR INTERMEDIATE PRODUCTS.—Section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651) is amended by adding at the end the following:

"(h) PRIORITY FUNDING FOR INTERMEDIATE PRODUCTS.—

"(1) IN GENERAL.—Effective beginning in fiscal year 1996, and consistent, as determined by the Secretary, with the obligations and reduction commitments undertaken by the United States under the Uruguay Round Agreements, the Secretary may make available not more than $100,000,000 for each fiscal year under this section for the sale of intermediate agricultural products in sufficient quantities to attain the volume of export sales consistent with the volume of intermediate agricultural products exported by the United States during the Uruguay Round base period years of 1986 through 1990.

"(2) ADDITIONAL ASSISTANCE.—Notwithstanding paragraph (1), if the export sale of any intermediate agricultural product attains the volume of export sales consistent with the volume of the intermediate agricultural product exported by the United States during the Uruguay Round base period years of 1986 through 1990, the Secretary may make available additional amounts under this section for the encouragement of export sales of the intermediate agricultural product.".

SEC. 246. ARRIVAL CERTIFICATION.

Section 401 of the Agricultural Trade Act of 1978 (7 U.S.C. 5661) is amended by striking subsection (a) and inserting the following:

"(a) ARRIVAL CERTIFICATION.—With respect to a commodity provided, or for which financing or a credit guarantee or other assistance is made available, under a program authorized in section 201, 202, or 301, the Commodity Credit Corporation shall require the exporter of the commodity to maintain records of an official or customary commercial nature or other documents as the Secretary may require, and shall allow representatives of the Commodity Credit Corporation access to the records or documents as needed, to verify the arrival of the commodity in the country that is the intended destination of the commodity.".

SEC. 247. COMPLIANCE.

Section 402(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5662(a)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

SEC. 248. REGULATIONS.

Section 404 of the Agricultural Trade Act of 1978 (7 U.S.C. 5664) is repealed.

SEC. 249. TRADE COMPENSATION AND ASSISTANCE PROGRAMS.

Subtitle B of title IV of the Agricultural Trade Act of 1978 (7 U.S.C. 5671 et seq.) is amended by adding at the end the following:

"SEC. 417. TRADE COMPENSATION AND ASSISTANCE PROGRAMS.

"(a) IN GENERAL.—Except as provided in subsection (f), notwithstanding any other provision of law, if, after the date of enactment of this section, the President or any other member of the executive branch causes exports from the United States to any country to be unilaterally suspended for reasons of national security or foreign policy, and if within 90 days after the date on which the suspension is imposed on United States exports no other country with an agricultural economic interest agrees to participate in the suspension, the Secretary shall carry out a trade compensation assistance program in accordance with this section (referred to in this section as a 'program').

"(b) COMPENSATION OR PROVISION OF FUNDS.—Under a program, the Secretary shall, based on an evaluation by the Secretary of the method most likely to produce the greatest compensatory benefit for producers of the commodity involved in the suspension—

"(1) compensate producers of the commodity by making payments available to producers, as provided by subsection (c)(1); or

"(2) make available an amount of funds calculated under subsection (c)(2), to promote agricultural exports or provide agricultural commodities to developing countries under any authorities available to the Secretary.

"(c) DETERMINATION OF AMOUNT OF COMPENSATION OR FUNDS.—

"(1) COMPENSATION.—If the Secretary makes payments available to producers under subsection (b)(1), the amount of the payment shall be determined by the Secretary based on the Secretary's estimate of the loss suffered by producers of the commodity involved due to any decrease in the price of the commodity as a result of the suspension.

"(2) DETERMINATION OF AMOUNT OF FUNDS.—For each fiscal year of a program, the amount of funds made available under subsection (b)(2) shall be equal to 90 percent of the average annual value of United States agricultural exports to the country with respect to which exports are suspended during the most recent 3 years prior to the suspension for which data are available.

"(d) DURATION OF PROGRAM.—For each suspension of exports for which a program is implemented under this section, funds shall be made available under subsection (b) for each fiscal year or part of a fiscal year for which the suspension is in effect, but not to exceed 3 fiscal years.

"(e) COMMODITY CREDIT CORPORATION.—The Secretary shall use funds of the Commodity Credit Corporation to carry out this section.

"(f) EXCEPTION TO CARRYING OUT A PROGRAM.—This section shall not apply to any suspension of trade due to a war or armed hostility.

"(g) PARTIAL YEAR EMBARGOES.—If the Secretary makes funds available under subsection (b)(2), regardless of whether an embargo is in effect for only part of a fiscal year, the full amount of funds as calculated under subsection (c)(2) shall be made available under a program for the fiscal year. If the Secretary determines that making the required amount of funds available in a partial fiscal year is impracticable, the Secretary may make all or part of the funds required to be made available in the following fiscal year (in addition to any funds otherwise required under a program to be made available in the following fiscal year).

"(h) SHORT SUPPLY EMBARGOES.—If the President or any other member of the executive branch causes exports to be suspended based on a determination of short supply, the Secretary shall carry out section 1002 of the Food and Agriculture Act of 1977 (7 U.S.C. 1310).".

SEC. 250. FOREIGN AGRICULTURAL SERVICE.

Section 503 of the Agricultural Trade Act of 1978 (7 U.S.C. 5693) is amended to read as follows:

"SEC. 503. DUTIES OF FOREIGN AGRICULTURAL SERVICE.

"The Service shall assist the Secretary in carrying out the agricultural trade policy and international cooperation policy of the United States by—

"(1) acquiring information pertaining to agricultural trade;

"(2) carrying out market promotion and development activities;

"(3) providing agricultural technical assistance and training; and

"(4) carrying out the programs authorized under this Act, the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), and other Acts.".

SEC. 251. REPORTS.

The first sentence of section 603 of the Agricultural Trade Act of 1978 (7 U.S.C. 5713) is amended by striking "The" and inserting "Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), the".

SEC. 252. FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.

The Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.) is amended by adding at the end the following:

"TITLE VII—FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM

"SEC. 701. DEFINITION OF ELIGIBLE TRADE ORGANIZATION.

"In this title, the term 'eligible trade organization' means a United States trade organization that—

"(1) promotes the export of 1 or more United States agricultural commodities or products; and

"(2) does not have a business interest in or receive remuneration from specific sales of agricultural commodities or products.

"SEC. 702. FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish and, in cooperation with eligible trade organizations, carry out a foreign market development cooperator program to maintain and develop foreign markets for United States agricultural commodities and products.

"(b) ADMINISTRATION.—Funds made available to carry out this title shall be used only to provide—

"(1) cost-share assistance to an eligible trade organization under a contract or agreement with the organization; and

"(2) assistance for other costs that are necessary or appropriate to carry out the foreign market development cooperator program, including contingent liabilities that are not otherwise funded.

"SEC. 703. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title such sums as may be necessary for each of fiscal years 1996 through 2002.".

Subtitle C—Miscellaneous Agricultural Trade Provisions

SEC. 261. EDWARD R. MADIGAN UNITED STATES AGRICULTURAL EXPORT EXCELLENCE AWARD.

(a) FINDINGS.—Congress finds that—

(1) United States producers of agricultural products are some of the most productive and efficient producers of agricultural products in the world;

(2) continued growth and expansion of markets for United States agricultural exports is crucial to the continued development and economic well-being of rural areas of the United States and the agricultural sector of the United States economy;

(3) in recent years, United States agricultural exports have steadily increased, surpassing $54,000,000,000 in value in 1995;

(4) as United States agricultural producers move toward a market-oriented system in which planting and other decisions by producers are driven by national and international market signals, developing new and expanding agricultural export markets is vital to maintaining a vibrant and healthy agricultural sector and rural economy; and

(5) a United States agricultural export excellence award will increase United States agricultural exports by—

(A) identifying efforts of United States entities to develop and expand markets for United States agricultural exports through the development of new products and services and through the use of innovative marketing techniques;

(B) recognizing achievements of those who have exhibited or supported entrepreneurial efforts to expand and create new markets for United States agricultural exports or increase the volume or value of United States agricultural exports; and

(C) disseminating information on successful methods used to develop and expand markets for United States agricultural exports.

(b) ESTABLISHMENT.—There is established the Edward R. Madigan United States Agricultural Export Excellence Award, which shall be evidenced by a medal bearing the inscription "Edward R. Madigan United States Agricultural Export Excellence Award". The medal shall be of such design and materials and bear such additional inscriptions as the Secretary of Agriculture (referred to in this section as the "Secretary") may prescribe.

(c) SELECTION OF RECIPIENT.—The President or the Secretary (on the basis of recommendations received from the board established under subsection (h)) shall periodically provide the award to companies and other entities that in the judgment of the President or the Secretary substantially encourage entrepreneurial efforts in the food and agriculture sector for advancing United States agricultural exports.

(d) PRESENTATION OF AWARD.—The presentation of the award shall be made by the President or the Secretary with such ceremonies as the President or the Secretary considers proper.

(e) PUBLICATION OF AWARD.—An entity to which an award is made under this section may publicize the receipt of the award by the entity and use the award in advertising of the entity.

(f) CATEGORIES FOR WHICH AWARD MAY BE GIVEN.—Separate awards shall be made to qualifying entities in each of the following categories:

(1) Development of new products or services for agricultural export markets.

(2) Development of new agricultural export markets.

(3) Creative marketing of products or services in agricultural export markets.

(g) CRITERIA FOR QUALIFICATION.—An entity may qualify for an award under this section only if the entity—

(1)(A) applies to the board established under subsection (h) in writing for the award; or

(B) is recommended for the award by a Governor of a State;

(2)(A) has exhibited significant entrepreneurial effort to create new markets for United States agricultural exports or increase United States agricultural exports; or

(B) has provided significant assistance to others in an effort to create new markets for United States agricultural exports or increase United States agricultural exports;

(3) has not received another award in the same category under subsection (f) during the preceding 5-year period; and

(4) meets such other requirements and specifications as the Secretary determines are appropriate to achieve the objectives of this section.

(h) BOARD.—

(1) SELECTION.—The Secretary shall appoint a board of evaluators, consisting of at least 5 individuals from the private sector selected for their knowledge and experience in exporting United States agricultural products.

(2) MEETINGS.—The board shall meet at least once annually to review and evaluate all applicants and entities recommended by States under subsection (g)(1).

(3) RECOMMENDATIONS OF BOARD.—The board shall report its recommendations concerning the making of the award to the Secretary.

(4) TERM.—Each member of the board may serve a term of not to exceed 3 years.

(i) FUNDING.—The Secretary may seek and accept gifts from public and private sources to carry out this section.

SEC. 262. REPORTING REQUIREMENTS RELATING TO TOBACCO.

Section 214 of the Tobacco Adjustment Act of 1983 (7 U.S.C. 509) is repealed.

SEC. 263. TRIGGERED EXPORT ENHANCEMENT.

(a) READJUSTMENT OF SUPPORT LEVELS.—Section 1302 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 7 U.S.C. 1421 note) is repealed.

(b) TRIGGERED MARKETING LOANS AND EXPORT ENHANCEMENT.—Section 4301 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418; 7 U.S.C. 1446 note) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective beginning with the 1996 crops of wheat, feed grains, upland cotton, and rice.

SEC. 264. DISPOSITION OF COMMODITIES TO PREVENT WASTE.

Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is amended—

(1) in subsection (b)—

(A) in paragraph (7)—

(i) in subparagraph (D)(iv), by striking "one year of acquisition" and all that follows through the period at the end and inserting the following: "a reasonable length of time, as determined by the Secretary, except that the Secretary may permit the use of proceeds in a country other than the country of origin—

"(I) as necessary to expedite the transportation of commodities and products furnished under this subsection; or

"(II) if the proceeds are generated in a currency generally accepted in the other country."; and

(ii) by striking the sentence following subparagraph (F) and inserting the following: "The Secretary may approve the use of proceeds or services realized from the sale or barter of a commodity furnished under this subsection by a nonprofit voluntary agency, cooperative, or intergovernmental agency or organization to meet administrative expenses incurred in connection with activities undertaken under this subsection.";

(B) in paragraph (8), by striking subparagraph (C); and

(C) by striking paragraphs (10), (11), and (12); and

(2) by striking subsection (c).

SEC. 265. DEBT-FOR-HEALTH-AND-PROTECTION SWAP.

(a) IN GENERAL.—Section 1517 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1706) is repealed.

(b) TECHNICAL AMENDMENT.—Subsection (e)(3) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(e)(3)) is amended by striking "section 106" and inserting "section 103".

SEC. 266. POLICY ON EXPANSION OF INTERNATIONAL MARKETS.

Section 1207 of the Agriculture and Food Act of 1981 (7 U.S.C. 1736m) is repealed.

SEC. 267. POLICY ON MAINTENANCE AND DEVELOPMENT OF EXPORT MARKETS.

Section 1121 of the Food Security Act of 1985 (7 U.S.C. 1736p) is amended—

(1) by striking subsection (a); and

(2) in subsection (b)—

(A) by striking "(b)"; and

(B) by striking paragraphs (1) through (4) and inserting the following:

"(1) be the premier supplier of agricultural and food products to world markets and expand exports of high value products;

"(2) support the principle of free trade and the promotion of fair trade in agricultural commodities and products;

"(3) cooperate fully in all efforts to negotiate with foreign countries further reductions in tariff and nontariff barriers to trade, including sanitary and phytosanitary measures and trade-distorting subsidies;

"(4) aggressively counter unfair foreign trade practices as a means of encouraging fairer trade;".

SEC. 268. POLICY ON TRADE LIBERALIZATION.

Section 1122 of the Food Security Act of 1985 (7 U.S.C. 1736q) is repealed.

SEC. 269. AGRICULTURAL TRADE NEGOTIATIONS.

Section 1123 of the Food Security Act of 1985 (7 U.S.C. 1736r) is amended to read as follows:

"SEC. 1123. TRADE NEGOTIATIONS POLICY.

"(a) FINDINGS.—Congress finds that—

"(1) on a level playing field, United States producers are the most competitive suppliers of agricultural products in the world;

"(2) exports of United States agricultural products accounted for $54,000,000,000 in 1995, contributing a net $24,000,000,000 to the merchandise trade balance of the United States and supporting approximately 1,000,000 jobs;

"(3) increased agricultural exports are critical to the future of the farm, rural, and overall United States economy, but the opportunities for increased agricultural exports are limited by the unfair subsidies of the competitors of the United States, and a variety of tariff and nontariff barriers to highly competitive United States agricultural products;

"(4) international negotiations can play a key role in breaking down barriers to United States agricultural exports;

"(5) the Uruguay Round Agreement on Agriculture made significant progress in the attainment of increased market access opportunities for United States exports of agricultural products, for the first time—

"(A) restraining foreign trade-distorting domestic support and export subsidy programs; and

"(B) developing common rules for the application of sanitary and phytosanitary restrictions; that should result in increased exports of United States agricultural products, jobs, and income growth in the United States;

"(6) the Uruguay Round Agreement on Agriculture did not succeed in completely eliminating trade distorting domestic support and export subsidies by—

"(A) allowing the European Union to continue unreasonable levels of spending on export subsidies; and

"(B) failing to discipline monopolistic state trading entities, such as the Canadian Wheat Board, that use nontransparent and discriminatory pricing as a hidden de facto export subsidy;

"(7) during the period 1996 through 2002, there will be several opportunities for the United States to negotiate fairer trade in agricultural products, including further negotiations under the World Trade Organization, and steps toward possible free trade agreements of the Americas and Asian-Pacific Economic Cooperation (APEC); and

"(8) the United States should aggressively use these opportunities to achieve more open and fair opportunities for trade in agricultural products.

"(b) GOALS OF THE UNITED STATES IN AGRICULTURAL TRADE NEGOTIATIONS.—The objectives of the United States with respect to future negotiations on agricultural trade include—

"(1) increasing opportunities for United States exports of agricultural products by eliminating tariff and nontariff barriers to trade;

"(2) leveling the playing field for United States producers of agricultural products by limiting per unit domestic production supports to *levels that are no greater than those available in the United States;*

"(3) ending the practice of export dumping by eliminating all trade distorting export subsidies and disciplining state trading entities so that they do not (except in cases of bona fide food aid) sell in foreign markets at prices below domestic market prices or prices below their full costs of acquiring and delivering agricultural products to the foreign markets; and

"(4) encouraging government policies that avoid price-depressing surpluses.".

SEC. 270. POLICY ON UNFAIR TRADE PRACTICES.

Section 1164 of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1499) is repealed.

SEC. 271. AGRICULTURAL AID AND TRADE MISSIONS.

(a) IN GENERAL.—The Agricultural Aid and Trade Missions Act (7 U.S.C. 1736bb et seq.) is repealed.

(b) CONFORMING AMENDMENT.—Section 7 of Public Law 100–277 (7 U.S.C. 1736bb note) is repealed.

SEC. 272. ANNUAL REPORTS BY AGRICULTURAL ATTACHES.

Section 108(b)(1)(B) of the Agricultural Act of 1954 (7 U.S.C. 1748(b)(1)(B)) is amended by striking "including fruits, vegetables, legumes, popcorn and ducks".

SEC. 273. WORLD LIVESTOCK MARKET PRICE INFORMATION.

Section 1545 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 1761 note) is repealed.

SEC. 274. ORDERLY LIQUIDATION OF STOCKS.

Sections 201 and 207 of the Agricultural Act of 1956 (7 U.S.C. 1851 and 1857) are repealed.

SEC. 275. SALES OF EXTRA LONG STAPLE COTTON.

Section 202 of the Agricultural Act of 1956 (7 U.S.C. 1852) is repealed.

SEC. 276. REGULATIONS.

Section 707 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102–511; 7 U.S.C. 5621 note) is amended by striking subsection (d).

SEC. 277. EMERGING MARKETS.

(a) PROMOTION OF AGRICULTURAL EXPORTS TO EMERGING MARKETS.—

(1) EMERGING MARKETS.—Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5622 note) is amended—

*(A) in the section heading, by striking "**EMERGING DEMOCRACIES**" and inserting "**EMERGING MARKETS**";*

(B) by striking "emerging democracies" each place it appears in subsections (b), (d), and (e) and inserting "emerging markets";

(C) in subsection (c), by striking "emerging democracy" each place it appears and inserting "emerging market"; and

(D) by striking subsection (f) and inserting the following:

"(f) EMERGING MARKET.—In this section and section 1543, the term 'emerging market' means any country that the Secretary determines—

"(1) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

"(2) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.".

(2) FUNDING.—Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking subsection (a) and inserting the following:

"(a) FUNDING.—The Commodity Credit Corporation shall make available for fiscal years 1996 through 2002 not less than $1,000,000,000 of direct credits or export credit guarantees for exports to emerging markets under section 201 or 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5621 and 5622), in addition to the amounts acquired or authorized under section 211 of the Act (7 U.S.C. 5641) for the program.".

(3) AGRICULTURAL FELLOWSHIP PROGRAM.—Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended—

(A) in subsection (b), by striking the last sentence and inserting the following: "The Commodity Credit Corporation shall give priority under this subsection to—

"(A) projects that encourage the privatization of the agricultural sector or that benefit private farms or cooperatives in emerging markets; and

"(B) projects for which nongovernmental persons agree to assume a relatively larger share of the costs."; and

(B) in subsection (d)—

(i) in the matter preceding paragraph (1), by striking "the Soviet Union" and inserting "emerging markets";

(ii) in paragraph (1)—

(I) in subparagraph (A)(i)—

(aa) by striking "1995" and inserting "2002"; and

(bb) by striking "those systems, and identify" and inserting "the systems, including potential reductions in trade barriers, and identify and carry out";

(II) in subparagraph (B), by striking "shall" and inserting "may";

(III) in subparagraph (D), by inserting "(including the establishment of extension services)" after "technical assistance";

(IV) by striking subparagraph (F); and

(V) by redesignating subparagraphs (G), (H), and (I) as subparagraphs (F), (G), and (H), respectively;

(iii) in paragraph (2)—

(I) by striking "the Soviet Union" each place it appears and inserting "emerging markets";

(II) in subparagraph (A), by striking "a free market food production and distribution system" and inserting "free market food production and distribution systems";

(III) in subparagraph (B)—

(aa) in clause (i), by striking "Government" and inserting "governments";

(bb) in clause (iii)(II), by striking "and" at the end;

(cc) in clause (iii)(III), by striking the period at the end and inserting "; and"; and

(dd) by adding at the end of clause (iii) the following:

"(IV) to provide for the exchange of administrators and faculty members from agricultural and other institutions to strengthen and revise educational programs in agricultural economics, agribusiness, and agrarian law, to support change towards a free market economy in emerging markets.";

(IV) by striking subparagraph (D); and

(V) by redesignating subparagraph (E) as subparagraph (D); and

(iv) by striking paragraph (3).

(4) UNITED STATES AGRICULTURAL COMMODITY.—Subsections (b) and (c) of section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 are amended by striking "section 101(6)" each place it appears and inserting "section 102(7)".

(5) REPORT.—The first sentence of section 1542(e)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking "Not" and inserting "Subject to section 217 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6917), not".

(b) AGRICULTURAL FELLOWSHIP PROGRAM FOR MIDDLE INCOME COUNTRIES, EMERGING DEMOCRACIES, AND EMERGING MARKETS.—Section 1543 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3293) is amended—

*(1) in the section heading, by striking "**MIDDLE INCOME COUNTRIES AND EMERGING DEMOCRACIES**" and inserting "**MIDDLE INCOME COUNTRIES, EMERGING DEMOCRACIES, AND EMERGING MARKETS**";*

(2) in subsection (b), by adding at the end the following:

"(5) EMERGING MARKET.—Any emerging market, as defined in section 1542(f)."; and

(3) in subsection (c)(1), by striking "food needs" and inserting "food and fiber needs".

(c) CONFORMING AMENDMENTS.—

(1) Section 501 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737) is amended—

(A) in subsection (a), by striking "emerging democracies" and inserting "emerging markets"; and

(B) in subsection (b), by striking paragraph (1) and inserting the following:

"(1) EMERGING MARKET.—The term 'emerging market' means any country that the Secretary determines—

"(A) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

"(B) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.".

(2) Section 201(d)(1)(C)(ii) of the Agricultural Trade Act of 1978 (7 U.S.C. 5621(d)(1)(C)(ii)) is amended by striking "emerging democracies" and inserting "emerging markets".

(3) Section 202(d)(3)(B) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(d)(3)(B)) is amended by striking "emerging democracies" and inserting "emerging markets".

SEC. 278. REIMBURSEMENT FOR OVERHEAD EXPENSES.

Section 1542(d)(1)(D) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5622 note) is amended by adding at the end the following: "Notwithstanding any other provision of law, the assistance shall include assistance for administrative and overhead expenses of the International Cooperation and Development Program Area of the Foreign Agriculture Service, to the extent that the expenses were incurred pursuant to reimbursable agreements entered into prior to September 30, 1993, the expenses do not exceed $2,000,000 per year, and the expenses are not incurred for information technology systems.".

SEC. 279. LABELING OF DOMESTIC AND IMPORTED LAMB AND MUTTON.

Section 7 of the Federal Meat Inspection Act (21 U.S.C. 607) is amended by adding at the end the following:

"(f) LAMB AND MUTTON.—The Secretary, consistent with United States international obligations, shall establish standards for the labeling of sheep carcasses, parts of sheep carcasses, sheepmeat, and sheepmeat food products.".

SEC. 280. IMPORT ASSISTANCE FOR CBI BENEFICIARY COUNTRIES AND THE PHILIPPINES.

Section 583 of Public Law 100–202 (101 Stat. 1329–182) is repealed.

SEC. 281. STUDIES, REPORTS, AND OTHER PROVISIONS.

(a) IN GENERAL.—Sections 1551 through 1555, section 1558, and section 1559 of subtitle E of title XV of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3696) (as redesignated by section 1011(d) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66; 109 Stat. 709)) are repealed.

(b) LANGUAGE PROFICIENCY.—Section 1556 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 5694 note) is amended by striking subsection (c).

SEC. 282. SENSE OF CONGRESS CONCERNING MULTILATERAL DISCIPLINES ON CREDIT GUARANTEES.

It is the sense of Congress that—

(1) in negotiations to establish multilateral disciplines on agricultural export credits and credit guarantees, the United States should not agree to any arrangement that is incompatible with the provisions of United States law that authorize agricultural export credits and credit guarantees;

(2) in the negotiations (which are held under the auspices of the Organization for Economic Cooperation and Development), the United States should not reach any agreement that fails to impose disciplines on the practices of foreign government trading entities such as the Australian Wheat Board, the Canadian Wheat Board, the New Zealand Dairy Board, and the Australian Dairy Board; and

(3) the disciplines should include greater openness in the operations of the entities as long as the entities are subsidized by the foreign government or have monopolies for exports of a commodity that are sanctioned by the foreign government.

SEC. 283. INTERNATIONAL COTTON ADVISORY COMMITTEE.

(a) In General.—The President shall ensure that the Government of the United States participates as a full member of the International Cotton Advisory Committee.

(b) Representation by the Secretary.—The Secretary of Agriculture shall represent the Government of the United States as a member of the International Cotton Advisory Committee and shall delegate the primary responsibility to represent the Government of the United States to appropriately qualified individuals.

TITLE III—CONSERVATION

Subtitle A—Definitions

SEC. 301. DEFINITIONS APPLICABLE TO HIGHLY ERODIBLE CROPLAND CONSERVATION.

(a) Conservation Plan and Conservation System.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended—

(1) by redesignating paragraphs (2) through (16) as paragraphs (4) through (18), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) Conservation plan.—The term 'conservation plan' means the document that—

"(A) applies to highly erodible cropland;

"(B) describes the conservation system applicable to the highly erodible cropland and describes the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedule; and

"(C) is approved by the local soil conservation district, in consultation with the local committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) and the Secretary, or by the Secretary.

"(3) Conservation system.—The term 'conservation system' means a combination of 1 or more conservation measures or management practices that—

"(A) are based on local resource conditions, available conservation technology, and the standards and guidelines contained in the Natural Resources Conservation Service field office technical guides; and

"(B) are designed to achieve, in a cost effective and technically practicable manner, a substantial reduction in soil erosion or a substantial improvement in soil conditions on a field or group of fields containing highly erodible cropland when compared to the level of erosion or soil conditions that existed before the application of the conservation measures and management practices.".

(b) Field.—Section 1201(a) of the Food Security Act of 1985 is amended by striking paragraph (7) (as redesignated by subsection (a)(1)) and inserting the following:

"(7) Field.—The term 'field' means a part of a farm that is separated from the balance of the farm by permanent boundaries such as fences, roads, permanent waterways, or other similar features. At the option of the owner or operator of the farm, croplines may also be used to delineate a field if farming practices make it probable that the croplines are not subject to change. Any highly erodible land on which an agricultural commodity is produced after December 23, 1985, and that is not exempt under section 1212, shall be considered as part of the field in which the land was included on December 23, 1985, unless the owner and Secretary agree to modification of the boundaries of the field to carry out this title.".

(c) Highly Erodible Land.—Section 1201(a)(9) of the Food Security Act of 1985 (as redesignated by subsection (a)(1)) is amended by adding at the end the following:

"(C) Equations.—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall publish in the Federal Register the universal soil loss equation and wind erosion equation used by the Department of Agriculture as of that date. The Secretary may not change the equations after that date except following notice and comment in a manner consistent with section 553 of title 5, United States Code.".

(d) Conforming Amendments.—Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) is amended—

(1) in the first sentence of subsection (a)(2), by striking "that documents" and all that follows through "by the Secretary";

(2) in subsection (c)(3), by striking "based on" and all that follows through "and the Secretary," and inserting ", in which case,";

(3) in subsection (e)(1)(A), by striking "conservation compliance plan" and inserting "conservation plan"; and

(4) in subsection (f)—

(A) in paragraph (1), by striking "that documents" and all that follows through "under subsection (a)";

(B) in paragraph (3), by striking "prepared under subsection (a)"; and

(C) in paragraph (4), by striking "that documents" and all that follows through "subsection (a)".

Subtitle B—Highly Erodible Land Conservation

SEC. 311. PROGRAM INELIGIBILITY.

Effective 90 days after the date of enactment of this Act, section 1211 of the Food Security Act of 1985 (16 U.S.C. 3811) is amended—

(1) in the matter preceding paragraph (1), by striking "following the date of enactment of this Act,";

(2) in paragraph (1)—

(A) by striking subparagraph (A) and inserting the following:

"(A) contract payments under a production flexibility contract, marketing assistance loans, and any type of price support or payment made available under the Agricultural Market Transition Act, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;";

(B) by striking subparagraph (C);

(C) in subparagraph (D), by striking "made under" and all that follows through "August 14, 1989";

(D) in subparagraph (E), by striking "Farmers Home Administration" and inserting "Consolidated Farm Service Agency"; and

(E) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(3) by striking paragraph (3) and inserting the following:

"(3) during the crop year—

"(A) a payment made pursuant to a contract entered into under the environmental quality incentives program under chapter 4 of subtitle D;

"(B) a payment under any other provision of subtitle D;

"(C) a payment under section 401 or 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202); or

"(D) a payment, loan, or other assistance under section 3 or 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 and 1006a).".

SEC. 312. CONSERVATION RESERVE LANDS.

Section 1212(a)(3) of the Food Security Act of 1985 (16 U.S.C. 3812(a)(3)) is amended by striking "shall, if the conservation plan established under this subtitle for such land requires structures to be constructed," and inserting "shall only be required to apply a conservation plan established under this subtitle. The person shall not be required to meet a higher conservation standard than the standard applied to other highly erodible cropland located within the same area. If the person's conservation plan requires structures to be constructed, the person shall".

SEC. 313. GOOD FAITH EXEMPTION.

(a) Grace Period To Resume Conservation Compliance.—Section 1212(f)(1) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(1)) is amended—

(1) by striking "Except to the extent provided in paragraph (2), no" and inserting "No"; and

(2) by striking "such person has—" and all that follows through the period at the end of subparagraph (B) and inserting the following: "the person has acted in good faith and without an intent to violate this subtitle. A person who meets the requirements of this paragraph shall be allowed a reasonable period of time, as determined by the Secretary, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to be actively applying the person's conservation plan.".

(b) Special Penalties Regarding Certain Highly Erodible Cropland.—Section 1212(f)(2) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(2)) is amended by striking "meets the requirements of paragraph (1)" and inserting "with respect to highly erodible cropland that was not in production prior to December 23, 1985, and has acted in good faith and without an intent to violate the provisions".

(c) Conforming Amendment.—Section 1212(f)(4) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(4)) is amended by striking the last sentence.

SEC. 314. EXPEDITED PROCEDURES FOR GRANTING VARIANCES FROM CONSERVATION PLANS.

Section 1212(f) of the Food Security Act of 1985 (16 U.S.C. 3812(f)(4)) is amended—

(1) in paragraph (4)(C), by striking "problem" and inserting "problem, including weather, pest, and disease problems"; and

(2) by adding at the end the following:

"(5) Expedited procedures for temporary variances.—After consultation with local conservation districts, the Secretary shall establish expedited procedures for the consideration and granting of temporary variances under paragraph (4)(C). If the request for a temporary variance under paragraph (4)(C) involves the use of practices or measures to address weather, pest, or disease problems, the Secretary shall make a decision on whether to grant the variance during the 30-day period beginning on the date of receipt of the request. If the Secretary fails to render a decision during the period, the *temporary variance shall be considered granted.".*

SEC. 315. DEVELOPMENT AND IMPLEMENTATION OF CONSERVATION PLANS AND CONSERVATION SYSTEMS.

(a) DEVELOPMENT AND IMPLEMENTATION.—The Food Security Act of 1985 is amended—

(1) by redesignating section 1213 (16 U.S.C. 3813) as section 1214; and

(2) by inserting after section 1212 (16 U.S.C. 3812) the following:

"SEC. 1213. DEVELOPMENT AND IMPLEMENTATION OF CONSERVATION PLANS AND CONSERVATION SYSTEMS.

"(a) TECHNICAL REQUIREMENTS.—In connection with the standards and guidelines contained in Natural Resources Conservation Service field office technical guides applicable to the development and use of conservation measures and management practices as part of a conservation system, the Secretary shall ensure that the standards and guidelines permit a person to use a conservation system that—

"(1) is technically and economically feasible;

"(2) is based on local resource conditions and available conservation technology;

"(3) is cost-effective; and

"(4) does not cause undue economic hardship on the person applying the conservation system under the person's conservation plan.

"(b) MEASUREMENT OF EROSION REDUCTION.—For the purpose of determining whether there is a substantial reduction in soil erosion on a field containing highly erodible cropland, the measurement of erosion reduction achieved by the application of a conservation system under a person's conservation plan shall be based on the estimated annual level of erosion at the time of the measurement compared to the estimated annual level of erosion that existed before the implementation of the conservation measures and management practices provided for in the conservation system.

"(c) RESIDUE MEASUREMENT.—

"(1) RESPONSIBILITIES OF THE SECRETARY.—For the purpose of measuring the level of residue on a field, the Secretary shall—

"(A) take into account any residue incorporated into the top 2 inches of soil, as well as the growing crop, in the measurement;

"(B) provide technical guidelines for acceptable residue measurement methods;

"(C) provide a certification system for third parties to perform residue measurements; and

"(D) provide for the acceptance and use of information and data voluntarily provided by the producer regarding the field.

"(2) ACCEPTANCE OF PRODUCER MEASUREMENTS.—Annual residue measurements supplied by a producer (including measurements performed by a certified third party) shall be used by the Secretary if the Secretary determines that the measurements indicate that the residue level for the field meets the level required under the conservation plan.

"(d) CERTIFICATION OF COMPLIANCE.—

"(1) IN GENERAL.—For the purpose of determining the eligibility of a person for program benefits specified in section 1211 at the time application is made for the benefits, the Secretary shall permit the person to certify that the person is complying with the person's conservation plan.

"(2) STATUS REVIEWS.—If a person makes a certification under paragraph (1), the Secretary shall not be required to carry out a review of the status of compliance of the person with the conservation plan under which the conservation system is being applied.

"(3) REVISIONS AND MODIFICATIONS.—The Secretary shall permit a person who makes a certification under paragraph (1) with respect to a conservation plan to revise the conservation plan in any manner, if the same level of conservation treatment provided for by the conservation system under the person's conservation plan is maintained. The Secretary may not revise the person's conservation plan without the concurrence of the person.

"(e) TECHNICAL ASSISTANCE.—The Secretary shall, using available resources and consistent with the Secretary's other conservation responsibilities and objectives, provide technical assistance to a person throughout the development, revision, and application of the conservation plan and any conservation system of the person. At the request of the person, the Secretary may provide technical assistance regarding conservation measures and management practices for other lands of the person that do not contain highly erodible cropland.

"(f) ENCOURAGEMENT OF ON-FARM RESEARCH.—To encourage on-farm conservation research, the Secretary may allow a person to include in the person's conservation plan or a conservation system under the plan, on a field trial basis, practices that are not currently approved but that the Secretary considers have a reasonable likelihood of success.".

(b) TREATMENT OF TECHNICAL DETERMINATIONS.—Section 226(d)(2) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6932(d)(2)) is amended—

(1) by striking "DETERMINATION.—With" and inserting "DETERMINATION.—

"(A) IN GENERAL.—With"; and

(2) by adding at the end the following:

"(B) ECONOMIC HARDSHIP.—After a technical determination has been made, on a producer's request, if a county or area committee determines that the application of the producer's conservation system would impose an undue economic hardship on the producer, the committee shall provide the producer with relief to avoid the hardship.".

SEC. 316. INVESTIGATION OF POSSIBLE COMPLIANCE DEFICIENCIES.

Subtitle B of title XII of the Food Security Act of 1985 (as amended by section 315(a)(1)) is amended by adding at the end the following:

"SEC. 1215. NOTICE AND INVESTIGATION OF POSSIBLE COMPLIANCE DEFICIENCIES.

"(a) IN GENERAL.—An employee of the Department of Agriculture who observes a possible compliance deficiency or other potential violation of a conservation plan or this subtitle while providing on-site technical assistance shall provide to the responsible persons, not later than 45 days after observing the possible violation, information regarding actions needed to comply with the plan and this subtitle. The employee shall provide the information in lieu of reporting the observation as a compliance violation.

"(b) CORRECTIVE ACTION.—The responsible persons shall attempt to correct the deficiencies as soon as practicable after receiving the information.

"(c) REVIEW.—If the corrective action is not fully implemented not later than 1 year after the responsible persons receive the information, the Secretary may conduct a review of the status of compliance of the persons with the conservation plan and this subtitle.".

SEC. 317. WIND EROSION ESTIMATION PILOT PROJECT.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a pilot project to review, and modify as appropriate, the use of wind erosion factors under the highly erodible conservation requirements of subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.)

(b) SELECTION OF COUNTIES AND PRODUCERS.—The pilot project shall be conducted for producers in those counties that—

(1) have approximately 100 percent of their cropland determined to be highly erodible under title XII of the Act;

(2) have a reasonable likelihood that the use of wind erosion factors under title XII of the Act have resulted in an inequitable application of the highly erodible land requirements of title XII of the Act; and

(3) if the use of the land classification system under section 1201(a)(9)(A) of the Act (as redesignated by section 301(a)(1)) may result in a more accurate delineation of the cropland.

(c) ERRORS IN DELINEATION.—If the Secretary determines that a significant error has occurred in delineating cropland under the pilot project, the Secretary shall, at the request of the owners or operators of the cropland, conduct a new delineation of the cropland using the most accurate available delineation process, as determined by the Secretary.

Subtitle C—Wetland Conservation

SEC. 321. PROGRAM INELIGIBILITY.

(a) PROGRAM INELIGIBILITY.—Section 1221 of the Food Security Act of 1985 (16 U.S.C. 3821) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by striking the section heading and all that follows through the end of subsection (a) and inserting the following:

"SEC. 1221. PROGRAM INELIGIBILITY.

"(a) PRODUCTION ON CONVERTED WETLAND.—Except as provided in this subtitle and notwithstanding any other provision of law, any person who in any crop year produces an agricultural commodity on converted wetland, as determined by the Secretary, shall be—

"(1) in violation of this section; and

"(2) ineligible for loans or payments in an amount determined by the Secretary to be proportionate to the severity of the violation.

"(b) INELIGIBILITY FOR CERTAIN LOANS AND PAYMENTS.—If a person is determined to have committed a violation under subsection (a) during a crop year, the Secretary shall determine which of, and the amount of, the following loans and payments for which the person shall be ineligible:

"(1) Contract payments under a production flexibility contract, marketing assistance loans, and any type of price support or payment made available under the Agricultural Market Transition Act, the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act.

"(2) A loan made or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Consolidated Farm Service Agency, if the Secretary determines that the proceeds of the loan will be used for a purpose that will contribute to conversion of a wetland (other than as provided in this subtitle) to produce an agricultural commodity.

"(3) During the crop year:

"(A) A payment made pursuant to a contract entered into under the environmental quality incentives program under chapter 4 of subtitle D.

"(B) A payment under any other provision of subtitle D.

"(C) A payment under section 401 or 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202).

"(D) A payment, loan, or other assistance under section 3 or 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 and 1006a).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1221(c) of the Food Security Act of 1985 (as redesignated by subsection (a)(1)) is amended—

(A) by striking "Except" and inserting "WETLAND CONVERSION.—Except";

(B) by striking "subsequent to the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990" and inserting "beginning after November 28, 1990,"; and

(C) by striking "subsections (a) (1) through (3)" and inserting "subsection (b)".

(2) Section 1221 of the Food Security Act of 1985 (as amended by subsection (a)) is amended by adding at the end the following:

"(d) PRIOR LOANS.—This section shall not apply to a loan described in subsection (b) made before December 23, 1985.".

SEC. 322. DELINEATION OF WETLANDS; EXEMPTIONS TO PROGRAM INELIGIBILITY.

(a) DELINEATION OF WETLANDS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (a) and inserting the following:

"(a) DELINEATION BY THE SECRETARY.—

"(1) IN GENERAL.—Subject to subsection (b) and paragraph (6), the Secretary shall delineate, determine, and certify all wetlands located on subject land on a farm.

"(2) WETLAND DELINEATION MAPS.—The Secretary shall delineate wetlands on wetland delineation maps. On the request of a person, the Secretary shall make a reasonable effort to make an on-site wetland determination prior to delineation.

"(3) CERTIFICATION.—On providing notice to affected persons, the Secretary shall—

"(A) certify whether a map is sufficient for the purpose of making a determination of ineligibility for program benefits under section 1221; and

"(B) provide an opportunity to appeal the certification prior to the certification becoming final.

"(4) DURATION OF CERTIFICATION.—A final certification made under paragraph (3) shall remain valid and in effect as long as the area is devoted to an agricultural use or until such time as the person affected by the certification requests review of the certification by the Secretary.

"(5) REVIEW OF MAPPING ON APPEAL.—In the case of an appeal of the Secretary's certification, the Secretary shall review and certify the accuracy of the mapping of all land subject to the appeal to ensure that the subject land has been accurately delineated. Prior to rendering a decision on the appeal, the Secretary shall conduct an on-site inspection of the subject land on a farm.

"(6) RELIANCE ON PRIOR CERTIFIED DELINEATION.—No person shall be adversely affected because of having taken an action based on a previous certified wetland delineation by the Secretary. The delineation shall not be subject to a subsequent wetland certification or delineation by the Secretary, unless requested by the person under paragraph (4).".

(b) EXEMPTIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (b) and inserting the following:

"(b) EXEMPTIONS.—No person shall become ineligible under section 1221 for program loans or payments under the following circumstances:

"(1) As the result of the production of an agricultural commodity on the following lands:

"(A) A converted wetland if the conversion of the wetland was commenced before December 23, 1985.

"(B) Land that is a nontidal drainage or irrigation ditch excavated in upland.

"(C) A wet area created by a water delivery system, irrigation, irrigation system, or application of water for irrigation.

"(D) A wetland on which the owner or operator of a farm or ranch uses normal cropping or ranching practices to produce an agricultural commodity in a manner that is consistent for the area where the production is possible as a result of a natural condition, such as drought, and is without action by the producer that destroys a natural wetland characteristic.

"(E) Land that is an artificial lake or pond created by excavating or diking land (that is not a wetland) to collect and retain water and that is used primarily for livestock watering, fish production, irrigation, wildlife, fire control, flood control, cranberry growing, or rice production, or as a settling pond.

"(F) A wetland that is temporarily or incidentally created as a result of adjacent development activity.

"(G) A converted wetland if the original conversion of the wetland was commenced before December 23, 1985, and the Secretary determines the wetland characteristics returned after that date as a result of—

"(i) the lack of maintenance of drainage, dikes, levees, or similar structures;

"(ii) a lack of management of the lands containing the wetland; or

"(iii) circumstances beyond the control of the person.

"(H) A converted wetland, if—

"(i) the converted wetland was determined by the Natural Resources Conservation Service to have been manipulated for the production of an agricultural commodity or forage prior to December 23, 1985, and was returned to wetland conditions through a voluntary restoration, enhancement, or creation action subsequent to that determination;

"(ii) technical determinations regarding the prior site conditions and the restoration, enhancement, or creation action have been adequately documented by the Natural Resources Conservation Service;

"(iii) the proposed conversion action is approved by the Natural Resources Conservation Service prior to implementation; and

"(iv) the extent of the proposed conversion is limited so that the conditions will be at least equivalent to the wetland functions and values that existed prior to implementation of the voluntary wetland restoration, enhancement, or creation action.

"(2) For the conversion of the following:

"(A) An artificial lake or pond created by excavating or diking land that is not a wetland to collect and retain water and that is used primarily for livestock watering, fish production, irrigation, wildlife, fire control, flood control, cranberry growing, rice production, or as a settling pond.

"(B) A wetland that is temporarily or incidentally created as a result of adjacent development activity.

"(C) A wetland on which the owner or operator of a farm or ranch uses normal cropping or ranching practices to produce an agricultural commodity in a manner that is consistent for the area where the production is possible as a result of a natural condition, such as drought, and is without action by the producer that destroys a natural wetland characteristic.

"(D) A wetland previously identified as a converted wetland (if the original conversion of the wetland was commenced before December 23, 1985), but that the Secretary determines returned to wetland status after that date as a result of—

"(i) the lack of maintenance of drainage, dikes, levees, or similar structures;

"(ii) a lack of management of the lands containing the wetland; or

"(iii) circumstances beyond the control of the person.

"(E) A wetland, if—

"(i) the wetland was determined by the Natural Resources Conservation Service to have been manipulated for the production of an agricultural commodity or forage prior to December 23, 1985, and was returned to wetland conditions through a voluntary restoration, enhancement, or creation action subsequent to that determination;

"(ii) technical determinations regarding the prior site conditions and the restoration, enhancement, or creation action have been adequately documented by the Natural Resources Conservation Service;,

"(iii) the proposed conversion action is approved by the Natural Resources Conservation Service prior to implementation; and

"(iv) the extent of the proposed conversion is limited so that the conditions will be at least equivalent to the wetland functions and values that existed prior to implementation of the voluntary wetland restoration, enhancement, or creation action.".

(c) IDENTIFICATION OF MINIMAL EFFECT EXEMPTIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (d) and inserting the following:

"(d) IDENTIFICATION OF MINIMAL EFFECT EXEMPTIONS.—For purposes of applying the minimal effect exemption under subsection (f)(1), the Secretary shall identify by regulation categorical minimal effect exemptions on a regional basis to assist persons in avoiding a violation of the ineligibility provisions of section 1221. The Secretary shall ensure that employees of the Department of Agriculture who administer this subtitle receive appropriate training to properly apply the minimal effect exemptions determined by the Secretary.".

(d) MINIMAL EFFECT AND MITIGATION EXEMPTIONS.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (f) and inserting the following:

"(f) MINIMAL EFFECT; MITIGATION.—The Secretary shall exempt a person from the ineligibility provisions of section 1221 for any action associated with the production of an agricultural commodity on a converted wetland, or the conversion of a wetland, if 1 or more of the following conditions apply, as determined by the Secretary:

"(1) The action, individually and in connection with all other similar actions authorized by the Secretary in the area, will have a minimal effect on the functional hydrological and biological value of the wetlands in the area, including the value to waterfowl and wildlife.

"(2) The wetland and the wetland values, acreage, and functions are mitigated by the person through the restoration of a converted wetland, the enhancement of an existing wetland, or the creation of a new wetland, and the restoration, enhancement, or creation is—

"(A) in accordance with a wetland conservation plan;

"(B) in advance of, or concurrent with, the action;

"(C) not at the expense of the Federal Government;

"(D) in the case of enhancement or restoration of wetlands, on not greater than a 1-for-1 acreage basis unless more acreage is needed to provide equivalent functions and values that will be lost as a result of the wetland conversion to be mitigated;

"(E) in the case of creation of wetlands, on greater than a 1-for-1 acreage basis if more acreage is needed to provide equivalent functions and values that will be lost as a result of the wetland conversion that is mitigated;

"(F) on lands in the same general area of the local watershed as the converted wetland; and

"(G) with respect to the restored, enhanced, or created wetland, made subject to an easement that—

"(i) is recorded on public land records;

"(ii) remains in force for as long as the converted wetland for which the restoration, enhancement, or creation to be mitigated remains in agricultural use or is not returned to its original wetland classification with equivalent functions and values; and

"(iii) prohibits making alterations to the restored, enhanced, or created wetland that lower the wetland's functions and values.

"(3) The wetland was converted after December 23, 1985, but before November 28, 1990, and

the wetland values, acreage, and functions are mitigated by the producer through the requirements of subparagraphs (A), (B), (C), (D), (F), and (G) of paragraph (2).

"(4) The action was authorized by a permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) and the wetland values, acreage, and functions of the converted wetland were adequately mitigated for the purposes of this subtitle.".

(e) References to Producer.—Section 1222(g) of the Food Security Act of 1985 (16 U.S.C. 3822(g)) is amended by striking "producer" and inserting "person".

(f) Good Faith Exemption.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (h) and inserting the following:

"(h) Good Faith Exemption.—

"(1) Exemption described.—The Secretary may waive a person's ineligibility under section 1221 for program loans, payments, and benefits as the result of the conversion of a wetland subsequent to November 28, 1990, or the production of an agricultural commodity on a converted wetland, if the Secretary determines that the person has acted in good faith and without intent to violate this subtitle.

"(2) Period for compliance.—The Secretary shall provide a person who the Secretary determines has acted in good faith and without intent to violate this subtitle with a reasonable period, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to actively restoring the subject wetland.".

(g) Restoration.—Section 1222(i) of the Food Security Act of 1985 (16 U.S.C. 3822(i)) is amended by inserting before the period at the end the following: "or has otherwise mitigated for the loss of wetland values, as determined by the Secretary, through the restoration, enhancement, or creation of wetland values in the same general area of the local watershed as the converted wetland".

(h) Determinations.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by striking subsection (j) and inserting the following:

"(j) Determinations; Restoration and Mitigation Plans; Monitoring Activities.—Technical determinations, the development of restoration and mitigation plans, and monitoring activities under this section shall be made by the National Resources Conservation Service.".

(i) Mitigation Banking.—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended by adding at the end the following:

"(k) Mitigation Banking Program.—Using authorities available to the Secretary, the Secretary may operate a pilot program for mitigation banking of wetlands to assist persons to increase the efficiency of agricultural operations while protecting wetland functions and values. Subsection (f)(2)(C) shall not apply to this subsection.".

SEC. 323. CONSULTATION AND COOPERATION REQUIREMENTS.

Section 1223 of the Food Security Act of 1985 (16 U.S.C. 3823) is repealed.

SEC. 324. APPLICATION OF PROGRAM INELIGIBILITY TO AFFILIATED PERSONS.

The Food Security Act of 1985 (as amended by section 323) is amended by inserting after section 1222 (16 U.S.C. 3822) the following:

"SEC. 1223. AFFILIATED PERSONS.

"If a person is affected by a reduction in benefits under section 1221 and the affected person is affiliated with other persons for the purpose of receiving the benefits, the benefits of each affiliated person shall be reduced under section 1221 in proportion to the interest held by the affiliated person.".

SEC. 325. CLARIFICATION OF DEFINITION OF AGRICULTURAL LANDS IN MEMORANDUM OF AGREEMENT.

(a) Agricultural Lands.—For purposes of implementing the memorandum of agreement entered into between the Department of Agriculture, the Environmental Protection Agency, the Department of the Interior, and the Department of the Army on January 6, 1994, relating to the delineation of wetlands, the term "agricultural lands" shall include—

(1) native pasture, rangelands, and other lands used to produce or support the production of livestock; and

(2) tree farms.

(b) Wetland Conservation.—Subsection (a) shall not apply with respect to the delineation of wetlands under subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) or to the enforcement of the subtitle.

(c) Successor Memorandum.—Subsection (a) shall apply to any amendment to or successor of the memorandum of agreement described in subsection (a).

SEC. 326. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall become effective 90 days after the date of enactment of this Act.

Subtitle D—Environmental Conservation Acreage Reserve Program

SEC. 331. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.

Section 1230 of the Food Security Act of 1985 (16 U.S.C. 3830) is amended to read as follows:

"SEC. 1230. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.

"(a) Establishment.—

"(1) In general.—During the 1996 through 2002 calendar years, the Secretary shall establish an environmental conservation acreage reserve program (referred to in this section as 'ECARP') to be implemented through contracts and the acquisition of easements to assist owners and operators of farms and ranches to conserve and enhance soil, water, and related natural resources, including grazing land, wetland, and wildlife habitat.

"(2) Means.—The Secretary shall carry out the ECARP by—

"(A) providing for the long-term protection of environmentally sensitive land; and

"(B) providing technical and financial assistance to farmers and ranchers to—

"(i) improve the management and operation of the farms and ranches; and

"(ii) reconcile productivity and profitability with protection and enhancement of the environment.

"(3) Programs.—The ECARP shall consist of—

"(A) the conservation reserve program established under subchapter B;

"(B) the wetlands reserve program established under subchapter C; and

"(C) the environmental quality incentives program established under chapter 4.

"(b) Administration.—

"(1) In general.—In carrying out the ECARP, the Secretary shall enter into contracts with owners and operators and acquire interests in land through easements from owners, as provided in this chapter and chapter 4.

"(2) Prior enrollments.—Acreage enrolled in the conservation reserve or wetlands reserve program prior to the date of enactment of this paragraph shall be considered to be placed into the ECARP.

"(c) Conservation Priority Areas.—

"(1) Designation.—The Secretary may designate watersheds, multistate areas, or regions of special environmental sensitivity as conservation priority areas that are eligible for enhanced assistance under this chapter and chapter 4.

"(2) Assistance.—The Secretary may designate areas as conservation priority areas to assist, to the maximum extent practicable, agricultural producers within the conservation priority areas to comply with nonpoint source pollution requirements under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and other Federal and State environmental laws and to meet other conservation needs.

"(3) Producers.—The Secretary may provide technical assistance, cost-share payments, and incentive payments to producers in a conservation priority area under this chapter and chapter 4 based on—

"(A) the significance of the soil, water, wildlife habitat, and related natural resource problems in a watershed, multistate area, or region; and

"(B) the structural practices or land management practices that best address the problems, and that maximize environmental benefits for each dollar expended, as determined by the Secretary.".

SEC. 332. CONSERVATION RESERVE PROGRAM.

(a) Program Extensions.—

(1) Conservation reserve program.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by striking "1995" each place it appears and inserting "2002".

(2) Duties of owners and operators.—Section 1232(c) of the Food Security Act of 1985 (16 U.S.C. 3832(c)) is amended by striking "1995" and inserting "2002".

(b) Maximum Enrollment.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended by striking subsection (d) and inserting the following:

"(d) Maximum Enrollment.—The Secretary may maintain up to 36,400,000 acres in the conservation reserve at any one time during the 1986 through 2002 calendar years (including contracts extended by the Secretary pursuant to section 1437(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note)).".

(c) Optional Contract Termination by Producers.—Section 1235 of the Food Security Act of 1985 (16 U.S.C. 3835) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "3-year" and inserting "1-year"; and

(B) in paragraph (2)(B)(i), by striking "3 years" and inserting "1 year"; and

(2) by adding at the end the following:

"(e) Termination by Owner or Operator.—

"(1) Early termination authorized.—Subject to the other provisions of this subsection, the Secretary shall allow a participant who entered into a contract before January 1, 1995, to terminate the contract at any time if the contract has been in effect for at least 5 years. The termination shall not relieve the participant of liability for a contract violation occurring before the date of the termination. The participant shall provide the Secretary with reasonable notice of the participant's desire to terminate the contract.

"(2) Certain lands excepted.—The following lands shall not be subject to an early termination of contract under this subsection:

"(A) Filterstrips, waterways, strips adjacent to riparian areas, windbreaks, and shelterbelts.

"(B) Land with an erodibility index of more than 15.

"(C) Other lands of high environmental value (including wetlands), as determined by the Secretary.

"(3) Effective date.—The contract termination shall become effective 60 days after the date on which the owner or operator submits the notice required under paragraph (1).

"(4) Prorated rental payment.—If a contract entered into under this subchapter is terminated under this subsection before the end of the fiscal year for which a rental payment is due, the Secretary shall provide a prorated rental payment covering the portion of the fiscal year during which the contract was in effect.

"(5) RENEWED ENROLLMENT.—The termination of a contract entered into under this subchapter shall not affect the ability of the owner or operator who requested the termination to submit a subsequent bid to enroll the land that was subject to the contract into the conservation reserve.

"(6) CONSERVATION REQUIREMENTS.—If land that was subject to a contract is returned to production of an agricultural commodity, the conservation requirements under subtitles B and C shall apply to the use of the land to the extent that the requirements are similar to those requirements imposed on other similar lands in the area, except than the requirements may not be more onerous than the requirements imposed on other lands.".

(d) ENROLLMENTS IN 1997.—Section 725 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996 (Public Law 104–37; 109 Stat. 332), is amended by striking ": Provided," and all that follows through "1997".

SEC. 333. WETLANDS RESERVE PROGRAM.

(a) ENROLLMENT.—Section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended by striking subsection (b) and inserting the following:

"(b) ENROLLMENT CONDITIONS.—

"(1) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the wetlands reserve program shall not exceed 975,000 acres.

"(2) METHODS OF ENROLLMENT.—

"(A) IN GENERAL.—Subject to subparagraph (B), effective beginning October 1, 1996, to the maximum extent practicable, the Secretary shall enroll into the wetlands reserve program—

"(i) ⅓ of the acres through the use of permanent easements;

"(ii) ⅓ of the acres through the use of 30-year easements; and

"(iii) ⅓ of the acres through the use of restoration cost-share agreements.

"(B) TEMPORARY EASEMENTS.—Effective beginning October 1, 1996, the Secretary shall not enroll acres in the wetlands reserve program through the use of new permanent easements until the Secretary has enrolled at least 75,000 acres in the program through the use of temporary easements.".

(b) ELIGIBILITY.—Section 1237(c) of the Food Security Act of 1985 (16 U.S.C. 3837(c)) is amended—

(1) by striking "2000" and inserting "2002";

(2) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(3) by inserting after "determines that—" the following:

"(1) such land maximizes wildlife benefits and wetland values and functions;".

(c) OTHER ELIGIBLE LANDS.—Section 1237(d) of the Food Security Act of 1985 (16 U.S.C. 3837(d)) is amended—

(1) by inserting after "subsection (c)" the following ", land that maximizes wildlife benefits and that is"; and

(2) in paragraph (2), by striking "and" at the end and inserting "or".

(d) EASEMENTS.—Section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended—

*(1) in the section heading, by inserting before the period at the end the following: "**AND AGREEMENTS**";*

(2) by striking subsection (c) and inserting the following:

"(c) RESTORATION PLANS.—The development of a restoration plan, including any compatible use, under this section shall be made through the local Natural Resources Conservation Service representative, in consultation with the State technical committee.";

(3) in subsection (f), by striking the third sentence and inserting the following: "Compensation may be provided in not less than 5, nor more than 30, annual payments of equal or unequal size, as agreed to by the owner and the Secretary."; and

(4) by adding at the end the following:

"(h) RESTORATION COST-SHARE AGREEMENTS.—The Secretary may enroll land into the wetlands reserve program through an agreement that requires the landowner to restore wetlands on the land, if the agreement does not provide the Secretary with an easement.".

(e) COST-SHARE AND TECHNICAL ASSISTANCE.—Section 1237C of the Food Security Act of 1985 (16 U.S.C. 3837c) is amended by striking subsection (b) and inserting the following:

"(b) COST-SHARE AND TECHNICAL ASSISTANCE.—

"(1) EASEMENTS.—Effective beginning October 1, 1996, in making cost-share payments under subsection (a)(1), the Secretary shall—

"(A) in the case of a permanent easement, pay the owner an amount that is not less than 75 percent, but not more than 100 percent, of the eligible costs; and

"(B) in the case of a 30-year easement, pay the owner an amount that is not less than 50 percent, but not more than 75 percent, of the eligible costs.

"(2) RESTORATION COST-SHARE AGREEMENTS.—In making cost-share payments in connection with a restoration cost-share agreement entered into under section 1237A(h), the Secretary shall pay the owner an amount that is not less than 50 percent, but not more than 75 percent, of the eligible costs.

"(3) TECHNICAL ASSISTANCE.—The Secretary shall provide owners with technical assistance to assist owners in complying with the terms of easements and restoration cost-share agreements.".

(f) EFFECT ON EXISTING AGREEMENTS.—The amendments made by this section shall not affect the validity or terms of any agreements entered into by the Secretary of Agriculture under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.) before the date of enactment of this Act or any payments required to be made in connection with the agreements.

SEC. 334. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by adding at the end the following:

"CHAPTER 4—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

"SEC. 1240. PURPOSES.

"The purposes of the environmental quality incentives program established by this chapter are to—

"(1) combine into a single program the functions of—

"(A) the agricultural conservation program authorized by sections 7 and 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g and 590h) (as in effect before the amendments made by section 336(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996);

"(B) the Great Plains conservation program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)) (as in effect before the amendment made by section 336(b)(1) of the Federal Agriculture Improvement and Reform Act of 1996);

"(C) the water quality incentives program established under chapter 2 (as in effect before the amendment made by section 336(h) of the Federal Agriculture Improvement and Reform Act of 1996); and

"(D) the Colorado River Basin salinity control program established under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)) (as in effect before the amendment made by section 336(c)(1) of the Federal Agriculture Improvement and Reform Act of 1996); and

"(2) carry out the single program in a manner that maximizes environmental benefits per dollar expended, and that provides—

"(A) flexible technical and financial assistance to farmers and ranchers that face the most serious threats to soil, water, and related natural resources, including grazing lands, wetlands, and wildlife habitat;

"(B) assistance to farmers and ranchers in complying with this title and Federal and State environmental laws, and encourages environmental enhancement;

"(C) assistance to farmers and ranchers in making beneficial, cost-effective changes to cropping systems, grazing management, manure, nutrient, pest, or irrigation management, land uses, or other measures needed to conserve and improve soil, water, and related natural resources; and

"(D) for the consolidation and simplification of the conservation planning process to reduce administrative burdens on producers.

"SEC. 1240A. DEFINITIONS.

"In this chapter:

"(1) ELIGIBLE LAND.—The term 'eligible land' means agricultural land (including cropland, rangeland, pasture, and other land on which crops or livestock are produced), including agricultural land that the Secretary determines poses a serious threat to soil, water, or related resources by reason of the soil types, terrain, climatic, soil, topographic, flood, or saline characteristics, or other factors or natural hazards.

"(2) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means a site-specific nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, or other land management practice carried out on eligible land that the Secretary determines is needed to protect, in the most cost-effective manner, water, soil, or related resources from degradation.

"(3) LIVESTOCK.—The term 'livestock' means dairy cattle, beef cattle, laying hens, broilers, turkeys, swine, sheep, and such other animals as determined by the Secretary.

"(4) PRODUCER.—The term 'producer' means a person who is engaged in livestock or agricultural production (as defined by the Secretary).

"(5) STRUCTURAL PRACTICE.—The term 'structural practice' means—

"(A) the establishment on eligible land of a site-specific animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, tailwater pit, permanent wildlife habitat, or other structural practice that the Secretary determines is needed to protect, in the most cost-effective manner, water, soil, or related resources from degradation; and

"(B) the capping of abandoned wells on eligible land.

"SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—During the 1996 through 2002 fiscal years, the Secretary shall provide technical assistance, cost-share payments, incentive payments, and education to producers, who enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

"(2) ELIGIBLE PRACTICES.—

"(A) STRUCTURAL PRACTICES.—A producer who implements a structural practice shall be eligible for any combination of technical assistance, cost-share payments, and education.

"(B) LAND MANAGEMENT PRACTICES.—A producer who performs a land management practice shall be eligible for any combination of technical assistance, incentive payments, and education.

"(b) APPLICATION AND TERM.—A contract between a producer and the Secretary under this chapter may—

"(1) apply to 1 or more structural practices or 1 or more land management practices, or both; and

"(2) have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract.

"(c) STRUCTURAL PRACTICES.—

"(1) OFFER SELECTION PROCESS.—The Secretary shall, to the maximum extent practicable, establish a process for selecting applications for financial assistance if there are numerous applications for assistance for structural practices that would provide substantially the same level of environmental benefits. The process shall be based on—

"(A) a reasonable estimate of the projected cost of the proposals and other factors identified by the Secretary for determining which applications will result in the least cost to the program authorized by this chapter; and

"(B) the priorities established under this subtitle and such other factors determined by the Secretary that maximize environmental benefits per dollar expended.

"(2) CONCURRENCE OF OWNER.—If the producer making an offer to implement a structural practice is a tenant of the land involved in agricultural production, for the offer to be acceptable, the producer shall obtain the concurrence of the owner of the land with respect to the offer.

"(d) LAND MANAGEMENT PRACTICES.—The Secretary shall establish an application and evaluation process for awarding technical assistance or incentive payments, or both, to a producer in exchange for the performance of 1 or more land management practices by the producer.

"(e) COST-SHARE PAYMENTS, INCENTIVE PAYMENTS, AND TECHNICAL ASSISTANCE.—

"(1) COST-SHARE PAYMENTS.—

"(A) IN GENERAL.—The Federal share of cost-share payments to a producer proposing to implement 1 or more structural practices shall be not more than 75 percent of the projected cost of the practice, as determined by the Secretary, taking into consideration any payment received by the producer from a State or local government.

"(B) LIMITATION.—A producer who owns or operates a large confined livestock operation (as defined by the Secretary) shall not be eligible for cost-share payments to construct an animal waste management facility.

"(C) OTHER PAYMENTS.—A producer shall not be eligible for cost-share payments for structural practices on eligible land under this chapter if the producer receives cost-share payments or other benefits for the same land under chapter 1 or 3.

"(2) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage a producer to perform 1 or more land management practices.

"(3) TECHNICAL ASSISTANCE.—

"(A) FUNDING.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided for a fiscal year. The allocated amount may vary according to the type of expertise required, quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided for a fiscal year.

"(B) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the producer to receive technical assistance under other authorities of law available to the Secretary.

"(C) PRIVATE SOURCES.—The Secretary shall ensure that the processes of writing and developing proposals and plans for contracts under this chapter, and of assisting in the implementation of structural practices and land management practices covered by the contracts, are open to individuals in agribusiness, including agricultural producers, representatives from agricultural cooperatives, agricultural input retail dealers, and certified crop advisers. The requirements of this subparagraph shall also apply to any other conservation program of the Department of Agriculture that provides incentive payments, technical assistance, or cost-share payments.

"(f) MODIFICATION OR TERMINATION OF CONTRACTS.—

"(1) VOLUNTARY MODIFICATION OR TERMINATION.—The Secretary may modify or terminate a contract entered into with a producer under this chapter if—

"(A) the producer agrees to the modification or termination; and

"(B) the Secretary determines that the modification or termination is in the public interest.

"(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under this chapter if the Secretary determines that the producer violated the contract.

"(g) NON-FEDERAL ASSISTANCE.—The Secretary may request the services of a State water quality agency, State fish and wildlife agency, State forestry agency, or any other governmental or private resource considered appropriate to assist in providing the technical assistance necessary for the development and implementation of a structural practice or land management practice.

"SEC. 1240C. EVALUATION OF OFFERS AND PAYMENTS.

"In providing technical assistance, cost-share payments, and incentive payments to producers, the Secretary shall accord a higher priority to assistance and payments that—

"(1) are provided in conservation priority areas established under section 1230(c);

"(2) maximize environmental benefits per dollar expended; or

"(3) are provided in watersheds, regions, or conservation priority areas in which State or local governments have provided, or will provide, financial or technical assistance to producers for the same conservation or environmental purposes.

"SEC. 1240D. DUTIES OF PRODUCERS.

"To receive technical assistance, cost-share payments, or incentive payments under this chapter, a producer shall agree—

"(1) to implement an environmental quality incentives program plan that describes conservation and environmental goals to be achieved through a structural practice or land management practice, or both, that is approved by the Secretary;

"(2) not to conduct any practices on the farm or ranch that would tend to defeat the purposes of this chapter;

"(3) on the violation of a term or condition of the contract at any time the producer has control of the land, to refund any cost-share or incentive payment received with interest, and forfeit any future payments under this chapter, as determined by the Secretary;

"(4) on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees with the Secretary to assume all obligations of the contract, to refund all cost-share payments and incentive payments received under this chapter, as determined by the Secretary;

"(5) to supply information as required by the Secretary to determine compliance with the environmental quality incentives program plan and requirements of the program; and

"(6) to comply with such additional provisions as the Secretary determines are necessary to carry out the environmental quality incentives program plan.

"SEC. 1240E. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

"(a) IN GENERAL.—To be eligible to enter into a contract under the environmental quality incentives program, an owner or producer of a livestock or agricultural operation must submit to the Secretary for approval a plan of operations that incorporates such conservation practices, and is based on such principles, as the Secretary considers necessary to carry out the program, including a description of structural practices and land management practices to be implemented and the objectives to be met by the plan's implementation.

"(b) AVOIDANCE OF DUPLICATION.—The Secretary shall, to the maximum extent practicable, eliminate duplication of planning activities under the environmental quality incentives program and comparable conservation programs.

"SEC. 1240F. DUTIES OF THE SECRETARY.

"To the extent appropriate, the Secretary shall assist a producer in achieving the conservation and environmental goals of an environmental quality incentives program plan by—

"(1) providing an eligibility assessment of the farming or ranching operation of the producer as a basis for developing the plan;

"(2) providing technical assistance in developing and implementing the plan;

"(3) providing technical assistance, cost-share payments, or incentive payments for developing and implementing 1 or more structural practices or 1 or more land management practices, as appropriate;

"(4) providing the producer with information, education, and training to aid in implementation of the plan; and

"(5) encouraging the producer to obtain technical assistance, cost-share payments, or grants from other Federal, State, local, or private sources.

"SEC. 1240G. LIMITATION ON PAYMENTS.

"(a) IN GENERAL.—The total amount of cost-share and incentive payments paid to a producer under this chapter may not exceed—

"(1) $10,000 for any fiscal year; or

"(2) $50,000 for any multiyear contract.

"(b) EXCEPTION TO ANNUAL LIMIT.—The Secretary may exceed the limitation on the annual amount of a payment under subsection (a)(1) on a case-by-case basis if the Secretary determines that a larger payment is—

"(1) essential to accomplish the land management practice or structural practice for which the payment is made; and

"(2) consistent with the maximization of environmental benefits per dollar expended and the purposes of this chapter specified in section 1240.

"(c) TIMING OF EXPENDITURES.—Expenditures under a contract entered into under this chapter during a fiscal year may not be made by the Secretary until the subsequent fiscal year.

"SEC. 1240H. TEMPORARY ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) INTERIM ADMINISTRATION.—

"(1) IN GENERAL.—During the period beginning on the date of enactment of this section and ending on the termination date provided under paragraph (2), to ensure that technical assistance, cost-share payments, and incentive payments continue to be administered in an orderly manner until such time as assistance can be provided through final regulations issued to implement the environmental quality incentives program established under this chapter, the Secretary shall continue to—

"(A) provide technical assistance, cost-share payments, and incentive payments under the terms and conditions of the agricultural conservation program, the Great Plains conservation program, the water quality incentives program, and the Colorado River Basin salinity control program, to the extent the terms and conditions of the program are consistent with the environmental quality incentives program; and

"(B) use for those purposes—

"(i) any funds remaining available for the agricultural conservation program, the Great Plains conservation program, the water quality incentives program, and the Colorado River Basin salinity control program; and

"(ii) as the Secretary determines to be necessary, any funds authorized to be used to carry out the environmental quality incentives program.

"(2) TERMINATION OF AUTHORITY.—The authority of the Secretary to carry out paragraph (1) shall terminate on the date that is 180 days after the date of enactment of this section.

"(b) PERMANENT ADMINISTRATION.—Effective beginning on the termination date provided under subsection (a)(2), the Secretary shall provide technical assistance, cost-share payments, and incentive payments for structural practices and land management practices related to crop and livestock production in accordance with final regulations issued to carry out the environmental quality incentives program.".

SEC. 335. CONSERVATION FARM OPTION.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) (as amended by section 334) is amended by adding at the end the following:

"CHAPTER 5—CONSERVATION FARM OPTION

"SEC. 1240M. CONSERVATION FARM OPTION.

"(a) IN GENERAL.—The Secretary shall establish conservation farm option pilot programs for producers of wheat, feed grains, cotton, and rice.

"(b) ELIGIBLE OWNERS AND PRODUCERS.—An owner or producer with a farm that has contract acreage enrolled in the agricultural market transition program established under the Agricultural Market Transition Act shall be eligible to participate in the conservation farm option offered under a pilot program under subsection (a) if the owner or producer meets the conditions established under section (e).

"(c) PURPOSES.—The purposes of the conservation farm option pilot programs shall include—

"(1) conservation of soil, water, and related resources;

"(2) water quality protection or improvement;

"(3) wetland restoration, protection, and creation;

"(4) wildlife habitat development and protection; or

"(5) other similar conservation purposes.

"(d) CONSERVATION FARM PLAN.—

"(1) IN GENERAL.—To be eligible to enter into a conservation farm option contract, an owner or producer must prepare and submit to the Secretary, for approval, a conservation farm plan that shall become a part of the conservation farm option contract.

"(2) REQUIREMENTS.—A conservation farm plan shall—

"(A) describe the resource-conserving crop rotations, and all other conservation practices, to be implemented and maintained on the acreage that is subject to contract during the contract period;

"(B) contain a schedule for the implementation and maintenance of the practices described in the conservation farm plan;

"(C) comply with highly erodible land and wetland conservation requirements of this title; and

"(D) contain such other terms as the Secretary may require.

"(e) CONTRACTS.—

"(1) IN GENERAL.—On approval of a conservation farm plan, the Secretary may enter into a contract with the owner or producer that specifies the acres being enrolled and the practices being adopted.

"(2) DURATION OF CONTRACT.—The contract shall be for a period of 10 years. The contract may be renewed for a period of not to exceed 5 years on mutual agreement of the Secretary and the owner or producer.

"(3) CONSIDERATION.—In exchange for payments under this subsection, the owner or producer shall not participate in and shall forgo payments under—

"(A) the conservation reserve program established under subchapter B of chapter 1;

"(B) the wetlands reserve program established under subchapter C of chapter 1; and

"(C) the environmental quality incentives program established under chapter 4.

"(4) OWNER OR PRODUCER RESPONSIBILITIES UNDER THE AGREEMENT.—Under the terms of the contract entered into under this section, an owner or producer shall agree to—

"(A) actively comply with the terms and conditions of the approved conservation farm plan;

"(B) keep such records as the Secretary may reasonably require for purposes of evaluation of the implementation of the conservation farm plan; and

"(C) not engage in any activity that would defeat the purposes of the conservation farm option pilot program.

"(5) PAYMENTS.—The Secretary shall offer an owner or producer annual payments under the contract that are equivalent to the payments the owner or producer would have received under the conservation reserve program, the wetlands reserve program, and the environmental quality incentives program.

"(6) BALANCE OF BENEFITS.—The Secretary shall not permit an owner or producer to terminate a conservation reserve program contract and enter a conservation farm option contract if the Secretary determines that such action will reduce net environmental benefits.

"(f) SECRETARIAL DETERMINATIONS.—

"(1) ACREAGE ESTIMATES.—Prior to each year during which the Secretary intends to offer conservation reserve program contracts, the Secretary shall estimate the number of acres that—

"(A) will be retired under the conservation farm option under the terms and conditions the Secretary intends to offer for that program; and

"(B) would be retired under the conservation reserve program if the conservation farm option were not available.

"(2) TOTAL LAND RETIREMENT.—The Secretary shall announce a number of acres to be enrolled in the conservation reserve program that will result in a total number of acres retired under the conservation reserve program and the conservation farm option that does not exceed the amount estimated under paragraph (1)(B) for the current or future years.

"(3) LIMITATION.—The Secretary shall not enroll additional conservation reserve program contracts to offset the land retired under the conservation farm option.

"(g) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, authorities, and facilities of the Commodity Credit Corporation to carry out this subsection.

"(h) FUNDING.—Of the funds of the Commodity Credit Corporation, the Corporation shall make available to carry out this section—

"(1) $7,500,000 for fiscal year 1997;

"(2) $15,000,000 for fiscal year 1998;

"(3) $25,000,000 for fiscal year 1999;

"(4) $37,500,000 for fiscal year 2000;

"(5) $50,000,000 for fiscal year 2001; and

"(6) $62,500,000 for fiscal year 2002.".

SEC. 336. REPEAL OF SUPERSEDED AUTHORITIES.

(a) AGRICULTURAL CONSERVATION PROGRAM.—

(1) ELIMINATION.—

(A) Section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h) is amended—

(i) in subsection (b)—

(I) by striking paragraphs (1) through (4) and inserting the following:

"(1) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—The Secretary shall provide technical assistance, cost-share payments, and incentive payments to operators through the environmental quality incentives program in accordance with chapter 4 of subtitle D of title XII of the Food Security Act of 1985."; and

(II) by striking paragraphs (6) through (8); and

(ii) by striking subsections (d), (e), and (f).

(B) The first sentence of section 11 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590k) is amended by striking "performance: Provided further," and all that follows through "or other law" and inserting "performance".

(C) Section 14 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590n) is amended—

(i) in the first sentence, by striking "or 8"; and

(ii) by striking the second sentence.

(D) Section 15 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590o) is amended—

(i) in the first undesignated paragraph—

(I) in the first sentence, by striking "sections 7 and 8" and inserting "section 7"; and

(II) by striking the third sentence; and

(ii) by striking the second undesignated paragraph.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of the last proviso of the matter under the heading "CONSERVATION RESERVE PROGRAM" under the heading "SOIL BANK PROGRAMS" of title I of the Department of Agriculture and Farm Credit Administration Appropriation Act, 1959 (72 Stat. 195; 7 U.S.C. 1831a), is amended by striking "Agricultural Conservation Program" and inserting "environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985".

(B) Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) is amended by striking "as added by the Agriculture and Consumer Protection Act of 1973" each place it appears in subsections (d) and (i) and inserting "as in effect before the amendment made by section 336(d)(1) of the Federal Agriculture Improvement and Reform Act of 1996".

(C) Section 226(b)(4) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6932(b)(4)) is amended by striking "and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.)".

(D) Section 246(b)(8) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)(8)) is amended by striking "and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.)".

(E) Section 1271(c)(3)(C) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 2106a(c)(3)(C)) is amended by striking "Agricultural Conservation Program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h, 590l, or 590p)" and inserting "environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985".

(F) Section 304(a) of the Lake Champlain Special Designation Act of 1990 (Public Law 101–596; 33 U.S.C. 1270 note) is amended—

(i) in the subsection heading, by striking "Special Project Area Under the Agricultural Conservation Program" and inserting "Priority Area Under the Environmental Quality Incentives Program"; and

(ii) in paragraph (1), by striking "special project area under the Agricultural Conservation Program established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b))" and inserting "priority area under the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985".

(G) Section 6 of the Department of Agriculture Organic Act of 1956 (70 Stat. 1033) is amended by striking subsection (b).

(b) Great Plains Conservation Program.—

(1) Elimination.—Section 16 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p) is repealed.

(2) Conforming amendments.—

(A) The Agricultural Adjustment Act of 1938 is amended by striking "Great Plains program" each place it appears in sections 344(f)(8) and 377 (7 U.S.C. 1344(f)(8) and 1377) and inserting "environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985".

(B) Section 246(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)) is amended by striking paragraph (2).

(c) Colorado River Basin Salinity Control Program.—

(1) In general.—Section 202 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592) is amended by striking subsection (c) and inserting the following:

"(c) Salinity Control Measures.—The Secretary of Agriculture shall carry out salinity control measures (including watershed enhancement and cost-share measures with livestock and crop producers) in the Colorado River Basin as part of the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985.".

(2) Funds.—Section 205 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1595) is amended—

(A) in subsection (a), by striking "pursuant to section 202(c)(2)(C)"; and

(B) by adding at the end the following:

"(f) Funds.—The Secretary may expend funds available in the Basin Funds referred to in this section to carry out cost-share salinity measures in a manner that is consistent with the cost allocations required under this section.".

(3) Conforming amendment.—Section 246(b)(6) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)(6)) is amended by striking "program" and inserting "measures".

(d) Rural Environmental Conservation Program.—

(1) Elimination.—Title X of the Agricultural Act of 1970 (16 U.S.C. 1501 et seq.) is repealed.

(2) Conforming amendments.—Section 246 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962) (as amended by subsection (b)(2)(B))) is amended—

(A) in subsection (b)—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (3) through (8) as paragraphs (1) through (6), respectively; and

(B) in subsection (c), by striking "(2), (3), (4), and (6)" and inserting "(1), (2), and (4)".

(e) Other Conservation Provisions.—Subtitle F of title XII of the Food Security Act of 1985 (16 U.S.C. 2005a and 2101 note) is repealed.

(f) Resource Conservation.—

(1) Elimination.—Subtitles A, B, D, E, and F of title XV of the Agriculture and Food Act of 1981 (95 Stat. 1328; 16 U.S.C. 3401 et seq.) are repealed.

(2) Conforming amendment.—Section 739 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992 (7 U.S.C. 2272a), is repealed.

(g) Technical amendment.—The first sentence of the matter under the heading "Commodity Credit Corporation" of Public Law 99–263 (100 Stat. 59; 16 U.S.C. 3841 note) is amended by striking "prices: Provided further," and all that follows through "Acts." and inserting "prices.".

(h) Agricultural Water Quality Incentives Program.—Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.) is repealed.

Subtitle E—Conservation Funding and Administration

SEC. 341. CONSERVATION FUNDING AND ADMINISTRATION.

Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended to read as follows:

"Subtitle E—Funding and Administration

"SEC. 1241. FUNDING.

"(a) Mandatory Expenses.—For each of fiscal years 1996 through 2002, the Secretary shall use the funds of the Commodity Credit Corporation to carry out the programs authorized by—

"(1) subchapter B of chapter 1 of subtitle D (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note));

"(2) subchapter C of chapter 1 of subtitle D; and

"(3) chapter 4 of subtitle D.

"(b) Environmental Quality Incentives Program.—

"(1) In general.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available $130,000,000 for fiscal year 1996, and $200,000,000 for each of fiscal years 1997 through 2002, for providing technical assistance, cost-share payments, incentive payments, and education under the environmental quality incentives program under chapter 4 of subtitle D.

"(2) Livestock production.—For each of fiscal years 1996 through 2002, 50 percent of the funding available for technical assistance, cost-share payments, incentive payments, and education under the environmental quality incentives program shall be targeted at practices relating to livestock production.

"SEC. 1242. USE OF OTHER AGENCIES.

"(a) Committees.—In carrying out subtitles B, C, and D, the Secretary shall use the services of local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

"(b) Other Agencies.—

"(1) Use.—In carrying out subtitles C and D, the Secretary may utilize the services of the Natural Resources Conservation Service and the Forest Service, the Fish and Wildlife Service, State forestry agencies, State fish and game agencies, land-grant colleges, local, county, and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h), soil and water conservation districts, and other appropriate agencies.

"(2) Consultation.—In carrying out subtitle D at the State and county levels, the Secretary shall consult with, to the extent practicable, the Fish and Wildlife Service, State forestry agencies, State fish and game agencies, land-grant colleges, soil-conservation districts, and other appropriate agencies.

"SEC. 1243. ADMINISTRATION.

"(a) Plans.—The Secretary shall, to the extent practicable, avoid duplication in—

"(1) the conservation plans required for—

"(A) highly erodible land conservation under subtitle B;

"(B) the conservation reserve program established under subchapter B of chapter 1 of subtitle D; and

"(C) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D; and

"(2) the environmental quality incentives program established under chapter 4 of subtitle D.

"(b) Acreage Limitation.—

"(1) In general.—The Secretary shall not enroll more than 25 percent of the cropland in any county in the programs administered under the conservation reserve and wetlands reserve programs established under subchapters B and C, respectively, of chapter 1 of subtitle D. Not more than 10 percent of the cropland in a county may be subject to an easement acquired under the subchapters.

"(2) Exception.—The Secretary may exceed the limitations in paragraph (1) if the Secretary determines that—

"(A) the action would not adversely affect the local economy of a county; and

"(B) operators in the county are having difficulties complying with conservation plans implemented under section 1212.

"(3) Shelterbelts and windbreaks.—The limitations established under this subsection shall not apply to cropland that is subject to an easement under chapter 1 or 3 of subtitle D that is used for the establishment of shelterbelts and windbreaks.

"(c) Tenant Protection.—Except for a person who is a tenant on land that is subject to a conservation reserve contract that has been extended by the Secretary, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under the programs established under subtitles B through D.

"(d) Provision of Technical Assistance by Other Sources.—In the preparation and application of a conservation compliance plan under subtitle B or similar plan required as a condition for assistance from the Department of Agriculture, the Secretary shall permit persons to secure technical assistance from approved sources, as determined by the Secretary, other than the Natural Resources Conservation Service. If the Secretary rejects a technical determination made by such a source, the basis of the Secretary's determination must be supported by documented evidence.

"(e) Regulations.—Not later than 90 days after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, the Secretary shall issue regulations to implement the conservation reserve and wetlands reserve programs established under chapter 1 of subtitle D.".

SEC. 342. STATE TECHNICAL COMMITTEES.

(a) Composition.—Section 1261(c) of the Food Security Act of 1985 (16 U.S.C. 3861(c))—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(9) agricultural producers with demonstrable conservation expertise;

"(10) nonprofit organizations with demonstrable conservation expertise;

"(11) persons knowledgeable about conservation techniques; and

"(12) agribusiness.".

(b) Responsibilities.—Section 1262 of the Food Security Act of 1985 (16 U.S.C. 3862) is amended—

(1) in subsection (a), by adding at the end the following: "Each State technical committee shall provide public notice of, and permit public

attendance at meetings considering, issues of concern related to carrying out this title.";

(2) in subsection (b)(1), by adding at the end the following: "Each State technical committee shall establish criteria and guidelines for evaluating petitions by agricultural producers regarding new conservation practices and systems not already described in field office technical guides."; and

(3) in subsection (c)—

(A) in paragraph (7), by striking "and" at the end;

(B) by redesignating paragraph (8) as paragraph (9); and

(C) by inserting after paragraph (7) the following:

"(8) establishing criteria and priorities for State initiatives under the environmental quality incentives program under chapter 4 of subtitle D; and".

SEC. 343. PUBLIC NOTICE AND COMMENT FOR REVISIONS TO CERTAIN STATE TECHNICAL GUIDES.

After the date of enactment of this Act, the Secretary of Agriculture shall provide for public notice and comment under section 553 of title 5, United States Code, with regard to any future revisions to those provisions of the Natural Resources Conservation Service State technical guides that are used to carry out subtitles A, B, and C of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.).

Subtitle F—National Natural Resources Conservation Foundation

SEC. 351. SHORT TITLE.

This subtitle may be cited as the "National Natural Resources Conservation Foundation Act".

SEC. 352. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) BOARD.—The term "Board" means the Board of Trustees established under section 354.

(2) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(3) FOUNDATION.—The term "Foundation" means the National Natural Resources Conservation Foundation established by section 353(a).

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 353. NATIONAL NATURAL RESOURCES CONSERVATION FOUNDATION.

(a) ESTABLISHMENT.—A National Natural Resources Conservation Foundation is established as a charitable and nonprofit corporation for charitable, scientific, and educational purposes specified in subsection (b). The Foundation is not an agency or instrumentality of the United States.

(b) DUTIES.—The Foundation shall—

(1) promote innovative solutions to the problems associated with the conservation of natural resources on private lands, particularly with respect to agriculture and soil and water conservation;

(2) promote voluntary partnerships between government and private interests in the conservation of natural resources;

(3) conduct research and undertake educational activities, conduct and support demonstration projects, and make grants to State and local agencies and nonprofit organizations;

(4) provide such other leadership and support as may be necessary to address conservation challenges, such as the prevention of excessive soil erosion, the enhancement of soil and water quality, and the protection of wetlands, wildlife habitat, and strategically important farmland subject to urban conversion and fragmentation;

(5) encourage, accept, and administer private gifts of money and real and personal property for the benefit of, or in connection with, the conservation and related activities and services of the Department, particularly the Natural Resources Conservation Service;

(6) undertake, conduct, and encourage educational, technical, and other assistance, and other activities, that support the conservation and related programs administered by the Department (other than activities carried out on National Forest System lands), particularly the Natural Resources Conservation Service, except that the Foundation may not enforce or administer a regulation of the Department; and

(7) raise private funds to promote the purposes of the Foundation.

(c) LIMITATIONS AND CONFLICTS OF INTEREST.—

(1) POLITICAL ACTIVITIES.—The Foundation shall not participate or intervene in a political campaign on behalf of any candidate for public office.

(2) CONFLICTS OF INTEREST.—No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation affecting—

(A) the financial interests of the director, officer, or employee; or

(B) the interests of any corporation, partnership, entity, organization, or other person in which the director, officer, or employee—

(i) is an officer, director, or trustee; or

(ii) has any direct or indirect financial interest.

(3) LEGISLATION OR GOVERNMENT ACTION OR POLICY.—No funds of the Foundation may be used in any manner for the purpose of influencing legislation or government action or policy.

(4) LITIGATION.—No funds of the Foundation may be used to bring or join an action against the United States.

SEC. 354. COMPOSITION AND OPERATION.

(a) COMPOSITION.—The Foundation shall be administered by a Board of Trustees that shall consist of 9 voting members, each of whom shall be a United States citizen and not a Federal officer. The Board shall be composed of—

(1) individuals with expertise in agricultural conservation policy matters;

(2) a representative of private sector organizations with a demonstrable interest in natural resources conservation;

(3) a representative of statewide conservation organizations;

(4) a representative of soil and water conservation districts;

(5) a representative of organizations outside the Federal Government that are dedicated to natural resources conservation education; and

(6) a farmer or rancher.

(b) NONGOVERNMENTAL EMPLOYEES.—Service as a member of the Board shall not constitute employment by, or the holding of, an office of the United States for the purposes of any Federal law.

(c) MEMBERSHIP.—

(1) INITIAL MEMBERS.—The Secretary shall appoint 9 persons who meet the criteria established under subsection (a) as the initial members of the Board and designate 1 of the members as the initial chairperson for a 2-year term.

(2) TERMS OF OFFICE.—

(A) IN GENERAL.—A member of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) LIMITATION ON TERMS.—No individual may serve more than 2 consecutive 3-year terms as a member of the Board.

(3) SUBSEQUENT MEMBERS.—The initial members of the Board shall adopt procedures in the constitution of the Foundation for the nomination and selection of subsequent members of the Board. The procedures shall require that each member, at a minimum, meets the criteria established under subsection (a) and shall provide for the selection of an individual, who is not a Federal officer or a member of the Board.

(d) CHAIRPERSON.—After the appointment of an initial chairperson under subsection (c)(1), each succeeding chairperson of the Board shall be elected by the members of the Board for a 2-year term.

(e) VACANCIES.—A vacancy on the Board shall be filled by the Board not later than 60 days after the occurrence of the vacancy.

(f) COMPENSATION.—A member of the Board shall receive no compensation from the Foundation for the service of the member on the Board.

(g) TRAVEL EXPENSES.—While away from the home or regular place of business of a member of the Board in the performance of services for the Board, the member shall be allowed travel expenses paid by the Foundation, including per diem in lieu of subsistence, at the same rate as a person employed intermittently in the Government service is allowed under section 5703 of title 5, United States Code.

SEC. 355. OFFICERS AND EMPLOYEES.

(a) IN GENERAL.—The Board may—

(1) appoint, hire, and discharge the officers and employees of the Foundation, other than appoint the initial Executive Director of the Foundation;

(2) adopt a constitution and bylaws for the Foundation that are consistent with the purposes of this subtitle; and

(3) undertake any other activities that may be necessary to carry out this subtitle.

(b) OFFICERS AND EMPLOYEES.—

(1) APPOINTMENT AND HIRING.—An officer or employee of the Foundation—

(A) shall not, by virtue of the appointment or employment of the officer or employee, be considered a Federal employee for any purpose, including the provisions of title 5, United States Code, governing appointments in the competitive service, except that such an individual may participate in the Federal employee retirement system as if the individual were a Federal employee; and

(B) may not be paid by the Foundation a salary in excess of $125,000 per year.

(2) EXECUTIVE DIRECTOR.—

(A) INITIAL DIRECTOR.—The Secretary shall appoint an individual to serve as the initial Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

(B) SUBSEQUENT DIRECTORS.—The Board shall appoint each subsequent Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

(C) QUALIFICATIONS.—The Executive Director shall be knowledgeable and experienced in matters relating to natural resources conservation.

SEC. 356. CORPORATE POWERS AND OBLIGATIONS OF THE FOUNDATION.

(a) IN GENERAL.—The Foundation—

(1) may conduct business throughout the United States and the territories and possessions of the United States; and

(2) shall at all times maintain a designated agent who is authorized to accept service of process for the Foundation, so that the serving of notice to, or service of process on, the agent, or mailed to the business address of the agent, shall be considered as service on or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board that shall be judicially noticed.

(c) POWERS.—To carry out the purposes of the Foundation under section 353(b), the Foundation shall have, in addition to the powers otherwise provided under this subtitle, the usual powers of a corporation, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income from, or other interest in, the gift, devise, or bequest;

(2) to acquire by purchase or exchange any real or personal property or interest in property, except that funds provided under section 360 may not be used to purchase an interest in real property;

(3) unless otherwise required by instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income from property;

(4) to borrow money from private sources and issue bonds, debentures, or other debt instruments, subject to section 359, except that the aggregate amount of the borrowing and debt instruments outstanding at any time may not exceed $1,000,000;

(5) to sue and be sued, and complain and defend itself, in any court of competent jurisdiction, except that a member of the Board shall not be personally liable for an action in the performance of services for the Board, except for gross negligence;

(6) to enter into a contract or other agreement with an agency of State or local government, educational institution, or other private organization or person and to make such payments as may be necessary to carry out the functions of the Foundation; and

(7) to do any and all acts that are necessary to carry out the purposes of the Foundation.

(d) INTERESTS IN PROPERTY.—

(1) INTERESTS IN REAL PROPERTY.—The Foundation may acquire, hold, and dispose of lands, waters, or other interests in real property by donation, gift, devise, purchase, or exchange. An interest in real property shall be treated, among other things, as including an easement or other right for the preservation, conservation, protection, or enhancement of agricultural, natural, scenic, historic, scientific, educational, inspirational, or recreational resources.

(2) GIFTS.—A gift, devise, or bequest may be accepted by the Foundation even though the gift, devise, or bequest is encumbered, restricted, or subject to a beneficial interest of a private person if any current or future interest in the gift, devise, or bequest is for the benefit of the Foundation.

SEC. 357. ADMINISTRATIVE SERVICES AND SUPPORT.

For each of fiscal years 1996 through 1998, the Secretary may provide, without reimbursement, personnel, facilities, and other administrative services of the Department to the Foundation.

SEC. 358. AUDITS AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—

(1) IN GENERAL.—The accounts of the Foundation shall be audited in accordance with Public Law 88–504 (36 U.S.C. 1101 et seq.), including an audit of lobbying and litigation activities carried out by the Foundation.

(2) CONFORMING AMENDMENT.—The first section of Public Law 88–504 (36 U.S.C. 1101) is amended by adding at the end the following:

"(77) The National Natural Resources Conservation Foundation.".

(b) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—The Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate, if the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with this subtitle; or

(2) refuses, fails, neglects, or threatens to refuse, fail, or neglect, to discharge the obligations of the Foundation under this subtitle.

SEC. 359. RELEASE FROM LIABILITY.

(a) IN GENERAL.—The United States shall not be liable for any debt, default, act, or omission of the Foundation. The full faith and credit of the United States shall not extend to the Foundation.

(b) STATEMENT.—An obligation issued by the Foundation, and a document offering an obligation, shall include a prominent statement that the obligation is not directly or indirectly guaranteed, in whole or in part, by the United States (or an agency or instrumentality of the United States).

SEC. 360. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department to be made available to the Foundation $1,000,000 for each of fiscal years 1997 through 1999 to initially establish and carry out activities of the Foundation.

Subtitle G—Forestry

SEC. 371. OFFICE OF INTERNATIONAL FORESTRY.

Section 2405 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6704) is amended by adding at the end the following:

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1996 through 2002 such sums as are necessary to carry out this section.".

SEC. 372. COOPERATIVE WORK FOR PROTECTION, MANAGEMENT, AND IMPROVEMENT OF NATIONAL FOREST SYSTEM.

The penultimate paragraph of the matter under the heading "FOREST SERVICE." of the first section of the Act of June 30, 1914 (38 Stat. 430, chapter 131; 16 U.S.C. 498), is amended—

(1) by inserting ", management," after "the protection";

(2) by striking "national forests," and inserting "National Forest System,";

(3) by inserting "management," after "protection," both places it appears; and

(4) by adding at the end the following: "Payment for work undertaken pursuant to this paragraph may be made from any appropriation of the Forest Service that is available for similar work if a written agreement so provides and reimbursement will be provided by a cooperator in the same fiscal year as the expenditure by the Forest Service. A reimbursement received from a cooperator that covers the proportionate share of the cooperator of the cost of the work shall be deposited to the credit of the appropriation of the Forest Service from which the payment was initially made or, if the appropriation is no longer available, to the credit of an appropriation of the Forest Service that is available for similar work. The Secretary of Agriculture shall establish written rules that establish criteria to be used to determine whether the acceptance of contributions of money under this paragraph would adversely affect the ability of an officer or employee of the Department of Agriculture to carry out a duty or program of the officer or employee in a fair and objective manner or would compromise, or appear to compromise, the integrity of the program, officer, or employee. The Secretary of Agriculture shall establish written rules that protect the interests of the Forest Service in cooperative work agreements.".

SEC. 373. FORESTRY INCENTIVES PROGRAM.

Section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) is amended—

(1) in subsection (j), by striking "annually" and inserting "for each of fiscal years 1996 through 2002"; and

(2) by striking subsection (k).

SEC. 374. OPTIONAL STATE GRANTS FOR FOREST LEGACY PROGRAM.

Section 7 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c) is amended—

(1) by redesignating subsection (l) as subsection (m); and

(2) by inserting after subsection (k) the following:

"(l) OPTIONAL STATE GRANTS.—

"(1) IN GENERAL.—The Secretary shall, at the request of a participating State, provide a grant to the State to carry out the Forest Legacy Program in the State.

"(2) ADMINISTRATION.—If a State elects to receive a grant under this subsection—

"(A) the Secretary shall use a portion of the funds made available under subsection (m), as determined by the Secretary, to provide a grant to the State; and

"(B) the State shall use the grant to carry out the Forest Legacy Program in the State, including the acquisition by the State of lands and interests in lands.".

Subtitle H—Miscellaneous Conservation Provisions

SEC. 381. CONSERVATION ACTIVITIES OF COMMODITY CREDIT CORPORATION.

(a) IN GENERAL.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g) Carry out conservation or environmental programs authorized by law.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1997.

SEC. 382. FLOODPLAIN EASEMENTS.

Section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) is amended by inserting ", including the purchase of floodplain easements," after "emergency measures".

SEC. 383. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.

Section 1538 of the Agriculture and Food Act of 1981 (16 U.S.C. 3461) is amended by striking "1991 through 1995" and inserting "1996 through 2002".

SEC. 384. REPEAL OF REPORT REQUIREMENT.

Section 1342 of title 44, United States Code, is repealed.

SEC. 385. FLOOD RISK REDUCTION.

(a) IN GENERAL.—During fiscal years 1996 through 2002, the Secretary of Agriculture (referred to in this section as the "Secretary") may enter into a contract with a producer on a farm who has contract acreage under the Agricultural Market Transition Act that is frequently flooded.

(b) DUTIES OF PRODUCERS.—Under the terms of the contract, with respect to acres that are subject to the contract, the producer must agree to—

(1) the termination of any contract acreage and production flexibility contract under the Agricultural Market Transition Act;

(2) forgo loans for contract commodities, oilseeds, and extra long staple cotton;

(3) not apply for crop insurance issued or reinsured by the Secretary;

(4) comply with applicable highly erodible land and wetlands conservation compliance requirements established under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.);

(5) not apply for any conservation program payments from the Secretary;

(6) not apply for disaster program benefits provided by the Secretary; and

(7) refund the payments, with interest, issued under the flood risk reduction contract to the Secretary, if the producer violates the terms of the contract or if the producer transfers the property to another person who violates the contract.

(c) DUTIES OF THE SECRETARY.—In return for a contract entered into by a producer under this section, the Secretary shall pay the producer an amount that is not more than 95 percent of projected contract payments under the Agricultural Market Transition Act that the Secretary estimates the producer would otherwise have received during the period beginning at the time the contract is entered into under this section and ending September 30, 2002.

(d) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section (other than subsection (e)) through the Commodity Credit Corporation.

(e) ADDITIONAL PAYMENTS.—

(1) IN GENERAL.—Subject to the availability of advanced appropriations, the Secretary may make payments to a producer described in subsection (a), in addition to the payments provided under subsection (c), to offset other estimated Federal Government outlays on frequently flooded land.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out paragraph (1).

(f) LIMITATION ON PAYMENTS.—Amounts made available for production flexibility contracts under section 113 shall be reduced by an amount that is equal to the contract payments that producers forgo under subsection (b)(1) of this section.

SEC. 386. CONSERVATION OF PRIVATE GRAZING LAND.

(a) FINDINGS.—Congress finds that—

(1) private grazing land constitutes nearly ½ of the non-Federal land of the United States and is basic to the environmental, social, and economic stability of rural communities;

(2) private grazing land contains a complex set of interactions among soil, water, air, plants, and animals;

(3) grazing land constitutes the single largest watershed cover type in the United States and contributes significantly to the quality and quantity of water available for all of the many uses of the land;

(4) private grazing land constitutes the most extensive wildlife habitat in the United States;

(5) private grazing land can provide opportunities for improved nutrient management from land application of animal manures and other by-product nutrient resources;

(6) owners and managers of private grazing land need to continue to recognize conservation problems when the problems arise and receive sound technical assistance to improve or conserve grazing land resources to meet ecological and economic demands;

(7) new science and technology must continually be made available in a practical manner so owners and managers of private grazing land may make informed decisions concerning vital grazing land resources;

(8) agencies of the Department with private grazing land responsibilities are the agencies that have the expertise and experience to provide technical assistance, education, and research to owners and managers of private grazing land for the long-term productivity and ecological health of grazing land;

(9) although competing demands on private grazing land resources are greater than ever before, assistance to private owners and managers of private grazing land is currently limited and does not meet the demand and basic need for adequately sustaining or enhancing the private grazing land resources; and

(10) private grazing land can be enhanced to provide many benefits to all citizens of the United States through voluntary cooperation among owners and managers of the land, local conservation districts, and the agencies of the Department responsible for providing assistance to owners and managers of land and to conservation districts.

(b) PURPOSE.—It is the purpose of this section to authorize the Secretary to provide a coordinated technical, educational, and related assistance program to conserve and enhance private grazing land resources and provide related benefits to all citizens of the United States by—

(1) establishing a coordinated and cooperative Federal, State, and local grazing conservation program for management of private grazing land;

(2) strengthening technical, educational, and related assistance programs that provide assistance to owners and managers of private grazing land;

(3) conserving and improving wildlife habitat on private grazing land;

(4) conserving and improving fish habitat and aquatic systems through grazing land conservation treatment;

(5) protecting and improving water quality;

(6) improving the dependability and consistency of water supplies;

(7) identifying and managing weed, noxious weed, and brush encroachment problems on private grazing land; and

(8) integrating conservation planning and management decisions by owners and managers of private grazing land, on a voluntary basis.

(c) DEFINITIONS.—In this section:

(1) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(2) PRIVATE GRAZING LAND.—The term "private grazing land" means private, State-owned, tribally-owned, and any other non-federally owned rangeland, pastureland, grazed forest land, and hay land.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(d) PRIVATE GRAZING LAND CONSERVATION ASSISTANCE.—

(1) ASSISTANCE TO GRAZING LANDOWNERS AND OTHERS.—Subject to the availability of appropriations for this section, the Secretary shall establish a voluntary program to provide technical, educational, and related assistance to owners and managers of private grazing land and public agencies, through local conservation districts, to enable the landowners, managers, and public agencies to voluntarily carry out activities that are consistent with this section, including—

(A) maintaining and improving private grazing land and the multiple values and uses that depend on private grazing land;

(B) implementing grazing land management technologies;

(C) managing resources on private grazing land, including—

(i) planning, managing, and treating private grazing land resources;

(ii) ensuring the long-term sustainability of private grazing land resources;

(iii) harvesting, processing, and marketing private grazing land resources; and

(iv) identifying and managing weed, noxious weed, and brush encroachment problems;

(D) protecting and improving the quality and quantity of water yields from private grazing land;

(E) maintaining and improving wildlife and fish habitat on private grazing land;

(F) enhancing recreational opportunities on private grazing land;

(G) maintaining and improving the aesthetic character of private grazing lands; and

(H) identifying the opportunities and encouraging the diversification of private grazing land enterprises.

(2) PROGRAM ELEMENTS.—

(A) FUNDING.—If funding is provided to carry out this section, it shall be provided through a specific line-item in the annual appropriations for the Natural Resources Conservation Service.

(B) TECHNICAL ASSISTANCE AND EDUCATION.—Personnel of the Department trained in pasture and range management shall be made available under the program to deliver and coordinate technical assistance and education to owners and managers of private grazing land, at the request of the owners and managers.

(e) GRAZING TECHNICAL ASSISTANCE SELF-HELP.—

(1) FINDINGS.—Congress finds that—

(A) there is a severe lack of technical assistance for farmers and ranchers who graze livestock;

(B) Federal budgetary constraints preclude any significant expansion, and may force a reduction of, current levels of technical support; and

(C) farmers and ranchers have a history of cooperatively working together to address common needs in the promotion of their products and in the drainage of wet areas through drainage districts.

(2) ESTABLISHMENT OF GRAZING DEMONSTRATION.—In accordance with paragraph (3), the Secretary may establish 2 grazing management demonstration districts at the recommendation of the grazing lands conservation initiative steering committee.

(3) PROCEDURE.—

(A) PROPOSAL.—Within a reasonable time after the submission of a request of an organization of farmers or ranchers engaged in grazing, the Secretary shall propose that a grazing management district be established.

(B) FUNDING.—The terms and conditions of the funding and operation of the grazing management district shall be proposed by the producers.

(C) APPROVAL.—The Secretary shall approve the proposal if the Secretary determines that the proposal—

(i) is reasonable;

(ii) will promote sound grazing practices; and

(iii) contains provisions similar to the provisions contained in the beef promotion and research order issued under section 4 of the Beef Research and Information Act (7 U.S.C. 2903) in effect on the date of enactment of this Act.

(D) AREA INCLUDED.—The area proposed to be included in a grazing management district shall be determined by the Secretary on the basis of a petition by farmers or ranchers.

(E) AUTHORIZATION.—The Secretary may use authority under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to operate, on a demonstration basis, a grazing management district.

(F) ACTIVITIES.—The activities of a grazing management district shall be scientifically sound activities, as determined by the Secretary in consultation with a technical advisory committee composed of ranchers, farmers, and technical experts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $20,000,000 for fiscal year 1996;

(2) $40,000,000 for fiscal year 1997; and

(3) $60,000,000 for fiscal year 1998 and each subsequent fiscal year.

SEC. 387. WILDLIFE HABITAT INCENTIVES PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture, in consultation with the State technical committees established under section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861), shall establish a program under the Natural Resources Conservation Service to be known as the "Wildlife Habitat Incentive Program".

(b) COST-SHARE PAYMENTS.—Under the program, the Secretary shall make cost-share payments to landowners to develop upland wildlife, wetland wildlife, threatened and endangered species, fish, and other types of wildlife habitat approved by the Secretary.

(c) FUNDING.—To carry out this section, a total of $50,000,000 shall be made available for fiscal years 1996 through 2002 from funds made available to carry out subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

SEC. 388. FARMLAND PROTECTION PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture shall establish and carry out a farmland protection program under which the Secretary shall purchase conservation easements or other interests in not less than 170,000, nor more than 340,000, acres of land with prime, unique, or other productive soil that is subject to a pending offer from a State or local government for the purpose of protecting topsoil by limiting nonagricultural uses of the land.

(b) CONSERVATION PLAN.—Any highly erodible cropland for which a conservation easement or other interest is purchased under this section shall be subject to the requirements of a conservation plan that requires, at the option of the Secretary, the conversion of the cropland to less intensive uses.

(c) FUNDING.—The Secretary shall use not more than $35,000,000 of the funds of the Commodity Credit Corporation to carry out this section.

SEC. 389. INTERIM MORATORIUM ON BYPASS FLOWS.

(a) MORATORIUM.—There shall be an 18-month moratorium on any Forest Service decision to require bypass flows or any other relinquishment of the unimpaired use of a decreed water right as a condition of renewal or reissuance of a land use authorization permit.

(b) LIMITATIONS.—Subsection (a) shall not affect—

(1) obligations or authority of the Secretary of Agriculture to protect public health and safety; and

(2) obligations or authority under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or applicable State law.

(c) RULES OF CONSTRUCTION.—

(1) EXISTING NON-FEDERAL WATER RIGHTS.—Nothing in this section prevents or inhibits the exercise of the use and operation of existing non-Federal water rights on or above the National Forest land that require land use authorization permits from the Forest Service to access water supply facilities.

(2) RENEWAL OR REISSUANCE OF EXPIRING LAND USE AUTHORIZATION FOR DECREED WATER RIGHTS.—Nothing in this section prevents or inhibits the renewal or reissuance of expiring land use authorizations for decreed water rights. The Forest Service may extend, as needed, any expiring land use authorization for such time as is necessary to incorporate the results of the study authorized by subsection (d).

(d) STUDY OF WATER RIGHTS ACROSS FEDERAL LANDS.—

(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, there shall be established a Water Rights Task Force to study the subjects described in paragraph (3).

(2) MEMBERSHIP.—The Task Force shall be composed of 7 members appointed as follows:

(A) 1 member shall be appointed by the Secretary of Agriculture.

(B) 2 members shall be appointed by the Speaker of the House of Representatives and 1 member shall be appointed by the Minority Leader of the House of Representatives.

(C) 2 members shall be appointed by the Majority Leader of the Senate and 1 member shall be appointed by the Minority Leader of the Senate.

(3) SUBJECTS TO BE STUDIED.—The Task Force shall study and make recommendations on—

(A) whether Federal water rights should be acquired for environmental protection on National Forest land;

(B) measures necessary to protect the free exercise of non-Federal water rights requiring easements and permits from the Forest Service;

(C) the protection of minimum instream flows for environmental and watershed management purposes on National Forest land through purchases or exchanges from willing sellers in accordance with State law;

(D) the effects of any of the recommendations made under this paragraph on existing State laws, regulations, and customs of water usage; and

(E) measures that would be useful in avoiding or resolving conflicts between the Forest Service's responsibilities for natural resource and environmental protection, the public interest, and the property rights and interests of water holders with special use permits for water facilities, including the study of the Federal acquisition of water rights, dispute resolution, mitigation, and compensation.

(4) FINAL REPORT.—As soon as practicable, but not later than 1 year, after the date of enactment of this Act, the Task Force shall provide the final report of the Task Force to—

(A) the Secretary of Agriculture;

(B) the Speaker of the House of Representatives;

(C) the President pro tempore of the Senate;

(D) the Chairman of the Committee on Agriculture of the House of Representatives;

(E) the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(F) the Chairman of the Committee on Resources of the House of Representatives; and

(G) the Chairman of the Committee on Energy and Natural Resources of the Senate.

(5) AUTHORIZATION OF FUNDS.—The Secretary of Agriculture shall use funds made available for salaries and administrative expenses of the Department of Agriculture to carry out this subsection.

SEC. 390. EVERGLADES ECOSYSTEM RESTORATION.

(a) IN GENERAL.—On July 1, 1996, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide $200,000,000 to the Secretary of the Interior to carry out this section.

(b) ENTITLEMENT.—The Secretary of the Interior (referred to in this section as the "Secretary")—

(1) shall be entitled to receive the funds made available under subsection (a);

(2) shall accept the funds; and

(3) shall use the funds to—

(A) conduct restoration activities in the Everglades ecosystem in South Florida, which shall include the acquisition of real property and interests in real property located within the Everglades ecosystem; and

(B) fund resource protection and resource maintenance activities in the Everglades ecosystem.

(c) SAVINGS PROVISION.—Nothing in this subsection precludes the Secretary from transferring funds to the Army Corps of Engineers, the State of Florida, or the South Florida Water Management District to carry out subsection (b)(3).

(d) DEADLINE.—The Secretary shall use the funds made available under subsection (a) for restoration activities referred to in subsection (b)(3) not later than December 31, 1999.

(e) REPORT TO CONGRESS.—For each of calendar years 1996 through 1999, the Secretary shall submit an annual report to Congress describing all activities carried out under subsection (b)(3).

(f) SEPARATE AND ADDITIONAL EVERGLADES RESTORATION ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury a special account (to be known as the "Everglades Restoration Account"), which shall consist of such funds as may be deposited in the account under paragraph (2). The account shall be separate, and in addition to, funds deposited in the Treasury under subsection (a).

(2) SOURCE OF FUNDS FOR ACCOUNT.—

(A) PROCEEDS FROM SURPLUS PROPERTY.—

(i) IN GENERAL.—Subject to subparagraph (B), the Administrator shall deposit in the special account all funds received by the Administrator, on or after the date of enactment of this Act, from the disposal pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) of surplus real property located in the State of Florida.

(ii) AVAILABILITY AND DISPOSITION OF FEDERAL LAND.—

(I) IDENTIFICATION.—Any Federal real property located in the State of Florida (excluding lands under the administrative jurisdiction of the Secretary that are set aside for conservation purposes) shall be identified for disposal or exchange under this subsection and shall be presumed available for purposes of this subsection unless the head of the agency controlling the property determines that there is a compelling program need for any property identified by the Secretary.

(II) AVAILABILITY.—Property identified by the Secretary for which there is no demonstrated compelling program need shall, not later than 90 days after a request by the Secretary, be reported to the Administrator and shall be made available to the Administrator who shall consider the property to be surplus property for purposes of the Federal Property and Administrative Services Act of 1949 (40 U.S.C 471 et. seq.).

(III) PRIORITIZATION OF DISPOSITION.—The Administrator may prioritize the disposition of property made available under this subparagraph to permit the property to be sold as quickly as practicable in a manner that is consistent with the best interests of the Federal Government.

(B) LIMIT ON TOTAL AMOUNT OF DEPOSITS.—The total amount of funds deposited in the special account under subparagraph (A) shall not exceed $100,000,000.

(C) EFFECT ON CLOSURE OF MILITARY INSTALLATIONS.—Nothing in this section alters the disposition of any proceeds arising from the disposal of real property pursuant to a base closure law.

(3) USE OF SPECIAL ACCOUNT.—Funds in the special account shall be available to the Secretary until expended under this paragraph. The Secretary shall use funds in the special account to assist in the restoration of the Everglades ecosystem in South Florida through—

(A) subject to paragraph (4), the acquisition of real property and interests in real property located within the Everglades ecosystem; and

(B) the funding of resource protection and resource maintenance activities in the Everglades ecosystem.

(4) STATE CONTRIBUTION.—The Secretary may not expend any funds from the special account to acquire a parcel of real property, or an interest in a parcel of real property, under paragraph (3)(A) unless the Secretary obtains, or has previously obtained, a contribution from the State of Florida in an amount equal to not less than 50 percent of the appraised value of the parcel or interest to be acquired, as determined by the Secretary.

(5) DEFINITIONS.—In this subsection:

(A) ADMINISTRATOR.—The term "Administrator" means the Administrator of General Services.

(B) BASE CLOSURE LAW.—The term "base closure law" means each of the following:

(i) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(ii) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(iii) Section 2687 of title 10, United States Code.

(iv) Any other similar law enacted after the date of enactment of this Act.

(C) EVERGLADES ECOSYSTEM.—The term "Everglades ecosystem" means the Florida Everglades Restoration area that extends from the Kissimmee River basin to Florida Bay.

(D) EXCESS PROPERTY.—The term "excess property" has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(E) EXECUTIVE AGENCY.—The term "executive agency" has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(F) SPECIAL ACCOUNT.—The term "special account" means the Everglades Restoration Account established under paragraph (1).

(G) SURPLUS PROPERTY.—The term "surplus property" has the meaning provided in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(g) REPORT TO DETERMINE THE FEASIBILITY OF ADDITIONAL LAND ACQUISITION AND RESTORATION ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall conduct an investigation to determine what, if any, unreserved and unappropriated Federal lands (or mineral interests in any such lands) under the administrative jurisdiction of the Secretary are suitable for disposal or exchange for the purpose of conducting restoration activities in the Everglades region.

(2) CONSERVATION LANDS.—No lands under the administrative jurisdiction of the Secretary that are set aside for conservation purposes shall be identified for disposal or exchange under this subsection.

(3) FLORIDA.—In carrying out this subsection, the Secretary shall, to the maximum extent practicable, determine which lands and mineral interests located within the State of Florida are suitable for disposal or exchange before making the determination for eligible lands or interests in other States.

(4) PUBLIC ACCESS.—In carrying out this subsection, the Secretary shall consider that in disposing of lands, the Secretary shall retain such interest in the lands as may be necessary to ensure that the general public is not precluded from reasonable access to the lands for purposes of fishing, hunting, or other recreational uses.

(5) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate describing the results of the investigation conducted under this subsection. The report shall describe the specific parcels identified under this subsection, establish the priorities for disposal or exchange among the parcels, and estimate the values of the parcels.

SEC. 391. AGRICULTURAL AIR QUALITY RESEARCH OVERSIGHT.

(a) FINDINGS.—Congress finds that—

(1) various studies have alleged that agriculture is a source of PM-10 emissions;

(2) many of these studies have often been based on erroneous data;

(3) Federal research activities are currently being conducted by the Department of Agriculture to determine the true extent to which agricultural activities contribute to air pollution and to determine cost-effective ways in which the agricultural industry can reduce any pollution that exists; and

(4) any Federal policy recommendations that may be issued by any Federal agency to address air pollution problems related to agriculture or any other industrial activity should be based on sound scientific findings that are subject to adequate peer review and should take into account economic feasibility.

(b) PURPOSE.—The purpose of this section is to encourage the Secretary of Agriculture to continue to strengthen vital research efforts related to agricultural air quality.

(c) OVERSIGHT COORDINATION.—

(1) INTERGOVERNMENTAL COOPERATION.—The Secretary shall, to the maximum extent practicable with respect to the Department of Agriculture and other Federal departments and agencies, ensure intergovernmental cooperation in research activities related to agricultural air quality and avoid duplication of the activities.

(2) CORRECT DATA.—The Secretary shall, to the maximum extent practicable, ensure that the results of any research related to agricultural air quality conducted by Federal agencies not report erroneous data with respect to agricultural air quality.

(d) TASK FORCE.—

(1) ESTABLISHMENT.—The Chief of the National Resources Conservation Service shall establish a task force to address agricultural air quality issues.

(2) COMPOSITION.—The task force shall be comprised of employees of the Department of Agriculture, industry representatives, and other experts in the fields of agriculture and air quality.

(3) DUTIES.—The task force shall advise the Secretary with respect to the role of the Secretary for providing oversight and coordination related to agricultural air quality.

TITLE IV—NUTRITION ASSISTANCE

SEC. 401. FOOD STAMP PROGRAM.

(a) DISQUALIFICATION OF A STORE OR CONCERN.—Section 12(b)(3)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2021(b)(3)(B)) is amended—

(1) by striking the second parenthetical; and

(2) by striking "; or" and inserting the following: ", including evidence that—

"(i) the ownership of the store or food concern was not aware of, did not approve of, did not benefit from, and was not involved in the conduct of the violation; and

"(ii)(I) the management of the store or food concern was not aware of, did not approve of, did not benefit from, and was not involved in the conduct of the violation; or

"(II) the management was aware of, approved of, benefited from, or was involved in the conduct of no more than 1 previous violation by the store or food concern; or".

(b) EMPLOYMENT AND TRAINING.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended by striking "1995" each place it appears and inserting "2002".

(c) AUTHORIZATION OF PILOT PROJECTS.—The last sentence of section 17(b)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(A)) is amended by striking "1995" and inserting "2002".

(d) OUTREACH DEMONSTRATION PROJECTS.—The first sentence of section 17(j)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(j)(1)(A)) is amended by striking "1995" and inserting "2002".

(e) AUTHORIZATION FOR APPROPRIATIONS.—The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by striking "1995" and inserting "1997".

(f) REAUTHORIZATION OF PUERTO RICO NUTRITION ASSISTANCE PROGRAM.—The first sentence of section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by striking "$974,000,000" and all that follows through "fiscal year 1995" and inserting "$1,143,000,000 for fiscal year 1996, $1,174,000,000 for fiscal year 1997, $1,204,000,000 for fiscal year 1998, $1,236,000,000 for fiscal year 1999, $1,268,000,000 for fiscal year 2000, $1,301,000,000 for fiscal year 2001, and $1,335,000,000 for fiscal year 2002".

(g) AMERICAN SAMOA.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

"SEC. 24. TERRITORY OF AMERICAN SAMOA.

"Effective October 1, 1995, from amounts made available to carry out this Act, the Secretary shall pay to the Territory of American Samoa not more than $5,300,000 for each of fiscal years 1996 through 2002 to finance 100 percent of the expenditures for the fiscal year for a nutrition assistance program extended under section 601(c) of Public Law 96–597 (48 U.S.C. 1469d(c)).".

(h) ASSISTANCE FOR COMMUNITY FOOD PROJECTS.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) (as amended by subsection (g)) is amended by adding at the end the following:

"SEC. 25. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.

"(a) DEFINITION OF COMMUNITY FOOD PROJECTS.—In this section, the term 'community food project' means a community-based project that requires a 1-time infusion of Federal assistance to become self-sustaining and that is designed to—

"(1) meet the food needs of low-income people;

"(2) increase the self-reliance of communities in providing for their own food needs; and

"(3) promote comprehensive responses to local food, farm, and nutrition issues.

"(b) AUTHORITY TO PROVIDE ASSISTANCE.—

"(1) IN GENERAL.—From amounts made available to carry out this Act, the Secretary may make grants to assist eligible private nonprofit entities to establish and carry out community food projects.

"(2) LIMITATION ON GRANTS.—The total amount of funds provided as grants under this section may not exceed—

"(A) $1,000,000 for fiscal year 1996; and

"(B) $2,500,000 for each of fiscal years 1997 through 2002.

"(c) ELIGIBLE ENTITIES.—To be eligible for a grant under subsection (b), a private nonprofit entity must—

"(1) have experience in the area of—

"(A) community food work, particularly concerning small and medium-sized farms, including the provision of food to people in low-income communities and the development of new markets in low-income communities for agricultural producers; or

"(B) job training and business development activities for food-related activities in low-income communities;

"(2) demonstrate competency to implement a project, provide fiscal accountability, collect data, and prepare reports and other necessary documentation; and

"(3) demonstrate a willingness to share information with researchers, practitioners, and other interested parties.

"(d) PREFERENCE FOR CERTAIN PROJECTS.—In selecting community food projects to receive assistance under subsection (b), the Secretary shall give a preference to projects designed to—

"(1) develop linkages between 2 or more sectors of the food system;

"(2) support the development of entrepreneurial projects;

"(3) develop innovative linkages between the for-profit and nonprofit food sectors; or

"(4) encourage long-term planning activities and multi-system, interagency approaches.

"(e) MATCHING FUNDS REQUIREMENTS.—

"(1) REQUIREMENTS.—The Federal share of the cost of establishing or carrying out a community food project that receives assistance under subsection (b) may not exceed 50 percent of the cost of the project during the term of the grant.

"(2) CALCULATION.—In providing for the non-Federal share of the cost of carrying out a community food project, the entity receiving the grant shall provide for the share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services.

"(3) SOURCES.—An entity may provide for the non-Federal share through State government, local government, or private sources.

"(f) TERM OF GRANT.—

"(1) SINGLE GRANT.—A community food project may be supported by only a single grant under subsection (b).

"(2) TERM.—The term of a grant under subsection (b) may not exceed 3 years.

"(g) TECHNICAL ASSISTANCE AND RELATED INFORMATION.—

"(1) TECHNICAL ASSISTANCE.—In carrying out this section, the Secretary may provide technical assistance regarding community food projects, processes, and development to an entity seeking the assistance.

"(2) SHARING INFORMATION.—

"(A) IN GENERAL.—The Secretary may provide for the sharing of information concerning community food projects and issues among and between government, private for-profit and nonprofit groups, and the public through publications, conferences, and other appropriate forums.

"(B) OTHER INTERESTED PARTIES.—The Secretary may share information concerning community food projects with researchers, practitioners, and other interested parties.

"(h) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall provide for the evaluation of the success of community food projects supported using funds under this section.

"(2) REPORT.—Not later than January 30, 2002, the Secretary shall submit a report to Congress regarding the results of the evaluation.".

SEC. 402. COMMODITY DISTRIBUTION PROGRAM; COMMODITY SUPPLEMENTAL FOOD PROGRAM.

(a) REAUTHORIZATION.—The first sentence of section 4(a) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2002".

(b) FUNDING.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note) is amended—

(1) in subsection (a)(2), by striking "1995" and inserting "2002";

(2) in subsection (d)(2), by striking "1995" and inserting "2002"; and

(3) by adding at the end the following:

"(l) CARRIED-OVER FUNDS.—Not more than 20 percent of any commodity supplemental food program food funds carried over under this section shall be available for administrative expenses of the program.".

SEC. 403. EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) REAUTHORIZATION.—The first sentence of section 204(a)(1) of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2002".

(b) PROGRAM TERMINATION.—Section 212 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2002".

(c) REQUIRED PURCHASES OF COMMODITIES.—Section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) is amended—

(1) in the first sentence of subsection (a), by striking "1995" and inserting "2002"; and

(2) in subsection (e), by striking "1995" each place it appears and inserting "2002".

SEC. 404. SOUP KITCHEN AND FOOD BANK PROGRAM.

Section 110 of the Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note) is amended—

(1) in the first sentence of subsection (a), by striking "1995" and inserting "2002"; and

(2) in subsection (c)(2)—

(A) in the paragraph heading, by striking "1992 THROUGH 1995" and inserting "SUBSEQUENT"; and

(B) by striking "1995" each place it appears and inserting "2002".

SEC. 405. NATIONAL COMMODITY PROCESSING.

The first sentence of section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended by striking "1995" and inserting "2002".

TITLE V—AGRICULTURAL PROMOTION

Subtitle A—Commodity Promotion and Evaluation

SEC. 501. COMMODITY PROMOTION AND EVALUATION.

(a) COMMODITY PROMOTION LAW DEFINED.—In this section, the term "commodity promotion law" means a Federal law that provides for the establishment and operation of a promotion program regarding an agricultural commodity that includes a combination of promotion, research, industry information, or consumer information activities, is funded by mandatory assessments on producers or processors, and is designed to maintain or expand markets and uses for the commodity (as determined by the Secretary). The term includes—

(1) the marketing promotion provisions under section 8c(6)(I) of the Agricultural Adjustment Act (7 U.S.C. 608c(6)(I)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937;

(2) Public Law 89–502 (7 U.S.C. 2101 et seq.);

(3) title III of Public Law 91–670 (7 U.S.C. 2611 et seq.);

(4) Public Law 93–428 (7 U.S.C. 2701 et seq.);

(5) Public Law 94–294 (7 U.S.C. 2901 et seq.);

(6) subtitle B of title I of Public Law 98–180 (7 U.S.C. 4501 et seq.);

(7) Public Law 98–590 (7 U.S.C. 4601 et seq.);

(8) subtitle B of title XVI of Public Law 99–198 (7 U.S.C. 4801 et seq.);

(9) subtitle C of title XVI of Public Law 99–198 (7 U.S.C. 4901 et seq.);

(10) subtitle B of title XIX of Public Law 101–624 (7 U.S.C. 6101 et seq.);

(11) subtitle E of title XIX of Public Law 101–624 (7 U.S.C. 6301 et seq.);

(12) subtitle H of title XIX of Public Law 101–624 (7 U.S.C. 6401 et seq.);

(13) Public Law 103–190 (7 U.S.C. 6801 et seq.);

(14) Public Law 103–407 (7 U.S.C. 7101 et seq.);

(15) subtitle B;

(16) subtitle C;

(17) subtitle D; or

(18) subtitle E.

(b) FINDINGS.—Congress finds the following:

(1) It is in the national public interest and vital to the welfare of the agricultural economy of the United States to maintain and expand existing markets and develop new markets and uses for agricultural commodities through industry-funded, Government-supervised, generic commodity promotion programs established under commodity promotion laws.

(2) These generic commodity promotion programs, funded by the agricultural producers or processors who most directly reap the benefits of the programs and supervised by the Secretary of Agriculture, provide a unique opportunity for producers and processors to inform consumers about their products.

(3) The central congressional purpose underlying each commodity promotion law has always been to maintain and expand markets for the agricultural commodity covered by the law, rather than to maintain or expand the share of those markets held by any individual producer or processor.

(4) The commodity promotion laws were neither designed nor intended to prohibit or restrict, and the promotion programs established and funded pursuant to these laws do not prohibit or restrict, individual advertising or promotion of the covered commodities by any producer, processor, or group of producers or processors.

(5) It has never been the intent of Congress for the generic commodity promotion programs established and funded by the commodity promotion laws to replace the individual advertising and promotion efforts of producers or processors.

(6) An individual producer's or processor's own advertising initiatives are typically designed to increase the share of the market held by that producer or processor rather than to increase or expand the overall size of the market.

(7) In contrast, a generic commodity promotion program is intended and designed to maintain or increase the overall demand for the agricultural commodity covered by the program and increase the size of the market for that commodity, often by utilizing promotion methods and techniques that individual producers and processors typically are unable, or have no incentive, to employ.

(8) The commodity promotion laws establish promotion programs that operate as "self-help" mechanisms for producers and processors to fund generic promotions for covered commodities which, under the required supervision and oversight of the Secretary of Agriculture—

(A) further specific national governmental goals, as established by Congress; and

(B) produce nonideological and commercial communication the purpose of which is to further the governmental policy and objective of maintaining and expanding the markets for the covered commodities.

(9) While some commodity promotion laws grant a producer or processor the option of crediting individual advertising conducted by the producer or processor for all or a portion of the producer's or processor's marketing promotion assessments, all promotion programs established under the commodity promotion laws, both those programs that permit credit for individual advertising and those programs that do not contain such provisions, are very narrowly tailored to fulfill the congressional purposes of the commodity promotion laws without impairing or infringing the legal or constitutional rights of any individual producer or processor.

(10) These generic commodity promotion programs are of particular benefit to small producers who often lack the resources or market power to advertise on their own and who are otherwise often unable to benefit from the economies of scale available in promotion and advertising.

(11) Periodic independent evaluation of the effectiveness of these generic commodity promotion programs will assist Congress and the Secretary of Agriculture in ensuring that the objectives of the programs are met.

(c) INDEPENDENT EVALUATION OF PROMOTION PROGRAM EFFECTIVENESS.—Except as otherwise provided by law, each commodity board established under the supervision and oversight of the Secretary of Agriculture pursuant to a commodity promotion law shall, not less often than every 5 years, authorize and fund, from funds otherwise available to the board, an independent evaluation of the effectiveness of the generic commodity promotion programs and other programs conducted by the board pursuant to a commodity promotion law. The board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this subsection.

(d) ADMINISTRATIVE COSTS.—The Secretary shall annually provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information on administrative expenses on programs established under commodity promotion laws.

Subtitle B—Issuance of Orders for Promotion, Research, and Information Activities Regarding Agricultural Commodities

SEC. 511. SHORT TITLE.

This subtitle may be cited as the "Commodity Promotion, Research, and Information Act of 1996".

SEC. 512. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The production of agricultural commodities plays a significant role in the economy of the United States. Thousands of producers in the United States are involved in the production of agricultural commodities, and such commodities are consumed by millions of people throughout the United States and foreign countries.

(2) Agricultural commodities must be of high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply.

(3) The maintenance and expansion of existing markets and the development of new markets for agricultural commodities through generic commodity promotion, research, and information programs are vital to the welfare of persons engaged in the production, marketing, and consumption of such commodities, as well as to the general economy of the United States.

(4) Generic promotion, research, and information activities for agricultural commodities play a unique role in advancing the demand for such commodities, since such activities increase the total market for a product to the benefit of consumers and all producers. These generic activities complement branded advertising initiatives, which are aimed at increasing the market share of individual competitors, and are of particular benefit to small producers who lack the resources or market power to advertise on their own. These generic activities do not impede the branded advertising efforts of individual firms, but instead increase general market demand for an agricultural commodity using methods that individual companies do not have the incentive to employ.

(5) Generic promotion, research, and information activities for agricultural commodities, paid by the producers and others in the industry who reap the benefits of such activities, provide a unique opportunity for producers to inform consumers about a particular agricultural commodity.

(6) It is important to ensure that generic promotion, research, and information activities for agricultural commodities be carried out in an effective and coordinated manner designed to strengthen the position of the commodities in the marketplace and to maintain and expand their markets and uses. Independent evaluation of the effectiveness of the generic promotion activities of these programs will assist the Secretary of Agriculture and Congress in ensuring that these objectives are met.

(7) The cooperative development, financing, and implementation of a coordinated national program of research, promotion, and information regarding agricultural commodities are necessary to maintain and expand existing markets and to develop new markets for these commodities.

(8) Agricultural commodities move in interstate and foreign commerce, and agricultural commodities and their products that do not move in such channels of commerce directly burden or affect interstate commerce in agricultural commodities and their products.

(9) Commodity promotion programs have the ability to provide significant conservation benefits to producers and the public.

(b) PURPOSE.—The purpose of this subtitle is to authorize the establishment, through the exercise by the Secretary of Agriculture of the authority provided in this subtitle, of an orderly program for developing, financing, and carrying out an effective, continuous, and coordinated program of generic promotion, research, and information regarding agricultural commodities designed to—

(1) strengthen the position of agricultural commodity industries in the marketplace;

(2) maintain and expand existing domestic and foreign markets and uses for agricultural commodities;

(3) develop new markets and uses for agricultural commodities; or

(4) assist producers in meeting their conservation objectives.

(c) RULE OF CONSTRUCTION.—Nothing in this subtitle provides for the control of production or otherwise limits the right of any person to produce, handle, or import an agricultural commodity.

SEC. 513. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) AGRICULTURAL COMMODITY.—The term "agricultural commodity" means—

(A) agricultural, horticultural, viticultural, and dairy products;

(B) livestock and the products of livestock;

(C) the products of poultry and bee raising;

(D) the products of forestry;

(E) other commodities raised or produced on farms, as determined appropriate by the Secretary; and

(F) products processed or manufactured from products specified in the preceding subparagraphs, as determined appropriate by the Secretary.

(2) BOARD.—The term "board" means a board established under an order issued under section 514.

(3) CONFLICT OF INTEREST.—The term "conflict of interest" means a situation in which a member or employee of a board has a direct or indirect financial interest in a person that performs a service for, or enters into a contract with, a board for anything of economic value.

(4) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(5) FIRST HANDLER.—The term "first handler" means the first person who buys or takes possession of an agricultural commodity from a producer for marketing. If a producer markets the agricultural commodity directly to consumers, the producer shall be considered to be the first handler with respect to the agricultural commodity produced by the producer.

(6) IMPORTER.—The term "importer" means any person who imports an agricultural commodity from outside the United States for sale in the United States as a principal or as an agent, broker, or consignee of any person.

(7) INFORMATION.—The term "information" means information and programs that are designed to increase—

(A) efficiency in processing; and

(B) the development of new markets, marketing strategies, increased marketing efficiency, and activities to enhance the image of agricultural commodities on a national or international basis.

(8) MARKET.—The term "market" means to sell or to otherwise dispose of an agricultural commodity in interstate, foreign, or intrastate commerce.

(9) ORDER.—The term "order" means an order issued by the Secretary under section 514 that provides for a program of generic promotion, research, and information regarding agricultural commodities designed to—

(A) strengthen the position of agricultural commodity industries in the marketplace;

(B) maintain and expand existing domestic and foreign markets and uses for agricultural commodities;

(C) develop new markets and uses for agricultural commodities; or

(D) assist producers in meeting their conservation objectives.

(10) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(11) PRODUCER.—The term "producer" means any person who is engaged in the production and sale of an agricultural commodity in the United States and who owns, or shares the ownership and risk of loss of, the agricultural commodity.

(12) PROMOTION.—The term "promotion" means any action taken by a board under an order, including paid advertising, to present a favorable image of an agricultural commodity to the public to improve the competitive position of the agricultural commodity in the marketplace and to stimulate sales of the agricultural commodity.

(13) RESEARCH.—The term "research" means any type of test, study, or analysis designed to advance the image, desirability, use, marketability, production, product development, or quality of an agricultural commodity.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE.—The term "State" means any of the States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(16) SUSPEND.—The term "suspend" means to issue a rule under section 553 of title 5, United States Code, to temporarily prevent the operation of an order during a particular period of time specified in the rule.

(17) TERMINATE.—The term "terminate" means to issue a rule under section 553 of title 5, United States Code, to cancel permanently the operation of an order beginning on a date certain specified in the rule.

(18) UNITED STATES.—The term "United States" means collectively the 50 States, the District of Columbia, the Commonwealth of Puerto Rico and the territories and possessions of the United States.

SEC. 514. ISSUANCE OF ORDERS.

(a) ISSUANCE AUTHORIZED.—

(1) IN GENERAL.—To effectuate the purpose of this subtitle, the Secretary may issue, and amend from time to time, orders applicable to—

(A) the producers of an agricultural commodity;

(B) the first handlers of the agricultural commodity and other persons in the marketing chain as appropriate; and

(C) the importers of the agricultural commodity, if imports of the agricultural commodity are subject to assessment under section 516(f).

(2) NATIONAL SCOPE.—Each order issued under this section shall be national in scope.

(b) PROCEDURE FOR ISSUANCE.—

(1) DEVELOPMENT OR RECEIPT OF PROPOSED ORDER.—A proposed order with respect to an agricultural commodity may be—

(A) prepared by the Secretary at any time; or

(B) submitted to the Secretary by—

(i) an association of producers of the agricultural commodity; or

(ii) any other person that may be affected by the issuance of an order with respect to the agricultural commodity.

(2) CONSIDERATION OF PROPOSED ORDER.—If the Secretary determines that a proposed order is consistent with and will effectuate the purpose of this subtitle, the Secretary shall publish the proposed order in the Federal Register and give due notice and opportunity for public comment on the proposed order.

(3) EXISTENCE OF OTHER ORDERS.—In deciding whether a proposal for an order is consistent with and will effectuate the purpose of this subtitle, the Secretary may consider the existence of other Federal promotion, research, and information programs or orders issued or developed pursuant to any other law.

(4) PREPARATION OF FINAL ORDER.—After notice and opportunity for public comment under paragraph (2) regarding a proposed order, the Secretary shall take into consideration the comments received in preparing a final order. The Secretary shall ensure that the final order is in conformity with the terms, conditions, and requirements of this subtitle.

(c) ISSUANCE AND EFFECTIVE DATE.—If the Secretary determines that the final order developed with respect to an agricultural commodity is consistent with and will effectuate the purpose of this subtitle, the Secretary shall issue the final order. Except in the case of an order for which an initial referendum is conducted under section 518(a), the final order shall be issued and become effective not later than 270 days after the date of publication of the proposed order that was the basis for the final order.

(d) AMENDMENTS.—From time to time the Secretary may amend any order, consistent with the requirements of section 523.

SEC. 515. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—Each order shall contain the terms and conditions specified in this section.

(b) BOARD.—

(1) ESTABLISHMENT.—Each order shall establish a board to carry out a program of generic promotion, research, and information regarding the agricultural commodity covered by the order and intended to effectuate the purpose of this subtitle.

(2) BOARD MEMBERSHIP.—

(A) NUMBER OF MEMBERS.—Each board shall consist of the number of members considered by the Secretary, in consultation with the agricultural commodity industry involved, to be appropriate to administer the order. In addition to members, the Secretary may also provide for alternates on the board.

(B) APPOINTMENT.—The Secretary shall appoint the members and any alternates of a board from among producers of the agricultural commodity and first handlers and others in the marketing chain as appropriate. If imports of the agricultural commodity covered by an order are subject to assessment under section 516(f), the Secretary shall also appoint importers as members of the board and as alternates if alternates are included on the board. The Secretary may appoint 1 or more members of the general public to each board.

(C) NOMINATIONS.—The Secretary may make appointments from nominations made pursuant to the method set forth in the order.

(D) GEOGRAPHICAL REPRESENTATION.—To ensure fair and equitable representation of the agricultural commodity industry covered by an order, the composition of each board shall reflect the geographical distribution of the production of the agricultural commodity involved in the United States and the quantity or value of the agricultural commodity imported into the United States.

(3) REAPPORTIONMENT OF BOARD MEMBERSHIP.—In accordance with rules issued by the Secretary, at least once in each 5-year period, but not more frequently than once in each 3-year period, each board shall—

(A) review the geographical distribution in the United States of the production of the agricultural commodity covered by the order involved and the quantity or value of the agricultural commodity imported into the United States; and

(B) if warranted, recommend to the Secretary the reapportionment of the board membership to reflect changes in the geographical distribution of the production of the agricultural commodity and the quantity or value of the imported agricultural commodity.

(4) NOTICE.—

(A) VACANCIES.—Each order shall provide for notice of board vacancies to the agricultural commodity industry involved.

(B) MEETINGS.—Each board shall provide the Secretary with prior notice of meetings of the board to permit the Secretary, or a designated representative of the Secretary, to attend the meetings.

(5) TERM OF OFFICE.—

(A) IN GENERAL.—The members and any alternates of a board shall each serve for a term of 3 years, except that the members and any alternates initially appointed to a board shall serve for terms of not more than 2, 3, and 4 years, as specified by the order.

(B) LIMITATION ON CONSECUTIVE TERMS.—A member or alternate may serve not more than 2 consecutive terms.

(C) CONTINUATION OF TERM.—Notwithstanding subparagraph (B), each member or alternate shall continue to serve until a successor is appointed by the Secretary.

(D) VACANCIES.—A vacancy arising before the expiration of a term of office of an incumbent member or alternate of a board shall be filled in a manner provided for in the order.

(6) COMPENSATION.—

(A) IN GENERAL.—Members and any alternates of a board shall serve without compensation.

(B) TRAVEL EXPENSES.—If approved by a board, members or alternates shall be reimbursed for reasonable travel expenses, which may include a per diem allowance or actual subsistence incurred while away from their homes or regular places of business in the performance of services for the board.

(c) POWERS AND DUTIES OF A BOARD.—Each order shall specify the powers and duties of the board established under the order, which shall include the power and duty—

(1) to administer the order in accordance with its terms and conditions and to collect assessments;

(2) to develop and recommend to the Secretary for approval such bylaws as may be necessary for the functioning of the board and such rules as may be necessary to administer the order, including activities authorized to be carried out under the order;

(3) to meet, organize, and select from among the members of the board a chairperson, other officers, and committees and subcommittees, as the board determines to be appropriate;

(4) to employ persons, other than the members, as the board considers necessary to assist the board in carrying out its duties, and to determine the compensation and specify the duties of the persons;

(5) subject to subsection (e), to develop and carry out generic promotion, research, and information activities relating to the agricultural commodity covered by the order;

(6) to prepare and submit for the approval of the Secretary, before the beginning of each fiscal year, rates of assessment under section 517 and an annual budget of the anticipated expenses to be incurred in the administration of the order, including the probable cost of each promotion, research, and information activity proposed to be developed or carried out by the board;

(7) to borrow funds necessary for the startup expenses of the order;

(8) subject to subsection (f), to enter into contracts or agreements to develop and carry out generic promotion, research, and information activities relating to the agricultural commodity covered by the order;

(9) to pay the cost of the activities with assessments collected under section 517, earnings from invested assessments, and other funds;

(10) to keep records that accurately reflect the actions and transactions of the board, to keep and report minutes of each meeting of the board to the Secretary, and to furnish the Secretary with any information or records the Secretary requests;

(11) to receive, investigate, and report to the Secretary complaints of violations of the order; and

(12) to recommend to the Secretary such amendments to the order as the board considers appropriate.

(d) PROHIBITED ACTIVITIES.—A board may not engage in, and shall prohibit the employees and agents of the board from engaging in—

(1) any action that would be a conflict of interest;

(2) using funds collected by the board under the order, any action undertaken for the purpose of influencing any legislation or governmental action or policy other than recommending to the Secretary amendments to the order; and

(3) any advertising, including promotion, research, and information activities authorized to be carried out under the order, that may be false or misleading or disparaging to another agricultural commodity.

(e) ACTIVITIES AND BUDGETS.—

(1) ACTIVITIES.—Each order shall require the board established under the order to submit to the Secretary for approval plans and projects for promotion, research, or information relating to the agricultural commodity covered by the order.

(2) BUDGETS.—

(A) SUBMISSION TO SECRETARY.—Each order shall require the board established under the order to submit to the Secretary for approval a budget of its anticipated annual expenses and disbursements to be paid to administer the order. The budget shall be submitted before the beginning of a fiscal year and as frequently as may be necessary after the beginning of the fiscal year.

(B) REIMBURSEMENT OF SECRETARY.—Each order shall require that the Secretary be reimbursed for all expenses incurred by the Secretary in the implementation, administration, and supervision of the order, including all referenda costs incurred in connection with the order.

(3) INCURRING EXPENSES.—A board may incur the expenses described in paragraph (2) and other expenses for the administration, maintenance, and functioning of the board as authorized by the Secretary.

(4) PAYMENT OF EXPENSES.—Expenses incurred under paragraph (3) shall be paid by a board using assessments collected under section 517, earnings obtained from assessments, and other income of the board. Any funds borrowed by the board shall be expended only for startup costs and capital outlays.

(5) LIMITATION ON SPENDING.—For fiscal years beginning 3 or more years after the date of the establishment of a board, the board may not expend for administration (except for reimbursements to the Secretary required under paragraph (2)(B)), maintenance, and functioning of the board in a fiscal year an amount that exceeds 15 percent of the assessment and other income received by the board for the fiscal year.

(f) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—Each order shall provide that, with the approval of the Secretary, the board established under the order may—

(A) enter into contracts and agreements to carry out generic promotion, research, and information activities relating to the agricultural commodity covered by the order, including contracts and agreements with producer associations or other entities as considered appropriate by the Secretary; and

(B) pay the cost of approved generic promotion, research, and information activities using assessments collected under section 517, earnings obtained from assessments, and other income of the board.

(2) REQUIREMENTS.—Each contract or agreement shall provide that any person who enters

into the contract or agreement with the board shall—

(A) develop and submit to the board a proposed activity together with a budget that specifies the cost to be incurred to carry out the activity;

(B) keep accurate records of all of its transactions relating to the contract or agreement;

(C) account for funds received and expended in connection with the contract or agreement;

(D) make periodic reports to the board of activities conducted under the contract or agreement; and

(E) make such other reports as the board or the Secretary considers relevant.

(g) RECORDS OF BOARD.—

(1) IN GENERAL.—Each order shall require the board established under the order—

(A) to maintain such records as the Secretary may require and to make the records available to the Secretary for inspection and audit;

(B) to collect and submit to the Secretary, at any time the Secretary may specify, any information the Secretary may request; and

(C) to account for the receipt and disbursement of all funds in the possession, or under the control, of the board.

(2) AUDITS.—Each order shall require the board established under the order to have—

(A) its records audited by an independent auditor at the end of each fiscal year; and

(B) a report of the audit submitted directly to the Secretary.

(h) PERIODIC EVALUATION.—In accordance with section 501(c), each order shall require the board established under the order to provide for the independent evaluation of all generic promotion, research, and information activities undertaken under the order.

(i) BOOKS AND RECORDS OF PERSONS COVERED BY ORDER.—

(1) IN GENERAL.—Each order shall require that producers, first handlers and other persons in the marketing chain as appropriate, and importers covered by the order shall—

(A) maintain records sufficient to ensure compliance with the order and regulations;

(B) submit to the board established under the order any information required by the board to carry out its responsibilities under the order; and

(C) make the records described in subparagraph (A) available, during normal business hours, for inspection by employees or agents of the board or the Department, including any records necessary to verify information required under subparagraph (B).

(2) TIME REQUIREMENT.—Any record required to be maintained under paragraph (1) shall be maintained for such time period as the Secretary may prescribe.

(3) OTHER INFORMATION.—The Secretary may use, and may authorize the board to use under this subtitle, information regarding persons subject to an order that is collected by the Department under any other law.

(4) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—Except as otherwise provided in this subtitle, all information obtained under paragraph (1) or as part of a referendum under section 518 shall be kept confidential by all officers, employees, and agents of the Department and of the board.

(B) DISCLOSURE.—Information referred to in subparagraph (A) may be disclosed only if—

(i) the Secretary considers the information relevant; and

(ii) the information is revealed in a judicial proceeding or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party.

(C) OTHER EXCEPTIONS.—This paragraph shall not prohibit—

(i) the issuance of general statements based on reports or on information relating to a number of persons subject to an order if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order and a statement of the particular provisions of the order violated by the person.

(D) PENALTY.—Any person who willfully violates this subsection shall be subject, on conviction, to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both.

(5) WITHHOLDING INFORMATION.—This subsection shall not authorize the withholding of information from Congress.

SEC. 516. PERMISSIVE TERMS IN ORDERS.

(a) EXEMPTIONS.—An order issued under this subtitle may contain—

(1) authority for the Secretary to exempt from the order any de minimis quantity of an agricultural commodity otherwise covered by the order; and

(2) authority for the board established under the order to require satisfactory safeguards against improper use of the exemption.

(b) DIFFERENT PAYMENT AND REPORTING SCHEDULES.—An order issued under this subtitle may contain authority for the board established under the order to designate different payment and reporting schedules to recognize differences in agricultural commodity industry marketing practices and procedures used in different production and importing areas.

(c) ACTIVITIES.—An order issued under this subtitle may contain authority to develop and carry out research, promotion, and information activities designed to expand, improve, or make more efficient the marketing or use of the agricultural commodity covered by the order in domestic and foreign markets. Section 515(e) shall apply with respect to activities authorized under this subsection.

(d) RESERVE FUNDS.—An order issued under this subtitle may contain authority to reserve funds from assessments collected under section 517 to permit an effective and continuous coordinated program of research, promotion, and information in years when the yield from assessments may be reduced, except that the amount of funds reserved may not exceed the greatest aggregate amount of the anticipated disbursements specified in budgets approved under section 515(e) by the Secretary for any 2 fiscal years.

(e) CREDITS.—

(1) GENERIC ACTIVITIES.—An order issued under this subtitle may contain authority to provide credits of assessments for those individuals who contribute to other similar generic research, promotion, and information programs at the State, regional, or local level.

(2) BRANDED ACTIVITIES.—

(A) IN GENERAL.—The Secretary may permit a farmer cooperative that engages in branded activities relating to the marketing of the products of members of the cooperative to receive an annual credit for the activities and related expenditures in the form of a deduction of the total cost of the activities and related expenditures from the amount of any assessment that would otherwise be required to be paid by the producer members of the cooperative under an order issued under this subtitle.

(B) ELECTION BY COOPERATIVE.—A farmer cooperative may elect to voluntarily waive the application of subparagraph (A) to the cooperative.

(f) ASSESSMENT OF IMPORTS.—An order issued under this subtitle may contain authority for the board established under the order to assess under section 517 an imported agricultural commodity, or products of such an agricultural commodity, at a rate comparable to the rate determined by the appropriate board for the domestic agricultural commodity covered by the order.

(g) OTHER AUTHORITY.—An order issued under this subtitle may contain authority to take any other action that—

(1) is not inconsistent with the purpose of this subtitle, any term or condition specified in section 515, or any rule issued to carry out this subtitle; and

(2) is necessary to administer the order.

SEC. 517. ASSESSMENTS.

(a) ASSESSMENTS AUTHORIZED.—While an order issued under this subtitle is in effect with respect to an agricultural commodity, assessments shall be—

(1) paid by first handlers with respect to the agricultural commodity produced and marketed in the United States; and

(2) paid by importers with respect to the agricultural commodity imported into the United States, if the imported agricultural commodity is covered by the order pursuant to section 516(f).

(b) COLLECTION.—Assessments required under an order shall be remitted to the board established under the order at the time and in the manner prescribed by the order.

(c) LIMITATION ON ASSESSMENTS.—Not more than 1 assessment may be levied on a first handler or importer under subsection (a) with respect to any agricultural commodity.

(d) ASSESSMENT RATES.—The board shall recommend to the Secretary 1 or more rates of assessment to be levied under subsection (a). If approved by the Secretary, the rates shall take effect. An order may provide that an assessment rate may not be increased unless approved by a referendum conducted pursuant to section 518.

(e) LATE-PAYMENT AND INTEREST CHARGES.—

(1) IN GENERAL.—Late-payment and interest charges may be levied on each person subject to an order who fails to remit an assessment in accordance with subsection (b).

(2) RATE.—The rate for the charges shall be specified by the Secretary.

(f) INVESTMENT OF ASSESSMENTS.—Pending disbursement of assessments under a budget approved by the Secretary, a board may invest assessments collected under this section in—

(1) obligations of the United States or any agency of the United States;

(2) general obligations of any State or any political subdivision of a State;

(3) interest-bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve System; or

(4) obligations fully guaranteed as to principal and interest by the United States.

(g) REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.—

(1) ESCROW ACCOUNT.—During the period beginning on the effective date of an order and ending on the date the Secretary announces the results of a referendum that is conducted under section 518(b)(1) with respect to the order, the board established under the order shall—

(A) establish and maintain an escrow account of the kind described in subsection (f)(3) to be used to refund assessments; and

(B) deposit funds in the account in accordance with paragraph (2).

(2) AMOUNT TO BE DEPOSITED.—The board shall deposit in the account an amount equal to 10 percent of the assessments collected during the period referred to in paragraph (1).

(3) RIGHT TO RECEIVE REFUND.—Subject to paragraphs (4), (5), and (6), persons subject to an order shall be eligible to demand a refund of assessments collected during the period referred to in paragraph (1) if—

(A) the assessments were remitted on behalf of the person; and

(B) the order is not approved in the referendum.

(4) FORM OF DEMAND.—The demand for a refund shall be made at such time and in such form as specified by the order.

(5) PAYMENT OF REFUND.—A person entitled to a refund shall be paid promptly after the board receives satisfactory proof that the assessment for which the refund is demanded was paid on behalf of the person who makes the demand.

(6) PRORATION.—If the funds in the escrow account required by paragraph (1) are insufficient to pay the amount of all refunds that persons subject to an order otherwise would have a right to receive under this subsection, the board shall prorate the amount of the funds among all the persons.

(7) CLOSING OF ESCROW ACCOUNT.—If the order is approved in a referendum conducted under section 518(b)(1)—

(A) the escrow account shall be closed; and

(B) the funds shall be available to the board for disbursement as authorized in the order.

SEC. 518. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) OPTIONAL REFERENDUM.—For the purpose of ascertaining whether the persons to be covered by an order favor the order going into effect, the order may provide for the Secretary to conduct an initial referendum among persons to be subject to an assessment under section 517 who, during a representative period determined by the Secretary, engaged in—

(A) the production or handling of the agricultural commodity covered by the order; or

(B) the importation of the agricultural commodity.

(2) PROCEDURE.—The results of the referendum shall be determined in accordance with subsection (e). The Secretary may require that the agricultural commodity industry involved post a bond or other collateral to cover the cost of the referendum.

(b) REQUIRED REFERENDA.—

(1) IN GENERAL.—For the purpose of ascertaining whether the persons covered by an order favor the continuation, suspension, or termination of the order, the Secretary shall conduct a referendum among persons subject to assessments under section 517 who, during a representative period determined by the Secretary, have engaged in—

(A) the production or handling of the agricultural commodity covered by the order; or

(B) the importation of the agricultural commodity.

(2) TIME FOR REFERENDUM.—The referendum shall be conducted not later than 3 years after assessments first begin under the order.

(3) EXCEPTION.—This subsection shall not apply if an initial referendum was conducted under subsection (a).

(c) SUBSEQUENT REFERENDA.—The Secretary shall conduct a subsequent referendum—

(1) not later than 7 years after assessments first begin under the order;

(2) at the request of the board established under the order; or

(3) at the request of 10 percent or more of the number of persons eligible to vote under subsection (b)(1);

to determine if the persons favor the continuation, suspension or termination of the order.

(d) OTHER REFERENDA.—The Secretary may conduct a referendum at any time to determine whether the continuation, suspension, or termination of the order or a provision of the order is favored by persons eligible to vote under subsection (b)(1).

(e) APPROVAL OF ORDER.—An order may provide for its approval in a referendum—

(1) by a majority of those persons voting;

(2) by persons voting for approval who represent a majority of the volume of the agricultural commodity; or

(3) by a majority of those persons voting for approval who also represent a majority of the volume of the agricultural commodity.

(f) COSTS OF REFERENDA.—The board established under an order with respect to which a referendum is conducted under this section shall reimburse the Secretary for any expenses incurred by the Secretary to conduct the referendum.

(g) MANNER OF CONDUCTING REFERENDA.—

(1) IN GENERAL.—A referendum conducted under this section shall be conducted in the manner determined by the Secretary to be appropriate.

(2) ADVANCE REGISTRATION.—If the Secretary determines that an advance registration of eligible voters in a referendum is necessary before the voting period in order to facilitate the conduct of the referendum, the Secretary may institute the advance registration procedures by mail, or in person through the use of national and local offices of the Department.

(3) VOTING.—Eligible voters may vote by mail ballot in the referendum or in person if so prescribed by the Secretary.

(4) NOTICE.—Not later than 30 days before a referendum is conducted under this section with respect to an order, the Secretary shall notify the agricultural commodity industry involved, in such manner as determined by the Secretary, of the period during which voting in the referendum will occur. The notice shall explain any registration and voting procedures established under this subsection.

SEC. 519. PETITION AND REVIEW OF ORDERS.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this subtitle may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARING.—The Secretary shall give the petitioner an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall make a ruling on the petition. The ruling shall be final, subject to review as set forth in subsection (b).

(4) LIMITATION ON PETITION.—Any petition filed under this subsection challenging an order, any provision of the order, or any obligation imposed in connection with the order, shall be filed within 2 years after the effective date of the order, provision, or obligation subject to challenge in the petition.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which a person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review the final ruling on the petition of the person, if a complaint for that purpose is filed not later than 20 days after the date of the entry of the final ruling by the Secretary under subsection (a)(3).

(2) PROCESS.—Service of process in a proceeding may be made on the Secretary by delivering a copy of the complaint to the Secretary.

(3) REMANDS.—If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court determines to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(c) EFFECT ON ENFORCEMENT PROCEEDINGS.—The pendency of a petition filed under subsection (a) or an action commenced under subsection (b) shall not operate as a stay of any action authorized by section 520 to be taken to enforce this subtitle, including any rule, order, or penalty in effect under this subtitle.

SEC. 520. ENFORCEMENT.

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation issued under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this subtitle if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by providing a suitable written notice or warning to the person who committed the violation or by an administrative action under this section.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—A person who willfully violates an order or regulation issued by the Secretary under this Act may be assessed by the Secretary a civil penalty of not less than $1,000 and not more than $10,000 for each violation.

(2) SEPARATE OFFENSE.—Each violation and each day during which there is a failure to comply with an order or regulation issued by the Secretary shall be considered to be a separate offense.

(3) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, a civil penalty, the Secretary may issue an order requiring a person to cease and desist from violating the order or regulation.

(4) NOTICE AND HEARING.—No order assessing a penalty or cease-and-desist order may be issued by the Secretary under this subsection unless the Secretary provides notice and an opportunity for a hearing on the record with respect to the violation.

(5) FINALITY.—An order assessing a penalty or a cease-and-desist order issued under this subsection by the Secretary shall be final and conclusive unless the person against whom the order is issued files an appeal from the order with the United States court of appeals, as provided in subsection (d).

(d) REVIEW BY COURT OF APPEALS.—

(1) IN GENERAL.—A person against whom an order is issued under subsection (c) may obtain review of the order by—

(A) filing, not later than 30 days after the person receives notice of the order, a notice of appeal in—

(i) the United States court of appeals for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice of appeal by certified mail to the Secretary.

(2) RECORD.—The Secretary shall file with the court a certified copy of the record on which the Secretary has determined that the person has committed a violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence on the record.

(e) FAILURE TO OBEY CEASE-AND-DESIST ORDERS.—A person who fails to obey a valid cease-and-desist order issued by the Secretary under this section, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not less than $1,000 and not more than $10,000 for each offense. Each day during which the failure continues shall be considered to be a separate violation of the cease-and-desist order.

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay a civil penalty imposed under this section by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In the action, the validity and appropriateness

of the order imposing the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 521. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subtitle; or

(2) to determine whether any person subject to this subtitle has engaged, or is about engage, in any action that constitutes or will constitute a violation of this subtitle or any order or regulation issued under this subtitle.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—For the purpose of any investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records or documents that are relevant to the inquiry. The attendance of witnesses and the production of records or documents may be required from any place in the United States.

(c) AID OF COURTS.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to require the attendance and testimony of the person or the production of records or documents. The court may issue an order requiring the person to appear before the Secretary to produce records or documents or to give testimony regarding the matter under investigation.

(d) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(e) PROCESS.—Process in any case under this section may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

SEC. 522. SUSPENSION OR TERMINATION.

(a) MANDATORY SUSPENSION OR TERMINATION.—The Secretary shall suspend or terminate an order or a provision of an order if the Secretary finds that an order or a provision of an order obstructs or does not tend to effectuate the purpose of this subtitle, or if the Secretary determines that the order or a provision of an order is not favored by persons voting in a referendum conducted under section 518.

(b) IMPLEMENTATION OF SUSPENSION OR TERMINATION.—If, as a result of a referendum conducted under section 518, the Secretary determines that an order is not approved, the Secretary shall—

(1) not later than 180 days after making the determination, suspend or terminate, as the case may be, collection of assessments under the order; and

(2) as soon as practicable, suspend or terminate, as the case may be, activities under the order in an orderly manner.

SEC. 523. AMENDMENTS TO ORDERS.

The provisions of this subtitle applicable to an order shall be applicable to any amendment to an order, except that section 518 shall not apply to an amendment.

SEC. 524. EFFECT ON OTHER LAWS.

This subtitle shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

SEC. 525. REGULATIONS.

The Secretary may issue such regulations as may be necessary to carry out this subtitle and the power vested in the Secretary under this subtitle.

SEC. 526. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

(b) LIMITATION ON EXPENDITURES FOR ADMINISTRATIVE EXPENSES.—Funds appropriated to carry out this subtitle may not be expended for the payment of expenses incurred by a board to administer an order.

Subtitle C—Canola and Rapeseed

SEC. 531. SHORT TITLE.

This subtitle may be cited as the "Canola and Rapeseed Research, Promotion, and Consumer Information Act".

SEC. 532. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) canola and rapeseed products are an important and nutritious part of the human diet;

(2) the production of canola and rapeseed products plays a significant role in the economy of the United States in that—

(A) canola and rapeseed products are produced by thousands of canola and rapeseed producers and processed by numerous processing entities; and

(B) canola and rapeseed products produced in the United States are consumed by people throughout the United States and foreign countries;

(3) canola, rapeseed, and canola and rapeseed products should be readily available and marketed efficiently to ensure that consumers have an adequate supply of canola and rapeseed products at a reasonable price;

(4) the maintenance and expansion of existing markets and development of new markets for canola, rapeseed, and canola and rapeseed products are vital to the welfare of canola and rapeseed producers and processors and those persons concerned with marketing canola, rapeseed, and canola and rapeseed products, as well as to the general economy of the United States, and are necessary to ensure the ready availability and efficient marketing of canola, rapeseed, and canola and rapeseed products;

(5) there exist established State and national organizations conducting canola and rapeseed research, promotion, and consumer education programs that are valuable to the efforts of promoting the consumption of canola, rapeseed, and canola and rapeseed products;

(6) the cooperative development, financing, and implementation of a coordinated national program of canola and rapeseed research, promotion, consumer information, and industry information is necessary to maintain and expand existing markets and develop new markets for canola, rapeseed, and canola and rapeseed products; and

(7) canola, rapeseed, and canola and rapeseed products move in interstate and foreign commerce, and canola, rapeseed, and canola and rapeseed products that do not move in interstate or foreign commerce directly burden or affect interstate commerce in canola, rapeseed, and canola and rapeseed products.

(b) POLICY.—It is the policy of this subtitle to establish an orderly procedure for developing, financing through assessments on domestically produced canola and rapeseed, and implementing a program of research, promotion, consumer information, and industry information designed to strengthen the position in the marketplace of the canola and rapeseed industry, to maintain and expand existing domestic and foreign markets and uses for canola, rapeseed, and canola and rapeseed products, and to develop new markets and uses for canola, rapeseed, and canola and rapeseed products.

(c) CONSTRUCTION.—Nothing in this subtitle provides for the control of production or otherwise limits the right of individual producers to produce canola, rapeseed, or canola or rapeseed products.

SEC. 533. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) BOARD.—The term "Board" means the National Canola and Rapeseed Board established under section 535(b).

(2) CANOLA; RAPESEED.—The terms "canola" and "rapeseed" mean any brassica plant grown in the United States for the production of an oilseed, the oil of which is used for a food or nonfood use.

(3) CANOLA OR RAPESEED PRODUCT.—The term "canola or rapeseed product" means a product produced, in whole or in part, from canola or rapeseed.

(4) COMMERCE.—The term "commerce" includes interstate, foreign, and intrastate commerce.

(5) CONFLICT OF INTEREST.—The term "conflict of interest" means a situation in which a member of the Board has a direct or indirect financial interest in a corporation, partnership, sole proprietorship, joint venture, or other business entity dealing directly or indirectly with the Board.

(6) CONSUMER INFORMATION.—The term "consumer information" means information that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of canola, rapeseed, or canola or rapeseed products.

(7) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(8) FIRST PURCHASER.—The term "first purchaser" means—

(A) except as provided in subparagraph (B), a person who buys or otherwise acquires canola, rapeseed, or canola or rapeseed products produced by a producer; or

(B) the Commodity Credit Corporation, in a case in which canola or rapeseed is forfeited to the Commodity Credit Corporation as collateral for a loan issued under a price support loan program administered by the Commodity Credit Corporation.

(9) INDUSTRY INFORMATION.—The term "industry information" means information or a program that will lead to the development of new markets, new marketing strategies, or increased efficiency for the canola and rapeseed industry, or an activity to enhance the image of the canola or rapeseed industry.

(10) INDUSTRY MEMBER.—The term "industry member" means a member of the canola and rapeseed industry who represents—

(A) manufacturers of canola or rapeseed products; or

(B) persons who commercially buy or sell canola or rapeseed.

(11) MARKETING.—The term "marketing" means the sale or other disposition of canola, rapeseed, or canola or rapeseed products in a channel of commerce.

(12) ORDER.—The term "order" means an order issued under section 534.

(13) PERSON.—The term "person" means an individual, partnership, corporation, association, cooperative, or any other legal entity.

(14) PRODUCER.—The term "producer" means a person engaged in the growing of canola or rapeseed in the United States who owns, or who shares the ownership and risk of loss of, the canola or rapeseed.

(15) PROMOTION.—The term "promotion" means an action, including paid advertising, technical assistance, or a trade servicing activity, to enhance the image or desirability of canola, rapeseed, or canola or rapeseed products in domestic and foreign markets, or an activity designed to communicate to consumers, processors, wholesalers, retailers, government officials, or other persons information relating to

the positive attributes of canola, rapeseed, or canola or rapeseed products or the benefits of use or distribution of canola, rapeseed, or canola or rapeseed products.

(16) RESEARCH.—The term "research" means any type of test, study, or analysis to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of canola, rapeseed, or canola or rapeseed products, including research activity designed to identify and analyze barriers to export sales of canola or rapeseed produced in the United States.

(17) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(18) STATE.—The term "State" means any of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico.

(19) UNITED STATES.—The term "United States" means collectively the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 534. ISSUANCE AND AMENDMENT OF ORDERS.

(a) IN GENERAL.—Subject to subsection (b), the Secretary shall issue 1 or more orders under this subtitle applicable to producers and first purchasers of canola, rapeseed, or canola or rapeseed products. The order shall be national in scope. Not more than 1 order shall be in effect under this subtitle at any 1 time.

(b) PROCEDURE.—

(1) PROPOSAL OR REQUEST FOR ISSUANCE.—The Secretary may propose the issuance of an order under this subtitle, or an association of canola and rapeseed producers or any other person that would be affected by an order issued pursuant to this subtitle may request the issuance of, and submit a proposal for, an order.

(2) NOTICE AND COMMENT CONCERNING PROPOSED ORDER.—Not later than 60 days after the receipt of a request and proposal for an order pursuant to paragraph (1), or whenever the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are given as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this subtitle. The order shall be issued and become effective not later than 180 days following publication of the proposed order.

(c) AMENDMENTS.—The Secretary may amend an order issued under this section.

SEC. 535. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—An order issued under this subtitle shall contain the terms and conditions specified in this section.

(b) ESTABLISHMENT AND MEMBERSHIP OF THE NATIONAL CANOLA AND RAPESEED BOARD.—

(1) IN GENERAL.—The order shall provide for the establishment of, and appointment of members to, a National Canola and Rapeseed Board to administer the order.

(2) SERVICE TO ENTIRE INDUSTRY.—The Board shall carry out programs and projects that will provide maximum benefit to the canola and rapeseed industry in all parts of the United States and only promote canola, rapeseed, or canola or rapeseed products.

(3) BOARD MEMBERSHIP.—The Board shall consist of 15 members, including—

(A) 11 members who are producers, including—

(i) 1 member from each of the 6 geographic regions comprised of States where canola or rapeseed is produced, as determined by the Secretary; and

(ii) 5 members from the geographic regions referred to in clause (i), allocated according to the production in each region; and

(B) 4 members who are industry members, including at least—

(i) 1 member who represents manufacturers of canola or rapeseed end products; and

(ii) 1 member who represents persons who commercially buy or sell canola or rapeseed.

(4) LIMITATION ON STATE RESIDENCE.—There shall be no more than 4 producer members of the Board from any 1 State.

(5) MODIFYING BOARD MEMBERSHIP.—In accordance with regulations approved by the Secretary, at least once each 3 years and not more than once each 2 years, the Board shall review the geographic distribution of canola and rapeseed production throughout the United States and, if warranted, recommend to the Secretary that the Secretary—

(A) reapportion regions in order to reflect the geographic distribution of canola and rapeseed production; and

(B) reapportion the seats on the Board to reflect the production in each region.

(6) CERTIFICATION OF ORGANIZATIONS.—

(A) IN GENERAL.—For the purposes of section 536, the eligibility of any State organization to represent producers shall be certified by the Secretary.

(B) CRITERIA.—The Secretary shall certify any State organization that the Secretary determines has a history of stability and permanency and meets at least 1 of the following criteria:

(i) MAJORITY REPRESENTATION.—The total paid membership of the organization—

(I) is comprised of at least a majority of canola or rapeseed producers; or

(II) represents at least a majority of the canola or rapeseed producers in the State.

(ii) SUBSTANTIAL NUMBER OF PRODUCERS REPRESENTED.—The organization represents a substantial number of producers that produce a substantial quantity of canola or rapeseed in the State.

(iii) PURPOSE.—The organization is a general farm or agricultural organization that has as a stated objective the promotion and development of the United States canola or rapeseed industry and the economic welfare of United States canola or rapeseed producers.

(C) REPORT.—The Secretary shall make a certification under this paragraph on the basis of a factual report submitted by the State organization.

(7) TERMS OF OFFICE.—

(A) IN GENERAL.—A member of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) LIMITATION ON TERMS.—No individual may serve more than 2 consecutive 3-year terms as a member.

(C) TERMINATION OF TERMS.—Notwithstanding subparagraph (B), each member shall continue to serve until a successor is appointed by the Secretary.

(8) COMPENSATION.—A member of the Board shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of duties for and approved by the Board.

(c) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with the terms and conditions of the order;

(2) to issue regulations to effectuate the terms and conditions of the order;

(3) to meet, organize, and select from among members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines appropriate;

(4) to establish working committees of persons other than Board members;

(5) to employ such persons, other than Board members, as the Board considers necessary, and to determine the compensation and define the duties of the persons;

(6) to prepare and submit for the approval of the Secretary, when appropriate or necessary, a recommended rate of assessment under section 536, and a fiscal period budget of the anticipated expenses in the administration of the order, including the probable costs of all programs and projects;

(7) to develop programs and projects, subject to subsection (d);

(8) to enter into contracts or agreements, subject to subsection (e), to develop and carry out programs or projects of research, promotion, industry information, and consumer information;

(9) to carry out research, promotion, industry information, and consumer information projects, and to pay the costs of the projects with assessments collected under section 536;

(10) to keep minutes, books, and records that reflect the actions and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary;

(11) to appoint and convene, from time to time, working committees comprised of producers, industry members, and the public to assist in the development of research, promotion, industry information, and consumer information programs for canola, rapeseed, and canola and rapeseed products;

(12) to invest, pending disbursement under a program or project, funds collected through assessments authorized under section 536, or funds earned from investments, only in—

(A) obligations of the United States or an agency of the United States;

(B) general obligations of a State or a political subdivision of a State;

(C) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States;

(13) to receive, investigate, and report to the Secretary complaints of violations of the order;

(14) to furnish the Secretary with such information as the Secretary may request;

(15) to recommend to the Secretary amendments to the order;

(16) to develop and recommend to the Secretary for approval such regulations as may be necessary for the development and execution of programs or projects, or as may otherwise be necessary, to carry out the order; and

(17) to provide the Secretary with advance notice of meetings.

(d) PROGRAMS AND BUDGETS.—

(1) SUBMISSION TO SECRETARY.—The order shall provide that the Board shall submit to the Secretary for approval any program or project of research, promotion, consumer information, or industry information. No program or project shall be implemented prior to approval by the Secretary.

(2) BUDGETS.—The order shall require the Board, prior to the beginning of each fiscal year, or as may be necessary after the beginning of a fiscal year, to submit to the Secretary for approval budgets of anticipated expenses and disbursements in the implementation of the order, including projected costs of research, promotion, consumer information, and industry information programs and projects.

(3) INCURRING EXPENSES.—The Board may incur such expenses for programs or projects of research, promotion, consumer information, or industry information, and other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary, including any implementation, administrative, and referendum costs incurred by the Department.

(4) PAYING EXPENSES.—The funds to cover the expenses referred to in paragraph (3) shall be paid by the Board from assessments collected under section 536 or funds borrowed pursuant to paragraph (5).

(5) AUTHORITY TO BORROW.—To meet the expenses referred to in paragraph (3), the Board shall have the authority to borrow funds, as approved by the Secretary, for capital outlays and startup costs.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure efficient use of funds, the order shall provide that the Board may enter into a contract or agreement for the implementation and carrying out of a program or project of canola, rapeseed, or canola or rapeseed products research, promotion, consumer information, or industry information, including a contract with a producer organization, and for the payment of the costs with funds received by the Board under the order.

(2) REQUIREMENTS.—A contract or agreement under paragraph (1) shall provide that—

(A) the contracting party shall develop and submit to the Board a program or project together with a budget that shall show the estimated costs to be incurred for the program or project;

(B) the program or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all transactions, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) PRODUCER ORGANIZATIONS.—The order shall provide that the Board may contract with a producer organization for any services required in addition to the services described in paragraph (1). The contract shall include provisions comparable to the provisions required by paragraph (2).

(f) BOOKS AND RECORDS OF THE BOARD.—

(1) IN GENERAL.—The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) AUDITS.—The Board shall cause the books and records of the Board to be audited by an independent auditor at the end of each fiscal year, and a report of the audit to be submitted to the Secretary.

(g) PROHIBITION.—

(1) IN GENERAL.—Subject to paragraph (2), the Board shall not engage in any action to, nor shall any funds received by the Board under this subtitle be used to—

(A) influence legislation or governmental action;

(B) engage in an action that would be a conflict of interest;

(C) engage in advertising that is false or misleading; or

(D) engage in promotion that would disparage other commodities.

(2) ACTION PERMITTED.—Paragraph (1) does not preclude—

(A) the development and recommendation of amendments to the order;

(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, or industry information activities under the order; or

(C) any action designed to market canola or rapeseed products directly to a foreign government or political subdivision of a foreign government.

(h) BOOKS AND RECORDS.—

(1) IN GENERAL.—The order shall require that each producer, first purchaser, or industry member shall—

(A) maintain and submit to the Board any reports considered necessary by the Secretary to ensure compliance with this subtitle; and

(B) make available during normal business hours, for inspection by employees of the Board or Secretary, such books and records as are necessary to carry out this subtitle, including such records as are necessary to verify any required reports.

(2) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as otherwise provided in this subtitle, all information obtained from books, records, or reports required to be maintained under paragraph (1) shall be kept confidential, and shall not be disclosed to the public by any person.

(B) DISCLOSURE.—Information referred to in subparagraph (A) may be disclosed to the public if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party; and

(iii) the information relates to this subtitle.

(C) MISCONDUCT.—A knowing disclosure of confidential information in violation of subparagraph (A) by an officer or employee of the Board or Department, except as required by other law or allowed under subparagraph (B) or (D), shall be considered a violation of this subtitle.

(D) GENERAL STATEMENTS.—Nothing in this paragraph prohibits—

(i) the issuance of general statements based on the reports of a number of persons subject to an order or statistical data collected from the reports, if the statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of a person violating the order, together with a statement of the particular provisions of the order violated by the person.

(3) AVAILABILITY OF INFORMATION FOR LAW ENFORCEMENT.—Information obtained under this subtitle may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(4) PENALTY.—Any person knowingly violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Board or the Department, shall be removed from office or terminated from employment, as applicable.

(5) WITHHOLDING OF INFORMATION.—Nothing in this subtitle authorizes the withholding of information from Congress.

(i) USE OF ASSESSMENTS.—The order shall provide that the assessments collected under section 536 shall be used for payment of the expenses in implementing and administering this subtitle, with provision for a reasonable reserve, and to cover administrative costs incurred by the Secretary in implementing and administering this subtitle.

(j) OTHER TERMS AND CONDITIONS.—The order shall contain such other terms and conditions, not inconsistent with this subtitle, as are determined necessary by the Secretary to effectuate this subtitle.

SEC. 536. ASSESSMENTS.

(a) IN GENERAL.—

(1) FIRST PURCHASERS.—During the effective period of an order issued pursuant to this subtitle, assessments shall be—

(A) levied on all canola or rapeseed produced in the United States and marketed; and

(B) deducted from the payment made to a producer for all canola or rapeseed sold to a first purchaser.

(2) DIRECT PROCESSING.—The order shall provide that any person processing canola or rapeseed of that person's own production and marketing the canola or rapeseed, or canola or rapeseed products, shall remit to the Board or a State organization certified to represent producers under section 535(b)(6), in the manner prescribed by the order, an assessment established at a rate equivalent to the rate provided for under subsection (d).

(b) LIMITATION ON ASSESSMENTS.—No more than 1 assessment may be assessed under subsection (a) on any canola or rapeseed produced (as remitted by a first purchaser).

(c) REMITTING OF ASSESSMENTS.—

(1) IN GENERAL.—Assessments required under subsection (a) shall be remitted to the Board by a first purchaser. The Board shall use State organizations certified to represent producers under section 535(b)(6) to collect the assessments. If an appropriate certified State organization does not exist to collect an assessment, the assessment shall be collected by the Board. There shall be only 1 certified State organization in each State.

(2) TIMES TO REMIT ASSESSMENT.—Each first purchaser shall remit the assessment to the Board as provided for in the order.

(d) ASSESSMENT RATE.—

(1) INITIAL RATE.—The initial assessment rate shall be 4 cents per hundredweight of canola or rapeseed produced and marketed.

(2) INCREASE.—The assessment rate may be increased on recommendation by the Board to a rate not exceeding 10 cents per hundredweight of canola or rapeseed produced and marketed in a State, unless—

(A) after the initial referendum is held under section 537(a), the Board recommends an increase above 10 cents per hundredweight; and

(B) the increase is approved in a referendum under section 537(b).

(3) CREDIT.—A producer who demonstrates to the Board that the producer is participating in a program of a State organization certified to represent producers under section 535(b)(6) shall receive credit, in determining the assessment due from the producer, for contributions to the program of up to 2 cents per hundredweight of canola or rapeseed marketed.

(e) LATE PAYMENT CHARGE.—

(1) IN GENERAL.—There shall be a late payment charge imposed on any person who fails to remit, on or before the date provided for in the order, to the Board the total amount for which the person is liable.

(2) AMOUNT OF CHARGE.—The amount of the late payment charge imposed under paragraph (1) shall be prescribed by the Board with the approval of the Secretary.

(f) REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.—

(1) ESTABLISHMENT OF ESCROW ACCOUNT.—During the period beginning on the date on which an order is first issued under section 534(b)(3) and ending on the date on which a referendum is conducted under section 537(a), the Board shall—

(A) establish and maintain an escrow account to be used for assessment refunds; and

(B) place funds in the account in accordance with paragraph (2).

(2) PLACEMENT OF FUNDS IN ACCOUNT.—The Board shall place in the account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product

obtained by multiplying the total amount of assessments collected during the period by 10 percent.

(3) RIGHT TO RECEIVE REFUND.—The Board shall refund to a producer the assessments paid by or on behalf of the producer if—

(A) the producer is required to pay the assessment;

(B) the producer does not support the program established under this subtitle; and

(C) the producer demands the refund prior to the conduct of the referendum under section 537(a).

(4) FORM OF DEMAND.—The demand shall be made in accordance with such regulations, in such form, and within such time period as prescribed by the Board.

(5) MAKING OF REFUND.—The refund shall be made on submission of proof satisfactory to the Board that the producer paid the assessment for which the refund is demanded.

(6) PRORATION.—If—

(A) the amount in the escrow account required by paragraph (1) is not sufficient to refund the total amount of assessments demanded by eligible producers; and

(B) the order is not approved pursuant to the referendum conducted under section 537(a);

the Board shall prorate the amount of the refunds among all eligible producers who demand a refund.

(7) PROGRAM APPROVED.—If the plan is approved pursuant to the referendum conducted under section 537(a), all funds in the escrow account shall be returned to the Board for use by the Board in accordance with this subtitle.

SEC. 537. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) REQUIREMENT.—During the period ending 30 months after the date on which an order is first issued under section 534(b)(3), the Secretary shall conduct a referendum among producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed for the purpose of ascertaining whether the order then in effect shall be continued.

(2) ADVANCE NOTICE.—The Secretary shall, to the extent practicable, provide broad public notice in advance of any referendum. The notice shall be provided, without advertising expenses, by means of newspapers, county newsletters, the electronic media, and press releases, through the use of notices posted in State and county Cooperative State Research, Education, and Extension Service offices and county Consolidated Farm Service Agency offices, and by other appropriate means specified in the order. The notice shall contain information on when the referendum will be held, registration and voting requirements, rules regarding absentee voting, and other pertinent information.

(3) APPROVAL OF ORDER.—The order shall be continued only if the Secretary determines that the order has been approved by not less than a majority of the producers voting in the referendum.

(4) DISAPPROVAL OF ORDER.—If continuation of the order is not approved by a majority of the producers voting in the referendum, the Secretary shall terminate collection of assessments under the order within 180 days after the referendum and shall terminate the order in an orderly manner as soon as practicable.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—

(A) REQUIREMENT.—After the initial referendum on an order, the Secretary shall conduct additional referenda, as described in subparagraph (C), if requested by a representative group of producers, as described in subparagraph (B).

(B) REPRESENTATIVE GROUP OF PRODUCERS.—An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed.

(C) ELIGIBLE PRODUCERS.—Each additional referendum shall be conducted among all producers who, during a representative period as determined by the Secretary, have been engaged in the production of canola or rapeseed to determine whether the producers favor the termination or suspension of the order.

(2) DISAPPROVAL OF ORDER.—If the Secretary determines, in a referendum conducted under paragraph (1), that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall suspend or terminate, as appropriate, collection of assessments under the order within 180 days after the determination, and shall suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after the determination.

(3) OPPORTUNITY TO REQUEST ADDITIONAL REFERENDA.—

(A) IN GENERAL.—Beginning on the date that is 5 years after the conduct of a referendum under this subtitle, and every 5 years thereafter, the Secretary shall provide canola and rapeseed producers an opportunity to request an additional referendum.

(B) METHOD OF MAKING REQUEST.—

(i) IN-PERSON REQUESTS.—To carry out subparagraph (A), the Secretary shall establish a procedure under which a producer may make a request for a reconfirmation referendum in person at a county Cooperative State Research, Education, and Extension Service office or a county Consolidated Farm Service Agency office during a period established by the Secretary, or as provided in clause (ii).

(ii) MAIL-IN REQUESTS.—In lieu of making a request in person, a producer may make a request by mail. To facilitate the submission of requests by mail, the Secretary may make mail-in request forms available to producers.

(C) NOTIFICATIONS.—The Secretary shall publish a notice in the Federal Register, and the Board shall provide written notification to producers, not later than 60 days prior to the end of the period established under subparagraph (B)(i) for an in-person request, of the opportunity of producers to request an additional referendum. The notification shall explain the right of producers to an additional referendum, the procedure for a referendum, the purpose of a referendum, and the date and method by which producers may act to request an additional referendum under this paragraph. The Secretary shall take such other action as the Secretary determines is necessary to ensure that producers are made aware of the opportunity to request an additional referendum.

(D) ACTION BY SECRETARY.—As soon as practicable following the submission of a request for an additional referendum, the Secretary shall determine whether a sufficient number of producers have requested the referendum, and take such steps as are necessary to conduct the referendum, as required under paragraph (1).

(E) TIME LIMIT.—An additional referendum requested under the procedures provided in this paragraph shall be conducted not later than 1 year after the Secretary determines that a representative group of producers, as described in paragraph (1)(B), have requested the conduct of the referendum.

(c) PROCEDURES.—

(1) REIMBURSEMENT OF SECRETARY.—The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of an activity required under this section.

(2) DATE.—Each referendum shall be conducted for a reasonable period of time not to exceed 3 days, established by the Secretary, under a procedure under which producers intending to vote in the referendum shall certify that the producers were engaged in the production of canola, rapeseed, or canola or rapeseed products during the representative period and, at the same time, shall be provided an opportunity to vote in the referendum.

(3) PLACE.—Referenda under this section shall be conducted at locations determined by the Secretary. On request, absentee mail ballots shall be furnished by the Secretary in a manner prescribed by the Secretary.

SEC. 538. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this subtitle may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

(3) RULING.—After a hearing under paragraph (2), the Secretary shall issue a ruling on the petition that is the subject of the hearing, which shall be final if the ruling is in accordance with applicable law.

(4) LIMITATION ON PETITION.—Any petition filed under this subtitle challenging an order, or any obligation imposed in connection with an order, shall be filed not later than 2 years after the effective date of the order or imposition of the obligation.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which the person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review a ruling on the petition, if a complaint is filed by the person not later than 20 days after the date of the entry of a ruling by the Secretary under subsection (a)(3).

(2) PROCESS.—Service of process in a proceeding under paragraph (1) shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMANDS.—If the court determines, under paragraph (1), that a ruling issued under subsection (a)(3) is not in accordance with applicable law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from taking any action under section 539.

SEC. 539. ENFORCEMENT.

(a) JURISDICTION.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, an order or regulation made or issued under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be commenced under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this subtitle if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by providing a suitable written notice or warning to the person committing the violation or by administrative action under subsection (c).

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—

(A) IN GENERAL.—Any person who willfully violates any provision of an order or regulation issued by the Secretary under this subtitle, or who fails or refuses to pay, collect, or remit an assessment or fee required of the person under an order or regulation, may be assessed—

(i) a civil penalty by the Secretary of not more than $1,000 for each violation; and

(ii) in the case of a willful failure to pay, collect, or remit an assessment as required by an order or regulation, an additional penalty equal to the amount of the assessment.

(B) SEPARATE OFFENSE.—Each violation under subparagraph (A) shall be a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing a violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed, or cease-and-desist order issued, by the Secretary under this subsection unless the person against whom the penalty is assessed or the cease-and-desist order is issued is given notice and opportunity for a hearing before the Secretary with respect to the violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order under this subsection shall be final and conclusive unless the affected person files an appeal of the order in the appropriate district court of the United States in accordance with subsection (d).

(d) REVIEW BY DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—Any person who has been determined to be in violation of this subtitle, or against whom a civil penalty has been assessed or a cease-and-desist order issued under subsection (c), may obtain review of the penalty or cease-and-desist order by—

(A) filing, within the 30-day period beginning on the date the penalty is assessed or cease-and-desist order issued, a notice of appeal in—

(i) the district court of the United States for the district in which the person resides or carries on business; or

(ii) the United States District Court for the District of Columbia; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall file promptly, in the appropriate court referred to in paragraph (1), a certified copy of the record on which the Secretary determined that the person committed the violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY CEASE-AND-DESIST ORDERS.—Any person who fails to obey a cease-and-desist order issued under this section after the cease-and-desist order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than $5,000 for each offense. Each day during which the failure continues shall be considered as a separate violation of the cease-and-desist order.

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay an assessment of a civil penalty under this section after the assessment has become a final and unappealable order, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In an action for recovery, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this subtitle shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 540. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subtitle; and

(2) to determine whether any person has engaged or is engaging in an act that constitutes a violation of this subtitle, or an order, rule, or regulation issued under this subtitle.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—

(1) IN GENERAL.—For the purpose of an investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, take evidence, and issue subpoenas to require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 538 or 539, the presiding officer is authorized to administer oaths and affirmations, subpoena and compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(c) AID OF COURTS.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring the person to comply with the subpoena.

(d) CONTEMPT.—A failure to obey an order of the court under this section may be punished by the court as contempt of the court.

(e) PROCESS.—Process may be served on a person in the judicial district in which the person resides or carries on business or wherever the person may be found.

(f) HEARING SITE.—The site of a hearing held under section 538 or 539 shall be in the judicial district where the person affected by the hearing resides or has a principal place of business.

SEC. 541. SUSPENSION OR TERMINATION.

The Secretary shall, whenever the Secretary finds that an order or a provision of an order obstructs or does not tend to effectuate the declared policy of this subtitle, suspend or terminate the operation of the order or provision. The suspension or termination of an order shall not be considered an order within the meaning of this subtitle.

SEC. 542. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

SEC. 543. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this subtitle.

(b) ADMINISTRATIVE EXPENSES.—Funds appropriated under subsection (a) shall not be available for payment of the expenses or expenditures of the Board in administering a provision of an order issued under this subtitle.

Subtitle D—Kiwifruit

SEC. 551. SHORT TITLE.

This subtitle may be cited as the "National Kiwifruit Research, Promotion, and Consumer Information Act".

SEC. 552. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) domestically produced kiwifruit are grown by many individual producers;

(2) virtually all domestically produced kiwifruit are grown in the State of California, although there is potential for production in many other areas of the United States;

(3) kiwifruit move in interstate and foreign commerce, and kiwifruit that do not move in channels of commerce directly burden or affect interstate commerce;

(4) in recent years, large quantities of kiwifruit have been imported into the United States;

(5) the maintenance and expansion of existing domestic and foreign markets for kiwifruit, and the development of additional and improved markets for kiwifruit, are vital to the welfare of kiwifruit producers and other persons concerned with producing, marketing, and processing kiwifruit;

(6) a coordinated program of research, promotion, and consumer information regarding kiwifruit is necessary for the maintenance and development of the markets; and

(7) kiwifruit producers, handlers, and importers are unable to implement and finance such a program without cooperative action.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to authorize the establishment of an orderly procedure for the development and financing (through an assessment) of an effective and coordinated program of research, promotion, and consumer information regarding kiwifruit;

(2) to use the program to strengthen the position of the kiwifruit industry in domestic and foreign markets and maintain, develop, and expand markets for kiwifruit; and

(3) to treat domestically produced kiwifruit and imported kiwifruit equitably.

SEC. 553. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) BOARD.—The term "Board" means the National Kiwifruit Board established under section 555.

(2) CONSUMER INFORMATION.—The term "consumer information" means any action taken to provide information to, and broaden the understanding of, the general public regarding the consumption, use, nutritional attributes, and care of kiwifruit.

(3) EXPORTER.—The term "exporter" means any person from outside the United States who exports kiwifruit into the United States.

(4) HANDLER.—The term "handler" means any person, excluding a common carrier, engaged in the business of buying and selling, packing, marketing, or distributing kiwifruit as specified in the order.

(5) IMPORTER.—The term "importer" means any person who imports kiwifruit into the United States.

(6) KIWIFRUIT.—The term "kiwifruit" means all varieties of fresh kiwifruit grown in or imported into the United States.

(7) MARKETING.—The term "marketing" means the sale or other disposition of kiwifruit into interstate, foreign, or intrastate commerce by buying, marketing, distribution, or otherwise placing kiwifruit into commerce.

(8) ORDER.—The term "order" means a kiwifruit research, promotion, and consumer information order issued by the Secretary under section 554.

(9) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or other legal entity.

(10) PROCESSING.—The term "processing" means canning, fermenting, distilling, extracting, preserving, grinding, crushing, or in any

manner changing the form of kiwifruit for the purpose of preparing the kiwifruit for market or marketing the kiwifruit.

(11) PRODUCER.—The term "producer" means any person who grows kiwifruit in the United States for sale in commerce.

(12) PROMOTION.—The term "promotion" means any action taken under this subtitle (including paid advertising) to present a favorable image of kiwifruit to the general public for the purpose of improving the competitive position of kiwifruit and stimulating the sale of kiwifruit.

(13) RESEARCH.—The term "research" means any type of research relating to the use, nutritional value, and marketing of kiwifruit conducted for the purpose of advancing the image, desirability, marketability, or quality of kiwifruit.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) UNITED STATES.—The term "United States" means the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 554. ISSUANCE OF ORDERS.

(a) ISSUANCE.—To effectuate the purposes of this subtitle specified in section 552(b), the Secretary shall issue an order applicable to producers, handlers, and importers of kiwifruit. Any such order shall be national in scope. Not more than 1 order shall be in effect under this subtitle at any 1 time.

(b) PROCEDURE.—

(1) PROPOSAL FOR ISSUANCE OF ORDER.—Any person that will be affected by this subtitle may request the issuance of, and submit a proposal for, an order under this subtitle.

(2) PROPOSED ORDER.—Not later than 90 days after the receipt of a request and proposal for an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are provided under paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with this subtitle.

(c) AMENDMENTS.—The Secretary may amend any order issued under this section. The provisions of this subtitle applicable to an order shall be applicable to an amendment to an order.

SEC. 555. NATIONAL KIWIFRUIT BOARD.

(a) MEMBERSHIP.—An order issued by the Secretary under section 554 shall provide for the establishment of a National Kiwifruit Board that consists of the following 11 members:

(1) 6 members who are producers (or representatives of producers) and who are not exempt from an assessment under section 556(b).

(2) 4 members who are importers (or representatives of importers) and who are not exempt from an assessment under section 556(b) or are exporters (or representatives of exporters).

(3) 1 member appointed from the general public.

(b) ADJUSTMENT OF MEMBERSHIP.—

(1) IN GENERAL.—Subject to the 11-member limit and to paragraph (2), the Secretary may adjust membership on the Board to accommodate changes in production and import levels of kiwifruit.

(2) NUMBER OF PRODUCER MEMBERS.—Producers shall comprise not less than 51 percent of the membership of the Board.

(c) APPOINTMENT AND NOMINATION.—

(1) APPOINTMENT.—The Secretary shall appoint the members of the Board from nominations submitted in accordance with this subsection.

(2) PRODUCERS.—The members referred to in subsection (a)(1) shall be appointed from individuals nominated by producers.

(3) IMPORTERS AND EXPORTERS.—The members referred to in subsection (a)(2) shall be appointed from individuals nominated by importers or exporters.

(4) PUBLIC REPRESENTATIVE.—The public representative shall be appointed from nominations submitted by other members of the Board.

(5) FAILURE TO NOMINATE.—If producers, importers, and exporters fail to nominate individuals for appointment, the Secretary may appoint members and alternates on a basis provided for in the order. If the Board fails to nominate a public representative, the member may be appointed by the Secretary without a nomination.

(d) ALTERNATES.—The Secretary shall appoint an alternate for each member of the Board. An alternate shall—

(1) be appointed in the same manner as the member for whom the individual is an alternate; and

(2) serve on the Board if the member is absent from a meeting or is disqualified under subsection (f).

(e) TERMS.—A member of the Board shall be appointed for a term of 3 years. No member may serve more than 2 consecutive 3-year terms, except that of the members first appointed—

(1) 5 members shall be appointed for a term of 2 years; and

(2) 6 members shall be appointed for a term of 3 years.

(f) DISQUALIFICATION.—If a member or alternate of the Board who was appointed as a producer, importer, exporter, or public representative member ceases to belong to the group for which the member was appointed, the member or alternate shall be disqualified from serving on the Board.

(g) COMPENSATION.—A member or alternate of the Board shall serve without pay.

(h) GENERAL POWERS AND DUTIES.—The Board shall—

(1) administer an order issued by the Secretary under section 554, and an amendment to the order, in accordance with the order and amendment and this subtitle;

(2) prescribe rules and regulations to carry out the order;

(3) meet, organize, and select from among members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines appropriate;

(4) receive, investigate, and report to the Secretary accounts of violations of the order;

(5) make recommendations to the Secretary with respect to an amendment that should be made to the order; and

(6) employ or contract with a manager and staff to assist in administering the order, except that, to reduce administrative costs and increase efficiency, the Board shall seek, to the extent practicable, to employ or contract with personnel who are already associated with organizations involved in promoting kiwifruit that are chartered by a State, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 556. REQUIRED TERMS IN ORDER.

(a) BUDGETS AND PLANS.—

(1) IN GENERAL.—An order issued under section 554 shall provide for periodic budgets and plans in accordance with this subsection.

(2) BUDGETS.—The Board shall prepare and submit to the Secretary a budget prior to the beginning of the fiscal year of the anticipated expenses and disbursements of the Board in the administration of the order, including probable costs of research, promotion, and consumer information. A budget shall become effective on a ⅔-vote of a quorum of the Board and approval by the Secretary.

(3) PLANS.—Each budget shall include a plan for research, promotion, and consumer information regarding kiwifruit. A plan under this paragraph shall become effective on approval by the Secretary. The Board may enter into contracts and agreements, on approval by the Secretary, for—

(A) the development and carrying out of the plan; and

(B) the payment of the cost of the plan, with funds collected pursuant to this subtitle.

(b) ASSESSMENTS.—

(1) IN GENERAL.—The order shall provide for the imposition and collection of assessments with regard to the production and importation of kiwifruit in accordance with this subsection.

(2) RATE.—The assessment rate shall be the rate that is recommended by a ⅔-vote of a quorum of the Board and approved by the Secretary, except that the rate shall not exceed $0.10 per 7-pound tray of kiwifruit or an equivalent rate.

(3) COLLECTION BY FIRST HANDLERS.—Except as provided in paragraph (5), the first handler of kiwifruit shall—

(A) be responsible for the collection from the producer, and payment to the Board, of assessments required under this subsection; and

(B) maintain a separate record of the kiwifruit of each producer whose kiwifruit are so handled, including the kiwifruit owned by the handler.

(4) IMPORTERS.—The assessment on imported kiwifruit shall be paid by the importer to the United States Customs Service at the time of entry into the United States and shall be remitted to the Board.

(5) EXEMPTION FROM ASSESSMENT.—The following persons or activities are exempt from an assessment under this subsection:

(A) A producer who produces less than 500 pounds of kiwifruit per year.

(B) An importer who imports less than 10,000 pounds of kiwifruit per year.

(C) A sale of kiwifruit made directly from the producer to a consumer for a purpose other than resale.

(D) The production or importation of kiwifruit for processing.

(6) CLAIM OF EXEMPTION.—To claim an exemption under paragraph (5) for a particular year, a person shall—

(A) submit an application to the Board stating the basis for the exemption and certifying that the quantity of kiwifruit produced, imported, or sold by the person will not exceed any poundage limitation required for the exemption in the year; or

(B) be on a list of approved processors developed by the Board.

(c) USE OF ASSESSMENTS.—

(1) AUTHORIZED USES.—The order shall provide that funds paid to the Board as assessments under subsection (b) may be used by the Board—

(A) to pay for research, promotion, and consumer information described in the budget of the Board under subsection (a) and for other expenses incurred by the Board in the administration of an order;

(B) to pay such other expenses for the administration, maintenance, and functioning of the Board (including any enforcement efforts for the collection of assessments) as may be authorized by the Secretary, including interest and penalties for late payments; and

(C) to fund a reserve established under section 557(d).

(2) REQUIRED USES.—The order shall provide that funds paid to the Board as assessments under subsection (b) shall be used by the Board—

(A) to pay the expenses incurred by the Secretary, including salaries and expenses of Federal Government employees, in implementing and administering the order; and

(B) to reimburse the Secretary for any expenses incurred by the Secretary in conducting referenda under this subtitle.

(3) LIMITATION ON USE OF ASSESSMENTS.—Except for the first year of operation of the Board, expenses for the administration, maintenance, and functioning of the Board may not exceed 30 percent of the budget for a year.

(d) FALSE CLAIMS.—The order shall provide that any promotion funded with assessments collected under subsection (b) may not make—

(1) any false claims on behalf of kiwifruit; and

(2) any false statements with respect to the attributes or use of any product that competes with kiwifruit for sale in commerce.

(e) PROHIBITION ON USE OF FUNDS.—The order shall provide that funds collected by the Board under this subtitle through assessments may not, in any manner, be used for the purpose of influencing legislation or governmental policy or action, except for making recommendations to the Secretary as provided for under this subtitle.

(f) BOOKS, RECORDS, AND REPORTS.—

(1) BOARD.—The order shall require the Board—

(A) to maintain books and records with respect to the receipt and disbursement of funds received by the Board;

(B) to submit to the Secretary from time to time such reports as the Secretary may require for appropriate accounting; and

(C) to submit to the Secretary at the end of each fiscal year a complete audit report by an independent auditor regarding the activities of the Board during the fiscal year.

(2) OTHERS.—To make information and data available to the Board and the Secretary that is appropriate or necessary for the effectuation, administration, or enforcement of this subtitle (or any order or regulation issued under this subtitle), the order shall require handlers and importers who are responsible for the collection, payment, or remittance of assessments under subsection (b)—

(A) to maintain and make available for inspection by the employees and agents of the Board and the Secretary such books and records as may be required by the order; and

(B) to file, at the times and in the manner and content prescribed by the order, reports regarding the collection, payment, or remittance of the assessments.

(g) CONFIDENTIALITY.—

(1) IN GENERAL.—The order shall require that all information obtained pursuant to subsection (f)(2) be kept confidential by all officers, employees, and agents of the Department of Agriculture and of the Board. Only such information as the Secretary considers relevant shall be disclosed to the public and only in a suit or administrative hearing, brought at the request of the Secretary or to which the Secretary or any officer of the United States is a party, involving the order with respect to which the information was furnished or acquired.

(2) LIMITATIONS.—Nothing in this subsection prohibits—

(A) the issuance of general statements based on the reports of a number of handlers and importers subject to an order, if the statements do not identify the information furnished by any person; or

(B) the publication, by direction of the Secretary, of the name of any person violating an order issued under section 554(a), together with a statement of the particular provisions of the order violated by the person.

(3) PENALTY.—Any person who willfully violates this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and, if the person is a member, officer, or agent of the Board or an employee of the Department of Agriculture, shall be removed from office.

(h) WITHHOLDING OF INFORMATION.—Nothing in this subtitle authorizes the withholding of information from Congress.

SEC. 557. PERMISSIVE TERMS IN ORDER.

(a) PERMISSIVE TERMS.—On the recommendation of the Board and with the approval of the Secretary, an order issued under section 554 may include the terms and conditions specified in this section and such additional terms and conditions as the Secretary considers necessary to effectuate the other provisions of the order and are incidental to, and not inconsistent with, this subtitle.

(b) ALTERNATIVE PAYMENT AND REPORTING SCHEDULES.—The order may authorize the Board to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures.

(c) WORKING GROUPS.—The order may authorize the Board to convene working groups drawn from producers, handlers, importers, exporters, or the general public and utilize the expertise of the groups to assist in the development of research and marketing programs for kiwifruit.

(d) RESERVE FUNDS.—The order may authorize the Board to accumulate reserve funds from assessments collected pursuant to section 556(b) to permit an effective and continuous coordinated program of research, promotion, and consumer information in years in which production and assessment income may be reduced, except that any reserve fund may not exceed the amount budgeted for operation of this subtitle for 1 year.

(e) PROMOTION ACTIVITIES OUTSIDE UNITED STATES.—The order may authorize the Board to use, with the approval of the Secretary, funds collected under section 556(b) and funds from other sources for the development and expansion of sales in foreign markets of kiwifruit produced in the United States.

SEC. 558. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—A person submitting a petition under paragraph (1) shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall issue a ruling on the petition which shall be final if the petition is in accordance with law.

(4) LIMITATION ON PETITION.—Any petition filed under this subtitle challenging an order, or any obligation imposed in connection with an order, shall be filed not later than 2 years after the effective date of the order or imposition of the obligation.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which the person who is a petitioner under subsection (a) resides or carries on business is vested with jurisdiction to review the ruling on the petition of the person, if a complaint for that purpose is filed not later than 20 days after the date of the entry of a ruling by the Secretary under subsection (a).

(2) PROCESS.—Service of process in the proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMANDS.—If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of a proceeding instituted pursuant to subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief pursuant to section 559.

SEC. 559. ENFORCEMENT.

(a) JURISDICTION.—A district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued by the Secretary under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this subtitle, or any order or regulation issued under this subtitle, if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by administrative action under subsection (c) or suitable written notice or warning to the person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who willfully violates any provision of any order or regulation issued by the Secretary under this subtitle, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to or in lieu of the civil penalty, the Secretary may issue an order requiring the person to cease and desist from continuing the violation.

(3) NOTICE AND HEARING.—No order assessing a civil penalty or cease-and-desist order may be issued by the Secretary under this subsection unless the Secretary gives the person against whom the order is issued notice and opportunity for a hearing on the record before the Secretary with respect to the violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the person against whom the order is issued files an appeal of the order in the appropriate district court of the United States, in accordance with subsection (d).

(d) REVIEW BY UNITED STATES DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or cease-and-desist order in the district court of the United States for the district in which the person resides or carries on business, or the United States District Court for the District of Columbia, by—

(A) filing a notice of appeal in the court not later than 30 days after the date on which the penalty is assessed or cease-and-desist order issued; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in the court a certified copy of the record on which the Secretary found that the person committed the violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY CEASE-AND-DESIST ORDERS.—Any person who fails to obey a cease-and-desist order issued by the Secretary after the cease-and-desist order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, *after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than $500 for each offense. Each day during which the failure continues shall be considered a separate violation of the cease-and-desist order.*

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay an assessment of a civil penalty after the assessment has become a final and unappealable order issued by the Secretary, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In an action for recovery, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

SEC. 560. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) IN GENERAL.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective carrying out of the responsibilities of the Secretary under this subtitle; or

(2) to determine whether a person subject to this subtitle has engaged or is engaging in any act that constitutes a violation of this subtitle, or any order, rule, or regulation issued under this subtitle.

(b) POWER TO SUBPOENA.—

(1) INVESTIGATIONS.—For the purpose of an investigation made under subsection (a), the Secretary may administer oaths and affirmations and may issue subpoenas to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 558 or 559, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In the case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring the person to comply with the subpoena.

(d) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(e) PROCESS.—Process in any such case may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

(f) HEARING SITE.—The site of any hearing held under section 558 or 559 shall be in the judicial district where the person affected by the hearing resides or has a principal place of business.

SEC. 561. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) REFERENDUM REQUIRED.—During the 60-day period immediately preceding the proposed effective date of an order issued under section 554, the Secretary shall conduct a referendum among kiwifruit producers and importers who will be subject to assessments under the order, to ascertain whether producers and importers approve the implementation of the order.

(2) APPROVAL OF ORDER.—The order shall become effective, as provided in section 554, if the Secretary determines that—

(A) the order has been approved by a majority of the producers and importers voting in the referendum; and

(B) the producers and importers favoring approval produce and import more than 50 percent of the total volume of kiwifruit produced and imported by persons voting in the referendum.

(b) SUBSEQUENT REFERENDA.—The Secretary may periodically conduct a referendum to determine if kiwifruit producers and importers favor the continuation, termination, or suspension of any order issued under section 554 that is in effect at the time of the referendum.

(c) REQUIRED REFERENDA.—The Secretary shall hold a referendum under subsection (b)—

(1) at the end of the 6-year period beginning on the effective date of the order and at the end of each subsequent 6-year period;

(2) at the request of the Board; or

(3) if not less than 30 percent of the kiwifruit producers and importers subject to assessments under the order submit a petition requesting the referendum.

(d) VOTE.—On completion of a referendum under subsection (b), the Secretary shall suspend or terminate the order that was subject to the referendum at the end of the marketing year if—

(1) the suspension or termination of the order is favored by not less than a majority of the producers and importers voting in the referendum; and

(2) the producers and importers produce and import more than 50 percent of the total volume of kiwifruit produced and imported by persons voting in the referendum.

(e) CONFIDENTIALITY.—The ballots and other information or reports that reveal, or tend to reveal, the vote of any person under this subtitle and the voting list shall be held strictly confidential and shall not be disclosed.

SEC. 562. SUSPENSION OR TERMINATION.

(a) IN GENERAL.—If the Secretary finds that an order issued under section 554, or a provision of the order, obstructs or does not tend to effectuate the purposes of this subtitle, the Secretary shall suspend or terminate the operation of the order or provision.

(b) LIMITATION.—The suspension or termination of any order, or any provision of an order, shall not be considered an order under this subtitle.

SEC. 563. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

SEC. 564. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this subtitle.

Subtitle E—Popcorn

SEC. 571. SHORT TITLE.

This subtitle may be cited as the "Popcorn Promotion, Research, and Consumer Information Act".

SEC. 572. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) popcorn is an important food that is a valuable part of the human diet;

(2) the production and processing of popcorn plays a significant role in the economy of the United States in that popcorn is processed by several popcorn processors, distributed through wholesale and retail outlets, and consumed by millions of people throughout the United States and foreign countries;

(3) popcorn must be of high quality, readily available, handled properly, and marketed efficiently to ensure that the benefits of popcorn are available to the people of the United States;

(4) the maintenance and expansion of existing markets and uses and the development of new markets and uses for popcorn are vital to the welfare of processors and persons concerned with marketing, using, and producing popcorn for the market, as well as to the agricultural economy of the United States;

(5) the cooperative development, financing, and implementation of a coordinated program of popcorn promotion, research, consumer information, and industry information is necessary to maintain and expand markets for popcorn; and

(6) popcorn moves in interstate and foreign commerce, and popcorn that does not move in those channels of commerce directly burdens or affects interstate commerce in popcorn.

(b) POLICY.—It is the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this subtitle, of an orderly procedure for developing, financing (through adequate assessments on unpopped popcorn processed domestically), and carrying out an effective, continuous, and coordinated program of promotion, research, consumer information, and industry information designed to—

(1) strengthen the position of the popcorn industry in the marketplace; and

(2) maintain and expand domestic and foreign markets and uses for popcorn.

(c) PURPOSES.—The purposes of this subtitle are to—

(1) maintain and expand the markets for all popcorn products in a manner that—

(A) is not designed to maintain or expand any individual share of a producer or processor of the market;

(B) does not compete with or replace individual advertising or promotion efforts designed to promote individual brand name or trade name popcorn products; and

(C) authorizes and funds programs that result in government speech promoting government objectives; and

(2) establish a nationally coordinated program for popcorn promotion, research, consumer information, and industry information.

(d) STATUTORY CONSTRUCTION.—This subtitle treats processors equitably. Nothing in this subtitle—

(1) provides for the imposition of a trade barrier to the entry into the United States of imported popcorn for the domestic market; or

(2) provides for the control of production or otherwise limits the right of any individual processor to produce popcorn.

SEC. 573. DEFINITIONS.

In this subtitle (unless the context otherwise requires):

(1) BOARD.—The term "Board" means the Popcorn Board established under section 575(b).

(2) COMMERCE.—The term "commerce" means interstate, foreign, or intrastate commerce.

(3) CONSUMER INFORMATION.—The term "consumer information" means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of popcorn.

(4) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(5) INDUSTRY INFORMATION.—The term "industry information" means information or a program that will lead to the development of—

(A) new markets, new marketing strategies, or increased efficiency for the popcorn industry; or

(B) activities to enhance the image of the popcorn industry.

(6) MARKETING.—The term "marketing" means the sale or other disposition of unpopped popcorn for human consumption in a channel of commerce, but does not include a sale or disposition to or between processors.

(7) ORDER.—The term "order" means an order issued under section 574.

(8) PERSON.—The term "person" means an individual, group of individuals, partnership, corporation, association, or cooperative, or any other legal entity.

(9) POPCORN.—The term "popcorn" means unpopped popcorn (Zea Mays L) that is—

(A) commercially grown;

(B) processed in the United States by shelling, cleaning, or drying; and

(C) introduced into a channel of commerce.

(10) PROCESS.—The term "process" means to shell, clean, dry, and prepare popcorn for the market, but does not include packaging popcorn for the market without also engaging in another activity described in this paragraph.

(11) PROCESSOR.—The term "processor" means a person engaged in the preparation of unpopped popcorn for the market who owns or shares the ownership and risk of loss of the popcorn and who processes and distributes over 4,000,000 pounds of popcorn in the market per year.

(12) PROMOTION.—The term "promotion" means an action, including paid advertising, to enhance the image or desirability of popcorn.

(13) RESEARCH.—The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or nutritional value of popcorn.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE.—The term "State" means each of the 50 States and the District of Columbia.

(16) UNITED STATES.—The term "United States" means all of the States.

SEC. 574. ISSUANCE OF ORDERS.

(a) IN GENERAL.—To effectuate the policy described in section 572(b), the Secretary, subject to subsection (b), shall issue 1 or more orders applicable to processors. An order shall be applicable to all popcorn production and marketing areas in the United States. Not more than 1 order shall be in effect under this subtitle at any 1 time.

(b) PROCEDURE.—

(1) PROPOSAL OR REQUEST FOR ISSUANCE.—The Secretary may propose the issuance of an order, or an association of processors or any other person that would be affected by an order may request the issuance of, and submit a proposal for, an order.

(2) NOTICE AND COMMENT CONCERNING PROPOSED ORDER.—Not later than 60 days after the receipt of a request and proposal for an order under paragraph (1), or at such time as the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment under paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order conforms to this subtitle. The order shall be issued and become effective not later than 150 days after the date of publication of the proposed order.

(c) AMENDMENTS.—The Secretary, as appropriate, may amend an order. The provisions of this subtitle applicable to an order shall be applicable to any amendment to an order, except that an amendment to an order may not require a referendum to become effective.

SEC. 575. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—An order shall contain the terms and conditions specified in this section.

(b) ESTABLISHMENT AND MEMBERSHIP OF POPCORN BOARD.—

(1) IN GENERAL.—The order shall provide for the establishment of, and appointment of members to, a Popcorn Board that shall consist of not fewer than 4 members and not more than 9 members.

(2) NOMINATIONS.—The members of the Board shall be processors appointed by the Secretary from nominations submitted by processors in a manner authorized by the Secretary, subject to paragraph (3). Not more than 1 member may be appointed to the Board from nominations submitted by any 1 processor.

(3) GEOGRAPHICAL DIVERSITY.—In making appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of popcorn production throughout the United States.

(4) TERMS.—The term of appointment of each member of the Board shall be 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 2, 3, and 4 years, as determined by the Secretary.

(5) COMPENSATION AND EXPENSES.—A member of the Board shall serve without compensation, but shall be reimbursed for the expenses of the member incurred in the performance of duties for the Board.

(c) POWERS AND DUTIES OF BOARD.—The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with the terms and provisions of the order;

(2) to issue regulations to effectuate the terms and provisions of the order;

(3) to appoint members of the Board to serve on an executive committee;

(4) to propose, receive, evaluate, and approve budgets, plans, and projects of promotion, research, consumer information, and industry information, and to contract with appropriate persons to implement the plans or projects;

(5) to accept and receive voluntary contributions, gifts, and market promotion or similar funds;

(6) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under subsection (f), only in—

(A) obligations of the United States or an agency of the United States;

(B) general obligations of a State or a political subdivision of a State;

(C) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States;

(7) to receive, investigate, and report to the Secretary complaints of violations of the order; and

(8) to recommend to the Secretary amendments to the order.

(d) PLANS AND BUDGETS.—

(1) IN GENERAL.—The order shall provide that the Board shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) BUDGETS.—The order shall require the Board to submit to the Secretary for approval budgets on a fiscal year basis of the anticipated expenses and disbursements of the Board in the implementation of the order, including projected costs of plans and projects of promotion, research, consumer information, and industry information.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—The order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of plans or projects of promotion, research, consumer information, or industry information, including contracts with a processor organization, and for the payment of the cost of the plans or projects with funds collected by the Board under the order.

(2) REQUIREMENTS.—A contract or agreement under paragraph (1) shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project, together with a budget that shows the estimated costs to be incurred for the plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of each transaction of the party, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) PROCESSOR ORGANIZATIONS.—The order shall provide that the Board may contract with processor organizations for any services required in addition to the services described in paragraph (1). The contract shall include provisions comparable to the provisions required by paragraph (2).

(f) ASSESSMENTS.—

(1) PROCESSORS.—The order shall provide that each processor marketing popcorn in the United States or for export shall, in the manner prescribed in the order, pay assessments and remit the assessments to the Board.

(2) DIRECT MARKETERS.—A processor that markets popcorn produced by the processor directly to consumers shall pay and remit the assessments on the popcorn directly to the Board in the manner prescribed in the order.

(3) RATE.—

(A) IN GENERAL.—The rate of assessment prescribed in the order shall be a rate established by the Board but not more than $.08 per hundredweight of popcorn.

(B) ADJUSTMENT OF RATE.—The order shall provide that the Board, with the approval of the Secretary, may raise or lower the rate of assessment annually up to a maximum of $.08 per hundredweight of popcorn.

(4) USE OF ASSESSMENTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and subsection (c)(5), the order shall provide that the assessments collected shall be used by the Board—

(i) to pay expenses incurred in implementing and administering the order, with provision for a reasonable reserve; and

(ii) to cover such administrative costs as are incurred by the Secretary, except that the administrative costs incurred by the Secretary (other than any legal expenses incurred to defend and enforce the order) that may be reimbursed by the Board may not exceed 15 percent of the projected annual revenues of the Board.

(B) EXPENDITURES BASED ON SOURCE OF ASSESSMENTS.—In implementing plans and projects of promotion, research, consumer information, and industry information, the Board shall expend funds on—

(i) plans and projects for popcorn marketed in the United States or Canada in proportion to the amount of assessments collected on domestically marketed popcorn; and

(ii) plans and projects for exported popcorn in proportion to the amount of assessments collected on exported popcorn.

(C) NOTIFICATION.—If the administrative costs incurred by the Secretary that are reimbursed by the Board exceed 10 percent of the projected annual revenues of the Board, the Secretary shall notify as soon as practicable the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(g) PROHIBITION ON USE OF FUNDS.—The order shall prohibit any funds collected by the Board under the order from being used to influence government action or policy, other than the use of funds by the Board for the development and recommendation to the Secretary of amendments to the order.

(h) BOOKS AND RECORDS OF THE BOARD.—The order shall require the Board to—

(1) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(2) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(3) account for the receipt and disbursement of all funds entrusted to the Board.

(i) BOOKS AND RECORDS OF PROCESSORS.—

(1) MAINTENANCE AND REPORTING OF INFORMATION.—The order shall require that each processor of popcorn for the market shall—

(A) maintain, and make available for inspection, such books and records as are required by the order; and

(B) file reports at such time, in such manner, and having such content as is prescribed in the order.

(2) USE OF INFORMATION.—The Secretary shall authorize the use of information regarding processors that may be accumulated under a law or regulation other than this subtitle or a regulation issued under this subtitle. The information shall be made available to the Secretary as appropriate for the administration or enforcement of this subtitle, the order, or any regulation issued under this subtitle.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), all information obtained by the Secretary under paragraphs (1) and (2) shall be kept confidential by all officers, employees, and agents of the Board and the Department.

(B) DISCLOSURE BY SECRETARY.—Information referred to in subparagraph (A) may be disclosed if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party; and

(iii) the information relates to the order.

(C) DISCLOSURE TO OTHER AGENCY OF FEDERAL GOVERNMENT.—

(i) IN GENERAL.—No information obtained under the authority of this subtitle may be made available to another agency or officer of the Federal Government for any purpose other than the implementation of this subtitle and any investigatory or enforcement activity necessary for the implementation of this subtitle.

(ii) PENALTY.—A person who knowingly violates this subparagraph shall, on conviction, be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer, employee, or agent of the Board or the Department, shall be removed from office or terminated from employment, as applicable.

(D) GENERAL STATEMENTS.—Nothing in this paragraph prohibits—

(i) the issuance of general statements based on the reports of a number of persons subject to an order or statistical data collected from the reports, if the statements do not identify the information provided by any person; or

(ii) the publication, by direction of the Secretary, of the name of a person violating the order, together with a statement of the particular provisions of the order violated by the person.

(j) OTHER TERMS AND CONDITIONS.—The order shall contain such other terms and conditions, consistent with this subtitle, as are necessary to effectuate this subtitle, including regulations relating to the assessment of late payment charges.

SEC. 576. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) IN GENERAL.—Within the 60-day period immediately preceding the effective date of an order, as provided in section 574(b)(3), the Secretary shall conduct a referendum among processors who, during a representative period as determined by the Secretary, have been engaged in processing, for the purpose of ascertaining whether the order shall go into effect.

(2) APPROVAL OF ORDER.—The order shall become effective, as provided in section 574(b), only if the Secretary determines that the order has been approved by not less than a majority of the processors voting in the referendum and if the majority processed more than 50 percent of the popcorn certified as having been processed, during the representative period, by the processors voting.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—Not earlier than 3 years after the effective date of an order approved under subsection (a), on the request of the Board or a representative group of processors, as described in paragraph (2), the Secretary may conduct additional referenda to determine whether processors favor the suspension or termination of the order.

(2) REPRESENTATIVE GROUP OF PROCESSORS.—An additional referendum on an order shall be conducted if the referendum is requested by 30 percent or more of the number of processors who, during a representative period as determined by the Secretary, have been engaged in processing.

(3) DISAPPROVAL OF ORDER.—If the Secretary determines, in a referendum conducted under paragraph (1), that suspension or termination of the order is favored by at least ⅔ of the processors voting in the referendum, the Secretary shall—

(A) suspend or terminate, as appropriate, collection of assessments under the order not later than 180 days after the date of determination; and

(B) suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after the date of determination.

(c) COSTS OF REFERENDUM.—The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any referendum under this section.

(d) METHOD OF CONDUCTING REFERENDUM.—Subject to this section, a referendum conducted under this section shall be conducted in such manner as is determined by the Secretary.

(e) CONFIDENTIALITY OF BALLOTS AND OTHER INFORMATION.—

(1) IN GENERAL.—The ballots and other information or reports that reveal or tend to reveal the vote of any processor, or any business operation of a processor, shall be considered to be strictly confidential and shall not be disclosed.

(2) PENALTY FOR VIOLATIONS.—An officer or employee of the Department who knowingly violates paragraph (1) shall be subject to the penalties described in section 575(i)(3)(C)(ii).

SEC. 577. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order may file with the Secretary a petition—

(A) stating that the order, a provision of the order, or an obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or obligation or an exemption from the order or obligation.

(2) STATUTE OF LIMITATIONS.—A petition under paragraph (1) concerning an obligation may be filed not later than 2 years after the date of imposition of the obligation.

(3) HEARINGS.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

(4) RULING.—After a hearing under paragraph (3), the Secretary shall issue a ruling on the petition that is the subject of the hearing, which shall be final if the ruling is in accordance with applicable law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which a person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review a ruling on the petition, if the person files a complaint not later than 20 days after the date of issuance of the ruling under subsection (a)(4).

(2) PROCESS.—Service of process in a proceeding under paragraph (1) may be made on the Secretary by delivering a copy of the complaint to the Secretary.

(3) REMANDS.—If the court determines, under paragraph (1), that a ruling issued under subsection (a)(4) is not in accordance with applicable law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(c) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) may not impede, hinder, or delay the Secretary or the Attorney General from taking action under section 578.

SEC. 578. ENFORCEMENT.

(a) IN GENERAL.—The Secretary may issue an enforcement order to restrain or prevent any person from violating an order or regulation issued under this subtitle and may assess a civil penalty of not more than $1,000 for each violation of the enforcement order, after an opportunity for an administrative hearing, if the Secretary determines that the administration and enforcement of the order and this subtitle would be adequately served by such a procedure.

(b) JURISDICTION.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, an order or regulation issued under this subtitle.

(c) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action.

SEC. 579. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subtitle; and

(2) to determine whether any person subject to this subtitle has engaged, or is about to engage, in an act that constitutes or will constitute a violation of this subtitle or of an order or regulation issued under this subtitle.

(b) OATHS, AFFIRMATIONS, AND SUBPOENAS.—For the purpose of an investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of records may be required from any place in the United States.

(c) AID OF COURTS.—

(1) REQUEST.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may request the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in requiring the attendance and testimony of the person and the production of records.

(2) ENFORCEMENT ORDER OF THE COURT.—The court may issue an enforcement order requiring the person to appear before the Secretary to produce records or to give testimony concerning the matter under investigation.

(3) CONTEMPT.—A failure to obey an enforcement order of the court under paragraph (2) may be punished by the court as a contempt of the court.

(4) PROCESS.—Process in a case under this subsection may be served in the judicial district

in which the person resides or carries on business or wherever the person may be found.

SEC. 580. RELATION TO OTHER PROGRAMS.

Nothing in this subtitle preempts or supersedes any other program relating to popcorn promotion organized and operated under the laws of the United States or any State.

SEC. 581. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

SEC. 582. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle. Amounts made available under this section or otherwise made available to the Department, and amounts made available under any other marketing or promotion order, may not be used to pay any administrative expense of the Board.

Subtitle F—Miscellaneous

SEC. 591. MAINTENANCE OF RECORDS FOR HONEY PROMOTION PROGRAM.

Section 9(f) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4608(f)) is amended by inserting "producers," after "importers,".

TITLE VI—CREDIT

Subtitle A—Farm Ownership Loans

SEC. 601. LIMITATION ON DIRECT FARM OWNERSHIP LOANS.

Section 302 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922) is amended by striking subsection (b) and inserting the following:

"(b) DIRECT LOANS.—

"(1) IN GENERAL.—Subject to paragraph (3), the Secretary may make a direct loan under this subtitle only to a farmer or rancher who has operated a farm or ranch for not less than 3 years and—

"(A) is a qualified beginning farmer or rancher;

"(B) has not received a previous direct farm ownership loan made under this subtitle; or

"(C) has not received a direct farm ownership loan under this subtitle more than 10 years before the date the new loan would be made.

"(2) YOUTH LOANS.—The operation of an enterprise by a youth under section 311(b) shall not be considered the operation of a farm or ranch for purposes of paragraph (1).

"(3) TRANSITION RULE.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary may make a direct loan under this subtitle to a farmer or rancher who has a direct loan outstanding under this subtitle on the date of enactment of this paragraph.

"(B) LESS THAN 5 YEARS.—If, as of the date of enactment of this paragraph, a farmer or rancher has had a direct loan outstanding under this subtitle for less than 5 years, the Secretary shall not make a loan to the farmer or rancher under subparagraph (A) after the date that is 10 years after the date of enactment of this paragraph.

"(C) 5 YEARS OR MORE.—If, as of the date of enactment of this paragraph, a farmer or rancher has had a direct loan outstanding under this subtitle for 5 years or more, the Secretary shall not make a loan to the farmer or rancher under subparagraph (A) after the date that is 5 years after the date of enactment of this paragraph.".

SEC. 602. PURPOSES OF LOANS.

(a) IN GENERAL.—Section 303 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1923) is amended to read as follows:

"SEC. 303. PURPOSES OF LOANS.

"(a) ALLOWED PURPOSES.—

"(1) DIRECT LOANS.—A farmer or rancher may use a direct loan made under this subtitle only for—

"(A) acquiring or enlarging a farm or ranch;

"(B) making capital improvements to a farm or ranch;

"(C) paying loan closing costs related to acquiring, enlarging, or improving a farm or ranch; or

"(D) paying for activities to promote soil and water conservation and protection described in section 304 on a farm or ranch.

"(2) GUARANTEED LOANS.—A farmer or rancher may use a loan guaranteed under this subtitle only for—

"(A) acquiring or enlarging a farm or ranch;

"(B) making capital improvements to a farm or ranch;

"(C) paying loan closing costs related to acquiring, enlarging, or improving a farm or ranch;

"(D) paying for activities to promote soil and water conservation and protection described in section 304 on a farm or ranch; or

"(E) refinancing indebtedness.

"(b) PREFERENCES.—In making or guaranteeing a loan under this subtitle for purchase of a farm or ranch, the Secretary shall give preference to a person who—

"(1) has a dependent family;

"(2) to the extent practicable, is able to make an initial down payment on the farm or ranch; or

"(3) is an owner of livestock or farm or ranch equipment that is necessary to successfully carry out farming or ranching operations.

"(c) HAZARD INSURANCE REQUIREMENT.—

"(1) IN GENERAL.—After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subtitle unless the farmer or rancher has, or agrees to obtain, hazard insurance on any real property to be acquired or improved with the loan.

"(2) DETERMINATION.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall determine the appropriate level of insurance to be required under paragraph (1).".

(b) TRANSITIONAL PROVISION.—Section 303(c)(1) of the Consolidated Farm and Rural Development Act shall not apply until the Secretary of Agriculture makes the determination required by section 303(c)(2) of the Act.

SEC. 603. SOIL AND WATER CONSERVATION AND PROTECTION.

Section 304 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924) is amended—

(1) by striking subsections (b) and (c);

(2) by striking "SEC. 304. (a)(1) Loans" and inserting the following:

"SEC. 304. SOIL AND WATER CONSERVATION AND PROTECTION.

"(a) IN GENERAL.—Loans";

(3) by striking "(2) In making or insuring" and inserting the following:

"(b) PRIORITY.—In making or guaranteeing";

(4) by striking "(3) The Secretary" and inserting the following:

"(c) LOAN MAXIMUM.—The Secretary";

(5) by redesignating subparagraphs (A) through (F) of subsection (a) (as amended by paragraph (2)) as paragraphs (1) through (6), respectively; and

(6) by redesignating subparagraphs (A) and (B) of subsection (c) (as amended by paragraph (4)) as paragraphs (1) and (2), respectively.

SEC. 604. INTEREST RATE REQUIREMENTS.

Section 307(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)) is amended—

(1) in subparagraph (B), by inserting "subparagraph (D) and in" after "Except as provided in"; and

(2) by adding at the end the following:

"(D) JOINT FINANCING ARRANGEMENT.—If a direct farm ownership loan is made under this subtitle as part of a joint financing arrangement and the amount of the direct farm ownership loan does not exceed 50 percent of the total principal amount financed under the arrangement, the interest rate on the direct farm ownership loan shall be at least 4 percent annually.".

SEC. 605. INSURANCE OF LOANS.

Section 308 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1928) is amended to read as follows:

"SEC. 308. FULL FAITH AND CREDIT.

"(a) IN GENERAL.—A contract of insurance or guarantee executed by the Secretary under this title shall be an obligation supported by the full faith and credit of the United States.

"(b) CONTESTABILITY.—A contract of insurance or guarantee executed by the Secretary under this title shall be incontestable except for fraud or misrepresentation that the lender or any holder—

"(1) has actual knowledge of at the time the contract or guarantee is executed; or

"(2) participates in or condones.".

SEC. 606. LOANS GUARANTEED.

Section 309(h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(h)) is amended by adding at the end the following:

"(4) MAXIMUM GUARANTEE OF 90 PERCENT.—Except as provided in paragraphs (5) and (6), a loan guarantee under this title shall be for not more than 90 percent of the principal and interest due on the loan.

"(5) REFINANCED LOANS GUARANTEED AT 95 PERCENT.—The Secretary shall guarantee 95 percent of—

"(A) in the case of a loan that solely refinances a direct loan made under this title, the principal and interest due on the loan on the date of the refinancing; or

"(B) in the case of a loan that is used for multiple purposes, the portion of the loan that refinances the principal and interest due on a direct loan made under this title that is outstanding on the date the loan is guaranteed.

"(6) BEGINNING FARMER LOANS GUARANTEED UP TO 95 PERCENT.—The Secretary may guarantee not more than 95 percent of—

"(A) a farm ownership loan for acquiring a farm or ranch to a borrower who is participating in the down payment loan program under section 310E; or

"(B) an operating loan to a borrower who is participating in the down payment loan program under section 310E that is made during the period that the borrower has a direct loan outstanding under this subtitle for acquiring a farm or ranch.".

Subtitle B—Operating Loans

SEC. 611. LIMITATION ON DIRECT OPERATING LOANS.

(a) IN GENERAL.—Section 311 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941) is amended by striking subsection (c) and inserting the following:

"(c) DIRECT LOANS.—

"(1) IN GENERAL.—Subject to paragraph (3), the Secretary may make a direct loan under this subtitle only to a farmer or rancher who—

"(A) is a qualified beginning farmer or rancher who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 5 years;

"(B) has not received a previous direct operating loan made under this subtitle; or

"(C) has received a previous direct operating loan made under this subtitle during 6 or fewer years.

"(2) YOUTH LOANS.—In this subsection, the term 'direct operating loan' shall not include a loan made to a youth under subsection (b).

"(3) TRANSITION RULE.—If, as of the date of enactment of this paragraph, a farmer or rancher has received a direct operating loan under this subtitle during each of 4 or more previous years, the borrower shall be eligible to receive a *direct operating loan under this subtitle during 3 additional years after the date of enactment of this paragraph.".*

(b) YOUTH ENTERPRISES NOT FARMING OR RANCHING.—Section 311(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941(b)) is amended by adding at the end the following:

"(4) YOUTH ENTERPRISES NOT FARMING OR RANCHING.—The operation of an enterprise by a youth under this subsection shall not be considered the operation of a farm or ranch under this title.".

SEC. 612. PURPOSES OF OPERATING LOANS.

(a) IN GENERAL.—Section 312 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1942) is amended to read as follows:

"SEC. 312. PURPOSES OF LOANS.

"(a) IN GENERAL.—A direct loan may be made under this subtitle only for—

"(1) paying the costs incident to reorganizing a farm or ranch for more profitable operation;

"(2) purchasing livestock, poultry, or farm or ranch equipment;

"(3) purchasing feed, seed, fertilizer, insecticide, or farm or ranch supplies, or to meet other essential farm or ranch operating expenses, including cash rent;

"(4) financing land or water development, use, or conservation;

"(5) paying loan closing costs;

"(6) assisting a farmer or rancher in changing the equipment, facilities, or methods of operation of a farm or ranch to comply with a standard promulgated under section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) or a standard adopted by a State under a plan approved under section 18 of the Act (29 U.S.C. 667), if the Secretary determines that without assistance under this paragraph the farmer or rancher is likely to suffer substantial economic injury in complying with the standard;

"(7) training a limited-resource borrower receiving a loan under section 310D in maintaining records of farming and ranching operations;

"(8) training a borrower under section 359;

"(9) refinancing the indebtedness of a borrower, if the borrower—

"(A) has refinanced a loan under this subtitle not more than 4 times previously; and

"(B)(i) is a direct loan borrower under this title at the time of the refinancing and has suffered a qualifying loss because of a natural disaster declared by the Secretary under this title or a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

"(ii) is refinancing a debt obtained from a creditor other than the Secretary; or

"(10) providing other farm, ranch, or home needs, including family subsistence.

"(b) GUARANTEED LOANS.—A loan may be guaranteed under this subtitle only for—

"(1) paying the costs incident to reorganizing a farm or ranch for more profitable operation;

"(2) purchasing livestock, poultry, or farm or ranch equipment;

"(3) purchasing feed, seed, fertilizer, insecticide, or farm or ranch supplies, or to meet other essential farm or ranch operating expenses, including cash rent;

"(4) financing land or water development, use, or conservation;

"(5) refinancing indebtedness;

"(6) paying loan closing costs;

"(7) assisting a farmer or rancher in changing the equipment, facilities, or methods of operation of a farm or ranch to comply with a standard promulgated under section 6 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655) or a standard adopted by a State under a plan approved under section 18 of the Act (29 U.S.C. 667), if the Secretary determines that without assistance under this paragraph the farmer or rancher is likely to suffer substantial economic injury due to compliance with the standard;

"(8) training a borrower under section 359; or

"(9) providing other farm, ranch, or home needs, including family subsistence.

"(c) HAZARD INSURANCE REQUIREMENT.—

"(1) IN GENERAL.—After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subtitle unless the farmer or rancher has, or agrees to obtain, hazard insurance on the property to be acquired with the loan.

"(2) DETERMINATION.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall determine the appropriate level of insurance to be required by paragraph (1).

"(d) PRIVATE RESERVE.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary may reserve a portion of any loan made under this subtitle to be placed in an unsupervised bank account that may be used at the discretion of the borrower for the basic family needs of the borrower and the immediate family of the borrower.

"(2) LIMIT ON SIZE OF THE RESERVE.—The size of the reserve shall not exceed the least of—

"(A) 10 percent of the loan;

"(B) $5,000; or

"(C) the amount needed to provide for the basic family needs of the borrower and the borrower's immediate family for 3 calendar months.".

(b) TRANSITIONAL PROVISION.—Section 312(c)(1) of the Consolidated Farm and Rural Development Act shall not apply until the Secretary of Agriculture makes the determination required by section 312(c)(2) of the Act.

SEC. 613. PARTICIPATION IN LOANS.

Section 315 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1945) is repealed.

SEC. 614. LINE-OF-CREDIT LOANS.

Section 316 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946) is amended by adding at the end the following:

"(c) LINE-OF-CREDIT LOANS.—

"(1) IN GENERAL.—A loan made or guaranteed by the Secretary under this subtitle may be in the form of a line-of-credit loan.

"(2) TERM.—A line-of-credit loan under paragraph (1) shall terminate not later than 5 years after the date that the loan is made or guaranteed.

"(3) ELIGIBILITY.—For purposes of determining eligibility for a farm operating loan under this subtitle, each year during which a farmer or rancher takes an advance or draws on a line-of-credit loan the farmer or rancher shall be considered to have received an operating loan for 1 year.

"(4) TERMINATION OF DELINQUENT LOANS.—If a borrower does not pay an installment on a line-of-credit loan on schedule, the borrower may not take an advance or draw on the line-of-credit, unless the Secretary determines that—

"(A) the borrower's failure to pay on schedule was due to unusual conditions that the borrower could not control; and

"(B) the borrower will reduce the line-of-credit balance to the scheduled level at the end of—

"(i) the production cycle; or

"(ii) the marketing of the borrower's agricultural products.

"(5) AGRICULTURAL COMMODITIES.—A line-of-credit loan may be used to finance the production or marketing of an agricultural commodity that—

"(A) is eligible for a price support program of the Department of Agriculture; or

"(B) was eligible for a price support program of the Department of Agriculture on the day before the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996.".

SEC. 615. INSURANCE OF OPERATING LOANS.

Section 317 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1947) is repealed.

SEC. 616. SPECIAL ASSISTANCE FOR BEGINNING FARMERS AND RANCHERS.

(a) IN GENERAL.—Section 318 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1948) is repealed.

(b) CONFORMING AMENDMENT.—Section 310F of the Consolidated Farm and Rural Development Act (7 U.S.C. 1936) is repealed.

SEC. 617. LIMITATION ON PERIOD FOR WHICH BORROWERS ARE ELIGIBLE FOR GUARANTEED ASSISTANCE.

Section 319 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1949) is amended by striking subsection (b) and inserting the following:

"(b) LIMITATION ON PERIOD BORROWERS ARE ELIGIBLE FOR GUARANTEED ASSISTANCE.—

"(1) GENERAL RULE.—Subject to paragraph (2), the Secretary shall not guarantee a loan under this subtitle for a borrower for any year after the 15th year that a loan is made to, or a guarantee is provided with respect to, the borrower under this subtitle.

"(2) TRANSITION RULE.—If, as of October 28, 1992, a farmer or rancher has received a direct or guaranteed operating loan under this subtitle during each of 10 or more previous years, the borrower shall be eligible to receive a guaranteed operating loan under this subtitle during 5 additional years after October 28, 1992.".

Subtitle C—Emergency Loans

SEC. 621. HAZARD INSURANCE REQUIREMENT.

(a) IN GENERAL.—Section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) is amended by striking subsection (b) and inserting the following:

"(b) HAZARD INSURANCE REQUIREMENT.—

"(1) IN GENERAL.—After the Secretary makes the determination required by paragraph (2), the Secretary may not make a loan to a farmer or rancher under this subtitle to cover a property loss unless the farmer or rancher had hazard insurance that insured the property at the time of the loss.

"(2) DETERMINATION.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall determine the appropriate level of insurance to be required under paragraph (1).".

(b) TRANSITIONAL PROVISION.—Section 321(b)(1) of the Consolidated Farm and Rural Development Act shall not apply until the Secretary of Agriculture makes the determination required by section 321(b)(2) of the Act.

SEC. 622. NARROWING OF AUTHORITY TO WAIVE APPLICATION OF THE CREDIT ELSEWHERE TEST.

The second proviso of section 322(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1962(b)) is amended by striking "$300,000 or less" and inserting "$100,000 or less".

SEC. 623. LINKING OF EMERGENCY LOANS FOR CROP OR LIVESTOCK CHANGES TO NATURAL DISASTERS.

Section 323 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1963) is amended by inserting "that are necessitated by a natural disaster, major disaster, or emergency and that are" after "livestock changes".

SEC. 624. MAXIMUM EMERGENCY LOAN INDEBTEDNESS.

Section 324 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964) is amended by striking "SEC. 324. (a) No loan" and all that follows through the end of subsection (a) and inserting the following:

"SEC. 324. TERMS OF LOANS.

"(a) Maximum Amount of Loan.—The Secretary may not make a loan under this subtitle to a borrower who has suffered a loss in an amount that—

"(1) exceeds the actual loss caused by a disaster; or

"(2) would cause the total indebtedness of the borrower under this subtitle to exceed $500,000.".

SEC. 625. ESTABLISHMENT OF DATE FOR EMERGENCY LOAN ASSET VALUATION.

The last sentence of section 324(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964(d)) is amended by striking "value the assets" and all that follows through the period and inserting "establish the value of the assets as of the day before the occurrence of the natural disaster, major disaster, or emergency that is the basis for a request for assistance under this subtitle or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).".

SEC. 626. INSURANCE OF EMERGENCY LOANS.

Section 328 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1968) is repealed.

Subtitle D—Administrative Provisions

SEC. 631. TEMPORARY AUTHORITY TO ENTER INTO CONTRACTS.

Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) is amended by adding at the end the following:

"(d) Temporary Authority To Enter Into Contracts.—

"(1) Definitions.—In this subsection:

"(A) Eligible financial institution.—The term 'eligible financial institution' means a financial institution with substantial experience in farm, ranch, or aquaculture lending that is regulated by the Comptroller of the Currency, the Farm Credit Administration, or a similar regulatory body.

"(B) Pilot project.—The term 'pilot project' includes services related to borrower loan documentation, financial information, credit history, and appraisals of real estate and chattel.

"(2) Authority.—The Secretary may enter into a contract with an eligible financial institution for servicing a farmer program loan under this title, including 1 or more pilot projects.

"(3) Report.—Not later than September 30, 1997, and September 30 of each year thereafter, the Secretary shall report to Congress on—

"(A) the Secretary's experience in using contracts under paragraph (2); and

"(B) recommendations for legislation related to this subsection, if any.

"(4) Savings clause.—Nothing in this subsection shall limit the authority of the Secretary or an eligible financial institution to contract for any services under this Act or any other law.

"(5) Sunset provision.—This subsection shall be effective until September 30, 2002.".

SEC. 632. USE OF COLLECTION AGENCIES.

Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) (as amended by section 631) is amended by adding at the end the following:

"(e) Private Collection Agency.—The Secretary may use a private collection agency to collect a claim or obligation described in subsection (b)(5).".

SEC. 633. NOTICE OF LOAN SERVICE PROGRAMS.

Section 331D(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981d(a)) is amended by striking "180 days delinquent in" and inserting "90 days past due on".

SEC. 634. CLARIFICATION OF WRITTEN STATEMENT REQUIRED OF BORROWERS.

Section 333(1)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(1)(B)) is amended by striking "a written statement showing the applicant's net worth" and inserting "an appropriate written financial statement".

SEC. 635. ANNUAL REVIEW OF THE CREDIT HISTORY, BUSINESS OPERATION, AND CONTINUED ELIGIBILITY OF A BORROWER.

(a) In General.—Section 333 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) except with respect to a loan under section 306, 310B, or 314, the county or area committee established under section 8(b)(5)(B) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)(B)) to certify in writing—

"(A) that an annual review of the credit history and business operation of the borrower has been conducted; and

"(B) that a review of the continued eligibility of the borrower for the loan has been conducted;".

(b) Conforming Amendment.—The third sentence of section 310B(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)) is amended by striking "(3) of" and inserting "(4) of".

SEC. 636. EXTENSION OF VETERANS PREFERENCE.

Section 333 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983) (as amended by section 635(a)) is amended by striking paragraph (5) and inserting the following:

"(5) the application of a person who is a veteran of any war, as defined in section 101(12) of title 38, United States Code, for a loan under subtitle A or B to be given preference over a similar application from a person who is not a veteran of any war, if the applications are on file in a county or area office at the same time.".

SEC. 637. VERIFICATION OF THE CREDIT ELSEWHERE TEST.

Section 333A(f)(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a(f)(4)) is amended—

(1) by striking "(4) With" and all that follows through "seasoned" and inserting the following:

"(4) Verification.—

"(A) In general.—The Secretary shall provide a prospectus of a seasoned"; and

(2) by striking "If the Secretary" and inserting the following:

"(B) Notification.—The Secretary shall notify each borrower of a loan that a prospectus has been provided to a lender under subparagraph (A).

"(C) Credit extended.—If the Secretary".

SEC. 638. SALE OF PROPERTY.

Section 335 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985) is amended—

(1) in subsection (b), by striking "subsection (e)" and inserting "subsections (c) and (e)";

(2) by striking subsection (c) and inserting the following:

"(c) Sale of Property.—

"(1) In general.—Subject to this subsection and subsection (e)(1)(A), the Secretary shall offer to sell real property that is acquired by the Secretary under this title using the following order and method of sale:

"(A) Advertisement.—Not later than 15 days after acquiring real property, the Secretary shall publicly advertise the property for sale.

"(B) Beginning farmer or rancher.—

"(i) In general.—Not later than 75 days after acquiring real property, the Secretary shall offer to sell the property to a qualified beginning farmer or rancher at current market value based on a current appraisal.

"(ii) Random selection.—If more than 1 qualified beginning farmer or rancher offers to purchase the property, the Secretary shall select between the qualified applicants on a random basis.

"(iii) Appeal of random selection.—A random selection or denial by the Secretary of a beginning farmer or rancher for farm inventory property under this subparagraph shall be final and not administratively appealable.

"(C) Public sale.—If no acceptable offer is received from a qualified beginning farmer or rancher under subparagraph (B) not later than 75 days after acquiring the real property, the Secretary shall, not later than 30 days after the 75-day period, sell the property after public notice at a public sale, and, if no acceptable bid is received, by negotiated sale, at the best price obtainable.

"(2) Transitional rules.—

"(A) Previous lease.—In the case of real property acquired prior to the date of enactment of this subparagraph that the Secretary leased prior to the date of enactment of this subparagraph, not later than 60 days after the lease expires, the Secretary shall offer to sell the property in accordance with paragraph (1).

"(B) Previously in inventory.—In the case of real property acquired prior to the date of enactment of this subparagraph that the Secretary has not leased, not later than 60 days after the date of enactment of this subparagraph, the Secretary shall offer to sell the property in accordance with paragraph (1).

"(3) Interest.—

"(A) In general.—Subject to subparagraph (B), any conveyance of real property under this subsection shall include all of the interest of the United States in the property, including mineral rights.

"(B) Conservation.—The Secretary may for conservation purposes grant or sell an easement, restriction, development right, or similar legal right to real property to a State, a political subdivision of a State, or a private nonprofit organization separately from the underlying fee or other rights to the property owned by the United States.

"(4) Other law.—The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) shall not apply to any exercise of authority under this title.

"(5) Lease of property.—

"(A) In general.—Subject to subparagraph (B), the Secretary may not lease any real property acquired under this title.

"(B) Exception.—

"(i) Beginning farmer or rancher.—The Secretary may lease or contract to sell to a beginning farmer or rancher a farm or ranch acquired by the Secretary under this title if the beginning farmer or rancher qualifies for a credit sale or direct farm ownership loan under subtitle A but credit sale authority for loans or direct farm ownership loan funds, respectively, are not available.

"(ii) Term.—The term of a lease or contract to sell to a beginning farmer or rancher under clause (i) shall be until the earlier of—

"(I) the date that is 18 months after the date of the lease or sale; or

"(II) the date that direct farm ownership loan funds or credit sale authority for loans becomes available to the beginning farmer or rancher.

"(iii) Income-producing capability.—In determining the rental rate on real property leased under this subparagraph, the Secretary shall consider the income-producing capability of the property during the term that the property is leased.

"(6) Expedited determination.—

"(A) IN GENERAL.—On the request of an applicant, not later than 30 days after denial of the applicant's application, the appropriate State director shall provide an expedited review and determination of whether the applicant is a beginning farmer or rancher for the purpose of acquiring farm inventory property.

"(B) APPEAL.—The determination of a State Director under subparagraph (A) shall be final and not administratively appealable.

"(C) EFFECTS OF DETERMINATIONS.—

"(i) IN GENERAL.—The Secretary shall maintain statistical data on the number and results of determinations made under subparagraph (A) and the effect of the determinations on—

"(I) selling farm inventory property to beginning farmers and ranchers; and

"(II) disposing of real property in inventory.

"(ii) NOTIFICATION.—The Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate if the Secretary determines that the review process under subparagraph (A) is adversely affecting the selling of farm inventory property to beginning farmers or ranchers or the disposing of real property in inventory."; and

(3) in subsection (e)—

(A) in paragraph (1)—

(i) by striking subparagraphs (A) through (C);

(ii) by redesignating subparagraphs (D) through (G) as subparagraphs (A) through (D), respectively;

(iii) in subparagraph (A) (as redesignated by clause (ii))—

(I) in clause (i)—

(aa) in the matter preceding subclause (I), by striking "(G)" and inserting "(D)";

(bb) by striking subclause (I) and inserting the following:

"(I) the Secretary acquires property under this title that is located within an Indian reservation; and";

(cc) in subclause (II), by striking ", and" at the end and inserting a semicolon; and

(dd) by striking subclause (III); and

(II) in clause (iii), by striking "The Secretary shall" and all that follows through "of subparagraph (A)," and inserting "Not later than 90 days after acquiring the property, the Secretary shall"; and

(iv) in subparagraph (D) (as redesignated by clause (ii))—

(I) in clause (i), by striking "(D)" in the matter following subclause (IV) and inserting "(A)";

(II) in clause (iii)(I), by striking "subparagraphs (C)(i), (C)(ii), and (D)" and inserting "subparagraph (A)"; and

(III) by striking clause (v) and inserting the following:

"(v) FORECLOSURE PROCEDURES.—

"(I) NOTICE TO BORROWER.—If an Indian borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), not less than 30 days before a foreclosure sale of the property, the Secretary shall provide the Indian borrower-owner with the option of—

"(aa) requiring the Secretary to assign the loan and security instruments to the Secretary of the Interior, if the Secretary of the Interior agrees to an assignment releasing the Secretary of Agriculture from all further responsibility for collection of any amounts with regard to the loan secured by the real property; or

"(bb) requiring the Secretary to assign the loan and security instruments to the tribe having jurisdiction over the reservation in which the real property is located, if the tribe agrees to the assignment.

"(II) NOTICE TO TRIBE.—If an Indian borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), not less than 30 days before a foreclosure sale of the property, the Secretary shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of—

"(aa) the sale;

"(bb) the fair market value of the property; and

"(cc) the requirements of this subparagraph.

"(III) ASSUMED LOANS.—If an Indian tribe assumes a loan under subclause (I)—

"(aa) the Secretary shall not foreclose the loan because of any default that occurred prior to the date of the assumption;

"(bb) the loan shall be for the lesser of the outstanding principal and interest of the loan or the fair market value of the property; and

"(cc) the loan shall be treated as though the loan was made under Public Law 91–229 (25 U.S.C. 488 et seq.).";

(B) by striking paragraph (3);

(C) in paragraph (4)—

(i) by striking subparagraph (B);

(ii) in subparagraph (A)—

(I) in clause (i), by striking "(i)"; and

(II) by redesignating clause (ii) as subparagraph (B); and

(iii) in subparagraph (B) (as redesignated by clause (ii)(II)), by striking "clause (i)" and inserting "subparagraph (A)";

(D) by striking paragraphs (5), (6), and (9); and

(E) by redesignating paragraphs (4), (7), (8), and (10) as paragraphs (3), (4), (5), and (6), respectively.

SEC. 639. EASEMENTS ON INVENTORIED PROPERTY.

Section 335(g) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(g)) is amended—

(1) in paragraph (1)—

(A) by striking "(g)(1) Subject to paragraphs (2) through (5)" and inserting the following:

"(g) EASEMENTS ON INVENTORIED PROPERTY.—

"(1) IN GENERAL.—Subject to paragraph (2)"; and

(B) by striking ", as determined" and all that follows through "3801 et seq.)";

(2) by striking paragraph (2) and inserting the following:

"(2) LIMITATION.—The Secretary shall not establish a wetland conservation easement on an inventoried property that—

"(A) was cropland on the date the property entered the inventory of the Secretary; or

"(B) was used for farming at any time during the period beginning on the date 5 years before the property entered the inventory of the Secretary and ending on the date the property entered the inventory of the Secretary.";

(3) by striking paragraphs (3), (4), (5), and (8);

(4) by striking "(6) The Secretary" and inserting the following:

"(3) NOTIFICATION.—The Secretary"; and

(5) by striking "(7) The appraised" and inserting the following:

"(4) APPRAISED VALUE.—The appraised".

SEC. 640. DEFINITIONS.

Section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)) is amended—

(1) in paragraph (11)—

(A) in the text preceding subparagraph (A), by striking "applicant—" and inserting "applicant, regardless of whether the applicant is participating in a program under section 310E—"; and

(B) in subparagraph (F)—

(i) by striking "15 percent" and inserting "25 percent"; and

(ii) by inserting before the semicolon at the end the following: ", except that this subparagraph shall not apply to a loan made or guaranteed under subtitle B"; and

(2) by adding at the end the following:

"(12) DEBT FORGIVENESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'debt forgiveness' means reducing or terminating a farmer program loan made or guaranteed under this title, in a manner that results in a loss to the Secretary, through—

"(i) writing down or writing off a loan under section 353;

"(ii) compromising, adjusting, reducing, or charging-off a debt or claim under section 331;

"(iii) paying a loss on a guaranteed loan under section 357; or

"(iv) discharging a debt as a result of bankruptcy.

"(B) LOAN RESTRUCTURING.—The term 'debt forgiveness' does not include consolidation, rescheduling, reamortization, or deferral.".

SEC. 641. AUTHORIZATION FOR LOANS.

Section 346 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994) is amended—

(1) in the second sentence of subsection (a), by striking "with or without" and all that follows through "administration"; and

(2) by striking subsection (b) and inserting the following:

"(b) AUTHORIZATION FOR LOANS.—

"(1) IN GENERAL.—The Secretary may make or guarantee loans under subtitles A and B from the Agricultural Credit Insurance Fund provided for in section 309 in not more than the following amounts:

"(A) FISCAL YEAR 1996.—For fiscal year 1996, $3,085,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,500,000,000 shall be for guaranteed loans, of which—

"(I) $600,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $1,900,000,000 shall be for guarantees of operating loans under subtitle B.

"(B) FISCAL YEAR 1997.—For fiscal year 1997, $3,165,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,580,000,000 shall be for guaranteed loans, of which—

"(I) $630,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $1,950,000,000 shall be for guarantees of operating loans under subtitle B.

"(C) FISCAL YEAR 1998.—For fiscal year 1998, $3,245,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,660,000,000 shall be for guaranteed loans, of which—

"(I) $660,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $2,000,000,000 shall be for guarantees of operating loans under subtitle B.

"(D) FISCAL YEAR 1999.—For fiscal year 1999, $3,325,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,740,000,000 shall be for guaranteed loans, of which—

"(I) $690,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $2,050,000,000 shall be for guarantees of operating loans under subtitle B.

"(E) FISCAL YEAR 2000.—For fiscal year 2000, $3,435,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,850,000,000 shall be for guaranteed loans, of which—

"(I) $750,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $2,100,000,000 shall be for guarantees of operating loans under subtitle B.

"(F) FISCAL YEAR 2001.—For fiscal year 2001, $3,435,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,850,000,000 shall be for guaranteed loans, of which—

"(I) $750,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $2,100,000,000 shall be for guarantees of operating loans under subtitle B.

"(G) FISCAL YEAR 2002.—For fiscal year 2002, $3,435,000,000, of which—

"(i) $585,000,000 shall be for direct loans, of which—

"(I) $85,000,000 shall be for farm ownership loans under subtitle A; and

"(II) $500,000,000 shall be for operating loans under subtitle B; and

"(ii) $2,850,000,000 shall be for guaranteed loans, of which—

"(I) $750,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

"(II) $2,100,000,000 shall be for guarantees of operating loans under subtitle B.

"(2) BEGINNING FARMERS AND RANCHERS.—

"(A) DIRECT LOANS.—

"(i) FARM OWNERSHIP LOANS.—

"(I) IN GENERAL.—Of the amounts made available under paragraph (1) for direct farm ownership loans, the Secretary shall reserve 70 percent for qualified beginning farmers and ranchers.

"(II) DOWN PAYMENT LOANS.—Of the amounts reserved for a fiscal year under subclause (I), the Secretary shall reserve 60 percent for the down payment loan program under section 310E until April 1 of the fiscal year.

"(ii) OPERATING LOANS.—Of the amounts made available under paragraph (1) for direct operating loans, the Secretary shall reserve for qualified beginning farmers and ranchers—

"(I) for each of fiscal years 1996 through 1998, 25 percent;

"(II) for fiscal year 1999, 30 percent; and

"(III) for each of fiscal years 2000 through 2002, 35 percent.

"(iii) FUNDS RESERVED UNTIL SEPTEMBER 1.—Except as provided in clause (i)(II), funds reserved for qualified beginning farmers or ranchers under this subparagraph for a fiscal year shall be reserved only until September 1 of the fiscal year.

"(B) GUARANTEED LOANS.—

"(i) FARM OWNERSHIP LOANS.—Of the amounts made available under paragraph (1) for guarantees of farm ownership loans, the Secretary shall reserve 25 percent for qualified beginning farmers and ranchers.

"(ii) OPERATING LOANS.—Of the amounts made available under paragraph (1) for guarantees of operating loans, the Secretary shall reserve 40 percent for qualified beginning farmers and ranchers.

"(iii) FUNDS RESERVED UNTIL APRIL 1.—Funds reserved for qualified beginning farmers or ranchers under this subparagraph for a fiscal year shall be reserved only until April 1 of the fiscal year.

"(C) RESERVED FUNDS FOR ALL QUALIFIED BEGINNING FARMERS AND RANCHERS.—If a qualified beginning farmer or rancher meets the eligibility criteria for receiving a direct or guaranteed loan under section 302, 310E, or 311, the Secretary shall make or guarantee the loan if sufficient funds reserved under this paragraph are available to make or guarantee the loan.

"(3) TRANSFER FOR DOWN PAYMENT LOANS.—

"(A) IN GENERAL.—Notwithstanding subsection (a), subject to subparagraph (B)—

"(i) beginning on August 1 of each fiscal year, the Secretary shall use available unsubsidized guaranteed farm operating loan funds to provide direct farm ownership loans approved by the Secretary to qualified beginning farmers and ranchers under the down payment loan program established under section 310E, if sufficient direct farm ownership loan funds are not otherwise available; and

"(ii) beginning on September 1 of each fiscal year, the Secretary shall use available unsubsidized guaranteed farm operating loan funds to provide direct farm ownership loans approved by the Secretary to qualified beginning farmers and ranchers, if sufficient direct farm ownership loan funds are not otherwise available.

"(B) LIMITATION.—The Secretary shall limit the transfer of funds under subparagraph (A) so that all guaranteed farm operating loans that have been approved, or will be approved, by the Secretary during the fiscal year will be made to the extent of available amounts.

"(4) TRANSFER FOR CREDIT SALES OF FARM INVENTORY PROPERTY.—

"(A) IN GENERAL.—Notwithstanding subsection (a), subject to subparagraphs (B) and (C), beginning on September 1 of each fiscal year, the Secretary may use available funds made available under subtitle C for the fiscal year to fund the credit sale of farm real estate in the inventory of the Secretary.

"(B) SUPPLEMENTAL APPROPRIATIONS.—The transfer authority provided under subparagraph (A) shall not apply to any funds made available to the Secretary for any fiscal year under an Act making supplemental appropriations.

"(C) LIMITATION.—The Secretary shall limit the transfer of funds under subparagraph (A) so that all emergency disaster loans that have been approved, or will be approved, by the Secretary during the fiscal year will be made to the extent of available amounts.".

SEC. 642. CONTRACTS ON LOAN SECURITY PROPERTIES.

Section 349 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1997) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) CONTRACTS ON LOAN SECURITY PROPERTIES.—Subject to subsection (c), the Secretary may enter into a contract related to real property for conservation, recreation, or wildlife purposes.";

(2) in subsection (c)—

(A) by striking "(c) Such easement" and all that follows through "if—" and inserting the following:

"(c) LIMITATIONS.—The Secretary may enter into a contract under subsection (b) if—";

(B) in paragraph (2), by adding "and" at the end;

(C) in paragraph (3)—

(i) by striking subparagraph (B);

(ii) by striking "(3)(A)(i)" and inserting "(3)(A)";

(iii) by striking "Farmers Home Administration" and inserting "Secretary";

(iv) by striking "(ii) such easement" and inserting "(B) such contract"; and

(v) by striking "; or" and inserting a period; and

(D) by striking paragraph (4);

(3) in subsection (d), by striking "easement" each place it appears and inserting "contract";

(4) in subsection (e)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "purchase any such easement from the borrower—" and inserting "reduce or forgive the outstanding debt of a borrower—";

(ii) by striking "easement" each place it appears and inserting "contract"; and

(iii) by striking "Farmers Home Administration" each place it appears and inserting "Secretary"; and

(B) in paragraph (2)(A), by striking "easement is acquired" and inserting "contract is entered into";

(5) in subsection (f)—

(A) in paragraph (1), by striking "acquire easements" and inserting "enter into contracts"; and

(B) in paragraphs (2) and (3), by striking "easements" each place it appears and inserting "contracts"; and

(6) in subsection (g), by striking "an easement acquired" and inserting "a contract entered into".

SEC. 643. LIST OF CERTIFIED LENDERS AND INVENTORY PROPERTY DEMONSTRATION PROJECT.

(a) IN GENERAL.—Section 351 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999) is amended—

(1) in subsection (f)—

(A) by striking "Each Farmers Home Administration county supervisor" and inserting "The Secretary";

(B) by striking "approved lenders" and inserting "lenders"; and

(C) by striking "the Farmers Home Administration"; and

(2) by striking subsection (h).

(b) TECHNICAL AMENDMENT.—Section 1320 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1999 note) is amended by striking "Effective only" and all that follows through "1995, the" and inserting "The".

SEC. 644. HOMESTEAD PROPERTY.

Section 352(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(c)) is amended—

(1) in paragraph (1)(A), by striking "90" each place it appears and inserting "30"; and

(2) in paragraph (6)—

(A) in the first sentence, by striking "Within 30" and all that follows through "title," and insert "Not later than the date of acquisition of the property securing a loan made under this title (or, in the case of real property in inventory on the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, not later than 5 days after the date of enactment of the Act),"; and

(B) by striking the second sentence.

SEC. 645. RESTRUCTURING.

Section 353 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001) is amended—

(1) in subsection (c)—

(A) in paragraph (3), by striking subparagraph (C) and inserting the following:

"(C) CASH FLOW MARGIN.—For the purpose of assessing under subparagraph (A) the ability of a borrower to meet debt obligations and continue farming operations, the Secretary shall assume that the borrower needs up to 110 percent of the amount indicated for payment of farm operating expenses, debt service obligations, and family living expenses."; and

(B) by striking paragraph (6) and inserting the following:

"(6) TERMINATION OF LOAN OBLIGATIONS.—The obligations of a borrower to the Secretary under a loan shall terminate if—

"(A) the borrower satisfies the requirements of paragraphs (1) and (2) of subsection (b);

"(B) the value of the restructured loan is less than the recovery value; and

"(C) not later than 90 days after receipt of the notification described in paragraph (4)(B), the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the current market value.";

(2) by striking subsection (k); and

(3) by redesignating subsections (l) through (p) as subsections (k) through (o), respectively.

SEC. 646. TRANSFER OF INVENTORY LAND FOR CONSERVATION PURPOSES.

Section 354 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2002) is amended—

(1) in the matter preceding paragraph (1), by striking "The Secretary, without reimbursement," and inserting the following:

"(a) IN GENERAL.—Subject to subsection (b), the Secretary";

(2) by striking paragraph (2) and inserting the following:

"(2) that is eligible to be disposed of in accordance with section 335; and"; and

(3) by adding at the end the following:

"(b) CONDITIONS.—The Secretary may not transfer any property or interest in property under subsection (a) unless—

"(1) at least 2 public notices are given of the transfer;

"(2) if requested, at least 1 public meeting is held prior to the transfer; and

"(3) the Governor and at least 1 elected county official of the State and county where the property is located are consulted prior to the transfer.".

SEC. 647. IMPLEMENTATION OF TARGET PARTICIPATION RATES.

Section 355 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003) is amended by adding at the end the following:

"(f) IMPLEMENTATION CONSISTENT WITH SUPREME COURT HOLDING.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall ensure that the implementation of this section is consistent with the holding of the Supreme Court in Adarand Constructors, Inc. v. Federico Pena, Secretary of Transportation, 115 S. Ct. 2097 (1995).".

SEC. 648. DELINQUENT BORROWERS.

(a) PAYMENT OF INTEREST AS A CONDITION OF LOAN SERVICING FOR BORROWERS.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following:

"SEC. 372. PAYMENT OF INTEREST AS A CONDITION OF LOAN SERVICING FOR BORROWERS.

"The Secretary may not reschedule or reamortize a loan for a borrower under this title who has not requested consideration under section 331D(e) unless the borrower pays a portion, as determined by the Secretary, of the interest due on the loan.".

(b) LOAN AND LOAN SERVICING LIMITATIONS.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) (as amended by subsection (a)) is amended by adding at the end the following:

"SEC. 373. LOAN AND LOAN SERVICING LIMITATIONS.

"(a) DELINQUENT BORROWERS PROHIBITED FROM OBTAINING DIRECT OPERATING LOANS.—The Secretary may not make a direct operating loan under subtitle B to a borrower who is delinquent on any loan made or guaranteed under this title.

"(b) LOANS PROHIBITED FOR BORROWERS THAT HAVE RECEIVED DEBT FORGIVENESS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may not make or guarantee a loan under this title to a borrower who received debt forgiveness on a loan made or guaranteed under this title.

"(2) EXCEPTION.—The Secretary may make a direct or guaranteed farm operating loan for paying annual farm or ranch operating expenses of a borrower who was restructured with a write-down under section 353.

"(c) NO MORE THAN 1 DEBT FORGIVENESS FOR A BORROWER ON A DIRECT LOAN.—The Secretary may not provide to a borrower debt forgiveness on a direct loan made under this title if the borrower has received debt forgiveness on another direct loan made under this title.".

SEC. 649. SHORT FORM CERTIFICATION OF FARM PROGRAM BORROWER COMPLIANCE.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) (as amended by section 648) is amended by adding at the end the following:

"SEC. 374. SHORT FORM CERTIFICATION OF FARM PROGRAM BORROWER COMPLIANCE.

"The Secretary shall develop and utilize a consolidated short form for farm program borrowers to use in certifying compliance with any applicable provision of law (including a regulation) that serves as an eligibility prerequisite for a loan made under this title.".

SEC. 650. CREDIT STUDY.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study and report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the demand for and availability of credit in rural areas for agriculture, housing, and rural development.

(b) PURPOSE.—The purpose of the study shall be to ensure that Congress has current and comprehensive information to consider as Congress deliberates on rural credit needs and the availability of credit to satisfy the needs of rural areas of the United States.

(c) ITEMS IN STUDY.—In conducting the study, the Secretary shall base the study on the most current available data and analyze—

(1) rural demand for credit from the Farm Credit System, the ability of the Farm Credit System to meet the demand, and the extent to which the Farm Credit System provides loans to satisfy the demand;

(2) rural demand for credit from the United States banking system, the ability of banks to meet the demand, and the extent to which banks provide loans to satisfy the demand;

(3) rural demand for credit from the Secretary, the ability of the Secretary to meet the demand, and the extent to which the Secretary provides loans to satisfy the demand;

(4) rural demand for credit from other Federal agencies, the ability of the agencies to meet the demand, and the extent to which the agencies provide loans to satisfy the demand;

(5) what measure or measures exist to gauge the overall demand for rural credit, the extent to which rural demand for credit is satisfied, and what the measures have demonstrated;

(6) a comparison of the interest rates and terms charged by the Farm Credit System Farm Credit Banks, production credit associations, and banks for cooperatives with the rates and terms charged by the banks of the United States for credit of comparable risk and maturity;

(7) the advantages and disadvantages of the modernization and expansion proposals of the Farm Credit System on the Farm Credit System, the United States banking system, rural users of credit, local rural communities, and the Federal Government, including—

(A) any added risk to the safety and soundness of the Farm Credit System that may result from approval of a proposal; and

(B) any positive or adverse impacts on competition between the Farm Credit System and the banks of the United States in providing credit to rural users;

(8) the nature and extent of the unsatisfied rural credit need that the Farm Credit System proposals are supposed to address and what aspects of the present Farm Credit System prevent the Farm Credit System from meeting the need;

(9) the advantages and disadvantages of the proposal by commercial bankers to allow banks access to the Farm Credit System as a funding source on the Farm Credit System, the United States banking system, rural users of credit, local rural communities, and the Federal Government, including—

(A) any added risk to the safety and soundness of the Farm Credit System that may result from approval of the proposal; and

(B) any positive or adverse impacts on competition between the Farm Credit System and the banks of the United States in providing credit to rural users; and

(10) problems that commercial banks have in obtaining capital for lending in rural areas, how access to Farm Credit System funds would improve the availability of capital in rural areas in ways that cannot be achieved in the system in existence on the date of enactment of this Act, and the possible effects on the viability of the Farm Credit System of granting banks access to Farm Credit System funds.

(d) INTERAGENCY TASK FORCE.—In completing the study, the Secretary shall use, among other things, data and information obtained by the interagency task force on rural credit.

Subtitle E—General Provisions

SEC. 661. CONFORMING AMENDMENTS.

(a) Section 307(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)) is amended—

(1) in paragraph (4), by striking "304(b), 306(a)(1), and 310B" and inserting "306(a)(1) and 310B"; and

(2) in paragraph (6)(B)—

(A) by striking clauses (i), (ii), (iv), and (vii);

(B) in clause (v), by adding "and" at the end;

(C) in clause (vi), by striking ", and" at the end and inserting a period; and

(D) by redesignating clauses (iii), (v), and (vi) as clauses (i), (ii), and (iii), respectively.

(b) The second sentence of section 309(g)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(g)(1)) is amended by striking "section 308,".

(c) Section 309A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a) is amended—

(1) in the second sentence of subsection (a), by striking "304(b), 306(a)(1), 306(a)(14), 310B, and 312(b)" and inserting "306(a)(1), 306(a)(14), and 310B"; and

(2) in the first sentence of subsection (b), by striking "and section 308".

(d) Section 310B(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(d)) is amended—

(1) by striking "sections 304(b), 310B, and 312(b)" each place it appears in paragraphs (2), (3), and (4) and inserting "this section"; and

(2) in paragraph (6), by striking "this section, section 304, or section 312" and inserting "this section".

(e) The first sentence of section 310D(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1934(a)) is amended by striking "paragraphs (1) through (5) of section 303(a), or subparagraphs (A) through (E) of section 304(a)(1)" and inserting "section 303(a), or paragraphs (1) through (5) of section 304(a)".

(f) Section 311(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941(b)(1)) is amended by striking "and for the purposes specified in section 312".

(g) Section 316(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)) is amended by striking paragraph (3).

(h) Section 343 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991) is amended—

(1) in subsection (a)(10), by striking "recreation loan (RL) under section 304,"; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "351(h),"; and

(B) by striking paragraph (4) and inserting the following:

"(4) PRESERVATION LOAN SERVICE PROGRAM.—The term "preservation loan service program" means homestead retention as authorized under section 352.".

(i) The first sentence of section 344 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1992) is amended by striking "304(b), 306(a)(1), 310B, 312(b), or 312(c)" and inserting "306(a)(1), 310B, or 312(c)".

(j) Section 353(l) of the Consolidated Farm and Rural Development Act (as redesignated by section 645(3)) is amended by striking "and subparagraphs (A)(i) and (C)(i) of section 335(e)(1),".

SEC. 662. ELECTRONIC FILING OF EFFECTIVE FINANCING STATEMENTS UNDER THE CLEAR TITLE PROVISIONS OF THE FOOD SECURITY ACT OF 1985.

Section 1324(c)(4) of the Food Security Act of 1985 (7 U.S.C. 1631(c)(4)) is amended—

(1) in subparagraph (A), by striking "thereof" and inserting "of the statement, or, in the case of a State which (under the applicable State law provisions of the Uniform Commercial Code) allows the electronic filing of financing statements without the signature of the debtor, is an electronically reproduced copy of the statement"; and

(2) in each of subparagraphs (B) and (C), by inserting "other than in the case of an electronically reproduced copy of the statement," before "is".

SEC. 663. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall become effective on the date of enactment of this Act.

(b) DELAYED EFFECTIVE DATES.—The amendments made by sections 601, 606, 611, 612, 622, 623, 625, 633, 640(1), 642, 645(1), 648(a), and 649 shall become effective 90 days after the date of enactment of this Act.

(c) TRANSITION PROVISION.—The amendments made by sections 638 and 644 shall not apply with respect to a complete application to acquire inventory property submitted prior to the date of enactment of this Act.

(d) REGULATIONS.—Notwithstanding any other provision of law, regulations to implement the amendments made by this title shall be published as interim final rules with request for comments and may be made effective immediately on publication.

TITLE VII—RURAL DEVELOPMENT

Subtitle A—Amendments to the Food, Agriculture, Conservation, and Trade Act of 1990

CHAPTER 1—GENERAL PROVISIONS

SEC. 701. RURAL INVESTMENT PARTNERSHIPS.

Subtitle B of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2007 et seq.) is repealed.

SEC. 702. WATER AND WASTE FACILITY FINANCING.

Section 2322 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926–1) is repealed.

SEC. 703. RURAL WASTEWATER CIRCUIT RIDER PROGRAM.

Section 2324 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 1926 note) is repealed.

SEC. 704. TELEMEDICINE AND DISTANCE LEARNING SERVICES IN RURAL AREAS.

Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) is amended to read as follows:

"CHAPTER 1—TELEMEDICINE AND DISTANCE LEARNING SERVICES IN RURAL AREAS

"SEC. 2331. PURPOSE.

"The purpose of this chapter is to encourage and improve telemedicine services and distance learning services in rural areas through the use of telecommunications, computer networks, and related advanced technologies by students, teachers, medical professionals, and rural residents.

"SEC. 2332. DEFINITIONS.

"In this chapter:

"(1) CONSTRUCT.—The term 'construct' means to construct, acquire, install, improve, or extend a facility or system.

"(2) COST OF MONEY LOAN.—The term 'cost of money loan' means a loan made under this chapter bearing interest at a rate equal to the then current cost to the Federal Government of loans of similar maturity.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"SEC. 2333. TELEMEDICINE AND DISTANCE LEARNING SERVICES IN RURAL AREAS.

"(a) SERVICES TO RURAL AREAS.—The Secretary may provide financial assistance for the purpose of financing the construction of facilities and systems to provide telemedicine services and distance learning services in rural areas.

"(b) FINANCIAL ASSISTANCE.—

"(1) IN GENERAL.—Financial assistance shall consist of grants or cost of money loans, or both.

"(2) FORM.—The Secretary shall determine the portion of the financial assistance provided to a recipient that consists of grants and the portion that consists of cost of money loans so as to result in the maximum feasible repayment to the Federal Government of the financial assistance, based on the ability to repay of the recipient and full utilization of funds made available to carry out this chapter.

"(c) RECIPIENTS.—

"(1) IN GENERAL.—The Secretary may provide financial assistance under this chapter to—

"(A) entities using telemedicine services or distance learning services; and

"(B) entities providing or proposing to provide telemedicine service or distance learning service to other persons at rates calculated to ensure that the benefit of the financial assistance is passed through to the other persons.

"(2) ELECTRIC OR TELECOMMUNICATIONS BORROWERS.—

"(A) LOANS TO BORROWERS.—Subject to subparagraph (B), the Secretary may provide a cost of money loan under this chapter to a borrower of an electric or telecommunications loan under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.). A borrower receiving a cost of money loan under this paragraph shall—

"(i) make the funds provided available to entities that qualify under paragraph (1) for projects satisfying the requirements of this chapter;

"(ii) use the funds provided to acquire, install, improve, or extend a system referred to in subsection (a); or

"(iii) use the funds provided to install, improve, or extend a facility referred to in subsection (a).

"(B) LIMITATIONS.—A borrower of an electric or telecommunications loan under the Rural Electrification Act of 1936 shall—

"(i) make a system or facility funded under subparagraph (A) available to entities that qualify under paragraph (1); and

"(ii) neither retain from the proceeds of a loan provided under subparagraph (A), nor assess a qualifying entity under paragraph (1), any amount except as may be required to pay the actual costs incurred in administering the loan or making the system or facility available.

"(3) APPEAL.—If the Secretary rejects the application of a borrower who applies for a cost of money loan or grant under this section, the borrower may appeal the decision to the Secretary not later than 10 days after the borrower is notified of the rejection.

"(4) ASSISTANCE TO PROVIDE OR IMPROVE SERVICES.—Financial assistance may be provided under this chapter for a facility regardless of the location of the facility if the Secretary determines that the assistance is necessary to provide or improve telemedicine services or distance learning services in a rural area.

"(d) PRIORITY.—The Secretary shall establish procedures to prioritize financial assistance under this chapter considering—

"(1) the need for the assistance in the affected rural area;

"(2) the financial need of the applicant;

"(3) the population sparsity of the affected rural area;

"(4) the local involvement in the project serving the affected rural area;

"(5) geographic diversity among the recipients of financial assistance;

"(6) the utilization of the telecommunications facilities of any telecommunications provider serving the affected rural area;

"(7) the portion of total project financing provided by the applicant from the funds of the applicant;

"(8) the portion of project financing provided by the applicant with funds obtained from non-Federal sources;

"(9) the joint utilization of facilities financed by other financial assistance;

"(10) the coordination of the proposed project with regional projects or networks;

"(11) service to the greatest practical number of persons within the general geographic area covered by the financial assistance;

"(12) conformity with the State strategic plan as prepared under section 381D of the Consolidated Farm and Rural Development Act; and

"(13) other factors determined appropriate by the Secretary.

"(e) MAXIMUM AMOUNT OF ASSISTANCE TO INDIVIDUAL RECIPIENTS.—The Secretary may establish the maximum amount of financial assistance to be made available to an individual recipient for each fiscal year under this chapter, by publishing notice of the maximum amount in the Federal Register not more than 45 days after funds are made available for the fiscal year to carry out this chapter.

"(f) USE OF FUNDS.—Financial assistance provided under this chapter shall be used for—

"(1) the development and acquisition of instructional programming;

"(2) the development and acquisition, through lease or purchase, of computer hardware and software, audio and visual equipment, computer network components, telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, or interactive video equipment, or other facilities that would further telemedicine services or distance learning services;

"(3) providing technical assistance and instruction for the development or use of the programming, equipment, or facilities referred to in paragraphs (1) and (2); or

"(4) other uses that are consistent with this chapter, as determined by the Secretary.

"(g) SALARIES AND EXPENSES.—Notwithstanding subsection (f), financial assistance provided under this chapter shall not be used for paying salaries or administrative expenses.

''(h) EXPEDITING COORDINATED TELEPHONE LOANS.—

''(1) IN GENERAL.—The Secretary may establish and carry out procedures to ensure that expedited consideration and determination is given to applications for loans and advances of funds submitted by local exchange carriers under this chapter and the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) to enable the exchange carriers to provide advanced telecommunications services in rural areas in conjunction with any other projects carried out under this chapter.

''(2) DEADLINE IMPOSED ON SECRETARY.—Not later than 45 days after the receipt of a completed application for an expedited telephone loan under paragraph (1), the Secretary shall notify the applicant in writing of the decision of the Secretary regarding the application.

''(i) NOTIFICATION OF LOCAL EXCHANGE CARRIER.—

''(1) APPLICANTS.—Each applicant for a grant for a telemedicine or distance learning project established under this chapter shall notify the appropriate local telephone exchange carrier regarding the application filed with the Secretary for the grant.

''(2) SECRETARY.—The Secretary shall—

''(A) publish notice of applications received for grants under this chapter for telemedicine or distance learning projects; and

''(B) make the applications available for inspection.

''SEC. 2334. ADMINISTRATION.

''(a) NONDUPLICATION.—The Secretary shall ensure that facilities constructed using financial assistance provided under this chapter do not duplicate adequate established telemedicine services or distance learning services.

''(b) LOAN MATURITY.—The maturities of cost of money loans shall be determined by the Secretary, based on the useful life of the facility being financed, except that the loan shall not be for a period of more than 10 years.

''(c) LOAN SECURITY AND FEASIBILITY.—The Secretary shall make a cost of money loan only if the Secretary determines that the security for the loan is reasonably adequate and that the loan will be repaid within the period of the loan.

''(d) ENCOURAGING CONSORTIA.—The Secretary shall encourage the development of consortia to provide telemedicine services or distance learning services through telecommunications in rural areas served by a telecommunications provider.

''(e) COORDINATION WITH OTHER AGENCIES.—The Secretary shall coordinate, to the extent practicable, with other Federal and State agencies with similar grant or loan programs to pool resources for funding meritorious proposals in rural areas.

''(f) INFORMATIONAL EFFORTS.—The Secretary shall establish and implement procedures to carry out informational efforts to advise potential end users located in rural areas of each State about the program authorized by this chapter.

''SEC. 2335. REGULATIONS.

''Not later than 180 days after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, the Secretary shall issue regulations to carry out this chapter.

''SEC. 2335A. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this chapter $100,000,000 for each of fiscal years 1996 through 2002.''.

SEC. 705. LIMITATION ON AUTHORIZATION OF APPROPRIATIONS FOR RURAL TECHNOLOGY GRANTS.

Section 2347 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 4034) is amended—

(1) by striking ''(a) IN GENERAL.—''; and

(2) by striking subsection (b).

SEC. 706. DEMONSTRATION PROJECTS.

Section 2348 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2662a) is repealed.

SEC. 707. MONITORING THE ECONOMIC PROGRESS OF RURAL AMERICA.

Section 2382 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 13 U.S.C. 141 note) is repealed.

SEC. 708. ANALYSIS BY OFFICE OF TECHNOLOGY ASSESSMENT.

Section 2385 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 950aaa–4 note) is repealed.

SEC. 709. RURAL HEALTH INFRASTRUCTURE IMPROVEMENT.

Section 2391 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 2662 note) is repealed.

SEC. 710. CENSUS OF AGRICULTURE.

Section 2392 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 4057) is repealed.

SEC. 711. STUDY OF THE TRANSPORTATION OF FERTILIZER AND AGRICULTURAL CHEMICALS TO FARMERS.

Section 2517 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 4077) is repealed.

CHAPTER 2—ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION

SEC. 721. DEFINITIONS.

Section 1657(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901(c)) is amended—

(1) by striking paragraphs (3) and (4);

(2) by redesignating paragraph (5) as paragraph (3);

(3) by redesignating paragraphs (6) through (12) as paragraphs (7) through (13), respectively; and

(4) by inserting after paragraph (3) (as redesignated by paragraph (2)) the following:

''(4) CORPORATE BOARD.—The term 'Corporate Board' means the Board of Directors of the Corporation described in section 1659.

''(5) CORPORATION.—The term 'Corporation' means the Alternative Agricultural Research and Commercialization Corporation established under section 1658.

''(6) EXECUTIVE DIRECTOR.—The term 'Executive Director' means the Executive Director of the Corporation appointed under section 1659(e).''.

SEC. 722. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION CORPORATION.

(a) IN GENERAL.—Section 1658 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5902) is amended to read as follows:

''SEC. 1658. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION CORPORATION.

''(a) ESTABLISHMENT.—To carry out this subtitle, there is created a body corporate to be known as the Alternative Agricultural Research and Commercialization Corporation, which shall be an agency of the United States, within the Department of Agriculture, subject to the general supervision and direction of the Secretary, except as specifically provided for in this subtitle.

''(b) PURPOSE.—The purpose of the Corporation is to—

''(1) expedite the development and market penetration of industrial, nonfood, nonfeed products from agricultural and forestry materials; and

''(2) assist the private sector in bridging the gap between the results of research into nonfood, nonfeed products and the commercialization of the research.

''(c) PLACE OF INCORPORATION.—The Corporation shall be incorporated in the District of Columbia.

''(d) CENTRAL OFFICE.—The Secretary shall provide facilities for the principal office of the Corporation within the Washington, D.C., metropolitan area.

''(e) WHOLLY-OWNED GOVERNMENT CORPORATION.—The Corporation shall be considered a wholly-owned government corporation in accordance with chapter 91 of title 31, United States Code.

''(f) GENERAL POWERS.—In addition to any other powers granted to the Corporation under this subtitle, the Corporation—

''(1) shall have succession in its corporate name;

''(2) may adopt, alter, and rescind any bylaw and adopt and alter a corporate seal, which shall be judicially noticed;

''(3) may enter into any agreement or contract with a person or private or governmental agency, except that the Corporation shall not provide any financial assistance unless specifically authorized by this subtitle;

''(4) may lease, purchase, accept a gift or donation of, or otherwise acquire, use, own, hold, improve, or otherwise deal in or with, and sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property or interest in property, as the Corporation considers necessary in the transaction of the business of the Corporation, except that this paragraph shall not provide authority for carrying out a program of real estate investment;

''(5) may sue and be sued in the corporate name of the Corporation, except that—

''(A) no attachment, injunction, garnishment, or similar process shall be issued against the Corporation or property of the Corporation; and

''(B) exclusive original jurisdiction shall reside in the district courts of the United States, but the Corporation may intervene in any court in any suit, action, or proceeding in which the Corporation has an interest;

''(6) may independently retain legal representation;

''(7) may provide for and designate such committees, and the functions of the committees, as the Corporate Board considers necessary or desirable,

''(8) may indemnify the Executive Director and other officers of the Corporation, as the Corporate Board considers necessary and desirable, except that the Executive Director and officers shall not be indemnified for an act outside the scope of employment;

''(9) may, with the consent of any board, commission, independent establishment, or executive department of the Federal Government, including any field service, use information, services, facilities, officials, and employees in carrying out this subtitle, and pay for the use, which payments shall be transferred to the applicable appropriation account that incurred the expense;

''(10) may obtain the services and fix the compensation of any consultant and otherwise procure temporary and intermittent services under section 3109(b) of title 5, United States Code;

''(11) may use the United States mails on the same terms and conditions as the Executive agencies of the Federal Government;

''(12) shall have the rights, privileges, and immunities of the United States with respect to the right to priority of payment with respect to debts due from bankrupt, insolvent, or deceased creditors;

''(13) may collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation;

"(14) shall determine the character of, and necessity for, obligations and expenditures of the Corporation and the manner in which the obligations and expenditures shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations;

"(15) may make final and conclusive settlement and adjustment of any claim by or against the Corporation or a fiscal officer of the Corporation;

"(16) may sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Corporation; and

"(17) may exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation to carry out this subtitle and the powers, purposes, functions, duties, and authorized activities of the Corporation.

"(g) SPECIFIC POWERS.—To carry out this subtitle, the Corporation may—

"(1) make grants to, and enter into cooperative agreements and contracts with, eligible applicants for research, development, and demonstration projects in accordance with section 1660;

"(2) make loans and interest subsidy payments and invest venture capital in accordance with section 1661;

"(3) collect and disseminate information concerning State, regional, and local commercialization projects;

"(4) search for new nonfood, nonfeed products that may be produced from agricultural commodities and for processes to produce the products;

"(5) administer, maintain, and dispense funds from the Fund to facilitate the conduct of activities under this subtitle; and

"(6) engage in other activities incident to carrying out the functions of the Corporation.".

(b) WHOLLY-OWNED GOVERNMENT CORPORATION.—Section 9101(3) of title 31, United States Code, is amended—

(1) by redesignating subparagraph (N) (relating to the Uranium Enrichment Corporation) as subparagraph (O); and

(2) by adding at the end the following:

"(Q) the Alternative Agricultural Research and Commercialization Corporation.".

(c) CONFORMING AMENDMENT.—Section 211(b)(5) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6911(b)(5)) is amended by striking "Alternative Agricultural Research and Commercialization Board" and inserting "Corporate Board of the Alternative Agricultural Research and Commercialization Corporation".

SEC. 723. BOARD OF DIRECTORS, EMPLOYEES, AND FACILITIES.

(a) IN GENERAL.—Section 1659 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5903) is amended to read as follows:

"SEC. 1659. BOARD OF DIRECTORS, EMPLOYEES, AND FACILITIES.

"(a) IN GENERAL.—The powers of the Corporation shall be vested in a Corporate Board.

"(b) MEMBERS OF THE CORPORATE BOARD.—The Corporate Board shall consist of 11 members as follows:

"(1) The Under Secretary of Agriculture for Rural Development.

"(2) The Under Secretary of Agriculture for Research, Education, and Economics.

"(3) 5 members appointed by the Secretary, of whom—

"(A) at least 1 member shall be a representative of the leading scientific disciplines relevant to the activities of the Corporation;

"(B) at least 1 member shall be a producer or processor of agricultural commodities;

"(C) at least 1 member shall be a person who is privately engaged in the commercialization of new nonfood, nonfeed products from agricultural commodities; and

"(D) at least 1 member shall have expertise in financial management.

A different member shall be appointed pursuant to each subparagraph of this paragraph.

"(4) 2 members appointed by the Secretary who—

"(A) have expertise in areas of applied research relating to the development or commercialization of new nonfood, nonfeed products; and

"(B) shall be appointed from a group of at least 4 individuals nominated by the Director of the National Science Foundation if the nominations are made not later than 60 days after the date a vacancy occurs.

"(5) 2 members appointed by the Secretary who—

"(A) have expertise in financial and managerial matters; and

"(B) shall be appointed from a group of at least 4 individuals nominated by the Secretary of Commerce if the nominations are made not later than 60 days after the date a vacancy occurs.

"(c) RESPONSIBILITIES OF THE CORPORATE BOARD.—

"(1) IN GENERAL.—The Corporate Board shall—

"(A) be responsible for the general supervision of the Corporation and Regional Centers established under section 1663;

"(B) determine (in consultation with Regional Centers) high priority commercialization areas to receive assistance under section 1663;

"(C) review any grant, contract, or cooperative agreement to be made or entered into by the Corporation under section 1660 and any financial assistance to be provided under section 1661;

"(D) make the final decision, by majority vote, on whether and how to provide assistance to an applicant; and

"(E) develop and establish a budget plan and a long-term operating plan to carry out this subtitle.

"(2) AUTHORITY OF THE SECRETARY.—

"(A) IN GENERAL.—The Secretary shall vacate and remand to the Corporate Board for reconsideration any decision made pursuant to paragraph (1)(D) if the Secretary determines that there has been a violation of subsection (j), or any conflict of interest provisions of the bylaws of the Corporate Board, with respect to the decision.

"(B) REASONS.—In the case of any violation and referral of a funding decision to the Corporate Board, the Secretary shall inform the Corporate Board of the reasons for any remand pursuant to subparagraph (A).

"(d) CHAIRPERSON.—The members of the Corporate Board shall select a Chairperson from among the members of the Corporate Board. The term of office of the Chairperson shall be 2 years. The members referred to in paragraphs (1) and (2) of subsection (b) may not serve as Chairperson.

"(e) EXECUTIVE DIRECTOR.—

"(1) APPOINTMENT.—The Corporate Board shall appoint an Executive Director, subject to the approval of the Secretary.

"(2) DUTIES.—The Executive Director shall be the chief executive officer of the Corporation, with such power and authority as may be conferred by the Corporate Board.

"(3) COMPENSATION.—The Executive Director shall receive basic pay at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(f) OFFICERS.—The Corporate Board shall establish the offices and appoint the officers of the Corporation, including a Secretary, and define the duties of the officers in a manner consistent with this subtitle.

"(g) MEETINGS.—The Corporate Board shall meet at least 3 times each fiscal year at the call of the Chairperson or at the request of the Executive Director. The location of the meetings shall be subject to approval of the Executive Director. A quorum of the Corporate Board shall consist of a majority of the members. The decisions of the Corporate Board shall be made by majority vote.

"(h) TERM; VACANCIES.—

"(1) IN GENERAL.—The term of office of a member of the Corporate Board shall be 4 years, except that the members initially appointed shall be appointed to serve staggered terms. A member appointed to fill a vacancy for an unexpired term may be appointed only for the remainder of the term. A vacancy on the Corporate Board shall be filled in the same manner as the original appointment. The Secretary may remove a member of the Corporate Board only for cause.

"(2) TRANSITION MEASURE.—The Secretary may appoint to the Corporate Board an individual who, on the day before the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, was serving on the former Alternative Agricultural Research and Commercialization Board, for a term that does not exceed the term for which the individual was appointed to the former Board.

"(i) COMPENSATION.—A member of the Corporate Board who is an officer or employee of the United States shall not receive any additional compensation by reason of service on the Corporate Board. Any other member shall receive, for each day (including travel time) the member is engaged in the performance of the functions of the Corporate Board, compensation at a rate not to exceed the daily equivalent of the annual rate in effect for Level IV of the Executive Schedule. A member of the Corporate Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of the duties of the member.

"(j) CONFLICT OF INTEREST; FINANCIAL DISCLOSURE.—

"(1) CONFLICT OF INTEREST.—Except as provided in paragraph (3), no member of the Corporate Board shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to the knowledge of the member, the member, spouse, or child of the member, partner, or organization in which the member is serving as officer, director, trustee, partner, or employee, or any person or organization with whom the member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

"(2) VIOLATIONS.—Violation of paragraph (1) by a member of the Corporate Board shall be cause for removal of the member, but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the member participated.

"(3) EXCEPTIONS.—The prohibitions contained in paragraph (1) shall not apply if a member of the Corporate Board advises the Corporate Board of the nature of the particular matter in which the member proposes to participate, and if the member makes a full disclosure of the financial interest, prior to any participation, and the Corporate Board determines, by majority vote, that the financial interest is too remote or too inconsequential to affect the integrity of the member's services to the Corporation in that matter. The member involved shall not vote on the determination.

"(4) FINANCIAL DISCLOSURE.—A Board member shall be subject to the financial disclosure requirements set forth in subchapter B of chapter XVI of title 5, Code of Federal Regulations (or

any corresponding or similar regulation or ruling), applicable to a special Government employee (as defined in section 202(a) of title 18, United States Code).

"(k) DELEGATION OF AUTHORITY.—

"(1) IN GENERAL.—The Corporate Board may, by resolution, delegate to the Chairperson, the Executive Director, or any other officer or employee any function, power, or duty assigned to the Corporation under this subtitle, other than a function, power, or duty expressly vested in the Corporate Board by subsections (c) through (n).

"(2) PROHIBITION ON DELEGATION.—Notwithstanding any other law, the Secretary and any other officer or employee of the United States shall not make any delegation to the Corporate Board, the Chairperson, the Executive Director, or the Corporation of any power, function, or authority not expressly authorized by this subtitle, unless the delegation is made pursuant to an authority in law that expressly makes reference to this section.

"(3) REORGANIZATION ACT.—Notwithstanding any other law, the President (through authorities provided under chapter 9 of title 5, United States Code) may not authorize the transfer to the Corporation of any power, function, or authority in addition to powers, functions, and authorities provided by law.

"(l) BYLAWS.—Notwithstanding section 1658(f)(2), the Corporate Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Corporation. The Corporate Board shall not adopt any bylaw that has not been reviewed and approved by the Secretary.

"(m) ORGANIZATION.—The Corporate Board shall provide a system of organization to fix responsibility and promote efficiency.

"(n) PERSONNEL AND FACILITIES OF CORPORATION.—

"(1) APPOINTMENT AND COMPENSATION OF PERSONNEL.—The Corporation may select and appoint officers, attorneys, employees, and agents, who shall be vested with such powers and duties as the Corporation may determine.

"(2) USE OF FACILITIES AND SERVICES OF THE DEPARTMENT OF AGRICULTURE.—Notwithstanding any other provision of law, to perform the responsibilities of the Corporation under this subtitle, the Corporation may partially or jointly utilize the facilities of and the services of employees of the Department of Agriculture, without cost to the Corporation.

"(3) GOVERNMENT EMPLOYMENT LAWS.—An officer or employee of the Corporation shall be subject to all laws of the United States relating to governmental employment.".

(b) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Executive Director of the Alternative Agricultural Research and Commercialization Corporation.".

SEC. 724. RESEARCH AND DEVELOPMENT GRANTS, CONTRACTS, AND AGREEMENTS.

Section 1660 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5904) is amended—

(1) by striking "Center" each place it appears and inserting "Corporation";

(2) in subsection (c), by striking "Board" and inserting "Corporate Board"; and

(3) in subsection (f), by striking "non-Center" and inserting "non-Corporation".

SEC. 725. COMMERCIALIZATION ASSISTANCE.

Section 1661 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5905) is amended—

(1) by striking "Center" each place it appears and inserting "Corporation";

(2) by striking "Board" each place it appears and inserting "Corporate Board";

(3) by striking subsection (c);

(4) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively; and

(5) in subsection (c) (as so redesignated)—

(A) in the subsection heading of paragraph (1), by striking "DIRECTOR" and inserting "EXECUTIVE DIRECTOR"; and

(B) by striking "Director" each place it appears and inserting "Executive Director".

SEC. 726. GENERAL RULES REGARDING THE PROVISION OF ASSISTANCE.

Section 1662 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5906) is amended—

(1) by striking "Center" each place it appears (except in subsection (b)) and inserting "Corporation";

(2) by striking "Board" each place it appears and inserting "Corporate Board"; and

(3) in subsection (b)—

(A) in the second sentence, by striking "Board, a Regional Center, or the Advisory Council" and inserting "Board or a Regional Center"; and

(B) by striking the third sentence.

SEC. 727. REGIONAL CENTERS.

Section 1663 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5907) is amended—

(1) by striking "Board" each place it appears and inserting "Corporate Board";

(2) in subsection (e)(8), by striking "Center" and inserting "Corporation"; and

(3) in subsection (f)—

(A) in paragraph (2), by striking "in consultation with the Advisory Council appointed under section 1661(c)"; and

(B) by striking paragraphs (3) and (4) and inserting the following:

"(3) RECOMMENDATION.—The Regional Director, based on the comments of the reviewers, shall make and submit a recommendation to the Board, which shall not be binding on the Board.".

SEC. 728. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION REVOLVING FUND.

Section 1664 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5908) is amended to read as follows:

"SEC. 1664. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION REVOLVING FUND.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the Alternative Agricultural Research and Commercialization Revolving Fund. The Fund shall be available to the Corporation, without fiscal year limitation, to carry out this subtitle.

"(b) CONTENTS OF FUND.—There shall be deposited in the Fund—

"(1) such amounts as may be appropriated or transferred to support programs and activities of the Corporation;

"(2) payments received from any source for products, services, or property furnished in connection with the activities of the Corporation;

"(3) fees and royalties collected by the Corporation from licensing or other arrangements relating to commercialization of products developed through projects funded in whole or part by grants, contracts, or cooperative agreements executed by the Corporation;

"(4) proceeds from the sale of assets, loans, and equity interests made in furtherance of the purposes of the Corporation;

"(5) donations or contributions accepted by the Corporation to support authorized programs and activities; and

"(6) any other funds acquired by the Corporation.

"(c) FUNDING ALLOCATIONS.—Funding of projects and activities under this subtitle shall be subject to the following restrictions:

"(1) Of the total amount of funds made available for a fiscal year under this subtitle—

"(A) not more than the lesser of 15 percent or $3,000,000 may be set aside to be used for authorized administrative expenses of the Corporation;

"(B) not more than 1 percent may be set aside to be used for generic studies and specific reviews of individual proposals for financial assistance; and

"(C) except as provided in subsection (e), not less than 84 percent shall be set aside to be awarded to qualified applicants who file project applications with, or respond to requests for proposals from, the Corporation under sections 1660 and 1661.

"(2) Any funds remaining uncommitted at the end of a fiscal year shall be credited to the Fund and added to the total program funds available to the Corporation for the next fiscal year.

"(d) AUTHORIZED ADMINISTRATIVE EXPENSES.—For the purposes of this section, authorized administrative expenses shall include all ordinary and necessary expenses, including all compensation for personnel and consultants, expenses for computer usage, or space needs of the Corporation and similar expenses. Funds authorized for administrative expenses shall not be available for the acquisition of real property.

"(e) PROJECT MONITORING.—The Corporate Board may establish, in the bylaws of the Corporate Board, that a percentage (which shall not exceed 1 percent) of the funds provided under subsection (c) for any commercialization project shall be expended to ensure that project funds are being utilized in accordance with the project agreement.

"(f) TERMINATION OF THE FUND.—On expiration of the authority provided by this subtitle, all assets (after payment of all outstanding obligations) of the Fund shall revert to the general fund of the Treasury.

"(g) AUTHORIZATION OF APPROPRIATIONS; CAPITALIZATION.—

"(1) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to the Fund $75,000,000 for each of fiscal years 1996 through 2002.

"(2) CAPITALIZATION.—The Executive Director may pay in as capital of the Corporation, out of dollar receipts made available through annual appropriations, $75,000,000 for each of fiscal years 1996 through 2002. On the payment of an amount of capital by the Executive Director, the Corporation shall issue an equivalent amount of capital stock to the Secretary of the Treasury.

"(3) TRANSFER.—All obligations, assets, and related rights and responsibilities of the former Alternative Agricultural Research and Commercialization Center established under former section 1658 of this Act (as in effect on the day before the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996) are transferred to the Corporation.".

SEC. 729. PROCUREMENT PREFERENCES FOR PRODUCTS RECEIVING CORPORATION ASSISTANCE.

Subtitle G of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901 et seq.) is amended by adding at the end the following:

"SEC. 1665. PROCUREMENT OF ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION PRODUCTS.

"(a) DEFINITION OF EXECUTIVE AGENCY.—In this section, the term 'executive agency' has the meaning provided the term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

"(b) PROCUREMENT.—To further the achievement of the purposes specified in section 1657(b), an executive agency may, for any procurement involving the acquisition of property, establish set-asides and preferences for property that has

been commercialized with assistance provided under this subtitle.

"(c) SET-ASIDES.—Procurements solely for property may be set-aside exclusively for products developed with commercialization assistance provided under section 1661.

"(d) PREFERENCES.—Preferences for property developed with assistance provided under this subtitle in procurements involving the acquisition of property may be—

"(1) a price preference, if the procurement is solely for property, of not greater than a percentage to be determined within the sole discretion of the head of the procuring agency; or

"(2) a technical evaluation preference included as an award factor or subfactor as determined within the sole discretion of the head of the procuring agency.

"(e) NOTICE.—Each competitive solicitation or invitation for bids selected by an executive agency for a set-aside or preference under this section shall contain a provision notifying offerors where a list of products eligible for the set aside or preference may be obtained.

"(f) ELIGIBILITY.—Offerors shall receive the set aside or preference required under this section if, in the case of products developed with financial assistance under—

"(1) section 1660, less than 10 years have elapsed since the expiration of the grant, cooperative agreement, or contract;

"(2) paragraph (1) or (2) of section 1661(a), less than 5 years have elapsed since the date the loan was made or insured;

"(3) section 1661(a)(3), less than 5 years have elapsed since the date of sale of any remaining government equity interest in the company; or

"(4) section 1661(a)(4), less than 5 years have elapsed since the date of the final payment on the repayable grant.".

SEC. 730. BUSINESS PLAN AND FEASIBILITY STUDY AND REPORT.

(a) BUSINESS PLAN.—Not later than 180 days after the date of enactment of this Act, the Alternative Agricultural Research and Commercialization Corporation established by section 1658 of the Food, Agriculture, Conservation, and Trade Act of 1990 shall—

(1) develop a 5-year business plan pursuant to section 1659(c)(1)(E) of the Act; and

(2) submit the plan to the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(b) FEASIBILITY STUDY AND REPORT.—

(1) STUDY.—The Secretary of Agriculture shall conduct a study of, and prepare a report on, the continued feasibility of the Alternative Agricultural Research and Commercialization Corporation. In conducting the study, the Secretary shall examine options for privatizing the Corporation and converting the Corporation to a Government-sponsored enterprise.

(2) REPORT.—Not later than December 31, 2001, the Secretary shall transmit the report required by paragraph (1) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Subtitle B—Amendments to the Consolidated Farm and Rural Development Act

CHAPTER 1—GENERAL PROVISIONS

SEC. 741. WATER AND WASTE FACILITY LOANS AND GRANTS.

(a) IN GENERAL.—Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended—

(1) in the first sentence of paragraph (2), by striking "$500,000,000" and inserting "$590,000,000";

(2) by striking paragraph (7) and inserting the following:

"(7) DEFINITION OF RURAL AND RURAL AREAS.—For the purpose of water and waste disposal grants and direct and guaranteed loans provided under paragraphs (1) and (2), the terms 'rural' and 'rural area' mean a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants.";

(3) by striking paragraphs (9), (10), and (11) and inserting the following:

"(9) CONFORMITY WITH STATE DRINKING WATER STANDARDS.—No Federal funds shall be made available under this section for a water system unless the Secretary determines that the water system will make significant progress toward meeting the standards established under title XIV of the Public Health Service Act (commonly known as the 'Safe Drinking Water Act') (42 U.S.C. 300f et seq.).

"(10) CONFORMITY WITH FEDERAL AND STATE WATER POLLUTION CONTROL STANDARDS.—No Federal funds shall be made available under this section for a water treatment discharge or waste disposal system unless the Secretary determines that the effluent from the system conforms with applicable Federal and State water pollution control standards.

"(11) RURAL BUSINESS OPPORTUNITY GRANTS.—

"(A) IN GENERAL.—The Secretary may make grants, not to exceed $1,500,000 annually, to public bodies, private nonprofit community development corporations or entities, or such other agencies as the Secretary may select to enable the recipients—

"(i) to identify and analyze business opportunities, including opportunities in export markets, that will use local rural economic and human resources;

"(ii) to identify, train, and provide technical assistance to existing or prospective rural entrepreneurs and managers;

"(iii) to establish business support centers and otherwise assist in the creation of new rural businesses, the development of methods of financing local businesses, and the enhancement of the capacity of local individuals and entities to engage in sound economic activities;

"(iv) to conduct regional, community, and local economic development planning and coordination, and leadership development; and

"(v) to establish centers for training, technology, and trade that will provide training to rural businesses in the utilization of interactive communications technologies to develop international trade opportunities and markets.

"(B) CRITERIA.—In awarding the grants, the Secretary shall consider, among other criteria to be established by the Secretary—

"(i) the extent to which the applicant provides development services in the rural service area of the applicant; and

"(ii) the capability of the applicant to accomplish the activities described in the relevant clauses of subparagraph (A).

"(C) COORDINATION.—The Secretary shall ensure, to the maximum extent practicable, that assistance provided under this paragraph is coordinated with and delivered in cooperation with similar services or assistance provided to rural residents by the Cooperative State Research, Education, and Extension Service or other Federal agencies.

"(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $7,500,000 for each of fiscal years 1996 through 2002.";

(4) by striking paragraphs (14) and (15);

(5) by redesignating paragraphs (16) through (20) as paragraphs (14) through (18), respectively; and

(6) in paragraph (14) (as so redesignated)—

(A) by striking "(14)(A) The" and inserting the following:

"(14) RURAL WATER AND WASTEWATER TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.—

"(A) IN GENERAL.—The";

(B) in subparagraph (A)—

(i) by striking "(i) identify" and inserting the following:

"(i) identify";

(ii) by striking "(ii) prepare" and inserting the following:

"(ii) prepare"; and

(iii) by striking "(iii) improve" and inserting the following:

"(iii) improve";

(C) in subparagraph (B), by striking "(B) In" and inserting the following:

"(B) SELECTION PRIORITY.—In"; and

(D) in subparagraph (C)—

(i) by striking "(C) Not" and inserting the following:

"(C) FUNDING.—Not"; and

(ii) by striking "2 per centum of any funds provided in Appropriations Acts" and inserting "3 percent of any funds appropriated".

(b) CONFORMING AMENDMENT.—The second sentence of section 309A(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(a)) (as amended by section 661(c)(1)) is amended by striking ", 306(a)(14),".

SEC. 742. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM FOR SMALL COMMUNITIES.

Section 306A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926a) is amended—

(1) in subsection (e)—

(A) in paragraph (1)(A), by striking "15,000" and inserting "10,000"; and

(B) in paragraph (2), by striking "5,000" and inserting "3,000"; and

(2) by striking subsection (i) and inserting the following:

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $35,000,000 for each of fiscal years 1996 through 2002.".

SEC. 743. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM FOR SMALLEST COMMUNITIES.

Section 306B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926b) is repealed.

SEC. 744. AGRICULTURAL CREDIT INSURANCE FUND.

Section 309(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(f)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

SEC. 745. RURAL DEVELOPMENT INSURANCE FUND.

Section 309A(g) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(g)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (8) as paragraphs (1) through (7), respectively.

SEC. 746. INSURED WATERSHED AND RESOURCE CONSERVATION AND DEVELOPMENT LOANS.

Section 310A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1931) is repealed.

SEC. 747. RURAL INDUSTRIALIZATION ASSISTANCE.

(a) IN GENERAL.—Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended—

(1) in the first sentence of subsection (a)—

(A) by striking "and" at the end of clause (2); and

(B) by inserting before the period the following: ", and (4) to facilitate economic opportunity for industries undergoing adjustment from terminated Federal agricultural price and income support programs or increased competition from foreign trade";

(2) in subsection (b), by striking "(b)(1)" and all that follows through "(2) The" and inserting the following:

"(b) SOLID WASTE MANAGEMENT GRANTS.—The";

(3) in subsection (c)—

(A) by striking "(c)(1) The" and inserting the following:

"(c) RURAL BUSINESS ENTERPRISE GRANTS.—

"(1) IN GENERAL.—The";

(B) in paragraph (1), by inserting "(including nonprofit entities)" after "private business enterprises";

(C) in paragraph (2)—

(i) by striking "(2) The" and inserting the following:

"(2) PASSENGER TRANSPORTATION SERVICES OR FACILITIES.—The"; and

(ii) by striking "make grants" and inserting "award grants on a competitive basis"; and

(D) by adding at the end the following:

"(3) GRANTS TO AID INDUSTRIES IN ADJUSTING TO TERMINATED FEDERAL AGRICULTURAL PROGRAMS OR INCREASED FOREIGN COMPETITION.—The Secretary may make grants under this section to facilitate economic opportunity for industries undergoing adjustment from terminated Federal agricultural price and income support programs or increased competition from foreign trade.";

(4) by striking subsection (e) and inserting the following:

"(e) RURAL COOPERATIVE DEVELOPMENT GRANTS.—

"(1) DEFINITIONS.—In this subsection:

"(A) NONPROFIT INSTITUTION.—The term 'nonprofit institution' means any organization or institution, including an accredited institution of higher education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(B) UNITED STATES.—The term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the other territories and possessions of the United States.

"(2) GRANTS.—The Secretary shall make grants under this subsection to nonprofit institutions for the purpose of enabling the institutions to establish and operate centers for rural cooperative development.

"(3) GOALS.—The goals of a center funded under this subsection shall be to facilitate the creation of jobs in rural areas through the development of new rural cooperatives, value added processing, and rural businesses.

"(4) APPLICATION.—Any nonprofit institution seeking a grant under paragraph (2) shall submit to the Secretary an application containing a plan for the establishment and operation by the institution of a center or centers for cooperative development. The Secretary may approve the application if the plan contains the following:

"(A) A provision that substantiates that the center will effectively serve rural areas in the United States.

"(B) A provision that the primary objective of the center will be to improve the economic condition of rural areas through cooperative development.

"(C) A description of the activities that the center will carry out to accomplish the objective. The activities may include the following:

"(i) Programs for applied research and feasibility studies that may be useful to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

"(ii) Programs for the collection, interpretation, and dissemination of information that may be useful to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

"(iii) Programs providing training and instruction for individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

"(iv) Programs providing loans and grants to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

"(v) Programs providing technical assistance, research services, and advisory services to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

"(vi) Programs providing for the coordination of services and sharing of information among the center.

"(D) A description of the contributions that the activities are likely to make to the improvement of the economic conditions of the rural areas for which the center will provide services.

"(E) Provisions that the center, in carrying out the activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal Government, and State and local governments.

"(F) Provisions that the center will take all practicable steps to develop continuing sources of financial support for the center, particularly from sources in the private sector.

"(G) Provisions for—

"(i) monitoring and evaluating the activities by the nonprofit institution operating the center; and

"(ii) accounting for money received by the institution under this section.

"(5) AWARDING GRANTS.—Grants made under paragraph (2) shall be made on a competitive basis. In making grants under paragraph (2), the Secretary shall give preference to grant applications providing for the establishment of centers for rural cooperative development that—

"(A) demonstrate a proven track record in administering a nationally coordinated, regionally or State-wide operated project;

"(B) demonstrate previous expertise in providing technical assistance in rural areas;

"(C) demonstrate the ability to assist in the retention of businesses, facilitate the establishment of cooperatives and new cooperative approaches, and generate employment opportunities that will improve the economic conditions of rural areas;

"(D) demonstrate the ability to create horizontal linkages among businesses within and among various sectors in rural areas of the United States and vertical linkages to domestic and international markets;

"(E) commit to providing technical assistance and other services to underserved and economically distressed areas in rural areas of the United States; and

"(F) commit to providing greater than a 25 percent matching contribution with private funds and in-kind contributions.

"(6) 1-YEAR GRANTS; AUTHORITY TO APPROVE GRANT FOR 1 ADDITIONAL YEAR WITHOUT APPLICATION.—The Secretary shall make grants under this subsection for a period of 1 year. The Secretary shall evaluate programs receiving assistance under this subsection. If the Secretary determines it to be in the best interest of the program, the Secretary may award an additional grant to the program for the immediately succeeding year without application for the grant.

"(7) TECHNICAL ASSISTANCE TO PREVENT EXCESSIVE UNEMPLOYMENT OR UNDEREMPLOYMENT.—In carrying out this subsection, the Secretary may provide technical assistance to alleviate or prevent conditions of excessive unemployment, underemployment, outmigration, or low employment growth in economically distressed rural areas that the Secretary determines have a substantial need for the assistance. The assistance may include planning and feasibility studies, management and operational assistance, and studies evaluating the need for development potential of projects that increase employment and improve economic growth in the areas.

"(8) GRANTS TO DEFRAY ADMINISTRATIVE COSTS.—The Secretary may make grants to defray not to exceed 75 percent of the costs incurred by organizations and public bodies to carry out projects for which grants or loans are made under this subsection. For purposes of determining the non-Federal share of the costs, the Secretary shall consider contributions in cash and in kind, fairly evaluated, including premises, equipment, and services.

"(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $50,000,000 for each of fiscal years 1996 through 2002.";

(5) by striking subsections (f), (g), (h), and (i);

(6) by redesignating subsection (j) as subsection (f); and

(7) by adding at the end the following:

"(g) LOAN GUARANTEES FOR THE PURCHASE OF COOPERATIVE STOCK.—

"(1) DEFINITION OF FARMER.—In this subsection, the term 'farmer' means any farmer that the Secretary determines is a family farmer.

"(2) LOAN GUARANTEES.—The Secretary may guarantee loans under this section to individual farmers for the purpose of purchasing start-up capital stock of a farmer cooperative established for the purpose of processing an agricultural commodity.

"(3) ELIGIBILITY.—To be eligible for a loan guarantee under this subsection, a farmer must produce the agricultural commodity that will be processed by the cooperative.".

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 307(a)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(6)(B)) (as redesignated by section 661(a)(2)) is amended by striking "subsections (d) and (e) of section 310B" and inserting "section 310B(d)".

(2) Section 232(c)(2) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6942(c)(2)) is amended—

(A) by striking "310B(b)(2)" and inserting "310B(b)"; and

(B) by striking "1932(b)(2)" and inserting "1932(b)".

(3) Section 233(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6943(b)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

SEC. 748. ADMINISTRATION.

Section 331(b)(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(b)(4)) is amended—

(1) by inserting after "claims" the following: "(including debts and claims arising from loan guarantees)";

(2) by striking "Farmers Home Administration or" and inserting "Consolidated Farm Service Agency, Rural Utilities Service, Rural Housing Service, Rural Business-Cooperative Service, or a successor agency, or"; and

(3) by inserting after "activities under the Housing Act of 1949." the following: "In the case of a security instrument entered into under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), the Secretary shall notify the Attorney General of the intent of the Secretary to exercise the authority of the Secretary under this paragraph.".

SEC. 749. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 338 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1988) is amended—

(1) by striking subsections (b), (c), (d), and (e); and

(2) by redesignating subsection (f) as subsection (b).

(b) CONFORMING AMENDMENTS.—

(1) The first sentence of section 309(g)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(g)(1)) is amended by inserting after "section 338(c)" the following: "(before the amendment made by section 749(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996)".

(2) Section 343(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(b)) is amended by striking "338(f)," and inserting "338(b),".

SEC. 750. TESTIMONY BEFORE CONGRESSIONAL COMMITTEES.

Section 345 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1993) is repealed.

SEC. 751. PROHIBITION ON USE OF LOANS FOR CERTAIN PURPOSES.

Section 363 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006e) is amended by adding at the end the following: "This section shall not apply to a loan made or guaranteed under this title for a utility line.".

SEC. 752. RURAL DEVELOPMENT CERTIFIED LENDERS PROGRAM.

The Consolidated Farm and Rural Development Act is amended by inserting after section 363 (7 U.S.C. 2006e) the following:

"SEC. 364. RURAL DEVELOPMENT CERTIFIED LENDERS PROGRAM.

"(a) CERTIFIED LENDERS PROGRAM.—

"(1) IN GENERAL.—The Secretary may establish a program under which the Secretary may guarantee a loan for any rural development program that is made by a lender certified by the Secretary.

"(2) CERTIFICATION REQUIREMENTS.—The Secretary may certify a lender if the lender meets such criteria as the Secretary may prescribe in regulations, including the ability of the lender to properly make, service, and liquidate the guaranteed loans of the lender.

"(3) CONDITION OF CERTIFICATION.—As a condition of certification, the Secretary may require the lender to undertake to service the guaranteed loan using standards that are not less stringent than generally accepted banking standards concerning loan servicing that are used by prudent commercial or cooperative lenders.

"(4) GUARANTEE.—Notwithstanding any other provision of law, the Secretary may guarantee not more than 80 percent of a loan made by a certified lender described in paragraph (1), if the borrower of the loan meets the eligibility requirements and such other criteria for the loan guarantee that are established by the Secretary.

"(5) CERTIFICATIONS.—With respect to loans to be guaranteed, the Secretary may permit a certified lender to make appropriate certifications (as provided in regulations issued by the Secretary)—

"(A) relating to issues such as creditworthiness, repayment ability, adequacy of collateral, and feasibility of the operation; and

"(B) that the borrower is in compliance with all requirements of law, including regulations issued by the Secretary.

"(6) RELATIONSHIP TO OTHER REQUIREMENTS.—This subsection shall not affect the responsibility of the Secretary to determine eligibility, review financial information, and otherwise assess an application.

"(b) PREFERRED CERTIFIED LENDERS PROGRAM.—

"(1) IN GENERAL.—The Secretary may establish a preferred certified lenders program for lenders who establish their—

"(A) knowledge of, and experience under, the program established under subsection (a);

"(B) knowledge of the regulations concerning the particular guaranteed loan program; and

"(C) proficiency related to the certified lender program requirements.

"(2) ADDITIONAL LENDING INSTITUTIONS.—The Secretary may certify any lending institution as a preferred certified lender if the institution meets such additional criteria as the Secretary may prescribe by regulation.

"(3) REVOCATION OF DESIGNATION.—The designation of a lender as a preferred certified lender shall be revoked if the Secretary determines that the lender is not adhering to the rules and regulations applicable to the program or if the loss experiences of the preferred certified lender are greater than other preferred certified lenders, except that the suspension or revocation shall not affect any outstanding guarantee.

"(4) CONDITION OF CERTIFICATION.—As a condition of the preferred certification, the Secretary shall require the lender to undertake to service the loan guaranteed by the Secretary under this subsection using generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each preferred certified lender to ensure that the conditions of the certification are being met.

"(5) EFFECT OF PREFERRED LENDER CERTIFICATION.—Notwithstanding any other provision of law, the Secretary may—

"(A) guarantee not more than 80 percent of any approved loan made by a preferred certified lender as described in this subsection, if the borrower meets the eligibility requirements and such other criteria as may be applicable to loans guaranteed by the Secretary; and

"(B) permit preferred certified lenders to make all decisions, with respect to loans to be guaranteed by the Secretary under this subsection relating to creditworthiness, the closing, monitoring, collection, and liquidation of loans, and to accept appropriate certifications, as provided in regulations issued by the Secretary, that the borrower is in compliance with all requirements of law and regulations issued by the Secretary.".

SEC. 753. SYSTEM FOR DELIVERY OF CERTAIN RURAL DEVELOPMENT PROGRAMS.

(a) IN GENERAL.—Section 365 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 2375 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6613) is amended—

(A) in subsection (e), by striking ", as defined in section 365(b)(2) of the Consolidated Farm and Rural Development Act,"; and

(B) by adding at the end the following:

"(g) DEFINITION OF DESIGNATED RURAL DEVELOPMENT PROGRAM.—In this section, the term 'designated rural development program' means a program carried out under section 304(b), 306(a), or 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924(b), 1926(a), and 1932(e)) for which funds are available at any time during the fiscal year.".

(2) Paragraph (2) of section 233(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6943(b)) (as redesignated by section 747(b)(3)(B)) is amended by striking "sections 365 through 369 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008–2008d)" and inserting "section 369 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008d)".

SEC. 754. STATE RURAL ECONOMIC DEVELOPMENT REVIEW PANEL.

Section 366 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008a) is repealed.

SEC. 755. LIMITED TRANSFER AUTHORITY OF LOAN AMOUNTS.

Section 367 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008b) is repealed.

SEC. 756. ALLOCATION AND TRANSFER OF LOAN GUARANTEE AUTHORITY.

Section 368 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008c) is repealed.

SEC. 757. WATER SYSTEMS FOR RURAL AND NATIVE VILLAGES IN ALASKA.

The Consolidated Farm and Rural Development Act is amended by inserting after section 306C (7 U.S.C. 1926c) the following:

"SEC. 306D. WATER SYSTEMS FOR RURAL AND NATIVE VILLAGES IN ALASKA.

"(a) IN GENERAL.—The Secretary may make grants to the State of Alaska for the benefit of rural or Native villages in Alaska to provide for the development and construction of water and wastewater systems to improve the health and sanitation conditions in those villages.

"(b) MATCHING FUNDS.—To be eligible to receive a grant under subsection (a), the State of Alaska shall provide equal matching funds from non-Federal sources.

"(c) CONSULTATION WITH THE STATE OF ALASKA.—The Secretary shall consult with the State of Alaska on a method of prioritizing the allocation of grants under subsection (a) according to the needs of, and relative health and sanitation conditions in, each village.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 1996 through 2002.".

SEC. 758. APPLICATION REQUIREMENTS RELATING TO WATER AND WASTE DISPOSAL LOAN AND GRANT PROGRAMS.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 926(a)) is amended by inserting after paragraph (4) the following:

"(5) APPLICATION REQUIREMENTS.—Not earlier than 60 days before a preliminary application is filed for a loan under paragraph (1) or a grant under paragraph (2) for a water or waste disposal purpose, a notice of the intent of the applicant to apply for the loan or grant shall be published in a general circulation newspaper. The selection of engineers for a project design shall be done by a request for proposals by the applicant.".

SEC. 759. NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER.

The Consolidated Farm and Rural Development Act (as amended by section 649) is amended by adding at the end the following:

"SEC. 375. NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER.

"(a) DEFINITIONS.—In this section:

"(1) BOARD.—The term 'Board' means the Board of Directors established under subsection (f).

"(2) CENTER.—The term 'Center' means the National Sheep Industry Improvement Center established under subsection (b).

"(3) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity that promotes the betterment of the United States sheep or goat industries and that is—

"(A) a public, private, or cooperative organization;

"(B) an association, including a corporation not operated for profit;

"(C) a federally recognized Indian Tribe; or

"(D) a public or quasi-public agency.

"(4) FUND.—The term 'Fund' means the National Sheep Industry Improvement Center Revolving Fund established under subsection (e).

"(b) ESTABLISHMENT OF CENTER.—The Secretary shall establish a National Sheep Industry Improvement Center.

"(c) PURPOSES.—The purposes of the Center shall be to—

"(1) promote strategic development activities and collaborative efforts by private and State *entities to maximize the impact of Federal assistance to strengthen and enhance production and marketing of sheep or goat products in the United States;*

"(2) optimize the use of available human capital and resources within the sheep or goat industries;

"(3) provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, production, resource development, and market and environmental research;

"(4) advance activities that empower and build the capacity of the United States sheep or goat industry to design unique responses to the special needs of the sheep or goat industries on both a regional and national basis; and

"(5) adopt flexible and innovative approaches to solving the long-term needs of the United States sheep or goat industry.

"(d) STRATEGIC PLAN.—

"(1) IN GENERAL.—The Center shall submit to the Secretary an annual strategic plan for the delivery of financial assistance provided by the Center.

"(2) REQUIREMENTS.—A strategic plan shall identify—

"(A) goals, methods, and a benchmark for measuring the success of carrying out the plan and how the plan relates to the national and regional goals of the Center;

"(B) the amount and sources of Federal and non-Federal funds that are available for carrying out the plan;

"(C) funding priorities;

"(D) selection criteria for funding; and

"(E) a method of distributing funding.

"(e) REVOLVING FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury the National Sheep Industry Improvement Center Revolving Fund. The Fund shall be available to the Center, without fiscal year limitation, to carry out the authorized programs and activities of the Center under this section.

"(2) CONTENTS OF FUND.—There shall be deposited in the Fund—

"(A) such amounts as may be appropriated, transferred, or otherwise made available to support programs and activities of the Center;

"(B) payments received from any source for products, services, or property furnished in connection with the activities of the Center;

"(C) fees and royalties collected by the Center from licensing or other arrangements relating to commercialization of products developed through projects funded, in whole or part, by grants, contracts, or cooperative agreements executed by the Center;

"(D) proceeds from the sale of assets, loans, and equity interests made in furtherance of the purposes of the Center;

"(E) donations or contributions accepted by the Center to support authorized programs and activities; and

"(F) any other funds acquired by the Center.

"(3) USE OF FUND.—

"(A) IN GENERAL.—The Center may use amounts in the Fund to make grants and loans to eligible entities in accordance with a strategic plan submitted under subsection (d).

"(B) CONTINUED EXISTENCE.—The Center shall manage the Fund in a manner that ensures that sufficient amounts are available in the Fund to carry out subsection (c).

"(C) DIVERSE AREA.—The Center shall, to the maximum extent practicable, use the Fund to serve broad geographic areas and regions of diverse production.

"(D) VARIETY OF LOANS AND GRANTS.—The Center shall, to the maximum extent practicable, use the Fund to provide a variety of grants and intermediate- and long-term loans.

"(E) ADMINISTRATION.—The Center may not use more than 3 percent of the amounts in the Fund for a fiscal year for the administration of the Center.

"(F) INFLUENCING LEGISLATION.—None of the amounts in the Fund may be used to influence legislation.

"(G) ACCOUNTING.—To be eligible to receive amounts from the Fund, an entity must agree to account for the amounts using generally accepted accounting principles.

"(H) USES OF FUND.—The Center may use amounts in the Fund to—

"(i) participate with Federal and State agencies in financing activities that are in accordance with a strategic plan submitted under subsection (d), including participation with several States in a regional effort;

"(ii) participate with other public and private funding sources in financing activities that are in accordance with the strategic plan, including participation in a regional effort;

"(iii) provide security for, or make principal or interest payments on, revenue or general obligation bonds issued by a State, if the proceeds from the sale of the bonds are deposited in the Fund;

"(iv) accrue interest;

"(v) guarantee or purchase insurance for local obligations to improve credit market access or reduce interest rates for a project that is in accordance with the strategic plan; or

"(vi) sell assets, loans, and equity interests acquired in connection with the financing of projects funded by the Center.

"(4) LOANS.—

"(A) RATE.—A loan from the Fund may be made at an interest rate that is below the market rate or may be interest free.

"(B) TERM.—The term of a loan may not exceed the shorter of—

"(i) the useful life of the activity financed; or

"(ii) 40 years.

"(C) SOURCE OF REPAYMENT.—The Center may not make a loan from the Fund unless the recipient establishes an assured source of repayment.

"(D) PROCEEDS.—All payments of principal and interest on a loan made from the Fund shall be deposited into the Fund.

"(5) MAINTENANCE OF EFFORT.—The Center shall use the Fund only to supplement and not to supplant Federal, State, and private funds expended for rural development.

"(6) FUNDING.—

"(A) DEPOSIT OF FUNDS.—All Federal and non-Federal amounts received by the Center to carry out this section shall be deposited in the Fund.

"(B) MANDATORY FUNDS.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Center not to exceed $20,000,000 to carry out this section.

"(C) ADDITIONAL FUNDS.—In addition to any funds provided under subparagraph (B), there is authorized to be appropriated $30,000,000 to carry out this section.

"(D) PRIVATIZATION.—No additional Federal funds shall be used to carry out this section beginning on the earlier of—

"(i) the date that is 10 years after the date of enactment of this section; or

"(ii) the day after a total of $50,000,000 has been made available under subparagraphs (B) and (C) to carry out this section.

"(f) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—The management of the Center shall be vested in a Board of Directors.

"(2) POWERS.—The Board shall—

"(A) be responsible for the general supervision of the Center;

"(B) review any grant, loan, contract, or cooperative agreement to be made or entered into by the Center and any financial assistance provided to the Center;

"(C) make the final decision, by majority vote, on whether and how to provide assistance to an applicant; and

"(D) develop and establish a budget plan and a long-term operating plan to carry out the goals of the Center.

"(3) COMPOSITION.—The Board shall be composed of—

"(A) 7 voting members, of whom—

"(i) 4 members shall be active producers of sheep or goats in the United States;

"(ii) 2 members shall have expertise in finance and management; and

"(iii) 1 member shall have expertise in lamb, wool, goat, or goat product marketing; and

"(B) 2 nonvoting members, of whom—

"(i) 1 member shall be the Under Secretary of Agriculture for Rural Development; and

"(ii) 1 member shall be the Under Secretary of Agriculture for Research, Education, and Economics.

"(4) NOMINATION.—

"(A) NOMINATING BODY.—The Secretary shall appoint the voting members of the Board from nominations submitted by organizations described in subparagraph (B).

"(B) NATIONAL ORGANIZATIONS.—A national organization is described in this subparagraph if the organization—

"(i) consists primarily of active sheep or goat producers in the United States; and

"(ii) has as the primary interest of the organization the production of sheep or goats in the United States.

"(5) TERM OF OFFICE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term of office of a voting member of the Board shall be 3 years.

"(B) STAGGERED INITIAL TERMS.—The initial voting members of the Board (other than the chairperson of the initially established Board) shall serve for staggered terms of 1, 2, and 3 years, as determined by the Secretary.

"(C) REELECTION.—A voting member may be reelected for not more than 1 additional term.

"(6) VACANCY.—

"(A) IN GENERAL.—A vacancy on the Board shall be filled in the same manner as the original Board.

"(B) REELECTION.—A member elected to fill a vacancy for an unexpired term may be reelected for 1 full term.

"(7) CHAIRPERSON.—

"(A) IN GENERAL.—The Board shall select a chairperson from among the voting members of the Board.

"(B) TERM.—The term of office of the chairperson shall be 2 years.

"(8) ANNUAL MEETING.—

"(A) IN GENERAL.—The Board shall meet not less than once each fiscal year at the call of the chairperson or at the request of the executive director appointed under subsection (g)(1).

"(B) LOCATION.—The location of a meeting of the Board shall be established by the Board.

"(9) VOTING.—

"(A) QUORUM.—A quorum of the Board shall consist of a majority of the voting members.

"(B) MAJORITY VOTE.—A decision of the Board shall be made by a majority of the voting members of the Board.

"(10) CONFLICTS OF INTEREST.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), a member of the Board shall not vote on any matter respecting any application, contract, claim, or other particular matter pending before the Board in which, to the knowledge of the member, an interest is held by—

"(i) the member;

"(ii) any spouse of the member;

"(iii) any child of the member;

"(iv) any partner of the member;

"(v) any organization in which the member is serving as an officer, director, trustee, partner, or employee; or

"(vi) any person with whom the member is negotiating or has any arrangement concerning

prospective employment or with whom the member has a financial interest.

"(B) REMOVAL.—Any action by a member of the Board that violates subparagraph (A) shall be cause for removal from the Board.

"(C) VALIDITY OF ACTION.—An action by a member of the Board that violates subparagraph (A) shall not impair or otherwise affect the validity of any otherwise lawful action by the Board.

"(D) DISCLOSURE.—

"(i) IN GENERAL.—If a member of the Board makes a full disclosure of an interest and, prior to any participation by the member, the Board determines, by majority vote, that the interest is too remote or too inconsequential to affect the integrity of any participation by the member, the member may participate in the matter relating to the interest, except as provided in subparagraph (E)(iii).

"(ii) VOTE.—A member that discloses an interest under clause (i) shall not vote on a determination of whether the member may participate in the matter relating to the interest.

"(E) REMANDS.—

"(i) IN GENERAL.—The Secretary may vacate and remand to the Board for reconsideration any decision made pursuant to subsection (e)(3)(H) if the Secretary determines that there has been a violation of this paragraph or any conflict of interest provision of the bylaws of the Board with respect to the decision.

"(ii) REASONS.—In the case of any violation and remand of a funding decision to the Board under clause (i), the Secretary shall inform the Board of the reasons for the remand.

"(iii) CONFLICTED MEMBERS NOT TO VOTE ON REMANDED DECISIONS.—If a decision with respect to a matter is remanded to the Board by reason of a conflict of interest faced by a Board member, the member may not participate in any subsequent decision with respect to the matter.

"(11) COMPENSATION.—

"(A) IN GENERAL.—A member of the Board shall not receive any compensation by reason of service on the Board.

"(B) EXPENSES.—A member of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of a duty of the member.

"(12) BYLAWS.—The Board shall adopt, and may from time to time amend, any bylaw that is necessary for the proper management and functioning of the Center.

"(13) PUBLIC HEARINGS.—Not later than 1 year after the date of enactment of this section, the Board shall hold public hearings on policy objectives of the program established under this section.

"(14) ORGANIZATIONAL SYSTEM.—The Board shall provide a system of organization to fix responsibility and promote efficiency in carrying out the functions of the Board.

"(15) USE OF DEPARTMENT OF AGRICULTURE.—The Board may, with the consent of the Secretary, utilize the facilities of and the services of employees of the Department of Agriculture, without cost to the Center.

"(g) OFFICERS AND EMPLOYEES.—

"(1) EXECUTIVE DIRECTOR.—

"(A) IN GENERAL.—The Board shall appoint an executive director to be the chief executive officer of the Center.

"(B) TENURE.—The executive director shall serve at the pleasure of the Board.

"(C) COMPENSATION.—Compensation for the executive director shall be established by the Board.

"(2) OTHER OFFICERS AND EMPLOYEES.—The Board may select and appoint officers, attorneys, employees, and agents who shall be vested with such powers and duties as the Board may determine.

"(3) DELEGATION.—The Board may, by resolution, delegate to the chairperson, the executive director, or any other officer or employee any function, power, or duty of the Board other than voting on a grant, loan, contract, agreement, budget, or annual strategic plan.

"(h) CONSULTATION.—To carry out this section, the Board may consult with—

"(1) State departments of agriculture;

"(2) Federal departments and agencies;

"(3) nonprofit development corporations;

"(4) colleges and universities;

"(5) banking and other credit-related agencies;

"(6) agriculture and agribusiness organizations; and

"(7) regional planning and development organizations.

"(i) OVERSIGHT.—

"(1) IN GENERAL.—The Secretary shall review and monitor compliance by the Board and the Center with this section.

"(2) SANCTIONS.—If, following notice and opportunity for a hearing, the Secretary finds that the Board or the Center is not in compliance with this section, the Secretary may—

"(A) cease making deposits to the Fund;

"(B) suspend the authority of the Center to withdraw funds from the Fund; or

"(C) impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this Act and disqualification from receipt of financial assistance under this section.

"(3) RESCISSION OF SANCTIONS.—The Secretary shall rescind sanctions imposed under paragraph (2) on a finding by the Secretary that there is no longer any failure by the Board or the Center to comply with this section or that the noncompliance will be promptly corrected.".

SEC. 759A. COOPERATIVE AGREEMENTS.

Section 607(b) of the Rural Development Act of 1972 (7 U.S.C. 2204b(b)) is amended by striking paragraph (4) and inserting the following:

"(4) COOPERATIVE AGREEMENTS.—

"(A) IN GENERAL.—Notwithstanding chapter 63 of title 31, United States Code, the Secretary may enter into cooperative agreements with other Federal agencies, State and local governments, and any other organization or individual to improve the coordination and effectiveness of Federal programs, services, and actions affecting rural areas, including the establishment and financing of interagency groups, if the Secretary determines that the objectives of the agreement will serve the mutual interest of the parties in rural development activities.

"(B) COOPERATORS.—Each cooperator, including each Federal agency, to the extent that funds are otherwise available, may participate in any cooperative agreement or working group established pursuant to this paragraph by contributing funds or other resources to the Secretary to carry out the agreement or functions of the group.".

SEC. 759B. ELIGIBILITY FOR GRANTS TO BROADCASTING SYSTEMS.

Section 310B(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)) (as redesignated by section 747(a)(6))) is amended by striking "SYSTEMS.—The" and inserting "SYSTEMS.—

"(1) DEFINITION OF STATEWIDE.—In this subsection, the term 'statewide' means having a coverage area of not less than 90 percent of the population of a State and not less than 80 percent of the rural land area of the State (as determined by the Secretary).

"(2) GRANTS.—The".

CHAPTER 2—RURAL COMMUNITY ADVANCEMENT PROGRAM

SEC. 761. RURAL COMMUNITY ADVANCEMENT PROGRAM.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following:

"Subtitle E—Rural Community Advancement Program

"SEC. 381A. DEFINITIONS.

"In this subtitle:

"(1) RURAL AND RURAL AREA.—The terms 'rural' and 'rural area' mean, subject to section 306(a)(7), a city, town, or unincorporated area that has a population of 50,000 inhabitants or less, other than an urbanized area immediately adjacent to a city, town, or unincorporated area that has a population in excess of 50,000 inhabitants.

"(2) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Federated States of Micronesia.

"(3) STATE DIRECTOR.—The term 'State director' means, with respect to a State, the Director of the Rural Economic and Community Development State Office.

"SEC. 381B. ESTABLISHMENT.

"The Secretary shall establish a rural community advancement program to provide grants, loans, loan guarantees, and other assistance to meet the rural development needs of local communities in States and federally recognized Indian tribes.

"SEC. 381C. NATIONAL OBJECTIVES.

"The national objectives of the program established under this subtitle shall be to—

"(1) promote strategic development activities and collaborative efforts by State and local communities, and federally recognized Indian tribes, to maximize the impact of Federal assistance;

"(2) optimize the use of resources;

"(3) provide assistance in a manner that reflects the complexity of rural needs, including the needs for business development, health care, education, infrastructure, cultural resources, the environment, and housing;

"(4) advance activities that empower, and build the capacity of, State and local communities to design unique responses to the special needs of the State and local communities, and federally recognized Indian tribes, for rural development assistance; and

"(5) adopt flexible and innovative approaches to solving rural development problems.

"SEC. 381D. STRATEGIC PLANS.

"(a) IN GENERAL.—The Secretary shall direct each of the Directors of Rural Economic and Community Development State Offices to prepare a strategic plan—

"(1) for each State for the delivery of assistance under this subtitle in the State; and

"(2) for each federally recognized Indian tribe for the delivery of assistance under this subtitle to the Indian tribe.

"(b) ASSISTANCE.—

"(1) IN GENERAL.—Financial assistance for rural development provided under this subtitle for a State or a federally recognized Indian tribe shall be used only for orderly community development that is consistent with the strategic plan of the State or Indian tribe.

"(2) RURAL AREA.—Assistance under this subtitle may only be provided in a rural area.

"(3) SMALL COMMUNITIES.—In carrying out this subtitle in a State, the Secretary shall give priority to communities with the smallest populations and lowest per capita income.

"(c) REVIEW.—The Secretary shall review the strategic plan of each State and federally recognized Indian tribe not later than 60 days after receiving the plan, and at least once every 5 years thereafter.

"(d) CONTENTS.—A strategic plan of a State or federally recognized Indian tribe under this section shall be a plan that—

"(1) coordinates economic, human, and community development plans and related activities proposed for an affected area;

''(2) provides that the State or federally recognized Indian tribe, as appropriate, and an affected community (including local institutions and organizations that have contributed to the planning process) shall act as full partners in the process of developing and implementing the plan;

''(3) identifies goals, methods, and benchmarks for measuring the success of carrying out the plan and how the plan relates to local or regional ecosystems;

''(4) in the case of a State, provides for the involvement, in the preparation of the plan, of State, local, private, and public persons, State rural development councils, federally recognized Indian tribes in the State, and community-based organizations;

''(5) identifies the amount and source of Federal and non-Federal resources that are available for carrying out the plan; and

''(6) includes such other information as may be required by the Secretary.

"SEC. 381E. RURAL DEVELOPMENT TRUST FUND.

''(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund which shall be known as the Rural Development Trust Fund (in this subtitle referred to as the 'Trust Fund').

''(b) ACCOUNTS.—There are established in the Trust Fund the following accounts:

''(1) The rural community facilities account.

''(2) The rural utilities account.

''(3) The rural business and cooperative development account.

''(4) The national reserve account.

''(5) The federally recognized Indian tribe account.

''(c) DEPOSITS INTO ACCOUNTS.—Notwithstanding any other provision of law, each fiscal year—

''(1) all amounts made available to carry out the authorities described in subsection (d)(1) for the fiscal year shall be deposited into the rural community facilities account of the Trust Fund;

''(2) all amounts made available to carry out the authorities described in subsection (d)(2) for the fiscal year shall be deposited into the rural utilities account of the Trust Fund; and

''(3) all amounts made available to carry out the authorities described in subsection (d)(3) for the fiscal year shall be deposited into the rural business and cooperative development account of the Trust Fund.

''(d) FUNCTION CATEGORIES.—The function categories described in this subsection are the following:

''(1) RURAL COMMUNITY FACILITIES.—The rural community development category consists of all amounts made available for—

''(A) community facility direct and guaranteed loans under section 306(a)(1); or

''(B) community facility grants under section 306(a)(19).

''(2) RURAL UTILITIES.—The rural utilities category consists of all amounts made available for—

''(A) water or waste disposal grants or direct or guaranteed loans under paragraph (1) or (2) of section 306(a);

''(B) rural water or wastewater technical assistance and training grants under section 306(a)(14);

''(C) emergency community water assistance grants under section 306A; or

''(D) solid waste management grants under section 310B(b).

''(3) RURAL BUSINESS AND COOPERATIVE DEVELOPMENT.—The rural business and cooperative development category consists of all amounts made available for—

''(A) rural business opportunity grants under section 306(a)(11)(A);

''(B) business and industry guaranteed loans under section 310B(a)(1); or

''(C) rural business enterprise grants or rural educational network grants under section 310B(c).

''(e) NATIONAL RESERVE ACCOUNT.—

''(1) TRANSFERS INTO ACCOUNT.—

''(A) INITIAL TRANSFER.—Each fiscal year, the Secretary shall transfer to the national reserve account of the Trust Fund from each account specified in subsection (c) not more than the applicable percentage of the amount deposited in each such account for the fiscal year under subsection (c).

''(B) REPOOLING OF UNOBLIGATED FUNDS ALLOCATED AMONG THE STATES.—Not earlier than July 15 of each fiscal year, the Secretary shall transfer to the national reserve account from each account specified in subsection (c) any amount in the account that is allocated for any State, and has not been obligated by the State director or obligated for specific approved projects in the State.

''(2) USE.—The Secretary may use amounts in the national reserve account of the Trust Fund, pursuant to any authority described in subsection (d)—

''(A) in the case of a fiscal year other than fiscal year 2001 or 2002—

''(i) to meet situations of exceptional need;

''(ii) to meet emergency situations; or

''(iii) to provide funds to entities whose applications for funds provided under this subtitle have been approved and who have not received funds sufficient to meet the needs of the projects described in the applications; or

''(B) in the case of fiscal years 2001 and 2002—

''(i) to meet situations of exceptional need; or

''(ii) to meet emergency situations.

''(3) APPLICABLE PERCENTAGE DEFINED.—In paragraph (1), the term 'applicable percentage' means, with respect to a fiscal year—

''(A) 15 percent for fiscal year 1997;

''(B) 12.5 percent for fiscal year 1998;

''(C) 10 percent for fiscal year 1999;

''(D) 7.5 percent for fiscal year 2000;

''(E) 5 percent for fiscal year 2001; and

''(F) 5 percent for fiscal year 2002.

''(f) FEDERALLY RECOGNIZED INDIAN TRIBE ACCOUNT.—

''(1) TRANSFERS INTO ACCOUNT.—Each fiscal year, the Secretary shall transfer to the federally recognized Indian tribe account of the Trust Fund 3 percent of the amount deposited into the Trust Fund for the fiscal year under subsection (d).

''(2) USE OF FUNDS.—The Secretary shall make available to federally recognized Indian tribes the amounts in the federally recognized Indian tribe account for use pursuant to any authority described in subsection (d).

''(g) ALLOCATION AMONG STATES.—The Secretary shall allocate the amounts in each account specified in subsection (c) among the States in a fair, reasonable, and appropriate manner that takes into consideration rural population, levels of income, unemployment, and other relevant factors, as determined by the Secretary.

''(h) AVAILABILITY OF FUNDS ALLOCATED FOR STATES.—The Secretary shall make available to each State the total amount allocated for the State under subsection (g) of this section that remains after applying section 381G.

"SEC. 381F. TRANSFERS OF FUNDS.

''(a) GENERAL AUTHORITY.—Subject to subsection (b) of this section, the State Director of any State may, during any fiscal year, transfer from each account specified in section 381E(c) a total of not more than 25 percent of the amount in the account that is allocated for the State for the fiscal year to any other account in which amounts are allocated for the State for the fiscal year.

''(b) LIMITATION.—Except as provided in subsection (c) of this section, a transfer otherwise authorized by subsection (a) of this section to be made during a fiscal year may not be made to the extent that the sum of the amount to be transferred and all amounts so transferred by State directors under subsection (a) of this section during the fiscal year exceeds 10 percent of the total amount made available to carry out the authorities described in section 381E(d) for the fiscal year.

''(c) EXCEPTIONS.—Subsections (a) and (b) shall not apply to a transfer of funds by a State director if the State director certifies to the Secretary that—

''(1) there is an approved application for a project in the function category to which the funds are to be transferred but funds are not available for the project in the function category; and

''(2)(A) there is no such approved application in the function category from which the funds are to be transferred; or

''(B) the community that would benefit from the project has a smaller population and a lesser per capita income than any community that would benefit from a project in the function category from which the funds are to be transferred.

"SEC. 381G. GRANTS TO STATES.

''(a) SIMPLE GRANTS.—

''(1) MANDATORY GRANT.—The Secretary shall make a grant to any eligible State for any fiscal year for which the State requests a grant under this section in an amount equal to 5 percent of the total amount allocated for the State under section 381E(g)

''(2) PERMISSIVE GRANT.—Before July 15 of each fiscal year, the Secretary may make a grant to any State to defray the cost of any subsidy associated with a guarantee provided by an eligible public entity of the State under section 381H in an amount that does not exceed 5 percent of the total amount allocated for the State under section 381E(g).

''(3) SOURCE OF FUNDS.—The Secretary shall make grants to a State under paragraphs (1) and (2) from amounts allocated for the State in the accounts specified in section 381E(c), by reducing each such allocated amount by the same percentage.

''(b) MATCHING GRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall make a grant to any eligible State for any fiscal year for which the State requests a grant under this section in an amount equal to 5 percent of the amount allocated for the State for the fiscal year under section 381E(h).

''(2) ELIGIBILITY.—A State shall be eligible for a grant under paragraph (1) if the State makes commitments to the Secretary to—

''(A) expend from non-Federal sources in accordance with subsection (c) an amount that is not less than 200 percent of the amount of the grant; and

''(B) maintain the amounts paid to the State under this subsection and the amount referred to in subparagraph (A) in an account separate from all other State funds until expended in accordance with subsection (c).

''(3) SOURCE OF FUNDS.—If the Secretary makes a grant under paragraph (1) before July 15 of the fiscal year, the grant shall be made from amounts allocated for the State in the accounts specified in section 381E(c) for the fiscal year, by reducing each allocated amount by the same percentage.

''(c) USE OF FUNDS.—A State to which funds are provided under this section shall use the funds in rural areas for any activity authorized under the authorities described in section 381E(d) in accordance with the State strategic plan referred to in section 381D.

''(d) MAINTENANCE OF EFFORT.—The State shall provide assurances to the Secretary that *funds provided to the State under this section will be used only to supplement, not to supplant, the amount of Federal, State, and local funds otherwise expended for rural development assistance in the State.*

"(e) APPEALS.—The Secretary shall provide to a State an opportunity to appeal any action taken with respect to the State under this section.

"(f) ADMINISTRATIVE COSTS.—Federal funds shall not be used for any administrative costs incurred by a State in carrying out this subtitle.

"(g) EXPENDITURE OF FUNDS BY STATE.—

"(1) IN GENERAL.—Payments to a State from a grant under this section for a fiscal year shall be obligated by the State in the fiscal year or in the succeeding fiscal year. A State shall obligate funds under this section to provide assistance to rural areas.

"(2) FAILURE TO OBLIGATE.—If a State fails to obligate payments in accordance with paragraph (1), the Secretary shall make an equal reduction in the amount of payments provided to the State under this section for the immediately succeeding fiscal year.

"(3) NONCOMPLIANCE.—

"(A) REVIEW.—The Secretary shall review and monitor State compliance with this section.

"(B) PENALTY.—If the Secretary finds that there has been misuse of grant funds provided under this section, or noncompliance with any of the terms and conditions of a grant, after reasonable notice and opportunity for a hearing—

"(i) the Secretary shall notify the State of the finding; and

"(ii) no further payments to the State shall be made with respect to the programs funded under this section until the Secretary is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

"(C) OTHER SANCTIONS.—In the case of a finding of noncompliance made pursuant to subparagraph (B), the Secretary may, in addition to, or in lieu of, imposing the sanctions described in subparagraph (B), impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this section and disqualification from the receipt of financial assistance under this section.

"(h) NO ENTITLEMENT TO CONTRACT, GRANT, OR ASSISTANCE.—Nothing in this subtitle—

"(1) entitles any person to assistance or a contract or grant; or

"(2) limits the right of a State to impose additional limitations or conditions on assistance or a contract or grant under this section.

"SEC. 381H. GUARANTEE AND COMMITMENT TO GUARANTEE LOANS.

"(a) DEFINITION OF ELIGIBLE PUBLIC ENTITY.—In this section, the term 'eligible public entity' means any unit of general local government.

"(b) GUARANTEE AND COMMITMENT.—The Secretary, on such terms and conditions as the Secretary may prescribe, may guarantee and make commitments to guarantee notes or other obligations issued by eligible public entities, or by public agencies designated by the eligible public entities, for the purposes of financing rural development activities authorized and funded under section 381G.

"(c) LIMITATION.—The Secretary may not make a guarantee or commitment to guarantee with respect to a note or other obligation if the total amount of outstanding notes or obligations guaranteed under this section (excluding any amount repaid under the contract entered into under subsection (e)(1)(A)) for issuers in the State would exceed an amount equal to 5 times the sum of the total amount of grants made to the State under section 381G.

"(d) PAYMENT OF PRINCIPAL, INTEREST, AND COSTS.—Notwithstanding any other provision of this subtitle, a State to which a grant is made under section 381G may use the grant (including program income derived from the grant) to pay principal and interest due (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) on any note or other obligation guaranteed under this section.

"(e) REPAYMENT CONTRACT; SECURITY.—

"(1) IN GENERAL.—To ensure the repayment of notes or other obligations and charges incurred under this section and as a condition for receiving the guarantees, the Secretary shall require the issuer to—

"(A) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this section;

"(B) pledge any grant for which the issuer may become eligible under this subtitle; and

"(C) furnish, at the discretion of the Secretary, such other security as may be considered appropriate by the Secretary in making the guarantees.

"(2) SECURITY.—To assist in ensuring the repayment of notes or other obligations and charges incurred under this section, a State shall pledge any grant for which the State may become eligible under this subtitle as security for notes or other obligations and charges issued under this section by any eligible public entity in the State.

"(f) PLEDGED GRANTS FOR REPAYMENTS.—Notwithstanding any other provision of this subtitle, the Secretary may apply grants pledged pursuant to paragraphs (1)(B) and (2) of subsection (e) to any repayments due the United States as a result of the guarantees.

"(g) OUTSTANDING OBLIGATIONS.—The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to subsection (b) shall not at any time exceed such amount as may be authorized to be appropriated for such purpose for any fiscal year.

"(h) PURCHASE OF GUARANTEED OBLIGATIONS BY FEDERAL FINANCING BANK.—Notes or other obligations guaranteed under this section may not be purchased by the Federal Financing Bank.

"(i) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed obligations.

"SEC. 381I. LOCAL INVOLVEMENT.

"An application for assistance under this subtitle shall include evidence of significant community support for the project for which the assistance is requested. In the case of assistance for a community facilities or infrastructure project, the evidence shall be in the form of a certification of support for the project from each affected general purpose local government.

"SEC. 381J. INTERSTATE COLLABORATION.

"The Secretary shall permit the establishment of voluntary pooling arrangements among States, and regional fund-sharing agreements, to carry out projects receiving assistance under this subtitle.

"SEC. 381K. ANNUAL REPORT.

"(a) IN GENERAL.—The Secretary, in collaboration with State, local, public, and private entities, State rural development councils, and community-based organizations, shall prepare an annual report that contains evaluations, assessments, and performance outcomes concerning the rural community advancement programs carried out under this subtitle.

"(b) SUBMISSION.—Not later than March 1 of each year, the Secretary shall—

"(1) submit the report required by subsection (a) to Congress and the chief executives of the States participating in the program established under this subtitle; and

"(2) make the report available to State and local participants.

"SEC. 381L. RURAL DEVELOPMENT INTERAGENCY WORKING GROUP.

"(a) IN GENERAL.—The Secretary shall provide leadership within the Executive branch for, and assume responsibility for, establishing an interagency working group chaired by the Secretary.

"(b) DUTIES.—The working group shall establish policy for, coordinate, make recommendations with respect to, and evaluate the performance of, all Federal rural development efforts.

"SEC. 381M. DUTIES OF RURAL ECONOMIC AND COMMUNITY DEVELOPMENT STATE OFFICES.

"In carrying out this subtitle, the Director of a Rural Economic and Community Development State Office shall—

"(1) to the maximum extent practicable, ensure that the State strategic plan referred to in section 381D is implemented;

"(2) coordinate community development objectives within the State;

"(3) establish links between local, State, and field office program administrators of the Department of Agriculture;

"(4) ensure that recipient communities comply with applicable Federal and State laws and requirements; and

"(5) integrate State development programs with assistance under this subtitle.

"SEC. 381N. ELECTRONIC TRANSFER.

"The Secretary shall transfer funds in accordance with this subtitle through electronic transfer as soon as practicable after the date of enactment of this subtitle.

"SEC. 381O. RURAL VENTURE CAPITAL DEMONSTRATION PROGRAM.

"(a) IN GENERAL.—The Secretary may designate for each fiscal year up to 10 community development venture capital organizations to demonstrate the utility of guarantees to attract increased private investment in rural private business enterprises.

"(b) RURAL BUSINESS INVESTMENT POOL.—

"(1) ESTABLISHMENT.—To be eligible to participate in the demonstration program, an organization referred to in subsection (a) shall establish a rural business private investment pool (referred to in this subsection as a 'pool') for the purpose of making equity investments in rural private business enterprises.

"(2) GUARANTEE.—From amounts in the national reserve account of the Trust Fund, the Secretary shall guarantee the funds in a pool against loss, except that the guarantee shall not exceed an amount equal to 30 percent of the total funds in the pool.

"(3) AMOUNT.—The Secretary shall issue guarantees covering not more than $15,000,000 of contingent liabilities for each of fiscal years 1996 through 2002.

"(4) TERM.—The term of a guarantee provided under this subsection shall not exceed 10 years.

"(5) SUBMISSION OF PLAN.—To be eligible to participate in the demonstration program, an organization referred to in subsection (a) shall submit a plan that describes—

"(A) potential sources and uses of the pool to be established by the organization;

"(B) the utility of the guarantee authority in attracting capital for the pool; and

"(C) on selection, mechanisms for notifying State, local, and private nonprofit business development organizations and businesses of the existence of the pool.

"(6) COMPETITION.—

"(A) IN GENERAL.—The Secretary shall conduct a competition for the designation and establishment of pools.

"(B) PRIORITY.—In conducting the competition, the Secretary shall give priority to organizations that—

"(i) have a demonstrated record of performance, or have a board and executive director with experience, in venture capital, small business equity investment, or community development finance;

"(ii) propose to serve low-income communities;

"(iii) propose to maintain an average investment of not more than $500,000 from the pool of the organization;

"(iv) invest funds statewide or in a multicounty region; and

"(v) propose to target job opportunities resulting from the investments primarily to economically disadvantaged individuals, as determined by the Secretary.

"(C) GEOGRAPHIC DIVERSITY.—To the extent practicable, the Secretary shall designate organizations in diverse geographic areas.".

SEC. 762. SIMPLIFIED, UNIFORM APPLICATION FOR ASSISTANCE FROM ALL FEDERAL RURAL DEVELOPMENT PROGRAMS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall develop a streamlined, simplified, and uniform application which shall be used in applying for assistance under all of the following:

(1) Sections 304(b), 306, 306A, 306C, 306D, 310B, and 375 and subtitle E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924(b), 1926, 1926a, 1926c, 1926d, and 1932).

(2) Subtitle G of title XVI and sections 2281, 2333, and 2381 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901–5908, 5177a, 950aaa–2, and 3125b).

(3) Subtitle C of title IX of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237: 7 U.S.C. 5930 note).

(4) Section 1323(b) of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

(5) Title V and section 603(c) of the Rural Development Act of 1972 (7 U.S.C. 26661–2669 and 2204a(c)).

(6) Sections 5 and 311 and title IV of the Rural Electrification Act of 1936 (7 U.S.C. 905, 940a, and 941–950b).

SEC. 763. COMMUNITY FACILITIES GRANT PROGRAM.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) (as amended by section 741(a)(5)) is amended by adding at the end the following:

"(19) COMMUNITY FACILITIES GRANT PROGRAM.—

"(A) IN GENERAL.—The Secretary may make grants, in a total amount not to exceed $10,000,000 for any fiscal year, to associations, units of general local government, nonprofit corporations, and federally recognized Indian tribes to provide the Federal share of the cost of developing specific essential community facilities in rural areas.

"(B) FEDERAL SHARE.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Secretary shall, by regulation, establish the amount of the Federal share of the cost of the facility under this paragraph.

"(ii) MAXIMUM AMOUNT.—The amount of a grant provided under this paragraph for a facility shall not exceed 75 percent of the cost of developing the facility.

"(iii) GRADUATED SCALE.—The Secretary shall provide for a graduated scale for the amount of the Federal share provided under this paragraph, with higher Federal shares for facilities in communities that have lower community population and income levels, as determined by the Secretary.".

Subtitle C—Amendments to the Rural Electrification Act of 1936

SEC. 771. PURPOSES; INVESTIGATIONS AND REPORTS.

Section 2 of the Rural Electrification Act of 1936 (7 U.S.C. 902) is amended—

(1) by striking "SEC. 2. (a) The Secretary of Agriculture is" and inserting the following:

"SEC. 2. GENERAL AUTHORITY OF THE SECRETARY OF AGRICULTURE.

"(a) LOANS.—The Secretary of Agriculture (referred to in this Act as the 'Secretary') is";

(2) in subsection (a)—

(A) by striking "and the furnishing" the first place it appears and all that follows through "central station service"; and

(B) by striking "systems; to make" and all that follows and inserting "systems."; and

(3) by striking subsection (b) and inserting the following:

"(b) INVESTIGATIONS AND REPORTS.—The Secretary may make, or cause to be made, studies, investigations, and reports regarding matters, including financial, technological, and regulatory matters, affecting the condition and progress of electric, telecommunications, and economic development in rural areas, and publish and disseminate information with respect to the matters.".

SEC. 772. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 3 of the Rural Electrification Act of 1936 (7 U.S.C. 903) is amended to read as follows:

"SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as are necessary to carry out this Act.".

(b) CONFORMING AMENDMENTS.—

(1) Section 301(a) of the Rural Electrification Act of 1936 (7 U.S.C. 931(a)) is amended—

(A) by striking "(a)" the first place the term appears; and

(B) in paragraph (3), by striking "notwithstanding section 3(a) of title I,".

(2) Section 302(b)(2) of the Rural Electrification Act of 1936 (7 U.S.C. 932(b)(2)) is amended by striking "pursuant to section 3(a) of this Act".

(3) The last sentence of section 406(a) of the Rural Electrification Act of 1936 (7 U.S.C. 946(a)) is amended by striking "pursuant to section 3(a) of this Act".

SEC. 773. LOANS FOR ELECTRICAL PLANTS AND TRANSMISSION LINES.

Section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904) is amended—

(1) in the first sentence—

(A) by striking "for the furnishing of" and all that follows through "central station service and"; and

(B) by striking "the provisions of sections 3(d) and 3(e) but without regard to the 25 per centum limitation therein contained," and inserting "section 3,";

(2) in the second sentence, by striking ": Provided further, That all" and all that follows through "loan: And provided further, That" and inserting ", except that"; and

(3) in the third sentence, by striking "and section 5".

SEC. 774. LOANS FOR ELECTRICAL AND PLUMBING EQUIPMENT.

(a) IN GENERAL.—Section 5 of the Rural Electrification Act of 1936 (7 U.S.C. 905) is repealed.

(b) CONFORMING AMENDMENTS.—Section 12(a) of the Rural Electrification Act of 1936 (7 U.S.C. 912(a)) is amended—

(1) by striking ": Provided, however, That" and inserting ", except that,"; and

(2) by striking ", and with respect to any loan made under section 5," and all that follows through "section 3".

SEC. 775. TESTIMONY ON BUDGET REQUESTS.

Section 6 of the Rural Electrification Act of 1936 (7 U.S.C. 906) is amended by striking the second sentence.

SEC. 776. TRANSFER OF FUNCTIONS OF ADMINISTRATION CREATED BY EXECUTIVE ORDER.

Section 8 of the Rural Electrification Act of 1936 (7 U.S.C. 908) is repealed.

SEC. 777. ANNUAL REPORT.

Section 10 of the Rural Electrification Act of 1936 (7 U.S.C. 910) is repealed.

SEC. 778. PROHIBITION ON RESTRICTING WATER AND WASTE FACILITY SERVICES TO ELECTRIC CUSTOMERS.

The Rural Electrification Act of 1936 is amended by inserting after section 16 (7 U.S.C. 916) the following:

"SEC. 17. PROHIBITION ON RESTRICTING WATER AND WASTE FACILITY SERVICES TO ELECTRIC CUSTOMERS.

"(a) PROHIBITION.—Assistance under any rural development program administered by the Secretary or any agency of the Department of Agriculture shall not be conditioned on any requirement that the recipient of the assistance accept or receive electric service from any particular utility, supplier, or cooperative.

"(b) ENSURING COMPLIANCE.—The Secretary shall establish, by regulation, adequate safeguards to ensure that assistance under any rural development program is not subject to such a condition. The safeguards shall include periodic certifications and audits, and appropriate measures and sanctions against any person violating, or attempting to violate subsection (a).

"(c) DEFINITION OF RURAL DEVELOPMENT PROGRAMS.—In this section, the term 'rural development program' means the following:

"(1) Sections 304(b), 306, 306A, 306C, 306D, 310B, and 375 and subtitle E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924(b), 1926, 1926a, 1926c, 1926d, and 1932).

"(2) Subtitle G of title XVI and sections 2281, 2333, and 2381 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901–5908, 5177a, 950aaa–2, and 3125b).

"(3) Subtitle C of title IX of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237: 7 U.S.C. 5930 note).

"(4) Section 1323(b) of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

"(5) Title V and section 603(c) of the Rural Development Act of 1972 (7 U.S.C. 26661–2669 and 2204a(c)).

"(6) Sections 5 and 311 and title IV of this Act (7 U.S.C. 905, 940a, and 941–950b).

"(d) REGULATIONS.—Not later than 60 days after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, the Secretary shall issue final regulations to ensure compliance with subsection (a)."

SEC. 779. TELEPHONE LOAN TERMS AND CONDITIONS.

Section 309 of the Rural Electrification Act of 1936 (7 U.S.C. 939) is amended—

(1) in subsection (a), by striking "(a) IN GENERAL.—"; and

(2) by striking subsection (b).

SEC. 780. PRIVATIZATION PROGRAM.

Section 311 of the Rural Electrification Act of 1936 (7 U.S.C. 940a) is repealed.

SEC. 781. RURAL BUSINESS INCUBATOR FUND.

(a) IN GENERAL.—Section 502 of the Rural Electrification Act of 1936 (7 U.S.C. 950aa–1) is repealed.

(b) CONFORMING AMENDMENTS.—Section 501 of the Rural Electrification Act of 1936 (7 U.S.C. 950aa) is amended—

(1) in paragraph (5), by inserting "and" at the end;

(2) in paragraph (6), by striking "; and" at the end and inserting a period; and

(3) by striking paragraph (7).

Subtitle D—Miscellaneous Rural Development Provisions

SEC. 791. INTEREST RATE FORMULA.

(a) BANKHEAD-JONES FARM TENANT ACT.—Section 32(e) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011) is amended by striking *the fifth sentence and inserting the following: "A loan under this subsection shall be made under a contract that provides, under such terms and conditions as the Secretary considers appropriate, for the repayment of the loan in not more than 30 years, with interest at a rate not to exceed the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity for the loan, adjusted to the nearest 1/8 of 1 percent.".*

(b) WATERSHED PROTECTION AND FLOOD PREVENTION ACT.—Section 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1006a) is amended by striking the second sentence and inserting the following: "A loan or advance under this section shall be made under a contract or agreement that provides, under such terms and conditions as the Secretary considers appropriate, for the repayment of the loan or advance in not more than 50 years from the date when the principal benefits of the works of improvement first become available, with interest at a rate not to exceed the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity for the loan, adjusted to the nearest 1/8 of 1 percent.".

SEC. 792. GRANTS FOR FINANCIALLY STRESSED FARMERS, DISLOCATED FARMERS, AND RURAL FAMILIES.

(a) IN GENERAL.—Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended by striking subsection (f).

(b) CONFORMING AMENDMENTS.—

(1) Section 2389 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 7 U.S.C. 2662 note) is amended by striking subsection (d).

(2) Section 503(c) of the Rural Development Act of 1972 (7 U.S.C. 2663(c)) is amended—

(A) in paragraph (1)—

(i) by striking "(1)";

(ii) by striking "section 502(e)" and all that follows through "shall be distributed" and inserting "subsections (e), (h), and (i) of section 502 shall be distributed"; and

(iii) by striking "objectives of" and all that follows through "title" and inserting "objectives of subsections (e), (h), and (i) of section 502"; and

(B) by striking paragraph (2).

SEC. 793. FUND FOR RURAL AMERICA.

(a) IN GENERAL.—There is established in the Treasury of the United States an account to be known as the Fund for Rural America (referred to in this section as the "Account") to provide funds for activities described in subsection (c).

(b) FUNDING.—

(1) IN GENERAL.—On January 1, 1997, October 1, 1998, and October 1, 1999, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer $100,000,000 to the Account.

(2) ENTITLEMENT.— The Secretary of Agriculture (referred to in this section as the "Secretary")—

(A) shall be entitled to receive the funds transferred to the Account under paragraph (1);

(B) shall accept the funds; and

(C) shall use the funds to carry out this section.

(3) PURPOSES.—Subject to subsection (d), of the amounts transferred to the Account for a fiscal year, the Secretary shall make available—

(A) for activities described in subsection (c)(1), not less than 1/3 and not more than 2/3 of the funds in the Account; and

(B) for activities described in subsection (c)(2), all funds in the Account not made available by the Secretary for activities described in subsection (c)(1).

(c) ACTIVITIES.—

(1) RURAL DEVELOPMENT.—

(A) IN GENERAL.—The Secretary may use the funds in the Account for a rural development activity—

(i) authorized under the Housing Act of 1949 for—

(I) direct loans to low-income borrowers under section 502 (42 U.S.C. 1472);

(II) loans for financial assistance for housing for domestic farm laborers under section 514 (42 U.S.C. 1484);

(III) financial assistance for housing for domestic farm laborers under section 516 (42 U.S.C. 1486);

(IV) payments for elderly who are not now receiving rental assistance under section 521 (42 U.S.C. 1490a);

(V) grants and contracts for mutual and self-help housing under section 523(b)(1)(A) (42 U.S.C. 1490c(b)(1)(A)); or

(VI) grants for rural housing preservation under section 533 (42 U.S.C. 1490m); or

(ii) conducted under any rural development program, including a program authorized under—

(I) the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.);

(II) subtitle G of title XVI and title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990;

(III) title V of the Rural Development Act of 1971 (7 U.S.C. 2661 et seq.); or

(IV) section 1323(b) of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

(B) LIMITATION ON PROGRAMS FUNDED.—The Secretary may not expend funds made available to carry out activities described in subparagraph (A) for any activity that did not receive appropriations for fiscal year 1995. Funds expended under this section for any program purpose shall be spent in accordance with and subject to the applicable program limitations, restrictions, and priorities found in the underlying program authority and this Act.

(C) LIMITATION ON HOUSING ASSISTANCE.—Not more than 20 percent of the funds made available to carry out activities described in subparagraph (A) shall be made available to carry out activities described in subparagraph (A)(i).

(D) DISCLOSURE OF ALLOCATION.—For any fiscal year, the Secretary shall not disclose the allocation of funds under this section for any activity described in subparagraph (A) until the date that is 1 day after the date of enactment of legislation authorizing appropriations for the Department of Agriculture for any period in the fiscal year.

(2) RESEARCH.—

(A) IN GENERAL.—The Secretary may use the funds in the Account for research, extension, and education grants to—

(i) increase international competitiveness, efficiency, and farm profitability;

(ii) reduce economic and health risks;

(iii) conserve and enhance natural resources;

(iv) develop new crops, new crop uses, and new agricultural applications of biotechnology;

(v) enhance animal agricultural resources;

(vi) preserve plant and animal germplasm;

(vii) increase economic opportunities in farming and rural communities; and

(viii) expand locally-owned value-added processing.

(B) ELIGIBLE GRANTEE.—The Secretary may make a grant under this paragraph to—

(i) a Federal research agency;

(ii) a national laboratory;

(iii) a college or university or a research foundation maintained by a college or university; or

(iv) a private research organization with an established and demonstrated capacity to perform research or technology transfer.

(C) USE OF GRANT.—

(i) IN GENERAL.—A grant made under this paragraph may be used by a grantee for 1 or more of the following uses:

(I) Outcome-oriented research at the discovery end of the spectrum to provide breakthrough results.

(II) Exploratory and advanced development and technology with well-identified outcomes.

(III) A national, regional, or multi-State program oriented primarily toward extension programs and education programs demonstrating and supporting the competitiveness of United States agriculture.

(ii) SMALLER INSTITUTIONS.—Of the amounts made available for activities described in this paragraph, not less than 15 percent shall be awarded to colleges, universities, or research foundations eligible for a grant under subparagraph (B)(iii) that rank in the lowest 1/3 of such colleges, universities, and foundations on the basis of Federal research funds received under a provision of law other than this section.

(D) ADMINISTRATION.—

(i) PRIORITY.—In administering this paragraph, the Secretary shall—

(I) establish criteria for allocating grants based on the priorities in subparagraph (A) and in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123);

(II) seek and accept proposals for grants;

(III) determine the relevance and merit of proposals through a system of peer review and review by the National Agricultural Research, Extension, Education, and Economics Advisory Board; and

(IV) award grants on the basis of merit, quality, and relevance to advancing the purposes of federally supported agricultural research, extension, and education provided in section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101).

(ii) COMPETITIVE BASIS.—A grant under this paragraph shall be awarded on a competitive basis.

(iii) TERMS.—A grant under this paragraph shall have a term that does not exceed 5 years.

(iv) MATCHING FUNDS.—As a condition of making a grant under this paragraph, the Secretary shall require the funding of the grant with equal matching funds from a non-Federal source if the grant is—

(I) for applied research that is commodity-specific; and

(II) not of national scope.

(v) DELEGATION.—The Secretary shall administer this section through the Cooperative State Research, Education, and Extension Service of the Department of Agriculture.

(vi) AVAILABILITY OF FUNDS.—Funds shall be available for obligation under this paragraph for a 2-year period.

(vii) ADMINISTRATIVE COSTS.—The Secretary may use not more than 4 percent of the funds made available for activities described in this paragraph for administrative costs incurred by the Secretary in carrying out this paragraph.

(viii) BUILDINGS.—Funds made available for activities described in this paragraph shall not be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).

(d) LIMITATIONS.—Amounts in the Account may not be used for an activity described in subsection (c) for a fiscal year if the program funding level for the fiscal year for the activity is less than 90 percent of the amount appropriated for the activity for fiscal year 1996, adjusted for inflation.

SEC. 794. UNDER SECRETARY OF AGRICULTURE FOR RURAL ECONOMIC AND COMMUNITY DEVELOPMENT RENAMED THE UNDER SECRETARY OF AGRICULTURE FOR RURAL DEVELOPMENT.

(a) IN GENERAL.—Section 231 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6941) is amended—

*(1) in the section heading, by striking "**ECONOMIC AND COMMUNITY**"; and*

(2) by striking "Economic and Community" each place such term appears in subsections (a), (b), and (c).

(b) CONFORMING AMENDMENT.—Section 5314 of title 5, United States Code, is amended by striking "Economic and Community".

TITLE VIII—RESEARCH, EXTENSION, AND EDUCATION

Subtitle A—Modification and Extension of Activities Under 1977 Act

SEC. 801. PURPOSES OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.

Section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101) is amended to read as follows:

"SEC. 1402. PURPOSES OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.

"The purposes of federally supported agricultural research, extension, and education are to—

"(1) enhance the competitiveness of the United States agriculture and food industry in an increasingly competitive world environment;

"(2) increase the long-term productivity of the United States agriculture and food industry while maintaining and enhancing the natural resource base on which rural America and the United States agricultural economy depend;

"(3) develop new uses and new products for agricultural commodities, such as alternative fuels, and develop new crops;

"(4) support agricultural research and extension to promote economic opportunity in rural communities and to meet the increasing demand for information and technology transfer throughout the United States agriculture industry;

"(5) improve risk management in the United States agriculture industry;

"(6) improve the safe production and processing of, and adding of value to, United States food and fiber resources using methods that maintain the balance between yield and environmental soundness;

"(7) support higher education in agriculture to give the next generation of Americans the knowledge, technology, and applications necessary to enhance the competitiveness of United States agriculture; and

"(8) maintain an adequate, nutritious, and safe supply of food to meet human nutritional needs and requirements.".

SEC. 802. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMICS ADVISORY BOARD.

(a) IN GENERAL.—Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) is amended to read as follows:

"SEC. 1408. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMICS ADVISORY BOARD.

"(a) ESTABLISHMENT.—The Secretary shall establish within the Department of Agriculture a board to be known as the 'National Agricultural Research, Extension, Education, and Economics Advisory Board'.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Advisory Board shall consist of 30 members, appointed by the Secretary.

"(2) SELECTION OF MEMBERS.—The Secretary shall appoint members of the Advisory Board from nominations submitted by organizations, associations, societies, councils, federations, groups, and companies fitting the criteria specified in paragraph (3).

"(3) MEMBERSHIP CATEGORIES.—The Advisory Board shall consist of members from each of the following categories:

"(A) 1 member representing a national farm organization.

"(B) 1 member representing farm cooperatives.

"(C) 1 member actively engaged in the production of a food animal commodity.

"(D) 1 member actively engaged in the production of a plant commodity.

"(E) 1 member representing a national animal commodity organization.

"(F) 1 member representing a national crop commodity organization.

"(G) 1 member representing a national aquaculture association.

"(H) 1 member representing a national food animal science society.

"(I) 1 member representing a national crop, soil, agronomy, horticulture, or weed science society.

"(J) 1 member representing a national food science organization.

"(K) 1 member representing a national human health association.

"(L) 1 member representing a national nutritional science society.

"(M) 1 member representing the land-grant colleges and universities eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.).

"(N) 1 member representing the land-grant colleges and universities eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University.

"(O) 1 member representing the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note)).

"(P) 1 member representing Hispanic-serving institutions.

"(Q) 1 member representing the American Colleges of Veterinary Medicine.

"(R) 1 member representing that portion of the scientific community not closely associated with agriculture.

"(S) 1 member engaged in the transportation of food and agricultural products to domestic and foreign markets.

"(T) 1 member representing food retailing and marketing interests.

"(U) 1 member representing food and fiber processors.

"(V) 1 member actively engaged in rural economic development.

"(W) 1 member representing a national consumer interest group.

"(X) 1 member representing a national forestry group.

"(Y) 1 member representing a national conservation or natural resource group.

"(Z) 1 member representing private sector organizations involved in international development.

"(AA) 1 member representing an agency within the Department of Agriculture that lacks research capabilities.

"(BB) 1 member representing a research agency of the Federal Government (other than the Department of Agriculture).

"(CC) 1 member representing a national social science association.

"(DD) 1 member representing national organizations directly concerned with agricultural research, education, and extension.

"(4) EX OFFICIO MEMBERS.—The Secretary, the Under Secretary of Agriculture for Research, Education, and Economics, the Administrator of the Agricultural Research Service, the Administrator of the Cooperative State Research, Education, and Extension Service, the Administrator of the Economic Research Service, and the Administrator of the National Agricultural Statistics Service shall serve as ex officio members of the Advisory Board.

"(5) OFFICERS.—At the first meeting of the Advisory Board each year, the members shall elect from among the members of the Advisory Board a chairperson, vice chairperson, and 7 additional members to serve on the executive committee established under paragraph (6).

"(6) EXECUTIVE COMMITTEE.—The Advisory Board shall establish an executive committee charged with the responsibility of working with the Secretary and officers and employees of the Department of Agriculture to summarize and disseminate the recommendations of the Advisory Board.

"(c) DUTIES.—The Advisory Board shall—

"(1) review and provide consultation to the Secretary and land-grant colleges and universities on long-term and short-term national policies and priorities, as set forth in section 1402, relating to agricultural research, extension, education, and economics;

"(2) evaluate the results and effectiveness of agricultural research, extension, education, and economics with respect to the policies and priorities;

"(3) review and make recommendations to the Under Secretary of Agriculture for Research, Education, and Economics on the research, extension, education, and economics portion of the draft strategic plan required under section 306 of title 5, United States Code; and

"(4) review the mechanisms of the Department of Agriculture for technology assessment (which should be conducted by qualified professionals) for the purposes of—

"(A) performance measurement and evaluation of the implementation by the Secretary of the strategic plan required under section 306 of title 5, United States Code;

"(B) implementation of the national research policies and priorities set forth in section 1402; and

"(C) the development of mechanisms for the assessment of emerging public and private agricultural research and technology transfer initiatives.

"(d) CONSULTATION.—In carrying out this section, the Advisory Board shall solicit opinions and recommendations from persons who will benefit from and use federally funded agricultural research, extension, education, and economics.

"(e) APPOINTMENT.—A member of the Advisory Board shall be appointed by the Secretary for a term of up to 3 years. The members of the Advisory Board shall be appointed to serve staggered terms.

"(f) FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Board shall be deemed to have filed a charter for the purpose of section 9(c) of the Federal Advisory Committee Act (5 U.S.C. App.).

"(g) TERMINATION.—The Advisory Board shall remain in existence until September 30, 2002.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1404(1) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(1)) is amended by striking "National Agricultural Research and Extension Users Advisory Board" and inserting "National Agricultural Research, Extension, Education, and Economics Advisory Board".

(2) Section 1410(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3125(2)) is amended by striking "the recommendations of the Advisory Board developed under section 1408(g)," and inserting "any recommendations of the Advisory Board".

(3) The last sentence of section 4(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1673(a)) is amended by striking "National Agricultural Research and Extension Users Advisory Board" and inserting "National Agricultural Research, Extension, Education, and Economics Advisory Board".

SEC. 803. FEDERAL ADVISORY COMMITTEE ACT EXEMPTION FOR FEDERAL-STATE COOPERATIVE PROGRAMS.

Section 1409A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3124a) is amended by adding at the end the following:

"(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—

"(1) PUBLIC MEETINGS.—All meetings of any entity described in paragraph (3) shall be publicly announced in advance and shall be open to the public. Detailed minutes of meetings and other appropriate records of the activities of such an entity shall be kept and made available to the public on request.

"(2) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of this Act shall not apply to any entity described in paragraph (3).

"(3) ENTITIES DESCRIBED.—This subsection shall apply to any committee, board, commission, panel, or task force, or similar entity that—

"(A) is created for the purpose of cooperative efforts in agricultural research, extension, or teaching; and

"(B) consists entirely of—

"(i) full-time Federal employees; and

"(ii) one or more individuals who are employed by, or are officials of—

"(I) a State cooperative institution or State cooperative agency; or

"(II) a public college or university or other postsecondary institution.".

SEC. 804. COORDINATION AND PLANNING OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1413 (7 U.S.C. 3128) the following:

"SEC. 1413A. ACCOUNTABILITY.

"(a) REVIEW OF INFORMATION TECHNOLOGY SYSTEMS.—The Secretary shall conduct a comprehensive review of state-of-the-art information technology systems that are available for use in developing the system required by subsection (b).

"(b) MONITORING AND EVALUATION SYSTEM.—The Secretary shall develop and carry out a system to monitor and evaluate agricultural research and extension activities conducted or supported by the Department of Agriculture that will enable the Secretary to measure the impact and effectiveness of research, extension, and education programs according to priorities, goals, and mandates established by law. In developing the system, the Secretary shall incorporate information transfer technologies to optimize public access to research information.

"(c) CONSISTENCY WITH OTHER REQUIREMENTS.—The Secretary shall develop and implement the system in a manner consistent with the Government Performance and Results Act of 1993 (Public Law 103-62; 107 Stat. 285) and amendments made by the Act.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

"SEC. 1413B. FEDERAL ADVISORY COMMITTEE ACT EXEMPTION FOR COMPETITIVE RESEARCH, EXTENSION, AND EDUCATION PROGRAMS.

"The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of this Act shall not apply to any committee, board, commission, panel, or task force, or similar entity, created solely for the purpose of reviewing applications or proposals requesting funding under any competitive research, extension, or education program carried out by the Secretary.".

SEC. 805. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.

(a) PURPOSE OF GRANTS.—Section 1417(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(b)) is amended by striking paragraph (4) and inserting the following:

"(4) to design and implement food and agricultural programs to build teaching and research capacity at colleges and universities having significant minority enrollments;".

(b) RESEARCH FOUNDATIONS.—Section 1417(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(c)) is amended by adding at the end the following:

"(3) RESEARCH FOUNDATIONS.—An eligible college or university under subsection (b) includes a research foundation maintained by the college or university.".

(c) EXTENSION OF PROGRAM.—Section 1417(i) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(i)) is amended by striking "1995" and inserting "1997".

(d) SECONDARY EDUCATION AND 2-YEAR POSTSECONDARY EDUCATION TEACHING PROGRAMS.—Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the following:

"(h) SECONDARY EDUCATION AND 2-YEAR POSTSECONDARY EDUCATION TEACHING PROGRAMS.—

"(1) DEFINITIONS.—In this subsection:

"(A) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(B) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given the term in section 14101(25) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(25)).

"(2) AGRISCIENCE AND AGRIBUSINESS EDUCATION.—The Secretary shall—

"(A) promote and strengthen secondary education and 2-year postsecondary education in agriscience and agribusiness in order to help ensure the existence in the United States of a qualified workforce to serve the food and agricultural sciences system; and

"(B) promote complementary and synergistic linkages among secondary, 2-year postsecondary, and higher education programs in the food and agricultural sciences in order to promote excellence in education and encourage more young Americans to pursue and complete a baccalaureate or higher degree in the food and agricultural sciences.

"(3) GRANTS.—The Secretary may make competitive or noncompetitive grants, for grant periods not to exceed 5 years, to public secondary schools, and institutions of higher education that award an associate's degree, that the Secretary determines have made a commitment to teaching agriscience and agribusiness—

"(A) to enhance curricula in agricultural education;

"(B) to increase faculty teaching competencies;

"(C) to interest young people in pursuing higher education in order to prepare for scientific and professional careers in the food and agricultural sciences;

"(D) to promote the incorporation of agriscience and agribusiness subject matter into other instructional programs, particularly classes in science, business, and consumer education;

"(E) to facilitate joint initiatives by the grant recipient with other secondary schools, institutions of higher education that award an associate's degree, and institutions of higher education that award a bachelor's degree to maximize the development and use of resources, such as faculty, facilities, and equipment, to improve agriscience and agribusiness education; and

"(F) to support other initiatives designed to meet local, State, regional, or national needs related to promoting excellence in agriscience and agribusiness education.".

SEC. 806. GRANTS FOR RESEARCH ON THE PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.

Section 1419(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154(d)) is amended by striking "1995" and inserting "1997".

SEC. 807. POLICY RESEARCH CENTERS.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1419 (7 U.S.C. 3154) the following:

"SEC. 1419A. POLICY RESEARCH CENTERS.

"(a) IN GENERAL.—Consistent with this section, the Secretary may make grants, competitive grants, and special research grants to, and enter into cooperative agreements and other contracting instruments with, policy research centers described in subsection (b) to conduct research and education programs that are objective, operationally independent, and external to the Federal Government and that concern the effect of public policies on—

"(1) the farm and agricultural sectors;

"(2) the environment;

"(3) rural families, households, and economies; and

"(4) consumers, food, and nutrition.

"(b) ELIGIBLE RECIPIENTS.—State agricultural experiment stations, colleges and universities, other research institutions and organizations, private organizations, corporations, and individuals shall be eligible to apply for funding under subsection (a).

"(c) ACTIVITIES.—Under this section, funding may be provided for disciplinary and interdisciplinary research and education concerning policy research activities consistent with this section, including activities that—

"(1) quantify the implications of public policies and regulations;

"(2) develop theoretical and research methods;

"(3) collect and analyze data for policymakers, analysts, and individuals; and

"(4) develop programs to train analysts.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for fiscal years 1996 and 1997.".

SEC. 808. HUMAN NUTRITION INTERVENTION AND HEALTH PROMOTION RESEARCH PROGRAM.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by striking section 1424 (7 U.S.C. 3174) and inserting the following:

"SEC. 1424. HUMAN NUTRITION INTERVENTION AND HEALTH PROMOTION RESEARCH PROGRAM.

"(a) AUTHORITY OF SECRETARY.—The Secretary may establish, and award grants for projects for, a multi-year research initiative on human nutrition intervention and health promotion.

"(b) EMPHASIS OF INITIATIVE.—In administering human nutrition research projects under this section, the Secretary shall give specific emphasis to—

"(1) coordinated longitudinal research assessments of nutritional status; and

"(2) the implementation of unified, innovative intervention strategies,

to identify and solve problems of nutritional inadequacy and contribute to the maintenance of health, well-being, performance, and productivity of individuals, thereby reducing the need of the individuals to use the health care system and social programs of the United States.

"(c) ADMINISTRATION OF FUNDS.—The Administrator of the Agricultural Research Service shall administer funds made available to carry out this section to ensure a coordinated approach to health and nutrition research efforts.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for fiscal years 1996 and 1997.

"SEC. 1424A. PILOT RESEARCH PROGRAM TO COMBINE MEDICAL AND AGRICULTURAL RESEARCH.

"(a) FINDINGS.—Congress finds the following:

"(1) Although medical researchers in recent years have demonstrated that there are several naturally occurring compounds in many vegetables and fruits that can aid in the prevention of certain forms of cancer, coronary heart disease, stroke, and atherosclerosis, there has been almost no research conducted to enhance these compounds in food plants by modern breeding and molecular genetic methods.

"(2) By linking the appropriate medical and agricultural research scientists in a highly-focused, targeted research program, it should be possible to develop new varieties of vegetables and fruits that would provide greater prevention of diet-related diseases that are a major cause of death in the United States.

"(b) PILOT RESEARCH PROGRAM.—The Secretary shall conduct, through the Cooperative State Research, Education, and Extension Service, a pilot research program to link major cancer and heart and other circulatory disease research efforts with agricultural research efforts to identify compounds in vegetables and fruits that prevent these diseases. Using information derived from such combined research efforts, the Secretary shall assist in the development of new varieties of vegetables and fruits having enhanced therapeutic properties for disease prevention.

"(c) AGREEMENTS.—The Secretary shall carry out the pilot program through agreements entered into with land-grant colleges or universities, other universities, State agricultural experiment stations, the State cooperative extension services, nonprofit organizations with demonstrable expertise, or Federal or State governmental entities. The Secretary shall enter into the agreements on a competitive basis.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1997 to carry out the pilot program.".

SEC. 809. FOOD AND NUTRITION EDUCATION PROGRAM.

Section 1425(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175(c)(3)) is amended by striking "$63,000,000" and all that follows through "fiscal year 1995" and inserting ", $83,000,000 for each of fiscal years 1996 and 1997".

SEC. 810. PURPOSES AND FINDINGS RELATING TO ANIMAL HEALTH AND DISEASE RESEARCH.

Section 1429 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3191) is amended to read as follows:

"SEC. 1429. PURPOSES AND FINDINGS RELATING TO ANIMAL HEALTH AND DISEASE RESEARCH.

"(a) PURPOSES.—The purposes of this subtitle are to—

"(1) promote the general welfare through the improved health and productivity of domestic livestock, poultry, aquatic animals, and other income-producing animals that are essential to the food supply of the United States and the welfare of producers and consumers of animal products;

"(2) improve the health of horses;

"(3) facilitate the effective treatment of, and, to the extent possible, prevent animal and poultry diseases in both domesticated and wild animals that, if not controlled, would be disastrous to the United States livestock and poultry industries and endanger the food supply of the United States;

"(4) improve methods for the control of organisms and residues in food products of animal origin that could endanger the human food supply;

"(5) improve the housing and management of animals to improve the well-being of livestock production species;

"(6) minimize livestock and poultry losses due to transportation and handling;

"(7) protect human health through control of animal diseases transmissible to humans;

"(8) improve methods of controlling the births of predators and other animals; and

"(9) otherwise promote the general welfare through expanded programs of research and extension to improve animal health.

"(b) FINDINGS.—Congress finds that—

"(1) the total animal health and disease research and extension efforts of State colleges and universities and of the Federal Government would be more effective if there were close coordination between the efforts; and

"(2) colleges and universities having accredited schools or colleges of veterinary medicine and State agricultural experiment stations that conduct animal health and disease research are especially vital in training research workers in animal health and related disciplines.".

SEC. 811. ANIMAL HEALTH AND DISEASE CONTINUING RESEARCH.

Section 1433 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195) is amended—

(1) in the first sentence of subsection (a), by striking "1995" and inserting "1997";

(2) in subsection (b)(2)—

(A) by striking "domestic livestock and poultry" each place it appears and inserting "domestic livestock, poultry, and commercial aquaculture species"; and

(B) in the second sentence, by striking "horses, and poultry" and inserting "horses, poultry, and commercial aquaculture species";

(3) in subsection (d), by striking "domestic livestock and poultry" and inserting "domestic livestock, poultry, and commercial aquaculture species"; and

(4) in subsection (f), by striking "domestic livestock and poultry" and inserting "domestic livestock, poultry, and commercial aquaculture species".

SEC. 812. ANIMAL HEALTH AND DISEASE NATIONAL OR REGIONAL RESEARCH.

Section 1434 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196) is amended—

(1) in subsection (a)—

(A) by inserting "or national or regional problems relating to pre-harvest, on-farm food safety, or animal well-being," after "problems,"; and

(B) by striking "1995" and inserting "1997";

(2) in subsection (b), by striking "eligible institutions" and inserting "State agricultural experiment stations, colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals";

(3) in subsection (c)—

(A) in the first sentence, by inserting ", food safety, and animal well-being" after "animal health and disease"; and

(B) in the fourth sentence—

(i) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively; and

(ii) by inserting after paragraph (1) the following:

"(2) any food safety problem that has a significant pre-harvest (on-farm) component and is recognized as posing a significant health hazard to the consuming public;

"(3) issues of animal well-being related to production methods that will improve the housing and management of animals to improve the well-being of livestock production species;";

(4) in the first sentence of subsection (d), by striking "to eligible institutions"; and

(5) by adding at the end the following:

"(f) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of this Act shall not apply to a panel or board created solely for the purpose of reviewing applications or proposals submitted under this subtitle.".

SEC. 813. GRANT PROGRAM TO UPGRADE AGRICULTURAL AND FOOD SCIENCES FACILITIES AT 1890 LAND-GRANT COLLEGES.

Section 1447(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b(b)) is amended by striking "$8,000,000 for each of the fiscal years 1991 through 1995" and inserting ", $15,000,000 for each of fiscal years 1996 and 1997".

SEC. 814. NATIONAL RESEARCH AND TRAINING CENTENNIAL CENTERS.

Section 1448 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222c) is amended—

(1) in subsection (a)(1), by inserting ", or fiscal years 1996 and 1997," after "1995"; and

(2) in subsection (f), by striking "1995" and inserting "1997".

SEC. 815. PROGRAMS FOR HISPANIC-SERVING INSTITUTIONS.

(a) IN GENERAL.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1448 (7 U.S.C. 3222c) the following:

"Subtitle H—Programs for Hispanic-Serving Institutions

"SEC. 1455. EDUCATION GRANTS PROGRAMS FOR HISPANIC-SERVING INSTITUTIONS.

"(a) GRANT AUTHORITY.—The Secretary may make competitive grants (or grants without regard to any requirement for competition) to Hispanic-serving institutions for the purpose of promoting and strengthening the ability of Hispanic-serving institutions to carry out education, applied research, and related community development programs.

"(b) USE OF GRANT FUNDS.—Grants made under this section shall be used—

"(1) to support the activities of consortia of Hispanic-serving institutions to enhance educational equity for underrepresented students;

"(2) to strengthen institutional educational capacities, including libraries, curriculum, faculty, scientific instrumentation, instruction delivery systems, and student recruitment and retention, in order to respond to identified State, regional, national, or international educational needs in the food and agricultural sciences;

"(3) to attract and support undergraduate and graduate students from underrepresented groups in order to prepare them for careers related to the food, agricultural, and natural resource systems of the United States, beginning *with the mentoring of students at the high school level and continuing with the provision of financial support for students through their attainment of a doctoral degree; and*

"(4) to facilitate cooperative initiatives between 2 or more Hispanic-serving institutions, or between Hispanic-serving institutions and units of State government or the private sector, to maximize the development and use of resources, such as faculty, facilities, and equipment, to improve food and agricultural sciences teaching programs.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section $20,000,000 for fiscal year 1997.".

(b) HISPANIC-SERVING INSTITUTION DEFINED.—Paragraph (9) of section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended to read as follows:

"(9) the term 'Hispanic-serving institution' has the meaning given the term by section 316(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)(1));".

SEC. 816. INTERNATIONAL AGRICULTURAL RESEARCH AND EXTENSION.

Section 1458(a)(8) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)(8)) is amended—

(1) by striking "establish" and inserting "continue"; and

(2) by striking "to be".

SEC. 817. AUTHORIZATION OF APPROPRIATIONS FOR AGRICULTURAL RESEARCH PROGRAMS.

Section 1463 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311) is amended by striking "1995" both places it appears and inserting "1997".

SEC. 818. AUTHORIZATION OF APPROPRIATIONS FOR EXTENSION EDUCATION.

Section 1464 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3312) is amended by striking "fiscal year 1995" and inserting "each of fiscal years 1995 through 1997".

SEC. 819. SUPPLEMENTAL AND ALTERNATIVE CROPS RESEARCH.

(a) EXTENSION OF PROGRAM.—Section 1473D(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(a)) is amended by striking "1995" and inserting "1997".

(b) ELIMINATION OF PILOT NATURE OF PROGRAM.—Section 1473D of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d) is amended—

(1) in subsection (a), by striking "and pilot";

(2) in subsection (c)(2)(B), by striking "at pilot sites" and all that follows through "the area";

(3) in subsection (c)(2)(C), by striking "from pilot sites";

(4) in subsection (c)(2)(D)—

(A) by striking "near such pilot sites"; and

(B) by striking "successful pilot program" and inserting "successful program"; and

(5) in paragraph (3), by striking "pilot".

(c) ADDITIONAL AUTHORITY.—Section 1473D(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(c)(3)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(E) to conduct fundamental and applied research related to the development of new commercial products derived from natural plant material for industrial, medical, and agricultural applications; and

"(F) to participate with colleges and universities, other Federal agencies, and private sector entities in conducting research described in subparagraph (E).".

SEC. 820. AQUACULTURE ASSISTANCE PROGRAMS.

(a) DEFINITION.—Section 1404(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(3)) is amended by inserting "ornamental fish," after "reptile,".

(b) REPORTS.—Section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3322) is amended—

(1) by striking subsection (e); and

(2) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(c) AUTHORIZATION OF APPROPRIATIONS FOR AQUACULTURE RESEARCH FACILITIES.—Section 1476(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3323(b)) is amended by striking "1995" and inserting "1997".

(d) AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH AND EXTENSION.—Section 1477 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3324) is amended by striking "1995" and inserting "1997".

SEC. 821. AUTHORIZATION OF APPROPRIATIONS FOR RANGELAND RESEARCH.

Section 1483(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3336(a)) is amended by striking "1995" and inserting "1997".

Subtitle B—Modification and Extension of Activities Under 1990 Act

SEC. 831. WATER QUALITY RESEARCH, EDUCATION, AND COORDINATION.

Section 1481(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5501(d)) is amended by striking "1995" and inserting "1997".

SEC. 832. NATIONAL GENETICS RESOURCES PROGRAM.

(a) FUNCTIONS.—Section 1632(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5841(d)) is amended by striking paragraph (4) and inserting the following:

"(4) unless otherwise prohibited by law, have the right to make available on request, without charge and without regard to the country from which the request originates, the genetic material that the program assembles;".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1635(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5844(b)) is amended by striking "1995" and inserting "1997".

SEC. 833. NATIONAL AGRICULTURAL WEATHER INFORMATION SYSTEM.

Section 1641(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5855(c)) is amended by striking "1995" and inserting "1997".

SEC. 834. LIVESTOCK PRODUCT SAFETY AND INSPECTION PROGRAM.

Section 1670(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5923(e)) is amended by striking "1995" and inserting "1997".

SEC. 835. PLANT GENOME MAPPING PROGRAM.

Section 1671(g) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5924(g)) is amended by inserting "for fiscal years 1996 and 1997" after "appropriated".

SEC. 836. CERTAIN SPECIALIZED RESEARCH PROGRAMS.

Subsections (d)(4), (e)(4), and (i) of section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) are each amended by striking "1995" and inserting "1997".

SEC. 837. AGRICULTURAL TELECOMMUNICATIONS PROGRAM.

Section 1673(h) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5926(h)) is amended by striking "1995" and inserting "1997".

SEC. 838. NATIONAL CENTERS FOR AGRICULTURAL PRODUCT QUALITY RESEARCH.

(a) PURPOSES OF NATIONAL CENTERS.—Section 1675(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5928(a)) is amended—

(1) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(2) by inserting after paragraph (4) the following:

"(5) enhance agricultural competitiveness through product quality research and technology implementation;".

(b) REGIONAL BASIS OF CENTERS.—Section 1675(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5928(b)) is amended by striking paragraph (1) and inserting the following:

"(1) REGIONAL BASIS.—The centers shall be regionally based units that conduct a broad spectrum of research, development, and education programs to enhance the competitiveness, quality, safety and wholesomeness of agricultural products.".

(c) PROGRAM PLAN AND REVIEW.—Section 1675(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5928(b)) is amended—

(1) in paragraph (1), by striking the second sentence; and

(2) in paragraph (2), by striking ", but not less" and all that follows through "the Secretary".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1675(g)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5928(g)(1)) is amended by striking "1995" and inserting "1997".

SEC. 839. RED MEAT SAFETY RESEARCH CENTER.

Section 1676 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5929) is amended to read as follows:

"SEC. 1676. RED MEAT SAFETY RESEARCH CENTER.

"(a) ESTABLISHMENT OF CENTER.—The Secretary of Agriculture shall award a grant, on a competitive basis, to a research facility described in subsection (b) to establish a red meat safety research center.

"(b) ELIGIBLE RESEARCH FACILITY DESCRIBED.—A research facility eligible for a grant under subsection (a) is a research facility that—

"(1) is part of a land-grant college or university, or other federally supported agricultural research facility, located in close proximity to a livestock slaughter and processing facility; and

"(2) is staffed by professionals with a wide diversity of scientific expertise covering all aspects of meat science.

"(c) RESEARCH CONDUCTED.—The red meat safety research center established under subsection (a) shall carry out research related to general food safety, including—

"(1) the development of intervention strategies that reduce microbiological contamination of carcass surfaces;

"(2) research regarding microbiological mapping of carcass surfaces; and

"(3) the development of model hazard analysis and critical control point plans.

"(d) ADMINISTRATION OF FUNDS.—The Secretary of Agriculture shall administer funds appropriated to carry out this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for fiscal year 1997 to carry out this section.".

SEC. 840. INDIAN RESERVATION EXTENSION AGENT PROGRAM.

Section 1677 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5930) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

"(f) REDUCED REGULATORY BURDEN.—On a determination by the Secretary of Agriculture that a program carried out under this section has been satisfactorily administered for not less than 2 years, the Secretary shall implement a reduced reapplication process for the continued operation of the program in order to reduce regulatory burdens on participating university and tribal entities.".

SEC. 841. ASSISTIVE TECHNOLOGY PROGRAM FOR FARMERS WITH DISABILITIES.

Section 1680 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5933) is amended—

(1) in subsection (a)(6)(B), by striking "1996" and inserting "1997"; and

(2) in subsection (b)(2), by striking "1996" and inserting "1997".

SEC. 842. NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE.

Section 2381(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125b(e)) is amended by striking "1995" and inserting "1997".

SEC. 843. GLOBAL CLIMATE CHANGE.

Section 2412 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6710) is amended by striking "1996" and inserting "1997".

Subtitle C—Repeal of Certain Activities and Authorities

SEC. 851. SUBCOMMITTEE ON FOOD, AGRICULTURAL, AND FORESTRY RESEARCH.

Section 401(h) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651(h)) is amended by striking the second through fifth sentences.

SEC. 852. JOINT COUNCIL ON FOOD AND AGRICULTURAL SCIENCES.

(a) REPEAL.—Section 1407 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3122) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 1405 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121) is amended—

(A) in paragraph (5), by striking "Joint Council, Advisory Board," and inserting "Advisory Board"; and

(B) in paragraph (11), by striking "the Joint Council,".

(2) Section 1410(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3125(2)) is amended by striking "the recommendations of the Joint Council developed under section 1407(f),".

(3) Section 1412 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3127) is amended—

(A) in the section heading, by striking "THE JOINT COUNCIL, ADVISORY BOARD," and inserting "ADVISORY BOARD";

(B) in subsection (a)—

(i) by striking "Joint Council, the Advisory Board," and inserting "Advisory Board";

(ii) by striking "the cochairpersons of the Joint Council and" each place it appears; and

(iii) in paragraph (2), by striking "one shall serve as the executive secretary to the Joint Council, one shall serve as the executive secretary to the Advisory Board," and inserting "one shall serve as the executive secretary to the Advisory Board"; and

(C) in subsections (b) and (c), by striking "Joint Council, Advisory Board," each place it appears and inserting "Advisory Board".

(4) Section 1413 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128) is amended—

(A) in subsection (a), by striking "Joint Council, the Advisory Board," and inserting "Advisory Board"; and

(B) in subsection (b), by striking "Joint Council, Advisory Board," and inserting "Advisory Board".

(5) Section 1434(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196(c)) is amended—

(A) in the second sentence, by striking "Joint Council, the Advisory Board," and inserting "Advisory Board"; and

(B) in the fourth sentence, by striking "the Joint Council,".

SEC. 853. AGRICULTURAL SCIENCE AND TECHNOLOGY REVIEW BOARD.

(a) REPEAL.—Section 1408A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123a) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended—

(A) in paragraph (16)(F), by adding "and" at the end;

(B) in paragraph (17), by striking "; and" at the end and inserting a period; and

(C) by striking paragraph (18).

(2) Section 1405(12) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121(12)) is amended by striking ", after coordination with the Technology Board,".

(3) Section 1410(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3125(2)) (as amended by section 802(b)(2)) is amended by striking "and the recommendations of the Technology Board developed under section 1408A(d)".

(4) Section 1412 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3127) (as amended by section 852(b)(3)) is amended—

(A) in the section heading, by striking "AND TECHNOLOGY BOARD";

(B) in subsection (a)—

(i) by striking "and the Technology Board" each place it appears; and

(ii) in paragraph (2), by striking "and one shall serve as the executive secretary to the Technology Board"; and

(C) in subsections (b) and (c), by striking "and Technology Board" each place it appears.

(5) Section 1413 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128) (as amended by section 852(b)(4)) is amended—

(A) in subsection (a), by striking "or the Technology Board"; and

(B) in subsection (b), by striking "and the Technology Board".

SEC. 854. ANIMAL HEALTH SCIENCE RESEARCH ADVISORY BOARD.

Section 1432 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3194) is repealed.

SEC. 855. RESIDENT INSTRUCTION PROGRAM AT 1890 LAND-GRANT COLLEGES.

Section 1446 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222a) is repealed.

SEC. 856. GRANTS TO STATES FOR INTERNATIONAL TRADE DEVELOPMENT CENTERS.

Section 1458A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292) is repealed.

SEC. 857. RANGELAND RESEARCH.

(a) REPORTS.—Section 1481 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3334) is repealed.

(b) ADVISORY BOARD.—Section 1482 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3335) is repealed.

SEC. 858. COMPOSTING RESEARCH AND EXTENSION PROGRAM.

Section 1456 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3130) is repealed.

SEC. 859. EDUCATION PROGRAM REGARDING HANDLING OF AGRICULTURAL CHEMICALS AND AGRICULTURAL CHEMICAL CONTAINERS.

(a) REPEAL.—Section 1499A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125c) is repealed.

(b) CONFORMING AMENDMENT.—Section 1499(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5506(b)) is amended by striking "and section 1499A".

SEC. 860. PROGRAM ADMINISTRATION REGARDING SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION.

(a) REPORTING REQUIREMENT.—Section 1622 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5812) is amended by striking subsection (b).

(b) ADVISORY COUNCIL.—Section 1622 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5812) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2);

(B) in paragraph (3), by striking "subsection (e)" and inserting "subsection (b)"; and

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(2) by striking subsections (c) and (d);

(3) by redesignating subsection (e) as subsection (b); and

(4) in subsection (b)(2) (as so redesignated)—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraphs (B) through (F) as subparagraphs (A) through (E), respectively.

(c) CONFORMING AMENDMENTS.—

(1) Section 1619(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5801(b)) is amended—

(A) by striking paragraph (7); and

(B) by redesignating paragraphs (8), (9), and (10) as paragraphs (7), (8), and (9), respectively.

(2) Section 1621(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5811(c)) is amended—

(A) in paragraph (1)—

(i) by striking subparagraph (A); and

(ii) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively; and

(B) in paragraph (2)—

(i) by striking subparagraph (A); and

(ii) by redesignating subparagraphs (B) through (F) as subparagraphs (A) through (E), respectively.

(3) Section 1628(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5831(b)) is amended by striking "Advisory Council, the Soil Conservation Service," and inserting "Natural Resources Conservation Service".

SEC. 861. RESEARCH REGARDING PRODUCTION, PREPARATION, PROCESSING, HANDLING, AND STORAGE OF AGRICULTURAL PRODUCTS.

Subtitle E of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5871 et seq.) is repealed.

SEC. 862. PLANT AND ANIMAL PEST AND DISEASE CONTROL PROGRAM.

(a) REPEAL.—Subtitle F of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5881 et seq.) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 28(b)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.

136w–3(b)(2)(A)) is amended by striking "and the information required by section 1651 of the Food, Agriculture, Conservation, and Trade Act of 1990".

(2) Section 1627(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5821(a)(3)) is amended by striking "and section 1650".

(3) Section 1628 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5831) is amended by striking "section 1650," each place it appears in subsections (a) and (d).

(4) Section 1629 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5832) is amended by striking "section 1650," each place it appears in subsections (f) and (g)(11).

SEC. 863. CERTAIN SPECIALIZED RESEARCH PROGRAMS.

Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—

(1) by striking subsections (a), (f), (g), (h), and (j); and

(2) by redesignating subsections (i) and (k) as subsections (f) and (g), respectively.

SEC. 864. COMMISSION ON AGRICULTURAL RESEARCH FACILITIES.

Section 1674 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5927) is repealed.

SEC. 865. SPECIAL GRANT TO STUDY CONSTRAINTS ON AGRICULTURAL TRADE.

Section 1678 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5931) is repealed.

SEC. 866. PILOT PROJECT TO COORDINATE FOOD AND NUTRITION EDUCATION PROGRAMS.

Section 1679 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5932) is repealed.

SEC. 867. DEMONSTRATION AREAS FOR RURAL ECONOMIC DEVELOPMENT.

Section 2348 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2662a) is repealed.

SEC. 868. TECHNICAL ADVISORY COMMITTEE REGARDING GLOBAL CLIMATE CHANGE.

Section 2404 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6703) is repealed.

SEC. 869. COMMITTEE OF NINE UNDER HATCH ACT OF 1887.

Section 3(c)3 of the Act of March 2, 1887 (commonly known as the "Hatch Act of 1887"; 7 U.S.C. 361c(c)3) is amended by striking ", and shall be used" and all that follows through "by this paragraph".

SEC. 870. COTTON CROP REPORTS.

The Act of May 3, 1924 (43 Stat. 115, chapter 149; 7 U.S.C. 475), is repealed.

SEC. 871. RURAL ECONOMIC AND BUSINESS DEVELOPMENT AND ADDITIONAL RESEARCH GRANTS UNDER TITLE V OF RURAL DEVELOPMENT ACT OF 1972.

Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended by striking subsections (g) and (j).

SEC. 872. HUMAN NUTRITION RESEARCH.

Section 1452 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 7 U.S.C. 3173 note) is repealed.

SEC. 873. GRANTS TO UPGRADE 1890 LAND-GRANT COLLEGE EXTENSION FACILITIES.

Section 1416 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981 (7 U.S.C. 3224) is repealed.

SEC. 874. INDIAN SUBSISTENCE FARMING DEMONSTRATION GRANT PROGRAM.

Subtitle C of title IX of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 7 U.S.C. 5930 note) is repealed.

Subtitle D—Miscellaneous Research Provisions

SEC. 881. CRITICAL AGRICULTURAL MATERIALS RESEARCH.

(a) REPORTS.—Section 4 of the Critical Agricultural Materials Act (7 U.S.C. 178b) is amended—

(1) by striking subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 16(a) of the Critical Agricultural Materials Act (7 U.S.C. 178n(a)) is amended by striking "1995" and inserting "1997".

SEC. 882. MEMORANDUM OF AGREEMENT REGARDING 1994 INSTITUTIONS.

Section 533 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note) is amended by adding at the end the following:

"(d) MEMORANDUM OF AGREEMENT.—Not later than January 6, 1997, the Secretary shall develop and implement a formal memorandum of agreement with the 1994 Institutions to establish programs to ensure that tribally controlled colleges and Native American communities equitably participate in Department of Agriculture employment, programs, services, and resources.".

SEC. 883. SMITH-LEVER ACT FUNDING FOR 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.

(a) ELIGIBILITY FOR FUNDS.—Section 3(d) of the Act of May 8, 1914 (commonly known as the "Smith-Lever Act"; 7 U.S.C. 343(d)), is amended by adding at the end the following: "A college or university eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, may apply for and receive directly from the Secretary of Agriculture—

"(1) amounts made available under this subsection after September 30, 1995, to carry out programs or initiatives for which no funds were made available under this subsection for fiscal year 1995, or any previous fiscal year, as determined by the Secretary; and

"(2) amounts made available after September 30, 1995, to carry out programs or initiatives funded under this subsection prior to that date that are in excess of the highest amount made available for the programs or initiatives under this subsection for fiscal year 1995, or any previous fiscal year, as determined by the Secretary.".

(b) CONFORMING AMENDMENT.—The third sentence of section 1444(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(a)) is amended by inserting before the period at the end the following: ", except that for the purpose of this calculation, the total appropriations shall not include amounts made available after September 30, 1995, under section 3(d) of that Act (7 U.S.C. 343(d)), to carry out programs or initiatives for which no funds were made available under section 3(d) of that Act for fiscal year 1995, or any previous fiscal year, as determined by the Secretary, and shall not include amounts made available after September 30, 1995, to carry out programs or initiatives funded under section 3(d) of that Act prior to that date that are in excess of the highest amount made available for the programs or initiatives for fiscal year 1995, or any previous fiscal year, as determined by the Secretary".

SEC. 884. AGRICULTURAL RESEARCH FACILITIES.

(a) RESEARCH FACILITIES.—The Research Facilities Act (7 U.S.C. 390 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Research Facilities Act'.

"SEC. 2. DEFINITIONS.

"In this Act:

"(1) AGRICULTURAL RESEARCH FACILITY.—The term 'agricultural research facility' means a proposed facility for research in food and agricultural sciences for which Federal funds are requested by a college, university, or nonprofit institution to assist in the construction, alteration, acquisition, modernization, renovation, or remodeling of the facility.

"(2) CONGRESSIONAL AGRICULTURE COMMITTEES.—The term 'congressional agriculture committees' means the Committee on Appropriations and the Committee on Agriculture of the House of Representatives and the Committee on Appropriations and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(3) FOOD AND AGRICULTURAL SCIENCES.—The term 'food and agricultural sciences' means—

"(A) agriculture, including soil and water conservation and use, the use of organic materials to improve soil tilth and fertility, plant and animal production and protection, and plant and animal health;

"(B) the processing, distribution, marketing, and utilization of food and agricultural products;

"(C) forestry, including range management, production of forest and range products, multiple use of forests and rangelands, and urban forestry;

"(D) aquaculture (as defined in section 1404(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(3));

"(E) human nutrition;

"(F) production inputs, such as energy, to improve productivity; and

"(G) germ plasm collection and preservation.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(5) TASK FORCE.—The term 'task force' means the Strategic Planning Task Force established under section 4.

"SEC. 3. REVIEW PROCESS.

"(a) SUBMISSION TO SECRETARY.—Each proposal for an agricultural research facility shall be submitted to the Secretary for review. The Secretary shall review the proposals in the order in which the proposals are received.

"(b) APPLICATION PROCESS.—In consultation with the congressional agriculture committees, the Secretary shall establish an application process for the submission of proposals for agricultural research facilities.

"(c) CRITERIA FOR APPROVAL.—

"(1) DETERMINATION BY SECRETARY.—With respect to each proposal for an agricultural research facility submitted under subsection (a), the Secretary shall determine whether the proposal meets the criteria set forth in paragraph (2).

"(2) CRITERIA.—A proposal for an agricultural research facility shall meet the following criteria:

"(A) NON-FEDERAL SHARE.—The proposal shall certify the availability of at least a 50 percent non-Federal share of the cost of the facility. The non-Federal share shall be paid in cash and may include funding from private sources or from units of State or local government.

"(B) NONDUPLICATION OF FACILITIES.—The proposal shall demonstrate how the agricultural research facility would be complementary to, and not duplicative of, facilities of colleges, universities, and nonprofit institutions, and facilities of the Agricultural Research Service, within the State and region.

"(C) NATIONAL RESEARCH PRIORITIES.—The proposal shall demonstrate how the agricultural research facility would serve—

"(i) 1 or more of the national research policies and priorities set forth in section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101); and

"(ii) regional needs.

"(D) LONG-TERM SUPPORT.—The proposal shall demonstrate that the recipient college, university, or nonprofit institution has the ability and commitment to support the long-term, ongoing operating costs of—

"(i) the agricultural research facility after the facility is completed; and

"(ii) each program to be based at the facility.

"(d) EVALUATION OF PROPOSALS.—Not later than 90 days after receiving a proposal under subsection (a), the Secretary shall—

"(1) evaluate and assess the merits of the proposal, including the extent to which the proposal meets the criteria set forth in subsection (c); and

"(2) report to the congressional agriculture committees on the results of the evaluation and assessment.

"SEC. 4. TASK FORCE ON 10-YEAR STRATEGIC PLAN FOR AGRICULTURAL RESEARCH FACILITIES.

"(a) ESTABLISHMENT.—Not later than 6 months after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996, the Secretary shall establish a task force, to be known as the 'Strategic Planning Task Force'. The task force shall be comprised of 15 members.

"(b) COMPOSITION.—The Secretary shall select the members of the task force from a list of individuals recommended by the Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123). In submitting the list to the Secretary, the board may recommend for selection individuals (including members of the Advisory Board) who have expertise in facilities development, modernization, construction, consolidation, and closure.

"(c) DUTIES.—The task force shall review all currently operating agricultural research facilities constructed in whole or in part with Federal funds, and all planned agricultural research facilities proposed to be constructed with Federal funds, pursuant to criteria established by the Secretary, to ensure that a comprehensive research capacity is maintained.

"(d) 10-YEAR STRATEGIC PLAN.—Not later than 2 years after the task force is established, the task force shall prepare and submit to the Secretary and the congressional agriculture committees a 10-year strategic plan, reflecting both national and regional perspectives, for development, modernization, construction, consolidation, and closure of Federal agricultural research facilities and agricultural research facilities proposed to be constructed with Federal funds.

"(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—

"(1) PUBLIC MEETINGS.—All meetings of the task force shall be publicly announced in advance and shall be open to the public. Detailed minutes of meetings and other appropriate records of the activities of the task force shall be kept and made available to the public on request.

"(2) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to the task force.

"(f) DEFINITION OF AGRICULTURAL RESEARCH FACILITY.—Notwithstanding section 2(1), in this section the term 'agricultural research facility' means a facility for research in food and agricultural sciences.

"SEC. 5. APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

"The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to a panel or board created solely for the purpose of reviewing applications or proposals submitted under this Act.

"SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated such sums as are necessary for fiscal years 1996 and 1997 for the study, plan, design, structure, and related costs of agricultural research facilities under this Act.

"(b) ALLOWABLE ADMINISTRATIVE COSTS.—Not more than 3 percent of the funds made available for any project for an agricultural research facility shall be available for administration of the project.".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a), other than section 4 of the Research Facilities Act (as amended by subsection (a)), shall not apply to any project for an agricultural research facility for which funds have been made available for a feasibility study or for any phase of the project prior to October 1, 1995.

(c) AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL FACILITIES.—Section 1431 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1556) is amended—

(1) in subsection (a)—

(A) by striking "(a)"; and

(B) by striking "1995" and inserting "1997"; and

(2) by striking subsection (b).

(d) CONFORMING AMENDMENT.—Section 1463(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311(a)) is amended by striking "1416,".

SEC. 885. NATIONAL COMPETITIVE RESEARCH INITIATIVE.

(a) AUTHORIZATION OF APPROPRIATIONS FOR COMPETITIVE GRANTS.—Subsection (b)(10) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)(10)) is amended—

(1) by striking "fiscal year 1995" and inserting "each of fiscal years 1995 through 1997"; and

(2) in subparagraph (B), by striking "20 percent" and inserting "40 percent".

(b) AVAILABILITY OF FUNDS.—Subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) is amended by adding at the end the following:

"(11) AVAILABILITY OF FUNDS.—Funds made available under paragraph (10) shall be available for obligation for a 2-year period beginning on October 1 of the fiscal year for which the funds are made available.".

SEC. 886. RURAL DEVELOPMENT RESEARCH AND EDUCATION.

Section 502(a) of the Rural Development Act of 1972 (7 U.S.C. 2662(a)) is amended by inserting after the first sentence the following: "The rural development extension programs shall also promote coordinated and integrated rural community initiatives that advance and empower capacity building through leadership development, entrepreneurship, business development and management training, and strategic planning to increase jobs, income, and quality of life in rural communities.".

SEC. 887. DAIRY GOAT RESEARCH PROGRAM.

Section 1432(b)(5) of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981 (Public Law 97–98; 7 U.S.C. 3222 note) is amended by striking "1995" and inserting "1997".

SEC. 888. COMPETITIVE GRANTS FOR RESEARCH TO ERADICATE AND CONTROL BROWN CITRUS APHID AND CITRUS TRISTEZA VIRUS.

Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) (as amended by section 863) is amended by inserting before subsection (b) the following:

"(a) BROWN CITRUS APHID AND CITRUS TRISTEZA VIRUS.—

"(1) RESEARCH GRANTS AUTHORIZED.—The Secretary of Agriculture may make competitive grants available to support research for the purpose of—

"(A) developing methods to eradicate the brown citrus aphid and the citrus tristeza virus from citrus crops grown in the United States; or

"(B) adapting citrus crops grown in the United States to the brown citrus aphid and the citrus tristeza virus.

"(2) METHOD OF PROVIDING GRANTS.—Grants authorized under this subsection shall be made in the same manner, and shall be subject to the same conditions, as provided for competitive grants under the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i).

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $3,000,000 for fiscal year 1997.".

SEC. 889. STUTTGART NATIONAL AQUACULTURE RESEARCH CENTER.

(a) TRANSFER OF FUNCTIONS TO SECRETARY OF AGRICULTURE.—

(1) PURPOSE.—The first section of Public Law 85–342 (16 U.S.C. 778) is amended—

(A) by striking "Secretary of the Interior" and all that follows through "directed to" and inserting "Secretary of Agriculture shall";

(B) by striking "an experiment station or stations" and inserting "1 or more centers"; and

(C) in paragraph (5), by striking "Department of Agriculture" and inserting "Secretary of the Interior".

(2) AUTHORITY.—Section 2 of Public Law 85–342 (16 U.S.C. 778a) is amended by striking ", the Secretary" and all that follows through "authorized" and inserting ", the Secretary of Agriculture is authorized".

(3) ASSISTANCE.—Section 3 of Public Law 85–342 (16 U.S.C. 778b) is amended—

(A) by striking "Secretary of the Interior" and inserting "Secretary of Agriculture"; and

(B) by striking "Department of Agriculture" and inserting "Secretary of the Interior".

(b) TRANSFER OF FISH FARMING EXPERIMENTAL LABORATORY TO DEPARTMENT OF AGRICULTURE.—

(1) DESIGNATION OF STUTTGART NATIONAL AQUACULTURE RESEARCH CENTER.—

(A) IN GENERAL.—The Fish Farming Experimental Laboratory in Stuttgart, Arkansas (including the facilities in Kelso, Arkansas), shall be known and designated as the "Stuttgart National Aquaculture Research Center".

(B) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the laboratory referred to in subparagraph (A) shall be deemed to be a reference to the "Stuttgart National Aquaculture Research Center".

(2) TRANSFER OF LABORATORY TO DEPARTMENT OF AGRICULTURE.—Subject to section 1531 of title 31, United States Code, not later than 90 days after the date of enactment of this Act, there are transferred to the Department of Agriculture—

(A) the personnel employed in connection with the laboratory referred to in paragraph (1)(A);

(B) the assets, liabilities, contracts, and real and personal property of the laboratory;

(C) the records of the laboratory; and

(D) the unexpended balance of appropriations, authorizations, allocations, and other funds employed in connection with, held in connection with, arising from, available to, or to be made available in connection with the laboratory.

(3) NONDUPLICATION OF FACILITIES.—The research center referred to in paragraph (1)(A) shall be complementary to, and not duplicative of, facilities of colleges, universities, and nonprofit institutions, and facilities of the Agricultural Research Service, within the State and region, as determined by the Administrator of the Service.

SEC. 890. EXPANSION OF AUTHORITIES RELATED TO NATIONAL ARBORETUM.

(a) SOLICITATION OF GIFTS, BENEFITS, AND DEVISES.—The first sentence of section 5 of the

Act of March 4, 1927 (20 U.S.C. 195), is amended by inserting "solicit," after "authorized to".

(b) CONCESSIONS, FEES, AND VOLUNTARY SERVICES.—The Act of March 4, 1927 (20 U.S.C. 191 et seq.), is amended by adding at the end the following:

"SEC. 6. CONCESSIONS, FEES, AND VOLUNTARY SERVICES.

"(a) IN GENERAL.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), the Secretary of Agriculture, in furtherance of the mission of the National Arboretum, may—

"(1) negotiate agreements granting concessions at the National Arboretum to nonprofit scientific or educational organizations the interests of which are complementary to the mission of the National Arboretum, except that the net proceeds of the organizations from the concessions shall be used exclusively for research and educational work for the benefit of the National Arboretum;

"(2) provide by concession, on such terms as the Secretary of Agriculture considers appropriate and necessary, for commercial services for food, drink, and nursery sales, if an agreement for a permanent concession under this paragraph is negotiated with a qualified person submitting a proposal after due consideration of all proposals received after the Secretary of Agriculture provides reasonable public notice of the intent of the Secretary to enter into such an agreement;

"(3) dispose of excess property, including excess plants and fish, in a manner designed to maximize revenue from any sale of the property, including by way of public auction, except that this paragraph shall not apply to the free dissemination of new varieties of seeds and germ plasm in accordance with section 520 of the Revised Statutes (commonly known as the 'Department of Agriculture Organic Act of 1862') (7 U.S.C. 2201);

"(4) charge such fees as the Secretary of Agriculture considers reasonable for temporary use by individuals or groups of National Arboretum facilities and grounds for any purpose consistent with the mission of the National Arboretum;

"(5) charge such fees as the Secretary of Agriculture considers reasonable for the use of the National Arboretum for commercial photography or cinematography;

"(6) publish, in print and electronically and without regard to laws relating to printing by the Federal Government, informational brochures, books, and other publications concerning the National Arboretum or the collections of the Arboretum; and

"(7) license use of the National Arboretum name and logo for public service or commercial uses.

"(b) USE OF FUNDS.—Any funds received or collected by the Secretary of Agriculture as a result of activities described in subsection (a) shall be retained in a special fund in the Treasury for the use and benefit of the National Arboretum as the Secretary of Agriculture considers appropriate.

"(c) ACCEPTANCE OF VOLUNTARY SERVICES.—The Secretary of Agriculture may accept the voluntary services of organizations described in subsection (a)(1), and the voluntary services of individuals (including employees of the National Arboretum), for the benefit of the National Arboretum.".

SEC. 891. TRANSFER OF AQUACULTURAL RESEARCH CENTER.

(a) TRANSFER OF FISH CULTURE LABORATORY TO DEPARTMENT OF AGRICULTURE.—

(1) DESIGNATION OF CLAUDE HARRIS NATIONAL AQUACULTURAL RESEARCH CENTER.—

(A) IN GENERAL.—The Southeastern Fish Culture Laboratory in Marion, Alabama, shall be known and designated as the "Claude Harris National Aquacultural Research Center".

(B) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the laboratory referred to in subparagraph (A) shall be deemed to be a reference to the "Claude Harris National Aquacultural Research Center".

(2) TRANSFER OF LABORATORY TO DEPARTMENT OF AGRICULTURE.—Subject to section 1531 of title 31, United States Code, not later than 90 days after the date of enactment of this Act, the Secretary of the Interior may transfer, in whole or in part, to the Department of Agriculture, with the consent of the Secretary of Agriculture—

(A) the personnel employed in connection with the laboratory referred to in paragraph (1);

(B) the assets, liabilities, contracts, and real and personal property of the laboratory;

(C) the records of the laboratory; and

(D) the unexpended balance of appropriations, authorizations, allocations, and other funds employed in connection with, held in connection with, arising from, available to, or to be made available in connection with the laboratory.

(b) NONDUPLICATION OF FACILITIES.—The research center designated by subsection (a) shall be complementary to, and not duplicative of, facilities of colleges, universities, and nonprofit institutions, and facilities of the Agricultural Research Service, within the State and region, as determined by the Secretary of Agriculture.

SEC. 892. USE OF REMOTE SENSING DATA AND OTHER DATA TO ANTICIPATE POTENTIAL FOOD, FEED, AND FIBER SHORTAGES OR EXCESSES AND TO PROVIDE TIMELY INFORMATION TO ASSIST FARMERS WITH PLANTING DECISIONS.

(a) FINDINGS.—Congress finds that—

(1) remote sensing data can be useful to predict impending famine problems and forest infestations in time to allow remedial action;

(2) remote sensing data can inform the agricultural community as to the condition of crops and the land that sustains those crops; and

(3) remote sensing data and other data can be valuable, when received on a timely basis, in determining the need for additional plantings of a particular crop or a substitute crop.

(b) INFORMATION DEVELOPMENT.—The Secretary of Agriculture and the Administrator of the National Aeronautics and Space Administration, maximizing private funding and involvement, shall provide farmers and other interested persons with timely information, through remote sensing, on crop conditions, fertilization and irrigation needs, pest infiltration, soil conditions, projected food, feed, and fiber production, and any other information available through remote sensing.

(c) COORDINATION.—The Secretary of Agriculture and the Administrator of the National Aeronautics and Space Administration shall jointly develop a proposal to provide farmers and other prospective users with supply and demand information for food and fibers.

(d) SUNSET.—The authorities provided by this section shall expire 5 years after the date of enactment of this Act.

SEC. 893. SENSE OF SENATE REGARDING METHYL BROMIDE ALTERNATIVE RESEARCH AND EXTENSION ACTIVITIES.

It is the sense of the Senate that—

(1) the Department of Agriculture should continue to make methyl bromide alternative research and extension activities a high priority of the Department; and

(2) the Department of Agriculture, the Environmental Protection Agency, producer and processor organizations, environmental organizations, and State agencies should continue their dialogue on the risks and benefits of extending the 2001 phaseout deadline.

Subtitle E—Research Authority After Fiscal Year 1997

SEC. 897. AUTHORIZATION OF APPROPRIATIONS.

Subject to section 898, there are authorized to be appropriated for fiscal years 1998 through 2002 such sums as are necessary to carry out the agricultural research, extension, and education activities and initiatives of the Department of Agriculture.

SEC. 898. ACTIVITIES SUBJECT TO AVAILABILITY OF APPROPRIATIONS.

During each of fiscal years 1998 through 2002, the Secretary of Agriculture shall conduct only those agricultural research, extension, and education activities and initiatives of the Department of Agriculture for which funds are specifically provided for the fiscal year in an appropriation Act.

TITLE IX—MISCELLANEOUS

Subtitle A—Commercial Transportation of Equine for Slaughter

SEC. 901. FINDINGS.

Because of the unique and special needs of equine being transported to slaughter, Congress finds that it is appropriate for the Secretary of Agriculture to issue guidelines for the regulation of the commercial transportation of equine for slaughter by persons regularly engaged in that activity within the United States.

SEC. 902. DEFINITIONS.

In this subtitle:

(1) COMMERCIAL TRANSPORTATION.—The term "commercial transportation" means the regular operation for profit of a transport business that uses trucks, tractors, trailers, or semitrailers, or any combination thereof, propelled or drawn by mechanical power on any highway or public road.

(2) EQUINE FOR SLAUGHTER.—The term "equine for slaughter" means any member of the Equidae family being transferred to a slaughter facility, including an assembly point, feedlot, or stockyard.

(3) PERSON.—The term "person"—

(A) means any individual, partnership, corporation, or cooperative association that regularly engages in the commercial transportation of equine for slaughter; but

(B) does not include any individual or other entity referred to in subparagraph (A) that occasionally transports equine for slaughter incidental to the principal activity of the individual or other entity in production agriculture.

SEC. 903. REGULATION OF COMMERCIAL TRANSPORTATION OF EQUINE FOR SLAUGHTER.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Agriculture may issue guidelines for the regulation of the commercial transportation of equine for slaughter by persons regularly engaged in that activity within the United States.

(b) ISSUES FOR REVIEW.—In carrying out this section, the Secretary of Agriculture shall review the food, water, and rest provided to equine for slaughter in transit, the segregation of stallions from other equine during transit, and such other issues as the Secretary considers appropriate.

(c) ADDITIONAL AUTHORITY.—In carrying out this section, the Secretary of Agriculture may—

(1) require any person to maintain such records and reports as the Secretary considers necessary;

(2) conduct such investigations and inspections as the Secretary considers necessary; and

(3) establish and enforce appropriate and effective civil penalties.

SEC. 904. LIMITATION OF AUTHORITY TO EQUINE FOR SLAUGHTER.

Nothing in this subtitle authorizes the Secretary of Agriculture to regulate the routine or regular transportation, to slaughter or elsewhere, of—

(1) livestock other than equine; or

(2) poultry.

SEC. 905. EFFECTIVE DATE.

This subtitle shall become effective on the first day of the first month that begins 30 days or more after the date of enactment of this Act.

Subtitle B—General Provisions

SEC. 911. INTERSTATE QUARANTINE.

The fourth sentence of section 8 of the Act of August 20, 1912 (7 U.S.C. 161), is amended by inserting after "Provided, That" the following: "if the Secretary of Agriculture determines under this section that it is necessary to quarantine a State entirely comprised of islands, the Secretary of Agriculture, in implementing the restrictions authorized under this section, shall give consideration to enhancing passenger movement and commerce on and between islands in the State: Provided further, That".

SEC. 912. COTTON CLASSIFICATION SERVICES.

(a) EXTENSION OF AUTHORIZATION.—The first sentence of section 3a of the Act of March 3, 1927 (commonly known as the "Cotton Statistics and Estimates Act") (7 U.S.C. 473a), is amended by striking "1996" and inserting "2002".

(b) COTTON CLASSING OFFICE LOCATIONS.—Section 4 of the Act of March 3, 1927 (commonly known as the "Cotton Statistics and Estimates Act") (7 U.S.C. 474), is amended by adding at the end the following: "The Secretary of Agriculture shall maintain until at least January 1, 1999, all cotton classing office locations in the State of Missouri that existed on January 1, 1996.".

SEC. 913. PLANT VARIETY PROTECTION FOR CERTAIN TUBER PROPAGATED PLANT VARIETIES.

(a) IN GENERAL.—Section 42(a)(1)(B)(i) of the Plant Variety Protection Act (7 U.S.C. 2402(a)(1)(B)(i)) is amended by inserting after "filing" the following: ", except that in the case of a tuber propagated plant variety the Secretary may waive the 4-year limitation for a period ending 1 year after the date of enactment of the Federal Agriculture Improvement and Reform Act of 1996".

(b) TERM OF PROTECTION.—Section 83(b) of the Plant Variety Protection Act (7 U.S.C. 2483(b)) is amended—

(1) by striking "(b) The term" and inserting the following:

"(b) TERM.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term";

(2) in the second sentence, by striking "If the certificate" and inserting the following:

"(2) EXCEPTIONS.—If the certificate"; and

(3) in paragraph (2) (as so designated), by striking "except that, in the case" and inserting the following: "except that—

"(A) in the case of a tuber propagated plant variety subject to a waiver granted under section 42(a)(1)(B)(i), the term of the plant variety protection shall expire 20 years after the date of the original grant of the plant breeder's rights to the variety outside the United States; and

"(B) in the case".

SEC. 914. SWINE HEALTH PROTECTION.

(a) TERMINATION OF STATE PRIMARY ENFORCEMENT RESPONSIBILITY.—Section 10 of the Swine Health Protection Act (7 U.S.C. 3809) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) REQUEST OF STATE OFFICIAL.—

"(1) IN GENERAL.—On request of the Governor or other appropriate official of a State, the Secretary may terminate, effective as soon as the Secretary determines is practicable, the primary enforcement responsibility of a State under subsection (a). In terminating the primary enforcement responsibility under this subsection, the Secretary shall work with the appropriate State official to determine the level of support to be provided to the Secretary by the State under this Act.

"(2) REASSUMPTION.—Nothing in this subsection shall prevent a State from reassuming primary enforcement responsibility if the Secretary determines that the State meets the requirements of subsection (a).".

(b) ADVISORY COMMITTEE.—The Swine Health Protection Act is amended—

(1) by striking section 11 (7 U.S.C. 3810); and

(2) by redesignating sections 12, 13, and 14 (7 U.S.C. 3811, 3812, and 3813) as sections 11, 12, and 13, respectively.

SEC. 915. DESIGNATION OF MOUNT PLEASANT NATIONAL SCENIC AREA.

Sections 1, 2, and 3(a)(1) of the George Washington National Forest Mount Pleasant Scenic Area Act (Public Law 103–314; 16 U.S.C. 545 note) are each amended by striking "George Washington National Forest Mount Pleasant Scenic Area" and inserting "Mount Pleasant National Scenic Area".

SEC. 916. PSEUDORABIES ERADICATION PROGRAM.

Section 2506(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 114i(d)) is amended by striking "1995" and inserting "2002".

SEC. 917. COLLECTION AND USE OF AGRICULTURAL QUARANTINE AND INSPECTION FEES.

Section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a) is amended by striking subsection (a) and inserting the following:

"(a) QUARANTINE AND INSPECTION FEES.—

"(1) FEES AUTHORIZED.—The Secretary of Agriculture may prescribe and collect fees sufficient—

"(A) to cover the cost of providing agricultural quarantine and inspection services in connection with the arrival at a port in the customs territory of the United States, or the preclearance or preinspection at a site outside the customs territory of the United States, of an international passenger, commercial vessel, commercial aircraft, commercial truck, or railroad car;

"(B) to cover the cost of administering this subsection; and

"(C) through fiscal year 2002, to maintain a reasonable balance in the Agricultural Quarantine Inspection User Fee Account established under paragraph (5).

"(2) LIMITATION.—In setting the fees under paragraph (1), the Secretary shall ensure that the amount of the fees is commensurate with the costs of agricultural quarantine and inspection services with respect to the class of persons or entities paying the fees. The costs of the services with respect to passengers as a class includes the costs of related inspections of the aircraft or other vehicle.

"(3) STATUS OF FEES.—Fees collected under this subsection by any person on behalf of the Secretary are held in trust for the United States and shall be remitted to the Secretary in such manner and at such times as the Secretary may prescribe.

"(4) LATE PAYMENT PENALTIES.—If a person subject to a fee under this subsection fails to pay the fee when due, the Secretary shall assess a late payment penalty, and the overdue fees shall accrue interest, as required by section 3717 of title 31, United States Code.

"(5) AGRICULTURAL QUARANTINE INSPECTION USER FEE ACCOUNT.—

"(A) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the 'Agricultural Quarantine Inspection User Fee Account', which shall contain all of the fees collected under this subsection and late payment penalties and interest charges collected under paragraph (4) through fiscal year 2002.

"(B) USE OF ACCOUNT.—For each of fiscal years 1996 through 2002, funds in the Agricultural Quarantine Inspection User Fee Account shall be available, in such amounts as are provided in advance in appropriations Acts, to cover the costs associated with the provision of agricultural quarantine and inspection services and the administration of this subsection. Amounts made available under this subparagraph shall be available until expended.

"(C) EXCESS FEES.—Fees and other amounts collected under this subsection in any of fiscal years 1996 through 2002 in excess of $100,000,000 shall be available for the purposes specified in subparagraph (B) until expended, without further appropriation.

"(6) USE OF AMOUNTS COLLECTED AFTER FISCAL YEAR 2002.—After September 30, 2002, the unobligated balance in the Agricultural Quarantine Inspection User Fee Account and fees and other amounts collected under this subsection shall be credited to the Department of Agriculture accounts that incur the costs associated with the provision of agricultural quarantine and inspection services and the administration of this subsection. The fees and other amounts shall remain available to the Secretary until expended without fiscal year limitation.

"(7) STAFF YEARS.—The number of full-time equivalent positions in the Department of Agriculture attributable to the provision of agricultural quarantine and inspection services and the administration of this subsection shall not be counted toward the limitation on the total number of full-time equivalent positions in all agencies specified in section 5(b) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 5 U.S.C. 3101 note) or other limitation on the total number of full-time equivalent positions.".

SEC. 918. MEAT AND POULTRY INSPECTION.

(a) ESTABLISHMENT OF SAFE MEAT AND POULTRY INSPECTION PANEL.—

(1) IN GENERAL.—The Federal Meat Inspection Act is amended—

(A) by redesignating section 410 (21 U.S.C. 680) as section 411; and

(B) by inserting after section 409 (21 U.S.C. 679) the following:

"SEC. 410. SAFE MEAT AND POULTRY INSPECTION PANEL.

"(a) ESTABLISHMENT.—There is established in the Department of Agriculture a permanent advisory panel to be known as the 'Safe Meat and Poultry Inspection Panel' (referred to in this section as the 'panel').

"(b) DUTIES.—

"(1) REVIEW AND EVALUATION.—The panel shall review and evaluate, as the panel considers necessary, the adequacy, necessity, safety, cost-effectiveness, and scientific merit of—

"(A) inspection procedures of, and work rules and worker relations involving Federal employees employed in, plants inspected under this Act;

"(B) informal petitions or proposals for changes in inspection procedures, processes, and techniques of plants inspected under this Act;

"(C) formal changes in meat inspection regulations promulgated under this Act, whether in notice, proposed, or final form; and

"(D) such other matters as may be referred to the panel by the Secretary regarding the quality or effectiveness of a safe and cost-effective meat inspection system under this Act.

"(2) REPORTS.—

"(A) IN GENERAL.—The panel shall submit to the Secretary a report on the results of each review and evaluation carried out under paragraph (1), including such recommendations as the panel considers appropriate.

"(B) REPORTS ON FORMAL CHANGES.—In the case of a report concerning a formal change in meat inspection regulations, the report shall be made within the time limits prescribed for formal comments on such changes.

"(C) PUBLICATION IN FEDERAL REGISTER.—Each report of the panel to the Secretary shall be published in the Federal Register.

"(c) SECRETARIAL RESPONSE.—Not later than 90 days after the publication of a panel report under subsection (b)(2)(C), the Secretary shall publish in the Federal Register any response required of the Secretary to the report.

"(d) COMPOSITION OF PANEL.—The panel shall be composed of 7 members, not fewer than 5 of whom shall be from the food science, meat science, or poultry science profession, appointed to staggered terms not to exceed 3 years by the Secretary from nominations received from the National Institutes of Health and the Federation of American Societies of Food Animal Science and based on the professional qualifications of the nominees.

"(e) NOMINATIONS.—

"(1) INITIAL PANEL.—In constituting the initial panel, the Secretary shall solicit 6 nominees from the National Institutes of Health and 6 nominees from the Federation of American Societies of Food Animal Science for membership on the panel.

"(2) VACANCIES.—Any subsequent vacancy on the panel shall be filled by the Secretary after soliciting 2 nominees from the National Institutes of Health and 2 nominees from the Federation of American Societies of Food Animal Science.

"(3) REQUIREMENTS FOR NOMINEES.—

"(A) IN GENERAL.—Each nominee provided under paragraph (1) or (2) shall have a background in public health issues and a scientific expertise in food, meat, or poultry science or in veterinary science.

"(B) SUBMISSION OF INFORMATION.—The Secretary may require nominees to submit such information as the Secretary considers necessary prior to completing the selection process.

"(4) ADDITIONAL NOMINEES.—If any list of nominees provided under paragraph (1) or (2) is unsatisfactory to the Secretary, the Secretary may request the nominating entities to submit an additional list of nominees.

"(f) TRAVEL EXPENSES.—While away from the home or regular place of business of a member of the panel in the performance of services for the panel, the member shall be allowed travel expenses, including per diem in lieu of subsistence, at the same rate as a person employed intermittently in the Government service would be allowed under section 5703 of title 5, United States Code.

"(g) CONFLICTS OF INTEREST.—The Secretary shall promulgate regulations regarding conflicts of interest with respect to the members of the panel.

"(h) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to the panel.

"(i) FUNDING.—From funds available to the Secretary to carry out this Act and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), the Secretary shall allocate such sums as may be necessary to carry out this section.".

(2) CROSS REFERENCE IN POULTRY PRODUCTS INSPECTION ACT.—The Poultry Products Inspection Act (21 U.S.C. 451 et seq.) is amended by adding at the end the following:

"SEC. 30. SAFE MEAT AND POULTRY INSPECTION PANEL.

"(a) REVIEW AND EVALUATION.—The advisory panel known as the 'Safe Meat and Poultry Inspection Panel' established by section 410 of the Federal Meat Inspection Act shall review and evaluate, as the panel considers necessary, the adequacy, necessity, safety, cost-effectiveness, and scientific merit of—

"(1) inspection procedures of, and work rules and worker relations involving Federal employees employed in, plants inspected under this Act;

"(2) informal petitions or proposals for changes in inspection procedures, processes, and techniques of plants inspected under this Act;

"(3) formal changes in poultry inspection regulations promulgated under this Act, whether in notice, proposed, or final form; and

"(4) such other matters as may be referred to the panel by the Secretary regarding the quality or effectiveness of a safe and cost-effective poultry inspection system under this Act.

"(b) REPORTS.—

"(1) IN GENERAL.—The Safe Meat and Poultry Inspection Panel shall submit to the Secretary a report on the results of each review and evaluation carried out under paragraph (1), including such recommendations as the panel considers appropriate.

"(2) REPORTS ON FORMAL CHANGES.—In the case of a report concerning a formal change in poultry inspection regulations, the report shall be made within the time limits prescribed for formal comments on such changes.".

(b) INTERSTATE SHIPMENT OF STATE-INSPECTED MEAT AND POULTRY.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall submit to Congress recommendations concerning the steps necessary to achieve interstate shipment of—

(1) meat inspected under a State meat inspection program developed and administered under section 301 of the Federal Meat Inspection Act (21 U.S.C. 661); and

(2) poultry inspected under a State poultry product inspection program developed and administered under section 5 of the Poultry Products Inspection Act (21 U.S.C. 454).

SEC. 919. REIMBURSABLE AGREEMENTS.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the "Secretary") may enter into reimbursable fee agreements with persons for preclearance at locations outside the United States of plants, plant products, animals, and articles for movement into the United States.

(b) OVERTIME, NIGHT, AND HOLIDAY WORK.—Notwithstanding any other provision of law, the Secretary may pay an employee of the Department of Agriculture performing services relating to imports into and exports from the United States for overtime, night, and holiday work performed by the employee at a rate of pay established by the Secretary.

(c) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary may require persons for whom preclearance services are performed to reimburse the Secretary for any amounts paid by the Secretary for performance of the services.

(2) CREDITING OF FUNDS.—All funds collected under paragraph (1) shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

(3) LATE PAYMENT PENALTY.—

(A) IN GENERAL.—On failure of a person to reimburse the Secretary for the costs of performance of preclearance services—

(i) the Secretary may assess a late payment penalty; and

(ii) the overdue funds shall accrue interest in accordance with section 3717 of title 31, United States Code.

(B) CREDITING OF FUNDS.—Any late payment penalty and any accrued interest collected under this paragraph shall be credited to the account that incurs the costs and shall remain available until expended without fiscal year limitation.

SEC. 920. OVERSEAS TORT CLAIMS.

(a) IN GENERAL.—The Secretary of Agriculture may pay a tort claim in the manner authorized by section 2672 of title 28, United States Code, if the claim arises outside the United States in connection with activities of individuals who are performing services for the Secretary.

(b) PERIOD FOR PRESENTATION OF CLAIM.—A claim may not be allowed under this section unless the claim is presented in writing to the Secretary of Agriculture within 2 years after the date on which the claim accrues.

(c) FINALITY.—Notwithstanding any other provision of law, an award or denial of a claim by the Secretary of Agriculture under this section is final.

SEC. 921. OPERATION OF GRADUATE SCHOOL OF DEPARTMENT OF AGRICULTURE AS NONAPPROPRIATED FUND INSTRUMENTALITY.

(a) DEFINITIONS.—In this section:

(1) GRADUATE SCHOOL.—The term "Graduate School" means the Graduate School of the Department of Agriculture.

(2) BOARD.—The term "Board" means the General Administration Board of the Graduate School.

(3) DIRECTOR.—The term "Director" means the Director of the Graduate School.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) OPERATION AS NONAPPROPRIATED FUND INSTRUMENTALITY.—On and after the date of enactment of this Act, the Graduate School of the Department of Agriculture shall continue to operate as a nonappropriated fund instrumentality of the United States under the jurisdiction of the Department of Agriculture.

(c) ACTIVITIES OF GRADUATE SCHOOL.—Under the general supervision of the Secretary, the Graduate School shall develop, administer, and provide educational, training, and professional development activities, including educational activities for Federal agencies, Federal employees, nonprofit organizations, other entities, and members of the general public.

(d) FEES AND DONATIONS.—

(1) COLLECTION OF FEES.—The Graduate School may charge and retain fair and reasonable fees for the activities provided by the Graduate School. The amount of the fees shall be based on the cost of the activities to the Graduate School.

(2) ACCEPTANCE OF DONATIONS.—

(A) ACCEPTANCE AND USE AUTHORIZED.—The Graduate School may accept, use, hold, dispose, and administer gifts, bequests, and devises of money, securities, and other real or personal property made for the benefit of, or in connection with, the Graduate School.

(B) EXCEPTION.—The Graduate School shall not accept a donation from a person that is actively engaged in a procurement activity with the Graduate School or has an interest that may be substantially affected by the performance or nonperformance of an official duty of a member of the Board or an employee of the Graduate School.

(3) NOT FEDERAL FUNDS.—Fees collected under paragraph (1) and amounts received under paragraph (2) shall not be considered to be Federal funds and shall not be required to be deposited in the Treasury of the United States.

(e) GENERAL ADMINISTRATION BOARD AND DIRECTOR.—

(1) APPOINTMENT AS GOVERNING BOARD.—The Secretary shall appoint a General Administration Board to serve as a governing board for the Graduate School and to supervise and direct the activities of the Graduate School. The Board shall be subject to regulation by the Secretary.

(2) DUTIES OF BOARD.—The Board shall—

(A) formulate broad policies in accordance with which the Graduate School shall be administered;

(B) take all steps necessary to ensure that the highest possible educational standards are maintained by the Graduate School;

(C) exercise general supervision over the administration of the Graduate School; and

(D) establish such bylaws, rules, and procedures as may be necessary for the fulfillment of the duties described in subparagraphs (A), (B), and (C).

(3) APPOINTMENT OF DIRECTOR AND OTHER OFFICERS.—The Board shall select a Director and such other officers as the Board considers necessary to administer the Graduate School. The Director and other officers shall serve on such terms and perform such duties as the Board may prescribe.

(4) DUTIES OF DIRECTOR.—The Director shall be responsible, subject to the supervision and direction of the Board, for carrying out the functions of the Graduate School.

(5) BORROWING AND INVESTMENT AUTHORITY.—The Board may authorize the Director—

(A) to borrow money on the credit of the Graduate School; and

(B) to invest funds held in excess of the current operating requirements of the Graduate School for purposes of maintaining a reasonable reserve.

(6) LIABILITY.—The Director and the members of the Board shall not be held personally liable for any loss or damage that may accrue to the funds of the Graduate School as the result of any act or exercise of discretion performed in carrying out their duties under this section.

(f) EMPLOYEES.—Employees of the Graduate School are employees of a nonappropriated fund instrumentality and shall not be considered to be Federal employees.

(g) NOT A FEDERAL AGENCY.—The Graduate School shall not be considered to be a Federal agency for purposes of—

(1) the Federal Advisory Committee Act (5 U.S.C. App.);

(2) section 552 or 552a of title 5, United States Code; or

(3) chapter 171 of title 28, United States Code;

(h) ACQUISITION AND DISPOSAL OF PROPERTY.—In order to carry out the activities of the Graduate School, the Graduate School may—

(1) acquire real property in the District of Columbia and in other places by lease, purchase, or otherwise;

(2) maintain, enlarge, or remodel any such property;

(3) have sole control of any such property; and

(4) dispose of real and personal property without regard to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(i) CONTRACT AUTHORITY.—The Graduate School may enter into contracts without regard to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) or any other law that prescribes procedures for the procurement of property or services by an executive agency.

(j) USE OF DEPARTMENT FACILITIES AND RESOURCES.—The Graduate School may use the facilities and resources of the Department of Agriculture, on the condition that any costs incurred by the Department that are attributable solely to Graduate School operations and all costs incurred by the Graduate School arising out of such operations shall be paid using funds of the Graduate School. Federal funds may not be used to pay the costs.

SEC. 922. STUDENT INTERNSHIP PROGRAMS.

(a) STUDENT INTERN SUBSISTENCE PROGRAM.—

(1) DEFINITION OF STUDENT INTERN.—In this subsection, the term "student intern" means a person who—

(A) is employed by the Department of Agriculture (referred to in this section as the "Department") to assist scientific, professional, administrative, or technical employees of the Department; and

(B) is a student in good standing at an institution of higher education (as defined in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141)) pursuing a course of study related to the field in which the person is employed by the Department.

(2) PAYMENT OF CERTAIN EXPENSES BY THE SECRETARY.—The Secretary of Agriculture (referred to in this section as the "Secretary") may, out of user fee funds or funds appropriated to any agency of the Department, pay for lodging expenses, subsistence expenses, and transportation expenses of a student intern at the agency (including expenses of transportation to and from the student intern's residence at or near the institution of higher education attended by the student intern and the official duty station at which the student intern is employed).

(b) COOPERATION WITH ASSOCIATIONS OF COLLEGES AND UNIVERSITIES.—

(1) AUTHORITY TO COOPERATE.—Notwithstanding chapter 63 of title 31, United States Code, the Secretary may enter into cooperative agreements on an annual basis with 1 or more associations of institutions of higher education (as defined in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141)) for the purpose of providing for Department participation in internship programs for graduate and undergraduate students who are selected by the associations from students attending member institutions of the associations and other institutions of higher education.

(2) INTERNSHIP PROGRAM.—An internship program supported under this subsection (referred to in this subsection as an "internship program") shall provide work assignments for students within the Department and such other activities as the association that enters into the cooperative agreement under paragraph (1) with respect to the internship program (referred to in this subsection as the "cooperating association") and the Secretary shall determine. The nature of Department participation in an internship program shall be developed jointly by the Secretary and the cooperating association.

(3) PROGRAM COORDINATION.—The cooperating association shall coordinate an internship program, including—

(A) the recruitment of students;

(B) arrangements for travel of the students to Washington, District of Columbia, and to agency field locations;

(C) the provision of housing for students, if required; and

(D) all activities for the students that take place outside the Department work assignments of the students.

(4) NUMBER AND SELECTION OF STUDENTS.—

(A) NUMBER.—A cooperative agreement entered into under paragraph (1) shall specify the number of students that the Department will host each year and a list of work assignments to be provided for the students.

(B) SELECTION.—The cooperating association shall provide the Department with a pool of student candidates meeting the requirements for each work assignment identified by the Secretary. Final selection of the students for Department internship positions shall be made by the Secretary.

(5) COST REIMBURSEMENT.—From such amounts as the Secretary determines are available each fiscal year for internship programs, and subject to such regulations as the Secretary may issue, the Secretary may reimburse a cooperating association for the Department share of all direct and indirect costs of an internship program, including student stipends, transportation costs to the internship site, and other costs of an internship program.

(6) LEAD AGENCY.—The Secretary may designate a lead agency within the Department to carry out this subsection.

(7) INTERAGENCY AGREEMENTS.—Agencies and offices within the Department other than the lead agency—

(A) may enter into interagency agreements with the lead agency to provide work assignments for students participating in an internship program; and

(B) shall reimburse the lead agency for the direct and indirect costs of each student assigned to the agency under an internship program.

(8) FEDERAL EMPLOYEE STATUS.—A student who participates in an internship program shall not be considered a Federal employee, except for purposes of chapter 81 of title 5, and chapter 171 of title 28, United States Code.

SEC. 923. CONVEYANCE OF EXCESS FEDERAL PERSONAL PROPERTY.

Notwithstanding any other provision of law, the Secretary of Agriculture may—

(1) convey title to excess Federal personal property owned by the Department of Agriculture, with or without monetary compensation and for such purposes as are determined by the Secretary, to—

(A) any of the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103-382; 7 U.S.C. 301 note));

(B) any Hispanic-serving institution (as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))); and

(C) any college or university eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University; and

(2) acquire from, exchange with, or dispose of personal property to other Federal departments and agencies without monetary compensation in furtherance of the purposes of this section.

SEC. 924. CONVEYANCE OF LAND TO WHITE OAK CEMETERY.

(a) IN GENERAL.—

(1) RELEASE OF INTEREST.—After execution of the agreement described in subsection (b), the Secretary of Agriculture shall release the condition stated in the deed on the land described in subsection (c) that the land be used for public purposes, and that if the land is not so used, that the land revert to the United States. The release shall be on the condition that the land be used exclusively for cemetery purposes, and that if the land is not so used, that the land revert to the United States.

(2) BANKHEAD-JONES FARM TENANT ACT.—Section 32(c) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(c)) shall not apply to the release under paragraph (1).

(b) AGREEMENT.—The Secretary of Agriculture shall make the release under subsection (a) on execution by the Board of Trustees of the University of Arkansas, in consideration of the release, of an agreement, satisfactory to the Secretary of Agriculture, that—

(1) the Board of Trustees will not sell, lease, exchange, or otherwise dispose of the land described in subsection (c) except to the White Oak Cemetery Association of Washington County, Arkansas, or a successor organization, for exclusive use for an expansion of the cemetery maintained by the Association or successor organization; and

(2) the proceeds of such a disposition of the land will be deposited and held in an account open to inspection by the Secretary of Agriculture, and used, if withdrawn from the account, for public purposes.

(c) LAND DESCRIPTION.—The land described in this subsection is the land conveyed to the Board of Trustees of the University of Arkansas, with certain other land, by deed dated November 18, 1953, comprising approximately 2.2 acres

located within property of the University of Arkansas in Washington County, Arkansas, commonly known as the "Savor property" and described as follows:

The part of Section 20, Township 17 north, range 31 west, beginning at the north corner of the White Oak Cemetery and the University of Arkansas Agricultural Experiment Station farm at Washington County road #874, running west approximately 330 feet, thence south approximately 135 feet, thence southeast approximately 384 feet, thence north approximately 330 feet to the point of beginning.

SEC. 925. SALE OF LAND BY THE UNIVERSITY OF ARKANSAS.

The Act of March 2, 1887 (commonly known as the "Hatch Act of 1887") (7 U.S.C. 361a et seq.) shall not apply to the sale by the University of Arkansas of the approximately 103.52 acres of land in Washington County, Arkansas, owned by the University and commonly known as the "Walker Tract", if the sale is made on the condition that all of the proceeds of the sale are used for agricultural research facilities and programs of the University of Arkansas.

SEC. 926. DESIGNATION OF DALE BUMPERS SMALL FARMS RESEARCH CENTER.

(a) IN GENERAL.—The small farms research facility of the Agricultural Research Service located near Booneville, Arkansas, shall be known and designated as the "Dale Bumpers Small Farms Research Center".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the research facility referred to in subsection (a) shall be deemed to be a reference to the "Dale Bumpers Small Farms Research Center".

SEC. 927. DEPARTMENT OF AGRICULTURE WASHINGTON AREA STRATEGIC SPACE PLAN.

The Secretary of Agriculture may obligate not more than $5,000,000, from funds appropriated for agriculture buildings and facilities and rental payments, for the improvement of State and local roads relating to the construction of an office complex at the Beltsville Agriculture Research Center, Maryland, as part of the implementation of the Department of Agriculture Washington Area Strategic Space Plan.

SEC. 928. SEVERABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act that can be given effect without regard to the invalid provision or application, and to this end the provisions of this Act are severable.

And the Senate agree to the same.

PAT ROBERTS,
BILL EMERSON,
STEVE GUNDERSON,
THOMAS W. EWING,
BILL BARRETT,
WAYNE ALLARD,
JOHN BOEHNER,
RICHARD POMBO,
E DE LA GARZA,
CHARLIE ROSE,
CHARLIE STENHOLM,
GARY CONDIT,
Managers on the Part of the House.

RICHARD G. LUGAR,
BOB DOLE,
JESSE HELMS,
THAD COCHRAN,
MITCH MCCONNELL,
LARRY E. CRAIG,
PATRICK LEAHY,
HOWELL HEFLIN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2854) to modify the operation of certain agricultural programs, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—AGRICULTURAL MARKET TRANSITION PROGRAM

(1) Short title

The House bill names title 1 the "Agriculture Market Transition Program." (Section 1)

The Senate amendment names the bill the "Agriculture, Reform and Improvement Act" and title 1 "The Agriculture Market Transition Act." (Section 101)

The Conference substitute adopts the Senate provision with an amendment naming the bill the Federal Agriculture Improvement and Reform Act (Section 1) and title I the Agriculture Market Transition Act. (Section 101)

SUBTITLE A—PURPOSE AND DEFINITIONS

(2) Purpose

The House bill states that it is the purpose of this title to authorize the use of binding production flexibility contracts between the United States and producers; to make nonrecourse marketing assistance loans; to improve the operation of the peanut and sugar programs and; to terminate price support authority under the Agriculture Act of 1949. (Section 101)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment deleting the reference to the Agriculture Act of 1949 and adding a reference to the establishment of the Commission on 21st Century Production Agriculture. (Section 101)

(3) Definitions

The House bill, in Section 102 contains definitions of terms used throughout Title I. "Contract commodity" includes wheat, corn, grain sorghum, barley, oats, upland cotton, and rice; "contract acreage" means one or more crop acreage bases established under title V of the Agricultural Act of 1949 that would have been in effect for the 1996 crop; and "loan commodity" means each contract commodity, plus extra long staple cotton and oilseeds.

The Senate amendment, in Section 102, achieves the same purpose but for technical differences.

The Conference substitute adopts the House provision with technical amendments. (Section 102)

SUBTITLE B—PRODUCTION FLEXIBILITY CONTRACTS

(4) Offers and terms

The House bill, in Section 103(a), in paragraph (1), authorizes the Secretary to enter into 7-year production flexibility contracts between 1996 and 2002 with eligible owners and operators on a farm containing eligible farmland. In exchange for annual payments under the contract, the owner or operator must agree to comply with the applicable conservation plan for the farm, the wetland protection requirements of title XII of the Food Security Act of 1985, and the planting flexibility requirements of subsection (j). The land under a contract must be maintained in an agricultural or related activity; conversion to a non-agricultural commercial or industrial use.

The Senate amendment, in Section 103, is similar but does not restrict land subject to a contract to an agricultural use.

The Conference substitute adopts the House provision with technical amendments removing references to the "conservation plan" and instead requiring compliance with highly erodible land and wetlands restrictions from the Food Security Act of 1985. (Section 111(a))

(5) Eligible owners and operators described

The House bill, in Section 103(a), in paragraph (2), describes eligible owners and operators, that include:

(A) an owner who assumes all risk of producing a crop;

(B) an owner who shares in the risk of producing a crop;

(C) an operator with a share-rent lease regardless of the length of such lease if the owner also enters into the contract;

(D) an operator with a cash rent lease that expires on or after September 30, 2002, in which case the consent of the owner is not required;

(E) an operator with a cash rent lease that expires before September 30, 2002, and the owner consents to the contract;

(F) an owner with a cash rent lease, but only if the operator declines to enter into a contract, in which case payments under the contract will not begin until the fiscal year following the year in which the lease expires; and

(G) an owner or operator regardless of whether the owner or operator purchased catastrophic risk protection for a fall-planted 1996 crop.

The Senate amendment, in Section 103(a)(2), is identical but for technical differences.

The Conference substitute adopts the House provision with technical amendments that replaced references to "operator" with "producers" and that further clarify contract eligibility.

The Managers do not intend that there be any substantial change in the existing landlord-tenant policy at USDA, which has functioned successfully for several decades. State law on tenancy should continue to govern the relationship between landlords and tenants. Cash-rent landlords are allowed to be signatories of the contract, and if the producer does not enroll all the eligible cropland of a farm into a contract, the consent of the owner is required. However, this is to facilitate orderly transfer and any potential succession situation relating to the contract and creates no additional liability or obligation for the cash-rent landlord. The purchase of catastrophic risk protection for 1996 crops is not a factor for determining contract eligibility. (Section 111(b))

(6) Tenants and sharecroppers

The House bill, in Section 103(a), in paragraph(3), instructs the Secretary to provide adequate safeguards to protect the interests of tenants and sharecroppers.

The Senate amendment is identical but for technical differences.

The Conference substitute adopts the House provision with technical amendments. (Section 111(c))

(7) Eligible cropland described

The House bill, in Section 103(c) describes eligible farmland, which is land that contains a crop acreage base, at least of a portion of which was enrolled in the acreage reduction programs authorized for a crop of rice, upland cotton, feed grains, or wheat and which has served as the basis for deficiency payments in at least one of the 1991 through 1995 crop years. With respect to contracts for acreage enrolled in the CRP, such acreage must have crop acreage base attributable to it.

The Senate amendment, in Section 103 is similar but also provides authority for the Secretary to establish a fair and equitable crop acreage base for beginning farmers.

The Conference substitute adopts the House provision. The Managers note that producers who have certified planted acreage under the 1990 farm bill shall be eligible to participate in the market transition program. (Section 111(d)).

The Managers recognize that USDA has been establishing crop acreage bases (CAB) and program payment yields for each contract commodity that participated in the Acreage Reduction Programs and also any contract commodity that was reported to the county FSA offices as planted, or was reported as conserving use acres, or zero acreage planting protection either to maintain or build CAB's. These CAB's and yields were established in accordance with provisions of Title V of the Agricultural Act of 1949. The Managers intend that these CAB's become known as "contract acreage" and any farm having contract acreage for at least one crop would be eligible to enroll to receive benefits under a Production Flexibility Contract. It is the intent of the Managers that any farm for which a 1996 CAB would have been established under Title V of the Agricultural Act of 1949 would be eligible to enter into a Production Flexibility Contract. A one-time sign-up period would allow producers to decide whether to enroll all or a portion of the contract acreage for each crop. Except for CRP contracts that expire after the fiscal year 1996 sign-up period, producers should not have a later opportunity to participate in the program. The Managers also adopted an amendment allowing an owner or producer to enroll all or a portion of the eligible cropland of a farm and to subsequently reduce the size of the contract acreage. (Section 111(e) and(f))

(8) Elements of contracting

The House bill, in Section 103(b), in paragraph (1), provides that the deadline for entering into a contract is April 15, 1996, except that owners and operators on farms which contain acreage enrolled in the Conservation Reserve Program ("CRP") may enter into a contract upon the expiration of the CRP contract.

The Senate amendment is identical

The Conference substitute adopts the House provision with a technical amendment directing the Secretary to commence sign-up, to the maximum extent practicable, no later than 45 days after enactment and shall end sign-up not later than August 1, 1996. (Section 112(a))

It is the intent of the Managers that lands subject to a CRP contract that expires or is voluntarily terminated after August 1, 1996, and that has an eligible farm program base history, should be eligible to enter into an Agriculture Market Transition contract after that date. A producer who voluntarily terminates a CRP contract should have the option to receive either a prorated CRP payment or a contract payment.

(9) Duration of contract

The House bill, in Section 103(b), in paragraph (2), provides that the contracts shall begin with the 1996 crop year and extend through the 2002 crop year.

The Senate amendment is identical.

The Conference substitute adopts the Senate provision with an amendment allowing a contract to be terminated earlier by a producer or owner. (Section 112(b))

(10) Estimation of contract payments

The House bill, in Section 103(b), in paragraph (3), provides that, at the time a contract is signed, the Secretary shall estimate the anticipated payments that will be made under the contract for at least the first fiscal year.

The Senate amendment is identical.

The Conference substitute adopts the House provision. (Section 112(c))

(11) Time for payment; in general

The House bill, in Section 103(d) establishes the payment dates under the contracts as September 30 of each of the fiscal years 1996 through 2002.

The Senate amendment is identical.

The Conference substitute adopts the Senate provision. (Section 112(d))

(12) Advance payments

The House bill provides that an owner or operator may opt to receive half of each annual payment on December 15 of each year. For the 1996 fiscal year, an owner or operator may elect to receive half of the payment not later than June 15.

The Senate amendment is identical.

The Conference substitute adopts the House provision with an amendment allowing a producer, in fiscal year 1996, to opt to receive a 50 percent advance payment 30 days after the contract is entered into and approved. For the remaining fiscal years, a producer can opt to receive a 50 percent advance payment on December 15 or January 15. The date of this election can be modified in subsequent fiscal years at the option of the producer. (Section 112(d))

(13) Fiscal year amounts

The House bill, in Section 103(e), in paragraph (1), establishes spending limits of:

(A) $5,570,000,000 for FY 1996;
(B) $5,385,000,000 for FY 1997;
(C) $5,800,000,000 for FY 1998;
(D) $5,603,000,000 for FY 1999;
(E) $5,130,000,000 for FY 2000;
(F) $4,130,000,000 for FY 2001; and
(G) $4,008,000,000 for FY 2002.

The Senate amendment is identical.

The Conference substitute adopts the Senate provision. (Section 113(a))

The Managers intend that USDA, to the maximum extent practicable, expend the amounts specified by this section in each fiscal year. Final payment rates for each crop should be calculated based on the amount of all contract production enrolled by all producers for that crop for the fiscal year. Any unexpended amounts in a fiscal year should be added to the amount available for contract payments in the next succeeding fiscal year as specified under section 113(a), except unexpended funds attributable to the application of the payment limitation provisions.

(14) Allocation (commodity)

The House bill, in Section 103(e), in paragraph (2), allocates the yearly amounts among the contract commodities as follows:

(A) wheat, 26.26 percent;
(B) corn, 46.22 percent;
(C) grain sorghum, 5.11 percent;
(D) barley, 2.16 percent;
(E) oats, 0.15 percent;
(F) upland cotton, 11.63 percent; and
(G) rice, 8.47 percent.

The Senate amendment is identical.

The Conference substitute adopts the Senate provision. (Section 112(b))

(15) Adjustment

The House bill, in Section 103(e), in paragraph (3), directs the Secretary to adjust the amounts allocated in paragraph (2), if necessary, by:

(A) adding producer repayments of deficiency payments received during that fiscal year under section 114(a)(2) of the Agricultural Act of 1949;

(B) adding contract payments withheld at the request of producers, during the preceding fiscal year as an offset against repayments of deficiency payments otherwise required under section 114(a)(2) of the Agricultural Act of 1949; and

(C) adding contract payments which are refunded during the preceding fiscal year under section 103(h) for the commodity; and

(D) subtracting payments required under sections 103B, 105B, and 107B of the Agricultural Act of 1949 for the 1994 and 1995 crop years.

The Senate amendment, in Section 103(e), in paragraph (3), directs the Secretary to adjust the amounts allocated in paragraph (2), if necessary, by:

(A) subtracting payments (final deficiency payments) required under sections 103B, 105B, and 107B of the Agricultural Act of 1949 for the 1994 and 1995 crop years;

(B) adding any required producer repayments of deficiency payments received during that fiscal year under section 114(a)(2) of the Agricultural Act of 1949;

(C) adding contract payments withheld at the request of producers, during the preceding fiscal year as an offset against repayments of deficiency payments otherwise required under section 114(a)(2) of the Agricultural Act of 1949; and

(D) adding contract payments which are refunded during the preceding fiscal year under section 103(h) for the commodity.

The Conference substitute adopts the House provision with an amendment directing the Secretary to adjust the amounts allocated for each contract commodity under subsection (b) in a particular fiscal year by:

(1) adding all repayment of deficiency payments required under section 114(a)(2) of the Agriculture Act of 1949;

(2) adding all contract payment refunds received the previous year under section 116; and

(3) subtracting payments made during that fiscal year under sections 103B, 105B, or 107B of the Agricultural Act of 1949 for the 1994 and 1995 crop years. (Section 113(c))

(16) Additional rice allocation

The House bill, in Section 103(e), in paragraph (4), requires the Secretary to determine the amount necessary to make the remaining payments under section 101B of the Agriculture Act of 1949 for the 1994 and 1995 crops of rice. The Secretary is directed to subtract this amount, in equal installments, from the amount in paragraph (2)(G) available for rice.

The Senate amendment, in Section 103(e), in paragraph (3), directs the Secretary to increase the amount available for rice in paragraphs (1), (2) and (3), by $17,000,000 for each of fiscal years 1997 through 2002.

The Conference substitute adopts the Senate provision with an amendment reducing the amount to $8,500,000 for each of fiscal years 1997 through 2002. (Section 113(d))

The Managers adopted an amendment to ensure that the total amounts available for contract payments shall be reduced by the total amount of payments foregone due to payment limitations, and that the portion of a contract payment that is attributed to repayment of advance deficiency payments for the 1994 and 1995 crop years does not apply to the payment limitation for subsequent years. However, such payment should not exceed $50,000. (Section 113 (e) and (f))

(17) Determination of contract payments

The House bill, in Section 103(f) provides the method for determining payments under a particular contract:

Paragraph (1) establishes the process for determining the payment quantity of a contract commodity, which is the product of 85 percent of the contract acreage and the farm program payment yield for the commodity.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision. (Section 114 (a))

(18) Annual Payment quantity of contract commodities

The House bill, in Paragraph (2) provides that the payment quantity of each contract commodity covered by all contracts for each fiscal year shall equal the sum of all the payment quantities under paragraph (1).

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision. (Section 114(b))

(19) Annual payment rate

The House bill, in Paragraph (3) provides that the annual payment rate for a contract commodity shall be the amount made available under 103(e) for the commodity divided by the total payment quantity under paragraph (2).

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision. (Section 114(c))

(20) Annual payment amount

The House bill, in Paragraph (4) provides that the payment amount to be paid under a contract shall be equal to the product of the payment quantity determined under paragraph (1) and the payment rate determined under paragraph (3).

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision with an amendment that the annual payment amount is the sum of payments for all contract commodities and that contract payments shall be reduced by an amount equal to any required repayment of advance deficiency payments under section 114(a)(2) of the Agriculture Act of 1949.

The Managers adopted an amendment to direct the Secretary to collect repayments as soon as contract payments are determined. (Section 114(d) and (e))

(21) Assignment of contract payments

The House bill, in Paragraph (5) provides that the provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act relating to assignment of payments shall apply to contract payments, and requires that the owner, operator, or assignee to notify the Secretary of such assignment.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision with a technical amendment. (Section 114(f))

(22) Sharing of contract payments

The House bill, in Paragraph (6) directs the Secretary to allow for the sharing of payments among owners and operators in a fair and equitable manner.

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision with a technical amendment.

The Managers intend that the Production Flexibility Contracts ensure a fixed payment based on section 113 and 114 for seven years. The contracts are farm specific and apply to that farm for the seven-year term of the contract. However, it is the intent of the Managers that the division of payments and the producers on a contract could change each year to reflect the producers on the farm for that year. Changes in producers on a farm could result from changes in rental agreements, ownership, or other changes to a farming operation. The purpose of this program is to transition producers who have been earning deficiency payments from government-driven planting decisions to market-driven planting decisions. The Managers intend that USDA administer this program to generally ensure consistency with current regulations relating to the division of payments and fair treatment of tenants and landowners. Past payment history on a farm should also be considered when determining eligible producers and payment divisions. Owners who follow State tenancy laws and timely notify tenants should have the ability to change renters and rental arrangements and change Production Flexibility Contracts to reflect those changes. (Section 114(g))

(23) Payment limitation, applicability

The House bill, in Section 103(g) provides that the total amount of payments under a contract during any fiscal year may not exceed the payment limitation established under sections 1001 through 1001C of the Food Security Act of 1985.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision. (Section 115)

(24) Payment limitation

The House bill, in Section 105(a) amends section 1001 of the Food Security Act of 1985 to provide that the total amount of contract payments to a person under section 103 of this Act may not exceed $40,000 during any fiscal year, and that the total amount of marketing loan gains or loan deficiency payments to a person under section 104 of this Act may not exceed $75,000.

Section 105(b) makes necessary conforming changes to the Food Security Act of 1985 and the Agricultural Reconciliation Act of 1987.

The Senate amendment, in Section 105, contains a similar provision but for technical differences.

The Conference substitute adopts the House provision with a technical amendment. (Section 115(b))

(25) Violations of contract

The House bill, in Section 103(h), in paragraph (1), authorizes the Secretary to terminate a contract if an owner or operator violates the farm's conservation compliance plan, wetland protection requirements, planting flexibility provisions, or agricultural use restrictions. Upon termination, the owner or operator forfeits future payments and must refund payments received during the period of the violation, with interest as determined by the Secretary.

Section 103(h), in paragraph (2), provides that, if the Secretary determines that the nature of the violation does not warrant termination of the contract as provided in paragraph (1), the Secretary may—

(A) require a partial refund with interest; or

(B) adjust future contract payments.

The Senate amendment, in Section 103(h), contains an identical provision but for technical differences.

The Conference substitute adopts the House provision. (Section 116)

(26) Foreclosure (effect of violation)

The House bill, in Section 103(h), in paragraph (3), prohibits the Secretary from requiring repayments from an owner or operator if farmland which is subject to the contract is foreclosed upon and the Secretary determines that forgiving such repayments is appropriate in order to provide fair and equitable treatment. This authority does not void the responsibilities of such owner or operator if the owner or operator continues or resumes control or operation of the property subject to the contract, and in effect reinstate the contract.

Section 103(h), in paragraph (4), provides that a determination by the Secretary under this subsection shall be considered as an adverse decision for purposes of administrative review.

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision. (Section 116(c))

(27) Transfer of interest in lands subject to contract

The House bill, in Section 103(i), in paragraph (1), provides for transfers of land subject to a contract. The Secretary is to carry out this paragraph in such a manner to ensure that the reconstitution of a farm in association with a transfer results in no additional outlays. Upon a transfer, a contract is automatically terminated unless the transferee agrees to assume all obligations under the contract. A transferee may request modifications to a contract before assuming it, if the modifications are consistent with the objectives of this section as determined by the Secretary.

Section 103(i), in paragraph (2), authorizes the Secretary to issue regulations regarding contract payments in instances in which an owner or operator dies, becomes incompetent, or is otherwise unable to receive a contract payment.

The Senate amendment contains a similar provision.

The Conference substitute adopts the House provision with a technical amendment. (Section 117)

(28) Planting flexibility; permitted crops

The House bill, in Section 103(j), in paragraph (1) provides that, subject to the restrictions in paragraph (2)(A), any commodity or crop may be planted on contract acreage.

The Senate amendment, in Section 103(j), contains a similar provision.

The Conference substitute adopts the Senate provision. (Section 118)

(29) Haying and grazing

In the House bill, Subparagraph (A) allows unlimited haying and grazing on 15% of contract acreage, and unlimited haying and grazing of contract acreage planted to a contract commodity during the crop year.

Subparagraph (A) also provides that haying and grazing of contract acreage shall be permitted, except during the 5-month period designated by the State Committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act between April 1 and October 31st of each year.

The Secretary may permit unlimited haying and grazing on eligible farmland in cases of a natural disaster.

The Senate amendment contains a similar provision but for technical differences.

The Conference substitute adopts the House provision with an amendment to strike the provision. It is the intent of the Managers that the haying and grazing of any commodity or crop should be allowed on contract acreage without restriction, and without a reduction in contract payments.

(30) Alfalfa

The House bill, in subparagraph (B) provides that the planting and harvesting of alfalfa on contract acreage shall be unlimited, except that the quantity of acreage eligible for a contract payment shall be reduced proportionately for each acre beyond 15 percent on which alfalfa is planted and harvested.

The Senate amendment contains a similar provision but for technical differences.

The Conference substitute adopts the Senate provision with an amendment to strike the provision.

(31) Fruits and vegetables

In the House bill, Paragraph (2) prohibits the planting of fruits and vegetables on contract acreage, except in any region with a history of double cropping, as determined by the Secretary. This restriction does not apply to contract commodities, lentils, mung beans, and dry peas.

The Senate amendment, contains a similar provision except that the planting of fruits and vegetables is allowed only on a farm with a history of double cropping.

The Conference substitute adopts the House provision with an amendment:

Subparagraph (A): the double-cropping of fruits or vegetables in association with a contract commodity on contract acres is allowed in any region with a history of such practice, as determined by the Secretary, regardless of the planting history of an individual farm;

Subparagraph (B): a fruit or vegetable can be grown without limitation on any farm with a history of fruit or vegetable production on contract acres, except that a contract payment shall be reduced by one acre for each contract acre planted to a fruit or vegetable in that year; and,

Subparagraph (C): a producer with a history of production of a specific fruit or vegetable, as determined by the Secretary, is allowed to rent or lease contract acres to grow that fruit or vegetable, on any farm, without respect to the planting history of the individual farm. The number of acres so leased or rented cannot exceed the average acres rented or leased by that producer in crop years 1991–1995. Years of no production are not included in the average, and for each contract acre so rented or leased, the contract payment shall be reduced by one acre. (Section 118)

The Managers intend for the Secretary to administer the exceptions to the fruits and vegetable planting prohibitions as three distinctly separate situations. With respect to subparagraphs (A), (B), and (C), any perceived limitation in one subparagraph should not limit flexibility in any other subparagraph. (Section 118)

SUBTITLE C—NONRECOURSE MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS

(32) Nonrecourse marketing assistance loans and loan deficiency payments

The House bill, in Section 104(a), in paragraph (1), directs the Secretary to make nonrecourse marketing assistance loans available to eligible producers of loan commodities for each of the 1996 through 2002 crops of such commodities under terms and conditions prescribed by the Secretary at rates established under section 104(b).

Section 104(a), in paragraph (2), provides that the amount of production eligible for a marketing assistance loan includes all production of a loan commodity produced by a producer who has entered into a contract, and any production of extra long staple cotton or oilseeds.

Section 104(a), in paragraph (3), establishes recourse loans for high moisture feed grains. Eligibility shall be limited to the product of the harvested acreage of high moisture feed grains and the lower of the payment yield or actual yield on a field.

Section 104(b), in paragraph (1), provides that the loan rate for wheat is not less than 85 percent of the 5-year Olympic average, with a maximum of $2.58 per bushel, and the Secretary has authority to further decrease the loan rate in a particular year based on stocks-to-use ratios.

Section 104(b), in paragraph (2), provides that the loan rate for corn is not less than 85 percent of the 5-year Olympic average, with a maximum of $1.89 per bushel, and the Secretary has authority to further reduce the loan rate in a particular year based on stocks-to-use ratios. Loan rates for other feed grains are to be set at rates which are fair and reasonable in relation to the rate for corn.

Section 104(b), in paragraph (3), provides that the loan rate for upland cotton shall be not less than the smaller of:

(i) 85 percent of the average U.S. spot market price during the preceding 5 marketing years, excluding the highest and lowest-price years, or

(ii) 90 percent of the average price of the 5 lowest priced growths quoted for Northern Europe during a specified period, adjusted downward to account for differences between the Northern Europe and U.S. spot market prices.

However, in any case, the loan rate shall not be less than $0.50 per pound nor more than $0.5192 per pound.

Section 104(b), in paragraph (4), provides that the loan rate for extra long staple cotton shall be not less than 85 percent of the 5-year Olympic average, with a maximum of $0.7965 per pound.

Section 104(b), in paragraph (5), provides that the loan rate for rice shall be $6.50 per hundredweight.

Section 104(c) provides that the term of a loan shall be nine months, except that a loan for upland or extra long staple cotton shall be ten months, starting on the first day of the first month after the month in which the loan is made. The Secretary may not extend loans.

The Senate amendment contains an identical provision, but did not establish non-recourse loans for high-moisture feedgrains.

The Conference substitute adopts the House position with a technical amendment to the reference period used to establish cotton loan levels. The Managers intend that no change in cotton loan rates shall result from this technical change. The Managers adopted a technical amendment limiting upland cotton loans to a ten month period and specifying that only contract commodities produced on a contract farm are eligible for a marketing or non-recourse loan. The Managers adopted an amendment directing the Secretary to carry out this subtitle in a manner to ensure that no additional outlays result from the reconstitution of farms. (Section 131, 132 and 133)

The Managers also agreed to establish a recourse loan program for high-moisture feedgrains and seed cotton. (Section 137)

The Managers understand that the Secretary currently has authority to make a recourse loan available to producer on seed cotton (cotton which has been harvested but not ginned). This provision simply extends current law. The regulations governing the recourse seed cotton loan establish very strict repayment requirements. Since the loan must be repaid in a timely manner and repayment virtually always, with the exception of cotton harvested in the early production areas of the Lower Rio Grande Valley, occurs in the same fiscal year there should be minimal if any cost associated with extending this authority.

(33) Oilseeds

The House bill, in Section 104(b), in paragraph (6), provides that the loan rate for oilseeds: soybeans are $4.92 per bushel, sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed are $0.087 per pound; and other oilseeds are set a level that is fair and reasonable in relation to the loan rate available for soybeans (not to exceed other oilseeds).

The Senate amendment, in Section 104(b), in paragraph (6), provides that the loan rate for oilseeds shall be not less than 85 percent of the 5-year Olympic average market price. The soybean minimum loan is $4.92 per bushel and the maximum is $5.26 per bushel; the minimum loan for sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed is $0.087 per pound and the maximum is $0.93 per pound; and other oilseeds are set a level that is fair and reasonable in relation to the loan rate available for soybeans (not to exceed other oilseeds).

The Conference substitute adopts the Senate provision. (Section 132 (f))

(34) Repayment of loans

The House bill, in Section 104(d) establishes repayment provisions for loan commodities at the lesser of:

(A) the loan rate; or

(B) the prevailing world market price (adjusted to U.S. quality and location).

Paragraph (2) sets additional repayment rates for wheat, feedgrains and oilseeds at the level that will:

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodities by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodities; and

(D) allow the commodities produced in the United States to be marketed freely and competitively, both domestically and internationally.

Paragraph (3) sets the repayment rate for extra long staple cotton at the loan rate plus interest.

Paragraph (4) instructs the Secretary to prescribe by regulation a formula to determine the prevailing world market price and a mechanism to periodically announce the prevailing world market price.

Paragraph (5) provides upland cotton prevailing world market price adjustment authority based on the Northern Europe price differential, with further adjustment authority based on the U.S. export share, current cotton exports and sales, and other data determined by the Secretary to be relevant. Such adjustments may not exceed the difference between the average U.S. price and the Northern Europe price.

Section 104(e) directs the Secretary to make loan deficiency payments to producers who forgo obtaining a loan under subsection (a) in an amount equal to the difference between the loan rate for a commodity and the level at which it may be repaid. However, there is no authority for loan deficiency payments for extra long staple cotton.

Section 104(f) provides special marketing loan provisions for upland cotton.

Paragraph (1) extends the first handler marketing certificate provisions through July 31, 2003, under which certificates (which may be redeemed for CCC-owned commodities) or cash payments must be made available to first handlers of cotton whenever the prevailing market price (adjusted for U.S. quality and location) is below the current loan repayment rate. The values of the certificates (or the amount of the payment) is based on the difference between the adjusted world price and the loan repayment level.

The Senate amendment contains a similar provision but for technical differences.

The Conference substitute adopts the House position with an amendment directing the Secretary to set the repayment rate for wheat, feedgrains and oilseeds at the lesser of the loan rate plus interest or the rate that the Secretary determines will minimize forfeitures, accumulation of stocks, cost to the government and that will allow the commodity to marketed freely and competitively, both domestically and internationally. The repayment rate for cotton and rice shall be the lesser of the loan rate plus interest or the prevailing world market price and the repayment rate for extra-long staple cotton shall be the loan rate plus interest. (Sections 134 and 135)

To continue to achieve the objectives of minimizing forfeitures, the accumulation of stocks, and government costs while promoting competitive marketing in domestic and international markets, the Managers expect the Secretary to extend the provisions of current regulations governing entry into the marketing assistance loan and establishment of the repayment rate for the marketing assistance loan. The Managers recognize that the regulations vary by commodity and expect the Secretary to continue to establish regulations which reflect differences in normal commercial practices for the affected commodity. In particular, the Managers expect the Secretary to continue to establish the prevailing world price for upland cotton in the same manner utilized for the 1991 through 1995 crops.

(35) Step 2

The House bill, in Paragraph (1) extends the cotton user marketing certificate provisions (commonly known as "Step 2" provisions), which requires the Secretary to make payments, either in cash or marketing certificates, to domestic users and exporters for documented purchases whenever (i) the weekly U.S. Northern Europe price exceeds the Northern Europe price by more than 1.25 cents per pound for a consecutive four-week period; and (ii) the adjusted world market price does not exceed 130 percent of the loan rate. However, no payments will be issued if, for the preceding consecutive 10-week period, the weekly U.S. Northern Europe price, adjusted for the value of any certificates or payments issued, exceeds the Northern Europe price by more than 1.25 cents per pound. The value of the certificates (or the amount of the payments) is the difference between the two prices, minus 1.25 cents, per pound. Payments under this paragraph may not exceed $701,000,000 between fiscal years 1996 through 2002.

Paragraph (2) extends special import quota provisions (commonly known as "Step 3") which requires that a special import quota be opened if, for a consecutive 10-week period, the U.S. Northern Europe price, adjusted for the value of any payments issued under Step 2, exceeds the Northern Europe price by more than 1.25 cents per pound. The amount of the quota is equal to 1 week's domestic mill consumption. Importers have 90 days to purchase and 180 days to enter the cotton into the U.S. after the quota is announced, and quota periods can overlap.

Section 104(g) extends the limited global import quota provisions, which direct the President to carry out an upland cotton import quota program whenever the Secretary determines and announces that the average price in designated U.S. spot markets for a month, as determined by the Secretary, exceeded 130 percent of such average price for the last 36 months. The quantity of this import quota is equal to 21 days of domestic mill consumption, but this quota cannot overlap with any quota announced under section 104(f).

The Senate amendment is identical but for technical differences.

The Conference substitute adopts the Senate provision with technical amendments. (Section 136)

The Managers are aware that while the cotton marketing certificates have contributed to the goal of maintaining the competitive position of U.S. cotton in domestic and international markets, there has been concern about the adverse implications associated with the so-called "bunching" of export sales registrations. The Managers expect and urge the Secretary to issue a regulation which will eliminate, to the extent practicable, the so-called "bunching" of export sales registrations without significantly disrupting the normal marketing process for upland cotton in domestic and export markets.

The Managers intend that Secretary should carefully consider issuing regulations such that if the spending limitation on cotton marketing certificates is reached the special import quota provided in paragraph (3) would be established following a consecutive four-week period in which the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound.

SUBTITLE D—OTHER COMMODITIES

Chapter 1—Dairy

(36) Milk price support program; recourse loan program for commercial processors of dairy products

The House bill reauthorizes the milk price support program for five years with several major changes. It requires the Secretary of Agriculture to support the price of milk through the purchase of butter, nonfat dry milk, and cheese in the 48 contiguous States from the date of enactment through December 31, 2000. (Section 201(a))

The House bill requires that milk containing 3.67 percent butterfat is supported at $10.15 per hundredweight during calendar year 1996; $10.05 during 1997; $9.95 during 1998; $9.85 during 1999; and $9.75 during 2000. (Section 201(b))

The House bill continues the current law requirement that dairy product purchase prices (butter, cheese, and nonfat dry milk) announced by the Secretary of Agriculture be the same for all persons offering to sell product to the Secretary. Purchase prices must be sufficient to enable plants of average efficiency to pay producers on average a price that is not less than the rate of support for milk in effect under Section 201(b). (Section 201(c))

The House bill allows the Secretary of Agriculture to allocate the rate of support between the purchase prices for nonfat dry milk and butter in a manner that will minimize Commodity Credit Corporation expenditures or achieve other objectives as the Secretary considers appropriate. The Secretary is required to notify the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition and Forestry of the allocation within ten days after it is announced, but the Secretary may not make such adjustments more than twice each calendar year. (Section 201(d))

The House bill requires the Secretary of Agriculture to refund assessments on milk marketings which occurred prior to enactment under Section 204(h)(2) of the Agricultural Act of 1949 during calendar year 1995 or 1996, if the producer provides evidence that the producer did not increase marketings in 1995 or 1996 compared to 1994 or 1995, respectively. This subsection shall not apply for a particular calendar year if a producer has already received a refund under Section 204(h) of the Agricultural Act of 1949 for the same fiscal year before the date of enactment of this Act. Refunds under this section shall not be considered as price support or payment for purposes of producer violations of conservation compliance or wetlands conservation. (Section 201(e))

The House bill authorizes the Secretary to carry out this program through the Commodity Credit Corporation. (Section 201(f))

The House bill also terminates authority for the price support program on December 31, 2000, notwithstanding Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985. (Section 201(g))

The Senate amendment retains the current law milk price support program without change. The price support program is authorized through the end of calendar year 1996. Section 201(c) of the Agricultural Act of 1949, which requires the Secretary to support the price of milk at not less than 75 percent of parity, is applicable thereafter.

The Conference substitute adopts the House position with two amendments. The first amendment continues a milk price support program through December 31, 1999 at a price support level of $10.35/cwt in 1996, $10.20/cwt in 1997, $10.05/cwt in 1998, and $9.90/cwt in 1999 and exempts the Secretary's actions with respect to changing the allocation for the purchase prices of butter and nonfat dry milk from informal rulemaking procedures. It is also the managers' intent that among the 'other objectives' the Secretary should pursue when adjusting the support price between butter and nonfat dry milk is the maximization of exports of butter and nonfat dry milk. (Section 141)

The second amendment provides for a recourse loan program for butter, nonfat dry milk, and cheese on January 1, 2000 at the 1999 price support level of $9.90/cwt. The Congressional Budget Office estimates that the recourse loan program will cost approximately $10 million in each of fiscal years 2000–2002 thereby maintaining a baseline for dairy program expenditures during these fiscal years. It is the intent of the managers that a budget baseline be maintained for dairy commodity program outlays in addition to the Dairy Export Incentive Program (DEIP) outlays. (Section 142)

(37) Consolidation and reform of Federal milk marketing orders

The House bill requires the Secretary to amend federal milk marketing orders by consolidating the number of federal orders to between 10 and 14 and to provide for multiple basing points in the pricing of milk (Section 202(a)).

The House bill requires the required consolidation of milk marketing orders to be announced not later than December 31, 1998, and implemented not later than December 31, 2000. The Secretary is also required to use informal rulemaking when consolidating orders (Section 202(b)).

The House bill precludes the Secretary from the use of any funds to administer more than 14 federal milk marketing orders beginning January 1, 2001 (Section 202(c)).

The House bill requires the Secretary to submit to Congress a report that reviews the federal milk marketing order system, in light of the reforms required by subsection (a), and provide recommendations for further improvements and reforms to the federal milk marketing order system. The report must be submitted not later than January 1, 1998. (Section 202(d))

The Senate amendment retains current law.

The Conference substitute adopts the House provision with the following amendments. It requires that the Secretary consolidate the number federal milk marketing orders to not less than 10 and not more than 14 orders. In the process of consolidating orders, the Secretary is authorized to use multiple basing points and utilization rates in pricing fluid milk and to use uniform multiple component pricing when developing a new basic formula price(s) for manufacturing milk. There is no limitation on the number of issues the Secretary may consider when consolidating orders. The Conference substitute requires the Secretary to propose consolidation and pricing reform of milk marketing orders within two years of enactment of this Act, and to implement consolidation and pricing reform within 3 years of enactment of this Act. The Secretary is authorized to use informal rulemaking to address order consolidation and pricing reform, and any issues peripheral to the consolidation process.

The Conference substitute also provides that Section 131 of the Food Security Act of 1985 shall not be considered to affect the consolidation and pricing reform that will occur under this Act. The mere fact that the minimum price for Class I (fluid) milk in an order consolidated under this section is the same or substantially similar to a minimum Class I milk price for a predecessor order(s) listed in the table from Section 131 of the Food Security Act of 1985 shall neither raise a presumption, nor be conclusive, on the issue of whether the Secretary considered, or made the basis of his decision, the table in Section 131 of the Food Security Act of 1985.

The Conference substitute further provides that the Federal milk marketing orders shall, upon the petition and approval by California dairy producers, cover the State of California, in which case that order shall have the right to re-blend and distribute order receipts to recognize quota value. The Managers do not intend in any way to amend, or create an exception for California from the requirements of, federal law (for federal milk marketing orders) regarding producer-handlers.

The Substitute provides that if USDA does not complete consolidation of orders by the end of three years after enactment of this Act, the Department of Agriculture loses authority to assess producers and handlers for market order services and order administration until such consolidation is completed. However, the length of time during which any injunction is applicable against the Department with respect to the consolidation shall be added to the time in which the Department has to complete the consolidation under Subsection (a) paragraph (1). (Section 143)

(38) Effect on fluid milk standards in the State of California

The House bill provides that nothing in this Act or any other provision of law shall preempt, prohibit, or otherwise limit the authority of the State of California from establishing or continuing any law, regulation, or requirement regarding (1) the percentage of milk solids or solids not fat in fluid milk products sold at retail or marketed in the State of California; or (2) the labeling of such fluid milk products with regard to milk solids or solids not fat. (Section 204)

The Senate amendment has no provision.

The Conference substitute adopts the House provision. The conference-adopted bill provides the State of California an exemption from the preemption provisions of any Federal law respecting standards of identity and labeling for fluid milk.

The State of California has had a system for requiring fortified fluid milk since the early 1960's. These fluid milk standards were adopted by the State legislature and any revision of these standards must be approved by the state legislature. These standards apply to all fluid milk sold at retail or marketed in the State of California.

The Managers intend for the State of California to be able to fully enforce and apply its fluid milk standards and their attendant labeling requirements to all fluid milk sold at retail or marketed in the State of California. For purposes of this section, the managers intend "fluid milk" means milk in final packaged form for beverage use. (Section 144)

(39) Milk manufacturing marketing adjustment

The House bill repeals Section 102 of the Food, Agriculture, Conservation, and Trade Act of 1990, which forbids any State from allowing a manufacturing allowance greater than the amount allowed under federal law. (Section 205)

The Senate amendment retains current law.

The Conference substitute adopts the House provision with an amendment that repeals Section 102 and sets interim ceilings for state make allowances of $1.80 for cheese and $1.65 for butter/powder through December 31, 1999. (Section 145)

(40) Promotion; Northeast Interstate Dairy Compact

The House bill states that an additional purpose of the fluid milk promotion program is to promote and expand markets for fluid milk, and not to restrict or otherwise discourage individual promotion or advertising of fluid milk products. (Section 206(a))

The House bill states that the purpose stated in section 206(a) is Congressional policy (Section 206(b)).

The House bill expands the activities considered to be research under the Act. (Section 206(c))

The House bill alters the minimum percentage adoption requirements in any referendum making changes in or terminating the fluid milk promotion order to reflect only those processors actually voting in the referendum. (Section 206(d))

The House bill reauthorizes the fluid milk promotion program through calendar 2002. (Section 206(e))

The Senate amendment has no provision.

The Conference substitute adopts the House provision with two amendments. The first amendment makes technical changes in the Fluid Milk Promotion Program. (Section 146)

The second amendment provides Congressional consent to the Northeast Interstate Dairy Compact as specified in Section 1(b) of Senate Joint Resolution 28 of the 104th Congress subject to certain conditions. The Secretary is authorized to grant the New England region the authority to implement the compact, based upon a finding of a compelling public interest in the region. Such authority shall terminate concurrently with the Administration's implementation of the dairy pricing and Federal milk marketing order reform established under section 143 of this Act. (Section 147)

(41) Dairy export incentive program

The House bill extends authority for the Dairy Export Incentive Program (DEIP) from December 31, 2001 to December 31, 2002. (Section 203(a))

The House bill gives the Secretary sole discretion to accept or reject bids under such criteria as the Secretary deems appropriate. (Section 203(b))

The House bill requires the Secretary to maximize the volume of dairy product exports under DEIP consistent with the obligations of the United States as a member of the World Trade Organization (minus the volume sold under Section 1163 of the Food Security Act of 1985 during that year), except to the extent that such an export volume exceeds the value limitations on DEIP set forth in Subsection (f). It also authorizes DEIP exports anywhere in the world, except to a destination in a country to which exports from the United States are restricted by law. (Section 203(c))

The House bill authorizes the Secretary to increase bonus payments by an amount required to assist in the development of world markets. (Section 203(d))

The House bill requires Commodity Credit Corporation funding for DEIP at the maximum amount consistent with obligations of the United States as a member of the World Trade Organization (minus the amount expended under Section 1163 of the Food Security Act of 1985 during that year). However, DEIP funding may not exceed the dairy product export volume limitations specified in Section 203(c). (Section 203(e))

The Senate amendment retains current law for the Dairy Export Incentive Program.

The Conference substitute adopts the House provision. The Managers intend that only that portion of sales under Section 1163 which are subsidized sales should impact, and therefore decrease, the maximum volume and value limitations noted in this section.

By affording the Secretary of Agriculture the sole discretion to make decisions concerning sales under the DEIP, it is the intent of the Managers to put to rest any interagency disputes over the program. It is the Managers' understanding that the DEIP will use only about 50,000 to 60,000 tons of the total nonfat dry milk tonnage of the 103,000 tons authorized under the Uruguay Round agreement during this year. It is also the Managers' understanding that during the second through fifth years of implementation of the Uruguay Round agreement, that the United States will be allowed to carry over from year to year unused DEIP tonnage under the cumulation rules set out in Article 9, section 2(b) of the WTO Agreement on Agriculture. The Managers recognize that there is a strong desire upon the part of many that the dairy title have a strong export orientation.

The Managers instruct the Department along with the Office of the U.S. Trade Representative to carry over all unused DEIP tonnage in the first and all subsequent years of the Uruguay Round agreement in accordance with WTO cumulation rules. (Section 148)

(42) Authority to assist in establishment and maintenance of one or more export trading companies

The House bill requires the Secretary to provide the dairy industry assistance to establish and maintain an export trading company or companies. (Section 492)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with a technical amendment. (Section 149)

(43) Standby authority to indicate entity best suited to provide international market development and export services

The House bill directs the Secretary to indicate which entity or entities are best suited to facilitate the international market development for U.S. dairy products. (Section 493)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with a technical amendment. (Section 150)

(44) Study and report regarding potential impact of Uruguay Round on prices, income and government purchases

The House bill directs the Secretary to determine the impact on milk prices of additional imports of cheese as a result of the Uruguay Round Agricultural Agreement. (Section 494)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment that any limitation imposed by Congress regarding studies or reports shall not apply with respect to this section. (Section 151)

(45) Promotion of United States dairy products in international markets through dairy promotion program

The House bill requires that no less than 10 percent of the funds available for the Dairy Promotion Program shall be available for development of international markets. (Section 495)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment that makes expenditures on international market development discretionary. (Section 152)

(46) Quota Peanuts

The House bill, in Section 106(a) provides nonrecourse loans to quota peanut producers at $610 per ton, and directs the Secretary to reduce the loan rate by 5 percent to any producer in the current marketing year who had an offer from a handler to purchase quota peanuts at quota support rate or higher but opted to place their peanuts under loan instead.

The Senate amendment is identical except that it contains no provision directing the Secretary to reduce the loan rate by 5 percent.

The Conference substitute adopts the House provision, with an amendment in lieu of the 5 percent loan reduction provision, providing that an individual producer who markets his quota peanut crop, meeting quality requirements for domestic edible use, through the marketing association loan for two consecutive marketing years at a time when the Secretary determines a handler provided the producer with a written offer, upon delivery, for at least quota support price, shall become ineligible for quota price support for the next marketing year. The Secretary shall establish the means by which any decision regarding ineligibility for quota price support may be appealed. (Section 155(a))

(47) Additional peanuts

The House bill, in Section 106(b) provides nonrecourse loans to producers of additional peanuts at such rates as the Secretary finds appropriate.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision with a technical amendment. (155(b))

(48) Area marketing Associations

The House bill, in Section 106(c) directs the Secretary to make price support loans available through area marketing associations via warehouse storage loans, where appropriate, and provides that administrative costs by an area marketing association shall be included in such loans. The Secretary is directed to require area marketing associations to establish and maintain pools for quota peanuts, with separate pools for New Mexico Valencia peanuts, and that net gains from each pool shall be distributed only to producers in the pool.

The Senate amendment contains a similar provision except that only peanuts physically produced in New Mexico may participate in the New Mexico pool. A New Mexico resident may enter an amount of Valencia peanuts into the New Mexico pool that does not exceed the out-of-state quantity entered in 1995.

The Conference substitute adopts the Senate position with amendment that allows producers who participated in the New Mexico pool with Valencia peanuts grown in Texas during the 1990 through 1995 crop years to continue to participate in that pool. However, the quantity of Valencia peanuts grown outside of New Mexico that can be placed in the New Mexico pool is limited to the 1990 through 1995 average of Texas grown Valencia peanuts that a producer placed in the pool. The quantity of Texas produced Valencia peanuts allowed to enter the New Mexico pools, as provided in this subsection, is not transferable. (Section 155(c))

(49) Losses

The House bill, in Section 106(d) provides that losses in quota pools shall be covered using the following sources in the following order of priority:

(1) gains on transfers of peanuts from additional loan pools;

(2) individual producer gains from domestic and export edible use sales of additional peanuts from additional pools;

(3) gains from the sale of additional peanuts in an area pursuant to Section 358e (g)(1)(A) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a(g)(1)(A));

(4) marketing assessment funds collected from growers under subsection (g) (except funds attributable to handlers) with any unused assessment funds being transferred to the Treasury;

(5) gains or profits from quota pools in other production areas (not including separate type pools established for Valencia peanuts produced in New Mexico); and

(6) an increase in the marketing assessment for such quota pool.

The Senate amendment contains a similar provision except that in (3) any profits from additional peanuts sold for domestic edible use shall be used to offset quota losses in that area. In (6), the Senate amendment would assess all quota peanuts in the production area.

The Conference substitute adopts the Senate provision to use profits from additional peanuts sold for domestic edible use with an amendment that loan redemption profits from farms with one acre or less are exempt. Assessments are to be increased on all quota peanuts, by production area, including those commercially marketed. The Managers intend that the Secretary shall review and consider the marketability of the various types of peanuts prior to announcing differentials for the 1997 and subsequent peanut crops, and to make appropriate adjustments. The sheller budget deficit assessment funds shall be used to offset losses after national cross compliance. (Section 155(d))

(50) Disapproval of quotas

The House bill, in Section 106(e) provides that the Secretary may not make loans available for quota peanuts for any crop of quota peanuts for which producers have disapproved the poundage quota.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision. (Section 155(e))

(51) Quality improvement

The House bill, in Section 106(f) directs the Secretary to continue to promote quality improvement of peanuts.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision. (Section 155(f))

(52) Marketing assessment

The House bill, in Section 106(g) provides that first handlers (initial purchasers of peanuts) and producers pay a marketing assessment to CCC on all peanuts sold equal to 1.2 percent of the national average loan rate. Producers shall pay .60 percent in 1996 and .65 percent in 1997 through 2002 and first handlers shall pay .55 percent.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision. (Section 155(g))

(53) Crops

The House bill, in Section 106(h) provides that subsections (a) through (f) are applicable to the 1996 through 2002 crops of peanuts.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision. (Section 155(h))

(54) Poundage quotas

The House bill, in Section 106(i), in paragraph (1), amends the peanut quota provisions contained in part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 (the "1938 Act") by extending such provisions through the 2002 marketing year.

Section 106(i), in paragraph (2), amends section 358–1(b)(1) of the Act (7 U.S.C. 1358–1(b)(1)) to provide that effective beginning January 1, 1997 the Secretary shall no longer establish farm poundage quota for farms owned or controlled by municipalities, airport authorities, schools, colleges, refuges, and other public entities (not including universities for research purposes); or for farms for which the quota holder is not a producer and resides in another State.

Section 106(i), in paragraph (3), amends section 358–1(a)(1) of the 1938 Act by eliminating the 1,350,000 ton minimum national poundage quota.

Section 106(i), in paragraph (4), amends section 358–1(b)(2) of the 1938 Act by deleting the current subparagraph (B) relating to allocation of increased quota in Texas and inserting a new subparagraph (B) authorizing temporary increases in quota based on seed use. Amended section 358–1(b)(2), in subparagraph (B), provides that, for the 1996 through 2002 marketing years, a temporary quota allocation for the marketing year only in which the crop is planted, equal to the number of pounds of seed peanuts planted for the farm that shall be made to the producers for the 1996 through 2002 marketing years, in addition to the normal farm poundage quota established under section 358–1. Subparagraph (B) also provides that there is no change in the requirement regarding the use of quota and additional peanuts established by section 359a(b) of the 1938 Act. Also, subsection (a)(1) of such section no longer includes "seed" in the estimate of domestic edible use by the Secretary.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision with a technical amendment "to change the effective date of quota eligibility effective beginning with the 1998 crop." (Section 155(i))

(55) Spring and fall transfers of quota

Section 106(i), in paragraph (5), amends section 358b(a)(1) of the 1938 Act relating to farm poundage quota transfer. Amended section 358b(a)(1) allows farm poundage quota to be sold or leased, either before or after the normal planting season, to any other owner or operator of a farm in the same State. Current provisions requiring 90 percent of a farm's basic quota to be planted or considered planted before a fall (or after the normal planting season) transfer is allowed are maintained.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment allowing a maximum of 40 percent transfer of quota across county lines, but within a state. Cumulative unexpired transfers outside of a county may not exceed 15 percent for the 1996 crop, 25 percent for the 1997 crop, 30 percent for the 1998 crop, 35 percent for the 1999 crop and 40 percent for the 2000 and subsequent crops. The Conference substitute also allows full lease and sale in fall or spring for counties with less than 100,000 lbs. (50 tons) of quota, and allows unrestricted fall leasing of peanut quota across county lines within a state. (Section 155(i))

(56) Undermarketings

Section 106(i), in paragraph (6), eliminates undermarketings by deleting paragraphs (8) and (9) of section 358–1(b) of the 1938 Act, with necessary conforming changes to other sections.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision with a technical amendment. (155(i))

(57) Disaster transfer

Section 106(i), in paragraph (7), adds a new paragraph (8) to amended section 358–1(b) of the 1938 Act which authorizes the transfer of additional peanuts to a quota loan pool in cases in which quota poundage was not harvested and marketed because of drought, flood, or any other natural disaster, except that the such peanuts shall be supported at 70 percent of the quota support rate, and such transfers shall not exceed 25 percent of the total farm quota pounds.

The Senate amendment contains a similar provision that such peanuts shall be supported at not more than 70 percent of the quota support rate.

The Conference substitute adopts the House provision. (Section 155(i))

(58) Sugar program; sugar cane

The House bill, in Section 107(a) sets the loan rate for domestically grown sugarcane at 18 cents per pound for raw cane sugar.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision. (Section 156(a))

(59) Sugar beets

Section 107(b) sets the loan rate for domestically grown sugar beets at 22.9 cents per pound for refined beet sugar.

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision. (Section 156(b))

(60) Reduction in loan rates

The House bill, in Section 107(c) requires the Secretary to reduce the loan rate specified in subsections (a) and (b) if the Secretary determines that negotiated reductions in export subsidies provided for sugar of the European Union and other major sugar exporting countries in the aggregate exceed the commitments made as part of the Agreement on Agriculture. It also provides that the Secretary shall not reduce the loan rate under subsections (a) and (b) below a rate that provides domestic sugar an equal measure of support to that provided by the European Union and other sugar exporting countries based on the provisions of Agreement on Agriculture, section 101(d)(2) of the Uruguay Round Agreements Act.

The Senate amendment contains no similar provision.

The Conference substitute adopts the House provision. (Section 156(c))

(61) Term of loan; loan type; processor assurances

Section 107(d) provides that loan terms are the earlier of 9 months, or the end of a fiscal year, with supplemental loan authority (up to a total on nine months) for loans maturing at the end of a fiscal year.

The House bill, in Section 107(e) provides for the Secretary to carry out the section through the use of recourse loans for sugar. However, it also provides that during any fiscal year in which the tariff rate quota (TRQ) for imports of sugar into the U.S. is set, or increased to, a level that exceeds 1,500,000 short tons raw value, the Secretary is directed to carry out this section by making nonrecourse loans (previously made recourse loans are to be modified by the Secretary into nonrecourse loans). If the Secretary is required to make nonrecourse loans (or modify recourse loans) under this subsection during a fiscal year, the Secretary is to obtain from processors adequate assurances that such processors will provide appropriate minimum payments to producers as set by the Secretary.

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision with technical amendments. (Section 156 (d) and (e))

(62) Marketing assessment

The House bill, in Section 107(f) requires first processors of raw cane sugar to remit to CCC nonrefundable marketing assessment for each pound of raw cane sugar equal to 1.1 percent of the loan rate for fiscal year 1996 (1.375 percent for 1997 through 2003) while first processors of sugar beets are to remit to CCC a marketing assessment of 1.1794 percent for fiscal year 1996 (1.47425 percent for 1997 through 2003), on all marketings. Assessments are to be collected on a monthly basis, except that any inventory which has not been marketed by September 30 of a fiscal year shall be assessed at that point, except that the latter sugar shall not be assessed later when it is marketed. Any person who fails to remit the assessment is liable for a penalty based on the quantity of the sugar involved in the violation times the applicable loan rate at the time of violation.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision with technical amendments. (Section 155(f))

(63) Forfeiture penalty

The House bill, in Section 107(g) provides for an additional penalty (1 cent per pound on cane sugar, pro rata on beet sugar) to be assessed on the forfeiture of any sugar pledged as collateral for a loan.

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision with technical amendments. (Section 155(g))

(64) Information reporting

The House bill, in Section 107(h) requires processors and refiners to report such information to the Secretary as is required in order to administer the program. A penalty applies for failure to report, and the Secretary is required to make monthly reports on pertinent sugar production, imports, distribution, and stock levels.

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision with technical amendments. (Section 155(h))

(65) Crops

The House bill in Section 107(j) states that this subsection shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.

The Senate amendment contains an identical provision.

The Conference substitute adopts the House provision with a technical amendment. (Section 155(i))

(66) Marketing allotments

The House bill, in Section 107(i) repeals marketing allotments for sugar, contained in Part VII of subtitle B of title III of the 1938 Act.

The Senate amendment, in Section 109(1) suspends marketing allotment authority.

The Conference substitute adopts the Senate provision with an amendment to strike the provision.

SUBTITLE E—ADMINISTRATION

(67) Administration

The House bill, in Section 108 directs the Secretary to use CCC to carry out this title, and prohibits the Secretary from using any CCC funds for the salaries or expenses of any officer or employee of USDA. It also provides authority to issue necessary regulations, and provides that determinations made by the Secretary under this title are final.

The Senate amendment is similar but prohibits the use of CCC funds for salaries and expenses of any officer or employee.

The Conference adopts an amendment to the CCC Charter Act that specifies: (1) CCC no longer has inherent authority to purchase personal property; (2) for fiscal year 1996, CCC spending for equipment or services relating to automated data processing, information technologies, or related items (including telecommunications equipment and computer hardware or software) be limited to not more than $170 million; (3) for fiscal years 1997 through 2002, CCC spending on such items be limited to not more than $275 million; (4) starting in fiscal year 1997, the use of reimbursable agreements with other Federal or State agencies, including agreements for automated data processing or information resource management activities, be limited to an aggregate amount not to exceed the total amount of reimbursable agreements in fiscal year 1995; and (5) after date of enactment, CCC submit to Congress on a quarterly basis an itemized report of all expenditures of over $10,000.

REPORTING REQUIREMENTS

After date of enactment, the Managers expect the Assistant Secretary for Administration, or the USDA Chief Information Officer (if one has been placed in that position pursuant to the Information Technology Reform Act of 1996) to provide the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition and Forestry with quarterly reports on the expenditure of CCC funds under the Charter Act including all expenditures under reimbursable agreements, for administrative, automated data processing, information technology, and telecommunication products, including contracts with vendors for such products or support services. The Managers expect the reports to itemize expenditures in excess of $10,000, including any expenditures for similar products or services that, when aggregated, exceed $10,000. The first quarterly reports should also itemize all expenditures for fiscal year 1996, and each subsequent report should include aggregated expenditures for each category of product or service from the previous report. The Managers direct the Secretary to ensure that all reports are audited by the USDA Chief Financial Officer pursuant to the Financial Managers Integrity Act, the Government Performance and Results Act, and according to CFO Standards and Conventions.

REIMBURSABLE AGREEMENTS

The Managers expect the Secretary to incorporate funding for reimbursable agreements within the annual budget proposal beginning in fiscal year 1997. The Secretary should use every means at his disposal to establish line items for reimbursable agreements in future budgets. (Section 161)

(68) Adjustment of loans

The House bill, in Section 104(h) provides general authority for the Secretary to use the Commodity Credit Corporation ("CCC") and other means available to carry out the loans authorized by this section, and directs the Secretary to get adequate processor assurances that producers will get loan program benefits whenever a loan program includes payments to processors.

Section 104(i) gives the Secretary general authority to make appropriate adjustments in loan levels based on grade, type, quality, location, and other factors.

Section 104(j) provides that, in general, a producer is not personally liable for any deficiency arising from the sale of collateral securing a nonrecourse loan. However, exceptions are provided for quality or quantity deficiencies, failure to properly care or maintain collateral, or a failure to deliver a commodity. This section also provides that any security interest obtained by CCC in sugarcane or sugarbeets as a result of a security agreement by a processor shall be superior to all common law and statutory liens in favor of producers.

Section 104(k) provides authority for CCC to sell any inventory commodities at any price that the Secretary determines will maximize returns to CCC, except that this authority does not apply to sales:

(A) for new or byproduct uses;
(B) of peanuts or oilseeds (if used for oil);
(C) for seed if the sale will not impair a loan program;
(D) of deteriorated-quality commodities that are in danger of spoiling;
(E) for the purpose of establishing a claim arising out of a fraudulent or other wrongful act pursuant to a contract;
(F) for export; or
(G) for other than a primary use.

The Secretary is also authorized to make CCC-owned commodities available in any Presidential disaster area.

The Senate amendment contains a similar provision but for technical differences.

The Conference substitute adopts the House position.

The Managers agreed to include an amendment that allows the Secretary to establish county loan rates so that the lowest county rate is 95 percent of the national average loan rate. This shall be done only if such action results in no additional outlays. (Section 162, 164, and 165)

The Managers are concerned that the procedures used by USDA to establish county wheat and feed grain loan rates and posted-county-prices (PCP) may be outdated. The Managers expect USDA to evaluate whether improvements are warranted and to implement such changes before establishing 1997-crop county loan rates.

(69) Commodity Credit Corporation interest rate

The House bill, in Section 403 provides that the interest rate charged by CCC on loans for agricultural commodities shall be 100 basis points greater than the rate established by the formula in effect on October 1, 1995.

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision. (Section 163)

SUBTITLE F—SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY

(70) Suspension and repeal of permanent authorities

The House bill, in Section 109 repeals the Agricultural Act of 1949 (certain necessary sections are transferred to the 1938 Act), and makes required conforming amendments.

The Senate amendment, in Paragraph (1) of Section 109(a) suspends the following provisions of the Agricultural Adjustment Act of 1938 for crop years 1996 through 2002:

(A) acreage allotments for corn, marketing quotas for wheat, marketing quotas for cotton and marketing quotas for rice;
(B) marketing quotas for peanuts;
(C) sale, lease and transfer of peanut acreage allotments;
(D) marketing penalties for peanuts;
(E) marketing quotas for sugar and crystalline fructose;
(F) publication and review of peanut quotas;
(G) preservation of unused cotton allotments;
(H) wheat marketing allocation; and
(I) omitted cotton marketing certificates.

Paragraph (1) of Section 109(b) suspends the following provisions of the Agricultural Act of 1949 for crop years 1996 through 2002:

(A) parity price support for basic agriculture commodities;
(B) parity price support for cotton;
(C) parity price support for corn;
(D) parity price support for wheat;
(E) Farmer Owned Reserve;
(F) Agriculture commodities utilization program;
(G) commodity certificates;
(H) parity price support for nonbasic agriculture commodities;
(I) price support provisions not consistent with the Agriculture Market Transition Program;
(J) acreage base and yield system; and
(K) Emergency Livestock Feed Assistance Act of 1988.

Paragraph (2) of Section 109(b) repeals the following provisions of the Agricultural Act of 1949:

(A) loans, payments and acreage reduction programs;
(B) peanut price support;
(C) supplemental set-aside authority;
(D) deficiency and land diversion payments;
(E) oilseed loans and payments, sugar price support and honey price support; and
(F) advance announcement of price support levels.

Section 109(c) suspends certain quota provisions for wheat and corn.

The Conference substitute adopts the Senate provision with technical amendments and an amendment that dairy price support under the 1938 Agriculture Adjustment Act shall be suspended through December 31, 2002. The Managers intend for USDA to provide for an orderly termination of the Emergency Livestock Feed Program so that livestock producers within a county are treated consistently. For a period not to exceed thirty days after enactment of this bill, USDA should accept livestock producers' applications for assistance under this program in counties where producers have already been approved for 1996 Livestock Feed Program assistance prior to the date of enactment. (Section 171)

(71) Effect of amendments

The House bill, in Section 110 provides that the amendments made by this Act shall not affect the authority of the Secretary to carry out the 1991 through 1995 production adjustment programs in effect before this Act.

The Senate amendment contains an identical provision.

The Conference substitute adopts the Senate provision. (Section 172)

The Managers intend that the Secretary shall seek to reduce paperwork and regulatory burdens of producers. Therefore, the Managers intend that in conducting year-end reviews the Secretary shall take into consideration information and recommendations provided by state and local Farm Service Agency Committees in order to reduce the number of unnecessary year-end reviews.

SUBTITLE G—COMMISSION ON 21ST CENTURY PRODUCTION AGRICULTURE

(72) Commission on 21st century production agriculture

The House bill, in title VI, establishes a commission to be known as the "Commission on 21st Century Production Agriculture."

Section 502—Composition

Subsection (a). Membership and appointment.

Subsection (a) of this section requires that the Commission be composed of eleven members: three members appointed by the President; four members appointed by the Chairman of the Committee on Agriculture of the House of Representatives (in consultation with the ranking minority member); and four members appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate (in consultation with the ranking minority member).

Subsection (b). Qualifications.

Subsection (b) establishes the qualifications required of the persons appointed to the Commission. At least one member appointed by each the President, the Chairman of Committee on Agriculture of the House of Representatives, and the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate shall be an individual who is primarily involved in production agriculture. All other members appointed to the Commission must have knowledge and experience in agriculture production, marketing, finance, or trade.

Subsection (c). Term of members; vacancies.

Subsection (c) requires that the appointment to the Commission be for the life of the Commission. It also directs that a vacancy on the Commission shall not affect the Commission's power and shall be filled in the same manner as the original appointment.

Subsection (d). Time for appointment; first meeting.

Subsection (d) requires that the members of the Commission be appointed no later than October 1, 1997 and that the Commission convene its first meeting 30 days after six members of the Commission have been appointed.

Subsection (e). Chairman.

Subsection (e) requires that the chairman of the Commission be designated jointly by the Chairman of the Committee on Agriculture of the House of Representatives and the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate from among the members of the Commission.

Section 503—Comprehensive review of past and future of production agriculture

Subsection (a). Initial review.

Subsection (a) of this section requires the Commission to conduct a comprehensive review of changes in the condition of production agriculture in the United States subsequent to the date of enactment of this Act and the extent to which such changes are the result of the changes made by this Act. This review shall include: (1) the assessment of the initial success of market transition contracts in supporting the economic viability of farming in the United States; (2) the assessment of the food security situation in the United States in the areas of trade, consumer prices, international competitiveness of United States production agriculture, food supplies, and humanitarian relief; (3) an assessment of the changes in farm land values and agricultural producer incomes; (4) an assessment of the regulatory relief for agricultural producers that has been enacted and implemented, including the application of cost/benefit principles in the issuance of agricultural regulations; (5) an assessment of the tax relief for agricultural producers that has been enacted in the form of capital gains tax reductions, estate tax exemptions, and mechanisms to average tax loads over high and low-income years; (6) an assessment of the effect of any Government interference in agricultural export markets, such as the imposition of trade embargoes, and the degree of implementation and success of international trade agreements; and (7) the assessment of the likely effect of the sale, lease, or transfer of farm poundage quota for peanuts across State lines.

Subsection (b). Subsequent review.

Subsection (b) requires the Commission to conduct a comprehensive review of the future of production agriculture in the United States and the appropriate role of the Federal Government in support of production agriculture. This review shall include: (1) an assessment of changes in the condition of production agriculture in the United States since the initial review under subsection (a); (2) an identification of the appropriate future relationship of the Federal Government with production agriculture after 2002; and (3) an assessment of the manpower and infrastructure requirements of the Department of Agriculture necessary to support the future relationship of the Federal Government with production agriculture.

Subsection (c). Recommendations.

Subsection (c) requires that the Commission develop specific recommendations for legislation to achieve the appropriate future relationship of the Federal Government with production agriculture identified under subsection (a)(2).

Section 504—Reports

Subsection (a). Report on initial review.

Subsection (a) of this section requires that by June 1, 1998, the Commission submit a report containing the results of the initial review to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Subsection (b). Report on subsequent review.

Subsection (b) requires that not later than January 1, 2001, the Commission submit a report containing the results of the subsequent review conducted under section 1503(b) to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Section 506—Powers

Subsection (a). Hearings.

Subsection (a) of this section authorizes the Commission to conduct hearings, take testimony, receive evidence, and act in a manner the Commission considers appropriate to carry out the purposes of this Act.

Subsection (b). Assistance from other agencies.

Subsection (b) authorizes the Commission to secure directly from any department or agency of the Federal Government any information necessary to carry out its duties under this title. The head of such department or agency shall furnish information requested by the chairman of the Commission, to the extent permitted by law.

Subsection (c). Mail.

Subsection (c) authorizes the Commission to use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

Subsection (d). Assistance from Secretary.

Subsection (d) requires that the Secretary of Agriculture shall provide appropriate office space and reasonable administrative and support services available to the Commission.

Section 506—Commission procedures

Subsection (a). Meetings.

Subsection (a) of this section requires that the Commission meet on a regular basis. The frequency of such meeting shall be determined by the chairman or a majority of its members. Additionally, the Commission must meet upon the call of the chairman or a majority of the members.

Subsection (b). Quorum.

Subsection (b) provides that a majority of the members of the Commission must be present to produce a quorum for transacting the business of the Commission.

Section 507—Personnel matters

Subsection (a). Compensation.

Subsection (a) of this section provides that members of the Commission serve without compensation, but are allowed travel expenses when engaged in the performance of Commission duties, including a per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

Subsection (b). Staff.

Subsection (b) provides that the Commission shall appoint a staff director. The staff director's basic rate of pay shall not exceed that rate provided for under section 5376 of title 5, United States Code. The Commission may appoint such professional and clerical personnel as may be reasonable and necessary to enable the Commission to carry out its duties without regard to the provisions governing appointments in the competitive service, title 5, United States Code, and provisions relating to the number, classification, and General Schedule rates in chapter 51 and subchapter III of chapter 53 of title 5 or any other provision of law. No employee appointed by the Commission (other than the staff director) may be compensated at a rate exceeding the maximum rate applicable to level 15 of the General Schedule.

Subsection (c). Detailed personnel.

Subsection (c) authorizes the head of any department or agency of the Federal Government to detail, without reimbursement, any personnel of such department or agency to the Commission to assist the Commission in carrying out its duties. The detail of any such personnel may not result in the interruption or loss of civil service status or privilege of such personnel.

Section 508—Termination of Commission

This section provides that the Commission shall terminate upon the issuance of its final report required by section 1504.

The Senate amendment contains no similar provision.

The Conference substitute adopts the House provision with an amendment directing the Commission to make an assessment of economic risk to producers. (Subtitle G)

SUBTITLE H—MISCELLANEOUS COMMODITY PROVISIONS

(73) Options Pilot Program

The House bill extends the Options Pilot Program Act of 1990 through crop year 2002. (Section 506)

The Senate amendment establishes an Options Pilot Program and Risk Management Education program. The purpose is to authorize the Secretary to conduct research through pilot programs for one or more program commodities to ascertain whether futures and options contracts can provide producers with reasonable protection from the financial risks of fluctuations in price, yield, and income inherent in the production and marketing of agricultural commodities; and provide education in the management of the financial risks inherent in the production and marketing of agricultural commodities. (Subtitle B)

The Conference substitute adopts the Senate amendment with an amendment requiring consultation with the CFTC in risk management education. The Managers intend that the Options Pilot Program should be administered by the Office of Risk Management. (Section 191 and 192)

(74) Single delivery of catastrophic crop insurance

The House bill, amends section 508(b)(4) of the Federal Crop Insurance Act to provide that the Secretary may only continue to offer catastrophic risk protection through local USDA offices if the Secretary determines that the number of approved insurance providers operating in a State (or a portion of a State) is insufficient to adequately provide catastrophic risk protection coverage to producers. If coverage availability in a State is adequate, only approved insurance providers may provide coverage. (Section 501(a))

The Senate amendment contains an identical provision. (Section 502(a))

The Conference substitute adopts the House provision with an amendment requiring USDA to phase in single delivery of catastrophic coverage unless the Secretary determines that the number of private insurers in a State is insufficient. The Secretary must announce the results of such determinations within 90 days following enactment of this section for 1997 crops. The Secretary shall announce the determinations for subsequent crop years by each April 30 of the year previous to the year in which the crop is produced, or at such other times during the year as the Secretary finds practicable in consultation with the affected insurance industry, for those states or areas of states where catastrophic coverage remains available through local offices of the Department.

In considering the number of approved insurance providers operating in a State (or portion thereof) the Secretary may consider only those private agents who are actively providing catastrophic coverage and are reasonably accessible to producers. The Secretary shall also consider agents who are going to begin offering catastrophic coverage in the crop year in response to this legislation.

In making such determinations, the Secretary may also consider the willingness of reinsured companies to accept the responsibility for providing and servicing catastrophic coverage on an increased scale in an economical manner without added levels of subsidy or federal government, and to assure that agents will be made available in a convenient manner to all producers who desire service. (Section 193(a))

(75) Ending mandatory purchase of catastrophic crop insurance

The House bill provides that, effective with spring-planted 1996 crops, catastrophic coverage is not required for federal farm program benefits if producers sign a written waiver with the Secretary that waives any eligibility for emergency crop loss assistance. (Section 501(a))

The Senate amendment contains an identical provision. (Section 502(a))

The Conference substitute adopts the House provision with an amendment. The amendment authorizes the Secretary to have discretion to apply the provision for a written waiver to all other 1996 crops. The amendment also provides that, for the 1996 crop year only, producers shall be able to obtain catastrophic risk protection insurance for any spring planted crop, and limited or additional coverage for malting barley under the Malting Barley Price and Quality Endorsement, for a period of at least two but less than four weeks after the date of enactment of this Act. Waivers: A waiver under this provision may be provided by the producer at any time up until the time that the producer applies for the respective farm program, or other benefit, or the acreage reporting date. The Secretary may permit that waivers may be generic in nature, so that a producer can sign a single waiver applying to all crops which he or she produces and for which Federal crop insurance has not been obtained or may not be obtained in the future. A waiver under this provision shall not waive a farmer's eligibility to receive an emergency loan. (Section 193(a))

(76) Transfer

The House bill transfers all catastrophic policies written by USDA to private insurance companies for the performance of all sales, service, and loss adjustment functions to the extent that the Secretary determines that catastrophic risk protection by approved insurance providers is sufficiently available in a State. Any fees in connection with such policies that are not yet collected at time of transfer shall be payable to the private insurance providers. (Section 501(a))

The Senate amendment contains a similar transfer provision. (Section 502(a))

The Conference substitute adopts the House provision with an amendment delaying transfers of all catastrophic policies written by USDA to private insurance companies until the 1997 crop year. The transfer process for 1997 crops with sales closing dates before January 1, 1997 shall begin at the time of the Secretary's announcement under subsection (a) and be completed by a sales closing date for the crop and county. The transfer process for all subsequent policies including crop years after 1997 shall begin at a date that permits the process to be completed not later than 30 days prior to the applicable sales closing date. After 1997, the transfer must be completed not later than 45 days prior to the sales closing date.

This provision requires that, beginning with crop year 1997, in those States (or portions thereof) where the Secretary has determined not to continue to provide catastrophic coverage through local offices of the Farm Service Agency, the Secretary is expected to transfer all existing catastrophic policies written by USDA offices to private insurance providers. This transfer is expected to occur in an orderly manner under procedures determined by the Secretary and developed in consultation with private insurance providers. These procedures should be designed to assure fairness among insurance providers and will take into consideration the needs and preferences of affected producers. (Section 193(a))

(77) Seed crops

The House bill amends section 519(a)(2)(B) of the Federal Crop Insurance Act to specify that seed crops are eligible for coverage under the Noninsured Assistance Program. (Section 501(b))

The Senate amendment, contains an identical provision. (Section 502(b))

The Conference substitute adopts the Senate amendment (Section 193(b)).

(78) Aquaculture

The Senate amendment amends section 508(a)(6) of the Federal Crop Insurance Act to extend crop insurance coverage to aquaculture. (Section 502(d))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to include ornamental fish as aquaculture in the Noninsured Assistance Program (Section 193(c))

(79) Pilot projects on insect infestation or disease and feasibility for nursery crops

The Senate amendment requires the Secretary of Agriculture to develop and administer a two year pilot project for crop insurance coverage that indemnifies crop losses due to insect infestation or disease. The Secretary is required to administer the pilot project so that it is actuarially sound and results in no net cost to the U.S. Treasury. The Senate amendment also requires a limited pilot program on the feasibility of insuring nursery crops within two years of enactment. (Section 502(c) and 502(d))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment. The Managers agree to inclusion of Senate provisions directing the Secretary to develop and administer pilot projects: (1) for crop insurance coverage that indemnifies crop losses due to natural disasters such as insect infestation or disease and (2) on the feasibility of insuring nursery crops. The conferees intend that to the maximum extent practicable the pilot projects be operated to cover diverse geographic areas so that the full impact of such coverage can be adequately evaluated. (Section 193(d) and 193(e))

(80) Planting requirement

The Senate amendment amends section 508(j) of the Federal Crop Insurance Act to require the Corporation to consider marketing windows in determining whether it is feasible to require planting during a crop year. (Section 502 (e))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment (Section 193(f)) and 3 amendments. The first amendment provides mandatory funding in fiscal year 1997 for the sales commissions of crop insurance agents (Section 193(g)). The second amendment transfers mandatory funding for the Noninsured Assistance Program (NAP) from the Federal Crop Insurance Corporation Fund to the Commodity Credit Corporation (Section 193(g)). The third amendment changes the Noninsured Assistance Program (NAP) by providing the Commodity Credit Corporation with more flexibility in determining the requirements for producers to provide records of crop acreage, yields, and production (Section 193(h)).

(81) Section 504. Establishment of Office of Risk Management

The House provision amends Department of Agriculture Reorganization Act of 1994 by establishing an independent Office of Risk Management (ORM). This office shall have jurisdiction over FCIC, and any pilot or other program involving revenue insurance, risk management savings accounts or use of future markets to manage risk. The salaries and expense account of the FSA shall be available to fund operation of this office in fiscal year 1996. (Section 504)

The Senate contains no comparable provision.

The Conference substitute adopts the House provision (Section 194).

(82) Revenue insurance

The Senate amendment amends section 508(h) of the Federal Crop Insurance Act to establish a revenue insurance pilot program in a limited number of counties for producers of corn, wheat, or soybeans for the 1997–2000 crop years. Revenue insurance policies are to be offered through reinsurance arrangements with private insurance companies in a manner that is actuarially sound with premiums and administrative fees to be paid by insured producers. The minimum level of revenue coverage must be an alternative to catastrophic crop insurance. (Section 503)

The House bill requires the Secretary to establish a business interruption insurance program. Under this program, the producer of a contract commodity could obtain revenue insurance. (Section 505)

The Conference substitute adopts the Senate provision with 2 amendments. The first amendment allows the revenue insurance pilot program to be established for feedgrains, wheat, soybeans, or such other commodities as determined by the Secretary (Section 195). The second amendment moves Noninsured Assistance Program(NAP) out of the Federal Crop Insurance Act. The Managers intend that the NAP continue to be administered by USDA's Farm Service Agency. Because many NAP crops will over time be covered by the insurance program, it is expected that the Under Secretary for Farm and Foreign Agricultural Services, who will have supervision over both ORM and FSA, should assure that coordination exists between these two agencies in the administration of the NAP. The Managers intend that the Secretary in administering the NAP through the FSA will coordinate, to the maximum extent practicable, various terms and conditions used in administering both the NAP and the Federal Crop Insurance Program. The Managers expect, to the extent practicable, that the Department will build upon information obtained from the NAP in extending coverage to non-insured crops. (Section 196)

TITLE II—AGRICULTURAL TRADE

SUBTITLE A—AMENDMENTS TO AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954 AND RELATED STATUTES

(1) Food aid to developing countries

The House bill relocates a Sense of Congress resolution on the importance of food aid from section 411 of the Uruguay Round Agreements Act to section 3 of the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480) to replace an obsolete sense of Congress. (Section 411)

The Senate amendment has a similar provision with a technical difference. (Section 201)

The Conference substitute adopts the House provision. (Section 201)

(2) Trade and development assistance

The House bill amends section 101 of P.L. 480 to authorize the Secretary to enter into Title I concessional credit agreements with private entities as well as foreign governments. Such private entities may be U.S.-based or indigenous non-profit or for-profit concerns. (Section 412)

The Senate amendment is identical. (Section 202)

The Conference substitute adopts the Senate amendment. (Section 202)

(3) Agreements regarding eligible countries and private entities

The House bill amends section 102 of P.L. 480 by deleting subsection (a), which defines developing countries in terms of foreign exchange earnings, and reordering the priorities for providing food assistance to increase the emphasis on market development.

The House bill provides that Section 102 of P.L. 480 is amended to allow agricultural trade organizations (ATOs) to carry out market development plans in connection with Title I agreements. The Secretary is directed to give priority to those agreements with developing countries and agricultural trade organizations that include a market and economic development component. (Section 413)

The Senate amendment contains a similar provision, except for a technical difference in section 102(c)(2). (Section 203)

The Conference substitute adopts the House provision with an amendment that gives the Secretary the discretion to reimburse agricultural trade organizations for administrative expenses incurred in carrying out market development plans under Title I. (Section 203)

(4) Terms and Conditions of Sales

The House bill amends Section 103 of P.L. 480:

(1) to include references to private entities;

(2) to allow for a repayment period with respect to Title I agreements of less than ten years in Title I agreements; and

(3) to reduce to five years the maximum "grace" period during which the Secretary is allowed to defer repayments. (Section 414)

The Senate amendment is identical. (Section 103)

The Conference substitute adopts the Senate amendment. (Section 204)

(5) Use of local currency payment

The House bill amends Section 104 of P.L. 480 to include private entities as eligible to use local currencies. (Section 415)

The Senate amendment is identical. (Section 104)

The Conference substitute adopts the House provision. (Section 205)

(6) Value-added foods

The Senate amendment repeals an unused provision that allows for a partial waiver of repayment under title I(section 105 of P.L. 480). (Section 206)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 206)

(7) Eligible organizations

The House bill amends Section 202(b) of P.L. 480 to prohibit the Administrator of the Agency for International Development (AID) from denying a request for commodities under Title II by PVOs or other eligible organizations to carry out a program merely because AID does not maintain a mission in the country in which the program will be carried out.

The House bill also amends Section 202(e) of P.L. 480:

(1) by increasing from $13.5 million to $28 million the portion of Title II appropriations that may be used to pay transportation, distribution and other costs of eligible organizations;

(2) by making intergovernmental organizations (e.g., the World Food Program) eligible for such funds.

The Senate amendment is similar except that it requires private voluntary organizations and cooperatives to submit requests for funds. (Section 207)

The Conference adopts the Senate amendment with a technical change requiring that eligible organizations submit requests for funds. (Section 207)

(8) Generation and use of foreign currencies

The House bill amends Section 203 of P.L. 480 to allow local-currency proceeds from Title II commodity sales to be used in a country different from the one in which the commodities were sold, as long as it is in the same geographic region where sales in the targeted country would be impracticable. The section also increases from ten percent to fifteen percent the minimum amount of non-emergency Title II commodities that the Administrator must allow to be sold for local currencies. (Section 417)

The Senate amendment is identical. (Section 208)

The Conference substitute adopts the House provision. (Section 208)

(9) General levels of assistance under P.L. 480

The House bill amends Section 204(a) of P.L. 480 to extend through 2002 the 1995 minimum tonnage levels for both overall assistance and non-emergency assistance under Title II. The House bill also provides that AID is prohibited from waiving the non-emergency minimum tonnage requirement before the beginning of a fiscal year. (Section 418)

The Senate amendment is identical. (Section 209)

The Conference substitute adopts the House provision with an amendment requiring that at least 50 percent of bagged commodities programmed under Title II be bagged in the U.S. (Section 209)

(10) Food aid consultative group

The House bill amends section 205 of P.L. 480 to extend an existing consultative group on food aid through 2002; to require that the group meet at least twice per year; and to require that an agricultural producer be a member of the group. Agricultural trade organizations are also made eligible for participation. (Section 419)

The Senate amendment is identical. (Section 210)

The Conference substitute adopts the Senate amendment. (Section 210)

(11) Support of nongovernmental organizations

The House bill amends Section 306(b) of P.L. 480 to allow the ten percent of local currency proceeds set aside for use in the recipient country for rural development, education and other purposes to be used for the same purposes by nongovernmental organizations that are not indigenous. A conforming amendment is made in the definition of nongovernmental organization in Section 402(6) of P.L. 480. (Section 420)

The Senate amendment is identical. (Section 211)

The Conference substitute adopts the House provision. (Section 211)

(12) Commodity determinations

The House bill amends Section 401 of P.L. 480 to simplify the process by which the Secretary determines which commodities are eligible for P.L. 480 (the docket authority), while retaining the same basic standards for commodity eligibility as at present. The formal requirements for a determination of commodity availability are eliminated. (Section 421)

The Senate amendment is identical. (Section 212)

The Conference substitute adopts the Senate amendment. (Section 212)

(13) General provisions

The House bill amends Section 403 of P.L. 480 to delete requirements for the U.S. to consult with several specific international organizations. (Section 422)

The Senate amendment is identical. (Section 213)

The Conference substitute adopts the House provision. (Section 213)

(14) Agreements

The House bill amends Section 404 of P.L. 480 to make several conforming changes and to clarify that an existing authority for multi-year agreements under Titles I and III is discretionary, but mandatory for Title II. (Section 423)

The Senate amendment is identical. (Section 214)

The Conference substitute adopts the Senate amendment. (Section 214)

(15) Use of Commodity Credit Corporation

The Senate amendment amends Section 406 of P.L. 480 to make technical changes to administrative provisions of P.L. 480 and to make conforming changes. (Section 215)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 215)

(16) Administrative provisions

The House bill makes technical changes to Section 407 of P.L. 480. The Secretary and the Administrator are also given discretion in setting the terms for freight contracts under Title I and Titles II and III, respectively, as under current practice. Additional conforming changes are made and two required annual reports are combined. (Section 424)

The Senate amendment is identical. (Section 216)

The Conference substitute adopts the House provision with a grammatical correction. (Section 216)

(17) Expiration date

The House bill amends Section 408 of P.L. 480 to extend authority to enter into agreements for P.L. 480 programs through 2002. (Section 425)

The Senate amendment is identical. (Section 217)

The Conference substitute adopts the Senate amendment. (Section 217)

(18) Regulations

The House bill repeals Section 409 of P.L. 480, which required regulations to be issued following enactment of the 1990 farm bill. (Section 426)

The Senate amendment is identical. (Section 218)

The Conference substitute adopts the House provision. (Section 218)

(19) Independent evaluation of programs

The House bill repeals Section 410 of P.L. 480, which required General Accounting Office evaluations of P.L. 480 that have been completed. (Section 427)

The Senate amendment is identical. (Section 219)

The Conference substitute adopts the Senate amendment. (Section 219)

(20) Authorization of appropriations

The House bill deletes Section 412(b) of P.L. 480 and eliminates a requirement that each of Titles I and III funds be at least forty percent of the combined funding for Titles I and III. Subsection (c) is amended to allow up to fifteen percent of the funds available in any fiscal year for any title of P.L. 480 to be used for any other title and to allow unlimited transfers of funds from Title III to Title II. The House bill provides that all of Title I transfer authority must be exhausted before use of the waiver authority is allowed. (Section 428)

The Senate amendment is similar. (Section 220)

The Conference substitute adopts the Senate provision with an amendment that limits transfers from P.L. 480 Title III funding to fifty percent. The Managers intend that USAID will not routinely waive Title II nonemergency minimum tonnage levels, but will operate this waiver authority only in exceptional circumstances. The responsible Congressional committees should be consulted prior to USAID exercising waiver authority. (Section 220)

(21) Coordination of foreign assistance programs

The House bill amends Section 413 of P.L. 480 to clarify that a requirement for coordination with U.S. development assistance policies applies only to Title III. (Section 429)

The Senate amendment is identical. (Section 413)

The Conference substitute adopts the House provision. (Section 221)

(22) Micronutrient Fortification Pilot Program

The Senate amendment requires the establishment of a pilot program by the end of 1997 to fortify grains made available under P.L. 480 with micronutrients such as Vitamin A or iron. The purpose of the pilot program is to assist developing countries in correcting micronutrient deficiencies and to encourage development of technologies for fortification of grains and other commodities. The Secretary is directed to select not more than 5 developing countries to participate in the program. The authority for the pilot program expires in 2002. (Section 222)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment providing that the program be carried out if practical technology exists and it is cost effective. (Section 222)

(23) Use of certain local currency

The House bill adds a new section to Title IV of P.L. 480 to expressly permit the Secretary to use local currency proceeds collected under agreements entered into prior to the Food, Agriculture Conservation Act of 1990 consistent with the law as in effect at the time the agreements were entered into. (Section 430)

The Senate amendment is identical. (Section 416)

The Conference substitute adopts the House provision. (Section 223)

(24) Farmer-to-Farmer Program

The House bill amends Section 501 of P.L. 480 to increase the minimum percentage of the P.L. 480 funding available for the Farmer-to-Farmer program from .2 percent to .4 percent and extends Farmer-to-Farmer to emerging markets. The authorization for the program is extended through fiscal year 2002. (Section 431)

The Senate amendment allows for the travel of foreign farmers and other professionals to the United States. (Section 224)

The Conference substitute adopts the House provision with an amendment allowing for the use of local currencies generated through P.L. 480, Section 416 and Food for Progress to meet the costs of the Farmer-to-Farmer program. (Section 224)

(25) Food Security Commodity Reserve

The House bill amends title III of the Agricultural Act of 1980 by:

(1) converting the Food Security Wheat Reserve to the Food Security Commodity Reserve;

(2) changing the short title to "Food Security Commodity Reserve Act of 1996";

(3) making corn, sorghum, and rice eligible commodities for the reserve;

(4) establishing a four million metric ton cap on the reserve;

(5) making the reserve consist of: (a) wheat in the reserve as of the date of enactment of the Act; (b) wheat, rice, corn, and sorghum acquired through the exchange of an equivalent value of wheat in the reserve for those commodities;

(6) providing that the reserve may be replenished through purchases or by designation of commodities owned by the Commodity Credit Corporation

(7) providing for the release of up to 500,000 metric tons per year if the Secretary determines that inadequate amounts of commodities are available for emergency assistance under Title II of P.L. 480 (plus, any commodities that could have been released but were not released in prior fiscal years);

(8) providing that the authority to replenish the reserve expires at the end of fiscal year 2002. (Section 432)

The Senate amendment is similar to the House bill on the establishment and replenishment of the reserve. The Senate amendment provides that the Secretary may release eligible commodities from the reserve for emergency food assistance to developing countries when quantities of eligible commodities are so limited that eligible commodities cannot be made available for disposition. Additionally up to one million metric tons may be released annually from the reserve for urgent humanitarian relief under Title II of P.L. 480, if the Secretary certifies than funds made available to carry out P.L. 480 are not reduced from the prior year. The term "cannot be made available under the normal means" does not require the waiver of the sub-minimum requirements under Title II of P.L. 480 before the commodities can be released from the reserve in any fiscal year.

The Conference substitute adopts the Senate provision with an amendment providing that in order to meet unanticipated need for emergency assistance under section 202(a) of P.L. 480, the Secretary may release up to 500,000 metric tons of commodities and up to 500,000 metric tons of eligible commodities that could have been released but were not released in prior fiscal years.

Although the conference report contains the language from the Senate bill permitting release of commodities from the reserve in the case of limited domestic supply, the primary purpose of the reserve is to supply commodities for urgent humanitarian needs in addition to assistance made available under Titles I, II and III of P.L. 480. The intent is for the commodities in the reserve to be available when the 475,000 metric tons of commodities in the Title II unallocated reserve is not adequate to meet emergency needs and in the case of limited domestic supply of commodities. (Section 225)

(26) Protein byproducts derived from alcohol fuel production

The Senate amendment repeals an obsolete provision (section 1208 of the Agriculture and Food Act of 1981) requiring an investigation and report on the use of protein byproducts in aid programs. (Section 226)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 226)

(27) Food for Progress Program

The House bill amends The Food for Progress Act of 1985:

(1) to eliminate an obsolete provision exempting commodities furnished to the former Soviet Union from the annual tonnage limitation during 1993;

(2) to make intergovernmental organizations eligible for the program;

(3) to allow the Commodity Credit Corporation to make sales on credit terms under this program to countries other than the former Soviet Union;

(4) to extend authority for the Food for Progress program through fiscal year 2002;

(5) to make multi-year agreements discretionary rather than mandatory;

(6) to permit technical assistance to be provided to agricultural trade organizations, private voluntary organizations, and intergovernmental organizations for monetization programs; and

(7) to make several conforming amendments. (Section 433)

The Senate amendment is identical. (Section 226)

The Conference substitute adopts the Senate amendment. (Section 227)

(28) Use of foreign currency proceeds from export sales financing

The Senate amendment repeals an obsolete provision (section 402 of the Mutual Security

Act of 1954) dealing with appropriations during 1961. (Section 228)

The House bill has no comparable provision.

The Conference adopts the Senate amendment. (Section 228)

(29) Stimulation of foreign production

The Senate amendment repeals an unused provision of law (section 7 of the Act of December 30, 1947) providing authority to stimulate foreign production through donations and similar actions. (Section 229)

The House has no similar provision.

The Conference substitute adopts the Senate amendment. (Section 229)

SUBTITLE B—AMENDMENTS TO THE AGRICULTURAL TRADE ACT OF 1978

(30) Agricultural export promotion strategy

The House bill amends Section 103 of the Agricultural Trade Act of 1978 as follows:

Subsection (a) requires the Secretary to develop a strategy for implementing agricultural export programs.

Subsection (b) states that the strategy shall encourage the maintenance, development, and expansion of export markets, and places emphasis on high-value and value-added products.

Subsection (c) establishes the following goals: (1) increasing to $60 billion annual agricultural exports by 2002; (2) raising U.S. world market share in 2002 significantly above the 1993–95 share; (3) increasing the U.S. share of world high-value agricultural trade to twenty percent; (4) increasing U.S. agricultural exports at a faster rate than the rate of growth in world agricultural trade; (5) increasing U.S. exports of high-value products at a faster rate than the rate of growth in world exports; and (6) ensuring the implementation of Uruguay Round obligations that offer increased market opportunities for U.S. agriculture.

Subsection (d) requires the Secretary to identify priority markets with respect to the export strategy and to identify the overseas offices of the Foreign Agricultural Service that provide assistance in those markets.

Subsection (e) requires a report to Congress by December 31, 2001 assessing progress in meeting the goals established.

Subsection (f) prohibits the Secretary from carrying out export promotion programs under the Agricultural Trade Act of 1978 if the Secretary determines that three or more of the preceding goals are not met.

The Secretary is required to promote exports under authorities of the CCC Charter Act if the other authority is ended.

The prior requirement for the Long-term Agricultural Trade Strategy Report is repealed. (Section 451)

The Senate amendment is identical. (Section 241)

The Conference substitute adopts the House provision with an amendment revising the strategy's goals and striking the sunset of export program authority if goals are unmet, while adding a Sense of Congress resolution calling on the House and Senate agriculture committees to conduct a thorough review of export promotion and food aid programs not later than 1998. (Section 241)

(31) Implementation of commitments under Uruguay Round agreements

The House bill amends the Agricultural Trade Act of 1978 to require the Secretary to monitor other countries' compliance with the Uruguay Round Agreements. If the Secretary determines an instance of non-compliance will significantly constrain U.S. exports, the Secretary is directed to recommend to the U.S. Trade Representative any appropriate action under U.S. laws and to notify relevant Congressional committees of the recommendation. (Section 271)

The Senate amendment is identical. (Section 271)

The Conference substitute adopts the Senate provision by amending the Agricultural Trade Act of 1978 and adds a provision to require the Secretary to evaluate compliance, monitor, take action and report on violations of sanitary and phytosanitary commitments. The managers intend that nothing in this section diminishes or alters the responsibilities of the Secretary of Agriculture under current law to assist exporters of U.S. agriculture products in the event of sanitary or phytosanitary disputes or to fulfill the responsibilities assigned to the Secretary regarding sanitary and phytosanitary measures. (Section 242)

(32) Export credits

The House bill amends Section 202 of the Agricultural Trade Act of 1978:

(1) to authorize credit guarantees under GSM–102 in connection with a sale to a buyer in a foreign country (supplier credits) on terms of not more than 180 days;

(2) to list criteria that may be used by the Secretary in deciding whether a country is creditworthy for GSM–103 intermediate credit guarantees;

(3) to allow credit guarantees to be used where the bank issuing the underlying letter of credit is located in a country other than the importing country;

(4) to require that minimum amounts of credit guarantees be available for processed and high-value products: 25% in 1996 and 1997, 30% in 1998 and 1999, and 35% thereafter, except that the minimum requirements are not applicable if they would compel a reduction in total commodity sales under the programs;

(5) to extend current cumulative funding levels for GSM–102 and GSM–103 but allow flexibility in how much is made available for each program; and

(6) to allow credit guarantees for high-value products with at least 90% U.S. content by weight, allowing for spices and other components that are sometimes of foreign origin. (Section 452)

The Senate amendment is identical. (Section 242)

The Conference substitute adopts the Senate provision with an amendment on origination fees for the facilities financing program, technical changes in definitions and technical modifications to the criteria for determinations under intermediate export credit guarantees. (Section 243)

(33) Market Promotion Program

The House bill authorizes the Market Promotion Program expenditures at $100 million during fiscal years 1996–2002. (Section 401)

The Senate amendment authorizes the Market Promotion Program expenditures at $70 million per year during FY 1996–2002 and targets the program exclusively toward small businesses, farmer owned cooperatives and agricultural groups. (Section 243)

The Conference substitute adopts the Senate provision with an amendment providing for annual funding of $90 million, adopting reform language patterned after the 1996 appropriation act, and changing the name to the Market Access Program.

The amendment to the Market Access Program provides that funds may not be provided to foreign for-profit corporations not including U.S. subsidiaries, to fund their own campaigns to promote their foreign-produced products. The restriction on providing Market Access Program assistance under this section is not intended to prevent Market Access Program participants from carrying out normal business activities (including contracting for services) with respect to the conduct of overseas promotional activities for U.S. agricultural commodities and products of those commodities or from directly conducting promotional campaigns for U.S. agricultural commodities and products of those commodities. (Section 244)

(34) Export Enhancement Program

The House bill caps Export Enhancement Program expenditures at $350 million in each of 1996 and 1997; $500 million in 1998; $550 million in 1999; $579 million in 2000 and $478 million for each of 2001 and 2002. The House bill also requires priority funding from the Export Enhancement Program for wheat flour exports, consistent with the obligations required by the Uruguay Round agreement on agriculture, and in amounts sufficient to maintain the share of the world wheat flour market achieved by the U.S. during the 1986 to 1990 period. (Section 402)

The Senate amendment is identical on funding and authorization of the program, but does not contain a provision on priority funding for wheat flour. (Section 244)

The Conference substitute adopts the House provision with an amendment to reduce funding for the Export Enhancement Program to $250 million in 1997 and by providing the Secretary with authority to make available not more than $100 million annually for the sale of intermediate products, so that the volume of export sales under this section is consistent with the volume of sales of intermediate agriculture products achieved by the United States in the 1986 to 1990 period.

This section was made discretionary due to budgetary concerns arising from the provision in the House bill requiring Export Enhancement Program priority funding for wheat flour. Nevertheless, the Managers remain concerned that the Administration has not utilized its existing Export Enhancement Program assistance authorities appropriately. The Export Enhancement Program has not been used in fiscal year 1996 to export wheat flour similar to previous years, although the U.S. share of the world flour market has declined. The most recent wheat flour exports under the Export Enhancement Program were last made in August 1995. The Managers encourage the Administration to resume exporting customary quantities of flour through the Export Enhancement Program as soon as possible. Intermediate products are principally semi-processed products in the intermediate stage of the food chain such as wheat flour and vegetable oil.

The Managers note that because of the current tight U.S. supplies of milling quality durum wheat and the importance of maintaining adequate supplies of durum available to the U.S. milling and pasta manufacturing industries, the Secretary is expected to continue to consider the stocks-to-use ratio before approving federal export subsidies for No. 1 and No. 2 Hard Amber Durum wheat. (Section 245)

(35) Export program and food assistance transfer authority

The House bill allows funds for export subsidy programs that cannot be fully or effectively utilized to be used for other agricultural export or food assistance programs. (Section . . .)

The Senate amendment has no comparable provision.

The Conference substitute adopts the Senate amendment which deletes the House provision.

(36) Arrival certification

The House bill amends Section 401 of the Agricultural Trade Act of 1978 to eliminate an unnecessary requirement for the Secretary to obtain certification from the exporter that there were no corrupt payments or similar practices. Such practices are already illegal under other laws. (Section 453)

The Senate amendment is identical. (Section 245)

The Conference substitute adopts the Senate amendment. (Section 246)

(37) Compliance

The Senate provision amends Section 402 of the Agricultural Trade Act of 1978 to eliminate an existing authority for USDA to demand private firms' records that are unrelated to federal export program transactions. USDA's ability to examine program-related records is maintained. (Section 246)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 247)

(38) Regulations

The House bill repeals an obsolete requirement (section 404 of the Agricultural Trade Act of 1978) for the issuance of regulations. (Section 455)

The Senate amendment is identical. (Section 247)

The Conference substitute adopts the House provision. (Section 248)

(39) Trade Compensation and Assistance Program

The Senate amendment requires that if a unilateral export embargo is imposed on any country in the future, and if no other country joins the U.S. sanctions within six months, the Secretary must increase Commodity Credit Corporation funding for food assistance and export promotion programs by an amount equal to ninety percent of the most recent three years' average agricultural exports to the embargoed country. The expanded assistance would be provided for the shorter of two years or the duration of the embargo. (Section 248)

The House bill has no similar provision.

The Conference substitute adopts the Senate amendment with an amendment to extend the length of embargo protection to three years. The amendment allows for either increased funding for food assistance and export promotion programs or direct payments to farmers in an amount equal to embargo caused price declines. The amendment also states that compensation will not be provided if a country with an "agricultural economic interest" joins the U.S. sanctions within ninety days, and makes an exception to the application of this section in case of war or armed hostilities. If the Secretary determines that increased funding for export or food assistance programs will provide the greatest compensatory benefit in cases of agricultural export embargoes, the Managers expect the Secretary to target such relief so that farmers affected by the embargo will receive relief.

The Managers intend that for purposes of this section, "agricultural products" shall have the same meaning as for purposes of the GSM-102 export credit guarantee program and similar authorities. (Section 249)

(40) Foreign Agricultural Service

The House bill amends Section 503 of the Agricultural Trade Act of 1978 to change the basic mission areas of the Foreign Agricultural Service to reflect the 1993 merger of FAS with the Office of International Cooperation and Development. (Section 456)

The Senate amendment is identical. (Section 249)

The Conference substitute adopts the Senate amendment. (Section 250)

(41) Reports

The House bill amends Section 603 of the Agricultural Trade Act of 1978 to state that the requirement for quarterly reports on U.S. export assistance is subject to existing authority for the Secretary to set priorities in deciding which reports to prepare. (Section 457)

The Senate amendment is identical. (Section 250)

The Conference substitute adopts the House provision. (Section 251)

(42) Foreign Market Development Cooperator Program

The House bill authorizes the Foreign Market Development (FMD) cooperator program through 2002, provided that appropriated funds be used to assist in the carrying out of approved market development plans by the cooperators. (Section 489)

The Senate amendment is identical. (Section 273)

The Conference substitute adopts the Senate amendment. The Conferees note that these provisions add to the more generally expressed authority for the Foreign Market Development cooperator program currently found in the Agricultural Act of 1954 and related provisions of law, and more importantly spell out that the Foreign Market Development cooperator program is to be carried out by the U.S. Department of Agriculture, in cooperation with eligible trade organizations, through multi-year contracts or agreements under which cost-share assistance is provided to such organizations. (Section 252)

SUBTITLE C—MISCELLANEOUS

(43) Reporting requirements relating to tobacco

The House bill repeals an existing reporting requirement for tobacco exports (Section 214 of the Tobacco Adjustment Act of 1983). (Section 471)

The Senate amendment is identical. (Section 251)

The Conference substitute adopts the Senate amendment. (Section 262)

(44) Triggered export enhancement

The House bill repeals obsolete provisions for marketing loans and other export and farm program provisions that were conditioned on failure to achieve a Uruguay Round agreement by specified dates. The provisions expired with the 1995 crops. (Section 472)

The Senate amendment is identical. (Section 252)

The Conference substitute adopts the House provision. (Section 263)

(45) Disposition of commodities to prevent waste

The House bill amends Section 416 of the Agricultural Act of 1949:

(1) to allow Commodity Credit Corporation funds to be used to cover administrative expenses of section 416(b) overseas donation programs;

(2) to allow more flexibility in the length of time within which monetized proceeds must be expended;

(3) to eliminate a requirement for the Agency for International Development to respond to a proposal by a nonprofit or voluntary agency or cooperative within certain deadlines;

(4) to eliminate obsolete requirements for the minimum amount of commodities to be made available in 1988, 1989, and 1990;

(5) to eliminate redundant statement of authority for the Secretary to dispose of surplus commodities under 416(b) through title I of P.L. 480 or export bonus or promotion programs; and

(6) to eliminate an obsolete provision concerning the Philippines. (Section 473)

The Senate amendment is identical. (Section 253)

The Conference substitute adopts the House provision with an amendment striking the authority to use CCC funds for administrative expenses but allowing private voluntary organizations and intergovernmental organizations to use monetized local currencies for administrative expenses. (Section 264)

(46) Direct sales of dairy products

The Senate amendment repeals an unused provision for direct export sales of CCC-owned dairy products (Section 106 of the Food and Agriculture Act of 1981). Authority remains for such sales under the CCC Charter Act. (Section 254)

The House bill has no similar provision.

The Conference substitute adopts the House provision which deletes the Senate amendment.

(47) Export sales of dairy products

The Senate amendment repeals unused provisions similar to those repealed by Section 304 above (section 1163 of the Food Security Act of 1985). (Section 255)

The House bill has no similar provision.

The Conference substitute adopts the House provision which deletes the Senate amendment.

(48) Debt-for-health-and-protection swap

The House bill repeals authority for "debt-for-health-and-protection swaps" that has never been funded by appropriations (section 1517 of the Food, Agriculture, Conservation, and Trade Act of 1990). (Section 474)

The Senate amendment is identical. (Section 257)

The Conference substitute adopts the House provision. (Section 265)

(49) Policy on expansion of international markets

The House bill repeals an outdated statement of the sense of Congress concerning several trade policy issues that were current at the time of the 1981 farm bill (Section 1207 of the Food Act of 1981). (Section 475)

The Senate amendment is identical. (Section 257)

The Conference substitute adopts the House provision. (Section 266)

(50) Policy on maintenance and development of export markets

The House bill amends an existing statement of U.S. agricultural trade policies (Section 1121 of the Food Security Act of 1985). The agricultural trade policy of the United States is declared: (1) to be the premier world supplier of agricultural products, (2) to support free and fair trade, (3) to negotiate further reductions in trade barriers, including sanitary and phytosanitary barriers, and (4) to aggressively counter unfair foreign trade practices. (Section 476)

The Senate amendment is identical. (Section 258)

The Conference substitute adopts the House provision. The Managers intend for the terms "agriculture" and "food and fiber" to include, but not be limited to, fiber and fiber products, and perennial turfgrass sod.(Section 267)

The Managers also accepted an amendment establishing an agricultural export excellence award to be named the Edward R. Madigan United States Agricultural Export Excellence Award. The purpose of the award is to identify and reward efforts to develop and expand markets for United States agriculture exports throughout the development of new products and through the use of innovative marketing techniques. The categories for which awards are given are (1) development of new products or services; (2) development of new markets for agriculture; and (3) creative marketing of products or services in agriculture export markets.

This section sets forth qualification criteria; establishes a selection board to make recommendations to the Secretary; and authorizes the Secretary to seek and accept gifts from public and private sources to carry out the award program established under this section.

The award is named in honor of the late Edward R. Madigan, the former Secretary of Agriculture and Member of Congress who served on the Committee on Agriculture, in recognition of his service to United States agriculture and the promotion of U.S. agricultural export trade. The Managers believe that the award is a fitting tribute to the memory and legacy of a man whose dedication to the future of U.S. agriculture continues to inspire. (Section 261)

(51) Policy on trade liberalization

The House bill repeals a statement of the sense of Congress from the 1985 farm bill that called for a new round of GATT negotiations (Section 1122 of the Food Security Act of 1985). (Section 477)

The Senate amendment is identical. (Section 259)

The Conference substitute adopts the Senate amendment. The Managers note the importance of strong participation in international agricultural organizations particularly with regard to monitoring use of sanitary and phytosanitary barriers and technical barriers to trade. (Section 268)

(52) Agricultural trade negotiations

The House bill amends Section 1123 of the Food Security Act of 1985 to establish goals for future agricultural trade negotiations, including further reductions in trade barriers, limitations on foreign production supports and the elimination of export subsidies, and disciplines on export monopolies. (Section 478)

The Senate amendment is identical but for a technical difference. (Section 260)

The Conference substitute adopts the House provision. (Section 269)

(53) Policy on unfair trade practices

The House bill repeals a resolution from the 1985 farm bill that dealt with several U.S.-European disputes of the time (Section 1164 of the Food Security Act of 1985). (Section 479)

The Senate amendment is identical. (Section 261)

The Conference substitute adopts the Senate amendment. (Section 270)

(54) Agricultural aid and trade missions

The House bill repeals a requirement for "aid and trade missions" which were concluded several years ago. (Section 480)

The Senate amendment is identical. (Section 262)

The Conference substitute adopts the House provision. (Section 271)

(55) Annual reports by agricultural attaches

The House bill deletes a requirement for reporting by agricultural attaches on fruits, vegetables, legumes, popcorn, and ducks (Section 108(b)(1)(B)). (Section 481)

The Senate amendment is identical. (Section 263)

The Conference substitute adopts the Senate amendment. (Section 272)

(56) World livestock market price information

The House bill repeals a requirement for the development of international livestock price information that duplicates existing reporting by the Foreign Agricultural Service (Section 1545 of the Food, Agriculture, Conservation, and Trade Act of 1990). (Section 482)

The Senate amendment is identical. (Section 264)

The Conference substitute adopts the House provision. (Section 273)

(57) Orderly liquidation of stocks

The House bill repeals an obsolete provision requiring the liquidation of stocks held by the Commodity Credit Corporation (Sections 201 and 207 of the Agricultural Act of 1956). (Section 483)

The Senate amendment is identical. (Section 265)

The Conference substitute adopts the Senate amendment. (Section 274)

(58) Sales of extra-long staple cotton

The House bill repeals an obsolete provision concerning the sale of stocks of extra-long staple cotton owned by the Commodity Credit Corporation in 1956 (Section 202 of the Agricultural Act of 1956). (Section 484)

The Senate bill is identical. (Section 266)

The Conference substitute adopts the House provision. (Section 275)

(59) Regulations

The House bill eliminates an obsolete provision requiring the issuance of regulations (Section 707(d) of P.L. 102-511) for a direct credit sales program for the Former Soviet Union. (Section 485)

The Senate amendment is identical. (Section 267)

The Conference substitute adopts the Senate amendment. (Section 276)

(60) Emerging markets

The House bill amends Section 1542 of the Food, Agriculture, Conservation and Trade Act of 1990 in Subsection (a) by:

(1) revising an existing program of technical assistance for emerging democracies, by re-targeting it to "emerging markets;"

(2) amending subsection (f) to define "emerging market" as a country that the Secretary determines is taking steps toward a market-oriented economy and that has the potential to provide a viable and significant market for U.S. agricultural commodities;

(3) amending subsection (a) to extend the program through 2002 and during 1996–2002, requiring CCC to make available at least $1 billion for credit guarantees to emerging markets;

(4) amending subsection (d) to add identification of trade barriers to the list of activities that technical experts should undertake under the program, to give the Secretary more discretion in the use of experts from the United States, to clarify that funds that may be used to assist in the establishment of extension services, to delete a requirement for an annual report to Congress, to increase from $10 million to $20 million the amount of CCC funds available for the program, to provide for faculty exchanges, and to eliminate unused authority for the establishment of an agricultural fellowship program for students from countries that are parties to the North American Free Trade Agreement; and

(5) amending subsection (e) to state that a requirement for a report on foreign debt burdens is subject to a limitation of the number of reports required from the Department of Agriculture.

The bill also amends Section 1543 of the Food, Agriculture, Conservation, and Trade Act of 1990 in Subsection (b), which establishes the Cochran Fellowship Program by adding emerging markets to the list of types of countries that are eligible for the program. (Section 486)

The Senate amendment is identical except for a technical difference. (Section 268)

The Conference substitute adopts the House with an amendment striking the $10 million annual increase in funding.

The Managers find that without a stable food supply, emerging markets are subject to economic instability. Further, the development of agriculture infrastructure and technologies, and agricultural training are critical needs in emerging markets to further growth in the agricultural sector.

The Managers believe that the President may, where appropriate, utilize existing authorities to transfer agricultural technologies to, and conduct agricultural training for farmers and other agricultural professionals. In using these authorities, the President may consider applications by land-grant colleges that have a demonstrated ability to perform an educational program in emerging democracies. The Managers are further aware of an ongoing attempt to achieve these goals in Latvia, Estonia, and Lithuania by the University of Wisconsin-River Falls, and believe that this institution should be considered for such programs.

The International Cooperation and Development (ICD) program area has a strong, positive role to play in the achievement of the Foreign Agriculture Service mission. Its contribution is illustrated in its work together with the Emerging Democracies program (renamed emerging markets). The program is ideally suited to design and implement the development, training and technical assistance programs funded by the Emerging Democracies programs. In carrying out these Emerging Democracies programs, ICD draws on and coordinates with the extensive expertise of other U.S. Department of Agriculture agencies, the state and land grant university system, and private agricultural enterprises. This relationship between ICD and others has helped develop a number of outstanding programs that are resulting in many short and long term benefits to the Emerging Democracies Office and the Foreign Agriculture Service.

The Managers believe that the cooperation of ICD with the Emerging Democracies program should continue, and that the Foreign Agriculture Service and ICD should continue to seek other opportunities to fully draw on the expertise of ICD in achieving the Agency's broadened mission. (Section 277)

(61) ICD reimbursement for overhead expenses

The Senate provision amends Section 1542(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 and allows the International Cooperation and Development (ICD) program to continue to administer the emerging democracies (now emerging markets) program as it did when it was OICD. Since the ICD merger with the Foreign Agriculture Service, emerging democracy funds cannot be used to pay the salaries of emerging democracy program employees (i.e., Cochran program). The provision allows the Foreign Agriculture Service to transfer not more than $2 million per fiscal year for salaries and expenses for program employees and no funds may be used for the purchase of computers or information technology systems.

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 278)

The Managers also accepted an amendment requiring the President to continue U.S. membership and participation in the International Cotton Advisory Committee. The Managers have determined that participation in that body by the United States is crucial and should be continued. The President shall ensure that U.S. participation in ICAC is carried out through the Secretary of Agriculture and shall direct the U.S. Department of State to pay the annual dues of the United States to ICAC from its appropriated accounts. The Presidents shall direct the U.S. Department of State to pay the 1996 dues in a prompt manner in order to ensure continuity of U.S. participation. (Section 283)

(62) Labeling of domestic and imported lamb and mutton

The Senate amendment requires the Secretary, consistent with U.S. international obligations, to establish standards for the labeling of lamb and mutton and be applied equally to domestic and imported product. The standard to be used is based on the break or spool joint method to differentiate lamb from mutton by the degree of calcification of bone to reflect maturity. (Section 876)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment requiring the Secretary to establish standards for the labeling of sheep carcasses, parts of carcasses, meat, and meat food products as 'lamb' or 'mutton'.

The Managers intend that consistency between domestic and imported lamb will result. To accomplish this the Secretary is expected to assess the extent to which imported sheepmeat meets the U.S. standard for lamb. Since U.S. and imported lamb maturity determination methods differ, this report should include any recommended changes in lamb labeling regulations. It is expected that this report will include quantitative analysis of the maturity of both domestic and imported sheepmeat in relation to the total amount of sheepmeat sold in the U.S. (Section 279)

(63) Import assistance for CBI beneficiary countries and the Philippines

The Senate amendment repeals an obsolete provision for a sugar reexport program for Caribbean countries and the Philippines that was in force only for 1988. (Section 269)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 280)

(64) Studies, reports, and other provisions

The Senate amendment repeals requirements from the Food Agriculture, Conservation and Trade Act of 1990 for several reports. (Section 270)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 281)

(65) Sense of Congress concerning multilateral disciplines on credit guarantees

The House bill expresses the sense of Congress that, in ongoing negotiations under the auspices of the Organization for Economic Cooperation and Development on credit guarantees, the United States should not agree to changes in U.S. laws authorizing credit guarantees, and should insist on disciplines on the operations of foreign export monopolies. (Section 488)

The Senate amendment is identical. (Section 272)

The Conference substitute adopts the House provision with an amendment specifying state trading entities referenced in the resolution. (Section 282)

TITLE III—CONSERVATION

(1) Definitions

The Senate amendment defines conservation system as the conservation measures and practices that are approved for application by a producer to a highly erodible field and that provide for cost effective and practical erosion reduction on the field based on local resource conditions and standards contained in the Natural Resources Conservation Service field office technical guide. (Section 301)

The House bill has no such provision.

The Conference substitute adopts the Senate position with amendments that: 1) delete the Senate provisions; 2) provide definitions for conservation plans, conservation systems and fields; 3) require the Secretary of Agriculture publish in the Federal Register the current universal soil loss equation and wind erosion equation and publish in the Federal Register any subsequent changes to these equations; 4) require that highly-erodible lands exiting the Conservation Reserve Program not be held to a higher conservation compliance standard than similar cropland in the same area; 5) provide that an individual who violates conservation compliance provisions have a reasonable period, not to exceed one year, to come into compliance; 6) provide for expedited variances for weather, pest, and disease problems and establish a time period for granting those variances; 7) provide for technical requirements in USDA's Field Office Technical Guides with respect to conservation plans and conservation systems; 8) require a measurement of erosion on the field prior to implementation of a conservation system, based on estimated annual erosion rates; 9) provide for residue measurement taking into account residue in the top two inches of soil, technical guidelines for erosion measurement, certification of third party residue measurement, and acceptance and use of residue measurements provided by a producer; 10) provide for a producer's certification of compliance and the Secretary's option for a status review if a producer certifies compliance, and revision or modification of a conservation plan by a producer if the same level of treatment is maintained. The Secretary may not change a producer's conservation plan without concurrence by the producer; 11) provide for technical assistance on all portions of a producer's farm for other conservation objectives outside of the scope of conservation compliance; 12) permit the producer to use practices other than those currently approved if the Secretary determines they have a reasonable likelihood of success; 13) provide for a review, and relief to a producer, by the local county committee if a conservation system would cause undue economic hardship; 14) mandate that an employee of USDA who notices a compliance deficiency on a producer's farm while providing technical assistance on other land inform the producer of the deficiency and actions necessary to come into compliance (The producer must come into compliance within one year); 15) provide that a producer who is violating conservation compliance will not be denied crop insurance benefits, and; 16) make conforming amendments. (Sections 301, 311–316)

It is the intent of the Managers that the Secretary use the best science available in determining the degree to which the amount of residue in the top two inches of soil is to be considered when estimating average annual soil erosion levels.

The Managers intend that USDA employees may, at the request of the producer, provide technical assistance on all parts of a producer's operation for soil, water, and related natural resource concerns identified by the producer.

The Managers intend that the Secretary will establish one standard for conservation systems offered by USDA on all cropland subject to conservation compliance.

It is not the intent of the Managers that county committees make determinations on the accuracy of a technical determination by NRCS. The scope of the county committees' decision will be whether the technical determination causes undue economic hardship.

To accomplish NRCS's stated objectives of providing farmers additional conservation alternatives based on local conditions that combine economic and environmental considerations, the Committee urges the Secretary to encourage NRCS to continue and expand, as appropriate, the Wind Erosion Pilot Project, which evaluates the use of primary tillage to create soil roughness conditions for compliance purposes. This includes evaluating the appropriateness of substituting tillage as an alternative to vegetative cover management.

The Managers expect the Secretary to make it possible for residue measurements to be supplied by producers who self-certify. At the same time, the Managers do not intend that the Secretary be required to use producer (or certified third party) supplied residue measurements that the Secretary determines are incorrect or inappropriate for the purpose identified in this paragraph. Rather, it is the intent of the Managers that the Secretary shall use these measurements to the extent the Secretary determines is appropriate.

The Managers believe that the Secretary should examine and revise, as appropriate, the Department's procedures for providing notice of, and conducting investigations of, possible conservation compliance deficiencies. The Managers understand that existing law requires that, when accepting written allegations of compliance violations, the Secretary must keep the identity of the person filing the allegation confidential if so requested by the person. However, it is critical that the Secretary have the discretion to determine whether to investigate such allegations, recognizing the high degree of sensitivity among farmers and others concerning the propriety of relying on anonymous allegations. The Secretary may initiate or expand any investigation based on such allegations, and should promptly notify the subject of the investigation of the existence and nature of the alleged violation. The Secretary should provide information to the subject of the investigation on the status of the investigation when requested or within 180 days of the initial notification of the investigation. In this notice, the Secretary should also inform the person whether a formal complaint will be issued, when the investigation will be terminated, or whether the investigation will continue or be expanded. In cases where the Secretary determines that a violation has occurred, the subject of the investigation should be notified by registered or certified mail of the violation and be given the appropriate information on the determination and on appeal rights.

The Managers intend, by using the term "group of fields" as part of the definition of a conservation system, that appropriate erosion control conservation practices be applied to highly erodible lands that might constitute a subset of all the land within such a group.

The Managers expect that the Secretary pay particular attention to areas near weather stations used to establish climatic factors used in making wind erosion predictions. In cases where the Secretary concludes that existing highly-erodible land determinations unfairly penalize producers, the Secretary should, to the extent practicable and appropriate, use updated wind erosion data to revise the conservation compliance plan for the affected land of producers who request such relief. The Secretary should caution producers that a voluntary request for a conservation compliance review in an affected county may impact the producer's future eligibility for the Conservation Reserve Program.

(2) Wetland conservation exemption

The Senate amendment amends Section 1222(b)(1) of the Food Security Act of 1985 by adding a new exemption from swampbuster penalties for converted wetlands if the extent of the conversion is limited to the reversion to conditions that will be at least equivalent to the wetland functions and values that existed prior to implementation of a voluntary wetland restoration, enhancement, or creation action. (Section 358)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a technical amendment. (Section 322)

The Managers intend that the Secretary permit a person to cease to use "farmed wetlands" or "farmed wetlands pasture" for agricultural purposes, allow them to return to wetland conditions and subsequently bring these lands back into agricultural production after any length of time without violating swampbuster, if: 1) the person first notifies the Secretary of the intent to allow improved wetland conditions to return to the "farmed wetland" or "farmed wetland pasture"; 2) the Secretary documents the specific site conditions prior to the initiation of the wetland improvement; 3) the Secretary approves the subsequent proposed conversion action prior to implementation, and; 4) the subsequent conversion action returns the site to wetland conditions at least equivalent to the functions and values that existed prior to the time the wetland was restored or enhanced. The Managers do not intend for this provision to supersede the wetlands protection authorities and responsibilities of the Environmental Protection Agency or of the Corps of Engineers under Section 404 of the Clean Water Act.

(3) Abandonment of converted wetlands

The Senate amendment amends Section 1222 of the Food Security Act of 1985 to require that the Secretary not determine that a prior converted or cropped wetland is abandoned, and therefore that the wetland is subject to swampbuster penalties, on the basis that a producer has not planted an agricultural crop on the prior converted or cropped wetland after the date of enactment of this subsection, so long as any use of the wetland thereafter is limited to agricultural purposes. (Section 364)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision with amendments that: 1) provide the Secretary with the discretion to determine which programs a person who violates swampbuster will become ineligible for; 2) assure producers have the right to request a review of, and to appeal, a certified wetland delineation; 3) provide that a certified wetland delineation will remain in effect until the producer requests a new delineation and certification; 4) ensure that wetlands which were certified as prior converted cropland will continue to be considered prior converted wetlands even if wetland characteristics return as a result of lack of maintenance of the land or other circumstances beyond the person's control as long as the prior converted cropland continues to be used for agricultural purposes; 5) require USDA to identify which categories of actions constitute a minimal effect on a regional basis; 6) provide producers who inadvertently convert a wetland greater flexibility to mitigate that loss through restoration, enhancement, or creation of wetlands; 7) allow the Secretary to waive penalties against a producer if the Secretary believes the producer was acting in good faith and did not intentionally violate swampbuster; 8) provide for a pilot program on mitigation banking; 9) repeal the requirement for consultation with the Fish and Wildlife Service; 10) provide that persons affiliated with a person who violates swampbuster will not be penalized if such affiliated persons are not responsible for the violation, and; 11) defines "agricultural lands" for purpose of implementing the interagency memorandum of agreement on federal wetland delineations. (Section 321–326)

The Managers intend that the Secretary should, in determining ineligibility for benefits under swampbuster, take away those program benefits that would not defeat the purposes of encouraging good conservation of our soil and water resources or endanger the ability of a borrower to continue to repay a USDA farm loan. The Managers intend that the amendments to abandonment provisions under swampbuster should not supersede the wetland protection authorities and responsibilities of the Environmental Protection Agency or the Corps of Engineers under Section 404 of the Clean Water Act. The minimal effect amendments are intended by the Managers to assist persons in avoiding a violation of the ineligibility provisions of Section 1221 by identifying types of minor wetland alterations and farming practices that are routinely determined by the Secretary in a given state or region to have minimal impact on wetlands functions and values. The Managers intend, in general, that categorical minimal effects exemptions be developed on a statewide, regional or local basis for categories of specific, normal agricultural practices conducted in specified wetland systems.

The Managers intend the mitigation banking pilot to determine the usefulness of such mitigation banking in assisting landowners in complying with the mitigation requirements of the Swampbuster provisions. In carrying out such a pilot, the Managers support permitting wetland acres to be entered into the Conservation Reserve Program (CRP) for the purpose of demonstrating the feasibility of agricultural wetlands mitigation. The Managers also support permitting producers to convert the frequently cropped wetlands mitigated under this pilot mitigation banking authority, and to produce an agricultural commodity on the converted acres. To ensure that the mitigation pilot does not diminish wetland resources, the Mangers expect that wetlands that producers may convert under this pilot program should be wetlands which are frequently cropped, and significantly degraded. Further, to offset the loss of wetland functions and values that may result from such conversion, the Committee expects that the Secretary will require producers who are permitted to harvest a crop on a converted wetland mitigated under this pilot program to assign the related CRP payments to a wetland mitigation bank approved by the Secretary.

The Managers intend the Secretary to determine under what circumstances the Fish and Wildlife Service should be utilized in the implementation of Swampbuster. The Managers intend that the Secretary define "affiliated person" so that persons with an insignificant interest will not be considered affiliated.

For the purposes of the section relating to the Secretary of Agriculture's role under the interagency memorandum of agreement on wetland delineation, "tree farms" means farms devoted to the raising of trees designed to be sold whole, such as nurseries, Christmas tree farms and other small tree farms, and does not include large tree farms that are commercially planted, cultivated, and actively managed for the production of wood and wood fiber.

(4) Environmental Conservation Acreage Reserve Program

The House bill extends the authorization for ECARP through 2002. Protection of wildlife habitat is added as a purpose of ECARP. (Section 304)

The Senate amendment contains similar provisions including a farmland protection program under which the Secretary is directed to purchase conservation easements or other interests in 170,000 to 340,000 acres of land with prime, unique or other productive soil that is subject to a pending offer from a state or local government to limit non-agricultural uses of the land. Funding for the program, from the Commodity Credit Corporation, shall not exceed $35 million. (Section 301)

The Conference substitute adopts the Senate provisions with an amendment to add protection of wildlife habitat as a purpose of ECARP. (Section 331)

It is the intent of the Managers that the Secretary of Agriculture should, to the fullest extent practicable, recognize the responsibilities and utilize the authorities of state and local governments, including local conservation districts, in achieving the purposes of this section. In particular, Congress intends for the Secretary to acknowledge and maintain the historic role of conservation districts in assessing natural resource priorities, approving site-specific conservation plans, and coordinating the delivery of federal conservation programs at the local level.

(5) Conservation priority areas

The Senate amendment continues the concept of conservation priority areas within which producers are eligible for enhanced assistance through the Conservation Reserve Program, the Wetlands Reserve Program, and a new Environmental Quality Incentives Program. It adds the Rainwater Basin Region, the Lake Champlain Basin and the Prairie Pothole Region as specific conservation priority areas. (Section 311)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment deleting all mentions of specific regions as conservation priority areas. (Section 331)

Although the Managers removed the Chesapeake Bay Region, the Great Lakes Region and the Long Island Sound Region from the conservation priority area designation legislation and opted not to include the Rainwater Basin Region, the Lake Champlain Basin and the Prairie Pothole Region, the Managers intend no prejudice against these regions being designated by the Secretary as conservation priority areas in the future.

In the priority setting process the Managers expect the Secretary to take into consideration any recommendations from State Governors, State agencies, and other Federal Departments or agencies in selecting and designating conservation priority areas.

(6) Applicability and termination

The Senate amendment restates current law regarding applicability and termination of conservation priority areas. (Section 311)

The House bill has no comparable provision

The Conference substitute adopts the Senate provision. (Section 331)

(7) Conservation reserve program

The House bill reauthorizes the CRP through 2002, limits enrollments to 36.4 million acres and provides that CRP funds not spent because of an early contract termination may be spent as rental payments to enroll other eligible land into the CRP. (Section 305)

The Senate amendment reauthorizes the CRP through 2002, limits enrollments to 36.52 million acres and permits the Secretary to enroll new acreage into the CRP in an amount equal to the acreage covered by those CRP contracts that expire after the date of enactment. (Section 312)

The Conference substitute adopts the House provisions with an amendment that provides that the Secretary may maintain up to 36.4 million acres in the CRP at any time during the 1986–2002 calendar years, including acreage in contracts extended by the Secretary. (Section 332)

The Managers stress their intent that the 36.4 million acre maximum is a rolling maximum, rather than a program lifetime limit. The Secretary may enroll additional land to replace land leaving the program through early terminations or contract expirations so long as, at any one time, there is not more than 36.4 million acres enrolled.

The Managers urge the Secretary, when considering the appropriateness of utilizing the Conservation Reserve Program and other voluntary incentive and technical assistance initiatives on an individual farm or ranch, to employ the most cost-effective option or options necessary to address the natural resource challenges posed by the farm or ranch. In many cases, entering entire fields into the CRP will be the most efficacious. However, idling partial fields through the CRP will frequently provide equivalent environmental benefits at a lower cost to the government. Similarly, financial incentives for the employment of land management or structural practices—alone or in combination with land idling—will return substantial environmental dividends economically while allowing agricultural production to continue. By adopting such a balanced approach, the Secretary will maximize the environmental benefits of the various programs per dollar expended.

It is the intent of the Managers that the Secretary permit flexible widths for vegetative strips beside ditches or waterways, and in sodded waterways and filterstrips, placed in the CRP. The Managers intend for the Secretary, to the extent practicable, to consider local conditions when determining minimum required widths for vegetative strips in the CRP.

In carrying out the Conservation Reserve Program, the Managers recommend that the Secretary consider allowing biomass production as an acceptable cover crop practice during the period of a contract, provided that no harvesting is allowed until after the contract is completed or terminated.

(8) Conservation Reserve Program new acreage

The Senate amendment permits the Secretary to enroll new acreage into the CRP in an amount equal to the acreage covered by those CRP contracts that expire after the date of enactment.

The House bill contains no comparable provision.

The Conference substitute adopts the House position, which deletes the Senate amendment.

(9) Optional contract termination by producers

The House bill permits persons to unilaterally terminate CRP contracts with reasonable notice to the Secretary, if the contracts were entered into at least 5 years prior to the date of enactment. Filterstrips, waterways, strips adjacent to riparian areas, windbreaks, shelterbelts, land with an erodibility index greater than 15 and other lands of high environmental value are not eligible for early termination. The early termination may become effective 60 days after the person submits notice to the Secretary and the rental payment for the Fiscal Year in which the termination takes place shall be prorated. An owner or operator who opts for a unilateral termination may at a later time be eligible to enroll the land in the CRP. (Section 305)

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provisions with amendments to include wetlands among those lands the Secretary may determine are not eligible for an early termination and to limit the unilateral termination option to contracts entered into before January 1, 1995. (Section 332)

(10) Fair market value rental rates

The House bill provides that rental payments for land entered into the CRP after the date of enactment may not exceed the average fair market rental rate for comparable lands in the county. The provision is not applicable to existing contracts that have been extended. (Section 305)

The Senate amendment has no comparable provision.

The Conference substitute adopts the Senate provision, which deletes the House provision. (Section 332)

The Managers note the provision in the House bill that required rental rates for new enrollments not to exceed the average fair market rental rate for comparable lands in the county in which the CRP lands are located. The Conference substitute did not include this provision. The Managers agree with the Secretary's action for the 13th CRP signup which allowed local review of CRP rental rates prior to the signup period, including authority for limited adjustments. However, the Managers are concerned that in some regions, Farm Service Agency offices did not clearly understand that in areas where share leases predominate, rental rates were to be determined on a cash equivalent basis. Therefore, the Managers expect that, in future CRP enrollments and extensions of CRP contracts, the Secretary will ensure that all county offices are notified that CRP rental rates shall be determined on a cash or cash equivalent basis.

(11) Enrollments in 1997

The House bill repeals a requirement in the Fiscal 1996 Agricultural Appropriations Act regarding CRP enrollments. (Section 305)

The Senate amendment contains a similar provision. (Section 312)

The Conference substitute adopts the House provision. (Section 332)

(12) Wetlands Reserve Program—Enrollment

The House bill reauthorizes the WRP through 2002 and limits enrollments to no more than 975,000 acres. Total acreage enrolled shall be divided equally between permanent easements, long-term easements (30 years or shorter if required by state law), and cost-share agreements. (Section 302)

The Senate amendment contains similar provisions with the exception that, beginning October 1, 1996, acreage enrolled shall be divided equally between permanent easements, 30-year easements and restoration cost-share agreements. (Section 313)

The Conference substitute adopts the Senate provisions with an amendment prohibiting the Secretary from entering into any new permanent easements until non-permanent easements are obtained on at least 75,000 acres. (Section 333)

The Managers do not intend for the restriction on additional permanent easements to prohibit the Secretary from finalizing any agreements that have been entered into with producers through previous WRP signups.

(13) Eligibility

The House bill extends the period for eligible lands to be enrolled through 2002. (Section 302)

The Senate amendment contains similar provisions and a requirement that eligible lands must also maximize wildlife benefits. (Section 313)

The Conference substitute adopts the Senate provisions. (Section 333)

(14) Other eligible lands

The Senate amendment states that other eligible lands must also maximize wildlife benefits. (Section 313)

The House bill has no similar provision.

The Conference substitute adopts the Senate provision. (Section 333)

(15) Easements

The House bill states that payments may be provided in between 5 and 30 annual installments of equal or unequal size (but may not be in a lump sum). Cost-share payments for permanent easements shall be for 75–100% of eligible costs and those for 30-year easements or cost-share agreements shall be for 50–75% of eligible costs. (Section 302)

The Senate amendment contains similar provisions and a requirement that restoration plans be made through the local Natural Resources Conservation Service representative in consultation with the State Technical Committee. (Section 313)

The Conference substitute adopts the Senate provisions. (Section 333)

(16) Cost share and technical assistance

The House bill states that restoration cost-share agreements may cover 50–75% of eligible costs and specifies that the limitations are not applicable to easements that existed prior to the date of enactment. (Section 302)

The Senate amendment has similar provisions with the exception of the proviso regarding easements that existed prior to the date of enactment. (Section 313)

The Conference substitute adopts the Senate provisions. (Section 333)

(17) Wetlands Reserve Program—Purposes

The House bill makes no change to the current purpose of the WRP, which is to assist owners of eligible lands in restoring and protecting wetlands.

The Senate amendment states that the purpose of the WRP is to protect wetlands so as to enhance water quality and provide wildlife benefits while recognizing landowner rights. (Section 313)

The Conference substitute adopts the House position, which deletes the Senate amendment.

(18) Environmental Quality Incentives Program—Purpose

The Senate amendment states that the purpose of the new Environmental Quality Incentives Program is to combine into a single program the functions of the Agricultural Conservation Program, the Great Plains Conservation Program, the Colorado River Basin Salinity Control Program and the Water Quality Incentives Program. (Section 314)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 334)

(19) Findings

The Senate amendment states several findings relevant to the establishment of the EQIP program. (Section 314)

The House bill has no comparable provision.

The Conference substitute adopts the House position, which deletes the Senate amendment.

(20) Eligible lands

The House bill states that land on which EQIP contracts may be entered into includes land used for livestock or agricultural production that the Secretary determines poses a serious threat to soil, water or related resources. (Section 301)

The Senate amendment states that land on which EQIP contracts may be entered into include: agricultural land (including cropland, rangeland, pasture and other land on which crops or livestock are produced) that the Secretary determines poses a serious threat to soil, water or related resources; critical agricultural land as identified in a state plan required under nonpoint source provisions of the Clean Water Act; an area recommended by a state lead agency for protection of soil, water and related resources, and; other land that, if left untreated, could defeat the purposes of EQIP. (Section 314)

The Conference substitute adopts the Senate provisions with an amendment striking references to critical agricultural land as identified in a state plan required under nonpoint source provisions of the Clean Water Act. (Section 334)

(21) Definitions—land management practice

The House bill defines "land management practice" as a site-specific nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, or other land management practice that the Secretary determines is needed to protect, in the most cost effective manner, water, soil, or related resources from degradation. (Section 314)

The Senate amendment is similar, except that it has no reference to "site-specific." (Section 301)

The Conference substitute adopts the House provision with a technical amendment. (Section 334)

(22) Large confined livestock operation

The Senate amendment defines "large confined livestock operation" as an operation that is a confined animal feeding operation and has more than:

700 mature dairy cattle;
1,000 beef cattle;
100,000 laying hens or broilers;
55,000 turkeys;
2,500 swine; or
10,000 sheep or lambs. (Section 314)

The House bill has no similar provision.

The Conference substitute adopts the House provision, which deletes the Senate amendment.

(23) Livestock

The House bill defines "livestock" as mature livestock, dairy cows, beef cattle, laying hens, broilers, turkeys, swine, sheep, lambs and such other animals as determined by the Secretary. (Section 301)

The Senate amendment has a similar definition with the exception of the term "mature livestock" and the provision allowing for a Secretarial determination. (Section 314)

The Conference substitute adopts the House provisions with amendments striking the word "mature" and substituting the word "cattle" in place of "cows." (Section 334)

(24) Producer

The House bill utilizes the term "producer" as a person who is engaged in livestock production, as defined by the Secretary. (Section 301)

The Senate amendment utilizes the term "operator." (Section 314)

The Conference substitute adopts the House provision. (Section 334)

(25) Structural practice

The House bill defines "structural practice" as an animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, tailwater pit, or other structural practice that the Secretary determines is needed to protect water, soil, or related resources in the most cost-effective manner, and the capping of abandoned wells. (Section 301)

The Senate amendment has a similar definition, except that it includes "permanent wildlife habitat" and excludes "tailwater pit" and "capping of abandoned wells." (Section 314)

The Conference substitute adopts the House provision with an amendment adding "permanent wildlife habitat" and the term "site-specific." (Section 334)

(26) Establishment and administration of EQIP—Establishment

The House bill requires that, during the 1996 through 2002 fiscal years, the Secretary provide technical assistance, cost-sharing payments, and incentive payments to producers who enter into contracts with the Secretary, through EQIP. (Section 301)

The Senate amendment contains a similar provision. (Section 314)

The Conference substitute adopts the Senate provision. (Section 334)

(27) Eligible practices

The House bill provides that a producer who implements a structural practice shall be eligible for technical assistance, cost-sharing payments, or both. In addition, a producer who performs a land management practice shall be eligible for technical assistance, incentive payments, or both. (Section 301)

The Senate amendment contains a similar provision except that it also provides for "education." (Section 314)

The Conference substitute adopts the Senate provision. (Section 334)

(28) Application and term

The House bill provides that a contract between a producer and the Secretary under EQIP may apply to 1 or more structural practices or 1 or more land management practices, or both; and have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract. (Section 301)

The Senate amendment contains a similar provision. (Section 314)

The Conference substitute adopts the Senate provision. (Section 334)

(29) Structural practices

The House bill requires the Secretary to administer a competitive offer system for producers proposing to receive cost-sharing payments in exchange for the implementation of 1 or more structural practices. The competitive offer system shall consist of the submission of a competitive offer by the producer in such manner as the Secretary may prescribe and evaluation of the offer in light of the selection criteria established in section 1238C and the projected cost of the proposal. In addition, if the producer who offers to implement a structural practice is a tenant of the land involved in agricultural production, for the offer to be acceptable, the producer shall obtain the concurrence of the owner of the land with respect to the offer. (Section 301)

The Senate amendment contains a similar provision with technical differences. (Section 314)

The Conference substitute adopts the House provision with an amendment requiring the Secretary, to the extent practicable, to provide a process for selecting applications for financial assistance where there are numerous applications for such assistance that present substantially the same level of environmental benefits. The process shall provide for the consideration of a reasonable estimate of the projected cost of the proposal and other factors identified by the Secretary for determining which applications will present the least cost, and the consideration of the priorities established under EQIP and other such factors identified by the Secretary to maximize environmental benefits per dollar expended. (Section 334)

The Managers intend that, when cost-share assistance is provided, the Secretary encourages open and fair competition by vendors for services and products.

(30) Land management practices

The House bill requires the Secretary to establish an application and evaluation process for awarding technical assistance or incentive payments, or both, to a producer in exchange for the performance of 1 or more land management practices by the producer. (Section 301)

The Senate amendment contains a similar provision. (Section 314)

The Conference substitute adopts the Senate provision with an amendment using the term "producer" rather than "operator." (Section 334)

The Managers urge the Secretary, in carrying out EQIP, to be particularly cognizant of the needs of producers whose lands are exiting the Conservation Reserve Program (CRP). Such consideration will ensure that these lands are eligible to receive EQIP assistance for practices such as conservation tillage in an effort to maximize the conservation and environmental benefits that have accrued under the CRP.

(31) Cost-sharing, incentive payments, and other payments

The House bill requires that the Federal share of cost-sharing payments to a producer proposing to implement 1 or more structural practices shall not be more than 75 percent of the projected cost of each practice, as determined by the Secretary, taking into consideration any payment received by the producer from a State or local government. A producer shall not be eligible for cost-sharing payments for structural practices on eligible land if the producer receives cost-sharing payments or other benefits for the same land under CRP, WRP or the Environmental Easement Program. The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage a producer to perform 1 or more land management practices. (Section 301)

The Senate amendment contains similar provisions. (Section 314)

The Conference substitute adopts the Senate provisions with amendments using the term "producer" rather than "operator." (Section 334)

(32) Size limitation

The Senate amendment states that an operator of a large confined livestock operation shall not be eligible for cost-sharing payments to construct an animal waste management facility. (Section 314)

The House bill contains no similar provision.

The Conference substitute adopts the Senate provision with an amendment stating that a "large confined livestock operation" shall be determined by the Secretary. (Section 334)

The Managers expect that in determining whether an operation is a large confined livestock operation within the meaning of this provision, the Secretary will consider various resource and environmental factors, including regulations promulgated pursuant to the Clean Water Act. The Secretary is expected to specify clearly the factors and considerations involved in developing the requirements for program eligibility and should follow notice and comment procedures. However, the Managers understand that the need to begin implementing the program quickly may initially require the use of interim procedures. In defining large confined livestock operations, the Managers expect the Secretary to take into account needs for maximizing environmental benefits in targeted watersheds affected by animal agriculture, the ability of operations to pay for the cost of animal waste management facilities, the obligations of operations under other environmental authorities, and the particular characteristics of modern livestock operations.

(33) Technical assistance

The House bill requires the Secretary to allocate funding under EQIP for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided for a fiscal year. The allocated amount may vary according to the type of expertise required, quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided for a fiscal year. In addition, the Secretary shall ensure that the process of writing, developing and assisting in the implementation of EQIP plans be open to individuals in agribusiness including but not limited to agricultural producers, representatives from agricultural cooperatives, agricultural input retail dealers and certified crop advisers. The process shall be included in but not limited to programs and plans established under EQIP and any other USDA programs using incentive payments, technical assistance, or cost-share payments. The receipt of technical assistance under EQIP shall not affect the eligibility of the operator to receive technical assistance under other authorities of law available to the Secretary. (Section 301)

The Senate amendment contains similar provisions. (Section 314)

The Conference substitute adopts the House provisions with an amendment to specify that the provision requiring that non-USDA individuals be allowed to prepare plans for programs other than EQIP applies specifically to USDA conservation programs. (Section 334)

(34) Modification or termination of contracts

The House bill permits the Secretary to establish terms of an EQIP contract. (Section 301)

The Senate amendment permits the Secretary to modify or terminate a contract entered into with an operator if the operator agrees and if the Secretary determines the modification or termination is in the public interest. The Secretary may also terminate a contract if the Secretary determines that the operator violated the contract. (Section 314)

The Conference substitute adopts the Senate provisions with an amendment to use the term "producer" rather than "operator." (Section 334)

(35) Non-federal assistance

The Senate amendment permits the Secretary to request the services of a state agency dealing with water quality, fish and wildlife, or forestry, or any other governmental or private resource considered appropriate to assist in providing the technical assistance necessary for the development and implementation of a structural practice or land management practice. No person shall be permitted to bring or pursue any claim or action against any official or entity based on or resulting from any technical assistance provided to an operator under EQIP to assist in complying with a federal or state environmental law. (Section 314)

The House bill contains no similar provision.

The Conference substitute adopts the Senate provisions with amendments striking the prohibition against claims or action resulting from technical assistance and using the term "producer" rather than "operator." (Section 334)

(36) Evaluation of offers and payments—Regional priorities

The House bill requires the Secretary, in determining eligibility for land for EQIP, to consider the significance of the water, soil and related natural resource problems and the maximization of environmental benefits per dollar expended. (Section 301)

The Senate amendment requires the Secretary to provide assistance to operators in a region, watershed or conservation priority area based on the significance of the soil, water and related natural resource problems and the practices that best address the problems. (Section 314)

The Conference substitute adopts the House provisions. (Section 334)

(37) Maximization of environmental benefits

The House bill requires the Secretary, in providing assistance to producers, to consider the significance of the water, soil and related natural resource problems and the maximization of environmental benefits per dollar expended. (Section 301)

The Senate amendment requires the Secretary to accord a higher priority to assistance and payments that maximize environmental benefits per dollar expended. Prioritization shall be done nationally as well as within specific conservation priority areas, regions or watersheds. The Secretary shall establish criteria for implementation of practices that best achieve relevant conservation goals. (Section 314)

The Conference substitute adopts the Senate provisions. (Section 334)

(38) State or local contributions

The Senate amendment requires the Secretary to accord a higher priority to operators located within areas that state or local governments have provided, or will provide, financial or technical assistance to operators for the same conservation or environmental purposes. (Section 314)

The House bill has no similar provisions.

The Conference substitute adopts the Senate provision. (Section 334)

(39) Priority lands

The Senate amendment requires the Secretary to accord higher priority to lands on which agricultural production contributes to the potential for failure to meet applicable water quality standards or other federal or state environmental objectives. (Section 314)

The House bill contains no similar provisions.

The Conference substitute adopts the House position, which deletes the Senate amendment.

(40) Duties of operators

The House bill requires producers to comply with terms required by the Secretary. (Section 301)

The Senate amendment stipulates that, to receive assistance under EQIP, operators shall agree: to implement an EQIP plan describing conservation and environmental goals; not to conduct practices that would defeat the purposes of EQIP; to refund any payment and forfeit future payments if in violation of the EQIP contract or upon transferring interest in the land (unless the transferee assumes the obligations of the contract), and; to supply information necessary to determine compliance with the EQIP plan. (Section 314)

The Conference substitute adopts the Senate provisions with an amendment using the term "producer" rather than "operator". (Section 334)

(41) EQIP plan

The Senate amendment states that an individual EQIP plan shall include (as determined by the Secretary): a description of the farming or ranching operation; a description of the relevant farm or ranch resources related to the conservation and environmental objectives of the plan; a description of the structural or land management practices to be implemented; the timing and sequence for implementing the practices, and; information to enable evaluation of the effectiveness of the plan. (Section 314)

The House bill contains no similar provisions.

The Conference substitute adopts the Senate position with an amendment providing general requirements for a plan of operations that shall, to the extent practicable, avoid duplication in the plans required for other similar conservation programs and requirements. (Section 334)

It is the Managers' intent that the process used to develop EQIP plans be a simplified and flexible approach to assist producers to work toward better resource management. EQIP are not intended to be whole-farm plans.

The producer should voluntarily submit a conservation plan to the Secretary for approval in order to be eligible for participation in EQIP. The plan may contain an implementation schedule, a description of the structural and management practices, cropping patterns, farm or ranch resources, and other information, as the Secretary determines is necessary, to facilitate the objectives of this provision.

Producers, on their own initiative, may use any conservation plan developed and required for participation in any other program within the jurisdiction of the Secretary provided the plan is approved by the Secretary for the purpose of EQIP. This is intended to avoid a duplication of planning and to relieve the paperwork burden on producers.

Since EQIP is a voluntary program, the producers may begin the plan development process, on their own initiative, by analyzing their needs for long-term farm or ranch operations. The producers should assess the areas of their operations that face the most serious problems associated with soil, water and related resources, including grazing lands, wetlands, and wildlife habitat. The producers should identify alternative conservation practices and select the best management practices to meet their needs and the conservation incentives of EQIP. The plan should be designed, to the extent practicable, to help producers comply with local, state, and federal laws.

In determining the practice or combination of practices appropriate for a particular farm or ranch, the Managers emphasize that the Secretary should use the lowest-cost option or options available. By doing so, the Secretary will be able to assist the greatest number of producers possible and maximize the positive impacts on the environment.

The legislation does not specifically mention all structural or land management practices that are eligible for funding under EQIP because of the broad gamut of measures that may be appropriate depending on the type of operation, its location and other factors. In addition, it is impossible to predict the evolution of new technologies. Accordingly, the Managers strongly urge the Secretary to make new practices eligible for funding under EQIP as soon as reasonable testing indicates their efficacy. The managers also intend that the term "site-specific" refer not only to entire farms or ranches but to discrete locations within an operation.

(42) Duties of the Secretary

The Senate amendment requires the Secretary to assist an operator in achieving the goals of an EQIP plan by providing an eligibility assessment of the farming or ranching operation; providing technical assistance in developing and implementing the plan; providing technical assistance, cost-sharing payments or incentive payments for practices; providing information, education and training; and by encouraging the operator to obtain assistance from other federal, state, local or private sources. (Section 314)

The House bill includes no similar provisions.

The Conference substitute adopts the Senate provisions with an amendment using the term "producer" rather than "operator." (Section 334)

(43) Limitations on payments

The House bill states that the total amount of cost-sharing and incentive payments paid to a person may not exceed $10,000 for any fiscal year or $50,000 for any multiyear contract, except that the Secretary may exceed the limitation on the annual limit on a case-by-case basis if the Secretary determines that a larger payment is essential. The Secretary shall issue regulations that are consistent with those for receiving market transition payments for the purpose of defining the term 'person' and prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the EQIP limitations. (Section 301)

The Senate amendment contains similar provisions but does not include the exception permitting a waiver of the annual limit. (Section 314)

The Conference substitute adopts the House provisions with amendments requiring the maximization of environmental benefits per dollar expended and providing for interim administration of EQIP pending promulgation of final regulations, to the extent the existing regulations do not conflict with the provisions of the Conference substitute establishing EQIP, and requiring that payments under an EQIP contract entered into during a fiscal year not be made until the subsequent fiscal year. (Section 334)

(44) Conservation farm option

The Senate amendment requires the Secretary to offer eligible owners and operators with contract acreage under Title I who also have entered into a CRP contract the option of entering into a Conservation Farm Option contract for a period of ten years as an alternative to the market transition contract payment. In return, eligible owners and operators shall receive payments that reflect the Secretary's estimate of the payments they would receive over the ten-year period under conservation cost-share programs, the CRP, market transition payments, and loan programs for contract commodities, oilseeds and ELS cotton. CFO contract holders shall agree to forego eligibility to participate in the above programs and comply with a conservation plan consistent with a state plan designed to protect wildlife, improve water quality and reduce soil erosion. (Section 103)

The House bill contains no similar provisions.

The Conference substitute adopts the Senate provisions with amendments that reduce estimated outlays under the CFO to $120 million during the seven-year period and delete market transition payments from the payments a producer will receive under a CFO contract. (Section 335)

(45) Conforming amendments

The Senate amendment repeals authorizations for the Agricultural Conservation Program, the Great Plains Conservation Program, the Colorado River Basin Salinity Control Program (Section 202(c) of the Colorado River Basin Salinity Control Act), the Rural Environmental Conservation Program, the Agricultural Water Quality Incentives Program, and technical assistance for water resources (Subtitle F of Title XII of the Food Security Act of 1985) are repealed. Various technical amendments are made to reflect the fact that EQIP replaces the functions of many of the repealed programs. (Section 355)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provisions with an amendment that maintains some provisions of the Colorado River Basin Salinity Control Act. (Section 336)

(46) Mandatory expenses

The House bill requires that, for each of fiscal years 1996 through 2002, the Secretary shall use the funds of the Commodity Credit Corporation to carry out the Conservation Reserve Program, Wetlands Reserve Program, and the Environmental Quality Incentives Program. (Section 301)

The Senate amendment contains similar provisions. (Section 341)

The Conference substitute adopts the House provisions. (Section 341)

(47) EQIP funding

The House bill requires that, for each of fiscal years 1996 through 2002, $200 million of the funds of the Commodity Credit Corporation shall be available for providing technical assistance, cost-sharing payments, and incentive payments. In each year, at least 50% of the EQIP funding shall be targeted to practices relating to livestock production. (Section 301)

The Senate amendment contains similar provisions with the exception of a proviso that 50% of the EQIP funding shall go for practices relating to livestock production. (Section 314)

The Conference substitute adopts the Senate provisions with an amendment limiting funding to $130 million in fiscal 1996 and $200 million in each of fiscal years 1997–2002. (Section 341)

(48) Administration—Plans

The Senate amendment requires the Secretary, to the extent practicable, to avoid duplication in conservation plans required for highly erodible land conservation under subtitle B, CRP, WRP and EQIP. (Section 314)

The House bill contains no similar provision.

The Conference substitute adopts the Senate provision. (Section 341)

(49) Acreage limitation

The Senate amendment prohibits the Secretary from enrolling more than 25% of the cropland in any county in CRP or WRP. Not more than 10% of the cropland in a county may be subject to an easement acquired under the subchapters. The Secretary may exceed the limitations if the Secretary determines that the action would not adversely affect the local economy of a county and that operators in the county are having difficulties complying with conservation plans implemented under section 1212. The limitations established under this subsection shall not apply to cropland that is subject to an easement under CRP, WRP or the Environmental Easement Program that is used for the establishment of shelterbelts and windbreaks. (Section 314)

The House bill contains no similar provision.

The Conference substitute adopts the Senate provision with an amendment deleting the reference to the Environmental Easement Program. (Section 341)

(50) Tenant protection

The Senate amendment states that, except for a person who is a tenant on land that is subject to a CRP contract that has been extended by the Secretary, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under commodity programs (as modified by too highly erodible land and wetland conservation provisions), CRP or WRP. (Section 314)

The House bill contains no similar provision.

The Conference substitute adopts the Senate provision. (Section 341)

(51) Regulations

The Senate amendment requires that, not later than 90 days after the effective date of this subsection, the Secretary shall issue regulations to implement the changes to CRP and WRP. (Section 314)

The House bill contains no similar provision.

The Conference substitute adopts the Senate provision. (Section 341)

(52) Advance appropriations to CCC

The Senate amendment permits the Secretary to use the funds of the Commodity Credit Corporation to carry out the Environmental Easement Program, subject to prior appropriations. (Section 314)

The House bill contains no similar provision.

The Conference substitute adopts the House position, which deletes the Senate amendment.

(53) Authority to use outside agencies

The House bill eliminates authority for the Secretary to use the Fish and Wildlife Service, land grant institutions, county and state committees and other governmental entities in carrying out conservation programs. (Section 303)

The Senate amendment contains no similar provision.

The Conference substitute adopts the Senate position, which deletes the provisions of the House bill.

(54) State Technical Committees

The Senate amendment amends Section 1261(c) of the Food Security Act of 1985 to add representatives of the following groups to the existing State Technical Committees: agricultural producers, other nonprofit organizations with demonstrable expertise, persons knowledgeable about the economic and environmental impact of conservation techniques and programs, and agribusiness.

The House bill contains no similar provisions.

The Conference substitute adopts the Senate position with an amendment that provides for representation on state technical committees of producers, representatives of nonprofit organizations with demonstrable expertise, persons knowledgeable about conservation techniques, and agribusiness, and provides for public notice of, and attendance at, meetings. (Section 342)

(55) National Natural Resources Conservation Foundation

The Senate amendment establishes a National Natural Resources Conservation Foundation as a charitable and nonprofit corporation for charitable, scientific, and educational purposes, including:

(1) promotion of innovative solutions to the problems associated with the conservation of natural resources on private lands, particularly with respect to agriculture and soil and water conservation;

(2) promotion of voluntary partnerships between government and private interests in the conservation of natural resources;

(3) to conduct research and undertake educational activities, conduct and support demonstration projects, and make grants to State and local agencies and nonprofit organizations;

(4) to provide such other leadership and support as may be necessary to address conservation challenges, such as the prevention of excessive soil erosion, enhancement of soil and water quality, and the protection of wetlands, wildlife habitat, and strategically important farmland subject to urban conversion and fragmentation;

(5) to encourage, accept, and administer private gifts of money and real and personal property for the benefit of, or in connection with, the conservation and related activities and services of the Department, particularly the Natural Resources Conservation Service;

(6) to undertake, conduct, and encourage educational, technical, and other assistance, and other activities, that support the conservation and related programs administered by the Department (other than activities carried out on National Forest System lands), particularly the Natural Resources Conservation Service, except that the Foundation may not enforce or administer a regulation of the Department; and

(7) to raise private funds to promote the purposes of the Foundation.

The amendment authorizes an appropriation to the Department, to be made available to the Foundation, $1,000,000 for each of fiscal years 1997 through 1999 to initially establish and carry out activities of the Foundation. (Sections 331–340)

The House bill contains no similar provisions.

The Conference substitute adopts the Senate provisions. (Sections 351–360)

(56) Forestry

The Senate amendment amends Section 4 of the Cooperative Forestry Assistance Act of 1978 is amended by striking the provision that terminates the Forestry Incentives Program December 31, 1995. It also amends Section 2405 of the Food, Agriculture, Conservation, and Trade Act of 1990 by an authorization for appropriation of such sums as are necessary to carry out the activities of the Office of International Forestry. (Section 352)

The House bill contains no similar provisions.

The Conference substitute adopts the Senate provisions with amendments to limit the authorizations for the Forestry Incentives Program and the Office of International Forestry to 2002, to make the authorization for the Office of International Forestry subject to appropriations, and to provide authority for the Secretary to make grants to states under the Forest Legacy Program. (Sections 371, 373, 374)

(57) Cooperative work for protection, management, and improvement of National Forest System

The Senate amendment authorizes cooperative work for the protection, management, and improvement of the National Forest System and permits payments for such work to be made from any appropriation of the Forest Service that is available for similar work if reimbursement is made by the cooperator in the same fiscal year. (Section 545)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provisions. (Section 372)

(58) CCC Charter Act

The Senate amendment amends the CCC Charter Act to include conservation functions and programs among the purposes for which the Secretary may utilize the CCC. (Section 355)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provisions with an amendment permitting the use, after January 1, 1997, of CCC funding for conservation and environmental programs authorized by law. (Section 381)

The Managers stress that this provision is not intended to preclude the Secretary from utilizing the CCC to fund conservation and environmental programs appropriately authorized by law on or before January 1, 1997.

(59) Floodplain easements

The Senate amendment amends Section 403 of the Agricultural Credit Act of 1978 to permit the Secretary to purchase floodplain easements. (Section 359)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 382)

(60) Resource Conservation and Development Program reauthorization

The Senate amendment reauthorizes the Resource Conservation and Development Program through 2002. (Section 360)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 383)

(61) Repeal of report requirement

The Senate amendment rescinds the requirement for the printing of multiple copies of USDA soil surveys. (Section 362)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 384)

(62) Flood risk reduction

The Senate amendment establishes a flood risk reduction program for fiscal years 1996 through 2002, under which the Secretary may enter into a contract with a producer with contract acreage under title I on a farm with land that is frequently flooded. Under the terms of the contract, with respect to acres that are subject to the contract, the producer must agree to: the termination of any contract acreage; forgo loans for contract commodities, oilseeds and extra long staple cotton; not apply for crop insurance issued or reinsured by the Secretary; comply with applicable wetlands and highly erodible land conservation compliance requirements; not apply for any conservation program payments from the Secretary; not apply for disaster program benefits provided by the Secretary; and refund the payments, with interest, issued under the contract to the Secretary if the producer violates the terms of the contract or if the producer transfers the property to another person who violates the contract. In return, the Secretary shall agree to pay the producer for the 1996 through 2002 crops not more than the projected contract payments under title I, and other savings from appropriated programs. The Secretary shall carry out the program through the CCC. (Section 351)

The House bill contains no similar provision.

The Conference substitute adopts the Senate provisions with a technical amendment. (Section 385)

(63) Conservation of private grazing land

The Senate amendment authorizes the Secretary of Agriculture to provide a coordinated technical, educational, and related assistance program to conserve and enhance private grazing land resources. Subject to the availability of appropriations, the Secretary will establish a voluntary program to provide technical, educational, and related assistance to owners and managers of private grazing land and public agencies, through local conservation districts, to enable the landowners, managers, and public agencies to voluntarily carry out activities including: maintaining and improving private grazing land and the multiple values and uses that depend on private grazing land; implementing grazing land management technologies; managing resources on private grazing land, including planning, managing, and treating private grazing land resources, ensuring the long-term sustainability of private grazing land resources, harvesting, processing, and marketing private grazing land resources and identifying and managing weed, noxious weed, and brush encroachment problems; protecting and improving the quality and quantity of water yields from private grazing land; maintaining and improving wildlife and fish habitat on private grazing land; enhancing recreational opportunities on private grazing land; maintaining and improving the aesthetic character of private grazing lands; and identifying the opportunities and encouraging the diversification of private grazing land enterprises. There are authorized to be appropriated to carry out this section $20 million for fiscal 1996, $40 million for fiscal 1997 and $60 million for fiscal 1998 and each subsequent fiscal year. (Section 354)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provisions with an amendment deleting a specific reference to the Natural Resources Conservation Service in the description of the program. (Section 386)

(64) Wildlife Habitat Incentives Program

The Senate amendment authorizes a Wildlife Habitat Incentives Program to promote implementation of various management practices to improve wildlife habitat. The program would receive $10 million in funding annually from the Conservation Reserve Program, with total expenditures of $60 million over seven years. (Section 554)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provisions with an amendment reducing the total funding to $50 million over seven years. (Section 387)

The Managers intend that the cost-share payments made under WHIP not exceed 75 percent of the total cost to an eligible landowner for developing a wildlife management plan and implementing eligible activities under the plan.

The Managers intend that the Secretary, in developing a list of approved activities and practices, shall attempt to achieve landowner and public purposes including: 1) upland wildlife management measures; 2) wetland wildlife management measures; 3) threatened and endangered species management measures; 4) fisheries management measures, and; 5) other activities approved by the Secretary.

(65) Clarification of effect of resource planning on allocation and use of water

The Senate amendment amends Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 to stipulate that nothing in the section shall limit any right of authority of a state to allocate water flows. The Secretary of Agriculture is prohibited from requiring a restriction of the operation, use, repair or replacement of an existing water supply facility as a condition of the renewal of a right-of-way granted under Section 501 of the Federal Land Policy and Management Act of 1976. (Section 557).

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate position with an amendment striking the provisions of the Senate amendment and providing for an 18-month moratorium on any Forest Service decision to require bypass flows or any other relinquishment of the unimpaired use of a decreed water right as a condition of renewal or reissuance of a land use permit. The moratorium shall not affect the obligations or the authority of the Secretary to protect public health and safety or to comply with the Endangered Species Act or applicable state law. A task force shall also be appointed to study several issues regarding water rights as they apply to Forest Service activities and report to the Secretary, the Speaker of the House of Representatives and the chairmen of relevant Senate committees within one year. (Section 389)

The Managers believe that these provisions are required because the Forest Service has recently imposed, or attempted to impose, by-pass flows to achieve the secondary purposes of the National Forests. This contradicts former USDA policy and has raised questions about their statutory authority in this area. Nothing in this section changes current law regarding the allocation of water or rights to the use of water, and the expiration of the moratorium is not intended to be a recognition or grant of authority to the Forest Service for imposition of by-pass flows. Further, the moratorium imposed by this section is not intended to interfere with the ability of the Forest Service to negotiate or comply with requirements of voluntary agreements concerning the use of National Forest lands for water supply facilities. It is also not the intent of this language to interfere with the duties of the Secretary under the Endangered Species Act.

It is also the intent of the Managers that the Board established in this section will carry out its duties in a professional, nonpartisan manner, and that membership on the Board will consist of individuals with expertise in Western water law and public land law.

(66) Everglades Agricultural Area

The House bill provides $210 million to the Secretary of the Interior to conduct restoration activities in the Everglades ecosystem, "which may include acquiring private acreage in the Everglades Agricultural Area including" the "Talisman tract" by December 31, 1999. (Section 507)

The Senate amendment contains similar provisions except that $200 million is provided to the Secretary of the Interior. (Section 506)

The Conference substitute adopts the Senate provision with an amendment to provide an additional $100 million, contingent upon land acquisition within the State of Florida. (Section 390)

(67) Advisory Board on Agricultural Air Quality

The Senate amendment establishes a board to advise the Secretary of Agriculture on scientific questions relating to airborne particulate matter and gases that may be issues under the Clean Air Act. The board would be comprised of 17 members, including the Chief of the Natural Resources Conservation Service, agricultural producers, other representatives of the 6 NRCS regions, and an atmospheric scientist. (Section 551)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provisions with amendments clarifying that interagency oversight coordination required by the Secretary shall be made to the extent practicable. (Section 391)

(68) Environmental Easement Program

The Senate amendment reauthorizes the Environmental Easement Program through 2002. (Section 355)

The House bill contains no comparable provision.

The Conference substitute adopts the House position, which deletes the Senate amendment.

(69) Water Bank Program

The Senate amendment amends Section 1230 of the Food Security Act of 1985 by adding a provision that acreage currently enrolled in the Water Bank Program authorized by the Water Bank Act shall be considered to have been enrolled in the CRP on the date the acreage was enrolled in the Water Bank program. Payments shall continue at the existing water bank rates. (Section 356)

The House bill contains no comparable provision.

The Conference substitute adopts the House position, which deletes the Senate amendment.

(70) Flood water retention pilot projects

The Senate amendment permits the Secretary to establish pilot projects for 2 years in duration to restore natural water retention areas to control storm water and snow melt runoff within closed drainage systems. Such projects shall provide cost-sharing and technical assistance for the establishment of nonstructural landscape management practices, including agricultural tillage practices and restoration, enhancement, and creation of wetland characteristics. Funding provided by the Secretary shall not exceed $10,000,000 per project and shall be carried out through the CCC. (Section 357)

The House bill contains no comparable provision.

The Conference substitute adopts the House position, which deletes the Senate amendment.

(71) Watershed Protection and Flood Prevention Act amendments

The Senate amendment amends the Watershed Protection and Flood Prevention Act to include several new priorities for funding, make nonprofit organizations eligible for funding, and authorize the Secretary of Agriculture to accept transfers of funds from other federal departments and agencies to carry out the act. (Section 363)

The House bill contains no comparable provisions.

The Conference substitute adopts the House position, which deletes the Senate amendment.

(72) Fund for dairy producers to pay for nutrient management

The Senate amendment amends the Agricultural Marketing Agreements Act of 1937 by allowing each milk marketing order to be amended to allow not more than 10 cents per hundredweight to be added to the minimum milk price for the purpose of environmental nutrient management. (Section 501)

The House bill contains no comparable provision.

The Conference substitute adopts the House position, which deletes the Senate amendment.

TITLE IV—NUTRITION ASSISTANCE

(1) Disqualification of a store or concern from the Food Stamp Program

The Senate amendment adds new language to the Food Stamp Act to disqualify food stores from participation in the food stamp program if the stores employ a person found, within the last 3 years, to have traded coupons for firearms, ammunition, explosives or drugs or to have trafficked coupons. The Senate amendment also changes existing disqualification laws to require permanent disqualification of a store for a trafficking offense only if the ownership, but not the management, of the store was aware of the disqualifying conduct. (Section 401(a))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with amendments that 1) delete the Senate provision disqualifying a store which has employed a person found, within the last 3 years, to have traded coupons for firearms, ammunition, explosives or drugs or to have trafficked coupons, and 2) add a provision permitting a civil money penalty in lieu of disqualification of a store or concern if there has been no more than one prior trafficking violation by store management. (Section 401(a))

(2) Employment and training in the Food Stamp Program

The Senate amendment continues the requirement that the Secretary allocate $75 million annually to carry out the employment and training program through fiscal year 2002. (Section 401(b))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 401(b))

(3) Authorization of pilot projects in the Food Stamp Program

The Senate amendment reauthorizes the seven pilot projects, begun in 1981, that pay cash, in lieu of coupons, to households composed entirely of elderly or SSI recipients through fiscal year 2002. (Section 401(c))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 401(c))

(4) Outreach demonstration projects in the Food Stamp Program

The Senate amendment extends the authorization for appropriations through fiscal year 2002 for outreach demonstration projects. (Section 401(d))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 401(d))

(5) Authorization for appropriations of the Food Stamp Program

The Senate amendment extends the authorization for appropriations for the food stamp program through fiscal year 2002. (Section 401(e))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize appropriations for the program through September 30, 1997. (Section 401(e))

(6) Authorization of Puerto Rico Nutrition Assistance Program

The Senate amendment requires the payment for the Puerto Rico Nutrition Program block grant of $1.143 billion for FY96, $1.174 billion for FY97, $1.204 billion for FY98, $1.236 billion for FY99, $1.268 billion for FY00, $1.301 billion for FY01, $1.335 billion for FY02. (Section 401(f))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 401(f))

(7) Funding for American Samoa Nutrition Assistance Program

The Senate amendment adds a provision to provide that the Secretary may pay to American Samoa not more than $5.3 million, each fiscal year, of funds appropriated to carry out the food stamp program to fund a nutrition assistance program through fiscal year 2002. (Section 401(g))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment requiring the Secretary to fund the American Samoa Nutrition Assistance program at up to $5.3 million annually, beginning October 1, 1995. The amendment also allows the Secretary of Agriculture to provide grants not to exceed $1 million in fiscal year 1996 and $2.5 million in each of fiscal years 1997 to 2002, to establish and carry out community food security projects to better meet the food needs of low-income individuals. (Section 401(g)–(h))

The Managers note that although the projects must be community-based, applicants with a national or regional scope should be considered for grant awards if they seek to fund appropriate community-based projects in several locations. In addition, applications for projects designed to provide training and technical assistance to entities developing appropriate community food security projects should be considered for grant funding.

Applicants must be non-profit organizations, but may use all available resources, including those of for-profit entities. Grants are authorized for up to three year periods, acknowledging that new projects or expanding projects may need a planning phase prior to actual implementation of the project.

Because the projects funded by this grant authority will be community-based and funded substantially by non-federal sources, it is not expected that any one grant should command a significant portion of the total grant authority. The Managers believe there will be many worthy projects applying for grant awards in each of the next 7 years, and expect the Secretary to make many awards each year to the most worthwhile of the grant applicants.

(8) Commodity Distribution Program; Commodity Supplemental Food Program—Reauthorization

The Senate amendment amends the Agriculture and Consumer Protection Act of 1973 to authorize the commodity distribution program and the Commodity Supplemental Food Program through fiscal year 2002. (Section 402(a))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 402(a))

(9) Commodity Distribution Program; Commodity Supplemental Food Program—Funding

The Senate amendment authorizes administrative funding for CSFP through fiscal year 2002 and reauthorizes a provision requiring certain amounts of CCC surplus dairy products be transferred to CSFP. (Section 402(b))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 402(b))

(10) Commodity Distribution Program; Commodity Supplemental Food Program—Carried-Over Funds

The Senate amendment requires that 20 percent of any carried over CSFP funds for food be available for program administration. (Up to 20% of the annually appropriated CSFP funds may be used for administration). (Section 402(c))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 402(c))

(11) Emergency Food Assistance Program

The Senate amendment amends the Emergency Food Assistance Act of 1983 to reauthorize the Emergency Food Assistance Program (TEFAP) through fiscal year 2002. (Section 403)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 403)

(12) Soup Kitchen and Food Bank Program

The Senate amendment amends the Hunger Prevention Act of 1988 to reauthorize the Soup Kitchen and Food Bank Program through fiscal year 2002. (Section 404)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 404)

(13) National commodity processing

The Senate amendment amends the Agriculture and Food Act of 1981 to reauthorize the National Commodity Processing Program through fiscal year 2002. (Section 405)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 405)

The Managers declined to adopt a provision that would convert the Model Good Samaritan Food Donation Act (Pub. L. 101–610) to federal law, eliminating differences in various state laws and attempting to develop greater opportunity for partnerships between private and non-profit entities involved in feeding programs. While the Managers commend the philanthropic intent of such legislation, the Managers understand possible implications of preempting state laws and acknowledge jurisdictional complications. It was agreed that this subject has ample merit for full Congressional hearings.

TITLE V—AGRICULTURAL PROMOTION

SUBTITLE A—COMMODITY PROMOTION AND EVALUATION

The Senate amendment requires that not more than every three years, or three years after enactment of a program, the Secretary shall require that each industry-funded generic promotion program for agricultural commodities shall provide for an independent evaluation of the effectiveness of the program, which may include an analysis of benefits, costs and the efficacy of promotional and research efforts undertaken by the program and is to be funded from industry assessments and to be made available to the public. The amendment also requires that the Secretary shall provide annually information to the House and Senate Agriculture Committees about the administrative expenses of industry-funded promotion programs. (Section 961)

The House has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment defining commodity promotion law, containing congressional findings with respect to generic promotion programs, and requiring an independent evaluation of promotion program effectiveness not less than every five years. (Section 501)

The Managers also accepted an amendment authorizing the Secretary to issue nationwide promotion, research and information orders applicable to agricultural commodity producers, first handlers and others in the marketing chain if appropriate, and importers if assessed under the order. The Secretary is required to publish the proposal for notice and comment, and to issue the proposed order (if agreed to do so) not later than 270 days after publication of the proposed order. Amendments on promotion program evaluations and promotion board funds for conservation purposes were adopted. The Managers also agreed to an amendment requiring the maintenance of records for the Honey Promotion Program by producers. (Section 591)

In authorizing the establishment of an industry financed generic promotion, research and information program, the Managers adopted provisions to allow the Secretary to grant an annual credit for branded activities to farmer owned cooperatives which engage in such activities. The Managers recognize the important role of farmer-owned cooperatives in carrying-out industry financed generic promotion, research and information activities for and on behalf of their members. The Managers also recognize that in many cases, such cooperative marketing efforts have involved the successful establishment of specific brands for many agricultural products. Further, that producers through their cooperatives have invested and continue to invest significant resources related to market research, promotion and advertising to enhance the sale of the products and improve their income.

Accordingly, the Managers agree that the Secretary may provide an annual credit for such expenditures which would be deducted from any assessment that would otherwise be required for conducting a generic program authorized under this title. Such contributions and expenditures would be fully documented in order to be eligible for such credit. This would ensure that producers would be able to engage in such cooperative marketing activities without adding to their cost relative to other industry members. (Sections 511–526)

SUBTITLE C—CANOLA AND RAPESEED

The Senate amendment authorizes the Secretary to issue an order for a canola and rapeseed promotion program upon request of the industry. A Board of fifteen members is established with not more than four producer members of the Board from any one state. The Board may assess producers four cents per hundredweight of canola or rapeseed produced and marketed in a state. In order to achieve industry consensus for a national canola check-off program, states with an existing canola check-off requested and received, a credit of up to two cents per hundredweight. The Secretary shall conduct a referendum among producers during the period ending thirty months after the date the order was issued to determine whether the order was issued to determine whether the order should be continued. (Sections 921–933)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Sections 531–543)

SUBTITLE D—KIWIFRUIT

The Senate amendment authorizes the Secretary to issue an order for a kiwifruit promotion program upon request of the industry. The order should be national in scope and not more than one order shall be in effect at any one time. An eleven member kiwifruit board is established composed of six producers, four importers, and one member of the general public. Implementation of the order and rate of assessment is to be set by a two-third vote of a quorum of the Board. The Secretary shall conduct a referendum of kiwifruit producers and importers sixty days prior to effective date of the order and may conduct a periodic referendum at the end of a six-year period, at the request of the Board, or if not less than thirty percent of the kiwifruit producers and importers subject to assessment request a referendum. Any change in the order will be determined by a majority vote and will take effect at the end of the marketing year. (Sections 941–954)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment requiring that producers comprise not less than fifty-one percent of the membership of the board. (Sections 551–564)

SUBTITLE E—POPCORN

The Senate amendment authorizes the Secretary to issue an order for a popcorn promotion program upon request of the industry. A Popcorn Board is established that consists of between four and nine members that are selected by the Secretary and have terms of three years. The Board may raise or lower the rate of assessment annually up to a maximum of eight cents per hundredweight of popcorn. These assessments will be used to pay expenses incurred and to cover administrative costs incurred by the Secretary, but may not exceed fifteen percent of the annual revenues of the Board. If the administrative costs incurred by the Secretary exceed ten percent of the annual revenues of the Board, the Secretary will notify the House and Senate Agriculture Committees.

Sixty days prior to the effective date of the program, the Secretary will conduct a referendum among popcorn processors. The order only becomes effective if approved by a majority of the processors voting, who processed at least fifty-one percent of the popcorn certified. No sooner than three years after the effective date of the order, the Secretary may conduct a referendum on the request of thirty percent or more of the popcorn processors for continuation of the program. (Sections 901–912)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Sections 571–582)

TITLE VI—CREDIT

SUBTITLE A—FARM OWNERSHIP LOANS

(1) Limitation on direct farm ownership loans

The Senate amendment provides that U.S. Department of Agriculture (USDA) direct farm ownership loans are available for farmers and ranchers who have operated a farm or ranch for at least 3 years and who—

are qualified beginning farmers or ranchers with less than 10 years farming experience, or

have not received a previous direct farm ownership loan, or

have not received a previous direct farm ownership loan more than 10 years before the date that a new direct farm ownership loan would be made.

The Senate amendment specifies that the time that a borrower has a youth loan under the farm operating loan program does not count toward the number of years of experience for farm ownership loans. A transition rule provides that existing borrowers who have had direct farm ownership loans for less than 5 years can obtain additional direct farm ownership loans for 10 years from the date of enactment of this Title; those existing borrowers who have had direct farm ownership loans for 5 or more years can obtain additional direct farm ownership loans for 5 years from the date of enactment. The Senate amendment also repeals an obsolete provision that farm ownership loans cannot be restricted solely to borrowers who had loans in 1985. (Section 601)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 601)

(2) Purposes of loans

The Senate amendment specifies that direct farm ownership loans can be used for (a) buying farm real estate, (b) making capital improvements, (c) paying related loan closing costs, and (d) paying for soil and water conservation and protection on such property. It also specifies that guaranteed farm ownership loans can be used for the same purposes and for refinancing existing debt. The Senate amendment repeals provisions that allowed farm ownership loans to be used for funding recreational uses and facilities and for funding enterprises to supplement farm income. It also repeals the stipulation that farm ownership loans for improvements include non-fossil energy systems.

The Senate amendment restates preferences in the Consolidated Farm and Rural Development Act, as amended (Con Act).

The Senate amendment requires that borrowers have, or agree to obtain, hazard insurance on real property acquired or improved with farm ownership loan funds. It also requires the Secretary of Agriculture to determine within 180 days of enactment the appropriate insurance level, including what property should be insured. (Section 602)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that directs that a new farm ownership loan is not to be made after the date that is 180 days after enactment unless the borrower meets the hazard insurance requirement. (Section 602)

While the bill requires hazard insurance on property acquired by borrowers with USDA farm ownership loan funds, it does not specify the level of insurance that borrowers should obtain. Rather, it is the intent of the Managers that the Secretary of Agriculture should determine the appropriate insurance level and should consider factors such as the nature of the property that is pledged as security for the loan, the value of the security property and the loan amount, the location of a borrower's farming operation, and the costs and availability of hazard insurance. Also, the Secretary should determine what property should be subject to an insurance requirement.

(3) Soil and water conservation and protection

The Senate amendment repeals allowing farm ownership loans to be used for funding residents of rural areas to operate small business enterprises and for paying for waste pollution abatement and control projects. (Section 603)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 603)

The Managers note that while the bill is ending the use of farm ownership loan funds for various nonfarming purposes, such as funding residents of rural areas to operate small business enterprises and for paying for waste pollution abatement and control projects, there are other federal programs available to support such usage, such as those of the Small Business Administration to fund small business activities and USDA's rural development and conservation programs to fund waste pollution projects.

(4) Interest rate requirements

The Senate amendment allows a 4 percent interest rate on a direct farm ownership loan that is being made in conjunction with other credit. (Section 604)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that specifies that the interest rate should be not less than 4 percent. (Section 604)

(5) Insurance of loans

The Senate amendment clarifies that a loan guaranteed by the Secretary is supported by the full faith and credit of the government. (Section 605)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 605)

(6) Loan guaranteed

The Senate amendment states that a loan can be guaranteed for up to 90 percent. It requires a 95-percent guarantee on a loan or that portion of a loan that is for refinancing USDA direct loans. It also allows a 95-percent guarantee on farm ownership loans and farm operating loans made to borrowers who participate in the down payment loan program for beginning farmers and ranchers. (Section 606)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 606)

SUBTITLE B—OPERATING LOANS

(7) Limitation on direct operating loans

The Senate amendment provides that USDA direct farm operating loans are available for farmers and ranchers who

are qualified beginning farmers or ranchers with less than 5 years farming experience, or

have not received previous direct farm operating loans, or

have received a previous direct farm operating loan in 6 or fewer years.

The Senate amendment specifies that direct farm operating loans are available to borrowers without regard to the number of years they received youth loans. A transition rule provides that existing borrowers who have had direct farm operating loans in 4 or more years can obtain additional direct farm operating loans in 3 additional years. The Senate amendment also repeals the provision that farm operating loans cannot be restricted solely to borrowers who had loans in 1985. (Section 611)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 611)

It is the intent of the Managers that direct farm operating loans be made available to farmers and ranchers for a maximum of 7 years. These years may be consecutive, nonconsecutive, or a combination of consecutive and nonconsecutive.

(8) Purposes of operating loans

The Senate amendment specifies that direct farm operating loans can be made for (a) paying the costs to reorganize the farming or ranching operation; (b) purchasing livestock, poultry, and farm or ranch equipment; (c) paying farm or ranch operating expenses; (d) financing land and water development, use, and conservation; (e) paying loan closing costs; (f) paying to make additions or alterations to comply with occupational safety and health standards; (g) training limited resource borrowers in recordkeeping; (h) farm management training; (i) refinancing the debt of direct loan borrowers who experience losses caused by a natural disaster or the debt of other borrowers who obtained credit from a source other than the Secretary; and (j) paying family living expenses, and other farm, ranch, or home needs. It also specifies that guaranteed farm operating loans can be used for the same purposes, except for training limited resource borrowers in record keeping, and also for refinancing existing debt.

The Senate amendment repeals allowing farm operating loans to be used for financing recreational enterprises; financing other enterprises to supplement farm income; paying for developing, constructing, or modifying solar energy systems; funding residents of rural areas to operate small business enterprises; and paying for pollution abatement and control projects.

The Senate amendment requires that borrowers have, or agree to obtain, hazard insurance on any property acquired with farm operating loan funds. It also requires the Secretary of Agriculture to determine the appropriate insurance level, including what property should be insured. Furthermore, the Senate amendment allows the Secretary discretion in placing funds in a nonsupervised bank account that a borrower can use for farm operating and family living expenses. (Section 612)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with amendments on the hazard insurance requirement to direct that a new farm operating loan is not to be made after the date that is 180 days after enactment unless the borrower meets the hazard insurance requirement and on nonsupervised bank accounts to provide discretion in placing funds in such accounts, restrict the use of loan funds in such accounts for the basic family needs of the borrower and the borrower's immediate family, and to restrict the size of such an account to an amount that is the lesser of 10 percent of the loan, $5,000, or the amount needed to provide for basic family needs for three calendar months. (Section 612)

As with farm ownership loan funds, the Managers note that while the bill ends the use of farm operating loan funds for various nonfarming purposes, such as funding residents of rural areas to operate small business enterprises and for paying for pollution abatement and control projects, other federal programs are available to support such usage.

Additionally, while the bill requires hazard insurance on property acquired by borrowers with USDA farm operating loan funds, it does not specify the level of insurance. It is the intent of the Managers that the Secretary should determine the appropriate insurance level and should consider factors such as the nature of the property that is pledged as security for the loan, the value of the security property and the loan amount, the location of a borrower's farming operation, and the costs and availability of hazard insurance. Also, the Secretary should determine what property should be subject to an insurance requirement.

(9) Participation in loans

The Senate amendment repeals the authority to participate in farm operating loans with other lenders. (Section 613)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 613)

(10) Line-of-credit loans

The Senate amendment authorizes direct or guaranteed line-of-credit operating loans for up to 5 years. It also states that each year in which a borrower takes an advance or draws on the line-of-credit counts as one year of eligibility for farm operating loans. (Section 614)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that specifies that the line-of-credit is to terminate if a borrower does not repay an advance on schedule, unless the Secretary determines that the borrower's failure to pay was due to unusual conditions that the borrower could not control and the borrower will reduce the line-of-credit outstanding balance to the scheduled level at the end of the production cycle, including the marketing of the borrower's agricultural products. The Conference substitute also provides that the line-of-credit loan may be used to finance the production or marketing of an agricultural commodity that is or formerly was eligible for USDA's price and income support programs. (Section 614)

The line-of-credit authority is being provided as a means to assist farmers and ranchers by allowing operating plans to be established with a set level of funding assured over a set period of years. Thus, the need for borrowers to go through an annual loan application, review, and approval process in multiple years can be avoided. For budget scoring purposes, the Managers intend that the approved amount of a line-of-credit loan made under this authority should be treated as 1 loan and not as multiple separate loans. The Managers want to emphasize that there is an important point regarding loan eligibility with this provision. Specifically, the maximum number of years a borrower can receive direct farm operating loans is set at 7 in section 611 of this Title. The Managers do not intend for the term of a line-of-credit operating loan to apply to a borrower's 7 years of eligibility. Rather, it is the intent of the Managers that each year that a borrower takes an advance or draws on a line-of-credit loan is to count as 1 year of loan eligibility. For example, if a 5-year line-of-credit direct operating loan is approved and a borrower draws against this line-of-credit in 4 years, then the borrower has used 4 years of direct farm operating loan eligibility. Thus, in this example, the borrower would still be eligible to obtain direct farm operating loans in 3 additional years. Furthermore, section 617 of this Title, which is amending section 319 of the Con Act, has limits on the number of years in which a borrower can obtain guaranteed farm operating loans.

Furthermore, the Managers recognize that unusual circumstances could result in a borrower not repaying an advance or draw on schedule and, as such, do not intend for the line-of-credit to end in the event of those circumstances. For example, a borrower may have a crop that is ready to be harvested but he or she is delayed in harvesting due to wet weather conditions. Also, the borrower may have been able to enter into a contract to sell his or her agricultural products for a higher price if delivery of the products occurs at a date that is after the payment due date. The Managers want to emphasize to the Secretary that this exception authority should be used only in unusual circumstances and should not become the standard mode of operation, and that USDA needs to closely monitor borrowers who are granted an exception to ensure that they meet their debt obligations.

(11) Insurance of operating loans

The Senate amendment repeals the authority to insure farm operating loans. (Section 615)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 615)

(12) Special assistance for beginning farmers and ranchers

The Senate amendment repeals the special assistance program for beginning farmers and ranchers. (Section 616)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 616)

(13) Limitation on period for which borrowers are eligible for guaranteed assistance

The Senate amendment restates the Con Act limitation on receiving guaranteed farm operating loans after 15 years of direct or guaranteed loans. It also modifies the transition rule to provide that borrowers who, as of October 28, 1992, had a direct or guaranteed loan in 10 or more years can obtain guaranteed farm operating loans in 5 additional years after October 28, 1992. (Section 617)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 617)

SUBTITLE C—EMERGENCY LOANS

(14) Hazard insurance requirement, credit elsewhere test, and linking emergency loans to natural disasters

The Senate amendment requires that borrowers needed to have had hazard insurance on the property damaged or destroyed by a natural disaster as a condition for getting USDA emergency disaster loan assistance. It also requires the Secretary of Agriculture to determine the appropriate insurance level including what property should have been insured. (Section 621)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with amendments that (1) direct that an emergency loan is not to be made after the date that is 180 days after enactment unless the applicant met the insurance requirement, (2) revise a current provision to allow the Secretary to waive the credit elsewhere test for emergency loans of $100,000 or less, and (3) modify another current provision to specifically tie emergency loans for changes in crop or livestock operations to natural disasters. (Sections 621–623)

As a measure of protection for the farm loan portfolio, individuals must have had hazard insurance on property damaged or destroyed as a condition for getting emergency disaster loan assistance. The Managers intend that the Secretary determine what property should have had insurance coverage. The Managers expect that property subject to this requirement would include, but not be limited to, farmland, buildings and other structures, equipment, livestock, crops, and other farm items.

(15) Maximum emergency loan indebtedness and date for emergency loan security valuation

The Senate amendment establishes a maximum emergency disaster loan indebtedness at $500,000. (Section 622)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that revises a current provision to require assets used as collateral for an emergency loan to be valued as of the day prior to the disaster. (Sections 624 and 625)

(16) Insurance of emergency loans

The Senate amendment repeals the authority to insure emergency disaster loans. (Section 623)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 626)

SUBTITLE D—ADMINISTRATIVE PROVISIONS

(17) Temporary authority to enter into contracts and use of collection agencies

The Senate amendment authorizes the Secretary of Agriculture to use private collection agencies to attempt collections on delinquent accounts when agency officials determine such usage to be appropriate. (Section 631)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that allows the Secretary of Agriculture to contract through September 30, 2002, with an eligible lending institution for the purpose of servicing the farm loan portfolio, including entering into a pilot project or projects for such servicing, and requires the Secretary to report annually to the Congress on the results of such contracting. (Sections 631 and 632)

The Secretary is being authorized to use private collection agencies to attempt collections on delinquent accounts, when USDA officials determine such usage to be appropriate, because of concerns that the Department is not making the fullest effort to recover on all such accounts. The General Accounting Office (GAO) has reported a series of deficiencies in this area. Also, while the Congress passed a bill in 1994 authorizing USDA to use private attorneys to help resolve delinquent accounts, USDA officials have made little use of such attorneys even though the agency continues to have thousands of delinquent borrowers who owe billion of dollars on their delinquent loans.

Additionally, the Managers understand that the Secretary currently has available and uses discretionary authority to contract for certain loan servicing activities, such as appraisals of farm property. The Managers encourage the Secretary to continue to use the current authority and also to use the new authority that is being provided to contract for additional loan servicing activities. One or more pilot projects involving servicing of the farm loan portfolio may prove of considerable benefit to the Department; in addition to having the farm loan accounts of more than 100,000 borrowers to service, USDA also has to process and approve new farm loan applications and to manage and dispose of farm inventory properties.

(18) Notice of Loan Service Programs, Borrower Statements, Borrower Reviews, Veterans Preference, and Verification of Credit Elsewhere Test

The Senate amendment reduces the mandated time frame for notifying delinquent borrowers of available loan servicing options to 90 days after a loan payment is due. (Section 632)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with amendments that (1) require statements submitted by borrowers should be appropriate written financial statements; (2) require the appropriate USDA county or area committee to certify in writing that an annual review of the credit history and business operation of a borrower has been performed and that a review has been made of the continued eligibility of the borrower for the loan; (3) extend veterans preference for loans to cover veterans of any war involving the United States; and (4) allow the Secretary of Agriculture to submit to lenders, without borrower approval, a prospectus of a borrower to verify that the borrower cannot receive credit elsewhere and require the Secretary to notify a borrower when a prospectus is provided to lenders. (Sections 633–637)

(19) Sale of property and easements on inventoried properties

The Senate amendment modifies guidance on disposing of farm inventory properties. It requires the Secretary to offer to sell farm inventory property, except for any located on an Indian reservation, as follows:

to qualified beginning farmers and ranchers at current market value within 75 days of taking farm property into inventory and

if an acceptable offer is not received by the 75th day, within 30 days to the highest bidder, and if no acceptable bid is received, by negotiated sale for the best price obtainable.

The Senate amendment provides that if more than one qualified beginning farmer or rancher offers to purchase a property, the Secretary is required to select between the qualified applicants on a random basis. It stipulates that the results of the Secretary's random selection is not appealable.

The Senate amendment also provides that farm properties in inventory that are leased are to be offered for sale according to this pattern within 60 days after the current lease expires. Farm properties in inventory that are not leased are to be offered for sale according to this pattern within 60 days of enactment.

The Senate amendment provides that farm properties are not to be leased. An exception provides that the Secretary may lease or contract to sell a farm property to a beginning farmer or rancher if the person qualifies for a credit sale or a direct farm ownership loan but credit sale authority for loans or direct farm ownership loan funds are not available. In determining the rental rate to be charged to a beginning farmer or rancher, the Senate amendment requires the Secretary to take into consideration the income producing capability of the property during the term that the property is leased.

The Senate amendment requires the Secretary to provide for an expedited, higher-level review of a local decision that denies an applicant's eligibility as a beginning farmer or rancher for acquiring a farm inventory property if the person requests a review. It stipulates that the results of such a review shall not be appealable by the applicant. The Senate amendment also requires that the Secretary accumulate statistics on the extent of such review requests, including the results of such reviews, and if those reviews adversely impact on selling farm inventory property to beginning farmers and ranchers and disposing of properties from inventory.

Furthermore, the Senate amendment provides that real property located on an Indian reservation and pledged as security for a farm loan can be transferred to the Department of the Interior or to the tribe that has jurisdiction over the reservation rather than USDA foreclosing and taking the property into inventory if a borrower defaults. (Section 633).

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with amendment that specifies that the transfer of loan security property to Interior or to an Indian tribe applies to property pledged as collateral by an Indian borrower-owner. The Conference substitute also modifies current guidance on the placing of wetland conservation easements on USDA's farm inventory property to prohibit the Secretary of Agriculture from establishing perpetual conservation easements on land that was cropland at the time it entered the inventory or that was used for farming within five years of the date that it entered inventory. (Sections 638 and 639)

Changes are being made to the real property disposal provisions in the Con Act in order to provide beginning farmers and ranchers with the first opportunity to acquire the properties and to expedite the disposal of farm inventory properties from USDA's inventory, which will in turn reduce the substantial expense that the Department incurs in managing these properties. Also, competitive sales could result in increased revenues, which would offset prior loan losses. While the bill requires the Secretary to expedite the sale of farm inventory property, the Managers recognize that the Secretary may be delayed in offering property for sale if such property has been or is suspected of having been contaminated by a hazardous material as defined in appropriate federal environmental legislation. Such delay in offering farm properties for sale shall be limited to the time absolutely necessary to identify and resolve any contamination issues in accordance with applicable federal law. The Managers also recognize that the Secretary may be delayed in offering farm inventory property for sale in order to determine whether to place an easement on such property or to transfer such property in accordance with section 354 of the Con Act. It is the position of the Managers that such delays should generally be limited to not more than 60 days. Also, if USDA acquires a farm property that has an existing easement for conservation or other purposes, the easement should remain on the property when it is sold.

(20) Definitions 3

The Senate amendment changes one part of the definition of a qualified beginning farmer or rancher for farm ownership loan eligibility by increasing to 25 percent the amount of land that a person may own. It also provides that the owned-acreage provision does not apply to farm operating loan eligibility.

The Senate amendment defines "debt forgiveness" as reducing or terminating a farm loan in a manner that results in a loss through (a) write-downs or write-offs under the restructuring process, (b) write-offs under the debt settlement process, (c) loss payments on guaranteed loans, and (d) discharges of debt as a result of bankruptcy. (Section 634)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 640)

(21) Authorization for loans and contracts on loan security properties

The Senate amendment provides loan authorization levels for the fiscal year 1996-2002 period. It specifies the portion of the direct farm ownership and operating loans that are reserved during each year for qualified beginning farmers and ranchers. It also provides that these funds are reserved until September 1st of each fiscal year.

The Senate amendment modifies a current provision in the Con Act by reserving a portion of the available guaranteed farm ownership and operating loans during each year for beginning farmers and ranchers. It stipulates that these funds are reserved until April 1st of each fiscal year.

Additionally, the Senate amendment modifies a current requirement concerning the transfer of unobligated loan funds to provide that available unsubsidized guaranteed operating loan funds shall be transferred on and after August 1 of any fiscal year to the direct farm ownership loan program for funding approved down payment loans. It provides that funds are to be transferred on and after September 1 for funding approved farm ownership loans to beginning farmers and ranchers. Furthermore, the Senate amendment provides that available emergency disaster loan funds may be transferred on and after September 1 to fund the credit sale of farm inventory property. The Senate amendment is specifying that any transfer of funds under this authority is to be limited so that all guaranteed farm operating loans and emergency disaster loans that have been approved, or will be approved, during a fiscal year will be made to the extent of appropriated amounts. (Section 635)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that targets 60 percent of the direct farm ownership loan funds reserved for beginning farmers and ranchers to those who participate in the down payment loan program. The Conference substitute also modifies current guidance covering easements on loan security property to provide that rather than placing easements on such properties, the Secretary is authorized to enter into contracts with borrowers for conservation, recreation, and wildlife purposes. (Sections 641 and 642)

The bill is targeting USDA's farm loan funds to beginning farmers and ranchers and requiring that if a qualified beginning farmer or rancher applies for direct farm ownership loan funding through the regular or the section 310E down payment loan program, then the Secretary is to fund the person through the program under which the person applies for funding, providing that he or she meets the eligibility criteria and funds are available. Thus, if a qualified beginning farmer or rancher seeks assistance under the down payment program and if funds are available, the Secretary is to fund the person under that program. It is the intent of the Managers that the applicant decide whether or not to participate in the down payment program.

(22) List of certified lenders and inventory property demonstration project

The Senate amendment replaces outdated references to the Farmers Home Administration and updates a requirement concerning maintaining a listing of commercial lenders who participate in the guaranteed farm loan program. It also deletes an expired demonstration project covering inventory property of the Farm Credit System.

The Senate amendment also extends the authority to make guaranteed farm loans at subsidized interest rates under the interest rate reduction program through fiscal year 2002. (Section 636)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision but deletes the interest rate reduction change since the extension of this program was enacted with the passage of P.L. 104-105 on February 10, 1996. (Section 643)

(23) Homestead property

The Senate amendment reduces the time period for borrowers to apply for homestead property to within 30 days from acquisition by the Secretary of Agriculture, or to within 30 days of enactment for property in inventory. It also changes the time period for notifying borrowers of homestead rights to the date the Secretary acquires the property, or to within 5 days of enactment for property in inventory. (Section 637)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 644)

The Managers want to emphasize that these changes do not preclude former owners from reacquiring homestead property; rather, the changes reduce the time frame for USDA to notify former owners of their homestead rights and for the former owners to apply for the property. These revisions are being made to conform to the changes being made in the disposal of farm inventory properties including the targeting of such properties to beginning farmers and ranchers. The shortened timeframes for notification and for former owners to apply for the homestead portion of the properties will facilitate the disposal of farm properties from inventory. In addition, in advertising real property for sale under section 335 of the Con Act, as revised by this Title, the Managers expect the Secretary to provide notice that a portion of a property may be subject to the homestead preservation rights of the former owner.

(24) Restructuring

The Senate amendment revises the restructuring calculation to provide a restructured borrower with a cash flow margin of up to 10 percent. It provides that the obligations of a borrower who does not qualify to be restructured shall terminate if the person makes a payment equal to the current market value of loan security property. It also repeals requiring recapture agreements with borrowers who buy out their debt obligations at current market value and deletes an exception that allows certain borrowers who acted in "bad faith" to be eligible to obtain buy-outs.

The Senate amendment also repeals the provision that calls for the creditworthiness of a borrower whose loan obligations have been restructured to be determined without regard to the restructuring. (Section 638)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 645)

The mandated restructuring process is being revised to increase the cash flow margin (income to expenses) of restructured borrowers so as to place them in a more financially viable position following the completion of restructuring and, thus, to increase their chances for success. Prior to the 1990 Farm Bill, a borrower qualified for restructuring when projected income met projected expenses. Because many of the borrowers who were restructured were financially weak following the restructuring, with low cash flows and high debt-to-asset ratios, the 1990 Farm Bill provided for additional relief through a 5-percent debt service margin. However, it is now apparent that this adjustment was not sufficient to put restructured borrowers in a financially viable position. This is reflected in the fact that thousands of borrowers have defaulted again after being restructured; some have then had additional restructuring, others bought out at the net recovery value, and others went through debt settlement.

The guidance on the termination of loan obligations for borrowers who do not qualify for restructuring is also being changed to provide that the person should make a payment to the Secretary that equals the current market value of loan security property and to end the requirement that such borrowers enter into recapture agreements covering any subsequent disposal of property.

These changes were proposed by the Administration in its Farm Bill proposals as a way to receive a higher portion of the unpaid debt and to reduce its administrative costs by not having to monitor recapture agreements. In addition, the Managers believe that borrowers who did not act in good faith with the terms and conditions of their loan agreements with USDA should not benefit from USDA's servicing of their delinquent debts. Thus, a "bad faith" exception in the Con Act is being ended.

Furthermore, another current provision that provides that a borrower's future creditworthiness is to be determined without regard to restructuring is being stricken. It is the intent of the Managers that future credit decisions should take into consideration, among things such as cash flow and loan security, a borrower's credit history, including the results of a debt servicing action that causes farm loans to be written down, written off, or discharged through bankruptcy.

(25) Transfer of inventory land for conservation purposes

The Senate amendment removes a provision that prohibits the Secretary of Agriculture from requiring reimbursement when transferring real property for conservation purposes to other federal or State agencies. It also provides for public notices and a public meeting prior to a real property transfer, and consultation with state and local officials. (Section 639)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 646)

The Managers note that the Secretary is not being required to be reimbursed when transferring properties to other agencies. The phrase "without reimbursement" is being deleted because it is not necessary.

(26) Implementation of target participation rates

The Senate amendment requires that the Secretary ensure that targeting loan funds to members of socially disadvantaged groups complies with the Supreme Court's June 12, 1995, ruling in Adarand Constructors v. Pena. (Section 640)

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 647)

(27) Delinquent borrowers, short form certification requirement, and credit study

The Senate amendment requires that a borrower pay a portion of the interest that is due as a condition of rescheduling or reamortizing loans that are not serviced under a mandated servicing process; the Secretary is to determine the required payment level.

The Senate amendment prohibits direct operating loans to borrowers who are delinquent on existing farmer program loans. It also prohibits direct and guaranteed loans to borrowers whose defaults on farmer program loans resulted in debt forgiveness. An exception provides that direct or guaranteed farm operating loans for paying annual farm or ranch operating expenses may be made to a borrower who was restructured with debt write-down.

The Senate amendment limits a borrower to not more than one instance of debt forgiveness under any delinquent debt servicing mechanism that results in USDA incurring direct loan losses.

Furthermore, the Senate amendment requires that the Secretary perform a study on the demand for and availability of credit in rural areas for agriculture, rural housing, and rural development. (Section 641)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that requires the Secretary of Agriculture to develop a short form for borrowers to use for certifying compliance with loan making statutes and regulations. (Sections 648–650)

The Managers are concerned that USDA is rewriting loans several times without having borrowers make any payments. GAO has reported that borrowers who are having difficulties or are unable to make their loan payments, but who have not been subjected to the mandated servicing provisions of the Con Act, are having their farm loans rewritten with revised interest rates, payment terms, and the combining of unpaid interest with outstanding principal. Also, the loans that are rewritten in this manner are not subject to the Con Act's total indebtedness limits. While such rewriting may appear to be a benefit to borrowers, in the long-run it is not because the capitalizing of unpaid interest erodes the equity that the borrowers have in their farm operations. It is the position of the Managers that USDA should use its loan-servicing tools to assist borrowers who are having difficulty in making their loan payments. However, limits are needed on the extent of that assistance to ensure that borrowers do not become so weak that they end up in an insolvent position and to ensure that the taxpayers' investment in these loans is better protected. Therefore, the bill requires that a borrower who has not requested servicing consideration in response to the formal notification under section 331D of the Con Act has to pay a portion of the interest that is due as a condition of having his or her loans rescheduled or reamortized. The Secretary is to determine the level of payment required from such borrowers.

The Managers are also concerned about the fiscal soundness of making farm operating loans to delinquent borrowers. According to GAO, a total of $130 million in direct farm operating loans was made to delinquent borrowers from fiscal year 1989 through the first half of fiscal year 1995. GAO has recommended that such loans be prohibited, and the Administration in its Farm Bill proposals also called for deleting this requirement. The Managers concur.

The bill is also generally prohibiting direct and guaranteed loans to borrowers whose prior defaults on farmer program loans resulted in debt forgiveness. GAO has recommended that borrowers whose prior loan defaults resulted in losses should be prohibited from receiving additional loans. The Administration in its Farm Bill proposals also called for prohibiting loans to borrowers who received debt write-offs through buy-outs and debt settlements. However, the Administration's proposal called for continuing to make loans to borrowers who received write-down, and it did not address lending to borrowers who defaulted on guaranteed loans. Subsequently, USDA officials agreed that borrowers who default on guaranteed loans that result in losses should also be prohibited from additional government-supported farm loans.

The Managers want to emphasize that the prohibition on new loans applies to borrowers who caused USDA to incur losses at any time prior to enactment of this Title as well as those who cause USDA to incur losses on or after enactment.

The Managers, however, recognize that borrowers who are restructured with debt write-down under section 353 of the Con Act and, as such, who remain USDA clients may have difficulty in obtaining credit from sources other than USDA since much, and possibly all, of their farm assets may be pledged as security for the restructured loans. Thus, borrowers whose debt is restructured with write-down will be able to obtain farm operating loans to pay their annual farm or ranch operating expenses. Specifically, the Managers intend that funding is to be allowed only for purchasing seed, feed, fertilizer, insecticide, and farm or ranch supplies and to meet other essential farm or ranch operating expenses, including cash rent.

The bill is also limiting a borrower to no more than one instance of debt forgiveness under any delinquent debt servicing mechanism that results in USDA incurring direct loan losses. A 1990 Farm Bill amendment to the Con Act limits borrowers whose delinquent debts are resolved through the restructuring process to either one write-down when restructured or one write-off when buying out. The one-time limitation added by the 1990 Farm Bill applies to new applications for restructuring that were submitted after the enactment date of that act. The 1990 Farm Bill limitation does not apply to borrowers whose accounts are resolved through the debt settlement process. Information from GAO indicates that some borrowers who have had debt relief when their delinquent debts were resolved through the restructuring process subsequently had additional debt relief when they went through the debt settlement process. There are also other ways in which borrowers can have multiple instances of debt relief. For example, borrowers who go through debt settlement and who received subsequent loans can receive additional debt relief if they default on the new loans and their accounts are restructured with debt write-down or bought out with write-off. Also, borrowers can receive more than one debt settlement, each with write-off.

To ensure that all delinquent borrowers are treated equally and to provide for better protection of the taxpayers' investment in the farm loans, the bill is limiting borrowers whose accounts are resolved through any of the three mechanisms to one instance of debt relief. The Managers want to emphasize that the limitation on debt forgiveness applies to borrowers who had debt forgiveness at any time prior to enactment of this Title as well as those who had debt forgiveness on or after enactment.

The Secretary of Agriculture is being required to perform a study on the demand for and availability of credit in rural areas for agriculture, rural housing, and rural development and to report on the results of this study to the Senate and House Agriculture Committees. The purpose of the study and report is to ensure that Congress has current and comprehensive information as it continues to deliberate on the credit needs of rural America and the availability of credit to satisfy those needs. In completing this study, the Managers expect the Secretary to use, among other things, data and information obtained by the President's 1995 interagency task force on rural credit. The Managers also expect the Secretary to complete this study and provide this report by July 1996.

SUBTITLE E—GENERAL PROVISIONS

(28) Conforming Amendments

The Senate amendment contains conforming amendments of a technical nature to the Con Act concerning USDA's farm loan programs. (Section 651)

The House bill has no comparable provisions.

The Conference substitute adopts the Senate amendment regarding the Con Act technical changes. (Section 661)

(29) Electronic filing of financial statements and effective dates

The Senate amendment contains amendments to the Farm Credit Act of 1971 regarding the Agricultural Mortgage Secondary Market, commonly known as Farmer Mac, and the Farm Credit System. (Sections 661 through 699A)

The House bill has no comparable provisions.

The Conference substitute adopts the House provision deleting the Senate amendments regarding Farmer Mac and the Farm Credit System. Public Law 104–105, which was signed by the President on February 10, 1996, enacted the same Farmer Mac and Farm Credit System provisions. The Conference substitute also amends the Senate provision to allow the electronic filing of financial statements without the signature of the debtor providing State law authorizes such a filing and to provide guidance on the effective dates for the amendments made by this Title, including directing that regulations issued in response to these amendments are to be published as interim final rule. (Sections 662 and 663)

The Managers expect USDA in promulgating the rules to carry out the filing provisions for electronic financing statements to address the concerns of those States that have central filing, but have not yet implemented electronic filing, and will continue to utilize paper transactions. Commercial lenders have expressed a great deal of concern and confusion due to the vagueness of the continuation provisions that are related to the financing statements included in the Food Security Act of 1985 and its inconsistency with Article IX of the Uniform Commercial Code.

TITLE VII—RURAL DEVELOPMENT

SUBTITLE A—AMENDMENTS TO THE FOOD, AGRICULTURE, CONSERVATION AND TRADE ACT OF 1990

Chapter 1—General Provisions

(1) Rural investment partnerships

The Senate amendment extends the authorization for Rural Investment Partnerships and provides an authorization for appropriations of $4.7 million for each of fiscal years 1996–2002. (Section 701)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to repeal the authorization for Rural Investment Partnerships. (Section 701)

(2) Water and waste facility financing

The Senate amendment strikes duplicate authority (section 2322 of the FACT Act) for water and waste facility financing for Rural Utility Service borrowers that exists in Section 306(a) of the Con Act. (Section 702)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 702)

(3) Rural Circuit Rider Wastewater Program

The Senate amendment repeals authority for the Circuit Rider Water and Waste Technical Assistance Program. The authority is consolidated with all authorized rural water and wastewater technical assistance and training programs in Section 306(a)(16) of the Con Act. (Section 703)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 703)

(4) Telemedicine and distance learning services in rural areas

The Senate amendment reauthorizes and streamlines the Distance Learning and Telemedicine Program. A Treasury-rate loan program is created to assist rural borrowers in making telecommunications and data linkages available. The Senate bill authorizes appropriations of $100,000,000 for each of fiscal years 1996–2002. (Section 704)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment giving borrowers the right to appeal funding decisions. If the Secretary rejects the application of a borrower who applies for assistance, the borrower may appeal the decision to the Secretary not more than 10 days after the borrower is notified of the funding decision. (Section 704)

The Managers are concerned that past application, evaluation and approval procedures of the distance learning and telemedicine program have resulted in questions about the equity and validity of the application evaluation process. The conference amendment to the loan program is intended to provide a more rational and timely appeal procedure. Although the Managers understand that the Rural Utilities Service (RUS) provides information to applicants whose applications have been disapproved, the Managers intend for RUS to provide with each disapproval notice the raw scores for each proposal and a list by rank of each application that was approved and each that was disapproved.

The Managers also are concerned that the application appraisers may not have sufficient practical expertise in rural areas, and indeed, may lack sufficient technical understanding of some aspects of applications. The managers would encourage RUS to make certain the reviewers have technical and/or managerial expertise in the fields of telecommunications, telemedicine, distance learning and project management and are able to evaluate sufficiently each application fully on its merits.

To ensure that each applicant's submission is clearly understood by the RUS staff, the Managers believe that a formal presentation opportunity should be afforded each applicant that requests one, arranged as part of the formal application review process. The Managers recognize that while not every applicant may desire to give such a staff presentation, interested applicants need an opportunity to appear briefly before the reviewing staff, to pose and answer questions about their application. To the extent practicable, this may be accomplished through meetings in the field so that no applicant is unduly burdened financially.

The Managers intend for this approach to assist both applicants and RUS staff in finding and funding the best applications, ensuring a fair and equitable procedure so that questions are clarified. The Managers believe such a procedure would minimize misinformation from entering the application evaluation process.

Finally, the Managers believe that applications must be considered both on the part of reviewers and RUS staff without regard to how the service is delivered. Technology bias on the part of RUS staff has been a constant criticism and should be avoided whenever possible. The Managers intend that successful applications will be those considered entirely on their merits, and that applications for start-up programs should not receive greater weight than proven programs needing upgrades, improvements or expansion.

(5) Limitations on authorization of appropriations for Rural Cooperative Development Grant Program

The Senate amendment eliminates the authorization for appropriations for the Rural Technology and Cooperative Development Grant Program. The authorization for the program is maintained in section 310B of the Con Act. (Section 705)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 705)

(6) Monitoring the progress of rural America; demonstration grants

The Senate amendment repeals an obsolete provision for the collection of statistics on the economic progress of rural America in the 1992 Census. (Section 706)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to repeal authority which provides for rural economic development competitive grants. (Sections 706 and 707)

(7) Analysis by Office of Technology Assessment

The Senate amendment repeals obsolete authority for the Office of Technology Assessment to study the effects of information technology on rural America. (Section 707)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 708)

(8) Rural Health Infrastructure Improvement Program

The Senate amendment repeals unfunded authority for a demonstration project for rural health infrastructure improvement. (Section 708)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 709)

(9) Census of agriculture; study of transportation of fertilizer

The Senate amendment repeals an obsolete requirement for a 1992 Census question on agricultural accidents and farm safety. (Section 709)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to repeal authority for a study of the transportation of fertilizer and agricultural chemicals to farmers. (Sections 710 and 711)

Chapter 2—Alternative Agricultural Research and Commercialization

(10) Alternative Agricultural Research and Commercialization Corporation

The Senate amendment contains definitions for "Corporate Board" and "Corporation." (Section 721)

It converts the Alternative Agricultural Research and Commercialization Center to the Alternative Agricultural Research and Commercialization Corporation, a wholly-owned government corporation within the Department of Agriculture. The purpose of the Corporation is identical to the purpose for the Center—to expedite the development and market penetration of industrial (non-food, non-feed) products from agricultural and forestry materials and to assist the private sector in bridging the gap between research results and the commercialization of that research. (Section 722)

The general powers of the Corporate Board are expanded to allow the Corporation to sell assets, loans, and equity interests held by the Corporation. (Section 723)

The membership of the Corporate Board is increased from 9 members under current law to 10 members: the Under Secretary of Agriculture for Rural Economic and Community Development; the Under Secretary of Agriculture for Research, Education and Economics; four members appointed by the Secretary—one scientist, one producer or processor of agricultural commodities, one member engaged in the commercialization of new non-food, non-feed products; two members appointed by the Secretary who have expertise in applied research and who are nominated by the National Science Foundation; and two members who have experience in financial management and who are nominated by the Secretary of Commerce. (Section 723)

The Secretary is given authority to vacate and remand to the Board for reconsideration any funding decision for cause. The Secretary is required to inform the Board of the reasons for any remand. Board members serving at the time the Center is converted to the Corporation may be reappointed for the remainder of their term by the Secretary. The Senate amendment prohibits Board members from voting on applications if they have a conflict of interest and the Board of Directors is required to establish bylaws for the Corporation and requires the Secretary to review and approve the bylaws prior to adoption by the Board. The authority for the Corporation to establish advisory councils is eliminated. (Section 723)

It makes conforming changes reflecting the Center's new status as a Corporation. (Sections 724–727)

Contents of the Alternative Agricultural Research and Commercialization Revolving Fund may now include proceeds from the sale of assets, loans, and equity interests made in association with the goals of the Corporation. Funding allocation restrictions are established: (1) limits administrative expenses of the Corporation to the lesser of $3 million or 15 percent of appropriated funds in each fiscal year; (2) allows 1 percent of appropriated funds to be used for studies and reviews of individual proposals for assistance; (3) establishes that not less than 84 percent of funds appropriated shall be set aside to fund individual projects; and retains current law which provides that uncommitted funds in each fiscal year are to be credited to the Fund and authorizes the roll-over of funds for succeeding fiscal year funding of projects. The Board is given discretion to establish in the bylaws of the Board a policy for individual project monitoring and evaluation—the cost of which is not to exceed 1 percent of assistance per project award. (Section 728)

The Senate amendment further provides for the transfer of assets of the Revolving Fund to the Treasury upon expiration of the Corporation's authority. It provides an authorization for an appropriation of $75 million for each of fiscal year 1996–2002. (Section 728)

An executive agency is given authority to give a price or technical evaluation preference in procurement practices to products successfully commercialized with assistance provided by the Corporation. (Section 729)

Lastly, the Senate amendment requires the Corporate Board to develop a five-year business plan not later than 180 days after the date of enactment and submit the plan to the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition and Forestry of the Senate. In addition, the Secretary is required to conduct a study and prepare a report by December 31, 2001 on the feasibility of privatizing the Corporation and converting it to a government-sponsored enterprise. (Section 730)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to give the Secretary authority to appoint an additional Corporate Board member with financial management expertise, resulting in an 11-member Corporate Board. (Sections 721–730)

The Managers note that the move to establish the Alternative Agricultural Research and Commercialization Center as an independent agency within USDA was the result of concerns that the Center was being "co-opted" into the programming of other USDA business-related agencies. Despite departmental reorganization legislation (P.L. 103–354, subtitle A—General Reorganization Authorities, section 211(m)) which specifically exempted the Center from the reorganization and thus maintained the Center's independence, USDA continued its efforts to turn the Center into an adjunct program of the Rural Business-Cooperative Service. Measures have been taken to ensure the Corporation's independence.

As a new program, the Center has experienced "growing pains" over the last 2 years. In March 1995, the Department's Office of the Inspector General (OIG) reported that the Board members had not adequately disclosed their financial interests in projects; have operated under policies and procedures contained only in a draft manual, not in regulations; and have not required audited financial statements from applicants before approving projects. In addition, the Center exercised due diligence sporadically. The Managers recognize that steps are now being taken to approve management controls and oversight to remedy these problems.

In converting the Center to the Corporation, the Committee is imposing a number of controls on the activities of the Corporation and the Board. The Board is required to establish bylaws, which have to be reviewed and approved by the Secretary. As an agency of the Department of Agriculture, the Corporation is subject to oversight by the Secretary and can be audited and investigated by the OIG. In addition, the Corporation will be subject to the auditing and budgeting requirements of the Government Corporations Act. Strict conflict-of-interest restrictions are imposed, and the Secretary is given the authority to remand funding decisions made by the Board if the restrictions are violated. The Secretary is also directed to establish financial disclosure requirements for the Board.

In developing bylaws, the Managers expect the Board to establish clear criteria to be used in evaluating applications for commercialization projects. The criteria should ensure that the entity receiving assistance is in sound financial condition, has the financial, technical, and managerial capability to undertake the project, and has a reasonable expectation of success.

The Board's decision of funding projects should be based on the feasibility of the project, its marketability, the ability of the applicant to be successful in commercializing the product, and the ability of the applicant to repay the financial assistance it receives or provide a return on the Corporation's investment. Other considerations are the availability of matching funds, private-sector participation, potential market size, potential for jobs creation, state and local government participation, likelihood of reducing federal commodity support payments, likely impact on resource conservation, and likely impact on the environment. The Managers intend for the Corporation's continued independence to prevent political pressure from influencing the funding decisions of the Board of Directors.

The Managers also recognize the need to improve procurement procedures and regulations to allow the Corporation to function efficiently. The Corporation is part owner of many of the companies it supports. The Corporation should divest itself of that ownership as soon as practicable so that invested funds are returned to the revolving fund to be reinvested.

A new section is added to authorize an executive agency to give a price or technical evaluation preference in procurement practices to products successfully commercialized with assistance provided by the Corporation. The Managers believe that the Federal government should be allowed to procure new-use products that meet the unique needs of individual agencies. This change makes it easier for federal managers to purchase Corporation-supported products for use by the federal government. However, the Committee intends that government procurement should not, under any circumstance, establish the validity and sustain the viability of any given Corporation project.

Further, the Managers believe that with adequate funding of the revolving fund, the Corporation should eventually become self-sufficient. Authorized appropriations for the Center from 1991 through 1995 were $185 million, while actual appropriations were only $25.75 million, including a $1.5 million rescission.

The Managers regret the lack of funding available to establish regional centers. However, it is the Managers' view that the establishment and utilization of these centers under current budget restraints is not feasible.

Finally, the Secretary is required to prepare and transmit a report by December 31, 2001, to the Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Agriculture on the feasibility of privatizing the Corporation or converting it to a government-sponsored enterprise. The Managers agree that the Corporation should investigate all means by which to increase its self-sufficiency through funding approaches that increase the level of assets in the revolving fund.

SUBTITLE B—AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

Chapter 1—General Provisions

(11) Water and waste facility loans and grants; rural business opportunity grants; and Technical Assistance and Training Program

The Senate amendment reauthorizes and increases the appropriation for water and waste treatment grants from $500,000,000 to $590,000,000. It maintains the 10,000 population limitation for water and waste disposal grants and direct and guaranteed loans only.

The amendment requires that sewer, waste, and water treatment projects funded under this section conform to State standards established under the Safe Drinking Water Act and the Clean Water Act.

It authorizes grants not to exceed $1.5 million annually—to establish centers for training, technology, and trade that provide assistance to rural businesses in the utilization of interactive communications technologies used to develop export markets. An appropriation of $7,500,000 for each of fiscal years 1996–2002 is authorized for this purpose.

The amendment eliminates unused authority for grants to volunteer fire departments for training and fire fighting equipment. It eliminates duplicate authority for loans for construction, acquisition, and operation of electric facilities receiving power from Power Marketing Administrations.

The amendment combines the authority for the wastewater technical assistance and training programs contained in section 2324 of the FACT Act with the rural water technical assistance program in the Con Act, and increases the funding level to account for consolidation of the two programs. (Section 741)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 741)

The Managers recognizes the strong performance and success of the National Rural Water Association's water and wastewater Circuit Rider technical assistance program and encourages continued support for the program. With diminishing levels of discretionary funding on the horizon, the Managers believe it paramount to maintain the Department's role in technical assistance to ensure that economically distressed rural communities conform to standards set forth in the Clean Water Act and the Safe Drinking Water Act.

(12) Emergency Community Water Assistance Grant Program for small communities

The Senate amendment combines the emergency assistance program for communities of 15,000 or less with the program for communities of 5,000 or less established by section 306B. Not less than 50 percent of available funds is required to be allocated to communities with populations of less than 3,000. The reauthorization of appropriation of $35 million is extended from 1996–2002. (Section 742)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to cap the population eligibility criteria at no more than 10,000 population. (Section 742)

(13) Emergency Community Water Assistance Grant Program for smallest communities

The Senate amendment repeals authority for the program. (Section 743)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 743)

(14) Agricultural Credit Insurance Fund

The Senate amendment eliminates obsolete authority in to insure loans with funds made available through a revolving fund of the Agricultural Credit Insurance Fund. (Section 744)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 744)

(15) Rural Development Insurance Fund

The Senate amendment eliminates obsolete authority to insure loans with funds made available through the Rural Development Insurance. (Section 745)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 745)

(16) Insured watershed and resource conservation loans

The Senate amendment eliminates obsolete authority for insured watershed and resource conservation and development loans. (Section 746)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 746)

(17) Rural industrialization assistance programs

The Senate amendment eliminates unused authority for pollution abatement grants, eliminates unused authority for insuring and guaranteeing loans for constructing or improving subterminal facilities, eliminates authority for loans to fund facilities for sharing telecommunications terminal equipment, computers and software with approval of State Rural Economic Development Review Panels, and makes competitive the awarding of passenger transportation services or facilities grants.

The Senate amendment amends the Rural Cooperative and Technology Development grant program by: 1) narrowing the focus and renaming the program the "Rural Cooperative Development Grant program; 2) emphasizing job creation in rural areas through the development of rural cooperatives, value-added processing, and rural businesses; 3) refocusing the efforts of the regional centers on technology research, feasibility studies, training, technology transfer, and technical assistance; 4) targeting the activities of the rural technology centers to build the capacity of rural industries, cooperatives, and agribusinesses; 5) establishing criteria for preferences in the awarding of grants, including a requirement to award grants on a competitive basis; 6) allowing the Secretary to make grants to defray up to 75 percent of the costs incurred by organizations and public bodies to carry out projects under this program; and 7) authorizes an appropriation of $50,000,000 million for each of fiscal years 1996–2002.

The Senate amendment authorizes the Secretary to make loan guarantees for the purchase of start up stock in a cooperative. To qualify for participation, the farmer must produce the agricultural commodity that will be processed by the cooperative. (Section 747)

The House bill has no comparable provisions.

The Conference substitute adopts the Senate provision with an amendment that extends eligibility for loans and grants for rural industrialization to industries undergoing adjustment from terminated Federal agricultural price and income support programs or increased competition from foreign trade. (Section 747)

The Managers intend to target the limited funds available for the Rural Cooperative Development Grant program on cooperative development centers that operate on a regional or statewide basis. By focusing this grant program on regional centers rather than on small, local projects, the Committee hopes to link cooperatives from different communities and different sectors of the economy to strengthen the cooperative movement as a whole. Recipients of the grants may include a wide range of nonprofit organizations and educational institutions.

The Managers are aware of the pressing financing needs of new cooperatives. The Managers are also aware of changes being considered by the Rural Business-Cooperative Development Service (RBCS) to the Business and Industry (B&I) guaranteed program to address those needs. The Committee encourages RBCS to consider proceeding with changes to the B&I guaranteed loan program regulations to provide for more flexibility in equity requirements while maintaining due diligence requirements for overall credit quality analysis.

The Managers are also aware of interest in changing the current regulations of the Business and Industry guaranteed program. The regulations effectively preclude construction and start-up costs from inclusion under the guarantee. The Managers encourage RBCS to consider amending the B&I guaranteed loan regulations, as necessary, to provide for guarantees that are effective during the construction and start-up phase of projects. Changes to the regulations could include providing an alternative procedure without the current requirement that property acquisition and construction must be completed before the guarantee is effective, with guidelines for when the alternative procedure will be used.

The Managers strongly urge the Department to use the Business and Industry loan guarantee program in the development of value-added agricultural processing cooperatives and other value-added small businesses. These new businesses have the potential for raising farm income for producers, creating new wealth, and revitalizing local communities. Furthermore, the Managers believe that the B&I program can be effectively targeted to producers without the liquid assets to readily invest, to guarantee up to 30 percent of an individual's purchase stock in value-added agriculture processing businesses, including cooperatives, up to a maximum of $10,000 per eligible investor, and still protect the integrity of the loan guarantee. No more than 30 percent of a project's equity investment shall be guaranteed in this manner, assuming a satisfactory business plan. The Department which is permitted under current law to use the B&I loan guarantee in this manner, should take the necessary steps to implement this recommendation within 90 days of enactment of this bill.

(18) Administration-Debt reduction by secretary

The Senate amendment gives the Secretary authority to reduce debt for loan programs administered by the Rural Utilities Service, the Rural Housing Service, and the Rural Business-Cooperative Service. The Attorney General must be notified of the Secretary's intent to exercise any debt reductions. (Section 748)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 748)

(19) Authorization for appropriation

The Senate amendment eliminates obsolete direct loan authority. (Section 749)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 749)

(20) Testimony before congressional committees

The Senate amendment eliminates the requirement for the Secretary to testify before both House and Senate Agriculture Committees by February 15th of each year. (Section 750)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 750)

(21) Prohibition on use of loans for certain purposes

The Senate amendment gives the Secretary the authority to approve loans for utilities that cross wetlands. (Section 751)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 751)

(22) Rural Development Certified Lenders Program

The Senate amendment creates a certified lenders program for the Business and Industry guaranteed loan program and other rural development loan programs under title III of the Con Act. (Section 752)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 752)

(23) System for delivery of certain rural development programs

The Senate amendment repeals the system of State Rural Economic Review Panels for rural development program delivery. (Section 753)

The House bill has no comparable provision

The Conference substitute adopts the Senate provision. (Section 753)

(24) State Rural Economic Development Review Panel

The Senate amendment repeals the duties and structure of State Rural Economic Review Panels. (Section 754)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 754)

(25) Limited transfer authority of loan amounts

The Senate amendment repeals the transfer of appropriated funds for water and waste facility direct loan programs to loan programs administered by the State Rural Economic Review Panels. (Section 755)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 755)

(26) Allocation and transfer of loan guarantee authority

The Senate amendment repeals State Rural Economic Review Panels authority to administer water and waste facility guaranteed loan programs. (Section 756)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 756)

(27) Water systems for rural and native villages in Alaska; water and waste disposal application requirements

The Senate amendment provides the Secretary with the authority to make grants to the State of Alaska for the benefit of rural and Native villages to develop and construct water and wastewater systems to improve sanitation conditions. To be eligible to receive a grant, the State of Alaska will provide equal matching funds from non-Federal sources. There are authorized to be appropriated $15 million for each of fiscal years 1996 through 2002. (Section 552)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to require that not later than 60 days before a preliminary loan is filed for a loan or grant for water and waste disposal assistance, a notice of the intent of the applicant to apply for the loan shall be published in a general circulation newspaper. In addition, the selection of engineers for a project shall be done by a request for proposals by the applicant. (Sections 757 and 758)

The Managers encourage the Secretary to consider cost-effectiveness and viability of other drinking water delivery options prior to making decisions regarding the funding of new or expanded community water facilities which should include, but not limited to, community water systems, cluster well systems and individual privately-owned wells.

(28) National Sheep Industry Improvement Center

The Senate amendment establishes the National Sheep Industry Improvement Center. The purposes of the Center shall be to: (1) promote strategic development activities and collaborative efforts by private and State entities to maximize the impact of Federal assistance to strengthen and enhance the production and marketing of lamb and wool products in the United States; (2) optimize the use of available human capital and resources within the lamb industry; (3) provide assistance to meet the needs of the sheep or goat industry for infrastructure development, business development, resource development and market and environmental research; (4) build the capacity of the U.S. sheep industry to design responses to the special needs of the lamb and wool industries on both a regional and national basis; and (5) adopt flexible and innovative approaches to solving the long-term needs of the U.S. sheep industry.

Funding for the Center's activities shall derive from the establishment of a revolving fund. This fund shall be capped at $50 million—$20 million of the fund shall be mandatory monies deposited by the Treasury into the fund from any other moneys in the Treasury not otherwise appropriated. In addition, authorization is provided for $30 million. After 10 years or upon receipt of $50 million to the revolving fund, the Center and its activities shall be privatized and no additional federal funds shall be used to carry out the activities of the Center.

The Center shall be managed by a nine member, non-compensated seven voting members and two non-voting members. The seven voting members shall be chosen in an election of the members of a national organization selected by the Secretary of Agriculture that is comprised of primarily U.S. sheep producers. The Board of Directors may use the monies in the fund to make grants and loans to eligible entities in accordance with a required annual strategic plan submitted to the Secretary of Agriculture. An eligible entity under the section is an entity that promotes the betterment of the U.S. sheep industry that is a public, private or cooperative organization. In addition, federally recognized Indian tribes, non-profit organizations, and public or quasi-public agencies are also eligible for assistance from the Center. (Section 757)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to include the goat and goat product industry. (Section 759)

The Managers intend the National Sheep Industry Improvement Center and revolving fund to assist and strengthen the U.S. sheep and goat industries which have experienced dramatic losses of infrastructure since 1993. The Center's activities should focus on the production and marketing of meat, fiber and hair. The Managers are concerned that over 16,000 of the nation's sheep producers have left the business in the last three years and the U.S. breeding herd has dropped 21 percent. Likewise, over 30 percent of the goat producers left the goat industry during that same time period. The Managers are also concerned with the severe loss of the industry's infrastructure—one-third of the major lamb packing plants in the United States have closed down operations.

It is the intent of the Managers that prior to submitting the list of nominations of the voting members for the Board of Directors to the Secretary, the national organizations shall consult with state associations that represent producers of sheep or goats. It is also the Managers position that the final composition of the Board reflect the comparative production of the industries.

The Managers expect that the Secretary will balance the equities between all segments of the sheep and goat industries in order to ensure participation by all facets of the industries in appointing members to the Board.

(29) Cooperative agreements

The Senate amendment gives the Secretary the authority to enter into cooperative agreements with other Federal agencies and State and local governments without being subject to the funding limitations imposed by the Federal Grant and Cooperative Agreement Act of 1977. (Section 793)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 759A)

(30) Eligibility for grants for broadcasting systems

The Senate amendment provides a definition for "statewide" coverage for the Television Demonstration Grant program. The term "statewide" means having a coverage area of not less than 90 percent of the population of a State and not less than 80 percent of the rural land area of the State. (Section 553)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 759B)

Chapter 2—Rural Community Advancement Program

(31) Rural Community Advancement Program

The Senate amendment establishes the Rural Community Advancement Program (RCAP), a new rural development program delivery mechanism.

The Senate amendment in Section 381A establishes that the terms "rural," "rural area," and "State" under the RCAP are subject to section 306(a)(7) of the Con Act which restricts water and wastewater program participation to towns with population of no more than 10,000 inhabitants. Eligibility for numerous programs are consolidated into one definition: a city, town, or unincorporated area that has a population of 50,000 inhabitants or less, other than an urbanized area immediately adjacent to a city, town, or unincorporated area that has a population in excess of 50,000 inhabitants. In section 381B, The RCAP is established to provide grants, direct and guaranteed loans and other assistance to meet the unique rural development needs of local communities and federally recognized Indian tribes.

National objectives are established in section 381C of the Senate amendment to promote strategic development and collaborative efforts by the State and local communities to maximize the impact of Federal assistance; to optimize the use of local and State resources; and when providing assistance, to consider the complexity of rural needs for business development, health care, education, infrastructure, the environment, housing, and cultural resources.

The Senate amendment in section 381D requires the Secretary to direct each of the Directors of Rural Economic and Community Development State Offices to prepare a strategic plan for each state. Financial assistance for rural development projects within each State under RCAP must be consistent with the plan.

Further, assistance under the RCAP may only be provided to an entity that is located in a rural area as defined under the RCAP. The Secretary is required to give priority to communities with the smallest populations and lowest per capita income.

The Senate amendment requires the Secretary to review the plan every 5 years. A strategic plan must: (1) coordinate plans and activities proposed for the area; (2) require the State and local communities to act as full partners in the process of developing and implementing the plan; (3) identify goals, methods, and benchmarks for measuring the success of the strategic plan; (4) be prepared in consultation with State, local, public and private entities, State rural development councils, federally-recognized Indian tribes, and community-based organizations; (5) identify federal and non-Federal resources available for implementation of the plan; and (6) include any other information required by the Secretary.

In section 381E, the Senate amendment consolidates over a dozen programs included in the RCAP into three function category accounts: (1) Rural Housing and Community Development includes direct loans, loan guarantees and grants for community facilities, and new construction funds for rural rental housing grants; (2) Rural Utilities includes grants, direct and guaranteed loans for rural water and wastewater disposal; grants for solid waste management; rural water and wastewater technical assistance and training grants; and emergency community water assistance; (3) Rural Business and Cooperative Development includes local technical assistance grants; rural business opportunity grants; guaranteed business and industry assistance loans; and grants for rural business enterprises. The Secretary will allocate the amounts in the three accounts among the States. The Secretary is given the authority to determine the allocation taking into consideration rural population, levels of income, unemployment, and other relevant factors, as determined by the Secretary.

The Secretary is also given authority in section 381E of the Senate amendment to transfer amounts allocated to the States for any of the three function categories for a fiscal year to a fourth function category: 1) mutual and self-help housing grants pursuant to section 523 of the Housing Act of 1949; 2) rural rental housing loans for existing housing pursuant to section 515 of the Housing Act of 1949; 3) rural cooperative development grants provided under section 310B(E); and 4) grants to broadcasting systems provided under section 310B(f). The funding for programs in the fourth function category may not be transferred out of these program accounts for funding other programs. Funds can only flow into these program accounts.

The Senate amendment permits the Secretary to transfer up to 25 percent from the amount allocated for a State under each function category in each fiscal year to any other function category within that State. However, not more than 10 percent of the total appropriations to the RCAP at the national level may be transferred among the three function categories.

The Senate amendment provides that the Secretary shall make available not more than 5 percent of appropriated funds for the RCAP to defray the cost of any subsidy associated with the state loan guarantee program provided for under the RCAP.

In section 381F, the Secretary shall reserve not more than 10 percent of the total funds appropriated for the RCAP to establish a national office reserve for rural development purposes. The national reserve may be used for emergencies, for incentive awards, or for performance-oriented demonstration projects. A three percent reserve shall be established for Federally-recognized Indian tribes to carry out rural development programs included in the RCAP. The reserve is to be administered through the appropriate Rural Economic and Community Development State Office Director.

The Senate amendment establishes the criteria for making allocations for the States. In making allocations for fiscal years 1997–2002, the Secretary shall ensure that the percentage allocation for each State is no less than the percentage of the average of the total funds obligated for the programs in each State in fiscal years 1993 and 1994. The minimum allocation constitutes a "hold harmless" provision. Funds allocated under this section are for Federal rural development programs within a State, and are not granted directly to the State.

The Senate amendment establishes a State RCAP grant in section 381G. It allows a State to request a grant of not more than 5 percent of the sums allocated for the State in any fiscal year. A state may request an additional 5 percent from the State allocation if the State provides non-Federal matching funds equal to 200 percent of the grant amount. The state is required to maintain the grant funds and any non-Federal matching funds in a separate account. State RCAP grant funds shall be used in rural areas for the same purposes as the funds appropriated for the programs included in the three function categories. The grant funds also must be used in accordance with the strategic plan for the State.

The Senate amendment requires participating states to provide assurances that the grant funds will be used to supplement, not supplant, the amount of Federal, State, and local funds committed to rural development. States are prohibited from using grant funds for administrative purposes.

The Senate amendment establishes a guaranteed loan program in section 381H to give States the ability to leverage RCAP State grant funds with loan guarantees. The Secretary is authorized to guarantee loans made by States or other eligible public entities for financing rural development projects with the RCAP State grant funds. The amount of the loan guarantee is limited to 5 times the amount of the RCAP State grant. The cumulative total of outstanding obligations guaranteed by the Secretary cannot at any time exceed amounts authorized to be appropriated in any fiscal year for all RCAP rural development programs.

In section 381I, the Senate amendment requires that applications for assistance demonstrate evidence of significant community support.

The Senate amendment in section 381J permits the establishment of voluntary pooling arrangements among States, and regional fund-sharing.

The Senate amendment directs the Secretary in section 381M to assume responsibility for establishing an interagency working group chaired by the Secretary. The working group shall establish policy, provide coordination, make recommendations, and evaluate the performance of all Federal rural development efforts.

In section 381N, the Senate amendment requires Rural Development State Directors to: ensure that the State strategic plan is implemented; coordinate community development objectives; establish links between State, local, and USDA field office program administrators; ensure recipient communities comply with applicable State and Federal laws and requirements; and integrate state development programs with assistance under the RCAP.

The Senate amendment requires the Secretary to use electronic transfer in section 381O for RCAP funds as soon as practicable. (Section 761)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to require the Secretary to review the strategic plan within 60 days of submission in section 381D and maintain the present formula allocation established in regulation for rural development programs in section 381E.

Further, the House amendment in section 381E prohibits the transfer of funds from Rural Community Advancement Program activities into any housing programs, the rural cooperative development grants program, or the grants to broadcasting systems program. With the elimination of the fourth function category and housing programs, three function categories for rural development programs are established in the Rural Development Trust Fund : Rural Community Facilities, Rural Utilities, and Rural Business and Cooperative Development.

The House amendment in section 381E requires the Secretary to maintain a national reserve account. The reserve account may not exceed 15 percent of rural development funds available for fiscal year 1997, 12.5 percent in fiscal year 1998, 10 percent in fiscal year 1999, 7.5 percent in fiscal year 2000, 5 percent in fiscal year 2001, and 5 percent in fiscal year 2002. In fiscal years 1997 through 2000, reserve account funds may be used to meet situations of exceptional need, emergency situations, and to provide funds to entities whose applications have been approved and who have not received funds sufficient to meet the needs of projects described in the applications. In fiscal years 2001 and 2002, reserve account funds may be used only for situations of exceptional need or emergency situations.

The House amendment requires that not before July 15 of any fiscal year, the Secretary transfer to the national reserve account any amounts allocated to a State which have not been obligated by the State Director to fund specific approved projects within the State in section 381E.

In section 381F, the House amendment authorizes an automatic waiver of the national or state caps on the transfer of funds from one function category to another. Specifically, if there is an approved application for a project in a function category, but there are no funds available for projects in that function category, there is an automatic waiver excusing the Rural Economic and Community Development Director from compliance with the national or state caps if there is no approved application in the function category from which the funds are to be transferred, or the community that would benefit from the transfer has a smaller population and a lesser per capita income than any community that would benefit from a project in the function category from which the funds are to be transferred.

The House amendment in section 381I further requires that any community facilities or infrastructure project receive a certification of support from each affected general purpose local government.

In adopting the Rural Community Advancement Program (RCAP), the Managers agree that federal rural development programs are uncoordinated and require a greater degree of integration and local involvement. As a result, the U.S. Department of Agriculture's rural development programs have had a limited impact on stemming small rural communities' declining economic prosperity and social well-being. Coordinating goals, objectives and funding from federal programs, combined with empowering state and local leaders through direct involvement in providing federal assistance is key to any successful rural community initiative. In order to improve the effectiveness of federal rural development programs, an innovative state—and local community-oriented delivery system is necessary. The RCAP is based on three fundamental concepts: (A) People at the state and local level are in the best position to know and to respond to the needs of local communities and governments. Constructive solutions are generated by local leaders who are most informed about problems and can appropriately tailor problem-solving initiatives. More focus must be placed on the effectiveness of program funding rather than on the process of obtaining federal assistance; (B) "one size fits all" rural development programs are not likely to be effective because different areas need different solutions to their problems; and (C) the top-down federal-to-local approach to rural development erodes local incentives for leadership-building and community cohesion. Local communities must play a leading role in identifying local needs. Likewise, states are often bypassed, or only peripherally involved in federal programs, and they, too, need to be involved. States should coordinate and combine federal initiatives with their own rural development programs.

With respect to a State's strategic plan, the Managers specifically intend that State and local government officials act as full partners in creating a plan for the delivery of rural development assistance. The Managers are concerned that the role of these State and local government officials does not become merely procedural or consultative in nature. Rather, the Managers intend that State and local government officials play an integral and necessary role in the creation of each State's strategic plan to, among other things, identify the goals, priorities, and methods for the delivery of rural development assistance. In sum, the Managers intend the strategic plan to meaningfully reflect the input of State and local government. Strategic plans which are prepared consistent with the input of State and local governments as contained in official hearing records may provide evidence to satisfy the Managers' intent.

The Managers intend that the national reserve account funds be limited only by the priorities or preferences explicitly contained in Title VII of the Act and that no further priorities or preferences be established or otherwise adhered to. Specifically, the national reserve account is expected to be used for fiscal years 1997 through 2000 to meet situations of exceptional need, emergency situations, and to provide funds to entities whose applications for funds have been approved and who have not received funds to satisfy project needs described in the applications. In fiscal years 2001 and 2002, the purposes are limited to meet situations of exceptional need and emergencies. In section 381F, the Managers intend that there be an automatic waiver excusing State Rural Economic and Community Development Directors from compliance with limitations described in Subsections (a) and (b). If the conditions under Subsection (c) are certified by the State Rural Economic and Community Development Director as being met, the waiver is expected to be granted. The Managers intend that State Rural Economic and Community Development Directors have maximum flexibility in meeting the rural development needs of States. Further, the Managers intend that a State Rural Economic and Community Development Director exercise the flexibility granted under this Subsection in a manner that amounts allocated are effectively used to address the State's rural development needs.

The Managers intend that any application for funds under this title include documented evidence of significant community support. To accomplish this end, the Managers intend for the State Rural Economic and Community Development Director to consider evidence of significant community support contained in the application and any extraneous evidence confirming or denying such support to ensure that scarce Federal dollars finance only recognized rural development needs.

The Managers further intend that any application for funds under this title for community facilities or infrastructure projects must be certified by the affected general purpose local government or governments. The Managers intend that the applications subject to this requirement include, but are not limited to, those made under the water and waste disposal loan and grants programs, the community facilities loan and grant programs, the solid waste management grant program, the water and waste technical assistance and training program, and the emergency community water assistance program.

The Managers intend for the funding for federally recognized Indian tribes to be targeted to communities or reservations in Indian country in economic distress or with significant percentages of residents living in poverty. Indian tribes are expected to comply with the requirement of preparing a strategic plan.

The Managers agree that a wide range of factors should be considered in setting allocations to reflect the diverse needs of rural America. The Managers suggest that the Department consider outmigration, cost of living, housing affordability, and financial need in developing the funding formula for allocation to the states under the RCAP.

The Managers encourage the States to use their state grant funds to accomplish state and local rural development objectives. Suggested uses for grant funds include, but are not limited to, revolving loan funds, matching grants, and guaranteed loans. The Managers believe the State RCAP guaranteed loan program will enable local governments receiving RCAP state grant funds to obtain loan guarantees by pledging current and future RCAP funds as security for the loan. In order to obtain the guarantee, borrowers will be required to provide additional security, such as pledges of existing grant balances and program income, liens on assets financed with the guaranteed loan funds, or the establishment of loan reserves. In all cases, USDA will structure additional security requirements to ensure that each guaranteed loan is adequately collateralized with existing assets and credit enhancements.

The Managers expect the National Rural Development Partnership to be the foundation upon which the Interagency Working Group is established. In 1990, the National Rural Development Partnership (the Partnership), a nonpartisan interagency working group whose mission is to "contribute to the vitality of the Nation by strengthening the ability of all rural Americans to participate in determining their futures," was launched by Executive order. The Partnership consists of senior program managers representing over 40 federal agencies, as well as national representatives of public interest, community-based, and private-sector organizations.

The Managers expect the Interagency Working Group, like the Partnership, to act as an information resource and facilitator of effective rural development initiatives. It will serve as the bellwether of rural development activities in the United States, monitoring activities and initiatives and reporting to Congress on what advances and what fails to advance local improvements. In this regard, the Managers believe that the Partnership should continue its role in monitoring and reporting on policies and programs that work, as well those that fail, to address the needs of rural America.

In addition, State Rural Development Councils (RDC) should continue to act as the conduit to the Partnership. RDC participation is driven not by access to new program dollars but by a goal to increase the effective use of existing rural development assistance.

The State Councils are expected to play a role in the formulation of local needs assessments and in the development of state criteria for the distribution of RCAP funds. RDCs will continue to play the role of monitor and trouble-shooter for each state and work with the Partnership and Interagency Working Group to advance the goals of RCAP.

The Managers expect the Department, in implementing its rural development activities, to give priority to those areas at greatest risk because of health concerns. Areas such as the "Colonias" lack not only the basic necessities of water and waste facilities, but also all other basic infrastructure development. The Department, through its various rural development programs, should look at the "totality of circumstances" in such areas and develop strategies that will address all the needs in order to ensure total development of these areas.

Rural Venture Capital Demonstration Program

The Senate amendment establishes in section 381K a Rural Venture Capital Demonstration Program to demonstrate the utility of guarantees to attract increased private investment in rural business enterprises. The Secretary may in each fiscal year designate up to 10 community development venture capital organizations to participate. Each organization will establish an investment pool for the purpose of making equity investments in rural businesses. The Secretary is required to guarantee not more than 30 percent of the total funds in a pool against loss. The Secretary is authorized to issue guarantees covering not more than $15 million for any fiscal year. The term of a guarantee may not exceed 10 years.

The Managers intend that the demonstration project be implemented in a manner which ensures geographic diversity. The Managers are concerned that the program's merit cannot be accurately tested if the only participating organizations are concentrated in a single State, region, or area. The Managers believe that the demonstration project must be implemented in various States, regions, and areas in order to demonstrate viability in a diverse national economy.

The Managers agree that the availability of loan programs alone do not meet all the needs of rural areas for financing. In order to develop the diverse economic base crucial for survival in the modern economy, rural communities need access to equity capital to finance business start-up and expansion. The private-sector venture capital markets that fuel economic growth often do not reach into small communities. The intent of this demonstration program is to channel venture capital to business ventures that would not otherwise be targeted by traditional venture capital firms.

The Managers intend this program to demonstrate the utility of using a limited investment guarantee to draw private investment capital to distressed rural communities. The organizations selected to participate in the demonstration will use the guarantee as a tool to attract investments from philanthropic organizations, individual and corporate investors, and other sources of private sector capital to finance business development activities. Investments from private investors will be pooled by the participating organization into a Rural Business Investment Pool, and USDA will guarantee up to 30 percent of the pool's value against loss. The Committee expects that most if not all of the pools will earn money over the term of the investments. Any pool losses on the guarantee shall be paid out of the national office reserve fund.

An organization wishing to participate in this program must submit a plan that describes how the funds will be raised and merged in the pool and how the guarantee will help it raise money. Each applicant will be asked to describe the need for venture capital in its area, the types of business ventures that will be targeted for investments, the process by which investments will be chosen, and the likely forms of investment. The Secretary is also expected to ensure that organizations have procedures in place to avoid conflicts of interest, mismanagement, and fraud.

The Secretary will choose the organizations on the basis of a competition, in which priority will go to organizations that can demonstrate their experience—or the experience of their top officials—in venture capital and small business equity investments or in community development finance. Priority will also be based on an organization's ability to serve low-income communities, generate local wealth, and target jobs to low-income individuals.

Applicant organizations should demonstrate strong business relationships with established banks and other financial institutions or with community-based organizations. Since diversification of risk will help reduce the likelihood that the pool loses money, and thus will reduce the cost to the government, the Secretary shall also give priority to organizations that propose to maintain an investment portfolio averaging $500,000 or less per business.

(32) Community Facilities Grant Program; simplified applications

The Senate amendment authorizes grants under the Community Facilities program. Grants can not exceed $10 million in any fiscal year to any entity. A grant may not exceed 75 percent of the development cost of the facility. The Secretary is directed to provide a graduated scale for the amount of the Federal share of the grant, establishing greater levels of grant funding for facilities in communities that have lower population and income levels. (Section 762)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that requires the Secretary to develop a streamlined, simplified, and uniform application for specified rural development programs within one year of enactment. (Section 762 and 763)

The Managers are concerned about the costly, complex, and onerous paperwork involved in making an application for assistance under Federal rural development programs. Managers intend for the Secretary of Agriculture to create within one year of the date of enactment one streamlined, simplified, and uniform application for all rural development programs eligible for funding under this title

SUBTITLE C—AMENDMENTS TO THE RURAL ELECTRIFICATION ACT OF 1936

(33) Purposes investigations and reports

The Senate amendment authorizes the Secretary to make or commission studies, investigations, and reports regarding financial, technological, and regulatory matters affecting the condition and progress of electric and telecommunications service and economic development in rural areas. An obsolete provision requiring the issuance of regulations is deleted. (Section 771)

The House bill no comparable provision.

The Conference substitute adopts the Senate provision. (Section 771)

(34) Authorization of appropriation; Reconstruction Finance Corporation

The Senate amendment eliminates references to the Reconstruction Finance Corporation, an obsolete funding mechanism for RE Act programs, and annual state allotments of funds based on farms not receiving central station electric service. The authorization of appropriations is retained. (Section 772)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 772)

(35) Loans for electrical plants and transmission lines

The Senate amendment eliminates authority for 2 percent loans for electrical plants and transmission lines. (Section 773)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 773)

(36) Loans for electrical and plumbing equipment

The Senate amendment repeals authority for loans for wiring and plumbing which has not been funded since 1969. (Section 774)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 774)

(37) Testimony on budget requests

The Senate amendment eliminates a requirement that the Secretary testify before the House and Senate Agriculture Committees to justify the budget request. (Section 775)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 775)

(38) Transfer of functions of administration

The Senate amendment repeals an obsolete provision that allowed the President to transfer the responsibilities of the ERA to the Secretary in 1935. (Section 776)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 776)

(39) Annual report

The Senate amendment repeals the requirement for the Secretary to submit an annual report to Congress summarizing RUS activities. (Section 777)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 777)

(40) Prohibition on restricting water and waste facility services to electric customers

The Senate amendment prohibits the "tying" of water and waster facility financing to the purchase of electric service from RUS borrowers, duplicating a provision that governs water and waste programs under the Consolidated Farm and Rural Development Act. (Section 778)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with amendment maintaining the provisions of the Consolidated Farm and Rural Development Act and requiring the Secretary to publish implementing regulations within 60 days of enactment. (Section 778)

(41) Telephone loans terms and conditions

The Senate amendment eliminates a provision that allows telephone borrowers to determine the term of a telephone loan. (Section 779)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 779)

(42) Privatization program

The Senate amendment repeals an obsolete provision for an electric loan prepayment plan for an Alaskan electric cooperative. (Section 780)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 780)

(43) Rural business incubator fund

The Senate amendment repeals authority for the Rural Business Incubator Fund. (Section 781)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 781)

SUBTITLE D—MISCELLANEOUS RURAL DEVELOPMENT PROVISIONS

(44) Interest rate formula

The Senate amendment authorizes the Secretary to reestablish the interest rate for the Resource Conservation and Development loan program and the Watershed loan program. (Section 791)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 791)

(45) Grants for financially stressed farmers, dislocated farmers, and rural families

The Senate amendment eliminates unfunded authority for a grant program that targets financially stressed farmers, dislocated farmers and rural families. (Section 792)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 792)

(46) Fund for rural america

The Senate amendment creates an account called the Fund for Rural America. The Secretary is given authority to transfer from the Commodity Credit Corporation into the account $50 million in fiscal year 1996, $100 million in fiscal year 1997, and $150 million in fiscal year 1998.

The Secretary may use funds for the following rural development program activities authorized in:

The Housing Act of 1949: direct loans to low-income borrowers pursuant to section 502; loans for financial assistance for housing for domestic farm laborers pursuant to section 514; financial assistance for housing domestic farm labor pursuant to section 516; grants and contracts for mutual self-help housing pursuant to section 523(b)(1)(A); grant for Rural Housing Preservation pursuant to section 533.

Funds may also be used for Intermediary Relending Program loans, Consolidated Farm and Rural Development Act section 310B Rural Business Enterprises grants, grants, direct and guaranteed loans for water and wastewater projects pursuant to section 306 of the Consolidated Farm and Rural Development Act, Consolidated Farm and Rural Development Act section 310E downpayment program assistance for beginning farmers, grants for outreach to socially disadvantaged farmers and ranchers pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990, and grants pursuant to section 204(6) of the Agricultural Marketing Act of 1946.

Up to one-third of the funds from the account may be used to fund competitive research grants. Grants may be used for research, extension, and education. Grants shall not be made for projects eligible for funding under research and commodity promotion programs. Matching funds are required if the grant is for applied research that is commodity-specific and not of national scope. Not more than 4 percent of the funds made available for research can be used for administrative costs. Research funds in the account shall not be used for the construction of new buildings or the acquisition, expansion, remodeling, or alteration of an existing building, or in excess of 10 percent of the annual allocation for commodity-specific projects not of national scope.

The Senate amendment provides that no monies from the Fund may be used for an activity if the current level of appropriation for the activity is less than 90 percent of the 1996 fiscal year appropriation for the specific activity adjusted for inflation. (Section 507)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change the name of the Under Secretary for Rural and Economic Development to the Under Secretary for Rural Development and an amendment to make available beginning on January 1, 1997, out of any funds in the Treasury not otherwise appropriated $100,000,000 for fiscal year 1997, $100,000,000 for fiscal year 1998, and $100,000,000 for fiscal year 1999. The Secretary shall use one-third of the funds made available to the Fund for a fiscal year for rural development activities and one-third of the funds made available to the Account for a fiscal year for competitive research activities. The remaining one-third may be used for either rural development or research at the discretion of the Secretary.

Rural development activities include the following programs under the Housing Act of 1949: direct loans to low income borrowers pursuant to section 502; loans for financial assistance for housing for domestic farm laborers pursuant to section 514; financial assistance for housing of domestic farm labor pursuant to section 516; grants and contracts for mutual and self help housing pursuant to section 523(b)(1)(A); grants for Rural Housing Preservation pursuant to section 533; and Rural Rental Housing Assistance pursuant to section 521. In addition, all rural development programs including those authorized under the Consolidated Farm and Rural Development Act; specified sections of the FACT Act of 1990; Title V of the Rural Development Act of 1972 and specified sections of the Human Services Reauthorization Act of 1986 and the Food Security Act of 1985.

The Secretary shall conduct the specified rural development programs in accordance with and subject to current program authorities. Funds shall only be expended on programs that received appropriations in fiscal year 1995. Not more than 20 percent of funds dedicated to all rural development activities shall be expended on housing grant and loan activities.

Further, in any fiscal year, the Secretary shall not announce the fiscal year's allocation for any program pursuant to this section until one business day following the day the appropriations bill for the fiscal year becomes law.

The Secretary may use the funds in the account for grants for research, extension and education to increase international competitiveness, efficiency, and farm profitability; reduce economic and health risks; conserve and enhance natural resources; develop new crops, new crop uses, and new agricultural applications of biotechnology; enhance animal agricultural resources; preserve plant and animal germplasm; increase economic opportunities in farming and rural communities; and expand locally owned value added processing.

The Secretary may make a grant to colleges and universities, including land grant colleges and universities with established programs of research, extension, or higher education, Federal research agencies and national laboratories, and private research organizations with established and demonstrated capacity to perform research or technology transfer.

A grant made under this paragraph may be used by a grantee for one or more of the following uses: outcome-oriented research at the discovery end of the spectrum to provide breakthrough results, exploratory and advanced development and technology with well identified outcomes, national, regional, or multi-State programs oriented primarily towards extension programs and education programs demonstrating and supporting the competitiveness of United States agriculture.

Not less than 15 percent of the amounts made available under this section for a fiscal year shall be awarded to entities ranking in the lower one-third on the basis of Federal research funds received from sources other than this section.

The Secretary shall establish criteria for allocating grants based on the priorities for uses of funds in consultation with the Advisory Board. The Secretary shall seek and accept proposals for grants; determine the relevance and merit of proposals through a system of peer and advisory board review; and award grants on the basis of merit, quality, and relevance to advancing the national research and extension purposes.

Research grants shall be awarded on a competitive basis. A grant shall have a term that does not exceed 5 years.

The Secretary shall require the funding of the grant with equal matching funds from a non-Federal source if the grant is for applied research that is commodity specific, and is not of national scope.

The Secretary shall administer this section through the Cooperative State Research, Education, and Extension Service of the Department of Agriculture.

Funds shall be available for obligation for a 2 year period, except the Secretary may use not more than 4 percent of the funds made available under this paragraph for administrative costs incurred by the Secretary. Furthermore, funds made available for research grants shall not be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees). (Sections 793 and 794)

Rural development component

The Managers intend, under Subsection (c)(1)(B), that established rural development programs with current authority under the Consolidated Farm and Rural Development Act, specified sections of the FACT Act of 1990, Title V of the Rural Development Act of 1972, and specified sections of the Food Security Act and the Human Services Reauthorization Act of 1986 regarding intermediary lending, be eligible for funds made available under the Fund for Rural America. These programs include the water and waste disposal loan and grant programs, the community facilities loan and grant programs, the solid waste management grant program, the rural water and waste technical assistance and training program, the distance learning and telemedicine program, the rural cooperative development grant program, the rural business opportunity grant program, the business and industry guarantee program, the rural business enterprise grant program, activities of the Alternative Agricultural Research and Commercialization Corporation, the intermediary relending program, the downpayment program for beginning farmers, rural cooperative development grant program, and grants for outreach and technical assistance for socially disadvantaged farmers and ranchers program.

The Managers are concerned about the backlog of water and wastewater program applications which, according to USDA reports, is as high as $3 billion. The Managers expect that the Secretary make satisfying these outstanding needs a priority with respect to the Fund for Rural America.

A continuing resolution that provides appropriations in a fiscal year for the Department of Agriculture meets the same conditions of allowing the Secretary to announce program allocations from the Fund. The Managers intend the Secretary to make such allocations in a manner to provide additional funding to appropriation acts.

Research Component

It is the intent of the Managers that the uses of the fund could include consideration of genome mapping projects which may lead to increases in international competitiveness.

The Managers support high-quality, peer reviewed biotechnology research with practical applications carried out by consortia of public and private universities and companies and selected through a competitive process. The Managers intend that such a consortia be considered eligible grantees for assistance under the research component of the Fund for Rural America.

The managers intend that the eligibility for National Laboratories to compete for grants under the Fund for Rural America is an outgrowth of the Memorandum of Understanding (MOU) signed between the Department of Agriculture (USDA) and the Department of Energy (DOE) in November, 1995. The managers encourage the National Laboratories to continue their efforts in a cooperative manner with the agricultural community. It is the intent of the managers that the USDA and DOE continue their efforts to meet the objectives outlined in the recent MOU.

Further, it is the intent of the Managers that the independent review by the advisory board should facilitate better communication between the scientific community and the end user of their products. Therefore, the decision to fund proposed projects under the research component of the Fund for Rural America will be determined by the program administrator based on recommendations of the peer review panel and the advisory board. The peer review panel will review the scientific merit of the proposal. The advisory board will review the proposal based on the purposes and objectives established in the request for proposal. The advisory board shall have flexibility to establish their procedures.

TITLE VIII—AGRICULTURAL RESEARCH, EXTENSION AND EDUCATION TITLE

SUBTITLE A—MODIFICATION AND EXTENSION OF ACTIVITIES UNDER THE 1977 ACT

(1) Purposes of agricultural research, extension and education.

The Senate amendment revises the list of purposes of federally supported agricultural research, extension, and education in Section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act (NARETPA) of 1977. (Section 801)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment making technical changes. (Section 801)

The Managers encourage the Secretary to consider the benefits of conservation tillage and agricultural biotechnology as significant components of USDA's agricultural research, extension and education programs to conserve natural resources.

(2) National Agricultural Research, Extension, Education and Economics Advisory Board.

The Senate amendment amends Section 1408 of NARETPA of 1977 to establish the National Agricultural Research, Extension, Education, and Economics Advisory Board (Board) and to eliminate the authority for the National Agricultural Research and Extension Users Advisory Board. The Board shall consist of 25 members appointed by the Secretary and selected from national farm, commodity, agribusiness, environmental, consumer, and other organizations. The Secretary shall ensure that full-time farmers and ranchers are included on the Board. The duties of the Board are to advise the Secretary and land grant colleges and universities regarding policies and priorities and their effectiveness, the implementation of the Government Performance Review Act, and the technology review process. The Board is required to consult with persons that will benefit from Federally-funded research, extension, education, and economics. The term for Board members is 3 years. The Board is deemed to have filed a charter for purposes of the Federal Advisory Committee Act. Authority for the Board expires on September 30, 2002. (Section 804)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to increase the number of members from 25 to 30 and list the types of organizations from which members would be selected. (Section 802)

The Managers strongly encourage the Secretary to ensure that the advisory board has at least five farmers or ranchers as representatives. The Managers intend that the members of the board described in this section as actively engaged in the production of a plant or food animal commodity be full-time farmers or ranchers.

The National Agricultural Research, Extension, Education and Economics Board is intended to review and provide consultation regarding priorities to both the Secretary and land-grant colleges and universities. The Board is encouraged to solicit opinions and recommendations from those who will benefit from and use federally funded agricultural research, extension, education and economics in an effort to ensure that viewpoints of citizens and appropriate organizations are taken into account when setting priorities. The Managers intend that technology assessments should be conducted by a group of qualified professionals. This new Advisory Board may also review and provide input on the capacity and coordination of research carried out on a regional basis, particularly as it relates to strategic planning for the Department.

(3) Federal Advisory Committee Act Exemption for Federal-State Cooperative Programs

The Senate amendment amends Section 1409A of NARETPA of 1977 to exempt groups composed of state cooperative institution officials and employees and full-time federal employees from FACA coverage. Meetings of such groups shall be open to the public. Records of meetings, including minutes, are required to be kept and made available to the public upon request. (Section 806)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to add public universities and postsecondary institutions. (Section 803)

The managers intend that employees of Hispanic-Serving Institutions can participate in cooperative efforts concerning agricultural research, extension or education which are exempt from FACA.

(4) Coordination and Planning of Agricultural Research, Extension and Education

The Senate amendment requires the Secretary to develop a system to monitor and evaluate agricultural research and extension conducted or supported by the Federal government.

For the activities of the Department that relate to food safety, animal or plant health, research, education, or technology transfer, the Secretary may transfer up to 5 percent of funds to an agency reporting to the Under Secretary for Research, Education and Economics to address imminent or emerging threats to food safety and animal and plant health.

Any committee, board, commission, panel, or task force established solely to review proposals for funding under any competitive research, extension, or education program is exempted from Federal Advisory Committee Act requirements. (Section 807)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to require an analysis of state of the art information technology systems, require that the system be developed to permit public access, and provide an authorization for appropriations. The Conference substitute also strikes the proposed 5% transfer authority. (Section 804)

It is the intent of Congress that the Current Research Information System (CRIS) and other program information tracking systems used by Research, Extension and Education be integrated into a Management Information System (MIS) that tracks all research, extension and education programs that receive funding from the USDA. This system will include information about the goals, objectives, scope and current status of these programs in a format that can be used to report to Congress and that is consistent with the requirements of the Government Performance Review Act. Moreover, this MIS must be structured so that the Secretary is able to report to Congress on the extent of activities being funded for each of the purposes identified in Section 1402 of NARETPA of 1977. One component of this MIS shall be designed so that the findings and accomplishments of USDA-funded research and extension programs are fully accessible by the general public through online access, with full search and retrieval capacities. Another component of this MIS shall be designed so that researchers, extension agents and specialists will be able to search and retrieve detailed information on all USDA-funded research and extension activities across the country, with the capacity to search for projects and findings that are pertinent to their agronomic, natural resource, and climatic parameters, as well as the economic and social conditions of their state or county.

To develop a "cutting edge" MIS quickly and expeditiously, it is understood that the Department will need immediate access to highly qualified computer systems specialists, theorists and technicians. The Congress expects the Secretary to contract out the development of this MIS or some subset of the project, with a university, a consortium of universities, or the private sector. It is the expectation of Congress that the USDA will set a goal that the MIS be designed, implemented and fully functional within three years of passage of this legislation.

This section also provides an exemption from the Federal Advisory Committee Act (FACA) for entities created solely to review proposals for applications submitted for funding under any competitive research, extension, or education program carried out by the Secretary of Agriculture. The managers understand that in addition to reviewing proposals and applications for the purpose of evaluating them and making award recommendations, entities that are exempted from FACA, pursuant to this section also may render to the Secretary program advice derived from such review process.

(5) Grants and fellowships for food and agricultural sciences education

The Senate amendment amends Section 1417 of NARETPA of 1977 to permit the Secretary to provide higher education funds to research foundations maintained by colleges and universities. The Secretary may make capacity building grants to 1890 institutions for both teaching and research. The authorization of appropriations is extended at the level of $60 million through fiscal year 2002.

Section 1417 of NAREPTA is further amended to require the Secretary to promote and strengthen secondary education in agriscience and agribusiness and to allow the Secretary to make grants to public secondary education institutions, 2-year community colleges, and junior colleges to promote and support agriscience and agribusiness education. The functions and duties of the Secretary of Education regarding FFA are transferred to the Secretary of Agriculture. (Section 808)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997 and strike the FFA transfer from the Secretary of Education to the Secretary of Agriculture. (Section 805)

(6) Grants for research on the production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products

The Senate amendment extends the authorization of appropriation of $20 million for this research through 2002. (Section 809)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 806)

(7) Policy research centers

The Senate amendment authorizes the Secretary to make grants, competitive grants, and special research grants to policy research centers for research and education programs regarding the implications of public policies on the farm and agricultural sectors; the environment; rural families and economies; and consumers, food and nutrition. State agricultural experiment stations, colleges and universities, and other institutions and organizations are eligible to receive grants. Funds may be used for research and education. There are authorized to be appropriated such sums as are necessary for fiscal years 1996 through 2002. (Section 810)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 807)

In authorizing grants for policy analysis under this section, the Managers acknowledge the valuable work of several analytical institutes associated with universities. At the same time, the Managers do not intend to confine the universe of potential grantees to these institutions, or indeed to universities generally.

The Managers also note that policy analysis must be clear about what it does and does not demonstrate. For example, an analysis which describes the effect of a proposed policy change on the incomes of agricultural producers, but does not attempt to estimate the same policy change's effect on input suppliers, processors, rural employment or total rural economic activity, cannot give a complete picture of how the policy change in question might affect rural America. The analysis might be quite useful, but it is important that its limitations be made clear. The principle here is that policy analysis is helpful to the extent that policymakers—and the public—understand both its uses and its limits.

In identifying these possible weaknesses of current analyses, the Managers do not intend to be critical of the dedicated professionals who perform a valuable service in analyzing a host of alternative policies. Rather, the Managers intend to contribute to a healthy discussion of whether current analytical conventions are adequate and whether refinements and improvements might be made.

(8) Human Nutrition Intervention and Health Promotion Research Program

The Senate amendment amends Section 1424 of NARETPA of 1977 to eliminate the unfunded authority for the Food Science and Nutrition Research Center and replace it with authority for the Secretary to award grants for a research initiative on human nutrition intervention and health promotion. There are authorized to be appropriated such sums as are necessary for fiscal years 1996 through 2002. (Section 811)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997 and to authorize research to combine medical and agricultural research. (Section 808)

This section authorizes a multi-year research initiative on human nutrition intervention and health promotion. In carrying out research projects under this section, the Secretary may take into account the unique opportunity outlined in the Lower Mississippi Delta Development Commission report which is currently being addressed by the Department of Agriculture through the Agricultural Research Service and Pennington Biomedical Research Institute at Louisiana State University, Southern University at Baton Rouge, Alcorn State University, the University of Southern Mississippi, the University of Arkansas at Pine Bluff and the Arkansas Children's Hospital Research Institute, all operating as equal partners. In carrying out research projects under this section, the Secretary may consider the special nutritional needs of the rural elderly and take into account the research being coordinated by Geisinger Medical Center in Danville, Pennsylvania. In carrying out research projects under this section, the Secretary may consider designing and developing new foods to improve food production and processing and to improve the nutritional quality of the food supply.

(9) Food and Nutrition Education Program

The Senate amendment extends the authorization for appropriation of $83 million for the Expanded Food and Nutrition Education Program (EFNEP) through 2002. (Section 812)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 809)

(10) Purposes and findings relating to animal health and disease research

The Senate amendment amends Section 1429 of NARETPA of 1977 to add food safety and animal well-being to the list of purposes of animal health and disease research. (Section 813)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 810)

Society periodically amends how it acts and reacts to particular considerations. New terminology emerges over time attempting to capture new trends, new thoughts, and new considerations when describing a social condition. With respect to interactions between humans and animals, the term of art "animal well-being" has emerged replacing "animal welfare" to various degrees in literature and language of the day.

The Managers recognize that the term "animal well-being" can have slightly different interpretations. Therefore the term "animal well-being" for the purposes of this Act shall represent the basic efforts to assure proper care, treatment and shelter of animals, and the elimination of unnecessary cruel or painful treatment. However, the defining criteria shall include efforts to include more specific clinical criteria such as the evaluation of appetite, growth rate, reproduction and production levels. In other words, utilize tangible physical indicators or measurable endpoints to interpret how the animal can "communicate" a status of well-being to their human stewards.

(11) Animal health and disease continuing research

The Senate amendment extends the authorization of appropriation of $25 million through 2002. The formula for allocating funds among the States is amended to include the value of and income from aquaculture. (Section 815)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 811)

(12) Animal health and disease national or regional research

The Senate amendment clarifies that research under section 1434 of NARETPA of 1977 may include pre-harvest and on-farm food safety and animal well-being. The authorization for appropriation is extended through 2002 at a level of $35 million. State agricultural experiment stations, colleges and universities, and other organizations and institutions are eligible for grants. Pre-harvest and on-farm food safety and animal well-being are added to the list of problems that the Secretary is required to prioritize annually. Any panel or board created solely for reviewing applications under this section is exempt from the Federal Advisory Committee Act. (Section 816)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 812)

This section also provides an exemption from the Federal Advisory Committee Act (FACA) for entities created solely to review proposals for applications submitted for funding. The managers understand that in addition to reviewing proposals and applications for the purpose of evaluating them and making award recommendations, entities that are exempted from FACA, pursuant to this section also may render to the Secretary program advice derived from such review process.

(13) Grant program to upgrade agricultural and food sciences facilities at 1890 land-grant colleges

The Senate amendment provides an authorization of appropriation of $15 million through 2002 for the acquisition and improvement of facilities, equipment, and libraries used for agricultural and food sciences at 1890 institutions. (Section 818)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision to change 2002 to 1997. (Section 813)

(14) National Research and Training Centennial Centers Programs, programs for Hispanic-serving institutions, and international agricultural research and extension

The Senate amendment extends the authorization for appropriation of $2 million for competitive grants for five national research and training centers located at 1890 colleges including Tuskegee University through 2002. (Section 819)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997 and to define Hispanic-serving institutions and to authorize education grants for Hispanic-serving institutions and a technical amendment to Section 1458(a)(8) of NARETPA of 1977. (Section 814, 815, and 816)

(15) Authorization of Appropriations for Agricultural Research Programs

The Senate amendment extends authorization for appropriation of $850 million for agricultural research (Agricultural Research

Service, animal health and disease, and supplemental and alternative crops) through 2002. The authorization for appropriation of $310 million for formula funds (Hatch Act funds) for state agricultural experiment stations is extended through 2002. (Section 821)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 817)

(16) Authorization of appropriations for extension education

The Senate amendment extends authorization for appropriation of $460 million for Extension Service funding through 2002. (Section 822)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 818)

(17) Supplemental and alternative crops research

The Senate amendment extends authorization for appropriation of such sums as are necessary for research to develop supplemental and alternative crops through 2002. Subsections (b) and (c) of section 1473D of NARETPA of 1977 are amended to include in the research program under this section the development of new commercial products derived from natural plant materials for industrial, medical and agricultural applications. References to the pilot project are deleted since the program is no longer a pilot project. (Section 823)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 819)

(18) Aquaculture Assistance Programs

The Senate amendment repeals the requirement for an annual aquaculture report by the Secretary to Congress. The authorization for appropriation of $7.5 million for aquaculture assistance programs, including research and regional centers, is extended through 2002. The authorization for appropriation of $500,000 for each of two specific institutions for research on intensive water recirculating aquaculture systems is extended through 2002. (Section 824)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997 and to add ornamental fish to the definition of aquaculture in Section 1404(3) of NARETPA of 1977. (Section 820)

(19) Authorization of appropriations for rangeland research

The Senate amendment extends the authorization for appropriation of $10 million for rangeland research through 2002. (Section 825)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 821)

SUBTITLE B—MODIFICATION AND EXTENSION OF ACTIVITIES UNDER THE 1990 ACT

(20) Water quality research, education, and coordination

The Senate amendment repeals Subtitle G of title XIV of the Food, Agriculture, Conservation and Trade Act of 1990. This subtitle of the Conservation title authorized funds for the development and implementation of a coordinated, integrated, and comprehensive intra-agency program to protect waters from contamination from agricultural chemical and production practices, but was never funded. (Section 831)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to extend the authorization through 1997. (Section 831)

(21) National Genetics Resources Program

The Senate amendment extends the authorization for appropriation of such sums as necessary for the National Genetics Resources Program through 2002 and allows the Secretary to make genetic material available to other countries. (Section 834)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 832)

(22) National agricultural weather information system

The Senate amendment extends the authorization for appropriation of $5 million for the National Agricultural Weather Information System through 2002. (Section 835)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 833)

(23) Livestock Product Safety and Inspection Program

The Senate amendment extends the authorization for appropriation of such funds as necessary for the livestock product safety and inspection program through 2002. (Section 838)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 834)

(24) Plant Genome Mapping Program

The Senate amendment repeals unused authority for a plant genome mapping program. (Section 839)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to retain authority for the program. (Section 835)

(25) Certain Specialized Research Programs

The Senate amendment repeals authority for specialized research projects. The projects authorized under this section were not funded under this authority. (Section 840)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to retain authority for ethanol and aflatoxin research, and to extend authorization for mesquite, prickly pear, and deer tick ecology and related research to 1997. (Section 836)

(26) Agricultural Telecommunications Program

The Senate amendment extends the authorization for appropriation of $12 million to encourage the development of an agricultural communications network to facilitate and strengthen education, extension, research and domestic and international marketing through 2002. (Section 841)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 837)

(27) National centers for agricultural product quality research

The Senate amendment extends the authorization for appropriation of such sums as necessary for grants to centers for research, development and education programs on food safety and wholesomeness through 2002. (Section 842)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997 and to modify purposes and delete requirement for submission of plan to Congress. (Section 838)

It is the intention of Managers that this section be broadly interpreted to establish a competitive, applied research grants program, facilitating industry partnerships and supporting a broad spectrum of research, development, and education programs to enhance global competitiveness through improvements in product quality and competitiveness.

Through this program, the Managers seek to stimulate public and private investment in productive and competitive segments of agriculture and to maximize the cost effectiveness of that research.

(28) Red meat safety research center authorization and turkey research center

The Senate amendment repeals authority for a turkey research center which has not been funded. (Section 843)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to add an authorization for a red meat safety research center. (Section 839)

The United States has the safest food supply in the world. However, the managers recognize the need for red meat safety research. Currently the Department of Agriculture supports several high quality research centers. It is the intent of the Managers that a facility, dedicated to red meat safety research, be competitively established at an existing facility or a new facility and that it augment, not duplicate, current research already being done on red meat safety.

The Managers are also particularly interested that this facility have the ability to interact with national organizations and private livestock packing plants in carrying out their research.

(29) Indian Reservation Extension Agent Program

The Senate amendment reauthorizes the Reservation Extension Agent Program, established under Section 1677 of the Food, Agriculture, Conservation and Trade Act of 1990 through 2002. On a determination by the Secretary that a program has been satisfactorily administered for two years, the Secretary shall implement a reduced application process in order to reduce regulatory burdens on participating university and tribal entities. (Section 555 of Title V)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to strike the 2002 authorization date since the program is permanently authorized. (Section 840)

(30) Assistive Technology Program for farmers with disabilities

The Senate amendment extends the authorization for appropriation of not less than $5 million for grants to support programs providing on-farm agricultural education and assistance to individuals with disabilities who are engaged in farming through 2002. The authorization for appropriation of $1 million for competitive national grants for technical assistance, training and information dissemination is extended through 2002. (Section 846)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 841)

(31) National rural information center clearinghouse

The Senate amendment extends the authorization for appropriation of $500,000 for the National Rural Information Center Clearinghouse within the National Agricultural Library through 2002. (Section 848)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 842)

(32) Global climate change

The Senate amendment extends the authorization for appropriation of such sums as necessary for a global climate change program is extended through 2002. (Section 849)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 843)

SUBTITLE C—REPEAL OF CERTAIN ACTIVITIES AND AUTHORITIES

(33) Subcommittee on Food, Agricultural, and Forestry Research

The Senate amendment repeals authority for the Subcommittee on Food, Agricultural, and Forestry Research of the Federal Coordinating Council For Science, Engineering, and Technology. (Section 802)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 851)

(34) Joint Council on Food and Agricultural Sciences

Authority for the Joint Council on Food and Agricultural Sciences is repealed. (Section 803)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 852)

(35) Agricultural Science and Technology Review Board

The Senate amendment repeals authority for the Agricultural Science and Technology Review Board. (Section 805)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 853)

(36) Animal Health Science Research Advisory Board

The Senate amendment repeals authority for the Animal Health Science Research Advisory Board. (Section 814)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 854)

(37) Resident Instruction Program at 1890 Land-Grant Colleges

The Senate amendment repeals Section 1446 of NARETPA of 1977 which provides for grants for teaching programs at 1890 institutions. This section was never funded. (Section 817)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 855)

(38) Grants to States for international trade development centers

The Senate amendment repeals Section 1458A of NARETPA of 1977. This section authorizes the Secretary to make grants for the establishment of International Trade Development Centers, but was not funded. (Section 820)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 856)

(39) Rangeland Research and Composting Research and Extension Program

The Senate amendment repeals the requirement for an annual rangeland research report. The authority for the Rangeland Research Advisory Board is repealed. (Section 825)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to repeal the composting research and extension program. (Sections 857 and 858)

(40) Education program regarding handling of agricultural chemicals and agricultural chemical containers

The Senate amendment repeals authority for an unfunded program to catalogue the federal, state, and local laws and regulations for handling unused or unwanted agricultural chemical containers. (Section 832)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 859)

(41) Program administration regarding sustainable agriculture research and education

The Senate amendment repeals authority for the National Sustainable Agriculture Advisory Council and a requirement for an annual report. (Section 833)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 860)

(42) Research regarding production, preparation, processing, handling, and storage of agricultural products

The Senate amendment repeals Subtitle E of title XVI of the Food, Agriculture, Conservation and Trade Act of 1990. The food safety research and grant program authorized by this subtitle has not been funded. (Section 836)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 861)

(43) Plant and animal pest and disease control program, specialized research programs, and commission on agricultural research facilities

The Senate amendment repeals Subtitle F of title XVI of the Food, Agriculture, Conservation and Trade Act of 1990. Integrated pest management (IPM) research authorized under this subtitle has been funded under other authorities. (Section 837)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to repeal animal lean content research, immunoassay research, niche market development research, scrapie research, and new commercial products from natural plant materials research and to repeal Commission on Agricultural Research Facilities from Section 1674 of the FACT Act. (Section 862, 863, and 864)

(44) Special grant to study constraints on agricultural trade

The Senate amendment repeals the authority for at least two grants to study the impacts of technical barriers, quality factors and end-use characteristics in agricultural trade, which has not been funded. (Section 865)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 865)

(45) Pilot project to coordinate food and nutrition education programs

The Senate amendment repeals authority for a pilot project for grants to not less than two states for food and nutrition education programs, which has not been funded. (Section 845)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 866)

(46) Demonstration areas for rural economic development

The Senate amendment repeals authority for grants to rural areas to serve as demonstration areas for rural economic development, which has not been funded. (Section 847)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 867)

(47) Technical advisory committee regarding global climate change

The Senate amendment repeals authority for a technical advisory committee, which has not been funded. (Section 849)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 868)

(48) Committee of Nine under Hatch Act of 1887

The Senate amendment deletes authority for the Committee of Nine from the Hatch Act. (Section 864)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 869)

(49) Cotton crop reports

The Senate amendment repeals the requirement that cotton crop production reports be issued at 3:00 p.m. (Section 867)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 870)

(50) Rural Economic and Business Development and Additional Research Grants Under Title V of Rural Development Act of 1972

The Senate amendment amends Section 502 of the Rural Development Act of 1972 to repeal authority for an Extension Service rural economic and business development program to enable states or counties to employ specialists, which has not been funded (section 502(g)). Authority for a competitive grant program for rural development research, which has not been funded, is repealed (section 502(j)). (Section 868)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 871)

(51) Human nutrition research

The Senate amendment repeals a requirement for an annual report on human nutrition research activities. (Section 869)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 872)

(52) Grants to upgrade 1890 land-grant college extension facilities and indian subsistence farming demonstration grant program

The Senate amendment repeals obsolete authority for a program to upgrade 1890 land-grant college extension facilities. (Section 871)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to repeal the Indian Subsistence Farming Demonstration Grant Program. (Section 873 and 874)

SUBTITLE D—MISCELLANEOUS RESEARCH PROVISIONS

(53) Critical agricultural materials research

The Senate amendment extends the authorization of appropriation for the Critical Agricultural Materials Act through 2002. The requirement for an annual report is eliminated. (Section 861)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 881)

(54) 1994 institutions

The Senate amendment extends the authorization of appropriation of $4.6 million for providing land grant status to 29 tribal colleges (referred to as 1994 institutions) through 2002. The authorization of appropriation of $1.7 million for institutional capacity building grants for 1994 institutions is extended through 2002. (Section 862)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision, striking the Senate provision.

(55) Memorandum of agreement regarding 1994 institutions

The Senate amendment states that by January 6, 1997, the Secretary shall develop and implement a Memorandum of Agreement with the 29 tribally controlled colleges to ensure that tribally-controlled colleges and Native American communities equitably participate in Department of Agriculture employment programs, services and resources. (Section 555 of Title V)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 882)

(56) Smith-Lever Act Funding for 1890 Land-Grant Colleges, Including Tuskegee University

The Senate amendment amends Section 3(d) of the Smith-Lever Act to make colleges or universities eligible to receive funding under the Act of August 30, 1890, including Tuskegee University, or Section 208 of the District of Columbia Public Postsecondary Education Reorganization Act, eligible for Extension funding under Smith-Lever 3(d) programs. This change applies after FY95 to any increases in funding for existing Smith-Lever 3(d) programs and to all new Smith-Lever 3(d) programs. A conforming amendment is made to section 1444(a) of NARETPA of 1977 and to the District of Columbia Public Postsecondary Education Reorganization Act to clarify that this change would not result in a reduction of other Extension Service funding to these colleges and universities. (Section 863)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to remove the reference to Section 208 of the District of Columbia Public Postsecondary Education Reorganization Act. (Section 883)

(57) Agricultural Research Facilities

The Senate amendment amends the Research Facilities Act.

Section 1 is the short title.

Section 2 contains new definitions for "Agricultural Research Facility" and "Food and Agricultural Sciences".

Section 3 establishes the process for reviewing proposals for agricultural research facilities. Subsection (a) requires proposals to be submitted to the Secretary and the Secretary is required to review proposals in the order in which they are received. Subsection (b) requires the Secretary to establish the application procedure in consultation with the Senate and House Appropriations Committees. Subsection (c) requires all proposals for new funding for agricultural research facilities at colleges, universities or non-profit institutions to be reviewed by USDA to determine whether they meet the following criteria:

the availability of at least a 50% non-Federal match in cash;

the facility must not be duplicative of existing facilities;

the facility must serve the national research priorities established in section 1402 of NARETPA of 1977 and regional needs;

the college, university, or non-profit institution supporting the facility must demonstrate the commitment to long-term support for operating the facility and conducting research; and

the facility must reflect the strategic plan for federally supported research facilities established in section 4. Subsection (d) requires the Secretary to review proposals within 90 days and report the results of the evaluation and assessment to the Senate and House Appropriations Committees.

Section 4 requires the Secretary to develop a ten-year strategic plan for the development, construction, modernization, consolidation, and closure of federally supported research facilities. The plan should reflect the need to increase the productivity of and to enhance the competitiveness of the U.S. agricultural and food industry. It should also reflect the findings of the National Academy of Sciences with respect to programmatic and scientific priorities relating to agriculture.

Section 5 exempts panels or board created solely to review proposals from the Federal Advisory Committee Act.

Section 6 authorizes the appropriation of such sums as necessary for fiscal years 1996 through 2002 for the study, plan, design, structure and related costs of such facilities. Administrative costs are limited to 3 percent of the cost of the project.

The new review process would not apply to projects for which funds were appropriated for a feasibility study or for any phase of the project prior to October 1, 1995, but such projects would be included in the strategic plan. The strategic plan required by Section 4 shall apply to all federally supported agricultural research facilities, including those funded prior to the effective date of this title.

Subsection (b) amends section 1431 of NARETPA of 1985 to extend the authorization for appropriation for Federal research facilities to 2002 and to delete the requirement for an annual report on Federal research facilities. (Section 865)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997; to require consultation with the House and Senate Agriculture Committees; and to delete the requirement for the Secretary to develop a 10-year strategic plan for the development, construction, modernization, consolidation and closure of federally supported research facilities and instead to require the formation of a task force to be appointed from the Advisory Board membership (established by Section 802 of this Act) as well as others demonstrating appropriate expertise to prepare the strategic plan within two years for the development, modernization, construction, consolidation, and closure of federal agricultural research facilities and agricultural research facilities proposed to be constructed with federal funds. (Section 884)

This section requires that all proposals for new funding for agricultural research facilities at colleges, universities or non-profit institutions be reviewed by USDA to determine whether they meet specified criteria. The Managers intend that feasibility studies completed more than two fiscal years prior to enactment but not provided further funding should go through this new review process if federal funding is still being sought. While an exemption from FACA is provided for a panel formed to review the proposals under section 5 of the Research Facilities Act, the Managers are not requiring that such a panel be formed. This section provides an exemption from the Federal Advisory Committee Act (FACA) for entities created solely to review proposals for applications submitted for funding. The Managers understand that in addition to reviewing proposals and applications for the purpose of evaluating them and making award recommendations, entities that are exempted from FACA, pursuant to this section also may render to the Secretary program advice derived from such review process.

(58) National competitive research initiative

The Senate amendment extends the authorization for appropriation of $500 million for a competitive grant program for basic and applied research open to all researchers through 2002. The requirement that not less than 20% of appropriated funds shall be available to make grants for mission-linked systems research is increased to 40%. Funds will be available for a two-year period to allow for the award of grants in a more orderly manner. (Section 866)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change 2002 to 1997. (Section 885)

The Secretary is encouraged to consider grants to mission-linked research which contribute to the development of applied technologies and information which increase the profitability of farms and ranches and increase economic opportunities for rural communities.

(59) Rural development research and education

The Senate amendment amends Section 502 of the Rural Development Act of 1972 to clarify that rural development Extension programs shall also promote coordinated and integrated rural community initiatives that advance and empower capacity building. (Section 868)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 886)

This section makes clear that the Secretary can establish a national rural development program supported by the Cooperative State Research, Education, and Extension Service that provides national focus and local implementation for an efficient and effective delivery of training, technical assistance, and applied research. Such programs may address rural challenges in the areas of leadership development, entrepreneurship, business development and management training which stimulate small and rural communities to increase jobs, income and quality of life.

(59) Dairy goat research program and research to eradicate and control brown citrus aphid and citrus tristeza virus

The Senate amendment repeals authority for a grant to one 1890 land grant institution for dairy goat research, which has not been funded. (Section 870)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to retain authority for dairy goat research through 1997 and with an amendment to add an authorization for competitive grants for research to eradicate and control brown citrus aphid and citrus tristeza virus. (Sections 887 and 888)

(60) Stuttgart National Aquaculture Research Center

The Senate amendment amends Public Law 85–132 of March 15, 1958 to transfer the Fish Farming Experimental Laboratory in Stuttgart, Arkansas from the Department of the Interior to the Department of Agriculture and to rename it the Stuttgart National Aquaculture Research Center. All personnel, assets, liabilities, contracts, real and personal property, records, and the unexpended balance of appropriations, authorizations, allocations, and other funds are transferred. This research center shall be complementary to, and not duplicative of, facilities of colleges, universities, nonprofit institutions, and ARS facilities. (Section 872)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 889)

(61) National aquaculture policy, planning, and development

The Senate amendment amends the National Aquaculture Act of 1980.

Subsection (a) amends the definition of aquaculture and adds a definition of private aquaculture.

Subsections (b) and (c) designate USDA as the lead agency for aquaculture.

Subsection (e) establishes a national policy for private aquaculture and requires the Secretary to develop and implement a Department of Agriculture Aquaculture Plan for coordinating and implementing aquaculture activities and programs within the Department and supporting the development of private aquaculture. The Secretary is also authorized to maintain and support a National Aquaculture Information Center at the National Agricultural Library. The Secretary is directed to treat private aquaculture as agriculture and is directed to coordinate interdepartmental functions and activities relating to private aquaculture.

Subsection (f) authorizing appropriations of $1 million for each of the Departments of Agriculture, Commerce and Interior is extended through 2002. (Section 873)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision, striking the Senate provision.

(62) Expansion of authorities related to the National Arboretum, Transfer of Aquacultural Research Center, and use of remote sensing data

The Senate amendment expands the authorities of the National Arboretum to allow it to benefit from proceeds resulting from concession fees, disposition of excess properties, fees from the commercial use of facilities and grounds, and license use of the National Arboretum name and logo. Any funds received from these activities are to be held in a special account for the use of the National Arboretum as the Secretary considers appropriate. (Section 874)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to permit the transfer of the Southeastern Fish Culture Laboratory in Marion, Alabama to USDA; and to direct the Secretary and the Administrator of NASA to work together to provide farmers with timely information through remote sensing. (Sections 890, 891, and 892)

In addition to NASA, the managers encourage the Secretary to continue cooperative efforts with the Department of Energy (DOE). The managers support the Memorandum of Understanding that was signed between the Department of Agriculture (USDA) and the DOE in November 1995. It is the intent of the managers that the cooperative efforts of the DOE and USDA continue.

(63) Study of Agricultural Research Service

The Senate amendment directs the Secretary to request the National Academy of Sciences to conduct a study on the role and mission of the Agricultural Research Service. The study is to review the mission of federal research conducted by ARS, evaluate the strength of ARS science and its relevance to national priorities, and examine how the agency's work relates to the capacity of the U.S. agricultural research, education and extension system overall. The report is to be completed within 18 months of the date of enactment. The Secretary is directed to make not more than $500,000 of ARS funds available for the report. (Section 875)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision, deleting the Senate provision.

(64) Sense of the Senate regarding methyl bromide and general funding authority for research, extension and education

The Senate amendment states it is the sense of the Senate that the Department of Agriculture should continue to make methyl bromide alternative research and extension activities a high priority of the Department and that the Department of Agriculture, the Environmental Protection Agency, producer and processor organizations, environmental organizations and state agencies should continue their dialogue on the risks and benefits of extending the 2001 phaseout deadline. (Section 877)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide general funding authority for research, extension and education activities and initiatives for fiscal years 1998 through 2002. (Sections 893, 897 and 898)

The conference agreement includes provisions that, for fiscal years 1998 through 2002, would direct the Secretary to conduct such research, education, and extension activities as are specifically funded in appropriations acts, and that would authorize the appropriations of such sums as are necessary to carry out such activities and initiatives. As indicated elsewhere, the Managers also have agreed that each of the authorizations of appropriations for agricultural research, extension or education programs or activities contained in this title shall be extended only through fiscal year 1997. The Managers intend that these combined actions will provide Congress and the Executive branch a fresh opportunity to conduct a thorough and comprehensive review of the federal agricultural research, extension and education programs and authorities. Our purpose is to revise these programs and authorities as necessary to ensure that the needs of the nation, and in particular the agriculture sector, are met as we transition into a new era. The Managers intend that this review be completed and that comprehensive legislation be enacted by the end of fiscal year 1997.

(65) Miscellaneous research concerns

The Managers recognize the importance of continuing research to find alternatives to grass burning used by the grass seed industry.

The Managers believe that research and education to enhance soil quality and thus human and animal health are important. These research and education efforts should begin to address our understanding of the interrelationship between soil quality, food quality and overall health.

In recognizing that our nation's soil resources affect multiple priorities including farm productivity, water and air pollution, food quality and natural resource enhancement as well as human and animal health, the Managers encourage continuing efforts to develop standardized field and laboratory methods to measure and interpret changes observed in soil quality indicators across fields, farms and watersheds.

The Managers recognize that there have been exciting and promising advances made in agricultural areas including perennial grain polyculture ecosystems; high seed yield; management of insects injurious to plants, plant pathogens and weeds; nitrogen fertility provided by legumes; minimizing soil erosion, use of fossil fuels and synthetic chemicals; and enhancement of soil quality. The Managers believe that research in these areas would be eligible to compete for competitive research funding.

(66) Agriculture weather service centers

The collection, quality, and reporting of agricultural weather data should remain a federal responsibility. Without federal responsibility to collect and distribute weather data, the specialized forecasts and private sector agricultural weather services may not remain viable.

Furthermore, it is the belief of the Managers that it has not been properly demonstrated that the private sector is ready to assume responsibility of agricultural weather data collection and dissemination. The managers encourage the National Weather Service (NWS) to recognize the value of the Agriculture Weather Service Centers.

The Department of Agriculture is familiar with farming and the collection and dissemination of weather data. Therefore the managers believe that the Department of Agriculture is the most suitable agency for this service. The Department has an ongoing relationship with the land-grant colleges and universities, and via the extension service, can ensure that this information is made available to all producers. Therefore, the Managers encourage the NWS to work cooperatively with the Department to explore ways to continue to provide agricultural weather data and transfer this responsibility to the Department of Agriculture. The Managers request the NWS and the Department of Agriculture to report on the status of Agriculture Weather Service Centers to the Congressional Committees on Agriculture not later than 30 days after enactment of this Act.

Until such time that action can be taken on the transfer of the Agriculture Weather Service to the Department of Agriculture, the Managers request that this important and essential service be continued through the Commerce Department, and the Department of Agriculture contract for this service. Additionally, the Managers request that the funding for this service continue through Commerce, State, Justice appropriations.

TITLE IX—MISCELLANEOUS

SUBTITLE A—COMMERCIAL TRANSPORTATION OF EQUINE FOR SLAUGHTER

The Senate amendment establishes requirements for the commercial transportation of equine for slaughter.

Section 521 sets forth findings. Congress finds that, to ensure that equine sold for slaughter are provided humane treatment and care, it is essential to regulate the transportation, care, handling, and treatment of equine by any person engaged in the commercial transportation of equine for slaughter.

Section 522 defines commerce, Department, equine, equine for slaughter, foal, intermediate handler, person, Secretary, vehicle, and stallion.

Section 523 directs the Secretary, subject to the availability of appropriations, not later than 1 year after the date of enactment of this subtitle, to issue, by regulation, standards for the humane commercial transportation by vehicle of equine for slaughter.

A person engaged in the regular business of transporting equine by vehicle for slaughter as part of a commercial enterprise, is prohibited, from transporting horses to slaughter except in accordance with the standards and this subtitle.

This section establishes minimum requirements for the humane handling, care, treatment, and equipment necessary to ensure the safe and humane transportation of equine for slaughter, including period of time in transport and vehicle requirements. All equine for slaughter must be fit to travel as defined by an accredited veterinarian who shall prepare a certificate of inspection. No equine for slaughter shall be accepted by a slaughter facility unless the equine is inspected on arrival and is accompanied by a certificate of inspection.

Section 524 outlines the record keeping procedures required for transportation of equine to slaughter.

Section 525 states that an act or omission of an employee of a person engaged in the business of transporting equine for slaughter shall be considered an act or omission of the employer as well as the employee. This section also requires that if an equine suffers a substantial injury or illness while being transported for slaughter on a vehicle, the driver of the vehicle shall seek prompt assistance from a licensed veterinarian.

Section 526 authorizes the Secretary to cooperate with States, political subdivisions of States, State agencies (including State departments of agriculture and State law enforcement agencies), and foreign governments to carry out and enforce this subtitle (including regulations issued under this subtitle).

Section 527 authorizes the Secretary to conduct such investigations or inspections as the Secretary considers necessary to enforce this subtitle (including any regulation issued under this subtitle), establishes guidelines for the investigations, and permits employees or agents of the Department to provide assistance to or destroy any equine found suffering.

Section 528 establishes penalties for interfering with enforcement of the act.

Section 529 establishes judicial jurisdiction for cases arising from this act.

Section 530 establishes civil and criminal penalties for violations of this Act or regulations.

Section 531 states that, from sums received as penalties, fines, or forfeitures of property for any violation of this subtitle (including a regulation issued under this subtitle), the Secretary shall pay the reasonable and necessary costs incurred by any person in providing temporary care or medical assistance for any equine that needs the care or assistance due to a violation.

Section 532 states that nothing in this subtitle prevents a State from enacting or enforcing any law (including a regulation) that is not inconsistent with this subtitle or that is more restrictive than this subtitle.

Section 533 authorizes appropriations to carry out the act. No provision of this subtitle shall be effective or enforced during a fiscal year unless funds have been appropriated. (Subtitle C of Title V)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment authorizing the Secretary of Agriculture because of the unique and special needs of equine being transported to slaughter, subject to the availability of appropriations, to issue guidelines for the regulation of persons regularly engaged in the commercial transportation of equine for slaughter within the U.S. Among the issues the Secretary shall review are the food, water and rest provided to equine in transit and the segregation of stallions from other equine during transit. (Sections 901–905)

It is the intent of the Managers that the object of any prospective regulation on this matter will be the individual or company which regularly engages in the commercial transport of equine to slaughter, and will not extend to individuals or others who periodically transport equine for slaughter outside of their regular activity.

It is the intent of the Managers that the Secretary of Agriculture to the maximum extent possible employ performance based standards rather than engineering based standards when establishing guidelines for the regulation of commercial transportation of equine species to slaughter.

The Managers intend that the Secretary of Agriculture's authority to issue guidelines for regulation is restricted solely to the commercial transportation of equine to a slaughter facility. Also, it is not the intention of the Managers for the Secretary to inhibit the commercially viable transport of equine to slaughter facilities.

It is the clear intent of the Managers that no authorization of authority under this section may be construed to give the Secretary authority to regulate the routine or regular transportation of non-slaughter equine. Further, it is the clear intent of the Managers that no authorization of authority under this section may be construed to give the Secretary authority to regulate the routine or regular transportation of any other livestock, including poultry, to a slaughter facility or any other destination or by any conveyance.

SUBTITLE B—GENERAL PROVISIONS

(1) Livestock Dealer Trust, Interstate Quarantine, Cotton Classification Services, and Plant Variety Protection Act

The Senate amendment amends Title III of the Packers and Stockyards Act of 1921 and establishes a statutory trust for the benefit of livestock sellers who sell to livestock dealers and market agencies which buy on commission. To ensure prompt payment of livestock sellers, all livestock purchased in cash sales by a dealer or market agency buying livestock on commission shall have all related property (i.e., livestock, receivables or proceeds) held in a "floating" trust until the unpaid seller receives full payment.

Unpaid sellers lose benefit of the trust if payment has not been received within 30 days of the final date for payment, or within 15 business days after the seller learns that the payment instrument presented has been dishonored. To preserve the trust, written notice on non-payment must be given to the dealer or market agency and a notice filed with the Secretary. Dealers or market agencies buying on commission with average annual purchases not exceeding $250,000 are exempt from the trust provisions.

The section also states the trust will not include livestock sold to bona fide third-party purchasers. (Section 541)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment striking the Senate provision and adding an amendment directing the Secretary of Agriculture to consider enhancing passenger movement and commerce on and between islands when imposing a quarantine on a state entirely comprised of islands; extending cotton classification services; and amending the Plant Variety Protection Act to allow varieties of potatoes that have been marketed for more than four years in another country to apply for and receive protection in the U.S. during a one-year period after enactment. Protection would be limited to a total of 20 years, including the time protected in another country. (Sections 911, 912, and 913)

The Managers are concerned about the burden borne by the State of Hawaii as a result of the agriculture quarantine covering that entire state for the benefit of agricultural production within the mainland United States. The Managers expect that the Agriculture Committees will give further consideration to this matter and that the Department of Agriculture will do the same. The Managers fully expect that the provisions in this bill relating to the agricultural quarantine inspection user fees will help address international, as well as domestic preclearance, staffing and equipment needs in Hawaii.

(2) Swine health protection, Mount Pleasant National Scenic Area, and pseudorabies eradication program

The Senate amendment authorizes the Secretary, upon request of the Governor or other appropriate official of a State, to terminate the State's primary enforcement responsibility under the Swine Health Protection Act. This section also deletes the requirement that an advisory committee be appointed to evaluate state programs regulating the treatment of garbage to be fed to swine. (Section 544)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment regarding the designation of the Mount Pleasant National Scenic Area and extending the Pseudorabies eradication program through 2002. (Section 914, 915, and 916)

(3) Agricultural quarantine and inspection and meat and poultry inspection

The House bill amends the agricultural quarantine and inspection fees provisions in section 2509 of the Food, Agriculture, Conservation and Trade Act of 1990 to provide that, for the fiscal years 1996-2002, funds in the user fee account in excess of appropriated amounts shall be available until expended. Beginning with fiscal year 2003, funds in the user fee account shall be available without fiscal year limitation. This section also provides an exemption from the limitation on total number of full-time equivalent positions for positions attributable to the provision of agricultural quarantine and inspection services. (Section 502)

The Senate amendment contains an identical provision. (Section 504)

The Conference substitute adopts the House provision with an amendment requiring the Secretary to report to Congress within 90 days indicating the steps necessary to allow interstate shipment of state-inspected meat and poultry and requiring the establishment of a Safe Meat and Poultry Inspection Panel. (Section 917 and 918)

The Managers are concerned that because of escalating budget pressures and consistent annual increases in passenger and commercial air travel, the Agriculture Quarantine Inspection (AQI) services are negatively impacted. The Managers have thus provided that the amount necessary from the appropriations process will be frozen at $100 million between fiscal years 1996 and 2002. Furthermore, the Managers have provided the funding necessary to make all funds collected by APHIS in excess of $100 million available to the Secretary for the purpose of AQI without further appropriation. As provided in this legislation, the Managers expect that the Agriculture Quarantine Inspection user fee fund be no longer subject to appropriation starting in fiscal year 2003. The Managers further expect that all funds collected after fiscal year 2002 be deposited in a dedicated account at the U.S. Treasury for the express purpose of covering the costs of Agriculture Quarantine Inspection. The managers expect the Secretary to have sole discretion over the disbursement and use of these funds for the purpose of AQI.

The Managers have observed that virtually every debate regarding the current operation and future modernization of the federal meat and poultry inspection system concludes with a call for an increase in the role of sound science in the decision-making process. For this reason, the Managers have mandated the creation of the Safe Meat and Poultry Inspection Panel. The panel shall consist of experts in medical science demonstrating knowledge in areas of microbiology, epidemiology, and veterinary medicine, and scientific experts with knowledge in animal sciences, poultry science, meat science, and food technology.

It is the intent of the Managers that the Secretary act swiftly to appoint members of the panel so that it may begin offering its valuable input at the earliest possible opportunity. The Managers expect that this panel will address matters within its scope that are significant in the development of food safety policy. Also, it is the intent of the Managers that the panel be operated in a thrifty manner.

The urgency of implementing this provision is reflected in the simple design of this panel. This independent panel of scientists is expected to operate unencumbered by the traditional political and bureaucratic structure of the U.S. Department of Agriculture to advise the Secretary on all manners of inspection policy proposals. It is the intent of the Managers that the panel will not be limited to initiatives within the Department but will consider both its own ideas and those from the scientific community at large.

Further, it is the intent of the Managers that no funds for the purpose of in plant inspections be used for the Safe Meat and Poultry Inspection Panel. The Managers advise the Secretary to examine the Food Safety Inspection Service funding currently used for non-inspection related travel, funding that is transferred outside of the agency and the resources devoted to the Administrator's staff, which has expanded significantly in recent years.

The United States presently allows foreign-inspected meat and poultry products to engage in interstate commerce as long as the foreign system has been certified by the United States Department of Agriculture as "equivalent" to the U.S. system. At the same time, meat and poultry products from state inspection systems which are required to be "at least equal" to the federal inspection system are prohibited in statute from engaging in interstate commerce. It is the intent of the Managers to seek a resolution to the apparent inequities in this current regulatory situation.

Since the President included the interstate shipment of state inspected product in the Guidance of the Administration for the 1995 Farm Bill, the Managers expect that the Secretary will report on the reasons for the evolution of differences between state and federal inspection programs, and any and all legal prohibitions to interstate shipment of state inspected product. Moreover, the Managers expect the report to expand beyond the legal history and an explanation of prohibitions to interstate shipment and sale of state inspected product, but engage constructively by making recommendations on challenges, such as, appropriate food safety, administrative, and funding, that may be necessary to effect an efficient transition.

(4) Reimbursable agreements

The Senate amendment authorizes the Secretary to enter into reimbursable fee agreements for the pre-clearance at locations outside the U.S. of plants, plant products, animals and articles for movement into the U.S. Funds collected for pre-clearance shall be credited to accounts established by the Secretary and shall remain available until expended for pre-clearance activities. This section authorizes the Secretary to require persons for whom the services are performed to reimburse the Secretary for the services. (Section 543)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 919)

(5) Overseas tort claims

The Senate amendment authorizes the Secretary to pay tort claims when claims arise outside the U.S. for persons who are performing services for the Secretary. A claim must be presented to the Secretary within two years after the claim accrues. (Section 547)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 920)

(6) Graduate School of the U.S. Department of Agriculture

The Senate amendment states the purpose of this section is to authorize continued operation of the Graduate School as a non-appropriated fund instrumentality of the Department.

Subsection (b) defines board, department, director, graduate school, and secretary.

Subsection (c) sets forth the functions and authority of the Graduate School. The Graduate School is authorized to develop and administer education, training and professional development activities. The Graduate School may provide educational activities to federal agencies, employees, nonprofit organizations, other entities, and members of the public. The Graduate School may charge reasonable fees for its activities based upon the cost of providing the service and may retain those fees rather than depositing them in the United States Treasury. The Graduate School is authorized to operate under its current name or may adopt another name.

Subsection (d) provides that the General Administration Board appointed by the Secretary would govern the activities of the Graduate School in accordance with the Secretary's regulations. The Board would be responsible for determining the policies by which the School is administered and for taking steps necessary to assure that the responsibilities are carried out, including the selection of a Director and other officers. The Board may authorize the Director to borrow money on the credit of the Graduate School.

Subsection (e) authorizes the Director to carry out the activities of the School, subject to the direction and oversight of the Board. The Board may authorize the Director to invest funds held in excess of the current operating requirements as a reasonable reserve.

Subsection (f) states that the director and Board members shall not be held personally liable for any loss or damage that may accrue to the funds of the Graduate School as a result of a discretionary act in carrying out their duties.

Subsection (g) states that Graduate School employees shall not be considered federal employees.

Subsection (h) states that the Graduate School shall not be considered a federal agency for purposes of the Federal Tort Claims Act, the Federal Advisory Committee Act, the Freedom of Information Act or the Privacy Act.

Subsection (i) prohibits the Graduate School from accepting gifts from interested parties.

Subsection (j) authorizes the Graduate School to accept gifts of money and property made for the benefit of the Graduate School. This subsection authorizes the Graduate School to acquire, maintain, and control real property. It also authorizes the Graduate School to enter into contracts without regard to any law prescribing procedures for the procurement of property or services and to dispose of real or personal property without regard to the Federal Property and Administrative Services Act. The subsection also authorizes the Graduate School to continue to use the facilities and resources of the Department in carrying out its functions if the costs are reimbursed out of the fees collected or other income earned by the Graduate School. (Section 548)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 921)

(7) Student internship program and conveyance of excess Federal personal property

The Senate amendment authorizes use of appropriated or user fee funds to pay for transportation, subsistence, and lodging expenses of student interns. Student interns are defined as employees who assist scientific, professional, administrative, or technical employees of the Department and who are bona fide students of accredited colleges or universities pursuing courses related to the field in which the person is employed by the Department. (Section 549)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize the Secretary to enter into cooperative agreements on an annual basis with one or more associations of colleges and universities for the purpose of providing for USDA participation in internship programs for graduate and undergraduate students who are selected by such associations from students attending member institutions of such associations and other colleges and universities and an amendment authorizing the Secretary of Agriculture to convey title to excess personal property to any 1994 Institution, Hispanic-Serving Institution or 1890 institutions for research purposes with or without monetary compensation. (Section 922 and 923)

(8) Conveyance of land, sale of land, designation of research center, and Washington area strategic space plan

The Senate amendment provides for conveyance of land to the Board of Trustees of the University of Arkansas to be used in the White Oak Cemetery. The land would revert to the United States if not used in the cemetery. (Section 550)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment authorizing the sale of land known as the "Walker Tract"; renaming the Agricultural Research Service Small Farms research facility located near Booneville, Arkansas as the Dale Bumpers Small Farms Research Center; and authorizing funding for improvement of roads at Beltsville as part of the USDA Washington Area Strategic Space Plan. (Sections 924, 925, 926 and 927)

The Managers expect USDA to continue to evaluate the Washington Area Strategic Plan in light of Department streamlining and workforce reduction. Furthermore, the Managers expect the Secretary to work closely with the House and Senate Agriculture Committees in identifying the most cost-effective option for renovating the South Building. It is important that USDA brief the Agriculture Committees on a regular basis about progress in this regard.

(9) Sense of the Congress regarding purchase of American-made equipment and products

The House bill states that it is the intent of Congress that recipients of assistance under this Act shall purchase only American-made equipment and products. (Section 508)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the Senate provision, striking the House provision.

(10) Amendment of the Virus-Serum Toxin Act of 1913

The Senate amendment amends the Virus Serum Toxin Act of 1913 to increase the criminal penalty from a maximum of $1,000 to a maximum of $10,000, upon conviction, for each violation. This section also authorizes the assessment of civil penalties of up to $5,000 for each violation of the Act or regulations. A person must "knowingly" violate the Act or regulations to be subject to a criminal or civil penalty. Knowingly forging, counterfeiting, or without permission of the Secretary of Agriculture, using, altering, defacing, or destroying any certificate, permit, license, or other document will be considered a violation of the Act. The Secretary is required to provide notice and an opportunity for an agency hearing before issuing an order for a civil penalty. The total amount of civil penalties assessed against a violator shall not exceed $300,000 for all such violations adjudicated in a single proceeding. In the course of an investigation of a suspected violation, the Secretary may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation. (Section 546)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision, striking the Senate provision.

(11) Equine piroplasmosis

It is the intention of the Congress that the Secretary of Agriculture be directed to protect the United States and its domestic horse population from equine piroplasmosis by taking all actions necessary to ensure that the disease does not become established in the United States or spread to the domestic horse population.

Congress finds that the U.S. Department of Agriculture and the Georgia Department of Agriculture plan to grant a conditional waiver from Federal and State health requirements for a limited number of foreign horses testing positive for equine piroplasmosis to enter the U.S. and compete in the 1996 Centennial Olympic Games.

Although careful conditions have been imposed on such admissions, there is a minimum risk that this disease could become established in the U.S. Therefore, the twenty point plan that has been agreed to by the European Union, the Georgia Department of Agriculture, and the U.S. Department of Agriculture must not be relaxed and the conditions must be followed and administratively enforced.

Pat Roberts,
Bill Emerson,
Steve Gunderson,
Thomas W. Ewing,
Bill Barrett,
Wayne Allard,
John Boehner,
Richard Pombo,
E de la Garza,
Charlie Rose,
Charlie Stenholm,
Gary Condit,
Managers on the Part of the House.

Richard G. Lugar,
Bob Dole,
Jesse Helms,
Thad Cochran,
Mitch McConnell,
Larry E. Craig,
Patrick Leahy,
Howell Heflin,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. Montgomery) to revise and extend his remarks and include extraneous material:)

Mr. Jones, for 5 minutes, on March 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Montgomery) and to include extraneous matter:)

Mrs. Maloney.

Mrs. Meek of Florida.

Mr. Lantos.

(The following Members (at the request of Mr. Montgomery) and to include extraneous matter:)

Mr. Crane.

Mr. Lightfoot.

ADJOURNMENT

Mr. MONTGOMERY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 50 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, March 26, 1996, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2290. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Spain for defense articles and services (Transmittal No. 96-22), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

2291. A communication from the President of the United States, Transmitting the fourth report on the continuing deployment of United States Armed Forces to Haiti (H. Doc. No. 104-190); to the Committee on International Relations and ordered to be printed.

2292. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

REPORT OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska Committee on Resources. H.R. 2824. A bill to authorize an exchange of lands in the State of Utah at Snowbasin Ski Area (Rept. 104-493). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROBERTS: Committee of Conference. Conference report on H.R. 2854. A bill to modify the operation of certain agricultural programs (Rept. 104-494). Ordered to be printed.

Mr. ARCHER: Committee on Ways and Means. H.R. 3074. A bill to amend the United States-Israel Free Trade Area Implementation Act of 1985 to provide the President with additional proclamation authority with respect to articles of the West Bank or Gaza Strip or a qualifying industrial zone (Rept. 104-495). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Ways and Means. H.R. 3103. A bill to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes; with an amendment (Rept. 104-496, Pt. 1). Ordered to be printed.

Mr. BLILEY: Committee on Commerce. H.R. 3070. A bill to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, and to simplify the administration of health insurance; with an amendment (Rept. 104-497, Pt. 1). Ordered to be printed.

Mr. GOODLING: Committee on Economic and Educational Opportunities. H.R. 995. A bill to amend the Employee Retirement Income Security Act of 1974 to provide new portability, participation, solvency, claims, and other consumer protections and freedoms for workers in a mobile workforce; to increase purchasing power for employers and employees by removing barriers to the voluntary formation of multiple employer health plans and fully-insured multiple employer arrangements; to increase health plan competition providing more affordable choice of coverage by removing restrictive State laws relating to provider health networks, employer health coalitions, and insured plans and the offering of medisave plans; to expand access to fully-insured coverage for employees of small employers through fair rating standards and open markets; and for other purposes; with amendments (Rept. 104-498, Pt. 1). Ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker

H.R. 995. Referral to the Committee on Commerce extended for a period ending not later than March 29, 1996.

H.R. 3070. Referral to the Committees on Economic and Educational Opportunities, the Judiciary, and Ways and Means for a period ending not later than March 29, 1996.

H.R. 3103. Referral to the Committees on Economic and Educational Opportunities, Commerce, and the Judiciary for a period ending not later than March 29, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII,

Mrs. MEYERS of Kansas (for herself, Mr. POSHARD, Mr. TORKILDSEN, and Mr. LAFALCE) introduced a bill (H.R. 3158) to amend the Small Business Act to extend the pilot Small Business Technology Transfer Program, and for other purposes; to the Committee on Small Business.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 324: Mr. MILLER of California and Mr. MINGE.

H.R. 833: Ms. HARMAN.

H.R. 2959: Mr. MCCRERY.

H.R. 3032: Mr. FATTAH.

H.R. 3060: Mr. GUTKNECHT.

H.R. 3067: Mr. HERGER and Mr. MARKEY.

H.R. 3142: Mr. MATSUI, Mr. HALL of Ohio, and Mr. HALL of Texas.

H. Con. Res. 145: Mr. ZIMMER.

SENATE— *Monday, March 25, 1996*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we praise You for this new day in which we can glorify You in the crucial work You have called us to do. Through Your goodness we can say with enthusiasm, "Good morning, Lord," rather than with exasperation, "Good Lord, what a morning."

Thank You for giving us expectation and excitement for what You have planned for us today. Help us to sense Your presence in the magnificent but also in the mundane. Give us a deep sense of self-esteem rooted in Your love so that we may exude confidence and courage as we grasp the opportunities and grapple with the problems we will confront. Make us sensitive to the needs of the people around us. May they feel Your love and acceptance flowing through us to them. Guide our thinking so we may be creative in our decisions. We humbly acknowledge that all that we have and are is a gift of Your grace. Now we commit ourselves to You to serve our beloved Nation. Dear God, bless America through our leadership today. In the name of our Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, this morning the Senate will immediately begin consideration of calendar No. 300, H.R. 1296, regarding certain Presidio properties. Senator MURKOWSKI will offer his substitute amendment today. However, no rollcall votes will occur during today's session of the Senate. If other Senators have amendments to this legislation, they are encouraged to come forward and offer those amendments today with the understanding that any votes ordered will occur during Tuesday's session. Also, it may be necessary to file a motion to invoke cloture today on H.R. 1296, therefore, a cloture vote may occur on Wednesday on the Presidio legislation.

Other items possible for consideration, in fact, necessary, probably, as the week goes by, are the omnibus appropriations conference report, the debt limit extension, the farm bill conference report, and the line-item veto conference report.

Mr. President, I yield the floor.

PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1995

The PRESIDING OFFICER (Mr. BROWN). Under the previous order, the Senate will now proceed to the consideration of H.R. 1296, an act to provide for the administration of certain Presidio properties, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1296) to provide for the administration of certain Presidio properties at a minimal cost to the Federal taxpayer.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. FINDINGS.

The Congress finds that—

(1) the Presidio, located amidst the incomparable scenic splendor of the Golden Gate, is one of America's great natural and historic sites;

(2) the Presidio is the oldest continuously operated military post in the Nation dating from 1776, and was designated a National Historic Landmark in 1962;

(3) preservation of the cultural and historic integrity of the Presidio for public use recognizes its significant role in the history of the United States;

(4) the Presidio, in its entirety, is part of the Golden Gate National Recreation Area, in accordance with Public Law 92-589;

(5) as part of the Golden Gate National Recreation Area, the Presidio's significant natural, historic, scenic, cultural, and recreational resources must be managed in a manner which is consistent with sound principles of land use planning and management, and which protects the Presidio from development and uses which would destroy the scenic beauty and historic and natural character of the area and cultural and recreational resources;

(6) removal and/or replacement of some structures within the Presidio must be considered as a management option in the administration of the Presidio; and

(7) the Presidio will be managed through an innovative public/private partnership that minimizes cost to the United States Treasury and makes efficient use of private sector resources.

SEC. 2. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF THE INTERIOR.

(a) INTERIM AUTHORITY.—The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to manage leases in existence on the date of this Act for properties under the administrative jurisdiction of the Secretary and located at the Presidio. Upon the expiration of any such lease, the Secretary may extend such lease for a period terminating not later than 6 months after the first meeting of the Presidio Trust. The Secretary may not enter into any new leases for property at the Presidio to be transferred to the Presidio Trust under this Act. Prior to the transfer of administrative jurisdiction over any property to the Presidio Trust, and notwithstanding section 1341 of title 31 of the United States Code, the proceeds from any such lease shall be retained by the Secretary and such proceeds shall be available, without further appropriation, for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties. The Secretary may adjust the rental charge on any such lease for any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to properties and infrastructure within the Presidio.

(b) PUBLIC INFORMATION AND INTERPRETATION.—The Secretary shall be responsible, in cooperation with the Presidio Trust, for providing public interpretive services, visitor orientation and educational programs on all lands within the Presidio.

(c) OTHER.—Those lands and facilities within the Presidio that are not transferred to the administrative jurisdiction of the Presidio Trust shall continue to be managed by the Secretary. The Secretary and the Presidio Trust shall cooperate to ensure adequate public access to all portions of the Presidio. Any infrastructure and building improvement projects that were funded prior to the enactment of this Act shall be completed by the National Park Service.

(d) PARK SERVICE EMPLOYEES.—Any career employee of the National Park Service, employed at the Presidio at the time of the transfer of lands and facilities to the Presidio Trust, shall not be separated from the Service by reason of such transfer, unless such employee is employed by the Trust, other than on detail. The Trust shall have sole discretion over whether to hire any such employee or request a detail of such employee.

SEC. 3. ESTABLISHMENT OF THE PRESIDIO TRUST.

(a) ESTABLISHMENT.—There is established a wholly owned government corporation to be known as the Presidio Trust (hereinafter in this Act referred to as the "Trust").

(b) TRANSFER.—(1) Within 60 days after receipt of a request from the Trust for the transfer of any parcel within the area depicted as Area B on the map entitled "Presidio Trust Number 1," dated December 7, 1995, the Secretary shall transfer such parcel to the administrative jurisdiction of the Trust. Within one year after the first meeting of the Board of Directors of the Trust, the Secretary shall transfer to the Trust administrative jurisdiction over all remaining parcels within Area B. Such map shall be on file and available for public inspection in the offices of the Trust and in the offices of the National Park Service, Department of the Interior. The Trust and the Secretary may jointly make technical and clerical revisions in the boundary depicted on such map. The Secretary shall retain jurisdiction over those portions of the building identified as number 102 as the Secretary deems essential for use as a visitor center. The Building shall be named the "William Penn Mott Visitor Center". Any parcel of land, the jurisdiction over which is transferred pursuant to this subsection, shall remain within the boundary of the Golden Gate National Recreation Area.

(2) Within 60 days after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively

which records, equipment, and other personal property are deemed to be necessary for the immediate administration of the properties to be transferred, and the Secretary shall immediately transfer such personal property to the Trust. Within one year after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively what, if any, additional records, equipment, and other personal property used by the Secretary in the administration of the properties to be transferred should be transferred to the Trust.

(3) The Secretary shall transfer, with the transfer of administrative jurisdiction over any property, the unobligated balance of all funds appropriated to the Secretary, all leases, concessions, licenses, permits, and other agreements affecting such property.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The powers and management of the Trust shall be vested in a Board of Directors (hereinafter referred to as the "Board") consisting of the following 7 members:

(A) the Secretary of the Interior or the Secretary's designee; and

(B) six individuals, who are not employees of the Federal Government, appointed by the President, who shall possess extensive knowledge and experience in one or more of the fields of city planning, finance, real estate development, and resource conservation. At least one of these individuals shall be a veteran of the Armed Services. At least 3 of these individuals shall reside in the San Francisco Bay Area. The President shall make the appointments referred to in this subparagraph within 90 days after the enactment of this Act and shall ensure that the fields of city planning, finance, real estate development, and resource conservation are adequately represented. Upon establishment of the Trust, the Chairman of the Board of Directors of the Trust shall meet with the Chairman of the Energy and Natural Resources Committee of the United States Senate and the Chairman of the Resources Committee of the United States House of Representatives.

(2) TERMS.—Members of the Board appointed under paragraph (1)(B) shall each serve for a term of 4 years, except that of the members first appointed, 3 shall serve for a term of 2 years. Any vacancy in the Board shall be filled in the same manner in which the original appointment was made, and any member appointed to fill a vacancy shall serve for the remainder of the term for which his or her predecessor was appointed. No appointed member may serve more than 8 years in consecutive terms.

(3) QUORUM.—Four members of the Board shall constitute a quorum for the conduct of business by the Board.

(4) ORGANIZATION AND COMPENSATION.—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the authorized activities of the Trust. Board members shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Trust.

(5) LIABILITY OF DIRECTORS.—Members of the Board of Directors shall not be considered Federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act and the Ethics in Government Act, and the provisions of chapter 11 of title 18, United States Code.

(6) MEETINGS.—The Board shall meet at least three times per year in San Francisco and at least two of those meetings shall be open to the public. Upon a majority vote, the Board may close any other meetings to the public. The Board shall establish procedures for providing public information and opportunities for public comment regarding policy, planning, and design issues through the Golden Gate National Recreation Area Advisory Commission.

(7) STAFF.—The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates, except that no officer or employee may receive a salary which exceeds the salary payable to officers or employees of the United States classified at level IV of the Executive Schedule.

(8) NECESSARY POWERS.—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

(9) TAXES.—The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of California, and its political subdivisions, including the city and county of San Francisco.

(10) GOVERNMENT CORPORATION.—(A) The Trust shall be treated as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31 of the United States Code.

(B) At the end of each calendar year, the Trust shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a comprehensive and detailed report of its operations, activities, and accomplishments for the prior fiscal year. The report also shall include a section that describes in general terms the Trust's goals for the current fiscal year.

SEC. 4. DUTIES AND AUTHORITIES OF THE TRUST.

(a) OVERALL REQUIREMENTS OF THE TRUST.—The Trust shall manage the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio under its administrative jurisdiction using the authorities provided in this section, which shall be exercised in accordance with the purposes set forth in section 1 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes," approved October 27, 1972 (Public Law 92–589; 86 Stat. 1299; 16 U.S.C. 460bb), and in accordance with the general objectives of the General Management Plan (hereinafter referred to as the "management plan") approved for the Presidio.

(b) The Trust may participate in the development of programs and activities at the properties transferred to the Trust. The Trust shall have the authority to negotiate and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation or governmental entity, including, without limitation, entities of Federal, State, and local governments as are necessary and appropriate to finance and carry out its authorized activities. Any such agreement may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b). The Trust shall establish procedures for lease agreements and other agreements for use and occupancy of Presidio facilities, including a requirement that in entering into such agreements the Trust shall obtain reasonable competition. The Trust may not dispose of or convey fee title to any real property transferred to it under this Act. Federal laws and regulations governing procurement by Federal agencies shall not apply to the Trust except that the Trust, in consultation with the Administrator of Federal Procurement Policy, shall establish and promulgate procedures applicable to the Trust's procurement of goods and services including, but not limited to, the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition.

(c) The Trust shall develop a comprehensive program for management of those lands and facilities within the Presidio which are transferred to the administrative jurisdiction of the Trust. Such program shall be designed to reduce expenditures by the National Park Service and increase revenues to the Federal Government to the maximum extent possible. In carrying out this program, the Trust shall be treated as a successor in interest to the National Park Service with respect to compliance with the National Environmental Policy Act and other environmental compliance statutes. Such program shall consist of—

(1) demolition of structures which in the opinion of the Trust, cannot be cost-effectively rehabilitated, and which are identified in the management plan for demolition,

(2) evaluation for possible demolition or replacement those buildings identified as categories 2 through 5 in the Presidio of San Francisco Historic Landmark District Historic American Buildings Survey Report, dated 1985,

(3) new construction limited to replacement of existing structures of similar size in existing areas of development, and

(4) examination of a full range of reasonable options for carrying out routine administrative and facility management programs.

The Trust shall consult with the Secretary in the preparation of this program.

(d) To augment or encourage the use of non-Federal funds to finance capital improvements on Presidio properties transferred to its jurisdiction, the Trust, in addition to its other authorities, shall have the following authorities subject to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.):

(1) The authority to guarantee any lender against loss of principal or interest on any loan, provided that (A) the terms of the guarantee are approved by the Secretary of the Treasury, (B) adequate subsidy budget authority is provided in advance in appropriations acts, and (C) such guarantees are structured so as to minimize potential cost to the Federal Government. No loan guarantee under this Act shall cover more than 75 percent of the unpaid balance of the loan. The Trust may collect a fee sufficient to cover its costs in connection with each loan guaranteed under this Act. The authority to enter into any such loan guarantee agreement shall expire at the end of 15 years after the date of the enactment of this Act.

(2) The authority, subject to appropriations, to make loans to the occupants of property managed by the Trust for the preservation, restoration, maintenance, or repair of such property.

(3) The authority to issue obligations to the Secretary of the Treasury, but only if the Secretary of the Treasury agrees to purchase such obligations after determining that the projects to be funded from the proceeds thereof are credit worthy and that a repayment schedule is established and only to the extent authorized in advance in appropriations acts. The Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such notes or obligations acquired by the Secretary of the Treasury under this subsection. Obligations issued under this subparagraph shall be in such forms and denominations, bearing such maturities, and subject to such terms and conditions,

as may be prescribed by the Secretary of the Treasury, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. No funds appropriated to the Trust may be used for repayment of principal or interest on, or redemption of, obligations issued under this paragraph.

(4) The aggregate amount of obligations issued under this subsection which are outstanding at any one time may not exceed $50,000,000.

(e) The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities for the purpose of carrying out its duties. The Trust shall maintain a liaison with the Golden Gate National Park Association.

(f) Notwithstanding section 1341 of title 31 of the United States Code, all proceeds received by the Trust shall be retained by the Trust, and such proceeds shall be available, without further appropriation, for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties under its administrative jurisdiction. Upon the Request of the Trust, the Secretary of the Treasury shall invest excess moneys of the Trust in public debt securities with maturities suitable to the needs of the Trust.

(g) The Trust may sue and be sued in its own name to the same extent as the Federal Government. Litigation arising out of the activities of the Trust shall be conducted by the Attorney General; except that the Trust may retain private attorneys to provide advice and counsel. The District Court for the Northern District of California shall have exclusive jurisdiction over any suit filed against the Trust.

(h) The Trust shall enter into a Memorandum of Agreement with the Secretary, acting through the Chief of the United States Park Police, for the conduct of law enforcement activities and services within those portions of the Presidio transferred to the administrative jurisdiction of the Trust.

(i) The Trust is authorized, in consultation with the Secretary, to adopt and to enforce those rules and regulations that are applicable to the Golden Gate National Recreation Area and that may be necessary and appropriate to carry out its duties and responsibilities under this Act. The Trust shall give notice of the adoption of such rules and regulations by publication in the Federal Register.

(j) For the purpose of compliance with applicable laws and regulations concerning properties transferred to the Trust by the Secretary, the Trust shall negotiate directly with regulatory authorities.

(k) INSURANCE.—The Trust shall require that all leaseholders and contractors procure proper insurance against any loss in connection with properties under lease or contract, or the authorized activities granted in such lease or contract, as is reasonable and customary.

(l) BUILDING CODE COMPLIANCE.—The Trust shall bring all properties under its administrative jurisdiction into compliance with Federal building codes and regulations appropriate to use and occupancy within 10 years after the enactment of this Act to the extent practicable.

(m) LEASING.—In managing and leasing the properties transferred to it, the Trust consider the extent to which prospective tenants contribute to the implementation of the General Management Plan for the Presidio and to the maximum generation of revenues to the Federal Government. The Trust shall give priority to the following categories of tenants: tenants that enhance the financial viability of the Presidio; tenants that maximize the amount of revenues to the Federal Government; and tenants that facilitate the cost-effective preservation of historic buildings through their reuse of such buildings.

(n) REVERSION.—If, at the expiration of 15 years, the Trust has not accomplished the goals and objectives of the plan required in section (5)(b) of this Act, then all property under the administrative jurisdiction of the Trust pursuant to section (3)(b) of this Act shall be transferred to the Administrator of the General Services Administration to be disposed of in accordance with the procedures outlined in the Defense Authorization Act of 1990 (104 Stat. 1809), and any real property so transferred shall be deleted from the boundary of the Golden Gate National Recreation Area.

SEC. 5. LIMITATIONS ON FUNDING.

(a)(1) From amounts made available to the Secretary for the operation of areas within the Golden Gate National Recreation Area, not more than $25,000,000 shall be available to carry out this Act in each fiscal year after the enactment of this Act until the plan is submitted under subsection (b). Such sums shall remain available until expended.

(2) After the plan required in subsection (b) is submitted, and for each of the 14 fiscal years thereafter, there are authorized to be appropriated to the Trust not more than the amounts specified in such plan. Such sums shall remain available until expended. Of such sums, not more than $3 million annually shall be available through the Trust for law enforcement activities and services to be provided by the United States Park Police at the Presidio in accordance with section 4(h) of this Act.

(b) Within one year after the first meeting of the Board of Directors of the Trust, the Trust shall submit to Congress a plan which includes a schedule of annual decreasing federally appropriated funding that will achieve, at a minimum, self-sufficiency for the Trust within 15 complete fiscal years after such meeting of the Trust.

(c) The Administrator of the General Services Administration shall provide necessary assistance to the Trust in the formulation and submission of the annual budget request for the administration, operation, and maintenance of the Presidio.

SEC. 6. GENERAL ACCOUNTING OFFICE STUDY.

(a) Three years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct an interim study of the activities of the Trust and shall report the results of the study to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives. The study shall include, but shall not be limited to, details of how the Trust is meeting its obligations under this Act.

(b) In consultation with the Trust, the General Accounting Office shall develop an interim schedule and plan to reduce and replace the Federal appropriations to the extent practicable for interpretive services conducted by the National Park Service, and law enforcement activities and services, fire and public safety programs conducted by the Trust.

(c) Seven years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct a comprehensive study of the activities of the Trust, including the Trust's progress in meeting its obligations under this Act, taking into consideration the results of the study described in subsection (a) and the implementation of plan and schedule required in subsection (b). The General Accounting Office shall report the results of the study, including any adjustments to the plan and schedule, to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

PRIVILEGE OF THE FLOOR

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Aaron Watkins, a congressional fellow employed by the Department of the Interior, and assigned to the staff of the Committee on Energy and Natural Resources, be granted privilege of the floor for the duration of the consideration of H.R. 1296, a bill to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayers.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BENNETT addressed the Chair.

Mr. JOHNSTON. Mr. President, I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I ask unanimous consent that A. J. Martinez, a fellow from the Department of the Interior, be granted privilege of the floor during consideration of H.R. 1296, and all votes taken thereon.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, in the absence of Senator MURKOWSKI, his staff indicated that it would be appropriate for me to go ahead and make my statement at this point, so I would like to do so.

Mr. President, I want to make a few initial observations about where we are with respect to this bill and where I hope we will end up. Almost every park and public land bill reported from the Energy and Natural Resources Committee in this Congress is included in the Murkowski substitute to be introduced this morning. Most of these bills are noncontroversial and were reported by the committee unanimously; some have passed the Senate already but are held up in the House; some have passed the House and could go to the President, but for the fact that they are included in this package; others have had no action in either body.

While packaging these bills in this manner is not unprecedented, this particular package is unusual in at least two respects. First, for almost 1½ years we have been unable to move any of these bills through the Senate. This gridlock which has prevented our ability to legislate in this area is unprecedented. This is not the way we should do our business.

Whatever happens to this bill, I hope we will not find ourselves in this situation again. For as long as I have been in the Senate we have, until this Congress, been able to move these noncontroversial but important bills back and forth between the House and Senate in a spirit of bipartisanship and comity. I deeply regret that we appear to have lost the will and/or the ability to do that in this instance.

Second, the addition of the Utah wilderness bill to this package has transformed an effort to end procedural gridlock and enact a number of essential noncontroversial bills into a major battle over a very contentious wilderness proposal. The inclusion of the Utah wilderness bill in this package of otherwise relatively noncontroversial bills has brought on a filibuster here in the Senate and a veto threat from the administration.

I have indicated to my colleagues from Utah that I plan to support them in their efforts to get a Utah wilderness bill enacted. At the same time, I do not want to see the committee's efforts of the last year and a half wasted by passing a bill that does not pass or cannot pass the House and will almost certainly be vetoed.

Since the Utah wilderness bill was introduced, the delegation from Utah has agreed to modify it significantly. Wilderness acreage has been added and a number of significant changes in the management and land exchange provisions have been made. While I know that the changes do not go far enough for some of my colleagues, I think it is clear that the Utah delegation is serious about crafting a bill that can pass the Senate.

For example, with respect to one of the most contentious provisions of the bill, the so-called release language, the substitute before the Senate today contains language very similar to an amendment which I offered in the committee on this subject and which, though it failed on a 10 to 10 vote, had bipartisan support and, as I recall, the Democrats of the committee were united on that subject. So, in effect, Senators BENNETT and HATCH have agreed to the Democratic position in the committee on that subject.

The substitute no longer contains language requiring that release lands, that is, lands not designated as wilderness, be managed for nonwilderness multiple uses. Likewise, the substitute does not prohibit the BLM from managing these release lands in a manner that protects their wilderness character. Thus, this new language now satisfies the primary objective that my amendment in the committee addressed.

Under the language as introduced, the BLM would have been unable for any reason to manage released lands, that is, those lands not designated as wilderness, for anything but nonwilderness purposes. In addition, the BLM would have been precluded from adopting any management option that had the effect of protecting the wilderness character of these released lands. I was concerned that such restrictive language would preclude management for many legitimate purposes, such as dispersed recreation, protection of wildlife habitat or watersheds, the protection of scenic, scientific, or historical values or similar purposes.

Like the language offered, which was supported by virtually all the Senators on my side, the substitute now clearly permits these management options and only prohibits the BLM from managing these lands as wilderness study areas for the expressed purpose of protecting their suitability for future inclusion in the National Wilderness Preservation System.

While I recognize that there is still a serious limitation in the view of some of my colleagues, this current formulation is significantly narrower in scope than the bill introduced and illustrates the willingness of the Utah delegation to compromise on some of these very difficult issues. I hope that both sides will make the very serious effort over the next several days to reach an accommodation on this bill.

I might say, Mr. President, Senator BENNETT, a former member of our committee, has shown time and time again in this Senate his willingness to be reasonable, not to be extreme in any way, and try to work to a bipartisan solution. I do not know the details of all the land in Utah. In fact, I count myself as being unlucky because I have only been to Utah once and that was to the Salt Lake City airport. I am advised that it is a magnificent State with very beautiful lands. I cannot tell you about which lands are which in Utah. However, I support the position of my colleagues from Utah, frankly, as an indication of my confidence in their fairness and their reasonableness in picking these lands and because I think the two Senators from the State ought to, in all but very extreme circumstances, have the ability to deal with wilderness matters in their State.

Now, having said that, I can tell my colleagues from Utah that they are up against very strong and persuasive opposition. The most persuasive opposition you can get is a veto threat from the President. I offer to them and to my colleagues on this side of the aisle whatever services I can give in trying to find a common solution so that we can work out a bill that not only passes the Senate, gets past the filibuster, but can avoid the veto threat of the President.

They have shown already, as I just indicated, on the release language, their willingness to work to this kind of purpose. I hope we can find a way to do that here on this floor so we can do more than just pass a bill in the Senate or get a majority of the votes in the Senate for a bill that does not become law; rather, that we pass a law that does become law and settles this very contentious issue in a good way for the people of this country, as well as the people of the State of Utah.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska [Mr. MURKOWSKI] is recognized to offer a substitute amendment.

AMENDMENT NO. 3564

(Purpose: To offer an amendment in the nature of a substitute to H.R. 1296, a bill to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, and for other purposes)

Mr. MURKOWSKI. Mr. President, I send to the desk a substitute amendment and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 3564.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. MURKOWSKI. Let me acknowledge my friend from Louisiana, the ranking member of the Energy and Natural Resources Committee, for his statement of support on the Utah wilderness. As we both know, serving on the committee, this particular phase of this package of legislation has been worked long and hard. We will hear from the representatives from Utah with regard to the specifics, but I think we have a good package here.

I want to remind my colleagues, of the 56 or so titles of this bill, there is virtually something in it for almost every Member of this body in the sense of it affecting his or her individual State. I encourage my colleagues to recognize the importance of staying together on this package, because once we start to take it apart by motions to strike, it will lose its base of support in the House of Representatives. I can assure all of the Members of that fact.

PRIVILEGE OF THE FLOOR

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that Michael Menge be permitted privilege of the floor for the duration of the debate of H.R. 1296, the Presidio legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I ask unanimous consent that John Piltzecker be granted privilege of the floor during consideration of H.R. 1296.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, the legislation under consideration today is probably the largest and, in my opinion, one of the most balanced environmental packages we have addressed in the Senate, at least in this Congress. This major legislative effort does, really, a number of things. It is proenvironment, it is profuture. I think it is fair to say that basically everybody wins. The bill represents a balance between protection of our parks and our public lands and the welfare of families and the economic well-being of the Nation and many local communities.

Furthermore, Mr. President, it is a very reasonable attempt to fulfill a multiple-use concept and add to the wilderness some 2 million acres. Now, acreage, in the eyes of many, does not relate to anything, and perhaps I can put it in perspective. The State of Delaware is about 1 million acres. We are proposing to add 2 million acres in Utah. It is fair to say 2 million acres is about three times the size of the State of Rhode Island; 2 million acres of wilderness is about half the size of the State of New Jersey.

Let me put this in a further perspective, Mr. President, as we address wilderness and what it means. In the State of New Jersey, there are 10,341 acres of wilderness. With this bill, we would be adding to Utah's 800,000 acres of wilderness another 2 million, making it 2.8 million, approximately.

Another State that comes to mind in comparison is Arkansas. There are 127,000 acres of wilderness in the State of Arkansas. By this legislation, we would be adding 2 million in the State of Utah, again making it 2.8 million.

My friend from Louisiana has 17,046 acres of wilderness in his state of Louisiana. I am not going to talk too much about my State of Alaska but will just mention in passing, we have 57 million acres of wilderness in the State of Alaska. We are proud of that wilderness. I think it is important in this debate that we keep this in a proportional comparison, because with New Jersey at 10,341, one wonders why there is not a little more wilderness in New Jersey. I will leave that to the Senator from New Jersey to explain.

Mr. President, this bill contains over 50 measures affecting our parks, our national forests, and public lands. It is really a bipartisan endeavor. It addresses legislation introduced by Members on both sides of the aisle and represents a broad spectrum of interests from legislation dealing with everything from the Olympic games in Utah to the Sterling Forest in New York, to land exchanges in California, to boundary adjustments in the Commonwealth of Virginia.

The legislation contains expanded authorities for the National Park Service which will contribute to more cost-effective management and add additional parklands for the protection and enjoyment of all Americans now and in the future.

There are several land exchange proposals that will add environmentally sensitive lands to the Nation's public land inventory, as well as having the effect of rearranging scattered Federal land areas into manageable units that will be protected well into the future.

The amendment starts with the Presidio, San Francisco. The title is a result of long hours of negotiation, long hours of bargaining and compromise. I made a visit to this military post on the San Francisco peninsula. The committee has been presented with a major challenge, and I am pleased to report to you that we, I think, have a realistic method to save this valuable historic asset. Let me recognize Representatives from the House, as well as those Members from the California delegation of the Senate, DIANNE FEINSTEIN and BARBARA BOXER. I know how much this particular legislation means, and we have been working with them to try and reach an accord.

Mr. President, under this legislation, and over a period of time, the Federal appropriated dollars that made this park the most expensive operation in the National Park System, I am pleased, will be reduced over a period of time to basically zero. Federal dollars will be replaced with money and expertise from the private sector, and the private sector is willing and able to accomplish that.

Mr. President, following the provisions affecting the Presidio, we have some 32 additional titles covering 53 separate measures, and now there have been three more for a total of 56. I trust that the staffs are responding this morning because I am going to go through the various titles and identify the States because, again, I want to emphasize that there is virtually an interest by each State in this package of titles.

Here is the list of titles:

Yucca House National Monument boundary adjustment (Colorado);

Zion National Park boundary adjustment (Utah);

Pictured Rocks National lakeshore boundary adjustment (Michigan);

Independence National Historic Park boundary adjustment (Pennsylvania);

Craters of the Moon National Monument boundary adjustment (Idaho);

Hagerman Fossil Beds National Monument boundary adjustment (Idaho);

Wupatki National Monument boundary adjustment (Arizona);

New River Gorge National River (West Virginia);

Gauley River National recreation area (West Virginia);

Bluestone National Scenic River (West Virginia);

Kaloko-Honokohau National Historical Park (Hawaii);

Women's Rights National Historical Park (New York);

Boston National Historical Park (Massachusetts);

Cumberland Gap National Historic Park (Kentucky, Virginia, Tennessee);

William O. Douglas outdoor classroom (California);

Limitation on park buildings (National Park service-wide);

Appropriations for transportation of children (National Park service-wide);

Federal burros and horses (National Park service-wide);

Authorities of the Secretary relating to museums (National Park service-wide);

Volunteers in the parks increase (National Park service-wide);

Cooperative agreements for research purposes (National Park service-wide);

Carl Garner Federal lands cleanup day (Federal lands-wide);

Fort Pulaski National Monument (Georgia);

Laura C. Hudson visitor center (Louisiana);

United States Civil War Center (Louisiana);

Title III—Robert J. Lagomarsino Visitor Center (California);

Title IV—Rocky Mountain National Park Visitor Center (Colorado);

Title V—Corinth, Mississippi Battlefield Act (Mississippi);

Title VI—Walnut Canyon National Monument Boundary Modification (Arizona);

Title VII—Delaware Water Gap (Pennsylvania, New Jersey);

Title VIII—Targhee National Forest Land Exchange (Idaho, Wyoming);

Title IX—Dayton Aviation (Ohio);

Title X—Cache La Poudre (Colorado);

Title XI—Gilpin County, Colorado Land Exchange (Colorado);

Title XII—Butte County, CA. Land Conveyance (California);

Title XIII—Carl Garner Federal Lands Cleanup Day (Federal lands-wide);

Title XIV—Anaktuvuk Pass Land Exchange (Alaska);

Title XV—Alaska Peninsula Subsurface Consolidation (Alaska);

Title XVI—Sterling Forest (New York, New Jersey);

Title XVII—Taos Pueblo Land Transfer (New Mexico);

Title XVIII—Ski Fees (National Forest System-wide);

Title XIX—Selma to Montgomery National Historic Trail (Alabama);

Title XX—Utah Wilderness (Utah);

Title XXI—Fort Carson-Pinon Canyon (Colorado);

Title XXII—Snowbasin Land Exchange Act (Utah);

Title XXIII—Colonial National Historical Park (Virginia);

Title XXIV—Women's Rights National Historical Park (New York);

Title XXV—Franklin D. Roosevelt Family Lands (New York);

Title XXVI—Great Falls Historic District (New Jersey);

Title XXVII—Rio Puerco Watershed (New Mexico);

Title XXVIII—Columbia Basin (Washington);

Title XXIX—Grand Lake Cemetery (Colorado);

Title XXX—Old Spanish Trail (New Mexico, Colorado, Utah, California);

Title XXXI—Blackstone River Valley (Massachusetts, Rhode Island);

Title XXXII—Cuprum, Idaho Relief (Idaho); and

Title XXXIII—Arkansas and Oklahoma Land Transfer (Arkansas, Oklahoma).

So, you see, Mr. President, this has far-reaching effects, and I urge my colleagues to recognize and assess keeping this package together to ensure that it will be passed when it reaches the House.

Mr. President, within the noncontroversial issues, as I have indicated, there are a host of minor boundary adjustments and small operational change authorizations requested by the Department of Interior. There are authorizations for historic trail studies, building and naming national park visitor centers, expansion of historical parks, and equal value land exchanges for the Department of Agriculture. We have also addressed survey problems, and we authorize the citizens of Grand Lake, CO, to maintain their own town cemetery. It just happens to lie inside the boundaries of the Rocky Mountain National Park. There are other noncontroversial measures, each benefiting one or more segments of our society.

Mr. President, by far, the most controversial component of the package that we are considering is the title dealing with the Utah wilderness. Mr. President, it is suggested that if Winston Churchill were a Member of this body, he would have said, "Never have so few done so much to confuse so many." It is our collective responsibility, I think, to look past the smoke screen that has been framed by extreme elitist types on the Utah wilderness issue.

Under the provisions of this bill, the Nation gains some 2 million acres of new wilderness. The lands under consideration meet the legislatively mandated definition of what wilderness should be. These are truly land masses that retain their primeval character and their influence, without permanent improvements or human habitation, with the imprint of man's work substantially unnoticeable, just as the act tells us the requirements must be. We have the benefit of extensive studies and efforts poured into defining exactly what lands should and should not be included in the wilderness system for Utah.

This whole issue was initiated by an act of Congress under the terms and conditions contained within the Federal Land Planning and Management Act. The effort was carried out by professional subject matter experts working for the Federal Government, not political appointees. In other words, Mr. President, this was done by professionals working for the Federal Government, but independent of the political influences associated with political appointees. That is not the case on the current recommendations that are coming from the other side to increase this wilderness in the area of 5 million acres.

Mr. President, the Bureau of Land Management study and final report cost the taxpayers of this country in excess of $10 million. It took more than 15 years to complete. This process, which was carried out in the full light of the public land planning process, included input from some 16,000 written comments, and there were over 75 formal public hearings on this question of Utah wilderness. The study processed was open to every citizen of the United States. It was well-defined criteria, and well documented. Appeals and protests rights were well publicized and used by groups of people on both sides of the issue. At the culmination of this process, those independent professionals recommended the inclusion of 1.9 million acres. This legislation recommends 2 million acres on the nose.

Those Federal employees in that open process spoke basically for every citizen in this country who participated in the Utah wilderness process. The process followed the rules that, I remind my colleagues, are extensively articulated in both the Wilderness Act of 1964 and the Federal Land Planning and Management Act.

Mr. President, unfortunately, the Secretary of the Interior, Secretary Babbitt, seems to want to ignore the advice of his own professional managers.

Here is the record of decision, Mr. President, the Utah Statewide Wilderness Study Report that substantiates the recommendations that it be 2 million acres. So the Secretary has decided to ignore that.

I ask unanimous consent that this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Bureau of Land Management, Oct. 1991]

UTAH STATEWIDE WILDERNESS STUDY REPORT, VOLUME I—STATEWIDE OVERVIEW

THE SECRETARY OF THE INTERIOR,
Washington, DC, October 18, 1991.

RECORD OF DECISION

The following are the wilderness recommendations for 95 wilderness study areas (WSAs) in the State of Utah. These recommendations were developed from the findings of a 15-year wilderness study process by the Department of the Interior and Bureau of Land Management. The wilderness studies considered each area's resource values, present and projected future uses of the areas, public input, the manageability of the areas as wilderness, the environmental consequences of designating or not designating the areas as wilderness, and mineral surveys prepared by the U.S. Geological Survey and Bureau of Mines.

Based on our review of those studies, I have concluded that 1,958,339 acres within 69 study areas should be designated as part of the National Wilderness Preservation System and that 1,299,911 acres within 63 study areas should be released from wilderness study for uses other than wilderness. The acreage recommendations for each WSA, with which I concur, are listed in the following table. The Wilderness Study Report accompanying this decision includes a detailed discussion of the recommendations and maps showing the boundaries of each area.

MANUEL LUJAN, Jr.,
Secretary of the Interior.

UTAH WILDERNESS RECOMMENDATION

[Utah Statewide EIS WSAs/ISAs]

WSA/ISA name	Study	WSA number	Acres recommended for wilderness	Acres recommended for nonwilderness
North Stansbury Mountains	Statewide	UT–020–089	10,480	0
Cedar Mountains	Statewide	UT–020–094	0	50,500
Deep Creek Mountains	Statewide	UT–050–020/UT–020–060	57,384	11,526
Fish Springs	Statewide	UT–050–127	33,840	18,660
Rockwell	Statewide	UT–050–186	0	9,150
Swasey Mountain	Statewide	UT–050–061	34,376	15,124
Howell Peak	Statewide	UT–050–077	14,800	10,000
Conger Mountain	Statewide	UT–050–035	0	20,400
Notch Peak	Statewide	UT–050–078	28,000	23,130
King Top	Statewide	UT–050–070	0	84,770
Wah Wah Mountains	Statewide	UT–050–073/UT–040–205	36,382	5,758
Cougar Canyon	Statewide	UT–040–123/NV–050–166	4,228	6,340
Red Mountain/Red Mountain 202	Statewide	UT–040–132/132A	12,842	5,448
Cottonwood Canyon	Statewide	UT–040–046	9,853	1,477
LaVerkin Creek Canyon *	Statewide	UT–040–153 (202)	567	0
Deep Creek *	Statewide	UT–040–146 (202)	3,320	0
North Fork Virgin River *	Statewide	UT–040–150 (202)	1,040	0
Orderville Canyon *	Statewide	UT–040–145 (202)	1,750	0
Parunuweap Canyon	Statewide	UT–040–230	17,888	12,912
Canaan Mountain	Statewide	UT–040–143	33,800	13,370
Moquith Mountain	Statewide	UT–040–217	0	14,830
The Blues	Statewide	UT–040–268	0	19,030
Mud Spring Canyon	Statewide	UT–040–077	0	38,075
Paria-Hackberry/Paria-Hackberry 202	Statewide	UT–040–247/247A	95,042	41,180
The Cockscomb	Statewide	UT–040–275	5,100	4,980
Wahweap	Statewide	UT–040–248	0	134,400
Burning Hills	Statewide	UT–040–079	0	61,550
Death Ridge	Statewide	UT–040–078	0	62,870
Phipps-Death Hollow	Statewide	UT–ISA–006	39,256	3,475

UTAH WILDERNESS RECOMMENDATION—Continued

[Utah Statewide EIS WSAs/ISAs]

WSA/ISA name	Study	WSA number	Acres recommended for wilderness	Acres recommended for nonwilderness
Steep Creek	Statewide	UT–040–061	20,806	1,090
North Escalante Canyons/The Gulch	Statewide	UT–ISA–004	91,558	28,194
Carcass Canyon	Statewide	UT–040–076	0	46,711
Scorpion	Statewide	UT–040–082	14,978	20,906
Escalante Canyons Tract 5	Statewide	UT–ISA–005	760	0
Fiftymile Mountain	Statewide	UT–040–080	91,361	54,782
Mt. Ellen-Blue Hills	Statewide	UT–050–238	65,804	15,922
Bull Mountain	Statewide	UT–050–242	11,800	1,820
Dirty Devil	Statewide	UT–050–236A	61,000	0
Horseshoe Canyon (South)	Statewide	UT–050–237	36,000	2,800
French Spring-Happy Canyon	Statewide	UT–050–236B	11,110	13,890
Fiddler Butte	Statewide	UT–050–241	32,700	40,400
Mt. Pennell	Statewide	UT–050–248	25,800	48,500
Mt. Hillers	Statewide	UT–050–249	16,360	3,640
Little Rockies	Statewide	UT–050–247	38,700	0
Mancos Mesa	Statewide	UT–060–181	51,440	0
Grand Gulch ISA Complex	Statewide	UT–ISA–001	105,520	0
Pine Canyon WSA		UT–060–188		
Bullet Canyon WSA		UT–060–196		
Sheiks Flat WSA		UT–060–224		
Slickhorn Canyon WSA		UT–060–197/198		
Road Canyon	Statewide	UT–060–201	52,420	0
Fish Creek Canyon	Statewide	UT–060–204	40,160	6,280
Mule Canyon	Statewide	UT–060–205B	5,990	0
Chessebox Canyon	Statewide	UT–060–191	0	15,410
Dark Canyon ISA Complex	Statewide	UT–ISA–002	68,030	0
Middle Point WSA		UT–060–175		
Butler Wash	Statewide	UT–060–169	24,190	0
Bridger Jack Mesa	Statewide	UT–060–167	5,290	0
Indian Creek	Statewide	UT–060–164	6,870	0
Behind The Rocks	Statewide	UT–060–140A	12,635	0
Mill Creek Canyon	Statewide	UT–060–139A	9,780	0
Negro Bill Canyon	Statewide	UT–060–138	7,620	0
Horsehoe Canyon (North)	Statewide	UT–060–045	20,500	0
San Rafael Reef	Statewide	UT–060–029A	59,170	0
Crack Canyon	Statewide	UT–060–028A	25,335	0
Muddy Creek	Statewide	UT–060–007	31,400	0
Devils Canyon	Statewide	UT–060–025	0	9,610
Sids Mountain/Sids Cabin 202	Statewide	UT–060–023/023A	80,084	886
Mexican Mountain	Statewide	UT–060–054	46,750	12,850
Jack Canyon	Statewide	UT–060–068C	0	7,500
Desolation Canyon	Statewide	UT–060–068A	224,850	65,995
Turtle Canyon	Statewide	UT–060–067	0	33,690
Floy Canyon	Statewide	UT–060–068B	23,140	49,465
Coal Canyon	Statewide	UT–060–100C	20,774	40,656
Spruce Canyon	Statewide	UT–060–100C	14,736	5,614
Flume Canyon	Statewide	UT–060–100B	16,495	34,305
Westwater Canyon	Statewide	UT–060–118	26,000	5,160
Winter Ridge	Statewide	UT–080–730	0	42,462
Red Butte[a]	Statewide	UT–040–147 (202)	804	0
Spring Creek Canyon[a]	Statewide	UT–040–148 (202)	1,607	2,826
The Watchman[a]	Statewide	UT–040–149 (202)	600	0
Taylor Creek Canyon[a]	Statewide	UT–040–154 (202)	35	0
Goose Creek Canyon[a]	Statewide	UT–040–176 (202)	89	0
Beartrap Canyon[a]	Statewide	UT–040–177 (202)	40	0
Fremont Gorge[a]	Statewide	UT–050–221 (202)	0	2,540
Lost Spring Canyon[a]	Statewide	UT–060–131B (202)	3,880	0
Daniels Canyon[a]	Statewide	UT–080–414 (202)	0	2,496
South Needles[a]	Statewide	UT–060–169A	160	0
Statewide EIS totals			1,945,079	1,285,355

[a] Recommended in conjunction with adjacent National Parks.

UTAH WILDERNESS RECOMMENDATION

[Utah ISAs not in Statewide EIS]

WSA/ISA Name	Study	WSA number	Acres recommended for wilderness	Acres recommended for nonwilderness
Book Cliffs Mountain Browse N.A.[1]	Unit	UT–ISA–007	0	400
Devils Garden N.A.[1]	Unit	UT–ISA–009	0	640
Joshua Tree N.A.[1]	Unit	UT–ISA–010	0	1,040
Escalante Canyons (Tract 1) N.A.[1]	Unit	UT–ISA–003	0	360
Link Flats N.A.[1]	Unit	UT–ISA–008	0	912
Unit ISA totals			0	3,352

[1] N.A.=Natural area.

[Utah WSAs studied by other States]

WSA/ISA Name	Study	WSA number	Acres recommended for wilderness	Acres recommended for nonwilderness
West Cold Spring	District	UT–080–103/ CO–010–208	0	3,200
Diamond Breaks	District	UT–080–113/ CO–010–214	3,620	280
Bull Canyon	District	UT–080–419/ CO–010–001	620	40
Wrigley Mesa/Jones Canyon/Black Ridge Canyon West	Resource Area	UT–060–116/117/ CO–070–113A	5,200	0
Squaw/Papoose Canyon	Resource Area	UT–060–227/ CO–030–265A	0	6,676
Cross Canyon	Resource Area	UT–060–229/ CO–030–265	0	1,008
White Rock Range	Resource Area	UT–040–216/ NV–040–202	3,820	0

[Utah WSAs studied by other States]

WSA/ISA Name	Study	WSA number	Acres recommended for wilderness	Acres recommended for nonwilderness
Total Utah WSAs studies by other States			13,260	11,204
Utah study totals			1,958,339	1,299,911

Mr. MURKOWSKI. I thank the Chair.

Mr. President, it is important to note that throughout the committee deliberations on this issue the Secretary did not offer one constructive comment—not one single comment—nor did he direct his legions to put forth an alternative. He was silent except for his exchanges with the media.

So here we have a Secretary that objects to this even after some $10 million and 15 years, and comes up with no suggested alternative.

That brings me to the point which I find very, very disturbing. I personally received from the Secretary, not directly but through the news media, a letter. This letter contains the passage that if the Utah wilderness provision contained in this bill prevails he would recommend that the President veto the entire bill. This did not come in the mail, Mr. President. Again, the Secretary offered no other constructive alternative to the wilderness proposal. I do not know. Maybe he wanted to save stamps and figured that the media would deliver his message. Well, they did deliver his message. I put a copy that we finally received into the RECORD. I ask unanimous consent that it be printed. I add that this did not come in the mail.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARY OF THE INTERIOR,
Washington, DC, March 15, 1996.

Hon. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to convey the Administration's position on the Omnibus Parks Bill, due before the full Senate shortly. If the Utah Public Lands Management Act is part of an omnibus bill sent to the President, I would recommend that he veto the entire package.

The Administration is prepared to support the omnibus park bill if the Utah wilderness provision is deleted and with the qualifications mentioned below.

With regard to the Presidio, we have continued to work with the Committee to arrive at acceptable language. I am prepared to recommend that the President support this provision, assuming the Senate includes language authorizing the Trust to transfer properties surplus to its needs and open space areas to the Secretary (as provided for in the House-passed bill), deletes the Davis-Bacon waiver (again as in the House bill), deletes the exemption from the Anti-Deficiency Act, and clarifies that the National Park Service may continue short-term use and occupancy agreements until the Trust is established.

As to the remaining titles, we are, in general, favorably disposed to their enactment. However, the Alaska Peninsula Subsurface Consolidation title is problematic. It would establish a new appraisal methodology that would likely result in the overvaluation of Koniag subsurface rights, at the expense of the taxpayer. In addition, the National Park Service does not believe that Koniag subsurface rights, at the expense of the taxpayer. In addition, the National Park Service does not believe that Koniag has a valid claim on some lands the Secretary would be directed to acquire, and these interests are of very low priority when evaluated on an objective basis.

It is my understanding that certain procedural obstacles to the consideration of the individual titles have recently been overcome. We would also be pleased to encourage swift passage and adoption of the vast majority of the bill's titles were they to be considered separately. I have directed my staff to work with the Committee to convey other technical concerns of the Department and assist in improving the legislation where we have expressed concerns, and hope this has been helpful to those seeking to assess prospects for this legislation.

The Office of Management and Budget has advised that there is no objection to the submission of this report and that enactment of this legislation in its current form would not be in accord with the program of the Administration.

Sincerely,

BRUCE BABBITT.

Mr. MURKOWSKI. Mr. President, I still have not received the original letter from the Secretary. I find these events indicative of some of the attitudes that this administration—or some in this administration—seems to have for the Congress and the people who will benefit by the passage of this legislation. Playing in the media is only self-serving. It does not serve the public. Unfortunately, some of the media seemed to not have the intestinal fortitude to get up and find out just what the facts are. I hope they will search them out with regard to this package that is so important to the lands in the United States.

It is true that some of these lands in the State of Utah that they are going to receive in the exchange authorized under this legislation may be developed, but very little. It will not be developed irresponsibly. I think we can trust the people of Utah in that regard. The moneys generated from some of these lands go to Utah schools and institutions. Some opponents of the legislation suggest that the land will be ruined and developed beyond recognition. I know that my colleagues are aware of all of the safeguards that are still in place under both Federal and State laws, and they are almost too numerous to mention, Mr. President. But I think it is important that we recognize just what the significance of these checks and balances are because they are numerous.

To suggest that somehow Utah will have the flexibility to irresponsibly develop this land defies logic, Mr. President. I am going to submit for the RECORD legislative authorities involving the Bureau of Land Management, the General Public Lands Management Act, the general environmental laws. They consist of the Federal Land Policy Management Act, Classification of Multiple Use Act, Federal Advisory Committee Act, Coastal Zone Management Act, National Environmental Policy Act, Clean Air Act, Federal Water Pollution Control Act, Safe Drinking Water Act, Noise Control Act, Solid Waste Disposal Act, Environmental Quality Improvement Act, Hazardous Materials Transportation Act, Comprehensive Environmental Response, Oil Pollution Act, National Environmental Education Act, on and on and on.

I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEGISLATIVE AUTHORITIES INVOLVING BLM

I. GENERAL PUBLIC LANDS MANAGEMENT

1. Federal Land Policy and Management Act of 1976, as amended, 43 U.S.C. 1701, et seq.
2. Classification and Multiple Use Act of 1964, as amended, 433 U.S.C. 1411 et seq. (Expired. However, segregative effects of classifications are valid until modified or terminated.)
3. Federal Advisory Committee Act, as amended, 5 U.S.C. Appendix I
4. Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 et seq.

II. GENERAL ENVIRONMENTAL LAWS

1. National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4347
2. Clean Air Act, as amended, 42 U.S.C. 7401 et seq.
3. Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. (Includes Clean Water Act of 1977 and Water Quality Act of 1987)
4. Safe Drinking Water Act, as amended, 42 U.S.C. 42 U.S.C. 300f et seq.
5. Noise Control Act of 1972, as amended, 42 U.S.C. 4901 et seq.
6. Solid Waste Disposal Act of 1965, as amended, 42 U.S.C. 6901 et seq. (Includes Resource Conservation and Recovery Act of 1976)
7. Environmental Quality Improvement Act, as amended, 42 U.S.C. 4371–4374
8. Hazardous Materials Transportation Act, as amended, 49 U.S.C. 1801–1813
9. Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA) "Superfund," 42 U.S.C. 9601 (Includes Superfund Amendments and Reauthorization Act of 1986 (SARA))
10. Oil Pollution Act of 1990, as amended, 104 Stat. 484–575; 33 U.S.C. 2701/2719; 33 U.S.C. 2731–2737; 33 U.S.C. 1319, 1321; 43 U.S.C. 1642, 1651 et seq. (Includes Oil Terminal and Oil

Tanker Environmental Oversight and Monitoring Act of 1990)

11. National Environmental Education Act, 104 Stat. 3325–3329; 20 U.S.C. 5501–5510

12. Antarctica Protection Act, 104 Stat. 2975–2978; 16 U.S.C. 2461–2466

13. Arctic Research and Policy Act of 1984, as amended, 15 U.S.C. 4101–4111; 30 U.S.C. 1801–1811 (Includes National Critical Materials Act of 1984)

14. Global Change Research Act of 1990, 15 U.S.C. 2921 et seq. (Includes International Cooperation in Global Change Research Act of 1990)

15. The Emergency Planning and Community Right-to-Know Act of 1986

16. The Community Environmental Response Facilities Act of 1992

III. LANDS AND REALTY MANAGEMENT

1. Alaska Native Claims Settlement Act, as amended, 43 U.S.C. 1601 et seq.

2. Reservations and Grants to States for Public Purposes, 43 U.S.C. 851 et seq.

3. Carey Act of August 18, 1894, as amended, 43 U.S.C. 641 et seq.

4. Desert Land Act of March 3, 1877, as amended, 43 U.S.C. 321 et seq

5. Color of Title Act, as amended, 43 U.S.C. 1068

6. Recreation and Public Purposes Act, as amended, 43 U.S.C. 869

7. Act of July 26, 1955, 69 Stat. 374 (Timber Access Roads)

8. Act of February 28, 1958, 43 U.S.C. 155–158 (Withdrawal for Defense Purposes "Engle Act")

9. Act of July 7, 1958, 72 Stat. 339, 48 U.S.C. Chapter 2 (Alaska Statehood)

10. Alaska Omnibus Act, as amended, 73 Stat. 141, 48 U.S.C. Chapter 2

11. Act of September 21, 1922, 43 U.S.C. 992 (Erroneously Meandered Lands, Arkansas)

12. Act of February 19, 1925, 43 U.S.C. 993 (Erroneously Meandered Lands, Louisiana)

13. Act of February 27, 1925, 43 U.S.C. 994 (Erroneously Meandered Lands, Wisconsin)

14. Act of August 24, 1954, 43 U.S.C. 1221 (Erroneously Meandered Lands/Wisconsin River and Lake Land Titles)

15. Act of May 31, 1962, 76 Stat. 89 (Snake River, Idaho—Omitted Lands)

16. Federal-Aid Highway Act, as amended, 23 U.S.C. 101 et seq.

17. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601 et seq.

18. Act of September 28, 1850, as amended, 43 U.S.C. 982 et seq. (Grants of Swamp and Overflowed Lands)

19. Submerged Lands Act, as amended, 43 U.S.C. 1301 et seq.

20. Alaska Natural Gas Transportation Act of 1976, 15 U.S.C. 719

21. Act of February 26, 1931, as amended, 40 U.S.C. 258a–258e (Popularly Known as the Declaration of Taking Act)

22. Various Acts authorizing creation of units within the National Park System which provided for exchanges involving public land—

a. Act of September 13, 1962, 16 U.S.C. 459c–459c-7 (Point Reyes National Seashore)

b. Act of September 11, 1964, as amended, 16 U.S.C. 459e–459e-9 (Fire Island National Seashore, NY)

c. Act of October 8, 1964, as amended, 16 U.S.C. 460n–460n-9 (Lake Mead National Recreation Area, AZ & NV)

d. Act of October 15, 1966, 16 U.S.C. 460t (Bighorn Canyon National Recreation Area, WY & MT)

e. Act of July 15, 1968, as amended, 16 U.S.C. 4601-11 (Conveyances in National Park System and Miscellaneous Areas—Freehold and Leasehold Interests; Competitive bidding; Exchanges)

f. Act of October 2, 1968, 16 U.S.C. 90 (North Cascades National Park, WA)

g. Act of October 2, 1968, 16 U.S.C. 79a–79j (Redwood National Park, WA)

h. Act of June 28, 1980, 16 U.S.C. 410gg-2(b) (Biscayne National Park, FL)

23. Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 et seq. (Section 601—Energy and Impact Area Development Assistance)

24. Act of October 21, 1970, as amended, 16 U.S.C. 460y–460y-9 (King Range National Conservation Area)

25. Federal Land Exchange Facilitation Act of 1988, 43 U.S.C. 751; 1716–1723

26. Rail Safety and Service Improvement Act of 1982, 96 Stat. 2543; 45 U.S.C. 1201–1214; 43 U.S.C. 1611, 1615, 1621, 1635 (Includes the Alaska Railroad Transfer Act of 1982)

27. Alaska National Interest Lands Conservation Act, as amended, 43 U.S.C. 1631 et seq.

28. Coastal Barrier Resources Act, as amended, 16 U.S.C. 3501–3510

29. Federal Lands Cleanup Act of 1985, 36 U.S.C. 169

30. Act of November 4, 1986, 28 U.S.C. 2409a (Real Property Quiet Title Actions)

31. Wildfire Suppression Assistance Act, 42 U.S.C. 1856

32. Utah School Lands Improvement Act, 107 Stat. 995

33. Airport and Airway Improvement Act of 1982

34. The Engle Act of February 28, 1958

35. The Burton-Sensitive Act, Public Law 96–586

36. The Zuni Act, Public Law 98–408

37. The Federal Power Act of 1920, as amended

IV. ENERGY AND MINERALS MANAGEMENT

1. Act of May 10, 1872, as amended, 30 U.S.C. 21 et seq. (General Mining Law)

2. Mineral Leasing Act, as amended, 30 U.S.C. 1818 et seq. Includes:

a. Act of November 16, 1973, 87 Stat. 576 (Trans-Alaska Pipeline Authorization Act)

b. Federal Coal Leasing Amendments of 1976, 90 Stat. 1083

c. Combined Hydrocarbon Leasing Act of 1981, 95 Stat. 1070 (Tar Sand)

d. Federal Onshore Oil and Gas Leasing Reform Act of 1987, 101 Stat. 1330-256–1330-263

3. Mineral Leasing Act for Acquired Lands, as amended, 30 U.S.C. 351–359

4. Geothermal Steam Act of 1970, as amended, 30 U.S.C. 1001 et seq.

5. Outer Continental Shelf Lands Act, as amended, 43 U.S.C. 1331 et seq.

6. Naval Petroleum Reserves Production Act of 1976, as amended, 42 U.S.C. 6501 et seq. (Includes Barrow Gas Field Transfer Act of 1984)

7. Surface Mining Control and Reclamation Act of 1977, as amended, 30 U.S.C. 1201 et seq.

8. Act of February 7, 1927, 30 U.S.C. 281 et seq. (Potash Mineral Leasing)

9. Multiple Mineral Development Act, as amended, 30 U.S.C. 521-531.

10. Act of August 12, 1953, 30 U.S.C. 501–505 (Mining Claims on Lands Subject to Mineral Leasing Laws)

11. Act of August 11, 1955, 30 U.S.C. 541–541i (Mining Location on Coal Lands)

12. Stock-Raising Homestead Act of 1916, as amended (Section 9), 43 U.S.C. 299. (Includes Act of April 16, 1993, regarding mining claims)

13. Mining Claims Rights Restoration Act of 1955, as amended, 30 U.S.C. 621–625

14. Act of April 17, 1926, 30 U.S.C. 271–276 (Sulphur Mineral Leasing)

15. Act of May 9, 1942, 30 U.S.C. 181, et seq. (Silica Leasing on Withdrawn Lands)

16. Act of June 8, 1926, 30 U.S.C. 291–293 (Lease of gold, silver, or quicksilver on private land claims)

17. Act of March 18, 1960, 30 U.S.C. 42 (Mill sites)

18. Act of July 31, 1947, as amended, 30 U.S.C. 601 et seq. (Popularly known as the Materials Act of 1947) (Includes the Multiple Use Mining Act of 1955)

19. Barrow Gas Field Transfer Act of 1984, 42 U.S.C. 6504

20. Arctic Research and Policy Act of 1984, 15 U.S.C. 4101 et seq; 30 U.S.C. 1801 et seq.

21. Act of August 29, 1984, 30 U.S.C. 1221 et seq. (State Mining and Mineral Resources Research Institute Program)

22. National Critical Materials Act of 1984, as amended, 30 U.S.C. 1801–1811.

23. Federal Oil and Gas Royalty Management Act of 1982, as amended, 30 U.S.C. 1701–1757; 30 U.S.C. 188

24. Energy Policy and Conservation Act, as amended, 42 U.S.C. 6201 et seq.

25. Federal Power Act, as amended, 16 U.S.C. 791a; 818

26. Deep Seabed Hard Mineral Resources Act, 30 U.S.C. 1413

27. Uranium Mill Tailings Radiation Control Act of 1978, as amended, 42 U.S.C. 7901 et seq. (Includes the Uranium Mill Tailings Remedial Action Amendments Act of 1988, Section 7916)

28. Energy Policy Act of 1992, 106 Stat. 2782; 42 U.S.C. 13201 et seq.

29. Waste Isolation Pilot Plant Land Withdrawal Act, 106 Stat. 4777

V. RENEWABLE RESOURCES MANAGEMENT

1. Public Rangelands Improvement Act of 1978, 43 U.S.C. 1901 et seq.

2. Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 et seq.

3. Act of August 28, 1937, as amended, 43 U.S.C. 1181a et seq. (Oregon and California Railroad and Coos Bay Wagon Road Grant Lands)

4. Act of June 28, 1934, as amended, 43 U.S.C. 315–315r (Popularly known as the Taylor Grazing Act)

5. Act of December 15, 1971, as amended, 16 U.S.C. 1331 et seq. (Popularly known as the Wild and Free-Roaming Horses and Burro Act)

6. Act of September 15, 1960, as amended, 16 U.S.C. 670g (Popularly known as the Sikes Act)

7. Act of June 8, 1940, as amended, 16 U.S.C. 668 et seq. (Protection of Bald and Golden Eagles)

8. Act of March 4, 1927, as amended, 43 U.S.C. 316 et seq. (Alaska Grazing)

9. Anadromous Fish Conservation Act, as amended, 16 U.S.C. 757a et seq.

10. Bankhead-Jones Farm Tenant Act, as amended, 7 U.S.C. 1010–1012

11. Fish and Wildlife Coordination Act, as amended, 16 U.S.C. 661 et seq.

12. Act of March 29, 1944 16 U.S.C. 583–583i (Sustained-Yield Forest Management)

13. Halogeton Glomeratus Control Act, 7 U.S.C. 1651–1656

14. Toxic Substances Control Act, as amended, 15 U.S.C. 2601 et seq.

15. Act of August 14, 1976, 16 U.S.C. 673d et seq. (Tule Elk)

16. Resources Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.

17. Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. 1361–1362, 1371–1384, 1401–1407

18. Act of October 17, 1968, 43 U.S.C. 1241–1243 (Control of Noxious Plants)

19. Federal Noxious Weed Act of 1974, as amended, 7 U.S.C. 2801–2813

20. Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801–1802, 1811–1813, 1821–1825, 1851–1861, 1882

21. Migratory Bird Conservation Act, as amended, 16 U.S.C. 715 (Includes the Wetlands Loan Extension Act of 1976)

22. Act of April 27, 1935, as amended, 16 U.S.C. 590a et seq. (Soil Conservation)

23. Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. 136–136y (Includes the Federal Environmental Pesticide Control Act of 1972)

24. Act of September 2, 1937, as amended, 16 U.S.C. 669–669i (Popularly known as the Federal Aid in Wildlife Restoration Act or the Pittman-Robertson Wildlife Restoration Act)

25. Fur Seal Act of 1966, as amended, 16 U.S.C. 1151 et seq.

26. North American Wetlands Conservation Act, as amended, 16 U.S.C. 4401–4413

27. Federal Timber Contract Payment Modification Act, 16 U.S.C. 618–619, 539f

28. Food Security Act of 1985 (Farm Bill), 7 U.S.C. 148f (Control of grasshoppers & mormon crickets on Federal lands)

29. Controlled Substances Act, 21 U.S.C. 841 et seq.

30. Pacific Yew Act, 16 U.S.C. 4801 et seq.

31. Snake River Birds of Prey Act, 107 Stat. 302

VI. WATER RESOURCES AND RELATED PROBLEMS

1. Water Resources Planning Act, as amended, 42 U.S.C. 1962–1962a (Includes the Water Resources Development Act of 1974)

2. Rivers and Harbors Appropriation Act of 1899, as amended, 33 U.S.C. 401 et seq.

3. Act of August 3, 1968, 16 U.S.C. 1221 et seq. (Estuary Protection)

4. Marine Protection, Research and Sanctuary Act, as amended, 33 U.S.C. 1401–1445, 16 U.S.C. 1431–1439

5. Watershed Protection and Flood Prevention Act, as amended, 16 U.S.C. 1001–1009

6. Colorado River Basin Salinity Control Act, as amended, 43 U.S.C. 620d, 1543, 1571–1578

7. Water Resources Research Act of 1984, 42 U.S.C. 10301 et seq.

8. Water Resources Development Act of 1986, as amended, 33 U.S.C. 2201 et seq.

9. Federal Water Project Recreation Act, 16 U.S.C. 4601–12—4601–21

10. The Clean Water Act, as amended by the Water Quality Act of 1987

11. The Safe Drinking Water Act Amendments of 1977

12. The National Dam Inspection Act of 1977

13. The Soil and Water Resources Conservation Act of 1977

VII. RECREATION, HERITAGE AND WILDERNESS PROGRAMS

1. National Historic Preservation Act, as amended, 16 U.S.C. 470 et seq.

2. Wild and Scenic Rivers Act, as amended, 16 U.S.C. 1271 et seq.

3. Act of June 8, 1966, 16 U.S.C. 431–433 (Preservation of Antiquities)

4. National Trail System Act, as amended, 16 U.S.C. 1241 et seq.

5. Wilderness Act, as amended, 16 U.S.C. 1131 et seq.

6. Act of August 11, 1978, 42 U.S.C. 1996 (Popularly known as the American Indian Religious Freedom Act)

7. Historic Sites Buildings and Antiquities Act or Historic Sites Act, 16 U.S.C. 461–467

8. Federal Cave Resources Protection Act of 1988, 16 U.S.C. 4301 et seq.

9. Archaeological Resources Protection Act of 1979, as amended, 16 U.S.C. 470aa et seq.

10. Federal Water Project Recreation Act, 16 U.S.C. 4601–12—4601–21

11. Native American Programs Act of 1974, as amended, 42 U.S.C. 2991–2992, (Includes the Indian Environmental Regulatory Enhancement Act of 1990)

12. Act of December 19, 1980, 16 U.S.C. 410ii–410ii-7 (Chaco Culture National Historical Park)

13. Act of September 27, 1988, 16 U.S.C. 273b (Capitol Reef National Park, Grazing Privileges)

14. Arizona-Idaho Conservation Act of 1988, as amended, 16 U.S.C. 460xx-1—460xx-6; 460yy-1

15. Act of December 31, 1987, 16 U.S.C. 460uu et seq. (El Malpais National Conservation Area)

16. Red Rock Canyon National Conservation Area Establishment Act of 1990, 16 U.S.C. 460ccc et seq.

17. Arizona Desert Wilderness Act of 1990, 16 U.S.C. 460ddd (Includes Gila Box Riparian National Conservation Area and Take Pride in America Act, 16 U.S.C. 4601–4608)

18. Intermodal Surface Transportation Efficiency Act of 1991, 105 Stat. 1914 (Includes Federal Lands Highway Program/BLM Country Byways Program, 23 U.S.C. 101 Note, and Symms National Recreation Trails Act of 1991, 16 U.S.C. 1261–1262)

19. The Nature American Graves Protection and Repatriation Act of 1990

VIII. FINANCE

1. Land and Water Conservation Fund Act of 1965, as amended, 16 U.S.C. 4601–4—4601–11

2. Act of September 13, 1982, as amended, 31 U.S.C. 6901–6907, (Payment-in-Lieu of Taxes (PILT))

3. Act of June 17, 1902, as amended, 13 U.S.C. 371 et seq. (Popularly known as the Reclamation Act or the National Irrigation Act of 1902)

4. Forest Wildfire Emergency Pay Equity Act of 1988, 5 U.S.C. 5547

IX. TECHNICAL SERVICES

1. Cadastral Survey

a. Act of May 18, 1976, as amended, 43 U.S.C. 751 et seq. (R.S. 2395—Survey of Public Lands)

b. Act of April 8, 1864, as amended, 25 U.S.C. 176 (Survey of Indian Reservations)

2. Law Enforcement and Fire Protection

a. Act of September 20, 1922, 16 U.S.C. 594 (Protection of Timber of U.S.)

b. Act of May 27, 1955, 42 U.S.C. 1856 (Reciprocal Fire Protection)

c. Act of February 25, 1885, as amended, 43 U.S.C. 1061 et seq. (Popularly known as the Unlawful Inclosures of Public Lands Act or the Unlawful Occupancy of Public Lands Act)

d. Federal Timber Contract Payment Modification Act, 16 U.S.C. 618–619, 539f

e. Wildfire Disaster Recovery Act of 1989, 16 U.S.C. 551b–551c

f. Forest Wildfire Emergency Pay Equity Act, 5 U.S.C. 5547

3. Act of August 13, 1970, as amended, 16 U.S.C. 1701–1706 (Youth Conservation Corps)

4. Volunteers in the Parks Act of 1969, as amended, 16 U.S.C. 18g–18j

5. The Federal Uniform Crime Reporting Act 1988

X. ADMINISTRATIVE

1. Administrative Procedures Act, as amended, 5 U.S.C. 500–576. Includes:

a. Freedom on Information Act, as amended, 5 U.S.C. 552 et seq.

b. Privacy Act of 1974, as amended, 5 U.S.C. 552a et seq.

2. Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

3. Whistleblower Protection Act, 5 U.S.C. 1201–1222

4. Federal Employees' Leave Transfer Act of 1988, 5 U.S.C. 6331–6339

5. Awards for Cost Savings Disclosures Act, 5 U.S.C. 4511–4514

6. Performance Management and Recognition System Reauthorization Act of 1989, as amended, 5 U.S.C. 5401 et seq.; 5 U.S.C. 4302a

7. Family and Medical Leave Act of 1993, 107 Stat. 6; 5 U.S.C. 6381 et seq. (Title II—Federal Employees)

8. Government Printing Office Electronic Information Access Enhancement Act of 1993, 107 Stat. 112

9. The Paperwork Reduction Act of 1980

10. The Computer Security Act of 1987

11. The Civil Service Reform Act of 1978

12. The Civil Rights Act of 1964, as amended

MAJOR ENVIRONMENTAL LAWS ENFORCED BY THE BUREAU OF LAND MANAGEMENT ON FEDERAL LANDS

Federal Land Policy and Management Act of 1976

National Environmental Act of 1969

Federal Water Pollution Control Act

Clean Air Act

Resource Conservation and Recovery Act

Oil Pollution Act of 1990

Safe Drinking Water Act

Mineral Leasing Act

Surface Mining Control and Reclamation Act

Public Rangelands Improvement Act

Taylor Grazing Act

Wild Horse and Burro Act

Endangered Species Act

Federal Noxious Weed Act

National Historic Preservation Act

Wilderness Act

American Indian Religious Freedom Act

Comprehensive Environmental Response, Compensation, and Liability Act of 1980

MAJOR ENVIRONMENTAL LAWS ENFORCED BY THE STATE OF UTAH ON STATE AND PRIVATE LANDS

The State of Utah, through State Law has the authority to enforce the following Federal Laws on State and private lands:

Surface Mining Control and Reclamation Act

Federal Water Pollution Control Act

Clean Air Act

Endangered Species Act

Surface Mining Control and Reclamation Act

National Historic Preservation Act

Resource Conservation and Recovery Act

Safe Drinking Water Act

Fish and Wildlife Management Laws

In addition, the Counties have zoning ordinances to ensure lands within the counties are managed in a responsible fashion.

Mr. MURKOWSKI. Mr. President, my point is an obvious one—that there are plenty of safeguards to ensure that that land will be developed in a responsible manner.

The citizens of Utah have proven that they are responsible and good stewards of their land. Irresponsible development does not support, obviously, the school system, and the future of the State of Utah, as is any other State, is the children. They obviously need the benefits of a good educational system and some development. Some of this land will be utilized for that purpose.

But to suggest somehow that it is an irresponsible act, the development of the land will be done irresponsibly, defies logic. This bill benefits the local communities in Utah. It provides them with access to resources promised to them when they were first granted the school section concept.

I need only to remind my colleagues that those who oppose this addition to the wilderness system are, in my opinion, those who have absolutely no consideration for maintaining a vibrant economy. Look at some areas of the United States where we had difficulties—poverty, lack of jobs. Appalachia comes to mind. We can look to Afghanistan and certain areas of South America, economically depressed portions of the planet, and there is an easy connection to be drawn. It is a reality that people do not have a future. They do not have the opportunity for jobs. There is no tax base. As a consequence, a situation like that needs to be recognized and corrected.

That is why in this legislation, the State of Utah has the flexibility to make the determinations on their own as to what is best for their own people and their own State.

So, Mr. President, we simply must not divorce the concept of environmental protection from the economic health of our citizens and the communities within which they live. Economic well-being enhances the environment. It certainly does not destroy it. I think you have to have good schools, well-educated young Americans, and good job opportunities. Then we can truly have the means and the knowledge to meet our environmental responsibilities. You do not do it in a vacuum.

Again, Mr. President, the Nation gains some 2 million acres of pristine national treasure; the residents of Utah gain schools, education, and a protected environment. In my opinion, there is no better quid pro quo.

We are going to have an extended debate here, Mr. President. But there are a couple of other things that I would like to add to the opening statement that I think make reference to the realities that we are faced with.

There has been a suggestion by some in the media and some of my colleagues on the other side of the aisle that there have been delays in putting this legislation together and that somehow the responsibility should rest with those of us on this side of the aisle.

Mr. President, I would like to remind my colleagues that the bills in this package have been held in limbo for several months. The end result of this inaction has produced a logjam of legislative proposals that have been collecting sawdust around here. But the reality of this logjam is the fact that Senate passage of one bill will not occur until there is an action on another and then another and so on down the line.

The bottom line is everyone gets something or everyone gets nothing. That is where we are with this package today. As I have indicated, there are some 56 areas that are affected here. If we can take this package together and move it, it will pass and be accepted in the House of Representatives and move on to the President. But if we start unwinding, I can assure you that set of facts is not going to prevail.

The bottom line is that you cannot send the Presidio to the House minus the provisions concerning Utah. I guess we could sit around here today and tomorrow rearranging the deck chairs all we want, but if the Titanic leaves port without that deck chair the results are predictable. Presidio will die and all of the other titles of the bill will die, too.

I am going to be specific because I think it is appropriate relative to the concerns that are going to be expressed today in the extended debate.

I wish to talk specifics about the Utah wilderness bill. I know my colleagues from Utah will go on at great length, but my good friend from New Jersey has made a point of indicating his dissatisfaction with the proposed resolve of 2 million acres being added to the wilderness of Utah, and he has made the point in his press releases that our public lands belong to all Americans. I certainly agree with that. But he goes on to say that they should never be given away to a few special interests.

Mr. President, I do not consider the people of Utah "a few special interests." While I am a Senator from Alaska, I happen to have a little spot in Utah where occasionally I go skiing, so you might say I have my own vested interest in Utah. I am a taxpayer there. I do not pretend to have the expertise of my colleagues who are going to speak later, but by the same token I think I have equal expertise to that of my friend from Utah.

I do not consider the people of Utah a special interest. The residents of Utah are represented by their elected officials. I have a letter which shows that 26 of the 29 State senators support the provisions of this bill. The letter from the house chamber of the Utah State Legislature shows that 64 out of 75 house members support the designation of wilderness in this bill.

Finally, I have a letter which shows that all of the elected county officials, all of the officials in 26 out of the 29 counties support the legislation as written. It is interesting to note that in the 27th county, five out of seven commissioners support the bill. The letter contains over 310 signatures of county elected officials.

Mr. President, I ask unanimous consent that the letters to which I just referred be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

UTAH STATE LEGISLATURE,
Salt Lake City, UT, February 14, 1996.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: As legislative leaders, we want to reaffirm the position taken by the Fifty-first Legislature of the State of Utah as it relates to the amount of BLM land designated as wilderness in Utah.

HCR 12, RESOLUTION SUPPORTING WILDERNESS DESIGNATION, by Representative Bradley Johnson, states very clearly the process by which wilderness was to be identified and quantified. That process was followed, and the local political entities acted very responsibly when they recommended that a little more than 1 million acres receive wilderness status.

The addition of acreage bringing the total amount to be added to the wilderness proposal to 1.8 million was an unsettling surprise. Yet, in a spirit of compromise, this total amount would be acceptable. We believe the addition of any more acreage, however, would be an affront to the citizens of this state and the process put in place that made the original recommendation. Furthermore, we believe the addition of more land would be tantamount to surrendering to rhetoric which is without a rational or factual basis.

The Fifty-first Legislature has spoken clearly on BLM wilderness designation. To lock up more land to an uncertain future in a state where 80 percent of the land area is subject to some form of government restriction and control is a policy which lacks sensitivity and foresight. This policy blind spot is simply inappropriate. To shackle future generations in this state with the unbendable restrictions wilderness designation imposes is nothing more than a "takings" of the hopes and dreams of Utahns whose heritage and economic roots are tied to these lands. These lands are not threatened and wilderness designation will not provide any additional protection that is already provided for by law governing the management of these lands.

For more than 100 years, there has been a harmony between the land and the land user. A dependence on the part of both has grown up with a healthy mutual respect. Questionable science has been injected into the wilderness decision-making process by those who are disjointed and removed from the land they claim to befriend.

We reaffirm our position on wilderness designation articulated in the last legislative session and as that you consider it to be the position of the State of Utah. If we can be helpful and answer your questions in addressing your concerns relative to this issue, we would be most amenable to doing what is necessary so that your decision is made with the very best, accurate information.

Sincerely,

MELVIN R. BROWN,
Speaker.
R. LANE BEATTIE,
President.

THE TRUTH ABOUT UTAH WILDERNESS

MARCH 22, 1996.

DEAR SENATOR: You recently received a letter dated March 15, 1996 from a group of twenty calling themselves "The Coalition of Utah Elected Officials," asking the "Utah Congressional Delegation to withdraw S. 884 and reconsider the direction they have taken on wilderness." The letter states that "most Utahns oppose S. 884." It further states that "most local people consider this to be stridently anti-environmental legislation, not the carefully balanced package the Utah Congressional Delegation has been claiming it to be."

These statements are not only preposterous, but blatantly untrue. The facts are that most Utahns do not want large amounts of acreage designated as wilderness in Utah. We the undersigned Democrats and Republicans strongly support Senator's Hatch and Bennett in their balanced approach to Utah wilderness.

In reality, the Utah State Senate endorsed the provisions contained in the Hatch-Bennett proposal unanimously (27-0), while the Utah State House voted 62-6, or 92% in favor. Across the state, elected commissioners in 27 of 29 counties support this bill. As this letter indicates, over 90% of Utah's elected county leaders support the Utah wilderness proposal now before the Senate.

Early in 1995, the Governor of Utah and all members of the Utah Congressional Delegation specifically tasked the elected county officials in each county where wilderness was being proposed, to hold public hearings and from those public hearings, develop a proposal for wilderness designation on Bureau of Land Management (BLM) Lands in the affected counties. Numerous public hearings were held in every county where lands were proposed for wilderness designation. The country officials then developed their proposals for designating lands as wilderness from the public hearings. In every county where lands were proposed for wilderness designation, the county officials made their recommendations based on what they heard at the hearings. Many county officials recommended more acreage than they knew their citizens wanted, but they knew they had to do so in order to make a bill acceptable to Congress. Some of those county officials have paid a dear political price for their recommendations.

After the county officials made their recommendations, the Governor and Congressional Delegation, held five regional hearings around the state. The environmental community, both in and outside of Utah was well organized and paid its partisans to testify. They even rented busses and vans to transport these people from location to location. The testimony they gave was based on emotion and not the requirements of the Wilderness Act itself. Their testimony ignored the professional recommendations of the BLM which based its proposals on the criteria of the 1964 Wilderness Act.

The Governor and Congressional Delegation then developed what is now Title XX of omnibus package, S. 884. Many in Utah believe it contains too much acreage. It represents more than was recommended by the elected county officials who held the local public hearings. It represents more than the State Legislature has recommended at least twice in the last four years by nearly unanimous votes.

The people of Utah live in a state with approximately 67% federal land ownership and another 13% state ownership, but managed under the federally enacted State Enabling Act. Utah already has millions of acres in Five National Parks, two National Recreation Areas, four National Monuments, thirteen Forest Service wilderness areas, and BLM Areas of Critical Environmental Concern (ACEC). The unelected State Director of the BLM manages more of Utah than does its elected Governor.

The BLM wilderness debate in Utah has dragged on for more than 15 years at a cost to taxpayers of over $10 million. We believe it is time to end the debate, pass the balanced Hatch-Bennett proposal and bring some peace and stability to the people of Utah who must live daily with results of this debate. We the undersigned are a few of the elected officials in Utah who support Title XX of this omnibus bill. We want it passed and enacted into law.

Sincerely,

John Hansen, Millard County Auditor; Linda Carter, Millard County Recorder; Ed Phillips, Millard County Sheriff; LeRay Jackson, Millard County Attorney; John Henrie, Millard County Commissioner; Donovan Dafoe, Mayor, Delta Utah; Merrill Nielson, Mayor, Lynndyl, Utah; Phil Lovell, Mayor, Leamington, Utah; B. DeLyle Carling, Mayor, Meadow, Utah; Terry Higgs, Mayor, Kanosh, Utah; Mont Kimball, Councilman, Konosh, Utah; Roger Phillips, Councilman, Kanosh, Utah; Robert Decker, Councilman Delta, Utah; Gary Sullivan, Beaver County Commissioner; Ross Marshall, Beaver County Commissioner.

Chad Johnson, Beaver County Commissioner; Howard Pryor, Mayor, Minersville Town; Louise Liston, Garfield County Commissioner; Clare Ramsay, Garfield County Commissioner; Guy Thompson, Mayor, Henrieville Town; Shannon Allen, Mayor, Antimony Town; John Mathews, Mayor, Cannonville Town; Julee Lyman, Mayor, Boulder Town; Robert Gardner, Iron County Commissioner; Thomas Cardon, Iron County Commissioner; Worth Grimshaw, Mayor, Enoch City; Dennis Stowell, Mayor, Parowan City; Norm Carroll, Kane County Commissioner; Stephen Crosby, Kane County Commissioner; Viv Adams, Mayor, Kanab City.

Scot Goulding, Mayor, Orderville Town; Gayle Aldred, Washington County Commissioner; Russell Gallian, Washington County Commissioner; Gene Van Wagoner, Mayor, Hurricane City; Chris Blake, Mayor, Ivins Town; Rick Hafen, Mayor, Santa Clara City; Paul Beatty, Mayor, New Harmony Town; Terrill Clove, Mayor, Washington City; David Zitting, Mayor, Hildale City; Ike Lunt, Juab County Commissioner; Martin Jensen, Piute County Commissioner; Joseph Bernini, Juab County Commissioner; J. Keller Christensen, Sanpete County Commissioner; Eddie Cox, Sanpete County Commissioner; Ralph Okerlund, Sevier County Commissioner; Meeks Morrell, Wayne County Commissioner; Stanley Alvey, Wayne County Commissioner; Kevin Young, Mayor, Mona, Utah.

Steve Buchanan, Mayor, Gunnison, Utah; Roger Cook, Mayor, Moroni, Utah; Mary Day, Millard County Treasurer; James Talbot, Millard County Assessor; Marlene Whicker, Millard County Clerk; Lana Moon, Millard County Commissioner; Tony Dearden, Millard County Commissioner; Ken Talbot, Mayor, Hinkley, Utah; Elzo Porter, Mayor, Oak City, Utah; Keith Gillins, Mayor, Fillmore, Utah; Barry Monroe, Mayor, Scipio, Utah; C.R. Charlesworth, Mayor, Holden, Utah; Vicky McKee, Daggett Clerk Treasurer; Bob Nafus, Councilman, Konosh, Utah; Roger Phillips, Councilman, Konosh, Utah.

Chad Johnson, Beaver County Commissioner; James Robinson, Mayor, Beaver City; Mary Wiseman, Mayor, Milford City; Maloy Dodds, Garfield County Commissioner; Jean Seiler, Mayor, Tropic Town; Laval Sawyer, Mayor, Hatch Town; Wade Barney, Mayor, Escalante, Utah; Elaine Baldwin, Mayor, Panguitch, Utah; Roy Urie, Iron County Commissioner; Bill Weymouth, Mayor, Kanarraville Town; Harold Shirley, Mayor, Cedar City; Constance Robinson, Mayor, Pro-Tem, Paragonah; Joe Judd, Kane County Commissioner; Garaldine Rankin, Mayor, Big Water; Eric Brinkerhoff, Mayor, Glendale Town; Orval Palmer, Mayor, Alton Town; Jerry Lewis, Washington County Commissioner.

Daniel McArther, Mayor, City of St. George; A. Morley Wilson, Mayor, Enterprise City; Raymond Jack Eves, Mayor, LaVerkin City; David Everett, Mayor, Toquerville Town; Brent DeMille, Mayor, Leeds Town; Joy Henderlider, Mayor, Virgin Town; Gordon Young, Juab County Commissioner; Paul Morgan, Piute County Commissioner; Don Julander, Piute County Commissioner; Robert Bessey, Sanpete County Commissioner; Tex Olsen, Sevier County Commissioner; Peggy Mason, Sevier County Commissioner; Bliss Brinkerhoff, Wayne County Commissioner; Bob Steele, Mayor, Nephi, Utah; Connie Dubinsky, Mayor, Utah; Kent Larsen, Mayor, Utah; Chesley Christensen, Mayor, Mt. Pleasant, Utah.

Lawrence Mason, Mayor, Aurora, Utah; Eugene Honeycutt, Mayor, Redmond, Utah; James Freeby, Mayor, Sigurd, Utah; Orlin Howes, Mayor, Junction, Utah; Sherwood Albrecht, Mayor, Bicknell, Utah; Dick Davis, Mayor, Lyman, Utah; Mike Milovich, Carbon County Commissioner; Pay Pene, Grand Count Council; Bart Leavitt, Grand County Council; Lou Colisimo, Mayor, Price City; Roy Nikas, Councilman, Price City; Paul Childs, Mayor, Wellington, Utah; Bill McDougald, Councilman, City of Moab; Terry Warner, Councilman, City of Moab; Richard Seeley, Councilman, Green River City; Karen Nielsen, Councilwoman, Cleveland Town; Gery Petty, Mayor, Emery Town; Dennis Worwood, Councilman, Ferron City.

Brenda Bingham, Treasurer, Ferron City; Ramon Martinez, Mayor, Huntington City; Ross Gordon, Councilman, Huntington City; Lenna Romine, Piute County Assessor; Tom Balser, Councilman, Orangeville, City; Richard Stilson, Councilman, Orangeville City; Murene Bean, Recorder, Orangeville City; Carolyn Jorgensen, Treasurer, Castle Dale City; Bevan Wilson, Emery County Commissioner; Donald McCourt, Councilman, East Carbon City; Murray D. Anderson, Councilman East Carbon City; Mark McDonald, Councilman, Sunnyside City; Ryan Hepworth, Councilman, Sunnyside City; Dale Black, Mayor, Monticello City; John Black, Councilman, Monticello City.

Grant Warner, Mayor, Glenwood, Utah; Grant Stubbs, Mayor, Salina, Utah; Afton Morgan, Mayor, Circleville, Utah; Ronald Bushman, Mayor, Marysvale, Utah; Eugen Blackburn, Mayor, Loa, Utah; Robert Allred, Mayor, Spring City, Utah; Neil Breinholt, Carbon County Commissioner; Bill Krompel, Carbon County

Commissioner; Dale Mosher, Grand County Councilman; Den Ballentyne, Grand County Councilman; Frank Nelson, Grand County Councilman; Steve Bringhurst, Price City Councilman; Joe Piccolo, Price City Councilman; Tom Stocks, Mayor, City of Moab; Judy Ann Scott Mayor, Green River City; Art Hughes, former Councilman, Green River.

Gary Price, Mayor, Clawson Town; Marvin Thayne, Councilman Elmo Town; Dale Roper, Mayor, Town of Ferron; Garth Larsen, Ferron Town Council; Paul Kunze, Recorder, Ferron Town; Don Gordon, Huntington City Councilman; Jackie Wilson, Huntington City Council; Howard Tuttle, Councilman, Orangeville City; Dixon Peacock, Councilman, Orangeville City; Roger Warner, Mayor Castle Dale City; Kent Peterson, Grand County Commissioner; Randy Johnson, Grand County Commissioner; L. Paul Clark, Mayor, East Carbon City; Darlene Fivecoat, Councilwoman, East Carbon City; Barbara Fisher, Councilwoman, East Carbon City.

Grant McDonald, Mayor, Sunnyside City; Nick DeGiulio, Councilman, Sunnyside City; Bernie Christensen, Councilwoman, Monticello City; Mike Dalpiaz, Helper City; Lee Allen, Box Elder County Commissioner; Royal K. Norman, Box Elder County Commissioner; Jay E. Hardy, Box Elder County Commissioner; Darrel L. Gibbons, Cache County Councilman; C. Larry Anhder, Cache County Councilman; Guy Ray Pulsipher, Cashe County Councilman; James Briggs, Daggett County Commissioner; Sharon Walters, Daggett County Commissioner; Chad L. Reed, Daggett County Commissioner; Curtiss Dastrup, Duchesne County Commissioner.

Larry Ross, Duchesne County Commissioner; John Swasey; Duchesne County Commissioner; Dale C. Wilson, Morgan County Commissioner; Jan K. Turner, Morgan County Commissioner; Jeff D. London, Morgan County Commissioner; Kenneth R. Brown, Rich County Commissioner; Blair R. Francis, Rich County Commissioner; Keith D. Johnson, Rich County Commissioner; Ty Lewis, San Juan County Commissioner; Bill Redd, San Juan County Commissioner; Mark Maryboy, San Juan County Commissioner; Sheldon Richins, Summit County Commissioner; Thomas Flinders, Summit County Commissioner; Jim Soter, Summit County Commissioner; Teryl Hunsaker, Tooele County Commissioner; Gary Griffith, Tooele County Commissioner; Lois McArther, Tooele County Commissioner; Odell Russell, Mayor, Rush Valley, Utah; Cosetta Castagno, Mayor, Vernon, Utah; Frank Sharman, Tooele County Sheriff.

Glen Caldwell, Tooele County Auditor; Donna McHendrix, Tooele County Recorder; Gerri Paystrup, Tooele County Assessor; Valerie B. Lee, Tooele County Treasurer; H. Glen McKee, Uintah County Commissioner; Lorin Merrill, Uintah County Commissioner; Lewis G. Vincent, Uintah County Commissioner; Laren Provost, Wasatch County Commissioner; Keith D. Jacobson, Wasatch County Commissioner; Sharron J. Winterton, Wasatch County Commissioner; David J. Gardner, Utah County Commissioner; Jerry D. Grover, Utah County Commissioner; Gary Herbert, Utah County Commissioner; Gayle A. Stevenson, Davis County Commissioner; Dannie R. McConkie, Davis County Commissioner.

Carol R. Page, Davis County Commissioner; Leo G. Kanel, Beaver County Attorney; Monte Munns, Box Elder County Assessor; Gaylen Jarvie, Daggett County Sheriff; Camille Moore, Garfield County Clerk/Auditor; Brian Bremner, Garfield County Engineer; Karla Johnson, Kane County Clerk/Auditor; Richard M. Baily, Director, Administrative Services; Lamar Guymon, Emery County Sheriff; Eli H. Anderson, District 1, Utah State Representative; Peter C. Knudson, District 2, Utah State Representative; Fred Hunsaker, District 4, Utah State Representative; Evan Olsen, District 5, Utah State Representative; Martin Stephens, District 6, Utah State Representative; Joseph Murray, District 8, Utah State Representative; John B. Arrington, District 9, Utah State Representative.

Douglas S. Peterson, District 11, Utah State Representative; Gerry A. Adair, District 12, Utah State Representative; Nora B. Stephens, District 13, Utah State Representative; Don E. Bush, District 14, Utah State Representative; Blake D. Chard, District 15, Utah State Representative; Kevin S. Garn, District 16, Utah State Representative; Marda Dillree, District 17, Utah State Representative; Karen B. Smith, District 18, Utah State Representative; Sheryl L. Allen, District 19, Utah State Representative; Charles E. Bradford, District 20, Utah State Representative; James R. Gowans, District 21, Utah State Representative; Steven Barth, District 26, Utah State Representative; Ron Bigelow, District 32, Utah State Representative; Orville D. Carnahan, District 34, Utah State Representative; Lamont Tyler, District 36, Utah State Representative; Ray Short, District 37, Utah State Representative; Sue Lockman, District 38, Utah State Representative; Michael G. Waddoups, District 39, Utah State Representative.

J. Reese Hunter, District 40, Utah State Representative; Darlene Gubler, District 41, Utah State Representative; David Bresnahan, District 42, Utah State Representative; Robert H. Killpack, District 44, Utah State Representative; Melvin R. Brown, District 45, Utah State Representative; Brian R. Allen, District 46, Utah State Representative; Bryan D. Holladay, District 47, Utah State Representative; Greg. J. Curtis, District 49, Utah State Representative; Lloyd Frandsen, District 50, Utah State Representative; Shirley V. Jensen, District 51, Utah State Representative; R. Mont Evans, District 52, Utah State Representative; David Ure, District 53, Utah State Representative; Jack A. Seitz, District 55, Utah State Representative; Christine Fox, District 56, Utah State Representative; Lowell A. Nelson, District 57, Utah State Representative; John L. Valentine, District 58, Utah State Representative.

Doyle Mortimer, District 59, Utah State Representative; Norm Nielsen, District 60, Utah State Representative; R. Lee Ellertson, District 61, Utah State Representative; Jeff Alexander, District 62, Utah State Representative; Jordan Tanner, District 63, Utah State Representative; Byron L. Harward, District 64, Utah State Representative; J. Brent Hammond, District 65, Utah State Representative; Tim Moran, District 66, Utah State Representative; Bill Wright, District 67, Utah State Representative; Michael Styler, District 68, Utah State Representative; Tom Mathews, District 69, Utah State Representative; Bradley T. Johnson, District 69, Utah State Representative; Keele Johnson, District 71, Utah State Representative; Demar "Bud" Bowman, District 72, Utah State Representative; Tom Hatch, District 73, Utah State Representative.

Bill Hickman, District 75, Utah State Representative; Wilford Black, District 2, Utah State Senator; Blaze D. Wharton, District 3, Utah State Senator; Howard Stephenson, District 4, Utah State Senator; Brent Richard, District 5, Utah State Senator; Stephen J. Rees, District 6, Utah State Senator; David L. Buhler, District 7, Utah State Senator; Steve Poulton, District 9, Utah State Senator; L. Alma Mansell, District 10, Utah State Senator; Eddie P. Mayne, District 11, Utah State Senator; George Mantes, District 13, Utah State Senator; Craig A. Peterson, District 14, Utah State Senator; LeRay McAllister, District 15, Utah State Senator; Eldon Money, District 17, Utah State Senator; Nathan Tanner, District 18, Utah State Senator; Robert F. Montgomery, District 19, Utah State Senator; Joseph H. Steel, District 21, Utah State Senator; Craig L. Taylor, District 22, Utah State Senator; Lane Beattie, District 23, Utah State Senator; John P. Holmgren, District 24, Utah State Senator; Lyle W. Hillyard, District 25, Utah State Senator; Alarik Myrin, District 26, Utah State Senator; Mike Dmitrich, District 27, Utah State Senator; Leonard M. Blackham, District 28, Utah State Senator; David L. Watson, District 29, Utah State Senator.

LAWS OF UTAH—1995

H.C.R. 12

Whereas the Bureau of Land Management (BLM) has issued its final Environmental Impact Statement and recommended designating approximately 1.9 million acres of land in Utah as wilderness;

Whereas the State is willing to cooperate with the United States government in the designation process and in protecting Utah's environment;

Whereas designating lands as wilderness affects many communities and residents of the state by permanently prohibiting certain kinds of economic development;

Whereas a federal reservation of water could seriously affect the potential for development in growing areas of the state;

Whereas the designation of wilderness would depreciate the value of state inholdings and adjacent state lands, reducing an important source of revenue for the education of Utah's schoolchildren;

Whereas it is the state's position that there should be no net loss of state or private lands and no increase in federal ownership as a result of wilderness designation;

Whereas lands that may be designated as wilderness are subject to existing rights and uses under current law, such as mining, timber harvesting, and grazing.

Whereas the BLM has extensively studied public lands in Utah for the purpose of determining simtability for wilderness designation;

Whereas it is vitally important for Utah to maintain the ability to develop its mineral resources, such as the Kaparowits Coal Field, for the economic and financial well being of the state, its trust lands, and counties;

Whereas much of Utah's municipal, industrial, and agricultural wear supply comes from public lands, requiring continued management and maintenance of vegetation, reservoirs, and pipelines, and

Whereas the definition of wilderness lands established by Congress in the 1964 Wilderness Act should be used to determine the designation of wilderness lands.

Now, therefore, be it *resolved* that the Legislature of the state of Utah, the Governor concurring therein, encourage the Congress to enact at the earliest possible opportunity a fair and equitable Utah wilderness bill regarding BLM lands, with the Legislature's and Governor's support of the bill contingent upon its containing the following provisions:

(1) that any BLM lands designated as wilderness must meet the legal definition of wilderness lands as contained in the 1964 Wilderness Act;

(2) that all lands not designated as wilderness be released from Wilderness Study Area status and that the BLM be directed to manage those released lands under multiple use sustained yield principles and be prohibited from making or managing further study area designations in Utah without express authorization from Congress;

(3) that no reserve water right be granted or implied in any BLM wilderness bill for Utah inasmuch as federal agencies are able to apply for water through the state appropriations system in keeping with the 1988 opinion of Solicitor Ralph W. Tarr of the United States Department of the Interior.

(4) that federal agencies be required to cooperate with the state in exchanging state lands that are surrounded by or adjacent to or adversely affected by wilderness designation for federal lands of equivalent value; and additionally, because designation of wilderness lands is a federal action, that federal funds be appropriated to pay for appraisals of state lands and federal lands to be exchanged;

(5) that every effort be made to ensure that there be no net loss of state or private lands and no increase in federal ownship as a result of wilderness designation in Utah;

(6) that the designation of wilderness not result in the creation, either formally or informally, of buffer zones and management zones around, contiguous, or on lands affected by wilderness designation;

(7) that all valid existing rights and historical uses be allowed to be fully exercised without undue restriction or economic hardship on lands designated as wilderness as provided in the Wilderness Act of 1964; and

(8) that management of vegetation, reservoirs, and similar facilities on watershed lands designated as wilderness be continued by state or private means.

Be it further *Resolved* that the Legislature and the Governor conclude that elected country officials, after extensive public input, should develop the wilderness proposals and the conditions for acceptable designation of wilderness lands within their respective counties, with the aggregate of those respective county recommendations constituting the basis of the state proposal for BLM wilderness designation in Utah. The county officials should be consulted regarding any changes to their respective county recommendations.

Be it further *Resolved* that copies of this resolution be sent to President Clinton, the President of the United States Senate, the Speaker of the House of Representatives the Secretary of the Interior, the directors of both the state and federal offices of the Bureau of Land Management, and Utah' congressional delegation.

Mr. MURKOWSKI. Mr. President, over 93 percent of the State legislators and county elected officials in Utah did not misread public opinion at home. If we were talking about New Jersey, the Senator's State, and Federal elected Representatives took the identical stance in support of their constituency, my good friend from New Jersey would occupy the Senate floor for the next month defending their rights, and I would admire that, against the intervention of a Senator from another State who represents only a few special interests.

So let us keep this in perspective, Mr. President. New Jersey has 10,341 acres of wilderness, Arkansas has 127,000, and Utah, with this provision, will have 2.8 million acres of wilderness.

Further, reference has been made by the Senator from New Jersey in a press statement dated March 22 saying that "20 million acres of Utah lands can never be designated as wilderness in the future."

He then goes on to say: "If it becomes law, it would permit the transformation of these lands from wilderness to strip mines, roads and commercial development."

Come on, Mr. President. These statements are scare tactics. They are untrue. They are unrealistic. Congress, as the Senator from New Jersey knows, can at any time revisit this issue and designate additional wilderness. The field professionals after 15 years of study, review and court cases, found that 20 million acres do not meet the strict definition of wilderness. Under the act, these lands are not wilderness but many do qualify under other designations. The BLM is already using other management schemes on much of this acreage, including designated areas of critical environmental concerns, outstanding natural areas, natural landmarks, research, national areas, wild and scenic rivers, national trails, primitive areas, visual resources, management class 1 areas, and each of these designations offer a host of protected measures.

To suggest that the residents of and visitors to Utah will desecrate these lands or to imply that the Federal managers will turn their eyes when this destruction descends upon us is simply a gross exaggeration of facts. One only has to visit Utah, view the lands, look at the national parks and the forests and the State lands that have been set aside to know that they care about their resources. They were protecting these lands long before the elitists arrived on the scene. For those lands which might be developed, and there will be some, there are additional protections.

To suggest the enactment of this bill would destroy 20 million acres contributes little fact to this debate and only brings it up to a hysteric level. The list of Federal laws and State laws I previously submitted for the RECORD still must be complied with. If these lands will not afford protection, why do we have them?

Further, much has been made of the holds on this legislation and the consequences associated therewith. I have worked with my good friend from New Jersey from time to time, and we have reached accords from time to time, not necessarily all the time by any means. But I noticed a "Dear Colleague" the Senator from New Jersey sent around was joined by some 17 Members of this body, and it stated:

> Many of us have provisions important to our respective States within the omnibus parks legislation.

The letter goes on to say:

> They need to be uncoupled from the Utah wilderness provision.

The majority of these bills were placed on the calendar of the Senate on April 7, 1995, almost a year ago. They have been on the calendar almost a year. The Senator from New Jersey could have let these environmental bills, land bills, make their way to the House and to the President months ago. Unfortunately, for reasons of his own, he chose not to do so. The direct result of those actions is this package. The Senator from New Jersey, by his own actions, is the ghost writer of this bill that we are considering. So as we look at where to finger the delay and why there is a package, I think we should ask the Senator from New Jersey to explain why he would put a hold on virtually every bill of this nature coming through the process starting back to when it was introduced and placed on the calendar in 1995.

I have accommodated many times the Senator from New Jersey on interests of his, certainly on the Sterling Forest, a bill, I might add, that is not totally without some controversy, and, in my opinion, there is reason that he should attempt to accommodate others. When this bill passes, Mr. President, Americans will get 2 million acres of new wilderness, and there is nothing in this legislation that will prevent another Congress from adding additional lands in Utah to the wilderness inventory.

I think it is appropriate that we take this discussion a little further and find out just who and what and why this onslaught of well-financed propaganda by a small group of elitists in opposition to this bill. This has come up in the forms of expensive full-page ads, calls from telephone banks, multicolored brochures, posters, a raft of letter writing campaigns.

There was an editorial from the San Francisco Examiner, one example, suggesting that I am the guy who caused the Presidio bill to be held hostage and added on the riders.

I am not the guy, Mr. President. It suggested that this bill is a Christmas tree of special goodies, including, the inference was, opening up ANWR, the Alaska Arctic oil reserve. This bill does not have anything to do with Alaskan oil. It is not even mentioned in the bill and the San Francisco Examiner should know that. But they chose to make an issue and draw a parallel, when none existed. I think that is irresponsible reporting.

I am attempting to get these bills moving in the direction of the White House. Without this effort, the Presidio will not pass Congress. It needs to be passed, as do other titles, and they are all important to our colleagues. That is just the hard, cold fact existing on the other side, the House side.

There is a small group of elitists, self-anointed saviors of the West, perhaps the Senator from New Jersey is among them, who would prefer to see the entire package of noncontroversial, needed measures simply choked together, because they do not want to see 2 million acres added to the Nation's wilderness inventory. They want 5 million acres, 6 million acres, or nothing.

Environmentalism is big business. I am going to show some charts here, to show just how big it is. The campaigns of this big business enterprise, the environmental lobby, are well financed, well staffed. They attach themselves rapidly to any issue that expands more membership, will raise more money for their coffers. They almost consume their causes. I am not suggesting the causes are not meritorious in many cases. But, by the same token, I do want to point out the significance of just how large these organizations have become and why they would dwell on an issue such as Utah wilderness.

Here we have environmental organizations, their revenues, their expenses, their assets, and the fund balances. These are the 12 major environmental organizations in the United States. There are more. I am not suggesting this is the entire list. We have the Nature Conservancy—these figures are as of fiscal 1993. I suspect they are higher now. These are the last figures we were able to generate. If you look at the revenue generated—$278 million; expenses, $219 million; assets, basically what they own, $915 million; and fund balances, $855 million.

Then you go to the National Wildlife Federation. Let us just look at the fund balances: $13 million; World Wildlife Fund, $39 million; Greenpeace, $23 million; Sierra Club, $14 million; the Sierra Club Legal Defense Fund, $5.9 million; National Audubon Society, $61 million; Environmental Defense Fund, $5 million; Natural Resources Defense Council, $11 million; Wilderness Society, $4 million; National Parks and Conservation Association, $769,000; Friends of the Earth, they are not doing too well looks like; Izaak Walton League of America, $414,000.

If we just look these up we will get an idea of the significance of these groups, in their totality. The revenue, $633 million; expenses, they expend about $556 million. Their assets, what they own, $1.2 billion. That would be among the Fortune 500. Fund balances, over $1 billion.

Let us look at some of the salaries paid, because I think, here again, this reflects on the significance that these groups are big business. The Nature Conservancy, John Sawhill, this is, I believe, as of 1994, $185,000. I think the President's salary is somewhere in the area of a little over $200,000. So here we have salaries, the National Wildlife Federation, Jay Hair, $242,000, more than the President of the United States; World Wildlife Fund, $185,000; Sierra Club Legal Defense Fund, $106,000; Environmental Defense Fund, $193,000; National Resources Defense Council, $145,000; National Parks and Conservation Association, $185,000.

I think these show, in detail, the significance of just how big the environmental communities' efforts and organizations have become.

Mr. President, I have another chart here. While staff is getting it, I want to amplify, again, the fact that these organizations need legitimate causes. The question of how extreme, how far is there room for compromise, is a legitimate question here. The State of Utah has proposed adding 2 million acres. But that is not enough, environmentalists want 5 or 6 million. They generate extreme reasons, in my opinion, inflammatory suggestions, suggesting that the residents of the State cannot be trusted, are irresponsible. I just do not buy that. I think we have to recognize their legitimate contribution, and when they are off line and unrealistic, take them to task.

It is interesting to note the investments of these organizations. I wish I had a third chart to show, but I am going to have it printed in the RECORD of investment summaries, the market value of these organizations as they invest in stocks, bonds. And I am also going to have printed in the RECORD the benefits associated with the officers, directors, the salaries and wages, the pension plans and the other employee benefits which clearly substantiate my claim that this is now big business.

I am also going to have printed in the RECORD the major corporate contributors to these organizations. In some cases that is rather amusing, because we find a direct contrast between the objectives and efforts of some of the organizations and some of the donors who, you would think, would have conflicting points of view. But I will leave that up to them to explain.

So, I ask unanimous consent that a list of the major corporate contributors, the officers' income, staff, wages and benefits, executive compensation, environmental organization incomes, and a list of the top 12 organizations, be printed in the RECORD from the report of the Center for the Defense of Free Enterprise entitled, "Getting Rich, the Environmental Movement's Income, Salary, Contributor, and Investment Patterns, With an Analysis of Land Trust Transfers of Private Land to Government Ownership."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Center for the Defense of Free Enterprise]

GETTING RICH—THE ENVIRONMENTAL MOVEMENT'S INCOME, SALARY, CONTRIBUTOR, AND INVESTMENT PATTERNS, WITH AN ANALYSIS OF LAND TRUST TRANSFERS OF PRIVATE LAND TO GOVERNMENT OWNERSHIP

INTRODUCTION

The environmental movement is arguably the richest power and pressure center in America. This report examines the question, "What is the public paying for with its money for the environment?" It profiles the twelve richest and best-known environmental organizations in the United States, including two subgroups, one within Greenpeace, one related to the Sierra Club. It focuses on their internal finances, how they spend the money the public gives them—usually a well-guarded secret even though the law requires non-profit organizations to make full public disclosure.

Simply put, where does the money go?

Certainly environmental group money goes to programs that "protect the environment from the ravages of humanity." None of the twelve major groups and their subgroups examined here fail to expend substantial funds on their publicly announced programs.

However, none of the groups examined here announce the fat salaries of their executives, the huge amounts paid for staff wages and pensions, or the donations spent playing Wall Street in professionally managed investment portfolios. And few loudly advertise their gifts from large corporations.

In addition, many environmental groups have fallen under control of the nation's richest private foundations. Private foundations have forced their own social-change agendas on many environmental organizations through "grant driven projects," with ominous implications for the unwitting public.

This report also focuses on the most troublesome aspects of a citizen movement grown powerful: the ability of wealthy land trusts to funnel private property into the federal government at prices above the approved appraised value, to "lowball" prices paid to private owners based on inside information provided by federal agencies, and to persuade congressional allies to put their properties at the top of the list for federal payments.

ACKNOWLEDGMENTS

This report was sponsored by the Center for the Defense of Free Enterprise, which is solely responsible for its content. Ron Arnold, Executive Vice President, managing editor. Fact checking, Janet Arnold. Data gathering and compilation were performed by numerous organizations and individuals in the Wise Use Movement, including American Land Rights Association, Charles S. Cushman, Executive Director, Putting People First, Kathleen Marquardt, Executive Director, William Wewer; Erich Veyhl; Motherlode Research; Henry Batsel.

All raw data used in this report were obtained from public records, including IRS Form 990 reports, and annual financial filings required by the States of New York, Virginia, and California. Statistical and political analyses were performed by the Center for the Defense of Free Enterprise.

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THE TWELVE TOP ORGANIZATIONS

1: The Nature Conservancy (Founded 1951).

Annual budget: $278,497,634 (1993).

Staff: 1,150 total.

Members: 708,000 individuals; 405 corporations.

Tax Status: (501)(c)(3).

Headquarters: 1815 North Lynn Street, Arlington, Virginia 22209, Phone: (703) 841-5300 Fax: (703) 841-1283.

2: National Wildlife Federation (Founded 1936).

Annual budget: $82,816,824 (1993).

Staff: 608 total.

Members: 4 million members.

Tax Status: (501)(c)(3).

Headquarters: 1400 16th Street, NW, Washington, D.C. 20036, Phone: (202) 797-6800 Fax: (202) 797-6646.

3: World Wildlife Fund (Founded 1961: predecessor in 1948).

Annual budget: $60,791,945 (1993).

Staff: 244 total—172 professional: 72 support.

Members: 1 million members.

Tax Status: (501)(c)(3).

Headquarters: 1250 24th Street, NW, Washington, D.C. 20037, Phone: (202) 293-4800 Fax: (202) 293-9211.

4: Greenpeace Fund, Inc. (Founded 1971, formerly Greenpeace USA).

Annual budget: $48,777,308 (Combined 1993 with Greenpeace, Inc.), $157 million internationally (1991).

Staff: 250 staff members plus 20 interns (reorganized in 1992), Offices in 30 countries.

Members: 1.7 million members and supporters U.S. (1993), 4.5 million worldwide.

Tax Status: (501)(c)(3) [Greenpeace, Inc. is a (501)(c)(4)].

Headquarters: 1436 U Street, NW, Washington, D.C. 20009, Phone: (202) 462-1177 Fax: (202) 462-4507.

5: Sierra Club (Founded 1892).

Annual budget: $41,716,044 (1992).

Staff: 325 total—180 professional, 145 support, plus volunteers.

Members: 550,000 individuals.

Tax Status: (501)(c)(4); Sierra Club Legal Defense Fund is 501(c)(3).

Headquarters: 730 Polk Street, San Francisco, California 94109, Phone: (415) 776-2211, Fax: (415) 776-0350, and 408 C Street, NE, Washington, D.C. 20002, Phone: (202) 797-6800, Fax: (202) 797-6646.

6: National Audubon Society (Founded 1905, precursors in 1886 and 1896).

Annual budget: $40,081,591 (1992).

Staff: 315 total.

Members: 542,000 individuals (1993).

Tax Status: (501)(c)(3).

Headquarters: 950 Third Avenue, New York, New York 10022, Phone: (212) 832-3200, Fax: (212) 593-6254, and 801 Pennsylvania Avenue SE, Washington, D.C. 20003, Phone: (202) 547-9009, Fax: (202) 547-9022.

7: Natural Resources Defense Council (Founded 1970).

Annual budget: $20,496,829 (1993).

Staff: 128 total—83 professional; 45 support.

Members: 170,000 individuals.

Tax Status: (501)(c)(3).

Headquarters: 40 West 20th Street, New York, New York 10011, Phone: (212) 727-2700, Fax: (212) 727-1773, and 1350 New York Ave., NW, Suite 300, Washington, D.C. 20005, Phone: (202) 783-7800, Fax: (202) 783-5917.

8: Environmental Defense Fund (Founded 1967).

Annual budget: $17,394,230 (1993).

Staff: 110 total—80 professional, 30 support.

Members: 250,000 individuals (1994) [source: telephone inquiry].

Tax Status: (501)(c)(3).

Headquarters: 257 Park Avenue South, New York, New York 10010, Phone: (212) 505-2100, Fax: (212) 505-2375, and 1616 P Street, NW, Washington, D.C. 20036, Phone: (202) 387-3500, Fax: (202) 234-6049.

9: The Wilderness Society (Founded 1935).

Annual budget: $16,093,764 (1993).

Staff: 136 total.

Members: 293,000 individuals.

Tax Status: (501)(c)(3).

Headquarters: 900 17th Street, NW, Washington, D.C. 20006, Phone: (202) 833-2300 Fax: (202) 429-3959.

10: National Parks and Conservation Association (Founded 1919).

Annual budget: $11,285,639 (1993).

Staff: 43 total.

Members: 400,000 individuals.

Tax Status: 501(c)(3).

Headquarters: 1015 31st Street, NW, Washington, D.C. 20007, Phone: (202) 223-6722 Fax: (202) 944-8535.

11: Friends of the Earth (Founded 1969, reconstituted 1990).

Annual budget: $2,467,775 (1993).

Staff: 45 total—38 professional, 7 support.

Members: 50,000 individuals.

Tax Status: 501(c)(3).

Headquarters: 218 D Street, SE, Washington, D.C. 20003, Phone: (202) 544-2600 Fax: (202) 543-4710.

12: Izaak Walton League of America (Founded 1922).

Annual budget: $2,074,694 (1992).

Staff: 23 total—14 professional, 9 support.

Members: 52,700 individuals.

Tax Status: 501(c)(3).

Headquarters: 1401 Wilson Boulevard, Level B, Arlington, Virginia 22209, Phone: (703) 528-1818 Fax: (202) 528-1836.

ENVIRONMENTAL ORGANIZATION INCOMES

Organization	Revenue	Expenses	Assets	Fund balances
The Nature Conservancy (fiscal 1993)	$278,497,634	$219,284,534	$915,664,531	$855,115,125
National Wilflife Federation (1993)*	82,816,324	83,574,187	52,891,144	13,223,554
World Wildlife Fund (fiscal 1993)*	60,791,945	54,663,771	52,496,808	39,460,024
Greenpeace Fund, Inc. (1992)	11,411,050	7,912,459	25,047,761	23,947,953
(Combined different years)	48,777,308			
Greenpeace Inc. (1993)	37,366,258	38,586,239	5,847,221	5,696,375
Sierra Club (1992)	41,716,044	39,801,921	22,674,244	14,891,959
Sierra Club Legal Defense Fund (1993)	9,539,684	9,646,214	9,561,782	5,901,690
National Audubon Society (fiscal 1992)	40,081,591	36,022,327	92,723,132	61,281,006
Environmental Defense Fund (fiscal 1992)	17,394,230	16,712,134	11,935,950	5,279,329
Natural Resources Defense Council (fiscal 1993)	20,496,829	17,683,883	30,061,269	11,718,666
Wilderness Society (fiscal 1993)	16,093,764	16,480,668	10,332,183	4,191,419
National Parks and Conservation Association (1993)	12,304,124	11,534,183	3,530,881	769,941
Friends of the Earth (1993)	23,467,775	2,382,772	694,386	120,759
Izaak Walton League of America (1992)	2,036,838	2,074,694	1,362,975	414,309
Total	633,014,090	556,359,986	1,234,824,267	1,030,377,841

NOTES: All figures most recent reporting year available. Some organizations had not filed reports for either calendar or fiscal 1993 as of September 1, 1994. Calendar year used unless noted. The Nature Conservancy obtained $76,318,014 of this amount from sale of private land to the government and $20,402,672 from government grants. National Wildlife Federation fiscal year 1993 ended August 31, 1993. World Wildlife Fund fiscal year 1993 ended June 30, 1993. Greenpeace Fund (a 501(c)(3)) and Greenpeace, Inc. (a 501(c)(4)) have substantial financial interactions annually. Most recent Form 990 year avalable for Greenpeace Fund, Inc., is 1992. Greenpeace, Inc. figures are from 1993 financial staement. National Audubon Society icome includes $93,623 in mineral royalties from natural gas wells on its Rainey Wildlife Sanctuary and $505,850 from government grants.

EXECUTIVE COMPENSATION

Organization	Executive	Title	Salary	Benefits	Expense account
The Nature Conservancy	John Sawhill	President and Chief Executive	$185,000	$17,118	None
National Wildlife Federation	Jay Hair	Executive Director	242,060	34,155	$23,661
World Wildlife Fund	Kathryn Fuller	Executive Director	185,000	16,650	None
Greenpeace Fund	Barbara Dudley	Executive Director Acting*	65,000	None	None
Greenpeace Inc	Stephen D'Esposito	Executive Director	82,882	None	None
Sierra Club	Carl Pope	Executive Director	77,142	None	None
Sierra Club Lebal Defense Fund	Vawter Parker	Executive Director	106,507	10,650	None
National Audubon Society	Peter A.A. Berle	President	178,000	21,285	None
Environmental Defense Fund	Fred Krupp	Executive Director	193,558	17,216	None
Natural Resources Defense Council	John H. Adams	Executive Director	145,526	13,214	None
Wilderness Society	Karin Sheldon	Acting President	90,896	22,724	None
National Parks and Conservation Association	Paul C. Pritchard	President	185,531	26,123	None

EXECUTIVE COMPENSATION—Continued

Organization	Executive	Title	Salary	Benefits	Expense account
Friends of the Earth	Jane Perkins	President	74,104	2,812	None
Izaak Walton League of America	Maitland Sharpe	Executive Director	76,052	5,617	None
Total			1,887,258	187,564	23,661

Greenpeace: Stephen D'Esposito subsequently took the position of head of Greenpeace International in Belgium, leaving Barbara Dudley as executive director of both Greenpeace Fund, Inc. and Greenpeace, Inc., according to the Washington office.

OFFICER INCOMES, STAFF WAGES AND BENEFITS

Organization	Officer and director compensation	Other salaries and wages	Pension plan contributions	Other employee benefits
The Nature Conservancy	$1,786,432	$45,824,545	$1,913,453	$3,832,110
National Wildlife Federation	475,512	23,607,589	80,000	640,291
World Wildlife Fund	663,531	11,515,186	None	934,687
Greenpeace Fund (1991)	148,900	5,928,454	None	300,318
Greenpeace Inc. (1991)	35,600	9,904,344	None	545,985
Sierra Club	272,381	8,234,250	73,275	1,011,847
Sierra Club Legal Defense Fund	384,502	3,612,083	447,700	461,607
National Audubon Society	1,010,723	10,382,800	913,397	1,265,623
Environmental Defense Fund	0	6,163,645	220,769	422,141
Natural Resources Defense Council	421,730	8,258,420	None	None
Wilderness Society	757,541	4,470,572	403,581	569,163
National Parks and Conservation Association	185,531	1,864,451	56,195	142,122
Friends of the Earth	74,104	958,580	28,797	123,762
Izaak Walton League of America	0	659,365	31,985	173,958
Total	62,164,487	141,384,284	4,169,152	10,423,614

MAJOR CORPORATE CONTRIBUTORS

Organization	Donor corporation or corporate funded foundation
The Nature Conservancy	Allied-Signal, Inc.; ARCO; Boeing; BP Oil; Chevron; Dow Chemical; DuPont; Enron; Exxon; Newmont Gold Company; Times-Mirror Corporation; others.
National Wildlife Federation	Amoco; ARCO; Coca-Cola; Dow Chemical; DuPont; Exxon; General Electric; General Motors; IBM; Miller Brewing; Mobil Oil; Monsanto; Pennzoil; others.
World Wildlife Fund	ARCO; AT&T; Ford Motor Company; General Electric; H.J. Heinz; Mobil Oil; New York Times Company; Procter & Gamble; Shell Oil; Weyerhaeseser; others.
Greenpeace Fund	Greenpeace, Inc. is a lobbying group not eligible for tax deductible donations.
Greenpeace Inc	Greenpeace. Inc. is a lobbying group not eligible for tax deductible donations.
Sierra Club	The Sierra Club is a lobbying group not eligible for tax deductible donations.
Sierra Club Legal Defense Fund	New York Times Company.
National Audubon Society	Alcoa; Bank of Boston Corporation; Ford Motor Company; General Electric; H.J. Heinz; Monsanto; New York Times Company; Procter & Gamble; others.
Environmental Defense Fund	Times Mirror Company.
Natural Resources Defense Council	Ametek; Corning Glass Works; Dakin Corporation; Mayfair Supermarkets; Morgan Bank; New England Biolabs; New York Times Company; Dean Witter.
Wilderness Society	Archer Daniels Midland; Guardsmark, Inc.; Morgan Guaranty Trust Co.; New York Times Company; Timberland Co.; Waste Management, Inc.; others.
National Parks and Conservation Association	First National Bank of Boston.
Friends of the Earth	American Railroad Association; Recreational Equipment, Inc.
Izaak Walton League of America	Amoco; Anhaeuser-Busch; ARCO; Chevron USA; DuPont; Exxon; FMC Corp.; Pennzoil; Phillips Petroleum; Procter & Gamble; Tenneco; 3M; Unocal.

INVESTMENT SUMMARIES, MARKET VALUE

Organization	U.S. Government obligations	Common stocks	Bonds, all types	Other	Total investments
The Nature Conservancy	$49,017,000	$138,508,000	$27,262,000	$65,597,600	$245,322,000
National Wildlife Federation	6,739,754	4,592,752	1,426,093	See analysis	12,758,599
World Wildlife Fund	2,704,914	*27,262,802	*6,216,714	*6,760,934	42,945,391
Greenpeace Fund	2,470,393	None	None	1,112,134	3,582,527
Greenpeace Inc	Note 1				
Sierra Club					8,886,605
Sierra Club Legal Defense Fund	Note 1				4,870,716
National Audubon Society	12,366,647	34,237,474	9,640,927	830,425	57,075,473
Environment Defense Fund					2,744,086
Natural Resources Defense Council	2,139,751	155,245	*1,461,277	5,335,167	9,091,440
Wilderness Society	1,808,092	*3,913,949	None	180,000	5,950,957
National Parks and Conservation Association	1,227,342	*728,255	511,889	369,137	2,836,623
Friends of the Earth	Note 1				
Izaak Walton League of America	None	None	72,756	None	72,756
Total	78,473,983	209,398,477	46,591,656	80,563,456	396,137,173

World Wildlife Fund: Common stock entry is listed on Form 990 as "Equities," Bonds entry as "Corporate obligations," and Other entry as "Cash and cash equivalents." Greenpeace Inc. Note 1: Greenpeace Inc. claims to have no investments in securities. Sierra Club Legal Defense Fund Note 1: See Investment Analysis on page 14 for details. *Natural Resources Defense Council-owned corporate obligations may include instruments other than bonds. *Wilderness Society: $3,913,949 is entered as cash equivalents on the balance sheet. The Wilderness Society also maintains a financial reserve called The Wilderness Fund with a 1993 market value of $3,890,898. National Parks and Conservation Association: Stocks: Includes preferred and common stock; Bonds: Includes corporate notes and bonds; Other: See analysis. Friends of the Earth Note 1: FOE claims to have no investments in securities. Izaak Walton League of America owns only these investments in bonds according to their Form 990.

INVESTMENT ANALYSIS

THE NATURE CONSERVANCY

[Fiscal 1993 Form 990, Part IV—Investments Securities, Statement 7]

Description	Beginning of year	End of year
U.S. Obligations		$49,017,000
Bonds		27,017,000
Endowment Investments	$138,228,753	
Planned Giving Investments	26,890,767	
Current & Land Acquisition	102,941,039	
Common Stock		138,508,000
Preferred Stock		976,000
Mutual Funds		29,559,000
Total	268,060,559	245,322,000

(Note: The classification of beginning-of-year figures is different from end-of-year figures in order to reflect groupings previously reported). The Nature Conservancy refused to release its list of investments in corporate stocks.

NATIONAL WILDLIFE FEDERATION

[Taxable Year Ended July 31, 1993—Form 990, Part IV—Invements—Securities, Schedule 9]

Description	Book value	
	FY 1993	FY 1992
U.S. Government and Agency Securities	$6,739,754	$8,216,943
Corporate Stock	4,592,752	4,423,380
Corporate Bonds	1,426,093	3,343,893
Total	12,758,599	15,984,216
Investments-Other Schedule 10		
Investments-Mutual Funds		
Merrill Lynch Investment Portfolio Government Plus	0	206,9999
Merrill Lynch Cash Management Account	378,059	554,666
Total	378,059	761,665

Note: The National Wildlife Federation refused to release its list of investments in corporate stock and corporate bonds.

World wildlife fund

1993 Form 990, Part IV, Line 54-Investments:

Cash and cash equivalents	$6,760,934
Government Securities	2,704,914
Corporate obligations	6,216,714
Equities	27,262,802
Total	42,945,391

Notes to Financial Statements as of June 30, 1993.

Note 1: Summary of Significant Accounting Policies.

Cash and Investment: Investments are recorded in the financial statements at the lower of cost or market value. Investments received as contributions are recorded at their fair market value at the date of donation. Market value of cash and investments at June 30, 1993 and June 30, 1992 were approximately $47,972,000 (1993) and $40,671,000 (1992). The World Wildlife Fund refused to release its list of investments in corporate obligations and equities.

GREENPEACE FUND

[Financial Statement—Note 4—Investments]

	Amortized cost	Market value
At December 31, 1991, investments consist of:		
Current investments:		
Certificates of deposit	$680,000	$680,000
U.S. Government securities	1,134,451	1,152,051
Other	101,765	105,154
Total current investments	1,916,216	1,937,205
Long-term investments:		
Certificates of deposit	90,000	90,000
U.S. Government securities	1,279,703	1,318,342
Municipal Bonds	99,139	95,213
Other	137,965	141,767
Total long-term investments	1,916,216	1,937,205
Total investments	3,523,023	3,582,527

SIERRA CLUB

[1992 Form 990, Page 3, Part IV, Line 54—Investments—Beginning of Year: $7,979,267; End of Year: $8,886,605; Analysis of 1992 Not Available; Most Recent Analysis Available, Year Ended: 09/30/90—Statement 9]

Interest rate	Description	Balance 09/30/89	Balance 09/30/90
15.75	Stripped Coupon Treasury Bonds	$470,867	$470,867
	Cash Held for Investment	384,966	657,718
	Bond Amortization	740,079	1,030,083
	Investment in Subsidiary	250,000	250,000
11.25	Stripped Coupon Treasury Bonds	65,128	65,128
	U.S. Strip Bond	330,278	330,278
	FNMA	175,000	0
6.5	U.S. Treasury Note	229,973	0
8.75	U.S. Treasury Note	201,187	201,187
8.625	U.S. Treasury Note	200,879	0
	U.S. Strip Bond	294,122	294,122
	U.S. Strip Bond	207,493	207,493
	U.S. Strip Bond	181,791	181,791
8.125	U.S. Treasury Note	244,765	244,765
8.25	U.S. Treasury Note	243,125	243,125
8.875	U.S. Treasury Note	246,679	246,679
8.6	U.S. Treasury Note	241,211	241,211
8.25	U.S. Treasury Note	244,414	244,414
8.875	U.S. Treasury Note	295,875	295,875
	U.S. Strip Bond	154,754	154,754
7.15	FHLB	0	246,563
8.05	FHLB	0	329,794
8.913	Resolution Fund	0	169,999
8.7	U.S. Strip Bond	0	369,504
	Total	5,402,586	6,475,328
	Less: Investments held by Affiliate S.C.C.O.P.E.	(237,311)	(83,674)
	Net Investment for Balance Sheet	5,165,275	6,391,654

Note: S.C.C.O.P.E. is the Sierra Club Committee on Political Education, a Political Action Committee.

SIERRA CLUB LEGAL DEFENSE FUND, INC.

[Taxable Year Ended July 31, 1993—Form 990, Part IV—Investments]

Description	Fair market value	
	1993	1992
Bonds	$14,150	$12,975
Mutual Beacon Fund, Inc	97,753	78,530
Mutual Qualified Fund	51,190	42,329
Brown Brothers Harriman	3,374,107	3,181,536
Meritor Mortgage Corp—GNMA	19,564	29,731
U.S. Trust Company	90,648	n/a
U.S. Trust Company	901,078	626,353
Franklin Trust Company	322,586	166,799
Total	4,870,716	4,138,253

NATIONAL AUDUBON SOCIETY

[Form 990, Part IV, Line 54—Investment Securities—6/30/92

Description	Cost	Market
U.S. Government and Agency obligations	$11,789,173	$12,366,647
Money Market Funds	830,425	830,425
Corporate Bonds	9,267,238	9,640,927
Corporate Stock	28,811,560	34,237,474
Total	50,698,396	57,075,473

The National Audubon Society breaks down these funds into two investment pools, general investment and life income trusts. Values of these components were: Current Funds, Cost: $12,716,026, Market, $14,273,514; Endowment and Similar Funds, Cost, $34,147,894, Market, $38,598,119; Life Income Trusts, Cost, $1,689,572, Market, $1,846,105; Non-Pooled Investments, Cost, $2,144,904, Market, $2,357,735. The National Audubon Society refused to release its list of investments in corporate bonds and common stocks.

Environmental defense fund

[Fiscal 1992 Form 990, Part IV—Investments—Securities, Line 54]

Total investments, End of Fiscal Year at September 30, 1992: $2,744,086.

Investments include the following:

Morgan Fixed Fund, Endowment	$8,658
Morgan Fixed Fund, Board Designated Endowments	40,558
Vanguard Fund—GNMA	820,493
Short Term, Vanguard Fund—GNMA	823,773
Vanguard GNMA—Endowment	65,923

Other Investments—Line 56—Form 990.

EDF has invested a portion of its endowment funds in a limited partnership. During the fiscal year ended September 30, 1992, the market value of the partnership investment decreased from $527,882 to $480,454. The assets reported in the financial statements reflect the September 30, 1992 market value.

NATURAL RESOURCES DEFENSE COUNCIL

[Fiscal 1993 Form 990, Part IV—Investments—Securities, Statement 7]

Description	Beginning of year	End of year
Money Market Funds	2,601,982	4,255,984
U.S. Government and Agency Obligations	2,031,624	2,139,751
Corporate Obligations	1,005,222	1,461,277
Common Trust Funds	951,016	1,079,183
Common Stocks	None	155,245
Total	6,589,844	9,091,440

The Natural Resources Defense Council refused to release its list of investments in corporate obligations and common stocks.

WILDERNESS SOCIETY

[Investment in Securities (Most recent year available)]

	Cost	Market value
Investment at September 30, 1988 are as follows:		
Cash Equivalents:		
General Motors Acceptance Corp.—repurchase agreements	385,000	385,000
Kidder, Peabody—premium account	597,030	597,030
Total	982,030	982,030
Principal Cash; Fiduciary Trust Co	4,202	4,202
Securities of U.S. Government and Agencies:		
U.S. Treasury notes, due 5/31/89 8%	200,000	199,688
Federal Home Loan Bank, due 9/25/89, 6.75%	150,541	147,375
Federal Home Loan Bank, due 7/25/91, 7.5%	99,719	96,719
Federal National Mortgage Association, due 12/10/93, 7.375%	149,625	140,156
Federal National Mortgage Association, due 7/10/96, 8%	200,500	187,000
Government National Mortgage Association Guaranteed Mortgage Pool #167158 due 6/15/01, 8%	176,948	173,185
Federal Home Loan Mortgage Corp. Participation Certificate Group #20–0043, due 7/01/01, 9%	153,169	151,153
Total	1,130,502	1,095,276
Debentures:		
General Motors Acceptance Corp., due 3/01/95, 7.25%	46,058	44,375
Pacific Gas & Electric, due 7/1/95, 8.375%	49,688	47,008
Total	95,746	91,383
Convertible Debentures:		
Circle K Corp., due 11/01, 7.25%	18,700	19,600

WILDERNESS SOCIETY—Continued

[Investment in Securities (Most recent year available)]

	Cost	Market value
Dreyers Grand Ice Cream, due 6/01/11 6.5%	18,775	15,800
General Dynamics, due 7/15/11 5.75%	32,887	27,150
Masco Industries, Inc., due 12/15/11, 6%	37,163	30,450
Sci Systems, Inc., Due 3/01/12, 5.625%	30,000	23,400
Total	137,525	116,400
Convertible Preferred Issues:		
Baxter International, Inc	41,560	30,438
Warner Communications, Inc	26,431	25,850
Total	67,991	56,288
Equity Securities:		
Preferred Stocks (Shares and Security):		
1,395 Keland Holding Co., preferred 6%	1,395	87,815
366 Keland Holding Co., 2nd preferred 6.25%	366	23,424
Total	1,761	111,239
Common Stocks (Shares and Security):		
600 AMP, Inc	26,092	25,200
800 AMR Corp	37,546	38,000
640 Abbott Labs	27,415	30,880
600 American International Group	37,169	39,675
800 Apple Computer, Inc	31,800	34,600
900 Baltimore Gas & Electric Co	29,219	28,463
600 Banc One Corp	15,372	15,228
440 Bell Atlantic Corp	29,180	31,680
400 Caterpillar, Inc	25,732	23,000
500 Consolidated Edison Co. of New York	21,313	22,313
1,000 Consolidated Rail Corp	29,370	33,125
1,000 Compania Telefonica Nacional de Espana	20,875	22,625
400 Corestates Financial Corp	15,550	16,400
700 Deere & Co., Inc	25,256	31,063
700 Cummins Engine Co., Inc	37,446	34,037
500 Digital Equipment Corp	51,324	46,938
750 Eaton Corp	39,196	39,094
1,800 Emerson Electric Co	55,110	54,000
1,200 FPI Group, Inc	35,327	37,500
700 Gannett, Inc	24,672	22,925
1,102 General Electric, Inc	44,869	47,799
300 IBM Corp	34,307	34,613
1,000 Illinois Tool Works	20,706	35,125
1,050 Intel Corp	26,089	28,875
400 J. P. Morgan & Co., Inc	24,128	15,050
400 Johnson & Johnson	27,511	34,350
700 Loral Corp	24,584	24,063
750 McDonalds Corp	34,460	35,625
402 Merck & Co., Inc	7,883	23,216
624 Midsouth Corp	4,160	7,020
400 Minnesota Mining & Manufacturing Co	23,424	25,750
600 Nynex Corp	39,272	39,600
1,000 Pacific Telesis Group	23,176	30,750
700 Pepsico, Inc	21,784	27,475
1,000 Policy Management System Corp	21,625	22,375
800 Prime Motor Inns	29,196	27,900
4,166 Prospect Group, Inc	44,998	34,370
800 Reuters Holdings, PLC	18,725	20,700
600 Ryder Systems, Inc	14,832	14,178
700 Sara Lee Corp	23,972	30,188
1,000 Southern California Edison Co	34,183	32,750
800 Tambrands, Inc	49,909	44,000
600 U.S. Bancorp	14,925	14,478
600 Walt Disney Co	25,747	38,925
600 Wells Fargo & Co	27,132	40,500
1,000 Yellow Freight Systems, Inc	36,313	31,500
Total	1,312,874	1,387,921
Other Interests—at nominal value	103	2,770
Total Investment at September 30, 1988	3,732,734	3,847,509
Total investments in securities as displayed on the balance sheet, Exhibit A:		
1988:		
Unrestricted	3,334,858	3,449,633
Endowment Fund	397,876	397,876
Total	3,732,734	3,847,509
1987:		
Unrestricted	3,889,814	4,376,821
Endowment Fund	397,876	397,876
Total	4,287,690	4,774,697
1993 Financial Statements, Note 3: Investment in Securities Investments at September 30, 1993 are as follows:		
Cash equivalents	3,913,949	3,913,949
Certificates of Deposit	180,000	180,000
Securities of U.S. Government and agencies	1,808,092	1,843,776
Total investments at September 30, 1993	5,902,041	5,937,725
Permanent financial reserve, The Wilderness Fund, assets at September 30, 1993, consist of the following:		
Mutual Funds	2,144,923	2,614,602
Charitable remainder unitrusts	858,379	1,232,176
Cash value of life insurance	44,118	44,118
Total	3,047,420	3,890,898

The Wilderness Society has not filed for public inspection a list of investments in securities as displayed above since 1989 in any state jurisdiction investigated (New York, California, Virginia) nor with the IRS.

NATIONAL PARKS AND CONSERVATION ASSOCIATION

[Fiscal 1993 Form 990, Part IV—Investments—Securities—Statement 7]

Description	Beginning of year	End of year
Common and preferred stock	340,048	728,255
U.S. Government securities	737,467	1,227,342
Corporate notes and bonds	684,814	511,889
Short term securities	None	369,137
Total	1,762,329	2,836,623

See next pages for NPCA's Capital Gains and Losses.

NATIONAL PARKS AND CONSERVATION ASSOCIATION

[Form 990, Page 1, Part 1, Line 7—Capital Gains and Losses]

Shares	Security	Date acquired	Date sold	Cost basis	Proceeds	Gain (loss)
6	General Electric		03/30/93	154.50	513.73	359.23
49	New York Times		03/30/93	1,000.00	1,467.83	467.83
27	AT&T		03/30/93	1,000.00	1,519.03	519.03
100	Amerada Hess		03/31/93	5,000.00	5,124.82	124.82
100	Toys R Us		03/29/93	4,266.00	4,346.85	80.85
25	Paramount Comm		03/29/93	1,162.50	1,192.26	29.76
180	FMP International		03/31/93	3,638.10	3,638.10	0.00
18	FMP International		05/21/93	406.50	406.50	0.00
1	Rockwell International			29.63	29.63	0.00
1	Philip Morris			47.00	47.00	0.00
3	General Electric		05/05/93	256.49	256.49	0.00
35,000	Fed Farm Cr Bks Con	02/15/90	09/01/92	35,380.00	35,000.00	(380.00)
300	Citicorp	12/20/91	10/02/92	3,091.00	4,585.00	1,494.00
100	Chem Bank Corp	12/20/91	10/02/92	2,103.00	3,035.00	932.00
35,000	New York Tele Co	06/26/90	10/15/92	35,743.00	30,000.00	(743.00)
100,000	Associates Corp No. Amer	09/12/91	11/16/92	105,619.00	100,000.00	(5,619.00)
300	CSMTX	01/22/92	12/01/92	13,340.00	11,795.00	(1,545.00)
30,000	Federal Home Ln Bks Cons	01/06/91	12/28/92	30,658.00	30,000.00	(658.00)
200	ANR Corps Cel Con	01/22/92	02/10/93	14,240.00	12,425.00	(1,815.00)
200	General Electric	12/20/91	02/10/93	13,615.00	17,276.00	3,650.00
300	Hong Kong Telecommunication	03/04/92	02/10/93	9,750.00	11,174.00	1,424.00
50,000	Sears Med Term Nts	11/27/91	02/16/93	50,102.00	50,490.00	388.00
35,000	United States Treasury	02/13/90	02/16/93	35,792.00	35,000.00	(792.00)
100,000	General Motors Acceptance	11/26/91	03/15/93	103,819.00	100,000.00	(3,819.00)
300	ASTA Research Inc	12/20/91	03/19/93	5,555.00	4,080.00	(1,475.00)
1,000	ASTA Research Inc	12/07/92	03/19/93	20,481.00	13,601.00	(6,880.00)
200	ALZE Corp CL	12/20/91	03/19/93	17,815.00	6,691.00	(11,124.00)
300	ALZE Corp CL	12/07/92	03/19/93	12,206.00	10,037.00	(2,169.00)
300	Glaxo Holdings	03/11/92	03/19/93	8,578.00	5,366.00	(3,212.00)
200	IBM	12/20/91	03/19/93	17,690.00	10,700.00	(6,990.00)
300	Merck & Co Inc	03/11/92	03/19/93	15,446.00	10,732.00	(4,714.00)
100	Merck & Co Inc	12/21/92	03/19/93	4,787.00	3,577.00	(1,210.00)
500	National Health Labs	01/21/92	03/19/93	14,535.00	7,351.00	(7,184.00)
200	National Health Labs	12/21/92	03/19/93	4,710.00	2,940.00	(1,770.00)
300	Price Co	06/15/92	03/19/93	10,165.00	9,809.00	(356.00)
300	Price Co	12/21/92	03/19/93	12,055.00	9,809.00	(2,246.00)
500	Time Warner Inc	03/11/92	03/29/93	25,167.00	25,850.00	683.00
100,000	United States Treasury	08/26/91	03/29/93	100,711.00	103,984.00	3,273.00
35,000	United States Treasury	02/07/90	03/29/93	35,299.00	37,209.00	1,910.00
100,000	United States Treasury	09/18/91	03/29/93	105,802.00	106,312.00	510.00
100,000	Chrysler Corp	02/14/92	04/05/93	93,384.00	104,375.00	10,991.00
20,000	Conner Peripherals	12/03/91	04/05/93	16,172.00	17,850.00	1,678.00
300	Bombay Co	11/19/92	05/25/93	8,220.00	13,057.00	4,837.00
300	Bombay Co	12/21/92	05/25/93	9,561.00	13,054.00	3,493.00
300	Movell Inc	12/01/92	05/25/93	9,026.00	8,903.00	(123.00)
50,000	Citicorp Sr Nt	11/14/92	06/14/93	50,209.00	52,547.00	2,338.00
500	Bank of Boston Corp	03/11/92	06/29/93	18,188.00	22,802.00	4,614.00
200	Ford Motor Co	11/29/91	06/29/93	10,268.00	17,699.00	7,431.00
200	Aerco Inc	03/11/92	10/02/92	5,927.00	4,738.00	(1,189.00)
300	Bio Magnetic Technologies	03/12/92	10/02/92	4,715.00	2,797.00	(1,918.00)
500	WWC Financial Corp	03/12/92	10/02/92	4,133.00	5,224.00	1,091.00
400	Abbott Labs	03/11/92	02/10/93	12,665.00	10,983.00	(1,682.00)
300	Hechinger Company	11/19/92	03/19/93	3,318.00	2,611.00	(707.00)
400	ICF International	11/19/92	03/19/93	2,857.00	2,494.00	(363.00)
1,000	Naviator Intl	02/26/92	03/19/93	3,841.00	2,547.00	(1,294.00)
100	National Health Labs	12/21/92	03/19/93	2,377.00	1,460.00	(917.00)
25,000	US Treas Secs Stripped	02/15/90	03/29/93	18,878.00	24,640.00	5,762.00
200	Bombay Company	12/17/92	05/25/93	6,708.00	8,687.00	1,979.00
25,000	Citicorp Sr Nt	11/14/91	06/14/93	25,105.00	26,274.00	1,169.00
	Total			1,186,766.72	1,181,801.24	(4,963.48)

FUNDRAISING AND LOBBYING EXPENDITURES

Organization	Four year direct lobbying	Four year grassroots lobbying	Total 4 year lobbying expenditures	Fundraising [1]
The Nature Conservancy	$3,352,135	$12,508	$1,913,453	$24,791,449
National Wildlife Federation	2,334,138	486,947	3,115,866	3,994,986
World Wildlife Fund	7,069	76,792	83,861	4,447,034
Greenpeace Fund	111,992	None	111,992	9,050,944
Greenpeace Inc	(2)	(2)	12,617,895	3,896,596
Sierra Club	(2)	(2)	8,793,421	5,098,599
Sierra Club Legal Defense Fund	165,864	107,027	272,891	1,813,426
National Audubon Society	1,732,047	549,012	2,281,059	4,338,227
Environmental Defense Fund	624,030	None	624,030	3,168,754
Natural Resources Defense Council	246,526	182,821	429,347	2,158,637
Wilderness Society	1,155,264	207,198	1,362,462	2,485,395
National Parks and Conservation Association	192,192	189,235	381,427	988,806
Friends of the Earth	116,378	0	116,378	266,948
Izaak Walton League of America	54,773	2,929	57,702	159,023
Total	10,092,408	1,814,469	32,161,784	66,658,824

[1] Fundraising: amounts shown appear in Line 15, Form 990, "Fundraising."

[2] Greenpeace, Inc. and the Sierra Club are 501(c)(4) lobbying organizations that do not report under Section 501(h) of the U.S. Tax Code. The amounts shown are from Form 990, Part III, under Program Services and may include educational expenses as well as actual lobbying expenses to influence public policy.

MAJOR FOUNDATION DONORS

Organization	Donor foundation
The Nature Conservancy	Mildred Andrews Fund ($10 million in 1989); W. Alton Jones Foundation; MacArthur Foundation; C.S. Mott Foundation; R. K. Mellon Foundation.
National Wildlife Federation	American Conservation Association (Rockefeller); Beldon Fund; W. Alton Jones Foundation; Joyce Foundation; C.S. Mott Foundation; Pew Charitable Trusts.
World Wildlife Fund	Champlin Foundations; Geraldine R. Dodge Foundation; Ford Foundation; W. Alton Jones Foundation; MacArthur Foundation; R.K. Mellon Foundation.
Greenpeace Fund	Bydale Foundation; Cheeryble Foundation; William H. Donner Foundation; Dreyfus Foundation; Fanwood Foundation; Town Creek Foundation.
Greenpeace Inc	Greenpeace, Inc. is a lobbying group not eligible for tax deductible donations.
Sierra Club	The Sierra Club is a lobbying group not eligible for tax deductible donations.
Sierra Club Legal Defense Fund	Compton Foundation; Gerbode Foundation; C.S. Mott Foundation; Mary Flagler Cary Charitable Trust; W. Alton Jones Foundation.
National Audubon Society	Compton Foundation; Ford Foundation; W. Alton Jones Foundation; Joyce Foundation; MacArthur Foundation; C.S. Mott Foundation; Rockefeller Family Fund.
Environmental Defense Fund	Foundation grants 1993, $6,133,625. Ford Foundation, Richard King Mellon Foundation, Rockefeller Family Fund.
Natural Resources Defense Council	Foundation grants 1993, MacArthur Foundation $1,576,403; Beineke Foundation $1,450,000. W. Alton Jones Foundation; Rockefeller Foundation.
Wilderness Society	Foundation grants 1993, $2,285,111. Goldman Foundation; George Gund Foundation; MacArthur Foundation; R.K. Mellon Foundation.
National Parks and Conservation Association	Foundation grants 1993, $196,268. Mary Flagler Cary Charitable Trust; Andrew W. Mellon Foundation.
Friends of the Earth	Foundation grants 1993, $1,573,996. Beldon Fund; C.S. Mott Foundation; Rockefeller Brothers Fund; Rockefeller Family Fund.
Izaak Walton League of America	Foundation grants 1993, $498,309. Beldon Fund; R.K. Mellon Foundation; George Gund Foundation; Joyce Foundation.

FOUNDATION CONTROL OF ENVIRONMENTAL GROUPS

The Surdna Instance

Surdna Foundation, Inc. (a member of Environmental Grantmakers Association), 1155 Avenue of the Americas, 16th Floor) New York, New York 10036, Tel: 212-730-0030 Fax: 212-391-4384.

Contacts: Edward Skloot, Executive Director; Hooper Brooks, Program Officer for the Environment.

The Surdna Foundation, Inc., is a family foundation established in 1917 by John E. Andrus (d. 1934., whose businesses included gold, oil, timber, and real estate. Surdna is Andrus spelled backward. About half of its annual grants go to two programs: Community Revitalization and the Environment.

Documents show that Surdna Foundation, as part of an investment portfolio of $338,074,279 in assets, owns and operates approximately 75,000 acres of timberlands in Northern California. Andrus timber partners also own and operate approximately 90,000 acres of timberlands in Northern California. Frederick F. Moon III is a director of both Surdna Foundation and Andrus timber partners. According to federal tax forms, Surdna Foundation realized $2.7 million income from timber in 1992–93.

Documents show that Surdna Foundation made contributions of $35,000 to Environment Now, an environmental organization that held training seminars teaching activists group leaders how to file appeals to stop federal timber harvest plans. Surdna Foundation grant recipients known to have filed Timber Harvest Plan appeals include Sierra Club ($90,000), Oregon Natural Resources Council, Wilderness Society ($325,000), Western Ancient Forest Campaign ($175,000), Audubon Society ($100,000), and Natural Resources Defense Council ($557,000), stopping timber harvests and log supplies to mills in the Sierra Nevada market area. Thirty-six sawmills in Northern California have shut down because of log shortages since 1990, rendering 8,000 unemployed. As a result, timber prices on Surdna Foundation's private lands have increased dramatically. Some of the Timber Harvest Plans that were appealed lie in the same watershed as the timberlands owned by Surdna Foundation and Andrus timber partners, yet no appeals were filed on the State Timber Harvest Plans submitted by Surdna Foundation under California law.

The sequence of events of Surdna Foundation's grantmaking history shows that they made no grants to groups involved in restricting federal timber supplies in Northern California during 1987–88; during 1988–89 they made a grant to The Nature Conservancy; in 1989–90, grants went to Conservation Law Foundation, 1000 Friends of Oregon. Natural Resources Defense Council, Project LightHawk, Sierra Club, Wilderness Society and Western Ancient Forest Campaign; during 1991–92, grants went to Americans for the Ancient Forest, National Audubon Society, Environment Now, Conservation Law Foundation, Natural Resources Defense Council, Oregon Natural Resources Council, Eco Trust, 1000 Friends of Oregon, Western Ancient Forest Campaign, and the Wilderness Society.

Two Northern California residents filed numerous Timber Harvest Plan appeals on behalf of several groups, and also occupied leadership positions: Linda Blum, leader positions: Western Ancient Forest Campaign; Tulare Audubon Society; Friends of Plumas; Sierra Nevada Alliance; and Wilderness Society. Erin Noel, leader positions; Western Ancient Forest Campaign; Friends of Plumas; Sierra Nevada Issues Group.

During 1992–93 Surdna Foundation realized $2.7 million income from its Northern California timberlands.

A substantial effort to control major nonprofit environmental organizations through the power of the purse was discussed in the 1992 annual retreat of the:

Environmental Grantmakers Association (Founded 1985).

Budget: $40,000.

Staff: 1, operated by Rockefeller Family fund dba EGA, 1290 Avenue of the Americas, New York, New York 10104. Phone: 212-373-4260 FAX: 212-315-0996.

Pam Maurath, Assistant Coordinator.

The Environmental Grantmakers Association is a coalition of 160 private foundations that provide most of the $340 million in environmental grants each year. The annual retreats are strategy planning sessions during which grantmakers lay their plans for the coming year. The following dialog was transcribed verbatim from tapes of a session titled "Environmental Legislation." Ed Skloot and Hooper Brooks of Surdna Foundation spoke during this panel.

Anne Fitzgerald: Do you detect, though, a resistance in the larger organizations to becoming grant driven?

Donald Ross [Rockefeller Family Fund]: Yeah. I think a lot of them resist.

Chuck Clusen [American Conservation Association]: A number of us have been involved in this, Anne. Yeah. There's definitely a feeling on the part of the not-for-profit organizations that in cases of some of the campaigns like the Ancient Forests Campaign that they resent funders, not just picking the issues, but also being directive in the sense of the kind of campaign, the strategy, the style, and so on. I guess, coming out of the advocacy world, and having spent most of my career doing it, I look at it as, if they're not going to do it on their own, thank God funders are forcing them to start doing it. . . .

Donald Ross: I think that there are things that could be done. I think funders have a major role to play. And I know there are resentments in the community towards funders doing that. And, too bad. We're players, they're players.

But I think we touched on a lot of problems, the internal problems within these big groups, the warring factions within them who are all trying to get resources, and there's too many groups and too few resources, and all that. I think the fundamental effort that has to be made is a reorganization of the movement, whether you're talking—I don't think it's realistic to think that groups like Sierra Club or NRDC are going to disappear and reform into something new. They'll stay, and they'll still send out those newsletters. I think we have to begin to look much more at a task force approach on major issues that is able to pool. And the funders can drive that. And part of the reason these groups have been resistant to work with each other is precisely because they want the credit, they want the name, so they can get more funding, either from us—from foundations—or from members.

And I think there isn't one of them, even the biggest, National Wildlife, or Audubon or Sierra Club, that has the capacity to wage full scale battles on major issues by themselves. They don't have the media, lobbying, grass roots organizing, Washington base, etc., litigation, all wrapped in one organization.

And so the trick, I think, is to figure out how we can duplicate some of the early successes like the Alaska lands fight that you were involved in, Chuck, back in—or this transportation one. I think it can be, where funders can play a real role is helping, is using the money to drive, to create ad hoc efforts in many cases that will have a litigation component coming from one group, a lobbying component coming from another group, a grass roots organizing component coming from yet a third group with a structure that enables them to function well.

Individual audio tapes of all 1992 EGA retreat sessions can be purchased for $11.00 each from Conference Recording Service, 1308 Gilman Street, Berkeley, California 94706, Phone: (510) 527-3600, Fax: (510) 527-8404. The complete conference audio set is available in a vinyl binder for $150 including shipping. If EGA attempts to block release of these tapes by Conference Recording Service, the Center for the Defense of free Enterprise will provide copies to legitimate members of the media. Verbatim transcriptions of major sessions are available from the Center for the Defense of Free Enterprise.

NON-PROFIT LAND TRUSTS SELLING PRIVATE LAND TO GOVERNMENTS

There are presently more than 900 nonprofit land trusts in the United States. These land trusts commonly buy property from individual private owners with the understanding that the land will be kept in trust for environmental purposes by the non-profit purchaser. Many non-profit land trusts, in addition to keeping these private purchases in private trusts, also sell purchased private land to government agencies.

Many individual private land owners have complained about non-profit land trust practices and cite numerous abuses that should receive congressional scrutiny and wide public attention. The most commonly cited abuses are:

Failure to advise the individual private seller that his or her land will in turn be sold to a government agency.

Individual land owners are underpaid by non-profit trusts.

Individual land owners are not advised that they may sell directly to the government.

Non-profit land trusts receive inside information from government agencies about "approved appraised value" of individual privately owned parcels in advance of purchase, promoting underpayment.

Government agencies secretly request non-profit land trusts to buy desired properties and hold them until congressional appropriations are available to pay for government purchase.

Government agencies pay non-profit land trusts prices "above approved appraised value."

Government agencies pay non-profit land trusts additional "carrying costs" including interest, travel, telephone, postage, appraisal and survey costs, title premiums, closing costs, property taxes owed, and overhead.

Non-profit land trusts commonly retain all mineral rights and gas and oil rights to properties they sell to the government.

Government agency employees who have arranged favorable purchases for non-profit land trusts for years then accept employment by those non-profit land trusts often takes the property off the tax rolls, harming local and country government revenues.

Sales of non-profit land trust property to government centralizes power and feeds an insatiable appetite for more private property to be nationalized.

Non-profit land trusts keep their government sales quiet and refuse to release details of individual transactions in progress or completed.

Government agencies refuse to release details of land transactions in progress or completed with nonprofit land trusts, claiming private sales to government are exempt from the Freedom of Information Act.

Non-profit land trusts justify their secret complicity with government agencies by pointing out that it is not illegal, setting a standard of behavior of merely avoiding prosecution.

Non-profit land trusts use their reputations to purchase private property for conservation purposes and then convert it to "trade lands" which are sold to developers at high profits, using the justification that the funds will eventually be plowed back into purchases of actual conservation lands.

Non-profit land trusts advertise only their private land activities, and do not provide the public with remedial advertising openly describing their extensive land sales to the government, thus leaving the public with a false impression of their real operations.

Government agencies commonly whitewash their abuses in reports written by government appointees formerly employed by environmental organizations and still loyal to those private non-profit organizations.

BAIT AND SWITCH

The Bait: This charming Nature Conservancy ad with its appealing tag line, "Conservation Through Private Action".

"We Get a Good Return on Our Investment. "The Nature Conservancy takes a business approach to protecting our natural world. Each day in the U.S. we invest in over 1,000 additional acres of critical habitat for the survival of rare and endangered species. "Through creative techniques like debt-for-nature swaps, we are also saving millions of acres of tropical rainforest throughout Latin America and the Caribbean. "On these protected acres, migratory waterfowl return each year. Trout return to the streams. Antelope return to the grasslands. And in many areas plant and animal species previously driven to the brink of extinction are returning to their native habitats. "Join us, and make an investment in our natural heritage. Future return, isn't that what investment is all about?

"Conservation Through Private Action."

The Switch: The Nature Conservancy sells private purchases to the federal government—

Without the prior knowledge of the private land seller;

Often at secret government request;

Using privileged appraisal information supplied by agents of the federal government;

Above "approved appraised value";

Paying "lowball" prices below "approved appraisal value" by offering tax breaks to the seller because of TNC's non-profit tax status;

Keeping the mineral and oil and gas rights;

Taking land off the tax rolls;

Obtaining influence within federal agencies for Congressional appropriations to pay for TNC purchases;

$76,318,014 income from government sales in fiscal 1993;

All at taxpayer expense.

Conservation Through Private Action?

OTHER NON-PROFIT LAND TRUSTS SELLING PRIVATE LAND TO GOVERNMENTS

The Conservation Fund

Staff: 19 professionals on contractual basis.

Non-membership.

Tax Status: 501(c)(3).

1800 N. Kent Street, Suite 1120, Arlington, Virginia 22209, Phone: (703) 522–8008 Fax: (703) 525–4610.

Total revenue, 1993, $13,886,902.

President: Patrick Noonan. Salary, $148,500, Benefits $16,542.

Vice President: David Sutherland, $64,000 salary, $6,426 benefits.

Chief Operating Officer: John Turner, $68,000 salary, $3,743 benefits.

Secretary: Kiku Hoagland Hanes, $55,000 salary, $9,800 benefits.

Assistant Treasurer: Joann Porter, $64,500 salary, $10,000 benefits.

Board Member: Charles Hordan, $14,000 compensation.

Compensation of Officers and Directors, $400,000.

Other Salaries and Wages, $1,084,714.

Pension Plan Contributions, $64,160.

Other Employee Benefits, $86,318.

American Farm and Trust

Total revenue, 1993, $22,744,704.

Total expenses $21,263,591.

Fund balances at end of year, $27,539,148.

Compensation of officers, $1,621,300.

Other salaries and wages, $4,057,727.

Pension plan contributions, $237,343.

Other employee benefits, $1,518,784.

Investments—securities, $15,182,446.

Total assets, $58,840,830.

Grants and conveyances of properties to government and private groups, $4,544,270.

Legal fees, $402,389.

Telephone, $328,335.

Travel and meetings expenses, $726,702.

[Letter from the Deputy Regional Director of the U.S. Fish and Wildlife Service to the Nature Conservancy dated August 30, 1985, showing systematic government request for TNC to buy private land. The government clearly agrees to pay TNC "your overhead, financing, and handling charges in excess of the approved appraisal value." The information in this letter was not made known to private owners who sold to TNC. The practice continues]

U.S. DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Newton Corner, MA, August 30, 1985.

LA—Connecticut; Connecticut Coastal NWR.

DENNIS WOLKOFF,
The Nature Conservancy, Eastern Regional Office, Boston, MA.

DEAR DENNIS: We are appreciative of The Nature Conservancy's continuing effort to assist the Service in the acquisition of lands for the Connecticut Coastal National Wildlife Refuge. As a result of your assistance and cooperation approximately 90% of the acreage identified in the enabling legislation has received long term protection.

Our appraisal of the tract on Sheffield Island has been completed and we are currently awaiting funding prior to making an offer on the property. We understand that the proceeds from the eventual sale of this parcel to the Service will in turn, be used to purchase the 8-acre Milford Point tract.

Since the availability of additional funding is not currently known, we request that The Nature Conservancy continue their preservation efforts and acquire the Milford Point tract. We will make every effort to purchase the property when funds become available.

It is understood that our purchase price will be based on the Service approved value plus an amount, to be agreed upon, which will cover your overhead, financing, and handling charges in excess of the approved appraisal value. If we are not able to purchase this property within a reasonable period of time, it is further understood that The Nature Conservancy may recover its investment by a sale on the open market.

Your effort to purchase property on Milford Point and to hold for subsequent conveyance to the Service are greatly appreciated.

Sincerely yours,

———— ————,
Deputy Regional Director.

[Letter from TNC legal counsel Philip Tabas to Robert Miller of the U.S. Fish and Wildlife Service showing the elastic payment policy of taxpayer money to a private nonprofit organization. Tabas boasts in a footnote that The Nature Conservancy is the "Agency with The Most Complete File" on Milford Point, indicating access to insider information. Miller was later hired by The Nature Conservancy at a high salary.]

THE NATURE CONSERVANCY,
EASTERN REGIONAL BLDG.,
Boston, MA, November 7, 1986.

ROBERT MILLER,
Chief, Realty Division, Fish and Wildlife Service, Newton Corner, MA.

DEAR BOB: Attached please find the so-called letter of intent for Milford Point. It gives you pretty broad authority to pay what we both agree to for the property, even ". . . in excess of the approved appraisal value." Let's talk after you have had a chance to review your files.

I look forward to receiving the FWS appraisal on Milford Point which was done in January 1986 and any revisions thereof.

Best regards.

Sincerely,

PHILIP TABAS,
Legal Counsel, Eastern Region.

P.S. I guess TNC wins the "Agency with The Most Complete File" award on this one!

[Letter from TNC Director of Protection Camilla M. Herlevich to Al Bonsack of the U.S. Fish and Wildlife Service showing TNC billing the federal government for numerous expenses involved in a land sale. TNC states that, "as is customary, the oil and gas rights will not go with the property."]

THE NATURE CONSERVANCY,
SOUTHEAST REGIONAL OFFICE,
Chapel Hill, NC, December 23, 1988.

A. BONSACK,
U.S. Department of the Interior, Fish and Wildlife Service, Atlanta, GA.

RE: Big Pine Key (Granada Continuing Presbyterian Church), FL—TNC to USFWS.

DEAR MR. BONSACK: The Nature Conservancy acquired the above-referred tract at Big Pine Key on November 15, 1988. We would like to transfer the property to the United States Fish and Wildlife Service by January 31, 1989. Our costs through January 31, 1989 are $78,322.00. Costs would increase in an amount equal to prime plus one percent (1%) per annum times the purchase price for any period of holding after January 31, 1989. Current per diem cost is $23.00. Our costs for this transaction are, itemized as follows:

Purchase price	$73,000.00
Coop interest @ 11.5% 2.5 mos	1,748.00
Travel	50.00
Telephone	50.00
Postage	0.00
Appraisals/surveys	0.00
Title premium	310.00
Closing costs	127.00
Property taxes	846.00
Overhead @ 3% 73,000=	2,190.00
Total	78,322.00

As is customary, the oil and gas rights will not go with the property, although the Conservancy will restrict its mineral activity to subsurface methods.

If you would please indicate the acceptance of The Nature Conservancy's offer by having the appropriate person sign for the United States Fish and Wildlife Service in the space provided below and return to me. A copy is provided for your records.

Best regards,

CAMILLA M. HERLEVICH,
Director of Protection.

[Letter from TNC legal counsel Philip Tabas to Robert Miller of the U.S. Fish and Wildlife Service showing the solicitation of Miller's superiors in the national office to place one of TNC's properties higher on a government purchase priority list to avoid the oversight of a Congressman and "make the job of securing Congressional funds for this project that much easier."]

THE NATURE CONSERVANCY,
EASTERN REGIONAL OFFICE
Boston, MA. January 24, 1990.

ROBERT MILLER,
Chief, Reality Division, Fish and Wildlife Service, Newton Corner, MA.

DEAR BOB: * * *

Third, we recently saw the regional LAPS list and, as you may know, the James River Eagle project was ranked #78. I know, that there are logical inconsistencies in the LAPS list process, but this ranking of the James River project is likely to make it difficult for us to secure the support we need in Congress to get the money to fund this project. As you know, Congressman Sisitsky pointed to the LAPS list in the last round as the reason for his failure to support the project and we would like to avoid having to fight with him on that issue again this year. If there is anything you can do with the powers that be in your national office to revise the James River project to a higher ranking, it would make the job of securing Congressional funds for this project that much easier.

Thanks very much for your help on these matters. I look forward to catching up with you when you return from your travels. Best regards.

Sincerely yours,

PHILIP TABAS,
Attorney, Eastern Region.

STATE GOVERNMENT-NON-PROFIT LAND TRUSTS

Scenic Hudson, Inc.

Total revenue, 1993, $1,112,787.

Total expenses, $1,013,288.

Fund balances, $2,398,803.

Salaries and wages, $561,878.

Employee benefits, $51,115.

Investments—securities, $1,667,771.

Total assets, $3,799,224.

Executive Director, Klara Sauer, $72,000 salary, $3,600 benefits.

Land Preservation Director, Steven Rosenberg, $51,500 salary, $2,575 benefits.

Associate Director, Carol Sonderheimer, $49,000 salary, $2,450 benefits.

Environmental Director, Cara Lee Box, $33,897 salary, $1,695 benefits.

Waterfront Specialist, John J. Anzevino, $32,569 salary, $571 benefits.

Deferred grants and contributions $10,000 and over:

Lila Acheson and DeWitt Wallace Fund for the Hudson Highlands, $345,500.

Hudson River Foundation, $14,800.

Surdna Foundation, $26,762.

Compton Foundation, $20,000.

The Cohen Charitable Trust, $10,000.

Total deferred grants and contributions, $428,480.

Investments:

U.S. Treasury Notes, $462,259.

Bonds, $326,107.

Common stock, $644,339.

Preferred stock, $235,066.

Total, $1,667,771.

Scenic Hudson Land Trust Inc.

Land buying affiliate of Scenic Hudson, Inc.

Total revenue, 1993, $4,794,870.

Total expenses, $345,380.

Fund balances, $13,298,300.

Salaries and wages, $13,716.

Employee benefits, $1,001.

Total assets, $17,964,088.

Executive Director Klara Sauer of Scenic Hudson, Inc., is a director of Scenic Hudson Land Trust, Inc.

Foundation and trust grants received, $4,756,694.

Support and revenue designated for future periods: Lila Acheson and DeWitt Wallace Fund for the Hudson Highlands $3,228,095.

STATE GOVERNMENT-PRIVATE LAND TRUSTS

Scenic Hudson, Inc. and Scenic Hudson Land Trust, Inc., based in Poughkeepsie, New York, are operating a secretive land buying operation along the 148-mile Hudson River Valley corridor from New York City to Albany. Some operations are carried out in cooperation with Open Space Institute in Ossining, New York. The organizations are carrying out the plan of "Conserving Open Space in New York State," approved by Governor Mario Cuomo in 1993, a document available only upon special request from the state and not of general knowledge. These organizations are beneficiaries of over $40 million from the Lila Acheson and DeWitt Wallace Fund (the Readers Digest fortune) for the Hudson Highlands.

Once Scenic Hudson holds title to local real estate, its officers and executives demand that municipalities take their "non-profit" purchase off the tax rolls—or face devastating lawsuits. The non-profits' financial clout and backing by New York elites gives them leverage against beleaguered municipalities that cannot afford extensive lawsuits.

Scenic Hudson, Inc. enjoys corporate support and invests in corporate stocks. Chevron awarded Scenic Hudson a $2,000 grant in May, 1994. A gift of 400 shares of Chevron common stock to Scenic Hudson on May 25, 1989, netted the non-profit $6,133.07 when sold on May 12, 1992. Scenic Hudson owns substantial oil stock: On August 16, 1990, SH purchased 400 shares of Texaco valued at more than $25,000; two weeks later they bought another 300 shares worth nearly $19,000; in June, 1993, they still owned the 700 shares of Texaco. On May 12, 1992, they bought 400 shares of Exxon ($24,014); on August 7, 1992, 400 shares of Royal Dutch Petroleum (Shell Oil) worth $35,498; on March 10, 1993, 800 shares of Sun America.

Scenic Hudson also acquired 700 shares of Phillip Morris on May 4, 1989, sold 100 of the shares October 13, 1992 at a $5,004.15 profit, and sold the remaining 600 shares in February and April, 1993, reaping $16,987.34. A gift of 600 shares of DuPont stock was reduced by sale of 200 shares on October 5, 1992 for a $5,322.09 profit; Scenic Hudson retained the 400 shares of DuPont at the 1993 tax reporting period. Scenic Hudson held Georgia-Pacific common stock for 15 months before selling it.

Wealthy donors enjoy tax breaks by giving appreciated stock to Scenic Hudson. On April 2, 1989, SH received 500 shares of British Petroleum worth $28,747.50 and sold it 16 months later at a capital gain of $41,563.11.

New York State has targeted for acquisition 157 private properties comprising hundreds of thousands of acres in Westchester, Putnam, Rockland, Orange, Sullivan and Ulster Counties. These properties, combined with the already vast state, county and federally-owned lands in the region, would create a tax free park stretching from the Hudson Highlands through the Adirondacks to the Canadian border, further impoverishing local communities.

DOCUMENTATION

All factual information in this report was taken from public information or published reports readily available to the journalist.

Most financial data were found in U.S. Internal Revenue Service Form 990 annual reports filed by the respective organizations under examination. Other sources include financial statements prepared by the environmental organizations and provided to the Secretary of State of New York, the Division of Consumer Affairs of the Commonwealth of Virginia and the Attorney General's Office of the State of California. Lists of investments were obtained from both of these sources, or from California Attorney General's Office filings on Form CT–2. Many organizations do not file their list of investments with any public agency. In such cases, the authors of this report requested such lists by telephone directly from the environmental organization in question. All organizations thus solicited for investment information refused to divulge it.

Information on Foundation Control of Environmental Groups came from tape recorded discussions among foundation staff and officers at the Environmental Grantmakers Association 1992 Annual Retreat at Rosario Resort in Washington State. Documentation of the Surdna Instance came from U.S. Forest Service timber harvest plans, Form 990 filings, California state filings, and internal documents discovered in public filings.

Major documentation of Non-Profit Land Trust abuses was obtained from the U.S. Fish and Wildlife Service through the Freedom Of Information Act. Additional documentation was obtained from individual land owners in personal interviews or through third-party correspondents.

The Center for the Defense of Free Enterprise is the sole author of this report, and is solely responsible for the accuracy of the data here presented.

Mr. MURKOWSKI. Mr. President, as I indicated, out of necessity, these organizations have to consume their causes, and Utah wilderness currently is one of their causes. We have seen their efforts in mining reform, just last week in grazing reform, and the week before the forest issue. Now they have turned their efforts to Utah wilderness.

I do not mind constructive input. It is invaluable in the development of quality legislation. It is good for everyone, but this type of big business, well-financed campaigns that they establish are really not constructive. It is a case of "We're going to protect you from yourselves whether it is good for you or not, but we're going to do it at your own expense."

Mr. President, I think it is time to get real.

I would like to chat a little bit about Sterling Forest, because while I support the proposal of my friend from New Jersey, it is not without some exceptions. The purpose of title XVI is to authorize the Secretary of the Interior to provide funding to the Palisades Interstate Park Commission in order to facilitate the acquisition of the Sterling Forest in New York. I am not sure what the status is, but I am sure my friend from New Jersey will tell us, if this bill goes through, in what status that land will be held.

The 17.5 million dollars authorized by this legislation states that funds may be transferred to the commission only to the extent that they are matched with funds contributed by non-Federal sources. So the State of New York and the State of New Jersey are going to have to, obviously, contribute funds.

The funds may only be used for the procurement of conservation easements along—this is where it gets interesting, Mr. President—along the Appalachian Trail. That is National Park Service administered but privately owned which runs through the Sterling Forest but not in the same watershed that they are currently trying to protect.

So, it is interesting to pick up that difference. In actuality, scarce Federal appropriated funds are being used to trigger the flow of appropriated funds from New York and New Jersey. While the protection of the States' watershed may be meritorious, there are higher priorities currently within the National Park Service that need to be addressed.

Notwithstanding my concerns, the Senator from New Jersey was accommodated, and I support his efforts in this regard because I recognize that he is from that State, he is held responsible by his constituents, and he ought to know what is best for his State and, as a consequence, I am going to support the Sterling Forest, as I have indicated to him. But it is technically not just a home run or a couple of free throws. The Federal funds may only be used for the procurement of conservation easements along the Appalachian Trail, which is Park Service administered but privately owned, which runs through the Sterling Forest but not in the same watershed that they are trying to protect.

So, Mr. President, we have a situation before us where this is really not a debate about the merit of adding 2 million acres of new wilderness to the national inventory. This is really a battle between some of the well-financed elitists and the people who live in the State of Utah.

Would the world be better off with 2 million acres of wilderness? I believe it would. Would we be better off with an additional 3 million acres that did not meet the definition of wilderness? I think not.

Unfortunately, the playing field does not happen to be level. We find ourselves being tied up by a group of elitists. This debate is really a difference of opinion between the well-financed elitist lobby who wants all or nothing and the rest of us who are looking for resource protection and balance and trying to represent the people of the affected States.

As I have indicated and the chart shows, this is a well-financed lobby. Environmentalism is big business, as the chart shows, and, as a consequence, it does show that environmental money does go for the purpose of protecting the environment, while at the same time it shows that little goes to achieve balance, compromise or resolution.

As I have indicated, the environmental community does need a cause for additional membership, for added dollars. As I have indicated, this week it is Utah wilderness, last week it was grazing, before that timber.

Let me reflect, finally, on how the people of Utah, as they look to the future of their State—a relatively large Western State, 52 million acres of land—proposes to increase the wilderness by some 2 million acres, increasing that to a special classification of wilderness which would be BLM wilderness of 2 million acres and Forest Service wilderness of 800,000 acres.

The overwhelming base of support, as evidenced by the statements from those in Utah, and the realization that here we are with a package that can meet its objective in adding wilderness to Utah, that can meet its objective with regard to the concerns of my friend from New Jersey, who, at least to this Senator, has established himself as perhaps the self-anointed savior of the West, but, again, I ask, who does he really represent with regard to this issue? Is it the big environmental groups that have no compassion, no understanding, no willingness to negotiate a reasonable settlement that has been identified time and time again as being in the interest of the people? And is this a continued attack on resource development on public land, whether it be grazing, timber, or mining? Is it going to be concessions next? Is this the attitude prevailing from this administration?

As we look at resource development in this country, we recognize that we are exporting dollars, we are exporting jobs overseas, and as we depend more and more on imports, our current balance-of-payment deficit is half of the cost of imported oil. Fifty-four percent of our oil is now imported. We are increasing our timber and wood fiber imports. We are losing high-paying, blue-collar jobs. Can we not, through science and technology, continue to develop our resources in a responsible manner? That is what the people of Utah are talking about, relative to the additional acreage that they want to use for their school system, for the education of their children.

It seems to me that we should listen to the people of Utah today, Mr. President. They are not extreme. They are not elitists. They are realists. They know what they need for their State. They have recommended 2 million acres of wilderness. It is a responsible compromise.

So, Mr. President, as we go through this debate throughout the day, and perhaps a portion tomorrow, I encourage all Members to look at this package, recognize it for what it is, an attempt to accommodate some 17 or 18, close to 20 States, with individual recommendations on land within their States, recognizing the significance of including the Presidio in this package and the realization that the trust that has been formed to manage the Presidio under the scope of this legislation is realistic, it will work, it will take the burden off of the Federal Government. Last, this legislation will meet the needs of the people of Utah.

MODIFICATIONS TO AMENDMENT NO. 3564

Mr. MURKOWSKI. Mr. President, I send a modification of my amendment to the desk. I ask that each of the measures be added at the appropriate place, and the titles and section numbers be renumbered accordingly.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. MURKOWSKI. Mr. President, it would add provisions for the Big Thicket in Texas, the Big Horn County school district in Wyoming, a right-of-way in Wyoming, the Tallgrass provisions in Kansas. I think that takes it up to nearly 60, Mr. President. I do not think further reading is required.

The PRESIDING OFFICER. The amendment is so modified.

The modifications follow:

At the appropriate place, insert:

TITLE —

SECTION 1. FINDINGS.

The Congress finds that—

(1) under the Big Thicket National Preserve Addition Act of 1993 (Public Law 103-46), Congress increased the size of the Big Thicket National Preserve through authorized land exchanges;

(2) such land exchanges were not consummated by July 1, 1995, as required by Public Law 103-46; and

(3) failure to consummate such land exchanges by the end of the three-year extension provided by this Act will necessitate further intervention and direction from Congress concerning such land exchanges.

SEC. 2. TIME PERIOD FOR LAND EXCHANGE.

(a) EXTENSION.—The last sentence of subsection (d) of the first section of the Act entitled "An Act to authorize the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes", approved October 11, 1974 (16 U.S.C. 698(d)), is amended by striking out "two years after date of enactment" and inserting "five years after the date of enactment".

(b) INDEPENDENT APPRAISAL.—Subsection (d) of the first section of such Act (16 U.S.C. 698(d)) is further amended by adding at the end the following: "The Secretary, in considering the values of the private lands to be exchanged under this subsection, shall consider independent appraisals submitted by the owners of the private lands.".

(c) LIMITATION.—Subsection (d) of the first section of such Act (16 U.S.C. 698(d)), as amended by subsection (b), is further amended by adding at the end the following: "The authority to exchange lands under this subsection shall expire on July 1, 1998.".

SEC. 3. REPORTING REQUIREMENT.

Not later than six months after the date of the enactment of this Act and every six months thereafter until the earlier of the consummation of the exchange or July 1, 1998, the Secretary of the Interior and the Secretary of Agriculture shall each submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate concerning the progress in consummating the land exchange authorized by the amendments made by Big Thicket National Preserve Addition Act of 1993 (Public Law 103-46).

SEC. 4. LAND EXCHANGE IN LIBERTY COUNTY, TEXAS.

If, within one year after the date of the enactment of this Act—

(1) the owners of the private lands described in subsection (b)(1) offer to transfer all their right, title, and interest in and to such lands to the Secretary of the Interior, and

(2) Liberty County, Texas, agrees to accept the transfer of the Federal lands described in subsection (b)(2),

the Secretary shall accept such offer of private lands and, in exchange and without additional consideration, transfer to Liberty County, Texas, all right, title, and interest of the United States in and to the Federal lands described in subsection (b)(2).

(b) LANDS DESCRIBED.—

(1) PRIVATE LANDS.—The private lands described in this paragraph are approximately 3.76 acres of lands located in Liberty County, Texas, as generally depicted on the map entitled "Big Thicket Lake Estates Access—Proposed".

(2) FEDERAL LANDS.—The Federal lands described in this paragraph are approximately 2.38 acres of lands located in Menard Creek Corridor Unit of the Big Thicket National Preserve, as generally depicted on the map referred to in paragraph (1).

(c) ADMINISTRATION OF LANDS ACQUIRED BY THE UNITED STATES.—The lands acquired by the Secretary under this section shall be added to and administered as part of the Menard Creek Corridor Unit of the Big Thicket National Preserve.

At the end of the amendment, add the following:

SEC. ___01. CONVEYANCE OF CERTAIN PROPERTY TO THE BIG HORN COUNTY SCHOOL DISTRICT NUMBER 1, WYOMING.

The Secretary of the Interior shall convey, by quit claim deed, to the Big Horn County School District Number 1, Wyoming, all right, title, and interest of the United States in and to the following described lands in Big Horn County, Wyoming: Lots 19-24 of Block 22, all within the town of Frannie, Wyoming, in the S½NW¼NW¼ and N½SW¼NW¼ of section 31 of T. 58N., R. 97 W., Big Horn County.

At the appropriate place, insert:

SECTION 1. RELINQUISHMENT OF INTEREST.

(a) IN GENERAL.—The United States relinquishes all right, title, and interest that the United States may have in land that—

(1) was subject to a right-of-way that was granted to the predecessor of the Chicago and Northwestern Transportation Company under the Act entitled "An Act granting to railroads the right of way through the public lands of the United States", approved March 3, 1875 (43 U.S.C. 934 et seq.), which right of way the Company has conveyed to the city of Douglas, Wyoming; and

(2) is located within the boundaries of the city limits of the city of Douglas, Wyoming, or between the right-of-way of Interstate 25 and the city limits of the city of Douglas, Wyoming,

as determined by the Secretary of the Interior in consultation with the appropriate officials of the city of Douglas, Wyoming.

(b) CONVEYANCE.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall file for recordation in the real property records of Converse County, Wyoming, a deed or other appropriate form of instrument conveying to the city of Douglas, Wyoming, all right, title, and interest in the land described in subsection (a).

At the appropriate place in the amendment, insert the following:

TITLE ___—TALLGRASS PRAIRIE NATIONAL PRESERVE

SEC. __01. SHORT TITLE.

This title may be cited as the "Tallgrass Prairie National Preserve Act of 1996".

SEC. ___02. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) of the 400,000 square miles of tallgrass prairie that once covered the North American Continent, less than 1 percent remains, primarily in the Flint Hills of Kansas;

(2) in 1991, the National Park Service conducted a special resource study of the Spring Hill Ranch, located in the Flint Hills of Kansas;

(3) the study concludes that the Spring Hill Ranch—

(A) is a nationally significant example of the once vast tallgrass ecosystem, and includes buildings listed on the National Register of Historic Places pursuant to section 101 of the National Historic Preservation Act (16 U.S.C. 470a) that represent outstanding examples of Second Empire and other 19th Century architectural styles; and

(B) is suitable and feasible as a potential addition to the National Park System; and

(4) the National Park Trust, which owns the Spring Hill Ranch, has agreed to permit the National Park Service—

(A) to purchase a portion of the ranch, as specified in this title; and

(B) to manage the ranch in order to—

(i) conserve the scenery, natural and historic objects, and wildlife of the ranch; and

(ii) provide for the enjoyment of the ranch in such a manner and by such means as will leave the scenery, natural and historic objects, and wildlife unimpaired for the enjoyment of future generations.

(b) PURPOSES.—The purposes of this title are—

(1) to preserve, protect, and interpret for the public an example of a tallgrass prairie ecosystem on the Spring Hill Ranch, located in the Flint Hills of Kansas; and

(2) to preserve and interpret for the public the historic and cultural values represented on the Spring Hill Ranch.

SEC. ___03. DEFINITIONS.

In this title:

(1) ADVISORY COMMITTEE.—The term "Advisory Committee" means the Advisory Committee established under section ___07.

(2) PRESERVE.—The term "Preserve" means the Tallgrass Prairie National Preserve established by section ___04.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TRUST.—The term "Trust" means the National Park Trust, Inc., a District of Columbia nonprofit corporation, or any successor-in-interest.

SEC. ___04. ESTABLISHMENT OF TALLGRASS PRAIRIE NATIONAL PRESERVE.

(a) IN GENERAL.—In order to provide for the preservation, restoration, and interpretation of the Spring Hill Ranch area of the Flint Hills of Kansas, for the benefit and enjoyment of present and future generations, there is established the Tallgrass Prairie National Preserve.

(b) DESCRIPTION.—The Preserve shall consist of the lands and interests in land, including approximately 10,894 acres, generally depicted on the map entitled "Boundary Map, Flint Hills Prairie National Monument" numbered NM-TGP 80,000 and dated June 1994, more particularly described in the deed filed at 8:22 a.m. of June 3, 1994, with the Office of the Register of Deeds in Chase County, Kansas, and recorded in Book L-106 at pages 328 through 339, inclusive. In the case of any difference between the map and the legal description, the legal description shall govern, except that if, as a result of a survey, the Secretary determines that there is a discrepancy with respect to the boundary of the Preserve that may be corrected by making minor changes to the map, the Secretary shall make changes to the map as appropriate, and the boundaries of the Preserve shall be adjusted accordingly. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service of the Department of the Interior.

SEC. ___05. ADMINISTRATION OF NATIONAL PRESERVE.

(a) In General.—The Secretary shall administer the Preserve in accordance with this title, the cooperative agreements described in subsection (f)(1), and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1, 2 through 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

(b) Application of Regulations.—With the consent of a private owner of land within the boundaries of the Preserve, the regulations issued by the Secretary concerning the National Park Service that provide for the proper use, management, and protection of persons, property, and natural and cultural resources shall apply to the private land.

(c) Facilities.—For purposes of carrying out the duties of the Secretary under this title relating to the Preserve, the Secretary may, with the consent of a landowner, directly or by contract, construct, reconstruct, rehabilitate, or develop essential buildings, structures, and related facilities including roads, trails, and other interpretive facilities on real property that is not owned by the Federal Government and is located within the Preserve.

(d) Liability of Landowners.—Notwithstanding any other provision of law, no person that owns any land or interest in land within the Preserve shall be liable for injury to, or damages suffered by, any other person that is injured or damaged while on the land within the Preserve if—

(1) the injury or damages result from any act or omission of the Secretary or any officer, employee, or agent of the Secretary or of a person other than the owner, a guest of the owner, or a person having business with the owner; or

(2) the injury or damages are suffered by a visitor to the Preserve, and the injury or damages are not proximately caused by the wanton or willful misconduct of, or a negligent act (as distinguished from a failure to act) of, the person that owns the land.

(e) Unit of the National Park System.—The Preserve shall be a unit of the National Park System for all purposes, including the purpose of exercising authority to charge entrance and admission fees under section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–6a).

(f) Agreements and Donations.—

(1) Agreements.—The Secretary may expend Federal funds for the cooperative management of private property within the Preserve for research, resource management (including pest control and noxious weed control, fire protection, and the restoration of buildings), and visitor protection and use.

(2) Donations.—The Secretary may accept, retain, and expend donations of funds, property (other than real property), or services from individuals, foundations, corporations, or public entities for the purposes of providing programs, services, facilities, or technical assistance that further the purposes of this title.

(g) General Management Plan.—

(1) In general.—Not later than the end of the third full fiscal year beginning after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a general management plan for the Preserve.

(2) Consultation.—In preparing the general management plan, the Secretary, acting through the Director of the National Park Service, shall consult with—

(A)(i) appropriate officials of the Trust; and

(ii) the Advisory Committee; and

(B) adjacent landowners, appropriate officials of nearby communities, the Kansas Department of Wildlife and Parks, and the Kansas Historical Society, and other interested parties.

(3) Content of plan.—The general management plan shall provide for the following:

(A) Maintaining and enhancing the tallgrass prairie within the boundaries of the Preserve.

(B) Public access and enjoyment of the property that is consistent with the conservation and proper management of the historical, cultural, and natural resources of the ranch.

(C) Interpretive and educational programs covering the natural history of the prairie, the cultural history of Native Americans, and the legacy of ranching in the Flint Hills region.

(D) Provisions requiring the application of applicable State law concerning the maintenance of adequate fences within the boundaries of the Preserve. In any case in which an activity of the National Park Service requires fences that exceed the legal fence standard otherwise applicable to the Preserve, the National Park Service shall pay the additional cost of constructing and maintaining the fences to meet the applicable requirements for that activity.

(E) Provisions requiring the Secretary to comply with applicable State noxious weed, pesticide, and animal health laws.

(F) Provisions requiring compliance with applicable State water laws and Federal and State waste disposal laws (including regulations) and any other applicable law.

(G) Provisions requiring the Secretary to honor each valid existing oil and gas lease for lands within the boundaries of the Preserve (as described in section ___04(b)) that is in effect on the date of enactment of this Act.

(H) Provisions requiring the Secretary to offer to enter into an agreement with each individual who, as of the date of enactment of this Act, holds rights for cattle grazing within the boundaries of the Preserve (as described in section ___04(b)).

(4) Hunting and Fishing.—The Secretary may allow hunting and fishing on Federal lands within the Preserve.

(5) Financial analysis.—As part of the development of the general management plan, the Secretary shall prepare a financial analysis indicating how the management of the Preserve may be fully supported through fees, private donations, and other forms of non-Federal funding.

SEC. ___06. LIMITED AUTHORITY TO ACQUIRE.

(a) In General.—The Secretary shall acquire, by donation, not more than 180 acres of real property within the boundaries of the Preserve (as described in section ___04(b)) and the improvements on the real property.

(b) Payments in Lieu of Taxes.—For the purposes of payments made under chapter 69 of title 31, United States Code, the real property described in subsection (a)(1) shall be deemed to have been acquired for the purposes specified in section 6904(a) of that title.

(c) Prohibitions.—No property may be acquired under this section without the consent of the owner of the property. The United States may not acquire fee ownership of any lands within the Preserve other than lands described in this section.

SEC. ___07. ADVISORY COMMITTEE.

(a) Establishment.—There is established an advisory committee to be known as the "Tallgrass Prairie National Preserve Advisory Committee".

(b) Duties.—The Advisory Committee shall advise the Secretary and the Director of the National Park Service concerning the development, management, and interpretation of the Preserve. In carrying out those duties, the Advisory Committee shall provide timely advice to the Secretary and the Director during the preparation of the general management plan under section ___05(g).

(c) Membership.—The Advisory Committee shall consist of 13 members, who shall be appointed by the Secretary as follows:

(1) Three members shall be representatives of the Trust.

(2) Three members shall be representatives of local landowners, cattle ranchers, or other agricultural interests.

(3) Three members shall be representatives of conservation or historic preservation interests.

(4)(A) One member shall be selected from a list of persons recommended by the Chase County Commission in the State of Kansas.

(B) One member shall be selected from a list of persons recommended by appropriate officials of Strong City, Kansas, and Cottonwood Falls, Kansas.

(C) One member shall be selected from a list of persons recommended by the Governor of the State of Kansas.

(5) One member shall be a range management specialist representing institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) in the State of Kansas.

(d) Terms.—

(1) In general.—Each member of the Advisory Committee shall be appointed to serve for a term of 3 years, except that the initial members shall be appointed as follows:

(A) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c), to serve for a term of 3 years.

(B) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c), to serve for a term of 4 years.

(C) Five members shall be appointed, one each from paragraphs (1) through (5) of subsection (c), to serve for a term of 5 years.

(2) Reappointment.—Each member may be reappointed to serve a subsequent term.

(3) Expiration.—Each member shall continue to serve after the expiration of the term of the member until a successor is appointed.

(4) Vacancies.—A vacancy on the Advisory Committee shall be filled in the same manner as an original appointment is made. The member appointed to fill the vacancy shall serve until the expiration of the term in which the vacancy occurred.

(e) Chairperson.—The members of the Advisory Committee shall select 1 of the members to serve as Chairperson.

(f) Meetings.—Meetings of the Advisory Committee shall be held at the call of the

Chairperson or the majority of the Advisory Committee. Meetings shall be held at such locations and in such a manner as to ensure adequate opportunity for public involvement. In compliance with the requirements of the Federal Advisory Committee Act (5 U.S.C. App.), the Advisory Committee shall choose an appropriate means of providing interested members of the public advance notice of scheduled meetings.

(g) QUORUM.—A majority of the members of the Advisory Committee shall constitute a quorum.

(h) COMPENSATION.—Each member of the Advisory Committee shall serve without compensation, except that while engaged in official business of the Advisory Committee, the member shall be entitled to travel expenses, including per diem in lieu of subsistence in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(i) CHARTER.—The rechartering provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee.

SEC. __08. RESTRICTION ON AUTHORITY.

Nothing in this title shall give the Secretary authority to regulate lands outside the land area acquired by the Secretary under section 6(a).

SEC. __09. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this title.

Mr. MURKOWSKI. Mr. President, I have concluded my remarks. I think the Senator from New Jersey may want to be heard from. If not, there are a couple more of us.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, I thank the distinguished Senator from Alaska for his statement, and I thank the distinguished Senators from Utah for their strong advocacy of one of the provisions in this bill. I know how much they care about this legislation. I know how long they have worked on it. We have a basic disagreement, which I will try to explore in as much depth as I can for the next—I do not know how long it will take, but I want to do it with comprehensive explanations so they can then respond to what I have said.

I would only make one point with regard to this bill as a package. As one Senator, I am prepared to have virtually every one of the 33 titles, maybe with 2 or 3 exceptions, moved through the Senate right now. I do not oppose those sections. What I have a problem with is the Utah wilderness bill, which I will get to, to explain. So I want the Senate to know that all of the other provisions in this bill I have no objection to passing today on voice vote with the exception of two or three, maybe four maximum, of the titles in the underlying bill.

It is clearly the chairman's prerogative to put these together in a package. I am not sure, if I were someone who was interested in a particular provision—I might say that this bill has several provisions that I want for my State—that it would be the wisest course if the President actually does veto this package. We could get down several months only to find that the President has vetoed not only Utah land, the wilderness bill, but he has vetoed all of the other smaller provisions that are totally noncontroversial that could move through the Senate today and, in some cases, through the House easily.

I think that ought to be established. I think the wiser course here would be to detach from this package the Utah wilderness bill and to have some more time to talk about that, and then move the other elements of this bill. I know there are a number of Senators who are interested in their particular provisions. I have no objection to moving them.

What I would like to do if I could this morning is take my time to really talk a little bit about the history of public lands. I would like to focus on Federal lands in the United States and in Utah. I would like to focus on the economic development pressures in Utah. I would like to talk about sustainable development. I would like to put this bill in the context of how we got here, and how the bill does in relation to the concept of sustainable development. Then I would like to talk about the effect on the rest of the country, and why I think that the Utah wilderness bill is clearly a national bill in a very, very deep sense. I say that with great respect for the knowledge and the commitment of the Senators from Utah, whom I know care as deeply about their State as any Senator in this body cares about his or her own State. So I make these comments with respect for them and at the same time with a very profound disagreement.

Mr. President, the idea that America has public land, public patrimony that belongs to all of us, really began in 1778, when the small State of Maryland led a protest against those States that had made vast claims of territory west of the Appalachian Mountains, our original frontier.

Under their royal charters, Virginia had laid claim to territory reaching to the Mississippi and up to what is now Michigan, and Massachusetts claimed much of what remained in the then United States. The Senators, Congressmen, the statesmen from Maryland had a different idea. They said that the land, which was the defining feature of the new Nation, should be owned and used in common. And Maryland refused to sign the Articles of Confederation until this idea of common land won respect.

By 1802, the young Nation had taken 233 million acres for the public good between the Thirteen Colonies and the Mississippi River, and with the Louisiana Purchase, and over the next 51 years, the common domain grew to more than 1.4 billion acres of public land. While the Nation came together around Maryland's idea of public land, the question of what to do with it remained.

The fundamental conflict between divisions expressed by Thomas Jefferson and Alexander Hamilton dominated this debate, as it did so many others. Jefferson believed that land should be put in the hands of small farmers even if it meant giving it away, while Hamilton believed that land sales could be the steadiest source of income for the Nation.

With the oppressive debt from the Revolutionary War, the Hamilton view prevailed. And the principle for most of the first half of the 19th century was that "lands were to be sold, and the proceeds appropriated toward shrinking or discharging the debts." That was a quote. But the land being what it is, Jefferson was also correct in his prediction that Americans looking for open space "would settle the lands in spite of everybody."

Land sales never made up more than 10 percent of the Federal revenue because people simply laid claim to the lands, moved onto the lands. With the passage of the Preemption Act of 1841, the Jeffersonian view prevailed, giving the land away, in hope that it would extend across the continent a nation of small farmers.

The Homestead Act followed in the 1860's with its promise of 160 acres for a family, a blessing in the fertile ground of the Great Plains—160 acres. Beyond the 100th meridian, the north-south line running roughly from Minot, ND, to Laredo, TX, the 160 acres was almost useless. As Senator William Borah said of the Homestead Act, "The Government bets 160 acres against the filing fee that the settlers cannot live on the land for 5 years without starving to death." Indeed, only 35 percent of the claims ever lived up to full ownership, with the rest left to be assembled in very large parcels.

Just as selling the land did not fulfill Hamilton's vision, giving it away did not live up to Jefferson's vision of a country of independent, self-sufficient young farmers passing their modest legacy of land from generation to generation, renewing themselves by tilling the land. Neither vision, the sale of the land nor giving it away, really lived up to either of the Founders' idea.

Instead, mining interests laid the first claim to the land. Every single major mining strike in the history of the West—gold in California, Colorado, and Montana, silver in Idaho, Nevada—was made on public land. Then ranchers who had quickly exhausted the capacity of the public land of the high plains, moved West, taking vast acreage of thin, fragile grassland in the northern range and fencing it in to keep homesteaders out.

Mr. President, about this time Americans finally began to really look at their land. The reports of the great surveyors, Ferdinand V. Hayden, George M. Wheeler, and John Wesley Powell, these reports came East, along with the photographs of William Henry Jackson and the paintings of Thomas Moran. Tales of great geysers and Powell's vivid descriptions of a canyon opening like a beautiful portal to a region of glory led to a popular campaign to protect something of this legacy.

The creation of Yellowstone National Park, the first national park, in 1872, was a moment of great national pride. The truer reflection of our view toward our national lands, our public lands, in that same year was the passage of the General Mining Act of 1872, setting fees of $2.50 an acre for a permanent mining claim, an error at the time and an outdated disgrace today.

As the new century approached, the parks movement accelerated and the country finally escaped the old question, "Should we sell it or should we give it away?" In 1891, the National Forest System was created. By 1907, nearly 10 percent of the Nation's land had been rescued from the cycle of transfer and destruction. The great barbecue, as the historian C. Vernon Parrington called the abuse of the land in the 19th century, had come to an end, but the struggle had really only begun.

Miners, ranchers, farmers, and timber interests began a long fight to reclaim the unlimited gold, silver, copper, grasslands, water, and tall trees which had been given away for so long that they had convinced themselves that they had earned them. In Charles Wilkinson's phrase, the "Lords of Yesterday," the interests and ideas that pull us back toward the 19th century, grew and grew in Washington, especially after Theodore Roosevelt left the White House and Gifford Pinchot left the Interior Department.

In 1920, the Mineral Leasing Act gave oil companies access to petroleum reserves on public lands, even national forests. But the Teapot Dome scandal led President Hoover to ban the oil reserves from exploitation. And the dust storms of the 1930's, which blackened the skies from New Mexico to the Dakotas as a result of overgrazing and overfarming, led to the passage of the Taylor Grazing Act of 1934 which closed 142 million acres of public land and was called "the Magna Carta of conservation." The New Deal economist Rexford Tugwell declared "the day on which the President signed the Taylor Act * * * laid in its grave a land policy which had long since been dead and which walked abroad only as a troublesome ghost within a living world."

Tugwell's analysis was seriously premature. The land policy of the 19th century has not yet been buried. Indeed, it lives on in this bill, in the grazing bill, and in several others before this Congress in this year.

The advocates of a return to the free-for-all of the past used their power in Congress and the appealing image of the brave, solitary westerner—an image at odds with reality then and now—to lead the assault on this protective impulse to protect the land.

Senator Patrick McCarran of Nevada accused the Grazing Service of seeking "to legislate the trailblazers of the West out of existence," and launched what one historian called "the lengthiest, most concerted, and in some respects, the most successful attempt made in the 20th century by one person to force a reinterpretation of land policy more in accordance with the wishes of the using interests." I repeat, "the using interests."

McCarran succeeded in turning the bureaucracy in favor of the using interests. He abolished the Grazing Service and merged it with another large agency, creating the Bureau of Land Management. The Bureau of Land Management was given so many responsibilities—leasing of oil, gas, coal, oil, shale, and geothermal sites. Management of hard rock mining claims on its own land, plus on the lands of the national forests, management of 8 million acres of commercial forests, wetlands and fishable streams, thousands of archaeological sites as well as grazing, all of these responsibilities, so much given that McCarran and his backers reasonably assumed that the agency would become "Unconvincing Goliath," in the words of Prof. Sally Fairfax.

By 1973, the BLM had plainly abandoned the task of protecting grazing lands from the next Dust Bowl. Only 16 percent of its rangeland was in good condition. The 341 million acres managed by the BLM are often called the leftover lands or the lands nobody wanted. They are what remains of the 2.1 billion acres that had not been sold, given away, or set aside as national park or national forest.

The BLM does not have the clear sense of mission of the Forest Service or the Park Service. Indeed, in the 1950's, its nickname was the "Bureau of Livestock and Mining." It gives a sense of what the Agency thought its lands were most valuable for in those days. Yet, those lands include some of the most breathtaking and fragile places in the Nation: The Potosi Mountains of Nevada; Glacier Peak in Washington; Mount Lester in Wyoming; California's Lake Ediza; and in Utah, the Valley of Dirty Devil, the Kaiparowits Plateau, Grand Staircase, Escalante Canyon, the Henry Mountains, and many others in the State of Utah. These are lands that if we sacrifice their quiet peace for a short-term economic gain, it will be to the lasting regret—the lasting regret—of many Americans.

Let me just frame that by focusing on one of these areas. The Kaiparowits Plateau in southern Utah, an extraordinary place, is one of the most remote places in the United States. I would like to quote from what one person said about that. His name is Charles Wilkinson, a professor at the University of Colorado. He says:

> Kaiparowits, the interior of the Colorado Plateau, itself the interior of the nation, is not just for coal. Few people come to this southern Utah plateau because modern conveniences are so distant, traditional beauty so scarce, normal recreational opportunities so limited. Precipitation measures ten to twelve inches a year. There are just two or three perennial streams, and they carry little water. One dirt road, usable by passenger cars, runs up to Escalante. Otherwise, it is all jeep trails. Piñon-juniper stands offer almost no cover from the sun. Cross-country backpacking is for experts only. You have to scour the topographic maps, plan your trip with care (being sure to hit the springs), and stock to your plan. Even a short hike is a challenge. From a distance, Kaiparowits looks flat on top but in fact it is up-and-down, chipped-up, confusing. You can get lost, snakebit, or otherwise injured. There's no one to call.
>
> Kaiparowits is, in a word, wild—"wilderness," as Raymond Wheeler put it, "right down to its burning core." Eagles, hawks, and peregrines are in here, especially in the wind currents near the cliffs, and so are bighorn sheep, trophy elk, and deer. Archaelologists have recorded some 400 sites but there are many more—there has been lttle surveying, except near some of the mine sites. From Kaiparowits you are given startling Plateau vistas in all directions, vivid views more than 200 miles if the winds have cleared out the haze, views as encompassing as those from the southern tip of Cedar Mesa, the east flank of Boulder Mountain, the high LeSals, DeadHorse Point, long, stretching expanses of sacred country. If you climb the rocky promontories on top of Kaiparowits, you can see off to Boulder Mountain, the Henrys, Black Mesa, Navajo Mountain, the Kaibab Plateau, the Vermilion Cliffs.
>
> The languid stillness of Kaiparowits turns your mind gently and slowly to wondering about time, to trying to comprehend the long, deep time all of this took, from Cretaceous, from back before Cretaceous, and to comprehend, since Lake Powell and the seventy-story stacks of Navajo Generating Station also now play part of the vista, how it is that our culture has so much might and how it is that we choose to exert it so frantically, with so little regard of the time that you can see, actually see, from here. Perhaps somehow by taking some moments now, here, here in this stark piñon-juniper rockland place, here in this farthest-away place, a person can nurture some of the fibers of constancy and constraint that our people possess in addition to the might. The silence is stunning, the solitude deep and textured.
>
> Kaiparowits makes you decide on the value of wildness and remoteness. Kaiparowits is where the dreams for the West collide. Coal, jobs growth. Long vistas, places to get lost in, places to find yourself in.
>
> The BLM wild lands teach us, also, about the people who once lived and worked and loved and worshipped for such a long time in what has been called BLM land for such a short time.
>
> Last year, my son Seth, then twenty, and I took a long, home-from-college trip to the

> canyon country. We hiked most of one day up to our calves in a creek that over the course of some seven million years has cut a thousand feet down through the fiery, aeolian Wingate Sandstone and the layers of rock above it.
>
> In a rare wide spot in the canyon, behind a cluster of junipers, we found a panel of pictographs on the Wingate. The artisan painted this row of red and white images—supernatural and life-size—two thousand years ago, perhaps more. The three stolid figures had wide shoulders, narrow waists. We could see straight through the round staring eyes, and the eyes could see through us. We called it "Dream Panel."
>
> It would be so contemptuous of time to deal away Kaiparowits and Dream Panel. Perhaps the states would protect these and other wild places of national worth as well as they are protected now. But do we want to risk it?

Mr. President, until the 1960's, none of the public lands were fully protected for mining, automobiles, construction, and other uses. The concept of wilderness did not exist, not only on the BLM lands, but even in the national parks and forests.

As a way of preserving public land, the idea of wilderness really owes its origin to Arthur Carhart, a landscape architect hired by the Forest Service in 1919 and sent to design a road encircling Trappers Lake in Colorado's San Isabel National Forest. Instead of laying out the road, he bombarded his bureaucratic supervisors with memos urging that they abandon the project and retain some area "to which the lover of the outdoors can return without being confronted by a settlement, a country store, telephone pole, or other sights of civilization." After Carhart built a friendship and alliance with Aldo Leopold, the great naturalist and author of "A Sand County Almanac," the Forest Service accepted his idea and made Trappers Lake the first development project it had ever denied because of the threat to the natural integrity of the land.

The legacy of Carhart and Leopold fell to Robert Marshall, a slightly eccentric man, who during college decided to walk 30 miles in every State of the Union, covering that distance in a single day in each State. Once he covered 62 miles in a day. Well, Marshall joined the Forest Service in 1930 and advocated not just protection of some land as wilderness, but the importance of sheer size—vast tracts of wilderness rather than small parks in every State. He compared wilderness to the "Mona Lisa" and he said, "If you cut up the 'Mona Lisa' into little pieces one inch square and distribute them among the art galleries of the world so millions might see it, where hundreds now see it, neither the millions nor the hundreds would get any genuine value."

The point here is that wilderness has a size factor that is itself valuable. Although Marshall rose to a high position in the Forest Service, his greatest legacy came when he left to found the Wilderness Society in 1935. The society came into its own with the successful fight against a plan to build two major dams on the grounds of Dinosaur National Monument in Utah. Instead of moving from fight to fight against this development or that, the society developed the idea of permanently classifying some portion of the public lands to be protected from development. When Senator Hubert Humphrey introduced such a bill in 1957, not only the commercial interests and the western Senators and Congressmen, but even the Park Service and Forest Service were flatly opposed. Above all, they were offended by the idea that citizens from the areas affected should participate in the decisions about what should be protected.

Senator Arthur Watkins of Utah argued that a permanent wilderness designation would "hamstring economic development," but at the same time, like opponents of the Yellowstone in the 1870's, he insisted that "Millions of acres are already preserved in the wilderness state and probably always will be."

The bill which finally passed in 1964 contained the following definition of wilderness:

> A wilderness, in contrast to those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and the community of life are untrammeled by man, where man himself is a visitor who does not remain.

That is the definition of wilderness in the 1964 act. It ordered the agencies that manage Federal land to review their own holdings and recommend those that qualify for wilderness designation—wilderness, a "community of life untrammeled by man, where man himself is a visitor who does not remain."

But this review omitted the over 300 million acres managed by the BLM. Those lands came under the purview of the Wilderness Act only in 1976. At that time BLM was given 15 years to review its own holdings and recommend those to be protected. However, Mr. President, that was in 1976. It was not long before James Watt took the reins of the Department of the Interior and in the long tradition of deliberately crippling the bureaucracy at BLM moved the deadline up from 1991 to 1984—one would assume not in an effort to protect the land quickly but to overwhelm the agency and destroy the review process. In other words, what was supposed to take 15 years of careful, painstaking, accurate analysis of public land under the control of BLM with designation of specific wilderness was now contrasted into a very short time. And it is the legacy of that action that brings us to where we are today in consideration of the Utah lands bill.

The Wilderness Act, if it is allowed to work as intended, can be the final step in our escape from the lords of yesterday—the compulsion to transfer lands and to let their soil and mineral resources, their trees and their vistas to be exploited for short-term gain rather than preserved for future generations. Bernard DeVoto urged us to "maintain portions of the wilderness untouched, so that a tree will rot where it falls, a waterfall will pour its curves without generating electricity, a trumpeter swan may float on uncontaminated water—and moderns may at least see what their ancestors knew in their nerves and in their blood."

That is what is possible, if the Wilderness Act is allowed to work.

Mr. President, what about the Federal lands generally in the United States and in Utah? The Federal Government currently owns approximately 650 million acres, or nearly 30 percent of the 2.3 billion acre land area of the United States. However, this is far less than the Government has owned in the past. Since 1775 the Federal Government has acquired through purchase and war over 1.8 billion acres, and at various times in U.S. history has held title to nearly 80 percent of the Nation's total area. Nearly two-thirds of the land once owned by the Federal Government has been transferred to the States, or to private interests.

Where did the land come from? Well, the original 13 and the move over to the Mississippi is about 236 million acres. If you add the Louisiana Purchase, you add 529 million acres. If you take the Oregon compromise, you add 183 million acres. If you take the secession from Mexico at the end of the Mexican-United States war, you add 338 million acres. If you take the Alaska purchase, you add 378 million acres. Those are the main places that the land came from.

How were the Federal lands disposed of? During the 19th century a number of Federal laws encouraged transfer of Federal lands to homesteaders; as I said, earlier, the Homestead Act of 1862 to miners, the Mining Act of 1872, and to railroads and to others. In general, the purpose of the act was to encourage development and settlement of the West. Lands were also sold to raise money and granted to States for specific purposes—funding for education, for example.

As a result of the land acts, over 1.1 billion acres have been transferred out of Federal ownership in the following ways. Homesteaders got 287 million acres. Railroad companies got 94 million acres. As a frame of reference, that is the equivalent of all of the land of Washington and Oregon given to railroad companies. Military bounties got 61 million acres, and grants to States were around 328 million acres. Those were the largest chunks of who got the land—the homesteaders, the railroad companies, military, and States.

Altogether, private interests have acquired title to 69 million acres of Federal lands through patents associated with either extraction of minerals or fossil fuels.

So that is where the Federal lands went.

Who manages these public lands? Four agencies administer 96 percent of the Federal land. For conservation, preservation, or development they are the National Forest Service, the Bureau of Land Management, the Fish and Wildlife Service, and the National Park Service. The majority of lands managed by these agencies are in the West, which is ironically the most urbanized part of the country in terms of per capita.

In 1891, as I pointed out, Congress granted the President the authority—now repealed—to establish forest reserves from the public domain.

In 1906 and 1907, President Theodore Roosevelt more than doubled the acreage of the forest reserves which resulted in Congress limiting the authority of the President to add to the forest system.

Here is one of the more interesting images that I have ever come across. Teddy Roosevelt came to office, and he kept a big chunk of national forest claiming it for national protection. He did that essentially by his Executive power. And then Congress passed an amendment saying that no further Presidential reservations would be permitted unless they were approved by Congress. There was a date by which that was to go into effect. And the story is that the night, or two, before the law was supposed to go into effect, Teddy Roosevelt was in the White House with Gifford Pinchot, his great national forester. They had the maps of all of the West laid out, and by Executive order he cut out of the maps prior to the law going into effect vast acreages that he had then preserved.

At present, the National Forest System includes 155 national forests covering 187 million acres, 20 national grasslands with 4 million acres, and 103 other units such as land utilization projects and research and experimental areas with less than 500,000 acres.

So that is the National Forest System.

The BLM, Bureau of Land Management, again as I said earlier, was created in 1946 as a result of the merger of the General Land Office and the Grazing Service, and the BLM currently manages about 268 million acres, about a third of which is in Alaska. Its lands are used for multiple purposes including grazing and wilderness.

So in addition to the National Forest Service and the Bureau of Land Management is the National Wildlife Refuge System. Following Pelican Island in 1903, the number of refuges continued to grow, and in 1966 the National Wildlife Refuge System was established under the management of the Fish and Wildlife Service of the Department of the Interior, and the Fish and Wildlife Service manages 494 refuges covering 91 million acres.

The National Park Service. The National Park Service manages 368 million units including 55 national parks. The basic mission of the National Park Service is to conserve, preserve, protect, and interpret the natural, cultural, and historic resources of the Nation for the public. To a considerable extent, the Service also contributes to meeting the public demand for certain types of outdoor recreation opportunities. Scientific research is another activity encouraged by the Service in units in the National Park System.

Then the final body is the National Wilderness Preservation System which was established by the Wilderness Act of 1964 and today contains nearly 104 million acres in 44 States.

So these are the four principal land management agencies of the United States. They administer a total of 621 million acres of which 104 million acres or 17 percent is wilderness.

So what about the State of Utah, the public lands of Utah? Of the land that makes up Utah, frankly, along with Nevada, California, and parts of New Mexico, Arizona, Colorado, and South Dakota, totaling 334 million acres, approximately 52 million acres came into Federal ownership when it was ceded to the United States by Mexico in 1848 at a cost of $16 million, roughly.

In 1896, having agreed forever to abandon polygamy, Utah was granted statehood. At that time, in exchange for giving up plural marriage, and because Utah did not receive internal improvement and swampland grants, the Federal Government granted 14 percent of Utah territory's land area to the State. That was substantially more than the 6 to 7 percent that the omnibus States of North Dakota, South Dakota, Montana, and Washington received just 5 years earlier. These land grants were allocated to specific activities, and I ask unanimous consent that this chart be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Purpose	*Acreage*
School	5,844,196
Public buildings	64,000
University	156,080
Agricultural college	200,000
Irrigation	500,000
Insane Asylum	100,000
School of Mines	100,000
Deaf and dumb institution	100,000
Reform school	100,000
Institution for the blind	100,000
Miners' hospital (Act Feb. 20, 1929)	50,000
Normal School	100,000

Mr. BRADLEY. Remaining Federal lands currently constitute approximately 32 million acres in Utah or 62 percent of the State. That is what most people in United States do not understand, and that is why when the Senator from an eastern State, particularly one as densely populated as New Jersey, stands up to speak about this subject, they frequently say, "Well, you don't understand what it means to have 60 percent of your State owned by the Federal Government."

Indeed, New York State has only 1 percent, Michigan has 9 percent, Nevada has 90 percent, and Utah has 62 percent. Four Federal agencies dominate, and very little land in Utah has been designated as wilderness. In fact, out of the 32 million acres, about 800,000 of those acres have been currently designated as wilderness. The bulk of the land, 22 million acres, is managed by the BLM. Next highest is the Forest Service with about 8 million acres, and the National Park Service about 2 million acres. However, approximately 3.2 million acres in Utah which have not received wilderness designation are currently managed as wilderness. Official wilderness, 800,000 but 3.2 million acres now being managed as wilderness.

What about economic development, the pressures in Utah on economic development? The issue before us is not just what to do with the public lands in Utah, the lands owned by all the taxpayers, but also what is the best path for Utah's future. Utah's economy is being transformed. I am sure the Senators from Utah can speak to this with much more knowledge and probably much more direct interest, so my comments are in the way of observation.

The State is rapidly urbanizing and policies which reflect the old patterns of agriculture and extractive industries have little or nothing to do with the current economic realities. For example, from 1979 to 1993, Utah jobs in mining and agriculture declined by 5,000 while jobs outside these sectors increased by 360,000. In 1993, less than 1 job out of 100 was associated with mineral extraction during a period of rapid expansion in the State economy. The entire spectrum of extractive industries from minerals and agriculture to forestry and wood products has been in relative decline since the 1960's and contributes just one-eighth as much income as do service industries to the State income. Even worse, many extractive industries such as mining are subject to boom and bust conditions and resulting economic instability.

A study by Prof. Thomas Power, chairman of the department of economics at the University of Montana, found that extractive industries such as agriculture and mining are playing a decreasing role in Utah's economy and that "wilderness protection does not in any significant way threaten the ongoing development of the Utah economy."

Wilderness protection is not a threat to the Utah economy. In fact, Power finds that the most likely economic effect of additional wilderness protection will be positive, not negative. While alternative economic uses of wilderness are marginal and primarily the product of speculative mineral activities, additional wilderness designation is linked with more predictable economic activity, the kinds associated with a high quality natural environment which is increasing in demand across America.

Utah's population has also undergone rapid expansion in the last 25 years. While the population as a whole in the United States increased by 29 percent, Utah enjoyed an 80-percent jump. Much of this was directly attributable to the attraction of the State's largely unspoiled environment. For example, St. George grew by 35 percent just in the last 5 years largely due to retirees moving in from California, and I can understand why. It is a beautiful, beautiful place—not so far from the Zion National Park.

Utah's greatest asset is its unique natural beauty, a beauty which draws tourists from around the world. According to Power,

> Lands with wilderness qualities are a relatively scarce resource that has significant alternative uses that satisfy important human needs and desires . . . Wildlands provide a broad range of benefits that make the lives of Utah residents more satisfying and fulfilling in at least the same way that most of their purchases in commercial markets do.

In the competition to attract new businesses and residents, the quality of natural and social environments will be particularly important. Power views wilderness designations themselves as a sort of advertisement that the natural beauty of the State will remain available for future generations.

Preservation of public lands also has direct and measurable economic benefits. Tourism has grown to be Utah's most important industry. Spending by travelers in Utah accounts for roughly 69,000 jobs and the $3.35 billion they spend generates some $247 million in direct tax impact for State and local governments in Utah. The Governor's Office of Planning and Budget expects the State's tourism industry to continue to be one of the fastest growing segments of Utah's economy.

Utah's special attractions lured about 15 million tourists including 1 million foreigners to the State in 1994. Visitation to the State's dozen national parks has increased more than 20 percent in the past 5 years; there has been a corresponding increase in visitation to the surrounding BLM lands, most of which would not be protected under S. 884. In some of the counties with lands under consideration for inclusion in the wilderness system, tourism provides over 60 percent of total jobs.

Wilderness designation has little of the claimed negative effects cited by its most vigorous opponents. When 3.2 million acres were set aside in the wilderness study areas through the BLM's inventory process, agriculture accounted for 1.3 percent of the income earned in Utah. Ten years later the figure was virtually the same. The protection afforded by wilderness management in the study areas had made no change in Utah's agricultural economy.

The same neutral or beneficial effect is also true for grazing. According to a University of Arizona study published in the Journal of Range Management, in designated wilderness in Arizona, forage allocation for grazing has actually increased. And wilderness designation allows the continuation of existing grazing uses.

But even if designation had a significant impact on grazing, the Federal grazing lands in Utah currently contribute just eight hundredths of 1 percent of the total State income.

With mining, too, the impact of wilderness designations is less than might be assumed. Since lands currently being mined are not suitable for wilderness, designation will not result in any losses of existing mining jobs.

Oil and gas drilling are also declining contributors to the State's economy. Utah has the second highest drilling cost per barrel for any State containing significant oil and gas reserves, as a result of difficult access and complex geology. Small decreases in global oil prices have phased-out exploration and production in many parts of Utah.

Utah's demonstrated coal base is significantly smaller than Montana, Wyoming's, Colorado's, and even North Dakota's. Significant advances in longwall mining technologies has increased productivity in Utah's underground coal mines, thereby decreasing the size of coal mining work forces. Thus, while productivity is at its highest in history, coal industry employment has decreased steadily.

Then there is uranium. Huge deposits of uranium ore have been opened in Australia and Canada and Russian uranium may also be coming on to the United States market. U.S. production is more likely to come from the lowest-cost uranium reserves in Wyoming, New Mexico, and northern Arizona, not from wilderness deposits in Utah.

As these figures show, extractive industries are not going to provide, I think, a stable future for the State, that is, simply looking at the data, looking at the materials, looking at where the economic growth has come, looking at where the employment has come. One might conclude, simply looking at the data, that extractive industries are not going to provide a stable future for the State of Utah.

Statistics for Washington County, which is Utah's fastest growing, total and per capita personal income are rising in the region as a direct result of growth in the service sector.

The conservation of 3.2 million acres by the BLM as wilderness study areas in 1980 did not devastate the affected county economies. Growth that occurred in each of these counties through the 1960's and 1970's continued through the 1980's and 1990's despite the negative economic effects caused by the drop in energy prices.

Yet even with the decline in extractive industries and their decreasing impact on job creation, S. 884 was put together to reflect the old economic thinking and old economic patterns with boundaries set to accommodate a series of new extractive developments which threaten currently pristine areas. These include a proposal for a large tar sands mining development on the edge of Glen Canyon National Recreation Area and in the Book Cliffs; a 3,000 megawatt coal-burning power plant in the heart of the Kaiparowits Plateau—as I said earlier, one of the three or four largest undeveloped areas in the lower 48 States—coal strip mining south and west of Bryce Canyon National Park; a petroleum and carbon dioxide gas extraction field in the headwaters of the Escalante River, involving as many as 97 production wells and 11 four-story compressor plants; chaining of thousands of areas of forests, some of which would be visible from Bryce Canyon National Park; and, even construction of a railroad. One tar sands project alone, in the Dirty Devil area, would entail the drilling of 35,000 injection and recovery wells, the construction of at least 100 miles of associated roads, 30,000 acres of soil disturbed, 14,000 acres of vegetation stripped away, and 2,000 archaeological sites disturbed or destroyed. In order to support these projects, hundreds of miles of new roads to gain access and new facilities to feed and house workers would be needed.

The bill itself includes damaging language which allows unprecedented incompatible uses even in supposedly protected areas. These include allowing jeeps, motorcycles, and other off-road vehicles on remote dirt tracks, low-level military overflights which disturb wilderness solitude and even future dams, pipelines, and communications antennas in some areas. Accommodating these proposed uses, no matter how speculative or damaging, was the principal reason many important areas were dropped from consideration for wilderness designation under S. 884. Boundaries seemed to be altered and entire regions omitted in order to permit new, large damaging projects which would fuel yet another cycle of economic boom and bust.

Unfortunately, these projects proposed for the Colorado Plateau look familiar. They are the same types that have failed in the past because of unfavorable world commodity prices, lack of demand, or simply the high cost of doing business in a remote and forbidding area. While it is unlikely that most of them would ever be completed or be economically viable, even preliminary site work, such as roadbuilding, would destroy their wilderness qualities forever.

So, that is what I see is the economic circumstance in Utah. The extractive industries declining both as a percent of the State economic product and the numbers in employment, and this bill going in the direction of trying to keep that future available, to the great detriment of the fastest growing areas, the service sector, and in particular tourism, that is growing every year as more people want to come and see and experience these remarkable lands on the Colorado plateau and in the Basin Range.

The way to look at Utah's future, from my own view, and this is just my view, and the role that this bill will play in that future, is not from an absolutist perspective, however, not from an absolutist perspective that elevates environmental values above economic growth. Development is not wrong, and it has a place in both the publicly held and private lands of Utah. The principle that it must apply, in my view, is that of sustainable development.

(Mr. DEWINE assumed the chair.)

Mr. BRADLEY. Sustainable development is not pure abstraction, but a real plan for action with a specific definition. The definition endorsed by the President's Council on Sustainable Development, in a report issued last month, is as follows:

Sustainable development means:

> To meet the needs of the present without compromising the ability of future generations to meet their own needs.

It is a concept with an imperative behind it that is much like the imperative to balance the Federal budget, only much broader. It brings together the idea of a growing economy in which every adult has the opportunity to earn a living and support a family with the promise of a healthy life and a high quality of life for this and future generations.

What does sustainable development mean in the American West? Charles Wilkinson, a law professor and historian of Western lands, puts it well. He says:

> Good science, good laws, good economics, and good communities come together in the idea of sustainability. At its core are the responsibilities lodged in the idea of intergenerational equity which [has been described] as the principle that "every generation receives a natural and cultural legacy in trust from its ancestors and holds it in trust for its descendants." Development cannot wear the land and waters down but rather must maintain their vigor. A working policy of sustainability encompasses a practical and phased-in, but still rigorous and comprehensive, program of conservation so that consumption can be reduced. But the obligation to provide for the next generations also includes the duty to maintain a vital economy. Sustainability, then, affirmatively recognizes the need for development . . .
>
> The first step in approaching sustainability is to identify exactly what must be sustained—the "natural and cultural legacy" that we have received and must pass on. Traditional extractive development in the West has focused only on the specific resources being extracted. Water projects, for example, were designed to meet only the demand for water, by which was meant water as a commodity—for mining, farming and ranching, energy development, and industrial, municipal, and domestic use. Any other benefits, such as the blue-ribbon trout stream on the Navajo Dam on the San Juan River, were purely secondary and often accidental. Avoidance of negative effects, such as loss of the salmon runs, was largely a matter of luck, as when the Army Corps of Engineers' fish ladder at Bonneville Dam on the Columbia actually turned out to be workable. The overriding goal was to create commodity benefits, which were viewed as being nearly infinitely sustainable in those simpler times . . .
>
> But our thinking has evolved. In many national forests, a broader view of sustainability is not being achieved. Only the specific resources being extracted—commercial timber —is being renewed. Other parts of the forest, which must be taken into account to achieve true sustainability, are in jeopardy. The health of certain fish and wildlife populations. Soil on steep slopes. The recreation economy. Species diversity. The ancient forests. Views. Beauty. Glory. Awe. Sustainability is measured not by board feet but by the whole forest.

Unless you disagree with the concept of sustainable development, that we owe our descendants the legacy we have received from our ancestors, it is imperative to compare the Utah wilderness bill with this idea. Before I go into great detail about the specifics of the bill, I want to briefly consider the question, Does the bill live up to the idea of sustainable development?

First, the bill elevates one set of resources above all others, both within and without the areas designated wilderness. Grazing, mining, timber sales and commercial development are protected. The wilderness designation boundaries creep carefully around the sites of planned development. The wilderness value is secondary and incidental to the other aims, and appears to be almost accidental. All evidence suggests, as I will show later, that the "using interests" of Utah, and their friends at the BLM, seem to have asked the question: "What areas don't we want for mining and development?" before they asked "What areas do we want protected for the future?"

Second, the uses that are given priority are not those which will lead Utah to a sustainable, prosperous future. Minerals, timber, water, and grasses are not infinite resources, and cannot be sustained without limits. Mining and agriculture add up to about $800 million of the total income of the State. That is down from $1.1 billion in 1980 and steadily declining. The rest of the Utah's economy, all that earned from other sources, has grown from $20 to $30 billion in the same time. So mining and agriculture, from $1.1 billion to $800 million, the rest of the economy growing from $20 billion to $30 billion at the same time. In extractive industries, it costs more and more to bring fewer and fewer returns as resources are exhausted. The economic values of tourism, quality of life, nonextractive industries, such as software development, high technology, grow and grow as more is invested in them.

Third, the bill not only fails to protect the natural legacy for future generations, it affirmatively denies them the right to protect it for themselves, and that is the section on managing it for suitability for wilderness.

Fourth, there is yet another component which Wilkinson describes as part of sustainable development in the West: the idea that a community can best determine for itself how to preserve its legacy for its children. He writes:

> After identifying all economic, environmental, cultural and abstract (or spiritual) elements that need to be sustained, [I envision] a community coming together; identifying problems; setting goals—a vision—for a time period such as twenty or forty years; adopting a program to fulfill those goals; and modifying the program as conditions change.

The process that led to this bill was the opposite of this idea. Instead, an agency in Washington, crippled by politics and captive of interests, decided on its own which elements needed to be sustained. It ignored, denounced, and shouted down the county commissioners and citizens who had other thoughts. Finally, the process brought us a plan that cannot be altered if conditions change.

So now, Mr. President, I want to put the bill in some context. I have already spent some time this morning talking about the history of public lands in our country and how the Federal Government's stewardship of our Nation's environmental heritage has evolved over the years. I think this history provides the context within which to address the situation that faces us today: how do we achieve a balanced, reasonable plan for conserving America's natural heritage while providing opportunity for economic growth and development across our public lands? This is the challenge we face today as we consider the Utah Public Lands Management Act.

This bill—I have not seen all of the changes in the modification that was sent to the desk, so I would add a couple other hundred thousand acres here or there—but this bill would designate between 1.8 and 2 million acres of wilderness in Utah. It would release approximately 20 million BLM acres of land that are not designated as wilderness areas. It would allow the State to exchange land with the Federal Government. It would deny Federal reserved water rights on lands designated as wilderness. It would provide new management directions for the designated wilderness areas, some of which are exceptions to the standards established in the Wilderness Act of 1964 that would allow military overflights and allow motorized access. It will allow motor boat access in designated areas. The legislation, in my view, fails to strike the balance between using our natural resources, which is the right of all U.S. citizens as stakeholders in a common heritage, and abusing natural resources which are the shared heritage of the entire people of the country.

This legislation designates too little of Utah's spectacular landscape as wilderness. Of the almost 22 million acres of BLM land in Utah, only about 1.8 to 2 million, less than 10 percent, would be designated as wilderness. Vast tracts of America's most magnificent public lands would be left open to development; the wilderness that is designated by the act would be managed in a manner contrary to the protections afforded by the Wilderness Act, and the unprecedented inclusion, now modified somewhat, of hard release language would attempt to bar the rest from forever being protected by the shield of wilderness designation.

Before I begin to talk about the specific shortcomings of the bill—and there are several serious flaws that I want to call to the attention of the Senate—I would like to take a moment to sketch the history of public lands management in Utah since the adoption of the Wilderness Act in 1964, because I think that history paints a clear picture of how we arrived at our present dilemma.

In 1964, Congress enacted what Charles Wilkinson called one of our Nation's noblest, most future-looking innovations. The Wilderness Act of 1964 established the National Wilderness Preservation System and marked the first time any government had ever legislated in favor of wild lands. Today more than 125 other nations protecting more than half a billion acres have followed the lead of the United States in establishing protection for their wilderness acres.

However, the 1964 act did not include, as I said earlier, Bureau of Land Management lands; only national forest, parks, wildlife refuges were covered under the protective umbrella of the act. However, in 1976, in response to concerns raised by citizens in southwestern Utah, Congress finally called for a wilderness study of all BLM lands nationwide. Each BLM State office was directed to inventory all roadless areas with wilderness characteristics. Following on the heels of the inventory, each State office was directed to study, hold hearings, and recommend—after giving full weight to all issues, including economic concerns—which areas in the inventory should be defined as wilderness areas. Every State complied with this directive with the exception of Utah.

BLM officials in Utah failed to produce an initial comprehensive inventory of roadless areas with wilderness characteristics in their State. Instead, they embarked on a course that I think mirrors the debate we have here today. In 1980, after only a 1-year period of study, the Utah BLM eliminated nearly 20 million acres from wilderness consideration. In one fell swoop, the BLM removed an area of land that was five times the size of my own State of New Jersey from wilderness consideration. This move left just 2.6 million acres protected, which was later increased to 3.2 million acres after appeals by Utah conservationists. Finally, in 1991, the Utah BLM delivered its final recommendation of lands to be designated wilderness areas—and that figure was a mere 1.9 million acres. This low-ball figure was derived as a result of the BLM inventory process that was, I think, much too sensitive to the developmental interests.

The history of the BLM inventory is crucial, and it is a crucial part of the story of public lands in Utah. We need to understand that Utah's BLM wilderness inventory was not an unbiased, scientific study, but it was the result of a highly politicized process. The inventory work done in the 1970's and 1980's was politically driven, and the results were seriously flawed. The flawed product, with its recommendations of 1.9 million acres to be designated as wilderness is replicated in the bill S. 884 we are considering today.

Criticism of the BLM inventory process has come from all corners, with the most striking group being BLM employees involved in conducting the inventory.

In response to these criticisms, in August 1980, just prior to the BLM's final inventory decision, Terry Sopher, the national director of the BLM wilderness program, traveled to Utah to investigate charges that the inventory had been misdirected for some reason or another. Sopher reported that, "Based on what we had seen, there was an egregious violation of policies." Sopher returned to the District of Columbia to recommend that the inventory be redone. However, that recommendation and that effort was halted after the 1980 election.

A decade and a half later—go forward a decade and a half; that was 1980—1995, BLM employees were still voicing strong criticisms of the way the inventory process was conducted. On July 7, 1995, Janet Ross, who worked as a BLM employee on the BLM official inventory work in Utah, held a press conference with the former BLM national director, Jim Baca, and coordinator, Keith Corrigan. All three told the press that BLM's wilderness inventory excluded wilderness for reasons that were not exactly clear.

Ms. Ross, now director of the Four Corners School of Outdoor Education located in southern Utah, said,

> It is my experience and professional judgment that we did not perform and were not allowed to perform a competent wilderness inventory. The result was that substantial wilderness-quality acreage was arbitrarily excluded from further study and proper consideration."

Utah newspapers following the inventory process were also extremely critical of the inventory process. Following the inventory work, in August 1982, the Salt Lake City Desert News editorialized against the BLM's work. It wrote, "* * * there was much Utah land that should have been considered for possible designation as wilderness, but the BLM 'just' did not study it."

Additionally, in the 1980's, Utah citizens filed a series of legal challenges with the Interior Board of Land Appeals against the BLM's inventory, appeals which covered 925,000 acres in 29 roadless areas. In 1983, the administrative court responded with a stunning indictment of the BLM's work in the largest appeal of its kind in the history of the court. The Utah BLM had been in error, the board ruled, on 90 percent of the lands in question. Citizens were unable to challenge all of the wilderness areas the BLM dropped during the inventory because they faced a 30-day deadline, and a single one of the appeals often required filings that were 2,000 pages, several hundred photographs, and over 100 affidavits.

The belief that the BLM inventory process was seriously flawed was shared by congressional committees that held oversight hearings on the process. In 1984 and 1985, House Public Lands Subcommittee Chairman John Seiberling held a series of oversight hearings to investigate charges that the Utah BLM's inventory was flawed. After the investigation, Seiberling told reporters, "They've left out areas that obviously qualify for wilderness * * * their position is absolutely absurd."

Spurred on by the realization that the Utah BLM's erroneous work would result in millions of acres of wild lands being subject to the possibility of development, Utah citizens conducted their own inventory. The citizens' work took years, requiring thousands of hours of field work. Unlike the BLM, these citizens walked every one of the roadless areas on foot and determined that there were actually 5.7 million acres of remaining wilderness. Their work was published in a 400-page book entitled "Wilderness at the Edge." There was a bill that their proposal recommended that was introduced in 1989 by Congressman Wayne Owens. When he left the House, Representative MAURICE HINCHEY reintroduced H.R. 1500.

Now, Mr. President, now that I have had the opportunity to chronicle the controversy that has surrounded the development of this legislation, I want now to discuss the specific flaws in the bill. S. 884 suffers from several major flaws, each of which merits serious consideration.

First, and most alarming, is the hard release language. Not only the 4 million acres which Utahans seek immediate designation, but also the additional 16 million acres of Utah BLM lands. As I heard the modification, the bill has been modified, and it has been improved. The change is helpful, but I will argue later why that change is not sufficient, and how it is in its present structure, a back-door way for doing the exact thing that the original bill had intended to do, while at the same time doing it a little more skillfully.

Second, the bill leaves nearly 4 million acres of America's Red Rock Wilderness open for development. These 4 million acres, some of our most magnificent national treasures, landscapes that would no longer be protected for our future generations, include Fish and Owl Creek Canyons on the east side of Cedar Mesa, that is the home to 1,500-year-old Anasazi cliff dwellings; the wild country of the Kaiparowits Plateau that I talked about earlier; the heart of the Dirty Devil canyon system; the slopes of the Beaver Dam Mountains; the White Canyon, with its important habitat for desert bighorn sheep and lands adjacent to Zion National Park; and countless others in the basin range region. I will save for another day the discussion of the basin range region.

Third, the bill transfers a large chunk of the Kaiparowits Plateau Wilderness out of Federal ownership to the State of Utah for the development of a coal mine, with no regard for its outstanding actual quality or value.

The Kaiparowits, as I described earlier, is inhabited by a wide variety of wildlife species, including mule deer, mountain lions, coyotes, foxes, and over 210 species of birds. Several areas on the Kaiparowits contain examples of the marine and terrestrial fossils found nowhere else in the world. If the Kaiparowits were to become State land, the national public would have no voice in how the land is managed.

Mr. President, S. 884 would designate no wilderness in the half-million-acre Kaiparowits region of south central Utah between a slice of Fifty Mile Mountain on the east and a sliver of Paria River on the west. Instead, more than 50,000 acres in the heart of this omitted region would be turned over to the State of Utah to facilitate coal development.

Fourth, the bill expressly denies a water right to wilderness areas designated by this act. In the two most recent BLM wilderness bills enacted—for California and Arizona, and I think also in Nevada—Congress reserved a quantity of water sufficient to fulfill the purposes of the act, which is protecting lands designated as wilderness areas. This bill would deny the right to water for lands that are protected under this act, thereby preventing protected lands from having the right to the very water which gives it life. Ironically, one of the reasons for granting wilderness protection to desert wild lands in Utah is to shelter relatively rare riparian ecosystems. Protecting the lands which contain the habitat of species that live on the banks of rivers and lakes without protecting the water which sustains these same systems is shortsighted, to say the least.

Fifth, the bill includes provisions permitting the State of Utah to exchange State land within or adjacent to wilderness areas for Federal lands in other locations, so long as the lands exchanged are of approximate equal value. Taken at face value this would benefit both parties. However, Sylvia Baca, Deputy Assistant Secretary, Land and Minerals Management, at the Department of Interior has testified that "equal value":

> * * * is clearly not the case when the specific tracts shown on the map are reviewed. The tracts proposed to be obtained by the State have high economic value for mineral, residential, or industrial development. The fair market value of the lands may be 5 to 10 times more than the value of the lands that would be transferred to the Federal Government.

Mr. President, S. 884 also permits partial exchanges that would allow the State to acquire desirable Federal land in exchange for whatever land the State wants to give up. The State gets to arrange, in other words, both sides of the transaction. It identifies both the lands it wants to dispose of and the lands it wants to acquire. The Federal Government must approve the transaction, once again, provided the lands are of approximate equal value.

Sixth, this bill makes broad exceptions to the Wilderness Act of 1964, dangerous precedents, which the act affords protections that preserve the unique and spectacular wilderness qualities of public lands. These exemptions would allow and in some circumstances even encourage new nonwilderness activities in designated wilderness areas.

For example, passage of this bill would restrict the Secretary of Interior's authority to control motorized vehicles in wilderness, even on new routes; allow new dams to be constructed under the guise of modifying existing small spring catchments; allow new water users to dry up wilderness streams; allow the construction of permanent buildings and roads and wilderness under the guise of interpreting cultural resources; allow the military to construct new communication sites in wilderness; and include special unnecessary overbroad language permitting low-level military flights and the establishment of new special-use airspace over wilderness; and provide livestock permittees an argument for special treatment on allotments in wilderness.

Mr. President, those are what I consider to be the major flaws in this bill. I know that some of my colleagues will argue that preservation of Utah's unique national heritage is a matter best left to the State's own delegation with its considerable wisdom and considerable talent. In this case, I have to disagree. Wilderness is a gift we give to our children and grandchildren, a gift that once destroyed can never be reconstructed. The children of New Jersey deserve it, as much as the children of California or Colorado.

As a Southwestern poet, Ann Weilern Walka, has written of southern Utah, this beautiful, vast, unique area of the world:

> Why not acknowledge that there is something here more important to our beleaguered society than a marginal mine, an overgrazed permit? A great American myth is embodied in wild lands, and it is myth, ultimately, that holds people together.
>
> The bits of this continent, too formidable to penetrate by road the last of what drew our ancestors to North America, be it ten or ten thousand years ago, an opportunity to breathe deep and re-imagine their lives. The scraps of Eden still afford us awe in an age of cynicism, steady us when human affairs are dizzyingly complicated, reaffirm our eroding sense of American innocence and courage.
>
> Places like these, places to get lost, to become grounded, to meet our Maker, to rediscover our forebears' resourcefulness and grit, to take heart, are promised in our most abiding stories.

I might close my opening statement with a quote from the Oakland Tribune that reminds us that "The battle over public lands in the West is a battle between two philosophies: one that says untouched land is inherently valuable to all Americans, from those who use it for solitude and recreation to those who simply enjoy knowing that there are still pockets of nature left on the continent; and one that says all lands, including those owned by the public, should be put to work in one way or the other." These public lands belong, I believe, to the former group, and so do I.

I yield the floor.

Mr. HATCH. Mr. President, I have been intrigued by the comments and remarks of my colleague from New Jersey. But I have to say that during the course of this debate, we are going to show a number of those remarks to be in error. Let me mention a couple of things right off the top of my head. He mentioned the beauties of the Kaiparowits Plateau, which I have tramped on and been around.

I might add that, in this bill, if you include just Fifty Mile Mountain in that area and the Paria-Hackberry area, you are talking about 220,628 acres out of that area that are going into wilderness. The implication is that we are not doing anything about wilderness. My gosh, almost 221,000 acres. With the Dirty Devil area, which was mentioned, we are designating more than 75,000 acres. We are talking about 2 million acres here. Since the

BLM began studying this issue almost 18 years ago, more than than $10 million has been spent, countless hearings held, town meetings scheduled—many efforts to bring people together. The affected county people are upset, many not wanting any acres at all in wilderness. Then, there is the other extreme wanting 5.7 million acres.

The BLM, looking at it all, said that the only acres that even came close to qualifying for true wilderness are 3.2 million. That is the study area. Nobody in their right mind expected that whole study area to become wilderness. Everybody knows that once it is designated wilderness, it is used only basically for backpacking. You can walk on it, and that is about it.

The people of Utah and everybody else would be basically frozen out from using any mechanization, including a bicycle, on the property. So even if you assume that the whole 3.2 million acres might qualify for wilderness and that the entire amount should be taken, that still is all there would be. These people who are so extreme want 5.7 million acres.

Keep in mind, the definition of wilderness is this. Section 2 of the Wilderness Act of 1964 says: "A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the Earth and its community of life are untrammeled by man and where man himself is a visitor who does not remain."

Further, it is defined as:

> An area of undeveloped Federal land retaining its primeval character and influence without permanent improvements or human habitation, which is protected by man so as to preserve natural conditions and one, which generally appears to have been affected primarily by the forces of nature with the implants of man where it is substantially unnoticeable; two, has outstanding opportunities for solitude or primitive and unconfined type of recreation; three, has at least 5,000 acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; four, may also contain ecological, geological, or other features of scientific, scenic, or historical value.

Furthermore, it said that you cannot put mechanization on this land. We in Utah understand wilderness. I was one of the pivotal people in getting it passed a number of years ago, along with Senator Garn and Congressman HANSEN. We passed 800,000 acres of Forest Service. There was a lot of screaming and shouting then. Today, virtually everybody admits that was a wonderful bill. It has worked well. We are proud of it. We are proud of our wilderness in Utah. We do not want people from other States coming in and accusing us of raping the land or robbing the people of the country as a whole, or taking away their rights, when we understand our land and we know it. We have been there and we have walked over it and we have driven many of these areas.

Frankly, it does make sense to me for those who come into our State demanding 5.7 million acres when the total study area was only 3.2 million. They should listen to a leading BLM figure, Mr. James Parker, the former Associate and Assistant Director of BLM, former BLM State director for Utah, who stated in testimony before the Senate Subcommittee on Forest and Public Land Management on S. 884, the following:

> Based on my personal experience with, and review of, the detailed reports and analysis prepared by the professional staff of BLM and other entities of the Department of Interior, I believe that S. 884 is appropriate and that it includes most of the areas that truly deserve to be designated as wilderness in Utah. I believe the acreage figure is both credible and in line with what meets the criteria for wilderness designation. I also believe that it meets both the spirit and intent of the Wilderness Act of 1964, and the proposed designations fit well into the overall management scheme provided for by FLPMA for management of the public lands.

This is the first time I have heard these indications, except from the most extreme people, that the BLM is an organization that is not tremendously concerned about the environment. It has always been environmentally oriented in our State. With regard to the BLM Utah State process, Mr. Parker said:

> The process was open to every citizen of the United States, it was well defined, the criteria well-documented, appeals and protest rights were all publicized and used by groups and individuals on both sides of the issue, and extensive documentation was completed for all aspects of the process. Undoubtedly, this is one of the longest running, most expensive, and most intensive public involvement efforts in the history of Utah.

On the factual aspect of public involvement of this process, Mr. Parker provided the following information:

> During the 15 years it took to complete this wilderness process in Utah, more than 16,000 written comments were received, analyzed, and incorporated into the decision process. More than 75 formal public meetings and hearings were held by BLM, and hundreds of face-to-face discussions and workshops were conducted. Thousands of pages of documentation were prepared, printed, and distributed for public review and comment, and countless briefings were held and questions responded to. For the draft environmental impact statement alone, 16 separate hearings were conducted, over 700 people testified, and over 6,000 people commented in writing. The resulting EIS fills 10 large books and consists of 7 volumes, plus analysis of public input and agency response.

Let me make the point that the people arguing against us, have produced a beautiful book that contains their recommendation. It is done in this book here. That is their work. I give them credit for it. It is a beautiful book and there is a lot of good information. But this is just part of the study of the Federal Government and the BLM. Here are some more parts of the study, from the Geological Survey on through. That is what we have gone through, not just the study in the interests of a few, but the interests of everybody.

I am glad that we have done that. The fact is there has been a lot of study there. There has been some suggestion here that the BLM development process was flawed. Let us see what Mr. Parker had to say. We are not quoting some liberal, environmentally-oriented professor from Colorado who does not even live in Utah. We are talking about the head of the Utah State BLM Office.

> I came to the conclusion that, while it was not a perfect process, it was carried out in a very open, professional, and orderly manner. The criteria had been adhered to and procedures had been followed.

Just look at it right here.

> There was extensive documentation of the decision process.

Just look at it. It is enough to blow your mind.

> There had also been a great deal of oversight in testing the decisions by higher levels of the organization, the Department of the Interior, and by special interest groups on both sides of the issue through the appeals and judicial challenges. I believe that the professional staff of BLM and the other agencies involved—

It was not just BLM; there are a number of Federal agencies involved in all these studies.

> involved in both Utah and in the headquarters level in Washington . . .

Let us get with it. People here in Washington are not going to let us make mistakes here. The people out there are not going to let us make mistakes. Both areas are environmentally oriented, almost to the extreme in some areas. But Mr. Parker says:

> I believe that the professional staff of BLM and the other agencies involved in both Utah and at the headquarters level in Washington and elsewhere did a very credible job in carrying out the mandate of the law.

In the process pursued by the Utah congressional delegation to develop S. 884—remember, this is the head of BLM in Utah, former Associate and Assistant Director of BLM and former BLM State Director for Utah on this process pursued by our Utah congressional delegation—Mr. Parker stated,

> I believe the recent process used by the delegation and the Governor was not only appropriate but was a rather gracious gesture—

I have to tell you it was. But let me continue.

> given the extent of previous public involvement in the numerous opportunities that have existed over the past 17 years for individuals and groups to become involved in and to impact the process.

Regarding the future use of lands that are not designated in our wilderness bill, S. 884, Mr. Parker continues:

> All of the public lands in Utah are covered by land use plans. Some of the plans are not as current as they might be but they do provide protection for the resources. These plans, along with other laws and regulations,

> provide many options for land managers to use to protect the land and their resources. While allowing for appropriate authorized use and enjoyment of the public lands, no lands in Utah would be unprotected, nor will they be open to uncontrolled development if they are not designated as wilderness.

That says it all. These lands are not going to be ripped off. These lands are not just automatically developed. There are not going to be shopping centers everywhere. The fact is they will be subject to the environmental rules and laws in existence today. Mr. Parker also has written the following in a recent newspaper article about H.R. 1500, the bill which apparently our colleague from New Jersey supports as well as people who have never stepped foot in Utah, who have never looked at it, and who do not understand our State. I might add they include many environmental organizations that are very sincere in what they are doing, but on this issue they are sincerely wrong:

> This ill-conceived proposal—

Mr. Parker is talking about H.R. 1500, the environmental bill that would have 5.7 million acres—

> This ill-conceived proposal includes in its boundaries private homes and buildings, cultivated fields, chained areas, thousands of acres of private and school trust lands, and other areas that cannot be designated as wilderness. It also includes hundreds of miles of roads.

In this study book of theirs we have placed a tab demonstrating where there exist many miles of roads. They try to say these roads are abandoned or not used, and so forth—some of them may be. The fact of the matter is that hundreds of miles of roads have been included in their proposed wilderness areas. We have gone over many of those areas. A lot of it is low-lying sagebrush land along highways. That is how ridiculous this is. Mr. Parker goes on to say:

> Also included are—

Mr. Parker criticizing H.R. 1500, the environmental bill or I should say the environmentally extreme bill.

> Also included are oil and gas wells, hundreds of mineral leases and mining claims, rights of ways, et cetera, all of which would conflict with wilderness designation. Many of the areas in the proposal lack the 5,000-acre minimum specified by the Wilderness Act and are "cherry stemmed" in the extreme leaving narrow necks of land that would make them totally unmanageable as wilderness.

That is what a lot of this stuff is. I would prefer to go with these things. I do not always agree with what the Federal Government has done in all of these wilderness studies, but we have spent millions getting to the point where we brought people together from all over the State of Utah and, frankly, from all over the country, to achieve what we have been trying to do.

So you have a study area of 3.2 million acres that is well studied, well documented. It is misleading to indicate that the BLM did not do its job here. In fact, we thought that it did too good of a job. Many people in Utah did.

After reviewing the 3.2 million acres, the BLM in its final recommendation, after all of this work, concluded that we should have 1.9 million acres. That would be the right figure. This bill as originally filed proposed 1.8 million acres, 100,000 acres less than the 1.9 million that the BLM called for. To accommodate our colleagues here in the Senate, because we know that our colleagues are sincere in wanting more wilderness acres, we have gone from 1.8 to 2 million.

Let us take a look at what 2 million acres equals, just so people realize how vast this amount is, and why we are so upset that certain groups are coming into our State and telling us what we can and cannot do in our own State. And, all this after Senator BENNETT, I, and the Members of Congress in the House have worked on this issue for, in my case, 20 years, to get to this point where we can resolve this matter. I should point out that both sides on this issue are mad at us most of the time—those who do not want any acreage and those who want everything, like our friend from New Jersey. The affected counties wanted just over 1 million acres, that is all. They did not want any more, and in some area they did not want that, to be honest with you. They really want zero, especially in the mainly affected counties. But, at the most, we finally got them to agree to 1 million acres.

To those who never have budged from 5.7 million acres, not one acre, we propose an amount of 2 million acres, which is 100,000 above that recommended by the BLM. Look at what it means. Just so you get the idea of how vast this is. Two million acres is equal to 100 percent of the whole State of Delaware—they only have 1.2 million acres in Delaware; 63 percent of the whole State of Connecticut, which is only 3 million acres; 41 percent of Senator BRADLEY's New Jersey—in other words, our 2 million acres is almost half of his State—he has 4.8 million acres in New Jersey; 41 percent of the whole State of Massachusetts; 35 percent of the whole State of New Hampshire; and 34 percent of the whole State of Vermont.

I think people ought to stop and look at this. We live in Utah. We believe it is the most beautiful State in the Union. We do not think there is any question about it. We think many people will confirm that. We think all States have much beauty in them. But the fact of the matter is that after all these years of study, all of these years of conflict, and all these years of having both sides mad at the congressional delegation, with some wanting none and always the environmentalists wanting at least 5.7 million, if not more, since Wayne Owens originally filed the bill in 1988, it is time to settle this matter. Representative Owens' bill totaled 5.2 million, by the way, as I recall. The New York Congressman, who at the time he filed his bill had never stepped foot inside of Utah, introduced a measure to designate 5.7 million acres, and that becomes the battle cry for these people. It is an extreme battle cry.

At the outset, my colleagues should understand one very important fact. We in Utah love our State. We love and cherish our land, which is comprised of some of the most beautiful and picturesque scenery in the world. I am going to get into it in just a few minutes as to what we are doing.

When we talk about the Kaiparowits Plateau, we have 220,000 acres in there, and of the other areas cited by my friend from New Jersey, there are 75,000 acres of the Dirty Devil, and 16,000 acres of the Fish and Owl Creek. Even this proposal is being criticized as well.

Mr. President, I really cannot say how disappointed I am that some of the Members of this body have chosen not only to oppose the Utah wilderness provisions of this bill but also to engage in such questionable debate about it.

My friend from New Jersey, Senator BRADLEY, issued a press release on Friday announcing that he would try to block the Utah wilderness legislation from passing. He has a right to do that if he wants to. Actually, for those of us involved, this is not big news. The Senator from New Jersey has done a pretty good job of blocking it so far, as well as most of the rest of the bills in this amendment, since last April. It is because he has that Chairman MURKOWSKI has included our wilderness bill in this overall package, knowing that it is the just thing to do. It just seems to me that this press release is a public way of throwing down the gauntlet and, believe me, I am sincerely sorry for that. The Senator from New Jersey has announced that he intends to take down legislation that is critical to our State. What am I supposed to do? What would any Member of this body do if he or she found himself or herself in our shoes? If anyone here does not know the answer to that question, he or she does not belong in the Senate.

I have heard all the rhetoric about Utah land belonging to the Nation as a whole. And it may surprise some of my colleagues to hear that to a certain degree I agree with that. I believe certain problems and concerns affecting some States must be shared nationally. But let us get one thing straight. The impact of this legislation, and in fact the adverse impact of failing to pass this bill, is going to fall on Utahns only—not on New Jerseyites, but on Utahns. It will not matter to a citizen of New Jersey or Florida or Wisconsin that a small town in rural Utah like Kanab, UT, dies a slow death because its land has been locked up, unjustly locked up. It will not matter to the average Illinoisan that the town of Summit, UT, faces a water crisis because existing water rights have not been respected in the second driest State in the Union.

Just who do my colleagues think is going to bear the heaviest consequences of our decision with respect to the Utah wilderness issue? In all honesty, this press release sounds like it could have been written by the lobbyists for the National Resources Defense Council. I simply cannot believe Senator BRADLEY would have personally approved its content. It says that "The current Senate Utah wilderness legislation would direct that 20 million acres of Utah lands can never be designated as wilderness in the future."

Now, where on Earth did this come from? Neither the original bill that Senator BENNETT and I filed nor the substitute says any such thing. Moreover, the BLM has never even identified 20 million acres of land as wilderness worthy, as I have pointed out earlier. This figure represents 91 percent of the BLM's total landownership in Utah.

(Mr. KYL assumed the chair.)

Mr. HATCH. My friend from New Jersey, Senator BRADLEY, knows the difference between the BLM inventory and the study areas, which is why I really do not believe he really approved of this press release. He goes on to say that "If the bill becomes law, it would permit the transformation of these lands from pristine wilderness to strip mines, roads and commercial development."

Now, Mr. President, these statements are patently untrue. Someone in the Senator's office has been grossly misled, and unfortunately these untruths are being distributed to the press as though they are truths. In essence, these are the facts. First, the upper number of acreage involved in this debate is over 5 million, not 20 million. Second, nowhere in our bill does it say that no more wilderness can ever be designated in the future.

Third, the land not designated as wilderness is still managed and controlled by the Federal Government in accordance with Federal land policy laws and regulations. I feel very safe in saying that there will be no environmentally irresponsible activity taking place on these lands now or in the future.

Fourth, there has not been a new strip mine in Utah in many years, even decades, and there will not be even after this bill passes. Yet the opponents of this bill know that using the term "strip mine" conjures up all sorts of horrible images. Its use in this debate is simply not justified.

In the same press release from Senator BRADLEY's office, he states that he will continue fighting for legislation to protect 17,500 acres along the New Jersey-New York border, the so-called Sterling Forest bill. The Senator from New Jersey is quite correct that the Sterling Forest bill passed the Senate without an objection. As public lands policy, I do not think the Sterling Forest bill was perfect, but I did not stand in the way of its passage. The Senators from New Jersey, New York, and surrounding areas wanted it. They represent their States. This legislation, the Sterling Forest legislation primarily affects New Jersey. If both Senators from New Jersey believe this legislation is in the best interest of their State and the country, I am going to defer to their judgment. Ditto the legislation for the Presidio and the Taos Pueble land exchange and the Arkansas-Oklahoma land exchange, et cetera, et cetera.

So I am a little annoyed, when Senator BENNETT and I propose legislation that has the support of our Governor, our legislature, our Utah association of counties, our educators throughout the State, and thousands of individual Utahns, that we are being second-guessed by Senators who do not represent this State.

Keep in mind, look at how much acreage we are putting in and how it relates to the States in the northeast where a lot of the complaints are coming from. The fact is that we are being sandbagged not so much by our colleagues but by a well-orchestrated and well-financed campaign staged by huge, huge national environmental lobbies who are pursuing their own national agenda.

Guess what. Their agenda is too much for the rural areas of my State. It would overwhelm them. We cannot support their agenda. And guess what else. The citizens of rural Utah and their local representatives cannot even afford to fight back. The National Resources Defense Council ran a half-page ad in the Washington Post that cost I believe $54,000. Good grief. For that amount Kane County School District could pay three schoolteachers. And that is only one of dozens of full-page ads in newspapers in this area and I guess other areas as well.

Actor Robert Redford has been a spokesperson for the environmentalists. I admire Bob Redford's convictions, but let us face it; what TV station would not want an interview with Robert Redford? The deck is surely stacked against rural Utah. It is an area small in population and small in financial resources and big in tourism, and they have to provide the tax base to provide for all the emergency services—the helicopter services, the hospital services, the law enforcement services, et cetera—in some areas where they just do not have the moneys to do it.

I urge my colleagues not to let these Utahns become victims of election-year politics, and I hope the President is not trying to show how committed he is to the environment on the backs of rural Utahns. I suggest to my friends in these other States that you are going to have peculiar problems in your States that you are going to have to deal with and you are going to have to have good-faith help from other Senators here to be able to resolve them. And we will try to help you resolve them as we Utah Senators always have.

If we allow our rural States to be abused in this manner, if we allow this to happen, then the integrity of this body will have been brought to a new low. We will have allowed the Senate to become a blatant instrument for electioneering. While I am not so naive as to think that political speeches will not be given or that politics does not play a part, I cannot remember a time when the interests of a specific State on a parochial issue were sacrificed in that way. So I really urge my colleagues to support the Utah wilderness provisions in the substitute amendment offered by Senator MURKOWSKI.

Let me, at this point, have printed the press release, so people can read it for themselves. I ask unanimous consent that the press release from Senator BRADLEY's office be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[For immediate release: Mar. 22, 1996]

BRADLEY PREPARING TO BLOCK ENVIRONMENTALLY DESTRUCTIVE UTAH WILDERNESS BILL

WASHINGTON, DC.—Senator Bill Bradley (D-NJ) said today he's ready to take the floor on Monday and point out all of the problems with the Utah Wilderness Bill, if it is offered as part of an omnibus lands package.

"The battle to preserve America's wilderness legacy has been joined. The Utah Wilderness bill is so bad for the environment that I will pursue any possible way of stopping it. It contains unprecedented anti-environmental language that must be debated at length," Bradley said.

Bradley pointed out that the current Senate Utah Wilderness legislation would direct that 20 million acres of Utah lands can never be designated as wilderness in the future. If it becomes law, it would permit the transformation of these lands from pristine wilderness to strip mines, roads and commercial development.

"It is unfortunate that this bad Utah wilderness provision is being folded into a package with less controversial and much needed legislation such as the already-passed Sterling Forest measure and a bill for the Presidio in the San Francisco Bay area. If passed with the Utah wilderness legislation, the package would set a horrible precedent by making drastic changes to our precious lands policies."

"It isn't right to swallow a pill that would be poison to so much of America's great western lands just because it is sugar-coated with some good smaller preservation bills. Our public lands belong to all Americans, whether they live in Utah or New Jersey. They should never be given away to a few special interests," Bradley stated.

As for Sterling Forest, the Senator was firm in his refusal to give up on the measure that would protect 17,500 acres along the New York-New Jersey border. He pointed out that Sterling Forest has already passed the Senate without a single objection, and is awaiting action in the House of Representatives.

"If Sterling Forest is included in a bill along with this destructive Utah Wilderness measure, I believe President Clinton will veto it. If we are to save Sterling Forest, we must stop the packaging of these bills, which is no more than an attempt to get us to accept a bad public lands bill by wrapping it up in shiny paper." Senator Bradley said.

Mr. HATCH. Mr. President, much has been made about Utahns and how they feel about these issues. But my colleagues might say they do not know what Secretary Babbitt has to say about our proposal. That makes 100 of us, because, frankly, I do not know. I do not know what specific problems the Secretary has with our bill. I do not know what his specific thinking is on the water language, the military overflight section, the section dealing with cultural and archeological sites found within designated areas on the State's school trust land exchange, proposed in the bill. I do not know how he might modify them. Honestly, I do not know.

I have used the term AWOL, absent without leadership, on this floor in recent months to describe the administration's efforts in addressing our drug problem. This strategy of criticizing without putting anything positive on the table was also evident during consideration of the budget. It seems to be typical of the Clinton administration across the board.

To date, the Interior Department has not even sent us the letter in which Secretary Babbitt says he will recommend a veto of the omnibus package if the Utah wilderness bill is included. I suppose the Secretary assumed that we would have the privilege of reading his letter in the newspaper, which of course we have. I do not know why the Secretary has not tried to work with us in order to come to an agreement on the many critical issues contained in this measure. We have been working on it, just this measure alone, for the last 20 years; but, in particular, writing it for the last 15 months. The Secretary has not attempted to contact me or to have his staff contact my staff to discuss how certain boundaries for designated areas might pose management problems for his agency, the application of wilderness criteria, the special management directives, or any other concerns he has with this legislation.

It is true that last July, during the Energy Committee's hearing on our bill, Sylvia Baca, the Deputy Assistant Secretary for Land and Minerals Management for the Department of Interior, presented testimony on behalf of the Department and the Secretary on the bill as it was introduced. She included the following statement in her written testimony: "If the bill were presented to the President in its current form, Secretary Babbitt would recommend that he veto it." What is even more amazing to me is that Ms. Baca's explanation for this position is based on the Interior Department's noninvolvement in the wilderness issue. The Department admitted that it has been AWOL on this issue, which is so important to our State.

When Senator CRAIG asked her why the Department did not agree with the 1991 BLM recommendation for wilderness and why there was no attempt by the current administration to modify it, here was her response:

Mr. Chairman, first of all I would like to point out that the Interior Department did not think that wilderness legislation was going to come forward. We did not come here today with a specific wilderness acreage number. I explained earlier that is because we have not been involved in the wilderness issue.

The Secretary has done nothing but criticize. He has offered nothing in the way of constructive suggestions for improving the bill. This can only mean he intended to recommend a veto without regard to what the bill was going to say. This strikes me very much as a knee jerk approach to protecting the environment, and it is as bad as those who say we should have no environmental protection at all—and there are plenty in my State who would like that position.

But we have had to be responsible here. We are the people who have had to handle this issue. We have been blasted by both sides, both extremes on this issue, for the last 20 years—but certainly the last few years in particular.

Fortunately, my colleagues in the Senate have been more helpful and more sincerely interested in resolving this matter. They have offered constructive suggestions for changes, many of which we have incorporated in this bill, many of which have changed some of the areas criticized by the distinguished Senator from New Jersey. Apparently he has not read the bill yet, at least the substitute, but I hope he will.

The bill before us today is not the same bill that was discussed last July. The bill we are debating today is a much changed bill. I am not sure it is better, but for those on the other side of this issue, on the environmental side, it is a better bill. It is fair. It is reasonable. And, above all, it is balanced. And we are trying to bring together everybody in Utah, not just one side of the equation.

The Secretary now thinks this issue of such import that he is threatening a veto of this entire package of public land legislation. This does not square with Ms. Baca's testimony that the Department has just been too busy to focus on wilderness. We in Utah have been focusing on it for 2 decades. We have forged ahead in the 104th Congress, to attempt to resolve this issue once and for all. I would like to have the Secretary with us, I really would. I would have been pleased to work with him every step of the way. I really would.

I know Senator BENNETT feels the same way. But, even as other Senators have offered amendments in the Energy Committee and during informal discussions, Secretary Babbitt is content to be silent except for a veto threat. His position today is the same as it was in July, when Ms. Baca testified for the Clinton administration. This is a little like a country threatening the use of nuclear weapons without bothering to tell the world why it is attacking.

It is time to move ahead with this legislation. The question of wilderness in Utah has gone on long enough. It has been studied to death. We are tired of it. It is time to designate new wilderness in Utah and to remove millions of acres from the regulatory limbo that they have been in. Let us give them legal status as wilderness, or responsibly manage them for other uses. I hope the Secretary will determine this is an important objective, because it is.

Let me answer the question many of my colleagues have posed to me over the past few years and certainly in recent months and that is: Where are the citizens of Utah on this issue? Over the last several days we have seen advertisements in the Washington Post, Washington Times, Rollcall and the Hill magazine, claiming several things. First, there is the claim that 3 out of 4 Utahns support the so-called citizens proposal, that would designate 5.7 million acres of land as wilderness.

Second, it is claimed that Americans are opposed to our program by a margin of 9 to 1.

This first statement refers to the process the Utah congressional delegation and Governor Leavitt followed last year to obtain input from our local citizens. During our statewide regional hearings we requested that any further comments and proposals on the wilderness issue be submitted in writing or by telephone to Governor Leavitt's office. The Governor's office made a tally of these letters and phone calls. The inaccurate claims made in these newspaper advertisements by the opponents of this bill stem from the summary report developed by Governor Leavitt's office on these additional calls and letters. Rather than explain this discrepancy to my colleagues, I have asked Governor Leavitt to tell us in his own words the truth about the comments and calls in his office. His letter says this:

DEAR SENATOR HATCH: As you know, there has been substantial confusion about the public sentiment in Utah concerning the BLM wilderness issue. Please accept this letter as an explanation of the public response which my office received with respect to this issue. Personnel in the Governor's Office of Planning and Budget read, recorded, and responded to each of the 3,031 individual letters

> which were received last year and also categorized the 551 individual public testimonies received at the public hearings held in Utah last spring and summer.
>
> In examining this information, 51% of these letters and testimonies were in favor of no wilderness designation whatsoever or something less than the 5.7 million acre proposal.
>
> Certain groups throughout the state have publicly stated that support for 5.7 million acres of wilderness has ranged from 70% at a minimum, to upwards of 75%. In Utah and throughout the country, these numbers have been quoted in numerous newspaper stories and in various correspondence, yet no one has ever contacted my office for verification of the numbers. As is evident by the above numbers, this is most definitely a misrepresentation of actual public sentiment.
>
> In addition, there have been numerous surveys conducted on the wilderness issue over the last year. These surveys show that those respondents supporting 5.7 million acres have ranged from 19% to 36% depending on how the survey was structured and the way in which questions were asked. In these same surveys, 29% to 60% favored 2 million acres or less, also depending on survey structure and format of questions.
>
> It is important that lawmakers in Washington have factual information when making decisions as important as this. The information supporting the numbers I have offered is all on file in the Governor's Office of Planning and Budget and available for anyone with questions or concerns. Thank you for your commitment to this issue and for the work you have done in the pursuit of the resolution of the wilderness debate.

Mr. President, this letter is clear enough. The figure utilized by the opponents of our measure misconstrues the information tallied by the Governor's office. It is interesting to note, this figure has mysteriously risen during this debate. First I saw a report that indicated the figure was 68 percent. Then it went to 70 percent. These recent adds have it at 73 percent, and one ad indicated it was 3 out of 4 Utahns, or 75 percent. Where are they getting these numbers?

The second statement that Americans oppose the Utah wilderness bill by a ratio of 9 to 1 comes from a straw vote conducted by USA Weekend. This feature in many of the weekend's Sunday papers asked me to present my position on wilderness opposite Robert Redford, the well-known Utahn who owns the Sundance ski resort, which is located by the way, among some of the most beautiful acres in the world.

At the conclusion of the article, the editors asked readers to write, phone or e-mail their votes for which position they supported.

Similar to the barrage of advertisements, letters and phone calls and mailers my colleagues are receiving, the USA Weekend was bombarded with responses. In fact, the responses were 9 to 1 against the wilderness proposal.

But USA Weekend was careful to point out that this is not a scientific poll. It was self-selected, which is a nice way of saying that people could vote early and often. The results of this call-in were, of course, skewed by those who responded to the urgings of national environmental organizations that they call in. In fact, just one of these groups, the Wilderness Society, has almost four times as many members as I have constituents. Think about that, four times as many members as Senator BENNETT and I have constituents in our whole State. To their credit, they can mobilize these members at a moment's notice, which is what they have been doing on this matter for months—for years now—but certainly over the past few weeks and certainly during that particular USA Weekend article.

Let us talk about real polls.

Dan Jones & Associates, Utah's most prominent and well-respected pollster, who has a tremendous record for accuracy, has conducted several surveys on this matter. Last April, he conducted a poll for Representative WALDHOLTZ, which revealed the following: Survey for Representative WALDHOLTZ, April 26, 1995—Dan Jones & Associates: 36 percent were for 1.2 million acres; 24 percent for 2.0 million acres. We are a little over 2 million acres in the substitute bill that is in the substitute amendment. 23 percent of those polled wanted 5.7 million acres. In other words, a lot more people were for 1.2 million acres or 2.0 million acres than there were for the 5.7 million acres, which received only 23 percent; 17 percent of those polled were not reported.

Later in the year, in May 1995, Dan Jones conducted a poll for the Wilderness Education Project, and the results were generally the same: 21 percent preferred 1 million acres; 16 percent for 1.2 million acres; 20 percent for 1.9 million acres; 15 percent for 2.8 million acres; 19 percent for 5.7 million acres. It actually had gone down; 8 percent did not know.

In June of last year, Dan conducted a poll for the Deseret News, which had the following results: 4 percent for zero acres, which means 4 percent did not want any wilderness at all in Utah; 18 percent were for 1 million acres; 26 percent for 1.8 million acres; 36 percent for 5.7 million acres; 7 percent for other, and 8 percent did not know. The highest percentage it has ever been for 5.7 million acres has been 36 percent, and then only after a massive publicity and advertising campaign done by these environmental organizations who have more money than anybody in Utah, certainly more than anybody on our side, and certainly more than the poor little people in these rural areas. The rural people, for the most part, do not want any or at least want very little acreage, but they have agreed to 1 million acres. And, now reluctantly they have gone along with the delegation—some of them have gone along with the delegation—for the 2 million acres but are very upset about it.

In addition to these polls, KUTV Channel 2 and the Coalition for Utah's Future conducted a poll in May. Their results were similar to the Dan Jones polls. This survey was conducted from May 5 to 17, 1995, by Valley Research: 5 percent for zero acres; 12 percent for 1 million acres; 12 percent for 1.9 million acres; 10 percent for 2.9 million acres; 23 for 3.2 million acres; and 31 percent for 5.7 million acres; 8 percent do not agree with any.

The summary of these polls is twofold. First, a majority of respondents in almost every poll, except for the respondents in the KUTV/Coalition poll, favored a designation of 2 million or fewer acres. In the Waldholtz poll, it was 60 percent; Deseret News, 48 percent; wilderness education was 57 percent.

Second, the 5.7 million acre proposal was not supported by a majority of respondents in any poll: Waldholtz, 23 percent; KUTV, 31 percent; Deseret News, 36 percent; wilderness education, 19 percent.

So, if my colleagues are looking for a definitive answer on how the majority of Utahns feel when it comes to a final acreage figure on BLM designation, these are the more reliable numbers. They are from reputable sources, polling organizations that use scientific methods, from both the left and the right.

I think a far more accurate assessment of where Utahns stand on this issue should be a letter that we recently received, Senator BENNETT and I, dated March 22, last Friday. This letter is on behalf of 300 of Utah's top officials—Democrats, Republicans, moderates, liberals, conservatives—300 of the elected officials in Utah, the vast majority of them:

> DEAR SENATOR: You recently received a letter dated March 15, 1996 from a group of twenty calling themselves "The Coalition of Utah Elected Officials," asking the "Utah Congressional Delegation to withdraw S. 884 and reconsider the direction they have taken on wilderness." The letter states, "most Utahns oppose S. 884." It further states that "most local people consider this to be stridently anti-environmental legislation, not the carefully balanced package the Utah Congressional Delegation has been claiming it to be.

The letter goes on to say this:

> These statements are not only preposterous—but blatantly untrue. The facts are that most Utahns do not want large amounts of acreage designated as wilderness in Utah. We the undersigned Democrats and Republicans strongly support Senators Hatch and Bennett in their balanced approach to Utah wilderness.
>
> In reality, the Utah State Senate endorsed the provisions contained in the Hatch-Bennett proposal unanimously (27 to 0)—I might add that the leader of the AFL–CIO in Utah, a member of the Utah State Senate, voted in support of this resolution . . .

While the Utah State house voted 62 to 6, or 92 percent in favor. Across the State, elected commissioners in 27 of 29 counties support this bill. As this letter indicates, over 90 percent of Utah's elected county leaders support the Utah wilderness proposal now before the Senate.

Early in 1995, the Governor of Utah and all members of the Utah Congressional Delegation specifically tasked the elected county officials in each county where wilderness is being proposed, to hold public hearings and from those public hearings, develop a proposal for wilderness designation on the Bureau of Land Management lands in the affected counties. Numerous public hearings were held in every county where lands were proposed for wilderness designation. The county officials then designated their proposals for designating lands as wilderness from the public hearings. In every county where lands were proposed for wilderness designation, the county officials made their recommendations based on what they heard at the hearings. Many county officials recommended more acreage than they knew their citizens wanted, but they knew they had to do so in order to make a bill acceptable to Congress. Some of those county officials have paid a dear political price for their recommendations.

I can certainly affirm that.

After the county officials made their recommendations, the Governor and Congressional Delegation held five regional hearings around the State. The environmental community, both in and outside Utah, was well organized and paid its partisans to testify. They even rented buses and vans to transport these people from location to location.

And I can testify to that. We had almost the same people at every location, demanding to testify, saying the same things each time, and making it look like they had more numbers than they really did.

The testimony they gave was based on emotion and not the requirements of the Wilderness Act itself. Their testimony ignored the professional recommendations of the BLM which based its proposals on the criteria of the 1964 Wilderness Act.

The Governor and Congressional Delegation then developed what is now title XX of omnibus package S. 884. Many in Utah believe it contains too much acreage. It represents more than was recommended by the elected county officials who held the local public hearings. It represents more than the State legislature has recommended at least twice in the last 4 years by nearly unanimous votes.

The people of Utah live in a State with approximately 67 percent Federal land ownership and another 13 percent State ownership, but managed under the Federally enacted State Enabling Act. Utah already has millions of acres in five National Parks, two National Recreation Areas, four National Monuments, 13 Forest Service wilderness areas, and BLM areas of Critical Environmental Concern. The unelected State Director of the BLM manages more of Utah than does its elected Governor.

The BLM wilderness debate in Utah has dragged on for more than 15 years at a cost to taxpayers of over $10 million. We believe it is time to end the debate, pass the balanced Hatch-Bennett proposal and bring some peace and stability to people of Utah who must live daily with results of this debate. We the undersigned are a few of the elected officials in Utah who support Title XX of this bill. We want it passed and enacted into law.

As I said, there are 300-some Democrat and Republican elected officials who have endorsed this letter. I ask unanimous consent that this letter and the attachments thereto be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE TRUTH ABOUT UTAH WILDERNESS

MARCH 22, 1996

DEAR SENATOR: You recently received a letter dated March 15, 1996 from a group of twenty calling themselves "The Coalition of Utah Elected Officials," asking the "Utah Congressional Delegation to withdraw S. 884 and reconsider the direction they have taken on wilderness." The letter states that "most Utahns oppose S. 884." It further states that "most local people consider this to be stridently anti-environmental legislation, not the carefully balanced package the Utah Congressional Delegation has been claiming it to be."

These statements are not only preposterous, but blatantly untrue. The facts are that most Utahns do not want large amounts of acreage designated as wilderness in Utah. We the undersigned Democrats and Republicans strongly support Senators Hatch and Bennett in their balanced approach to Utah wilderness.

In reality, the Utah State Senate endorsed the provisions contained in the Hatch-Bennett proposal unanimously (27–0), while the Utah State House voted 62–6, or 92% in favor. Across the state, elected commissioners in 27 of 29 counties support this bill. As this letter indicates, over 90% of Utah's elected county leaders support the Utah wilderness proposal now before the Senate.

Early in 1995, the Governor of Utah and all members of the Utah Congressional Delegation specifically tasked the elected county officials in each county where wilderness was being proposed, to hold public hearings and from those public hearings, develop a proposal for wilderness designation on Bureau of Land Management (BLM) Lands in the affected counties. Numerous public hearings were held in every county where lands were proposed for wilderness designation. The county officials then developed their proposals for designating lands as wilderness from the public hearings. In every county where lands were proposed for wilderness designation, the county officials made their recommendations based on what they heard at the hearings. Many county officials recommended more acreage than they knew their citizens wanted, but they knew they had to do so in order to make a bill acceptable to Congress. Some of those county officials have paid a dear political price for their recommendations.

After the county officials made their recommendations, the Governor and Congressional Delegation held five regional hearings around the state. The environmental community, both in and outside of Utah was well organized and paid its partisans to testify. They even rented busses and vans to transport these people from location to location. The testimony they gave was based on emotion and not the requirements of the Wilderness Act itself. Their testimony ignored the professional recommendations of the BLM which based its proposals on the criteria of the 1964 Wilderness Act.

The Governor and Congressional Delegation then developed what is now Title XX of omnibus package, S. 884. Many in Utah believe it contains too much acreage. It represents more than was recommended by the elected county officials who held the local public hearings. It represents more than the State Legislature has recommended at least twice in the last four years by nearly unanimous votes.

The people of Utah live in a state with approximately 67% federal land ownership and another 13% state ownership, but managed under the federally enacted State Enabling Act. Utah already has millions of acres in five National Parks, two National Recreation Areas, four National Monuments, thirteen Forest Service wilderness areas, and BLM Areas of Critical Environmental Concern (ACEC). The unelected State Director of the BLM manages more of Utah than does its elected Governor.

The BLM wilderness debate in Utah has dragged on for more than 15 years at a cost to taxpayers of over $10 million. We believe it is time to end the debate, pass the balanced Hatch-Bennett proposal and bring some peace and stability to the people of Utah who must live daily with results of this debate. We the undersigned are a few of the elected officials in Utah who support Title XX of this omnibus bill. We want it passed and enacted into law.

Sincerely,

John Hansen, Millard County Auditor; Linda Carter, Millard County Recorder; Ed Philips, Millard County Sheriff; LeRay Jackson, Millard County Attorney; John Henrie, Millard County Commissioner; Donovan Dafoe, Mayor, Delta Utah; Merrill Nielson, Mayor, Lynndyl, Utah; Phil Lovell, Mayor, Leamington, Utah; B. DeLyle Carling, Mayor, Meadow, Utah; Terry Higgs, Mayor, Kanosh, Utah; Mont Kimball, Councilman, Konosh, Utah; Roger Phillips, Councilman, Konosh, Utah; Robert Decker, Councilman, Delta, Utah; Gary Sullivan, Beaver County Commissioner; Ross Marshall, Beaver County Commissioner.

Chad Johnson, Beaver County Commissioner; Howard Pryor, Mayor, Minversville Town; Louise Liston, Garfield County Commissioner; Clare Ramsay; Garfield County Commissioner; Guy Thompson, Mayor, Henrieville Town; Shannon Allen, Mayor, Antimony Town; John Matthews, Mayor, Cannonville Town; Julee Lyman, Mayor, Boulder Town; Robert Gardner, Iron County Commissioner; Thomas Cardon, Iron County Commissioner; Worth Grimshaw, Mayor, Enoch City; Dennis Stowell, Mayor, Parowan City; Norm Carroll, Kane County Commissioner; Stephen Crosby, Kane County Commissioner; Viv Adams, Mayor, Kanab City; Scot Goulding, Mayor, Orderville Town.

Gayle Aldred, Washington County Commissioner; Russell Gallian, Washington County Commissioner; Gene Van Wagoner, Mayor, Hurricane City; Chris Blake, Mayor, Ivins Town; Rick Hafen, Mayor, Santa Clara City; Paul Beatty, Mayor, New Harmony Town; Terrill Clove, Mayor, Washington City; David Zitting, Mayor, Hildale City; Ike Lunt, Juab County Commissioner; Martin Jensen, Piute County Commissioner; Joseph Bernini, Juab County Commissioner; J. Keller Christensen, Sanpete County Commisssioner; Eddie Cox, Sanpete County Commissioner; Ralph Okerlund, Sevier County Commissioner; Meeks Morrell, Wayne County Commissioner; Stanley Alvey, Wayne County Commissioner; Kevin Young, Mayor, Mona, Utah.

Steve Buchanan, Mayor, Gunnsion, Utah; Roger Cook, Mayor, Moroni, Utah; Mary Day, Millard County Treasurer; James Talbot, Millard County Assessor; Marlene Whicker, Millard County Clerk; Lana Moon, Millard County Commissioner; Tony Dearden, Millard County Commissioner; Ken Talbot, Mayor, Hinkley, Utah; Elzo Porter, Mayor, Oak City, Utah; Keith Gillins, Mayor, Fillmore, Utah; Barry Monroe, Mayor, Scipio, Utah; C. R. Charlesworth, Mayor, Holden, Utah; Vicky McKee, Daggett Clerk Treasurer; Bob Nafus, Councilman, Konosh, Utah; Roger Phillips, Councilman, Konosh, Utah.

Chad Johnson, Beaver County Commissioner; James Robinson, Mayor, Beavuer City; Mary Wiseman, Mayor, Milford City; Maloy Dodds, Garfield County Commissioner; Jean Seiler, Mayor, Tropic Town; Laval Sawyer, Mayor, Hatch Town; Wade Barney, Mayor, Escalante, Utah; Elaine Baldwin, Mayor, Panguitch, Utah; Roy Urie, Iron County Commissioner; Bill Weymouth, Mayor, Kanarraville Town; Harold Shirley, Mayor, Cedar City; Constance Robinson, Mayor Pro-Tem, Paragonah; Joe Judd, Kane County Commissioner; Garaldine Rankin, Mayor, Big Water.

Eric Brinkerhoff, Mayor, Glendale Town; Orval Palmer, Mayor, Alton Town; Jerry Lewis, Washington County Commissioner; Daniel McArther, Mayor, City of St. George; A. Morley Wilson, Mayor, Enterprise City; Raymond Jack Eves, Mayor, LaVerkin City; David Everett, Mayor, Toquerville Town; Brent DeMille, Mayor, Leeds Town; Joy Henderlider, Mayor, Virgin Town; Gordon Young, Juab County Commissioner; Paul Morgan, Piute County Commissioner; Don Julander, Piute County Commissioner; Robert Bessey, Sanpete County Commissioner; Tex Olsen, Sevier County Commissioner; Peggy Mason, Sevier County Commissioner; Bliss Brinkerhoff, Wayne County Commissioner; Bob Steele, Mayor, Nephi, Utah; Connie Dubinsky, Mayor, Levan, Utah; Kent Larsen, Mayor, Manti, Utah; Chesley Christensen, Mayor, Mt. Pleasant, Utah.

Lawrence Mason, Mayor, Aurora, Utah; Eugene Honeycutt, Mayor, Redmond, Utah; James Freeby, Mayor, Sigurd, Utah; Orlin Howes, Mayor, Junction, Utah; Sherwood Albrecht, Mayor, Bicknell, Utah; Dick Davis, Mayor, Lyman, Utah; Mike Milovich, Carbon County Commissioner; Pay Pene, Grand County Council; Bart Leavitt, Grand County Council; Lou Colisimo, Mayor, Price City; Roy Nikas, Councilman, Price City; Paul Childs, Mayor, Wellington, Utah; Bill McDougald, Councilman, City of Moab; Terry Warner, Councilman, City of Moab; Richard Seeley, Councilman, Green River City; Karen Nielsen, Councilwoman, Cleveland Town.

Gary Petty, Mayor Emery Town; Dennis Worwood, Councilman, Ferron City; Brenda Bingham, Treasurer, Ferron City; Ramon Martinez, Mayor, Huntington City; Ross Gordon, Councilman, Huntington City; Lenna Romine, Piute County Assessor; Tom Balser, Councilman, Orangeville City; Richard Stilson, Councilman, Orangeville City; Murene Bean, Recorder, Orangeville City; Carolyn Jorgensen, Treasurer, Castle Dale City; Bevan Wilson, Emery County Commissioner; Donald McCourt, Councilman, East Carbon City; Murray D. Anderson, Councilman, East Carbon City; Mark McDonald, Councilman, Sunnyside City; Ryan Hepworth, Councilman, Sunnyside City; Dale Black, Mayor, Monticello City.

John Black, Councilman, Monticello City; Grant Warner, Mayor, Glenwood, Utah; Grant Stubbs, Mayor, Salina, Utah; Afton Morgan, Mayor, Circleville, Utah; Ronald Bushman, Mayor, Marysvale, Utah; Eugen Blackburn, Mayor, Loa, Utah; Robert Allred, Mayor, Spring City, Utah; Neil Breinholt, Carbon County Commissioner; Bill Krompel, Carbon County Commissioner; Dale Mosher, Grand County Councilman; Den Ballentyne, Grand County Councilman; Frank Nelson, Grant County Councilman; Steve Bainghurst, Price City Councilman; Joe Piccolo, Price City Councilman; Tom Stocks, Mayor, City of Moab; Judy Ann Scott, Mayor, Green River City; Art Hughes, former Councilman, Green River.

Gary Price, Mayor, Clawson Town; Marvin Thayne, Councilman Elmo Town; Dale Roper, Mayor, Town of Ferron; Garth Larsen, Ferron Town Council; Paul Kunze, Recorder, Ferron Town; Don Gordon, Huntington City Councilman; Jackie Wilson, Huntington City Council; Howard Tuttle, Councilman, Orangeville City; Dixon Peacock, Councilman, Orangeville City; Roger Warner, Mayor, Castle Dale City; Kent Peterson, Grand County Commissioner; Randy Johnson, Grand County Commissioner; L. Paul Clark, Mayor, East Carbon City; Darlene Fivecoat, Councilwoman, East Carbon City; Barbara Fisher, Councilwoman, East Carbon City; Grant McDonald, Mayor, Sunnyside City.

Nick DeGiulio, Councilman, Sunnyside City; Bernie Christensen, Councilwoman, Monticello City; Mike Dalpiaz, Helper City; Lee Allen, Box Elder County Commissioner; Royal K. Norman, Box Elder County Commissioner; Jay E. Hardy, Box Elder County Commissioner; Darrel L. Gibbons, Cache County Councilman; C. Larry Anhder, Cache County Councilman; Guy Ray Pulsipher, Cache County Councilman; James Briggs, Daggett County Commissioner; Sharon Walters, Daggett County Commissioner; Chad L. Reed, Daggett County Commissioner; Curtiss Dastrup, Duchesne County Commissioner; Larry Ross, Duchesne County Commissioner; John Swasey, Duchesne County Commissioner; Dale C. Wilson, Morgan County Commissioner.

Jan K. Turner, Morgan County Commissioner; Jeff D. London, Morgan County Commissioner; Kenneth R. Brown, Rich County Commissioner; Blair R. Francis, Rich County Commissioner; Keith D. Johnson, Rich County Commissioner; Ty Lewis, San Juan County Commissioner; Bill Redd, San Juan County Commissioner; Mark Maryboy, San Juan County Commissioner; Sheldon Richins, Summit County Commissioner; Thomas Flinders, Summit County Commissioner; Jim Soter, Summit County Commissioner; Teryl Hunsaker, Tooele County Commissioner; Gary Griffith, Tooele County Commissioner; Lois McArther, Tooele County Commissioner; Odell Russell, Mayor, Rush Valley, Utah; Cosetta Castagno, Mayor, Vernon, Utah; Frank Sharman, Tooele County Sheriff.

Glen Caldwell, Tooele County Auditor; Donna McHendrix, Tooele County Recorder; Gerri Paystrup, Tooele County Assessor; Valerie B. Lee, Tooele County Treasurer; H. Glen McKee, Uintah County Commissioner; Lorin Merill, Uintah County Commissioner; Lewis G. Vincent, Uintah County Commissioner; Laren Provost, Wasatch County Commissioner; Keith D. Jacobson, Wasatch County Commissioner; Sharron J. Winterton, Wasatch County Commissioner; David J. Gardner, Utah County Commissioner; Jerry D. Grover, Utah County Commissioner; Gary Herbert, Uintah County Commissioner; Gayle A. Stevenson, Davis County Commissioner; Dannie R. McConkie, Davis County Commissioner; Carol R. Page, Davis County Commissioner.

Leo G. Kanel, Beaver County Attorney; Monte Munns, Box Elder County Assessor; Gaylen Jarvie, Daggett County Sheriff; Camille Moore, Garfield County Clerk/Auditor; Brian Bremner, Garfield County Engineer; Karla Johnson, Kane County Clerk/Auditor; Richard M. Baily, Director, Administrative Services; Lamar Guymon, Emery County Sheriff; Eli H. Anderson, District 1, Utah State Representative; Peter C. Knudson, District 2, Utah State Representative; Fred Hunsaker, District 4, Utah State Representative; Evan Olsen, District 5, Utah State Representative; Martin Stephens, District 6, Utah State Representative; Joseph Murray, District 8, Utah State Representative; John B. Arrington, District 9, Utah State Representative; Douglas S. Peterson, District 11, Utah State Representative.

Gerry A. Adair, District 12, Utah State Representative; Nora B. Stephens, District 13, Utah State Representative; Don E. Bush, District 14, Utah State Representative; Blake D. Chard, District 15, Utah State Representative; Kevin S. Garn, District 16, Utah State Representative; Marda Dillree, District 17, Utah State Representative; Karen B. Smith, District 18, Utah State Representative; Sheryl L. Allen, District 19, Utah State Representative; Charles E. Bradford, District 20, Utah State Representative; James R. Gowans, District 21, Utah State Representative; Steven Barth, District 26, Utah State Representative; Ron Bigelow, District 32, Utah State Representative; Orville D. Carnahan, District 34, Utah State Representative; Lamont Tyler, District 36, Utah State Representative; Ray Short, District 37, Utah State Representative; Sue Lockman, District 38, Utah State Representative; Michael G. Waddoups, District 39, Utah State Representative.

J. Reese Hunter, District 40, Utah State Representative; Darlene Gubler, District 41, Utah State Representative; David Bresnahan, District 42, Utah State Representative; Robert H. Killpack, District 44, Utah State Representative; Melvin R. Brown, District 45, Utah State Representative; Brian R. Allen, District 46, Utah State Representative; Bryan D. Holladay, District 47, Utah State Representative;

Greg. J. Curtis, District 49, Utah State Representative; Lloyd Frandsen, District 50, Utah State Representative; Shirley V. Jensen, District 51, Utah State Representative; R. Mont Evans, District 52, Utah State Representative; David Ure, District 53, Utah State Representative; Jack A. Seitz, District 55, Utah State Representative; Christine Fox, District 56, Utah State Representative; Lowell A. Nelson, District 57, Utah State Representative; John L. Valentine, District 58, Utah State Representative.

Doyle Mortimer, District 59, Utah State Representative; Norm Nielsen, District 60, Utah State Representative; R. Lee Ellertson, District 61, Utah State Representative; Jeff Alexander, District 62, Utah State Representative; Jordan Tanner, District 63, Utah State Representative; Byron L. Harward, District 64, Utah State Representative; J. Brent Hammond, District 65, Utah State Representative; Tim Moran, District 66, Utah State Representative; Bill Wright, District 67, Utah State Representative; Michael Styler, District 68, Utah State Representative; Tom Mathews, District 69, Utah State Representative; Bradley T. Johnson, District 69, Utah State Representative; Keele Johnson, District 71, Utah State Representative; Demar "Bud" Bowman, District 72, Utah State Representative; Tom Hatch, District 73, Utah State Representative.

Bill Hickman, District 75, Utah State Representative; Wilford Black, District 2, Utah State Senator; Blaze D. Wharton, District 3, Utah State Senator; Howard Stephenson, District 4, Utah State Senator; Brent Richard, District 5, Utah State Senator; Stephen J. Rees, District 6, Utah State Senator; David L. Buhler, District 7, Utah State Senator; Steve Poulton, District 9, Utah State Senator; L. Alma Mansell, District 10, Utah State Senator; Eddie P. Mayne, District 11, Utah State Senator; George Mantes, District 13, Utah State Senator; Craig A. Peterson, District 14, Utah State Senator; LeRay McAllister, District 15, Utah State Senator.

Eldon Money, District 17, Utah State Senator; Nathan Tanner, District 18, Utah State Senator; Robert F. Montgomery, District 19, Utah State Senator; Joseph H. Steel, District 21, Utah State Senator; Craig L. Taylor, District 22, Utah State Senator; Lane Beattie, District 23, Utah State Senator; John P. Holmgren, District 24, Utah State Senator; Lyle W. Hillyard, District 25, Utah State Senator; Alarik Myrin, District 26, Utah State Senator; Mike Dmitrich, District 27, Utah State Senator; Leonard M. Blackham, District 28, Utah State Senator; David L. Watson, District 29, Utah State Senator.

Mr. HATCH. Just last Sunday we read comments that one large newspaper in the State has editorialized against this. That is true. There is no doubt that they are very sincere in what they are doing. We have respect for them. But the other large newspaper, the other large major newspaper in Utah—we have five that are quite large—but the other major large paper in Utah that has written on this said, "Let's get off dead center on the Utah wilderness debate." This is the Deseret News editorial. I will just read a little bit of it and then put it in the RECORD as well.

Politics is supposed to involve the art of compromise. But that sensible notion seems to be lost on some members of Congress when it comes to deciding how much public land in Utah should be designated as wilderness.

Consequently, unless some key figures in Washington can be persuaded to change their minds, more federal foot-dragging seems likely even though this controversy has persisted for two decades without a final decision.

The latest development centers on Senator Bill Bradley of New Jersey. Bradley so strongly opposes the 1.8-million-acre proposal drafted by Utah's Republican-dominated congressional delegation that he may seek to scuttle an omnibus parks bill containing it even though such a move would thwart a pet project of his to protect the Sterling Forest along the New York-New Jersey border.

If the Utah proposal survives that challenge, Interior Secretary Bruce Babbitt is threatening to recommend that President Clinton veto it.

But then there's nothing particularly new about the extent and intensity of the emotions aroused by the Utah proposal and the opposing plan offered by environmentalist groups, which insist that 5.7 million acres be designated as wilderness.

Washington is supposed to resolve such controversies, not let them fester. For that to happen, more flexibility is in order—which is exactly what the Utah congressional delegation has been doing. Last year it backed off from some provisions objectionable to the environmentalists involving roads, motorboats, and industries. Now there are indications some members of the delegation may be willing to designate more land as wilderness beyond the additional previously agreed to [which we have].

More than the whole State of Delaware; 63 percent of Connecticut; 41 percent of my friend's State of New Jersey; 41 percent of Massachusetts; 35 percent of New Hampshire; 34 percent of Vermont. That is what our proposal amounts to as compared with other States.

But what flexibility, if any, is there on the part of the environmentalists? Though continuing to speak about the need for compromise, they doggedly insist that their 5.7 million proposal is a compromise.

In sorting through the tangled and overheated controversy, Congress needs to keep a few points firmly in mind.

First, there is no such thing as a Utah wilderness bill that will not antagonize some major segments of the population.

Second, claims that most Utahns want more wilderness are based on self-serving interpretations of polls whose results are at best mixed and somewhat confusing.

Third, the wilderness proposal being pushed by Utah's congressional delegation is an attempt to reach a reasonable middle ground between the 5.7 million acres demanded by the environmentalists and the little or no new wilderness acreage demanded by many officials and citizens alike in rural Utah.

Fourth, the 1.8-million-acre proposal—with its various modifications and additions—is in line with the original recommendation from the Bureau of Land Management. Only years later did the BLM start waffling, opting for what it thought the Clinton administration wanted rather than for what the agency really thought was best.

Fifth, as long as Congress declines to act, the BLM will continue to manage 3.2 million acres of Utah as if it were wilderness—but for no better reason than that this is the amount of land the agency studied for possible wilderness designation. That is more acreage than many Utahns want as wilderness.

To let the dispute over Utah wilderness drag on year after emotion-filled year without a formal and final decision is a sorry reflection on some of this Nation's key figures. They were sent to Washington to act, not temporize. A decision in the direction of the proposal of the Utah delegation would be better than one in the direction of the environmentalists. But whichever way the vote goes, let us bring this long debate to an end and get on to other matters.

Mr. President, I ask unanimous consent that the full editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Deseret News, Mar. 23, 1995]

LET'S GET OFF DEAD CENTER ON UTAH WILDERNESS DEBATE

Politics is supposed to involve the art of compromise. But that sensible notion seems to be lost on some members of Congress when it comes to deciding how much public land in Utah should be designated as wilderness.

Consequently, unless some key figures in Washington can be persuaded to change their minds, more federal foot-dragging seems likely even though this controversy has persisted for two decades without a final decision.

The latest development centers on Sen. Bill Bradley of New Jersey. Bradley so strongly opposes the 1.8-million-acre proposal drafted by Utah's Republican-dominated congressional delegation that he may seek to scuttle an omnibus parks bill containing it even though such a move would thwart a pet project of his to protect the Sterling Forest along the New York-New Jersey border.

If the Utah proposal survives that challenge, Interior Secretary Bruce Babbitt is threatening to recommend that President Clinton veto it.

But then there's nothing particularly new about the extent and intensity of the emotions aroused by the Utah proposal and the opposing plan offered by environmentalist groups, which insist that 5.7 million acres be designated as wilderness.

Washington is supposed to resolve such controversies, not let them fester. For that to happen, more flexibility is in order—which is exactly what the Utah congressional delegation has been doing. Last year it backed off from some provisions objectionable to the environmentalists involving roads, motorboats and industries. Now there are indications some members of the delegation may be willing to designate more land as wilderness beyond the additions previously agreed to.

But what flexibility, if any, is there on the part of the environmentalists? Though continuing to speak of the need for compromise, they doggedly insist that their 5.7-million-acre proposal is a compromise.

In sorting through this tangled and overheated controversy, Congress needs to keep a few points firmly in mind.

First, there is no such thing as a Utah wilderness bill that won't antagonize some major segments of the population.

Second, claims that most Utahns want more wilderness are based on self-serving interpretations of polls whose results are at best mixed and somewhat confusing.

Third, the wilderness proposal being pushed by Utah's congressional delegation is an attempt to reach a reasonable middle ground between the 5.7 million acres demanded by the environmentalists and the little or no new wilderness acreage demanded by many officials and citizens alike in rural Utah.

Fourth, the 1.8-million-acre proposal—with its various modifications and additions—is in line with the original recommendation from the Bureau of Land Management. Only years later did the BLM start waffling, opting for what it thought the Clinton administration wanted rather than for what the agency really thought was best.

Fifth, as long as Congress declines to act, the BLM will continue to manage 3.2 million acres of Utah as if it were wilderness—but for no better reason than that this is the amount of land the agency studied for possible wilderness designation. That is more acreage than many Utahns want as wilderness.

To let the dispute over Utah wilderness drag on year after emotion-filled year without a formal and final decision is a sorry reflection on some of this nation's key figures. They were sent to Washington to act, not temporize. A decision in the direction of the proposal of the Utah delegation would be better than one in the direction of the environmentalists. But whichever way the vote goes, let's bring this long debate to an end and get on to other matters.

Mr. HATCH. Mr. President, I am going to ask unanimous consent that the following also be inserted: a letter from the Governor, Mike Leavitt; a letter from the speaker of the Utah House of Representatives and the president of the Utah State Senate, along with a resolution adopted last year by the Utah State Legislature. I also put in the RECORD a letter signed by over 300 elected officials we received just this morning; a letter from the Utah Parent Teacher Association; a letter from the Utah State Board of Education; a letter from the Utah Farm Bureau; and a resolution from the board of trustees of the School and Institutional Trust Lands Administration.

Mr. President, I ask unanimous consent that all of those be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF UTAH,
OFFICE OF THE GOVERNOR,
Salt Lake City, UT, March 14, 1996.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: Utah is a beautiful and unique state. It comprises 55 million acres of diverse landscapes ranging from high alpine ranges of the Rocky Mountains, red rock wonderlands of the Colorado Plateau, deserts of the Great Basin and rich river valleys. We Utahns feel blessed with what we have been entrusted to care for.

These beautiful lands are attracting millions of visitors and tens of thousands of new residents annually. Due partly to this attraction, Utah is also experiencing an era of robust economic growth. During this time of growth and prosperity it is more evident than ever before that it is our responsibility to preserve and carefully manage these diverse landscapes and eco-systems for current and future generations of Utahns and all Americans.

Of Utah's 55 million acres, some 37 million acres, or over 67%, is owned or controlled by the Federal Government. Most of these federal lands are managed by the Forest Service, National Park Service and Bureau of Land Management. Much of this public land is already preserved for future generations. Two million acres have been set aside as National Parks, Monuments and Recreation Areas. Another one million acres have been set aside as National Forest Wilderness or as wildlife refuges. However, we do believe that an additional 2 million acres should be protected for America's future.

Wilderness is certainly one important way in which we can and should protect land for the future. However, it is not the only way. Other means of protection include designation as: Areas of Critical Environmental Concern, Wild and Scenic Rivers, Natural Areas, Primitive Areas or withdrawals for specific purposes. Also, the State of Utah has cooperated with organizations such as the Nature Conservancy, the Rocky Mountain Elk Foundation and private land trusts to preserve state and private lands for wildlife habitat and watershed. We believe that land preservation and management must utilize all available tools and be a cooperative process among all federal, local and state agencies as well as involving the general public.

I believe we can all agree that Wilderness is one important tool for protecting public land. How much land should be protected as Wilderness is more difficult. The process of determining how much BLM land in Utah should be preserved as Wilderness has taken more than 17 years, at a total cost of more than $10 million in federal dollars. Many more millions, yet unquantified, have been spent by state and local governments, businesses and the general public. Literally hundreds of hearings have been held and thousands upon thousands of comments written, read and heard.

During the last year along more than 50 public meetings were held in Utah. Seven public meetings were attended by me and members of Utah's Congressional Delegation. Also, two field hearings were held in Utah by the House Subcommittee on National Parks, Forests and Lands. I have received more than 22,000 comments on the issue in my office alone.

What is evident from the discussion over the last year and the last 17 years is that all Utahans care deeply about the land. Yet, there is and will always be a great divisiveness in the eyes of the public on how much Wilderness should be designated. Most citizens of rural Utah, where these lands are located, are strongly opposed to any Wilderness. Yet some citizens of Utah's urban areas would like to protect an additional 5.7 million acres.

Over the last year, Utah's Congressional Delegation and I have attempted to develop a Wilderness proposed which balances these differing points of view. The result is S 884, "Utah Public Lands Management Act of 1995," which has been introduced by Senators Orrin Hatch and Robert Bennett. Senators Hatch and Bennett have worked long and hard with me and many Utahns of diverse opinions to develop this proposal. They deserve a great deal of credit for their diligence.

S 884 is an honest approach to resolving this issue and proposes over 50 Wilderness areas. The bill includes Utah's "Crown Jewels," which are such well known areas as Grand Gulch, Desolation Canyon, San Rafael Swell, Escalante Canyons, Westwater Canyon and Parunuweap Canyon. S 884 includes areas which represent numerous "eco-systems" including: high mountain ranges, river canyons, red rock desert and unique areas in Utah's West Desert.

The Utah Congressional Delegation and I have committed considerable time and resources to this process. This bill reflects our commitment to the importance of what is fair, balanced and good for the citizens of Utah and the United States. It will not please either extreme but presents the best solution for Utah and the nation and has the support of the mainstream citizens of our state. As the Governor of the great State of Utah, I fully support S 884 which designates two million acres of BLM land in Utah as Wilderness, an area larger than the State of Delaware. With these lands protected as Wilderness, we as a state will move forward to properly managed and protect all of Utah's diverse public lands in cooperation with federal land agencies. I respectfully encourage you to support S 884.

Sincerely,

MICHAEL O. LEAVITT,
Governor.

UTAH STATE LEGISLATURE,
Salt Lake City, Utah, February 14, 1996.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: As legislative leaders, we want to reaffirm the position taken by the Fifty-first Legislature of the State of Utah as it relates to the amount of BLM land designated as wilderness in Utah.

HCR 12, Resolution Supporting Wilderness Designation, by Representative Bradley Johnson, states very clearly the process by which wilderness was to be identified and quantified. That process was followed, and the local political entities acted very responsibly when they recommended that a little more than 1 million acres receive wilderness status.

The addition of acreage bringing the total amount to be added to the wilderness proposal to 1.8 million was an unsettling surprise. Yet, in a spirit of compromise, this total amount would be acceptable. We believe the addition of any more acreage, however, would be an affront to the citizens of this state and the process put in place that made the original recommendation. Furthermore, we believe the addition of more land would be tantamount to rhetoric which is without a rational or factual basis.

The Fifty-first Legislature has spoken clearly on BLM wilderness designation. To lock up more land to an uncertain future in a state where 80 percent of the land area is subject to some form of government restriction and control is a policy which lacks sensitivity and foresight. This policy blind spot is simply inappropriate. To shackle future generations in this state with the unbendable restrictions wilderness designation imposes is nothing more than a "takings" of the hopes and dreams of Utahns whose heritage and economic roots are tied to these lands. These lands are not threatened and wilderness designation will not provide any additional protection that is already provided for by law governing the management of these lands.

For more than 100 years, there has been a harmony between the land and the land user. A dependence on the part of both has grown up with a healthy mutual respect. Questionable science has been injected into the wilderness decision-making process by those who are disjointed and removed from the land they claim to befriend.

We reaffirm our position on wilderness designation articulated in the last legislative session and as that you consider it to be the position of the State of Utah. If we can be helpful and answer your questions in addressing your concerns relative to this issue, we would be most amenable to doing what is necessary so that your decision is made with the very best, accurate information.

Sincerely,

MELVIN R. BROWN,
Speaker.
R. LANE BEATTIE,
President.

LAWS OF UTAH—1995

H.C.R. 12

Whereas the Bureau of Land Management (BLM) has issued its final Environmental Impact Statement and recommended designating approximately 1.9 million acres of land in Utah as wilderness;

Whereas the state is willing to cooperate with the United States government in the designation process and in protecting Utah's environment;

Whereas designating lands as wilderness affects many communities and residents of the state by permanently prohibiting certain kinds of economic development;

Whereas a federal reservation of water could serious affect the potential for development in growing areas of the state;

Whereas the designation of wilderness would depreciate the value of state inholdings and adjacent state lands, reducing an important source of revenue for the education of Utah's schoolchildren;

Whereas it is the state's position that there should be no net loss of state or private lands and no increase in federal ownership as a result of wilderness designation;

Whereas lands that may be designated as wilderness are subject to existing rights and uses under current law, such as mining, timber harvesting, and grazing;

Whereas the BLM has extensively studied public lands in Utah for the purpose of determining suitability for wilderness designation;

Whereas it is vitally important for Utah to maintain the ability to develop its mineral resources, such as the Kaiparowits Coal Field, for the economic and financial well being of the state, its trust lands, and counties;

Whereas much of Utah's municipal, industrial, and agricultural water supply comes from public lands, requiring continued management and maintenance of vegetation, reservoirs, and pipelines, and

Whereas the definition of wilderness lands established by Congress in 1964 Wilderness Act should be used to determine the designation of wilderness lands:

Now, therefore, be it *RESOLVED* that the Legislature of the state of Utah, the Governor concurring therein, encourage the Congress to enact at the earliest possible opportunity a fair and equitable Utah wilderness bill regarding BLM lands, with the Legislature's and Governor's support of the bill contingent upon its containing the following provisions:

(1) that any BLM lands designated as wilderness must meet the legal definition of wilderness lands as contained in the 1964 Wilderness Act;

(2) that all lands not designated as wilderness be released from Wilderness Study Area status and that the BLM be directed to manage those released lands under multiple use sustained yield principles and be prohibited from making or managing further study area designations in Utah without express authorization from Congress;

(3) that no reserve water right be granted or implied in any BLM wilderness bill for Utah inasmuch as federal agencies are able to apply for water through the state appropriations system in keeping with the 1988 opinion of Solicitor Ralph W. Tarr of the United States Department of the Interior;

(4) that federal agencies be required to cooperate with the state in exchanging state lands that are surrounded by or adjacent to or adversely affected by wilderness designation for federal lands of equivalent value; and additionally, because designation of wilderness lands is a federal action, that federal funds be appropriated to pay for appraisals of state lands and federal lands to be exchanged;

(5) that every effort be made to ensure that there be no net loss of state or private lands and no increase in federal ownership as a result of wilderness designation in Utah;

(6) that the designation of wilderness not result in the creation, either formally or informally, of buffer zones and management zones around, contiguous, or on lands affected by wilderness designation;

(7) that all valid existing rights and historical uses be allowed to be fully exercised without undue restriction or economic hardship on lands designated as wilderness as provided in the Wilderness Act of 1964; and

(8) that management of vegetation, reservoirs, and similar facilities on watershed lands designated as wilderness be continued by state or private means.

Be it further *RESOLVED* that the Legislature and the Governor conclude that elected county officials, after extensive public input, should develop the wilderness proposals and the conditions for acceptable designation of wilderness lands within their respective counties, with the aggregate of these respective county recommendations constituting the basis of the state proposal for BLM wilderness designation in Utah. The county officials should be consulted regarding any changes to their respective county recommendations.

Be it further *RESOLVED* that copies of this resolution be sent to President Clinton, the President of the United States Senate, the Speaker of the House of Representatives, the Secretary of the Interior, the directors of both the state and federal offices of the Bureau of Land Management, and Utah's congressional delegation.

UTAH CONGRESS OF
PARENTS AND TEACHERS, INC.
Salt Lake City, UT, March 20, 1996.
Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: Utah PTA encourages your support of S. 884, Utah Public Lands Management Act of 1995. This bill impacts the school of our state. Federal land designations capture school trust lands which were set aside at statehood to support Utah schools because 69% of our state is untaxed. Historically, promises to trade the captured land for land outside those designations have not been honored. We support S. 884 because the bill:

provides a responsible wilderness designation;

provides a process of equitable compensation to the school children;

provides for responsible water development under existing state laws.

We strongly oppose H.R. 1500, America's Redrock Wilderness Act of 1995 because the bill:

captures over a million acres of the school children's land without any provision for exchange;

designates wilderness lands that do not meet the Congressional definition of wilderness;

is not supported by the Utah Congressional delegation.

We rely on your commitment to the future generations of the school children of Utah by supporting S. 884.

Sincerely,

LINDA M. PARKINSON,
President.
PAULA M. PLANT,
Legislative Vice President.

UTAH STATE OFFICE OF EDUCATION,
Salt Lake City, UT, March 20, 1996.
Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: I strive to be an advocate for children, as I am sure you do also. I am concerned that Utah's school children stand to lose critical resources which would fund their education under H.R. 1500.

Therefore, I urge your support of S. 884. This legislation includes provisions to protect the school trust lands within Utah. It is vital that these lands be capable of producing income which in turn supports the public education of Utah's children.

Utah receives minimal federal dollars for education when compared to other states. At the same time, we have more children per taxpayer to educate than any other state.

Please align your position on the side of the children. Vote in favor of S. 884.

Sincerely,

JANET A. CANNON,
Member, Utah State Board of Education.

UTAH FARM BUREAU FEDERATION,
Salt Lake City, UT, October 27, 1995.
Re S. 884.
Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: This letter is to reaffirm the support of the Utah Farm Bureau Federation for Senate Bill 884, the Utah Wilderness bill introduced by you and Senator Bennett, with a companion bill in the House. The Utah Farm Bureau Federation has nearly 22,000 member families, spread across the entire state with members in every single county of the state. It is responsibly estimated that there are about 93,000 citizens of Utah in these 22,000 families. A large majority of the farms and ranchers in Utah are members of Farm Bureau. Also, we have members who are not currently farming or ranching, but who may be absentee owners of farms or ranches or who are sons and daughters or grandsons and granddaughters of active farmers.

The basic provisions of this bill have been the subject of widespread discussion among our members. Some would have liked an even smaller total acreage than the 1.8 million in the bill. But we recognize this is a good compromise between the radical 5.7 million acre bill proposed by some groups, and the "zero wilderness" position of some.

We are particularly pleased with the release language, the effort to protect vitally important water rights, the protection against de-facto buffer zones, and the overall attempt in the bill to comply with the original intent of Congress in the 1964 Wilderness Act. Above all, it is critically important that we end this long, divisive and very costly debate over what is and what is not formally designated wilderness in Utah. Public lands are absolutely essential to the economic viability of rural Utah. We need to get this issue settled.

We compliment you and other sponsors of this legislation. We assure you of our support and urge every effort to obtain passage of the bill.

Sincerely,

C. BOOTH WALLENTINE,
Executive Vice President and
Chief Administrative Officer.

RESOLUTION NO. 95-05

Whereas, legislation currently pending in Congress, H.R. 1745 and S. 884, would designate wilderness areas on Bureau of Land Management lands in the State of Utah; and

Whereas, the designated wilderness areas would encompass school and institutional trust lands; and

Whereas, said legislation provides for the exchange of the included school and institutional trust lands for other lands owned by the federal government outside of the designated wilderness areas; and

Whereas, the federally-owned lands are currently subject to leasing under the federal Mineral Leasing Act (30 U.S.C. §§180 et seq.); and

Whereas, the federal Mineral Leasing Act provides that the State of Utah shall receive fifty per cent (50%) of the revenues from the leasing or production of minerals on those lands; and

Whereas, the valuation which the School and Institutional Trust Lands Administration has placed upon the lands to be exchanged has taken into account the rights of the state of Utah under the Mineral Leasing Act; and

Whereas, federal and state laws do not currently allow the School and Institutional Trust Lands Administration to sell the mineral estate; and

Whereas, the proposed language in the federal bills would make the obligation to share revenue a valid existing right applicable to all subsequent owners, should the School and Institutional Trust Lands Administration no longer own the mineral estate; and

Whereas, the trust is seeking to acquire the targeted federal lands listed in the federal bills because of the potential for development; and

Whereas, the Board of Trustees desires to ensure that, based upon the valuation provided by the School and Institutional Trust Lands Administration and accepted by this Board as of the date of this resolution, the State of Utah receives revenues from the production of minerals on the lands which become school trust lands as result of the exchange provided for in H.R. 1745 and S. 884.

Therefore, be it *Resolved*, That, subject to the condition that the lands to be exchanged with the federal government as part of the directed exchange currently included in H.R. 1745 and S. 884 are of approximately equal value, as approved by this Board, such valuation taking into account the right of the State of Utah to receive fifty per cent (50%) of the revenue from the production of minerals that are leased pursuant to the federal Mineral Leasing Act (30 U.S.C. §§180 et seq.), the Board of Trustees of the School and Institutional Trust Lands Administration supports the inclusion of language in H.R. 1745 and S. 884 which provides for the distribution of fifty per cent (50%) of the proceeds resulting from the production of leased minerals on the lands acquired by the state, which minerals would have been covered by the federal Mineral Leasing Act (as amended through the date of enactment of H.R. 1745 and S. 884) if the lands had been retained in federal ownership. The Board also supports language in H.R. 1745 and S. 884 which provides that;

1. the proceeds shall be collected by the Administration and distributed, after deduction of a pro rata share of administrative costs, to the state of Utah;

2. disputes concerning the collection and distribution of the revenue shall be resolved pursuant to Utah state law;

3. that such obligation to collect and distribute proceeds shall end if the trust no longer owns the mineral estate; and

4. the collection and sharing of the proceeds from timber production shall also be shared in accordance with current applicable law.

The language supported by the Board is attached hereto and incorporated herein by this reference, consisting of the Committee Draft of H.R. 1745 and amendments proposed by this Board.

Adopted this 20th day of November, 1996.

Ruland J. Gill, Jr., Chair, Board of Trustees of the School and Institutional Trust Lands Administration.

Mr. HATCH. Mr. President, I have taken a long time here, but, frankly, this needed to be said. I realize that many people on the other side of the issue are very sincere people. I happen to believe in the environment myself. But I also know if we do not worry about human beings, there will not be an environment in the end, because sooner or later someone is going to rise up and an extremist on the other side is going to take control if we act like you cannot have balance on these matters.

All the sincerity in the world does not make it right. I think we have done a very good job of crafting a bill here that brings the vast majority of all people together, while leaving the extremists still screaming at us; but even they will die down once the bill is passed, just like the two ends of the extremist spectrum who moaned and groaned about the Utah Forest Service wilderness proposal.

We went through this with that bill, too, when we came up with 800,000 acres. Once it was passed, the screaming basically went away. Everybody understood that it was a good bill. Today, people are bragging about it all over Utah. The elected leaders and environmentalists are because we did a good job. I was here. I worked on it. I worked on it with Senator GARN and Congressman HANSEN, and others. The fact is, we worked hard to get it done. That is what we have done here. I hope our colleagues will give some credibility to that.

Perhaps the most misunderstood aspect of this bill has been the so-called release language. Let me take a moment to explain this in greater detail. The release language in the bill would release those public lands not designated wilderness by this legislation from any further wilderness study or review by the BLM. In other words, they would fall back into the pool of lands the BLM manages for various purposes but without the official status of wilderness. It would still be managed by the BLM. We would still be subject to the environmental rules and regulations. It just would not be wilderness, which means that it would not be land that only backpackers could walk on. There would be some reasonable use of the land, but very, very stringently controlled by the BLM.

This is an important point. The land is still managed by the BLM. It does not go into private hands. Some would have you believe we are going to build a shopping center on every acre of that land.

Under section 603 of the Federal Land Policy and Management Act of 1976, the Secretary of the Interior studies those roadless areas of 5,000 acres or more and roadless islands of public lands for their wilderness characteristics and reports to the President on the suitability or nonsuitability for each designation of wilderness. The President submits a recommendation to the Congress, and a designation of wilderness shall become effective only if as approved by an Act of Congress.

There was supposed to be a beginning of the study process—initiated by the BLM—and an end. The Wilderness Act of 1964, together with FLPMA, provides the recipe for designating wilderness. This was not a process designed to go on in perpetuity, causing the BLM or the Forest Service to manage lands as if they were wilderness forever, which is what we have been living with in Utah.

Our bill follows the plan for designations set out under these laws. It is a plan that allows lands to be protected for their wilderness values and character and at the same time brings closure and finality to the process.

The conception of releasing lands not chosen for wilderness designation has never been controversial. The Congress has made it through countless bills to designate wilderness in the time I have been a Senator. Each time a bill is passed into law, the lands not designated were released. That is the normal process. Why is release in this bill such a lightning rod issue? I suspect it is because the lands in the study areas have been managed as wilderness for almost 20 years. In addition, the lands included in H.R. 1500, the so-called environmentalist bill—or at least, the environmentalist extreme bill—have been managed as de facto wilderness in recent years.

All it takes for all of this land to be de facto wilderness is to let this process go on forever. Face it, it is hard to let something go once you have it. Environmentalists are loath to pass legislation designating less land in the wilderness than what is already basically wilderness now or de facto wilderness. I am not unsympathetic to their motives, but I disagree with the result. It holds millions of acres in legal limbo, some think illegal limbo; our people in Utah feel illegal limbo.

Our bill contains release language that would have prevented BLM land managers, the on-the-ground professionals, from being able to manage nondesignated lands for their wilderness value and character.

Our concern was the Federal managers would continue to manage land as wilderness even though Congress has made a conscious decision that certain land did not have the wilderness characteristics and values meriting formal designation. We included the term "nonwilderness" multiple use in our bill which we believed would accomplish this goal.

As my colleagues know, that phrase in and of itself caused more concerned to be expressed about our bill than possibly any other section in our bill. In fact, it led to a lively debate last December during the full committee markup on our bill.

That was then. This is now.

In today's proposal before this body that term has been eliminated. Our release provision has been modified substantially. The new release language which is contained in the substitute amendment is simple and straightforward. It simply states that the BLM lands located in Utah have been properly studied for their wilderness characteristics, and that those not designated as wilderness by our bill need not be studied or pursued any further by the Secretary.

In addition, these lands will be managed for the full range of multiple use as defined in section 103(C) of FLPMA in accordance with land management plans adopted by the BLM pursuant to section 202 of the Federal Land Policy and Management Act of 1976.

What this says to the Federal managers is that, now that wilderness has been designated, assuming this bill passes, the balance of the land should be managed under existing laws and regulations where appropriate. It is not a signal to the mythical lineup of bulldozers to start their engines, as some might say, because it simply does not leave these lands unprotected.

I repeat, it will not leave nondesignated lands open for unrestrained and uncontrolled development. There are other designations available to the BLM other than wilderness to protect our natural resources from this occurring. These designations are proposed, examined and eventually undertaken through the land use planning process outlined in section 202 of FLPMA.

To give comfort to those who remain convinced that our language will not afford these lands the protection they deserve, let me recount the criteria to be reviewed by the Secretary when developing and revising land use plans. In subsection (c) of section 202, the Secretary shall:

(1) use and observe the principles of multiple use and sustained yield;

(2) achieve integrated consideration of physical, biological, economic, and other sciences;

(3) give priority to the designation and protection of areas of critical and environmental concern;

(4) rely on the inventory of the public lands, their resources and other values;

(5) consider present and potential use of the public lands;

(6) consider the relative scarcity of the values involved and the availability of alternative means and sites for realization of those values;

(7) weigh long-term benefits to the public against short-term benefits;

(8) provide for compliance with applicable pollution control laws, including State and Federal air, water, noise or other pollution standards or implementation plans; and

(9) coordinate the land use inventory, planning, and management activities for such lands with other Federal departments and agencies and of the States and local government within which the lands are located.

Just look at these Bureau of Land Management special designations to which we will be subject to. It is not that the lands are going to be just opened up for any kind of use. Look at the list of these various things they will be subject to.

Subsection (f) directs the Secretary to provide an opportunity for Federal, State, and local governments and the general public to comment upon and participate in the formulation of plans and programs relating to the management of public lands.

Certainly my colleagues would agree that there is no better way to manage these nondesignated lands than by the book and in accordance with FLPMA. There is not any better way. That is what our release language does. It provides they be managed the way FLPMA says they will be managed.

In Utah, all of the public lands are covered by land use plans developed pursuant to section 202 of FLPMA. I understand some of the plans in Utah are not as current as they might be; but, nevertheless, they provide protection for the resources, particularly those not designated as wilderness. Within each plan, the BLM will consider the resources present in an area and what protection they need.

Last week, I asked the Utah State BLM director to provide me with a summary of those special designations that can be developed through the land use planning process for Federal managers to protect specific resources.

I have produced these two charts that list those special designations and a brief summary of what each designation is for. These designations include:

Areas of critical environmental concern—for those areas that have special unique or rare values;

Outstanding natural areas—to protect unusual natural characteristics for education and recreational purposes;

Visual resources management designations—that are utilized to maintain a landscape that appears unaltered, to retain the existing character of a landscape, and to manage activities that may lead to modifications in that landscape;

Coal management designations—indicating where coal leasing and development can occur and the types of methods that can be used. I might mention in that regard, Utah is the Saudi Arabia of coal. By the way, it is environmentally sound, high-moisture content, low-sulfur content coal that will be necessary to keep the rest of the country environmentally clean.

Continuing with the designations:

Designations for locatable energy and nonenergy leaseable minerals—indicating in what areas the mining laws are open or closed;

Off-highway vehicle designations—I am only listing a few—indicating where such use is open and closed.

These are just a few of the special management designations available to the local BLM manager that can be used to protect this country's resources and our State's resources.

If a designation is made and a particular activity is inconsistent with this designation, it will not occur. The only "golden arches" dotting the protected Utah landscape will be the ones covered by the elements over centuries.

While I may not always agree with them, I have faith that our local BLM managers will use these designations in the proper way after establishing their merit through the proper public process.

Again, the substitute bill does not exempt nondesignated wilderness lands from being designated in any of these categories. There are also designations that can be made by Congress or the Secretary of the Interior to establish systems of national importance and to include components within these national systems. The Utah State BLM office provided a list of these authorities, which I have produced on another chart.

These designations include: national wild and scenic rivers, national conservation areas, national outstanding natural areas, critical habitat areas, national historic landmarks, and national scenic areas, just to mention a few. There are others, as well, on the list. There is a wide latitude available to Congress and the Secretary to utilize these designations in a manner befitting the resources and the management scheme they mandate to protect them in their true character.

In addition to all of these designations, there is a plethora of environmental laws and regulations to which the management of our public lands must adhere.

Again, I asked the Utah State BLM Director to provide me with a list of those Federal laws—and I am only talking about Federal laws, not State laws; we have a lot of State laws, too. These are Federal laws that involve BLM activities, to which the BLM managers, as they manage the Federal lands, must adhere. Look at these. We have discussed many of these authorities so far. But, my colleagues need to consider all of these legislative authorities that involve BLM.

An abbreviated list of these laws is located on the two charts I have produced here. I emphasize that these lists are not full lists. I have listed these legislative authorities which I thought were more pertinent to this debate than others. I have not prioritized them in any particular fashion, other than to place them in groups according to their particular management emphasis. I will mention a few that are on this list for the benefit of my colleagues. I understand Senator MURKOWSKI has submitted this list for the RECORD in his remarks, but I will mention a few. These include:

FLPMA; National Environmental Policy Act, or NEPA; Clean Air Act; Federal Water Pollution Control Act, or Clean Water Act; Safe Drinking Water Act; Solid Waste Disposal Act; Resource Conservation and Recovery Act; Superfund; Mining Law; Mineral Leasing Act; Federal Coal Leasing Amendments; Surface Mining Control and Reclamation Act, or SMCRA; Energy Policy Act of 1992;

Public Rangelands Improvement Act; Endangered Species Act; Wild and Free-Roaming Burro Act; Act for protecting Bald and Golden Eagles; Toxic Substances Control Act; Migratory Bird Conservation Act; Federal Insecticide, Fungicide, an Rodenticide Act; Water Resources Development Act; Soil and Water Resources Conservation Act; National Historic Preservation Act; Wild and Scenic Rivers Act; Wilderness Act; Archaeological Resource Protection Act; and Antiquities Act.

This is just to mention a few. It is mind boggling. I am sure my colleagues will agree that this is a "Who's Who" list of environmental laws, and the activities that occur on public lands not designated wilderness by our proposal will be subject to each and every one.

I will repeat what I said a moment ago in relation to this list of environmental laws. Our bill does not exempt nondesignated wilderness lands—any of those lands released for regulated multiple use under the bill—from any provision, contained in any of these laws and their corresponding regulations.

Our release language does contain a sentence that has raised questions. This sentence says: "Such lands shall not be managed for the purpose of protecting their suitability for wilderness designation." What does this mean? This means that Federal managers will not manage a tract of land for the purpose of its possible inclusion by Congress within the National Wilderness Preservation System.

As my colleagues will note from the chart listing the special designations available for BLM managers, "Future wilderness designation" is not listed because it does not exist. There is no designation or direction from Congress to the agency, outside of section 603(c) of FLPMA, that says you should manage land for the purpose of its future designation as wilderness. There is no such rule or law.

But we have told the agency that we want lands protected for their unique geographical and geological traits, for their special and rare topographical values and qualities, historical values, and so forth.

The way to do this is through the existing authorities and designations available to the BLM.

This sentence in the substitute does not foreclose a Federal manager from managing an area of land to protect its wilderness character. This sentence does not prohibit a BLM district manager from managing an area of land for its wilderness values. Statements to the contrary are false.

And, more importantly, it does not foreclose a future Congress from revisiting this issue and designating additional lands as wilderness. We cannot bind a future Congress, and we do not in our bill.

During last year's markup on our bill, there was lively discussion regarding our release language. On two separate votes, the committee voted to keep our release language in the bill.

However, it was clear from the statements made at the markup, and shortly thereafter to me and Senator BENNETT, that committee members hoped we would address the issues that they raised during the markup.

We have done that with this language. As I said, the term "nonwilderness" multiple use has been removed, and there is no language preventing the agency from managing lands to protect their wilderness character.

I want to thank all the members of the Senate Energy Committee, particularly Senators JOHNSTON and BUMPERS and MURKOWSKI, for their constructive criticism of our original language and for their suggestions for ways to amend it. The amendment offered by Senator JOHNSTON at the December markup of the committee provided the impetus for this change.

I must say I agree wholeheartedly with the comment Senator JOHNSTON made prior to the vote on his amendment. He said that the effect of his amendment would be to "do away with what is a present practice, which is also offending, which is managing for the purpose of some future designation as wilderness."

That also is the effect of our language. We think it is a worthwhile effect.

Now, I know I have taken enough time. But this is an important issue—one of the most important issues in my whole time in the U.S. Senate. I am hopeful that our colleagues will help Senator BENNETT and myself to get this through. Should it be that they do not, it is going to come back and come back and come back again because we have to get this problem solved in our State.

Frankly, I do not mean to disparage anybody who feels otherwise about this, as there are very sincere people on both extremes of this issue. We have tried to achieve a compromise in the middle, where the vast majority of people can agree. I think people of good will who realize what we are trying to do will agree. I think we have given reason for every one of our colleagues here to consider the hard work we have done and the pain we have been through, and the efforts that we have made to get this done.

In that regard, I want to pay particular tribute to my colleague and my friend from Utah, Senator BENNETT. When he was on this committee, he did yeoman work with other members to apprise them of this matter. Since he has not been on the Energy Committee, he has worked very close with his former colleagues on that committee to help get this done. We have worked side by side, and we are going to continue working side by side. We both have tried to be reasonable in every way in this Congress as we serve here in the Senate. We are going to continue to try and be reasonable.

I want to pay tribute to him because he has been a voice of reason on this issue—an intelligent voice of reason. I personally believe that, when this passes, he will deserve a great deal of the credit, as will our dear friend and colleague, Congressman HANSEN, in the House, who has carried this proposal very strongly over there. Some in the media have said that this cannot pass the House. That is not true. If we pass it, it will pass the House whenever the vote comes.

I hope our colleagues will give some consideration to the efforts we have made, the good faith that we have shown, and the fact that we believe we are representing our State and the Nation in the very best way on this very critical issue to us. This is a very, very important Utah wilderness bill.

I yield the floor.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I would like to start by saying how much I admire Senators HATCH and BENNETT for working on this bill—particularly Senator HATCH, who has worked on some form of this bill for almost two decades. Having worked 10 years on the Colorado wilderness bill, I know of the difficulty of doing it, because they are all highly charged, emotional debates.

I think the American public may not quite know what they want with a balanced budget amendment or with health care, but, believe me, they all know what they want when it comes to their land. All of them own the public lands, the areas in or without wilderness, either one. But some want to hunt on it, or run their off-road vehicles on it, and some want to graze on it, and some want to fish or take pictures, or dig for gold and use timber. And they would like everybody else off of it.

Coming from a western State, the Presiding Officer certainly knows the difficulty we get between the special interest groups, who understand that it belongs to everybody, but would prefer that their particular interest gets a priority in using that public land. But it does not happen that way.

For 3½ hours, we have been talking about one section of this bill, really—the title of the Presidio omnibus bill, not the Utah wilderness bill. Utah Wilderness is just 1 title of 33. There are 33 titles in this bill, and all of them are very important. In just title II alone, in fact, there are 16 different areas that probably will not get too much debate because they are not as controversial as the Utah wilderness bill, which is just 1 title. Certainly, when we are something like 30 years behind on finding the money to purchase land that we have already authorized to go into the Park Service and over 20 years behind on the appropriations for building the buildings in the parks, those are all just as important as any other section.

Mr. President, I rise today to call attention to several bills within the Omnibus package that are of particular interest to me and my home State of Colorado. Each of these bills deserves distinction in its own right, being crafted with years of collaborative hard work and dedication. I would like to make brief comments on each of them, and urge my colleagues to support these noncontroversial bills in final passage.

One little section under section 224, "Volunteers in Parks Increase." I do not think anyone has a doubt that in this day of fiscal responsibility that we are supposed to be trying to save some money. But the importance of volunteers throughout America is going up. That probably will not get into the debate today and tomorrow. But there are many others.

Over 50 Senators, it is my understanding, either have sponsored or cosponsored some of these titles, and many of them are extremely important.

The Corinth, MS, Battlefield Act, the Walnut Canyon National Monument Boundary Modification, Greens Creek Land Exchange, Butte County Land Exchange, on and on. Title XXIII, Colonial National Historical Park—all extremely important. And yet, because the Utah wilderness bill, which is just one section, is so controversial, it seems to be getting all of the debate so far.

Let me just talk a little bit about the things that we have worked so hard for in Colorado that are also part of this bill.

Title IV, Rocky Mountain National Park Visitor Center is one of the largest and most visited in America. This bill provides the authority for the National Park Service to use appropriated and donated funds to operate a visitor center outside of the boundary of Rocky Mountain National Park.

We worked on this a number of years. And it is a good bill. But it is only one part of the bigger omnibus bill.

The Park Service has been in need of a visitor's center at the eastern entrance to Rocky for many years now, but due to fiscal constraints, they have been unable to get adequate appropriations. Thanks to a generous private-public partnership proposal, the Park Service has an opportunity to provide a visitor service outside the park boundaries. This legislation would simply make this type of partnership possible for the Park Service. This type of private-public opportunity is exactly what the Federal Government should be taking advantage of these days, and I am encouraged by the proposal for the Fall River visitor center that has been put forth. This center would help the thousands of visitors that flock to the park each year, and would save the Government millions in taxpayer dollars.

TITLE X: CACHE LA POUDRE

This bill would designate approximately 35,000 acres between the cities of Fort Collins and Greeley, CO, as the Cache La Poudre River National Water Heritage Area.

Senator BROWN, my colleague from Colorado, has worked almost 20 years since he has been in the House and on the Senate side to get that bill passed. It is just one section of this larger omnibus bill.

The headwaters of the streams that flow into this river tell the story of water development and river basin management in the westward expansion of the United States. This historical area holds a special meaning for Coloradans, and we feel that it deserves national recognition as a heritage area. In addition to the designation, this title will help establish a local commission to develop and implement a long term management plan for the area.

This bill holds great distinction for me, for I have been working on it for many years with my good friend and colleague, the senior Senator from Colorado. The good Senator has been trying to get this bill enacted into law for over 20 years now, and each revision of the bill has been a more worthy product than the last. There are always a couple of bills that hold special meaning for us personally, and the Cache La Poudre is a good example of one that the senior Senator from Colorado has a particular interest in. I urge my colleagues to support this worthy bill, and see to it that it is enacted into law before the senior Senator from Colorado retires from our Chamber.

TITLE XI: GILPIN COUNTY, COLORADO LAND EXCHANGE

This bill is a simple, straightforward land exchange bill that will convey 300 acres of Bureau of Land Management lands in Gilpin County, CO, for the acquisition of 8,733 acres of equal value within the State.

I do not think there is any doubt that the Federal Government and the taxpayers of this country get the best of that trade. They are going to get 8,733 acres for just 300 acres of BLM land.

The bill seeks to address a site-specific land management problem that is a result of the scattered mining claims of the 1800's. The Federal selected lands for conveyance are contained within 133 scattered parcels near the communities of Black Hawk and Central City, most of which are less than 1 acre in size. These lands would be exchanged to the cities of Black Hawk and Central City to help alleviate a shortage residential lots.

In return for these selected lands, the Federal Government will receive approximately 8,773 acres of offered lands, which are anticipated to be of approximately equal dollar value to the selected lands. These lands are in three separate locations, described as follows:

Circle C Church Camp: This 40-acre parcel is located within Rocky Mountain National Park along its eastern boundaries, and lies approximately 5 miles south of the well known community of Estes Park. This acquisition can provide additional public camping sites and address a current shortage of employee housing in the popular national park.

Quilan Ranches tract: This 3,993-acre parcel is located in Conejos County, in southern Colorado. This land has excellent elk winter range and other wildlife habitat, and borders State lands, which are managed for wildlife protection.

Bonham Ranch—Cucharas Canyon: This 4,700-acre ranch will augment existing BLM land holdings in the beautiful Cucharas Canyon, identified as an area of critical environmental concern

[ACEC]. This ranch has superb wildlife habitat, winter range, riparian areas, raptor nesting, and fledgling areas, as well as numerous riparian areas, raptor nesting, and fledgling areas.

Any equalization funds remaining from this exchange will be dedicated to the purchase of land and water rights—pursuant to Colorado water law—for the Blanca Wetlands Management Area, near Alamosa, CO.

It is clear that the merits of this bill are numerous. Moreover, the bill is noncontroversial, and while it may not have dramatic consequence for people outside of the State of Colorado, it represents a tremendous opportunity for citizens within my State. Due to the time-sensitive and fragile nature of the various components of this bill, I would urge my colleagues to act expeditiously and support this legislation.

TITLE XVIII: SKI FEES

For years a number of us in the west have supported legislation that tries to find some common sense and reason for the administration of Forest Service ski area permits. This title will take the most convoluted, subjective, and bizarre formula for calculating ski fees, developed by the Forest Service, and replace it with a simple, user friendly formula in which the ski areas will be able to figure out their fees with very little effort. We think this is important.

The current formula utilized by the Forest Service is encompassed in 40 pages and contains hundreds of definitions, rulings, and policies. It is simply government bureaucracy at its worst. For the ski industry, this formula is a monstrous burden, and with the expansion and diversification of many ski resorts, this burden grows increasingly more complex each year.

Mr. President, in the 5 years that I have worked on this issue I have heard virtually no opposition to this bill. It enjoys broad bipartisan support, and I hope that my fellow Senators will act swiftly and resoundingly in supporting it.

TITLE XXIX: GRAND LAKE CEMETERY

Mr. President, this title simply directs the Secretary of the Interior to authorize a permit for the town of Grand Lake, CO, to permanently maintain their 5-acre cemetery, which happens to fall within the boundaries of Rocky Mountain National Park. This cemetery has been in use by the town since 1892, and continues to carry strong emotion and sentimental attachments for the residents. This is a little, tiny cemetery near Grand Lake that started over 100 years ago—104 years ago. For 104 years that little cemetery has been in effect. And this cemetery has been used by the town. This portion of the omnibus bill will give the town a long-term permit to maintain that little cemetery.

Currently, the cemetery is operated under a temporary special use permit, which is set to expire this year. By granting permanent maintenance authority to the town, this title creates lasting stability to this longstanding issue. It is completely noncontroversial, and widely supported by both the community and the Park Service.

TITLE XXXI: OLD SPANISH TRAIL

This bill was just introduced a year ago. So it has not been worked as some others have been nearly so long. But we think it is important in this day and age when everybody is trying to preserve the cultural parts of America which is fast declining and going under concrete.

Mr. President, the last bill in this package that I would like to speak on today is another bill that holds special meaning for me. I have been working on this legislation for many years now, and I am pleased to see that this title has seven different cosponsors from both sides of the aisle.

This title would designate the Old Spanish Trail and the northern branch of the Old Spanish Trail for study for potential addition to the National Trails System as a national historic trail.

The Old Spanish Trail has rightly been called "the longest, crookedest, most arduous pack mule route in the history of America." It is that, and more. The Old Spanish Trail tells a dramatic story that spans two centuries of recorded history and originated in prehistoric times. This trail witnessed use by Utes and Navajos, Spaniards, Mexicans, and American trappers, explorers, and settlers, including the Mormons. Its heyday spans the development of the West, from the native on foot to the mounted Spaniard to the coming of the transcontinental railroad. Few routes, if any, pass through as much relatively pristine country. It is time to recognize and celebrate our common heritage, and I would request that my colleagues support this title.

These bills are all noncontroversial and somewhat parochial. They may not mean a whole lot to many Members in this Chamber, but they mean a great deal to me and my constituents. I am not sure what course this debate will take, or even what role I will have in the next few days. But I would like to say for the RECORD, Mr. President, these bills that I have highlighted in my speech today are worthy of passage and are worthy to be enacted into law. Let us not forget the elements of this debate that may not be as star-studded, but are equally important.

Mr. President, I wanted to take a moment to try to add a little bit of perspective to what this bill is all about. It is very complicated. It is tremendously difficult. But the vast majority of the 33 titles have been worked out and have no opposition at all. Very few of them have any opposition. To spend all of the time on one on which I think the majority of the disagreements have been worked out already—which is the Utah wilderness bill—I think is going to be time consuming and not very productive.

So I wanted to add my voice to those who are saying there is more to this bill than just Utah wilderness. Utah wilderness is extremely important. But through the work that Senator HATCH and Senator BENNETT have done I think they have gotten a pretty good compromise. I know from the years that we worked on the Colorado bill that it does not make any difference how much land you put into a wilderness bill. There will be people who say that it is not nearly enough, and that it should be twice the size, or three times the size, or four times the size.

That is what we have gone through in virtually every wilderness bill that we have dealt with here.

I want to compliment Senator BENNETT and Senator HATCH for the work that they have already done on it, and to tell my other colleagues that hopefully we will keep this in perspective and recognize there is an awful lot of other extremely important parts of this omnibus bill.

Thank you, Mr. President. I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Utah.

Mr. BENNETT. Mr. President, I want to thank my colleague from Colorado for giving us that perspective which I think perhaps we needed.

If any of our colleagues are watching in their offices, they may think that the Utah wilderness bill is the only issue and that we are involved in overkill, perhaps. However, there are some things that I think appropriately should be said in this circumstance. And I will do my best not to repeat what has been said by my colleagues, Senator MURKOWSKI, and Senator HATCH.

I would also like to take the opportunity to thank Senator JOHNSTON, my colleague from Louisiana, for his kind words at the beginning of this debate. He provided a tremendous amount of help on this issue when it was before the committee. And, as he said accurately, it was his proposal backed unanimously by all of the Democrats on the committee that became the basis for the final wording of the bill in terms of the release language.

I agree with Senator HATCH—that many of those who are now attacking the bill in newspaper advertisements and elsewhere have not read that language and need to understand that they are attacking a bill that no longer exists. I know that does not meet their needs because their political needs require them to attack the very worst possible bill. I do not happen to think our first proposal was the worst possible bill. But they do, and they can keep the emotion up, if they continue to attack that which we have long since abandoned.

Mr. President, I have a different view perhaps of this issue. And I apologize if this is unduly personal. But this is the only way I can really describe how I come to this issue.

I am a city slicker. That is a term used perhaps in some places. But I grew up in a city, went to school in a city, and raised my family in a city. I knew little or nothing about these issues until I decided to run for the Senate. I came with the perspective of somebody for whom wilderness meant a drive in the country on a Sunday afternoon.

My opponent for the Senate was the author of H.R. 1500, the bill that called for at that point 5.4 million acres of wilderness in Utah, and he was lionized by all of the same groups that are now buying the full-page ads in national publications to attack the bill that we are debating here today.

It was interesting to me to follow him around the State of Utah and see him back away from his original proposal the more exposure he had to real voters.

It is also interesting that now that the voters of Utah decided to retire him from public life that he has become the chairman of the Southern Utah Wilderness Alliance, the group that has been paying for these advertisements around the country. I do not know how much they spent. I would guess it would be millions of dollars, knowing what I do know about the cost of advertisement—perhaps even in the tens of millions of dollars. We will never know. The group will never tell us. The group does not tell us where their financial support comes from. The group does not tell us who is behind their efforts. But they have mounted this effort and run these ads in attack of this bill.

As I say, I am a city slicker. I came to this issue really with no preconceptions one way or the other. I was forced into it by virtue of the fact that my campaign was against Wayne Owens who was the primary mover of this effort, and who continues, as I say, today as one of the primary forces behind it. I decided I had better learn something about the issue. I know that strikes some people as a little strange in politics. But I decided that I was not going to be able to run on discussion of this if I did not know anything about it.

So this is what I did to try to find out about it. The first thing I did was talk to the people who lived on the land.

I went out to the land, and I sat down with the people who live there, and I asked them to tell me about it. I will not bore you with all the things they told me, but one conversation sticks in my mind. A woman down in southeastern Utah walked out with me. We had been in an area where we had been having dinner with a group of people. We walked out into the open air, and she said, "BOB, look around. What do you see?" Well, I did not know what I was supposed to see, so I had to make up some kind of comment. I did not know what I was looking for. But she said, "Look around at this land. What do you see?"

I shrugged my shoulders a little, and I said, "It's pretty." She said, "It's pristine." I said, "Yes, that's right. It's pristine. That's wonderful." She said, "BOB, my family and I have been making our living off this land for five generations. Tell me we don't love it and we can't take care of it properly."

So that was the first experience I had as I went out and talked to people who live there and have their feeling of stewardship for the land. It is very real. I submit to the Senator from New Jersey that it is as real as his sense of stewardship or that of anybody else who sends in their subscriptions to the various environmental groups but who has never had the experience of living on the land from generation to generation.

These people are not despoilers. These people are not exploiters. These people are stewards, and they are good stewards, of the land. The reason the land is in the condition it is in that we can be talking about it as needing to be preserved for our children is that these people have preserved it in that condition for five generations and more.

All right. That is the first thing I did. I talked to those who live on the land. Then I decided, well, I better talk to the professional managers, the people who make their living managing this land for the Federal Government. As Governor Leavitt pointed out in his letter that Senator HATCH quoted, the professional managers run more of the State of Utah than the elected Governor does. The head of the BLM in Utah geographically has wider sway than the Governor and the State legislature put together.

So I went and talked to these professional managers, and I asked them to tell me about this wilderness thing, help me understand it. They looked at me. They had to take my measure for a little while. They had to decide whether I was really serious about trying to get their view. When they finally decided that I was serious about wanting to know without any preconception, they said, "Senator"—by this time I had been elected so they used that term. They said, "Senator, we can't manage 5.7 million acres of wilderness. You give us 5.7 million acres as wilderness, and we are going to have all kinds of incursion into that land because we don't have enough police force to keep people off land that they have been traditionally entering for many, many years. We are finding it already in the study areas; the 3.2 million acres that are being studied cannot in perpetuity be managed as wilderness. We are already seeing incursions that we can't control."

They said, "One of the reasons the BLM came up with 1.8 million acres of wilderness is that we decided that was the maximum amount we could effectively protect as wilderness. The rest of it simply could not be managed."

They gave me this example of why some acreage is not appropriate for wilderness. They said the 5.7 proposal talks about land that comes right up to the highway. They said, "Senator, we cannot stop people out there along the highway from parking their cars on the side of the highway and picnicking on that land."

Now, the land has no wilderness characteristics in the terms of the bill as Senator HATCH has described; that is, the original Wilderness Act. The reason it is included in the 5.7 is that these people want it as buffer land for wilderness area that is maybe 5, 6, 10, 20 miles away. So they have taken the wilderness area that is 20 miles away from the highway and decided that in order to protect it, in their view, they are going to put the wilderness designation right up to the highway itself.

They said, "Now, Senator, stop and think about it. Are you getting the wilderness experience in an area untrammeled by man when you are standing 50 feet away from an interstate highway?"

That is not the kind of solitude that the Senator from New Jersey waxed so lyrical about earlier this morning. That land does not qualify in any sense for a wilderness designation, and yet, according to these professional managers, it is included in some of the proposals that we have.

So I thought, well, OK, I have talked to the people who live there. I have talked to the managers. Maybe I ought to go see the land myself. So I went out to see the land, and I discovered something that as a city slicker I would never ever have known, something that I think is being ignored in this debate, something that has been ignored in this Chamber, and something that I would like to talk about as being crucial to this issue, and that is this. I discovered that human beings do not automatically degrade the quality of the environment. Indeed, I discovered that in some circumstances human beings improve the quality of the environment.

Is that not a radical notion? Everything we have been hearing about preserving wilderness is that we have to preserve this in its pristine, magnificent quality, or something really worthwhile will be lost and we will get in place of it something terrible that comes from human beings.

Let me show you some pictures, Mr. President, some that we have brought together and some that I saw for the first time as I was presiding the other night when the Senator from Wyoming was talking about grazing. Let us take first some of the pictures from the Senator from Wyoming because I think there is a significant point to make. I will not go through all of them as he did.

It so happens that in 1870 a photographer got loose in Wyoming, and he went around and took some pictures of areas that he thought were particularly significant. The picture on the top is in Jackson. It was taken on August 12, 1870. In 1976, a little over 100 years later, modern photographers going over these magnificent old photographs decided they wanted to go back to the same place and take a picture of exactly the same scene. So they did.

What do you see between 1870 on the top and 1976 on the bottom? You see a lusher environment. You see more trees, more vegetation, healthier grass than you saw 100 years ago. What is the difference? The difference is that for the succeeding 100 years wise stewardship by human beings has been practiced on that land, and environmentally it has gotten better and not worse.

We have another one by the same process, same photographers. This is also in Wyoming. I wish I had some pictures like this of Utah. I have one that I will get to.

Again, Jackson, August 20, 1870, on the top. You see the kinds of things that we hear on this floor about overgrazing and the range in terrible condition and the grasses having been destroyed, and so on. Now you look at it 100 years later with wise management and you see trees in the riparian area; you see lusher grass; you see healthier plants because human beings have exercised wise stewardship.

Now let us go to the one in Utah. The Senator from Wyoming had a whole series of these and built his whole presentation around them. I was tremendously impressed.

This one is not 100 years. This one is only about 50. I picked this one because the Escalante River is one of the areas of high controversy in this wilderness debate. The top photograph was taken in 1949. It shows the Escalante River. The bottom photograph was taken in 1992. What do you see in the bottom photograph? You see lush vegetation through the riparian area, so lush you cannot even see the river because there is so much foliage there. And where did that come from? That came from human intervention into the area. That came, primarily, from cattle.

We have heard so much about how terrible cattle are for the environment. We heard from the Senator from New Jersey the basic assumption that when cattle get into an area, there is automatic overgrazing. As I said, I walked the land myself. This city slicker went out and went over some land and discovered a fascinating thing that I would never have learned, growing up in Salt Lake City, UT. I had a guide who took me through it and he showed me two tracts of land, side by side. We walked over both. The one tract of land had cattle grazing on it on a regular basis. The vegetation was healthy. The watershed was good. The grasses were healthy and strong and lush.

We then went to another area, which, ironically, was BLM land where cattle permits had been denied. The first piece of land was private land, right next to it a piece of BLM land where permits had been denied. Here the land was beginning to turn to desert. There were no grasses. Such vegetation as was there was scrawny and drying up, showing, if you will, something very similar to the contrast in those two photographs.

I said to the man who was guiding me through, "All right, now tell me why this is?"

He says, "It is very simple." He said, "Out here in Utah and Arizona"—actually, this particular tract of land was in Arizona, right on the Utah border—"it is so dry that the land cakes, and when the water finally comes in the infrequent rainstorms, it hits this caked-over land, this dried-over land, and it runs off and does not get in below the surface to nurture anything, unless something comes along to break through the surface of that land." He said, "The something that most often comes along that can do the land most good is a cow."

When a cow comes along, every time it steps, before a rainstorm, afterward there is a little puddle of water in every one of those steps where the cow goes by. And then the seeds are coming through the air as the wind blows along. And where do those seeds get caught? They get caught in those little indentations made by the places where the cattle have stepped. And if there is water there and seeds there, and then fertilization—the cow carries that process with it and drops it along the way—you begin to get what you see in this patch of land, strong plants and lush grass, rather than the desert effect that you get in this patch of land where the cattle have been kept away.

That is exactly what has happened in the Escalante River. Yet, in the name of protecting the environment and doing what is best for the environment, there are people who would say the top photograph is better than the bottom photograph. The top photograph represents something we must preserve for our children and our grandchildren, and the bottom photograph represents exploitation and despoilation of our natural resources.

That is a moral judgment that I cannot make. I do not find any moral superiority in deserts over vegetation. Some people might be able to make that moral judgment. I cannot.

So I came away from that experience, talking to the people who lived on the land and finding them to be good stewards who loved the land every bit as much as anybody who ever sent off his card to the Sierra Club, talking to the managers who run the process and finding them to be conscientious and intelligent people who want to do the right thing for the land, and then finally walking the land myself and going through this process, I came away with the conviction that there is no single magic bullet for us to solve our environmental problems, such as slapping a wilderness designation on a map and then saying nature will take care of this and human beings, stay away forever and ever.

Let me give another example of why it is the people of Utah are so concerned about this question. Why do we care? Why do we care whether land is designated as wilderness or left in BLM inventory? What big difference does it make? Let me give one example in Juab County, UT, where there is a little town called Mona.

I have driven through Mona. I would like to say for the sake of this debate I have stayed there and talked with some folks, but I have not. I must be honest. I just kept right on driving, and you get through Mona pretty quick when you are driving. It does not slow you down very much. Mona's secondary source of culinary water is a spring located on Forest Service land. Unfortunately for the people of Mona, this spring extends into the Mt. Nebo Wilderness Area, which was designated in 1984. It is a small spring. It has a flow of only 5 to 20 cubic feet a second, depending on the time of year. The pipeline is operated by the tiny little Mona Irrigation Company.

For the last 2 years, Mona has been prevented by the Forest Service from accessing and maintaining the spring, even though the first historic use of the spring began in 1870.

Under the terms of the Wilderness Act, prior activities are grandfathered in and allowed to go on. If you had a grazing permit, according to the act, you can continue to graze. If you had a mining permit, according to the act, you can continue to mine. In fact, we know that once something is designated as wilderness, all that goes out the window, it is walled off, no human activity whatsoever regardless of what may have been going on there before. The historic use of this spring began in the 1870's. There has been over 120 years of use of this water.

The Forest Service, now, will not give permission for the tiny town of Mona to access and maintain its source of drinking water until an environmental assessment is completed.

I will say the Forest Service has not been obstructionist about this, in any kind of confrontational way. They have simply said this is what the regulations are and we are going to enforce them. We are sorry about it. They have not been particularly cooperative. They have just enforced the rules.

So, for 2 years now, Mona cannot deal with maintaining this source of water that they have been using for 120 years.

I would be a little more sympathetic with the wilderness advocates if this spring were, say, 3 miles inside the wilderness boundary. Mr. President, it is 900 feet from the wilderness boundary. But they are forbidden from crossing that boundary to go provide maintenance on a source of water that they have been using for 120 years. That is the kind of thing that scares the living daylights out of the people in Utah, who live next to these wilderness designations and are saying, "What is going to happen to us when we start facing the bureaucracy that surrounds the enforcement of a wilderness designation?"

Much has been said about the process. I will not revisit that except to give my version quickly of what happened, and some of the things that we have gone through here.

As Senator HATCH pointed out, the BLM started the study here. I should point out for the sake of partisan clarity that the decision as to what would be studied and what would not was not made by Jim Watt. It was made during the Carter administration by those environmentally friendly folks who President Carter appointed to the Department of the Interior.

They did their study, they came up with their conclusion, and then they opened it up for standard appeals, comments and so on. The Utah Wilderness Association, a group not to be confused with the Southern Utah Wilderness Alliance, protested that the Department of the Interior and the BLM had missed some very significant areas. Their protest was not only heard; it was upheld. Some 800,000 acres were added to the study area in response to the protests of the Utah Wilderness Association. I happen to believe that that protest was wise and that the decision that was made to add those additional acres to the study area was the correct decision.

There were other protests that were made that were defeated in court. I made that point at the press conference where we all got together to announce our intention to try to resolve this issue, and some folks came up to me after the press conference and said, "Oh, no, no, Senator, we've never lost any of our appeals, we've never lost any of our challenges."

I said, "Well, then, my staff is misleading me and the folks at the BLM are misleading me. They said every time you have challenged this original designation you've lost."

"Well," he said, "we did have to withdraw some of our appeals, but it was withdrawn because we didn't have enough money. We couldn't afford to proceed."

I find that a very interesting statement in the light of what we have heard on this floor today from the chairman of the committee of roughly $1 billion of liquid assets in the hands of those who are fighting this bill. If they have enough money to buy a full-page ad in the New York Times, they have enough money to pursue their effort in behalf of some of these court challenges.

No, I do not think they withdrew the challenges because they did not have enough money; they withdrew the challenges because they knew they were without merit and they were going to lose and they did not want the embarrassment of having that loss on the record.

We decided—that is, the members of the delegation—in concert with the Governor that we were going to start this whole thing from scratch again. Senator HATCH has described the hearings that were held at the county level, the hearings that were held statewide and all of the rest of that. We are being told now that 75 percent of the people who responded to those hearings were in favor of 5.7 million acres. I can only agree with Senator HATCH that that is an incorrect figure, incorrect statement.

What was very clear to me as we went from place to place was that the caravan of protesters went with us. It became kind of a ballet. As the delegation would move into a new area, then all the protesters would move and they would have the same buttons on. They would come in and demand the places and then tell us the same thing they told us in the previous location. Then we would get in our cars and drive to this location and they would get in their buses and come, and we would go through the same charade.

For them to say 73 percent of the people who testified were all in favor of this other proposal, I would say it is the old story used when you turn down somebody for a job and he said, "But I've had 10 years experience," and the answer is, "No, you haven't, you've had 1 year experience repeated 10 times."

We had this same group of people repeating the same arguments over and over and over again. On one occasion, the Governor turned to say something to a member of his staff and the witness stopped and said, "Governor, I'm speaking to you." The Governor turned back and apologized, listened, and then said to me, "The reason I felt I didn't have to listen to her is because I had heard the same testimony from her four times and I thought I knew what it was she was going to say."

It was interesting to me that when we were through with this process, we came up with roughly the same result that the BLM had produced in their 15 years of activity. We did not try to do that. We did not deliberately set out to validate what they had done, but we found it fascinating that when we were through, we had the same result.

This is what we were told at those hearings, and we have heard some of it on the floor today. I would like to respond to it. We were told: "Wilderness will make money." We heard that from the Senator from New Jersey. "Tourists come to Utah, tourism is Utah's No. 1 industry. If we just add wilderness to the mix, we will make money."

Mr. President, I have a map of the State of Utah, and you will see that it is filled with bright colors. What are all these bright colors? The yellow is BLM land. You will see if you get close to it that there are a bunch of little tiny squares of purple all the way through there. Those purple squares belong to the State of Utah. Those are the school trust lands that came in the enabling act when the State was created. But all of the yellow you see here is BLM land. This happens to be a military reservation, the Utah Testing and Training Range. I do not recommend you go out there on your vacation; they are likely to drop bombs on you. That is what they do when they take off from the airfield.

The dark blue is water, Utah Lake and Great Salt Lake.

The green is Forest Service land. When we talk about the Federal Government owning 67 percent of the State of Utah, it is the combination of Forest Service land and BLM land.

The salmon color lands are Indian reservations. Interestingly, this area where it shows a great deal of white land is, in fact, an Indian reservation. I will tell you what the white is in just a moment.

This land is national recreation area, also not available for any kind of private development.

The white land that you see left over, that is private land. That is the amount of land that the citizens of Utah own. The Senator from New Jersey says Utah is one of the most urbanized States in the Union. Maybe when you see the land pattern you can understand. There is not any private land available except in the urban areas. That is a bit of an overstatement, but I think it comes closer than some may realize.

You may ask, "What is all this private land on what is supposed to be an Indian reservation?" That is land the Indian tribes handed out to their members, so it is still an Indian reservation but it is held by title by the members of the Indian tribe.

So if we are going to talk about exploitation of private landowners, you are going to see that the amount of land that the private owners can exploit is very, very minimal, compared to all of the other land uses.

But I came to the chart for this purpose, because we are talking about the issue of making money off wilderness.

You see this dark green place inside the green Forest Service land. This is wilderness, and that is not obscure wilderness. This is wilderness so popular that the Forest Service has to issue permits to people to go in. They do not want anybody in there in any higher levels of visitation than they are getting right now.

This is wilderness that for its tourist potential has reached the saturation point. The Forest Service will not let anybody else in, and it happens to be in the two poorest counties in the State of Utah. Wilderness has not made them wealthy, the way some of the proponents of this proposal would have you believe.

The other green that you see here in the yellow area is the wilderness that is included in our bill. This is the 2 million acres that we have been talking about, and the various places where it will be, including—yes, including—the Kaiparowits Plateau that we heard so much about earlier in the debate.

Mr. President, I put that out because, again, I am a city slicker. I did not know this until I came to the Senate. I had no understanding of the way the land in Utah is allocated and owned until I came to the Senate and got into this debate. I love to go out into the wilds. I love to go out and commune with nature and have the kinds of experiences that Senator BRADLEY quoted the professor from Colorado was having. "The silence is stunning," he said.

I have had that kind of experience in Utah. I have gone off by myself and had that kind of tremendously uplifting experience. I did not know at the time I had the experience where I was in terms of who owned the land. I have gone back and checked. I was on BLM land. I was on land exploited. Why? Because some cattle had been through there. I did not know that. I had my experience without knowing that.

I guess I am deficient somehow in that I do not require the knowledge that nobody else has ever set foot on the land for me to have that kind of experience on the land. The vast majority of the people who come to Utah to have that kind of experience have it in the green areas, that is, the national forest. We have 8 million acres of national forest in the State of Utah.

The only difference, from my perspective, between the national forest and the other lands that we are talking about setting aside as wilderness is that you can get to the national forest. I can go to the national forest in my automobile. There is no way in the world I am going to be able to go to these areas we have designated as wilderness in an automobile. That is fine. So 2 million acres; it meets the criteria of the Wilderness Act. I agree that that ought to be set aside, primarily for ecological reasons.

But most people who are talking about wanting more wilderness have the mistaken impression that what they are talking about is pretty country. They are saying we want to keep the country pretty and keep away the strip malls and the hamburger stands and so on. There are 8 million acres where there will never be a strip mall or a hamburger stand or any other kind of commercial exploitation in the State of Utah. There are 8 million acres right now in national forests. You add to that the 2 million acres that we have of national parks,—I am surprised at how many of my constituents think wilderness means national parks—add the 2 million acres that we are proposing in wilderness, taken off the BLM land, and you will have 12 million acres of Utah set aside that can never ever be used for any kind of commercial exploitation, plus 20 million acres left to be managed in the way that we saw in the first photograph I showed of Escalante Canyon.

There are 20 million acres left to be exploited, the way that picture on the bottom indicates it is exploited, plus 12 million acres where there will never be any commercial activity of any kind. That comes to 32 million acres. I think that is enough. That all meets the standard of what the law has said that gives us all the legacy that we need to pass on to our children.

Mr. President, I have two other things I want to say that I found as I went around on my odyssey to talk with the people who lived there, talk with the managers, and to look at the land myself.

The first one has to do with the issue that Senator BRADLEY raised with respect to Kaiparowits. As Senator HATCH very appropriately pointed out, our bill protects hundreds of thousands of acres in Kaiparowits. The real issue in Kaiparowits, however—we must be honest about it, Mr. President—is not the number of acres; the real issue of Kaiparowits is called, "Will we allow any exploitation of the coal reserves that are under the surface in the Kaiparowits Plateau?"

You see the full page ads that talk about ripping out all of this magnificent scenery so that coal can be ripped from the Earth, flung around the world, and as the final statement in the advertisement says, "A foreign corporation gets all of the profits, and Utah is left with a hole in the ground."

In the first place, the particular foreign corporation that they are talking about happens to be a very good corporate citizen of the State of Utah and has been mining coal in the State of Utah for close to 100 years.

But, quite aside from that, let us talk about it from the environmental impact standpoint. The Senator from New Jersey talked about long-wall technology in coal mining. I have been down in a coal mine in Utah. I have seen long-wall technology. I say to anybody who has not had that experience, it is one of the most fascinating experiences you are going to have in your life because you cannot conceive, or at least I could not conceive, how any engineer would ever be bright enough to sit down and figure out how that whole thing works. It is just absolutely stunning.

With the long-wall technology that now occurs in coal, it will be possible for the mining company to go into the coal seam at Kaiparowits and take out virtually all of the available coal through a single mine opening. We are not talking about strip mining here. We are not talking about tearing the top off of the Kaiparowits Plateau. We are talking about a hole on the side of a mountain roughly the size from that door to that door in this Chamber and maybe 16 to 20 feet high. That is about all the bigger the hole has to be.

How much coal are we talking about? You figure you have a good seam of coal if it runs anywhere from 6 to 8 feet in height. The seam under Kaiparowits is about 16 to 18 feet in height, more than twice the size of the coal seam that you would consider very good. There is enough coal under Kaiparowits to provide the power needs of several Western States for the next 100 years.

As Senator HATCH pointed out, it is environmentally friendly coal. It has the right kind of chemical makeup and is the kind of coal you want to burn instead of the kind of coal from other parts of the country, parts that are very well represented in this body, I might add.

How do we get to this opening where this coal can be taken out? In order to get to the opening where the coal can be taken out, you have to go down into a circular canyon. That is good from an environmental standpoint because it means if you are not standing closer than about 100 feet from the edge of the canyon, you cannot see it. How many acres are we talking about? How big a platform? How big a footprint is going to be placed on the land when this thing is fully operative? Forty acres, Mr. President.

At the bottom of this circular canyon, virtually hidden by the nature of the way the canyon was formed, 40 acres at the bottom of this canyon will be admittedly despoiled and exploited, 40 acres will be filled with buildings that are not particularly pretty to look at, 40 acres will be filled with sheds and equipment. And for that 40 acres which cannot be seen anywhere on the Kaiparowits Plateau—I stood on the Kaiparowits Plateau and looked at it directly myself—for that 40 acres that cannot be seen anywhere on the Kaiparowits Plateau, we could produce enough coal to furnish the energy for several Western States for over 100 years.

Now, in this book, "Wilderness at the Edge," where we see the whole 5.7 million acres laid out in all their glory—

and it is glory—they tell us all of the places we ought to designate as wilderness that we do not have as wilderness. There is an interesting little suggestion. One of the places they designate as wilderness happens to have a railroad tunnel running underneath it. The railroad tunnel is already in. The trains are already going back and forth. They say it should still be designated wilderness because the activity beneath the surface does not detract from the glorious wilderness experience on top of it.

I say to those who wrote this book, what is the difference between coal mining that is going on underneath the surface, hundreds if not thousands of feet below the magnificent scenery up above, and railroad cars going back and forth? If you can live with railroad cars, saying that does not detract from the experience on the surface, I tell you, you should be able to live with coal mining, particularly with the long wall technology to which the Senator from New Jersey referred.

Now, Mr. President, in conclusion, I know those are very welcome words, and for most of the people who are listening, I go back to the comment made by the Senator from New Jersey in his conclusion. He quoted an editorial from a newspaper, the editors of which, I would guess, have little or no personal experience with any of these issues we have been talking about. The editorial says there are two philosophies, and we have a clash between the two philosophies: Whether we want to support solitude and recreation, one philosophy; or whether all things on the Earth should be exploited for human development, the other philosophy. Of course, they came down on the side of the first, as does the Senator from New Jersey, which is his right. I respect him for it. I respect the thoughtful, intelligent way in which he proposed his arguments.

I suggest, however, based on what I now know about this, that these are not the two philosophies at stake here at all. I suggest, Mr. President, that, yes, this is an argument between two philosophies, but these two philosophies have nothing to do with the question of, are you in favor of solitude and recreation, or are you in favor of human development?

The two philosophies are these, Mr. President: Do you believe that nature is perfect and benign and must be left alone to achieve the highest moral goal; or do you believe that nature is constantly changing, moving from one moral circumstance to the other with such rapidity that there is no moral judgment that can be found, and therefore nature can be managed without any moral implications. Based on what we have seen here, based on what I have seen as I have gone throughout the western lands, I believe that there is moral justification for managing nature, for planting trees where they did not exist before, for running cattle on areas that will produce greater vegetation than was there before. That is my philosophy. I do not run from it nor apologize for it.

I close with this real-life example that illustrates what I am talking about. There is in Utah—there was in Utah; I must put it in the past tense, unfortunately—there was in Utah in Garfield County, one of the counties that would be most affected by this legislation, a magnificent field—beyond field; a magnificent area—filled with buttercups. I did not ever see it myself, but I am told, and I am quoting from those who did see it. It was one of the most awe-inspiring sights anyone could experience, going out and seeing this huge field, lush and gorgeous, at the proper time with buttercups blooming. Cattle grazed in that field, and people who belonged to the organizations listed by the Senator from Alaska decided that field of buttercups was so magnificent that it must be preserved; it must be protected from the degradation of human beings.

Since there was no legislative way to do it, they raised the money—the money presumably they could not find to bring the lawsuits to protect their position elsewhere—they raised the money, purchased this piece of land, and then fenced it off so that the beauties of nature as manifested in these buttercups would be protected forever and ever.

That was just a few years ago, Mr. President. If you were to go to Garfield County today and ask the residents of Garfield County, "Where are your buttercups," they would tell you there are no buttercups. They would take you out to the piece of land that had been fenced off and preserved from any human management. You can see that. What it is filled with is dead grass. Why? Because no longer were human beings allowed to run their cattle through that area, so that the grasses that choked out the buttercups were able to grow up, unmolested and uneaten. The manure that the cattle normally brought with them into the area disappeared, and now the heavy grasses have grown up, choked out all the buttercups, and then, unfertilized themselves, have died, and you have one of the most sterile, uninspiring pieces of real estate on the planet to which somebody paid a fairly pretty penny in order to preserve the buttercups.

Mr. President, human involvement in the environment is not automatically bad for the environment. Human involvement in the environment, if properly managed, can produce good results for the environment. Saying that we are not going to allow someone that does not have any personal stake in this issue to lock up huge chunks of the environment in the name of the environment does not mean we are opposed to the environment.

In my view, Mr. President, sound stewardship by intelligent human beings who love the environment can be good for the environment. Locking humans out arbitrarily by legislative fiat is not automatically the proper environmental thing to do.

I close as I began, Mr. President, by taking you back with me to that moment when I first began my odyssey in understanding this issue, as I stood with this woman in southeastern Utah, looking out over absolutely pristine territory, and having her say to me, "Look at the land. What do you see? It is pristine. My family and I have been making our livings off of this land for five generations. Tell me we do not love the land and that we cannot be trusted to manage the land." I could not tell her that. I cannot tell this Senate that. I cannot tell the President of the United States that.

The bill we have crafted is not only the right bill for the people of Utah, it is, Mr. President, the right bill for the environment and the environmentalists. If they will simply come out of their carports and come away from their mailing lists and come with us, to go through the land and talk with the people who live there and spend time with the land managers, the true lovers of the environment will come to agree with us that our bill for wilderness in the State of Utah is the proper environmental response.

The PRESIDING OFFICER (Mr. BROWN). The distinguished senior Senator from Utah.

Mr. HATCH. Mr. President, I want to compliment my colleague for his very good remarks and his ability to put into prosaic and also simple terms just what is involved here.

In fact, both of us have been fighting for this for a long time. It is a moderate, reasonable approach. We really appreciate our colleagues who cooperated to help us on this, because it is not going to go away for us or for anybody else here until we get it resolved. It is a reasoned, moderate, decent approach.

Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDICIAL SELECTION

Mr. HATCH. Mr. President, I rise to address an issue that I have discussed recently before the Senate: judicial selection. As I have said before, differences in judicial philosophy can have real and profound consequences for the safety of Americans in their neighborhoods homes and workplaces. Judges are every bit as much a part of the Federal anticrime effort as are U.S. attorneys and FBI and DEA agents.

In my last speech, I drew attention to two Federal district judges appointed by President Clinton—Judges

Harold Baer, Jr. and James Beaty. These two judges rendered decisions favorable to criminal defendants based on legal technicalities that had nothing to do with their guilt.

Judge Baer sparked outrage throughout the Nation when he suppressed evidence seized during the stop of an automobile by police who had witnessed four men drop off two bags in the trunk at 5 a.m., without speaking to the driver, and who then rapidly left the scene when they saw a police officer looking at them. The bags turned out to contain about 80 pounds of drugs. Judge Beaty has received similar criticism for releasing a man who murdered his parents in their own bed because a juror had gone to look at a tree where the murder weapon was found.

I was pleased to learn that President Clinton is upset about Judge Baer's outrageous decision. He even momentarily suggested, through his press secretary, that the judge should resign if he does not reverse himself. But President Clinton concern is too little, too late. He should have been more concerned when he nominated this individual to lifetime tenure as a Federal judge. A mistake here lasts a lifetime, not just 4 years. Judge Baer is one of President Clinton's lasting legacies.

And the President's concern comes only after I and many others have criticized the decision literally for weeks.

The President talks about putting cops on the beat, yet he appoints judges who are putting criminals back on the street.

Now that the American people are suffering from the consequences of this administration's judicial nominations, President Clinton's initial solution was to call upon Judge Baer to resign. This was a meaningless gesture that has no practical effect because the only way to remove a judge is to impeach him. President Clinton is now left to hoping Judge Baer will reverse himself. The true check on these solf-on-crime judicial activists is to never appoint them in the first place.

Let me be clear, I did not call for Judge Baer's resignation. I simply pointed out that there is no substitute for the sound exercise of the President's power to appoint judges to lifetime positions.

Let me assure my colleagues, Judge Baer is not the only judge appointed since January, 1993 that, in my view, President Clinton should feel misgivings about.

Will the President chastise Judge Beaty, or does he agree with his decision to release a convicted double murderer on a technicality? I am not alone in my criticism of Judge Beaty—the Wall Street Journal has said that Judge Beaty and his Carter-appointed colleague took "a view of defendants' rights that is so expansive that they are willing to put a murderer back out on the streets because a juror took a look at a tree." The entire fourth circuit has voted to grant en banc review of the case, and I fully expect the court to do the right thing and reverse Judge Beaty's misguided opinion.

But President Clinton has not called upon Judge Beaty to resign. Instead, he is rewarding Judge Beaty by promoting him. He has nominated Judge Beaty to the fourth circuit. While the President cannot force activist, soft-on-crime judges to resign, he can choose to keep them where they are instead of promoting them to the appellate courts, where they can do even more damage to the law and to our communities. Will President Clinton regret Judge Beaty's soft-on-crime decisions if they start to issue from the fourth circuit? Will he then suggest that Judge Beaty resign? Perhaps he ought to withdraw that nomination—it is in is power to do so, removing Judge Baer is not.

To be sure, Republican appointed judges can make erroneous rulings. And, I understand the Clinton administration is on a desperate damage control mission to mention such rulings. That is fine by me, because the more information about the track records of Republican and Democratic appointed judges, the better.

I hardly agree with every decision of a Republican appointed judge. Nor do I disagree with every decision of a Democratic appointed judge.

Nevertheless, there can be little doubt that judges appointed by Republican Presidents will be generally tougher on crime than Democratic appointees. As I will explain in this and subsequent speeches, on the whole judges appointed by Democrat Presidents are invariably more activist and more sympathetic to criminal rights than the great majority of judges appointed by Republican Presidents.

I does little good to ask these judges to resign or to chastise them after they have inflicted harm upon the law and upon the rights of our communities to protect themselves from crime, violence, and drugs. President Clinton's momentary resignation gesture is only the latest example of this administration's eagerness to flip-flop wherever it meets a stiff breeze of public disapproval of its actions.

And what excuse, Mr. President, does President Clinton have for the nomination of Judge J. Lee Sarokin of the U.S. Court of Appeals for the Third Circuit, and Judge Rosemary Barkett of the U.S. Court of Appeals for the Eleventh Circuit? These are two of the most activist friends of criminal rights on our Federal courts of appeals. Their judicial track records were crystal clear at the time President Clinton appointed them. The President nominated Judges Sarokin and Barkett with full knowledge of their records.

I will have more to say about these two judges in the future, but let me remind the Senate and the American people that I led the opposition to these two nominees because of their activist, soft-on-crime approach. The Clinton administration fought hard to get these nominees through the Judiciary Committee and through the Senate, which confirmed both Judge Sarokin and Judge Barkett in 1994.

I regret to say that my predictions about these two judges have been proven correct. Judge Sarokin has repeatedly come down on the side of criminals and prisoners in a series of cases, and he recently voted to overturn the death sentences of two Delaware men who, in separate cases, killed several elderly people. Not to be outdone by her New Jersey colleague, Judge Barkett has continued her tolerant attitude toward drugs in our society and her suspicion of the police. Just last month she argued in an opinion that police could not conduct random roadblocks to prevent traffic violations and to search for drugs—in her words the searches were "intolerable and unreasonable."

Luckily, in both of the cases that I have just mentioned, Reagan and Bush appointees formed a majority of the court and ensured that Judges Sarokin and Barkett's views were made known as dissents. But if Judges Sarokin and Barkett and other Clinton nominees had formed a majority on those courts, they would have put the criminals back on the street. If President Clinton should win a second term, he will appoint a majority of the judges on the Federal courts of appeals. Judges Barkett and Sarokin provide a clear example of what we can expect from the Federal courts should President Clinton appoint judges for 4 more years.

Can the administration name any Reagan or Bush appellate judges who have argued so often and so vigorously in favor of elevating criminal rights above the right of the community to protect itself? I don't think they can. In fact, the record indicates that the current administration has nominated several judges who have ruled in favor of criminals or prisoners clearly and consistently. When they are right, that is fine. In most of these cases they are wrong.

For example, let me tell the American people about the case of *United States* v. *Hamrick*, [43 F.3d 877 (CA4 1995) (en banc)]. While serving time in Federal prison for threatening to kill President Reagan, defendant Rodney Hamrick built several improvised bombs, threatened to destroy a Federal building, shot other inmates with improvised guns, and threatened to kill Federal judges. While serving his various sentences, Hamrick built a letter bomb of materials available in prison that, in the words of Judge Michael Luttig's opinion for the fourth circuit, if fully effective could have produced a

1,000-degree fireball up to 3 feet in diameter. This fireball would have burned the skin and eyes of anyone exposed to it. If those exposed were inhaling when the bomb detonated, the fireball could have seared their lungs, possibly resulting in death.

Hamrick sent the bomb to William Kolibash, the U.S. attorney for the Northern District of West Virginia, whose office was responsible for Hamrick's prosecution. Kolibash opened the package, but the bomb was faulty and only scorched the package instead of detonating. Hamrick put his own return address on the envelope, making his arrest an easy matter since he was in prison. Hamrick confessed and stated that he intended the bomb to go off in retaliation for his prosecution.

Hamrick was convicted by a jury of assault of a U.S. attorney with a deadly or dangerous weapon under 18 U.S. §111(b). Relying upon applicable Supreme Court precedent, Judge Luttig affirmed the conviction for the en banc fourth circuit. He was joined by Judges Russell, Widener, Wilkinson, Wilkins, Niemeyer, and Williams. Judge Hamilton wrote a concurring opinion. All of these judges were appointed by Republican Presidents.

Judge Ervin, then chief judge and an appointee of President Carter, wrote the dissent. He was joined by every Democratic appointed judge on the circuit in arguing that because the bomb was made badly, it could not constitute a deadly or dangerous weapon under the statute. Judge Blane Michael, President Clinton's appointment to the fourth circuit, joined this illogical, unreasonable decision. He joined Chief Judge Ervin's conclusion that because the bomb lacked an igniter, it could not be called a dysfunctional bomb, as the majority concluded, but instead was, in the dissent's phrase, an "incomplete bomb," and hence could not be a dangerous weapon under the statute. Goodness gracious. What if it had been a real bomb?

Mr. President, I imagine that Judge Ervin and Judge Michael also would think that if a defendant pointed a gun at you or me and pulled the trigger, but the gun is defective and doesn't fire, the defendant would not be guilty of attempted murder because he used an incomplete gun. Such sophistic word games demonstrate the eagerness of Judge Michael and his dissenting colleagues to protect criminals at the expense of law enforcement.

Even once the criminals are convicted and sent to prison, the judges nominated by President Clinton continue to adopt a tolerant attitude. These judges are determined to defend prisoners against the rights of society to defend itself from violent crime. These judges should be more concerned about the rights of society to incarcerate convicted criminals and to run orderly prisons before they start wringing their hands about how unfair a punishment it is to be in jail.

On this score, let me just identify one decision out of many that exemplifies the willingness of some activist Clinton judges to protect those who have harmed and attacked our society. Let me tell the American people about Giano versus Senkowski, a case in which an inmate brought a Federal civil right suit against a prison that refused to allow inmates to possess sexually explicit photographs of spouses or girlfriends. The plaintiff somehow felt that his first amendment rights were violated. It is a demonstration of how far activist judges have already expanded the laws that a prisoner can even bring a lawsuit on such a frivolous claim.

The majority, Judges Joseph McLaughlin and Dennis Jacobs, both Bush appointees, properly rejected the prisoner's amazing claim that this policy violated his first amendment rights. Under Supreme Court precedent, courts are to uphold prison regulations if they are reasonably related to a legitimate penological interest. This was the case here, especially in light of the duty of the Federal courts to grant prison administrators discretion to run their prisons in a safe, efficient, and orderly way. Convicted criminals are in prison for a reason: punishment. Sometimes, activist judges forget this simple fact.

Unfortunately, Judge Guido Calabresi, a former dean of the Yale Law School who President Clinton appointed to the second circuit, disagreed. He dissented from the majority and asserted that the first amendment provides prisoners with the right to possess such sexually explicit photographs. Judge Calabresi even went so far as to compare his position with the position of the Supreme Court in the Pentagon Papers case, as examples of instances in which the courts courageously resisted scare tactics in the absence of proof.

What the first amendment's plain words—"Congress shall make no law abridging the freedom of speech, or of the press"—has to do with convicted prisoners prossessing sexually explicit pictures is beyond me.

Judge Calabresi argued that the case should be sent back for factfinding—what this factfinding would be I do not want to know—because he thought it possible that these pictures might diminish violence by mollifying prisoners. Gee. What reasoning. Judge Calabresi also saw fit to suggest several alternative policies, such as allowing inmates to be sent photographs but providing that the pictures may be seen only at appointed places, or allowing photographs to be received and seen for a brief time before they must be returned.

It is exactly this intrusiveness that demonstrates the activist stance of the Clinton judiciary. Here we have a Federal judge of the Second Circuit Court of Appeals deciding what policies a prison ought to have regarding sexually explicit photographs. The judge wants factfinding conducted to produce evidence about the link between such photographs and violence. He has ideas about how the pictures are to be provided and used. I am sorry, but this seems like a job for prison administrators, who are expert at these issues and who are accountable to the people. It is the people, after all, who must pay for the costs of incarceration and who ultimately must fund the fanciful policies Judge Calabresi would impose.

Why is this so important? As a practical matter, we in the Senate give the President deference in confirming judicial candidates nominated by the President.

No one can say that I have not been at the forefront to giving deference to this President. I like him personally. I want to help him. I certainly believe he was elected and I believe he has a right to nominate these judges. I might say though that a Republican President would not nominate the same judges that a Democrat would and vice versa.

Indicia of judicial activism or a soft-on-crime outlook are not always present in a nominee's record. But in the cases of Judge Sarokin and Barkett, they were, and we Republicans in the Senate attempted to defeat them on those grounds.

We also now can view the products of the President's choices. We do not just have two trial judges, Judges Baer and Beaty, who have trouble understanding the role of the Federal courts in law enforcement and in the war on crime. President Clinton has sent judicial activists to Federal appellate courts as well, and the effects of his approach to judicial selection are felt even at a court as high as the Supreme Court. This is not good for the Nation, which must live under the permissive rules set by these liberal judges when they attempt to rid our streets of crime and drugs.

The judicial philosophy of nominees to the Federal bench generally reflects the judicial philosophy of the person occupying the Oval Office. We in Congress have sought to restore and strengthen our Nation's war on crime and on drugs and to guarantee the safety of Americans in their streets, homes, and workplaces. For all of the President's tough-on-crime rhetoric, his judicial nominations too often undermine the fight against crime and drugs.

This is an important issue. It may be the single most important issue in the next Presidential campaign. Frankly, I hope everybody in America will give some thought to it because I for one am tired of having these soft-on-crime judges on the bench. I for one am tired of having people who, as activists, do not understand the nature and role of judging, which is that judges are to interpret the laws that are made by those who are elected to make them. Judges are not elected to anything. They are nominated and confirmed for life. Hopefully, they will be removed from the pressures of politics and will be able to do what is right. I have to say that many of these judges are very sincere. They are kind-hearted, decent, honorable people who are so softhearted that they just do not see why we have to punish people because of the crimes they commit, or why we have to be as tough as we have to be. But those of us who really study these areas know that if a person is put in jail—a violent criminal—until they are 50 years of age there is a very high propensity that they will never commit violence after 50. But if we have them going in and out of the doors in those early years when they are violent criminals, they just go from one violent crime to the next, and society is the loser. We understand that here in the District of Columbia, which is sometimes known as "Murder Capital U.S.A." and "Drug Capital U.S.A." That needs to be cleaned up.

That is why I put $20 million in a recent bill to give directly to the chief of police here so that they can acquire the necessary cars and weapons and ammunition and other facilities that they need to be able to run a better police force. Consider that it was the best police force in the Nation 20 years ago; today it is the worst in the Nation. So we put our money where our mouth is, at least as far as the Senate is concerned. I hope that money stays in in the House.

We have to pay attention where judges are concerned, too. We have to get people who really are going to make a difference against the criminal conduct in our society. I am fed up with our streets not being safe. I am fed up with our homes not even being safe. We are becoming a people who have to lock the doors every time we turn around, and I for one think it is time to stop it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. MURKOWSKI. Mr. President, this morning my friend from New Jersey reflected a little history of public lands. I listened intently, and while I appreciate his point of view, I suggest there are two points of view relative to the history of public lands and the transition that has occurred in this country.

Under the Northwest Ordinance, which, as a matter of fact, predated the Constitution, the prevailing philosophy was simply to dispose of lands either to the States or the territories or to private individuals. And as the several States obtained their inheritance, they for obvious reasons began to lose interest in further Federal transfers. In other words, they had achieved what they wanted.

Mr. President, this goes back to the period of about 1788 when this Northwest Ordinance prevailed. So they lost the incentive once they received their land and further Federal transfers simply were not necessary. The State of Arkansas obtained over 11 million acres from the Federal Government, over one-third of its total acreage. Only about 3 percent of New Jersey currently is in Federal ownership.

So the history of public lands is a history of those States, mainly the Eastern States, that have already obtained the lands needed for their schools, their roads, their economy, and other purposes. Then we have the Western States and territories that basically remain captive to the Federal Government and the interests of those Eastern States. The definition of "West," as we all know, steadily moved west. It moved from what was West, in 1790, Ohio, to Utah and my State of Alaska in 1990.

According to the 1984 BLM public lands statistics, Florida obtained over 24 million acres from 1803 to 1984 out of a total of 34 million acres in that entire State. Arkansas, as I mentioned, obtained over one-third of its entire acreage. Now, there was a time when the State of New Jersey looked at the western lands as a source of raising money for needs in New Jersey—roads and docks, the harbors, other public works in New Jersey—and there was a time when New Jersey wanted the western lands basically to feed its industry.

It was a concept that is not unknown to us, Mr. President. The Eastern States had the capital base, and where did they look? They looked to the West to put that capital to work in investments that could generate a handsome return because the money centers at that time were in the East, as they are today for the most part. So the eastern at that time, I think it is fair to say, elitists chose to invest in the West and generate a return, and they could continue to live in the more luxurious lifestyle that existed in the East because the West was considered pretty much a frontier. So States like New Jersey and New York invested in western lands to feed, if you will, the fruits associated with the productivity of the West.

Now we have seen a change in that, a rather remarkable change. Let us be realistic and recognize New Jersey and other States now want western lands not necessarily as a return on the investment that was initially generated there, although some of it is fourth and fifth generation wealth, but they look at the West as a playground, a recreation area for themselves and others of that elitist group.

If the State of Utah is unable to use its school lands to fund education, that is even better, because then Utah will become even more dependent on the Federal Government and the preferred social agenda of Washington, DC. Make no mistake about it. This is not unique to the State of Utah.

Those of us who are westerners question when is enough enough. There has been no change in the policy of some of these eastern seaboard States and many of the other original States from 1790 until now. What has changed is what they want western lands for. There would be a considerable difference if New Jersey as a State were 63 percent owned by the Federal Government, like Utah, but it is not. The State of New Jersey is only 3 percent owned by the Federal Government, so it has the luxury to assume that two-thirds of Utah is, one might interpret, for the private pleasure of the residents of New Jersey.

We can get into a long discussion over the various conservation measures mentioned by the Senator from New Jersey, but I think the Senate should remember that the primary purpose of the national forests—a lot of us seem to have forgotten this—the primary purpose of the national forests, when they were withdrawn from public domain, was simply to ensure a steady supply, a renewable supply, of timber. That is almost seen as a joke today, but that was the concept; the forests were to be conserved, used, and managed to provide a steady supply of timber.

The Wilderness Act, speaking of history, was originally intended to set aside pristine areas, untrammeled areas where mankind was not evident. Now, in our zealous efforts, we seem to be ready to put almost anything into wilderness—roads, structures. Whatever the objective, a wilderness designation is not to preserve pristine areas but to prevent other uses that some organization or group wants to prevent.

So, I hope, as we reflect on history, we do reflect on this dichotomy associated with the traditions of the influence of the Eastern States, which have virtually no public land in those States, which have virtually no wilderness in those States, setting the precedent for the rest of the Nation.

I am going to try to leave us with a little understanding of what this business of public land and wilderness land is all about, reflecting on how some States, like mine, enjoy a significant amount of wilderness. My State of Alaska has 365 million total acres. We are 2½ times the size of the State of Texas. I am glad my friends from Texas are not here to be reminded of that. Out of that 365 million acres, we have 57.4 million acres of wilderness. That is quite a bit of wilderness. We are proud of that wilderness. We take good care of that wilderness. But we think enough is enough.

If you took the State of Arkansas with 33 million acres of wilderness, you add the State of New Jersey with 4.8 million acres, West Virginia with 15 million acres, Vermont with 5 million acres, you come up with about 57 million acres—equal to what is in my State of Alaska. So there are four States. The difference here is we are not talking about wilderness in Arkansas, New Jersey, West Virginia, or Vermont. We are talking about their total acreage. So I do not want to mislead the Presiding Officer when I say Alaska has 57 million acres of wilderness out of 365 million acres. If you take the entire landmass of the State of Arkansas at 33 million, New Jersey 4.8, West Virginia 15, and Vermont 5, you come up with a combined area of 57.8 million acres for those four States. That equates to what is in my State alone as wilderness.

Let us go one step further. Let us look at some of these States and recognize that Arkansas has 33 million acres in its entire State, 120,378 acres in wilderness—not very much. New Jersey has 4.8 million acres in the entire State, 10,341 acres of wilderness.

Let us compare that with Utah. Utah has 52 million acres in the State, 890,858 acres of wilderness, and we are proposing to add 2 million to that, that would be 2.9 million acres of wilderness in the State, 891,000 managed by the Forest Service and 2 million under BLM wilderness.

I think it is important that we reflect on those comparisons. The States in question with large wilderness acreage, outside of the State of Alaska, include Arizona at 4.5 million acres, California at 5.9 million acres, Colorado at 2.6 million acres, Florida at 1.4 million acres, Idaho at 4 million acres, Minnesota at 805,000, Montana at 3.4 million acres, New Mexico at 1.6 million acres, Oregon at a little over 2 million acres, Washington at 4.2 million acres, and Wyoming at 3 million acres. So, by this action we would be creating in Utah wilderness equal to that existing in Wyoming today.

What about some of the other States? Interestingly enough—and I hope my colleagues from Connecticut, Delaware, Iowa, Kansas, Maryland, and Rhode Island are listening, because these six States that have no wilderness. There is no wilderness in Connecticut, no wilderness in Delaware, no wilderness in Iowa, no wilderness in Kansas, no wilderness in Maryland, and no wilderness in Rhode Island.

How do you suppose that came about? It came about, as I indicated in my opening remarks, when those States that have been around a long time—when the Northwest Ordinance philosophy prevailed, back in 1788—acquired their land. That is where it ended. Now these States are saying we do not want any wilderness in our State. We want the wilderness out West.

I think everybody ought to have a little wilderness. I think, before I get out of this body, I am going to propose some legislation that every State have a little wilderness. They can designate where it is. Maybe Sterling Forest should be a wilderness. Perhaps the States of New York and New Jersey could designate this transfer of land into a wilderness. It is going to be used as a watershed. Why not make it a wilderness?

Another curious consideration is, who owns the States? Alabama is 3 percent owned by the Federal Government, Alaska 68 percent owned by the Federal Government; Arizona, 47 percent; Arkansas, 8 percent; California, 44 percent; Colorado, 36; Connecticut, 1 percent; Delaware, 2 percent; District of Columbia, 26 percent. I am surprised it is not higher. Florida, 9 percent; Georgia, 4 percent owned by the Federal Government; Hawaii, 16 percent. You get to Idaho, 62 percent of Idaho's landmass is owned by the Federal Government; Illinois, 3 percent; Indiana, 2; Iowa, 1; Kansas, 1; Kentucky, 4; Louisiana, 3 percent; Maine, 1 percent; Maryland, 3; Massachusetts, 1; Michigan, 13; Minnesota, 10; Mississippi, 4.

These are extraordinary comparisons with the prevalence of Federal ownership being out West. Missouri is 5 percent owned by the Federal Government; Montana, 28; Nebraska, 1; Nevada, 83 percent owned by the Federal Government; New Hampshire, 13; New Jersey, 2 percent; New Mexico, 33; New York, 1—New York 1—North Carolina, 6; North Dakota, 4; Ohio, 1 percent; Oklahoma, 2 percent; Oregon, 52 percent owned by the Federal Government; Pennsylvania, 2 percent; Rhode Island, 1 percent; South Carolina, 5 percent; South Dakota, 6 percent, Tennessee, 4 percent; Texas, the second largest State in the Union, Mr. President, has only 1 percent of its landmass owned by the Federal Government.

Clearly, when they came into the Union, they made certain conditions prevail relative to ownership, and the Federal Government today owns 1 percent of the land mass of Texas, compared with Utah, which is 64 percent; Vermont, 6 percent; Virginia, 6 percent; Washington, 29 percent owned; West Virginia, 7; Wisconsin, 10; Wyoming, 49.

So there you have it, Mr. President, a comparison of the States. Now we look at the merits of adding 2 million acres to Utah wilderness, as recommended by the delegation from Utah and a vast majority of the Utah Legislature, both the house and senate and the Governor.

I think it is also interesting to note that the process that occurred in Utah did not happen by accident. It happened as a result of a number of meetings that were held and the consensus that was developed there over an extended period of time. As the record indicates, some $10 million was spent reaching the point we are at today, evaluating just what would be appropriate for the State of Utah; 15 years went into that study; 16,000 written comments were processed; 75 formal public hearings were held. This was a process that was open to the public throughout the United States, professionals were hired to make the recommendation of 1.9 million, and today we have a proposal of 2 million acres in the Utah wilderness.

As I indicated to my friend from New Jersey this morning, the matter of Sterling Forest is also somewhat contentious, as evidenced by the consideration of some of the specifics, which I will share with my colleagues. But nevertheless, I support the Senator from New Jersey in his efforts, because I believe he has to answer to his constituents, and I believe it is fair to say that both the Senators from New Jersey support the Sterling Forest. I respect that process. But I think the Record should note who owns the Sterling Forest.

Sterling Forest is currently owned by the Swiss Insurance Group of Zurich. They signed a purchase agreement with the Swiss company for the property in June 1995. What is it valued at? I am told it is valued somewhere between $55 and $65 million. How much would it cost if we were to buy it? The request in the legislation of the Senator from New Jersey is for Federal participation of about $17.5 million. This will be the Federal figure regardless of the total purchase price. The balance of the purchase price is going to be paid by the States of New York and New Jersey and the private sector. I understand about 2,400 acres of Sterling Forest rests in New Jersey. The balance is in New York.

There are those who might think Sterling Forest is just that, an ancient growth forest, but Sterling Forest has been logged. What you have there today is second growth. Hardwood logging has taken place. I thought I would ask the question, When was it last logged? The answer was, it is currently being logged, Mr. President, by the Sterling Forest Corp., a subsidiary of the Swiss Insurance Group of Zurich.

If the Sterling Forest is acquired, of course, logging is not continued, and that is really the business of the delegation from New Jersey. The primary reason for purchasing Sterling Forest, as I understand, appreciate and support, is to protect the watershed. Hunting would be allowed.

So if anybody wants further information with regard to the situation in Sterling Forest, why, I am sure the Senator from New Jersey will be happy to provide it. If not, we have the address and phone number of the Zurich Reinsurance Center in New York, the principals to contact.

I do not put this out as a criticism; I simply put it out as a reality that here we have an acquisition taking place in the best interest of clearly the State of New York and the State of New Jersey. There are about 30 square miles, 19,200 acres are in New York and about 2,400, as I have mentioned, in New Jersey.

It is also my understanding that what we are purchasing here are certain easements owned and managed by the U.S. Park Service that are in the Appalachian trail area but that triggers, if you will, a process whereby New York and New Jersey will come up with the additional funding, and that would be somewhere in the area of $40 or $45 million to acquire the land.

It is also interesting to note Sterling Forest has roads through it and other access, so it is pretty hard to suggest, perhaps, that it be made a wilderness. Nevertheless, I think it is important that as this watershed is addressed, relative to its use as a watershed, that as much of the wilderness characteristics as possible be retained for the benefit of the citizens of New York, as well as the citizens of New Jersey.

A lot of people do not really appreciate what 1 million acres equates to in size. We are talking about adding 2 million acres of wilderness in Utah. One million acres is equal to the size of the State of Delaware. If we are talking about 2 million acres, we are looking at three times the size of the State of Rhode Island. Two million acres is about half the size of the State of New Jersey, so it is a big chunk of real estate. Unless you have some idea of acreage or the vastness of wilderness, you have no idea as to the significance of what that large a piece of real estate is.

As I indicated in my remarks, for those who come from States that have little or virtually no wilderness or States with little, if any, Federal ownership of their land, it is difficult for those Members to have an appreciation of what it means to designate an additional area the size of 2 million acres. While many of us support adding 2 million acres to wilderness, that is not enough for the advocates here who want 5 to 6 million acres of wilderness.

They do not seem to care about the ability of the State of Utah to support its schools, support its economy. All they see is a vision out there that tells them somehow this is not enough. As I have indicated, Mr. President, as you look at the comparisons, what is enough? What is reasonable? What is balanced? The people of Utah, in their own good judgment, after $10 million and 15 years, have indicated, 1.9 million acres. The legislation proposes 2 million acres.

Mr. President, as we look at the history of Western public lands, little is said about the economy of the region. What happens to the jobs? We cannot all be employed by the Federal Government. Who pays the taxes? We have resources in the West that have fueled the economy of this Nation for a long time.

Where we are lax, Mr. President, is in not recognizing that science and technology has given us the opportunity to develop our resources better, more efficiently, with more compatibility with the environment, the ecology. As we address new and better ways to develop those resources, we seem reluctant to go back and review those of our laws that protect these areas. We did not update our environmental laws. We did not seem eager to look at cost-benefit risk analysis to determine, indeed, if it is practical to develop one resource or another.

So what we have here, Mr. President, is a fast-developing technology. The minute you attempt to look at more efficient ways of cutting timber, of mining, grazing, oil and gas development, it is suggested that you are irresponsibly unwinding the advancements that have been made in the environment.

Mr. President, the water is cleaner, the air is cleaner, we can do a better job. But we still need to maintain a balance. That balance dictates a healthy economy. Only with a healthy economy can we meet our environmental obligations.

So, when I see my good friend, who I know is very dedicated and believes diligently in his point of view, become a self-anointed savior of the West, I have to ask, who is he saving the West from? From other westerners? Or is it really the elitist group, the big business?

Let me refer to the charts back here just very briefly with the realization that these well-meaning groups somehow get a little overly ambitious, in the opinion of the Senator from Alaska—let us recognize them for what they are. They are big businesses, just like a lot of other big businesses. As I indicated earlier, the environmental organization incomes, the 12 major organizations in this country have assets of $1.2 billion. They have fund balances—that means immediate access to cash—of $1.03 billion. There you have it. The revenues, $633 million; their expenses, $556 million; their assets $1.2 billion —the fund balances at $1 billion.

There is nothing wrong with that, but let us keep it in perspective. They have to have a cause. They resolve one issue and they move on to the next so they can generate membership, generate dollars. Let us be honest. They accomplish a lot. But there has to be a balance. That is what is lacking, because if they had their way, the extreme would prevail.

They pay, as big business does, compensation. Several of the individuals who represent these organizations—the National Wildlife Federation, the World Wildlife Fund, the Environmental Defense Fund, the National Parks and Conservation Association—they pay their chief executive officers more than the President of the United States makes. That is neither here nor there, but it points out my contention that it is simply big business. It is just a different type of business. It is worthwhile business, just as are job-developing business is in mining, oil and gas, timber, and grazing.

Some of these people are extremists, though, Mr. President. They have to have a cause. The cause here is not wilderness, because 2 million acres of wilderness has been offered. It is more wilderness. It is 5 or 6 million acres of wilderness.

Where is the balance? They are generating dollars and membership, using scare tactics that suggest that the people of Utah are irresponsible, that they will go out and haphazardly develop their land or overdevelop it, overgraze it, overmine it. That will not happen, Mr. President. It will not happen in any State of the Union. But those are the scare tactics that they use. They say, "We must save the West from itself."

There have been abuses in the West, just like there have in the East, but I defy the membership of these organizations to take a look at the east coast. Go up in the train. Look at the aging of America. Take the train from Washington and look through New Jersey, look through Delaware, look out the window, look at New York, go on to Boston. Just look at the mess that you see in the backyards of America.

Where is the energy of these organizations to correct that? It is not there. They want to move out to an area where most people cannot visit, cannot see for themselves, see what the people in these Western States are responsible for. They are doing a good job. They are sensitive. No, they do not want to start near home. They seem to have no concern about the economy, the jobs, the taxes. I find that perplexing, Mr. President. They want to get on their white charger and save the world, but they will not start right in their own backyard.

What we are looking at, Mr. President, is trying to balance this process. As I said, there is nothing wrong with Sterling Forest. I support it. I support the process that is underway here as far as reaching a compromise.

But we have to recognize reality, Mr. President. We have a trade deficit in this country. Over half of it is the price of imported oil. We have the reserves in this country. We have substantial reserves in my State. We have the technology to do it safely. But the environmental elitists need a cause. They say, "No, you can't do it. You don't have the science. You don't have the technology." So what we are doing is importing it. Fifty-four percent of our oil is imported now. We are bringing it in in foreign tankers.

If you ever have an accident, good luck in trying to find a deep pocket like occurred with the *Exxon Valdez* where you had responsible parties. While the ship was operated irresponsibly, at least the deep pocket was there.

Where are the payrolls going to come from? Are we going to ship our dollars overseas? The interesting thing, Mr. President, is that other countries are not quite so sensitive as ours. Their logging practices, their mining practices do not have the same sensitivity.

So are we not hastening, if you will, by being hellbent to reduce our own resource development the onset of the very problems that we are trying to avoid. Recognizing that we have the science and technology and experience to offset the imports from countries who allow exploitation without responsible resource development technology, without a response to renewable resources? So, are we really accomplishing a meaningful compromise? In many cases, I think not. We have many issues relative to development, private land issues, endangered species, wetland, Superfund.

We talk about cost-benefit risk analysis, the need to review our environmental laws as we look at new technological advances, to better protect our renewable resources. How do we get to a balance, Mr. President? I think we have that balance today in the proposal of 2 million acres of wilderness in the State of Utah.

As we wind up this debate, as least probably for today, I urge my colleagues from the following States to recognize the reality of where we are in this legislation. If this package does not stay together, Colorado, Michigan, Pennsylvania, Utah, Idaho, Arizona, West Virginia, Hawaii, New York, Massachusetts, Kentucky, Virginia, Tennessee, and California will be affected because there are titles for public lands and changes in those States, as well as Georgia, Louisiana, Mississippi, Idaho, Wyoming, Ohio, my State of Alaska, New Mexico—some 56 titles or changes, Mr. President, a pretty significant number.

Now, the Senator from New Jersey said in a dear colleague letter that he had joined with 17 of his colleagues. There are many provisions important to our respective States within this omnibus park legislation. Well, we have plenty of them, Mr. President. As I said earlier today, the majority of these bills were placed on the calendar of the Senate April 7, 1995—almost a year ago. The Senator from New Jersey could have let these environmental bills make their way to the House and go on to the President months ago. Unfortunately, he chose not to do so. Mr. President, the direct result of these actions is this package. The Senator from New Jersey, by his own actions, is in reality the ghost writer of this bill that we are considering today.

As I said earlier, I accommodated the Senator from New Jersey on Sterling Forest because I think it is in the best interest of his State and his constituents. Unfortunately, the Senator from New Jersey and others do not seem to extend the same degree of confidence and respect to the citizens of Utah. I guess that is where we part.

Now, if this bill stays together, Americans are going to get 2 million acres of new wilderness. There is nothing in this legislation that will prevent another Congress, another day, from adding additional wilderness lands in Utah or my State of Alaska. The will of Congress prevails.

The reality is this cannot go piecemeal. One bill cannot go without the other. I guess, to quote the three musketeers, one for all and all for one, or none. I urge my colleagues to support this package as it has been presented, because an awful lot of hard work and an awful lot of benefits to an awful lot of States is at jeopardy here. To suggest it is irresponsible and to threaten the State of Utah because this legislation does not propose enough wilderness, in the opinion of the Senator from Alaska is not only unrealistic and impractical, it is simply absurd.

Mr. President, I encourage my colleagues to recognize while we have had an extended debate here about a lot of titles that are covered under the bill, the success or failure of this bill is related tremendously to the Utah wilderness. I implore my colleagues who have titles and interest in this bill to recognize that this does represent a compromise, a 2-million acre compromise. As we have seen, the intensive lobbying by a relatively small segment of motivated extremists who say 2 million acres is not enough, does not represent the prevailing attitude in Utah by a long shot, nor the prevailing attitude in the West by a long shot. It represents, perhaps some of the elitist Eastern States who simply have their land and do not have a dog in this fight.

This is far too important, Mr. President, to let slide for another Congress—15 years, $10 million expended. We have a solid recommendation and a solid base of support.

Mr. President, as we look forward to another day on this matter, we have attempted to accommodate each State that had an interest in public lands legislation. Now we are down to the point of determining whether or not those Members who have an interest will stick together to keep this legislation in its package form. I have been assured that it will pass in the House if it is kept that way. If it is broken up, if Utah wilderness is stricken from the body, the legislation and the packages as we know it today will fail.

I urge my colleagues, in conclusion, to reflect on the significance of that reality.

CLOTURE MOTION

Mr. MURKOWSKI. Mr. President, I think it is appropriate now, I send a cloture motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Murkowski substitute amendment to Calendar No. 300, H.R. 1296, providing for the administration of certain Presidio properties at minimal cost to the Federal taxpayer:

Bob Dole, Frank H. Murkowski, Rick Santorum, Slade Gorton, Trent Lott, Jim Inhofe, Hank Brown, Ted Stevens, Ben Nighthorse Campbell, Conrad Burns, Don Nickles, Larry E. Craig, Jim Jeffords, Judd Gregg, R.F. Bennett, Orrin G. Hatch.

Mr. MURKOWSKI. For the information of all Senators, under the provisions of rule XXII, this cloture vote will occur at Wednesday at a time to be determined by the two leaders, according to rule XXII—whichever.

I believe the Chair understands that.

The PRESIDING OFFICER. The chair understands that the provisions under rule XXII will prevail.

Mr. MURKOWSKI. I see no other Senator wishing to be recognized.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair wishes to advise all Members who use time to expedite the debate. In the event Members are not here to debate the issue, we will proceed to the question.

The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as if in morning business for 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

THE VOID IN MORAL LEADERSHIP—PART III

Mr. GRASSLEY. Mr. President, President Clinton has once again failed to demonstrate leadership to the American people in the budget crisis.

The newspaper stories last week, reporting on the President's budget submission, missed the point. Like a straight man, the media dutifully reported on the budget using the standard White House spin—and with a straight face.

They reported that the budget would balance by 2002, just as the White House claims. Instead, they should have challenged its integrity. The balance part is all smoke and mirrors. Underneath, it is a brandnew box of steroids for big Government.

The media should have cried, "Stop the presses. Extra, extra, the era of big Government has returned. You see, the President pronounced in his State of the Union Address that the era of big Government is over.

That was 2 months ago. In other words, 2 short months after big Government was pronounced dead, it has miraculously resurrected.

Just look at this budget, Mr. President. Not a single government program terminated. They are all worthwhile—every last one of them, according to the President. Meanwhile, the Federal debt rises from $4.9 to $6.5 trillion in 6 years. Spending rises from $1.6 to $1.9 trillion.

How is it that the era of big Government can be pronounced over with this kind of a budget?

We have all heard the saying, "Put your money where your mouth is." We have also all heard the quote of former Attorney General John Mitchell: "You will be better advised to watch what we do instead of what we say." The budget is the fundamental statement of policy of any administration. In it, an administration puts its money where its mouth is. Except this administration. Its mouth is in shrinking Government; but, its money is in big Government.

With a discrepancy like this, which do we believe? The money or the mouth? Most insiders in this town, like John Mitchell did, know the answer. They know you will be better advised to watch what we do instead of what we say. I would submit, Mr. President, that that is why the presses did not stop when the President submitted his budget. The return of big Government was not big news.

The media must have been pretty skeptical 2 months ago of the President's pronouncement of the end of big government. They did not fall for the old soft shoe routine. They know well enough that, in this town, you watch what we do, not what we say. I have to hand it to fourth estate. They really know politicians.

Of course, they did have some clues about what to expect from the President. On June 4, 1992, Candidate Clinton told the country he would end deficit spending as we know it. He said "I would present a 5-year plan to balance the budget." Since then, he submitted three no-year balanced budgets. Each one had rising deficits as far as the eye could see, usually around the figure of $200 billion.

Even this budget—balanced in name only—will never balance in the real world. It lacks the integrity of true deficit reduction decisionmaking. It is the mañana budget. It puts everything off until mañana. A chimpanzee, banging away at a typewriter, would type out the entire Encyclopedia Britannica before the Clinton budget balances.

There are other clues of the old soft shoe routine. In September 1992, the President wrote, in "Putting People First," the following:

> Middle class taxpayers will have a choice between a children's tax credit or a significant reduction in their income tax rate.

Yet, he just vetoed a children's tax credit. He did not even propose one until Republicans took control of the Congress.

Instead, he increased taxes more than any other President in the history of the Nation. He raised taxes too much. But do not take my word for it. Here is what the President himself said. At a fundraiser in Houston on October 17, 1995, Mr. Clinton said,

> Probably there are people in this room still mad at me at that budget because you think I raised your taxes too much. It might surprise you that I think I raised them too much, too.

Mr. President, saying one thing and doing the opposite undermines one's moral authority to lead. That is the case with this President. There is a void in moral leadership in this White House. A good example for the Nation cannot be set when the President—any President—says one thing and does the opposite so consistently.

It is significant that such leadership has fallen to Congress which, as a body, is generally unsuited for moral leadership. Usually, it is the individual of the President who can hear the discordant voices of the Congress and the country, and unite them into harmony, into a single melody.

But in the absence of moral leadership in this White House, it was Congress—this Congress—that passed a balanced budget. The first balanced budget to be passed by any Congress in 27 years.

It was Congress that passed a children's tax credit. It was Congress that passed welfare reform. It was Congress that passed Medicare and Medicaid reform. It was Congress that passed a budget to end the era of big Government. These are all the items that the President pledged to do, but he did not do them. We did them.

Yet, what did he do in reality? He vetoed them. Balanced budget? Vetoed. Welfare reform? Vetoed. Medicare reform? Vetoed. Medicaid reform? Vetoed. Children's tax credits? Vetoed. This is the "Veto President." His policy is "Just Say No." This is the "Do-Nothing Presidency." The reason is simple—there is no moral leadership coming from the White House.

Some of us have tried to work with the President. I have found that, when he does what he says, we can work together. An example of that is the President's national service program, AmeriCorps. I have been warning the administration for 2 years that AmeriCorps needed to be reinvented. Arrogance appeared to be in the way. For 2 years, the administration resisted the obvious need for reform.

But any program that pays close to $30,000 for a volunteer is in bad need of reinvention. AmeriCorps was giving boondoggles at the Pentagon a run for their money.

Under the new leadership of Harris Wofford—a former colleague of ours in the Senate—AmeriCorps is finally being reinvented. Two weeks ago, we held a joint press conference to announce the reinvention, and I pledged my support for their budget this year. We have heard lots about reinventing Government from this administration. They have done some good things. But they are just tinkering around the edges.

The Balanced Budget Act, passed last fall by this Congress, was a blueprint to reinvent the whole Federal Government. It did not have to be done our way. We would have worked with the White House on an alternative. But the White House refused to work for a real, credible balanced budget. There was a battle royale in the White House over the mind and soul of the President. The budget wonks lost out to the political operators.

The politicos argued that doing nothing would allow them to fund their special interests and maintain their voting base. Forget what is good for the country. They simply put reelection over reform. So the President followed the advice of the political operatives. The bloated ship of state steams along, on a rising tide of debt. Special interests are at the helm.

One of our colleagues in this body, Mr. President, understood this leadership problem in the White House last year. On October 21 of last year, he is quoted in the New York Times saying of President Clinton,

> What troubles me is that after three years as president, he doesn't appear to know where he wants to lead America.

That quote is from a member of our President's own party, Mr. President. It is a quote from Senator BOB KERREY of Nebraska. I agree with him.

Even more to the point is the inability of the President to lead. And every time says one thing and does the opposite, he further erodes it.

It should have come as no surprise that politics would win out over fiscal sanity with this administration. Many of us had hoped a balanced budget was possible. We could have saved ourselves the trouble if we were not quite so optimistic. We should have done what the fourth estate did. We should have watched the President's actions, not his words.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

MORNING BUSINESS

Mr. GRAMS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Minnesota has the floor.

Mr. GRAMS. Mr. President, I thank you very much. On the heels of that request, I also ask unanimous consent I be allowed to speak in morning business for up to 20 minutes to give two statements for the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

FARM BILL CONFERENCE REPORT

Mr. GRAMS. Mr. President, as farmers in Minnesota and across the Nation enter this year's planting season, I rise today in support of the farm bill conference report Congress will consider later this week.

In the coming days, the Senate and the House, and ultimately the President, will have to make a choice: we will either revolutionize Federal agriculture policies as outlined in this conference report, or we will continue the failed, Washington-knows-best policies of the past 60 years. But that choice should be very clear, Mr. President.

After considerable delay, this much-needed legislation will give our agriculture communities a reasonable and responsible policy roadmap for the future.

In the short term, decisions about planting, equipment purchases, fertilizer and seed sales, and credit will no longer hang in the balance. In the long term, farmers will have less Government interference from Washington, giving them the flexibility to plant for what the marketplace demands—not what traditional Government crop payments have dictated.

I am also proud to note that this legislation is comprehensive and balanced when it comes to protecting our environmentally sensitive lands.

Foremost among these environmental provisions is the Conservation Reserve Program, more commonly known as the CRP. I have heard from many of my Minnesota constituents, including farmers and sportsmen and women, who are pleased to see that the CRP and Wetlands Reserve Program were recognized, maintained, and strengthened because of their high success rates. In Minnesota, these programs will further protect our highly erodible lands while expanding hunting and fishing opportunities.

Mr. President, overall this bill offers tremendous benefits to Minnesota's agriculture community, which already ranks among the Nation's most productive in many of the traditional raw and processed commodities.

For individual Minnesota farmers, this legislation will help meet the needs of the growing number of value-added cooperatives and their customers who benefit from products such as ethanol. This in turn will help Minnesota's rural communities, which depend on high-output agriculture and value-added products for a large portion of income and jobs.

Farmers and others dedicated to protecting the environment will not be the only individuals helped by this legislation. The American taxpayers will also benefit from the $2 billion in total budget savings that will go toward balancing the Federal budget.

No longer will this portion of the agricultural budget serve as a potential runaway entitlement, as we saw happen after the 1985 farm bill. Instead, taxpayers and farmers will now know well in advance the specific amount of Federal dollars involved in food production.

But while I enthusiastically support much of this bill because it works on behalf of both Minnesota's farm community and the American taxpayers, I must raise my strong concerns about its potential harm to Minnesota's dairy industry.

For years, dairy producers and processors in the Upper Midwest have struggled against the harmful impact of the archaic Federal milk marketing order scheme. This complex set of regulations has played a key role in the loss of over 10,000 dairy farms in Minnesota over the last decade—an average of nearly three farms every day.

I am pleased to see that this legislation pays some attention to reform of those archaic Federal dairy policies, specifically with the proposed consolidation of milk marketing orders and the elimination of costly budget assessments on producers. However, I must state for the record that continuation of milk marketing orders makes little sense, particularly when most other commodities in the bill are subject to declining Federal payments over a 7-year period.

Continuing the milk marketing orders is disappointing, but the bill's inclusion of the Northeast Dairy Compact provokes even greater concern among the members of Minnesota's dairy industry.

It should trouble my colleagues and their respective dairy industries when Congress authorizes more regulatory burdens and interstate trade barriers.

Unfortunately, that is exactly what happened during conference negotiations on the farm bill with the mysterious resurrection of the Northeast Dairy Compact.

Mr. President, many of my colleagues rightly thought the compact idea to be effectively defeated after we voted 50 to 46 to strike it out of the Senate's farm bill.

However, despite the clear message sent by the Senate, the compact has reappeared in the conference report.

Many of the compact's supporters will say that this is a compromise. After all, the Secretary of Agriculture will now have to decide whether to allow the New England States to create a compact.

If authorized by the Secretary, the compact would only exist until the implementation of milk marketing orders takes place, which is 3 years from now.

Perhaps they are right. But we are still creating a bad precedent by making it easier for any region to set up its own monopoly. The Senate previously voted against the compact because it would ultimately result in a proliferation of antitrade barriers between the States and regions. At a time when we are trying to open up global markets for our Nation's farmers, it makes no sense to encourage protectionism within our own borders. Yet, that is exactly what the dairy compact would do.

In response to the compact, other regions will work to get similar regional monopolies enacted. For far too long, regional politics have made many farm programs the way they are today—archaic, unfair, unwise, and unworkable.

The purpose of this farm bill is to remove Government interference in the agricultural decisionmaking process and reduce the regional conflicts that have plagued our farm policy for years.

Creation of the Northeast Dairy Compact would accomplish just the opposite—it would expand the role of government across America at the expense of free-trade opportunities.

I will not stand for that and neither should any other Senator who voted against the compact last month. I urge my colleagues to join me in standing up for small dairy farmers across the country by cosponsoring a bill which I am introducing today to repeal the Northeast Dairy Compact.

Instead of compromising on free-market principles and retreating into the past, my bill will move America's dairy industry forward.

Mr. President, let me conclude by saying that the farm bill before us is obviously not a perfect piece of legislation. It does indeed have weaknesses, but I believe those weaknesses are outweighed by those provisions which move us in a more market-oriented direction.

For this reason, I urge my colleagues to support the conference report on behalf of rural America, and on behalf of the taxpayers.

THE DEPARTMENT OF ENERGY AND THE PRESIDENT'S BUDGET

Mr. GRAMS. Mr. President, they are going to be handing out the Oscars tonight in Hollywood, honoring the film industry's best efforts at creating fantasy and make-believe. Well, we create a lot of that in Washington, too, and if it were a movie, the latest Clinton budget would be taking home the award for "Best Special Effects."

After all, it is a document that makes the impossible appear possible. It disguises reality with the smoke and mirrors that are staples of any good special effects team.

It is such a creative effort, in fact, that you have to wonder whether Steven Spielberg and George Lucas somehow had a hand in it.

Yes, the President's budget would be right at home amongst the glitzy phoniness of Tinseltown. And at a cost to the taxpayers of more than $1.6 billion this year, it is a big-budget production that makes the $175 million lavished on "Waterworld" look like a drop in a water bucket.

But like any movie, the more often you see it, the more you start noticing the special effects and the more time you spend trying to figure out how they did. And suddenly it is not all so magical anymore.

Unfortunately for President Clinton, the American taxpayers have had almost a week to study his proposed budget for fiscal year 1997, and I think they have begun to figure it out.

After eight earlier tries by the President over the last 13 months, the taxpayers were hoping this budget would reflect the changes they called for in 1994: They want a workable balanced budget, real tax relief for middle-class Americans, an end to welfare as we know it, and the reforms needed to save entitlement programs from bankruptcy.

But after carefully reviewing the President's recommendations, I have to report that this budget does not deliver. In fact, as hard as it is to believe, President Clinton's budget takes the status quo and makes it even worse.

He requests over $61 billion more in nonentitlement spending than he proposed in his own minibudget last month. He pays for that increased spending by raising taxes and fees by more than $60 billion. Furthermore, he delays nearly 60 percent of his promised spending reductions until the last 2 years of his plan, making this a paper budget only, with no hope of ever being implemented.

By perpetuating bigger government, more spending, and higher taxes, this document is an affront to the American taxpayers.

One area of this budget I find particularly frustrating is the funding for the Cabinet-level Department of Energy. If we have indeed entered a time in which "the era of Big Government is over," as President Clinton proclaimed in his State of the Union Address, there should be no place in the budget for this $16 billion relic.

At a time when taxpayers are demanding that Congress be accountable for each and every dollar we spend, Secretary O'Leary and the President have submitted a budget plan that ensures the continuation of DOE's bloated bureaucracy at the expense of responsible, accountable Government.

Perhaps they believe that spending enormous amounts of tax dollars on DOE will mask the fact that the Energy Department no longer has an energy mission of its own. Since the oil crisis that led to its creation in the 1970's evaporated, DOE has expended its resources in a perpetual attempt to expand its reach and justify its existence. Today, in fact, 85 percent of DOE's annual budget is spent on activities entirely unrelated to national energy policy.

That trend would continue under the President's budget, beginning with the administration's proposal to increase DOE's overhead costs by more than 38 percent next year. At the same time, DOE is boasting of personnel decreases of nearly 20 percent. But if you examine the budget carefully, looking beyond the summary pages delivered to Congress which list nearly 19,000 full-time personnel, the actual decrease is only about 6 percent from this year.

Of course, those 19,000 individuals represent just full-time workers. DOE employs another 150,000 contract employees at its labs and cleanup sites across the country.

If you are looking for a more in-depth breakdown of Energy Department personnel, you will not find it within the pages of the President's budget. The agency does not even rate an individual listing in the historical tables for the executive branch—instead, it's lumped into the "other" category. One can only assume that the White House doesn't want the taxpayers to realize just how large the DOE bureaucracy really is.

There are numerous other examples of how this latest budget symbolizes the wasteful spending that has plagued DOE throughout its search to re-invent itself.

DOE's research, which includes the development of alternative sources of energy such as solar power, has cost the taxpayers more than $70 billion since the agency's creation in 1977.

But during testimony before Congress last year, Jerry Taylor of the Cato Institute said:

> Virtually all economists who have looked at those programs agree that federal energy R&D investments have proven to be a spectacular failure.

The taxpayers have financed a great deal of pork with their $70 billion investment, but few meaningful scientific breakthroughs. That reckless spending on renewable energy sources is slated to continue. For example, by DOE's own accounts, the fiscal year 1997 request includes an increase of 157 percent in subsidies to the solar building technology industry. Contrary to what this administration would have us believe, however, the solar industry is already competitive, and as a former solar-home builder myself, I can tell you that such an overwhelming increase in a single year is not necessary.

The Department of Energy has proven to be more of a hindrance than a help in making technologies self-sustaining and independent of taxpayer assistance. It is time for the Federal Government to get out of the business of directing market forces in the renewable area.

Rather than spending billions of taxpayer dollars to promote particular industries within the private sector, DOE should be funding basic research which actually breaks our growing dependence upon foreign oil. Minnesotans recognize that conservation and renewables alone will not heat a home in the winter—it is time this administration owns up to that fact as well.

The President is also requesting $651 million—a 9-percent increase over 1996—to fund DOE's nondefense environmental management programs. It is all part of the agency's environmental and nuclear waste cleanup efforts. Yet the budget increase comes on the heels of a report issued just last month by the National Research Council which criticized DOE's waste disposal program as being too bureaucratic with too many layers.

Beyond the bloated bureaucracy and questionable spending, the President's budget plan reflects policies which are inconsistent with current law, pending legislation, or at times, even common sense.

For example, the President proposes to delay until 2002 the sale of the Naval Petroleum Reserve oil located at Elk Hills. This is in direct contradiction to legislation enacted last year as part of the President's fiscal year 1996 budget which called for the sale to take place this year. In an effort to continue to milk the NPR for money to pay for additional DOE spending, this administration is rejecting current law, ignoring the fact that there is gross mismanagement at the facility.

And what about the back-loaded savings from the sale of the United States Enrichment Corporation? Under the President's budget, a portion of the proceeds were shifted to 2002. Obviously, he was not watching floor consideration of the most recent omnibus spending bill when this body used those same proceeds to pay for the additional education funding President Clinton demanded. Again, they are trying to spend the same dollars once, twice, three, four, five times.

Then there are the policies which defy common sense. We have all heard about the environmental hazards resulting from leaking oil at the Weeks Island facility. The Energy Department is currently removing over 70 million barrels from there and transferring them to other strategic petroleum reserve facilities —only to be sold in 2002. But again, a portion of the proceeds from the sale have already been spent, targeted to offset the additional spending requested by the President in the omnibus appropriations bill. Again, trying to spend the same dollars more than once, it is smoke and mirrors, trying to balance the budget at the taxpayer's expense.

Furthermore, why does DOE not prioritize the Weeks Island reserve for immediate sale, rather than moving it to another facility, storing it, and then selling it? If the Secretary of Energy believes we will not need this oil in 2002, I am certain we don't need it now.

Mr. President, under this budget, the potential for even further abuses would continue, because it does nothing to rein in DOE's ever-present search for something to do, someplace to spend the taxpayers' hard-earned dollars. There would be nothing to stop the extravagant, taxpayer-funded foreign excursions, or the use of tax dollars to investigate reporters and their stories, or the other wasteful spending that has become all too common at the Energy Department.

The Department would be left to operate mostly as it has in the past—free to pursue its own supposed manifest destiny through expansion, reinvention, and constantly redefining its missions. That kind of freedom has allowed DOE's budget to grow 235 percent since 1977, even in the absence of another energy crisis like the one that led to its creation.

At a time when the people are demanding a balanced budget and justification for every dollar spent by the Federal Government, can any of us in good conscience claim that business as usual at the Department of Energy is how the taxpayers ought to be served?

Mr. President, in presenting its budget to Congress, DOE's chief financial officer testified last week that the document demonstrates a new commitment to streamlining its operations. "More than ever," he said, "American citizens are holding us accountable for superior results with increasingly limited resources. The Department of Energy is meeting these expectations. We are improving our process efficiency and effectiveness."

Mr. President, whether or not DOE is meeting these expectations is a question clearly open to debate. I believe they are falling short, way short. And I am afraid that improving process efficiency and effectiveness will not ensure accountability or solve the fundamental problems that rack the Department of Energy.

President Clinton's budget feeds DOE's problems through more spending. But when will the big spenders here realize that the time-honored Washington tradition of throwing money at a problem does not make the problem go away—that it only perpetuates the status quo and aggravates the damage?

Mr. President, I believe the solution lies in less spending and ultimately, elimination of the Department of Energy. Without a specific and defined mission to guide it, the agency will remain a taxpayers boondoggle for years to come, a burden the taxpayers are no longer willing to bear.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SITUATION IN BURUNDI

Mr. PELL. Mr. President, I bring to the attention of my colleagues Burundi, a small Central African country. There are 6 million people who live in Burundi. Each week, a civil insurgency tightens its grip on this poor African nation, causing the deaths of hundreds of people. The killing frenzy in Burundi has barely touched international headlines, as it has been dwarfed by the calamities striking Israel and Bosnia. But consider the situation if it were to occur in the United States. The United States has a population of about 260 million. Sliding the scale to the figures of the United States, we would see 30,000 Americans dying a week; 1,560,000 a year. Burundi, my colleagues, is on the brink of national suicide.

The hostilities in Burundi are between the Tutsi-controlled army and Hutu rebels. The current turmoil is the fallout of the explosion of tensions between Tutsi's and Hutu's in 1993. That year, the country's first popularly elected President, a Hutu, was assassinated. In the chaotic aftermath of his death, tens of thousands of Burundians were killed, hundreds of thousands were displaced. Today, Burundi is ruled by a coalition of moderate Hutus and Tutsis who agreed to share power through the mediation of U.N. Secretary General's former special representative, Ambassador Ahmedou Abdallah. The moderates who lead this Government have tried to contain the violence. Their efforts, however, continue to be threatened by extremists on both sides.

A breakdown in Burundi could have catastrophic effects in the country, the region, and in the international community. The world witnessed at great length the tragedy that wrecked Rwanda 2 years ago. Rwanda shares the ethnic makeup of Burundi and is just barely coming to grips with the horror it endured. A collapse in Burundi could crack the fragile peace now established in Rwanda and even worse, could trigger a regional genocide. The international community cannot afford to sit back and watch another egregious slaughter.

The international community, with leadership from the United States, can help. First, we should support last Saturday's meeting of African leaders in Tunis. This meeting was brokered by former President Jimmy Carter. Second, there must be diplomatic efforts to persuade the extremists on both sides that violence is not a credible option. If violence resumes, the United States, in conjunction with its European allies, should be prepared to impose an arms embargo, block international financial transactions by Burundi's extremists and stop all trade with Burundi with the exception of humanitarian relief. And third, we, the Congress, should stand behind the State Department, the U.S. Agency for International Development, and private American voluntary and relief projects whose programs promote peace and national reconciliation.

Burundi represents a great opportunity for the world community to exercise preventative diplomacy. The United States should do its share of constructive engagement and assist in heading off a regional genocide before it is too late.

TRIBUTE TO DIANE KASEMAN

Mr. HEFLIN. Mr. President, I am proud to pay tribute today to a dear friend to me and my wife, Elizabeth Ann, Diane Kaseman. Diane is a longtime employee of the Senate Service Department, where her friendliness, dedication, and charming personality have become familiar to many Members of this body and our staffs. Unfortunately for us, she will be retiring from her position in the Service Department after an incredible 43 years of service to the U.S. Congress.

Diane Kaseman is one of those individuals who takes extreme pride in her work and who truly loves the Senate as an institution. She and her loyal canine pets have become welcome sights to the many hundreds of staff members who routinely seek assistance from the Service Department. She never fails to express genuine concern when one of us, our spouses, or our staff members is under the weather. Her kind words and thoughtful notes never fail to improve our spirits.

Diane is a Rochester, NY native, and began her Capitol Hill career as a receptionist for the late Congressman and Senator Kenneth Keating of New York. She began work on March 27, 1953. Eventually, she moved over to the Senate, where she served on the staff of former Kentucky Senator John Sherman Cooper. Since then, she has served under 11 Senate Sergeants-at-Arms, working with the service and computer facilities.

Not surprisingly, Diane has devoted much of her time over the years to volunteer and community service activities. Early on in her career, she helped establish the Senate Staff Club. Since its founding in 1954, it has sponsored a wide variety of social, civic, and philanthropic projects. She served as the organization's first treasurer. Today, it has over 3,000 members.

One of the Staff Club's major activities has been its blood donor drives, begun in 1978. Diane has been a driving force behind this campaign and has dedicated many hours of hard work and energy to see that the Senate meets its goals. My wife has worked with Diane on many of these blood drives.

In 1981, she received the Sid Yudain Award, which recognized "her dedication to the well-being of her coworkers and for the generous expenditure of her time, talent, and personal resources in the service of the congressional community." These few words are perhaps the best that can be offered to summarize her outstanding career and selfless service.

Diane Kaseman is truly a Senate institution who will be sorely missed after she leaves the Senate at the end of this month. I join my colleagues in thanking her, commending her, and wishing her all the best as she embarks upon a well-earned retirement.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, March 22, 1996, the Federal debt stood at $5,062,405,341,134.69.

On a per capita basis, every man, woman, and child in America owes $19,139.65 as his or her share of that debt.

EVENTS IN ASIA

Mr. THOMAS. Mr. President, I rise today as the chairman of the Subcommittee on East Asian and Pacific Affairs to briefly address two events which transpired in Asia over the weekend, one which bodes well for the continued growth and vitality of democracy in Asia and one which, unfortunately, does not.

First, as I'm sure my colleagues are by now aware, despite unprecedented military threats and vituperative media pressure from the People's Republic of China, the people of Taiwan have elected Lee Teng-hui as their President. The election, aside from its practical result, was important for several reasons. First, for the first time in its almost 5,000 year history, China —or, more precisely, a portion thereof—has elected its paramount leader in a free, fair, and open democratic election. With the election, the ideals of human rights and representative democracy—which some in Asia, especially authoritarian regimes, have argued are peculiarly Western inventions with little or no applicability in their region—have taken a dramatic step toward universality.

Second, Taiwan's electorate clearly demonstrated to Beijing that its bellicose campaign of threats and intimidation was ill-conceived and ineffectual. Rather than diminishing support for President Lee, as Beijing and the PLA had hoped, the People's Republic of China's recent round of missile tests and live-fire military exercises seems only to have served to solidify his support; President Lee won with some 54 percent of the vote. In other words, the People's Republic of China's plans backfired, much as I and others of my colleagues predicted. I would hope that they come away from the past month having learned that the best course is not one of brazen threats, but open bilateral dialog across the Taiwan Strait.

I wish to convey my personal congratulations to the Government and people of Taiwan, and hope to do so in person to President Lee when I travel to the People's Republic of China and then on to Taipei next week.

Mr. President, in contrast the second issue I'd like to discuss today is not so encouraging. On Sunday at its second plenary session, China's Hong Kong Preparatory Committee—the body charged by Beijing with overseeing the transition of the British Colony to a Special Administrative Region of the People's Republic of China in 1997—voted by a margin of 148 to 1 to scrap the elected Legislative Council and install in its place an appointed body.

Members of Hong Kong's Legislative Council, or Legco, have traditionally been elected not by universal suffrage but by a narrow group of functional constituencies. In other words, the trade unions had a certain number of votes, the civil service had a certain number of votes, lawyers had a certain number of votes, et cetera. Last year, in a move to increase the representation of the average citizen on the Council, a number of changes were made by the colonial government in the way elections are conducted.

Beijing objected to the changes in the election process, ostensibly because they were made unilaterally by the British; of course, Beijing overlooked the fact that they themselves had refused to seriously negotiate on the issue. However, most observers—correctly I believe—felt that the real reason for Beijing's opposition was that the changes made the Legco even more democratic, a status that they would then be forced to acquiesce to after 1997.

The reason that increased democracy is a problem for the People's Republic of China is fairly obvious; the government presently installed in Beijing is antithetical to democracy. Despite lip service to its promises that it would ensure the continuation of Hong Kong's rights and civil liberties after 1997, the People's Republic of China has taken a number of steps over the last 2 years to call that commitment to democratic norms into serious question. It's opposition to the reconstituted Legco is one of the more visible.

Another is the fate of the lone dissenting vote, by Mr. Frederick Fung, in the 148 to 1 vote tally on the Legco question. As a result of his dissenting vote, the head of the Preparatory Committee—Lu Ping—announced that because of his vote Mr. Fung should be disqualified from the transitional bodies planning Hong Kong's post-1997 government and from any governing role after the British withdraw. What does this petty and vindictive statement say about the People's Republic of China's commitment to democracy; that instead of tolerating dissent the Chinese will seek to punish those who express their opinions and fail to follow the party line.

Actions and statements such as this are not, sadly, surprising. The People's Republic of China has made several moves in the past year to exclude pro-democracy figures from the transition process; it even prevented one pro-democracy legislator from entering China to attend a conference, solely on the basis of his being a critic of the Government in Beijing. I believe that moves like these call into question the People's Republic of China's commitment to the Basic Law, and its commitment to safeguard the rights of Hong Kong's citizens after retrocession. It would behoove them to remember that each move they make is under very close scrutiny by Hong Kong's—and the world's—commercial community. How Beijing acts will be directly reflected in that community's confidence, or lack thereof, and its willingness to maintain its investments there.

This is the People's Republic of China's reaction.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO ANGOLA—MESSAGE FROM THE PRESIDENT—PM 134

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

I hereby report to the Congress on the developments since September 26, 1995, concerning the national emergency with respect to Angola that was declared in Executive Order No. 12865 of September 26, 1993. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

On September 26, 1993, I declared a national emergency with respect to Angola, invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) and the United Nations Participation Act of 1945 (22 U.S.C. 287c). Consistent with United Nations Security Council Resolution 864, dated September 15, 1993, the order prohibited the sale or supply by United States persons or from the United States, or using U.S.-registered vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles, equipment and spare parts, and petroleum and petroleum products to the territory of Angola other than through designated points of entry. The order also prohibited such sale or supply to the National Union for the Total Independence of Angola ("UNITA"). United States persons are prohibited from activities that promote or are calculated to promote such sales or supplies, or from attempted violations, or from evasion or avoidance or transactions that have the purpose of evasion or avoidance, of the stated prohibitions. The order authorized the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, as might be necessary to carry out the purposes of the order.

1. On December 10, 1993, the Treasury Department's Office of Foreign Assets Control ("FAC") issued the UNITA (Angola) Sanctions Regulations (the "Regulations") (58 *Fed. Reg.* 64904) to implement the President's declaration of a national emergency and imposition of sanctions against Angola (UNITA). There have been no amendments to the Regulations since my report of September 18, 1995.

The Regulations prohibit the sale or supply by United States persons or from the United States, or using U.S.-registered vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles, equipment and spare parts, and petroleum and petroleum products to UNITA or to the territory of Angola other than through designated points. United States persons are also prohibited from activities that promote or are calculated to promote such sales or supplies to UNITA or Angola, or from any transaction by any United States persons that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Executive order. Also prohibited are transactions by United States persons, or involving the use of U.S.-registered vessels or aircraft, relating to transportation to Angola or UNITA of goods the exportation of which is prohibited.

The Government of Angola has designated the following points of entry as points in Angola to which the articles otherwise prohibited by the Regulations may be shipped: *Airports:* Luanda and Katumbela, Benguela Province; *Ports:* Luanda and Lobito, Benguela Province; and Namibe, Namibe Province; and *Entry Points:* Malongo, Cabinda Province. Although no specific license is required by the Department of the Treasury for shipments to these designated points of entry (unless the item is destined for UNITA), any such exports remain subject to the licensing requirements of the Departments of State and/or Commerce.

2. The FAC has worked closely with the U.S. financial community to assure a heightened awareness of the sanctions against UNITA—through the dissemination of publications, seminars, and notices to electronic bulletin boards. This educational effort has resulted in frequent calls from banks to assure that they are not routing funds in violation of these prohibitions. United States exporters have also been notified of the sanctions through a variety of media, including special fliers and computer bulletin board information initiated by FAC and posted through the U.S. Department of Commerce and the U.S. Government Printing Office. There have been no license applications under the program.

3. The expenses incurred by the Federal Government in the 6-month period from September 18, 1995, through March 25, 1996, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Angola (UNITA) are reported to be about $226,000, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel) and the Department of State (particularly the Office of Southern African Affairs).

I will continue to report periodically to the Congress on significant developments, pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 25, 1996.*

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the order of the Senate of January 4, 1995, the Secretary of the Senate, on March 22, 1996, during the adjournment of the Senate, received a message from the House of Representatives announcing that the House disagrees to the amendment of the Senate to the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

For consideration of the House bill (except for section 101(c)) and the Senate amendment (except for section 101(d)), and modifications committed to conference: Mr. LIVINGSTON, Mr. MYERS of Indiana, Mr. YOUNG of Florida, Mr. REGULA, Mr. LEWIS of California, Mr. PORTER, Mr. ROGERS, Mr. SKEEN, Mr. WOLF, Mrs. VUCANOVICH, Mr. LIGHTFOOT, Mr. CALLAHAN, Mr. WALSH, Mr. OBEY, Mr. YATES, Mr. STOKES, Mr. BEVILL, Mr. MURTHA, Mr. WILSON, Mr. DIXON, Mr. HEFNER, and Mr. MOLLOHAN.

For consideration of section 101(c) of the House bill, and section 101(d) of the Senate amendment, and modifications committed to conference: Mr. PORTER, Mr. YOUNG of Florida, Mr. BONILLA, Mr. ISTOOK, Mr. MILLER of Florida, Mr. DICKEY, Mr. RIGGS, Mr. WICKER, Mr. LIVINGSTON, Mr. OBEY, Mr. STOKES, Mr. HOYER, Ms. PELOSI, and Mrs. LOWEY.

ENROLLED JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolutions:

H.J. Res. 165. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

S.J. Res. 38. Joint resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact.

Under the authority of the order of the Senate of January 4, 1995, the enrolled joint resolutions were signed subsequently on March 22, 1996, during the adjournment of the Senate, by the President pro tempore [Mr. THURMOND].

MESSAGES FROM THE HOUSE

At 10:02 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the House:

H.R. 2969. An act to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

The message also announced that the House agrees to the resolution (H. Res. 387) returning to the Senate the bill (S. 1518) to eliminate the Board of Tea Experts by prohibiting funding for the Board and by repealing the Tea Importation Act of 1987, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate.

At 1:46 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 125. An act to repeal the ban on semiautomatic assault weapons and the ban on large capacity ammunition feeding devices.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 125. An act to repeal the ban on semiautomatic assault weapons and the ban on large capacity ammunition feeding devices; to the Committee on the Judiciary.

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. HATFIELD, from the Committee on Appropriations:

Special Report entitled "Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1996" (Rept. No. 104–243).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BRADLEY: S. 1640. A bill to prohibit the possession and transfer of non-sporting handguns, and for other purposes; to the Committee on the Judiciary.

By Mr. GRAMS (for himself and Mr. PRESSLER): S. 1641. A bill to repeal the consent of Congress to the Northeast Interstate Dairy Compact, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BRADLEY:

S. 1640. A bill to prohibit the possession and transfer of nonsporting handguns, and for other purposes; to the Committee on the Judiciary.

THE DOMESTIC SATURDAY NIGHT SPECIAL ACT OF 1996

Mr. BRADLEY. Mr. President, I rise today to introduce a measure designed to ban the sale and possession of domestic Saturday night specials, which are inexpensive, short-barreled—4" or shorter, easily concealed handguns that are made from inferior materials and lack any sporting purpose. These handguns have flooded the black market and are disproportionately used in violent criminal activity. These weapons are poorly made, unreliable and, in some cases, unsafe. They are cheap to build, cheap to purchase, and are roughly 3.4 times more likely to be involved in violent crimes than are handguns from other major manufacturers. Their destructive impact on the lives of American citizens must be stopped.

Mr. President, in the aftermath of the assassinations of Robert F. Kennedy and Martin Luther King, Jr., Congress passed the Gun Control Act of 1968, which targeted small caliber, easily concealable, and poorly made imported handguns named Saturday night specials. It was Congress' intent to eliminate imported guns which were believed to be disproportionately involved in crime. Specifically, the legislation banned the importation of handguns not particularly suitable for or readily adaptable to sporting purposes. Congress, however, exempted domestic manufacturers from the legislation, resulting in the creation of a protected domestic industry that produces and markets small, poorly made, easily concealable handguns.

Today, Mr. President, six handgun manufacturers in southern California dominate the production of Saturday night specials. In 1992, they made over 80 percent of the .25 ACP, .32 ACP, and .380 ACP pistols manufactured in this country. Indeed, in 1992 these companies manufactured 685,934 handguns, or 34 percent of all handguns made in the United States. According to 1993 figures, one of the Saturday night special manufacturers, Lorcin Engineering Inc., is the leading pistol manufacturer in America.

In 1968, "the American Rifleman"—a publication of the National Rifle Association, in arguing in favor of a ban on Saturday night special imports, noted that such weapons were "miserably made, potentially defective arms that contribute so much to rising violence." This statement is equally applicable today to domestically manufactured Saturday night specials.

The carnage and killing that occur in our Nation's towns and cities are directly related to the proliferation of these weapons of destruction on the streets of America. According to a Wall Street Journal investigation, these pistols are purchased in bulk at retail by illegal dealers and smuggled by bus or train to urban centers for resale on the street.

Once they reach the streets, domestic Saturday night specials, which sell for as low as $35, are the starter guns of choice for criminals and the very young. For example, in 1990, a 5-year-old from the Bronx, NY, carried in his pocket a loaded domestic Saturday night special to kindergarten. In 1992, a 15-year-old aimed a domestic Saturday night special from the roof of a New York apartment building and shot a policeman in the ankle.

Mr. President, these guns are disproportionately used in robberies and murders. From 1990 to 1992, the Bureau of Alcohol, Tobacco and Firearms [ATF] traced approximately 24,000 handguns sold after 1986 and used in murders and other crimes. Saturday night specials produced by three southern California companies accounted for 27 percent of the traces, as compared to 11 percent for the much larger Smith and Wesson Company. According to the Wall Street Journal, police in Houston confiscated nearly 1,000 guns used in crimes in 1991. Three Saturday night specials produced by southern California companies—the Raven .25 ACP, the Davis .380 ACP, and the Davis .32 ACP—ranked as the top three guns confiscated. The same year in Cleveland, police confiscated more than 2,000 handguns; the Raven .25 ACP ranked second.

The Washington Post reported in June 1994 that of all 21,744 guns seized at crime scenes and traced by ATF during 1991 through 1993, an astounding 62 percent—or 13,559 handguns—were produced by a southern California manufacturer of Saturday night specials. ABC television's "Day One" reported that in 1994, the Lorcin .380 ACP was the single firearm most frequently submitted to ATF for tracing. Thus, there is no question that these weapons are the weapons of choice of criminals.

Of significant concern is also the threat that these guns pose to law enforcement. The single gun with the greatest number of police homicides per number of guns in circulation is the .32 caliber pistol. As of 1992, nearly 90 percent of these guns were manufactured by the southern California gun makers. Mr. President, for the sake of the American public and the law enforcement community, it is time that Congress take action to get these killing machines off the streets of America.

Mr. President, under the 1968 Gun Control Act, ATF has developed an elaborate scheme to determine whether foreign firearms should be classified as Saturday night specials. To gain entry into the U.S. market, imported guns must meet minimum size and safety specifications and pass a battery of individual design, performance, and materials standards. The ATF classification scheme considers the quality of the metal used to construct the weapon, as well as the combined height and length, weight, caliber, safety features, and accessory features of the weapon. By the mid-1970's, ATF estimated that over half of all of the handguns produced domestically could not legally have been imported.

Domestic Saturday night specials are cheaply made and unreliable. Large domestic handgun manufacturers—such as Smith and Wesson—produce small quantities of guns because their production process is labor intensive. On average, these guns retail for $600. By contrast, the Saturday night specials are assembled in mere minutes using cheap materials, yielding high volumes that sell for as little as $35 per gun. The results are predictable. For example, the zinc alloy used in many of the Saturday night specials is so soft that it can be shaved with a knife. Moreover, the alloy begins to distort at 700 degrees Fahrenheit, compared to 2,400 degrees for the stainless steel in quality guns.

In addition, while the Saturday night specials typically have minimal safety devices that block the trigger from being pulled, they lack safety equipment found on higher quality guns, such as firing pin blocks that help prevent accidental discharge. Indeed, officials at ATF have indicated that the Raven .25 ACP pistol produced by one of the southern California companies can discharge if it is loaded and dropped to the floor, thereby failing ATF's drop test. The quality and reliability of domestic Saturday night specials is so atrocious that Edward Owen, Jr., Chief of the Firearms Technology Branch at ATF, has stated: "If someone gave me one as a gift, I would throw it away."

The unreliability of these guns, Mr. President, highlights the fact that they have no sporting purpose and cannot be depended on for self-defense. This fact was illustrated in a May 1994 segment of ABC television's "Day One". A Colorado Springs gun shop owner is firing one of the domestic Saturday night specials when it jams. As she attempts to clear the weapon, the correspondent asks her what would happen at that moment if she was relying on the gun for protection. She answers, "Well, I just got killed."

In independent tests of domestic Saturday night specials by "Gun Tests", Lorcin's .22 caliber pistol, the L–22, was found unacceptable. In test firing, evaluators "experienced 20 misfires due to light firing-pin strikes and 36 failures to completely lock into battery, and—the gun—failed to feed truncated-nose ammunition about 25 percent of the time." Indeed, according to the Wall Street Journal, many gun-store owners have decided not to sell domestic Saturday night specials because "the quality is too poor, replacement parts are too hard to obtain, and the dollar profit per gun is too small."

Mr. President, since these weapons are useless for self-defense and have no sporting purpose, the present legislation would apply the Gun Control Act of 1968 to domestic Saturday night specials, thereby banning the possession and sale of these weapons shipped or transported in interstate or foreign commerce. Specifically, the present ATF import classification scheme—which considers the quality of the metal used to construct the weapon, as well as the combined height and length, weight, caliber, safety features and accessory features of the weapon—would be applicable to domestic Saturday night Specials.

Mr. President, the focus of this bill is to ban inexpensive, short-barreled, easily concealed handguns that are made from inferior materials and lack any sporting purpose. Thus, this legislation would not ban high quality, domestic snub-nosed revolvers and derringers containing adequate safety features that would otherwise be banned because of their size. Moreover, this legislation would exempt from coverage those high quality, domestic handguns that meet the overall ATF size requirement, but would otherwise fail the ATF test because of their light weight and low caliber.

Mr. President, the Justice Department recently released a report concluding that 86 percent of all firearm-related crimes occurring in 1993 were carried out with a handgun. This represents an 18 percent increase from 1992. Also, of the more than 24,500 murders in 1993, 16,189—(70 percent)—were committed with firearms, and four out of every five firearm murders involved the use of a handgun. The evidence is clear that domestic Saturday night specials—inexpensive, poorly made handguns that lack any sporting purpose—are disproportionately involved in criminal activity and pose a significant threat to the safety of American citizens. Mr. President, it is time to stop the carnage in our Nation's streets caused by these killing machines.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1640

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Domestic Saturday Night Special Act of 1996".

SEC. 2. PROHIBITION AGAINST POSSESSION OR TRANSFER OF NON-SPORTING HANDGUNS.

(a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(y)(1) It shall be unlawful for any person to possess or transfer a non-sporting handgun that has been shipped or transported in interstate or foreign commerce.

"(2) Paragraph (1) shall not apply to the possession of a sporting handgun, or the continuous and otherwise lawful possession of a non-sporting handgun by a person during any period that began before the effective date of this subsection.

"(3) Paragraph (1) shall not prohibit the sale and transfer if—

"(A) a revolver with a barrel length of not less than 2 inches, if such revolver could otherwise be imported into the United States on the basis of a determination by the Secretary under section 925(d)(3); or

"(B) a handgun which, if designed to use a larger caliber ammunition, could otherwise be imported into the United States on the basis of a determination by the Secretary under section 925(d)(3).".

"(b) NON-SPORTING HANDGUN DEFINED.—Section 921(a) of such title is amended by adding at the end the following:

"(33)(A) The term 'non-sporting handgun' means—

"(i) a firearm that—

"(I) is designed to be fired by the use of a single hand; and

"(II) is not a sporting handgun; and

"(ii) any combination of parts from which a firearm described in clause (i) can be assembled.

"(B) The term 'sporting handgun' means a firearm that—

"(i) is designed to be fired by the use of a single hand; and

"(ii) the Secretary has determined, using the criteria applied in making determinations under section 925(d)(3), to be of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes.".

(c) PENALTY.—Section 924(a)(1)(B) of such title is amended by striking "or (w)" and inserting "(w), or (y)".

AMENDMENTS SUBMITTED

THE PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1996

MURKOWSKI AMENDMENT NO. 3564

Mr. MURKOWSKI proposed an amendment to the bill (H.R. 1296) to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer; as follows:

In lieu of the matter proposed, to be inserted, insert the following:

TITLE I—THE PRESIDIO OF SAN FRANCISCO

SECTION 101. FINDINGS.

The Congress finds that—

(1) the Presidio, located amidst the incomparable scenic splendor of the Golden Gate, is one of America's great natural and historic sites;

(2) the Presidio is the oldest continuously operated military post in the Nation dating from 1776, and was designated a National historic Landmark in 1962;

(3) preservation of the cultural and historic integrity of the Presidio for public use recognizes its significant role in the history of the United States;

(4) the Presidio, in its entirety, is a part of the Golden Gate National Recreation Area, in accordance with Public Law 92-589;

(5) as part of the Golden Gate National Recreation Area, the Presidio's significant natural, historic, scenic, cultural, and recreational resources must be managed in a manner which is consistent with sound principles of land use planning and management, and which protects the Presidio from development and uses which would destroy the scenic beauty and historic and natural character of the area and cultural and recreational resources;

(6) removal and/or replacement of some structures within the Presidio must be considered as a management option in the administration of the Presidio; and

(7) the Presidio will be managed through an innovative public/private partnership that minimizes cost to the United States Treasury and makes efficient use of private sector resources.

SEC. 102. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF THE INTERIOR.

(a) INTERIM AUTHORITY.—The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to manage leases in existence on the date of this Act for properties under the administrative jurisdiction of the Secretary and located at the Presidio. Upon the expiration of any such lease, the Secretary may extend such lease for a period terminating not later than 6 months after the first meeting of the Presidio Trust. The Secretary may not enter into any new leases for property at the Presidio to be transferred to the Presidio Trust under this Title, however, the Secretary is authorized to enter into agreements for use and occupancy of the Presidio properties which are assignable to the Trust and are terminable within 30 days notice by the Trust. Prior to the transfer of administrative jurisdiction over any property to the Presidio Trust, and notwithstanding section 1341 of title 31 of the United States Code, the proceeds from any such lease shall be retained by the Secretary and such proceeds shall be available, without further appropriation, for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties. The Secretary may adjust the rental charge on any such lease for any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to properties and infrastructure within the Presidio.

(b) PUBLIC INFORMATION AND INTERPRETATION.—The Secretary shall be responsible, in cooperation with the Presidio Trust, for providing public interpretive services, visitors orientation and educational programs on all lands within the Presidio.

(c) OTHER.—The lands and facilities within the Presidio that are not transferred to the administrative jurisdiction of the Presidio Trust shall continue to be managed by the Secretary. The Secretary and the Presidio Trust shall cooperate to ensure adequate public access to all portions of the Presidio. Any infrastructure and building improvement projects that were funded prior to the enactment of this Act shall be completed by the National Park Service.

(d) PARK SERVICE EMPLOYEES.—(1) Any career employee of the National Park Service, employed at the Presidio at the time of the transfer of lands and facilities to the Presidio Trust, shall not be separated from the Service by reason of such transfer, unless such employee is employed by the Trust, other than on detail. The Trust shall have sole discretion over whether to hire any such employee or request a detail of such employee.

(2) Any career employee of the National Park Service employed at the Presidio on the date of enactment of this Title shall be given priority placement for any available position within the National Park System notwithstanding any priority reemployment lists, directive, rules, regulations or other orders from the Department of the Interior, the Office of Management and Budget, or other federal agencies.

SEC. 103. ESTABLISHMENT OF THE PRESIDIO TRUST.

(a) ESTABLISHMENT.—There is established a wholly owned government corporation to be known as the Presidio Trust (hereinafter in this Title referred to as the "Trust").

(b) TRANSFER.—(1) Within 60 days after receipt of a request from the Trust for the transfer of any parcel within the area depicted as Area B on the map entitled "Presidio Trust Number 1," dated December 7, 1995, the Secretary shall transfer such parcel to the administrative jurisdiction of the Trust. Within one year after the first meeting of the Board of Directors of the Trust, the Secretary shall transfer to the Trust administrative jurisdiction over all remaining parcels within Area B. Such map shall be on file and available for public inspection in the offices of the Trust and in the offices of the National Park Service, Department of the Interior. The Trust and the Secretary may jointly make technical and clerical revisions in the boundary depicted on such map. The Secretary shall retain jurisdiction over those portions of the building identified as number 102 as the Secretary deems essential for use as a visitor center. The Building shall be named the "William Penn Mott Visitor Center". Any parcel of land, the jurisdiction over which is transferred pursuant to this subsection, shall remain within boundary of the Golden Gate National Recreation Area. With the consent of the Secretary, the Trust may at any time transfer to the administrative jurisdiction of the Secretary any other properties within the Presidio which are surplus to the needs of the Trust and which serve essential purposes of the Golden Gate National Recreation Area. The Trust is encouraged to transfer to the administrative jurisdiction of the Secretary open space areas which have high public use potential and are contiguous to other lands administered by the Secretary.

(2) Within 60 days after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively which records, equipment, and other personal property are deemed to be necessary for the immediate administration of the properties to be transferred, and the Secretary shall immediately transfer such personal property to the Trust. Within one year after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively what, if any, additional records, equipment, and other personal property used by the Secretary in the administration of the properties to be transferred should be transferred to the Trust.

(3) The Secretary shall transfer, with the transfer of administrative jurisdiction over any property, the unobligated balance of all funds appropriated to the Secretary, all leases, concessions, licenses, permits, and other agreements affecting such property.

(4) At the request of the Trust, the Secretary shall provide funds to the Trust for preparation of such plan, hiring of initial staff and other activities deemed by the Trust as essential to the establishment of the Trust prior to the transfer of properties to the Trust.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The powers and management of the Trust shall be vested in a Board of Directors (hereinafter referred to as the "Board") consisting of the following 7 members:

(A) the Secretary of the Interior or the Secretary's designee; and

(B) six individuals, who are not employees of the Federal Government, appointed by the President, who shall possess extensive knowledge and experience in one or more of the fields of city planning, finance, real estate development, and resource conservation. At least one of these individuals shall be a veteran of the Armed Services. At least 3 of these individuals shall reside in the San Francisco Bay Area. The President shall make the appointments referred to in this subparagraph within 90 days after the enactment of this Act and shall ensure that the fields of city planning, finance, real estate development, and resource conservation are adequately represented. Upon establishment of the Trust, the Chairman of the Board of Directors of the Trust shall meet with the Chairman of the Energy and Natural Resources Committee of the United States Senate and the Chairman of the Resources Committee of the United States House of Representatives.

(2) TERMS.—Members of the Board appointed under paragraph (1)(B) shall each serve for a term of 4 years, except that of the members first appointed, 3 shall serve for a term of 2 years. Any vacancy on the Board shall be filled in the same manner in which the original appointment was made, and any member appointed to fill a vacancy shall serve for the remainder of the term for which his or her predecessor was appointed. No appointed member may serve more than 8 years in consecutive terms.

(3) QUORUM.—Four members of the Board shall constitute a quorum for the conduct of business by the Board.

(4) ORGANIZATION AND COMPENSATION.—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the authorized activities of the Trust. Board members shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Trust.

(5) LIABILITY OF DIRECTORS.—Members of the Board of Directors shall not be considered federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act and the Ethics in Government Act, and the provisions of chapter 11 of title 18, United States Code.

(6) MEETINGS.—The Board shall meet at least three times per year in San Francisco and at least two of those meetings shall be open to the public. Upon a majority vote, the Board may close any other meetings to the public. The Board shall establish procedures for providing public information and opportunities for public comment regarding policy, planning, and design issues through the Golden Gate National Recreation Area Advisory Commission.

(7) STAFF.—The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates.

(8) NECESSARY POWERS.—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

(9) TAXES.—The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of California, and its political subdivisions, including the City and County of San Francisco.

(10) GOVERNMENT CORPORATION.—(A) The Trust shall be treated as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31 of the United States Code.

(B) At the end of each calender year, the Trust shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a comprehensive and detailed report of its operations, activities, and accomplishments for the prior fiscal year. The report also shall include a section that describes in general terms and Trust's goals for the current fiscal year.

SEC. 104. DUTIES AND AUTHORITIES OF THE TRUST.

(a) OVERALL REQUIREMENTS OF THE TRUST.—The Trust shall manage the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio under its administrative jurisdiction using the authorities provided in this section, which shall be exercised in accordance with the purposes set forth in section 1 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes," approved October 27, 1972 (Public Law 92-589; 86 Stat. 1299; 16 U.S.C. 460bb), and in accordance with the general objectives of the General Management Plan (hereinafter referred to as the "management plan") approved for the Presidio.

(b) The Trust may participate in the development of programs and activities at the properties transferred to the Trust. The Trust shall have the authority to negotiate and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation or governmental entity, including, without limitation, entities of federal, state and local governments as are necessary and appropriate to finance and carry out its authorized activities. Any such agreement may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b). The Trust shall establish procedures for lease agreements and other agreements for use and occupancy of Presidio facilities, including a requirement that in entering into such agreements the Trust shall obtain reasonable competition. The Trust may not dispose of or convey fee title to any real property transferred to it under this Title. Federal laws and regulations governing procurement by Federal agencies shall not apply to the Trust. The Trust, in consultation with the Administrator of Federal Procurement Policy, shall establish and promulgate procedures applicable to the Trust's procurement of goods and services including, but not limited to, the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition. Such procedures shall conform to laws and regulations related to federal government contracts governing working conditions and wage scales, including the provisions of 40 U.S.C. Sec. 276a-276a6 (Davis-Bacon Act).

(c) The Trust shall develop a comprehensive program for management of those lands and facilities within the Presidio which are transferred to the administrative jurisdiction of the Trust. Such program shall be designed to reduce expenditures by the National Park Service and increase revenues to the federal government to the maximum extent possible. In carrying out this program, the Trust shall be treated as a successor in interest to the National Park Service with respect to compliance with the National Environmental Policy Act and other environmental compliance statutes. Such program shall consist of—

(1) demolition of structures which in the opinion of the Trust, cannot be cost-effectively rehabilitated, and which are identified in the management plan for demolition,

(2) evaluation for possible demolition or replacement those buildings identified as categories 2 through 5 in the Presidio of San Francisco Historic Landmark District Historic American Buildings Survey Report, dated 1985,

(3) new construction limited to replacement of existing structures of similar size in existing areas of development, and

(4) examination of a full range of reasonable options for carrying out routine administrative and facility management programs.

The Trust shall consult with the Secretary in the preparation of this program.

(d) To augment or encourage the use of non-federal funds to finance capital improvements on Presidio properties transferred to its jurisdiction, the Trust, in addition to its other authorities, shall have the following authorities subject to its other authorities, shall have the following authorities subject to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.):

(1) The authority to guarantee any lender against loss of principal or interest on any loan, provided that (A) the terms of the guarantee are approved by the Secretary of the Treasury, (B) adequate subsidy budget authority is provided in advance in appropriations acts, and (C) such guarantees are structured so as to minimize potential cost to the federal Government. No loan guarantee under this Title shall cover more than 75 percent of the unpaid balance of the loan. The Trust may collect a fee sufficient to cover its costs in connection with each loan guaranteed under this Act. The authority to enter into any such loan guarantee agreement shall expire at the end of 15 years after the date of enactment of this title.

(2) The authority, subject to appropriations, to make loan to the occupants of property managed by the Trust for the preservation, restoration, maintenance, or repair of such property.

(3) The authority to issue obligations to the Secretary of the Treasury, but only if the Secretary of the Treasury agrees to purchase such obligations after determining that the projects to be funded from the proceeds thereof are credit worthy and that a repayment schedule is established and only to the extent authorized in advance in appropriations acts. The Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such notes or obligations acquired by the Secretary of the Treasury under this subsection. Obligations issued under this subparagraph shall be in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. No funds appropriated to the Trust may be used for repayment of principal or interest on, or redemption of, obligations issued under this paragraph.

(4) The aggregate amount of obligations issued under this subsection which are outstanding at any one time may not exceed $50,000,000.

(e) The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities for the purpose of carrying out its duties. The Trust shall maintain a liaison with the Golden Gate National Park Association.

(f) Notwithstanding section 1341 of title 31 of the United States Code, all proceeds received by the Trust shall be retained by the Trust, and such proceeds shall be available, without further appropriation, for the administration, preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties under its administrative jurisdiction. Upon the Request of the Trust, the Secretary of the Treasury shall invest excess moneys of the Trust in public debt securities with maturities suitable to the needs of the Trust.

(g) The Trust may sue and be sued in its own name to the same extent as the federal government. Litigation arising out of the activities of the Trust shall be conducted by the Attorney General; except that the Trust may retain private attorneys to provide advice and counsel. The District Court for the Northern District of California shall have exclusive jurisdiction over any suit filed against the Trust.

(h) The Trust shall enter into a Memorandum of Agreement with the Secretary, acting through the Chief of the United States Park Police, for the conduct of law enforcement activities and services within those portions of the Presidio transferred to the administrative jurisdiction of the Trust.

(i) The Trust may adopt, amend, repeal and enforce bylaws, rules and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised. The Trust is authorized, in consultation with the Secretary, to adopt and to enforce those rules and regulations that are applicable to the Golden Gate National Recreation Area and that may be necessary and appropriate to carry out its duties and responsibilities under this Title. The Trust shall give notice of the adoption of such rules and regulations by publication in the Federal Register.

(j) For the purpose of compliance with applicable laws and regulations concerning properties transferred to the Trust by the Secretary, the Trust shall negotiate directly with regulatory authorities.

(k) INSURANCE.—The Trust shall require that all leaseholders and contractors procure proper insurance against any loss in connection with properties under lease or contract, or the authorized activities granted in such lease or contract, as is reasonable and customary.

(l) BUILDING CODE COMPLIANCE.—The Trust shall bring all properties under its administrative jurisdiction into compliance with federal building codes and regulations appropriate to use and occupancy within 10 years after the enactment of this Title to the extent practicable.

(m) LEASING.—In managing and leasing the properties transferred to it, the Trust consider the extent to which prospective tenants contribute to the implementation of the General Management Plan for the Presidio and to the reduction of cost to the Federal Government. The Trust shall give priority to the following categories of tenants: tenants that enhance the financial viability of the Presidio and tenants that facilitate the cost-effective preservation of historic buildings through their reuse of such buildings.

(n) REVERSION.—If, at the expiration of 15 years, the Trust has not accomplished the goals and objectives of the plan required in section (105)(b) of this Title, then all property under the administrative jurisdiction of the Trust pursuant to section (103)(b) of this Title shall be transferred to the Administrator of the General Services Administration to the Administrator of the General Services Administration to be disposed of in accordance with the procedures outlined in the Defense Authorization Act of 1990 (104 Stat. 1809), and any real property so transferred shall be deleted from the boundary of the Golden Gate National Recreation Area. In the event of such transfer, the terms and conditions of all agreements and loans regarding such lands and facilities entered into by the Trust shall be binding on any successor in interest.

SEC. 105. LIMITATIONS ON FUNDING.

(a)(1) From amounts made available to the Secretary for the operation of areas within the Golden Gate National Recreation Area, not more than $25,000,000 shall be available to carry out this Title in each fiscal year after the enactment of this Title until the plan is submitted under subsection (b). Such sums shall remain available until expended.

(2) After the plan required in subsection (b) is submitted, and for each of the 14 fiscal years thereafter, there are authorized to be appropriated to the Trust not more than the amounts specified in such plan. Such sums shall remain available until expended. Of such sums, not more than $3 million annually shall be available through the Trust for law enforcement activities and services to be provided by the United States Park Police at the Presidio in accordance with section 104(h) of this Title.

(b) Within one year after the first meeting of the Board of Directors of the Trust, the Trust shall submit to Congress a plan which includes a schedule of annual decreasing federally appropriated funding that will achieve, at a minimum, self-sufficiency for the Trust within 15 complete fiscal years after such meeting of the Trust.

(c) The Administrator of the General Services Administration shall provide necessary assistance to the Trust in the formulation and submission of the annual budget request for the administration, operation, and maintenance of the Presidio.

SEC. 106. GENERAL ACCOUNTING OFFICE STUDY.

(a) Three years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct an interim study of the activities of the Trust and shall report the results of the study to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives. The study shall include, but shall not be limited to, details of how the Trust is meeting its obligations under this Title.

(b) In consultation with the Trust, the General Accounting Office shall develop an interim schedule and plan to reduce and replace the federal appropriations to the extent practicable for interpretive services conducted by the National Park Service, and law enforcement activities and services, fire and public safety programs conducted by the Trust.

(c) Seven years after the first meeting of the Board of Directors of the Trust, the General Accounting office shall conduct a comprehensive study of the activities of the Trust, including the Trust's progress in meeting its obligations under this Title, taking into consideration the results of the study described in subsection (a) and the implementation of plan and schedule required in subsection (b). The General Accounting Office shall report the results of the study, including any adjustments to the plan and schedule, to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives.

TITLE II—MINOR BOUNDARY ADJUSTMENTS AND MISCELLANEOUS PARK AMENDMENTS

SEC. 201. YUCCA HOUSE NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—The boundaries of Yucca House National Monument are revised to include the approximately 24.27 acres of land generally depicted on the map entitled "Boundary—Yucca House National Monument, Colorado", numbered 318/80,001–B, and dated February 1990.

(b) MAP.—The map referred to in subsection (a) shall be on file and available for public inspection in appropriate offices of the National Park Service of the Department of the Interior.

(c) ACQUISITION.—

(1) IN GENERAL.—Within the lands described in subsection (a), the Secretary of the Interior may acquire lands and interests in lands by donation.

(2) The Secretary of the Interior may pay administrative costs arising out of any donation described in paragraph (1) with appropriated funds.

SEC. 202. ZION NATIONAL PARK BOUNDARY ADJUSTMENT.

(a) ACQUISITION AND BOUNDARY CHANGE.—The Secretary of the Interior is authorized to acquire by exchange approximately 5.48 acres located in the SW¼ of Section 28, township 41 South, Range 10 West, Salt Lake Base and Meridian. In exchange therefor the Secretary is authorized to convey all right, title, and interest of the United States in and to approximately 5.51 acres in Lot 2 of Section 5, Township 41 South, Range 11 West, both parcels of land being in Washington County, Utah. Upon completion of such exchange, the Secretary is authorized to revise the boundary of Zion National Park to add the 5.48 acres in section 28 to the park and to exclude the 5.51 acres in section 5 from the park. Land added to the park shall be administered as part of the park in accordance with the laws and regulations applicable thereto.

(b) EXPIRATION.—The authority granted by this section shall expire two years after the date of the enactment of this Title.

SEC. 203. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY ADJUSTMENT.

The boundary of Pictured Rocks National Lakeshore is hereby modified as depicted on the map entitled "Area Proposed for Addition to Pictured Rocks National Lakeshore," numbered 625–80, 043A, and dated July 1992.

SEC. 204. INDEPENDENCE NATIONAL HISTORICAL PARK BOUNDARY ADJUSTMENT.

The administrative boundary between Independence National Historical Park and the United States Customs House along the Moravian Street Walkway in Philadelphia, Pennsylvania, is hereby modified as generally depicted on the drawing entitled "Exhibit 1, Independence National Historical Park, Boundary Adjustment", and dated May 1987, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to accept and transfer jurisdiction over property in accord with such administrative boundary, as modified by this section.

SEC. 205. CRATERS OF THE MOON NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) BOUNDARY REVISION.—The boundary of Craters of the National Monument, Idaho, is revised to add approximately 210 acres and to delete approximately 315 acres as generally depicted on the map entitled "Craters of the Moon National Monument, Idaho, Proposed 1987 Boundary Adjustments", numbered 131–80,008, and dated October 1987, which map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

(b) ADMINISTRATION AND ACQUISITION.—Federal lands and interests therein deleted from the boundary of the national monument by this section shall be administered by the Secretary of the Interior through the Bureau of Land Management in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and Federal lands and interests therein added to the national monument by this section shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto. The Secretary is authorized to acquire private lands and interests therein within the boundary of the national monument by donation, purchase with donated or appropriated funds, or exchange, and when acquired they shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto.

SECTION 206. HAGERMAN FOSSIL BEDS NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

Section 302 of the Arizona-Idaho Conservation Act of 1988 (102 Stat. 4576) is amended by adding the following new subsection:

"(d) To further the purposes of the monument, the Secretary is also authorized to acquire from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange not to exceed 65 acres outside the boundary depicted on the map referred to in section 301 and develop and operate thereon research, information, interpretive, and administrative facilities. Lands acquired and facilities developed pursuant to this subsection shall be administered by the Secretary as part of the monument. The boundary of the monument shall be modified to include the lands added under this subsection as a noncontiguous parcel.".

SEC. 207. WUPATKI NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

The boundary of the Wupatki National Monument, Arizona, is hereby revised to include the lands and interests in lands within the area generally depicted as "Proposed Addition 168.89 Acres" on the map entitled "Boundary—Wupatki and Sunset Crater National Monuments, Arizona", numbered 322–80,021, and dated April 1989. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Subject to valid existing rights, Federal lands and interests therein within the area added to the monument by this section are hereby transferred without monetary consideration or reimbursement to the administrative jurisdiction of the National Park Service, to be administered as part of the monument in accordance with the laws and regulations applicable thereto.

SEC. 208. NEW RIVER GORGE NATIONAL RIVER.

Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–15) is amended by striking out "NERI–80,023, dated January 1987" and inserting "NERI–80,028, dated January 1993".

SEC. 209. GAULEY RIVER NATIONAL RECREATION AREA.

(a) Section 201(b) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww(b)) is amended by striking out "NRA–GR/20,000A and dated July 1987" and inserting "GARI–80,001 and dated January 1993".

(b) Section 205(c) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–4(c)) is amended by adding the following at the end thereof: "If project construction is not commenced within the time required in such license, or if such license is surrendered at any time, such boundary modification shall cease to have any force and effect.".

SEC. 210. BLUESTONE NATIONAL SCENIC RIVER.

Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65) is amended by striking out "WSR–BLU/20,000, and dated January 1987" and inserting "BLUE–80,004, and dated January 1993".

SEC. 211. ADVISORY COMMISSIONS.

(a) KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK.—(1) This subsection under this Title may be cited as the "Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1995".

(2) Notwithstanding section 505 (f)(7) of Public Law 95–625 (16 U.S.C. 396d(7)), the Na Hoa Pili O Kaloho-Honokohau, the Advisory Commission for Kaloko-Honokohau National Historical Park, is hereby re-established in accordance with section 505 (f), as amended by paragraph (3) of this section.

(3) Section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(7)), is amended by striking "this Act" and inserting in lieu thereof, "the NA Hoa Pili Kaloko-Honokohau Re-establishment Act of 1995".

(b) WOMEN'S RIGHTS NATIONAL HISTORICAL PARK.—(1) This subsection under this Title may be cited as the "Women's Rights National Historical Park Advisory Commission Re-establishment Act of 1995".

(2) Notwithstanding section 1601 (h)(5) of Public Law 96-607 (16 U.S.C. 41011(h)(5)), the advisory commission for Women's Rights National Historical Park is hereby re-established in accordance with section 1601(h), as amended by paragraph (3) of this section.

(3) Section 1601(h)(5) of Public Law 96–607 (16 U.S.C. 41011(h)(5)), is amended by striking "this section" and inserting in lieu thereof, "the Women's Rights National Historical Park Advisory Commission Re-establishment Act of 1995".

SEC. 212. AMENDMENT TO BOSTON NATIONAL HISTORIC PARK ACT.

Section 3(b) of the Boston National Historical Park Act of 1974 (16 U.S.C. 410z-1(b)) is amended by inserting "(1)" before the first sentence thereof and by adding the following at the end thereof:

"(2) The Secretary of the Interior is authorized to enter into a cooperative agreement with the Boston Public Library to provide for the distribution of information and interpretive material relating to the park and to the Freedom Trail.".

SEC. 213. CUMBERLAND GAP NATIONAL HISTORICAL PARK.

(a) REMOVAL OF RESTRICTIONS.—The first section of the Act of June 11, 1940, entitled "An Act to provide for the establishment of the Cumberland Gap National Historical Park in Tennessee, Kentucky, and Virginia; (54 Stat. 262, 16 U.S.C. 261 et seq.) is amended by striking out everything after the words "Cumberland Gap National Historical Park" and inserting a period.

(b) USE OF APPROPRIATED FUNDS.—Section 3 of such Act (16 U.S.C. 263) is amended by inserting "or with funds that may be from time to time appropriated for the purpose," after "funds".

SEC. 214. WILLIAM O. DOUGLAS OUTDOOR CLASSROOM.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the National Park Service, is authorized to enter into cooperative agreements, as specified as subsection (b), relating to Santa Monica Mountains National Recreation Area (hereafter in this Title referred to as "recreation area") in accordance with this section.

(b) COOPERATIVE AGREEMENTS.—The cooperative agreements referred to in subsection (a) are as follows:

(1) A cooperative agreement with appropriate organizations or groups in order to promote education concerning the natural and cultural resources of the recreation area and lands adjacent thereto. Any agreement entered into pursuant to this paragraph—

(A) may provide for Federal matching grants of not more than 50 percent of the total cost of providing a program of such education;

(B) shall provide for visits by students or other beneficiaries to federally owned lands within the recreation area;

(C) shall limit the responsibility of the Secretary to providing interpretation services concerning the natural and cultural resources of the recreation area; and

(D) shall provide that the non-Federal party shall be responsible for any cost of carrying out the agreement other than the cost of providing interpretation services under subparagraph (C).

(2) A cooperative agreement under which—

(A) the Secretary agrees to maintain the facilities at 2600 Franklin Canyon Drive in Beverly Hills, California, for a period of 8 fiscal years beginning with the first fiscal year for which funds are appropriated pursuant to this section, and to provide funding for programs of the William O. Douglas Outdoor Classroom or its successors in interest that utilize those facilities during such period; and in return; or

(B) the William O. Douglas Outdoor Classroom, for itself and any successors in interest with respect to such facilities, agrees that at the end of the term of such agreement all right, title, and interest in and to such facilities will be donated to the United States for addition and operation as part of the recreation area.

(c) EXPENDITURE OF FUNDS.—Federal funds may be expended on non-Federal property located within the recreation area pursuant to the cooperative agreement described in subsection (b)(2).

(d) LIMITATIONS.—(1) The Secretary may not enter into the cooperative agreement described in subsection (b)(2) unless and until the Secretary determines that acquisition of the facilities described in such subsection would further the purposes of the recreation area.

(2) This section shall not be construed as authorizing an agreement by the Secretary for reimbursement of expenses incurred by the William O. Douglas Outdoor Classroom or any successor in interest that is not directly related to the use of such facilities for environmental education and interpretation of the resources and values of the recreation area and associated lands and resources.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the 8-year period beginning October 1, 1995, not to exceed $2,000,000 to carry out this section.

SEC. 215. MISCELLANEOUS PROVISIONS.

(a) NEW RIVER CONFORMING AMENDMENTS.—Title XI of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m—15et seq.) is amended by adding the following new section at the end thereof:

"SEC. 1117. APPLICABLE PROVISIONS OF OTHER LAW.

"(a) COOPERATIVE AGREEMENTS.—The provisions of section 202(e)(1) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–1(e)(1)) shall apply to the New River Gorge National River in the same manner and to the same extent as such provisions apply to the Gauley River National Recreation Area.

"(b) REMNANTS OF LANDS.—The provisions of the second sentence of section 203(a) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–2(a)) shall apply to tracts of land partially within the boundaries of the New River Gorge National River in the same manner and to the same extent as such provisions apply to the tracts of land only partially within the Gauley River National Recreation Area.".

(b) BLUESTONE RIVER CONFORMING AMENDMENTS.—Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by striking "leases" in the fifth sentence and inserting in lieu thereof "the lease" and in the seventh sentence by striking "such management may be continued pursuant to renewal of such lease agreement. If requested to do so by the State of West Virginia, the Secretary may not terminate such leases and assume administrative authority over the areas concerned." and inserting in lieu thereof the following' "if the State of West Virginia so requests, the Secretary shall renew such lease agreement with the same terms and conditions as contained in such lease agreement on the date of enactment of this paragraph under which the State management shall be continued pursuant to such renewal. If requested to do so by the State of West Virginia, or as provided in such lease agreement, the Secretary may terminate or modify the lease and assume administrative authority over all or part of the areas concerned.".

SEC. 216. GAULEY ACCESS.

Section 202(e) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–1(e) is amended by adding the following new paragraph at the end thereof:

"(4) ACCESS TO THE RIVER.—Within 90 days after the date of enactment of this subsection, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate setting forth a plan to provide river access for non-commercial recreational users within the Gauley River National Recreational Area. The plan shall provide that such access shall utilize existing public roads and rights-of-way to the maximum extent feasible and shall be limited to providing access for such non-commercial users.".

SEC. 217. VISITOR CENTER.

The Secretary of the Interior is authorized to construct a visitor center and such other related facilities as may be deemed necessary to facilitate visitor understanding and enjoyment of the New River Gorge National River and the Gauley River National Recreation Area in the vicinity of the confluence of the New and Gauley Rivers. Such center and related facilities are authorized to be constructed at a site outside of the boundary of the New River Gorge National River or Gauley River National Recreation Area unless a suitable site is available within the boundaries of either unit.

SEC. 218. EXTENSION.

For a 5-year period following the date of enactment of this Act, the provisions of the Wild and Scenic Rivers Act applicable to river segments designated for study for potential addition to the wild and scenic rivers system under subsection 5(b) of that Act shall apply to those segments of the Bluestone and Meadow Rivers which were found eligible in the studies completed by the National Park Service in August 1983 but which were not designated by the West Virginia National Interest River Conservation Act of 1987 as part of the Bluestone National Scenic River or as part of the Gauley National Recreational Area, as the case may be.

SEC. 219. BLUESTONE RIVER PUBLIC ACCESS.

Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1271 and following) is amended by adding the following at the end thereof: "In order to provide reasonable public access and vehicle parking for public use and enjoyment of the river designated by this paragraph, consistent with the preservation and enhancement of the natural and scenic values of such river, the Secretary may, with the consent of the owner thereof, negotiate a memorandum of understanding or cooperative agreement, or acquire lands or interests in such lands, or both, as may be necessary to allow public access to the Bluestone River and to provide, outside the boundary of the scenic river, parking and related facilities in the vicinity of the area known as Eads Mill.".

SEC. 220. LIMITATION ON PARK BUILDINGS.

The 10th undesignated paragraph (relating to a limitation on the expenditure of funds for park buildings) under the heading "**MISCELLANEOUS OBJECTS, DEPARTMENT OF THE INTERIOR**", which appears under the heading "**UNDER THE DEPARTMENT OF THE INTERIOR**", as contained in the first section of the Act of August 24, 1912 (37 Stat. 460), as amended (16 U.S.C. 451), is hereby repealed.

SEC. 221. APPROPRIATIONS FOR TRANSPORTATION OF CHILDREN.

The first section of the Act of August 7, 1946 (16 U.S.C. 17j–2), is amended by adding at the end the following:

"(j) Provide transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service.".

SEC. 222. FERAL BURROS AND HORSES.

Section 9 of the Act of December 15, 1971 (16 U.S.C. 1338a), is amended by adding at the end thereof the following: "Nothing in this Title shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this Title, or the provisions of section 47(a) of title 18, United States Code, use motor vehicles, fixed-wing aircraft, or helicopters, or to contract for such use, in furtherance of the management of the National Park System, and section 47(a) of title 18, United States Code, shall be applicable to such use.".

SEC. 223. AUTHORITIES OF THE SECRETARY OF THE INTERIOR RELATING TO MUSEUMS.

(a) FUNCTIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), is amended—

(1) in paragraph (b) of the first section, by striking out "from such donations and bequests of money"; and

(2) by adding at the end thereof the following:

"**SEC. 2. ADDITIONAL FUNCTIONS.**

"(a) In addition to the functions specified in the first section of this Act, the Secretary of the Interior may perform the following functions in such manner as he shall consider to be in the public interest:

"(1) Transfer museum objects and museum collections that the Secretary determines are no longer needed for museum purposes to qualified Federal agencies that have programs to preserve and interpret cultural or natural heritage, and accept the transfer of museum objects and museum collections for the purposes of this Act from any other Federal agency, without reimbursement. The head of any other Federal agency may transfer, without reimbursement, museum objects and museum collections directly to the administrative jurisdiction of the Secretary of the Interior for the purposes of this Act.

"(2) Convey museum objects and museum collections that the Secretary determines are no longer needed for museum purposes, without monetary consideration but subject to such terms and conditions as the Secretary deems necessary, to private institutions exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and to non-Federal governmental entities if the Secretary determines that the recipient is dedicated to the preservation and interpretation of natural or cultural heritage and is qualified to manage the property, prior to any conveyance under this subsection.

"(3) Destroy or cause to be destroyed museum objects and museum collections that the Secretary determines to have no scientific, cultural, historic, educational, esthetic, or monetary value.

"(b) The Secretary shall ensure that museum collections are treated in a careful and deliberate manner that protects the public interest. Prior to taking any action under subsection (a), the Secretary shall establish a systematic review and approval process, including consultation with appropriate experts, that meets the higher standards of the museum profession for all actions taken under this section.".

(b) APPLICATION AND DEFINITIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), as amended by subsection (a), is further amended by adding the following:

"**SEC. 3. APPLICATION AND DEFINITIONS.**

"(a) APPLICATION.—Authorities in this Act shall be available to the Secretary of the Interior with regard to museum objects and museum collections that were under the administrative jurisdiction of the Secretary for the purposes of the National Park System before the date of enactment of this section as well as those museum objects and museum collections that may be acquired on or after such date.

"(b) DEFINITIONS.—For the purposes of this Act, the terms 'museum objects' and 'museum collections' mean objects that are eligible to be or are made part of a museum, library, or archive collection through a formal procedure, such as accessioning. Such objects are usually movable and include but are not limited to prehistoric and historic artifacts, works of art, books, documents, photographs, and natural history specimens.".

SEC. 224. VOLUNTEERS IN PARKS INCREASE.

Section 4 of the Volunteers in the Parks Act of 1969 (16 U.S.C. 18j.) is amended by striking out "1,000,000" and inserting in lieu thereof "$1,750,000".

SEC. 225. COOPERATIVE AGREEMENTS FOR RESEARCH PURPOSES.

Section 3 of the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" approved August 18, 1970 (16 U.S.C. 1a–2), is amended—

(1) in paragraph (i), by striking the period at the end and thereof and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following:

"(j) enter into cooperative agreements with public or private educational institutions, States, and their political subdivisions, or private conservation organizations for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and, pursuant to any such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance for mutually agreed upon research projects, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate; except that this paragraph shall not waive any requirements for research projects that are subject to the Federal procurement regulations.".

SEC. 226. CARL GARNER FEDERAL LANDS CLEANUP DAY.

The Federal Lands Cleanup Act of 1985 (Public Law 99–402; U.S.C. 169i–169i–1) is amended by striking the terms "Federal Lands Cleanup Day" or "Federal Lands National Cleanup Day" each place they occur and inserting in lieu thereof, "Carl Garner Federal Lands Cleanup Day."

SEC. 227. PORT PULASKI NATIONAL MONUMENT, GA.

Section 4 of the Act of June 26, 1936 (ch. 844; Stat. 1979), is amended by striking ": Provided, That" and all that follows and inserting a period.

SEC. 228. LAURA C. HUDSON VISITOR CENTER.

(a) DESIGNATION.—The visitor center at Jean Lafitte National Historical Park, located at 419 Rue Decatur in New Orleans, Louisiana, is hereby designated as the "Laura C. Hudson Visitor Center."

(b) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the visitor center referred to in subsection (a) shall be deemed to be a reference to the "Laura C. Hudson Visitor Center".

SEC. 229. UNITED STATES CIVIL WAR CENTER.

(a) FINDINGS.—The Congress finds that—

(1) the sesquicentennial of the beginning of the Civil War will occur in the year 2011;

(2) the sesquicentennial will be the last significant opportunity for most Americans alive in the year 2011 to recall and commemorate the Civil War;

(3) the Civil War Center in Louisiana State University in Baton Rouge, Louisiana, has as its principal missions to create a comprehensive database that contains all Civil War materials and to facilitate the study of the Civil War from the perspectives of all ethnic cultures and all professions; academic disciplines, and occupation;

(4) the two principal missions of the Civil War Center are consistent with commemoration of the sesquicentennial;

(5) the missions of the Civil War Institute at Gettysburg College parallel those of the Civil War Center; and

(6) advance planning to facilitate the four-year commemoration of the sesquicentennial is required.

(b) DESIGNATION.—The Civil War Center, located on Raphael Semmes Drive at Louisiana State University in Baton Rouge, Louisiana, (hereinafter in this section referred to as the "center") shall be known and designated as the "United States Civil War Center".

(c) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the center referred to in subsection (b) shall be deemed to be a reference to the "United States Civil War Center".

(d) FLAGSHIP INSTITUTIONS.—The center and the Civil War Institute of Gettysburg College, located at 233 North Washington Street in Gettysburg, Pennsylvania, shall be the flagship institutions for planning and sesquicentennial commemoration of the Civil War.

TITLE III—ROBERT J. LAGOMARSINO VISITOR CENTER

SEC. 301. DESIGNATION.

The visitor center at the Channel Islands National Park, California, is designated as the "Robert J. Lagomarsino Visitor Center".

SEC. 302. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the visitor center referred to in section 301 is deemed to be a reference to the "Robert J. Lagomarsino Visitor Center".

TITLE IV—ROCKY MOUNTAIN NATIONAL PARK VISITOR CENTER

SEC. 401. VISITOR CENTER.

The Secretary of the Interior is authorized to collect and expend donated funds and expend appropriated funds for the operation and maintenance of a visitor center to be constructed for visitors to and administration of Rocky Mountain National Park with private funds on lands located outside the boundary of the park.

TITLE V—CORINTH, MISSISSIPPI, BATTLEFIELD ACT

SEC. 501. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the sites located in the vicinity of Corinth, Mississippi, that were Designated as a National Historic Landmark by the Secretary of the Interior in 1991 represent nationally significant events in the Siege and Battle of Corinth during the Civil War; and

(2) the landmark sites should be preserved and interpreted for the benefit, inspiration, and education of the people of the United States.

(b) PURPOSE.—The purpose of this Title is to provide for a center for the interpretation of the Siege and Battle of Corinth and other Civil War actions in the Region and to enhance public understanding of the significance of the Corinth Campaign in the Civil War relative to the Western theater of operations, in cooperation with State or local governmental entities and private organizations and individuals.

SEC. 502. ACQUISITION OF PROPERTY AT CORINTH, MISSISSIPPI.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Title as the "Secretary") shall acquire by donation, purchase with donated or appropriated funds,or exchange, such land and interests in land in the vicinity of the Corinth Battlefield, in the State of Mississippi, as the Secretary determines to be necessary for the construction of an interpretive center to commemorate and interpret the 1862 Civil War Siege and Battle of Corinth.

(b) PUBLICLY OWNED LAND.—Land and interests in land owned by the State of Mississippi or a political subdivision of the State of Mississippi may be acquired only by donation.

SEC. 503. INTERPRETIVE CENTER AND MARKING.

(a) INTERPRETIVE CENTER.—

(1) CONSTRUCTION OF CENTER.—The Secretary shall construct, operate, and maintain on the property acquired under section 502 a center for the interpretation of the Siege and Battle of Corinth and associated historical events for the benefit of the public.

(2) DESCRIPTION.—The center shall contain approximately 5,300 square feet, and include interpretive exhibits, an auditorium, a parking area, and other features appropriate to public appreciation and understanding of the site.

(b) MARKING.—The Secretary may mark sites associated with the Siege and Battle of Corinth National Historic Landmark, as designated on May 6, 1991, if the sites are determined by the Secretary to be protected by State or local governmental agencies.

(c) ADMINISTRATION.—The land and interests in land acquired, and the facilities constructed and maintained pursuant to this Title, shall be administered by the Secretary as a part of Shiloh National Military Park, subject to the appropriate laws (including regulations) applicable to the Park, the Act entitled "An Act to establish a National Park Service, and for other purposes," approved August 25, 1916 (16 U.S.C. 1 et Seq.), and the Act entitled "An Act to provide for the preservation of historic american sites, buildings, objects, and antiquities of national significance, and for other purposes," approved August 21, 1935 (16 U.S.C. 461 et seq.).

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated such sums as are necessary to carry out this Title.

(b) CONSTRUCTION.—Of the amounts made available to carry out this Title, not More than $6,000,000 may be used to carry out section 503(a).

TITLE VI—WALNUT CANYON NATIONAL MONUMENT BOUNDARY MODIFICATION

SEC. 601. FINDINGS AND PURPOSE.

(A) FINDINGS.—The Congress finds that:

(1) Walnut Canyon National Monument was established for the preservation and interpretation of certain settlements and land use patterns associated with the prehistoric Sinaguan culture of northern Arizona.

(2) Major cultural resources associated with the purposes of Walnut Canyon National Monument are near the boundary and are currently managed under multiple-use objectives of the adjacent national forest. These concentrations of cultural resources, often referred to as "forts", would be more effectively managed as part of the National Park System.

(b) PURPOSE.—The purpose of this Title is to modify the boundaries of the Walnut Canyon National Monument (hereafter in this Title referred to as the "national monument") to improve management of the national monument and associated resources.

SEC. 602. BOUNDARY MODIFICATION.

Effective on the date of enactment of this Act, the boundaries of the national monument shall be modified as depicted on the map entitled "Boundary Proposal—Walnut Canyon National Monument, Coconino County, Arizona", numbered 360/80,010, and dated September 1994. Such map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior. The Secretary of the Interior, in consultation with the Secretary of Agriculture, is authorized to make technical and clerical corrections to such map.

SEC. 603. ACQUISITION AND TRANSFER OF PROPERTY.

The Secretary of the Interior is authorized to acquire lands and interest in lands within the national monument, by donation, purchase with donated or appropriated funds, or exchange. Federal property within the boundaries of the national monument (as modified by this Title) is hereby transferred to the administrative jurisdiction of the Secretary of the Interior for management as part of the national monument. Federal property excluded from the monument pursuant to the boundary modification under section 603 is hereby transferred to the administrative jurisdiction of the Secretary of Agriculture to be managed as a part of the Coconino National Forest.

SEC. 604. ADMINISTRATION.

The Secretary of the Interior, acting through the Director of the National Park Service, shall manage the national monument in accordance with this Title and the provisions of law generally applicable to units of the National Park Service, including An Act to establish a National Park Service, and for other purposes approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4).

SEC. 605 AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out this Title.

TITLE VII—DELAWARE WATER GAP

SEC. 701. PROHIBITION OF COMMERCIAL VEHICLES.

(a) IN GENERAL.—Effective at noon on September 30, 2005, the use of Highway 209 within Delaware Water Gap National Recreation Area by commercial vehicles, when such use is not connected with the operation of the recreation area, is prohibited, except as provided in subsection (b).

(b) LOCAL BUSINESS USE PROTECTED.—Subsection (a) does not apply with respect to the use of commercial vehicles to serve businesses located or in the vicinity of the recreation area, as determined by the Secretary.

(c) CONFORMING PROVISIONS.—

(1) Paragraph (1) through (3) of the third undersigned paragraph under the heading "administrative provisions" in chapter VII of title I of Public Law 98-63 (97 Stat. 329) are repealed, effective September 30, 2005.

(2) Prior to noon on September 30, 2005, the Secretary shall collect and utilize a commercial use fee from commercial vehicles in accordance with paragraphs (1) through (3) of such third undesignated paragraph. Such fee shall not exceed $25 per trip.

TITLE VIII—TARGHEE NATIONAL FOREST LAND EXCHANGE

SEC. 801. AUTHORIZATION OF EXCHANGE.

(a) CONVEYANCE.—Notwithstanding the requirements in the Act entitled "An Act to Consolidate National Forest Lands", approved March 20, 1922 (16 U.S.C. 485), and section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) that Federal and non-Federal lands exchanged for each other must be located within the same state, the Secretary of Agriculture may convey the Federal lands described in section 802(a) in exchange for the non-Federal lands described in section 802(b) in accordance with the provisions of this Title.

(b) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Except as otherwise provided in this title, the land exchange authorized by this section shall be made under the existing authorities of the Secretary.

(c) ACCEPTABILITY OF TITLE AND MANNER OF CONVEYANCE.—The Secretary shall not carry out the exchange described in subsection (a) unless the title to the non-Federal lands to be conveyed to the United States, and the form and procedures of conveyance, are acceptable to the Secretary.

SEC. 802. DESCRIPTION OF LANDS TO BE EXCHANGED.

(a) FEDERAL LANDS.—The Federal lands referred to in this Title are located in the Targhee National Forest in Idaho, are generally depicted on the map entitled "Targhee Exchange, Idaho-Wyoming—Proposed, Federal Land", dated September 1994, and are known as the North Fork Tract.

(b) NON-FEDERAL LANDS.—The non-Federal lands referred to in this Title are located in the Targhee National Forest in Wyoming, are generally depicted on the map entitled "Non-Federal Land, Targhee Exchange, Idaho-Wyoming—Proposed", dated September 1994, and are known as the Squirrel Meadows Tract.

(c) MAPS.—The maps referred to in subsections (a) and (b) shall be on file and available for inspection in the office of the Targhee National Forest in Idaho and in the office of the Chief of the Forest Service.

SEC. 803. EQUALIZATION OF VALUES.

Prior to the exchange authorized by section 801, the values of the Federal and non-Federal lands to be so exchanged shall be established by appraisals of fair market value that shall be subject to approval by the Secretary. The values either shall be equal or shall be equalized using the following methods:

(1) ADJUSTMENT OF LANDS.—

(A) PORTION OF FEDERAL LANDS.—If the Federal lands are greater in value than the non-Federal lands, the Secretary shall reduce the acreage of the Federal lands until the values of the Federal lands closely approximate the values of the non-Federal lands.

(B) ADDITIONAL FEDERALLY-OWNED LANDS.—If the non-Federal lands are greater in value than the Federal lands, the Secretary may convey additional federally owned lands within the Targhee National Forest up to an amount necessary to equalize the values of the non-Federal lands and the lands to be, transferred out of Federal ownership. However, such additional federally owned lands shall be limited to those meeting the criteria for land exchanges specified in the Targhee National Forest Land and Resource Management Plan.

(2) PAYMENT OF MONEY.—The values may be equalized by the payment of money as provided in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

SEC. 804. DEFINITIONS.

For purposes of this Title:

(1) The term "Federal lands" means the Federal lands described in section 802(a).

(2) The term "non-Federal lands" means the non-Federal lands described in section 802(b).

(3) The term "Secretary" means the Secretary of Agriculture.

TITLE IX—DAYTON AVIATION

Section 201(b) of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102-419, approved October 16, 1992), is amended as follows:

(1) In paragraph (2), by striking "from recommendations" and inserting "after consideration of recommendations".

(2) In paragraph (4), by striking "from recommendations" and inserting "after consideration of recommendations".

(3) In paragraph (5), by striking "from recommendations" and inserting "after consideration of recommendations".

(4) In paragraph (6), by striking "from recommendations" and inserting "after consideration of recommendations".

(5) In paragraph (7), by striking "from recommendations" and inserting "after consideration of recommendations".

TITLE X—CACHE LA POUDRE

SEC. 1001. PURPOSE.

The purpose of this Title is to designate the Cache La Poudre River National Water Heritage Area within the Cache La Poudre River Basin and to provide for the interpretation, for the educational and inspirational benefit of present and future generations, of the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Area.

SEC. 1002. DEFINITIONS.

As used in this Title:

(1) AREA.—The term "Area" means the Cache La Poudre River National Water Heritage Area established by section 1003(a).

(2) COMMISSION.—The term "Commission" means the Cache La Poudre River National Water Heritage Area Commission established by section 1004(a).

(3) GOVERNOR.—The term "Governor" means the Governor of the State of Colorado.

(4) PLAN.—The term "Plan" means the water heritage area interpretation plan prepared by the Commission pursuant to section 1008(a).

(5) POLITICAL SUBDIVISION OF THE STATE.—The term "political subdivision of the State" means a political subdivision of the State of Colorado, any part of which is located in or adjacent to the Area, including a county, city, town, water conservancy district, or special district.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 1003. ESTABLISHMENT OF THE CACHE LA POUDRE RIVER NATIONAL WATER HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State of Colorado the Cache La Poudre River National Water Heritage Area.

(b) BOUNDARIES.—The boundaries of this Area shall include those lands within the 100-year flood plain of the Cache La Poudre River Basin, beginning at a point where the Cache La Poudre River flows out of the Roosevelt National Forest and continuing east along said floodplan to a point one quarter of one mile west of the confluence of the Cache La Poudre River and the South Platte Rivers in Weld County, Colorado, comprising less than 35,000 acres, and generally depicted as the 100-year flood boundary on the Federal Flood Insurance maps listed below:

(1) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0146B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(2) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0147B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(3) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0162B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(4) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0163C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(5) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0178C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(6) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080102 0002B, February 15, 1984. Federal Emergency Management Agency, Federal Insurance Administration.

(7) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0179C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(8) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0193D, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(9) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0194D, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(10) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0208C, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(11) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0221C, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(12) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0605D, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(13) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080264 0005A, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(14) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0608D, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(15) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266

0609C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(16) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0628C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(17) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080184 0002B, July 16, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(18) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0636C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(19) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0637C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

As soon as practicable after the date of enactment of this Title, the Secretary shall publish in the Federal Register a detailed description and map of the boundaries of the Area.

(c) PUBLIC ACCESS TO MAPS.—The maps shall be on file and available for public inspection in—

(1) the offices of the Department of the Interior in Washington, District of Columbia, and Denver, Colorado; and

(2) local offices of the city of Fort Collins, Larimer County, the city of Greeley, and Weld County.

SEC. 1004. ESTABLISHMENT OF THE CACHE LA POUDRE RIVER NATIONAL WATER HERITAGE AREA COMMISSION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the Cache La Poudre River National Water Heritage Area Commission.

(2) FUNCTION.—The Commission, in consultation with appropriate Federal, State, and local authorities, shall develop and implement an integrated plan to interpret elements of the history of water development within the Area.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 15 members appointed not later than 6 months after the date of enactment of this Title. Of these 15 members—

(A) 1 member shall be a representative of the Secretary of the Interior which member shall be an ex officio member;

(B) 1 member shall be a representative of the Forest Service, appointed by the Secretary of Agriculture, which member shall be a ex officio member;

(C) 3 members shall be recommended by the Governor and appointed by the Secretary, of whom—

(i) 1 member shall represent the State;

(ii) 1 member shall represent Colorado State University in Fort Collins; and

(iii) 1 member shall represent the Northern Colorado Water Conservancy District;

(D) 6 members shall be representatives of local governments who are recommended by the Governor and appointed by the Secretary, of whom—

(i) 1 member shall represent the city of Fort Collins:

(ii) 2 members shall represent Larimer County, 1 of which shall represent agriculture or irrigated water interests;

(iii) 1 member shall represent the city of Greeley;

(iv) 2 members shall represent Weld County, 1 of which shall represent agricultural or irrigated water interests; and

(v) 1 member shall represent the city of Loveland; and

(E) 3 members shall be recommended by the Governor and appointed by the Secretary, and shall—

(i) represent the general public;

(ii) be citizens of the State; and

(iii) reside within the Area.

(2) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members of the Commission from among members appointed under subparagraph (C), (D), or (E) of paragraph (1). The chairperson shall be elected for a 2-year term.

(3) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(c) TERMS OF SERVICE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each member of the Commission shall be appointed for a term of 3 years and may be reappointed.

(2) INITIAL MEMBERS.—The initial members of the Commission first appointed under subsection (b)(1) shall be appointed as follows:

(A) 3-YEAR TERMS.—The following initial members shall serve for a 3-year term:

(i) The representative of the Secretary of the Interior.

(ii) 1 representative of Weld County.

(iii) 1 representative of Larimer County.

(iv) 1 representative of the city of Loveland.

(v) 1 representative of the general public.

(B) 2-YEAR TERMS.—The following initial members shall serve for a 2-year term.

(i) The representative of the Forest Service.

(ii) The representative of the State.

(iii) The representative of Colorado State University.

(iv) The representative of the Northern Colorado Water Conservancy District.

(C) 1-YEAR TERMS.—The following initial members shall serve for a 1-year term.

(i) 1 representative of the city of Fort Collins.

(ii) 1 representative of Larimer County.

(iii) 1 representative of the city of Greeley.

(iv) 1 representative of Weld County.

(v) 1 representative of the general public.

(3) PARTIAL TERMS.—

(A) FILLING VACANCIES.—A member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of their term.

(B) EXTENDED SERVICE.—A member of the Commission may serve after the expiration of that member's term until a successor has taken office.

(d) COMPENSATION.—Members of the Commission shall receive no compensation for their service on the Commission.

(e) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

SEC. 1005. STAFF OF THE COMMISSION.

(a) STAFF.—The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out the duties of the Commission.

(1) APPOINTMENT AND COMPENSATION.—Staff appointed by the Commission—

(A) shall be appointed without regard to the city service laws and regulations; and

(B) shall be compensated without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(c) STAFF OF OTHER AGENCIES.—

(1) FEDERAL.—Upon request of the Commission, the head of a Federal agency may detail, on a reimbursement basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the Commission's duties. The detail shall be without interruption or loss of civil service status or privilege.

(2) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(3) STATE.—The Commission may—

(A) accept the service of personnel detailed from the State, State agencies, and political subdivisions of the State; and

(B) reimburse the State, State agency, or political subdivision of the State for such services.

SEC. 1006. POWERS OF THE COMMISSION.

(a) HEARINGS.—

(1) IN GENERAL.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to carry out this Title.

(2) SUBPOENAS.—The Commission may not issue subpoenas or exercise any subpoena authority.

(b) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(c) MATCHING FUNDS.—The Commission may use its funds to obtain money from any source under a program or law requiring the recipient of the money to make a contribution in order to receive the money.

(d) GIFTS.—

(1) IN GENERAL.—Except as provided in subsection (e)(3), the Commission may, for the purpose of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services received from any source.

(2) CHARITABLE CONTRIBUTIONS.—For the purpose of section 170(c) of the Internal Revenue Code of 1986, a gift to the Commission shall be deemed to be a gift to the United States.

(e) REAL PROPERTY.—

(1) IN GENERAL.—Except as provided in paragraph (2) and except with respect to a leasing of facilities under section 6(c)(2), the Commission may not acquire real property or an interest in real property.

(2) EXCEPTION.—Subject to paragraph (3), the Commission may acquire real property in the Area, and interests in real property in the Area—

(A) by gift or devise;

(B) by purchase from a willing seller with money that was given or bequeathed to the Commission; or

(C) by exchange.

(3) CONVEYANCE TO PUBLIC AGENCIES.—Any real property or interest in real property acquired by the Commission under paragraph

(2) shall be conveyed by the Commission to an appropriate non-Federal public agency, as determined by the Commission. The conveyance shall be made—

(A) As soon as practicable after acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used in furtherance of the purpose for which the Area is established.

(f) COOPERATIVE AGREEMENTS.—For the purpose of carrying out the Plan, the Commission may enter into cooperative agreements with Federal agencies, State agencies, political subdivisions of the State, and persons. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action that may affect the implementation of the Plan.

(g) ADVISORY GROUPS.—The Commission may establish such advisory groups as it considers necessary to ensure open communication with, and assistance from Federal agencies, State agencies, political subdivisions of the State, and interested persons.

(h) MODIFICATION OF PLANS.—

(1) IN GENERAL.—The Commission may modify the Plan if the Commission determines that such modification is necessary to carry out this Title.

(2) NOTICE.—No modification shall take effect until—

(A) any Federal agency, State agency, or political subdivision of the State that may be affected by the modification receives adequate notice of, and an opportunity to comment on, the modification;

(B) if the modification is significant, as determined by the Commission, the Commission has—

(i) provided adequate notice of the modification by publication in the area of the Area; and

(ii) conducted a public hearing with respect to the modification; and

(C) the Governor has approved the modification.

SEC. 1007. DUTIES OF THE COMMISSION.

(a) PLAN.—The Commission shall prepare, obtain approval for, implement, and support the Plan in accordance with section 9.

(b) MEETINGS.—

(1) TIMING.—

(A) INITIAL MEETING.—The Commission shall hold its first meeting not later than 90 days after the date on which its last initial member is appointed.

(B) SUBSEQUENT MEETINGS.—After the initial meeting, the Commission shall meet at the call of the chairperson or 7 of its members, except that the commission shall meet at least quarterly.

(2) QUORUM.—Ten members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(3) BUDGET.—The affirmative vote of not less than 10 members of the Commission shall be required to approve the budget of the Commission.

(c) ANNUAL REPORTS.—Not later than May 15 of the year, following the year in which the members of the Commission have been appointed, the Commission shall publish and submit, to the Secretary and to the Governor, an annual report concerning the Commission's activities.

SEC. 1008. PREPARATION, REVIEW, AND IMPLEMENTATION OF THE PLAN.

(a) PREPARATION OF PLAN.—

(1) IN GENERAL.—Not later than 2 years after the Commission conducts its first meeting, the Commission shall submit to the Governor a Water Heritage Area Interpretation Plan.

(2) DEVELOPMENT.—In developing the Plan, the Commission shall—

(A) consult on a regular basis with appropriate officials of any Federal or State agency, political subdivision of the State, and local government that has jurisdiction over or an ownership interest in land, water, or water rights within the Area; and

(B) conduct public hearings within the Area for the purpose of providing interested persons the opportunity to testify about matters to be addressed by the Plan.

(3) RELATIONSHIP TO EXISTING PLANS.—The Plan—

(A) shall recognize any existing Federal, State, and local plans;

(B) shall not interfere with the implementation, administration, or amendment of such plan; and

(C) to the extent feasible, shall seek to coordinate the plans and present a unified interpretation plan for the Area.

(b) REVIEW OF PLAN.—

(1) IN GENERAL.—The Commission shall submit the Plan to the Governor for his review.

(2) GOVERNOR.—The Governor may review the Plan and if he concurs in the Plan, may submit the Plan to the Secretary, together with any recommendations.

(3) SECRETARY.—The Secretary shall approve or disapprove the Plan within 90 days. In reviewing the Plan, the Secretary shall consider the adequacy of—

(A) public participation; and

(B) the Plan in interpreting, for the educational and inspirational benefit of present and future generations, the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Area.

(c) DISAPPROVAL OF PLAN.—

(1) NOTIFICATION BY SECRETARY.—If the Secretary disapproves the Plan, the Secretary shall, not later than 60 days after the date of disapproval, advise the Governor and the Commission of the reasons for disapproval, together with recommendations for revision.

(2) REVISION AND RESUBMISSION TO GOVERNOR.—Not later than 90 days after receipt of the notice of disapproval, the Commission shall revise and resubmit the Plan to the Governor for review.

(3) RESUBMISSION TO SECRETARY.—If the Governor concurs in the revised Plan, he may submit the revised Plan to the Secretary who shall approve or disapprove the revision within 60 days. If the Governor does not concur in the revised Plan, he may resubmit it to the Commission together with his recommendations for further consideration and modification.

(d) IMPLEMENTATION OF PLAN.—After approval by the Secretary, the Commission shall implement and support the Plan as follows:

(1) CULTURAL RESOURCES.—

(A) IN GENERAL.—The Commission shall assist Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations in the conservation and interpretation of cultural resources within the Area.

(B) EXCEPTION.—In providing the assistance, the Commission shall in no way infringe upon the authorities and policies of a Federal agency, State agency, or political subdivision of the State concerning the administration and management of property, water, or water rights held by such agency, political subdivision, or private persons or entities, or affect the jurisdiction of the State of Colorado over any property, water, or water rights within the Area.

(2) PUBLIC AWARENESS.—The Commission shall assist in the enhancement of public awareness of, and appreciation for, the historical, recreational, architectural, and engineering structures in the Area, and the archaeological, geological, and cultural resources and sites in the Area—

(A) by encouraging private owners of identified structures, sites, and resources to adopt voluntary measures for the preservation of the identified structure, site, or resource; and

(B) by cooperating with Federal agencies, State agencies, and political subdivisions of the State in acquiring, on a willing seller basis, any identified structure, site, or resource which the Commission, with the concurrence of the Governor, determines should be acquired and held by an agency of the State.

(3) RESTORATION.—The Commission may assist Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations in the restoration of any identified structure or site in the Area with consent of the owner. The assistance may include providing technical assistance for historic preservation, revitalization, and enhancement efforts.

(4) INTERPRETATION.—The Commission shall assist in the interpretation of the historical, present, and future uses of the Area—

(A) by consulting with the Secretary with respect to the implementation of the Secretary's duties under section 1010;

(B) by assisting the State and political subdivisions of the State in establishing and maintaining visitor orientation centers and other interpretive exhibits within the Area;

(C) by encouraging voluntary cooperation and coordination, with respect to ongoing interpretive services in the Area, among Federal agencies, State agencies, political subdivisions of the State, nonprofit organizations, and private citizens, and

(D) by encouraging Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations to undertake new interpretive initiatives with respect to the Area.

(5) RECOGNITION.—The Commission shall assist in establishing recognition for the Area by actively promoting the cultural, historical, natural, and recreational resources of the Area on a community, regional, statewide, national, and international basis.

(6) LAND EXCHANGES.—The Commission shall assist in identifying and implementing land exchanges within the State of Colorado by Federal and State agencies that will expand open space and recreational opportunities within the flood plain of the Area.

SEC. 1009. TERMINATION OF TRAVEL EXPENSES PROVISION.

Effective on the date that is 5 years after the date on which the Secretary approves the Plan, section 5 is amended by striking subsection (e).

SEC. 1010. DUTIES OF THE SECRETARY.

(a) ACQUISITION OF LAND.—The Secretary may acquire land and interests in land within the Area that have been specifically identified by the Commission for acquisition by the Federal government and that have been approved for such acquisition by the Governor and the political subdivision of the State where the land is located by donation, purchase with donated or appropriated funds, or exchange. Acquisition authority may only be used if such lands cannot be acquired by donation or exchange. No land or interest in land may be acquired without the consent of the owner.

(b) TECHNICAL ASSISTANCE.—The Secretary shall, upon the request of the Commission, provide technical assistance to the Commission in the preparation and implementation of the Plan pursuant to section 1008.

(c) DEAIL.—Each fiscal year during the existence of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, 2 employees of the Department of the Interior to enable the Commission to carry out the Commission's duties under section 1007.

SEC. 1011. OTHER FEDERAL ENTITIES.

(a) DUTIES.—Subject to section 1001, a Federal entity conducting or supporting activities directly affecting the flow of the Cache La Poudre River through the Area, or the natural resources of the Area shall consult with the Commission with respect to such activities;

(b) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary or Administrator of a Federal agency may acquire land in the flood plain of the Area by exchange for other lands within such agency's jurisdiction within the State of Colorado, based on fair market value: Provided, That such lands have been identified by the Commission for acquisition by a Federal agency and the Governor and the political subdivision of the State or the owner where the lands are located concur in the exchange. Land so acquired shall be used to fulfill the purpose for which the Area is established.

(2) AUTHORIZATION TO CONVEY PROPERTY.—The first sentence of section 203(k)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)(3)) is amended by striking "historic monument, for the benefit of the public" and inserting "historic monument or any such property within the State of Colorado for the Cache La Poudre River National Water Heritage Area, for the benefit of the public".

SEC. 1012. EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS, RESTRICTIONS, AND SAVINGS PROVISIONS.

(a) EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS.—

(1) VOLUNTARY COOPERATION.—In carrying out this Title, the Commission and Secretary shall emphasize voluntary cooperation.

(2) RULES, REGULATIONS, STANDARDS, AND PERMIT PROCESSES.—Nothing in this Title shall be considered to impose or form the basis for imposition of any environmental, occupational, safety, or other rule, regulation, standard, or permit process that is different from those that would be applicable had the Area not been established..

(3) ENVIRONMENTAL QUALITY STANDARDS.—Nothing in this Title shall be considered to impose the application or administration of any Federal or State environmental quality standard that is different from those that will be applicable had the Area not been established.

(4) WATER STANDARDS.—Nothing in this Title shall be considered to impose any Federal or State water use designation or water quality standard upon uses of, or discharges to, waters of the State or waters of the United States, within or adjacent to the Area, that is more restrictive than those that would be applicable had the Area not been established.

(5) PERMITTING OF FACILITIES.—Nothing in the establishment of the Area shall abridge, restrict, or alter any applicable rule, regulation, standard, or review procedure for permitting of facilities within or adjacent to the Area.

(6) WATER FACILITIES.—Nothing in the establishment of the Area shall affect the continuing use and operation, repair, rehabilitation, expansion, or new construction of water supply facilities, water and wastewater treatment facilities, stormwater facilities, public utilities, and common carriers.

(7) WATER AND WATER RIGHTS.—Nothing in the establishment of the Area shall be considered to authorize or imply the reservation or appropriation of water or water rights for any purpose.

(b) RESTRICTIONS ON COMMISSION AND SECRETARY.—Nothing in this Title shall be construed to vest in the Commission or the Secretary the authority to—

(1) require a Federal agency, State agency, political subdivision of the State, or private person (including an owner of private property) to participate in a project or program carried out by the Commission or the Secretary under the Title;

(2) intervene as a party in an administrative or judicial proceeding concerning the application or enforcement of a regulatory authority of a Federal agency, State agency, or political subdivision of the State, including, but not limiting to, authority relating to—

(A) land use regulation;
(B) environmental quality;
(C) licensing;
(D) permitting;
(E) easement;
(F) private land development; or
(G) other occupational or access issue;

(3) establish or modify a regulatory authority of a Federal agency, State agency, or political subdivision of the State, including authority relating to—

(A) land use regulation;
(B) environmental quality; or
(C) pipeline or utility crossings;

(4) modify a policy of a Federal agency, State agency, or political subdivision of the State;

(5) attest in any manner the authority and justification of the State with respect to the acquisition of lands or water, or interest in lands or water;

(6) vast authority to reserve or appropriate water or water rights in any entity for any purpose;

(7) deny, condition, or restrict the construction, repair, rehabilitation, or expansion of water facilities, including stormwater, water, and wastewater treatment facilities; or

(8) deny, condition, or restrict the exercise of water rights in accordance with the substantive and procedural requirements of the laws of the State.

(c) SAVINGS PROVISION.—Nothing in this Title shall diminish, enlarge, or modify a right of a Federal agency, State agency, or political subdivision of the State—

(1) to exercise civil and criminal jurisdiction within the Area; or

(2) no tax persons, corporations, franchises, or property, including minerals and other interests in or on lands or waters within the urban river corridor portions of the Area.

(d) ACCESS TO PRIVATE PROPERTY.—Nothing in this Title requires an owner of private property to allow access to the property by the public.

SEC. 1013. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated not to exceed $50,000 to the Commission to carry out this Act.

(b) MATCHING FUNDS.—Funds may be made available pursuant to this section only to the extent they are matched by equivalent funds or in-kind contributions of services or materials from non-Federal sources.

TITLE XI—GILPIN COUNTY, COLORADO LAND EXCHANGE

SEC. 1101. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds and declares that—

(1) certain scattered parcels of Federal land located within Gilpin County, Colorado, are currently administered by the Secretary of the Interior as part of the Royal Gorge Resource Area, Canon City District, United States Bureau of Land Management;

(2) these land parcels, which comprises approximately 133 separate tracts of land, and range in size from approximately 38 acres to much less than an acre have been identified as suitable for disposal by the Bureau of Land Management through its resource management planning process and are appropriate for disposal; and

(3) even though the Federal land parcels in Gilpin County, Colorado, are scattered and small in size, they nevertheless by virtue of their proximity to existing communities appear to have a fair market value which may be used by the Federal Government to exchange for lands which will better lend themselves to Federal management and have higher value for future public access, use and enjoyment, recreation, the protection and enhancement of fish and wildlife and fish and wildlife habitat, and the protection of riparian lands, wetlands, scenic beauty and other public values.

(b) PURPOSE.—It is the purpose of this Title to authorize, direct, facilitate and expedite the land exchange set forth herein in order to further the public interest by disposing of Federal lands with limited public utility and acquire in exchange therefor lands with important values for permanent public management and protection.

SEC. 1102. LAND EXCHANGE.

(A) IN GENERAL.—The exchange directed by this Title shall be consummated if within 90 days after enactment of this Act, Lake Gulch, Inc., a Colorado Corporation (as defined in section 1104 of this Title) offers to transfer to the United States pursuant to the provisions of this Title the offered lands or interests in land described herein.

(b) CONVEYANCE BY LAKE GULCH.—Subject to the provisions of section 1103 of this Title, Lake Gulch shall convey to the Secretary of the Interior all right, title, and interest in and to the following offered lands—

(1) certain lands comprising approximately 40 acres with improvements thereon located in Larimer County, Colorado, and lying within the boundaries of Rocky Mountain National Park as generally depicted on a map entitled "Circle C Church Camp", dated August 1994, which shall upon their acquisition by the United States and without further action by the Secretary of the Interior be incorporated into Rocky Mountain National Park and thereafter be administered in accordance with the laws, rules and regulations generally applicable to the National Park System and Rocky Mountain National Park;

(2) certain lands located within and adjacent to the United States Bureau of Land Management San Luis Resource Area in Conejos County, Colorado, which comprise approximately 3,993 acres and are generally depicted on a map entitled "Quinlan Ranches Tract", dated August 1994; and

(3) certain lands located within the United States Bureau of Land Management Royal Gorge Resource Area in Huerfano County, Colorado, which comprise approximately

4,700 acres and are generally depicted on a map entitled "Bonham Ranch—Cucharas Canyon", dated June 1995: Provided, however, That it is the intention of Congress that such lands may remain available for the grazing of livestock as determined appropriate by the Secretary in accordance with applicable laws, rules, and regulations: Provided further, That if the Secretary determines that certain of the lands acquired adjacent to Cucharas Canyon hereunder are not needed for public purposes they may be sold in accordance with the provisions of section 302 of the Federal Land Policy and Management Act of 1976 and other applicable law.

(c) SUBSTITUTION OF LANDS.—If one or more of the precise offered land parcels identified above is unable to be conveyed to the United States due to appraisal or other problems, Lake Gulch and the Secretary may mutually agree to substitute therefore alternative offered lands acceptable to the Secretary.

(d) CONVEYANCE BY THE UNITED STATES.—(1) Upon receipt of title to the lands identified in subsection (a) the Secretary shall simultaneously convey to Lake Gulch all right, title, and interest of the United States, subject to valid existing rights, in and to the following selected lands—

(A) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 18, Lots 118–220, which comprise approximately 195 acres and are intended to include all federally owned lands in section 18, as generally depicted on a map entitled "Lake Gulch Selected Lands", dated July 1994;

(B) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 17, Lots 37, 38, 39, 40, 52, 53, and 54, which comprise approximately 96 acres, as generally depicted on a map entitled "Lake Gulch Selected Lands", dated July 1994; and

(C) certain unsurveyed lands located in Gilpin County Colorado, Township 3 South, Range 73 West, Sixth Principal Meridian, Section 13, which comprise approximately 11 acres, and are generally depicted as parcels 302-304, 306 and 308-326 on a map entitled "Lake Gulch Selected Lands", dated July 1994; Provided, however, That a parcel or parcels of land in section 13 shall not be transferred to Lake Gulch if at the time of the proposed transfer the parcel or parcels are under formal application for transfer to a qualified unit of local government. Due to a small and unsurveyed nature of such parcels proposed for transfer to Lake Gulch in section 13, and the high cost of surveying such small parcels, the Secretary is authorized to transfer such section 13 lands to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate to carry out the basic intent of the map cited in this subparagraph.

(2) If the Secretary and Lake Gulch mutually agree, and the Secretary determines it is in the public interest, the Secretary may utilize the authority and direction of this Title to transfer to Lake Gulch lands in sections 17 and 13 that are in addition to those precise selected lands shown on the map cited herein, and which are not under formal application for transfer to a qualified unit of local government, upon transfer to the Secretary of additional offered lands acceptable to the Secretary or upon payment to the Secretary by Lake Gulch of cash equalization money amounting to the full appraised fair market value of any such additional lands. If any such additional lands are located in section 13 they may be transferred to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate as long as the Secretary determines that the boundaries of any adjacent lands not owned by Lake Gulch can be property identified so as to avoid possible future boundary conflicts or disputes. If the Secretary determines surveys are necessary to convey any such additional lands to Lake Gulch, the costs of such surveys shall be paid by Lake Gulch but shall not be eligible for any adjustment in the value of such additional lands pursuant to section 206(f)(2) of the Federal Land Policy and Management Act of 1976 (as amended by the Federal Land Exchange Facilitation Act of 1988) (43 U.S.C. 1716(f)(2)).

(3) Prior to transferring out of public ownership pursuant to this Title or other authority of law any lands which are contiguous to North Clear Creek southeast of the City of Black Hawk, Colorado in the County of Gilpin, Colorado, the Secretary shall notify and consult with the County and City and afford such units of local government an opportunity to acquire or reserve pursuant to the Federal Land Policy and Management Act of 1976 or other applicable law, such easements or rights-of-way parallel to North Clear Creek as may be necessary to serve public utility line or recreation path needs: Provided, however, that any survey or other costs associated with the acquisition or reservation of such easements or rights-of-way shall be paid for by the unit or units of local government concerned.

SEC. 1103. TERMS AND CONDITIONS OF EXCHANGE.

(a) EQUALIZATION OF VALUES.—

(1) The values of the lands to be exchanged pursuant to this Title shall be equal as determined by the Secretary of the Interior utilizing comparable sales of surface and subsurface property and nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law.

(2) In the event any cash equalization or land sale moneys are received by the United States pursuant to this Act, any such moneys shall be retained by the Secretary of the Interior and may be utilized by the Secretary until fully expended to purchase from willing sellers land or water rights, or a combination thereof, to augment wildlife habitat and protect and restore wetlands in the Bureau of Land Management's Blanca Wetlands, Alamosa County, Colorado.

(3) Any water rights acquired by the United States pursuant to this section shall be obtained by the Secretary of the Interior in accordance with all applicable provisions of Colorado law, including the requirement to change the time, place, and type of use of said water rights through the appropriate State legal proceedings and to comply with any terms, conditions, or other provisions contained in an applicable decree of the Colorado Water Court. The use of any water rights acquired pursuant to this section shall be limited to water that can be used or exchanged for water that can be used on the Blanca Wetlands. Any requirement or proposal to utilize facilities of the San Luis Valley Project, Closed Basin Diversion, in order to effectuate the use of any such water rights shall be subject to prior approval of the Rio Grande Water Conservation District.

(b) RESTRICTIONS ON SELECTED LANDS.—(1) Conveyance of the selected lands to Lake Gulch pursuant to this Title shall be contingent upon Lake Gulch executing an agreement with the United States prior to such conveyance, the terms of which are acceptable to the Secretary of the Interior, and which—

(A) grant the United States a covenant that none of the selected lands (which currently lie outside the legally approved gaming area) shall ever be used for purposes of gaming should the current legal gaming area ever be expanded by the State of Colorado; and

(B) permanently hold the United States harmless for liability and indemnify the United States against all costs arising from any activities, operations (including the storing, handling, and dumping of hazardous materials or substances) or other acts conducted by Lake Gulch or its employees, agents, successors or assigns on the selected lands after their transfer to Lake Gulch: *Provided, however,* That nothing in this Title shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of the selected lands prior to or on the date of their transfer to Lake Gulch.

(2) Conveyance of the selected lands to Lake Gulch pursuant to this Title shall be subject to the existing easement for Gilpin County Road 6.

(3) The above terms and restrictions of this subsection shall not be considered in determining, or result in any diminution in, the fair market value of the selected land for purposes of the appraisals of the selected land required pursuant to section 1102 of this Title.

(c) REVOCATION OF WITHDRAWAL.—The Public Water Reserve established by Executive order dated April 17, 1926 (Public Water Reserve 107), Serial Number Colorado 17321, is hereby revoked insofar as it affects the NW ¼ SW ¼ of Section 17, Township 3 South, Range 72 West, Sixth Principal Meridian, which covers a portion of the selected lands identified in this Title.

SEC. 1104. MISCELLANEOUS PROVISIONS.

(a) DEFINITIONS.—As used in this Title:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Lake Gulch" means Lake Gulch, Inc., a Colorado corporation, or its successors, heirs or assigns.

(3) The term "offered land" means lands to be conveyed to the United States pursuant to this Title.

(4) The term "selected land" means lands to be transferred to Lake Gulch, Inc., or its successors, heirs or assigns pursuant to this Title.

(5) The term "Blanca Wetlands" means an area of land comprising approximately 9,290 acres, as generally depicted on a map entitled "Blanca Wetlands", dated August 1994, or such land as the Secretary may add thereto by purchase from willing sellers after the date of enactment of this Act utilizing funds provided by this Title or such other moneys as Congress may appropriate.

(b) TIME REQUIREMENT FOR COMPLETING TRANSFER.—It is the intent of Congress that unless the Secretary and Lake Gulch mutually agree otherwise the exchange of lands authorized and directed by this Title shall be completed not later than 6 months after the date of enactment of this Act. In the event the exchange cannot be consummated within such 6-month-time period, the Secretary, upon application by Lake Gulch, is directed to sell to Lake Gulch at appraised fair market value any or all of the parcels (comprising a total of approximately 11 acres) identified in section 1102(d)(1)(C) of this Title as long as the parcel or parcels applied for are not under formal application for transfer to a qualified unit of local government.

(c) ADMINISTRATION OF LANDS ACQUIRED BY UNITED STATES.—In accordance with the provisions of section 206(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)), all lands acquired by the United States pursuant to this Title shall upon acceptance of title by the United States and without further action by the Secretary concerned become part of and be managed as part of the administrative unit or area within which they are located.

TITLE XII—BUTTE COUNTY, CALIFORNIA LAND CONVEYANCE

SEC. 1201. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) certain landowners in Butte County, California who own property adjacent to the Plumas National Forest have been adversely affected by certain erroneous surveys;

(2) these landowners have occupied or improved their property in good faith and in reliance on erroneous surveys of their properties that they believed were accurate; and

(3) the 1992 Bureau of Land Management dependent resurvey of the Plumas National Forest will correctly establish accurate boundaries between such forest and private lands.

(b) PURPOSE.—It is the purpose of this Title to authorize and direct the Secretary of Agriculture to convey, without consideration, certain lands in Butte County, California, to persons claiming to have been deprived of title to such lands.

SEC. 1202. DEFINITIONS.

For the purpose of this Title—

(1) the term "affected lands" means those Federal lands located in the Plumas National Forest in Butte County, California, in sections 11, 12, 13, and 14, township 21 north, range 5 East, Mount Diablo Meridian, as described by the dependent resurvey by the Bureau of Land Management conducted in 1992, and subsequent Forest Service land line location surveys, including all adjoining parcels where the property line as identified by the 1992 BLM dependent resurvey and National Forest boundary lines before such dependent resurvey are not coincident;

(2) the term "claimant" means an owner of real property in Butte County, California, whose real property adjoins Plumas National Forest lands described in subsection (a), who claims to have been deprived by the United States of title to property as a result of previous erroneous surveys; and

(3) the term "Secretary" means the Secretary of Agriculture.

SEC. 1203. CONVEYANCE OF LANDS.

Notwithstanding any other provisions of law, the Secretary is authorized and directed to convey, without consideration, all right, title, and interest of the United States in and to affected lands as described in section 1202(1), to any claimant or claimants, upon proper application from such claimant or claimants, as provided in section 1204.

SEC. 1204. TERMS AND CONDITIONS OF CONVEYANCE.

(A) NOTIFICATION.—Not later than 2 years after the date of enactment of this Act, claimants shall notify the Secretary, through the Forest Supervisor of the Plumas National Forest, in writing of their claim to affected lands. Such claim shall be accompanied by—

(1) a description of the affected lands claimed;

(2) information relating to the claim of ownership of such lands; and

(3) such other information as the Secretary may require.

(b) ISSUANCE OF DEED.—(1) Upon a determination by the Secretary that issuance of a deed for affected lands is consistent with the purpose and requirements of this Title, the Secretary shall issue a quitclaim deed to such claimant for the parcel to be conveyed.

(2) Prior to the issuance of any such deed as provided in paragraph (1), the Secretary shall ensure that—

(A) the parcel or parcels to be conveyed have been surveyed in accordance with the Memorandum of Understanding between the Forest Service and the Bureau of Land Management, dated November 11, 1989;

(B) all new property lines established by such surveys have been monumented and marked; and

(C) all terms and conditions necessary to protect third party and Government Rights-of-Way or other interests are included in the deed.

(3) The Federal Government shall be responsible for all surveys and property line markings necessary to implement this subsection.

(c) NOTIFICATION TO BLM.—The Secretary shall submit to the Secretary of the Interior an authenticated copy of each deed issued pursuant to this Title no later than 30 days after the date such deed is issued.

SEC. 1205. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out the purposes of this Title.

TITLE XIII—CARL GARNER FEDERAL LANDS CLEANUP DAY

SEC.1301.—

The Federal Lands Cleanup Act of 1985 (36 U.S.C. 169i-169i-1) is amended by striking the terms "Federal Lands Cleanup Day" each place it appears and inserting "Carl Garner Federal Lands Cleanup Day".

TITLE XIV—ANAKTUVUK PASS LAND EXCHANGE

SEC. 1401. FINDINGS.

The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act (94 Stat. 2371), enacted on December 2, 1980, established Gates of the Arctic National Park and Preserve and Gates of the Arctic Wilderness. The village of Anaktuvuk Pass, located in the highlands of the central Brooks Range, is virtually surrounded by these national park and wilderness lands and is the only Native village located within the boundary of a National Park System unit in Alaska.

(2) Unlike most other Alaskan Native communities, the village of Anaktuvuk Pass is not located on a major river, lake, or coastline that can be used as a means of access. The residents of Anaktuvuk Pass have relied increasingly on snow machines in winter and all-terrain vehicles in summer as their primary means of access to pursue caribou and other subsistence resources.

(3) In a 1983 land exchange agreement, linear easements were reserved by the Inupiat Eskimo people for use of all-terrain vehicles across certain national park lands, mostly along stream and river banks. These linear easements proved unsatisfactory, because they provided inadequate access to subsistence resources while causing excessive environmental impact from concentrated use.

(4) The National Park Service and the Nunamiut Corporation initiated discussions in 1985 to address concerns over the use of all-terrain vehicles on park and wilderness land. These discussions resulted in an agreement, originally executed in 1992 and thereafter amended in 1993 and 1994, among the National Park Service, Nunamiut Corporation, the City of Anaktuvuk Pass, and Arctic Slope Regional Corporation. Full effectuation of this agreement, as amended, by its terms requires ratification by the Congress.

SEC. 1402. RATIFICATION OF AGREEMENT.

(a) RATIFICATION.—

(1) IN GENERAL.—The terms, conditions, procedures, covenants, reservations and other provisions set forth in the document entitled "Donation, Exchange of Lands and Interests in Lands and Wilderness Redesignation Agreement Among Arctic Slope Regional Corporation, Nunamiut Corporation, City of Anaktuvuk Pass and the United States of America" (hereinafter referred to in this Title as "the Agreement"), executed by the parties on December 17, 1992, as amended, are hereby incorporated in this Title, are ratified and confirmed, and set forth the obligations and commitments of the United States, Arctic Slope Regional Corporation, Nunamiut Corporation and the City of Anaktuvuk Pass, as a matter of Federal law.

(2) LAND ACQUISITION.—Lands acquired by the United States pursuant to the Agreement shall be administered by the Secretary of the Interior (hereinafter referred to as the "Secretary") as part of Gates of the Arctic National Park and Preserve, subject to the laws and regulations applicable thereto.

(b) MAPS.—The maps set forth as Exhibits C1, C2, and D through I to the Agreement depict the lands subject to the conveyances, retention of surface access rights, access easements and all-terrain vehicle easements. These lands are depicted in greater detail on a map entitled "Land Exchange Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,039, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the offices of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska. Written legal descriptions of these lands shall be prepared and made available in the above offices. In case of any discrepancies, Map No. 185/80,039 shall be controlling.

SEC. 1403. NATIONAL PARK SYSTEM WILDERNESS.

(a) GATES OF THE ARCTIC WILDERNESS.—

(1) REDESIGNATION.—Section 710(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2417) establishing the Gates of the Arctic Wilderness is hereby amended with the addition of approximately 56,825 acres as wilderness and the rescission of approximately 73,993 acres as wilderness, thus revising the Gates of the Arctic Wilderness to approximately 7,034,832 acres.

(2) MAP.—The lands redesignated by paragraph (1) are depicted on a map entitled "Wilderness Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,040, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the office of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska.

(b) NOATAK NATIONAL PRESERVE.—Section 201(8)(a) of the Alaska National Interest Land Conservation Act (94 Stat. 2380) is amended by—

(1) striking "approximately six million four hundred and sixty thousand acres" and inserting in lieu thereof "approximately 6,477,168 acres"; and

(2) inserting "and the map entitled "Noatak National Preserve and Noatak Wilderness Addition" dated September 1994" after "July 1980".

(c) NOATAK WILDERNESS.—Section 701(7) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417) is amended by striking "approximately five million eight hundred thousand acres" and inserting in lieu thereof "approximately 5,817,168 acres".

SEC. 1404. CONFORMANCE WITH OTHER LAW.

(a) ALASKA NATIVE CLAIMS SETTLEMENT ACT.—All of the lands, or interests therein, conveyed to and received by Arctic Slope Regional Corporation or Nunamiut Corporation pursuant to the Agreement shall be deemed conveyed and received pursuant to exchanges under section 22(f) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1621(f)). All of the lands or interests in lands conveyed pursuant to the Agreement shall be conveyed subject to valid exiting rights.

(b) ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—Except to the extent specifically set forth in this Title or the Agreement, nothing in this Title or in the Agreement shall be construed to enlarge or diminish the rights, privileges, or obligations of any person, including specifically the preference for subsistence uses and access to subsistence resources provided under the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

TITLE XV—ALASKA PENINSULA SUBSURFACE CONSOLIDATION

SECTION 1501. DEFINITIONS.

As used in this Title.

(1) AGENCY.—The term agency—

(A) means—

(i) any instrumentality of the United States; and

(ii) any Government corporation (as defined in section 9101(1) of title 31, United States Code); and

(B) includes any element of an agency.

(2) ALASKA NATIVE CORPORATION.—The term "Alaska Native Corporation" has the same meaning as is provided for "Native Corporation" in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) FEDERAL LANDS OR INTEREST THEREIN.—The term "Federal lands or interests therein" means any lands or properties owned by the United States (i) which are administered by the Secretary, or (ii) which are subject to a lease to third parties, or (iii) which have been made available to the Secretary for exchange under this section through the concurrence of the director of the agency administering such lands or properties; provided, however, excluded from such lands shall be those lands which are within an existing conservation system unit as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)), and those lands the mineral interest for which are currently under mineral lease.

(4) KONIAG.—The term "Koniag" means Koniag, Incorporated, which is a regional Corporation.

(5) REGIONAL CORPORATION.—The term "Regional Corporation" has the same meaning as is provided in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(6) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of the Interior.

(7) SELECTION RIGHTS.—The term "selection rights" means those rights granted to Koniag pursuant to subsections (a) and (b) of section 12, and section 14(h)(8), of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613(h)(8)), to receive title to the oil and gas rights and other interests in the subsurface estate of the approximately 275,000 acres of public lands in the State of Alaska identified as "Koniag Selections" on the map entitled "Koniag Interest Lands, Alaska Peninusula", dated May 1989.

SEC. 1502. VALUATION OF KONIAG SELECTION RIGHTS.

(a) Pursuant to subsection (b) hereof, the Secretary shall value the Selection Rights which Koniag possesses within the boundaries of Aniakchak National Monument and Preserve, Alaska Peninsula National Wildlife Refuge, and Becharof National Wildlife Refuge.

(b) VALUE.—

(1) IN GENERAL.—The value of the selection rights shall be equal to the fair market value of—

(A) the oil and gas interests in the lands or interests in lands that are the subject of the selection rights; and

(B) in the case of the lands or interests in lands for which Koniag is to receive the entire subsurface estate, the subsurface estate of the lands or interests in lands that are the subject of the selection rights.

(2) APPRAISAL.—

(A) SELECTION OF APPRAISER.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Title the Secretary and Koniag shall meet to select a qualified appraiser to conduct an appraisal of the selection rights. Subject to clause (ii), the appraiser shall be selected by the mutual agreement of the Secretary and Koniag.

(ii) FAILURE TO AGREE.—If the Secretary and Koniag fail to agree on an appraiser by the date that is 60 days after the date of the initial meeting referred to in clause (i), the Secretary and Koniag shall, by the date that is not later than 90 days after the date of the initial meetings, each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal.

(B) STANDARDS AND METHODOLOGY.—The appraisal shall be conducted in conformity with the standards of The Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)).

(C) SUBMISSION OF APPRAISAL REPORT.—Not later than 180 days after the selection of an appraiser pursuant to subparagraph (A), the appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(3) DETERMINATION OF VALUE.—

(A) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of the receipt of the appraisal report under paragraph (2)(c), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

(B) ALTERNATIVE DETERMINATION OF VALUE.—

(i) IN GENERAL.—Subject to clause (ii), if Koniag does not agree with the value determined by the Secretary under subparagraph (A), the procedures specified in section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716 (d)) shall be used to establish the value.

(ii) AVERAGE VALUE LIMITATION.—The average value per acre of the selection rights shall not be less than the value utilizing the risk adjusted discount cash flow methodology, but in no event may exceed $300.

SEC. 1502. KONIAG ACCOUNT.

(a) IN GENERAL.—

(1) The Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein which are in the State of Alaska for the Selection Rights.

(2) If the value of the federal property to be exchanged is less than the value of the Selection Rights established in section 1501, and if such federal property to be exchanged is not generating receipts to the federal government in excess of one million dollars per year, then the Secretary may exchange the federal property for that portion of the Selection Rights having a value equal to that of the federal property. The remaining selection rights shall remain available for additional exchanges.

(3) For the purposes of any exchange to be consummated under this Title II, if less than all the selection rights are being exchanged, then the value of the selection rights being exchanged shall be equal to the number of acres of selection rights being exchanged multiplied by a fraction, the numerator of which is the value of all the selection rights as determined pursuant to Section 202 hereof and the denominator of which is the total number of acres of selection rights.

(B) ADDITIONAL EXCHANGES.—If, after ten years from the date of the enactment of this Title, the Secretary has been unable to conclude such exchanges as may be required to acquire all of the selection rights, he shall conclude exchanges for the remaining selection rights for such federal property as may be identified by Koniag, which property is available for transfer to the administrative jurisdiction of the Secretary under any provision of law and which property, at the time of the proposed transfer to Koniag is not generating receipts to the federal government in excess of one million dollars per year. The Secretary shall keep Koniag advised in a timely manner as to which properties may be available for such transfer. Upon receipt of such identification by Koniag, the Secretary shall request in a timely manner the transfer of such identified property to the administrative jurisdiction of the Department of the Interior. Such property shall not be subject to the geographic limitations of section 206(b) of the Federal Land Policy and Management Act and may be retained by the Secretary solely for the purposes of transferring it to Koniag to complete the exchange. Should the value of the property so identified by Koniag be in excess of the value of the remaining selection rights, then Koniag shall have the option of (i) declining to proceed with the exchange and identifying other property or (ii) paying the difference in value between the property rights.

(c) REVENUES.—Any property received by Koniag in an exchange entered into pursuant to subsection (a) or (b) of this section shall be deemed to be an interest in the subsurface for purposes of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) provided, however, should Koniag make a payment to equalize the value in any such exchange, then Koniag will be deemed to hold an undivided interest in the property equal in value to such payment which interest shall not be subject to the provisions of section 9(j).

SEC. 1504. CERTAIN CONVEYANCES.

(a) INTERESTS IN LAND.—For the purposes of section 21 (c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620 (e)), the receipt of consideration, including, but not limited to, lands, cash or other property, by a Native Corporation for the relinquishment to the United States of land selection rights granted to any Native Corporation under such Act shall be deemed to be an interest in land.

(b) AUTHORITY TO APPOINT AND REMOVE TRUSTEE.—In establishing a Settlement Trust under such section 39 of such Act (43 U.S.C. 1629c), Koniag may delegate, in whole or in part, the authority granted by Koniag under subsection (b)(2) of such section to any entity that Koniag may select without affecting the status of the trust as a Settlement Trust under such section.

TITLE XVI—STERLING FOREST

SEC. 1601. FINDINGS.

The Congress finds that—

(1) the Palisades Interstate Park Commission was established pursuant to a joint resolution of the 75th Congress approved in 1937 (Public Resolution No. 65; ch. 706; 50 Stat. 710), and chapter 170 of the Laws of 1937 of the State of New York and chapter 148 of the Laws of 1937 of the State of New Jersey;

(2) the Palisades Interstate Park Commission is responsible for the management of 23 parks and historic sites in New York and New Jersey, comprising over 82,000 acres.

(3) over 8,000,000 visitors annually seek outdoor recreational opportunities within the Palisades Park System;

(4) Sterling Forest is a biologically diverse open space on the New Jersey border comprising approximately 17,500 acres, and is a highly significant watershed area for the State of New Jersey, providing the source for clean drinking water for 25 percent of the State;

(5) Sterling Forest is an important outdoor recreational asset in the northeastern United States, within the most densely populated metropolitan region in the Nation;

(6) Sterling Forest supports a mixture of hardwood forests, wetlands, lakes, glaciated valleys, is strategically located on a wildlife migratory route, and provides important habitat for 27 rare or endangered species;

(7) the protection of Sterling Forest would greatly enhance the Appalachian National Scenic Trail, a portion of which passes through Sterling Forest, and would provide for enhanced recreational opportunities through the protection of lands which are an integral element of the trail and which would protect important trail viewsheds;

(8) stewardship and management costs for units of the Palisades Park System are paid for by the States of New York and New Jersey; thus, the protection of Sterling Forest through the Palisades Interstate Park Commission will involve a minimum of Federal funds;

(9) given the nationally significant watershed, outdoor recreational, and wildlife qualities of Sterling forest, the demand for open space in the northeastern United States, and the lack of open space in the densely populated tri-state region, there is a clear Federal interest in acquiring the Sterling Forest for permanent protection of the watershed, outdoor recreational resources, flora and fauna, and open space; and

(10) such an acquisition would represent a cost effective investment, as compared with the costs that would be incurred to protect drinking water for the region should the Sterling Forest be developed.

SEC. 1602. PURPOSES.

The purposes of this title are—

(1) to establish the Sterling Forest Reserve in the State of New York to protect the significant watershed, wildlife, and recreational resources within the New York-New Jersey highlands region;

(2) to authorize Federal funding, through the Department of the Interior, for a portion of the acquisition costs for the Sterling Forest Reserve;

(3) to direct the Palisades Interstate Park Commission to convey to the Secretary of the Interior certain interests in lands acquired within the Reserve; and

(4) to provide for the management of the Sterling Forest Reserve by the Palisades Interstate Park Commission.

SEC. 1603 DEFINITIONS.

In this title:

(1) COMMISSION.—The term "Commission" means the Palisades Interstate park commission established pursuant to Public Resolution No. 65 approved August 19, 1937 (ch. 707; 50 State 719).

(2) RESERVE.—The term "Reserve" means the Sterling Forest Reserve.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 1604. ESTABLISHMENT OF THE STERLING FOREST RESERVE.

(a) ESTABLISHMENT.—Upon the certification by the Commission to the Secretary that the Commission has acquired sufficient lands or interests therein to constitute a manageable unit, there is established the Sterling Forest Reserve in the State of New York.

(b) MAP.—

(1) COMPOSITION.—the Reserve shall consist of lands and interests therein acquired by the Commission within the approximately 17,500 acres of lands as generally depicted on the map entitled "Boundary Map. Sterling Forest Reserve", numbered SFR-60,001 and dated July 1, 1994.

(2) AVAILABILITY FOR PUBLIC INSPECTION.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of the Commission and the appropriate offices of the National Park Service.

(c) TRANSFER OF FUNDS.—Subject to subject in (d), the Secretary shall transfer to the Commission such funds as are appropriated for the acquisition of lands and interests therein within the Reserve.

(d) CONDITIONS OF FUNDING.—

(1) AGREEMENT BY THE COMMISSION.—Prior to the receipt of any Federal funds authorized by this Title, the Commission shall agree to the following:

(A) CONVEYANCE OF LANDS IN EVENT OF FAILURE TO MANAGE.—If the Commission fails to manage the lands acquired within the Reserve in a manner that is consistent with this Title, the Commission shall convey fee title to such lands to the United States, and the agreement stated in this subparagraph shall be recorded at the time of purchase of all lands acquired within the Reserve.

(B) CONSENT OF OWNERS.—No lands or interest in land may be acquired with any Federal funds authorized or transferred pursuant to this title except with the consent of the owner of the land or interest in land.

(C) INABILITY TO ACQUIRE LANDS.—If the Commission is unable to acquire all of the lands within the Reserve, to the extent Federal funds are utilized pursuant to this title, the Commission shall acquire all or a portion of the lands identified as "National Park Service Wilderness Easement Lands" and "National Park Service Conservation Easement Lands" on the map described in section 1604(b) before proceeding with the acquisition of any other lands within the Reserve.

(D) CONVEYANCE OF EASEMENT.—Within 30 days after acquiring any of the lands identified as "National Park Service Wilderness Easement Lands" and "National Park Service Conservation Easement Lands" on the map described in section 1604(b), the Commission shall convey to the United States:

(i) conservation easements on the lands described as "National Park Service Wilderness Easement Lands" on the map described in section 1604(b), which easements shall provide that the lands shall be managed to protect their wilderness character; and

(ii) conservation easements on the lands described as "National Park Service Conservation Easement Lands" on the map described in section 1604(b), which easements shall restrict and limit development and use of the property to that development and use that is—

(I) compatible with the protection of the Appalachian National Scenic Trail; and

(II) consistent with the general management plan prepared pursuant to section 1605(b).

(2) MATCHING FUNDS.—Funds may be transferred to the Commission only to the extent that they are matched from funds contributed by non-Federal sources.

SEC. 1605. MANAGEMENT OF THE RESERVE.

(a) IN GENERAL.—The Commission shall manage the lands acquired within the Reserve in a manner that is consistent with the Commission's authorities and with the purposes of this title.

(b) GENERAL MANAGEMENT PLAN.—Within 3 years after the date of enactment of this title, the Commission shall prepare a general management plan for the Reserve and submit the plan to the Secretary for approval.

SEC. 1606. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

(b) LAND ACQUISITION.—Of amounts appropriated pursuant to subsection (a), the Secretary may transfer to the Commission not more than $17,500,000 for the acquisition of lands and interests in land within the Reserve.

TITLE XVII—TAOS PUEBLO LAND TRANSFER

SEC. 1701. LAND TRANSFER.

(a) TRANSFER.—The parcel of land described in subsection (b) is hereby transferred without consideration to the Secretary of the Interior to be held in trust for the Pueblo de Taos. Such parcel shall be a part of the Pueblo de Taos Reservation and shall be managed in accordance with section 4 of the Act of May 31, 1933 (48 Stat. 108) (as amended, including as amended by Public Law 91-550 (84 Stat. 1437)).

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is the land that is generally depicted on the map entitled "Lands transferred to the Pueblo of Taos—proposed" and dated September 1994, comprises 764.33 acres, and is situated within sections 25, 26, 35, and 36, Township 27 North, Range 14 East, New Mexico Principal Meridian, within the Wheeler Peak Wilderness, Carson National Forest, Taos County, New Mexico.

(c) CONFORMING BOUNDARY ADJUSTMENTS.—The boundaries of the Carson National Forest and the Wheeler Peak Wilderness are hereby adjusted to reflect the transfer made by subsection (a).

(d) RESOLUTION OF OUTSTANDING CLAIMS.—The Congress finds and declares that, as a result of the enactment of this Act, the Taos Pueblo has no unresolved equitable or legal claims against the United States on the lands to be held in trust and to become part of the Pueblo de Taos Reservation under this Title.

TITLE XVIII—SKI FEES

SEC. 1801.—SKI AREA PERMIT RENTAL CHARGE.

(a) The Secretary of Agriculture shall charge a rental charge for all ski area permits issued pursuant to section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), or the 9th through 20th paragraphs under the heading "SURVEYING THE PUBLIC LANDS" under the heading "UNDER THE DEPARTMENT OF THE INTERIOR" in the Act of June 4, 1897 (30 Stat. 34, chapter 2), on National Forest System lands. Permit rental charges for permits issued pursuant to the National Forest Ski Area Permit Act of 1986 shall be calculated as set forth in subsection (b). Permit rental charges for existing ski area permits issued pursuant to the Act of March 4, 1915, and the Act of June 4, 1897, shall be calculated in accordance with those existing permits: *Provided*, That a permittee may, at the permittee's option, use the calculation method set forth in subsection (b).

(b)(1) The ski area permit rental charge (SAPRC) shall be calculated by adding the permittee's gross revenues from lift ticket/year-round ski area use pass sales plus revenue from ski school operations (LT+SS) and multiplying such total by the slope transport feet percentage (STFP) on National Forest System land. That amount shall be increased by the gross year-round revenue from ancillary facilities (GRAF) physically located on national forest land, including all permittee or subpermittee lodging, food service, rental shops, parking and other ancillary operations, to determine the adjusted gross revenue (AGR) subject to the permit rental charge. The final rental charge shall be calculated by multiplying the AGR by the following percentages for each revenue bracket and adding the total for each revenue bracket:

(A) 1.5 percent of all adjusted gross revenue below $3,000,000;

(B) 2.5 percent for adjusted gross revenue between $3,000,000 and $15,000,000;

(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000; and

(D) 4.0 percent for the amount of adjusted gross revenue that exceeds $50,000,000.

Utilizing the abbreviations indicated in this subsection the ski area permit fee (SAPR) formula can be simply illustrated as:

SAPF=((LT+SS)STFP)+GRAF=AGR;

AGR% BRACKETS

(2) In cases where ski areas are only partially located on national forest lands, the slope transport feet percentage on national forest land referred to in subsection (b) shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992. Revenues from Nordic ski operations shall be included or excluded from the rental charge calculation according to the percentage of trails physically located on national forest land.

(3) In order to ensure that the rental charge remains fair and equitable to both the United States and ski area permittees, the adjusted gross revenue figure for each revenue bracket in paragraph (1) shall be adjusted annually by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year. No later than 5 years after the date of enactment of this Act and every 10 years thereafter the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives a report analyzing whether the ski area permit rental charge legislated by this Act is returning a fair market value rental to the United States together with any recommendations the Secretary may have for modifications of the system.

(c) The rental charge set forth in subsection (b) shall be due on June 1 of each year and shall be paid or pre-paid by the permittee on a monthly, quarterly, annual or other schedule as determined appropriate by the Secretary in consultation with the permittee. Unless mutually agreed otherwise by the Secretary and the permittee, the payment or prepayment schedule shall conform to the permittee's schedule in effect prior to enactment of this Act. To reduce costs to the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual rental charge calculation brackets and rates) to be used for rental charge calculation and submitted with the rental charge payment. Information provided on such forms shall be compiled by the Secretary annually and kept in the Office of the Chief, U.S. Forest Service.

(b) The ski area permit rental charge set forth in this section shall become effective on June 1, 1996 and cover receipts retroactive to June 1, 1995: *Provided, however*, That if a permittee has paid rental charges for the period June 1, 1995, to June 1, 1996, under the graduated rate rental charge system formula in effect prior to the date of enactment of this Act, such rental charges shall be credited toward the new rental charge due on June 1, 1996. In order to ensure increasing rental charge receipt levels to the United States during transition from the graduated rate rental charge system formula to the formula of this Act, the rental charge paid by any individual permittee shall be—

(1) for the 1995–1996 permit year, either the rental charge paid for the preceding 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher;

(2) for the 1996–1997 permit year, either the rental charge paid for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher;

(3) for the 1997–1998 permit year, either the rental charge for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher.

If an individual permittee's adjusted gross revenue for the 1995–1996, 1996–1997, or 1997–1998 permit years falls more than 10 percent below the 1994–1995 base year, the rental charge paid shall be the rental charge calculated pursuant to this Act.

(e) Under no circumstances shall revenue, or subpermittee revenue (other than lift ticket, area use pass, or ski school sales) obtained from operations physically located on non-national forest land be included in the ski area permit rental charge calculation.

(f) To reduce administrative costs of ski area permittees and the Forest Service the terms "revenue" and "sales", as used in this section, shall mean actual income from sales and shall not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities or employee lift tickets, discounts, or other goods or services (except for bartered goods and complimentary lift tickets) for which the permittee does not receive money.

(g) In cases where an area of national forest land is under a ski area permit but the permittee does not have revenue or sales qualifying for rental charge payment pursuant to subsection (a), the permittee shall pay an annual minimum rental charge of $2 for each national forest acre under permit or a percentage of appraised land value, as determined appropriate by the Secretary.

(h) Where the new rental charge provided for in subsection (b)(1) results in an increase in permit rental charge greater than one half of one percent of the permittee's adjusted gross revenue as determined under subsection (b)(1), the new rental charge shall be phased in over a five year period in a manner providing for increases of approximately equal increments.

(i) To reduce federal costs in administering the provisions of this Act, the reissuance of a ski area permit to provide activities similar in nature and amount to the activities provided under the previous permit shall not constitute a major Federal action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

SEC. 1802. WITHDRAWALS.

Subject to valid existing rights, all lands located within the boundaries of ski area permits issued prior to, on or after the date of enactment of this Act pursuant to authority of the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), and the Act of June 4, 1897, or the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) are hereby and henceforth automatically withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Such withdrawal shall continue for the full term of the permit and any modification, reissuance, or renewal thereof. Unless the Secretary requests otherwise of the Secretary of the Interior, such withdrawal shall be canceled automatically upon expiration or other termination of the permit and the land automatically restored to all appropriation not otherwise restricted under the public land laws.

TITLE XIX—THE SELMA TO MONTGOMERY NATIONAL HISTORIC TRAIL

SEC. 1901. That section 5(b) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end thereof the following new paragraph.

"(20) The Selma to Montgomery National Historic Trail, consisting of 54 miles of city streets and United States Highway 80 from Brown Chapel A.M.E. Church in Selma to the State Capitol Building in Montgomery, Alabama, traveled by voting rights advocates during March 1965 to dramatize the need for voting rights legislation, as generally described in the report of the Secretary of the Interior prepared pursuant to subsection (b) of this section entitled "Selma to Montgomery" and dated April 1993. Maps depicting the route shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered in accordance with this Act, including section 7(h). The Secretary of the Interior, acting through the National Park Service, which shall be the lead Federal agency, shall cooperate with other Federal, State and local authorities to preserve historic sites along the route, including (but not limited to) the Edmund Pettus Bridge and the Brown Chapel A.M.E. Church."

TITLE XX. UTAH PUBLIC LANDS MANAGEMENT ACT.

SEC. 2001. DESIGNATION OF WILDERNESS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the following lands in the State of Utah are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) Certain lands in the Desolation Canyon Wilderness Study Area comprised of approximately 291,130 acres, as generally depicted on a map entitled "Desolation Canyon Proposed Wilderness" and dated December 3, 1995, and which shall be known as the Desolation Canyon Wilderness.

(2) Certain lands in the San Rafael Reef Wilderness Study Area comprised of approximately 57,982 acres, as generally depicted on a map entitled "San Rafael Reef Proposed Wilderness" and dated December 12, 1995, and which shall be known as the San Rafael Reef Wilderness.

(3) Certain lands in the Horseshoe Canyon Wilderness Study Area (North) comprised of approximately 26,118 acres, as generally depicted on a map entitled "Horseshoe Labyrinth Canyon Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Horseshoe Labyrinth Canyon Wilderness.

(4) Certain lands in the Crack Canyon Wilderness Study Area comprised of approximately 20,293 acres, as generally depicted on a map entitled "Crack Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Crack Canyon Wilderness.

(5) Certain lands in the Muddy Creek Wilderness Study Area comprised of approximately 37,245 acres, as generally depicted on a map entitled "Muddy Creek Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Muddy Creek Wilderness.

(6) Certain lands in the Sids Mountain Wilderness Study Area comprised of approximately 44,308 acres, as generally depicted on a map entitled "Sids Mountain Proposed Wilderness" and dated December 12, 1995, and which shall be known as the Sids Mountain Wilderness.

(7) Certain lands in the Mexican Mountain Wilderness Study Area comprised of approximately 33,558 acres, as generally depicted on a map entitled "Mexican Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mexican Mountain Wilderness.

(8) Certain lands in the Phipps-Death Hollow Wilderness Study Area comprised of approximately 41,445 acres, as generally depicted on a map entitled "Phipps-Death Hollow Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Phipps-Death Hollow Wilderness.

(9) Certain lands in the Steep Creek Wilderness Study Area comprised of approximately 21,277 acres, as generally depicted on a map entitled "Steep Creek Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Steep Creek Wilderness.

(10) Certain lands in the North Escalante Canyons/The Gulch Wilderness Study Area comprised of approximately 101,896 acres, as generally depicted on a map entitled "North Escalante Canyons/The Gulch Proposed Wilderness" and dated October 3, 1995, and which shall be known as the North Escalante Canyons/The Gulch Creek Wilderness.

(11) Certain lands in the Scorpion Wilderness Study Area comprised of approximately 16,693 acres, as generally depicted on a map entitled "Scorpion Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Scorpion Wilderness.

(12) Certain lands in the Mt. Ellen-Blue Hills Wilderness Study Area comprised of approximately 65,355 acres, as generally depicted on a map entitled "Mt. Ellen-Blue Hills Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mt. Ellen-Blue Hills Wilderness.

(13) Certain lands in the Bull Mountain Wilderness Study Area comprised of approximately 11,424 acres, as generally depicted on a map entitled "Bull Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Bull Mountain Wilderness.

(14) Certain lands in the Fiddler Butte Wilderness Study Area comprised of approximately 22,180 acres, as generally depicted on a map entitled "Fiddler Butte Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Fiddler Butte Mountain Wilderness.

(15) Certain lands in the Mt. Pennell Wilderness Study Area comprised of approximately 18,619 acres, as generally depicted on a map entitled "Mt. Pennell Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mt. Pennell Wilderness.

(16) Certain lands in the Mt. Hillers Wilderness Study Area comprised of approximately 14,746 acres, as generally depicted on a map entitled "Mt. Hillers Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mt. Hillers Wilderness.

(17) Certain lands in the Little Rockies Wilderness Study Area comprised of approximately 49,001 acres, as generally depicted on a map entitled "Little Rockies Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Little Rockies Wilderness.

(18) Certain lands in the Mill Creek Canyon Wilderness Study Area comprised of approximately 7,846 acres, as generally depicted on a map entitled "Mill Creek Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mill Creek Canyon Wilderness.

(19) Certain lands in the Negro Bill Canyon Wilderness Study Area comprised of approximately 8,321 acres, as generally depicted on a map entitled "Negro Bill Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Negro Bill Canyon Wilderness.

(20) Certain lands in the Floy Canyon Wilderness Study Area comprised of approximately 28,794 acres, as generally depicted on a map entitled "Floy Canyon Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Floy Canyon Wilderness.

(21) Certain lands in the Coal Canyon Wilderness Study Area and the Spruce Canyon Wilderness Study Area comprised of approximately 56,673 acres, as generally depicted on a map entitled "Coal/Spruce Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Coal/Spruce Canyon Wilderness.

(22) Certain lands in the Flume Canyon Wilderness Study Area comprised of approximately 47,247 acres, as generally depicted on a map entitled "Flume Canyon Proposed Wilderness" and dated December 12, 1995, and which shall be known as the Flume Canyon Wilderness.

(23) Certain lands in the Westwater Canyon Wilderness Study Area comprised of approximately 26,657 acres, as generally depicted on a map entitled "Westwater Canyon Proposed Wilderness" and dated December 12, 1995, and which shall be known as the Westwater Canyon Wilderness.

(24) Certain lands in the Beaver Creek Wilderness Study Area comprised of approximately 24,620 acres, as generally depicted on a map entitled "Beaver Creek Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Beaver Creek Wilderness.

(25) Certain lands in the Fish Springs Wilderness Study Area comprised of approximately 36,142 acres, as generally depicted on a map entitled "Fish Springs Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Fish Springs Wilderness.

(26) Certain lands in the Swasey Mountain Wilderness Study Area comprised of approximately 34,803 acres, as generally depicted on a map entitled "Swasey Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Swasey Mountain Wilderness.

(27) Certain lands in the Parunuweap Canyon Wilderness Study Area comprised of approximately 19,107 acres, as generally depicted on a map entitled "Parunuweap Canyon Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Parunuweap Wilderness.

(28) Certain lands in the Canaan Mountain Wilderness Study Area comprised of approximately 32,395 acres, as generally depicted on a map entitled "Canaan Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Canaan Mountain Wilderness.

(29) Certain lands in the Paria-Hackberry Wilderness Study Area comprised of approximately 94,805 acres, as generally depicted on a map entitled "Paria-Hackberry Proposed Wilderness" and dated December 3, 1995, and which shall be known as the Paria-Hackberry Wilderness.

(30) Certain lands in the Escalante Canyon Tract 5 Wilderness Study Area comprised of approximately 756 acres, as generally depicted on a map entitled "Escalante Canyon Tract 5 Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Escalante Canyon Tract 5 Wilderness.

(31) Certain lands in the Fifty Mile Mountain Wilderness Study Area comprised of approximately 125,823 acres, as generally depicted on a map entitled "Fifty Mile Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Fifty Mile Mountain Wilderness.

(32) Certain lands in the Howell Peak Wilderness comprised of approximately 14,518 acres, as generally depicted on a map entitled "Howell Peak Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Howell Peak Wilderness.

(33) Certain lands in the Notch Peak Wilderness Study Area comprised of approximately 17,678 acres, as generally depicted on a map entitled "Notch Peak Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Notch Peak Wilderness.

(34) Certain lands in the Wah Wah Mountains Wilderness Study Area comprised of approximately 41,311 acres, as generally depicted on a map entitled "Wah Wah Mountains Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Wah Wah Wilderness.

(35) Certain lands in the Mancos Mesa Wilderness Study Area comprised of approximately 48,269 acres, as generally depicted on a map entitled "Mancos Mesa Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Mancos Mesa Wilderness.

(36) Certain lands in the Grand Gulch Wilderness Study Area comprised of approximately 52,821 acres, as generally depicted on a map entitled "Grand Gulch Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Grand Gulch Wilderness.

(37) Certain lands in the Dark Canyon Wilderness Study Area comprised of approximately 67,099 acres, as generally depicted on

a map entitled "Dark Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Dark Canyon Wilderness.

(38) Certain lands in the Butler Wash Wilderness Study Area comprised of approximately 24,888 acres, as generally depicted on a map entitled "Butler Wash Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Butler Wash Wilderness.

(39) Certain lands in the Indian Creek Wilderness Study Area comprised of approximately 6,742 acres, as generally depicted on a map entitled "Indian Creek Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Indian Creek Wilderness.

(40) Certain lands in the Behind the Rocks Wilderness Study Area comprised of approximately 14,169 acres, as generally depicted on a map entitled "Behind the Rocks Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Behind the Rocks Wilderness.

(41) Certain lands in the Cedar Mountains Wilderness Study Area comprised of approximately 25,647 acres, as generally depicted on a map entitled "Cedar Mountains Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Cedar Mountains Wilderness.

(42) Certain lands in the Deep Creek Mountains Wilderness Study Area comprised of approximately 70,735 acres, as generally depicted on a map entitled "Deep Creek Mountains Proposed Wilderness" and dated October 3, 1995, and which shall be known as the Deep Creek Mountains Wilderness.

(43) Certain lands in the Nutters Hole Wilderness Study Area comprised of approximately 3,688 acres, as generally depicted on a map entitled "Nutters Hole Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Nutters Hole Wilderness.

(44) Certain lands in the Cougar Canyon Wilderness Study Area comprised of approximately 4,370 acres, including those lands located in the State of Nevada, as generally depicted on a map entitled "Cougar Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Cougar Canyon Wilderness.

(45) Certain lands in the Red Mountain Wilderness Study Area comprised of approximately 9,216 acres, as generally depicted on a map entitled "Red Mountain Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Red Mountains Wilderness.

(46) Certain lands in the Deep Creek Wilderness Study Area comprised of approximately 3,063 acres, as generally depicted on a map entitled "Deep Creek Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Deep Creek Wilderness.

(47) Certain lands within the Dirty Devil Wilderness Study Area comprised of approximately 75,301 acres, as generally depicted on a map entitled "Dirty Devil Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Dirty Devil Wilderness.

(48) Certain lands within the Horseshoe Canyon South Wilderness Study Area comprised of approximately 11,393 acres, as generally depicted on a map entitled "Horseshoe Canyon South Proposed Wilderness" and dated September 18, 1995, and which shall be known as the Horseshoe Canyon South Wilderness.

(49) Certain lands in the French Spring-Happy Canyon Wilderness Study Area comprised of approximately 13,766 acres, as generally depicted on a map entitled "French Spring-Happy Canyon Proposed Wilderness" and dated September 18, 1995, and which shall be known as the French Spring-Happy Canyon Wilderness.

(50) Certain lands in the Road Canyon Wilderness Study Area comprised of approximately 33,783 acres, as generally depicted on a map entitled "Grand Gulch Proposed Wilderness" and dated December 8, 1995, and which shall be known as the Road Canyon Wilderness.

(51) Certain lands in the Fish & Owl Creek Wilderness Study Area comprised of approximately 16,562 acres, as generally depicted on a map entitled "Grand Gulch Proposed Wilderness" and dated December 8, 1995, and which shall be known as the Fish & Owl Creek Wilderness.

(52) Certain lands in the Turtle Canyon Wilderness Study Area comprised of approximately 27,480 acres, as generally depicted on a map entitled "Desolation Canyon Proposed Wilderness" and dated December 3, 1995, and which shall be known as the Turtle Canyon Wilderness.

(53) Certain lands in the The Watchman Wilderness Study Area comprised of approximately 664 acres, as generally depicted on a map entitled "The Watchman Proposed Wilderness" and dated December 8, 1995, and which shall be known as The Watchman Wilderness.

(b) MAP AND DESCRIPTION.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior (hereinafter in this Title referred to as the "Secretary") shall file a map and a legal description of each area designated as wilderness by subsection (a) with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Each such map and description shall have the same force and effect as if included in this Title, except that corrections of clerical and typographical errors in each such map and legal description may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, and the office of the State Director of the Bureau of Land Management in the State of Utah, Department of the Interior.

SEC. 2002. ADMINISTRATION OF WILDERNESS AREAS.

(a) IN GENERAL.—Subject to valid existing rights, each area designated by this Title as wilderness shall be administered by the Secretary in accordance with this Title, the Wilderness Act (16 U.S.C. 1131 et seq.), and section 603 of the Federal Land Policy and Management Act of 1976. Any valid existing rights recognized by this Title shall be determined under applicable laws, including the land use planning process under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712). Any lands or interest in lands within the boundaries of an area designated as wilderness by this Title that is acquired by the United States after the date of enactment of this Act shall be added to and administered as part of the wilderness area within which such lands or interests in lands are located.

(b) MANAGEMENT PLANS.—The Secretary shall, within five years after the date of the enactment of this Act, prepare plans to manage the areas designated by this Title as wilderness.

(c) LIVESTOCK.—(1) Grazing of livestock in areas designated as wilderness by this Title, where established prior to the date of the enactment of this Act, shall—

(A) continue and not be curtailed or phased out due to wilderness designation or management; and

(B) be administered in accordance with section 4(d) (4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in House Report 9601126.

(2) Wilderness shall not be used as a suitability criteria for managing any grazing allotment that is subject to paragraph (1).

(d) STATE FISH AND WILDLIFE.—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1131(D)(7)), nothing in this Title shall be construed as affecting the jurisdiction or responsibilities of the State of Utah with respect to fish and wildlife management activities, including water development for fish and wildlife purposes, predator control, transplanting animals, stocking fish, hunting, fishing and trapping.

(e) PROHIBITION OF BUFFER ZONES.—The Congress does not intend that designation of an area as wilderness by this Title lead to the creation of protective perimeters or buffer zones around the area. The fact that nonwilderness activities or uses can be seen, heard, or smelled from areas within a wilderness shall not preclude such activities or uses up to the boundary of the wildnerness area.

(f) OIL SHALE RESERVE NUMBER TWO.—The area known as "Oil Shale Reserve Number Two" within Desolation Canyon Wilderness (as designated by section 2001(a)(1)), located in Carbon County and Unitah County, Utah, shall not be reserved for oil shale purposes after the date of the enactment of this Title and shall be under the sole jurisdiction of and managed by the Bureau of Land Management.

(g) ROADS AND RIGHTS-OF-WAY AS BOUNDARIES.—Unless depicted otherwise on a map referred to by this Title, where roads form the boundaries of the areas designated as wilderness by this Title, the wilderness boundary shall be set back from the center line of the road as follows:

(1) 300 feet for high standard roads such as paved highways.

(2) 100 feet for roads equivalent to high standard logging roads.

(3) 30 feet for all unimproved roads not referred to in paragraphs (1) or (2).

(h) CHERRY-STEMMED ROADS.—(1) The Secretary may not close or limit access to any non-Federal road that is bounded on one or both sides by an area designated as wilderness by this Title, as generally depicted on a map referred to in section 2002, without first obtaining written consent from the State of Utah or the political subdivision thereof with general jurisdiction over roads in the area.

(2) Any road described in paragraph (1) may continue to be maintained and repaired by any such entity.

(I) ACCESS.—Reasonable access, including the use of motorized equipment were necessary or customarily or historically employed, shall be allowed on routes within the areas designated wilderness by this Title in existence as of the date of enactment of this Act for the exercise of valid-existing rights, including, but not limited to, access to existing water diversion, carriage, storage and ancillary facilities and livestock grazing improvements and structures. Existing routes as of such date may be maintained and repaired as necessary to maintain their customary and historic uses.

(j) LAND ACQUISITION BY EXCHANGE OR PURCHASE.—The Secretary may offer to acquire nongovernmental entities lands and interests in lands within or adjacent to areas designated as wilderness by this Title. Lands may be acquired under this subsection only by exchange, donation, or purchase from willing sellers.

(k) MOTORBOATS.—As provided in section 4(d)(1)—of the Wilderness Act, within areas designated as wilderness by this Title, the use of motorboats, where such use was established as of the date of enactment of this Act, may be permitted to continue subject to such restrictions as the Secretary deems desirable.

(l) DISCLAIMER.—Nothing in this Title shall be construed as establishing a precedent with regard to any future wilderness designation, nor shall it constitute an interpretation of any other Act or any wilderness designation made pursuant thereto.

SEC. 2003. WATER RIGHTS.

(a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising from the designation of areas as wilderness by this Title.

(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER UTAH LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities on any lands designated as wilderness by this Title pursuant to the substantive and procedural requirements of the State of Utah. Nothing in this Title shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands. Within areas designated as wilderness by this Title, all rights to water granted under the laws of the State of Utah may be exercised in accordance with the substantive and procedural requirements of the State of Utah.

(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER UTAH LAWS.—Nothing in this Title shall be construed to limit the exercise of water rights as provided under Utah State laws.

(d) CERTAIN FACILITIES NOT AFFECTED.—Nothing in this Title shall affect the capacity, operation, maintenance, repair, modification, or replacement of municipal, agricultural, livestock, or wildlife water facilities in existence as of the date of enactment of this Act within the boundaries of areas designated as wilderness by this Title.

(e) WATER RESOURCE PROJECTS.—Nothing in this Title or the Wilderness Act shall be construed to limit or to be a consideration in Federal approvals or denials for access to or use of the Federal lands outside areas designated wilderness by this Title for development and operation of water resource projects, including (but not limited to) reservoir projects. Nothing in this subsection shall create a right of access through a wilderness area designated pursuant to this Title for the purposes of such projects.

SEC. 2004. CULTURAL, ARCHAEOLOGICAL, AND PALEONTOLOGICAL RESOURCES.

The Secretary is responsible for the protection (including through the use of mechanical means) and interpretation (including through the use of permanent improvements) of cultural, archaeological, and paleontological resources located within areas designated as wilderness by this Title.

SEC. 2005. NATIVE AMERICAN CULTURAL AND RELIGIOUS USES.

In recognition of the past use of portions of the areas designated as wilderness by this Title by Native Americans for traditional cultural and religious purposes, the Secretary shall assure nonexclusive access from time to time to those sites by Native Americans for such purposes, including (but not limited to) wood gathering for personal use or collecting plants or herbs for religious or medicinal purposes. Such access shall be consistent with the purpose and intent of the Act of August 11, 1978 (42 U.S.C. 1996; commonly referred to as the "American Indian Religious Freedom Act").

SEC. 2006. MILITARY OVERFLIGHTS.

(a) OVERFLIGHTS NOT PRECLUDED.—Nothing in this Title, the Wilderness Act, or other land management laws generally applicable to the new areas of the Wilderness Preservation System (or any additions to existing areas) designated by this Title, shall restrict or preclude overflights of military aircraft over such areas, including military overflights that can be seen or heard within such units.

(b) SPECIAL USE AIRSPACE.—Nothing in this Title, the Wilderness Act, or other land management laws generally applicable to the new areas of the Wilderness Preservation System (or any additions to existing areas) designated by this Title, shall restrict or preclude the designation of new units of special use airspace or the use or establishment of military flight training rules over such areas.

(c) COMMUNICATIONS OR TRACKING SYSTEMS.—Nothing in this Title, the Wilderness Act, or other land management laws generally applicable to new areas of the Wilderness Preservation System (or any additions to existing areas) designated by this Title shall be construed to require the removal of existing communication or electronic tracking systems within such new wilderness areas, or to prevent the installation of portable electronic communication or tracking systems in support of military operations so long as installation, maintenance, and removal of such systems does not require construction of temporary or permanent roads.

SEC. 2007. AIR QUALITY.

(a) IN GENERAL.—The Congress does not intend that designation of wilderness areas in the State of Utah by this Title lead to reclassification of any airshed to a more stringent Prevention of Significant Deterioration (PSD) classification.

(b) ROLE OF STATE.—Air quality reclassification for the wilderness areas established by this Title shall be the prerogative of the State of Utah. All areas designated as wilderness by this Title are and shall continue to be managed as PSD Class II under the Clean Air Act unless they are reclassified by the State of Utah in accordance with the Clean Air Act.

(c) INDUSTRIAL FACILITIES.—Nothing in this Title shall be construed to restrict or preclude construction, operation, or expansion of industrial facilities outside of the areas designated as wilderness by this Title, including the Hunter Power Facilities, the Huntington Power Facilities, the Intermountain Power Facilities, the Bonanza Power Facilities, the Continental Lime Facilities, and the Brush Wellman Facilities. The permitting and operation of such projects and facilities shall be subject to applicable laws and regulations.

SEC. 2008. WILDERNESS RELEASE.

(a) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712 and 1782).

(b) RELEASE.—Except as provided in subsection (c), any public lands administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1783(c)). Such lands shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712). Such lands shall not be managed for the purpose of protecting their suitability for wilderness designation.

(c) CONTINUING WILDERNESS STUDY AREAS STATUS.—The following wilderness study areas which are under study status by States adjacent to the State of Utah shall continue to be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)):

(1) Bull Canyon; UT00800419/CO00100001.

(2) Wrigley Mesa/Jones Canyon/Black Ridge Canyon West; UT00600116/117/CO00700113A.

(3) Squaw/Papoose Canyon; UT00600227/CO00300265A.

(4) Cross Canyon; UT00600229/CO00300265.

SEC. 2009. EXCHANGE RELATING TO SCHOOL AND INSTITUTIONAL TRUST LANDS.

(a) FINDINGS.—The Congress finds that—

(1) approximately 242,000 acres of school and institutional trust lands are located within or adjacent to areas designated as wilderness by this Title, including 15,000 acres of mineral estate;

(2) such lands were originally granted to the State of Utah for the purpose of generating support for the public schools through the development of natural resources and other methods; and

(3) it is in the interest of the State of Utah and the United States for such lands to be exchanged for interests in Federal lands located outside of wilderness areas to accomplish this purpose.

(b) EXCHANGE.—The Secretary is authorized to accept on behalf of the United States title to all school and institutional trust lands owned by the State of Utah described in subsection (c)(1) that may be exchanged for lands or interests therein owned by the United States described in subsection (c)(2) as provided in this section. The exchange of lands under this section shall be subject to valid existing rights, including (but not limited to) the right of the State of Utah to receive, and distribute pursuant to State law, 50 percent of the revenue, less a reasonable administrative fee, from the production of minerals that are leased or would have been subject to leasing pursuant to the Mineral Leasing Act (30 U.S.C. 191 et seq.).

(c) STATE AND FEDERAL EXCHANGE LANDS DESCRIBED.—(1) SCHOOL AND INSTITUTIONAL TRUST LANDS.—The school and institutional trust lands referred to in this section are those lands generally depicted as "Surface and Mineral Offering" on the map entitled "Proposed Land Exchange Utah (H.R. 1745)" and dated December 6, 1995, which—

(A) are located within or adjacent to areas designated by this Title as wilderness; and

(B) were granted by the United States in the Utah Enabling Act to the State of Utah in trust and other lands which under State law must be managed for the benefit of the public school system or the institutions of the State which are designated by the Utah Enabling Act.

(2) FEDERAL LANDS.—The Federal lands referred to in this section are the lands located in the State of Utah which are generally depicted as "Federal Exchange Lands" on the map referred to in paragraph (1).

(d)(1) LAND EXCHANGE FOR EQUAL VALUE.—The lands exchanged pursuant to this section shall be of approximate equal value as determined by nationally recognized appraisal standards.

(2) PARTIAL EXCHANGES.—If the State of Utah so desires, it may identify from time to time by notice to the Secretary portions of the lands described in subsection (c)(1) which it is prepared to exchange together with a list of the portion of lands in subsection (c)(2) which it intends to acquire in return. In making its selections, the State shall work with the Secretary to minimize or eliminate the retention of Federal inholdings or other unmanageable Federal parcels as a consequence of the transfer of Federal lands, or interests therein, to the State. Upon receipt of such notice, the Secretary shall immediately proceed to conduct the necessary valuations. The valuations shall be completed no later than six months following the State's notice. the Secretary shall then enter into good faith negotiations with the state concerning the value of the lands, or interests therein, involved in each proposed partial exchange. If the value of the lands or interests therein are not approximately equal, the Secretary and the State of Utah shall either agree to modify the lands to be exchanged within the partial exchange or shall provide for a cash equalization payment to equalize the value. Any cash equalization payment shall not exceed 25 percent of the value of the land to be conveyed. The State shall submit all notices of exchange within four years of the date of enactment of this Act.

(3)(i) DEADLINE AND DISPUTE RESOLUTION.—If, after one year from the date of enactment of this Act, the Secretary and the State of Utah have not agreed upon the final terms of some or all of the individual exchanges initiated by the state pursuant to subsection (d)(2), including the value of the lands involved, notwithstanding any other provisions of law, the United States District Court for the District of Utah, Central Division, shall have jurisdiction to hear, determine, and render judgment on the value of any and all lands, or interests therein, involved in the exchange.

(ii) No action provided for in this subsection may be filed with the court sooner than one year and later than five years after the date of enactment of this Act. Any decision of the District Court under this section may be appealed in accordance with the applicable laws and rules.

(4) TRANSFER OF TITLE.—The transfer of lands or cash equalizations shall take place within sixty days following agreement on an individual partial exchange by the Secretary and the Governor of the State of Utah, or acceptance by the Governor of the terms of an appropriate order of judgment entered by the district court affecting that partial exchange. The Secretary and the State shall each convey, subject to valid existing rights, all right, title and interest to the lands or interests therein involved in each partial exchange.

(e) DUTIES OF THE PARTIES AND OTHER PROVISIONS RELATING TO THE EXCHANGE.—

(1) MAP AND LEGAL DESCRIPTION.—The State of Utah and the Secretary shall each provide to the other legal descriptions of the lands under their respective jurisdictions which are to be exchanged under this section. The map referred to in subsection (c)(1) of the legal descriptions provided under this subsection shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, and the office of the State Director of the Bureau of Land Management in the State of Utah, Department of the Interior.

(2) HAZARDOUS MATERIALS.—The Secretary and the State of Utah shall inspect all pertinent records and shall conduct a physical inspection of the lands to be exchanged pursuant to this Title for the presence of any hazardous materials as presently defined by applicable law. The results of those inspections shall be made available to the parties. The responsibility for costs of remedial action related to such materials shall be borne by those entities responsible under existing law.

(3) PROVISIONS RELATING TO FEDERAL LANDS.—(A) The enactment of this Act shall be construed as satisfying the provisions of section 206(a) of the Federal Land Policy and Management Act of 1976 requiring that exchanges of lands be in the public interest.

(B) The transfer of lands and related activities required of the Secretary under this section shall not be subject to National Environmental Policy Act of 1969.

(C) The value of Federal lands transferred to the State under this section shall be adjusted to reflect the right of the State of Utah under Federal law to share the revenues from such Federal lands, and the conveyances under this section to the State of Utah shall be subject to such revenue sharing obligations as a valid existing right.

(D) Subject to valid existing rights, the Federal lands described in subsection (c)(2) are hereby withdrawn from disposition under the public land laws and from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from operation of the Geothermal Steam Act of 1970, and from the operation of the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following). The Secretary shall have the authority to extend any existing leases on such Federal lands prior to consummation of the exchange.

(4) PROCEEDS FROM LEASE AND PRODUCTION OF MINERALS AND SALES AND HARVESTS OF TIMBER.—

(A) COLLECTION AND DISTRIBUTION.—The State of Utah, in connection with the management of the school and institutional trust lands described in subsections (c)(2) and (d), shall upon conveyance of such lands, collect and distribute all proceeds from the lease and production of minerals and the sale and harvest of timber on such lands as required by law until the State, as trustee, no longer owns the estate from which the proceeds are produced.

(B) DISPUTES.—A dispute concerning the collection and distribution of proceeds under subparagraph (A) shall be resolved in accordance with State law.

(f) ADMINISTRATION OF LANDS ACQUIRED BY THE UNITED STATES.—The lands and interests in lands acquired by the United States under this section shall be added to and administered as part of areas of the public lands, as indicated on the maps referred to in this section or in section 2002, as applicable.

SEC. 2010. LAND APPRAISAL.

Lands and interests in lands acquired pursuant to this Title shall be appraised without regard to the presence of a species listed as threatened or endangered pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 2011. SAND HOLLOW LAND EXCHANGE.

(a) DEFINITIONS.—As used in this section:

(1) DISTRICT.—The term "District" means the Water Conservancy District of Washington, County, Utah.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) BULLOCH SITE.—The term "Bulloch Site" means the lands located in Kane County, Utah, adjacent to Zion National Park, comprised of approximately 1,380 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(4) SAND HOLLOW SITE.—The term "Sand Hollow Site" means the lands located in Washington County, Utah, comprised of approximately 3,000 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(5) QUAIL CREEK PIPELINE.—The term "Quail Creek Pipeline" means the lands located in Washington County, Utah, comprised of approximately 40 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(6) QUAIL CREEK RESERVOIR.—The term "Quail Creek Reservoir" means the lands located in Washington County, Utah, comprised of approximately 480.5 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(7) SMITH PROPERTY.—The term "Smith Property" means the lands located in Washington County, Utah, comprised of approximately 1,550 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated July 24, 1995.

(b) EXCHANGE.—

(1) IN GENERAL.—Subject to the provisions of this Title, if within 18 months after the date of the enactment of this Act, the Water Conservancy District of Washington County, Utah, offers to transfer to the United States all right, title, and interest of the District in and to the Bulloch Site, and Secretary of the Interior shall, in exchange, transfer to the District all right, title, and interest of the United States in and to the Sand Hollow Site, the Quail Creek Pipeline and Quail Creek Reservoir, subject to valid existing rights.

(2) WATER RIGHTS ASSOCIATED WITH THE BULLOCH SITE.—The water rights associated with the Bulloch Site shall not be included in the transfer under paragraph (1) but shall be subject to an agreement between the District and the Secretary that the water remain in the Virgin River as an instream flow from the Bulloch Site through Zion National Park to the diversion point of the District at the Quail Creek Reservoir.

(3) WITHDRAWAL OF MINERAL INTERESTS.—Subject to valid existing rights, the mineral interests underlying the Sand Hollow Site, the Quail Creek Reservoir, and the Quail Creek Pipeline are hereby withdrawn from disposition under the public land laws and from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from the operation of the Geothermal Steam Act of 1970, and from the operation of the Act of July 31, 1947, commonly known as the "Materials Act of 1947" (30 U.S.C. 601 et seq.).

(4) GRAZING.—The exchange of lands under paragraph (1) shall be subject to agreement by the District to continue to permit the grazing of domestic livestock on the Sand Hollow Site under the terms and conditions of existing Federal grazing leases or permits, except that the District, upon terminating any such lease or permit, shall fully compensate the holder of the terminated lease or permit.

(c) EQUALIZATION OF VALUES.—The value of the lands transferred out of Federal ownership under subsection (b) either shall be equal to the value of the lands received by the Secretary under subsection (c) or, if not, shall be equalized by—

(1) to the extent possible, transfer of all right, title, and interest of the District in and to lands in Washington County, Utah, and water rights of the District associated thereto, which are within the area providing habitat for the desert tortoise, as determined by the Director of the Bureau of Land Management;

(2) transfer of all right, title, and interest of the District in and to lands in the Smith Site and water rights of the District associated thereto; and

(3) the payment of money to the Secretary, to the extent that lands and rights transferred under paragraphs (1) and (2) are not sufficient to equalize the values of the lands exchanged under subsection (b).

(d) Management of Lands Acquired by United States.—Lands acquired by the Secretary under this section shall be administered by the Secretary, acting through the Director of the Bureau of Land Management, in accordance with the provisions of law generally applicable to the public lands, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(e) National Environmental Policy Act of 1969.—The exchange of lands under this section is not subject to section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

TITLE XXI—FORT CARSON—PINON CANYON MILITARY LANDS WITHDRAWAL

SEC. 2101. WITHDRAWAL AND RESERVATION OF LANDS AT FORT CARSON MILITARY RESERVATION.

(a) Withdrawal.—Subject to valid existing rights and except as otherwise provided in this Title, the lands at the Fort Carson Military Reservation that are described in subsection (c) are hereby withdrawn from all forms of appropriations under the public lands laws, including the mining laws, the mineral and geothermal leasing laws, and the mineral materials disposal laws.

(B) Reservation.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering, training, and weapons firing; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(C) Land Description.—The lands referred to in subsection (a) comprise approximately 3,133.02 acres of public land and approximately 11,415.16 acres of federally-owned minerals in El Paso, Pueblo, and Fremont Counties, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Base", dated March 2, 1992, and filed in accordance with section 2003.

SEC. 2102. WITHDRAWAL AND RESERVATION OF LANDS AT PINON CANYON MANEUVER SITE.

(a) Withdrawal.—Subject to valid existing rights and except as otherwise provided in this Title, the lands at the Pinon Canyon Maneuver Site that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, the mineral and geothermal leasing laws, and the mineral materials disposal laws.

(b) Reservation.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering and training; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) Land Description.—The lands referred to in subsection (a) comprise approximately 2,517.12 acres of public lands and approximately 130,139 acres of federally-owned minerals in Los Animas County, Colorado, as generally depicted on the map entitled "Fort Carson Proposed Withdrawal—Fort Carson Maneuver Area—Pinon Canyon Site", dated March 2, 1992, and filed in accordance with section 2003.

SEC. 2103. MAPS AND LEGAL DESCRIPTIONS.

(a) Preparation.—As soon as practicable after the date of enactment of this Title, the Secretary of the Interior shall publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this Act.

(b) Legal Effect.—Such maps and legal descriptions shall have the same force and effect as if they were included in this Title, except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) Location of Maps.—Copies of such maps and legal descriptions shall be available for public inspection in the offices of the Colorado State Director and the Canon City District Manager of the Bureau of Land Management, and the Commander, Fort Carson, Colorado.

(d) Costs.—The Secretary of the Army shall reimburse the Secretary of the Interior for the costs of implementing this section.

SEC. 2104. MANAGEMENT OF WITHDRAWN LANDS.

(a) Management Guidelines.—(1) Except as provided in section 2005, during the period of withdrawal the Secretary of the Army shall manage for military purposes the lands covered by this Title and may authorize use of such lands covered by the other military departments and agencies of the Department of Defense, and the National Guard, as appropriate.

(2) When military operations, public safety, or national security, as determined by the Secretary of the Army, require the closure of roads or trails on the lands withdrawn by this Title commonly in public use, the Secretary of the Army is authorized to take such action, except that such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. Appropriate warning notices shall be kept posted during closures.

(3) The Secretary of the Army shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands as a result of military activities and may seek assistance from the Bureau of Land Management in suppressing such fires. The memorandum of understanding required by this subsection (c) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for the, (a) transfer of funds from the Department of the Army to the Bureau of Land Management as compensation for such assistance.

(b) Management Plan.—Not later than 5 years after the date of enactment of this Act, the Secretary of the Army, with the concurrence of the Secretary of the Interior, shall develop a plan for the management of acquired lands and lands withdrawn under sections 2001 and 2002 of this Title for the period of the withdrawal. Such plan shall—

(1) be consistent with applicable law;

(2) include such provisions as may be necessary for proper resource management and protection of the natural, cultural, and other resources and values of such lands; and

(3) identify those withdrawn and acquired lands, if any, which are to be open to mining, or mineral or geothermal leasing, including mineral materials disposal.

(c) Implementation of Management Plan.—(1) The Secretary of the Army and the Secretary of the Interior shall enter into a memorandum of understanding to implement the management plan described in subsection (b).

(2) The duration of any such memorandum of understanding shall be the same as the period of withdrawal under section 2007.

(3) The memorandum of understanding may be amended by agreement of both Secretaries.

(d) Use of Certain Resources.—Subject to valid existing rights, the Secretary of the Army is authorized to utilize sand, gravel, or similar mineral or mineral material resources from lands withdrawn by this Title, when the use of such resources is required for construction needs of the Fort Carson Military Reservation of Pinon Canyon Maneuver Site.

SEC. 2105. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.

Except as provided in section 2004(d) of this title, the Secretary of the Interior shall manage all withdrawn and acquired mineral resources within the boundaries of the Fort Carson Military Reservation and Pinon Canyon Maneuver Site in accordance wit section 12 of the Military Lands Withdrawl Act of 1986 (Public Law 99-606; 100 Stat. 3466), as applicable.

SEC. 2106. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing and trapping on the lands withdrawn and reserved by this title shall be conducted in accordance with section 2671 of title 10, United States Code.

SEC. 2107. TERMINATION OF WITHDRAWAL AND RESERVATION AND EFFECT OF CONTAMINATION.

(a) Termination Date.—The withdrawal and reservation established by this Title shall terminate 15 years after the date of the enactment of this Act.

(b) Determination of Continuing Military Need.—(1) At least three years prior to the termination under subsection (a) of the withdrawal and reservation established by this Title, the Secretary of the Army shall advise the Secretary of the Interior as to whether or not the Department of the Army will have a continuing military need for any of the lands after the termination date.

(2) If the Secretary of the Army concludes under paragraph (1) that there will be a continuing military need for any of the lands after the termination date established by subsection (a), the Secretary of the Army, in accordance with applicable law, shall evaluate the environmental effects of renewal of such withdrawal and reservation, shall hold at least one public hearing in Colorado concerning such evaluation, and shall thereafter file an application for extension of the withdrawal and reservation of such lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals for military uses. The Secretary of the Interior shall notify the Congress concerning such filing.

(3) If the Secretary of the Army concludes under paragraph (1) that prior to the termination date established by subsection (a), there will be no military need for all or any of the lands withdrawn and reserved by this Act, or if, during the period of withdrawal the Secretary of the Army shall file a notice of intention to relinquish with the Secretary of the Interior.

(c) Determination of Contamination.—Prior to the filing of a notice of intention to relinquish pursuant to subsection (b)(3), the Secretary of the Army shall prepare a written determination as to whether and to what extent the lands are contaminated with explosive, toxic, or other hazardous materials. A copy of the determination made by the Secretary of the Army shall be supplied with the notice of intention to relinquish. Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the interior.

(d) EFFECT OF CONTAMINATION.—(1) If any land which is the subject of a notice of intention to relinquish under subsection (b)(3) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Army, determines that decontamination is practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination, the land could be opened to the operation of some or all of the public land laws, including the mining laws, the Secretary of the Army shall decontaminate the land to the extent that funds are appropriated for such purpose.

(2) If the Secretaries of the Army and the Interior conclude either that the contamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible, or that the lands cannot be decontaminated sufficiently to allow them to be opened to the operation of the public land laws, or if Congress declined to appropriate funds for decontamination of the lands, the Secretary of the Interior shall not be required to accept the lands proposed for relinquishment.

(3) If, because of their contaminated state, the Secretary of the Interior declines under paragraph (2) to accept jurisdiction of the lands proposed for relinquishment, or if at the expiration of the withdrawal made by the Title the Secretary of the Interior determines that some of the lands withdrawn by this Title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(A) the Secretary of the Army shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(B) after the expiration of the withdrawal, the Secretary of the Army shall undertake no activities on such lands except in connection with decontamination of such lands; and

(C) the Secretary of the Army shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of the subsection.

(4) If the lands are subsequently decontaminated, upon certification by the Secretary of the Army that the lands are safe for all nonmilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(5) Nothing in this Title shall affect, or be construed to affect, the Secretary's obligations, if any, to decontaminate such lands pursuant to applicable law, including but not limited to the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 9601 et seq.), and the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.).

(e) PROGRAM OF DECONTAMINATION.—Throughout the duration of the withdrawal and reservation made by this Title, the Secretary of the Army, to the extent funds are made available, shall maintain a program of decontamination of the lands withdrawn by this Title at least at the level of effort carried out during fiscal year 1992.

(f) ACCEPTANCE OF LANDS PROPOSED FOR RELINQUISHMENT.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over that lands proposed for relinquishment, is authorized to revoke the withdrawal and reservation established by this Title as it applies to the lands proposed for relinquishment. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of the public land laws, including the mining laws if appropriate.

SEC. 2108. DELEGATION.

The function of the Secretary of the Army under this Act may be delegated. The functions of the Secretary of the Interior under this Title may be delegated, except that the order referred to in section 2007(f) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 2109. HOLD HARMLESS PROVISION.

(a) IN GENERAL.—The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injuries or damages to persons or property suffered in the course of any mining, mineral activity, or geothermal leasing activity conducted on lands comprising the Fort Carson Military Reservation or Pinon Canyon Maneuver Site, including liabilities to non-Federal entities under sections 107 or 113 of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9607 and 9613, or section 7003 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6973.

(b) INDEMNIFICATION.—Any party conducting any mining, mineral or geothermal leasing activity on such lands shall indemnify the United States and its departments or agencies thereof against any costs, fees, damages, or other liabilities, including costs of litigation, arising from or related to such mining activities, including costs of minerals disposal, whether arising under the Comprehensive Environmental Resource Compensation and Liability Act, the Resource Conservation and Recovery Act, or otherwise.

SEC. 2110. AMENDMENTS TO MILITARY LANDS WITHDRAWAL ACT OF 1986.

(a) USE OF CERTAIN RESOURCES.—Section 3(f) of the Military Lands Withdrawal Act of 1986 (Public Law 99-606; 100 Stat. 3461) is amended by adding at the end a new paragraph (2) as follows:

"(2) Subject to valid existing rights, the Secretary of the military department concerned may utilize sand, gravel, or similar mineral or material resources from lands withdrawn for the purposes of this Act when the use of such resources is required for construction needs on the respective lands withdrawn by this Act.".

(b) TECHNICAL CORRECTION.—Section 9(b) of the Military Lands Withdrawal Act of 1986 (Public Law 99-606; 100 Stat. 3466) is amended by striking "7(f)" and inserting in lieu thereof, "8(f)".

SEC. 2111. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out this Title.

TITLE XXII—SNOWBASIN LAND EXCHANGE ACT

SEC. 2201. FINDINGS AND DETERMINATION.

(a) FINDINGS.—The Congress finds that —

(1) in June 1995, Salt Lake City Utah, was selected to host the 2002 Winter Olympic Games, and the Snowbasin Ski Resort, which is owned by the Sun Valley Company, was identified as the site of six Olympic events: the men's and women's downhills, men's and women's Super-Gs, and men's and women's combined downhills;

(2) in order to adequately accommodate these events, which are traditionally among the most popular and heavily attended at the Winter Olympic Games, major new skiing, visitor, and support facilities will have to be constructed at the Snowbasin Ski Resort on land currently administered by the United States Forest Service;

(3) while certain of these new facilities can be accommodated on National Forest land under traditional Forest Service permitting authorities, the base area facilities necessary to host visitors to the ski area and the Winter Olympics are of such a nature that they should logically be located on private land;

(4) land exchanges have been routinely utilized by the Forest Service to transfer base area lands to many other ski areas, and the Forest Service and the Sun Valley Company have concluded that a land exchange to transfer base area lands at the Snowbasin Ski Resort to the Sun Valley Company is both logical and advisable;

(5) an environmental impact statement and numerous resource studies have been completed by the Forest Service and the Sun Valley Company for the lands proposed to be transferred to the Sun Valley Company by this Title;

(6) the Sun Valley Company has assembled lands with outstanding environmental, recreational, and other values to convey to the Forest Service in return for the lands it will receive in the exchange, and the Forest Service has identified such lands as desirable for acquisition by the United States; and

(7) completion of a land exchange and approval of a development plan for Olympic related facilities at the Snowbasin Ski Resort is essential to ensure that all necessary facilities can be constructed, tested for safety and other purposes, and become fully operational in advance of the 2002 Winter Olympics and earlier pre-Olympic events.

(b) DETERMINATION.—The Congress has reviewed the previous analyses and studies of the lands to be exchanged and developed pursuant to this Title, and has made its own review of these lands and issues involved, and on the basis of those reviews hereby finds and determines that a legislated land exchange and development plan approval with respect to certain National Forest System Lands is necessary to meet Olympic goals and timetables.

SEC. 2202. PURPOSE AND INTENT.

The purpose of this Title is to authorize and direct the Secretary to exchange 1,320 acres of federally-owned land within the Cache National Forest in the State of Utah for lands of approximately equal value owned by the Sun Valley Company. It is the intent of Congress that this exchange be completed without delay within the period specified by section 2104.

SEC. 2203. DEFINITIONS.

As used in this Title—

(1) the term "Sun Valley Company" means the Sun Valley Company, a division of Sinclair Oil Corporation, a Wyoming Corporation, or its successors or assigns; and

(2) the term "Secretary" means the Secretary of Agriculture.

SEC. 2204. EXCHANGE.

(a) FEDERAL SELECTED LANDS.—(1) Not later than 45 days after the final determination of value of the Federal selected lands, the Secretary shall, subject to this Title, transfer all right, title, and interest of the United States in and to the lands referred to in paragraph (2) to the Sun Valley Company.

(2) The lands referred to in paragraph (1) are certain lands within the Cache National Forest in the State of Utah comprising 1,320 acres, more or less, as generally depicted on the map entitled "Snowbasin Land Exchange—Proposed" and dated October 1995.

(b) NON-FEDERAL OFFERED LANDS.—Upon transfer of the Federal selected lands under subsection (a), and in exchange for those lands, the Sun Valley Company shall simultaneously convey to the Secretary all right, title and interest of the Sun Valley Company in and to so much of the following offered lands which have been previously identified by the United States Forest Service as desirable by the United States, or which are identified pursuant to paragraph (5) prior to the transfer of lands under subsection (a), as are of approximate equal value to the Federal selected lands:

(1) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, which comprise approximately 640 acres and are generally depicted on a map entitled "Lightning Ridge Offered Lands", dated October 1995.

(2) Certain lands located within the Cache National Forest in Weber County, Utah, which comprise approximately 635 acres and are generally depicted on a map entitled "Wheeler Creek Watershed Offered Lands—Section 2" dated October 1995.

(3) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, and lying immediately adjacent to the outskirts of the City of Ogden, Utah, which comprise approximately 800 acres and are generally depicted on a map entitled "Taylor Canyon Offered Lands", dated October 1995.

(4) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, which comprise approximately 2,040 acres and are generally depicted on a map entitled "North Fork Ogden River-Devil's Gate Valley", dated October 1995.

(5) Such additional offered lands in the State of Utah as may be necessary to make the values of the lands exchanged pursuant to this Title approximately equal, and which are acceptable to the Secretary.

(c) SUBSTITUTION OF OFFERED LANDS.—If one or more of the precise offered land parcels identified in paragraphs (1) through (4) of subsection (b) is unable to be conveyed to the United States due to appraisal or other reasons, or if the Secretary and the Sun Valley Company mutually agree and the Secretary determines that an alternative offered land package would better serve long term public needs and objectives, the Sun Valley Company may simultaneously convey to the United States alternative offered lands in the State of Utah acceptable to the Secretary in lieu of any or all of the lands identified in paragraphs (1) through (4) of subsection (b).

(d) VALUATION AND APPRAISALS.—(1) Values of the lands to be exchanged pursuant to this Title shall be equal as determined by the Secretary utilizing nationally recognized appraisal standards and in accordance with section 206 of the Federal Land Policy and Management Act of 1976. The appraisal reports shall be written to Federal standards as defined in the Uniform Appraisal Standards for Federal Land Acquisitions. If, due to size, location, or use of lands exchanged under this Title, the values are not exactly equal, they shall be equalized by the payment of cash equalization money to the Secretary of the Sun Valley Company as appropriate in accordance with section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)). In order to expedite the consummation of the exchange directed by this Title, the Sun Valley Company shall arrange and pay for appraisals of the offered and selected lands by a qualified appraiser with experience in appraising similar properties and who is mutually acceptable to the Sun Valley Company and the Secretary. The appraisal of the Federal selected lands shall be completed and submitted to the Secretary for technical review and approval no later than 120 days after the date of enactment of this Act, and the Secretary shall make a determination of value not later than 30 days after receipt of the appraisal. In the event the Secretary and the Sun Valley Company are unable to agree to the appraised value of a certain tract or tracts of land, the appraisal, appraisals, or appraisal issues in dispute and a final determination of value shall be resolved through a process of bargaining or submission to arbitration in accordance with section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

(2) In order to expedite the appraisal of the Federal selected lands, such appraisal shall—

(A) value the land in its unimproved state, as a single entity for its highest and best use as if in private ownership and as of the date of enactment of this Act;

(B) consider the Federal lands as an independent property as through in the private marketplace and suitable for development to its highest and best use;

(C) consider in the appraisal any encumbrance on the title anticipated to be in the conveyance to Sun Valley Company and reflect its effect on the fair market value of the property; and

(D) not reflect any enhancement in value to the Federal selected lands based on the existence of private lands owned by the Sun Valley Company in the vicinity of the Snowbasin Ski Resort, and shall assume that private lands owned by the Sun Valley Company are not available for use in conjunction with the Federal selected lands.

SEC. 2205. GENERAL PROVISIONS RELATING TO THE EXCHANGE.

(a) IN GENERAL.—The exchange authorized by this Title shall be subject to the following terms and conditions:

(1) RESERVED RIGHTS-OF-WAY.—In any deed issued pursuant to section 5(a), the Secretary shall reserve in the United States a right of reasonable access across the conveyed property for public access and for administrative purposes of the United States necessary to manage adjacent federally-owned lands. The terms of such reservation shall be prescribed by the Secretary within 30 days after the date of the enactment of this Act.

(2) RIGHT OF RESCISSION.—This Title shall not be binding on either the United States or the Sun Valley Company if, within 30 days after the final determination of value of the Federal selected lands, the Sun Valley Company submits to the Secretary a duly authorized and executed resolution of the Company stating its intention not to enter into the exchange authorized by this Title.

(b) WITHDRAWAL.—Subject to valid existing rights, effective on the date of enactment of this Act, the Federal selected lands described in section 5(a)(2) and all National Forest System lands currently under special use permit to the Sun Valley Company at the Snowbasin Ski Resort are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws) and from disposition under all laws pertaining to mineral and geothermal leasing.

(c) DEED.—The conveyance of the offered lands to the United States under this Title shall be by general warranty or other deed acceptable to the Secretary and in conformity with applicable title standards of the Attorney General of the United States.

(d) STATUS OF LANDS.—Upon acceptance of title by the Secretary, the land conveyed to the United States pursuant to this Title shall become part of the Wasatch or Cache National Forests as appropriate, and the boundaries of such National Forests shall be adjusted to encompass such lands. Once conveyed, such lands shall be managed in accordance with the Act of March 1, 1911, as amended (commonly known as the "Weeks Act"), and in accordance with the other laws, rules and regulations applicable to National Forest System lands. This subsection does not limit the Secretary's authority to adjust the boundaries pursuant to section 11 of the Act of March 1, 1911 ("Weeks Act"). For the purposes of section 7 of the land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Wasatch and Cache National Forests, as adjusted by this Title, shall be considered to be boundaries of the forests as of January 1, 1965.

SEC. 2206. PHASE I FACILITY CONSTRUCTION AND OPERATION.

(a) PHASE I FACILITY FINDING AND REVIEW.—(1) The Congress has reviewed the Snowbasin Ski Area Master Development Plan dated October 1995 (hereinafter in this section referred to as the "Master Plan"). On the basis of such review, and review of previously completed environmental and other resource studies for the Snowbasin Ski Area, Congress hereby finds that the "Phase I" facilities referred to in the Master Plan to be located on National Forest System land after consummation of the land exchange directed by this Title are limited in size and scope, are reasonable and necessary to accommodate the 2002 Olympics, and in some cases are required to provide for the safety of skiing competitors and spectators.

(2) Within 60 days after the date of enactment of this Act, the Secretary and the Sun Valley Company shall review the Master Plan insofar as such plan pertains to Phase I facilities which are to be constructed and operated wholly or partially on National Forest System lands retained by the Secretary after consummation of the land exchange directed by this Title. The Secretary may modify such Phase I facilities upon mutual agreement with the Sun Valley Company or by imposing conditions pursuant to subsection (b) of this section.

(3) Within 90 days after the date of enactment of this Act, the Secretary shall submit the reviewed Master Plan on the Phase I facilities, including any modifications made thereto pursuant to paragraph (2), to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives for a 30-day review period. At the end of the 30-day period, unless otherwise directed by Act of Congress, the Secretary may issue all necessary authorizations for construction and operation of such

facilities or modifications thereof in accordance with the procedures and provisions of subsection (b) of this section.

(b) PHASE I FACILITY APPROVAL, CONDITIONS, AND TIMETABLE.—Within 120 days of receipt of an application by the Sun Valley Company to authorize construction and operation of any particular Phase I facility, facilities, or group of facilities, the Secretary, in consultation with the Sun Valley Company, shall authorize construction and operation of such facility, facilities, or group of facilities, subject to the general policies of the Forest Service pertaining to the construction and operation of ski area facilities on National Forest System lands and subject to reasonable conditions to protect National Forest System resources. In providing authorization to construct and operate a facility, facilities, or group of facilities, the Secretary may not impose any condition that would significantly change the location, size, or scope of the applied for Phase I facility unless—

(1) the modification is mutually agreed to by the Secretary and the Sun Valley Company; or

(2) the modification is necessary to protect health and safety.

Nothing in this section shall be construed to affect the Secretary's responsibility to monitor and assure compliance with the conditions set forth in the construction and operation authorization.

(c) CONGRESSIONAL DIRECTIONS.—Notwithstanding any other provision of law, Congress finds that consummation of the land exchange directed by this Title and all determinations, authorizations, and actions taken by the Secretary pursuant to this Title pertaining to Phase I facilities on National Forest System lands, or any modifications thereof, to be nondiscretionary actions authorized and directed by Congress and hence to comply with all procedural and other requirements of the laws of the United States. Such determinations, authorizations and actions shall not be subject to administrative or judicial review.

SEC. 2207. NO PRECEDENT.

Nothing in section 2104(d)(2) of this Title relating to conditions or limitations on the appraisal of the Federal lands, or any provision of section 2106 relating to the approval by the Congress or the Forest Service of facilities on National Forest System lands, shall be construed as a precedent for subsequent legislation.

TITLE XXIII—COLONIAL NATIONAL HISTORICAL PARK.

SEC. 2301. COLONIAL NATIONAL HISTORICAL PARK.

(a) TRANSFER AND RIGHTS-OF-WAY.—The Secretary of the Interior (hereinafter in this Title referred to as the "Secretary") is authorized to transfer, without reimbursement, to York County, Virginia, that portion of the existing sewage disposal system, including related improvements and structures, owned by the United States and located within the Colonial National Historical Park, together with such rights-of-way as are determined by the Secretary to be necessary to maintain and operate such system.

(b) REPAIR AND REHABILITATION OF SYSTEM.—The Secretary is authorized to enter into a cooperative agreement with York County, Virginia, under which the Secretary will pay a portion, not to exceed $110,000, of the costs of repair and rehabilitation of the sewage disposal system referred to in subsection (a).

(c) FEES AND CHARGES.—In consideration for the rights-of-way granted under subsection (a), and in recognition of the National Park Service's contribution authorized under subsection (b), the cooperative agreement under subsection (b) shall provide for a reduction in, or the elimination of, the amounts charged to the National Park Service for its sewage disposal. The cooperative agreement shall also provide for minimizing the impact of the sewage disposal system on the park and its resources. Such system may not be enlarged or substantially altered without National Park Service concurrence.

SEC. 2302. INCLUSION OF LAND IN COLONIAL NATIONAL HISTORICAL PARK.

Notwithstanding the provisions of the Act of June 28, 1938 (52 Stat. 1208; 16 U.S.C. 81b et seq.), limiting the average width of the Colonial Parkway, the Secretary of the Interior is authorized to include within the boundaries of Colonial National Historical Park and acquire by donation, exchange, or purchase with donated or appropriated funds—

(1) the lands or interests in lands described as lots 30 to 48, inclusive;

(2) the portion of lot 49 that is 200 feet in width from the existing boundary of Colonial National Historical Park;

(3) a 3.2-acre archaeological site, as shown on the plats titled "Page Landing At Jamestown being a subdivision of property of Neck O Land Limited Partnership" dated June 21, 1989, sheets 2 and 3 of 3 sheets and bearing National Park Service Drawing Number 333.80031; and

(4) all or a portion of the adjoining lot number 11 of the Neck O Land Hundred Subdivision, with or without improvements.

SEC. 2303. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Title.

TITLE XXIV—WOMEN'S RIGHTS NATIONAL HISTORICAL PARK

SEC. 2401. INCLUSION OF OTHER PROPERTIES.

Section 1601(c) of Public Law 96–607 (16 U.S.C. 41011) is amended to read as follows: "To carry out the purposes of this section there is hereby established the Women's Rights National Historical Park (hereinafter in this section referred to as the "park"). The park shall consist of the following designated sites in Seneca Falls and Waterloo, New York:

"(1) Stanton House, 32 Washington Street, Seneca Falls;

"(2) dwelling, 30 Washington Street, Seneca Falls;

"(3) dwelling, 34 Washington Street, Seneca Falls;

"(4) lot, 26–28 Washington Street, Seneca Falls;

"(5) former Wesleyan Chapel, 126 Fall Street, Seneca Falls;

"(6) theater, 128 Fall Street, Seneca Falls;

"(7) McClintock House, 16 East Williams Street, Waterloo;

"(8) Hunt House, 401 East Williams Street, Waterloo;

"(9) not to exceed 1 acre, plus improvements, as determined by the Secretary, in Seneca Falls for development of a maintenance facility;

"(10) dwelling, 1 Seneca Street, Seneca Falls;

"(11) dwelling, 10 Seneca Street, Seneca Falls;

"(12) parcels adjacent to Wesleyan Chapel Block, including Clinton Street, Fall Street, and Mynderse Street, Seneca Falls; and

"(13) dwelling, 12 East Williams Street, Waterloo.".

SEC. 2402. MISCELLANEOUS AMENDMENTS.

Section 1601 of Public Law 96–607 (16 U.S.C. 41011) is amended by redesignating subsection (i) as "(i)(1)" and inserting at the end thereof the following new paragraph:

"(2) In addition to those sums appropriated prior to the date of enactment of this paragraph for land acquisition and development, there is hereby authorized to be appropriated an additional $2,000,000.".

TITLE XXV—FRANKLIN D. ROOSEVELT FAMILY LANDS

SEC. 2501. ACQUISITION OF LANDS.

(a) IN GENERAL.—(1) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire, by purchase with donated or appropriated funds, donation, or otherwise, lands and interests therein in the following properties located at Hyde Park, New York identified as lands critical for protection as depicted on the map entitled "Roosevelt Family Estate" and dated September 1994—

(A) the "Open Park Hodhome Tract", consisting of approximately 40 acres, which shall be the highest priority for acquisition;

(B) the "Top Cottage Tract", consisting of approximately 30 acres; and

(C) the "Poughkeepsie Shopping Center, Inc. Tract", consisting of approximately 55 acres.

(b) ADMINISTRATION.—Lands and interests therein acquired by the Secretary pursuant to this Title shall be added to, and administered by the Secretary as part of the Franklin Delano Roosevelt National Historic Site or the Eleanor Roosevelt National Historic Site, as appropriate.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated not to exceed $3,000,000 to carry out this Title.

TITLE XXVI—GREAT FALLS HISTORIC DISTRICT, NEW JERSEY

SEC. 2601. FINDINGS.

Congress finds that—

(1) the Great Falls Historic District in the State of New Jersey is an area of historical significance as an early site of planned industrial development, and has remained largely intact, including architecturally significant structures;

(2) the Great Falls Historic District is listed on the National Register of Historic Places and has been designated a National Historic Landmark;

(3) the Great Falls Historic District is situated within a one-half hour's drive from New York City and a 2 hour's drive from Philadelphia, Hartford, New Haven, and Wilmington;

(4) the District was developed by the Society of Useful Manufactures, an organization whose leaders included a number of historically renowned individuals, including Alexander Hamilton; and

(5) the Great Falls Historic District has been the subject of a number of studies that have shown that the District possesses a combination of historic significance and natural beauty worthy of and uniquely situated for preservation and redevelopment.

SEC. 2602. PURPOSES.

The purposes of this Title are—

(1) to preserve and interpret, for the educational and inspirational benefit of the public, the contribution to our national heritage of certain historic and cultural lands and edifices of the Great Falls Historic District, with emphasis on harnessing this unique urban environment for its educational and recreational value; and

(2) to enhance economic and cultural redevelopment within the District.

SEC. 2603. DEFINITIONS.

In this Act:

(1) DISTRICT.—The term "District" means the Great Falls Historic District established by section 5.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 2604. GREAT FALLS HISTORIC DISTRICT.

(a) ESTABLISHMENT.—There is established the Great Falls Historic District in the city of Paterson, in Passaic County, New Jersey.

(b) BOUNDARIES.—The boundaries of the District shall be the boundaries specified for the Great Falls Historic District listed on the National Register of Historic Places.

SEC. 2605. DEVELOPMENT PLAN.

(a) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may make grants and enter into cooperative agreements with the State of New Jersey, local governments, and private nonprofit entities under which the Secretary agrees to pay not more than 50 percent of the costs of—

(1) preparation of a plan for the development of historic, architectural, natural, cultural, and interpretive resources within the District; and

(2) implementation of projects approved by the Secretary under the development plan.

(b) CONTENTS OF PLAN.—The development plan shall include—

(1) an evaluation of—

(A) the physical condition of historic and architectural resources; and

(B) the environmental and flood hazard conditions within the District; and

(2) recommendations for—

(A) rehabilitating, reconstructing, and adaptively reusing the historic and architectural resources;

(B) preserving viewsheds, focal points, and streetscapes;

(C) establishing gateways to the District;

(D) establishing and maintaining parks and public spaces;

(E) developing public parking areas;

(F) improving pedestrian and vehicular circulation within the District;

(G) improving security within the District, with an emphasis on preserving historically significant structures from arson; and

(H) establishing a visitors' center.

SEC. 2606. RESTORATION, PRESERVATION, AND INTERPRETATION OF PROPERTIES.

(a) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the owners of properties within the District that the Secretary determines to be of historical or cultural significance, under which the Secretary may—

(1) pay not more than 50 percent of the cost of restoring and improving the properties;

(2) provide technical assistance with respect to the preservation and interpretation of the properties; and

(3) mark and provide interpretation of the properties.

(b) PROVISIONS.—A cooperative agreement under subsection (a) shall provide that—

(1) the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes;

(2) no change or alteration may be made in the property except with the agreement of the property owner, the Secretary, and any Federal agency that may have regulatory jurisdiction over the property; and

(3) if at any time the property is converted, used, or disposed of in a manner that is contrary to the purposes of this Act, as determined by the Secretary, the property owner shall be liable to the Secretary for the greater of—

(A) the amount of assistance provided by the Secretary for the property; or

(B) the portion of the increased value of the property that is attributable to that assistance, determined as of the date of the conversion, use, or disposal.

(c) APPLICATIONS.—

(1) IN GENERAL.—A property owner that desires to enter into a cooperative agreement under subsection (a) shall submit to the Secretary an application describing how the project proposed to be funded will further the purposes of the District.

(2) CONSIDERATION.—In making such funds available under this section, the Secretary shall give consideration to projects that provide a greater leverage of Federal funds.

SEC. 2607. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this Title—

(1) $250,000 for grants and cooperative agreements for the development plan under section 6; and

(2) $50,000 for the provision of technical assistance and $3,000,000 for the provision of other assistance under cooperative agreements under section 7.

TITLE XXVII—RIO PUERCO WATERSHED

SECTION 2701. FINDINGS.

Congress finds that—

(1) over time, extensive ecological changes have occurred in the Rio Puerco watershed, including—

(A) erosion of agricultural and range lands;

(B) impairment of waters due to heavy sedimentation;

(C) reduced productivity of renewable resources;

(D) loss of biological diversity;

(E) loss of functioning riparian areas; and

(F) loss of available surface water;

(2) damage to the watershed has seriously affected the economic and cultural well-being of its inhabitants, including—

(A) loss of communities that were based on the land and were self-sustaining; and

(B) adverse effects on the traditions, customs, and cultures of the affected communities;

(3) a healthy and sustainable ecosystem is essential to the long-term economic and cultural viability of the region;

(4) the impairment of the Rio Puerco watershed has caused damage to the ecological and economic well-being of the area below the junction of the Rio Puerco with the Rio Grande, including—

(A) disruption of ecological processes;

(B) water quality impairment;

(C) significant reduction in the water storage capacity and life expectancy of the Elephant Butte Dam and Reservoir system due to sedimentation;

(D) chronic problems of irrigation system channel maintenance; and

(E) increased risk of flooding caused by sediment accumulation;

(5) the Rio Puerco is a major tributary of the Rio Grande, and the coordinated implementation of ecosystem-based best management practices for the Rio Puerco system could benefit the larger Rio Grande system;

(6) the Rio Puerco watershed has been stressed from the loss of native vegetation, introduction of exotic species, and alteration of riparian habitat which have disrupted the original dynamics of the river and disrupted natural ecological processes;

(7) the Rio Puerco watershed is a mosaic of private, Federal, tribal trust, and State land ownership with diverse, sometimes differing management objectives;

(8) development, implementation, and monitoring of an effective watershed management program for the Rio Puerco watershed is best achieved through cooperation among affected Federal, State, local, and tribal entities;

(9) the Secretary of the Interior, acting through the Director of the Bureau of Land Management, in consultation with Federal, State, local, and tribal entities and in cooperation with the Rio Puerco Watershed Committee, is best suited to coordinate management efforts in the Rio Puerco watershed; and

(10) accelerating the pace of improvement in the Rio Puerco watershed on a coordinated, cooperative basis will benefit persons living in the watershed as well as downstream users on the Rio Grande.

SEC. 2702. MANAGEMENT, PROGRAM.

(a) IN GENERAL.— The Secretary of the Interior, acting through the Director of the Bureau of Land Management shall—

(1) in consultation with the Rio Puerco Management Committee established by section 4—

(A) establish a clearinghouse for research and information on management within the area identified as the Rio Puerco Drainage Basin, as depicted on the map entitled "The Rio Puerco Watershed" dated June 1994, including—

(i) current and historical natural resource conditions; and

(ii) data concerning the extent and causes of watershed impairment; and

(B) establish an inventory of best management practices and related monitoring activities that have been or may be implemented within the area identified as the Rio Puerco Watershed Project, as depicted on the map entitled "The Rio Puerco Watershed" dated June 1994; and

(2) provide support to the Rio Puerco Management Committee to identify objectives, monitor results of ongoing projects, and develop alternative watershed management plans for the Rio Puerco Drainage Basin, based on best management practices.

(b) RIO PUERCO MANAGEMENT REPORT.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall prepare a report for the improvement of watershed conditions in the Rio Puerco Drainage Basin described in subsection (a)(1).

(2) CONTENTS.—The report under paragraph (1) shall—

(A) identify reasonable and appropriate goals and objectives for landowners and managers in the Rio Puerco watershed;

(B) describe potential alternative actions to meet the goals and objectives, including proven best management practices and costs associated with implementing the actions;

(C) recommend voluntary implementation of appropriate best management practices on public and private lands;

(D) provide for cooperative development of management guidelines for maintaining and improving the ecological, cultural, and economic conditions on public and private lands;

(E) provide for the development of public participation and community outreach programs that would include proposals for—

(i) cooperative efforts with private landowners to encourage implementation of best management practices within the watershed; and

(ii) involvement of private citizens in restoring the watershed;

(F) provide for the development of proposals for voluntary cooperative programs among the members of the Rio Puerco Management Committee to implement best management practices in a coordinated, consistent, and cost-effective manner;

(G) provide for the encouragement of, and support implementation of, best management practices on private lands; and

(H) provide for the development of proposals for a monitoring system that—

(i) builds on existing data available from private, Federal, and State sources;

(ii) provides for the coordinated collection, evaluation, and interpretation of additional data as needed or collected; and

(iii) will provide information to—

(I) assess existing resource and socioeconomic conditions;

(II) identify priority implementation actions; and

(III) assess the effectiveness of actions taken.

SEC. 2703. RIO PUERCO MANAGEMENT COMMITTEE.

(a) Establishment.—There is established the Rio Puerco Management Committee (referred to in this section as the "Committee").

(b) Membership.—The Committee shall be convened by a representative of the Bureau of Land Management and shall include representatives from—

(1) the Rio Puerco Watershed Committee;

(2) affected tribes and pueblos;

(3) the National Forest Service of the Department of Agriculture;

(4) the Bureau of Reclamation;

(5) the United States Geological Survey;

(6) the Bureau of Indian Affairs;

(7) the United States Fish and Wildlife Service;

(8) the Army Corps of Engineers;

(9) the Natural Resources Conservation Service of the Department of Agriculture;

(10) the State of New Mexico, including the New Mexico Environment Department and the State Engineer;

(11) affected local soil and water conservation districts;

(12) the Elephant Butte Irrigation District;

(13) private landowners; and

(14) other interested citizens.

(c) Duties.—The Rio Puerco Management Committee shall—

(1) advise the Secretary of the Interior, acting through the Director of the Bureau of Land Management, on the development and implementation of the Rio Puerco Management Program described in section 3; and

(2) serve as a forum for information about activities that may affect or further the development and implementation of the best management practices described in section 3.

(d) Termination.—The Committee shall terminate on the date that is 10 years after the date of enactment of this Act.

SEC. 2704. REPORT.

Not later than the date that is 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives a report containing—

(1) a summary of activities of the management program under section 3; and

(2) proposals for joint implementation efforts, including funding recommendations.

SEC. 2705. LOWER RIO GRANDE HABITAT STUDY.

(a) In General.—The Secretary of the Interior, in cooperation with appropriate State agencies, shall conduct a study of the Rio Grande that—

(1) shall cover the distance from Caballo Lake to Sunland Park, New Mexico; and

(2) may cover a greater distance.

(b) Contents.—The study under subsection (a) shall include—

(1) a survey of the current habitat conditions of the river and its riparian environment;

(2) identification of the changes in vegetation and habitat over the past 400 years and the affect of the changes on the river and riparian area; and

(3) an assessment of the feasibility, benefits, and problems associated with activities to prevent further habitat loss and to restore habitat through reintroduction or establishment of appropriate native plant species.

(c) Transmittal.—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary of the Interior shall transmit the study under subsection (a) to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives.

SEC. 2706. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out sections 1, 2, 3, 4, and 5 a total of $7,500,000 for the 10 fiscal years beginning after the date of enactment of this Act.

TITLE XXVIII—COLUMBIA BASIN

SEC. 2801. LAND EXCHANGE.

The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to convey to the Boise Cascade Corporation (hereinafter referred to as the "Corporation"), a corporation formed under the statutes of the State of Delaware, with its principal place of business at Boise, Idaho, title to approximately seven acres of land, more or less, located in sections 14 and 23, township 36 north, range 37 east, Willamette Meridian, Stevens County, Washington, further identified in the records of the Bureau of Reclamation, Department of the Interior, as Tract No. GC–19860, and to accept from the Corporation in exchange therefor, title to approximately one hundred and thirty-six acres of land located in section 19, township 37 north, range 38 east and section 33, township 38 north, range 37 east, Willamette Meridian, Stevens County, Washington, and further identified in the records of the Bureau of Reclamation, Department of the Interior, as Tract No. GC–19858 and Tract No. GC–19859, respectively.

SEC. 2802. APPRAISAL.

The properties so exchanged either shall be approximately equal in fair market value or if they are not approximately equal, shall be equalized by the payment of cash to the Corporation or to the Secretary as required or in the event the value of the Corporation's lands is greater, the acreage may be reduced so that the fair market value is approximately equal: *Provided*, that the Secretary shall order appraisals made of the fair market value of each tract of land included in the exchange without consideration for improvements thereon: *Provided further*, that any cash payment received by the Secretary shall be covered in the Reclamation Fund and credited to the Columbia Basin project.

SEC. 2803. ADMINISTRATIVE COSTS.

Costs of conducting the necessary land surveys, preparing the legal descriptions of the lands to be conveyed, performing the appraisals, and administrative costs incurred in completing the exchange shall be borne by the Corporation.

SEC. 2804. LIABILITY FOR HAZARDOUS SUBSTANCES.

(a) The Secretary shall not acquire any lands under this Title if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601)).

(b) Notwithstanding any other provision of law, the United States shall have no responsibility or liability with respect to any hazardous wastes or other substances placed on any of the lands covered by this Title after their transfer to the ownership of any party, but nothing in this Act shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of such lands on the date of their transfer to the ownership of another party. The Corporation shall indemnify the United States for liabilities arising under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601), and the Resource Conservation Recovery Act (42 U.S.C. 6901 et seq.).

SEC. 2805. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Title.

TITLE XXIX—GRAND LAKE CEMETERY

SECTION 2901. MAINTENANCE OF CEMETERY IN ROCKY MOUNTAIN NATIONAL PARK.

(a) Agreement.—Notwithstanding any other law, not later than 6 months after the date of enactment of this Act, the Secretary of the Interior shall enter into an appropriate form of agreement with the town of Grand Lake, Colorado, authorizing the town to maintain permanently, under appropriate terms and conditions, a cemetery within the boundaries of the Rocky Mountain National Park.

(b) Cemetery Boundaries.—The cemetery shall be comprised of approximately 5 acres of land, as generally depicted on the map entitled "Grand Lake Cemetery" and dated February 1995.

(c) Availability for Public Inspection.—The Secretary of the Interior shall place the map described in subsection (b) on the file, and make the map available for public inspection, in the headquarters office of the Rocky Mountain National Park.

(d) Limitation.—The cemetery shall not be extended beyond the boundaries of the cemetery shown on the map described in subsection (b).

TITLE XXX—OLD SPANISH TRAIL

SEC. 3001. DESIGNATION

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"(36) The Old Spanish Trail, beginning in Santa Fe, New Mexico, proceeding through Colorado and Utah, and ending in Los Angeles, California, and the Northern Branch of the Old Spanish Trail, beginning near Espanola, New Mexico, proceeding through Colorado, and ending near Crescent Junction, Utah."

TITLE XXXI—BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR

SEC. 3101. BOUNDARY CHANGES.

Section 2 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by striking the first sentence and inserting the following new sentence: "The boundaries shall include the lands and water generally depicted on the map entitled Blackstone River Valley National Heritage Corridor Boundary Map, numbered BRV–80–80,011, and dated May 2, 1993.".

SEC. 3102. TERMS.

Section 3(c) of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by inserting immediately before the period at the end the following: ", but may continue to serve after the expiration of this term until a successor has been appointed".

SEC. 3103. REVISION OF PLAN.

Section 6 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), is amended by adding at the end the following new subsection:

"(d) REVISION OF PLAN.—(1) Not later than 1 year after the date of enactment of this subsection, the Commission, with the approval of the Secretary, shall revise the Cultural Heritage and Land Management Plan. The revision shall address the boundary change and shall include a natural resource inventory of areas or features that should be protected, restored, managed, or acquired because of their contribution to the understanding of national cultural landscape values.

"(2) No changes other than minor revisions may be made in the approved plan as amended without the approval of the Secretary. The Secretary shall approve or disapprove any proposed change in the plan, except minor revisions, in accordance with subsection (b).".

SEC. 3104. EXTENSION OF COMMISSION

Section 7 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), is amended to read as follows:

"TERMINATION OF COMMISSION

"SEC. 7 (a). TERMINATION.—Except as provided in subsection (b), the Commission shall terminate on the date that is 10 years after the date of enactment of the Blackstone River Valley National Heritage Corridor Amendments Act of 1995.

"(b) EXTENSION.—The Commission may be extended for an additional term of 10 years if—

"(1) not later than 180 days before the termination of the Commission, the Commission determines that an extension is necessary to carry out this Title;

"(2) the Commission submits a proposed extension to the appropriate committees of the Senate and the House of Representatives; and

"(3) the Secretary, the Governor of Massachusetts, and the Governor of Rhode Island each approve the extension.

"(c) DETERMINATION OF APPROVAL.—The Secretary shall approve the extension if the Secretary finds that—

"(1) the Governor of Massachusetts and the Governor of Rhode Island provide adequate assurances of continued tangible contribution and effective policy support toward achieving the purposes of this Title; and

"(2) the Commission is effectively assisting Federal, State, and local authorities to retain, enhance, and interpret the distinctive character and nationally significant resources of the Corridor.".

SEC. 3105. IMPLEMENTATION OF THE PLAN.

Subsection (c) of section 8 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), is amended to read as follows:

"(c) IMPLEMENTATION.—To assist in the implementation of the Cultural Heritage and Land Management Plan in a manner consistent with purposes of this Title, the Secretary is authorized to undertake a limited program of financial assistance for the purpose of providing funds for the preservation and restoration of structures on or eligible for inclusion on the National Register of Historic Places within the Corridor which exhibit national significance or provide a wide spectrum of historic, recreational, or environmental education opportunities to the general public.

"(2) To be eligible for funds under this section, the Commission shall submit an application to the Secretary that includes—

"(A) a 10-year development plan includes those resource protection needs and projects critical to maintaining or interpreting the distinctive character of the Corridor; and

"(B) specific description of annual work programs that have been assembled, the participating parties, roles, cost estimates, cost-sharing, or cooperative agreements necessary to carry out the development plan.

"(3) Funds made available pursuant to this subsection shall not exceed 50 percent of the total cost of the work programs.

"(4) In making the funds available, the Secretary shall give priority to projects that attract greater non-Federal funding sources.

"(5) Any payment made for the purposes of conservation or restoration of real property or structures shall be subject to an agreement either—

"(A) to convey a conservation or preservation easement to the Department of Environmental Management or to the Historic Preservation Commission, as appropriate, of the State in which the real property or structure is located; or

"(B) that conversion, use, or disposal of the resources so assisted for purposes contrary to the purposes of this Title, as determined by the Secretary, shall result in a right of the United States for reimbursement of all funds expended upon such resources or the proportion of the increased value of the resources attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

"(6) The authority to determine that a conversion, use, or disposal of resources has been carried out contrary to the purposes of this Title in violation of an agreement entered into under paragraph (5) (A) shall be solely at the discretion of the Secretary.".

SEC. 3106. LOCAL AUTHORITY.

Section 5 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), is amended by adding at the end of the following new subsection:

"(j) LOCAL AUTHORITY AND PRIVATE PROPERTY NOT AFFECTED.—Nothing in this Title shall be construed to affect or to authorize the Commission to interfere with—

"(1) the rights of any person with respect to private property; or

"(2) any local zoning ordinance or land use plan of the Commonwealth of Massachusetts or a political subdivision of such Commonwealth.".

SEC. 3107. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647); 16 U.S.C. 461 note), as amended, is further amended—

(1) in subsection (a), by striking "$350,000" and inserting "$650,000"; and

(2) by amending subsection (b) to read as follows:

"(b) DEVELOPMENT FUNDS.—For fiscal years 1996, 1997, and 1998, there is authorized to be appropriated to carry out section 8(c), $5,000,000 in the aggregate.".

TITLE XXXII—CUPRUM, IDAHO RELIEF

SECTION 3201. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that:

(1) In 1899, the citizens of Cuprum, Idaho, commissioned E.S. Hesse to conduct a survey describing these lands occupied by their community. The purpose of this survey was to provide a basis for the application for a townsite patent.

(2) In 1909, the Cuprum Townsite patent (Number 52817) was granted, based on an aliquot parts description which was intended to circumscribe the Hesse survey.

(3) Since the day of the patent, the Hesse survey has been used continuously by the community of Cuprum and by Adams County, Idaho, as the official townsite plant and basis for conveyance of title within the townsite.

(4) Recent boundary surveys conducted by the United States Department of Agriculture, Forest Service, and the United States Department of the Interior, Bureau of Land Management, discovered inconsistencies between the official aliquot parts description of the patented Cuprum Townsite and the Hesse survey. Many lots along the south and east boundaries of the townsite are now known to extend onto National Forest System lands outside the townsite.

(5) It is the determination of Congress that the original intent of the Cuprum Townsite application was to include all the lands described by the Hesse survey.

(b) PURPOSE.—It is the purpose of this Title to amend the 1909 Cuprum Townsite patent to include those additional lands described by the Hesse survey in addition to other lands necessary to provide an administratively acceptable boundary to the National Forest System.

SEC. 3202. AMENDMENT OF PATENT.

(a) The 1909 Cuprum Townsite patent is hereby amended to include parcels 1 and 2, identified on the plat, marked as "Township 20 North, Range 3 West, Boise Meridian, Idaho, Section 10: Proposed Patent Adjustment Cuprum Townsite, Idaho" prepared by Payette N.F.—Land Survey Unit, drawn and approved by Tom Betzold, Forest Land Surveyor, on April 25, 1995. Such additional lands are hereby conveyed to the original patentee, Pitts Ellis, trustee, and Probate Judge of Washington County, Idaho, or any successors or assigns in interest in accordance with State law. The Secretary of Agriculture may correct clerical and typographical errors in such plat.

(b) The Federal Government shall survey the Federal property lines and mark and post the boundaries necessary to implement this section.

SEC. 3203. RELEASE.

Notwithstanding section 120 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9620), the United States shall not be liable and shall be held harmless from any and all claims resulting from substances or petroleum products or any other hazardous materials on the conveyed land.

TITLE XXXIII—ARKANSAS AND OKLAHOMA LAND EXCHANGE.

SEC. 3301. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that:

(1) the Weyerhaeuser Company has offered to the United States Government an exchange of lands under which Weyerhaeuser

would receive approximately 48,000 acres of Federal land in Arkansas and Oklahoma and all mineral interests and oil and gas interests pertaining to these exchanged lands in which the United States Government has an interest in return for conveying to the United States lands owned by Weyerhaeuser consisting of approximately 180,000 acres of forested wetlands and other forest land of public interest in Arkansas and Oklahoma and all mineral interests and all oil and gas interests pertaining to 48,000 acres of these 180,000 acres of exchanged lands in which Weyerhaeuser has an interest, consisting of:

(A) certain lands in Arkansas (Arkansas Ouachita lands) located near Poteau Mountain, Caney Creek Wilderness, Lake Ouachita, Little Missouri Wild and Scenic River, Flatside Wilderness and the Ouachita National Forest;

(B) certain lands in Oklahoma (Oklahoma lands) located near the McCurtain County Wilderness, the Broken Bow Reservoir, the Glover River, and the Ouachita National Forest; and

(C) certain lands in Arkansas (Arkansas Cossatot lands) located on the Little and Cossatot Rivers and identified as the "Pond Creek Bottoms" in the Lower Mississippi River Delta section of the North American Waterfowl Management Plan;

(2) acquisition of the Arkansas Cossatot lands by the United States will remove the lands in the heart of a critical wetland ecosystem from sustained timber production and other development;

(3) the acquisition of the Arkansas Ouachita lands and the Oklahoma lands by the United States for administration by the Forest Service will provide an opportunity for enhancement of ecosystem management of the National Forest System lands and resources;

(4) the Arkansas Ouachita lands and the Oklahoma lands have outstanding wildlife habitat and important recreational values and should continue to be made available for activities such as public hunting, fishing, trapping, nature observation, enjoyment, education, and timber management whenever these activities are consistent with applicable Federal laws and land and resource management plans; these lands, especially in the riparian zones, also harbor endangered, threatened and sensitive plants and animals and the conservation and restoration of these areas are important to the recreational and educational public uses and will represent a valuable ecological resource which should be conserved;

(5) the private use of the lands the United States will convey to Weyerhaeuser will not conflict with established management objectives on adjacent Federal lands;

(6) the lands the United States will convey to Weyerhaeuser as part of the exchange described in paragraph (1) do not contain comparable fish, wildlife, or wetland values;

(7) the values of all lands, mineral interests, and oil and gas interests to be exchanged between the United States and Weyerhaeuser are approximately equal in value; and

(8) the exchange of lands, mineral interests, and oil and gas interests between Weyerhaeuser and the United States is in the public interest.

(b) PURPOSE.—The purpose of this Title is to authorize and direct the Secretary of the Interior and the Secretary of Agriculture, subject to the terms of this Title, to complete, as expeditiously as possible, an exchange of lands, mineral interests, and oil and gas interests with Weyerhaeuser that will provide environmental, land management, recreational, and economic benefits to the States of Arkansas and Oklahoma and to the United States.

SEC. 3302. DEFINITIONS.

As used in this Title:

(a) LAND.—The terms "land" or "lands" mean the surface estate and any other interests therein except for mineral interests and oil and gas interests.

(b) MINERAL INTERESTS.—The term "mineral interests" means goethermal steam and heat and all metals, ores, and minerals of any nature whatsoever, except oil and gas interests, in or upon lands subject to this Title including, but not limited to, coal, lignite, peat, rock, sand, gravel, and quartz.

(c) OIL AND GAS INTERESTS.—The term "oil and gas interests" means all oil and gas of any nature, including carbon dioxide, helium, and gas taken from coal seams (collectively "oil and gas").

(d) SECRETARIES.—The term "Secretaries" means the Secretary of the Interior and the Secretary of Agriculture.

(e) WEYERHAEUSER.—The term "Weyerhaeuser" means Weyerhaeuser Company, a company incorporated in the State of Washington.

SEC. 3303. EXCHANGE.

(a) EXCHANGE OF LANDS AND MINERAL INTERESTS.—

(1) IN GENERAL.—Subject to paragraph (a)(2) and notwithstanding any other provision of law, within 90 days after the date of the enactment of this Title, the Secretary of Agriculture shall convey to Weyerhaeuser, subject to any valid existing rights, approximately 20,000 acres of Federal lands and mineral interests in the State of Arkansas and approximately 28,000 acres of Federal lands and mineral interests in the State of Oklahoma as depicted on maps entitled "Arkansas-Oklahoma Land Exchange—Federal Arkansas and Oklahoma Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries.

(2) OFFER AND ACCEPTANCE OF LANDS.—The Secretary of Agriculture shall make the conveyance to Weyerhaeuser if Weyerhaeuser conveys deeds of title to the United States, subject to limitations and the reservation described in subsection (b) and which are acceptable to and approved by the Secretary of Agriculture to the following:

(A) approximately 120,000 acres of lands and mineral interests owned by Weyerhaeuser in the State of Oklahoma, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oklahoma Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries;

(B) approximately 35,000 acres of lands and mineral interests owned by Weyerhaeuser in the State of Arkansas, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Ouachita Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries; and

(C) approximately 25,000 acres of lands and mineral interests owned by Weyerhaeuser in the State of Arkansas, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Cossatot Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries;

(b) EXCHANGE OF OIL AND GAS INTERESTS.—

(1) IN GENERAL.—Subject to paragraph (b)(2) and notwithstanding any other provision of law, at the same time as the exchange for land and mineral interests is carried out pursuant to this section, the Secretary of Agriculture shall exchange all Federal oil and gas interests, including existing leases and other agreements, in the lands described in paragraph (a)(1) for equivalent oil and gas interests, including existing leases and other agreements, owned by Weyerhaeuser in the lands described in paragraph (a)(2).

(2) RESERVATION.—In addition to the exchange of oil and gas interests pursuant to paragraph (b)(1), Weyerhaeuser shall reserve oil and gas interests in and under the lands depicted for reservation upon a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oil and Gas Interest Reservation Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries. Such reservation shall be subject to the provisions of this Title and a Memorandum of Understanding jointly agreed to by the Forest Service and Weyerhaeuser. Such Memorandum of Understanding shall be completed no later than 60 days after date of enactment of this Title and shall be transmitted to the Committee on Energy and Natural Resource of the United States Senate and the Committee on Resources of the United States House of Representatives. The Memorandum of Understanding shall not become effective until 30 days after it is received by the Committee.

(c) GENERAL PROVISIONS.—

(1) MAPS CONTROLLING.—The acreage cited in this Title is approximate. In the case of a discrepancy between the description of lands, mineral interests, or oil and gas interests to be exchanged pursuant to subsection (a) and the lands, mineral interests, or oil and gas interests as depicted on a map referred to in such subsection, the map shall control. Subject to the notification required by paragraph (3), the maps referenced in this Title shall be subject to such minor corrections as may be agreed upon by the Secretaries and Weyerhaeuser.

(2) FINAL MAPS.—Not later than 180 days after the conclusion of the exchange required by subsections (a) and (b), the Secretaries shall transmit maps accurately depicting the lands and mineral interests conveyed and transferred pursuant to this Title and the acreage and boundary descriptions of such lands and mineral interests to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(3) CANCELLATION.—If, before the exchange has been carried out pursuant to subsections (a) and (b), Weyerhaeuser provides written notification to the Secretaries that Weyerhaeuser no longer intends to complete the exchange, with respect to the lands, mineral interests, and oil and gas interests that would otherwise be subject to the exchange, the status of such lands, mineral interests, and oil and gas interests shall revert to the status of such lands, mineral interests, and oil and gas interests as of the day before the date of enactment of this Title and shall be managed in accordance with applicable law and management plans.

(4) WITHDRAWAL.—Subject to valid existing rights, the lands and interests therein depicted for conveyance to Weyerhaeuser on the maps referenced in subsections (a) and (b) are withdrawn from all forms of entry and appropriation under the public land laws (including the mining laws) and from the operation of mineral leasing and geothermal steam leasing laws effective upon the date of the enactment of this Title. Such withdrawal shall terminate 45 days after completion of the exchange provided for in subsections (a)

and (b) or on the date of notification by Weyerhaeuser of a decision not to complete the exchange.

SEC. 3304. DESIGNATION AND USE OF LANDS ACQUIRED BY THE UNITED STATES.

(a) NATIONAL FOREST SYSTEM.—

(1) ADDITION TO THE SYSTEM.—Upon approval and acceptance of title by the Secretary of Agriculture, the 155,000 acres of land conveyed to the United States pursuant to Section 3303(a)(2)(A) and (B) of this Act shall be subject to the Act of March 1, 1911 (commonly known as the "Weeks Law") (36 Stat. 961, as amended), and shall be administered by the Secretary of Agriculture in accordance with the laws and regulations pertaining to the National Forest system.

(2) PLAN AMENDMENTS.—No later than 12 months after the completion of the exchange required by this Title, the Secretary of Agriculture shall begin the process to amend applicable land and resource management plans with public involvement pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1604).

(b) OTHER.—

(1) ADDITION TO THE NATIONAL WILDLIFE REFUGE SYSTEM.—Once acquired by the United States, the 25,000 acres of land identified in section 3303(a)(2)(C), the Arkansas Cossatot lands, shall be managed by the Secretary of the Interior as a component of the Cossatot National Wildlife Refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee).

(2) PLAN PREPARATION.—Within 24 months after the completion of the exchange required by this Title, the Secretary of the Interior shall prepare and implement a single refuge management plan for the Cossatot National Wildlife Refuge, as expanded by this Title. Such plans shall recognize the important public purposes served by the nonconsumptive activities, other recreational activities, and wildlife-related public use, including hunting, fishing, and trapping. The plan shall permit, to the maximum extent practicable, compatible uses to the extent that they are consistent with sound wildlife management and in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable laws. Any regulations promulgated by the Secretary of the Interior with respect to hunting, fishing, and trapping on those lands shall, to the extent practicable, be consistent with State fish and wildlife laws and regulations. In preparing the management plan and regulations, the Secretary of the Interior shall consult with the Arkansas Game and Fish Commission.

(3) INTERIM USE OF LANDS.—

(A) IN GENERAL.—Except as provided in paragraph (2), during the period beginning on the date of the completion of the exchange of lands required by this Title and ending on the first date of the implementation of the plan prepared under paragraph (2), the Secretary of the Interior shall administer all lands added to the Cossatot National Wildlife Refuge pursuant to this Title in accordane with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable laws.

(B) HUNTING SEASONS.—During the period described in subparagraph (A), the duration of any hunting season on the lands described in subsection (1) shall comport with the applicable State law.

SEC. 3305. OUACHITA NATIONAL FOREST BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—Upon acceptance of title by the Secretary of Agriculture of the lands conveyed to the United States pursuant to Section 3303(a)(2)(A) and (B), the boundaries of the Ouachita National Forest shall be adjusted to encompass those lands conveyed to the United States generally depicted on the appropriate maps referred to in section 3303(a). Nothing in this section shall limit the authority of the Secretary of Agriculture to adjust the boundary pursuant to section 11 of the Weeks Law of March 1, 1911. For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Ouachita National Forest, as adjusted by this Title, shall be considered to be the boundaries of the Forest as of January 1, 1965.

(b) MAPS AND BOUNDARY DESCRIPTIONS.—Not later than 180 days after the date of enactment of this Title, the Secretary of Agriculture shall prepare a boundary description of the lands depicted on the map(s) referred to in section 3303(a)(2)(A) and (B). Such map(s) and boundary description shall have the same force and effect as if included in this Title, except that the Secretary of Agriculture may correct clerical and typographical errors.

ADDITIONAL COSPONSORS

S. 3

At the request of Mr. FAIRCLOTH, his name was added as a cosponsor of S. 3, a bill to control crime, and for other purposes.

S. 968

At the request of Mr. MCCONNELL, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 968, a bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 1217

At the request of Mr. COATS, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1217, a bill to encourage the provision of medical services in medically undeserved communities by extending Federal liability coverage to medical volunteers, and for other purposes.

S. 1245

At the request of Mr. ASHCROFT, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1245, a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to identify violent and hard-core juvenile offenders and treat them as adults, and for other purposes.

S. 1271

At the request of Mr. CRAIG, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 1271, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 1344

At the request of Mr. HEFLIN, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1344, a bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, and for other purposes.

S. 1419

At the request of Mrs. KASSEBAUM, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1419, a bill to impose sanctions against Nigeria.

S. 1470

At the request of Mr. MCCAIN, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 1470, a bill to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the Social Security earnings limit for individuals who have attained retirement age, and for other purposes.

S. 1506

At the request of Mr. LEVIN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1506, a bill to provide for a reduction in regulatory costs by maintaining Federal average fuel economy standards applicable to automobiles in effect at current levels until changed by law, and for other purposes.

S. 1623

At the request of Mr. WARNER, the names of the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 1623, a bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

S. 1624

At the request of Mr. HATCH, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Florida [Mr. GRAHAM], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 1624, a bill to reauthorize the Hate Crime Statistics Act, and for other purposes.

S. 1628

At the request of Mr. BROWN, the names of the Senator from Arizona [Mr. KYL] and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 1628, a bill to amend title 17, United States Code, relating to the copyright interests of certain musical performances, and for other purposes.

SENATE CONCURRENT RESOLUTION 42

At the request of Mrs. KASSEBAUM, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Concurrent Resolution 42, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

SENATE RESOLUTION 217

At the request of Mrs. KASSEBAUM, the names of the Senator from Maine [Mr. COHEN], the Senator from Ohio [Mr. GLENN], the Senator from Alabama [Mr. HEFLIN], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Maryland [Ms. MIKULSKI], the

Senator from Delaware [Mr. ROTH], the Senator from Wisconsin [Mr. FEINGOLD], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of Senate Resolution 217, a resolution to designate the first Friday in May 1996, as "American Foreign Service Day" in recognition of the men and women who have served or are presently serving in the American Foreign Service, and to honor those in the American Foreign Service who have given their lives in the line of duty.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that the hearing scheduled before the full Committee on Energy and Natural Resources, Wednesday, March 27, 1996, will receive testimony regarding S. 186, the Emergency Petroleum Supply Act, in addition to the legislation previously announced.

The hearing will begin at 9:30 a.m., and will take place in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Karen Hunsicker or Betty Nevitt at (202) 224–0765.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building on Wednesday, March 27, 1996, at 9:30 a.m., to hold a hearing on campaign finance reform.

For further information concerning this hearing, please contract Bruce Kasold of the committee staff on 224–3448.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that the oversight hearing scheduled before the full Committee on Energy and Natural Resources regarding competitive change in the electric power industry for Thursday, March 28 at 9:30 a.m. will be held in room SH–216, instead of room SR–325, as previously scheduled.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LOTT. Mr. President, I ask Unanimous Consent on behalf of the Governmental Affairs Committee to meet on Monday, March 25, at 2:30 p.m. for a nomination hearing on Robert E. Morin, to be associate judge, Superior Court for the District of Columbia.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SOCIAL AND SECURITY AND FAMILY POLICY

Mr. LOTT. Mr. President, the Finance Committee requests unanimous consent for the Subcommittee on Social Security and Family Policy to hold a hearing on the Social Security Advisory Council report on Monday, March 25, 1996, beginning at 10 a.m. in room SD–215.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT

• Mr. BENNETT. Mr. President, I am pleased to join the efforts of my colleagues on the Senate Small Business Committee to advance regulatory reform. As the CEO of a small business during the eighties, I witnessed first hand how a business, when left unencumbered by intrusive government regulations, can push the envelope of innovation, maximize on ingenuity, and create jobs. When I left Franklin Quest before running for the Senate, our firm, which did not even exist 10 years ago, provided over 700 people with jobs.

Unfortunately, as the decade progressed and the Congress accelerated its approval of unfunded mandates to State and local governments and businesses, the regulatory machine burgeoned while the job creation engine slowed. Americans now are suffering the unintended consequences of the Federal Government's good intentions. Over-regulating causes prices to go up and wages to go down. It is responsible for increased unemployment and a drain on our international competitiveness. And because regulation increases uncertainty, it impairs innovation.

For these reasons, I am excited to help enact laws which will help our country's businesses, particularly our small businesses, function with less government intrusion. Although I would like to go much further in limiting excess regulation of business, this bill is a step in the right direction, and I look forward to seeing President Clinton support it.

In a report to Congress issued in October 1995, the Small Business Administration noted that small businesses bear a disproportionate share of the regulatory burden. It was estimated that small businesses pay 63 percent of the total private-sector bill for complying with Federal regulations, while employing 53 percent of the work force. Dr. Thomas Hopkins, a leading researcher in the field of regulatory costs, estimated that small businesses pay 80-percent more per employee in regulatory paperwork costs than do larger companies. Meanwhile, small business is acknowledged to be the creator of most new jobs in this country. For these reasons, it is imperative that we listen and respond to the concerns of small business.

This bill, the Small Business Regulatory Enforcement Fairness Act of 1996, S. 942, was developed using recommendations from the small business community. During the 1995 White House Conference on Small Business, representatives from small business came together and prioritized the top ways the Federal Government could help them be more successful. Several of the top priorities named during that conference are included in this bill.

The Small Business Regulatory Enforcement Fairness Act of 1996 permits small businesses to take Federal agencies to court if the agencies do not comply with a reg flex analysis, a requirement under the Regulatory Flexibility Act of 1980 that requires agencies to review the impact of new regulations on small businesses. S. 942 also requires Federal agencies to simplify forms and publish a plain English guide to help small businesses comply with regulations. Additionally, agencies are directed to waive certain fines for first-time, nonserious violations by small businesses if the violations were corrected within a certain time period. The bill also allows small firms to recoup attorneys' fees if they win a challenge against excessive enforcement of existing regulations. Finally, the bill provides a 45-day congressional review mechanism for Congress to reject new rules with expedited procedures, subject to constitutional presentment to the President.

I appreciate the efforts of Senators BOND, BUMPERS, DOMENICI, and NICKLES to pass this legislation which offers at least some degree of relief to the American worker. As one leader in the small business community put it, "if Government continues to load regulations on our backs, all it will get in return are broken backs." I am happy to be a cosponsor and supporter of this effort to get Government off small businesses' backs, and help them get back to work.•

HEROES IN A FLORIDA TRAGEDY

• Mr. HOLLINGS. Mr. President, I rise today to remember a South Carolina family and the heroes who struggled to rescue them. On one side, we have a tragedy that boggles the mind. On the other, there are dozens of quiet heroes whose courage is a blessing and reminder of what makes our people strong.

On March 17, a small plane crashed off Key West, FL. Five people—the pilot and four members of the Blackburn family—died. A son, 10-year-old Matthew Blackburn, miraculously survived. Our prayers are with both families. We mourn their deaths and pray for a speedy recovery for young Matthew.

At the same time, we should all feel a deep sense of gratitude for Americans who risk their lives everyday for others. In this tragedy, trained rescue workers, lifeguards, police officers, and paramedics put their lives in danger to save the pilot and family. Even more noteworthy are other volunteers, such as a boat captain and diver, who went out of their way to help as much as possible.

Mr. President, I ask to have printed in the RECORD the March 24 article from the Miami Herald to pay tribute to these heroes and to leave a lasting memorial to those who perished.

The article follows:

[From the Miami Herald, Mar. 24, 1996]

HEROES IN THE MOMENT

(By Susana Bellido and Ozzie Osborne)

KEY WEST.—In one sickening moment, a seaplane bound for the Dry Tortugas crashed into five feet of water off Key West's busiest road last Sunday, trapping a family of five and the pilot under water.

In the seconds and minutes that followed: One by one, tourists and Key West residents, police officers and paramedics, students and workers jumped into the water.

Despite the horrid scene, the sting of fuel in the eyes, the despair of seeing children die in their hands, they did what they could.

In an unsynchronized maneuver, they cleared the way for each other, they yielded to the most experienced, they fetched equipment, they formed a human chain to get the victims to shore, they did what had to be done.

They did all they could.

When it was all over, five people were dead: Lynn and Pamela Blackburn, a couple from Charleston, S.C., who had arrived in Key West the night before on vacation; their 6-year-old son Jonathan and 3-year-old daughter Martha; and the pilot, Keith Bellow of Gretna, La., father of three.

The only survivor was Matthew Blackburn, a 10-year-old who defied the odds and is recovering from broken bones and other injuries.

With him are the hopes of the everyday people who reacted to an extraordinary situation with selfless courage.

With him is their sympathy, for he was the only one they could save.

They are the heroes. Here are some of their stories.

ANDY MATROCI—BOAT CAPTAIN WAS ONE OF THE FIRST IN MURKY WATER.

Andy Matroci heard it hit. Something big, in the water.

A boat captain and diver who searches for Spanish galleons, Matroci had been riding his bike along North Roosevelt Boulevard. He looked back. The wreckage was just 60 feet away.

Instantly, it seemed, people were wading toward the wreckage. He took off his shoes and joined them.

The water was still murky from the crash. He put his hand into the plane and felt Pamela Blackburn's leg. He couldn't reach her seat belt. He yelled to a guy on the other side to try to get her out.

"I got one here," another man yelled. He asked for a knife to cut loose a child.

Somebody brought a mask out. Somebody asked for a pair of shears. Someone was walking from shore with a pair. Matroci fetched them.

He carried one of the children to shore. He thought of administering CPR, but water poured from the child's mouth. He handed the wilted body up the sea wall.

We're not working fast enough, he thought. The seat belts were slowing them down.

After the last body was out, he retreated, climbed on his bike and headed home.

"I keep thinking about that kid, Matthew, what he's got to go through.

RUSTY WAYNE—DIVE MASTER USED KNIFE TO FREE VICTIMS

Rusty Wayne, a dive master with Holiday Cat, left a boatload of tourists and zipped to the crash on a water bike.

"You could see them inside, and they weren't moving." They were belted in. He got his diving knife to cut them free.

He helped free Pamela Blackburn and one of the children. When two paramedics arrived, he went back to shore for diving equipment.

Returning, he saw about 15 people helping. A human chain had formed; strangers were passing victims to shore and rescue gear to the plane.

"I was a little afraid it was going to get congested, but I could even hear people onshore calling, 'Clear the way!' Everybody did a small part, and it all worked out."

SHANE CHAPMAN—LIFEGUARD YELLED: I GOT ONE! I GOT ONE!

Shane Chapman, a lifeguard from Anaheim Hills, Calif., was poolside across the street at the Comfort Inn. He dashed across the street and into the water.

"I swam underwater to see if I could find anyone . . . I felt what I thought was a handbag. I went back up for air and suddenly realized: It was a boy.

"I yelled that I need a knife. Some guy handed me one.

"I went back down, cut the seat belt and hollered: 'I got one! I got one!' Steve Hubler helped me drag him ashore, and we realized he was alive when we turned him on his side and saw he was breathing.

"I rushed back to the plane and swam back in the hole. This time the water had settled and was cleared. I saw this boy with yellow hair and a T-shirt, undid his seat belt and pulled him up and someone helped us ashore."

STEVE HUBLER—EX-FIREFIGHTER HAS NIGHTMARES ABOUT PILOT

Steve Hubler, a former volunteer firefighter from New Jersey, was by the pool of the Econo Lodge. He ran over with his scuba gear.

He helped carry the three children to shore. Matthew, the survivor, showed no signs of life at first. His arm was shattered into the shape of an S.

"The part I'll never forget was the pilot, the last one. We had a hell of a time getting him out. It was so dingy and dark in there. He was trapped in there good. His face was so frightening. I knew he was dead."

Hubler shivers when he remembers the rescues. He has nightmares about it.

"It's going to stick with me for the rest of my life. I wish to God we could have saved six lives, but at least we saved the boy's life. If I know that Matthew has a chance to live, I'm happy."

KRISTY KREIDLER—LIFEGUARD ON BREAK STRUGGLED TO FREE MOM

Kristy Kreidler, a spring breaker from Ohio State University and a lifeguard, was having lunch across the street at Denny's. She dashed across North Roosevelt Boulevard and jumped in.

As precious seconds ticked away, she struggled to free those trapped within.

"We got the door open, pulled on this woman's leg. Then we found her seat belt, unbuckled it and pulled her out."

MICHAEL KURANT—DISAPPOINTED THAT WE COULDN'T SAVE ANYONE ELSE

Michael Kurant, a hardware delivery driver and volunteer Monroe County firefighter, was on his way out of town. He pulled his Jeep up on the sea wall. Half a dozen people were around the plane.

"The first thing I thought was everybody was dead," he said. "I didn't expect to get anybody out of the plane alive."

He helped pull Pamela Blackburn out. She took a breath that surprised them all. They found her pulse. They held her head out of the water. They put her on a backboard lifted her up the seawall and gave her first aid.

When it was all over, he was disappointed and angry.

"I was madder than hell. We had done so much, and it didn't do any good. With everything the people in the street did, and the police and fire and paramedics * * * we couldn't save anyone else."

AL RODRIGUEZ—OFFICER MADE CALL: COME FAST, LIGHTS AND SIRENS

Al Rodriguez, first police officer on the scene, pulled up at 12:34 p.m. He keyed his microphone: "10–18," he told his dispatcher, the code for come fast, lights and sirens.

He took off his gun belt and jumped in, shoes and all. Rodriguez held on to a paramedic trying to free the victims.

The children in the accident gave everyone involved an increased sense of urgency, Rodriguez said.

"You think about your own, and you put more effort into saving them."

GARY ARMSTRONG, DAVID LARIZ, ED STRESS—GAVE MOUTH-TO-MOUTH TO ONE CHILD, THEN ANOTHER

Key West Police Lt. Gary Armstrong pulled up. The crowd was growing. He yelled for everybody to get back. They did, making room for the victims.

Paramedics were busy trying to revive Jonathan and Martha at the sea wall or pulling bodies out of the wreckage. With the help of Deputy Chief David Lariz and officer Ed Stress, Armstrong gave mouth-to-mouth resuscitation to one child and then the other.

"Everybody was working at top speed," Armstrong said. "It was chaotic, but everybody jumped in and worked and worked and worked and worked. It just seemed like everybody clicked in and set aside very difficult feelings. It was impressive."

KUNKO CELCER—MEDICAL TECH FOUGHT TO GET AIR TO BOY

Kunko Celcer, emergency medical technician, was working at her second job at a car rental company when she heard the commotion.

She hurried over to help her fellow paramedics. The first thing she noticed was that someone was trying to put a mask on Matthew. She helped work on him.

"He was looking at me," she said. "He was trying to breathe on his own."

On the way to the hospital, the boy fought back efforts to insert a tube in his airway.

"I've got to get this kid some air," she kept thinking. "It was scary, but you don't really think of that until it's over."

ALVAH RAYMOND SR.—THIS WAS THE WORST THING I'D EVER SEEN

Alvah Raymond Sr., a member of the Coast Guard, was riding with an ambulance as part of his training for emergency medical technician. Eight other classmates at Florida

Keys Community College participated in the rescue.

Raymond helped perform first aid on Matthew. As a volunteer firefighter, Raymond had seen plenty of tragedies, but nothing quite like this. "This was the worst thing I'd ever seen."

PAUL SCOTT, CARL CLEARY—PARAMEDICS HELP GASPING BOY

Pamela and Matthew Blackburn were out of the water when Paul Scott, an Atlantic Key West Ambulance paramedic, arrived. While his partner, Carl Cleary, got equipment ready, he handed his radio to a bystander and jumped in the water.

Scott helped with Jonathan. Another paramedic worked on Martha.

At the ambulance, Matthew was gasping. Cleary gave him oxygen and tried to clear his airway. Scott tried to keep Jonathan alive.

"You don't really think about other things but whatever you're doing. You want to do so much," Cleary said.

"There wasn't a whole lot of time to be thinking," Scott said. "It was all on autopilot."

PABLO RODRIGUEZ—PARAMEDIC COULDN'T SEE FOR "BLOOD, SILT, GASOLINE"

Pablo Rodriguez, another paramedic and the crew's supervisor for the day, grabbed his fins, mask and snorkel and jumped in the water. He found a small cramped opening in the plane's fuselage and started to pull people out.

He took Jonathan to the sea wall, swam back to help untangle others.

"You couldn't really see because there was blood and silt and gasoline."

In all, he helped to free four, including the pilot who was strapped in.

"It was one of the saddest things I've ever experienced. The only thing that I can gain is the importance of teamwork and how grateful I am that we have such an experienced crew.

"It truly has devastated everyone, everybody that was involved."

PAUL HANSEN, JIM KAVANAUGH—PARAMEDICS HOPSCOTCH FROM VICTIM TO VICTIM

Paul Hansen and Jim Kavanaugh, also paramedics, were at the emergency room when they got the call. They got some Coast Guard trainees at the hospital to join them.

"When we got there it was pretty chaotic," Kavanaugh said.

Several bodies were out of the plane. Two groups of people were giving first aid to two of the victims. A kid was coming out of the water.

"It was like nothing I'd ever seen before," Hansen said. "There is nothing that prepares you for anything like that. You can read the book till you're blue in the face."

Kavanaugh made sure every patient was cared for, and then carried backboards out to the plane.

Hansen worked on Martha, then her father, then her mother, then back to the little girl. He took her to the hospital, where everyone was busy, so he stayed and helped out.

Kavanaugh radioed the hospital: three children and a woman on the way, more to come.

He asked firefighters and police officers to drive ambulances so paramedics could tend to patients.

Within 15 minutes of transporting the victims to the hospital, the paramedics had four other emergency calls. It wasn't until that night that they had time to reflect.

Throughout the ordeal, the paramedics said, they kept their thoughts focused on the job.

"If you sit there and start to flip out about it, you're really not going to help anybody," Hansen said.

HAROLD GORDON—MAINTENANCE MAN HELPED WITH CPR

Harold Gordon, a Stock Island maintenance man, was taking his wife to bingo when he saw the crowd. He pulled over. Two boys were in the ambulance. A paramedic asked for help with Jonathan.

"Push down on his chest! Harder! Do it again, harder," Gordon remembers. "I said to myself, 'This little kid is too small.' I had a feeling he was dead already."

He rode to the hospital with the brothers, then went home.

"There was nothing else I could do. I just felt terrible.

"Grown people are bad enough, but little children really hurt."•

PROPOSALS TO INCREASE THE GRAZING FEE

• Mr. McCAIN. Mr. President, I would like to address the amendment that was offered by my colleague, Senator BUMPERS, to S. 1549. Senator BUMPERS' amendment would have substituted a two-tiered grazing fee for the new grazing fee formula in the bill. After serious consideration, I supported the motion to table the Bumpers amendment, and thereby preserve the new increased grazing fee formula in S. 1459.

The Bumpers amendment would create two grazing fee formulas. The first would apply to permittee who "control livestock less than 2,000 animal unit months [AUM]" on public lands during a grazing year. This fee is intended to apply to small ranching operations, and would increase each year for the next 3 years. The second fee created by this amendment is targeted to larger ranching operations, which are comprised of more than 2,000 AUM's. This fee would be set according to higher amount of either the average grazing fee charged by the respective State, or, by increasing the aforementioned small ranch fee by 25 percent.

The Bumpers amendment would increase the grazing fee each year for the next 3 years for smaller ranchers, and implement a substantial increase for larger ranchers. While the Bumpers amendment attempts to require larger—and therefore presumably better off ranching operations to pay more, I ultimately decided that the Bumpers proposal would have too injurious an impact on modest, family-run ranching operations in Arizona.

I strongly believe in the longstanding principle of managing Federal lands for the multiple use of the public. This means that the many legitimate uses of public lands—recreation, wildlife preservation, grazing, hunting, and economic purposes—must be carefully balanced with each other. Our precious Federal lands must be properly managed so that they can be enjoyed by Americans both today, and in the future.

When public lands are used for economic purposes, such as timber, mining, and cattle grazing, there clearly should be a fair return to taxpayers for the economic benefits gained from the land, and for the cost of administering these uses. In light of the massive Federal debt our Nation has piled up, the Congress must be especially vigilant in ensuring that fees imposed on individuals who are using public lands for commercial purposes, must be equitably set. With an astounding $5 trillion debt growing larger every day, I think it is appropriate for grazing fees and mining fees to be adjusted.

I strongly oppose, however, drastic hikes in such fees that would bankrupt hard-working ranching families. Nationwide, ranchers who graze cattle on public lands have an annual income of only $30,000 a year. These families do not have a huge profit margin that is being gained at the expense of the public. Indeed, the taxes they pay and the economic benefits they generate are extremely important to small towns in Arizona and throughout the West.

The grazing reform bill I am supporting, S. 1459—Public Rangelands Management Act—would increase the existing grazing fee by 37 percent. In my view, that is a pretty reasonable attempt to address legitimate concerns of the public about what return the Treasury is getting from the lease of Federal rangelands. If we could reform Federal fees or reduce Federal spending pertaining to corporate entities which are similarly subsidized by taxpayers, our budget problems would be in a lot better shape. Ranchers will pay their fair share under S. 1459.

The new, higher grazing fee in S. 1459 will afford greater stability to ranchers in my State who need to plan ahead for their family business. The fee in S. 1459 is based upon a 3-year rolling average of the gross value of beef production in the United States, along with interest rates from Treasury bills. This new formula will fluctuate according to market conditions, which I think is appropriate.

While the sponsors of the Bumpers amendment state that it is targeted at large, corporate-owned ranching operations, I am deeply concerned that its higher, corporate fee hike could come down squarely on many family ranchers in the Southwest. It would have potentially crippling effects on family ranchers in States such as Arizona and New Mexico, especially.

The reason the Bumpers amendment would hurt many Southwestern ranchers is that its formula would significantly impact ranchers whose grazing permits are comprised primarily of Federal lands, and on ranchers who graze cattle year round. Both of these factors apply to southwestern ranchers, due to large amount of land that is owned by the Federal Government. The Bumpers amendment's formula would apply its higher fee to ranching operations with more than 176 head of cattle, which is not a large, corporate operation by the standards of my State.

Furthermore, the Bumpers amendment's higher fee was partly based on higher State land standards, which are not always readily comparable to Federal lands. Federal rangelands do not offer the same exclusivity of use to permittees as do State lands, and ranchers on Federal lands also bear higher costs for range improvements than do holders of private grazing permits.

I find no evidence that that new fee will not cover the Federal cost of the program.

Due to these factors, I opposed the Bumpers amendment, and voted to preserve the reasonable fee increase which is in the underlying bill. I commend Senator BUMPERS for his objectives, however, and share his concerns that taxpayers must be fairly compensated for the economic use of public lands. I will continue my efforts to vigorously weed out unfair and unsustainable corporate subsidies. If S. 1459 becomes law, the Congress should continue to evaluate the grazing revenues it produces. I will be open at that time to considering whether further adjustments for corporate ranching operations are warranted.•

TRIBUTE TO COL. FRED E. KISHLER, JR.

• Mr. GLENN. Mr. President, I rise to pay tribute to Col. Fred E. Kishler, Jr., who died this past January. From August 1994 until his death, Colonel Kishler served as the Director of the General Defense Intelligence Program [GDIP] Staff where he served with great distinction.

Colonel Kishler was a fellow Buckeye—born in Tiffin, OH, and receiving his undergraduate degree at Heidelberg College in Tiffin. In his lengthy and distinguished Air Force career, Colonel Kishler flew dangerous, sensitive missions in the U-2 spy plane and other aircraft, and was responsible for fielding numerous tactical and strategic intelligence systems. His greatest love as a pilot was flying the U-2, spending approximately 15 years in the U-2 program. Colonel Kishler accumulated over 4,800 flying hours—over 2,000 of those hours were spent in the cockpit of a U-2, and he flew 106 combat missions in Southeast Asia. During the Vietnam War, he demonstrated his courage as a flight leader for search and rescue missions, and he supported the Son Tay POW raid.

In 1991, Colonel Kishler came to work for the Defense Intelligence Agency, first serving as the Chief of the Reconnaissance Division for Functional Management. His hard work and effectiveness led to other positions as the Associate Deputy Director of the Programs and Evaluation Division of the National Military Intelligence Collection Center, and ultimately as the Director of the General Defense Intelligence Program Staff—particularly challenging assignments in a period of declining resources where we have had to do more with less. Colonel Kishler's honesty, integrity, and professionalism gained the respect of Congress as well as the Department of Defense.

Among Fred's many decorations and awards were the Distinguished Flying Cross, a Meritorious Service Medal, the Air Medal with thirteen oak leaf clusters, and the Air Force Commendation medal.

Mr. President, I join all of my colleagues on the Senate Select Committee on Intelligence in paying tribute to the memory of Col. Fred E. Kishler, Jr., and pass along our deepest sympathies to Colonel Kishler's mother and father—Fred and Marjorie Kishler; his wife, Susan; and their sons, Mark and Fred. Fred Kishler was a credit to the Air Force and the United States of America, and he will be sorely missed.•

NATIONAL MISSILE DEFENSE ACT OF 1996

• Mr. ABRAHAM. Mr. President, I rise today to join the distinguished majority leader, and my colleagues, in cosponsoring the National Missile Defense Act of 1996. This legislation builds on the Missile Defense Act of 1995. The 1995 act made significant progress toward securing the funding necessary for the eventual deployment of a missile defense system capable of protecting the United States. Unfortunately, that act fell short by not explicitly directing that we deploy the missile defense system as soon as possible.

The majority leader, in close cooperation with Congress' National defense leadership, has crafted a proposal that achieves our nation's missile defense through prudent, incremental development of policies and force structures. To begin with, we would produce the system necessary to protect the United States from limited, unauthorized or accidental ballistic missile attacks. We then would augment that capability to defend our Nation against larger and more sophisticated ballistic missile threats. I am especially heartened that this bill allows for the development of the most promising anti-ballistic missile technologies, including sea-based systems such as Navy Upper Tier.

This bill assigns the Secretary of Defense the considerable task of reporting a missile defense development and deployment plan by March 15, 1997. However, I feel confident that Congress will be more than willing to assist him in the formulation of that plan. This can, and should, be a joint endeavor, Congress will fulfil its constitutional responsibility to raise and support our armed forces, while the Executive determines how best to deploy these forces.

At this time, Mr. President, I would like to expand upon section 5 of the act—that section regarding the ABM Treaty. Congress, through the Missile Defense Acts of 1991, 1994, and 1995 has repeatedly stated that the ABM Treaty does not, in any way, hinder the development of theater ballistic missile defenses. It has also called for a renegotiation of the ABM Treaty so as to allow the development of more robust national missile defense systems.

Unfortunately, this country has abandoned the initiatives of the previous administration to cooperatively develop with the Russians a protective global missile defense systems. An insistence on keeping America vulnerable to attack, and a dogmatic faith in the deterrence of nuclear war through mutual assured destruction will no longer prevent missile attacks upon the United States.

Mr. President, the times have changed since the ratification of the ABM Treaty. Our primary threats no longer come from a general nuclear attack by thousands of Soviet weapons—an attack that would probably overwhelm a ballistic missile defense system. Today our immediate threats come from rogue, unintentional, or unauthorized attacks of limited size and duration. The limitations of the ABM Treaty fail to address these new threats, and I believe, are incapable of being modified so as to address them. The administration has steadfastly stood by the antiquated strategies of the ABM Treaty, and I am afraid it is unwilling to address the threats posed to America by continued reliance on that treaty.

Nonetheless, Mr. President, this Congress continues to be willing to work with the administration to address our missile defense needs. I believe the urging contained in section 5 represent our last, best hope of adequately modifying the ABM Treaty, and protecting America from ballistic missile attack. The Treaty may be fundamentally unable to address the threats we face today. It may be best to renounce it in its totality. Such a clear break with previous policy may not be feasible in this Congress. But it must be clear that this Congress worries that its urging and calls have fallen on deaf ears in the Executive, and that we believe the United States cannot afford to wait much longer. Therefore, I particularly support the provision in this bill that calls for withdrawal from the ABM Treaty if amendments allowing adequate national missile defenses are not agreed to within 1 year. I hope this is sufficient warning as to the extent of congressional frustration.

The majority leader has displayed the foresight and perceptiveness critical for developing effective national security strategies. There can be no doubt that a fully operational and technologically capable ballistic missile defense system is crucial to that strategy. Nor can there be any doubt that antiquated treaties which fail to adapt to vastly different national security threats must be either changed or discarded.

The majority leader's bill constitutes a reasonable and moderate attempt to bridge the broad philosophical gap that exists between Congress and the administration. We should not let this opportunity be lost. If concerns with the ABM Treaty prevent this bill from becoming law, then I believe it may be time to nullify that treaty.•

TRIBUTE TO CARL SIMPSON WHILLOCK

• Mr. PRYOR. Mr. President, I rise today to pay tribute to a true statesman. Carl Simpson Whillock was born on May 7, 1926, in the small town of Scotland, AR. In the nearly 70 years since, he has excelled in the realms of politics, academia, and private business.

Carl's desire to serve the people of Arkansas surfaced at an early age. Just 2 years after receiving both his undergraduate and master's degrees from the University of Arkansas in Fayetteville, Carl began a distinguished career of public service as a member of the Arkansas House of Representatives. He came to Washington in 1955 to serve as the executive assistant to the Honorable J.W. Trimble, U.S. Congressman from the third district of Arkansas.

While working in Representative Trimble's office, Carl Whillock earned a law degree from George Washington University in 1960. After a 3-year stint in private law practice, he served as prosecuting attorney for the 14th Judicial District of Arkansas before beginning his career in academia at the University of Arkansas.

Carl Whillock was the director for university relations and an assistant to the president during his 7½ years at Arkansas. He also taught part-time in the political science department.

In 1964, Carl Whillock left academics to run my campaign for Governor of Arkansas, and I am happy to say he worked with me in the Governor's office for a short time after my election. But Carl soon returned to his beloved University of Arkansas as the vice president for governmental relations and public affairs.

Carl's many years of work in the academic community were rewarded in 1978 when he was asked to become the president of Arkansas State University in Jonesboro.

For the past 16 years, Carl has been the president of Arkansas Electric Cooperative and Arkansas Electric Cooperatives Inc. As he prepares to retire on the 1st of April, his colleagues remember him as a trusted friend, a revered mentor, and a gentle, gracious boss.

Carl Whillock's management style has been praised throughout his many years in various positions of authority. He believes in hiring good people, and then giving them the space to do their jobs. His employees operate effectively and efficiently because Carl makes them feel comfortable and encourages them to bring their own style to the workplace.

By all accounts, Carl Simpson Whillock is a success. The very mention of his name brings a smile to the faces of those who know him, and the words gentleman and good guy flow from their lips.

After retirement, I am sure Carl will remain active as a member of the University of Arkansas' Board of Trustees. He has never been one to sit still for very long. He is always there to lend a hand. As Dennis Robertson, a longtime friend and employee says, "Carl approaches life in a simple way. He does not get mad. He is warm, caring and above all sincere. We can all learn a lot from him."

Carl Simpson Whillock—a true asset to the State of Arkansas. On behalf of all the people you have touched over these many years, congratulations on your retirement.•

GREEK INDEPENDENCE DAY

Ms. SNOWE. Mr. President, I would like to join with my colleagues, and with so many Americans—both of Greek and non-Greek descent—in celebrating March 25, Greek Independence Day. I am pleased to have been an original cosponsor of Senate Resolution 219, a bipartisan resolution that designated today "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." That resolution was submitted by our distinguished colleague from Pennsylvania, Senator SPECTER, and it was agreed to by the Senate unanimously on March 6.

Today commemorates the 175th anniversary of the beginning of Greece's struggle for independence from the Ottoman Turkish Empire. After 400 years of foreign domination, and after 11 years of struggle against the despotic rule of the Ottoman Turks, Greece's independence was a cataclysmic event in European Affairs. At that time, outside of Britain and France, Europe was composed mainly of autocratic empires and states whose borders had little relation to their composite nationalities.

The astounding accomplishment of the Greek people in achieving their independence from the vast Ottoman Empire acted as a catalyst in transforming the aspirations of Europeans across the continent. Greece's independence from the Turks was, in many ways, even a greater feat than the other great struggle for national independence 45 years earlier: the American Revolutionary War. Although the Greek people received support from many other countries, particularly from the United States, they enjoyed no advantage similar to a protective ocean or the active assistance of an ally such as France.

During the last 175 years, the ideals of national independence and democracy, which were first expounded by the ancient Greeks, have spread widely throughout Europe and so much of the rest of the world. Greece's achievement of independence helped to spread not only the belief in the inherent right of national independence, but the belief that it is possible for a nation to assert its rights, despite seemingly impossible odds.

Mr. President, it is appropriate to remember the meaning of March 25, which remains a powerful symbol of the ideals that America holds dear and upon which our own Nation was founded. But this is a symbol not only for the Greek and American people to celebrate. It should also be a day of commemoration for the many young, struggling democracies around the globe, as well as for the numerous nations and peoples still yearning to be free.•

PRODUCT LIABILITY FAIRNESS ACT

• Mr. KYL. Mr. President, I support the conference report of the Product Liability Fairness Act.

This is a historic day in the effort to enact meaningful civil justice reform. For the first time in more than two decades, the Senate and the House of Representatives have debated and passed product liability reform.

Product liability reform was part of the Contract With America. According to the Luntz Research Co. survey released in March 1995, "83 percent of Americans believe that our liability lawsuit system has major problems and needs serious improvements."

Now, all that remains is for the President to do his part to make product liability reform a reality.

I commend the efforts of my colleagues from Washington and West Virginia, Senators GORTON and ROCKEFELLER, for their 15-year effort to bring needed reform to the Nation's product liability laws.

Historically, America's economic strength has been in manufacturing, where much of our wealth has been created. It is essential that the Congress move to protect our Nation's manufacturing base from unreasonable litigation. Although product liability law is a small area of tort law, it is also a critical area in which America is losing its competitive edge.

Mr. President, the conference report contains many important provisions which were contained in the original Gorton-Rockefeller bill. The alcohol and drug defense would create a complete defense created if the claimant was more than 50-percent responsible for his or her injury. The bill also provides for a reduction in damages by the percentage of the harm resulting from claimant's misuse or alteration of a product.

The bill provides for a punitive damages cap that limits recovery to $250,000 or 2 times compensatory damages, whichever is greater. Exceptions are established for small business—under 25 employees—and individuals with a net worth of less than $500,000. With these two exceptions, the limit is $250,000 or 2 times compensatory, which ever is lesser.

The bill's statute of limitations requires that suits be filed within 2 years after the harm and the cause of the harm was discovered, or should have been discovered.

The bill provides for joint and several liability for all economic damages, but several liability only for noneconomic damages.

The bill provides that biomaterial suppliers who furnish raw materials, but are not manufacturers or sellers, are protected from liability when the supplier is not negligent. Further, a product seller can be held strictly liable as a manufacturer only in two circumstances: where the claimant can't get service of process on the manufacturer, or where the judgment is unenforceable against the manufacturer, as is the case when the manufacturer is judgment-proof.

During the product liability floor debate, I offered three amendments. Amendment 1, which passed by a vote of 60 to 39, struck out provisions in the original Senate bill that penalized, with attorney fees and court costs, only defendants, but not plaintiffs who refused to enter into ADR. Under State law, ADR provisions are equally applicable to plaintiffs and defendants, and we should keep it that way.

Amendment 2, which was tabled by a vote of 56 to 44, would have limited non-economic damages to $500,000 in medical malpractice cases. Amendment 3—which was tabled by a vote of 65 to 35—would have limited attorneys' contingency fees to 25 percent of the first $250,000. The amendment also provided that 25 percent of a punitive damage award is rebuttably presumed to be ethical and reasonable.

Although the House bill had both a non-economic damages cap of $250,000 in medical malpractice cases and an attorney-fees limitation provision, neither of these two provisions were included in the conference report. I will continue to work to see that these provisions are enacted into law. However, one important provision from the House version that was included by the conferees shortens the statute of repose from 20 to 15 years, thus reducing the time period during which a claimant may bring a product-liability action after taking delivery of a durable good.

The conferees also limited the "additur" provision contained in the original Senate bill. Thus, in a case of egregious conduct, a judge may raise the claimant's punitive damage recovery no higher than the amount proposed by the jury, unless State law provides otherwise.

I want to note some other important provisions contained in the House bill that unfortunately were dropped by the Senate-House conferees. The "loser pays" provision, which would discourage frivolous lawsuits, was dropped. The "FDA defense," which would prohibit the imposition of punitive damages upon a manufacturer of a product that has received FDA approval, was also eliminated. And, as I mentioned earlier, the conferees also dropped the $250,000 cap on non-economic damages in medical malpractice actions. Moreover, the conferees dropped provisions that would have extended the punitive damage cap and joint and several liability reform to all civil cases. I regret that these provisions are not in our bill.

In spite of the narrow scope of the conference report, President Clinton has indicated that he will veto this bill. And this is despite the fact that back in August 1991, Governor Clinton was leader of the National Governor's Association when it approved—unanimously—Federal product-liability reform. Also as Governor, Mr. Clinton twice supported NGA resolutions calling for product-liability reform.

The President's track record on this issue caused the Washington Post, in a March 14 editorial, to predict that the bill should be "accepted by both houses and signed by the President." The veto decision prompted another Post editorial 5 days later, this one entitled, "Trial Lawyers Triumph."

Mr. President, I could not agree more, and it is a real shame.

The limited reform in this bill will be an important first step, but only a first step. Ultimately, the Congress and a more responsive President must go beyond product-liability reform and must comprehensively overhaul the entire civil justice system. We must repeal the regressive "tort tax" that depletes our economy, raises prices, destroys jobs, stifles innovation, and reduces exports. The "tort tax" created a capricious legal lottery that divides neighbor from neighbor, and causes doctors to add billions to our national healthcare costs each year by practicing defensive medicine.

In Arizona, for instance, medical malpractice premiums have increased by nearly 200 percent since 1982. Attorneys' fees and transaction costs are an increasingly large part of this increase in litigation expenses.

The U.S. Department of Commerce has estimated that only 40 cents of each dollar expended in product-liability suits ultimately reaches the victims. A Rand Corp. study showed that 50 cents of each liability dollar does not go to victims, but to attorneys fees and other transaction costs. It is clear that the Product Liability Fairness Act is a small but critical step toward the goal of national legal reform.

It is my understanding that this body will consider more comprehensive legal reform legislation later this year, including Senator HATCH'S Civil Justice Reform Act of 1995, and Senator MCCONNELL'S, Lawsuit Reform Act of 1995. I am also hopeful that the Senate Judiciary Committee will hold hearings on S. 11, the Medical Care Injury Compensation Act of 1995, a bill I introduced on the first day of the 104th Congress. This legislation caps non-economic damages such as pain and suffering at $250,000; imposes a limit on attorneys' fees of 25 percent of the first $150,000 recovered and 15 percent of any amount in excess of $150,000; provides for periodic payments where damages for future economic loss exceed $100,000; provides for mandatory offsets for damages paid by a "collateral source"; and reforms "joint and several" liability.

Mr. President, I would like to close by addressing one of the arguments used by the President in his veto message. this argument asserts the unconstitutionality of the preemption of State liability laws under the commerce clause of the U.S. Constitution.

It is clear that no individual State can solve the problems created by abusive litigation. This is particularly true in the case of product-liability litigation: a product is frequently manufactured in one State, sold in a different State, and causes injury in a third State. In fact, Government figures establish that, on average, over 70 percent of the goods manufactured in one State are shipped out of State for sale and use.

It is clearer that a national solution is justified by the fundamentally interstate character of product commerce. The threat of disproportionate, unpredictable, punitive damage awards exerts an economic impact far beyond the borders of any individual State. This threat reduces investments, dampens job creation, and prevents new products from reaching the marketplace. In an increasingly integrated national and international economy, the confusing, inconsistent patchwork of State liability awards has cut deeply into America's economic strength.

Unfortunately, since the signing of the Constitution, the commerce clause has been stretched and contorted to authorize virtually every activity Congress chooses to regulate—except interstate commerce. Opponents of legal reform profess concern about the preemption of State law and interference with States' rights. And yet it was many of the same interests that favored intrusive Federal regulations imposed on the States by OSHA, FDA, EPA, and other Federal regulators.

In truth, States' rights is not what is being defended here, but rather, the status quo. Otherwise, why is the litigation industry the only segment of the economy that opponents of legal reform believe should remain beyond the reach of Federal law?

Mr. President, legal reform will not cause the creation of a single new Federal program or the expenditure of a single new appropriation; Legal reform will not impose new taxes or regulations on our citizens. Legal reform will simply create clear, consistent legal standards covering civil actions brought in State and Federal courts.

Mr. President, legal reform will enhance the essential principle of due process. As the U.S. Supreme Court has said many times, due process, criminal and civil, is fundamental to our concept or ordered liberty.•

SALUTE TO MEDINA LIONS CLUB

• Mr. FRIST. Mr. President, I rise today in support and appreciation of the Medina Lions Club, which will celebrate its 50th anniversary this Thursday. These club members from Gibson County, TN have devoted countless hours of their time and energy over the years to helping their community of Medina, and I would like to take a moment to recognize some of their many achievements.

Since its inception, more than 210 different members have joined the Medina Lions Club. Today, there are 33 active members, including 2 who helped found the club in 1946. Over the years, the club has raised enough money to provide college scholarships to 38 deserving local students and furnish local schools with cafeteria equipment, library books and furniture, and athletic and playground equipment. Many of the club's successful fund raising drives have become yearly favorites among the residents of Gibson County, including a horse show, a minstrel show, and a "haunted" farm.

In addition to education projects, the club has used the money it raises to provide glasses and surgery for local residents, remodel and redecorate a civic center, erect a park pavilion, purchase equipment for the local fire department, erect a community war memorial, purchase hospital equipment, and sponsor Little League baseball in Medina. As Little League sponsors, the club members helped furnish lighting, fencing, and concessions equipment for the Little League ballpark. It is also saving money to help build a new city park, which will include a walking track, football field, baseball field, fence lighting, and paved parking.

Mr. President, the members of the Medina Lions Club have a long history of giving back to their community. Their commitment has won the Medina club the Top Club in the State award twice, and the members have received numerous other individual awards. Mr. President, I would like to commend and thank every member—past and present—of the Medina Lions Club for their commitment and their dedication. They have established a long record of service for others to follow, and I wish them all the best as they celebrate the club's 50th anniversary.•

CLETIS WAGAHOFF

• Mr. JOHNSTON. Mr. President, I rise today to pay tribute to an outstanding public servant and my friend, Cletis Wagahoff. On March 31, 1996, Cletis will retire from the U.S. Army Corps of Engineers after serving selflessly for nearly 27 years and after a total of 35 years of Government service.

Cletis Wagahoff has served as the deputy district engineer for Project Management in the corps' New Orleans District Office since 1988. If the daily challenges of managing several of our Nation's largest civil works projects were not enough to ask of someone Mr. President, the job of deputy district engineer also requires that Cletis be the liaison for all congressional inquiries from the Louisiana Congressional Delegation. For this alone, he deserves our deepest gratitude, not to mention a medal. In fact, Cletis was recently awarded the Meritorious Civilian Service Award for his performance as a highly skilled engineer and proven leader in his field.

I have had the pleasure of working with Cletis on many of Louisiana's navigation, hurricane, and flood protection projects and have often sought his counsel and advice on critical problems like coastal erosion and protecting our valuable wetlands. His reputation as a consensus builder and a man of unwavering integrity is well known by Louisiana's elected officials and our community and business leaders.

Mr. President, Cletis Wagahoff and his wife, Betty, have given much to Louisiana and our great Nation during their many years of service, and for this we are eternally grateful. On behalf of the Louisiana congressional Delegation and all Louisianians, we wish them every success, good health, and much happiness as they turn the pages of life to begin a new chapter.•

IN HONOR OF JOHN E. CHRISTENSEN

• Mr. BROWN. Mr. President, I rise at this time to recognize an outstanding citizen for the achievements and contributions he has made to the people of the State of Colorado. After a 30-year career in education, John Christensen is retiring as principal of Greeley Central High School.

John Christensen, or "JC" as he is known, began his teaching career in 1964 at Carbondale Junior High School in Carbondale, CO. Over the next three decades, he became one of the driving forces in Weld County education. He taught mathematics, physical education, and biology. He coached basketball, football, track, and baseball, and served as an athletic director and assistant principal before becoming principal of Greeley Central.

As a resident of Greeley, CO, I am aware of the contributions JC has made to students and to the community. In addition to his classroom and administrative responsibilities, his enthusiasm and dedication to students' extra-curricular programs led him to speech contests, musical concerts, theater performances, athletic events and countless other student activities in the evenings and on weekends. During some of those athletic events he was a fan; other times he was the coach. In 1975, he coached Greeley West's AAA State Baseball Championship Team, a demonstration of his commitment to hard work and excellence.

John Christensen's selfless dedication brought him richly deserved recognition. In 1989, he was presented the International Thespian Award by International Thespian Society Troupe 657 for his support of theater arts at Greeley Central. In 1990, he received the Administrator Award from the Colorado Music Educators' Association. He served as president of the Colorado High School Football Coaches Association and was inducted into the District 6 Coaches' Hall of Fame for his years of service to youth as a football and baseball coach. He is past president of the Northern League Principals Association and continues to consult and speak at various leadership conferences across the country.

Greeley Central's Class of 1994 so greatly admired and respected John Christensen, their own principal, they chose him as their commencement speaker. His leadership and integrity has affected students, parents, teachers, and fellow administrators. In 1995, he received the prestigious Governor's Award for Excellence in Education. Most impressive of all is the new scholarship created in JC's name by Greeley Central's faculty. The John Christensen "Pride, Class and Dignity Award" is to be given to a Greeley Central High School senior who is active in student life, displays a distinguished academic record, and exemplifies outstanding leadership.

I have worked with numerous public officials and business leaders from across the country. There are few of the same high caliber as John Christensen. His integrity, enthusiasm, and dedication are unequaled. For this, I thank him for his service and wish him and his family, Jonna, JJ and Jill, the very best.•

A NEW INTERNATIONAL PARTNERSHIP

• Mr. GRAMS. Mr. President, this week an historic agreement will be signed here in Washington that I believe embodies the enduring spirit of international commerce and what could be the promoting future of the Baltic States.

On March 28, 1996, government officials from the Baltic country of Estonia will sit down with representatives from one of my constituents, NRG Energy, Inc., and pen a memorandum of understanding [MOU] that could lead to NRG jointly owning, as well as managing and operating, the major electric generation assets in Estonia.

The agreement is a further step forward for Estonia, which is rapidly progressing into the global village. At the beginning of this decade, Estonia was one of the first nations to break from the old Soviet sphere of influence. Movement toward the West has been constant ever since. In 1991, Estonia became a member of the United Nations and it was welcomed into the World Bank in 1992. Today, the nation envisions itself as a member of the European Union and has submitted a formal application for inclusion.

Estonia's coalition government, led by Prime Minister Tiit Vahi and Foreign Minister Siim Kallas, has forged swiftly ahead in developing the open markets necessary to bring the nation into the global economy. These leaders should be commended for their foresight and resolve in making free trade a cornerstone of the country's impressive economic maturity.

Mr. President, the Estonians should be praised for their steady progress away from a command and control economy and toward free market principles. They share with a majority of Americans a strong belief that most often the private sector can better conduct business than the government.

Already the Estonian Government has privatized more than 377 of its enterprises. This includes the remarkable undertaking of privatizing and modernizing its entire telecommunications sector which was jointly accomplished with contributions from Swedish and Finnish interests.

Under the guidance of Arvo Niitenberg, former energy minister and current Estonian Ambassador to the International Atomic Energy Agency, the most ambitious investment initiative to date is occurring in the electricity sector. For this endeavor, the Estonians looked to American expertise and know-how, and found these qualities in abundance with NRG. As a subsidiary of Northern States Power Company [NSP], a Minneapolis-based, multistate, investor-owned electric and gas utility, NRG has successfully brought the Minnesota penchant for hard work and a no-nonsense approach to international power projects in Australia and the former East Germany.

No doubt, NRG's success around the globe will once again evidence itself in Estonia. The project entails an investment of up to $250 million by NRG for environmental upgrades and plant life extension in the Estonian electric company and NRG's management and operation of three powerplants totaling more than 3,000 megawatts through a stock company jointly owned with the Estonians. This represents almost the entirety of Estonia's power production in what is sure to be a win-win partnership in which NRG will apply its extensive and renowned expertise in emission reductions and operation of world class powerplants for the growing Estonian economy.

Mr. President, the MOU to be signed this week is the consummation of an important partnership not only between NRG and the Estonians, but also between Estonia and the United States. I welcome the partnership being established March 28 at the State Department as not only the teaming of a nation with a company, but also the commencement of a lasting relationship between two nations.•

BUDGET SCOREKEEPING REPORT

• Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through March 21, 1996. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1996 concurrent resolution on the budget (H. Con. Res. 67), show that current level spending is above the budget resolution by $15.7 billion in budget authority and by $16.9 billion in outlays. Current level is $81 million below the revenue floor in 1996 and $5.5 billion above the revenue floor over the 5 years 1996–2000. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $262.6 billion, $17.0 billion above the maximum deficit amount for 1996 of $245.6 billion.

Since my last report, dated March 12, 1996, Congress has cleared and the President has signed the 11th short-term continuing resolution (Public Law 104–116). In addition, the President signed an act providing tax benefits for members of the Armed Forces performing peacekeeping services in Bosnia and Herzegovina, Croatia, and Macedonia (Public Law 104–117). These actions did not change the current level of budget authority, outlays or revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 25, 1996.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1996 shows the effects of Congressional action on the 1996 budget and is current through March 21, 1996. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1996 Concurrent Resolution on the Budget (H. Con. Res. 67). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report dated March 11, 1996, Congress has cleared, and the President has signed the eleventh short-term continuing resolution (P.L. 104–116). In addition, the President signed an act providing Tax Benefits for Members of the Armed Forces Performing Peacekeeping Services in Bosnia and Herzegovina, Croatia and Macedonia (P.L. 104–117). These actions did not change the current level of budget authority, outlays or revenues.

Sincerely,

JUNE E. O'NEILL,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1996, 104TH CONGRESS, 2ND SESSION, AS OF CLOSE OF BUSINESS MAR. 21, 1996 [In billions of dollars]

	Budget resolution (H. Con. Res. 67)	Current Level[1]	Current level over/under resolution
ON-BUDGET			
Budget Authority	1,285.5	1,301.2	15.7
Outlays	1,288.1	1,305.0	16.9
Revenues:			
1996	1,042.5	1,042.4	−0.1
1996–2000	5,691.5	5,697.0	5.5
Deficit	245.6	262.6	17.0
Debt subject to Limit	5,210.7	4,897.2	−313.5
OFF-BUDGET			
Social Security Outlays:			
1996	299.4	299.4	0.0
1996–2000	1,626.5	1,626.5	0.0
Social Security Revenues:			
1996	374.7	374.7	0.0
1996–2000	2,061.0	2,061.0	0.0

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

THE ON–BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 2ND SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996 AS OF CLOSE OF BUSINESS MAR. 21, 1996

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			1,042,557
Permanents and other spending legislation	830,272	798,924	

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 2ND SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1996 AS OF CLOSE OF BUSINESS MAR. 21, 1996—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriation legislation		242,052	
Offsetting receipts	−200,017	−200,017	
Total previously enacted	630,254	840,958	1,042,557
ENACTED IN FIRST SESSION			
Appropriation bills:			
1995 Rescissions and Department of Defense Emergency Supplementals Act (P.L. 104–6)	−100	−885	
1995 Rescissions and Emergency Supplementals for Disaster Assistance Act (P.L. 104–19)	22	−3,149	
Agriculture (P.L. 104–37)	62,602	45,620	
Defense (P.L. 104–61)	243,301	163,223	
Energy and Water (P.L. 104–46)	19,336	11,502	
Legislative Branch (P.L. 105–53)	2,125	1,977	
Military Construction (P.L. 104–32)	11,177	3,110	
Transportation (P.L. 104–50)	12,682	11,899	
Treasury, Postal Service (P.L. 104–52)	23,026	20,530	
Offsetting receipts	−7,946	−7,946	
Authorization bills:			
Self-Employed Health Insurance Act (P.L. 104–7)	−18	−18	−101
Alaska Native Claims Settlement Act (P.L. 104–42)	1	1	
Fishermen's Protective Act Amendments of 1995 (P.L. 104–43)		(6)	
Perishable Agricultural Commodities Act Amendments of 1995 (P.L. 104–48)	1	(6)	1
Alaska Power Administration Sale Act (P.L. 104–58)	−20	−20	
ICC Termination Act (P.L. 104–88)			(6)
Total enacted first session	366,191	245,845	−100
ENACTED IN SECOND SESSION			
Appropriation bills:			
Seventh Continuing Resolution (P.L. 104–92) [1]	13,165	11,037	
Ninth Continuing Resolution (P.L. 104–99) [1]	792	−825	
Foreign Operations (P.L. 104–107)	12,104	5,936	
Offsetting receipts	−44	−44	
Authorization bills:			
Gloucester Marine Fisheries Act (P.L. 104–91) [2]	30,502	19,151	
Smithsonian Institution Commemorative Coin Act (P.L. 104–96)	3	3	
Saddleback Mountain—Arizona Settlement Act of 1995 (P.L. 104–102)		−7	
Telecommunications Act of 1996 (P.L. 104–104) [3]			
Farm Credit System Regulatory Relief Act (P.L. 104–105)	−1	−1	
National Defense Authorization Act of 1996 (P.L. 104–106)	369	367	
Extension of Certain Expiring Authorities of the Department of Veterans Affairs (P.L. 104–110)	−5	−5	
To award Congressional Gold Medal to Ruth and Billy Graham (P.L. 104–111)	(6)	(6)	
An Act Providing for Tax Benefits for Armed Forces in Bosnia, Herzegovina, Croatia and Macedonia (H.R. 2778)			−38
Total enacted second session	56,884	35,613	
CONTINUING RESOLUTION AUTHORITY			
Eleventh Continuing Resolution (P.L. 104–116) [4]	116,863	54,882	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	131,056	127,749	
Total Current Level [5]	1,301,247	1,305,048	1,042,419
Total Budget Resolution	1,285,500	1,288,100	1,042,500
Amount remaining:			
Under Budget Resolution			81
Over Budget Resolution	15,747	16,948	

[1] P.L. 104–92 and P.L. 104–99 provides funding for specific appropriated accounts until September 30, 1996.

[2] This bill, also referred to as the sixth continuing resolution for 1996, provides funding until September 30, 1996 for specific appropriated accounts.

[3] The effects of this Act on budget authority, outlays and revenues begin in fiscal year 1997.

[4] This is an annualized estimate of discretionary funding that expires March 22, 1996, for the following appropriation bills: Commerce-Justice, Interior, Labor-HHS-Education and Veterans-HUD.

[5] In accordance with the Budget Enforcement Act, the total does not include $3,417 million in budget authority and $1,590 million in outlays for funding of emergencies that have been designated as such by the President and the Congress.

[6] Less than $500,000.

Notes: Detail may not add due to rounding.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Executive Calendar: Calendar No. 449;

I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, that any statements relating to the nomination appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed, as follows:

DEPARTMENT OF STATE

Rita Derrick Hayes, of Maryland, for the rank of Ambassador during her tenure of service as Chief Textile Negotiator.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

FEDERAL TEA TASTERS REPEAL ACT OF 1996

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2969, the Federal Tea Tasters Repeal Act of 1996, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2969) to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. If there is no objection, the bill is deemed to be read the third time and passed.

So the bill (H.R. 2969) was deemed read the third time and passed.

Mr. LOTT. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TUESDAY, MARCH 26, 1996

Mr. LOTT. Mr. President, I now ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 a.m. on Tuesday, March 26, 1996; further, that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day.

I further ask unanimous consent that there then be a period of morning business until the hour of 10:30, with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator REID, 15 minutes; and Senator DORGAN, 15 minutes.

I further ask that at 10:30 the Senate resume consideration of H.R. 1296.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I ask unanimous consent that the Senate recess from the hours of 12:30 p.m. until 2:15 for the weekly policy conferences to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. For the information of all Senators, the Senate will resume the Presidio legislation tomorrow morning with the understanding that Senator DASCHLE or his designee will be prepared to offer an amendment at 10:30. Senators should also be aware that a cloture motion was filed today on the Murkowski substitute, and under the provisions of rule XXII that cloture vote will occur on Wednesday.

There is also hope that during tomorrow's session the Senate will be able to reach an agreement on consideration of the farm bill conference report. Senators should be aware that other possible items for consideration during this week include the State Department reorganization conference report, the debt limit extension, the omnibus appropriations conference report, and the line-item veto conference report. All Senators can expect busy sessions this week in order to complete action on these very important items.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:17 p.m., adjourned until Tuesday, March 26, 1996 at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 25, 1996:

NATIONAL TRANSPORTATION SAFETY BOARD

JAMES E. HALL, OF TENNESSEE, TO BE CHAIRMAN OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM OF TWO YEARS. (REAPPOINTMENT)

DEPARTMENT OF THE TREASURY

RAYMOND W. KELLY, OF NEW YORK, TO BE UNDER SECRETARY OF THE TREASURY FOR ENFORCEMENT, VICE RONALD K. NOBLE, RESIGNED.

DEPARTMENT OF STATE

CHARLES O. CECIL, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NIGER.

WENDY JEAN CHAMBERLIN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE LAO PEOPLE'S DEMOCRATIC REPUBLIC.

JAMES FRANCIS CREAGAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HONDURAS.

LINO GUTIERREZ, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NICARAGUA.

DAVID C. HALSTED, OF VERMONT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHAD.

DENNIS K. HAYS, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SURINAME.

DENNIS C. JETT, OF NEW MEXICO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PERU.

TIBOR P. NAGY, JR., OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUINEA.

DONALD J. PLANTY, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUATEMALA.

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE.

MEDICAL CORPS

To be major

WESLEY S. ASHTON [redacted]
JUDITH C. BLAISE [redacted]
MARK A. BONEY, [redacted]
STEVEN P. COHEN [redacted]
THOMAS W. GIBSON, [redacted]

DENTAL CORPS

To be major

VALERIE E. HOLMES, [redacted]

CONFIRMATION

Executive nomination confirmed by the Senate March 25, 1996:

DEPARTMENT OF STATE

RITA DERRICK HAYES, OF MARYLAND, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS CHIEF TEXTILE NEGOTIATOR.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

TRIBUTE TO THE NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 25, 1996

Mrs. MALONEY. Mr. Speaker, today I am pleased to rise to pay tribute to the National Association of Retired Federal Employees. We are happy to celebrate the 75th anniversary of this vital national organization which has been so integral to the rights of this Nation's retired Federal employees.

The National Association of Retired Federal Employees [NARFE] was formed on February 19, 1921, with 14 founding members. It now boasts a membership of nearly half a million with 1,740 chapters in every State as well as overseas. Their mission is to protect the earned benefits of retired Federal workers and their families. I am proud to say that they have continually accomplished this noble mission, with remarkable success, for over 75 years.

On this date, I am also proud to celebrate the 14th anniversary of Chapter 1871 of the National Association of Retired Federal Employees. Chapter 1871 serves retired Federal workers in the 14th Congressional District of New York. This local chapter of NARFE has been a tremendous help and an influential voice to countless retired Federal employees in that district. In this Chamber today, I am very pleased to give Chapter 1871 special recognition for all their dedicated work.

NARFE remains as important today as it was 75 years ago. It is the only national organization that is solely dedicated to protecting the interests of Federal retirees and their dependents. There is an ongoing need to educate the Government, the media, and the public on the true needs of Federal workers and their benefits. NARFE has successfully accomplished each and every one of these essential tasks.

Today, Mr. Speaker, in the year of its 75th anniversary and on the date of the 14th anniversary of Chapter 1871, I am very pleased to recognize the National Association of Retired Federal Employees for its many contributions to retired Federal workers and thereby to the Nation. I ask that my colleagues join with me in this celebration by paying tribute to its many years of accomplishments and dedication to serving retired Federal employees.

HONORING NORTH MIAMI CLEAN CITY WEEK

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 25, 1996

Mrs. MEEK of Florida. Mr. Speaker, from April 27 to May 3, 1996, the city of North Miami, under the leadership of Councilwoman Jeanette Carr, will observe its sixth annual Clean City Week. Clean City Week offers the opportunity for community organizations to join forces to clean neighborhood eyesores while reinforcing community pride. Groups participating include the police department and its Explorers unit, area Boy Scouts, school leaders, and several charitable organizations.

This year's planned projects include collecting trash along a bayside shoreline, painting the houses of elderly residents, cleaning alleys, and painting over graffiti.

Clean City Week is an example of neighbors working together toward a positive end. All participants are to be commended for their efforts. I am proud that so many in my district care so deeply about their environment. My thanks to everyone working to make North Miami sparkle and shine.

HUMAN RIGHTS ABUSES IN SIKH NATION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 25, 1996

Mr. CRANE. Mr. Speaker, I rise today to recommend to my colleagues the video "Disappearances in Punjab," which was provided to my office by Dr. Gurmit Singh Aulakh, president of the Council of Khalistan. Produced by Hindu human rights activist Ram Narayan Kumar and ethnologist Lorenz Skerjanz, "Disappearances in Punjab" tells the story of Jaswant Singh Khalra, general secretary of the human rights wing, who has disappeared and has apparently been abducted by the Indian Government.

Khalra reported the abduction, torture, and murder of as many as 25,000 young Sikh men whose bodies were then cremated and listed as unidentified. Other human rights activists have claimed that as many as 100,000 Sikhs have been designated as "disappeared" by the Indian regime. The Indian Government has faced many similar charges before—including a February 25 article in the New York Times which described the Government as "rotten, corrupt, repressive, an anti-people"—but this video provides documented evidence of the brutal violence that Sikhs must face every day.

I hope my colleagues will take the time to review the video, and I am inserting a transcript for the RECORD. The Sikhs have struggled for independence and have been repressed by a central government. I support independence for Khalistan, and I believe that after reviewing this video, my colleagues will as well.

INTRODUCTION

On 31 August 1995, Punjab's Chief Minister Beant Singh was assassinated in a suicide mission of bombing carried out by a Sikh militant organization at the State government's Secretariat in Chandigarh. Beant Singh of the Congress party has taken office in early 1992 after winning the elections to the State Legislative Assembly, which the main Sikh political groups had boycotted to pursue their decade long agitation for a radical measure of autonomy for Punjab. As the Sikh electorate, constituting the majority of Punjab's population stayed away from the polling, the Congress party won the elections, without a real contest. But the government formed by the Congress party under Beant Singh's leadership projected the election results as the democratic mandate to stamp out the Sikh agitation, promising to implement the mandate by all possible means. Reports of human rights violations became widespread.

The leaders of Hindu public opinion in Punjab argued that the due process of law was a luxury, which India could not afford while fighting the secessionist terrorism:

[Interview with Vijay Chopra, publisher and editor of Hind Samachar group of newspapers, who brings out the three most popular language dailies in northern India.]

Only the human rights groups and the individuals, with little influence on the working of the government, expressed indignation against the reports of police atrocities.

[Interview with Satish Jain, Professor of Economics at Jawarharlal Nehru University, New Delhi.]

Many inside observers of Indian politics, including the former President of India Zail Singh, admitted that the highhanded methods of the security forces, instigated the separatist terrorism.

[Interview with Zail Singh.]

HISTORICAL BACKGROUND OF THE SIKH SEPARATIST UNREST

Approximately twenty million Sikhs of India form less than 2 percent of the country's population, but constitute majority in the agriculturally prosperous Northwestern province of Punjab, which had been divided between India and Pakistan in 1947. Prosperous Jat Sikh farmers dominated the Akali Dal, the main political party of the orthodox Sikhs, that launched the agitation for the radical measure of autonomy for the State in early 1982. Jarnail Singh Bhindranwale, a charismatic religious preacher, who had already emerged on the scene as the messiah of "true Sikhs", rallied the discontented sections of the Sikhs, particularly the unemployed youth, to the Akali agitation. The Union government projected the agitation as a secessionist movement, and refused to negotiate decentralization of political power. The next two years of virulent violence, which also witnessed the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

rise of Sikh terrorism in the real sense, came to a head in June 1984 when Prime Minister Indira Gandhi ordered the military to flush out Bhindranwale and his armed followers from the Golden Temple of Amritsar in which they had taken shelter. When the operation was over, hundreds of Sikh militants, including Bhindranwale, and a larger number of Sikh pilgrims, were dead. The Akal Takht, an important shrine inside the temple complex regarded as the seat of political authority within the Sikh historical tradition, was rubble. For devout Sikhs, Bhindranwale and his followers, who had died fighting the Indian military, became the martyrs of the faith. A section of Bhindranwale's followers now began to talk of an independent Sikh state.

The Parliamentary elections held at the end of 1989, returned many extremist candidates under the leadership of Simranjit Singh Mann, former police officer turned separatist politician. The results showed that the separatist cause now possessed a measure of popular support. Alienation of the Sikhs of Punjab from India's political system again became manifest when the overwhelming majority of them stayed away from the polling in early 1992, keeping with the call given by the main Akali groups to boycott the elections. The boycott helped the Congress party, under Beant Singh, to form its government in the State, and to embark on a highhanded policy to suppress the Sikh agitation without caring for the limits of the law. Many officials involved in the security operations privately admit that excesses, including custodial killings, do take place. But they argue that they have no other way to demoralize a secessionist movement, which enjoys a measure of sympathy in Punjab's countryside.

EVIDENCE OF STATE ATROCITIES

Interviews with Inderjit Singh Jaijee, Chairman, Movement Against State Repression, and Jaspal Singh Dhillon, Chairman, Shiromani Akali Dal's Human Rights Wing. [Photographic evidence of custodial torture and killings.]

[Interview with Ranjan Lakhanpal, a lawyer who fights generally losing legal battles to enforce the rule of law, against the working of the Punjab police.—Lakhanpal introduces two women victims of custodial rape.]

Our own investigations in the Amritsar region reveal that the dealings of the security forces with the relatives of separatist militants, themselves unconnected with crime, are not only routinely illegal but also brutal. Apparently, the idea is to set an example of harshness that would discourage the rural folk from sympathizing with the extremist cause.

[Interview with Arjun Singh, grandfather of a known militant Paramjit Singh Panjwad, tortured in the police custody. Panjwad's mother was killed in custody.]

Many Sikh officers of the Punjab police privately corroborate these reports of police atrocities.

[Interview with one woman police officer, on the condition of anonymity: She told us about her experience of custodial torture, rape and murders at an interrogation center she was attached to.—Photographic evidence of custodial torture and murders.]

Champions of human rights in Punjab are themselves vulnerable to persecution. Many have suffered long periods of illegal detention, torture in custody and even elimination. Sometimes their relatives become victims of police wrath. On 29 March 1995, lawyer Ranjan Lakhanpal's ten year old son Ashish was run over by a police vehicle. The vehicle belonged to an officer whom Ranjan has accused of murdering a detainee in custody.

THE CASE OF JASWANT SINGH KHALRA

The more recent example comes from the case of Jaswant Singh Khalra, General Secretary of the Shiromani Akali Dal's Human Rights Wing, who got picked up by uniformed commandos of Punjab police from the porch of his house in Amritsar on 6 September 1995, six days after Beant Singh's assassination. Human Rights Wing has been focussing attention on unravelling the mystery of what happens to the large number of people the security forces illegally pick-up for interrogation. Jaswant Singh Khalra was associated with the investigations that led to the discovery that Punjab police have been cremating thousands of dead Sikhs illegally, by mentioning them in the registers at the cremation grounds as "unclaimed" and "unidentified." The investigations also established that these "cremated" Sikhs were largely those who had earlier been picked up for interrogation.

[Interview with the attendant of the cremation ground at Patti, a subdivisional town in Amritsar district.]

Equally incriminating evidence against the police comes from the hospitals where the police sent some bodies so cremated for postmorten.

[Interview with the Chief Medical Officer of the hospital at Patti: This doctor told us that Sarabjit Singh was still alive when the police first brought him for the postmortem. On being discovered alive, Sarabjit Singh was taken away by the police and brought back to the hospital the second time when he was actually dead. The hospital gave the postmortem report the police wanted. The Chief Medical Officer of the hospital at Patti also offered us some astonishing information on how he helped the police to get the postmortem reports they legally needed in all circumstances before cremating the dead bodies.]

Investigation carried out by the Human Rights Wing forms the basis of a petition that the Committee for Information and Initiative on Punjab has filed before the Supreme Court of India. The issue of illegal cremations by the Punjab police is now being investigated by the Central Bureau of Investigation, on the orders from the Supreme Court. However, the order of the probe did not come before Jaswant Singh Khalra himself "disappeared."

[Interview with Jaspal Singh Dhillon: "Khalra was quite clearly told that he can also become an unidentified body. And today Khalra is not there."]

The guilty officials of Punjab police knew that, without Khalra's investigative resourcefulness in the Amritsar district, the Human Rights Wing could not have so conclusively exposed their ways of handling the Sikh unrest in Punjab. Khalra had also been providing legal counselling to victims of police atrocities, particularly the relatives of the "diaspeared", which encouraged them to approach the courts to redress their grievances.

Khalra's whereabouts remains unknown. The chief of the Punjab police has categorically denied Khalra's abduction by the officers of his force. The Supreme Court of India has ordered the Central Bureau of Investigation to probe the "disappearance" along with the issue of illegal cremations by the Punjab police. In ordering the probe, the court has neither extended protection to witness who might lead to evidence to establish the truth, nor has asked the CBI to associate the human rights groups, directly involved in exposing the police atrocities, with the inquiry. It is evident that the Central Bureau of Investigation, as an investigating agency under the Union Home Ministry, lacks the necessary power and independence to determine the truth of allegations of serious human rights crimes, made against India's security forces.

Human right groups worldwide are seriously concerned about the disappearance of Jaswant Singh Khalra, which is seen as a warning to all those who are engaged in exposing police atrocities in the State. The Sikh groups in Punjab are agitating the Khalra's release. Many leaders of the Western countries, including the President of the United States of America, have conveyed their concern about the case to the government of India. However, the information percolating from the police sources suggests that Khalra might already have been eliminated. Despair dominates the mood of the Sikh leaders in Punjab.

[Interview with Sukhjinder Singh, former Akali Minister: "All Sikhs cannot get one constable or one police officer transferred from one place. That is the situation."]

[Interview with Jaspal Singh Dhillon: "There is no way any Sikh today can look for justice from any organ of the Indian state."]

[Interview with Professor Satish Jain: "There is a large section of this country which approves of State atrocities. And, I think, the weakness of the Indian nation, the weakness of the Indian society, really lies in this attitude."]

Will India society rectify this weakness? Will State atrocities in Punjab cease? These are the mute questions before the people of India, even as they prepare themselves for the next elections.

CONGRATULATIONS TO PRESIDENT LEE TENG-HUI AND THE PEOPLE OF TAIWAN ON THE FIRST DEMOCRATIC ELECTIONS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 25, 1996

Mr. LANTOS. Mr. Speaker, I wish to extend my heartiest congratulations to President Lee Teng-hui who was chosen the first popularly elected President of Taiwan in direct, democratic elections, which were held over the past weekend. President Lee received 54 percent of the vote in a field of four candidates. The results of this election are a tribute to President Lee, who has played the leading role in completing the democratic transformation of Taiwan, a transformation which led to these first-ever democratic elections. I also wish to extend congratulations to Lien Chan, the democratically elected Vice President.

Mr. Speaker, President Lee has served as the President of the Republic of China on Taiwan since 1988. He has long and close ties with the United States and with the American people. It is highly significant, Mr. Speaker, that President Lee was born on Taiwan in 1923. He attended Kyoto Imperial University, and received a bachelors degree from National Taiwan University in 1949. His studies in the United States include an M.A. from Iowa State University and a Ph.D. from Cornell University. Between 1949 and 1965 he was a member of the faculty of National Taiwan University, and he served many years as a professor there. His political experience includes service as the mayor of Taipei City, Governor of Taiwan Province, and Vice President of the Republic of China on Taiwan.

Mr. Speaker, just 1 year ago, President Lee was invited by his alma mater, Cornell University, to visit the campus as a distinguished alumnus. The administration opposed granting him a visa for that visit. As my colleagues know, legislation that I introduced and which passed the House unanimously, put the Congress on record favoring granting him a visa. I am delighted that he was able to visit Cornell as President of Taiwan, and it is my sincere hope that he will have the opportunity to visit the United States as its democratically elected President.

The real winners in Saturday's Taiwanese elections, Mr. Speaker, are not the candidates who won reelection—though I do not want to diminish the great victory which this election is for President Lee and Vice President Lien. The real winners in the elections are the people of Taiwan. They have made a democratic choice, they have conducted an exemplary campaign, and they have participated in the elections in numbers that are a tribute to the people of Taiwan. Despite appalling efforts at intimidation by the Government of the People's Republic of China, two-thirds of the eligible voters of Taiwan participated in the elections. That is a participation rate that exceeds ours here in the United States, Mr. Speaker. Their obvious desire for democracy and their responsible and thoughtful exercise of the franchise merit our most profound respect an praise. They are the real winners in the election.

The second big winner in this election has been the friendship between the people of the United States and people of Taiwan. Mr. Speaker, I welcome the action of this House last week in strongly affirming the commitment of the American People to Taiwan in the face of the threats and intimidation they faced from the bullies of Beijing. We have made clear our commitment to the democratic process in Taiwan, and it is extremely important that this be known both by the People of Taiwan and by the Government of the mainland.

The big losers in this election, Mr. Speaker, are the bullies of Beijing—the leaders of the People's Republic of China who attempted with military maneuvers, missile firings, amphibious landings, and other similarly ruthless efforts at intimidation to affect the outcome of this election and to undermine the evolution of democracy in Taiwan. The bullies of Beijing miscalculated. They were proven wrong, and the people of Taiwan have demonstrated just how wrong they are. Democracy is stronger and more stable and more acceptable than the totalitarian and authoritarian rule of despots.

The success of democratic elections in Taiwan will have a profound impact upon the mainland. As the generational change in the leadership of the Chinese Communist Party continues in Beijing, it is clear that the free and open and democratic elections in Taiwan have dealt the party dictatorship a great blow. The example of Taiwan will continue to affect what happens on the mainland.

Mr. Speaker, I invite my colleagues in this house to join me in paying tribute to President Lee Teng-hui and Vice President Lien Chan, and, in particular, in paying tribute to the people of Taiwan.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 26, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 27

9:00 a.m.

Environment and Public Works

To hold hearings on proposals to improve prevention of, and response to, oil spills in light of the recent North Cape spill.

SD–406

Labor and Human Resources

Business meeting, to mark up S. 1477, to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, S. 969, to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and proposed legislation authorizing funds for the Older Americans Act.

SD–106

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine Spectrum's use and management.

SR–253

Energy and Natural Resources

To hold hearings on S. 1605, to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and S. 186, to amend the Energy Policy Act with respect to purchases from the Strategic Petroleum Reserve by entities in the insular areas of the United States.

SD–366

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine global proliferation of weapons of mass destruction.

SD–342

Rules and Administration

To resume hearings on proposals to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, and to reform the financing of Federal elections and Senate campaigns.

SR–301

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Veterans of World War I, AMVETS, the American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Order of the Purple Heart.

345 Cannon Building

Select on Intelligence

To resume hearings on the future of United States intelligence.

SH–216

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Navy and Marine Corps programs.

SD–192

Armed Services

Acquisition and Technology Subcommittee

To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on proliferation of weapons of mass destruction and the impact of export controls on national security.

SR–222

Banking, Housing, and Urban Affairs

Business meeting, to consider pending nominations.

SD–538

Foreign Relations

Business meeting, to consider pending treaties and nominations.

SD–419

1:30 p.m.

Armed Services

SeaPower Subcommittee

To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on the Department of the Navy's Submarine Development and Procurement programs.

SR–232A

2:00 p.m.

Judiciary

To hold hearings on pending nominations.

SD–226

Select on Intelligence

To hold a closed briefing on intelligence matters.

SH–219

4:00 p.m.

Conferees on S. 641, to reauthorize the Ryan White CARE Act of 1990.

S–207, Capitol

MARCH 28

9:00 a.m.

Indian Affairs

To hold oversight hearings on the recent settlement and accommodation agreements concerning the Navajo and Hopi land dispute.

SR–485

9:30 a.m.

Commerce, Science, and Transportation

Business meeting, to consider pending calendar business.

SR–253

Energy and Natural Resources

To resume oversight hearings on issues relating to competitive change in the electric power industry.

SH–216

Special on Aging

To hold hearings to examine adverse drug reactions in the elderly.

SD–562

10:00 a.m.

Armed Services

To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on the military strategies and operational requirements of the unified commands.

SR–222

Foreign Relations

To resume hearings on the Convention on Chemical Weapons (Treaty Doc. 103-21).

SD–419

Judiciary

To resume markup of proposed legislation relating to legal immigration (incorporating provisions of S. 1394).

Room to be announced

10:30 a.m.

Appropriations

Commerce, Justice, State, and the Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Justice.

S–146, Capitol

2:00 p.m.

Appropriations

Commerce, Justice, State, and the Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Commerce.

S–146, Capitol

Foreign Relations

African Affairs Subcommittee

To hold hearings to examine the role of radio in Africa.

SD–419

Select on Intelligence

Closed briefing on intelligence matters.

SH–219

2:30 p.m.

Armed Services

SeaPower Subcommittee

To hold hearings on the multiyear procurement proposal for the C- 17 strategic airlifter.

SR–222

MARCH 29

9:30 a.m.

Armed Services

Airland Forces Subcommittee

To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on Army modernization programs.

SR–222

11:00 a.m.

Armed Services

Strategic Forces Subcommittee

To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on cooperative threat reduction program, arms control, and chemical demilitarization.

SR–232A

APRIL 15

10:00 a.m.

Judiciary

Constitution, Federalism, and Property Rights Subcommittee

To hold hearings on S.J.Res. 49, proposed constitutional amendment to require a two-thirds vote on tax increases.

SD–226

APRIL 16

9:30 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for Air Force and defense agencies' military construction programs.

SD–116

Commerce, Science, and Transportation

To hold hearings on proposed legislation authorizing funds for the National Transportation Safety Board.

SR–253

APRIL 17

9:30 a.m.

Rules and Administration

To resume hearings on proposals to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, and to reform the financing of Federal elections and Senate campaigns.

SR–301

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Air Force programs.

SD–192

1:30 p.m.

Indian Affairs

To hold hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.

SR–485

2:00 p.m.

Judiciary

Administrative Oversight and the Courts Subcommittee

Business meeting, to mark up S. 984, to protect the fundamental right of a parent to direct the upbringing of a child.

SD–226

APRIL 18

9:30 a.m.

Commerce, Science, and Transportation

To resume hearings to examine Spectrum's use and management.

SR–253

1:30 p.m.

Indian Affairs

To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.

SR–485

APRIL 19

1:30 p.m.

Indian Affairs

To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.

SR–485

APRIL 23

9:30 a.m.

Commerce, Science, and Transportation

Consumer Affairs, Foreign Commerce, and Tourism Subcommittee

To hold hearings on proposed legislation authorizing funds for the Consumer Product Safety Commission.

SR–253

APRIL 24

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Army programs.

SD–192

APRIL 25

9:00 a.m.

Indian Affairs

To hold hearings on S. 1264, to provide for certain benefits of the Missouri River Basin Pick-Sloan Project to the Crow Creek Sioux Tribe.

SR–485

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on proposed legislation authorizing funds for the Federal Trade Commission.

SR–253

MAY 1

9:30 a.m.

Rules and Administration

To resume hearings on issues with regard to the Government Printing Office.

SR–301

SEPTEMBER 17

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.

335 Cannon Building

CANCELLATIONS

MARCH 26

2:00 p.m.

Judiciary

Business meeting, to mark up proposed legislation relating to legal immigration (incorporating provisions of S. 1394).

Room to be announced

POSTPONEMENTS

MARCH 26

10:00 a.m.

Judiciary

To hold hearings on S. 1284, to adapt the copyright law to the digital, networked environment of the National Information Infrastructure.

SD–106

HOUSE OF REPRESENTATIVES—*Tuesday, March 26, 1996*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. UPTON].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 26, 1996.

I hereby designate the Honorable FRED UPTON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 2969. An act to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested.

S. 1459. An act to provide for uniform management of livestock grazing on Federal land, and for other purposes.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

The Chair recognizes the gentlewoman from Colorado [Mrs. SCHROEDER] for 5 minutes.

RECOGNIZING HISTORICAL ACCOMPLISHMENTS OF WOMEN

Mrs. SCHROEDER. Mr. Speaker, I am continuing to talk a bit about women in history since this is Women's History Month.

One of the things I have been doing this month as I talked to people is I carry around a little shoe. It is no bigger than that, and it is a shoe that someone gave to me that they bought in an antique store in China that was used to go on a woman's foot. When you think about it, China was one of the few countries where you were not even better off being rich if you were female, and maybe many of you remember the story of the three swans written about the three Chinese women who kept praying that when they came back they would not come back as a female.

But when you think about the binding of the foot, and I have not seen anyone that could look at that shoe and not shudder to think of the pain of what it felt like to have that foot bound, and then when you think about the fact that that practice did not stop until halfway through the century and there are still women who are older hobbling around that had had this done to them, you realize how far the world is behind on dealing with women and women's issues.

Mr. Speaker, when I talk about the binding of the foot, I think we bind something in this society, too. We have bound women's minds. Women's minds have been bound by our not knowing our real history, not knowing what really we contributed to this country, and therefore I think we have made women feel that they have no right to ask for anything or to ask to be treated equally in this country because the image is they did not do anything, why should they get anything? They came over here on cruise ships, sat around eating bonbons, getting their hair done, and have not done anything except waiting for people to win the battles for them.

Some of the exciting things that have happened while I am in office that have gone on to try to correct that image has been the Women in the Military Memorial that many, many women have come forward to put out there, and whether you look at the Revolutionary War, which had women serving in it, Molly Corbit being one that is buried at West Point and was the first woman to ever have gotten a full pension just like men did because George Washington insisted that was the only fair thing, and there were other women who were in the Revolutionary Army, too, that got the same thing, or whether you go right on through all the wars until the current Bosnian crisis, where we have women in the field in Bosnia; you see pictures of them coming across the screen today as the First Lady is over there talking to them with the troops.

You know, women have been like the lioness, I guess, in nature. They are perfectly willing to protect their country, to do whatever it takes, and any time, whether it was in winning the West, whether it was World War II, whether it is today in Bosnia, or whether it was way, way back in the Revolutionary War, they did that.

Mr. Speaker, how sad that we do not know their names and we do not know so many of the stories of their bravery. I cannot wait until the Women's Military Memorial is done because the stories they are collecting are unbelievable. They kind of fell off the table when the history books were written, stories of nurses that were downed in World War II in Albania and how long it took them to walk to the coast in the middle of winter to finally get out, I mean, very brave things that would make great movies, and let us hope some day we do make movies about women in some role other than what we usually see them in.

But we are not going to see movies about women in history in those roles until we recognize that women played those roles in history, and I think that is why this month is so critical.

So I hope more and more schoolchildren and more people everywhere dig into history, find the real story and let us get it out. That is never to diminish what men did. Of course, men did wonderful, wonderful things in help building this Republic, but to tell only half the story is really not fair.

So we have had his story, and this is the month to do her story, and I hope we get more people actively involved in looking at that and realizing the value of it.

When we tried too hard to get this front and center in 1976 during the Bicentennial, even one of my own newspapers would attack me for wasting the House's time for talking about brave American foremothers and what they have contributed. In fact, they even attacked me on the very front page. I hope we now have much more sense about that and that we could move forward and get the record set straight.

KEEP HEALTH CARE PROMISES TO VETERANS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Colorado [Mr. HEFLEY] is recognized during morning business for 5 minutes.

Mr. HEFLEY. Mr. Speaker, today I rise to announce the introduction of H.R. 3142, a bill known as the Uniform

Services Medicare Subvention Demonstration Project Act. This bill is intended to be a companion to Senator PHIL GRAMM'S bill, S. 1487.

Mr. Speaker, when we ask men and women to serve in our Nation's Armed Forces, we make them certain promises. One of the most important is the promise that, upon the retirement of those who serve 20 years or more, a grateful Nation will make health care available to them for the rest of their lives. Unfortunately, for many 65-and-over military retirees, this promise is being broken.

When the military's Civilian Health and Medical Program of the United States [CHAMPUS] was established in 1966, just 1 year after Medicare, 65-and-over military retirees were excluded from CHAMPUS because it was felt they could receive care on a space-available basis from local military hospitals and they would not require health care services from the private medical community. For many years, there were few problems and plenty of available space, but as military bases and their hospitals have closed, more and more retirees are finding it increasingly difficult to receive the care they were promised.

Mr. Speaker, on January 19, 1995, I introduced, along with Congressmen GEREN, BARTON, CONDIT, and SAM JOHNSON, H.R. 580, which is a bill to allow the reimbursement to the Department of Defense by the Department of Health and Human Services for care rendered to Medicare eligible retirees and their families in military treatment facilities. This is better known as Medicare subvention.

Over the course of the past year, H.R. 580 has received broad, bipartisan support and currently has 248 cosponsors. But despite the overwhelming support for this bill it does not look likely to be able to move it out of the Ways and Means Committee or the Commerce Committee. If this bill did not make it to the floor, the cost of $1–2 billion that CBO has attached to this bill will hurt its chances of passage in the House and the Senate.

As many of my colleagues who have cosponsored this bill realize, H.R. 580 shouldn't increase cost to the Federal Government at all. In fact, it may even save money. It would allow the same military retirees with the same health problems to use the same doctors, so it should cost no more to the Federal Treasury regardless of whether DOD or Medicare pays the bill. But, because it is a shift from discretionary spending to entitlement spending, the budget numbers reflect an increase in spending.

Mr. Speaker, the bill I introduced on Thursday, March 21, 1996, takes care of this problem. This bill will create a demonstration project of Medicare subvention to DOD to prove the budget neutral stance I, and the 248 cosponsors, have taken on H.R. 580. This new bill, H.R. 3142 attempts to correct the shortcoming of H.R. 580 while at the same time building upon its strengths. This bill should solve the problem we have had in the past with the large CBO pricetag by requiring that DOD maintains the current level of support that it is currently providing military retirees, and having Medicare pick up coverage of additional Medicare-eligible military retirees once DOD has reached its obligated level.

This demonstration will not increase cost to the taxpayer because it will ensure that DOD cannot shift costs to HCFA, and that the total Medicare cost to HCFA will not increase. In fact, this too should actually save money. The Retired Officers Association, in a letter of December 15, 1995, reports that:

> Using 1995 as a baseline, the eligible Medicare population will grow by 1.6 million beneficiaries by 2000. This will increase Medicare's cost by $7.7 billion if new beneficiaries rely on Medicare as their sole source of care. But, with subvention and DOD's 7 percent discount to the Health Care Financing Administration (HCFA), the aggregate cost increase can be reduced by $361 million over that same time frame. Because health care will be managed, further savings could be realized which could be passed on by DOD to Medicare through reduced discounts.

Mr. Speaker, this new legislation makes a good attempt to solve the problems brought on by the CBO cost estimate of Medicare subvention. As DOD's managed health care program, TRICARE, is implemented throughout the country, many military retirees within many of my colleagues' districts will be affected, so I urge my colleagues to support this bill and to become cosponsors.

GENETIC DISCOVERIES AND OUR HEALTH PRIVACY

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. STEARNS] is recognized during morning business for 5 minutes.

Mr. STEARNS. Mr. Speaker, should an insurance company be able to deny children medical coverage because their mother died of an inherited heart defect that her children may or may not carry? That is the dilemma facing a California father who cannot get family medical coverage under his group plan as a result of his wife's death. And that is a dilemma crying out for congressional intervention.

Scientific knowledge of the secrets hidden deep inside our genes is advancing at an unbelievable rate. It seems that we learn of a new genetic discovery on a weekly basis. But, as researchers find the genetic mutations that cause specific diseases or that appear to cause a genetic predisposition to specific diseases, a host of ethical, legal, and social complications arise that will take our greatest efforts to resolve.

The human genome project is a 15-year, multinational research effort to read and understand the chemical formula that creates each of the 80,000 to 100,000 human genes. If spelled out using the first 4 letters of the 4 chemicals that make up DNA, that formula would fill one-thousand 1,000 page telephone books, representing 3 billion bits of information. Often, just a single letter out of place is enough to cause disease.

We cannot read this entire genetic script yet, but advances in science indicate that we will be able to soon. In fact, although the project is scheduled for completion in 2005, at its current pace, many experts believe it will be done before then. That means that we need to begin making some very difficult public-policy decisions, now, before those decisions are made by self-interested parties.

Senators MACK and HATFIELD introduced legislation in the Senate on this issue and I have submitted the companion bill, H.R. 2690, the Genetic Privacy and Nondiscrimination Act, in the House. This measure will establish guidelines concerning the disclosure and use of genetic information and protect the health privacy of the American people. Genetic information must not be used—misused—to deny access to health insurance.

This bill will not only safeguard health privacy and help preserve insurance coverage, it will also remove potential barriers to genetic testing. Eliminating the concern about reprisals by insurance companies will facilitate more effective use of genetic tests as they are developed and, therefore, promote cures and treatments. This will sustain the global leadership of the biomedical research industry in the United States.

However, if you can lose your health insurance because your genes show that some day you might require that insurance, clinical trials will become impossible to conduct and new treatments and cures may not be developed. Consequently, it is important to have this protection, which will ultimately lead to improved health care for all Americans.

Congress is moving rapidly now on legislation to reform the American health insurance system. It is likely that a bill could pass the House this month and the Senate next month. A conference agreement between the House and Senate could put the bill on the President's desk well before this Congress adjourns. The House bill is H.R. 3070, the Health Coverage Availability and Affordability Act of 1996. Sponsored by Congressman MICHAEL BILIRAKIS, this measure is a well-thought-out piece of legislation, and I am proud to be a cosponsor.

The bill prohibits denying insurance coverage to an employee or beneficiary on the basis of health status, which is defined as an individual's "medical condition, claims experience, receipt of health care, medical history, evidence of insurability, or disability." Fortunately, I was able to add two simple words to this list under health status—"genetic information." As medical science discovers what secrets our genes carry, the potential misuse of that information, whether through insurance or some other venue, becomes an ever-increasing possibility.

It is imperative that the strongest possible statutory protections exist against applying this information toward genetic discrimination. In the future, these discoveries of genetic information could lead to employment discrimination. That is why we need to conduct hearings on my bill and to pass the rest of this important legislation. Discoveries of genetic information could be the civil rights battle of the next century.

These two words make a good piece of legislation better, and I hope this language remains in the final health care bill. It is vital to ensure that all Americans, like those two little boys in California, do not have to go without health insurance because of a misspelling in a genetic script that they could not control and did not choose.

Mr. Speaker, I might point out that similar efforts have been made in some 20 States, including Florida, and they have either enacted or are studying laws that would limit the use of genetic information by insurance companies. According to the Council for Responsible Genetics, a nonprofit group that monitors social issues in biotechnology, a genetic underclass is being created by employers and insurers who use genetic tests to deny coverage or jobs.

THE 78TH INCREASE IN NATIONAL DEBT CEILING

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Michigan [Mr. SMITH] is recognized during morning business for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, day after tomorrow, on Thursday, this Congress is expected to pass its 78th increase in the debt ceiling of this country. Seventy-seven times, so far, we have increased the debt ceiling since the 1940's. We are now at $4.9 trillion of debt. A lot of people in this country, Mr. Speaker, do not really think that they are responsible for this excessive debt. What has happened in the last 40 years is Congress has lost control of spending.

Under section 1 of the Constitution, Congress is responsible for the purse strings. Congress is also responsible for how deep this country goes in debt. We have not only lost control of spending, but we have also lost control of how deep we go in debt, because in the last 7 months we have seen Secretary Rubin and the President of the United States find a new way to drive us deeper in debt without the consent of Congress. That way, of course, was raiding the trust funds that we have in this country.

Day after tomorrow, we are considering tying yet another diminishing of congressional power and tying that to the debt ceiling increase. That is the Presidential line-item veto, and I just want to mention that before I talk about this chart, the Presidential line-item veto.

I served under three Governors in the State of Michigan. In Michigan we have a line-item veto. In every case with every Governor, they traded what they wanted because they had the power of vetoing out what the legislature wanted in particular spending. You know, philosophically, when you have got a liberal Congress and a conservative President, then a line item veto might make sense in terms of trying to reduce spending. But actually what is going to happen with a conservative Congress that is trying to get to a balanced budget and reduce spending and a President that has found it to his political advantage to continue helping people with taxpayers' money; in other words, not reducing spending, not achieving a balanced budget; is that we end up spending more. We end up giving additional congressional authority away to the President.

Let me note, Mr. Speaker, this pie chart that represents the roughly $1.6 trillion expenditure of the Federal Government. If we start with the red triangle on this pie chart that represents about 18 percent of total Federal spending, that represents the 12 appropriation bills where Congress has control of the spending. In other words, if there is no bill passed by Congress, or if it is not signed by the President, then that reduced spending or no spending is what is going to happen.

Where the President has power is in the blue part of this pie chart that represents the welfare program spending and the other entitlement spending of this country. That represents now 50 percent of total Federal Government spending. So that there were some of us that thought it was reasonable to tie changes in the entitlement spending that is going to help us achieve a balanced budget, to tie that to yet another increase in the debt ceiling.

That now is not the plan in the bill that is going to be put before this body day after tomorrow, and I would suggest to you, Mr. Speaker, and through you to the American people, that we cannot balance the budget just by reducing the expenditures in the 12 appropriation bills where Congress now has full control. It just cannot be done.

I have studied this over the past several years. You cannot reduce that expenditure below about $200 billion this next year. It cannot possibly be done and still have a viable operation and system within this country.

That means that, if we are going to balance the budget, we have got to move into the welfare changes in the welfare program and entitlement programs. They are called entitlement programs, Mr. Speaker, because if you are at a certain level of poverty, you are eligible for food stamps. If you are a certain level of income and you have children, you are eligible for AFDC. If you are a certain age, you are entitled to other taxpayer helps in paying your medical costs. There is no money appropriated. It is in the law.

The only way that a majority in Congress can change that law is the consent of the President. I would ask my colleagues, Mr. Speaker, to study the proposal that we are being asked to pass day after tomorrow very carefully. It continues to move us in a direction where we are not going to be able to balance the budget.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12 of rule I, the House will stand in recess until 2 p.m.

Accordingly (at 12 o'clock and 53 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. UPTON] at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

How can we praise You, our God and our King,
How can we serve You with hands that we bring,
How can we love You with hearts that grow weak,
How can we cherish the gifts that we seek.
Yes we can praise You, for You lived us first,
Yes we can serve You, with faith be immersed,
Yes, we can love You, be deeds of good will,
Yes we can cherish Your peace to fulfill. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Maryland [Mr. GILCHREST] come forward and lead the House in the Pledge of Allegiance.

Mr. GILCHREST led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RANK AND FILE OF AFL–CIO WILL CONTINUE TO REJECT THE OLD-STYLE LIBERAL POLICIES OF CLINTON ADMINISTRATION AND LIBERAL UNION BOSSES

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I want to share with my colleagues news of the AFL–CIO's recent convention where the highest officials of the AFL–CIO, under newly elected union president John Sweeney, levied a $35 million tax increase on the rank and file men and women of our Nation's unions. This $35 million tax is being used to support an orchestrated, and highly political campaign to divide our Nation along class and income lines.

Needless to say, Mr. Speaker, the American people, especially the rank and file of our Nation's labor unions, will not allow Mr. Sweeney and the other liberal union bosses to turn back the clock on this Congress' pledge of fundamental change. We will continue our efforts to respond to the people of this great country. We will make the Federal Government smaller, more efficient and more user friendly. We will fight the bureaucrats here in Washington who refuse to let parents and families decide what should be taught in schools. And we will cut wasteful Federal spending so we can put more money back in to the pockets of working families.

Despite the rhetoric of the liberal, elite union leaders, I believe the working men and women of the AFL–CIO, will continue to reject the old-style liberal policies of Mr. Sweeney and the Clinton administration, and support of vision of a stronger, more prosperous America.

GOVERNMENT AND PRIVATE STUDIES, A LITTLE GOOFY?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I thought the Federal Government was a little goofy when they studied bovine flatulence, but there have been a couple of private studies that got my attention. One was the dynamics of peeling adhesive tape. The private study found out that it is very difficult to peel off tape in just one piece.

The second one was the pigeon discrimination of paintings by Monet and Picasso. They determined that, really, pigeons do not discriminate. They may defecate, but no discrimination is involved.

Then there is the big one: the impact of wet underwear on thermoregulatory responses and thermal comfort in cold. What they determined was if you wear wet underwear in frigid weather, you freeze your buns off.

If we think this is a waste of money, check this out, Congress: The FDA has spent $200,000 for tea tasters, $200,000 for a tea-tasting commission.

Mr. Speaker, beam me up. I yield back the balance of all of this money, both private and public.

MAKING HEALTH CARE AFFORDABLE AND ACCESSIBLE

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, last Congress I introduced the only health reform legislation that truly had bipartisan support. The Rowland-Bilirakis bill focused on areas where there was widespread agreement about the need for reform. Unfortunately, this legislation never made it to the House floor.

I recently introduced the Health Coverage Availability and Affordability Act. This bill allows portability, thus permitting people to move from job to job without losing their health coverage.

The bill eliminates prohibitions on preexisting conditions so that individuals can change jobs and still have access to affordable health care. This simple change will dramatically improve the lives of millions of American families. Right now, 25 million Americans are denied health insurance coverage because of a preexisting condition.

Mr. Speaker, we have the best health care system in the world—but there is room for improvement. Our plan improves health care in this country by making it both accessible and, just as important, affordable. I would encourage my colleagues to join me in eliminating job-lock by supporting the Health Coverage Availability and Affordability Act.

TRIBUTE TO THE LATE HONORABLE EDMUND S. MUSKIE

(Mr. LONGLEY asked and was given permission to address the House for 1 minute.)

Mr. LONGLEY. Mr. Speaker, it is my sad duty this afternoon to inform the House of the passing of Senator Edmund Muskie of Maine this morning at about 4 a.m.

Senator Muskie was 81 years of age, a graduate of Bates College and Cornell University Law School, a very distinguished public servant of the citizens of Maine and of the United States. He served three terms in the Maine House of Representatives in 1946 and 1948 and 1950, including a final term as the Democratic floor leader. In 1955, he was elected Governor, he served a second term, and he followed that with a career in the U.S. Senate that began in 1958.

In 1968, he was Democratic candidate for Vice President of the United States and built and earned a tremendous national reputation for his decency, his compassion and his moderation during that difficult time during the end of the Vietnam war. He also served as Secretary of State in the Cabinet of President Jimmy Carter from 1980 to 1981.

While there are many distinctions that we can discuss, not the least among them is the Senator's accomplishment in creating a second party, making Maine a two-party State, which is in the best interest of all of our citizens, but certainly as his legislative accomplishments on the national level are beyond peer, particularly in the area of environmental protection.

Senator Muskie was the author of many of the first pieces of legislation that this body passed back in the early 1960's dealing with the need to protect the quality of our air and our water. There are other issues that I could mention, but I think none more important than the fact that Senator Muskie was a kind and decent man who exercised and practiced respect for all of his constituents and all those with whom he had dealings. His demeanor is going to be missed. Certainly his integrity and his honesty are universally respected.

So we mourn his passing and we also express to his wife, Jane, and his five children, Steven, Ellen, Melinda, Martha, and Edmund, Jr., our deep and sincere regret at his passing.

ON SENATOR EDMUND MUSKIE

(Mr. MORAN asked and was given permission to address the House for 1 minute.)

Mr. MORAN. Mr. Speaker, on behalf of the Democratic minority, it is appropriate to take note of a distinguished Governor, U.S. Senator, Secretary of State, and Vice Presidential candidate. It is on Ed Muskie's shoulders that much of the intellectual foundation of our foreign policy rests in terms of the primary of human rights and the sustainable progress of economic development throughout the world. It was on Senator Muskie's watch and on his shoulders that these priorities were defined and promoted.

It is also appropriate to say that it was on his giant shoulders, that were so strong with integrity, that many of us lesser public servants have attempted to stand. Senator Muskie always stood tall and made us all proud to be public servants, and we deeply mourn his passing.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, March 27, 1996.

AUTHORIZING RUNNING OF 1996 SPECIAL OLYMPICS TORCH RELAY THROUGH CAPITOL GROUNDS

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 146) authorizing the 1996 Special Olympics Torch Relay to be run through the Capitol Grounds.

The Clerk read as follows:

H. CON. RES. 146

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZATION OF RUNNING OF SPECIAL OLYMPICS TORCH RELAY THROUGH CAPITOL GROUNDS.

On May 24, 1996, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate, the 1996 Special Olympics Torch Relay may be run through the Capitol Grounds, as part of the journey of the Special Olympics torch to the District of Columbia Special Olympics summer games at Gallaudet University in the District of Columbia.

SEC. 2. RESPONSIBILITY OF CAPITOL POLICE BOARD.

The Capitol Police Board shall take such actions as may be necessary to carry out section 1.

SEC. 3. CONDITIONS RELATING TO PHYSICAL PREPARATIONS.

The Architect of the Capitol may prescribe conditions for physical preparations for the event authorized by section 1.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Ohio [Mr. TRAFICANT] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 146 would authorize the Special Olympics torch to be run on the Capitol Grounds on May 24, 1996, as part of the journey of this torch to the Special Olympics summer games at Gallaudet University here in the District of Columbia.

This is an annual event and one which this committee has supported several times through resolutions authorizing the use of the Capitol Grounds for this purpose. This year approximately 3,000 members of 60 local and Federal law enforcement agencies throughout the region will participate in this 26-mile relay run through the city in support of the Special Olympics.

This program gives handicapped children and adults the opportunity to participate in sporting events.

Because of laws prohibiting open flames on Capitol Grounds, and because of safety concerns about activities taking place thereon, this resolution is necessary to permit the relay to occur. The resolution authorizes the Capitol Police Board to take necessary action to insure the safety of the Capitol, and the Architect of the Capitol may set forth conditions on the participation of this event.

This is a very worthwhile endeavor and I strongly encourage my colleagues to support this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Maryland [Mr. GILCHREST] for the fine job he has done with our subcommittee, and I wholeheartedly support House Concurrent Resolution 146 to authorize the use of the Capitol Grounds for this special event, the Special Olympics Torch Relay. This relay event is traditionally part of the opening ceremonies for the Special Olympics, which takes place at Gallaudet University here in the District. It is a fine annual event.

The games provide athletic competitive opportunities for over 2,200 Special Olympians in 17 respective events. The goal of the games is to help bring all mentally handicapped individuals into the large society under conditions whereby they are accepted and respected. Today more than 1 million children and adults with mental retardation participate in Special Olympics programs worldwide.

I want to thank the gentleman from Maryland [Mr. GILCHREST] for bringing the resolution to the floor and for the fine job he and his staff have done with our subcommittee, and I urge support on this very worthwhile cause.

Mr. Speaker, I reserve the balance of my time.

Mr. GILCHREST. Mr. speaker, I yield myself such time as I may consume in order to thank the gentleman from Ohio [Mr. TRAFICANT] and the gentlewoman from the District of Columbia [Ms. NORTON] for their participation in this worthy event, and for this worthy resolution.

Mr. TRAFICANT. Mr. Speaker, I want to echo those remarks by the gentleman from Maryland.

Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from the District of Columbia [Ms. NORTON], who has done an outstanding job in our Congress.

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding time to me, and for his kind remarks.

Mr. Speaker, I want to thank the chairman of the committee, the gentleman from Maryland, Mr. GILCHREST, as well as the ranking member, the gentleman from Ohio, JIM TRAFICANT, for their leadership on House Concurrent Resolution 146, the Special Olympics torch relay bill.

This body rarely authorizes the use of the Capitol Grounds for staging special events. The 11th annual torch relay for the D.C. Special Olympics is a worthy exception. This event, organized by more than 650 Federal and local law enforcement agencies in the District, is a special part of the opening ceremony for the D.C. Special Olympics at Gallaudet University. This year I am pleased that Coolidge High School in my district is also providing playing fields for some of the events.

The law enforcement torch relay raises both funds and awareness for D.C. Special Olympics. More than 2,400 officers follow the lighted torch through the District. This outpouring is a fitting tribute to the D.C. Special Olympics, and to the 2,200 local Special Olympians in 17 events. I applaud the Downtown Jaycees who started the Special Olympics in 1969, Eunice Shriver, the founder, the law enforcement officers who will participate, and especially, this year's Special Olympians.

Mr. OBERSTAR. Mr. Speaker, I strongly support this resolution to allow the Special Olympics Torch Relay to be run through the Capitol Grounds. The District of Columbia Special Olympics will be held May 13–23, 1996. The Special Olympics torch will be run across Capitol Grounds as part of the opening ceremonies which take place at Gallaudet University. As in the past, local law enforcement officials will participate in carrying the torch to the opening ceremony.

The DC Special Olympics provides opportunity for approximately 2,200 local Special Olympians in 17 events. Worldwide, over 1 million mentally challenged adults and children participate in the Special Olympics program. Through successful experiences and athletic competition, Special Olympians gain confidence, build a positive self image, and greatly enhance their ability to contribute to society.

I thank Mr. GILCHREST for introducing House Concurrent Resolution 146, and I commend him and Mr. TRAFICANT for their leadership on this issue. I wholeheartedly support this resolution and urge its adoption.

Mr. TRAFICANT. Mr. Speaker, I again join forces with the gentleman from Maryland [Mr. GILCHREST] to urge an "aye" vote, and I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 146.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING USE OF CAPITOL GROUNDS FOR 1996 NATIONAL PEACE OFFICERS' MEMORIAL SERVICE

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 147) authorizing the use of the Capitol Grounds for the 15th annual National Peace Officers' Memorial Service.

The Clerk read as follows:

H. CON. RES. 147

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE.

The National Fraternal Order of Police and its auxiliary shall be permitted to sponsor a public event, the fifteenth annual National Peace Officers' Memorial Service, on the Capitol grounds on May 15, 1996, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate, in order to honor the 155 law enforcement officers who died in the line of duty during 1995.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—The event authorized to be conducted on the Capitol grounds under section 1 shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board.

(b) EXPENSES AND LIABILITIES.—The National Fraternal Order of Police and its auxiliary shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. EVENT PREPARATIONS.

(a) STRUCTURES AND EQUIPMENT.—Subject to the approval of the Architect of the Capitol, the National Fraternal Order of Police and its auxiliary are authorized to erect upon the Capitol grounds such stage, sound amplification devices, and other related structures and equipment, as may be required for the event authorized to be conducted on the Capitol grounds under section 1.

(b) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements as may be required to carry out the event.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland [Mr. GILCHREST] and the gentleman from Ohio [Mr. TRAFICANT] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 147 would authorize the use of the Capitol Grounds for the 15th Annual Peace Officers' Memorial Service to be held on May 15, 1996. This year, as in past years, the U.S. Capitol Police will be the sponsoring law enforcement agency for this event. During the past year, 155 peace officers have lost their lives in the line of duty. This figure includes many of the dedicated Federal employees who lost their lives in the tragic bombing in Oklahoma City last April.

This year, it is expected that over 2,000 friends and family members of those who lost their lives last year will attend this event, and 15,000 peace officers will also participate.

This is a worthwhile endeavor, and I urge my colleagues to support this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge all to join me in supporting House Concurrent Resolution 147 which, as the gentleman from Maryland [Mr. GILCHREST] has stated, will authorize the use of the Capitol Grounds for the National Peace Officer's Memorial Service.

On May 15 of this year the Capitol Police will host law enforcement officials from around the Nation who will gather here to honor their fallen police officers. I would like to take this time to commend our Capitol Police. Many times they go unnoticed, and perhaps it is the lack of those headlines we do not read that are, maybe, the greatest testament to our own Capitol Police. I am proud of the Capitol Police's hosting this event. We should all support it.

In addition to the 155 officers killed in the line of duty in 1995, approximately, Mr. Speaker, 65,000 police officers are assaulted each year, with over 23,000 of our police officers sustaining injuries of some sort.

□ 1415

Everybody is tragically aware, as pointed out by the gentleman from Maryland [Mr. GILCHREST], of the unfortunate terrorist act in Oklahoma, but very few people realize that the target of those terrorists was our law enforcement personnel, as well as making a statement. It was a direct attack and assault on our law enforcement personnel.

I think it is absolutely fitting and proper that we join here and we allow the use of the Capitol Grounds, by an extension of the authority of Congress that vests that right within us and power within us, to our National Law Enforcement Officers Memorial Service. I believe that that purpose is most fitting.

I want to thank the gentleman from Maryland [Mr. GILCHREST] for the way he has dispatched his duties on this bill and others.

Mr. Speaker, with that, I have no further speakers, I urge an "aye" vote, and I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also want to thank the gentleman from Ohio [Mr. TRAFICANT] for his work on this resolution, for his work on the subcommittee. We have a truly bipartisan subcommittee that endeavors to do the work of the Nation, no matter how corny that might sound.

Mr. Speaker, as I mentioned in my opening statement, there will be over 15,000 police officers attending this memorial service. It is in dedication to the quiet courage of those law enforcement officers that have dedicated their lives to this great country. In that endeavor we pass this resolution.

Mr. OBERSTAR. Mr. Speaker, I join Mr. TRAFICANT and Mr. GILCHREST in supporting use of the Capitol Grounds for the 15th anniversary of the National Peace Officers' Memorial Service. May 15 is the day designated by President Kennedy as the day to honor all men and women who have dedicated and sacrificed their lives in order to protect our lives.

I commend Mr. TRAFICANT for introducing House Concurrent Resolution 147, and for being a staunch supporter of this program. As we all know, the Capitol Plaza is used for the candlelight memorial service, which is the culmination of a series of events honoring peace officers who have been killed in the line of duty. The 1996 service will be hosted by the Capitol Hill Police Department.

Tragically, during 1995, 155 law enforcement officers were killed while on duty. The average age of those officers was 37 years old and they had served the public for 9 years. Four of them were women. It is fitting and commendable that we support the efforts of the Capitol Police and the 675,000 law enforcement officials now serving in the United States.

Mr. Speaker, I strongly support House Concurrent Resolution 147, and I urge my colleagues to join me.

Mr. GILCHREST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from Maryland [Mr. GILCHREST] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 147.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

THE 35TH ANNIVERSARY OF THE PEACE CORPS

Mr. BEREUTER. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 158) to recognize the Peace Corps on the occasion of its 35th anniversary and the Americans who have served as Peace Corps volunteers.

The Clerk read as follows:

H.J. RES. 158

Whereas the Peace Corps has become a powerful symbol of America's commitment to expand hope, create opportunity, and encourage development at the grass roots level in the developing world;

Whereas more than 140,000 Americans have served as Peace Corps volunteers in more than 125 countries in Africa, Asia and the Pacific, Central Asia, Eastern and Central Europe, and the Western Hemisphere since 1961, and have strengthened the ties of friendship and understanding between the people of the United States and those of other countries;

Whereas Peace Corps volunteers have made significant and lasting contributions around the world in agriculture, business development, education, the environment, health, and youth development, and have improved the lives of individuals and communities around the world;

Whereas Peace Corps volunteers, enriched by their experiences overseas, have brought to their communities throughout the United States a deeper understanding of other cultures and traditions;

Whereas Peace Corps volunteers embody and represent many of America's most enduring values, such as service, commitment to the poor, and friendship among nations;

Whereas the Peace Corps continues to receive broad, bipartisan support in Congress and from the American people; and

Whereas March 1, 1996 will mark the 35th anniversary of the founding of the Peace Corps: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the achievements and contributions of the Peace Corps over the past 35 years be celebrated; that the dedication and sacrifice of Peace Corps volunteers be recognized and their continued contributions be acknowledged not only for their service in other countries but in their own communities; and that the President is requested to honor Peace Corps volunteers and reaffirm our Nation's commitment to international peace and understanding.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska [Mr. BEREUTER] and the gentleman from Virginia [Mr. MORAN] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Joint Resolution 158 recognizes the Peace Corps and its volunteers on its 35th anniversary year. Mr. FARR and the five other original cosponsors of this resolution are all former Peace Corps volunteers now serving their country here in the Congress. Their resolution recognizes the sacrifice and dedication of Peace Corps volunteers, both in their assigned countries and here at home after they return on the occasion of the Corps's 35th anniversary.

I will note that since the first volunteer stepped off the plane in 1961 at a little airport in Ghana, over 140,000 Americans have become Peace Corps veterans in the service of peace, understanding and development. Today, Peace Corps volunteers are older, more experienced and specialized but their mission is still the same: development and basic American values in the developing world at the grassroots level.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the distinguished chairman of the full committee.

Mr. GILMAN. I thank the gentleman for yielding me the time.

Mr. Speaker, we all can agree on the bipartisan strength of the Peace Corps in the 104th Congress. Founded under President Kennedy and its first Director, Sargent Shriver, the Peace Corps grew through the 1960's and 1970's but really came to the crossroads in the 1980's. I want to make a special note for the longest serving Peace Corps Director, Ms. Loret Ruppe, whose energy, drive, and dedication set the Peace Corps' goal that we still support today: 10,000 volunteers by the year 2000. Loret is now struggling with cancer but her mission and her impact on the Corps is still felt today. As Loret used to say, "Peace Corps volunteers are working today to help the African farmer and her husband * * *."

Last month, we debated a highly controversial State Department bill on the House floor. I think that one provision of that bill we could all support was the funding levels for the Peace Corps. The House conferees and especially former Peace Corps Director, Senator PAUL COVERDELL of Georgia, joined together to ensure funding for the Peace Corps, even in these tough budgetary times. Under its new Director, Mark Geran, I think this Congress is expecting a lot from the Peace Corps in its next 35 years.

I recommend this resolution to the House and urge its support.

Mr. MORAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Nebraska [Mr. BEREUTER], the subcommittee chairman, and the gentleman from New York [Mr. GILMAN], the full committee chairman, for bringing this resolution before the House. It is actually cosponsored by six Members of the House who are former Peace Corps volunteers: MIKE WARD, JIM WALSH, TONY HALL, CHRIS SHAYS, TOM PETRI, and SAM FARR.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. FARR] who has come all the way from his district to speak on this.

Mr. FARR of California. Mr. Speaker, I rise today as one of the six returned Peace Corps volunteers now serving in the House, and I rise in support of House Resolution 158, recognizing the Peace Corps' 35th anniversary.

Let me first take a minute to thank Chairman GILMAN and the Ranking Minority Member HAMILTON for bringing this measure to the floor. I also want to thank Mark Geran, who is the Director of the Peace Corps, who has been instrumental in the continuing success of the agency, as well as the other returned Peace Corps volunteers now serving in this country and serving in this Congress, my colleagues Representative TONY HALL of Ohio, Representative TOM PETRI, Representative MIKE WARD, Representative JIM WALSH, and Representative CHRIS SHAYS.

President Kennedy created this international service organization 35 years ago to promote international goodwill. During his powerful inaugural address, he challenged Americans with, "Ask not what your country can do for you, ask what you can do for your country," and many of them, including myself at that time, responded to that call and joined the Peace Corps in the early 1960's. The creation of the Peace Corps was part of this vision of his.

Today, there are currently 7,000 Americans working as Peace Corps volunteers. The average age in 1961, when President Kennedy made his call, was 22 years of age. Today, in 1996, the average age is 29 years old. Over 500 volunteers are over the age of 50. The educational experience of volunteers has grown; more volunteers with graduate degrees than ever before.

Over 140,000 returned volunteers have served in the Peace Corps in more than 125 countries, in Africa, Asia, Eastern and Central Europe. They have also served in the South Pacific and in Latin America.

The Peace Corps was formally established by Executive order on March 1, 1961. Volunteers were sent to Ghana, Colombia, and Tanzania, and over 850 volunteers were in the field by the end of the first year.

Soon volunteers teaching in schools were joined by those working in agriculture, health and nutrition, forestry, and fisheries. In the 1980's, the Peace Corps was refined and developed new initiatives in response to the special needs of the developing world.

In Lesotho, in Mali, and Niger, Peace Corps began the Africa Food Systems Initiative to assist farmers in need of innovative ways to increase food production. In the Caribbean, the Peace Corps has developed initiatives to stimulate job-creating small enterprises.

The Peace Corps has undertaken a lot of new initiatives. The Peace Corps has plans to send volunteers to South Africa in response to a request for assistance from President Nelson Mandela. The Peace Corps has also resumed its presence in Haiti following the successful Presidential elections. Currently the Peace Corps is investigating the feasibility of sending volunteers to the Middle East and to Cambodia.

The agency plans on development of a crisis corps to respond to natural disasters in developing countries. The story about that reached our office when volunteers were calling about the situation in Rwanda, saying that they had been there and served and spoke the language and knew the customs and the culture. They knew the history and the politics and they wanted to be able to go back. We did not have a facility in law to allow that, so we had to ask the State Department to make a special process for that, and that is what is now being developed into this Crisis Corps, so that indeed when we do have people that have the skills that are needed in countries with disasters, we can immediately get them there.

The purpose of the Peace Corps' mission is to promote world peace. Peace Corps volunteers have made significant and lasting contributions around the world in agriculture, business development, education, environmental health, and youth development, and they have improved the lives of thousands all over the world. The Peace Corps has become a powerful symbol of international humanitarianism.

The Peace Corps teaches volunteers the value of service and the value of commitment. The agency is an example of America's commitment to expanding hope, to creating opportunity and offering the volunteers an experience that they will remember for a lifetime.

At a time when funding for foreign assistance programs is under severe constraints, it is notable that the Peace Corps continues to enjoy strong support in this Congress and among the American people.

The agency is facing a strong future. In Friday's Washington Post it was quoted that the Peace Corps is the employer with the most job openings for graduates of the class of 1996. In fact, the demand for Peace Corps volunteers overseas far exceeds our ability to supply that demand, and I hope that in Congress we will appreciate that as we look at its budget next year and realize this is one area that is extremely cost effective. If we want to get a good bang for the buck, the Peace Corps is there and the countries want us to come.

The annual survey by Black Collegian magazine stated that the agency plans to recruit over 3,000 graduates. That is the third highest employer in the country. So while the Peace Corps is promoting international good will, it is key in benefiting our domestic economy as well.

Please join me and my colleagues in supporting this resolution to recognize the Peace Corps on the occasion of its 35th anniversary, and the contributions and achievements that its volunteers have brought home to America and are now achieving in countries all over the world.

Mr. PORTER. Mr. Speaker, will the gentleman yield?

Mr. FARR of California. I yield to the gentleman from Illinois.

Mr. PORTER. Mr. Speaker, I would say to the gentleman I have been on the Foreign Operations Subcommittee for 14 of the last 16 years, and the Peace Corps is one of the best things that we do in foreign relations, without any question. Even in the tough budgetary times in which we find ourselves, we have to maintain that commitment and increase it if we possibly can, and make certain that this good program, which after all is people-to-people, not government-to-government, people-to-people, continues and is strongly supported by the Congress.

Mr. FARR of California. Mr. Speaker, I appreciate the support on both sides of the aisle. I think this program is one that we can all be proud of, and in a time when people think that there is debate and rancor among the parties in Congress, I can tell that this is one area where we all agree that America has created a fantastic opportunity for its youth, for its people of all ages to be able to experience overseas living as minorities in another land.

□ 1430

As a return volunteer, I reflect on my experience every day, and I appreciate the support Congress is giving it.

Mr. MORAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is amazing that there have only been 140,000 volunteers over the last 35 years, when you consider the profound impact that the Peace Corps has had in the lives of individuals and in fact in the progress of nations around the world. But the impact has also been felt in terms of the volunteers. We just heard from one. There are several others in this body.

The fact is that the leaders in government and in industry in America today in many ways share that common experience of having been Peace Corps volunteers. I hope that will continue to be the case, because not only do we share our national know-how and good will, but we benefit a great deal with that broadened experience.

I just want to say that we in the minority, as well as the gentleman from New York, Chairman GILMAN, expressed for the majority, applaud President Clinton's selection of Mark Gearan to be Director of the Peace Corps. We could not have had a better choice. We appreciate the fact that again we have a broad bipartisan support for this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. FARR of California. Mr. Speaker, I rise today in support of House Joint Resolution 158 recognizing the Peace Corps on its 35th anniversary.

President John Kennedy created this international service organization 35 years ago to promote international good will. During his powerful inaugural speech the young President challenged Americans with, "Ask not what your country can do for you, ask what you can do for your country." The Peace Corps was part of this vision for how Americans could play a positive role in the developing world. In its 35 years, the Peace Corps has come to represent what is best about our country and our character as a people: our ability to forge a spirit of idealism with a commonsense approach to what works for people who need and want our help.

My other returned Peace Corps volunteer colleagues and I know the value of volunteer service and the significance of this fine agency. I had the benefit of serving in the Peace Corps in Colombia in the early 1960's. That experience has led me to serve my community in local, State, and Federal Government. Peace Corps taught me the value of service, responsibility, and commitment.

Currently, there are nearly 7,000 Americans working as Peace Corps volunteers. They work at the grassroots level in places far from their homes and families. Some volunteers do not see other Americans for months at a time. They are completely entrenched in their countries of service. They speak the language, eat their food, and share their culture. They put a face on America and its values around the world.

Volunteers serve in many different programs ranging from the traditional education and health programs to promoting new sustainable programs to benefit agriculture, the environment, and economic development.

Education remains Peace Corps' largest program. Over 40 percent of all volunteers teach English, mathematics, science, and business studies. They work in special education, vocational educations, and nonformal education activities for adults and at-risk youth. In addition to classroom teaching, volunteers work closely with local educators to share methodology, integrate relevant content and resource centers and teaching materials. In Cameroon, volunteers have helped develop a manual on teaching HIV/AIDS prevention in English-language classes. The manual has since been adopted for public use by the Ministry of Education.

Teaching and prevention of HIV/AIDS to citizens in high-risk groups has played a major part in the health services provided by volunteers. In Thailand, volunteers have conducted surveys to help the country update its HIV/AIDS education materials. Other health services performed by volunteers include providing primary health care services to many of the world's women and children including maternal and child health activities, nutrition, community health education, and water and sanitation projects.

Peace Corps is the leader in protecting the global environment. The focus of the environmental strategy is on community work, teaching conservation of national resources, and sustainable resource management. Much of the environmental work is in forestry management, reforestation, and watershed management. The fastest growing new project activity is environmental educations. Volunteers in Tanzania, home of the largest wildlife refuge, are involved in projects ranging from codifying Tanzanian environmental law to ensure protection of exported birds to preparing a management plan for Ileje Forestry Reserve and teaching environmental education in the schools.

Food production remains to be a priority for many nations in Africa, Asia, Latin America, and the former Soviet Union. Rapidly expanding populations, changes in climate, and a series of natural and man-made disasters have created serious food shortages. With most people in developing nations still practicing subsistence farming, there is a critical need to introduce and apply sustainable agricultural techniques to village farmers. In Guatemala, volunteers are teaching farmers how to increase their family incomes and produce animal protein for dietary intake through the integration of fish and small animal production.

The fastest growing program for volunteers is economic development especially in Eastern Europe. Volunteers promote local economic development through self-sustaining income and employment producing practices. Working with local community leaders, businesses, and trade associations, volunteers teach business management, commercial banking and related skills assisting local efforts to establish free market economies. In Poland, a volunteer has been instrumental in establishing 46 small businesses with no-interest loans from the local government with only a 6-percent default rate.

The Peace Corps has become a powerful symbol of international humanitarianism. It is a goal which hundreds of people strive toward each year. Not just young college graduates, but people of all ages. In fact, 9 percent of Peace Corps volunteers are over 50 years old.

The Peace Corps remains a popular calling; there is not one State in the country which has not sent a Peace Corps volunteer. In my State of California, over 20,000 people have volunteered to serve around the world.

The Peace Corps has become a powerful symbol of America's commitment to expand hope, create opportunity, and encourage development at the grassroots level in the developing world.

Volunteers embody and represent many of America's most enduring values, such as service, commitment to the poor, and friendship among nations. Returned volunteers, enriched by their experiences overseas, have brought to their communities throughout the United States a deeper understanding of other cultures and traditions.

At a time when funding for foreign assistance programs is under severe constraints, it is notable that the Peace Corps continues to enjoy strong support in the Congress and among the American people. That is a tribute to the thousands of Americans—young and old—who have served over the past 35 years, often under very difficult conditions. And it is a tribute to the visionary but simple idea behind the Peace Corps: that the world will be a more peaceful place if we understand one another better and if we can help those in need improve their own lives and that of their families and communities.

Join me in supporting House Joint Resolution 158, recognizing and honoring the Peace Corps' achievements and contributions and its volunteers over the past 35 years.

Mr. HALL of Ohio. Mr. Speaker, let me begin by thanking my colleague from California, Mr. FARR, for his work on this resolution, and his consistent efforts in the past to recognize and support the Peace Corps.

Since 1961, when President John F. Kennedy signed an Executive order establishing the Peace Corps, 140,000 men and women have represented America by volunteering in 125 countries around the world. I am proud to say that I am among that number.

For me, the Peace Corps represents the best that this Government has to offer. When we bring together dedicated, energetic people and arm them with tools to work in foreign communities as ambassadors of peace, things happen—people's lives improve—and we all benefit. Today, nearly 7,000 such dedicated individuals are serving as Peace Corps volunteers in 94 different countries. They are improving the environmental, agricultural, and business infrastructures in those nations. They are educating the children, caring for the sick, and teaching the poorest of the poor how to help themselves. But, most importantly, these volunteers are the face of America for people across the globe. They are people-to-people diplomats building a peaceful world from the ground up.

But, it's not easy. I know first-hand the challenges and difficulties that these Peace Corps volunteers face. I also know the tremendous rewards. My Peace Corps experience changed my life. When I graduated from college in 1964, I had dreams of playing pro football, making big money, and driving fast cars. Instead, I ended up teaching English and riding a bicycle through the jungles of Thailand.

During my first night in Thailand, I sat in a restaurant and watched a cat chase a rat across the floor and devour it. I thought, "What am I doing here." But, as I got to know the people in the village, my whole outlook changed. I came home from Thailand with a better understanding of the world, with my priorities in order, and prepared for a life of public service.

No other institution does what the Peace Corps does. It serves the needy of the world in concrete, practical ways. It promotes world peace. And, every year, it brings 3,000 experienced, multicultural, and compassionate volunteers back home to America. During its long and distinguished history, the Peace Corps has enjoyed wide public approval and bipartisan support here in Congress. I certainly hope that that support continues as the 1997 appropriation process goes forward.

Today, as it celebrates its 35th anniversary, the Peace Corps deserves our highest recognition and I commend all of its past and current volunteers for 35 years of success.

Mr. QUINN. Mr. Speaker, 35 years ago President John F. Kennedy had a dream. He wanted to share America's idealism and know-how with other nations, not just through impersonal foreign aid loans or grants, but more importantly through direct people-to-people contact. He wanted American citizens to work directly in foreign nations, helping those in need to learn how to develop the basic skills necessary to promote their own well-being and advancement. As a result of his dream turned into reality, whole societies have gained insight and experience in improving their lives, from learning how to drill wells and improve their agricultural output to developing the social, educational, and medical skills necessary for their well-being.

This program, established through the Peace Corps Act of 1961, now provides programs in over 90 different countries. Its purpose, to promote world peace and friendship, to help other countries in meeting their needs for trained men and women, and to promote understanding between the American people and other peoples served by the Corps has had an unprecedented record of success.

Volunteers from throughout the Nation, including many from my own northwestern New York, have selflessly given of themselves through 2-year commitments in foreign countries where they lived and worked as integral parts of the communities in which they served.

Peace Corps volunteers today work in six basic program areas: Education, agriculture, health, small business development, urban development, and the environment. Community-level projects are designed to incorporate the skills of volunteers with the resources of host country agencies and other international assistance organizations to help solve specific development problems, often in conjunction with private volunteer organizations.

In the United States, the Peace Corps also serves an important purpose in promoting a better understanding of the people and cultures of other countries. Through the Peace Corps World Wise Schools Program, volunteers are matched with elementary and junior high schools throughout our Nation to encourage an exchange of letters, pictures, music, and artifacts. Participating students increase their knowledge of geography, languages, and different cultures, as well as learning the value of volunteering, whether in their own communities or in faraway nations.

The Peace Corps is a dream that fortunately became a reality. It is a program for which every American can be proud, both for what it has accomplished and for what it is now doing. To the Peace Corps and its thousands of volunteers, I offer a sincere congratulations and thank you on this, its 35th anniversary.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from Nebraska [Mr. BEREUTER] that the House suspend the rules and pass the joint resolution, House Joint Resolution 158.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

DETERIORATION OF HUMAN RIGHTS IN CAMBODIA

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 345), expressing concern about the deterioration of human rights in Cambodia, as amended.

The Clerk read as follows:

H. RES. 345

Whereas the Paris Peace Accords of 1991 and the successful national elections of 1993 ended two decades of civil war and genocide in Cambodia, demonstrated the commitment of the Cambodian people to democracy and stability, and established a national constitution guaranteeing fundamental human rights;

Whereas since 1991 the international community has contributed more than $3,000,000,000 to peacekeeping and national reconstruction in Cambodia and currently provides over 40 percent of the budget of the Cambodian Government;

Whereas recent events in Cambodia, including the arrest and exile of former Foreign Minister Prince Sirivudh, the expulsion of the former Finance Minister Sam Rainsy from the government coalition FUNCINPEC Party and the National Assembly, a grenade attack against the independent Buddhist Liberal Democratic Party of Cambodia, and mob attacks against pro-opposition newspapers, suggest that Cambodia is sliding back into a pattern of violence and repression;

Whereas rampant official corruption in the Cambodian Government has emerged as a major cause of public dissatisfaction, which in turn has resulted in the government crackdown against these outspoken opposition politicians and the press;

Whereas heroin traffic in and through Cambodia has become so widespread that Cambodia has been added to the Department of State's list of major narcotics trafficking countries;

Whereas the desire to cite Cambodia as a success story for United Nations peacekeeping and international cooperation has stifled the expression of concern about deteriorating human rights conditions in Cambodia; and

Whereas conditions in Cambodia have deteriorated since the House of Representatives passed House Bill 1642 on July 11, 1995, which grants Cambodia unconditional most favored trading status: Now, therefore, be it

Resolved, That the House of Representatives—

(1) urges the Secretary of State to make human rights concerns among the primary objectives in bilateral relations with Cambodia;

(2) urges the Secretary of State to closely monitor preparations for upcoming Cambodian elections in 1997 and 1998 and attempt to secure the agreement of the Cambodian Government to full and unhindered participation of international observers for these elections;

(3) urges the Secretary of State to support the continuation of human rights monitoring in Cambodia by the United Nations, including monitoring through the office of the United Nations Center for Human Rights in Phnom Penh and monitoring by the Special Representative of the United Nations Secretary General for Human Rights in Cambodia;

(4) urges the Secretary of State to encourage Cambodia's other donors and trading partners to raise human rights concerns with Cambodia;

(5) supports efforts by the United States to provide assistance to Cambodia to broaden democratic civil society, to strengthen the rule of law and to ensure that future elections in Cambodia are free and fair; and

(6) urges that the United States raise human rights concerns at the June 1996 meeting of the Donor's Consultative Meeting for Cambodia and during consideration of projects in Cambodia to be financed by international financial institutions.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from Virginia [Mr. MORAN] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it has been 2 years since Cambodia had its first democratic election that brought to power the current coalition government.

Over the past 4 years, the United States donated some $700 million to the efforts to help Cambodia rebuild its economy and become a democracy.

But some very serious problems remain.

Last year the Cambodian National Assembly passed a provision to the press law that will allow the Government under the vague rubric of national security and political stability virtually unfettered power to confiscate and close down newspapers and charge journalists with criminal offenses.

The government has requested prosecution and closure of several Cambodian newspapers, as well as the highly regarded English language weekly, the Phnom Penh Post.

In addition to these problems, there are the serious questions surrounding the unsolved killings of three journalists, and the expulsion and threatened expulsion of members of parliament who expressed views critical of the ruling coalition.

One trial ended with the conviction of Thun Bun Ly, the editor of Khmer Ideal on charges of disinformation for critical and satirical essays that the paper published.

The newspaper has been closed and Thun Bun Ly has been fined 10 million riel—$4,000—and sentenced to 2 years of imprisonment should he fail to pay in 2 months.

The Congress needs to closely watch the situation in Cambodia. The leaders of that nation need to permit the development of an independent judiciary, to allow for complete freedom of the press and independent political participation.

Another important issue is the drug trade. there are many reports coming out of the region pointing out that Cambodia's army and security apparatus is providing transportation and protection for the heroin trade.

I want to thank the chairman of the subcommittee, Mr. BEREUTER, and the ranking minority member, for their work on House Resolution 345.

House Resolution 345 expresses important American concerns and I wholeheartedly support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. MORAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Democratic minority is going to support this resolution as amended. We do wish it was a little bit more balanced. It is true certainly that the human rights situation in Cambodia has deteriorated over the past year, but the resolution does not adequately recognize the difficulties that Cambodia faces.

Cambodia is not a police state. It is far more open and free than many of its neighbors. Unlike many of its neighbors, it has an active opposition press that does not hesitate to criticize the government and, in many ways, in an inflammatory language that we would be shocked at in this country.

While it is true that government troops have committed human rights violations, it is also true that the Cambodian Government and military have stepped up their efforts to ensure that these abuses are not repeated. The U.S. Government is in fact funding those efforts.

So I would urge my colleagues not to give up on Cambodia, given that country's tragic history over the past quarter century in which we played a significant role. We should not be surprised if it fails to fully live up to our ideals on human rights. Progress is being made.

Mr. Speaker, I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER], the distinguished chairman of our Subcommittee on Asia and the Pacific.

Mr. BEREUTER. Mr. Speaker, I want to thank the chairman of the committee for yielding me this time and for his support.

Mr. Speaker, this Member introduced House Resolution 345 to put the Cambodian Government on notice that the House is increasingly concerned about the deterioration of democracy and human rights in that country. The resolution at the desk includes two minor technical corrections. the first corrects the date of upcoming elections; the second notes the fact that Cambodia has been added to the State Department's list of narcotics trafficking countries.

Mr. Speaker, Cambodia has made tremendous strides toward democracy since the killing fields of Pol Pot and the Vietnamese occupation; but serious problems remain. House Resolution 345, while commending the Cambodian people for their commitment to democracy and stability, expresses serious concern about human rights problems in that country. This Member is concerned that the desire by the administration and the international community to cite Cambodia as a success story for U.N. peacekeeping has stifled the expression of concern about the deterioration of democracy and human rights conditions in Cambodia.

On September 21, 1995, the Subcommittee on Asia and the Pacific held hearings on internal stability, democracy, and economic development in Cambodia. At this hearing, several well-informed private witnesses, including the International Republican Institute, described a serious deterioration of democracy and human rights in Cambodia during the last 12 months.

Few people have experienced as much suffering the last 30 years as the people of Cambodia. Cambodia was drawn into the Vietnam war. The country endured 3 years of tyrannical rule by the Khmer Rouge [KR], under which more than 1 million Cambodians perished. Cambodia was invaded by Vietnam in 1979 and then suffered another 12 years of civil war.

Cambodia's road back from this horror began with the October 1991 Paris Peace Accords, under the auspices of the United Nations. These accords led to remarkably successful national elections in May 1993, during which 90 percent of Cambodia's eligible voters braved threats from Pol Pot and his henchmen and voted to install a democratic parliamentary system of government. Cambodia's national unity coalition government, which resulted from these elections, demonstrates the desire of the Cambodian people for representative government and stability.

The 1993 elections, however, were only the first step toward democracy in Cambodia. The impediments remain formidable: the Khmer Rouge continues to fight a low intensity war against the Government; the former ruling party—the ex-communist Cambodian People's Party—has found it difficult to share power; the royalist party which won the elections has been charged with corruption; and, the Government seems to be drifting toward authoritarianism.

Not only are there questions about the depth and staying-power of the current democratic system in Cambodia, but the Government of Cambodia has taken some troubling actions. As a parliamentarian, and Member of Congress, I am very troubled by what appears to be an increasing tendency toward intolerance of dissent in the Cambodian National Assembly. The expulsion from the National Assembly of the outspoken Sam Rainsy, the arrest and exile of former Foreign Minister Prince Sirivudh, and the threatened expulsion of other legislators is of particular concern. Moreover, the arrest of some journalists and the enactment of a restrictive press law raise questions about the Cambodian Government's commitment to free speech and a free press.

Mr. Speaker, since the House acted to approve most-favored-nation trading status for Cambodia earlier this year, we certainly now need to balance that action with a straightforward message to Phnom Penh on human rights violations. That is exactly what House Resolution 345, as amended, does.

One positive sign, which could make a long-term contribution to democracy and human rights in Cambodia, is the strong network of local and international nongovernment organizations. This Member commends the Government for its continued welcoming of NGO's in that country and hopes this positive attitude will continue.

The resolution urges the administration to bring a larger effort to making democracy and human rights concerns among our primary objectives in bilateral relations with Cambodia, calls for close monitoring of important upcoming elections, supports democratization efforts of United States assistance programs, and urges that the United States and other donors raise democracy and human rights at the June 1996 meeting of the Donor's Consultative Meeting for Cambodia.

Mr. Speaker, House Resolution 345 represents a balanced and constructive effort to advance democracy and human rights in Cambodia. This Member wants to thank the distinguished gentleman from New York and chairman of the House International Relations Committee, [Mr. GILMAN] and the distinguished Member from California and ranking member of the Subcommittee on Asia and the Pacific, [Mr. BERMAN] for their assistance and support for this resolution. This Member urges all his colleagues in this body to support House Resolution 345, as amended.

Mr. GILMAN. Mr. Speaker, I thank the distinguished chairman of our subcommittee, the gentleman from Nebraska [Mr. BEREUTER] for his supportive comments.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HORN. Mr. Speaker, the recent appalling murder of Haing S. Ngor has refocused the world's attention on the horrors suffered by the Cambodian people at the hands of the Khmer Rouge. Mr. Ngor worked tirelessly to remind us that human rights tragedies were still occurring in his native country. We must continue his work.

I strongly support House Resolution 345 expressing concern about the deterioration of human rights in Cambodia. Our Government must support efforts to establish a strong, free society there—and rally other nations to join us. Anything less would dishonor Mr. Ngor and the 1 million Cambodians who have died at the hands of tyranny over the last two decades.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the resolution, House Resolution 345, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

□ 1445

ANNIVERSARY OF MASSACRE OF KURDS BY IRAQI GOVERNMENT

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 379) expressing the sense of the House of Representatives concerning the eighth anniversary of the massacre of over 5,000 Kurds as a result of a gas bomb attack by the Iraqi Government.

The Clerk read as follows:

H. RES. 379

Whereas over four million Kurds live in Iraq, composing 20 percent of the population;

Whereas the Iraqi Government has continually taken violent actions against Kurds living in Iraq;

Whereas, on March 17, 1988, the Iraqi Government, by its own admission, used chemical weapons against Iraqi Kurd civilians in the Kurdish frontier village of Halabja, resulting in the death of over 5,000 innocent persons;

Whereas this terrible, inhumane act by the repressive Iraqi Government provoked international outrage;

Whereas the Iraqi Government continued its use of chemical weapons against a defenseless Kurdish population throughout 1988;

Whereas over 182,000 Iraqi Kurds were killed by the Iraqi Government during the Anfal campaigns in 1988;

Whereas it was not until the international response to Iraq's invasion of Kuwait in 1990 that the international community instituted measures to destroy Iraq's arsenal of weapons of mass destruction;

Whereas the Iraqi Government has laid over 20 million mines throughout the Kurdish countryside which continue to hamper efforts of rehabilitation of the displaced population;

Whereas United Nations Security Council Resolution 688 of April 1, 1991, demanded that Iraq cease repression of its citizens and called for an international relief program for the Iraqi civilian population and, in particular the Kurdish population;

Whereas, since the spring of 1991, the United States, Britain, and France have enforced by daily overflights a no-fly zone over Iraq north of the 36th parallel;

Whereas, in addition to the allied air umbrella, the United Nations carries out relief and security operations in Iraq, with emphasis on the Kurdish region;

Whereas, since 1991, the United States has provided approximately $1.2 billion to support humanitarian and protective activities, known as Operation Provide Comfort, on behalf of the Iraqi Kurds; and

Whereas there will never truly be peace for the Iraqi Kurds without justice being carried out against their Iraqi perpetrators: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the United States Administration should—

(1) mark the eighth anniversary of the death of over 5,000 Iraqi Kurds in the 1988 chemical attack by the Iraqi Government on Halabja by commemorating all those innocent men, women, and children who lost their lives;

(2) reaffirm the United States' commitment to protect and help the Kurdish people in Iraq, thus ensuring that the tragedy of Halabja will never be repeated;

(3) support efforts to promote a democratic alternative to the present regime in Iraq which will assure the Kurdish people the right to self-government through a federal system; and

(4) renew efforts to establish an international war crime tribunal to prosecute Iraqi leaders involved in crimes against humanity and war crimes.

The SPEAKER pro tempore (Mr. UPTON). Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from Virginia [Mr. MORAN] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Resolution 379, legislation introduced by our distinguished colleague the gentleman from Illinois [Mr. PORTER], which expresses the sense of Congress regarding the eighth anniversary on March 17, 1996, of the massacre of 5,000 Iraqi Kurds as a result of a gas bomb attack by the Iraqi Government.

The United States is well aware of the brutal actions of Saddam Hussein's regime against Iraqi minorities, particularly Iraqi Kurds, who are now protected in northern Iraq by Operation Provide Comfort. United States support for Operation Provide Comfort is substantial, through our participation in monitoring the no-fly zone over Iraq north of the 36th parallel, and through our approximately $1.2 billion in humanitarian and protective activities there to assist the Kurds in the north, in which we are also able to deter Saddam's aggression.

House Resolution 379 recalls the events of March 17, 1988, and calls upon the administration to: Commemorate the memories of those innocents who lost their lives in that tragic attack; reaffirm the United States commitment to protect and assist the Kurdish minority in Iraq, to ensure that the Halabja massacre does not happen again; support efforts to promote a democratic alternative to the present regime in Iraq which will assure the Kurds the right to self-government through a federal system; and renew efforts to establish an international war crimes tribunal to prosecute Iraqi leaders involved in crimes against humanity.

Mr. Speaker, the gentleman from Illinois [Mr. PORTER] is to be commended for his sponsorship of this resolution, and for his consistent leadership in fighting for human rights. Accordingly, I support the gentleman's resolution, and urge my colleagues to support it as well.

Mr. Speaker, I reserve the balance of my time.

Mr. MORAN. Mr. Speaker, I yield myself such time as I may consume.

The minority applauds this resolution introduced by the gentleman from Illinois [Mr. PORTER] and appreciates the gentleman from New York [Mr. GILMAN], the chairman, bringing it to the floor. It is appropriate that we express our sense of outrage over the massacre of 5,000 Kurds by gas bomb attack. It is a timely reminder that we have to continue our vigilance and pressure against Iraq with and on behalf of the international community.

This resolution reaffirms our commitment to protect and to help the Kurdish people in Iraq. It supports efforts to promote a democratic alternative to the present regime in Iraq which will assure the Kurdish people the right to self-government through a federal system, and it calls on the administration to renew efforts to establish an international war crimes tribunal to prosecute Iraqi leaders involved in crimes against humanity and war crimes and their principal leader, in particular, Saddam Hussein.

So this is a good resolution, and we would urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois [Mr. PORTER], distinguished co-chairman of our human rights caucus, who has been a leader in our battle for human rights and has brought this Kurdish problem to our attention for a number of years.

Mr. PORTER. Mr. Speaker, I thank the distinguished chairman for yielding time to me. I particularly thank him for his tremendous leadership in fighting for the rights of minorities all across the world.

He has been steadfast in his support for the Kurdish people, the largest ethnic group in the world not to have a country of their own, 25 million people divided between Turkey, Iraq, Iran, and Syria. The gentleman from New York has been absolutely outstanding in his leadership, to draw our attention to their plight in several of these countries and to fight for their basic human rights.

Mr. Speaker, 8 years ago on March 17, 1988, Saddam Hussein's regime attacked the Kurdish town of Halabja using poison gas and nerve gas. Over 5,000 civilians, including women and children, perished in this attack. Following the attack, the Iraqi Government demonstrated just how terrible and inhumane it is by continuing its reign of terror against the Kurds.

Throughout 1988, over 182,000 Iraqi Kurds were killed by the Iraqi Government in vicious gas attacks. It was not until Iraq's invasion of Kuwait in 1990 that the international community stepped forward and took measures to destroy Iraq's arsenal of weapons of mass destruction.

Today the United States and the international community support efforts to protect the Iraqi Kurds. The United States has been instrumental in ensuring that humanitarian assistance reaches Kurds in Iraq and that they are protected from Iraqi Government attacks.

The plight of the Iraqi Kurds, however, remains precarious at best. Saddam Hussein continues to terrorize the Kurdish region through acts of sabotage and economic embargo. Additionally, over 20 million land mines laid by the Iraqi Government throughout the Kurdish countryside continually hamper relief efforts. Today there are posed on the edge of the Kurdish area 100,000 Iraqi troops threatening those areas.

Mr. Speaker, the Iraqi Government refuses to guarantee its citizens basic human rights and the right to live under the rule of law. The United Nations imposed sanctions as a result of Iraq's 1990 invasion of Kuwait. Saddam Hussein continuously refuses to comply with the U.N. Security Council resolutions.

As a result, the economy continues to deteriorate, but it is not Saddam Hussein who suffers the terrible cost of a debilitating economy, Mr. Speaker. Instead, those who bear the burden of a dictator's cruel and senseless policy are the innocent citizens who are refused the right to change their government and whose freedoms of expression and association are denied. Basic human rights only exist in the Kurdish-controlled areas in the north because of the protection of international forces.

Iraq must continue to be ostracized from the community of nations, Mr. Speaker, until its conduct begins to approach a respect for basic rights of each human being to live, to worship and to speak according to the dictates of his or her own conscience.

We must never ever forget those Iraqi Kurds who lost their lives as the result of the terrible, despicable acts of a repressive dictator. Mr. Speaker, the responsibility falls to us to ensure that their memory forever remains alive.

Mr. Speaker, past events make crystal clear that Saddam Hussein would attack the Kurds tomorrow if the United States did not protect them. Since 1991, Operation Provide Comfort has provided humanitarian assistance and protective activities on behalf of the Iraqi Kurds.

Without the support both morally and economically of the United States, I believe without the slightest doubt that many more innocent Kurdish men, women, and children would have lost their lives. The United States must continue to stand with those like the

Iraqi Kurds who refuse to surrender their basic human rights to the present repressive and monstrous ways of dictators like Saddam Hussein.

Mr. Speaker, with the passage of this resolution today, Congress will go on record as commemorating the March 17, 1988 attack on the Iraqi Kurds and reaffirming strong United States support for the Kurdish people of Iraq. I strongly urge the adoption of this resolution.

Mr. Speaker, let me also comment upon a related matter. Recently our ally, Turkey, has chosen a new prime minister, Mesut Yilmaz. He has recently called for a new dialog with Greece that would intend to resolve many ongoing disputes and to bring Turkey and Greece into the kind of relation, or allies with one another, that would reflect well upon both countries and would lead to a lessening of tensions in the geographic region.

As part of that announcement, Prime Minister Yilmaz also said that he would like to open a border gate with Armenia, if he saw clear signs of progress toward a peace settlement between Armenia and Azerbaijan in their 5-year war over Nagorno-Karabakh.

He also said, Mr. Speaker, that regarding the repression of the Kurds in southern Turkey by the Turkish Government, that he would put upon the table a plan that would include granting the Kurds in Turkey cultural liberties such as the Kurdish language education that moderate Kurdish groups have long sought.

Mr. Speaker, he said also that the state of emergency would gradually be lifted in the southeast region and that measures would be taken to stimulate its economy which has suffered during the long conflict.

Mr. Speaker, he said that, and I quote, "after having witnessed such terrible events in the past, after losing 15,000 people. I believe we have come to a common understanding that this problem can be solved only by peaceful means and not by military means."

Mr. Speaker, this is extremely good news. This is what the United States and those of us in Congress concerned with the plight of the Kurds in Turkey have long sought. If the Turkish Government can follow through and the Turkish people can support their new prime minister in this endeavor, I believe that the lives of thousands and thousands of innocent people, part of the Kurdish minority as well as the lives of Turkish citizens will be spared.

I commend the new prime minister, Mr. Yilmaz, on taking this initiative. I know that it takes great political courage in Turkey to do so. We will promise that we will work together with the Turkish Government to achieve the settlement of differences with Greece, the opening of a positive relationship with Armenia and on the resolution of the terrible conflict in southeast Turkey that has claimed so many lives, made so many people homeless and refugees in their own country and had plagued the entire country for such a long, long time.

□ 1500

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

I want to commend the gentleman from Illinois [Mr. PORTER] first and foremost for this fine resolution and for his leadership on these issues. He has been tenacious over the years in raising the issue of the such maligned and troubled Kurds who have suffered so much, and I want to thank him for remembering, through this resolution, that horrible day when some 5,000 people were killed by poison gas.

I will never forget the picture of that mother clutching her young child, with the child's mouth gaping open. As a result of the gas, the impact of the gas, there was a look of absolute fright on both mother and baby; just one of the Kurds killed by Saddam Hussein, one of the many.

I also want to remind everyone that the regime of Saddam Hussein continues to kill, torture and illegally imprison members of the Kurdish minority in Iraq, as well as anyone else who displeases the regime. Relief workers who have gone in to help the Kurdish refugees have also been the victims of extrajudicial executions as well as disappearances.

Mr. Speaker, back in the early 1990's I was part of the Speaker's mission that went to the refugee camps on the border of Turkey and Iraq and met with many of the Kurds who were fleeing the repression. It was right in the aftermath of the Persian Gulf war, and the Republican Guard were in hot pursuit of this Kurdish minority. It was very compelling and encouraging for me to see how our military carried on "Operation Provide Comfort." They came in, they organized, and they were able to provide the logistical support for medicines and food to be dispersed, and thousands of Kurds were spared because of the humanitarian efforts of the United States military as part of "Operation Provide Comfort". After several months, the situation was stabilized, and the baton was passed to the nongovernmental organizations that then carried on the good work of providing this important relief.

Mr. Speaker, as my good friend and colleague, the gentleman from Illinois [Mr. PORTER], pointed out, the Kurds do suffer much in Turkey as well. We have had hearings, on the subject including one just this morning. The gentleman from Virginia [Mr. MORAN] was there, the gentleman from New York [Mr. GILMAN], the gentleman from Illinois [Mr. HYDE] and other members of our committee and subcommittee, and we focused on one of these areas, the proposed sale of Cobras to Turkey. As the chair of the Subcommittee on International Operations & Human Rights I believe that it would be outrageous to send Cobras to Turkey after the military might of the Turkish regime has been used in an ethnic cleansing effort against the Kurds, again another sad chapter in the kind of cruelty that these people have had to endure.

What is pointed out in this resolution, the massacre of the 5,000, is but one rather large and very terrible event in a series of tragedies that have been visited upon the suffering Kurdish minorities. So this is an important resolution, and I urge its passage.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of the time.

Mr. MORAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say I am encouraged by what the gentleman from Illinois [Mr. PORTER] shared with us in terms of the new leadership in Turkey. That is major progress, to consider opening up the supply lines, economic and humanitarian supply lines, to Armenia if we can make progress in terms of the conflict with Azerbaijan. Certainly, starting to hear the relationship with Greece is a step in the right direction. Some of us would like to see a recognition of the Armenian genocide, which has been a problem in terms of improved relations with Turkey. But perhaps with new leadership we will continue to move forward.

This resolution, however, is entirely in order, and we strongly support it.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the resolution, House Resolution 379.

The question was taken.

Mr. PORTER. Mr. Speaker, on that demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

EMANCIPATION OF IRANIAN BAHA'I COMMUNITY

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 102), concerning the emancipation of the Iranian Baha'i community.

The Clerk read as follows:

H. CON. RES. 102

Whereas in 1982, 1984, 1988, 1990, 1992, and 1994 the Congress, by concurrent resolution, declared that it holds the Government of Iran responsible for upholding the rights of all its nationals, including members of the Baha'i Faith, Iran's largest religious minority;

Whereas the Congress has deplored the Government of Iran's religious persecution of the Baha'i community in such resolutions and in numerous other appeals, and has condemned Iran's execution of more than 200 Baha'is and the imprisonment of thousands of others solely on account of their religious beliefs;

Whereas the Government of Iran continues to deny individual Baha'is access to higher education and government employment and denies recognition and religious rights to the Baha'i community, according to the policy set forth in a confidential Iranian Government document which has revealed by the United Nations Commission on Human Rights in 1993;

Whereas all Baha'i community properties in Iran have been confiscated by the government and Iranian Baha'is are not permitted to elect their leaders, organize as a community, operate religious schools or conduct other religious community activities guaranteed by the Universal Declaration of Human Rights; and

Whereas on February 22, 1993, the United Nations Commission on Human Rights published a formerly confidential Iranian Government document that constitutes a blueprint for the destruction of the Baha'i community and reveals that these repressive actions are the result of a deliberate policy designed and approved by the highest officials of the Government of Iran: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) continues to hold the Government of Iran responsible for upholding the rights of all its nationals, including members of the Baha'i community, in a manner consistent with Iran's obligations under the Universal Declaration of Human Rights and other international agreements guaranteeing the civil and political rights of its citizens;

(2) condemns the repressive anti-Baha'i policies and actions of the Government of Iran, including the denial of legal recognition to the Baha'i community and the basic rights to organize, elect its leaders, educate its youth, and conduct the normal activities of a law-abiding religious community;

(3) expresses concern that individual Baha'is continue to suffer from severely repressive and discriminatory government actions, solely on account of their religion;

(4) urges the Government of Iran to extend to the Baha'i community the rights guaranteed by the Universal Declaration of Human Rights and the international covenants of human rights, including the freedom of thought, conscience, and religion, and equal protection of the law; and

(5) calls upon the President to continue—

(A) to assert the United States Government's concern regarding Iran's violations of the rights of its citizens, including members of the Baha'i community, along with expressions of its concern regarding the Iranian Government's support for international terrorism and its efforts to acquire weapons of mass destruction;

(B) to emphasize that the United States regards the human rights practices of the Government of Iran, particularly its treatment of the Baha'i community and other religious minorities, as a significant factor in the development of the United States Government's relations with the Government of Iran;

(C) to urge the Government of Iran to emancipate the Baha'i community by granting those rights guaranteed by the Universal Declaration of Human Rights and the international covenants on human rights; and

(D) to encourage other governments to continue to appeal to the Government of Iran, and to cooperate with other governments and international organizations, including the United Nations and its agencies, in efforts to protect the religious rights of the Baha'is and other minorities through joint appeals to the Government of Iran and through other appropriate actions.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from Virginia [Mr. MORAN] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of House Concurrent Resolution 102, concerning the emancipation of the Iranian Baha'i community and would like to urge all house Members to support this timely, important measure. I congratulate the Gentleman from Illinois [Mr. PORTER] for again championing this important cause by introducing this measure. This resolution is the latest in a series of resolutions concerning the continuing repression of the Baha'i community, and other religious minorities in Iran that have been adopted by the Congress since 1982.

It is truly a sad irony that since its founding the Baha'i religion, which itself poses no threat to secular authority anywhere, has been singled out for such harsh repression in Iran and other parts of the Middle East. I salute those who have courageously maintained their faith in the face of repression and who have too often paid the supreme price for their belief.

The closing years of this century have been marred by a resurgence of the brutality and horrors that have shaped much of its history. What we witness today in such places as Iran serves as a stark reminder that the struggle for human rights is constant. While we can learn from our unfortunate history and our past mistakes, we can never desist from our defense of international human rights standards. Men and governments always seem to have the tragic capability of repeating the barbarisms of the past in new and unforeseen ways despite all of the institutions created in the course of this bloody century to prevent mankind from tearing itself apart.

This resolution allows us to once again express our outrage and revulsion with regard to the brutal and systematic denial of one of the most basic of human freedoms—freedom of conscience—which has been denied by the Mullahs of Iran.

Each time we consider these resolutions it seems that there has been a new twist added to the outrages Iranian authorities have perpetrated against their own citizens. Last month, we received distressing reports from Iran about the conviction and sentencing to death of an Iranian Baha'i for apostasy. Not only does this have sinister implications for the long-suffering Baha'i community of Iran, but for other religious minorities in that country as well.

Iran's brutal treatment of the Baha'i and other religious minorities has also been the subject of concern within the United Nations Commission on Human Rights. The Commission's Special Rapporteur on Religious Intolerance has singled out the case of the Baha'i in Iran as an egregious example of interference with the right to freedom of conscience and of worship. The UN's Special Rapporteur calls upon the Iranian authorities to ease restrictions upon adherents to the Baha'i faith.

The United States has spoken out consistently and repeatedly on Iran's continued brutal repression of the Baha'i. In its latest Human Rights Report, the State Department includes Iran among the few countries that are the very worst abusers of the rights of their own citizens in the world. The treatment of the Iranian Baha'i community epitomizes the character of the Iranian regime—its intolerance and its brutality.

We owe it to the victims of this repressive regime to continue to raise this issue in international human rights forums, and to press those governments that conduct commerce and diplomatic relations with the Government of Iran to use their influence and speak out against these outrages. Resolutions of the Congress, such as the one we now consider, representing the clear voice of the American people, are invaluable tools for our diplomats in bodies such as the U.N. Human Rights Commission, which is now meeting in Geneva. I hope my colleagues will join with me in supporting House Concurrent Resolution 102.

Mr. MORAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution makes an important statement, that the Congress continues to hold the Government of Iran responsible for upholding the rights of all of its nationals, including members of the Baha'i community.

Concern about Iran continues to rise to the surface of our foreign policy horizon. Much of the focus has been on trade, on Iran's role in terrorism, its efforts to subvert governments in the Middle East, in North Africa, and its nuclear dealings with Russia and China.

This resolution helps in keeping our focus on Iran's dismal record on human rights. Among the many other issues we have with that Government, Iran's denial of religious rights, the abuse of its citizens and violations of internationally recognized human rights are of deepest concern to this Congress. We make that message clear by passing this resolution.

Our last resolution, which was adopted unanimously 2 years ago, was reiterated by the United Nations and the German Bundestag and the European Parliament condemning Iran's persecution of Baha'is. In some limited instances, Iran has responded to this pressure. There in some evidence that the persecution of individual Baha'is in Iran is less severe today than it was several years ago. But let there be no doubt. The Baha'i community is still an oppressed minority and is denied rights to organize, elect leaders, conduct religious schools and other religious activities.

Their religion is really all about achieving a peaceful world brotherhood. It is not something we would consider to be threatening in this country, but it is a reflection of Iran's intent that it is threatening to them.

We must continue to work to end this discrimination against the Baha'is and all who are denied basic civil rights, and so we would urge adoption of this resolution as one more appropriate step toward that goal.

Mr. Speaker, I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I again thank the chairman for yielding this time to me and would again commend him for his strong support of Baha'is. Throughout his service in the Congress he has made the protection of the minorities one of his highest priorities, and he has continuously strongly supported the Baha'i minority in Iran, not only with votes, but by speaking out repeatedly on the floor of the House and wherever he has gone about the plight of the Baha'is at the hands of the revolutionary government of Iran, and I commend him for his leadership.

Mr. Speaker, House Concurrent Resolution 102, the Baha'i Community Emancipation Resolution, condemns the Government of Iran for denying the 300,000 people of the Baha'i Iranian community their basic human rights. Since the fundamentalist Islamic regime took power in 1979, hundreds of Baha'is the largest religious minority in Iran, have been executed, and thousands have been imprisoned solely because of their religion. Because the regime does not recognize the Baha'i faith, calling it a conspiracy and a heresy, tens of thousands of Baha'is are today deprived of jobs, housing, schools, and other social services. Furthermore, it is common practice for Baha'is to be denied pensions and food ration cards purely because of their religious affiliation.

Mr. Speaker, the Baha'i religion is founded upon the nine dominant religions of the world, including, of course, Islam, and draws on the teachings of all of them as the basis of its faith. There are organized Baha'i assemblies in more than 100,000 localities in over 342 countries and territories.

□ 1515

Intolerance, Mr. Speaker, is the trail of the backward, the ignorant, and the insecure. In Iran, intolerance of Baha'is, people who threaten no one and who accede to legitimate, civil authority wherever they reside, defines not the Baha'is, but the Iranian fundamentalists.

In 1993, an official Government document obtained in Iran confirmed for the first time that the ongoing persecution of the Baha'i community has been a calculated policy written and approved by Iran's highest ranking officials. This document reveals that the Iranian policy is to repress Baha'is at every opportunity while maintaining official deniability for such actions. While the document states that Baha'is is will not be expelled or arrested without reason, it makes evident that the Iranian Government's intent is to isolate, persecute, and ultimately destroy the Baha'is.

In the mid 1980's, diplomatic pressure and negative publicity forced the Iranian leadership to lessen the severity of their grievous official campaign against Baha'is. There is strong evidence that congressional resolutions, together with appeals by other nations and the United Nations, helped to persuade Iranian officials to moderate their actions against the Baha'i community.

There are disturbing signals, however, that the repression of Baha'is has increased during this past year. We cannot be sure how many Baha'is are jailed at any moment. Apparently, there is a new trend by the Iranian authorities to carry out an increasing number of short-term arrests in various parts of the country. Baha'is are rotated through the prison system for varying lengths of confinement making it impossible to know who will be incarcerated when and for how long. Tragically, the situation has very recently taken a turn for the worse. Mr. Speaker, just last month a Baha'i was found guilty of apostasy by the Revolutionary Court of Yazd and was sentenced to death. His crime? He was accused of changing his religion from Islam to the Baha'i faith. The Iranian Supreme Court, in an unusual move, set aside the verdict and sent the case back to a lower court for review. If this man is executed, he will be the first Baha'i executed since 1992.

Mr. Speaker, Iran must continue to be ostracized from the community of nations until its conduct can begin to approach a respect for the basic rights of each human being to live, worship, and speak according to the dictates of his or her own conscience. Since 1982, the Congress has adopted six resolutions expressing its concern for persecuted Baha'is in Iran, and condemning the repressive anti-Baha'i policies and actions of the Iranian Government. In 1994, the resolution was adopted by a recorded voted of 414 to 0. Mr. Speaker, with the passage of this resolution today, Congress will once again go on record in support of the basic rights of Baha'is and other religious minorities in Iran. I strongly urge the adoption of this resolution.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his supportive remarks.

Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from New Jersey [Mr. SMITH], the distinguished chairman of our Subcommittee on International Operations and Human Rights of the Committee on International Relations.

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 102. I think it is a very good resolution and I want to commend the gentleman from Illinois [Mr. PORTER] for his leadership on behalf of the Baha'is and on behalf of human rights.

Mr. Speaker, the issue of persecution of the Baha'is is unfortunately not a new one in the House. Congress has passed a half-dozen resolutions condemning the vicious persecution of the Baha'is at the hands of the regime in Tehran, but the persecution continues.

Mr. Speaker, there is little I can add to the resolution and to the excellent comments that have been made so far. The Baha'is clearly are a peace-loving community, members of a religion that had its origin in Iran but that has adherents all over the world, including here in the United States. The extremist regime in Iran considers the Baha'i religion to be a heresy, a group apostasy, so it persecutes them with even more severity than it does Christians, Jews, or other Muslims.

Mr. Speaker, I particularly want to call to the Congress' attention the fact that there are at least four members of the Baha'i faith that now are at risk of death in Iran. The gentleman from Illinois [Mr. PORTER] mentioned one whose sentence has been remanded back to a lower court for review, and we hope this resolution sends a clear, unmistakable message that religious intolerance will not be tolerated by civilized countries, and that it will bring more scrutiny and more condemnation on the regime run by Rafsanjani.

I think it is very important that we speak, as we have, as Democrats, Republicans, as conservatives, moderates, and liberals, that we believe that the Baha'is have a right not just to exist, but to express themselves, to practice their religion as they see fit.

We support the United Nations Universal Declaration on Human Rights, the religious intolerance acts that have been passed by the United Nations. Every year the Human Rights Convention in Geneva looks at religious persecution and speaks out on it. My hope is that they will say to Tehran, "No more," that cooler heads will prevail, and those who are being persecuted simply because they want to practice their faith as they see fit will no longer find themselves being tortured, incarcerated, and, even worse, put to death. I commend the gentleman from Illinois [Mr. PORTER] for his excellent resolution.

Mr. GILMAN. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Ohio [Mr. NEY].

Mr. NEY. Mr. Speaker, I just wanted to make a couple of statements on this resolution. First, I commend the gentleman from Illinois [Mr. PORTER] for bringing this forth to the floor of this House, and also commend the House for continuing to keep the pressure on this issue. I think the previous speakers have pointed out why we need to do that.

Also, Mr. Speaker, I just wanted to state that I myself lived in Iran, in a southern city called Shiraz. I was there during the revolution in 1978 of the Shaw of Iran. People would talk over the years about prejudice. Prejudice can exist in any country toward a people or toward a religion. There may have been some internal prejudice in 1978 and prior toward the Baha'i religion, but I want to tell the Members, Baha'is were not pulled out into the street and executed.

This regime, let us make no bones about it, goes beyond the thoughts of prejudice toward the Baha'i, and they have executed people, they have forced families to purchase the bullets that their loved ones were executed with.

This is a brutal regime in Iran that has carried out assassinations toward members of the resistance in Europe recently. This is a regime that promotes terrorism around the world. As we know, even in Bosnia, as we speak this year they were active there and around the world to persecute people. I believe that the world needs to be constantly made aware and to promote and push the point of what is being done to the peaceful Baha'i people.

I just want to again stress that if we do not keep up this type of pressure, it will be forgotten. This has helped in the past, and I want to commend the Members for what they are doing today, on behalf of the Baha'i people.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Ohio for his supportive remarks.

Mr. MORAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 102.

The question was taken.

Mr. PORTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of the four measures just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

WAIVING CERTAIN ENROLLMENT REQUIREMENTS OF TWO BILLS OF THE 104TH CONGRESS

Mr. NEY. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight be discharged from further consideration of the joint resolution (H.J. Res. 168) waiving certain enrollment requirements with respect to two bills of the 104th Congress, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 168

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of H.R. 3019 and the enrollment of H.R. 3136, each of the One Hundred Fourth Congress. The enrollment of either such bill shall be in such form as the Committee on House Oversight of the House of Representatives certifies to be a true enrollment.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. UPTON). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

RECOGNIZING THE HEROISM OF LT. JOSEPH P. TADE AND HIS FELLOW OFFICERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, we live in a world where crime rates are rising daily, and where acts of violence against innocent people are escalating, at an alarming rate. It is rare when we hear of citizens who go above and beyond the call of duty to help their fellow man.

Mr. Speaker, at this time, I would like to give special recognition to one of those individuals, Lt. Joseph P. Tade, of the Elizabeth City, NC Police Department.

Lieutenant Tade embodies the qualities of honor, tenacity, and dedication. He has recently received three national awards for acts of courage and valor in the line of duty. The American Police Hall of Fame, has awarded Lieutenant Tade two separate Silver Stars for Bravery and the Legion of Honor Medal.

The Incidents, for which Lieutenant Tade earned his medals say much about his bravery and character.

On October 12, 1980, then-Patrolman Tade and his partner, intervened when an armed man attempted to flee the scene of a robbery, at a local grocery store. The suspect, opened fire on an innocent bystander and on the officers. After unsuccessfully attempting to convince the gunman to surrender, the officers pursued the suspect as he fled in his car. The chase ended when the officers cut off the suspect's car and the suspect took his own life.

Lieutenant Tade earned his second Silver Star when a routine traffic stop in 1984 turned into a high speed chase that reached 95 miles per hour. When the chase appeared to have stopped, one of the three suspects aimed his gun at Tade and his partner, and then opened fire. Fearing for he and his partner's lives, Tade returned fire, striking the gunman twice. The suspects were apprehended a short time later and the gunman survived his wounds.

Lieutenant Tade's actions, in April of 1995, earned him The Legion of Honor Medal. While attempting to separate a local male and female involved in a violent altercation, Tade was severely cut by the female who had suddenly produced a razor blade. Although bleeding profusely—from a two inch long wound—he was still able to disarm the youth and take her into custody. Despite the many stitches required, Lieutenant Tade recovered and suffered no permanent damage.

Mr. Speaker, Lieutenant Tade is by no means alone in deserving our recognition. Every day and night, in this country and abroad, hundreds of thousands of Federal, State, and local law enforcement officers, risk their lives to maintain peace, uphold justice, rid our neighborhoods of violent criminals, and keep our children and families safe. Words alone seem inadequate, but I would like to express to Lieutenant Tade, and his fellow officers throughout America, a sincere "Thank you", for your dedication to your fellow citizens.

Mr. Speaker, I ask unanimous consent that the entire summary of Lieutenant Tade's courage, be included in the RECORD.

Mr. Speaker, in a world where crime rates are rising daily, where acts of violence against innocent people are escalating at an alarming rate, it is rare when we hear of citizens who go above and beyond the call of duty to help their fellow man. Mr. Speaker, at this time I would like to give special recognition to one of those individuals, Lt. Joseph P. Tade, of the Elizabeth City Police Department in Elizabeth City, NC.

Lieutenant Tade embodies the qualities of honor, tenacity, and dedication. He has recently received three national awards for acts of bravery and heroism in the line of duty. The American Police Hall of Fame has awarded Lieutenant Tade two separate Silver Stars for bravery and the Legion of Honor Medal.

The incidents for which Lieutenant Tade earned his medals say much about his bravery and character. On October 12, 1980, then-Patrolman Tade and his partner intervened when an armed man attempted to flee the scene of a robbery of a local grocery store. The suspect fired multiple shots at a bystander and the officers. Fearing for the lives of everyone in the area, the officers returned fire, including two warning shots in the air and shots by Tade aimed at the suspect's tires. After attempting to convince the gunman to surrender, the officers pursued the suspect as he fled in his car. The chase ended when the officers cut off the suspect's car and the suspect took his own life.

Lieutenant Tade earned his second Silver Star when a routine traffic stop in 1984 turned into a high speed chase that reached speeds of 95 miles per hour. At night and on patrol with a police cadet, Tade once again demonstrated bravery and courage in the face of danger. When the truck they were chasing appeared to have stopped, and the officers had exited their vehicle, one of the three suspects fired multiple shots at Tade and his partner from the truck. Once again, fearing for he and his partner's lives, Tade returned fire, striking the gunman twice. The driver of the vehicle suddenly pulled away and another chase ensued. After evading several road blocks, the suspects were apprehended and the gunman survived his wounds.

Lieutenant Tade's actions in April 1995 earned him the Legion of Honor Medal. While he and his partner, Capt. W.O. Leary, were attempting to separate a local male and female involved in a violent altercation, Tade was severely cut by the female who had suddenly produced a razor blade. Bleeding profusely from a 2-inch cut on the hand, he was still able to disarm the youth and take her into custody. Lieutenant Tade required 10 stitches and luckily suffered no permanent damage.

These are certainly not Tade's only awards. In 1980, he was named Outstanding Young Law Enforcement Officer of the Year by the Elizabeth City Jaycees. Throughout his career, Tade has received commendations from the Drug Enforcement Administration, the North Carolina State Bureau of Investigations, the North Carolina Division of Alcohol Law Enforcement, the U.S. Attorney's Office, the Currituck County Sheriff's Office, the Edenton Police Department, in addition to countless interdepartmental commendations.

Lieutenant Tade, a 20-year veteran, has a long and distinguished career with the Elizabeth City Police Department. He joined the department in 1976 and served as a cadet until 1978, when he was sworn-in full time. He immediately became involved in criminal investigations, as the department had no full-time investigators. In 1987, Tade was promoted to the rank of sergeant and became one of the department's first two full-time investigators. In 1989, Tade was promoted to the rank of lieutenant. In 1992, Tade was appointed as commander of the newly formed northeast regional drug task force. In 1995, Tade was appointed supervisor of a new division within the department. The neighborhood interdiction team, where he continues to serve today. This team is a community policing and street drug enforcement group working mainly in high crime areas of the city.

Over the course of his highly successful career, Lieutenant Tade has been involved in over 2,500 local, State and Federal drug arrests alone, reaching to such places as New York City, NY, and Allentown, PA. These arrests have resulted in record seizures of illicit drugs and currency, well in excess of $1.5 million. In addition, Tade has completed over 1300 hours of advanced law enforcement training.

Lieutenant Tade, a resident of Elizabeth City since the age of 10, currently lives with his wife Janet and their 3 daughters, Summer, Jessica, and Jordan.

Mr. Speaker, Lieutenant Tade is by no means alone in deserving our recognition. Every day and night, in this country and abroad, hundreds of thousands of Federal, State, and local law enforcement officers risk their lives to maintain peace, uphold justice, rid our streets, our neighborhoods and our businesses of violent criminals, and keep our children and families safe. To Lieutenant Tade and his fellow officers, I say "thank you."

□ 1530

INADVISABILITY OF REQUIRING TWO-THIRDS MAJORITY TO PASS TAX LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 60 minutes as the designee of the minority leader.

Mr. SKAGGS. Mr. Speaker, I appreciate having the opportunity to address the House this afternoon. The topic of this special order is the proposed amendment to the Constitution to require two-thirds majorities in the House and the Senate to adopt any legislation concerning increases in tax rates or tax base.

As the Speaker may be aware, the leadership of the majority party has announced its intention to bring this matter up for debate and vote in the House on April 15, the Monday that the House is scheduled to return from 2 weeks of spring recess. In my opinion, scheduling the debate on this matter at that time, preceded as it will have been by no effective committee consideration or markup, constitutes an act of relatively modest political theater but relatively irresponsible constitutional legislation. But it is merely the last chapter in an ongoing novel of regrettable proportions during this, the 104th Congress, in which the majority party consistently has seen fit to treat the Constitution as if it were really just a rough draft.

Mr. Speaker, let me give my colleagues some idea of the recent history of the consideration of amendments to the Constitution. In the last 20 years preceding this, the 104th Congress, the House voted on constitutional amendments a total of nine times in 20 years. The average per Congress was one constitutional amendment, the maximum was two, frequently there were none. This amendment that will be coming up on April 15 will be the 4th time in this 104th Congress that the leadership has brought forth an amendment to the Constitution, and thus my characterization, I think appropriately, that this Congress is really treating the Constitution of the United States as if it were just a working document in draft form which we can toy with at our whimsy.

Mr. Speaker, we have already had amendments debated and voted on in the House concerning the flag of the United States, concerning term limits, concerning a balanced budget, and now this two-thirds tax proposal, and I think most Members are aware we will probably have even a fifth proposed amendment to the Constitution offered up some time later this year having to do with the first amendment's protection against the establishment of religion and protecting the free exercise thereof.

Mr. Speaker, this particular amendment that will be coming before us a couple of weeks has not only serious, serious, and I believe absolutely unworkable practical problems attached to it, but the process by which it will come to the floor of the House for debate is absolutely extraordinary. We would suppose, Mr. Speaker, that when we undertake the most serious legislative responsibility that we can have as Members of this great body, that is, considering an amendment to the Constitution, that we would go to some pains to make sure that a proposed amendment had been fully and carefully examined by those institutions within the House structure that are designated as having the expertise and the responsibility to conduct such an examination and vet it. In our case, that is the House Judiciary Committee, and in particular, the Subcommittee on Constitutional Law.

Unfortunately, in this instance, I presume because the chairmen of both that subcommittee and full committee actually have very grave reservations about this particular proposal and are disinclined to mark it up and report it to the House, the leadership is co-opting them, preempting that very, very important responsibility that the Judiciary Committee has to really go over proposed amendments to the Constitution as carefully as we possibly can to consider both the intended and unintended consequences.

Mr. Speaker, we are giving the back of our hand, as it were, to that normal order and process in the House for considering an amendment to the Constitution and just bringing this to the floor in an essentially unexamined and unreflected-upon state.

Interestingly, I think in part because of that cavalier approach to a very, very serious responsibility, it has been reported that the chairman of the House Ways and Means Committee, the tax-writing committee of the Congress, has also very serious misgivings about this proposal because of one of its many impractical consequences, namely if we were to adopt this two-thirds vote requirement for any tax bills in the Constitution, we would basically be embracing—for all practical purposes—the current state of the tax law for an indefinite period of time.

Mr. Speaker, if you look over recent history in enacting tax laws, almost all of which, if they are at all comprehensive, involves some increases as well as decreases and changes, very, very few will have be seen to have been passed by the two-thirds majority of both the House and the Senate that would be required under this proposed amendment to the Constitution. Since the chairman of the House Ways and Means Committee is reported to be a strong proponent of major tax reform, a fan of one of many alternatives that have been offered up for wholesale change in the Tax Code, he well realizes if this were in the Constitution, or ability to make that kind of change would be greatly constrained, if not made almost impossible.

One of the things that we, I think, should keep first in mind in considering this is not just the failure of the leadership here to follow regular order and process, as ought to apply to a proposal of this seriousness, but the content of the proposal, as well. It follows obviously that any time we require a super majority to enact legislation, in this case tax legislation, the corollary of that is to give a minority within the body, the House or the Senate, effective control of the issue. That contradicts head on the fundamental principle of majority rule that Madison identified during the debate in the Constitutional Convention as the first principle of this democracy of ours.

Now, it may seem a trivial observation to suggest that a super-majority requirement necessarily cedes control of the issue to a minority. Here in the House, that minority would represent something just over one-third of the people of the country, certainly a significant number. But under this constitutional amendment, effective control of the tax-writing responsibilities of the Congress would be given over to one-third plus 1 of the other body, the U.S. Senate, and it surprised me.

Mr. Speaker, I sat down a few minutes ago and just calculated that percentage of the population of the United States represented by the one-third plus 1 of the Senate that comes from the smallest States in the Union. Under this proposal, to give control over tax legislation to one-third plus 1 of the Senate, that is the same thing as saying that we would give power over this issue to less than 10 percent of the people of this country, because 34 Senators represent, combined from the smallest States, less than 10 percent of our entire population.

Now, it seems to me we should think long and hard about a proposal that would have that kind of incredibly distorting effect on who is in a position to determine the future course of this country in an area as critical as tax legislation.

Mr. Speaker, I have several other points to make with regard to the merits and the substance of this proposal, but I wanted at this time to recognize and yield some time to the distinguished gentleman from Virginia [Mr. MORAN], who has been very active in this Congress and in earlier Congresses in these areas having to do with the fundamental constitutional arrangements of the Republic, and I yield at this time such time as he may wish to consume.

Mr. MORAN. Mr. Speaker, I thank my distinguished colleague and good friend from Colorado for yielding me time.

Mr. Speaker, this amendment that we are discussing, House Joint Resolution 159, that would require a two-thirds vote to raise Federal taxes, may seem to be a simple, reasonable idea, but it invites dangerous consequences for our democracy that will weaken the power of the Federal Government to respond to national problems. Since the resolution includes any changes that would broaden the tax base, it will also effectively block passage of any fundamental overhaul of our entire tax system, be it the majority leader's call for a new flat tax or the interest of the chairman of the Ways and Means Committee in the national sales tax, or anything in between, including the most moderate and responsible alterations. Finally, this resolution will prove unworkable, as the House leadership has already discovered with its celebrated—but now ignored—rule change requiring a three-fifths vote on tax legislation.

This resolution, as my colleague from Colorado has explained, violates the spirit of majority rule and will take us back to the problems our Founding Fathers experienced under the Articles of Confederation. Article 9 of the Articles of Confederation required the vote of 9 of the 13 States to ascertain the sums and expenses necessary for the States to raise revenue. In 1787, at the Constitutional Convention, our Founding Fathers recognized that this was an insurmountable defect and sought to establish a national government that can impose and enforce laws and collect revenues through a simple majority rule.

Mr. Speaker, my distinguished colleague has discussed the constitutional aspects of this resolution, but I would like to focus on how unworkable this resolution will prove to be based on our experience with the much-celebrated change in the House rules that requires a three-fifths vote for any tax increase. That was enacted on the first day of Republican control of the House in January 1995. As specified in that modified clause 5(c) of rule 21 of our congressional code, the House of Representatives' code, no bill, joint resolution, amendment, or conference report carrying a Federal income tax rate increase shall be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting.

This rule was broken just as soon as we voted on the Contract With America, introduced and approved by the Republican majority of the Congress, but to approve it, we had to violate the rule. On April 5, I came to this well and raised a point of order on a provision in the Contract With America tax relief act that repealed section 1(h) of the Internal Revenue Code affecting the maximum rate for long-term capital gains. While the intent of the provision was to lower the capital gains rate, it actually increased the tax rate on the sale of small business stocks from 14 percent under current law to 19.8 percent.

At the time, the Speaker's chair ruled that this tax increase was not subject to the three-fifths rule, but in a June 12 letter from House Parliamentarian Charles Johnson, it appears that this ruling was made in error and the original point of order should have in fact been sustained. Since the Parliamentarian has confirmed my original challenge, the House leadership has found it necessary to waive the three-fifths vote requirement in at least two instances, the Balanced Budget Act of 1995 and the Medicare Preservation Act, in order to pass its legislative agenda and to raise taxes.

Mr. Speaker, neither measure received a three-fifths majority vote. Neither of those pieces of legislation could have passed this body if we had been good to the rule that was passed on the first day of the session of this congressional term. Back in January, we passed a law and we have had to ignore that law in order to pass the legislation that was in the Contract With America.

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Under the original House version of the Balanced Budget Act, the House leadership found it necessary to waive the three-fifths rule. The Committee on Rules had to do that by a simple majority vote in order to impose this tax increase, a 50-percent tax penalty on Medicare plus medical savings accounts withdrawals for any purpose other than Medicare and the part B income contingent premium. Also the repeal of the 5-year income averaging rule on lump sum pension distributions, the increase in the phaseout rate for the earned income tax credit, the new rates that are applied to expatriates, and the new tax imposed on gambling income of Indian tribes. All of these tax increases should have triggered the three-fifths vote required for approval.

Now we want to increase this three-fifths vote to two-thirds? In other words, increase the hypocrisy of this body to pass one law, and then ignore it when we want to pass another? If the new majority has problems honoring its pledge not to increase the tax rate and abide by its own rules, they make even more problematic if we were to do a proposed constitutional amendment as is proposed by this joint resolution.

Under this expanded requirement, Congress could not have passed last year's expansion of the health deduction for the self-employed. In that legislation we closed some tax loopholes dealing with minority broadcasting benefits to pay for the bill's revenue lost.

When you are in a pay-as-you-go basis, you have to increase taxes in some order to reduce them in others. So when we eliminated the tax loopholes, increasing taxes on minority broadcasters, again, that violated the rule, because closing the loophole is also broadening the tax base.

According to the material submitted into the CONGRESSIONAL RECORD by Congressman JOE BARTON on January 4, 1995, there have been five major tax increases enacted into law since 1980. The Tax Equity and Fiscal Responsibility Act of 1982, the House vote was 226 to 207; the Omnibus Budget Reconciliation Act of 1987, the vote was 237 to 181; the Omnibus Budget Reconciliation Act of 1989, the vote was 272 to 182; the Omnibus Budget Reconciliation Act of 1990, the vote was 228 to 200; and Omnibus Budget Reconciliation Act of 1993, that vote was only 218 to 216.

Only one of these measures, the Budget Reconciliation Act of 1989, could have passed the House with a two-thirds margin. In reality, the five measures that were brought up by Congressman BARTON included both tax increases and spending cuts. Had these measures not been passed with bipartisan support and signed into law by President Reagan and President Bush, the deficit would be far, far worse than it is today.

The one exception to deficit reduction that passed on a party line vote, the Landmark Omnibus Budget Reconciliation Act of 1993, has been credited with reducing the deficit 3 years in a row, and possibly an unprecedented fourth year if current economic trends continue.

I find it a little ironic for all the objections the Republicans have expressed for the tax increases, and the Clinton tax increase in particular in 1993, they have yet to repeal a single one of those tax increases in 1993. Not one of the so-called notorious 1993 tax increases has been repealed in any measure sent by this Congress to the White House.

What Representative BARTON does not mention in the CONGRESSIONAL RECORD is that Ronald Reagan would have encountered problems enacting most of his agenda if there was a constitutional amendment requiring a two-thirds vote.

Mr. Speaker, I have many other points I want to raise to buttress the argument that this does not make any sense to propose a two-thirds constitutional requirement, but at this point let me pass the baton on to my colleague from Colorado for a while to further buttress our argument.

Mr. SKAGGS. I would just like to engage the gentleman for a moment in a further discussion of the short history that we have—I was going to say enjoyed, but at least experienced under the so-called three-fifths rule which was adopted at the start of this Congress as a rule of the House governing the required majority; that is, three-fifths, whenever, we are considering anything that is construed as having a tax increase.

Now, first the proponents said it would apply to any increase, and then they said only to income tax increases, and then only to certain types of income tax increases. My sense is that the correct interpretation of this rule of the House remains the subject of a great deal of debate and confusion and inquiry. The saving grace, if you will, is that the majority has showed that it is quite willing to waive the application of that rule as a matter of course whenever it is inconvenient to have to deal with the new rule that they adopted.

Mr. MORAN. I guess that is what they mean by regulatory flexibility.

Mr. SKAGGS. Well, whatever it may be, now we can waive a House rule, as the gentleman pointed out, by simple majority vote when we bring a matter to the full House for debate. But if we have got this in the Constitution, what then?

Mr. MORAN. Well, you ask a very good question, Mr. SKAGGS. I do not know why we are here trying to save them from themselves, which is what we are doing, but the reality is that virtually no tax reform measures could have been enacted if we had not hypocritically ignored, overruled, that three-fifths requirement. But as you say, if it is a constitutional amendment, we do not have that flexibility. The Committee on Rules just decides, well, this is an inconvenient law and so let us just ignore it. If it is part of the Constitution, it cannot be ignored. That means that we could never again reform our Tax Code, because to do so you have to raise revenue in order to cut it in other places. So we would be putting ourselves into an untenable position.

Mr. SKAGGS. I think we need to expound on this point a little bit more. Nobody here is interested in raising taxes per se. This is not about taxes, it is about the Constitution of the United States and having a workable system of government. The examples which you cited, which I think it is important for us to be mindful of, have to do with all manner of different reform proposals. Certainly any of the tax simplification or tax reform proposals that this Congress has adopted in the last 20 years or that are pending before us in various forms now, have almost invariably involved some change in the tax base or change in the rate in order to effect reductions or reforms somewhere else, have they not?

Mr. MORAN. Not only have they this year, that is absolutely true, and that is why the Committee on Rules acknowledged that when it waived the three-fifths rule. So it would not apply to any of the tax legislation that has come before us this year. But also if you look back, it applied to all of President Reagan's and President Bush's proposals. None of them would have been enacted if this constitutional amendment were in effect.

So President Reagan could not have accomplished the 1981 tax cut, the 1986 tax cut, or any of the others in between. President Bush could not have accomplished the 1990 tax cut. We never could have come close to the reduction in deficit that we have experienced as a result of the 1993 Omnibus Budget Reconciliation Act. So it is hard to imagine where we would be if this constitutional amendment had been put into place, say, back in the 1970's or 1980's.

Mr. SKAGGS. Well, as I mentioned a few minutes ago, and it may be worth just going through the list of those States whose Senators, if they happen to decide to coalesce in opposition because small States might be affected in some way or other, States that could effectively block any future tax legislation if this were in the Constitution, because if you add up the Senators from Vermont, Delaware, Montana, Wyoming, North Dakota, South Dakota, Alaska, Rhode Island, New Hampshire, Nevada, Maine, Hawaii, Idaho, Utah, Nebraska, New Mexico, and West Virginia, that is more than one-third of the Senate, represents about 9 percent of the population of the country, and that group of Senators would be in a position to call the shots.

Now, I do not know whether that comports with the gentleman's sense of adherence to the fundamental principles of this democratic, small "r," republican, but it certainly offends mine.

Mr. MORAN. I agree it would offend mine, too. We would hasten to add all of those States are very ably served by their Senators. Here we are not talking about personalities, we are talking about the Constitution. We are trying to go back to the original tenets of that Constitution. They tried something that was not majority rule in the Articles of Confederation. You needed 9 out of the 13 States to pass any revenue-raising provision. They found it was unworkable. The country was not functioning. So they had to go back and correct it and install majority rule.

Now, when you think about it, as you so ably explain, 10 percent of America's population could prevent any kind of tax increase. No matter how needed it is to keep this Government functioning, whether we are in a war, whether we are in a depression, whatever the situation, 10 percent of America's population can block any attempt to put our country on a sound fiscal footing.

I think that is the most compelling argument, and then in addition to the experience we have already had with the violation of the three-fifths rule. But the other point that you so well made, Mr. SKAGGS, is that the Constitution is not a rough draft. The Constitution has served this country very well for two centuries. To go mucking around with it with a piece of legislation that we know is going to be violated the first time that we have to act responsibly as a body, I cannot imagine that we would have any cosponsors of such legislation, never mind a long list of cosponsors.

So I would hope they would all reconsider, look at both recent and long-term history of this country, check out our Constitution, give it a little more respect, and recognize that this is not in the national interest.

Mr. SKAGGS. I thank the gentleman for his comments. One of the things that is most odd about this particular proposal, and I mentioned a few minutes ago, is not just the substance and the, I think, unexamined consequences of the substance, but the manner by which it is going to be brought to the House on April 15.

We have been joined by our distinguished colleague from Massachusetts, a member of the Committee on the Judiciary. I wonder if he might enlighten us a bit more about what the process that has been followed or not followed in this case looks like?

Mr. FRANK of Massachusetts. Well, I thank the gentleman from Colorado for taking the initiative on this special order and for yielding to me. But "enlightenment" is hardly the right word, because the Republican leadership is determined that this will not be the product of an enlightenment, but rather of the dark ages, because one of the things they do not want is for anyone to really have a chance to think about this proposal.

I am the senior minority member on the Subcommittee on the Constitution of the Committee on the Judiciary. We had a hearing on this a couple of weeks ago. The amendment was presented and the sponsors of the amendment were there, and in the course of their presentation they mentioned that this would be on the floor on April 15.

Now, I guess, showing my inability to adapt to the new majority, I was a little puzzled, because, this was a week or so ago, no committee vote was scheduled, no subcommittee vote was scheduled. Ordinarily with legislation, we find that the process of first debating it in subcommittee and making some changes, and then going to full committee and making some changes, that is how you refine legislation. That is how you answer questions. None of us in my experience is bright enough to simply sit down and have a piece of legislation spring from our forehead like, was it Athena from the forehead of Zeus, or whoever sprang from whatever. Ordinarily you want some questions and conversation. I was a little surprised that this bill was going to go right from hearing to the floor of the House. I asked why, and I realize what the answer is.

This legislation, this constitutional proposal, is so flawed, it does not command a majority within the subcommittee in the Judiciary that has jurisdiction, because there are significant, influential, respected Republicans who do not want to vote for it. It does not have a majority in the committee, so they plan to bypass the subcommittee and bypass the committee and bring it to the floor.

But then a glitch developed, because as we discussed this, even at the hearing, it became clear that, for instance, you could not under this constitutional amendment raise a tariff. I know Pat Buchanan has not been getting much respect from the Republicans, and as the poor man's totals fall in the primaries they whack him again. But to pass a constitutional amendment to make it virtually impossible to raise tariffs, that seems to me one more indignity they would heap upon Mr. Buchanan, but apparently that is what this amendment would do, because under this amendment you could not raise tariffs. He talked about raising tariffs. Indeed, we have legislatively ceded to the President the right to raise tariffs, as we all know, in particular cases. You can raise a tariff in the case of dumping. It is a countervailing tariff. You might raise a tariff in a particular case by denying somebody most-favored-nation treatment, et cetera.

Well, we cannot delegate to the President by more than we have ourselves. If it takes us two-thirds to raise a tariff, it would obviously take two-thirds to pass a bill that would delegate to the President the right to raise a tariff. So our ability to defend ourselves in trade by higher tariffs, that would also take two-thirds.

In addition, it was pointed out and conceded by the sponsors of the amendment, that going to a flat tax would take two-thirds. So now they are not only going after Buchanan, they are going after Steve Forbes. This amendment is the revenge of the congressional Republicans and their upstart candidates.

□ 1600

Because going to a flat tax means you increase the base. And the language of the amendment clearly says, if you increase the tax base, if you tax more items, if you take away an exemption for mortgage interest, if you take away an exemption for charitable deductions, that requires two-thirds. In fact, one of the sponsors, our former colleague, the junior Senator from Arizona, said, well, do not pass this constitutional amendment until we get to a flat tax. Another one said, no, we do not agree with that. So there was a certain amount of confusion about this.

This is the vehicle they are talking about taking right from this intellectual chaos to the floor of the House. Then apparently another non-committee intervened because it is going to be a nonjudiciary bill. But the chairman of the Committee on Ways and Means, who is a thoughtful individual, the gentleman from Texas, apparently looked at this and said, wait a minute, you cannot require us to take two-thirds to go to a flat tax. He wants to go to a consumption tax. I think there is a lot to be said for the approach of the gentleman from Texas, but it would take two-thirds to do that. He says, you cannot do this to tariffs.

So apparently we are now having a conference between the Committee on Ways and Means and the Committee on the Judiciary except not with the committees. We are going from a nonmarkup in the Committee on the Judiciary to a nonmarkup in the Committee on Ways and Means, on as significant a piece of legislation as we can have, an amendment to the Constitution, something which has happened 27, 28 times in our 200-plus years. That is being now privately discussed by some very able people, but they are privately discussing it. It is a shambles of a way to legislate.

It will come to the floor without any committee consideration, with uncertainty. Does this affect the flat tax; does it affect the tariff? What it shows is this is a search for a political gimmick. No one could think we would seriously legislate in this way.

Let me add one other flaw that occurs to me on this. That is, the amendment would, of course, allow you to reduce taxes by a majority, but it would take two-thirds to raise them. But I think in effect this would also make it harder for future Congresses to cut taxes. Because if you are in a situation where you say, you know, things are looking very good now, and we are in a sort of a surplus situation, we can afford to cut taxes now because we can always raise them back again if later on we need them, people will be reluctant to do that. Because if it takes two-thirds to raise the taxes later on, then it may not be prudent to reduce them temporarily.

The whole notion which we may reach of a temporary tax reduction, you will have to say, wait a minute, if we temporarily reduce them, we will need two-thirds to put them back up again. That seems to me to be a grave error. This is not only substantially a grave mistake, procedurally it is a complete and total botch.

Mr. SKAGGS. I appreciate the gentleman's insights into the way we will be confronted with this on April 15, assuming the leadership sticks to its intentions.

Mr. FRANK of Massachusetts. Sticking to their guns, they are very good at that. They stuck to their assault weapons last Friday. So I assume they will stick to their guns. They are very good at sticking to their gun owners.

Mr. SKAGGS. The gentleman has served on the Committee on the Judiciary how many terms?

Mr. FRANK of Massachusetts. This is my eighth term.

Mr. SKAGGS. Has there ever been a case before this Congress when the Committee on the Judiciary completely failed to mark up a constitutional amendment?

Mr. FRANK of Massachusetts. I do not remember one. I was told that when the equal rights amendment came before us, I do remember it came before us under a suspension of the rules. It was my impression that it had gone through the committee. It had certainly gone through the amendment previously.

I do not remember a constitutional amendment coming up that never went through the committee. You have to say, in defense of the Republican leadership, the bill to combat terrorism went through the Judiciary Committee, but after it went through the committee because the right wing in this Congress did not like it, it got totally changed before it came to the floor anyway. Similarly with the immigration bill, the Committee on the Judiciary voted out the immigration bill, but some people in the right wing did not like it so they changed it around. You people on judiciary, we are just being considerate. What is the point of you wasting your time engaging in a model U.N. here, having all these debates. We are going to do whatever we want on the floor anyhow.

But we are going to suffer in this case because with regard to tariffs, with regard to a flat tax, there are serious questions here. Apparently these serious questions are going to be resolved not through some open debate in committee with the press involved but through private conversations between Members of the Committee on the Judiciary, sponsors of the bill and members of the Committee on Ways and Means, a totally undemocratic procedure.

Mr. SKAGGS. Let me ask either the gentleman from Massachusetts or Virginia, one of the things that has been a regular topic of debate around here the last few months has been questions of corporate welfare, closing corporate tax loopholes. Will we be able to deal with that kind of proposal?

Mr. FRANK of Massachusetts. The gentleman has a perfectly appropriate question. Let me say, I do want to say to my friend from Colorado, it just struck me, when he mentioned we are from Virginia and Massachusetts, we represented the people who voted on the original Constitution. Colorado was not around to get involved in the original one, so the Republicans are being very generous by letting you in. But I think the Philadelphia convention had a little better set of procedures than the current group.

Any effort to close loopholes, any effort to diminish tax preferences that wealthy people now have, any effort to say, for instance, that the tax code encourages people to go overseas more than they should, the effort we had earlier to close the tax loophole on people who want to renounce their citizenship but retain their money, all of those would require two-thirds. As hard as it has been to deal with any of that loophole closing or excessive corporate luxury that we have done so far, going from a majority to two-thirds would make it infinitely harder.

Mr. SKAGGS. Does the gentleman from Virginia have thoughts on that topic?

Mr. MORAN. Just to underscore the point that the gentleman from Massachusetts [Mr. FRANK] made, we have had so many proposals that would have required an offset in the revenue code to do the right thing. In most cases people recommend ways to reduce taxes because that is what the public seems to prefer, obviously. But there have been several other measures that have been suggested by the Republican majority, such as phasing out much of the benefits of the earned income tax credit.

That was about $32 billion, a major component of the tax reduction and budget resolution proposal that the majority suggested. Yet that never could have even been on the table because it in effect is an income tax increase and in fact would have required a two-thirds vote, which never would have passed.

Mr. Speaker, obviously the situation where people renounce their citizenship so they can avoid taxes due, that would have amounted to $3.6 billion. That would never be on the table because obviously that is an income tax increase and obviously in conflict with this legislation. But we can go through virtually every significant tax proposal that has been made by both sides of this aisle and in some way violates the two-thirds income tax increase restrictions. What the measures that we mentioned earlier, the five major tax bills that have been enacted since 1980, every single one of them but one—actually one of them passed with two-thirds of the vote, but none of the others would have passed—every single one of them would have been in violation of this two-thirds requirement.

Mr. Speaker, I mentioned to Mr. FRANK and Mr. SKAGGS earlier, sometimes we wonder why we need save them from themselves, but the point of this is that we all have an obligation to protect the Constitution.

We all have really an obligation to do some reading on the history of the Constitution to understand that this very issue was debated at length by the Founding Fathers when they realized that the requirement to have 9 out of the 13 original States, at that time they were not all States, they were commonwealths and the like, but to have 9 of the 13 States proved totally unworkable. The U.S. Government was not functioning, and so they went back to majority rule. They had their turn at that time to put in a constitutional provision making it more difficult to raise taxes. They deliberately chose after extensive debate not to do that. And for us now to treat the Constitution, as the gentleman from Colorado [Mr. SKAGGS] described as some kind of rough working draft, I think does a great disservice to the American people and to the future of this Nation.

Mr. Speaker, I know we have the most compelling arguments on our side. I cannot imagine why they would bring up this kind of legislation without debate. We are going to go on vacation for the next 2 weeks. That is why the gentleman from Colorado is bringing this up because we are not even going to have time to debate it. Yet they would bring it up and attempt to pass a constitutional amendment creating a totally unworkable situation.

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for his participation.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman will continue to yield, we ought to emphasize, he may have already done this, when the gentleman from Virginia talks about the prior tax bills, many of those tax bills were listed as tax reductions and in gross they were. That is, several of them meant that the Government collected less taxes when we were through than when we started. Despite the fact that they were, several of them, listed as tax reductions, none of them would have been allowed without a two-thirds vote because tax reductions never in my experience are bills that only reduce. They reduce overall, but they offset the reductions by increasing in some areas.

Unless we believe that we have as equitable a Tax Code as we are ever going to get and that the balance of taxes should never be changed, then we should be against this amendment. This amendment means that any effort to shift the balance, any effort to say that there are some elements that are not doing a fair amount and there are others that are, we would have to take two-thirds to deal with that.

Mr. Speaker, what it shows is also a fundamental understanding, I believe, on the part of many in the majority that their ideological agenda is unpopular with the American people. That is what is at stake here. Increasingly we are being given proposals that limit what the majority can do. If we are in fact confident that the majority is on our side, then we do not try to limit them. But what we have are people who have found out, I think, that, while the general public disagreed with a lot of what the Government was doing, there is on the part of the public an unwillingness to dismantle the Federal Government as much as people on the other side think.

They were, as we know, surprised that, when they shut down the Government as a deliberate tactic on several occasions earlier this year, the public was upset. Many Republicans said nobody will care. Well, they were wrong. The American people cared deeply about their Government because their Government is doing things that on the whole they have asked it to do. They understand, therefore, that they are not going to win this increasingly on a majority situation. So what they are trying to do is fix the game, require two-thirds so that on those occasions when a majority disagrees with them and wants to do more in health care and environmental protection and in law enforcement than they want to do, they will not have to appeal to a majority. They will have this minority veto that they can inflict. That is what is at stake.

Mr. MORAN. Mr. Speaker, I would just like to make a point, too. When we look at the historical record and what is forcing this issue, I cannot really find anything other than purely appeasing those in our economy who simply do not like to pay taxes and that some Members would pander to and put their interests ahead of the national interest.

But the reality is that, if we look back at taxes as a percent of gross domestic product, in 1981, during the Reagan administration, they were 20.2 percent. In 1982, they were 19.8 percent, almost 20 percent, but they have stayed under 20 percent now since for the last 26 years. It is remarkable how consistent they have been.

Mr. Speaker, what needs to be done, it would seem to me, is to make that level of tax revenue fair, to make it such that it will stimulate our economy, to make it such that its priorities are representative of the American people's priorities. But to take away our ability to make those tough decisions, to exercise the judgment that we were elected to make just does not seem to be in the national interest or the interest of this body.

Mr. SKAGGS. Mr. Speaker, let me just say in concluding, I think there are a couple of things we can be sure of or at least we ought to allow to humble us. One is our inability to predict the future. Why in the world we would want to deprive our successors in the body of their ability to deal in the future with one of the most complicated and nuanced subjects that we ever face around here, namely the Tax Code, deprive them of their ability or make them basically the captive of 34 Senators and their inability to deal with that subject is beyond me.

In effect, we are saying to those that are going to come after us in this Congress, we do not care what the particular circumstances may be that you are going to face in 10 to 20 years. We simply do not trust the majority of you to exercise your judgment to carry out the will of the then-majority of American citizens. Our expectation is that you are going to be incompetent to do that, that you have got to have two-thirds.

□ 1615

Mr. Speaker, that seems to me to be a very arrogant and presumptuous act for us to take. It also, as the gentleman from Virginia has pointed out, ignores our history, and one of the things that is for me most profound about the honor of serving here is our job as carrying the legacy of the brilliant people who drafted the Constitution and set up our system of Government and who did so because the supermajority requirements of the Articles of Confederation were wholly dysfunctional. They recognized that, for this Republic to survive, the fundamental principle of free Government absolutely had to be majority rule and that to cede that responsibility to the minority was a prescription for failure, which we ought to keep in mind as we deal with this amendment.

The gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Yes, I think that is exactly what is at stake here, but I think we have to give it some specific content.

The current Republican majority in Congress won the 1994 election, and they won it, they got more votes than we got. I think they won in part because of dissatisfaction with what the Government was doing. Many of them misunderstood that to mean opposition to the Government in general. It is possible to be critical of waste and excess and sloppiness and not believe the Government should get of the business.

And they have increasingly learned that now the public is far more supportive of environmental policies than many of the Republicans, not all, but many of the Republicans, understand. The public likes the notion of the Federal Government helping with college educations, helping with law enforcement, helping with medical care, and they have a dilemma. They have the dilemma of having a very ideological agenda which says, in the words of the majority leader, the Government is dumb and the markets are smart, and at a time when people are not so sure that the markets are fair, how do you prevent the public from having the Government play a more active role than they want ideologically?

That is their dilemma because the public is getting away from them and not supporting these cutbacks, and it reminds me of my favorite musical, the musical "Fiorello," and when he wins, and he was not supposed to win, the bosses are walking around very grumpily, and there is one set of lines in the song where they say, "How did we know the people would go to the polls and elect a fanatic?" And the other one says, "The people can do what they want to, but I got a feeling it ain't democratic."

Mr. Speaker, I think that is a dilemma that our friends have over there. They are afraid that what the people want to do to them "ain't" democratic and, therefore, they are going to restrict the ability of a majority of the American people, acting through their legislators, to decide 5 years from now, 10 years from now, 20 years from now that they would like the Government to play more of a role in this or that area, or that they would like the Tax Code to be fairer. They would like wealthier people to pay a higher percentage.

If we were to decide, for instance, that the Social Security payroll tax, which is a very regressive tax, unfairly burdens a lot of working people, and we want to alleviate that by changing the mix, we could not do that. If we wanted to say that wealthy people ought to pay more of their income toward the Social Security tax instead of having it cut off, we would need two-thirds, and what we have are people who, I would give them credit for perception, they understand that their very right-wing, ideological agenda is increasingly unpopular with a lot of people, and, therefore, while they still have something of a majority, they are going to try and change the rules so that that majority will not be able to work its will.

Mr. MORAN. Two words might be applicable here, and that is hypocrisy and cynicism. Certainly it is the height of hypocrisy to pass a rule at the beginning of a game, as we did on the very first legislative day of this session of Congress back in January 1995, when we passed a rule saying that three-fifths' vote would be required any time you raise taxes, and then every time that we have had a tax bill, the Committee on Rules has had to waive that exemption. Talk about hypocrisy; to get credit for passing a law, and then every time that it would apply, to waive it.

But then cynicism, and I think the term cynicism applies here because we do not have that ability to waive it if it becomes a constitutional amendment. But the Members on the other side have got to be thoughtful enough to know that this would be unworkable if it became a constitutional amendment. And so what is driving it?

Well, one would have to believe that it is a certain element of cynicism, knowing perhaps that they are not likely to be in office when it applies to subsequent Congresses or believing that better minds will prevail, that the Senate will kill it or that the American people in their State constitutional conventions will kill it, but somebody else will do the responsible thing, allowing them to do the cynical thing to get votes by voting for this constitutional amendment, believing and hoping that it will never become law.

Mr. FRANK of Massachusetts. Mr. Speaker, that is very reassuring because that gives us two chances to kill it: one with better minds; and, two, with the Senate as apparently an alternative line of defense there.

Mr. SKAGGS. Let me suggest that we take the words of James Madison as a benediction to this particular discussion, and just quoting from the last part of Federalist Paper No. 58, Madison on this very point wrote as follows:

"It has been said," this is referring to the debates in the Constitutional Convention about wanting more than a simple majority for certain kinds of legislation, quote, "it has been said that more than a majority ought to have been required in particular cases for a decision." That some advantages might have resulted from such a precaution cannot be denied. It might have been an additional shield to some particular interests and another obstacle, generally, to hasty and partial measures. But these considerations are outweighed by the inconveniences in the opposite scale. In all cases where justice or the general good might require new laws to be passed or active measures to be pushed, the fundamental principle of free government would be reversed. It would no longer be the majority that would rule. The power would be transferred to the minority.

I do not think we should do that.

PROTECTING OUR ENVIRONMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Georgia [Mr. NORWOOD] is recognized for 60 minutes as the designee of the majority leader.

Mr. NORWOOD. Mr. Speaker, the Federal Government has a vital role to play in protecting our environment. If we are to preserve and build on the tremendous gains we have made in the last two decades in cleaning up our land, air, and water, we must have Federal guidelines enforced by an active and revitalized Environmental Protection Agency working in close cooperation with our States and local governments.

Now that I have shattered your opinion of conservative Republican views on the environment, we can get down to nuts and bolts of how we accomplish the goals on which I think we all agree—for we are all environmentalists.

Thirty years ago many of our rivers were horribly polluted, our air quality in parts of the country was so bad that people with even minor health problems were confined to their homes, and soil and building contamination was to an extent that our children showed elevated levels of lead poisoning in nationwide blood tests. These problems led Republican President Richard Nixon to create the Environmental Protection Agency to clean up the country.

We have done a good job in getting started—but we still have a long way to go, and we can do better. That's what this new Congress should be about.

In the three decades since the creation of our environmental laws, we have seen what began as strong measures to protect our natural resources turn into a tidal wave of regulations and lawsuits that stifle our economy, usurp local and State autonomy, and infringe on the constitutional rights of property owners, while accomplishing very little in the way of real protection or cleanup.

This is generally what happens with every Federal agency or endeavor, given enough time. Because when we create laws and agencies to address a nationwide problem, we at the same time create a new industry comprised of Government bureaucrats; private sector consultants, experts, and contractors; specialized trial attorneys; and consumer activist groups.

All these groups have a powerful vested interest in seeing that the original nationwide problem is not only not solved, but continues to be an ever-growing problem, expanding their industry, careers, and incomes into perpetuity.

With groups like Ralph Nader's Citizen Action, the Energy Research Foundation, Greenpeace, and the like, we have created a cottage industry raising millions of dollars a year, that would be put out of business if we ever really solved our environmental problems.

The trial attorneys that have become emeshed in our cleanup efforts are costing us $900 million a year—money that could be used on actually cleaning up waste sites, but is instead siphoned away without a single shovelful of waste being touched in return.

The principles behind environmental legislation are good—the problem is how they are enforced and carried out. But to even suggest reform or change in the status quo is to invite the wrath of these special interests, and that is where we find ourselves today in searching for better ways to clean up our environment.

There is probably no better example of this than the ongoing effort to reform the Superfund Clean-Up Program. This program came into existence in 1980 with the noble goal of identifying and cleaning up the worse cases of site pollution and contamination in the country, called National Priorities List Sites, or NPL's. In addition, secondary pollution sites were identified as "brownfield sites" that also badly needed cleaning up, but were not as critical to overall public health as the NPL sites.

A small amount of the funds to accomplish this mammoth task come from the taxpayer, and most comes from a special tax on industries and products that tend to create pollution. We take in around $1.5 billion a year from this combination of taxes on oil and chemicals, and the overall corporate environmental tax. In addition, individual companies that played an original role in creating one of these NPL sites pay as large a portion of the total clean-up costs as can be extracted. There are 1,300 NPL sites in the country, and another 450,000 brownfield sites.

How are we doing in achieving this mission? Ninety-one sites have been cleaned up in the 16 years the Superfund has been in existence; 91 out of 1,300.

The average cleanup has taken 12 to 15 years to complete, and cost more than $30 million a site.

Of those 12 to 15 years spent on each site, 10 years are spent in the courts, in negotiations, and on bureaucratic studies and redtape. It takes only 2 years to actually get the job done.

Of the $30 million spent on each site, half of the money goes to trial lawyers and Federal bureaucrats. Of the $25 billion spent since 1980, that's nearly $12 billion going to trial attorneys, salaries at the EPA, and studies on how to clean up instead of just getting the job done—for that we were only left around $13 billion.

So while we spend our Superfund money and time on courts, bureaucrats, studies, and lawyers, 10 million children under the age of 12 continue to live within 4 miles of a waste site—breathing the air, and drinking the water. At today's pace, these children will be in their midtwenties before the sites are cleaned.

That's why we introduced the Reform of Superfund Act, or H.R. 2500 this past year to reform the way we clean up these sites. So far, we have held 17 congressional hearings, heard testimony from 159 witnesses on ways to improve and speed up the process, and have conducted over 50 bipartisan meetings on the effort.

In return for these efforts, we are attacked by the special interests whose cash-flow would be cut if we succeed. The Ralph Nader faction under the guise of Citizen Action has mounted an all-out campaign to stop the efforts. Why? One of their main backers is the Trial Lawyers Association, which would stand to lose millions if the Superfund were used to clean up pollution instead of paying lawyers.

There is no better example of this than in my own district. The area surrounding the now-closed Southern Wood Piedmont Plant in Augusta has been under study and court action for years now. Yet the Hyde Park neighborhood most affected by the arsenic contamination remains just as it was before the efforts began. The children in the neighborhood continue to play on their public school playgrounds next to arsenic-contaminated drainage ditches. But the court costs have run in the millions in the on-going litigation, and EPA experts and consultants have justified their salaried positions at taxpayer expense by the dozens of studies undertaken as the project drags on, year after year. We don't need to talk about it any longer, we need to clean it up.

Our need to revitalize our efforts to protect the environment are certainly not limited to just Superfund. Should Washington bureaucrats be allowed to tell you the same water treatment regulations that apply to Anchorage, AK, should also apply to Augusta, GA? What works most effectively to return clean water to our waterways in one geographic location may not be as effective from an environmental or cost standpoint in another, yet we continue with the Federal concept of one size fits all, to the detriment of our environment.

Do we follow the latest special-interest fad to pass new restrictions on chlorine levels in municipal water supplies based on suspect findings by EPA researchers? This is exactly the direction we are heading, and that is not good science.

We cannot base massive expenditures of Federal money based on a researcher's "best guess" about a possibility of a risk—we have too many real environmental threats that we have put off dealing with for years. And if we do allow environmental scare tactics push us into "bad science" decisions on chlorine reductions, we greatly increase the risk of fecal coliform bacterial infections in both humans and wildlife as a result. That is a known factor, and a guaranteed result.

There are a pair of bald eagles that nest on an island in the Savannah River across from my house. I love those eagles, am very personally protective of them, and feel that our laws need to do the same.

But what about the cotton farmer that has a pair of nesting eagles on his farm? The farmer has lived on his land all his life. He feeds his family by growing cotton. But then the bureaucrats tell him that he can keep his land, but he can't grow cotton because the pesticides to keep away the boll weevil may interfere with the eagles' nesting.

That farmer knows his land. He knows about the nesting eagles. His neighbor that grows cotton was just put out of business because he too had nesting eagles. The farmer kills the eagles so the bureaucrats can't stop him from growing cotton and feeding his family. He buries the eagles, no one ever knows, and we all lose a valuable and irreplaceable natural resource. Shouldn't we have regulations that protect the eagles and the homo sapiens—the man and his family?

We all want environmental policy where Americans will be healthier, safer, and cleaner. We all want to protect our natural resources and wildlife. But we must start doing it better, with an eye on concrete results.

That means cleaning up every one of the Superfund sites in the country, saving as much money as we can based on good science.

The regulators must be accountable and responsible for their actions. The regulations must be changed to embrace State and local control, and take into effect not just the letter of the law, but the intent.

My friend Sam Booher in Augusta, one of the most knowledgeable and dedicated environmentalists in the country, knows far more about what is needed to protect our natural resources in East Central Georgia than any bureaucrat in Washington, and we need to start letting people like Sam have a larger voice in this fight.

What we attempt to do by cutting funding for the EPA is get the Washington bureaucrats' attention. We want fewer Federal agents that, in the words of Thomas Jefferson, "swarm across our land to eat our sustenance." We want our tax dollars used to cleanup our environment, not pay the 1,000 lawyers that work for the EPA, not pay the bureaucrats to do one redundant study after another. We want our environment cleaned up now.

And what do we get for trying to add common sense to our environmental laws, for trying to use our fewer and fewer Federal dollars more wisely? We are attacked by the President and his liberal allies in Congress for their political gain. We are attacked by the trial lawyers for their monetary gain. We are attacked by the bureaucrats to save their jobs. And we are attacked by Ralph Nader for if we succeed he loses most of his funding.

We need to increase our Federal efforts to preserve and protect our environment, but it must be done more wisely and effectively. Our enemy is not industry, farmers, the EPA, or even regulations themselves—it is the Washington bureaucracy that continues to expand from our efforts to save our natural resources, while our children continue to live with pollution, and real protection takes a back seat to funding special interests.

□ 1630

Mr. Speaker, I have never run for political office before, and I am a freshman and new to this field. As most people who are willing to come to Washington and serve, each of us have priorities. I was very interested and am interested and will stay interested in us balancing our budget. It is not hard to understand why. I would like for my children and my grandchildren to live the American dream, and move into the 21st century, have a decent job, and be able to keep enough of their own income so they can be responsible for themselves, and so they can live in an America that is better than my America when I grew up. That is our responsibility. I am very interested in that.

I want to make sure my children and grandchildren do not have to go to war. There is only one way to keep that from happening, and that is to have a very, very strong defense. That is our best bet to keep our children out of war.

Following that, it only makes sense, one could only conclude that if you are interested in the 21st century for your children economically, so they can have a good job, have a good standard of living, you could not possibly not be interested in them having clean water. You could not possibly not be interested in them having clean air. What good will it do for them to have a good job and pay only reasonable taxes if they cannot drink their water or breathe their air?

Mr. Speaker, I know that there is a lot that has been said about this Republican Congress in terms of the environment, but I believe that if we can get past those who wish to reach political gain, those who wish to make money out of this argument, we can in this Congress pass environmental laws that will clean up this country and keep it cleaned up, as opposed to continuing to sink millions and millions and millions of dollars into bureaucratic redtape and into the pockets of our trial lawyers.

Mr. Speaker, I appreciate having the opportunity this afternoon to get this off my chest.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. JONES) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, on March 28.

Mr. SHADEGG, for 5 minutes each day, on March 27, 28, and 29.

Mr. BURTON of Indiana, for 5 minutes each day, on March 27, 28, and 29.

Mr. MICA, for 5 minutes each day, on March 27 and 28.

Mr. CANADY of Florida, for 5 minutes, on March 27.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SKAGGS) and to include extraneous matter:)

Mr. OBEY.
Mr. KILDEE.
Mr. KENNEDY of Massachusetts.
Mrs. MEEK of Florida.
Mr. HALL of Ohio.
Mr. MANTON.
Mr. FAZIO of California.

(The following Members (at the request of Mr. JONES) and to include extraneous matter:)

Mrs. MYRICK.
Mr. MANZULLO.
Mr. COMBEST.
Mr. GILMAN.
Mrs. JOHNSON of Connecticut.
Mr. GALLEGLY.

(The following Members (at the request of Mr. NORWOOD) and to include extraneous matter:)

Ms. WATERS.
Mrs. MINK of Hawaii.
Mr. GALLEGLY.
Ms. SLAUGHTER.
Mr. LIGHTFOOT.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1459. An act to provide for uniform management of livestock grazing on Federal land, and for other purposes; to the Committee on Natural Resources and the Committee on Agriculture.

ADJOURNMENT

Mr. NORWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 43 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, March 27, 1996, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2293. A letter from the Chairperson, National Council on Disability, transmitting the Council's annual report volume 16, fiscal year 1995, pursuant to 29 U.S.C. 781(a)(8); to the Committee on Economic and Educational Opportunities.

2294. A letter from the Administrator, General Services Administration, transmitting GSA's investigation of the costs of operating privately owned vehicles based on calendar year 1995 data, pursuant to 5 U.S.C. 5707(b)(1); to the Committee on Government Reform and Oversight.

2295. A letter from the Chairman, National Endowment for the Humanities, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2296. A letter from the Director, Office of Management and Budget, transmitting a report entitled "Agency Compliance with Title II of the Unfunded Mandates Reform Act of 1995," pursuant to 2 U.S.C. 1538; to the Committee on Government Reform and Oversight.

2297. A letter from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting notice on leasing systems for the Central Gulf of Mexico, sale 157, scheduled to be held in April 1996, pursuant to 43 U.S.C. 1337(a)(8); to the Committee on Resources.

2298. A letter from the Secretary of Transportation, transmitting the Department's evaluation of oil tanker routing, pursuant to Public Law 101-380, section 4111(c) (104 Stat. 516); to the Committee on Transportation and Infrastructure.

2299. A letter from the Administrator, Environmental Protection Agency, transmitting the 1994 national water quality inventory report, pursuant to 33 U.S.C. 1315(b)(2); to the Committee on Transportation and Infrastructure.

2300. A letter from the Assistant Attorney General of the United States, transmitting a report entitled "Child Victimizers: Violent Offenders and Their Victims," pursuant to Public Law 103-322, section 320928(h) (108 Stat. 2133); jointly, to the Committees on the Judiciary and Economic and Educational Opportunities.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. DUNCAN, MR. LIPINSKI, Ms. MOLINARI, and Mr. WISE):

H.R. 3159. A bill to amend title 49, United States Code, to authorize appropriations for fiscal years 1997, 1998, and 1999 for the National Transportation Safety Board, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. ARCHER (for himself, Mr. BLILEY, Mr. GOODLING, Mr. HYDE, Mr. THOMAS, Mr. BILIRAKIS, Mr. FAWELL, Mr. MCCOLLUM, and Mr. HASTERT):

H.R. 3160. A bill to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, to reform medical liability, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Commerce, Economic and Educational Opportunities, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CRANE (for himself, Mr. GIBBONS, and Mrs. KENNELLY):

H.R. 3161. A bill to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Romania; to the Committee on Ways and Means.

By Ms. DELAURO:

H.R. 3162. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Banking and Financial Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTINGS of Washington (for himself and Mrs. SMITH of Washington):

H.R. 3163. A bill to provide that Oregon may not tax compensation paid to a resident of Washington for services as a Federal employee at a Federal hydroelectric facility located on the Columbia River; to the Committee on the Judiciary.

By Mr. HASTINGS of Washington:

H.R. 3164. A bill to exempt defense nuclear facilities from the Metric System Conversion Act of 1975; to the Committee on Science.

By Mrs. JOHNSON of Connecticut:

H.R. 3165. A bill to amend title 23, United States Code, to make funds available for surface transportation projects on roads functionally classified as local or rural minor collectors, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. NEY:

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the 104th Congress; to the Committee on House Oversight.

By Mr. FUNDERBURK (for himself, Mr. Smith of New Jersey, Mr. Scarborough, Mr. Graham, Mr. Hilleary, Mr. Jones, Mr. Cox, Mr. Foley, Mr. Gutknecht, Mrs. Chenoweth, Mr. Underwood, Mr. Salmon, Ms. Pelosi, Mr. Bono, Mr. Burton of Indiana, Mr. Solomon, Ms. Brown of Florida, Mr. Hastings of Washington, Mr. Baker of California, Mr. Pombo, Mr. Cooley, Mr. Ehrlich, Mr. Coble, Mrs. Cubin, Mr. Istook, Mr. Brewster, Mr. Buyer, and Mr. Rohrabacher):

H. Con. Res. 154. Concurrent resolution to congratulate the Republic of China on Taiwan on the occasion of its first Presidential democratic election; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 218: Mr. Zimmer and Mr. Rose.

H.R. 1073: Mr. Torres, Mr. Petri, and Mr. Ensign.

H.R. 1074: Mr. Torres, Mr. Petri, and Mr. Ensign.

H.R. 1202: Mr. Shaw.

H.R. 1713: Mr. Barr.

H.R. 1916: Mr. Bryant of Texas and Mr. Bliley.

H.R. 2086: Mr. Blute.

H.R. 2270: Mr. Hyde.

H.R. 2400: Mr. Davis, Mr. Duncan, Mr. Wilson, Mr. Livingston, and Mr. Cramer.

H.R. 2510: Mr. McHale.

H.R. 2578: Mr. McHale.

H.R. 2579: Mr. Skaggs, Mr. Gunderson, Mr. Montgomery, and Mr. Hefley.

H.R. 2585: Mr. Miller of California and Ms. Jackson-Lee.

H.R. 2636: Mr. King.

H.R. 2856: Mr. Volkmer.

H.R. 2919: Mr. Houghton and Mr. Doyle.

H.R. 2925: Mr. Stearns, Mrs. Myrick, and Mr. Ney.

H.R. 3002: Mr. Brewster, Mr. King, and Mr. Barrett of Nebraska.

H.R. 3103: Mr. Forbes, Mr. Horn, Ms. Molinari, Mr. Portman, Mr. Ney, Mr. Hobson, Mr. Shays, Mr. Hoke, Mrs. Kelly, Mr. Longley, Mr. McHugh, Mr. Boehlert, Mr. English of Pennsylvania, Mr. Greenwood, Mr. Gilchrest, and Mrs. Fowler.

H.R. 3106: Mr. Frost, Ms. Eddie Bernice Johnson of Texas, Mr. Gene Green of Texas, and Ms. Norton.

H.R. 3119: Mr. Gene Green of Texas and Mr. Kildee.

H.R. 3148: Mr. Torricelli.

H.J. Res. 158: Mr. Sabo.

PETITIONS ETC.

Under clause 1 of rule XXII,

68. The SPEAKER presented a petition of the Council of the District of Columbia, relative to Council Resolution 11-235, "Transfer of Jurisdiction over a Portion of Parcel 174/15 and Lot 802 in Square 4325, S.O. 85-182, Resolution of 1996"; which was referred to the Committee on Government Reform and Oversight.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3103

Offered by: Mr. Gunderson

Amendment No. 1. At the end of the bill add the following new title (and conform the table of contents accordingly):

TITLE V—PROMOTING ACCESS AND AVAILABILITY OF HEALTH COVERAGE IN RURAL AREAS

Subtitle A—Medicare Program

SECTION 501. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) Medicare Rural Hospital Flexibility Program.—Section 1820 of the Social Security Act (42 U.S.C. 1395i-4) is amended to read as follows:

"MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

"Sec. 1820. (a) Establishment.—Any State that submits an application in accordance with subsection (b) may establish a medicare rural hospital flexibility program described in subsection (c).

"(b) Application.—A State may establish a medicare rural hospital flexibility program described in subsection (c) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of one or more rural health networks (as defined in subsection (d)) in the State,

"(ii) promotes regionalization of rural health services in the State, and

"(iii) improves access to hospital and other health services for rural residents of the State;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

"(3) such other information and assurances as the Secretary may require.

"(c) Medicare Rural Hospital Flexibility Program Described.—

"(1) In general.—A State that has submitted an application in accordance with subsection (b), may establish a medicare rural hospital flexibility program that provides that—

"(A) the State shall develop at least one rural health network (as defined in subsection (d)) in the State; and

"(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

"(2) State designation of facilities.—

"(A) In general.—A State may designate one or more facilities as a critical access hospital in accordance with subparagraph (B).

"(B) Criteria for designation as critical access hospital.—A State may designate a facility as a critical access hospital if the facility—

"(i) is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

"(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection, or

"(II) is certified by the State as being a necessary provider of health care services to residents in the area;

"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

"(iii) provides not more than 6 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 72 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 72-hour restriction on a case-by-case basis;

"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

"(II) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off-site basis under arrangements as defined in section 1861(w)(1), and

"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(v) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

"(d) Rural Health Network Defined.—

"(1) In general.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital, and

"(B) at least 1 hospital that furnishes acute care services.

"(2) Agreements.—

"(A) In general.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

"(B) Items described.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communications systems including (where feasible)—

"(I) telemetry systems, and

"(II) systems for electronic sharing of patient data.

"(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

"(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least 1—

"(i) hospital that is a member of the network;

"(ii) peer review organization or equivalent entity; or

"(iii) other appropriate and qualified entity identified in the State rural health care plan.

"(e) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (c);

"(2) is designated as a critical access hospital by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(f) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a critical access hospital solely because, at the time the facility applies to the State for designation as a critical access hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed 12 beds (minus the number of inpatient beds used for providing inpatient care in the facility pursuant to subsection (c)(2)(B)(iii)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a critical access hospital.

"(g) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.".

(b) PART A AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) DEFINITIONS.—Section 1861(mm) of such Act (42 U.S.C. 1395x(mm)) is amended to read as follows:

"Critical Access Hospital; Critical Access Hospital Services

"(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(e).

"(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(2) COVERAGE AND PAYMENT.—(A) Section 1812(a)(1) of such Act (42 U.S.C. 1395d(a)(1)) is amended by striking "or inpatient rural primary care hospital services" and inserting "or inpatient critical access hospital services".

(B) Sections 1813(a) and section 1813(b)(3)(A) of such Act (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient rural primary care hospital services" each place it appears, and inserting "inpatient critical access hospital services".

(C) Section 1813(b)(3)(B) of such Act (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services".

(D) Section 1814 of such Act (42 U.S.C. 1395f) is amended—

(i) in subsection (a)(8) by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(ii) in subsection (b), by striking "other than a rural primary care hospital providing inpatient rural primary care hospital services," and inserting "other than a critical access hospital providing inpatient critical access hospital services,"; and

(iii) by amending subsection (l) to read as follows:

"(l) PAYMENT FOR INPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(3) TREATMENT OF CRITICAL ACCESS HOSPITALS AS PROVIDERS OF SERVICES.—(A) Section 1861(u) of such Act (42 U.S.C. 1395x(u)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking "a rural primary care hospital" and inserting "a critical access hospital".

(4) CONFORMING AMENDMENTS.—(A) Section 1128A(b)(1) of such Act (42 U.S.C. 1320a–7a(b)(1)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(B) Section 1128B(c) of such Act (42 U.S.C. 1320a–7b(c)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(C) Section 1134 of such Act (42 U.S.C. 1320b–4) is amended by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(D) Section 1138(a)(1) of such Act (42 U.S.C. 1320b–8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital".

(E) Section 1816(c)(2)(C) of such Act (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(F) Section 1833 of such Act (42 U.S.C. 1395l) is amended—

(i) in subsection (h)(5)(A)(iii), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (i)(1)(A), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (i)(3)(A), by striking "rural primary care hospital services" and inserting "critical access hospital services";

(iv) in subsection (l)(5)(A), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(v) in subsection (l)(5)(B), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(G) Section 1835(c) of such Act (42 U.S.C. 1395n(c)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(H) Section 1842(b)(6)(A)(ii) of such Act (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(I) Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services"; and

(II) in paragraph (2), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in the last sentence of subsection (e), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (v)(1)(S)(ii)(III), by striking "rural primary care hospital" and inserting "critical access hospital";

(iv) in subsection (w)(1), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(v) in subsection (w)(2), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(J) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(K) Section 1866(a)(1) of such Act (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by striking "rural primary care hospitals" and inserting "critical access hospitals";

(ii) in subparagraph (H), in the matter preceding clause (i), by striking "rural primary care hospitals" and "rural primary care hospital services" and inserting "critical access hospitals" and "critical access hospital services", respectively;

(iii) in subparagraph (I), in the matter preceding clause (i), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking "rural primary care hospitals" and inserting "critical access hospitals", and

(II) in clause (i), by striking "rural primary care hospital" and inserting "critical access hospital".

(L) Section 1866(a)(3) of such Act (42 U.S.C. 1395cc(a)(3)) is amended—

(i) by striking "rural primary care hospital" each place it appears in subparagraphs (A) and (B) and inserting "critical access hospital"; and

(ii) in subparagraph (C)(ii)(II), by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(M) Section 1867(e)(5) of such Act (42 U.S.C. 1395dd(e)(5)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(c) PAYMENT CONTINUED TO DESIGNATED EACHS.—Section 1886(d)(5)(D) of such Act (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(1) in clause (iii)(III), by inserting "as in effect on September 30, 1995" before the period at the end; and

(2) in clause (v)—

(A) by inserting "as in effect on September 30, 1995" after "1820 (i)(1)"; and

(B) by striking "1820(g)" and inserting "1820(e)".

(d) PART B AMENDMENTS RELATING TO CRITICAL ACCESS HOSPITALS.—

(1) COVERAGE.—(A) Section 1861(mm) of such Act (42 U.S.C. 1395x(mm)) as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.".

(B) Section 1832(a)(2)(H) of such Act (42 U.S.C. 1395k(a)(2)(H)) is amended by striking "rural primary care hospital services" and inserting "critical access hospital services".

(2) PAYMENT.—(A) Section 1833(a) of such Act (42 U.S.C. 1395l(a)) is amended in paragraph (6), by striking "outpatient rural primary care hospital services" and inserting "outpatient critical access hospital services".

(B) Section 1834(g) of such Act (42 U.S.C. 1395m(g)) is amended to read as follows:

"(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1996.

SEC. 502. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS.

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services

"(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:

"(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).

"(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.

"(C) The facility is in danger of closing due to low inpatient utilization rates and operating losses, and the closure of the facility would limit the access to emergency services of individuals residing in the facility's service area.

"(D) The facility has entered into (or plans to enter into) an agreement with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receive data from and transmit data to the facility.

"(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.

"(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.

"(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraphs (E) and (F); and

"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part-time, off-site basis.

"(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' were deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners or nurses'); except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).

"(2) The term 'rural emergency access care hospital services' means the following services provided by a rural emergency access care hospital and furnished to an individual over a continuous period not to exceed 24 hours (except that such services may be furnished over a longer period in the case of an individual who is unable to leave the hospital because of inclement weather):

"(A) An appropriate medical screening examination (as described in section 1867(a)).

"(B) Necessary stabilizing examination and treatment services for an emergency medical condition and labor (as described in section 1867(b)).".

(b) REQUIRING RURAL EMERGENCY ACCESS CARE HOSPITALS TO MEET HOSPITAL ANTI-DUMPING REQUIREMENTS.—Section 1867(e)(5) of such Act (42 U.S.C. 1395dd(e)(5)) is amended by striking "1861(mm)(1))" and inserting "1861(mm)(1)) and a rural emergency access care hospital (as defined in section 1861(oo)(1))".

(c) COVERAGE AND PAYMENT FOR SERVICES.—

(1) COVERAGE.—Section 1832(a)(2) of such Act (42 U.S.C. 1395k(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (I);

(B) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).".

(2) PAYMENT BASED ON PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—

(A) IN GENERAL.—Section 1833(a)(6) of such Act (42 U.S.C. 1395l(a)(6)), as amended by section 501(f)(2), is amended by striking "services," and inserting "services and rural emergency access care hospital services,".

(B) PAYMENT METHODOLOGY DESCRIBED.—Section 1834(g) of such Act (42 U.S.C. 1395m(g)), as amended by section 501(f)(2)(B), is amended—

(i) in the heading, by striking "SERVICES" and inserting "SERVICES AND RURAL EMERGENCY ACCESS CARE HOSPITAL SERVICES"; and

(ii) by adding at the end the following new sentence: "The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning on or after October 1, 1996.

SEC. 503. CLASSIFICATION OF RURAL REFERRAL CENTERS.

(a) PROHIBITING DENIAL OF REQUEST FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.—

(1) IN GENERAL.—Section 1886(d)(10)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

"(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which is classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.".

(2) EFFECTIVE DATE.—Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board during the 30-day period beginning on the date of the enactment of this Act requesting a change in its classification for purposes of determining the area wage index applicable to the hospital under section 1886(d)(3)(D) of such Act for fiscal year 1997, if the hospital would be eligible for such a change in its classification under the standards described in section 1886(d)(10)(D) of such Act (as amended by paragraph (1)) but for its failure to meet the deadline for applications under section 1886(d)(10)(C)(ii) of such Act.

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1994 shall be classified as such a rural referral center for fiscal year 1997 and each subsequent fiscal year.

Subtitle B—Small Rural Hospital Antitrust Fairness

SEC. 511. ANTITRUST EXEMPTION.

The antitrust laws shall not apply with respect to—

(1) the merger of, or the attempt to merge, 2 or more hospitals,

(2) a contract entered into solely by 2 or more hospitals to allocate hospital services, or

(3) the attempt by only 2 or more hospitals to enter into a contract to allocate hospital services,

if each of such hospitals satisfies all of the requirements of section 512 at the time such hospitals engage in the conduct described in paragraph (1), (2), or (3), as the case may be.

SEC. 512. REQUIREMENTS.

The requirements referred to in section 511 are as follows:

(1) The hospital is located outside of a city, or in a city that has less than 150,000 inhabitants, as determined in accordance with the most recent data available from the Bureau of the Census.

(2) In the most recently concluded calendar year, the hospital received more than 40 percent of its gross revenue from payments made under Federal programs.

(3) There is in effect with respect to the hospital a certificate issued by the Health Care Financing Administration specifying that such Administration has determined that Federal expenditures would be reduced, consumer costs would not increase, and access to health care services would not be reduced, if the hospital and the other hospitals that requested such certificate merge, or allocate the hospital services specified in such request, as the case may be.

SEC. 513. DEFINITION.

For purposes of this title, the term "antitrust laws" has the meaning given such term in subsection (a) of the first section of the

Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies with respect to unfair methods of competition.

Subtitle C—Miscellaneous Provisions

SEC. 521. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS.

"(a) GENERAL RULE.—Gross income shall not include any qualified loan repayment.

"(b) QUALIFIED LOAN REPAYMENT.—For purposes of this section, the term 'qualified loan repayment' means any payment made on behalf of the taxpayer by the National Health Service Corps Loan Repayment Program under section 338B(g) of the Public Health Service Act.".

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 338B(g) of the Public Health Service Act is amended by striking "Federal, State, or local" and inserting "State or local".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. National Health Service Corps loan repayments.

"Sec. 138. Cross references to other Acts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made under section 338B(g) of the Public Health Service Act after the date of the enactment of this Act.

SEC. 522. TELEMEDICINE SERVICES.

The Secretary of Health and Human Services shall establish a methodology for making payments under part B of the medicare program for telemedicine services furnished on an emergency basis to individuals residing in an area designated as a health professional shortage area (under section 332(a) of the Public Health Service Act).

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OFFERED BY: MR. HYDE

AMENDMENT No. 2. Strike title III and insert the following:

TITLE III—SMALL BUSINESS REGULATORY FAIRNESS

SEC. 301. SHORT TITLE.

This title may be cited as the "Small Business Regulatory Enforcement Fairness Act of 1996".

SEC. 302. FINDINGS.

Congress finds that—

(1) a vibrant and growing small business sector is critical to creating jobs in a dynamic economy;

(2) small businesses bear a disproportionate share of regulatory costs and burdens;

(3) fundamental changes that are needed in the regulatory and enforcement culture of Federal agencies to make agencies more responsive to small business can be made without compromising the statutory missions of the agencies;

(4) three of the top recommendations of the 1995 White House Conference on Small Business involve reforms to the way government regulations are developed and enforced, and reductions in government paperwork requirements;

(5) the requirements of chapter 6 of title 5, United States Code, have too often been ignored by government agencies, resulting in greater regulatory burdens on small entities than necessitated by statute; and

(6) small entities should be given the opportunity to seek judicial review of agency actions required by chapter 6 of title 5, United States Code.

SEC. 303. PURPOSES.

The purposes of this title are—

(1) to implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations;

(2) to provide for judicial review of chapter 6 of title 5, United States Code;

(3) to encourage the effective participation of small businesses in the Federal regulatory process;

(4) to simplify the language of Federal regulations affecting small businesses;

(5) to develop more accessible sources of information on regulatory and reporting requirements for small businesses;

(6) to create a more cooperative regulatory environment among agencies and small businesses that is less punitive and more solution-oriented; and

(7) to make Federal regulators more accountable for their enforcement actions by providing small entities with a meaningful opportunity for redress of excessive enforcement activities.

Subtitle A—Regulatory Compliance Simplification

SECTION 311. DEFINITIONS.

For purposes of this subtitle—

(1) the terms "rule" and "small entity" have the same meanings as in section 601 of title 5, United States Code;

(2) the term "agency" has the same meaning as in section 551 of title 5, United States Code; and

(3) the term "small entity compliance guide" means a document designated as such by an agency.

SEC. 312. COMPLIANCE GUIDES.

(a) COMPLIANCE GUIDE.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604 of title 5, United States Code, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides". The guides shall explain the actions a small entity is required to take to comply with a rule or group of rules. The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities, and may cooperate with associations of small entities to develop and distribute such guides.

(b) COMPREHENSIVE SOURCE OF INFORMATION.—Agencies shall cooperate to make available to small entities through comprehensive sources of information, the small entity compliance guides and all other available information on statutory and regulatory requirements affecting small entities.

(c) LIMITATION ON JUDICIAL REVIEW.—An agency's small entity compliance guide shall not be subject to judicial review, except that in any civil or administrative action against a small entity for a violation occurring after the effective date of this section, the content of the small entity compliance guide may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages.

SEC. 313. INFORMAL SMALL ENTITY GUIDANCE.

(a) GENERAL.—Whenever appropriate in the interest of administering statutes and regulations within the jurisdiction of an agency which regulates small entities, it shall be the practice of the agency to answer inquiries by small entities concerning information on, and advice about, compliance with such statutes and regulations, interpreting and applying the law to specific sets of facts supplied by the small entity. In any civil or administrative action against a small entity, guidance given by an agency applying the law to facts provided by the small entity may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages sought against such small entity.

(b) PROGRAM.—Each agency regulating the activities of small entities shall establish a program for responding to such inquiries no later than 1 year after enactment of this section, utilizing existing functions and personnel of the agency to the extent practicable.

(c) REPORTING.—Each agency regulating the activities of small business shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on the Judiciary of the House of Representatives no later than 2 years after the date of the enactment of this section on the scope of the agency's program, the number of small entities using the program, and the achievements of the program to assist small entity compliance with agency regulations.

SEC. 314. SERVICES OF SMALL BUSINESS DEVELOPMENT CENTERS.

(a) Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (O), by striking "and" at the end;

(2) in subparagraph (P), by striking the period at the end and inserting a semicolon; and

(3) by inserting after subparagraph (P) the following new subparagraphs:

"(Q) providing information to small business concerns regarding compliance with regulatory requirements; and

"(R) developing informational publications, establishing resource centers of reference materials, and distributing compliance guides published under section 312(a) of the Small Business Regulatory Enforcement Fairness Act of 1996.".

(b) Nothing in this Act in any way affects or limits the ability of other technical assistance or extension programs to perform or continue to perform services related to compliance assistance.

SEC. 315. COOPERATION ON GUIDANCE.

Agencies may, to the extent resources are available and where appropriate, in cooperation with the states, develop guides that fully integrate requirements of both Federal and state regulations where regulations within an agency's area of interest at the Federal and state levels impact small entities. Where regulations vary among the states, separate guides may be created for separate states in cooperation with State agencies.

SEC. 316. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the expiration of 90 days after the date of enactment of this subtitle.

Subtitle B—Regulatory Enforcement Reforms

SECTION 321. DEFINITIONS.

For purposes of this subtitle—

(1) the terms "rule" and "small entity" have the same meanings as in section 601 of title 5, United States Code;

(2) the term "agency" has the same meaning as in section 551 of title 5, United States Code; and

(3) the term "small entity compliance guide" means a document designated as such by an agency.

SEC. 322. SMALL BUSINESS AND AGRICULTURE ENFORCEMENT OMBUDSMAN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

"SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

"(a) DEFINITIONS.—For purposes of this section, the term—

"(1) "Board" means a Regional Small Business Regulatory Fairness Board established under subsection (c); and

"(2) "Ombudsman" means the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under subsection (b).

"(b) SBA ENFORCEMENT OMBUDSMAN.—

"(1) Not later than 180 days after the date of enactment of this section, the Administrator shall designate a Small Business and Agriculture Regulatory Enforcement Ombudsman, who shall report directly to the Administrator, utilizing personnel of the Small Business Administration to the extent practicable. Other agencies shall assist the Ombudsman and take actions as necessary to ensure compliance with the requirements of this section. Nothing in this section is intended to replace or diminish the activities of any Ombudsman or similar office in any other agency.

"(2) The Ombudsman shall—

"(A) work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by such personnel;

"(B) establish means to receive comments from small business concerns regarding actions by agency employees conducting compliance or enforcement activities with respect to the small business concern, means to refer comments to the Inspector General of the affected agency in the appropriate circumstances, and otherwise seek to maintain the identity of the person and small business concern making such comments on a confidential basis to the same extent as employee identities are protected under section 7 of the Inspector General Act of 1978 (5 U.S.C.App.);

"(C) based on substantiated comments received from small business concerns and the Boards, annually report to Congress and affected agencies evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each agency;

"(D) coordinate and report annually on the activities, findings and recommendations of the Boards to the Administrator and to the heads of affected agencies; and

"(E) provide the affected agency with an opportunity to comment on draft reports prepared under subparagraph (C), and include a section of the final report in which the affected agency may make such comments as are not addressed by the Ombudsman in revisions to the draft.

"(c) REGIONAL SMALL BUSINESS REGULATORY FAIRNESS BOARDS.—

"(1) Not later than 180 days after the date of enactment of this section, the Administrator shall establish a Small Business Regulatory Fairness Board in each regional office of the Small Business Administration.

"(2) Each Board established under paragraph (1) shall—

"(A) meet at least annually to advise the Ombudsman on matters of concern to small businesses relating to the enforcement activities of agencies;

"(B) report to the Ombudsman on substantiated instances of excessive enforcement actions of agencies against small business concerns including any findings or recommendations of the Board as to agency enforcement policy or practice; and

"(C) prior to publication, provide comment on the annual report of the Ombudsman prepared under subsection (b).

"(3) Each Board shall consist of five members, who are owners, operators, or officers of small business concerns, appointed by the Administrator, after receiving the recommendations of the chair and ranking minority member of the Committees on Small Business of the House of Representatives and the Senate. Not more than three of the Board members shall be of the same political party. No member shall be an officer or employee of the Federal Government, in either the executive branch or the Congress.

"(4) Members of the Board shall serve at the pleasure of the Administrator for terms of three years or less.

"(5) The Administrator shall select a chair from among the members of the Board who shall serve at the pleasure of the Administrator for not more than 1 year as chair.

"(6) A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

"(d) POWERS OF THE BOARDS.

"(1) The Board may hold such hearings and collect such information as appropriate for carrying out this section.

"(2) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(3) The Board may accept donations of services necessary to conduct its business, provided that the donations and their sources are disclosed by the Board.

"(4) Members of the Board shall serve without compensation, provided that, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.".

SEC. 323. RIGHTS OF SMALL ENTITIES IN ENFORCEMENT ACTIONS.

(a) IN GENERAL.—Each agency regulating the activities of small entities shall establish a policy or program within 1 year of enactment of this section to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties for violations of a statutory or regulatory requirement by a small entity. Under appropriate circumstances, an agency may consider ability to pay in determining penalty assessments on small entities.

(b) CONDITIONS AND EXCLUSIONS.—Subject to the requirements or limitations of other statutes, policies or programs established under this section shall contain conditions or exclusions which may include, but shall not be limited to—

(1) requiring the small entity to correct the violation within a reasonable correction period;

(2) limiting the applicability to violations discovered through participation by the small entity in a compliance assistance or audit program operated or supported by the agency or a state;

(3) excluding small entities that have been subject to multiple enforcement actions by the agency;

(4) excluding violations involving willful or criminal conduct;

(5) excluding violations that pose serious health, safety or environmental threats; and

(6) requiring a good faith effort to comply with the law.

(c) REPORTING.—Agencies shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on Judiciary of the House of Representatives no later than 2 years after the date of enactment of this section on the scope of their program or policy, the number of enforcement actions against small entities that qualified or failed to qualify for the program or policy, and the total amount of penalty reductions and waivers.

SEC. 324. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the expiration of 90 days after the date of enactment of this subtitle.

Subtitle C—Equal Access to Justice Act Amendments

SECTION 331. ADMINISTRATIVE PROCEEDINGS.

(a) Section 504(a) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(4) If, in an adversary adjudication brought by an agency, the demand by the agency is substantially in excess of the decision of the adjudicative officer and is unreasonable when compared with such decision, under the facts and circumstances of the case, the adjudicative officer shall award to the party the fees and other expenses related to defending against the excessive demand, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust.".

(b) Section 504(b) of title 5, United States Code, is amended—

(1) in paragraph (1)(A), by striking "$75" and inserting "$125";

(2) at the end of paragraph (1)(B), by inserting before the semicolon "or for purposes of subsection (a)(4), a small entity as defined in section 601";

(3) at the end of paragraph (1)(D), by striking "and";

(4) at the end of paragraph (1)(E), by striking the period and inserting "; and"; and

(5) at the end of paragraph (1), by adding the following new subparagraph:

"(F) 'demand' means the express demand of the agency which led to the adversary adjudication, but does not include a recitation by the agency of the maximum statutory penalty (i) in the administrative complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount.".

SEC. 332. JUDICIAL PROCEEDINGS.

(a) Section 2412(d)(1) of title 28, United States Code, is amended by adding at the end the following new subparagraph:

"(D) If, in a civil action brought by the United States, the demand by the United States is substantially in excess of the judgment finally obtained by the United States and is unreasonable when compared with such judgment, under the facts and circumstances of the case, the court shall award to the party the fees and other expenses related to defending against the excessive demand, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust.".

(b) Section 2412(d) of title 28, United States Code, is amended—

(1) in paragraph (2)(A), by striking "$75" and inserting "$125";

(2) at the end of paragraph (2)(B), by inserting before the semicolon "or for purposes of subsection (d)(1)(D), a small entity as defined in section 601 of title 5";

(3) at the end of paragraph (2)(G), by striking "and";

(4) at the end of paragraph (2)(H), by striking the period and inserting "; and"; and

(5) at the end of paragraph (2), by adding the following new subparagraph:

"(I) 'demand' means the express demand of the United States which led to the adversary adjudication, but shall not include a recitation of the maximum statutory penalty (i) in the complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount.".

SEC. 333. EFFECTIVE DATE.

The amendments made by sections 331 and 332 shall apply to civil actions and adversary adjudications commenced on or after the date of the enactment of this subtitle.

Subtitle D—Regulatory Flexibility Act Amendments

SEC. 341. REGULATORY FLEXIBILITY ANALYSES.

(a) Initial Regulatory Flexibility Analysis.—

(1) Section 603.—Section 603(a) of title 5, United States Code, is amended—

(A) by inserting after "proposed rule", the phrase ", or publishes a notice of proposed rulemaking for an interpretative rule of general applicability involving the internal revenue laws of the United States"; and

(B) by inserting at the end of the subsection, the following new sentence: "In the case of an interpretative rule involving the internal revenue laws of the United States, this chapter applies to interpretative rules published in the Federal Register for codification in the Code of Federal Regulations, but only to the extent that such interpretative rules impose on small entities a collection of information requirement.".

(2) Section 601.—Section 601 of title 5, United States Code, is amended by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting "; and", and by adding at the end the following:

"(7) the term 'collection of information'—

"(A) means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

"(i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, 10 or more persons, other than agencies, instrumentalities, or employees of the United States; or

"(ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; and

"(B) shall not include a collection of information described under section 3518(c)(1) of title 44, United States Code.

"(8) Recordkeeping requirement.—The term 'recordkeeping requirement' means a requirement imposed by an agency on persons to maintain specified records.

(b) Final Regulatory Flexibility Analysis.—Section 604 of title 5, United States Code, is amended—

(1) in subsection (a) to read as follows:

"(a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue laws of the United States as described in section 603(a), the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain—

"(1) a succinct statement of the need for, and objectives of, the rule;

"(2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

"(3) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;

"(4) a description of the projected reporting, record keeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

"(5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected."; and

(2) in subsection (b), by striking "at the time" and all that follows and inserting "such analysis or a summary thereof.".

SEC. 342. JUDICIAL REVIEW.

Section 611 of title 5, United States Code, is amended to read as follows:

"§ 611. Judicial review

"(a)(1) For any rule subject to this chapter, a small entity that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.

"(2) Each court having jurisdiction to review such rule for compliance with section 553, or under any other provision of law, shall have jurisdiction to review any claims of noncompliance with sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.

"(3)(A) A small entity may seek such review during the period beginning on the date of final agency action and ending one year later, except that where a provision of law requires that an action challenging a final agency action be commenced before the expiration of one year, such lesser period shall apply to an action for judicial review under this section.

"(B) In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b) of this chapter, an action for judicial review under this section shall be filed not later than—

"(i) one year after the date the analysis is made available to the public, or

"(ii) where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period, the number of days specified in such provision of law that is after the date the analysis is made available to the public.

"(4) In granting any relief in an action under this section, the court shall order the agency to take corrective action consistent with this chapter and chapter 7, including, but not limited to—

"(A) remanding the rule to the agency, and

"(B) deferring the enforcement of the rule against small entities unless the court finds that continued enforcement of the rule is in the public interest.

"(5) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law or to grant any other relief in addition to the requirements of this section.

"(b) In an action for the judicial review of a rule, the regulatory flexibility analysis for such rule, including an analysis prepared or corrected pursuant to paragraph (a)(4), shall constitute part of the entire record of agency action in connection with such review.

"(c) Compliance or noncompliance by an agency with the provisions of this chapter shall be subject to judicial review only in accordance with this section.

"(d) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise permitted by law.".

SEC. 343. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 605(b) of title 5, United States Code, is amended to read as follows:

"(b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a statement providing the factual basis for such certification. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.".

(b) Section 612 of title 5, United States Code is amended—

(1) in subsection (a), by striking "the committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives" and inserting "the Committees on the Judiciary and Small Business of the Senate and House of Representatives".

(2) in subsection (b), by striking "his views with respect to the" and inserting in lieu thereof, "his or her views with respect to

compliance with this chapter, the adequacy of the rulemaking record with respect to small entities and the".

SEC. 344. SMALL BUSINESS ADVOCACY REVIEW PANELS.

(a) SMALL BUSINESS OUTREACH AND INTERAGENCY COORDINATION.— Section 609 of title 5, United States Code is amended—

(1) before "techniques," by inserting "the reasonable use of";

(2) in paragraph (4), after "entities" by inserting "including soliciting and receiving comments over computer networks";

(3) by designating the current text as subsection (a); and

(4) by adding the following:

"(b) Prior to publication of an initial regulatory flexibility analysis which a covered agency is required to conduct by this chapter—

"(1) a covered agency shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected;

"(2) not later than 15 days after the date of receipt of the materials described in paragraph (1), the Chief Counsel shall identify individuals representative of affected small entities for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule;

"(3) the agency shall convene a review panel for such rule consisting wholly of full time Federal employees of the office within the agency responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs within the Office of Management and Budget, and the Chief Counsel;

"(4) the panel shall review any material the agency has prepared in connection with this chapter, including any draft proposed rule, collect advice and recommendations of each individual small entity representative identified by the agency after consultation with the Chief Counsel, on issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c);

"(5) not later than 60 days after the date a covered agency convenes a review panel pursuant to paragraph (3), the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c), provided that such report shall be made public as part of the rulemaking record; and

"(6) where appropriate, the agency shall modify the proposed rule, the initial regulatory flexibility analysis or the decision on whether an initial regulatory flexibility analysis is required.

"(c) An agency may in its discretion apply subsection (b) to rules that the agency intends to certify under subsection 605(b), but the agency believes may have a greater than de minimis impact on a substantial number of small entities.

"(d) For purposes of this section, the term covered agency means the Environmental Protection Agency and the Occupational Safety and Health Administration of the Department of Labor.

"(e) The Chief Counsel for Advocacy, in consultation with the individuals identified in subsection (b)(2), and with the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, may waive the requirements of subsections (b)(3), (b)(4), and (b)(5) by including in the rulemaking record a written finding, with reasons therefor, that those requirements would not advance the effective participation of small entities in the rulemaking process. For purposes of this subsection, the factors to be considered in making such a finding are as follows:

"(1) In developing a proposed rule, the extent to which the covered agency consulted with individuals representative of affected small entities with respect to the potential impacts of the rule and took such concerns into consideration; or in developing a final rule, the extent to which the covered agency took into consideration the comments filed by the individuals identified in subsection (b)(2).

"(2) Special circumstances requiring prompt issuance of the rule.

"(3) Whether the requirements of subsection (b) would provide the individuals identified in subsection (b)(2) with a competitive advantage relative to other small entities.".

(b) SMALL BUSINESS ADVOCACY CHAIRPERSONS.—Not later than 30 days after the date of enactment of this Act, the head of each covered agency that has conducted a final regulatory flexibility analysis shall designate a small business advocacy chairperson using existing personnel to the extent possible, to be responsible for implementing this section and to act as permanent chair of the agency's review panels established pursuant to this section.

SEC. 345. EFFECTIVE DATE.

This subtitle shall become effective on the expiration of 90 days after the date of enactment of this subtitle, except that such amendments shall not apply to interpretative rules for which a notice of proposed rulemaking was published prior to the date of enactment.

Subtitle E—Congressional Review

SEC. 351. CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.

Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"Sec.
"801. Congressional review.
"802. Congressional disapproval procedure.
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"§801. Congressional review

"(a)(1)(A) Before a rule can take effect, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

"(i) a copy of the rule;

"(ii) a concise general statement relating to the rule, including whether it is a major rule; and

"(iii) the proposed effective date of the rule.

"(B) On the date of the submission of the report under subparagraph (A), the Federal agency promulgating the rule shall submit to the Comptroller General and make available to each House of Congress—

"(i) a complete copy of the cost-benefit analysis of the rule, if any;

"(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

"(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

"(iv) any other relevant information or requirements under any other Act and any relevant Executive Orders.

"(C) Upon receipt of a report submitted under subparagraph (A), each House shall provide copies of the report to the Chairman and Ranking Member of each standing committee with jurisdiction under the rules of the House of Representatives or the Senate to report a bill to amend the provision of law under which the rule is issued.

"(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction in each House of the Congress by the end of 15 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

"(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

"(3) A major rule relating to a report submitted under paragraph (1) shall take effect on the latest of—

"(A) the later of the date occurring 60 days after the date on which—

"(i) the Congress receives the report submitted under paragraph (1); or

"(ii) the rule is published in the Federal Register, if so published;

"(B) if the Congress passes a joint resolution of disapproval described in section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

"(i) on which either House of Congress votes and fails to override the veto of the President; or

"(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

"(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

"(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

"(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802.

"(b)(1) A rule shall not take effect (or continue), if the Congress enacts a joint resolution of disapproval, described under section 802, of the rule.

"(2) A rule that does not take effect (or does not continue) under paragraph (1) may not be reissued in substantially the same form, and a new rule that is substantially the same as such a rule may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule.

"(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of subsection (a)(3) may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

"(2) Paragraph (1) applies to a determination made by the President by Executive Order that the rule should take effect because such rule is—

"(A) necessary because of an imminent threat to health or safety or other emergency;

"(B) necessary for the enforcement of criminal laws;

"(C) necessary for national security; or

"(D) issued pursuant to any statute implementing an international trade agreement.

"(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

"(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule for which a report was submitted in accordance with subsection (a)(1)(A) during the period beginning on the date occurring—

"(A) in the case of the Senate, 60 session days, or

"(B) in the case of the House of Representatives, 60 legislative days,

before the date the Congress adjourns a session of Congress through the date on which the same or succeeding Congress first convenes its next session, section 802 shall apply to such rule in the succeeding session of Congress.

"(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

"(i) such rule were published in the Federal Register (as a rule that shall take effect) on—

"(I) in the case of the Senate, the 15th session day, or

"(II) in the case of the House of Representatives, the 15th legislative day,

after the succeeding session of Congress first convenes; and

"(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a rule can take effect.

"(3) A rule described under paragraph (1) shall take effect as otherwise provided by law (including other subsections of this section).

"(e)(1) For purposes of this subsection, section 802 shall also apply to any major rule promulgated between March 1, 1996, and the date of the enactment of this chapter.

"(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

"(A) such rule were published in the Federal Register on the date of enactment of this chapter; and

"(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

"(f) Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

"(g) If the Congress does not enact a joint resolution of disapproval under section 802 respecting a rule, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

"§ 802. Congressional disapproval procedure

"(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced in the period beginning on the date on which the report referred to in section 801(a)(1)(A) is received by Congress and ending 60 days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ____ relating to ____, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in).

"(b)(1) A joint resolution described in subsection (a) shall be referred to the committees in each House of Congress with jurisdiction.

"(2) For purposes of this section, the term 'submission or publication date' means the later of the date on which—

"(A) the Congress receives the report submitted under section 801(a)(1); or

"(B) the rule is published in the Federal Register, if so published.

"(c) In the Senate, if the committee to which is referred a joint resolution described in subsection (a) has not reported such joint resolution (or an identical joint resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

"(d)(1) In the Senate, when the committee to which a joint resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of a joint resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

"(2) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

"(3) In the Senate, immediately following the conclusion of the debate on a joint resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

"(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

"(e) In the Senate the procedure specified in subsection (c) or (d) shall not apply to the consideration of a joint resolution respecting a rule—

"(1) after the expiration of the 60 session days beginning with the applicable submission or publication date, or

"(2) if the report under section 801(a)(1)(A) was submitted during the period referred to in section 801(d)(1), after the expiration of the 60 session days beginning on the 15th session day after the succeeding session of Congress first convenes.

"(f) If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply:

"(1) The joint resolution of the other House shall not be referred to a committee.

"(2) With respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

"(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(B) the vote on final passage shall be on the joint resolution of the other House.

"(g) This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"§ 803. Special rule on statutory, regulatory, and judicial deadlines

"(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of enactment of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

"(b) The term 'deadline' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

"§ 804. Definitions

"For purposes of this chapter—

"(1) The term 'Federal agency' means any agency as that term is defined in section 551(1).

"(2) The term 'major rule' means any rule that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in—

"(A) an annual effect on the economy of $100,000,000 or more;

"(B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

"(C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

The term does not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.

"(3) The term 'rule' has the meaning given such term in section 551, except that such term does not include—

"(A) any rule of particular applicability, including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing;

"(B) any rule relating to agency management or personnel; or

"(C) any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

"§805. Judicial review

"No determination, finding, action, or omission under this chapter shall be subject to judicial review.

"§806. Applicability; severability

"(a) This chapter shall apply notwithstanding any other provision of law.

"(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

"§807. Exemption for monetary policy

"Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

"§808. Effective date of certain rules

"Notwithstanding section 801—

"(1) any rule that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity related to hunting, fishing, or camping, or

"(2) any rule which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest,

shall take effect at such time as the Federal agency promulgating the rule determines.".

SEC. 352. EFFECTIVE DATE.

The amendment made by section 351 shall take effect on the date of enactment of this Act.

SEC. 353. TECHNICAL AMENDMENT.

The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rulemaking .... 801".

SENATE—*Tuesday, March 26, 1996*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. We have a guest chaplain this morning, Father Lavin from St. Joseph's Catholic Church.

PRAYER

The guest chaplain, the Reverend Paul E. Lavin, pastor, St. Joseph's on Capitol Hill, Washington, DC, offered the following prayer:

Let us listen to the word of the Lord from the book of Tobit.—Tobit 12:6–8:

"Raphael called the two men aside privately and said to them: 'Thank God! Give him the praise and glory.'

"Before all the living, acknowledge the many good things he has done for you, by blessing and extolling his name in song.

"Before all men, honor, and proclaim God's deeds, and do not be slack in praise being Him.

"A king's secret it is prudent to keep, but the works of God are to be declared and made known.

"Praise them with due honor.

"Do good, and evil will not find its way to you.

"Prayer and fasting are good, but better than either is almsgiving accompanied by righteousness."

Let us pray:

Good and gracious God, it is by Your light, the light of Your spirit, that You inspired us to understand Your goodness and called us to be faithful.

In that same spirit, help us to relish what is right and always to rejoice in the consolation that You give us.

Grant eternal rest to our colleague, Senator Edmund Muskie, and grant consolation to his family.

Strengthen us with Your grace and Your wisdom, for You are God forever and ever. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. LOTT. Mr. President, today, there will be a period for morning business until the hour of 10:30 a.m. with Senators permitted to speak therein for up to 5 minutes each, except for the following: Senator DORGAN for 15 minutes and Senator REID for 15 minutes.

At 10:30, we will be scheduled to resume consideration of Calendar No. 300, H.R. 1296, the Presidio legislation, with the Murkowski substitute pending. A cloture motion was filed on the Murkowski amendment last night. Therefore, a cloture vote will occur tomorrow morning under the provisions of rule XXII. There are expected to be amendments offered during the day. Therefore, rollcall votes will occur today, but not prior to 2:15 this afternoon.

The Senate will recess from 12:30 p.m. to 2:15 p.m. today for the weekly policy conferences to meet.

Other very important items to be considered this week include the farm bill conference report, hopefully under a time agreement; the line-item veto conference report; the omnibus appropriations conference report; the debt limit extension; and the State Department authorization conference report. Senators can expect busy sessions throughout the week in order to complete action on a number of these important issues.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. KYL). Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to a period for the transaction of morning business until 10:30 a.m., with Senators permitted to speak for 5 minutes each, with the following exception: Senator REID will be recognized for up to 15 minutes and Senator DORGAN will be recognized for up to 15 minutes.

The Senator from North Dakota is recognized.

THE FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, let me claim my 15 minutes, and I ask the Chair to notify me when I have consumed 10 of the minutes.

Mr. President, I came to the floor today with Senator REID from Nevada to discuss a preliminary report that has been completed, after some 2 years of work, by the General Accounting Office. This report takes an extensive look into the activities and operations of the Federal Reserve Board and its regional banks. The Federal Reserve was created in 1913. It is kind of a dinosaur in our Government in an age of openness, an institution shrouded in great secrecy. But in 1913, the Congress created the Federal Reserve Board. That was the year in which Henry Ford built the first assembly line for the Model-T and paid people $5 a day to work to construct automobiles.

That was a long time ago, but some things do not change very much. The Federal Reserve still exists. It still sits as a house on a hill with a large fence around it and invites no one to peer in to see what they are doing. They make a substantial amount of money. They make their own spending decisions, and they are accountable only to themselves.

Senator REID and I asked the GAO to do an investigation and evaluation of how the Fed works: What does it spend its money on? How well does it spend its money? How accountable is it?

We have some 200 pages in a report that represents the work of nearly 2 years by the GAO. This is not a final report. It is a preliminary report that is now awaiting comment by the Federal Reserve Board.

The Senator from Nevada and I decided to release it now only because last week it was made available to us, and this week the Senate scheduled a hearing on Chairman Greenspan's renomination. We felt that the Senate Banking Committee at least ought to have the benefit of what is in this report prior to the hearing.

Let me discuss a couple of points in this report and ask Senator REID to discuss a couple of other points, because I think this will provide a substantial amount of information that the American public will be interested in.

You talk about the Federal Reserve Board and people's eyes start glazing over, and there starts to develop a large fog around the subject. This is largely because it is a central bank, accountable largely only to itself. It conducts monetary policy by itself and does so behind closed doors, with great secrecy.

Now, what did the GAO find? A couple of things. First of all, let me discuss the surplus account that exists at the Federal Reserve Board. The Federal Reserve Board has a surplus account of about $3.7 billion. In fact, the surplus account has increased well over 70 percent in the last 6 years. They have increased their surplus, which they set aside to absorb potential losses, by 79 percent over this period. So they have a cash stash of $3.7 billion in a surplus account.

This account presumably is to cover their losses. But the Federal Reserve Board has not lost money in 79 consecutive years and is not going to lose money in the future. Last year, it had a $20 billion-plus profit, it had expenses of about $2 to $3 billion, and it turns the rest back to the Treasury. But it still keeps a small surplus—small by their definition, large by my definition. I come from a town of only 300 people, and there billions mean something.

What does the GAO say about that? The GAO talks about this surplus account by suggesting that the downward adjustment to the size of the surplus account, or perhaps its elimination, would result in a positive budgetary impact, and so on and so forth. Then they point out that when they asked the Federal Reserve Board why they had this and how they determined what they needed, they said it is arbitrary. There is really no criteria used by the Fed to how much they need in the surplus account. They just squirrel away as much as they want.

This is the taxpayers' money, $3.7 billion squirreled away in a concrete edifice that houses the Fed. The GAO recommends, and I recommend—and we will introduce legislation—that this money be returned to American taxpayers and not stashed as a surplus in an institution that has not had a loss in 79 years and is not going to have a loss in the next 79 years.

There are other areas in this GAO report that also describe the operation of the overall Federal Reserve system. The Federal Reserve Board largely conducts monetary policy. While I disagree with its monetary policies these days, I do not think that the monetary policy ought to exist here in the well of the Congress. I think it ought to be separate and apart.

But I do not agree with the Fed when it believes its mission in life is to be a set of human brake pads designed to slow down the American economy. They happen to believe the American economy should not grow more than 2.5 percent. If it grows more than that, somehow we are going to produce more inflation they think.

They are dead wrong. In the global economy, inflation is going down, not up; wages are going down, not up. So I think their monetary policy is wrong, and they are inhibiting growth in this country and slowing down the American economy.

However, that is not what the GAO looked at. The GAO evaluated the other functions of the Fed. What does it spend its money on? Less than 10 percent of the activities of the Federal Reserve System are spent on monetary policy activities. The rest of it is bank supervision, check clearing, and a whole range of other things.

The Fed has counseled this country to cut its expenditures, slim down, downsize, and streamline. What has the Fed done? The Fed has counseled that America go on a diet and it has decided to over-eat. Here you have a circumstance where this shows what has happened between 1988 and 1994 according to the GAO: Personnel compensation up 53 percent. Benefits, that is, benefits per employee, increased about 90 percent during the same period; equipment and software up; buildings up.

In fact, they built one building, and they estimated when they decided to build the building they would need a 7,000-square-foot lobby. That is a pretty good-sized lobby. When they finished the building, they had a 27,000-square-foot lobby. You ought to see a picture of this lobby with no chairs—27,000 square foot. And that also is in the GAO report.

If you take a look at the expenditures of the Fed, you will see this line, which is the blue line, and from 1988 to 1994, the Fed, which writes its own checks and decides how much it wants to spend—nobody is suggesting that it ought to do this or ought not to do this. It decides how much of its money it wants to keep—had a 48 percent increase in expenditures, according to the GAO. During the same period, the Consumer Price Index increased 25 percent—almost double the Consumer Price Index in terms of the increase in costs down at the Fed.

I just indicated a couple of those items, but the cost per employee of the increases in benefits, employee benefits of the Fed increased 90 percent during the 6-year term.

So again, the suggestion by the Fed that the rest of the Government tighten its belt is apparently advice lost on the Fed itself. If you take a look at a whole range of these issues, the amount of money spent on personnel, on buildings, on benefits, and a whole series of issues like that, what you will find is a Federal Reserve Board that has not had a previous audit but a board for which an audit would discover that it seems to be growing while the rest of the Government is shrinking.

Maybe we ought to bring the Federal Reserve Board into the same realm. I am not talking about bringing monetary policy functions into this realm, but maybe the non-monetary policy functions of the Federal Reserve ought to be subject to annual appropriations just as are all of the other functions of Government.

Certainly, we ought to now proceed, based on what we will find in this report, to decide there should be every year, each and every year, an independent audit of the Federal Reserve Board. We ought to, based on what we have discovered in this report, decide that we should have this $3.7 billion taken out of the surplus account that has been squirreled away by the Fed itself and brought back into the stream of income that is available to the American taxpayers. Those are the things that we ought to do together. There are a whole series of recommendations that Senator REID and I will jointly employ in the decision on future legislation as a result of this GAO report.

Let me conclude my portion of this where I began. The Federal Reserve Board is a dinosaur; in the rest of Government, we are now discussing openness. In the Federal Reserve Board, we still have the shroud of secrecy. In the rest of the Government, we have the requirement for financial accountability. At the Federal Reserve Board, it is: We will spend what we need to spend, and we will make that judgment.

While the rest of the Federal Government is shrinking with fewer employees, fewer now than at any time during the Government's history going back to John F. Kennedy, the Federal Reserve Board system is growing. That is why I think this GAO audit suggests it is out of step and does need some correction.

Mr. President, let me yield the floor. My colleague, Senator REID, from Nevada, will discuss some of the other results of this GAO evaluation.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, will the Chair advise me when I have used 12 minutes of my time.

Mr. President, this report that was released yesterday has taken about 2 years for the General Accounting Office to conduct. The findings of this report, if centered on a Member of Congress or an agency of the Federal Government, would be, for lack of a better word, scandalous.

It is interesting to note the apologists that are around this country for the Federal Reserve Board. Take, for example, the Wall Street Journal. They wrote an article on the release of this report today, but it was an apology for the Federal Reserve Board. The Wall Street Journal looks at the Members of Congress and Federal agencies and anything they do, they do not dot an "i" on the right place on the page, do not cross the "t," they not only report it, but they write an editorial about it.

This $3.7 billion? The huge cost overruns? Not a word said in today's Wall Street Journal, but it is very typical for that newspaper.

This report raises legitimate questions about fiscal management within the Federal Reserve System. Some important questions should be answered as we proceed, Senator DORGAN and I, with our legislative agenda as it relates to this General Accounting Office report. And I think there should be some questions asked during the confirmation proceedings relating to Alan Greenspan.

We have been told by the General Accounting Office that this is the most in-depth study they have ever done of the Federal Reserve Board. In all the time I have been in Congress, certainly it is the most in-depth study by far that has ever been done of the Federal Reserve Board.

I agree the Federal Reserve should be independent, and I think that I will do what I can to make sure it is independent, but that does not mean the Federal Reserve Board and system does not need accountability. It needs accountability, as indicated in this 200-page report that has taken 2 years to prepare by the General Accounting Office.

Mr. President, I think what the Federal Reserve Board has been saying is, "Do not do as I do, do as I say," because they say that Government has to cut back. What do they do? They significantly increase their spending in all areas. Take, for example, the operating costs of the Federal Reserve System. Supervision and regulation, from 1988 to 1994, increased 102 percent—102 percent. An annual audit certainly is the least we should get out of this. We should know what is happening in the Federal Reserve System. A ray of sunlight should begin shining on the Federal Reserve System. It may not need to be part of our sunshine laws that were so popular a decade or two ago, but it needs a ray of sunshine shining on it. It would instill greater public confidence in our banking system. It is important.

I have talked only a little bit about the increased operating costs, but the costs certainly have skyrocketed. And we are talking about big money. From 1988 to 1994, the costs have gone up from $1.3 billion to $2 billion. That is a lot of money. Operating costs for the Federal Reserve have grown at twice the rate of inflation. Fed operating costs jumped 50 percent between 1988 and 1994.

Mr. President, I have behind me here a visual aid, and I think it is pretty clear, if we look at what has happened with travel within the Federal Reserve System, it has gone up 66 percent. We see what has happened to the Federal Government. It has gone up 4 percent; staffing levels of the Federal Government, minus 2 percent. We see what has happened with the Federal Reserve System. It is incredible.

These costs are a story in and of themselves. From 1988 to 1994, the Fed salary costs increased by 44 percent. Interestingly, also, salaries of reserve bank presidents are significantly greater than the Chairman. They vary. Somebody in San Francisco makes more than somebody in St. Louis. It is interesting; there is no conformity as to how much they make. They can kind of pay themselves, I guess, what they want. And 120 top Fed officials earn more than the Chairman of the Federal Reserve System, Alan Greenspan. Within the Federal Reserve System, their benefits increased by 89 percent. Whereas in the rest of the Federal Government, we have been reining in the costs, theirs have gone up almost 90 percent.

I might say, when we talk about the travel expenses increasing by 66 percent—but they travel in style. In 1994, the Fed's travel expenditures were over $42 million. They are permitted to be reimbursed however they feel they should be reimbursed: They can be reimbursed per diem, they can be reimbursed actual costs. How would this institution work if, in fact, every Member of Congress could be reimbursed for travel costs, whatever they felt was appropriate? There needs to be some uniformity. Because the policy varied from bank to bank, these costs could easily be contained by a uniform, more taxpayer-friendly policy.

Senator DORGAN has talked about the double standard, and certainly there is a double standard. When we also understand that 93.25 percent of all of the work that the Fed does has nothing to do with monetary policy—only a little over 6.5 percent of what they do relates to monetary policy—that is why I agree wholeheartedly with my friend, the junior Senator from North Dakota, that in fact they should be subject to the appropriation process. They should be.

I am a member of the Appropriations Committee. We spend most of our time trying to figure out a way to downsize, to cut budgets, to eliminate programs. At the same time the Fed is telling us that we need to do this, their costs are spiraling. The rest of the Government underwent necessary belt tightening. The Fed enjoyed a smorgasbord of growth; they picked whatever they wanted. While the Federal Government's overall staffing level declined by 2 percent, the Fed's staffing level increased 6 percent over that.

So we know there needs to be better internal management. The General Accounting Office found this. I have gone around the State of Nevada. People ask questions about the Fed. I have introduced legislation in the past to have an annual audit of the Federal Reserve System. It has gotten nowhere. It has gotten from being introduced to the garbage can. But now there are facts to indicate that what I have been talking about is absolutely necessary; that we do need to have an annual report, we do need better management control within the Fed.

We do not know how costs have gone up in the last year and a half or so, but between 1988 and 1994, personnel compensation increased 54 percent, equipment and software expenditures increased 85 percent, building expenditures increased 34 percent, and, as I already talked about, travel expenditures increased by 66 percent. There is very little in the Fed to keep these under control. The Fed is not subject to the same cost reduction pressures that have affected both public and private agencies.

The $3.7 billion slush fund that they have, that they keep around for losses that may occur—we have not had any that occurred in 79 years. I am on the Appropriations Committee. We are now in conference, trying to work out the disputes we have. We badly need a few more dollars to allow this omnibus bill to be signed, these five appropriations bills. It could be done if we had the Fed's money that is sitting there, gathering dust. We would solve the problem. The Federal Government would be financed. We would not need any more continuing resolutions.

So we know, as the Senator from North Dakota has indicated, that we need to do something legislatively. We first must have the $3.7 billion returned to the Treasury. We need to require an annual audit, an independent audit. We need to institute uniform procurement and contracting practices. We need to institute executive branch policies relating to travel, benefits and security. We certainly need to do that, at a minimum.

I think it would be well that we tied the salaries of Fed executives to similarly situated Government personnel, and we need to subject the Fed's nonmonetary policy operations to the appropriations process. That is the least we can do.

I think it also says a lot when we realize that the Federal Reserve, as described by my friend from North Dakota, has had this beautiful home. We can just see the top of that home. We cannot see it all because there is a huge fence around it. We know we have responsibilities for the structure, the landscaping in there, but we cannot see it.

All we are asking is let us find out what is going on. It is important. They conduct important functions of this Government, and we should know more about what they do. We have to do away with the shroud of secrecy. We have to peel back this cloak that they covered themselves with since 1913. This rainy-day fund they have set up is not a rainy-day fund, it is for a hurricane. They have this spending free-for-all attitude. That has to stop. They have a blank check mentality. I would like to know who is minding the shop, because 1913 accounting practices must be put to a stop.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Dakota has 4½ minutes remaining.

Mr. REID. And the Senator from Nevada?

The PRESIDING OFFICER. The Senator from Nevada has 2½.

Mr. DORGAN. Mr. President, let me use a couple of these minutes by trying to put this in perspective.

There is the policy issue with respect to the Federal Reserve Board, how it behaves, what it does, how it impacts this country's economy. Then there is the issue that we raised with respect to the GAO evaluation of the Fed. That is what we are discussing before the Senate today.

This 200-page evaluation of the Federal Reserve Board and its operations is the most significant look inside the Fed in 70 or 80 years. What it shows, as we have indicated, is they have stashed away $3.7 billion for a surplus, despite the fact they have not had a loss in 79 consecutive years. They are spending more and more during times when others in the Federal Government are being told they ought to tighten their belts. Those issues are issues the Congress ought to deal with. The Federal Reserve Board ought to be subjected to an annual independent audit. We ought to have information and knowledge about what is going on behind that fence. That is the reason we want to make sure our colleagues, the relevant committees, and others will be able to evaluate the wealth of information that exists in this draft GAO report.

Let me, finally, say a word about the policies of the Federal Reserve Board itself, which are different, separate and apart from the issues we have been discussing. I have very serious reservations about the monetary policies pursued by the Fed. As I have indicated, the Federal Reserve Board has seemed to feel, now, for some long while, that this country cannot have economic growth rates above 2.5 percent. If they fancied themselves as a set of human brake pads whose mission in life is to slow down the American economy, I say they have succeeded. Give them a trophy.

That is not what this country needs. The global economy means wages are falling, not rising. It means inflation is going down, not up. And it means this country can have a higher rate of growth. There are Democrats and Republicans who believe very strongly that a 2.5 percent growth rate for our economy is anemic and cannot provide the kind of opportunity and expansion that we need in this country.

I hope, in addition to the discussion we will have about what the Fed is doing, how it runs its operations, how it spends its money—in addition to that, and we should have that discussion as a result of this report, I hope we will also have a discussion about the Fed's monetary policies, and whether they are appropriate to try to produce the kind of economic future that we want in this country. In my judgment, they are not.

Two years ago, we saw the Federal Reserve Board increase interest rates seven times. Why? Because they were heading off the fires of inflation, they suggested. But inflation was not going up, inflation was going down, and it continues to go down.

What they managed to do with those interest rate increases was to slow down the American economy. That is not such a significant talent. My Uncle Joe can slow down the American economy. Just bring Uncle Joe to town, and I am sure he can figure out how to throw a wrench in the crank case. It does not take a special talent to slow down the economy.

The question is, how do we get the economy moving again, a vigorous economy with new jobs and new opportunities for all Americans, without raising the specter of additional inflation? That is the task for all of us.

The Federal Reserve Board sees itself on a singular mission: Keep economic growth somewhere in the range of 2.5 percent. That is not enough growth for this country. No one ought to be satisfied with that. It does not produce the jobs or the opportunities this country needs.

Mr. President, I hope that even as we discuss the report about what the Fed does and how it spends its money, we will alternatively discuss Federal policies, especially in the area of monetary policy.

Mr. President, I yield the floor.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that morning business be extended until the hour of 11 a.m., with Senators to speak for 5 minutes in the case of Senator BOXER; 12 minutes for Senator GRAMS; 10 minutes for Senator GRASSLEY; 5 minutes for Senator BRADLEY; and 5 minutes for Senator KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I yield the floor.

PRESIDENT CLINTON'S BUDGET FOR FISCAL YEAR 1997

Mr. GRAMS. Mr. President, tucked into the 2,000-page, 9-pound-11-ounce stack of documents that make up President Clinton's latest budget was a small booklet that many people might have overlooked. That booklet is called "A Citizens Guide to the Federal Budget." I would like to read to you a couple of the paragraphs from chapter 2, and that chapter deals with where money comes from and where it goes.

It says:

> In a typical American household, a father and mother might sit around the kitchen table to review the family budget. They might discuss how much they expect to earn each year, how much they can spend on food, shelter, clothing, transportation, and perhaps a vacation, and how much they might be able to save for future needs.
>
> If they do not have enough money to make ends meet, they might discuss how they can spend less, such as cutting back on restaurants, movies or other entertainment. They also might consider whether to try to earn more by working more hours or taking another job. If they expect their shortfall to be temporary, they might try to borrow.

This is from the "Small Citizens Guide to the Federal Budget." I agree with every word of that—the situation it describes is precisely what American families are facing today. But then the booklet continues and says:

> Generally speaking, the Federal Government plans its budget much like families do.

Generally speaking Mr. President, the Federal Government plans its budget nothing at all like a family across the country has to do.

A family does not have unlimited access to a credit card access that has allowed the Federal Government to amass a national debt of more than $5 trillion.

A family would not be allowed to spend beyond its means forever—it would reach its credit limit and the family would eventually have to tighten its belt and begin paying back its debt. The Federal Government, on the other hand, just continues to steal from our children.

A family does not have the resources of foreign investors they can turn to when the bill come due. The Federal Government does, and expects the taxpayers to foot the bills and the massive interest payments those bills generate.

And finally, a family could not impose hundreds of millions of dollars worth of new taxes and fees on its friends and neighbors to help offset its own extravagant spending. But the Federal Government can, and it does.

For years, I have used the story of the family sitting around the kitchen table as an example of how middle-class Americans understand budgeting in a way Washington never will.

The methodical, commonsense approach to reconciling expenses against revenues represents everything that Washington is not.

So to suggest that the Federal Government's free-spending, unaccountable ways have anything in common with the way the working-class people of this Nation plan their budgets is ludicrous.

Librarians take notice: The Government will recommend that "A Citizen's Guide to the Federal Budget" be filed in the bookshelves along with the rest of the official Federal publications.

I say it ought to go up alongside Louis L'Amour and the Harlequin Romances, because it is pure fiction.

Mr. President, there is no question that families are facing tough times.

Money is tight, and there is not much left at the end of the day to put away for savings.

They are cutting back in order to make ends meet—skimping not just on entertainment, as the authors of "A Citizen's Guide to the Federal Budget" would have us believe, but too often on necessities like new clothes, insurance, or even groceries.

Their credit card bills are straining under the load. They are working two or three jobs and taking on overtime hours just to make ends meet.

But why are things so tight for American families? A close look at the President's latest budget offers some answers.

In his State of the Union Address delivered just 2 months ago, President Clinton boldly declared that "the era of big government is over."

Big government presumably meant the high taxes that have squeezed the middle class, the gigantic bureaucracy that has made redtape a synonym for Washington inefficiency, and the wasteful spending that has drained the taxpayers of their precious dollars.

But maybe big government means something different to the President. Under the budget he outlined Tuesday, big government is far from dead. In fact, it is off the respirator, breathing on its own and taking nourishment.

The Clinton budget—the ninth budget he has sent to Congress in the last 12 months—is nothing more than the status quo his administration continues to deliver, because it calls for increasing Federal spending every year over the course of the 7-year plan, until we're spending nearly $1.9 trillion just after the turn of the century.

The President claims he will pay for all that new spending with unspecified cuts in domestic programs sometime in the future. Most of the cuts would not come until after the year 2000, meaning Bill Clinton will never have to make any of those tough choices.

As the President's budget grows, so does the Nation's debt, again, rising every year of the President's plan. By the time we have reached the year 2002, the national debt will have ballooned from $4.9 trillion this year to almost $6.5 trillion. That is an increase of nearly 27 percent in just 7 years.

And where are the tax cuts the President has repeatedly promised American families? It is practically nonexistent. The President claims he is cutting, but in reality, most of his tax reductions are offset by new tax increases. This is unacceptable.

It is nothing but token tax relief, and his child tax credit is a sham. It begins at $300 per child, is slowly ratcheted up to $500, and then eliminated just 2 years later. By the way, teenagers are too old to qualify.

The President pays for all this big government not by controlling Washington's appetite for spending, but by spending the savings Americans have sacrificed over the last year toward a balanced budget.

Other areas of the budget that demand the President's immediate attention are virtually ignored.

He does practically nothing to save the failing Medicare system and bring it into the 21st century.

Under the Clinton plan, Medicare remains a relic from 1960's that does not work in the 1990's, and will not survive much beyond it.

His budget does not reform Medicaid, either.

At a time when a bipartisan coalition of Governors is calling on Washington to entrust the States with managing this vital program, the President says Washington has all the answers.

He does not make fundamental changes in welfare to control spending. The President would not "end welfare as we know it"—he would extend welfare as we know it.

The President's budget plan is just a bandage on a wound that's demanding emergency surgery.

President Clinton is asking the American family to pay for his campaign and he needs to pay off Washington bureaucrats and special interest groups.

His demand for billions of additional taxpayer dollars to finance bigger government, again, is consistent with his support for big Washington government.

And President Clinton funds his new spending, again, through increased taxes, increased user fees, and one-time sales of assets financed directly by the taxpayers.

Mr. President, I am a firm believer that privatization is crucial to reaching a balanced budget and protecting taxpayer dollars. But what is the point in selling off assets if we are just going to spend it on a bigger government?

Asset sales should be dedicated to deficit reduction—if they are not, and are simply redirected by Congress into another Federal program, how are the taxpayers any better off than they were before the sale happened?

Unfortunately, this budget will do nothing to help working Americans devastated by the Clinton crunch that has trapped them somewhere between the falling wages and the President's economy has generated, and the rising taxes the President's budgets have demanded.

That is why families are having trouble making ends meet—the middle-class squeeze is squeezing them dry. A balanced budget would help, and the people deserve one, but the President's budget is not the answer.

We have to inject a dose of reality into the proceedings: President Clinton can claim to support all of these goals, but every time he has had the opportunity to prove it, he has let us down.

Congress passed a budget that balances in 7 years, protecting our children and grandchildren by freeing them from a legacy of debt and tax increases.

Our budget lets taxpayers keep more of their own dollars, for spending on things important to families, not on things Washington thinks are important.

Our budget says a life on welfare is not much of a life at all, and we offer encouragement to get people off the welfare rolls and into society.

Our budget says seniors ought to have a Medicare system they can rely on, so we save it from bankruptcy and offer Medicare patients the same kind of health care choices that are now available to everybody except seniors.

Our budget does all of that and more, and yet despite his claims that he endorses each of those goals, as we all know, the President vetoed every single one of those measures.

So you can see why it is hard to get excited about the President's professed interest in a balanced budget, tax relief, and welfare and Medicare reform, when his commitment to them seems to go no deeper than the tip of his veto pen.

The President met with the distinguished majority leader and Speaker GINGRICH last week, and they will meet again. I wish them well, because negotiating with the President is like boxing with a jellyfish—it is hard to score any points when your opponent seems to have no backbone or any firm principles of his own.

But if there is any hope of reaching an agreement on a budget this year, we will need to see some encouraging signs soon.

So, Mr. President, on a closing note, if the Nation were to continue along the path outlined by the President and the congressional majorities which came before him, a pathway dominated by high taxes and big government, I am afraid we might begin to parallel the experiences of Sweden.

There is this article from the Associated Press that appeared in the Minneapolis Star Tribune on March 15.

In this article it describes what happens when a nation guided by the belief that as long as it was collecting plenty of taxes and building plenty of government, it could provide a good life for everyone. But that has met the realities of the 1990's.

With a top income tax rate of 49.9 percent, Sweden ranks as one of the two highest-taxing countries in the world. "But today," says this article, "Swedes are deep in debt, taxed to the limit, edgy about unemployment, and cynical about the model in which they once took pride."

Even Soviet leaders once praised Sweden's welfare state. But now, continues the story, "the welfare dream is in crisis, along with the Social Democratic Party that built it."

While Bill Clinton and the liberal establishment try to push America toward the kind of high-taxing, big-spending government Sweden has tried and is now rejecting, Sweden's Social Democrats are pushing for a balanced budget, tighter welfare rules, and entrepreneurship.

"There is a growing insight that you can't tax a society into equality." Let me say that again. "There is a growing insight that you can't tax a society into equality." That is from a speechwriter for Sweden's retiring prime minister.

Somehow, Mr. President, we have moved perilously close to following in Sweden's footsteps, but it is not too late to take a step back.

If we are serious about giving our children a better future, the best thing we can do is to cut taxes, end the current spending frenzy, balance the budget, and begin paying off the national debt.

"Americans want a government that uses common sense when it makes decisions that affect their lives," concludes the administration's little budget primer.

I agree, as long as we're talking about the common sense of a family crafting its budget around the kitchen table, and not the nonsense we too often craft around the conference tables here in Washington.

NAVAL PROMOTIONS

Mr. GRASSLEY. Mr. President, 2 weeks ago I spoke in support of the Senate Armed Services Committee not granting promotion to Comdr. Robert Stumpf. Last Thursday night I had an opportunity to listen to Senator COATS, Senator BYRD, and Senator NUNN speak on the same subject. I agree with everything they said. I will speak, once again, on that same subject but put it in a little broader context.

Before I do that, there was, last Thursday, in the Washington Post this article about Commander Stumpf and the Navy, pushing for his promotion to be granted again. I suppose that means it will come back to the Senate Armed Services Committee sometime in the future.

If people wonder why this might not be granted, I read a paragraph from this article. It talks about the Tailhook conference 4 years ago in Nevada. It talks about the behavior at the Tailhook convention in September 1991. It drew scrutiny on at least two accounts about the behavior of Commander Stumpf. It says he was present in a hotel room hosted by his squadron where two strippers performed, although he left the room before one of the women engaged in a sex act with another airman. Now, he avoids all responsibility for that. I assume that is the moral of the story, why it should not be considered in whether or not he gets a promotion.

It would be similar if I had a Christmas party for my staff and I hired a couple of strippers, and before they did their act, before other things would happen, I leave the party and claim no responsibility for that. Commander Stumpf was the commander. It was his group that was involved. He thinks he can avoid responsibility for what goes on there. I think not.

But also for the entire Navy, I point out that when you have that sort of convention, it is under the auspice of the U.S. military, and we have two strippers hired and a sex act performed with an airman, I remind the Navy—and I say this because farming is my background and my son operates our family farm—that is the way animals operate. Animals operate that way. Human beings, in their interaction with people of opposite sex, do it with love and with concern and of course with the goals that every act of love has. That is what separates human beings from animals. I suggest to the Navy that they act like human beings and not like animals.

I want to put this whole thing in a different context because the latest tremors concern the future career of this Navy Commander, Robert Stumpf. Commander Stumpf's promotion to the rank of captain has been blocked, and properly so. The committee remains opposed to the promotion because Commander Stumpf is suspected of inappropriate behavior, as I described at this Tailhook convention.

Last week, under intense pressure and lobbying, the committee reexamined the promotion one more time, and the outcome was sustained. Commander Stumpf is off the promotion list and will stay off. I said 2 weeks ago that I support the committee's action, and I support their reconsideration by taking no action.

Unfortunately, Mr. President, I do not think we have heard the last from Commander Stumpf. A recent report in the Washington Times suggests that Commander Stumpf's name will be on the 1997 captain's promotion list. Now the good commander is suing Secretary of the Navy Dalton for helping the Senate to improperly block his promotion.

Commander Stumpf's predicament is a sign of a much bigger problem. It is the "problem of naval leadership," as one naval aviator put it recently. The Navy's leadership problem neither begins nor ends with Commander Stumpf. The root cause of the problem may be much higher up in the chain of command. I believe the Navy's leadership problem may lie at the very top, with people like Secretary Dalton and the Chief of Naval Operations, Admiral Jeremy Boorda.

Mr. Dalton and Admiral Boorda should have been flagged—just like Commander Stumpf was—when their promotions came up here to be at these highest ranks. Unresolved issues in their past raise questions about their integrity and their ability to lead the Navy. The adverse information in their background should have been exposed to public scrutiny and debated, but that did not happen.

Surely these troublesome facts lay buried in Government files somewhere during the confirmation process. We were sleeping at the switch when they were slipped quietly through the Senate confirmation net. Mr. President, we had no reason to ask questions about Mr. Dalton. Mr. Dalton was presented to the Senate as a financial wizard with extensive business and managerial experience. He got a green light instead of a red warning flag that his wizardry deserved.

Mr. Dalton was confirmed on July 21, 1993. Exactly 1 year later, the damaging information in Mr. Dalton's background began leaking into the public domain. The New York Times ran a front-page story on July 22nd, 1994. It was written by Mr. Jeff Gerth. This is how it began:

> When President Clinton announced that he had picked John H. Dalton to be Secretary of the Navy, he praised the nominee's true leadership ability as a Texas businessman.

As Mr. Gerth pointed out, "There was a part of Mr. Dalton's background that most Senators were unaware of."

His leadership was not advertised. We did not know he was deeply involved in the management of at least two failed savings and loan institutions. Mr. Dalton's S&L's were bailed out at the cost to the taxpayers of $100 million.

As president of one S&L institution, Mr. Dalton was threatened with a suit by the Federal Deposit Insurance Corporation for violating State and Federal laws and for gross negligence. The institution's insurance companies had to pay $3.8 million to settle a civil suit.

Now, Mr. President, this is very damaging information, I believe. It raises questions about the Secretary's integrity and his ability to lead the Navy. How did he skate right through confirmation without red warning flags? Commander Stumpf got the flag treatment for the big question marks in his file, and rightly so. Why did Mr. Dalton not get flagged and confronted?

We had an identical experience with Admiral Boorda's nomination. He, too, slipped right through the confirmation net. Admiral Boorda should have been flagged. Admiral Boorda was confirmed on April 1, 1994. About 2 months later I picked up a newspaper and saw this headline, "Court Says Navy Brass Shielded Official's Son: Lenient Treatment is the Latest Plight in the System." That is a headline. This report appeared in the Washington Post June 15, 1994. It was written by Mr. Barton Gellman.

Mr. Gellman's report went on to say, "Some of those criticized by the court in the case remain in important posts. Among them is Admiral Boorda." That really bothered me, so I got the court document and read it. I was truly dismayed by what I saw—a bunch of senior naval officers behaving in dishonest ways. So I came to the floor of this body, and on June 28, 1994, spoke on this subject. If the people are wondering what I spoke about a year ago on this subject, they can find it in the CONGRESSIONAL RECORD S7744 to S7745. Those are the pages.

My concern about Admiral Boorda's character comes directly from that military court document. Specifically, an opinion by the United States Navy-Marine Corps Court of Military Review in the case of the United States versus Chad E. Kelly, U.S. Navy. The document is dated June 13, 1994.

This was a clear-cut case of command influence and abuse of command authority.

The court document clearly indicates that Admiral Boorda may have interfered with a criminal investigation. Now, Admiral Boorda claims he was unaware of the suspect's criminal activities when he had him transferred to his own headquarters. That may be. The suspect was a low-ranking enlisted man who happened to be Navy Secretary Garrett's son. He was suspected of drug use, larceny, credit card fraud, receipt of stolen property, and lying under oath. That is very heavy stuff.

Once Admiral Boorda realized criminal behavior was involved, Garrett should have been ordered back to the scene of the crime—consistent with common Navy practice. But that did not happen. Why not?

Now, Mr. President, this brings me back to Commander Stumpf. We should not be surprised, when Commander Stumpf sets a bad example. A follower likes to imitate a leader's behavior. He is not blind. He sees the big boys abusing the system, doing bad things, and getting rewarded for it. So he figures it should be OK for him to do it as well.

No aspect of leadership is more powerful than setting a good example. If the Secretary and Chief of Naval Operations expect integrity, discipline, courage, and competence from their followers, then they must demonstrate those very same qualities themselves. Herein lies the crux of the Navy leadership problem.

Mr. Dalton and Admiral Boorda demand excellence from Commander Stumpf, but failed to deliver it themselves. "Flagging" is good for junior officers, but somehow not for admirals and above. That attitude does not sit well with junior officers. The big boys are asking their troops to do something they are unwilling to do themselves, and that just does not work.

So we cannot begin to address shortcomings in the leadership at Commander Stumpf's level until those at the top, like Mr. Dalton and Admiral Boorda, set an example of excellence in their personal behavior.

I suggest, once again, that as far as what went on at the Tailhook scandal, I want to remind the Navy that those things are things that are done in the animal kingdom, and human beings should not be involved in that sort of sexual behavior.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Chair recognizes the Senator from California.

PRESIDIO PROPERTIES ADMINISTRATION ACT

Mrs. BOXER. Mr. President, I just want to express some conflicting feelings here this morning about the bill we are about to go to. I know the Senator from Alaska understands this because we have been talking and working together on the Presidio for quite some time.

The Presidio legislation that is about to be before us—if it simply was the Presidio and other environmental issues that were not controversial, this would be one of my happiest days since I came to the Senate, because, for me, the Presidio bill is so close to my heart. Mr. President, I represented, for many years, the congressional district in which the Presidio sits. Years ago, Congressman Phil Burton, looking at the Presidio, said, "If the gates ever close, we would not want to lose this extraordinary resource." Back in the early 1980's—actually, I stand corrected, in 1972, Congressman Burton's legislation creating the Golden Gate Recreation Area and the Presidio was passed. The law provided that the Presidio would become a national park when it was no longer needed by the Army.

In 1988, when the Base Closure Commission recommended the closure, the law kicked in and triggered this incredible new park called the Presidio for the people of this country.

So why do I say that I am faced with such a terrible conflict here? It is because, rather than just voting this Presidio legislation up or down—which, by the way, we can do in 10 seconds because everybody agrees it is so important; it sets up a trust, and that would enable us to use the buildings on the park to create revenue to keep the park in good shape and to keep it safe and beautiful—we have this tangled up in the Utah wilderness conflict.

I suppose there are those who say, well, that is just the way it is done. Well, I simply do not buy that. If we really want to make progress here, if we really want to cut through the gridlock, what better chance do we have than to pull out this Utah wilderness bill—which is so controversial that it deserves its own separate attention—and pass these other environmental measures that are so important to the people of the country? We could do that in a minute.

I want to give you my feelings as to how much work has gone into this Presidio legislation. I already told you that the vision was established in the 1970's, and in the 1980's when the Presidio was closed, we all realized at that moment that it would become a glorious park. We also knew that funds were not there to keep it in the pristine condition. We figured out a way, with Congresswoman PELOSI's leadership, and Senator FEINSTEIN and I working with many others, we introduced the bill that would set up a trust. Everyone agrees that it is a wonderful idea.

I want to compliment Senator MURKOWSKI for coming out to the Presidio on more than one occasion to meet with the people. Senator CAMPBELL has been a key person working on this. Senator CHAFEE went out to visit the Presidio. Perhaps, for me, the most rewarding thing happened when Senator DOLE went out and, in fact, agreed this was the way to go.

So we did something here that we did not think was possible. We reached across party lines and we agreed on an approach for the Presidio that both Democrats and Republicans could support. Did it have everything that this Senator wanted? No. Did it have everything that the Senator from Alaska wanted? No. Clearly, we would have written it a little bit differently. But we worked together and we got a wonderful bill.

It is hard for me to imagine why it now has to get caught up in this tangle with the Utah wilderness bill, other than the fact that there are those who are pushing that bill and feel the only way they can pass it is to get it on the Presidio train.

The PRESIDING OFFICER. The Chair advises the Senator from California that the 5-minute limit has been exceeded.

Mrs. BOXER. I ask unanimous consent for another 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. So we have a national historic landmark. Five hundred buildings are on the National Register of Historic Buildings. We need to make sure that these buildings do not deteriorate and make sure we get the revenues to support the Presidio. Today, what are we faced with? The best of bills and the worst of bills—in one bill. It is like the Dr. Jekyll/Mr. Hyde approach here. We take a wonderful piece of legislation, the Presidio trust bill, and everyone supports it from both parties, the whole spectrum, and it gets hooked to this Utah wilderness.

I hope, Mr. President, a couple of things will occur today in the time that we have. No. 1, I hope we take the Utah wilderness bill out of this omnibus bill. It deserves its own debate. Right now, 3.3 million acres of that Utah wilderness are basically under protection. If this bill passes, half of those acres are going to lose protection. How can we even call it a Utah wilderness bill? Clearly, it puts the Senators from California in a very, very difficult position.

So I hope we can move this Presidio on its own. Senator DOLE and Senator DASCHLE both agree—they both cosponsor this bill—that it could be moved in a moment by a unanimous-consent request. Let us not load it down with a bill that has serious, serious problems.

I hope we can get to the point where this is truly a celebration for the people of California, that we can have our bill, have it stand alone, and take up the controversial matters independently.

I thank you very much, Mr. President. I yield the floor at this time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

ORDER OF PROCEDURE

Mr. KENNEDY. I think there was a unanimous-consent request that was made by the Republican leader on how we are going to use morning business. Am I correct?

The PRESIDING OFFICER. That is correct. Each Senator is allowed to speak up to 5 minutes with the exception of Senator REID of Nevada and Senator DORGAN of North Dakota, who each have 15 minutes reserved.

Mr. KENNEDY. I am asking whether the consent request went after 11 o'clock. I think the Senator from Mississippi requested it for some of us.

The PRESIDING OFFICER. Senator BRADLEY of New Jersey and Senator KENNEDY of Massachusetts are authorized to speak up to 5 minutes at this point.

Mr. KENNEDY. I thank the Chair.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey.

Mr. BRADLEY. I ask unanimous consent that I be allowed to complete this. I do not think it will be longer than 5 minutes, but if it is, it will be a minute or two, and I prefer not to be interrupted.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDIO PROPERTIES ADMINISTRATION ACT

Mr. BRADLEY. Mr. President, I wish to address a few of the points that were made yesterday by the distinguished Senators from Utah on the underlying wilderness bill. First, there is the assertion that S. 884, that we are now dealing with, had been fixed, particularly that the release language had been fixed, been modified.

It has been modified somewhat, I think, to reflect the debate in the Energy Committee but despite all the changes the amended version just drops the requirement that the released lands shall be managed for "nonwilderness multiple purposes" and substitutes a full range of uses—not much difference. However, the amendment still says that the lands released "shall not be managed for the purpose of protecting their suitability for wilderness designation."

The previous version of the bill as reported out was a kind of belt and suspenders approach to release. It had two protections against further wilderness designation. The revised version still leaves the belt even though the suspenders have been removed. It still remains an unprecedented provision in wilderness bills.

Next, the protected areas. Is it fair to say that almost 20 million acres have been released and can now be exploited? The distinguished Senator from Utah questioned whether you could say that, but both versions of the bill as reported and as amended find that all public lands in the State of Utah administered by the BLM have been adequately studied for wilderness designation. This eliminates further consideration of approximately 20 million acres.

There are other problems which I will not get into at this stage, but I would like to just focus on the acreage where the distinguished Senators from Utah have asserted that plenty of land in the Kaiparowits Plateau and other areas, plenty of land has already been protected—125,000 acres in Kaiparowits and 110,000 in Dirty Devil Canyon—but the point is what is not protected. There are about 525,000 acres in Kaiparowits that were in the House bill and 152,000 acres in the Dirty Devil area. So the question is not what is protected but what is not protected, particularly on the Kaiparowits Plateau.

The proponents of the bill have basically constantly referred to the House bill which is 5.7 million acres. I am not pushing 5.7 million acres. I have not introduced a bill that advocates 5.7 million acres, nor has any such bill been introduced. I am simply concerned that 2 million acres is far too little to protect out of 22 million acres of BLM land. I am concerned that all the remaining land would be permanently released from consideration as wilderness. But once again I am not saying that 5.7 is the right number. Keep in mind that it is 3.2 million acres that are currently protected as wilderness.

Also, the Senators from Utah should recognize that if the Utah wilderness bill does not pass or is vetoed, the result will not be that 5.7 million acres are protected. Instead, for the time being, the 3.2 million will remain protected for study and a new recommendation will have to be developed.

Third, there is the assertion that acreage is an issue for Utah to resolve. I would argue that acreage is far from the only issue here. In fact, there are many other issues that should be of great concern to other Senators and to other taxpayers.

As to the hard release language, as I said, the belt is still there even though the suspenders have been removed. The land exchange provision should be of concern to taxpayers since the State is going to likely give up land of little value in exchange for very valuable Federal land on which they will want to mine coal, according to the Assistant Secretary. The exceptions to traditional wilderness rules for motor vehicle, also to water rights language, all are very ominous precedents.

And finally there is the assertion that there was nothing wrong with the BLM inventory process. The distinguished Senator from Utah basically said that this was not the case, and he quoted Jim Parker, a former Utah BLM State director, to support the assertion that the BLM's inventory was not seriously flawed. Mr. Parker has made statements supporting the BLM wilderness inventory and has been cited as an expert. However, Mr. Parker did not work on the BLM in Utah during the inventory but was living in Washington, DC, at the time.

I think it should be clear what the BLM's position is on this bill. Yesterday, I received a letter from Bob Armstrong, the Assistant Secretary of Lands, Minerals and Management, that supports the view that the BLM officials recognize the Utah BLM process was in fact flawed. Mr. Armstrong says:

> I am told by professional career staff at all levels of the organization that the Utah wilderness process was the most controversial, and perhaps the most political, in the entire BLM wilderness process.

The letter goes on to state:

> It is the position of the BLM that far too little land is protected under this bill and too much land is released for development. In short, no one should be claiming the support of the Bureau of Land Management and its professional staff—

No one should be claiming BLM support—

> for S. 884.

I ask unanimous consent that the letter from Mr. Armstrong be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, March 25, 1996.

Hon. BILL BRADLEY
U.S. Senate, Washington, DC.

DEAR SENATOR BRADLEY: I understand you will shortly be considering whether to include S. 884, the "Utah Public Lands Management Act of 1995," in an omnibus package of parks legislation. I would like to clarify the record with respect to the position of the Bureau of Land Management and the Department of the Interior on the subject of the acreage covered in this bill.

In 1991, President Bush forwarded his recommendation that 1.9 million acres of Utah lands be immediately protected as wilderness. The Congress did not act on that recommendation and President Clinton did not adopt it when he came into office. Interestingly, President Bush did not support the "hard release" of the rest of Utah's lands, as is proposed in this bill, and neither does the Clinton Administration.

Last July, Deputy Assistant Secretary Sylvia Baca testified before the Senate regarding the numerous problems with this legislation. She testified that the Bush proposal of 1.9 million acres is "inadequate to protect Utah's great wilderness resources." In fact, S. 884 would remove protections for some 300,000 acres recommended for wilderness by President Bush.

Nevertheless, some supporters of the legislation have repeatedly sought to portray the position of the previous Administration as that held by the Bureau of Land Management, or to claim that "field professionals" independently and objectively formulated the previous Administration's position. This is not the case. I am told by professional career staff at all levels of the organization that the Utah wilderness process was the most controversial, and perhaps the most political, in the entire BLM wilderness process.

It is the position of the Bureau of Land Management that far too little land is protected under this bill and too much land is released for development. In short, no one should be claiming the support of the Bureau and its professional staff for S. 884.

We have reviewed the most recent changes proposed by the bill sponsors and find that the same basic problems exist: too little designated, too much opened to development, unprecedented "hard release" language, reduced protections inside wilderness, and unprecedented land exchange language. The Secretary has indicated—most recently in a March 15, 1996, letter to Senator Murkowski—that he would recommend the President veto legislation carrying the text of S. 884. It continues to be my hope that the core problems of this bill can be fixed so the President receives legislation he can sign.

Sincerely,

BOB ARMSTRONG,
Assistant Secretary,
Land and Minerals Management.

Mr. BRADLEY. I remind my colleagues that there are 33 titles to this bill. I personally would have no objection to moving almost all 33, and we already have a veto threat in the form of a letter from the Secretary, and yesterday also we have a statement of administration policy from the Executive Office of the President also being very clear on that issue.

I hope we will be able to recognize that this Utah wilderness bill is far from complete and that there are many things that need to be done before it could be thought to be a true wilderness bill.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi.

PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1995—UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that the committee-reported substitute be agreed to and considered original text for the purpose of further amendment. I further ask unanimous consent Senators have until the hour of 5 p.m. today in order to file first-degree amendments, in accordance with rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. For the information of my colleagues, this now allows the pending substitute amendment offered by Senator MURKOWSKI to be amendable in two degrees. Also, as a reminder, a cloture vote will occur on that substitute tomorrow morning under the provisions of rule XXII.

Senators have until the hour of 5 today in order to file first-degree amendments to the substitute. I thank my colleagues. We have worked with the Democratic leadership in getting this agreement.

EXTENSION OF MORNING BUSINESS

Mr. LOTT. I now ask there be a period for morning business until the hour of 12:30, with the time between now and 12:30 equally divided between the two leaders or their designees.

Mr. BRADLEY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey.

Mr. BRADLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I renew my unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Massachusetts.

THE MINIMUM WAGE

Mr. KENNEDY. Mr. President, just as a matter of a point of information, on yesterday when there was the announcement of the Republican leader, which is on page S. 2839, in the Program, Mr. LOTT said, "For the information of all Senators, the Senate will resume the Presidio legislation tomorrow morning with the understanding that Senator DASCHLE or his designee will be prepared to offer an amendment at 10:30."

I am his designee, and I was prepared to offer the amendment at 10:30. The amendment I was going to offer was the increase in the minimum wage. I was offering it for myself, my colleague from Massachusetts, Mr. KERRY, Senator WELLSTONE, and others.

This was not in order, I want to make it very clear. So it was not consent, but it was an understanding about the way we were going to proceed. Now, as a result of our indication to try to get a debate on the increase on the minimum wage, and hopefully some action on the minimum wage, we have been put into this holding pattern to effectively deny us that opportunity for debate and discussion about increasing the wages for working families, some 13 million working families in this country.

What we are being faced with is another procedural effort by our Republican friends to deny the Senate taking action on this issue. This is a similar kind of avoidance by the Senate that we saw on July 31, when we voted 48 to 49 on a sense-of-the-Senate resolution; again on October 27, 1995, 51–48 to override a budget point of order on the issue on the minimum wage, raised by my colleague, Senator KERRY.

We had a hearing on this issue on December 14, 1995. We have not had the markup. We have not reported anything out. We were prepared to debate this issue, which is of such fundamental importance and fairness to working families in this country. Now we are caught up in a procedural situation where we are, at least at this time, foreclosed from being able to offer it.

I can even foresee the possibilities where that will continue in the afternoon, as we are coming down to the line for a cloture motion to be voted on tomorrow, where those, under the current situation, under the right of recognition, will be able to offer an amendment and then offer another amendment right on top of that and virtually foreclose our opportunity to speak for working families, the 13 million working families who have not experienced any increase since 1991 and have seen the real value of that minimum wage deteriorate by some 40 percent.

So we are seeing the commitment of our Republican friends, and Republican leadership, which cannot be separated from the Republican who is on the ballot out in the State of California, Senator DOLE, as well as the Republican leadership, saying on the issue of worker fairness, we are not even going to permit you to vote on that or address that on the floor of the U.S. Senate. We are going to use all the parliamentary means of denying working families the chance to get any kind of increase in that minimum wage.

At a time when CEO salaries have gone up 23 percent and we are having record profits in 1995; again, 1991, of 23 percent—we are refusing to permit the Senate of the United States to even address this issue, to vote on this issue—an issue which will mean some $1,800 for working families. This is an issue which will affect 13 million working families. It will be the equivalent of a year's tuition in a 2-year college; 9 months of groceries, 8 months of utilities for working families. We are seeing, at a time when the disparity between the wealthiest workers and families and poorest families has been growing and growing and growing, the small, modest step to try to do something for working families, families that work 40 hours a week, 52 weeks of the year, trying to make it—we are seeing we are effectively being closed out. You cannot interpret the kinds of actions we have heard here this morning to be anything else.

Mr. President, I want to point out, because I am on limited time on this morning hour—hopefully we will have additional time during the debate going before the break—this has not been a partisan issue, historically. There have only been two Presidents, Presidents Reagan and Ford—they are the only two Republican Presidents who have not supported an increase in the minimum wage. President Eisenhower supported it, President Nixon supported it, President Bush supported it. The last time we had an increase, Republicans supported it. BOB DOLE supported it. NEWT GINGRICH supported it.

At that time, we had a Democratic Congress and a Republican President. Now we have Republican Congress and a Democratic President. And we ask: Why? Why is it that we cannot, at least, debate this issue? And why is it that we cannot afford to provide working families with a livable wage?

Mr. President, I hope we are not going to hear our Republican friends talk about their concern for working families in this country when something that we can do, here on the floor of the U.S. Senate today, and the House of Representatives can do in a matter of hours, that can make a difference to the lives and well-being of those—that we are being denied the opportunity to face this issue, to debate the issue, to talk about the issue, to take on the issues which have been raised against the increase —the questions of inflation, the question of job loss.

All of those issues which we have debated and discussed at other times, we are prepared today, with our colleagues, to debate those here. But we are back at a situation where those who lay the agenda out for the American people in the U.S. Senate, absolutely refuse to give the American working families the opportunity to be heard on the floor of the U.S. Senate.

Mr. President, as we have said before, Senator KERRY, Senator WELLSTONE and others have said before, this issue is not going away. This issue is not going away. We have seen the parliamentary maneuvers to deny us an opportunity to take action. We have seen that before. We know it is out there again today.

I do not understand what it is. Yes, I could understand. It is, again, the power of special financial interests, the special interests that just refuse to let working families in this country be treated fairly, equitably, and decently. Finally, this is an issue about women, since 70 percent of all of those who get the minimum wage are women, and it is an issue about children, whether they are going to grow up in households that are going to be decently fed and clothed, and in a setting which is humane and decent. This is not just an issue about men. It is an issue about women and it is an issue about children. It is an issue about families. We will not be silenced and we will not be denied. We are going to continue to press this. I am absolutely convinced that the working families in this country will be heard and we will have a successful vote.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank my colleague from Massachusetts, Senator KENNEDY, for his leadership in this effort, and Senator WELLSTONE and others who believe that the moment has really come for us to confront the reality of the rhetoric in Washington that talks about worker anxiety, that pays lip service to addressing the problem of downsizing and to the problem of the transformation in the American workplace.

Countless Senators, on both sides of the aisle, have come to the floor on many different occasions and talked about the difficulties that the American worker faces today.

In the Republican primaries, it became a major issue as Pat Buchanan focused on the anger that is coming out of those workers who work harder and harder and harder, play by the rules, pay their taxes, try to make ends meet, teach their kids, and yet they cannot get ahead.

We have an opportunity in the U.S. Senate to ratify what the Senate has already expressed. Fifty-one U.S. Senators already voted last year, saying they want to vote on a proposal to increase the minimum wage. The minimum wage is worth less now than it was when those 51 Senators who voted said we need to raise it.

The Republican majority has the opportunity to set the agenda of the Senate and, to some degree, thereby, the agenda of the country. As my colleague from Massachusetts said, this is their statement about their agenda. Their agenda is to not even let the U.S. Senate debate this and have an up-or-down vote on whether or not a majority of the U.S. Senate thinks it is time to raise the minimum wage.

Increasing the minimum wage is not a great breaking of new ground in this country. In 1938, we passed a minimum wage and set it at 25 cents. In 1938, we came to a consensus in America that we ought to pay people a minimum base standard of living by which they ought to be able to work and achieve the American dream. Every year since 1938, when that wage dipped below because of inflation and changes in the marketplace, we raised the minimum wage. Democrat and Republican alike joined together to raise the minimum wage. The last time we raised it was 1989, and I think there were something like 86 or 89 votes in the U.S. Senate to raise it to the current level of $4.25.

Mr. WELLSTONE. Will the Senator yield for a question?

Mr. KERRY. Yes.

Mr. WELLSTONE. I wonder, given the bipartisan support since 1938, can the Senator answer the question for me, what would be the basis now for the opposition of the majority leader, Senator DOLE, and others in preventing us from even having this amendment out on the floor and having an up-or-down vote? Does the Senator have any idea, given this bipartisan support, given how important it is to working families, given the fact we have heard the majority leader campaign around the country about the importance of working families and fairness, what would be the basis of opposition to our having this amendment on the floor and having this debate? Does the Senator have any idea?

Mr. KERRY. I must confess to the Senator from Minnesota, I do not understand that. I cannot understand why Senator DOLE, who previously voted to raise the minimum wage, would not want to raise the minimum wage above what soon will be a 40-year low in purchasing power. The minimum wage in this country soon will be at a 40-year low. The poverty level in America is $12,500 for a family of three. It is $15,150 for a family of four. On a minimum wage, you can earn $8,500, three-quarters the level of poverty for a family of three, and only about half the poverty level for a family of four.

I honestly do not know why the Senator from Kansas, the majority leader, the nominee-to-be of the Republican Party, would not want to see the minimum wage raised, particularly since he has previously joined in the bipartisan effort to try to do that. I do not have an answer. Maybe my colleague has an answer.

Mr. WELLSTONE. If I can ask one other question, because I am trying to understand the disconnect between politics in Washington today where at least for the moment you have a Presidential candidate, the majority leader, who does not seem to want us to have a debate on this versus what we hear back in our States.

In Massachusetts, as you visit with families and spend time in communities, do you find that people talk a lot about the importance of jobs, of decent wages and raising the minimum wage? Is this an issue that you hear about all the time from people you represent?

Mr. KERRY. Let me say to my friend from Minnesota, when you talk to working people in Massachusetts and when you talk to almost anybody—white-collar workers, people who have good jobs in our high-technology economy, people who are part of our financial services industry, which is one of the strongest in the Nation—I would say 80 percent of the people believe that workers at the bottom rung of the economic ladder ought to be able to secure income from their work that is at least equal to the poverty level. That is all we are asking for here.

As an example, to answer your question specifically, a fellow named Neil Donovan, who runs something called Project Impact, which is a Massachusetts organization that puts homeless people into jobs, has said that a job placement at the minimum wage is, in fact, a recipe for failure. That is the experience of someone who runs a homeless shelter and wants to help those in the shelter to move toward self-sufficiency.

Why is that? I can tell you, using as examples people who live in homeless shelters. There is a fellow about whom I have talked recently who lost his job. He is now in a homeless shelter. Four months ago, he found a new job. He is working as a stock clerk, doing errands in a small operation. He is working at the minimum wage, and at the end of the week, he brings home $132.50. He proudly brings this $132.50 back to the homeless shelter in which he still lives, because even the full $132.50 is too little to be able to pay for the smallest, cheapest studio apartment in the city of Boston.

That amount does not begin to pay for health care. If you are a parent of a young child, it does not pay for day care. It does not pay the food bills for the month, after you have paid for the rent. We are talking about fundamental subsistence here.

Corporations have seen their revenues increase 12 percent or more, but the total personal income of the country as a whole, taking all incomes into account, has only gone up 2 percent. And we know that even this increase was not evenly distributed across the income spectrum. The incomes that increased were mostly at the upper level.

Here in the Congress we have a lot of people earning 10 times the poverty level. Ten times the poverty level we earn in the U.S. Congress, and the Republican leadership of the U.S. Senate is unwilling to raise the income level for those who are working at three-quarters of the poverty level and one-tenth of the salary of Senators.

Mr. WELLSTONE. Might I ask the Senator two more questions?

Mr. KERRY. Yes.

Mr. WELLSTONE. So what the Senator is saying is that right now, $4.25 an hour, what happens is that with a family, you have somebody working 40 hours a week, 52 weeks a year and still not making poverty wages.

If we were to raise this minimum wage in the amendment we want to offer, I think the senior Senator from Massachusetts said this would be an additional $1,800. I know what this means to a family in Minnesota, but for a working family in Massachusetts, what does that mean? What does $1,800 mean?

Let us talk in real people terms so that people understand this is not some party strategy, this is about people's lives, and we think this is critically important to do. As of the moment, we cannot even get our colleagues on the other side to debate. What does this mean to people in Massachusetts?

Mr. KERRY. To a family in Massachusetts, say a single parent with two kids, that spends about 60 bucks a week on groceries, this means a difference of 7 months groceries. What we are talking about is 7 months of food for the adult who is the combination breadwinner and parent and the two children. Obviously, if you can buy the 7 months of groceries, you then may also be able to move some of the money you had been spending on food to pay the heating bill, pay the rent, pay the utilities, or, if you are lucky enough to own a home, pay the mortgage. But, of course, you are very unlikely to own a home if the family's income depends on a minimum-wage job.

But there are many Americans who are hampered in what jobs they can get because they do not have transportation. Often that is the difference—being able to travel by some means from home to a job. An increase in the minimum wage easily could enable a worker to afford transportation, maybe a $3,000 used car, so you can travel beyond the confines of an area where there are not a lot of jobs, and find a better job.

There are many people with whom I talk in Massachusetts who are limited in their ability to get a decent job by their inability to be able to get to the job. As we are seeing more and more reductions in transit subsidies, bus routes are being cut, the fares are going up. People are actually written out of jobs because they cannot get to them.

But let me just make one further point to my colleague, and then I will yield the floor to him. All of this is not really that complicated. You hear the same arguments every time. Oh, if you raise the minimum wage, all those kids in the work force or who want to come into the work force are going to be denied jobs. But the truth is, we are not talking about kids. We are talking about adults. More than 70 percent of the people working on minimum wage are adults. More than two-thirds of them are women. These are working families that are affected here.

The argument is made that, oh, we are going to lose jobs if we raise that minimum wage. Well, there are at least 12 studies, several of them in the last couple of years, that refute that argument. A couple of these studies were done in New Jersey because New Jersey raised its minimum wage. You heard all the same arguments about New Jersey. And New Jersey experienced an increase in jobs.

Can anyone look around America in any year in which we have raised the minimum wage and say that doing so held us back—that it hurt our economy or cost us jobs? Can you look around this country and suggest that we have not created more jobs and raised people's incomes while we provided that income floor which guaranteed that American workers are not going to be exploited?

Mr. President, let us be honest about the history of what happened in our Nation. Go back and read the "Grapes of Wrath." Go back through the history of the labor movement. Are we going to pretend that the gains for America's workers came spontaneously? Did they come out of the goodness of the hearts of managers or owners of the coal mines or the steel mills or the railroads of this Nation? No.

Everybody knows the sacrifices that the labor movement had to make, and that people lost their lives. People were shut out, people were starved, people were hit over the head, knees were broken. People were killed because workers had to fight for the right to be able to get a decent wage. There was even a time, believe it or not—how amazing—when people had to strike because they thought that they should not work more than 8 hours a day. Remember the exploitation of child labor? Remember the various diseases, the inhumane working conditions?

So through the years we have reached a point in America where we thought we had a fundamental understanding about what was fair. Now you have people working at the minimum wage who are earning only three-quarters or half the level of poverty for their families. And we have a party that believes that those of us elected to try to make these choices in Washington should not have the right on the floor of the Senate to have an up-or-down vote on a proposal to increase that minimum wage. It is very simple. In this body, 51 votes is the measure of what we do. In this case, 51 votes is the measure of whether Americans working at the minimum wage will receive a raise.

The chief executive officers of this country have not had a hard time getting raises. When 40,000 people are laid off at AT&T, the stock goes up and the chief executive can walk away with millions of dollars in additional compensation. What happens to those workers who were the victims of the downsizing? Well, maybe they have a skill level where they will break into another job. But for those people at the very bottom rung of the ladder, they are not going to have a chance to reach the next rung, or even to stay on the bottom rung, unless we lift their living standard and give them a raise.

When one examines the ratio of salaries of chief executive officers to salaries of their companies' wage earners, the ratio has moved from 50 to 1, where it remained for decades in this country, to over several hundred to one today. It just seems incomprehensible to me, Mr. President, that we should be even debating whether we should give the workers on the bottom rung of the ladder a raise, especially when the purchasing power of their current wage is at a 40-year low. That is what this is all about. I hope that our colleagues will join with us in our traditional bipartisan approach on this issue and raise the minimum wage in this country.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that privilege of the floor be granted to Paul Mazur during the duration of the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Thank you, Mr. President.

I would like to thank both my colleagues from Massachusetts. Let me just get back to basics. This amendment that I thought we were going to lay down this morning is simple and straightforward. It would increase the minimum wage, the Federal minimum wage from the current $4.25 an hour to $5.15 an hour over the next 2 years. That is all. Mr. President, 90 cents over 2 years, no indexing to adjust for the cost of living, no other things to complicate the debate.

A straightforward proposition—raise the Federal minimum wage from $4.25 an hour for working families in our country, to $5.15 an hour over 2 years, and 90 cents over 2 years. For some reason my colleagues on the other side of the aisle, at least as of this morning, do not want us to be able to lay this amendment out on the floor of the Senate and have the debate and vote for it up or down.

I would just say to my colleagues, that this is simple, this is straightforward. My colleague from Massachusetts, Senator KERRY, talked about CEO salaries. Let me just be blunt. The U.S. House of Representatives and the U.S. Senate sure as heck voted themselves a huge raise, an increase from about $100,000 a few years ago to $130,000 a year. I heard my colleagues tell me that, you know, you have kids in college and there is additional expenses and all of the rest.

Fair enough. But if the U.S. Senate can vote for a salary increase from $100,000 to $130,000 a year—and the House took the action earlier—do you not think it is about time we are willing to raise the minimum wage from $4.25 an hour to $5.15 an hour over 2 years? Do you not think it is about time that we would be willing to raise the minimum wage by 90 cents over 2 years?

Mr. President, I do not know what the majority leader plans on doing. But it does seem to me that we have now reached the point where regardless of the strategies and regardless of whatever parliamentary ruling there might be, it is going to be very difficult for Senators to essentially finesse this issue. Because while we are putting off the debate, at least for the moment, there are many Americans who have to live with this minimum wage. We are putting the debate off on the minimum wage this morning, while many Americans have to live with it. For 200,000 working people and their families in Minnesota, this is an extremely important issue.

Later on, Mr. President, when we get to the debate, I will talk about people. I do not want it to be abstract. But let me just tell you, whether it is a single parent working or whether it is two parents working, this debate about the minimum wage, this effort to raise the minimum wage, is absolutely key toward providing people with a ladder to get into the middle class. This is a fundamental economic justice question. I will just say one more time, I came to the floor about 10:30. I thought we had an understanding that we would go forward with this amendment.

My hope is that after the caucuses meet at lunch we will be able to do so, that we will be able to lay down our amendment, that we will have debate on this amendment, and that Senators will be accountable, Democrats and Republicans alike. Because I will tell you; in Minnesota, the cafe discussion is whether or not your children are going to be able to find jobs at a decent wage. The cafe discussion is whether or not you can pay your mortgage payment or whether you can pay your rent. The cafe discussion is whether you can afford to send your kids to college. The cafe discussion is on the economic squeeze that families feel.

The vast majority of people in Minnesota and the vast majority of people all across this country want to see us take action on this.

I say one more time, the U.S. Senate and the U.S. House of Representatives did not seem to have any problem in voting ourselves a huge pay increase. Do you not think it is about time we vote for a pay increase for working families in this country, and set some kind of decent, humane, compassionate minimum wage floor for working men and women and their children?

That is what this is about. I do not think anybody is going to be able to hide from this debate. I do not think there is going to be any way of maneuvering around this debate. I am just speaking for myself. I am not even speaking for my two colleagues from Massachusetts. But I intend to be a part of this effort to introduce this amendment over and over and over again.

You cannot duck. You cannot hide. It is an important economic issue. It is an important economic opportunity issue. It is all about working men and women and their children. It is all about economic justice. It is all about fairness. And it is time we get serious about these kinds of issues in the U.S. Senate. I hope this afternoon after lunch we will have the opportunity to lay down our amendment and then we will have this debate. Then we will have a positive, affirmative vote for working men, women, and children in the State of Minnesota. Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I know the time is divided. I am just wondering—I want to have a few more moments for a statement I want to make between now and 12:30.

The PRESIDING OFFICER. The Senator from Massachusetts, his side has 4 minutes remaining.

Mr. KENNEDY. Mr. President, I will yield myself 3½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, why we wanted to have the opportunity to address this issue is because, as this chart shows, between 1979 and 1993, this shows what has happened to real family income during this period of time.

This body is familiar with what happened before 1979 from the postwar period from 1949 up to 1979. Virtually each of these columns all moved up together up to about 100 percent improvement in the family income growth. Virtually at every level of the economy everyone moved up together. We have gone through that in other debates on the minimum wage and we may have a chance, if there is a challenge to this, to go into that in some greater detail.

But what we have now seen is 1979–93, the bottom fifth of the population has seen a real loss of 17 percent. I am always interested in how we evaluate what has happened in the median, where the median is. If you take the median as for the highest wages and the highest profits and the highest growth of the wealthiest families and the least you come out somewhere in the middle.

But the fact of the matter is that is not a good indication of what is happening to those on the bottom rung of the ladder. They are the ones that have fallen furthest behind from 1990 to 1993. This is the group which would be most affected and most helped and assisted with the increase in the minimum wage. It would be modest. It amounts to about $3.4 billion that would go to that particular group.

We will hear a lot about this is very inflationary. That is $3.4 billion in a $5 trillion economy. That is $3.4 billion in a $5 trillion economy. And they are going to talk about, well, it is inflation and it is going to set off all of the economy? This demonstrates what is out there in terms of our colleagues who are working in America.

The ones that are being affected by the minimum wage, as has been pointed out, are the ones that are working full time, 40 hours a week, 52 weeks of the year. This chart shows what the real minimum wage is. That is in the purchasing power. This continues to go. It will be the lowest it was since 1989.

In 1989, as has been pointed out in this debate, at that level, of Republicans and Democrats, there were only nine Members of the U.S. Senate in 1989 that voted against it. And 32 Members of the Republican Party voted for this increase. George Bush voted for that increase. Effectively we are right back down to—BOB DOLE voted for the increase. We are right back to that level now. Plus, I think most would understand that the economy is stronger today than it was at that particular time.

Mr. President, this chart shows what is happening. The Dow-Jones average, inflation adjusted, goes right up through the roof. Here it is. It breaks through the roof. This is what is happening with the stock market, the Dow-Jones average, right up through the roof. The real minimum wage, inflation adjusted, the small increase here with the 90-cent increase, right back down again. And what we are talking about with this amendment would be a 90-cent increase over the next 2 years.

Mr. President, as has been pointed out, these are the individuals who are affected—16 to 19 years is 31 percent; over 20 years of age, 70 percent. We are talking about adults; 70 percent of the individuals are over 20 years of age.

Mr. President, this is an indication, again, as I mentioned briefly, about who in our society is going to be impacted. Men represent 40 percent of the wage earners from $4.25 to $5.14. These are the wage earners that would be impacted by this increase. Again, 60 percent would be women. Many of them are single women. Many of them have children. That is why I believe that this is not just——

The PRESIDING OFFICER. The Senator has 30 seconds remaining.

Mr. KENNEDY. Mr. President, I yield myself the final 30 seconds.

Is not just a workers' issue; it is a women's issue and a child's issue.

Mr. President, we will have the opportunity to go on and show about what the impact has been on inflation and employment since the end of World War II. We are glad to debate this issue, to take on issues and go through them and let the Senate vote its will.

So, Mr. President, I hope that we will have that opportunity when the legislation is going to come up under what was agreed to last evening to be recognized. We will offer this amendment. We hope that we will be able to work out an agreeable format so that we can have a real debate on the issue and then have a final vote, find out who is on the side of working families in this country.

My time has expired. I understand the remaining time will be available to the Members of the other party and we will be back here at 2:15 to continue this debate.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. GORTON. Mr. President, I did not come to the floor for the purpose of discussing this issue, but having listened to this discussion, I do want to remark on the bizarre nature of an argument which emphasized so strongly the outrage of the last three Senators in not being permitted to debate an issue which they were, of course, debating, on which they will place an amendment, when each of those three Senators has been visibly engaged in the last 4 weeks in preventing the Senate from voting on an appropriations bill for the District of Columbia with all of the positive impact that has on poor people, law enforcement, and education in the District, and by foolishly engaging at the same time in filibustering an attempt to bring to conclusion—to extend and bring to conclusion—the Whitewater investigation. We have not been permitted to debate these issues on their merits or to vote on their merits. For the life of me, I do not understand how that differs from the objection they are making today, particularly since they will, of course, be able to bring up such an amendment and have a debate on it.

I also point out, they neglected to state that all of their examples relate to some 10 or 15 percent, a very small percentage, of minimum-wage people who are the primary supporters for their families, and that a proposal that would obviously benefit that small handful of people will have a terribly damaging effect on first jobs for teenager and welfare recipients attempting to build new lives and living for themselves.

The compassion for those people, at the beginning of their careers, seem to be remarkably absent in the debate we have heard so far.

RAISING THE MINIMUM WAGE IS A BAD IDEA

Mr. NICKLES. Mr. President, I rise in opposition to some of the statements that were made by our colleagues from Massachusetts, who said we should increase the minimum wage. I will make a couple of editorial comments because I do not know that we need to debate it at this time, but I feel a need to respond to some of the statements made on the floor of the Senate.

The implication was that if we do not increase the minimum wage, we do not care about low-income people. I find that to be offensive. That attempts to show that maybe those of us who oppose raising the minimum wage are not only insensitive, but we do not care about poor people or something. I disagree with that. Maybe we should turn that argument around. Maybe those of us who care more about poor people should increase the minimum wage to $10, $15, or $20 an hour. I would like for everybody in America to make $20 an hour. But is the proper way to do it to pass a law that says it is against the law for you to have a job if you do not make that? That is what our colleagues from Massachusetts are doing. They want to offer an amendment that says it is against the law for you to have a job unless it pays $5.15 an hour. They do not care if the job is in rural Missouri or Oklahoma. Maybe every job in Massachusetts pays that much. I do not care if the State of Massachusetts passes a minimum wage law for any figure. That is their prerogative. But to pass a law that makes it effective in my State and all across the country and says it is against the Federal law to have a job that pays less than $5.15, I think is a serious mistake.

Who does it hurt? I think it would hurt the very people they propose to help. It would be telling a lot of people who are low income, who have a job that maybe does not pay much, it pays minimum wage—by definition, that is not much, but at least they have a job—and we are going to say, unless that job pays at least $5.15 an hour, we do not think you should have that job. As a matter of fact, it is against the law, against the Federal law for you to have a job unless it pays that amount. I totally disagree with that.

I just have to say that I do not understand the effort made to have this amendment on this bill. We have a lands bill up. We have a bill that deals with Presidio, deals with the land exchange in Oklahoma and Arkansas, and we have a bill dealing with Utah wilderness. It is a complicated bill. I compliment my colleague from Alaska, Senator MURKOWSKI, for his leadership on this bill.

What does the minimum wage amendment have to do with this bill? Nothing—except for politics. I will say it has something to do with politics. My colleagues said that we have not had an increase in the minimum wage since 1989—7 years. Wait a minute. The Democrats were in control of the Senate and the House and the White House in the years 1993 and 1994. Why did they not have the bill on the floor then? The majority leader, Senator MITCHELL, at that time could have brought it up. But he did not. Why? Well, they were trying to have a big increase in the minimum wage because they wanted to mandate a very expensive health care plan on America. Maybe they figured they could not do both. They controlled the agenda. The Senator from Massachusetts could have offered that amendment, and he did not do it. We did not have a vote in 1993 and 1994 when President Clinton and the Democrats were in control. But we are having one today.

I noticed a coincidence in today's paper, the Washington Post. The headline is, "AFL-CIO Endorses Clinton, Approves $35 Million Political Program." They want to enact their agenda. This is on their agenda. My colleagues talked about special interests. I would say this is a pretty big special interest. I would say that all of their members make more than minimum wage. Maybe all of them do. There are a lot of people in rural Missouri or rural Oklahoma making minimum wage, and if you increase the minimum wage by a certain amount, you are going to be putting some people out of work. I do not know who, but I know there are some. I have been in rural areas that have grocery stores that are striving to stay alive because they had a big company come in, like Wal-Mart or somebody, a big competitor.

Yes, they were paying $4.50 an hour or whatever the amount would be, and they are not making any money. But if we mandate that they increase their minimum wage or whatever they are paying by 21 percent as proposed, you are going to be putting some of those jobs out, maybe put the business out.

And what are these jobs? A lot of them are starting level jobs. I worked for minimum wage 27½ years ago. It was when my wife and I were first married. I worked for it before then as well. But I remember that was the best job we could get. We both worked. At that time I think the minimum wage was $1.60 an hour, and was it enough? No. Did I want more? Yes. Did I learn part of the trade? And that trade at the time was a janitor service. Yes. And I started my own.

So the minimum wage was not so much a minimum wage as it was a starting wage. It helped me learn a craft or business, and I was able to start a business. I employed more people and they made more than the minimum wage. But what we are doing, if we increase the minimum wage significantly, what we are going to be doing is telling all people if your job does not pay at least this amount, it is against the law for you to have a job, we are going to pull up the economic ladder. The Federal Government is determined if your job does not pay that amount, you should not have it; it is against the Federal law.

I think that is wrong. That is the heavy hand of the Federal Government coming in and saying we know best. We know you should be making more. Now, what is right in Boston, MA, may not be what is right in my hometown of Ponca City, OK.

So I just really disagree with this idea of big Government knows best; we are going to mandate, we are going to tell everybody what to do and act like there are no economic consequences whatsoever.

Sure, there are economic consequences. You are going to be pricing some jobs—maybe the job is pumping gas—out of the market. That is one of the first jobs that a lot of my group growing up were working at. You do not see that anymore. Most of the gas stations are self-serve. That may not be the greatest job in the world, but I would rather have that young person coming in and getting a start and maybe learning the fact this is not good enough; I cannot make enough money, so maybe I need to go back and complete high school or maybe I need to go into vo-tech or maybe I need to go get some additional training. That is all part of the educational process.

We say, "Oh, no. If the job doesn't pay over $5.15 an hour, you can't have it; it is wrong." Or maybe the job is sacking groceries. You do not see many jobs like that. We used to have those jobs. The Federal Government is going to put people out of business and back on the streets, people who need that job training.

A lot of people in Boston, a lot of people in different parts of the country need that first job. That first job teaches them a lot more than just the dollar amount. And we should give them that opportunity. We should not be pulling the economic ladder up and saying, no, if it does not pay that much, it is not worth it; you go ahead and stay home. And, yes, so what if you are 16 years old and you do not have anything else to do, just stay home. And then what happens? A lot of those idle people say, well, I need some money. How can I make money? Maybe I can make money running drugs, maybe I can make money stealing things, whatever. A lot of people get into trouble because they have time on their hands.

That is a mistake. We should not price them out of the marketplace, and that is what is being proposed.

And then some of our colleagues say, well, there are no economic consequences whatsoever. This is not going to mean an increase in unemployment. I think it just defies the law of supply and demand. If there are no negative economic consequences by a 21-percent increase in the minimum wage, why not increase it 50 percent? Why not increase it 100 percent? Maybe we should have a perfecting amendment that says the minimum wage will be $10 an hour?

That is all right. If you work 2,080 hours a year, that is $20,000 a year. I think that would be nice. I would like for everybody to make $20,000 a year. So maybe we should perfect this amendment. If you are not going to have any negative consequences by a 21-percent increase in the minimum wage, let us make it 100 percent, make it $10 an hour. I just think that argument makes no sense whatsoever. Common sense would say, hey, this is going to cause some problems for some people and those some people are going to be the people on the lowest end of the economic scale that maybe are trying to crawl that ladder and we are going to pull the ladder up. We should not do that.

I wish to make a couple of comments. Yes, there are negative economic consequences. CBO said that this is an unfunded mandate on cities and counties and States and tribes of about $1 billion over the next few years. They said it is an unfunded mandate on the private sector to the tune of over $12 billion for the next few years.

The real problem is that this is going to be telling a lot of young people we are sorry; if you cannot find a job that pays this much, we do not want you to have a job; it is against the law for you to have a job. That is a mistake. I think that is a serious mistake. We should not do that.

So I will urge my colleague at the appropriate time to oppose this amendment if and when it is offered. It does not belong in this bill. Some people are kind of frustrated Congress does not get its business done, and on occasion I may join that frustration. But this amendment is for politics because the leaders of organized labor are in town, because the leaders of organized labor are endorsing Clinton and promising record amounts, record amounts, $35 million in political campaign contributions. This is special interest legislation and the real problem is the real people it will hurt will be low-income people who need jobs.

So I will urge my colleagues at the appropriate time to defeat this amendment.

Mr. President, I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I join with my friend from Oklahoma relative to his concern over what the minimum wage will do if there is an increase. And I believe the increase proposed by the Senator from Massachusetts is from $4.25 to $5.15. That is about 45 cents I believe over a 2-year period.

FEDERAL REGULATIONS

Mr. GORTON. Mr. President, I have today a bizarre example of the unthinking impact of conflicting Federal regulations on other conflicting Federal regulations and the fact that so often our bureaucracy simply does not think out the consequences of what it does.

Recently, I was in the Tri City area of east central Washington and was discussing his business with the manager of a Unocal fertilizer plant in the city of Kennewick. He brought to my attention a fairly recent message that he had received from the U.S. Coast Guard. The Coast Guard has written to everyone with various kinds of facilities in ports from California through the State of Washington, warning them about potential terrorism, pointing out that the base of the explosive at the Oklahoma City courthouse disaster was fertilizer, and telling the manager of this fertilizer plant how important it was to guard against terrorism, to guard against outsiders getting into the facility and engaging in terroristic acts.

Well, it was oratory in nature and did not suggest any particular things to do. I do not think it suggested anything that the plant was not already doing. But at the same time, Mr. President, the Unocal plant was informed by the Environmental Protection Agency of a truly bizarre proposal on its part.

As a fertilizer plant, and because fertilizers do, under some circumstances, raise certain health risks and also certain explosive risks, this business is subject to widespread regulation on the part of the Occupational Safety and Health Administration and the Environmental Protection Agency. In fact, those regulations are so detailed in nature that 23 people out of 150 employees in the plant are devoted almost solely to abiding by various governmental regulations.

In any event, the Environmental Protection Agency announced a new regulation to apply to some 122,000 facilities across the country. That regulation would require each of these 122,000 facilities to make public the worst-case scenario, the worst thing that could possibly happen if any of the materials handled by or stored in the facility were released.

So, in other words, Mr. President, we have a Federal Government warning against terrorism with one hand and instructing companies to publicize the worst thing a terrorist could possibly do with their materials on the other hand—in detail.

The Environmental Protection Agency, when it was asked how many deaths had resulted off of the site of one of these 122,000 plants from the release of such material, came up with the answer "zero." No such deaths. But they have a regulation which will tell the terrorists exactly how to cause those deaths in very, very large numbers.

Mr. President, there is no question but that safety regulations are vitally important and environmental protection regulations are important. This Unocal plant, I may say, had 1 injury that caused one day of lost time in the last several years in its plant, and that was from heavy lifting, not the use of hazardous material. It runs an extremely safe plant.

But, Mr. President, could we possibly come up with a better illustration of the proposition that we need to look over our old regulations after a certain period of time and determine whether or not they are still relevant or still working; that before we impose new regulations, we ought to figure out what the cost and the downside is against whatever the purported gain is before we impose them? Are we going to simply publicize ways in which to engage in terrorism, when we have not had any serious problems from the very condition that the regulation is designed to control?

Mr. President, should we not have some kind of coordination among various Federal agencies as to whether or not the regulation of one is not going to undercut the very purpose for which another exists? Well, Mr. President, I think the answer to these questions is quite obvious. Here is another example of the use of the so-called safety regulation or environmental regulation in a way which is destructive of the very goals it seeks in the first place.

Mr. President, I ask unanimous consent that the Coast Guard missive and the letter from Mr. Powell of Unocal be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
Alameda, CA, January 14, 1996.

DEAR WATERFRONT FACILITY OPERATOR/MARITIME TRANSPORTATION COMPANY: As a result of a series of recent U.S. judicial proceedings, I have received an advisory indicating possible retaliatory acts against U.S. interests. The sentencing of Sheikh Omar Abdel Rahman and nine others for their involvement in the bombing of the World Trade Center and other New York landmarks may prompt sympathizers to possible retaliate. Similar responses could also follow if the U.S. extradites Musa Abu Marzuq, a member of the "Islamic Resistance Movement (HAMAS)" to Israel for his involvement in terrorist activities there. In addition, Salman Rushdie, the target of an Iranian death order, is currently on a multi-city U.S. book tour. Finally, the trial of alleged bomb maker and terrorist Ramei Ahmed Youssef is expected in the first half of 1996. He and his accomplices are charged with conspiring to bomb a U.S. commercial airlines in the Asia Pacific region.

The possible retaliatory acts to these judicial proceedings may include attacks against the U.S. transportation infrastructure. It should be emphasized that no specific threats against any form of transportation have been identified to date. However, the Secretary of Transportation believes it is prudent and appropriate to ensure deterrence and prevention of these activities. Therefore, I am advising all waterfront facility operators and companies involved in maritime transportation in Northern California to take appropriate and immediate actions to ensure that adequate measures are in place to prevent or deter terrorist actions against facilities and port personnel. These actions should begin with a review of your security measures already in place and an assessment of whether or not additional security measures are necessary.

To facilitate information sharing and response actions during a security-related emergency, the Department of Transportation has established a hotline for reporting incidents. The number for the hotline is 1-800-424-0201. Should you receive any threats or notice any unusual activities which may compromise your security, I urge you to contact this hotline and appropriate law enforcement agencies. You may also contact the Marine Safety Office's watch office at (510) 437-3073 to report these incidents.

Your cooperation in ensuring the safety of the port is greatly appreciated. Should you have any questions regarding this matter, please contact Lieutenant Lee of my staff at (510) 437-5873.

Sincerely,

D.P. MONTORO,
Captain, U.S. Coast Guard.

UNOCAL PETROLEUM PRODUCTS &
CHEMICALS DIVISION,
Kennewick, WA, June 26, 1995.

Hon. RICHARD "DOC" HASTINGS,
House of Representatives, Longworth Office Building, Washington, DC.

DEAR REPRESENTATIVE HASTINGS: Thank you for the time you afforded my entire family when we were in Washington, D.C. last week. Meeting a congressman in his office was a big event for us.

During our brief talk I told you that I was in town for a meeting of the Fertilizer Institute where EPA's proposed risk management (RM) regulations were discussed in depth. These regulations which focus on community safety are explicitly called for by the 1990 Clean Air Act Section 112(r)(7). In addition to our internal discussion, an EPA spokeswoman, Dr. Lyse Helsing of EPA's Chemical Emergency Preparedness and Prevention Office, provided us with an update of the status of their proposed regulations. EPA's proposed RM regulations will substantially overlap with existing regulations also called for by the Clean Air Act and already implemented by OSHA to protect worker safety. These are OSHA's Process Safety Management (PSM) regulations which went into effect in 1992. Unfortunately, the overlapping portions of the regulations are not quite identical. The Fertilizer Institute and Unocal feel this problem can be easily solved and that the solution would be in line with President Clinton's recent directive to eliminate or modify regulations that are obsolete or unnecessary.

The attached letter explaining the problem with these overlapping regulations was drafted by the Fertilizer Institute. It briefly explains the problem and offers a solution. I hope you will consider sending this or a similar letter to the EPA.

One element in the RM regulations called for by the Clean Air Act is not dealt with by

OSHA in its PSM regulations. That is a requirement that industries storing certain hazardous materials above threshold quantities make public the "worst case" scenario for the release of this material including its impact on the surrounding community. RM regulations will effect 122,000 facilities in this country according to EPA's spokeswoman Dr. Lyse Helsing. When asked how many such worst case releases had ever resulted in an injury to a person offsite from the affected facility. Dr. Helsing stated that EPA's records showed zero deaths. She did not comment on injuries, but I suspect there is scant evidence of a problem. However, the requirement to publicize worst case information will be costly and we will in the process of releasing such information make it known to potential terrorists as well as to average citizens. In the wake of Oklahoma City, the Trade Tower incident in New York and subway incidents in Japan, I doubt that public safety will be enhanced by making worse case information public. This is especially true in this instance where EPA acknowledges no history of problem in this country.

The clock is ticking on EPA's court ordered deadline of March 1996 to issue RM regulations with a requirement for publication of worst case scenarios. I urge you to take action to avoid implementation of this aspect of the Clean Air Act.

Thank you for your time, your consideration and your constant efforts at improving the workings of our government.

Sincerely,

MARK R. POWELL.

Mr. GORTON. Mr. President, I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I compliment my colleague from Washington for that statement. That may be the most vivid example of bureaucracies running amok, actually endangering the lives of some of our constituents. That is unfortunate. I appreciate the Senator for bringing that to our attention. I hope we will be able to take some corrective action.

PRESIDIO PROPERTIES ADMINISTRATION ACT

Mr. MURKOWSKI. Mr. President, I wish to continue our earlier discussion a little bit more. I remind this body of the pending business that is before the Senate, and that is a package of parks bills, some 56 titles, and a couple of them are contentious—Utah wilderness and Presidio. And as we look at getting things done around here, it is inconceivable to me that we would not finish what we started. We started yesterday with this parks package. It was scheduled to come up throughout the day. We had about 7½ hours of debate, good debate yesterday. Today, we were going to take amendments, and the first thing out of the box is the minimum wage. Putting aside the merits of the minimum wage, the question is, Why not finish what we started?

The Utah wilderness debate is a legitimate issue for the State of Utah. The Presidio trust establishment is a legitimate issue for the State of California. The concern relative to Utah wilderness is whether or not 2 million acres of additional wilderness is adequate or, as some from the elitist group suggest, it should be 5 to 6 million acres. Currently, Utah has a pretty good chunk of wilderness. They have approximately 800,000 acres that is Forest Service wilderness. The proposed bill that we presented would increase that BLM wilderness classification to 2 million acres, making a total of 2.8 million.

That is pretty significant, Mr. President, when you consider just how big a million acres of wilderness actually is. Few people recognize as they wander around in the great outdoors what a million acres of wilderness equates to. A million acres equates to a State the size of Delaware. Two million acres, what we are talking about, is about three times the size of the State of Rhode Island. Two million acres is about half the size of the State of New Jersey.

With reference to the Utah wilderness, why they are somewhat reluctant to put in even more acreage is that there has been an extended study done as to what would be adequate in the minds of Utahns, the legislature, the Governor, and so forth. And I think some 15 years have been spent in the study, some $10 million expended to come up with the recommendation of 1.9 million. As I said before, the proposal here is 2 million acres.

Now, Utah needs for its economy, for its infrastructure, funds coming from resource development. Some of these areas would be used for the production of resources to support the needs of Utah—the schools and various other long-term commitments to better the residents of that State. Some might wonder why I am speaking coming from the State of Alaska, but we, too, are affected by wilderness designations. We have 56 million acres of wilderness in our State of Alaska, so I know something about the topic.

But, as we reflect on what is behind the issue, on one hand, of trying to reach an accord to get the 56 titles through that represent the parks in some 26 States, I encourage all my colleagues to remember the importance of standing behind this package. Because, if the Senate votes out this package, it will be accepted by the House. If the Utah wilderness is stricken, if the Presidio is stricken, why, the House has assured us, they are not even going to take it up.

But the significance here is what the Utahns are trying to do to develop their economy and meet their school obligations by utilizing the resources in that State, the resources that, if additional wilderness is set aside beyond the 2 million acres, they are simply not going to be able to achieve their needs.

Who are these folks who are proposing it should be 5 to 6 million acres? They are not residents of the State of Utah. They are some of the eastern elitists, who have moved their focus, if you will, from the West as being an area where there is great productivity and return for their investments, as they reside in the East, to easterners who look at the West as a great place to recreate.

What we are talking about here is balance. We are trying to get a balance between preserving the wilderness and developing our resources and trying to address our jobs. As I hear my colleagues this morning talk about the minimum wage, I ask them where in the world are the jobs that we formerly had in resource development in this country? We have lost 600,000 jobs since 1980 in the oil and gas industry; 600,000 jobs. These are not minimum-wage jobs. These are high-paying union jobs, blue-collar jobs of the highest skills necessary to produce oil and gas. What have we done? We have relied on imports. We are bringing in, now, 54 percent of our crude oil. Mr. President, 54 percent of our crude oil consumption is imported. So, what we are doing is we are exporting our dollars, we are exporting our jobs, and we have lost 600,000 jobs since 1980.

I do not see my colleagues on the other side of the aisle saying what can we do to stimulate domestic jobs in oil and gas production, where we have huge reservoirs simply ready to be tapped, we have the technology, we have the expertise to do it safely. They do not want to stand up and be counted, because some of the elitist groups might suggest we should not be developing oil and gas on public lands, we should not be generating revenue and taxes for the communities. They move over to the minimum wage, on a parks bill, and suggest that this is the issue for the Senate. This is not the business of the Senate. The business of the Senate is the 56 titles of the parks bill.

Look at the timber industry. Timber is a renewable resource. Do you know why the U.S. Forest Service was established? It was established so we could have an ongoing supply of timber. It is up to us to determine whether the management is adequate or inadequate. We have lost 30,000 timber jobs in 10 years. How many communities did that affect? Lots and lots.

As a consequence, I just am bewildered at my colleague's immediate jump to a minimum-wage increase with no consideration for the lost jobs in timber, mining, oil, gas, ranching—virtually every resource from public lands that has traditionally employed Americans in high-paying jobs. Where have the jobs gone to in the United States? They have gone to the service industry. They have gone to McDonald's. They have gone to the low pay, as we import the things we need, like our wood fiber. Some of the extreme elitists suggest we do not have to develop that in the United States, we can import it. But many of those countries do not have the same environmental sensitivity that we do in the United States. They are not developing their renewable resources with the same sensitivity that we are.

So, I think it is a little inconsistent, as we listen to this debate today, particularly in view of the statement from my friend from Oklahoma that it is a bit coincidental, with the AFL–CIO in town, endorsing the current administration, committing $35 million out of the union members in this country for a political action effort. Where are those people when it comes to the basic, hard-core resource jobs of this country? They are not on this floor. They are not defending the right to use our science and technology to keep this job base that we have had in this country, that has made this country self-sufficient.

Mr. President, 54 percent of our crude oil is imported. As I said, the dollars and jobs are going overseas. Over one-half the trade deficit is the cost of imported oil. There is absolutely no excuse for that. We are importing over 8 million barrels a day. The total cost to import that is $1 billion per week. We could have those jobs in the United States if we would recognize, as we look at our regulatory requirements, that they really do not keep pace with the technological advancements. To suggest we cannot open up oil and gas deposits safely with the technology that we have been developing is really selling American engineering and ingenuity short.

I see the hour of 12:30 is almost upon us, Mr. President. I again remind my colleagues of the inappropriateness of trying to move a minimum-wage action on a parks bill, a parks bill that addresses some 25 States, 56 titles, and has been worked on for many, many years by many Members here and addresses the needs of many, many States.

So, I urge my colleagues to refrain from the debate on the minimum wage to simply take advantage of the political opportunity associated with the presence of the AFL–CIO and their convention in town and their pledge of $35 million to the current administration and get back to the business of the Senate, which is this parks package, debate it, pass it, and move on. I am sure there will be a time and place for the minimum wage, but it is not on this parks bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, was leader's time reserved?

The PRESIDING OFFICER. It was.

EDMUND S. MUSKIE

Mr. DOLE. Mr. President, during a speech in the 1968 Presidential campaign, Senator Edmund Muskie, who was the Democrat nominee for Vice President, told his audience, "you have the God-given right to kick the Government around—don't hesitate to do so."

That remark was pure Ed Muskie. Blunt. To the point. And leaving no doubt that Americans should expect the best of their public officials.

And the best is just what the people of Maine and America received from Ed Muskie during a public service career that spanned five decades.

Along with all Senators, I join today in mourning the death of Ed Muskie, who passed away here in Washington early this morning.

The son of a Polish immigrant, Ed Muskie grew up knowing about the blessings of freedom and democracy, and he spent a life time standing up for those blessings, beginning with serving for 3 years in the Atlantic and Asiatic-Pacific Theaters in World War II.

After the war, he returned to his beloved Maine, and soon began his political career as a Democrat in a State that for over a century had rarely elected anybody but Republicans.

Ed Muskie changed all that. During his 6 years in the State house of representatives, his 4 years as Governor, and his 21 years in the U.S. Senate, Ed Muskie's intelligence and integrity changed the voting habits of Maine—many of whom called themselves Muskie Republicans.

Ed's years in the Senate were highlighted by his service as the first chairman of the Senate Budget Committee. I was proud to be on that committee with him at that time. In that role, Ed took some criticism from those of his party who believed he was too tough in his opposition to increased spending.

He handled this criticism by saying that America would not get its fiscal house in order if we continued to have public servants who—and I quote—"talked like Scrooge on the campaign trail, and voted like Santa Clause in the Senate."

Ed Muskie was a patriot who always answered the call of his Nation. He resigned from the Senate when President Carter asked him to serve as Secretary of State. And when Ronald Reagan—the man who defeated President Carter—asked him to serve on the Tower Commission, Ed was there, as well.

Mr. President, the State of Maine and America are better because of Ed Muskie's life and career.

I know all Senators join with me in extending our condolences to his family and friends.

Mr. KENNEDY. Mr. President, I want to thank and commend the majority leader for these comments. I join in the feeling which he has spoken so very eloquently about.

I wanted to speak very briefly on Senator Muskie. I do not know whether others wanted to speak on this matter, but I have some remarks.

I ask unanimous consent that we extend our recess time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I thank the leader very much.

Mr. DORGAN. Mr. President, I simply wanted to commend the majority leader for his comments about the late Senator Muskie. I did not know him well. I had met him a number of times. This was an era when there is often a caricature created about those involved in public service. He represented, I think, what is the best of public service. He was smart, tough, strong. He served not only the State of Maine but this country with great distinction.

All of us who had met him, or those of us who had crossed paths with him over the years will miss him. We extend our sympathies to the Muskie family. I yield the floor.

Mr. KENNEDY. Mr. President, I join in thanking the majority leader for his comments about Senator Muskie, and I would like to express my appreciation to others for their comments.

Ed Muskie was a fellow New Englander, and over his long and distinguished career, his friendship for the members of our family and for my brothers was very real, ongoing, and based upon our very high regard and great respect for Senator Muskie.

As has been pointed out here in the Senate, he was a Senator's Senator. I like to think of him as being the foremost authority on preserving the environment. Senator Muskie inherited this extraordinary commitment because he represented one of the most beautiful States in our country, the State of Maine. He spent a good deal of time on that issue as Governor and gave it very special attention in the Senate, where he championed the Clean Water Act and other environmental reforms. We made great progress in preserving the environment in those years, and Ed Muskie deserves the commendation and the gratitude of a nation.

He also took on challenging responsibilities as the first chairman of the Budget Committee, in trying to ensure that the Nation acts responsibly in its financial affairs. With his extraordinarily gifted mind and his ability to analyze and understand complex issues, he was able to get at the heart of the problem and master the details of a budget in a way which all of us admired and respected. He played an enormously important role in trying to put this country on a path toward a more sensible and responsible fiscal policy.

His work as Secretary of State was outstanding as well. His key role in the release of the American hostages in Iran was an extraordinary diplomatic initiative and achievement. It was when he served as Secretary of State that this Nation achieved new heights in the preservation of human rights around the world, a cause which he championed.

Many commentators have described Ed Muskie as Lincolnesque. He was Lincolnesque in stature and character—a tall, lean man, a towering figure, with those piercing eyes and strong features that characterized an enormously gifted mind and a backbone of steel and courage.

He was a great public servant for our time. The people of Maine were well served, the Senate was well served, and the country was well served in a range of different responsibilities that he undertook.

Mr. President, I join with those expressing our sense of sorrow and loss to his wife Jane and the other members of the Muskie family. We will be saying our prayers for Ed Muskie and for his family. I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:49 p.m., recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. DEWINE].

Mr. DOLE. Mr. President, I need to have a brief discussion with the Democratic leader. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 4:39 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the House:

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the One Hundred Fourth Congress.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2178. A communication from the Assistant Secretary of the Treasury (Legislative Affairs and Public Liaison), transmitting, pursuant to law, a report relative to the tobacco product vending machines; to the Committee on Appropriations.

EC-2179. A communication from the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, a report relative to the Foreign Comparative Testing Program for fiscal year 1995; to the Committee on Armed Services.

EC-2180. A communication from the Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, the report on the Laboratory Revitalization Demonstration Program for fiscal year 1996; to the Committee on Armed Services.

EC-2181. A communication from the Assistant Deputy Under Secretary of Defense (Environmental Security), Department of Defense, transmitting, pursuant to law, the report on the defense environmental restoration program (volume 1 of 2) for fiscal year 1995; to the Committee on Environment and Public Works.

EC-2182. A communication from the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence), transmitting, pursuant to law, the interim report on the Department of Defense actions relative to section 381 of the National Defense Authorization Act for fiscal year 1995; to the Committee on Armed Services.

EC-2183. A communication from the Secretary of Defense, transmitting, pursuant to law, 1995-1996 Joint Military Assessment; to the Committee on Armed Services.

EC-2184. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to Cooperative Threat Reduction (CTR) funding; to the Committee on Armed Services.

EC-2185. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the annual report relative to the Commission's administrative and enforcement actions under the Fair Debt Collections Practices Act; to the Committee on Banking, Housing and Urban Affairs.

EC-2186. A communication from the Under Secretary for Oceans and Atmosphere, Department of Commerce, transmitting, pursuant to law, the National Oceanic and Atmospheric Administration's (NOAA) Deep Seabed Mining Report; to the Committee on Commerce, Science, and Transportation.

EC-2187. A communication from the Secretary of Energy, transmitting, pursuant to law, notice of intent to submit a report required under the Energy Policy Act of 1992; to the Committee on Energy and Natural Resources.

EC-2188. A communication from Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, the report of a notice on leasing systems; to the Committee on Energy and Natural Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-517. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

"ASSEMBLY JOINT RESOLUTION NO. 45

"Whereas, Jimmy Tran valiantly fought for the freedom of his country of seven years as a member of the Army of the Republic of Vietnam; and

"Whereas, after the fall of Saigon, Jimmy Tran escaped from a reeducation camp and continued to fight the totalitarian regime as a member of the democratic movement; and

"Whereas, Jimmy Tran escaped Vietnam in 1978 and came to the United States to start a new life in a free nation; and

"Whereas, Jimmy Tran became a citizen of the United States and continued to work for freedom and democracy through patriotic organizations in his adopted country; and

"Whereas, Jimmy Tran returned to Vietnam in January 1993 to promote the cause of freedom in Vietnam; and

"Whereas, Jimmy Tran was arrested on February 15, 1993, and charged with planning to denigrate symbols of the Hanoi regime; and

"Whereas, Jimmy Tran was denied a lawyer of his choice, tried in secret with a predetermined verdict, and sentenced to 20 years in one of Vietnam's most notorious prisons; and

"Whereas, Jimmy Tran now suffers in prison from severe malnutrition and, at the age of 44, has become nearly blind; and

"Whereas, the United States has formally recognized the communist government of Vietnam in hopes of bringing democratic reforms to that nation; and

"Whereas, Jimmy Tran should be enabled to return home to his wife and four young children: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorialize the President of the United States to use our new diplomatic relations with Vietnam to secure the release of Jimmy Tran and his return to his wife and children in the United States; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Secretary of State, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-518. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

"ASSEMBLY JOINT RESOLUTION NO. 34

"Whereas, the memory of those Americans who died in the Korean War to defend liberty and freedom, demands that Americans make every effort to reclaim, identify, and appropriately enshrine their remains; and

"Whereas, the accounting of Americans who were taken as prisoners of war or who were missing in action during the Korean War is incomplete; and

"Whereas, the Government of the United States should demand that the government of North Korea provide the fullest possible accounting of each and every American P.O.W. or M.I.A.; and

"Whereas, the use of current DNA biotechnology can assist greatly in the identification of the remains of American personnel in the hands of North Korea: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to demand that the government of North Korea provide the fullest possible accounting of each and every American P.O.W. or M.I.A.; and be it further

"*Resolved*, That the President and the Congress of the United States ensure that the latest DNA biotechnology is used to its fullest potential to identify the remains, and that arrangements be made for the remains to be properly enshrined in a suitable place of honor; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-519. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"ASSEMBLY JOINT RESOLUTION NO. 37

"Whereas, the government of the Socialist Republic of Vietnam (SRV) is continuing to violate all fundamental and civil rights of its own citizens through arbitrary arrests, detentions without trial, and the censorship of peaceful expression of political or religious beliefs; and

"Whereas, in 1991 and 1992, Amnesty International had reported that there were still thousands of political prisoners detained in hundreds of government-operated reeducation camps, and Amnesty International estimates that at least one reeducation camp exists in each of Vietnam's 40 provinces and continues to receive "persistent reports of torture and ill-treatment of people" within those camps; and

"Whereas, the Asia Watch has raised the issue of political detainees in the SRV having to perform hard labor under conditions of malnutrition, abuse, and lack of medical care, and the periods of detention are indefinitely renewable; and

"Whereas, as a part of the Campaign for the Release of Political Prisoners in Vietnam, the National United Front of the Liberation of Vietnam released a list of political prisoners, including writers, journalists, religious leaders, intellectuals, civil servants, and politicians; this list provides the names of prisoners, their prison location, and the penalty under which they are serving; and there are currently 1,005 prisoners on this list; and

"Whereas, for decades hundreds of religious leaders and followers have been imprisoned and scores of religious leaders have been killed and since summer of 1993, there has been a brutal crackdown on religion by the government of Vietnam; and

"Whereas, in the SRV, the Vietnamese people are constantly subjected to police surveillance and restricted social and political activities; in other words, the Vietnamese people are being denied normal civil rights and entitlements; and

"Whereas, political oppression and human rights violations in Vietnam continue to increase at an alarming rate in contrast to the government's recent publicity maneuvers, such as "economic reforms," a "revised Constitution," or an "open door policy"; and

"Whereas, after two decades, the government of the SRV is still committing the inhumane act of warehousing the remains of American soldiers to be used as bargaining chips; and

"Whereas, for two decades, the government of the SRV has been and is still less than forthright about the fate of American POWs and MIAs; and

"Whereas, the Government of the United States should require specific improvements of human rights and civil rights by the Vietnamese government as conditions in all business, investment, aid, and diplomatic discussions with Vietnam; and

"Whereas, the government of Vietnam has reacted to the United States decision to normalize diplomatic relations with a refusal to institute democratic reforms and a rejection of calls for an end to human rights violations; and

"Whereas, April 30, 1995, marked the 20th anniversary of the fall of Saigon to the Communist government of North Vietnam: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature hereby declares its support for the struggle of the Vietnamese people for freedom and democracy, calls for an end to political oppression and for respect of human and civil rights in Vietnam, and urges the Government of the United States to use its new diplomatic relations with Vietnam to insist on democratic political reforms, an end to human rights violations, and a full accounting of American POWs and MIAs and to make the extension of Most Favored Nation status, contingent upon (1) the unconditional release of all political and religious prisoners in Vietnam, (2) the immediate cessation of punishment of critics through detention without trial, (3) the abolition of all political prisons and reeducation camps throughout the country, (4) the elimination of all regulations, codes, and constitutional provisions prohibiting organized opposition activity that are commonly used to repress peaceful expression of dissent, (5) a formal commitment by the leaders of the Communist Party of Vietnam to create a pluralistic and democratic environment, with free and open national elections under international supervision, so that the citizens of Vietnam may determine the future leadership and orientation of their government, (6) the immediate and unconditional return of the remains of all United States soldiers still in the possession of the government of the SRV, and (7) full and forthright cooperation in resolving the fate of all American POWs and MIAs in Southeast Asia; and be it further

"*Resolved*, That corporations doing business with Vietnam are encouraged to seek improvement in labor practices, as well as human rights and civil rights in all business negotiations and transactions; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-520. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Foreign Relations.

H.P. 1273

"Whereas, the United States of America has had a long and friendly relationship with the Government of the Republic of China on Taiwan; and

"Whereas, in recent years the Republic of China on Taiwan has established a multiparty, democratic political system dedicated to human rights and the pursuit of freedom; and

"Whereas, commercial interaction with the Republic of China on Taiwan has grown substantially in recent years; and

"Whereas, the Republic of China on Taiwan is a major trading partner of the United States and has a strong, free-market economy with the largest foreign reserves of any nation in the world; and

"Whereas, the role of the Republic of China on Taiwan in international development programs and humanitarian relief operations has significantly expanded during the past decade; and

"Whereas, the return of the Republic of China on Taiwan to the family of nations through membership in the United Nations will help to strengthen mutual cooperation and the bonds of friendship between our nations: Now, therefore be it

"*Resolved*, That We, your Memorialists, respectfully request the President and the Congress of the United States to encourage and support full participation by the Republic of China on Taiwan in the United Nations; and be it further

"*Resolved*, That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation."

POM-521. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Governmental Affairs.

LEGISLATIVE RESOLVE NO. 31

"Whereas there is continuing controversy concerning Americans who were listed as prisoners of war (POW) or missing in action (MIA) while serving in the Southeast Asian nations of Vietnam, Laos, Kampuchea (formerly Cambodia); and

"Whereas the United States government has stated that all of our POW's have been returned; and

"Whereas a top secret Vietnamese report dating from 1972 by General Tran Von Kwang, Deputy Chief of Staff for the North Vietnamese Army, reported that in September of 1972 Hanoi held 1,205 American prisoners; and

"Whereas only 591 American POWs have been released under the 1973 Peace Settlement, which means that, based on General Kwang's own report, at least 614 POWs were not returned or accounted for; and

"Whereas Vietnamese nationals who have moved to the United States have reported the appearance of American prisoners still being held in Southeast Asia; and intelligence agencies, and the governments of

Vietnam, Laos, Kampuchea, Russia, North Korea, and China be ordered to turn over all documents concerning Americans listed as POWs or MIAs as a result of the Vietnam War; and be it further

"*Resolved*, That the lawsuit is not intended to solicit a ruling or an opinion definitively declaring the POW/MIA issue moot, but rather it is intended to seek a mandate that all documents and other information concerning POWs and MIAs be released to the public so that the fate or location of all members of the service who were POWs or MIAs may be proven beyond a reasonable doubt; and be it futher

"*Resolved*, That the Alaska State Legislature respectfully requests the other 49 states of the United States to join in this action on behalf of their citizens being held in captivity as a result of the war in Southeast Asia."

POM-522. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Indian Affairs.

"SENATE JOINT MEMORIAL NO. 8028

"Whereas, the Indian Gaming Regulatory Act of 1988 was passed by Congress to protect tribal and state interests as they pertain to gambling; and

"Whereas, the primary intent of Congress was to allow for tribal economic development and self-sufficiency consistent with the state's public policy as it pertains to gambling; and

"Whereas, the conduct of Class III gaming within the state's boundaries is subject to the completion of a tribal-state compact; and

"Whereas, only the gambling activities authorized for any person, organization, or entity for any purpose in accordance with state law, should be the subject matter of any negotiation; and

"Whereas, some courts recognize states' interests in limiting the scope of gambling; other courts have failed to give adequate weight to state limitations on gambling within a state's borders; and

"Whereas, the public policy of the state of Washington, as expressed by the Legislature in 1994, is to limit the nature and scope of gambling activities through strict regulation and control; and

"Whereas, Washington state has been unable to carry out its public policy on gambling due to some courts' decisions not allowing the state to set reasonable limitations on gambling; and

"Whereas, because Washington has been limited by court decisions to fulfill its public policy goal an unfair situation and an economic hardship has occurred for operators of non-Indian gambling establishments, which are licensed and regulated by the state;

"Whereas, nationally there has been much disagreement between tribes and states as to the scope of gaming subject to negotiation under the Indian Gaming Regulatory Act of 1988: Now, therefore, Your Memorialists respectfully request:

"(1) Congress implement sufficient clarification of the Indian Gaming Regulatory Act of 1988 to ensure that only those specific gambling activities currently authorized under the laws of a particular state are subject to negotiation between a tribal government and a state government and that the clarification ensure that no state is required to negotiate on any specific type of gambling activity that is not either authorized, or played, or both, within a state's particular boundaries;

"(2) Congress additionally clarify the Indian Gaming Act to recognize that non-Indian gambling is important to the economic well-being of states and that a balance needs to be achieved between Indian and non-Indian gambling activities, be it

"*Resolved*, That copies of this Memorial be immediately transmitted to the Honorable William J. Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DORGAN:

S. 1642. A bill to amend the Social Security Act to deny cash benefits to drug addicts and alcoholics, and for other purposes; to the Committee on Finance.

By Mr. GREGG (for himself and Mrs. KASSEBAUM):

S. 1643. A bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1997 through 2001, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BROWN (for himself, Mr. SIMON, Mr. GRASSLEY, and Mr. BAUCUS):

S. 1644. A bill to authorize the extension of nondiscriminatory treatment (most-favored-nation) to the products of Romania; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. HOLLINGS):

S. 1645. A bill to regulate United States scientific and tourist activities in Antarctica, to conserve Antarctic resources, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN:

S. 1642. A bill to amend the Social Security Act to deny cash benefits to drug addicts and alcoholics, and for other purposes; to the Committee on Finance.

THE SOCIAL SECURITY ACT AMENDMENT ACT OF 1996

• Mr. DORGAN. Madam President, today, I introduce legislation for which there is broad bipartisan support. Many of my colleagues share my concern about monthly cash payments provided through the Supplemental Security Income [SSI] and Social Security Disability Insurance [SSDI] programs to people who are considered disabled solely because they are drug addicts and alcoholics. My bill would terminate cash benefits for these recipients of SSI and SSDI, and would instead provide treatment for their addictions.

SSI was established in 1972 to provide cash benefits to needy disabled persons with limited resources. Most Americans would be surprised to learn that drug addiction and alcoholism can qualify a person to receive monthly cash benefits under this program.

In fact, 135,000 people receive monthly SSI payments because they are alcoholics or drug addicts—148 of them in my own State of North Dakota. And this number is growing at a shocking pace.

The number of addicts receiving monthly SSI benefits quadrupled in the last 4 years. Over 10 years, the percentage of SSI recipients who receive payments because of an addiction to drugs or alcohol increased from 0.3 percent of the caseload to more than 2 percent of the total caseload today—for an annual cost to taxpayers of about $630 million.

To most Americans, this policy is wrong-headed. Substance abusers need treatment, not cash handouts from the Federal Government. The bill I am introducing today would address this problem by ending SSI and SSDI cash benefits for those for whom substance abuse is a material factor in their disability. Instead, drug addicts and alcoholics would be provided with access to quality treatment for their diseases.

There is broad consensus that we must end cash benefits for substance abusers. The House and Senate voted to terminate SSI and SSDI for drug addicts and alcoholics when welfare reform legislation was considered. These provisions have now been attached to legislation to raise the Social Security earnings limit, which will soon be considered by the Senate.

My bill is different from these proposals, however, because my bill would retain Medicaid eligibility and provide access to treatment for drug addicts and alcoholics.

Under the current system, recipients are required to participate in treatment programs if they are available. However, quality programs often are not available or are not easily accessible to SSI and SSDI recipients. To make matters worse, the inspector general at the Department of Health and Human Services recently reported that the Social Security Administration does not know the treatment status of most SSI recipients and does not provide monitoring of the program.

Access to quality treatment for drug addiction is not only an effective way to truly help chemically dependent Americans—it is also cost-effective. Experts testifying before the House Ways and Means Subcommittee on Human Resources recently pointed out that every dollar invested in treatment produced between $3 and $76 in health- and criminal justice related savings.

These provisions of my bill ensure that people whose primary disability is alcoholism or drug addiction will receive treatment instead of cash benefits to address their disability. In addition, my bill helps to ensure that people who have other disabilities but who also have a chemical addiction will use cash benefits in a way that is beneficial for their well-being.

Under current law, SSI and SSDI cash payments to recipients whose principal disability is a chemical addiction are distributed through a representative payee, rather than directly to the recipient. This is intended to ensure that payments are used for the benefit of the recipient, rather than to further his or her disability. My bill extends that safeguard to any SSI or SSDI recipient who is chemically dependent if the recipient is incapable of managing his or her own benefits.

I hope my colleagues will join me in cosponsoring this legislation so that we can underscore the importance of this issue. Cash assistance will not help alcoholics and drug addicts overcome their diseases, but quality treatment and medical care will.

I ask unanimous consent that the entire text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1642

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DENIAL OF CASH BENEFITS TO DRUG ADDICTS AND ALCOHOLICS.

(a) AMENDMENTS RELATING TO TITLE II DISABILITY BENEFITS.—

(1) IN GENERAL.—Section 225(c) of the Social Security Act (42 U.S.C. 425(c)) is amended—

(A) by striking "(c)(1)(A)" and inserting "(2)(A)";

(B) by striking paragraph (7) and by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively; and

(C) by inserting before paragraph (2) as redesignated by subparagraph (A) the following new paragraph:

"(c)(1) No cash benefits shall be payable under this title to any individual who is otherwise entitled to benefits under this title based on disability, if such individual's alcoholism or drug addiction is a contributing factor material to the Commissioner's determination that such individual is disabled.".

(2) TREATMENT REQUIREMENTS.—

(A) Section 225(c)(2)(A) of such Act (42 U.S.C. 425(c)(2)(A)), as redesignated by paragraph (1), is amended to read as follows:

"(2)(A)(i) Any individual who would be entitled to cash benefits under this title but for the application of paragraph (1) may elect to comply with the provisions of this subsection.

"(ii) Any individual who is entitled to cash benefits under this title by reason of disability (or whose entitlement to such benefits is suspended), and who was entitled to such benefits by reason of disability, for which such individual's alcoholism or drug addiction was a contributing factor material to the Commissioner's determination that such individual was disabled, for the month preceding the month in which this paragraph takes effect, shall be required to comply with the provisions of this subsection."

(B) Section 225(c)(2)(B) of such Act (42 U.S.C. 425(c)(2)(B)), as so redesignated, is amended—

(i) by striking "who is required under subparagraph (A)" and inserting "described in clause (ii) of subparagraph (A) who is required"; and

(ii) by striking "paragraph (3)" and inserting "paragraph (4)".

(C) Section 225(c)(3)(A) of such Act (42 U.S.C. 425(c)(3)(A)), as so redesignated, is amended—

(i) by striking "paragraph (1)" and inserting "paragraph (2)(A)"; and

(ii) by striking "paragraph (5)" and inserting "paragraph (6)".

(D) Section 225(c)(3)(B) of such Act (42 U.S.C. 425(c)(3)(B)), as so redesignated, is amended by striking "paragraph (1)" and inserting "paragraph (2)(A)".

(E) Section 225(c)(5) of such Act (42 U.S.C. 425(c)(5)), as so redesignated, is amended by striking "paragraph (2)" and inserting "paragraph (3)".

(F) Section 225(c)(6)(A) of such Act (42 U.S.C. 425(c)(6)(A), as so redesignated, is amended—

(i) by striking "who are receiving benefits under this title and who as a condition of payment of such benefits" and inserting "described in paragraph (2)(A)(i) who elect to undergo treatment; and the monitoring and testing of all individuals described in paragraph (2)(A)(ii) who";

(ii) by striking "under paragraph (1)"; and

(iii) by striking "paragraph (2)(A)" and inserting "paragraph (3)(A)".

(G) Section 225(c)(6)(C)(ii)(I) of such Act (42 U.S.C. 425(c)(6)(C)(ii)(I)), as so redesignated, is amended—

(i) by striking "residing in the State" and all that follows through "they are disabled" and inserting "described in paragraph (2)(A) residing in the State"; and

(ii) by striking "paragraph (2)(A)" and inserting "paragraph (3)(A)".

(H) Section 225(c)(6)(C)(ii)(III) of such Act (42 U.S.C. 425(c)(6)(C)(ii)(III)), as so redesignated, is amended by striking "paragraph (2)(A)" and inserting "paragraph (3)(A)".

(I) Section 225(c)(6)(C) of such Act (42 U.S.C. 425(c)(6)(C)), as so redesignated, is amended by adding at the end the following:

"(iii) The monitoring requirements of clause (ii) shall not apply in the case of any individual described in paragraph (2)(A)(i) who fails to comply with the requirements of paragraph (2).".

(J) Section 225(c)(7) of such Act (42 U.S.C. 425(c)(7)), as so redesignated, is amended—

(i) in subparagraph (A), by striking "who is entitled" and all that follows through "is under a disability" and inserting "described in paragraph (2)(A)"; and

(ii) in subparagraph (D), by striking "(4) or (7)" and inserting "(5)".

(K) Section 225(c)(8) of such Act (42 U.S.C. 425(c)(8)) is amended by striking "(1), (4) or (7)" and inserting "(2) or (5)".

(L) Section 225(c) of such Act (42 U.S.C. 425(c)) is amended by adding at the end the following new paragraphs:

"(10) The Commissioner shall provide appropriate notification to each individual subject to the limitation on cash benefits contained in paragraph (1) and the treatment provisions contained in paragraph (2).

"(11) The requirements of paragraph (2) shall cease to apply to any individual if the Commissioner determines that such individual no longer needs treatment.".

(3) REPRESENTATIVE PAYEE REQUIREMENTS.—

(A) Section 205(j)(1)(B) of such Act (42 U.S.C. 405(j)(1)(B)) is amended to read as follows:

"(B) In the case of an individual entitled to benefits based on disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) and the individual is incapable of managing such benefits.".

(B) Section 205(j)(2)(C)(v) of such Act (42 U.S.C. 405(j)(2)(C)(v)) is amended by striking "entitled to benefits" and all that follows through "under a disability" and inserting "described in paragraph (1)(B)".

(C) Section 205(j)(2)(D)(ii)(II) of such Act (42 U.S.C. 405(j)(2)(D)(ii)(II)) is amended by striking all that follows "15 years, or" and inserting "described in paragraph (1)(B).".

(D) Section 205(j)(4)(A)(i)(II) of such Act (42 U.S.C. 405(j)(4)(A)(ii)(II)) is amended by striking "entitled to benefits" and all that follows through "under a disability" and inserting "described in paragraph (1)(B)".

(b) AMENDMENTS RELATING TO SSI BENEFITS.—

(1) IN GENERAL.—Section 1611(e)(3) of the Social Security Act (42 U.S.C. 1382(e)(3)) is amended—

(A) by striking "(B)" and inserting "(C)";

(B) by striking "(3)(A) and inserting "(B)"; and

(C) by inserting before subparagraph (B) as redesignated by paragraph (2) the following new subparagraph:

"(3)(A) No cash benefits shall be payable under this title to any individual who is otherwise eligible for benefits under this title by reason of disability, if such individual's alcoholism or drug addiction is a contributing factor material to the Commissioner's determination that such individual is disabled.".

(2) TREATMENT REQUIREMENTS.—

(A) Section 1611(e)(3)(B)(i)(I) of such Act (42 U.S.C. 1382(e)(3)(B)(i)(I)), as redesignated by paragraph (1), is amended to read as follows:

"(B)(i)(I)(aa) Any individual who would be eligible for cash benefits under this title but for the application of subparagraph (A) may elect to comply with the provisions of this subparagraph.

"(bb) Any individual who is eligible for cash benefits under this title by reason of disability (or whose eligibility for such benefits is suspended) or is eligible for benefits pursuant to section 1619(b), and who was eligible for such benefits by reason of disability, for which such individual's alcoholism or drug addiction was a contributing factor material to the Commissioner's determination that such individual was disabled, for the month preceding the month in which this subparagraph takes effect, shall be required to comply with the provisions of this subparagraph.".

(B) Section 1611(e)(3)(B)(i)(II) of such Act (42 U.S.C. 1382(e)(3)(B)(i)(II)), as so redesignated, is amended by striking "who is required under subclause (I)" and inserting "described in division (bb) of subclause (I) who is required".

(C) Subclauses (I) and (II) of section 1611(e)(3)(B)(ii) of such Act (42 U.S.C. 1382(e)(3)(B)(ii)), as so redesignated, are each amended by striking "clause (i)" and inserting "clause (i)(I)".

(D) Section 1611(e)(3)(B) of such Act (42 U.S.C. 1382(e)(3)(B)), as so redesignated, is amended by striking clause (v) and by redesignating clause (vi) as clause (v).

(E) Section 1611(e)(3)(B)(v) of such Act (42 U.S.C. 1382(e)(3)(B)(v)), as redesignated by subparagraph (D), is amended—

(i) in subclause (I), by striking "who is eligible" and all that follows through "is disabled" and inserting "described in clause (i)(I)"; and

(ii) in subclause (V), by striking "or (v)".

(F) Section 1611(e)(3)(C)(i) of such Act (42 U.S.C. 1382(e)(3)(C)(i)), as redesignated by paragraph (1), is amended by striking "who are receiving benefits under this title and who as a condition of such benefits" and inserting "described in subparagraph (B)(i)(I)(aa) who elect to undergo treatment; and the monitoring and testing of all individuals described in subparagraph (B)(i)(I)(bb) who".

(G) Section 1611(e)(3)(C)(iii)(II)(aa) of such Act (42 U.S.C. 1382(e)(3)(C)(iii)(II)(aa)), as so redesignated, is amended by striking "residing in the State" and all that follows through "they are disabled" and inserting "described in subparagraph (B)(i)(I) residing in the State".

(H) Section 1611(e)(3)(C)(iii) of such Act (42 U.S.C. 1382(e)(3)(C)(iii)), as so redesignated, is amended by adding at the end the following:

"(III) The monitoring requirements of subclause (II) shall not apply in the case of any individual described in subparagraph (B)(i)(I)(aa) who fails to comply with the requirements of subparagraph (B).".

(I) Section 1611(e)(3) of such Act (42 U.S.C. 1382(e)(3)), as amended by paragraph (1), is amended by adding at the end the following new subparagraphs:

"(D) The Commissioner shall provide appropriate notification to each individual subject to the limitation on cash benefits contained in subparagraph (A) and the treatment provisions contained in subparagraph (B).

"(E) The requirements of subparagraph (B) shall cease to apply to any individual if the Commissioner determines that such individual no longer needs treatment.".

(3) Representative Payee Requirements.—

(A) Section 1631(a)(2)(A)(ii)(II) of such Act (42 U.S.C. 1383(a)(2)(A)(ii)(II)) is amended to read as follows:

"(II) In the case of an individual eligible for benefits under this title by reason of disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) and the individual is incapable of managing such benefits.".

(B) Section 1631(a)(2)(B)(vii) of such Act (42 U.S.C. 1383(a)(2)(B)(vii)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(C) Section 1631(a)(2)(B)(ix)(II) of such Act (42 U.S.C. 1383(a)(2)(B)(ix)(II)) is amended by striking all that follows "15 years, or" and inserting "described in subparagraph (A)(ii)(II).".

(D) Section 1631(a)(2)(D)(i)(II) of such Act (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(4) Preservation of Medicaid Eligibility.—Section 1634(e) of such Act (42 U.S.C. 1382(e)) is amended—

(A) by striking "clause (i) or (v) of section 1611(e)(3)(A)" and inserting "subparagraph (A) or subparagraph (B)(i)(II) of section 1611(e)(3)"; and

(B) by adding at the end the following: "This subsection shall cease to apply to any such person if the Commissioner determines that such person no longer needs treatment.".

(5) Conforming Amendment.—Section 201(c) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is repealed.

(c) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to applicants for benefits under title II or title XVI of the Social Security Act for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) Application to current recipients.—Notwithstanding any other provision of law, in the case of an individual who is receiving benefits under title II of the Social Security Act or supplemental security income benefits under title XVI of such Act as of the date of the enactment of this Act and whose entitlement or eligibility for such benefits would terminate by reason of the amendments made by this section, such amendments shall apply with respect to the benefits of such individual for months beginning on or after January 1, 1997, and the Commissioner of Social Security shall so notify the individual not later than 90 days after the date of the enactment of this Act.

(3) Benefits under title xvi.—For purposes of this subsection, the term "benefits under title XVI of the Social Security Act" includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act, and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.•

By Mr. GREGG (for himself and Mrs. KASSEBAUM):

S. 1643. A bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1997 through 2001, and for other purposes; to the Committee on Labor and Human Resources.

THE OLDER AMERICANS ACT AMENDMENTS OF 1996

Mr. GREGG. Mr. President, I rise today to introduce the Older Americans Act Amendments of 1996. This important law recently saw its 30th anniversary, and I believe it is the type of legislation that we should have more of in this country; it is a bill that is designed to help our senior citizens help themselves. This is a bill that focuses on meeting the needs of senior citizens in ways that will promote their well-being and independence. Through a variety of supportive programs—from providing meals that are both home-delivered and served in congregate settings, to subsidizing seniors' income through an employment and training program, to facilitating information, case management, and referral services so that all available services to seniors can be coordinated and maximized—this bill works to ensure the system works for our older Americans.

This bill essentially takes what has become an overly complicated, prescriptive law and streamlines it, turns significant amounts of authority over to the States, encourages a bottoms-up planning process, and allows programs and services to be tailored to meet actual—rather than perceived—social and economic needs. This legislation will provide maximum authority and flexibility to States and localities in the design and operation of their services for seniors, while protecting the integrity of a number of priority programs—including outreach and counseling programs, the long-term care ombudsman, preventive health efforts, elder abuse prevention, and legal assistance services.

The bill drives more money into the delivery of those services most needed in States and local communities through sound economic principles. Throughout this bill, a "bottoms-up" planning process is facilitated; this means actual needs will be met on the local level, rather than what we perceive the needs to be from our distant vantage point here in Washington. It is clear from a myriad of other programs that we fund and that have failed that Washington does not always know best. We must ensure that we don't drag this program down under a father-knows-best mentality.

This is not a welfare bill. It is not legislation that is designed to only meet the needs of specific populations or address specific problems. Instead, the Older Americans Act is a continuum of programs which have been structured to respond to everything from economic needs, to physical and transportation problems, to answering individuals' social requirements. All of our seniors should have the opportunity for a nutritious meal, or to get other assistance when they need it; this bill facilitates their access to these kinds of services.

This has never been considered a partisan piece of legislation, and Senator KASSEBAUM and I have worked hard, along with Senator MIKULSKI who is the ranking member on the Aging Subcommittee, to ensure that it remains bipartisan. That is not to say that concerns on both sides of the aisle were not fully explored. The goal has been to achieve the strongest policy possible, and in doing so, meet the concerns of all of our colleagues.

A concerted effort has been made to maintain an atmosphere of collegiality and consensus. For the Republican members of the Labor Committee, this has meant a willingness to recognize the value of a particular policy in cases where we would have made other decisions based on our general philosophy. In addition, we have taken a great deal of time and effort to listen to and consult with interested groups who are part of the aging network. We have extended an open-door policy to anyone who expressed an interest in sharing their views and exchanging ideas in a constructive environment. We responded to what we heard; for example, we have retained the Eldercare Locator Service, a program which allows family members to find services for their loved ones, even if they are in a different part of the country. We retained a separate line-item of funding for the long-term-care ombudsman program, after hearing repeatedly of its significance in States across the Nation.

The bill I am introducing here today, along with my colleague from Kansas and the Chairman of our Committee, Senator KASSEBAUM, is a result of that process over the last year. It contains policy that was structured in response to excellent witnesses who testified both before our subcommittee and the House. These individuals brought their unique, grassroots perspective from the trenches to us here in Washington. Their comments had a tremendous value in this process, as their issues are real, not perceived. One provision we adopted on their advice was, for example, to permit States to institute cost-sharing provisions; however, we have ensured that these provisions will not prevent any senior from receiving services due to an inability to pay.

This bill responds to concerns and questions that were posed after we circulated a legislative proposal last December. It also incorporates a number of items raised by the administration and the Democratic members of the Labor Committee, both technical and substantive. These include: Retaining authority for the Assistant Secretary to make grants for preventive health activities, with priority given to medically underserved areas and locations with the greatest economic need; definition of low income at 150 percent of the Federal poverty line; and mandated State planning requirements for legal assistance and insurance-public benefit counseling.

The overall structure of this bill has also been changed. Like a house that had numerous additions over the years, the Older Americans Act had become disjointed. We have corrected that, restructuring the act so that it is logically based on service and oversight responsibilities, as opposed to program by program, fractionalized by seven titles. The four titles of this bill include one for Federal functions, one for State responsibilities, one for Area Agency on Aging authorities, and one title for native American programs.

This bill maximizes flexibility for service delivery at the State and local level, while still retaining protections over priority services, such as outreach and counseling, long-term care ombudsmen, and case management. The bill also rationalizes the funding formulas for both nutrition and supportive services as well as SCSEP, the Senior Community Service Employment Program. This is important because we must direct our limited Federal resources to where a real need exists. We must also be planning now for the future, and ensure that legislation that we pass today will be structured to respond to the needs of tomorrow and the 21st century.

In addition, we have directed funds to the administration, States, and localities as required for the purpose of administering these programs. While important functions are carried out with administrative dollars, when faced with a choice between administration and service, we have opted to meet the needs of our seniors wherever we can. To further promote quality service delivery, we have eliminated the artificial funding wall between home-delivered and congregate meals programs. We have also increased the transfer authority between nutrition programs and supportive services, which funds items such as transportation, in-home assistance, health screening and education, health insurance benefit options, crime prevention, and work on multipurpose senior center facilities.

This bill retains the authority and authorizes funding of research and demonstration grants in order to encourage innovative approaches to the delivery of the critical services provided for under this act. While, again, there is a limit on the number of dollars that can be provided for such activities, we also have seen some excellent programs emerge from these projects, and have attempted to find a way to continue them.

We maintained a number of provisions to protect the quality of the long-term-care ombudsman offices in each State by clarifying the minimal criteria for eligibility and providing conflict-of-interest safeguards. This bill ensures that particular attention continues to be paid to the needs of the minority elderly population. In addition, the legislation permits States to institute cost-sharing requirements as they see necessary under a self-declaration-of-income standard. Confidentiality standards are provided, and there is language which ensures that no one will be denied services due to an inability to pay.

It is time to reexamine the status quo for all Federal programs and make improvements where necessary. And I think we have made an excellent start with this bill, the Older Americans Act. Again, I would like to thank Senators KASSEBAUM and MIKULSKI for their efforts on this bill. I believe the bill will allow seniors across the country to remain healthy, living in their own homes in their community, and supported in their endeavors to stay independent. And this bill does all of this by striving to maximize public-private partnership to supplement the limited Federal funds available—encouraging the Federal dollars to be used to leverage private funding, and by allowing priorities to be set at the grassroots level whenever possible.

Mrs. KASSEBAUM. Mr. President, I rise today as an original cosponsor of legislation to reauthorize the Older Americans Act of 1965. I am pleased that Senator GREGG has taken the lead in drafting a bill that grants States and local communities the authority and flexibility to tailor programs to best fit the needs of their aging citizens.

The original Older Americans Act was passed in 1965 with the intention of using joint Federal and State funds to provide a range of services for elder Americans. Since that time, the act has evolved into a comprehensive list of programs and services—ranging from legal and counseling services to transportation and employment services to, perhaps most importantly, nutrition services.

Every day thousands of seniors gather at congregate meal sites to obtain nutrition services, as well as enjoy the companionship these sites offer. Often, a nutrition site will serve as the point of entry for seniors to gain knowledge of other services available to them through their local communities or their area agency on aging. The congregate meal sites serve as a valuable socialization tool, as well as often providing the only nutritious meal of the day for many seniors.

Through changes in the Older Americans Act, this legislation will provide maximum authority and flexibility to States and localities in the design and operation of their services for seniors, while protecting the integrity of certain priority programs including: outreach and counseling programs, case management, the long-term-care ombudsman, preventive health efforts, and elder abuse prevention programs. Mr. President, each State has very different needs. This bill allows each State to craft programs to fit their individual communities.

In addition, this proposal strives to maximize public-private partnership, recognizing that the Federal Government is not able to meet all the needs that exist among this growing population, but that Federal funds can form a basis of support for leveraging private dollars. Also important, I believe, is the retention of the authority and funding for research and demonstration projects which encourage the development of innovative approaches to the delivery of critical services for seniors.

As the population continues to age and as needs change, more pressure will be placed on providers to make sure that essential needs of the elderly are met. I am hopeful that our efforts will lead to a system of senior services that are not only more consumer driven but are also better designed to offer support to seniors in their endeavors to remain healthy and independent.

By Mr. BROWN (for himself, Mr. SIMON, Mr. GRASSLEY, and Mr. BAUCUS):

S. 1644. A bill to authorize the extension of nondiscriminatory treatment (most-favored-nation) to the products of Romania; to the Committee on Finance.

ROMANIA MOST-FAVORED-NATION STATUS LEGISLATION

Mr. BROWN. Mr. President, I rise today with several of my distinguished colleagues, including Senator PAUL SIMON, Senator CHUCK GRASSLEY, and Senator MAX BAUCUS, to introduce a historic measure, a bill to permanently restore nondiscriminatory treatment to the products of Romania. We are joined by Representatives PHIL CRANE, SAM GIBBONS, and BARBARA KENNELLY in the House who are also introducing this same bill in that body today.

On December 22, 1989, Romania emerged from years of brutal Communist dictatorship and began its careful journey toward democracy and free markets. By 1991, Romania had approved a new Constitution and elected a Parliament, laying a foundation for a modern parliamentary democracy. This year will mark the second nationwide Romanian Presidential election under the new Constitution.

Romania's economic legacy of extreme centralization, an oppressive Communist government, and a stifling bureaucracy gave it one of the longest paths to reach a functioning market economy of any of the emerging democracies of Central Europe. Nonetheless, according to the U.S. Department of Commerce, after many years of difficult work, much of the necessary legislative framework for a market economy is in place. Romania's economic reforms include the establishment of a two-tier banking system, the introduction of a modern tax system, the freeing of most prices and elimination of most subsidies, the adoption of a tariff-based trade regime, and the privatization of nearly all Romanian agriculture and rapidly developing enterprises.

As I witnessed on my recent visit to Romania, the economic changes are remarkable. Romania's private sector currently accounts for 45 percent of gross domestic product, including more than 80 percent of agricultural property with 5 million new landowners, more than half a million private firms, and 46,000 joint ventures with foreign capital.

American investment in Romania doubled from 1993 to 1994 and doubled again in 1995, with total foreign investment of $1.6 billion as of December 31, 1995. Romanian exports to the United States are growing rapidly, increasing by 27 percent through the third quarter of 1995 over the same period in 1994.

All in all, Romania's progress in instituting democratic reforms and a free market economy has earned it a permanent extension of most-favored-nation treatment. In addition, Romania has been found by President Clinton to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974. As I found during my recent visit, Romania is clearly making significant progress in rejoining the West. I urge the support of my colleagues for the earliest consideration of this important measure.

By Mr. KERRY (for himself and Mr. HOLLINGS):

S. 1645. A bill to regulate United States scientific and tourist in Antarctica, to conserve Antarctic resources, and for other purposes; to the Committee on Commerce.

THE ANTARCTIC SCIENCE, TOURISM, AND CONSERVATION ACT OF 1996

• Mr. KERRY. Mr. President, today I am introducing the Antarctic Science, Tourism, and Conservation Act of 1996. The purpose of this legislation is to enable the United States to implement the Protocol on Environmental Protection to the Antarctic Treaty. The Protocol was negotiated by the parties of the Antarctic Treaty System and signed in October, 1991. The Senate gave its advice and consent to the Protocol on October 7, 1992. In August, 1993, I introduced the precursor to this bill and the Senate Commerce Committee reported it to the full Senate in early 1994. Unfortunately, continuing disagreements among scientists, conservation groups, and the administration about the legislative changes needed for the United States to carry out its responsibilities under the Protocol prevented further action on that bill.

Today, I am pleased to announce that the legislative impasse has come to an end. The bill Senator HOLLINGS and I are introducing is supported by all the parties engaged in this somewhat lengthy but ultimately successful consensus-building process.

Why are we concerned about implementing this particular international agreement? The protocol recognizes that Antarctica is a unique and fragile ecosystem that must be monitored and protected and it reaffirms the designation of Antarctica as a special conservation area. At the same time, the protocol encourages and supports the unparalleled research opportunities Antarctica offers for scientific study of both global and regional environmental processes. Finally, the protocol acknowledges and addresses the impact of the growing number of tourists who travel to the Antarctic to witness its wild beauty and bountiful marine life, but whose presence is responsible for increasing environmental stress.

The bill before us builds on the existing U.S. regulatory framework provided in the Antarctic Conservation Act to implement the protocol and to balance two important goals. The first goal is to conserve and protect the Antarctic environment and resources. The second is to minimize interference with scientific research. The bill amends the Antarctic Conservation Act to make existing provisions governing U.S. research activities consistent with the requirements of the protocol. As under current law, the Director of the National Science Foundation [NSF] would remain the lead agency in managing the Antarctic science program and in issuing regulations and research permits. In addition, the bill calls for comprehensive assessment and monitoring of the effects of both governmental and nongovernmental activities on the fragile Antarctic ecosystem. It also would continue indefinitely a ban on Antarctic mineral resource activities. Finally, the bill amends the act to prevent pollution from ships and to implement provisions of the protocol relating to protection of marine resources.

Before closing, I would like to thank Senator HOLLINGS, ranking Democrat on the Commerce Committee; the Department of State, especially Under Secretary for Global Affairs Tim Wirth and Tucker Scully of the Bureau of Oceans and International Environmental and Scientific Affairs; Dr. Neil Sullivan, Director of Polar Programs, and Larry Rudolph of the National Science Foundation; and other interested parties including Greenpeace, World Wildlife Fund, and especially the Antarctica Project and its director Beth Marks for their hard work and assistance in developing this bill.

As one of the founders of the Antarctic Treaty System, the United States has an obligation to enact strong implementing legislation, and our action to complete ratification of the protocol is long overdue. I urge my colleagues' support, and prompt action to enact the Antarctic Science, Tourism, and Conservation Act of 1996.

I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1645

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antarctic Science, Tourism, and Conservation Act of 1996".

TITLE I—AMENDMENTS TO THE ANTARCTIC CONSERVATION ACT OF 1978

SEC. 101. FINDINGS AND PURPOSE.

(a) FINDINGS.—Section 2(a) of the Antarctic Conservation Act of 1978 (16 U.S.C. 2401(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (4) and (5) respectively, and inserting before paragraph (4), as redesignated, the following:

"(1) for well over a quarter of a century, scientific investigation has been the principal activity of the Federal Government and United States nationals in Antarctica;

"(2) more recently, interest of American tourists in Antarctica has increased;

"(3) as the lead civilian agency in Antarctica, the National Science Foundation has long had responsibility for ensuring that

United States scientific activities and tourism, and their supporting logistics operations, are conducted with an eye to preserving the unique values of the Antarctic region;";

(2) by striking "the Agreed Measures for the Conservation of Antarctic Fauna and Flora, adopted at the Third Antarctic Treaty Consultative Meeting, have established a firm foundation" in paragraph (4), as redesignated, and inserting "the Protocol establish a firm foundation for the conservation of Antarctic resources,";

(3) by striking paragraph (5), as redesignated, and inserting the following:

"(5) the Antarctic Treaty and the Protocol establish international mechanisms and create legal obligations necessary for the maintenance of Antarctica as a natural reserve devoted to peace and science.".

(b) PURPOSE.—Section 2(b) of such Act (16 U.S.C. 2401(b)) is amended by striking "Treaty, the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and Recommendation VII-3 of the Eighth Antarctic Treaty Consultative Meeting" and inserting "Treaty and the Protocol".

SEC. 102. DEFINITIONS.

Section 3 of the Antarctic Conservation Act of 1978 (16 U.S.C. 2492) is amended to read as follows:

"SEC. 3. DEFINITIONS.

"For purposes of this Act—

"(1) the term 'Administrator' means the Administrator of the Environmental Protection Agency;

"(2) the term 'Antarctica' means the area south of 60 degrees south latitude;

"(3) the term 'Antarctic Specially Protected Area' means an area identified as such pursuant to Annex V to the Protocol;

"(4) the term 'Director' means the Director of the National Science Foundation;

"(5) the term 'harmful interference' means—

"(A) flying or landing helicopters or other aircraft in a manner that disturbs concentrations of birds or seals;

"(B) using vehicles or vessels, including hovercraft and small boats, in a manner that disturbs concentrations of birds or seals;

"(C) using explosives or firearms in a manner that disturbs concentrations of birds or seals;

"(D) willfully disturbing breeding or molting birds or concentrations of birds or seals by persons on foot;

"(E) significantly damaging concentrations of native terrestrial plants by landing aircraft, driving vehicles, or walking on them, or by other means; and

"(F) any activity that results in the significant adverse modification of habitats of any species or population of native mammal, native bird, native plant, or native invertebrate;

"(6) the term 'historic site or monument' means any site or monument listed as an historic site or monument pursuant to Annex V to the Protocol;

"(7) the term 'impact' means impact on the Antarctic environment and dependent and associated ecosystems;

"(8) the term 'import' means to land on, bring into, or introduce into, or attempt to land on, bring into or introduce into, any place subject to the jurisdiction of the United States, including the 12-mile territorial sea of the United States, whether or not such act constitutes an importation within the meaning of the customs laws of the United States;

"(9) the term 'native bird' means any member, at any stage of its life cycle (including eggs), of any species of the class Aves which is indigenous to Antarctica or occurs there seasonally through natural migrations, and includes any part of such member;

"(10) the term 'native invertebrate' means any terrestial or freshwater invertebrate, at any stage of its life cycle, which is indigenous to Antarctica, and includes any part of such invertebrate;

"(11) the term 'native mammal' means any member, at any stage of its life cycle, of any species of the class Mammalia, which is indigenous to Antarctica or occurs there seasonally through natural migrations, and includes any part of such member;

"(12) the term 'native plant' means any terrestrial or freshwater vegetation, including bryophytes, lichens, fungi, and algae, at any stage of its life cycle (including seeds and other propagules), which is indigenous to Antarctica, and includes any part of such vegetation;

"(13) the term 'non-native species' means any species of animal or plant which is not indigenous to Antarctica and does not occur there seasonally through natural migrations;

"(14) the term 'person' has the meaning given that term in section 1 of title 1, United States Code, and includes any person subject to the jurisdiction of the United States and any department, agency, or other instrumentality of the Federal Government or of any State or local government;

"(15) the term 'prohibited product' means any substance banned from introduction onto land or ice shelves or into water in Antarctica pursuant to Annex III to the Protocol;

"(16) the term 'prohibited waste' means any substance which must be removed from Antarctica pursuant to Annex III to the Protocol, but does not include materials used for balloon envelopes required for scientific research and weather forecasting;

"(17) the term 'Protocol' means the Protocol on Environmental Protection to the Antarctic Treaty, signed October 4, 1991, in Madrid, and all annexes thereto, including any future amendments thereto to which the United States is a party;

"(18) the term 'Secretary' means the Secretary of Commerce;

"(19) the term 'Specially Protected Species' means any native species designated as a Specially Protected Species pursuant to Annex II to the Protocol;

"(20) the term 'take' means to kill, injure, capture, handle, or molest a native mammal or bird, or to remove or damage such quantities of native plants that their local distribution or abundance would be significantly affected;

"(21) the term 'Treaty' means the Antarctic Treaty signed in Washington, DC, on December 1, 1959;

"(22) the term 'United States' means the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

"(23) the term 'vessel subject to the jurisdiction of the United States' includes any 'vessel of the United States' and any 'vessel subject to the jurisdiction of the United States' as those terms are defined in section 303 of the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2432).".

SEC. 103. PROHIBITED ACTS.

Section 4 of the Antarctic Conservation Act of 1978 (16 U.S.C. 2403) is amended to read as follows:

"SEC. 4. PROHIBITED ACTS.

"(a) IN GENERAL.—It is unlawful for any person—

"(1) to introduce any prohibited product onto land or ice shelves or into water in Antarctica;

"(2) to dispose of any waste onto ice-free land areas or into fresh water systems in Antarctica;

"(3) to dispose of any prohibited waste in Antarctica;

"(4) to engage in open burning of waste;

"(5) to transport passengers to, from, or within Antarctica by any seagoing vessel not required to comply with the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), unless the person has an agreement with the vessel owner or operator under which the owner or operator is required to comply with Annex IV to the Protocol;

"(6) who organizes, sponsors, operates, or promotes a nongovernmental expedition to Antarctica, and who does business in the United States, to fail to notify all members of the expedition of the environmental protection obligations of this Act, and of actions which members must take, or not take, in order to comply with those obligations;

"(7) to damage, remove, or destroy a historic site or monument;

"(8) to refuse permission to any authorized officer or employee of the United States to board a vessel, vehicle, or aircraft of the United States, or subject to the jurisdiction of the United States, for the purpose of conducting any search or inspection in connection with the enforcement of this Act or any regulation promulgated or permit issued under this Act;

"(9) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer or employee of the United States in the conduct of any search or inspection described in paragraph (8);

"(10) to resist a lawful arrest or detention for any act prohibited by this section;

"(11) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detention of another person, knowing that such other person has committed any act prohibited by this section;

"(12) to violate any regulation issued under this Act, or any term or condition of any permit issued to that person under this Act; or

"(13) to attempt to commit or cause to be committed any act prohibited by this section.

"(b) ACTS PROHIBITED UNLESS AUTHORIZED BY PERMIT.—It is unlawful for any person, unless authorized by a permit issued under this Act—

"(1) to dispose of any waste in Antarctica (except as otherwise authorized by the Act to Prevent Pollution from Ships) including—

"(A) disposing of any waste from land into the sea in Antarctica; and

"(B) incinerating any waste on land or ice shelves in Antarctica, or on board vessels at points of embarcation or debarcation, other than through the use at remote field sites of incinerator toilets for human waste;

"(2) to introduce into Antarctica any member of a nonnative species;

"(3) to enter or engage in activities within any Antarctic Specially Protected Area;

"(4) to engage in any taking or harmful interference in Antarctica; or

"(5) to receive, acquire, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any native bird, native mammal, or native plant which the person knows, or in the exercise of due care should have known, was taken in violation of this Act.

"(c) EXCEPTION FOR EMERGENCIES.—No act described in subsection (a) (1), (2), (3), (4), (5), (7), (12), or (13) or in subsection (b) shall be unlawful if the person committing the act reasonably believed that the act was committed under emergency circumstances involving the safety of human life or of ships, aircraft, or equipment or facilities of high value, or the protection of the environment.".

SEC. 104. ENVIRONMENTAL IMPACT ASSESSMENT.

The Antarctic Conservation Act of 1978 is amended by inserting after section 4 the following new section:

"SEC. 4A. ENVIRONMENTAL IMPACT ASSESSMENT.

"(a) FEDERAL ACTIVITIES.—(1)(A) the obligations of the United States under Article 8 of and Annex I to the Protocol shall be implemented by applying the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to proposals for Federal agency activities in Antarctica, as specified in this section.

"(B) The obligations contained in section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) shall apply to all proposals for Federal agency activities occurring in Antarctica and affecting the quality of the human environment in Antarctica or dependent or associated ecosystems, only as specified in this section. For purposes of the application of such section 102(2)(C) under this subsection, the term "significantly affecting the quality of the human environment" shall have the same meaning as the term "more than a minor or transitory impact".

"(2)(A) Unless an agency which proposes to conduct a Federal activity in Antarctica determines that the activity will have less than a minor or transitory impact, or unless a comprehensive environmental evaluation is being prepared in accordance with subparagraph (C), the agency shall prepare an initial environmental evaluation in accordance with Article 2 of Annex I to the Protocol.

"(B) If the agency determines, through the preparation of the initial environmental evaluation, that the proposed Federal activity is likely to have no more than a minor or transitory impact, the activity may proceed if appropriate procedures are put in place to assess and verify the impact of the activity.

"(C) If the agency determines, through the preparation of the initial environmental evaluation or otherwise, that a proposed Federal activity is likely to have more than a minor or transitory impact, the agency shall prepare and circulate a comprehensive environmental evaluation in accordance with Article 3 of Annex I to the Protocol, and shall make such comprehensive environmental evaluation publicly available for comment.

"(3) Any agency decision under this section on whether a proposed Federal activity, to which paragraph (2)(C) applies, should proceed, and, if so, whether in its original or in a modified form, shall be based on the comprehensive environmental evaluation as well as other considerations which the agency, in the exercise of its discretion, considers relevant.

"(4) For the purposes of this section, the term 'Federal activity' includes all activities conducted under a Federal agency research program in Antarctica, whether or not conducted by a Federal agency.

"(b) FEDERAL ACTIVITIES CARRIED OUT JOINTLY WITH FOREIGN GOVERNMENTS.—(1) For the purposes of this subsection, the term 'Antarctic joint activity' means any Federal activity in Antarctica which is proposed to be conducted, or which is conducted, jointly or in cooperation with one or more foreign governments. Such term shall be defined in regulations promulgated by such agencies as the President may designate.

"(2) Where the Secretary of State, in cooperation with the lead United States agency planning an Antarctic joint activity, determines that—

"(A) the major part of the joint activity is being contributed by a government or governments other than the United States;

(B) one such government is coordinating the implementation of environmental impact assessment procedures for that activity; and

(C) such government has signed, ratified, or acceded to the Protocol,

the requirements of subsection (a) of this section shall not apply with respect to that activity.

"(3) In all cases of Antarctic joint activity other than those described in paragraph (2), the requirements of subsection (a) of this section shall apply with respect to that activity, except as provided in paragraph (4).

"(4) Determinations described in paragraph (2), and agency actions and decisions in connection with assessments of impacts of Antarctic joint activities, shall not be subject to judicial review.

"(c) NONGOVERNMENTAL ACTIVITIES.—(1)The Administrator shall, within 2 years after the date of the enactment of the Antarctic Science, Tourism, and Conservation Act of 1996, promulgate regulations to provide for—

"(A) the environmental impact assessment of nongovernmental activities, including tourism, for which the United States is required to give advance notice under paragraph 5 of Article VII of the Treaty; and

"(B) coordination of the review of information regarding environmental impact assessment received from other Parties under the Protocol.

"(2) Such regulations shall be consistent with Annex I to the Protocol.

"(d) DECISION TO PROCEED.—(1) No decision shall be taken to proceed with an activity for which a comprehensive environmental evaluation is prepared under this section unless there has been an opportunity for consideration of the draft comprehensive environmental evaluation at an Antarctic Treaty Consultative Meeting, except that no decision to proceed with a proposed activity shall be delayed through the operation of this paragraph for more than 15 months from the date of circulation of the draft comprehensive environmental evaluation pursuant to Article 3(3) of Annex I to the Protocol.

"(2) The Secretary of State shall circulate the final comprehensive environmental evaluation, in accordance with Article 3(6) of Annex I to the Protocol, at least 60 days before the commencement of the activity in Antarctica.

"(e) CASES OF EMERGENCY.—The requirements of this section, and of regulations promulgated under this section, shall not apply in cases of emergency relating to the safety of human life or of ships, aircraft, or equipment and facilities of high value, or the protection of the environment, which require an activity to be undertaken without fulfilling those requirements.

"(f) EXCLUSIVE MECHANISM.—Notwithstanding any other provision of law, the requirements of this section shall constitute the sole and exclusive statutory obligations of the Federal agencies with regard to assessing the environmental impacts of proposed Federal activities occurring in Antarctica.

"(g) DECISIONS ON PERMIT APPLICATIONS.—The provisions of this section requiring environmental impact assessments (including initial environmental evaluations and comprehensive environmental evaluations) shall not apply to Federal actions with respect to issuing permits under section 5.

"(h) PUBLICATION OF NOTICES.—Whenever the Secretary of State makes a determination under paragraph (2) of subsection (b) of this section, or receives a draft comprehensive environmental evaluation in accordance with Annex I, Article 3(3) to the Protocol, the Secretary of State shall cause timely notice thereof to be published in the Federal Register.".

SEC. 105. PERMITS.

Section 5 of the Antarctic Conservation Act of 1978 (16 U.S.C. 2404) is amended—

(1) in subsection (a) by striking "section 4(a)" and inserting in lieu thereof "section 4(b)";

(2) in subsection (c)(1)(B) by striking "Special" and inserting in lieu thereof "Species"; and

(3) in subsection (e)—

(A) by striking "or native plants to which the permit applies," in paragraph (1)(A)(i) and inserting in lieu thereof "native plants, or native invertebrates to which the permit applies, and";

(B) by striking paragraph (1)(A) (ii) and (iii) and inserting in lieu thereof the following new clause:

"(ii) the manner in which the taking or harmful interference shall be conducted (which manner shall be determined by the Director to be humane) and the area in which it will be conducted;";

(C) by striking "within Antarctica (other than within any specially protected area)" in paragraph (2)(A) and inserting in lieu thereof "or harmful interference within Antarctica";

(D) by striking "specially protected species" in paragraph (2) (A) and (B) and inserting in lieu thereof "Specially Protected Species";

(E) by striking "; and" at the end of paragraph (2)(A)(i)(II) and inserting in lieu thereof ", or";

(F) by adding after paragraph (2)(A)(i)(II) the following new subclause:

"(III) for unavoidable consequences of scientific activities or the construction and operation of scientific support facilities; and";

(G) by striking "with Antarctica and" in paragraph (2)(A)(ii)(II) and inserting in lieu thereof "within Antarctica are"; and

(H) by striking subparagraphs (C) and (D) of paragraph (2) and inserting in lieu thereof the following new subparagraph:

"(C) A permit authorizing the entry into an Antarctic Specially Protected Area shall be issued only—

"(i) if the entry is consistent with an approved management plan, or

"(ii) if a management plan relating to the area has not been approved but—

"(I) there is a compelling purpose for such entry which cannot be served elsewhere, and

"(II) the actions allowed under the permit will not jeopardize the natural ecological system existing in such area.".

SEC. 106. REGULATIONS.

Section 6 of the Antarctic Conservation Act of 1978 (16 U.S.C. 2405) is amended to read as follows:

"SEC. 6. REGULATIONS.

"(a) REGULATIONS TO BE ISSUED BY THE DIRECTOR.—(1) The Director shall issue such regulations as are necessary and appropriate to implement Annex II and Annex V to the Protocol and the provisions of this Act which implement those annexes, including

4(b)(2), (3), (4), and (5) of this Act. The Director shall designate as native species—

"(A) each species of the class Aves;

"(B) each species of the class Mammalia; and

"(C) each species of plant,

which is indigenous to Antarctica or which occurs there seasonally through natural migrations.

"(2) The Director, with the concurrence of the Administrator, shall issue such regulations as are necessary and appropriate to implement Annex III to the Protocol and the provisions of this Act which implement that Annex, including section 4(a) (1), (2), (3), and (4), and section 4(b)(1) of this Act.

"(3) The Director shall issue such regulations as are necessary and appropriate to implement Article 15 of the Protocol with respect to land areas and ice shelves in Antarctica.

"(4) The Director shall issue such additional regulations as are necessary and appropriate to implement the Protocol and this Act, except as provided in subsection (b).

"(b) REGULATIONS TO BE ISSUED BY THE SECRETARY OF THE DEPARTMENT IN WHICH THE COAST GUARD IS OPERATING.—The Secretary of the Department in which the Coast Guard is operating shall issue such regulations as are necessary and appropriate, in addition to regulations issued under the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), to implement Annex IV to the Protocol and the provisions of this Act which implement that Annex, and, with the concurrence of the Director, such regulations as are necessary and appropriate to implement Article 15 of the Protocol with respect to vessels.

"(c) TIME PERIOD FOR REGULATIONS.—The regulations to be issued under subsection (a)(1) and (2) of this section shall be issued within 2 years after the date of the enactment of the Antarctic Science, Tourism, and Conservation Act of 1996. The regulations to be issued under subsection (a)(3) of this section shall be issued within 3 years after the date of the enactment of the Antarctic Science, Tourism, and Conservation Act of 1996.".

SEC. 107. SAVING PROVISIONS.

Section 14 of the Antarctic Conservation Act of 1978 is amended to read as follows:

"SEC. 14. SAVING PROVISIONS.

"(a) REGULATIONS.—All regulations promulgated under this Act prior to the date of the enactment of the Antarctic Science, Tourism, and Conservation Act of 1996 shall remain in effect until superseding regulations are promulgated under section 6.

"(b) PERMITS.—All permits issued under this Act shall remain in effect until they expire in accordance with the terms of those permits.".

TITLE II—CONFORMING AMENDMENTS TO OTHER LAWS

SEC. 201. AMENDMENTS TO ACT TO PREVENT POLLUTION FROM SHIPS.

(a) DEFINITIONS.—Section 2 of the Act to Prevent Pollution from Ships (33 U.S.C. 1901) is amended—

(1) by redesignating paragraphs (1) through (9) of subsection (a) as paragraphs (3) through (11), respectively;

(2) by inserting before paragraph (3), as so redesignated by paragraph (1) of this subsection, the following new paragraphs:

"(1) 'Antarctica' means the area south of 60 degrees south latitude;

"(2) 'Antarctic Protocol' means the Protocol on Environmental Protection to the Antarctic Treaty, signed October 4, 1991, in Madrid, and all annexes thereto, and includes any future amendments thereto which have entered into force;"; and

(3) by adding at the end the following new subsection:

"(c) For the purposes of this Act, the requirements of Annex IV to the Antarctic Protocol shall apply in Antarctica to all vessels over which the United States has jurisdiction.".

(b) APPLICATION OF ACT.—Section 3(b)(1)(B) of the Act to Prevent Pollution from Ships (33 U.S.C. 1902(b)(1)(B)) is amended by inserting "or the Antarctic Protocol" after "MARPOL Protocol".

(c) ADMINISTRATION.—Section 4 of the Act to Prevent Pollution from Ships (33 U.S.C. 1903) is amended—

(1) by inserting ", Annex IV to the Antarctic Protocol," after "the MARPOL Protocol" in the first sentence of subsection (a);

(2) in subsection (b)(1) by inserting ", Annex IV to the Antarctic Protocol," after "the MARPOL Protocol";

(3) in subsection (b)(2)(A) by striking "within 1 year after the effective date of this paragraph,"; and

(4) in subsection (b)(2)(A)(i) by inserting "and of Annex IV to the Antarctic Protocol" after "the Convention".

(d) POLLUTION RECEPTION FACILITIES.—Section 6 of the Act to Prevent Pollution from Ships (33 U.S.C. 1905) is amended—

(1) in subsection (b) by inserting "or the Antarctic Protocol" after "the MARPOL Protocol";

(2) in subsection (e)(1) by inserting "or the Antarctic Protocol" after "the Convention";

(3) in subsection (e)(1)(A) by inserting "or Article 9 of Annex IV to the Antarctic Protocol" after "the Convention"; and

(4) in subsection (f) by inserting "or the Antarctic Protocol" after "the MARPOL Protocol".

(e) VIOLATIONS.—Section 8 of the Act to Prevent Pollution from Ships (33 U.S.C. 1907) is amended—

(1) in the first sentence of subsection (a) by inserting "Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(2) in the second sentence of subsection (a)—

(A) by inserting "or to the Antarctic Protocol" after "to the MARPOL Protocol"; and

(B) by inserting "and Annex IV to the Antarctic Protocol" after "of the MARPOL Protocol";

(3) in subsection (b) by inserting "or the Antarctic Protocol" after "MARPOL Protocol" both places it appears;

(4) in subsection (c)(1) by inserting ", of Article 3 or Article 4 of Annex IV to the Antarctic Protocol," after "to the Convention";

(5) in subsection (c)(2) by inserting "or the Antarctic Protocol" after "which the MARPOL Protocol";

(6) in subsection (c)(2)(A) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol";

(7) in subsection (c)(2)(B)—

(A) by inserting "or the Antarctic Protocol" after "to the MARPOL Protocol"; and

(B) by inserting "or Annex IV to the Antarctic Protocol" after "of the MARPOL Protocol";

(8) in subsection (d)(1) by inserting ", Article 5 of Annex IV to the Antarctic Protocol," after "Convention";

(9) in subsection (e)(1)—

(A) by inserting "or the Antarctic Protocol" after "MARPOL Protocol"; and

(B) by striking "that Protocol" and inserting in lieu thereof "those Protocols"; and

(10) in subsection (e)(2) by inserting ", of Annex IV to the Antarctic Protocol," after "MARPOL Protocol".

(f) PENALTIES.—Section 9 of the Act to Prevent Pollution from Ships (33 U.S.C. 1908) is amended—

(1) in subsection (a) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(2) in subsection (b)(1) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(3) in subsection (b)(2) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(4) in subsection (d) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol,";

(5) in subsection (e) by inserting ", Annex IV to the Antarctic Protocol," after "MARPOL Protocol"; and

(6) in subsection (f) by inserting "or the Antarctic Protocol" after "MARPOL Protocol" both places it appears.

SEC. 202. PROHIBITION OF CERTAIN ANTARCTIC RESOURCE ACTIVITIES.

(a) AGREEMENT OR LEGISLATION REQUIRED.—Section 4 of the Antarctic Protection Act of 1990 (16 U.S.C. 2463) is amended by striking "Pending a new agreement among the Antarctic Treaty Consultative Parties in force for the United States, to which the Senate has given advice and consent or which is authorized by further legislation by the Congress, which provides an indefinite ban on Antarctic mineral resource activities, it" and inserting in lieu thereof "It".

(b) REPEALS.—Sections 5 and 7 of such Act (16 U.S.C. 2464 and 2466) are repealed.

(c) REDESIGNATION.—Section 6 of such Act (16 U.S.C. 2465) is redesignated as section 5.•

• Mr. HOLLINGS. Mr. President, today I join with Senator KERRY in introducing the Antarctic Science, Tourism, and Conservation Act of 1996, which will implement the Protocol on Environmental Protection to the Antarctic Treaty. The protocol was signed by the United States 5 years ago and approved by the Senate in the 102d Congress; yet implementing legislation remains to be completed. In the 103d Congress, the Senate Commerce Committee reported implementing legislation, but differences among key agencies and interests prevented further action. Now that those differences have been reconciled, it is timely to complete the implementation effort.

I had the opportunity to visit Antarctica in 1988, and can attest both to its pristine beauty and to the unique scientific activities being conducted there. As many of my colleagues know, the activities of U.S. citizens and interests in Antarctica are almost exclusively those of federally sponsored scientific expeditions, together with their Federal logistics support. These activities are concentrated at the edge of the ice shelf and are based at the three U.S. research stations: McMurdo, South Pole, and Palmer. The peak of activity occurs at the height of the Antarctic summer, when there are about 1,200 personnel at McMurdo, 140 at South Pole, and 40 at Palmer. Occasional U.S. tourists visit as well, under the overall responsibility of the National Science Foundation [NSF]. NSF and the National Oceanic and Atmospheric Administration [NOAA] are the main scientific agencies, and the logistics and icebreaking support is provided by the Navy and Coast Guard.

The Antarctic provides scientists with a truly unique laboratory to conduct research that cannot be carried out anywhere else. During my visit I was impressed by a number of dedicated scientists operating under difficult circumstances to help us to understand better our global environment. I witnessed NOAA's ozone hole research at the South Pole, the sampling of ice cores at the Newell Glacier along the coast, and marine biology investigations at McMurdo. Much of this research has implications for the long-term survival of human beings.

We must recognize, however, that such scientific endeavors need to be carried out with great care in an environment as fragile as Antarctica's. This is essential if Antarctica is to remain a natural reserve that is of great scientific value for generations to come. While much has been done in recent years to improve the environmental soundness of U.S. operations there, the Antarctic Science, Tourism, and Conservation Act of 1996 will help to ensure that present and future U.S. activities comply with the highest environmental standards. Implementation of the protocol is long overdue, and I am hopeful that we can enact this bill very soon.•

ADDITIONAL COSPONSORS

S. 186

At the request of Mr. AKAKA, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 186, a bill to amend the Energy Policy and Conservation Act with respect to purchases from the Strategic Petroleum Reserve by entities in the insular areas of the United States, and for other purposes.

S. 358

At the request of Mr. HEFLIN, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 358, a bill to amend the Internal Revenue Code of 1986 to provide for an excise tax exemption for certain emergency medical transportation by air ambulance.

S. 413

At the request of Mr. DASCHLE, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 413, a bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under such act, and for other purposes.

S. 1386

At the request of Mr. BURNS, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1386, a bill to provide for soft-metric conversion, and for other purposes.

S. 1448

At the request of Mr. KERRY, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1448, a bill to establish the National Commission on Gay and Lesbian Youth Suicide Prevention, and for other purposes.

S. 1491

At the request of Mr. GRAMS, the names of the Senator from Missouri [Mr. ASHCROFT], the Senator from Oklahoma [Mr. NICKLES], the Senator from South Carolina [Mr. THURMOND], the Senator from California [Mrs. FEINSTEIN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from North Dakota [Mr. DORGAN], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 1491, a bill to reform antimicrobial pesticide registration, and for other purposes.

S. 1568

At the request of Mr. HATCH, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 1568, a bill to amend the Internal Revenue Code of 1986 to provide for the extension of certain expiring provisions.

S. 1610

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1612

At the request of Mr. HELMS, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1618

At the request of Mr. HATCH, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1618, a bill to provide uniform standards for the award of punitive damages for volunteer services.

S. 1641

At the request of Mr. GRAMS, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 1641, a bill to repeal the consent of Congress to the Northeast Interstate Dairy Compact, and for other purposes.

SENATE CONCURRENT RESOLUTION 42

At the request of Mrs. KASSEBAUM, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Concurrent Resolution 42, a concurrent resolution concerning the emancipation of the Iranian Baha'i community.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

AMENDMENTS SUBMITTED

THE PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1996

GORTON (AND MURRAY) AMENDMENT NO. 3565

(Ordered to lie on the table.)

Mr. GORTON (for himself and Mrs. MURRAY) submitted an amendment intended to be proposed by them to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill (H.R. 1296) to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer; as follows:

SEC. 01. VANCOUVER NATIONAL HISTORIC RESERVE.

(a) ESTABLISHMENT.—There is established the Vancouver National Historic Reserve in the State of Washington (referred to in this section as the "Reserve", consisting of the area described in the report entitled "Vancouver National Historic Reserve Feasibility Study and Environmental Assessment" published by the Vancouver Historical Study Commission and dated April 1993 as authorized by Public Law 101–523 (referred to in this section as the Vancouver Historic Reserve Report").

(b) ADMINISTRATION.—The Reserve shall be administered in accordance with;

(1) the Vancouver Historic Reserve Report (including the specific findings and recommendations contained in the report); and

(2) the Memorandum of Agreement between the Secretary of Interior, acting through the Director of the National Park Service, and the City of Vancouver, Washington, dated November 14, 1994.

(c) NO LIMITATION ON FAA AUTHORITY.—The establishment of the Reserve shall not limit;

(1) the authority of the Federal Aviation Administration over air traffic control, or aviation activities at Pearson Airpark; or

(2) limit operations and airspace in the vicinity of Portland International Airport.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

STEVENS AMENDMENT NO. 3566

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

On page , line , of the amendment, insert the following new section:

SEC. . PAYMENT IN LIEU OF TAXES.

(a) Section 6901(2) of title 31, United States Code, is amended to read as follows:

"(2) 'unit of general local government' means—

"(A) a county (or parish), township, borough, or city (where the city is independent of any other unit of general local government), that—

"(i) is within the class or classes of such political subdivisions in a State that the Secretary of the Interior determines to be the principal provider or providers of governmental services within the State; and "(ii) is a unit of general government, as determined by the Secretary of the Interior on the basis of the same principles as were used by the Secretary of Commerce on January 1, 1983, for general statistical purposes. The term 'governmental services' includes, but is not limited to, those services that relate to public safety, the environment, housing, social services, transportation, and governmental administration;

"(B) the State of Alaska, for any land within that State which is not within the boundaries of a governmental entity under subparagraph (A);

"(C) the District of Columbia;

"(D) the Commonwealth of Puerto Rico;

"(E) Guam; and

"(F) the Virgin Islands.".

(b) Section 6902(a) of title 31, United States Code, is amended to read as follows:

"(a) The Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located, as set forth in this chapter. Except for the State of Alaska for entitlement land described in section 6901(2)(B), a unit of general local government may use the payment for any governmental purpose. The State of Alaska shall distribute any payment received for entitlement land described in section 6901(2)(B) to home rule and general law cities within Alaska (as such cities are defined by the State).".

BRYAN AMENDMENT NO. 3567

(Ordered to lie on the table.)

Mr. BRYAN submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

At the end of the amendment, add the following:

TITLE —RELIEF OF PERSONS IN CLARK COUNTY, NEVADA

SEC. 1. FINDINGS.

Congress finds that—

(1) certain landowners in the north Decatur Boulevard area of Las Vegas and North Las Vegas, Clark County, Nevada, who own property adjacent to property of the Bureau of Land Management have been adversely affected by certain erroneous private surveys;

(2) the landowners have occupied or improved their property in good faith and in reliance on erroneous surveys of the property that the landowners believed were accurate;

(3) the landowners presumed that their occupancy was codified through a judgment and decree of the Eighth Judicial District Court of Nevada that was filed on October 26, 1989, as a friendly lawsuit affecting numerous landowners in the north Decatur Boulevard area; and

(4) the dependent resurvey and section subdivision of sections 6, 7, 18, and 19, Township 19 South, Range 61 East, Mount Diablo Meridian, Nevada, performed in 1990 by the Bureau of Land Management correctly established accurate boundaries between the public lands and the private lands.

SEC. 2. DEFINITIONS.

In this title:

(1) AFFECTED LANDS.—The term "affected lands" means—

(A) the Federal lands located in the Las Vegas District of the Bureau of Land Management, Clark County, Nevada, in sections 18 and 19, Township 19 South, Range 61 East, Mount Diablo Meridian, as described in the dependent resurvey by the Bureau of Land Management accepted on May 4, 1990, under Group No. 683, Nevada; and

(B) the Federal lands comprising the subsequent supplemental plats of sections 18 and 19, Township 19 South, Range 61 East, Mount Diablo Meridian, as contained on plats accepted on November 17, 1992;

which lands are described as government lots 22, 23, 26, and 27 in section 18 and government lots 20, 21, and 24 in section 19, containing approximately 29.36 acres.

(2) CLAIMANT.—The term "claimant" means an owner of real property in the city of Las Vegas, Clark County, Nevada, located adjacent to the affected lands, who claims to have been deprived by the United States of title to a portion of the affected lands as a result of an erroneous private survey performed prior to the date of enactment of this Act.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. CONVEYANCE OF LANDS.

(a) PROVISION OF INFORMATION TO SECRETARY.—Not later than 1 year after the date of enactment of this Act, the city of Las Vegas shall notify the Secretary, through the State Director of the Nevada Bureau of Land Management, in writing of the claim of each claimant to the affected lands. The claim shall be accompanied by—

(1) a description of the affected lands claimed;

(2) information relating to the claim of ownership of the affected lands; and

(3) such other information as the Secretary may require.

(b) CONVEYANCE BY THE SECRETARY.—Not later than 180 days after receipt of the notification described in subsection (a), notwithstanding any other law, the Secretary shall convey the affected lands to the city of Las Vegas, Clark County, Nevada, on the condition that the city convey the affected lands to the claimants in accordance with the resurvey and plats described in section 2(1).

WARNER (AND ROBB) AMENDMENTS NOS. 3568–3569

(Ordered to lie on the table.)

Mr. WARNER (for himself and Mr. ROBB) submitted two amendments to be proposed by them to the amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

AMENDMENT NO. 3568

On page 196, beginning on line 2 strike all through page 198, line 3 and insert the following:

SEC. 2301. COLONIAL NATIONAL HISTORICAL PARK.

(a) IN GENERAL.—The Secretary of the Interior (hereinafter in the Title referred to as the "Secretary") is authorized to transfer, without reimbursement (except as provided in subsection (c), to York County, Virginia, any portion of the existing sewage disposal system, including related improvements and structures, that is owned by the United States and located within the Colonial National Historical Park, together with such rights-of-way as the Secretary determines to be necessary to maintain and operate such system.

(b) REPAIR AND REHABILITATION OF SYSTEM.—The Secretary is authorized to enter into a cooperative agreement with York County, Virginia, under which the Secretary will pay a portion, not to exceed $110,000, of the costs of repair and rehabilitation of the sewage disposal system referred to in subsection (a).

(c) EFFECT OF AGREEMENT ON CHARGES, IMPACT, AND ALTERATIONS.—In consideration for the rights-of-way granted under subsection (a), in recognition of the contribution authorized under subsection (b), and as a condition of the transfer authorized by subsection (a), the cooperative agreement under subsection (b) shall provide for a reduction in, or the elimination of, the amounts charged to the National Park Service for its sewage disposal with respect to the Colonial National Historical Park, shall provide for minimizing the impact of the park's sewage disposal system on the park and its resources, and shall provide that such system may not be enlarged or substantially altered without the concurrence of the National Park Service.

SEC. 2302. INCLUSION OF LAND IN COLONIAL NATIONAL HISTORICAL PARK.

Notwithstanding the provisions of the Act of June 28, 1938 (52 Stat. 1208; 16 U.S.C. 81b, et seq.), limiting the average width of the Colonial Parkway, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized to include within the Colonial National Historical Park, and to acquire by purchase with donated or appropriated funds, donation or exchange, lands and interests in lands (with or without improvements) within the areas depicted on the map dated August 1993, numbered 333/80031A, and entitled "Page Landing Addition to Colonial National Historical Park". Such map shall be on file and available for inspection in the offices of the National Park Service at Colonial National Historical Park and in Washington, District of Columbia.

AMENDMENT NO. 3569

At the appropriate place in the amendment, insert the following:

TITLE ___—NATIONAL PARK SYSTEM IN THE COMMONWEALTH OF VIRGINIA

Subtitle A—Richmond National Battlefield Park

SEC. ___01. MODIFICATION OF BOUNDARY.

The first section of the Act of March 2, 1936 (49 Stat. 1155, chapter 113; 16 U.S.C. 423j), is amended to read as follows:

"SECTION 1. ESTABLISHMENT OF PARK.

"(a) IN GENERAL.—In order to preserve the site of the 1862 Peninsula Campaign and the 1864–65 battle of Richmond, in the vicinity of Richmond, Virginia, as a national battlefield park for the benefit and inspiration of the people of the United States, there is established, subject to existing rights, the Richmond National Battlefield Park (referred to in this Act as the 'Park').

"(b) BOUNDARIES.—The Park shall consist of—

"(1) lands, waters, and interests therein within the area generally depicted on the map entitled 'Richmond National Battlefield Park, Land Status Map', numbered 367/92,000, and dated September 1993; and

"(2) on donation of title acceptable to the Secretary of the Interior (and acceptance by the Secretary), the following tracts: a tract of 750 acres at Malvern Hill, a tract of 15 acres at Beaver Dam Creek, a tract of 100 acres at Cold Harbor, and a tract of 42 acres at Bethesda Church.

"(c) MAPS.—

"(1) NEW MAP.—The Secretary of the Interior (referred to in this Act as the "Secretary") shall complete a boundary map (including tracts referred to in subsection (b)(2)) for the Park.

"(2) PUBLIC AVAILABILITY.—The map required by this subsection and the map described in subsection (b)(1) shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

"(d) NEW MARKET HEIGHTS BATTLEFIELD.—

"(1) DECLARATION.—Congress recognizes the national significance of the Battle of New Market Heights and declares it to be in the public interest to ensure the preservation of the New Market Heights Battlefield so that an important aspect of American history can be interpreted to the public.

"(2) DEVELOPMENT OF ALTERNATIVES.—The Secretary shall work cooperatively with the Commonwealth of Virginia, the county of Henrico, Virginia, and owners of property that is within, and property that is affected by, the battlefield area to develop alternatives to ensure implementation of the goals of paragraph (1).

"(3) REPORT.—Not later than June 1, 1996, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate report outlining the alternatives developed under paragraph (2).

"(e) REVISED BOUNDARY.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall complete and submit to Congress a general management plan that—

"(1) identifies lands that would be appropriate for inclusion in the Park and lands that would make essential improvements to the management of the Park; and

"(2) includes recommendations for a revised boundary for the Park."

SEC. ___02. REPEAL OF PROVISION REGARDING PROPERTY ACQUISITION.

Section 2 of the Act of March 2, 1936 (49 Stat. 1156, chapter 113; 16 U.S.C. 423k), is amended to read as follows:

"SEC. 2. LAND ACQUISITION.

"The Secretary may acquire for inclusion in the Park land and interests in land by donation, purchase with donated funds, or exchange, but no land or interest in land may be acquired under this section without the consent of the owner."

SEC. ___03. ADMINISTRATION.

Section 3 of the Act of March 2, 1936 (49 Stat. 1156, chapter 113; 16 U.S.C. 423*l*), is amended by striking the period and inserting ", and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).".

Subtitle B—Shenandoah National Park

SEC. ___11. MODIFICATION OF BOUNDARY.

(a) IN GENERAL.—The boundary of Shenandoah National Park is modified to include only those lands and interests in land that, on the day before the date of the enactment of this Act, were in Federal ownership and were administered by the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") as part of the park. So much of the Act of May 22, 1926 (Chapter 363; 44 Stat. 616) as is inconsistent herewith is hereby repealed.

(b) BOUNDARY ADJUSTMENTS AND LAND ACQUISITION.—

(1) MINOR BOUNDARY ADJUSTMENTS.—The Secretary may make minor adjustments to the boundary of Shenandoah National Park, as modified by this subtitle to allow to accept a donation of adjacent land.

(2) LIMITATIONS ON LAND ACQUISITION.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary may acquire lands and interests therein under this subsection only by donation or exchange.

(B) ADDITIONAL RESTRICTIONS.—When acting under this subsection—

(i) the Secretary may add to the Shenandoah National Park only lands and interests therein that are contiguous with Federal lands administered by the Secretary as part of the park;

(ii) prior to accepting title to any lands or interests therein, the Secretary shall hold a public meeting in the county in which such lands and interests are located;

(iii) the Secretary shall not alter the primary means of access of any private landowner to the lands owned by such landowner; and

(iv) the Secretary shall not cause any property owned by a private individual, or any group of adjacent properties owned by private individuals, to be surrounded on all sides by land administered by the Secretary as part of the park.

(c) MITIGATION OF IMPACTS AT ACCESS POINTS.—The Secretary shall take all reasonable actions to mitigate the impacts associated with visitor use at trailheads and other visitor access points around the perimeter of Shenandoah National Park. The Secretary shall enlist the cooperation of the State and local jurisdictions, as appropriate, in carrying out this subsection.

Subtitle C—Shenandoah Valley Battlefields

SEC. ___21. SHORT TITLE.

This subtitle may be cited as the "Shenandoah Valley Battlefields Partnership Act of 1996".

SEC. ___22. FINDINGS.

Congress finds that—

(1) there are situated in the Shenandoah Valley in the Commonwealth of Virginia the sites of several key Civil War battles;

(2) certain sites, battlefields, structures, and districts in the Shenandoah Valley are collectively of national significance in the history of the Civil War;

(3) in 1990, the Congress enacted legislation directing the Secretary of the Interior to prepare a comprehensive study of significant sites and structures associated with Civil War battles in the Shenandoah Valley;

(4) the study, which was completed in 1992, found that many of the sites within the Shenandoah Valley possess national significance and retain a high degree of historical integrity;

(5) the preservation of Civil War sites within a regional framework requires cooperation among local property owners and Federal, State, and local government entities; and

(6) partnerships between Federal, State, and local governments, the regional entities of such governments, and the private sector offer the most effective opportunities for the enhancement and management of the Civil War battlefields and related sites in the Shenandoah Valley.

SEC. ___23. PURPOSE.

The purposes of this subtitle are—

(1) to preserve, conserve, and interpret the legacy of the Civil War in the Shenandoah Valley;

(2) to recognize and interpret important events and geographic locations representing key Civil War battles in the Shenandoah Valley, including those battlefields associated with the Thomas J. "Stonewall" Jackson campaign of 1862 and the decisive campaigns of 1864;

(3) to recognize and interpret the effect of the Civil War on the civilian population of the Shenandoah Valley during the war and postwar reconstruction period; and

(4) to create partnerships among Federal, State, and local governments, the regional entities of such governments, and the private sector to preserve, conserve, enhance, and interpret the nationally significant battlefields and related sites associated with the Civil War in the Shenandoah Valley.

SEC. ___24. DEFINITIONS.

In this subtitle:

(1) BATTLEFIELD.—The term "battlefield" means 1 of 15 battlefields in the Shenandoah Valley, as identified in the report.

(2) BATTLEFIELDS PARK.—The term "battlefields park" means the Shenandoah Valley National Battlefields Park established under section ____ 25.

(3) COMMISSION.—The term "Commission" means the Shenandoah Valley Battlefields Commission established by section ____29.

(4) HISTORIC CORE.—The term "historic core" means the area that is so defined in the report, encompasses important components of a battle, and provides a strategic context and geographic setting for understanding the battle.

(5) PLAN.—The term "plan" means the Shenandoah Valley Battlefields plan approved by the Secretary under section ____26.

(6) REPORT.—The term "report" means the report prepared by the Secretary pursuant to the Civil War Sites Study Act of 1990 (Public Law 101-628; 16 U.S.C. 1a-5 note).

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(8) SHENANDOAH VALLEY.—The term "Shenandoah Valley" means the Shenandoah Valley in the Commonwealth of Virginia.

SEC. ___25. SHENANDOAH VALLEY NATIONAL BATTLEFIELDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—To carry out the purposes of this title, there is established in the Commonwealth of Virginia the Shenandoah Valley National Battlefields Park, consisting of the land and interests in land generally depicted on the map entitled "Shenandoah Valley National Battlefields", numbered SHVA/80,000, and dated April 1994, comprising units at Cedar Creek, Cross Keys, Fisher's Hill, McDowell, New Market, Opequan, Port Republic, Second Kernstown, Second Winchester, and Tom's Brook.

(2) AVAILABILITY OF MAP.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of the Commission and in the appropriate offices of the National Park Service.

(3) MINOR REVISIONS.—The Secretary may, with the advice of the Commission and following an opportunity for public comment, make minor revisions to the boundaries of the battlefields.

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary shall administer the battlefields in accordance with this title and with the law generally applicable to the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467).

(2) PURPOSE.—The Secretary shall protect, manage, and administer the battlefields for the purposes of preserving and interpreting their national, cultural, and historic resources and of providing for public understanding and appreciation of the battlefields in such a manner as to perpetuate those qualities and values for future generations.

(c) LAND ACQUISITION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary may acquire, with the consent of the owner, land or an interest in land within the boundaries of the battlefields by donation, purchase with donated or appropriated funds, or exchange.

(2) PUBLIC LAND.—Land or an interest in land located within the boundaries of the battlefields or a historic core area that is owned by the Commonwealth of Virginia or a political subdivision of the Commonwealth may be acquired by the Secretary under this title only by donation or exchange.

(3) NO CONDEMNATION.—The Secretary may not accept under this title a donation of land

or an interest in land that was acquired through condemnation.

(d) LIVING HISTORY DEMONSTRATIONS AND BATTLEFIELD ENACTMENTS.—

(1) DEMONSTRATIONS AND ENACTMENTS REQUIRED TO BE PERMITTED.—The Secretary shall permit to be conducted, at any location in the battlefields, any living history demonstration or battlefield reenactment that is the same as or substantially similar to a demonstration or reenactment that occurred at that location at any time during the 12-month period ending on the date of the enactment of this Act.

(2) OTHER DEMONSTRATIONS AND REENACTMENTS.—The Secretary may allow, at any location in the battlefields, any living history demonstration or battlefield reenactment not described in paragraph (1) that the Secretary determines to be appropriate.

SEC. ___26. SHENANDOAH VALLEY BATTLEFIELDS PLAN.

(a) IN GENERAL.—The battlefields park shall be managed by the Secretary pursuant to this title and the Shenandoah Valley Battlefields plan developed by the Commission and approved by the Secretary, as provided in this section.

(b) SPECIFIC PROVISIONS.—The plan shall include—

(1) provisions for the management, protection, and interpretation of the natural, cultural, and historical resources of the battlefields, consistent with the purposes of this title;

(2) identification of the historic cores that are appropriate for administration by the Secretary;

(3) a determination of the level of protection that is adequate to ensure the long-term preservation of each of the historic cores that is identified under paragraph (2) and measures recommended to accomplish such protection, which may include (but need not be limited to) conservation easements, local zoning, transfer of development rights, or ownership by an entity dedicated to preservation of the historic resources of the battlefields;

(4) recommendations to the Commonwealth of Virginia (and political subdivisions thereof) regarding the management, protection, and interpretation of the natural, cultural, and historical resources of the battlefields;

(5) the information described in section 12(b) of Public Law 91-383 (16 U.S.C. 1a-7(b)) (pertaining to the preparation of general management plans);

(6) identification of appropriate partnerships between the Secretary, Federal, State, and local governments and regional entities, and the private sector, in furtherance of the purposes of this title;

(7) proposed locations for visitor contact and major interpretive facilities;

(8) provisions for implementing a continuing program of interpretation and visitor education concerning the resources and values of the battlefields and historic core areas;

(9) provisions for a uniform valley-wide historical marker and wayside exhibit program, including a provision for marking, with the consent of the owner, historic structures and properties that are contained within and contribute to the understanding of the battlefields; and

(10) recommendations for means of ensuring continued local involvement and participation in the management, protection, and development of the battlefields.

(c) PREPARATION OF DRAFT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a draft plan that meets the requirements of subsection (b).

(2) ADDITIONAL REQUIREMENTS.—Prior to submitting the draft plan to the Secretary, the Commission shall ensure that—

(A) the Commonwealth of Virginia, and any political subdivision thereof that would be affected by the plan, receives a copy of the draft plan;

(B) adequate notice of the availability of the draft plan is provided through publication in appropriate local newspapers in the area of the battlefields; and

(C) at least one public hearing in the vicinity of the battlefields in the upper Shenandoah Valley and one public hearing in the vicinity of the battlefields in the lower Shenandoah Valley is conducted by the Commission with respect to the draft plan.

(d) REVIEW OF PLAN BY THE SECRETARY.—The Secretary shall review the draft plan submitted under subsection (c) and, not later than 90 days after the date on which the draft plan is submitted, shall either—

(1) approve the draft plan as the plan; or

(2) reject the draft plan and recommend to the Commission modifications that would make the draft plan acceptable.

SEC. ___27. COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—In furtherance of the purposes of this title, the Secretary may establish partnerships and enter into cooperative agreements concerning lands, and interests therein, within the battlefields with other Federal, State, or local agencies and private persons or organizations.

(b) HISTORIC MONUMENTS.—The Secretary may enter into an agreement with the owner of property that is located in the battlefields and on which an historic monument or tablet commemorating a relevant battle has been erected prior to the date of the enactment of this Act. The Secretary may make funds available for the maintenance, protection, and interpretation of the monument or tablet, as the case may be, pursuant to the agreement.

(c) AGREEMENTS AND PARTNERSHIPS NOT DEPENDENT ON INCLUSION IN BATTLEFIELDS PARK.—The Secretary may establish a partnership or enter into an agreement under this section with respect to a battlefield regardless of whether or not the historic core area of the battlefield is included in the battlefields park.

SEC. ___28. GRANT AND TECHNICAL ASSISTANCE PROGRAM.

(a) TECHNICAL ASSISTANCE TO PROPERTY OWNERS.—The Secretary may provide technical assistance to owners of property located within the battlefields to provide for the preservation and interpretation of the natural, cultural, and historical resources within the battlefields.

(b) TECHNICAL ASSISTANCE TO GOVERNMENTAL ENTITIES.—

(1) IN GENERAL.—The Secretary, after consultation with the Commission, may award grants and provide technical assistance to governmental entities to assist with the planning, development, and implementation of comprehensive plans, land use guidelines, regulations, ordinances, and other appropriate documents that are consistent with and are designed to protect the historic character of the battlefields and historic core areas.

(2) REGULAR REVIEW.—

(A) IN GENERAL.—The Commission shall conduct a regular review of plans, guidelines, regulations, ordinances, and documents with respect to which the Secretary has awarded a grant under this subsection.

(B) RECOMMENDATION.—If the Commission finds that a plan, guideline, regulation, ordinance, or document, or the implementation of a plan, guideline, regulation, ordinance, or document is no longer consistent with the protection of the historic character of the battlefields and historic core areas, the Commission may recommend, after consultation with the affected governmental entity, that the Secretary suspend any grant awarded under this subsection with respect to the plan, guideline, regulation, ordinance, or document.

(3) SUSPENSION OF GRANT.—The Secretary, after consultation with the Commission, shall suspend a grant under this subsection if the Secretary determines that the plan, guideline, regulation, ordinance, or document with respect to which the grant is awarded has been modified in a manner that is inconsistent with the protection of the historic character of the battlefields and historic core areas.

(c) ASSISTANCE NOT DEPENDENT ON INCLUSION IN PARK.—The Secretary may provide assistance under this section with respect to a battlefield or historic core area regardless of whether or not the battlefield or historic core area is included in the Park.

SEC. ___29. SHENANDOAH VALLEY BATTLEFIELDS COMMISSION.

(a) ESTABLISHMENT.—There is established the Shenandoah Valley Battlefields Commission.

(b) MEMBERSHIP.—The Commission shall be composed of 19 members, to be appointed by the Secretary as follows:

(1) 5 members representing local governments of communities in the vicinity of the battlefields, appointed after the Secretary considers recommendations made by appropriate local governing bodies.

(2) 10 members representing property owners within the battlefields (1 member within each unit of the battlefields).

(3) 1 member with demonstrated expertise in historic preservation.

(4) 1 member who is a recognized historian with expertise in Civil War history.

(5) 1 member from a list of recommendations made by the Governor of Virginia.

(6) 1 member representing the interests of the National Park Service.

(c) APPOINTMENTS.—Members shall be appointed for the life of the Commission.

(d) ELECTION OF OFFICERS.—The Commission shall elect one of its members as Chairperson and one as Vice Chairperson. The terms of office of the Chairperson and Vice Chairperson shall be 2 years. The Vice Chairperson shall serve as Chairperson in the absence of the Chairperson.

(e) VACANCY.—Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made, except that the Secretary shall fill any vacancy within 30 days after the vacancy occurs.

(f) QUORUM.—A majority of the Commission shall constitute a quorum.

(g) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members of the Commission, but not less than quarterly. Notice of Commission meetings and agendas for the meetings shall be published in local newspapers that have a distribution throughout the Shenandoah Valley. Commission meetings shall be held at various locations throughout the Shenandoah Valley and in a manner that ensures adequate public participation.

(h) STAFF OF THE COMMISSION.—The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out its duties.

(i) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(j) FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency may detail to the Commission, on a reimbursable basis, personnel of the agency to assist the Commission in carrying out its duties.

(k) SUBPOENAS.—The Commission may not issue subpoenas or exercise any subpoena authority.

(l) EXPENSES.—Members of the Commission shall serve without compensation, but the Secretary may reimburse members for expenses reasonably incurred in carrying out the responsibilities of the Commission under this title.

(m) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(n) GIFTS.—The Commission may, for purposes of carrying out the duties of the Commission, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

(o) TERMINATION.—The Commission shall terminate upon the expiration of the 45-day period beginning on the date on which the Secretary approves the plan under section ___26(d).

SEC. ___30. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall—

(1) develop the plan and draft plan referred to in section ___26, in consultation with the Secretary;

(2) advise the Secretary with respect to the battlefields;

(3) assist the Commonwealth of Virginia, and any political subdivision thereof, in the management, protection, and interpretation of the natural, cultural, and historical resources within the battlefields, except that the Commission shall in no way infringe upon the authorities and policies of the Commonwealth of Virginia or any political subdivision thereof; and

(4) take appropriate action to encourage protection of the natural, cultural, and historic resources within the battlefields by landowners, local governments, organizations, and businesses.

(b) ASSISTANCE TO NONPROFIT ORGANIZATIONS.—The Commission may assist any nonprofit organization in the management, protection, and interpretation of the natural, cultural, and historical resources within the historic core areas.

SEC. ___31. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated not more than $5,000,000 for development of the battlefields park, not more than $2,000,000 for land acquisition pursuant to this title, not more than $5,000,000 to carry out the purposes of sections ___27 and ___28, and not more than $250,000 for any fiscal year for the operation of the Commission.

(b) AVAILABILITY OF FUNDS.—Funds made available under subsection (a) shall remain available until expended.

Subtitle D—Cumberland Gap National Historical Park

SEC. ___41. ADDITION OF LANDS.

(a) AUTHORITY.—Notwithstanding the Act of June 11, 1940 (16 U.S.C. 261 et seq.), the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange not to exceed 10 acres of land or interests in land, which shall consist of those necessary lands for the establishment of trailheads to be located at White Rocks and Chadwell Gap.

(b) ADMINISTRATION.—Lands and interests in lands acquired pursuant to subsection (a) shall be added to and administered as part of Cumberland Gap National Historical Park.

ABRAHAM AMENDMENT NO. 3570

(Ordered to lie on the table.)

Mr. ABRAHAM submitted an amendment intended to be proposed by him to the amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

SEC. . SLEEPING BEAR DUNES NATIONAL LAKESHORE.

(a) Section 2(a) of the Act entitled "An Act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes," (16 U.S.C. 460X-x14) is amended:

By deleting the period following the words "Department of the Interior"; and,

By adding the following at the end thereof: "except that—

"(1) certain land shall be taken out of the land area now comprising the Sleeping Bear Dunes National Lakeshore which land is a parcel of land in part of Government Lots 2 and 3, the East ½ of the Southeast ¼ of Section 11, also part of East ½ of Section 14, T29N, R14W, Glen Arbor Township, Leelanau County, Michigan, more fully described as follows:

"The North 982 feet of the Northeast ¼ of the Southeast ¼ of said section 14, and the East ½ of the Northwest ¼ of the Northeast ¼ of said section 14, (being part of Government lot 1), and that part of the East ½ of the Northeast ¼ of said section 14, lying West of the centerline for Thoreson Road. Also the South 1759 feet of that part of Government lots 2 and 3, and the East ½ of the Southeast ¼ of said Section 11, all being part of T29N, R14W, Glen Arbor Township Leelanau County, Michigan.

"Subject to all applicable building, use restrictions and easements, if any, affecting the premises.

"Also subject to final survey of the above in accordance with Michigan Act 132, P.A. of 1970, as amended.

"Further subject to rights of the public over and across Thoreson Road.

"(2) certain land shall be added to the land area now comprising the Sleeping Bear Dunes National Lakeshore which land is a parcel of land in part of the West ½ of Section 23, also part of the SE¼ of Section 22, all in T29N, R14W, Glen Arbor Township, Leelanau County, Michigan, more fully described as:

"Beginning at the Southeast corner of said Section 22; thence N88°55′30″W 1320.48 feet along the South line of said Section 22 to East ⅛ line of said Section 22; thence along William B. Batzer Jr., R.L.S., Surveys 8325 and 83025-B by the following (7) courses; thence NOO°40′45″E 33.00 feet along said East ⅛ line, N80°34′20″E 115.50 feet; N70°51′20″E 172.09 feet; N61°51′20″E 181.87 feet; N41°25′20″E 230.80 feet; N63°02′45″E 514.60 feet; N28°57′25″W 600.62 feet to the South bank of the North part of the Crystal River; thence along said river bank by the following (6) courses; N42°18′19″E 102.13 feet (recorded as N40°03′30″E 102.07 feet; N58°07′35″E 219.82 feet; N42°09′40″E 215.48 feet; N54°20′35″E 121.36 feet; N46°10′10″E 107.67 feet; N34°05′25″E 46.08 feet to the East line of said Section 22; thence leaving said South bank S01°19′55″W 347.84 feet along said East line to the South bank of the South part of said Crystal River; thence along said river bank by the following (4) courses; N48°48′30″E 168.46 feet, N40°56′15″E 168.77 feet; N55°24′10″E 99.10 feet; N43°30′00″E 154.21 feet; thence leaving said South river bank S56°45′50″E 350.00 feet; thence N41°49′50″E 400 feet; thence S56°44′25″E 412.99 feet to the West ⅛ line of said Section 23; thence leaving said William B. Batzer, Jr. Survey Northerly along said West ⅛ line to the East-West ¼ line of said Section 23; thence Westerly along said East-West ¼ line and County Road No. 675 to a point where the most Easterly channel of the Crystal River passes under County Road No. 675; thence along a Nicholas M. O'non R.L.S. Survey of December 5, 1986, Job No. 8668–23 GA 2914 by the following (3) courses along the center thread of said river N41°13′48″E 273.78 feet; N17°09′18″E 405.85 feet; thence leaving said center thread N89°43′02″W 253.56 feet to a point on the old centerline of State Highway M–22; thence Northerly along the centerline of State Highway M–22, by the following (5) courses; thence N35°02′58″E, along said old centerline, a distance of 12.66 feet to the existing centerline of State Highway M–22 and a point on a 516.00 foot radius curve to the right; thence Northeasterly along said centerline and curve, an arc distance of 109.88 feet (chord bearing and distance of N53°19′13″E, 109.67 feet) to the point of tangency of said curve; thence N59°25′16″E, along said centerline, a distance of 156.38 feet to the point of curvature of a 400.00 foot radius curve to the left; thence Northeasterly along said centerline and curve, an arc distance of 219.55 feet (Delta of N31°26′55″, long chord bearing and distance of N43°41′48″E, 216.81 feet) to the point of tangency; thence N27°58′11″E, (Also recorded as N27°19′23″E) along said centerline, a distance of 528.10 feet to an extension of the South line of Chamberlain's unrecorded plat of Glen Arbor Beach Subdivision; and the South boundary line of South Beach Condominium recorded in Liber 243, Pages 63–74, thence Easterly approximately 38.39 feet along said South boundary line extended to the Easterly right-of-way line of State Highway M–22 and the Southwest corner of a survey by Gosling Czubak Associates, Inc., Job No. 87025.12; thence N27°19′23″E 633.21 feet along said right-of-way; thence along said right-of-way 79.72 feet on the arc of a curve to the right (Rad=110.24 feet, 1=N41°26′00″, Chord=N48°02′23″E 77.99 feet); thence N68°45′23″E 106.17 feet along said right-of-way; thence S00°42′53″E 174.11 feet; thence N89°17′07″E 217.57; thence S41°18′01″E 122.39 feet, thence S01°31′50E 370.00 feet; thence N88°28′10″E (previously recorded as N88°34′00″E 220.3 feet more or less to a point on the North-South ¼ line of Section 23; thence Southerly along said North-South ¼ line to the South ⅛ line of said Section 23; thence Westerly along said South ⅛ line to the West ⅛ line of said Section 23; thence Southerly along said West ⅛ line to the Point of Beginning.

"Subject to the correlative rights of the owners along the Crystal River.

"Together with riparian rights between the shore courses and the center thread of Crystal River.

"Subject to all applicable building, use restrictions and easements, if any, affecting the premises.

"Also subject to final survey of the above in accordance with Michigan Act 132, P.A. of 1970, as amended."

Section 8(a) of the Act is amended to read as follows:

(1) By deleting the period following the word "Act" at the end of the first sentence; and,

(2) By adding the following at the end thereof: "except that the land to be taken out of and added to the land area now comprising the lakeshore shall, within 120 days after the date hereof, be conveyed by an exchange of deeds. The Secretary is instructed to and shall have the authority to effect this exchange but shall not have the authority to otherwise dispose of the land to be taken out of or to acquire the land to be added to the lakeshore pursuant to the amendments hereinabove."

Section 8(e) of the Act is amended to read as follows:

(1) By deleting the period following the word "encumbrances" at the end of the section; and

(2) By adding the following at the end thereof: "except condemnation may not be used to acquire the land to be added, pursuant to the amendment hereinabove, to the land area now comprising the lakeshore."

BURNS AMENDMENT NO. 3571

Mr. DOLE (for Mr. BURNS) proposed an amendment to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

At the end of the amendment, add the following:

TITLE —MISCELLANEOUS

SEC. 01. LOST CREEK LAND EXCHANGE.

(a) LAND EXCHANGE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture (referred to in this Act as the "Secretary") shall acquire by exchange certain land and interests in lands owned by R-Y Timber, Inc., its successors and assigns or affiliates (referred to in this Act as "R-Y"), located in the Lost Creek area and other areas of the Deerlodge National Forest, Montana.

(2) OFFER AND ACCEPTANCE OF LAND.—

(A) NON-FEDERAL LAND.—If R-Y offers fee title that is acceptable to the United States to approximately 17,567 acres of land owned by R-Y and available for exchange, the Secretary shall accept a warranty deed to the land.

(B) FEDERAL LAND.—

(i) CONVEYANCE.—On acceptance of title to R-Y's land under paragraph (1), the Secretary shall convey to R-Y, subject to reservations and valid existing rights, by patent, fee title to lands and timber deeds of a value that is approximately equal to the value of the land described in subsection (a).

(ii) TIMBER HARVEST PROVISIONS.—

(I) PRACTICES.—Timber harvest practices used on the national forest land conveyed under clause (i) shall be conducted in accordance with Montana Forestry Best Management Practices, the Montana Streamside Zone Management Law (Mont. Code Ann. sec. 77-5-301 et seq.), and all other applicable laws of the State of Montana.

(II) RELATION TO PLANNED SALES.—Timber harvest volumes on land conveyed under clause (i) shall be in addition to, and not treated in any way as an offset against, the present or future planned timber sale quantities for the National Forest where the harvesting occurs.

(III) TIMBER DESIGNATIONS.—

(aa) CONTRACT.—To ensure the expeditious and efficient designation of timber on land conveyed under clause (i), the Forest Service shall contract with a qualified private person agreed on by the Secretary and R-Y to perform the field work associated with the designations.

(bb) MINIMUM ANNUAL DESIGNATIONS.—Not less than 20 percent nor more than 30 percent of the timber on land conveyed under clause (i) shall be made available by the end of each fiscal year over a 5-year period beginning with the first fiscal year that begins after the date of enactment of this Act, and R-Y shall be allowed at least 5 years after the end of each fiscal year in which to complete the harvest of timber designated in that fiscal year.

(3) TITLE.—

(A) REVIEW OF TITLE.—Not later than 30 days after receipt of title documents from R-Y, the Secretary shall review the title for the non-Federal land described in paragraph (2) and determine whether—

(i) the applicable title standards for Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(ii) all draft conveyance and closing documents have been received and approved; and

(iii) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary.

(B) UNACCEPTABLE QUALITY OF TITLE.—If the quality of title does not meet Federal standards and is not otherwise acceptable to the Secretary, the Secertary shall advise R-Y regarding corrective actions necessary to make an affirmative determination.

(C) CONVEYANCE OF TITLE.—The Secretary shall effect the conveyance of land described in paragraph (2) not later than 60 days after the Secretary has made an affirmative determination of quality of title.

(b) GENERAL PROVISIONS.—

(1) MAPS AND DOCUMENTS.—

(A) IN GENERAL.—Maps pertaining to the land described in subsection (a) are subject to such minor corrections as may be agreed upon by the Secretary and R-Y.

(B) NOTIFICATION.—The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives of any corrections made pursuant to this subsection.

(C) PUBLIC AVAILABILITY.—The maps and documents described in subsection (a)(2) (A) and (B) shall be on file and available for public inspection in the office of the Chief of the Forest Service.

(2) NATIONAL FOREST SYSTEM LAND.—All land conveyed to the United States under this section shall be added to and administered as part of the Deerlodge National Forest in accordance with the laws pertaining to the National Forest System.

(3) VALUATION.—The values of the lands and interests in land to be exchanged under this section are deemed to be of equal value.

(4) HAZARDOUS MATERIAL LIABILITY.—The United States (including its departments, agencies, and employees) shall not be liable under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.), the Clean Water Act (33 U.S.C. 1251 et seq.), or any other Federal, State, or local law, solely as a result of the acquisition of an interest in the Lost Creek Tract or due to cricumstances or events occurring before acquisition, including any release or threat of release of a hazardous substance.

BURNS AMENDMENT NO. 3572

Mr. DOLE (for Mr. BURNS) proposed an amendment to amendment No. 3571 proposed by Mr. BURNS to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed to be added, insert the following:

TITLE —MISCELLANEOUS

SEC. 01. LOST CREEK LAND EXCHANGE.

(a) LAND EXCHANGE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture (referred to in this Act as the "Secretary") shall acquire by exchange certain land and interests in land owned by R-Y Timber, Inc., its successors and assigns or affiliates (referred to in this Act as "R-Y"), located in the Lost Creek area and other areas of the Deerlodge National Forest, Montana.

(2) OFFER AND ACCEPTANCE OF LAND.—

(A) NON-FEDERAL LAND.—If R-Y offers fee title that is acceptable to the United States to approximately 17,567 acres of land owned by R-Y and available for exchange, the Secretary shall accept a warranty deed to the land.

(B) FEDERAL LAND.—

(i) CONVEYANCE.—On acceptance of title to R-Y's land under paragraph (1), the Secretary shall convey to R-Y, subject to reservations and valid existing rights, by patent, fee title to lands and timber deeds of a value that is approximately equal to the value of the land described in subsection (a).

(ii) TIMBER HARVEST PROVISIONS.—

(I) PRACTICES.—Timber harvest practices used on the national forest land conveyed under clause (i) shall be conducted in accordance with Montana Forestry Best Management Practices, the Montana Streamside Zone Management Law (Mont. Code Ann. sec. 77-5-301 et seq.), and all other applicable laws of the State of Montana.

(II) RELATION TO PLANNED SALES.—Timber harvest volumes on land conveyed under clause (i) shall be in addition to, and not treated in any way as an offset against, the present or future planned timber sale quantities for the National Forest where the harvesting occurs.

(III) TIMBER DESIGNATIONS.—

(aa) CONTRACT.—To ensure the expeditious and efficient designation of timber on land conveyed under clause (i), the Forest Service shall contract with a qualified private person agreed on by the Secretary and R-Y to perform the field work associated with the designations.

(bb) MINIMUM ANNUAL DESIGNATIONS.—Not less than 20 percent nor more than 30 percent of the timber on land conveyed under clause (i) shall be made available by the end of each fiscal year over a 5-year period beginning with the first fiscal year that begins after the date of enactment of this Act, and R-Y shall be allowed at least 5 years after the end of each fiscal year in which to complete the harvest of timber designated in that fiscal year.

(3) TITLE.—

(A) REVIEW OF TITLE.—Not later than 30 days after receipt of title documents from R-Y, the Secretary shall review the title for the non-Federal land described in paragraph (2) and determine whether—

(i) the applicable title standards for Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(ii) all draft conveyances and closing documents have been received and approved; and

(iii) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary.

(B) UNACCEPTABLE QUALITY OF TITLE.—If the quality of title does not meet Federal standards and is not otherwise acceptable to the Secretary, the Secretary shall advise R-Y regarding corrective actions necessary to make an affirmative determination.

(c) CONVEYANCE OF TITLE.—The Secretary shall effect the conveyance of land described in paragraph (2) not later than 60 days after the Secretary has made an affirmative determination of quality of title.

(b) GENERAL PROVISIONS.—

(1) MAPS AND DOCUMENTS.—

(A) IN GENERAL.—Maps pertaining to the land described in subsection (a) are subject to such minor corrections as may be agreed upon by the Secretary and R-Y.

(B) NOTIFICATION.—The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives of any corrections made pursuant to this subsection.

(C) PUBLIC AVAILABILITY—The maps and documents described in subsection (a)(2) (A) and (B) shall be on file and available for public inspection in the office of the Chief of the Forest Service.

(2) NATIONAL FOREST SYSTEM LAND.—All land conveyed to the United States under this section shall be added to and administered as part of the Deerlodge National Forest in accordance with the laws pertaining to the National Forest System.

(3) VALUATION.—The values of the lands and interests in land to be exchanged under this section are deemed to be of approximately equal value.

(4) HAZARDOUS MATERIAL LIABILITY.—The United States (including its departments, agencies, and employees) shall not be liable under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.), the Clean Water Act (33 U.S.C. 1251 et seq.), or any other Federal, State, or local law, solely as a result of the acquisition of an interest in the Lost Creek Tract or due to circumstances or events occurring before acquisition, including any release or threat of release of a hazardous substance.

TITLE —VANCOUVER NATIONAL HISTORIC RESERVE

SEC. 01. VANCOUVER NATIONAL HISTORIC RESERVE.

(A) ESTABLISHMENT.—There is established the Vancouver National Historic Reserve in the State of Washington (referred to in this section as the "Reserve", consisting of the area described in the report entitled "Vancouver National Historic Reserve Feasibility Study and Environmental Assessment" published by the Vancouver Historical Study Commission and dated April 1993 as authorized by Public Law 101-523 (referred to in this section as the Vancouver Historic Reserve Report").

(b) ADMINISTRATION.—The Reserve shall be administered in accordance with;

(1) the Vancouver Historic Reserve Report (including the specific findings and recommendations contained in the report); and

(2) the Memorandum of Agreement between the Secretary of Interior, acting through the Director of the National Park Service, and the City of Vancouver, Washington, dated November 14, 1994.

(c) NO LIMITATION ON FAA AUTHORITY.—The establishment of the Reserve shall not limit;

(1) the authority of the Federal Aviation Administration over air traffic control, or aviation activities at Pearson Airpark; or

(2) limit operations and airspace in the vicinity of Portland International Airport.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

KENNEDY (AND OTHERS) AMENDMENT NO. 3573

Mr. KENNEDY (Mr. KERRY, Mr. WELLSTONE, Mr. DODD, Mr. SIMON, Ms. MIKULSKI, Mr. LEVIN, Mr. HARKIN, Mrs. BOXER, Mrs. MURRAY, Mr. PELL, Mr. LEAHY, Mr. LAUTENBERG, Mr. SARBANES, Mr. BRADLEY, and Mr. DASCHLE) proposed an amendment to the bill H.R. 1296, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . INCREASE IN THE MINIMUM WAGE RATE.

Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending July 3, 1996, not less than $4.70 an hour during the year beginning July 4, 1996, and not less than $5.15 an hour after July 3, 1997;".

KERRY AMENDMENT NO. 3574

Mr. KERRY proposed an amendment to amendment No. 3573 proposed by Mr. KENNEDY to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . INCREASE IN THE MINIMUM WAGE RATE.

Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending July 3, 1996, not less than $4.70 an hour during the year beginning July 5, 1996, and not less than $5.15 an hour after July 4, 1997;".

KENNEDY AMENDMENTS NOS. 3575–3576

(Ordered to lie on the table.)

Mr. KENNEDY submitted two amendments intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

AMENDMENT NO. 3575

At the end of the amendment proposed by Mr. Murkowski, add the following title:

TITLE—

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the New Bedford National Historic Landmark District and associated historic sites as described in section 3(b) of this Act, including the Schooner Ernestina, are National Historic Landmarks and are listed on the National Register of Historic Places as historic sites associated with the history of whaling in the United States;

(2) the city of New Bedford was the 19th century capital of the world's whaling industry and retains significant architectural features, archival materials, and museum collections illustrative of this period;

(3) New Bedford's historic resources provide unique opportunities for illustrating and interpreting the whaling industry's contribution to the economic, social, and environmental history of the United States and provide opportunities for public use and enjoyment; and

(4) the National Park System presently contains no sites commemorating whaling and its contribution to American history.

(b) PURPOSES.—The purposes of this Act are—

(1) to help preserve, protect, and interpret the resources within the areas described in section 3(b) of this Act, including architecture, setting, and associated archival and museum collections;

(2) to collaborate with the city of New Bedford and with local historical, cultural, and preservation organizations to further the purposes of the park established under this Act; and

(3) to provide opportunities for the inspirational benefit and education of the American people.

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) The term "park" means the New Bedford Whaling National Historical Park established by section 3.

(2) The term "Secretary" means the Secretary of the Interior.

SEC. 3. NEW BEDFORD WHALING NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain districts structures, and relics located in New Bedford, Massachusetts, and associated with the history of whaling and related social and economic themes in America, there is established the New Bedford Whaling National Historical Park.

(b) BOUNDARIES.—(1) The boundaries of the park shall be those generally depicted on the map numbered NAR-P49-80000-4 and dated June 1994. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service. In case of any conflict between the descriptions set forth in subparagraphs (A) through (D) and such map, such map shall govern. The park shall include the following:

(A) The area included within the New Bedford National Historic Landmark District, known as the Bedford Landing Waterfront Historic District, as listed within the National Register of Historic Places and in the Massachusetts State Register of Historic Places.

(B) The National Historic Landmark Schooner Ernestina, with its home port in New Bedford.

(C) The land along the eastern boundary of the New Bedford National Historic Landmark District over to the east side of MacArthur Drive from the Route 6 overpass on the north to an extension of School Street on the south.

(D) The land north of Elm Street in New Bedford, bounded by Acushnet Avenue on the west, Route 6 (ramps) on the north, MacArthur Drive on the east, and Elm Street on the south.

(2) In addition to the sites, areas and relics referred to in paragraph (1), the Secretary may assist in the interpretation and preservation of each of the following:

(A) The southwest corner of the State Pier.

(B) Waterfront Park, immediately south of land adjacent to the State Pier.

(C) The Rotch-Jones-Duff House and Garden Museum, located at 396 County Street.

(D) The Wharfinger Building, located on Piers 3 and 4.

(E) The Bourne Counting House, located on Merrill's Wharf.

SEC. 4. ADMINISTRATION OF PARK.

(a) IN GENERAL.—The park shall be administered by the Secretary in accordance with this Act and the provisions of law generally applicable to units of the national park system, including the Act entitle "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

(b) COOPERATIVE AGREEMENTS.—(1) The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the park.

Any payment made by the Secretary pursuant to a cooperative agreement under this subsection shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

(c) NON-FEDERAL MATCHING REQUIREMENTS.—(1) Funds authorized to be appropriated to the Secretary for the purposes of—

(A) cooperative agreements under subsection (b) shall be expended in the ratio of one dollar of Federal funds for each four dollars of funds contributed by non-Federal sources; and

(B) construction, restoration, and rehabilitation of visitor and interpretive facilities (other than annual operation and maintenance costs) shall be expended in the ratio of one dollar of Federal funds for each one dollar of funds contributed by non-Federal sources.

(2) For the purposes of this subsection, the Secretary is authorized to accept from non-Federal sources, and to utilize for purposes of this Act, any money so contributed. With the approval of the Secretary, any donation of property, services, or goods from a non-Federal source may be considered as a contribution of funds from a non-Federal source for the purposes of this subsection.

(d) ACQUISITION OF REAL PROPERTY.—For the purposes of the park, the Secretary may acquire only by donation lands, interests in lands, and improvements thereon within the park.

(e) OTHER PROPERTY, FUNDS, AND SERVICES.—The Secretary may accept donated funds, property, and services to carry out this Act.

SEC. 5. GENERAL MANAGEMENT PLAN.

Not later than the end of the second fiscal year beginning after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a general management plan for the park and shall implement such plan as soon as practically possible. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a-7(b)) and other applicable law.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), there are authorized to be appropriated such sums as may be necessary to carry out annual operations and maintenance with respect to the park.

(b) EXCEPTIONS.—In carrying out this Act—

(1) not more than $2,000,000 may be appropriated for construction, restoration, and rehabilitation of visitor and interpretive facilities, and directional and visitor orientation signage;

(2) none of the funds authorized to be appropriated by this Act may be used for the operation or maintenance of the Schooner Ernestina; and

(3) not more than $50,000 annually of Federal funds may be used for interpretive and educational programs for the Schooner Ernestina pursuant to cooperative grants under section 4(b).

AMENDMENT NO. 3576

At the end of the amendment proposed by Mr. MURKOWSKI, add the following title:

TITLE —

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the New Bedford National Historic Landmark District and associated historic sites as described in section 3(b) of this Act, including the Schooner Ernestina, are National Historic Landmarks and are listed on the National Register of Historic Places as historic sites associated with the history of whaling in the United States;

(2) the city of New Bedford was the 19th century capital of the world's whaling industry and retains significant architectural features, archival materials, and museum collections illustrative of this period;

(3) New Bedford's historic resources provide unique opportunities for illustrating and interpreting the whaling industry's contribution to the economic, social, and environmental history of the United States and provide opportunities for public use and enjoyment; and

(4) the National Park System presently contains no sites commemorating whaling and its contribution to American history.

(b) PURPOSES.—The purposes of this Act are—

(1) to help preserve, protect, and interpret the resources within the areas described in section 3(b) of this Act, including architecture, setting, and associated archival and museum collections;

(2) to collaborate with the city of New Bedford and with local historical, cultural, and preservation organizations to further the purposes of the park established under this Act; and

(3) to provide opportunities for the inspirational benefit and education of the American people.

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) The term "park" means the New Bedford Whaling National Historical Park established by section 3.

(2) The term "Secretary" means the Secretary of the Interior.

SEC. 3. NEW BEDFORD WHALING NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain districts structures, and relics located in New Bedford, Massachusetts, and associated with the history of whaling and related social and economic themes in America, there is established the New Bedford Whaling National Historical Park.

(b) BOUNDARIES.—(1) The boundaries of the park shall be those generally depicted on the map numbered NAR-P49-80000-4 and dated June 1994. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service. In case of any conflict between the descriptions set forth in subparagraphs (A) through (D) and such map, such map shall govern. The park shall include the following:

(A) The area included within the New Bedford National Historic Landmark District, known as the Bedford Landing Waterfront Historic District, as listed within the National Register of Historic Places and in the Massachusetts State Register of Historic Places.

(B) The National Historic Landmark Schooner Ernestina, with its home port in New Bedford.

(C) The land along the eastern boundary of the New Bedford National Historic Landmark District over to the east side of MacArthur Drive from the Route 6 overpass on the north to an extension of School Street on the south.

(D) The land north of Elm Street in New Bedford, bounded by Acushnet Avenue on the west, Route 6 (ramps) on the north, MacArthur Drive on the east, and Elm Street on the south.

(2) In addition to the sites, areas and relics referred to in paragraph (1), the Secretary may assist in the interpretation and preservation of each of the following:

(A) The southwest corner of the State Pier.

(B) Waterfront park, immediately south of land adjacent to the State Pier.

(C) The Roth-Jones-Duff House and Garden Museum, located at 396 County Street.

(D) The Wharfinger Building, located on Piers 3 and 4.

(E) The Bourne Counting House, located on Merrill's Wharf.

SEC. 4. ADMINISTRATION OF PARK.

(a) IN GENERAL.—The park shall be administered by the Secretary in accordance with this Act and the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

(b) COOPERATIVE AGREEMENTS.—(1) The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the park.

(2) Any payment made by the Secretary pursuant to a cooperative agreement under this subsection shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

(c) NON-FEDERAL MATCHING REQUIREMENTS.—(1) Funds authorized to be appropriated to the Secretary for the purposes of—

(A) cooperative agreements under subsection (b) shall be expended in the ratio of one dollar of Federal funds for each four dollars of funds contributed by non-Federal sources; and

(B) construction, restoration, and rehabilitation of visitor and interpretive facilities (other than annual operation and maintenance costs) shall be expended in the ratio of one dollar of Federal funds for each one dollar of funds contributed by non-Federal sources.

(2) For the purposes of this subsection, the Secretary is authorized to accept from non-Federal sources, and to utilize for purposes of this Act, any money so contributed. With the approval of the Secretary, any donation of property, services, or goods from a non-Federal source may be considered as a contribution of funds from a non-Federal source for the purposes of this subsection.

(d) ACQUISITION OF REAL PROPERTY.—For the purposes of the park, the Secretary may acquire only by donation lands, interests in lands, and improvements thereon within the park.

(e) OTHER PROPERTY, FUNDS, AND SERVICES.—The Secretary may accept donated funds, property, and services to carry out this Act.

SEC. 5. GENERAL MANAGEMENT PLAN.

Not later than the end of the second fiscal year beginning after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a general management plan for the park and shall implement such plan as soon as practically possible. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a–7(b)) and other applicable law.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), there are authorized to be appropriated such sums as may be necessary to carry out annual operations and maintenance with respect to the park.

(b) EXCEPTIONS.—In carrying out this Act—

(1) not more than $2,000,000 may be appropriated for construction, restoration, and rehabilitation of visitor and interpretive facilities, and directional and visitor orientation signage;

(2) none of the funds authorized to be appropriated by this Act may be used for the operation or maintenance of the Schooner Ernestina; and

(3) not more than $50,000 annually of Federal funds may be used for interpretive and educational programs for the Schooner Ernestina pursuant to cooperative grants under section 4(b).

ABRAHAM AMENDMENT NO. 3577

(Ordered to lie on the table.)

Mr. ABRAHAM submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . SLEEPING BEAR DUNES NATIONAL LAKESHORE.

(a) Section 2(a) of the Act entitled "An Act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes," (16 U.S.C. 460X–x14) is amended:

By deleting the period following the words "Department of the Interior"; and

By adding the following at the end thereof: "except that—

"(1) certain land shall be taken out of the land area now comprising the Sleeping Bear Dunes National Lakeshore which land is a parcel of land in part of Government Lots 2 and 3, the East ½ of the Southeast ¼ of Section 11, also part of East ½ of Section 14, T29N, R14W, Glen Arbor Township, Leelanau County, Michigan, more fully described as follows:

"The North 982 feet of the Northeast ¼ of the Southeast ¼ of said section 14, and the East ½ of the Northwest ¼ of the Northeast ¼ of said section 14, (being part of Government lot 1), and that part of the East ½ of the Northeast ¼ of said section 14, lying West of the centerline for Thoreson Road, Also the South 1759 feet of that part of Government lots 2 and 3, and the East ½ of the Southeast ¼ of said Section 11, all being part of T29N, R14W, Glen Arbor Township, Leelanau County, Michigan.

"Subject to all applicable building, use restrictions and easements, if any, affecting the premises.

"Also subject to final survey of the above in accordance with Michigan Act 132, P.A. of 1970, as amended.

"Further subject to rights of the public over and across Thoreson Road.

"(2) certain land shall be added to the land area now comprising the Sleeping Bear Dunes National Lakeshore which land is a parcel of land in part of the West ½ of Section 23, also part of the SE¼ of Section 22, all in T29N, R14W, Glen Arbor Township, Leelanau County, Michigan, more fully described as:

"Beginning at the Southeast corner of said Section 22; thence N88°55′30″W 1320.48 feet along the South line of said Section 22 to East ⅛ line of said Section 22; thence along William B. Batzer Jr., R.L.S., Surveys 8325 and 83025–B by the following (7) courses; thence N00°40′45″E 33.00 feet along said East ⅛ line, N80°34′20″E 115.50 feet; N70°51′20″E 172.09 feet; N61°51′20″E 181.87 feet; N41°25′20″E 230.80 feet; N63°02′45″E 514.60 feet; N28°57′25″W 600.62 feet to the South bank of the North part of the Crystal River; thence along said river bank by the following (6) courses; N42°18′19″E 102.13 feet (recorded as N40°03′30″E 102.07 feet; N58°07′35″E 219.82 feet; N42°09′40″E 215.48 feet; N54°20′35″E 121.36 feet; N46°10′10″E 107.67 feet; N34°05′25″E 46.08 feet to the East line of said Section 22; thence leaving said South bank S01°19′55″W 347.84 feet along said East line to the South bank of the South part of said Crystal River; thence along said river bank by the following (4) courses; N48°48′30″E 168.46 feet, N40°56′15″E 168.77 feet; N55°24′10″E 99.10 feet; N43°30′00″E 154.21 feet; thence leaving said South river bank S56°45′50″E 350.00 feet; thence N41°49′50″E 400.00 feet; thence S56°44′25″E 412.99 feet to the West ⅛ line of said Section 23; thence leaving said William B. Batzer, Jr. Survey Northerly along said West ⅛ line to the East-West ¼ line of said Section 23; thence Westerly along said East-West ¼ line and County Road No. 675 to a point where the most Easterly channel of the Crystal River passes under County Road No. 675; thence along a Nicholas M. O'non R.L.S. Survey of December 5, 1986, Job No. 8668–23 GA 2914 by the following (3) courses along the center thread of said river N41°13′48″E 273.78 feet; N17°09′18″E 405.85 feet; thence leaving said center thread N89°43′02″W 253.56 feet to a point on the old centerline of State Highway M–22; thence Northerly along the centerline of State Highway M–22, by the following (5) courses; thence N35°02′58″E, along said old centerline, a distance of 12.66 feet to the existing centerline of State Highway M–22 and a point on a 516.00 foot radius curve to the right; thence Northeasterly along said centerline and curve, an arc distance of 109.88 feet (chord bearing and distance of N53°19′13″E, 109.67 feet) to the point of tangency of said curve; thence N59°25′16″E, along said centerline, a distance of 156.38 feet to the point of curvature of a 400.00 foot radius curve to the left; thence Northeasterly along said centerline and curve, an arc distance of 215.55 feet (Delta of 31°26′55″, along chord bearing and distance of N43°41′48″E, 216.81 feet) to the point of tangency; thence N27°58′11″E, (Also, recorded as N27°19′23″E) along said centerline, a distance of 528.10 feet to an extension of the South line of Chamberlain's unrecorded plat of Glen Arbor Beach Subdivision; and the South boundary live of South Beach Condominium recorded in Liber 243, Pages 63–74; thence Easterly approximately 38.39 feet along said South boundary line extended to the Easterly right-of-way line of State Highway M–22 and the Southwest corner of a survey by Gosling Czubak Associates, Inc., Job No. 87025.12; thence N27°19′23″E 633.21 feet along said right-of-way; thence along said right-of-way 79.72 feet on the arc of a curve to the right (Rad.=110.24 feet, I=40°26′00″, Chord=N48°02′23″E 77.99 feet); thence N68°45′23″E 106.17 feet along said right-of-way; thence S00°42′53″E 174.11 feet; thence N89°17′07″E 217,57; thence S41°18′01″E 122.39 feet; thence S01°31′50″E 370.00 feet; thence N88°28′10″E (previously recorded as N88°34′00″E 220.3 feet more or less to a point on the North-South ¼ line of Section 23; thence Southerly along said North-South ¼ line to the South ⅛ line of said Section 23; thence Westerly along said South ⅛ line to the West ⅛ line of said Section 23; thence Southerly along said West ⅛ line to the Point of Beginning.

"Subject to the correlative rights of the owners along the Crystal River..

"Together with riparian rights between the shore courses and the center thread of Crystal River.

"Subject to all applicable building, use restrictions and easements, if any, affecting the premises..

"Also subject to final survey of the above in accordance with Michigan Act 132, P.A. of 1970, as amended."

Section 8(a) of the Act is amended to read as follows:

(1) By deleting the period following the word "Act" at the end of the first sentence; and

(2) By adding the following at the end thereof: "except that the land to be taken out of and added to the land area now comprising the lakeshore shall, within 120 days after the date hereof, be conveyed by an exchange of deeds. The Secretary is instructed to and shall have the authority to effect this exchange but shall not have the authority to otherwise dispose of the land to be taken out of or to acquire the land to be added to the lakeshore pursuant to the amendments hereinabove."

Section 8(e) of the Act is amended to read as follows:

(1) By deleting the period following the word "encumbrances" at the end of the section; and

(2) By adding the following at the end thereof: "except condemnation may not be used to acquire the land to be added, pursuant to the amendment hereinabove, to the land area now comprising the lakeshore."

THOMAS AMENDMENT NO. 3578

(Ordered to lie on the table.)

Mr. THOMAS submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

At the end of the amendment, add the following:

SEC. 02. CONVEYANCE OF CERTAIN PROPERTY TO THE STATE OF WYOMING.

(a) CONVEYANCE.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey to the State of Wyoming without reimbursement, all right, title, and interest of the United States in and to the property described in subsection (b) for use by the State for the purposes described in subsection (c). The property shall be conveyed as is.

(b) DESCRIPTION OF PROPERTY.—The property referred to in subsection (a) is the property commonly known as "Ranch A" in Crook County, Wyoming, consisting of approximately 680 acres of land including all real property, buildings, and all other improvements to real property, and all personal property including art, historic light fixtures, wildlife mounts, draperies, rugs, and furniture.

(c) USE AND REVERSIONARY INTEREST.—

(1) USE.—The property conveyed to the State of Wyoming under this section shall be used by the State for the purposes of—

(A) fish and wildlife management or education, or both; or

(B) maintaining and using through State or local agreements, or both, the historical interests and significance of facilities on the property consistent with applicable Federal and State laws.

(2) REVERSION.—If the property is used for a purpose not described in paragraph (1), all right, title, and interest in and to the property shall revert to the United States.

STEVENS AMENDMENT NO. 3579

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

On page , line , of the amendment, insert the following new section:

SEC. . PAYMENT IN LIEU OF TAXES.

(a) Section 6901(2) of title 31, United States Code, is amended to read as follows:

"(2) 'unit of general local government' means—

"(A) a county (or parish), township, borough, or city (where the city is independent of any other unit of general local government), that—

"(i) is within the class or classes of such political subdivisions in a State that the Secretary of the Interior determines to be the principal provider or providers of governmental services within the State; and

"(ii) is a unit of general government, as determined by the Secretary of the Interior on the basis of the same principles as were used by the Secretary of Commerce on January 1, 1983, for general statistical purposes. The term 'governmental services' includes, but is not limited to, those services that relate to public safety, the environment, housing, social services, transportation, and governmental administration;

"(B) the State of Alaska, for any land within that State which is not within the boundaries of a governmental entity under subparagraph (A);

"(C) the District of Columbia;

"(D) the Commonwealth of Puerto Rico;

"(E) Guam; and

"(F) the Virgin Islands.".

(b) Section 6902(a) of title 31, United States Code, is amended to read as follows:

"(a) The Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located, as set forth in this chapter. Except for the State of Alaska for entitlement land described in section 6901(2)(B), a unit of general local government may use the payment for any governmental purpose. The State of Alaska shall distribute any payment received for entitlement land described in section 6901(2)(B) to home rule and general law cities within Alaska (as such cities are defined by the State).".

BUMPERS AMENDMENTS NOS. 3580–3583

(Ordered to lie on the table.)

Mr. BUMPERS submitted four amendments intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

AMENDMENT NO. 3580

Strike subsection 2008(a) of the substitute and insert the following:

"(a) RELEASE.—Except for the areas retained in wilderness study status pursuant to subsection (b), the Congress hereby finds and directs that all public lands in Utah administered by the Bureau of Land Management pursuant to the Federal Land Policy and Management Act of 1976 which have not been designated as wilderness by this title or previous Acts of Congress, have been adequately studied for wilderness designation pursuant to section 603 of such Act and are no longer subject to the requirements of section 603(c) of such Act pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness."

AMENDMENT NO. 3581

Strike subsection 2002(i) of the substitute and insert the following:

"(i) ACCESS.—Reasonable access, including the use of motorized equipment where necessary and customarily or historically employed, shall be allowed on routes within the areas designated wilderness by this title in existence as of the date of enactment of this Act for the exercise of valid existing rights. Such routes may be maintained, repaired, and replaced to the extent necessary to maintain their present function, design, and serviceable operation, so long as such activities have no increased adverse impacts on the resources and values of the wilderness areas than existed as of the date of enactment of this title."

AMENDMENT NO. 3582

On page 152, line 12 of the substitute, delete "Title." and insert in lieu thereof, "title, so long as such activities have no increased adverse impacts on the resources and values of the wilderness areas than existed as of the date of enactment of this title.".

AMENDMENT NO. 3583

Strike Section 2008 of the Murkowski substitute and insert the following:

"SECTION 2008. WILDERNESS RELEASE.

"(a) RELEASE.—Except for the areas identified in subsection (b), the Congress hereby finds and directs that all public lands in Utah, administered by the Bureau of Land Management pursuant to the Federal Land Policy and Management Act of 1976 (FLPMA), which have not been designated as wilderness by this Act or previous Acts of Congress, have been adequately studied for wilderness designation pursuant to section 603 of FLPMA (43 U.S.C. 1782) and are no longer subject to the requirement of section 603(c) of FLPMA pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness. Such lands shall be managed in accordance with FLPMA and land management plans prepared pursuant thereto.

"(b) CONTINUING WILDERNESS STUDY AREAS.—The following wilderness study areas which are under study status by States adjacent to the State of Utah shall continue to be subject to the provisions of section 603(c) of FLPMA (43 U.S.C. 1782(c)):

(1) Bull Canyon (UT–080–419/CO–010–001);

(2) Wrigley Mesa/Jones Canyon/Black Ridge Canyon West (UT–060–116/UT–060–117/CO–070–113A);

(3) Squaw/Papoose Canyon (UT–060–227/CO–030–265A); and

(4) Cross Canyon (UT–060–229/CO–030–265).

"(c) FURTHER DESIGNATIONS.—Public lands in the State of Utah which are not designated as wilderness by this or previous Acts of Congress or retained in wilderness study status by this Act shall not be managed solely for the purpose of protecting their status for potential inclusion in the National Wilderness Preservation System: *Provided, however*, That this subsection shall not be construed to preclude the Secretary from managing public lands in the State of Utah (in accordance with FLPMA and applicable land use plans) for the purpose of protecting their natural, scenic, wildlife, riparian, primitive or recreational values, even if such management would protect an area's wilderness characteristics."

FAIRCLOTH AMENDMENT NO. 3584

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

At the end of the substitute amendment add the following:

TITLE —LABOR

SEC. 1. NULLIFICATION OF ORDER.

An executive order, or other rule or order, that—

(1) prohibits Federal contracts between the United States and a contractor;

(2) requires the debarment of a contractor from an award of a Federal contract; or

(3) imposes other sanction on a contractor, on the basis that such contractor or organization unit thereof has permanently replaced lawfully striking employees of such contractor shall have no force or effect.

FEINGOLD AMENDMENTS NOS. 3585–3587

(Ordered to lie on the table.)

Mr. FEINGOLD submitted three amendments intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

AMENDMENT NO. 3585

On page 147, strike lines 2 through 14 and insert the following:

(a) MANAGEMENT.—Subject to valid existing rights, the wilderness areas designated by this title shall be administered by the Secretary in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in those provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of this Act.

AMENDMENT NO. 3586

Beginning on page 153, strike line 18, and all that follows through page 155, line 2.

AMENDMENT NO. 3587

Beginning on page 156, strike line 1 and all that follows through page 157, line 4, and insert the following:

SEC. 2008. WILDERNESS STUDY AREA STATUS.

Wilderness study areas administered by the Bureau of Land Management in the State of Utah shall be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)).

DOLE (AND OTHERS) AMENDMENT NO. 3588

(Ordered to lie on the table.)

Mr. DOLE (for himself, Mr. COVERDELL, and Mr. FORD) submitted an amendment intended to be proposed by them to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

At the appropriate place in the amendment, insert the following:

TITLE —NICODEMUS NATIONAL HISTORIC SITE

SEC. 01. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the town of Nicodemus, in Kansas, has national significance as the only remaining western town established by African-Americans during the Reconstruction period following the Civil War;

(2) the town of Nicodemus is symbolic of the pioneer spirit of African-Americans who dared to leave the only region they had been familiar with to seek personal freedom and the opportunity to develop their talents and capabilities; and

(3) the town of Nicodemus continues to be a viable African-American community.

(b) PURPOSES.—The purposes of this title are—

(1) to preserve, protect, and interpret for the benefit and enjoyment of present and future generations, the remaining structures and locations that represent the history (including the settlement and growth) of the town of Nicodemus, Kansas; and

(2) to interpret the historical role of the town of Nicodemus in the Reconstruction period in the context of the experience of westward expansion in the United States.

SEC. 02. DEFINITIONS.

In this title:

(1) HISTORIC SITE.—The term "historic site" means the Nicodemus National Historic Site established by section 03.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 03. ESTABLISHMENT OF NICODEMUS NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—There is established the Nicodemus National Historic Site in Nicodemus, Kansas.

(b) DESCRIPTION.—

(1) IN GENERAL.—The historic site shall consist of the First Baptist Church, the St. Francis Hotel, the Nicodemus School District Number 1, the African Methodist Episcopal Church, and the Township Hall located within the approximately 161.35 acres designated as the Nicodemus National Landmark in the Township of Nicodemus, Graham County, Kansas, as registered on the National Register of Historic Places pursuant to section 101 of the National Historic Preservation Act (16 U.S.C. 470a), and depicted on a map entitled "Nicodemus National Historic Site", numbered 80,000 and dated August 1994.

(2) MAP AND BOUNDARY DESCRIPTION.—The map referred to in paragraph (1) and an accompanying boundary description shall be on file and available for public inspection in the office of the Director of the National Park Service and any other office of the National Park Service that the Secretary determines to be an appropriate location for filing the map and boundary description.

SEC. 04. ADMINISTRATION OF THE HISTORIC SITE.

(a) IN GENERAL.—The Secretary shall administer the historic site in accordance with—

(1) this title; and

(2) the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666, chapter 593; 16 U.S.C. 461 et seq.).

(b) COOPERATIVE AGREEMENTS.—To further the purposes specified in section 01(b), the Secretary may enter into a cooperative agreement with any interested individual, public or private agency, organization, or institution.

(c) TECHNICAL AND PRESERVATION ASSISTANCE.—

(1) IN GENERAL.—The Secretary may provide to any eligible person described in paragraph (2) technical assistance for the preservation of historic structures of, the maintenance of the cultural landscape of, and local preservation planning for, the historic site.

(2) ELIGIBLE PERSONS.—The eligible persons described in this paragraph are—

(A) an owner of real property within the boundary of the historic site, as described in section______103(b); and

(B) any interested individual, agency, organization, or institution that has entered into an agreement with the Secretary pursuant to subsection (b).

SEC. 05. ACQUISITION OF REAL PROPERTY.

(a) IN GENERAL.—Subject to subsection (b), the Secretary may acquire by donation, exchange, or purchase with funds made available by donation or appropriation, such lands or interests in land as may be necessary to allow for the interpretation, preservation, or restoration of the First Baptist Church, the St. Francis Hotel, the Nicodemus School District Number 1, the African Methodist Episcopal Church, or the Township Hall, as described in section ______03(b)(1), or any combination thereof.

(b) LIMITATIONS.—

(1) ACQUISITION OF PROPERTY OWNED BY THE STATE OF KANSAS.—Real property that is owned by the State of Kansas or a political subdivision of the State of Kansas that is acquired pursuant to subsection (a) may only be acquired by donation.

(2) CONSENT OF OWNER REQUIRED.—No real property may be acquired under this section without the consent of the owner of the real property.

SEC. 06. GENERAL MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than the last day of the third full fiscal year beginning after the date of enactment of this Act, the Secretary shall, in consultation with the officials described in subsection (b), prepare a general management plan for the historic site.

(b) CONSULTATION.—In preparing the general management plan, the Secretary shall consult with an appropriate official of each of the following:

(1) The Nicodemus Historical Society.

(2) The Kansas Historical Society.

(3) Appropriate political subdivisions of the State of Kansas that have jurisdiction over all or a portion of the historic site.

(c) SUBMISSION OF PLAN TO CONGRESS.—Upon the completion of the general management plan, the Secretary shall submit a copy of the plan to—

(1) the Committee on Energy and Natural Resources of the Senate; and

(2) the Committee on Resources of the House of Representatives.

SEC. 07. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this title.

COCHRAN AMENDMENT NO. 3589

(Ordered to lie on the table.)

Mr. COCHRAN submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

At the appropriate place in the amendment, insert the following:

TITLE —NATCHEZ NATIONAL HISTORICAL PARK

SEC. 01. NATCHEZ NATIONAL HISTORICAL PARK.

Section 3 of the Act of October 8, 1988, entitled "An Act to create a national park at Natchez, Mississippi" (16 U.S.C. 410oo et seq.), is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 3."; and

(2) by adding at the end the following:

"(b) BUILDING FOR JOINT USE BY THE SECRETARY AND THE CITY OF NATCHEZ.—

"(1) CONTRIBUTION TOWARD CONSTRUCTION.—The Secretary may enter into an agreement with the city of Natchez under which the Secretary agrees to pay not to exceed $3,000,000 toward the planning and construction by the city of Natchez of a structure to be used—

"(A) by the Secretary as an administrative headquarters, administrative site, and visitors' center for Natchez National Historical Park; and

"(B) by the city as an intermodal transportation center.

"(2) USE FOR SATISFACTION OF MATCHING REQUIREMENTS.—The amount of payment under paragraph (1) may be available for matching Federal grants authorized under any other law notwithstanding any limitations in any such law.

"(3) AGREEMENT.—Prior to the execution of an agreement under paragraph (1), the Secretary shall enter into a contract, lease, cooperative agreement, or other appropriate form of agreement with the city of Natchez providing for the use and occupancy of a portion of the structure constructed under paragraph (1) (including appropriate use of the land on which it is situated), at no cost to the Secretary (except maintenance, utility, and other operational costs), for a period of 50 years, with an option for renewal by the Secretary for an additional 50 years.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $3,000,000 to carry out this subsection.".

BRADLEY AMENDMENTS NOS. 3590–3649

(Ordered to lie on the table.)

Mr. BRADLEY submitted 60 amendments intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

AMENDMENT NO. 3590

On page 147, strike lines 2 through 14 and insert the following:

(a) MANAGEMENT.—Subject to valid existing rights, the wilderness areas designated by this title shall be administered by the Secretary in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in those provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of this Act.

AMENDMENT NO. 3591

On page 156, strike lines 2 through 16 and insert the following:

(a) FINDING.—Congress finds that all public lands in Utah administered by the Bureau of Land Management under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) not designated as wilderness by this title, or a previous Act of Congress, have been studied for wilderness designation under section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(b) RELEASE.—The lands described in subsection (a) shall not be subject to the requirement of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)) that wilderness study areas be managed in a manner that does not impair the suitability of the areas for preservation as wilderness.

AMENDMENT NO. 3592

On page 152, between lines 21 and 22, insert the following:

(f) BENEFICIAL USES.—Notwithstanding any provision of the laws of the State of Utah otherwise applicable to the granting and exercise of water rights, the purposes for which wilderness areas in Utah are designated under this title, as set forth in this title and the Wilderness Act (16 U.S.C. 1131 et seq.), shall be considered to be beneficial uses.

AMENDMENT NO. 3593

On page 148, strike lines 7 through 13 and insert the following:

(d) FISH AND WILDLIFE.—As provided in section 4(d)(7) of the Wilderness Act, nothing in this title or in the Wilderness Act shall be construed as affecting the jurisdiction or responsibilities of the State of Utah with respect to wildlife and fish on the public lands located in that State.

AMENDMENT NO. 3594

Beginning on page 159, strike line 2 and all that follows through page 160, line 11, and insert the following:

(2) FEDERAL LANDS.—The Federal lands referred to in this section are lands in Utah that are identified for disposal or exchange by the Secretary under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(d) EQUAL VALUE.—

(1) APPRAISALS.—Prior to the exchange of the lands identified in subsection (c), the Secretary shall ensure that appraisals of the lands are prepared.

(2) REQUIREMENT OF EQUAL VALUE.—To the extent practicable, any lands exchanged under this section shall be exchanged for lands of equal value. If the lands exchanged between the United States and the State of Utah, as authorized by this section, are not of equal value, the values shall be equalized in accordance with section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

AMENDMENT NO. 3595

On page 150, at the end of line 14, insert the following: "The United States shall not be liable for the condition of, or the operation, maintenance, repair, or replacement of, any access route allowed under this subsection.".

AMENDMENT NO. 3596

On page 152, between lines 21 and 22, insert the following:

(f) REQUIREMENT ON SECRETARY.—The Secretary shall protect watersheds within wilderness areas designated by this title that are located upstream of communities to maintain safe drinking water standards.

AMENDMENT NO. 3597

Beginning on page 163, strike line 21 and all that follows through page 164, line 12.

AMENDMENT NO. 3598

On page 163, strike lines 3 through 8.

AMENDMENT NO. 3599

Beginning on page 147, strike line 18 and all that follows through line 6 on page 148 and insert the following:

(c) LIVESTOCK GRAZING.—

(1) IN GENERAL.—Grazing of livestock in areas designated as wilderness by this title, where established prior to the date of enactment of this Act, shall be administered in accordance with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in H.R. Rep. No. 617 (96th Cong., Sess. 19).

(2) REVIEW OF POLICIES, PRACTICES, AND REGULATIONS.—The Secretary shall review all policies, practices, and regulations of the Bureau of Land Management regarding livestock grazing in wilderness areas administered by the Bureau of Land Management in the State of Utah ensure that the policies, practices, and regulations fully conform with the implement the intent of Congress regarding grazing in those areas, as that intent is expressed in this title.

AMENDMENT NO. 3600

On page 158, line 3, strike "The exchange" and all that follows through line 9.

AMENDMENT NO. 3601

Beginning on page 159, strike line 6 and all that follows through page 160, line 11, and insert the following:

(d) LAND EXCHANGES FOR EQUAL VALUE.—

(1) REQUIREMENT.—The lands exchanged pursuant to this section shall be of approximately equal value, as determined by the Secretary utilizing nationally recognized appraisal standards. If the values are not approximately equal, the Secretary and the State of Utah shall either agree to modify the lands to be exchanged or shall provide for a cash equalization payment to equalize the values. Any cash equalization payment shall not exceed 25 percent of the value of the lands to be conveyed.

(2) DISPUTE RESOLUTION.—If the Secretary and the State of Utah are unable to agree to the appraised value of a certain tract or tracts of land, the appraisal, appraisals, or appraisal issues in dispute and a final determination of value shall be resolved through a process of bargaining or submission to arbitration in accordance with section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

AMENDMENT NO. 3602

On page 148, strike lines 14 through 20 and insert the following:

(e) PROHIBITION OF BUFFER ZONES.—Congress does not intend that designation of an area as wilderness by this title will lead to the creation of protective perimeters or buffer zones around the area. That nonwilderness activities or uses can be seen or heard from areas within a wilderness area shall not preclude such activities or uses up to the boundary of the wilderness area.

AMENDMENT NO. 3603

On page 149, strike lines 6 through 16.

AMENDMENT NO. 3604

Beginning on page 149, strike line 17 and all that follows through line 14 on page 150.

AMENDMENT NO. 3605

On page 150, line 6, strike "or customarily or" and insert ", customary, and".

AMENDMENT NO. 3606

On page 152, strike lines 13 through 21.

AMENDMENT NO. 3607

Beginning on page 151, strike line 9 and all that follows through page 152, line 21, and insert the following:

SEC. 4. STATE WATER ALLOCATION AUTHORITY.

Nothing in this title constitutes an express or implied claim or denial on the part of the Federal Government of any exemption from the water laws of the State of Utah.

AMENDMENT NO. 3608

Beginning on page 151, strike line 9 and all that follows through page 152, line 21, and insert the following:

SEC. 4. WATER RIGHTS.

(a) RESERVATION.—

(1) IN GENERAL.—With respect to each wilderness area designated by this title, Congress reserves a quantity of water sufficient to fulfill the purposes of this title.

(2) PRIORITY DATE.—The priority date of the water rights reserved under paragraph (1) shall be the date of enactment of this Act.

(b) PROTECTION OF RIGHTS.—

(1) IN GENERAL.—The Secretary and all other officers of the United States shall take such steps as are necessary to protect the rights reserved by subsection (a).

(2) FILING OF CLAIM.—The requirement imposed by paragraph (1) shall include the filing by the Secretary of a claim for the quantification of the water rights reserved by subsection (a) in any present or future appropriate stream adjudication in the courts of the State of Utah—

(A) in which the United States is or may be joined; and

(B) that is conducted in accordance with section 208 of the Act of July 10, 1952 (66 Stat. 560, chapter 651; 43 U.S.C. 666) (commonly known as the "McCarran Amendment").

(c) NO RELINQUISHMENT OR REDUCTION.—Nothing in this title relinquishes or reduces any water rights reserved or appropriated by the United States in the State of Utah on or before the date of enactment of this Act.

(d) NO PRECEDENT.—

(1) SPECIFIC TO STATE OF UTAH.—The Federal water rights reserved by this title are specific to the wilderness areas located in the State of Utah designated by this title.

(2) NO EFFECT ON OTHER LAW.—Nothing in this title relating to reserved federal water rights—

(A) establishes a precedent with regard to any future designation of wilderness; or

(B) constitutes an interpretation of any other Act or any designation of wilderness made under any other Act.

AMENDMENT NO. 3609

On page 153, strike lines 7 through 17 and insert the following:

SEC. 2005. CULTURAL, ARCHAEOLOGICAL, AND PALEONTOLOGICAL RESOURCES.

The Secretary shall provide for the protection and interpretation of cultural, archaeological, and paleontological resources located within areas designated as wilderness by this title.

AMENDMENT NO. 3610

Beginning on page 153, strike line 18 and all that follows through page 155, line 2, and insert the following:

SEC. 2006. MILITARY ACTIVITIES.

Nothing in this title precludes low-level overfights of military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over wilderness areas designated by this title.

AMENDMENT NO. 3611

Beginning on page 162, strike line 16 and all that follows through page 163, line 3, and insert the following:

"(3) PROVISIONS RELATING TO FEDERAL LANDS.—

"(A) ADJUSTMENT OF VALUE TO REFLECT REVENUE SHARING RIGHTS.—The value of Federal lands transferred to the".

AMENDMENT NO. 3612

On page 168, strike lines 6 through 22 and insert the following:

(c) EQUAL VALUE.—Prior to the exchange of lands identified in subsection (b), appraisals of the lands shall be prepared. Any exchange of lands shall be for lands of equal value. If the lands exchanged between the United States and the State of Utah, as authorized by this section, are not of equal value, the values shall be equalized in accordance with section 206((b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

AMENDMENT NO. 3613

Beginning on page 153, strike line 18, and all that follows through page 155, line 2.

AMENDMENT NO. 3614

Strike title 1.

AMENDMENT NO. 3615

Strike title 2.

AMENDMENT NO. 3616

Strike title 3.

AMENDMENT NO. 3617

Strike title 4.

AMENDMENT NO. 3618

Strike title 5.

AMENDMENT NO. 3619

Strike title 6.

AMENDMENT NO. 3620

Strike title 7.

AMENDMENT NO. 3621

Strike title 8.

AMENDMENT NO. 3622

Strike title 9.

AMENDMENT NO. 3623

Strike title 10.

AMENDMENT NO. 3624

Strike title 11.

AMENDMENT NO. 3625

Strike title 12.

AMENDMENT NO. 3626

Strike title 13.

AMENDMENT NO. 3627

Strike title 14.

AMENDMENT NO. 3628

Strike title 15.

AMENDMENT NO. 3629

Strike title 16.

AMENDMENT NO. 3630

Strike title 17.

AMENDMENT NO. 3631

Strike title 18.

AMENDMENT NO. 3632

Strike title 19.

AMENDMENT NO. 3633

Strike title 20.

AMENDMENT NO. 3634

Strike title 21.

AMENDMENT NO. 3635

Strike title 22.

AMENDMENT NO. 3636

Strike title 23.

AMENDMENT NO. 3637

Strike title 24.

AMENDMENT NO. 3638

Strike title 25.

AMENDMENT NO. 3639

Strike title 26.

AMENDMENT NO. 3640

Strike title 27.

AMENDMENT NO. 3641

Strike title 28.

AMENDMENT NO. 3642

Strike title 29.

AMENDMENT NO. 3643

Strike title 30.

AMENDMENT NO. 3644

Strike title 31.

AMENDMENT NO. 3645

Strike title 32.

AMENDMENT NO. 3646

Strike title 33.

AMENDMENT NO. 3647

Beginning on page 156, strike line 1 and all that follows through page 157, line 4, and insert the following:

SEC. 2008. WILDERNESS STUDY AREA STATUS.

Wilderness study areas administered by the Bureau of Land Management in the State of Utah shall be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)).

AMENDMENT NO. 3648

On page 156, line 9, strike "by this Title".

AMENDMENT NO. 3649

On page 166, line 22, strike "the Sand Hollow" and all that follows through page 167, line 1, and insert "lands identified for disposal or exchange by the Secretary pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.),".

NUNN AMENDMENT NO. 3650

(Ordered to lie on the table.)

Mr. NUNN submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

At the end of the amendment, add the following:

TITLE —MISCELLANEOUS

SEC. . ASSISTANCE FOR HIGHWAY RELOCATION IN GEORGIA.

Section 1(c) of the Act entitled "An Act to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia", approved December 24, 1987 (Public Law 100–211; 101 Stat. 1442), is amended by striking "$30,000,000" and inserting "$51,900,000".

HUTCHISON AMENDMENT NO. 3651

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted an amendment intended to be proposed by her to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

Add at the end the following:

TITLE XXXIV—LOS CAMINOS DEL RIO NATIONAL HERITAGE AREA

SEC. 3401. SHORT TITLE.

This title may be cited as the "Los Caminos del Rio National Heritage Area Act of 1996".

SEC. 3402. FINDINGS.

Congress finds that—

(1) along the Lower Rio Grande on the border between Texas and Mexico, from Laredo, Texas, to the Gulf of Mexico, a distinctive heritage is exhibited through resources of immense economic, natural, scenic, historical, cultural, and recreational value to the citizens of the United States and the United Mexican States;

(2) significant historical themes and resources of local, State, national, and international importance characterize the river communities and counties along the Lower Rio Grande, representing—

(A) early 16th- and 17th-century Spanish and French explorations;

(B) 18th-century river settlements founded by José de Escandón under the Spanish Crown;

(C) 18th-century ranches that gave birth to the American cowboy;

(D) Texas independence and establishment of the Republic of the Rio Grande in 1840;

(E) the first battle of the Mexican-American War at Palo Alto in 1846;

(F) the last land battle of the American Civil War, fought near the mouth of the Rio Grande in 1865;

(G) a thriving steamboat trade in the late 19th century; and

(H) the development of the Rio Grande Valley as an agricultural empire;

(3) the Lower Rio Grande is 1 of the most complex ecological systems in the United States, with 10 habitat types that host a remarkable variety of species, including 600 species of vertebrates and 11,000 species of plants;

(4) many local and regional governments, Federal and State agencies, businesses, private organizations, and citizens in the United States and Mexico have expressed a desire to work cooperatively to preserve and enhance the most significant components of the natural and cultural heritage throughout the region, while providing for sustainable growth and development; and

(5) it is in the best interest of the citizens of the United States that the Federal Government lend aid and assistance to the State of Texas and its political subdivisions, Los Caminos del Rio of Texas, Incorporated, and other agencies and organizations in developing a management plan to ensure the development, preservation, and restoration of the historical, cultural, natural, scenic, and recreational resources of the Lower Rio Grande region of Texas.

SEC. 3403. PURPOSES.

The purposes of this title are—

(1) to recognize the special importance of the Lower Rio Grande region as a living historical legacy of the United States and Mexico containing a wealth of cultural, historical, and heritage resources important to the development of both countries; and

(2) to provide a new conceptual framework and administrative structure for assisting the State of Texas and its political subdivisions, Federal agencies, and other organizations, and private property owners, within the United States and Mexico, in the development and implementation of integrated heritage and economic resource policies and programs that will—

(A) establish stronger, clearer connections between Federal, State, and local agencies with programs for cultural conservation, international relations, transportation, economic development, and natural systems;

(B) provide technical assistance to heritage area communities, organizations, and private property owners for historic preservation, heritage education, interpretation, tourism development, environmental restoration and community development;

(C) cultivate a consensus vision for the heritage area, based on public dialogue, that advocates intergenerational responsibility and sustainable growth in a manner that is consistent with the other purposes of the heritage area;

(D) promote international understanding and cooperation between Mexico and the United States;

(E) enhance the economic base of heritage area communities through heritage tourism, conservation, and development actions as a means of creating an entrepreneurial climate by expanding job opportunities, supporting businesses, creating capital, and increasing local tax bases;

(F) elevate cultural pride and local understanding for heritage resources through the development and management of regional interpretation and educational programs that connect people with resources, activities, and organizations; and

(G) create partnerships between public and private entities and private property owners to finance projects and initiatives throughout the Lower Rio Grande through which limited Federal, State, and local capital contributions for planning and infrastructure investments will stimulate private sector contributions.

SEC. 3404. DEFINITIONS.

In this title:

(1) HERITAGE AREA.—The term "heritage area" means the Los Caminos del Rio National Heritage Area, as determined eligible for designation under section 3405 and established by section 3406.

(2) HERITAGE PARTNERSHIP.—The term "heritage partnership" means the public-private administrative entity established for the heritage area under section 3407.

(3) HERITAGE STUDY.—The term "heritage study" means the report entitled "Los Caminos del Rio Heritage Area Study", prepared by the task force, which contains—

(A) an inventory of natural, historical, cultural, and recreational resources along the heritage area and their relative value and significance;

(B) recommendations for the creation of a partnership that will coordinate activities within the heritage area; and

(C) strategies and proposed actions to protect and enhance the most significant and meaningful components of the natural and cultural heritage of the heritage area while providing for sustainable growth and development and protection of the rights of owners of private property in the heritage area.

(4) MANAGEMENT PLAN.—The term "management plan" means the management plan for the heritage area developed under section 3408.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) TASK FORCE.—The term "task force" means the State task force for the Los Caminos del Rio Heritage Project appointed by the Governor of the State of Texas, which is—

(A) composed of representatives of the Texas Department of Commerce, the Texas Department of Transportation, the Texas Historical Commission, and the Texas Parks and Wildlife Department; and

(B) charged with working in coordination with public- and private-sector efforts to determine efficient methods to accomplish the development of the Los Caminos del Rio Heritage Project.

SEC. 3405. CRITERIA FOR DESIGNATION.

An area shall be eligible for designation as a heritage area under this title only if the area meets each of the following criteria:

(1) ASSEMBLAGE OF RESOURCES.—The area is a cohesive assemblage of natural, historic, cultural, or recreational resources that—

(A) together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use; and

(B) are best managed through partnerships between public and private entities.

(2) TRADITIONS, CUSTOMS, BELIEFS, OR FOLKLIFE.—The area reflects traditions, customs, beliefs, or folklife, or any combination thereof, that are a valuable part of the story of the United States.

(3) CONSERVATION OF NATURAL, CULTURAL, OR HISTORIC FEATURES.—The area provides outstanding opportunities to conserve natural, cultural, or historic features, or any combination thereof.

(4) RECREATIONAL AND EDUCATIONAL OPPORTUNITIES.—The area provides outstanding recreational and educational opportunities.

(5) THEMES AND INTEGRITY OF RESOURCES.—The area has an identifiable theme, and resources important to the theme retain integrity capable of supporting interpretation.

(6) SUPPORT.—Residents, owners of private property included in the proposed area, nonprofit organizations, other private entities, and governments throughout the proposed area—

(A) demonstrate support for designation of the area and for management of the area appropriate to the designation; and

(B) are willing to commit to the implementation of the compact for the area as described in section 3407(e).

SEC. 3406. ESTABLISHMENT OF LOS CAMINOS DEL RIO NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—Subject to section 3405, the Secretary shall establish in the State of Texas the Los Caminos del Rio National Heritage Area.

(b) BOUNDARY.—Subject to the agreement of owners of private property included in the proposed area, the heritage area shall only be comprised of Cameron County, Hildalgo County, Starr County, Webb County, and Zapata County, Texas, as depicted on the map entitled "Los Caminos del Rio National Heritage Area", which shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, District of Columbia, and the Texas Historical Commission in Austin, Texas.

(c) PUBLICATION OF LEGAL DESCRIPTION AND MAP.—As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register a legal description and map of the proposed boundaries of the heritage area and the date on which the boundaries will become final.

(d) AGREEMENT OF PRIVATE PROPERTY OWNERS.—

(1) NOTIFICATION.—As soon as practicable after the date of enactment of this Act, the Secretary shall provide the owner of any private property included in the proposed boundaries of the heritage area—

(A) notification that the property is proposed for inclusion in the heritage area; and

(B) information about the heritage area that will allow the owner to make an informed decision as to whether to include the owner's property in the heritage area.

(2) WRITTEN AGREEMENT.—The Secretary shall attempt to obtain a written agreement from the owner of any private property included in the proposed boundaries of the heritage area that the property may be included in the heritage area.

(3) FINALIZATION DATE.—Not later than the date published under subsection (c) as the date on which the boundaries will become final, the Secretary shall declare the boundaries of the heritage area final.

(4) FINAL BOUNDARIES.—The final boundaries of the heritage area may not include any private property for which the Secretary did not obtain agreement from the owner of the property under paragraph (2).

SEC. 3407. HERITAGE PARTNERSHIP.

(a) PARTICIPATION BY THE SECRETARY.—The Secretary shall participate in an administrative entity to be known as the "heritage partnership" (which shall not constitute a partnership in a legal sense) that includes representatives of—

(1) Los Caminos del Rio of Texas, Incorporated;

(2) the Texas Department of Commerce, the Texas Department of Transportation, the Texas Historical Commission, and the Texas Parks and Wildlife Department;

(3) residents of the heritage area and owners of private property included in the area;

(4) public and private organizations dedicated to cultural conservation, community development, tourism, education, private property rights, business, interpretation, or the environment;

(5) the National Park Service and United States Fish and Wildlife Service; and

(6) pertinent entities in Mexico as ex officio members.

(b) PURPOSE.—The heritage partnership shall unite the task force, participating Federal agencies, Los Caminos del Rio of Texas, Incorporated, and other heritage partners in a single organization to effectively blend government technical expertise with private sector resourcefulness and understanding of local issues and values and provide essential coordination and leadership for the heritage area.

(c) ESTABLISHMENT.—The executive committee of the board of directors for Los Caminos del Rio of Texas, Incorporated, and the executive directors representing the task force, including the Texas Department of Commerce, the Texas Department of Transportation, the Texas Historical Commission, and the Texas Parks and Wildlife Department, or their designees, shall facilitate the establishment of the heritage partnership.

(d) ACTIVITIES.—

(1) COORDINATION.—The heritage partnership shall provide overall coordination of the various entities and funding sources relevant to the purposes of the heritage area.

(2) MISSION.—The primary mission of the heritage partnership shall be to—

(A) facilitate development and implementation of a management plan;

(B) provide technical assistance and leverage financial assistance for heritage area communities and resource areas;

(C) coordinate existing and potential activities and programs that encourage positive development of the region; and

(D) become a self-sustaining entity.

(e) COMPACT.—

(1) DEVELOPMENT.—The members of the heritage partnership shall develop a compact that identifies the initial partners to be involved in developing and implementing the management plan and a statement of the financial commitment of the partners.

(2) PROHIBITION ON LAND USE RESTRICTIONS.—The compact may not require the enactment or modification of land use restrictions.

(f) PUBLIC MEETINGS.—The heritage partnership shall conduct public meetings at least quarterly regarding the implementation of the management plan for the heritage area.

(g) PROHIBITION OF ACQUISITION OF REAL PROPERTY.—The heritage partnership may not use Federal funds received under this title to acquire real property or an interest in real property.

(h) DURATION OF ELIGIBILITY FOR ASSISTANCE.—The heritage partnership shall be eligible to receive assistance from funds appropriated under this title for a 13-year period beginning on the date on which the Secretary approves a compact under this section.

SEC. 3408. HERITAGE AREA MANAGEMENT PLAN.

(a) PREPARATION.—Subject to sections 3412 and 3414, the heritage partnership, in conjunction with private landowners within the heritage area, local governments, Federal and State agencies, and the public, shall develop a management plan to ensure proper management of significant cultural and heritage resources within the heritage area in a manner that is compatible with, and supportive of, natural, cultural, scenic, educational, recreational, and economic values of the resources and takes into account the existing uses of land within the area and any development already planned or in progress.

(b) COMPONENTS.—Subject to sections 3412 and 3414, the management plan shall include—

(1) recommended policies and techniques for resource management, including development of intergovernmental cooperative agreements to protect historical, cultural, recreational, scenic, and heritage resources of the heritage area in a manner that is consistent with, and supportive of, compatible economic revitalization efforts;

(2) goals, criteria, and standards applicable to the preservation and use of important cultural and heritage resources of the heritage area;

(3) a regional heritage education and interpretive plan to address the cultural and natural history of the heritage area, including actions to enhance visitor use and understanding and promote protection and awareness of the heritage area resources in schools located in the heritage area;

(4) an inventory that identifies properties in the heritage area that should be preserved, restored, managed, developed, or maintained, because of their natural, cultural, historical, or scenic significance, with recognition of the rights of private landowners and traditional land users;

(5) an implementation program for the plan that includes actions and responsibilities of the heritage partnership, local governments, and Federal and State agencies, as agreed on by the parties and private landowners within the heritage area; and

(6) a coordination and consistency component that describes the ways in which private, local, State, and Federal programs will be coordinated to promote the purposes of this title and protect the interests of private landowners within the heritage area.

(c) PRIVATE PROPERTY OWNERS NOT INCLUDED IN THE HERITAGE AREA.—The inventory under subsection (b)(4) may not include any reference to private property that was not included in the final boundaries of the heritage area under section 3406(d)(4).

SEC. 3409. WITHDRAWAL OF DESIGNATION.

(a) IN GENERAL.—The heritage area designation of an area under this title shall continue unless—

(1) the Secretary determines that—

(A) the heritage area no longer meets the criteria referred to in section 3405;

(B) the use, condition, or development of the area is inconsistent with the criteria referred to in section 3405, the compact for the area, or the management plan for the area; or

(C) as demonstrated by a request from the Governor of the State of Texas or a petition reflecting the interest of residents or owners of land in the area, the heritage area is no longer supported by the residents or owners of land in the area; and

(2) after making a determination referred to in paragraph (1), the Secretary submits to Congress notification that the heritage area designation of the area should be withdrawn.

(b) PUBLIC HEARING.—Before the Secretary makes a determination referred to in subsection (a)(1) regarding a heritage area, the Secretary or a designee shall hold a public hearing within the area.

(c) TIME OF WITHDRAWAL OF DESIGNATION.—The withdrawal of the heritage area designation of an area shall become final 90 legislative days after the Secretary submits to Congress the notification referred to in subsection (a)(2) regarding the area.

(d) RESTRICTIONS ON REDESIGNATION.—If the heritage area designation of any area under this title is withdrawn, the area may not be redesignated as a heritage area before the expiration of the 10-year period beginning on the date of the withdrawal. In the case of any heritage area that is redesignated, the length of time the area shall be eligible for Federal funds under this title shall be the excess (if any) of 15 years over the amount of time for which the area was previously eligible for Federal funds under this title.

SEC. 3410. DUTIES OF THE SECRETARY OF THE INTERIOR.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—At the request of the heritage partnership, the Secretary shall provide technical and financial assistance to the heritage partnership in the preparation and implementation of any plan or research recommended in the heritage study or management plan.

(2) LAND USE RESTRICTIONS.—The Secretary shall not, as a condition to the award of technical and financial assistance under paragraph (1), require any recipient of assistance to enact or modify any land use restriction.

(b) COORDINATION WITH MEXICO.—The Secretary may work in cooperation with the government of Mexico (including providing technical assistance) to coordinate planning, interpretation, and implementation activities as recommended in the heritage study or management plan.

SEC. 3411. DUTIES OF OTHER FEDERAL ENTITIES.

To avoid any decision or action by any department, agency, or instrumentality of the United States that could unfavorably affect or alter any significant resource of the heritage area having substantial natural, scenic, historical, cultural, or recreational value, the head of the department, agency, or instrumentality shall—

(1) notify the Secretary, and before taking final action with respect to implementing any such decision or action, allow the Secretary 30 days in which to present the Secretary's views on the matter;

(2) cooperate with the Secretary and the heritage partnership in carrying out their duties under this title and, to the maximum extent practicable, coordinate activities of the department, agency, or instrumentality that affect the heritage area with the carrying out of those duties; and

(3) cooperate with the heritage partnership, to the greatest extent practicable, in supporting the purposes of the heritage area.

SEC. 3412. NO EFFECT ON LAND USE REGULATION.

(a) NO EFFECT ON AUTHORITY OF GOVERNMENTS.—Nothing in this title modifies, enlarges, or diminishes any authority of Federal, State, or local government to regulate any use of land as provided for by law.

(b) NO ZONING OR LAND USE POWERS IN THE HERITAGE PARTNERSHIP.—Nothing in this title grants powers of zoning or land use to the heritage partnership.

SEC. 3413. FISHING AND HUNTING SAVINGS CLAUSE.

(a) NO DIMINISHMENT OF STATE AUTHORITY.—Establishment of the heritage area does not diminish the authority of the State of Texas to manage fish and wildlife inside or outside the heritage area.

(b) NO CONDITIONING OF APPROVAL AND ASSISTANCE.—Neither the Secretary nor any other Federal agency may—

(1) make any limitation on agriculture, hunting, fishing, or trapping a condition for the approval of a compact or the determination of eligibility for assistance under this title; or

(2) make any such limitation a condition for the receipt, in connection with the heritage area, of any other form of assistance.

SEC. 3414. PUBLIC PROPERTY PROTECTION.

(a) LIMITATION ON INCLUSION OF PUBLIC PROPERTY IN HERITAGE AREAS.—

(1) IN GENERAL.—No property owned by a unit of local government shall be included in the heritage area unless the local government agrees that the property may be included and notifies the Secretary of the agreement in writing.

(2) REMOVAL.—If at any time after inclusion of property in the heritage area owned by a unit of local government the local government that submitted a notification under paragraph (1) requests to be removed from the heritage area, the members of the heritage partnership shall revise the compact to exclude the property from the heritage area.

(b) PROHIBITION OF ASSISTANCE IF HERITAGE PARTNERSHIP EXERCISES ZONING OR LAND USE POWERS.—The Secretary may not provide grants or technical assistance under this title with respect to any heritage area if the heritage partnership for such area possesses or exercises any zoning or land use regulation powers.

(c) PRIVATE PROPERTY.—

(1) IN GENERAL.—Nothing in this title—

(A) requires an owner of private property to participate in or be associated with the heritage area or to permit public access to the private property; or

(B) modifies any provision of State law with regard to public access to or use of private land.

(2) LIMITATION ON INCLUSION IN HERITAGE AREAS.—No privately owned property shall be included in the heritage area unless the owner of the property agrees to include the property under section 3406(d).

(3) CONSENT OF OWNERS.—A Federal employee may not enter or otherwise take an action on private property to carry out this title without the written consent of the owner of the property.

(4) ACQUISITION OF PROPERTY.—A heritage partnership for the heritage area may not acquire real or personal property, or any interest in the property, without the written consent of the owner of the property.

(5) PROPERTY VALUES.—A Federal agency or employee may not take an action under this title that would diminish the value of private property.

(6) REMOVAL.—

(A) IN GENERAL.—If at any time after inclusion of privately owned property in the heritage area the owner of the property requests to be removed from the heritage area, the members of the heritage partnership shall revise the compact to exclude the property from the heritage area.

(B) FINALIZATION.—Exclusion of private property under subparagraph (A) shall be final on the mailing to the Secretary of a written request by the owner to be removed from the heritage area.

(d) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—No provision of this title shall be construed to modify any authority of Federal, State, or local government to regulate land use.

(e) NOTIFICATION ON MAPS.—All maps and brochures prepared under this title shall specify any lands within the heritage areas that are private lands.

SEC. 3415. EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS.

This title does not—

(1) require the imposition of any environmental, occupational, safety, or other regulation, standard, or permit process that is different from those that would be applicable had the heritage area not been established;

(2) require the imposition of any Federal or State water use designation or water quality standard on uses of, or discharges to, waters of a State or waters of the United States, within or adjacent to a heritage area, that is different from those that would be applicable had the heritage area not been established;

(3) affect the continuing use and operation, repair, rehabilitation, expansion, or new construction of water supply facilities, water and wastewater treatment facilities, stormwater facilities, public utilities, and common carriers;

(4) authorize or imply the reservation or appropriation of water or water rights; or

(5) abridge, restrict, or alter any applicable rule, regulation, standard, or review procedure for the permitting of facilities within or adjacent to the heritage area.

SEC. 3416. MULTIPLE USE SAVINGS CLAUSE.

(a) NO DIMINISHMENT OF STATE AUTHORITY.—This title does not diminish the authority of the State of Texas to manage fish and wildlife, including the regulation of fishing and hunting within the heritage area.

(b) NO CONDITIONING OF COMPACT AND ASSISTANCE.—The Secretary may not require limitations on any multiple use on Federal land (including oil and gas, exploration and production, timbering, grazing, mining, irrigation, recreation, fishing, hunting, or trapping) as a condition for approval of a compact under section 3407 or the provision of technical or financial assistance under section 3410.

SEC. 3417. REPORT.

On or before the last day of the 5th fiscal year beginning after the date of enactment of this Act and of each 5th year thereafter, the Secretary shall submit to Congress a report on the status and accomplishments of the heritage area.

SEC. 3418. AUTHORIZATION OF APPROPRIATIONS.

(a) HERITAGE PARTNERSHIP.—There are authorized to be appropriated to the heritage partnership to carry out its duties under this title such sums as are necessary for each fiscal year.

(b) LIMITATION.—Assistance under this title for a management plan may not exceed 75 percent of the cost for such plan.

(c) SECRETARY.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this title.

SEC. 3419. EXPIRATION OF AUTHORITIES.

The authorities contained in this title shall expire on September 30 of the 15th fiscal year beginning after the date of enactment of this Act.

BINGAMAN AMENDMENT NO. 3652

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

Purpose: To modify the boundaries of the White Sands National Monument and the White Sands Missile Range, New Mexico, to modify the boundary of the Bandelier National Monument, New Mexico, and for other purposes.

At the appropriate place, add the following:

TITLE —

SECTION 1. MODIFICATION OF BOUNDARIES OF WHITE SANDS NATIONAL MONUMENT AND WHITE SANDS MISSILE RANGE.

(a) PURPOSE.—The purpose of this section is to effect an exchange between the Secretary of the Interior and the Secretary of the Army of administrative jurisdiction over the lands described in subsection (c) in order to facilitate administration of the White Sands National Monument and the White sands Missile Range.

(b) DEFINITION.—In this section:

(1) MISSILE RANGE.—The term "missile range" means the White Sands Missile Range, New Mexico, administered by the Secretary of the Army.

(2) MONUMENT.—The term "monument" means the White Sands National Monument, New Mexico, established by Proclamation No. 2025 (16 U.S.C. 431 note) and administered by the Secretary of the Interior.

(c) EXCHANGE OF JURISDICTION.—The lands exchanged under this Act are the lands generally depicted on the map entitled "White Sands National Monument, Boundary Proposal", numbered 142/80,061 and dated January 1994, comprising—

(1) approximately 2,524 acres of land within the monument that is under the jurisdiction of the Secretary of the Army, which are transferred to the Secretary of the Interior;

(2) approximately 5,758 acres of land within the missile range abutting the monument, which are transferred to the Secretary of the Interior; and

(3) approximately 4,277 acres of land within the monument abutting the missile range, which are transferred to the Secretary of the Army.

(d) BOUNDARY MODIFICATION.—The boundary of the monument is modified to include the land transferred to the Secretary of the Interior and exclude the land transferred to the Secretary of the Army by subsection (c). The boundary of the missile range is modified accordingly.

(e) ADMINISTRATION.—

(1) MONUMENT.—The Secretary of the Interior shall administer the lands transferred to the Secretary of the Interior by subsection (c) in accordance with laws (including regulations) applicable to the monument.

(2) MISSILE RANGE.—The Secretary of the Army shall administer the lands transferred to the Secretary of the Army by subsection (c) as part of the missile range.

(3) AIRSPACE.—The Secretary of the Army shall maintain control of the airspace above the lands transferred to the Secretary of the Army by subsection (c) as part of the missile range.

(f) PUBLIC AVAILABILITY OF MAP.—The Secretary of the Interior and the Secretary of the Army shall prepare, and the Secretary of the Interior shall keep on file for public inspection in the headquarters of the monument, a map showing the boundary of the monument as modified by this Act.

(g) WAIVER OF LIMITATION UNDER PRIOR LAW.—Notwithstanding section 303(b)(1) of the National Parks and Recreation Act of 1978 (92 Stat. 3476), land or an interest in land that was deleted from the monument by section 301(19) of the Act (92 Stat. 3475) may be exchanged for any non-Federal land within the boundaries of any unit of the National Park System in the State of New Mexico, may be transferred to the jurisdiction of any other Federal agency or to the State or a political subdivision of the State, without monetary consideration, or may be administered as public land, as the Secretary considers appropriate.

SEC. 2. BANDELIER NATIONAL MONUMENT.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) under the provisions of a special use permit, sewage lagoons for Bandelier National Monument, established by Proclamation No. 1322 (16 U.S.C. 431 note) (referred to in this section as the "monument") are located on land administered by the Secretary of Energy that is adjacent to the monument; and for public inspection in the headquarters of the monument, a map showing the boundary of the monument as modified by this Act.

(g) WAIVER OF LIMITATION UNDER PRIOR LAW.—Notwithstanding section 303(b)(1) of the National Parks and Recreation Act of 1978 (92 Stat. 3476), land or an interest in land that was deleted from the monument by section 301(19) of the Act (92 Stat. 3475) may be exchanged for any non-Federal land within the boundaries of any unit of the National Park System in the State of New Mexico, may be transferred to the jurisdiction of any other Federal agency or to the State or a political subdivision of the State, without monetary consideration, or may be administered as public land, as the Secretary considers appropriate.

SEC. 2. BANDELIER NATIONAL MONUMENT.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress find that—

(A) under the provisions of a special use permit, sewage lagoons for Bandelier National Monument, established by Proclamation No. 1322 (16 U.S.C. 431 note) (referred to in this section as the "monument") are located on land administered by the Secretary of Energy that is adjacent to the monument; and

(B) modification of the boundary of the monument to include the land on which the sewage lagoons are situated—

(i) would facilitate administration of both the monument and the adjacent land that would remain under the administrative jurisdiction of the Secretary of Energy; and

(ii) can be accomplished at no cost.

(2) PURPOSE.—The purpose of this section is to modify the boundary between the monument and adjacent Department of Energy land to facilitate management of the monument and Department of Energy land.

(b) BOUNDARY MODIFICATION.—

(1) TRANSFER OF ADMINISTRATIVE JURISDICTION.—There is transferred from the Secretary of Energy to the Secretary of the Interior administrative jurisdiction over the land comprising approximately 4.47 acres depicted on the map entitled "Boundary Map, Bandelier National Monument", No. 315/80,051, dated March 1995.

(2) BOUNDARY MODIFICATION.—The boundary of the monument is modified to include the land transferred by paragraph (1).

(3) PUBLIC AVAILABILITY OF MAP.—The map described in paragraph (1) shall be on file and available for public inspection in the Lands Office at the Southwest System Support Office of the National Park Service, Santa Fe, New Mexico, and in the Superintendent's Office of Bandelier National Monument.

DOLE AMENDMENT NO. 3653

Mr. DOLE proposed an amendment to the motion to commit to the Committee on Finance the bill H.R. 1296, supra; as follows:

Strike the instructions in the pending motion and insert in lieu thereof "To report back by April 21, 1996 amendments to reform welfare and Medicaid effective 1 day after the effective date of the bill."

DOLE AMENDMENT NO. 3654

Mr. DOLE proposed an amendment to amendment No. 3653 proposed by him to the motion to Commit to the committee on Finance the bill H.R. 1296, supra; as follows:

Strike all after the first word in the amendment to the instructions to the pending motion and insert in lieu thereof "Report back by April 21, 1996 amendments to reform welfare and Medicaid effective 2 days after the effective date of the bill."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 11 a.m. on Tuesday, March 26, 1996, in open session, to receive testimony on atomic energy defense activities under the purview of the Acting Under Secretary, Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, March 26, 1996, to conduct a nominations hearing on the following nominees: the Honorable Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System; the Honorable Alice Rivlin, of Pennsylvania, to be a Governor and serve as Vice Chairman of the Board of Governors of the Federal Reserve System; and Laurence Meyer, of Missouri, to be a Governor of the Board of Governors of the Federal Reserve System. Witnesses will include Ralph Nader, consumer advocate.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Tuesday, March 26, 1996 session of the Senate for the purpose of conducting a hearing on the fiscal year 1997 NASA budget.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 26, 1996, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Tuesday, March 26, 1996, at 9:30 a.m. for a hearing on the IRS oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, March 26, 1996, at 2 p.m. in SH–219 to hold a closed briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN AND FAMILIES

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Children and Families of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate at 9:30 a.m., Tuesday, March 26, 1996, for a hearing on "Filling the Gap: Can Private Institutions Do It?".

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet on Tuesday, March 26, 1996, at 2:30 p.m., in open session, to receive testimony on the Department of the Navy's Marine Corps programs in review of the Defense authorization request for fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING THE AMERICAN LEGION POST NO. 88 IN LOUDON, NH ON THEIR 50TH ANNIVERSARY

Mr. SMITH. Mr. President, I rise today to pay tribute to the American Legion Post No. 88 in Loudon, NH on their 50th anniversary.

On January 18, 1946, the American Legion Post No. 88 applied for their first charter. Exactly a month later, the members of Post No. 88 held their first meeting and began planning activities for the community. The original Post No. 88 application had 15 names including H.L. Annis, C.H. Derby, C.B. Hall, S.B. Hall, W.G. Harrison, Laura A. Hayward, R.C. Lovering, W.L. Manchester, G.P. Marcotte, H. McCoy, P.E. Morrill, P.W. Ordway, L.C. Palmer, D.P. Reardon and D.B. Stuart. W.L. Manchester was first the Commander of Post No. 88. This milestone of 50 years is a significant accomplishment for all the post members.

The members of Post No. 88 have become an integral part of the Loudon community and donate hundreds of hours of service to their community each year. So many veterans, children and needy families have been touched by the assistance these legionnaires provide through their volunteer work. They visit fellow veterans in local hospitals, coordinate youth programs and are involved with numerous Boy Scout and 4–H groups who use the post headquarters for meetings. Post No. 88 also participates in the nationwide legion efforts which include: sponsoring students for both Boys and Girls State, sponsoring poster contests that focus on patriotism in local schools, writing and mailing letters to American troops in Bosnia, recycling, collecting eyeglasses for the needy, helping the elderly with housing, and making quilts for at-risk children. All the members of Post No. 88 deserve a special word of appreciation for serving the Loudon and Concord communities so diligently. Many people have greatly benefited from their goodwill and charity.

Fifty years ago, Post No. 88 opened its doors to the town of Loudon. Just last month, exactly 50 years later, a special anniversary program for Post No. 88 was held in the original building on South Village Road. In fact, one of charter members of the auxiliary unit, Marion Stuart, attended the ceremony.

We are truly fortunate to have such a caring group of individuals at the American Legion Post No. 88. For half a century, these members have exemplified goodwill and concern for their needy neighbors and their efforts will no doubt continue for the next 50 years. As a veteran, I congratulate Post No. 88 on their steadfast service to Loudon and Concord. New Hampshire is truly indebted to the Loudon American Legion Post No. 88.

NATIONAL DOMESTIC VIOLENCE HOTLINE

• Mr. WELLSTONE. Mr. President, 2 weeks ago, I came to the floor to announce the realization of another component of our initiative to prevent violence against women—the national domestic violence hotline. At that time, I indicated that I would come to the floor every day for 2 weeks, whenever my colleagues would be kind enough to give me about 30 seconds of time, to read off the 800 number of the hotline.

The toll-free number, 1–800–799–SAFE, will provide immediate crisis counseling, and local shelter referrals to women across the country, 24 hours a day. There is also a TDD number for the hearing impaired, 1–800–787–3224.

Mr. President, roughly 1 million women are victims of domestic violence each year and battering may be the single most common cause of injury to women—more common than auto accidents, muggings, or rapes by a stranger. According to the FBI, one of every two women in America will be beaten at least once in the course of an intimate relationship. The FBI also speculates that battering is the most under-reported crime in the country. It is estimated that the new hotline will receive close to 10,000 calls a day.

I hope that the new national domestic violence hotline will help women and families find the support, assistance, and services they need to get out of homes where there is violence and abuse.

Mr. President, once again, the toll-free number is 1–800–787–3224, for the hearing impaired.•

COMMEMORATING GREEK INDEPENDENCE DAY

• Mr. BRADLEY. Mr. President, I rise today to commemorate Greek Independence Day—a national day of celebration of Greek and American democracy. Yesterday marked the 175th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire.

A historic bond exists between Greece and America, forged by our shared democratic heritage. America is truly indebted to the ancient Greeks for giving the world the first example of direct democracy. The philosophical and democratic influences of the ancient Greeks provides the inspiration for our democratic Government to flourish. It is therefore fitting that Members of this Chamber join in paying tribute to the long struggle for freedom that Greece endured.

On March 25, 1821, when Germanos, the archbishop of Patros, proclaimed Greek independence, another link between Greece and the United States was forged. The American revolution served as a model for the Greek struggle for freedom and when the Declaration of Independence, translated into Greek, served as the declaration of the end of the Greek struggle, a circle was completed.

The interconnection between Greek and American democracies lies not only in the philosophical underpinnings of our Government, but in many areas of American life. Percy Bysshe Shelley once said, "We are all Greeks! Our laws, our literature, our religion, our art, have their roots in Greece." The tremendous influence that Greece has had on American life continues today through the activities of the vibrant Greek community in America. In every field—politics, entertainment, business and education—Greek-Americans continue to contribute to American life.

In particular, I wish to pay tribute to the Greek-American community in New Jersey. Groups that are leaders in the New Jersey Greek Community include: the Greek American Chamber of Commerce of New Jersey, the Greek American Voters League of New Jersey, the Hellenic American Bar Association of New Jersey, the Pan Gregorian Enterprises & Foundation, P.G.E.I. of America Charitables Foundation, Inc., the Council Generals of Greek Cypriot, the Order of AHEPA and the Joint Public Policy Committee of Hellenic American Women. On behalf of these organizations, the Greek community in New Jersey and all Americans of Greek descent, I am honored to pay tribute, on behalf of the Nation, to the Greek community during the celebration of their independence day.•

CONGRATULATING THE LONDONDERRY HIGH SCHOOL MARCHING BAND FOR BEING SELECTED TO PARTICIPATE IN THE ROSE PARADE

• Mr. SMITH. Mr. President, I rise today to congratulate the students of the Londonderry High School Marching Band and Colorguard who will be representing the State of New Hampshire in the 1997 Rose Parade next January. All the band members including Andrew Soucy, the band's director, deserve special commendation for their hard work and achievement.

Being selected for the Tournament of Roses Parade is quite an honor for a high school band. The Lancer Marching Band has a proud tradition of representing the Granite State in parades across the country. They have also performed in Washington, DC, for the St. Patrick's Day Parade, at Foxboro Stadium for the New England Patriots football team, and this will be the second time the Londonderry Lancers will appear in the Pasadena Tournament of Roses Parade. The Lancers should be very proud of their efforts because only the very best bands in the country are asked to participate in this nationally recognized New Years Day parade.

The young men and women of the Lancer Band and Colorguard demonstrate the hard work and dedication that is characteristic of the Granite State students. As special participants in the Tournament of Roses Parade, these students have proven that determination and teamwork are the hallmark of success both as musicians and students. We are honored to have the Lancer Band and Colorguard representing New Hampshire with their outstanding musical performances.

Mr. President, I want to express my thanks to both the students and faculty at Londonderry High School for their commitment to excellence. Congratulations again on such a magnificent accomplishment.•

SHERMAN JUNIOR HIGH SCHOOL, A 1996 NATIONAL BLUE RIBBON SCHOOL OF EXCELLENCE

• Mr. ROCKEFELLER Mr. President, I want to take this opportunity to recognize Sherman Junior High School of Seth, WV. This institution was recently selected as a 1996 National Blue Ribbon School of Excellence by the U.S. Department of Education. It was 1 of 6 secondary schools in my State to garner this prestigious award, and 1 of only 216 public schools from throughout the United States to get this recognition.

Sherman Junior High School's motto is "We believe, we achieve, we succeed." It is thoughtful, provocative and obviously works. For if believing in yourself defines your ability to succeed, let me share with everyone a little taste of the tremendous feats this school has accomplished.

Sherman Junior High School is nestled in a remote southern portion of my State in Boone County, a rural Appalachia county in our legendary coal fields. The geography of this region is challenging. The coal industry dominates the local economy and has a history of sporadic employment which affects the families and the community greatly, including school enrollment and student attendance.

There are more than 200 students enrolled in Sherman Junior High School and most of them have to be bused over narrow, rough roads within a 20-mile radius of the school. Many ride these buses for almost an hour each way, and more than half of the students qualify for free or reduced lunches. Because these students live in a rural, isolated area, the school is their primary center for most activities ranging from cultural events to sports which are crucial activities to help young people make the transition into adulthood.

Under the leadership and support of Principal John Hudson, the creative staff of Sherman Junior High shared their facilities with the local high school, but maintained their autonomy with a separate administration and faculty. This gives the students a sense of community, while also having access to more facilities and high school programs for students ready to accept more challenging programs. For example, many junior high students have an opportunity to learn basic computer and word processing skills. They can also take advanced academic classes, like a foreign language. Having enhanced opportunities obviously makes a difference in the lives of these young people, because almost 70 percent of the students of Sherman Junior High School score above the 50 percentile on their annual CTBS tests.

This is a time when public education faces many challenges—dwindling resources, intense public debates over the proper role of public education, and integrating new technologies into schoolrooms and teaching. Sherman Junior High is a school that is facing such challenges. The enthusiastic and caring teachers and administrators are committed to providing our students with the quality education. As a National Blue Ribbon School, Sherman Junior High is a role model on how teachers, administrators, parents, and students can come together and create an educational environment that helps young people excel. Every member of Sherman Junior High School should be proud of the accomplishments achieved. It is my pleasure to publicly congratulate this school for its community spirit and academic success. I know this school will keep up the good work, and continue to represent West Virginia proudly.•

MINIMUM WAGE

Mr. BIDEN. Mr. President, I come to this debate on the minimum wage from a different perspective than some of my colleagues here today. In January of this year, my State of Delaware decided to raise the minimum wage, after a debate a lot like the one we are hearing today.

We like to think that Delaware is a special place, Mr. President, and in many ways it is. But it is also a lot like the rest of the country. We have big businesses and small, we have world-class high-technology businesses in chemicals and pharmaceuticals, a cutting-edge financial service sector and—a lot of my colleagues are surprised when I tell them this—a major agricultural sector.

With that kind of diversity, I think Delaware has something to teach the rest of the country. We are, after all, the first State to ratify the Constitution, so we think our example is worth following.

The proposal we adopted in Delaware is much like the one before the Senate today. The proposal before us today would call for a two-step increase in the minimum wage, from the current $4.25 an hour to $5.15. In Delaware, we also chose a two-step increase, from $4.25 to $5.00.

In my State, that increase will directly affect over 30,000 Delawareans and their families, 9.5 percent of the work force, just a little below the national average of 11.5 percent who currently work for the minimum wage.

So Delaware is like the rest of the country, Mr. President, just a little bit ahead of everybody else when it comes to addressing the problem of stagnant family incomes in general and the shrinking value of the minimum wage in particular.

And that is what I would like to talk about today, Mr. President—the puzzle of why, in a growing economy, with rising productivity and rising profits, a full-time job for hard-working adults has failed to provide a rising standard of living.

The minimum wage itself provides one important illustration of this disturbing trend. Since 1991, the last time we raised the minimum wage—with a bipartisan majority, Mr. President, and signed into law by President Bush—the real spending power of the minimum wage has dropped nearly 50 cents.

If we fail to raise the minimum wage, it will drop to a 40-year low when this year is over. Right now, you can put in a full 40-hour workweek, 52 weeks a year, and take home just $8,840, just three-quarters of the poverty level for a family of three.

For those families, with a full-time worker, the current minimum wage is not even the minimum they need to stay out of poverty. That is something we cannot forget as we search for ways to convince more people to stay off of welfare and to turn away from crime.

There are, unfortunately, other examples of the declining rewards of hard work for so many American families.

It is not just those wage earners who are working to keep themselves and their families out of poverty who have seen their incomes stuck, who are running as fast as they can just to keep from falling further behind.

Mr. President, the median wage—the real middle income statistically speaking—is actually 5 percent less this year than it was in 1979. This is happening in an economy that has been growing at about 2.5 percent over the same time.

Where has all that growth been going? Who has gained from the growth in the economy? Between 1977 and 1992, the lowest 20 percent of American families saw their incomes drop 17 percent. But the top 20 percent enjoyed a 28-percent increase, and the top 1 percent saw their incomes shoot up 91 percent—virtually doubling.

So there has been growth, Mr. President, but the distribution of that growth among working families has been increasingly unequal.

Now, I for one do not think that human nature has changed all that much in the last 20 to 25 years. I do not think the richest 1 percent are suddenly twice as smart as they used to be, or that workers at the other end of the scale decided to become less productive.

Something else is going on, Mr. President, something more fundamental and far reaching than a simple business cycle, perhaps something we have seen only a couple of times before in our Nation's economic history. There is a lot of evidence that the economy no longer functions the way it used to, that it no longer provides the stable, middle-income jobs that built America's middle class after World War II.

As someone who has put his faith in the free enterprise system, Mr. President, I am inclined to see these changes as part of the way this system works—changing markets, changing products, changing skills have always been a key feature of the American economy.

But while Americans have a strong tolerance—even an appetite—for the dynamic shifts that characterize our economic system, they have an equally strong sense of fairness. Americans expect that hard work will be rewarded—not with riches, maybe, but certainly with a little security and a little comfort.

For far too many Americans, Mr. President, our system is providing far too much of those dynamic changes and far too little fairness.

I don't want my colleagues to forget that the absolute, bedrock requirement of our democratic system is the belief by the majority of our people that they are being treated fairly. Because this is not just a free enterprise economy, Mr. President, that we have here in America. We are blessed to have a system of popular government that provides and protects the property rights that are the foundation of our economy.

Take away that sense of fairness, take away the sense that at the end of the day, there is some justice in the way our capitalist democracy works, and people can start looking at other systems, other answers. The unhappy history of this century provides too many examples for us to blithely dismiss this problem.

It is not too much to say that the real bottom line that we have to keep our eyes on is on the balance sheet of fairness. No amount of national wealth can buy that sense of fairness, no list of statistics can substitute for it.

As an optimist, Mr. President, I do not believe we are facing an insurmountable crisis. In fact, by my reading, a large part of our history has been a pretty successful search for ways to balance the changing demands of a dynamic economy with the unchanging demand for some basic fairness, for some simple justice, in the way we reward work.

We can make work pay, and make work a realistic alternative to the wasteful choices of welfare or crime, that will surely cost us more than the modest minimum wage bill before us today.

So I urge my colleagues to follow the lead of my State of Delaware. Restore some of the historical value of the minimum wage, some of the justice that is the real bottom line in America.

EDMUND SIXTUS MUSKIE

Mr. PELL. Mr. President, I join my colleagues in paying respect to the memory of former Senator Edmund Muskie. He was a very productive Member of this body and he made great contributions to its deliberations and to the welfare of our Nation. I admired him very much.

I first came to know Ed Muskie when he was Governor of Maine and a delegate to our party's national conventions. I always found him to be a person of great common sense and practicality, traits that reflected his years of experience in the Maine State Legislature and before that as a city official in Waterville.

He was always a highly effective advocate for the interests of New England, and in that role as in other aspects of his wide ranging Senate career, he was capable of displaying his sense of righteous indignation in the interests of producing results.

Perhaps his greatest and most lasting contribution was his work in securing enactment of the Congressional Budget Act of 1974, and his subsequent service as the first chairman of the Senate Budget Committee. Here his practical vision saw the need for a consolidated legislative budget that coordinated and reconciled legislative appropriations with executive spending.

Ed Muskie's Senate career came to a sudden and surprising conclusion with his elevation to the office of Secretary of State in the Carter administration at the height of the Iraq crisis in 1980. It was a measure of Senator Muskie's statute in the Senate and in the Nation that President Carter turned to him at a time when circumstances called for a steady and authoritative hand.

It was a fitting climax to a career of exceptionally distinguished public service.

I join my colleagues in honoring the memory of Edmund Muskie and I extend my sympathy to his wife Jane, family and many associates in Maine and across the country.

ED MUSKIE: A TRIBUTE

Mr. HOLLINGS. Mr. President, I would like to take a moment to pay tribute to a colleague and friend of mine who has just recently passed away. To those of us who were here during the sixties and seventies, Edmund Muskie was more than a fellow legislator, he was a model of what a Senator should be. He was well liked and respected by all, and he listened to his constituents closely, and he effected change on their behalf.

To put it simply, Ed Muskie was the best. Today, with all the talk about the Government being too big, and all the public scorn for the establishment, it is easy to lose sight of the optimism that used to be a driving force of politics. Senator Muskie embodied that optimism; He looked upon government as an opportunity, as a solution to problems. Characteristically, he acted on these beliefs to get things done. He led the demand for fiscal responsibility. As the first chairman of the Senate Budget Committee in 1974, he virtually created the budget process. He will also be remembered as a great environmental legislator. The Clean Water Act, the Clean Air Act: these were not a part of Muskie's political agenda due to pressure from lobbyists or special interest groups. They were things that he believed were necessary, and so he made them happen.

I knew Ed Muskie long before I came to the Senate, and he always felt things keenly. I used to joke with him about what I called his righteous indignation, but I always respected the moral conviction and strength that lay behind it. Senator Muskie detested the influence of lobbies and partisanship, and what they were doing to politics. He was in government to do a good job, not to play games. He was—and in this city, this is a great compliment—a man who got things done. The principles that he lived by came through in his work, whether as a Senator, a Secretary of State or as a lawyer and statesman. He knew the importance of character and of listening to the voter.

In 1970, Senator Muskie gave a memorable speech in which he said: "There are only two kinds of politics. They are not radical and reactionary, or conservative and liberal, or even Democratic and Republican. They are only the politics of fear and the politics of trust." As we head into another election year and another century, these are words to remember. Ed Muskie was a champion of the politics of trust. We will remember him fondly.

EDMUND SIXTUS MUSKIE

Mr. BIDEN. Mr. President, few who ever served in this body have been as universally mourned as those of us from both sides of the aisle who knew him will mourn our former colleague, Ed Muskie, who died here in Washington early this morning.

The reports already circulating on the news wire services and the obituaries that will appear in tomorrow's newspapers, all will make much, and rightly so, out of his long and distinguished service as a public man.

Few men or women in our history have contributed so much to the Nation as Ed Muskie did as a U.S. Senator for 21 years and as Secretary of State; few have contributed as much to their native State as Ed Muskie did as a member of the Maine House of Representatives and as Governor of the State he loved so much; and few have contributed as much to one of the major political parties as Ed Muskie did to the Democratic Party, which he served as a Vice Presidential candidate in 1968 and as chairman of the Democratic Senatorial Campaign Committee.

It is fitting that, upon his death just 2 days before his 82d birthday, Americans should be reminded of his long and faithful public service and leadership—but those of us who knew and served with Ed Muskie will remember him more familiarly as a man of principle, as a powerful personality, and, most of all, as our good friend.

One thing that I learned very quickly, serving with him on the Budget Committee and the Foreign Relations Committee, was that while he exhibited the gravitas—the character and substance—that might be expected of a man whose full given name was Edmund Sixtus Muskie, he was a very human, very good-humored man—most of the time—who was most comfortable simply as Ed Muskie, and who if he was your friend was your friend for life.

It is true that his good humor would sometimes momentarily desert him—he had a temper that verged on the volcanic, and he was capable of weeping public tears over an insult to the wife whom he loved—but those moments occurred, for the most part, because Ed Muskie never believed that a career in politics obliged his head to divorce his heart; despite a powerful intellect that won him a law degree, a Phi Beta Kappa key and a long, successful career both in law and in politics, he never believed that political feelings must somehow be set aside.

He was passionate about his politics—he believed the work we do here is important to improving the lives of Americans—and he believed that what he felt was as important to achieving that end as what he thought.

But though Ed Muskie sometimes wore his heart unashamedly on his sleeve, he was also very much a Yankee, very much a man of Maine, who put great stock in getting things done, and getting them done at the right price.

By that I am not referring so much to his chairmanship of the Budget Committee—although he certainly exerted a strong hand at that helm, often to the dismay of bureaucrats throughout the land and not infrequently to Senate colleagues who failed to make a strong enough case for their favorite program—no, for him, getting things done at the right price meant achieving that meld of idealism and realism which we often say a democratic system of Government requires but which few of us ever achieve with the grace and consistency of an Ed Muskie.

The people of Maine understood that as well as we did here in the Senate, and he understood and loved them, as well.

I remember him saying one time, "in Maine, we tend not to speak unless we think we can improve upon the silence."

Out of his wisdom, out of his passion, out of his drive to get things done, Ed Muskie often spoke up for Maine and for America—and we need only feel the silence of his passing gather about us now to know how much he improved upon it during a long and accomplished life.

In the words of William Shakespeare, "he was a man, take him for all in all, [we] shall not look upon his like again."

TRIBUTE TO SENATOR MUSKIE

Mr. BAUCUS. Mr. President, this morning we were sad to learn of the passing of one of our most distinguished former colleagues, Senator Edmund Muskie of Maine.

Ed Muskie served our Nation in many ways. He was a soldier. A Governor. The first chairman of the Budget Committee. The Secretary of State. The Democratic Party's candidate for Vice President.

He also was responsible, in large part, for one of the most positive and profound legislative achievements of postwar America: the passage of the environmental laws of the 1970's, to clean up our Nation's air, water, and waste.

Remember what things were like 25 years ago. We had experienced decades of industrial growth without environmental protection. Lead in the air caused brain damage in children. Toxic waste dumps all across the country caused cancer. The Cuyahoga River even caught fire.

Something had to be done. And, as chairman of the Environmental Protection Subcommittee of the Environment and Public Works Committee, Ed Muskie saw that it was. He worked tirelessly to create bipartisan support for landmark environmental laws.

The Clean Water Act, requiring rivers and streams to be fishable and swimmable; the Clean Air Act, cutting emissions from cars and factories; the Safe Drinking Water Act; the Endangered Species Act.

These laws are not perfect. But, on the whole, they have been remarkably successful. Our air is cleaner. Lead emissions fell nearly 90 percent. To put it another way, we took nearly five ounces of lead out of the sky for every American man, woman, and child. Emissions of sulfur dioxide, carbon monoxide, and particulates are way down, and half as many Americans live in cities with unhealthy air as in 1970.

Our water is cleaner. You can swim without getting sick and eat the fish you catch in twice as many rivers and streams. Even the Cuyahoga River has revived, to become a center for tourism in downtown Cleveland. The bald eagle is back from the brink of extinction.

Overall, because of the work of Ed Muskie and his colleagues, our children are growing up in a more healthy and beautiful America.

Mr. President, I am reminded of the Latin epitaph on the tomb of Sir Christopher Wren, the architect of St. Paul's Cathedral. It's inside the cathedral, and it says, "If you would see his memorial, look around."

So it is with Ed Muskie. If you wish to see his memorial, look around you: at the air in our cities; at the Potomac River, or the Cuyahoga; at a cleaner environment from Maine to Montana; at a nation that is more healthy and more beautiful because of his work.

He was a great environmental statesman, and his passing diminishes us.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, as of the close of business yesterday, March 25, 1996, the Federal debt stood—down-to-the-penny—at $5,063,054,197,564.33. On a per capita basis, every man, woman and child in America owes $19,141.70 as his or her share of that debt.

PUBLIC RANGELANDS MANAGEMENT ACT

The text of the bill (S. 1459) to provide for uniform management of livestock grazing on Federal land, and for other purposes, as passed by the Senate on March 21, 1996, is as follows:

S. 1459

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This title may be cited as the "Public Rangelands Management Act of 1996".

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments and repeals made by this Act shall become effective on the date of enactment.

(b) APPLICABLE REGULATIONS.—

(1) Except as provided in paragraph (2), grazing of domestic livestock on lands administered by the Chief of the Forest Service and the Director of the Bureau of Land Management, as defined in section 104(11) of this Act, shall be administered in accordance with the applicable regulations in effect for each agency as of February 1, 1995, until such time as the Secretary of Agriculture and the Secretary of the Interior promulgate new regulations in accordance with this Act.

(2) Resource Advisory Councils established by the Secretary of the Interior after August 21, 1995, may continue to operate in accordance with their charters for a period not to extend beyond February 28, 1997, and shall be subject to the provisions of this Act.

(c) NEW REGULATIONS.—With respect to title I of this Act—

(1) the Secretary of Agriculture and the Secretary of the Interior shall provide, to the maximum extent practicable, for consistent and coordinated administration of livestock grazing and management of rangelands administered by the Chief of the Forest Service and the Director of the Bureau of Land Management, as defined in section 104(11) of this Act, consistent with the laws governing the public lands and the National Forest System;

(2) the Secretary of Agriculture and the Secretary of the Interior shall, to the maximum extent practicable, coordinate the promulgation of new regulations and shall publish such regulations simultaneously.

TITLE I—MANAGEMENT OF GRAZING ON FEDERAL LAND

Subtitle A—General Provisions

SEC. 101. FINDINGS.

(a) FINDINGS.—Congress finds that—

(1) multiple use, as set forth in current law, has been and continues to be a guiding principle in the management of public lands and national forests;

(2) through the cooperative and concerted efforts of the Federal rangeland livestock industry, Federal and State land management agencies, and the general public, the Federal rangelands are in the best condition they have been in during this century, and their condition continues to improve;

(3) as a further consequence of those efforts, populations of wildlife are increasing and stabilizing across vast areas of the West;

(4) grazing preferences must continue to be adequately safeguarded in order to promote the economic stability of the western livestock industry;

(5) it is in the public interest to charge a fee for livestock grazing permits and leases on Federal land that is based on a formula that—

(A) reflects a fair return to the Federal Government and the true costs to the permittee or lessee; and

(B) promotes continuing cooperative stewardship efforts;

(6) opportunities exist for improving efficiency in the administration of the range programs on Federal land by—

(A) reducing planning and analysis costs and their associated paperwork, procedural, and clerical burdens; and

(B) refocusing efforts to the direct management of the resources themselves;

(7) in order to provide meaningful review and oversight of the management of the public rangelands and the grazing allotment on those rangelands, refinement of the reporting of costs of various components of the land management program is needed;

(8) greater local input into the management of the public rangelands is in the best interests of the United States;

(9) the western livestock industry that relies on Federal land plays an important role in preserving the social, economic, and cultural base of rural communities in the Western States and further plays an integral role in the economies of the 16 contiguous Western States with Federal rangelands;

(10) maintaining the economic viability of the western livestock industry is in the best interest of the United States in order to maintain open space and fish and wildlife habitat;

(11) since the enactment of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and the amendment of section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) by the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.), the Secretary of the Interior and the Secretary of Agriculture have been charged with coordinating land use inventory, planning and management programs on Bureau of Land Management and National Forest System lands with each other, other Federal departments and agencies, Indian tribes, and State and local governments within which the lands are located, but to date such coordination has not existed to the extent allowed by law; and

(12) it shall not be the policy of the United States to increase or reduce total livestock numbers on Federal land except as is necessary to provide for proper management of resources, based on local conditions, and as provided by existing law related to the management of Federal land and this title.

(b) REPEAL OF EARLIER FINDINGS.—Section 2(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901(a)) is amended—

(1) by striking paragraphs (1), (2), (3), and (4);

(2) by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively;

(3) in paragraph (1) (as so redesignated), by adding "and" at the end; and

(4) in paragraph (2) (as so redesignated)—

(A) by striking "harrassment" and inserting "harassment"; and

(B) by striking the semicolon at the end and inserting a period.

SEC. 102. APPLICATION OF ACT.

(a) This Act applies to—

(1) the management of grazing on Federal land by the Secretary of the Interior under—

(A) the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1269, chapter 865; 43 U.S.C. 315 et seq.);

(B) the Act of August 28, 1937 (commonly known as the "Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act of 1937") (50 Stat. 874, chapter 876; 43 U.S.C. 1181a et seq.);

(C) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(D) the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);

(2) the management of grazing on Federal land by the Secretary of Agriculture under—

(A) the 12th undesignated paragraph under the heading "SURVEYING THE PUBLIC LANDS." under the heading "UNDER THE DEPARTMENT OF THE INTERIOR." in the first section of the Act of June 4, 1897 (commonly known as the "Organic Administration Act of 1897") (30 Stat. 11, 35, chapter 2; 16 U.S.C. 551);

(B) the Act of April 24, 1950 (commonly known as the "Granger-Thye Act of 1950") (64 Stat. 85, 88, chapter 97; 16 U.S.C. 580g, 580h, 580l);

(C) the Multiple-Use Sustained Yield Act of 1960 (16 U.S.C. 528 et seq.);

(D) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.);

(E) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);

(F) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(G) the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.); and

(3) management of grazing by the Secretary on behalf of the head of another department or agency under a memorandum of understanding.

(b) Nothing in this title shall affect grazing in any unit of the National Park System, National Wildlife Refuge System or on any lands that are not Federal lands as defined in this title.

(c) Nothing in this title shall limit or preclude the use of and access to Federal land for hunting, fishing, recreational, watershed management or other appropriate multiple use activities in accordance with applicable Federal and State laws and the principles of multiple use.

(d) Nothing in this title shall affect valid existing rights. Section 1323(a) and 1323(b) of Public Law 96-487 shall continue to apply to nonfederally owned lands.

SEC. 103. OBJECTIVE.

The objective of this title is to—

(1) promote healthy, sustained rangeland;

(2) provide direction for the administration of livestock grazing on Federal land;

(3) enhance productivity of Federal land by conservation of forage resources, reduction of soil erosion, and proper management of other resources such as control of noxious species invasion;

(4) provide stability to the livestock industry that utilizes the public rangeland;

(5) emphasize scientific monitoring of trends and condition to support sound rangeland management;

(6) maintain and improve the condition of riparian areas which are critical to wildlife habitat and water quality; and

(7) maintain and improve the condition of Federal land for multiple-use purposes, including but not limited to wildlife and habitat, consistent with land use plans and other objectives of this section.

SEC. 104. DEFINITIONS.

IN GENERAL.—In this title:

(1) ACTIVE USE.—The term "active use" means the amount of authorized livestock grazing use made at any time.

(2) ACTUAL USE.—The term "actual use" means the number and kinds or classes of livestock, and the length of time that livestock graze on, an allotment.

(3) AFFECTED INTEREST.—The term "affected interest" means an individual or organization that has expressed in writing to the Secretary concern for the management of livestock grazing on a specific allotment, for the purpose of receiving notice of and the opportunity for comment and informal consultation on proposed decisions of the Secretary affecting the allotment.

(4) ALLOTMENT.—The term "allotment" means an area of designated Federal land that includes management for grazing of livestock.

(5) ALLOTMENT MANAGEMENT PLAN.—The term "allotment management plan" has the same meaning as defined in section 103(k) of Public Law 94-579 (43 U.S.C. 1702(k)).

(6) AUTHORIZED OFFICER.—The term "authorized officer" means a person authorized by the Secretary to administer this title, the Acts cited in section 102, and regulations issued under this title and those Acts.

(7) BASE PROPERTY.—The term "base property" means—

(A) private land that has the capability of producing crops or forage that can be used to support authorized livestock for a specified period of the year; or

(B) water that is suitable for consumption by livestock and is available to and accessible by authorized livestock when the land is used for livestock grazing.

(8) CANCEL; CANCELLATION.—The terms "cancel" and "cancellation" refer to a permanent termination, in whole or in part, of—

(A) a grazing permit or lease and grazing preference; or

(B) other grazing authorization.

(9) CONSULTATION, COOPERATION, AND COORDINATION.—The term "consultation, cooperation, and coordination" means, for the purposes of this title and section 402(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(d)), engagement in good faith efforts to reach consensus.

(10) COORDINATED RESOURCE MANAGEMENT.—The term "coordinated resource management"—

(A) means the planning and implementation of management activities in a specified geographic area that require the coordination and cooperation of the Bureau of Land Management or the Forest Service with affected State agencies, private land owners, and Federal land users; and

(B) may include, but is not limited to practices that provide for conservation, resource protection, resource enhancement or integrated management of multiple-use resources.

(11) FEDERAL LAND.—The term "Federal land"—

(A) means land outside the State of Alaska that is owned by the United States and administered by—

(i) the Secretary of the Interior, acting through the Director of the Bureau of Land Management; or

(ii) the Secretary of Agriculture, acting through the Chief of the Forest Service in the 16 contiguous Western States; but

(B) does not include—

(i) land held in trust for the benefit of Indians; or

(ii) the National Grasslands as defined in section 203.

(12) GRAZING PERMIT OR LEASE.—The term "grazing permit or lease" means a document authorizing use of the Federal land—

(A) within a grazing district under section 3 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1270, chapter 865; 43 U.S.C. 315b), for the purpose of grazing livestock;

(B) outside grazing districts under section 15 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48

Stat. 1275, chapter 865; 43 U.S.C. 315m), for the purpose of grazing livestock; or

(C) in a national forest under section 19 of the Act of April 24, 1950 (commonly known as the "Granger-Thye Act of 1950") (64 Stat. 88, chapter 97; 16 U.S.C. 580l), for the purposes of grazing livestock.

(13) GRAZING PREFERENCE.—The term "grazing preference" means the number of animal unit months of livestock grazing on Federal land as adjudicated or apportioned and attached to base property owned or controlled by a permittee or lessee.

(14) LAND BASE PROPERTY.—The term "land base property" means base property described in paragraph (7)(A).

(15) LAND USE PLAN.—The term "land use plan" means—

(A) with respect to Federal land administered by the Bureau of Land Management, one of the following developed in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)—

(i) a resource management plan; or

(ii) a management framework plan that is in effect pending completion of a resource management plan; and

(B) with respect to Federal land administered by the Forest Service, a land and resource management plan developed in accordance with section 6 of the Forest and Rangeland Resources Planning Act of 1974 (16 U.S.C. 1604).

(16) LIVESTOCK CARRYING CAPACITY.—The term "livestock carrying capacity" means the maximum sustainable stocking rate that is possible without inducing long-term damage to vegetation or related resources.

(17) MONITORING.—The term "monitoring" means the orderly collection of data using scientifically-based techniques to determine trend and condition of rangeland resources. Data may include historical information, but must be sufficiently reliable to evaluate—

(A) effects of ecological changes and management actions; and

(B) effectiveness of actions in meeting management objectives.

(18) RANGE IMPROVEMENT.—The term "range improvement"—

(A) means an authorized activity or program on or relating to rangeland that is designed to—

(i) improve production of forage;

(ii) change vegetative composition;

(iii) control patterns of use;

(iv) provide water;

(v) stabilize soil and water conditions; or

(vi) provide habitat for livestock, wild horses and burros, and wildlife; and

(B) includes structures, treatment projects, and use of mechanical means to accomplish the goals described in subparagraph (A).

(19) RANGELAND STUDY.—The term "rangeland study" means a documented study or analysis of data obtained on actual use, utilization, climatic conditions, other special events, production trend, and resource condition and trend to determine whether management objectives are being met, that—

(A) relies on the examination of physical measurements of range attributes and not on cursory visual scanning of land, unless the condition to be assessed is patently obvious and requires no physical measurements;

(B) utilizes a scientifically based and verifiable methodology; and

(C) is accepted by an authorized officer.

(20) SECRETARY; SECRETARIES.—The terms "Secretary" or "Secretaries" mean—

(A) the Secretary of the Interior, in reference to livestock grazing on Federal land administered by the Director of the Bureau of Land Management; and

(B) the Secretary of Agriculture, in reference to livestock grazing on Federal land administered by the Chief of the Forest Service or the National Grasslands referred to in title II.

(21) SUBLEASE.—The term "sublease" means an agreement by a permittee or lessee that—

(A) allows a person other than the permittee or lessee to graze livestock on Federal land without controlling the base property supporting the grazing permit or lease; or

(B) allows grazing on Federal land by livestock not owned or controlled by the permittee or lessee.

(22) SUSPEND; SUSPENSION.—The terms "suspend" and "suspension" refer to a temporary withholding, in whole or in part, of a grazing preference from active use, ordered by the Secretary or done voluntarily by a permittee or lessee.

(23) UTILIZATION.—The term "utilization" means the percentage of a year's forage production consumed or destroyed by herbivores.

(24) WATER BASE PROPERTY.—The term "water base property" means base property described in paragraph (7)(B).

SEC. 105. FUNDAMENTALS OF RANGELAND HEALTH.

(a) STANDARDS AND GUIDELINES.—The Secretary shall establish standards and guidelines for addressing resource condition and trend on a State or regional level in consultation with the Resource Advisory Councils established in section 161, State departments of agriculture and other appropriate State agencies, and academic institutions in each interested State. Standards and guidelines developed pursuant to this subsection shall be consistent with the objectives provided in section 103 and incorporated, by operation of law, into the applicable land use plan to provide guidance and direction for Federal land managers in the performance of their assigned duties.

(b) COORDINATED RESOURCE MANAGEMENT.—The Secretary shall, where appropriate, authorize and encourage the use of coordinated resource management practices. Coordinated resource management practices shall be—

(1) scientifically based;

(2) consistent with goals and management objectives of the applicable land use plan;

(3) for the purposes of promoting good stewardship and conservation of multiple-use rangeland resources; and

(4) authorized under a cooperative agreement with a permittee or lessee, or an organized group of permittees or lessees in a specified geographic area. Notwithstanding the mandatory qualifications required to obtain a grazing permit or lease by this or any other Act, such agreement may include other individuals, organizations, or Federal land users.

(c) COORDINATION OF FEDERAL AGENCIES.—Where coordinated resource management involves private land, State land, and Federal land managed by the Bureau of Land Management or the Forest Service, the Secretaries are hereby authorized and directed to enter into cooperative agreements to coordinate the associated activities of—

(1) the Bureau of Land Management;

(2) the Forest Service;

(3) the Natural Resources Conservation Service; and

(4) State Grazing Districts established under State law.

(d) RULE OF CONSTRUCTION.—Nothing in this title or any other law implies that a minimum national standard or guideline is necessary.

SEC. 106. LAND USE PLANS.

(a) PRINCIPLE OF MULTIPLE USE AND SUSTAINED YIELD.—An authorized officer shall manage livestock grazing on Federal land under the principles of multiple use and sustained yield and in accordance with applicable land use plans.

(b) CONTENTS OF LAND USE PLAN.—With respect to grazing administration, a land use plan shall—

(1) consider the impacts of all multiple uses, including livestock and wildlife grazing, on the environment and condition of public rangelands, and the contributions of these uses to the management, maintenance and improvement of such rangelands;

(2) establish available animal unit months for grazing use, related levels of allowable grazing use, resource condition goals, and management objectives for the Federal land covered by the plan; and

(3) set forth programs and general management practices needed to achieve the purposes of this title.

(c) APPLICATION OF NEPA.—Land use plans and amendments thereto shall be developed in conformance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) CONFORMANCE WITH LAND USE PLAN.—Livestock grazing activities, management actions and decisions approved by the authorized officer, including the issuance, renewal, or transfer of grazing permits or leases, shall not constitute major Federal actions requiring consideration under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in addition to that which is necessary to support the land use plan, and amendments thereto.

(e) Nothing in this section is intended to override the planning and public involvement processes of any other Federal law pertaining to Federal lands.

SEC. 107. REVIEW OF RESOURCE CONDITION.

(a) Upon the issuance, renewal, or transfer of a grazing permit or lease, and at least once every six (6) years, the Secretary shall review all available monitoring data for the affected allotment. If the Secretary's review indicates that the resource condition is not meeting management objectives, then the Secretary shall prepare a brief summary report which—

(1) evaluates the monitoring data;

(2) identifies the unsatisfactory resource conditions and the use or management activities contributing to such conditions; and

(3) makes recommendations for any modifications to management activities, or permit or lease terms and conditions necessary to meet management objectives.

(b) The Secretary shall make copies of the summary report available to the permittee or lessee, and affected interests, and shall allow for a 30-day comment period to coincide with the 30-day time period provided in section 155. At the end of such comment period, the Secretary shall review all comments, and as the Secretary deems necessary, modify management activities, and pursuant to section 134, the permit or lease terms and conditions.

(c) If the Secretary determines that available monitoring data are insufficient to make recommendations pursuant to subsection (a)(3), the Secretary shall establish a reasonable schedule to gather sufficient data pursuant to section 123. Insufficient monitoring data shall not be grounds for the Secretary to refuse to issue, renew or transfer a grazing permit or lease, or to terminate or modify the terms and conditions of an existing grazing permit or lease.

Subtitle B—Qualifications and Grazing Preferences

SEC. 111. SPECIFYING GRAZING PREFERENCE.

(a) IN GENERAL.—A grazing permit or lease shall specify—

(1) a historical grazing preference;

(2) active use, based on the amount of forage available for livestock grazing established in the land use plan;

(3) suspended use; and

(4) voluntary and temporary nonuse.

(b) ATTACHMENT OF GRAZING PREFERENCE.—A grazing preference identified in a grazing permit or lease shall attach to the base property supporting the grazing permit or lease.

(c) ATTACHMENT OF ANIMAL UNIT MONTHS.—The animal unit months of a grazing preference shall attach to—

(1) the acreage of land base property on a pro rata basis; or

(2) water base property on the basis of livestock forage production within the service area of the water.

Subtitle C—Grazing Management

SEC. 121. ALLOTMENT MANAGEMENT PLANS.

If the Secretary elects to develop or revise an allotment management plan for a given area, he shall do so in careful and considered consultation, cooperation, and coordination with the lessees, permittees, and landowners involved, the grazing advisory councils established pursuant to section 162, and any State or States having lands within the area to be covered by such allotment management plan. The Secretary shall provide for public participation in the development or revision of an allotment management plan as provided in section 155.

SEC. 122. RANGE IMPROVEMENTS.

(a) RANGE IMPROVEMENT COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary may enter into a cooperative agreement with a permittee or lessee for the construction, installation, modification, removal, or use of a permanent range improvement or development of a rangeland to achieve a management or resource condition objective.

(2) COST-SHARING.—A range improvement cooperative agreement shall specify how the costs or labor, or both, shall be shared between the United States and the other parties to the agreement.

(3) TITLE.—

(A) IN GENERAL.—Subject to valid existing rights, title to an authorized structural range improvement under a range improvement cooperative agreement shall be shared by the cooperator(s) and the United States in proportion to the value of the contributions (funding, material, and labor) toward the initial cost of construction.

(B) VALUE OF FEDERAL LAND.—For the purpose of subparagraph (A), only a contribution to the construction, installation, or modification of a permanent rangeland improvement itself, and not the value of Federal land on which the improvement is placed, shall be taken into account.

(4) NONSTRUCTURAL RANGE IMPROVEMENTS.—A range improvement cooperative agreement shall ensure that the respective parties enjoy the benefits of any nonstructural range improvement, such as seeding, spraying, and chaining, in proportion to each party's contribution to the improvement.

(5) INCENTIVES.—A range improvement cooperative agreement shall contain terms and conditions that are designed to provide a permittee or lessee an incentive for investing in range improvements.

(b) RANGE IMPROVEMENT PERMITS.—

(1) APPLICATION.—A permittee or lessee may apply for a range improvement permit to construct, install, modify, maintain, or use a range improvement that is needed to achieve management objectives within the permittee's or lessee's allotment.

(2) FUNDING.—A permittee or lessee shall agree to provide full funding for construction, installation, modification, or maintenance of a range improvement covered by a range improvement permit.

(3) AUTHORIZED OFFICER TO ISSUE.—A range improvement permit shall be issued at the discretion of the authorized officer.

(4) TITLE.—Title to an authorized permanent range improvement under a range improvement permit shall be in the name of the permittee or lessee.

(5) CONTROL.—The use by livestock of stock ponds or wells authorized by a range improvement permit shall be controlled by the permittee or lessee holding a range improvement permit.

(c) ASSIGNMENT OF RANGE IMPROVEMENTS.—An authorized officer shall not approve the transfer of a grazing preference, or approve use by the transferee of existing range improvements unless the transferee has agreed to compensate the transferor for the transferor's interest in the authorized permanent improvements within the allotment as of the date of the transfer.

SEC. 123. MONITORING AND INSPECTION.

(a) MONITORING.—Monitoring of resource condition and trend of Federal land on an allotment shall be performed by qualified persons approved by the Secretary, including but not limited to Federal, State, or local government personnel, consultants, and grazing permittees or lessees.

(b) INSPECTION.—Inspection of a grazing allotment shall be performed by qualified Federal, State or local agency personnel, or qualified consultants retained by the United States.

(c) MONITORING CRITERIA AND PROTOCOLS.—Rangeland monitoring shall be conducted according to regional or State criteria and protocols that are scientifically based. Criteria and protocols shall be developed by the Secretary in consultation with the Resource Advisory Councils established in section 161, State departments of agriculture and other appropriate State agencies, and academic institutions in each interested State.

(d) OVERSIGHT.—The authorized officer shall provide sufficient oversight to ensure that all monitoring is conducted in accordance with criteria and protocols established pursuant to subsection (c).

(e) NOTICE.—In conducting monitoring activities, the Secretary shall provide reasonable notice of such activities to permittees or lessees, including prior notice to the extent practicable of not less than 48 hours. Prior notice shall not be required for the purposes of inspections, if the authorized officer has substantial grounds to believe that a violation of this or any other Act is occurring on the allotment.

SEC. 124. WATER RIGHTS.

(a) IN GENERAL.—No water rights on Federal land shall be acquired, perfected, owned, controlled, maintained, administered, or transferred in connection with livestock grazing management other than in accordance with State law concerning the use and appropriation of water within the State.

(b) STATE LAW.—In managing livestock grazing on Federal land, the Secretary shall follow State law with regard to water right ownership and appropriation.

(c) AUTHORIZED USE OR TRANSPORT.—The Secretary cannot require permittees or lessees to transfer or relinquish all or a portion of their water right to another party, including but not limited to the United States, as a condition to granting a grazing permit or lease, range improvement cooperative agreement or range improvement permit.

(d) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to create an expressed or implied reservation of water rights in the United States.

(e) VALID EXISTING RIGHTS.—Nothing in this Act shall affect valid existing water rights.

Subtitle D—Authorization of Grazing Use

SEC. 131. GRAZING PERMITS OR LEASES.

(a) TERMS.—A grazing permit or lease shall be issued for a term of 12 years unless—

(1) the land is pending disposal;

(2) the land will be devoted to a public purpose that precludes grazing prior to the end of 12 years; or

(3) the Secretary determines that it would be in the best interest of sound land management to specify a shorter term, if the decision to specify a shorter term is supported by appropriate and accepted resource analysis and evaluation, and a shorter term is determined to be necessary, based upon monitoring information, to achieve resource condition goals and management objectives.

(b) RENEWAL.—A permittee or lessee holding a grazing permit or lease shall be given first priority at the end of the term for renewal of the grazing permit or lease if—

(1) the land for which the grazing permit or lease is issued remains available for domestic livestock grazing;

(2) the permittee or lessee is in compliance with this title and the terms and conditions of the grazing permit or lease; and

(3) the permittee or lessee accepts the terms and conditions included by the authorized officer in the new grazing permit or lease.

SEC. 132. SUBLEASING.

(a) IN GENERAL.—The Secretary shall only authorize subleasing of a Federal grazing permit or lease, in whole or in part—

(1) if the permittee or lessee is unable to make full grazing use due to ill health or death; or

(2) under a cooperative agreement with a grazing permittee or lessee (or group of grazing permittees or lessees), pursuant to section 105(b).

(b) CONSIDERATIONS.—

(1) Livestock owned by a spouse, child, or grandchild of a permittee or lessee shall be considered as owned by the permittee or lessee for the sole purposes of this title.

(2) Leasing or subleasing of base property, in whole or in part, shall not be considered as subleasing of a Federal grazing permit or lease: *Provided*, That the grazing preference associated with such base property is transferred to the person controlling the leased or subleased base property.

SEC. 133. OWNERSHIP AND IDENTIFICATION OF LIVESTOCK.

(a) IN GENERAL.—A permittee or lessee shall own or control and be responsible for the management of the livestock that graze the Federal land under a grazing permit or lease.

(b) MARKING OR TAGGING.—An authorized officer shall not impose any marking or tagging requirement in addition to the requirement under State law.

SEC. 134. TERMS AND CONDITIONS.

(a) IN GENERAL.—

(1) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the

amount of use (stated in animal unit months) in a grazing permit or lease.

(2) A grazing permit or lease shall be subject to such other reasonable terms or conditions as may be necessary to achieve the objectives of this title, or as contained in an approved allotment management plan.

(3) No term or condition of a grazing permit or lease shall be imposed pertaining to past practice or present willingness of an applicant, permittee or lessee to relinquish control of public access to Federal land across private land.

(4) The authorized officer shall ensure that a grazing permit or lease will be consistent with appropriate standards and guidelines developed pursuant to section 105 as are appropriate to the permit or lease.

(b) MODIFICATION.—Following careful and considered consultation, cooperation, and coordination with permittees and lessees, an authorized officer shall modify the terms and conditions of a grazing permit or lease if monitoring data show that the grazing use is not meeting the management objectives established in a land use plan or allotment management plan, and if modification of such terms and conditions is necessary to meet specific management objectives.

SEC. 135. FEES AND CHARGES.

(a) GRAZING FEES.—The fee for each animal unit month in a grazing fee year to be determined by the Secretary shall be equal to the three-year average of the total gross value of production for beef cattle for the three years preceding the grazing fee year, multiplied by the 10-year average of the United States Treasury Securities 6-month bill "new issue" rate, and divided by 12. The gross value of production for beef cattle shall be determined by the Economic Research Service of the Department of Agriculture in accordance with subsection (e)(1).

(b) DEFINITION OF ANIMAL UNIT MONTH.—For the purposes of billing only, the term "animal unit month" means one month's use and occupancy of range by—

(1) one cow, bull, steer, heifer, horse, burro, or mule, seven sheep, or seven goats, each of which is six months of age or older on the date on which the animal begins grazing on Federal land;

(2) any such animal regardless of age if the animal is weaned on the date on which the animal begins grazing on Federal land; and

(3) any such animal that will become 12 months of age during the period of use authorized under a grazing permit or lease.

(c) LIVESTOCK NOT COUNTED.—There shall not be counted as an animal unit month the use of Federal land for grazing by an animal that is less than six months of age on the date on which the animal begins grazing on Federal land and is the natural progeny of an animal on which a grazing fee is paid if the animal is removed from the Federal land before becoming 12 months of age.

(d) OTHER FEES AND CHARGES.—

(1) CROSSING PERMITS, TRANSFERS, AND BILLING NOTICES.—A service charge shall be assessed for each crossing permit, transfer of grazing preference, and replacement or supplemental billing notice except in a case in which the action is initiated by the authorized officer.

(2) AMOUNT OF FLPMA FEES AND CHARGES.—The fees and charges under section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734(a)) shall reflect processing costs and shall be adjusted periodically as costs change.

(3) NOTICE OF CHANGE.—Notice of a change in a service charge shall be published in the Federal Register.

(e) CRITERIA FOR ERS.—

(1) The Economic Research Service of the Department of Agriculture shall continue to compile and report the gross value of production of beef cattle, on a dollars-per-bred-cow basis for the United States, as is currently published by the Service in: "Economic Indicators of the Farm Sector: Cost of Production—Major Field Crops and Livestock and Dairy" (Cow-calf production cash costs and returns).

(2) For the purposes of determining the grazing fee for a given grazing fee year, the gross value of production (as described above) for the previous calendar year shall be made available to the Secretary of the Interior and the Secretary of Agriculture, and published in the Federal Register, on or before February 15 of each year.

SEC. 136. USE OF STATE SHARE OF GRAZING FEES.

Section 10 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (43 U.S.C. 315i) is amended—

(1) in subsection (a), by striking "for the benefit of" and inserting "in a manner that will result in direct benefit to, improved access to, or more effective management of the rangeland resources in";

(2) at the end of subsection (a), by striking ";" and inserting ": *Provided further*, that no such moneys shall be expended for litigation purposes;";

(3) in subsection (b), by striking "for the benefit of" and inserting "in a manner that will result in direct benefit to, improved access to, or more effective management of the rangeland resources in";

(4) at the end of subsection (b), by striking "." and inserting ": *Provided further*, That no such moneys shall be expended for litigation purposes.".

Subtitle E—Unauthorized Grazing Use

SEC. 141. NONMONETARY SETTLEMENT.

An authorized officer may approve a nonmonetary settlement of a case of a violation described in section 141 if the authorized officer determines that each of the following conditions is satisfied:

(1) NO FAULT.—Evidence shows that the unauthorized use occurred through no fault of the livestock operator.

(2) INSIGNIFICANCE.—The forage use is insignificant.

(3) NO DAMAGE.—Federal land has not been damaged.

(4) BEST INTERESTS.—Nonmonetary settlement is in the best interests of the United States.

SEC. 142. IMPOUNDMENT AND SALE.

Any impoundment and sale of unauthorized livestock on Federal land shall be conducted in accordance with State law.

Subtitle F—Procedure

SEC. 151. PROPOSED DECISIONS.

(a) SERVICE ON APPLICANTS, PERMITTEES, LESSEES, AND LIENHOLDERS.—The authorized officer shall serve, by certified mail or personal delivery, a proposed decision on any applicant, permittee, lessee, or lienholder (or agent of record of the applicant, permittee, lessee, or lienholder) that is affected by—

(1) a proposed action on an application for a grazing permit or lease, or range improvement permit; or

(2) a proposed action relating to a term or condition of a grazing permit or lease, or a range improvement permit.

(b) NOTIFICATION OF AFFECTED INTERESTS.—The authorized officer shall send copies of a proposed decision to affected interests.

(c) CONTENTS.—A proposed decision described in subsection (a) shall—

(1) state reasons for the action, including reference to applicable law (including regulations);

(2) be based upon, and supported by rangeland studies, where appropriate; and

(3) state that any protest to the proposed decision must be filed not later than 30 days after service.

SEC. 152. PROTESTS.

An applicant, permittee, or lessee may protest a proposed decision under section 151 in writing to the authorized officer within 30 days after service of the proposed decision.

SEC. 153. FINAL DECISIONS.

(a) NO PROTEST.—In the absence of a timely filed protest, a proposed decision described in section 151(a) shall become the final decision of the authorized officer without further notice.

(b) RECONSIDERATION.—If a protest is timely filed, the authorized officer shall reconsider the proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case.

(c) SERVICE AND NOTIFICATION.—After reviewing the protest, the authorized officer shall serve a final decision on the parties to the proceeding, and notify affected interests of the final decision.

SEC. 154. APPEALS.

(a) IN GENERAL.—Any person whose interest is adversely affected by a final decision of an authorized officer, within the meaning of section 702 of title 5, United States Code, may appeal the decision within 30 days after the receipt of the decision, or within 60 days after the receipt of a proposed decision if further notice of a final decision is not required under this title, pursuant to applicable laws and regulations governing the administrative appeals process of the agency serving the decision. Being an affected interest as described in section 104(3) shall not in and of itself confer standing to appeal a final decision upon any individual or organization.

(b) SUSPENSION PENDING APPEAL.—

(1) IN GENERAL.—An appeal of a final decision shall suspend the effect of the decision pending final action on the appeal unless the decision is made effective pending appeal under paragraph (2).

(2) EFFECTIVENESS PENDING APPEAL.—The authorized officer may place a final decision in full force and effect in an emergency to stop resource deterioration or economic distress, if the authorized officer has substantial grounds to believe that resource deterioration or economic distress is imminent. Full force and effect decisions shall take effect on the date specified, regardless of an appeal.

(c) In the case of an appeal under this section, the authorized officer shall, within 30 days of receipt, forward the appeal, all documents and information submitted by the applicant, permittee, lessee, or lienholder, and any pertinent information that would be useful in the rendering of a decision on such appeal, to the appropriate authority responsible for issuing the final decision on the appeal.

SEC. 155. PUBLIC PARTICIPATION AND CONSULTATION.

(a) GENERAL PUBLIC.—The Secretary shall provide for public participation, including a reasonable opportunity to comment, on—

(1) land use plans and amendments thereto; and

(2) development of standards and guidelines to provide guidance and direction for Federal land managers in the performance of their assigned duties.

(b) AFFECTED INTERESTS.—At least 30 days prior to the issuance of a final decision, the

Secretary shall notify affected interests of such proposed decision, and provide a reasonable opportunity for comment and informal consultation regarding the proposed decision within such 30-day period, for—

(1) the designation or modification of allotment boundaries;

(2) the development, revision, or termination of allotment management plans;

(3) the increase or decrease of permitted use;

(4) the issuance, renewal, or transfer of grazing permits or leases;

(5) the modification of terms and conditions of permits or leases;

(6) reports evaluating monitoring data for a permit or lease; and

(7) the issuance of temporary non-renewable use permits.

Subtitle G—Advisory Committees

SEC. 161. RESOURCE ADVISORY COUNCILS.

(a) ESTABLISHMENT.—The Secretary of Agriculture and the Secretary of the Interior, in consultation with the Governors of the affected States, shall establish and operate joint Resource Advisory Councils on a State or regional level to provide advice on management issues for all lands administered by the Bureau of Land Management and the Forest Service within such State or regional area, except where the Secretaries determine that there is insufficient interest in participation on a council to ensure that membership can be fairly balanced in terms of the points of view represented and the functions to be performed.

(b) DUTIES.—Each Resource Advisory Council shall advise the Secretaries and appropriate State officials on—

(1) matters regarding the preparation, amendment, and implementation of land use and activity plans for public lands and resources within its area; and

(2) major management decisions while working within the broad management objectives established for the district or national forest.

(c) DISREGARD OF ADVICE.—

(1) REQUEST FOR RESPONSE.—If a Resource Advisory Council becomes concerned that its advice is being arbitrarily disregarded, the Resource Advisory Council may, by majority vote of its members, request that the Secretaries respond directly to the Resource Advisory Council's concerns within 60 days after the Secretaries receive the request.

(2) EFFECT OF RESPONSE.—The response of the Secretaries to a request under paragraph (1) shall not—

(A) constitute a decision on the merits of any issue that is or might become the subject of an administrative appeal; or

(B) be subject to appeal.

(d) MEMBERSHIP.—

(1) The Secretaries, in consultation with the Governor of the affected State or States, shall appoint the members of each Resource Advisory Council. A council shall consist of not less than nine members and not more than fifteen members.

(2) In appointing members to a Resource Advisory Council, the Secretaries shall provide for balanced and broad representation from among various groups, including but not limited to, permittees and lessees, other commercial interests, recreational users, representatives of recognized local environmental or conservation organizations, educational, professional, or academic interests, representatives of State and local government or governmental agencies, Indian tribes, and other members of the affected public.

(3) The Secretaries shall appoint at least one elected official of general purpose government serving the people of the area of each Resource Advisory Council.

(4) No person may serve concurrently on more than one Resource Advisory Council.

(5) Members of a Resource Advisory Council must reside in one of the States within the geographic jurisdiction of the council.

(e) SUBGROUPS.—A Resource Advisory Council may establish such subgroups as the council deems necessary, including but not limited to working groups, technical review teams, and rangeland resource groups.

(f) TERMS.—Resource Advisory Council members shall be appointed for two-year terms. Members may be appointed to additional terms at the discretion of the Secretaries.

(g) FEDERAL ADVISORY COMMITTEE ACT.—Except to the extent that it is inconsistent with this subtitle, the Federal Advisory Committee Act shall apply to the Resource Advisory Councils established under this section.

(h) OTHER FLPMA ADVISORY COUNCILS.—Nothing in this section shall be construed as modifying the authority of the Secretaries to establish other advisory councils under section 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739).

(i) STATE GRAZING DISTRICTS.—Resource Advisory Councils shall coordinate and cooperate with State Grazing Districts established pursuant to State law.

SEC. 162. GRAZING ADVISORY COUNCILS.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Governor of the affected State and with affected counties, shall appoint not fewer than five nor more than nine persons to serve on a Grazing Advisory Council for each district and each national forest within the 16 contiguous Western States having jurisdiction over more than 500,000 acres of public lands subject to commercial livestock grazing. The Secretaries may establish joint Grazing Advisory Councils wherever practicable.

(b) DUTIES.—The duties of Grazing Advisory Councils established pursuant to this section shall be to provide advice to the Secretary concerning management issues directly related to the grazing of livestock on public lands, including—

(1) range improvement objectives;

(2) the expenditure of range improvement or betterment funds under the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.) or the Taylor Grazing Act (43 U.S.C. 315 et seq.);

(3) developing and implementation of grazing management programs; and

(4) range management decisions and actions at the allotment level.

(c) DISREGARD OF ADVICE.—

(1) REQUEST FOR RESPONSE.—If a Grazing Advisory Council becomes concerned that its advice is being arbitrarily disregarded, the Grazing Advisory Council may, by unanimous vote of its members, request that the Secretary respond directly to the Grazing Advisory Council's concerns within 60 days after the Secretary receives the request.

(2) EFFECT OF RESPONSE.—The response of the Secretary to a request under paragraph (1) shall not—

(A) constitute a decision on the merits of any issue that is or might become the subject of an administrative appeal; or

(B) be subject to appeal.

(d) MEMBERSHIP.—The members of a Grazing Advisory Council established pursuant to this section shall represent permittees, lessees, affected landowners, social and economic interests within the district or national forest, and elected State or county officers. All members shall have a demonstrated knowledge of grazing management and range improvement practices appropriate for the region, and shall be residents of a community within or adjacent to the district or national forest, or control a permit or lease within the same area. Members shall be appointed by the Secretary for a term of two years, and may be appointed for additional consecutive terms. The membership of Grazing Advisory Councils shall be equally divided between permittees or lessees, and other interests: *Provided*, That one elected State or county officer representing the people of an area within the district or national forest shall be appointed to create an odd number of members: *Provided further*, That permittees or lessees appointed as members of each Grazing Advisory Council shall be recommended to the Secretary by the permittees or lessees of the district or national forest through an election conducted under rules and regulations prescribed by the Secretary.

(e) FEDERAL ADVISORY COMMITTEE ACT.—Except to the extent that it is inconsistent with this subtitle, the Federal Advisory Committee Act shall apply to the Grazing Advisory Councils established pursuant to this section.

(f) STATE GRAZING DISTRICTS.—Grazing Advisory Councils shall coordinate and cooperate with State Grazing Districts established pursuant to State law.

SEC. 163. GENERAL PROVISIONS.

(a) DEFINITION OF DISTRICT.—For the purposes of this subtitle, the term "district" means—

(1) a grazing district administered under section 3 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1270, chapter 865; 43 U.S.C. 315b); or

(2) other lands within a State boundary which are eligible for grazing pursuant to section 15 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1270, chapter 865; 43 U.S.C. 315m).

(b) TERMINATION OF SERVICE.—The Secretary may, after written notice, terminate the service of a member of an advisory committee if—

(1) the member—

(A) no longer meets the requirements under which appointed;

(B) fails or is unable to participate regularly in committee work; or

(C) has violated Federal law (including a regulation); or

(2) in the judgment of the Secretary, termination is in the public interest.

(c) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—A member of an advisory committee established under sections 161 and 162 shall not receive any compensation in connection with the performance of the member's duties as a member of the advisory committee, but shall be reimbursed for travel and per diem expenses only while on official business, as authorized by section 5703 of title 5, United States Code.

SEC. 164. CONFORMING AMENDMENT AND REPEAL.

(a) AMENDMENT.—The third sentence of section 402(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(d)) is amended by striking "district grazing advisory boards established pursuant to section 403 of the Federal Land Policy and Management Act (43 U.S.C. 1753)" and inserting "Resource Advisory Councils and Grazing Advisory Councils established under section 161 and section 162 of the Public Rangelands Management Act of 1996".

(b) REPEAL.—Section 403 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1753) is repealed.

Subtitle H—Reports

SEC. 171. REPORTS.

(a) IN GENERAL.—Not later than March 1, 1997, and annually thereafter, the Secretaries shall submit to Congress a report that contains—

(1) an itemization of revenues received and costs incurred directly in connection with the management of grazing on Federal land; and

(2) recommendations for reducing administrative costs and improving the overall efficiency of Federal rangeland management.

(b) ITEMIZATION.—If the itemization of costs under subsection (a)(1) includes any costs incurred in connection with the implementation of any law other than a statute cited in section 102, the Secretaries shall indicate with specificity the costs associated with implementation of each such statute.

Title II—Management of National Grasslands

SEC. 201. SHORT TITLE.

This title may be cited as the "National Grasslands Management Act of 1996".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the inclusion of the National Grasslands within the National Forest System has prevented the Secretary of Agriculture from effectively administering and promoting grassland agriculture on National Grasslands as originally intended under the Bankhead-Jones Farm Tenant Act;

(2) the National Grasslands can be more effectively managed by the Secretary of Agriculture if administered as a separate entity outside of the National Forest System; and

(3) a grazing program on National Grasslands can be responsibly carried out while protecting and preserving sporting, recreational, environmental, and other multiple uses of the National Grasslands.

(b) PURPOSE.—The purpose of this title is to provide for improved management and more efficient administration of grazing activities on National Grasslands while preserving and protecting multiple uses of such lands, including but not limited to preserving sportmen's hunting and fishing and other recreational activities, and protecting wildlife habitat in accordance with applicable laws.

SEC. 203. DEFINITIONS.

As used in this title, the term—

(1) "National Grasslands" means those areas managed as National Grasslands by the Secretary of Agriculture under title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1012) on the day before the date of enactment of this title; and

(2) "Secretary" means the Secretary of Agriculture.

SEC. 204. REMOVAL OF NATIONAL GRASSLANDS FROM NATIONAL FOREST SYSTEM.

Section 11(a) of the Forest Rangeland Renewable Resource Planning Act of 1974 (16 U.S.C. 1609(a)) is amended by striking the phrase "the national grasslands and land utilization projects administered under title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525, 7 U.S.C. 1010–1012),".

SEC. 205. MANAGEMENT OF NATIONAL GRASSLANDS.

(a) IN GENERAL.—The Secretary, acting through the Chief of the Forest Service, shall manage the National Grasslands as a separate entity in accordance with this title and the provisions and multiple use purposes of title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1012).

(b) CONSULTATION.—The Secretary shall provide timely opportunities for consultation and cooperation with interested State and local government entities, and other interested individuals and organizations in the development and implementation of land use policies and plans, and land conservation programs for the National Grasslands.

(c) GRAZING ACTIVITIES.—In furtherance of the purposes of this title, the Secretary shall administer grazing permits and implement grazing management decisions in consultation, cooperation, and coordination with local grazing associations and other grazing permit holders.

(d) REGULATIONS.—The Secretary shall promulgate regulations to manage and protect the National Grasslands, taking into account the unique characteristics of the National Grasslands and grasslands agriculture conducted under the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010). Such regulations shall facilitate the efficient administration of grazing and provide protection for the environment, wildlife, wildlife habitat, and Federal lands equivalent to that on the National Grasslands on the day prior to the date of enactment of this Act.

(e) CONFORMING AMENDMENT TO BANKHEAD-JONES ACT.—Section 31 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010) is amended to read as follows:

"To accomplish the purposes of title III of this Act, the Secretary is authorized and directed to develop a separate program of land conservation and utilization for the National Grasslands, in order thereby to correct maladjustments in land use, and thus assist in promoting grassland agriculture and secure occupancy and economic stability of farms and ranches, controlling soil erosion, reforestation, preserving and protecting natural resources, protecting fish and wildlife and their habitat, developing and protecting recreational opportunities and facilities, mitigating floods, preventing impairment of dams and reservoirs, developing energy resources, conserving surface and subsurface moisture, protecting the watersheds of navigable streams, and protecting the public lands, health, safety and welfare, but not to build industrial parks or commercial enterprises.".

(f) SPORTSMEN'S HUNTING AND FISHING, AND OTHER RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding sportsmen's hunting or fishing activities on National Grasslands in accordance with applicable Federal and State laws, nor shall appropriate recreational activities be limited or precluded.

(g) VALID EXISTING RIGHTS.—

(1) IN GENERAL.—Nothing in this title shall affect valid existing rights, reservations, agreements, or authorizations. Section 1323(a) of Public Law 96–487 shall continue to apply to non-Federal land and interests therein within the boundaries of the National Grasslands.

(2) INTERIM USE AND OCCUPANCY.—

(A) Until such time as regulations concerning the use and occupancy of the National Grasslands are promulgated pursuant to this title, the Secretary shall regulate the use and occupancy of such lands in accordance with regulations applicable to such lands on May 25, 1995, to the extent practicable and consistent with the provisions of this Act.

(B) Any applications for National Grasslands use and occupancy authorizations submitted prior to the date of enactment of this Act, shall continue to be processed without interruption and without reinitiating any processing activity already completed or begun prior to such date.

SEC. 206. FEES AND CHARGES.

Fees and charges for grazing on the National Grasslands shall be determined in accordance with section 135, except that the Secretary may adjust the amount of a grazing fee to compensate for approved conservation practices expenditures.

PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1995

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 1296) to provide for the administration of certain Presidio properties at a minimal cost to the Federal taxpayer.

The Senate resumed consideration of the bill.

Pending: Murkowski modified amendment No. 3564, in the nature of a substitute.

AMENDMENT NO. 3564, AS MODIFIED

Mr. CAMPBELL. Mr. President, I rise today in support of my substitute amendment for the Presidio bill, offered in conjunction with the Senator from Alaska and the majority leader. Many people have been waiting a long time for this bill. I know the Senators from California and Congresswoman PELOSI have put a great deal of time and energy into this legislation, as have the staff from the Energy Committee and personal offices. In our efforts to try to reach consensus on all levels, we have managed to craft a bill that will provide enough balance and flexibility to incorporate all points of view. This bill offers a unique, creative and innovative approach to provide for the long-term protection and preservation of one of our Nation's greatest cultural, historical, and natural treasures.

When I was a college student at San Jose State University, my buddies and I would often take off for the weekend to "the city." One of my favorite places back then was the Presidio, and I spent a lot of time exploring the batteries and bunkers along the coast. It is just a spectacular site, situated on the threshold of the Golden Gate Bridge, overlooking the entire bay area. Last fall, I had the opportunity to visit the Presidio, and found that the base had changed very little in the years since I was a college student at San Jose.

There is something very special about the Presidio. The natural beauty, as well as the impressive history of the site captivated me 40 years ago, and continues to captivate millions of tourists, locals, and even some politicians today.

Before Christopher Columbus arrived in the New World, the indigenous tribes of Ohlone and Miwok inhabited the area known now as San Francisco. Taking advantage of this unique natural harbor, these tribes flourished from fishing in the plentiful bay.

When the land was finally taken over by the white new immigrants, the Presidio almost immediately became a strategic military post. For over 220 years, the Presidio is the oldest continually operated military post, commanded first by Spain in 1776, then

Mexico and finally the United States in 1846. The Presidio has played a supporting role in almost every single major military conflict the United States has ever engaged in, starting with the Spanish-American War to the Civil War, World War I, and of course, World War II. The Presidio served also as a refuge for an estimated 16,000 people after the great earthquake and fire of 1906, and was the very first Army airfield established in the Nation in 1921.

Mr. President, the history of this national historic landmark is indeed distinguished and celebrated. I comment on it to describe to my colleagues the unique nature of this site and thus to explain the particulars of the legislation it requires.

For the past 7 years, since the Base Closure and Realignment Commission [BRAC] included the Presidio on its list of bases to be closed, the fate of the Presidio has been somewhat uncertain. When the National Park Service took control of the post in 1994, along with the addition of one of the most glorious parks to the system, the Park Service was faced with one of their most complex and challenging management problems.

Aside from its spectacular natural beauty, the Presidio is unlike any other national park. Scattered throughout the grounds are over 1,200 residential units, more than 6.2 million square feet of building space, and dozens of miles of paved roads. Because of the nature of the historic facilities, the cost of maintenance and management of this site is a whopping $25 million a year, making it our most expensive national park. Faced with the fiscal realities that we, in the Federal Government, must confront, the question that was posed to Congress was this: How can we continue to protect and preserve the Presidio for the benefit of all Americans without draining the already limited reserves of the National Park Service?

Mr. President, I believe the substitute amendment offered by Senators DOLE and MURKOWSKI and myself answers this question and in so doing, strikes the balance that we are all looking for.

The bill before us today establishes a mechanism that will reduce the need for appropriations to operate the Presidio. Rather than seeing the infrastructure in the Presidio as obstacles to the preservation of the park, this bill will utilize these buildings to generate revenues that will be recycled back into the funds that manage the park. By weaning the Presidio off of Federal taxpayer dependency, this bill will eventually create a self-sustaining park. The management structure created by our bill will enable the Presidio to be used in such a way that it will pay for itself.

Mr. President, our legislation will create a public-private management entity—the Presidio Trust—to provide for the management of the leasing, maintenance, and repair of the property within the Presidio. In addition, the National Park Service will continue to provide its expert guidance for interpretive services, visitor orientation, and educational programs. Under the structure of cooperative management, this bill will allow the trust (made up of private sector real estate and finance experts) and the Park Service to manage what they manage best, thereby eliminating costly bureaucratic blunders. If the bill is enacted, the Presidio will be the only unit of the National Park System, that will cost significantly less in 10 years than it costs today.

Mr. President, as I mentioned, I had the opportunity to tour the base facilities in San Francisco, as well as meet with the various interest groups last fall. While there were some differences on what the legislation affecting the Presidio should include, the groups were unanimous in their belief that the base should remain as a unit of the National Park System. People expressed real fears that there was a movement to sell the Presidio to a private developer, and I stated, at the time, that a sale would happen, "over my dead body." Many of my colleagues feel the same way.

This bill will not enable private interests to develop swank upscale condos, or private dining clubs. This bill will cater only to the interests of all Americans, by protecting the invaluable cultural, historic, and natural resources of the Presidio for this generation and generations to come. It is quite simply a good government approach that strikes a balance with the fiscal realities of our time with the need for continued conservation and preservation. I urge my colleagues to support this worthy piece of legislation.

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the substitute to H.R. 1296.

Mr. DOLE. Presidio properties bill, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. As I understand, I do not know how many different projects are involved here, but they are all related and come from the Energy and Natural Resources Committee. I understand the Senator from Massachusetts would like to add to that the minimum wage amendment, which we do not believe belongs on this bill. Maybe it will belong on some other bill. It should not be considered at this time.

We would like to complete action on this. We have a number of items to complete this week, including, we hope, the farm bill conference report, line-item veto conference report, the omnibus appropriations bill, and, of course, the debt ceiling. It would be our hope we can complete action some time early on Friday. That may or may not happen. If not, I suggest we probably would have to be here on Saturday to complete action on those bills because some relate to whether or not the Government is shut down. The debt extension is very important, too.

So we can avoid—there will be a cloture vote on this bill tomorrow morning rather early. We have not decided the exact time, so we stay on the matter and amendments germane to the pending business.

AMENDMENT NO. 3571 TO AMENDMENT NO. 3564

(Purpose: To provide for the exchange of certain lands within the State of Montana)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mr. BURNS, proposes an amendment numbered 3571- to amendment No. 3564.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

TITLE —MISCELLANEOUS

SEC. 01. LOST CREEK LAND EXCHANGE.

(a) LAND EXCHANGE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture (referred to in this Act as the "Secretary") shall acquire by exchange certain land and interests in land owned by R–Y Timber, Inc., its successors and assigns or affiliates (referred to in this Act as "R–Y"), located in the Lost Creek area and other areas of the Deerlodge National Forest, Montana.

(2) OFFER AND ACCEPTANCE OF LAND.—

(A) NON-FEDERAL LAND.—If R–Y offers fee title that is acceptable to the United States to approximately 17,567 acres of land owned by R–Y and available for exchange, the Secretary shall accept a warranty deed to the land.

(B) FEDERAL LAND.—

(i) CONVEYANCE.—On acceptance of title to R–Y's land under paragraph (1), the Secretary shall convey to R–Y, subject to reservations and valid existing rights, by patent, fee title to lands and timber deeds of a value that is approximately equal to the value of the land described in subsection (a).

(ii) TIMBER HARVEST PROVISIONS.—

(I) PRACTICES.—Timber harvest practices used on the national forest land conveyed under clause (i) shall be conducted in accordance with Montana Forestry Best Management Practices, the Montana Streamside Zone Management Law (Mont. Code Ann. sec. 77–5–301 et seq.), and all other applicable laws of the State of Montana.

(II) RELATION TO PLANNED SALES.—Timber harvest volumes on land conveyed under clause (i) shall be in addition to, and not treated in any way as an offset against, the present or future planned timber sale quantities for the National Forest where the harvesting occurs.

(III) TIMBER DESIGNATIONS.—

(aa) CONTRACT.—To ensure the expeditious and efficient designation of timber on land conveyed under clause (i), the Forest Service shall contract with a qualified private person agreed on by the Secretary and R-Y to perform the field work associated with the designations.

(bb) MINIMUM ANNUAL DESIGNATIONS.—Not less than 20 percent nor more than 30 percent of the timber on land conveyed under clause (i) shall be made available by the end of each fiscal year over a 5-year period beginning with the first fiscal year that begins after the date of enactment of this Act, and R-Y shall be allowed at least 5 years after the end of each fiscal year in which to complete the harvest of timber designated in that fiscal year.

(3) TITLE.—

(A) REVIEW OF TITLE.—Not later than 30 days after receipt of title documents from R-Y, the Secretary shall review the title for the non-Federal land described in paragraph (2) and determine whether—

(i) the applicable title standards for Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(ii) all draft conveyances and closing documents have been received and approved; and

(iii) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary.

(B) UNACCEPTABLE QUALITY OF TITLE.—If the quality of title does not meet Federal standards and is not otherwise acceptable to the Secretary, the Secretary shall advise R-Y regarding corrective actions necessary to make an affirmative determination.

(C) CONVEYANCE OF TITLE.—The Secretary shall effect the conveyance of land described in paragraph (2) not later than 60 days after the Secretary has made an affirmative determination of quality of title.

(b) GENERAL PROVISIONS.—

(1) MAPS AND DOCUMENTS.—

(A) IN GENERAL.—Maps pertaining to the land described in subsection (a) are subject to such minor corrections as may be agreed upon by the Secretary and R-Y.

(B) NOTIFICATION.—The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives of any corrections made pursuant to this subsection.

(C) PUBLIC AVAILABILITY.—The maps and documents described in subsection (a)(2) (A) and (B) shall be on file and available for public inspection in the office of the Chief of the Forest Service.

(2) NATIONAL FOREST SYSTEM LAND.—All land conveyed to the United States under this section shall be added to and administered as part of the Deerlodge National Forest in accordance with the laws pertaining to the National Forest System.

(3) VALUATION.—The values of the lands and interests in land to be exchanged under this section are deemed to be of approximately equal value.

(4) HAZARDOUS MATERIAL LIABILITY.—The United States (including its departments, agencies, and employees) shall not be liable under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.), the Clean Water Act (33 U.S.C. 1251 et seq.), or any other Federal, State, or local law, solely as a result of the acquisition of an interest in the Lost Creek Tract or due to circumstances or events occurring before acquisition, including any release or threat of release of a hazardous substance.

Mr. BURNS. Mr. President, I rise to offer an amendment regarding the Lost Creek Land Exchange Act of 1996.

This amendment is important for the acquisition of the Lost Creek area of Montana for the public.

I want to emphasize that this amendment is a starting point. I fully anticipate major changes will need to be made when this bill goes to conference with the House. Yet, the process needs to move forward.

Under this amendment, 14,500 acres of blueribbon bighorn sheep habitat known as Lost Creek would become a part of the Deerlodge National Forest. For the past few years, local sportsmen and conservation groups, the Forest Service, and many others have been interested in the public acquiring this prime habitat. I, too, believe this is a worthwhile endeavor.

The amendment would transfer the Lost Creek area, and 3,000 additional acres currently owned by R-Y Timber, to the Forest Service. In return R-Y Timber will acquire the deed to land and timber.

The Lost Creek area has been valued at about $8 million. And the days of the Federal Government simply paying the price tag are over.

With assistance from the Forest Service, I am hopeful that alternative lands can be found to exchange for the Lost Creek area. The Forest Service has started this process.

Mr. President, as I stated earlier the amendment I am offering is a starting point. I fully anticipate having to make substantial changes when we move to conference. I hope that the parties involved will continue to work together so this win-win bill can made it to the President's desk.

I yield the floor.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3572 TO AMENDMENT 3571

Mr. DOLE. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mr. BURNS, proposes an amendment numbered 3572 to amendment No. 3571.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be added insert the following:

TITLE —MISCELLANEOUS

SEC. 01. LOST CREEK LAND EXCHANGE.

(a) LAND EXCHANGE.—

(1) IN GENERAL.—Notwithstnding any other provision of law, the Secretary of Agriculture (referred to in this Act as the "Secretary") shall acquire by exchange certain land and interests in land owned by R-Y Timber, Inc., its successors and assigns or affiliates (referred to in this Act as "R-Y"), located in the Lost Creek area and other areas of the Deerlodge National Forest, Montana.

(2) OFFER AND ACCEPTANCE OF LAND.—

(A) NON-FEDERAL LAND.—If R-Y offers fee title that is acceptable to the United States to approximately 17,567 acres of land owned by R-Y and available for exchange, the Secretary shall accept a warranty deed to the land.

(B) FEDERAL LAND.—

(i) CONVEYANCE.—On acceptance of title to R-Y's land under paragraph (1), the Secretary shall convey to R-Y, subject to reservations and valid existing rights, by patent, fee title to lands and timber deeds of a value that is approximately equal to the value of the land described in subsection (a).

(ii) TIMBER HARVEST PROVISIONS.—

(I) PRACTICES.—Timber harvest practices used on the national forest land conveyed under clause (i) shall be conducted in accordance with Montana Forestry Best Management Practices, the Montana Streamside Zone Management Law (Mont. Code Ann. sec. 77-5-301 et seq.), and all other applicable laws of the State of Montana.

(II) RELATION TO PLANNED SALES.—Timber harvest volumes on land conveyed under clause (i) shall be in addition to, and not treated in any way as an offset against, the present or future planned timber sale quantities for the National Forest where the harvesting occurs.

(III) TIMBER DESIGNATIONS.—

(aa) CONTRACT.—To ensure the expeditious and efficient designation of timber on land conveyed under clause (i), the Forest Service shall contract with a qualified private person agreed on by the Secretary and R-Y to perform the field work associated with the designations.

(bb) MINIMUM ANNUAL DESIGNATIONS.—Not less than 20 percent nor more than 30 percent of the timber on land conveyed under clause (i) shall be made available by the end of each fiscal year over a 5-year period beginning with the first fiscal year that begins after the date of enactment of this Act, and R-Y shall be allowed at least 5 years after the end of each fiscal year in which to complete the harvest of timber designated in that fiscal year.

(3) TITLE.—

(A) REVIEW OF TITLE.—Not later than 30 days after receipt of title documents from R-Y, the Secretary shall review the title for the non-Federal land described in paragraph (2) and determine whether—

(i) the applicable title standards for Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(ii) all draft conveyances and closing documents have been received and approved; and

(iii) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary.

(B) UNACCEPTABLE QUALITY OF TITLE.—If the quality of title does not meet Federal standards and is not otherwise acceptable to the Secretary, the Secretary shall advise R-Y regarding corrective actions necessary to make an affirmative determination.

(C) CONVEYANCE OF TITLE.—The Secretary shall effect the conveyance of land described in paragraph (2) not later than 60 days after the Secretary has made an affirmative determination of quality of title.

(b) GENERAL PROVISIONS.—

(1) MAPS AND DOCUMENTS.—

(A) IN GENERAL.—Maps pertaining to the land described in subsection (a) are subject to such minor corrections as may be agreed upon by the Secretary and R-Y.

(B) NOTIFICATION.—The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives of any corrections made pursuant to this subsection.

(C) PUBLIC AVAILABILITY.—The maps and documents described in subsection (a)(2) (A) and (B) shall be on file and available for public inspection in the office of the Chief of the Forest Service.

(2) NATIONAL FOREST SYSTEM LAND.—All land conveyed to the United States under this section shall be added to and administered as part of the Deerlodge National Forest in accordance with the laws pertaining to the National Forest System.

(3) VALUATION.—The values of the lands and interests in land to be exchanged under this section are deemed to be of approximately equal value.

(4) HAZARDOUS MATERIAL LIABILITY.—The United States (including its departments, agencies, and employees) shall not be liable under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.), the Clean Water Act (33 U.S.C. 1251 et seq.), or any other Federal, State, or local law, solely as a result of the acquisition of an interest in the Lost Creek Tract or due to circumstances or events occurring before acquisition, including any release or threat of release of a hazardous substance.

TITLE —VANCOUVER NATIONAL HISTORIC RESERVE

SEC. 01. VANCOUVER NATIONAL HISTORIC RESERVE.

(a) ESTABLISHMENT.—There is established the Vancouver National Historic Reserve in the State of Washington (referred to in this section as the "Reserve", consisting of the area described in the report entitled "Vancouver National Historic Reserve Feasibility Study and Environmental Assessment" published by the Vancouver Historical Study Commission and dated April 1993 as authorized by Public Law 101–523 (referred to in this section as the Vancouver Historic Reserve Report).

(b) ADMINISTRATION.—The Reserve shall be administered in accordance with—

(1) the Vancouver Historic Reserve Report (including the specific findings and recommendations contained in the report); and

(2) the Memorandum of Agreement between the Secretary of the Interior, acting through the Director of the National Park Service, and the city of Vancouver, Washington, dated November 14, 1994.

(c) NO LIMITATION ON FAA AUTHORITY.—The establishment of the Reserve shall not limit—

(1) the authority of the Federal Aviation Administration over air traffic control, or aviation activities at Pearson Airpark; or

(2) limit operations and airspace in the vicinity of Portland International Airport.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Mr. BYRD. Mr. President, I do not intend to object to the amendment, but I think we ought to go by the rules. The Senator did ask for the yeas and nays, so that is business intervening?

Mr. DOLE. Yes.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I am disappointed that we have not had the opportunity until now to debate the minimum wage amendment. On April 1, it will be 5 years since the last time the minimum wage was increased.

We are now at the lowest point we have been in nearly 40 years with regard to the purchasing power the minimum wage provides. That is unacceptable, at a time when we see CEO incomes going up by 23 percent to an average in the country today of $990,000—something we do not deny to them and something we certainly would not want to preclude. Many of them certainly deserve it.

There ought to be recognition, however, as we consider welfare reform and all of the other legislative measures that we are contemplating, that we need to provide more opportunity for people to go to work, and we ought to give them an economic incentive to do so.

People do not have the economic wherewithal, working full time at the minimum-wage today, to stay out of poverty. That is unacceptable. Sooner or later, we will have a vote on the minimum wage. Sooner or later, it has to be resolved. Sooner or later, this minimum wage increase must pass. We can do it sooner or we can do it later. Our preference is to do it sooner. This vehicle affords us the opportunity to do that. Whether it is this vehicle or any other bill, I certainly hope that we can do it soon.

I yield to my colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY] is recognized.

AMENDMENT NO. 3573

(Purpose: To provide for an increase in the minimum wage rate)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. KERRY, Mr. WELLSTONE, Mr. DODD, Mr. SIMON, Ms. MIKULSKI, Mr. LEVIN, Mr. HARKIN, Mrs. BOXER, Mrs. MURRAY, Mr. PELL, Mr. LEAHY, Mr. LAUTENBERG, Mr. SARBANES, Mr. BRADLEY, and Mr. DASCHLE, proposes an amendment numbered 3573.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . INCREASE THE MINIMUM WAGE RATE.

Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending July 3, 1996, not less than $4.70 an hour during the year beginning July 4, 1996, and not less than $5.15 an hour after July 3, 1997;".

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3574 TO AMENDMENT NO. 3573

(Purpose: To provide for an increase in the minimum wage rate)

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] proposes an amendment numbered 3574 to amendment No. 3573.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . INCREASE IN THE MINIMUM WAGE RATE.

Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $4.25 an hour during the period ending July 3, 1996, not less than $4.70 an hour during the year beginning July 5, 1996, and not less than $5.15 an hour after July 4, 1997;".

Mr. KERRY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY] is recognized.

Mr. KENNEDY. Mr. President, I just heard from the majority leader a few moments ago that we were not going to be able to have an opportunity to debate and take action on the minimum wage.

We are required now to use whatever parliamentary means we can to try and permit working families to see a judgment about whether this body is going to make a statement about increasing the minimum wage. The majority leader had been a leader in 1989 when we restored the minimum wage up to the small increase in its purchasing power. If we could gather from the majority leader—I see that he is moving into the cloakroom at the present time, so I guess that is an indication of what the answer would be.

We were going to try and get at least some agreement as to when we might be able to bring this up. We are denied even that opportunity to do so, in spite of the fact that there was an indication from the Republican leadership that we were going to have the minority leader or his designee be recognized to offer an amendment. And we understood, since that was not a fixed order, that that was the intention of the Republican leadership at that time. We were denied the opportunity to have the bill before us.

Now we have the bill before us, and we were denied the opportunity to be able to debate that, or at least get a short time agreement. We are quite prepared to do it, as has been pointed out by my colleague from Massachusetts, Senator KERRY, and Senator WELLSTONE.

This is not a new issue. We were prepared to enter into a short time period, or at least have the opportunity to set a date for consideration of it. If the majority leader would let us have a fixed date for discussion on it—we were able to persuade the majority leader earlier on the health care bill to set a time for debate on it—we would certainly accede to the leader's recommendation, if we would have a precise time when we would be able to debate it. So if we were able to get a time definite, we would certainly respond to a request by the leader to have a time definite to be able to vote on this.

Mr. President, raising the minimum wage has broad support among the American people. The question is whether it has the support of the Republican leadership here in the U.S. Senate, Senator DOLE and the rest of the Republican leadership.

As I mentioned earlier, Senator DOLE supported this in the past. So the question is whether he is willing at this time to give an opportunity for us to vote on this measure now, or in the very near future.

We believe that working families deserve a raise. Minimum-wage families deserve a raise most of all. Nobody who works for a living should have to live in poverty.

It is basically the leader's decision that is going to make all the difference as to whether we are going to be able to act together, as we have in the past. We saw Republican Presidents, like Eisenhower, Nixon, Bush, who all supported that increase. And Republicans here, with some exceptions, supported that increase in 1989. All we are waiting for—and I think what the working families in this country are waiting for—is the majority leader to indicate that he, like others in this body, is on the side of working families. I hope that we will have a chance to do this because, as we have said, this issue is not going to go away. We understand the full agenda that is necessary for action.

I would certainly ask the minority leader if the time could be established definite, if he would work out a precise time with the majority leader so that working families in this country would know when the Senate was going to debate this issue. We will have to try to do the best we can under the circumstances that we have, but I deplore the fact that we are effectively denied the opportunity to debate this issue and to take action. I think it is an issue of fundamental fairness and justice. It is an issue involving families, women, and children, and the Senate should not turn its back on those families this afternoon or in these next days.

Mr. WELLSTONE and Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I will defer to my colleague from Massachusetts. I will take 1 minute.

I have been in the Chamber since this morning with my two colleagues. This amendment is simple and straightforward. It would increase the minimum wage from $4.25 an hour to $5.15 over 2 years—90 cents over 2 years. I will say it one more time. Senators and Representatives gave themselves, a few years ago, a very hefty salary increase from about $100,000 a year to about $130,000 a year. It seems to me we can give heads of working families the same kind of increase.

I do not think this is too much to ask. I think this is very much about economic fairness. While we are putting off a vote on this, there are many people who have to live with this minimum wage. This is extremely important to 200,000 working families in my State, much less their children, and I believe this effort to just block having an up-or-down vote goes against the grain of what is called accountability. We will bring this amendment up over and over and over and over again until there is a vote.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, we came to the floor this morning with the understanding that, while not as an official order, the minimum wage amendment was going to be offered. The minority leader was going to have time and the minority leader's designee was going to have an opportunity to submit the amendment. Senator KENNEDY was the designee and, indeed, the Senator intended to offer the minimum wage amendment.

We were blocked this morning from doing that, and now this afternoon a parliamentary process of what is called filling up the tree, putting in two amendments behind each other, which locks in the debate again, precludes a debate on the minimum wage at this time. But Senator KENNEDY has submitted an amendment to the underlying amendment, and I have submitted a second-degree amendment to that not because we are trying to tie up the Senate and not because we are trying to delay the process of resolving this other legislation but simply because, as Senator KENNEDY has said, we would like to have an answer. We would like to have a time.

We work this out in the Senate all the time. We have an agreement with respect to the health care bill. We know there will be a time certain for debate on an issue of major importance to the American people. All we are asking for is some kind of bipartisan agreement and understanding as to when we can have a vote, a debate and a decision, on whether or not we are going to give working people at the lowest end of the income scale a pay raise. Corporate America has had a pay raise almost every day of the year last year. The stock market went up 34 percent in 1 year. The chief executive officers of companies are walking away with, what, 200 times the salary of workers. It used to be only 50 times and now it is 200 times.

The stark reality is that in the United States of America in 1996, the minimum wage earns you a record 40-year low, or is about to earn you a record 40-year low. It is a 25-percent reduction over what it was in 1979. Through the 1950's, the 1960's, the 1970's, and finally even in the 1980's, as the minimum wage gap got bigger and bigger between what you earned working and the poverty level, we lifted it. All we are suggesting is that when a worker on the minimum wage earns three-quarters of the level of the poverty rate in this country, let us at least lift it up to permit them to get out of poverty.

If you are going to give meaning to the notion of work and you are going to give meaning to the notion of welfare reform, if you are going to give meaning to the values we talk about in this Chamber, you have to give meaning to work and the money that people earn for working. Nothing is more fundamental, and we hope that the Senate will have the opportunity to have a bipartisan vote on this issue.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. KERRY. I would be happy to yield for a question.

Mr. KENNEDY. Mr. President, as I understand, the pending issue before the Senate is now the Kerry amendment. I was just wondering whether the Senator, my colleague and friend, would be willing to vote on this so that we are not going to delay this with the idea that we would vote at, say, 4 o'clock with the time evenly divided between those who support this measure and those who would be opposed. Would the Senator——

Mr. KERRY. Mr. President, let me say in answer to my colleague, I would be delighted to have any fair amount of time on both sides. I think it would be good if we could have that. I ask unanimous consent that we have a vote at a time certain and have a vote on my underlying amendment on the minimum wage at 4 o'clock.

Mr. DOLE. I object.

Mr. MURKOWSKI. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE addressed the Chair.

Mr. KENNEDY. Mr. President, will the Senator yield further?

The PRESIDING OFFICER. The Senator from Massachusetts——

Mr. KERRY. Mr. President, the regular order is——

Mr. DOLE. With no intervening action, I ask for recognition.

Mr. KENNEDY. Mr. President, are we going to get taken off our feet now?

The PRESIDING OFFICER. The Senator will suspend.

Mr. KENNEDY. Is the Senator going to be taken off his feet?

The PRESIDING OFFICER. If the Senator will suspend, the Senator from Massachusetts has the floor.

Mr. KERRY. Mr. President, I was going to yield for a question of my colleague. I believe he wanted to ask me a question. I yield for the purposes of answering the question.

Mr. KENNEDY. Mr. President, I just ask my colleague then if we are not able to get a time definite, which the Senator requested of the Senate—there was objection to that—has the Senator reached the conclusion that it is those who are objecting who are filibustering consideration of the minimum wage legislation? Would that be his conclusion, as it is mine?

Mr. KERRY. Mr. President, let me answer the question of my colleague before I draw a conclusion. I wonder, since the majority leader is in the Chamber, if, without yielding my right to the floor, I could ask the majority leader if he believes it would be possible for us to work out some kind of agreement as to time for a vote.

The majority leader was not in the Chamber, but I did say while he was out in the Cloakroom that this is not an effort to try to tie up the Senate. This is not an effort to try to delay the progress on this important legislation that we need to debate. This is simply an effort to try to see if we could reach a time certain for a vote on the minimum wage issue. I would ask the majority leader, without losing my right to the floor, if he would be willing to answer a question with respect to setting a time certain?

Mr. DOLE. Let me indicate I would be happy to discuss it. I am not certain we could reach an agreement. But, obviously, this bill, this amendment will, in effect, defeat the Presidio bill. There will not be any vote on the amendment today. There will be a cloture vote tomorrow. I assume cloture will not be invoked. Then the bill will come down, and I assume then there will be an effort to offer it on the next measure sometime this week. But I assume with the AFL–CIO in town and with their pledge of $35 million, it is probably a fairly appropriate time for Democrats to discuss this measure.

Mr. KERRY. Mr. President, without yet responding to the last comments of the majority leader, I again might ask, again without losing my right to the floor, I wonder if I could inquire of the majority leader why it might not be possible to set a time certain sometime in the future, perhaps a week or 2 weeks so that we could have at least a consideration of this issue on the floor of the Senate. I wonder if the majority leader might be willing to commit to that?

Mr. DOLE. Well, again, I will be happy to explore it. I have always been willing to explore any possibility. Maybe we could couple it with something we would like to do on this side of the aisle, something the majority leader might like to have happen. We could work some agreement like that. But, again, I have not—nobody has made a proposal except the amendment has been offered.

I assume that sooner or later the issue will be voted upon, directly or indirectly, but not today and not tomorrow and hopefully not this week, because we have a number of issues before us and this will take, as everyone knows, considerable debate. It is an unfunded mandate. It is subject to a point of order, according to the Congressional Budget Office. We all voted to end unfunded mandates, and here we are about to impose, or would like to impose, at least some would like to impose, another unfunded mandate on the very political subdivisions we said we would not mandate different costs and expenditures, whatever. Unless somebody has a proposal to make, now there is an amendment pending, and my view is that we should debate it. If there is to be debate, that is fine. There will be no vote. We will just wait and have the cloture vote tomorrow morning.

Mr. KENNEDY. Will the Senator yield?

The PRESIDING OFFICER. The junior Senator from Massachusetts has the floor.

Mr. KERRY. Mr. President, I would be happy to yield for a question to the Senator from Massachusetts.

Mr. KENNEDY. Will the leader be willing to find an agreeable time with the minority leader, the two leaders find an agreeable time, say, by June 10, to consider this legislation in the Chamber?

Mr. DOLE. Again, I would be happy to discuss it with the distinguished Democratic leader, Senator DASCHLE. I am not certain I would make that agreement.

I know it is important on that side of the aisle. It may be important to some on this side of the aisle. But it is also important to many small businesses in America. It is very controversial.

I just do not believe it should be on this bill unless the intent is to kill this bill. Maybe it is. I happen to support it. There are 23 States involved in this legislation: West Virginia, Massachusetts, California, Louisiana, Tennessee. I do not think the State of Kansas is involved, but there are a number of States—Colorado.

So I hope we might dispose of the pending legislation and then complete action on a number of conference reports this week and get the omnibus appropriation bill passed and the debt ceiling extension. That would just about complete the week.

Mr. KERRY. Mr. President, could I reiterate? We were able to work out, obviously, a very agreeable approach to the question on health care which stymied us in a similar way for a period of time. I want to reiterate to the majority leader, we are not trying to kill this bill, at least for this reason. And we are not attempting to delay.

Would it be possible to have an agreement that we will vote on this issue on a date certain between now and, say, the beginning of June? In a discussion with the majority leader, the minority leader and majority leader could arrive at a date certain for a vote?

Mr. DOLE. Again, I am always willing to try to resolve some of the problems. This is not going to be an easy one because, as I recall, the first 2 years of the Clinton administration, when the Democrats controlled Congress, we did not have any votes on minimum wage. The Democrats did not bring it up. They controlled everything. They controlled the White House and the House and the Senate.

Now, suddenly, after the AFL has their meeting and pledges millions and millions of dollars, we want to bring it up on the floor. I can imagine what would happen in the liberal media if the corporations came to town and said we are going to put $35 million in the Republican campaigns. There would be headlines in all the papers. All the talk shows would stop in midair to get it on the air.

I think there is also a very logical argument. There are going to be a lot of young people who lose their jobs. Many are black teenagers and many are young people whose parents live below the poverty line. So I think, if we are going to have this debate, it ought to be a lengthy debate. It ought to be on the merits. In my view, it cannot happen—I do not see how it can happen this week.

Obviously, the Senator is entitled, as he did, to offer an amendment to the underlying bill. That was our mistake. We should have taken care of that. It will not happen again.

But notwithstanding that, we can prevent a vote and we will prevent a vote because we do not believe it belongs on this legislation. There are 23

States that have an interest in the pending legislation. I do not believe even the Democrats, who have very important projects in this legislation, are very excited about having the two Senators from Massachusetts offer this minimum wage adjustment to their legislation.

Mr. KERRY. Mr. President, let me say, in all respect, in response to the majority leader, we had a vote in the U.S. Senate last year and 51 U.S. Senators voted that we should take up the minimum wage before the end of the last session. We did not do that.

Now we are back. I did not even know about the AFL. I am glad you told me. Maybe I can arrange to get to the meeting. But I did not even know they were in town. We announced our intention to offer an amendment some time ago—Senator KENNEDY, who has been leading on this effort, together with Senator WELLSTONE, a group of us—this has been something we have been trying to do for a number of years. The fact is, it is getting more necessary, not less, as a consequence of the fact that the wage each day is worth less.

So, I say to the majority leader, we can always find a group that is in town at some period of time when some legislation is on the floor, and we all know Republicans collect far, far more money from interest groups than Democrats ever do. If we want to start pointing fingers at whose money comes from where, that is a different debate.

The fact is, working people do not get the kind of money any of us get from anywhere, even from their work. That is what this debate is all about. Folks who are working and cannot even pay for medical insurance, let alone rent, let alone food.

So I regret the majority leader will not say we can have a vote on this, will not even say we could have one by June. Therefore, Mr. President, I move to table my amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ABRAHAM). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMPSON). Without objection, it is so ordered.

Mr. DOLE. Is the question on the motion to table the Kerry amendment?

The PRESIDING OFFICER (Mr. SANTORUM). Yes.

Mr. DOLE. The yeas and nays have been ordered?

The PRESIDING OFFICER. They have been ordered.

Mr. DOLE. Let's have the vote.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Kerry amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Wyoming [Mr. SIMPSON] is necessarily absent.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

I also announce that the Senator from West Virginia [Mr. ROCKEFELLER] is absent because of illness.

The result was announced—yeas 0, nays 97, as follows:

[Rollcall Vote No. 52 Leg.]

NAYS—97

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Roth
Santorum
Sarbanes
Shelby
Simon
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

NOT VOTING—3

Bradley
Rockefeller
Simpson

So the motion to lay on the table the amendment (No. 3574) was rejected.

CLOTURE MOTION

Mr. DASCHLE. Mr. President, I send a motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Kennedy amendment No. 3573.

Edward M. Kennedy, Paul Wellstone, Joe Biden, J.J. Exon, Chuck Robb, Carol Moseley-Braun, Christopher Dodd, Byron L. Dorgan, Claiborne Pell, Kent Conrad, John F. Kerry, Ron Wyden, David Pryor, Russell D. Feingold, Paul Sarbanes, Patrick Leahy, Dianne Feinstein, Frank R. Lautenberg.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

MOTION TO COMMIT

Mr. DOLE. Mr. President, I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] moves to commit the pending bill to the Finance Committee with instructions to report by April 21, 1996 amendments to reform welfare and Medicaid.

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3653 TO THE MOTION TO COMMIT

Mr. DOLE. Mr. President, I send an amendment to the motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 3653 to the motion to commit.

Strike the instructions in the pending motion and insert in lieu thereof "to report back by April 21, 1996 amendments to reform welfare and Medicaid effective one day after the effective date of the bill."

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3654 TO AMENDMENT NO. 3653

Mr. DOLE. Mr. President, I send a second-degree amendment to the motion.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 3654 to amendment No. 3653.

Strike all after the first word in the amendment to the instructions to the pending motion and insert in lieu thereof "report back by April 21, 1996 amendments to reform welfare and Medicaid effective two days after the effective date of the bill."

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, we are prepared to vote on this motion at this time. Medicaid reform and welfare reform are high on everyone's priority list in America, particularly the voters and the taxpayers, and we would be prepared to vote on this motion, say, at 6 o'clock or 5 after 6 or 6:15, or whenever.

But I do believe now we are back on an issue that the American people are really concerned about: how we can save maybe $50 billion on welfare over the next 7 years by sending it back to the States, and maybe as much as $85 billion over the next 7 years on Medicaid by sending it back to the States, all in accordance with the 10th amendment to the Constitution, which says unless the powers vested in the Federal Government are denied to the States it belongs to the States and the people.

That is what we will debate at this time, unless there is a willingness to accept the amendments, or we can debate tomorrow after the cloture vote, whichever the Democratic leader prefers.

But I am prepared and now ask that we stand in recess until 9:30 tomorrow morning.

MOTION TO RECESS

Mr. DOLE. Mr. President, I now move the Senate stand in recess until the hour of 9:30 a.m., Wednesday, March 27, 1996.

Mr. DASCHLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Vermont [Mr. JEFFORDS], the Senator from Delaware [Mr. ROTH], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Delaware [Mr. BIDEN], and the Senator from Connecticut [Mr. LIEBERMAN] are necessarily absent.

I also announce that the Senator from West Virginia [Mr. ROCKEFELLER] is absent because of illness.

The result was announced—yeas 50, nays 43, as follows:

[Rollcall Vote No. 53 Leg.]

YEAS—50

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Santorum
Shelby
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—43

Akaka
Baucus
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—7

Biden
Bradley
Jeffords
Lieberman
Rockefeller
Roth
Simpson

RECESS

The motion was agreed to; and the Senate, at 6:31 p.m., recessed until Wednesday, March 27, 1996, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 26, 1996:

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER THE PROVISIONS OF SECTION 601, TITLE 10, UNITED STATES CODE:

To be lieutenant general

MAJ. GEN. CAROL A. MUTTER [redacted]

IN THE ARMY

THE FOLLOWING-NAMED CADETS, GRADUATING CLASS OF 1996, U.S. MILITARY ACADEMY, FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THE GRADE OF SECOND LIEUTENANT, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, 533 AND 4353:

To be second lieutenant

ANDRE B. ABADIE [redacted]
KEVIN J. ACH [redacted]
DAVID W. ACKER [redacted]
JAMES M. ADAMS [redacted]
MICHAEL L. ADAMS [redacted]
NIRZARNI J. ADHVARYU [redacted]
JASON P. AFFOLDER [redacted]
PHILLIP R. AHN [redacted]
JOHN B. AHRENS [redacted]
ALEXIS M. ALBANO [redacted]
ADAM A. ALBRICH [redacted]
TIMOTHY T. ALDEN [redacted]
PHILIP J. ALDRICH [redacted]
GREGORY C. ALFRED [redacted]
MARY ALFREDOCKIYA [redacted]
MARK W. ANDERS [redacted]
DEVRY C. ANDERSON [redacted]
ERIC D. ANDERSON [redacted]
MICHAEL A. ANDERSON [redacted]
TREVER S. ANDERSON [redacted]
STEPHANI G. ANDRASEK [redacted]
CHRISTIN D. ANDREWS [redacted]
ROBERT C. ARMSTRONG [redacted]
JOHN E. ARNOLD [redacted]
MICHAEL ARRIAGA [redacted]
ROBERT M. ARTHUR [redacted]
MARY K. ASHWORTH, [redacted]
DAVID W. AVERETT [redacted]
MATTHEW J. AVERY [redacted]
KEVIN S. BADGER [redacted]
MICHAEL D. BAGULLY [redacted]
BRENT A. BAKER [redacted]
CULLEN G. BARBATO [redacted]
DANIEL T. BARD [redacted]
KEITH C. BARDO [redacted]
ROBERT E. BARNSBY [redacted]
BRIAN K. BARRY [redacted]
STEVEN T. BARRY [redacted]
JASON P. BATCHELOR [redacted]
ARCHIE L. BATES [redacted]
HEATH T. BATES [redacted]
DAVID G. BAUER [redacted]
DOEL D. BAUGHMAN, [redacted]
JOSEPH A. BEARD [redacted]
RYAN B. BEAVER [redacted]
BRIAN J. BECHARD [redacted]
MICHAEL M. BECKWITH [redacted]
JULIA BELL [redacted]
MICHAEL J. BELLACK, [redacted]
EDWARD T. BENNETT [redacted]
LANCE B. BENNETT [redacted]
MORGAN A. BERGLUND, [redacted]
JEFFREY S. BERGMANN [redacted]
JEANNE K. BERNER [redacted]
RYAN C. BERRY , [redacted]
DREW P. BERWANGER, [redacted]
BRETT W. BIELAWSKI, [redacted]
JEFFREY S. BIGGANS [redacted]
LEANNE M. BJORNSTAD [redacted]
LYNYETTA C. BLACKSHEAR, [redacted]
WILLIAM J. BLAIR [redacted]
TIMOTHY A. BLOCK [redacted]
KEVIN D. BOATES [redacted]
DAVID J. BOETTCHER [redacted]
KENNETH M. BOLIN [redacted]
PETER C. BONIN [redacted]
GARY L. BOONE, JR., [redacted]
ROBERT G. BORN [redacted]
CHRISTIAN N. BOTTCHER [redacted]
RICHARD T. BOWEN [redacted]
ALAN J. BOYER [redacted]
KORY E. BOYER [redacted]
COREY A. BRADDOCK, [redacted]
MATTHEW W. BRADSHAW, [redacted]
THOMAS J. BRADY, JR. [redacted]
JASON R. BRANDT [redacted]
MATTHEW K. BRANDT [redacted]
RICHARD M. BRATT [redacted]
DONALD R. BRAUGHT, [redacted]
CASEY L. BREDEWATER [redacted]
THOMAS P. BRENNAN, JR. [redacted]
BRETT M. BREWER [redacted]
CHAD D. BROSKI [redacted]
DANIEL F. BROSTEK [redacted]
JASON P. BROWN [redacted]
JUSTIN W. BROWN [redacted]
LELAND B. BROWN, JR., [redacted]
PETER A. BROWN [redacted]
ROBERT S. BROWN [redacted]
THEODORE R. BROWN [redacted]
JEREMY P. BROWNE [redacted]
JAY R. BUCCI [redacted]
MICHAEL D. BUCHHEIT [redacted]
DAVID L. BUFFALOE [redacted]
GEOFFREY R. BULL [redacted]
BRANDI L. BULT [redacted]
JESSICA L. BUNIN [redacted]
JOHN F. BURGER [redacted]
JAMES T. BURGESS [redacted]
THOMAS F. BURRELL IV [redacted]
DEREK F. BURT [redacted]
JOSE M. BUSTAMANTE [redacted]
ANTHONY L. BUTLER [redacted]
MICHAEL K. BYARD [redacted]
JOSHUA T. BYERS [redacted]
JAMES M. CADET [redacted]
MOLLY C. CAIN, [redacted]
ADRIAN P. CALAME [redacted]
ERIK R. CALDWELL [redacted]
GORDON A. CALLENDER [redacted]
JOHN J. CAMIOLO [redacted]
CHRISTOP R. CAMPBELL [redacted]
JONATHAN A. CAMPBELL [redacted]
WHITNEY A. CAMPBELL [redacted]
MICHAEL V. CANGOLOSI, [redacted]
JAMES F. CANTELUPE [redacted]
ERIC C. CAPERS [redacted]
AARON S. CARLISLE [redacted]
KARIN M. CAROLAN, [redacted]
STEVEN P. CARPENTER [redacted]
BRADLEY M. CARR [redacted]
CHRISTOP D. CARRANO [redacted]
ELIZABET A. CASELY [redacted]
ROBERT P. CASSERY [redacted]
KRISTEN E. CATRON [redacted]
ANDREW D. CECIL [redacted]
SHANE D. CELEEN [redacted]
VINCENZO S. CENTAMORE, [redacted]
MATTHEW P. CHAMPION [redacted]
SCOTT A. CHANCE, [redacted]
BRANDYN P. CHAPMAN, [redacted]
YOUNG D. CHASE, [redacted]
CHAD N. CHEGWIDDEN, [redacted]
DANIEL M. CHEN [redacted]
BRIAN V. CHERNAUSKAS [redacted]
GABRIEL A. CHINCHILLA [redacted]
BRIAN H. CHO, [redacted]
MICHAEL N. CHO [redacted]
BRIAN CHOI [redacted]
SUNG H. CHON, [redacted]
PAUL A. CHRISTIANSON [redacted]
WILLIAM W. CHUNG, [redacted]
DAVID M. CHURCH [redacted]
MICHAEL V. CIARAMELLA [redacted]
AARON M. CICHOCKI, [redacted]
MAX W. CLEGG, [redacted]
BO S. COCKRELL, [redacted]
BRYAN M. COFER [redacted]
DWAYNE L. COFFEY [redacted]
WILLIAM G. COLBERT [redacted]
ROBERT C. COLE [redacted]
JOHN J. COLEMAN [redacted]
TAUSHA E. COLEMAN [redacted]
RICHARD L. COMITZ [redacted]
JASON F. CONRAD [redacted]
JOHN T. CONROY, [redacted]
MARC E. CONSELMAN, [redacted]
CARLOS A. CONTRERAS [redacted]
PAUL A. COOK, [redacted]
SEAN M. COONEY, [redacted]
LENTON D. COOPER [redacted]
MICHAEL N. COPPA [redacted]
THOMAS P. CORNELIUS [redacted]
STEPHEN J. COURREGES [redacted]
RICHARD J. COVERT [redacted]
MICHAEL T. COWPERTHWAIT, [redacted]

JAMES E. COX, JR. [redacted]
RICHARD T. CRANFORD [redacted]
CHAD A. CRANK, [redacted]
WILLIAM G. CRANS, JR. [redacted]
BRIAN A. CRAWLEY [redacted]
JUSTIN L. CREMER [redacted]
SCOTT C. CRISSEY [redacted]
ROBERT E. CROFT [redacted]
JOHN R. CROMBIE [redacted]
MATTHEW A. CROUCH [redacted]
JOHN D. CROW, [redacted]
PATRICK C. CRUSER [redacted]
MATHEW A. CUNNINGHAM [redacted]
IAN S. CURRIER, [redacted]
LEWIS M. CURRY [redacted]
KEVIN R. CUTRIGHT, [redacted]
PATRICK J. DAGON [redacted]
MATTHEW D. DALL [redacted]
REBECCA L. DAMM [redacted]
GLEN O. DARE [redacted]
JONATHAN P. DARR [redacted]
JOEL E. DAVIS [redacted]
BRIAN J. DAWSON [redacted]
MICHAEL R. DEBOCK [redacted]
JAMES V. DEBOER [redacted]
TONY L. DEDMOND, JR. [redacted]
MARK A. DELAAR, [redacted]
DOUGLAS L. DELP [redacted]
ROBERT G. DELUCA, JR. [redacted]
RICHARD K. DEMBOWSKI [redacted]
MICHAEL R. DEMPSEY [redacted]
ANDREW T. DEPONAI [redacted]
DALE C. DESTEFANO [redacted]
DANIEL J. DEVRIES [redacted]
CONINYAH B. DEW, [redacted]
JEFFREY W. DICKEY [redacted]
JASON S. DICKIE [redacted]
RICHARD D. DICKSON [redacted]
ALAN H. DINERMAN [redacted]
SHAWN C. DINSMORE [redacted]
AARON Z. DIRKS, [redacted]
ROBERT W. DOERING, I [redacted]
AMY L. DONALDSON, [redacted]
GLEN G. DONNELLY [redacted]
EDWARD A. DONOVAN, [redacted]
WILLIAM D. DORAN, [redacted]
MARC C. DORRER, [redacted]
WILLIAM D. DOUTT [redacted]
FLOYD D. DRAKE, [redacted]
STEVEN E. DROSTE [redacted]
MICHAEL JOSE DRULIS [redacted]
JASON P. DUANE [redacted]
DANIEL D. DUCHAI [redacted]
CHRISTOP S. DUDLEY [redacted]
PAUL V. DULISSE [redacted]
JONATHAN S. DUNN [redacted]
RYAN M. DURAN, [redacted]
LIGON M. DURHAM [redacted]
JOEL K. DURKIN [redacted]
PETER C. EARLE [redacted]
ANDREW B. ECKEL, [redacted]
DION M. EDGE [redacted]
DALE RODNE EDMISTON [redacted]
EMILY J. EDSON, [redacted]
NATHANIE M. EDWARDS [redacted]
RYAN A. EDWARDS [redacted]
KARA K. EKHOLM, [redacted]
JEFFERSO Y. EMBLEN [redacted]
RAYMOND J. EMERSON [redacted]
MICHEL A. ENOS, [redacted]
STEIN B. ERICSSON [redacted]
PAUL F. EVANGELISTA [redacted]
ROBERT V. EWERS [redacted]
JAMES A. EWING [redacted]
BRET C. FALER [redacted]
MICHAEL J. FEELEY [redacted]
JOEL S. FERGUSON [redacted]
PAUL J. FERRIGNO [redacted]
THOMAS J. FEZZA [redacted]
BRADLEY M. FISHER [redacted]
MATTHEW R. FIX [redacted]
JON C. FLECK [redacted]
AMANDA H. FLINT [redacted]
CARLSON N. FLOYD [redacted]
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ERIC L. MAYER [redacted]
MELISSA A. MAZUR [redacted]
ERIC P. MC ALLISTER [redacted]
SIM J. MC ARTHUR [redacted]
KEVIN E. MC AULIFFE [redacted]
JOSEPH A. MC CABE [redacted]
THOMAS J. MC CARRON [redacted]
MATTHEW P. MC CARTHY [redacted]
KELLIE J. MC COY [redacted]
CHRISTOP L. MC CREA [redacted]
JOSHUA L. MC CULLOUGH [redacted]
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THOMAS I. MC DONOUGH [redacted]
DAVID H. MC DOWELL [redacted]
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GEOFFREY J. MC KEE [redacted]
BRIAN F. MC MAHON [redacted]
JOHN J. MC NALLY [redacted]
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JUSTIN C. MC QUARY [redacted]
ANDREW D. MEES [redacted]
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MATTHEW S. MERRILL [redacted]
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ANN M. MOORE, [redacted]
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THOMAS J. NAGLE [redacted]
JOHN D. NAIL, JR. [redacted]
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ANTHONY E. NEW [redacted]
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EVIN S. NIERADKA [redacted]
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SAMUEL G. NORQUIST [redacted]
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HOWARD M. PRICE III [redacted]
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GREGORY J. TAYLOR, [redacted]
WILLIAM B. TAYLOR, [redacted]
WILLIAM T. TEBBE [redacted]
BRANDON R. TEGTMEIER, [redacted]
CORY D. TEREICK [redacted]
WILLIAM S. THARP [redacted]
ROXANNE M. THEOBALD, [redacted]
CARLA THOMAS, [redacted]
RONALD P. THOMAS [redacted]
RYAN M. THOMAS, [redacted]
TRAVIS M. THOMAS [redacted]
KENNETH D. THOMPSON, [redacted]
STEPHEN J. THORLEY [redacted]
CHARLES G. THRASH [redacted]
RAYMOND J. TOMASITS [redacted]
FREDERIC J. TOTI [redacted]
MARC E. TOULOUSE, [redacted]
KYLE W. TOWNS, [redacted]
JOSEPH A. TRIANO [redacted]

CHRISTOP A. TUBBS [redacted]
BRIAN L. TUCKER [redacted]
JOHN C. TUCKER [redacted]
JOHN T. TURNER [redacted]
MICHAEL R. TURNER [redacted]
DUNCAN E. TYE, [redacted]
JEFFERY D. UGINO [redacted]
THADDEUS L. UNDERWOOD [redacted]
ABRAHAM T. USHER [redacted]
JAMES A. VANATTA [redacted]
MICHAEL S. VANBUSKIRK [redacted]
PETER H. VANGEERTRUYDEN [redacted]
TODD M. VANSICKLE [redacted]
LANCE K. VANZANDT [redacted]
MICHAEL W. VARGO [redacted]
MARCUS R. VARTAN [redacted]
MARK C. VETTER [redacted]
JASON R. VILLAS [redacted]
JAMES S. VINALL [redacted]
JAY A. VIRGIL [redacted]
CHRISTOP T. VISCOVICH [redacted]
JOSEPH VONGSVARNRUNGRUANG, [redacted]
TODD R. VYDARENY [redacted]
BAXTER F. WADE [redacted]
KRISTA L. WAGNER [redacted]
THOMAS J. WALDRON [redacted]
MICHAEL W. WALL [redacted]
BENJAMIN M. WALLEN [redacted]
JAMES N. RAY WALSER [redacted]
JAMES A. WALSH [redacted]
MATTHEW T. WALSH [redacted]
GEORGE H. WALTER [redacted]
JOHN P. WALTON [redacted]
LAWRENCE R. WALTON [redacted]
MATHEW A. WANCHICK [redacted]
KATHERIN P. WARD [redacted]
DANIEL E. WARN [redacted]
CHRISTOP H. WARNER [redacted]
LAURA C. WATSON [redacted]
SCOTT T. WATSON [redacted]
JAMES A. WAYNE [redacted]
TRENT R. WEBB [redacted]
JASON B. WEEKES [redacted]
ROBERT S. WELLER [redacted]
MICHAEL W. WELLS [redacted]
KYLE J. WERKING [redacted]
RYAN M. WERLING [redacted]
EMETT A. WHITE [redacted]
CHRISTOP W. WHITMARK [redacted]
GLEN P. WHITNER [redacted]
MATTHEW T. WIGER [redacted]
BAASIL T. WILDER [redacted]
KENNETH J. WILKINSON [redacted]
BARRY W. WILLIAMS [redacted]
BLAIR S. WILLIAMS [redacted]
COLIN L. WILLIAMS [redacted]
TACUMA S. WILLIAMS [redacted]
KATHY M. WILLIS [redacted]
KIP A. WILSON [redacted]
MARK A. WILSON [redacted]
JONATHAN C. WINCHESTER [redacted]
IAN S. WINER [redacted]
NATHANIE G. WISSMAR [redacted]
THADDEUS A. WOJTUSIK [redacted]
STEFAN R. WOLFE [redacted]
DAMAN R. WOOD, [redacted]
J.B. WORLEY III [redacted]
TIMOTHY S. WREN JR. [redacted]
BENJAMIN D. WRIGHT [redacted]
STUART B. WRIGHT [redacted]
GARY H. WYNN, [redacted]
WILLIAM A. WYROVSKY [redacted]
GERALD T. YAP [redacted]
CHRISTOP J. YEATON [redacted]
JOHN L. YI [redacted]
ABEL E. YOUNG [redacted]
DILLARD W. YOUNG [redacted]
KYUNG M. YU [redacted]
ANDREW E. YULIANO [redacted]
ERIC ZAMPEDRI [redacted]
RICHARD L. ZANARDI [redacted]
JEFFREY S. ZANELOTTI [redacted]
LAUREL C. ZIMMERMAN [redacted]
JAMES E. ZOPELIS [redacted]
BRIAN W. ZUCK [redacted]

THE FOLLOWING-NAMED RESERVE OFFICERS' TRAINING CORPS CADETS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THE GRADE OF SECOND LIEUTENANT, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, 533, AND 2106:

To be second lieutenant

MOHAMMAD A. ABBAS, [redacted]
FIGUEROA JOHN ACEVEDO [redacted]
CHRISTOPHER M. ADAMS [redacted]
JASON DELACE ADAMS [redacted]
ROBERT WAYNE ADAMS [redacted]
CARRIE J. ADELSON [redacted]
JOSEPH H. ADENT [redacted]
WINFIELD A. ADKINS [redacted]
APRIL LEE AITKEN [redacted]
JAMES R. ALBANO [redacted]
CHRISTOPHER ALDERMAN [redacted]
ANREE C. ALEXANDER [redacted]
CLINTON D. ALEXANDER [redacted]
NEIL L. ALEXIS [redacted]
RANDY GLENN ALFREDO [redacted]
ROGER M. ALLBRANDT [redacted]
CATRACY R. ALLEN [redacted]
SCOTT THOMAS ALLEN [redacted]
JEANNE LOUISE ALLEVA [redacted]
KATHLEEN ALLRED [redacted]
JAMES R. ALLSOP, JR. [redacted]
PETER A. ALTIERI [redacted]
EDWARD ALVARADO, JR. [redacted]
DENISE T. ALVAREZ [redacted]
JESUS E. ALVAREZ, JR. [redacted]
ANDREW C. ANDERSON [redacted]
BRANDY L. ANDERSON [redacted]
KRISTIN A. ANDERSON [redacted]
RONNIE D. ANDERSON, JR. [redacted]
GEORGE R. ANDREWS, JR. [redacted]
JOMICHAEL L. ANDREWS [redacted]
THOMAS JAMES ANTON [redacted]
SCOTT APPLEGATE [redacted]
JASON W. ARCHIBALD [redacted]
JOEL R. ARELLANO [redacted]
JOHN L. ARGUE [redacted]
JOHN DAVID ARMBRUSTER [redacted]
VERNICE G. ARMOUR [redacted]
MALEE K. ARMWOOD [redacted]
CAROL A. ASADOORIAN [redacted]
ANTHONY JOHN ASBORNO, [redacted]
WILLIAM CLAUDE ASHMORE [redacted]
KARL M. ASMUS [redacted]
DARIAN A. ATKINSON [redacted]
JASON JEREMY AULD [redacted]
EDWARD PAUL AUSTIN [redacted]
BENJAMIN LEWIS AUTREY [redacted]
PACE R. AVERY [redacted]
JEFFREY E. AYCOCK [redacted]
GWYN ANNE AYER [redacted]
TIMOTHY M. BAER, [redacted]
DESMOND VANN BAILEY [redacted]
JIMMY OWEN BAILEY [redacted]
LYNN ALAN BAILEY [redacted]
CARRIE ANNE BAKER [redacted]
DANIEL CALVIN BAKER [redacted]
ELLIS R. BAKER [redacted]
MICHAEL A. BAKER [redacted]
PHILLIP CAIN BAKER [redacted]
JAMES A. BALADAD [redacted]
IRA S. BALDWIN [redacted]
MATTHEW S. BALINT [redacted]
EDWARD JOSEPH BALLANCO [redacted]
FREDA V. BALLARD [redacted]
HEATH FREDERICK BALMOS [redacted]
BENJAMIN S. BANE [redacted]
GRANT B. BANKO [redacted]
JAKOB BANKS [redacted]
RICHARD RAMIAZ BANKS [redacted]
ANDREW J. BANNON [redacted]
FREDRICK L. BARBER [redacted]
CLAUDE ANDRA BARFIELD [redacted]
JASON MARK BARNES [redacted]
DEREK S. BARR [redacted]
JENNIFER J. BARRIE [redacted]
STEVEN R. BARRON [redacted]
JENNIFER LEIGH BARRY [redacted]
STACEY DEAN BARTECK [redacted]
DOUGLAS A. BARTLETT [redacted]
CANDY S. BASNEY [redacted]
KRISTOFER EDWARD BAST [redacted]
JIMMY SCOTT BATES [redacted]
CARY ALAN BATHRICK [redacted]
WILLIAM A. BAUER [redacted]
MATTHEW H. BAUSCH [redacted]
JAMES W. BEACH [redacted]
KEVIN SHANNON BEAGLE [redacted]
TANYA LYNN BEAM [redacted]
JOSEPH D. BECKER [redacted]
SUSAN H. BEIN [redacted]
JAMES PATRICK BEKURS [redacted]
CHRISTINA A. BELL [redacted]
JAMES M. BELL [redacted]
MYRON L. BELL [redacted]
LONNIE J. BELLAMY, JR. [redacted]
HEATHER O. BELLUSCI [redacted]
MICHAEL R. BELTON [redacted]
SANDRA IVETTE BELTRAN [redacted]
ERIK M. BENDA, [redacted]
ROBERT S. BENEZRA [redacted]
MICHAEL FRANCIS BENGS [redacted]
ROBERT G. BENNETT [redacted]
JASON PHILIP BENSON [redacted]
DEVIN BENTON [redacted]
CORY NOEL BERG [redacted]
LANA JANE BERNAT [redacted]
VALENT PETER BERNAT III [redacted]
SALINAS FRANCISCO BEZARES [redacted]
MICHAEL R. BIANKOWSKI, JR. [redacted]
MATTHEW MARION BIRD [redacted]
JAMES A. BIRMINGHAM [redacted]
DANIEL STEPHEN BISHOP [redacted]
SHANNON N. BISHOP [redacted]
ERIC STEFAN BJERKAAS [redacted]
KENDALL K. BJORGE [redacted]
GREGORY WAYNE BLACKMAN [redacted]
PEGGY L. BLACKWELL [redacted]
CANAAN KEKOA BLAKE [redacted]
JOSEPH P. BLAKENEY [redacted]
MICHAEL JAMES BLANKARTZ [redacted]
MICHAEL A. BLISS [redacted]
ZANE E. BLOOM, JR. [redacted]
JEREMY E. BLOYD [redacted]
JOSEPH ERNEST BOECKX [redacted]
HEATHER DIANE BOEHM [redacted]
ROY L. BOLAR, 299-82-2720
STACY MICHELE, BOLLA [redacted]
JOHN DAVID BOLLINGER [redacted]
JODI L. BOLLONE [redacted]
GUTIERREZ HECTOR BONET [redacted]
GERALD L. BONNER, JR. [redacted]
JOHN JOSEPH BOPP [redacted]
JASON BORG, [redacted]
SEAN BORTZ, [redacted]
WILLIAM E. BOSWELL [redacted]
STEPHANIE LEE BOUNDS [redacted]
STEPHEN M. BOUSQUET [redacted]
HESTON FARIS BOWER [redacted]
FEDERICK B. BOWER [redacted]
DAVID MICHAEL BOWERS [redacted]
LENWOOD F. BOWERS, JR. [redacted]
MICHELLE LYN BOWKER [redacted]
KENNETH SCOTT BOWLES [redacted]
TOMMY D. BOWLING, JR. [redacted]
DEREK ALLAN BOWLS [redacted]
JONATHAN A. BOWMAN [redacted]
JOESPH A. BOWMAN [redacted]
JOHN W. BOYLE [redacted]
RUSSELL SCOTT BRADEN [redacted]
YOLANDA J. BRADFORD [redacted]
KENDRICK E. BRADLEY [redacted]
BERNARD NOEL BRADY [redacted]
MICHAEL ALAN BRAULT [redacted]
ANDREW S. BRAZEE [redacted]
THOMAS KYLE BREDE [redacted]
ROBERT M. BRENDLE [redacted]
SEAN P. BRESLIN [redacted]
JOHN R. BRETTHORST [redacted]
MATTHEW W. BREWER [redacted]
GARLAND L. BRIAN, JR. [redacted]
LAWRENCE ROBERT BRICE [redacted]
DANIEL D. BRIDON [redacted]
BURKE L. BRISTOW [redacted]
RASHIMA D. BROOKS [redacted]
TRAVIS S. BROOKS [redacted]
ALAN STUART BROWN [redacted]
CHAD R. BROWN, [redacted]
JEFFREY EUGENE BROWN [redacted]
JOSEPH DAMON BROWN [redacted]
MATTHEW R. BROWN, [redacted]
TIMOTHY P. BROWN [redacted]
JAKOB C. BRUHL [redacted]
CURTIS L. BRUMFIELD II [redacted]
PAUL A. BRUNET [redacted]
DWIGHT JOSEPH BRYAN, JR. [redacted]
BOBBY W. BRYANT, [redacted]
SCOTT ALLEN BRYSON [redacted]
THOMAS E. BRZOZOWSKI [redacted]
MICHAEL PAUL BUCHKOSKI [redacted]
KRISTINA J. BUCHMAN [redacted]
CHRISTOPHER M. BUCK [redacted]
DAVID PATRICK BUCK [redacted]
DAVID EDWARD BULLARD [redacted]
ANTHONY R. BULLIMORE [redacted]
DEAN A. BUNDSCHU [redacted]
ERIC CRAWFORD BUNDY [redacted]
ROBERT LANCE BURCH [redacted]
WILLIAM W. BURCH [redacted]
MICHAEL D. BURCHAM [redacted]
MATHEW DANIEL BURGESS [redacted]
STEPHEN MICHAEL BURGGRAFF [redacted]
ANDRE L. BURK [redacted]
JEFFREY PATRICK BURKE [redacted]
PHILLIP GREGORY BURNS [redacted]
CURTIS E. BURRELL, JR. [redacted]
BRADFORD M. BURRIS [redacted]
DAVID PAUL BURRIS [redacted]
EDGAR C. BURSTION, [redacted]
JON A. BUSHMAN [redacted]
CHRISTOPHER M. BYRD [redacted]
JASON A. BYRD [redacted]
LAURA IRENE BYRD [redacted]
CHRISTOPHER O. CADIGAN [redacted]
CYRUS T. CADY [redacted]
KATHERINE A. CAHILL [redacted]
BRUTRINIA D. CAIN [redacted]
JOSEPH R. CALDWELL [redacted]
CHRISTIAN R. CALI [redacted]
DAVID CAMPBELL, JR. [redacted]
MICHAEL LANCE CAMPBELL [redacted]
KYLE ALAN CANIGLIA, [redacted]
NORMAN J. CANNON, [redacted]
MATTHEW JOHN CAPPIELLO, [redacted]
BRIAN S. CARDINALI [redacted]
PAUL VERNON CARLYLE [redacted]
JAMES P. CARNEY [redacted]
MICHAEL J. CARNEY [redacted]
SCOTT WYMAN CARPENTER [redacted]
CLAYTON A. CARR [redacted]
MELISSA M. CARR [redacted]
WILLIAM HENRY CARR IV [redacted]
WILLIAM J. CARR [redacted]
SCOTT LYN CARROLL [redacted]
WILLIAM JAMES CARSON [redacted]
ANDRE A. CARTER [redacted]
KENNETH W. CARTER [redacted]
JOHN G. CARVAN [redacted]
LAMONTE S. CARVER [redacted]
BRAD CHARLES CASSISE [redacted]
JOHN H. CATHELL, [redacted]
JUAN CARLOS CERVANTES [redacted]
STEPHEN D. CHADWICK [redacted]
MATTHEW G. CHAMERS [redacted]
JAMES K. CHAMP [redacted]
EDWIN E. CHAMPION [redacted]
CHAD N. CHANDLER [redacted]
PAUL L. CHANG [redacted]
JOSEPH A. CHAPMAN [redacted]
TEDROSE H. CHARLES [redacted]
DEREK J. CHASSIE [redacted]
JAMES F. CHASTAIN, JR [redacted]
JOHN CHARLES CHECCO [redacted]
BRIAN A. CHERIPKA [redacted]

JAMIE J. CHIEFFE [redacted]
ANDREW K. CHILDRESS [redacted]
DANA M. CHRISTENSEN [redacted]
JONG HO CHUNG [redacted]
JOSEPH PATRICK CIMATO [redacted]
EDWARD M. CIURA [redacted]
LORENZO A. CLARIDY [redacted]
HARRY J. CLARK [redacted]
TERRY LEROY CLARK [redacted]
AVILES LUIS CLASS [redacted]
BRADY J. CLAUSS [redacted]
DAMON PATRICK CLEATON [redacted]
ALLAN JOSEPH CLEAVELAND [redacted]
DEMETRIOUS G. CLEOTELIS [redacted]
GLEN EDWARD CLUBB [redacted]
TIMOTHY A. COAKLEY [redacted]
JERRY E. COBURN [redacted]
ROBERT JOSEPH COCKRELL [redacted]
ANDREW COGAR [redacted]
FRANK S. COLASANTO [redacted]
JAMES F. COLE [redacted]
LISA D. COLEMAN [redacted]
THAD JAMES COLLARD [redacted]
KATHERINE V. COLLARINI [redacted]
FREDERICK LOWE COLLIER [redacted]
CALE C. COLLINS [redacted]
JOHN SIMMON COMBS [redacted]
TRACY K. COMBS, [redacted]
HUGH R. COMLEY [redacted]
SCOTT W. CONNER [redacted]
DARIN R. CONRAD [redacted]
JEFFREY P. CONROY [redacted]
CHRITOPHER H. CONWAY [redacted]
CHARLES CHRISTIAN COOK [redacted]
JOSHUA WILLIAM COOK [redacted]
ROBERT MICHAEL COOK [redacted]
GARY S. COOPER [redacted]
REX ALAN COPELAND [redacted]
JORGE O. CORDEIRO [redacted]
MICHAEL W. CORLEY [redacted]
MALCOLM S. CORNISH [redacted]
CHARLES A. COSGROVE III [redacted]
CHRISTOPHER COSTELLO [redacted]
PHLIP J. COTTER [redacted]
MARTIN A. COUCH [redacted]
KARRIE S. COWAN [redacted]
CHRISTOPHER C. COX [redacted]
CLINTON W. COX [redacted]
GREGORY R. COX [redacted]
JACK D. CRABTREE II [redacted]
PATRICA A. CRAYTON [redacted]
SHANE ROBERT CRITES [redacted]
GREGORY C. CROMWELL [redacted]
COREY LEE CROSBIE [redacted]
CATTLEYA M. CROSSEN [redacted]
MICHAEL C. CROSSLEY [redacted]
ROBERT J. CRUZ [redacted]
JOEL P. CUMMINGS [redacted]
WALTER G. CUMMINGS [redacted]
NICOLE R. CUNNINGHAM [redacted]
DANIEL T. CURRY [redacted]
PATRICK E. CURRY [redacted]
JOHN LOUIS, CURTIS [redacted]
GRADY J. DAGENAIS [redacted]
WILLIAM R. DAILEY, III [redacted]
MICHAEL DAVID, DAKE [redacted]
JOHN P. DALFERRO [redacted]
BRANDI R. DAMBLEY [redacted]
ANTHONY ALLEN, DAMMEL [redacted]
BRIAN LEE, DANIEL [redacted]
CRAIG T. DANIEL [redacted]
ANTHONY E. DANIELS [redacted]
JEFFREY A. DANIELS [redacted]
MARK R. DANNER [redacted]
CASEY V. DARE [redacted]
NANCY E. DARGLE [redacted]
JOSEPH I. DASHIELL [redacted]
DAWN B. DAULTON [redacted]
PATRICK S. DAULTON [redacted]
JILL MARIE, DAVID [redacted]
ROSS ALAN, DAVIDSON [redacted]
BOBBY H. DAVIS [redacted]
GELONZO, DAVIS [redacted]
GEORGE W. DAVIS [redacted]
MARK E. DAVIS [redacted]
MARK R. DAVIS [redacted]
SHAWN M. DAVIS [redacted]
MICHAEL PAUL, DAWSON [redacted]
EUGENE R. DAY [redacted]
MORALES C. DEJESUS [redacted]
SAMUEL M. DELAGARZA [redacted]
CHRISTOPHER W. DECK [redacted]
GRETCHEN A. CECKER [redacted]
MARK, DEDRICK [redacted]
BRIAN V. DELEON [redacted]
RONNIE BROWN, DELFIN [redacted]
DALLAS P. DELL [redacted]
KEVIN L. DELL [redacted]
JOSHUA J. DELMANZO [redacted]
RICH P. DEMEUSE [redacted]
JASON R. DENNO [redacted]
TROY MICHAEL, DENOMY [redacted]
MATTHEW CHARLES, DENSMORE [redacted]
JEROME F. DENTE [redacted]
PHILIP T. DERING IV [redacted]
JOHN M. DEVENY [redacted]
CHARLES, DEYOUNG [redacted]
DAVID P. DIAMOND [redacted]
APONTE DIEGO DIAZ [redacted]
MARTHA DIAZ [redacted]
ERICK W. DICKENS III [redacted]
LEAH NOELLE DICKISON [redacted]
SALLY MARIE DICKSON [redacted]
BRIAN S. DIETZMAN [redacted]
SHARLENE M. DINICOLA [redacted]
FRED IVAN DIXON [redacted]
HANSJORG W. DOCHTERMANN [redacted]
DARRELL A. DOREMUS [redacted]
STEPHEN DON DORRIS [redacted]
GREGORY A. DORSEY [redacted]
HUA MEI DOUGHERTY [redacted]
DON ALAN DOUGHTY [redacted]
WILLIAM J. DOUGHTY [redacted]
CHARLES W. DOUGLAS [redacted]
MATTHEW S. DOUGLAS [redacted]
SHAVOKA D. DOUGLAS [redacted]
CATINA DENISE DOWNEY [redacted]
JON A. DRAKE [redacted]
RODNEY E. DRAYTON [redacted]
ELIJAH A. DREHER [redacted]
WILLIAM D. DRIVER [redacted]
KEVIN PAUL DRURY [redacted]
KERITH DANA DUBIK [redacted]
THOMAS C. DUBOWIK [redacted]
MELANIE A. DUGAR [redacted]
REBECCAH L. DUKE [redacted]
CALVIN V. DUMAS [redacted]
WESSLEY CLAY DUMAS [redacted]
CHRISTOPHER C. DUNCAN [redacted]
SEAN D. DUNCAN [redacted]
JOHN MICHAEL DUNN [redacted]
TYLER G. DUNPHY [redacted]
CHRISTOPHER A. DURHAM [redacted]
CHRISTOPHER B. DURHAM [redacted]
JOHN P. DWYER [redacted]
JENNIFER A. DYER [redacted]
DAVID SCOTT EATON [redacted]
NATHAN J. EBELING [redacted]
STACEY L. ECKHARDT [redacted]
WILLIAM R. EDMONDS [redacted]
JASON THOMAS EDWARDS [redacted]
JEFFREY J. EDWARDS [redacted]
LAURA S. EDWARDS [redacted]
MICHAEL EDWARDS [redacted]
WILLIAM D. EDWARDS [redacted]
HEIDI M. EERNISSE [redacted]
FRANKLIN E. ELKINS II [redacted]
HEIDI JANELLE ELLEDGE [redacted]
JONATHAN M. ELLIS [redacted]
DAVID P. ELSEN [redacted]
AMY L. EMANUEL [redacted]
ROBERT E. EMERICK [redacted]
DAVID JOHN EMIG [redacted]
DAKEN LUCAS ENGMANN [redacted]
STEVEN A. ERICKSON [redacted]
TODD LOGAN ERSKINE [redacted]
JEFFREY G. ERTS [redacted]
JOSEPH E. ESCANDON [redacted]
EDWIN HERMAN ESCOBAR [redacted]
JOHN P. ESPINOSA [redacted]
JASON R. ESTEY [redacted]
CHRISTIAN R. ESTRELLA [redacted]
JOHN MICHAEL EVANS [redacted]
JULIE ANN EVERS [redacted]
KYLE EUGENE EWING [redacted]
JOHN MICHAEL FAIRCHILD [redacted]
THOMAS R. FAIRFIELD [redacted]
ROBERT FALCON [redacted]
MATTHEW J. FANDREY [redacted]
PHILLIP D. FANTOZZI [redacted]
SEAN P. FARLEY [redacted]
MICHAEL B. FARRIMOND, JR. [redacted]
DAVID D. FARRINGTON [redacted]
BRIAN RICHARD FAUNCE [redacted]
DONALD A. FAWTHROP [redacted]
PERRY MATTHEW FEENEY [redacted]
JEREMIAH D. FERGUSON [redacted]
WENDY M. FERGUSON [redacted]
JAMES N. FERNELIUS [redacted]
DAVID E. FIELDER, JR. [redacted]
ROBERT W. FIELDS III [redacted]
BRONCO G. FIGUEROA [redacted]
BRUCE D. FINKLEA [redacted]
GRAHAM M. FISHBURN [redacted]
BRENDAN P. FITZPATRICK [redacted]
TIMOTHY E. FLAHERTY [redacted]
STEPHEN E. FLANNERY [redacted]
ALEXANDER S. FLECKER [redacted]
NORMAN T. FLECKER [redacted]
PHILIP A. FLEMING [redacted]
CHADWICK B. FLETCHER [redacted]
DANIEL BRIAN FLOOD [redacted]
DAVID VICTOR FLORES [redacted]
JERMICHA L. FOMBY [redacted]
BRETT C. FORBES [redacted]
BROOKE J. FORD [redacted]
GREGORY JASON FORD [redacted]
KAREN R. FOSBRINK [redacted]
CHRISTOPHER D. FOUST [redacted]
LOUIS FOUST II [redacted]
DAVID A. FOWLES [redacted]
RYAN E. FOX [redacted]
STEPHEN M. FRANK [redacted]
TODD V. FRANKEN [redacted]
DANIEL V. FRAZIER [redacted]
WILLIAM E. FREEMAN [redacted]
JAMES JOHN FREESE [redacted]
ERNEST A. FREUND [redacted]
BASIL W. FRITH [redacted]
RONALD CURTIS FRY [redacted]
STEPHEN FUJI [redacted]
ANNE E. FULLER [redacted]
ANTHAN B. FULLER [redacted]
JOSHUA J. FULMER [redacted]
TIMOTHY A. FURIN [redacted]
JAMES CLARK GABELER [redacted]
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RACHEL L. GAITHER [redacted]
MARK S. GALLAGHER [redacted]
WILLIAM S. GALLAWAY [redacted]
DIETER R. GALLI [redacted]
JOHN N. GAMBY, [redacted]
RICHARD J. GANSZ [redacted]
JAMES KIRK GANT [redacted]
JOHN ABLAN GAOAY [redacted]
RUTH BODEE GARDENIER [redacted]
STEPHANIE L. GARDNER [redacted]
RICHARD R. GAREY [redacted]
BENJAMIN C. GARNER [redacted]
JEFFREY G. GARNER [redacted]
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JOSE M. GARZA [redacted]
AMANDA M. GAST [redacted]
DARRELL SCOTT GAYLE [redacted]
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GINA MARIE GENTILE [redacted]
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KURT DAVID GIESE [redacted]
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KENNETH A. GLIDEWELL [redacted]
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WILLIAM D. GODBY [redacted]
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JEREMY M. GODWIN [redacted]
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BRIAN SHANE GRASS [redacted]
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ROY ARTHUR GRAY [redacted]
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STUART C. GREER [redacted]
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RYAN M. HANSON [redacted]
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TRICIA ANNE HARMON [redacted]
JASON W. HARRINGTON [redacted]
AMANI Y. HARRIS [redacted]
DUSTIN K. HARRIS [redacted]
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JAMES H. HARROWER [redacted]
KURT DUNCAN HARSH [redacted]

SPENCER D. HASCH [redacted]
TEALLA ANN HASTINGS [redacted]
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JOHN CURTIS HERRON [redacted]
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TAMARA E. HOBBS [redacted]
THEODORE F. HOFFMAN, [redacted]
LANNY A. HOGABOOM II, [redacted]
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JAMES E. INGUAGIATO [redacted]
VINCENT P. INTINI [redacted]
DERECK L. IRMINGER, [redacted]
JAMES ERNEST IRVIN [redacted]
JOHN J. ISTVAN [redacted]
EDWARD A. IVEY, [redacted]
MICHAEL R. IVY, [redacted]
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ANDREW C. JACOBS [redacted]
HEIDI A. JACOBS [redacted]
HEATHER N. JACOBSON [redacted]
CHARLES R. JAMES III [redacted]
STUART M. JAMES [redacted]
ROBERT S. JARZYNA [redacted]
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DAVID JASZEWSKI [redacted]
BRADFORD JEALOUS [redacted]
JASPER JEFFERS [redacted]
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TITUS M. JEFFRIES [redacted]
SEAN P. JEHU [redacted]
KATHRYN A. JELLOTS [redacted]
JEREMY E. JELLY [redacted]
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JAMES H. JENSEN [redacted]
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DEXTER S. JOHNSON, [redacted]
HERMAN L. JOHNSON, JR. [redacted]
KRISTEN M. JOHNSON, [redacted]
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TONJA A. JONES, [redacted]
TONY LEE JONES, [redacted]
ROBERT C. JORGENSEN, JR. [redacted]
KEVORK JUSKALIAN, [redacted]
TODD C. JUSTICE, [redacted]
RAYMOND P. KACZMAREK, [redacted]
DAVID ARLEN KAHLE, [redacted]
WILLIAM A. KAHMANN, [redacted]
JACKIE K. KAINA, [redacted]
CAROLINE M. KALINOWSKI, [redacted]
BRENT YASUO KANEYUKI, [redacted]
GREG ALAN KARPOWICH, [redacted]
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MATTHEW JON KIME, [redacted]
LEE A. KIND, [redacted]
ANTHONY KING, [redacted]
CLETIS R. KING, JR. [redacted]
GERTHA A. KING, [redacted]
JUSTIN C. KING, [redacted]
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SCOTT R. KING, [redacted]
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DAVID M. KIRKLAND, [redacted]
JACLYN LEE KISTLER, [redacted]
JANICE E. KLAFIN, [redacted]
KERRIANN L. KLEIN, [redacted]
MARIBETH M. KLETTKE, [redacted]
BRANDON C. KLINK, [redacted]
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PETER M. KNIGHTSHEEN, [redacted]
JEREMY CURTIS KNUDSEN [redacted]
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JACK L. KOONS, [redacted]
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CRAIG DONALD KORKOW, [redacted]
MICHAEL KORNBURGER, [redacted]
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MARC ADAM KRAUSS, [redacted]
DAREN W. KRELLWITZ, [redacted]
HEIDI L. KUHAIDA, [redacted]
TIMOTHY J. KURGAN, [redacted]
CHRISTOPHER M. KURINEC [redacted]
KEVIN E. KUWIK, [redacted]
DONALD B. LAAUWE, [redacted]
GREGORY BRYAN LABAO, [redacted]
DOUGLAS A. LABOUFF, [redacted]
MARK CHARDRON LAIRD, [redacted]
JOSEPH B. LAIRD, [redacted]
CHESS P. LAMM, [redacted]
LAURIE SUE LANCASTER, [redacted]
POLLY M. LANCASTER, [redacted]
CHRISTOPHER S. LANDERS, [redacted]
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DAVID M. LANGE [redacted]
BLAYNE C. LANNAN, [redacted]
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SHARLENE F. LARSON, [redacted]
EDWIN A. LASTER, [redacted]
ERIC A. LAUER, [redacted]
BARRY B. LAW, [redacted]
CARRIE LYNN LAWSON, [redacted]
GRETCHEN A. LAZAR, [redacted]
TROY L. LEACH, [redacted]
BRYAN C. LECLERC, [redacted]
KATHLEEN J. LECOQCANNON, [redacted]
BROOK GREGORY LEE, [redacted]
STEPHEN H. LEE, [redacted]
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MARK STEVEN LENT, [redacted]
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DARNELL L. LETT, [redacted]
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JASON SCOTT LIGGETT, [redacted]
ROSS F. LIGHTSEY, [redacted]
AIMEE L. LIMOGES, [redacted]
PETER A. LIND, [redacted]
STACEY LYNN LINE, [redacted]
SHANE F. LIPTAK, [redacted]
JAMES H. LISLE, [redacted]
RYAN TURNER LISTER, [redacted]
ERIC EUGENE LOCHNER, [redacted]
LAKEESHA L. LOCKETT, [redacted]
SUZANNE S. LOKYER, [redacted]
DONALD R. LOETHEN, [redacted]
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DONALD TOBIAS LOGSDON, [redacted]
LUIS OMAR LOMAS, [redacted]
JEFFERY L. LONG, [redacted]
EDWARD M. LOPACE, [redacted]
DAVID JOSEPH LOPEZ, [redacted]
RENTA A. LOPEZ, [redacted]
EMILY R. LORD, [redacted]
JEFFERY P. LUCAS [redacted]
CHAD LUCE, [redacted]
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H. CLAY LYLE, [redacted]
KATE A. LYNCH, [redacted]
ERIC E. LYON, [redacted]
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MARY K. MACKEY, [redacted]
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BRYON L. MANSFIELD, [redacted]
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SETH D. MARGULIES, [redacted]
ROBERT J. MARKIEWICZ, JR., [redacted]
NAHOMY M. MARRERO, [redacted]
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ROBERTO C. MARTINS, JR., [redacted]
ALTON P. MARTIN, [redacted]
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ADAM V. MASTRIANNI, [redacted]
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JOSHUA MCCAW, JR., [redacted]
TERI MICHELLE MCCLURE, [redacted]
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PATRICK D. MCIVOR, [redacted]
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KARYN ALYSIA MCNEIL, [redacted]
KERRY L. MCNICHOLAS, [redacted]
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CODY ADAM MCROBERTS, [redacted]
PADRAIC M. MCVEIGH, [redacted]
ROBERT E. MCWARD, [redacted]

KEITH A. MCWHERTER [redacted]
CLAYTON D. MEALS [redacted]
JAMES JASON MECKEL [redacted]
IAN MEISNER, [redacted]
JEREMY TODD MELLER [redacted]
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JON F. MELLOTT [redacted]
TABBLE B. MEMOLI [redacted]
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LARRY E. MILNE [redacted]
SHELBY K. MITCHELL [redacted]
TODD D. MITCHELL [redacted]
GREGORY ROBERT, MOHL [redacted]
GEORGIA E. MONCAYO, [redacted]
WILLIAM S. MONCRIEF [redacted]
JAMES E. MONIHAN [redacted]
EMMA LYNN MONTALBO [redacted]
RICK LEE MONTANDON [redacted]
HAROLD SIMON MONTOYA [redacted]
JASON JOHN MOOK, [redacted]
BUCKY L. MOORE, [redacted]
FELICIA R. MOORE [redacted]
JOHN COLIN MOORE [redacted]
PAMELA ANN MOORE [redacted]
TRAVIS K. MOREHEAD [redacted]
WILLIAM P. MOREY [redacted]
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RUSSELL W. MORTON [redacted]
GARY LEE, MOSES [redacted]
MARCUS L. MOSS [redacted]
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ANDREW M. MOUW, [redacted]
CHANTAL N. MOUW, [redacted]
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LAWRENCE A. MULLANY [redacted]
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SAM SAI CHEONG MUM [redacted]
JOSEPH DAVID MUNGER [redacted]
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MAUREEN E. MYERS [redacted]
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CHAD BRIAN NEIDIG [redacted]
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BRIAN W. NELL [redacted]
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MARK F. NEWSOME [redacted]
SHANNON LEE NEWTON [redacted]
THOMSON D. NGUY, [redacted]
MINHKHOI M. NGUYEN [redacted]
SONJA NICHOLS [redacted]
MELVIN J. NICKELL [redacted]
CHRISTOPHER F. NICOLAUS, [redacted]
MICHAEL C. NIENHAUS [redacted]
CHARLES M. NIFONG, JR. [redacted]
KENNETH A. NILES [redacted]
MATT ERIC NILES, [redacted]
ROGER RUSSELL NIXON [redacted]
BRIAN C. NORTH, [redacted]
RONALD G. NOVAK, JR. [redacted]
JEFFREY M. NOVOTNY [redacted]
CURTIS W. NOWAK, [redacted]
JACK W. NOYES, [redacted]
THOMAS C. NUGENT [redacted]
DEXTER C. NUNNALLY [redacted]
CHAD NYS, [redacted]
MICHAEL A. O'BADAL [redacted]
BRENDAN P. O'KEEFE [redacted]
JACQUELYN K. OLSA [redacted]
MARK AARON OLSEN [redacted]
STANTON W. OLSEN, JR. [redacted]
CAMERON M. O'NEIL [redacted]
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RODRIGUEZ E. ORTIZ [redacted]
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ROLF GRAYSON OSTERAAS [redacted]
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BILLY DALE SIEKMAN [redacted]
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EXTENSIONS OF REMARKS

RURAL ROADS FUNDING

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mrs. JOHNSON of Connecticut. Mr. Speaker, anticipating next year's reauthorization of the 1991 Intermodal Surface Transportation Efficiency Act [ISTEA], I am introducing legislation today that will provide rural area roads eligibility for a small percentage of funding under the Surface Transportation Program [STP].

The intent of ISTEA's STP program was to provide greater flexibility to State and local authorities for transportation needs by providing States with block grant-type authority. However, ISTEA regulations prohibit roads classified as local or rural minor collectors from receiving Federal-aid highway funding. Since most roads in rural areas fall under this classification, they are not eligible for funding and remain in severe disrepair.

Under ISTEA's current STP distribution formula, States are required to set aside 10 percent of their STP funds for safety programs and 10 percent for transportation enhancement programs. The remaining 80 percent of STP funding goes into a general purposes fund, with a remaining distribution account receiving 50 percent, and a statewide distribution account receiving 30 percent.

Under the remaining distribution account, funding is provided to areas over 200,000 population, while only a minimal level of funding is provided to rural areas under 5,000 population based on a fiscal year 1991 funding level. Unfortunately, congressional attempts to provide State flexibility do not ensure adequate and equitable distribution of Federal assistance to rural area roads.

Moreover, roads functionally classified as local or rural minor collectors are not currently eligible for the rural areas under 5,000 population funding and, since most rural roads fall under these two classifications, they are ineligible for Federal assistance.

My legislation would allow roads functionally classified as local or rural minor collectors eligibility for STP funds under the existing special account for areas under 5,000 population only. My legislation would not amend the road classification system. Rather, it would only modify 23 USC 133(c) to allow roads functionally classified as local and rural minor collectors STP funding eligibility under the areas under 5,000 population account 23 USC 133(d)(3)(B). Moreover, I propose that of the 50 percent to be obligated under the remaining distribution account, at least 20 percent, or the existing minimum requirement, whichever is greater, should go to the rural areas under 5,000 population account. Finally, my legislation would amend the statewide planning process by requiring States to also consider the transportation needs of rural areas, including local and rural minor collectors.

I urge my colleagues to support this necessary legislation. It will provide the flexibility ISTEA was intended to produce and will greatly improve our roadway system by allowing local and rural communities the opportunity to decide which roads should be repaired.

* * *

MEDICAL SAVINGS ACCOUNTS: FANCY WORDS FOR NEW TAX SHELTER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. STARK. Mr. Speaker, medical savings accounts [MSA] will be voted on this week as part of the health insurance reform bill developed by the Republican leadership.

The MSA provisions should be deleted.

Everyone who thinks about them will quickly understand that they are destructive to the health insurance system, because they skim out the healthiest people in our society. Sicker and older people will be left behind in the traditional insurance pool, where rates will have to be raised to cover the costs of the more expensive people in that pool. These higher rates will, in turn, make insurance unaffordable to more people, thus increasing the number of uninsured in our society. MSA's may be good for individuals who are healthy at the present time, but they are bad for society that is trying to encourage health insurance for as many people as possible.

MSA's are an every-man-for-himself, to-hell-with-society philosophy.

What is not so clear is that they are a massive tax shelter.

I would like to include in the RECORD the portions of a paper by Iris J. Lav of the Center on Budget and Policy Priorities, which details how gross this new tax break is. Republicans talk about tax reform and tax simplification, but anyone who votes for MSA's is voting for tax complication and tax unfairness:

MSA PROVISIONS IN HEALTH CARE REFORM BILL CREATES TAX SHELTER AND CASTS DOUBT ON EXPANSION OF INSURANCE COVERAGE

(By Iris J. Lav)

The Medical Savings Account (MSA) provision in the House health care reform bill creates an extensive new tax shelter opportunity, the cost of which would grow over time. For people in good health, the MSA provision would be the equivalent of enacting a new Individual Retirement Account program—far more generous than the IRAs available prior to the Tax Reform Act of 1986.

Healthy, higher-income people who hope to retain for other purposes the tax-advantaged funds not needed for medical care would be attracted to use the MSAs with high-deductible insurance plans. People with less good health would find high deductible insurance plans less attractive and would be become segregated into conventional insurance plan, thereby raising the cost of such plans. As a result, it could become more difficult and less affordable for employers to offer adequate health insurance to employees most in need of it—potentially undermining the basic purpose of the health care reform legislation.

The potential problems caused by MSAs can be mitigated (but not eliminated) by limiting the ability of healthier people to use MSAs as a tax shelter for general purpose saving and investment. The tax shelter potential could be lessened by:

Significantly increasing the penalty for use of MSA funds for purposes other than paying medical bills.

Taxing interest earned on MSA accounts annually.

Recapturing foregone FICA (Social Security and Medicare) payroll taxes for amounts withdrawn from MSAs for purposes other than paying medical bills.

Raising the age at which funds may be withdrawn from MSAs for any purpose without incurring a penalty to age 65, so funds must remain available to expend on medical care until the individual qualifies for Medicare.

MSA PROVISIONS

Under the MSA proposal in the health care reform bill, qualified taxpayers (either directly or through their employers) are allowed to contribute yearly amounts to an MSA, up to a specified ceiling. To be qualified, taxpayers must have insurance coverage through a high-deductible health plan. Taxpayer (or their employers) may contribute the amount of the plan deductible of the MSA, up to $2,000 for an individual and $4,000 for a family.

Amounts individuals contribute to MSAs may be deducted on their income tax when determining adjusted gross income, which means they may be deducted whether or not the individual itemizes other deductions. If MSA contributions are made by employers on behalf of individuals (presumably even if salaries are reduced to allow the contributions to be made), the amounts contributed are not counted as wages or salary for purposes of computing income, FICA (Social Security and Medicare), or unemployment taxes. The interest earned on amounts accumulated in MSA accounts also is exempt from taxation.

Taxpayers may use the funds in their MSAs to pay any medical expenses that could qualify as itemized deductions on the taxpayers' income tax. Funds withdrawn from MSAs that are used to pay permitted types of medical bills are never taxed.

If funds are withdrawn from the MSA for non-permissible purposes, they are subject to income taxes as ordinary income in the year they are withdrawn. If the taxpayer is below age 59½, amounts withdrawn for non-permissible purposes also are subject to a 10 percent penalty. After the taxpayer attains age 59½, funds may be withdrawn from MSAs for any purpose without incurring a penalty.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

MSA'S CREATE A TAX SHELTER

For higher-income taxpayers who anticipate remaining healthy, MSAs represent a new, tax-advantaged way to accumulate savings. Because contributions made by or through an employer are permanently exempt from Social Security and Medicare payroll taxes and are exempt from income taxes until withdrawn, and because the interest earned on amounts remaining in the MSA is allowed to compound without yearly taxation, the 10 percent penalty on withdrawals for non-permissible purposes is not sufficient to prevent MSAs from becoming a tax shelter. Even after the penalty is paid, the after-tax return to savings in an MSA would under many circumstances exceed the return to conventional savings.

Figure 1 [not printed in RECORD] shows the difference to a taxpayer in the 36 percent federal income tax bracket between saving $3,000 of gross earnings under current law and saving the same amount in an MSA. In each case, the deposit is held at a three percent rate of interest. Under current law, the taxpayer would have $1,742 in after-tax funds to deposit in a conventional savings account. (The $3,000 gross earnings would be reduced by a 36 percent income tax, an effective state income tax of 4.5 percent after accounting for deductibility against federal taxes and a 1.45 percent Medicare tax. Taking away 41.95% of $3,000 leaves $1,742.) If those funds remain on deposit for 10 years with interest taxed yearly, they would grow to $2,079. Under the MSA provision, however, the taxpayer would deposit the entire $3,000 and interest would compound free of tax. After 10 years, the account would hold $4,032. The taxpayer could withdraw the funds for purposes other than medical care, pay income tax and the 10 percent penalty on the withdrawn amounts, and have $2,236 remaining.

In other words, after 10 years the value to the taxpayer of the funds saved in the MSA would exceed the value of conventionally-saved funds by 7.6%, even though a penalty was assessed for non-permissible use of the funds. If during those 10 years the taxpayer attained age 59½, no penalty would be assessed and the value to the taxpayer of the MSA savings would exceed the value of the conventional savings by more than 15 percent. As shown in Figure 1, the differential value of the MSA savings grows with the length of the holding period. After 20 years, an MSA withdrawal with penalty exceeds the value of conventional savings by 21 percent, while an MSA withdrawal after age 59½ exceeds the value of conventional savings by 30 percent. (It may be noted that the cost of the Treasury in foregone tax revenues also would increase over time, as growing amounts of savings are likely to be sheltered from taxation.)

REGULATORY BURDEN FACING SMALL BUSINESS

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. MANZULLO. Mr. Speaker, I am a proud supporter of the Small Business Growth and Administrative Act, now retitled the Small Business Regulatory Simplification and Enforcement Act. This bill, as contained in the Contract With America Advancement Act, will:

First, require agencies to publish easily understood guides to assist small businesses in complying with regulations;

Second, require agencies to provide informal, nonbinding advice, about regulatory compliance to small business;

Third, create a Small Business Administration [SBA] small business and agriculture enforcement ombudsman to allow citizens to confidentially comment on SBA personnel;

Fourth, create independent boards to provide a greater opportunity to track small business regulatory enforcement and policy; and

Fifth, require agencies to develop programs to waive and reduce civil penalties for violations by small businesses.

I might note, Mr. Speaker, that these provisions unanimously passed the Senate by a 100-to-0 vote on March 19.

I am attaching an article that appeared in the Chicago Tribune last week about Perry Moy, who lives in the district I am privileged to represent and owns a Chinese family restaurant. This article explains the effect of regulations on small business. Regulators in the executive branch should heed his insights, and I urge a similar resounding vote of confidence in small business by my colleagues in the House.

[From the Chicago Tribune, Mar. 18, 1996]

RESTAURATEUR AWAITS RELIEF FROM "WASTEFUL" REGULATIONS

(By Wilma Randle)

McHenry County Restaurant owner Perry Moy spends his days doing a lot more than running his eatery. He also has to handle a lot of paperwork, much of it dealing with various governmental regulations.

Moy is the owner of the Plum Grove Restaurant, family-owned eatery in McHenry. And, he says the paperwork he has to deal with is something he really could do without.

Moy also served as a delegate at last year's White House Conference on Small Business where the issue of government regulations was a major concern for small business owners.

Thus, Moy is among the nation's small business operators who are watching with interest a bill currently being debated in Congress that would relieve small business owners of much of what they say is the burden of governmental regulations.

The "Small Business Growth and Administrative Accountability Act" would require federal agencies to periodically review regulations to determine whether they need changing, according to a recent notice distributed by the National Federation of Independent Business, a Washington-based association representing more than 500,000 small business owners around the country.

The NFIB contends government regulations force employers to waste billions of hours each year filing paperwork as well as billions in costs related to complying with different regulations. "That time and money could be better used and spent expanding businesses and creating jobs," said Jack Faris, NFIB president.

Paperwork isn't costing Moy billions of work hours, but he says when you run a small business, any time that isn't devoted to running the business is time you really can't afford to waste.

"The amount of paperwork I have to deal with—just in my business—is immense," he said. "I have to deal with everything from employee taxes to the health and liquor regulatory agencies. And it's not just federal agencies. There are all these state and local regulations too."

So, he said, "Whatever changes can be made to relieve the paperwork and regulatory burden on small business I would welcome. It's truly one of the drawbacks about running a small business."

TRIBUTE TO DADE COUNTY'S OUTSTANDING WOMEN

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mrs. MEEK of Florida. Mr. Speaker, it is my great pleasure to pay tribute for Women's History Month by joining with the board of commissioners, department of parks and recreation and the citizens of Dade County in celebrating the achievements of 15 outstanding women.

Elizabeth Metcalf—a woman of lasting impact, who has touched many lives in her service as a psychologist, teacher, State representative and dedicated volunteer for many organizations such as the League of Women Voters, The Girl Scout Council of Tropical Florida, and the Dade Heritage Trust.

Olimpia Rosado—came to the United States as an exile from Cuba in 1961, and since that time she has dedicated her life to preserving Cuban heritage, writing a regular column for Diario Las Americas, supporting the Miami Dade Public Library Hispanic Branch, and her extensive volunteer service.

Francena Thomas—children have always been her first priority. Francena has served as a public schoolteacher, university administrator, and currently as a community liaison for Metro Dade Police. Francena has hosted radio and television programs, writes a column for the Miami Times, and has spent extensive time volunteering for agencies such as Metro-Miami Action Plan, Alternatives to Violence, and the Youth Crimewatch Advisory Council.

Frances Bohnsack—serving presently as executive director of the Miami River Marine Group, Fran has made a positive imprint in the south Florida community through her activities in many women's organizations such as NOW and the Feminist Alternative. She has also dedicated her life as a teacher, political activist, and advocate.

State Representative Larcenia J. Bullard—is a former educator and school administrator who has taken on a task to serve in the Florida Legislature, along with her extensive community involvement which includes the NAACP, South Dade Civitan Club, National Council of Negro Women, Women's Political Caucus, and the Miami-Dade Criminal Justice Council. Representative Bullard is widely respected for her leadership in the South Dade Community she represents.

Linda Dakis—Judge Linda Dakis has focused her professional and volunteer efforts toward the effects of domestic violence in our community. She has been a leader in dealing with this difficult issue, and is respected nationally for her extensive work through publications and media program that explore this pervasive evil called domestic violence.

Margarita Rohaidy Delgado—has served as a social worker, Florida Senate Legislative Aide and presently owns her own company, MRD Consulting. She has served the south Florida community through her involvement with many organizations, among them the City of Miami Off-street Parking Board, Dade County United Way Board of Trustees, and Metro-Dade County Health Policy Authority.

Tananarive Due—is well known through her career as a columnist for the Miami Herald, as a novelist, international scholar, Big Sister, and giving back to the community through the Miami NAACP ACT–SO Committee and Big Brothers-Big Sisters. She is the daughter of two infamous south Florida civil rights leaders.

Vickie Jackson—responding to the tragic domestic violence loss of her sister, Bridget Smith, Ms. Jackson founded the Domestic Violence Education and Prevention Project, Inc. She also volunteers her time to the Inner-City Children's Touring Dance Co. and many other arts programs for children.

Elizabeth Kaynor—has served tirelessly as the executive director for the City of Miami Commission on the Status of Women, and is the founding director for the Center for Continuing Education of Women at Miami-Dade Community College. She grasps every opportunity to work for women's advancement through education, communication, networking, and international exchanges.

Ivette Arteaga Morgan—is currently the assistant principal of the Miami Palmetto Adult Education Center, and has served as an elementary teacher, social worker, school administrator, and university faculty member. Dr. Morgan has provided leadership for bilingual and multicultural education programs, was a cofounder of ASPIRA, and has volunteered her time to many programs that encourage women's political participation.

Janice O'Rourke—as a leader in educational and women's organizations, this banking executive has lent her talents and energies to many causes such as the Miami Branch of the American Association of University Women and other organizations that focus on women's education and empowerment.

Deborah Reyes—serves as the president of Capital American Mortgage Co. and consulting and training group. She is committed to serving her home community through her church, the Girl Scouts Council of Tropical Florida, the Community Coalition for Women's History, and the National Board of the Girl Scouts of the USA.

Being honored posthumously are:

Meg O'Brien—was a woman of courage and determination who became the founder of the WLRN Radio Reading Service, which provides print-handicapped persons with 24 hours of news, literature, and general information. She shared her love for literature through the radio program "Cover to Cover," through the annual writer's conference in the Florida Panhandle, and through "The Late Show," a bedtime story initiative for detainees at Youth Hall.

Belen Saborido—immigrated to the United States and became a successful businesswoman and community leader, launching her own business in 1981. She worked tirelessly to support education, women's concerns, service to families and children, health care, and the arts.

NATIONAL DIABETES DAY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. PALLONE. Mr. Speaker, today is National Diabetes Day. Diabetes is a life-threatening, chronic disease, and a major public health issue that affects 16 million Americans directly and the rest of the population indirectly through its impact on medical care and costs.

Since the 1960's the prevalence of diabetes has tripled and it is reaching epidemic proportions. The National Institutes of Health estimates that about 1,800 new cases are diagnosed each day. Diabetes is by far the most widespread disease in our country today. In 1992 alone, cost of care for diabetes totaled $92 billion.

The skyrocketing rise in diabetes is linked to four very important factors. First, an aging population. The aging of the baby boomer population will ultimately increase that number even higher. Second, is the increasing degree of obesity. Third, is the fact that the population is living in a more sedentary lifestyle, and fourth is the fact that improved diagnosis techniques have isolated cases at earlier stages.

Those at risk for diabetes generally exhibit four different characteristics: they are over 45 years old, more than 120 percent above their ideal body weight, physically inactive, or have an immediate family member diagnosed with diabetes.

The toll of diabetes in death and human suffering is very great. Physicians are very critical to pubic education efforts. Physicians need to be more aware and sensitive to the fact that diabetes is a very serious disease. Many people are unaware they have the disease until they seek treatment for one of its crippling conditions. Some of these conditions include: stroke, blindness, heart disease, or even kidney disease.

Diabetes is the leading cause of blindness among those 20 to 74 years old. Also, as many as 20 percent of diabetics develop kidney disease. And diabetics are two to four times more likely to develop heart disease and strokes.

Diabetes is currently the fourth leading cause of death by disease. Moreover, about 169,000 Americans die each year from the disease—more than the number of people who die from AIDS or breast cancer.

We must realize that diabetes requires a lifetime of medical care and self-treatment. A person with diabetes must have access to supplies, equipment, and education. With these resources made available, a person with diabetes can greatly reduce any complications that cause any suffering associated with the disease.

Health care must be made a priority for people with diabetes. People with diabetes have great difficulty acquiring affordable health insurance that is needed to obtain medical care. Medicare and Medicaid, the Federal Government's two largest health care programs, do not provide coverage of supplies and medication necessary to avoid complications related to diabetes.

According to the American Diabetes Association, diabetes research is proven to save money. Studies taken show that for every dollar spent on medical research, $13 is saved in health care costs. The majority of diabetes research is supported by the National Institutes of Health. Ironically, of the more than $12 billion spent by the U.S. Government on medical research, only 3 percent is used to fund diabetes research. There must be a greater amount of support for medical research programs and also increased funding for diabetes research.

In regard to health care issues, we must have widespread support for legislation and efforts in the private sector that will ensure greater access to health care for people with diabetes.

I have recently become a cosponsor of two bills sponsored by Representative FURSE (H.R. 1073 and H.R. 1074) that seek to expand Medicare coverage of outpatient self-management training and access to blood testing strips. I have also signed on to a letter supporting the National Institutes of Health as a priority when considering a balanced budget.

We, Representatives in Congress, have the opportunity to improve the lives of millions of Americans with diabetes who rely on Medicare for their health insurance. I look forward to working with the other Members of Congress, now and in the future, to improve the lives of people with diabetes.

TRIBUTE TO FRANKLIN MEISSNER

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise to pay tribute to an outstanding individual, Mr. Franklin Meissner, of Weymouth, MA. Today, Mr. Meissner, the outgoing chairman of the board of the South Shore Chamber of Commerce, will be honored for his exceptional work. During his tenure, the South Shore Chamber had its most successful financial year and is now the second largest chamber of commerce in New England. As the 1995 chairman, Mr. Meissner made significant improvements to the administration of the chamber by reorganizing the Economic Development Organization and upgrading the communications and computer operations. He also instituted the "Elder-Preneur" of the year award, honoring older people who continue to contribute to society.

In addition to efforts at the chamber, Mr. Meissner has been very active in serving his neighbors and community. To list just a few of his civic service activities: he is a member of the Weymouth Rotary Club; is director of the South Shore Hospital, Health and Educational Foundation; and is director of the Bank of Braintree. Mr. Meissner is also a successful businessman, as president of Electro Switch Corp., he employs over 500 people in Massachusetts and North Carolina. What has been very evident in all of Mr. Meissner's activities is strong dedication and a commitment to success.

Mr. Speaker, it is indeed an honor and a pleasure for me to have this opportunity to recognize this outstanding individual. I am sure I speak on behalf of many members of the community who have worked with Mr. Meissner when I offer my heartfelt congratulations and best wishes on this special day.

163D ANNIVERSARY OF THE TREATY OF AMITY AND COMMERCE BETWEEN THE UNITED STATES AND THAILAND

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. GILMAN. Mr. Speaker, I rise today to commemorate the 163d anniversary of the Treaty of Amity and Commerce between the United States and the kingdom of Thailand. This treaty, signed in 1833, is unique in that it is the first treaty of its kind between the United States and an Asian nation. It is a symbol of our enduring friendship and high respect for the Thai people.

For many years, the United States has had a close political and personal relationship with the people and the Government of Thailand. The Thais stood shoulder to shoulder with us in our long and principled battle against communism in Southeast Asia. Today, they continue as our ally in the war against illicit drugs. Thailand stands as a model to other South East Asian nations as a bedrock of peace and stability in a region which has seen much turmoil.

Today, the Thais have much to be proud of in the robust development of their economic strength and their leadership in Asian commerce. The interdependence of our economies binds us even closer together and Thai-Americans have made strong contributions to American society and culture.

Mr. Speaker, it is a honor to recognize this 19th century treaty which serves as the foundation of a long and prosperous relationship. It is hoped that Thailand and the United States will continue their long-standing and mutually beneficial friendship which serves as a model of cooperation in the region.

REPUBLICAN HEALTH BILL WILL RIP-OFF SENIORS BY PERMITTING SALES OF BAD INSURANCE PRODUCTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. STARK. Mr. Speaker, the health insurance bill that was approved by the Ways and Means Committee last week contains language that completely guts the laws against Medigap fraud and abuse.

The following letter from a consumer advocate explains why.

It is another reason the House should pass a simple, pure Kennedy-Kassebaum bill.

SENIOR HEALTH INSURANCE ISSUES,
Scotts Valley, CA, March 20, 1996.

Hon. BILL ARCHER,
Chairman, House Committee on Ways and Means, Longworth HOB, Washington, DC.

DEAR CHAIRMAN ARCHER: I am very concerned about an Amendment by Mr. Collins that recently passed out of the Committee on Ways and Means on Duplication and Coordination of Medicare Related Plans. I have been a consultant on Medicare, supplemental insurance and long term care insurance for more than eighteen years to both state and national consumer groups. I was very active in a lawsuit brought by the Santa Cruz District Attorney against an insurance agency for overselling duplicative and overlapping coverage to seniors in 1989. We both testified repeatedly in both Houses on this issue prior to the passage of OBRA 90.

While there is a legitimate reason to carve out a narrow exemption for disabled Medicare beneficiaries who have purchased guaranteed issue major medical coverage that duplicates and coordinates against Medicare, the Collins Amendment does not even address that issue. The proposed amendment language rolls back all federal and state protections since 1980 against selling multiple and duplicate policies to seniors on Medicare. This Amendment would allow companies and agents to sell seniors any amount and combination of policies on top of their Medicare and a Medicare Supplement. This practice has a long and disgraceful public history that led Congress to take action several times over the last two decades.

Not only would the proposed language repeal all federal protections, it would repeal all existing state laws and prohibit the enactment of any future state laws to protect elderly consumers. In addition to allowing the sale of excessive and duplicative coverage, it would also allow companies to coordinate those benefits against Medicare and other existing health benefits.

I find it very hard to believe that this Congress would allow these practices to resume and strip states of their rights to protect their own citizens from these abusive practices. Good public policy demands that seniors make the best use of scarce premium dollars and use any excess towards providing for their long term care needs, not the purchase of unnecessary duplicate coverage. I urge you to take a closer look at this issue.

Sincerely,

BONNIE BURNS,
Consultant.

SENIOR HEALTH INSURANCE ISSUES,
Scotts Valley, CA, March 20, 1996.

Hon. NEWT GINGRICH,
Speaker, The Speakers Office, House of Representatives, Washington, DC.

DEAR SPEAKER GINGRICH: Enclosed are copies of letters I have written commenting on the recent proposed federal legislation on tax clarification of long term care insurance and on duplication of medical benefits for people on Medicare. I understand that both of these issues will be voted on the floor shortly in one or more bills related to health insurance reform. These legislative proposals are almost identical to language contained in the Budget Bill that garnered many of the same concerns. I hope you will consider the issues I have raised in my letters to the Chairs of the various committees and subcommittees. These are extremely important issues that have profound repercussions for older consumers.

Stripping states of their rights to regulate consumer protections within their borders for their oldest and most vulnerable citizens is not consistent with your desire to allow states more flexibility and choice. Is it your public policy position that overinsurance for health care costs in the oldest and sickest populations is a desirable outcome? I can't imagine that you want to see seniors using their scarce health care premium dollars that should be spent on long term care coverage used to purchase unnecessary and excessive health care coverage.

Please take a careful look at these issues.

Sincerely,

BONNIE BURNS,
Consultant.

IN HONOR OF CALIFORNIA RECLAMATION DISTRICT NO. 108

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. FAZIO of California. Mr. Speaker, I rise today to honor California reclamation district No. 108, which is celebrating its 125th year of operation.

In 1868, the California State Legislature authorized the organization of reclamation districts to encourage residents to transform the State's swamps and flooded areas into arable land. One of California's oldest reclamation districts, No. 108, dates from September 1870. District No. 108 was organized by Yolo and Colusa County landowners for the purpose of slavaging the tule lands that extended from the western bank of the Sacramento River to the Colusa Basin.

One of district No. 108's earliest and most important responsibilities was flood control. Tens of thousands of acres of district land occupied low-lying areas of the Colusa Basin, surrounded on three sides by water during flood periods. The district had the immense challenge of dealing with potential flooding. In order to handle this contingency the district helped fund and maintain the Knights Landing to Princeton levee on the west side of the Sacramento River, as well as other levees outside district boundaries.

At the turn of the century, the district purchased areas of Sutter and Colusa County land, which it used as outlet channels to relieve pressure on the west side Sacramento River levees. During the same period, district authorities supervised the construction of a back levee to protect district lands from northern and western flood waters.

As development of lands within the district grew, so did R.D. 108's flood control efforts. Eventually, the district's work at the Knights Landing Ridge resulted in the 1915 formation of the independent Knights Landing Ridge Drainage District. During the same period, the newly-created Sacramento River West Side Levee District assumed maintenance control of the West Side Levee between the towns of Knights Landing and Colusa.

The earlier flood control efforts undertaken by district No. 108 laid the foundation for the development of these newer entities. District No. 108 developed a strong cooperative relationship with these bodies which continues to this day. The entire lower portion of the Colusa Basin enjoys greater flood protection as a result of this cooperative effort.

In the early years of this century the district expanded its focus, moving into the realm of irrigation. In 1917 district No. 108 obtained permission to irrigate lands not adjacent to the Sacramento River. An intense effort was mounted to establish an irrigation and drainage system which would serve the entire district. This effort was completed with great success. Today, there are 118 miles of irrigation ditches and over 300 miles of drains operated and maintained by the district.

In recent years, reclamation district No. 108 has faced a variety of challenges. During the 1960's the district worked with Sacramento River Water users and the U.S. Bureau of Reclamation to formulate a supplemental water supply plan. Today, district No. 108 is bring together Federal, State, environment, and water administrators and landowners in an attempt to develop a feasible and cost effective method for protection of the Sacramento River's endangered fish.

CELEBRATION OF JAN PIERCE'S 40 YEARS OF PROGRESSIVE LABOR LEADERSHIP

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. MANTON. Mr. Speaker, I rise today to pay tribute to Jan D. Pierce, the vice president of the Communications Workers of America, District One.

For the last 40 years, Mr. Pierce has worked tirelessly as a progressive labor leader in the communications industry and has been a leading advocate for rank and file unionism in the United States.

Mr. Pierce has been an active union member his entire working life, beginning with his employment by the then Bell System in 1956. He then served as president of CWA Local 4320 in Columbus, OH. Following that, he worked with the CWA District One staff as area director, assistant to the vice president and beginning in 1985, as vice president of the largest CWA district in the country.

Mr. Speaker, Mr. Pierce has stood by his word for the last 40 years by serving as an articulate spokesperson with a progressive point of view on major social, economic and political issues. In addition, he has involved himself in countless causes and struggles including civil rights, human rights, women's rights, political campaigns, demonstrations, picket lines and movements to improve conditions for the American worker.

Mr. Speaker, I am proud to recognize the achievements of Jan D. Pierce, and I know my colleagues join me in honoring him as we celebrate 40 years of progressive labor leadership with the Communications Workers of America.

HONORING JOANNE O'ROURKE ISHAM, DIRECTOR, OFFICE OF CONGRESSIONAL AFFAIRS, CENTRAL INTELLIGENCE AGENCY

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. COMBEST. Mr. Speaker, I rise today to call special attention to the dedicated work of Ms. Joanne Isham as Director of Congressional Affairs at the Central Intelligence Agency. Ms. Isham served in this demanding job for 2 years, taking over the office in a period of controversy following the reprimand of several CIA employees for their handling of the Aldrich Ames spy case. She recognized that the CIA's relations with the Congress were badly damaged by the spy case and set about immediately to improve them.

Mr. Speaker, I witnessed a dramatic shift in the Agency's posture with the Congress following Ms. Isham's appointment. She initiated a series of reforms to ensure that the Intelligence Committees were kept fully and completely informed of significant developments at the Central Intelligence Agency. She accomplished this turnaround not with a heavy hand, but with fair and even-tempered management. Ms. Isham kept me fully apprised of significant developments in the intelligence community. She earned the committee's respect in a most difficult undertaking.

Ms. Isham has now been promoted to be Associate Deputy Director for the CIA's Directorate for Science and Technology. This is a new position that will enable her to capitalize on her strong relations with the Congress and many years of experience in the CIA to bring a strategic and more corporate management team to the CIA's Directorate for Science and Technology. We will miss her at Congressional Affairs, but look forward to working with her in this new capacity.

Finally, I want to note that, in recognition of her work, she was awarded the Contract With America's Distinguished Intelligence Medal by Director John Deutch on March 18, 1995, in recognition for her outstanding leadership and management of the Office of Congressional Affairs. I want to thank her for her service to her country and her unstinting bipartisan work on behalf of the intelligence community.

SALUTE TO FAMILIA DIAZ MEXICAN RESTAURANT

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. GALLEGLY. Mr. Speaker, I rise today to salute a family restaurant in my district that is celebrating six decades of success—a family restaurant that never forgot the importance of family.

Familia Diaz Mexican Restaurant, now a fixture on 10th Street in Santa Paula, was established in 1936 by two people who had just $500 in savings and a dream in their hearts. Jose and Josepha "Pepa" Diaz opened their cantina, originally called "Las Quince Letras," and resolved that through hard work and determination they would succeed.

While Jose worked the front, making conversation with faithful customers who, over the years, would become almost as close as family, Pepa would be in the kitchen turning out her famous recipies, sometimes sending daughter Vickie to the corner store to buy the ingredients for a particular dish.

Word spread and the restaurant grew. In the 1950's, their son, Tony, came into the business and built on the progress his parents had made. For many years, Tony's wife, Cecila, and his sister, Nora, almost single-handedly turned out the restaurant's famous tamales.

In 1980, when Tony was celebrating his 30th year in the restaurant, he was joined in the business by two of his children, Sandra and Dan. This was so very appropriate, because in Familia Diaz' 60 years of business, business has always been deeply rooted in family.

While the number of fast food restaurants turning out food that is precooked, prepackaged, and preheated continues to proliferate, it is refreshing to know there are still places to go where food is prepared, the way it is at Familia Diaz.

I would like to wish the Diaz family a sincere congratulations on this happy 60th anniversary and best wishes for the future. I know that as long as this restaurant maintains a healthy supply of its most precious commodity—family—it will continue to enjoy great success.

PROCLAMATION HONORING MRS. AMANDA FRAZER DAWSON

HON. VICTOR O. FRAZER

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. FRAZER. Mr. Speaker, I insert the following for the RECORD:

A PROCLAMATION

Whereas, Ms. Amanda Blyden was born on April 7, 1906 in Tortola in a little Village of Cane Garden Bay to Celina and George Blyden;

Whereas, Ms. Blyden moved to St. Thomas in the early 1900s;

Whereas, she attends Christ Church Methodist in the Market Square where she has remained an active member for over fifty years;

Whereas, Ms. Blyden married Mr. Albert Frazer on December 16, 1925;

Whereas, she had ten children, seven are presently alive and active in their communities;

Whereas, she is a proud grandmother and great grandmother to over fifty children;

Therefore, be it resolved on this the seventh day of April 1996, I, Victor O. Frazer, Member of Congress, join with family and friends to honor a great woman as she celebrates her ninetieth birthday.

HOUSE CONCURRENT RESOLUTION 148

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mrs. MINK of Hawaii. Mr. Speaker, I came to Congress in January 1965, when questions about our escalating involvement in Vietnam were widely debated. Congress had passed the Gulf of Tonkin resolution the summer before, providing supporters of the war in Vietnam with a claim that Congress had authorized it. I took a stand against United States involvement in the Vietnam war. Supporters of the war used the near unanimous vote taken by Congress in passing the Gulf of Tonkin resolution to prove that I was out of line and even un-American for opposing my Government at a time of armed conflict.

This Taiwan resolution repeats the mistakes of the Gulf of Tonkin resolution.

For 24 years we have adhered to a One China policy to the point where we have declined to recognize Taiwan as an independent nation. Until we do, our policy has been as stated in the Taiwan Relations Act. Taiwan does not have a United States Embassy in the United States; neither do we have one in Taiwan.

Despite the diplomatic difficulties that this One China policy has caused, it has produced enormous prosperity in Taiwan, making it the 19th largest economy in the world. Today Taiwan is a major trader with the United States as well as with the People's Republic of China. It has won its right to the international trading table without dispute.

The Taiwan Relations Act states no committment on the part of the United States to use our military force in case of threats by mainland China. It was carefully crafted to avoid this inference.

Today we are amending that act. This resolution specifically makes that pledge of military force.

I find it hard to support this resolution, despite the alarming and exceedingly provocative actions of the People's Republic of China, because it goes too far and changes the longstanding policy without any substantive debate and without discussion of all the ramifications of this change.

This resolution is a cold war style reaction to the current missile firing and military maneuvers by the People's Republic of China in the Taiwan Straits. A sounder resolution which deplored this provocation and urged that it come to a halt and commended the Government of Taiwan for their remarkable achievements, pledged continuing support and friendship, and congratulated them on their upcoming election would have been all that was needed to point to the obvious need for the People's Republic of China to back off.

Yet I cannot vote against the Taiwan resolution, because like most of the Congress I, too, am disturbed at the aggressive behavior flagrantly exhibited by the People's Republic of China. It is not a normal reaction to the first Presidential election going on in Taiwan. In fact, it assured the overwhelming election of President Lee. It probably is more related to the power struggle going on in the People's Republic of China over who is to succeed Deng Xiao-Ping. We know that the various factions are positioning themselves to succeed him. A statement that the United States is a friend of Taiwan was probably important to reiterate. However, to go further and threaten the use of our military I believe was going too far.

Further, I believe that the President of the United States is in charge of the foreign policy of the United States and is also the Commander in Chief of our military forces. President Clinton had already ordered our ships to the Straits of Taiwan to observe the tactical exercises to make sure that it did not invade Taiwan's territorial integrity.

For these reasons I decided to vote "present" to respect the President's appropriate exercise of authority over this episode. My vote of "present" was cast to indicate that I had confidence in the President to serve the interests of all Americans in this matter at this time.

In the future if it ever becomes necessary to consider a resolution of war against the People's Republic of China I want to be free to determine at that time whether or not to support such a step.

I believe that those who voted for this resolution could be said to have already made their decision to go to war.

I want to reserve that decision to a later time and hope that that time will never come.

AVIATION TAX SCHEDULE

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. LIGHTFOOT. Mr. Speaker, the administration has proposed as part of its fiscal year 1997 budget request that Congress give the Federal Aviation Administration [FAA] the unlimited authority to establish and raise new aviation taxes. Under the administration proposal, the FAA could establish and implement those new taxes not later than 60 days after enactment. Following my statement is the aviation tax schedule developed by FAA in support of its budget request. Space limitations prevent us from adding the complete document into the RECORD today. However, the full FAA document is readily available from my office.

This new aviation tax schedule is clearly a case of the "devil is in the details." The administration, in its publication "FAA fiscal year 1997 Budget in Brief," attempts to portray these aviation taxes as limited to $150 million. However, the legislative language submitted to Congress, coupled with the information I am sharing with this House today, tells another story.

The legislative language submitted to Congress does not actually limit the amount collected in aviation taxes, it merely limits the amount available for obligation in fiscal year 1997 to $150 million. As we see in the attached aviation tax schedule entitled, "Illustrative User Fees and Aviation Regulation and Certification," the administration clearly has bigger things in mind. This aviation tax plan could raise as much as $345 million in fiscal year 1997. Who knows what designs the administration would have on the almost $200 million in unobligated new tax funds the FAA could collect in fiscal year 1997.

At this point let me briefly highlight a few of Secretary Pena's proposed new aviation taxes.

At least $122 million could come from the airlines in the form of aircraft registration fees, air operator certificate fees and manufacturers certification fees. An additional $57 million could come from general aviation in the form of new license and medical certification fees. I am sure other parts of the aviation community will be interested to see what the administration believes should be their share of the new aviation taxes.

Mr. Speaker, this proposal is even worse than the original McCain-Pena proposal, S. 1239, because under this new administration proposal Congress would not have the opportunity to review any new aviation taxes before they were implemented. I hope Members of the other body who have supported S. 1239 will take a long, hard look at the administration's proposed aviation tax structure, because this is the future of aviation. This is what the administration would propose if Congress were to ever approve the McCain-Pena bill.

This administration's creation of a phony aviation funding crisis demonstrates that it does not believe itself capable of, nor is it even willing to attempt, to live within the confines of a balanced Federal budget.

We see today what the administration passes off as its vision of the future of aviation; not a modern, leaner, more efficient FAA—but new taxes to paper over the problems of an old, inefficient organization—in other words—business as usual.

It's interesting to note, Mr. Speaker, the administration continues to resist FAA reform. Two weeks ago the House passed the Duncan-Lightfoot FAA reform legislation. The Secretary of Transportation threatens a presidential veto of our FAA reform legislation. In fact, earlier this year the Appropriations Committee had to direct the FAA to develop and implement a plan to reform its personnel and procurement procedures.

Mr. Speaker, this plan for new aviation taxes goes to the heart of what the General Accounting Office has reported to us about the FAA. There is an organizational culture problem at FAA that I believe can only be fixed with continued congressional insistence on personnel reform, procurement reform and, of course, the restoration of FAA to independent agency status.

I think it is vital the Congress, the aviation community and the traveling public, which will ultimately pay these new taxes, have the opportunity to see the fine print whenever this administration proposes new aviation taxes. You can be sure this misguided tax proposal will face serious congressional scrutiny, particularly from the House Transportation Appropriations Subcommittee.

ILLUSTRATIVE USER FEES FOR AVIATION REGULATION AND CERTIFICATION

Presently the FAA charges fees for foreign repair stations and fees to recover the costs of the Civil Aviation Registry for processing and issuing aircraft registration certificates, dealers' aircraft certificates, and special registration numbers. Registry fees are nominal, for example, registering an aircraft is a one-time fee of $5 and there is no charge for airmen certification. Proposed new fees and increases in existing fees which were authorized by the Drug Enforcement Assistance Act of 1988 and which will take effect in 1997 still will not recover indirect overhead costs, nor will they compensate for FAA's costs to actually certify and license aircraft, airmen, air operations, or air agencies. A list of the types of Registry fees, how much is now charged and how much will be charged beginning in 1997, is shown in Exhibit No. 1, "Civil Aviation Registry" on the next page.

The User Fee Task Group studies a number of possible certification and licensing fees, which are listed below. A brief description of each fee is provided in Appendix No. 2, "Synopsis of Illustrative User Fees—Certification, Regulation, and Licensing." More detailed narratives on each fee are available.

[In millions of dollars]

Illustrative fee:	Projected annual revenue
Aircraft Certification: Designee Appointments and Renewals	6.0
Aircraft Certification: Design Certification, Production Approval, and Airworthiness Certification	10.0
Aircraft Registration Fee	250.0
Airmen Certification/Registration (including Medical Certification)	56.5
Certification of Air Operators and Air Agencies	11.6
Civil Aviation Registry	11.0
Total Projected Annual Revenue	345.1

AIRCRAFT CERTIFICATION; DESIGNEE APPOINTMENTS AND RENEWALS

The FAA interviews and reviews the credentials and training of individuals who seek appointments as engineering, airworthiness, or inspection representatives. These individuals benefit economically as designees of the FAA. Therefore, a $1,000 fee for initial appointments and annual renewals would not seem unreasonable and would probably add an element of efficiency, as those designees who conduct certifications infrequently would opt not to be appointed, thereby reducing FAA's workload. Conversely, caution should be exercised to not charge too high a fee, as this might decrease the number of designees and also increase the FAA's workload.

EXHIBIT NO. 1.—CIVIL AVIATION REGISTRY IMPACT OF FULL COST RECOVERY

[In thousands of dollars]

	Current fee	Estimated annual collection	Proposed fee	Estimated annual collection	Required cost recovery fee	Estimated annual collection
Aircraft Registration Certificate (Non-Transport)[1]	5.00	210.0	32.00	1,344.0	45.03	1,891.4
Aircraft Registration Certificate (Transport)[1]	5.00	11.0	17.00	37.4	45.03	99.1
Aircraft Reregistration Certificate[2]	0	0	17.00	408.0	45.03	1,080.8
Airmen Certificate—New/Additional Ratings	0	0	14.00	2,240.0	18.21	2,913.8
Dealer's Aircraft Certificate—Original[3]	10.00	13.0	22.00	28.6	27.90	36.3
Dealer's Aircraft Certificate—Additional	2.00	6.4	7.00	22.4	27.90	89.3
Duplicate Aircraft Registration	2.00	6.0	7.00	21.0	44.89	134.7
Duplicate Airmen Certificate	2.00	90.0	7.00	315.0	23.85	1,073.4
Pilot Certificate—Reissued/Renewal[4]	0	0	14.00	980.0	23.85	1,669.8
Record Security Aircraft Parts Locations Engines & Props[5]	5.00	129.0	17.00	436.6	26.90	694.0
Record Security Interest[5]	5.00	150.0	17.00	510.0	26.90	807.0
Renewed Special Registration Number	10.00	40.0	28.00	112.0	34.68	138.7
Special Registration Number	10.00	100.0	30.00	300.0	37.16	371.6
Total		755.4		6,757.0		11,000.0

Requiring Operating Funds, $11.0M.

[1] This is the cost for the original aircraft registration.

[2] This is the cost for the renewal of aircraft registration which must occur every TEN years.

[3] These are currently renewed on an annual basis and will continue to be done that way.

[4] This will be for the ID portion of pilots certificates which will need to be renewed every TEN years.

[5] The collections for these fees currently goes to the General Fund, not the Registry.

FAA designates about 6,000 medical doctors, Airmen Medical Examiners (AME's), to perform medical examinations to certify the health of airmen. Typically, exams cost about $50–$75, and on average, AMEs conduct 50–100 exams a year. Few AMEs make a living from these exams and few would find it worthwhile to continue their designations if a fee were to be charged. Although not yet instituted, AMEs are to be charged $200 to attend FAA mandated training.

AIRCRAFT CERTIFICATION: DESIGN CERTIFICATION, PRODUCTION APPROVALS, & AIRWORTHINESS CERTIFICATION

FAA engineers conduct extensive analyses, inspections, and ground or flight tests to certify that an aircraft, engine, propeller, or aircraft part complies with design standards. FAA also approves manufacturers' request to produce and sell aircraft replacement parts. Fees could be charged for the initial certifications and for periodic renewals. While $10 million in annual revenue is projected for this user fee, much work needs to be done to fine tune this forecast, and to determine what types, and the amounts, of fees that could be charged.

AIRCRAFT REGISTRATION FEE

Presently, registering an aircraft is a one-time charge of $5. Under current legislation this will increase to an initial registration fee of $17 for commercial airlines and some business jets, and $32 for all other aircraft. Every ten years there will be a renewal registration fee of $17. The proposed illustrative aircraft fee, comparable to an automobile registration fee, could convert this fee to an annual fee with an option to pay several years in advance, and possible levels of charges could be the following:

Type of aircraft	Number in fleet[1]	Illustrative fees	Annual revenue (thousands)
Single Engine Pistons	123,600	$100	$12,360
Multi-engine Pistons	15,800	1,000	15,800
Turboprops	4,900	9,000	44,100
Turbojets	4,400	18,000	79,200
Piston Helicopters	1,500	500	750
Turbine Helicopters	3,200	1,500	4,800
Subtotal	153,400		157,010
Large Jet Aircraft	4,725	20,000	94,500
Total	158,125		251,510

[1] Based on 1997 forecast.

Note: It is important to bear in mind that these fees would be instituted in lieu of, not in addition to, the existing aviation taxes.

AIRMEN CERTIFICATION REGISTRATION AND AIRMEN MEDICAL CERTIFICATION

FAA certifies that airmen (e.g., flight engineers, pilots, mechanics) meet certain qualifications/requirements, for example, that pilots have flown a minimum number of hours. FAA assesses charges for certifying foreign airmen, but does not now assess a fee for domestic certifications. Fees could be established, comparable to those charged for foreign certifications, ranging from $250 to $400. Once certified, airmen could be charged an annual registration fee, like an individual's automotive driver's license. Annual fees might be the following:

Airmen	$15 annual fee	$20 annual fee	$25 annual fee
Student Pilots	X		
Private Pilots	X		
Mechanics	X		
Flight Navigators	X		
Parachute Riggers	X		
Dispatchers	X		
Commercial Pilots		X	
Flight Engineers		X	
Flight/Ground Instructors		X	
Airline Transport Pilots			X

A user fee is proposed to charge pilots to recover the costs to administer the Medical Certification and Airmen Medical Examiners Programs. To do so, the following fees might be assessed:

Certificate	No of certificates[1]	Possible fee	Projected revenue
1st Class Medical Certificate (commercial pilots; examined every six months)	170,000	$30	$5,100,000
2nd Class Medical Certificate (annual examination)	115,000	25	2,875,000
3rd Class Medical Certificate (private pilots examined every two years)	170,000	15	2,550,000
Total	455,000		10,525,000

[1] The number of certificates will decrease in the future when recreational pilots are not required to take a medical examination, but are able to self-certify that they are medically qualified to fly.

To simplify the administrative processing and to make it easier for airmen to pay, rather than charge a separate medical certification fee and a separate airmen registration fee, these charges should be combined into a single fee.

CERTIFICATION OF AIR OPERATORS AND AIR AGENCIES

Individuals and companies who wish to provide aviation services to the public must be certified by FAA that they meet certain requirements. These are mandated by law and include requirements relating to airplane performance, airworthiness, training programs, operating manuals, and crew member qualifications. Except for the certification of foreign repair stations, FAA does not charge for the time and resources expended in granting a certificate. Fees could be charged to cover the cost of the initial certification and annual renewals. Air operators include large airlines, commuter and small charter airlines, foreign airlines, external load operators, and agricultural operators. Air agencies include repair stations, pilot training schools, and maintenance schools.

An initial certification charge would be a flat rate determined by a formula using historical data. For example, to certify a large airline, FAA could charge $202,000, which is based on an average of 2000 inspector hours at a rate of $101 per hour. Annual renewal fees could be a rate based on the complexity of the review.

INTERNATIONAL COMPARISONS

User fees for certification and regulation are not without precedence. A review of fees charged by Australia, United Kingdom, Canada, and Japan, showed that all four countries charged fees for an air operator certificate, pilots' and other airmen's licensing, and certificates of airworthiness. See exhibit No. 2, "Certification and Regulation Fees—International Comparisons." Fee schedules for each country can be provided. Generally, Canada's certification and regulation fees, like the United States' at this time, are nominal, and do not capture the costs of providing the services. About 20%–30% of Canada's regulatory function is funded by user fees, and 70%–80% is subsidized by general taxpayers.

In almost all instances, instituting the illustrative certification and regulation fees would require new or revised authorizing legislation and an accelerated rulemaking process. S. 1239, "Air Traffic Management System Performance Act of 1995," a bill submitted by the Senate Committee on Commerce, Science, and Transportation's Subcommittee on Aviation, would allow the establishment of fees for safety, certification, security, training, inspection, and other activities. In addition, the bill mandates that the fees go into effect 45 days after submission to Congress. This is important since historically our experience has shown that it takes an average 2.4 years to go through the usual rulemaking process.

In an environment where users would be charged for services, fees for certification and licensing make sense, despite vehement opposition by those who would be charged. For a number of reasons, however, collection of these fees, while not impossible, would probably be difficult in FY 1996.

EXHIBIT NO. 2—CERTIFICATION AND REGULATION FEES INTERNATIONAL COMPARISONS

User Fee	Australia	United Kingdom[1]	Canada[2]	Japan	United States
Air Operators Certificate	Yes	Yes	Yes	Yes	No.
Pilot License	Yes	Yes	Yes	Yes	1997.
Licensing for Airmen Other Than Pilots	Yes	Yes	Yes	Yes	1997.
Airmen Medical Certification		Yes	Yes	Yes	No.
Other Designees (airworthiness representatives, manufacturing inspection representatives)	Yes		No		No.
Certificate of Airworthiness	Yes	Yes	Yes	Yes	No.
Certificate of Airworthiness Renewal	Yes	Yes	No	Yes	No.
Noise Type		Yes	No	Yes	No.
Noise Type Renewal			No	Yes	No.
Type Certificate	Yes	Yes	Yes	Yes	No.
Aircraft Registration			Yes	Yes	Yes.
Simulator Certificate (Annual and Renewal)		Yes	No		No.

[1] Other fees charged include: aircraft engine emissions; air traffic controllers' license (Canada also charges this fee); flying exhibit fees where more than 500 people are likely to attend.

[2] Generally these charges do not reflect costs of providing service. About 70–80% of Canada's regulatory function is subsidized by general taxpayers, and 20–30% is funded by user fees.

Note: Australian fees in effect on 7/90. Civil Aviation Authority (United Kingdom) fees in effect on 4/95 (rates are updated annually). Canadian fees effective as of 8/95. Japan's user fees in effect on 10/95.

As shown in the very first chart, the total projected revenue from certification, regulation, and licensing user fees is $345.1 million. This compares with the allocated cost[1] for Aviation Regulation & Certification of $658.6 million, resulting in a shortfall of $313.5 million. (See Appendix No. 2, "Comparison of Costs and Revenues by Activity.") While the precise amount of the deficit can be adjusted, e.g., adjust aircraft registration fee, reexamine aircraft certification revenue projection, or institute additional fees, the bottom line is that there is a sizable deficit between revenue from user fees and the costs of providing certification and regulation services.

CONGRESS MUST ACT CAREFULLY WHEN REGULATING SECOND AMENDMENT RIGHTS

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. GUNDERSON. Mr. Speaker, the debate about guns is as old as these United States of America. The American Revolution was about tyranny of the few over the many; and the power to control the masses included the ability to control firearms. As a result, our Founding Fathers believed it essential to guarantee the right to bear arms as a way to prevent history from repeating itself.

Throughout the ensuing 220 years, the second amendment has served us well—for food, for defense, and for sport. Guns were necessary to secure food and for protection as families settled our country during the early years of the country. Gun skills were vital to life then, remained important through two World Wars, and are still important today, especially to those outdoors enthusiasts in Wisconsin. There are many gun clubs in western Wisconsin, where young and old alike practice against targets and clay pigeons. Our hunters enjoy the sport and challenge of trying to bag a buck or a bird. We must ensure that their enjoyment can continue.

Yet everyone should recognize that the second amendment right to bear arms is not absolute. Congress has the ability to regulate the use of firearms where necessary. For example, over 60 years ago, Congress prohibited automatic weapons—machine guns—because allowing the sale of these weapons was contrary to the public interest. Today, we need to confront another growing problem—incidences of random gun violence by individuals and excessive drug-induced violence. This violence often pits our law enforcement personnel against criminals with greater firepower.

I believe that some firarms can be regulated by Congress without violating our second amendment rights. Just as a person cannot abuse his free speech rights by yelling fire in a crowded theater, there are reasonable limits that Congress may need to place on certain firearms. The issues are what firearms Congress regulates and how the regulation is conducted.

Today, we confront that issue as the House of Representatives again considers the assault weapons ban. Once again, both supporters and opponents have made their views known with emotional fervor. Both sides approach this debate with important and valid concerns. To many, the issue is the basic guaranty to bear arms provided in the second amendment to the Constitution. To others, the issue is a question of how to protect against mass killings all over the country, in both urban and rural areas.

When the House considered the assault ban in 1994, I noted that the real issue was not whether Congress could ban a short, designated list of firearms. Rather, the issue was whether, in addition to a short list, the people wanted to entrust the Federal bureaucracy with the power to decide which firearms were copies or duplicates of the firearms banned in the law or that met the additional banned firearm criteria. Supporters claimed that language prohibiting copies or duplicates is necessary to be effective and that the additional banned modifications are narrowly tailored. Opponents disagreed, noting that the effect would likely be to ban dozens of weapons. By a narrow vote of 216 to 214, the House decided that the Bureau of Alcohol, Tobacco and Firearms [BATF] should have that power.

In my opinion, the existing assault weapons law leaves excessive discretion to the Bureau of Alcohol, Tobacco and Firearms to determine when modified firearms should be banned. I believe then, as I believe now, that providing such wide latitude is wrong and that Congress must be more specific if it is to act at all.

As a result, I will vote to repeal the assault weapons ban. I sincerely believe that Congress must act very carefully when curtailing constitutionally protected rights, and it must fully disclose the effects of the legislation it passes to regulate those rights. The House did neither when it passed the assault weapons ban in 1994.

H.R. 2202, IMMIGRATION REFORM

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Ms. WATERS. Mr. Speaker, I was unable to be present for the floor debate on immigration reform due to business in my district. However, I would like to submit my views on H.R. 2202 for the RECORD.

As a Californian, I am well aware of many of the problems and economic strains associated with illegal immigration. However, we must not deter people, many who come here seeking freedom and opportunity, and many who have become productive citizens, from legally entering the United States. Many legal immigrants come to this country with a desire to work. Our challenge is to manage that flow rationally.

H.R. 2202 is an extreme measure that not only attempts to stop illegals from crossing our borders—often in unworkable and repressive ways—but also limits many of our family members such as sisters, brothers, parents, and adult children from joining us in America. This bill actually punishes legal residents and citizens by unreasonably restricting family reunification visas. It denies adult children and siblings of citizens and legal residents—many who have waited years to enter the United States—the chance to reunite with their families in America. This change in law would unfairly punish families that depend on their loved ones, not the Government, for support.

This bill also imposes annual refugee caps, limiting the number of eligible refugee applications to 50,000 per year—that's almost half of the current number. These people may be terrorized by their government, and have no other recourse than to flee their nation. Under this legislation, refugees could be turned away if the immigration quota of 50,000 for that year has been filled. This is a disgrace for a nation with a solid tradition of immigration, and a history of being a refuge for those who flee terror and deprivation.

I am disillusioned that some of my colleagues seek to make this bad bill worse by amending it to deny children an education, simply because they happen to be born to undocumented parents. Such a move would only further hurt an already disadvantaged child. It is absolutely cruel to punish innocent children for their parents' decisions.

This provision would also take a financial toll. In Los Angeles County alone—my home, and the home to nearly 30 percent of California's public school population of almost 1.5 million—the administrative costs for verification could total as much as $97 million over a 7-year period, at $37 per student plus startup costs. It makes more sense to educate our children, rather than waste our resources verifying their citizenship, while risking discriminating against our own citizens in the process.

Other provisions, such as those which would force public hospitals to identify illegals before being reimbursed, are equally immoral. This could threaten public health and possibly increase harassment and discrimination in our hospitals.

It is my hope that we may vote to divide this bill into two parts, one which deals with legal immigration and the other with illegal immigration. I support securing our borders with more agents, better equipment, and sturdy barriers. I applaud the deportation of criminals and increased penalties for people who fraudulently reproduce U.S. documents. However, I do not back the provision to enhance the power of Federal law enforcement, including increasing wiretap authority. This is a complex bill with more weaknesses than strengths, at this point. Splitting the bill could allow us to focus on the real problem, which is stopping illegal, not legal, immigration.

Let us decrease the flow of illegal immigrants to our Nation, while proceeding to advance legal immigration. Our country continues to obtain its ultimate strength from diversity. Our tradition as a nation of immigrants obligates us to find a fair and just way to handle that responsibility.

Specifically, on the amendments, had I been present, I would have voted as follows:

Amendment No. 3, offered by Representative BEILENSON—"yes";

Amendment No. 4, offered by Representative MCCOLLUM—"yes";

Amendment No. 7, offered by Representative BRYANT (TN)—"no";

Amendment No. 9, offered by Representative VELÁZQUEZ—"yes";

Amendment No. 10, offered by Representative GALLEGLY—"no";

Amendment No. 12, offered by Representative CHABOT—"no";

Amendment No. 16, offered by Representative CANADY—"no";

Amendment No. 18, offered by Representative DREIER—"no";

Amendment No. 19, offered by Representative CHRYSLER—"yes";

Amendment No. 22, offered by Representative POMBO—"no";

Amendment No. 24, offered by Representative GOODLATTE—"no";

Amendment No. 28, offered by Representative BURR—"no";

Bryant motion to recommit—"yes".

Final passage—"no".

In addition, on Thursday, I would have voted "no" on rollcall vote 80, "no" on rollcall vote 81, "yes" on rollcall vote 82, and "no" on rollcall vote 83.

And, on the motion to go to conference on the omnibus continuing appropriations bill, I would have voted "yes".

Finally, on Friday, I would have voted "no" on both the rule and final passage of H.R. 125, to repeal the assault weapon ban.

TRIBUTE TO GIRL SCOUT GOLD AWARD RECIPIENT

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. OBEY. Mr. Speaker, today, I would like to salute an outstanding young woman, Elizabeth Fox, who has been honored with the Girl Scouts of the U.S.A. Gold Award by the Indian Waters Girl Scout Council in Eau Claire, WI.

She is being honored for earning the highest achievement award in Girl Scouting. The Girl Scout Gold Award symbolizes outstanding accomplishments in the areas of leadership, community service, career planning, and personal development.

Girl Scouts of the U.S.A., an organization serving over 2.6 million girls, has awarded more than 20,000 Girl Scout Gold Awards to senior Girl Scouts since the inception of the program in 1980. To receive the award, a Girl Scout must fulfill five requirements: earn four interest project patches, earn the Career Exploration pin, earn the Senior Girl Scout Leadership Award project, earn the Senior Girl Scout Challenge, and design and implement a Girl Scout Gold Award project. A plan for fulfilling the requirements of the award is created by the senior Girl Scout and is carried out through close cooperation between the girl and an adult Girl Scout volunteer.

For the Girl Scout Gold Award project, Elizabeth organized a stuffed animal drive in her community and donated the toys to local timeout shelters. For her project, Elizabeth assessed the needs of her community, developed a plan to address one specific area in need, and followed through with the project to completion. The organizational and communications skills she developed through the project will benefit her throughout her life, and Elizabeth's dedication to Eau Claire will benefit the community for a long time to come.

The earning of the Girl Scout Gold Award is a major accomplishment for Elizabeth Fox, and I believe she should receive the public recognition due her for this significant service to her community and her country.

HONORING CHARLES C. WILLIAMS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. KILDEE. Mr. Speaker, it is my pleasure to rise before my colleagues in the U.S. House of Representatives to recognize Mr. Charles C. Williams. Mr. Williams is retiring after many years of dedicated public service. A retirement dinner in his honor is to be held on March 29, 1996 in Flushing, MI.

Throughout his 40-year career, Mr. Williams worked diligently to improve the lives of those who were less fortunate, and who were most in need. Mr. Williams proved to be a tireless advocate for children and played a vital role in helping to develop and advance programs dedicated to the preservation of one of the most important resources, the family. His work on behalf of his community has earned him the respect of not only his colleagues, but also the countless people whose lives were touched by him.

Mr. Speaker, Charles C. Williams has worked selflessly to make his community a better place in which to live. I know that his retirement dinner is not meant to celebrate his departure from the Department of Social Services, rather, the dinner is meant to show him the deep and abiding love and respect his colleagues, his family, his friends, and his community have for him. I ask you and my fellow Members of the 104th Congress to join me in paying tribute to such a dedicated public servant, Mr. Charles C. Williams.

H.R. 2202—THE IMMIGRATION IN THE NATIONAL INTEREST ACT

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Mr. KENNEDY of Rhode Island. Mr. Speaker, I believe H.R. 2202 creates an aura of fear and suspicion within our communities. Instead of addressing the real problem—the loss of our jobs to illegal immigrants, it unfairly punishes children and college students seeking an education. My district in Rhode Island is comprised of American citizens and legal residents of a multitude of races and nationalities. Because of that, I voted against final passage of the bill.

I wholeheartedly support H.R. 2202's initiatives to end illegal immigration by increasing the number of border control agents, building additional roads and barriers and cracking down on employers who hire illegal aliens. This mean spirited bill however, heightens the fear, hysteria, and anti-immigrant fervor that is running rampant across this country. For this reason, I could not in good conscience support this legislation.

My district in Rhode Island is enriched by the many people who have brought their cultures and traditions to this great Nation to build a life for themselves and for future generations. I am proud of these hardworking Americans, who each day go to work, pay taxes, and contribute to creating a stronger United States and Rhode Island.

Rhode Island boasts a myriad of ethnic groups who take pride in these cultures and traditions. This allows future generations of Rhode Islanders to celebrate the lives of their forebearers while providing the greater community the opportunity to share, learn, and respect the value of difference. This fellowship is part of the solution to ending the ignorance and fear of the unknown. Whether it be the Portuguese fiestas in Bristol, the Greek festivals in Pawtucket, the Hispanic celebrations in Central Falls, the French-Canadian traditions in Woonsocket, the Italian feasts in North Providence, or the Irish parades in Newport, Rhode Islanders value and cherish their ethnic roots. H.R. 2202 contributes to the slow but sure demise of these cultural values.

I find it unconscionable that Congress would approve legislation allowing school administrators the right to demand proof of citizenship before allowing a child to receive an education. It is a travesty that in an effort to curb illegal immigration, the authors of this bill have chosen to scapegoat children. Have we become so desperate that we must resort to these drastic measures? Creating an Orwellian society in which individuals must present a card to verify their legality refutes everything that is right and good about America. It is blind and unfair. It fans the flames of prejudice. Does anyone doubt who will be asked to present a card? All too easily administrators will fall back on old prejudices for guidance. Someone is not any less an American because of the color of their skin or because their last name is new to a neighborhood.

I view H.R. 2202 as nothing but a political ploy orchestrated by the Republican Party to once again appease their supporters, to retain and build upon their majority. By forcing Democrats to go along, or be criticized for not doing the politically in thing, the Republican majority is once again playing games with extremely important issues. I will not be a part of playing their games and trampling on the spirit of ethnic pride in Rhode Island and the United States.

CONSERVATIVES ATTACK SLAUGHTER AS SHE FILES COMPLAINT AGAINST MCINTOSH

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 26, 1996

Ms. SLAUGHTER. Mr. Speaker, please insert the following article as additional documentation to my statement on March 22, 1996, regarding the need for the conduct of the Committee on Standards of Official Conduct to be beyond reproach.

[From Gannett News Service, Dec. 5, 1995]

CONSERVATIVES ATTACK SLAUGHTER AS SHE FILES COMPLAINT AGAINST MCINTOSH

(By John Machacek)

Rep. Louise Slaughter, D-NY., Tuesday filed an ethics complaint against a Republican subcommittee chairman. But she faces a counterattack from conservatives.

The complaint to the House Ethics Committee alleges Rep. David McIntosh, R-Ind., used fabricated documents and made false statements on the House floor during his drive to limit lobbying by federally funded nonprofit groups. Consumer activist Ralph Nader has filed a similar complaint.

Slaughter said McIntosh's actions were part of a "campaign of intimidation" aimed at silencing her and the Alliance for Justice, a civil rights and public interest lobbying group, which has vigorously opposed proposed Republican budget cuts.

"These actions . . . are way over the line," Slaughter said. "It's McCarthyism all over again, and we have to stop it."

Meanwhile, Americans for Tax Reform, a conservative group pushing McIntosh's legislation, is calling Slaughter the "original tax-dollars-for-lobbyists welfare queen" in postcards mailed to some of her constituents.

The mailing says Slaughter received $61,000 in campaign contributions last year "from special-interest lobbies that receive federal funds, which is used to lobby for more money."

"We wanted to draw attention to Louise Slaughter as the best-paid lobbyist these special interests could buy," says Audrey Mullen, executive director of Americans for Tax Reform, a coalition of conservative activists, taxpayer groups and businesses.

McIntosh, chairman of a House Government Reform subcommittee, brushed off the complaint, telling reporters that Slaughter and the Alliance for Justice were simply following the "first rule of special-interest politics."

"When your position on the merits of the issue is embarrassing, you launch an attack on your opponents," he said.

McIntosh's aides told reporters in October—after the House rejected Slaughter's request to debate her complaint against him—that he was not worried about Slaughter's plans to take her case to the Ethics Committee.

After "informal contacts" between House Ethics Committee and McIntosh staffers, McIntosh was told there "wouldn't be enough of a complaint" for the committee to pursue, said Chris Jones, McIntosh's press secretary.

The Ethics Committee staff makes recommendations to committee members.

Slaughter said in an interview Tuesday that McIntosh's "intimidation tactics" had continued through this week. She said a McIntosh aide told her staff McIntosh could file a counter-ethics complaint against her if a complaint was filed against him.

"Louise Slaughter can't have it both ways," Jones said. "Her staff has been calling Indiana reporters since September trying to stir up a story about an ethics complaint. If the Ethics Committee is to be used to solve political disputes, then everyone will be fair game."

McIntosh has apologized for the incident in which his staff used the Alliance for Justice's letterhead on a report that purported to list the amount of federal grants received by the alliance's members. He said the document should have contained a disclaimer. But he has recently told groups in Indiana that he stands by the figures

Slaughter and and Aron, Alliance for Justice president, say some of the information in the document was inaccurate.

SENATE—*Wednesday, March 27, 1996*

(Legislative day of Tuesday, March 26, 1996)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, You created us to soar, to mount up with wings like eagles. We realize that it is not just our aptitude, but our attitudes that determine our altitude. Our attitudes are the outward expression of our convictions congealed in our character. People read what is inside by what we project in our attitude.

Help us to express positive attitudes based on a belief that You are in control and are working out Your purposes. We want to allow You to love us profoundly so our attitude will exude vibrant joy. May Your peace invade our hearts so our attitude will reflect an inner security and calm confidence. We long to have the servant attitude of affirmation of others, of a willingness to listen to their needs and of a desire to put our caring into practical acts of kindness.

Lord, if there is any false pride that makes us arrogant, any selfishness that makes us insensitive, any fear that makes us overly cautious, any insecurity that makes us cowards, forgive us, and give us the courage to receive Your transforming power in our hearts. All this is so our attitude to others may exemplify Your attitude of grace toward us. In Your transforming name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. I thank the Chair.

ORDER OF PROCEDURE

Mr. LOTT. I ask unanimous consent that the time between now and 10:30 be equally divided between the two leaders or their designees.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. LOTT. Also, Mr. President, for the information of all Senators, following the debate and the establishment of a quorum, there will be a cloture vote on the pending Murkowski amendment to H.R. 1296, the Presidio legislation. Senators should be alerted that the vote will occur at approximately 10:40 this morning. If cloture is invoked on that substitute, it is still the hope that we may complete action on H.R. 1296 during today's session. If cloture is not invoked, it may be the intention of the majority leader to begin consideration of either the line-item veto conference report or the farm bill conference report.

Senators should be reminded that additional rollcall votes can be expected during the day. And again to emphasize that point, we are hoping we will soon have an agreement, working with the Democratic leader, we can announce with regard to the conference report to accompany S. 4, the line-item veto bill, but we are not prepared to do that at this time. So we will have debate between now and 10:30 equally divided, and then we will have the vote at 10:40.

I yield the floor, Mr. President.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I wish the Chair a good day.

PRESIDIO PROPERTIES ADMINISTRATION ACT

The Senate resumed consideration of the bill.

Pending:

Murkowski modified amendment No. 3564, in the nature of a substitute.

Dole (for Burns) amendment No. 3571 (to amendment No. 3564), to provide for the exchange of certain land and interests in land located in the Lost Creek area and other areas of the Deerlodge National Forest, Montana.

Dole (for Burns) amendment No. 3572 (to amendment No. 3571), in the nature of a substitute.

Kennedy amendment No. 3573 (to amendment No. 3564), to provide for an increase in the minimum wage rate.

Kerry amendment No. 3574 (to amendment No. 3573), in the nature of a substitute.

Dole motion to commit the bill to the Committee on Finance with instructions.

Dole amendment No. 3653 (to the instructions of the motion to commit), to strike the instructions and insert in lieu thereof "to report back by April 21, 1996 amendments to reform welfare and Medicaid effective one day after the effective date of the bill."

Dole amendment No. 3654 (to amendment No. 3653), in the nature of a substitute.

Mr. MURKOWSKI. I am not going to take too long because I know many of my colleagues want to speak on the issues affecting welfare and Medicaid. But I do want to express my disappointment with the Democratic leadership and my colleagues on the other side of the aisle who have effectively killed a major and important park and conservation measure. As a matter of fact, the parks bill that we debated for some 7 hours the day before yesterday now can no longer be discussed, there is no additional time for debate because the measure now has, out of necessity, been set aside.

Let us look realistically at what this action is costing the general public relative to its parks and specific areas of importance, including the Presidio, which was in this parks package. The package included the ability to provide 2 million acres of wilderness to the people of the United States in the State of Utah, and to provide an important watershed to both New York and New Jersey known as Sterling Forest.

We had this measure before us. It had been put together as a consequence of a great deal of effort and a great deal of compromise. Some 23 States were affected, with some 53 individual titles or lands affected in those States. It was a package that had been negotiated with the House as well, and it was apparent to all that in order for the package to pass we had to keep all its aspects, including those that were of a controversial nature. One of those, of course, was Utah wilderness. The issue was all or nothing with some of the opponents. They felt that 2 million acres added to the wilderness designation in Utah was inadequate; it should be 5 or 6 million acres. The citizens of Utah—the legislature, the Governor, the entire Utah delegation—felt that 2 million acres was adequate. In any event, this body would have made that determination on a clear and unrestricted vote had not some Members saw fit yesterday to attach the minimum wage amendment to this package—the minimum wage is an important issue, but it simply does not belong on this parks package—and as a consequence the parks package has been set aside.

It will come up another day, but I wish to express my disappointment, and I thank my colleagues who have worked so hard to try to bring the package together.

I am disappointed also in the media because they failed to recognize the importance of this package. But I wish to at least have the RECORD reflect why we had that package before us.

The Senator from California and the Senator from New Jersey, both have indicated that somehow it was the fault of the majority that the package was before the Senate and that it was unfair, some suggested awful, that they were forced to vote on Utah wilderness and other measures if they wanted to see their measures enacted. In other words, they wanted Utah wilderness out of it. Yet they knew that the House would simply not accept the package unless Utah wilderness was in it.

Let the RECORD reflect that it was the objections on the other side of the aisle that have held each and every one of these measures up for some year or thereabouts. This was the right of the individual Senator, but I think it is disingenuous for him and other Senators on the Democratic side to suggest we were holding these measures. We simply recognized the reality and pleaded with the various Senators on holding together because there was something in this for everyone; every State was affected in some manner or form, and we would either all gain something meaningful or we would simply lose the effort.

I do not think any of us at that time anticipated that the effort would be lost by attaching a minimum wage amendment to the parks package. I repeatedly tried to get time to break the threatened filibuster but there was no support on the other side of the aisle. Utah wilderness is a recent addition to the Senate Calendar, as is the Presidio. All the other measures have been effectively held up by the Democratic leadership because obviously they did not want to take on the holds from one Senator.

The situation was simple. If the Senator from New Jersey had not prevailed in both the House and Senate, then he was going to prevent any public land bills from being enacted. There were a few exceptions to that for which the Senator from Alaska is thankful, but it did not matter how important or critical to the National Park System they may be; in his opinion his measure was more important. That was his right. I respect him for his determination. But I want the RECORD also to reflect that I have tried my best to accommodate the interests of the Senator from New Jersey on Sterling Forest, but I am certainly not a magician. There are Members of the House who not only do not like the measure of the Senator from New Jersey, but they also have measures that they want. I hoped we could all get together to do something useful, or we could continue the stalemate. That appears to be where we are today.

So, there are two sides to every issue. I think we have all tried to work within our respective areas to accommodate the various Senators and to recognize this for what it was, and that was a giant compromise. While working with my friend from New Jersey and the Senators from California on their measures, as well as colleagues on both sides of the aisle, I appreciate the fact that the other side has decided, evidently, for the political opportunism associated with the realization that we have the AFL–CIO come out and publicly endorse the Clinton administration and indicated its willingness to raise some $35 million to defeat Members on this side of the aisle who are running. Evidently, that was the momentum to put the minimum wage on the parks bill.

I also appreciate the fact that the people of Utah are the real victims in this, in a sense, because it is their State that is in jeopardy with regard to the amount of wilderness. I commend those Senators here for speaking on behalf of their State in the interests of the majority of the residents of that State.

We can either reestablish some sense of comity, or history is going to reflect this very important package of measures for the park system was killed, and the environment is the sufferer. Unfortunately, I do not think the media are going to pick up on the accuracy of this, but someday history will.

I guess my unhappiness grew even greater when the two Senators from Massachusetts saw fit to basically drive a stake into the heart of this measure. I, again, went out of my way to include measures dealing with the Boston National Historical Park, Blackstone River Valley, which were items of great interest to the Senators from Massachusetts. I told the House there was no deal on this unless they were prepared to deal with those measures—not the measures just of the Senator from New Jersey, but the measures proposed by the Senators from Massachusetts.

Apparently, they care more about the politicized potential of campaign contributions from organized labor than they do about the measures from their own State or other measures included in this package for the benefit of others. It is a political stunt, and it is an expensive political stunt, at the expense of the environment.

So we are into it, and the consequences of that lead us to a vote that is going to take place in about 45 minutes on cloture. I, naturally, urge my colleagues to support cloture, but I am realistic enough to recognize this vote is going to be seen as a politically symbolic vote. It is going to have a reference to the minimum wage, which it certainly should not. This is a vote that should be on the merits associated with the parks package.

What is the answer? Sterling Forest is going to lose, Presidio is going to lose, Utah wilderness is going to lose, and 47 other special park bills will not move. This is the problem with hostage taking: Either they all get freed or they all will die. I think it is time to get off the plastic pedestal and get down to the business of the Presidio and other measures. I will vote for Sterling Forest, I will vote for Presidio, I will vote for Utah wilderness, I will vote for the other measures in the package because of its overall good for the environment, good for the National Park System, and the good for the Nation. I think it is time my colleagues on the other side of the aisle wake up and join me on what is good for the U.S. Senate, and that is to pass this package of compromise legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I commend the chairman of the Senate Energy and Natural Resources Committee for the statement he just made and for the effort he has brought to the Senate floor to get this important legislation through. I join him in regretting it has not been possible. I, too, hope in the future it will be possible.

THE WALNUT CANYON NATIONAL MONUMENT BOUNDARY MODIFICATION

Mr. President, I rise today to speak in favor of the omnibus lands bill, an amendment in the nature of a substitute to H.R. 1296. This bipartisan legislative package includes the Presidio bill and more than 50 other park and public lands bills, most of which have already been reported by the Energy and Natural Resources Committee. The vast majority of these bills are not controversial and deserve to be passed as part of this package.

I realize a few of the provisions in this legislation are controversial. Most notable is the title addressing Utah wilderness. The groups involved have worked for many years to strike a compromise. I support the Utah delegation in its effort to bring some finality to this situation. I believe Senators HATCH and BENNETT have made significant concessions, particularly in increasing acreage, and modifying the controversial hard release language. The people of Utah have wrestled with wilderness for over 20 years at a cost of $10 million. This issue needs to come to closure.

I also want to speak about an issue closer to home: Walnut Canyon. On November 9, 1995, the Energy and Natural Resources Committee held a hearing on this legislation and on December 6, the committee voted unanimously in favor of reporting the legislation to the full Senate. Throughout the legislative process, this issue has had the full support of the House, the Senate, and the affected communities in Arizona.

This legislation, introduced by Senator MCCAIN and me, is based on a consensus reached last year among interested parties, including the city of Flagstaff, the Coconino County Board of Supervisors, the Grand Canyon Trust, the National Parks and Conservation Association, the Hopi Tribe, the Navajo Nation, the National Park

Service, the Forest Service, and numerous private individuals. I read this list only because I am proud that such diverse parties in Arizona could come together to support this important endeavor.

S. 231 is similar to the original legislation drafted last session by Representatives Karan English and BOB STUMP, who deserve a great deal of the credit for bringing the parties together. This session, Representative J.D. HAYWORTH introduced a House companion bill, H.R. 562, which was approved by the House by an overwhelming vote of 371 to 49. I hope that we are able to match that here in the Senate.

Walnut Canyon National Monument is an Arizona treasure that we must protect. This legislation will expand the boundaries by exchanging Park Service land for Forest Service land, adding approximately 1,200 acres to the monument. Currently, the monument encompasses numerous Sinaguan cliff dwellings and associated sites. Walnut Canyon includes five areas where archaeological sites are concentrated around natural promontories extending into the canyon, areas that early archaeologists referred to as forts. Three of the five forts are within the current boundaries of the monument, but the two others are located on adjacent lands administered by the Forest Service. By exchanging Park Service land for this Forest Service land, the two outside forts will be within the monument and receive the protection that those resources need and deserve. It is a simple and commonsense way to make the monument whole.

Mr. President, again, I urge my colleagues to put partisan differences aside and pass the omnibus parks bill.

Mr. HATFIELD. Mr. President, I support the omnibus lands bill before the Senate today. I speak as one of the few Senators without a single item in this large package. Let me focus for a moment on the most controversial component of the package—title XX, the Utah Public Lands Management Act.

As a member of the Energy and Natural Resources Committee, I have followed the divisive political debate that has raged for decades over the question of how much land in the State of Utah should be designated as wilderness. This debate has now spilled outside the boundaries of the Utah delegation and the State they represent. It is now a national debate in many ways outside their complete control. As a Senator who has seen this same thing happen in his own State, I can appreciate the difficulties of my colleagues from Utah.

I have also followed the Bureau of Land Management [BLM] over the last 15 years as it has spent in excess of $10 million analyzing vast tracks of land in Utah to more precisely determine their suitability for wilderness designation. In 1991, Interior Secretary Lujan identified 1.9 million acres as suitable for wilderness designation. The bill before us, which recommends 2 million acres for designation, reflects the technical information gathered by BLM as well as input from over 75 formal public meetings and thousands of letters.

Over the past two decades, our thinking about natural resource management has evolved, resulting in a more flexible and cooperative role for government at all levels—Federal, State, local, and tribal. As one who has looked for ways for the Federal Government to provide more flexibility in regulated activities, I am pleased that this evolution is taking place.

Mr. President, during the consideration of this bill in the Energy and Natural Resources Committee, I raised a number of concerns about various aspects of this legislation. I compliment my colleagues from Utah for their willingness to work with me to address my concerns. The legislation now allows for more balance and predictability, two components that are vital in public land management and decisionmaking. Their revisions include the following:

The release language, previously characterized as too hard, has been softened. The bill now clarifies BLM's role in administering the 1.2 million acres under study that were not designated as wilderness;

Another 200,000 acres have been added, making the total wilderness designation slightly greater than BLM's 1991 final recommendation;

The land exchanges allowed for in the legislation are now equal value exchanges; and,

Provisions allowing the construction of dams, pipelines, or communication sites within the wilderness area have been deleted.

There are those who are still not satisfied. They would like more acreage to be designated and tighter restrictions to be put on any existing uses of those lands proposed for inclusion. Some would even like to totally eliminate all existing uses.

These goals are self-defeating. They run counter to the 1964 Wilderness Act, which called for designating lands untrammeled by man, for the purposes of retaining its primeval character. The goal was not to find lands that have been encroached upon and require they revert to their primeval character.

The seemingly endless Utah wilderness debate demonstrates what can happen when either side takes an all or nothing approach. We must all recognize that wilderness is not the only protective designation available to us. There are other, more appropriate ways to protect our public lands while recognizing and allowing for prior uses. My colleagues from Utah have been fair and objective in their designations and in their release language.

This proposal relies upon BLM's planning process for the nondesignated public lands. This provides the flexibility and cooperative spirit necessary for sound management. It is important to note that their approach does not prevent a future Congress from reconsidering these lands' wilderness potential. Nothing is set in stone. Nothing would prevent a future Congress from passing legislation to add land to or withdraw land from this plan.

Those who depict this wilderness designation process as though we are faced with an irrevocable choice between wilderness or the bulldozer do us all a disservice.

Even for those lands never designated as wilderness, all is not lost for preservationists. There are a host of BLM land classifications designed to protect the natural and cultural attributes of our public lands without eliminating existing uses. Releasing the 1.2 million acres not selected for wilderness designation provides BLM's land managers, working together with local communities, greater management flexibility while insuring continued resource protection. These other protective designations include the following:

Areas of critical environmental concern;

Outstanding natural areas;

National landmarks;

Research natural areas;

Primitive areas; and

Visual resource management class I areas.

Mr. President, I have seen a fair number of wilderness bills become law during my three decades on the Energy and Natural Resources Committee. Since 1964, Congress has enacted 88 laws designating new wilderness areas or adding acreage to existing ones. We now have a system that includes 630 wilderness areas encompassing 104 million acres in 44 States.

I support passage of the Utah wilderness bill. This legislation brings to a close a 15-year-long battle and addresses more than its share of difficult issues. It does so fairly and objectively. Failure to pass this bill would put us into a third decade of debate and would seriously undermine the wilderness study process.

While I continue to view this legislation as pushing the edge of what is acceptable under the 1964 Wilderness Act, I take particular note of the longstanding and divisive debate this provision would allow us to move forward from. I look forward to following this debate in the coming days.

I yield the floor.

Mr. LEAHY. Mr. President, I rise in strong opposition to the omnibus national parks bill. There are so many problems with the Utah lands provisions that I hardly know where to begin in urging other Senators to vote against this package.

The Utah lands provision is simply unacceptable. It does not protect enough land, the American public opposes it, it includes hard release language, it sets bad precedents for wilderness designation, it opens unique and beautiful lands to powerlines, dams, pipelines, mining, and other uses, it compromises the heritage of our children, and it achieves all this only by ransoming every other national park project in the Senate.

The proponents of Utah lands language cannot buy public approval at any price. I wrote to Majority Leader DOLE last week to make this point perfectly clear. Senators, including this Senator who wants very much to see some of the associated measures pass, will not stoop to pass a so-called wilderness bill that leverages politics against the priceless beauty of remote Utah canyon lands.

I am frustrated by the high-stakes games being forced upon the Senate. One week we have our backs to the wall to finish a late farm bill so that farmers can begin planting. Another week we have our backs to the wall to finish a late appropriations bill so that the Federal Government can stay open. Last summer we were forced to adopt a salvage rider in order to get peace in the Middle East, relief to Oklahoma City bombing victims, and help for flood-damaged communities. In another occasion we have our backs to the wall to simply get veterans' benefits into the mail. Recently, the Senate has not been the deliberative body that Washington, Jefferson, Hamilton, and others envisioned for the greatest Nation in the world. The Senate should consider legislation on its merits. If a bill fails Senate approval, it fails. If it fails a veto override, it fails. Our Constitution sets the rules, and they have served us well for 200 years.

It is time to bring the political parties back together for reasonable debates on reasonable environmental policy. Conservation is as Republican as Richard Nixon and as Democrat as Jimmy Carter. Environmental protection is supported by Americans of all political stripes. I have worked with former Senator Bob Stafford in Vermont to restore the tradition of bipartisanship on environmental issues. Just recently I received a letter from the organization Republicans for Environmental Protection asking Senator DOLE to strip the Utah provisions from the bill. It is wrong for any party to charge down a path of exploitation and environmental abuse, and I urge the Senate to correct its course.

My children, and many of the children of my colleagues, will live most of their lives in the next century. We are in a position to decide what the next century will look like. Yes, we got here first. Just as the first explorers made resource decisions centuries ago, we now face similar decisions about the fate of our natural resources. Just as the native Americans and first European settlers decided to protect public lands as commons, we have an obligation to those who will follow. This bill gives the Senate a clear opportunity to decide whether we protect our heritage, or say "me first" to the treasures of southern Utah.

The political pressure to support the Utah giveaway is enormous for some of my colleagues. Nonetheless, the responsibility to do the right thing is far more valuable and far more important. I urge the Senate to reject the Utah lands provision.

Mr. SARBANES. Mr. President, I rise today to add my voice to those requesting that S. 884, title XX of the pending substitute amendment, be removed from the Presidio bill and be considered as freestanding legislation.

Mr. President, on Monday the Senate began consideration of H.R. 1296, legislation developed with the assistance of the California delegation creating a Presidio trust to manage property at the Presidio in San Francisco. The Presidio, a former Army post overlooking San Francisco Bay, was recognized by the Congress in 1972 as a national treasure and was slated for inclusion in the National Park System upon its cessation from military use.

The substitute amendment before us, the omnibus parks and recreation bill, contains—in addition to the Presidio bill—approximately 32 public lands titles, many of which have been reported out of the Energy and Natural Resources Committee with bipartisan support. However, one title of this amendment, title XX, the Utah Public Land Management Act, does not enjoy the same bipartisan support, and is preventing the Senate from completing action on the underlying Presidio legislation in a timely manner.

The Utah Public Land Management Act contains a number of provisions which would have a profound impact on all existing and future wilderness designations, seriously undermining standards of public lands management established by the Wilderness Act of 1964. The Wilderness Act of 1964 defined a wilderness as land where, "in contrast to those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and the community of life are untrammeled by man, where man himself is a visitor who does not remain."

Under this definition of wilderness, commercial activities, motorized access, and the construction of roads, structures, and facilities are prohibited in designated wilderness areas. I have serious concerns about provisions of the Utah land bill which would clearly undermine this definition of wilderness. This legislation would allow unprecedented uses incompatible with wilderness including motorized vehicle access within protected areas, construction of communication towers, and continued grazing rights.

In addition, I am concerned that the Utah lands bill designates only about 2 million of the Federal Government's 32 million acres in Utah as wilderness. Currently, the Federal Government manages 3.2 million acres of its holdings as wilderness study areas, allowing the Federal agency charged with managing the land the opportunity to conduct a thorough study to determine its suitability for inclusion in the Wilderness Preservation System. The legislation before us would direct those Federal agencies to make all land not selected for wilderness available for multiple uses, such as mining, grazing, and development. Hard release language included in the bill would preclude those agencies from managing this land in a way which would protect its wilderness characteristics for the future.

Mr. President, the wild and beautiful Utah public lands which are under discussion today are a national treasure belonging to all Americans. In my view, it is critical that we, as a nation, do not allow the destruction of our precious natural resources. Wilderness areas constitute only 2 percent of all land in the United States. We must not fail in our obligation to protect the beauty and integrity of these lands for future generations.

Mr. LAUTENBERG. Mr. President, I rise in opposition to the substitute amendment to H.R. 1296, the Presidio bill.

Mr. President, as we all know by now, this is not a noncontroversial public lands bill. There are many provisions in the bill that truly are noncontroversial, and that have been considered and voted on in committee with little if any opposition.

And I would note that the bill includes the Sterling Forest Preservation Act, which Senator BRADLEY and I strongly support.

Unfortunately, the real goal of the pending substitute amendment is to slip through the highly controversial Utah wilderness provisions, based on Senate bill 884. Those provisions would permanently release millions of acres from wilderness study, and, in turn, allow uses on these lands that will destroy lands with significant ecological and scientific value.

Mr. President, I oppose including S. 884 in this omnibus lands bill, and will support an effort to remove that title in its entirety. We need to act on many of the provisions in the underlying legislation, which are truly noncontroversial. But we ought to have a separate, open, and honest debate on those provisions that are controversial.

Mr. President, I have heard from more people—both in New Jersey and from out West—about the Utah wilderness bill than perhaps any other public lands issue. By an overwhelming margin, people have urged me to support Utah wilderness, and to oppose S. 884 as written.

Who are these people who visit my office, write me letters, stop me in the halls? They are people from New Jersey who understand what it means to live in the most densely populated State in the Nation. People who understand what it means to live in a State still reeling from the legacy of pollution from the industry, and who value open space, beautiful natural resources, and clean fresh air.

These New Jerseyans know that once land is destroyed by extensive development, it may never return as it was. At best, it takes a very long time to recover.

I've heard it said on the floor of this Senate that the only people who oppose S. 884 are the Eastern elites. Well, Mr. President, these so-called elites from New Jersey are really ordinary people who care about their environment and their Nation's natural resources. They care because they know what it's like to be without.

But, Mr. President, not everybody opposed to S. 884 is from New Jersey. Take the mayor of Springdale, UT. He visited me a year ago to explain how his community benefits more from preserving the wilderness than from activities that would alter or destroy it. As the mayor explained, recreation and its associated businesses provide for a sustainable and growing economy. By contrast, he said, resource extraction does not.

I've also heard from a fourth generation Utah native, the past president of the Salt Lake City Rotary Club, a Mormon, and father of four children who urged me to get involved in this issue.

He told me that recreational and other commercial enterprises depend on the wilderness. And that these businesses are critical to the economic vitality of the State of Utah and to Utahn's quality of life. He also told me that preservation is crucial to his peace of mind.

Mr. President, it is true that these lands are all in Utah. But they are also national lands that contribute to the entire country. They have great ecological significance, and they provide scientific and educational treasures, as well as a growing recreation business. That is why I care.

I also care very much about title XVI of the bill, the Sterling Forest Preservation Act. Let me talk a little about Sterling Forest and why its preservation is so important.

This bill designates the Sterling Forest Reserve and authorizes up to $17.5 million to acquire land in the Sterling Forest area of the New York/New Jersey Highlands region.

This would preserve the largest pristine private land area in the most densely populated metropolitan region in the United States. It also would protect the source of drinking water for 2 million New Jerseyans.

Mr. President, the Highlands region is a 1.1 million acre area of mountain ridges and valleys. The region stretches from the Hudson to the Delaware Rivers and consists primarily of forests and farmlands. The Forest Service, in a 1992 study, called the Highlands, "a landscape of national significance, rich in natural resources and recreational opportunities."

Unfortunately, the Highlands region faces an increasing threat of unprecedented urbanization. Perhaps the most immediately threatened area is Sterling Forest.

Located within a 2-hour drive for more than 20 million people, the 17,500-acre tract of land on the New York side is owned by a private company that has mapped out an ambitious plan for development.

The community that this corporation plans to develop will have a negative impact on drinking water for one-quarter of New Jersey residents. It also threatens the local ecosystem and wildlife, the nationally designated Appalachian Trail, and the quality of life of residents of the New York-New Jersey metropolitan area.

I will not describe this proposed project in detail.

But suffice it to say that one cannot build more than 14,000 housing units and 8 million square feet of commercial and light industrial space, and release 5 million gallons of treated wastewater into a pure environment, without a significant impact.

My concern about the project's effect on New Jerseyans' drinking water is not new. We have known for some time that this development will destroy valuable wetlands, which filter and purify the water supply, and watersheds, which drain into reservoirs—reservoirs which supply one quarter of New Jersey's residents with drinking water.

The proposal calls for three new sewage treatment plants to accommodate the development. These plants will discharge 5.5 million gallons of treated wastewater each day into the watersheds.

Compounding matters will be nonpoint source pollution generated by runoff from roads, parking lots, golf courses, and lawns. This runoff carries pollutants such as fertilizers, salt, and petroleum products, among others. Together these pollutants pose a serious threat to drinking water, which is why there is so much concern in New Jersey.

I am not alone in my opposition to the proposed development. Residents from the nearby communities also oppose it. Based on testimony delivered during local public hearings, the development plan will impose $21 million in additional tax burdens on surrounding communities. On the other hand, under the management scenario proposed by this bill, a park would generate revenue.

The only viable management option for this important ecosystem is preservation. And that is what is proposed in this legislation.

The bill would provide critical protection for the forest. But it does not impose the heavy hand of the Federal Government on the local community or on the owner of the property. The funds authorized in this bill represent a fraction of the total funding needed to purchase the forest. The rest would come from other public entities, such as the States of New Jersey and New York, and private parties.

I also would note that the legislation specifically requires a willing buyer-willing seller transaction—if the company determines that it is not in its best interest to sell, it doesn't have to.

Furthermore, the Federal Government would be relieved of the significant costs associated with forest management, law enforcement, fire protection, and maintenance of the roads and parking areas under an agreement with a respected bi-State authority.

These provisions have the support of the local communities, the two States, and regional interests. They are cost effective and reasonable. And they are environmentally responsible.

Senator BRADLEY and I have worked on this bill for years now, and we are pleased to note that last June, the bill passed as part of H.R. 400, now pending in the House. We have heard many expressions of support from the Speaker of the House for preserving Sterling Forest, and we anxiously await passage of H.R. 400.

Unfortunately, including Sterling Forest in this bill only serves to, in the words of the Sterling Forest Coalition, "hold Sterling Forest hostage to S. 884." The people of New Jersey do not support this omnibus lands bill as written, and I share their view.

Let me quote from a letter I received yesterday from the Highlands Coalition, a leading organization with membership in Connecticut, New York, and New Jersey:

> The Title XX of this bill, the Utah Public Lands Management Act . . . is anathema to environmental principles and must not be connected to Sterling Forest funding . . . The amount of acreage it would set aside as Wilderness in southern Utah is meager compared to what the majority of citizens in Utah and surrounding States would like to see. The preservation of Sterling Forest must not be at the cost of environmental degradation elsewhere in the United States. The Omnibus Parks bill must be amended to delete in its entirety the S. 884 Utah Public Lands Management provisions. If this bill is not so amended, we ask you to vote against the entire Omnibus Parks package.

Mr. President, letters like this help show how our Nation's wilderness areas meet national interests. I ask unanimous consent that the text of the letter from the Highlands Coalition be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE HIGHLANDS COALITION,
Morristown, NJ, March 21, 1996.

Re National Parks omnibus package.

Hon. FRANK R. LAUTENBERG,
Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: The Highlands Coalition, with membership organizations representing more than 300,000 people in New York, New Jersey and Pennsylvania, has been working for over 5 years for the preservation of the Sterling Forest in New York as public lands. New York, New Jersey and a private foundation have committed between $20 and $30 million for this purpose, but we need the federal funding component. Over the past three years various bills have been introduced in both the House and the Senate that would provide federal funding, but none of these has yet been signed into law. Now, another bill containing provisions for Sterling Forest funding, the Omnibus National Parks bill, has been introduced in the Senate.

The Title XX of this bill, the Utah Public Lands Management Act introduced by the Utah Senators as S. 884, is anathema to environmental principles and must not be connected to Sterling Forest funding. The amount of acreage it would set aside as Wilderness in southern Utah is meager compared to what the majority of citizens in Utah and surrounding states would like to see. Further, key provisions would allow development in designated federal Wilderness areas in Utah, thus threatening the integrity of the entire National Wilderness Preservation system.

The preservation of Sterling Forest must not be at the cost of environmental degradation elsewhere in the United States. The Omnibus Parks bill must be amended to delete *in its entirety* the S. 884 Utah Public Lands Management provisions. *If this bill is not so amended, we ask you to vote against the entire Omnibus Parks package.*

Sincerely,

WILMA E. FREY,
Coordinator.

Mr. LAUTENBERG. I also ask unanimous consent to have printed in the RECORD an editorial from a newspaper in New Jersey, the Bergen Record, who editorialized, "Sterling Forest is too important to this region's well-being to become a hostage of partisan politicking."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PROMISES, PROMISES—UTAH LAND GRAB WOULD HURT STERLING FOREST

Is this crazy or what? At a time when many congressional Republicans are trying to project a more moderate approach on environmental issues, some of their brethren are pressing for an omnibus public-lands bill that is an anathema to conservationists—and a stumbling block to saving Sterling Forest.

It's time for the GOP leadership, House Speaker Newt Gingrich and Senate Majority Leader Bob Dole to get on the same page and push for legislation that saves important resources without sacrificing others.

The omnibus environmental bill, which is expected to come to a Senate vote as early as later this week, includes $17.5 million toward the purchase of Sterling Forest. But it also includes a provision that would open 20 million acres of wilderness in southern Utah to forestry, mining, and other commercial interests. That's unacceptable.

Interior Secretary Bruce Babbitt has said, rightly, that he would recommend that President Clinton veto any bill that includes the Utah land giveaway. That would sink years upon years of effort to obtain federal funding to save Sterling Forest—a 17,500-acre watershed that provides the drinking water for 2 million New Jerseyans.

At a time when the owners of the land are moving ahead with their plans to build 13,000 housing units and 8 million acres of commercial development on the mountainous tract, such a setback at the federal level would be disastrous.

Just last month, Mr. Gingrich stood in a clearing near Sterling Forest and pledged that Congress would soon pass a bill to save the land without sacrificing any environmentally sensitive land in the process. The only sure way to do that is for Mr. Gingrich to push forward with an existing Sterling Forest bill, HR-400.

This bill has already passed the Senate. And Mr. Clinton has indicated he would sign it. Now it's a question of Mr. Gingrich keeping his word. Sterling Forest is too important to this region's well-being to become a hostage of partisan politicking.

As for the other public-lands legislation, the Republicans would be wise to jettison the Utah land grab and to press forward with an omnibus bill that has the nation's best interests at heart.

Mr. LAUTENBERG. Mr. President, I also care about title XXVI, which recognizes the historic significance and natural beauty of the Great Falls area of Paterson, NJ. Paterson is my home town. The history of the region was part of my childhood.

In 1778, Alexander Hamilton came to the area and decided that the Great Falls could serve as a power source for the Nation's first industrialized community. Working with Pierre L'Enfant and then Governor William Paterson, Hamilton began to develop the resources as a means to free the Nation from England through business and manufacturing.

Over the years, Paterson became known as the Silk City, and as the center of the textile industry.

During the past decades, however, the Great Falls historic preserve has borne the brunt of industrial flight and the treasures at the Great Falls are threatened. This bill would allow for the partnership of the National Park Service to assist in restoring the treasures and history of the area. The Senate passed this bill last Congress. The bill deserves to be passed on its own, rather than as part of an omnibus park land bill that will be vetoed.

In conclusion, Mr. President, I hope my colleagues will understand what is happening here. Most of the bills included in this package are noncontroversial. But some are not.

We should move forward and strike those bills that will attract a veto from the President and allow the rest of the bills to be considered and passed on their own merit.

Mr. BINGAMAN. Mr. President, I rise to express my concerns with the current language of the Utah wilderness bill. First of all, I am opposed to this controversial bill being attached to a large group of largely noncontroversial bills that are very important.

I do support passage of a Utah wilderness bill. However, I cannot support this bill. This bill largely precludes future designations of BLM wilderness in Utah; substantially alters the definition of wilderness; and may result in an unfair land exchange value between the United States and the State of Utah.

I am opposed to the hard release language the bill contains. If this bill were to become law, it would be the first of over 100 wilderness laws to contain hard release language. I agree that lands not included in this bill should generally be released to standard multiple use provisions, but I do not agree that BLM should be precluded from ever considering future wilderness designations on any of the other 20 million acres of public land in Utah. I believe the soft release language that the Bush administration supported is the appropriate route.

Even if these issues were resolved, I still have grave concerns stemming from the unique management and land exchange provisions. If this Utah wilderness bill were to become law, the Nation would effectively have two wilderness systems, Utah and the rest of the Nation. It would in effect result in a brand of wilderness that would be so different, that current BLM regulations, which are appropriate for all other BLM wilderness areas, would have to be substantially altered just to accommodate the unique provisions of this bill.

Most startling is the fact that it appears that the Secretary of the Interior would in Utah have less authority to control access in and around wilderness areas than nonwilderness areas. I repeat, it appears the Secretary would have less authority to control access in and around wilderness areas than nonwilderness areas. How can this be wilderness if it is less protected than other multiple-use lands?

One small example of nonconformity is the bill's special provisions for facilities within wilderness areas. Section 2003(d) provides:

> Nothing in this title shall affect the capacity, operation, maintenance, repair, modification or replacement of municipal, agricultural, livestock, or water facilities in existence of the date of the enactment of this Act

There is no qualification to this paragraph. Conceivably, projects could be expanded without any regard to impacts to wilderness values. This is only one small example of the special provisions included in the language of this bill.

In the past, wilderness laws have generally deferred to the access provisions of the Wilderness Act of 1964. This practice provides a measure of consistency throughout the wilderness system. The proponents of this Utah wilderness bill have strayed so far from the vision of the original framers of the Wilderness Act that an althernative type of wilderness would, in effect, be established. I do not support this establishment of an alternative version of wilderness.

Even if this bill did not contain these nonconforming provisions, I would still have concerns with the land exchange provisions that would provide a unique means to establish the value of Federal lands to be exchanged to the State of Utah. These provisions would give a significant advantage to the State of Utah that no other State has enjoyed in its wilderness bills.

I support passage of a Utah wilderness bill. However, I believe the bill must not preclude future designations of wilderness; substantially alter the definition of wilderness; nor result in unfair exchange values between the United States and the State of Utah.

Mr. FEINGOLD. Mr. President, I rise today to express my deep concerns about the inclusion of S. 884, the Utah Public Lands Management Act, into the omnibus parks package now before the Senate.

I believe that it is critically important to make my colleagues aware that this omnibus package is not simply a means to clear small measures on the docket of the Energy and Natural Resources Committee. Among its provisions is a measure which decides the fate of 22 million Federally owned acres of land in southern Utah. It designates a portion of the acres as wilderness and leaves vast areas free for development. This is one of the few times this session that the Senate will have the opportunity to engage in a dialog over what should happen to these and other Federal lands.

The Utah provisions contained in the measure currently before the Senate are controversial provisions. Both Utah and national newspapers have been a hotbed of debate over the question of how much wilderness to protect and the process used to develop the bill. I also know that many citizens in my State are deeply concerned about aspects of this bill which would fundamentally change the way the Federal Government will manage lands which all Americans own. Wisconsinites who care deeply about the Federal lands in Utah as well as Federal land policy in general have written to me and urge significant changes in this measure.

Mr. President, a major concern about the measure currently before the Senate relates to the hard release language in the Utah provision which affects the future ability of the BLM to designate additional acres in Utah which may need protection as wilderness. BLM is currently managing 3.2 million of the 22 million acres it holds in Utah as wilderness. The provisions of the substitute amendment relating to Utah would designate approximately 2 million acres as wilderness. They further require that any lands not explicitly designated by the bill as wilderness will be managed for multiple-use. Therefore, even if BLM finds in the future that these lands are sensitive and in need of protection, no additional lands could be designated as wilderness. The Senate has never passed a bill containing such language before, and such language is a significant departure from the tenets of the 1964 Wilderness Act.

The key protection wilderness designation offers the lands in southern Utah is protection from certain kinds of development—but not from the use of the lands. Activities allowed in wilderness areas are: foot and horse travel; hunting and fishing; backcountry camping; float boating and canoeing; guiding and outfitting; scientific study; educational programs; livestock grazing if it has already been established; control of wildfires and insect and disease outbreaks; and mining on preexisting mining claims.

Prohibited activities, according to the 1964 Wilderness Act include: use of mechanized transport except in emergencies, or such vehicles as wheelchairs; roadbuilding, logging, and similar commercial uses; staking new mining claims or mineral leases; and new reservoirs or powerlines, except where authorized by the President as being in the national interest.

The magnificence of the wildlands that are at stake in this debate cannot really be done justice in words, Mr. President. As my colleague from New Jersey, Mr. BRADLEY, has already shown the Senate, they include starkly beautiful mountain ranges rising from the desert floor in western Utah with ancient bristlecone pine and flowered meadows. Some areas are arid and austere, with massive cliff faces and leathery slopes speckled with pinyon pine and juniper trees. Other areas support habitat for deer, elk, cougars, bobcats, bighorn sheep, coyotes, birds, reptiles, and other wildlife. These regions hold great appeal to hikers, hunters, sightseers, and those who find solace in the desert's colossal silence.

These BLM lands are truly remarkable American resources of soaring cliff walls, forested plateaus, and deep narrow gorges. This region encompasses the sculpted canyon country of the Colorado Plateau, the Mojave Desert, and portions of the Great Basin.

Some in this body may think it strange that a Senator from Wisconsin would speak on behalf of wilderness in Utah. The issue of and debate over Utah wilderness protection, Mr. President, has been one of which I have been aware since the time I joined the U.S. Senate. Many of my constituents believe that the lands of southern Utah are the last major unprotected vestige of spectacular landforms in the lower 48 States—of the caliber of lands so many nationwide already hold dear, such as Yellowstone, the Grand Canyon, and the Arctic National Wildlife Refuge. I have received more constituent mail—over 600 pieces in all—from Wisconsin citizens concerned about wilderness lands in Utah, than I have on any other environmental issue in this Congress—including many critically important issues to my state such as clean water, safe drinking water, the protection of endangered species, and Superfund reform. A man from Menominee Falls, WI, writes about the lands of Utah:

> These resources are national treasures that make our country great, and once they are gone they are lost forever.

A woman from Beloit added in her letter:

> I live in Wisconsin but my real home is the natural world . . . most voters do not concur with the irrevocable destruction that would result from (this measure) becoming law. Please: do all you can to be a voice for wilderness—not only in Wisconsin but in the fragile and gorgeous West.

One of the most poignant testimonials came from an Eau Claire resident:

> I have not had a lot of experience writing letters to my elected representatives. However, it appears that the current priorities in Washington are shifting away from conservation towards a destructive, greed oriented approach, under the guise of economic growth and development of public lands. Given this climate, I feel I must write to express my opinion. I have had the opportunity to visit much of the West over the past 30 odd years on annual family vacations. This is truly a unique land without rival anywhere else in the world. My family and I have learned to love and respect this region and we feel that it must be protected in its natural form. I strongly urge you to oppose any compromise Utah lands bill that does not include a strong vision of conservation for future generations.

Mr. President, I read from some letters from Wisconsin residents because I think it is critical to understand that the importance of protecting these lands in Utah extends beyond the borders of that State. Many Americans enjoy and treasure this area, just as they do other great American wilderness areas and it is the responsibility of all members of the Senate to be concerned about the fate of this national treasure.

I have been personally touched by these appeals from residents of my State. In recognition of the importance of this issue to my constituents, on October 11, 1995 I circulated a small paperback book containing essays and poems by 20 western naturalist writers reflecting their thoughts on the protection of wilderness in Utah to all members of the Senate. The book, entitled "Testimony," was released on September 27, 1995. It is modeled after the late author Wallace Stegner's 1960 Wilderness Letter to the Kennedy administration, which was a critical benchmark document in the development and eventual passage of the 1964 Wilderness Act. In his 1960 Wilderness Letter, Wallace Stegner said "something will have gone out of us as a people if we let the remaining wilderness be destroyed." Mr. President, those words are echoed and reverberated by these western writers as they describe the legislation now before the Senate and its affect on Utah.

The paperback was compiled during August 1995. The selections represent the opinions of the authors, written in direct response to the measure currently before Senate which would affect public lands management in Utah. The book includes writings by individuals such as: Terry Tempest Williams, Utah native and author of five books; T.H. Watkins, editor of Wilderness magazine; N. Scott Momaday, winner of the 1969 Pulitzer Prize for "House Made of Dawn"; and Mark Strand, former Poet Laureate of the United States. 1,000 copies of the book were printed for distribution on the Hill, and I now understand that the writers intend to release this work through Milkweed Press in Minnesota for the general public. The writers donated their work to produce this small booklet and the printing costs were covered by a donation from a nonprofit foundation.

I distributed this book because I felt that it was important for all members of the Senate to have a copy of this book to review in making a decision that so profoundly affects future of such a spectacular area.

One of the pieces in the Testimony book that most caught my attention, Mr. President, was a selection by Stephen Trimbell. Steve Trimbell is a writer and photographer who lives in Salt Lake City, and who was instrumental in working with Terry Tempest Williams to facilitate putting the Testimony book together. Those Senators who have been following the debate over the Utah Wilderness Act are already very familiar with Mr. Trimbell's handiwork. For several months, every Friday, photographs of the areas excluded from wilderness designation under the measure before us were dropped off in every Senator's office. Many of those "Friday pictures," as they have come to be known around my office, were taken by Trimbell. I wanted to share Steve Trimbell's words on this matter with the Senate. He writes:

> My place of refuge is a wilderness canyon in southern Utah.
>
> Its scale is exactly right. Smooth curves of sandstone embrace and cradle me. From the road, I cross a mile of slickrock to reach the stream. This creek runs year-round, banked by orchids and ferns. Entering the tangle of greenery, I rediscover paradise. The canyon is a secret, a power spot, a place of pilgrimage.
>
> I found this canyon in my youth, twenty years ago. I came here again and again. I brought special friends and lovers. When my wife and I met, and I discovered that she knew this place, I felt certain that she knew a place deep within me, as well. My children are within a year of walking into the canyon on their own. I thrill to think of that first visit with them.
>
> On those early trips, I rarely saw other people. Once, in the velvet light before dawn, I awoke, sat boldly upright, and looked past my sleeping bag into a lone ponderosa pine—a tree that brought the spicy scent of mountain forest to this desert canyon. A few seconds later, a great horned owl noiselessly landed on a branch and looked back at me with fierce eyes. The owl flew down canyon, searching for unwary mice. I lay back, fell asleep, and awoke again when the sun warmed me.
>
> I bathed in plunge pools and waded along the stream, learning to pay attention, looking for reflections and leaf patterns and rock forms to photograph—details that I would not see if the canyon had not taught me how to look. Never before had I spent so much time alone on the land. Here, I matured, as a naturalist and photographer and human being.
>
> This wilderness canyon made me whole. It can still restore me to wholeness when the stress of life pulls me thin. It bestows peace of mind that lasts for months.
>
> People smile when they remember such particular places on Earth where the seasons and textures and colors belong to them. Where they know, with assurance and precision, the place and their relationship to it.
>
> "This is my garden."
>
> "This is our family beach."
>
> "I know this grove like the back of my hand."
>
> "I can tell you where every fish in this stream hides."
>
> "I remember this view; it takes me back to my childhood."
>
> These landscapes nourish and teach and heal. They help keep us sane, they give us strength, they connect us to our roots in the earth, they remind us that we share in the flow of life and death. We encounter animals in their native place and they look into our eyes with the amalgam of indifference and companionship that separates and unites us with other creatures. A garden can connect us with wildness. Wilderness connects us with our ancestral freedoms even more powerfully.
>
> Recently, we visited a canyon new to us in the southern Utah wilderness, this time with urban cousins—two girls, seven and eleven. The younger girl spotted a whipsnake, a nesting Cooper's hawk, beetles, Indian paintbrush. We painted ourselves with golden cattail pollen and launched boats we wove from rushes and milkweed leaves. Taught never to walk alone in their city, here the girls forged ahead out-of-sight, exploring, appropriating power, gathering the dependable certainties of the wilderness, building emotional bedrock, new layers of confidence and self-esteem. Perhaps this canyon will become their canyon.
>
> We need to preserve every chance to have such experiences, for ourselves, our children, and the grandchildren of our grandchildren.
>
> For we have reached the end of the gold rush. This wild country is our home, not simply one more stop on the way to the next boomtown. Respect for our home, thinking as natives, begins in our backyards, with our children. We move outward from there to local parks, to preservation of greenbelts, and from there to big wilderness.
>
> The wilderness canyons of Utah belong not to an elite cadre of backpackers, not to the cattle raising families of Escalante and Kanab, not to the Utah state legislature, not to the Bureau of Land Management. They belong to all citizens of the United States. In truth, they belong to no one. They are a magnificent expression of the powers of Earth, and we Americans hold Utah wilderness in trust for all humans and all life on our planet.
>
> The truly conservative action becomes clear: to preserve as many wildlands as possible for future generations rather than to fritter them away in casual development without even noticing. A Utah wilderness bill with too little land preserved and too many exceptions for development is unacceptable, destroying irreplaceable wild places for the short-term wealth of the few.
>
> Every year our wildlands shrink. We must act now, decisively, boldly. To save my canyon. Their canyon. Your canyon.
>
> We must preserve the wholeness of wild places that belong to everyone and to no one. In doing so, we demonstrate our trustworthiness—our capacity to take a stand on behalf of the land. On behalf of the canyons.
>
> Our canyons.

That short piece of writing is so powerful, Mr. President, because it is a timeless statement about how people feel about natural places. For myself, I personally know the value of wild areas. For the last 9 years, I have spent my summer vacations on Madeline Island, immediately adjacent to the Apostle Islands National Lakeshore in northern Wisconsin. I have always found the quiet beauty of the Apostle Islands refreshing and invigorating. The Apostle Islands are not a place the people in Wisconsin go for high-tech hubbub; it is a place where people go to experience nature's beauty.

I want to recount a story, one perhaps several of members of the Senate may remember, from 1967, when the Senate Subcommittee on Parks and Recreation held hearings on Senator Gaylord Nelson's plan to create the Apostle Islands National Lakeshore.

A man named John Chapple, a newspaperman from Ashland, WI, testified at those hearings. Mr. Chapple, who spent much of his life around the Apostle Islands, related the story of a time when he and his 10-year-old son were out in a 14-foot motorboat on the waters around the Apostle Islands:

> On one occasion, the water was very rough, and I pulled our little boat onto a sand beach so I could put some more gas in the motor.
>
> Three men came walking out. "Don't you know this is a private beach?" they said. "You are not supposed to land here."
>
> That stung, and it still stings.
>
> Twenty-five men with fortunes could tie the Apostle Islands up in a knot and post "keep out" signs all over the place.
>
> The beauty that God created for mankind would not be available to mankind anymore.
>
> These islands, with their primeval power to truly recreate, to reinvigorate, to inspire mankind with a love of peace and beauty . . . must be preserved for all the people for all the time and not allowed to fall into the hands of a few.

When the Senate acted to protect this area of northern Wisconsin, they heard the voices of Wisconsinites like

Mr. Chapple who knew the value of peace and beauty and of preserving our natural heritage. Though those words were spoken by man nearly 20 years ago, about an entirely different landscape, they almost sound like an addendum to Steve Tribell's story about southern Utah canyons, which is included in a new testimony.

In places like the Apostle Islands and southern Utah, Wisconsinites have found opportunities to develop a consciously sympathetic relationship to the rest of the world, so that we may better live in it. These natural places are a confluence for the things we value in Wisconsin.

The parallels between the Apostle Islands in my State and southern Utah, interestingly go even further than the emotions that these landscapes evoke among the people of my State. Along the Apostle Island National Lakeshore's shoreline there are the wonderful rust colored sandstone cliffs. These sandscapes serve as staging areas for birds following their ancient paths of migration in the spring and fall. Of similar appearance and construct to the landscapes of southern Utah, these cliffs are particularly impressive this time of year now that they are covered with ice. The February 28, 1996, edition of the Minneapolis Star-Tribune ran a wonderful article about these red cliffs covered in ice that states:

> Frozen waterfalls hide a labyrinth of nooks and crannies that kids climb through and slide down like some frozen playland. "Awesome" is the word muttered by many visitors to the sea caves sculpted by centuries of wind and water at Apostle Island National Lakeshore near Bayfield.

In the case of the Apostle Islands, how did the Senate respond, Mr. President? And what does it tell us about the stewardship and attention we should pay here in the Senate to southern Utah. In 1967, Senator Nelson was leading the effort that led to President Nixon's signing, on September 26, 1970, of the legislation that established the Apostle Islands National Lakeshore—only a few months after the first Earth Day.

Many of my constituents are concerned that perhaps there isn't that kind of momentum in this body any more. As their letters reflect, they believe that there is a concerted campaign to undermine landmark environmental legislation, such as the Clean Water Act, and to curtail or end the Federal role in protection of endangered species and their habitats. They express frustration that the Senate is responding to efforts to persuade Americans they cannot afford further environmental protection, that the idea of protecting our natural heritage is somehow an affront to the American ideal of rugged individualism.

As we consider this measure we must be mindful of Wallace Stegner's words I quoted earlier, of the need to act carefully on these issues in community and with sympathy and responsibility for our place in the great scheme of things.

I feel that it is exceedingly important to be actively engaged in discussing alternatives for the management of significant resources such as these. I urge my colleagues to be committed to do so in Utah, and I urge them to oppose the inclusion of the Utah measure in this Omnibus package.

The Utah wilderness provisions in the legislation now before the Senate has several major weaknesses.

The first major concern is the "under protection" of areas that are suitable for wilderness designation. The bill would protect only 2 million acres in contrast to the 5.7 million protected in a competing bill, H.R. 1500, introduced in the House of Representatives and the 3.2 million acres currently being managed by BLM as wilderness pending congressional designation.

Mr. President, as other Senators have discussed, the review of public lands in Utah to determine their wilderness potential has had a long and contentious history. The BLM's initial inventory of this area to implement the 1976 Federal Land Policy and Management Act, known as FLPMA, identified 5.5 million acres of land as having potential wilderness values. Subsequent stages of that process resulted in 2.6 million acres of land being designated as wilderness study areas [WSA's] a designation which is a precursor to wilderness designation. Utah environmental interests challenged the 2.6 million designation, urging that about 700,000 acres be reinventoried. That additional study by BLM ultimately provided WSA status to 3.2 million acres—the management situation under which BLM is currently operating.

Controversies over the inventory have resulted in disagreement over how much wilderness to designate in Utah. Concerns over BLM's survey lead citizen groups to continue to conduct field based research to determine the wilderness values of other sensitive areas. These citizen group surveys lead to the development of alternative legislation to the proposal included in the omnibus package, which has been introduced in the other body by a Representative from New York, [Mr. HINCHEY]. That legislation, H.R. 1500, America's Red Rock Wilderness Protection Act, would set aside 5.7 million acres of land as wilderness—even more than the BLM is currently protecting as WSA's.

In addition to current congressional proposals, there have been previous administrative attempts to resolve the wilderness question in Utah. In 1991, the Bush administration recommended to Congress that 1.9 million acres be protected as wilderness. The proposal before us today has a similar acreage figure, only it recommends designation for different areas. However, the Interior Department now believes that more areas deserve wilderness designation.

In her testimony on behalf of the Department before the Energy and Natural Resources Committee this past December, Silvia Baca, Deputy Assistant Secretary, Land and Minerals Management for the Department of the Interior stated:

> We are sure other areas, both inside and outside existing WSAs, deserve such (wilderness) status.

I would remind Members of the Senate of the position taken by the Bush administration does not bind us as we consider the fate of this area, particularly given, as Ms. Baca also stated in her testimony, that:

> 1.9 million acres is inadequate to protect Utah's great wilderness.

The second area of concern is the fact that the lands in Utah designated as wilderness in this amendment would be required to be managed in a manner inconsistent with the Wilderness Act. In short, the meaning of "wilderness" designation would be significantly altered in this bill for these lands. The legislation is full of these exceptions to standard wilderness management protocol.

For example, under section 2002 of the amendment, roads would have to be maintained to a much greater extent than is provided for in the Wilderness Act. Access by cars, motorcycles, trucks, sport utility vehicles, and heavy equipment is guaranteed at any time of the year for water diversion, irrigation facilities, communication sites, agricultural facilities, or any other structures located within the designated wilderness areas. This type of unrestricted vehicular use is currently not allowed on lands now managed by BLM, or on many other parcels of Federal land, regardless of whether or not they are designated as wilderness. Creating an exemption to allow such activities within wilderness areas raises the question, Mr. President, what is the purpose of extending a special designation such as "wilderness" if we do so with so many holes that the designation is essentially meaningless or that the lack of such a designation would actually be more protective. As I said before, this bill would allow activities in a federally designated wilderness that would not be permitted on other nonwilderness Federal lands.

Another example of the way this legislation would undermine the management of wilderness areas is included in section 2006 on military overflights. This section includes special language preempting the Wilderness Act and permitting low level military flights and the establishment of new special use airspace over wilderness areas. This language sets a precedent for allowing such activities, precedent which is of great concern to the citizens of my

State. I have been involved, along with concerned Wisconsin citizens, in monitoring the recently proposed expansion of low level flights by the Air National Guard in Wisconsin. The path of these low level flights would cross extremely ecologically sensitive areas in my State, and the existence of those areas has been instrumental in forcing the National Guard to take a more careful look at the planning of any such flights.

The third area of concern, which I highlighted earlier in my remarks, is the hard release language. This language, if enacted, would set an unacceptable precedent for the National Wilderness system. None of the more than 100 wilderness bills already enacted into law contains such language. In the past, moreover, hard release has been proposed only for lands formally studied by a Federal agency for designation as wilderness but released from the WSA study status by Congress. The language in this amendment goes even further, Mr. President, it applies to all the 22 million acres of BLM lands in Utah not just the 3.2 million WSA acres.

The final area of concern is the land exchange embodied in the Utah wilderness portion of this bill. This legislation mandates that State lands within or immediately adjacent to designated wilderness areas be exchanged for certain areas now owned by BLM. Some lands to be exchanged are explicitly designated in this legislation, such as the 3,520 acres that would be given to the Water Conservancy District of Washington County, Utah for the construction of a reservoir. Other areas are not explicitly designated. The State is allowed under this measure to choose from a pool of Federal lands in different areas. As others have discussed, the Dutch-owned mining company, Andalex Resources is currently moving through the Federal permitting process to develop a coal mine on lands which the State is interested in acquiring. This exchange has significant fiscal consequences.

First, the Interior Department believes the lands not to be of approximately equal value. More importantly, should the lands have been permitted for mining under Federal ownership, the taxpayers would receive the return for all such mining activities. CBO determined that the net income to the Federal Government of the lands being transferred to the State of Utah would amount to an average of almost $500,000 annually over the next 5 years, or approximately $2.5 million in Federal receipts. In contrast, the Federal receipts anticipated from the lands being traded to the Federal Government in exchange would amount to about $33,000 per year or a mere $165,000 over the same period. In comparative terms, Mr. President, for every $1 that the Federal Government gives in the lands it exchanges with Utah it only gets back 7 cents.

All of these concerns, Mr. President, have led the Secretary of the Interior, Mr. Babbitt to announce on March 15, 1996 that he would recommend that the President veto this omnibus package unless the Utah provisions were removed. That is a step that the Senate should take. If the Utah provisions remain in this bill as currently drafted, the bill deserves not only a Presidential veto, but a condemnation from every American who cares about protecting our natural resources.

WELFARE AND MEDICAID

Mr. KYL. Mr. President, I want to comment briefly this morning on welfare and Medicaid, because the majority leader has indicated that these are going to be two of his priorities after the recess. We are going to bring these bills to the floor in an effort to get them passed yet again and to get them signed by the President.

It seems we are in a campaign mode now. Everyone is focused on the Presidential election. It does not seem like it was just 4 years ago that President—candidate then—Bill Clinton was going around the country saying we need to end welfare as we know it. People might ask what has happened in the last 4 years? The President seemed to be committing himself to ending welfare as we know it. Yet, during the first 2 years of his administration, when the Democrat Party controlled the House and Senate, nothing was done. When Republicans finally came in and it was part of the Contract With America, however, something did get done. We passed bills for welfare reform, and they not only reformed the essence of the welfare program to put more focus on people working, on providing incentives to families, and to reducing the costs of welfare, but also returned much of the decisionmaking to the States under the theory that the States and local governments would have more connection with the specific people on welfare and would know better how to run the programs for the benefit of the people in their individual States.

We, therefore, passed a Balanced Budget Act that included significant welfare reform and sent that bill to the President on November 17. He vetoed the bill on December 6 and said that he wanted a different welfare bill. So we sent him another welfare bill. This time the Senate voted on a separate welfare bill, and the vote was 87 to 12. That is about as bipartisan as you can ever get in the U.S. Senate. Yet the President rejected that as well. In fact, in his State of the Union speech he said, "I will sign a bipartisan welfare bill if you will send it to me." We have already done that by a vote of 87 to 12. Democrats and Republicans alike understood the need for real welfare reform, and we sent that to him. But it still was not good enough.

So, the Nation's Governors got together, Democrats and Republicans, and unanimously agreed on welfare reform and on Medicaid reform, which I will speak to in just a moment. Initially, it seemed like we had an opportunity, not only to get the legislation passed through the House and Senate—that would be fairly easy—but to get the President to sign it, which is required in order for it to become law. But now, once again, it appears the President will not take yes for an answer, or he got cold feet or something, because now Secretary Shalala, for example, is saying she does not really like the idea of a block grant.

As everybody knows, the block grant is fundamental, it is essential, it is the central point here of our Medicaid and welfare reform. In other words, instead of having Washington decide what to do, we send the money directly back to the States for them to make the decision how best to operate the program in their State with a few general national guidelines, the rest of the decisions being made at the State level. So, once again, we proposed a specific idea, this time with all of the Nation's Governors in support. The administration is still saying no. It makes you wonder whether this President is really committed to welfare and Medicaid reform. Will we, in this Presidential campaign, once again be debating an issue that was debated 4 years ago, about which we all thought we were in agreement?

Let me quickly turn to Medicaid because the majority leader also indicated that he thinks, and I agree, that we need to have these two issues both sent to the President for reform because they both involve the same general element of return of control to the State. Medicaid is growing at roughly 10 percent annually. This is the program of health care for our indigent citizens. Obviously, without reform, that program is going to be in trouble. As a matter of fact, the Federal Government will spend over $1 trillion between 1995 and the year 2002 on Medicaid. Without reform, the States will spend $688 billion of their own money on Medicaid between 1996 and the year 2002. This represents 8 percent of the States' non-Federal revenue and an increase of 225 percent between 1990 and the year 2002. Obviously, this system must be reformed.

The legislation that we put together recognizes that there is a need for Federal support, there is a need for Federal standards, but the States can run these programs. My own State of Arizona was the first to get a waiver and, from the very beginning, it ran a program it calls ACCESS, which provides medical services to the poor and has done so at a cost that the State of Arizona could afford.

The bottom line of the reform that we have put together on Medicaid—and here, again, the Governors have been in agreement on this—is that the program will continue to grow, but just not as fast as it has in the past, because the States would be given more latitude to run the programs on their own.

Total Federal and State spending of Medicaid under these programs we have designed would, over the next 7 years, be at least $1.36 trillion. The Federal portion of this amount would exceed $780 billion. Federal spending for Medicaid would increase at an average annual rate of 5 percent, between 1996 and the year 2002. It would grow from just over $157 billion in 1995 to at least $220 billion in the year 2002, which represents an increase in spending of more than 40 percent, Mr. President. That is not a cut, lest anybody suggest that it is.

The key, as I said, is to allow the States greater flexibility to restructure the benefits of Medicaid to suit their own State's beneficiaries. Again, the National Governors Association has reached an agreement on Medicaid as well as on welfare.

The point of our comments this morning is to try to stress the fact that the Congress has been willing, the Nation's Governors and legislatures have been willing, but there is only one person who stands in the way of Medicaid and welfare reform. His name is Bill Clinton. He is the President of the United States. He said he was for reforming these two programs when he ran for President 4 years ago. But it has been 4 years and nothing has happened and nothing did happen until Republicans gained control of the House and Senate.

It should be very clear to our colleagues and the American people, this Republican Senate and the Republican House, the Nation's Governors, and many of our Democratic friends in the House and Senate are in agreement on what needs to be done. Will the President of the United States get that message before this next Presidential campaign? If he does not, my suggestion is that the American people will send that message loud and clear, because we should not have to wait until 1997 to reform welfare and Medicaid.

UNANIMOUS-CONSENT AGREEMENT—H.R. 1296

Mr. KYL. Mr. President, on behalf of the leader, I ask unanimous consent that the quorum be waived with respect to the cloture vote this morning on the Murkowski substitute amendment; and further, that Senators have until 10:30 this morning in order to file second-degree amendments to the substitute in accordance with rule XXII.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KYL. Finally, Mr. President, on behalf of the leader, to simply announce that Senators should be alert that the cloture vote will be at approximately 10:30 this morning.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

AMERICANS CONDEMNED TO FUTURES WITH NO HOPE

Mr. COVERDELL. Mr. President, I want to echo and underscore the remarks of my good colleague from Arizona. I do not know of any issue in the country for which there is more unanimity or agreement than the current status of our welfare programs. You can go to any community, any State, any region, any city, and, as I said, there is a unanimity that this program has failed.

Sometimes in the discussions, we fail to acknowledge what that means. What that means is that hundreds of thousands of Americans have been condemned to stunted futures with no hope, no real education, no real prospect for opportunity in a life as we have come to know to be synonymous with being an American.

You can do anything as long as it is different and it would be better. Every statistic that we have endeavored to improve with these massive welfare programs, with the exception of one piece of data, is worse today and not just a little worse, but dramatically so. Every condition of the target of the welfare programs is worse, not better. We have higher teenage pregnancies, we have more single-member households, we have less scores in our education programs. It is all worse.

What makes it even more difficult to comprehend is that we have spent more of the Treasury of America on the War on Poverty than we spent on the Second World War, the First World War, Vietnam, Korea, and the Persian Gulf combined. We, essentially, prevailed on those battles, but we have lost the war on poverty. That means that there are millions of Americans today for whom the future is bleak, and we owe our fellow citizens more than this condemnation that we have created in our own country.

To put in context a response, a contemporary response, the President of the United States went to the American people in 1992 and, in his successful bid for the Presidency, said, "This condition must stop. This condition must come to an end. Welfare as we know it will not continue."

He was elected President. He had a majority in the House and the Senate, and in the 103d Congress, the Clinton Congress, nothing happened. Welfare, as we know it, is as it is—unchanged.

Then we come to the 104th Congress and this new majority, and an extensive Welfare Reform Act was passed in the House and in the Senate and sent to the President, the President who had promised the American people that he would end welfare as we know it. Instead, what he ended was welfare reform in the dark of the evening when he vetoed the Welfare Reform Act, which he has now done twice.

So you have to begin to get the picture that if you did not do anything when you were in charge of the Congress and then you vetoed welfare reform twice subsequently, there may be a lack of interest in true welfare reform.

He is running political advertising as we speak today in the Nation's capital, and that advertising says that he is for welfare reform. I only suggest to the American people, at least to this point, there is a massive difference between the rhetoric and the words of the campaign and the actions and the deeds of governments, because we are today going into the final year of this administration, and there is no welfare reform, there is only a record of blocking and stopping.

The bill that went out of the Senate had over 80 votes, Republican and Democrat. He claimed it should be bipartisan. It was, but still vetoed, stopped.

At the end of the day—and I am going to yield in a moment to the Chair—at the end of the day, this is all about American citizens. I do not think history is going to look very kindly on America for what it did to these people across our land, mostly in our large cities. They are virtual ghettos, prisons from which escape is almost impossible, and that should guide our actions. These programs should be changed if we care about our fellow citizens.

Mr. President, I yield the floor. I will be able to take your post for a moment. I know you want to make some remarks as well.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Chair recognizes the Senator from Oklahoma.

GETTING OUT FROM UNDER THE REDTAPE OF THE FEDERAL GOVERNMENT

Mr. INHOFE. Mr. President, a few weeks ago, the freshman class of the U.S. Senate made a trip around the United States to talk to different groups, different gatherings. We went all the way from Philadelphia to Knoxville, to Minneapolis, to Cheyenne, WY. One of the things we talked about, probably more than anything else, was welfare reform, changing the system as we have come to know it since the 1960's.

The Senator from Missouri, Senator ASHCROFT, was with us during this. He came up with some evidence from the State of Missouri that I thought was quite remarkable. He was talking about the administration of the Medicaid program, how they have been able to file and get out from under the redtape of the Federal Government. The year prior to their being able to administer the Medicaid Program with the amount of money that they had, they reached some 600,000 families throughout the State of Missouri. The next year, or the year following the year that they were able to take over the total jurisdiction and control and administration and come out from under the redtape of the Federal Government—and this was done, I might add, under a Democrat administration, a Democrat director of the department of human services for the State of Missouri—they were able to use that same amount of money and reach 900,000 families. In other words, 50 percent more services were given to families just by eliminating the unnecessary trip and expense and redtape of the Federal Government.

I believe it has been our policy to get as many of these things back to the local level. Having served myself in the State legislature, having served as a mayor of a major city, Tulsa, OK, for three terms, I can tell you that the closer you can get to the people at home, the better a program will be administered.

On welfare, we spent some time looking at the welfare system. The President of the United States, when he ran for President, when Bill Clinton ran for President of the United States, he had a pretty good welfare reform system. In fact, the welfare reform system that he advocated during the time that he ran for President of the United States had work requirements, had elements in it that were precisely the elements of the welfare reform package that passed the House of Representatives and then passed the Senate by a vote of 87 to 12. It was a shock to everyone, even on his own side of the aisle where 60 percent of the Democrats voted to support this, when he came out and vetoed it. I would like to think that America woke up during the demagogy of the Medicare reform. I know that many——

The PRESIDING OFFICER. The Chair notifies the Senator that his time has expired.

Mr. INHOFE. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. One minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, let me just comment that many editorial writers around the country that normally are more of a liberal persuasion came out and editorialized in favor of the Republicans and the fact that we recognized that we have a system that was going into bankruptcy. I ask unanimous consent that these be printed in the RECORD, the two editorials from the Washington Post that made this very clear. The names of the editorials are "Medagogues" and "Medagogues, Cont'd."

The last sentence of the second editorial reads, "The Democrats have fabricated the Medicare-tax cut connection because it is useful politically. It allows them to attack and duck responsibility, both at the same time. We think it's wrong." And America thinks it is wrong.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 18, 1995]

MEDAGOGUES

Newt Gingrich and Bob Dole accused the Democrats and their allies yesterday of conducting a campaign based on distortion and fear to block the cuts in projected Medicare spending that are the core of the Republican effort to balance the budget in the next seven years. They're right; that's precisely what the Democrats are doing—it's pretty much all they're doing—and it's crummy stuff.

There's plenty to be said about the proposals the Republicans are making; there's a legitimate debate to be had about what ought to be the future of Medicare and federal aid to the elderly generally. But that's not what the Democrats are engaged in. They're engaged in demagoguery, big time. And it's wrong—as wrong on their part now as it was a year ago when other people did it to them on some of the same health care issues. Then, they were the ones who indignantly complained.

Medicare and Medicaid costs have got to be controlled, as do health care costs in the economy generally. The federal programs represent a double whammy, because they, more than any other factor, account for the budget deficits projected for the years ahead. They are therefore driving up interest costs even as they continue to rise powerfully themselves. But figuring out how to contain them is enormously difficult. More than a fourth of the population depends on the programs for health care; hospitals and other health care institutions depend on them for income; and you cut their costs with care. Politically, Medicare is especially hard to deal with because the elderly—and their children who must help care for them to the extent the government doesn't—are so potent a voting bloc.

The congressional Republicans have confounded the skeptics who said they would never attack a program benefiting the broad middle class. They have come up with a plan to cut projected Medicare costs by (depending on whose estimates you believe) anywhere from $190 billion to $270 billion over the seven-year period. It's true that they're also proposing a large and indiscriminate tax cut that is a bad idea and that the Medicare cuts would indirectly help to finance. And it's true that their cost-cutting plan would do—in our judgment—some harm as well as good.

But they have a plan. Enough is known about it to say it's credible; it's gusty and in some respects inventive—and it addresses a genuine problem that is only going to get worse. What the Democrats have instead is a lot of expostulation, TV ads and scare talk. The fight is about "what's going to happen to the senior citizens in the country," Dick Gephardt said yesterday. "The rural hospitals. The community health centers. The teaching hospitals. . . ." The Republicans "are going to decimate [Medicare] for a tax break for the wealthiest people, take it right out of the pockets of senior citizens. . . ." The American people "don't want to lose their Medicare. They don't want Medicare costs to be increased by $1,000 a person. They don't want to lose the choice of their doctor."

But there isn't any evidence that they would "lose their Medicare" or lose their choice of doctor under the Republican plan. If the program isn't to become less generous over time, how do the Democrats propose to finance it and continue as well to finance the rest of the federal activities they espouse? That's the question. You listen in vain for a real response. It's irresponsible.

[From the Washington Post, Sept. 25, 1995]

MEDAGOGUES, CONT'D

We print today a letter from House minority leader Richard Gephardt, taking exception to an editorial that accused the Democrats of demagoguing on Medicare. The letter itself seems to us to be more of the same. It tells you just about everything the Democrats think about Medicare except how to cut the cost. That aspect of the subject it puts largely out of bounds, on grounds that Medicare is "an insurance program, not a welfare program," and "to slash the program to balance the budget" or presumably for any purpose other than to shore up the trust fund is "not just a threat to . . . seniors, families, hospitals" etc. but "a violation of a sacred trust."

That's bullfeathers, and Mr. Gephardt knows it. Congress has been sticking the budget knife to Medicare on a regular basis for years. Billions of dollars have been cut from the program; both parties have voted for the cutting. Most years the cuts have had nothing to do with the trust funds, which, despite all the rhetoric, both parties understand to be little more than accounting devices and possible warning lights as to program costs. Rather, the goal has been to reduce the deficit. It made sense to turn to Medicare because Medicare is a major part of the problem. It and Medicaid together are now a sixth of the budget and a fourth of all spending for other than interest and defense. If nothing is done those shares are going to rise, particularly as the baby-boomers begin to retire early in the next century.

There are only four choices, none of them pleasant. Congress can let the health care programs continue to drive up the deficit, or it can let them continue to crowd out other programs or it can pay for them with higher taxes. Or it can cut them back.

The Republicans want to cut Medicare. It is a gutsy step. This is not just a middle-class entitlement; the entire society looks to the program, and earlier in the year a lot of the smart money said the Republicans would never take it on. They have. Mr. Gephardt is right that a lot of their plan is still gauzy. It is not yet clear how tough it will finally be; on alternate days you hear it criticized on grounds that it seeks to cut too much from the program and on grounds that it won't cut all it seeks. Maybe both will turn out to be true; we have no doubt the plan will turn out to have our other flaws as well.

They have nonetheless—in our judgment—stepped up to the issue. They have taken a huge political risk just in calling for the cuts they have. What the Democrats have done in turn is confirm the risk. The Republicans are going to take away your Medicine. That's their only message. They have no plan. Mr. Gephardt says they can't offer one because the Republicans would simply pocket the money to finance their tax cut. It's the perfect defense; the Democrats can't do the right thing because the Republicans would then do the wrong one. It's absolutely the case that there ought not to be a tax cut, and certainly not the indiscriminate cut the Republicans propose. But that has nothing to do with Medicare. The Democrats have fabricated the Medicare-tax cut connection because it is useful politically. It allows them to attack and to duck responsibility, both at the same time. We think it's wrong.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Chair recognizes the Senator from New Jersey.

Mr. BRADLEY. Mr. President, I thank the Chair.

PRESIDIO PROPERTIES ADMINISTRATION ACT

The Senate continued with the consideration of the bill.

Mr. BRADLEY. Mr. President, I would like to, if I could, get a few housekeeping measures out of the way. First, so that the RECORD can clearly reflect who is doing what to the bills that are before us at this moment, this is a bill that contains 33 titles. Every Senator should know that the Senator from New Jersey would not oppose moving 30 of those titles now, pass them by voice vote. I do not oppose them. I do not have holds on them. They can be moved now. If they are not moved now, someone does have a hold on them. It is not me.

I also make the other point that the distinguished chairman alluded to saying that these bills in this package have been on the calendar for over a year. Well, maybe some of them have been, not all of them. Indeed, there are some bills in this package that have not even been reported from the Energy Committee. There was no vote in the Energy Committee on at least 6 or 7 or 8 of these bills. They were added on the floor into this big package without them ever being reported out of the Energy Committee or having a hearing in this Congress. Some had a hearing in the last Congress, so that is not a big deal. They should be reported out of the committee, but they were not.

The other point is, the Senator from New Jersey has indeed not held all bills. The distinguished Senator from Alaska alluded to the fact that a bill that he was very interested in moved without any problem. So let us get that housekeeping matter out of the way first. We could move almost 30 titles by voice vote.

Let us get to the real issue here, which is the Utah wilderness bill, which is one of the titles, which is the title that I strongly oppose. Why do I oppose this? This is the most important public lands bill since the Alaska land bill of 1980. This is the most important public land bill since the Alaska bill over 15 years ago.

What are we talking about here? We are talking about declaring a part of Utah wilderness. There are two areas in question. One is the basin and range area. That is that vast area west of Salt Lake City, an area of salt flats and small mountain ranges. The writer John McPhee says that "Each range here" in the basin range "is like a warship standing on its own, and the Great Basin is an ocean of loose sediment with these mountain ranges standing in it as if they were members of a fleet without precedent." So one of the areas we are talking about is this unique area, basin and range.

The other area we are talking about is the great Colorado Plateau in southern Utah. The part of Utah that Harold Ickes, the first Secretary of the Interior during the administration of Franklin Roosevelt, said almost the whole part of Utah should be a national park, that almost the whole part of that southern part of Utah should be a national park.

It is a vast plateau and canyonlands of incredible beauty, vast plateaus like the Kaiparowits Plateau or the Dirty Devil Wilderness, some of the most remote and rugged landscapes in the West. Yet some of the most interesting records of those who inhabited this land before America—before Europeans ever came to the United States—are also located in this section of Utah, and the remains of the great Anasazi, who were here long before the first European set foot on this continent. All of this vast beauty is in southern Utah.

It is a genuine wilderness: Remote, rugged, deep-cut canyons that are sandstone cut, with deep rivers. It is the place of Zion and Bryce and Canyonlands. It is unique. It deserves wilderness designation.

We now have before the Senate the Utah wilderness bill. What is the problem with the Utah wilderness bill? Well, too little land is protected as wilderness; and too few protections are given to that land. In addition, the inventory process, the process by which the Bureau of Land Management determined which areas should qualify as wilderness, was flawed from the beginning.

In the State of Utah, there are 22 million acres under the control of the Bureau of Land Management. Under the bill before the Senate, 2 million of these acres—2 million of those acres—will be set aside as wilderness. That is all, 2 million acres.

Now, there are too few protections, as well. Just take the vast Kaiparowits Plateau, a plateau of juniper forests, trees that have been there long before the first European set his foot forth on the United States. It is a vast wilderness, one of the most vast wildernesses in the lower 48 States. Under this bill, about 50,000 acres of that plateau will be transferred to the State of Utah, an area for which a Dutch company is already negotiating to put a gigantic coal mine—a gigantic coal mine—in the heart of that wilderness.

What about Dirty Devil? There, of course, the area that is excluded will be set aside for tar sands development. The legislation also would allow new dams, called reservoirs, new dams. One thought that in the Colorado Plateau this issue was settled in the 1960's when the dams that were proposed at Dinosaur Monument were defeated because the people of this country realized that this incredible beauty, silence and time standing still needed to be protected, should not be blocked by a dam with another lake going up the Canyonlands and destroying both the record of human habitation and the possibility of walking in the Canyonlands.

What else? Well, roads and motor vehicles are allowed to an unprecedented extent in areas which are wilderness. Also, you give the State the right to designate which areas it wants without regard to environmental sensitivity, and with great concern that the lands that the Federal Government would exchange with the State will not be of equal value. In fact, in the Interior Department's comment on this bill, as embodied in the report, the Deputy Assistant Secretary for Land and Minerals Management, Sylvia Baca, says the following:

> "The tracts proposed to be obligated by the State have high economic value for mineral, residential, and industrial development. The fair market value of these lands may be 5 to 10 times more than the value of the lands that would be transferred to the Federal Government. Despite the imbalance in favor of State, the bill provides for increased compensation to the State if encumbrances on Federal lands being transferred result in an imbalance, but not the other way around. This would only add to the inequality of values in this proposed exchange.

Mr. President, if the coal mining development is not enough, if the tar sands development is not enough, if the oil exploration is not enough, the new dams are not enough, if the roads and motor vehicles are not enough, if the kind of unequal value trade between State and Federal Government is not enough, what about this provision in the bill that sets aside the 2 million acres for wilderness, but attaches no water right to this wilderness land? These are areas that get 10 to 12 inches of rain a year—not much. What happens if that water is diverted, is used in another way, and does not get to the wilderness? Whatever fragile life is there dies, and it is over.

In Nevada, a State not totally dissimilar, not nearly as dramatic in some of its beauty as southern Utah, but still a remarkably beautiful State with a very similar topography, when the Nevada wilderness bill passed, the authors of that bill made sure that there was water attached to that wilderness so that you would not have a wilderness, essentially, destroyed.

Finally, in terms of objections to the bill, there is a so-called hard release language. Now, the release language, which basically means when you do a wilderness bill you release lands, lands that are not wilderness, but you do not release them forever and ever, because at some other point you might want to consider whether they are wilderness. The bill as originally drafted said that the land should be managed for nonwilderness multiple uses only—that was dropped—and a substitute was offered that said "the full range of uses."

However, the existing amendment, the existing section of the bill, also says that "lands released shall not be managed for the purpose of protecting their suitability for wilderness designation." This is a kind of belt and suspenders approach. The previous version of the bill as reported out had both belt and suspenders, two protections against further wilderness designation. The current version got rid of the suspenders but leaves the belt. It is still unprecedented in wilderness bills.

Mr. President, these are all serious flaws with this bill that need to be addressed that might be able to be addressed. The flawed process is what makes me doubtful.

Just a brief recapitulation: in 1964 the wilderness bill passed. What was the definition of wilderness in a 1964 bill? "A wilderness, in contrast with areas where man in his own works dominate the landscape, is hereby recognized as an area where the earth and the community of life are untrammeled by man and where man himself is a visitor who does not remain." That was the definition of wilderness.

In 1976, that was applied to Bureau of Land Management lands about 280 million acres nationwide. And in 1976, 1977, the Bureau of Land Management was given 15 years to identify which areas under its control would qualify for wilderness, possibly, to inventory possible wilderness areas. But do you know what happened in Utah? In Utah, they completed it in 1 year. They inventoried all 22 million acres controlled by the Bureau of Land Management. At the end of that year, they eliminated 20 million acres for consideration as wilderness.

What was the basis upon which they eliminated these 20 million acres? It was that they lacked outstanding opportunities for solitude or primitive recreation. That is why they were eliminated. In the fall of 1980, a representative of the Sierra Club toured a section of the Kaiparowits Plateau with the Utah BLM Director, Gary Wicks. Their helicopter touched down on the southern tip of Four-Mile Bench, which is part of the plateau. She says:

> We stood on the edge of as far as the eye can see. Incredibly beautiful, utterly wild land. And I would say, "Gary, why are you eliminating this from wilderness?" And he would say, "Because there are no outstanding opportunities for primitive recreation." And I would say, "And there are no outstanding opportunities for solitude either?" And Gary would say, "You are right. You can have solitude here, but it is not outstanding solitude.' And the man kept a straight face while he said that.

She concludes by saying, "If the helicopter left us there, we would have known what outstanding solitude was all about," because she would have been left in this vast wilderness, one of the most rugged areas of America. But it was on the basis that these lands did not provide sufficient solitude that they were eliminated from wilderness designation. That flies in the face of virtually everything.

Well, when only 2.6 million acres were set aside out of the 22.5 million acres, under the control of BLM, and only 2.6 were set aside, a lot of Utah people got very upset. They filed petitions and they filed briefs; they had 30 days in which to do that. And because of their efforts, it included 3.2 acres for wilderness. And since then, that is the amount of land in Utah today that had been managed as wilderness; 3.2 million acres are now being protected as if they were wilderness.

In 1991, BLM came up with its final suggestion—1.9 million acres. The Utah congressional delegation introduced its bill, which was 1.8 million. Two days ago on the floor, they modified it to 2 million acres. Well, there was another group of Utah residents that said this was kind of a hurried process, with helicopter flyovers, and only cutting out 2.6 million. So they said, "Let us do this scientifically," and they did that and came up with 5.7 million acres of Utah that should be wilderness. I do not know if it is 5.7. I am sure that there is some number lower than that which could preserve the wilderness areas. But I certainly know that 2 million is not enough and, particularly, with the language that is in this bill.

The real irony is that this is an attempt, while the protections for mining, coal, tar sands, oil exploration, dams, et cetera, in a State where only eight-tenths of 1 percent of the jobs are in mining, in a State where only 2 percent of the State economic product is in mining. The future is not there. The future is in this beauty that is self-evident to anybody that comes to southern Utah or to the basin and range. The real irony is the Senator from New Jersey, who comes from a State that is 89 percent urban, is making this argument in a State that is 87 percent urban—one of the best kept secrets of the West, the most urbanized area of America. People from this country are coming into the cities.

So I believe that this would even be in the long-term interest of the State. But that is not what this is about. The Utah economy is really not my province. It is my observation, as somebody who has looked at these issues. But what I want to preserve is the possibility for silence and the possibility for time that exists only in a wilderness.

I would like to read, in closing, just two things from a book prepared by several writers about the Utah wilderness. One is by John McPhee, who wrote in "Basin and Range" the following, talking about that basin and range area west of Salt Lake City, that geologic formation that has been stretching for several million years. Reno and Salt Lake City, 7 million years ago, were 60 miles closer together. They are 60 miles further apart today because the geological structure is moving. When it moves, the crust cracks, and up pops mountain ranges. These are the mountain ranges that we are trying to protect in the broader wilderness bill.

McPhee writes:

> Supreme over all is silence. Discounting the cry of the occasional bird, the wailing of a pack of coyotes, silence—a great spatial silence—is pure in the Basin and Range . . . "No rustling of leaves in the wind, no rumbling of distant traffic, no chatter of birds or insects or children. You are alone with God in that silence. There in the white flat silence, I began for the first time to feel a slight sense of shame for what we were proposing to do. Did we really intend to invade this silence with our trucks and bulldozers and after a few years leave it a radioactive junkyard?

Another writer—this will be the final one, and I quoted him the other day—is Charles Wilkinson. He was talking about taking his son into the Colorado Plateau. He says:

> One long hike took us down into a narrow canyon branching off the Escalante River. The sandstone walls, smoldering red, thrust straight up. Scattered pinyon and juniper, and ferns and grasses around the springs, accented the color embedded in the canyon sides.
>
> The Wingate Sandstone had been the rock of surrounding mountain ranges. During the Triassic, some 200 million years ago, water worked the mountains, wearing them into sand. Winds lifted the grains and piled them up as dunes on the desert floor. The sands hardened back into rock. Then the whole Colorado Plateau rose. . . The creek in this now canyon would have none of it, resolutely holding its ground against the upthrusting Wingate and younger formations on top of it, cutting down 1,000 feet into rock and time. Much of the day we walked up to our calves in the creek.
>
> Not long ago we scorned this land as remote, desolate. That thinking led to the postwar Big Build-up and the coal plants, dams, and uranium mines.
>
> But today we know southern Utah, in the heart of the Colorado Plateau, for what it really is. The geologic events were so cataclysmic and so recent, and the frail soils so erodible, that the Colorado Plateau holds more graphic displays of exposed formation than anywhere on earth. The dry air has preserved the ancient people's durable and magical rock art, villages, kivas, pots, and baskets to a degree found nowhere else.

Yet our society seems to lack the will to care for the Canyon Country. The Utah congressional delegation . . . wants to declare some fragments of the backcountry wilderness and then throw the rest open to development.

That would be so short-sighted, so contemptuous of time. The old images on the walls were made so long ago, the walls themselves even longer. Time runs out to the future, too: give our grandchildren, and those far down the line from them, the blessing of taking a daughter or son into the weaving, rosy side canyons, of finding their own Dream Panels, and of being instructed by the young person on how to scramble out.

Time, oh, time . . . May we not forsake you now.

Mr. President, this is about time and silence, and the chance for future generations to explore and understand this vast and beautiful wilderness.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, during the debate, the Senator from New Jersey provided us with his viewpoint on many subjects related to the proper management of our Nation's public lands. I respect him for his positions, for his contribution to ensuring that one of this country's many natural resources—our public lands—are properly and efficiently managed in an environmentally sensitive manner.

However, to be perfectly frank about it, he is just plain wrong when it comes to our bill to designate wilderness in Utah. I do not believe he has a full appreciation for the difficulty these small communities in my State have with maintaining all of this land as wilderness.

The longer Congress postpones action on the Utah Public Lands Management Act, the more economically strapped our small towns become. It stands to reason that you cannot take a primary resource out of circulation within an economy and expect that economy to flourish. The land resources in rural Utah are of the utmost importance to an economy whose major industries include mining, farming, and ranching.

My friend from New Jersey says our rural Utah counties can live off tourism dollars. Certainly, the tourism industry is vital to our State and important to the general welfare of our economy. But, it is not a panacea for the ills that plagued small town U.S.A. as the Senator pointed out yesterday. To give two examples, since nearly one-half million acres of land have been designated wilderness study areas [WSA's] by the BLM in San Juan County, UT—in Utah's southwestern corner—tourism has only increased from 2 percent in 1985 to 5 percent in 1995. In Millard County, on the western half of Utah, BLM designated acres as WSA's. Guess what the impact to their tourism industry was? Good guess—zero.

In my opinion, these kinds of numbers are not going to save the local economy of any community no matter how much acreage is designated wilderness.

I do appreciate his sensitivity to the manner in which Utah's public lands are managed—I really do. But, I would like to set his mind at ease. We must be doing a fairly decent job; for, after all, we have placed every single acre in BLM's inventory in a position, at least as far as the Senator from New Jersey is concerned, that each of them meet the wilderness criteria. That is a pretty decent record.

However, Senator BRADLEY should worry about one matter, which was not discussed in any great detail yesterday, and that is the presence of State school trust lands now captured within these wilderness study areas. They are owned by the State of Utah on behalf of and for the benefit of Utah's school children—not New Jersey's school children, Utah's children.

These lands were endowed by the Federal Government to Utah's schools at the time Utah became a State—100 years ago. The Utah School Lands Trust is not a recent development.

But, given the selection of the WSA's, these trust lands have been unavailable for any major revenue producing activity since the WSA's were established due to the restrictions informally imposed on them by their neighboring lands.

The Utah State Legislature has made a commitment to improving the management of the trust lands. These trust lands must produce more revenue if the State of Utah is going to meet its challenges in education. Utah currently ranks 49th in the Nation in terms of per pupil education spending. While I happen to believe that Utah stretches its education dollar further than just about any State and does an exemplary job of educating our kids, there is just no question that education financing continues to be our major concern.

Two years ago, the legislature organized a new State body whose specific reason for being is to gain the greatest benefit from the school trust lands. This body, composed of private citizens, is serious about meeting the purpose for which they have been created, namely, to see that the trust lands produce. I remind my colleagues that wise investments are also part of good stewardship.

I'm sure my friend from New Jersey knows that the State has every legal right to access these lands and to utilize them for whatever purpose they can, consistent with Federal and State laws. But, as I stand here today, I am convinced that, at some point down the road, the State is going to become so frustrated with Congress and this process that it will either sell a trust land section to a commercial entity or take steps to develop the land.

The fact that no one wants a disturbance of that kind in or around a wilderness area is precisely why the trust lands have not been fully developed to date.

Yet, the State cannot wait forever to develop the trust lands. The revenue from these lands is becoming increasingly important to our educational system. And, I am certain that these lands will be developed to benefit our schools if we don't pass this bill.

This is why our bill provides for an exchange of these lands. We want to get the trust lands out of the wilderness areas. We want to establish a unity of title so there is no commingling of management styles. We want to erase this threat forever. That can only happen with passage of our proposal.

By the way, the proposal my friend from New Jersey was championing yesterday that has been introduced in the House does not contain any reference at all to the school trust lands contained within the areas designated by that bill. It does not indicate how trust lands in H.R. 1500 will be dealt with under this measure. Are they just going to remain as enclaves within designated areas? Given his concern for pristine wilderness, he should worry about what could happen in the absence of a land exchange.

But, let me discuss several points the Senator from New Jersey raised in his opening comments yesterday that need to be addressed. They are out in the public forum and deserve a brief response.

First of all, he said that our release language, while an improvement over the original language, was "a backdoor attempt to do what the original bill had intended to do but do it in a slicker way."

Mr. President, I went into detail yesterday as to what the intent of our release is and is not. There is no funny business here, no tricks, no backdoor attempt. We are stating the full intent behind our language in the light of day.

It is simple and straightforward. Nondesignated lands will slip back into the pool of normal BLM lands for continued management under BLM's existing authorizes, special designations, and the host of Federal legislative authorities which apply to public land management. Subsequently, they will be managed by the local BLM consistent with multiple uses defined in section 103(c) of the Federal Land Policy and Management Act and consistent with land use plans developed through section 202 of the same act. This language will allow the local BLM land managers, the "on-the-ground professionals," to manage nondesignated lands for their wilderness values and characters utilizing existing BLM authorities. I trust they will do so.

Our language asks the Federal manager to do his job, which is to manage the Federal lands in the best way possible. It is not up to that manager to decide if an acre of land should be deposited in the National Wilderness Preservation System—it is up to us. The land manager can use an existing authority to protect and preserve the wilderness—small "w"—character of the land. That is expected when it's appropriate. But, he is not authorized, nor should he be, to use an existing authority to protect and preserve that pristine character to become future wilderness—big "W", or part of the wilderness system, at a future date.

And, if that concept bothers the Senator from New Jersey then he should go back and change FLPMA or introduce a bill that requires another round of studies and review by the BLM—that is, if he wants to spend another 17 years and another $10 million of taxpayer funds.

The release language was suggested by the ranking minority member of the Energy Committee. He said himself that he found the practice of managing land for a future designation as offensive as the prohibition on the practice of not managing it for its characteristics.

If we go along with the Senator from New Jersey, then we should simply designate all 22 million acres in Utah as wilderness study areas and never derive any benefit from Utah's public lands. I do not understand why our language bothers the Senator from New Jersey so much. It is completely consistent with the scope and intent behind FLPMA.

Besides which, the BLM wilderness inventory had a beginning. It should also have an end, like this issue, and hopefully before Utah celebrates its 200-year birthday in 2096.

Second, the Senator indicated that "four million acres of Utah's red rock wilderness will be left open for development." He then went on to list several areas that fall into this category.

Several times yesterday it was asserted that the passage of our bill will lead to a massive immediate destruction of nondesignated lands. I do not know how many times I need to say this, but that statement is simply not true. In fact, it is offensive to me not only as one of the principal authors of this bill but as a Senator from Utah.

Our critics continues to conjure up images of bulldozers lined up to advance on these BLM lands. Those who rely upon such images to advance their cause purposely ignore our sincere desire—not to mention our entire State government—to protect these lands from inappropriate and destructive activities.

In addition, I mentioned the plethora of environmental laws and conservation regulations passed since 1964 that provide layer upon layer upon layer of protection for these lands. I will not go through the list again, but they are listed on the displayed chart.

This argument should not even be a part of this debate. Yet, it continues to be used in the propaganda and rhetoric of the elite special interest groups.

Unlike some, we have confidence in BLM's professional land managers to continue making objective decisions on the future uses of these lands in accordance with the law.

By the way, I would would like to remind the Senator from New Jersey that we include in our proposal more than 16,000 acres in Fish and Owl Creek Canyon, more than 220,000 acres of the Kaiparowits Plateau, and more than 75,000 acres of the Dirty Devil area.

Also, it might surprise the Senator to know that more than 80 percent of the acreage in our proposal is located near or below Interstate 70, the highway that divides Utah in half. John Sieberling, the former representative, once said that if he had it his way, he would make a national park of all the land south of Interstate 70, and if the Senator from New Jersey had his way he make the entire area wilderness. Let us be clear about this: our proposal protects Utah's red rock wilderness.

Third, Senator BRADLEY referenced the possible development of coal leases within the Kaiparowits Plateau by the State of Utah.

Yes, it is true that the State of Utah has identified these BLM lands—which are not contained in a wilderness study area—let us be clear about that: they are not being managed as wilderness—as one of 25 tracts of land it desires to exchange with the Federal Government.

But, what the Senator did not say is that these leases are currently under suspension by the Department of Interior pending completion of an environmental impact statement that will determine if mining is ever going to be allowed in that area,

Once again, as he did yesterday, the Senator is second guessing the activities of BLM's own personnel, only this time it deals with this EIS. He also accuses the State of Utah for mismanaging this acreage when there has been no determination that mining will ever occur there. While the coal is there, the ability to access it is still questionable.

If mining ever occurs in the manner described yesterday by Senator BENNETT, the leases will be subject to every pertinent Federal environmental law, whether the leases become State or not. No matter what happens to the ownership of the land, the Federal permitting process will continue.

And, since the lease holder will need to construct an access road to the site, build a power line to the site, and construct certain facilities all on BLM land, Federal permits for each of these items will be required. So, the big environmental special interest groups will have plenty of opportunities to appeal this project every step of the way.

Also, it is important to note that the site where the mine is projected to be located was rejected by the BLM during its initial statewide review process. The area was rejected because it did not meet wilderness criteria. Let me tell the Senator from New Jersey why.

Because located within a 2-mile radius of the proposed site are 80 drill sites, 36 miles of roads, an airstrip, and several other surface disturbances symbolic of mining activity. Do not forget—this same site was initially mined in the late 1970's. Of the 40 acres required for the mine site within the lease holders total leased area, half of it—more than 20 acres—has already been disturbed by mining activity. This site does not meet wilderness quality, but after seeing what is in some of the areas recommended by the special interest groups, I can see why they were confused with this site.

This is not an issue about protecting wilderness value; this is an issue about preventing the responsible development of Utah's largest coal reserves. But, nevertheless, this bill has nothing to do with whether or not this area will ever be mined.

Fourth, the Senator indicated our bill "denies a Federal water right to wilderness areas designated by this bill."

The Senator from New Jersey has evidently not read the language carefully. It is true that our bill does not create a Federal reserved water right for areas designated by this act. That is because we do not want to preempt State water law or to go around the State water appropriation system. But, it does not mean that the Federal Government cannot acquire a water right for designated wilderness areas.

Utah water law follows the concept of the prior appropriation doctrine. It has been the basis for more than 90 years of State administration of surface waters. All major rivers and stream systems in Utah have water rights established under this principle. The result is a fine tuned system relying on diversions, return flow, rediversions, mingled with some storage reservoirs. Any new filing or alteration of the existing pattern of water use literally sends ripples throughout the total system.

Unlike my colleague, we do not want to follow the typical Washington attitude that says we should preempt State law every time the Federal Government wants something from our States. Why can't we have the Federal Government abide by State laws once in a while when performing a Federal task? The Federal Government can obtain a water right in the State of Utah, and here is how it is done.

Under Utah State water law, one must put a water right to "beneficial" use. That is, it must be applied to the land, to home use, or to other consumptive uses in order to maintain the right.

However, there is an exception to the "beneficial" use requirement.

Two divisions within the Utah Department of Natural Resources—the Division of State Parks and the Division of Wildlife Resources—can legally acquire a water right and leave a determined quantity of water in a stream—an "instream" flow, as it were—that then becomes that particular water right's "beneficial" use.

Under our bill, the BLM is provided the ability to work cooperatively with these two State divisions to create an "instream" flow to avoid the potential dewatering of a wilderness area, in the unlikely event this occurs.

The process would be:

First, BLM acquires a water right from an upstream owner anywhere in the State—a rancher, an old mine site, a municipality, a private company, etc.

Second, the right is assigned or deeded—transferred—to one of the two State divisions previously mentioned.

Third, an instream flow is created.

In the fall of 1994, this occurred. The Division of Wildlife Resources acquired a water right from a private corporation and created an instream flow for wildlife purposes on 82 miles of the San Rafael River in central Utah.

The alternative to this language—an unqualified Federal reserve water right—would leave an ominous cloud over every existing water right in the State of Utah.

There is no expressed or implied Federal reserve water right in our language, but that does not in any way prevent the Federal Government from acquiring a water right following the proper State procedures.

Fifth, our language "permits the State of Utah to exchange State lands for Federal lands of approximate equal value." The Senator from New Jersey then indicated that the value of the Federal lands involved may be greater in value than the State lands.

Last December, the committee adopted our proposal to establish an exchange process whereby the value of the lands involved in the exchange would be determined based on national appraisal standards. While the BLM thinks the Federal lands are 5 to 10 times greater in value than the State lands, the State of Utah thinks the State lands, again captured within wilderness areas, are greater in value than the Federal lands. That is why the notion of a value, determined by recognized appraisers, and negotiated between the two parties, appears the soundest methodology to reconcile these differences. It does not matter, really, what either side is saying right now on the value question—it will be determined at a later time.

The universe of lands to be exchanged has been determined. Since the State of Utah has no choice at all to determine which lands it would trade to the Federal Government, it only makes sense to allow the State to determine which Federal lands it desires. It has identified 25 different parcels, ranging form speculative coal deposits to speculative natural gas to potential real estate development, and all in the name of benefiting Utah's school children.

The Senator is not correct. The Federal Government does not have to approve the transaction. Once the State makes an offer of lands to be exchanged, the two parties will sit down and conduct "good faith" negotiations on the various aspects of the trade. If a mutual decision is not reached, then the matter can be pursued in the courts.

Concern was expressed regarding our earlier language about the lack of involvement by the Secretary in crafting each exchange. I believe the language we have included in the substitute amendment remedies that situation and makes the Secretary a full player in this exchange should he desire to be involved.

And finally, the Senator indicated that our proposal contains "broad exceptions to the Wilderness Act of 1964," meaning he believes we are rewriting the definition of wilderness by allowing certain activities and facilities to be undertaken within designated wilderness areas.

This criticism goes to the so-called special management directives contained in our proposal.

These special provisions really are not that special after all. There are plenty of examples of previous public lands legislation containing such provisions.

A Congressional Research Service report, completed last July, concluded that the directives in S. 884 are comparable or related to similar language in 20 existing public laws and over 40 separate statutes adopted by Congress since 1978.

What do these special management directives do? They allow those activities, based on valid existing rights and consistent with the Wilderness Act of 1964, to continue in areas designated as wilderness. They are included to address the potential "on-the-ground" conflicts that are unique to Utah's BLM lands, such as livestock grazing, the gathering of wood by Native Americans, and the presence of water facilities used for agricultural, municipal, and wildlife purposes, to name a few.

The critical point here is that these rights predate the designation of land as wilderness.

We are not rewriting the definition of wilderness. On the contrary, we are merely adhering to the principles of the 1964 Wilderness Act and the history of wilderness legislation in the past two decades. The Wilderness Act of 1964 does not abandon or ignore rights that predate wilderness designation, and practically every wilderness bill passed since the late 1970's contains special language to protect these rights and to address any site specific conflicts that might arise in the exercise of these rights.

This language enables us to designate certain lands as wilderness that might be otherwise excluded under the 1964 act due to the conflict with valid existing rights.

But I would ask the Senator the following questions regarding his concerns for our special management directives.

Where was he when we passed the Okefenokee National Wildlife Refuge Wilderness Act, the Boundary Waters Canoe Area Wilderness Act, and the Florida Wilderness Act of 1984 that provided for the continued use of motorized boats or other watercraft in designated areas?

Where was he when we passed the already mentioned Boundary Waters Canoe Area Wilderness Act that provided for the continuation of snowmobile use in designated areas?

Where was he when we passed the Central Idaho Wilderness Act of 1980 that allowed the continued landing of aircraft and the future construction and maintenance of small hydroelectric generators, domestic water facilities, and related facilities in designated areas?

Where was he when we passed the Endangered American Wilderness Act of 1978 and our own Utah Wilderness Act of 1984 providing for sanitary facilities in designated areas?

Where was he when we passed the Colorado Wilderness Act of 1980 allowing motorized access for periodic maintenance and repair of a transmission line ditch in a designated area?

And, where was he when we passed the Colorado Wilderness Act of 1993 providing for the use, operation, maintenance, repair, modification, or replacement of existing water resources facilities located in designated areas?

The point is not to single out any of these laws for they did or did not do, but to merely demonstrate that special management directives are designed to address the on-the-ground conflicts unique to the areas designated by these laws. That is what we are providing for in our bill—those situations that are unique to Utah's lands. It is, as my colleagues will note, typical of the way we have developed public land policy in this body.

I would also state for the record two other items.

One, the Senator continues to mention the provision in our bill that provides for the continued use of motorboat activities in designated areas. First, these activities are only allowed if they predate the designation. And, second, and most importantly, our language was modified in the committee to ensure that it was consistent with the 1964 act.

Also, he spoke of the language in our bill permitting low-level military overflights. Let me remind the Senator that this language was provided to us by the Pentagon, and is nearly identical to similar language included in the California Desert Act. We have added language requested by the Air Force that recognizes Hill Air Force Base as the gateway to the Utah Test and Training Range, located in Utah's west desert area, that is the only training facility in the United States on which every aircraft in the Air Force inventory trains.

In closing, let me also say that our bill has been characterized as lacking large blocks of designated wilderness through which a traveler could wander from one time zone to another. Well, in our bill we may not extend any wilderness area beyond the mountain time zone, but it does have several large contiguous areas of spectacular wilderness all linked together in huge blocks of land. A visitor could never see another human being for days in these areas.

These areas include:

Desolation Canyon in central eastern Utah, through which the Green River flows—a total of 291,130 acres. This area may not cross any time zones, but it is located in three different counties.

Fiftymile Mountain in south central Utah—as mentioned, this is on the Kaiparowits Plateau and consists of 125,823 acres.

North Escalante Canyons—this area, once pursued to become a national park, totals 101,896 total acres.

Book Cliffs—this area so appropriately named is a showcase of topography and wildlife, and consists of 132,714 acres, all of which is located in Grand County, UT.

And, last but certainly not least is the San Rafael Complex—located in the heart of central eastern Utah and a topographer's dreamland, this area consists of 193,384 acres.

If one looks at where some of the other areas designated by or bill are located, you will note that many of them are located near some of Utah's national parks to form blankets of pristine wilderness, such as the area near Canyonlands National Park, Capitol Reef National Park, and Glen Canyon National Recreation Area.

Our legislation truly captures Utah's crown jewels of BLM lands, including high mountain ranges, deep river canyons, and red rock deserts. These are all reflective of Utah's premier scenic landscapes, and why we in Utah are not shy in stating that it took God 6 days to create Utah before he made the rest of the world with leftover parts.

Again, I urge the Senator from New Jersey to take another careful look at the facts and at the specific language in the substitute amendment. I think he will find reassurances there that this is a good bill for Utah and a good bill for the environment.

Mr. President, I have listened to this now for the past 3 days. I admire my friend from New Jersey. He is a fine person. He represents his State well.

But, he does not know anything about Utah. However, I happen to think that the Governor of Utah, both Senators, all three Congress people, virtually everybody in the State legislature, everybody in the PTA, school districts across the State, and 300 Democrat and Republican leaders, political leaders, know just a little bit better, just a little bit more, about Utah than the distinguished Senator from New Jersey.

I have heard about all I can bear to hear about silence and time, and having respect for them. We understand that. In Utah, we know what silence and time is because we have experienced them throughout our entire State. However, you do not get much silence and time in all of that low-lying sagebrush land along the highways which the other side has tried to put into this bill. They do not even know what wilderness is. We do. We have plenty of it in Utah. We put through the 800,000-acre Forest Service bill in 1984. I was a major mover on that bill. It has been a very good bill. We did it because Utahns agreed on what should be done. We love our State.

To hear this, you would think that 20 million acres is going to be ripped up for shopping centers. The fact is that every one of those 20 million acres will be subject to all environmental laws, and rightly so, as far as we are concerned. But on this 20 million acres, you might be able to ride a bicycle, if you want to, which you cannot do in wilderness.

Let me just say this. I have gone all over Little Grand Canyon. I have been all over the Black Box; Dirty Devil, and Sam's Mesa; North Escalante Canyons; San Rafael Swell; Book Cliff; Sid's Canyon; Desolation Canyon—beautiful areas that we put into this wilderness bill. Without this wilderness bill, they will not be wilderness. We think they ought to be.

This business that we allow dams in this bill is misleading—they are not there.

The polling data show that the majority of Utahans are for this bill, and once you explain to people in the polls that wilderness means no mechanization whatsoever, the support for those on the other side who are for 5.7 million acres drops off dramatically. But the majority are for our bill.

With regard to the value of lands to be exchanged, that is going to be negotiated under this bill. Nobody is going to rip off the Federal Government. But our school kids are dependent upon this bill, which is why we will negotiate the value of these school trust lands.

With regard to water, the Secretary can acquire water rights in the State through the State appropriation process. Can he not do that?

With regard to the release language, there is no binding of a future Congress whatsoever in this bill. If they want to do wilderness, they can do wilderness in Utah again. But they are going to have an uphill battle because people in Utah are tired of being pushed around.

With regard to the special management directives, I would say to my colleague that every major wilderness bill since 1978 has contained similar directives to take care of conflicts. We provide for that as well. On-the-ground conflicts have to be resolved, and over 20 separate bills passed by this body in the past two decades have done that. This is not something new.

We have used the public process here. This matter has gone through two decades, hundreds of meetings, $10 million, and brought people together all over the State. The affected counties did not want any wilderness—zero. Then they agreed to 1 million acres. We brought them up to 2 million acres. The other side wants 5.7 million. One group wants 16 million acres in wilderness. The fact is we have 100 percent more acreage in this bill than the affected counties want, and about 60 percent less than what these people on the other extreme want. That is what compromise is all about.

The fact of the matter is that this process has not been politicized. The Clinton administration came in and suddenly their BLM people started to decry all of the work that had been done through the years by other BLM people, and which was done in a reasonable and good way. They have politicized this process. There are volumes and volumes of data. The environmentalists have a 400-page book. We put the volumes and volumes of data here—two huge stacks this high—to show what we have gone through.

Have most of these people who are criticizing this bill even been to these places? The fact is most of them have not been there.

I ask unanimous consent for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, we have put the crown jewels of Utah wilderness in this bill. I happen to believe that when you have the whole congressional delegation, the Governor, the legislature, the schools, the farmers, and virtually every organization except these environmental extreme organizations, all for this bill in a State that has protected its beauty itself, we do not need to be told by some Senator from New Jersey how to protect our State—or from any other State. We know how to do it. We know it is beautiful, and we are going to keep it that way, even while it is subject to these environmental laws.

It is almost offensive what has been going on here. If you look at what they are recommending—these low-lying sagebrush lands along highways—where is the silence and solitude there? It is crazy.

When we start ignoring our colleagues who have gone through a process in this manner in a reasonable, decent, honorable way, having had to bring the one side along and having had to bring the other side along—and, now we are going to ignore all this because we want to do some national environmental agenda? That is when this particular body is going to have a lot of troubles in the future. That is all I can say. I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. All time having expired, the hour of 10:36 a.m. having arrived, the motion having been presented under rule XXII, the Chair directs the clerk to read the motion to invoke cloture on the Murkowski substitute amendment to H.R. 1296.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Murkowski substitute amendment to Calendar No. 300, H.R. 1296, providing for the administration of certain Presidio properties at minimal cost to the Federal taxpayer:

Bob Dole, Frank H. Murkowski, Rick Santorum, Slade Gorton, Trent Lott, Jim Inhofe, Hank Brown, Ted Stevens, Ben Nighthorse Campbell, Conrad Burns, Don Nickles, Larry E. Craig, Jim Jeffords, Judd Gregg, R.F. Bennett, Orrin G. Hatch.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Murkowski substitute amendment to H.R. 1296 shall be brought to a close?

The yeas and nays are ordered under rule XXII. The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 51, nays 49, as follows:

[Rollcall Vote No. 54 Leg.]

YEAS—51

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—49

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Simon
Specter
Wellstone
Wyden

The PRESIDING OFFICER (Mr. SANTORUM). On this vote, the yeas are 51, the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT—S. 4

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report to accompany S. 4, the line-item veto bill, and that the reading be waived.

Mr. DASCHLE. Reserving the right to object. There does not appear to be any disagreement with regard to the Presidio bill itself. That bill has broad-based, virtually unanimous support, so it is my hope that we can pass at least that bill by unanimous consent.

So I ask unanimous consent to strip all amendments and motions and to pass the Presidio bill in its own right.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DASCHLE. I hope we can resolve that matter. In light of the fact we need to continue to find ways in which to move the legislative agenda, I do not object to the majority leader's request.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE LINE-ITEM VETO ACT OF 1995—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the conference report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4), a bill to grant the power to the President to reduce budget authority, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of March 21, 1996.)

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

PRESIDIO LEGISLATION

Mr. MURKOWSKI. Mr. President, in response to the minority leader's unanimous-consent request, obviously we are all sensitive to the merits of the Presidio. The California delegation has worked very, very hard on this. But as everyone in this body knows, this was a package that was put together with great commitment and great understanding that, indeed, in order for it to pass the Congress, it had to stay as a package.

Everybody knew that when we went in, and to suggest action by the U.S. Senate would be acceptable to the House everyone knows is unrealistic. So we are set with the reality here.

It is the intention of myself, as chairman of the Energy and Natural Resources Committee, to again pursue the package. It is the largest single environmental package that has come before the 104th Congress. We are all disappointed at the action that was taken by adding on the minimum wage amendment, but that was something seen fit by the minority to do, and we are left with this reality today, which is, indeed, unfortunate.

It is my intention to continue to pursue working with the Members who objected to the various aspects of the package, to try to continue to pursue it, in this legislative year. That is the pledge I want to make to the minority and the minority leader as well.

I want everybody to understand the rationale behind the objection. This would not have gone in the House as a freestanding Presidio bill. Everybody is aware of it.

Mr. President, I yield the floor.

Mr. DASCHLE. Mr. President, let me just say, the vote just cast had nothing to do with minimum wage. It had everything to do with simply one provision dealing with Utah wilderness. There was no understanding with regard to this package, as the distinguished Senator from Alaska has called it.

Obviously, each one of these bills merits consideration in and of its own right. There is no objection to the package were we to remove the Utah wilderness bill. That is the issue. That is what this vote was all about. But there is no disagreement whatsoever with regard to the Presidio bill on either side of the aisle, as I understand it, and to hold the Presidio hostage to all the other issues seems to me to be unfair.

I yield to the Senator from California for a brief comment and a question.

Mrs. BOXER. Yes, I do have a question. I have a comment as well. To my friend, Senator MURKOWSKI, who has worked hard, along with Members on both sides of the aisle here, the fact is the House has passed the Presidio as a freestanding bill.

Indeed, that is the bill we have marked up. So there is not any reason not to pass the Presidio as a freestanding bill. I would ask my leader on the Democratic side, since he is a cosponsor of the Presidio bill which Senator FEINSTEIN and I have worked so hard on, and as well as Senator DOLE, he is a sponsor of the Presidio bill, will my leader give us his word that he will do all that he can to make this bill a reality? Because I would say to my friends on both sides, the Presidio is deteriorating? We need to get in there and make sure that that land is kept up. It is a priceless jewel. And we have such broad agreement. It just seems a pity that we would catch it up in these other debates.

Mr. DASCHLE. I answer to my friend from California in the affirmative. It is our desire to work with the delegation of California and others who are interested in maintaining the historic nature of this remarkable facility, that we pass the legislation this year. In has been a long, long effort, a tireless effort on the part of my two colleagues from California.

I hope we can successfully complete our work this year. It ought not be held hostage to very controversial legislation that has nothing to do with the Presidio itself. I yield the floor.

Mr. DOLE addressed the Chair.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Let me yield to the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, let me remind my colleagues of a fact that in the package there were about 53 individual items. The package was held up almost a year by a Member on the other side who refused to allow the individual issues to come up for action. That is a fact, and the RECORD will reflect that. Now we are faced with the reality of who is to blame for the failure of the package. I think the RECORD will reflect the reality that this was well on its way to successful consideration of cloture prior to the decision by the other side to put the minimum wage on it, which changed the complexion and the interpretation of the last vote. Many Members looked upon the last vote in actuality as a reference to support for the minimum wage and that it did not belong there. We all know it.

So the responsibility has to be with the minority that chose to allow and support inclusion of the minimum wage on the largest environmental package of this session, the 104th Congress. That is, indeed, unfortunate. Let us be realistic and recognize where the responsibility lay. It lay in holding that package hostage for a year and it lay with the responsibility of putting the minimum wage on it. I thank the Chair and thank the leader.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I understand it is all right with the Democratic leader if I obtain a consent agreement on the farm bill.

Mr. DASCHLE. That is correct.

Mr. DOLE. Let me do that while we also work out a time agreement on the line-item veto.

UNANIMOUS-CONSENT AGREEMENTS

Mr. DOLE. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of a concurrent resolution to be submitted by Senator LUGAR, further, the resolution be considered agreed to, and the motion to table be laid upon the table, the Senate then proceed to the conference report to accompany H.R. 2854, the Agriculture Reform and Improvement Act, that the reading be waived, and there be 6 hours of debate on the conference report to be divided as follows: Senator LUGAR, 2 hours; Senator LEAHY, 1 hour; Senator DASCHLE or designee, 3 hours; further, that immediately following the expiration or yielding back of time, the Senate proceed to vote on the adoption of the conference report with no intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object, and I will not object, I will only again point out to my colleague from Alaska that we would enter into a unanimous-consent agreement today for all of the package the Senator from Alaska referred to except the Utah wilderness. We will do it this morning. We can pass that bill by 11:15. It is now 11:14. So if the Senator from Alaska is prepared to drop the one controversial bill we will enter into an agreement today, unanimous-consent agreement, passing all the rest. If he is prepared to do that, I am prepared to do that right now.

But I have no objection to the request propounded by the majority leader having to do with the farm bill conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, let me add my hope that we can resolve the problem. I know there are a number of projects, including the Presidio, that I support, and hopefully this will—now and then we get things resolved around here. Maybe we can do this in the next few days. But we would like to in the interim, if we could, do the line-item veto and the farm bill conference report. That will give us some time, if there is any negotiating opportunities, to do that. It is also my hope that we can have a time agreement on the line-item veto. I understand that the distinguished Senator from West Virginia, Senator BYRD, would like us to at least proceed and then perhaps enter into a time agreement a bit later.

Mr. DASCHLE. It is my understanding, Mr. President, that is correct, the Senator from West Virginia is prepared at some point to enter into a time agreement. We assume he will be on the floor shortly, and we can discuss the matter with him at that time.

Mr. DOLE. Mr. President, let me indicate on this side of the aisle, for the present time the Senator from New Mexico, Senator DOMENICI, will be the manager in charge of the time on this side for the line-item veto.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, notwithstanding the unanimous-consent agreement, I ask unanimous consent that I be permitted to speak for 2 minutes on the cloture vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PRESIDIO PROPERTIES ADMINISTRATION ACT

Mr. BUMPERS. Mr. President, I want to echo what our distinguished minority leader has said. There are over 50 pieces of parks or public lands legislation in the bill on which we just refused to invoke cloture. I have two pieces of legislation in that package that are very important to me. I received no pleasure in voting against cloture and knowing that I have to start all over again moving those two bills.

I do not mind telling you this is a lousy way to legislate. It is like hanging a Damocles sword over your head by saying, "If you will vote for these 52 goodies, you are going to have to choke this bad one down too"; 49 Senators said they were not willing to do that.

They are all good pieces of legislation. If we want to sit here and talk about who had holds on those bills over the past few months, or the minimum wage bill, that is fine. However, that does not solve anything. As the minority leader stated, within 30 seconds we can pass more than 50 bills, 100 to zip, by simply removing the Utah wilderness bill.

Having said that, let me also say these things are no fun. Nobody has more respect for the two Senators from

Utah than I do. Senator BENNETT and I have worked together for endless hours trying to reform the concessions policies of the National Park System.

Therefore, it is not easy for me to filibuster and require a cloture vote on something that is so important to the Senators from Utah. But there are times, regardless of how close a friend you may be and how much respect you may have for another Senator, that you have to stand up for something you really feel is critically important. Perhaps the majority leader and the minority leader could sit down with the Senator from Alaska, who is chairman of our committee, and with Secretary Babbitt.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. And come back to this floor and do something very responsible that would be very pleasing to the people of this country. If the people of our country saw the Democrats and the Republicans joining hands, to pass more than 50 pieces of legislation in a bipartisan spirit, everyone in America would applaud. I promise you it would lift the morale of the country ever so slightly.

We ought to do it, and we certainly ought to do it before we check out of here tonight. I want to sit down with the two Senators from Utah. As I have suggested, perhaps the majority and minority leaders can participate along with the chairman and ranking member of the Energy Committee, and Secretary Babbitt and work on the Utah wilderness bill. I would like to get that contentious item off of the calendar.

Mrs. FEINSTEIN. I agree.

Mr. BUMPERS. People operating in good faith around here can do it. I am very pleased with the outcome of the cloture vote. I want my colleagues from Utah to know they are my friends. I hope we can work something out with regards to this legislation. I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, do I need unanimous consent to speak for 1 minute?

The PRESIDING OFFICER. Yes.

Mrs. BOXER. Mr. President, I ask unanimous consent to speak for 1 minute on the subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I thank my colleagues for their patience.

I just feel for some of us here in the Senate, particularly the two Senators from California, feel it is an awfully difficult situation when you have worked so long and hard and you have built up the kind of bipartisan support that we have for the Presidio, from the majority leader, to the minority leader, to Senator BEN NIGHTHORSE CAMPBELL, who literally came in and saved the thing, to Senator BUMPERS for being there for us through all the ups and downs of this battle, and to see it all come down in a crashing blow because of another issue, is awfully difficult for all of us.

I do hope that we can work something out on Utah wilderness, either by saying that it will come up in another context on its own—it does deserve the attention on its own. I support what Senator BUMPERS recommended, which is a high-powered meeting with the Senators themselves, a high-powered meeting to sit down with those who have taken such an interest in this, Senator BRADLEY and others, to try and resolve these differences and these problems.

I just want to say that we have a crown jewel of a national park in the Presidio, but if we do not quickly set up a trust and get to work making sure that there is upkeep, that the buildings are put to good and proper use, and that the income from those buildings go to repair the facilities and keep them pristine, we will lose this priceless jewel. I do not think anyone wants that to happen.

I was very pleased that Senator DASCHLE made a unanimous-consent request to pass Presidio on its own, because I think that we need to keep coming back to that point. There is no controversy there. I was heartened by the majority leader's comments that he is going to do what he can to make it happen. The clock is ticking on this priceless jewel. I hope we can reach across party lines as we did when we gained all the support to solve the Utah wilderness problem, pass this bill, without that attached to it.

I think we could all go home as Republicans and Democrats and be proud of what we have done. Thank you, Mr. President.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to speak for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I support the comments of my colleague on the Presidio. I have lived all my life one block from the Presidio. I know it well. The Presidio bill is predicated on something that is unique. It is a private-public partnership whereby the more than 500 historic buildings and the additional buildings would be leased out, with a hope that over a 15-year-period it would be able to make public areas of the Presidio self-supporting.

Having said this, I am hopeful that every Member of this body could realize the longer it takes to get a bill, the more in jeopardy that plan becomes. Because of the rains, because of the fact that many of these buildings are now boarded up, they are subject to intrusion, to vandalism; they are subject to the absence of an adequate policing authority on that 1,500-acre post. The Presidio, by each day of delay, is placed in jeopardy.

I am also hopeful, and I address these remarks to the distinguished majority leader, that he would be willing to become a party to negotiations which I think can go on, on the subject of the Utah wilderness, so that we might be able to get an agreement that would be satisfactory to the two Senators from Utah, as well. I think it is possible. I think that every area is not the same as Yellowstone or Yosemite. They have certain unique characteristics which need to have attention, as well.

I am hopeful, Mr. Leader, that in the ensuing days, perhaps under your auspice, there might be negotiations which could be carried out. At least we should try and see if we cannot get some agreement which can either enable the package to move ahead as a package, or enable the Presidio, something which my colleague just said, does have unanimous consent in this body, to move ahead.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I am happy to indicate for the record that I would be pleased to try to be helpful in an effort to resolve the differences. Obviously, the one big difference is the Utah wilderness provision. The other projects, I understand, are not particularly controversial. I indicate that I am happy to be of help, or to take the leadership and try to bring people together. I have already spoken briefly to the distinguished Senator from Alaska, Senator MURKOWSKI. It is the hope in the next few days we can make some progress.

LEGISLATIVE LINE-ITEM VETO ACT OF 1995—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

Mr. DOLE. I understand the distinguished Senator from West Virginia is on his way to the floor. Hopefully, we can have the agreement before we commence the debate on the line-item veto because debate is 10 hours in the agreement. We would like to have it immediately start taking affect. If we speak for an hour or two beforehand, that would be an additional time.

The Senator from New Mexico will be here, as will others who are interested in this issue. Hopefully, we will not use the full 10 hours, have a vote early this evening, and then take up the farm bill conference report tonight.

Mr. McCAIN. Mr. President, do I understand that we are awaiting the approval of the other side for the unanimous consent?

Mr. DOLE. Senator BYRD.

Mr. MCCAIN. If I could, Mr. Leader, while we are waiting for Senator BYRD, I express my appreciation for the work of Senator LOTT, who brought together some very different views on this issue. He did, I think, a magnificent job in reconciling the differences that we had on this side of the aisle.

I also want to thank the Senators from Alaska and New Mexico who obviously have a very deep and abiding interest, given their responsibilities as chairmen of the respective committees. Again, I also thank you for your leadership in making this nearly come to reality.

I understand that Senator BYRD will have certain motions to be made on this issue.

Mr. DOMENICI. Mr. President, before we enter into the time agreement, while Senator MCCAIN and Senator COATS are on the floor, I want to congratulate them. This has been a long and arduous effort on both their parts. They have been single minded and resourceful about wanting to get line-item veto in as part of the legislation that Congress passed, and pass on some additional authority to the President.

I think the bill we have come up with, while there are some compromises from their original stand and certainly some from the original stand of the bill that left the Senate floor, I think we have a good bill. I think history is going to be made some time before too late in the evening, and it will be passed here in the Senate.

I think it is a well-rounded bill. It is a little broader than the original concept of line-item veto, but overall, I extend my hearty congratulation and most sincere feelings to them about their efforts, the two Senators who have led this cause.

I also want to comment on what our distinguished whip did. I want to say thanks to Senator LOTT. It was not as easy as some think to put this together. He brought us together. I want to thank our distinguished majority leader because he actually said to the whip, "Let's get it done." Our distinguished whip takes that kind of a challenge as a serious one, and it did not take too long for us to get the job done.

With that, until Senator BYRD arrives, unless someone else wants the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I understand that Senator SNOWE from Maine wants to address the Senate with reference to the death of Senator Muskie.

I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I will take just a moment of the Senate's time to prepare for a general debate. I ask unanimous consent that I may proceed for 4 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE EPA STUDY ON ACID RAIN

Mr. MOYNIHAN. Mr. President, New York State, or upstate New York, has been shocked—I think that is a fair term—and finds itself in near disbelief to learn that the Environmental Protection Agency [EPA] has closed the Ithaca station, which is part of a broad network of monitoring stations that collect data critical to understanding the impact of acid rain on the Adirondack Preserve. There is little enough institutional memory around Washington, but one should think the EPA would know that the concern about acid rain began with the disappearance of trout from a number of lakes in the higher Adirondacks. This was a puzzle and, in the end, it was resolved by a fish biologist at Cornell University, Dr. Carl Scofield, who traced the cycle: acid rain caused by increasingly acidified air released aluminum from the granite surrounding the lakes. That aluminum leached into the lakes and was absorbed into fish gills. The fish died.

In 1980, I obtained approval of legislation—the Acid Precipitation Act—which was based on a bill I introduced here in the Congress the year before. My bill was incorporated as title VII into the Energy Security Act of 1980—Public Law 96-294—and directed the EPA to study, over a 10-year period, just what was going on—not to panic, not to go screaming to high Heaven that the skies were opening with awful substances that would burn holes in our children's heads, and things like that—but just to say, "What is this?" Some longitudinal work obviously was in order. The effort was to last for 10 years, at $5 million per year.

During the Reagan administration, as demand for action grew and knowledge was needed, money was collected from research budgets around the country, such that our project, in the end, became a half-billion dollar research project, the largest of its kind. We ended up knowing more about this subject than any of the other industrialized nations. It is a real enough subject, but if our understanding of it is to progress confidently, we need more data, such as can be collected by normal scientific inquiry.

In the 1990 Clean Air Act amendments—Public Law 101-549—we made the best use we could of our research on the subject. We called for large reductions in emissions in the Middle West. Winds blow those emissions toward the Adirondacks, of course. And just to see that we continued along this track, as the then-ranking member of the Committee on the Environment and Public Works—in the conference committee on the bill—I included certain provisions. One was designed so that the lay person could understand what was going on. The provision directed the EPA to compile and provide a registry of acidified lakes. Now, in Florida, that could be all lakes, of course; but it would not be in Pennsylvania or in New York. With the registry, over time, we would see how many lakes were being added, how many were being subtracted; how might we measure, essentially, the effect of our legislation? That has not been done.

I asked for other research measures in law, in statute, that have not been followed. And now the EPA has the arrogance and the insolence and the stupidity to close the research facility at the site where this whole subject was first understood, brought to national attention, and was addressed with national legislation.

Mr. President, I regret to say this, but I hope the administrator is hearing. I am not surprised that persons are calling for the abolition of the Environmental Protection Agency. If it will not obey the law, and if it will not follow elemental common sense, do we in fact need it, or is it an obstacle to the environmental concerns we share?

Mr. President, I thank the Chair.

I yield the floor.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. I ask unanimous consent to proceed as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DEATH OF FORMER SENATOR EDMUND S. MUSKIE

Ms. SNOWE. Mr. President, I rise today with a heart full of sadness, reflection, and fond memories of one of the true giants of this institution—former Senator Edmund S. Muskie of Maine.

Like millions of Americans across the country, I awoke Tuesday to the news of Ed Muskie's passing. My heart goes out to his wonderful wife, Jane, their five children, grandchildren, and the entire Muskie family. I hope that their grief is tempered with the knowledge that their loss is shared by a Nation grateful for the life of a man who gave so much.

Like many other Members of this body, upon hearing the news, I found myself looking back on the remarkable career and lasting legacy of this first son of Maine who became one of the legendary figures in American political life.

Ed Muskie was a gentle lion. He sought consensus, but backed down from no one. He fought for what he believed in, and was loyal to his country. His greatest goal was to leave this Earth a better place for generations of Americans to come. And he succeeded.

Mr. President, as every citizen of my home State knows, Ed Muskie transformed the political landscape of Maine. Before he was elected Governor in 1954, Ed was fond of saying "the Democrats in Maine could caucus in a telephone booth." Well, much to the chagrin of some Republicans, Ed Muskie's election as Governor changed all that. He was literally the creator of the modern Democratic Party in Maine. After two 2-year terms as Governor, he went on to become the very first popularly elected Democratic Senator in Maine's history. And ultimately, his distinguished career culminated in his service to this Nation as Secretary of State.

But of all the positions he held in public service, it was here—as a Member of this institution, Mr. President, that Ed Muskie left his most indelible mark on history.

Whenever Washington gets mired down in partisan battles, I think of the example set by Senator Muskie and his Republican colleague, the late Senator Margaret Chase Smith, who died last year. They worked together across party lines on behalf of the people of Maine and the Nation. Although they may have had differences, they were united in their dedication to public service and to reaching consensus. They represented the best of what bipartisanship has to offer.

In our present-day budget battles, I think of Senator Muskie, who helped shape the modern budget process as the first-ever chairman of the Budget Committee. Ed possessed a rare wisdom and discipline which allowed him to express in very simple terms why it is so difficult to achieve fiscal responsibility in the Congress. "Members of Congress," he once said "have won reelection with a two-part strategy: Talk like Scrooge on the campaign trail, and vote like Santa Claus on the Senate floor."

Ed brandished that incisive wit many times in this very Chamber, Mr. President, and perhaps it was this humor, along with his commonsense approach to political life, that made Ed Muskie so effective throughout his remarkable career.

During his 21 years in the Senate, Ed Muskie was known for his moderation but he did not hesitate to tangle with his colleagues when he felt passionately about an issue. His reputation as a fighter was established early in his Senatorial career when he went head-to-head with another giant of this body, Senator Lyndon B. Johnson.

One day, as the story goes, the freshman Senator from Maine decided he just could not support the majority leader on a particular issue. Now, crossing the leader of your party is always risky, but that risk took on added significance when the leader was Lyndon Baines Johnson. But possessing a stubborn streak of downeast yankee independence that perhaps only a fellow Mainer can understand, Ed held his ground. He would not give in.

So, in his typically forgiving—and nonvindictive—way, LBJ promptly assigned the freshman Senator his fourth, fifth, and sixth committee choices.

From this rather dubious beginning, Ed Muskie landed a seat on the not-so-choice Public Works Committee. The rest, as they say, is history. It did not take him long to leave his mark on Washington—or on the land that stretches from the Allagash Wilderness of Maine, to the Florida Everglades, to the Redwood forests of California.

You see, growing up in western Maine, Ed had developed a deep appreciation for the environment. Thoroughly committed and visionary, Senator Muskie helped transform the Public Works Committee and went on to become the founding father of environmental protection in America by sponsoring both the Clean Air Act and the Clean Water Act of 1972. These two landmark pieces of legislation have both produced enormous benefits to the health and well-being of our Nation and its people. It is his unwavering commitment to environmental protection that is, perhaps, Ed Muskie's single greatest legacy to the American people. He was indeed Mr. Clean.

With the news of his passing, my thoughts went back almost 2 years ago to the day—because Ed Muskie's birthday is March 28—when Ed and Jane Muskie, accompanied by their children and grandchildren, came to celebrate Ed's 80th birthday at the Blaine House, Maine's executive mansion, as the guests of my husband Gov. Jock McKernan and me. It was a great privilege for us to give Ed and Jane and their family an opportunity to come back to a place that held some of their fondest memories. It was a very special time for all of us. And they spent the night. It was a truly honorable moment in my life.

That evening, Ed spoke passionately about the opportunities he enjoyed as a young man, and of the commitment and dedication that his parents had to their family and their community. And he spoke of the love and devotion that his father—a Polish immigrant—had for his new Nation.

He spoke of how much his roots in the small town of Rumford, ME, meant to him. It was those deep roots, along with his strong sense of family, that gave Ed Muskie the foundation upon which he would stand as he became a leading figure in American political life. And he cherished his father's roots, and from the standpoint that he viewed it as America giving every opportunity to anybody who sought to achieve.

I was struck with a very real sense of history listening to his reminiscences during that visit. I do not think it is possible for any Maine politician, regardless of party affiliation, to have come of age during the Muskie era and not have been influenced in some way by his presence. He was that preeminent in the political life of my State.

Ed Muskie was a towering figure in every sense of the word. In his physical stature, in his intellect, in his presence on Capitol Hill, in the extent of his impact on the political life of Maine, and in the integrity he brought to bear in everything he did.

And Ed was thoroughly and proudly a Mainer, with the quiet sense of humor associated with our State. Each year, the distinguished senior Senator entertained guests at the Maine State Society lobster dinner at the National Press Club by rubbing the belly of a live lobster, causing it to fall asleep, something only a real Mainer would know how to do.

Personally, I will always remember and be grateful for the warmth, friendship, and encouragement that Ed Muskie gave me over the years. When I entered the U.S. House of Representatives in 1979, I was the newest member of the Maine congressional delegation. Ed was the dean of the delegation. We were congressional colleagues for only a year and a half, but our friendship lasted throughout the years. And when I was elected to the seat which he had held with such distinction, I was touched by his kindness, and grateful for his advice and counsel.

Throughout his life, he never failed to answer the call of duty. He answered the call from the people of Maine * * * He answered the call from America's rivers and streams * * * And he answered a call from the President of the United States and a worried Nation when Senator Muskie became Secretary of State Muskie in a moment of national crisis.

Mr. President, 75 years before Edmund Muskie was born, another famous Mainer, Henry Wadsworth Longfellow, captured what I believe is the essence of the wonderful man we remember today. Longfellow wrote:

Lives of great men all remind us
we can make our lives sublime,
And, departing, leave behind us
footprints on the sands of time.

Ed Muskie's footprints remain on those sands. They are there as a guide for those of us who would follow in his path. They are big footprints, not easily filled. But we would all do well to try.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think we are still waiting for the distinguished senior Senator from West Virginia, Senator BYRD. And while we wait, I would like to ask consent that I be permitted to speak for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FORMER SENATOR ED MUSKIE

Mr. DOMENICI. Mr. President, I cannot speak about Senator Ed Muskie with the depth of knowledge that Senator SNOWE had of his background and his impact on his beloved State of Maine. But it has fallen to me to be, at every stage of my growth in the Senate, on a committee with Senator Muskie.

My first assignment was the Public Works Committee. I was the most junior Republican, and Senator Muskie was the third-ranking Democrat and chaired the Subcommittee on the Environment. I also served on that subcommittee. I saw in him a man of tremendous capability and dedication when he undertook a cause. He learned everything there was to learn about it, and he proceeded with that cause with the kind of diligence and certainty that is not so often found around here. There were various times during the evolution of clean water and clean air statutes in the country that we could go in one of two directions, or one of three. Senator Muskie weighed those heavily, and chose the direction and the course that we are on now.

No one can deny that Senator Muskie is the chief architect of environmental cleanup of our air and water in the United States. Some would argue about its regulatory processes, but there can be no question that hundreds of rivers across America are clean today because of Ed Muskie. There can be no doubt that our air is cleaner and safer and healthier because of his leadership. I really do not think any person needs much more than that to be part of their legacy.

But essentially he took on another job, and a very, very difficult one—to chair the Budget Committee of the U.S. Senate. Again, it fell on me as a very young Senator to be on that committee. I have been on it ever since. I was fortunate to move up. He became chairman in its earliest days.

I might just say as an aside that the Chair would be interested in this. When we moved the President's budget—$6 billion in those days—that was a big, big thing, and we had a real battle for it. He would take the Presidents—no matter which ones—on with great, great determination.

But I want to close by saying that one of the things I will never forget about him is that he saw me as a young Senator from New Mexico. I had a very large family. He got to meet them and know them. On a number of occasions he personally said that he would very much like to make sure that we did not do things around here to discourage young Senators like DOMENICI from staying here. I think he was sincere, even though I was on the Republican side. I think he saw us with an awful lot of feeling ourselves up here in trying to establish rules that were very difficult, and he used to regularly say, "I hope this does not discourage you. We need to keep some of you around."

So to his wonderful family and to all of those close to him, you have suffered a great loss, but I can say that his life has been a great legacy for the country. That ought to lend you in these days of sorrow a bit of consolation, because that legacy is great. Death is obviously inevitable. He accomplished great things before that day occurred.

With that, I yield the floor.

LEGISLATIVE LINE-ITEM VETO ACT OF 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. What is the pending business?

The PRESIDING OFFICER. The conference report on the line-item veto.

Mr. DOMENICI. Mr. President, for the information of the Senate, we have just discussed the matter of a unanimous-consent agreement with Senator BYRD, and he indicated he is not prepared to enter into that time agreement just now and would like to use some time and get a better feel for himself as to where we are. I have no doubts we will enter into a similar agreement to the one our majority leader indicated, but it will not be forthcoming at this point. I think that is fair statement.

Mr. President, I note in the Chamber the presence of Senator MCCAIN. It is our prerogative as proponents of the conference to lead off, and I wonder if he would like to make a few opening remarks, and then I would make a few, and then perhaps we would yield the floor to Senator BYRD for his opening remarks.

Since there is no time agreement at this point, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from New Mexico for everything he has done on this issue. The Senator from New Mexico has been around here for a long time and is fully appreciative of the magnitude of what we are about to do. He also has been one who continuously has sought to improve and to make more efficient, and indeed constitutional, this effort, and I am grateful for his continued support.

I also appreciate the very tough and very cogent arguments that he made while we were arriving at this compromise which I think will prevail today. I never underestimate the persuasive powers of the Senator from West Virginia [Mr. BYRD]. I know he will come forward with a very strong and compelling and constitutionally and historically based argument against what we are trying to do today. I will listen as always with attention and respect.

Mr. President, 1 year ago, the Senate began consideration of S. 4, legislation to give the President line-item veto authority. Ten years before that, I began my fight in the Senate to give the President this authority, and 120 years before that Representative Charles Faulkner of West Virginia introduced the first line-item veto bill. Hopefully, a 120-year battle may soon be won. I would like to outline the line-item veto measure agreed to by the conferees. It is a good agreement and a good line-item veto bill.

The conference report amends title X of the Congressional Budget Impoundment Control Act of 1974 to add a new part C comprising sections 1021 through 1027. In general, part C will grant the President the authority to cancel and hold any dollar amount specified in law for the following purposes: First, to provide discretionary budget authority; or second, to provide new direct spending; or third, to provide limited tax benefits contained in any law. Congress has the authority to delegate to the President the ability to cancel specific budgetary obligations in any particular law in order to reduce the Federal budget deficit.

While the conference report delegates these narrow cancellation powers to the President, these powers are narrowly defined and provided within well-defined specific limits.

Under this new authority, the President may only exercise these new cancellation powers if the Chief Executive determines that such cancellation will reduce the Federal budget deficit and will not impair any essential Government function or harm the national interest. In addition, the President must make any cancellations within 5 days of the enactment of the law which contains the items to be canceled and must notify the Congress by transmittal of a special message within that time.

The conference report specifically requires that a bill or joint resolution be signed into law prior to any cancellations from that act. This requirement ensures compliance with the constitutional stipulations that the President enact the underlying legislation presented by Congress after which specific cancellations are then permitted.

We intend that the President be able to use his cancellation authority to surgically eliminate Federal budget obligations. The cancellation authority does not permit the President to rewrite the underlying law, nor to change any provision of that law.

The terms "dollar amount of discretionary budget authority," "item of new direct spending," and "limited tax benefit" have been carefully defined in order to make clear that the President may only cancel the entire dollar amount, the specific legal obligation to pay, or the specific tax benefit.

"Fencing language" may not be canceled by the President under this authority. This means that the President cannot use this authority to modify or alter any aspect of the underlying law, including any restriction, limitation or condition on the expenditure of budget authority, or any other requirement of the law.

I wish to emphasize this point again. All fencing language is fully protected under this bill.

The lockbox provision of the conference report has also been included to maintain a system of checks and balances in the President's use of the cancellation authority. Any credit for money canceled will be dedicated to deficit reduction. The lockbox requirement ensures that the President does not simply cancel a particular dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit in order to increase spending in other areas.

The President's special cancellation message must be transmitted to the House of Representatives and to the Senate within 5 calendar days—excluding Sundays—after the President signs the underlying bill into law.

Such special cancellation messages must be printed in the first issue of the Federal Register published after the transmittal.

Upon receipt of the President's special message in both Houses of Congress, each dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit included in the special message is immediately canceled. The cancellation of a dollar amount of discretionary budget authority automatically rescinds the funds. With respect to an item of new direct spending or limited tax benefit, the cancellation renders the provision void, such that the obligation of the United States has no legal force or effect.

Any such cancellation is reversed only if a bill disapproving the President's action is enacted.

The conference report provides Congress with 30 calendar days of session to consider a disapproval bill under expedited procedures. A "calendar day of session" is defined as only those days during which both Houses of Congress are in session.

I wish to note that the expedited procedures provide strict time limitations at all stages of floor consideration of a disapproval bill. The conference report sets out procedures designed to prevent delaying tactics including but clearly not limited to filibuster, extraneous amendments, repeated quorum calls, motions to recommit, or motions to instruct conferees.

When the President's message is received, any Member may introduce a disapproval bill. The form of the disapproval bill is laid out in the conference agreement. For a disapproval bill to qualify for expedited procedures, it must be introduced no later than the fifth calendar day of session following receipt of the President's special message. Any bill introduced after the fifth day of session is subject to the regular rules of the two Houses.

A disapproval bill introduced in the House of Representatives must disapprove all of the cancellations in the special message. There are no similar requirements in the Senate, except no disapproval bill may contain any legislative language not germane and directly related to the President's cancellation message.

After introduction, a disapproval bill will be referred to the appropriate committee or committees. Any committee or committees of the House of Representatives to which such a disapproval bill has been referred shall report it without amendment, and either with or without recommendation, not later than the seventh calendar day of session after the date of its introduction.

Again, in the Senate, the committee may amend the bill, but it may not offer any amendments beyond the scope of the President's message.

If any committee fails to report the disapproval bill within the requisite time period, then the bill will be discharged from committee.

Procedure for consideration of the disapproval bill in the House of Representatives is noted in the conference report.

In the Senate, a motion to proceed to the consideration of a disapproval bill is not debatable. Section 1025(e)(6), of the bill, provides a 10-hour overall limitation for the floor consideration of a disapproval bill. Except as specifically provided in the bill, this limit on consideration is intended to cover all floor action with regard to a disapproval bill. This section is specifically meant to preclude the offering of amendments or the making of dilatory motions after the expiration of the 10 hours.

Amendments to a disapproval bill in the Senate, whether offered in committee or from the floor, are strictly limited to those amendments which either strike or add a cancellation that is included in the President's special message. No other matter may be included in such bills. To enforce this restriction in the Senate, a point of order, which may be waived by a three-fifths vote, would lie against any amendment that does anything other than strike or add a cancellation within the scope of the special message. To the extent that extraneous items are added to disapproval bills, and the Senate has not waived the point of order against such an item, the conference report intends that such legislation would no longer qualify for the expedited procedures.

In addition, should differing House and Senate disapproval bills be passed and the measure go to conference, the conferees must include any items upon which the two Houses have agreed and may include any or all cancellations upon which the two Houses have disagreed, but may not include any cancellations not committed to the conference.

Once a disapproval bill is passed by the Congress, it is assumed the President would veto the new bill. The President would have to use his constitutional veto authority to do so and could not cancel any part of a cancellation disapproval bill. The Congress would then have to muster a two-thirds vote to override the veto and force the President to spend the money.

Mr. President, there was considerable debate between the two Houses about exactly what the President may veto. In the original version of both S. 4 and H.R. 2, the President was given enhanced rescission authority. This would have allowed the President to veto any dollar amount he saw fit to cut. Some felt this authority would give the President too much power and might result in too much power shifting to the Executive. The compromise developed by the conferees returns to the idea of a line-item veto—in other words, the President can cancel any line.

Let me get a chart here, and demonstrate it very quickly. This is a chart that is very familiar to the conferees, I might add, since we used this during our debate and discussions.

The bill also allows the President to line-item veto—or cancel—new direct spending provisions in law. When the President vetoes these provisions, he is effectively canceling the obligation to pay the new benefits.

The bill also allows the President to line-item veto any targeted, or limited, tax benefits if those benefits effect 100 or fewer individuals.

Mr. President, this is not the approach I would have preferred. I believe that the Senate language developed with Mr. BRADLEY would have been more effective. However, as we all know, compromise often must occur in conference. The results can be seen here.

As I said, I would have preferred to see this issue addressed in a different manner, but the compromise still has teeth and will result in fewer special interest tax breaks and less corporate welfare.

Finally, the bill will become effective on January 1, 1997 or as soon as a balanced budget is signed into law, which ever is first. I want to note that President Clinton has agreed to this effective date. The line-item veto would sunset in 8 years. I would hope that after 8 years of use, the public would realize the value of the line-item veto and we would make this authority permanent. However, the sunset is included in the bill to address the concerns of some Members.

This is the actual language from the report, which calls for $49,846,000 for special grants for agricultural research.

The report language then goes on to state specific parts of the special grants for agricultural research, for example: Wood utilization research in Oregon, Mississippi, North Carolina, Minnesota, et cetera; wool research in Texas, Montana, and Wyoming.

What the President could do is say that he does not approval of wood utilization research in these six States. He could line item out, out of the report language, this $3,758,000, thereby subtracting that $3,758,000 from the $49 million which is in the bill for special grants for agricultural research. That is fundamentally what this line-item veto does. So that what is in the report language affects the original bill.

I was disappointed that the conference was not able to keep the Feingold-McCain emergency spending amendment. However, I have been assured by the staff of the Budget Committee that they would be willing to meet with our respective staffs and develop language to address the Senator from Wisconsin's and my concerns regarding this matter.

Mr. President, the power to line item veto is not new. Every President from Jefferson to Nixon used a similar power. The line-item veto power they exercised ensured that the checks and balances between the congressional and executive branch remained in balance. In 1974, in reaction to the Presidential abuses, the Congress stripped the President of this power. Unfortunately, since that time, the Congress has abused its ability to dictate how money be spent. This bill would restore the checks and balances envisioned by the Founding Fathers.

Further, unlike impoundment power where the President could use appropriated money to fund his priorities over the objections of the Congress, this bill contains a lockbox provision as I have described. Any money line item vetod under this bill could be used only for deficit reduction.

Mr. President, many have characterized this legislation as a dangerous ploy, not as a true budgetary reform. This is not accurate and does not take into account the greater picture of the dangers presented by our out-of-control budget process. The real danger is what has happened to the administration of the American Government. Unnecessary and wasteful spending is threatening our national security and consuming resources that could better be spent on tax cuts, deficit reduction, or health care. I do not make the charge that wasteful spending threatens our national security without a great deal of consideration. After last year's defense appropriations bill, it is unfortunately clear how dangerous this kind of spending can be to our national security. It should now be clear how urgent the need for a line-item veto is.

At a time when thousands of men and women who volunteered to serve their country have to leave military service because of changing priorities and declining defense budgets, we nonetheless are able to find money for billions of dollars of unnecessary spending in the defense appropriation bill. At a time when we need to restructure our forces and manpower to meet our post-cold war military needs, we have squandered billions on pointless projects with no military value.

Mr. President, every Congressman or Senator wants to get projects for his or her district. Everyone wants not only their fair share of the Federal pie for their States, they want more. Therein lies the problem. It is an institutional problem. I am not a saint. But we are trying to make a difference. I am not here to cast aspersions on other Senators who secured an unnecessary project for their States. I am not here to start a partisan fight.

Congress created the problem and its Congress' responsibility to fix it. It is a Congress that has piled up a $5 trillion debt. It is a Congress that is responsible for over a $200 billion deficit this year. It is a Congress that has miserably failed the American people. It is an institution that desperately needs reform.

Anyone who feels that the system does not need reform need only examine the trend in the level of our public debt. As I stated in my analysis of the most recent budget plans, the deficit has continued to balloon and spending continues to increase. In 1960, the Federal debt held by the public was $236.8 billion. In 1970, it was $283.2 billion. In 1980, it was $709.3 billion. In 1990, it was $3.2 trillion, and it is expected to surpass $5 trillion this year.

My colleagues may ask: Why is the line-item veto so important?

Because a President with a line-item veto could help stop this waste. Because a President with a line-item veto could play an active role in ensuring that valuable taxpayer dollars are spent effectively to meet our national security needs, our infrastructure needs, and other social needs without pointless pork barrel spending. And the President can no longer say, "I didn't like having to spend billions on a wasteful project but it was part of a larger bill I just couldn't say no to." Under a line-item veto, no one can hide

According to a recent General Accounting Office study, $70 billion could have been saved between 1984 and 1989, if the President had a line-item veto.

It is important because it can help reduce the deficit. It can change the way Washington operates. Mr. President, we cannot turn a blind eye to unnecessary spending when we cannot meet the needs of our service men and women. We cannot tolerate waste when Americans all over this country are experiencing economic hardship and uncertainly.

The American public deserves better than business as usual. As their elected representatives we are duty bound to end the practice of wasteful and unnecessary spending.

The line-item veto is not a means to encourage Presidential abuse, but a means to end congressional abuse. It will give the President appropriate power to help control spending and reduce the deficit. To anyone who thinks that Congress is fully capable of policing national fiscal affairs, I simply bring to the Senate's attention the $3.7 trillion public debt as irrefutable proof of our inability.

Mr. President, a determined President will not be able to balance the budget with the line-item veto. But a determined President could make substantial progress toward that goal.

I submit that had the President been able to exercise line-item veto authority over the past 10 years the fiscal condition of our Nation would not be nearly as severe as it is today.

With that in mind, I hope the Senate would consider the following quote by a prescient figure in the Scottish Enlightenment, Alexander Tytler. He stated:

> A democracy cannot exist as a permanent form of government. It can exist only until a majority of voters discover that they can vote themselves, largesse out of the public treasury. From that moment on, the majority always votes for the candidate who promises them the most benefit from the public treasury, with the result being that democracy always collapses over a loose fiscal policy.

If our debt surpasses our output, I fear that our democracy may one day collapse over loose fiscal policy.

Today is a historic day. A 120-year battle is coming to a close. The line-item may soon be a reality.

Mr. President, I want to, again, extend my respect and consideration and appreciation for the Senator from West Virginia, with whom I have debated this issue over the last 10 years. I would like to allege I have always prevailed over the Senator from West Virginia both in logic and in humor. I am afraid neither is the case, but I have found him to be a most distinguished opponent, most learned and most dedicated to the proposition to which he is committed.

Mr. President, I yield floor.

Mr. BYRD. Will the Senator yield?

Mr. President, I thank the distinguished Senator for his customarily gracious and courteous remarks concerning me. I wish to respond in kind by saying that, although I adamantly oppose the measure which the distinguished Senator from Arizona and the distinguished Senator from Indiana support, and for which they have fought so long, I have only the utmost respect for both of them. I think that the Senator from Indiana works hard and is dedicated. I serve with him on the Armed Services Committee. I admire him. I consider him to be my friend, and I am sure, regardless of the outcome in this instance, I will remain his friend.

The distinguished Senator from Arizona is a great patriot. He has served his country overseas, and he has served his country in this Chamber. He fights hard and very tenaciously for that in which he believes in the legislative field. He has done so in this instance. I regard him as one of the more skilled and devoted Members of the Senate. I have only the utmost respect for him.

I like to believe before the day is over, I will have prevailed over his position, but that is somewhat doubtful insofar as I am concerned at the moment. But I do respect him, and regardless of how vehemently I may propose my viewpoint, it has nothing to do with my respect for him and my friendship for him.

He also serves on the Armed Services Committee and is one of the outstanding members of that committee.

So with those words of respect, I now yield the floor. It is my understanding Senator DOMENICI plans to speak at this time.

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I want to first acknowledge the hard work and dedication that Senator TED STEVENS from Alaska has put into this conference report. Obviously, there is no Senator here who is more dedicated to our prerogatives as a Senate and our prerogatives as individual Senators, and there is no Senator more concerned about maintaining that power. And, likewise, there is none who understands the effectiveness of the appropriations process any better than Senator TED STEVENS from Alaska, I might say, perhaps with the exception of the distinguished Senator from West Virginia.

Senator STEVENS worked tirelessly to come up with a compromise. He will speak for himself later in the day, but obviously, if there is a hero, he is one of them on this effort.

I have already indicated the two leaders on our side have spent a long period of their Senate life devoted to this, and they took the lead from the beginning. Senator MCCAIN is one, who has just spoken, and I am sure that we will have a number of Senators speak before we are finished. But Senator COATS of Indiana will also be here. Obviously, he is a coleader of this cause. I acknowledge their dedicated effort.

I do not intend to speak very long at this point. We have completed a conference report after months in conference, and I rise in support of the Line-Item Veto Act which is before us.

I cannot emphasize enough the importance of this legislation. I believe it has the potential to fundamentally change the way we make spending decisions in Congress and our relationship to the executive branch. I think the objectives of this legislation are correct. We should enact legislation that facilitates our ability to extract lower priority spending from legislation and to devote that to deficit reduction.

However, I share the concerns of others about this bill's impact on the balance of power between the legislative and executive branch.

I also want to congratulate again the majority leader who brought together a group of Senators with very diverse views and got them to compromise on this final bill. The distinguished chairman of the Governmental Affairs Committee, Senator STEVENS, once again deserves a great deal of credit, for he chaired that effort, that conference and that effort that our leader put together in an effort to resolve differences.

Senators MCCAIN and COATS, as I indicated heretofore, deserve the lion's share of credit for getting this bill where it is. And they have been tenacious advocates, and obviously we will hear from both of them here today.

Mr. President, I made line-item veto legislation a priority for the Budget Committee, because clearly we did not want to be making a point of order under the Budget Act on line-item veto because it came within the purview of legislation that must be considered by the Budget Committee. For a number of years getting this job done has been stopped either by filibuster or point of order. I thought it was time that we get that point of order out of the way and that we do our job and let us work our will.

We moved quickly to hold hearings and report Senate bill No. 4 at the beginning of 1995. If this bill had not been reported, it would have been subject to the point of order, as indicated, and we would probably never be here.

Mr. President, the conference report on this bill essentially adopts the House's enhanced rescission approach. I repeat, this essentially adopts the House's enhanced rescission approach. Essentially that approach was similar to the approach advocated by Senators MCCAIN and COATS and many who followed their lead.

There are a significant number of modifications to the House's enhanced rescission concept and particulars.

One, we sunset this authority after 8 years to give Congress an opportunity to review the President's use of this authority. Some wonder why, but, essentially, if you did not have that, there would be no time when you could change this law over a President's objection without having two-thirds vote here in the Senate, because, indeed, if a President liked it and we did not like it—and there was a real reason for that, to argue that policy issue out—Presidents would veto whatever we sent them.

As a matter of course, we would be saying, regardless of how it is used—and it is a kind of new activity. Even the occupant of the chair, who used it as a Governor, understands and has spoken to me that this is somewhat different in scope when you do it this way, when it is the national picture, and we are treading on some new ground.

So I would have liked a shorter sunset provision, but the House had none. So there are 8 years. We will live through two complete Presidential terms, starting next January, and see how it is working out with reference to a judicious exercise of that new power given to Presidents.

No. 2, the line-item veto applies to all new spending, including new direct spending, that is frequently called entitlements or mandatories. Despite all the rhetoric, the only real deficit reduction this year has been in the area of discretionary spending. I have misstated the number heretofore, and let me be accurate. The only money saved in the balanced budget argument to this point is $12 billion less in spending in the appropriated accounts, domestic, in the year 1995. It is obvious to those who know the budget, we cannot balance the budget or significantly restrain Federal spending by just having a veto over discretionary accounts, nor can we continue the idea and concept that we can balance the budget on the back of the domestic discretionary programs, that spending alone.

We devote any savings from the line-item veto to deficit reduction through a lockbox concept. We clearly define and place restrictions on the President's cancellation authority. The President does not have complete discretion to cancel items in laws. He can only cancel entire items in laws or accompanying reports.

Moreover, the bill makes clear he can cancel only budgetary obligations. He cannot use his authority under any circumstance to change the provisions of law, that is, to write law in an appropriations bill.

We strengthen the expedited procedures for congressional consideration of a bill to disapprove of a President's cancellation of an appropriation, either the line item or direct spending or the limited tax benefit, which has been described by my friend from Arizona. I will not go into it any further now other than to say this bill, as it left the Senate, carried with it an expanded concept of what ought to be subject to cancellation.

The two things included here that were not historically considered were targeted taxes, that is, very special and direct taxes that benefit a small group of people or institutions, and new additional mandatory or direct expenditures, not vetoing entitlements, but if you create a new one that spends more money, the President has one opportunity to address that.

Frankly, I think both are fair because if the statement, that is clear, that appropriated accounts alone do not create the problem of deficit spending, nor are they the only area where special attention is made to special needs of special constituents by legislators, the same is done in tax bills and the same is done in entitlements.

Clearly, the President, if he is going to have a chance to get at and cancel budget authority, obligational authority for appropriated accounts, both domestic and defense, he ought to have a similar authority. This last part that I have just described is truly an experiment, but we worked as diligently as we could to make it clear and to make sure that everyone would understand what the conferees had in mind on direct or mandatory expenditures and targeted tax expenditures.

Again, I congratulate Senators DOLE, MCCAIN, and my cohort who chaired this conference, the distinguished Senator from Alaska, Senator TED STEVENS. This is a remarkable achievement on their part. While it will be contested here today, I do not believe it will be contested that this is some very far-reaching legislation, that those who think change is good will clearly understand that this is a formidable event in the ever-changing landscape of the legislation that Congress considers and finally passes.

There will be a number of Senators who oppose this. Clearly, I want to say right up front that the distinguished Senator from West Virginia, former chairman of the Appropriations Committee, majority leader, minority leader of this U.S. Senate, will oppose this. He will be listened to. The concerns he expresses will not be light concerns. They will be important concerns.

Many of us have agreed with him in the past, and we have concerns about the legislation. However, we have come to the conclusion—many on the Appropriations Committee, or a number, will support this legislation—that the time is now to give line-item veto a chance, to get it over to the President who will sign it. First get it to the House, they will adopt it, and then go to work on making it work come January.

Now, we have not yet agreed upon the time that will be taken here because, quite appropriately, the distinguished Senator from West Virginia wants to watch his time carefully, not only for himself but some of his advocates.

When we started here on the floor, before a word was said, the distinguished Senator from West Virginia, in his usual style and gracious, gracious demeanor and respect for the institution, shook the hand of Senator MCCAIN and Senator DOMENICI and indicated his respect, but indicated in this particular measure he did not agree. That is a great part of our Senate heritage. He disagrees. He will have his day. We disagree with Senator BYRD. We will have our day. I hope in the end we will have a majority of Senators supporting what we propose. I yield the floor.

(Mr. KYL assumed the chair.)

Mr. BYRD. Mr. President, "I am no orator, as Brutus is. But as you know me all: a plain blunt man * * * for I have neither wit, nor words, nor worth, action, nor utterance, nor the power of speech to stir men's blood. I just speak right on. I tell you that which you yourselves do know. * * *"

Mr. President, the Senate is on the verge of making a colossal mistake. The distinguished Senator from New Mexico was correct when he spoke of this measure as being a formidable measure, a far-reaching measure, a measure that will produce a sea change in the relationship between the executive and the legislative branch.

Let me say at the outset that I have only the utmost respect for the distinguished, the very distinguished Senator from New Mexico. He is one of the brightest Senators that I have seen during my 38 years in this body. He understands the budget process, in all likelihood, better than anyone else in this Chamber on either side of the aisle. He is skillful, he is dedicated, he is tenacious, and, of course, he is fighting for what he believes today. I cannot help but think, however, that in his heart of hearts, he would rather be supporting a more moderate measure than this that is before him. But I have no right to attempt to look into his mind or into his heart.

The Senate, you mark my words, is on the verge of making a colossal mistake, a mistake which we will come to regret but with which we will have to live until January 1 of the year 2005, at the very least. We are about to adopt a conference report which will upset the constitutional system of checks and balances and separation of powers, a system that was handed down to us by the Constitutional Framers 208 years ago, a system which has served the country well during these two centuries, a system that our children and grandchildren are entitled to have passed on to them as it was handed down to us.

And as I comprehend the appalling consequences—they may not become evident immediately, but in due time they will be seen for what they are—as I comprehend the appalling consequences of the decision that will, unfortunately, likely have been rendered ere we hear "the trailing garments of the Night sweep through these marble halls," I think of what Thomas Babington Macaulay, noted English author and statesman, wrote in a letter to Henry S. Randall, an American friend, on May 23, 1857:

> Either some Caesar or Napoleon will seize the reins of government with a strong hand; or your republic will be as fearfully plundered and laid waste by barbarians in the Twentieth century as the Roman Empire was in the Fifth—with this difference . . . that your Huns and Vandals will have been engendered within your own country by your own institutions.

The Senate is about to adopt a conference report, Mr. President, which Madison and the other Constitutional Framers and early leaders would have absolutely abhorred, and in adopting the report we will be bartering away our children's birthright for a mess of political pottage.

The control of the purse is the foundation of our constitutional system of checks and balances of powers among the three departments of government. The Framers were very careful to place that control over the purse in the hands of the legislative branch. There were reasons therefor.

The control over the purse is the ultimate power to be exercised by the legislative branch to check the executive. The Romans knew this, and for hundreds of years, the Roman Senate had complete control over the public purse. Once it gave up its control of the purse strings, it gave up its power to check the executive. We saw that when it willingly and knowingly ceded its powers to Julius Caesar in the year 44 B.C. Caesar did not seize power, the Senate handed power over to Caesar and he became a dictator. History tells us this, and history will not be denied.

The same thing happened when Octavianus, later given the title of Augustus in the Roman Senate, when in 27 B.C. the Senate capitulated and yielded its powers to Augustus, willingly desiring to shift from its own shoulders responsibilities of government. When it gave to him the complete control of the purse, it gave away its power to check the executive.

Anyone who is familiar with the history of the English nation knows that our British forebears struggled for centuries to wrest the control of the purse from tyrannical monarchs and place it in the hands of the elected representatives of the people in Parliament. Perhaps it would be useful for us to review briefly the history of the British Parliament's struggle to gain control of the purse strings, particularly in view of the fact that the Constitutional Framers in 1787 were very much aware of the history of British institutions, and were undoubtedly influenced in considerable measure by that history and by the experiences of Englishmen in the constitutional struggle over the power of the purse.

Cicero said that "one should be acquainted with the history of the events of past ages. To be ignorant of what occurred before you were born is to remain always a child. For what is the worth of human life, unless it is woven into the life of our ancestors by the records of history?"

To better understand how our own legislative branch came to be vested with the power over the purse, it seems to me that one should examine not only the roots of the taxing and spending power but also the seed and the soil from which the roots sprang and the climate in which the tree of Anglo-American liberty grew into its full flowering, because only by understanding the historical background of the constitutional liberties which we Americans so dearly prize can we fully appreciate that the legislative control of the purse is the central pillar—the central pillar—upon which the constitutional temple of checks and balances and separation of powers rests, and that if the pillar is shaken, the temple will fall. It is as central to the fundamental liberty of the American people as is the principle of habeas corpus, although its genesis and raison d'etre are not generally well understood. Therefore, before focusing on the power over the purse as the central strand in the whole cloth of Anglo-American liberty, we should engage in a kaleidoscopic viewing of the larger mosaic as it was spun on the loom of time.

Congress' control over the public purse has had a long and troubled history. Its beginnings are imbedded in the English experience, stretching backward into the middle ages and beyond. It did not have its genesis at the Constitutional Convention, as some may think, but, rather, like so many other elements contained in the American Constitution, it was largely the product of our early experience under colonial and State governments and with roots extending backward through hundreds of years of British history predating the earliest settlements in the New World.

Notwithstanding William Ewart Gladstone's observation that the American Constitution "is the most wonderful work ever struck off at a given time by the brain and purpose of man,"—although there is some question with regard to that quotation—the Constitution was, in fact, not wholly an original creation of the Framers who met in Philadelphia in 1787. It "does not stand in historical isolation, free of antecedents," as one historian has noted, but "rests upon very old principles—principles laboriously worked out by long ages of constitutional struggle." The fact is, Gladstone himself, contrary to his quote taken out of context, recognized the Constitution's evolutionary development.

British subjects outnumbered all other immigrants to the colonies under British dominion. The forces of political correctness are trying to change American history these days, but it cannot be changed. The very first sentence of Muzzey's history, which I studied in 1928, 1929, and 1930—the very first sentence—says: "America is the child of Europe." America is the child of Europe, political correctness notwithstanding.

They brought with them—those early settlers from England—the English language, the common law of England, and the traditions of British customs, rights, and liberties. The British system of constitutional government, safeguarded by a House of Commons elected by the people, was well established when the first colonial charters were granted to Virginia and New England. It was a system that had developed through centuries of struggle, during which many of the liberties and rights of Englishmen were concessions wrung—sometimes at the point of the sword—from kings originally seized of all authority and who ruled as by divine right.

The Constitutional Framers were well aware of the ancient landmarks of the unwritten English constitution. Moreover, they were all intimately acquainted with the early colonial governments and the new state constitutions which had been lately established following the Declaration of Independence and which had been copied to some degree from the English model, with adaptations appropriate to republican principles and local conditions. Let us trace a few of the Anglo-Saxon and later English footprints that left their indelible imprint on our own constitutional system.

Since time immemorial, Anglo-Saxon and later English kings had levied taxes on their subjects with the advice and consent of the witenagemot or the Great Council. When Parliament later grew out of the Great Council, and when knights and burgesses from the shires and boroughs, and representatives from the town and rural middle class were chosen to participate in Parliament, the king sought approval, from this representative body, of revenues for the operation of government, the national defense, and the waging of wars.

In return for its approval of the sovereign's request for money, Parliament learned that it could secure the redress of grievances and exact concessions from the king. You are asking for money? Then we, the people's representatives, want this first. Make these concessions, and then we will vote you the money. If he resisted, then Parliament would refuse to grant funding requests and new taxes. In 1297, almost 700 years ago now, Edward I reluctantly agreed to the "Confirmation of the Charters," and, in doing so, he agreed, under clause 6 of the Parliamentary document, that is the future he would not levy "aids, taxes, nor prices, but by the common consent of the realm." The significance of the event was twofold. In the first place, it was henceforth necessary that representatives of the whole people, and especially the middle class, be summoned to all Parliaments where any non-feudal taxation proposals were to be considered. Moreover, and of even greater importance, the control of the purse was lodged in Parliament, and this was a power that Parliament would frequently use to check the abuse of royal authority and to persuade the king to grant concessions.

This is the meat of the coconut. On two occasions in Edward II's reign (1307–1327), Parliament had asked for a redress of grievances before it granted taxes on personal property, and in both cases, the substance of Parliament's petitions were approved and enacted into statutes by the king. On one of these occasions, in 1309, the Commons granted a subsidy "upon this condition, that the king should take advice and grant redress upon certain articles wherein they are aggrieved." Members of Congress should take note.

There are early instances of the allocation of funds for specific purposes, such as the Danegeld, which was a land tax levied to meet requirements arising from Danish invasions and to buy off the invaders. It usually was two shillings on each hide of land. It continued for some time after the danger of Danish invaders had passed, and, as a land tax, it was revived by William the Conqueror for specific emergency purposes such as defense preparations in 1084, when the King of Denmark threatened to enforce his claim to the English throne. Although continued as a land tax under William I's successors, its original character was lost, and its name, the Dangeld, fell into disuse in 1163, during the reign of Henry II. It became a source of revenue for general purposes.

Feudal charges were levied by kings before the creation of Parliament and appropriated for specific purposes. For example, scutage, a tax levied upon a tenant of a knight's fee in commutation for military service, was assigned to the financing of military measures. Funds collected to buy Richard I's freedom were paid into a special "exchequer of ransom." The Saladin tithe was applied to financing the costs of a crusade, as were specific grants for Holy Land conquests in 1201, 1222, and 1270. In 1315, the Barons successfully insisted that Edward II's personal expenditures be limited to Pounds Sterling, 10 a day. By Edward III's day (1327–1377), it was becoming customary to attach conditions to money grants. Parliament often insisted that the money granted should be spent for certain specified purposes, and for no others.

In 1340, a grant was made by Commons to the king on the condition that it "shall be put and spent upon the Maintenance and Safeguard of our said Realm of England, and on wars in Scotland, France, and Gascoign, and in no places elsewhere during the said Wars." In 1344, a two-year subsidy was granted and appropriated specifically for the war in France and for defense of the North against invasion by the Scots. Two years later, and again in 1348, it was stipulated that the aid must be used for defence against the Scots. Parliament granted a subsidy to Richard II in 1382 with the express provision that it go to "the improvement of the defence of the realm of England and the keeping and Governance of his Towns and Fortresses beyond the Sea." The expenses of Henry IV's coronation, who reigned from 1399 to 1413, were funded by a special appropriation.

Sometimes, treasurers were appointed for overseeing a particular subsidy to ensure that the money was spent in accordance with the terms specified in the appropriations. Ship money was levied in early times in port cities to provide for naval maintenance and upkeep, the assumption being that the ports were the primary beneficiaries of a strong navy and were safeguarded from invasion by it. In 1382, the revenues from tonnage and poundage were specified for application to the safe keeping of the sea.

Some of the early appropriations went into details. For instance, a grant was made to Edward IV in 1472 to cover the expenses of 13,000 archers for one year at a daily wage of sixpence. Another grant was made by Commons to Edward IV in 1475 for his war in France on the condition that his departure for France be no later than St. John's Day in 1476, and he was not to receive the money until his ships were actually ready to leave for France.

Wool subsidies were specifically appropriated, on occasion, for defraying the cost of the garrison of Calais. The terms of numerous grants from the 14th century to the 17th century required the application of customs receipts to the defense of the country against invasion and to the protection of ships against pirates and hostile navies. The preamble to the subsidy Act of 1558–9 quoted Edward I as having recognized that his predecessors "tyme out of mynde have had enjoyed unto them, by authoritie of Parliament, for the defence of the Realms and the happy saulfguarde of the Seas" the proceeds of customs charges on certain goods.

Following the Restoration in 1660, Commons aimed at keeping Charles II short of funds to prevent the maintenance of a large standing army in time of peace. This was in contrast to their willingness to make grants for the navy, and they took precautions to ensure that appropriations for the Navy were spent for that purpose and no other, as, for example, in 1675, it was provided that the funds "for building ships shall be made payable into the Exchequer, and shall be kept separate, distinct, and apart from all other monies, and shall be appropriated for the building and furnishing of ships, and that the account for the said supply shall be transmitted to the Commons of England in Parliament."

The principle of appropriating the supplies (sums of money) for specific purposes only, instead of placing the funds without reserve into the king's hands, dates back at least as far as 1340. Here, then, as early as the mid-1300's—650 years ago—was the beginning of the current system of congressional appropriations as we know it. Members of Congress should be aware of the venerableness of this aspect of the modern appropriations process. It was not something that was conceived just yesterday and did not just come out of the woodwork.

After the Commons and Lords separated into two houses in the early 1300's, around 1339, 1340, and 1341, the House of Commons reserved to itself the power to initiate tax and money bills.

In 1395, the grant to the king, Richard II, was made "by the commons with the advice and consent of the lords." It started out in the commons. In 1407, the king—Henry IV, the former duke of Lancaster—agreed that he would listen to reports about money grants only "by the mouth of the speaker of the Commons." The right of the commons to originate taxes and money grants was a right by custom, not a statutory right, but it was a custom that was not easily shaken. For example, Henry IV had failed in 1407 when he tried to proceed first through the House of Lords. The Commons refused to accept such "a great prejudice and derogation of their liberties." The U.S. Constitution, in Article I, reflects the very same principle: "All Bills for raising revenue shall originate in the House of Representatives."

As the years passed, Parliament extended its power in the control of government expenditures and the earmarking of appropriations of money for particular purposes. Almost always it was specified that general taxes to the king were for national defense, a part of the custom on wool was to be used for the maintenance of Calais, as I have earlier stated, and the tunnage and poundage tax was to be spent for such specific purposes as the navy and "the safeguarding of the sea and in no other way." The royal income was to be used for the expenses of the royal household.

During the Commonwealth, the House exercised full control over government expenditures, and after the Restoration in 1660, the House claimed, and Charles II grudgingly conceded, the right of appropriation in the Appropriation Act of 1665. From that time, it became an indisputable principle that the moneys appropriated by Parliament were to be spent only for the purposes specified by Parliament. Since the reign of William and Mary (1689–1701), a clause was inserted in the annual Appropriation Act forbidding—forbidding under heavy penalties—Lords of the Treasury to issue, and officers of the Exchequer to obey, any warrant for the expenditure of money in the national treasury, upon any service other than that to which it was distinctly appropriated.

The right of Parliament to audit accounts followed, as a natural consequence, the practice of making annual appropriations for specified objects. Even as early as 1340, a committee of Parliament was appointed to examine into the manner in which the last subsidy had been expended. Henry IV resisted a similar audit in 1406, but in 1407 he conceded Parliament's right to look at the ways the appropriations were spent. Such audits became a settled usage.

These two principles—that of appropriations and that of auditing—were united by the framers in a single paragraph of Article I, section 9, of the U.S. Constitution: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."

So, Mr. President, as we can see, legislative control over taxation bears close relation to the history of Parliament. The witenagemot possessed the right of advice and consent regarding taxation, although the right was probably exercised only rarely because the royal needs in the Anglo-Saxon era were normally supplied by income from royal farms, fines, and payments in kind or the quasi-voluntary tribute paid by the kingdom to its sovereign. The Norman kings exacted feudal aids and other special varieties of taxation, retaining and adding to the imposts of Saxon kings. But there is scant evidence as to what extent the council was asked by the kings. Although a tax in the reign of Henry I (1100–1135) was described as the "aid which my barons gave me," it appears that until the time of Richard I (1189–1199), the king usually merely announced in assembly the amounts needed and the reasons for his imposing subsidies. By the feudal doctrine, the payer of a tax made a voluntary gift for relief of the wants of his ruler.

Magna Carta (1215) provided that, except for three feudal aids, no tax should be levied without the assent of a council duly invoked. But as the burden of taxation increased, the necessity for broadening the tax base to all classes of society also increased. Hence, the establishment of the representative system is Parliament had its essential origin in the necessity for obtaining the consent, by chosen proxy, of all who were taxed. After the "Confirmation of the Charters" in 1297, the right of the people of the realm to tax themselves through their own chosen representatives became an established principle. The Petition of Rights, reluctantly agreed to by Charles I in 1628, emphatically reaffirmed the principle. Charles had attempted a forced loan in 1627 to meet his urgent money needs. This was, in effect, taxation without parliamentary sanction, and many refused to contribute, whereupon Charles arbitrarily imprisoned several persons who would not pay. When he called Parliament into session the next year, twenty-seven members of the new house had been imprisoned for failure to pay the forced loan. When Charles demanded the money he so desperately needed, the commons paid no attention. They decided almost at once to put their major grievances in a Petition of Rights. Among these, the Petition asked that arbitrary imprisonment should cease and that arbitrary taxation should cease and "no man hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such like charge, without common consent by Act of Parliament." When Charles granted the Petition of Rights, the Commons voted him taxes.

The insistence by Charles I that he possessed a divine right to levy taxation and could seek funds directly from citizens, created the conditions for civil war in England. James I had decided to raise revenue by imposing an import duty on almost all merchandise, and the political struggle intensified when Charles acted to levy tonnage and poundage without parliamentary authority. After the House of Commons passed the Petition of Rights, it also moved to curb the King's power to raise revenue from customs duties, precipitating another clash with Charles.

Charles I tried to govern without Parliament by resorting to various means of raising revenue. Additional Knighthoods were created, requiring the beneficiaries to pay a fee to the King. Those who refused were fined. Other efforts to raise money led to increased resentment from citizens and threw the country into a state of crisis. Charles lost both his throne and his head.

The Bill of Rights, to which William III and Mary were required to give their assent before Parliament would make them joint sovereigns, declared "that levying money for or to the use of the crown, by pretense of prerogative, without grant of Parliament, for longer time, or in other manner than the same is or shall be granted, is illegal."

It was the violation of this constitutional principle of taxation by consent of the taxpayers, through their chosen representatives, that led to the revolt of the colonies in America. The Declaration of Independence explicitly names, as one of the reasons justifying separation from England, that of her "imposing taxes on us without our consent."

There is, then, a certain historic fitness in the fact that first among the powers of Congress enumerated in Article I, section 8, of the Constitution is the power "to lay and collect taxes." The power to appropriate monies is also vested by Article I solely in the legislative branch—nowhere else; not downtown, not at the other end of Pennsylvania Avenue, but here in the legislative branch.

Mr. President, we have all perhaps been subject to the notion that the Federal Constitution with its built-in systems of checks and balances, was an isolated and innovative new instrument of government which sprang into existence—sprang into existence—during three months of meetings behind closed doors in Philadelphia, and that it solely was the product of the genius of the Framers who gathered there behind closed doors to labor to make it come about. However, as I have also said heretofore, American constitutional history can only be fully understood and appreciated by looking into the institutions, events, and experiences of the past out of which the organic document of our nation evolved and took unto itself a life and soul of its own.

To ascertain the origin of the Constitution, then, it must be sought among the records treating of the fierce conflicts between kings and people—it cannot be found just in Madison's notes, but it must be sought among the records of treating fierce conflicts between kings and people—the evolution of chartered rights and liberties, and the development of Parliament in the island home of those hardy forebears who crossed the Atlantic to plant new homes in the wilderness and who transplanted to the English colonies of the New World the familiar institutions of government which would assure to them the rights and liberties which they, as British subjects in a new land, held to be their due inheritance.

The U.S. Constitution was, in many ways, the product of many centuries—many centuries—and it was not so much a new and untried experiment as it was a charter of government based to some extent on the British archetype, as well as on State and colonial models which had themselves been influenced by the British example and by the political theories of Montesquieu and others, who believed that political freedom could be maintained only by separating the executive, legislative, and judicial powers of government, which powers, when divided, would check and balance one another, thus preventing tyranny by any one man, as had been the case in France.

Moreover, unlike the British Constitution, which, as I say, was, generally, an unwritten constitution consisting of written charters, common law principles and rules, and petitions and statutes of Parliament, the American Constitution was a single, written document that was ratified by the people in conventions called for the purpose.

In a real sense, therefore, the U.S. Constitution was an instrument of government that was the result of growth and experience and not manufacture, and its successful ratification was, in considerable measure, due to the respect of the people for its roots deep in the past. The mainspring of the constitutional system of separation of powers and delicate checks and balances was the power over the purse, vested—where? Here in the legislative branch. That power guaranteed the independence and the freedom and the liberties of the people.

James Madison, who is justly called the father of the Constitution, summed up, in a very few words, the significance of the power over the purse in the preservation of the people's rights and liberties, and the fundamental importance of the retention of that power by the people's elected representatives in the legislative branch.

He did this in the Federalist No. 58, in which he referred to the House of Representatives and said:

> They in a word hold the purse; that powerful instrument by which we behold in the history of the British constitution, an infant and humble representation of the people, gradually enlarging the sphere of its activity and importance, and finally reducing, as far as it seems to have wished, all the overgrown prerogatives of the other branches of the government. This power over the purse, may in fact be regarded as the most compleat and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Let me repeat just the last portion of the words by Madison.

> This power over the purse, may in fact be regarded as the most compleat and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Mr. President, the elected representatives of the people in this body should remember those weighty words by Madison, the father of the Constitution. If they wish to know the value of constitutional liberty, they might retire to those words and read.

Mr. President, to alter the constitutional system of checks and balances, by giving the executive—any executive, any President, Democrat or Republican—a share in the taxing or appropriations power through the instrument of an item veto or enhanced rescission would, in my view, be rank heresy. As we have seen, the entrusting of the power over the purse to the legislative branch was no accident of history but rather the result of over 600 years of contest with royalty. To chisel away this rock, that through bloody centuries has undergirded the hard-won, cherished rights of freemen in England and in America, should be anathema to any informed and thoughtful citizen in these United States.

To quote Aristotle: "Of all these things the judge is Time." From our vantage point, then, Mr. President, as we take the long look backwards into the murky past, history clearly teaches us that the power over the purse—the power to tax and to appropriate funds—wisely came to be lodged, more than 600 years ago, in the directly elected representatives of the people; that this principle lies at the foundation, and is a chief source, of our liberties; and that it is not a power that should be shared by a king or a President.

That our own Constitutional Framers clearly intended for the power over the purse to be solely in the hands of the elected representatives of the American people, we have only to review the words of Madison and Hamilton as they appeared in the Federalist Papers.

Hamilton in the Federalist #78 stated: "The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated."

Madison in the Federalist #48 stated, "The legislative department alone has access to the pockets of the people." In Federalist Paper #58—as I have already pointed out—Madison stated: "This power over the purse may, in fact, be regarded as the most compleat and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance and for carrying into effect every just and salutary measure."

Thus, the founders of this republic left no doubt as to what branch of the government had control over the purse strings. The Executive was not given any control over the purse strings, with the single exception of the right of the President to veto, in its entirety, a bill—any bill—and in this case a bill making appropriations.

There was little discussion of the Presidential veto at the convention, as a reading of the convention notes will show. There was absolutely no discussion whatsoever with reference to a line item veto or any such modification thereof as we are now contemplating. Henry Clay, one of the greatest Senators of all time, in a Senate Floor speech on January 24, 1842, referred to the veto as "this miserable despotic veto power of the President of the United States." That is what he thought of a Presidential veto. It is not hard to imagine what Henry Clay would think of this conference report that is before the Senate today.

It is ludicrous—nay, it is tragic—that we are about to substitute our own judgment for that of the Framers with respect to the control of the purse and the need to check the Executive. Yet, that is precisely what we are about to do here today. We are about to succumb, for political reasons only, to the mania which has taken hold of some in this and the other body to put that most political of political inventions, the so-called "Contract with America" into law.

Saying this, I do not question but that some Senators genuinely, sincerely, and conscientiously believe that this is the right thing to do, and that this is the way to get a handle on the budget deficits.

To quote Homer in "The Iliad": "Not if I had ten tongues and ten mouths, a voice that could not tire, lung of brass in my bosom", would I be able to persuade those who are motivated by political expediency that future generations will condemn their shortsightedness and hold them responsible for the damage to our constitutional system that will be wrought by this radical shift of power from the legislative to the executive branch. "Who saves his country, saves all things, saves himself, and all things saved do bless him; Who lets his country die, lets all things die, dies himself ignobly, and all things dying curse him."

Most Presidents in recent times have espoused the line-item veto. I fought against surrendering this power to President Reagan, I fought against surrendering the power to President Bush, and I just as fervently oppose giving President Clinton—or any other President—a line-item veto or any modification thereof. I have taken an oath many times to support and defend the Constitution of the United States. My contract with America is the Constitution of the United States. I paid 15 cents for this copy several years ago. It cost $1, I think, now. There it is, well-worn, taped together, and pretty well marked up. But that is my contract with America.

So I have taken an oath many times to support and defend this contract with America, the Constitution of the United States, and I do not intend to renege on my sworn oath by supporting this conference report. It is a malformed monstrosity, born out of wedlock. Although the House voted on this version of the so-called line-item veto, the Senate did not. That is why I would say it was born out of wedlock.

It is a profanation of the temple of the Constitution which the Framers built, and it will prove to be an ignis fatuus in achieving a balanced budget. Its passage will effectuate a tremendous shift of power from the legislative branch to the Executive Branch, and it will be used as a club to be held over the head of every member of the United States Senate and House of Representatives by power hungry Presidents who will seek to impose their will over the legislative process to the detriment of the American people, whose elected representatives in Congress will no longer be free to exercise their judgment as to what matters are in the best interests of the states and the people whom they serve.

This so-called line-item veto act should be more appropriately labeled "The President Always Wins Bill." From now on, the heavy hand of the President will be used to slap down Congressional opposition wherever it may exist. Yet, I have no doubt that this measure will pass. Political expediency will be the order of the day, for we are like Nebuchadnezzar, dethroned, bereft of reason, and eating grass like an ox.

"O, that my tongue were in the thunder's mouth! Then with a passion would I shake the world."

The efforts of those who oppose this surrender of power to the President may be likened to the last stand of General George Armstrong Custer, who with 200 of his followers, were wiped out by the Indians at the Battle of the Little Big Horn, in Montana, in 1876, but I see this as the Battle of the "Big Giveaway", and I do not propose to go along.

As a matter of fact, I do not believe that it is within the capability of Congress to give away such a basic Constitutional power as the control over the purse strings, because that is the fundamental pillar upon which rests the Constitutional system of separation of powers and checks and balances.

I know there are those who say that it will only be for 8 years—from January 1, 1997, to January 1, in the year 2005. Senators will note that the bill does not take effect upon passage, upon enactment, the reason being that the majority party does not want to give this President this line-item veto. He may use it against them. And so they have crafted the date to follow the next election so that if President Clinton is able to use this ill-begotten measure at all, he would have to be reelected before he can do it. So they say it will only be for 8 years.

I do not believe that the constitutional powers of Congress can be so cavalierly shifted to the executive branch, whether it be for 8 years or for 1 year or for 6 months.

It is instructive to reflect on what George Washington had to say about checks and balances and separation of powers in his Farewell Address, and I shall quote therefrom: "It is important that the habits of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. * * * The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each guardian of the public weal against invasions of the others, has been evinced by experiments ancient and modern * * * To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates."

It is my firm belief that we are about to enact legislation that is clearly unconstitutional, and I fervently hope that it will be struck down by the courts. But it might not be. In any event, this possibility does not relieve us of our own responsibility to make a judgment regarding the constitutionality of a measure which we are about to enact. Our oath to support and defend the Constitution against all enemies, foreign and domestic, requires no less of us than this. But I fear that the die, as Caesar said in the year 49 B.C. as he stood before the Rubicon, is cast. Before this day has ended, the Senate will have turned its back in all probability on the Constitution and partially disenfranchised the very people we are charged to represent, and it will have done so to its own great shame.

The Policraticus of John of Salisbury, completed in 1159, we are told, "is the earliest elaborate mediaeval treatise on politics." In it, we find a reference to the House of Caesar and an account of the means by which each in this line of Roman rulers came to his end. Julius, as we all know, was done to death in 44 B.C., at the hands of Brutus, Cassius, and others as they gathered on the Ides of March where the Senate was meeting. When Caesar saw those about him with their daggers drawn, he veiled his head with his toga and drew down its folds over his eyes that he might fall the more honorably.

Nero, who reigned from 54 to 68 A.D., after he had heard that the Senate had condemned him to death, begged that someone would give him courage to die by dying before him as an example. When he perceived that the horsemen were drawing near, he upbraided his own cowardice by saying, "I die shamefully." So saying, he drove the steel into his own throat and thus, says John of Salisbury, came to an end the whole house of the Caesars.

Here, now, we see in the proposal before us, the Legislative Branch being offered the dagger by which, with its own hands, it too may drive the steel into its own throat and thus die shamefully.

I say to Senators, beware of the hemlock. Let us pause and reject this measure lest the "People's Branch" suffer a self-inflicted wound that would go to the heart of the Constitutional system of checks and balances—the power over the purse, a power vested by the Constitution in the Legislative Branch, and in the Legislative Branch only.

Section 9, article I of the Constitution says, "No money shall be drawn from the Treasury, but in consequence of appropriations made by law." And in the very first section of article I, it says, "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives."

So here is where the power is vested to pass a law, to enact a law, to amend a law. But this conference report will change that. It will place into the hands of the Chief Executive a power which in essence will be a power to amend not only a bill but a law. A bill which has already been signed into law by the President can then within the next 5 days be amended almost single handedly by him by way of the rescissions process which is a loaded dice procedure. He cannot lose.

Now, let us take a look at this conference report and examine it.

For the record, let it be noted that this measure is not a true line-item veto. A true line-item veto would allow the President to actually line out items with which he did not agree in an appropriations bill or, depending on how such legislation were to be written, in any other bill that would come across his desk for signature.

And in some States he may not only line out the item but he may reduce the item. He may line out language. But we are talking about the line-item veto on the Federal level.

The measure before us would allow the President not to line out items in a bill, but rather to send special messages to Congress deleting or rescinding certain items from bills after he has signed them into law. Not only that, but this measure will also allow any President to rescind portions of spending measures that are contained in their accompanying tables, committee reports, or statements by the managers on the part of the conferees of both Houses. This approach is actually far more effective in getting at "presidentially-deemed" unacceptable spending than would be a direct line-item veto authority. This is so because bill language does not lend itself to specificity, and line-item veto authority would force the President to eliminate large lump sums in order to get at specific items he did not like, when perhaps he was in agreement with most of the spending in the lump sum.

The conference report would have the effect of stripping from the people's elected representatives, in Congress—the President is not directly elected by the people. The President is indirectly elected by the people. We are the elected representatives of the people. And here, in this forum of the States, we represent the States and the people.

It would take much of that power and place it, instead, in the hands of the occupant of the Oval Office and his unelected bureaucrats. This conference report effectively places in the hands of the President and unelected bureaucrats—I do not use those words pejoratively, but they are unelected and they are bureaucrats. And we have to have them. But, it places in the hands of the President and unelected bureaucrats, ultimate control over the Nation's finances.

I implore Senators, I beseech, I importune Senators to carefully read the conference report, to see how this is done. It is all plainly there in black and white. And it is a "heads-I-win, tails-you-lose" proposition for the President of the United States. It is an eye opener. Read it, Senators.

Section 1021(a) of this conference agreement would allow the President to cancel in whole—(1) any dollar amount of discretionary budget authority; (2) any item of new direct spending—see, it does not get into entitlements that are already in the law, and they are what is causing the budget deficits, but they escape the reaches of this conference report—any item of new direct spending; or (3) any limited tax benefit; as long as the President notifies the Congress "within 5 calendar days (excluding Sundays) after the enactment of the law providing the dollar amount of the discretionary budget authority, item of new direct spending, or limited tax benefit that was canceled."

Now let us look at section 1023(a), which states, in part:

> The cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect upon receipt in the House of Representatives and the Senate of the special message notifying the Congress of the cancellation.

Once the message comes in the door, the cancellation takes effect.

> If a disapproval bill for such special message is enacted into law, then all cancellations disapproved in that law shall be null

> and void and any such dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall be effective as of the original date provided in the law to which the cancellation applied.

Section 1025(b) goes on to detail the time period in which Congress must pass its rescission disapproval bill. The conference agreement allows for:

> a Congressional review period of thirty calendar days of session, during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval;
>
> an additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and
>
> if the President vetoes the rescission disapproval bill during the period provided, Congress is allowed an additional five calendar days of session to override the veto.

Allowing a presidential rescission to take effect unless specifically disapproved by the Congress has the force of taking from a majority of the people's representatives final say over how tax dollars are spent. That is most certainly the impact, Mr. President, because under this conference report, for all practical purposes, it would be necessary for Congress to marshal a two-thirds majority in both Houses in order to enact any appropriation to which the President might conceivably object. It is a stacked deck, and Congress will lose every time.

Consider this scenario: Once the House and Senate have passed an appropriations bill, the President can then, if we were to adopt this conference report, use his new-found rescission power to carve that appropriations bill up just the same as if he were carving a Thanksgiving turkey—a little here, a little there; the dark meat here, the white meat there.

After he or his bureaucrats decide, over the will of a majority of the representatives of the people, what they will carve out of duly enacted legislation, the President will then transmit a special message to Congress. Once he transmits his special message, Congress would have thirty days to pass a rescission disapproval bill. But since a disapproval bill is a direct denial of the President's request, and since the President is the one who proposed the rescission in the first place, I think we are safe in assuming that he would nearly always veto any such disapproval bill passed by both Houses. Therefore, it would be fairly pointless to even bring a disapproval bill to the Floor for a vote unless it had the support of two-thirds of the Senators and two-thirds of the House of Representatives. And it will almost never have that kind of support. This conference report loads the dice against Congress.

I used to play an old tune called, "I Am A Roving Gambler." It did not say anything about that roving gambler having loaded dice. But this conference report loads the dice and the President will always win—always. And you and I will always lose, and the people we represent will always lose.

Subsequent to the President's veto of the disapproval bill, Congress, of course, would have the opportunity to attempt an override. This time, however, the Congress would be limited to five days of consideration. In any event, it would take a vote of two-thirds of both Houses to override the President's veto of a disapproval bill.

In other words, under this conference report, Congress may actually have to pass an appropriation by a two-thirds supermajority in both Houses, before that appropriation could finally be nailed into law. Is that what Senators want? Are we truly intent on installing minority rule in this country? In our efforts to help get spending under control, are we running over the basic principle of majority rule in the process?

Additionally, by allowing the President—now, this is a radical departure from any idea I have ever heard suggested with reference to a line-item veto—by allowing the President to rescind new budget authority in bills or their accompanying tables, reports or statements of managers, or charts, the President's veto power is no longer limited to the various line-items in an appropriations bill. In other words, this conference agreement would enable a President to rescind any new budget authority contained in either an appropriations bill, or any table, report, or statement of managers accompanying any appropriation bills, by simply notifying Congress of such rescissions by a special message not later than five calendar days after enactment of an appropriations act.

So, he can go into this conference report—this does not go to the President for him to veto, the bill goes to the President for his signature or veto. This conference report does not go. He never sees it. Nor does the statement of the managers go, but he can reach into them through his bureaucrats who advise him, "Mr. President, there is a chart in this conference report on page 27, and you will find in that chart a certain item for certain States or certain regions of the country," and he can say, "Rescind them."

Congress' goal should be to give Presidents a stronger tool than they now have to reduce unnecessary spending. But, I do not believe, Mr. President, that we have to gut the power of the purse in order to give the President that new help. The approach outlined in this conference agreement would tend to arbitrarily substitute a President's judgment about the needs of the various individual states for the judgment of the duly elected representatives of those states and districts. I am sure that the people who vote to send us here do so at least in part because they feel we understand the needs of the states we represent and the views of the people of those states. I am equally sure that the people do not intend for our judgment and our votes to be summarily overruled. I do not think they intend that. I think if they really understood this conference report, if they really understood what we are about to do here, I do not think that the people would intend for our judgment and our votes to be summarily overruled or dismissed by a President—this President or any other President. Nor would I suspect that the people of our various states would want the deck so stacked against their elected representatives as to force us to muster votes of two-thirds of both Houses of Congress to overrule the President's judgment on a matter we thought important for the good of our states. But, this conference report is rigged, and it deals the cards that way and leaves the President and a minority in each body with the ultimate ace in the hole.

Mr. President, what we are talking about here is a measure that would increase exponentially the already overwhelming advantage that is held by the Executive in his use of the veto power. Out of the 1,460 regular vetoes that have been cast by Presidents directly over these past 208 years, only 105—or 7 percent—have been overridden in the entire course of American history. In 208 years, from the Presidency of George Washington, who vetoed two bills, and it was he who said the President has to veto the whole bill or sign it or let it become law without his signature. He cannot item veto it. That was George Washington. In 208 years from the Presidency of George Washington right down through President Clinton today, Congress has only been able to muster enough votes to override a President's veto 105 times, 7 percent of the total. In this case, this so-called enhanced rescission authority requirement for a disapproval resolution coupled with the President's veto power, creases a "heads I win, tails you lose" situation.

This overwhelming advantage on the side of a President is magnified by the fact that often the funds rescinded are likely to be of importance to only a few states or a single region. They may even be important to no more than a single congressional district. If that is the case, then how many Members of either House are going to be interested in overriding the President's veto? How many Senators are going to think it is worth standing up to the President and voting against reducing the deficit for the sake of one lonely House Member or a handful of Senators or a few Members of the House?

Take, for instance, the following six States: Maine, with 2 votes in the House; New Hampshire, with 2 votes; Massachusetts, 10 votes; Vermont, 1 vote; Rhode Island, 2 votes; and Connecticut, with its 6 votes. Collectively, those states have 23 votes in the House of Representatives and 12 votes in the Senate. Those 35 individuals are going to find it extremely difficult, if not impossible, to interest two-thirds of the total House and Senate membership in overriding a presidential veto on an issue of concern only to the New England region. The type of "divide and conquer" strategy, which this conference report creates for the White House to use, would have a devastating effect on the power of the purse, and the system of checks and balances, which is the very taproot of the American constitutional system of government.

Not only will this conference report, when enacted into law, militate against small rural States like my own—which can muster only three votes in the other body—but it will be a prescription for minority rule. For over 200 years, the theory undergirding our republican system of government—some people speak of ours as a democracy. It is not a democracy. Ours is not a democracy. It would be impossible for a government that extends over 2,500 miles from ocean to ocean and has 250 million people to be a democracy. People should learn their high-school civics.

This is a republican form of government. And the theory undergirding our republican system of government has been that of majority rule. This conference report will substitute minority rule for majority rule by requiring a supermajority vote in both Houses to adopt a disapproval measure overriding a Presidential veto of appropriations passed initially by simple majorities in both Houses. A minority of 34 votes in the Senate will sustain a Presidential veto that may have already been given a two-thirds vote to override in the other body. In other words, the President and 34 Senators can overrule the wishes of the other 66 Senators and 435 Members of the House—if this is not minority rule in the field of legislation, what else may one call it? Do Senators wish to substitute minority rule for majority rule in the legislative process?

It is difficult to imagine why this body would want to deal such a painful blow, not only to itself, but to the basic structure of our constitutional form of government and to the interests of the people we represent.

Whether the President is a Democrat or a Republican is not my concern. Whether one party or another is in power in the Congress is not my concern here. My concern is with unnecessarily upsetting the balance of powers as laid out in the Constitution, and this conference report simply gives away much of the congressional control over the purse strings to a President.

What is fundamentally at stake here is the division of powers between the executive and legislative branches of Government, and the dangerous effects of instituting minority government. This is not a disagreement over reducing the deficit, or over giving the President some additional power to help do that. It is a disagreement over disrupting the people's power over the purse beyond what is necessary to accomplish our deficit reduction goal.

If we enact this conference report into law, control of the Nation's purse strings by a majority in the legislative branch would be severely impaired. That is a fact. It can be demonstrated by a careful reading of the report, and we ought not go down that road, because there is no turning back.

Mr. President, the most effective instrument of restraint possessed by the legislative branch against a powerful and reckless President is the control over the purse. For example, cutting off the flow of funds for an activity is the surest way of checking unwise presidential use of power. We have seen that in the effective use of curtailing funding in the example of our ill-advised adventure in Somalia.

I was the author of the amendment that drew the line which, in essence, said, "All right, Mr. President, after that date, if you want to stay, you come back, make your case before Congress, and seek the money for it."

Were the President to be granted enhanced rescission authority, though, we would have seriously unbalanced the delicate system that was put in place by the Constitution. We would have ceded congressional control over the purse to an executive who could then use it to affect our ability to check misadventures in foreign or domestic policy by threatening important initiatives in one or more States or a region.

The Framers of the Constitution were induced to give to the President the veto power, and they did this for two reasons: the first, was a desire to protect the executive against possible encroachments from the legislative branch, and the other was a desire to guard the country against the injurious effects of hasty and bad judgment.

Mr. President, it was a gross misapprehension on the part of the Framers who feared that the executive branch would be too feeble to successfully contend with the legislature in a struggle for power. Little did the Constitutional Framers dream that the powers of the Chief Executive would grow enormously with the passage of time. They could not foresee the powers that would flow to the President through his patronage as titular head of a political party. Nor, of course, could they foresee the power of the "bully pulpit" that would come with the invention of radio and television and modern telecommunications, which enable the President, at the snap of a finger, to summon before him for immediate disposal the advantages of the modern news media which enable him to appeal directly to the American people with one voice. The fears of the Framers, in this respect, were not only unfounded, but the constant encroachment, which they were concerned about, has not been by the legislative branch on the executive but has been just the opposite—there has been a constant erosion by the executive of the legislative authority.

The legislative branch of Government meets periodically; its power lies in its assembling and acting; the moment it adjourns, its power disappears. But the executive branch of the Government is eternally in action; it is ever awake on land and on sea; its action is continuous and unceasing, like the tides of some mighty river, which continues to flow on and on and on, swelling, and deepening, and widening, in its onward progress, until it sweeps away every impediment, and breaks down and removes every frail obstacle which might be set up to stay or slow its course.

The legislative branch sleeps but there stands the President at the head of the executive branch, ever ready to enforce the law, and to seize upon every advantage which presents itself for the extension and expansion of the executive power. And now, we are preparing here in the Senate to augment the already enormous power of an all-powerful chief executive by adopting a conference report that will shift the real power of the legislative branch to the other end of the avenue and place that power in his hands—to be used against the legislative branch, to be used against the elected representatives of the people in legislative matters. It is as if the legislative branch has been seized with a collective madness. The majority leadership in both Houses will have succeeded in enacting a major plank in the so-called Contract With America.

Mr. President, let me say once more, this is my contract with America: The Constitution of the United States. It cost me 15 cents several years ago. It can be gotten from the Government Printing Office, not for 15 cents today, but perhaps for a dollar. That is my contract with America.

The majority leadership in both Houses will have succeeded in enacting a major plank in its so-called Contract With America while it turns its back on the Constitution—the real Contract with America, which we have all sworn to support and defend—and the majority party in Congress will forever carry on its hands the stain of this unpardonable and gross betrayal of the Constitution and its Framers.

Let us contemplate the effect that the passage of this conference report would have on the power of the chief executive. At the present time, if all Senators are voting, 51 Senators are required to constitute a majority in the passage of a bill, while in the other body 218 Members are required to constitute a majority in the passage of that same bill. If the bill is vetoed, then two-thirds of the Senate, or 67 votes, if all Senators are present and voting, will be required to make that bill become a law over a Presidential veto. In other words, that veto by one man in the Oval Office will be worth the vote of 16 additional Senators, while in the House that Presidential veto by one man will be equal to 72 votes—a supermajority of 218 being required to pass the bill, and a supermajority of 290 being required to override a Presidential veto, or a difference of 72 votes. In other words, a veto cast by a single individual who holds the Presidency, will be worth the votes of 88 Members of the House and Senate. Is this not enough, Mr. President, that he would wield so vast and formidable an amount of patronage, and thereby be able to exert an influence so potent and so extensive? Must there be superadded to all of this power, a legislative force equal to that of 16 Senators and 72 Members of the House of Representatives?

I have viewed the veto power simply in its numerical weight, and the aggregate votes of the two Houses, but there is another important point of view which ought to be considered. It is simply this: the veto, armed with the constitutional requirement of a two-thirds vote of both Houses in order to override, is nothing less than an absolute power. In all of the vetoes over the past 2 centuries, as I have said, only about 7 percent of the regular vetoes have been overridden. When it comes to overriding the vetoes of bills of disapproval of Presidential rescissions, the President's veto will constitute virtually an unqualified negative on the legislation of appropriations by Congress. If nothing can set it aside but a vote of two-thirds in both Houses, that veto of disapproval bills might as well be made absolute and now because that is what it will amount to. The constitutional Framers did not intend for such raw power over the control of the purse strings to be vested in the hands of any Chief Executive.

Do Senators know what they are doing when they vote to adopt this conference report? They are voting willingly to diminish their own independence as legislators. No longer will they feel absolutely independent to speak their minds concerning any President, any administration or administration policies in their speeches on this floor, and no longer will they exercise a complete and uninhibited independence from the Chief Executive when casting their votes on matters other than appropriation bills because they will know that the President, with this new and potent weapon in his arsenal, can punish them and their constituencies for exercising their own free independence in casting a vote against administration policies, against Presidential nominees, against approval of the ratification of treaties.

Now, Mr. President, I find in the New York Times of today that not only I am concerned about this loss of independence that we will suffer if we adopt this conference report. In today's New York Times, I find an article by Robert Pear titled "Judges' Group Condemns Line-Item Veto Bill."

I will just read one paragraph as an excerpt therefrom. Here is what Judge Gilbert S. Merritt, chairman of the Executive Committee of the Judicial Conference, has to say: "Judges were given life tenure to be a barrier against the wind of temporary public opinion," said Judge Merritt. "If we didn't have judicial independence, I'm not sure we could maintain free speech and other constitutional liberties that we take for granted." So the judges are concerned about judicial independence. I am concerned about the independence of lawmakers once this conference report becomes law.

Plutarch tells us that Eumenes came into the assembly, and delivered himself in the following fable. It was a fable about a lion. "A lion once, falling in love with a young damsel, demanded her in marriage of her father. The father made answer, that he looked on such an alliance as a great honor to his family, but he stood in fear of the lion's claws and teeth, lest, upon any trifling dispute that might happen between them after marriage, he might exercise them a little too hastily upon his daughter. To remove this objection, the amorous lion caused both his nails and his teeth to be drawn immediately; whereupon, the father took a cudgel, and soon got rid of his enemy. This," continued Eumenes, "is the very thing aimed at by Antigonus, who is liberal in promises, till he has made himself master of your forces, and then beware of his teeth and claws."

Mr. President, President Clinton wants this conference report. President Bush would have liked to have had it. President Reagan wanted it. All Presidents, with the exception of President Taft, have wanted the veto power. So perhaps this President is about to be given the power which he will not be able to exercise, however, under its phraseology, unless and until he is reelected for the second term.

Mark my words, Mr. President, once he gets it—or any other President—then beware of his teeth and claws. Senator BYRD, you will not be as independent in your exercise against freedom of speech, against the policies of an administration, once that President has in his power this weapon. Beware of his teeth and claws. Senator BYRD, you might not have voted against Clarence Thomas if the President had this effective weapon in his arsenal. I do not know about that.

In other words, Mr. President, this power of rescinding discretionary spending will not be used by a President to reduce the deficit. It is not a deficit-reducing tool because it does not get at entitlements, past entitlements. They are one of the real causes of the deficit. This conference report does not get to them. It is not a deficit-reduction tool. Discretionary spending has already been cut to the bone. Entitlement spending, which is a real cause of growth in the deficits cannot be touched under this conference report. No. This new power of rescissions will be used by a President to threaten and coerce and intimidate members of the legislative branch to give the President what he wants or he will cut the projects and programs that our constituents need and want. It will be a sword of Damocles suspended over every Member.

This conference report, when it is examined in its minutest detail, will constitute an inhibition on freedom of speech. It is going to constitute an inhibition on the independence of judges. That is what this judge feared. I say it will constitute an inhibition on freedom of speech in both Houses, an inhibition on a Member's casting of votes on administration policies, an inhibition on every Member's free and untrammeled independence in carrying out his duties and responsibilities toward the constituents who send him or her here. What Senator is willing to surrender his independence of thought and action and speech—we will see—to an already all-powerful executive, made more powerful by a major share in the control of the purse strings given to him by this conference report, a power that no Chief Executive has heretofore, in the course of over 200 years, shared.

The political leadership of the majority party in this Congress may reap temporary political gain from the enactment of this unwise measure, but the damage that will have been done to our constitutional system of checks and balances will constitute a stain upon the escutcheon of the Congress for a long time to come. As the Roman Senator Lucius Postumius Megellus said to the Tarentines: "Men of Tarentum, it will take not a little blood to wash this gown." It will take not a little blood to wash this gown.

The majority party may reap an immediate and temporary political gain from this action, but in "reaching to take of the fruit" of this amendment, its proponents—like those in Milton's "Paradise Lost"—will "chew dust and bitter ashes."

In a March 10, 1993, hearing before the House Government Operations Committee, Mr. Milton Socolar, Special Assistant to the Comptroller General of the United States, stated "proposals to change the rescission process should be viewed primarily in terms of their effect on the balance of power between the Congress and the President with respect to discretionary program priorities." He went on to say that enhanced rescission authority "would constitute a major shift of power from the Congress to the President in an area that was reserved to the Congress by the Constitution and historically has been one of clear legislative prerogative."

Mr. President, once this shift of power to the President takes place, it will not be recovered by the legislative branch. Any bill to take it away from the President will be vetoed summarily and the prospects of overriding such a veto would be practically out of the question.

The moving finger writes; and, having writ,
moves on; nor all your piety nor wit
shall lure it back to cancel half a line,
nor all your tears wash out a word of it.

Senators should think long and hard before they agree to trade the long-term harm that will be done to the structure of our government for the short-term gain that might or might not come from passage of this bill. We should all stop and think about our Constitution, its system of checks and balances, and the wisdom of the Framers who placed the power of the purse here in this institution. We should all take the time to reread the Constitution, particularly those who may not have done so lately. We should reread it, and think about what that great document says before we agree to hand the type of enhanced rescission authority contained in this conference report over to the executive branch.

Mr. President, press reports tell us that this so-called item veto bill would give the Republicans their biggest legislative achievement of the 104th Congress. What a sad commentary to think that a bill of this quality, surrendering legislative power—the people's power through their elected representatives—and legislative responsibility to the President, and a bill so poorly drafted that we can only guess how it will be implemented, is considered an achievement. I cannot believe that the 104th Congress is so bereft of accomplishment that this bill represents its crowning glory.

Supporters of the item veto bill claim that it gives the President an essential tool in deleting "wasteful" federal projects and activities. Let us not deceive ourselves or the voters. There is not the slightest basis in our political history for believing that Presidents are peculiarly endowed by nature to oppose federal spending. Presidents like to spend money. They like proposing expensive new projects and programs, and they like to wield power, especially over the Members of the legislative branch. The national highway system, landing on the Moon, and Star Wars are some of the presidential initiatives.

The joint explanatory statement of the conference committee states that a January 1992 GAO report indicates that a line item veto "could have a significant impact upon federal spending, concluding that if Presidents had applied this authority to all matters objected to in Statements of Administration Policy on spending bills in the fiscal years 1984 through 1989, spending could have been reduced by a six-year total of about $70 billion." The fact is that the Comptroller General later apologized for this report, acknowledging that it had serious deficiencies and that the theoretical figure of $70 billion could not be defended. Actual savings, he said, could have been "close to zero." The Comptroller General even admitted that giving line item veto authority with the President could lead to higher spending, because the administration could use that authority to strike quid pro quos with legislators.

Mr. President, I ask unanimous consent to have this letter to which I have just referred, printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, DC, July 23, 1992.

Hon. ROBERT C. BYRD,
Chairman, Committee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN: This is in response to your recent letter concerning our report on the line item veto.

In reviewing the report and the way it has been interpreted, it is now apparent that we were not sufficiently clear about the purpose of the report or what we judged to be its implications.

Let me emphasize that the analysis was not an attempt to predict what would have happened if the President were granted line item veto or line item reduction authority, only to define the outer limits of potential item veto savings during a particular period as a way of testing the assertion that item veto authority would permit a President to achieve a balanced budget.

Having defined an outer boundary for the possible budgetary savings from a hypothetical line item veto, it necessarily follows that the actual savings from such veto power are likely to have been much less than this. As you suggest in your letter, there are several reasons to believe that this would have been the case:

The President might not have applied the veto to every item to which objections were raised in the Statements of Administration Position (SAPs).

Some vetoes might have been overridden by the Congress.

Some, perhaps all, of the savings resulting from successful item vetoes might have been spent for other purposes which were either acceptable to the President or commanded sufficiently broad support in the Congress to override a veto.

Thus, depending on how the President chose to use the hypothetical item veto power and how the Congress responded, it seems likely that the actual savings could have been substantially less than the maximum and maybe, as you have suggested, close to zero. Indeed, one can conceive of situations in which the net effect of item veto power would be to increase spending. This could be the result, for example, if a President chose to announce his intent to exercise an item veto against programs or projects favored by individual Senators and Representatives as a means of gaining their support for spending programs which would not otherwise have been enacted by the Congress.

We attempted in the report to make it clear that we were developing an estimate of the theoretical maximum potential savings, not a prediction of the likely actual results. We cited the limited empirical evidence as suggesting that the actual use of an item veto would likely produce savings substantially smaller than the theoretical maximum but apparently we were not as clear in this regard as we had thought. We regret the inappropriate highlighting of the $70 billion total amount and the way it was characterized, which undoubtedly contributed to a misleading impression of the purpose and import of our analysis.

Finally, I regret that this report, which was undertaken on our own initiative, was not discussed with you before the assignment was begun and that it was addressed to you without your having been apprised of that intention. I have taken steps to assure that it will not happen again.

Sincerely yours,
CHARLES A. BOWSHER,
Comptroller General of the United States.

Mr. BYRD. Let us speak plainly. This bill changes the existing process the President uses to rescind, or terminate, appropriated funds. That process takes place after the President signs a bill into law. It does not operate when he is signing a bill, as is the case with the real item veto used by governors. It is a misnomer to call this bill an item veto.

Why do we not talk straight to the American people? Do we think they are unable to understand what we do in Washington, DC? How can we justify using false language and false concepts? This bill has nothing to do with an item veto. It is a change in the rescission process.

This executive attitude of "We know best" persists from decade to decade. The President's Economic Report for 1985 includes a discussion about the pros and cons of the item veto. It admits that there is little basis to conclude from the State experience that an item veto would have a substantial effect on Federal expenditures. In fact, it says that "per capita spending is somewhat higher in States where the Governor has the authority for a line-item veto, even corrected for the major conditions that affect the distribution of spending among States."

There are other constitutional problems with this bill. First, this bill will have a serious impact on the independence of the Federal judiciary. With enhanced rescission authority the President can delete judicial items, perhaps for punitive reasons. He has no such authority now.

Second, this bill contains a number of legislative vetoes declared unconstitutional by the Supreme Court in the

1983 *Chadha* case. The Court said that whenever Congress wants to alter the rights, duties, and relations outside the legislative branch, it must act through the full legislative process, including bicameralism and presentment of a bill to the President. Congress could not, said the Court, rely on mechanisms short of a public law to control the President or the executive branch. The item veto bill, however, relies on details in the conference report to determine to what extent the President can propose rescissions of budget authority.

Third, this bill enables the President to make law or unmake law without Congress. If Congress fails to respond to the President's rescission proposals within the thirty-day period, his proposals become law. In fact, as soon as the rescission message is submitted to Congress, the President's proposal takes effect. If Congress has to comply with bicameralism and presentment in making law, how can the President make law and unmake law unilaterally?

Constitutional problems in the bill? Proponents say not to worry. Section 3 authorizes expedited review of constitutional challenges. Any member of Congress or any individual adversely affected by the item veto bill may bring an action, in the U.S. District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that a provision violates the Constitution. Any order of the district court shall be reviewable by appeal directly to the Supreme Court. It shall be the duty of both the district court and the Supreme Court to advance on the docket and to expedite to the greatest possible extent the disposition of a case challenging the constitutionality of the item veto bill.

Evidently the authors of this legislation had substantial concern about the constitutionality of their handiwork. A provision for expedited review to resolve constitutional issues is not boilerplate in most bills. You may remember that when we included a provision for expedited review in the Gramm-Rudman-Hollings Act of 1985, the result was a Supreme Court opinion that held that the procedure giving the Comptroller General the power to determine sequestration of funds violated the Constitution.

Why are we trying to pass a bill that raises such serious and substantial constitutional questions? We should be resolving those questions on our own. All of us take an oath of office to support and defend the Constitution. During the process of considering a bill, it is our duty to identify—and correct—constitutional problems. We cannot correct these here because we cannot amend the conference report. It is irresponsible to simply punt to the courts, hoping that the judiciary will somehow catch our mistakes.

As to the first constitutional issue: the impact that this bill might have on the independence of the judiciary. That is what the judges are concerned about, as reported by the New York Times today. Under this legislation, the President can propose rescissions for any type of budget item, regardless of whether it is for the executive, legislative, or judicial branch.

There is no exemption for the judiciary and certainly none for Congress. The President has full latitude to look through any bill and propose that certain funds and tax benefits be cancelled.

The item veto bill would allow the President to rescind funds for all of the judiciary except for the salaries of Article III Justices and judges. Anything else funds for courthouses, staff, expenses, etc. is subject to rescissions. Are these selections to be made solely for economy and "savings," or could they be retaliations for court decisions the executive branch finds disappointing? Probably we would never know, but the appearance of executive punishment for unwelcome decisions would be ever with us.

Given the fact that the executive branch is the most active litigant in federal courts, allowing the President this kind of leverage over the judiciary is improper and unwise. Furthermore, it represents a distinct danger to the independence of the judiciary. The availability of the rescission power, especially under the procedures of this bill, raises a clear issue of separation of powers and has constitutional dimensions.

If the President includes judicial items in a rescission proposal, judges would have to enter the political fray and lobby against the President. This is unseemly, whether the judges lobby openly or behind the scenes. They should not be put in that position, as this bill does.

Judges understand that they have to justify their budgets to Congress like any other agency, legislative or executive. But we have designed the process to protect their independence from the executive branch.

For example, the Budget and Accounting Act of 1921 specifically provided that budgetary estimates for the Supreme Court "shall be transmitted to the President on or before October 15th of each year, and shall be included by him in the Budget without revision." Congress wrote the 1921 statute this way not only for purposes of comity but to respect the coequal status of the judiciary. As the law now stands, in the U.S. Code, budget estimates for the entire judicial branch must be included in the President's budget without change.

Nevertheless, this item veto bill allows the President to reach into appropriations, to reach into conference reports, to reach into the statement of the managers, to reach into the tables and charts, and pick out judicial items for rescission. Last year, in testimony before the joint hearings conducted by the House Committee on Government Reform and Oversight and the Senate Committee on Governmental Affairs, Judge Gilbert S. Merritt testified that it "seems inconsistent to prohibit the Executive Branch from changing the Judiciary's budget prior to submission, but then to give the President unilateral authority to revise an enacted budget." His point is well taken. Certainly it is inconsistent. It cannot be justified.

More recently, the Judicial Conference of the United States has expressed its concern about the application of the item veto bill to judicial funds. It believes that there may be constitutional implications in giving the President this authority and notes that the doctrine of separation of powers recognizes the importance of protecting the judiciary against presidential interference. As the Judicial Conference points out, control of the judiciary's budget rightly belongs to Congress, not the executive branch. In light of the fact that the United States almost operating through the executive branch has more lawsuits in federal court than any other litigant, this rescission authority endangers the integrity and fairness of our federal courts. Judicial decisions should not be affected in any way, however remote, by potential budget actions by the executive branch.

Not only did Congress recognize this fundamental principal in the Budget and Accounting Act, it expressed the same value in legislation enacted in 1939. Although the 1921 statute prohibited the President from altering judicial budget estimates, the judiciary lacked a separate administrative office to prepare and implement its own budget. Oddly, it had to rely on the Department of Justice for this work. It was the Attorney General who prepared and presented to the Bureau of the Budget the estimates for judicial expenses. Several Attorneys General considered it "anomalous and potentially threatening to the independence of the courts" for the chief litigant the Department of Justice to have any control over the preparation of judicial budgets.

This anomaly was corrected by legislation in 1939 that created the Administration Office of the United States Courts, with the director appointed by the Supreme Court. The director prepared budget estimates submitted to the Bureau of the Budget and later to the Office of Management and Budget. The legislative history of the 1939 statute highlighted the need to protect the independence and integrity of the courts. In 1937 the Attorney General said that,

> * * * there is something inherently illogical in the present system of having the budget and expenditures of the courts and the individual judges under the jurisdiction of the Department of Justice. The courts should be an independent, coordinate branch of the Government in every proper sense of the term. Accordingly I recommend legislation that would provide for the creation and maintenance of such an administrative system under the control and direction of the Supreme Court.

On January 8, 1938, an article in the Washington Post pointed out that the Federal Government was the chief litigant in the federal courts. While there was no intention on the part of the newspaper "even to intimate that the Attorney General or his aides would use their power over the purse strings of the judiciary to bring a recalcitrant judge into line," the mere fact that the Attorney General "could do so if he wished constitutes a factor in the relationship between the Justice Department and the courts which should be eliminated."

During floor debate on the bill creating the Administrative Office of the U.S. Courts, Senator Henry Ashurst, chairman of the Judiciary Committee, came to the same conclusion. "No one believes," he said, "that either the present Attorney General or the preceding one would use his position to attempt to intimidate any judge; but we know enough about human nature to know that no man, not even a judge, is coldly impersonal and objective with one who holds the purse strings." In his testimony last year, Judge Merritt said that during the years between 1921 and 1939 the Budget Bureau had "refused to pass on requests for new judgeships" and the Department of Justice "cut judges' travel funds, eliminated bailiffs, criers and messengers, and reduced the salaries of secretaries to retired judges by one-half."

The judiciary should not be subject to the rescission requests made under this item veto bill. If such a bill were to pass, it is crucial to give a full exemption to the judiciary. Exempting the judiciary does not mean that the courts would escape the current pressure for budgetary cutbacks. Judges would still have to present their budget estimates to Congress and defend them. As Judge Merritt noted in his testimony last year, the judiciary's budget requests "are subjected to full review by the congressional appropriations committees in keeping with the fiscal power conferred on Congress by the Constitution. The Judiciary must justify each dollar it receives. This is appropriate and the Judiciary cheerfully respects this role of Congress." Scrutiny of judicial budgets should be in the hands of Congress, not the President.

I turn now to the issue of the legislative veto. This bill gives the President the authority to cancel any dollar amount of discretionary budget authority, any item of new direct spending, and any limited tax benefit. This authority applies to any "appropriation law," defined in the bill to mean any general or special appropriation act, or any act making supplemental, deficiency, or continuing appropriations "that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States."

Notice that the enhanced rescission authority applies only to appropriations bills "signed into law" by the President. This is a very peculiar feature. If the President vetoes a bill and the veto is overridden, the enhanced rescission authority is not available. Similarly, if the President decides not to sign an appropriations bill and it becomes law after ten days, Sundays excepted, the President may not use the enhanced rescission authority either. You will recall that President Clinton last December allowed the defense appropriations bill to become law without his signature.

Why does the enhanced rescission authority apply only to signed bills? If the goal is to maximize the opportunity for the President to rescind "wasteful" funds, why restrict the President this way? What is the purpose? Perhaps we are saying that if the President vetoes a bill and Congress overrides the veto, this second action by Congress should settle the matter. Congress has reaffirmed and reinforced the priorities established in the bill. Those priorities are not to be second-guessed in a rescission action.

Clearly this provision puts some pressure on a President not to exercise his constitutional right of veto which is set forth in section 7 of article I of the Constitution of the United States. If he vetoes and is overridden, the enhanced rescission procedure is not available. I doubt it we have thought through the merits and demerits of discouraging a veto.

The new procedure—this so-called line-item veto, enabling the President to simply cancel items of spending with which he does not agree, will make him, in fact, a super legislator. It will discourage him from using his existing constitutional veto powers to veto an entire bill, and encourage him to try to "fix" legislation with which he does not fully agree by canceling only portions of the bill. He will be the lawmaker *sui generis* because his cancellations will in practical effect, be absolute. There will be no recourse—no way to override his cancellations under the convoluted, stack-deck procedures set forth in this conference report.

The temptation to simply do a "cut and paste" job on spending bills, thereby foregoing the route of a full Presidential veto of an entire bill which might then be overridden will, it seems to me, be nearly overwhelming. As a result, we will have a President who not only "proposes," but also "deposes," in other words a super lawmaker in the White House circumventing in yet another way the principle of majority rule.

Additionally, such an approach will have the effect of discouraging a President from vetoing a whole bill, and thus through consensus and compromise and negotiations between the two branches, develop a new and better total product which he could then sign.

If the goal of this bill is to allow the President to rescind appropriations for projects and programs he objects to, we all know that appropriations bills contain large lump-sum amounts. We don't put details, or items, in appropriations bills. How does the President reach that level of detail?

The answer is that this bill allows the President to rescind dollar amounts that appear not merely in a bill but also in the conference report and the statement of managers included in the conference report. Here is where the issue of the legislative veto emerges. As defined in this bill, the term dollar amount of discretionary budget authority includes the entire dollar amount of budget authority "represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law." The dollar amount of discretionary budget authority also includes the entire dollar amount of budget authority "represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law."

In *INS* v. *Chadha* (1983), the Supreme Court ruled that whenever congressional action has the "purpose and effect of altering the legal rights, duties and relations of persons" outside the legislative branch, it must act through both Houses in a bill or joint resolution that is presented to the President. In other words, we cannot act by one House or even by both Houses in a concurrent resolution, because a concurrent resolution is not presented to the President. Nor can we act by committee or subcommittee. Anything that has the purpose and effect of altering the legal rights, duties, and relations outside Congress must comply fully bicameralism and presentment.

What of these details and items that appear in a conference report or in the statement of managers? This is a nonstatutory source. It complies with bicameralism but not with presentation. How can it bind the President?

I recognize that proponents of this bill can argue that the conference report and the statement of managers will continue to be nonbinding on the President in the management of these particular laws. To a certain extent that is true. The joint explanatory statement for this bill states: "The inclusion of subparagraph (A)(ii) is not intended to give increased legal weight of authority to documents that accompany the law that is enacted." For example, if Congress in a conference report takes a lump sum of $800 million and breaks it into one hundred discrete projects, the breakdown is nonstatutory and nonbinding with regard to implementing the law. The executive branch may depart from the breakdown over the course of a fiscal year. What is legally binding is the ceiling of $800 million. If the executive branch decides that it would like to shift money from one project to another, it can do that by following established reprogramming procedures. The breakdown, in that sense, is advisory.

But when it comes to submitting the rescission proposals, the breakdown in the conference report and the statement of managers is absolutely binding. If Congress decides to omit the breakdown in the conference report and the statement of managers, the President is limited to the lump sums and aggregates found in the bill signed into law.

It could be argued that any breakdown in the conference report and the statement of managers is a benefit to the President. Itemization creates an opportunity for the President he would not otherwise have. Why should he complain?

The constitutional point I raise is not answered by saying that the procedure might benefit the President. When Congress chose to authorize the Attorney General to suspend the deportation of aliens, subject to a one-House veto, that was a benefit. Without that authority the Attorney General would have to seek a private bill for each threatened alien. But the fact that this procedure constituted a benefit or advantage to the Attorney General, and that the Attorney General was better off with this mechanism than the previous one, did not save the one-House veto. In the *Chadha* case, the Court asked the specific question: did the one-House legislative veto comply with bicameralism and presentment? Clearly it failed both tests.

Similarly, Presidents sought authority to reorganize the executive branch and accepted the one-House veto that went with this delegation. Reorganization authority offered many benefits to the executive branch. Congress could not amend a presidential reorganization plan and it could not bury it in committee. The presidential plan would become law unless either House disapproved within a specific time period. Distinct and clear advantages to the President, but that did not save the one-House veto. *Chadha* said that this mechanism is unconstitutional for procedural reasons.

That returns us to my central question: Does the use of conference reports and statements of managers constitute an attempt by Congress to control the President short of passing a public law? Is this procedure a forbidden legislative veto? Whether it is a benefit, advantage, or opportunity for the President is irrelevant in answering this constitutional question.

Let me put this another way. Suppose we itemize the $800 million lump sum into a hundred specific projects in the conference report and statement of managers. Suppose further that Congress becomes unhappy with the President's subsequent rescission proposal and decides to retaliate the next year by eliminating all details in the conference report and statement of managers. Now the President is limited to the lump sum of $800 million in the bill. He can live with it or decide to propose the rescission of that full amount. Can any one doubt that Congress, in something that is short of a public law, is controlling the President this time in a negative or restrictive way?

Measure that fact against the explicit language of the Court in the *Chadha* case. In examining the one-House veto over the suspension of deportations, the Court concluded that the congressional action was "essentially legislative in purpose and effect." 462 U.S. at 952. Can anyone doubt that the congressional action in making language in a conference report and statement of managers the explicit guide for presidential rescissions is "essentially legislative in purpose and effect"?

Moreover, the Court in *Chadha* decided that the disapproval by the House of suspended deportations "had the purpose and effect of altering the legal rights, duties, and relations of persons" outside the legislative branch. Again, there can be no uncertainty about the purpose and effect of the conference report and the statement of managers. They have the purpose and effect of altering the legal rights, duties, and relations of the President in submitting rescissions.

Proponents of this bill may claim that it will be beneficial and constructive. We may differ on that score, but there can be no doubt about how the Court will react to such arguments. In *Chadha*, the Court said that "the fact that a given law or procedure is efficient, convenient, and useful in facilitating the functions of government, standing alone, will not save it if it is contrary to the Constitution." 462 U.S. at 944.

The question remains: Does this bill square with the *Chadha* ruling? If it does not, we are being asked to consciously adopt a bill that we know is unconstitutional, whatever merit its proponents may claim for it. All of us are capable of analyzing this issue. If the procedure established in this bill amounts to a legislative veto prohibited by the *Chadha* case, we are violating our oath of office in passing this bill. If enhanced rescission is of value, then we must vote down this bill and insist that its supporters construct an alternative bill that meets the constitutional test. To simply kick this issue to the courts is irresponsible.

It is curious that *Chadha* told Congress that if you want to make law you must follow the entire process, bicameralism and presentment, and yet this bill allows the President to make law and unmake law without any legislative involvement. Under the terms of this conference report, whenever Congress receives the President's special message on rescissions, the "cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect." The cancellation is "effective" upon receipt by Congress of the special message notifying Congress of the cancellation. Why is the cancellation "effective" before Congress has an opportunity to respond to the President's message? The executive branch may have legitimate reasons to make sure that agencies do not obligate funds that are being proposed for cancellation, but the language in this bill is offensive to the role of Congress in canceling prior law.

Of course the bill gives Congress thirty days to disapprove the President, subject to the President's veto and the need then for a two-thirds majority in each for the override. If Congress does nothing during the thirty day review period, the President's proposals become binding and the laws previously passed and enacted are undone. Through this process the President can make and unmake law without any necessary legislative action. How does that square with the intent and spirit of *Chadha*? Are we to argue that the President can make, or unmake, law singlehandedly and unilaterally, but Congress is compelled to follow the full lawmaking scheme laid out in the Constitution?

I earlier stated that placing details in a conference report and statement of managers violates *Chadha* because this phase of the legislative process is something short of a public law. It should be pointed out that in some legislative vehicles, like continuing resolutions, Congress incorporates by reference phases of the legislative process that are also short of a public law, such as a bill reported by committee or a bill that has passed one chamber. Yet those phases of the legislative process are in a vehicle—continuing resolution—that must pass both Houses and be presented to the President for his signature or veto. These precedents offer no support for the procedure adopted in this bill. The reference to committee report language in the item veto conference report does not comply with *Chadha*.

This is an enormous shift of power to the President but we cannot be sure that the courts will reverse such an abdication. If Congress is unwilling to protect its prerogatives, the courts won't always intervene to do Congress' work for it. As Justice Robert Jackson said in the Steel Seizure Case of 1952: "I have no illusion that any decision by this Court can keep power in the hands of Congress if it is not wise and timely in meeting its problems. * * * We may say that power to legislate for emergencies belongs in the hands of Congress, but only Congress itself can prevent power from slipping through its fingers."

On March 2, 1805, Vice President Aaron Burr bid adieu to the Senate, stepping down to make way for the new Vice President, George Clinton, who had been elected to serve during Jefferson's second term. Burr's farewell speech, according to those who heard it, was received with such emotion that Senators were brought to tears and stop their business for a full half hour. It was truly one of the great speeches in the Senate's history: "This House," said Burr that day, "is a sanctuary; a citadel of law, of order, and of liberty; and it is here—it is here in this exalted refuge; here, if anywhere, will resistance be made to the storms of political phrensy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacrilegious hands of the demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this Floor."

I regret to say, Mr. President, that, in my opinion, before this day is done, the ingenious prescience of Aaron Burr will have made itself manifest in the fateful events that will inevitably unfold and which will be witnessed on this Floor.

Philosophers, in their dreams, had constructed ideal governments. Plato had luxuriated in the bliss of his fanciful Republic. Sir Thomas More had taken great satisfaction in the refulgent visions of his Utopia. The immortal Milton had expressed his exalted vision of freedom. Locke has published his elevated thoughts on the two principles of government. But never, until the establishment of American independence and the drafting and ratification of that charter which embodied in it the checks and balances and separation of powers of our own constitutional system, was it ever acknowledged by a people, and made the cornerstone of its government, that the sovereign power is vested in the masses.

It was just such a noble attachment to a free constitution which raised ancient Rome from the smallest beginnings to the bright summit of happiness and glory to which the Republic arrived, and it was the loss of that noble attachment to a free constitution that plunged her from that summit into the black gulf of indolence, infamy, the loss of liberty, and made her the slave of blood thirsty dictators and tyrannical emperors.

It was then that the Roman Senate lost its independence, and her Senators, forgetful of their honor and dignity, and seduced by base corruption, betrayed their country. Her Praetorian soldiers urged only by the hopes of plunder and luxury, unfeelingly committed the most flagrant enormities, and with relentless fury perpetrated the most cruel murders, whereby the streets of imperial Rome were drenched with her noblest blood. Thus, the empress of the world lost her dominions abroad, and her inhabitants dissolute in their manners, at length became contented slaves, and the pages of her history reveal to this day a monument of the eternal truth that public happiness depends on an unshaken attachment to a free constitution.

And it is this attachment to the Constitution that has preserved the cause of liberty and freedom throughout our land and which today undergirds the noble experiment that never has ceased to inspire mankind throughout all the earth.

The gathered wisdom of a thousand years cries out against this conference report. The history of England for centuries is against this conference report. The declarations of the men who framed our Constitution stand in its way.

Let us resolve that our children will have cause to bless the memory of their fathers, as we have cause to bless the memory of ours.

Let us not have the arrogance to throw away centuries of English history and over 200 years of the American experience for political expediency. No party, Republican or Democrat, is worth the price that this conference report will exact from us and our children. Considering the fact that only about 7 percent of the regular vetoes have been overridden over a period of more than 200 years, it stands to reason that even a much smaller percentage of vetoes of disapproval bills will be overridden—keeping in mind that the presidential vetoes over the period of two centuries have been vetoes of measures which, in the main, have had national significance; the relatively few disapproval bills which will be vetoed under the conference report before the Senate will not likely be measures of national importance but will be of importance to only one or a few states, or perhaps a region at most, and it is very unlikely that the vetoes of disapproval bills will arouse sufficient sentiment in both Houses to produce a two-thirds vote to override. Hence, the President's single act of rescinding an appropriation item will be tantamount to its being stricken from the law.

This is an enormous power for the Legislative Branch to transfer into the hands of any President. The power to rescind will be tantamount to the power to amend, and this conference report will transfer to any President the power to single-handedly amend a measure after it has become law whereas a majority of both Houses is required to amend a bill by striking an item from the bill. The President will be handed the power to strike an item from a law which, if done by action of the Legislative Branch, would require the votes of 51 Senators and 218 members of the House, if all members were in attendance and voting. What an enormous legislative power to place in the hands of any President!

Mr. President, let us learn from the pages of Rome's history. The basic lesson that we should remember for our purposes here is, that when the Roman Senate gave away its control of the purse strings, it gave away its power to check the executive. From that point on, the Senate declined and, as we have seen, it was only a matter of time. Once the mainstay was weakened, the structure crumbled and the Roman republic collapsed.

This lesson is as true today as it was two thousand years ago. Does anyone really imagine that the splendors of our capital city stand or fall with mansions, monuments, buildings, and piles of masonry? These are but bricks and mortar, lifeless things, and their collapse or restoration means little or nothing when measured on the great clock-tower of time.

But the survival of the American constitutional system, the foundation upon which the superstructure of the republic rests, finds its firmest support in the continued preservation of the delicate mechanism of checks and balances, separation of powers, and control of the purse, solemnly instituted by the Founding Fathers. For over two hundred years, from the beginning of the republic to this very hour, it has survived in unbroken continuity. We received it from our fathers. Let us as surely hand it on to our sons and daughters.

Mr. President, I close my reflections with the words of Daniel Webster from his speech in 1832 on the centennial anniversary of George Washington's birthday:

> Other misfortunes may be borne or their effects overcome. If disastrous war should sweep our commerce from the ocean, another generation may renew it. If it exhaust our Treasury, future industry may replenish it. If it desolate and lay waste our fields, still, under a new cultivation, they will grow green again and ripen to future harvests. It were but a trifle even if the walls of yonder Capitol were to crumble, if its lofty pillars should fall, and its gorgeous decorations be all covered by the dust of the valley. All these might be rebuilt. But who shall reconstruct the fabric of demolished government? Who shall rear again the well-proportioned columns of constitutional liberty? Who shall frame together the skillful architecture which unites national sovereignty with

State rights, individual security, and public prosperity? No. If these columns fall, they will be raised not again. Like the Colosseum and the Parthenon, they will be destined to a mournful, a melancholy immortality. Bitterer tears, however, will flow over them than were ever shed over the monuments of Roman or Grecian art. For they will be the remnants of a more glorious edifice than Greece or Rome ever saw: the edifice of constitutional American liberty.

Mr. President, I ask unanimous consent to have printed in the RECORD the newspaper article to which I alluded earlier today under the headline of "Judges' Group Condemns Line-Item Veto Bill"—that is an article from the New York Times—together with a letter addressed to me by Leonidas Ralph Mecham, Secretary of the Judicial Conference of the United States, in which he expresses concern with respect to the conference report before the Senate; an item from the Legal Times, the week of March 25, 1996, entitled "Points of View: Loosening the Glue of Democracy, the Line-Item Veto Would Discourage Congressional Compromise." The article is by Abner J. Mikva, a retired judge who served on the U.S. Court of Appeals for the D.C. Circuit, a former White House counsel for President Clinton, and a former Member of the U.S. House of Representatives. He served as chief judge in the D.C. circuit from 1991 to 1994.

Mr. President, with the permission of the distinguished Senator from New York [Mr. MOYNIHAN], I ask unanimous consent that a letter from Michael Gerhardt, a professor of law at the College of William and Mary, also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 27, 1996]

JUDGES' GROUP CONDEMNS LINE-ITEM VETO BILL

(By Robert Pear)

WASHINGTON, March 26.—The organization that represents Federal judges across the country today denounced a plan developed by Republican leaders of Congress that would allow the President to kill specific items in spending bills.

The organization, the Judicial Conference of the United States, said such authority posed a threat to the independence of the judiciary because a President could put pressure on the courts or retaliate against judges by vetoing items in judicial appropriations bills.

The proposal would shift power to the President from Congress, permitting him to block particular items in a spending bill without having to veto the entire measure. Early last year the House and Senate approved different versions of the proposal, known as a line-item veto. Recently they struck a compromise, which is expected to win approval in both chambers this week. President Clinton supports it.

But any line-item veto bill signed by the President is sure to be challenged in court, and today's criticism from the Judicial Conference suggests that it may get a chilly reception.

Judge Gilbert S. Merritt, chairman of the executive committee of the Judicial Conference, said it was unwise to give the President authority over the judicial budget because the executive branch was the biggest litigant in Federal court, with tens of thousands of cases a year.

The potential for conflict of interest is obvious, said Judge Merritt, who is also chief judge of the United States Court of Appeals for the Sixth Circuit. The court's headquarters are in Cincinnati: Judge Merritt's chambers are in Nashville.

In approving the line-item veto, Congress said it was necessary to curb "runaway Federal spending." But in an interview, Judge Merritt said the inclusion of the judiciary among agencies subject to the line-item veto was "a rather serious defect" in the bill.

The line-item veto was a major element of the Republicans' Contract With America and is a top priority of Senator Bob Dole, the majority leader, who has all but clinched the Republican nomination for President. The House passed its version of the line-item veto in February 1995, by a vote of 294 to 134. The Senate approved its version, 69 to 29, in March 1995, with 19 Democrats supporting it.

Under the compromise struck this month, the President could cancel spending for projects listed in tables and charts that accompany a bill, as well as in the bill itself. He could also cancel any new tax break that benefits 100 people or fewer.

Alan B. Morrison, a lawyer at the Public Citizen Litigation Group who has successfully challenged several unconventional lawmaking procedures, said: "In my view, this bill is unconstitutional. It certainly will be challenged in court."

Mr. Morrison said the line-item veto trampled on the procedure set forth in the Constitution for making law. Under that procedure, he said, the President may veto whole bills but not pieces of a bill.

In recent weeks, the decisions of several Federal judges have been harshly criticized by the White House and Republican candidates for President. Judges said such criticism highlighted the need for judicial independence.

"Judges were given life tenure to be a barrier against the winds of temporary public opinion," said Judge Merritt. "If we didn't have judicial independence, I'm not sure we could maintain free speech and other constitutional liberties that we take for granted."

In a letter to Congress, L. Ralph Mecham, secretary of the Judicial Conference, said: "The doctrine of separation of powers recognizes the vital importance of protecting the judiciary against interference from any President. This protection needs to endure. Control of the judiciary's budget rightly belongs to the Congress and not the executive branch."

Judge Richard S. Arnold, chairmen of the budget committee of the Judicial Conference, said in an interview: "We don't have any qualms about this particular President, but institutionally we have reservations about providing any President with a weapon that could, in the wrong hands, be used to retaliate against the courts for deciding cases against the Federal Government."

Judge Arnold, a longtime friend of Mr. Clinton, is chief judge of the United States Court of Appeals for the Eighth Circuit, which has its headquarters in St. Louis. Judge Arnold sits in Little Rock, Ark.

The Federal judiciary has a budget of $3 billion a year, accounting for two-tenths of 1 percent of the $1.5 trillion spent last year by the Federal Government. Congress may not reduce the salary of a sitting Federal judge, but may cut the budget for court clerks, secretaries, probation officers and security officers, as well as for judicial travel.

In the interview today, Judge Merritt described the judges' concern about the line-item veto this way: "If for some reason the President, whoever he may be, is irritated about something the judiciary has done, he could excise the appropriation for a particular court or a particular judicial function."

JUDICIAL CONFERENCE
OF THE UNITED STATES,
Washington, DC, March 21, 1996.

Hon. ROBERT C. BYRD,
Ranking Minority Member, Committee on Appropriations, U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR BYRD: I understand an agreement has been reached between Republican negotiators on "line-item veto" legislation. Although we have not seen a draft of the agreement to determine the extent to which the Judiciary might be affected, I did not want to delay communicating with you. The Judiciary had concerns over some previous versions of the legislation that were considered by the House and Senate. These concerns could also apply to the version on which agreement was just reached, depending on how it is drafted.

The Judiciary believes there may be constitutional implications if the President is given independent authority to make line-item vetoes of its appropriations acts. The doctrine of separation of powers recognizes the vital important of protecting the Judiciary against interference from any President.

Protection of the Judiciary by Congress against Presidential power and potential intervention is also evident in the Budget and Accounting Act of 1921, which ensures that the financial affairs of the Judiciary be insulated from political influence by the President and his staff. Prior to this Act, the Judiciary's budget was controlled by the Executive Branch. Now, by law, requests for judicial branch appropriations must be submitted to the President by the Judiciary, but must by transmitted by him to Congress "without change".

This protection needs to endure. Control of the Judiciary's budget rightly belongs to the Congress and not the Executive Branch, particularly in light of the fact that the United States, almost always through the Executive Branch, has more lawsuits in the Federal courts than any other litigant. The integrity and fairness of our Federal Courts should not be endangered by the potential of Executive Branch political influence.

In whatever agreement is ultimately reached by the conference committee, on behalf of the Judicial Conference of the United States, I urge that the independence of the Third Branch of Government be preserved.

I appreciate your consideration and we stand ready to assist you in any way necessary.

Sincerely,

LEONIDAS RALPH MECHAM,
Secretary.

[From the Legal Times, Mar. 25, 1996]

LOOSENING THE GLUE OF DEMOCRACY

(By Abner J. Mikva)

There is a certain hardiness to the idea of a line-item veto that causes it to keep coming back. Presidents, of course, have always wanted it because the line-item veto represents a substantial transfer of power from the legislative branch to the executive branch. Government purists favor the idea because the current appropriations process—

whereby all kinds of disparate expenditures are wrapped or "bundled" into one bill so that the president must either swallow the whole thing or veto the whole thing—is very messy and wasteful. Reformers generally urge such a change because anything that curtails the power of Congress to spend has to be good.

My bias against the unbundling of appropriations and other legislative proposals has changed over the years. When I first saw the appropriations process, back in the Illinois legislature, it seemed the height of irresponsibility to bundle dozens of purposes into a single bill. It also seemed unconstitutional since the Illinois Constitution had a "single purpose" clause, under which bills considered by the legislature were to contain only one subject matter. But the "single purpose" clause had been observed in the breach for many years by the time I was elected in 1956.

I first saw the bundling process work when a single bill, presented for final passage, appropriated money for both the Fair Employment Practices Commission and a host of other commissions, including one to provide services for Spanish-American War veterans (there were two left in the state at the time) and one to study the size of mosquitoes that inhabited the downstate portions of Illinois. If I wanted to vote for the FEPC, I had to swallow all those other commissions, which I thought were wasteful. So I invoked the constitutional clause. to my dismay, the legislature favored all the other commissions on separate votes, but the FEPC went down to defeat. That is how I learned that there are some pluses to the bundling process.

Bundling is very asymmetrical in effect and probably wasteful. But it is also a legislative device that allows various coalitions to form and thus moves the legislative process forward.

Consider South America, where regional rivalries and resentments in many countries make governing very difficult. The inability to form the political coalitions that are normal in this country creates enormous pressure on the central government. This pressure is certainly one of the causes of the mini-revolts that perpetually arise. The have-nots feel excluded from the process, while the majority for the military regime) exercise their power without taking care of the depressed areas of the country.

It is more difficult to ignore the have-notes in the United States. First of all, members of Congress are elected as representatives of geographic areas, rather than as representatives of parties. Woe betide the congressman who starts thinking too much like a national legislator and forgets the parochial interests of his constituents.

Second, the separate elections of the president and Congress creates the necessity for the two branches to cooperate in setting spending priorities. Floating coalitions that take into account the needs of all the sections and groups in the country become essential. When urban interests wanted to promote a food program for the cities, for example, They formed a coalition with agricultural interests, and food stamps were joined with farm subsidies.

It is true that bundling encourages the merger of bad ideas with good ideas, and diminishes the ability of the president to undo the package. A line-item veto, which would allow the president to veto any single piece of an appropriations bill (or, under some proposals, reject disparate pieces of any other bill), makes the whole process more rational.

But it also makes it harder to find the glue that holds the disparate parts of our country together. City people usually don't care about dams and farm policy. Their rural cousin don't think much about mass transportation or urban renewal or housing policy. If the two groups of representatives don't have anything to bargain about, it is unlikely that either set of concerns will receive appropriate attention.

The other downside to the line-item veto is exactly the reason why almost all presidents want the change and why, up to now, most Congresses have resisted the idea. The line-item veto transfers an enormous amount of power from Congress to the president. For those of us who think that the executive branch is strong enough, and that an imperial presidency is more of a threat than an overpowering Congress, the current balance of power is just right.

That has been the gist of Sen. Robert Byrd's opposition to the line-item veto. The West Virginia Democrat has argued that the appropriations power, the power of the purse, is the only real power that Congress has and that the line-item veto would diminish that power substantially. So far, he has prevailed—although last year, the reason he prevailed had more to do with the Republicans' unwillingness to give such a powerful tool to President Bill Clinton.

But now the political dynamics have changed. The Republicans in Congress can fashion a line-item veto that will not benefit the incumbent president—unless he gets relected—and their probable presidential candidate, Senate Majority Leader Robert Dole, has recently made clear that he wants this passed. Chances for the line-item veto are vastly greater.

There are some constitutional problems in creating such a procedure. The wording of the Constitution suggests pretty strongly that a bill is presented to the president for his signature or veto in its entirety. It will take some creative legislating to overcome such a "Technicality." I reluctantly advised the president last year that it was possible to draft a line-item veto law that would pass constitutional muster. The draft proposal involved a Rube Goldberg plan that "pretended" that the omnibus appropriations legislation passed by Congress and presented to the president actually consists of separate bills for various purposes. This pretense was effectuated by putting language in legislation to that effect.

President Clinton was not then asking for my policy views, and I did not have to reconcile my advice with my policy bias toward the first branch of government—Congress. But I was uneasy enough to become more sympathetic to the late Justice Robert Jackson's handling of a similar dilemma in one of the Supreme Court opinions. He acknowledged his apostasy concerning an issue on which he had opined to the contrary during his tenure as attorney general. Quoting another, Justice Jackson wrote, "The matter does not appear to me now as it appears to have appeared to me then."

My apostasy was less public. My memo to the president was only an internal document, and I didn't have to tell him how I felt about the line-item veto. But now that I have no representational responsibilities, I prefer to stand with Sen. Byrd.

THE COLLEGE OF WILLIAM & MARY,
SCHOOL OF LAW.
Williamsburg, VA, March 27, 1996.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: I appreciate the chance to share with you my opinion on the constitutionality of the Line Item Veto Act of 1996, as set forth in the Conference Report, dated March 4, 1996 (hereinafter "the Republican draft" or "the Conference Report"). In this letter, I focus only on a few of the more serious problems with the Republican Draft and do not purport to analyze exhaustively its constitutionality. Even no, I am of the view that, given just the few significant flaws in the Conference Report that I identify and explain below, its constitutionality is plainly doomed.

Describing how the law works is crucial for identifying and understanding the constitutional and practical problems posed by some of its major provisions. As I read it, the critical delegation made by the Republican draft to the President is the authority to "cancel" all or any part of "discretionary budget authority," "any item of direct spending," or "any targeted tax benefit." Presumably, a presidential cancellation pursuant to the act has the effect of nullifying a portion of a budgetary or appropriations bill unless a majority of each chamber of Congress agrees within a specific time period to pass a "disapproval bill" specifying it intention to reauthorize the particular item cancelled by the President. The President may veto the disapproval bill, which can then become law only if two-thirds of each chamber of Congress agree to override his veto.

In my opinion, there are three fatal constitutional problems with the procedures outlined above. First, the law effectively allows any portion of a bill enacted by Congress that the President signs into law but does not cancel to become law, in spite of the fact that Congress will have never voted on it as such. This kind of lawmaking by the President clearly violates Article I, section 1, which grants "[a]ll legislative powers" to Congress, and Article I, section 7, which grants to Congress alone the discretion to package bills as it sees fit.

Article I states further that the President's veto power applies to "every Bill . . ., Every Order, Resolution or Veto to which the Concurrence of the Senate and House of Representatives may be necessary."[1] This means the President may wield his veto on the legislative product only, as Harvard Law Professor Laurence Tribe maintains in his treatise, "in the form in which Congress has chosen to send it to the White House: be the bill small or large, its concerns focused or diffuse, its form particular or omnibus, the President must accept or reject the entire thing, swallowing the bitter with the sweet."[2] Tribe's subsequent change of position is of no consequence, because he was right in his initial understanding of the constitutional dynamics of a statutorily created line-item veto mechanism. The fact that the President has signed the law as enacted is irrelevant, because a law is valid only if it takes effect in the precise configuration approved by the Congress. The President does not have the authority to put into effect as a law only part of what Congress has passed as such. The particular form a bill should have as a law is, as the Supreme Court has said, the "kind of decision that can be implemented only in accordance with the procedures set out in Article I."[3]

The Conference Report would enable the President to make affirmative budgetary choices that the framers definitely wanted to preclude him from making. The framers deliberately chose to place the power of the purse outside of the executive because they feared the consequences of centralizing the

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Footnotes at end of letter.

powers of the purse and the sword. As James Madison wrote in the Federalist No. 58, "This power of the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people."[4] Every Congress (until perhaps this most recent one)—as well as all of the early presidents, for that matter—has shared the understandings that only the Congress has the authority to decide how to package legislation, that this authority is a crucial component of checks and balances, and that the President's veto authority is strictly a negative power that enables him to strike down but not to rewrite whatever a majority of Congress has sent to him as a bill.

The wisdom of leaving the power of the purse in Congress, as the framers desired as a means of checking the executive, is buttressed by the recognition that pork barrel appropriations—the evil sought to be eliminated by the Republican draft—are just unattractive examples of legislating for diverse interests, which is the very stuff of representative government. Apportioning the public fisc in a large and diverse nation requires degrees of coordination and compromise that the framers left to the initial discretion of Congress to be undone only as specified in Article I.

The second constitutional defect with the Conference Report's basic procedures involves the legitimacy of the cancelling authority given to the President. Proponents of this cancellation power defend it as a legitimate delegation of congressional authority to the President; however, this argument rests on a misunderstanding of the relevant constitutional doctrine. This misunderstanding is reflected in the CRS Report, which claims erroneously that "while the [Supreme] Court has used a balancing test in some separation of powers cases, it has never chosen to do so in delegation cases."[5] The latter assertion is simply wrong.

In fact, the Supreme Court has issued two lines of cases on congressional delegations. The first, which is not implicated by the Conference Report, involves delegations from Congress to administrative agencies or inferior bodies. The Court tends to evaluate such delegations under a "functionalist" approach to separation of powers under which the Court balances the competing concerns or interests at stake to ensure that the core function of a branch is not frustrated. For example, the Court used this approach in *Morrison* v. *Olson*[6] to uphold the Independent Counsel Act in which the Congress had delegated the executive function of criminal prosecution to an individual not formally associated with any of the three branches. Similarly, in *Mistretta* v. *United States*,[7] the Court upheld the constitutionality of the composition and lawmaking function of the United States Sentencing Commission, at least three of whose members are required by statute to be lower court judges and to which the Congress delegated the authorities to promulgate, review, and revise sentence-determinative guidelines.

The Republican Draft clearly violates, however, the second line of Supreme Court decisions on congressional delegations. These cases involve delegations from Congress to the titular head of a branch, such as one of its chambers or the President. In these cases, the Court has not used a balancing test; rather, the Court has used a "formalist" approach that treats the Constitution as granting to each branch distinct powers and setting forth the maximum degree to which the branches may share those powers. A formalist approach to separation of powers treats the text of the Constitution and the intent of its drafters as controlling and changed circumstances and broader policy outcomes as irrelevant to constitutional outcomes. In recent years, the Court has used this approach to strike down the legislative veto in *Chadha* because it would have allowed one House to take legislative action without complying with the procedures set forth in Article I; to hold in *Bowsher* v. *Synar*[8] that Congress may not delegate executive budgetary functions to an official over whom Congress has removal power; and to strike down in *Washington Airports Authority* v. *Citizens for the Abatement of Aircraft Noise*[9] the creation of a Board of Review partially composed of members of Congress with executive veto-like power over the decisions of the directors of the Metropolitan Washington Airports Authority.

Undoubtedly, the Court would follow a formalist approach in striking down the Republican draft. For one thing, the Court would not be able to escape applying the logic of *Bowsher* v. *Synar* to the proposed law. Whereas the crucial problem *Bowsher* was Congress' attempt to authorize the exercise of certain executive authority by a legislative agent—the Comptroller General, here the problem is that the President would plainly be exercising what everyone agrees is legislative authority—the discretion to determine the particular configuration of a bill that will become law. Even the law's proponent's admit it allows the President to exercise legislative authority, albeit in their view delegated to him by Congress.

Formalist analysis would be appropriate in evaluating such a delegation's constitutionality because it would be the kind about which the framers were most concerned; the checks and balances set forth in the Constitution deal directly with how the titular heads of each branch should interrelate. Hence, the Court has opted for a formalist approach to deal with delegations between the branches at their respective apexes to preclude one branch from aggrandizing itself at the expense of another. The Conference Report would clearly undermine the balance of power between the branches at the top, because it would eliminate the Congress's primacy in the budget area and would unravel the framers' considered judgment to restrict the President's role in the lawmaking process to a qualified negative rather than to have him exercise an affirmative power to redraft or reconfigure a bill.

Even if the Court used a functionalist approach to evaluate the constitutionality of the Republican draft, it would strike down the proposed law. The reason is that the law establishes an uneven playing field for the President and Congress on budgetary matters. In so doing, it profoundly alters the balance of power set forth in the Constitution. As Professor Tribe recognizes further in his treatise, such a scheme "would enable the President to nullify new congressional sending initiatives and priorities as well as to wipe out previously enacted programs that receive their funding through the annual appropriations process. Congress, which the Constitution makes the master of the public purse, would be demoted to the role of giving fiscal advice that the President would be effectively free to disregard.[10] Once again Tribe's subsequent change of position does not undermine the soundness of his initial reasoning, for the historical record is clear that the framers, as Tribe has recognized himself, never intended nor tried to grant the President any "special veto power over appropriation bills, despite their awareness that the insistence of colonial assemblies that their spending bills could not be amended once they had passed the lower house had greatly enhanced the growth of legislative power.[11]

An example should illustrate the problematic features of the proposed cancellation mechanism. Suppose that 55% of Congress passes a law, including expenditures for a new Veterans Administration hospital in New York. The President decides he would prefer for Congress not to spend any federal money on this project, so, after signing the bill into law, he exercises his authority to cancel the allocations made for the new facility. Again 55% of the Congress agrees to make this expenditure but this time through the passage of a disapproval bill. The President vetoes the latter, and Congress fails to override his veto, with only 55% of Congress (yet again) voting for the appropriation. The net effect is that the President would get to refuse to spend money 55% of the Congress will have thrice said it wanted to spend. Thus, the Conference Report would require Congress to vote as many as three separate times to fund something while assuming in the process an increasingly defensive posture vis-a-vis the President. In other words, the Republican draft allows the President to force Congress to go through two majority votes—the second of which is much more difficult to attain because it would have to be in favor of a specific expenditure that is now severed from the other items of the compromise giving rise to its inclusion in the first place—and one supermajority vote in order to put into law a particular expenditure.

A third constitutional problem with the Conference Report involves the constraints it tries to place on the President's cancellation authority. The latter if for all intents and purposes a veto. It has the effect of a veto because it forces Congress in the midst of the lawmaking process into repassing something as a bill that ultimately must carry a supermajority of each chamber in order to become law. Nevertheless, the Conference Report attempts to constrain the reasons the President may have for cancelling some part of a budget or appropriations bill. Just as Congress lacks the authority through legislation to enhance presidential authority in the lawmaking process by empowering him to reconfigure what Congress has passed as a bill into some other form prior to its becoming a law, Congress lacks the authority to restrict presidential authority by limiting the grounds a president may consider as appropriate for vetoing something.

Even apart from whatever constitutional problems the Conference Report may have, it poses two serious practical problems. First, the possibility for substantial judicial review of presidential or congressional compliance with the Republican draft is quite high. For example, it seems likely that lawsuits could be brought challenging whether the President has appropriately considered, as the act directs, such things as "the legislative history" or "any specific sources of information referenced in such law or, in the absence of specific sources of information, the best available information" or "the specific definitions contained" within it. At the very least, the bill requires that the President make some showing that he has done these things to the satisfaction of members of Congress (or at least those disposed to bring a lawsuit in the absence of such a showing). There are also numerous procedures OMB and each house of Congress must follow that, presumably, could become the basis for judicial challenge if not done completely to the satisfaction of partisan foes in the other branch. In addition, there may be some questions as whether the President has in fact complied with Congress' or the Republican draft's understanding of the kinds of items he may cancel, such as a "targeted tax benefit."

The likely prospect of substantial judicial interference with the budgetary process is unsettling. The framers deliberately excluded the unelected federal judiciary from exercising any kind of decisive role in budgetary negotiations or deliberations. The Republican draft does not ensure that this exclusion will always be honored. The framers wanted all of the key decisionmakers within budget negotiations to be politically accountable; any budgetary impasse between the President and Congress that the federal courts help to resolve in favor of one or the other will simply diminish even further the public's confidence that the political process is the place to turn for answers to such deadlocks.

Another practical difficulty is with the authorization made by the Republican draft to the Joint Committee on Taxation to render an official opinion, which may become a part of a budgetary or appropriations measure, on whether it "contains any targeted tax benefit." The bill precludes the House or the Senate from taking issue with the judgment of the Joint Committee's finding. As a practical matter, this empowers a small number of members of Congress to impose their will on the whole body. Although this might have the salutary effect of expediting the passage of the covered legislation, it forces those members of Congress who disagree with the Joint Committee to express their disagreement only by voting down rather than by trying to amend a bill that they otherwise would support.

In summary, I believe that the Republican draft conflicts with the plain language, structure, and traditional understanding of the lawmaking procedure set forth in Article I; relevant Supreme Court doctrine; and the delicate balance of power between Congress and the President on budget matters. I am confident that the Supreme Court ultimately would strike the bill down if it were passed by Congress and signed into law by the President.

It has been a privilege for me to share my opinions about the Conference Report with you. If you have any other questions or need any further analysis, please do not hesitate to let me know.

Very truly yours,

MICHAEL J. GERHARDT,
Professor of Law.

FOOTNOTES

[1] U.S. Const. art. I, section 7, cls. 2, 3.

[2] Laurence Tribe, American Constitutional Law 265 (2d ed. 1988).

[3] *I.N.S.* v. *Chadha*, 462 U.S. 919, 954 (1982).

[4] The Federalist No. 58 at 300 (J. Madison) (M. Beloff ed. 1987).

[5] Congressional Research Service, Memorandum Regarding Constitutional Questions Respecting Bill to Grant President Enhanced Rescission Authority over Appropriations and Targeted Tax Benefits, at 16 (January 9, 1995).

[6] 487 U.S. 654, 693 (1988).

[7] 488 U.S. 361 (1989).

[8] 111 U.S. 714 (1986).

[9] 478 S. Ct. 2298 (1991).

[10] L. Tribe, *supra* note 2, at 267 (footnotes omitted).

[11] *Id.* at 267 (citing Note, "Is a Presidential Item Veto Constitutional?" 96 Yale L.J. 838, 841–44 (1987)).

MOTION TO RECOMMIT

Mr. BYRD. Mr. President, I send to the desk a motion to recommit the conference report.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will report the motion.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] moves to recommit the conference report on bill S. 4 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference.

Mr. BYRD. Mr. President, I ask unanimous consent further reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows:

Motion to recommit conference report on the bill S. 4 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the text of S. 14 as introduced in the Senate on January 4, 1995 (with certain exceptions) which is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legislative Line Item Veto Act".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING

"SEC. 1012A. (a) PROPOSED CANCELLATION OF BUDGET ITEM.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1)(A) Subject to the time limitations provided in subparagraph (B), the President may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall clearly identify each budget item that is proposed to be canceled including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item that the President designates for deficit reduction as provided in paragraph (4).

"(B) A special message may be transmitted under this section—

"(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; or

"(ii) at the same time as the President's budget.

"(2) In the case of an Act that includes budget items within the jurisdiction of more than one committee of a House, the President in proposing to cancel such budget item under this section shall send a separate special message and accompanying draft bill for each such committee.

"(3) Each special message shall specify, with respect to the budget item proposed to be canceled—

"(A) the amount that the President proposes be canceled;

"(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget item should be canceled;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget item is provided.

"(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the President shall—

"(i) with respect to a rescission bill, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

"(ii) with respect to a repeal of a tax expenditure or direct spending, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect such amount.

"(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 602(a) to reflect such amount.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the appropriate committee or (in the House of Representatives) committees. The committee shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

"(2)(A) During consideration under this subsection in the House of Representatives, any Member of the House of Representatives may move to strike any proposed cancellation of a budget item.

"(B) A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(D) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(E) Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

"(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(E) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order.

"(F) If the Senate proceeds to consider a bill introduced in the House of Representatives under paragraph (1)(A), then any Senator may offer as an amendment the text of the companion bill introduced in the Senate under paragraph (1)(A) as amended if amended (under subparagraph (A)). Debate in the Senate on such bill introduced in the House of Representatives, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), and any amendment offered under this subparagraph, shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

"(4) Debate in the House of Representatives or the Senate on the conference report on any bill considered under this section shall be limited to not more than 2 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

"(e) TEMPORARY PRESIDENTIAL AUTHORITY TO RESCIND.—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'direct spending' shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(3) the term 'budget item' means—

"(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

"(B) an amount of direct spending; or

"(C) a targeted tax benefit;

"(4) the term 'cancellation of a budget item' means—

"(A) the rescission of any budget authority provided in an appropriation Act;

"(B) the repeal of any amount of direct spending; or

"(C) the repeal of any targeted tax benefit; and

"(5) the term 'targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012A, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012A and 1017".

(c) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following:

"Sec. 1012A. Expedited consideration of certain proposed rescissions and repeals of tax expenditures and direct spending.".

(d) EFFECTIVE PERIOD.—The amendments made by this Act shall—

(1) take effect on the date of enactment of this Act;

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

(3) cease to be effective on September 30, 2002.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, were the yeas and nays ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered, yes.

AMENDMENT NO. 3665 TO MOTION TO RECOMMIT

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3665.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the instructions insert the following: "with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the text of S. 14 as introduced in the Senate on January 4, 1995 (with certain exceptions) which is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legislative Line Item Veto Act".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING

"SEC. 1012A. (a) PROPOSED CANCELLATION OF BUDGET ITEM.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1)(A) Subject to the time limitations provided in subparagraph (B), the President may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall clearly identify each budget item that is proposed to be canceled including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item that the President designates for deficit reduction as provided in paragraph (4).

"(B) A special message may be transmitted under this section—

"(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; or

"(ii) at the same time as the President's budget.

"(2) In the case of an Act that includes budget items within the jurisdiction of more than one committee of a House, the President in proposing to cancel such budget item under this section shall send a separate special message and accompanying draft bill for each such committee.

"(3) Each special message shall specify, with respect to the budget item proposed to be canceled—

"(A) the amount that the President proposes be canceled;

"(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget item should be canceled;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget item is provided.

"(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the President shall—

"(i) with respect to a rescission bill, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

"(ii) with respect to a repeal of a tax expenditure or direct spending, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect such amount.

"(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 602(a) to reflect such amount.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the appropriate committee or (in the House of Representatives) committees. The committee shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

"(2)(A) During consideration under this subsection in the House of Representatives, any Member of the House of Representatives may move to strike any proposed cancellation of a budget item.

"(B) A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(D) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(E) Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

"(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(E) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order.

"(F) If the Senate proceeds to consider a bill introduced in the House of Representatives under paragraph (1)(A), then any Senator may offer as an amendment the text of the companion bill introduced in the Senate under paragraph (1)(A) as amended if amended (under subparagraph (A)). Debate in the Senate on such bill introduced in the House of Representatives, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), and any amendment offered under this subparagraph, shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

"(4) Debate in the House of Representatives or the Senate on the conference report on any bill considered under this section shall be limited to not more than 2 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

"(e) TEMPORARY PRESIDENTIAL AUTHORITY TO RESCIND.—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'direct spending' shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(3) the term 'budget item' means—

"(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

"(B) an amount of direct spending; or

"(C) a targeted tax benefit;

"(4) the term 'cancellation of a budget item' means—

"(A) the rescission of any budget authority provided in an appropriation Act;

"(B) the repeal of any amount of direct spending; or

"(C) the repeal of any targeted tax benefit; and

"(5) the term 'targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012A, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012A and 1017".

(c) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following:

"Sec. 1012A. Expedited consideration of certain proposed rescissions and repeals of tax expenditures and direct spending.".

(d) EFFECTIVE PERIOD.—The amendments made by this Act shall—

(1) take effect on the date that is 1 day after the date of enactment of this Act;

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

(3) cease to be effective on September 30, 2002.".

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3666 TO AMENDMENT NO. 3665

Mr. BYRD. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3666 to amendment No. 3665.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word in the substitute amendment and insert the following: "instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the text of S. 14 as introduced in the Senate on January 4, 1995 (with certain exceptions) which is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legislative Line Item Veto Act".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING

"SEC. 1012A. (a) PROPOSED CANCELLATION OF BUDGET ITEM.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1)(A) Subject to the time limitations provided in subparagraph (B), the President may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall clearly identify each budget item that is proposed to be canceled including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item that the President designates for deficit reduction as provided in paragraph (4).

"(B) A special message may be transmitted under this section—

"(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; or

"(ii) at the same time as the President's budget.

"(2) In the case of an Act that includes budget items within the jurisdiction of more than one committee of a House, the President in proposing to cancel such budget item under this section shall send a separate special message and accompanying draft bill for each such committee.

"(3) Each special message shall specify, with respect to the budget item proposed to be canceled—

"(A) the amount that the President proposes be canceled;

"(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget item should be canceled;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget item is provided.

"(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the President shall—

"(i) with respect to a rescission bill, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

"(ii) with respect to a repeal of a tax expenditure or direct spending, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect such amount.

"(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 602(a) to reflect such amount.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the appropriate committee or (in the House of Representatives) committees. The committee shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

"(2)(A) During consideration under this subsection in the House of Representatives, any Member of the House of Representatives may move to strike any proposed cancellation of a budget item.

"(B) A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(D) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(E) Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

"(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(E) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order.

"(F) If the Senate proceeds to consider a bill introduced in the House of Representatives under paragraph (1)(A), then any Senator may offer as an amendment the text of the companion bill introduced in the Senate under paragraph (1)(A) as amended if amended (under subparagraph (A)). Debate in the Senate on such bill introduced in the House of Representatives, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), and any amendment offered under this subparagraph, shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

"(4) Debate in the House of Representatives or the Senate on the conference report on any bill considered under this section shall be limited to not more than 2 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

"(e) TEMPORARY PRESIDENTIAL AUTHORITY TO RESCIND.—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'direct spending' shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(3) the term 'budget item' means—

"(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

"(B) an amount of direct spending; or

"(C) a targeted tax benefit;

"(4) the term 'cancellation of a budget item' means—

"(A) the rescission of any budget authority provided in an appropriation Act;

"(B) the repeal of any amount of direct spending; or

"(C) the repeal of any targeted tax benefit; and

"(5) the term 'targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012A, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012A and 1017".

(c) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following:

"Sec. 1012A. Expedited consideration of certain proposed rescissions and repeals of tax expenditures and direct spending.".

(d) EFFECTIVE PERIOD.—The amendments made by this Act shall—

(1) take effect on the date that is 2 days after the date of enactment of this Act;

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

(3) cease to be effective on September 30, 2002.".

Mr. DOMENICI. Mr. President, before I suggest the absence of a quorum, let me ask Senator BYRD if he is getting close to being able to agree to a time limit.

Mr. BYRD. Yes, I am.

Mr. DOMENICI. Mr. President, we are in the process of restructuring this to accommodate what he has done. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOMENICI. Mr. President, I believe we are ready to enter into a unanimous-consent agreement. I am going to read it. Senator BYRD has seen it. Perhaps he has some suggestions, but let us get it on the RECORD right now.

I ask unanimous consent that during the consideration of the conference report on S. 4, the line-item veto bill, there be a total of 9 hours for debate on the conference report, with 4 hours under the control of Senator DOMENICI, or his designee, with the last hour of Senator DOMENICI's time under the control of Senators MCCAIN and COATS; further, the remaining 5 hours under the control of Senator BYRD; any motions be limited to 60 minutes equally divided and any amendments thereto be limited to 60 minutes equally divided, as well, with all time counting against the overall limitation for debate; and further, that following the expiration or yielding back of time and disposition of any motions, the Senate proceed to vote on the adoption of the conference report with no intervening action.

I further ask unanimous consent that all the time used for debate up to now on the Republican side relative to the conference report be deducted from the time allotted under the consent agreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Time is now controlled.

Mr. DOMENICI. I thank the Chair, and I thank Senator BYRD.

The PRESIDING OFFICER. Time is now controlled. Who yields time?

Mr. DOMENICI. Mr. President, parliamentary inquiry. How much time have we used on our side in favor of the bill?

The PRESIDING OFFICER. The majority has used 38 minutes.

Mr. DOMENICI. I thank the Chair. I yield the floor.

Mr. HATFIELD addressed the Chair.

Mr. BYRD. Mr. President, I yield 15 minutes of the time under my control to the distinguished senior Senator from Oregon, [Mr. HATFIELD].

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. I thank the Senator from West Virginia for his yielding me time.

Mr. President, a very interesting experience occurred this morning at the Senate prayer breakfast. That is that former Senator Joseph Tydings from Maryland came to join us and some of the newer Senators sitting in our area, and we were informed about Senator Joe Tydings' father, Senator Millard Tydings, who represented the State of Maryland and had a very interesting political experience; and that was that he stood up, as a Democrat, to the effort on the part of President Roosevelt in 1937 to alter the structure of the Supreme Court, and that, as a result, President Roosevelt undertook a purge in the 1938 elections of those Senators who blocked his effort to change the structure of the Supreme Court which was in effect termed in those days "to pack the Court."

But he failed because the people of Maryland, as well as the people from Georgia, both returned those Senators that helped fight the packing of the Supreme Court—Democrats. They said, in effect, we support Mr. Roosevelt and the New Deal, but when he begins to tamper with the separation of powers and the checks and balances that our forefathers established in the Constitution, President Roosevelt has gone too far.

Mind you, at that time, Mr. President, there were about 19 Republicans sitting on this side of the aisle, out of the 96, and they had what they called the Cherokee strip because there were not enough seats for the Democrats to stay on that side of the aisle, and they took these back rows across this Senate and occupied those.

Senator Charles McNary of Oregon, with his little band of 19 Senators, with the assistance of the Democrats who would not support a Democratic President in packing the Supreme Court, held Mr. Roosevelt's effort and blocked it.

Mr. Roosevelt was not suggesting that we change the Supreme Court in terms of its rulings and its duties, "But just let me appoint one here and one there and one somewhere else when they get a certain age and they have not retired," because he was facing a hostile Supreme Court which was knocking down his legislation point by point when they found it to be unconstitutional.

Mr. President, this is the greatest effort to shift the balance of power to the White House that has happened since Franklin Roosevelt attempted to pack the Supreme Court. He is asking, "Oh, just give me a little veto here and a little veto there and a little veto somewhere else, and I select."

This is a concentration and transfer of power to the Chief Executive. I think it is contrary to sound constitutional practice. I am appalled that my colleagues on the Republican side should help by leading the effort to give more power to the White House, more power to the President of the United States. I suppose this is a generational gap. I grew up thinking only Franklin Roosevelt would ever be the President of the United States. And the Republican cry was, "He's leading us to a dictatorship," the concentration of power in the President's hands. The Republican campaign songs, campaign speeches in campaign after campaign, whether you were running for county sheriff or for Governor or for Senator, was to point to the fact that under the New Deal and President Roosevelt, they were concentrating power in the hands of the Chief Executive. And they were.

But here we are now, anxious to say, "Oh, please, Mr. President, take this new power. We don't have the ability to exercise the constitutional responsibility of creating and holding the purse strings."

That is what it is. Call it by any other name, it is still a transfer of power and an enhancement of power in the hands of the President. I think it is a sad commentary on the responsibility and the history and the constitutional duties of the U.S. Congress to say to the President, "We don't have the capability to exercise this, so we're going to dump it in your lap."

That was the story we talked about this morning with Senator Joe Tydings, because his father had the courage to stand firm as a Democrat against a Democratic President to stop this kind of imbalance that was being suggested by the President of the United States to add new members to the Supreme Court so he could have his total way. He controlled the Congress of the United States by extraordinary, extraordinary majorities. But it was the Supreme Court that got in his way. So he was going to change the structure of the Supreme Court so he could have more power.

Now, here is an interesting thing. Here is a Republican-led effort to give more power to a Democratic President. Maybe the election will change that in November, but once you transfer that power, no matter who is the President, you have transferred power to the other branch of Government.

One last little incident that I want to mention, and that is a few years ago Frank Church, a Democratic Senator from Idaho—Senator Church had been a strong supporter of President Johnson's Vietnam policy. The day came when he decided to join those of us who were opposing the Vietnam policy, and he got up over there—and I can remember how he made his speech, of stating his position now as an opponent of the Vietnam war. In that speech he quoted Walter Lippmann, who was a very renowned, very respected writer and had commented extensively on the issue of the Vietnam war.

So he quoted Walter Lippmann in his speech in saying, "I now stand, and I hate to say this to President Johnson, but I have to now take my position in opposition to the war policy."

Well, a week or so later Senator Church and Bethine, his wife, were down at the White House for a social function that President Johnson invited them to. As was the custom, they were going through the receiving line to pay their respects to President Johnson. You say different kinds of little remarks at that point to the President, very much a personal eyeball to eyeball. So Frank Church said to President Johnson, "You know, I have this Idaho project, and it's going to be coming down to the White House soon. I hope you'll help me on it." President Johnson looked him straight in the eye and said, "Why don't you go ask Walter Lippmann for it." "Why don't you go ask Walter Lippmann for it."

I do not have to draw a picture to see the linkage in the President's mind that you have decided not to support me on a war policy, well, I probably will be less than helpful to you on some kind of a project you have in Idaho. It invites all sorts of mischief. I can imagine the days when I stood very much in the minority on this Senate floor in opposing that Vietnam policy. I can very well imagine that I could have been given the same kind of treatment that he was extending to Frank Church, probably more likely because I was a Republican.

But let me say, there is not a single Senator in this body who could not become a target for that kind of political mischief exercised by a President when he wants your vote, when he needs your vote, when he, in effect, is demanding your vote. Then you stand there with your particular constituency when you have some funding of some kind in the Appropriations Committee, and he can just take that pen of his and, bop, just knock you out of the box; or he can say, "Now, I'll listen to your willingness to support me on this."

Likewise, it invites political mischief in this body, the Congress. They can load up a bill and say, "Well, the President now will have to veto that. He'll have to take that kind of political stance. We can embarrass him by forcing him to veto that out of the bill." I do not think we want to do that either.

I only wish that we would read our history, and remember that we came to this country to escape monarchies, dictators, czars, kaisers, and those powerful executives that ran everything in their governments. We deliberately set up three branches of government; we deliberately assigned different powers; at the same time, we had mixing of powers.

We are in the middle of an appropriation effort. There is not one way the President of the United States can force us to appropriate a dollar we do not want to appropriate. However, we cannot appropriate a dollar without the President's approval or veto. That is the mixing of powers. He has legislative powers; we have executive powers. Consequently, we should not tinker with something that has worked very well for over 200 years in the separation of powers.

I want to say, I do not trust any President—I do not care whether he is Democrat or Republican—wanting to exercise all the power we want to give to him. Every person in this body that votes for this in the younger generations will live to see the day when it passes that they will regret that they bestowed this kind of power on the Chief Executive of the United States. It is contrary to our Republican doctrine. We want diffusion of power. We want the diffusion and the decentralization of power.

Yet the same Republicans that talk on the one hand about too much power in the Federal Government, we should give more power to local government or more power to the private sector, are now wanting to bestow an additional amount of power on the Chief Executive.

I yield the floor.

Mr. BYRD. Mr. President, I ask that the time that was consumed by Mr. HATFIELD be charged against the 5 hours under my control and not against the time on the motion.

The PRESIDING OFFICER. The Senator has that prerogative. The time will be charged that way.

Mr. STEVENS. Mr. President, I yield such time as I need. It will not be very long. I do want to say at the beginning that I am of the generation of the Senator from West Virginia and the Senator from Oregon, and have taken the positions they have stated in the past.

I am here today to explain why I support this bill.

Mr. DOMENICI. Will the Senator yield?

Mr. STEVENS. I yield.

Mr. DOMENICI. Whatever time is consumed by the Senator, I ask that it be charged against the bill and not against the amendment.

The PRESIDING OFFICER. The Senator has that prerogative. It will be charged that way.

Mr. STEVENS. Mr. President, I was pleased to be able to file this conference report on S. 4, which is called the Line-Item Veto Act. If enacted, I believe it will be the most significant delegation of authority by the Congress to the President since the Constitution was ratified in 1789.

What the Senator from West Virginia and the Senator from Oregon has said is true. It is a major, major, change in the policy of the Congress toward the executive branch. It is a temporary delegation of authority under this bill. This delegation is necessary and appropriate to help reduce the current Federal budget deficit, a deficit that I believe threatens to destroy the future well-being of our great Nation.

It is not without a lot of soul searching that I made the change in position that I have made on this bill. Mr. President, 43 Governors around the country have some form of line-item veto authority, including my own Governor in Alaska. As Governor of California, Ronald Reagan used the line-item veto authority to effectively reduce wasteful spending.

I have opposed this bill in the past because it did not cover the largest culprits of wasteful spending: entitlements and tax breaks for special interests. Together, they account for hundreds of billions of dollars each year. I opposed this bill because I did not think that we were committed to a balanced budget concept. This bill goes together with the balanced budget amendment and the significant steps that the Congress took in the Gramm-Rudman-Hollings procedures. In my judgment, this bill will enable the President to assist in carrying out the original intention of Gramm-Rudman-Hollings. At my request, the bill has been expanded and broadened to cover not only appropriations for specific projects but tax breaks and entitlements as well.

Today, Congress has the power to cut programs the President proposes that we believe are unnecessary, but unless the President vetoes an entire appropriations bill, he is powerless to single out a specific project he opposes. Likewise, unless he vetoes an entire tax bill, he cannot eliminate an unnecessary tax break designed to benefit only a narrow, special interest. This bill gives the President those powers temporarily.

In his annual State of the Union Address nearly 15 years ago, President Reagan came before us and asked us for the same power that Governors have, the power the Governor of Alaska has, and that he enjoyed as the Governor of California. Today, we are giving a President what President Reagan requested, but it is enhanced, Mr. President. It is more than President Reagan requested. It has been a long time coming, and I am pleased and hope that we will fulfill his dream. I want everyone to understand it is much, much, greater than what President Reagan asked for.

I have supported this conference report because it includes the core concept that I insisted on when the Senate considered S. 4 a year ago. That was that the line-item authority would apply to all three areas of Federal spending. Until then, as I said before, the proposals for a line-item veto hit only appropriations and left those large culprits, entitlements and target tax breaks, untouched.

The conference report gives to the President the specific authority to cancel dollar amounts of discretionary budget authority, items of new direct spending, and limited tax benefits in any law that is enacted after the effective date. This means the President will be able to line out specific items in all three areas of Federal spending, whether it be appropriations, entitlements, or limited tax breaks.

The cancellation would be effective immediately and the money that is not spent goes to deficit reduction. It is part of the budget process, in my opinion. Money that is saved because of the exercise of the veto in this bill cannot be spent for any other purpose by the President or by Congress.

Now, much has been said in the press about the need for the line-item veto to control wasteful spending through the appropriations process. We have heard from the former chair of the Appropriations Committee and the current chairman of the Appropriations Committee. I still have hopes and dreams that I may be chair of the Appropriations Committee.

Many people wonder why I have changed my mind at this time. I think that some Members here seem to miss the fact that the discretionary appropriations account only for 35 percent—not even 35 percent, but approximately 35 percent—of Federal spending. The remainder of Federal spending is mandatory, in the form of entitlements, tax breaks, interest on the national debt, items we cannot control. There is no figure available for the amount of revenue that is lost to the Government through these targeted tax breaks, what the conference report now calls limited tax benefits.

If the Balanced Budget Act that Congress sent to the President had not been vetoed, by fiscal year 2002 discretionary appropriations would account only for 26 percent of Federal spending, a decrease of 9 percent even without the line-item veto. Let me repeat that: Congress agreed to a bill that the President vetoed that would have reduced the moneys covered by the appropriations process within a 7-year-period by 9 percent. The Congress already vetoed the prospect of an increase to the extent of 9 percent, Mr. President. By contrast, entitlements under the balanced budget bill that we passed and the President vetoed would have grown from 55 percent to 60 percent of Federal spending. The increase would continue. That was an increase of 5 percent in 7 years, with interest on the national debt accounting for the balance of Federal expenditures.

To put it another way, Mr. President, in 1980 the Defense Department accounted for 23 percent of Federal spending while the Social Security Administration accounted for 19 percent, and the Department of Health and Human Services 10 percent of total Federal spending. Seventeen years later, the Department of Defense will get 17 percent; Social Security, 25 percent; Health and Human Services, 22 percent. In other words, the Department of Defense continues to go down while Social Security and Health and Human Services continues to go up.

Defense spending is all discretionary. It would be subject to the line-item veto under the original concept. The other two agencies that handle primarily entitlement programs would have been immune under the original line item veto concept.

This conference report allows the President to cancel new direct spending, which means any provision contained in nonappropriations laws which increase Federal spending above the current baseline. By allowing the President to cancel increases in existing entitlement programs, or the creation of new ones, the conference report provides the opportunity to control the explosive growth in mandatory spending. I basically support this bill because it now will give us a tool to require the President to help us control the growth in nondiscretionary spending.

Now, I think that ought to be very clear. In the area of taxes, the conference report does not go as far as I would have liked. But it was the best that we could get the conferees to agree to. Under our agreement, the President could cancel any limited tax benefit in a law under one of two conditions:

First, if the law contains a list of specific provisions, identified by the Joint Committee on Taxation as meeting the definition of a limited tax benefit in the conference report before the Senate now, then the President may cancel any provision so identified.

Second, if the law does not contain such a list prepared by the Joint Tax Committee, then the President may cancel any provision that meets the definition, in his opinion, of the limited tax benefit contained in this conference report. As I mentioned earlier, Mr. President, there is no ready list of revenue that has been lost to the Federal Government through targeted tax benefits. However, I believe it continues to run into hundreds of billions of dollars.

In the analytical perspectives that accompanied the President's 1997 budget, there is a table on pages 86 and 87 that I call to the Senate's attention. This lists the revenue that will be lost from major tax breaks of the past. The largest is $70 billion in fiscal year 1997 for the exclusion of employer contributions to medical insurance.

Over fiscal years 1997 to 2001, that exemption will cost the Government $423 billion. Let me repeat that in case anyone did not get that. In the period of time between 1997 and 2001, in the exemption that is already in one of the tax bills that exempts employer contributions to medical insurance, we will lose revenues of $423 billion. That is 75 percent of the entire discretionary budget that we are working on now in the Appropriations Committee.

The smallest tax break listed in the President's addendum is a special alternative tax on small property and casualty insurance companies. That provision will cost the Government, according to the President's statement, $25 million between 1997 and 2001.

It is impossible to tell from the table whether any of the provisions listed would in fact meet the definition of limited tax benefits under the conference report. I urge the Senate to remember that. It may well be that, although we are starting toward an attempt to give the President the right to eliminate limited tax breaks, we may have so defined limited tax breaks that they will never be touchable by the veto pen. But I think it illustrates my point that appropriations are not now, nor will they be in the future, totally responsible for the current Federal budget deficit. They are a part of it. They are a part of it, but the major part of it is the entitlement spending and the special tax breaks that account for so much of the problem.

In the case of appropriations, the President may cancel any dollar amount identified in an appropriations bill itself, or in the accompanying statement of managers or committee reports.

In addition, if an authorizing law has the effect of requiring the expenditure of funds provided in appropriations law for a particular program or project, the President may also cancel the dollar amount specified in the authorization law. I am not sure how many Senators realize that. But this is a very, very broad power we are delegating to the President of the United States.

The delegation is carefully structured in order to precisely define the President's authority.

In order to increase the President's discretion to cancel dollar amounts, the conferees agreed to allow the President to use the statement of managers or the governing committee report to identify those dollar amounts.

However, in order to prevent disagreements between the President and Congress over the dollar amount that can be canceled, the conferees specifically limited the President's authority to the entire dollar amount specified by Congress in the particular document he references—either the law itself or an accompanying report.

In addition, the President is required to cancel the entire dollar amount and may not cancel part of that dollar amount.

This limitation was included in order to ensure that the line item veto authority is not used to change policies adopted by the Congress that deals with appropriations or increases in tax benefits or entitlements. The line item authority cannot, for example, be used to reduce the amount appropriated for B-2 bombers so that the number of the bombers has changed. He must delete the entire amount to effect a change in policy.

Likewise, the conferees made clear that the cancellation authority does not apply to any condition, limitation, or restriction on the expenditure of funds or activities involving expenditure of funds.

This means, for example, that the President cannot cancel a prohibition on the expenditure of funds to implement a particular law or regulation.

The statement of managers before the Senate contains a number of specific examples to illustrate the conferees' intent with respect to those items the President may cancel in appropriations bills, and I want to incorporate those in my remarks at the conclusion.

I ask unanimous consent that they be printed following my remarks.

The PRESIDING OFFICER (Mr. LOTT). Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Mr. President, as the Senator from New Mexico, PETE DOMENICI, said earlier today, this has been a difficult conference. Senator DOMENICI and his staff worked tirelessly on this conference report and deserve much of the credit for it.

Let me review just briefly some of the differences that had to be resolved. In the House bill, there was an enhanced rescissions approach, while the Senate bill that went to conference used separate enrollment.

The House bill applied only to appropriations and targeted taxes, while the Senate bill applied to appropriations, any tax that favored any one group, and new entitlement programs as well.

The House bill made the President's line item veto of a program effective after a congressional review period, while the Senate used a constitutional veto that was effective immediately.

The Senate bill contained a mandatory lockbox for deficit reduction. The House bill did not.

The Senate bill contained a sunset, and the House bill did not.

The list can go on and on, but foremost among all of these issues were real questions about just what it was that we were delegating to the President, and if that delegation would be found constitutional.

After many long days and nights, and not a few testy meetings—and I must say, these conferences were the most acrimonious I have faced in 28 years—I believe that we have taken the best elements of both bills and created something that will work as Congress intends. I think it may be too narrow, rather than too broad, before we are through.

More importantly, I think we have a clear delegation of authority to the President for a specific purpose, and it is for the purpose of deficit reduction. That is what will pass constitutional muster, and I urge Members to remember that.

This is a bill for deficit reduction that goes hand-in-hand with the concept of a balanced budget bill, a bill to require the elimination of a deficit. It is a mechanism to assist in congressional discipline to ensure that the Congress and the executive branch exercise the discipline that is necessary to bring about an elimination of the deficit that so plagues our future. It is not something that is a permanent change in constitutional power. If it is to be continued, that is for someone who comes to this body after most of us will have left. But, as a practical matter, I think it is a step that must be taken if we are to demonstrate our complete commitment to the concept of eliminating a deficit and bringing about a balanced budget.

I want to congratulate the members of the conference. In particular, I want to point to the chairman of the Budget Committee, who was a cochairman of the Senate portion of the conference, and I point to Senators McCAIN and COATS, who brought the original concept to the floor, and Chairmen CLINGER and SOLOMON on the House side. Their hard work helped to bring this bill together and bring it before the two bodies now.

We are all indebted to our majority leader, Senator DOLE. He really held our noses—and sometimes other things—to the grindstone.

I thank the current occupant of the chair, Senator LOTT, for his role as the assistant majority leader.

Mr. President, this bill is really a significant bill. Anyone who thinks it is something that should be passed over lightly is wrong. It is a major change in the balance of Government power. It is really a check on the check of the checks and balances, as far as I am concerned.

We are indebted to the staff who worked out many of the problems which we encountered with this bill. We would point them in the general direction, and they came back with language and concepts that would fulfill our goal.

Earl Comstock, who is here with me now, on my personal staff; Christine Ciccone, who helped from the Governmental Affairs Committee; Austin Smythe, Bill Hoagland, Beth Felder, and Jennifer Smith on the Budget Committee; Mark Busey with Senator McCAIN; Sharon Soderstrom and Megan Gilly with Senator COATS; John Schall with Senator DOLE; Monty Tripp with Chairman CLINGER; Eric Pelliter with Chairman SOLOMON; and Wendy Selig with Congressman GOSS.

We got to know them pretty well, Mr. President. Unfortunately, they got to know us too well.

I think this is truly a momentous piece of legislation. I regret deeply that I disagree with my good friend from West Virginia and my chairman of the Appropriations Committee now. In my judgment, if it is my watch between the years 1997 and 2000, I intend to see to it that the Appropriations Committee heeds this warning. If we take action which might lead to increases in the deficit, if we allow funds to be spent which are not necessary, I hope the President will use this authority. If he uses his pen, as my good friend from West Virginia suggests, in a political fashion—if any President does that, he or she—during this period we are dealing with, then I think this is a powerful tool that will go away. The Congress will not allow the executive branch to have a power such as this to be exercised frivolously or politically.

This is a change in the Government structure we are suggesting. We are suggesting that the President hold the pen which allows the Congress to carry out the discipline that it imposed on itself. Gramm-Rudman-Hollings started this, Mr. President, and this bill that is before us today will continue the mechanisms of discipline to bring about elimination of the deficit. I pray to the good Lord that we will succeed this time.

Thank you, Mr. President.

I have asked that one page from this report be printed after my remarks. I call the Senate's attention to it. I do hope every Senator will read it. It is on page 20, section 1021, line-item veto authority.

That is what this bill is, not what it is not, but that is what it is. I think Senators should realize that.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

EXCERPT FROM STATEMENT OF MANAGERS

(7) Dollar Amount of Discretionary Budget Authority. The term "dollar amount of discretionary budget authority" is carefully defined in section 1026(7) in order to ensure that the President's authority to cancel discretionary spending in appropriation laws is clearly delineated. The conference report delegates the authority to the President to cancel in whole any dollar amount specified in an appropriation law.

In addition, to increase the President's discretion, the conference report allows the President to cancel a dollar amount of budget authority provided in an appropriation law by specific amounts identified by the Congress in the statement of managers, the governing committee report, or other law. By limiting the delegation of authority, the conferees intend to preclude arguments between the Executive and Legislative Branches and to ensure that the delegation is not overbroad or vague. As is described in further detail below, the conferees have sought to provide the President the ability to rescind entire dollar amounts, even if not specified as a dollar amount in the law itself, so long as the dollar amount can be clearly identified and is in an indivisible whole with which Congress has previously agreed.

The conferees note that the definition specifically excludes certain types of budget authority that are addressed by other provisions in part C of title X, as well as any restriction, condition, or limitation that Congress places on the expenditure of budget authority or activities involving such expenditure. The exclusion of restrictions, conditions, or limitations is included to make clear that the President may not use the authority delegated in section 1021(a) to cancel anything other than a specific dollar amount of budget authority.

The cancellation authority cannot be used to change, alter, modify, or terminate any policy included by Congress, other than by rescinding a dollar amount. Obviously, if the Congress has included a restriction in the law that prohibits the expenditure of budget authority for any activity, there is no dollar amount to be rescinded by the President, nor would any money be saved for use in reducing the federal budget deficit, which is a requirement for the use of the authority provided under section 1021(a).

As described in subparagraph (A)(i), the President many cancel the entire dollar amount of budget authority specified in an appropriation law. The term "entire" means just that; the President may rescind, or "line out" the dollar amount of budget authority specified in the law, so that the dollar amount provided in the law becomes zero after the cancellation. For example, in Public Law 104–37, the Agriculture Appropriations Act for Fiscal Year 1996, $49,486,000 was provided in the law for special grants for agriculture research. Using the authority granted under section 1021(a)(1), as defined under section 1026(7)(A)(i), the President could cancel only the entire $49,486,000.

Further, again under subparagraph (A)(i), if the appropriation law does not include a specific dollar amount, but does include a specific proviso that requires the allocation of a specific dollar amount, then the President may rescind the entire dollar amount that is required by the proviso. A fictitious example of what the conferees intend in this case follows:

An appropriation law includes a provision that states "for the operation and maintenance of the Army, $1,400,000,000, provided Fort Fictitious is maintained at Fiscal Year 1995 levels,". In this instance, the President could ascertain what the operation of Fort Fictitious cost in FY 1995, and could rescind that entire amount from the $1.4 billion provided for Army O&M. The conferees note that the President would have to take the entire dollar amount required to operate Fort Fictitious in FY 1995, and could not simply take part of that amount. It is intended to be an all or nothing decision.

As a further specific illustration, the conferees note that the General Construction Account in Public Law 104–46, the Energy and Water Development Appropriations Act, 1996, states:

"$804,573,000 to remain available until expended, of which such sums as necessary pursuant to Public Law 99–662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri . . . "

In this example, the President could cancel the entire $804,573,000 or could cancel an amount equal to the entire dollar amount that would be required to fund the rehabilitation costs of the Lock and Dam 25 project, noting in his message all information as required by section 1022.

In subparagraph (A)(11) the President is given the authority to rescind the entire dollar amount represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report that accompanies an appropriation law. The term "governing committee report" is included to address the fact that the current practice in preparing the statement of managers for a conference report on an appropriation law is to simply address changes that were made in the statutory language and the accompanying committee reports, thus leaving intact and incorporating by reference tables, charts, and explanatory text in one of the two committee reports that were not modified by the conference.

An example of the authority described in subparagraph (A)(ii) is found in the Conference Report accompanying the FY 1996 Military Construction Appropriations Act (Public Law 104-32). The statement of managers accompanying the conference report contains a chart denoting allocations of dollars to various installations and projects. On page 38 there is an allocation of $10,400,000 for a physical fitness center at the Bremerton Puget Sound Naval Shipyard. Except for this chart there is no other reference to the physical fitness center in either the statute or narrative explanation in the Conference Report. under the authority provided by the definition in subparagraph (A)(ii), the President could cancel the entire $10,400,000 provided for the physical fitness center, but could not cancel only a part of that amount.

The inclusion of subparagraph (A)(ii) is not intended to give increased legal weight or authority to documents that accompany the law that is enacted. Rather, as an exercise of its authority to specify the terms of the delegation to the President, Congress is choosing to use those documents as a means of allowing the President increased discretion to reduce dollar amounts of discretionary budget authority provided in an appropriation law. In order to ensure that the delegated authority is clear, the conferees have limited that authority to dollar amounts identified by Congress in the appropriation law, the accompanying statement of managers, the governing committee report or other law. Since Congress often provides detailed identification of dollar amounts in the accompanying documents, they represent an agreed upon set of dollar amounts that the President may rescind in their entirety.

Subparagraph (A)(iii) has been included by the conferees to address a specific circumstance where neither the appropriation law nor the accompanying statement of managers or committee reports include any itemization of a dollar amount provided in that appropriation law. However, another law mandates that some portion of the dollar amount provided in the appropriation law be allocated to a specific program, project, or activity that can be quantified as a specific dollar amount. In this case, the President could rescind the entire dollar amount required to be allocated by the other law, since that dollar amount has been identified by Congress as a specific dollar amount that must be spent. As is the case with the earlier provisions, the President could not rescind part of the dollar amount mandated by the other law. It is an all or nothing decision. Likewise, the President could not use the cancellation authority to change, alter, or modify in any what the other law.

An example of the authority provided in subparagraph (A)(iii) is found in section 132 of Public Law 104-106, the National Defense Authorization Act for Fiscal Year 1996. Section 132 states that "Of the amounts appropriated for Fiscal Year 1996 in the National Defense Sealift Fund, $50,000,000 shall be available only for the Director of the Advanced Research Projects Agency for advanced submarine technology activities." In this example the President could "look through" the appropriation law to the authorization law that mandates that $50 million is available only for advanced submarine technology activities, and could cancel the entire $50 million.

However, had the appropriation law contained a provision that contradicted or otherwise made the mandate in the authorization law ineffective with respect to the allocation of the National Sealift Fund, then the President would not be able to use the amount in the authorization law as the basis for the cancellation of a dollar amount of discretionary budget authority. As with appropriations laws, the President cannot use the authority in subparagraph (A)(iii) to change, alter, or modify any provision of the authorization law.

Subparagraphs (A)(iv) and (A)(v) are variations on the authority granted in clauses (i) through (iii), and are intended to address the circumstance where Congress does not specify in the appropriation law, the accompanying documents, or other law a specific dollar amount, choosing instead to require the purchase of a particular quantity of goods. Subparagraphs (A)(iv) and (A)(v) allow the President to rescind the entire dollar amount of discretionary budget authority represented by the quantity specified in the law or documents. To determine the specific dollar amount, the President is required to multiply the estimated procurement cost by the total quantity of items specified in the law or documents. The President may then rescind the entire dollar amount represented by the product of those two figures. The conferees expect that the President will use the best available information, as represented by the President's budget submission or binding contract documents, to estimate the procurement cost.

The conferees have included the following example in order to more clearly explain the definition of dollar amount of discretionary budget authority as defined by section 1026(7). These examples are used solely for illustrative purposes and the conferees are in no way commenting on the merit of any of these programs. The conferees do not intend for these examples to represent all instances where cancellation authority may be used.

The FY 1996 Agriculture Appropriations Act (Public Law 104-37) appropriates $49,846,000 in special grants for agriculture research. The Conference Report accompanying this law contains a table that allocates the $49,846,000 total into lesser dollar amounts of all which correspond to individual research programs. This table, for example, contains a $3,758,000 allocation for "Wood Utilization Research (OR, MS, MN, ME, MI)".

Using the definition in section 1026(7)(A) (i) and (ii), the President could cancel either the entire $49,846,000 specified in the statute or the entire $3,758,000 described in the chart in the Conference Report. However, because the Congress did not break down the allocations for each state associated with this project the President would not have the authority to take a portion of the $3,758,000 allocated to wood utilization research.

The conferees intend that cancellation authority only applies to whole items. If an item (or project) occurs in more than one state, and the law or a report that accompanies an appropriation law lists an item (project) and then lists a series of states, it is the entire item that must be canceled.

In the example listed above, "Wood Utilization Research" appears in the report as: "Wood Utilization Research (OR, MS, NC, MN, ME, MI)."

The conferees believe it is important to note that this line in the report must be canceled in its entirety. The President's cancellation authority is strictly limited. The President has no authority in this example to cancel wood utilization research for Michigan only.

To further illustrate this example, the conferees submit the following examples that corresponds to a chart contained in the same conference report: "Aflatoxin (IL), 133,000; Human Nutrition (AR), 425,000; Human Nutrition (IA), 473,000; Wool Research (TX, MT, WY) 212,000."

In this case, the President may cancel Aflatoxin (IL), Human Nutrition (AR), Human Nutrition (IA), and/or Wool Research (TX, MT, WY). Although there are two human nutrition research projects listed in two different states, because of the manner in which they are listed, each project may be separately canceled. Again, the President may only cancel the entire wool research program and may not cancel only wool research in Texas.

Section 1026(7)(B) describes what is not included in the definition of "dollar amount of discretionary budget authority." Subparagraphs (B)(i) and (B)(ii) exclude items of new direct spending, for which cancellation authority is provided under other sections of part C of title X. Subparagraph (B)(iii) excludes from the definition any budget authority canceled or rescinded in an appropriation law in order to ensure that those cancellations or rescissions cannot be undone by the President using the cancellation authority.

As described earlier, subparagraph (B)(iv) excludes from the definition any restriction, condition, or limitation in an appropriation law or the accompanying statement of managers or governing committee report on the expenditure of budget authority or on activities involving such expenditure. The following two examples illustrate the conferees' intent that the President cannot use the cancellation authority to alter the Congressional policies included in these restrictions, conditions, or limitations.

The Labor, Health and Human Services and Education and Related Agencies Appropriations Act, H.R. 1217, as amended by the Senate Appropriations Committee contained the following section:

"SEC. 103. No amount of funds appropriated in this Act for fiscal year 1996 may be used to implement, administer, or enforce any executive order, or other rule or order, that prohibits Federal contracts with, or requires that debarment of, or imposes other sanction on, a contractor on the basis that such contractor or organizational unit thereof permanently replaced lawfully striking workers."

The President's cancellation authority only applies to entire dollar amounts. The above example of "fencing language" is a limitation and contains no dollar amount. Therefore, the President has no authority to alter or cancel this statement of Congressional policy.

If a limitation or condition on spending—"fencing language"—is not written as a separate numbered or unnumbered paragraph, but instead is written as a proviso to an appropriated amount, the President still has no power to cancel the proviso.

The Energy and Water Development Appropriations Act, 1996, (Public Law 104-46), Title II, Department of the Interior, General Administrative Expenses, states:

"For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $48,150,000, of which $1,400,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377); *Provided*, that no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

Using this example, the President may cancel $48,150,000 or the $1,400,000 noted, but may not cancel or alter in any way the proviso restricting the use of other appropriated funds contained in this Act.

The conference report also allows the President to cancel the entire amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included. The conferees recognize that from time to time, budget authority may be mandated to be spent on a specific program or project without a specific dollar amount being listed. However, in order to comply with the proviso, the President would have to expend appropriated funds.

EXHIBIT 2

Sec. 1021. Line item veto authority

Section 1021(a) permits the President to cancel in whole any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit contained in any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States. The cancellation may be made only if the President determines such cancellation will reduce the federal budget deficit and will not impair any essential government function or harm the national interest. In addition the President must make any cancellations within five days of the date of enactment of the law from which the cancellations are made, and must notify the Congress by transmittal of a special message within that time.

The conferees specifically include the requirement that a bill or joint resolution must have been signed into law in order to clarify that the cancellation authority only becomes effective after the President has exercised the constitutional authority to enact legislation in its entirety. This requirement ensures that the President affirmatively demonstrates support for the underlying legislation from which specific cancellations are then permitted.

The term "cancel" was specifically chosen, and is carefully defined in section 1026. The conferees intend that the President may use the cancellation authority to surgically terminate federal budget obligations. The cancellation authority is specifically limited to any entire dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit. The cancellation authority does not permit the President to rewrite the underlying law, nor to change any provision of that law. The President may only terminate the obligation of the Federal Government to spend certain sums of money through a specific appropriation or mandatory payment, or the obligation to forego the collection of revenue otherwise due to the Federal Government in the absence of a limited tax benefit.

Likewise, the terms "dollar amount of discretionary budget authority," "item of new direct spending," and "limited tax benefit" have been carefully defined in order to make clear that the President may only cancel the entire dollar amount, the specific legal obligation to pay, or the specific tax benefit. "Fencing language" may not be canceled by the President under this authority. This means that the President cannot use this authority to modify or alter any aspect of the underlying law, including any restriction, limitation or condition on the expenditure of budget authority, or any other requirement of the law.

The conferees intend that, even once the federal obligation to expend a dollar amount or provide a benefit is canceled, all other operative provisions of the underlying law will remain in effect. If the President desires a broader result, then the President must either ask Congress to modify the law or exercise the President's constitutional power to veto the legislation in its entirety.

The lockbox provision of the conference report has also been included to maintain a system of checks and balances in the President's use of the cancellation authority. Any credit for money not spent, or for revenue foregone, is dedicated to deficit reduction through the operation of the lockbox mechanism. This ensures that the President does not simply cancel a particular dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit in order to increase spending in other areas.

Section 1021(b) requires the President to consider legislative history and information referenced in law in identifying cancellations. It also requires that the President use the definitions in section 1026, and provides that the President use any sources specified in the law or the best available information.

Section 1021(c) states that the President's cancellation authority shall not apply to a disapproval bill, as defined in section 1026. The provision is intended to prevent an endless loop of cancellations.

Mr. BYRD. Mr. President, will the Senator yield for one moment?

Mr. STEVENS. Yes.

Mr. BYRD. Mr. President, I take this occasion to congratulate the distinguished Senator from Alaska [Mr. STEVENS], and the other Members of the Senate who were conferees.

As I sat and listened to him as he has outlined the changes that were brought within the bill during the meeting of the conference, I commend our Senate conferees. I think they brought about several improvements over the House position. I thank them for that.

Mr. STEVENS. Mr. President, I am honored by those comments.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I thank the Senator from Alaska for his gracious remarks, and all of those involved in this, including the occupant of the chair, the Senator from Mississippi.

There is very little doubt that the Senator from Alaska had the most difficult time with this legislation. That is understandable given the fact that he will play a key and vital role in the upcoming appropriations process which affects us.

So we are very grateful, not only for his gracious remarks, but for his very cooperative participation in this process.

Mr. President, in behalf of this side, I yield 10 minutes to the Senator from Texas, who also played a very important role from time to time during our conference bringing a degree of insight, particularly helping us understand the difference between enhanced rescissions and real line-item vetoes.

Mr. President, I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mr. GRAMM. Mr. President, I believe this bill represents a significant break with the past. I think it does in a very real sense represent the changing of the guard. Might I say that I think it is long overdue.

The last time we balanced the Federal budget was in 1969 when Richard Nixon was President, and it happened only because of a big tax increase that occurred in 1968—an income surtax. It lasted only for 1 year, and then it was gone. The last time we balanced the budget 2 years in a row where the budget was balanced by fiscal restraint by doing what every family and every business in America has to do every year was in the middle of the 1950's when Dwight David Eisenhower was President of the United States.

In other words, we are here today changing the fundamental powers of the Presidency as they relate to the Congress and altering our system of the distribution of that power because for 40 years we have not been able or willing to say "no." And because we have not said "no," because we have said "yes" to virtually any organized special interest group with a letterhead, that has meant that families have had to say "no" on a constant basis. The problem is we have said "yes" to spending money when "yes" was the wrong answer, forcing families to say "no" to investing in their future and the future of this country, when "no" was the wrong answer. We are here today to try to change that.

What does the line-item veto do, and what does it not do? The line-item veto allows the President to go inside an appropriations bill and to eliminate a program, a project, or an activity. He does not have the ability to change it. He can either say "yes" or "no" to the whole thing and strike it out, and then alter the budget total at the top of the page.

This will allow the President to exercise leadership in controlling spending and to impose priorities. But, if the Congress does not agree and if there is strong disagreement, the President can be overridden. But what it does, no doubt about it—and the distinguished Senator from West Virginia is right—it changes the balance of power between the Congress and the President in one fundamental way: It gives the President enhanced power to say "no" to spending. It does not give him the ability to spend more money. It does not give him the ability to change priorities by partially altering spending figures. It enhances his ability to say "no."

It seems to me, Mr. President, after 40 years of living proof every day that our Government cannot say "no" when "no" is clearly the right answer, the time has come to change the system. This is a fundamental reform, there is no doubt about it.

If you had a President who was honest-to-God willing to get out a pen and to veto, he could change America. And he could change it very, very quickly. Let us hope that the Lord will give us such a person.

What is the problem with which we are trying to deal? The problem is not just this abstract idea of deficits. The problem is that in the mid-1960's, we fundamentally changed America without America ever knowing it, without an election ever being held on this subject, and maybe without Members of Congress knowing it.

What happened is that prior to 1965, in this whole century, excluding the years of the Great Depression, our economy had performed very well. We had experienced an economic growth rate of almost 3.5 percent. From 1950 to 1965, our economy grew at over 4 percent a year. What that meant was new jobs, new growth, new opportunity. It created a situation through the whole of the 20th century, with the exception of 4 years during the Great Depression, where in almost every family in America parents did better than their parents, and they could be almost certain that their children were going to do better than they had done.

Beginning in 1965, we traded that in for a Government growing at an average of 9 percent each and every year since. What has happened is this year the economy is growing at 1.7 percent. The average family's take-home, after-tax pay today is lower than it was in 1992. For the whole decade of the 1970's, the average working American family was worse off at the end of the decade than they were at the beginning because the economy did not perform, because we spent the seed corn of our economy here in Congress, and the President in signing appropriations bills had no ability to go inside those bills and strike items.

So what we are doing today is trying to change a system that is broken. There are clearly people who love the old ways, who believe that Congress ought to have this ability to fill up bills with little add-ons that the President would like to veto but cannot veto without vetoing the whole bill. But I think after 40 years of failure, after 40 years of mortgaging the future of the country, after 40 years of lowering the potential living standard of our people, we have an opportunity if we would change the way Government does its business to guarantee that our grandchildren will be twice as well off as they will be if you continue business as usual.

That is the ability to affect the lives of everybody in this country and everybody on this planet. It is the ability to give people the opportunity to escape poverty and fulfill their dreams. That cannot happen when Government is borrowing 50 cents out of every dollar. So we are here today to change it. This is going to be a fundamental, sweeping change in Government. My only disappointment is that it is not permanent. This is grandfathered, and what it will mean is that if we do have a President who actually uses it, my guess is we will not restore it to them once this expires. I had hoped this would be permanent law, but this is a very, very important bill. I commend everybody who has been involved in it.

Let me conclude by just thanking some people individually.

First of all, I thank TED STEVENS, who had very real hesitation about this bill. I thank PETE DOMENICI. Both of these men had real reservations when we started. This has meant a compromise for them, and I think, quite frankly, we have a better bill right now than we did when we started this process. I think they are largely responsible for it. But only because of their support will this bill become the law of the land.

I thank DAN COATS and JOHN MCCAIN for their leadership. This has been a battle which has really raged for 8 years. Many people have despaired of it ever happening. But it did happen because we had people who cared strongly about it. I think it reveals the basic lesson of democracy, and that is intensity counts. If you have people who care very strongly about something and they do not give up, ultimately they succeed.

I also thank the Presiding Officer, our distinguished assistant majority leader, for his good counsel in bringing people together and helping to push this matter to a final conclusion.

It is interesting in that I think this is an old issue which has been debated a long time and as a result there is not the clamor which normally would surround a bill that is as important and momentous as this bill is, and that is a disappointment I am sure both to those of us who are for it and those who are against it in terms of its profound impact on America. There are very few things we have done in the last 4 or 5 Congresses that have a larger potential impact than the passage of this bill.

I congratulate everybody who has been involved. I believe we are not only making history today, but we are making good history. That is something which does not happen very often. This is one more tool the President has, if the President wants to do something about the deficit. If we have a President who really wants to do it, all that President has to do is get one-third plus one in one House of Congress, sharpen up his pencil, and he is in business. I believe it is going to take strong leadership.

I wish to conclude by remembering the words of Ronald Reagan when he asked for this power and said, "Give me the line-item veto and let me take the heat." I was always disappointed we did not do that, but we are going to give whoever is President in January this power. We will see if they can take the heat.

I thank the Chair and I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition? The Senator from West Virginia.

Mr. BYRD. Mr. President, I shall quote Lord Byron:

> A thousand years scarce serve to form a state; an hour may lay it in the dust.

Mr. President, let me explain my motion now for the benefit of Senators on both sides.

Mr. President, in offering this motion to recommit, I am, I hope, providing one last opportunity for the Senate to come to grips with what we are about to do. It is my desire that each one of us, before we cast our vote on the conference agreement to S. 4, have the chance to reevaluate our position, to rethink the damaging consequences that will necessarily extend from this enhanced rescission proposal, and to vote, instead, for a more sensible approach than that offered in S. 4, as amended.

In essence, my motion to recommit would supplant the provisions currently contained in the conference agreement with those contained in S. 14, as originally introduced by Senators DOMENICI, EXON, CRAIG, BRADLEY, COHEN, DOLE, DASCHLE, and CAMPBELL on January 4, 1995. That measure was, I believe, a workable proposal that would give the President broad and uncomplicated authority to propose the rescission or repeal of not only appropriated funds, but, also, new direct spending and targeted tax benefits.

Consequently, my proposal will allow any President to rescind any of these budget items under an expedited process that guarantees the President will receive a vote on any of his proposed rescissions. The process would work as follows:

The President would have 20 calendar days after the date of enactment of each covered measure to transmit a special message to Congress proposing to cancel any of the budget items previously mentioned. The House and Senate would then be required to take up the President's proposed rescissions under expedited procedures which would ensure that a vote on final passage of the President's proposed rescissions shall be taken in the Senate and House of Representatives on or before the close of the tenth day of session of that House after the date of the introduction of the bill in that House.

Furthermore, procedures are contained in the measure to ensure that such measures are introduced no later than the third day of session of each House after receipt of a special message from the President.

During consideration of the rescission bill in either House, any member may move to strike any proposed cancellation of a budget item. I might note parenthetically that this represents a change from S. 14, as introduced, in that S. 14 would have required a member of the House to gather the signatures of 49 other members in order to offer an amendment to a rescission bill on the Floor and in the Senate would have required a Senator to collect an additional 11 signatures in order to be able to offer an amendment to strike a proposed rescission from a bill. I do not agree that members of the House and Senate should be prohibited from offering their amendments as they so wish without the necessity of gathering signatures from other members.

Under my proposal, debate in the Senate on a rescission bill and all debatable motions and appeals in connection therewith shall not exceed 10 hours. A motion in the Senate to further limit debate on a rescission bill is not debatable. A motion to recommit a bill is not in order. Debate in the House of Representatives or the Senate on any conference report on any rescission bill shall be limited to not more than two hours, motions to further limit debate will be nondebatable, and motions to recommit the conference report will not be in order.

Finally, my proposal contains an ironclad lockbox provision to ensure that any monies saved through these rescissions are, indeed, used for deficit reduction. Under this proposal, the President and Congress must each take action to reduce the discretionary spending limits contained in section 601 of the Congressional Budget Act, the committee allocations under section 602, and the balances for the budget under section 252 of the Balanced Budget and Emergency Deficit Control Act.

By adopting this proposal, I believe that the Senate will then have passed a measure that effectively amends the present impoundment procedure, while at the same time maintaining the constitutional separation of powers by protecting congressional control of the purse strings from an unchecked executive.

Mr. President, I remind my colleagues that it was the considered judgment of the distinguished chairman of the Budget Committee, working in conjunction with the ranking member of that committee, Mr. EXON, that the expedited rescission process contained in S. 14, as originally introduced, was the most appropriate approach to this issue. Based on their expertise—expertise gained through many years of study of the budget process—the provisions contained in the Domenici-Exon rescission bill give us a workable process. Consequently, my motion, if adopted, would force the Congress to vote, in an expedited fashion, on the President's rescission proposals. No longer would Congress be in a position to simply ignore the recommendations of the President. We would be mandated, under the language I am proposing to have substituted, to consider the President's request, and to do so in a timely manner.

Furthermore, under the terms of S. 14, as introduced, this newly crafted expedited rescission process would extend not only to appropriated funds, but, also, to the vast amounts of revenues lost each year through the use of tax expenditures. As with entitlement programs, tax expenditures cost the U.S. Treasury billions of dollars each year; nearly $500 billion in this fiscal year alone. And, again, like entitlements, they receive little or no scrutiny once they are enacted into law. Even though they increase the deficit, just like spending on mandatory programs, tax expenditures routinely escape any meaningful fiscal control or oversight. Indeed, by masquerading as a tax expenditure, a program or activity that could not pass congressional muster could be indirectly funded and survive for years.

Yet, the conference agreement on S. 4 effectively puts this entire area of Federal expenditures out of the reach of the President. By limiting the President's rescission authority to only those tax expenditures that, by definition, benefit 100 or fewer taxpayers, S. 4 absurdly restricts the ability of the President to get at this type of backdoor spending.

How absurd is this? Imagine limiting the scope of the President's rescission authority to those appropriations that impacted 100 or fewer beneficiaries. Imagine the wrath of verbal indignation that would befall any Senator who stood up here and proposed that kind of rescission process. What would the proponents of S. 4 think of the efficacy of their legislation with that type of restriction in place on appropriated funds?

Mr. President, the concept of numerical definitions on tax expenditures was rejected in the Senate because we all know that any tax lawyer worth his salt can find a few extra people to qualify for the targeted tax benefit, thereby bringing the number of beneficiaries above 100 and out of range of rescission authority. Consequently, this limitation is nothing more than an open invitation to the many creative tax attorneys in this country to find ways to abuse the system.

But the asininity of such a provision does not stop there. The definition of a tax expenditure, or "limited tax benefit" as S. 4 calls it, is further gutted with exemptions for tax breaks that serve to benefit all persons in the same industry, or all persons engaged in the same type of activity, or even all persons owning the same type of property. Thus, under that definition, a special tax break passed by the Congress for anyone owning a Rolls Royce, for example, would not be subject to a presidential rescission since everyone affected would own the same type of property, in this case a Rolls Royce.

Mr. President, I find it ironic that the proponents of S. 4—who seem to be claiming that their so-called line-item veto is the only version that will effectively cut wasteful spending—are the very same people who seem to be afraid to give the President of the United States a similar method of cutting wasteful tax breaks. Why should the President be given the power to veto spending for school lunches, or highway construction, or drug programs, and not be given the power to veto the tax deduction claimed by businessmen for a three-martini lunch? Whether wasteful spending is in a program funded through an appropriation or through a tax break, it is still wasteful spending.

The Domenici-Exon expedited rescission bill, which I am offering as a substitute to the current conference agreement, gives the President real authority to go after wasteful tax breaks. Under the substitute, every tax break would get the same presidential scrutiny as every program funded through the appropriations process. No more, but certainly no less.

Finally, but not insignificantly, Mr. President, is the issue of timing. The rescission process that I am proposing is immediate. It is not put off until next year. It is not delayed until 1997, as it is under the conference agreement. Under the substitute, the President would have the opportunity to exercise his newfound rescission powers right away, this year, on any appropriations, or entitlements, or tax expenditures enacted by this Congress. But, under the conference agreement, the President—in this case President Clinton—is not allowed to affect the fiscal year 1997 appropriations. Apparently, President Clinton is not to be trusted with this new power. Apparently, the hope of the proponents of the conference agreement is that, after 1996, the White House will be under Republican control. Apparently, what is good for a possible Republican President is not so good for a President for the Democratic party.

Mr. President, my position on enhanced rescission is well known to my colleagues. I believe that passage of this conference report, in its present form, would be a truly monumental mistake that will do great harm to the constitutional balance of powers while contributing very little toward balancing the federal budget. I have been, and continue to be, unalterably opposed to granting any President the power to rescind portions of spending measures under conditions which would require a two-thirds vote of both Houses to override such rescissions.

But if we are to have legislation that amends the current rescission process, I hope that we will at least have the presence of mind to ensure that we do not give away, in wholesale fashion, that which the constitutional Framers so wisely placed in this branch of government. Accordingly, I urge my colleagues to adopt my motion to recommit.

The PRESIDING OFFICER (Mr. McCAIN). Who seeks recognition?

Mr. BYRD. Mr. President, I ask the time be charged against my time on the amendment.

The PRESIDING OFFICER. The time will be so charged. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I, first of all, want to take this opportunity to express my respect for the Senator from West Virginia. We clearly are on different sides of this issue. He has been an articulate and zealous protector of the prerogatives and rights of this institution, and he has articulated those well, and I respect that.

I also respect his unswerving allegiance and dedication to that proposition and know that it is very, very important, and it has been over the 8 years of debate on line-item veto, a great history lesson for this Senator.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his overly generous and charitable remarks.

Mr. COATS. Mr. President, it is my understanding that it has been cleared that we could move to a vote at 5:45, to have Senator DOMENICI recognized in order to make a motion to table the pending motion to recommit.

I want to make sure the minority leader and Senator BYRD—if that is his understanding?

Mr. BYRD. That is my understanding. I have no objection. I ask the request be amended to provide that Mr. MOYNIHAN be recognized at 5 o'clock to speak in opposition to the conference report, and the time to be charged against my time on the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. COATS. We have no objection to that, Mr. President. Therefore, I ask unanimous consent that at the hour of 5:45 this evening, Senator DOMENICI be recognized in order to make a motion to table the pending motion to recommit, and, prior to that, at 5 p.m. this evening, Senator MOYNIHAN of New York be recognized to speak in opposition—in favor of the motion to recommit and in opposition to the bill on the floor, the time to be charged to the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I would just alert our fellow Senators that a rollcall vote will now occur at 5:45 p.m. today; that there will still be, after that vote, time remaining on this debate. I am not sure how much of that time will be used. I do know there are some requests for time, so Senators should also expect that there will be additional debate and a vote on final passage on this line-item veto conference report sometime this evening.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I would like to request some time on this side. I think 5 minutes will be adequate.

Mr. COATS. Mr. President, I am happy to yield to the Senator from Mississippi whatever time he desires.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Mr. President, I want to say this afternoon I am extremely proud of the U.S. Senate and of the Congress, because I believe before this week is out we will have passed this already described momentous legislation into law. It is not an easy thing to do. It is very difficult.

I remember, soon after I came to the Senate, we had debate on the line-item veto. I think probably the Senator from Indiana and the Senator from Arizona, Senator McCAIN, were involved in it then. I made some comments, and I had a couple of Senators come over and explain to me that might not be a good idea, to support that. They caused me to think a lot about it.

But here, in effect, we are taking action against our interests. This is a fundamental change; there is no denying it. The Senator from West Virginia is right; the Senator from Alaska. Yet, we are going to do it because, first, I think, we have come up with better legislation than we had 7 years ago, or earlier this year.

We have improved it. We have made it more acceptable to more Senators or Congressmen, Republicans and Democrats. So we are going to go forward with it, and we are going to do it at a time when the majority of the Congress is not of the party of the President in the White House. We are saying that in spite of that—maybe because of it—we want him to have this additional authority.

For 15 years, we have been talking about the line-item veto, maybe longer. But I personally have been familiar with it for those years. As a Member of the House, I was for the line-item veto. I remember making speeches when President Carter was in the White House, and I continued to be for it during the Reagan administration, the Bush administration, and I continue to be for it.

So I think we are showing that we can rise above politics, if you will—partisan politics—and take an action because we believe it will be the right thing to do for our country, we believe it will be the right thing to do in trying to help control spending. It may not work like we hope it will, it may run into difficulties, but I believe it is the right thing to do, and I do support it.

I think that it will be used responsibly by the Presidents of the United States, this one or his successors. I think most Governors use it responsibly in their exercise of the line-item veto, and I think the Presidents will. But if they do not, we will have another opportunity to address it.

I do also want to join in commending the Senator from Arizona, Senator McCAIN, for his dogged support of this idea, and also the Senator from Indiana. They have worked together. They have worked against overwhelming odds and never gave up, even though it looked pretty dismal just a month or so ago.

I have to express my appreciation for Senator STEVENS and Senator DOMENICI. They were aggressive, they were active, but they were involved. I remember I had been talking with the Senator from Alaska one night about what we had been trying to do, and he had been very aggressive in saying how he did not want us to do that. He had worked me over from three or four different angles trying to educate me. Then I said, "OK, I understand you don't want it. Is there a solution?" He stopped and said, "Well, maybe there is."

So we worked together. Even the Senator from West Virginia, who so opposes this legislation, has been very much a gentleman in the way he has handled the debate, how he is addressing this issue today, the motion to recommit he has offered, and the time agreements he has entered into. So a lot of people deserve credit.

I think it is a carefully crafted piece of legislation. We went into the detail of what would it mean for the President to be able to veto in whole or in part. Quite frankly, we were a little bit surprised—I know I was—at what that could mean. So we worked to try to clarify what that "in part" meant.

It does include things other than just appropriations. It does include the so-called tax expenditure. But that provision is carefully drafted, it is carefully defined, and I think we came up with the right blend, so that also can be considered by the President when he reviews legislation we send to him.

We were very careful in deciding what to do on the sunset. There was a lot of argument that we should have no sunset, and there were others who said, and I kind of agreed, "Look, this is big legislation, important legislation, it may not work out correctly. It may be abused. So after a certain period of time, let's be allowed to take a look at it."

I think it will work correctly. I hope it will be extended. I hope to support to extend it when the time comes.

We even talked a lot about the effective date. We wanted to make sure it was going to be handled in such a way it would go into effect as soon as possible. We do have a provision that says if we reach a balanced budget this year, it will go into effect on that date, or January 1, 1997, whichever is earlier. The President and the majority leader talked about that and agreed that was the fair way to do it.

I think we have done what we said we were going to do. I have always felt the President should have this authority. I am in the Congress. I guess I should be jealous of ceding authority to the President, but I really do feel the President should have this authority. We can only have one Commander in Chief at a time. He is the ultimate authority. He should have the ability to go inside a bill and knock out things that are not justified, that have not been sufficiently considered, that cost too much—whatever reason—without having to veto the whole bill.

I am very pleased this afternoon to rise on the floor of the Senate and commend the Senate for what I believe will be their action today and all those associated with this effort. I think it is the right thing to do. I believe it will help save some of our children's tax money in the future.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Michigan [Mr. LEVIN], 30 minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. I thank the Chair.

Mr. President, first, let me thank our friend from West Virginia. He has already been told this afternoon by so many of us just how important he is to the Nation and to the U.S. Senate in the cause he is fighting and the many causes he has fought and continues to fight for in this body. Many of the accolades, indeed, have come from people who are on the other side of this issue from him, but I want to let him know, as someone on the same side of this issue as he is, we, too, feel particularly keenly about the leadership that he has exerted on this issue and so many other issues involving the Constitution of the United States.

This is our bedrock document, a fundamental document. It has no more staunch supporter of the Constitution in this body or in this country than Senator BYRD, and I just want to add my voice to those of so many others in this body on both sides of this issue in gratitude for the labor that he has given to this Constitution. From his perspective, I know they are not labors because they are labors of love.

Mr. BYRD. Mr. President, the Senator from Michigan is a man of great tenacity and perception and love for the Constitution and for him to deliver remarks on my behalf, he certainly has brightened my day. I am very grateful.

Mr. LEVIN. Mr. President, while we are expressing sentiments about each other personally, before I get into my remarks on this bill, which I oppose for reasons I will set forth, I want to add my thanks also to the Presiding Officer and the Senator from Indiana, who is managing the bill, and to others on the other side of this particular issue for the manner in which this debate has proceeded.

It is a very significant debate, and people on both sides of this issue feel very keenly about it. I think there is unity in terms of trying to find a form of line-item veto, so-called, which is constitutional, because whatever side of the particular bill we are on, as to whether we think this version is constitutional or not, I think most of us would like to find a formula which would give the President greater power to identify issues in bills, items in bills which he feels should be separately voted upon, which should be highlighted for the public, for the Congress, and we should then vote up or down on.

I, for instance, very much favor the version which the Senator from West Virginia has offered, which will be voted upon later this afternoon. That so-called expedited rescission process, it seems to me, is constitutional and is something which we can in good conscience, at least I can in good conscience, support.

The Presiding Officer and many others in this body obviously feel that the version which is currently before us is constitutional or I do not think they would have been proposing it. There is a difference on this issue, but it is a difference which is held in good faith. I must say, I greatly admire the Senator from Arizona and the Senator from Indiana and others for the manner in which they have proceeded relative to this issue.

Mr. President, as I said, I support the version of the line-item veto which is known as expedited rescission. That version would ensure that any item of spending which is enacted by the Congress that the President believes to be inappropriate would, in fact, have a separate congressional vote.

That approach to the line-item veto would make it impossible to hide questionable spending in massive appropriations bills. That is one of the goals of the sponsors of the version that is before us. It is to make it impossible to hide questionable spending in these massive appropriations bills.

Senator BYRD's version—the expedited rescission approach—also will make it impossible for these kinds of items to be hidden by a Congress because it would require and ensure a separate congressional vote on any item of spending that the Congress enacts that the President feels is inappropriate.

The problem with the current bill is that it fails the fundamental test of being consistent with the requirements of the Constitution that any repeal or amendment to a law be enacted in the same way that the law itself was enacted. The Constitution establishes the method by which laws are enacted, by which laws are amended, and by which laws are repealed. It is fundamental constitutional law. It is basic, bedrock law that says that a bill becomes law when it is passed by both Houses of Congress and signed by the President, or if the bill is vetoed by the President, when that veto is overridden by a two-thirds vote in each House.

The bill before us purports to create a third way by which laws can be made, a way not recognized in the Constitution. And this third way, this new way, is by giving the President the unilateral power to repeal a law or part of a law without any action by the Congress.

The Founding Fathers made a conscious decision to give the power of the purse to the Congress and not to the President. This power of the purse serves an important check on the power of the Presidency. It is, in fact, a crucial element in the system of checks and balances which was established by the Founding Fathers. These checks and balances are not a mere abstraction; they were expressly written into the Constitution to protect our freedom.

James Madison warned in Federalist No. 47 that—

> There can be no liberty where the legislative and executive powers are united in the same person.

He quoted Montesquieu for that point. It was because of that, the fear of uniting executive and legislative powers in the same person, that article I of the Constitution gives Congress, and not the President, the power of the purse.

Article I, section 1, states without qualification—and the first word in this quote is the critical one—

> All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Article I, section 8 adds:

> The Congress shall have Power To lay and collect Taxes, . . . to pay the debts and provide for the common Defense and general Welfare of the United States; . . . [and] To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Article I, section 9 affirms that:

> No money shall be drawn from the Treasury, but in Consequence of Appropriations made by law.

It was Madison, in Federalist No. 58, who explained that the power of the purse was granted to Congress because it represents the "most complete and effectual weapon with which any Constitution can arm the immediate representatives of the people for obtaining a redress of every grievance and for carrying into effect every just and salutary measure."

Congress cannot change the system of checks and balances established by the Founding Fathers. We cannot do it, and we should not try. But this conference report, in the mechanism which it chooses, attempts to change the system of checks and balances which are embedded—and may I use the word "enshrined"—in the Constitution of the United States.

The enhanced rescission power that is granted to the President by this bill attempts to alter our constitutional system by giving the President unilateral authority to control spending and to substitute his personal budget priorities for the priorities that have been passed by the Congress and signed into law. This bill would give the President the unilateral power to repeal a statute or part of a statute without any action at all by the legislative branch.

That is the heart of the matter. This bill in front of us would give to the President the unilateral power to repeal a statute or part of a statute, the law of the land, without any action by the legislative branch. That is something that we cannot do.

The Supreme Court said as recently as in the Chadha case, that it is beyond Congress' power to alter the carefully defined limits and the power of the branches. This is what the Supreme Court said in Chadha:

> The bicameral requirement, the Presentment Clauses, the President's veto, and Congress' power to override a veto were intended to erect enduring checks on each Branch and to protect the people from the improvident exercise of power by mandating certain prescribed steps. To preserve those checks, and maintain the separation of powers, the carefully defined limits on the power of each Branch must not be eroded.

The Chadha court went on to say:

> There is no support in the Constitution or decisions of this Court for the proposition that the cumbersomeness and delays often encountered in complying with explicit constitutional standards may be avoided, either by the Congress or by the President. . . . With all the obvious flaws of delay, untidiness, and potential for abuse, we have not yet found a better way to preserve freedom than by making the exercise of power subject to the carefully crafted restraints spelled out in the Constitution.

The veto or the repeal or the cancellation, unilaterally, of an existing law by the President is subject to the same constitutional restraints.

The Chadha court explicitly stated that "[a]mendment and repeal of statutes, no less than enactment, must conform with Article I" of the Constitution.

That is an explicit statement of Chadha by the Chadha court. We cannot change that unless we adopt a constitutional amendment and send it to the States.

The Chadha court has told us what courts have told us throughout our history, what the Constitution has told us. It says explicitly, "[a]mendment and repeal of statutes, no less than enactment, must conform with Article I" of the Constitution.

What this bill says is, "Well, we will try to create something else. We will let the President decide within 5 days after a law becomes law that he wants to cancel a part of that law." Unless the Congress acts to override him, the President's unilateral cancellation effectively amends the law of the land. We cannot do that. We should not try.

The Chadha court explained why it reached the conclusion that it did. It wrote that during the Convention of 1787 the application of the President's veto to repeals of statutes was addressed. It was very explicitly addressed during the Constitutional Convention. The Chadha court went through the Convention. The issue was the application of the President's veto to repeals of statutes. The Chadha court concluded, "There is no provision allowing Congress to repeal or amend laws by other than legislative means, pursuant to article I."

Now, Mr. President, the conference report acknowledges what I think is obvious: That when the President signs the appropriations bill—this approach would allow him to cancel within 5 days that appropriations bill—upon his signature that becomes the law of the land. The conference report, section 1021 says that notwithstanding the provision of parts A and B and subject to provisions of this part, "the President may with respect to any bill or joint resolution that has been signed into law, pursuant to article I, section 7 of the Constitution, may cancel in whole or in part," and it goes on to talk about what the President can cancel.

We are only talking here about bills which have become the law of the land. Those are pretty important words in this government of law. We do not allow Presidents to pick and choose which laws they abide by and which ones they do not. I cannot think of any other places where we say a law could be canceled by a President acting unilaterally; yet this bill says that a law—and that has become enacted, signed by the President—can be canceled in whole or in part by the President, acting alone.

Of course, the bill gives us the opportunity to override that cancellation with new legislation. That is not the point. That is not what article I of the Constitution provides. Article I of the Constitution as interpreted by Supreme Court opinion after Supreme Court opinion as recently as Chadha says the repeal, the amendment, the modification of a law must be done in the same way that a law is enacted. This bill is a deviation from that. This bill says "Well, we will create another way. We will create a new way. You do not have to enact an amendment. You do not have to adopt an amendment. You do not have to repeal the law the way the Constitution provides. We're going to say that the President of the United States, acting alone, is able to cancel a law of the United States."

Now, Mr. President, the argument has been made that the bill just restores to the President the authority that he exercised prior to the enactment of the Impoundment and Control Act in 1974. That is plainly wrong. No President has ever exercised the kind of unrestrained right to override congressional budget decisions that this bill would attempt to create. The Assistant Attorney General, Charles Cooper, in the Reagan administration, stated in a 1988 legal opinion, the following:

> To the extent that the commentators are suggesting that the President has inherent constitutional power to impound funds, the weight of authority is against such a broad power. This office has long held that the existence of such a broad power is supported by neither reason nor precedent. Virtually all commentators have reached the same conclusion without reference to their views as to the scope of executive power.

I note that same Assistant Attorney General, Charles Cooper, in the Reagan administration, cited no less an authority than Chief Justice Rehnquist, writing in his position as Assistant Attorney General in the Nixon administration, for the proposition that a Presidential power not to spend money "is supported by neither reason nor precedent."

The Constitution does not authorize this version of a line-item veto. The Constitution does not permit the President to repeal a law, to suspend a law, to ignore a law, unless he chooses to veto the law itself. He cannot cancel laws. This is just another word for modifying it or ignoring it or vetoing it.

George Washington said 200 years ago, "From the nature of the Constitution I must approve all the parts of a bill or reject it in toto."

Former President and Chief Justice William Howard Taft explained, "The President has no power to veto parts of the bill and allow the rest to become a law. He must accept it or reject it, and even his rejection of it is not final unless he can find more than one-third of one of the Houses to sustain him in his veto."

Congress cannot give the President that authority or even greater authority simply by changing the labels and calling a repeal or an amendment the "cancellation" of a law. It is not the labels that count. It is the substance of what we are doing or purporting to do. What we are purporting to do in this bill is to give the President of the United States unilaterally a right which the Constitution denies him, and that is the right to cancel or veto or amend or modify or ignore the law of the United States.

If it is unconstitutional for Congress to give the President a particular power under one label, it is not suddenly constitutional merely because we change the label. We cannot acknowledge that the President does not have the right to "modify" or "repeal" a law under the Constitution, but at the same time maintain that he can "cancel" a law. A veto is no less a veto and a repeal is no less a repeal because we call it suspension or cancellation.

As a matter of fact, the Random House dictionary defines a veto as "The power vested in one branch of a government to cancel the decisions, enactments, et cetera, of another branch." To paraphrase the statement of Senator Sam Ervin on a similar issue in 1973, "You can't make an onion a flower by calling it a rose."

Now, it is argued by some that this bill is a constitutional delegation of power because the President is simply exercising some legislatively authorized discretion not to enforce a statutory provision. By this reasoning, the appropriation that has been canceled is still law. But I do not believe that is the intent of the sponsors. The bill itself is entitled the "Line-Item Veto Act." The bill creates a new part of the Congressional Budget Act entitled, "Part C, Line-Item Veto." The first provision of this new part is entitled, "Line-Item Veto Authority."

Now, in addition, the so-called discretion in this conference report only operates in one direction. Once a President cancels an appropriation under the bill, neither that President nor any other President would be permitted to spend the appropriated money without the enactment of new legislation.

When a President cancels a provision of law providing for direct spending, this bill provides that the provision shall have no legal force or effect. The bill expressly states in section 1026(4)(b) that the term "cancel" means, in the case of budget authority provided by law, to prevent such budget authority from having legal force or effect. That is right in the bill itself. There is no discretion that is being granted here to the President. There is only one-way discretion here, which is to cancel a provision of law and deprive it of legal force and effect in perpetuity.

Similarly, in the case of entitlement authority, the bill states that a cancellation "prevent[s] the specific obligation of the United States from having legal force or effect." The whole purpose of this bill is to deny the legal force or effect of any part of an appropriation that the President has canceled. In the case of the Food Stamp Program, the bill says its purpose is to "prevent the specific provision of law that results in an increase in budget authority or outlays for that program from having legal force or effect."

Now, Random House defines the term "cancel" to mean, "make void, to revoke, to annul." I think we would all agree that any bill that purported to authorize the President to unilaterally void or annul or revoke a statute would be unconstitutional.

Can the result be different because, instead of calling it a repeal or an annulment, we call it a cancellation? Can the application of the label "cancel" to what is clearly a repeal and an annulment change the outcome legally? I do not think so.

The bottom line is that this bill purports to grant to the President of the United States a unilateral authority, which the Constitution will not allow him to have or us to grant to him; that is, the authority to repeal a law without any action by Congress.

Chadha says that you cannot repeal or modify a law without any action by Congress. The Constitution says it. We cannot do—and we should not attempt to do—what the Supreme Court says cannot be done and which the very logic of the Constitution says cannot be done.

Assistant Attorney General Cooper, again in the Reagan administration, explained this in his legal memorandum on impoundment. He said that because an inherent impoundment power would not be subject to the limitations on the veto power contained in article I, clause 8, an impoundment would, in effect, be a superveto with respect to all appropriations measures. The inconsistency between such an impoundment power and the textural limits on the veto power further suggests that no inherent impoundment power can be discovered in the Constitution.

The same conclusion must be reached with regard to the cancellation power which is proposed in this conference report. Like an inherent impoundment power, cancellation of a provision would, in effect, be a superveto, going far beyond the veto power given to the President in the Constitution, because the President would not be required to veto the entire bill. Congress cannot, by statute, give the President powers that were denied to him in the Constitution.

As Prof. Thomas Sargentich of the Washington College of Law at American University explained in a March 13, 1995 letter to me, regarding an earlier version of this bill which took the same approach:

> S. 4 presents the question whether, given that the President cannot unilaterally rewrite or delete some portion of a bill at the time of presentment, the President nevertheless can sign the bill and decide thereafter to rescind budget authority under the law. Proponents of S. 4 seek to rely on a verbal contrast between "rescission" of budget authority and "repeal" or "veto" of all or part of a statute. The notion is that a 'rescission' is simply the execution of the law pursuant to a broad delegation.
>
> The problem with this suggestion is that it seems to exalt verbal form over legal substance. * * * A repeal of all or part of a statute after it becomes effective can only be accomplished by new legislation enacted with adherence to bicameralism and presentment. Using words like "suspend" or "rescind" or any other somewhat muted verb does not alter the underlying legal situation.

Similarly, Louis Fisher of the Congressional Research Service concluded in 1992 testimony before the House Rules Committee that a statute purporting to give the President unilateral power to rescind an appropriation would be unconstitutional. Dr. Fisher stated:

> Under what theory of government can Congress delegate to the President the power to rescind laws without further legislative involvement? Congress regularly delegates to the President substantial authorities to 'make law,' but this consists of discretion within the bounds of statutory law, not the power to terminate law. * * * Even if contemporary case law sustains the constitutionality of broad delegations, I would argue that the rescission of previously appropriated funds requires action through the regular legislative process: action by both Houses on a bill that is presented to the President.

And, a 1987 Note in the Yale Law Journal concludes unequivocally that—

> A transfer of authority to the President [through an enhanced rescission bill] to decide which parts of appropriation bills to enforce, would be a delegation of Congress' spending power. Such a delegation, however, would be unconstitutional. * * * Congress cannot constitutionally seek to solve its budget problems by attempting to divest itself of its constitutionally assigned powers.

Mr. President, I am confident that the courts will strike this provision down as an improper attempt by Congress to override the explicit standards, in article I of the Constitution, for the enactment and repeal of legislation. However, I do not believe that we should rely upon the courts to strike down unconstitutional statutes; we have an independent duty to scrutinize our actions and reject any proposal that would violate the strictures of the Constitution.

It has been argued that the end of hope for deficit reduction justifies the means.

The line-item veto has been cast as a mechanism to cut wasteful spending by Congress.

The premise has been weakened by the fact that the Presidents' budgets during most of the Reagan-Bush years had greater deficits than the budgets adopted by the Congress.

Also numerous studies show that State line-item veto provisions, rather than reducing spending, have been used for partisan, political purposes. CBO Director Robert Reischauer testified before the Governmental Affairs committee that:

> Evidence from the states suggests that the item veto has not been used to hold down state spending or deficits, but rather has been used by state governors to pursue their own priorities.... [A] comprehensive survey of state legislative budget officers found that governors were likely to use the item veto for partisan purposes..., but unlikely to use the veto as an instrument of fiscal restraint.

The same is likely to be true at the Federal level. For example, a President could push his agenda in Congress by threatening to use a line-item veto or enhanced rescission authority to kill projects in the State or district of a Member who opposed his proposals. Such threats could be used to advance policies in area—such as health care and welfare reform—that are completely unrelated to Federal spending. They could even be used to persuade Congress to increase Federal funding for projects favored by the President.

But even if one believes line-item veto will have a major impact on the deficit, then do it constitutionally. That is what the Byrd motion is all about. We should not do it by trying to give the President a part of the power over the purse, a power the constitution reserves to the Congress. We should not do it by trying to give the President the right to repeal a law or a portion of a law without congressional involvement.

The sponsors of the bill have taken the position that Presidents are unlikely to abuse these new powers. That view is not only naive, it is also inconsistent with the view of our Founding Fathers and the purpose of our constitutional system of checks and balances. As James Madison explained in "Federalist Number 51":

> [The great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department, the necessary constitutional means, and personal motives, to resist encroachments of the others.... If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controuls on government would be necessary.

Moreover, as Justice Frankfurter pointed out in the wake of our battle against dictatorship in the Second World War, the road to tyranny may be paved with the best of intentions. Writing in the so-called Steel Cases overturning President Truman's attempt to take control of steel mills, Justice Frankfurter states:

> [The Founders] rested the structure of our central government on the system of checks and balances. For them the doctrine of separation of powers was not mere theory; it was a felt necessity. Not so long ago it was fashionable to find our system of checks and balances obstructive to effective government. It was easy to ridicule that system as outmoded—too easy. The experience through which the world has passed in our own day has made vivid the realization that the Framers of our Constitution were not inexperienced doctrinaires. These long-headed statesmen had no illusion that our people enjoyed biological or psychological or sociological immunities from the hazards of concentrated power. It is absurd to see a dictator in a representative product of the sturdy democratic traditions of the Mississippi Valley. The accretion of dangerous power does not come in a day. It does come, however slowly, from the generative force of unchecked disregard of the restrictions that fence in even the most disinterested assertion of authority.

Much will no doubt be made in the course of this debate of the fact that the President supports this bill of course. Every President would like Congress to hand over part of its power over the purse.

I would point out however that former Counsel to the President—the President's own counsel—has parted company with the President on this issue. In a March 25, 1996, column in the Legal Times, Abner Mikva wrote that line-item veto proposals not only raise constitutional problems, but would also transfer excessive power to the President. Judge Mikva has been consistent, and convincing, on this issue. Back in 1986, Judge Mikva wrote, in the University of Georgia Law Journal:

> [T]he source of almost all congressional power—the spine and bite of legislative authority—lies in Congress' control of the nation's purse. If ever Congress loosens its hold on this source of power or if ever the President wrests it away, then, to quote the late Senator Frank Church, "the American Republic will go the way of Rome." The delicate balance created by the Framers will have been destroyed.
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> Since 1873, when Ulysses Grant first proposed the idea, over 150 legislative proposals have called for Congress to give to the President the ability to veto individual parts of a bill. Congress has thus far rejected such proposals; with any luck, it always will.
>
> For regardless of whether Congress yields budgetary authority or the President usurps it, the threat to our constitutional order is the same. In our governmental system, the legislature does and must have plenary power over the budget. The power of the purse is the strength of the Congress; take that away, and all else will fall. Is Congress' management of the budget inefficient? Surely it is; the workings of democratic institutions always are. Is it cumbersome? Of course it is; getting a majority of 535 political prima donnas to agree on anything is a difficult task. But if we wish to live in a pluralistic and free society, we will strive to ensure that Congress retains exclusive control of the nation's purse. Only in that event will the delicate balance of our constitutional structure be preserved.

Mr. President, this bill is an unwise attempt to give away Congress' power over the purse and undo the system of checks and balances created by our Founding Fathers. It is at odds with the requirements of the Constitution. I urge my colleagues to reject it and adopt a different version called expedited rescission.

Mr. McCAIN. Mr. President, we were sort of going back and forth from one side to the other. Since Senator LEVIN just went, Senator ROTH was going to go and, then, I understand Senator DASCHLE will go. I believe that is the normal custom.

Mr. BUMPERS. Mr. President, I wonder if the floor manager would be willing to enter into a unanimous-consent agreement specifically naming the order of those who were here on the floor so others will know approximately when to come to the floor.

Mr. McCAIN. I note the presence of the Senator from West Virginia. I hope that is agreeable with him.

Mr. BUMPERS. I defer to our leader there, Senator BYRD, with how to approach this.

Mr. BYRD. Under the circumstances, I would be willing to do that. I am ordinarily not willing to stray away from what the rules require, but I would be happy to do that on this occasion.

Mr. BUMPERS. I suggest that Senator ROTH be recognized next, following which Senator DASCHLE be recognized.

Mr. DASCHLE. Well, Senator BUMPERS has been here longer than I have.

Mr. BUMPERS. I do not mind yielding to the leader. He has a much busier schedule than I do. Who would be next on that side?

Mr. McCAIN. I am not sure at this time whether it would be Senator NICKLES or Senator KYL.

Mr. BUMPERS. And then it would come back to me?

Mr. McCAIN. Yes, then the Senator from Arkansas.

Mr. BUMPERS. Does the Senator from Maryland wish to speak on this issue?

Mr. SARBANES. How long do we expect people to speak if we set up this procedure?

Mr. McCAIN. I say to my friend from Maryland that usually about this time of the afternoon and evening we find there are a lot of speakers.

The PRESIDING OFFICER. The Chair notes that Senator MOYNIHAN is to be recognized at 5 o'clock.

Mr. McCAIN. Yes, by previous unanimous consent, and there is a vote under a previous unanimous consent at 5:45.

Mr. BUMPERS. Is a certain time allotted to Senator MOYNIHAN?

Mr. BYRD. It is 30 minutes, I believe.

Mr. McCAIN. I ask the Chair, how much time does Senator MOYNIHAN have? Is there a certain amount of time?

The PRESIDING OFFICER. No time was allotted.

Mr. BYRD. Mr. President, I yield 30 minutes to Mr. MOYNIHAN.

Mr. McCAIN. At 5:45 is a vote to table the Byrd motion to recommit, under a previous agreement.

Mr. BYRD. So, between now and 5, there is time for several Senators.

Mr. MCCAIN. Mr. President, I yield 15 minutes to the Senator from Delaware, Senator ROTH.

Mr. NICKLES. Will the Senator yield to me briefly?

Mr. MCCAIN. Yes.

Mr. NICKLES. Mr. President, I rise today in strong support of the Line-Item Veto Act. The final Senate consideration and passage of this historic legislation is the result of years of hard work on the part of many of my colleagues.

I particularly wish to congratulate Senator MCCAIN and Senator COATS, who have dedicated so much of their time and energy to this initiative. In recent years, they have taken up this cause which was so actively pursued in the past by Senator Mattingly, Senator Evans, and Senator Quayle.

My colleagues have shown great courage over the years in continuing to bring this issue to the floor of the Senate. They did this at some political risk, yet they did not waiver. They believe in this issue, and I think they are right.

I believe the line-item veto is vitally important, Mr. President. It will save money, and right now we are spending too much and our budget process does not work very well. The line-item veto is certainly not a panacea for all our budget problems, and it will not balance the budget. But it will help.

According to the Library of Congress, at least 10 Presidents since the Civil War have supported the line-item veto, including Presidents Grant, Hayes, Arthur, Franklin Roosevelt, Truman, Eisenhower, Nixon, Ford, Reagan, and Bush. Further, 43 of 50 State Governors have some form of line-item veto authority.

At its essence, this is a debate over checks and balances. Right now, we are writing a lot of checks, and there are few balances. Congress spends the money, and the President has two options. One, he signs the bill, or two, he vetoes the bill.

Historically, the balance of spending power between the executive and legislative branches of Government has varied considerably. Prior to 1974, several Presidents impounded congressionally directed spending, and Congress had little recourse.

According to the Congressional Research Service, the first significant impoundment of funds occurred in 1803 when President Thomas Jefferson refused to spend $50,000 appropriated by Congress to provide gunboats to operate on the Mississippi River. President Grant impounded funds for harbor and river improvement projects in 1876 because they were of a local interest rather than in the national interest. President Roosevelt impounded funds during the Great Depression and World War II, and in the 1960's President Johnson withheld billions of dollars in funding for highway projects.

This conflict came to a head in the 1970's when President Nixon impounded over $12 billion for public works housing, education, and health programs. Nixon's action led to the enactment of the Congressional Budget and Impoundment Control Act of 1974. Under this legislation, Congress eliminated the President's impoundment authority in exchange for establishing its own budget process.

Under the Congressional Budget Act, the balance of spending power is now significantly in Congress' favor. The President may now propose rescissions of appropriated funds, but Congress is not obligated to consider them. The General Accounting Office reports that from 1974 to 1994, Presidents have proposed 1,084 rescissions of budget authority totaling $72.8 billion. Congress has adopted only 399, or 37 percent, of the proposed rescissions in the amount of $22.9 billion. Congress has also initiated 649 rescissions totaling $70.1 billion, but most of these rescissions have been used to offset other Federal spending.

Mr. President, I have served on the Appropriations Committee. They probably work as hard as any committee in the Senate, and they are responsible for spending a little over $500 billion, about a third of what the Government spends right now.

For the most part, they do an excellent job with the annual appropriations bills and supplementals, but I can tell you from experience that every single appropriations bill has had items in it that we do not need and we cannot afford. The line-item veto will give the President the ability to strike those items that we cannot afford. We may or may not agree with him. If we disagree, we can try to override his veto.

Mr. President, I think it is important to note that this line-item veto will impact not only appropriated spending, but also new entitlement spending and limited tax benefits. We all know it is the outrageous growth of entitlement spending that is causing our deficit problems, so I think it is a significant step to give the office of the President more authority to control the growth of these programs.

Mr. President, again, I compliment my colleagues, particularly Senator MCCAIN and Senator COATS, for their leadership. They have taken this issue on year after year, many times at considerable economic and political pain. I compliment them for their courage, and I am proud of their success.

The line-item veto is a significant accomplishment for the 104th Congress, but I continue to hope that it is not our most significant accomplishment. It is with no small degree of frustration that I note that President Clinton and the Democrats killed the constitutional amendment to balance the budget, they killed the Balanced Budget Act, and they killed welfare reform.

When President Clinton campaigned on a line-item veto in 1992, he claimed that he could reduce spending by $9.8 billion during his term. I wish we could have given it to him earlier, since spending has actually increased during his term so far. Even more amazing is that right now, in some room in the Capitol building, the President's aides are insisting on spending $8 billion more this year.

Mr. President, I hope the line-item veto is not our most significant budget accomplishment this year, but even if the President continues to block our other initiatives, this legislation will stand out as a shining example of our success.

Mr. BYRD. Mr. President, I yield 30 minutes to Mr. BUMPERS and 30 minutes to Mr. SARBANES at such time as they are recognized.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, today the Senate turns to the conference report on the line-item veto legislation. This legislation would provide for enhanced rescissions procedures to allow the President to cancel new items of direct or entitlement spending, appropriations, and limit the tax benefits; in sum, virtually all Government expenditures.

Mr. President, while I do support the conference report and believe in the intent of the legislation, I am concerned about the way the legislation affects tax provisions. Let me first outline my views regarding the underlying conference report, and then I will turn to the troublesome language regarding taxes.

Let me be clear that I believe that the line-item veto will not solve our deficit problem. In fact, it will be used as a tool to help trim Federal spending. We all know, that we need every possible tool to help reduce Federal spending.

This is a very important issue that was contained in the Contract With America. The Republican-led Congress continues to keep its promises to the American people in passing legislation that will help reduce Government spending, the budget deficit, and the debt burden on our children. In the Senate's first joint hearing with the House on the issue in January 1995, before the Governmental Affairs Committee, Dr. Alice Rivlin, Director of the Office of Management and Budget asked that the Congress provide the "strongest possible line-item veto power to the President." I agreed with Dr. Rivlin's statement. Congress has acted and will now give the President a very strong version of the line-item veto powers. Both the Senate and House passed the line-item veto overwhelmingly. This week the Senate will pass the conference report. A historic moment.

Mr. President, the time has come to put an end to out of control Federal spending that has taken money from the private sector—the very sector that creates jobs and economic opportunity for all Americans.

The American people are crying out for a smaller, more efficient Government. They are concerned about the trend that for too long has put the interests of big government before the interests of our job-creating private sector. They are irritated by the double-standard that exists between how our families are required to balance their checkbooks and how Government is allowed to continue spending despite its deficit accounts.

I believe that spending restraint for our nation is one of the most important steps we can take to ensure the economic opportunities for prosperity for our children and for our children's children.

As a nation—and as individuals—we are morally bound to pass on opportunity and security to the next generation.

The Federal behemoth must be reformed to meet the needs of all taxpayers for the 21st century. I am convinced that it is through a smaller, smarter government we will be able to serve Americans into the next century.

The President's recent budget proposals for next year offer clear evidence of the lack of political will to make the hard choices when it comes to cutting Government spending. His budget does not take seriously the need for spending restraint. In fact, Bill Clinton proposes spending over $1.5 trillion dollars this year and nearly $1.9 trillion dollars in 2002. In other words, the only path that the President proposes is one that leads to higher Government spending, higher taxes, and ever-increasing burdens for our children.

Deficit spending cannot continue. We can no longer allow waste, inefficiency, and overbearing Government to consume the potential of America's future. I am committed to spending restraint as we move to balance the budget. As I said before, the line-item veto legislation will not solve our deficit problems, but it will be a helpful tool to cut spending.

While the authority conferred upon the President in this legislation is commonly referred to as a line-item veto, the authority is actually an authority to cancel—with specified limitations—appropriations, entitlements, and tax cuts. This cancellation authority bears closer resemblance to impoundment authority than to a traditional veto.

What this legislation before us does is to allow a President to sign an appropriation, entitlement, or tax bill and then exercise a separate authority to cancel an item in those laws, such cancellation to be effective unless Congress passes another law, presumably over the President's veto, to negate the President's exercise of his cancellation authority.

My concern with this legislation is that I have never heard of impounding a tax cut. I have heard of impounding spending, but not a tax cut. As you know, 43 State Governors have line-item veto authority, but not a single Governor has any authority to cancel a tax cut.

It is my studied judgment that the Federal Government spends too much and taxes too much. The well being of our people would be significantly improved if both spending and taxation were diminished. Consequently, I would like this legislation better if it allowed the President to cancel only spending items and not tax-cut items.

Fortunately, the President's authority in the tax area is narrow—evidence of the fact that the conferees understood the anomaly of impounding tax cuts. In contrast to the authority on the spending side whereby the President may cancel, first, "any dollar amount of discretionary budget authority" and (2), "any item of new direct spending," the authority on the tax side is limited. The President has the authority to cancel only items which meet the definition of a "limited tax benefit."

A "limited tax benefit" is a defined term, which covers two specific categories:

First, a revenue losing provision which provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries under the Internal Revenue Code of 1986 in any fiscal year for which the provision is in effect; or

Second, any Federal tax provision which provides temporary or permanent transition relief for 10 or fewer beneficiaries in an fiscal year from a change to the Internal Revenue Code.

In further contrast to the President's authority to cancel on the spending side, the legislation before us provides an additional mechanism that applies only with respect to limited tax benefits, in order to further circumscribe the President's authority. This mechanism provides that in certain circumstances Congress may reserve unto itself the sole discretion to identify those items in a revenue or reconciliation bill or joint resolution that constitute a limited tax benefit. Such identification by Congress is controlling on the President, notwithstanding the definition of a "limited tax benefit" in the pending legislation, and is not subject to review by any court.

Historically, the Senate has enacted tax legislation either by unanimous consent, in the case of simple bills, or by agreeing to a conference report, in the case of more significant bills. As a practical matter, the bills adopted by unanimous consent generally deal with one subject and are not an important concern to advocates of a line-item veto authority in the tax area. Conference reports, in contrast, may contain a large number of tax items. It is in such context that a limited tax benefit might be found.

Consequently, whenever a revenue or reconciliation bill or joint resolution that amends the Internal Revenue Code of 1986 is in conference, the Joint Committee on Taxation is required to review the legislation and identify any provision that constitutes a limited tax benefit. If the conferees include this list of identified items in the conference report, the President can cancel a tax item only if it appears on the list. If the Joint Committee on Taxation finds that the bill contains no limited tax benefits and Congress includes a statement in the conference report that no such items exist, the President is thereby foreclosed from canceling any tax item. However, if Congress does not include a statement either identifying the specific limited tax benefits or declaring that none is contained in the bill, then the President may cancel a tax item if it falls within the definition of a limited tax benefit and the exercise of the President's authority meets the requirements of section 1021 of the Budget Act, as written by this pending legislation. Similarly, the President has such authority to cancel a limited tax benefit contained in legislation that is not adopted as a conference report. However, as I said, the occasion for an exercise of such authority would be rare, indeed.

The pending legislation authorizes conferees, in the above circumstances, to include a statement regarding the provision of limited tax benefits, notwithstanding any precedents or House or Senate rules—such as those rules relating to the proper scope of a conference—that might create a point of order against such inclusion. However, nothing in the pending legislation that authorizes the inclusion of such statements in a conference report limits either House from exercising its constitutional rulemaking authority by requiring, rather than authorizing, the inclusion of such statements.

Mr. President, I thank my colleagues for their attention, and I urge that they join me in supporting this needed legislation. I thank the Chair. I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. BUMPERS], is recognized.

Mr. BUMPERS. Mr. President, the distinguished Senator from West Virginia yielded me 30 minutes, and I am quite sure I will not take that amount of time. I know there are many wishing to speak. It is one of those cases that Mo Udall described one time: "Just about everything that needs to be said has been said but everybody has not said it." So I am going to add my two cents worth.

First of all, the constitutional problems with this bill are insurmountable.

The people listening or watching would be interested in knowing, nowhere in the Constitution is the word veto mentioned. Here is what the Framers said in article I of the Constitution:

> Every bill which shall have passed through the House of Representatives and the Senate shall before it become a law be presented to the President of the United States. If he approve he shall sign it but if not he shall return it with his Objections to the House in which it shall have originated.

I have been here 21 years. I am not a constitutional scholar but a country lawyer with a great reverence for the Constitution. I have voted against more constitutional tinkering, I will bet, than any Senator here in the past 21 years. Unhappily, we have Members of this body who think that what Madison and Adams and Franklin did 207 years ago was simply a rough draft for us to finish. This is a classic case of casual tinkering with our Constitution, that sacred document which was put together by the greatest assemblage of minds under one roof in the history of the world.

Do you know what else it is? It is a classic political response to an admitted problem. It is a diversion and a distraction of the American people. It tells them, "Here is a simple answer to spending and deficits."

Nothing could be further from the truth. But people busy trying to make a living and keeping food in the mouths of their children do not have time to examine the complicated details of this proposal.

How did it all start? Where did this idea of a line-item veto originate? I do not know. I had not been here very long when Ronald Reagan was elected President. He had promised to balance the budget, and the first thing you know the deficit was soaring. And 8 years later the national debt had gone from $1 trillion to $3 trillion—tripled in 8 years. I do not want to be hypercritical of President Reagan, but I heard him say time and time again, "I can't spend a nickel that the Congress doesn't appropriate."

What he should have been saying is "The Government cannot spend a dime unless I sign off on it." Despite all of that rhetoric and talk about spending and deficits, from 1980 to 1992, the deficit went from $1 to $4 trillion. President Bush never vetoed an appropriations bill, and President Reagan vetoed one spending bill because it was not big enough—a Defense bill. He vetoed it because it did not have enough money in it.

President Clinton told my friends on the other side of the aisle, "You pass that reconciliation bill, and I am going to veto it." And they passed it, and he vetoed it. He did not veto it because of the amount of money in it. He vetoed it because of its priorities. But at this very moment, conferees all over this Capitol building are meeting trying to craft a resolution about differences on spending and programs. Frankly, not making much headway.

The President wants another $3 billion in education, and that is the sticking point. Let me digress just for a moment on that point and say I saw the most interesting quote yesterday. I think it was the President of Peru who said everything should be subordinate to our children they are just forming their brain cells, their bones, their minds, and bodies, and they do that in a few short years. His point was that if you neglect your children, you have lost a generation of what would otherwise be healthy, productive citizens.

I thought that comment was beautiful, appropriate, and absolutely true.

So our President is simply saying that for everybody we allow to grow up in ignorance, we all pay a price for it. I do not know whether he is going to get the $3 billion or not. We may have another continuing resolution. I think we will. But my point is this. We are negotiating, and we are talking. If I were to say to my friends on the other side of the aisle, "Let us just send this bill over to the President and let him pick and choose what he wants to kick out," I would start a riot right on the floor of the Senate. Nobody wants to do that.

I can remember when this line-item veto thing came up. I did not like it. People would say, "Well, you were a Governor, weren't you?

"Yes, I was Governor."

"Didn't you have a line-item veto?"

"Yes, I had a line-item veto."

And I used it occasionally. Do you know what I used it for? To get legislators in line.

"Senator, you know that vo-tech school for your high school in this bill? That sucker is going to be gone unless you get back down there and change your vote." That is the way I used it. That is the way a President of the United States would use it. It is a lethal weapon in the hands of the executive branch.

Today, at this very moment, the deficit has fallen from a projected $390 billion—that is what it was projected to be. In 1992, we were looking at a 1995 deficit of $390 billion. It is half that amount, and it is already down close to $20 billion from that projection, during just the first 3½ months of this new fiscal year. And it was not done with a line-item veto. It was done by people who were determined to try to get the budget balanced.

Oh, this is a terrible, terrible, lousy idea. It started out as a political diversion for the benefit of a party, to say, "Oh, wouldn't it be great if the President could just take all that pork out of there?" I have seen figures to show if the President utilized the line-item veto to its maximum, it would have about a 1 to 2 percent effect on the total budget. It is unneeded, hopelessly unworkable, and an unprecedented grant of power to the President of the United States. And, yes, it is patently unconstitutional.

This morning we had a vote. Everybody here knows what it was about. It was about the Utah wilderness bill. Even the people of Utah, apparently, did not think much of that bill. It is very controversial. But the bill tracked almost exactly what President Bush recommended when he was President.

Now, if President Bush were sitting in the White House right now and we were voting on cloture, as we did this morning, and the advocates of the Utah wilderness bill needed the nine votes that they did not get this morning, they could go to the White House and the President could call three Republicans and maybe six Democrats and say, "I have been looking at this bill over here. You know that little old research center you have down in your State? My people tell me they do not much like that. They do not think it is needed. They think it is a waste of money. I am inclined to disagree with my people. But, while I have you on the phone, I am a strong proponent of the Utah wilderness bill. Perhaps you and I could sit down. We could talk this over. Maybe you could see my way on the Utah wilderness bill and perhaps I could see your way on that little research center you have in your State."

It is not unheard of. I just got through confessing to you that is what I did when I was Governor. I have fought against 12 aircraft carriers; I thought 10 was adequate. I fought against bringing those old moth-eaten battleships out of mothballs at a cost of about $2 billion. Now they are back in mothballs. I fought and have continued to fight against the space station, which will go down in history as the most outrageous waste of money in the history of the U.S. Government. We finally killed the super collider. On every one of those things, the President was on the other side. And we build a multiple launch rocket in Camden, AR. Are you beginning to get the picture? The President might say, "Well, now, Senator, they tell me you are hot against the space station. I am hot for it. And the Defense Department told me they were thinking about moving the manufacturing of the multiple-launch rockets from Camden, AR, to someplace in Alabama." Do you think that does not get my attention, 750 jobs?

When James Madison and his colleagues in Philadelphia in 1787 were crafting that document that has given this country the oldest democracy in the history of the world, they said the power of the purse will be vested in Congress. They did not say "unless the President decides to tinker with the figures." They said, "The Congress shall pass appropriation measures." Do you know what they gave us in exchange for that? They said, "You can spend the money, but you also have to raise it." That was supposed to be a nice balance. You have to tax the people. That is not popular. You have to raise the money with taxation before you can spend it, but we are going to give you the power of the purse.

What are we doing? We are saying, "James Madison, you did not know what you were doing. You made a colossal mistake when you crafted our Constitution, so we are going to correct it. We are going to give the President all the powers you gave him in the Constitution, and we are going to take some away from Congress and say you not only have all the executive powers, being Commander in Chief and all those things, we are now going to give you the power of the purse."

Colleagues, do not, 2 years from now, 3 years from now, come on this floor and start crying about this mistake we are about to make. Oh, I know it is popular. You walk in any diner in America and ask, "Do you favor the line-item veto?" You bet. "Do you favor prayer in school?" You bet. "Do you favor a balanced budget amendment to the Constitution?" You bet. Count me in. "Are you against flag burning?" You bet. All those things that have a great emotional impact on people, until they have heard, as Paul Harvey says, "the rest of the story."

We are saying, "Mr. President, stop us before we spend again. We are out of control, and only you can bring us under control."

This is not such a good idea for the President, either. Everybody knows President Clinton and I have served our beloved State of Arkansas together for many, many years. He is my friend. But he is for this. I am sick that I did not get a chance to dissuade him before he said that publicly. But he says he is for a line-item veto, and that is a mild disappointment to me.

But, you know, Mr. President, if he picks out some projects that are the wrong projects and decides to send them back over here and require us, ultimately, to have a two-thirds vote in both Houses in order to pass, he may get in trouble in some State. So what do you think he is going to do? He did not just fall off a watermelon truck. He did not get elected President by being stupid. He is going to be very careful about what he excises out of the appropriations bills for fear he will lose that State.

Right now this Presidential race is heating up. Do you think a President is going to take anything big out of a bill in an election year? In an off year, when he is not running for President, he might pick out a couple of Senators he does not like, who have been particularly obstreperous and have fought against some of his programs, and in a year when he is not up for reelection, he may decide to take some of those projects out of the States of Senators of the other party.

Bear in mind, when we first started talking about term limits, it swept this country like a prairie fire. It is a terrible idea, a lousy idea. I have never been for it and will never be for it. Virtually every Member of this body on the other side of the aisle thought it was wonderful until they got control of Congress, and now you cannot even get it up for a vote.

We kept people's attention diverted just long enough, and the Republicans took control of Congress, and now it is not worth the cost of electricity to have a roll call on term limits. It would be defeated soundly. And when it comes to the line-item veto, they wanted a line-item veto so desperately—in all fairness 19 Democrats voted for this thing, too. What was it about? Take the heat off Ronald Reagan. That is really where it all started.

Then, suddenly, the contract, the famous Contract With America, over in the House of Representatives, it was put in the contract: line-item veto. Not many people in America knew it. Not many people in America cared. So we passed it. How long did it take after Bill Clinton got elected President—something nobody anticipated—we could not even get conferees appointed. Do you know what the bill now says? It will not go into effect until January 1997, with the ardent, divine hope that BOB DOLE will be President January 1, 1997.

Those are the shenanigans that are going on with our sacred Constitution.

Mr. President, another thing that those great minds in Philadelphia did almost 209 years ago is they provided a third branch of Government called the judicial branch. They set up a Supreme Court and such lower courts as Congress may establish. They are independent, and they are named for life. You cannot threaten them. An article in New York Times this morning describes a letter from the Federal judges vigorously opposing this, because if a Federal court renders a decision the President does not like, the next time around, he can just take their money away from them. He cannot take their salaries because you cannot reduce their compensation as long as they are sitting on the Court. You can take their clerks and secretaries away from them; you can cut the air-conditioning off. To give the President that kind of authority over the independent judiciary is the height of irresponsibility.

We not only have an independent judiciary, we just, fortunately, had a very wise man named John Marshall who was Chief Justice of the Supreme Court when the Marbury versus Madison case was argued. John Marshall said: "Somebody has to decide: Are those laws they're passing over there in conformance with this Constitution or not?"

So was born the doctrine of judicial review. Thank God for John Marshall and judicial review and a truly independent judiciary.

So, Mr. President, this bill gives the President a legislative authority to amend bills. He can literally amend our bills. I am terribly uncomfortable knowing this bill is going to sail through here with a big majority, but I am comforted in the fact that I believe the independent judiciary that was set up to stop such foolishness as this will, indeed, do so. So I repose my trust in the Supreme Court of the United States on this issue.

I yield the floor.

Mr. HOLLINGS. Mr. President, when the Senate passed the line-item veto back in March of 1995, taxpayers across the Nation applauded the bipartisan efforts of the 69 Democrats and Republicans that worked shoulder to shoulder for the common good. What a difference a year makes. A year later with Presidential politics well underway, Republican conferees have engaged in an outrageous bait-and-switch operation designed to win political points and push meaningful reforms onto the back burner. Gone is the carefully crafted compromise bill offered on the floor by the distinguished majority leader that Republicans embraced after deep divisions arose in their own ranks regarding the appropriateness of expanding Presidential rescission powers. Instead, conferees have substituted legislation based on the McCain-Coats enhanced rescission proposal—a measure that in 1993 received only 45 votes. In abandoning the Senate approach, the Republican majority has dangerously eroded bipartisan support for the Senate line-item veto and now threatens to snatch defeat from the jaws of victory.

Mr. President, I have been in this fight for too long to accept such circus tricks. For well over the last decade, I have touted the line-item veto as a meaningful way to restore responsibility and accountability to the budget process. Specifically, I have supported the separate enrollment legislative line-item veto which avoids the constitutional objections that are evident in proposals that seek to change the President's constitutionally prescribed veto powers. Under the separate enrollment mechanism, after legislation had passed both Houses of Congress in the same form, the enrolling clerk would enroll each appropriations item, targeted tax benefit, or new entitlement spending provision as a separate bill. In allowing these items to be considered as separate bills, the President would be able to use his existing veto power as defined in the Constitution to reject legislation.

Currently, some 43 States provide their chief executive with some version of the veto pen. As a Governor of South Carolina, I used the line-item veto to balance four State budgets and win the first AAA credit rating of any Southern State. As a United States Senator, I have worked tirelessly to pass the line-item veto. In 1985, working with former Republican Mack Mattingly of Georgia, we rounded up 58 votes in the Senate for a line-item veto that was the prototype for the Senate passed version. In 1990, I offered similar legislation before the Senate Budget Committee and we adopted my bill by a vote of 13 to 6—the first time ever that the line-item veto had ever been favorably reported out of the Budget Committee. In 1993, Senator BILL BRADLEY and I offered an amendment to the budget reconciliation bill that would have applied the line-item veto to wasteful tax breaks as well as unnecessary spending and garnered 53 votes.

But instead of fighting for the proposal that has been gaining ground, the Republican majority, in resurrecting the enhanced rescission proposal, has backed the wrong horse. First, the conference report's enhanced rescission approach damages the fundamental balance of power between the coordinate branches of Government that is the cornerstone of our constitutional system of Government. Under current law, Presidential rescissions are suggestions. They have no force of law until Congress, as the legislative branch, enacts those changes. However, under new enhanced rescission powers, Presidential spending cuts and loophole closings would have immediate force and thus, affirmatively change the existing law just passed by Congress. To reinstate those provisions, Congress would have to reenact the specific proposals in a rescission disapproval bill, itself subject to a Presidential veto requiring two-thirds of both Houses to override. In my view, giving the President such legislative power amounts to an unconstitutional transfer of legislative power.

Second, the conference report's definition of a limited tax benefit would do little to focus scrutiny on special interest tax breaks. The original Senate bill, like the legislative language in the Republican Contract With America, appropriately recognized that pork is pork, be it of the tax or spending variety. But under the conference report, the definition becomes a tax lawyer's dream. It States that an item will be considered to be a limited tax benefit only if it is a tax benefit that goes to 100 or fewer beneficiaries or a transitional relief provision that accrues to 10 or fewer beneficiaries. This numerical distinction bears little relation to the relative wastefulness of a tax break and, if valid, might just as well apply to appropriations or new entitlement spending. By setting numerical thresholds, Congress does little to close outdated tax loopholes and a lot to encourage the Gucci gulch crowd to abuse the system and make sure that any newly proposed tax break has at least 101 beneficiaries. Moreover, additional restrictions further reduce the scope of qualifying tax benefits and erode the effectiveness of the line-item veto far beyond earlier versions.

Third, the conference report promises to give the President the veto pen, but withholds the ink. If conferees were really concerned about deficit reduction and not politics, why not make the act effective immediately rather that wait until either 1997 or the enactment of a balanced budget plan?

It is a sad truth, that politics are now more important than policy to this crowd. Having brought the line-item veto through the Senate on a bipartisan basis, the Republican majority has now retreated, fearing that a bipartisan line-item veto would leave no one over whom to claim victory. I do not know whether the Republican majority has the votes to prevail today, but ultimately this enhanced rescission approach will be found to be unconstitutional, which will bring us right back to where we started.

As I have stated earlier, it does not have to be that way. The bipartisan proposal that I and others have advocated, and that the Senate adopted last year, allows Congress to consider individual items in enacted legislation as separate bills. The Founding Fathers entrusted our Nation's chief executive with the power of the veto to provide our Government with the benefits of reconsideration and to promote legislative self-control. Unfortunately, over time, congressional construction of legislation has eroded that veto power where disparate spending and tax provisions are bundled in large omnibus bills. As a result, the President is forced to take it or leave it. Thus, the separate enrollment item veto eliminates this all or nothing choice and allows the President to apply his veto power in considering each item on its own merits.

More importantly, by maintaining congressional control over the process, the separate enrollment approach avoids the constitutional infirmities of enhanced rescission bills. As Lawrence Tribe, Constitutional Law Scholar at Harvard University, wrote in a letter to Senator BRADLEY,

> The most promising line-item veto by far is the suggestion . . . that Congress itself begin to treat each appropriation, and each tax measure, as an individual 'bill' to be presented separately to the President for his signature or veto. Such a change could be affected simply, and with no constitutional difficulty, by a temporary alteration in Congressional rules regarding the enrolling and presentment of bills.

Mr. President, this struggle will continue. And I will be willing in the future to work with colleagues on both sides of the aisle, as I have in the past, to develop a responsible, workable, constitutional, and bipartisan legislative line-item veto. I wish that day were today, but with the Presidential races in full swing, I fear once again that politics, not policy, is the driving force behind today's controversy.

Mr. BIDEN. Mr. President, I have for many years now supported a line-item veto that can help to wipe out wasteful special-interest spending items that are added to our appropriations bills.

But I have also cosponsored and supported line-item veto authority for the President that includes the authority to cut special-interest tax breaks, that lose money from the Treasury as surely as any spending program. In many ways they weaken our control over the deficit more than annual spending bills.

Because tax breaks characteristically last for years with little or no review, they can cause more damage than any single item in 1 year's appropriations bill.

The line-item veto we passed out of the Senate last year, the separate enrollment version that I have consistently supported for over a decade, included clear and strong language that put special-interest tax breaks under the same veto power as any pork-barrel spending project.

Unfortunately, the version that came out of conference with the House has so diluted that provision that it may well apply to virally no tax breaks.

That is why I will vote for Senator BYRD's proposal, that restores the clear authority to cut tax breaks as well as special-interest spending.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. What is the time situation, Mr. President?

The PRESIDING OFFICER. The Senator from New Mexico has 86 minutes. The Senator from West Virginia has 4 hours 9 minutes.

Mr. DOMENICI. At this moment, do I understand there is 5 minutes before Senator MOYNIHAN's time?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. I yield myself 5 minutes.

Mr. President, before we finally vote to table Senator BYRD's motion, there will be another 15 minutes on our side for discussion and some kind of rejoinder. But I just want to have a 5-minute discussion with the Senators about this issue of the shift in power.

I say to all of them, I have been concerned about that for a long time. I was concerned about it as this line-item veto concept, over the last decade, worked its way through here. But I do not think we ought to leave the record with any inference that Congress is left with no power to respond to a President's use of this item veto authority.

So if, indeed, Mr. President, any President of the United States chooses to make a mockery of the Senate or the House by arbitrarily exercising this veto, let me suggest the Senate has to confirm his Cabinet. The Senate has to confirm his appointees, and there are hundreds of them. Presidents of the United States need legislation. They work to get elected, and they send us their proposals. Their proposals are their policies and they need to pass Congress to become law.

Let me suggest that any President who would choose to act capriciously and arbitrarily in this line-item veto exercise will do so at his own risk. We are really trying out this item veto—it is an experiment in seeing if we can do a better job of spending the taxpayers' money. I believe Presidents who will arbitrarily and capriciously use that tool take unto themselves the opportunity that will certainly find that Congress will have a chance to a respond arbitrarily toward Presidents.

I am not threatening this, and I am not suggesting a tit-for-tat sort of situation. But the truth of the matter is, there is some serious balance of this power that remains vested in the Congress of the United States, and, indeed, speaking for our institution, the U.S. Senate, this institution, there are plenty of things Presidents need the U.S. Senate to do so they can do their executive work well.

After all, the President is the Executive. He needs Congress to help him so he can use his Executive powers. If he chooses to use them arbitrarily with reference to the line-item veto, then, obviously, he might find an uncooperative Senate, he might find an uncooperative Congress. I do not think that is ever going to occur, but I thought it might be good for the record just to explore that we have not given away all our power, we have not given away all our ability to say "yes" and "no" to Presidents of the United States on a myriad of things that the President needs for his Executive power.

Now, why do I say it that way? Because the contention is that he is taking away some of our prerogatives as legislators in the appropriating process, and if he chooses to do that arbitrarily, then he is, obviously, weakening our power.

I am suggesting we are not without recourse. I think there is going to be a give and take for a few years, but we are not also accepting this concept in perpetuity. We are giving the Executive the line-item veto for 8 years, two full Presidential terms. Then we will have to pass it again or change it.

But, indeed, that event of taking another look to see if it is being used properly or if we should further define things is not left solely within the discretion of Presidents, because this line-item veto sunsets in 8 years and we will have something to say about the continuation of it.

The arguments about constitutionality, the arguments about balance of power are serious. I commend the number of Senators for raising these serious issues in very delicate and sincere ways and I commend them for their concern. Most of all, I commend Senator BYRD for his dedicated explanations here and heretofore. He even wrote a whole book about the Roman senate versus losing its power and compared it in many ways to what he perceives might happen in this regard.

I was privileged to get one of those books. I do not always read books that are given to me, but I read that book. In fact, I told the Senator I had and I thought it was exciting.

He reminded me the successor to Rome was Italy. He reminded me I might even be a descendant of one of those people he wrote about.

Nonetheless, I thought that we ought to get this short 5-minute argument in response, just for our perspective in terms of why we are not fearful, why we do this with open eyes and open minds, hoping that it will help the American people get better Government at less cost. I yield the floor.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I would like to begin by joining the chairman of the Budget Committee in expressing my profound gratitude and admiration to the revered, sometime President pro tempore of the Senate, ROBERT C. BYRD, who has set us a standard which if we fail to meet today, will remain to measure those who come after us.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New York, whose obstinate veracity we all admire. I thank the Senator.

Mr. MOYNIHAN. Mr. President, I rise in the serene confidence that this measure is constitutionally doomed. That speaks to the stability of the American political system, a stability sustained in so many moments of peril by the American judiciary.

By contrast, I find myself once again agitated that a measure of such enormity—I use that word in both of its meanings—comes to us for so frivolous a reason. We are told by the committee of conference that the purpose of the conference report, which is to say the bill, is to promote savings. We are further informed that this is necessary because the American people consistently cite runaway Federal spending and a rising national debt as among the top issues of national concern over the past 15 years alone.

The national debt has quintupled from 1981 and 1996. Our total national debt amounted to just $1 trillion in 1981. Yet today, just 15 years later, that debt exceeds $5 trillion. Those numbers are not quite accurate, but they are approximate and will do.

I have stood on this floor for on to 15 years making the plain point that the increase in debt of the 1980's was an act of policy, designed to reduce the size of the Federal Government by reducing its fiscal resources. Fifteen days into his Presidency, February 5, 1981, President Reagan declared in a television address, "There are always those who told us that taxes can't be cut until spending was reduced. Well, you know, we can lecture our children about extravagance until we run out of voice and breath or we can cut their extravagance by simply reducing their allowance."

"Starve the beast" was the phrase. A huge increase in debt was the result. But at least until now we have not set out to mangle the Constitution to make up for the honest mistakes of one administration.

The separate enrollment bill passed by the Senate last March would have required appropriations bills to be disassembled by the enrolling clerks after passage and presented to the President, one by one, for his signature. During that debate I spoke at some length about its constitutional and practical defects. The legislation before us is somewhat less convoluted. But its effect on the separation of powers between legislative and executive branches would be just as profoundly destabilizing.

I will describe at this point what has been described as the methods, the procedure for cancellation. Once such a cancellation is made, it would ultimately require a two-thirds vote of the Congress to override. The legislation would have us depart dramatically from the procedures set forth in the plain language of the presentment clause in article I, section 7.

> Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it . . .

There is nothing ambiguous about this provision. The Supreme Court declared in INS versus Chadha in 1983 that—I quote the Court:

> It emerges clearly that the prescription for legislative action in Art. I, Section 7, represents the Framers' decision—[the framers' decision, Mr. President]—that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered procedure.

In Chadha the court held unconstitutional a statute that permitted either House of Congress by resolution to invalidate decisions of the executive branch as to whether certain aliens could be deported. This so-called legislative veto, according to the Court, impermissibly departed from the explicit procedures set forth in article I, which the court said were "integral parts of the constitutional design for the separation of powers."

And 3 years later, in Bowsher versus Synar, the Supreme Court was equally scrupulous in requiring strict adherence to the procedures set forth in article I. In Bowsher, the Court invalidated the provision of the Gramm-Rudman-Hollings Deficit Control Act, giving the Comptroller General of the United States authority to execute spending reductions under the act. The Court held that this violated the separation of powers because it vested an executive branch function in the Comptroller General, who is a legislative branch official. "Underlying both decisions," the Congressional Research Service has written, "was the premise . . . that the powers delegated to the three Branches are functionally identifiable, distinct, and definable."

There is no ambiguity about the meaning of the requirements of article I, section 7, nor is there any uncertainty about why the framers vested the power of the purse in Congress. Madison in Federalist No. 58:

> This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Until the Supreme Court considers this bill—and it surely will—we will not have a definitive constitutional determination. But some of the Nation's leading constitutional scholars have already concluded that this legislation will be struck down by the courts when it reaches them.

Michael J. Gerhardt, a sometime professor of law at Cornell University, and now professor of law at the College of William and Mary, has written me to say, that in his opinion—I quote—"its constitutionality is plainly doomed."

He argues first that this legislation violates article I, section 7, in that it permits enactment of a bill that has never been voted on by Congress as such. That is, by exercising its power to cancel any part of the bill after signing it, the President would be creating a new law in a form never considered by Congress. That is plainly unconstitutional.

Professor Gerhardt argues that granting the President power to reconfigure bills passed by Congress is a legislative function which may not be delegated to the Executive. Finally, he notes that even if Congress could delegate the proposed veto power to the President, "Congress lacks the authority to restrict Presidential authority by limiting the grounds a President may consider as appropriate for vetoing something."

In his treatise, "American Constitutional Law," Laurence H. Tribe of the Harvard Law School writes that—

> . . . empowering the President to veto appropriations bills line by line would profoundly alter the Constitution's balance of power. The President would be free not only to nullify new congressional spending initiatives and priorities, but to wipe out previously enacted programs that receive their funding through the annual appropriations process.

Professor Tribe goes on to say:

> Congress, which the Constitution makes the master of the public purse, would be demoted to the role of giving fiscal advice that the executive would be free to disregard. The Framers granted the President no such special veto over appropriations bills, despite their awareness that the insistence of colonial assemblies that their spending bills could not be amended once they passed the lower house had greatly enhanced the growth of legislative power.

Yesterday, we asked Professor Tribe for his opinion on the legislation before the Senate today. He graciously telephoned our office this morning to say that after studying the conference report, he has concluded as follows. This is Laurence H. Tribe this morning:

> This is a direct attempt to circumvent the constitutional prohibition against legislative vetoes, and its delegation of power to the President clearly fails to meet the requisites of article I, section 7. Furthermore, nothing in my letter of January 13, 1993 regarding "separate enrollment" has any bearing on the mechanism that would be enacted here.

Professor Tribe refers to a letter that was quoted several times in last year's debate in which he discussed the possibility that separate enrollment might be constitutional. He emphasizes now that his 1993 letter should not be interpreted to indicate any support for this legislation, which he concludes is certainly not constitutional. Those are the constitutional considerations briefly stated.

Now to an additional subject that is of particular interest to me as ranking member and sometime chairman of the Committee on Finance, I direct the attention of the Senate to the provision of section 1021(A)(3) of this legislation dealing with limited tax benefits. This new language appears to be a response to the argument, raised in the debate last year, that spending and tax benefits should be treated equally under a line-item veto.

The provision purports to subject tax benefits to the same treatment under the line-item veto as other spending, yet the bill's application to limited tax benefits would have very little real effect, save, as I believe, pernicious ones.

Under the proposal, "limited tax benefit" is defined as any tax provision identified by the Joint Committee on Taxation as, (first), a revenue-losing provision; (second), having 100 or fewer beneficiaries in any fiscal year; and (third), not within a number of very broad exceptions designed to exempt from the line-item veto any tax provision under which "all similarly situated persons receive the same treatment." Any transition rule that the Joint Tax Committee estimates will benefit 10 or fewer taxpayers in any fiscal year would also be defined as a limited tax benefit.

This definition is so narrowly drawn that it will be almost effortlessly circumvented, for it is surely simple enough—and, Senators, as a member of the Finance Committee for 20 years, let me assure you, there is no problem expanding the number of beneficiaries from 10 to 100. It is very readily done and perhaps too often so.

To the extent the drafters are unwilling or unable to manipulate this numerical standard, one of the "similarly situated" exceptions often will be available to avoid the limited tax benefit designation. By way of an example, the conference report states that a provision that benefits only automobile manufacturers would not be treated as a limited tax benefit because "the benefit is available to anyone who chooses to engage in the activity." Thus, a provision that benefits only Ford Motor Co. but is drafted in a manner potentially open to General Motors and Chrysler would apparently escape the line-item veto.

The tax-writing committees often and properly find that tax relief may be justified in narrow circumstances. Such narrow relief is and ought to be granted sparingly, yet these features of the bill create a perverse incentive to craft broader tax benefits than necessary in order to avoid application of the line-item veto. This is surely counterproductive.

Second, while seemingly objective on its face, the definition includes several elements that are seriously ambiguous, raising a number of questions. For example, what does it mean to be "similarly situated?" Can a provision be drafted to benefit all baseball team owners to the exclusion of other sport franchises? How does one determine who are the beneficiaries of a particular provision? Would the football coaches pension provision—and, yes, there was one, in the vetoed Balanced Budget Act of 1995—be deemed to benefit only the pension plan itself or the more than 100 coach participants? I could go on longer than the Senate would be interested or perhaps even edified to hear.

There is a final point, sir. By vesting in the Joint Committee on Taxation the exclusive authority—not subject to judicial review, not subject to debate on the Senate floor—the exclusive authority to make these determinations, this legislation would effectively grant great additional power in drafting tax legislation to the chairman of the Senate Committee on Finance and the chairman of the House Committee on Ways and Means—those two persons to the exclusion, I fear, of the rest of the Congress, the Members of either body.

While the Joint Tax Committee may indeed be the best institutional decisionmaker on technical tax issues, the decision of what constitutes a limited tax benefit can and no doubt would be quite political. The chairmen of the two tax-writing committees could exert pressure on the Joint Tax Committee to exclude favored items from application of the bill. Conversely, the chairmen would be granted potentially undue influence over other Members' legislative items with the implicit threat that such items would be deemed subject to the line-item veto. In his letter to which I referred earlier, Professor Gerhardt expresses similar concerns about this provision.

Now, I mentioned that the purpose of this legislation, according to the conference committee, is to limit runaway Federal spending and thereby reduce the debt. I am here to report—and I hope someone will hear—that, in point of fact, the era of runaway spending is behind us.

The Federal budget is in primary surplus for the first time since the 1960's—for the first time. This came about largely as a consequence of the Omnibus Budget Reconciliation Act of 1993, which provided for deficit reduction of some $500 billion—the largest deficit reduction measure in the half century since the wartime-incurred deficit was reduced following World War II. Such was the size of the reductions that interest rates fell sharply, and the deficit premium, as it had been called, in the markets dropped, and another $100 billion was saved. And we are, at long last, moving our deficits down—down to 2 percent of gross domestic product this year. The difference between the present deficit and a true surplus is merely the debt service on the debt accumulated in those previous 15 years. If we had the debt of the 1970's, we would be in surplus today.

The sequence whereby that happened was the surpluses of the Kennedy-Johnson era became neutral in the Nixon administration, and the recessions and inflation of the Ford and Carter administrations produced small primary deficits. Then came the 1980's.

Then came 1993 and, among other things, I stand here saying—happily, to an almost empty Chamber—we had the largest tax increase in history, and I was chairman of the Finance Committee. It was not forgotten entirely in New York when I came back from the election. How did we do this? Very simply, we did it by compromise. We did it by the kind of compromise the Framers anticipated. The Framers said they did not create a system of government which presumed virtue. They took interest as a given and virtue as something to be acquired. And the offsetting principles, as Madison put it, to make up for the defect of better motives. We made all manner of compromises in that legislation, and we would not have our deficit down to 2 percent of GDP today had we not.

For example, the business meal tax deduction was reduced from 80 to 50 percent. That was something a chairman from New York could offer and say, "Here, I am willing to do this." The restaurant owners said, "What about us?" They were given a tax credit for the FICA tax they are required to pay on their employees' tips. Well, it was a compromise. I could go on and on about that. Gasoline and diesel fuels were raised 4.3 cents per gallon. Oh, Mr. President, do I remember that 0.3 cents—1 week in a room on the third floor without windows of this Capitol. But we got that. How? Airlines were given a 2-year exemption from the increased tax. We also took away tax benefits previously accorded exporters of raw timber.

Mr. President, these compromises make major legislation agreeable and effective. Supposing a member with which a chairman worked were asked to make a concession in return for an accommodation; supposing that member had to think: The minute this bill becomes law, that chairman will go to that President and say, "Take out that provision that was made for the Senator from Louisiana, because it was only done to get your bill by, Mr. President." You will not have that which makes legislation possible. You will not have that spirit of trust, which performance reinforces and creates the stability of our institutions. For if there is no trust, there will be no compromise, and if there is no compromise, there will be no Government—no stable Government.

I sometimes think of this simple fact. Mr. President, there are seven nations on Earth that both existed in 1914 and have not had their form of government changed by violence since 1914. There are two since 1800, and we are one of them. We are one of the seven and we are one of the two. That stability did not come easily, nor should it be assumed a given. That stability rests on the rock bed of the Constitution, and we do a very poor service to that stability when we begin to dynamite away parts of that rock bed.

I will close with simply one statement, which we are all required on our oaths to observe. The Judicial Conference of the United States has written to us to say: Do not do this. We are the least harmless branch—again, remember Madison—and we cannot make you do it. I will quote them:

> The line-item veto authority poses a threat to the independence of the judiciary because a President could put pressure on the courts or retaliate against the judges by vetoing items in judicial appropriation bills.

This is a profound responsibility which—in the end, we will turn to the courts to see sustained. I believe this is a serious concern. I hope that it will be attended to. Mr. President, I thank the Senate for its careful, courteous attention. I thank Senator DOMENICI. I thank, with special gratitude, Senator BYRD.

I will also, finally, ask unanimous consent that the letter from Prof. Michael Gerhardt, along with two letters from the Judicial Conference of the United States, be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COLLEGE OF WILLIAM & Mary
SCHOOL OF LAW,
Williamsburg, VA, March 27, 1996.
Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: I appreciate the chance to share with you my opinion on the constitutionality of the Line Item Veto Act of 1996, as set forth in the Conference Report, dated March 4, 1996 (hereinafter "the Republican draft" or "the Conference Report"). In this letter, I focus only on a few of the more serious problems with the Republican Draft and do not purport to analyze exhaustively its constitutionality. Even so, I am of the view that, given just the few significant flaws in the Conference Report that I identify and explain below, its constitutionality is plainly doomed.

Describing how the law works is crucial for identifying and understanding the constitutional and practical problems posed by some of its major provisions. As I read it, the critical delegation made by the Republican draft to the President is the authority to "cancel" all or any part of "discretionary budget authority," "and item of direct spending," or "any targeted tax benefit." Presumably, a presidential cancellation pursuant to the act has the effect of nullifying a portion of a budgetary or appropriations bill unless a majority of each chamber of Congress agrees within a specified time period to pass a "disapproval bill" specifying its intention to reauthorize the particular item cancelled by the President. The President may veto the disapproval bill, which can then become law only if two-thirds of each chamber of Congress agree to override his veto.

In my opinion, there are three fatal constitutional problems with the procedures outlined above. First, the law effectively allows any portion of a bill enacted by Congress that the President signs into law but does not cancel to become law, in spite of the fact that Congress will have never voted on it as such. This kind of lawmaking by the President clearly violates Article I, section 1, which grants "[a]ll legislative powers" to Congress, and Article I, section 7, which grants to Congress alone the discretion to package bills as it sees fit.

Article I states further that the President's veto power applies to "every Bill . . ., Every Order, Resolution or Vote to which the Concurrence of the Senate and House of Representatives may be necessary."[1] This means that the President may wield his veto on the legislative product only, as Harvard Law Professor Laurence Tribe maintains in his treatise, "in the form in which Congress has chosen to send it to the White House: be the bill small or large, its concerns focused or diffuse, its form particular or omnibus, the President must accept or reject the entire thing, swallowing the bitter with the sweet."[2] Tribe's subsequent change of position is of no consequence, because he was right in his initial understanding of the constitutional dynamics of a statutorily created line-item veto mechanism. The fact that the President has signed the law as enacted is irrelevant, because a law is valid only if it takes effect in the precise configuration approved by the Congress. The President does not have the authority to put into effect as a law only part of what Congress has passed as such. The particular form a bill should

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Footnotes at end of letter.

have as a law is, as the Supreme Court has said, the "kind of decision that can be implemented only in accordance with the procedures set out in Article I."[3]

The Conference Report would enable the President to make affirmative budgetary choices that the framers definitely wanted to preclude him from making. The framers deliberately chose to place the power of the purse outside of the executive because they feared the consequences of centralizing the powers of the purse and the sword. As James Madison wrote in the Federalist No. 58, "This power of the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people."[4] Every Congress (until perhaps this most recent one)—as well as all of the early presidents, for that matter—has shared the understandings that only the Congress has the authority to decide how to package legislation, that this authority is a crucial component of checks and balances, and that the President's veto authority is strictly a negative power that enables him to strike down but not to rewrite whatever a majority of Congress has sent to him as a bill.

The wisdom of leaving the power of the purse in Congress, as the framers desired as a means of checking the executive, is buttressed by the recognition-that pork barrel appropriations—the evil sought to be eliminated by the Republican draft—are just unattractive examples of legislating for diverse interests, which is the very stuff of representative government. Apportioning the public fisc in a large and diverse nation requires degrees of coordination and compromise that the framers left to the initial discretion of Congress to be undone only as specified in Article I.

The second constitutional defect with the Conference Report's basic procedures involves the legitimacy of the cancelling authority given to the President. Proponents of this cancellation power defend it as a legitimate delegation of congressional authority to the President; however, this argument rests on a misunderstanding of the relevant constitutional doctrine. This misunderstanding is reflected in the CRS Report, which claims erroneously that "while the [Supreme] Court has used a balancing test in some separation of powers cases, it has never chosen to do so in delegation cases."[5] The latter assertion is simply wrong.

In fact, the Supreme Court has issued two lines of cases on congressional delegations. The first, which is not implicated by the Conference Report, involves delegations from Congress to administrative agencies or inferior bodies. The Court tens to evaluate such delegations under a "functionalist" approach to separation of powers under which the Court balances the competing concerns or interests at stake to ensure that the core function of a branch is not frustrated. For example, the Court used this approach in *Morrison* v. *Olson*[6] to uphold the Independent Counsel Act in which the Congress had delegated the executive function of criminal prosecution to an individual not formally associated with any of the three branches. Similarly in *Mistretta* v. *United States*,[7] the Court upheld the constitutionality of the composition and lawmaking function of the United States Sentencing Commission, at least three of whose members are required by statute to be lower court judges and to which the Congress delegated the authorities to promulgate, review, and revise sentence-determinative guidelines.

The Republican Draft clearly violates, however, the second line of Supreme Court decision on congressional delegations. These cases involve delegations from Congress to the titular head of a branch, such as one of its chambers or the President. In these cases, the Court has not used a balancing test; rather, the Court has used a "formalist" approach that treats the Constitution as granting to each branch distinct powers and setting forth the maximum degree to which the branches may share those powers. A formalist approach to separation of powers treats the test of the Constitution and the intent of it drafters as controlling and changed circumstances and broader policy outcomes as irrelevant to constitutional outcomes. In recent years, the Court has used this approach to strike down the legislative veto in Chadha because it would have allowed one House to take legislative action without complying with the procedures set forth in Article I; to hold in *Bowsher* v. *Synar*[8] that Congress may not delegate executive budgetary functions to an official over whom Congress has removal power; and to strike down in *Washington Airports Authority* v. *Citizens for the Abatement of Aircraft Noise*[9] the creation of a Board of Review partially composed of members of Congress with executive veto-like power over the decisions of the directors of the Metropolitan Washington Airports Authority.

Undoubtedly, the Court would follow a formalist approach in striking down the Republican draft. For one thing, the Court would not be able to escape applying the logic of *Bowsher* v. *Synar* to the proposed law. Whereas the crucial problem in Bowsher was Congress' attempt to authorize the exercise of certain executive authority by a legislative agent—the Comptroller General, here the problem is that the President would plainly be exercising what everyone agrees is legislative authority—the discretion to determine the particular configuration of a bill that will become law. Even the law's proponents admit it allows the President to exercise legislative authority, albeit in their view delegated to him by Congress.

Formalist analysis would be appropriate in evaluating such a delegation's constitutionality because it would be the kind about which the framers were most concerned; the checks and balances set forth in the Constitution deal directly with how the titular heads of each branch should interrelate. Hence, the Court has opted for a formalist approach to deal with delegations between the branches at their respective apexes to preclude one branch from aggrandizing itself at the expense of another. The Conference Report would clearly undermine the balance of power between the branches at the top, because it would eliminate the Congress's primacy in the budget area and would unravel the framers' judgment to restrict the President's role in the lawmaking process to a qualified negative rather than to have him exercise an affirmative power to redraft or reconfigure a bill.

Even if the Court used a functionalist approach to evaluate the constitutionality of the Republican draft, it would strike down the proposed law. The reason is that the law establishes an uneven playing field for the President and Congress on budgetary matters. In so doing, it profoundly alters the balance of power set forth in the Constitution. As Professor Tribe recognizes further in his treatise, such a scheme "would enable the President to nullify new congressional spending initiatives and priorities as well as to wipe out previously enacted programs that receive their funding through the annual appropriations process. Congress, which the Constitution makes the master of the public purse, would be demoted to the role of giving fiscal advice that the President would be effectively free to disregard.[10] Once again Tribe's subsequent change of position does not undermine the soundness of his initial reasoning, for the historical record is clear that the framers, as Tribe had recognized himself, never intended nor tried to grant the President any "special veto power over appropriation bills, despite their awareness that the insistence of colonial assemblies that their spending bills could not be amended once they had passed the lower house had greatly enhanced the growth of legislative power."[11]

An example should illustrate the problematic features of the proposed cancellation mechanism. Suppose that 55% of Congress passes a law, including expenditures for a new Veterans Administration hospital in New York. The President decides he would prefer for Congress not to spend any federal money on this project, so after signing the bill into law, he exercises his authority to cancel the allocations made for the new facility. Again 55% of the Congress agrees to make this expenditure but this time through the passage of a disapproval bill. The President vetoes the latter, and Congress fails to override his veto, with only 55% of Congress (yet again) voting for the appropriation. The net effect is that the President would get to refuse to spend money 55% of the Congress will have thrice said it wanted to spend. Thus, the Conference Report would require Congress to vote as many as three separate times to fund something while assuming in the process an increasingly defensive posture vis-a-vis the President. In other words, the Republican draft allows the President to force Congress to go through two majority votes—the second of which is much more difficult to attain because it would have to be in favor of a specific expenditure that is now severed from the other items of the compromise giving rise to its inclusion in the first place—and one supermajority vote in order to put into law a particular expenditure.

A third constitutional problem with the Conference Report involves the constraints it tries to place on the President's cancellation authority. The latter is for all intents and purposes a veto. It has the effect of a veto because it forces Congress in the midst of the lawmaking process into repassing something as a bill that ultimately must carry a supermajority of each chamber in order to become law. Nevertheless, the Conference Report attempts to constrain the reasons the President may have for cancelling some part of a budget or appropriations bill. Just as Congress lacks the authority through legislation to enhance presidential authority in the lawmaking process by empowering him to reconfigure what Congress has passed as a bill into some other form prior to its becoming a law, Congress lacks the authority to restrict presidential authority by limiting the grounds a president may consider as appropriate for vetoing something.

Even apart from whatever constitutional problems the Conference Report may have, it poses two serious practical problems. First, the possibility for substantial judicial review of presidential or congressional compliance with the Republican draft is quite high. For example, it seems likely that lawsuits could be brought challenging whether the President has appropriately considered, as the act directs, such things as "the legislative history" or "any specific sources of information referenced in such law or, in the absence of specific sources of information, the best available information" or "the specific definitions contained" within it. At the very least, the bill requires that the President make some showing that he has done these things to the satisfaction of members of Congress (or at least those disposed to bring a lawsuit in the absence of such a showing.) There are also numerous procedures OMB and each house of Congress must follow that, presumably, could become the basis for judicial challenge if not done completely to the satisfaction of partisan foes in the other branch. In addition, there may be some questions as whether the President has in fact complied with Congress' or the Republican draft's understanding of the kinds of items he may cancel, such as a "targeted tax benefit."

The likely prospect of substantial judicial interference with the budgetary process is unsettling. The framers deliberately excluded the unselected federal judiciary from exercising any kind of decisive role in budgetary negotiations or deliberations. The Republican draft does not ensure that this exclusion will always be honored. The framers wanted all of the key decisionmakers within budget negotiations to be politically accountable; any budgetary impasse between the President and Congress that the federal courts help to resolve in favor of one or the other will simply diminish even further the public's confidence that the political process is the place to turn for answers to such deadlocks.

Another practical difficulty is with the authorization made by the Republican draft to the Joint Committee on Taxation to render an official opinion, which may become a part of a budgetary or appropriations measure, on whether it "contains any targeted tax benefit." The bill precludes the House or the Senate from taking issue with the judgment of the Joint Committee's finding. As a practical matter, this empowers a small number of members of Congress to impose their will on the whole body. Although this might have the salutary effect of expediting the passage of the covered legislation, it forces those members of Congress who disagree with the Joint Committee to express their disagreement only by voting down rather than by trying to amend a bill that they otherwise would support.

In summary, I believe that the Republican draft conflicts with the plain language, structure, and traditional understanding of the lawmaking procedure set forth in Article I; relevant Supreme Court doctrine; and the delicate balance of power between Congress and the President on budget matters. I am confident that the Supreme Court ultimately would strike the bill down if it were passed by Congress and signed into law by the President.

It has been a privilege for me to share my opinions about the Conference Report with you. If you have any other questions or need any further analysis, please do not hesitate to let me know.

Very truly yours,

MICHAEL J. GERHARDT,
Professor of Law.

FOOTNOTES

[1] U.S. Const. art. I, section 7, cls. 2, 3.

[2] Laurence Tribe, American Constitutional Law 265 (2d ed. 1988).

[3] *I.N.S.* v. *Chada*, 462 U.S. 919, 954 (1982).

[4] The Federalist No. 58 at 300 (J. Madison) (M. Beloff ed. 1987).

[5] Congressional Research Service, Memorandum Regarding Constitutional Questions Respecting Bill to Grant President Enhanced Rescission Authority over Appropriations and Targeted Tax Benefits, at 16 (January 9, 1995).

[6] 487 U.S. 654, 693 (1988).

[7] 488 U.S. 361 (1989).

[8] 478 U.S. 714 (1986).

[9] 111 S. Ct. 2298 (1991).

[10] L. Tribe, supra note 2, at 267 (footnotes omitted).

[11] Id. at 267 (citing Note, Is a Presidential Item Veto Constitutional? 96 Yale L.J. 838, 841–44 (1987)).

JUDICIAL CONFERENCE OF THE,
UNITED STATES,
Washington, DC, March 15, 1996.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Capitol Building, Washington, DC.

Hon. ROBERT J. DOLE,
Majority Leader, U.S. Senate, Capitol Building, Washington, DC.

DEAR MR. SPEAKER AND MR. MAJORITY LEADER: I understand an agreement has been reached between Republican negotiators on "line-item veto" legislation. Although we have not seen a draft of the agreement to determine the extent to which the Judiciary might be affected, I did not want to delay communicating with you. The Judiciary had concerns over some previous versions of the legislation that were considered by the House and Senate. These concerns could also apply to the version on which agreement was just reached, depending on how it is drafted.

The Judiciary believes there may be constitutional implications if the President is given independent authority to make line-item vetoes of its appropriations acts. The doctrine of separation of powers recognizes the vital importance of protecting the Judiciary against interference from any President.

Protection of the Judiciary by Congress against Presidential power and potential intervention is also evident in the Budget and Accounting Act of 1921, which ensures that the financial affairs of the Judiciary be insulated from political influence by the President and his staff. Prior to this Act, the Judiciary's budget was controlled by the Executive Branch. Now, by law, requests for judicial branch appropriations must be submitted to the President by the Judiciary, but must be transmitted by him to Congress "without change".

This protection needs to endure. Control of the Judiciary's budget rightly belongs to the Congress and not the Executive Branch, particularly in light of the fact that the United States, almost always through the Executive Branch, has more lawsuits in the Federal courts than any other litigant. The integrity and fairness of our Federal Courts should not be endangered by the potential of Executive Branch political influence.

In whatever agreement is ultimately reached by the conference committee, on behalf of the Judicial Conference of the United States, I urge that the independence of the Third Branch of Government be preserved.

I appreciate your consideration and we stand ready to assist you in any way necessary.

Sincerely,

LEONIDAS RALPH MECHAM,
Secretary.

JUDICIAL CONFERENCE OF THE
UNITED STATES,
Washington, DC, March 21, 1995.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Office Building, Washington, DC.

DEAR SENATOR HATCH: On behalf of the Judicial Conference of the United States, I am pleased to respond to your request for the Judiciary's views on an amendment to the Dole substitute to S. 4. The amendment would require all appropriations of the Judiciary to be enrolled in one bill.

The Judiciary believes the amendment is critical to ensure the independence of the third branch. Without the amendment, each appropriated line item within the Judiciary would be a separate bill. The Executive Branch would then have the power to pick and choose which activities of the Judiciary it did and did not want funded. Such power over individual items raises the possibility that the Executive could seek to influence the outcome of litigation by selective vetoes or could try to retaliate for unwelcome decisions. The Executive is the major litigator in the federal courts.

The doctrine of separation of powers recognizes the extreme importance of protecting the Judiciary against inappropriate Executive Branch interference. This is reflected in the Constitution, which protects the tenure and salaries of Article III judges. It is also evident in the Budget and Accounting Act of 1921, which ensures that the financial affairs of the Judiciary be insulated from political influence by the President and his staff. Prior to this Act, the Judiciary's budget was controlled by the Executive Branch. Now, by law, requests for Judicial Branch appropriations must be submitted to the President and transmitted by him to Congress "without change". This protection needs to endure. Control of the Judiciary's budget rightly belongs to the Congress and not the Executive Branch. The Judicial Branch budget has never been the source of claims of "pork barrel" appropriations in Congress.

I appreciate having the opportunity to comment on this legislation and your amendment that will ensure that the integrity and fairness of our Federal Courts are not endangered by the potential of Executive Branch political influence.

We do not want our citizens to ever think that they are back in the position of the Colonists in 1776 who separated from England in part because of their perception, as Jefferson stated in the Declaration of Independence, that the Executive "has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers. He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries."

Sincerely,

GILBERT S. MERRITT,
Chairman.

Mr. MOYNIHAN. Mr. President, I believe I have two moments. I yield them to whichever Senator wishes to use them. I thank the Chair.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I note that the minority leader is on the floor. I understand a vote is scheduled for 5:45, and we have 15 minutes. Is that the parliamentary situation?

The PRESIDING OFFICER. Yes.

Mr. DOMENICI. Does the Senator desire to use his leader time?

Mr. DASCHLE. That is fine.

Mr. DOMENICI. Can we do it even though time is set?

Mr. DASCHLE. We can do that.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the distinguished minority leader be permitted to speak for 10 minutes, after which the 15 minutes that I have follow, and after that we proceed to a vote on or in relation to the Byrd amendment.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object.

Mr. DASCHLE. Mr. President, I would be more than happy to keep my remarks to fewer than 5 minutes. So perhaps if it would work, we can still try to keep the time. I know a lot of people are scheduling their time for the vote. I will be happy to limit my remarks to no more than 5 minutes, and perhaps even less.

Mr. DOMENICI. Mr. President, I yield up to 5 minutes of my 15 minutes to the distinguished minority leader so we keep the time as agreed.

Mr. DASCHLE. Mr. President, I thank the manager of the bill. Mr. President, let me begin by acknowledging the masterful presentation made by the distinguished Senator from West Virginia. No one knows this issue better than he does. No one has studied constitutional balance of power more carefully than has he. He has raised issues today of constitutionality and the balance of power with a clarity of vision and a depth of knowledge that every Senator ought to carefully consider.

His motion certainly would lead to a more thoughtful approach, in my view. The Byrd motion is one that should be supported by all Members of the Senate. It instructs the conferees to report a bill similar to S. 14, a bipartisan bill that was debated very carefully on the Senate floor a little over one year ago. It was sponsored by Senators DOMENICI and EXON and cosponsored by the majority leader, and reported out of the Budget Committee and the Governmental Affairs Committee. It does what the distinguished ranking member of the Appropriations Committee has indicated it would do—maintain the proper relationship between the role of Congress as well as the responsibilities of the President.

I believe it has three major advantages, and I want to touch very briefly on each of these advantages.

First, this plan provides an equal opportunity for the President to examine tax expenditures as well as appropriations measures. The Republican plan, constituted in the conference report, does not allow the President to review all of the special-interest tax breaks that are all too often considered on the Senate floor. It applies only to those that benefit fewer than 100 taxpayers. Frankly, there are not many provisions that apply to 100 or fewer taxpayers. The Joint Tax Committee determines which breaks can be canceled, and I believe that in many cases that alone ought to give us pause. Under S. 14, the President has the opportunity to more broadly apply the powers to examine all expenditures in a more careful way, not only on appropriations bills but also with regard to tax expenditures.

Second, we protect majority rule, which is a central principle of democracy. S. 14 requires a congressional majority to approve the cuts proposed by the President. Under the conference report, the President can prevail with the support of only one-third of either House of Congress. So, clearly, we abrogate the concept of majority rule. We certainly would not permit a minority to hold a majority hostage in cases like this.

Clearly, S. 14 is constitutional, as the distinguished ranking member and former chairman of the Appropriations Committee has so eloquently described in many ways this afternoon. He has enlightened us as to the problems with the conference report. The alternative that he presents avoids these problems by requiring Congress to vote to approve Presidential rescissions. Congress should not approve a bill subject to court challenge, and, clearly, the conference report will be challenged in court.

So, I believe, Mr. President, the motion of the distinguished Senator from West Virginia offers the best of both worlds. It gives the opportunity for the President to apply additional scrutiny to items in legislation which may be called into question. It gives him the opportunity to apply that scrutiny both to tax expenditures as well as appropriated spending. It allows us to retain majority rule and preserves the balance of power. It avoids constitutional questions that will certainly be raised as soon as this legislation would be enacted, and it is effective immediately.

We do not have to wait for the end of this year. We do not have to assume that we have to wait until the next term of the President to allow the power to be utilized. It allows him to do it now. We can look between now and the end of the year at the ways in which this might be utilized. This will allow us more opportunity to examine whether or not this approach is an appropriate way with which to assure additional scrutiny of spending and tax breaks in the future.

So I applaud the work of the Senator from West Virginia and others who have brought us this opportunity. I think it is important. It is critical that we carefully consider the constitutional questions that the distinguished Senator from West Virginia has raised.

I hope our colleagues will support this motion to recommit.

I yield the floor.

Mr. DOMENICI. Mr. President, with the minority leader on the floor, I wonder if it might be in order for me to ask unanimous consent that the yeas and nays be ordered on the Domenici motion to table the underlying amendment. I ask unanimous consent for that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. I yield 5 minutes of my time to Senator STEVENS.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I call the attention of the Senate to the very basic provision in this bill. It says in section 1021(a), "Notwithstanding the provisions of part A and B, and subject to this part, the President may, with respect to any bill or joint resolution that has been signed into law pursuant to article I, section 7, of the Constitution of the United States * * *" take the action under this bill.

What we in fact under this bill are doing is giving the President the authority, in effect, to impound moneys that we have given him authority to spend. And we have the right to take that notification of any cancellation that he sends to us and send him, in effect, another bill saying we intend for you to spend those moneys. He may veto that second bill if he wants. But in the first instance, we are not giving the President any authority to change the law. We are telling him he can cancel funds provided only if the cancellation would reduce the Federal budget deficit, not impair essential Government functions, and not harm the national interest.

The issue here is whether the Congress has the right to delegate to the President the authority to not spend money. This is not a violation of separation of powers or a violation of the presentation clause of the Constitution. We have given the President, under this bill, limited authority to cancel—that is, to not spend—certain moneys Congress otherwise would have directed the President to spend.

I want to make sure people understand the way this works. A bill is sent to the President, which the President may sign, reject, or let it take effect without his signature under article I, section 7, of the Constitution. If, and only if, the President signs the bill into law, then under this bill the President is given the delegated authority from Congress not to spend certain portions of the money that he cancels according to the provisions of the bill.

I have heard the concept of many of the Senators, but I want to make sure that we all understand this is no different from giving the President the discretion not to enforce a particular law under certain circumstances or to decide, when based on specific criteria, to impose or to lift an import duty. We have done that. This conference report has no Chadha problems, based on the Supreme Court decision in the Chadha case. Congress is not going to be given the power to legislatively overturn a Presidential decision with regard to a veto or implementation of a law.

We have the power to take action for the second time after the President uses his authority under this bill to impound or cancel moneys and, in effect, put them into the track where they will reduce the deficit. We can pass a second bill. The President would veto that. He has no authority under this bill to deal with that second proposal. If we pass such a bill and direct the President to spend money he otherwise thought he should cancel, he has the authority to veto that bill, and we have the authority to override his veto; in effect, to mandate him to spend the money as we have said to do so on two occasions.

But I urge Senators not to refer to this as some action to give the President the authority to change a bill before it becomes law or to change in any way legislation that does not affect dollars. He only has the authority to, in effect, cancel the spending of dollars under specific circumstances that, while the circumstances are clearly limited, the scope of the authority is very broad.

Mr. DOMENICI. Mr. President, first, let me add to my brief comments a while ago about Presidents who might abuse this power because a lot has been said about how this might change the balance of power.

I remind every Senator that there is nothing in this bill that says we have to appropriate money that the President asks us for. Let me repeat; we do not have to appropriate money that the President asks us for. You see, if a President decides to be totally arbitrary about this, the Congress of the United States does not have to appropriate money for things the President wants. That is our balance. There can be no money spent unless we appropriate it.

So, in addition to all of the other things the President needs of a Congress and a Senate under the Constitution, those are all our powers that he needs to help him do his job.

In addition, he needs dollars to run the Government of which he is the Chief Executive, and we have to appropriate those dollars.

I am not worried about the balance of power because, obviously, Congress will withhold some of the President's power if this gets into an arbitrary match of power, and I believe it is going to be used to the betterment of our country, our people, and the taxpayers.

With reference to the motion we are going to vote on, let me be very brief and very forthright. The amendments Senator BYRD has offered and that I am going to move to table shortly will return the line-item veto to conference. It took us 6 months to reach a compromise on the line-item veto. To send it back with instructions is to kill it because what is purported to be instructed cannot pass the Senate and cannot pass the House.

This motion calls us to cast aside the compromise embodied in this conference report. It calls on the conferees to adopt an expedited rescissions approach instead. Both Houses rejected the expedited approach. Last year, during the Senate's consideration of the line-item veto, we voted 62 to 38 to table the expedited approach which the distinguished Senator from West Virginia, Mr. BYRD, is asking us to instruct the conference committee to do again—a nullity for sure, for nothing will happen, and I believe that is what is intended if these amendments were adopted.

I support the compromise, and it is now time to vote on the conference report on the line-item veto. A vote in favor of the motion will be a vote to defeat the line-item veto conference report before us. I urge Senators not to do that.

So we will all have a chance to make sure we do not send this to conference, I yield back the remaining time that I have, and I yield the floor.

I move to table the underlying amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to recommit the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 58, nays 42, as follows:

[Rollcall Vote No. 55 Leg.]

YEAS—58

Abraham
Ashcroft
Baucus
Bennett
Bond
Breaux
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feinstein
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kennedy
Kerry
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Robb
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—42

Akaka
Biden
Bingaman
Boxer
Bradley
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Ford
Glenn
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kerrey
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

The motion to table the motion to recommit was agreed to.

Mr. CHAFEE. Mr. President, I thank the managers for the opportunity to speak in favor of the conference report to accompany the Line-Item Veto Act, S. 4.

I would challenge those who argue that the President already has sufficient authority to rescind unwanted spending items. The opposite is true. The rescission authority vested in the President today barely works at all. In the overwhelming number of cases, Presidential rescission orders are ignored by Congress, and the subject funds are ultimately obligated.

In fact, since the rescission authority was established in 1974, Congress has only given approval to $23.7 billion of the $74 billion Presidential rescission requests. In other words two-thirds of the rescission requests died a quiet death.

By requiring Congress to affirmatively disapprove rescissions, this legislation would transform the present "paper tiger" into a functional tool for reducing and eliminating: Special interest spending items in appropriations bills; expansions of existing, or establishing of new, entitlements; and tax expenditures which benefit narrow groups of taxpayers.

Mr. President, the debate over this issue has been a long and tortured one. In looking back, I found an interesting item which illustrates just how long and tortured it has been. I want to direct the Senate's attention to a speech given on the floor of the House by Congressman R.P. Flowers from New York in support of the line-item veto. The date was December, 1882.

In addition to a belief that it would foster economy in Government, Representative Flowers had another motivation—that of supporting the wishes of a constituent who just happened to be President of the United States. That President was Chester A. Arthur, who advanced from Vice President to President when James A. Garfield was tragically struck down by an assassin's bullet in 1881.

In his annual message to the Congress, President Arthur stated:

> I commend to your careful consideration the question whether an amendment of the Federal Constitution . . . would not afford the best remedy for what is often a grave embarrassment both to Members of Congress and to the Executive, and is sometimes a serious public mischief.

The "embarrassment" and "public mischief" to which the 21st President was referring was the same problem then that it is today: The tactic we in Congress employ of burying narrow spending provisions—which cannot on their own merits survive the legislative process—in massive must-pass appropriation bills.

Congressman Flowers delivered his speech 114 years ago. While the proposal before us today is far less ambitious than the constitutional amendment requested by President Arthur, the arguments have been thoroughly vetted.

Representative Flowers summarized the arguments against the line-item veto as: First ". . . an indignant howl about our rights an interests" [in the Legislative Branch]; and second, ". . . those who feign mistrust of the Executive, who fear too much 'one-man power.'"

Wisely, the bill before the Senate today includes a sunset provision. If it turns out that this authority is abused by the Chief Executive—which I do not fear—then Congress can let the authority die.

The point is, we have been debating this issue for at least 114 years, and the arguments pro and con have been debated ad nauseam. Passage of this legislation will not solve our deficit problems. However, it will give the American people one more tool—one more check against unnecessary spending. Frankly, in my view, we need all the help we can get in that regard. So, I say: Let us pass this conference report and get on to other business.

Mr. KYL. Mr. President, the Line-Item Veto Act is a good bill, but one that should not be necessary. Congress should always have the good sense to spend taxpayers' hard-earned money wisely, for the benefit of all citizens.

Mr. President, British historian Alexander Tytler once said:

> A democracy cannot exist as a permanent form of government. It can only exist until the voters discover that they can vote themselves largesse from the public treasury. From that moment on, the majority always votes for the candidates promising the most benefits from the public treasury with the result that a democracy always collapses over loose fiscal policy, always followed by a dictatorship. The average age of the world's greatest civilization has been 200 years.

Alexander Tytler makes an excellent point, but perhaps the American people have wisdom and foresight that he could not understand. The American people recognize the burden that a spendthrift government can impose on them, their children, and their grandchildren. And that is why they have been so adamant about demanding change. Demanding less Government spending, lower taxes, and a leaner Government—before Tytler's prophecy comes to pass.

The American people began to change the face of Congress in the last election. And of course, electing fiscally responsible individuals to the Congress is probably the most powerful and effective weapon that the American people can wield in the fight against pork-barrel spending. It is more effective than a line-item veto can ever be.

The line-item veto itself is not a cure-all. It will not result in a balanced budget. There is not enough pork that can be deleted from the budget to accomplish that. But, if properly exercised by the President, it can make it easier to get to balance.

Make no mistake about it, this bill will shift a great deal of new power to the President. I do not relish that prospect because the potential for abuse by the President is great. He can use the veto power to reward or punish Members of Congress, depending upon whether they support or oppose other policies of his administration.

Most Presidents, however, will be responsible about how they use this awesome new power. That is because all eyes of the American people will be on the President if he abuses it, or if he fails to properly delete wasteful spending from appropriations bills. By signing this bill into law, President Clinton will be accepting significant new responsibilities from the American people to safeguard their hard-earned tax dollars. I have no doubt that they will hold him accountable if he fails to use the new power wisely.

Mr. President, just a few weeks ago, the nonpartisan taxpayers' organization, Citizens Against Government Waste, released the 1996 Congressional Pig Book Summary. The good news is that the organization certified that, in 1995, Congress produced the first pork-free appropriation bill ever—the legislative branch appropriations bill.

Unfortunately, however, not all of the news was good, and that is one reason why the line-item veto is still necessary. Citizens Against Government Waste found a total of $12.5 billion in pork-barrel spending in eight other fiscal year 1996 appropriations bills that have been signed into law. Among the projects that the group identified were rice modeling at the Universities of Arkansas and Missouri; shrimp aquaculture; brown tree snake research; the International Fund for Ireland; and the Iowa communications network, to name a few.

These are the kinds of projects that are likely to be the target of a line-item veto, projects that are typically hidden away in annual spending bills. They're enough to demonstrate the ability of certain legislators to "bring home the bacon" and curry favor with special interest groups back home. But, they don't amount to enough to cause Congress to reject an entire bill or prompt the President to veto a bill and bring large parts of the Government to a standstill.

The line-item veto is designed to bring accountability to the budget process. Instead of forcing the President to accept wasteful and unnecessary spending in order to protect important programs, it puts the onus on special interests and their congressional patrons to prove their case in the public arena. It subjects projects with narrow special interests to a more stringent standard than programs of national interest. The special interests would have to win a two-thirds majority in each House. Programs of national interest would merely require a simple majority.

That is the shift in the balance of power which the line-item veto represents. It is a shift in favor of the taxpayers, and that is why I intend to support it. If the Government were running a surplus, the taxpayers might be willing to tolerate some extra projects. But the Government is running annual deficits that are far too high, and there is no extra money to go around. There is not even enough to fund more basic needs.

Mr. President, when you find yourself in a hole, the first rule of thumb is to stop digging. Let us begin climbing out of the hole we have dug for ourselves and future generations. Let us pass the line-item veto.

EMERGENCY SPENDING PROVISIONS

Mr. FEINGOLD. Mr. President, will the Senator from Arizona yield for a question?

Mr. President, the Senator from Arizona noted in his opening statement on this measure that the emergency spending reforms he and I were able to include in the Senate-passed version were dropped in the conference committee version of this line-item veto measure.

Our provision limited emergency spending bills solely to emergencies by establishing a new point of order against nonemergency matters, other than rescissions of budget authority or reductions in direct spending, in any bill that contains an emergency measure, or an amendment to an emergency measure, or a conference report that contains an emergency measure.

The provision also featured an additional enforcement mechanism to add further protection by prohibiting the Office of Management and Budget from adjusting the caps on discretionary spending, or from adjusting the sequester process for direct spending and receipts measures, for any emergency appropriations bill if the bill includes extraneous items other than rescissions of budget authority or reductions in direct spending.

I know he shares my disappointment that those provisions were dropped.

Is it his understanding that though the emergency spending provisions were dropped from the final conference version of the line-item veto measure, we have been given assurances that the Budget Committee staff will work with our own staffs to bring this matter back on an appropriate legislative vehicle?

Mr. MCCAIN. Mr. President, that is my understanding, and I look forward to working with the Senator from Wisconsin and the Budget Committee staff to address any technical concerns there might be with the emergency spending provisions.

Mr. FEINGOLD. I thank my friend from Arizona.

As we consider ways to empower the President to veto unjustified spending through this new authority, it only makes sense to enact reforms that prevent those abuses from passing in the first place.

The emergency spending reforms that Senator McCAIN and I introduced as legislation, and included in S. 4 as it passed the Senate, did just that.

Our emergency spending legislation previously passed the House by an overwhelming vote and I am hopeful that we will soon be able to overcome the resistance to this provision and have it enacted into law as well.

And though I regret our reforms were not included in this proposal, I look forward to working with the Budget Committee and my good friend from Arizona to iron out any drafting problems, and find an appropriate vehicle for this needed reform.

Mr. FRIST. Mr. President, I rise today in strong support of the line-item veto. No single legislative procedure will do more to curb wasteful Government spending than this powerful legislative tool. For years, Washington has talked about this idea without acting. I am proud to be a Member of the Congress that will make the line-item veto a reality.

For years, the Federal Government has demonstrated an appalling lack of fiscal responsibility. Today, our national debt is over $5 trillion—more than $19,000 for every man, woman, and child in America—and is growing at a rate of $600 million a day. Entitlement spending—the two-thirds of the Federal budget on automatic pilot—is growing so fast that it will consume all of our tax dollars in just over a decade. Meanwhile, the other third of our budget, discretionary spending, is riddled with unnecessary pork-barrel projects. Basically, it is too easy to spend and too hard to save here in Washington. We owe it to the American taxpayer to impose fiscal discipline on Federal spending habits.

The line-item veto reforms our institutional and procedural tendency to overspend. Here's how it works. The President already can veto spending bills passed by Congress. S. 4 gives the President the authority to veto specific spending items—including appropriations, new entitlements, and limited tax benefits. The President's cancellations will stand unless Congress passes a bill restoring the spending and providing the two-thirds support necessary to override any additional vetoes.

Some people argue that S. 4 shifts too much power from Congress to the President. However, I believe the President needs a tool to help control Congress' insatiable appetite for spending the taxpayers' money. We must give our Chief Executive the power to strike discreet budget items which do not serve the national interest. In fact, I am so convinced that the line-item veto is the right thing to do that I am willing to give this power to a President of another political party.

While the line-item veto alone cannot balance our budget or pay off our national debt this one legislative tool could perform radical surgery on wasteful federal spending. In 1992, the General Accounting Office [GAO] estimated that a line-item veto could have saved $70 billion in wasteful spending during the last half of the 1980's. That $70 billion could provide a $250 tax credit for families with children for 7 years. Taxpayer watchdog group Citizens Against Government Waste identified an additional $43 billion in procedural pork spending in the last 5 years, spending which circumvented normal budget procedures. Imagine how a line-item veto could have saved a significant portion of that money.

But we don't need the GAO or a taxpayer watchdog to tell us that the line-item veto works. We only need to ask the 43 of our Nation's Governors who use this tool on a regular basis. In fact, when President Clinton was Governor or Arkansas, he used the line-item veto 11 times. If the States can control spending and balance their budgets, the Federal Government should follow their example.

Mr. President, I look forward to the day when I can tell my three sons, my fellow Tennesseans, and every American that they have inherited a country free of debt. I look forward to the better job opportunities and higher the standards of living they they will enjoy. And at that moment, I hope I can look back at the day we passed the line-item veto as the day a bipartisan group of legislators took a significant step down the road to fiscal accountability. I strongly urge my colleagues to support this bill.

THE LINE-ITEM VETO: STILL AN ILL-CONSIDERED PROPOSITION

Mr. PELL. Mr. President, when the line-item veto was last before us, I said that I found myself in opposition both on philosophical as well as practical grounds.

I must be quick to acknowledge that my reservations on practical grounds have been met. The conferees deserve credit for replacing the cumbersome and unworkable scheme of separate enrollment in the Senate version of the legislation, with at least a workable plan for enhanced rescission authority.

But my underlying philosophical reservation remains. As I said when the bill was last before us, I simply believe that Congress should be extremely chary in yielding its power of the purse to the executive branch. I hold this view on the basis of my Senate service under eight Presidents of both parties during my 35 years in the Senate, and notwithstanding the cordial relationships I have had with all of them.

I continue to believe that the executive branch, which under our Constitution, quite properly is a separate power center with its own agenda and its own priorities, inevitably will seek and use any additional power to achieve its objectives. And the pending grant of veto power over specific items, I fear, will surely give even the most benign and well-motivated Chief Executive a new means for exercising undue influence and coercion over individual members of the legislative branch.

I hold this view, notwithstanding my loyalty and respect for President Clinton, who I know would use such a grant of authority wisely. But it is the balance of institutional forces that must be considered, and it is in this connection that we have been well served by the erudition of the senior Senator from West Virginia [Mr. BYRD], who has reminded us so eloquently of the need to protect the legislative prerogatives. I agree with him and I commend him for his great service to the cause of constitutional government.

Mr. LEAHY. Mr. President, I have a number of serious concerns and questions about the conference report on the line-item veto, S. 4.

First, the line-item veto encourages minority rule by allowing a Presidential-item veto to stand with the support of only 34 Senators or 146 Representatives. This is not majority rule. We are back to anti-democratic supermajority requirements, which I thought were dismissed during the balanced budget amendment debate.

By imposing a two-thirds supermajority vote to override a Presidential-item veto, the line-item veto undermines the fundamental principle of majority rule. Our Founders rejected such supermajority voting requirements on matters within Congress' purview.

Alexander Hamilton described supermajority requirements as a poison that serves to destroy the energy of the government, and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt junto to the regular deliberations and decisions of a respectable majority.

Such supermajority requirements reflect a basic distrust not just of Congress, but of the electorate itself. I reject that notion.

Moreover, supermajority requirements in any line-item veto bill is overkill. I am afraid that this bill will sacrifice many worthy projects on the altar of supermajority votes.

But supermajority power is not needed to strike wasteful line items.

The purpose of any line-item veto bill is to give the President the power to expose wasteful line items to the sunlight of a congressional vote.

A majority vote is enough to kill any wasteful line item while still allowing Members to convince their colleagues to vote for a worthy line item.

In addition, these supermajority requirements hurt small States, like my home State of Vermont, by upping the ante to take on the President.

Under the line-item veto, Members from small States would have to convince two-thirds of Members in each House to override the President's veto for the sake of a project in another Member's district.

With Vermont having only one representative in the House, why would other members risk the President's wrath to help us with a project vetoed by the President?

Another question mark under this conference report is tax breaks.

Under the bill, the President has authority to veto only limited tax benefits, which are defined as providing a Federal tax deduction, credit or concession to 100 or fewer beneficiaries.

Any accountant or lawyer worth his or her high-priced fee will be able to find more than 100 clients who can benefit from a tax loophole. If more than 100 taxpayers can figure out a way to shelter their income in a tax loophole, the President would not be able to touch it. The bigger the loophole in terms of the number of people who can take advantage of it, the safer it is.

The definition of limited tax benefit sounds like a tax loophole in itself.

Would the President have line-item veto authority over the capital gains tax cut described in the House Republican Contract With America?

It certainly is estimated to lose revenue—the bipartisan Joint Committee on Taxation has estimated that the contract's capital gains tax cut would lose almost $32 billion from 1995 to 2000.

Yet somehow I think a capital gains tax cut would fall beyond the scope of being a limited tax benefit under this legislation.

Why do we not quit this shell game. Just state in plain language that the President has line-item authority over all tax expenditures.

I believe we should tread carefully when expanding the fiscal powers of the Presidency. The line-item veto will change one of the fundamental checks and balances that form the separation of powers under the Constitution—the power of the purse.

The line-item veto hands over the spending purse strings to the President, whose cuts would automatically become effective unless two-thirds of both Houses of Congress override the veto.

The President would have no burden of persuasion while a Member would have the Herculean task of convincing two-thirds of his or her colleagues in both Houses to care about the vetoed project.

It is truly a task for Hercules to override a veto. Just look at the record—of the more than 2,500 Presidential vetoes in our history, Congress has been able to override only 105.

As noted so well in The Federalist Papers: "the accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny."

Let us not try to score cheap political points at the expense of over 200 years of constitutional separation of powers.

Mr. REID. Mr. President, I rise in opposition to the proposed Line-Item Veto Act. The conference report does more to upset the balance of powers than any legislation this body has considered this year. This is not about curbing expenditures. It is body abrogating constitutional responsibility. It is about ceding unbridled spending authority to one individual in one branch of the Government. It should not be called the Line-Item Veto Act. Rather, it should be called the Presidential Spending Empowerment Act. It grants unprecedented amounts of spending power to one individual. Proponents attack discretionary spending as though this were the reason for our deficit. They know better. Discretionary spending becomes a smaller part of the Federal budget every year. The days of pork-barrel spending have long since passed. This concept is replaced by yielding the President authority to punish his enemies.

This is an invitation to unfettered politicization of the Federal spending process. It is exactly this kind of undue influence that the founders sought to avoid through separation of powers doctrine. It does not take the imagination of Machiavelli to see how this power could be used for nefarious purposes. This is particularly true in an election year. Look at the possible scenarios that could be in store. This would give a future incumbent President quite a political weapon. Perhaps it could be used to entice the endorsement of Members from key primary States. A President could agree to not cancel an item of new direct spending on the condition that a member endorse his candidacy. Conversely, he could punish a Member for deciding not to support him. Even in a nonelection year, this unfettered power could be unleashed for the rawest of political purposes. Why? Because this legislation creates an implied threat against all Members of Congress. This implied threat is vested in one politician. It can be exercised on any piece of legislation this body considers.

The significance of the conference report is not what is said, it is what is not said. It attempts to remove politics from the process. Unfortunately, it will have the exact opposite effect that its supporters intend. It injects the rawest form of power politics into the Federal spending process.

The conference report creates enormous political arsenal and endows it in one individual. Its proponents say it will act as a shield against unnecessary spending. But it's really an axe that can bludgeon any legislator who dares to disagree with a President. This is not just about concentrating unprecedented amounts of power in one individual in one branch of government. It is about giving that individual a lethal political weapon. We are giving that individual license to use this weapon in whichever manner he sees fit.

Proponents of the conference report say this measure can be used as a surgical scalpel. I believe it more closely resembles a hovering guillotine. It is not just congressional spending authority that will be infringed. Our third branch of government, the judiciary, will have its independence placed in jeopardy.

I would encourage all Members to read an excellent piece on this issue in today's New York Times. It sets out some interesting arguments as to why the legislation is opposed by the judiciary. Many legal scholars are beginning to make their opposition known. Indeed, the Judicial Conference of the United States has spoken out against this measure. It said such authority posed a threat to the independence of the judiciary because a President could put pressure on the courts or retaliate against judges by vetoing items in judicial appropriations bills.

Judge Gilbert Merritt, chief judge of the Court of Appeals for the Sixth Circuit opposed this measure. Judge Merritt said it was unwise to give the President authority over the judicial budget because the executive branch was the biggest litigant in Federal court. I believe Judge Merritt is correct. The potential for conflict is obvious. All of us, at some point or another, have likely found ourselves in profound disagreement with a judicial ruling. But we realize there is a process in place for disagreeing with clearly wrongheaded decisions. We introduce legislation, hold hearings, and attempt to persuade our colleagues of the proposal's merits. None of us, individually, has the ability to influence a judicial decision we disagree with.

The conference report endows in one individual the tools with which to immediately demonstrate displeasure. Why don't we simply eliminate the lifetime tenure provisions from article III. Judges have good reason to fear this measure. They should be on notice that all future decisions could be subject to political appeal. The Supreme Court may ultimately have the final say but the President can ensure whether it has the paper on which to say it.

This political weapon can be exercised in many different ways. The executive branch may be litigating one of its policies in Federal court. This happens all the time in every administration. Consider the conflict that could arise if the administration receives an unfavorable ruling from a particular court. Now, the President could employ the power of the bully pulpit or appeal to Congress to handle the matter legislatively. With this new political weapon, he could also excise the appropriation for that particular court. This is not meant to cast aspersions on our future Presidents. It merely reflects the political reality that the Framers recognized when they wrote the Constitution.

Process for considering item vetoes binds this body to new rules that are overly burdensome and unduly restrictive. It will be very disruptive to the consideration of substantive legislative matters. We don't even know how this will play out and we are today being asked to accept a 10-hour time agreement. A large number of line-item vetoes may deserve debate. Are we all willing to enter into a 10-hour time agreement today? What kind of chaos are we binding ourselves to?

There is a great deal of thought and consideration that goes into writing an appropriations bill. Typically, the White House is involved throughout this process. It is not as if the administration reads appropriations bills for the first time upon their passage. Administration officials are actively involved in every step of the way. Why not really make this easier? Allow the administration to write the measures and schedule up or down votes in both bodies.

Presidential veto of targeted tax benefits was a key feature of the Senate-passed bill. The conference report attempts to define tax benefits by counting the number of beneficiaries. At best, this is disingenuous. A tax benefit is defined as an income tax deduction, credit exclusion or preference to 100 or fewer people. Why not limit the scope of the veto to appropriations or new direct spending that impacts 100 or fewer beneficiaries? Perhaps this was added in conference to gain the support of tax lawyers. Any good tax lawyer will be able to find an extra person or two to meet the sufficient number of beneficiaries.

I believe that is why this body explicitly rejected the concept of numerical beneficiaries earlier. Different types of taxes are treated differently. Interestingly, other taxes such as estate and excise taxes would not be subject to a Presidential rescission. The report also excludes tax breaks that target persons owning the same type of property. Thus a tax benefit to owners of 1997 Rolls Royces would not be subject to a veto since all persons owned the same type of property.

Today, less than 7 percent of vetoes are overridden. If this measure passes, veto overrides will likely be nonexistent. This Presidential political weapon will be used against regions, States, or congressional districts. There, of course, will never be enough vetoes to override. This is a far worse bill than the one which made it out of this Chamber a year ago. That bill included a provision that allowed 60 Senators to prevent an item from being singled out for a veto. The conference report requires two-thirds of both the Senate and the House to override a veto. Thus, the President needs only 34 percent of one House in order to rescind appropriations the majority of Congress had previously voted to approve.

This is an unprecedented amount of veto power to endow in one individual. This Senator contends it is an unconstitutional delegation of legislative power.

Many legal scholars claim we have little to fear because this act will be ruled unconstitutional in the courts. I do not believe that is a chance worth taking. I realize the majority party is under a lot of pressure to complete its so-called Contract With America. But in its zeal for closure is it really willing to pass clearly unconstitutional acts? Are we willing to now discount and discard the doctrine of separation of powers? And what are the consequences?

Perhaps it was best stated by the Senate's great constitutional scholar, Senator BYRD, in an earlier debate: "History shows that when the Roman Senate gave away its power of the purse, it gave away its check on the executive." As for the line-item veto eliminating wasteful spending, Senator BYRD said it is "analogous to giving cyanide for a cold."

Who are we, the benefactors of these great constitutional rights, to sit in judgment of our Founding Fathers? If they were so right then, could we be so wrong today?

Mr. BIDEN. Mr. President, I have long supported an experiment with a line-item veto power for the President. Over a decade ago, I introduced my own plan for a line-item veto, with Senator Mattingly. Since then I have cosponsored several similar plans, in particular those offered by my distinguished colleagues Senator HOLLINGS and Senator BRADLEY.

I have held this position for all these years, Mr. President, not because I believe the line-item veto will solve our deficit problem. No single procedural change can do that.

I support a line-item veto because it will, at the margins, shift the incentives now in our system to attach special-interest spending to our appropriations bills. To rein in that practice, Mr. President, we must expose it. The line-item veto will give the President a tool, if he chooses to use it, to raise the profile of wasteful, special-interest spending—to expose it to the light of public scrutiny.

The need to track down and remove wasteful spending is not new, Mr. President, but it has never been more important than now. As we continue down the road toward a balanced budget, we must reserve every dime of taxpayers' money for the most important priorities of this country. Now, more than ever, waste in one program will require cuts in more deserving areas.

So we must do all we can do to change the incentive to smuggle such spending into appropriations bills in the first place, or to give the President the power to cut it out once it gets there.

Mr. President, the version of the line-item veto that I have consistently supported is not the one before us now. Nevertheless, I will vote for this line-item veto plan today, because I believe that it can be a useful check on wasteful spending, at a time when we must subject every dollar we spend to the most careful scrutiny.

Mr. President, I want to take a few minutes to explain the difference between the version I have consistently supported—the one, I must add, that we passed out of the Senate last year—and the version here before us today. I have long held that separate enrollment is the best approach, in contrast to the enhanced rescission plan before us now. But what do those fancy titles mean?

The separate enrollment approach to the line-item veto is the one that I have supported, and the one that I think most people have in mind when they think of a line-item veto. Quite simply, separate enrollment requires that the Congress take each item in the spending bills we pass and send them to the President separately, instead of lumped together as we do it now.

We used to send individual spending items to the President separately, back before the Civil War. I believe that the separate enrollment approach would restore a relationship between Congress and the Executive that was upset by the practice of lumping those items together. To that extent, it would be less disruptive of the constitutional relationship between the branches of our Government.

The way we do it now, we send the President every item for national defense, for example, in a single spending bill. If the President believes that there are too many tanks, or too many trucks, or too many missiles, he must veto the entire national defense bill to cut out the spending that he doesn't want.

We write bills that way on the bet that the President will accept additional spending as the price of getting our national defense or other basic needs paid for.

And, we must admit, Mr. President, we write bills that way because it serves the needs of individual Members of Congress to have their special projects—that on their own merits, in the cold light of day, could not muster a majority vote—to have those special projects pulled through the process by the locomotive of essential legislation.

By sending each item of spending to the President as individual bills—by separate enrollment of each item—Congress would expose each of those items to the scrutiny it deserves, would remove the camouflage of the larger spending bills.

The modest hope is not that the President will, willy-nilly, cut and slash special-interest items.

Rather, the expectation of those of us who have promoted this idea is that Members of Congress—confronted by a President with this new power—would choose not to include those special interest items that cannot pass the threshold of public scrutiny.

That is essentially the version that we passed out of the Senate last year, Mr. President, with one important addition. We included special interest tax breaks among the items the President could veto. Those tax expenditures lose money from the Treasury just as surely as any spending program.

And as for those items vetoed by the President, the normal constitutional procedures would apply—two-thirds majorities of each House would be required to override the veto, to restore the spending that the President has cut.

I have supported that approach as the one that least disturbs the constitutional relationship between the President and Congress, particularly on the crucial issue of the power of the purse.

I was heartened when that was the version passed by the Senate last year.

By the same token, Mr. President, I am less happy about the version before us today. But because I am still convinced that we need to improve our capacity to discourage if possible, and to cut out if necessary, any wasteful, special-interest spending, I will vote for this version.

The line-item veto bill before us today provides for a procedure that is more correctly known as enhanced rescission. It greatly transforms a Presidential procedure that right now has virtually no teeth—the rescission.

Currently, the President may tell Congress that he doesn't want to spend funds for one or more items in a spending bill that he has signed into law. But that will have no effect unless the Congress chooses, on its own, to pass a rescissions bill that may or may not include the items specified by the President.

If Congress chooses not to act, the President remains obligated to spend those funds in the legislation he has signed into law. So right now the rescission power doesn't amount to much, Mr. President, unless Congress decides on its own to make it law.

The bill here today would change that, would put real teeth in the rescission power. It would give the power of the law to a President's decision not to spend money on those items he chooses. That decision would become law unless Congress passed a specific bill to disapprove of his action. If Congress did not act, then the President's decision to cut those items would stand.

If Congress did pass a bill that disapproved of the President's cuts, the President could then use his veto power, which would require a two-thirds majority of each House of Congress to overturn.

This is a powerful new tool in the hands of the President. That is why I have always held that we should experiment with the line-item veto—that we should set a date certain on which the legislation will sunset. This line-item legislation provides for an 8-year experiment, after which it will terminate unless Congress agrees that the experiment has produced more benefits than costs.

This is longer than I think is necessary—particularly if we discover unintended consequences—but it does provide for two Presidential administrations over which to test the merits of this proposal.

I am more disappointed that the President's ability to cut special interest tax breaks has been severely weakened in conference with the House. The remaining provision would apply to only a few tax items—in fact, with clever tax lawyers on the job, it could well apply to virtually no tax breaks.

So, Mr. President, like so much legislation we consider and that becomes law, this line-item veto bill advances a worthy cause—cutting out waste and special-interest spending—but not in the ways that all of us may agree with. As someone who has for years advocated the separate enrollment method of line-item veto, I wish we had chosen that route.

But there is a more fundamental question: Will we give the President a power that will expose congressional spending to a higher level of scrutiny? Will we take an additional step to prevent the inclusion of special-interest spending in our appropriations bills? I am willing to take that step, Mr. President, and will vote for the conference report.

Mr. SMITH. Mr. President, I rise in strong support of the line-item veto bill before the Senate today, and urge my colleagues to pass this overdue measure. As a long-time opponent of pork-barrel spending, I am glad we are taking this first small step toward fiscal sanity.

When I attend a town meeting, or hold a briefing on the Federal budget, I often hear a common sentiment: "Why does Congress want to change Medicare, or education, or whatever, when we are spending $5 million on Hawaiian arts and crafts?" It is a question that cannot be answered. Pork-barrel spending may constitute a relatively small portion of the overall budget, but it represents a very symbolic part of the budget. If Congress cannot cut the little spending items, how on Earth can we make the difficult decisions on the larger programs?

Will the line-item veto balance the Federal budget? Of course not. But it will help restore discipline to our budget process. It is no secret that special projects and narrow interest provisions are often included in large spending bills. We often see $1 or $2 million projects tucked away in multibillion budget measures. A Senator or Congressman will issue a press release about the wonderful project, and then feel compelled to vote for the overall bill. Slowly, but surely, the spending bills begin to add up and the problem becomes worse. The pork-barrel spending is the grease that allows the budget process to move forward. And that budget process has led this Nation to a $5 trillion national debt.

The line-item veto bill will give the President—who has a national constituency with a national interest—the tool he needs to cut projects that serve a narrow constituency with a special interest. The legislation before the Senate today allows the President to veto appropriations, targeted tax provisions, and new entitlement spending. Any of these provisions, if passed separately, are now subject to a Presidential veto and a two-thirds override requirement. The line-item veto bill is a natural and simple extension of that constitutional power. Projects worthy of scarce Federal tax dollars should stand or fall on their own merit, not on the merit of a larger unrelated bill.

Mr. President, I have supported and cosponsored line-item veto legislation for more than a decade. It has been a long and arduous fight. I, for one, am glad that the fight is finally over. I commend my colleagues—Senator MCCAIN and Senator COATS—for their hard work on behalf of this landmark legislation. This line-item veto bill before the Senate today will certainly stand the test of time.

Mr. ROCKEFELLER. Mr. President, I am a proponent of responsibly reducing the deficit, as are many of my colleagues. I, too, want to eliminate wasteful spending. But this conference report on the line-item veto bill is not the right way to ensure deficit reduction or responsible fiscal management in my view.

As articulated so poignantly by my colleague from West Virginia, Senator BYRD, the line-item veto legislation raises many constitutional problems and it substantially alters the balance of power devised by the Framers of our Constitution.

Before supporting such a dramatic change in the balance of powers, we need to examine it in light of what it really offers our country.

Giving a President broad power to cut discretionary spending concerns me in theory, but it troubles me even more to think about its potential effects in practice. A President may hastily veto substantive provisions of a spending bill, which he considers wasteful, but which really are essential programs for States or regions. One person's perception of waste or pork may be another person's funding for roads, schools, needed housing, or rural hospitals. Or a President could even wield a line-item veto as a political tool to intimidate a particular Member or groups of Members.

A specific example is the recent history of funding for the Appalachian Regional Commission [ARC]. Recent Republican Presidents sought to eliminate the Appalachian Regional Commission [ARC] from the budget, but a bipartisan group within Congress maintained this important program to promote economic development in some of the poorest counties of our country. The ARC provides basic funding for infrastructure and economic development.

In representing West Virginia's interest, I do not believe that Congress should give any President free range to cut discretionary spending. Under the line-item veto, a President could veto spending for the ARC, or other discretionary programs ranging from highway projects to housing programs.

It is important to note that the present system already offers a way for the President to express his dissatisfaction with provisions in spending bills, known as the rescission process. Although this process might need to be streamlined and simplified, the President already has the ability to call for the rejection of specific programs within spending bills. Through the rescission process, the President can call on Congress to make more immediate cuts in areas which he thinks are wasting taxpayers' money. The President can single out items in spending bills that he opposes, and if Congress approves the budget cuts are made immediately.

I agree that Congress needs to chart a careful course for deficit reduction and economic growth, and I continue to vote for cuts in specific programs where I believe Congress has wasted taxpayer money. I do not, however, want to risk the careless elimination of critical programs which benefit West Virginia and other States. And I do not want to irrevocably alter the balance of power between Congress and the executive branch which was enshrined in our constitution over 200 years ago. I think Congress has duty to be excruciatingly careful when fundamental rewriting of our Constitution is being considered. This conference report has not been given proper consideration and I disagree with its intent on principle. I oppose passage of this conference report.

Mr. GRASSLEY. Mr. President, I am proud to have this long awaited and unique opportunity to address the Chair about a successful conference report on a line-item veto.

Some of us have spent much of our congressional careers fighting against wasteful spending. Under present law, the Chief Executive often cannot join in the battle against waste without the risk of destroying the good along with the extravagant. This line-item veto conference report succeeds in allowing a responsible Chief Executive to join our team of responsible legislators. Indeed, the line-item veto will allow a responsible President to join us in weeding the peoples' legislative garden.

With this line-item veto, a responsible President can attack and cancel out entire dollar amounts in appropriation bills. He may not merely reduce a dollar amount; He may only cancel it entirely. With this line-item veto, a responsible President will attack and cancel out latent direct-spending provisions that would increase future spending. Thus, we will help prevent future deficit increases before they even begin; first, by eliminating a wasteful provision, and second, by dedicating any savings from operation of the line-item veto to a special lockbox for deficit reduction.

In the area of tax expenditures, a responsible President can attack certain flagged and frivolous tax legislation. This line-item veto will instruct the nonpartisan Joint Committee on Taxation to identify and flag any limited tax benefits that may exist in future conference reports of future tax bills. This conference report on the line-item veto defines limited tax benefits as any tax expenditures that would both, lose revenue either in the first year or over the first 5 years, and benefit 100 or fewer persons Then, Congress would add a list of these limited tax benefits to the conference report as a matter of law.

If the Joint Committee on Taxation looks, but does not see, any limited tax benefits, then it may issue a clean bill of health upon the related tax legislation. If the Joint Committee on Taxation does not look for any limited tax benefits, then the Chief Executive may himself look for the limited tax benefits. He would use our same objective measure outlined in the conference report.

Having found waste, a responsible President may effectively take out his ruler and draw a line through any offending legislation. After operating a line-item veto, the President would send a special message back to Capitol Hill outlining his actions. Both Houses of Congress would refer the vetoed line items to the appropriate committees.

The operative Senate committees may then report out a disapproval bill containing the vetoed line items. The Senate would listen to only 10 hours of debate and amendments before voting on a disapproval bill. Thereafter, the President may again see the same legislation because the process would simply start over. The President would then have the Executive powers offered by this line-item veto conference report and article I, section 7 of the Constitution.

Like the Constitution, this line-item veto conference report has many proud cosigners. I want to thank the chairmen and ranking members of the Committees on Governmental Affairs and the Budget. I also want to thank Senators McCAIN and COATS for their efforts and commitment. Especially for his attention to the line-item veto as it may affect future tax legislation. I want to thank Senator ROTH, the able chairman of the Committee on Finance. Finally, I want to thank all those with whom I have always joined in our tireless efforts to stamp out the Government waste of taxpayer capital.

This is a great day indeed. I urge all of my colleagues to join in support of this conference report on the line-item veto.

Mrs. MURRAY. Mr. President, I take the floor to oppose the so-called line-item veto legislation before us today. I regret I cannot support this conference report, but unfortunately this report is careless, highly questionable and possibly unconstitutional. Mr. President, I support the line-item veto proposal submitted by Senator BYRD. His expedited rescission proposal was well-written and made good common sense, but unfortunately, it was not accepted by the Senate.

I know all too well the abuse that can arise through broad, sweeping line-item veto authority. Mr. President, I served in the Washington State Senate prior to coming to the U.S. Senate. My home State arms its executive with line-item veto authority, and while serving in the State legislature I witnessed, first hand, the horse trading that results by giving the State's executive this authority.

In my home State, the line-item veto does not deter spending. Rather, it encourages more spending. It puts legislators in the position of having to accept the Governor's priorities in order to make sure their legislative priorities are not vetoed by the Governor.

As you know, Mr. President, this debate essentially was spawned out of our desire to reduce Government waste and balance our Nation's budget deficit. I do not think there is a single Member in this body that does not want to reduce the Nation's budget deficit. However, I have great difficulty turning over my responsibility and Congress' fiscal responsibilities to the executive branch. Mr. President, the line-item veto is a budget gimmick, and it simply passes the power of the purse from Congress to the President.

Since 1993, we have cut the Nation's budget deficit in half. This is commendable work. However, it was difficult work that required tough decisions. Congress and the Clinton administration chose to reduce and cut hundreds of Federal programs. This was not easy, but it is what we were elected to do. We will get our fiscal house in order once we set our minds to it. We do not need a line-item veto. We need courage. We should not shrink from our constitutional responsibilities. We should accept the challenge.

Mr. President, earlier today I listened to the elegant words of Senator BYRD. Senator BYRD is a great orator, respected legislator and an excellent teacher—especially when it comes to the constitutional issues surrounding the line-item veto. I hope my colleagues listened to his words, because there are some real constitutional issues that need to be addressed because of this legislation.

This legislation disrupts the delicate balance of powers laid out by our Founding Fathers. It shifts an enormous amount of power to the President of the United States—directly conflicting with Congress' constitutional duties. And, as written, this legislation gives the President and a one-third minority in one House the power to veto legislation a majority of Congress approved. It turns the idea of checks and balances on its head.

Mr. President, I also have grave concerns with the language pertaining to targeted tax benefits. This language is cleverly written in a way that ultimately prohibits the President from vetoing new targeted tax benefits. If we want to grant the President a line-item veto, let us at least do it the right way. Let us at least let the President strike new tax expenditures.

Moreover, I urge all my colleagues from small States to read this legislation carefully, because as it is written, the President has the power to strike very specific language including charts and graphs. For instance, the President would have the power to strike funding for a single State if an appropriations bill or report includes a chart breaking out spending per State. We know the President is not going to strike funding from electoral-vote rich States. But, what keeps the President from cutting funds in smaller States?

Mr. President, this again reminds me of the horse trading I experienced in my home State legislature. This legislation puts legislators in the awkward position of having to protect congressionally approved legislation from the President's veto pen—legislation that was debated, considered and eventually agreed to by Congress—agreed to the way our Founding Fathers envisioned the process would work, and the way our constituents expect us to govern.

In no way did our Founding Fathers expect the President to unravel legislation that was crafted through compromise by both the majority and the minority.

Mr. President, there is a right way to craft this legislation. It should be written clearly and carefully—without ambiguity. We should craft legislation that doesn't exempt specific tax breaks, one that doesn't allow a President to attack entitlements, and one that doesn't hold small States hostage.

So, Mr. President, I urge my colleagues to vote against this legislation. The line-item veto is not the solution to our deficit problems. We know what needs to be done to reduce the deficit, and we have done it here on this floor over the past 3 years. We know the line-item veto is not the tool needed to accomplish that goal, but rather, just a feel-good gimmick that puts off the tough decisions.

Mr. FEINGOLD. Mr. President, this issue is not simple, nor is it easy.

If it were, there would be a larger consensus on how we should proceed in this area, if at all.

I supported the version of S. 4 that passed this body—the so-called separate enrollment approach. Though that legislation was flawed, I was willing to support that experimental line-item veto authority to provide the President with some additional authority to eliminate inappropriate spending.

I do not believe the line-item veto is the whole answer to our deficit problem, or even most of the answer, but it certainly can be part of the answer.

The legislation before us today, too, is flawed, but I am willing to give this new mechanism a chance to work, and to see it tested over the next several years. Like the version of S. 4 that passed the Senate, this measure also has a so-called sunset clause which terminates the expanded veto authority unless Congress takes action.

If the Congress decides, which it may well do, that we have gone too far in delegating authority to the President, the sunset clause will make it much easier to terminate the experiment, if necessary. The burden will be on those who want to retain the authority.

Mr. President, in the end, that sunset clause allowed me to support a measure with which I am far from satisfied. Without a sunset clause, Congress would have to pass a bill to repeal the line-item veto authority. It is likely that any President would veto such a bill, and unless two-thirds of the members of both Houses were to override that veto, the President would retain this extraordinary new power.

Mr. President, though the continuing Federal budget deficits justify granting this temporary authority to the President on a trial basis, I do have serious concerns about this proposal, which I want to highlight, and will continue to monitor. Possibly my biggest concern is the effective threshold of two-thirds vote in each House to overcome this new expanded veto authority. That kind of threshold is provided in the Constitution for entire bills, but extending that authority for individual sections of a bill may be problematic. There are many uncertainties in this new authority that we are providing the President, and no one can anticipate all the potential abuses that might flow from this new authority.

Though we have no experience at the Federal level, those Members who have served in State government may have seen the use of line-item veto authority at the State level. Indeed, much of the support for a Federal line-item veto stems from the State experience.

But, Mr. President, few other States, if any at all, have witnessed the abuses of line-item veto authority that we have seen in Wisconsin. That abuse has been bipartisan—Governors of both parties have used Wisconsin's partial veto authority in ways it is safe to say no one anticipated when that authority was first contemplated. For example, Mr. President, Wisconsin's current Governor, Governor Thompson, has used the veto authority not only to rewrite entire laws, but actually to increase spending and increase taxes.

The two-thirds threshold compounds the uncertainty about possible abuses by making it that much more difficult for Congress to respond to that possible abuse.

Mr. President, another serious flaw in this measure are the provisions relating to tax expenditures. They are far from adequate. The language in the Senate-passed version of S. 4 relating to tax expenditures has been weakened significantly, essentially blunting this authority as a tool for restraining that area of spending that is among the largest and fastest growing, and that includes unjustified subsidies to some of the wealthiest individuals and corporations in the world.

Mr. President, tax expenditures contribute greatly to pressure on the deficit, and if any area should be subjected to the scrutiny of line-item veto authority, it is this one. The failure of this proposal to target abuses in this area is a serious flaw, and I regret the special interests that generated some of these abuses in the first place are exempt from this new Presidential authority.

Mr. President, I was disappointed, too, that the emergency spending reforms the senior Senator from Arizona [Mr. MCCAIN] and I incorporated into the Senate-passed version were dropped from this measure. That provision limited emergency spending bills solely to emergencies by establishing a new point of order against nonemergency matters, other than rescissions of budget authority or reductions in direct spending, in any bill that contains an emergency measure, or an amendment to an emergency measure, or a conference report that contains an emergency measure.

The provision also featured an additional enforcement mechanism to add further protection by prohibiting the Office of Management and Budget from adjusting the caps on discretionary spending, or from adjusting the sequester process for direct spending and receipts measures, for any emergency appropriations bill if the bill includes extraneous items other than rescissions of budget authority or reductions in direct spending.

As we consider ways to empower the President to veto unjustified spending through this new authority, it only makes sense to enact reforms that prevent those abuses from passing in the first place. The emergency spending reforms that Senator MCCAIN and I included in S. 4 did just that, and I regret they were not included in this proposal.

I understand, however, that commitments have been made to revisit this provision in separate legislation. The emergency spending legislation previously passed the House by an overwhelming vote and I am hopeful that we will soon be able to overcome the resistance to this provision and have it enacted into law as well.

Mr. President, the basic structure of this particular line-item veto authority also raises problems. Though it may be less cumbersome than the so-called separate enrollment approach envisioned in S. 4 as it passed the Senate, the new enhanced rescission approach could provide the President with more rescission authority than was intended.

In particular, the shift from Congress to the President in defining the precise material to be vetoed is potentially significant. Instead of vetoing or approving individuals minibills, as under the separate enrollment approach, the President decrees certain actions in the nature of rescissions—actions which effectively are given statutory authority because they are surmounted only by enactment of a disapproval bill.

The scope of these Presidential decrees are limited by the restrictions set forth in this bill, and though the intent of those proposing this new authority may be clear enough in their own minds, there cannot be one hundred percent certainty about the true scope of this new authority until it is actually put into effect. The unintended or even unimagined consequence of this new authority may be its biggest flaw.

This is just what happened in my own State. It is difficult to argue that the original sponsors of Wisconsin's partial veto authority ever intended that a future governor would be able to veto individual words within sentences or even individual letters within words, yet that is precisely what happened.

Successive court decisions gradually expanded the partial veto authority for Wisconsin's Governors, to the point that whole new laws could be created with the veto pen.

Mr. President, could the temporary authority which this measure grants the President be abused in this fashion? Though I do not believe it will, we cannot be certain about what some court might rule in interpreting the restrictions spelled out in the bill.

In some instances, the proposal before us allows the President to exercise his new authority based on committee reports or the statements of managers, neither of which have the force of law, and neither of which have ever been the subject of a vote in either House. That is troubling.

I am disturbed, too, by the language in this proposal regarding so-called items of direct spending. In defining these items, the measure refers to specific provisions of law.

Mr. President, this definition is not at all self-evident. Is a provision of law a numbered section, or can it be an unnumbered paragraph as well? How small a unit of entitlement authority does the proposal intend to expose to the new Presidential authority? For example, if a clause in a sentence defines new entitlement authority in some way, can that clause be canceled without taking the entire sentence with it? Or, can new entitlement authority be limited by the selective cancellation of one word if doing so meets the other stated formal requirements of the measure?

The proposal does not address that issue. It only mentions the words "specific provision of law" without further definition.

As someone who has seen just how creative a Governor can be with partial veto authority, this is a matter of serious concern to me.

Mr. President, there are a few safeguards built into this proposal that provide some comfort in this regard. As I noted before, the new authority sunsets in 8 years. We will have what amounts to an 8-year trial period in which we can monitor this new Presidential authority, and we will. Eight years represents two complete Presidential terms of office, and several election cycles within both Houses, ensuring a diverse set of partisan combinations under which this new authority can be tested, and enhancing the possibility that it will be used under different circumstances and with different ideological intent.

Also, it should be noted that this new authority is established by statute, not as part of the Constitution, thus the measure avoids magnifying these potential problems by making a permanent change to our basic law. To the extent that Congress can selectively control this new authority in subsequent statutes, even prior to the expiration of the proposal before us, the statutory approach to the line-item veto or enhanced rescission authority is much less restrictive than a constitutional amendment.

Nevertheless, Mr. President, we cannot be certain how this proposed authority will be used, no matter how carefully we draft the restrictions on that authority. Those who support this measure bear a special responsibility in this regard. And to that end, should this measure become law, I intend to establish a regular review process to monitor how the new authority is used, how it is misused, how much deficit reduction is produced, and lost opportunities for deficit reduction.

Though temporary, this delegation of authority is significant, and close and continuing scrutiny is warranted, even necessary.

Mr. President, the debate we have had on this issue for over a year has been instructive for me. For some, the passage of a line-item veto authority for the President will only mean they can scratch it off a list, and move on to another issue.

But this issue does not end with our vote, it begins.

We are about to embark on an important experiment. Whether for the benefit of the country and our democratic institutions remains to be seen, but I believe it is an experiment worth performing.

I congratulate the senior Senator from Arizona and the Senator from Nebraska [Mr. EXON] for their work on this measure. I thank them especially for their past efforts on behalf of the amendment I offered to clean up the emergency appropriations process. Though it was not included in the final version of this proposal, I very much appreciated their courtesy, and I look forward to working with them to find another vehicle for that worthy reform.

I yield the floor.

Ms. MOSELEY-BRAUN. Mr. President, our system of government is based on a separation of powers and checks and balances. That is the way the Founding Fathers structured it, and it is a system that has fostered America's greatness for over 200 years. Yet, this bill would fundamentally change and unbalance that system by transferring power from Congress to the President.

Some argue that this bill is unconstitutional. In a letter to Congress, L. Ralph Mecham, secretary of the Judicial Conference, stated that he fears that this bill will violate the separation of powers. He writes, "The doctrine of separation of powers recognizes the vital importance of protecting the judiciary against interference from any President. This protection needs to endure. Control of the judiciary's budget rightly belongs to the Congress and not the executive branch."

Furthermore, an article in today's New York Times stated that the line-item authority poses "a threat to the independence of the judiciary because a President could put pressure on the courts or retaliate against judges by vetoing items in judicial appropriations bills." The article stated that Judge Gilbert Merritt, chairman of the executive committee of the Judicial Conference of the United States, stated that "judges were given life tenure to be a barrier against the winds of temporary public opinion. If we don't have judicial independence, I'm not sure we could maintain free speech and other constitutional liberties that we take for granted."

It is not clear what the Supreme Court will find when this law is challenged. But what is clear to me is that this bill is anticonstitutional. It is counter to the philosophy of the Constitution. The Constitution clearly separated each branch of government, giving each specific duties—and did so for a reason.

If one reads the Constitution, it is clear that the Framers deliberately placed the power of the purse in the hands of Congress. Article I, section 8 of the Constitution states, "The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States."

Power over the purse has consistently rested in the hands of the Representatives and Senators of our country. This power is critical in maintaining our system of checks and balances. The measure before us today would shift that power away from Congress and put it in the hands of the President. It allows the President to unilaterally change a law after it is enacted—to cut off spending Congress has deemed necessary.

Moreover, this bill is contrary to its intended purpose: Deficit reduction. Some of my colleagues did not support the balanced budget amendment to the Constitution, but I did. I supported it because it covers every dollar of spending and taxing. This bill does not. Furthermore, the balanced budget amendment did not upset the balance of powers between the branches. This bill does.

There is a cliche that to every problem there is a simple wrong solution. Do we have a deficit problem? Yes. Will this bill solve our fiscal crisis? No. This bill is the wrong solution to our deficit problems. It is almost solely aimed at discretionary spending, which is clearly not one of the major causes of the budget crisis the Federal Government is facing.

I served on the Bipartisan Commission on Entitlement and Tax Reform. If we do not act, by the year 2012 entitlement spending will outstrip revenues. So discretionary spending could be cut to zero and still not solve our problems. Domestic discretionary spending has not grown as a percentage of the GDP since 1969, the last time we had a balanced budget. Domestic discretionary spending comprises only one-sixth of the $1.5 trillion Federal budget, and that percentage is steadily declining.

In practice this bill will have a minimal impact on the deficit. Yet this bill will have a high impact on the level of the public's cynicism because it will not solve our country's budget crisis. Congress is already having difficulty passing its 12th continuing resolution and the American people already have doubts about Congress' ability to pass funding measures. To reaffirm our commitment to the American people's priorities, we should remind ourselves of what we swore to do when we entered office: to uphold the Constitution. This line-item scheme violates the philosophy of that document.

Spending authority rests primarily with Congress because our Nation's Founders thought that that was the best small "d" Democratic thing to do. 535 Members of Congress by definition are closer to the people than the President. Members of Congress are elected from all over the country reflecting their constituents' interests, be they urban or rural. Can one executive reflect the needs of our Nation's varied constituencies better than a Member of the House who has to run every 2 years? The President, as stipulated in the Constitution can only face the people twice, and one of those times is before he takes office.

Part of our Nation's success is due to our healthy mistrust of the centralization of authority. The Founding Fathers did not create a unitary system like in France. They built a country based on a union. As Jefferson once said, "the way to have good government is not to trust it all to one, but to divide it among the many, distributing to every one exactly the functions he is competent to perform." The Founders thought that Congress was competent to legislate our spending bills, not the executive. More than 200 years of success is hard to argue with.

As we all know, it can take several months of work to get a bill signed into law. Under current law, the House and Senate can pass a bill and then send it to conference where the differences between the House and Senate versions of the bill are resolved. Oftentimes conferees spend hours, even days and weeks, working to resolve differences, so that both Houses can support the end product. This can be a delicate proceeding, calling for compromise and flexibility.

Upon completion of conference the House and Senate vote on the conference report and send the bill to the President for signature. Under this legislation, if the President decides to sign the bill, he could then decide to strike out, for instance, specific spending provisions in an appropriations bill. Under this bill, the President would also have the power to line-item out items that are listed in graphs, tables, charts, conference committee's statement of managers, or portions of a committee report not superseded by the conference report. The scope of possible rescissions is enormous.

If Congress disagreed with the President's rescissions, they could pass a disapproval bill which would have to be passed by both Houses, get through conference, and be passed again. Should the President proceed to veto to the disapproval bill, it would take two-thirds of the Members in each Chamber to override the President's veto. Since we have not even been able to pass a budget this year, I tremble to think what adding additional steps to the process will do to Congress' ability to act.

Clearly this is the most significant delegation of authority to the President that we have seen in over 200 years. If Congress passes this conference report we will abdicate our authority guaranteed to us under the Constitution, and give it to the President. Moreover, although this bill seeks to solve our fiscal problems, it could also serve to indirectly increase spending. For instance, if the Administration sought to increase spending for a mandatory program, he could lobby the Member to support his initiative by threatening to line-item out all of the appropriations for projects in that Member's district. As my friend Ab Mikva wrote in the March 25th edition of Legal Times, "For those of us who think that the executive branch is strong enough, and that an imperial presidency is more of a threat than an overpowering Congress, the current balance of power is just right."

Mr. President, the Founding Fathers carefully wrought our Constitution to include the doctrine of separations of powers. I believe that this conference report goes against that philosophy and ultimately, will have little effect on solving our fiscal problems, for these reasons, I will not support this report.

Mr. LAUTENBERG. Mr. President, I rise in strong opposition to this conference report. There is a right way and a wrong way to provide the President with a line-item veto. This is the wrong way.

Mr. President, I have supported a line-item veto in the past. I believe that the President should have greater authority to weed out wasteful tax breaks and unnecessary weapon systems.

But this legislation goes too far.

I have three major objections to this conference report.

First, this legislation cedes too much power to the President. Under this proposal, any President and one-third plus one in the House can stop any appropriated item. This legislation goes much further than the so-called separate enrollment bill that passed the Senate. The legislation before us, in effect, allows the President to veto report language and tables in Committee reports. This means that the President can veto airport improvement funds for Newark but keep funds for Kennedy and LaGuardia airports. And the only way to override this type of veto is to get two-thirds of the Members in both House to support an individual item—which is highly unlikely.

The President of the United States already has awesome constitutional power. Look at what has happened in the past 6 months.

The President vetoed a Republican budget that made huge cuts in Medicare and Medicaid to pay for tax breaks for the rich. He stopped this cold.

He also vetoed a welfare reform bill that would have doomed 1.5 million children to live in poverty.

Finally, he vetoed spending bills that made deep cuts in education, environment, and community policing.

Mr. President, the Congress was never able to override these vetoes. This demonstrates how powerful the Presidency can be when it comes to vetoing unfair budget priorities. We should not provide the chief executive with this new power on top of the tremendous power he already possesses.

Second, this legislation makes a mockery of applying the line-item veto to tax breaks. The Senate bill originally allowed the President to use the line-item veto to stop some tax breaks. These breaks were defined far too narrowly. But even this language did not survive conference.

This conference report only allows the President to veto tax items that affect fewer than 100 persons. This means that Congress can pass a tax break that only applies to people with incomes over $1 million and the President could not single this out. Furthermore, the language also exempts other classes of persons from the tax provisions of the bill. One such exemption is property. Therefore, if Congress passed a tax break for 99 owners of a certain type of yacht, the President could not veto this provision.

In summary, this legislation allows the President to use the line-item veto to reject investments in education and the environment but not to reject tax breaks for millionaires. This is preposterous.

Finally, I object to the Republican political hypocrisy that went into choosing an effective date and sunset date for this legislation.

This bill was a part of the so-called Contract With America. The House passed its version of this bill on February 6, 1995. The Senate passed its version on March 23, 1995.

During debate on this legislation, I heard many Republicans in both Houses say that they were so committed to passing this legislation that they were even willing to give this power to a Democratic President. They argued how important the line-item veto was to cut out wasteful spending and unnecessary tax breaks.

Despite all of the clamoring by the Republicans, they began to drag their feet so that they would not have to give this power to President Clinton. They delayed naming conferees on the bill. They stalled on calling a meeting for the conferees. They kept dragging it out so that they could pass the fiscal year 1996 appropriations bills before the line-item veto bill became law.

During this period of inaction, the Republican majority sent President Clinton a pork-laden Defense appropriations bill that spent $7 billion more than the Pentagon wanted. This is when President Clinton really needed the line-item veto—so he could reject this $7 billion in unnecessary spending. But he did not have this tool then. The Republicans were simply playing politics with the line-item veto bill.

Now, we find ourselves with an entire new set of dates in this legislation. This bill will now go into effect on January 1, 1997 and it will last 8 years.

Mr. President, this is so blatantly political. But this is not the reason why we should reject this conference report. We should vote this down because it cedes too much power to the President and renders him powerless to fight tax breaks to the wealthiest Americans.

I urge my colleagues to reject this conference report.

I yield the floor.

Mr. CRAIG. Mr. President, I rise in support of S. 4, the conference report on the Line-Item Veto Act. The Senate is now wrapping up a long-overdue and historic debate.

I note that two words in particular sound very good in this debate: conference report. There must be many Members in both the Senate and the other body who have wondered if they would ever hear those two words used in connection with the line-item veto.

I want to recognize and commend the leadership and longstanding commitment that Senators McCAIN and COATS have shown on this issue, as well as Chairman DOMENICI and Chairman STEVENS, for their work in shepherding this legislation through committee, earlier passage in the Senate, and now, the conference process.

I also want to express my appreciation for the leadership of our distinguished majority leader, Senator DOLE, in bringing this vital reform to the floor. His name was at the top of this bill when several of us first introduced S. 4 on the first day of this 104th Congress, January 4, 1995, and he has been solidly committed to passage of this landmark legislation.

There are three principal reasons to enact this kind of reform:

First, a line-item veto will promote fiscal responsibility.

This is a major step on our way toward a balanced budget.

For more than 20 years, since the President was hamstrung by some of the lesser provisions of the 1974 Impoundment Control and Budget Act, congresses have ignored with impunity most of the Presidential recommendations to rescind spending authority for individual items.

Now, at least some obnoxious, unwarranted spending will be struck down.

Opponents of this bill have argued that it would lead to more spending, as Presidents use the leverage of the line-item veto to get more spending for their pet programs, or as Congress loads still more spending into bills, in hopes that at least some of it will get by the President. Alternatively, they argue that Presidents will abuse this power and fundamentally distort the balance of constitutional power between the executive and legislative branches.

But the histories of the 43 States that have given their Governors this veto authority do not bear out these dire—and purely theoretical—warnings.

The experience of the States with the line-item veto, including that of my State of Idaho, has been uniformly favorable.

And, looking back over the last two or three generations, we see that State governments have increased spending and taxes at much lower rates than the Federal Government.

It is an amazing concept for some in Washington, DC, but, when you assign someone responsibility—in this case, the responsibility that comes to chief executives with line-item veto authority—they often live up to high expectations. That has been the experience of the Sates.

Alone, the line-item veto process is not going to be enough to balance the budget.

What we really need is to take up the balanced budget amendment to the Constitution once more, pass it, and send it to the Sates—send it to the people—for ratification.

I challenge President Clinton, who at least saw the light on the line-item veto, to support the balanced budget amendment as well, and help pass it through the Senate so we can attack the cancerous Federal debt on a larger scale.

Second, the line-item veto will improve legislative accountability and produce a more thoughtful legislative process.

Starting when this act takes effect, Congress will be forced to reconsider questionable spending items and targeted tax breaks—items that Congress would never pass in the first place if those items were considered on their own merits—items that just do not stand up under any amount of public scrutiny.

It would cast an additional dose of sunlight on the legislative process.

We are all familiar with the rush to get the legislative trains out on time.

That means bills and reports spanning hundreds of pages that virtually no one is able to read—much less digest—in the day or two that they are before the body.

Moreover, any more it seems that virtually every appropriations bill—even the 13 regular bills—and virtually every tax bill, is a huge bill.

Knowing that any individual provision may have to return to Congress one more time to stand on its own merits will promote more responsible legislation in the first place.

In short, embarrassing items will not be sneaked into these bills in the first place.

Third, a line-item veto would improved executive accountability.

There is always some concern that the line-item veto would transfer too much power from the Congress to the President.

First, I suggest that is not such a bad thing. The Framers of the Constitution never envisioned 1,500-page, omnibus bills presented to the President on a take-it-or-leave-it basis.

This is not a swipe at the constitutional system of checks and balances—it is a correction. The system is broken. This is one of the first steps in fixing it.

The supposed blackmail that Presidents will exert over Congress as a result of the line-item veto, is nothing, compared what kind Congress has exerted for years on the President.

A President will rarely, if ever, risk closing down an entire department in a mere attempt to take out a handful of earmarked, local benefits.

But let me also differ a little with the presumption that a radical shift of power would take place.

Many of us on both sides of the aisle have suggested, at different times, that Presidents are not always serious about the rescissions messages they send to Congress.

And, sometimes, the volume of rescissions they propose do not live up to tough talk about what they would do if they had the line-item veto.

It is time to call the President's bluff—and I mean every President, because this is a bipartisan issue.

For years now, we have seen groups like Citizens Against Government Waste and others come up with billions of dollars in long lists of pork items.

Once the President starts using the line-item veto authority, he or she will have to answer to the people if the use of that authority doesn't match the Presidential rhetoric.

Congress would not lose the power of the purse—but the President will soon be expected to use the power of the spotlight of heightened public scrutiny.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Ms. SNOWE). The majority leader.

Mr. DOLE. Madam President, I ask unanimous consent that a vote on the adoption of the conference report accompanying S. 4, the line-item veto bill, occur at 7 p.m. this evening, with the time between now and the vote to be equally divided between Senators McCAIN and BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Madam President, I rise in support of the position of the Senator from West Virginia, Mr. BYRD, on the line-item veto.

The PRESIDING OFFICER. Who yields the Senator time?

Mr. BYRD. How much time do I have under my control, I ask the Chair?

The PRESIDING OFFICER. The Senator has 25 minutes.

Mr. BYRD. Twenty-five minutes. I yield 5 minutes to the distinguished Senator from Louisiana.

Mr. JOHNSTON. I thank the Senator.

Madam President, this matter is not about balancing the budget, it is not even about the size of the deficit. This matter is about the relative power of the Chief Executive of the United States and the Congress of the United States. Why this Congress, this Senate, would want to give up its constitutional powers, which, by the way, I do not believe under the Constitution they have the right to do even if they wish to do that foolish thing, but why we would want to do that, I do not know.

I am particularly surprised, Madam President, that some of my colleagues on the other side of the aisle who fought so hard, for example, for star wars, why they would want to give to the President the right to veto star wars. I happen to have been an opponent through the years of star wars, at least at the levels of expenditure—$33 billion has been spent on star wars so far. I think that is a tremendous waste.

But, Madam President, I defend the right of this body and of this Congress to set those priorities. Why you would want to give it to the President to be able to change a bill already signed into law and just nit-pick that bill without taking out the whole bill, I do not know, Madam President.

Yesterday, there was an article in one of the Louisiana papers in which it said, "Louisiana delegation gets piece of pork." They went on to describe an appropriation that Congressman LIVINGSTON and I had gotten in the New Orleans area because we had a flood down there of biblical proportions, over 20 inches of rain in a 24-hour period, seven people killed, $1 billion in damage. We were able to respond to that issue.

They went on to define "pork" as that which was not in the President's budget. If the Congress exercised its power under the Constitution, the power of the purse, then that was pork, according to this article and according to the National Taxpayers Union. But had it been in the President's budget, it would have been perfectly all right.

The idiocy of that kind of formulation, Madam President, is to me, absolutely incredible. Coming from a newspaper article, it is not unexpected because that is the kind of thing that people like to read. But coming on to the floor of the Senate and Senators saying it is the White House that knows best, it is—and we are not talking about the President; we are talking about the nameless, faceless gnomes in the White House who would be setting priorities, making policies, making the decisions about our constituents.

Our constituents would be coming to us, as in the case of this 20-inch flood. You bet I was down there after the flood, as were my colleagues, going through the homes, looking at the devastation, trying to sympathize with the people, they demanding in turn that we do something about this terrible tragedy. Our colleagues are saying, "Look, if it's not in the President's budget, it should not be part of the bill. It is up to the White House to set those priorities."

Madam President, there was nobody from the White House down in Louisiana to see that flood. They could not be. The Office of Management and Budget does not have that kind of travel budget. They did not go down and look at the individual problems of individual States. That is the job for elected representatives. That is what the redactors of our Constitution had in mind. That is why they put the power of the purse in the Congress.

We are closest to the people, and we respond to them. To leave all of that power in, as I say, not the President—maybe the President would decide on star wars or some big item like that, but the accumulation of items in that budget would be decided by OMB. And what would be the policy of OMB? They would have to have broad policies, such as to say, if it is not in the President's budget, we are going to veto it. We are going to treat everybody alike.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. JOHNSTON. One additional minute.

Mr. BYRD. I yield 1 additional minute.

Mr. JOHNSTON. Madam President, the shift in power which this would bring out would be absolutely mind-boggling to me. You know, the whole fight would be, "Can you get in the

President's budget or not?" It would make total supplicants of all Members of Congress. You might like that if you like the President. I think this President is going to be reelected. I like him. I must say I do not like him enough to turn over to him, and to all of his successors, the power of the purse when it is vested by the Constitution in this Congress.

Madam President, my colleague, Senator BYRD, and others, made a powerful statement about the unconstitutionality of this provision earlier today. They surely are right. If we do not stand up for the rights of the Congress under the Constitution, I hope the courts will. I will support the Senator from West Virginia.

Mr. BYRD. Madam President, I thank the distinguished Senator. I yield the remainder of my time to Senator SARBANES.

Mr. SARBANES. Ten minutes?

Mr. BYRD. Ten minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 10 minutes.

Mr. BUMPERS. Would the Senator from West Virginia give me 1 minute prior to the Senator from Maryland speaking and it not come off the Senator's time?

Mr. BYRD. I yield 10 minutes to Senator SARBANES, but first 1 minute to Senator BUMPERS.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. I thank the Senator from Louisiana for a very powerful, cogent statement. No. 2, I want to say to my colleagues that, if by some chance the Supreme Court does not rule this unconstitutional, you will never be able to take this power back. Thirty-four Senators can keep you from ever taking this power back. It will be gone forever.

When the Framers assembled in Pennsylvania, in Philadelphia, in 1787, the one thing they knew above everything else was they had had all the kings they wanted. They wanted no more kings. And they succeeded admirably. We have had 43 Presidents and no kings—until now. We are doing our very best to transfer kingly powers to the President of the United States. I thank the Senator for yielding.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I want to express my very deep appreciation to the distinguished Senator from West Virginia, Senator BYRD, for the extraordinary statement which he made earlier today on this issue. It is my prediction that, if this measure passes and is implemented, history will look back on this moment and say that was a critical turning point in our constitutional system and that it was the Senator from West Virginia, above all others, who stood on the floor and warned of what this would bring about; that it was the Senator from West Virginia who understood our existing constitutional system the best and saw the dangers inherent in this proposal.

Part of what is happening here is that we are engaged in symbolism, not the reality of addressing important national problems. There is a skilled craftsmanship in addressing problems of public policy which members of a legislative body are supposed to bring to the task. Anyone can get up and holler about problems. The question is, can you formulate an appropriate response?

As the distinguished Senator from Louisiana said, this proposal is not really about balancing the budget. You balance the budget by tough-minded decisions on the budget, which the President and the Congress have been making in recent years.

What is happening here is an enormous transfer of authority from the legislative branch to the executive branch that completely contravenes and contradicts the Constitution, so much so that I believe when tested in the courts, this measure will be found wanting. I fervently hope that will prove to be the case. This proposal gives the President the power, or purports to give the President the power, once he signs a piece of legislation into law, to then take out of that law various items—actually, as many as he chooses to pick—by what is called rescinding appropriation items—that unmaking of existing law. The Congress then, in order to override that rescission, would have to pass a disapproval bill which the President can veto. Once he vetoes the disapproval bill it takes a two-thirds majority in both Houses to override the President's rescission.

Thus, under the proposal before us, the President, as long as he can hold on to one-third plus one of either the Senate or the House—not both bodies; either the Senate or the House—can determine every spending priority of this country. Think of that. The President and 34 Senators, or the President and 146 Members of the House—not "and," but "or"—can determine every spending priority of this Nation. Obviously this represents a fundamental reordering of the separation of powers and the check and balance arrangements between the legislative and the executive branch in our Nation's Constitution.

Unfortunately, there is a tendency to dismiss such broad-reaching constitutional questions. They were, however, very much at the forefront of the thinking of the Founding Fathers when they devised the Constitution in Philadelphia in the summer of 1787; a Constitution that I might observe has served the Republic well for more than 2 centuries. As the able Senator from West Virginia has observed a very carefully balanced arrangement was put into place and it has served this Nation well. Obviously, when we consider changing our Nation's basic charter we need to be very careful and very prudent.

Now, I submit it does not take great skill or vision to have a strong executive. Lots of nations have strong executives. In fact, if a country's executive is too strong, we call it a dictatorship. If we review history, even look around the world now, we can see clear examples of this. It is one of the hallmarks of a free society to have a legislative branch with decisionmaking authority which can operate as a check and balance upon the executive. Another hallmark is to have an independent judicial branch which can also operate as a check and balance in the system. It should be noted that we have received a letter from the Judicial Conference of the United States expressing their very deep concern about this measure and indicating that they feel it undermines the independence of the judicial branch of our Government.

That letter states in part:

> The Judiciary believes there may be constitutional implications if the President is given independent authority to make line-item vetoes of its appropriations acts. The doctrine of separation of powers recognizes the vital importance of protecting the Judiciary against interference from any President.

The Senator from West Virginia, to his enormous credit, is a great institutionalist. He believes in the institutions of our Nation and is concerned with maintaining their strength and vitality and resists the political fad of the moment. Our founders established a balanced Government with independent branches, not only an executive with power and authority, but a legislative branch with power and authority, and a judiciary that is independent. This measure significantly erodes the arrangement which has served the Republic well for over 200 years.

I invite all of my colleagues to stop and think for a moment about how this proposal opens up the opportunity for the executive branch, for the President, to bring enormous pressure to bear upon the Members of the Congress and therefore markedly affect the dynamics between the two branches.

The President could link—easily link, obviously will link, in my judgment—unrelated matters to a specific item in the appropriations bill. Suppose a Member is opposing the President's policy—perhaps somewhere around the world or on some domestic policy; perhaps a nomination which the President had made—and the President receives a bill which contains in it an item of extreme importance to the Member's district or State, justified under any criteria as serving the Nation's economic interest; for example, the dredging of a harbor, or the building of a road. The President calls the number and says he noticed this item, he certainly hopes he does not have to rescind it. He does not want to do so. He knows it is meritorious. But at the same time, he has this other issue that he is very concerned about in which the Member is opposing him.

My friend from Louisiana spoke of how the line-item veto power would be used to directly neutralize congressional policy on a particular issue. A majority is in favor of a certain policy, the President pulls it out and negates it, holds on to one-third of one House, and that is the end of it—even though a clear majority in both Houses of the Congress wanted the policy.

The next step beyond rendering the congressional opinion null and void on a specific issue itself, is to link that issue to some other unrelated issue on which the President is seeking to obtain leverage over the Member of Congress. In fact, in the hands of a vindictive President, the line-item veto could be absolutely brutal. I want to lay that on the record today. In the hands of a vindictive President the line-item veto could be absolutely brutal. But you would not need a vindictive President for abuses. Presidents anxious to gain their way, as all Presidents are, will use this weapon to pressure legislators.

Mr. JOHNSTON. Will the Senator yield?

Mr. SARBANES. I am happy to yield to the Senator.

The PRESIDING OFFICER. The time of the Senator is expired.

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. BYRD. I yield 2 additional minutes to Senator SARBANES.

Mr. SARBANES. I yield to the Senator from Louisiana.

Mr. JOHNSTON. Madam President, I wonder if the Senator finds this parallel: In a conference report, when the Senate and the House go to a conference committee, there are bargains struck, and finally a bill put together. Would it not be somewhat like being able to strike a bargain, putting the bill together, signing off on it, and then after the bill is signed, have one House strike all the items that the other House wanted?

Mr. SARBANES. You could absolutely redo the legislation.

I ask unanimous consent to have printed at the end of my remarks an article written by Judge Abner Mikva on this very point, called "Loosening the Glue of Democracy."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. Madam President, the Senator from West Virginia made a constructive proposal, which was just tabled, which would have allowed the President to propose rescissions to the Congress for consideration on an expedited basis, with the Congress having to vote on the rescission and with a majority vote required to approve the rescission. This would have enabled the President to spotlight those items of which he disapproved and required a congressional vote on them but would not have altered our basic constitutional arrangements.

The line-item veto tool contained in this legislation will not, in my judgment, become a way to delete appropriation items, but rather a tool and a legislative strategy used by the White House and executive branch to pressure Members on their positions on unrelated items. It will become a heavy, coercive weapon of pressure.

This is a dangerous departure from past constitutional practice, drastically shifting the balance between the executive and legislative branches. It will fundamentally alter our constitutional arrangement to the detriment of a system of government which has served well our Republic and been the marvel of the world.

Madam President, I close by again expressing my deep gratitude to the Senator from West Virginia for so clearly and eloquently setting forth the severe problems connected with this proposal.

EXHIBIT 1

[From the Legal Times, Mar. 25, 1996]

LOOSENING THE GLUE OF DEMOCRACY

THE LINE-ITEM VETO WOULD DISCOURAGE CONGRESSIONAL COMPROMISE

(By Abner J. Mikva)

There is a certain hardiness to the idea of a line-item veto that causes it to keep coming back: Presidents, of course, have always wanted it because the line-item veto represents a substantial transfer of power from the legislative branch to the executive branch. Government purists favor the idea because the current appropriations process—whereby all kinds of disparate expenditures are wrapped or "bundled" into one bill so that the president must either swallow the whole thing or veto the whole thing—is very messy and wasteful. Reformer generally urge such a change because anything that curtails the power of Congress to spend has to be good.

My bias against the unbundling of appropriations and other legislative proposals has changed over the years. When I first saw the appropriations process, back in the Illinois legislature, it seemed the height of irresponsibility to bundle dozens of purposes into a single bill. It also seemed unconstitutional since the Illinois Constitution had a "single purpose" clause, under which bills considered by the legislature were to contain only one subject matter. But the "single purpose" clause had been observed in the breach for many years by the time I was elected in 1956.

I first saw the bundling process work when a single bill, presented for final passage, appropriated money for both the Fair Employment Practices Commission and a host of other commissions, including one to provide services for Spanish-American War veterans (there were two left in the state at the time) and one to study the size of mosquitoes that inhabited the downstate portions of Illinois. If I wanted to vote for the FEPC, I had to swallow all those other commissions, which I thought were wasteful. So I invoked the constitutional clause. To my dismay, the legislature favored all the other commissions on separate votes, but the FEPC went down to defeat. That is how I learned that there are some pluses to the bundling process.

Bundling is very asymmetrical in effect and probably wasteful. But it is also a legislative device that allows various coalitions to form and thus moves the legislative process forward.

Consider South America, where regional rivalries and resentments in many countries make governing very difficult. The inability to form the political coalitions that are normal in this country creates enormous pressure on the central government. This pressure is certainly one of the causes of the mini-revolts that perpetually arise. The have-nots feel excluded from the process, while the majority (or the military regime) exercise their power without taking care of the depressed areas of the country.

It is more difficult to ignore the have-nots in the United States. First of all, members of Congress are elected as representatives of geographic areas, rather than as representatives of parties. Woe betide the congressman who starts thinking too much like a national legislator and forgets the parochial interests of his constituents.

Second, the separate elections of the president and Congress creates the necessity for the two branches to cooperate in setting spending priorities. Floating coalitions that take into account the needs of all the sections and groups in the country become essential. When urban interests wanted to promote a food program for the cities, for example, they formed a coalition with agricultural interests, and food stamps were joined with farm subsidies.

It is true that bundling encourages the merger of bad ideas with good ideas, and diminishes the ability of the president to undo the package. A line-item veto, which would allow the president to veto any single piece of an appropriations bill (or, under some proposals, reject disparate pieces of any other bill), makes the whole process more rational. But it also makes it harder to find the glue that holds the disparate parts of our country together. City people usually don't care about dams and farm policy. Their rural cousins don't think much about mass transportation or urban renewal or housing policy. If the two groups of representatives don't have anything to bargain about, it is unlikely that either set of concerns will receive appropriate attention.

The other downside to the line-item veto is exactly the reason why almost all presidents want the change and why, up to now, most Congresses have resisted the idea. The line-item veto transfers an enormous amount of power from Congress to the president. For those of us who think that the executive branch is strong enough, and that an imperial presidency is more of a threat than an overpowering Congress, the current balance of power is just right.

That has been the gist of Sen. Robert Byrd's opposition to the line-item veto. The West Virginia Democrat has argued that the appropriations power, the power of the purse, is the only real power that Congress has and that the line-item veto would diminish that power substantially. So far, he has prevailed—although last year, the reason he prevailed had more to do with the Republicans' unwillingness to give such a powerful tool to President Bill Clinton.

But now the political dynamics have changed. The Republicans in Congress can fashion a line-item veto that will not benefit the incumbent president—unless he gets re-elected—and their probable presidential candidate, Senate Majority Leader Robert Dole, has recently made clear that he wants this passed. Chances for the line-item veto are vastly greater.

There are some constitutional problems in creating such a procedure. The wording of the Constitution suggests pretty strongly that a bill is presented to the president for his signature or veto in its entirety. It will take some creative legislating to overcome such a "technicality." I reluctantly advised the president last year that it was possible to draft a line-item veto law that would pass constitutional muster. The draft proposal involved a Rube Goldberg plan that "pretended" that the omnibus appropriations legislation passed by Congress and presented to the president actually consists of separate bills for various purposes. This pretense was effectuated by putting language in legislation to that effect.

President Clinton was not then asking for my policy views, and I did not have to reconcile my advice with my policy bias toward the first branch of government—Congress. But I was uneasy enough to become more sympathetic to the late Justice Robert Jackson's handling of a similar dilemma in one of his Supreme Court opinions. He acknowledged his apostasy concerning an issue on which he had opined to the contrary during his tenure as attorney general. Quoting another, Justice Jackson wrote, "The matter does not appear to me now as it appears to have appeared to me then."

My apostasy was less public. My memo to the president was only an internal document, and I didn't have to tell him how I felt about the line-item veto. But now that I have no representational responsibilities, I prefer to stand with Sen. Byrd.

Mr. BYRD. Madam President, I thank the Senator for his excellent remarks.

Mr. DOLE. Madam President, I am going to yield 3 minutes of my leader time to the distinguished Senator from Nebraska. First, I will take 30 seconds and then put my statement in the RECORD. I have a meeting in the office.

I have been listening to some of the debate. I know the distinguished Senator from West Virginia certainly understands this issue better than any of us. But we sometimes disagree. The one thing we should not do is elect a vindictive President. I do not think the present occupant is or the one challenging the President is. So we will be safe for the next 4 years, I tell the Senator from Maryland, and probably 8.

I understand what someone could do to abuse the power of the Office of the President. But we have been negotiating all afternoon in my office. We have five appropriation bills, and we have been trying to figure out how we can come together on those, taking a little out here and adding a little here. It is very, very complicated these days. We are working with the White House.

I think many of the fears and concerns expressed would be if you had somebody in the White House who stiffed Congress on everything and refused to negotiate. Right now, in my office we are negotiating with the Chief of Staff, Mr. Panetta, and trying to come together on a big, big appropriation bill so that we can pass it on Friday. We may not get it done because they have their priorities, and Congress has its priorities. But I believe the line-item veto is an idea whose time has come.

I certainly thank all those involved, particularly the Senator from Arizona, Senator MCCAIN, and the Senator from Indiana, Senator COATS, with the great assistance of the Senator from New Mexico, Senator DOMENICI, and the Senator from Alaska, Mr. STEVENS.

This is not a partisan measure. President Clinton supports the line-item veto. I think it has support on each side of the aisle. I know the Senator from West Virginia wants to leave here by 7 o'clock.

Madam President, again I am proud that today the Senate is passing the conference report on the Line-Item Veto Act of 1996. Giving line-item veto authority to the President is a promise we made to the American people in the Contract With America, and it is a promise we are following through on today.

Line-item veto seems to be the one thing that all modern Presidents agree on. All of our recent Presidents have called for the line-item veto—both Democrat and Republican Presidents alike. And for good reason. The President, regardless of party, should be able to eliminate unnecessary pork-barrel projects from large appropriations bills.

Most of our Nation's Governors have the line-item veto. Some States have had line-item veto since the Civil War. There's a lot of experience out there in the States that shows us this is a good idea; 43 Governors have the line-item veto, and now—finally—the President will, too.

President Clinton and I have talked about the Line-Item Veto Act. He wants the line-item veto and we both think it is a good idea.

Certainly, line-item veto is not a cure-all for budget deficits. No one is pretending it is the one big answer to all of our budget problems.

But it is one additional tool a President can use to help keep unnecessary spending down. It's one way for us to fulfill our pledge to American taxpayers for less Washington spending.

Line-item veto has a lot of support in the Senate. We passed our version of the bill in the Senate just about a year ago on March 17, 1995 with the support of 69 Senators.

But I know some are worried that it shifts the balance of power away from Congress and to the President. Well, appropriations bills that go on for hundreds of pages have already altered the dynamic between the President and Congress from what it was 200 years ago.

Even so, for those who aren't so sure line-item veto is the right approach, this bill has a sunset in it. We will try this experiment for a few years and see if it works. I am confident it will. It is an idea whose time has come.

Mr. President, I want to thank Senators STEVENS, DOMENICI, MCCAIN, and COATS for their work on this bill. It is thanks to them that we are about to pass this important and historic legislation.

Madam President, I yield 3 minutes of my leader time to the Senator from Nebraska.

Mr. EXON. Madam President, my colleagues know that I am an ardent supporter of a line-item veto. I had one when I was Governor of Nebraska and put it to excellent use. It was crucial to my success in balancing the budget.

I am an original cosponsor of line-item veto legislation. I am proud of the leadership role I have taken. I fervently believe that the President of the United States should have at his disposal every possible means to strip away the pork from the Federal budget. The line-item veto should figure prominently in his arsenal.

Mr. President, I will vote for this conference report, but I will not conceal my keen disappointment at what has emerged after nearly a year of stalling, partisan games, and bickering. This is a classic case of what might have been. I was a conferee but as usual, the minority was shut out of the decisionmaking process. I also have some possible constitutional questions and concerns.

Anyone who doubts the partisanship behind this legislation need look no further than its effective date—January 1, 1997. I have supported the line-item veto under Republican Presidents and Democratic Presidents. Those of us who have long sought the line-item veto believe it is a good idea, regardless who sits in the White House.

So, we are in a big hurry to pass this legislation because it is a popular issue in an election year. But, there is no rush to make it effective. How strange. That can wait until after the Republican Congress has passed one last set of appropriation bills and perhaps, for good measure, one last bill loaded with special interest tax breaks.

I had great expectations for this legislation; so did many of my colleagues on both sides. What we got was diminished returns. It now seems that those of us who fought the good fight will reluctantly have to accept an inferior product. We desperately need this line-item veto—as flawed as it may be.

Even the staunchest advocate of a line-item veto must confess that the Senate bill did not age well in conference. We do not have a better bill today. The line-item veto before the Senate today is a half-measure. It only addresses one side of wasteful Government spending.

Madam President, there are different types of pork around here. There is what I call classic pork, but it does not belong in a museum. It is the sweetheart awards, the bogus studies, the phony commissions, the make-work projects that look good to the constituents back home.

Frittering away the taxpayers' dollars is an affront to middle-income Americans who have been stretched and squeezed enough. This is where the line-item veto can be a fierce instrument against waste. The President can slice out the pork with a slash of his pen. In this regard, the measure before the Senate should accomplish today what we set out to do, and I salute the managers of the conference.

But the special interests who benefit from pork always seem to be one-step ahead of the deficit cutters. You might not find their pork on the menu of an appropriations bill. But they are still dining a la carte at the Finance or Ways and Means Committees, and yes, the Budget Committee too.

They dress up pork in the latest fashion: special interest tax breaks or tax expenditures. That is right, Mr. President. It is still pork, but it will be riveted onto a revenue bill or a budget reconciliation bill—like the one the Republican majority passed last fall. Call it a tax loophole or whatever you want, it is still just as wasteful, and it is still just as shameful as appropriated pork spending.

This problem of tax expenditures is not new. We have visited it many times, but with little resolution. The Budget Committee held hearings going back to 1993 on the budgetary effects of tax expenditures. OMB Director Dr. Alice Rivlin testified, and I quote, "Tax expenditures add to the Federal deficit in the same way that direct spending programs do."

I believe, and many of my colleagues on both sides agree, that if we are serious about cutting wasteful spending, if we are serious about reducing the deficit, if we are serious about a credible line-item veto, we should include special interest tax loopholes in the list of what the President can line out.

What should shine forth from this conference report is an attack on both wasteful appropriated spending and tax benefit pork. But the long arm of the special interests reached into the conference and turned off the lights when tax loopholes were put on the table.

From what I have seen of the conference report language, it could be virtually impossible for the President to veto special interest tax breaks, or as they are now called, limited tax benefits. There are so many exceptions that any tax lobbyist worth his salt will be able to write legislation in such a way that they will not be subject to the line-item veto procedure. And mark my words, they will.

The conference report language defines a tax benefit as a revenue-losing provision that does one or two things. It could provide a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries. What is more, there are exclusions for tax breaks that target persons in the same industry, engaged in the same type of activity, owning the same type of property, or issuing the same type of investment.

The exclusions do not end here; quite the contrary, they are expanded. There are exceptions for individuals with different incomes, marital status, number of dependents, or tax return filing status. For businesses and trade associations the exclusion could be based on size or form.

That is so limited, it does not exist. It is nearly impossible to think of any provision that it would cover. In fact, I do not believe that more than one or two of the more than dozens of tax provisions in the last year's Republican budget reconciliation would be subject to a Presidential line-item veto under the report language. And that bill was drafted before the lobbyists needed to draft their way around the line-item veto.

The exceptions are troubling enough, but it gets worse. Who defines a targeted tax benefit for the purposes of the line-item veto? I was surprised to learn that it will be the Joint Committee on Taxation. I, certainly, do not intend to disparage the committee and its fine members, but this oversight duty strikes this Senator like the proverbial fox guarding the henhouse. This conference report would make Aesop proud.

This is how it works. Under the provisions of the conference report, Joint Committee on Taxation will review every tax bill and decide whether the bill includes any tax loopholes, called limited tax benefits. The Joint Committee then gives its ruling to the conference committee, which gets to choose whether to include that information in its conference report. Recall that it is very often the staff of this same Joint Committee on Taxation that drafts the tax loopholes in the first place.

Here is the kicker. If the JCT statement is included, the President can rescind only, and I repeat, only those items identified in the legislation as limited tax benefits. The JCT declaration is more than a piece of paper. It is a declaration of immunity for what could very well be a limited tax benefit. It is an inoculation against a Presidential line-item veto. It is the magic bullet for tax lobbyists.

I do not believe that any of my colleagues fell off the turnip truck yesterday. We know how lobbyists work. I guarantee you that they will be swarming over JCT like the sand hill cranes returning to the Platte River in Nebraska. JCT will be thick as thieves with tax lobbyists. And for good reason, the committee will have the sweeping power to grant unprecedented immunity to any Tom, Dick, or Harry with a sweetheart tax deal.

Madam President, I am disappointed by the final product the conferees bring to the floor today. It is a tarnished reflection of the hopes I brought to the process. Yes; we should have done better. Yes; we should have attacked pork in all of its guises, Yes; we should have been tougher. But I have my doubts that more time and more debate will produce a different result—a superior result. I tell my colleagues that giving the President at least some power to rein in wasteful spending is better than doing nothing. So today, I will cast my vote for taking a small, but clear, step in the right direction. I urge my colleagues to do the same.

I yield my remaining time.

Mr. McCAIN. Madam President, I yield 3 minutes to the Senator from South Carolina, Senator THURMOND.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Madam President, I rise in support of the conference report accompanying S. 4, the Line-Item Veto Act. For many years, I have been a supporter of giving authority to the President to disapprove specific items of appropriation presented to him. On the first legislative day of this Congress, I introduced Senate Joint Resolution 2, proposing a constitutional amendment to give the President line-item veto authority.

Presidential authority for a line-item veto is a significant fiscal tool which would provide a valuable means to reduce and restrain excessive appropriations. This proposal will give the President the opportunity to approve or disapprove individual items of appropriation which have passed the Congress. It does not grant power to simply reduce the dollar amount legislated by the Congress.

Madam President, 43 Governors currently have constitutional authority to reduce or eliminate items or provisions in appropriation measures. My home State of South Carolina provides this authority, and I found it most useful during my service as Governor. Surely the President should have authority that 43 Governors now have to check unbridled spending.

It is widely recognized that Federal spending is out of control. The Federal budget has been balanced only once in the last 35 years. Over the past 20 years, Federal receipts, in current dollars, have grown from $279 billion to more than $1.3 trillion. In the meantime, Federal outlays have grown from $332 billion in 1975, to more than $1.5 trillion last year, an increase of greater than $1.1 trillion. Annual budget deficits have reached $200 billion, with the national debt growing to more than $5 trillion.

Madam President, it is clear that neither the President nor the Congress are effectively dealing with the budget crisis. The President continues to submit budgets which contain little spending reform and continue to project annual deficits.

If we are to have sustained economic growth, Government spending must be significantly reduced. A balanced budget amendment, which I am hopeful will still be passed this Congress, and line-item veto authority would do much to bring about fiscal responsibility.

Madam President, it would be a mistake to fail to pass this measure. It is my hope that this Congress will now approve the line-item veto and send a clear message to the American people that we are making a serious effort to get our Nation's fiscal house in order.

Madam President, I congratulate the conferees for their work on this bill. This conference report provides the President with a very narrow authority to cancel specific appropriations, direct spending, or limited tax benefits. Under this provision, the Congress retains its legislative power of the purse in that the Congress may enact a bill disapproving the President's previous cancellation. This bill, of course, would be subject to a Presidential veto and subsequent congressional override.

Madam President, the conference report also requires that any canceled budget authority, direct spending, or tax benefit be applied to deficit reduction. Canceled funds would not be available to offset additional spending.

Madam President, the line-item veto will introduce a new level of discipline in the Federal budget process. It will bring an additional level of scrutiny to items of Federal spending. The line-item veto, combined with a balanced budget amendment, true reforms in entitlement spending, and restraint in Federal appropriations, will put us back on the track of fiscal responsibility.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. I yield to the Senator from Michigan, Senator LEVIN.

Mr. LEVIN. Madam President, I thank the Senator from West Virginia. Again, I congratulate him for the extraordinary effort he has made to try to make us pay attention to the underlying issues here. The bill before us says that, notwithstanding certain provisions, bills which have been signed into law can be canceled by the President.

Never in the history of this body has the Congress attempted to give to the President the power on his own to cancel the law of the United States. The process is the President signs the appropriations bills. It is then the law of the land. Those words should have a certain majesty in this body. This appropriations bill now signed by the President is the law. But under the approach before us, the President would then have 5 days in which he can cancel a part or all of that law without congressional involvement. Yes, the Congress could vote to override the cancellation, but if the Congress does not, the cancellation action of the President canceling the law of the land stands.

Never in the history of Congress has there been an effort to hand to a President that kind of power. We are told the President of the United States supports this. Of course he does. Every President would love Congress to hand part of its power to the President. Every President would love a piece of the power of the purse. But the Constitution will not let us do it, and we should not try.

Mr. SARBANES. Will the Senator yield?

Mr. LEVIN. I am happy to yield.

Mr. SARBANES. In fact, the Constitution says:

> Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his Objections . . . .

I do not see how constitutionally a President can sign a bill, make it the law, and then undo the law through a procedure that would not have been permitted by the Constitution.

Mr. LEVIN. The Supreme Court has said it precisely in the Chadha case. I am going to read these words again. I read them earlier this afternoon.

> Amendment and repeal of statutes no less than enactment must conform with article I.

The Supreme Court has told us what the Constitution tells us, as the Senator from Maryland just read:

> Amendment and repeal of statutes no less than enactment must conform with article I.

This conference report comes up with a new procedure which does not conform with article I and says that the President may cancel—that means repeal, void—the law of the land of the United States of America. He can with his pen on day 1 create a law by signing our bill, and on day 2, 3, 4, 5, or 6 cancel what is then already the law of the land.

Madam President, the Constitution will not tolerate that. We should not even attempt to do such a thing. There have been many reasons given for why the line-item veto in one version or another would be useful in terms of deficit reduction. There are ways constitutionally of doing it. The Senator from West Virginia made that effort earlier this afternoon. The current conference report before us simply cannot stand muster.

Again, I thank my friend.

Mr. MCCAIN. Madam President, how much time remains?

The PRESIDING OFFICER. There are 22 minutes remaining.

Mr. MCCAIN. I yield 11 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Madam President, I thank my colleague for yielding. I appreciate the debate that we have had. It has been a long and difficult and sometimes tortuous road to this particular point.

It was in the early or late 1800's that the first attempt to provide the line-item veto power to the executive branch was offered in the Congress. There have been 200 attempts subsequent to that. So it has been a long effort.

The question was raised: Why would Congress cede its independence? Why would Congress cede its power of spending to the executive branch?—because it is an extraordinary effort; it is a historic effort. But I would say that the reason this is happening and the reason this will pass very shortly with a pretty substantial bipartisan vote is that there has been an extraordinary abuse of the power of spending. Despite every legislative effort and every promise and pledge on this floor, the egregious practice of blackmailing the President by attaching to otherwise necessary spending bills pork barrel projects, projects spending that does not have any relevance to the particular bill and would never probably stand the light of day in debate on that particular issue or receive a majority vote has been passed into law.

I would just say in response to the Senator from Michigan that we have had constitutional lawyers pour over this legislation for years and years. The Chadha decision does not apply to what we have done here. Constitutional lawyers from each end of the spectrum and in between have told us that the legislation that we are presenting is constitutional.

I would like to take this opportunity to thank some people for their extraordinary work on this. I acknowledge Senator BYRD's articulate and worthy opposition to this message throughout the years that we have been debating line-item veto. I want to thank Senator DOMENICI and Senator STEVENS for helping us at a critical time. They were key to a strong, workable compromise on the issue. Senator DOLE's leadership, his decision to make this happen, to break the impasse and achieve a compromise, was absolutely critical to our success. Particularly, it is a privilege for me to thank my friend and colleague, JOHN MCCAIN from Arizona, for his efforts in this regard. I deeply respect his determination. He has been tireless in his fight against the current system and the status quo. He has persevered in long odds, in the face of what often looked like a losing battle. We joined together 8 years ago in a commitment to pass a line-item veto, and it has been my privilege to partner with him in this effort.

Madam President, this measure, in my opinion, is the most important Government reform that this Congress for many Congresses has addressed. Yes, a line-item veto will help reduce the deficit. Yes, a line-item veto will eliminate foolish waste. But our ultimate objective is different. Our current budget process is designed for deception. It requires the disinfectant of scrutiny and debate.

When we send spending to the President that cannot be justified on its merits, it is attached more often than not to important appropriations bills. This has tended, first, to tie the President's hands, leaving him with a take-it-or-leave-it decision on the entire bill.

Second, it is used as a means of obscuring spending in the shuffle of uncounted billions of dollars of appropriations.

When we hide our excess behind a shield of vital legislation, our aim is plain. We do it to mask our wasteful spending by confusing the American taxpayer. We have created a system that avoids public ridicule only because it consciously attempts to keep our citizens from knowing how their money is spent. This is not a rational process. This is a deception. It is a trick, and it must stop. It is more than abuse of public money; it is a betrayal of public trust.

But now we have an opportunity to end that abuse and restore that trust. We have a chance to pass legislative line-item veto in a form that has gained support from both parties and in both Houses of Congress. We have the power to make our goal of budget reform a reality. It is not all that we need to do, but it is a huge leap forward.

The line-item veto is designed to confront our deficit and to save taxpayers' money. We have shaped this legislation to accomplish that purpose through a lockbox, ensuring that all the savings canceled by the President go forward toward deficit reduction.

The line-item veto is not a budgetary trick. Unlike the appropriations possess that currently exists and has existed from the beginning of this legislation, nothing is taken off budget. No pay dates are altered. It is a substantive change aimed at discouraging budget waste by encouraging the kind of openness and conflict that enforces restraint.

The goal is not to hand the Executive dominance in the budget process. The goal is the necessary nudge toward an equilibrium of budget influence strengthening vital checks on excess. But I think it does something more. I think the real benefit of the line-item veto is that it exposes a process that thrives on public deception. It is a lasting, meaningful reform—changing the very ground rules of the way this legislature has operated.

We have reached a historic decision, a historic moment. The first line-item veto, as I said, was introduced 120 years ago, interestingly enough, by a Congressman from West Virginia, Charles Faulkner. It died then in committee, and since then nearly 200 line-item veto bills have been introduced, each one buried in committee, blocked by procedures or killed by filibusters.

Today we have not been blocked. Today we have not been killed. And this issue will no longer be ignored or no longer be denied. The House and the Senate are in agreement. The President is in agreement. The public is in agreement. And now just one final vote remains.

This measure is a milestone of reform. It is the first time that the Congress will voluntarily part with a form of power it has abused. That is the result of a public that no longer accepts our excesses and excuses. But it is also evidence of a new era in Congress, proof of a sea change in American politics. This vote will prove that Congress can overcome its own narrow institutional interests to serve the interests of the Nation. That will be something remarkable, something of which every Member who supports this legislation can rightfully be proud.

With this vote, let us show the American people we are serious about changing the way this Congress works. Let us show them a legislative process conducted without deception and without the embarrassment we always feel when it is exposed. Let us show them that their tax money will no longer be wasted on favors for the few at the expense of the many. Let us show them that business as usual in Congress is finally and decisively over.

Madam President, I yield the floor. I yield back any additional time that was yielded to me.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I yield myself the remaining time.

Madam President, a number of comments and statements have been made about this legislation, and due to a shortage of time I would not be able to respond to them. With the help of my friend and colleague from New Mexico, we will submit a long statement for the RECORD tomorrow in response to some of the comments and statements that were made about the impact of the line-item veto. I think it is important that the record be clear in response to some of those statements as I think in future years historians may be looking at the debate that took place in the Chamber today.

Madam President, we have nearly arrived at a moment I have sought for 10 years. In my life, I have had cause to develop a very keen appreciation for the value of time, and that appreciation has made it unlikely that I will soon enjoy a reputation for abiding patience. I confess my great eagerness for this day's arrival. The line-item veto's elusiveness has encouraged in me if not patience, then certainly respect for those who possess it in greater quantity than I.

Ten years may be but a moment in the life of this venerable institution, but it is a long time to me. In a few minutes, the issue will be decided. I am gratified beyond measure that the Senate is now apparently prepared to adopt S. 4, the line-item veto conference report, that its adoption by the other body is assured, and that the President of the United States will soon sign this bill into law.

I am deeply grateful to my colleagues who have worked so hard to give the President this authority. I wish to first thank my partner in this long, difficult fight, my dear friend, the Senator from Indiana, [Mr. COATS]. His dedication to this legislation has been extraordinary and its success would not have been possible absent the great care and patience he has exercised on its behalf.

I would like to thank Mark Buse on my staff and Sharon Soderstrom and Megan Gilly on Senator COATS' staff.

Madam President, I am grateful to the chairman of the Budget Committee, Senator DOMENICI, and the chairman of the Governmental Affairs Committee, Senator STEVENS. There have been moments in our conference when my gratitude may not have been evident, but I would not want this debate to conclude without assuring both these Senators of my respect for them and my appreciation for their sincere efforts to improve this legislation. We may have had a few differences on some questions pertaining to the line-item veto, but I know we are united in our commitment to the success of S. 4.

I also wish to thank the assistant majority leader, Senator LOTT. As he often does, amidst the confusion and controversies that often define conferences, he managed to identify the common ground and bring all parties to fair compromises and broad agreement.

Finally, let me say to the majority leader, Senator DOLE, all the proponents of the line-item veto know that without his skillful leadership, without his admonition to put differences over details aside for the sake of the principle of the line-item veto, we would not now stand at the threshold of accomplishing something of real value to this Nation. He is, as former baseball great Reggie Jackson once described himself, "the straw that stirs the drink" around this place.

The rules and customs of the Senate are not revered as inducements to action but, rather, for their restraining effect on ill-considered actions. Few things of real importance would ever occur here without Senator DOLE's leadership. The advocates of this legislation have cause to celebrate his leadership today, but I think even the opponents of this particular measure could refer to the many occasions when all Senators have had cause to celebrate Senator DOLE's leadership of the Senate.

Madam President, the support of my colleagues for the line-item veto have made this long, difficult contest worthwhile and an honor to have been involved in, but even greater honor is derived from the quality of the opposition to this legislation. And every Senator is aware that the quality of that opposition is directly proportional to the quality of one Senator in particular, the estimable Senator from West Virginia, Senator BYRD.

Madam President, I would like to indulge a moment of common weakness of politicians. I wish to quote myself. I wish to quote from remarks I made 1 year ago when we first passed the line-item veto. I said at that time that "Senator BYRD distinguished our debate, as he has distinguished so many of our previous debates," as he has distinguished today's debate, "with his passion and his eloquence, his wisdom and his deep abiding patriotism. Although my colleagues might believe I have eagerly sought opportunities to contend with Senator BYRD, that was, to use a sports colloquialism, only my game face. I assure you I have approached each encounter with trepidation. Senator BYRD is a very formidable man."

Madam President, I stand by that tribute today. If there is a Member of this body who loves his country more, who reveres the Constitution more, or who defends the Congress more effectively, I have not had the honor of his or her acquaintance. Should we proponents of the line-item veto prevail, I will take little pride in overcoming Senator BYRD's impressive opposition but only renewed respect for the honor of this body as personified by its ablest defender, Senator ROBERT BYRD.

Senator BYRD has solemnly adjured the Senate to refrain from unwittingly violating the Constitution. As I said, his love for that noble document is profound and worthy of a devoted public servant. I, too, love the Constitution, although I cannot equal the Senator's ability to express that love.

Like Senator BYRD, my regard for the Constitution encompasses more than my appreciation for its genius and for the wisdom of its authors. It is for the ideas it protects, for the Nation born of those ideas that I would ransom my life to defend the Constitution of the United States.

It is to help preserve the notion that Government derived from the consent of the governed is as sound as it is just that I have advocated this small shift in authority from one branch of our Government to another. I do not think the change to be as precipitous as its opponents fear. Even with the line-item veto authority, the President could ill-afford to disregard the will of Congress. Should he abuse his authority, Congress could and would compel the redress of that abuse.

I contend that granting the President this authority is necessary given the gravity of our fiscal problems and the inadequacy of Congress' past efforts to remedy those problems. I do not believe that the line-item veto will empower the President to cure Government's insolvency on its own. Indeed, that burden is and it will always remain Congress' responsibility. The amounts of money that may be spared through the application of the line-item veto are significant but certainly not significant enough to remedy the Federal budget deficit.

But granting the President this authority is, I believe, a necessary first step toward improving certain of our own practices, improvements that must be made for serious redress of our fiscal problems. The Senator from West Virginia reveres, as do I, the custom of the Senate, but I am sure he would agree that all human institutions, just as all human beings, must fall short of perfection.

For some years now, the Congress has failed to exercise its power of the purse with as much care as we should have. Blame should not be unfairly apportioned to one side of the aisle or the other. All have shared in our failures. Nor has Congress' imperfections proved us to be inferior to other branches of Government. This is not what the proponents contend.

What we contend is that the President is less encumbered by the political pressures affecting the spending decisions of Members of Congress whose constituencies are more narrowly defined than his. Thus, the President could take a sterner view of public expenditures which serve the interests of only a few which cannot be reasonably argued as worth the expense given our current financial difficulties. In anticipation of a veto and the attendant public attention to the vetoed line-item appropriation, Members should prove more able to resist the attractions of unnecessary spending and thus begin the overdue reform of our spending practices. It is not an indictment of Congress nor any of its Members to note that this very human institution can stand a little reform now and then.

Madam President, I urge my colleagues to support the line-item veto conference report and show the American people that, for their sake, we are prepared to relinquish a little of our own power.

I am very pleased to be here on this incredibly historic occasion.

I yield the remainder of my time.

Mr. BYRD. Will the Senator yield?

Mr. McCAIN. I am happy to yield.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I think of an old fable about two frogs. They both fell into a churn that was half filled with milk. One of the frogs immediately turned over, gave up the fight, and perished. The other frog kept kicking until he churned a big patty of butter. He mounted the butter, jumped out of the churn, and saved his life.

The moral of the story is: Keep on kicking and you will churn the butter.

Madam President, I say this in order to congratulate Senator McCAIN and Senator COATS especially, for their long fight and for their success in having gained the prize after striving for these many, many years. They never gave up. They never gave up hope. They always said, "Well, we will be back next year."

So I salute them in their victory and, as for myself, I simply say, as the Apostle Paul, "I have fought a good fight, I have finished my course, I have kept the faith."

I thank all Senators.

Mr. COATS. Will the Senator yield, if I could just respond to that?

First of all, that is a high compliment and I am sure I speak for both Senator McCAIN and myself in thanking you for that.

But, second, I leave here, after this vote, with the vivid picture in my mind that the Senator from West Virginia is still kicking in the churn on this issue, and that the final chapter probably is not written yet.

I admire his tenacity also, and I think he has gained the respect of Senator McCAIN and I and everyone else for his diligence in presenting his case.

Mr. BYRD. I thank the Senator.

Mr. McCAIN. I yield my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report on the line-item veto.

Mr. COATS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report, the yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced, yeas 69, nays 31, as follows:

[Rollcall Vote No. 56 Leg.]

YEAS—69

Abraham
Ashcroft
Baucus
Bennett
Biden
Bond
Bradley
Breaux
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
Daschle
DeWine
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kennedy
Kerry
Kohl
Kyl
Lieberman
Lott
Lugar
Mack

McCain
McConnell
Murkowski
Nickles
Pressler
Robb
Roth
Santorum
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

NAYS—31

Akaka
Bingaman
Boxer
Bryan
Bumpers
Byrd
Cohen
Conrad
Dodd
Ford
Glenn
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kerrey
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Rockefeller
Sarbanes

So, the conference report was agreed to.

Mr. DOLE. I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, the motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

CORRECTING THE ENROLLMENT OF H.R. 2854

Mr. DOLE. Pursuant to a previous unanimous consent agreement, I now call up Senate Concurrent Resolution 49, correcting the enrollment of the farm conference report.

The PRESIDING OFFICER. Under the previous order Senate Concurrent Resolution 49, a concurrent resolution to correct the enrollment of H.R. 2854 previously submitted by the Senator from Indiana is agreed to.

The concurrent resolution (Senate Concurrent Resolution 49) was agreed to as follows:

S. CON. RES. 49

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs, shall make the following corrections:

In section 215—

(1) in paragraph (1), insert "and" at the end;

(2) in paragraph (2), strike "; and" at the end and insert a period; and

(3) strike paragraph (3).

The PRESIDING OFFICER. Under the previous order, the motion to reconsider that vote is laid on the table.

The motion to lay on the table was agreed to.

AGRICULTURAL MARKET TRANSITION ACT—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the conference report to accompany H.R. 2854.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2854) a bill to modify the operation of certain agricultural programs, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of March 25, 1996.)

The PRESIDING OFFICER. Debate on the conference report is limited to 6 hours; 2 hours under the control of the Senator from Indiana, Senator LUGAR; 1 hour under the control of the Senator from Vermont, Senator LEAHY; and 3 hours under the control of the Democratic leader or his designee.

Mr. DOLE. Madam President, I hope most, if not all, of the debate will be used this evening. I know the Senator from Indiana, the chairman of the committee, is here and prepared to debate. I know there are some others who may want to be heard tomorrow. But hopefully we can conclude action on this tomorrow morning and get it over to the House so they can conclude it before they take up health care; otherwise, we are going to have a problem getting it passed before the Easter recess.

So there will be no further votes tonight. That has already been announced. I thank the chairman of the committee. I think Senator LEAHY is also going to be here for some debate. I know the distinguished Democratic leader has time reserved too.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

THE DEATH OF EDMUND S. MUSKIE

Mr. DASCHLE. On behalf of myself, Senator DOLE, Senator COHEN, and Senator SNOWE, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 234) relative to the death of Edmund S. Muskie.

Whereas, the Senate fondly remembers former Secretary of State, former Governor of Maine, and former Senator from Maine, Edmund S. Muskie,

Whereas, Edmund S. Muskie spent six years in the Maine House of Representatives, becoming minority leader,

Whereas, in 1954, voters made Edmund S. Muskie the State's first Democratic Governor in 20 years,

Whereas, after a second two-year term, he went on in 1958 to become the first popularly elected Democratic Senator in Maine's history;

Whereas, Edmund S. Muskie in 1968, was chosen as Democratic Vice-Presidential nominee,

Whereas, Edmund S. Muskie left the Senate to become President Carter's Secretary of State,

Whereas, Edmund S. Muskie served with honor and distinction in each of these capacities: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Edmund S. Muskie, formerly a Senator from the State of Maine.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourns as a further mark of respect to the memory of the deceased Senator.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, in the earliest days of our Nation, George Washington said it was the duty of public servants to "raise a standard to which the wise and the honest can repair."

In his more than five decades as a public servant, Senator Edmund Muskie not only raised the standard of wisdom and honesty in public office. On many occasions and in many ways, he set the standard.

Today I join my colleagues and, indeed, all of America, in saying goodbye to this extraordinary American.

Senator Muskie served two terms as Governor of Maine—something of a minor political miracle in such a rock-ribbed Republican State.

He also served with great dignity and distinction as our Nation's Secretary of State under President Carter.

But it was his service in this Chamber, and as his party's candidate for Vice President, for which Senator Muskie will be best remembered—and rightly so.

In 1974, I came to Washington as a Senate staffer. Senator Muskie had already served 15 years.

What first impressed me about him was his compassion, and his unshakable belief in the infinite possibilities of America. It was a belief he learned from his immigrant father, a belief that animated his entire life.

Ed Muskie knew that government cannot guarantee anyone the good life. But government has a responsibility to help people seize possibilities to make a good life for themselves, their families and their communities.

He held other beliefs deeply as well.

Ed Muskie believed that we have an obligation to be good stewards of this fragile planet.

He was an expert on air and water pollution, and he served as floor manager for two of the most important environmental laws ever—the Clean Air Act of 1963 and the Water Quality Act of 1965.

Ed Muskie believed that more was needed to solve the problem of poverty than money from Washington. Thirty years ago, he called for a new creative federalism.

"No matter how much the Federal partner provides," he said, "no Federal legislation, no executive order, no administrative establishment can get to the heart of most of the basic problems confronting the state governments today."

Ed Muskie believed that politics ought to be a contest of ideas, not an endless series of personal attacks.

In 1970, Ed Muskie was the presumptive front-runner for his party's 1972 Presidential nomination. In that role, he was the victim of malicious and false attacks.

Rather than counter-attack, Senator Muskie appealed for reason and decency and truth. I want to quote from a televised speech he made back then, because I think it bears repeating today.

"In these elections * * * something has gone wrong," he said.

> There has been name calling and deception of almost unprecedented volume. Honorable men have been slandered. Faithful servants of the country have had their motives questioned and their patriotism doubted. . . .
>
> The danger from this assault is not that a few more Democrats might be defeated—the country can survive that. The true danger is that the American people will have been deprived of that public debate, that opportunity for fair judgment, which is the heartbeat of the democratic process. And that is something the country cannot afford.

Senator Muskie went on to say:

> There are only two kinds of politics. They are not radical or reactionary, or conservative and liberal, or even Democratic or Republicans. They are only the politics of fear, and the politics of trust.

Senator Muskie believed in the politics of trust.

And he believed in honest negotiation. Testifying before the Senate a few years ago, Senator Muskie said, "There's always a way to talk."

There is always a way to talk.

In his later years, Senator Muskie helped found an organization called the Center for National Priorities to find new ways to talk in a reasoned manner about the big problems facing our nation.

Today, we mourn Ed Muskie's death. But let us also celebrate his extraordinary life. And let us re-dedicate ourselves to the beliefs that shaped that life.

The belief that America is and must remain a land of possibilities—for all of us.

The belief that we must protect our environment.

The belief that it takes more than money alone to solve our problems. It takes hard work and personal responsibility, and people working together.

Let us rededicate ourselves to Senator Muskie's belief the politics can and should be a contest of ideas, and that we have a responsibility to talk straight to the American people.

And let us remember that we have a responsibility to talk straight to each other. There are many great and urgent issues facing this chamber.

There must be a way we can talk.

Ed Muskie is gone. But we can keep his spirit alive in this chamber. The choice is ours.

In closing, I offer my deepest condolences to Senator Muskie's widow, Jane, to their children, and to his many friends the world over.

The PRESIDING OFFICER. If there is no objection, the resolution is agreed to.

The resolution (S. Res. 234) was agreed to.

Mr. DOLE. I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. I yield the floor.

AGRICULTURAL MARKET TRANSITION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Indiana.

Mr. LUGAR. Mr. President, it is a privilege to bring before the Senate H.R. 2854, the Federal Agricultural Improvement and Reform Act. The farm bill that we are to pass after this debate will make the most sweeping changes in agricultural policy since the days of the New Deal. These changes begin a new era in which markets rather than Government will dominate farm decisions.

H.R. 2854 offers farmers more freedom to plant crops without Government constraint than they have had in decades. This legislation turns farm programs from an uncontrollable entitlement to a system of fixed and declining income-support payments. From now on, the Federal Government will stop trying to control how much food, feed, and fiber our Nation produces. Instead, we will trust the market for the first time in a long while to direct those signals.

Farmers during this time will not be left unprotected in a sometimes unforgiving world marketplace. H.R. 2854 provides new protection against export embargoes, ensuring that the United States will be a reliable supplier of agricultural products. The bill also strengthens our successful export credit programs, placing new emphasis on high-value exports that now constitute more than half of our overseas sales.

Back at home in this country, where resource conservation is increasingly important not only to producers but to all citizens, this bill offers new incentives to manage natural resources wisely. The Environmental Quality Incentive Program will share the cost of measures that enhance water quality and control pollution. The Conservation Reserve Program will be renewed through the year 2002, extending the many environmental benefits of that historic program.

This legislation will require more responsible use of taxpayer money. For example, until now, the Farm Services Agency has been compelled by law to make new loans to borrowers who are already delinquent. This bill will end that practice and other abuses of our lending programs.

H.R. 2854 reauthorizes food stamps and other important nutrition programs. It consolidates and streamlines rural development programs. It repeals dozens of outdated or unfunded Federal programs and requirements.

The President's spokesmen have stated that the President will sign this legislation with reluctance. I am not at all reluctant in my support. This is the best farm legislation I have seen in my congressional career.

Farmers who grow so-called program crops—wheat, feed grains, upland cotton, and rice—will be able to sign a 7-year production flexibility contract. They will receive 7 years of declining income support payments. These payments differ from the so-called deficiency payments now made under current law because the contract payments are unrelated to market price levels.

Farmers will be required to maintain their farm in agricultural use, to comply with some limitations on the planting of fruits and vegetables and to meet conservation requirements. The Federal Government will no longer tell them how many acres to plant or rigorously control their planting choices. This bill deregulates U.S. production agriculture.

As we approach the day when this bill will become law, I wish to salute the ranking Democratic member of the Agriculture Committee, Senator PATRICK LEAHY of Vermont. When he was chairman of the Agriculture Committee, I worked with him in a bipartisan way whenever I could. He has extended the same courtesy to me. H.R. 2854 is a better bill because of that partnership.

At the same time, I also want to praise the chairman of the House Agriculture Committee, Mr. PAT ROBERTS of Kansas. His tenacity led to reforms that a short time ago were clearly unthinkable.

However, those who most deserve this salute are the agriculture producers of the country that we all serve. They are the reason this Nation exceeds all others in the productivity of our agriculture system and in the abundance of our food supply. I am proud to be one of them. They deserve a Government that stands behind them without standing in their way. They want a farm bill that is designed for the new century. We have given that to them. That is what this bill represents. It heralds a future of opportunities, a future not without risk but full of challenge, and a future in which American farmers can compete, excel, and prosper.

Mr. President, the FAIR Act is, in fact, good for farmers for these reasons. First of all, flexibility. Under the FAIR Act, the act that we are debating this evening, farmers will be able to plant the mix of crops that best suits their climate, agronomic conditions, and market opportunities. That is extremely important. That is at the heart of this bill.

The United States stands at a remarkable point in history in which we have opportunities to supply markets all over the world if we are capable of fulfilling demand. Indeed, we will be more capable under this legislation. The opportunities for farmers to make money under the FAIR Act have never been better. That is a major reason why farmers support this legislation.

Simplicity: Farmers can enter into a 7-year contract and, in many cases, will not need to visit the United States Department of Agriculture again. Much of the endless rulemaking and many of the costly regulations that accompany today's farm programs will be eliminated. Certainly, farmers will know all the program parameters and the payment rates for the next 7 years at the time of signing. That signing, Mr. President, will occur in the 45 days following signature of this legislation by the President of the United States.

Under current programs, payment rates often change after program signup, and payments in future years are unknown. A known stream of payments, guaranteed by this legislation, will provide certainty to farm lending and all manner of farm business decisions.

Let me mention the factor of opportunity. Farmers will be able to adjust planting decisions to take advantage of market opportunities as they occur. Current programs force farmers to follow old planting patterns and U.S. Department of Agriculture regulations rather than profit opportunities.

Let me mention profitability. According to the Food and Agricultural Policy Research Institute, under FAIR, the act that we are discussing tonight, gross farm income will expand by 13 percent; net farm income will expand by 27 percent over the next 10 years. This occurs while Government payments to farmers decline by 21 percent during that period of time.

Growth: Farmers will be able to adjust plantings and take advantage of growth in the high-value processed product markets. Current programs often force farmers to limit plantings and plan for stagnant low-value bulk markets in order to qualify for the payments under the current programs.

The legislation that we are talking about is a revolution of consequence, perhaps the greatest in 60 years. I say that, Mr. President, because we are now in a situation in which the market-distorting target price system is replaced by one of certainty to farmers—but also to taxpayers, also to budget writers.

Let me explain for just a moment, Mr. President, how this works. In the past, we estimated in the last farm bill—a 5-year farm bill, as opposed to the 7-year bill in front of us today—that the cost of this in terms of the outlays for the program crops of corn, wheat, cotton, and rice, would be $41 billion, or a little over $8 billion a year for those crop deficiency payments. But, in fact, Mr. President, it turned out that the bill cost $57 billion—$16 billion more. Taxpayers have asked Members of the House and Senate, "How could you have missed the mark and estimated $41 billion, and it came out $57 billion?"

Well, Mr. President, the weather intervened, and various other legislative emergencies intervened. All sorts of things intervened. They always do in agriculture, given world conditions. Mr. President, we went out confidently from the last farm bill discussion in 1990 with a $41 billion item in mind, and it turned out to be $57 billion.

In this particular case, Mr. President, we define precisely the dollars that are going to be spent for these programs at the beginning, and they decline each year for 7 years. They are known to Congressmen and the press, and they are known to farmers at the time of signup. The farmer signs a contract and knows exactly what the payments are going to be for 7 years if he or she continues to farm, makes agricultural use of that land, complies with conservation requirements, and does not plant fruits or vegetables. Those are the only stipulations. That is a large difference, as I mentioned before. Having signed up, that is the last visit the farmer may need to pay to the CFSA office, or any other USDA office. That is a big change in the life of agricultural America.

Let me simply point out that the Government will no longer tell farmers which crops to plant. I have mentioned that before, but let me highlight that again.

Since the time that my father, Marvin Lugar, who was farming in Marion County, IN, in the 1930's, was forced to destroy a portion of his corn crop and a good part of the hogs that he had on the farm, under what were supply and control dictates of the New Deal—and I will just explain that again, Mr. President. The thought then was that if you left farmers to their own devices, they would always produce too much corn, too many hogs, too much of everything and that, in essence, supply would be overwhelming and the price would go down and farmers would fail. Therefore, the philosophy of the 1930's was that you have to control these farmers, you have to dictate what they can do and how much of it is permissible.

That has been our policy for the last 60 years. I must say, Mr. President, there is still, as farmers approach this bill, a certain amount of anxiety. If you have been in that straitjacket for 60 years, even if you did not like it, and you rebelled against the Federal Government and you gave speeches about how Washington ought to stop meddling in farming and you stood up at the county Farm Bureau and said, "I want to get rid of the Federal Government altogether," still, when the moment of truth often came, people said, "Where is the safety net?" And will, in fact, people produce too much if there are no limitations?

One of the great ironies, as we approached this farm bill and debated it throughout 1995, and now into 1996, was that in 1994, we had a great, enormous corn crop in the country—10 billion bushels. Arguably, that is the first or second largest crop in the history of the country. Immediately, agricultural economists—including those of the U.S. Department of Agriculture—said we have to control this situation or the price of corn will plummet given this overhang of supply. And so they did. As a corn farmer, I experienced this on my farm, the same one I inherited from my father, Marvin Lugar, whom I cited. In my generation, in 1995, I was told I could not plant 7.5 percent of my normal corn historical acreage, to literally lay it aside—nothing there—in order to qualify for the farm program. Farmers were told that all over the country, deliberately, as Government policy. We curtailed 7.5 percent of the acreage of corn that normally would have been planted.

Well, Mr. President, USDA was dead wrong. The year 1995 brought unparalleled demand in this country. People were feeding livestock around the world with our corn. It also brought demand for our soybeans and for our wheat and, in many months, for our cotton. The whole situation in China changed remarkably. We debate these issues as if the only thing that counts is our domestic economy. But we know, as a matter of fact, that the foreign policy implications for agriculture are profound, and the most profound one in 1995 was that the Chinese no longer exported. They sent strong signals that they would be importers. The markets they were servicing became importers from us.

So, as a result, Mr. President, as we have this debate this evening, the price of corn is approaching historical all-time highs, largely because the carryover from the 1995 crop, which was a short one, as it turned out, aided and abetted by a deliberate decision of the USDA to cut corn plantings, turned up short. The price of corn is approaching $4 a bushel.

In the past, we had big arguments on the floor, whether it be that the target price of $2.75 was too high—but that is not even in play, Mr. President. The price of corn right now is in the $3.80's, $3.90's. There are elevators all over this country—as a matter of fact, Mr. President, if you were a corn farmer, you could sell your entire crop that you do not even have in the ground yet for something well above the target price; namely, the price that is used to establish the deficiency payment, the subsidy for corn. You could sell it all. You could even reach ahead another year and sell that crop, if you were confident of the number of bushels that you could produce. That is what market signals are all about.

Mr. President, I have no doubt that during the course of this debate, Senators will come on the floor, being unacquainted with agricultural economics, and not having any corn of their own in the situation, and will talk about the "destruction of the family farm," and about a decline of income.

Mr. President, I hope that, as an antidote for those arguments, Senators will simply take a look at the price quoted in the newspaper tomorrow morning for cash corn and take a look at the futures markets on down this trail. They will notice a very substantial situation in our country for people who are farmers and who understand markets and who understand what we are about.

Mr. President, it seems to me that it is so important that we adopt this idea of looking toward markets. This hallmark of the bill really must be preserved. It is integral to the change that must occur if those of us who are farmers are to thrive in this coming economy.

Mr. President, I come before this body, as all Members know, as one who has 604 acres of land—about 250 acres, average, in corn; about 200 acres, average, in soybeans, each year. It is not a hobby farm. It is a productive farm, a profitable farm. It is a farm that has made a profit for many, many years. I come to this debate not as someone who is arguing on behalf of constituents entirely—although my constituents produce a lot of corn and beans in Indiana—but as somebody who has actually filled out the forms every year, who has had to comply with the rules of the game, who understands how farms might be more profitable, who attends every meeting of the Indiana Farm Bureau annually and, in the counties, talks to farmers to understand precisely what is at hand.

And I say, Mr. President, after 20 years in this body of debating farm legislation, this is the first time that I can go home to Indiana and say the future of agriculture is bright. We have an opportunity in terms of our upside potential for something magnificent for our generation of farming for those to whom we pass it along. I think that is critically important.

Mr. President, while we have tried to deal with this basic issue of freedom to farm we have also in both the House and the Senate attempted to deal meticulously with issues that are of importance to farmers all over this country county by county and locale by locale.

In the conference between the House and the Senate, staff identified close to 500 items in disagreement. In some cases the disagreement came because one House or the other did not even mention the item and, therefore, it was new and we had to try to resolve it. But there was common interest. In the course of 2 days, Mr. President, because of the urgency of this legislation, Members resolved all of these issues.

This is why we were able to come tonight. The hour is late and we will not complete our work until tomorrow. But I want to give hope to farmers that tomorrow will be the day in the Senate in which freedom to farm comes to pass because that will be a great day for agriculture in this country.

I appreciate this opportunity to lay before the Senate tonight the essence of this legislation.

I reserve the remainder of my time.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Mr. CRAIG). The distinguished Democratic leader.

Mr. DASCHLE. Mr. President, Senator LEAHY, the ranking member of the Senate Agriculture Committee, had to attend to a family emergency and is therefore not able to participate in the debate tonight. I know that I speak for the Senate, Mr. President, in wishing him well as he attends to his personal business, and we look forward to hearing from him on this bill tomorrow.

Mr. President, I want to take just a few moments tonight. Let me begin by making a couple of general points.

First, let me commend the distinguished chairman of the Senate Agriculture Committee for his work on this effort. He and I may not agree on the final product. We certainly may not agree on how we ought to enact farm policy in this country. But I have no disagreement with him in the manner with which he has conducted his responsibilities as chairman. He is an extraordinary leader and a Senator who has earned profound respect on both sides of the aisle. And his skill and diligence in shepherding this bill to the floor again demonstrates why he is held in such high esteem.

I would like to draw attention tonight to how late in the season this bill is being considered. I hope that regardless of the outcome we would all agree that we should never allow legislation this important to be considered so late in a Congress.

We are dealing with the 1995 farm bill in March of 1996. It is almost April. There is no excuse for that.

I do not fault the distinguished chairman of the Committee. But I certainly fault the fact that in both houses of the Congress there appears to have been little priority given among our Republican colleagues to get this legislation to the floor in time to allow us to adequately consider all of these very controversial issues or in time to provide more certainty to farmers than they have been given.

There is no excuse for this delay. This legislation should have been passed—or at least considered—at a much earlier date.

I also take issue with the title "Freedom to Farm." Farmers have had the freedom to farm—to do whatever they wish—for decades.

There is no requirement that farmers sign up for the farm bill. They are not compelled to live under the confines of whatever farm legislation we pass.

In every farm bill passed since legislation of this kind was enacted farmers have had the freedom to farm. Regardless of what happens to this legislation, they will continue to have the freedom to farm.

Permanent law guaranteed the freedom to farm. If people did not want to be required to comply with the regulations and the legislation as it was enacted, they had the right not to do so. There was no requirement.

So now those who have opposed farm programs are saying to farmers, you do not have the right to advantage yourself under farm legislation at the end of 7 years because we are going to take away your options with regard to freedom to farm or anything else. We are going to phase out the partnership the government has had with agriculture. I believe that is something that merits a great deal of debate. We ought to be discussing with a lot more care.

Regardless of whether or not this legislation passes—I assume it will—I have every expectation we will be back again next year dealing with this issue of the phaseout of farm programs.

I come to the floor tonight with the realization that there are some good things in the bill. I want to address those briefly. But first there are a number of things I find to be most difficult to accept, most problematic as I consider the advantages and disadvantages of this legislation.

Perhaps the most significant disadvantage I find in the legislation before us tonight is that it fails to provide the safety net we have always guaranteed farmers in those times when they found themselves in extraordinary circumstances, whether they be economic or natural.

Loan rates are capped. There is no opportunity for loan rates to go up. We all know what an important financial and economic tool the loan rate system has been in farm legislation for a long time. There is no opportunity now for loan rates to go up. They can go down. They will never go up.

The opportunity we provided farmers to store their own grain on their own farms—the freedom to store their own grain, if you will—is now denied farmers. The farmer-owned reserve has been eliminated. Why that is the case I am not sure. Why we do not give farmers the freedom to farm when it comes to storing their own grain is something that I will leave to others to explain.

We have eliminated the Emergency Livestock Feed Program. South Dakota had 10 inches of snow this weekend. Everything was shut down, while livestock producers are calving all through my State. The Livestock Feed Program is an extraordinarily important tool in times of disaster. This may not qualify. But there have been times just like this when it did, and farmers availed themselves of the Emergency Livestock Feed Program. But as a result of the passage of this legislation it is no more.

There is some flexibility but not for all. Vegetable producers are treated differently. Supposedly there is a signal from the market—not the Government. But I must say there is not a freedom to farm in all cases. Potato producers are not given the freedom to farm. Other producers that are still working under many of the same constraints they have had to work under in past years, and they are going to continue to be confronted with constraints in the future. We do not have the freedom to farm in all cases for all commodities under this legislation. So let no one be misled in that regard.

The deficit increases the first 2 years under this legislation by $4 billion—$4 billion in increased costs to the Federal Treasury. In large measure the reason for that is very simple. We will be paying farmers regardless of price. We will see record prices for wheat, perhaps record prices for corn, and we may actually also see record payments from the Federal Government to the same producers.

The ultimate effect of that will be very simple—somebody is going to pay. The taxpayers could be billed more than $4 billion in the next 2 years alone as a result of that.

Research programs are shortchanged. As one who had the good fortune to chair the research subcommittee in past Congresses, I am very concerned about sending exactly the wrong message on research—to say 2 years from now we will decide it is not enough. Research programs take longer than that. The clear blueprint we must lay out through research on what we intend to do in agricultural production, especially on the applied side of research, needs to be addressed. So to say that for some reason we will deal with that later, we will deal with that in a year or two, is just unacceptable.

Nutrition programs also are treated in the same manner. Food stamps, as everyone now knows, will only be reauthorized for 2 years in a 7-year bill. We are going to pay farmers for 7 years whether or not the price is warranted, but people on food stamps will only have the certainty of getting whatever assistance we can provide in this legislation for 24 months. After that, who knows. We did not say that about farmers, but we are going to say that about recipients of food stamps. You have kids out there who are getting less consideration than producers who may not even plant a crop.

Finally, Mr. President, of all the flaws, the one that I have alluded to in a couple of my comments tonight, the fact that producers, regardless of price, regardless of need, regardless of production, will receive a payment is something that I think is just unconscionable. We should not be in the business of doing that. It will come back to haunt us. It will come back to undermine the credibility of farm programs in the long run.

Nobody ought to be misled about that. It is wrong. Call it what you will—a transition payment, a deficiency payment—it is a welfare payment. It is wrong. Farmers are not comfortable with that. I do not blame them for rolling the dice, taking this legislation, with every expectation that Congress will come back at some point with clearer heads and a much better understanding of the importance of the partnership between our Government and our agricultural industry and recognize that some continuation of farm programs is necessary.

So if I were a farmer, I would say, "Well, look, if I am going to get a good price and I am also going to get a good payment, why not take it? Why not accept it?"

If I were a farmer, as pressed as they are today, I would take it, too. I would not argue against it. But that does not make it right. Economically and financially, it is right for every farmer. If they have the chance legally to do it, they should do it. But as policymakers, it is not right for us, if we are providing huge payments to farmers at times when farm prices are as high as they are.

So, Mr. President, for all those reasons, I intend to oppose this legislation. I will vote against it tomorrow. I hope that we will come back and recognize that we can do better than this. We need to do better than this. While that may not happen in 1996, I hope it does happen early next year.

I commend the chairman and others for the balance they have shown in other areas. The fact that we continue the Conservation Reserve Program is a good aspect of this legislation, and I support it. I am pleased that people recognize the importance and the tremendous contribution to conservation the CRP now has made for many years.

I am pleased that the Fund for Rural America has been provided for in this bill, ensuring that we address the needs of rural America. One of the key opportunities for us in rural areas now is the one I hope this legislation provides in creating new value-added product development. Value-added product development is our long-term future in agriculture. Hopefully, through the Fund for Rural America, value-added processing facilities of all kinds can be considered, financed and built.

I also believe that the increased flexibility this legislation represents is something we ought to applaud. Simplification is something that I think is more uncertain, but I do believe the goal intended in this legislation to simplify our current program is something everyone supports.

Perhaps, of all things, retaining permanent law is one of the most important aspects of this legislation that I am very enthusiastic about and certainly appreciate having.

This farm bill, Mr. President, is long overdue. It did not happen in 1995. It will now happen in 1996. 1995 is wasted. It was tied to the budget—the first time this has happened since 1947. Unfortunately, it has taken too long. Unfortunately, we are now at a time when farmers need certainty more than ever. It is too late to start over. The winter wheat crop will soon be harvested. Southern crops are already in the ground. Midwestern farmers are already beginning to plan their planting for this year. They do not know what the farm programs will be until we enact them into law.

The time for action is long overdue. The President has indicated he will sign the farm bill. He is forced to sign a bad bill because of the late date. He, as I do, has deep concerns about the safety net and the decoupling this represents. He has pledged to propose new legislation next year. I believe the public will demand it in less than a year's time.

The bottom line is we have to go back and make improvements, do a better job in a constructive way of addressing the deficiencies that I have pointed out tonight. To paraphrase a famous actor in a popular movie, "We will be back."

I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The chairman of the Senate Agriculture Committee.

Mr. LUGAR. Mr. President, I yield 10 minutes to the distinguished Senator from Washington [Mr. GORTON].

The PRESIDING OFFICER. The Senator from Washington has been yielded 10 minutes.

Mr. GORTON. Mr. President, the distinguished chairman of the Senate Agriculture Committee, the Senator from Indiana, has spent much of his time over the course of the last year as a candidate for President of the United States. He traveled about the country, speaking calmly, without invective, with common sense to the American people.

The American people in large measure did not listen to that message, thoughtful as it was. In his usual gracious fashion, the Senator from Indiana, when that became apparent, withdrew, and endorsed the candidacy of our joint good friend, the majority leader of this Senate.

I must say that in some sense the loss of the people of the United States in that candidacy directly resulted in the great gain to the people of the United States in the construction of this farm bill, the most dramatic change in agricultural policy since the 1930's, one of great thoughtfulness and great promise not only for our agricultural community but for the people of the world in providing for them more and better food prospects.

So I express my deep gratitude to the Senator from Indiana for the job he has done for the people of the world, the people of the United States, and most specifically the farmers and agricultural businesses of the State of Washington.

I cannot let this part of my remarks go without also remarking on the actions of the Acting President of the Senate, the Senator from Idaho. I believe he is the only western member of the Agriculture Committee who specifically directed his attention at the needs for various policies for the farm community of the Pacific Northwest. We share extensive wheat ranching, and his attention to the problem of those ranchers is a matter for which I am most grateful. But particularly the Senator from Idaho was an eloquent advocate of the so-called Brown amendment during the conference over the farm bill. That was an issue of great importance, not just to people in agriculture but to people in cities and towns and communities all over the West.

The President of the United States, in his State of the Union Address, repeatedly spoke about a smaller and less intrusive Government. But agency after agency in his administration in Washington, DC, has been busily attempting to aggrandize more and more control over the lives of the people of the United States and most particularly over their lives in the West, where water is such a great necessity. This aggrandizement was particularly evident as the administration's Forest Service has been attempting to require water permit holders, some with permits more than 100 years old, in many Western States literally to donate to the Forest Service a significant portion of their water rights as a condition for the issuance or reissuance of their permits.

Led by the Senator from Idaho, the conferees agreed at least to an 18-month moratorium on these Forest Service demands. They agreed to create a water task force to study Federal water policy and water rights across Federal lands, and no later than 1 year after the enactment of this bill to submit recommendations to the Congress on how best to resolve the controversy.

Obviously, I would have preferred, as the Senator from Idaho would have preferred, to see language that would have permanently prohibited the Forest Service from this practice. But at least this gives us relief for the time being and an opportunity to take an objective look at these demands and to deal with them at length in the Congress later. So I must say that Washington State agriculture thanks the Senator from Idaho for his magnificent work in that connection.

Overall, the 1996 farm bill is a wonderful step forward. As a member of the Senate Budget Committee, I am delighted it makes a contribution toward a balanced budget both, as the Senator from Indiana said, in allowing us precisely to determine how much money will be spent with respect to income support and in the promise of a significant contribution toward a balanced budget within a 7-year period.

Even more significant is the fact that this bill is a dramatic step toward a free market economy in agricultural policy. Farmers and ranchers all across our country have asked for freedom from Government regulation, for the right to farm to the market rather than to particular programs, and to be able to respond to the demands of emerging world markets. No longer will farmers be told by the Federal Government what crop to plant, when to plant it, and how much to plant. These decisions ought to belong to the farmer, and now they will belong to that farmer.

One other detail: I am delighted to see the conferees agree to authorize the Market Promotion Program, I believe now called the Market Access Program, at $90 million. This program is vitally important to all agricultural exports. It is particularly important in Washington State. In the last decade, for example, we have seen an increase in apple exports from 4.3 million cartons to 25.1 million cartons, an increase of more than 500 percent, enriching growers in the State of Washington and making a real contribution to lower our trade deficit. The Market Promotion Program has made a significant contribution to that increase.

With the implementation of the General Agreement on Tariffs and Trade and the North American Free-Trade Agreement, we will see an increased demand for agricultural exports. I believe that both will successfully open new worldwide markets for United States agriculture. As a consequence, we need to provide our farmers with the ability to develop, maintain, and expand commercial export markets, and the Market Access Program will help us do exactly that.

As does the President, I believe in a smaller and less intrusive Government. The 1996 farm bill represents that less intrusive Government, a Government with faith in its farmers, its ranchers, and its local communities to make decisions for themselves. Simply put, this farm bill puts the decisionmaking process back into the hands of the farmer and gets the Federal Government significantly out of the business of telling our farmers how to farm. I enthusiastically support its adoption and its transmission into the law of the United States.

The PRESIDING OFFICER (Mr. GRASSLEY). The Senator from Nebraska.

Mr. EXON. Mr. President, I yield myself 15 minutes off the time allotted to the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, all my life, before and during my last quarter of a century of continuous high service as either the Governor of Nebraska or the last 18 years as a Member of the U.S. Senate, having the great honor of representing the great State of Nebraska, there can be no question—and the record will show—that I have been an outspoken supporter of farm legislation, farmers, and what is good for rural America. With that background, I simply want to say about the farm bill that will pass tomorrow, without my support—it will pass, the die is cast, it is all over—but we cannot allow this to go forward without reviewing once again many of the concerns that myself and others from the Farm Belt have with regard to this legislation.

No. 1, if you remember back last year when we were having the budget debate—and I happened to be the ranking Democrat, the lead Democrat on the Budget Committee—we heard all these wonderful things about how we are going to take that farm program and we are going to help balance the budget in the year 2002 by reducing it. There were the magnificent figures bantered about as to how much we could save by the farm bill that the Republican majority was going to pass.

Obviously, I say, as a farm supporter all my life, this conference report is a sham as far as sound agricultural policy is concerned, and it is a sham as far as the taxpayers are concerned. According to the Congressional Budget Office, this conference report which we will vote on tomorrow will cost $3.2 billion more than the current law for 1996 and $1.4 billion more than current law in 1997. There is no savings, as the chief of staff of the Republican Budget Committee has said publicly.

So if anyone thinks that this measure contributes anything to balancing the budget, the opposite is true. That would not be so bad if we were taking this money and applying it as a safety net. That is what the farm programs have always been about, providing a safety net, not dishing out money to farmers for doing nothing.

This conference report is also a sham to farmers. The so-called 7-year contract with the transition payments stick out like a sore thumb. In future budget negotiations and allocations, reductions, in my view, are all but inevitable, when everyone finds out what this ill-advised bill does. Once again, let us have a thorough understanding that there were those of us who offered legitimate, reasonable proposals that gave the farmer all the flexibility that the farmer has under the so-called Freedom To Farm Act and allowed the farmers basically to plant what they want and get away from all that red-tape, but that was not good enough.

This conference report, in addition to all its other shortcomings, goes right at the safety net. And the safety net, I should explain, is something that has been inherent in farm policy as long as we have had farm policy, and that is to provide a safety net for family-size farmers when the prices of the product that they raise, for whatever reason, was drastically low.

Those of us who understand agriculture, and I might say that there are people on both sides of the aisle, people who are for this program and people who are against it, who probably are very well-intentioned, but I am very fearful that this Freedom To Farm Act, or its successor, whatever you want to call it, is built around transition payments that are supposed to phase out in 7 years, the year 2002, when the budget is supposed to be balanced.

There were also those of us who have advanced policies to balance the budget in year 2002 with a workable farm program, which I think this one is not. Example: The conference report retains a cap on loan rates. Loan rates are historically what the farmer used as his safety net. He could borrow money at so much a bushel and store that commodity and sell it at a later date if the price went up. He had that option. Or if the price stayed the same or went down, he would forfeit the crop.

These levels are inadequate in this bill: $1.89 for corn and $2.58 for wheat. For all practical purposes, that is the end of the farmer-owned reserve which was always a major portion of stability and the safety net that has served us, not perfectly, but well.

The conference report is bad particularly, I suggest, for beginning farmers. Older farmers who have their land paid for will cruise toward retirement with a large amount of a hefty taxpayer-financed billions of dollars. I do not think there is any question but what we will hear more and more about these welfare payments to farmers because that simply is what it is. But this is only good for 7 years, we should understand.

This may be very good news for dad, but it sure is bad news for the son or daughter who may want to take over the farm after dad retires in the year 2002, because then, I assure you, that when this program and the cost of the program is fully explained to the people, the well will be so poisoned that we will never have the votes for a workable farm program.

All my public life, in defending and protecting farmers and rural America, I and others of us on both sides of the issue before the Senate, I might add, have fought continually to explain the need for a sound agricultural policy in America.

How sound is it? Pretty good. Most of the people do not understand that while they might think food costs are too high, the facts of the matter are, Mr. President, that the people of the United States of America have reaped the benefits of a sound farm program. We in the United States of America have the cheapest food costs of any nation in the industrialized world.

I simply say that this particular Freedom To Farm Act, with its hefty payments from taxpayers to the farmers of America, is sure not good for the farmers who want to take over after that 7-year period.

How good is it? Well, Mr. President, there has been talk on the floor tonight about, I believe one speaker said this bill is a chance for a farmer to make more money than ever before—I tend to agree with that—in many instances, maybe for doing nothing.

This particular measure authorizes an expenditure over 7 years of $47 billion. Do you know what, Mr. President, $36 billion of that $47 billion will go out for payments that another speaker in this regard said is good, because then we will know exactly how much money will be spent for price support programs. We sure do, and we know what it is going to be for 7 years—$37 billion.

That $37 billion will go out under a formula that has nothing to do with what the price of the commodity is that the farmer raises. It will have nothing whatsoever to do with the price that the farmers receive for the products of their labor in the marketplace. He or she will be making his own decisions. But I say to you, Mr. President, I do not think it is fair, I do not think it is reasonable.

The old farm program that a lot of people have criticized—and there are reasons to criticize it—the old program basically provided a safety net, and we did not pay the farmers anything if they were getting a fair and decent price for their product.

Most farmers will agree that if you are a corn farmer making $3.50 a bushel, you should not receive any money from the taxpayers or the Government of the United States of America. But most farmers would agree that if the corn would not be at $3.50 or $3.10 or $2.75, maybe down to $2, certainly somewhere in that framework, should be a trigger mechanism that would kick in as a safety net to help the farmers when they need help and not help the farmers when they do not need help.

Mr. President, as I said when I started out, the die is cast, and a week ago when some of my colleagues who were against this bill said they would request that the President veto it because it was so bad, I said I was not going to request the President to veto this farm bill. We have fought the good fight. We have had a chance at least to make the case that some of us very firmly believe in. But the facts of the matter are, we are the latest ever in passing a farm bill, and that is hurting the farmers because we are in the planting season.

So, as bad as this bill is, I do not suggest that the President veto the bill because with all of the other partisan battles that we have going on right now with regard to the budget, we could get ourselves in the position where we would have the same inefficient manner of managing the farm programs as we do in managing the overall Government of the United States, with a series of continuing resolutions, and evidently we are going to have the 11th and 12th continuing resolutions to fund this fiscal year, and this fiscal year is already halfway over. Pretty bad record. We should do things the right way.

I talked a few moments ago, Mr. President, about how I thought this program was wasteful. I cited the figures that are available with regard to what this is going to cost. The total cost of $47 billion; $36 billion of that will go directly to farmers, as another speaker said, with a chance to make more money than they ever made before.

I think it is wonderful. I support the concept of the marketplace. When the farmer can make a good living, an outstanding living, by relying on the price of the marketplace, that is fine with me. That is the way it should work. But what this particular measure overlooks is that there is no safety net, and there will not be after 7 years when the price goes down.

If I might, Mr. President—and I yield myself what additional time I might need under the time reserved for the minority leader—I would like to explain to the Senate just how bad this program is and how I think the well will be poisoned so that we can never ever again muster the votes in the House or the Senate for a workable farm program.

Under the freedom to farm bill, with its transition payments—let us talk about what those are. I would like to give you a specific or two. Under the act that was passed, let us take a 500-acre corn farm—that is not small; that is not big; that is probably somewhere near the average—a 500-acre corn farm that has a yield of 120 acres per bushel—and that is not a high or a low yield; that would be somewhere in the middle, somewhere in the average—and the cash market price that that farmer received for growing 120 bushels on a 500-acre farm, you multiply that by a cash price in the marketplace of $3.10—and it is near $3.40 today, so this is just an approximation—you take the 500 acres at 120 bushels per acre, that is 60,000 bushels, and you measure that 60,000 bushels by the cash price of $3.10, Mr. President, and you find that that particular farmer would have a gross cash income of $186,000 for 1 year. That is not net; that is gross.

Under the transition payments that are embodied in this particular measure, that same farmer would receive an additional check, which I can only say is probably welfare, of $22,000 from the Government on top of the $186,000 of gross cash income, obviously for a gross income of well over $200,000.

There is nothing wrong, Mr. President, with the present situation of a good price in the marketplace for corn. But it is terribly wrong, in my view, when we are trying to cut down the costs of Government and when we are attacking welfare payments that have to be cut, to envision, as has been described on the floor of the U.S. Senate, that these transition payments will continue regardless of what happens.

That means, Mr. President, that even if the farmer does not plant a crop under the example that I just gave, if he did not do anything, he would receive the $22,000 payment, I guess, for owning the land.

Mr. President, I am very concerned about this bill. I will not take any further time of the Senate tonight because, as I said, the die is cast. I will vote against this bill tomorrow for the reasons that I expressed tonight. If anyone should ever be interested in the further details, I would make reference to the CONGRESSIONAL RECORD of March 12, 1996, when this Senator went into great detail and cited background material from many others who understand farm policy and why we are voting against this measure.

It is bad farm policy. It is bad Government policy. But I certainly agree, Mr. President, that it is good for the established farmer over the next 7 years. Let me put it this way: If you are a 57-year-old farmer today, with your land paid for, you are going to have not only a good income, but a handsome income for the next 7 years. If you are 57 or 58 years old, which the average farmer in the United States is today, and you accept this program, you are going to be in pretty good shape, I would suggest, for the next 7 years.

But what about the son or daughter who wants to take over the farm? This measure, I emphasize once again, in my opinion, will so poison the well that we might never be able to have the stability that is necessary, because farming is a risky and expensive business, to provide the safety net that I think is absolutely essential for the stability of our farms after the year 2002.

I do not want to be overcritical of many of my friends that I have worked with on farm policy for a long, long time. They may have—I am sure that they do have—sincere beliefs that this is a good farm program. My experience and my study of the bill indicates that that is not the fact. But I also realize and recognize that the majority in the House and the majority in the Senate do not agree with me. I think the President has no option, given the late date that we are finally getting around to passing a farm bill, that this measure, against my wishes, will become the law of the land. We will see how it works out for the next 7 years. I reserve the remainder of my time. I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, let me say in partial response to my distinguished friend from Nebraska, I appreciate his gracious comment, even though he is in opposition. I agree with him when he points out that farmers who are 57 years of age and older will find this farm bill to be an exceptionally generous farm bill. That includes, as the Senator from Nebraska has pointed out, a large number of farmers in this country.

As the distinguished Chair was also a farmer, I understand, this is one of the points of concern for us in farming, the maturity of that group. But we are in agreement that this bill is good news for a majority of farmers in this country who are out there and who have some age and have had some experience.

The issue the Senator from Nebraska raises is, what about their sons and daughters? What will happen to them? Here, honest Senators will disagree. My own view, having four sons, and trying very hard to make certain that the farm can be passed along to them, as my dad passed along the farm that I now farm to me, I have a lot of optimism for them.

I believe, Mr. President, that the income that will come to farmers in the next 7 years will lead to an increase in land values. I believe the Lugar farm will be worth a great deal more in 7 years. I believe there will be income throughout that 7-year period of time which will make it even stronger than it is now. That is the legacy we pass along. We do so, I think, as farmers, as Senators, as people trying to deal in good farm policy.

Let me just point out that the Senator from Nebraska is correct that the loan rate for corn at $1.89 does not change in this bill. It is capped. Mr. President, we have already discussed the fact this evening that the cash price of corn in some elevators around the country approaches $4. The Senator from Nebraska pointed out, using perhaps an average price predicted for 1996, $3.10, which is well above both the target price and the loan rate. The loan rate simply is irrelevant with the price of corn at $3.10 or $3.90. It does not come into play.

The Senator might remind me what goes up comes down, and cycles curve. I understand that, Mr. President. This is one reason why a safety net is pertinent. The distinguished Senator has pointed out the safety net is gone, but, in fact, the safety net is alive. We are arguing maybe about the size of it. The Senator from Nebraska gently reminds us the safety net is very large in the coming year, citing the 500-acre corn farm at 120 bushels an acre and $3.10 per bushel. There will be a payment to that farmer, and it does not come because of market conditions; it comes because of this bill. It comes 7 years in a row because of this bill. That is quite a safety net. It is there because we are in transition, Mr. President, from whatever we have now to the market, to the unknown, to risk. We are mitigating that risk by having a very substantial safety net.

The Senator raises the correct question: What, after the safety net, happens after 7 years? Mr. President, as a part of this farm bill, the distinguished minority leader, Senator DASCHLE, pointed out this evening one of the things he likes best about the bill we are considering is that permanent farm law is continued.

That means, Mr. President, that the Agriculture Committees of the Senate and the House must return to this subject at some point prior to the end of 7 years. The reason why maintenance of current law forces that is because that law is totally irrelevant to current conditions. It would be terrible legislation, wreaking great hardship on many farmers. Many have felt that is why you leave it there to force the Senate and the House to reconsider, again and again, the pertinent conditions and the timely conditions.

So we will do that for better or worse. We will do that. We will take a look at the conditions as they pertain before the end of 7 years are over.

Mr. President, we have had a good debate this evening, and I will not prolong it. I did want to make those comments as I have listened carefully to my colleague.

Mr. COVERDELL. Mr. President, we are finally drawing to a close on what has been an exhausting, often contentious, but extremely rewarding 18-month process of deciding the future of American agriculture. Our efforts culminate today in final passage of the 1996 farm bill, appropriately titled the Federal Agricultural Improvement and Reform Act. Mr. President, the title of this legislation is appropriate, because I truly believe we have improved our agricultural programs, while making the reforms necessary for American farmers to compete in an increasingly global market. The most important aspect of this bill is that we have accomplished reform without jeopardizing our fragile rural economies in the process. As an active member of the Agriculture Committee, I can attest that we have been very careful to allow for economic adjustment in these communities, and have allowed our farmers the opportunity to participate in the decisionmaking process. This is Democracy at its finest.

The new farm bill is benevolent in its flexibility and in maintaining establishing a traditional safety net for producers. No longer will farmers in my home State of Georgia be required to simply plant for the program. These farmers can now evaluate the market conditions and plant the crops that will allow them to reap the greatest profit. This liberation of our hardworking farmers will, I believe, also lead to greater export potential as production levels for the higher-demand products will rise. The bill, most importantly, will protect farmers by maintaining standard marketing loan structures while providing market transition payments. This framework will promote economic stability in many of our poorest counties. In addition to these basic farm programs, we reauthorize important discretionary programs under the Trade, Nutrition, Conservation, Rural Development, Research, Promotion and Credit titles. These programs are vital to the State of Georgia. They will allow for continuing research efforts at our university system, will provide nutritious meals for Georgia schoolchildren, will keep Georgia soil on Georgia fields, will maintain active rural lending along with an array of other integral functions. In sum, this farm bill is simply good for Georgia and the Nation.

I would like to commend my colleagues on the Agriculture Committee in both the House and Senate who helped develop and guide this legislation carefully through both bodies. They have performed rural America a great service. Too often, it seems, agriculture is overlooked and criticized by the public, and some in Congress, who have limited knowledge of its importance to our national security. A strong agricultural sector is imperative to a strong America. We in the farm sector must take this message from the fields to the kitchen tables to communicate what agriculture really means to our citizens. Foremost, we must challenge ourselves to build our agricultural communities through increased trade and industry, and work with our farmers to develop ways to maximize their returns both on the farm and at the bank. This will be our ultimate test over the next 7 years of this bill.

I would especially like to thank those producer groups in Georgia who were so very helpful in our efforts to craft programs most important to my State. Producer-based reforms were the key to this legislation, and those in the peanut, cotton and dairy sectors were extremely helpful to me and my staff in these efforts. Congratulations to the University of Georgia, the Georgia Farm Bureau, the Georgia Peanut Commission, the Georgia Peanut Producers Association, the Georgia Milk Producers Association, the Georgia Cotton Council, the Georgia Cattlemen's Association, and the Georgia Pork Producers Association for their tireless efforts. While many other Georgia organizations contributed, these were the people most involved with my office in this process, and this is their victory. Each of these groups made the tough decisions necessary to achieve the bill's budgetary savings of approximately $2 billion and create more market and budget competitive programs for the future of agriculture. I have relied upon these groups' collective counsel in the crafting of the 1996 farm bill and look forward to our continued work together as we confront the many new challenges agriculture will face in the 21st century.

Mr. COCHRAN. Mr. President, this bill makes significant reforms of our Nation's longstanding agricultural policy. Farmers will no longer be forced to plant the same crops year after year to receive assistance, allowing for greater crop rotation and flexibility. Farmers will be able to make planting decisions which are in their own economic interest.

I am pleased that this farm bill retains the same operating provisions of the successful Marketing Loan Program which were contained in current law. This program has proven to be greatly beneficial for commodities such as cotton and rice. The Marketing Loan Program continues to achieve the objectives of minimizing forfeitures, the accumulation of stocks, and government costs while promoting competitive marketing in domestic and international markets. In order to maintain consistency in the operation of this program, it is the intention of the managers of this conference report that the Secretary of Agriculture extend the provisions of current regulations governing entry into the marketing loan and establishment of the repayment rate. Also, it is the intention that the Secretary of Agriculture continue to establish the prevailing world price for upland cotton in the same manner utilized for the 1991 through 1995 crops.

This farm bill preserves and enhances many of our successful environmental and conservation programs. For example, the Conservation Reserve Program is reauthorized and existing participants are eligible to reapply upon expiration of their contracts. The Wetlands Reserve Program is reauthorized with modifications to allow for non-permanent 30-year easements. I am very pleased that a program which I introduced to enhance our Nation's wildlife population was included in the conference agreement. The Wildlife Habitat Incentives Program is a new cost-share program for landowners, which will promote the implementation of essential management practices to improve wildlife habitat.

Failure to pass this farm bill conference report would cause a great deal of confusion and economic hardship for many of our Nation's farmers. This outcome will not be acceptable for farmers, consumers or taxpayers. Our farmers are ready to go to work now, but they need to know what the programs are going to be so they can make rational and thoughtful decisions. The Government's role in providing stability and an orderly transition to a market economy in agriculture is very important, and our commitment to this goal can be seen in this farm bill conference report.

This farm bill ensures our commitment to protecting and building upon our public and private investments in agriculture and rural America. Mr. President, it is time to act and I urge my colleagues to support passage of the farm bill conference report.

Mr. LUGAR. Mr. President, I point out that these Senators, Senator COVERDELL and Senator COCHRAN, are distinguished members of the Agriculture Committee and have contributed substantially to the legislation we have before the Senate.

I point out, Mr. President, that the CBO budget scoring for this farm bill for the conference agreement on H.R. 2854 comes in at a savings of $2.143 billion under the December 1995 CBO baseline. I simply state that as a matter of fact, because there has been argument as to whether there is a budget implication. I am simply pointing out there is. It is down $2.1 billion, and the baseline of December, 1995, as the Chair knows, is significant, because that came after this abundant year of good farm pricing that we have had.

Those farm prices meant a savings to the taxpayers of about $8 billion. If we had been scoring this, as the Chair knows from his service on the Budget Committee—and on this very subject, he authored legislation to try to make certain savings at least were reasonable—as I calculate it, the savings during the year through the market were about $8 billion, and $2 billion more is going to occur in this 7 years. That is substantial change in terms of the budget of the United States. I think that is important to introduce.

Mr. EXON. I yield myself off the time of the minority leader.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. EXON. Mr. President, I think the Senator from Indiana knows my high respect for him. We have worked together on many occasions over the years. I happen to think that he was one of the better qualified Republican candidates for President of the United States, and I saw the gentlemanly type of campaign that he ran. I was rather surprised that he did not catch on more than he did, but then, gentlemen do not always win.

We are at odds under the present bill. My point is, I want to drive it home once again, the Senator from Indiana indicated that the Agriculture Committee will monitor and look at this program as we go down the road. My point is—and I might be wrong, and I hope I am—but the farm program that is initiated with this freedom-to-farm act and the transition payments that go therewith, will so poison the well that even if the Agriculture Committee of the House and Senate think changes should be made, the public mood at that time will be to say, "What are you telling us? You have been giving this money away, chunks of billions of dollars, whether corn is $3 a bushel or $4 a bushel, and now you want to change it."

The main difference of opinion on this whole matter between the Senator from Indiana, my friend, and myself is that I do not think the concept that he is outlining, while it sounds like a better scenario to me than what this bill is intending to do, I am simply afraid there will not be the votes in the Senate or the House to make changes that the Senator from Indiana has at least indicated might be made and might be recommended at some further date. That is the crux, I think, of the difference between the point of view being expressed by the Senator from Indiana and the Senator from Nebraska.

I yield the floor.

Mr. LUGAR. Mr. President, I ask for the amount of time that remains under the control of the three Senators.

The PRESIDING OFFICER. The Senator from Indiana controls 84 minutes; the Democratic leader controls 138 minutes; and Senator LEAHY from Vermont controls 60 minutes.

MORNING BUSINESS

Mr. LUGAR. I ask that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOW MUCH FOREIGN OIL IS CONSUMED BY UNITED STATES? HERE'S WEEKLY BOX SCORE

Mr. HELMS. Mr. President, the American Petroleum Institute reports that, for the week ending March 22, the U.S. imported 6,594,000 barrels of oil each day, 347,000 barrels more than the 6,247,000 barrels imported during the same period a year ago.

Americans now rely on foreign oil for more than 50 percent of their needs, and there is no sign that this upward trend will abate. Before the Persian Gulf war, the United States obtained about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity that will occur in America if and when foreign producers shut off our supply, or double the already enormous cost of imported oil flowing into the U.S.—now 6,594,000 barrels a day.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, March 26, 1996, the Federal debt stood at $5,066,587,916,694.66.

On a per capita basis, every man, woman, and child in America owes $19,154.54 as his or her share of that debt.

PROPANE EDUCATION AND RESEARCH ACT

Mr. FAIRCLOTH. Mr. President, I rise today to speak on behalf of the Propane Education and Research Act.

Mr. President, North Carolina depends heavily on the use of propane as an energy source. As a matter of fact, our State ranks as the sixth largest consumer of propane fuel in the country—consuming over 500 million gallons in 1994 alone.

Propane is a low-cost energy source. For this reason, residential and farm use is abundant throughout our State.

The propane industry has recognized that consumption is on a steady rise. To respond to the increased demand on the industry, producers and marketers have recognized a real need to launch a research and development program of their own. They know that a strong research and development program would increase the safety of propane, create greater efficiency in its use, and assist them in exploring the endless opportunities of new usages.

But to truly understand propane, you must take a hard look at the makeup of the industry. The industry is only 165 producers strong with about 5,000 retail marketers. The resources necessary to implement a strong research and development program for this industry are limited.

That's where the Propane Education and Efficiency Act comes into focus. PERA provides the propane industry an opportunity to establish a checkoff program that would collect one-tenth of one cent per gallon of the wholesale cost of propane. The proceeds would go toward a fund designed for research and development, education and safety.

Propane is the only energy source that is not supported by Federal research dollars. This industry-financed program gives an industry with limited resources the opportunity to enhance their product without coming to the Federal trough for help.

I commend the leadership of propane industry in North Carolina and the Nation as a whole for recognizing their needs and taking the initiative to find a solution that will work without an increased burden on taxpayers.

As an original cosponsor of this bill, I thank Senator DOMENICI for his willingness to introduce this important piece of legislation. I stand ready to assist my good friend from Arizona in any way to see that this bill moves forward.

I thank the Chair.

JOHN KLUGE

Mr. WARNER. Mr. President, as chairman of the Senate Committee on Rules and Administration, and as a proud Virginian, it is my pleasure to commend a fellow Virginian, Mr. John Kluge of Charlottsville, VA, for his contribution to the Library of Congress.

Born in Chemnitz, Germany, Mr. Kluge came to America when he was 8 years old and has become one of the Nation's most successful and highly regarded businessmen and one of its most generous humanitarians.

In 1990, John Kluge became the first chairman of the James Madison Council of the Library of Congress. The Madison Council, the Library's first private-sector support group in its 190-year history, plays a vital role in raising the visibility of the Library and promoting awareness and use of its collections. Its members include leaders in business, society, and philanthropy from across the Nation who are known for their commitment to education and scholarship. In its short history the Madison Council has funded over 50 programs, including fellowships for young scholars, publications and television programs, public exhibitions, scholarly conferences, centers of excellence that draw top thinkers to the Library to use and enhance its collections, a special acquisitions fund, and much more. Just recently, the council reached its goal of 100 founding members, set by John Kluge 6 years ago.

John Kluge has been the foremost private donor in the Library's history, personally giving nearly $8 million to the Library. His biggest single contribution was $5 million for the National Digital Library, which is the brainchild of the Librarian of Congress, James Billington. Launched in 1994 with commitments of support from the Congress and private donors like Mr. Kluge, the National Digital Library is providing free unique content for the information superhighway opening new gateways to education for all Americans. Other projects to which John Kluge has contributed generously include the magnificent Vatican Library exhibition, the Leadership Development Program, an exhibition of heretofore unseen documents from the Soviet state archives, and purchase of a major collection of sound recordings.

By personally working on behalf of the Library of Congress, arranging meetings with potential supporters, giving of his own personal time, and bringing together an outstanding group of distinguished individuals who truly care about their national library and support it with their time, ideas, and financial contributions, John Kluge has made the Madison Council what it is today—a model of how the private sector can focus its resources within a public institution and make an important difference.

Because of John Kluge, millions more Americans know about our Nation's great Library which Congress has built and supported for almost 200 years, and they understand its importance in the history of our Nation.

John Kluge is one of the great philanthropists in America today. His contributions to the Library of Congress and the Nation have been immense. It is my privilege to commend him for his achievements.

MINIMUM WAGE

Mr. SARBANES. Mr. President, I rise today to express my strong disappointment that the Republican leadership will not allow a straight up-or-down vote on legislation to increase the Federal minimum wage. The Congress is long overdue in acting upon legislation which would establish a more realistic wage standard for the American worker and I would hope that the Senate has the opportunity to express its will on this matter—one so critical to working families—in the near future.

It would seem to me that the issue is a relatively simple one. As many of my colleagues will recall, under the Bush administration, the Senate voted overwhelming to enact an increase similar to the one being proposed today. In 1989, by a vote of 89–8, the Senate approved legislation which raised the minimum wage by 45 cents in 1990 and again in 1991 to bring it to its current level of $4.25 per hour. The proposal being put forth by myself and others would enact the same increase—45 cents this year and another 45 cents in 1997—raising the minimum wage to $5.15. It is my strongly held view that such an action, like that taken in the 101st Congress, would appropriately reflect the values and beliefs at the very core of our society—the idea that if you work hard and play by the rules, you deserve the opportunity to get ahead.

In my own State of Maryland, the city of Baltimore has been at the forefront of efforts to assure hard-working Marylanders receive a decent living wage. Just last year, Baltimore's Mayor Kurt Schmoke signed the Nation's first prevailing wage law which stipulates that all new or renegotiated contracts with the city of Baltimore must provide a minimum wage of at least $6.10 per hour. Baltimore's ground-breaking public policy initiative should serve as an example to cities across the Nation and, in my view, provides an ideal model for the U.S. Congress.

As we all well know, the real value of the minimum wage has deteriorated markedly since 1979. At its current level of $4.25 per hour, the minimum wage will fall to its lowest real value in 40 years if Congress fails to take action. In the late 1950's the real value of the minimum wage was worth more than $5 per hour by today's standards and in the mid-1960's it peaked at $6.28. However, Congress' failure to respond to inflation over the past 20 years has resulted in a 27-percent decline in the real value of the minimum wage since 1979 and a 50-cent drop since 1991. Since April 1991, the cost of living has risen 11 percent while the minimum wage has remained constant at $4.25.

The decrease in the value of the minimum wage has served to widen the gulf between the wealthiest and the poorest of our society. In an effort to offset this decline, I strongly supported President Clinton's expansion of the Earned Income Tax Credit [EITC] which raised the income of 15 million households—helping many rise above the poverty line. However, this is not enough. Even with the EITC expansion, a family of three with one full-time wage earner working year round at the current minimum wage brings home $8,500 and could receive a tax credit of $3,400 for a total annual income of $11,900. According to the Congressional Budget Office [CBO], the poverty level for a family of three in the United States stands at approximately $12,557. Therefore, at the current minimum wage, workers can work full-time for an entire year, qualify for the EITC and still fall some $657 below the poverty line. While the EITC is a critically important public policy initiative to assist low-income families, it should not be viewed as a substitute for a consistent, decent wage.

Opponents of increasing the minimum wage frequently argue that the typical minimum wage earner is a teenager simply working after school or on the weekends to earn a little extra spending money and that the Government should not be supplementing the incomes of this group of temporary, part-time workers. The truth, however, is that more than 70 percent of all minimum wage earners are adults over 19 years of age and the vast majority—58 percent—are women. Clearly, these are hard-working individuals trying to make a living and support a family on a wage that fails to allow them to even meet the poverty standard, let alone surpass it.

At a time when salaries of CEO's of major companies have increased by more than 20 percent and the congressional leadership is talking about giving tax breaks to some of the most well-off in our Nation, I find it completely unreasonable that an attempt to increase this basic standard for the working poor would be resisted.

Some argue that the economy cannot afford an increase in the minimum wage; that an increase in the minimum wage would ultimately rob the economy of jobs and income as businesses would be forced to pay fewer workers more. This is simply not true. A close review of recent evidence clearly demonstrates that a reasonable increase in the minimum wage does not result in huge job losses. A frequently cited 1992 study in which Princeton economists David Card and Alan Krueger examined the effects of a minimum wage increase in New Jersey found "no evidence" that a rise in New Jersey's minimum wage reduced employment opportunity. In fact, just the opposite was true. In comparing employment trends in New Jersey with those in Pennsylvania, Card and Krueger found the employment trends to be stronger in New Jersey, the State with the higher minimum wage. Similarly, Harvard economist Richard Freeman found in his 1994 study that "moderate legislated increases did not reduce employment and were, if anything, associated with higher employment in some locales."

Mr. President, it is clear that the American economy cannot only afford a reasonable rise in the minimum wage, but could actually benefit from such an increase. In fact, it stands to reason that more money in the pocket of the American worker means that more money is being spent and purchasing power is increased. The minimum wage proposal now before us would give the American worker an additional $1,872 in annual income. In Maryland alone, it would mean an increase in income for more than 131,000 workers. It may not sound like much to some in this Chamber, but it can make all the difference to a family struggling to heat their home, pay for groceries, or provide adequate health care for their children.

While economic considerations are an important aspect of this debate, neglecting to recognize the fundamental value of ensuring a living wage for American workers would compromise principles I believe to be integral to the fabric of our society. Historically, Congress has acted to guarantee minimum standards of decency for working Americans. Measures to protect workers from unsafe and unfair working conditions were enacted under the belief that, as a society, we should support a basic standard of living for all Americans. It is in this spirit that minimum wage laws have been updated through the years.

As long as we in Congress fail to act, we send the message to working families across the country that hard work and sound living are not enough. Nearly two-thirds of minimum wage earners are adults who are struggling to achieve a decent standard of living for themselves and their families. The objective of the minimum wage is to make work pay well enough to keep families out of poverty and off Government assistance. An hourly rate of $4.25 is not enough to cover the average living expenses of a family of three. It is unthinkable that in what is arguably the wealthiest Nation in the world, there are families out there right now having to choose between food for their children and heat for their homes. If a family of three can barely get by on $4.25 an hour, how can a single mother—trying to stay off welfare—be expected to be able to provide food, clothing, shelter, medical care and child care on the current minimum wage? Instead of maintaining barriers to self-sufficiency, we should be helping to tear them down.

Mr. President, Americans want to work. They want to be able to adequately provide for themselves and their families. But they are working harder for less and are becoming increasingly frustrated in the process. It is critical that we recognize the reality of minimum wage earners and take steps to help them rise above poverty. President Roosevelt once called for "a fair day's pay for a fair day's work." The American worker deserves no less. Many of those who supported the minimum wage increase in 1989 are here today and I would urge them to join me in calling for vote on this important measure.

UNITED STATES/FRANCE AVIATION RELATIONS

Mr. PRESSLER. Mr. President, I rise today to discuss the important issue of United States aviation relations with the Government of France. Although the immediate crisis concerning the upcoming schedule for the summer season apparently has been resolved, I remain very concerned about the state of U.S./French aviation relations.

As a result of France's decision in 1992 to renounce the bilateral aviation agreement that existed between our two countries, France currently is our only major aviation trading partner with whom we do not have an air service agreement. In the absence of such an agreement, U.S. and French carriers continue to fly between our two countries, but they do so solely at the pleasure of each government and without the necessary flexibility to increase or change service when market demand warrants. Essentially, U.S./French air service is frozen as if the clock stopped in 1992.

In a speech before the International Aviation Club of Washington last month, I spoke at some length about the fires of air service liberalization burning brightly on the European continent. In hailing the enormously important U.S./German open skies agreement signed several weeks ago, I noted that nearly 40 percent of U.S. travel to Europe will now go to or connect through open skies markets. I ask unanimous consent that the text of the speech to which I referred be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. Although this wave of air service liberalization touches France on three of its borders, France stands seemingly oblivious to the competitive air service forces besieging it. The fact of the matter is while its European neighbors are reaching out to embrace the future of global aviation with the enlightened view that the economic benefits of an open skies relationship with the United States are a two-way street, France continues to cling to the past. This choice is not without significant adverse consequences for France's economy.

So what precisely is France's air service policy with respect to the United States? It appears that policy can be best described as "managed stagnation." In an attempt to rebalance the market share of state-owned Air France vis-a-vis the highly competitive U.S. carriers, France has made the unfortunate decision to forego the tremendous air service growth other European countries are experiencing in their air service relationships with the United States. Ironically, some of the lucrative new air service opportunities European countries now enjoy are the direct result of traffic that France's restrictive air service policy has driven away to other countries.

According to a recent statement by Anne-Marie Idrac, the French State Secretary for Transport, France "is not any worse off" for its decision to renounce the U.S./French air service agreement. Economic analysis, however, paints a far different—and quite sobering—picture. In fact, this analysis shows France's policy of managed stagnation is a recipe with a very bad aftertaste for the French economy. Let me explain.

First, the adverse economic consequences of France's air service policy is best illustrated by a comparison with the recent experiences of the Netherlands. In 1991, both the U.S./French and U.S./Dutch air service markets experienced tremendous growth. Scheduled passenger traffic grew 21 percent and 14 percent respectively. In 1992, however, aviation relations with France and the Netherlands turned abruptly in opposite directions. Around the same time France renounced the U.S./French bilateral aviation agreement, the Netherlands opted to enter into an open skies agreement with the United States.

What has resulted from these decisions? The U.S./Netherlands passenger market has grown at a rate over 10 times faster than the U.S./French market. Between 1992 and 1994, scheduled passenger service between the United States and the Netherlands grew 38 percent. In stark contrast, France's decision to renounce the U.S. air service agreement caused passenger growth in the U.S./French market to abruptly halt. Scheduled passenger traffic in the U.S./French market grew a measly 3 percent during that period, compared to 21 percent in 1991 the year immediately prior to renunciation.

The net effect of these vastly different policies also is illustrated dramatically by the aggregate size of both country's passenger market with the United States. In 1991, the U.S./French passenger market was 100 percent larger than the U.S./Dutch market. By 1994, it was just 60 percent larger. What a difference two air service policies with the United States can make!

Importantly, this trend of France foregoing tremendous air service opportunities is reflected elsewhere in Europe as well. For instance, between 1992 and 1994 scheduled passenger traffic between the United States and Switzerland grew 30 percent—ten times faster than it did in the French market. Amazingly, this tremendous growth does not reflect the U.S./Switzerland open skies accord signed last year. As was the case in the Netherlands, the U.S./Switzerland open skies agreement will likely cause that rate of growth to accelerate. The more mature U.S./British air service market also experienced strong growth—10 percent—during this same period.

Unquestionably, France has succeeded at stagnating the U.S./French passenger service market at a time when new transatlantic air service opportunities for European countries with the United States abound.

Second, at a time when revenue from connecting passenger traffic is increasingly important, France's air service policy is drying up U.S. connecting traffic at Paris' two key international gateway airports, Paris-Charles de Gaulle and Orly. Between 1992 and 1994, connecting traffic carried on U.S. airlines fell 55 percent at the Paris airports. Let me repeat this astonishing fact. Connecting traffic carried on U.S. airlines fell 55 percent at the Paris airports between 1992 and 1994.

Where did this connecting traffic go? One need look no further than competing airports on the European continent. During the same period, U.S. airline connecting traffic grew 24 percent at Frankfurt and an astounding 329 percent at Amsterdam's Schipol Airport! The recent U.S./German open skies agreement, as well as open skies agreements the United States signed last year with neighboring countries including Belgium and Switzerland, will surely cause the rate of ongoing connecting passenger traffic diversion away from Paris airports to accelerate. In particular, I fully expect German airports will press France hard in this competition for connecting passenger traffic.

Third, Air France, the intended beneficiary of France's decision to renounce the U.S./French air service agreement, has on-balance suffered as a result of France's policy of managed stagnation.

It is true that state-owned Air France has increased its share of the U.S./French market from 29 percent in 1992 to 37 percent in late 1995. However, this rebalancing of market share, which in large part resulted from U.S. carriers routing connecting passengers to international gateway airports in other continental European countries, has come at an inordinately high price.

As a direct result of France's decision to tear up its air service agreement with the United States, Air France is isolated as the only major European carrier that does not have an alliance with a U.S. carrier. Quite correctly in my view, our Department of Transportation has indicated it will not approve any code-sharing alliance between Air France and a U.S. carrier until France agrees to enter into a sufficiently liberal air service agreement with the United States.

What is the practical consequence for Air France? Every major European carrier has access to feed traffic from the very lucrative U.S. domestic market except Air France. To make matters worse for Air France, if the United Airlines and Delta Air Lines alliances with European carriers are granted antitrust immunity, in combination with the Northwest/KLM alliance, nearly 50 percent of passenger traffic between the United States and Europe will be carried on fully integrated alliances. Without a doubt, France's air service policy with the United States has placed Air France at a severe competitive disadvantage in the transatlantic and connecting service markets.

A recent paper by the Commission of the European Communities on U.S./E.C. aviation relations made this point well. According to the E.C., "the commercial advantages of strategic alliances are such that it will be difficult for a major European carrier with the ambition to become (or remain) a global player, not to enter into an alliance with a U.S. partner." The E.C. is absolutely correct. France's decision to continue to forgo an air service agreement with the United States is threatening Air France's long-term future as a global player.

Mr. President, France's aviation policy with the United States is not only inconsistent with the trend of air service liberalization sweeping Europe, it also is badly out of step with France's own domestic air service policy. Earlier this year, France opened its skies to domestic competition thereby ending the virtual monopoly of Air Inter, the domestic wing of Air France. This forward looking domestic policy came about because France realized it needed to better position Air Inter to compete next year in the deregulated intra-European air service market.

Unfortunately, France has failed to apply this same vision to its air service policy with the United States. In marked contrast, France continues to cling to the past and it uses government restrictions to protect Air France from competition in the increasingly liberalized transatlantic market.

The huge economic costs the French economy is bearing as a direct result of France's misguided air service policy with the United States reminds me of an editorial I read earlier this year shortly after Thailand abandoned its economically disastrous experiment with renunciation of its air service agreement with the United States. That January 26, 1996, editorial from the Bangkok Post astutely called Thailand's decision to renew formal aviation relations with the United States "a victory for common sense."

Let me add Thailand's decision was also a victory for forward looking economic policy. In condemning the economic folly of Thailand's failed experiment, the Bangkok Post added "every airline that comes here or increases its frequency is investing more in the country, providing more jobs, bringing more tourists. Restricting those operations necessarily has the reverse effect." I ask unanimous consent that the text of the editorial from the Bangkok Post to which I have referred be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PRESSLER. Mr. President, let me conclude by saying I hope France will recognize its air service policy with the United States is an economic failure that is exacting a very high cost in terms of lost jobs and other commercial opportunities. To remedy this situation, I hope France will renew its formal aviation relations with the United States by agreeing to a liberal air service agreement. As the Commission of the European Communities recent study on EC/U.S. aviation relations recently warned, countries such as France with a restrictive air service policy place themselves at great economic risk as the wave of air service liberalization continues to sweep across Europe.

EXHIBIT 1

REMARKS OF SENATOR LARRY PRESSLER, BEFORE THE INTERNATIONAL AVIATION CLUB OF WASHINGTON, DC, FEBRUARY 14, 1996

Bruce, thank you for your kind introduction. I am pleased to join the long list of outstanding speakers who have been privileged to share their views on international aviation policy with this distinguished group.

Let me also thank the distinguished individuals who graciously accepted invitations to join me at the head table today. My friend Ambassador Chrobog and I met through our mutual love of opera. We also share a belief that the economic benefits of liberalized trade between nations is a two-way street. Mr. Ambassador, I am pleased that our two nations are on the brink of signing an open skies agreement of truly historic magnitude. Such an agreement will be momentous for both nations and will be a catalyst for fully liberalizing the enormous U.S./E.U. air service market. In pursuing this initiative, I believe Germany is providing outstanding leadership for all of its European Union partners.

Carol and Charlie, I am also pleased you are able to be here today. Carol and I share a common challenge. We each are trying to make U.S. air carriers realize that good things can happen to them when they work together as an industry. Robust competition and long-term economic vision need not be mutually exclusive. In fact, I would argue they can, and indeed should, go hand-in-hand. Charlie, as you will unfortunately experience firsthand, much work remains to be done in this regard.

For Valentines Day I had considered making sugar-coated remarks extolling the numerous benefits of a U.S./German open skies agreement. I decided, however, to save that speech for another day. The bitter sweet reality of U.S. international aviation policy is that every step taken—even major leaps forward such as a possible U.S./Germany open skies agreement—is met by parochial infighting among our carriers. Regrettably, I fully expect efforts to finalize the U.S./German open skies agreement will not escape this plague.

Let me say that I firmly believe pernicious infighting among our carriers is the single greatest barrier to the United States' efforts to open and expand global air service markets for U.S. carriers. It is a sad story which is played out time and time again.

As leaders in the aviation community, I come to you today with a challenge. I challenge you to broaden your vision of the significance of new international air service opportunities for our carriers. To me, these opportunities conjure up images of tremendous trade benefits which buoy the U.S. economy. I see significant economic benefits derived by our airline industry and aircraft manufacturers. I think of consumers benefiting by enhanced choice and competitive prices. I also see new jobs for American workers and new commercial opportunities for our States and communities.

I urge you to have the vision to look beyond which carrier has positioned itself to benefit most from new international air service opportunities. Simply put, I challenge you to make your focus the American flag on the tail of airplanes providing new service opportunities, not the name on the side of the plane.

With that challenge in mind, let me now turn to my specific remarks. Today I want to focus on exciting developments and old challenges in Europe. Of course, I speak of Germany and the United Kingdom respectively. However, since your last three speakers discussed U.S./Japan aviation relations—a subject in which I have a very keen interest—I cannot resist making a few points.

First, I am deeply troubled the Government of Japan continues to refuse to respect the beyond rights of our so-called 1952 carriers. Those rights are guaranteed by the U.S./Japan air service agreement. International agreements between countries are sacred trusts and nothing short of full compliance is acceptable.

Second, I am also very concerned about the Kyoto Forum which the Japanese organized recently. By excluding the United States and other Western country members of APEC, I believe the Government of Japan acted contrary to the spirit and intent of the Bogor Declaration.

Third, the Government of Japan's appeal for the United States to "equalize" aviation opportunities between our countries is misdirected. Market forces, not the U.S./Japan air service agreement, has tilted transpacific market share advantage in favor of U.S. carriers.

As I have said in the Senate numerous times, the disparity in transpacific market share is due to the fact that Japanese carriers—which labor under heavy government regulation—cannot compete with our more efficient carriers whose operating costs are substantially lower than their Japanese counterparts. If equality of transpacific market share is what the Government of Japan seeks, it should look no further than to itself to take steps which will enable Japanese carriers to compete more effectively with U.S. carriers. It is critical we not forget that just 10 years ago, under the very same bilateral agreement that the Government of Japan now criticizes, Japanese carriers had a larger market share on transpacific routes than U.S. competitors.

Fourth, complaints by the Government of Japan regarding the limited Fifth Freedom opportunities of our carriers must be put in proper context by considering the enormous offsetting Sixth Freedom opportunities Japanese carriers are exploiting between the Asia-Pacific market and the United States. Viewed from this perspective, Japan's criticism is without merit. In fact, I regard it as somewhat remarkable when one considers it comes from a major trading partner with whom the United States has a trade deficit of more than $65 billion!

Finally, in a floor speech on October 27th, I called on our so-called MOU carriers to come forward with economic analysis supporting their position that the cornerstone of our negotiating strategy with Japan should be to trade away the beyond rights of our 1952 carriers. Having seen no such study, today I renew my call for the MOU carriers to make their case with numbers, not rhetoric. I find it a bit odd that MOU carriers who criticize DOT for not doing adequate prenegotiation economic analysis are now pushing DOT to rush into passenger talks, even though these carriers have yet to provide economic analysis which supports their position.

Turning to Europe, let me first say that if the identity of the author of Primary Colors is the best kept secret in Washington, my support for an open skies agreement with Germany is one of the worst. I am delighted Secretary Peña and German Transport Minister Wissmann have agreed on the framework for an open skies agreement between our countries. I am also pleased a formal round of talks will be held in Washington next week to iron out textual details. I enthusiastically support swift completion of a formal U.S./German open skies agreement.

How is it that a U.S./German open skies agreement is within reach? Secretary Peña had the vision to recognize that competition is always the best ally to open restrictive markets. He built on the vision that President Bush and the Dutch government both showed when the United States and the Netherlands signed an open skies agreement in 1992. At that time, it was a very bold move, one for which Jeff Shane, who is here today, should be commended.

Jeff created a model on the European continent by which all neighboring countries could see firsthand the tremendous economic benefits that are produced by a liberalized aviation relationship with the United States. Last year, Secretary Peña built on that foundation with the nine European country open skies initiative. Then, he reached out to our excellent friend and great trading partner, Germany.

The timing could not have been better. Minister Wissmann—himself a man of great vision—recognized the time was right to secure for the German economy and German consumers the great benefits that unquestionably would result from an open skies agreement with the United States. As I said earlier, in pursuing this initiative, Germany has provided outstanding leadership for its partners in the European Union.

Before I discuss why I believe this tide of liberalization will reach the shores of the United Kingdom, let me address an issue that has come to my attention recently regarding the framework of the U.S./German open skies agreement.

I understand a question has been raised about the timing of when the U.S./German open skies agreement would take full force relative to a final decision on an application for antitrust immunity which is expected to be filed by the United Airlines/Lufthansa alliance. I do not consider this to be a problem. I have total confidence in Secretary Peña's ability to fully and fairly discharge his statutory duty in considering that application when it is filed, regardless of when the agreement goes into effect. I feel compelled to add I am somewhat mystified that some of our carriers continue to sell Secretary Peña so short, at the same time they reap the benefits from his excellent leadership in international aviation policy.

Last week in London, Malcolm Rifkind, the U.K. Secretary of State for Foreign and Commonwealth Affairs, gave a very important speech in which he advocated nothing less than transatlantic free trade. He called for "political will and vision" to bring this goal about. Pledging that "Britain will be a champion of greater economic liberalization across the Atlantic," Minister Rifkind noted the United Kingdom has been leading the way and said Britain would continue to do so.

The United Kingdom deserves great credit as a shining beacon for liberalizing trade in the U.S./E.U. market generally. However, its policy in the area of transatlantic air services is far out of step with the principles of free trade.

Let me share two truly remarkable facts which dramatically make my point. Last year, British Airways had a larger share of the U.S./U.K. passenger market than all U.S. carriers combined! Also, data shows that in terms of U.S./U.K. market share, two of the top three carriers are British airlines! Without question, market forces are not controlling the distribution of air service opportunities between the United States and Britain.

How will competitive forces unleashed by a U.S./German open skies agreement pressure Britain to reassess its outdated aviation policy which tarnishes an otherwise very impressive record on liberalizing transatlantic trade? The answer lies at two levels: heightened competition by continental European airports for connecting passenger traffic and enhanced competition by U.S. carrier alliances against British airlines.

London always will be a popular destination for passengers originating in the United States. That is not to say, however, that in this era of global networks, connecting passengers will continue to feel a compelling need to use Heathrow rather than airports such as Amsterdam's Schipol, Frankfurt or the new one planned at Berlin-Brandenburg. Connecting passengers look for convenient schedules and competitive fares. Due to the lack of European gateway opportunities, Heathrow once was the connecting airport of necessity, not choice, for passengers originating in the United States. Times have changed.

Liberalization of air service markets on the European continent have created new connecting service options. Evidence already clearly shows connecting traffic is being diverted away from London. Statistics dramatically illustrate this point. Between 1992 and 1994, connecting traffic carried on U.S. airlines grew just 3 percent at Heathrow. During the same period, U.S. connecting traffic grew 24 percent at Frankfurt and an astounding 329 percent at Schipol! An open skies agreement with Germany will greatly accelerate the rate of this connecting passenger diversion.

These statistics are very interesting but should they matter to a British policymaker? Absolutely. This trend should raise serious concerns considering that last year alone connecting traffic accounted for more than 1 billion pounds of export earnings for the United Kingdom.

A U.S./German open skies agreement will also make U.S. alliances with European carriers even more formidable competitors in the U.S./Europe air service market. This will not be a welcome development for British carriers. If the United and Delta alliances are granted antitrust immunity, in combination with the Northwest alliance, nearly 50 percent of passenger traffic between the United States and Europe will be carried on fully integrated alliances.

Will this pose a competitive challenge for British carriers? Investors in British Airways sure thought so. According to a Financial Times article last week, despite a quarterly pre-tax profit of 30 percent, British Airways shares fell on the news of the "preliminary 'open skies' deal struck between Germany and the U.S." British Airways' public attack on antitrust immunity last month at an ABA conference also is very telling on this point. Privately, British Airways has made no secret they very much covet antitrust immunity for their alliance with USAir.

So where do we go from here? I think U.S./U.K. negotiations should resume, but not on the terms of the October offer which was highly conditioned and essentially allowed the British to pick which U.S. carriers competed against British carriers in what markets. Instead, I encourage the British to come to the table with a "bigger, bolder and braver" approach like Sir Colin Marshall, Chairman of British Airways, called for last November.

First, to help clear the way for more ambitious negotiations, I am announcing today that I plan to introduce legislation to increase to 49 percent the level of permissible foreign investment in U.S. airlines. I am already working with the Administration to determine a formulation to maximize the benefits of this tool. One thing is certain, the limited, highly conditioned October offer would not trigger the benefits of the bill I intend to introduce.

Second, I am also calling today for U.S. carriers to stop being "pennywise and pound foolish" with respect to Fly America traffic. As a taxpayer, I want the U.S. government to pay the most competitive price for government travel. As a policymaker, I find nothing in the legislative history of the Fly America statute even suggesting Congress intended to guarantee U.S. carriers a monopoly profit for government travel. I see no good reason the opportunity for British carriers to competitively bid through their U.S. carrier partners for Fly America traffic should not be on the table if British negotiators pursue a "bigger, bolder and braver" approach.

Third, as far as Heathrow access is concerned, I call on the British to muster up the "political will and vision" Minister Rifkind spoke of to change the runway operations at Heathrow. On this side of the Atlantic, we are constantly told by the British Ministry of Transport that additional Heathrow access is impossible because there are no additional take-off and landing slots. What the British fail to tell us is a number of U.K. airport capacity studies, including one issued as recently as August 1994, have concluded the British could potentially create an additional 100 daily takeoff slots and an additional 100 daily departure slots at Heathrow if they switched its runways to more efficient mixed-mode operations.

I am keenly aware this is a sensitive political issue for the British government. Not long after I suggested this last July in London, I received a letter from the Heathrow Noise Coalition politely telling me to mind my own business. One thing is clear, however, the British do not have a monopoly on political problems relating to Heathrow. I need not tell this audience that Heathrow access is a hot button political issue in the United States and, quite frankly, an issue that is straining relations between our two countries.

Let me close by saying an open skies agreement with Germany unquestionably would be the product of vision by both countries. I hope the same long-term economic vision will prevail in our aviation relations with the Japanese and the British. Again, thank you for the opportunity to join you today.

Exhibit 2

[From the Bangkok Post, Fri, Jan. 26, 1996]

U.S.-Thai Aviation Deal a Victory for Common Sense

After five years of going eyeball to eyeball, the US and Thailand finally concluded an aviation agreement last January 19. Who blinked first? By all indications, Thailand. It had to, the policy of getting US airlines to reduce their frequencies between Northeast Asia and Thailand was working so brilliantly that it had to be scrapped and reversed. After all, Delta had pulled out of Thailand, both Northwest and United Airlines had reduced their frequencies. Lest anyone forget, that was the original intention for scrapping the agreement in November 1990. When the impact of that hit the tourism industry between the eyes, the backlash was instantaneous. In barely four rounds of informal and formal talks, an agreement materialized where about seven previous rounds had all failed.

There are many reasons for this agreement, and the speed at which it was pursued. But most important among them is that it risked becoming a serious political liability for Thailand's aviation negotiators who were running out of reasons for maintaining their hardline stand. The blast from the Association of Thai Travel Agents and its independent study on the aviation industry was one facet of the mounting pressure. Then there was all this talk of open-skies and aviation liberalization being pursued under the ASEAN and APEC umbrellas.

Thailand was being increasingly isolated as the US patched up its aviation differences, one by one, with other Asian and European countries. On the cargo front, the US-Filipino aviation agreement had opened a window of opportunity for Federal Express to develop Subic Bay as a regional cargo hub, a move that would leave Thailand's own Global Transpak project wallowing in the water. The American Society of Travel Agents annual convention is to be held in Bangkok in November, bringing 10,000 agents who would wonder how they are supposed to promote tourism to Thailand when the tourists can't fly here.

Moreover, the void was preventing the full consummation of the United Airlines-Thai International alliance. Both of Thailand's key aviation negotiators, the director-general of the aviation department and the permanent secretary of the ministry of communications, sit on THAI's board. By continuing to stall on the agreement, they were effectively hampering the progress of THAI. And soon coming to town as keynote speaker of the PATA conference in April is Garry Greenwald, the chairman of United Airlines who, lest anyone forget, recently tongue-lashed Japan's restrictive aviation policy and who would have no doubt have delivered a similar riposte at Thailand's had an agreement not been reached by then.

There was simply no way that Thailand could have won this battle. But neither is this agreement a victory for the United States. It is a victory for public pressure and the power of the Thai tourism, industry, especially groupings like the Association of Thai Travel Agents and people like Anant Sirisant who had the gumption to stand up and be counted, at considerable risk to himself and his own company, the East-West Group. While many other operators serve on committees and use their positions for personal aggrandizement, Mr. Anant stuck his neck out, and won.

Several months ago, this newspaper, too, called Thai aviation policy, "a national outrage." Suddenly, things began moving.

It has been said before, and it needs to be said again, global aviation is administered by archaic and backward 50-year-old rules that governments are having extreme difficult dismantling. There is no logical explanation for the structure any more; it's just the way it's done, especially in the absence of an alternative. Every country has to take its own course of action. In Thailand's case, every airline that comes here or increases its frequency is investing more in the country, providing more jobs, bringing more tourists. Restricting those operations necessarily has the reverse effect.

Foreign airlines serving Bangkok now need to forge stronger relationships with Thai hotels and tour operators, work with them, and use their political and economic strength to get what they want. This approach must, under no circumstances, be adversarial or aggressive, but always rational and constructive. If THAI is in the dumps, and likely to remain there for at least a few years as it seeks to regain its erstwhile prestige, there is no reason why other airlines should be hampered from raising their frequencies and bringing more tourists to spend their money in Thailand.

The U.S.-Thai deal is a clear victory for the concept of conducting the aviation business in an open and competitive manner. Because no matter what happens, it should always be the public that should benefit.

TRIBUTE TO EDMUND S. MUSKIE

Ms. MIKULSKI. Mr. President, I rise to pay tribute to the remarkable life of Edmund S. Muskie.

He was a great American, a true statesman, and I'm proud to say, a good friend.

Mr. President, I am the first woman of Polish heritage ever elected to the Senate. Ed Muskie took great pride in my election, since we shared a common heritage and a common set of values. He was gracious in helping me to learn the ways of the Senate. He was a strong mentor, and I have always been appreciative of the sound advice and concrete suggestions he offered to me.

He offered all of us a model of what a Senator should be. He stuck to principles, never afraid to take on the powers that be. He fought hard for what he believed in, but he bore no grudges. Edmund Muskie believed, as I do, that programs must deliver what they promise.

He made change his ally, and was never wedded to the past. If what we had been doing wasn't working, he fought to fix it. And he sought always to build consensus, to serve as a voice of moderation and practicality—in keeping with his New England roots.

I was proud to be a national co-chair of his campaign for the Presidency in 1972. It still strikes me as a great injustice that this good and decent man never had the opportunity to hold the highest office in the land. What a wonderful President he would have been.

Although he never realized his dream of becoming President, his contributions to our Nation were immense.

Edmund Muskie deserves the thanks of all Americans for his decades of public service. All of us who cherish our wilderness areas owe him a debt of gratitude for his steadfast defense of our environment as a distinguished Senator for 21 years. He was the father of the Clean Air Act and the Clean Water Act. The air we breathe is cleaner and the water we drink more pure because of Senator Muskie's dedication to environmental protection.

Those of us who care about fiscal responsibility—about making sure that

America's hardworking taxpayers get a dollar's worth of services for a dollar's worth of taxes—owe him thanks for his stewardship of the Senate Budget Committee. As Chairman of the Committee, Senator Muskie fought to curb excessive Federal spending, while also ensuring that the Government did not turn its back on those seeking a helping hand.

We owe him thanks for his service as Secretary of State under President Carter. He undertook that important responsibility at a difficult and sensitive time—while the President was working to free American hostages being held in Iran. And he fulfilled his duties with honor and wisdom.

Those of us who are Democrats also owe him a special debt. Virtually single-handedly he revitalized a dormant Democratic party in his beloved state of Maine. He became Maine's first Democratic Governor in 20 years.

Without him, the Senate might never had been honored by the service of our former Majority Leader, George Mitchell, and the United Nations might never had benefitted from the enormous contributions of Madeline Albright. He mentored them both, providing them with some of their first experiences in government.

Mr. President, America is a better place because of the dedicated public service over many decades of Edmund S. Muskie. I thank him and honor him for his service to our country.

My thoughts and prayers go out to his wife, Jane, his children and the entire Muskie family.

THE PASSING OF WILLIAM JENNINGS DYESS

Mr. HEFLIN. Mr. President, William Jennings Dyess, a long-time Foreign Service officer and State Department official, passed away recently at his home here in Washington. He was buried in his hometown of Troy, AL. An alumnus of the University of Alabama, where he received his B.A. and M.A. degrees and earned a Phi Beta Kappa key, Bill Dyess served for 25 years in the Foreign Service.

The University of Alabama National Alumni Association recently announced that a scholarship endowment had been established in his memory. I ask unanimous consent that the text of the announcement be printed in the RECORD. It tells the story of a remarkable public servant whose achievements in his field will long serve as benchmarks for those who follow him into diplomatic service.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WILLIAM JENNINGS DYESS MEMORIAL SCHOLARSHIP ENDOWMENT FUND

Adopted and raised by a local barber and his wife, Tommie J. and Leota Mae Dyess, Billy—as he was affectionately known to his friends—started a ten-year career at The Troy Messenger, at age nine. He began first as a newspaper carrier and progressed through the ranks, to sports editor, and finally, city editor. Educated in the public schools of Troy, his senior year in 1947 he edited the Troy High School newspaper, which took five national honors.

Bill's passion for journalism found him at the University of Missouri, making Phi Eta Sigma honors, but an out-of-state tuition increase forced a return to his home state. Enrolling at the University of Alabama to train as a political scientist, he earned Phi Beta Kappa honors and graduated with a B.A. in 1950 and an M.A. in 1951. Although poor eyesight precluded his playing football, Bill's time at the University fueled his love for the sport. A Rotary International Scholarship, awarded by the Troy Chapter, took him to post-graduate work at Oxford University (St. Catherine's College). Later, he studied at Syracuse University's Maxwell School.

After college, Bill began a career that would take him far away from his hometown roots in Troy. One of his first stops would be a tour with U.S. Army Intelligence in Berlin from 1953–1956. In 1958, Bill left his Ph.D. studies at Syracuse to enter the foreign service of the U.S. Department of State. Serving primarily as a political officer in Belgrade, Copenhagen, and Moscow, and as chief of liaison in Berlin, he soon became a European specialist. In Washington, DC, he served tours as both the Czech and Soviet desk officer.

No matter where Bill was based, his central mission was meeting the Soviet challenge confronting the United States and its allies. He grappled with the Soviets mostly over bilateral affairs, maritime matters, and the status of a divided Berlin. Persona non grata in Moscow, Foreign Minister Gromyko attacked him by name before a group of U.S. Senators; Moscow denied him a visa and they seriously harassed him inside the Soviet Union, claiming he was an intelligence agent, which was false. Bill acknowledged, "Their real gripe was that as Soviet desk officer, I knew how to make life in Washington difficult for the KGB, and I did." In November 1974, Bill escorted Lithuanian-American Seaman Simus Kudirka and his family to freedom.

Bill left Soviet affairs in late 1975, "partly in order to lift my nose from the US–USSR bilateral grindstone and to see better the issues worldwide," he said. He then served as Deputy Assistant Secretary for Public Affairs, and in 1980, was appointed by President Carter as Assistant Secretary of State and later as interim spokesman. Drawing on his Soviet expertise, Dyess delivered dozens of talks before diverse audiences, using these occasions not merely to present Department views on such issues as nuclear deterrents, the grain embargo, and SALT (Strategic Arms Limitations Treaty) but also "to listen closely to what American citizens were saying. The State Department has learned that any foreign policy that lacks broad public support cannot be long sustained."

Over the years, Bill's duties frequently brought him into contact with the U.S. Congress, where his work on inter-agency committees made him well-known in the executive levels of government. He received the State Department's Superior Honor Award and Meritorious Honor Award. White House contacts extended over several Republican and Democratic administrations and in 1981, President Reagan appointed Bill as Ambassador to The Netherlands.

As Ambassador, Bill was responsible for every phase of U.S-Dutch relations, including military installations. He was credited with persuading Dutch officials and Parliamentarians to reexamine their positions on fulfilling NATO goals after the peace movement's protests stirred strong public anti-American sentiment. Bill enjoyed strong ties with the Dutch business community, then the largest direct investor in the U.S. from abroad. Before his retirement in 1983, The Netherlands awarded him the Grand Cross in the Order of Orange-Nassau, the highest decoration given to foreigners.

For Bill, retirement from government service meant another exciting beginning as he started his own consulting business, WmDyess Associates, Inc., in Washington, DC. Clients—he did not work for foreign governments—were in publishing, manufacturing, shipping and oil explorations.

Aside from running his own business, Bill was able to devote much of his time to the alumni activities of both Oxford University and the University of Alabama. He was particularly active with his local Alabama alumni chapter, the National Capital Chapter, where he promoted scholarship fundraising events. Serving as honorary scholarship chairman, on one such occasion, he organized a scholarship dinner for former University of Alabama President Dr. Frank Rose. On another occasion, Bill brought in Pulitzer Prize winner, Dr. Edward O. Wilson. Bill was a generous contributor of his time and money to the Alumni Associations' efforts.

An avid college football fan, Bill was a loyal supporter of the Alabama Crimson Tide. He read a book a week and was devoted to the subject of astrophysics. Bill was fluent in German, Russian, and Serbo-Croatian.

After a long bout with prostate cancer, at 66, Bill passed away on January 6, 1996 at his home in Washington, DC, and was buried with full military honors at Green Hills Cemetery in Troy, Alabama, next to his parents. His son, Chandler, and his beloved Jack Russell terrier, Pistol Ball, live in Washington, DC.

In memory of Bill's dedication to public service, his friends, with his family's support, have established a scholarship endowment at the University of Alabama National Alumni Association.

NEAL BERTE'S 20 YEARS AT BIRMINGHAM-SOUTHERN COLLEGE

Mr. HEFLIN. Mr. President, Dr. Neal R. Berte recently celebrated his 20th year as president of my undergraduate alma mater, Birmingham-Southern College. He has been, and continues to be, an outstanding spokesman, administrator, and scholarly leader of one of the Nation's very best liberal arts colleges.

A native of Ohio, Dr. Berte and his wife, Anne, have four grown children and two grandchildren. He obtained his bachelor's, master's, and doctoral degrees all at the University of Cincinnati. A member of Phi Beta Kappa honor society, he also holds honorary doctoral degrees from Birmingham-Southern and Cincinnati. He served as an associate professor at the University of Alabama from 1970 through 1974 and as the university's vice president for educational development from 1974 until 1976. He also served as dean of the university's New College from 1970 until 1976 when, on February 1, he became president of Birmingham-Southern College.

Dr. Berte is recognized as one of the most accomplished, successful educational professionals of our time. Under his stewardship, Birmingham-Southern's endowment has increased from $14 million to $82 million and its student population, made up of some of the brightest high school graduates in the State and Nation, has more than doubled. Acceptance of its graduates to medical and law schools is among the highest in the South and its outstanding faculty has increased by 66 percent during his tenure as president. He has also overseen the construction of eight new campus buildings.

The campus of Birmingham-Southern, known as The Hilltop, has an atmosphere of learning and of intellectual achievement. This atmosphere is reflected in the fact that the school is consistently recognized as one of the top national liberal arts colleges by such prestigious publications as U.S News and World Report, National Review, Money Magazine, the Insider's Guide to the Colleges, Southern Magazine, and the Princeton Review.

The National Review's College Guide has said, "An ambiance of graciousness, a tradition of academic excellence, and close student-faculty relations have made Birmingham-Southern College one of the standout liberal arts colleges in the South * * *" U.S. News calls it a " * * * trailblazer for higher education of the future." These kinds of accolades are a direct reflection of the school president's strong commitment, total dedication, and superb leadership skills.

Birmingham-Southern College's graduates of all ages speak often of the deep pride and affection they have for their alma mater. Indeed, the school enjoys an uncommonly strong level of support among its loyal and generous alumni. Even those of us who were students there long before Dr. Berte's arrival 20 years ago have enjoyed a renewed sense of pride in Birmingham-Southern since he became president.

Birmingham-Southern does not have a football program, but its basketball team has won two National Association of Intercollegiate Athletics [NAIA] championships in the past 7 years, most recently in 1995. Its baseball team has advanced to the NAIA World Series on three occasions.

Dr. Berte's many honors and awards include his induction into the Alabama Academy of Honor; his selection as Birmingham's Citizen of the Year; his selection as one of the 100 Most Effective College Presidents by the Council for Advancement and Support of Education; and his recognition as one of America's Leaders in Higher Education by the American Council on Education.

Birmingham's morning newspaper, the Post-Herald, carried a front-page feature on his life and career on February 6 and an editorial on his tenure at Birmingham-Southern the next day. I ask unanimous consent that the text of these articles be printed in the RECORD.

I want to commend and congratulate Dr. Neal Berte for his impeccable leadership, clear vision, and total dedication to the field of higher education in general and to Birmingham-Southern in particular. As a proud alumnus of the college, I have no doubt that his next 20 years there will be just as productive and vibrant as his first. It could not be in more capable hands.

There being no objection, the material was ordered to be printed in the Record, as follows;

[From the Birmingham Post-Herald, Feb. 6, 1996]

BERTE LOOKS TO THE FUTURE AT BSC

(By Michaelle Chapman)

When you ask Neal R. Berte about his future, expect him to talk about his goals for Birmingham-Southern College.

Berte celebrated his 20th anniversary as president there Thursday.

He has had plenty of opportunities to go elsewhere but said, "I feel sort of content."

That's not to say Berte has no goals for the small liberal arts school he helped build into one of the best of its kind in the nation.

But he really can't envision a job offer good enough to persuade him to leave the Hilltop and the city he has come to call home.

At 55, Berte is a slim and energetic man who puts those in his company at ease with his friendly but earnest manner.

While many college presidents confine their interests to campus, Berte's voice is heard far beyond the gates of Birmingham-Southern.

Berte is an example to his students, whom he expects to get involved in the community.

He's chairman of Leadership Birmingham and the Birmingham Business Leadership Group, made up of the chief executive officers of 45 of Birmingham's largest businesses.

His past positions have included chairman of the Birmingham Area Chamber of Commerce and campaign chairman and president of the United Way of Central Alabama. He's also been Birmingham's Citizen of the Year and been inducted into the city's Distinguished Gallery of Honor.

Birmingham-Southern students follow in Berte's footsteps in their amount of community involvement. "Every year, over half of our students and faculty are out in service to others," Berte said.

"We've been here long enough that I've seen them go out and make a difference in terms of their careers but also make a difference as far as their civic involvements, in the life of the communities where they live, in the life of their churches."

Berte said he gets to know the names of most students. "We work at trying to treat each student as an individual. * * * I think somehow knowing someone's name does make a difference, so I work at it," he said.

Students who get up early to exercise can find Berte in the college's old gym at 6 a.m. either running or doing weight training. He's in his office by about 8:15 a.m. and spends many evenings at on-campus functions or events around town.

Ed LaMonte, a Birmingham-Southern professor who is on leave while serving as interim superintendent of Birmingham schools, said Berte is an excellent example of leadership.

"He has simply stepped forward time after time to play a very important role in what is in the best interest of the city. * * * He has, on occasions, played a role that has cost the college a bit in terms of support but has served the community well," LaMonte said.

"He's the personification of the word 'leader,'" said Don Newton, president of the Chamber of Commerce. "I have never seen him tackle anything that he didn't complete the task."

Herbert A. Sklenar, chairman of the Birmingham-Southern Board of Trustees, believes Berte's involvement in the community is part of the reason why the school is doing so well.

"He took an institution that had a great tradition and history but was faltering somewhat and has turned it around and, by all kinds of measurements, turned it into a success," Sklenar said.

Twenty years ago, Berte said, "There were some large problems * * * that probably were reflective of many colleges and universities across the country. * * * We had a declining enrollment. We were operating on a deficit budget. I think it's fair to say the general public did not have a real positive attitude about the value of liberal arts education."

But the trustees were committed, the faculty was outstanding and the students were capable, he said.

Berte pulled all those forces together and began improving the school, which had abut 827 students. Today, 1,562 students are enrolled at Birmingham-Southern.

Other things are changing at Birmingham-Southern as well—much of it as part of the Toward the 21st Century Campaign, a $64 million fundraising effort that began last May. Pledges for $46 million have been received so far.

Berte is proud that the endowment has grown to $82.2 million from $14 million.

In the past few years, Birmingham-Southern has gotten considerable national recognition from magazines, publications and foundations that rate colleges and universities.

"That is good for Birmingham-Southern . . . but I'd like to believe it also is good for Birmingham and for Alabama," Berte said.

[From the Birmingham Post-Herald, Feb. 7, 1996]

20 YEARS OF LEADERSHIP

Twenty years ago, the future looked dim for many small, private liberal arts colleges. Declining enrollments and troubled financial conditions forced many such schools out of existence. Others survived by abandoning much of their distinctiveness through merger into other colleges and universities or becoming taxpayer-funded institutions. People were even questioning whether a liberal arts education still had any value.

Among the colleges in trouble was Birmingham-Southern College. Enrollment was down significantly, the college had a budgetary deficit and the college presidency had changed hands several times in a very short period.

Then, on Feb. 1, 1976, Neal Berte became college president. Under his leadership, the Methodist institution enhanced what were still strong academic programs, rebuilt its finances and reversed the erosion of a tradition of community involvement.

If Berte had done nothing more in the past 20 years than restore Birmingham-Southern's standing as one of the best liberal arts colleges in this part of the country, he would deserve high praise. But as anybody who follows public life in this community must know, he has done much more.

There is hardly a facet of civic life that has not been affected—for the better—by Berte. He holds or has held chairmanships in several organizations. But even more important has been his ability to bring other leaders and potential leaders together in ways that improve Birmingham for all of us. He has been a much-needed catalyst for change.

Anybody seeking an example of what being a leader means need look no farther than the Birmingham-Southern hilltop campus and the office of Neal Berte.

REPORT ON THE ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT FOR CALENDAR YEAR 1994—MESSAGE FROM THE PRESIDENT—PM 135

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

In accordance with section 540 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360qq) (previously section 360D of the Public Health Service Act), I am submitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act of 1968 during calendar year 1994.

The report recommends the repeal of section 540 of the Federal Food, Drug, and Cosmetic Act that requires the completion of this annual report. All the information found in this report is available to the Congress on a more immediate basis through the Center for Devices and Radiological Health technical reports, the Radiological Health Bulletin, and other publicly available sources. The Agency resources devoted to the preparation of this report could be put to other, better uses.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 27, 1996*.

REPORT ON THE TRADE AGREEMENTS PROGRAM FOR CALENDAR YEAR 1995 AND THE TRADE POLICY AGENDA FOR CALENDAR YEAR 1996—MESSAGE FROM THE PRESIDENT—PM 136

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

As required by section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 1996 Trade Policy Agenda and 1995 Annual Report on the Trade Agreements Program.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 27, 1996*.

MESSAGES FROM THE HOUSE

At 10:14 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 158. Joint resolution to recognize the Peace Corps on the occasion of its 35th anniversary and the Americans who have served as Peace Corps volunteers.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 146. Concurrent resolution authorizing the 1996 Special Olympics Torch Relay to be run through the Capitol Grounds.

H. Con. Res. 147. Concurrent resolution authorizing the use of the Capitol Grounds for the fifteenth annual National Peace Officers' Memorial Service.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.J. Res. 158. Joint resolution to recognize the Peace Corps on the occasion of its 35th anniversary and the Americans who have served as Peace Corps volunteers; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

Pursuant to the order of February 9, 1996, the following measure was placed on the calendar:

H.R. 849. An act to amend the Age Discrimination in Employment Act of 1967 to reinstate an exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers; and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2189. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–2190. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Secretary of State Determination relative to Israel; to the Committee on Foreign Relations.

EC–2191. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report on agency compliance with respect to unfunded mandates reform; to the Committee on Governmental Affairs.

EC–2192. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report relative to cost of travel and privately owned vehicles of federal employees; to the Committee on Governmental Affairs.

EC–2193. A communication from the Chairman of the Board of Governors of the Federal Reserve, transmitting, pursuant to law, a report relative to the implementation of its administrative responsibilities during calendar year 1995; to the Committee on Governmental Affairs.

EC–2194. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2195. A communication from the Vice President and General Counsel of the Overseas Private Investment Corporation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2196. A communication from the Chairman of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC–2197. A communication from the Board Members of the Railroad Retirement Board, transmitting a draft of proposed legislation to amend the Railroad Retirement Act to conform the statute of limitations with respect to the creditability of compensation under that Act to the statute of limitations with respect to the payment under the Railroad Retirement Act and for other purposes; to the Committee on Labor and Human Resources.

EC–2198. A communication from the Secretary of Transportation, Commonwealth of Virginia, transmitting, pursuant to law, the final report on the I–66 HOV–2 Demonstration Project; to the Committee on the Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–523. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on the Judiciary.

"SENATE CONCURRENT RESOLUTION 1014

"Whereas, separation of powers is fundamental to the United States Constitution and the power of the federal government is strictly limited; and

"Whereas, under the United States Constitution, the states are to determine public policy; and

"Whereas, it is the duty of the judiciary to interpret the law, not to create law; and

"Whereas, our present federal government has strayed from the intent of our founding fathers and the United States Constitution through inappropriate federal mandates; and

"Whereas, these mandates by way of statute, rule or judicial decision have forced state governments to serve as the mere administrative arm of the federal government; and

"Whereas, federal district courts, with the acquiescence of the United States Supreme

Court, continue to order states to levy or increase taxes to comply with federal mandates; and

"Whereas, these court actions violate the United States Constitution and the legislative process; and

"Whereas, the time has come for the people of this great nation to further define the role of the courts in their review of federal and state laws; and

"Whereas, several states have petitioned the United States Congress to propose an amendment to the Constitution of the United States of America; and

"Whereas, the amendment was previously introduced in Congress; and

"Whereas, the amendment seeks to prevent federal courts from levying or increasing taxes without representation of the people and against the people's wishes; and

"Whereas, the State of Arizona desires that the United States Congress acknowledge and act upon this expression of the intent of the various states without the necessity of those states calling a constitutional convention as authorized in Article V of the Constitution of the United States: Therefore, be it

Resolved by the Senate of the State of Arizona, the House of Representatives concurring:

"1. That the Congress of the United States prepare and submit to the several states an amendment to the Constitution of the United States to add a new article providing as follows: "Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such a state or political subdivision, to levy or increase taxes".

"2. That this application constitutes a continuing application in accordance with Article V of the Constitution of the United States.

"3. That the Legislature of the State of Arizona also proposes that the legislatures of each of the several states comprising the United States that have not yet made similar requests apply to the United States Congress requesting enactment of an appropriate amendment to the United States Constitution, and apply to the United States Congress to propose such an amendment to the United States Constitution.

"4. That the Secretary of State of the State of Arizona transmit copies of this Resolution to the presiding officer in each house of the legislature in each of the other states in the Union, the Speaker of the United States House of Representatives, the President of the United States Senate and to each Member of the Arizona Congressional Delegation."

POM-524. A concurrent resolution adopted by the Legislature of the State of Hawaii to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION NO. 14

"Whereas, the Omnibus Budget Reconciliation Act of 1993 signed into law by President Clinton on August 10, 1993, included the largest tax increase in history: $115 billion in new taxes and a forty-seven percent increase in income tax rates; and

"Whereas, the income, estate, and gift tax components of the tax increase were retroactive, taking effect on January 1, 1993; and

"Whereas, Treasury Secretary Bentsen has declared that more than one and one-quarter million small businesses will be subject to retroactive taxation despite the administration's claim that the tax increase "only affected the rich"; and

"Whereas, the retroactivity of the Omnibus Budget Reconciliation Act of 1993 is unprecedented in that it became effective during a previous administration-Before President Clinton or the 103rd Congress even took office; and

"Whereas, the passage of the bill resulted in loud public outcry against retroactive taxation; and

"Whereas, retroactive taxation places an unfair and intolerable burden on the American taxpayer; and

"Whereas, retroactive taxation is wrong, it is bad policy, and it is a reprehensible action on the part of the government; now, therefore, be it

"*Resolved by the House of Representatives of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1995, the Senate concurring,* That the Legislature of the State of Hawaii memorialize the Congress of the United States to propose and submit to the several states an amendment to the Constitution of the United States that would provide that no federal tax shall be imposed for the period before the date of the enactment of the retroactive tax; and

"*Resolved,* That certified copies of this Concurrent Resolution be transmitted to the President of the United States, the Secretary of the United States Senate, the Clerk of the United States House of Representatives, Hawaii's Congressional delegation, the Speaker of the House of Representatives, and the Senate President."

POM-525. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on the Judiciary.

"SENATE CONCURRENT RESOLUTION NO. 11

"Whereas, in recent years the federal judges, with the support of the United States Supreme Court, have imposed taxes or required the increase of taxes to raise the revenue to support various court orders; and

"Whereas, the judicial branch of government is making more decisions which affect the everyday life of citizens; and

"Whereas, taxation must be the exclusive prerogative of elected representatives and not be subject to imposition by an appointed judiciary; and

"Whereas, attempted judicial preemption in a matter as critical to the welfare of states and the people represented by state legislatures as taxation requires a response; and

"Whereas, the Missouri Legislature has passed a concurrent resolution requesting Congress to propose an amendment to the United States Constitution to restrict the power of the federal courts in this area; and

"Whereas, Colorado, Tennessee, and New York have already joined Missouri in its effort by adopting the identical language demonstrating the solidarity of state legislatures on this issue: Therefore, be it

"*Resolved,* That the Legislature of Louisiana memorializes the Congress of the United States to adopt and propose an amendment to the Constitution of the United States to read as follows: 'Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes.' Be it further

"*Resolved,* That a duly attested copy of this Resolution be immediately transmitted to the president of the United States, to the secretary of the United States Senate, to the clerk of the United States House of Representatives, and to each member of the Louisiana delegation to the United States Congress."

POM-526. A concurrent resolution adopted by the Legislature of the State of South Dakota; to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION NO. 1010

"Whereas, in Missouri v. Jenkins (495 U.S. 33, 110 S.Ct. 1691 (1990)), the Supreme Court held that a federal court had the power to order an increase in state and local taxes thereby violating a fundamental tenet of the separation of powers: that members of the federal judiciary, who serve for life and are answerable to no one, should not have control over the power of the purse; and

"Whereas, section 8 of Article I of the Constitution of the United States vests with the legislative branch of government alone the extraordinary power to 'lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States'; and

"Whereas, the courts' action are an intrusion into a legitimate political debate over state spending priorities and not a response to a constitutional directive; and

"Whereas, Justice Kennedy observed in his dissent in Missouri v. Jenkins that 'this assertion of judicial power in one of the most sensitive of policy areas, that involving taxation, begins a process that one time could threaten fundamental alteration of the form of government our Constitution embodies'; and

"Whereas, since 1990, when the Supreme Court declared in Missouri v. Jenkins that the federal courts have the authority and power to levy and increase taxes, Congress has chosen not to intercede on behalf of the people to protect the democratic process which has been corrupted by the unconstitutional authority and power to tax which the federal courts have exercised; and

"Whereas, the time has come for the people of this great nation, and their duly elected representatives in state government, to reaffirm, in no uncertain terms, that the authority to tax under the Constitution of the United States is retained by the people who, by their consent alone, do delegate such power to tax explicitly to those duly elected representatives in the legislative branch of government who they choose, such representatives being directly responsible and accountable to those who have elected them: Now, therefore, be it

"*Resolved, by the House of Representatives of the Seventy-first legislature of the State of South Dakota, the Senate concurring therein,* That application is hereby made pursuant to Article V of the United States Constitution for an amendment to the Constitution reading substantially as follows: 'Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes.'; and be it further

"*Resolved,* That this petition constitutes a continuing application in accordance with Article V of the Constitution of the United States; and be it further

"*Resolved,* That this legislative body requests the legislatures of the several states comprising the Union to make similar application to Congress for the purpose of proposing such an amendment to the United States Constitution.".

POM-527. A resolution adopted by the Senate of the Legislature of the State of Kansas; to the Committee on Labor and Human Resources.

"SENATE RESOLUTION NO. 1824

"Whereas, improving patient access to quality health care is a paramount national goal; and

"Whereas, the key to improved health care, especially for persons with serious unmet medical needs, is the rapid approval of safe and effective new drugs, biological products and medical devices; and

"Whereas, minimizing the delay between discovery and eventual approval of a new drug, biological product or medical device derived from research conducted by innovative pharmaceutical and biotechnology companies could improve the lives of millions of Americans; and

"Whereas, current limitations on the dissemination of information about pharmaceutical products reduce the availability of information to physicians, other health care professionals and patients, and limits the right of free speech guaranteed by the First Amendment to the United States Constitution; and

"Whereas, the current rules and practices governing the review of new drugs, biological products and medical devices by the United States Food and Drug Administration can delay approvals and are unnecessarily expensive: Now, therefore, be it

"*Resolved by the Senate of the State of Kansas*, That we respectfully urge the Congress of the United States to address this important issue by enacting comprehensive legislation to facilitate the rapid review and approval of innovative new drugs, biological products and medical devices, without compromising patient safety or product effectiveness; and be it further

"*Resolved*, That the Secretary of the Senate be directed to send enrolled copies of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of the Kansas Congressional Delegation."

POM-528. A concurrent resolution adopted by the Legislature of the State of West Virginia; to the Committee on Labor and Human Resources.

"HOUSE CONCURRENT RESOLUTION 18

"Whereas, improving patient access to quality health care is the number one national goal; and

"Whereas, the key to improved health care, especially for persons with serious unmet medical needs, is the rapid approval of safe and effective new drugs, biological products and medical devices; and

"Whereas, two thirds of all new drugs approved in the last six years by the Food and Drug Administration were approved first in other countries with approval of a new drug currently taking 14.8 years; and

"Whereas, the United States has long led the world in discovering new drugs, but too many new medicines first are introduced in other countries, with forty drugs currently approved in one or more foreign countries still in development in the United States or awaiting FDA approval; and

"Whereas, the patient is waiting for the industry to discover and efficiently develop safe and effective new medicines and for the FDA to facilitate the development and approval of safe medicines sooner; and

"Whereas, there is a broad bipartisan consensus that the FDA must be re-engineered to meet the demands of the twenty-first century; and

"Whereas, the current rules and practices governing the review of new drugs, biological products and medical devices by the United States Food and Drug Administration can delay approvals and are unnecessarily expensive; therefore, be it

"*Resolved by the Legislature of West Virginia:* That this Legislature respectfully urges: the Congress of the United States to address this important issue by enacting comprehensive legislation to facilitate the rapid review and approval of innovative new drugs, biological products and medical devices, without compromising patient safety or product effectiveness; and, be it further

"*Resolved*, That the Clerk of the House of Delegates be hereby directed to transmit appropriate copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and to each member of the West Virginia Delegation of the Congress."

POM-529. A resolution adopted by the Legislature of the Commonwealth of Puerto Rico; to the Committee on Foreign Relations.

"H.R. 5231

"The House of Representatives, as a body representing the People of Puerto Rico, deems it prudent to express to the Cuban community the indignation of the People of Puerto for those vicious murders and to urge the President and the members of the Congress of the United States of America to take all the measures directed to vindicating the memory of these four people, preventing the strategy of repression of the Cuban government against dissident groups and to attain the establishment of a democratic system of government in Cuba, based on respect for human dignity. Be it

"*Resolved by the House of Representatives of Puerto Rico:*

"SECTION 1. To express the repudiation and indignation of the House of Representatives of Puerto Rico for the cowardly murder of four (4) members of the humanitarian organization "Brothers to Rescue" by the armed forces of the totalitarian regime of Fidel Castro.

"SECTION 2. To urge the President and the members of the Congress of the United States of America to take all the measures needed to prevent the strategy of repression of the Cuban government against dissident groups and to attain the establishment of a democratic system of government in Cuba, based on respect for human dignity.

"SECTION 3. This Resolution shall be translated into the English language and remitted to the President of the United States and to the President and Speaker of both Bodies of the Congress of the United States of America.

"SECTION 4. A copy of this Resolution shall also be remitted to the Ambassadors of the United States of America and of Cuba at the United Nations Organization as well as to the Secretary General of said International Organization.

"SECTION 5. This Resolution shall take effect immediately after its approval."

POM-530. A resolution adopted by the Legislature of the Virgin Islands; to the Committee on Energy and Natural Resources.

"RESOLUTION NO. 1552

"Whereas, in 1968 and 1973, the Congress of the United States found it necessary to enact the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973; and

"Whereas, in considering the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, the Congress of the United States found the following to be true:

"'(1) From time to time, flood disasters have created personal hardships and economic distress which have required unforeseen disaster relief measures and have placed an increasing burden on the Nation's resources.

"(2) Despite the installation of preventive and protective works, and the adoption of other public programs designed to reduce losses caused by flood damage, these methods have not been sufficient to adequately protect against growing exposure to future flood losses.

"(3) As a matter of national policy, a reasonable method of sharing the risk of flood losses is through a program of flood insurance which can complement and encourage preventive and protective measures.

"(4) If such a program is initiated and gradually carried out, it can be expanded as knowledge and experience are gained, eventually making flood insurance coverage available on reasonable terms and conditions to persons who have need for such protection.

"(5) Many factors have made it economically difficult for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions.

"(6) A program of flood insurance which includes the large-scale participation of the Federal Government carried out to the maximum extent practicable by the private insurance industry is feasible and can be initiated.

"(7) Federal instrumentalities insure or otherwise provide financial protection to banking and credit institutions whose assets include a substantial number of mortgage loans and other indebtedness secured by property exposed to loss and damage from floods and mud-slides.

"(8) The nation cannot afford the tragic loss of live caused annually by floods, nor the increasing property losses suffered by flood victims, most of whom are still inadequately compensated despite receiving disaster relief benefits.

"(9) It is in the public interest for persons already living in flood-prone areas to have an opportunity to purchase flood insurance and to have access to more adequate limits of coverage, so that they will be indemnified for their losses in the event of future flood disasters"; and

"Whereas, Hurricane Marilyn's high sustained and gusting winds caused the Territory of the United States Virgin Islands to suffer catastrophic damage in the billions of dollars; and also caused the territory to be declared a federal disaster area by President Clinton; and

"Whereas, Hurricane Opal's high sustained and gusting winds have devastated certain areas of the United States gulf coast and the Mexican coast; and

"Whereas, Hurricane Luis which threatened the United States Virgin Islands with Category 4 force winds and resulted in some physical damage to the territory; and

"Whereas, Hurricane Hugo's high sustained and gusting winds devastated the United States Virgin Islands, particularly St. Croix, and South Carolina in 1989, resulting in damage in the billions of dollars; and

"Whereas, Hurricane Andrew's high sustained and gusting winds devastated certain areas of southern Florida in 1992, resulting in damage in the billions of dollars; and

"Whereas, in light of a long history of hurricanes and their accompanying windstorms wreaking death and destruction in the United States, its possessions in the Caribbean sea and in the Pacific; and

"Whereas, the migration of people to coastal areas of the United States, and to its possessions including the U.S. Virgin Islands have increased; and

"Whereas, recent scientific warnings about global warming and its effect on global weather patterns are predicting more frequent and intense hurricane activity; and

"Whereas, the periodic absence of the "El Nino" phenomenon increases the likelihood of the formation of hurricanes; and

"Whereas, the Legislature of the Virgin Islands finds that the history of past hurricane and windstorm activity, and the prospect of increased hurricane and windstorm activity affecting the United States and its possessions (including the U.S. Virgin Islands) present the same, or similar, considerations which led to enactment of the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973; and

"Whereas, the following is from the National Flood Insurance Act:

"(1) Windstorms have created personal hardships and economic distress which have required unforeseen disaster relief measures and have placed an increasing burden on the Nation's resources.

"(2) Installation of preventive and protective works . . . have not been sufficient to protect adequately against growing exposure to future [windstorm] losses.

"(3) As a matter of national policy, a reasonable method of sharing the risk of [windstorm] losses is through a program of [windstorm] insurance.

"(4) If such a program is initiated . . . it can [make windstorm insurance] coverage available on reasonable terms and conditions.

"(5) Many factors have made it uneconomical for the private insurance industry alone to make [windstorm] insurance available to those in need of such protection on reasonable terms and conditions.

"(6) A program of [windstorm] insurance with large-scale participation of the federal government carried out to the maximum extent practicable by the private insurance industry is feasible and can be initiated.

"(7) Federal instrumentalities insure or otherwise provide financial protection to banking and credit institutions whose assets include a substantial number of mortgage loans and other indebtedness secured by property exposed to loss and damage from [windstorms].

"(8) The nation cannot afford . . . the increasing losses of property suffered by [windstorm] victims, most of whom are still inadequately compensated despite the provision of costly disaster relief benefits.

"(9) It is in the public interest for persons already living in [windstorm-prone] areas to have both an opportunity to purchase [windstorm] insurance and access to more adequate limits of coverage, so that they will be indemnified for their losses in the event of future [windstorm] disasters." Now, therefore, be it

"Resolved by the Legislature of the Virgin Islands:

"SECTION 1. The Legislature of the Virgin Islands, on behalf of the people of the Virgin Islands, respectfully and urgently petitions the United States Congress to establish a National Windstorm Insurance Program, to be patterned after the National Flood Insurance Program.

"SECTION 2. Copies of this resolution shall be forwarded to the President of the United States, each member of the United States Congress, and the Virgin Islands Delegate to Congress. Copies of this resolution shall also be forwarded to the Governor and the Legislature of every state and possession of the United States located in a windstorm-prone area. These various jurisdictions shall be asked to adopt this resolution and to join with the United States Virgin Islands in petitioning Congress to establish a National Windstorm Insurance Program because they would also benefit from such a program."

POM–531. A resolution adopted by the House of the Legislature of the State of Georgia; to the Committee on Energy and Natural Resources.

"H.R. NO. 850

"Whereas, a proposal has been made to the United States Congress to sell facilities used by the Southeastern Power Administration (SEPA) which is headquartered in Elbert County, Georgia; and

"Whereas, these facilities, which include nine hydroelectric dams, provide electric power and reservoirs for Georgia; and

"Whereas, all of these facilities, operated by the United States Army Corps of Engineers, also provide the public with needed fish and wildlife resources, municipal, industrial, and agricultural water supplies, flood control, reservoir and downstream recreational uses, and river water level regulation; and

"Whereas, such proposed sale would give too little assurance that these assets will be administered with due consideration to the purposes of the facilities not related to power production, such as water supply, flood control, navigation, recreation, and environmental protection; and

"Whereas, the revenue from the electricity generated by the hydroelectric dams exceeds the retirement obligations of the construction bonds and costs of operation and maintenance for these facilities; and

"Whereas, many Georgians served by these facilities could likely experience significant rate increases in electricity and water as a result of this sale: Now, therefore, be it

"Resolved by the House of Representatives, That the members of this body urge the United States Congress to reevaluate the negative impacts of this proposal and avoid any transfer of federal dams, resources, turbines, generators, transmission lines, and related power marketing association facilities. Be it further

"Resolved, That the Clerk of the House of Representatives is authorized and directed to transmit an appropriate copy of this resolution to the Speaker of the United States House of Representatives, the presiding officer of the United States Senate, and members of the Georgia congressional delegation."

POM–532. A resolution adopted by the House of the Legislature of the Commonwealth of Puerto Rico; to the Committee on Energy and Natural Resources.

"HOUSE CONCURRENT RESOLUTION NO. 35

"United States legislation on coasting trade limits the transit of ships between points in the United States, including its territories and possessions, directly or through a foreign port, to ships built and registered in the United States. 46 U.S.C. 883 (1988). Said legislation is applicable not only to the ports of the fifty states, but also to those of the territories and possessions. 46 U.S.C. 887 (1988). The Virgin Islands has been the only territory excluded from the application of this legislation, through an amendment approved in 1936. Ch. 228. 49 Stat. 1207.

"Said legislation is applicable to Puerto Rico since 1900, when, upon the approval of the first organic act (Foraker Act), the Congress provided that the coasting trade between Puerto Rico and the United States shall be regulated in accordance with the provisions of law applicable to such trade between any two great coasting districts of the United States. Furthermore, Puerto Rico constitutes, according to federal coasting trade laws, one of the 'great coasting districts' of the United States. Upon the approval of the Jones Act in 1917, Congress provided that the 'laws on tariffs, customs and taxes on imports to Puerto Rico prescribed in the Act (Foraker) would continue in effect.' Ch. 145, Section 58, 39 Stat. 968 (1917). This provision maintained the effectiveness of the coasting trade laws, which are still in force.

"Due to our geographic condition as an island, the significantly higher costs of maritime transportation in ships of North American registration and the juridical impossibility of using foreign flag ships, Puerto Rico has always been deprived of the advantages of free competition in the maritime transportation market.

"In the United States, there is a growing awareness that the coasting trade legislation is very inefficient and to a certain extent, obsolete. The benefits derived by the limited maritime sector are comparably inferior to those that would be derived by the total United States economy, through a new scheme of free competition in maritime transportation. Important sectors of the government of the United States have proposed the elimination or modification of coasting trade laws as part of their efforts to eliminate those areas in which there is a waste of resources, bureaucracy and inefficiency.

"In an increasingly interdependent world, Puerto Rico needs greater flexibility to take advantage of the options offered in the international market. To attain greater economic development, it is essential to reduce the dependency on federal transfers and tax privileges which diminish the dignity of the People, individually and collectively, and which represent an undue burden on the government and taxpayers of the United States. One way of achieving this objective is through the exclusion of Puerto Rico from the scope of application of the federal coasting trade laws. This would not be the first time that the Congress excludes a territory from said legislation. In 1936, the Congress excluded the Virgin Islands to stimulate the economy of said territory. See American Maritime Association vs. Blumenthal, 590 F. 2d 1156, 1166–69 (D.C. Cir. 1978). Be it

"Resolved by the Legislature of Puerto Rico:

"SECTION 1. The Legislature of the Commonwealth of Puerto Rico requests the Congress of the United States of America that by virtue of its full power to legislate over Puerto Rico under the Territorial Clause of the Federal Constitution, to amend the coasting trade laws to exclude Puerto Rico from the scope of application of said laws. Specifically, it is herein proposed:

"a. that the text of Title 46, Section 293 of the United States Code, in effect be amended to eliminate all reference to Puerto Rico and to integrate the current text of Section 293(a) of that same Title 46, to read as follows: 'The seacoasts and navigable rivers of the United States shall be divided into five great districts; the first to include all the collection districts on the seacoasts and navigable rivers between the northern boundary of the State of Maine and the southern boundary of the State of Texas; the second to include all the collection districts on the Great Lakes, their connecting and tributary waters, as far east as the Raquette River, New York; the third to include the collection districts on the seacoasts and navigable rivers between the southern boundary of the State of California and the northern boundary of the State of Washington; the fourth to consist of the State of Alaska; the fifth to consist of the State of Hawaii';

"b. that the present Section 293(a) of Title 46 of the United States Code be repealed;

"c. that the text of the Federal Merchant Marine Act of 1920, Section 21, 41 Stat. 997, 46 U.S.C. 877, in effect, be amended to add the following text: '. . .: and provided further, that the coasting laws of the laws of the United States shall not extend to the Commonwealth of Puerto Rico.'

"d. that Section 9 of the federal Act entitled 'An Act to temporarily provide revenues and a civil government of Puerto Rico, and for other purposes,' of April 12, 1900, Ch. 191, 31 Stat. 79, at present codified as 48 U.S.C. 744, be repealed.

"SECTION 2. A certified copy of this Concurrent Resolution shall be remitted to the members of the Senate and the House of Representatives and to the President of the United States of America, by the Secretaries of both bodies of the Legislature.

"SECTION 3. This Concurrent Resolution shall take effect immediately after its approval."

POM-533. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"ASSEMBLY JOINT RESOLUTION NO. 30

"Whereas, the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (The Delta) is nationally recognized as both an important feature of the state's environmental and an important component of the state's water supply system; and

"Whereas, the Delta is the single most important source of water for the people, farms, and businesses of this state, providing the water supply for more than two-thirds of all Californians; and

"Whereas, the Delta is home to many aquatic species, including several endangered species; and

"Whereas, it is imperative to maintain the water quality of the Delta; and

"Whereas, it is the policy and the law of the state to protect and use wisely vita natural resources such as the Delta; and

"Whereas, the state has signed a historic accord with the federal government and important state agricultural, urban, and environmental water interests that calls for the development of a comprehensive solution for the environmental, water supply reliability, and water quality problems of the Delta; and

"Whereas, the state, the federal government, and important stakeholder interests have initiated a program known as CAL-FED to develop comprehensive and long-term solutions to the problems of the Delta; and

"Whereas, the CAL-FED program recognizes the need to expand participation to include all impacted parties and the interested public and has established a number of efforts including the Bay Delta Advisory Commission and monthly public workshops to do so; and

"Whereas, the success of the CAL-FED program is vital to the environmental and economic well-being of the state; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California memorializes the President of the United States and the Governor of California to commit to the CAL-FED program the necessary support to ensure the program's success in achieving a comprehensive solution to the problems in the Delta; and be it further

"*Resolved*, That the Legislature of the State of California encourages the people and entities involved in the CAL-FED program to coordinate the development of policies that will lead to comprehensive, economically viable and environmentally compatible solutions for the Delta and which may include proposed changes to state and federal law in support of those solutions; and be it further

"*Resolved*, That the Legislature of the State of California requests the manager of the CAL-FED program to submit to the Legislature a semiannual report on January 1 and July 1 of each year, regarding the progress CAL-FED has made towards achieving comprehensive and long-term solutions to the problems of the Delta; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to each Senator and Representative from California in the Congress of the United States, and to the Governor."

POM-534. A resolution adopted by the Senate of the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources.

"SENATE RESOLVE NO. 5

"Whereas the Alaska National Interest Lands Conservation Act (ANILCA), P.L. 96-487, was intended by its framers to fully settle the status of all federal land in Alaska and therefore provide much needed stability for the benefit of all businesses and citizens of the State of Alaska; and

"Whereas two areas of extreme importance to Alaska in ANILCA were

"(1) Title XI, which provided a mechanism to gain a right of access across Conservation System Units that were created as part of ANILCA; and

"(2) Secs. 101d and 1326b of ANILCA which prohibited the creation of new Conservation System Units in Alaska; and

"Whereas Title XI of ANILCA was specifically included to provide assured, reasonable, and timely access across the patchwork of federal Conservation System Units in Alaska but has been administered by the federal government in such a manner as to amount to no more than useless rhetoric; and

"Whereas secs. 101d and 1326b of ANILCA were included to assure no further land withdrawals from multiple use from the federal land base in Alaska, but these provisions have also been ignored by the federal government since the passage of ANILCA; and

"Whereas these two areas of extreme importance have been ignored by the federal government with the end result negatively affecting citizens and businesses in Alaska; and

"Whereas Alaska has the ability to request land exchanges under secs. 103b and 1302h of ANILCA of land now known to contain high resource values that have been arbitrarily withdrawn from multiple use of ANILCA; be it

"*Resolved*, That the Alaska State Senate respectfully requests that the federal government live up to the true intent of the Alaska National Interest Lands Conservation Act in all issues of access, and creation of additional Conservation System Units, and fully support exchanges of high resource value land with Alaska to enable Alaska to establish greater economic and infrastructure opportunities for the people of the state."

POM-535. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources.

"LEGISLATIVE RESOLVE NO. 7

"Whereas the founding fathers of this nation recognized that land is power and that a centralized federal government with a substantial land base would eventually overwhelm the states and pose a threat to the freedom of the individual; and

"Whereas the original 13 colonies and the next five states admitted to the Union were granted fee title to all land within their borders; and

"Whereas all but two states admitted to the Union since 1802 were denied the same rights of land ownership granted the states admitted earlier; and

"Whereas art. I, sec. 8, of the Constitution of the United States of America makes no provision for land ownership by the federal government, other than by purchase from the states of land '. . . for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings'; and

"Whereas acting contrary to the provisions of art. I, sec. 8, of the Constitution of the United States, the federal government withheld property from the states admitted since 1802, making them land poor and unable to determine their own land use and development policies; and

"Whereas this action has made those states admitted since 1802 unequal to other states and subject to unwarranted federal control; and

"Whereas restoration of property to which they are historically and constitutionally entitled would empower the land poor states to determine their own land use policies; be it

"*Resolved*, That the Alaska State Legislature urges the 104th Congress of the United States to right the wrong and to transfer to the states, by fee title, any federally controlled property currently held within the states admitted to the Union since 1802; and be it further

"*Resolved*, That the Congress is urged to then purchase from the newly empowered States land needed to meet the provision of art. I, sec. 8, United States Constitution."

POM-536. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"ASSEMBLY JOINT RESOLUTION NO. 35

"Whereas, more than 50 years have elapsed since the Imperial Navy of Japan launched its surprise attack on the United States Naval Installation at Pearl Harbor, Hawaii; and

"Whereas, in the early morning of Sunday, December 7, 1941, the forces of the Imperial Navy of Japan under the command of Vice Admiral Chuichi Nagumo attacked the installations of the United States Pacific Fleet at Pearl Harbor, Hawaii; and

"Whereas, the Japanese forces were formidable, and consisted of 6 aircraft carriers, 2 battleships, 2 heavy cruisers, 11 destroyers, 360 aircraft, and various other vessels; and

"Whereas, during the 2-hour attack by the Japanese 2,330 United States military personnel were killed and 1,145 were wounded, and 100 civilians were killed or wounded; and

"Whereas, the United States Pacific Fleet in Pearl Harbor that morning included 94 Navy ships most of which were moored for the weekend; and

"Whereas, of the 94 ships, 70 were combat vessels, and 24 were auxiliary vessels; and

"Whereas, during the attack by the Japanese all 8 of the battleships in the harbor were hit, 5 were sunk, and one was severely damaged, several cruisers were damaged, 2 destroyers were sunk, and 9 other ships were sunk or severely damaged; and

"Whereas, of the 300 United States Army and Navy airplanes on Oahu that morning, the Japanese destroyed 140 and damaged 80, most of which were attacked on the ground, and the attack heavily damaged 6 Oahu air bases; and

"Whereas, the 3 Pacific Fleet aircraft carriers stationed at Pearl Harbor were fortunately not in the harbor at the time of the attack and thus escaped damage; and

"Whereas, that attack was a severe blow to the Pacific defenses of the United States and brought the United States into World War II as an active participant and marked the commencement of what was to become the greatest series of naval engagements in history, first to halt the expansion of the Japanese Imperial Forces, then to rout them from their entrenched positions; and

"Whereas, although a Pearl Harbor Memorial was erected above the sunken Battleship U.S.S. Arizona in Pearl Harbor, it is fitting and appropriate that an additional memorial be constructed in Washington, D.C. memorializing the great sacrifice made by those Americans who perished at the hands of the Japanese in that surprise attack; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take every action necessary to ensure the construction, dedication, and maintenance of a Pearl Harbor Memorial in a suitable place of honor in Washington, D.C.; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Governmental Affairs, with an amendment:

S. 699. A bill to amend the Ethics in Government Act of 1978, to extend the authorization of appropriations for the Office of Government Ethics for seven years, and for other purposes (Rept. No. 104-244).

By Mr. STEVENS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1224. A bill to amend subchapter IV of chapter 5 of title 5, United States Code, relating to alternative means of dispute resolution in the administrative process, and for other purposes (Rept. No. 104-245).

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 42. A concurrent resolution concerning the emancipation of the Iranian Baha'i community.

By Mr. SPECTER, from the Select Committee on Intelligence:

Special Report entitled "Capability of the United States to Monitor Compliance with the Start II Treaty" (Rept. No. 104-246).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs:

Gaston L. Gianni, Jr., of Virginia, to be Inspector General, Federal Deposit Insurance Corporation. (New Position.)

Stuart E. Eizenstat, of Maryland, to be Under Secretary of Commerce for International Trade.

Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System for a term of 4 years. (Reappointment.)

Laurence H. Meyer, of Missouri, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from 2/1/88.

Alice M. Rivlin, of Pennsylvania, to be a Vice Chairman of the Board of Governors of the Federal Reserve System for a term of 4 years.

Alice M. Rivlin, of Pennsylvania, to be a Member of the Board of Governors of the Federal Reserve System for a term of 14 years from February 1, 1996.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HELMS, from the Committee on Foreign Relations:

Lawrence Neal Benedict, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cape Verde.

Alfred C. DeCotiis, of New Jersey, to be a Representative of the United States of America to the fiftieth Session of the General Assembly of the United Nations.

Ernest G. Green, of the District of Columbia, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 2001, (Reappointment.)

Aubrey Hooks, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Congo.

Robert Krueger, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

Henry McKoy, of North Carolina, to be a Member of the Board of Directors of the African Development Foundation for a term expiring February 9, 2002, vice William H.G. Fitzgerald, term expired.

The following-named Career Member of the Senior Foreign Service, Class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period: J. Stapleton Roy, of Pennsylvania.

Lottie Lee Shackelford, of Arkansas, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1998, (Reappointment.)

David H. Shinn, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ethiopia.

Harold Walter Geisel, of Illinois, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mauritius and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of The Comoros.

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I also report favorably two nomination lists in the Foreign Service which were printed in full in prior the CONGRESSIONAL RECORDS of March 6 and March 18, 1996, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The following-named Career Members of the Senior Foreign Service of the Department of Agriculture for promotion in the Senior Fōreign Service to the classes indicated:

Career Members of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:

Suzanne K. Hale, of Virginia.
Frank J. Piason, of New Jersey.

The following-named Career Members of the Foreign Service of the Department of Agriculture for promotion into the Senior Foreign Service to the class indicated:

Career Members of the Senior Foreign Service of the United States of America, Class of Counselor:

Lloyd J. Fleck, of Tennessee.
James D. Grueff, of Maryland.
Thomas A. Hamby, of Tennessee.
Peter O. Kurz, of Maryland.
Kenneth J. Roberts, of Minnesota.
Robert J. Wicks, of Virginia.

The following-named persons of the agencies indicated for appointment as Foreign Service officers of the classes stated, and also for the other appointments indicated herewith:

For appointment as Foreign Service Officers of Class One, Consular Officers and Secretaries in the Diplomatic Service of the United States of America.

DEPARTMENT OF STATE

Alfred Thomas Clark, of California.

For appointment as Foreign Service Officers of Class Two, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Mahlon Atkinson Barash, of Virginia.
Donald Allen Drga, of Texas.
Richard Jay Gold, of Virginia.

DEPARTMENT OF STATE

Barbara S. Aycock, of the District of Columbia.

Dana M. Weant, of Washington.

For appointment as Foreign Service Officers of Class Three, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Christine Adamczyk, of Michigan.
Syed A. Ali, of Florida.
Todd Hanson Amani, of Maryland.

R. Douglass Arbuckle, of Florida.
David Chapmann Atteberry, of Texas.
E. Jed Barton, of Nevada.
Barbara L. Belding, of California.
Scott H. Bellows, of South Carolina.
Aleksandra Elizabeth Braginski, of the District of Columbia.
Robert F. Cunnane, of Washington.
Thomas R. Delaney, of Pennsylvania.
Thomas A. Egan, of Washington.
Branden W. Enroth, of Delaware.
Theodore Victor Gehr, of Oregon.
Lawrence Hardy II, of Washington.
Laura Anne Kearns, of Georgia.
Carol Bruce Kiranbay, of Virginia.
Charles G. Knight, of Virginia.
Charles Eric North, of Maryland.
Patricia O'Connor, of California.
Beth S. Paige, of Texas.
Andrew William Plitt, of Texas.
Mark M. Powdermaker, of Washington.
Alan I. Reed, of Washington.
William Earl Reynolds, of Montana.
Scott M. Taylor, of California.
Jill Jacqueline Thompson, of Texas.

DEPARTMENT OF AGRICULTURE

Margaret M. Bauer, of Virginia.
Michael L. Conlon, of Michigan.
Catherine M. Sloop, of Washington.
Margaret E. Thursland, of Virginia.
Dennis B. Voboril, of Kansas.
David J. Williams, of West Virginia.

DEPARTMENT OF STATE

Kevin Blackstone, of New York.

For appointment as Foreign Service Officers of Class Four, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF AGRICULTURE

Joani M. Dong, of California.
Hoa V. Huynh, of Oregon.
Emiko M. Purdy, of Pennsylvania.

DEPARTMENT OF STATE

Julie Deidra Adams, of Maryland.
Antoinette Rose Boecker, of Texas.
Scott Douglas Boswell, of New Jersey.
William W. Christopher, of California.
John Charles Coe, of Florida.
Mariko Dieterich, of Texas.
Mary Doetsch, of California.
Pamela Dunham, of Oregon.
Lara Suzanne Friedman, of Arizona.
Paul F. Fritch, Jr., of Wyoming.
Peter G. Hancon, of Illinois.
John David Haynes, of Colorado.
Michael G. Heath, of California.
Camille Diane Hill, of California.
Andrew P. Hogenboom, of New York.
Sherri Ann Holliday, of Kansas.
Randall Warren Houston, of California.
Bruce K. Hudspeth, of Virginia.
Lisa Anne Johnson, of Virginia.
Michael Robert Keller, of Florida.
Patricia Kathleen Keller, of Virginia.
George P. Kent, of Virginia.
Philip G. Laidlaw, of Florida.
Sherrie L. Marafino, of Pennsylvania.
Raymond D. Maxwell, of North Carolina.
Kathleen A. Morenski, of Virginia.
Andrew Leonard Morrison, of Arkansas.
Jonathan Edward Mudge, of California.
Tulinabo Salama Mushingi, of Virginia.
David Reimer, of Virginia.
Madeline Quinn Seidenstricker, of Florida.
Ellen Barbara Thorburn, of Michigan.
Hale Colburn VanKoughnett, of Texas.
Wendy Fleming Wheeler, of Washington.
William Randall Wisell, of Vermont.
Diane Elizabeth Wood, of Washington.

UNITED STATES INFORMATION AGENCY

Angela Delphinita Williams, of California.

The following-named Members of the Foreign Service of the Departments of Agriculture, Commerce and State to be Consular Officers and/or Secretaries in the Diplomatic Service of the United States of America, as indicated:

Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Daniel K. Acton, of Virginia.
Mea Arnold, of Virginia.
Vaughn Frederick Bishop, of Virginia.
John P. Booher, of Virginia
Lea Ann Booher, of Virginia.
J. Alex Boston, of Maryland.
Brett J. Brenneke, of Illinois.
John G. Buchanan III, of Virginia.
Paul David Burkhead, of North Carolina.
Richard K. Choate, of Virginia.
Bart D. Cobbs, of Arkansas.
Michele Ondako Connell, of Ohio.
Carolyn Creatore, of Delaware.
Julie Sadtler Davis, of Georgia.
Paul Grady Degler, of Texas.
Cecelia Darlene Dyson, of Virginia.
Craig E. Farmer, of Virginia.
Alexander G. Feliu, of Virginia.
John H. Fort, of Virginia.
Ellen Jacqueline Germain, of New York.
Gary J. Glueckert, of Virginia.
Jacques LeRoy Gude, of Virginia.
Ceresa L. Haney, of Virginia.
Todd C. Holmstrom, of Michigan.
William M. Howe, of Alaska.
Bryan David Hunt, of Virginia.
Kim DeCoux Invergo, of Virginia.
Henry Victor Jardine, of Virginia.
Amer Kayani, of California.
Lucille L. Kirk, of the District of Columbia.
David Allan Katz, of California.
Joseph R. Kuzel, of Virginia.
Mitchell G. Larsen, of Illinois.
Raymond R. Lau, of Virginia.
Mary E. Lenze-Acton, of Virginia.
Louis F. Licht III, of Maryland.
Sharon E. Little, of Virginia.
James L. Loi, of Connecticut.
Gwen Lyle, of Texas.
Valarie Lynn, of Colorado.
Jackson A. MacFarlane, of Virginia.
Joseph A. Malpeli, of Virginia.
Ileana M. Martinez, of Pennsylvania.
Luis E. Matos, of Virginia.
Manuel P. Micaller, Jr., of California.
Katherine Elizabeth Monahan, of California.
Carrie L. Newton, of Virginia.
Geoffrey Peter Nyhart, of Florida.
John Raymond O'Donnell, of Virginia.
Pamela I. Penfold, of Virginia.
Daniel W. Peters, of Illinois.
Julia M. Rauner-Guerrero, of Virginia.
Jacqueline Reid, of Virginia.
Harvy Peter Reiner, of California.
Miguel Angel Rodriquez, of Maryland.
Julio Ryan Royal, of Virginia.
Stephen D. Sack, of Virginia.
Karen Marie Schaefer, of Virginia.
James Steven Schneider, of Virginia.
Lori A. Shoemaker, of Tennessee.
Zora Valerie Shuck, of Virginia.
Michele Marie Siders, of the District of Columbia.
Robert J. Swaney, of Virginia.
Marilyn J. Taylor, of Texas.
W. Garth Thornburn II, of Virginia.
Shawn Kristen Thorne, of Texas.
Bryn W. Tippman, of California.
Michael Carl Trulson, of California.
Jane S. Upshaw, of Virginia.
Graham Webster, of Florida.
Keresa M. Webster, of Virginia.
Bruce C. Wilson, of California.
Andrea L. Winans, of Virginia.
Kevin L. Winstead, of Virginia.
David Jonathan Wolff, of Florida.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. THURMOND, from the Committee on Armed Services:

*Joseph J. DiNunno, of Maryland, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2000.

*Franklin D. Kramer, of the District of Columbia, to be an Assistant Secretary of Defense.

*Kenneth H. Bacon, of the District of Columbia, to be an Assistant Secretary of Defense.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD of November 7, 1995, February 20 and 26, March 5, 6, 11, 14, and 18, 1996, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of November 7, 1995, February 20 and 26, March 5, 6, 11, 14, and 18, 1996, at the end of the Senate proceedings.)

*Col. William Welser III, USAF to be brigadier general. (Reference No. 642.)

**In the Navy there is 1 appointment to the grade of lieutenant (John M. Cooney). (Reference No. 715.)

*In the Air Force there is 1 promotion to the grade of brigadier general (Timothy J. McMahon). (Reference No. 803–2.)

*Maj. General Kenneth E. Eickmann, USAF to be lieutenant general. (Reference No. 886.)

**In the Army Reserve there is 1 promotion to the grade of colonel (Gary N. Johnston). (Reference No. 913.)

**In the Army Reserve there are 32 promotions to the grade of colonel and below (list begins with Pat W. Simpson) (Reference No. 914.)

**In the Army there are 67 promotions to the grade of major (list begins with Margaret B. Baines). (Reference No. 915.)

**In the Army Reserve there are 28 promotions to the grade of colonel and below (list begins with Anthony C. Crescenzi). (Reference No. 916.)

**In the Navy there is 1 promotion to the grade of commander (Rex A. Auker). (Reference No. 917.)

**In the Navy and Naval Reserve there are 21 appointments to the grade of commander and below (list begins with Richard D. Boyer). (Reference No. 918.)

**In the Air Force Reserve there are 16 promotions to the grade of lieutenant colonel (list begins with Harold E. Burcham). (Reference No. 923.)

**In the Army Reserve there are 1,367 promotions to the grade of lieutenant colonel (list begins with Patrick V. Adamcik). (Reference No. 924.)

*Maj. Gen. Richard T. Swope, USAF to be lieutenant general. (Reference No. 925.)

**Lt. Gen. John G. Coburn, USA for reappointment to the grade of lieutenant general. (Reference No. 927.)

**In the Air Force there are 9 promotions to the grade of lieutenant colonel and below (list begins with Douglas W. Anderson). (Reference No. 929.)

**In the Navy there are 220 appointments to the grade of captain and below (list begins with Mark A. Admiral). (Reference No. 930.)

**In the Air Force Reserve there are 41 promotions to the grade of lieutenant colonel (list begins with Robert J. Abell). (Reference No. 939.)

**In the Navy there are 607 appointments to the grade of captain and below (list begins with Michael P. Cavil). (Reference No. 940.)

*Maj. Gen. John J. Cusick, USA to be lieutenant general. (Reference No. 948.)

**In the Navy there are 283 appointments to the grade of lieutenant (list begins with James L. Abram). (Reference No. 950.)

Total: 2,700.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOMENICI (for himself, Mr. Ford, Mr. Dole, Mr. Lott, Mr. Heflin, Mr. Shelby, Mr. Faircloth, Mr. Simpson, Mr. Cochran, Mr. Inhofe, Mr. Warner, Mr. Helms, Mr. McConnell, Mr. Thurmond, Mr. Burns, Mr. Johnston, Mr. Bingaman, Mr. Nickles, Mr. Lugar, Mrs. Kassebaum, Mr. Coats, and Mr. Grams):

S. 1646. A bill to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PRESSLER (for himself, Mr. Craig, Mr. Lott, Mr. Bennett, Mr. Simpson, Mr. Stevens, Mr. Murkowski, Mr. Inhofe, Mr. Kyl, and Mr. Thomas):

S. 1647. A bill to amend the Federal Land Policy and Management Act of 1976 to provide that forest management activities shall be subject to initial judicial review only in the United States district court for the district in which the affected land is located, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. SNOWE:

S. Res. 233. A resolution to recognize and support the efforts of the United States Soccer Federation to bring the 1999 Women's World Cup tournament to the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. DASCHLE (for himself, Mr. Dole, Mr. Cohen, and Ms. Snowe):

S. Res. 234. A resolution relative to the death of Edmund S. Muskie; considered and agreed to.

By Mr. THURMOND:

S. Res. 235. A resolution to proclaim the week of June 16 to June 22, 1996, as "National Roller Coaster Week"; considered and agreed to.

By Mr. LUGAR:

S. Con. Res. 49. A concurrent resolution providing for certain corrections to be made in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself, Mr. Ford, Mr. Dole, Mr. Lott, Mr. Heflin, Mr. Shelby, Mr. Faircloth, Mr. Simpson, Mr. Cochran, Mr. Inhofe, Mr. Warner, Mr. Helms, Mr. McConnell, Mr. Thurmond, Mr. Burns, Mr. Johnston, Mr. Bingaman, Mr. Nickles, Mr. Lugar, Mrs. Kassebaum, Mr. Coats, and Mr. Grams):

S. 1646. A bill to authorize and facilitate a program to enhance safety, training; research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes; to the Committee on Energy and Natural Resources.

THE PROPANE EDUCATION AND RESEARCH ACT OF 1996

• Mr. DOMENICI. Mr. President, today I am very happy to introduce the Propane Education and Research Act of 1996. Propane is an extremely important source of clean-burning, domestically-produced energy in the United States providing fuel for cooking, heating, and hot water in over 7.7 million homes, half of all farms, and in millions of recreational applications. Even though propane is the fourth most used fuel in America, no Federal funds are spent on propane research. My legislation keeps it that way and simply provides a mechanism that permits, not requires, industry to fund its own research and development [R&D] program for propane.

This act would allow the propane industry, composed of over 165 producers and 5,000 marketers, to vote to establish a checkoff program to fund much needed R&D modeled after the many checkoff programs already established in Federal law. Collected from the industry at an initial rate of 1/10th of 1 cent per gallon of odorized—propane destined for the retail market—propane sold, these funds would support R&D, educational, and safety activities. Propane producers and marketers, who would bear the cost of the checkoff programs, have indicated broad support for the legislation.

Propane has traditionally served rural and suburban citizens who are beyond reach of most natural gas lines. The propane industry consists of mostly small businesses that individually cannot afford the necessary R&D, safety, and educational activities that result in enormous benefits to consumers. Some of these benefits include increased efficiency in propane appliances, safer handling and distribution, and an improved environment for Americans from this clean-burning fuel. Small businesses have not historically received direct benefits from federally sponsored energy R&D. This legislation does not fit the traditional heavy-handed approach to energy research and development, but gives the propane small business community the flexibility and the framework to pursue research, safety, and education on their own.

There are similar programs in energy industries, however, such as the Gas Research Institute, the Electric Power Research Institute, the Texas Railroad Commission propane checkoff, and similar State programs in Louisiana, Missouri, and Alabama. These programs have enjoyed considerable success, for example, the Gas Research Institute boasts a 400-percent return for each dollar collected and invested. Their work primarily benefits urban and suburban natural gas consumers, the propane legislation will benefit rural and suburban consumers, as well as urban and suburban propane consumers.

The agricultural industry, for example, which accounts for 7 to 8 percent of all propane consumed in the United States, will see substantial benefits from propane research and development. With even marginal increases in equipment efficiency, the agricultural propane users will reap large returns. More efficient uses of propane in other businesses, such as home construction, will further increase the value of the return on investment.

The legislation I am introducing will not actually establish the propane checkoff, but calls upon the propane industry to hold a referendum among themselves, to authorize establishment of the checkoff before it can go into effect. If the industry, propane producers, and retail marketers, vote to establish the checkoff, then the Propane Education and Research Council consisting of industry representatives, will be formed to administer the program. The legislation also looks down the road and allows the industry to terminate the program by a majority vote of both classes, or by two-thirds majority of a single class.

A companion bill, H.R. 1514, was introduced in the House of Representatives and currently enjoys broad bipartisan support. This enthusiasm underscores the wide, regional appeal of this innovative approach to meeting our domestic energy research needs. Moreover, my bill foster industry's efforts toward efficient, clean fuels that benefit consumers and producers alike without Federal dollars and with minimal governmental involvement.

I encourage my colleagues to join me in cosponsoring this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1646

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Propane Education and Research Act of 1996".

SEC. 2. FINDINGS.

Congress finds that—

(1) propane gas (also known as liquefied petroleum gas) is an essential energy commodity that provides heat, hot water, cooking fuel, and motor fuel, and has many other uses to millions of Americans;

(2) the use of propane is especially important to rural citizens and farmers, offering an efficient and economical source of gas energy;

(3) propane has been recognized as a clean fuel and can contribute in many ways to reducing pollution in cities and towns of the United States; and

(4) propane is primarily domestically produced, and the use of propane provides energy security and jobs for Americans.

SEC. 3. DEFINITIONS.

In this Act:

(1) COUNCIL.—The term "Council" means a Propane Education and Research Council established under section 4.

(2) INDUSTRY.—The term "industry" means persons involved in the United States in—

(A) the production, transportation, and sale of propane; and

(B) the manufacture and distribution of propane utilization equipment.

(3) INDUSTRY TRADE ASSOCIATION.—The term "industry trade association" means an organization exempt from tax, under paragraph 3 or 6 of section 501(c) of the Internal Revenue Code of 1986, that represents the propane industry.

(4) ODORIZED PROPANE.—The term "odorized propane" means propane that has had odorant added to it.

(5) PRODUCER.—The term "producer" means the owner of propane at the time at which the propane is recovered at a gas processing plant or refinery.

(6) PROPANE.—The term "propane"—

(A) means a hydrocarbon, the chemical composition of which is predominantly C^3H^8, whether recovered from natural gas or from crude oil; and

(B) includes liquefied petroleum gas or a mixture of liquefied petroleum gases.

(7) PUBLIC MEMBER.—The term "public member" means a member of the Council, other than a representative of producers or retail marketers, representing significant users of propane, public safety officials, academia, the propane research community, or other groups knowledgeable about propane.

(8) QUALIFIED INDUSTRY ORGANIZATION.—The term "qualified industry organization" means the National Propane Gas Association, the Gas Processors Association, a successor of the National Propane Gas Association or the Gas Processors Association, or a group of retail producers or marketers that collectively represent at least 25 percent of the volume of propane produced or sold, respectively, in the United States.

(9) RETAIL MARKETER.—The term "retail marketer" means a person engaged primarily in the sale of odorized propane to ultimate consumers or to retail propane dispensers.

(10) RETAIL PROPANE DISPENSER.—The term "retail propane dispenser" means a person that sells, but is not engaged primarily in the business of selling odorized propane to ultimate consumers.

(11) SECRETARY.—The term "Secretary" means the Secretary of Energy.

SEC. 4. REFERENDA.

(a) CREATION OF PROGRAM.—

(1) IN GENERAL.—The qualified industry organizations may conduct a referendum among producers and retail marketers for the creation of a Propane Education and Research Council.

(2) EXPENSES.—A referendum under paragraph (1) shall be conducted at the expense of the qualified industry organizations.

(3) REIMBURSEMENT.—The Council, if established, shall reimburse the qualified industry organizations for the cost of the referendum accounting and documentation.

(4) INDEPENDENT AUDITING FIRM.—The referendum shall be conducted by an independent auditing firm agreed to by the qualified industry organizations.

(5) VOTING RIGHTS.—Voting rights in the referendum shall be based on the volume of propane produced or odorized propane sold in the calendar year previous to the year in which the referendum is conducted, or other representative period agreed to by the qualified industry organizations.

(6) CERTIFICATION OF VOLUME OF PROPANE.—All persons voting in the referendum shall certify to the independent auditing firm the volume of propane the person represents.

(7) APPROVAL.—On the approval of persons representing ⅔ of the total volume of propane voted in the retail marketer class and ⅔ of all propane voted in the producer class, the Council shall be established.

(b) TERMINATION OR SUSPENSION.—

(1) REFERENDUM.—On the Council's initiative, or on petition to the Council by producers and retail marketers representing 35 percent of the volume of propane produced and sold, respectively, in the United States, the Council shall conduct a referendum to determine whether the industry favors termination or suspension of the Council.

(2) EXPENSE.—A referendum under paragraph (1) shall be conducted at the expense of the Council.

(3) INDEPENDENT AUDITING FIRM.—The referendum shall be conducted by an independent auditing firm selected by the Council.

(4) TERMINATION OR SUSPENSION.—Termination or suspension shall take effect if approved by—

(A) persons representing more than ½ of the total volume of odorized propane in the producer class and more than ½ of the total volume of propane in the retail marketer class; or

(B) persons representing more than ⅔ of the total volume of propane in produced or sold in the United States.

SEC. 5. PROPANE EDUCATION AND RESEARCH COUNCIL.

(a) SELECTION OF MEMBERS.—

(1) SELECTION BY QUALIFIED INDUSTRY ORGANIZATIONS.—The qualified industry organizations shall select all retail marketer, public, and producer members of the Council.

(2) ALLOCATION.—The producer organizations shall select the producer members of the Council, the retail marketer organizations shall select retail marketer members, and all qualified industry organizations shall select the public members.

(3) VACANCIES.—Vacancies in unfinished terms of Council members shall be filled in the same manner as original appointments.

(b) REPRESENTATION.—In selecting members of the Council, the qualified industry organizations shall give due regard to selecting a Council that is representative of the industry, including representation of—

(1) gas processors and oil refiners among producers;

(2) interstate and intrastate operators among retail marketers;

(3) large and small companies among producers and retail marketers, including agricultural cooperatives; and

(4) all geographic regions of the country.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of 21 members, including—

(A) 9 members representing retail marketers;

(B) 9 members representing producers; and

(C) 3 public members.

(2) QUALIFICATIONS.—Each Council member representing retail marketers or producers shall be a full-time employee or owner of a business in the industry that the member represents or a representative of an agricultural cooperative.

(3) DISQUALIFICATION.—No employee of a qualified industry organization or other industry trade association shall serve as a member of the Council, and no member of the Council may serve concurrently as an officer of the board of directors of a qualified industry organization or other industry trade association.

(4) LIMITED COMPANY REPRESENTATION.—Not more than 1 person from any company (or affiliate of the company) may serve on the Council at any given time.

(d) COMPENSATION.—

(1) IN GENERAL.—Subject to paragraph (2), Council members shall receive no compensation for services performed or reimbursement for expenses relating to services performed.

(2) EXCEPTION FOR PUBLIC MEMBERS.—A public member may, on request, be reimbursed for reasonable expenses directly related to participation by the member in Council meetings.

(e) TERMS.—

(1) LENGTH OF TERMS.—A Council member shall serve a term of 3 years.

(2) NUMBER OF TERMS.—A Council member may not serve more than 2 full consecutive terms.

(3) MAXIMUM CONSECUTIVE YEARS.—A member filling an unexpired term may serve not more than 7 consecutive years.

(4) RETURN OF FORMER MEMBERS.—A former member of the Council may return to the Council only if the member has not been a member for a period of 2 years.

(5) INITIAL APPOINTMENTS.—Initial appointments to the Council shall be for terms of 1, 2, and 3 years, and shall be staggered to provide for the selection of 7 members each year.

(f) FUNCTIONS.—

(1) IN GENERAL.—The Council shall develop programs and projects and enter into contracts or agreements for implementing this Act, including programs to—

(A) enhance consumer and employee safety and training;

(B) provide for research and development of clean and efficient propane utilization equipment;

(C) inform and educate the public about safety and other issues associated with the use of propane; and

(D) provide for the payment of the costs of implementing subparagraphs (A) through (C) with funds collected under this Act.

(2) COORDINATION.—The Council shall coordinate activities with industry trade associations and others as appropriate to provide efficient delivery of services and to avoid unnecessary duplication of activities.

(g) USE OF FUNDS.—

(1) UNITED STATES AGRICULTURE INDUSTRY.—Not less than 5 percent of the funds collected through assessments under this Act shall be used for programs and projects intended to benefit the agriculture industry in the United States.

(2) COORDINATION.—The Council shall coordinate the use of funds under paragraph (1) with agriculture industry trade associations and other organizations representing the agriculture industry.

(3) USE OF PROPANE AS AN OVER-THE-ROAD MOTOR FUEL.—The percentage of funds collected through assessments under this Act to be used in any year for projects relating to the use of propane as an over-the-road motor fuel shall not exceed the percentage of the total market for odorized propane that is used as an over-the-road motor fuel, based on an historical average of the use of propane as an over-the-road motor fuel during the 3-year period preceding the year in which the funds are used.

(h) PRIORITIES.—Issues related to research and development, safety, education, and training shall be given priority by the Council in the development of programs and projects.

(i) ADMINISTRATION.—

(1) CHAIRMAN.—The Council shall select a Chairman from among the members of the Council.

(2) OFFICERS.—The Council shall select from among the members of the Council such officers as the Council considers necessary.

(3) COMMITTEES.—The Council may establish committees and subcommittees of the Council.

(4) RULES AND BYLAWS.—The Council shall adopt rules and bylaws for the conduct of business and the implementation of this Act.

(5) INDUSTRY COMMENT AND RECOMMENDATIONS.—The Council shall establish procedures for the solicitation of industry comment and recommendations on any significant plan, program, or project to be funded by the Council.

(6) ADVISORY COMMITTEES.—The Council may establish advisory committees of persons other than Council members.

(j) ADMINISTRATIVE EXPENSES.—

(1) LIMITATION ON EXPENSES.—The administrative expenses of operating the Council (not including costs incurred in the collection of the assessment under section 6) plus amounts paid under paragraph (2) shall not exceed 10 percent of the funds collected by the Council in any fiscal year.

(2) REIMBURSEMENT.—The Council shall annually reimburse the Secretary for costs incurred by the United States relating to the Council.

(3) LIMITATION ON REIMBURSEMENT.—A reimbursement under paragraph (2) for any fiscal year shall not exceed the amount that the Secretary determines is the average annual salary of employees of the Department of Energy.

(k) BUDGET.—

(1) REVIEW AND COMMENT.—Prior to August 1 of each year, the Council shall publish for public review and comment a budget plan for the next calendar year, including the probable costs of all programs, projects, and contracts and a recommended rate of assessment sufficient to cover the costs.

(2) SUBMISSION.—Following review and comment under paragraph (1), the Council shall submit the proposed budget to the Secretary and to Congress.

(3) RECOMMENDATIONS BY SECRETARY.—The Secretary may recommend any program or activity that the Secretary considers appropriate.

(l) RECORDS.—

(1) IN GENERAL.—The Council shall keep minutes, books, and records that clearly reflect all of the actions of the Council.

(2) PUBLIC AVAILABILITY.—The Council shall make the minutes, books, and records available to the public.

(3) AUDIT.—The Council shall have the books audited by a certified public accountant at least once each fiscal year and at such other times as the Council may determine.

(4) COPIES.—Copies of an audit under paragraph (3) shall be provided to all members of the Council, all qualified industry organizations, and any other member of the industry on request.

(5) NOTICE.—The Council shall provide the Secretary with notice of meetings.

(6) ADDITIONAL REPORTS.—The Secretary may require the Council to provide reports on the activities of the Council and on compliance, violations, and complaints regarding the implementation of this Act.

(m) PUBLIC ACCESS TO COUNCIL PROCEEDINGS.—

(1) IN GENERAL.—All meetings of the Council shall be open to the public.

(2) NOTICE.—The Council shall provide the public at least 30 days' notice of Council meetings.

(3) MINUTES.—The minutes of all meetings of the Council shall be made readily available to the public.

(n) ANNUAL REPORT.—

(1) IN GENERAL.—Each year the Council shall prepare and make publicly available a report that includes an identification and description of all programs and projects undertaken by the Council during the previous year and those planned for the upcoming year.

(2) RESOURCES.—The report shall detail the allocation and planned allocation of Council resources for each program and project.

SEC. 6. ASSESSMENTS.

(a) IN GENERAL.—The Council may levy an assessment on odorized propane in accordance with this section.

(b) AMOUNT.—

(1) INITIAL ASSESSMENT.—The Council shall set the initial assessment at no greater than 1/10 cent per gallon of odorized propane sold and placed into commerce.

(2) SUBSEQUENT ASSESSMENTS.—Subsequent to the initial assessment, annual assessments shall be sufficient to cover the costs of the plans and programs developed by the Council.

(3) ASSESSMENT MAXIMUM.—An assessment shall not be greater than ½ cent per gallon of odorized propane, unless approved by a majority of those voting in a referendum in the producer class and the retail marketer class.

(4) MAXIMUM INCREASE.—An assessment may not be raised by more than 1/10 cent per gallon of odorized propane annually.

(5) OWNERSHIP.—The owner of odorized propane at the time of odorization, or at the time of import of odorized propane, shall make the assessment based on the volume of odorized propane sold and placed into commerce.

(6) DUE DATE.—Assessments shall be payable to the Council on a monthly basis not later than the 25th of the month following the month of in which the assessment is made.

(7) EXPORTED PROPANE.—Propane exported from the United States is not subject to the assessment.

(8) LATE FEE.—The Council may establish a late payment charge and rate of interest to be imposed on a person that fails to remit or pay to the Council any amount due under this Act.

(c) ALTERNATIVE COLLECTION RULES.—The Council may establish an alternative means of collecting the assessment if the Council determines that the alternative means is more efficient and effective.

(d) INVESTMENT OF FUNDS.—Pending disbursement pursuant to a program, plan, or project, the Council may invest funds collected through assessments, and any other funds received by the Council, only in—

(1) obligations of the United States or an agency of the United States;

(2) general obligations of a State or political subdivision of a State;

(3) an interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(4) obligations fully guaranteed as to principal and interest by the United States.

(e) STATE PROGRAMS.—

(1) IN GENERAL.—The Council shall establish a program coordinating the operation of the Council with the programs of any State propane education and research council created by State law, or any similar entity.

(2) COORDINATION.—The coordination shall include a joint or coordinated assessment collection process, a reduced assessment, or an assessment rebate.

(3) REDUCED ASSESSMENT OR REBATE.—A reduced assessment or rebate shall be 20 percent of the regular assessment collected in a State under this section.

(4) PAYMENT OF ASSESSMENT REBATES.—An assessment rebate may be paid only to—

(A) a State propane education and research council created by State law or regulation that meets requirements established by the Council for specific programs approved by the Council; or

(B) a similar entity, such as a foundation established by the retail propane gas industry in a State that meets requirements established by the Council for specific programs approved by the Council.

SEC. 7. COMPLIANCE.

(a) IN GENERAL.—The Council may bring a civil action in a United States district court to compel compliance with an assessment levied by the Council under this Act.

(b) COSTS.—A successful action for compliance under this section may require payment by the defendant of the costs incurred by the Council in bringing the compliance action.

SEC. 8. LOBBYING RESTRICTIONS.

No funds collected by the Council shall be used in any manner to influence legislation or an election, but the Council may recommend to the Secretary changes in this Act or other statutes that would further the purposes of this Act.

SEC. 9. MARKET SURVEY AND CONSUMER PROTECTION.

(a) PRICE ANALYSIS.—

(1) IN GENERAL.—Not later than 2 years after establishment of the Council and annually thereafter, the Secretary of Commerce,

using only data provided by the Energy Information Administration and other public sources, shall prepare and make available to the Council, the Secretary, and the public an analysis of changes in the price of propane relative to other energy sources.

(2) METHODOLOGY.—

(A) IN GENERAL.—The propane price analysis shall compare indexed changes in the price of consumer grade propane to a composite of indexed changes in the price of residential electricity, residential natural gas, and refiner price to end-users of number 2 fuel oil on an annual national average basis.

(B) ROLLING AVERAGE PRICE.—For purposes of indexing changes in consumer grade propane, residential electricity, residential natural gas, and end-user number 2 fuel oil prices, the Secretary of Commerce shall use a 5-year rolling average price beginning with the year 4 years prior to the establishment of the Council.

(b) AUTHORITY TO RESTRICT ACTIVITIES.—

(1) IN GENERAL.—If in any year the 5-year average rolling price index of consumer grade propane exceeds the 5-year rolling average price composite index of residential electricity, residential natural gas, and refiner price to end-users of number 2 fuel oil in an amount greater than 10.1 percent, the activities of the Council shall be restricted to research and development, training, and safety matters.

(2) NOTIFICATION.—The Council shall inform Congress and the Secretary of Energy of any restriction of activities under this subsection.

(3) REANALYSIS.—On the expiration of each 180-day period beginning on the date on which activities are restricted under paragraph (1), the Secretary of Commerce shall conduct a new propane price analysis described in subsection (a).

(4) END OF RESTRICTION.—Activities of the Council shall continue to be restricted under this subsection until the percentage described in paragraph (1) is 10.1 percent or less.

SEC. 10. PRICING.

Notwithstanding any other provision of this Act, the price of propane shall be determined by market forces. The Council shall take no action, and no provision of this Act shall establish an agreement to, pass along to consumers the cost of the assessment provided for in section 6.

SEC. 11. RELATION TO OTHER PROGRAMS.

Nothing in this Act shall preempt or supersede any other program relating to propane education and research organized and operated under the laws of the United States or any State.

SEC. 12. REPORTS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and not less than once every 2 years thereafter, the Secretary of Commerce shall prepare and submit to Congress and the Secretary a report examining whether operation of the Council, in conjunction with the cumulative effects of market changes and Federal programs, has had an effect on propane consumers, including residential, agriculture, process, and nonfuel users of propane.

(b) CONSIDERATION BY THE SECRETARY OF COMMERCE.—The Secretary of Commerce shall—

(1) consider and, to the extent practicable, include in the report submissions by propane consumers;

(2) consider whether there have been long-term and short-term effects on propane prices as a result of Council activities and Federal programs; and

(3) consider whether there have been changes in the proportion of propane demand attributable to various market segments.

(c) RECOMMENDATIONS.—To the extent that the report demonstrates that there has been an adverse effect on propane prices, the Secretary of Commerce shall include recommendations for reversing or mitigating the effect.

(d) FREQUENT REPORTS.—On petition by an affected party or on request by the Secretary of Energy, the Secretary of Commerce may prepare and submit the report required by this section at less than 2-year intervals.•

By Mr. PRESSLER (for himself, Mr. CRAIG, Mr. LOTT, Mr. BENNETT, Mr. SIMPSON, Mr. STEVENS, Mr. MURKOWSKI, Mr. INHOFE, Mr. KYL, and Mr. THOMAS):

S. 1647. A bill to amend the Federal Land Policy and Management Act of 1976 to provide that forest management activities shall be subject to initial judicial review only in the United States district court for the district in which the affected land is located, and for other purposes; to the Committee on the Judiciary.

THE FEDERAL LAND AND POLICY MANAGEMENT ACT OF 1976 AMENDMENT ACT OF 1996

Mr. PRESSLER. Mr. President, today I am introducing legislation to bring some common sense to the judicial review of land management activities. In 1995, every single proposed timber sale in the Black Hills National Forest was challenged by extreme environmental groups. Was this necessary? No. My legislation would prevent environmental activists from "court shopping" when they challenge Federal timber sales and other land management activities. Is this necessary? Yes.

The Black Hills National Forest in western South Dakota, famous for its enormous stands of ponderosa pine, is an essential part of South Dakota's economy. The Black Hills forest products industry includes 18 sawmills and 12 secondary manufacturers producing a full spectrum of lumber products, from housing quality lumber to particleboard and wood pellets. The list is endless. The industry sustains nearly 2,000 jobs. Preserving these South Dakota jobs and the future health of the forest requires careful management—both by the Forest Service and by the timber industry.

Mayor Drue Vitter, of Hill City, SD, said it best:

> Good management of the forest by the Forest Service helps sustain a good cut for the timber industry. If we groom the forest well and keep it healthy, then we will have a healthy economy.

Mr. President, the very first Federal timber sale in the Nation took place in the Black Hills near Nemo, SD, in 1899. That same area has been harvested twice since then. Today, a new generation of healthy ponderosa pine stands tall and strong—a testament to the proper stewardship of our national forests.

Recently, however, proper forest management has been hindered by lengthy court challenges of Forest Service timber sales. Environmental extremists challenge almost every proposed Federal timber sale—not just in South Dakota but across the country.

In the past 10 years, the number of Federal timber sales has decreased dramatically. In 1990, the Forest Service issued nine timber sale decisions in the Black Hills National Forest. In 1994, the Forest Service issued only four timber sale decisions on the Black Hills.

Why the decline? Mainly it is due to the never-ending court challenges. These reductions threaten the health of the forest, cause sawmills to go out of business, and cause loggers and other workers to lose their jobs. This is bad for the forests. This is worse for South Dakotans.

Angie Many, founder of the Black Hills Women in Timber organization, described the situation in a poignant letter to the editor of the Rapid City Journal newspaper. "When less timber is harvested, the dangers of losing major portions of the Black Hills National Forest to wildlife or insect infestations are increased . . . local mills shut down or decrease shifts, disemploying real people with effects that trickle down to many other businesses . . . families like mine are torn apart as loggers and mill workers travel to other areas to find work . . ." Sadly, Angie's description is accurate.

Often, when environmental extremists contest a Federal timber sale, they shop around for courts that will be most sympathetic to their environmental concerns and where they can get the longest delays. They seek court action in metropolitan areas—courts that frequently are busier and tend to be more liberal. Is this fair to loggers? Of course not.

Court-shopping is a sad fact of life right now in South Dakota. Here's an example: Two years ago, the Forest Service prepared the so-called Needles timber sale—a sale 6.77 million board feet in the Norbeck Wildlife Reserve. The Needles sale was aimed at thinning the stands of ponderosa pine which had become so dense from lack of management that wildlife no longer could survive there.

This presented the Forest Service with an opportunity—an opportunity to achieve a balanced approach to forest management. By thinning the forest, the Forest Service intends to create new habitat areas that would encourage the return of wildlife to the area. That's good sense—a plan that would result in both economic and environmental benefits.

The Needles sale also was needed to ensure the long-term health of the forest within the Norbeck Wildlife Preserve. The Preserve is deteriorating rapidly and poses a severe fire risk. A fire in this area would be devastating. It could destroy the forest and could cause permanent damage to the faces of the Mount Rushmore National Monument which lies within the Norbeck Wildlife Preserve. The Needles timber sale would reduce drastically the risk of fire and insect destruction.

Like almost every Federal timber sale in the Black Hills, the Needles timber sale was challenged almost immediately by a coalition of environmental extremists. For the past 2 years, this case has been pending in the Denver court system—with no hope of receiving any further attention. This just is not right.

As many of my colleagues know, the Denver court system is currently one of the busiest in the Nation. The Needles timber sale is not a high priority for this court, particularly now that the Oklahoma bombing trial has been moved to Denver. But, this is what environmental extremists want. They wanted a delay. They got a delay. My bill would put an end to that.

My legislation would require that Federal land management activities—including timber sales—be subject to initial judicial review only in the U.S. District Court in which the affected Federal lands are located. Under my bill, the Needles timber sale could have been heard in South Dakota—where there is no caseload logjam, so to speak.

That means no more court shopping. No more court backlog. No unnecessary delays. No lost timber revenue. And most important, no lost jobs. A court in South Dakota will understand the needs of South Dakota's forest and rangelands better than a remote big city, Federal court with a clear liberal bias.

Maurice Williams, the General Manager of Continental Lumber in Hill City, SD, agrees that South Dakotans are best equipped to determine how to manage the Black Hills:

> The proof is on the ground. The Black Hills National Forest represents more than a hundred years of solid management. A judge who never has seen the Black Hills just isn't qualified to decide how the forest should or should not be managed.

Mr. President, I agree with Maurice. I believe it is time to give States and conscientious timber harvesters the home court advantage. Already this legislation has been cosponsored by several of my colleagues, including Senators CRAIG, LOTT, BENNETT, SIMPSON, STEVENS, MURKOWSKI, INHOFE, KYL and THOMAS. I ask unanimous consent that a letter of support from the Black Hills Forest Resource Association be printed in the RECORD. I hope all my colleagues will take a close look at this bill and support its eventual passage.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1647

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JUDICIAL REVIEW OF FOREST MANAGEMENT ACTIVITIES.

(a) IN GENERAL.—Title VII of the Federal Land Policy and Management Act of 1976 (Public Law 94–579; 43 U.S.C. 1701 et seq.) is amended—

(1) in the title heading, by adding: "; JUDICIAL REVIEW" at the end; and

(2) by adding at the end the following:

"SEC. 708. JUDICIAL REVIEW OF FOREST MANAGEMENT ACTIVITIES.

"(a) DEFINITION OF FOREST MANAGEMENT ACTIVITY.—In this section, the term 'forest management activity' means a sale of timber, the issuance of a grazing permit or grazing lease, or any other activity authorized under a land use plan under this Act or a land or resource management plan under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) to be carried out on Federal land.

"(b) JUDICIAL REVIEW.—A forest management activity and land use plan under this Act or a land or resource management plan under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) (including an amendment to or revision of a plan) shall be subject to initial judicial review only in the United States district court for the district in which the affected land is located.".

(b) CONFORMING AMENDMENT.—The table of contents of the Federal Land Policy and Management Act of 1976 (43 U.S.C. prec. 1701) is amended—

(1) in the heading relating to title VII, by adding "; JUDICIAL REVIEW" at the end; and

(2) by adding at the end the following:

"Sec. 708. Judicial review of forest management activities.".

BLACK HILLS FOREST
RESOURCE ASSOCIATION,
Rapid City, SD, March 14, 1996.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRESSLER: We have reviewed your draft legislation requiring that lawsuits involving forest management activities be filed in the United States district court in which the national forest is located.

We strongly support this legislation. Too often plaintiffs have "shopped" for courts that are backlogged or for the judges most inclined to offer favorable judgments. In our view, the public's interest is best served by keeping trials as local as possible to facilitate appearances by witnesses, other participants, and observers, as well as providing the best opportunity for local citizens to be fully informed.

Clearly, local decisions should be made locally, and the public's interest is not well served by allowing cases to be heard in far away courts with only a tangential stake in the outcome.

Thank you for your leadership on this issue.

TOM TROXEL,
Director.

Mr. LOTT. Mr. President, it gives me great pleasure to join Senator PRESSLER, my friend and colleague, as one of the original cosponsors for his timber sale proposal. This responsible legislative solution would cut court cost and remove delays which plague legitimate efforts to harvest timber from Federal lands.

Those who oppose any and all timber activities go to great lengths to obstruct the process. Frequently, they shop around for a court which supports their agenda. This usually creates a situation where the court making the ruling has neither a geographical connection nor a genuine first-hand understanding of the case and its consequences. Does this make judicial sense to any of my Senate colleagues?

Senator PRESSLER'S proposal is direct and straightforward. It simply requires that the court which conducts the judicial review and renders the decision must include the land in question within its district. Why is a Denver court more qualified to review a Black Hills timber sales than one in South Dakota? Common sense says the opposite would be true.

Senator PRESSLER'S approach will not prevent groups from challenging the timber sales on Federal lands. This proposal will not roll back any environmental statutes. To the contrary, it actually means the judicial decisions will be made more promptly. Why would any of these groups not want their court challenges acted upon promptly?

Senator PRESSLER'S plan also would cover other public policy issues like grazing permits and resource management plans. It makes sense that these judicial decisions, like timber sales, are made by those who will be directly affected, and who have the most knowledge of the situations.

Senator PRESSLER'S approach can be characterized as a focused and precise fix to the underlying statues. It is in keeping with the administration's "rifle-shot" procedure. The fundamental law is left in place and mere fine tuning occurs.

I ask all of my colleagues to give serious examination to this legislative proposal. It has merit and deserves both your support and your cosponsorship.

ADDITIONAL COSPONSORS

S. 287

At the request of Mrs. HUTCHISON, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 287, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 953

At the request of Mr. CHAFEE, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 953, a bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots.

S. 969

At the request of Mr. BRADLEY, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 1039

At the request of Mr. ABRAHAM, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1039, a bill to require Congress to specify the source of authority under the United States Constitution for the enactment of laws, and for other purposes.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 1183, a bill to amend the act of March 3, 1931—known as the Davis-Bacon Act, to revise the standards for coverage under the act, and for other purposes.

S. 1189

At the request of Mr. DEWINE, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1189, a bill to provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products.

S. 1245

At the request of Mr. ASHCROFT, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1245, a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to identify violent and hardcore juvenile offenders and treat them as adults, and for other purposes.

S. 1397

At the request of Mr. KYL, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1397, a bill to provide for State control over fair housing matters, and for other purposes.

S. 1512

At the request of Mr. LUGAR, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1512, a bill to amend title 23, United States Code, to improve safety at public railway-highway crossings, and for other purposes.

S. 1610

At the request of Mr. BOND, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1612

At the request of Mr. HELMS, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1613

At the request of Mr. COCHRAN, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 1613, a bill to amend the National School Lunch Act to provide greater flexibility to schools to meet the Dietary Guidelines for Americans under the school lunch and school breakfast programs, and for other purposes.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the names of the Senator from Minnesota [Mr. GRAMS] and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

SENATE RESOLUTION 152

At the request of Mr. ABRAHAM, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Resolution 152, a resolution to amend the Standing Rules of the Senate to require a clause in each bill and resolution to specify the constitutional authority of the Congress for enactment, and for other purposes.

SENATE CONCURRENT RESOLUTION 49—RELATIVE TO THE BILL (H.R. 2854) TO MODIFY THE OPERATION OF CERTAIN AGRICULTURE PROGRAMS

Mr. LUGAR submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 49

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs, shall make the following corrections:

In section 215—

(1) in paragraph (1), insert "and" at the end;

(2) in paragraph (2), strike "; and" at the end and insert a period; and

(3) strike paragraph (3).

SENATE RESOLUTION 233—RELATIVE TO THE 1999 WOMEN'S WORLD CUP TOURNAMENT

Ms. SNOWE submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 233

Whereas soccer is one of the world's most popular sports;

Whereas the Women's World Cup tournament is the single most important women's soccer event;

Whereas the 1995 Women's World Cup tournament was broadcast to millions of fans in 67 nations;

Whereas the United States Soccer Federation is attempting to bring the 1999 Women's World Cup tournament to the United States;

Whereas the United States is capable of meeting all of the requirements of a host country, including financing, transportation, security, communication, and physical accommodations;

Whereas the United States successfully hosted the 1994 Men's World Cup tournament in nine cities throughout the Nation; and

Whereas the 1999 Women's World Cup tournament will contribute to national and international goodwill because the tournament will bring people from many nations together in friendly competition; Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and supports the efforts of the United States Soccer Federation to bring the 1999 Women's World Cup tournament to the United States; and

(2) requests that the President of the United States designate appropriate Federal agencies to work with the United States Soccer Federation to meet the Federation Internationale de Football Association's requirements for the 1999 Women's World Cup tournament host country.

Ms. SNOWE. Mr. President, I rise today to submit a resolution supporting the efforts of the U.S. Soccer Federation to bring the 1999 Women's World Cup tournament to the United States.

Soccer is one of the world's most beloved sports, and its popularity in the United States has grown rapidly over the past 20 years. The Women's World Cup tournament, held every 4 years, is the single most important women's soccer event; the 1995 Women's World Cup was broadcast to millions of fans in 67 nations. Hosting this event will contribute to international goodwill and be a clear signal that America is serious about encouraging female participation in sports. Indeed, this tournament would serve as a showcase of the best female soccer athletes in the world, and something to which girls and young women could aspire.

Already, girls' soccer has experienced an explosion in popularity. On the high school level, it is reported that 41,119 girls played soccer in 1980, while 191,350 played in the 1994–95 school year. That's a remarkable increase of over 400 percent.

This increase is reflected on the collegiate level as well. In 1981, 77 schools sponsored women's soccer. By 1995, that number had swelled to 617. And a recent national survey indicates that of all the Americans who played soccer at least once during 1994, 39 percent percent were women.

These are very encouraging numbers. They demonstrate that soccer is a very appealing sport to women, and they demonstrate that soccer is an excellent way to get girls and women excited about participating in sports.

We all know that sports are just as important an activity for girls and women as they are for boys and men. Through sports, girls and women can get a feel for the positive competitive spirit which was, until recently, almost exclusively the property of boys and men.

Women and girls who participate in sports develop self-confidence, dedication, a sense of team spirit, and an ability to work under pressure—traits which enhance all aspects of their lives. In fact, 80 percent of women identified as key leaders in Fortune 500 companies have sports backgrounds.

Having the United States host the Women's World Cup in 1999 would be an inspirational way to highlight the excitement of participation in sports, and the heights of greatness which women can reach in athletics. Indeed, it would give Americans the chance to see their own outstanding female soccer players in action. The U.S. National Team won the inaugural title in 1991, and finished third in last year's event before sold out crowds.

The success of the 1994 Men's World Cup Soccer tournament in the United States showed the world that we were ready to be the center of the soccer universe. Indeed, I think we all felt justifiable pride in providing the world with excellent venues as well as first-class transportation, security, communication, and accommodations.

In order for the U.S. Soccer Federation to submit a formal bid to the Federation Internationale de Football Association [FIFA] to host the Women's World Cup, it must show Government backing. In 1987, a similar resolution was agreed to demonstrate support for the U.S. bid to host the 1994 Men's World Cup. By agreeing to this resolution, we will officially recognize their efforts and request that the President of the United States designate appropriate Federal agencies to work with the U.S. Soccer Federation to meet FIFA's requirements for the 1999 tournament's host country.

I hope my colleagues will join me in supporting this worthwhile effort.

SENATE RESOLUTION 234—RELATIVE TO THE DEATH OF EDMUND S. MUSKIE

Mr. DASCHLE (for himself, Mr. DOLE, Mr. COHEN, and Ms. SNOWE) submitted the following resolution; which was considered and agreed to:

S. RES. 234

Whereas, the Senate fondly remembers former Secretary of State, former Governor of Maine, and former Senator from Maine, Edmund S. Muskie,

Whereas, Edmund S. Muskie spent six years in the Maine House of Representatives, becoming minority leader,

Whereas, in 1954, voters made Edmund S. Muskie the State's first Democratic Governor in 20 years,

Whereas, after a second two-year term, he went on in 1958 to become the first popularly elected Democratic Senator in Maine's history,

Whereas, Edmund S. Muskie in 1968, was chosen as Democratic Vice-Presidential nominee,

Whereas, Edmund S. Muskie left the Senate to become President Carter's Secretary of State,

Whereas, Edmund S. Muskie served with honor and distinction in each of these capacities: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Edmund S. Muskie, formerly a Senator from the State of Maine.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Senator.

SENATE RESOLUTION 235—TO PROCLAIM "NATIONAL ROLLER COASTER WEEK"

Mr. THURMOND submitted the following resolution; which was considered and agreed to:

S. RES. 235

Whereas, the roller coaster is a unique form of fun, enjoyed by millions of Americans, as well as people all over the world;

Whereas, roller coasters have been providing fun since the 15th century;

Whereas, in 1885, an American named Phillip Hinckle invented a steam-powered chain lift to hoist coasters to new heights and new down-hill speeds;

Whereas, advances in technology and a renewed interest in leisure and recreation have meant a resurgence for roller coasters;

Whereas, engineers working with computers have been able to create the safest, most thrilling rides ever;

Whereas, there are an estimated 500 roller coasters worldwide, and more than fifty new projects underway in 1996;

Whereas, the world's oldest existing roller coaster, Leap-The-Dips, is located at Lakemont Park in Altoona, Pennsylvania, and is currently being restored;

Whereas, That the Senate proclaims the week of June 16 through June 22, 1996, as "National Roller Coaster Week".

AMENDMENTS SUBMITTED

THE PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1996

McCAIN AMENDMENT NO. 3655

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill (H.R. 1296) to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer; as follows:

At the appropriate place in the amendment insert the following:

"Notwithstanding any other provision contained in any other Act, nothing in this act authorizing or requiring the Secretary of the Interior or the Secretary of Agriculture to acquire land shall be construed to take precedence or assume a higher priority over any other acquisitions undertaken by either the Secretary of the Interior or the Secretary of Agriculture."

THOMAS AMENDMENT NO. 3656

(Ordered to lie on the table.)

Mr. THOMAS submitted an amendment intended to be proposed by him to an amendment submitted by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

On page 2, strike lines 20 through 23 and insert the following:

(2) ACCESS BY INSTITUTIONS OF HIGHER EDUCATION.—The State of Wyoming shall provide access to the property for institutions of higher education at a compensation level that is agreed to by the State and the institution of higher education.

(3) REVERSION.—If the property is used for a purpose not described in paragraph (1) or (2), all right, title, and interest in and to the property shall revert to the United States.

HATCH AMENDMENT NO. 3657

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3605 submitted by Mr. BRADLEY to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

On page 150, line 6, strike "necessary or" and insert "necessary and".

HATCH AMENDMENT NO. 3658

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3583 submitted by Mr. BUMPERS to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(A) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (U.S.C. 1712 and 1782).

(B) RELEASE.—Except as provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1783(c)). Such lands shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712).

(C) CONTINUING WILDERNESS STUDY AREAS STATUS.—The following wilderness study areas which are under study status by States adjacent to the State of Utah shall continue to be subject to sections 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782 (c)):

(1) Bull Canyon; UT00800419/COoolooool.

(2) Wrigley Mesa/Jones Canyon/Black Ridge Canyon West; UT00600116/117/CO00700113A.

(3) Squaw/Papoose Canyon; UT00600229/CO00300265.

(4) Cross Canyon; UT00600229/CO00300265.

HATCH AMENDMENT NO. 3659

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3587 submitted by Mr. FEINGOLD to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(A) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (U.S.C. 1712 and 1782).

(B) RELEASE.—Except as provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1783(c)). Such lands shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712).

(C) CONTINUING WILDERNESS STUDY AREAS STATUS.—The following wilderness study areas which are under study status by States adjacent to the State of Utah shall continue to be subject to sections 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782 (c)):

(1) Bull Canyon; UT00800419/COoolooool.

(2) Wrigley Mesa/Jones Canyon/Black Ridge Canyon West; UT00600116/117/CO00700113A.

(3) Squaw/Papoose Canyon; UT00600229/CO00300265.

(4) Cross Canyon; UT00600229/CO00300265.

HATCH AMENDMENT NO. 3660

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3647 submitted by Mr. BRADLEY to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(A) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (U.S.C. 1712 and 1782).

(B) RELEASE.—Except a provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (47 U.S.C. 1783(c)). Such land shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712).

(C) CONTINUING WILDERNESS STUDY AREAS STATUS.—The following wilderness study areas which are under study status by States adjacent to the State of Utah shall continue to be subject to sections 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)):

(1) Bull Canyon: UT00800419/CO00100001.

(2) Wrigley Mesa/Jones Canyon/Black Ridge Canyon West: UT00600116/117/CO00700113A.

(3) Squaw/Papoose Canyon: UT00600229/CO00300265.

(4) Cross Canyon: UT00600229/CO00300265.

HATCH AMENDMENT NO. 3661

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3580 submitted by Mr. BUMPERS to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(A) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (U.S.C. 1712 and 1782).

(B) RELEASE.—Except a provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (47 U.S.C. 1783(c)). Such land shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712).

HATCH AMENDMENT NO. 3662

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3591 submitted by Mr. BRADLEY to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(a) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (U.S.C. 1712 and 1782).

(b) RELEASE.—Except as provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1783(c)). Such lands shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712).

HATCH AMENDMENT NO. 3663

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3582 submitted by Mr. BUMPERS to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

On page 152, line 12, strike "Title," and insert the following thereafter: "title, so long as such activities have no increased significant adverse impacts on the resources and values of the wilderness areas than existed as of the date of the enactment of this title."

HATCH AMENDMENT NO. 3664

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3611 submitted by Mr. BRADLEY to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

"(3) *Provisions relating to Federal lands.*—(A) The enactment of this Act shall be construed as satisfying the provisions of section 206(a) of the Federal Land Policy and Management Act of 1976 requiring that exchanges of lands be in the public interest.

"(B) The transfer of lands and related activities required of the Secretary under this section shall not require an Environmental Impact Statement, and the Secretary shall not prepare such statement for the purposes of subsection 102(2)(c) of the National Environmental Policy Act of 1969.

"(C) The value of Federal lands transferred to the".

THE LEGISLATIVE LINE-ITEM VETO ACT OF 1996

BYRD AMENDMENT NO. 3665

Mr. BYRD proposed an amendment to the motion to recommit the conference report on the bill (S. 4) to grant the power of the President to reduce budget authority; as follows:

In lieu of the instructions insert the following: "with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the text of S. 14 as introduced in the Senate on January 4, 1995 (with certain exceptions) which is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legislative Line Item Veto Act".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING

"SEC. 1012A. (a) PROPOSED CANCELLATION OF BUDGET ITEM.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1)(A) Subject to the time limitations provided in subparagraph (B), the President may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall clearly identify each budget item that is proposed to be canceled including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item that the President designates for deficit reduction as provided in paragraph (4).

"(B) A special message may be transmitted under this section—

"(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; or

"(ii) at the same time as the President's budget.

"(2) In the case of an Act that includes budget items within the jurisdiction of more than one committee of a House, the President in proposing to cancel such budget item under this section shall send a separate special message and accompanying draft bill for each such committee.

"(3) Each special message shall specify, with respect to the budget item proposed to be canceled—

"(A) the amount that the President proposes be canceled;

"(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget item should be canceled;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget item is provided.

"(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the President shall—

"(i) with respect to a rescission bill, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

"(ii) with respect to a repeal of a tax expenditure or direct spending, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect such amount.

"(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 602(a) to reflect such amount.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the appropriate committee or (in the House of Representatives) committees. The committee shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

"(2)(A) During consideration under this subsection in the House of Representatives, any Member of the House of Representatives may move to strike any proposed cancellation of a budget item.

"(B) A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(D) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(E) Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

"(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(E) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order.

"(F) If the Senate proceeds to consider a bill introduced in the House of Representatives under paragraph (1)(A), then any Senator may offer as an amendment the text of the companion bill introduced in the Senate under paragraph (1)(A) as amended if amended (under subparagraph (A)). Debate in the Senate on such bill introduced in the House of Representatives, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), and any amendment offered under this subparagraph, shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

"(4) Debate in the House of Representatives or the Senate on the conference report on any bill considered under this section shall be limited to not more than 2 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

"(e) TEMPORARY PRESIDENTIAL AUTHORITY TO RESCIND.—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'direct spending' shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(3) the term 'budget item' means—

"(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

"(B) an amount of direct spending; or

"(C) a targeted tax benefit;

"(4) the term 'cancellation of a budget item' means—

"(A) the rescission of any budget authority provided in an appropriation Act;

"(B) the repeal of any amount of direct spending; or

"(C) the repeal of any targeted tax benefit; and

"(5) the term 'targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012A, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012A and 1017".

(c) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following:

"Sec. 1012A. Expedited consideration of certain proposed rescissions and repeals of tax expenditures and direct spending.".

(d) EFFECTIVE PERIOD.—The amendments made by this Act shall—

(1) take effect on the date that is 1 day after the date of enactment of this Act;

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

(3) cease to be effective on September 30, 2002.".

BYRD AMENDMENT NO. 3666

Mr. BYRD proposed an amendment to amendment No. 3665 proposed by him to the motion to recommit the conference report on the bill S. 4, supra; as follows:

Strike all after the first word in the substitute amendment and insert the following: "instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the text of S. 14 as introduced in the Senate on January 4, 1995 (with certain exceptions) which is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legislative Line Item Veto Act".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING

"SEC. 1012A. (a) PROPOSED CANCELLATION OF BUDGET ITEM.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1)(A) Subject to the time limitations provided in subparagraph (B), the President may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall clearly identify each budget item that is proposed to be canceled including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item that the President designates for deficit reduction as provided in paragraph (4).

"(B) A special message may be transmitted under this section—

"(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; or

"(ii) at the same time as the President's budget.

"(2) In the case of an Act that includes budget items within the jurisdiction of more than one committee of a House, the President in proposing to cancel such budget item under this section shall send a separate special message and accompanying draft bill for each such committee.

"(3) Each special message shall specify, with respect to the budget item proposed to be canceled—

"(A) the amount that the President proposes be canceled;

"(B) any account, department, or establishment of the Government to which such budget item is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget item should be canceled;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed cancellation; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget item is provided.

"(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the President shall—

"(i) with respect to a rescission bill, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

"(ii) with respect to a repeal of a tax expenditure or direct spending, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect such amount.

"(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduction under paragraph (1), the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise levels under section 311(a) and adjust the committee allocations under section 602(a) to reflect such amount.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of each House shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the appropriate committee or (in the House of Representatives) committees. The committee shall report the bill without substantive revision and with or without recommendation. The committee shall report the bill not later than the seventh day of session of that House after the date of receipt of that special message. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

"(2)(A) During consideration under this subsection in the House of Representatives, any Member of the House of Representatives may move to strike any proposed cancellation of a budget item.

"(B) A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(D) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(E) Except to the extent specifically provided in this section, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

"(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(E) A motion in the Senate to further limit debate on a bill under this subsection is not debatable. A motion to recommit a bill under this subsection is not in order.

"(F) If the Senate proceeds to consider a bill introduced in the House of Representatives under paragraph (1)(A), then any Senator may offer as an amendment the text of the companion bill introduced in the Senate under paragraph (1)(A) as amended if amended (under subparagraph (A)). Debate in the Senate on such bill introduced in the House of Representatives, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), and any amendment offered under this subparagraph, shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

"(4) Debate in the House of Representatives or the Senate on the conference report on any bill considered under this section shall be limited to not more than 2 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

"(e) TEMPORARY PRESIDENTIAL AUTHORITY TO RESCIND.—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'direct spending' shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(3) the term 'budget item' means—

"(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

"(B) an amount of direct spending; or

"(C) a targeted tax benefit;

"(4) the term 'cancellation of a budget item' means—

"(A) the rescission of any budget authority provided in an appropriation Act;

"(B) the repeal of any amount of direct spending; or

"(C) the repeal of any targeted tax benefit; and

"(5) the term 'targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012A, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012A and 1017".

(c) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following:

"Sec. 1012A. Expedited consideration of certain proposed rescissions and repeals of tax expenditures and direct spending.".

(d) EFFECTIVE PERIOD.—The amendments made by this Act shall—

(1) take effect on the date that is 2 days after the date of enactment of this Act;

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

(3) cease to be effective on September 30, 2002.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that Acquisition and Technology Subcommittee of the Committee on Armed Services be authorized to meet at 10:00 a.m. on Wednesday, March 27 in open session, to receive testimony on proliferation of weapons of mass destruction and the impact of export controls on national security in review of the defense authorization request for the fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, to conduct a mark-up of the following nominees: the Honorable Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System; The Honorable Alice Rivlin, of Pennsylvania, to be a Governor and serve as Vice Chairman of the Board of Governors of the Federal Reserve System; Laurence Meyer, of Missouri, to be a Governor of the Board of Governors of the Federal Reserve System; Stuart E. Eizenstat, of Maryland, to be under Secretary of Commerce for International Trade; and Gaston L. Gianni, Jr., of Virginia, to be Inspector General, Federal Deposit Insurance Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session on the Senate on Wednesday, March 27, 1996, to conduct a mark-up of pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Wednesday, March 27, 1996 session of the Senate for the purpose of conducting a hearing on Spectrum Use and Management.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, March 27, 1996, for purposes of conducting a Full Committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 1605, a bill to amend and extend certain authorities in the Energy Policy and Conservation Act which either have expired or will expire on June 30, 1996, and S. 186, the Emergency Petroleum Supply Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DOLE. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Wednesday, March 27, at 9 a.m., Hearing Room (SD–406), on possible Federal legislative reforms to improve prevention of, and response to, oil spills in light of the recent North Cape spill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 10 a.m., to hold a business meeting to vote on pending items.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, March 27, 1995, at 2 p.m., to hold a hearing on judicial nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. DOLE. I ask unanimous consent that the Committee on Labor and Human Resources be authorized to hold a meeting during the session of the Senate on Wednesday, March 27, 1996, at 9 a.m. The committee will be in executive session on S. 1477, the Food and Drug Administration Performance and Accountability Act and the Older Americans Act Reauthorization, an original bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 9:30 a.m., to hold a hearing on campaign finance reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 9:30 a.m. to hold an open hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 2 p.m. in SH–219 to hold a closed briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. DOLE. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, to hold hearings on the Global Proliferation of Weapons of Mass Destruction, Part II.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet on Wednesday, March 27, 1996, at 1:30 p.m., in open session, to receive testimony on the Department of the Navy's submarine development and procurement programs in review of the Defense authorization request for fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRUE COMMUNITY SPIRIT

• Mr. HOLLINGS. Mr. President, I would like to take a moment to acknowledge the passing of a truly admirable woman, Laura Toliver Jefferson, known affectionately and respectfully as Mother Jefferson. She was a tireless advocate for her community as well as a source of inspiration to those who knew her. Mrs. Jefferson will be remembered by all as the woman who fought over the course of nearly 30 years to get public sewer service for her community of Arthurtown, Little Camden, and Taylors. This was the area of South Carolina in which she was born, raised 10 children, and where she died at the age of 93. She will be greatly missed.

Mother Jefferson came to my attention when she was lobbying for a sewage system to be built in her community. To say that this development was long overdue would be an understatement. We tried several different avenues year after year, but the funding kept getting denied or held up. Over the many years, the citizens of Arthurtown, Little Camden, and Taylors found themselves caught in a complicated and often frustrating bureaucratic process. Where another person might be enraged by the redtape, Mrs. Jefferson remained undaunted, focused, and incredibly polite. Without ever complaining, she voiced the concerns of herself and her community. A local newspaper, the State, captured her humility and humor in an interview in 1985, "It ain't no disgrace to be poor. It's just inconvenient."

After nearly three decades of fighting, the community finally received $3.9 million in Federal and State grants, and the construction began. On July 12, 1995, the people of Little Camden, Arthurtown, and Taylors got a sewage system. They also got the opportunity to thank Mother Jefferson, in the form of a celebration at her house. As the crowd squeezed into her bathroom to share the communities' very first toilet flush, She said "I'm so grateful that I'm lost for words."

Mother Jefferson was one of the more articulate, gracious, determined people I have met. She was a truly good woman who participated in community affairs and made an enormous difference in people's lives. Her involvement and her spirit serve as a lasting lesson to us all. When writers or politicians talk about what makes America great, they are talking about people like Mother Jefferson. I send my sincere condolences to her family and friends. Like them, I will not forget her.•

BUDGET CUTS AND EDUCATION

Mr. SIMON. On March 12 the Senate voted to restore $2.6 billion in Federal funding for education. While this would still leave Federal support for education below 1995 levels, I was pleased to see the Senate take bipartisan action to at least partially reverse what was clearly an unwise decision. Senator HARKIN, Senator SPECTER, and the other Senators who have shown strong leadership on this issue deserve a great deal of credit for their efforts.

Recently, the Chicago Tribune published an article on the effect that Federal education cuts would have for the State of Illinois and the city of Chicago. The article gave a compelling account of what such cuts would mean for the millions of students. I strongly urge the Senate to maintain its position in conference to prevent the harmful impact that the House-proposed cuts would have on Illinois and on the Nation.

I ask that the Chicago Tribune article be printed in the RECORD.

The article follows:

[From the Chicago Tribune, Feb. 13, 1996]

U.S. BUDGET CUTS IMPACT CHICAGO SCHOOLS

(By Nathaniel Sheppard, Jr.)

Three years ago, at least two fights a day broke out at Ravenswood Elementary School in Chicago's rough and tumble Uptown community.

That number is down to about two per month, according to school officials, largely due to a Peer Leadership project that is part of a nationwide program known as Safe and Drug Free Schools and Communities.

Despite the program's success at Ravenswood and other city schools, it is at risk of becoming a casualty in the battle between Congress and President Clinton over the Federal budget.

It is one of several programs that could be crippled by cuts of $54 million in Illinois' share of Federal funds under the Title I program for the Nation's neediest children.

The cuts are incorporated in a temporary spending bill, known as a continuing resolution, that is keeping the government functioning during the budget crisis.

Under the stopgap measure, Federal funding for Title I programs in the State is cut from its $317.2 million level in the 1995 fiscal year to $263 million in fiscal 1996.

The cuts could lead to substantial layoffs of teachers—as many as 600 in Chicago alone, according to Department of Education estimates—and could hobble programs that have become the centerpiece of national and State efforts to make schools safe, drug-free and internationally competitive by the year 2000.

The 30-year-old Title I program is the largest run by the Department of Education.

It provides remedial aid to more than 50,000 under-performing students in public and private schools, including two-thirds of all elementary schools.

The program also funds salaries for thousands of teachers and aides.

Congress passed the temporary spending bill in December to keep agencies running after parts of the government were shut down twice last year in the budget dispute.

Clinton has agreed to Republican demands to balance the budget in 7 years using economic assumptions of the Congressional Budget Office. But Democrats and Republicans still disagree over how deep some budget cuts should be.

Republicans argue that Democrats exaggerate the harm the cuts will cause and say that in several areas, their reforms will lead to increased funding for education programs.

Nationwide, cuts in the Title I program total $1.1 billion or 17 percent over last year, under the current continuing resolution.

That reduces spending to $7 billion for individualized instruction, smaller classes, after-school study programs, computers, projects to encourage parental involvement in schools and other strategies some educators say are critical to meeting the federally mandated year 2000 goal.

"The cuts are a serious problem that threatens the safety and well-being of 40 million children and nearly every public school teacher, principal, and support staff member in America," said Secretary of Education Richard Riley.

Nationwide, safe and drug-free school and community programs would be slashed $107.8 million, Education Department officials say. That, they add, is enough to pay for 400,000 hand-held metal detectors, hire 3,300 security officers, keep 3,600 schools open for 3 hours of extra-curricular programs, hire 2,000 teachers for conflict-resolution courses and train 50,000 teachers and administrators in drug and violence prevention and education.

"For us, the impact will be devastating," said Patricia McPhearson, manager of the Safe and Drug Free Schools Program in Chicago. Its budget is cut 25 percent to $4.3 million in Chicago under the stopgap funding.

Statewide, cuts in the program total $4.7 million. Under even larger cuts proposed by House Republicans, the State would lose $10 million from the program.

Popular projects such as those at Sauganash and Ravenswood schools, and Amundsen High School could become skeletal programs, McPhearson said.

The program at Amundsen seeks to change the climate of community violence.•

NATIONAL DOMESTIC VIOLENCE HOTLINE

• Mr. WELLSTONE. Mr. President, 2 weeks ago I came to the floor to announce the realization of another component of our initiative to prevent violence against women—the national domestic violence hotline. At that time, I indicated that I would come to the floor every day for 2 weeks, whenever my colleagues would be kind enough to give me about 30 seconds of time, to read off the 800 number of the hotline.

The toll free number, 1–800–799–SAFE, will provide immediate crisis assistance, counseling, and local shelter referrals to women across the country, 24 hours a day. There is also a TDD number for the hearing impaired, 1–800–787–3224.

Mr. President, roughly 1 million women are victims of domestic violence each year and battering may be the single most common cause of injury to women—more common than auto accidents, muggings, or rapes by a stranger. According to the FBI, one out of every two women in America will be beaten at least once in the course of an intimate relationship. The FBI also speculates that battering is the most under-reported crime in the country. It is estimated that the new hotline will receive close to 10,000 calls a day.

I hope that the new national domestic violence hotline will help women and families find the support, assistance, and services they need to get out of homes where there is violence and abuse.

Mr. President, once again, the toll free number is 1–800–799–SAFE, and 1–800–787–3224, for the hearing impaired.•

OPERATION SAFE HAVEN AND THE ASSETS OF EUROPEAN JEWS IN SWISS BANKS

Mr. D'AMATO. Mr. President, I rise today to discuss an issue of great emotion and importance to Holocaust survivors and their families. The issue at hand is an inquiry into the return, by Swiss banks, of assets deposited by European Jews and others in the years preceding the Holocaust.

From the 1930's until the onset of the Holocaust, European Jews and others deposited funds and other assets in Swiss banks for safekeeping. In doing so, they were trying to avoid what some inevitably saw as the writing on the wall, namely the coming Nazi onslaught. Others did so, simply for business reasons. At the end of the war however, a great many Swiss banks denied holding these assets.

Throughout the intervening years, the victorious Allies made several requests of the Swiss Government for cooperation in finding these assets. Several organizations, in addition to the Allies made repeated and determined efforts to persuade the Swiss to examine their banks and to find these missing assets.

For the Swiss though, the matter was simple, they did all that they could to avoid any type of examination of their banking system, despite clear evidence of very deep cooperation with the Nazis. The Swiss hid behind their 1934 Bank Secrecy Act, claiming that they could not divulge the identity of their account holders. This is quite ironic in view of the fact that the 1934 Act was designed to protect the identity of the account holders from the Nazis. Now, they were using this same law to shield the assets from the survivors and the victims' rightful heirs.

Finally, in a series of agreements and treaties with the Allies following the war, Switzerland reluctantly agreed to search their banks' files for these assets. Finally, in 1962, the Swiss Bankers Association undertook a search through their records to find what assets, they denied holding in the first place. At the conclusion of this search, they found approximately 9 million Swiss francs, or some $2 million, belonging to 961 claimants. Nevertheless, some 7,000 claimants were turned down.

Numerous sources have questioned the validity of this search, but nothing was done beyond this until another search was performed in 1995. In this new search, according to the Swiss Bankers-Association, a total of 893 accounts, holding $32 million were found. These accounts were said to have been dormant for at least 10 years and were opened before 1945. These numbers have been criticized, by a variety of sources, as vastly too small.

It is in this vein, as Chairman of the Senate Banking Committee, I have begun an inquiry into this situation. The inquiry will examine the procedures by which Swiss banks calculated the amount of assets in their possession. In these post-war searches, in 1962–63, and most recently in 1995, the Swiss banks used different criteria to conduct their examinations. Therefore, the Banking Committee will evaluate how the banks searched their accounts, and what kind of accounts might have been missed. The Committee will try to discern if the searches were comprehensive enough to find all assets.

While in the early stages of the search, my staff has found declassified military intelligence documents that detail a variety of fascinating facts vital to this inquiry. In "Operation Safe Haven," a program of the Joint Treasury Department-Justice Department-State Department operation to locate and identify Nazi assets and looted assets in Europe, Military Intelligence officers filed a series of now-declassified reports on these topics. One such document, dated July 12, 1945, details a list of 182 separate bank accounts held by Societe General de Surveillance S.A. of Geneva. These holders of these bank accounts were from Romania, Hungary, Bulgaria, Croatia, Moravia, Slovakia, France, Holland, and Denmark.

This important document is vital to understanding the issue of Holocaust assets in Swiss banks. More importantly, we must compare it to the declarations of the Swiss that they had no real assets in their possession, and to later fulfillment of some claims made with them. To start, I would like to know if these accounts are among those found in the post-war, 1962, and 1995 searches, and if not, where is the money now?

At this time, Mr. President, I ask that the above mentioned document be printed in the RECORD at the conclusion of my remarks.

Mr. President, this document proves vital to countering the claim that there were no assets, or very little. With the help of the Congressional Research Service, I would like to list the amount of assets, held in the various currencies reported, converted into dollars at the 1945 rate. Additionally, I will list the value of those assets in 1995 dollars accounting for inflation, as well as what the accounts would hold today with 3 percent, 4 percent, and 5 percent interest respectively. The amounts are as follows:

Currency	1945 amount	1995 amount	1945+3%	+4%	+5%
Swiss Francs	$2,214,915	$18,738,181	$9,989,266	$16,390,371	$26,667,577
French Francs	4,925	41,665	22,261	36,396	59,297
Belgian Francs	713	6,034	3,223	5,269	8,585
British Sterling	71,488	604,790	323,126	528,296	860,716
Canadian Dollars	264	2,233	1,193	1,951	3,179
U.S. Dollars	119,020	1,006,915	537,970	879,557	1,433,009
Dutch Florin	227	1,923	1,026	1,678	2,733
Total	2,411,552	20,401,741	10,878,065	17,843,518	29,035,096

Mr. President, as you can see, these amounts are of an incredible magnitude. If they are accurate numbers, there is a real problem and the Swiss banks have a lot of questions to answer, and I plan to pose questions to them today. I plan on actively pursuing this matter until I achieve an authoritative, accurate and final accounting of all assets that numerous Swiss banks continue to hold from this time period and to which the survivors and rightful heirs are entitled.

The document follows:

[USG–SWI–105; Secret: No. 12100; Bern, Switzerland, Reference: SH No. 74, Date: July 12, 1945]

SAFEHAVEN REPORT

Subject: Supplementary Report on Funds Held for Others by Societe General do Surveillance S.A., Geneva.

Reference is made to SAFEHAVEN Report No. 4 of April 9, 1945. Attached hereto is a list of balances held by Societe General de Surveillance S.A., Geneva for nationals who are also residents of Rumania, Hungary, Bulgaria, Croatin, Moravia, Slovakia, France, Holland, and Denmark. It will be soon from the attached list that the balance hold for nationals who are also residents of the named countries total:

Swiss Francs	9,506,078.62
French Francs	250,000.00
Belgian Francs	31,282.08
Francs Gold (no further description)	182,100.00
British Sterling	17,739–4–17
Canadian Dollars	291.68
U.S. Dollars	119,020.64
Florin	599.22
Slovakia Cr.	5,162.60
Rumania Nom. Lei	1,400,000.00
Greek Drachmas	500,000.00
Kuna	10,069.00

And one safety deposit box for which no value can be attributed at this time.

The attached list represents certain amendments to the list appended to SAFEHAVEN Report No. 4 suggested by our informants, and also includes additional information in regard to other balances not heretofore reported. The attached list, which contains more detailed information relative to the property held than the earlier one, is said to be a complete list of all persons who are nationals and also residents of the countries named who have balances with S.G.S., except that for practical reasons later compilations omit balances below Swiss francs 10,000. Furthermore, it may be noted that we are advised that we now have a complete list of all accounts held by S.G.S. for all persons who are nationals and residents of countries which are of interest except Germany.

While we have been advised that S.G.S. holds no balances for persons in Germany, this statement has been questioned on the basis of an admission that advances were made to a German resident of Switzerland out of funds due Mr. Siepmann, the former Manager of the Hamburg Control Company which was formerly affiliated with S.G.S., and it is possible that an additional report will be submitted if additional information is obtained at a later date.

In SAFEHAVEN Report No. 4 it was stated that:

". . . It is reliably reported that since 1941 S.G.S. also has acted in a banking or fiduciary capacity by holding funds representing profits realized by its Balkan customers on shipments of merchandise to neutrals and to enemy territory. The transactions which resulted in the accumulation of profits involved over invoicing consignees, shipment of the merchandise against payment in Switzerland in Swiss francs, and withholding by S.G.S. of the excess payments or balances . . .

"It is stated that the aforementioned funds and other property are beneficially owned principally by Jewish persons who are nationals of and residents of the abovementioned countries and who were endeavoring (1) to profit from black market operations in local currencies of the Balkan countries; (2) to move funds out of their home countries; or (3) to insure that the funds would be safe from confiscation by their local authorities".

During the present investigation, however, a question was raised as to whether or not the above statement also were true for balances held for persons who are nationals and also residents of France, Holland, and Denmark and in reply the following memorandum dated June 18, 1945 was received:

"The only countries for which we hold financial accounts are Romania and to a very limited extent Bulgaria. We have never transacted such business for people in other countries."

From the foregoing it would appear that our earlier remarks do not hold for nationals and residents of Hungary, Croatia, Moravia, Slovakia, France, Holland, and Denmark. This conclusion seems to be correct since at our request the Genova Consulate discussed the memorandum of June 18, 1945, further with the S.G.S. and on July 2, 1945 advised in part as follows:

The memorandum of June 18 from S.G.S. is correct. On the French list all but the last two entries have been held since before the war. The last two were acquired from a bank in free exchange for the account of the persons mentioned. The Hungarian gold (as also the French gold) was deposited with the S.G.S. without its having any knowledge as to how it had been acquired."

For your further information, we are advised by the Geneva Consulate in their letter of July 2, 1945, that all dollar balances are deposited in blocked accounts except one of $4200 held for Maurice Moiso Rothmann, Bucharest, which is in the form of currency.

With regard to the balances held in French francs, the following was reported in the Geneva Consulate's letter referred to above:

"There is only one case involving a balance in French bank notes (S.A.R. DE TRANSPORTURI EGER on the Rumanian list involving 250,000 French francs) and those were declared to the French Consulate here by the S.G.S.

"Holdings shown on the French list should supposedly be declared by the owners. S.G.S. has no obligation to declare anything in these cases. It is not known for sure, but the presumption is that the French owners have not made any declarations in order to avoid taxation."

This information is reported to Washington and London for whatever further action may be desired.

We should like to request again that this information be regarded as extremely confidential and be so handled that it will not be disclosed to Swiss or other sources. The request is for the protection of our informants who appear to have been very cooperative.

Enclosures: 3 Lists

850.3/711.2

DJR/KRH/EGR/eb

Original and hectograph to the Department

Two copies to American Embassy, London
One copy to American Embassy, Lisbon
One copy to American Embassy, Madrid
Two copies to British Legation, Bern.

Reproduced by London Office, US Group CC. 2 August 1945.

[Enclosure No. 1 to Despatch No. 12100 (SH No. 74), dated July 12, 1945, from the American Legation Bern.]

Roumanie	Currency	Soldes crediteurs
M. Adler, Bucharest	FrS	22,018.85
Mondy Agent, Bucarest	FrS	22,219.70
Agraproduct, Bucarest c/bloque (vente 432 T. pois par W. Kundig & Co. Zurich.	FrS	330,110.00
Agraproduct, Bucarest c/financier	FrS	493,095.67
Leo Alpern, Bucarest	FrS	14,123.00
Arion Samuel, Bucharest	FrS	20,703.90
Mihail Atias, Bucarest	FrS	5,000.00
Mme. Cocutza M. Bach, Bucarest	FrS	45,989.10
Leon Balian, Bucarest	S	1,591.75
Leon Balian, Bucarest	FrS	^{1}400.55
Leon Balian, Constantza (actions Selecta SAR, Bucarest).	Nom.Loi	1,400,000.00

[Enclosure No. 1 to Despatch No. 12100 (SH No. 74), dated July 12, 1945, from the American Legation Bern.]

Roumanie	Currency	Soldes crediteurs
Balian & Co. S.A. Bucarest	FrS	4,557.40
Balian & Co. S.A. Bucarest	Fbg	31,282.08
Emil Neumann Bercovici, Braila	FrS	15,772.05
Kriker Bouhartzian, Bucarest	FrS	9,993.30
Alexandru P. Bratulescu, Bucarest	FrS	9,992.80
Serban Salviny Cappon, Bucarest	FrS	3,000.00
Jancu Chitzes, Bucarest	FrS	5,953.05
Jancu Chitzes, Bucarest	S	3,013.66
Ing. Andrei V. Chrissoghelos No. 567	FrS	54,850.50
Ing. Andrei V. Chrissoghelos No. 936	FrS	579,263.50
Companie Cific S.A. Bucarest	FrS	36,780.53
H. Cohl, Bucarest	FrS	9,974.60
D. Constantinescu, Bucarest	FrS	7,500.00
D. Constantinescu, Bucarest c/Depot	Francs OR	3,800.00
Ernst Ozallek, Bucarest	S	205,312.25
Ernst Ozollek, Bucarest	FrS	1,270.36
Const. A. Dimitropol, Bucarest	FrS	8,100.00
Eug. Dornhelm, Timiscara	FrS	35,000.00
"Ergede" Radu G. Dumitrescu, Bucarest	FrS	3,272.65
S.A.R. de Transporturi Eger, Bucarest	FrS	258,381.05
S.A.R. de Transporturi Eger, Bucarest c/ bloque.	FrS	10,500.00
S.A.R. de Transporturi Eger, Bucarest (en billets de banque).	Ffrs	250,000.00
Adolph J. Ellenbogen, Bucarest	FrS	5,925.80
Externa. S.A., Bucarest	FrS	1,600.00
Constantin Feltoianu, Bucarest	FrS	523,919.14
Mme. Adela Feldman, Bucarest	FrS	25,000.00
Isaac Feldstein, Bucarest c/927	FrS	736,792.60
Isaac Feldstein, Bucarest c/bloque	S	19,444.38
Isaac Feldstein, Bucarest	S	130.00
Isaac Feldstein, Bucarest c/suspens	FrS	1,465.00
Isaac Feldstein, Bucarest	Francs OR	32,300.00
Jankel Jancu Feldstein, Bucarest c/926	FrS	67,000.00
Jankel Jancu Feldstein, Bucarest	Francs OR	20,000.00
A. Fischler, Bucarest	FrS	6,000.00
Mme. Flora Franco, Bucarest	FrS	25,971.05
Mois Aron Franco, Bucarest	FrS	25,000.00
S.A. Gattorno, Bucarest	FrS	2,106.25
D. Alexandru Cerendai, Bucarest	FrS	5,000.00
George Gigantes, Bucarest	S	2,000.00
D. Goldberg, Bucarest	S	9.16.10
Rose Gorcewicz, Bucarest	FrS	7,497.00
Heinrich Gruenberg, Bucarest	FrS	14,973.25
Baruch Halpern, Bucarest	FrS	269,036.90
Hanza Romana, Bucarest	FrS	340.21
Marou Harabaziu, Bucarest	FrS	20,000.00
Herscovici H. Leib	FrS	90,525.80
Herscovici Simon, Bucarest	FrS	30,310.00
Heinrich Hoffman, Bucarest	FrS	8,472.55
Intercontinentale A.G., Bucarest	FrS	133,864.00
Intercontinentale A.G., Bucarest c/Espagne	FrS	27,258.10
Intercontinentale A.G., Bucarest c/Suede	FrS	11,949.45
Avram Adolf Isvoranu, Bucarest	FrS	193.80
Avram Adolf Isvoranu, Bucarest c/special	S	5,000.00
Avram Adolf Isvoranu, Bucarest (c/billets de bloque).	L	7,170.00.00
Joan C. Kisielevschi, Bucarest	FrS	10,000.00
Dr. Arthur Kiro, Bucarest	FrS	1,855.70
Moreno Klarsfeld, Bucarest	FrS	24,916.35
Sache Klein, Bucarest	S	1,690.00
Lupu Levensohn, Galatz	S	243.4.3
Robert Levy, Bucarest	FrS	5,707.50
Mme Alexander Lichtinger, Bucarest	FrS	22,500.00
Lloyd International, Bucarest	S	7,521.51
Lloyd International, Bucarest	FrS	426.47
Erich M. Loewenthal, Bucarest	FrS	100,115.00
Jules Loventons, Bucarest	FrS	20,000.00
Leopold Lustig, Bucarest	FrS	39,698.95
Jerassim Marulis, Bucarest	FrS	20,000.00
Ing. Gregore Melinte, Bucarest	FrS	342,623.76
Ing. Gregore Melinte, Bucarest (1 safe loue).		....
Sigmund Mendelsohn, Bucarest	S	2,000.00
Mihran D. Mesrobian, Bucarest	FrS	249,988.60
Lazar Munteanu, Bucarest	S	2,339.36
Oficiul National de Comert S.A.R., Bucarest c/bloque.	S	218.74
Oficiul National de Comert S.A.R., Bucarest.	FrS	11,568.55
Jose. M. Pincas, Bucarest	S	5,984.14
Jos M. Pincas, Bucarest	FrS	588.60
Heskia Presente, Bucarest	FrS	66,092.31
Heskia Presente, Bucarest	S	1,946.39
Heskia Presente, Bucarest (en especies)	FrS	8,727.00
Rachel Presente, Bucarest	FrS	761,582.55
Rachel Presente, Bucarest	S	8,315.72
Rachel Presente, Bucarest	Frances OR	126,000.00
Rachel Presente, Bucarest (en especies)	Drachmes	500,000.00
Rachel Presente, Bucarest (en especie)	FrS	8,336.73
Rachel Presente, Bucarest (en billets bloque).	L	10,000.00.00
M.A. Rand & Co. Bucarest	L	312.10.4
M.A. Rand & Co. Bucarest	S	8.77
Simon L. Ross, Bucarest	FrS	6,113.30
Maurice Moise Rothmann, Bucarest	FrS	6,445.90
Maurice Moise Rothmann, Bucarest (en billets bloque).	S	4,200.00
Maurice Moise Rothmann, Bucarest	FrS	4,775.00
Rothschild, Bucarest	FrS	82,384.35
David Sabetay, Bucarest	FrS	140,739.33
Salomon Schapira, Bucarest	FrS	39,950.00
Simex S.A.R., Bucarest c/M, Goldring	FrS	9,623.97
Simex S.A.R., Bucarest c/Froim Pricert	FrS	44,668.54
Simex S.A.R., Bucarest c/Fl. Abeles	FrS	14,407.45
Socerex S.A.R., Bucarest c/No. 1	FrS	485,817.88

[Enclosure No. 1 to Despatch No. 12100 (SH No. 74), dated July 12, 1945, from the American Legation Bern.]

Roumanie	Currency	Soldes crediteurs
Socerex S.A.R., Bucarest c/bloque garantie 10%.	FrS	97,000.00
Socerex S.A.R., Bucarest c/5% reserve	FrS	9,733.25
Socerex S.A.R., Bucarest c/affaires Suede	S	7,654.03
B. Taingiu, Bucarest	FrS	30,717.90
Translloyd Maison de Transport, Bucarest	FrS	984.40
J. Weintraub, Bucarest	FrS	1,629.70
Nikolaus Zeller, Bucarest	FrS	5,198.00

[1] debit.

[Enclosure No. 2 to Despatch No. 12100 (SH No. 74) dated July 12, 1943, from the American: Legation, Earn.]

Hongree	Currency	Soldes crediteurs
Rosa Farkas, Budapest		9,900.00
Agai & London Budapest	FrS	899,980.40
Bolban Bartok, Budapest	FrS	5,000.00
Mue Rosa Budanovich, Budapest	FrS	3,995.00
Fleischor Sandor, Budapest	FrS	470.00
Emile Friedlander, Budapest	FrS	119,979.83
Gesellschaft fur Internationalon Handel & Kommis, Budapest.	FrS	17,966.09
Hormes A.G., Budapest	S	6,498.62
Intercontinentale A.G., Budapest 600 montant sorvire au paiomont de frot do 256 Tonnes a Buche.	FrS	66,371.24
Alexander Grauss, Budapest	S	119.70
Goza Guttamann, Szegod	S	1,449.55
Horvat Istvan, Budapest	S	1,140.65
B. Kraicz, Budapest	FrS	151,404.95
Fr. Laufer, Budapest	FrS	183,108.63
Dr. A. Miklos, Budapest:		
7,007 pieces d'or do FrS 20-a 30	FrS	210,210
2 pieces d'or do FrS 10-a 15	FrS	30
		210,240
Moins solde debiteur	FrS	175,331.90
		34,908.10
A Rosenbaum, Budapest	S	105.44
Zoltan Weiner, Budapest	FrS	10,000.00
Hermes Ungar, Allg. Wochselstubo A.G. Budapest.	S	6,493.62
Rosa Farkas, Budapest		9,900.00
Agai & London Budapest	FrS	899,980.40
Bolban Bartok, Budapest	FrS	5,000.00
Mue Rosa Budanovich, Budapest	FrS	3,995.00
Fleischor Sandor, Budapest	FrS	470.00
Emile Friedlander, Budapest	FrS	119,979.83
Gesellschaft fur Internationalon Handel & Kommis, Budapest.	FrS	17,966.09
Hormes A.G., Budapest	S	6,498.62
Intercontinentale A.G., Budapest 600 montant sorvire au paiomont de frot do 256 Tonnes a Buche.	FrS	66,371.24
Alexander Grauss, Budapest	S	119.70
Goza Guttamann, Szegod	S	1,449.55
Horvat Istvan, Budapest	S	1,140.65
B. Kraicz, Budapest	FrS	151,404.95
Fr. Laufer, Budapest	FrS	183,108.63
Dr. A. Miklos, Budapest:		
7,007 pieces d'or do FrS 20-a 30	FrS	210,210
2 pieces d'or do FrS 10-a 15	FrS	30
		210,240
Moins solde debiteur	FrS	175,331.90
		34,908.10
A Rosenbaum, Budapest	S	105.44
Zoltan Weiner, Budapest	FrS	10,000.00
Hermes Ungar, Allg. Wochselstubo A.G. Budapest.	S	6,493.62

[Enclosure No. 3 to Despatch No. 12100 (SH Report No. 74) dated July 12, 1945, from the American Legation,]

Claimant	Currency	Soldes crediteurs
BULGARIE		
Nissin Hasan, Sofia	FrS	23,774.30
B. Heilborn, Sofia	FrS	165,117.18
Sergey Kalendjieff, Sofia	FrS	68,684.35
Marco Markoff, Sofia	FrS	39,249.10
Joseff Bohor Yulzeri, Sofia	FrS	4,512.00
CROATIE		
A. Debenjiak, Zagreb	FrS	34,436.22
"Jadran" Int. Transp., Zagreb	FrS	14,958.62
"Jadran" Int. Transp., Zagreb	Kùna	10,069.00
Export Ste. Commle., Split	S	2,258.58
Export Ste. Commle, Split	FsS	360,565.00
MORAVIN		
Dr. Erwin Karpeles, Brno	FrS	5,930.70
SLOVAQUIE		
Richard/Julius Heimann	FrS	15,000.00
W. Markstein, Bratislava	Fl	599.22
W. Markstein, Bratislava	L	2,100.00
W. Markstein, Bratislava	S	4,539.32
W. Markstein, Bratislava	FrS	27,528.90
W. Markstein, Bratislava	Cr. Sl.	5,162.60
FRANCE		
Establissements Douillet & Fils, Domleger	S USA	19,632.66
Establissements Douillet & Fils, Domleger	FrS	900.01
Alice Eisinger, Marseille	FrS	17,078.50
Alice Eisinger, Marseille	$ USA	1,365.15
Alice Eisinger, Marseille plus differents titres americains.	$ Can.	291.68
Eliane Eisinger, Marseille plus differents titres americains.	$ USA	1,083.54
H. Yulzari, Casablanca	FrS	84,648.65
Ph. de Tristan, Paris: Trustee pour Foreign Mortgage and Investment Co. Ld. St. Johns Nfnd.	FrS	60,950.10
HOLLANDE		
Amsterdamsche Goederen Bk. Amsterdam	FrS	14,090.40
M. H. Bregstein, Amsterdam	FrS	18,043.15
J. H. Meesmann, Amsterdam	FrS	55,578.30
Ed. Sylmans, Rotterdam	FrS	47,476.85
DANEMARK		
F. Boehn, Copenhague	FrS	43,538.70

UNANIMOUS-CONSENT REQUEST—S. 1618

Mr. LUGAR. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 347, Senate bill 1618, a bill to provide uniform standards for the award of punitive damages for volunteer services.

Mr. EXON. Mr. President, on behalf of a Democratic Member, I object.

The PRESIDING OFFICER. Objection is heard.

AUTHORIZATION FOR THE 1996 SPECIAL OLYMPICS TORCH RELAY ON THE CAPITOL GROUNDS—HOUSE CONCURRENT RESOLUTION 146

AUTHORIZATION TO USE THE CAPITOL GROUNDS FOR THE ANNUAL NATIONAL PEACE OFFICERS' MEMORIAL SERVICE—HOUSE CONCURRENT RESOLUTION 147

Mr. LUGAR. Mr. President, I ask unanimous consent that it be in order for the Senate to proceed, en bloc, to the consideration of the following concurrent resolutions just received from the House: House Concurent Resolution 146 and House Concurrent Resolution 147.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolutions are agreed to, en bloc.

So the concurrent resolutions (H. Con. Res. 146 and 147) were agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote and to lay that on the table.

The motion to lay on the table was agreed to.

NATIONAL ROLLER COASTER WEEK

Mr. LUGAR. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 235, submitted earlier today by Senator THURMOND.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 235) to proclaim the week of June 16 to June 22, 1996, as "National Roller Coaster Week."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LUGAR. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 235) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 235

Whereas, the roller coaster is a unique form of fun, enjoyed by millions of Americans, as well as people all over the world;

Whereas, roller coasters have been providing fun since the 15th century;

Whereas, in 1885, an American named Phillip Hinckle invented a steam-powered chain lift to hoist coasters to new heights and new downhill speeds;

Whereas, advances in technology and a renewed interest in leisure and recreation have meant a resurgence for roller coasters;

Whereas, engineers working with computers have been able to create the safest, most thrilling rides ever;

Whereas, there are an estimated 500 roller coasters worldwide, and more than fifty new projects underway in 1996;

Whereas, the world's oldest existing roller coaster, Leap-The-Dips, is located at Lakemont Park in Altoona, Pennsylvania, and is currently being restored;

Resolved, That the Senate proclaims the week of June 16 through June 22, 1996, as "National Roller Coaster Week".

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT ACCOMPANYING H.R. 1561

Mr. LUGAR. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may turn to the consideration of the conference report to accompany H.R. 1561, the State Department reorganization bill, and, further, that the reading be deemed waived, and there be a time limitation of 10 hours for debate, with the time divided and controlled as follows: 2 hours under the control of Senator HELMS, or his designee; 2 hours under the control of Senator KERRY, or his designee; 2 hours under the control of Senator NUNN; 3 hours under the control of Senator JOHNSTON; 1 hour under the control of Senator FEINSTEIN; provided further, that upon the expiration or yielding back of all time, the Senate proceed to vote on the adoption of the conference report with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY, MARCH 28, 1996

Mr. LUGAR. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m. on Thursday, March 28; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate immediately resume consideration of the farm conference report under a previous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 1296

Mr. LUGAR. Mr. President, I further ask unanimous consent that following the conclusion of debate on the farm conference report, the conference report be laid aside, and that there then be 30 minutes for debate prior to the cloture vote, to be equally divided in the usual form, and following that debate, the Senate proceed to vote on adoption of the farm conference report, to be followed immediately by the cloture vote with respect to the Kennedy amendment, with the preceding all occurring without any intervening action or debate, and that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LUGAR. Mr. President, for the information of all Senators, there will be a vote with respect to the farm conference report and a cloture vote with respect to the Kennedy amendment back-to-back, hopefully, by mid-morning. Also, the Senate is expected to consider the debt limit and the omnibus appropriation conference report prior to the close of business on Friday. The Senate could also be asked to resume the Presidio legislation. In addition, it is hoped that the Senate could also pass the charities bill, S. 1618. Therefore, votes can be expected throughout Thursday's and Friday's session of the Senate.

Mr. President, I add that, given the hour and the amount of time expired, it would appear that the votes with regard to the farm conference report are likely to come after noon, given the current situation. So Senators might be advised of that change, given the time that has expired this evening.

ORDER FOR ADJOURNMENT

Mr. LUGAR. Mr. President, If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order following the remarks of Senators PRESSLER and GRASSLEY.

The PRESIDING OFFICER. Without objection, it is so ordered.

The chair recognizes the Senator from South Dakota.

Mr. PRESSLER. I thank the Chair. Let me say that my intention is to speak briefly on the farm bill, and then I want to introduce a piece of legislation, if I can do that as in morning business. The total time I will consume will be about 5 minutes.

The PRESIDING OFFICER. The Senator may proceed.

THE FARM BILL

Mr. PRESSLER. Mr. President, I am voting for the farm bill. I support the freedom-to-farm concept. This is not a perfect farm bill, but I find it somewhat ironic that some of my colleagues are voting against it, yet, urging the President to sign it, and then going out and criticizing it. It would be better to improve it and to be constructive.

Our farmers need a farm bill passed now. Many of them have already gone to the fields in our Nation. In South Dakota, they are meeting with their bankers, making their plans. It is time for us to pass a farm bill.

Mr. President, for years, we have had all this regulation and paperwork in agriculture. I come from a farm. I am a farmer. Last year, deficiency payments were sent out to the farmers. Then the commodity prices were high enough that the deficiency payments were sent back to the Department of Agriculture. All this requires a great deal of paperwork, and it costs the taxpayers a lot.

Let me commend Senator LUGAR and the managers of the farm bill, and Senator GRASSLEY and others, who have brought us a farm bill that will not only save taxpayers money, but will also help our Nation's farmers and ranchers.

Mr. President, let me say that I think the most important farm bill besides this is a balanced budget because, if we have a balanced budget, we will be able to export our commodities and the commodity prices will be high enough. Because of a balanced budget we will have low interest rates and a stable dollar and high exports. That is what farmers and ranchers really want. They do not seek handouts. They want good prices on the world market. And they are there for us if we take advantage of it.

So there are many improvements we could make in this farm bill the next year or the year after. But let us pass it now. This is the best deal we can get at this time. If somebody had a better one, they should have brought it up.

Mr. President, I ask unanimous consent to speak as if in morning business for 3 minutes for the purpose of introducing a bill.

The PRESIDING OFFICER (Mr. LUGAR). Without objection, it is so ordered.

Mr. PRESSLER. I thank the Chair.

(The remarks of Mr. PRESSLER pertaining to the introduction of S. 1647 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. PRESSLER. Mr. President, I thank the Chair. I thank my colleague from Iowa and Indiana and congratulate both of them for their work on the farm bill which was very outstanding.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, first, just one sentence to compliment the now Presiding Officer, the Senator from Indiana for his leadership on getting the farm bill passed. I am going to speak tomorrow on the farm bill. This evening, in morning business, I am speaking on the subject of the drug problem.

THE CIRCLE OF HURT

Mr. GRASSLEY. Mr. President, we have heard a great deal on this floor about the problem of drugs in this country. Senator HATCH, Senator FEINSTEIN, Senator MOYNIHAN, and others, have spoken eloquently about the personal and societal costs that we bear because of illegal drug use. Add in the abuse of legal drugs in this country and the costs are staggering.

The record of the harm done is clear. The facts accumulate in depressing measure, detailing the damage done to individuals, to families, to communities, and to our civic life. Drugs destroy a person's capacity to live a decent life. They contribute to a widening circle of hurt that goes far beyond any individual choice to use drugs.

Like a stone dropped into a pond, the ripples move outward in an ever-widening circle. The result is an arc of pain and loss that is no respecter of social position, education, age, race, or location. Nothing brought this home to me more forcefully than a letter I received recently from a constituent. A constituent whose family has borne the brunt of what illegal drug use truly means. We can pile up facts and figures. We have the numbing statistics. But these cold, sterile numbers do not bring home to us the true meaning of what is involved. In order to understand the circle of hurt, let me share with you this story. As the dismaying figures on family violence, crime, and drug-addicted babies only too clearly show, this record is not unique.

Although is it not unique, it is, nevertheless, a story whose very prevalence is part of the harm done everyday by illegal drug use.

Kay and Jim Degrado of Marshalltown, IA, a community of 25,000, know firsthand what the facts and figures mean. Some years ago, their son began experimenting with drugs at 9 and was an addict by 13. Nothing that these good people could do made a difference. They watched as their son slowly sank into addiction and a world of violence, drug dealing, and abuse. As with many families, they were unprepared to deal with the problems. Their son became an addict and a dealer.

At 26, during his second treatment episode, he met a 22-year-old prostitute and crack addict. They subsequently moved in together after they were expelled from the treatment program. In addition to living together, they also began dealing together. They had an 800 number, beepers, and a separate apartment to deal from. Sales helped them maintain a $1,500 a day habit. This in a town of only 25,000. It was at this time that the couple learned that they were to have a baby, the woman's second. The first child was raised in a drug-addicted household, with all the emotional scars that involves. The second child, Tomi, now four, suffered a worse fate. She was born addicted.

As the Degrados learned, drug use damages the unborn child in profound ways. In ways that endure for a lifetime. Their granddaughter, young Tomi, was born with multiple problems. She has difficulty sleeping. She is averse to being touched. She's irritable and has a short attention span. In addition, she has difficulty swallowing, a common feature of drug-affected children. At four, she still must receive supplemental food and medication through a feeding tube in her abdomen. She is unable to use a spoon, lacking the coordination. The grandparents have adopted the child—after years of effort—and can give Tomi a loving home. But they can never heal the hurt. And there are many Tomis in this country.

According to some estimates, as many as 100,000 or more such babies are born every year to addicted mothers. The disabilities are lifelong. Tomi requires constant medical attention. And she has learning disabilities that will affect her as long as she lives. But this is not the end of the story. As with Tomi's parents, many addicts have more than just one child. These children are born addicted. Or they come into drug-using homes where physical and sexual abuse are common. Tomi has an older half-sister, and her mother is pregnant again.

Fortunately, the Degrados' son is in treatment, again, after two suicide attempts and numerous relapses. He visits his daughter but has not taken an active role in her life. It is still unclear if he will stay clean and sober. If he does, and I wish him well, it will come at great effort, one that will occupy him for the rest of his life.

And the cost? The monetary costs, of course, have been enormous. But that is only a small part of the expense. From the seemingly individual choice to use drugs, the Degrados' son, destroyed his own life. He brought pain and suffering to his family. It is a pain that still remains. In addition, he also fathered a child born with lifelong disabilities. Pushed drugs to others. And engaged in numerous crimes. From his one act, a decision to use drugs, the circle of hurt spreads outward in ever-widening arcs. That is the reality of drug use. The damage and harm are personal, immediate, and enduring.

Yet, what we hear from many these days—from some of our cultural and political elite—is that we should legalize such drugs. That we should make them widely available. The common argument is that we should not interfere with a personal choice. A choice which is, according to the argument, a victimless crime. No one is harmed. What a cruel and insensitive lie that is. No wonder so many decent people like the Degrados feel like the country, or its culture leaders, has taken leave of its senses.

And one finds the argument and its logical consequences increasingly prevalent. Recently, a member of my staff learned that a bookstore right here in the Washington area had a whole display on how to process your own drugs at home. The display was full of books on how to start your own drug business in the comfort of your living room. This in a store in a suburban shopping mall frequented by teenagers and families. This is reminiscent of the 1960's. That was the last time we flirted with the "drugs-are-OK-for-everybody" theme. But this is not the 1960's and I had hoped that we had learned something from our past. Seemingly not. At least not some.

Turn on MTV or listen to much of the popular music these days and you get the drugs-are-OK message. First, leading political figures and cultural gurus openly discuss the idea of making drugs readily available at over-the-counter prices. Second, newspaper editors flirt with the idea of legalization. Third, movies and TV shows are once again introducing drugs as okay into their plots. Fourth, many of our political leaders are sending confusing messages. So far, the most notable comment from the President on drug use was, "I didn't inhale." Just think of the unfortunate signal that sends, however inadvertent. And fifth, one of the most remembered policy recommendations from this administration was the call by the Surgeon General for legalization.

Lately we have William F. Buckley, Jr., repeating the legalization theme. And he is in good, or rather, bad company. Some newspapers, magazines, and a variety of pundits have picked up the theme. This does not mean, however, that this is an idea whose time has come. All of this fulminating over the virtues of drugs or the harm caused by preventing people from self-administering deadly substances, is limited to a few, if well-financed, individuals. But their voice has a disproportionate access to the media. A media that then broadcasts and enlarges on the theme, making it seem more influential than it really is. Unfortunately, this posturing encourages young people to dismiss not only the harm that drugs cause but to question whether it is wrong to use drugs. And so, the hurt goes on.

After years of decline, after years in which teenage attitudes toward drugs was moving in the right direction, we now see dramatic reversals in teen drug use, heading back up. More disturbing, we see a decline in negative attitudes to drug use. We have not yet returned to the 1979 levels of abuse, but we have made notable gains in that direction. As recent studies show, an increasingly large percentage of high school kids now report frequent marijuana use. The age at which use is beginning is also dropping. Experts now recommend that we must begin our antidrug prevention message in grade school.

Meanwhile, the casualties mount. The most recent data, released by the drug czar's office, confirm—as if more confirmation was necessary—that drug use is on the rise, especially among kids. This is particularly true of marijuana use. As we learned to our regret, marijuana is a gateway drug for further substance abuse. Heroin use is also on the rise. And much of the West and Middle West face a growing problem of methamphetamine use—the so-called workingman's cocaine. This drug is responsible for dramatic increases in family violence, in violent crime, and in hospital emergencies. What the numbers tell us is a depressing story of returning drug abuse.

We are still dealing with an addict population created by the drugs-are-OK argument from the 1960's and 1970's. Our current hardcore addicts were the 15-, 16-, and 17-year-olds of then. Today we are putting our 12-, 13-, and 14-year-olds at risk. We are mortgaging their futures and the lives of everyone they touch. We are exposing them to a cycle of hurt and suffering. I can imagine few more irresponsible acts. The last time we did it unconsciously or by inattention. If we do this again, we can make no claim to ignorance. We cannot appeal to our innocence. What we do now, we do with full knowledge. We simply cannot let this happen again.

I would like to ask my colleagues to look at my remarks from the standpoint of it portraying the problem of drugs that a family in Iowa had, the Kay and Jim Degrado family of Marshalltown, IA. It tells a story about how early drug use of a child leads to greater and greater problems. It talks about crack babies, and in the case of this family a crack grandchild that has been adopted by this family—the problems that families get into down the road of time in prison; all the crime that comes from illicit drug use.

I compliment this family for sharing their story with me and the granting of permission to me to discuss this issue on the floor of the Senate.

THE TRICKLE DOWN DEFECT

Mr. GRASSLEY. Mr. President, I have had a number of things to say lately about leadership and moral posture. I have mentioned these issues several times on this floor in the past few days. I wish to draw the attention of my colleagues to an example of what a void in clear leadership and guidance means. It illustrates what we might call the trickle down defect.

When there is uncertain leadership, when leaders are unclear on their true intent, their irresoluteness trickles down. Nowhere is this effect easier to detect than in this administration's drug policy. From almost the first day of this administration there have been mixed signals and muddled directions about our drug policy. While the words have pointed in one direction, actions have gone off in every direction. The only thing that has been constant has been inconsistency.

One of the best examples of that was the President's move to fire most of the people in the drug czar's office just after his inauguration. That office was then not supported. The drug issue fell off the agenda. The President called "time out" in the war on drugs.

Lately, the administration is moving to restore personnel to the drug czar's office. I am sure there is no connection between that move and the fact that this is an election year. Miraculously and suddenly, the President has learned what the American people have known all along. One of the most important tools in fighting drug abuse among kids is to provide consistent leadership—to have a consistent message. At one time, we had that. The most remembered phrase from the years before Mr. Clinton was "Just say no." Unfortunately, we lost that message.

The most remembered phrase of this administration is, "I didn't inhale."

Today, a mixed and muddled message has trickled down through the bureaucracy. We have seen a falling off in effort. We have seen confused priorities. We have seen a decline in interagency coordination. We have not seen much in the way of leadership. What we have seen is rising drug abuse.

And, this lack of consistency has consequences. The latest example comes from just the past few days. The Centers for Disease Control, a Federal agency based in Atlanta and paid for by the taxpayers, cosponsored a conference this past weekend. The conference was held under the innocent enough title of "harm reduction." Unfortunately, that mild phrase conceals a bleak reality. Things are not always what they seem.

Many of the other cosponsors of the conference, such as the Drug Policy Foundation and the Lindesmith Center, are among the largest drug legalization lobbies in this country. The press release announcing the conference put out by the Drug Policy Foundation ends with a call, and I quote, "End the Drug War". The stated goal of these organizations is to get drugs legalized. The CDC, perhaps unknowingly, have associated themselves with this position. A position that is supposedly directly opposite of the administration's stated policy. What you have is a Government agency charged with dealing with controlling epidemics collaborating with those who want to legalize drugs, which would cause a major epidemic. This is a masquerade. But, it is clear that the CDC is confused about what our policy is. Confused about their role in supporting that policy. But it should not come as a surprise.

Mixed up and muddled. Confused signals and uncertain direction. Actions that belie statements. This has been the recent legacy. No wonder people are confused.

When these things happen, who is responsible? Who do we look to? You have to look to the people who set the course. Remember that the CDC comes under the Public Health Service, which works for the Surgeon General. And who was our last Surgeon General? Joycelyn Elders. Recall that she was the one who sounded the call for legalization in the first days of the Clinton administration. There was never any meaningful response. Certainly the decimated Drug Czar's office could mount no convincing reply. Unfortunately, Dr. Elders' remarks remain fixed in public memory. Everyone remembers her, who remembers anything said by the Drug Czar? Or the President?

We have seen lately a born-again drug policy from the administration, the message is still unclear. Evidently, the CDC is still confused. But their confusion is no orphan.

When the message broadcast from the top is contradictory. When it is hedged with qualifiers. When the guidance is unclear, it should come as no surprise to find bungling at the bottom.

Here we have the Centers for Disease Control, part of our national effort to fight the war on drugs, lending its name and prestige against the war of drugs. The right hand of this administration does not know what the left hand is up to. Lack of leadership trickles down. Is it any wonder that teenage drug use is on the rise? Is it any wonder that kids are unclear on why it is both harmful and wrong to use drugs? When you do not know where you are going, is it any wonder that you get lost? The failure of leadership demands a high price.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, and pursuant to the provisions of Senate Resolution 234, in memory of a great Senator and devoted friend of so many of us, the late Senator Edmund S. Muskie of Maine, the Senate stands adjourned.

Thereupon, the Senate, at 9:11 p.m., adjourned until Thursday, March 28, 1996, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, March 27, 1996*

The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mrs. VUCANOVICH].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 27, 1996.

I hereby designate the Honorable BARBARA F. VUCANOVICH to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Where there is no hope, our hearts are heavy; where there is no love, then evil thrives; where there is no faith, doubt increases; and where there is no vision, the people perish. Grant to us and to every person, O gracious God, the wisdom to discern and to accept Your gifts of faith and hope and love and, filled by Your spirit, may we be Your faithful people and You our God for ever and ever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York [Mr. WALSH] come forward and lead the House in the Pledge of Allegiance.

Mr. WALSH led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

RESIGNATION OF MEMBER AND APPOINTMENT OF MEMBER TO UNITED STATES-CANADA INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore laid before the House the following resignation as leader of the House delegation to the United States-Canada interparliamentary group for the year 1996:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 27, 1996.

Hon. NEWT GINGRICH,
Office of the Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to my request, I am hereby resigning as the leader of the House delegation to the United States-Canada Interparliamentary Group for the year 1996.

Sincerely,

DON MANZULLO,
Member of Congress.

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of 22 U.S.C. 276d, the Chair announces the Speaker's appointment of the following Member of the House to the United States delegation of the Canada-United States interparliamentary group: Mr. HOUGHTON, New York, chairman.

There was no objection.

APPOINTMENT AS MEMBER TO LIBRARY OF CONGRESS TRUST FUND BOARD

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of section 1 of 2 U.S.C. 154, as amended, by section 1 of Public Law 102-246, the Chair announces the Speaker's appointment to the Library of Congress Trust Fund Board the following member on the part of the House:

Mrs. Marguerite S. Roll, Paradise Valley, AZ, to a 3-year term. There was no objection.

GO ORANGE

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Madam Speaker, I rise today to congratulate the Syracuse University Orangemen men's basketball team who are on their way to the final four in the Meadowlands in East Rutherford, NJ, this weekend.

In central New York, we look forward to cheering them on in their third final four appearance in school history, the second under 20-year head coach Jim Boeheim—and the first since SU was denied the national championship by a single basket in 1987.

As I boast, I wish also to congratulate all the teams who have played in the National Collegiate Athletic Association's tournament, especially the University of Massachusetts, Kentucky and Mississippi State. The other three schools in the final four are State schools. Syracuse is the only one that bears the name of a city. So there is indeed a special feeling in my hometown for this team. At this moment there is a huge pep rally occurring in front of city hall and lots of orange everywhere.

No team has come further than the SU Orangemen. Coach Boeheim has once again successfully inspired and challenged an extraordinary group of young men.

They have fought from the first whistle, having been unranked in the preseason, to get here today, to play one more weekend. Two more games, we hope, in an incredible season.

We in Syracuse know them to be a great group of student athletes who have made us all very proud. Win or lose, the Orangemen of 1995-96 will be remembered with fondness for their sportsmanship and their heart. They have given many central New Yorkers a warm feeling after a very long winter.

Congratulations to all, and go Orange.

PASS A CLEAN BILL TOMORROW

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute.)

Mrs. KENNELLY. Madam Speaker, the Kennedy-Kassebaum bill has a simple premise: If you leave or lose your job, you should not lose your health insurance because of a preexisting health condition. As introduced in the House, the bill is only 65 pages long. Here is a copy of it.

However, the bill that will come to the House floor tomorrow is more than 220 pages long. Here is a copy of it. The bill adds 10 separate provisions to the health insurance portion of the bill.

Some of these additions are good ideas, but several are very controversial, such as tax breaks for medical savings accounts and exempting certain health plans from State insurance regulation. I am worried these additions could kill a bill that guarantees Americans the right to have portable health insurance.

Madam Speaker, Republicans in the Senate say they want a clean bill.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Democrats in the House say they want a clean bill. And the President says he wants a clean bill. I hope the majority in the House will now join us in an effort to pass a bill without any special interest addons. Let us not load on so much baggage that we bring the whole plane down.

RAISING TAXES IS THE WRONG WAY TO GO

(Mr. NORWOOD asked and was given permission to address the House for 1 minute.)

Mr. NORWOOD. Madam Speaker, not so long ago, the President stood before us in this very Chamber and declared that "the era of big Government is over." His latest budget tells a different story, particularly with taxes. The President wants to raise taxes immediately and phase in a tax cut—that can be yanked if deficit targets are not met. In other words, the President wants a permanent tax increase and a temporary tax cut.

Madam Speaker, will liberal Democrats ever learn that smaller Government means less taxes? It is not enough to say you want to end big Government, you have to back it up with actions. If the President really wants to end the era of big Government, he needs to stop feeding the beasts. Raising taxes is simply the wrong way to go. We need to reduce our spending and reduce the tax burden on the American people—only then will the era of big Government truly be over.

TRIBUTE TO SENATOR ED MUSKIE

(Mr. BALDACCI asked and was given permission to address the House for 1 minute.)

Mr. BALDACCI. Madam Speaker, I was deeply saddened to learn yesterday of the death of Senator Ed Muskie. As a new Member of Congress from Maine, I have been privileged to call on Ed Muskie for advice and wisdom.

Ed Muskie was a leader for Maine and a statesman for the Nation. He never lost sight of his roots, nor wavered from his principles.

The people of Maine and the Nation are indebted to Ed Muskie for his passionate work on a wide range of issues. His vision in developing environmental legislation, especially the Clean Air and Clean Water Acts, is a legacy which will be recognized and honored by generations to come.

We can all learn much from the life that Ed Muskie led. I will never forget the advice that he gave to me shortly before I took office. He said, "Be yourself, work hard, and tell the truth." Those simple principles guided his life, and are what I strive to live up to every day.

Senator Muskie's devotion to Maine and his dedication to improving the quality of life for all Americans will long be remembered and appreciated. I know that my colleagues join me in expressing our deepest sympathy to Ed Muskie's wife, Jane, and the rest of his family.

CHINA ARMING IRAN

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, China just sold patrol boats armed with state-of-the-art cruise missiles to Iran. Let me repeat. China just sold cruise missiles to Iran.

Now, the last time I checked, Iran is still listed as a terrorist nation by America, and, No. 2, the leaders of Iran refer to Uncle Sam as "the Great Satan."

This is unbelievable. China continues to arm, aid, and abet Iran, America's No. 1 enemy, and after all of this, the Congress of the United States rewards China with most-favored-nation trade status. Beam me up, Madam Speaker.

Our policy with China not only kills American jobs, it destabilizes the world, threatens American security, and people around here are granting them most-favored-nation trade status. I suspect today that not only are there a lot more people in Washington, DC, smoking dope, they are inhaling every single day.

WHAT IS IN STORE FOR AMERICA?

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Madam Speaker, our Republican friends are at it again. Last year they spent the whole year trying to decimate Medicare and Medicaid and hurt our senior citizens, and, thankfully, at least for now, we were able to stop them.

This year what do they have in store for America? The largest education cuts in the history of the United States. They would deny our schoolchildren the ability to compete in this global economy.

Let us look at what the $3.3 billion in education cuts amount to. Sixty-five million schoolchildren will be affected, basic reading and math skills cut, safe and drug-free schools cut, vocational education cut, adult education cut, title I education cut, the summer youth and employment program eliminated.

Not only do the Republicans not want to teach our children, they do not want to give them summer jobs. I guess they think they are better off hanging out on street corners than earning a few dollars to help with their families. This just shows once again the extreme, mean-spirited Republican agenda of sticking it to middle-class families.

Last year it was Medicare and Medicaid. Now it is education. What comes next?

OIL IMPORTS A THREAT TO U.S. NATIONAL SECURITY

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Madam Speaker, independent oil and gas producers are the mainstay of our domestic energy industry. In fact, independents produce about 64 percent of the natural gas in the country and about 39 percent of the crude oil.

But this great industry is struggling. Imports of both oil and natural gas are on the rise, and employment is declining. The United States now imports over half of our annual demand.

Our dependency on foreign oil costs about $60 billion annually and makes up a substantial part of our trade deficit.

Just over a year ago, President Clinton signed a report issued by the Department of Commerce saying that increasing oil imports are a threat to national security. But even as the President felt the pain of the oil and gas industry, he offered no plans to end that pain.

In a survey released by the Sustainable Energy Budget Coalition on January 16, it found that "three-quarters of the American voters believe we need to do something to reduce dependency on foreign oil."

Public servants must do more than talk. They must act to lower taxes, reduce regulation, and lower the burden of government on our oil and gas industry. As we approach the next century, we must, once again, make a domestic oil and gas industry a priority.

KENNEDY-KASSEBAUM HEALTH CARE REFORM EFFORT

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Madam Speaker, health insurance reform is long overdue. As we know, fewer Americans are able to obtain health insurance now, and the cost of that health insurance keeps going up. So my colleague, the gentlewoman from New Jersey, Mrs. ROUKEMA, had a very good idea, which is shared in the Senate by Senator KASSEBAUM and Senator KENNEDY on a bipartisan basis, to put forth a bill in this House that would make it easier for people to take health insurance from one job to another. We call that portability. We also try to make it easier for people who have preexisting conditions or perhaps were disabled with some sort of health disorder, that they would be able to buy health insurance.

We are all supportive of this. The Democrats, over 170, have said that they support it, but the Republican leadership here is trying to load down this bill with all kinds of extraneous material in terms of the best example is medical savings accounts that will actually drive up the cost of health insurance for the average person and make health insurance less affordable.

It is time now that we got together on a bipartisan basis and passed the Kennedy-Kassebaum-Roukema bill to make health insurance more affordable and make it possible for more people to obtain health insurance.

□ 1415

TIME TO STOP PLAYING POLITICS WITH OUR CHILDREN'S FUTURE

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Madam Speaker, the Republican majority's political gamesmanship knows no bounds—even when it comes to defaulting on the most important obligation of this House, providing for our children's future.

Because of Republican intransigence on the fiscal year 1996 budget, which is now almost half a year overdue, local schools have been severely injured, now knowing how much Federal aid they will receive, not knowing how many teachers they can hire, how many books they can buy, what kind of science programs they can run.

Not only do the Republicans think it is a good idea to slash education funds to pay for a tax cut for the wealthiest Americans, but now their irresponsibility is crippling local school boards' ability to spend whatever money we do send them.

Let's stop shooting dice with our children's futures. Let's fund the Government for the second half of the fiscal year and commit ourselves to supporting the President's proposal to increase funding for such crucial educational programs as title I for basic reading, writing, and math skills, Pell grants, safe and drug free schools, and the School to Work Program.

WHO IS FOR KIDS, AND WHO IS JUST KIDDING?

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Madam Speaker, the question of who is for kids and who is just kidding sounds very playful, but this is not a playful question to ponder. This is really about the survival of this great Republic which we are so proud of, because we need to know which Members of this body are not for kids. If they are not for kids, they are going right at this Nation's future.

I went to public school, my husband went to public school, both of our children went to public school, my mother taught in public school. Public schools have been the foundation of the future of this Nation. I am appalled that the Republicans in this body have put the biggest cuts in education we have ever seen at a time when we all agree that our schools need more help, not less.

If Members think that our math scores are high enough so we can pull back our funding to help math, if they think our basic reading skills are good enough so we can pull back on math, if Members think our classes are too small and we ought to make them bigger, and if they think it is a good idea to surrender on the drug war in the schools and not make them safe, then Members will love their side of the aisle. I do not. I think it is time we all wake up and fight back.

PUT OUR CHILDREN FIRST AND VOTE TO FUND EDUCATION

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Madam Speaker, on Monday I visited schools and met with parents in my district. I visited a DARE program in Stratford, CT, where a police officer works with fifth graders to keep kids off drugs. I attended an awards ceremony where young people were recognized for their work to keep their peers off drugs and alcohol. That evening, I organized a parents summit where about 100 parents gathered to discuss the challenges that they face trying to raise good kids today.

Let me share the comments of one parent. She said: "I feel like a boxer who is down and the count is 8. My head is down and I am dripping blood from every part of my body. The schools need to help teach the basics," she said. That is not what House Republicans are proposing. They want to cut basic math skills, basic reading skills.

The families that I met with do not believe that this Congress is on their side. This week we will have an opportunity to prove that we really want to help working families. Once again, I urge Speaker GINGRICH and the Republican leadership to reverse course, stand with our parents and our kids, and vote to fund education. Let us put our children first.

IN SUPPORT OF THE WOMEN'S HEALTH EQUITY ACT

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise today in support of the Women's Health Equity Act and, in particular, in support of the osteoporosis provisions of the bill. Most women find out that they have osteoporosis when it is too late, after a bone fracture or a curvature of the spine has occurred. The real tragedy is that for many women the disease is preventable and treatable. But this is a disease that has an underlying condition that affects 25 million Americans, most of them, 80 percent of them, women. All of us lose bone mass as we age, but people with osteoporosis lose an excessive amount, leading to weak and brittle bones. As I just said, 80 percent of those suffering from osteoporosis are older women, and a woman's risk for hip fracture alone is now equal to the risk of developing breast and ovarian cancer.

It is time for us to give a little bit more attention to this disease, Madam Speaker.

CONGRESS, THE ADMINISTRATION, AND INDUSTRY MUST WORK TOGETHER TO PROVIDE STABILITY TO OUR DOMESTIC OIL AND GAS PRODUCTION

(Mr. BREWSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BREWSTER. Madam Speaker, domestic oil and gas production is critically important to our Nation's economy and national security. Just 5 years after fighting a war in Iraq, our Government has yet to take a single substantive step toward reforming restrictive regulations on our domestic energy industry.

Since the gulf war, our dependence on Middle Eastern oil has grown to the point where more than half of our country's oil and gas consumption is from imports. We cannot allow this situation to continue.

Working together, Congress, the administration, and industry must pass and enact legislative and regulatory initiatives which will provide stability to this extraordinarily important segment of our Nation's economy.

As you know, U.S. relations with our Middle East oil trading partners historically have been unstable. However, the United States does have at least one reliable trading partner. Petroles de Venezuela, the owner of Citgo, has been supplying oil and product to the United States for 70 years—through World War II and the Arab oil embargo.

While maximizing our domestic resources, we should also encourage trading with reliable neighbors and allies such as Venezuela.

THE WOMEN'S HEALTH EQUITY ACT OF 1996

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Madam Speaker, I rise today as Chair of the Women's Health Task Force of the Congressional Caucus on Women's Issues. On behalf of the caucus, I have the honor of introducing the Women's Health Equity Act of 1996. A momentous legislative initiative, the Women's Health Equity Act is an omnibus bill comprised of 36 separate pieces of legislation targeting women's health.

The first Women's Health Equity Act was introduced in 1990 as a result of a GAO report that documented of widespread exclusion of women from medical research and energized caucus and women around the Nation to action on women's health issues.

In the 6 years since, we have accomplished a great deal. We have achieved greater equity in both women's health research funding and inclusion of women in clinical trails. The increased funding for breast cancer has resulted in the discovery of the BRCAI gene-link to breast cancer 18 months ago. Since then, it has been found that the BRCAI gene seems to inhibit the growth and formation of tumors and may provide therapy for both breast and cervical cancer.

This news is miraculous and is very gratifying to the caucus because it was our initiative that resulted in the increased funding. But, our responsibility does not stop there. We must assure that social policy keep pace with advances in biomedical research. As a part of the Women's Health Equity Act, I have introduced legislation that would do just that.

H.R. 2748, The Genetic Information Nondiscrimination in Health Insurance Act prohibits insurance providers from:

First, denying or canceling health insurance coverage; second, varying the terms and conditions of health insurance coverage on the basis of genetic information; third, requesting or requiring an individual to disclose genetic information; and, fourth, disclosing genetic information without prior written consent.

The Women's Health Equity Act's initiative to increase funding for breast cancer research has resulted in discovery of potentially lifesaving genetic information and therapy. As therapies are developed to cure genetic diseases, and potentially to save lives, the women and men affected must be assured access to genetic testing and therapy without concern that they will be discriminated against. As legislators, I believe it is our responsibility to ensure that protection is guaranteed and I hope my colleagues will join me in that endeavor.

SPECIAL ORDERS

The SPEAKER pro tempore (Mrs. VUCANOVICH). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

INTRODUCTION OF HPV RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Madam Speaker, I rise today to announce and celebrate the introduction of the Women's Health Equity Act of 1996. Included in the omnibus legislation are two bills that I have authored, the HPV Infection and Cervical Cancer Research Resolution, which I will introduce today, and the Equitable Health Care for Neurobiological Disorders Act of 1996. Both measures will enhance the length and quality of life for women in this country, and should be enacted by this Congress.

First, I am proud to introduce the HPV Infection and Cervical Cancer Research Resolution. This vital legislation will speed the detection and diagnosis of cervical cancer, and will, in fact, help to save women's lives. Early detection is the most effective method of stopping this killer of women. I know. I am a survivor of ovarian cancer, and early detection saved my life.

My measure expresses the sense of Congress that the National Cancer Institute and the National Institute of Allergy and Infectious Diseases should conduct collaborative basic and clinical research on the human papilloma virus [HPV] diagnosis and prevention as an indicator for cervical cancer.

Approximately 16,000 new cases of cervical cancer are diagnosed each year, and about 4,800 women die from this disease annually. However, if cervical cancer is detected while in its earliest in situ state, the likelihood of survival is almost 100 percent. HPV is a known risk factor for cervical cancer. Of the more than 70 types of HPV that have been identified, two types, types 16 and 18 in particular, have a strong linkage to cervical cancer.

With further study of the natural history of HPV and its association to the development of cervical cancer, HPV testing may prove to be an effective tool to aid the early diagnosis of this deadly disease. Therefore, it is appropriate to recommend basic and clinical research to determine how to utilize this data in the screening of women in clinics and hospitals across the country. My legislation will bridge the gap between new scientific discoveries about the linkage of HPV with cervical cancer and practical application of that knowledge by physicians and qualified health specialists in local communities.

The legislation has received the endorsement of the American Social Health Association. In addition, I am proud to include my bill in the Women's Health Equity Act of 1996.

In addition, I have introduced H.R. 1797, the Equitable Health Care for Neurobiological Disorders Act, into the Women's Health Equity Act of 1996. This legislation requires nondiscriminatory treatment of neurobiological disorders in employer health benefit plans. Under my bill, insurance coverage must be provided in a manner that is consistent with coverage for other major illnesses. Neurobiological disorders, include affective disorders like major depression, anxiety disorders, autism, schizophrenia, and Tourette's syndrome.

Currently, in short, individuals with neurobiological disorders receive much less insurance coverage than illnesses such as cancer, heart disease, or diabetes. This in equality contributes to the myth that such disorders are not physical illnesses and somehow they are the fault of the patient. For the individuals and the families affected by these disorders, the ordeal of coping with the disease is often compounded by severe financial burdens. My legislation recognizes the physical basis for many mental disorders, and requires their equal health coverage.

Just as the Kennedy-Kassebaum-Roukema health insurance reform bill addresses the need to ensure access to health care for Americans who change jobs, my bill ensures access to health care for Americans who suffer from mental disorders.

□ 1430

Both job portability and comprehensive coverage are key access issues in the health reform discussion. Without comprehensive coverage or health insurance portability, millions of Americans will be forced to seek treatment in expensive health care settings, like emergency rooms, or drain other social service institutions.

Mental disorders severely impact the health and the quality of life for millions of women throughout the Nation. Clearly, the equitable insurance coverage for mental disorders is an issue for all of us in society, as it is a women's health concern, as well.

Treatments for mental illnesses like depression exist and have a very high rate of success; therefore, it is essential that women suffering from neurobiological disorders have access to the care that they need.

Madam Speaker, I am proud to announce the introduction of these two bills. I urge my colleagues to cosponsor and enact the omnibus bill.

STATUS OF THE DRUG WAR

The SPEAKER pro tempore (Mrs. VUCANOVICH). Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Madam Speaker, I come before the House this afternoon really concerned about a report that has now been released to the Congress. It is the National Drug Policy: A Review of the Status of the Drug War.

Madam Speaker, I serve on the Committee on Government Reform and Oversight, and this product is from our subcommittee, which I also serve on, which is the Subcommittee on National Security, International Affairs, and Criminal Justice. This report should be required reading for every Member of Congress, should be required reading for every citizen of the United States, and it should be required reading for everyone who is involved in the media of the United States.

This report details a history of total failure of our Nation's drug policy, and we see that decline almost immediately the moment that President Clinton took office. This is one of the most startling reports to ever be produced by the Congress, and I hope it gets the attention of every Member of Congress and every parent and everyone in the media.

What it does is, it in fact outlines a policy of national disaster. President Clinton started this when he dismantled the drug office, and did not make drug prevention and attacking the drug problem a priority of this administration.

Madam Speaker, when he talked about cutting the White House staff, he in fact cut 85 percent of the White House drug policy staff, and that is where the cuts came in. That is where the attention was not focused. Then he appointed Joycelyn Elders, who made drugs and drug abuse a joke and sent a mixed message. It was not the message of "just say no," it was the message of "just say maybe," and this report details the disaster that that policy has imposed on this Congress and on the Nation and our children.

Under President Clinton's watch, listen to this, drug prosecution has dropped 12.5 percent in the last 2 years. You have heard the comments about the judiciary he has been appointing and their decisions as far as enforcement, which have made enforcement and prosecution a joke in this country.

Madam Speaker, let me tell you the details of what this report is about and how it is affecting our children. Heroin use by teenagers is up, and emergency room visits for heroin rose 31 percent between 1992 and 1993 alone. In less than 3 years, the President has destroyed our drug interdiction program, and we know that cocaine is coming in from Bolivia, Peru, and Colombia, and transshipped through Mexico, which he recently granted certification in the drug certification program to.

What did we do with the drug interdiction program? We basically dismantled it. What are the results, again, with our children? Juvenile crime, in September 1995 the Justice Department's Office of Juvenile Justice and Delinquency Prevention reported that, now listen to this, and this is from the report: after years of relative stability, juvenile involvement in violent crime known to law enforcement has been increasing, and juveniles were responsible for about one in five violent crimes.

We see what this failed policy of this Clinton administration has brought us. Juvenile use and casual drug use in every area, marijuana, cocaine, designer drugs, heroin. Every one of these areas is dramatically off the charts, and it is the result of a failed national drug policy, and the responsibility and the trail to responsibility leads right to the White House.

Let me say finally that even the media coverage of this situation is terrible. It is a national disgrace that the media is not paying more attention, that they in fact put on one antidrug ad per day in markets and the Federal Government controls the airwaves, so the media should have as much responsibility for getting the message out, the message of this disaster created by this administration, and should begin a policy of education.

Finally, the President's policy, every standard, including drug treatment, is a disaster, and I will detail this further in another special order.

WOMEN'S HEALTH ISSUES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Madam Speaker, I take the floor first of all to say, in this month of women's history, how pleased I am that the President has made more history for women today. I thought the newspaper article was very, very exciting to talk about how the President has nominated the first woman to the rank of 3-star general. She is in the Marines, Maj. General Carol Mutter, and her wonderful motto is "perseverance pays." We salute her, and we thank the President for moving her forward, and I think all of our foremothers would be proud.

But we heard many other Congresswomen take the floor today and talk about the Women's Health Equity Act. The one thing that Congresswomen have the right to make a victory lap about is the progress that we have made on women's health in this body.

If the Congresswomen had not been here, believe me, it would not have happened, because when we first got into this they were even doing breast cancer studies on men. They had no women in any studies, no women in the aging studies, no women in any studies. Basically the Federal Government's message to women was, we may as well go see a veterinarian, because what our own doctors got from Federal studies was really very little. They had to take studies done on men and then try and see if it distilled and was applicable to women.

We got all of that changed. After prior vetoes and everything else, we finally not only got it passed, but a President who would sign it and a lot of it on board. But we are still just beginning. Unfortunately, in this body they tend only to see women's health as circling around reproductive issues and breast cancer. Those are both very important key issues, but there are any number of health issues that affect women that we have just begun to tap.

Starting in 1990, we put together different bills that all of us had dealing with different issues on women's health and we put them in one bill called the Women's Health Equity Act. Then we all cosponsored it together and pushed as much of it as we could.

This year there are 36 bills in there, and it deals with an awful lot of the things still on the table that we have not dealt with, everything from eating disorders, which affect women much more severely than men, all the way through to female genital mutilation, which this body has still refused to deal with, even though our European countries and other countries have, and there are all sorts of international bodies crying out, saying this is a human rights violation and that we should make it a felony for people to move to this country as immigrants and bring those cultural things with them.

I do not want to see female genital mutilation in this country and I hope every American agrees, and I cannot understand why this body will not move on it. But to still think we have got 36 bills of that wide a range that we have reintroduced, that are out there, that we are still going to keep trying to move before we are anywhere close to having parity with where men have been in all the health care issues.

Our point has always been, this is Federal money we are talking about, Federal money that goes to research and Federal money that goes to services, and they always collected the same tax dollars for women they did for men. No one ever said to women, "We'll leave you out of the research and we won't give you any services, but don't worry, we'll charge you lesser taxes." Maybe we would negotiate if they did that, but they never did. They charged us the same and then proceeded to leave us out of the research and cut us our of the services.

What we are trying to do is reclaim this, and the goal of the Congresswomen has been to try and know as much about women's health as we now know about men's health by the end of this century, so that we start on an equal health footing when we begin the next century. That is getting tougher and tougher to do, because over and over again the extremists in this body have turned around many of the gains that we are making. They turn them around daily. Today we will probably see another turnaround as we watch the first criminalization of a medical procedure that has ever happened in this body.

When we see these things happening to women's health, watch out. Yes, we should take a victory lap for what we have gained in information on osteoporosis, on breast cancer, on many of the things that we have gotten passed, gotten funded, and gotten out there, and the fact that we have gotten women into these research models so we will know much more when those different programs are done and those research projects are finished. But we are not there yet. We are not there yet. It is very easy to deny us getting to that goal of equal information by the year 2000, and it is also very easy for them to push back all the progress we have made. So cheer, but be alert.

SUPPORT H.R. 1833, PARTIAL-BIRTH ABORTION BAN ACT OF 1995

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. CANADY] is recognized for 5 minutes.

Mr. CANADY. Madam Speaker, today we will consider a bill that deals with a hard truth. H.R. 1833 addresses the ugly reality of partial-birth abortion. While every abortion sadly takes a human life, the partial-birth abortion method takes that life as the baby emerges from the mother's womb.

Partial-birth abortion goes a step beyond abortion on demand. The baby involved is not unborn. His or her life is taken during a breach delivery. A procedure which obstetricians use in some circumstances to bring a healthy child into the world is perverted to result in a dead child. The physician, traditionally trained to do everything in his power to assist and protect both mother and child during the birth process, deliberately kills the child in the birth canal.

This is a partial-birth abortion: First, guided by ultrasound, the abortionist grabs the live baby's leg with forceps; second, the baby's leg is pulled out into the birth canal; third, the abortionist delivers the baby's entire body, except for the head; fourth, then, the abortionist jams scissors into the baby's skull. The scissors are then opened to enlarge the hole; sixth, the scissors are then removed and a suction catheter is inserted. The child's brains are sucked out causing the skull to collapse so the delivery of the child can be completed.

As you can see, the difference between the partial-birth abortion procedure and homicide is a mere 3-inches.

Abortion advocates claim that H.R. 1833 would "jail doctors who perform life-saving abortions." This statement makes me wonder whether the opponents of the bill have even bothered to read the bill. H.R. 1833 makes specific allowances for a practitioner who performs a partial-birth abortion that is necessary to save the life of a mother.

Of course, there is not a shred of evidence to suggest that a partial-birth abortion is ever necessary to save a mother's life or for maternal health reasons.

Indeed, the procedure poses significant risks to maternal health. Dr. Pamela Smith, director of medical education, Department of Obstetrics and Gynecology at Mount Sinai Hospital in Chicago has written:

> There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the health of the mother. Partial-birth abortion is a technique devised by abortionists for their own convenience . . . ignoring the known health risks to the mother. The health status of women in this country will . . . only be enhanced by the banning of this procedure.

Further, neither Dr. Haskell nor Dr. McMahon—the two abortionists who have publicly discussed their use of the procedure—claims that this technique is used only in limited circumstances. Dr. Haskell advocates the method from 20 to 26 weeks into the pregnancy and told the American Medical News that most of the partial-birth abortions he performs are elective. In fact, he told the reporter:

> I'll be quite frank: most of my abortions are elective in that 20- 24-week range . . . probably 20 percent are for genetic reasons. And the other 80 percent are purely elective.

He advocates the method because, quote:

> Among its advantages are that it is a quick, surgical out-patient method that can be performed on a scheduled basis under local anesthesia.

Dr. McMahon uses the partial-birth abortion method through the entire 40 weeks of pregnancy. He claims that most of the abortions he performs are nonelective, but his definition of nonelective is extremely broad. He describes abortions performed because of a mother's youth or depression as "nonelective." I do not believe the American people support aborting babies in the second and third trimesters because the mother is young or suffers from depression.

Dr. McMahon sent the subcommittee a graph which shows the percentage of, quote, "flawed fetuses," that he aborted using the partial-birth abortion method. The graph shows that even at 26 weeks of gestation half the babies Dr. McMahon aborted were perfectly healthy and many of the babies he described as "flawed" had conditions that were compatible with long life, either with or without a disability. For example, Dr. McMahon listed 9 partial-birth abortions performed because the baby had a cleft lip.

The National Abortion Federation, a group representing abortionists, has also recognized that partial-birth abortions are performed for many reasons other than fetal abnormalities. In 1993, NAF counseled its members, "Don't apologize: this is a legal abortion procedure," and stated:

> There are many reasons why women have late abortions: Life endangerment, fetal indications, lack of money or health insurance, social-psychological crises, lack of knowledge about human reproduction, etc.

The supporters of partial-birth abortion seek to defend the indefensible. But today the hard truth cries out against them. The ugly reality of partial-birth abortion is revealed here in these drawings for all to see.

To all my colleagues I say: Look at this drawing. Open your eyes wide and see what is being done to innocent, defenseless babies. What you see is an offense to the conscience of humankind. Today, we will attempt to put an end to this detestable practice. After today, it will be up to the President. He has the power to stop partial-birth abortion or continue to allow the killing of a living child pulled partially from his mother's womb.

□ 1445

PARTIAL-BIRTH ABORTION BAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of New Jersey. Madam Speaker, even if President Clinton bows to the pressure of the pro-abortion lobby and vetoes the partial-birth abortion ban, the fact that the Congress, in what will be, as it was previously, a bipartisan vote in support of the ban and the fact that the American people of all political persuasions, men and women of all ages, are beginning, and I mean just beginning, to face the truth and reality about the cruelty of abortion on demand will have made all of this worth the effort.

I chair the subcommittee on International Operations and Human Rights. I also am chairman of the Helsinki Commission. I have been in this body now for some 16 years, Madam Speaker. I have always found when we work on human rights issues, it is never easy, whether it be trying to help a Soviet Jew, whether it be trying to help a persecuted Christian in the People's Republic of China, there are always these so-called unwanted people everywhere. Regrettably, the human rights abuse in this country is that which is directed at the most innocent and the most defenseless of all human beings, unborn children. This is the violation of human rights in the United States of America in 1996, the killing of unborn children, 1½ million or so per year on demand, and most of them are for birth control reasons, not the hard cases, life of the mother or even rape and incest. They constitute a very small, infinitesimal number of the abortions. Most of the abortions are done on demand.

Madam Speaker, I believe very strongly that the 22-year coverup of abortion methods, including chemical poisoning of babies is coming to an end. I think most people are beginning to realize, salt solutions are routinely injected into the baby's body, killing that baby, because of the corrosive impact of the salt. And they are appalled.

Another method of abortion, the most commonly procured method, is the dismemberment, D&C suction method, where the baby's body is literally ripped to shreds. We have, because of the leadership of subcommittee Chairman CHARLES CANADY's bill, hopefully, achieved the end of a very gruesome method of abortion, the partial-birth abortion method. This method in recent years has been done increasingly. It is being done in the later terms, in the 6th, 7th, 8th, 9th months of the babies' gestational ages. And, hopefully, even though the President may veto this, this will be the beginning of an effort to outlaw this sickening form of child abuse.

This picture to my left is truly worth a thousand words. It shows what the doctor does, and I just would like to use the doctor who is one of the pioneers of this gruesome method. I will just very succinctly read his statement as to how this method is done. His name is Dr. Martin Haskell, a doctor who performs partial-birth abortions by the hundreds. He has said, and I quote,

> The surgeon takes a pair of blunt, curved Metzenbaum scissors in the right hand. He carefully advances the tip curved down along the spine under his middle finger until he feels contact at the base of the skull under the tip of the middle finger. The surgeon then forces the scissors into the base of the skull. Having safely entered the skull, he spreads the scissors to enlarge the opening. The surgeon then removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents. When the catheter is in place, he applies traction to the fetus, removing it completely from the patient.

What this so-called doctor is describing, Madam Speaker, is infanticide. The baby is partially born, and this so-called doctor then kills the baby in this hideous method. Hopefully, this legislation will get a second shot, not withstanding the President's veto, so we can outlaw this gruesome form of child abuse and banish it from this land.

WHY THE ENDANGERED SPECIES ACT SHOULD BE IMPROVED

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Alaska [Mr. YOUNG] is recognized for 60 minutes as the designee of the majority leader.

Mr. YOUNG of Alaska. Madam Speaker, I take this time to bring to the attention of the floor, my colleagues, and those that might have the opportunity to hear what I have to say why the Endangered Species Act should be improved. That is the subject of this hour of debate. I will be joined by other Members that were directly involved in trying to improve the Endangered Species Act.

Madam Speaker, I came to this House as a Representative in 1973. Later that same year, I voted, one of the few remaining individuals that voted for the Endangered Species Act of 1973. There were only two hearings on the bill. There was no objection in the committee, and it very nearly passed unanimously on the floor. Those of us who voted for it never dreamed that some day it would be used by this Federal Government, the Government of the people, by the people, and for the people, supposedly, to control vast amounts of privately owned land, that it would be used by extremists to throw thousands of families on to the welfare roll.

The Government has said they want to improve the lot of the people, allowing this bill to be misused. And, Madam Speaker, that is what has happened to the Endangered Species Act. It is a tragedy. It is a law with good intentions, a good goal, but it has been taken to the extremes that the American people no longer support thus endangering the species and why we must improve the act.

This law has resulted in some people losing the right to use their land, their land, not your land, not the Federal Government's, but their land, because an agency, the Fish and Wildlife Service, has ordered them to use their land as a wildlife refuge. These landowners have not been compensated in any way, shape, or form, as our Bill of Rights requires. They still must pay their taxes on this federally controlled land and are singled out unfairly to bear the burden of paying for, supposedly, the public benefit. This has hurt not only the private landholder, the basis of our society, but it has also hurt the wildlife that depend on that land.

Because of the way that these Washington bureaucrats, primarily in the Fish and Wildlife agencies, have treated landowners, and particularly farmers, wildlife is no longer considered an asset by the landowners. Now the presence of wildlife is feared. A lucky few of these landowners have been able to file suit or fight the bureaucrats and extremists in court, a lucky few, those that have extremely great amounts of wealth. However, there are many people who have not been so lucky and have had to suffer the loss of their property or their livelihoods in silence without the tens of thousands of dollars needed to defend their rights in court.

Since I became chairman of the Committee on Resources, I have tried to ensure full and fair public debate on how to protect our endangered species and our threatened species while protecting the private property owner. Our committee held seven field hearings and five Washington, DC, hearings on this issue, the Endangered Species Act, and the revision of said act. We heard over 160 witnesses. Over 5,000 people attended and participated in these hearings.

Through our hearings all over the country, we gave the American people an opportunity to help us write our recommendations for repairing the Endangered Species Act. What we learned from these hearings is that American people love wildlife and have a true appreciation for our natural resources. However, the American people also love and cherish our Constitution, our way of life, and our freedom. The American people want a law that protects both wildlife and people. They want a law that is reasonable and balanced. They want a law that uses good science to list the species. Right now, today, all it takes is someone to file a petition saying they think, in fact, it is endangered, and then the Fish and Wildlife or Forest Service, Park Service, whoever it may be, will have to make a massive study even though that species may never reside there. That is how this act has been misused.

The American people are willing to make sacrifices if those sacrifices make sense and accomplish the goal of protecting truly endangered or threatened species. However, the current law on species, subspecies, and small regional subspecies, is based only on the best currently available science. That means, even though a species or subspecies may be thriving and abundant in various areas around the Nation, one small geographic population can be listed and can be used to stop the property owners from using their land in that area.

This is not America. The number of frivolous lawsuits that have been filed under the ESA have exploded. These lawsuits result in friendly settlements between the Government and extremist groups. Then the Government can use the excuse of court orders to shut down entire industries, put thousands of people out of work, and deprive landowners of their rights.

Lawyers are making millions of dollars, paid for by the taxpayers, by filing these suits, since the ESA requires judges to pay lawyers from the Federal Treasury.

□ 1500

The result is entire communities are devastated while environmental groups get richer. Who is filing these suits?

Only environmentalists are allowed to file these suits in most of the country. If a private citizen may be harmed economically and wants to file a suit to protect their own land or job, the courts have closed the door in their faces. The ESA has been identified recently by a government commission as the worst unfunded mandate on States and local governments.

The Fish and Wildlife Service and the courts are imposing exorbitant costs on species protection and on small local towns and districts which they cannot afford. These small towns either pass on these costs to their taxpayers and property owners or reduce important public safety, health, and educational services. There are other serious problems with the way the Federal Government is using the law.

Now, do I, do we, does the committee support gutting or repealing the Endangered Species Act? Absolutely not. Contrary to what you may read in the paper or is being reported by this administration, we do not believe in eliminating or gutting ESA. But the American people are not going to continue to support and pay for our efforts to protect their wildlife unless we make the ESA work for the people and the wildlife. We need to make necessary repairs in a law that has become broken.

We spend hundreds of millions of dollars in this country for the protection of our great natural resources. Our good Secretary of Interior, Bruce Babbitt, has a $6 billion budget, a $6 billion budget, to protect our natural resources, but he says that is not enough. He wants more land under Government control, more money under Government control, and more power. Let us not forget that word, power.

We want to keep a good Endangered Species Act that truly protects our wildlife and our people, but we want to give more to do these good things back to the people who can do it best, the American public.

I trust the American people to be good stewards. They have in the past and will be in the future. When Federal action is needed to protect our wildlife that migrates across State lines, to protect our parks and refuges, to protect our waters and the air we breathe, we will continue to fund the millions to do the job, but we want to do it right.

Mr. Speaker, I take this time today because we need to make the Endangered Species Act work. We can only do that if we take up this important law and repair the damage that has been done.

Mr. Speaker, may I say, before I yield time to my colleagues, there is a case in California where a gentleman in fact is taking care of a small acreage of land and protects all species around it because he wanted to do so. Now he is under threat by the Fish and Wildlife Service saying because there are certain species on the small acreage of land, that he can no longer till the land around it. In fact, he is prohibited from making a living, without compensation. They would be taking his livelihood away.

Why do you think those species are there? It is because he has protected them. He has provided them shelter. He has provided them with food and the love that takes to maintain the species. But along comes this Government and says, "Now, we know what is best. You must not disturb their habitat." He was the one who protected the habitat.

He is being told by this Government that no longer has the sensibility to get out of the rain, that they know what is best for species. And he has a very serious choice to make: Is he in fact going to continue to protect those species, as he has done in the past, or will he retain his livelihood and eliminate that species? He does not want to do that.

It is time we review this act and improve this act, to make it work for the people of America, and for the species.

Mr. Speaker, I yield 5 minutes to the gentleman from Utah, Mr. [HANSEN].

Mr. HANSEN. Mr. Speaker, I appreciate the gentleman from Alaska yielding me time.

Mr. Speaker, I agree with the gentleman from Alaska. This is probably a very worthwhile piece of legislation, and I think the gentleman did the right thing in voting for it in 1973. However, that was not carved in stone. That did not come from Mount Sinai by the hand of Moses or some other great prophet. It was just done by puny little legislators who got together, and from time to time we have to make changes. Now is the perfect time to make changes in a law that we see is not working.

The gentleman from Alaska gave some very good illustrations. In another life I used to be Speaker of the House of the State of Utah. I that situation, I had to go talk to the Governor of the State every week.

I remember one day going down and talking to Governor Scott Matheson, a very fine man. He was just fuming. He was mad as could be. He said, "I am not going to let another blankety-blank person come into this State and find an endangered species, because what do they do, they tie it up in critical habitat, in endangered habitat, and all they are trying to do is get their master's or doctorate degree on this."

I remember also debating a law professor, Professor Jefferson from the University of Utah Law School. He made an interesting statement. He said, "Why is it that man, the Homo sapien, has more rights than the shark?"

I said, "Well, professor, if you would like to read the 27th chapter of Genesis, it says the Lord created all these things, and then He put man ahead of them and said he was supposed to be in charge of them all and be a good steward."

The professor said, "That just is myth and folklore in that book."

I said, "Take it that way if you want, professor, but that is what happened over the years. Man does have control. He is in control of these things and should be a good steward."

We find ourselves here today talking about are we a good steward with what is here upon the Earth, and we are bound to take care of? I think it is important to know, is the Endangered Species Act working as it is currently on the books?

My constituents and I have an extensive experience with ESA. One of the most impacted areas is Washington County in the little State of Utah. There we have four fish and a desert tortoise in that area. In addition to those, there are also approximately 50 species on the candidate list, some of which under the current rules are likely to be listed in the near future.

Accordingly, Washington County has the unfortunate experience of being one of the most heavily impacted counties in the United States. It is in the best interests of everyone, including States, local government, private landowners and the Federal Government, to try and work in partnership to preserve biodiversity and recover savable species.

To this end, the good people of Washington County have undertaken a habitat conservation plan that represents over 5 years of gut-wrenching effort, including the expenditure of over $1 million by a relatively small county to get this HCP approved. Another approximately $9 million will be expended by Washington County to see the plan fully implemented.

In addition to the millions spent by the county, the Federal Government is obligated under this plan to provide approximately $200 million to justly compensate affected landowners. Notwithstanding the fact that the Federal Government has this obligation, to date not one, not one single landowner has received payment for their land that has been rendered worthless by this HCP.

Knowing that the preservation of species is a top priority for everyone, it is important to emphasize that the current ESA, as regulated and implemented by the Fish and Wildlife Service, makes it difficult, if not totally impossible, to achieve this goal. Conservation of endangered species is best accomplished in an atmosphere that promotes a healthy economy founded on the principles of respect for voluntary involvement of local communities and affected landowners.

Perhaps the biggest problem of the current act, as interpreted by the Fish and Wildlife Service, is the use of the ESA to take people's private property without compensation and in some cases to insist upon totally unreasonable mitigation that prevents a landowner from utilizing all or part of their property.

We all share the same goals of a clean environment and preservation of species, but in order to accomplish this, we must restore some balance in the ESA, and that is what the gentleman from Alaska and the gentleman from California are trying to do. In concept it is unflawed, but the actual implementation of the law has become a nightmare for hundreds of communities around the country that will only worsen unless we have the courage to amend this act.

Mr. Speaker, I would urge the Members of this body to carefully consider what we have done, the problems we have, and they all ought to look at the map that shows if everyone of these endangered species is brought forward and is listed as critical, and then endangered, the Homo sapien might as well walk out as Jefferson Fordham said, and just leave it up to other things, because there will be no room for the Homo sapien if everyone of these is implemented.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman for his comments. I hope the people watching and listening to this back in their offices understand that the gentleman from California and myself and the gentleman from Utah have tried to work out a solution to a very serious problem. When we passed this act, the regulatory law had come into effect. It is the regulatory law and the courts by extremist groups that have misinterpreted the law. We are trying to right this law so no longer can that occur, and keep our species and also recognize the importance of man and his right to participate on private property.

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Speaker, I would like to point out the two gentlemen here have done an especially fine job in putting this together. All the criticism I have heard around America is in generalities. I wish these people would specifically point to the law and say this particular part is wrong or that particular part is wrong. Do not give us these generalities. Everyone can stand up and beat their chest. We want to have people tell us where we are wrong so we can discuss it. So far I have not personally had that opportunity. I wish the people of the House would take the time to look at the bill.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 10 minutes to the gentleman from Texas, Mr. SMITH.

Mr. SMITH of Texas. Mr. Speaker, I thank my friend from Alaska for yielding me time.

Mr. Speaker, I'm pleased to join Chairman YOUNG of the Resources Committee to discuss the critical need to fix the broken Endangered Species Act. The Endangered Species Act needs to be reformed because the current law harms people and the environment.

Today, the Endangered Species Act does not protect species. It violates the basic rights of hard-working, law-abiding, tax-paying Americans, the very people who ought to be empowered to protect our natural resources. While the Endangered Species Act is flawed in a number of ways, I'd like to focus on three of the most critical areas where the Endangered Species Act desperately needs to be reformed.

First, the Endangered Species Act needs to be operated in a way that respects the basic civil rights of all Americans. The fifth amendment to the U.S. Constitution provides: "Private property shall not be taken for public use without just compensation." This amendment guarantees a basic civil right: that no citizen in society can be forced to shoulder public burdens which, in all fairness, the public as a whole should share.

The fifth amendment does not stop the Government from meeting important public objectives. It simply ensures that those who want certain public benefits do not obtain these benefits at the expense of particular individuals. The fifth amendment is about fairness.

Usually, this simple, common sense, rule of fairness is followed. If the Government wants to use private property for construction of a highway or to create a national park, the Government simply condemns the land and uses the private property.

The requirement that Government pay for this private property—rather than simply taking this land—has not impeded the development of our highways or national parks. To the contrary, we have the best and most impressive highways and national parks the world has ever known. The requirement that Government pay to acquire private property for use in these public endeavors simply ensures fundamental fairness.

But not all public uses are equal. When it comes to some public uses of private property, private landowners are denied compensation. Americans whose land is used to protect endangered species suffer condemnation without compensation.

One American whose fifth amendment rights have been violated by an unfair, and unconstitutional, application of the Endangered Species Act is Margaret Rector. A 74-year-old constituent, Ms. Rector purchased 15 acres in 1973 in order to plan for her retirement. Her retirement plans were destroyed when in 1990, the U.S. Fish and Wildlife Service decided that her property might be critical habitat for the golden cheeked warbler, even though no birds were found on her property.

Ms. Rector was denied any productive uses of her private land. Today, Ms. Rector's property has lost over 97 percent of its value. Even though Ms. Rector is denied productive uses of her private property under a public law, the Government denies her just compensation.

The same rule of basic fairness that applies to Americans whose land is used for a highway or other public benefit also should apply to Margaret Rector. Americans whose land is used for protecting endangered species are not second-class citizens, and it's time that their Government stopped treating them that way. It is simply unfair, and a violation of basic civil rights, to obtain this kind of public benefit by forcing only a few Americans to should the entire cost.

It is essential that we reform the Endangered Species Act to ensure that all Americans' fifth amendment rights are respected. Government must compensate private landowners when it takes their land, or a portion of their property, for the public purpose of protecting and preserving endangered species.

Second, the Endangered Species Act must be reformed to encourage protection of endangered species. Today, it actually discourages resource conservation. Thousands of private landowners manage their lands as responsible environmental stewards. Unfortunately, in a classic example of unintended consequences of governmental action, the Federal Government's war on private property rights has actually undermined protection of endangered species, the very goal of the Endangered Species Act.

How did this happen? The Endangered Species Act imposes confiscatory regulations on private lands that contain valuable resources. It punishes ownership of vital or threatened natural resources. This discourages landowners from environmentally friendly land management practices, and deters the growth of wildlife habitat.

The story of Ben Cone is illustrative: Ben Cone is a North Carolina conservationist who carefully managed his 8,000 acres of timberland in North Carolina so as to develop natural resources and attract wildlife to his property. Mr. Cone was successful, so much so that Mr. Cone's property became the type of land that is habitat to the red cockated woodpecker. How did the Government reward Mr. Cone for his successful environmental management? It forced him to bear a $2 million loss for his hard work by prohibiting any development of a small portion of his property. His lesson: accelerate the rate of clearing the land to discourage the costly woodpecker.

The story of Mr. Cone is by no means the only evidence of the antienvironmental effects of the Endangered Species Act, as it is currently enforced. Officials at the Texas Parks and Wildlife Department contend that adding the golden-cheeked warbler and black-capped vireo to the endangered species list has encouraged the rapid destruction of their habitat. It is my hope that the Government end its counterproductive, and unfair, reliance on heavy regulation and instead encourage private environmental stewardship.

As in so many other areas, the goal of our policies should be results, not more power and more bureaucracy in Washington, DC. Whether we're talking about welfare, Medicaid, education, or protection of endangered species, the people of Texas, California, Wyoming, or Maine understand what needs to be done to serve important public goals. They don't need unelected officials in Washington—who have never visited their land—telling them what to do.

The goal of our Endangered Species Act should be protection of species and conservation of natural resources. The difference between Secretary Babbitt's approach and the reform model that we're discussing today is not the goal: both of us want to protect species. The question is how best to accomplish this goal.

We believe that landowners have an important role to play in resource protection. We believe that our resource protection laws need to work with landowners, not against them. And we believe that the kinds of disincentives that discouraged Ben Cone from protecting species must be eliminated.

The Endangered Species Act must be reformed to accomplish its goal: protection of species. Today it actually harms species.

Third, the Endangered Species Act should be used to protect species, not as a national land use planning device. When Congress enacted the Endangered Species Act, it did not intend to grant the Federal Government an easement over much of the private lands west of the Mississippi.

From the beginning, Congress realized the need to balance species protection with the rights and needs of people. Congress enacted this law to protect the bald eagle, to avoid direct harm to species whose numbers were low or depleted so as to avoid extinction. This is a laudable, and reasonable goal.

Unfortunately, too often what starts out as a reasonable and laudable Government program does not remain that way. Government officials at the Department of Interior have interpreted this reasonable law in an overbroad and unreasonable way so as to restrict activities on private property, regardless of whether an endangered species in threatened by this activity.

The Government has used the Endangered Species Act to impose ruinous restrictions on private lands regardless of whether the endangered species is on the land, will be harmed by the proposed activity, or has ever visited the land. According to the Department of Interior, as long as the land in question is the type of habitat that the endangered species tends to use, the Endangered Species Act applies. Most recently, Secretary Babbitt has discussed expanding this habitat to cover entire ecosystems.

It's time to return the Endangered Species Act to the original intent of its authors: to prevent harm to particular species. It's time to remind Government officials that private property is privately owned, and that the families and individuals who purchased the land, not the Federal Government, have dominion over it.

The Endangered Species Act is in critical need of reform. Our reform goals must be: Protect civil rights. Encourage private stewardship. Prevent Federal land control. Adoption of these simple, commonsense reforms, each of which was intended by Congress when it enacted the Endangered Species Act, will put some balance into the Endangered Species Act and should actually help preserve the environment.

□ 1515

Mr. YOUNG of Alaska. Mr. Speaker, I want people to remember and visualize the lady, the widow in Texas. She purchased the land in 1973, basically as retirement, if I am not mistaken.

Mr. SMITH of Texas. That is correct.

Mr. YOUNG of Alaska. And the value of that land prior to the golden-cheeked warbler supposedly was, it was valued to—do you have the value of that land?

Mr. SMITH of Texas. It was a couple hundred thousand and it depreciated in value 97 percent.

Mr. YOUNG of Alaska. My understanding is, it was valued close to a million dollars for her retirement and now is worth $30,000, if that, and, in fact, if it can be used at all. Again, it is my understanding, if I am not correct, you may answer this, that they had not found the golden-cheeked warbler but it was possibly the habitat for the golden-cheeked warbler; thus they declared it an endangered area for the species; is that correct?

Mr. SMITH of Texas. Mr. Speaker, if the gentleman will continue to yield, that is absolutely correct. The golden-cheeked warbler had never been seen on her property, past or present. It just might someday tend to land there. For that reason the regulations were imposed.

Mr. YOUNG of Alaska. It is also the fact, I think, if I am correctly informed, that they have found golden-cheeked warbler in many other different areas but because of the so-called habitat is the reason they classified it, but they never looked at the other areas to find out if there was an abundance of them there or whether in fact they could be helped in another area. They have taken this widow, this 70-year-old widow, invested the money in 1973, and taken her retirement away from her. I say that for those that are interested in Social Security, Medicare, and Medicaid. This is your Government in action, with no science, only an agency's idea of how the act should be implemented. That is why I thank the gentleman for supporting my efforts to improve the act so that the American people can regain their faith in this Government and also protect the species. I thank the gentleman.

Mr. POMBO. Mr. Speaker, along the same lines with this particular lady, I had the opportunity to hear her testimony before the endangered species task force. One of the things that she brought up at that time, and I thought it was very interesting, was that this was not some pristine isolated location, that this was in the middle of an area that was zoned for industrial development.

Mr. SMITH of Texas. Mr. Speaker, if the gentleman will continue to yield, that is exactly correct. This is not an isolated incident. It is not the exception to the rule. This is very typically the rule where someone purchases property for investment purposes, for a retirement home in this case, and then sees the value of their lifetime savings, perhaps lifetime savings of two or three generations, wiped out just because of the Government-imposed regulation. In this case, it makes no sense and does not have any connection to actually protecting or preserving any species.

Mr. YOUNG of Alaska. Mr. Speaker, this brings up another point in the gentleman's presentation.

Would you say that this is Government land management, Government land control, Government telling States and individuals what they have to do because the Federal Government says that is what you have to do?

Mr. SMITH of Texas. That is exactly right. I agree with the gentleman. Again, I appreciate his efforts and his leadership on this issue.

Mr. POMBO. Mr. Speaker, the gentleman also serves on the Committee on the Judiciary which has broad jurisdiction over constitutional issues.

Is it your understanding that there is any place for Federal land use policy in the Constitution?

Mr. SMITH of Texas. I think any Federal land policy of the kind that we are talking about, that means the way the current Endangered Species Act is being enforced, is in clear violation of the Constitution, particularly the fifth amendment. Until the Government decides to engage in some just compensation to compensate landowners for the lost value of their property, in my judgment they are in violation of the Constitution.

Mr. POMBO. So in essence what happened with your constituent in this case was you had someone who lost basically nearly all the value of her property, which she was going to use for retirement, but it could have been my property or anyone's property that lost the value of their property, based upon a decision that came out of fish and wildlife, which was, this is an industrial area, it is zoned for industrial use. It is not an isolated area. It is not a pristine habitat area. It is an industrial use that has industrial developments all around it. It borders on a major roadway, a major thoroughfare. But they were going to control any type of development on her property, not because there were endangered species on the property but because it was suitable habitat. If one wanted to live there, it could. It was suitable habitat.

Mr. SMITH of Texas. Right.

Mr. POMBO. You are telling us that that is what they were basing their decision on.

Mr. SMITH of Texas. The gentleman is absolutely correct. It is not the fact that the golden-cheeked warbler had ever landed in any of the foliage on that particular piece of property. It is not that they had at any time in the past. It is just that they some day might. There is no current use of the endangered species. That to me is out of balance. That is why we need to amend the Endangered Species Act.

Furthermore, I want to say to the gentleman, he makes another good point which is to say that this type of overzealous regulation enforcement by the Federal Government can hit anybody at any time. We are not just talking about an isolated landowner that may have a large ranch or farm in a rural area. We are talking about anyone who lives anywhere close to habitat that might be considered by the Federal Government to be a critical habitat.

Mr. POMBO. As chairman of the task force, I had the opportunity to take the task force to your district to hold a hearing earlier last year. One of the good fortunes that we had while we were in your district is we had the opportunity to visit a cattle ranch, a very well-managed cattle ranch in that area, and the gentleman took us out and explained to us how he was managing it to get the highest return from the property.

One of the issues that came up when we were out there was what would happen or how cattle ranchers would respond to the listing of the golden-cheeked warbler; in fact, how they would destroy habitat so that they would not have a problem with the fish and wildlife coming in and tell them they could not run cattle or could not run goats on their property.

Mr. SMITH of Texas. I remember well that day you and I were together on that Texas ranch. When you tell someone that they may lose the right of use of their property, it does not take long for that rancher or farmer to decide they are going to clear the brush that might be that critical habitat. Why wait for the Federal Government to, in effect, take over your property. The gentleman is absolutely correct. unfortunately these regulations force individuals not to be good stewards, it forces them to perhaps take some action that actually hurts the habitat in order to try to protect themselves.

Mr. POMBO. So if the golden-checked warbler were truly an endangered species and we were truly trying to recover that species, is not the Endangered Species Act working in the exact opposite direction? Is it not giving people the perverse incentive to destroy habitat so that they do not have a problem?

Mr. SMITH of Texas. I agree with the gentleman. I do not think the Endangered Species Act is being enforced as originally intended and, quite frankly, it has gotten out of balance. The balance is too great on the side of the regulations, and they do not take, in their enforcement, enough consideration of the adverse economic impact on the real people, hard-working individuals that may have spent their lives working to cultivate the land, spent their lives investing in the land, spent their lives working from daylight to dark pouring everything they have into the land and then all of sudden they find they cannot use it in the way they intended. Clearly, the Endangered Species Act is not being enforced as it should be enforced. We need to get back to a better balance.

Mr. POMBO. So what we are faced with today is that the Endangered Species Act as it is being implemented today is not good for species, is not recovering species, is not helping out with wildlife, and at the same time it is causing severe economic and social hardship across the country?

Mr. SMITH of Texas. The gentleman is correct, absolutely correct.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my special order?

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Speaker, I yield to the gentleman from Louisiana [Mr. TAUZIN] newly acquired great Member of this side.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman from Alaska [Mr. YOUNG] not only for yielding time but for having this special order. It is important because I think all Americans love and appreciate the great outdoors. We appreciate the diversity of animal and plant life not only in America but on the planet. We all have an interest in preserving it and making sure that we do not lose it.

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When you come to areas like Alaska and Louisiana, you have a special appreciation for it, because of the land, the water, the species that inhabit them are special to us. I grew up in the bayou country of south Louisiana where we are extremely close to nature. Nature was not just something we experienced by watching the Discovery Channel. It was part of our lives every day. To see anything go extinct is nothing that is very pleasant and certainly something we all want to avoid, not simply for the esthetics of it, but for the importance of it in terms of life on this planet.

Life should be precious to all of us. The life of a species ought to be one of the things we deeply cherish and want to protect.

Mr. Speaker, the question is not whether we love the great outdoors and whether we appreciate the great outdoors. The real question is whether the great indoors is working well enough to preserve the great outdoors. The great indoors is the Interior Department, and so great indoors is where bureaucrats work night and day turning out the regulations we all have to live with that most concerns us.

Mr. Speaker, what I think we are about is asking for reforms that bring common sense and effectiveness, user friendliness, to the environmental laws, the endangered species laws, of this country, not simply because we do not like bureaucrats, but, Mr. Speaker, more importantly, because rules and regulations ought to, No. 1, make common sense, because we will understand them better, appreciate them more, and they will work better; No. 2, they ought to be user friendly. That is, the people they affect ought to be taken into the equation. They ought to be considered. Public hearings, good science behind the decisions, explanations and a chance for people to have an understanding of why this rule is important to protect a species and perhaps change the way somebody is using and enjoying their property, for example.

The rules in the end ought to be not only good common sense and user friendly, but they ought to be effective, to carry out the purposes they intend.

A good example in Louisiana right now is a thing called the black bear conservation effort going on in our State. It is a voluntary land management plan that landowners have entered into voluntary agreements with conservationists to help propagate the species of black bear that resides in

Louisiana. The results have been dramatic.

Without Government intervention, without the Government coming in and declaring critical areas and coming down with all kind of rules about what you can do or not do with your property, landowners and conservationists are working cooperatively today to bring back a species, a subspecies of bear, that some said was threatened or perhaps endangered. The result is that we are getting an effective recovery.

Part of our commonsense plans to reform endangered species is to do just that, to put some good science into the equation that makes sure public hearings, that people have a chance to see and know what is going on, to make sure the regulations make common sense, that they are tested on the basis of effectiveness and cost benefit to make sure that we stress voluntary agreements first before we talk about command and control decisions out of Washington, DC, and then to test the bottom end result. Is it working? Is it recovering the species? Are we happy as a user family of American citizens who use this planet alongside the other species that inhabit this Earth? Are we happy together? Is it working out?

If we test it on that scale, the current law fails us pretty badly. If we test it on a scale of what we could accomplish, if we change the law in those respects, if we brought commonsense environmentalism to this Chamber, if we made our rules and regulations user friendly, and if we test it on the basis of how well they are recovering species, what good effect they are having, then I can guarantee you folks like the gentleman from Alaska [Mr. YOUNG] and the gentleman from California [Mr. POMBO] and I would not only be happy with the results, but Americans generally, whether you call yourself an environmentalist, conservationist, or whatever else you want to call yourself, we would all be happy to know that the laws are working, that they are appreciated, and that landowners and other effective groups are partners and friends of the act rather than having made enemies of the act and, therefore, fighting its effect instead of working with it.

Mr. Speaker, it is the kind of goal we hope to achieve. I think special orders like this, where we talk about the value of changing the law and making it better, are extremely important if we are ever going to get to that point, and we get past the politics and all the demagoguery, and we talk realistically about how we can build a better environmental law for America that protects species, and does make common sense, and takes people into account, and landowners, and values of their property, into account as we go about recovering their species.

Mr. YOUNG of Alaska. Mr. Speaker, the gentleman was speaking about his bear and the cooperative effort. This is the one thing, I know, in 1973, when we voted for this act, we thought we were doing, but for some reason we have lost track of the agency, that they have decided without looking at Federal lands, which we have 835 million acres of, we find out with the species residing in those areas they do not do that unless it is multiple-use land. They will come after the individual and say, you must do this. We lose this cooperation, we lose this partnership.

Mr. Speaker, I have said all along that we must be partners in this law in order to protect the species. You cannot expect the Government to protect the species by itself. The partners who should be part of it will in fact extinguish the species because they have no other choice.

Mr. TAUZIN. Mr. Speaker, a perfect example, this black bear deal in Louisiana. Not only was the conservation program working without any mandates from the Federal Government, not only was the black bear recovering nicely, but, believe it or not, the Department of the Interior was not happy with that. They instead came in and proposed a $3 million critical habitat area. They were going to impose it without any public hearings. They would not tell landowners what it would do to affect the use of their property. In fact, they could not explain what the differences were going to be when they mandate this critical area.

Well, we insisted on some public hearings. We finally got a couple, and we literally brought to light the fact that the program was working without the Federal Government mandating and controlling and creating critical areas. Landowners were volunteering. The partnership, Mr. YOUNG, was working.

Mr. YOUNG of Alaska. Can I bring an example up that I ran into recently in the State of Florida down around Gainsville?

There was a sighting of a puma, or a mountain lion or a puma, whatever you like to call it, by farmers, and they made up their mind they were going to protect this puma if, in fact, it was. The Fish and Wildlife from the Federal Government said there is no such thing in Florida and this area. Well, they found tracks, they being the farmers, saying, all right, we know it is here. They took costs of the tracks. They named him Toby, by the way. They cast the track, took it to the Fish and Game Department, our Government in action, and they had to say, lo and behold, there is a puma. So they set out, and they finally zapped him with a tranquilizing gun, and then did a DNA on the puma and decided the puma was a western puma from New Mexico. Now how he got—unless they are doing the Amtrak or a 747 plane.

Mr. TAUZIN. on vacation.

Mr. YOUNG of Alaska. Or on vacation. How he got all the way to Florida, I do not know.

Remember now the farmers wanted to keep the puma. This is a Florida puma, in their minds. But Fish and Wildlife said in their minds, and in fact made an edict; they got him in a cage now, said that he is not indigenous to the area, he is a western mountain lion, or a puma, and thus they are going to transfer him via air to New Mexico because he does not belong and because they decided he did not belong there.

Now keep in mind, if I am sure how ridiculous this is under the Endangered Species Act, and in the meantime this same thing, Mr. Babbitt and the Fish and Wildlife Department saying in fact the wolves are endangered in Yellowstone Park, and in Idaho and Utah. And they go to Canada, get a foreign wolf, and tranquilize those foreign wolves, and, by the way, they killed five of them in doing so at a cost of $7 million and transferred foreign wolves down into the United States, which are not the same DNA.

Mr. TAUZIN. They were not French speaking; were they?

Mr. YOUNG of Alaska. They were not French speaking, saying this is perfectly all right. This is our Fish and Wildlife in a position of making absolutely outrageous decisions under this act, and that is where we have to——

Mr. TAUZIN. Mr. Speaker, one of the things the gentleman from California [Mr. POMBO] has talked about at a number of our hearings was the fact that, overall, there are 4000 species waiting to get listed right now under the Government command and control system. Most of them are bugs. While we talk about the Endangered Species Act protecting beautiful animals, like pumas and bears and eagles, that actually the next listings, the next big round of listings, will be all kinds of insects. People's properties and values and their lives are going to be affected now dramatically because of the presence or absence of an insect anywhere near their home.

Mr. Speaker, this law is beginning to have effects that nobody calculated. If we do not somehow restore some common sense to it so that we can get more cooperative agreements in here and more good science behind some of these decisions, we are going to have some real problems in this country.

Mr. YOUNG of Alaska. Mr. Speaker, the gentleman says 3,000 are going to be bugs. Let us stress that, bugs, things that you squish if they get on you. You mean to tell me, if they decided that the red tick, the Mississippian tick that is awfully prevalent in the woods, and some places it is not because they are eradicated; if they decided that tick was—by the way, the tick carries diseases—was an endangered species, and I happened to get one of those ticks on my body as I was walking through the woods enjoying this beautiful flora and fauna, and that tick was on my body, I could not destroy it because of endangered species?

Mr. TAUZIN. You could if you wanted to pay——

Mr. YOUNG of Alaska. I would have to pay a $3,000 fine. Would I have to declare it with the Fish and Wildlife Department?

Mr. TAUZIN. I think you would probably find a way to hide that tick.

Mr. YOUNG of Alaska. Got to be one of those SSS's.

Mr. POMBO. Mr. Speaker, if the gentleman would yield on that. He is correct in his assumption of the 4,000–4,200 candidates, species. The vast majority of those are insects that they have on the species list. That is one of the major reasons why it is so critical that the Endangered Species Act be reauthorized and reformed in doing so.

Mr. Speaker, if they were to declare the gentleman's tick an endangered species, and it would not have to be endangered across the country, just in specific regions of the country, unique species, localized species, subspecies of the major tick species, they could list that as an endangered species. Not only would you get in trouble for smashing that, on the other side of that, under the current law in the way it is being implemented, they would have to import them from other areas of the country to reintroduce them into the areas where they had become endangered in order to maintain a viable population of them.

That is the absurdity of the act in the way that it is currently being implemented.

Mr. TAUZIN. Mr. Speaker, the biggest absurdity in my mind though, it is a fact that all of these decisions are being made without the benefit of good science. The law right now says that a listing can occur with what is called best available data, B-A-D. Bad science, whatever is available. If you only know a little bit, and that tells you it is endangered, then you have to list it under the current law. You do not need to do the research and find out whether or not, in fact, there are other populations of this animal or plant or insect somewhere else.

Mr. Speaker, we are driving, in effect, the whole body of regulations that are becoming increasingly difficult for Americans to live with on the basis of bad science. We do it without public hearings in many cases. We do not consider cost-benefit ratios. We do not consider whether the regulations we impose make common sense. We simply must impose them once that listing occurs on the basis of bad science.

Now, you cannot tell me that kind of a law makes good sense, to say that you are going to list something with bad science. Then you are going to have rules and regulations made without the benefit of public hearings and that in the end you are going to make a regulation that impacts dramatically the lives of people without ever considering the cost, without looking for the least-cost alternative, to find the best way to save that plant or animal without putting people out of work, or taking their property away from them, or putting in jail, as the gentleman from Alaska [Mr. YOUNG] said, smashing a bug.

Mr. POMBO. Mr. Speaker, the gentleman is absolutely correct. Current law does not require them to use good science. If he went out and did a biological study on his black bear in Louisiana, and he wanted to print that in a scientific magazine, it would have to stand up to peer review before they would ever allow you to even print it in a scientific magazine. But it could be listed as an endangered species based on that biological data without ever being peer reviewed, without another scientist, biologist, in this entire world verifying that you——

Mr. TAUZIN. You mean a biologist could nominate a species, and on the basis of his information could get listed and impact millions of Americans?

Mr. POMBO. Absolutely, and it does have to be a biologist. It can be a college student doing their senior thesis on the disappearance.

Mr. YOUNG of Alaska. Mr. Speaker, if I can, the gentleman has to understand one thing. We had a case in my great State of Alaska where there was a petition filed by two students from New Mexico saying that the archipelago wolf possibly could live in this forest and, by even filing the petition, 535,000 acres were put off limits for any man's activities until they can study if the archipelago wolf was, in fact, a reality.

Mr. TAUZIN. Mr. Speaker, the gentleman is saying that the land was put off limits even before the listing?

Mr. YOUNG of Alaska. Before the listing.

Mr. TAUZIN. Just because somebody—

Mr. YOUNG of Alaska. No scientist, and on top of that, the Fish and Wildlife, I have to give them some credit, says there is no way that the archipelago wolf would ever be there.

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But Mr. Speaker, the Forest Service said we have to follow through with the studies. Consequently, the impact upon people in that community has been devastating. We have lost employment, we have put people on welfare, and still, there is no wolf and there never was a wolf and there never will be a wolf in that area, but because two people out of New Mexico filed a petition, that is why this act must be reformed.

Mr. TAUZIN. Mr. Speaker, I thought of something else that really does not make any common sense. Under the law, the way it is written today, interpreted by the Supreme Court, if I own a piece of property that may harbor some endangered species and I want to alter that property to enhance its capacity to hold that species, I cannot do it.

Mr. YOUNG of Alaska. You cannot do it. You cannot even develop a wetland for species that would reside in a wetland. You cannot do it.

Mr. TAUZIN. If I own a piece of property that I thought was mine and I want to enhance it for wildlife conservation, if there is an endangered species on it, I cannot even do that. The Government will not let me even enhance my property.

Mr. POMBO. Under current law, Mr. Speaker, they will not allow you to even enhance the current population of endangered species on your property.

Mr. YOUNG of Alaska. But they can. The Government can introduce a species, they can go to Canada and get a foreign wolf and bring it down, but you yourself cannot do it on your own property.

Mr. TAUZIN. I want you to think with me, if we were able to change the law, if we could get something past this Congress and signed by the President to bring some commonsense environmentalism to endangered species laws, and we had a situation where landowners would be encouraged to invite endangered species on their property and encouraged to enhance the conservation capabilities of their properties so these species could grow and actually enhance the population significantly, if had that kind of law in place, instead of the one that tells the landowner, "You had better not find an endangered species on your property or we will shut you down; you had better not invite one on, because we will shut you down; you had better not even try to improve your property for species because we will shut you down," if we have that kind of law, which we do today, and we had the chance to build a better law that encouraged landowners to do the right thing, why would we not do that?

Mr. POMBO. If the gentleman will yield, Mr. Speaker, why we would not do it is because so many people have so invested in the current system. If we look at those that are protecting the status quo who do not want commonsense changes, it is because they would have to give up power, if you empowered people. They would have to give up money, the tens of millions of dollars a year in Federal grants that these extremists get in order to maintain the current system. They want to protect the system that is in place right now because they have a pretty good thing.

Mr. YOUNG of Alaska. But they do not want to protect the species. They have not protected the species.

Mr. POMBO. The species has become secondary.

Mr. YOUNG of Alaska. They say it is a great success. In reality, there have been no species protected. They claim the eagle. The eagle was very viable in my State. The eagle's problem was DDT. It was not the Endangered Species Act. Once we stopped using DDT, we have eagles now in the majority of the United States today, and we have an abundance of them in Alaska, so it was not the act; but they keep waving it because it was the American bird. They keep saying, "This is what we did with this act."

Mr. POMBO. Mr. Speaker, if the gentleman will continue to yield, we talk about reversing the incentives so people have a positive incentive, a positive goal to create endangered species habitat, maintain endangered species habitat on their property, so we are using the carrot instead of the stick. People will respond to that.

The other side of this is the regulatory process. This right here represents what a developer goes through if he wants to develop a house on a piece of property. These are the steps that he has to go through just in case he has an endangered species problem. You wonder why houses cost so much money in this country. You wonder why the average working couple, the young couple my age, has such a difficult time purchasing a piece of property to follow the American dream. This is what has to happen before one shovel of dirt is turned, before one permit is issued.

Mr. TAUZIN. In fact, Mr. Speaker, not only are we not doing the right things, the law encourages landowners to do the wrong things, as the chairman of the committee pointed out.

We heard the testimony of one landowner whose father left him this beautiful property that they had develop over years, and all of a sudden, a woodpecker arrived. They discovered woodpeckers on the property they had enhanced. Now he is clear-cutting the rest of his property to avoid what he calls an infestation of an endangered species. Instead of doing the right thing, as his father had done for many years, he is clear-cutting now.

Mr. YOUNG of Alaska. Because he had to do it.

Mr. TAUZIN. He had to do it to protect his value.

Mr. YOUNG of Alaska. Mr. Speaker, I yield to the gentleman from Washington, "DOC" HASTINGS.

Mr. HASTINGS of Washington. Mr. Speaker, I thank the gentleman for yielding, and I thank him for having this special order. The discussion that we have here has been, frankly, very interesting. What I would like to bring to this is the kind of a discussion from a macro standpoint. You have been talking about a micro standpoint.

When I look at reforming the Endangered Species Act, I look at bringing good science in as being very important, as the gentleman from Louisiana, Mr. TAUZIN, has said, and also protecting private property rights. But in my area in the Northwest, I want to talk about it from a macro standpoint, because it has a huge impact beyond what we talked about.

For example, the power in the Northwest comes from falling water. About 90 percent of our power comes from water over dams. Whenever we deal with water, of course, what are we dealing with? We are dealing with fish. We have a potential listing of several species of salmon, as the chairman knows, in the Pacific Northwest, Snake River salmon, Columbia River salmon.

I can tell you from a scientific standpoint, and this is the important part, from a scientific standpoint there is little difference between the Snake River salmon or the Columbia River salmon. One kind goes up to the tributary, and the other continues on up. Yet, because of that potential listing and because, in part, of the bad science, that has been part of what is being suggested by NMFS we have drawdowns not based on science, where it simply has not worked. I think what the committee has done as part of a reform to this plan is to bring the local community, the State, the local counties, whatever the case may be, into saving those species.

We have, for example, in place in the big Columbia system an agreement that was brought about some 8 years ago by local entities, we call them the big Columbia PUD's, the public power systems that we have there, it is called the Bernita Bar agreement. What it has done is enhanced the spawning grounds on the last free-flowing stretch of the river.

This is precisely what people thought needed to be accomplished earlier on, and it was done on a local level. The way the act is written now, those sorts of things are not encouraged. What the committee has passed out, that is encouraged, so I congratulate the chairman of the committee for taking the lead on this. Hopefully, we can get something passed.

I also want to commend him for his leadership in introducing a comprehensive proposal that makes common sense reforms to the ESA. As a member of Representative RICHARD POMBO's House ESA Task Force, which held a series of field hearings throughout the country last year on this issue, I am quite pleased that he included so many of our recommendations in his bill, H.R. 2275.

Reforming this well-intentioned but out-of-control law has been one of my top priorities in the 104th Congress. The problem with the current version is that it does not properly balance our environmental needs with our economic realities. I strongly believe these goals are not mutually exclusive.

The Endangered Species Act is having a devastating impact on our local economy throughout the Pacific Northwest. Whether it be loggers, farmers, water users, or any other hard working man or woman dependent on our natural resources, the ESA is in desperate need of reform.

My own area of central Washington is certainly no stranger to the existing problems of the ESA. As the location of many large dams and irrigation districts along the Columbia and Snake Rivers that generate power and provide water for our farmers, we have been faced in recent years with an ESA mandated National Marine Fisheries Service [NMFS] Plan to protect several species of salmon that will bring the total cost for salmon protection for our region to $500 million. Since 1982, our region has already spent $1.5 billion for salmon restoration. If we do not reform the ESA soon, the Pacific Northwest is likely to spend close to $1 billion annually on salmon recovery alone by the turn of the 21st century.

The NMFS proposal recommends depleting the storage reservoirs on the Columbia/Snake mainstem by 13 to 16 million acre feet [MAF]. Up to 90 percent of the total storage capacity will be used for flow augmentation at the annual cost of $200 to $300 million.

Worst of all, the best and most current science on this subject developed at the University of Washington indicates that in-river survival is better than previously expected, in the 90 percent survival range. That information, when included in current modeling, such as the University of Washington's CRiSP, Columbia River Salmon Passage Model, report indicates that reservoir depletion beyond some 5 million acre-feet will not increase survival.

Clearly, the science upon which NMFS is basing its recommendations is highly suspect. However, NMFS seems to have ignored this evidence and concluded that only dam operations are the problem. The point is we are about to enter into a process that will further restrict the economic opportunities of thousands of hard working men and women in our area with little or no scientific evidence that this plan will enhance or even protect existing salmon populations.

There are many factors behind the recent decline in salmon runs including the increase in ocean temperatures off the coast of Oregon and Washington, better known as El Nino. This increase in temperatures off our coasts has even caused declines in salmon runs and populations in rivers and streams where no dams exist. At the same time, as I understand it, salmon runs in Chairman YOUNG's home State of Alaska remain much stronger due in part to significantly lower ocean temperatures.

Let me be clear, my constituents and I are committed to protecting our precious salmon resource in the Northwest. However, we must do so in a common sense way that assures that these runs are protected for future generations to enjoy at minimal cost to our rural communities that depend on our dams for their economic survival.

One of the problems with the current law is that it mandates that all listed species be restored to original numbers. In some cases, this is a worthy and realistic goal. However, in other instances, this is counterproductive to the goal of species recovery.

For example, in my area of the country, there is the Snake River Sockeye salmon run that we are spending tens of millions of dollars in an attempt to restore to original numbers.

Almost everyone admits that it is virtually impossible to completely recover this run.

However, under the current ESA, we are being forced to do just that when we could be spending this money more wisely on improving salmon runs that are genetically indistinguishable from the Snake River Sockeye but have a far better chance of complete recovery.

Under H.R. 2275, the ESA is amended so that salmon runs like the Snake River Sockeye are protected. At the same time, the bill gives greater consideration to enhancing healthier runs that have a better chance of full recovery. This change in the law will lead to a much larger and healthier salmon supply for our entire region.

When one considers the ESA's current problems with the fact that only a handful of species nationwide have fully recovered to the point where they could be removed from the list since the act was first enacted in 1973, it is quite evident that the current law is neither protecting species nor families that depend on our natural resources for their livelihoods.

One of the major reasons for the act's failure to fully recover species is the set of perverse incentives that it encourages. The current law punishes people for protecting habitant on their property and rewards those who develop their land with no consideration for wildlife. These perverse incentives were mentioned over and over again by witnesses at our task force field hearings. That is why I am delighted that Chairman YOUNG has included a number of our recommended reforms in his bill.

First and foremost among our task force's concerns was the issue of compensation. H.R. 2275 encourages property owners to cooperate with the Federal Government in our efforts to protect species by compensating them when restrictions imposed by the ESA diminish their property's value by 20 percent or more.

This much needed reform will not only encourage greater cooperation between the public and private sectors in protecting species but will also force the Federal Government to prioritize our limited financial resources on species that are most in need of recovery. Rather than scattering our current resources on fully recovering all species, as the current act calls for, H.R. 2275 will lead to more recoveries and many more ESA success stories.

Equally important, our bill also encourages stronger science by requiring that current factual information be peer reviewed. In addition, the bill makes all data used in the decision process open to the public.

Mr. Chairman, I have barely scratched the surface in my limited time here this afternoon of all the improvements H.R. 2275 makes to the Endangered Species Act. Our task force continues to work hard in support of passing H.R. 2275 which addresses so many of our people's concerns.

I am pleased that Chairman YOUNG and Congressman POMBO have taken the lead on this legislation and look forward to continuing to work together on reforming this act so that it will better protect species and communities had hit by the current law.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for his support and information. He brings up a very valid point. If we had listened to the localities, the States, and the communities, we could have solved the problem on the river. I would suggest another thing, though, as long as the gentleman brought it up, because I brought it up myself about importing the Canadian wolves down to reintroduce wolves.

I have also suggested we can rebuild the Columbia River fishery by the enhancement with Alaskan stock. The answer I get from NMFS and the Fish and Wildlife: "We cannot do it because they are not indigenous to the area. They are not part of the stream." To them I say, "I thought you wanted to bring the fish back. We can help you do that." They say, "We cannot do it."

But it is all right for them to bring the wolves down, against everybody's wishes and beliefs, and they are Canadians; because our fish come from Alaska, a State of the United States, they are saying, "They are not part of the system." It is the mindset that we are dealing with today that is not working.

Under our bill, we will bring the people in and it will be part of the State, part of the community, and we will solve the problems and bring the species back. I am very excited about that concept, and I hope those that might be listening to this program will think about what we are trying to do, not gut it, not repeal it, but to improve upon it. That is what our bill does. I thank the gentleman.

Mr. HASTINGS of Washington. One last thing I would mention, if I may, Mr. Speaker. That is that we had a meeting of some local people from our State, talking about the need to amend this act.

One local farmer made a very profound statement. I think it is indicative of probably all of us across the West that have private property, where the treat would come by having an endangered species found on our private property. This particular farmer said, "If I saw a potential endangered species walk across my property, my first reaction would be to shoot it and kill it and not tell anybody."

Mr. HASTINGS of Alaska. They belong to the "Three S Club," "Shoot, shut up, and shovel."

Mr. HASTINGS of Washington. That is right. If we look at what the intention of the act was 23 years ago, and you voted for it because the intention was good, that action by this farmer would do nothing at all to enhance the species. It is counter to what we are trying to do. Why? Because of the heavyhanded administration coming from the Federal Government, because that is what this act says should be done. So it needs to be reformed, it needs to be reformed to bring the local people involved in this sort of stuff, but more important, common sense, and let us protect private property rights, because after all, that is a constitutional requirement.

Mr. PACKARD. Mr. Speaker, for decades the liberals in Congress have distorted the original intent of the Endangered Species Act to further their extreme agendas. In November, the voters cried foul and asked Republicans to restore rationality to our environmental laws.

Our reform proposal stops the radical environmentalists in their tracks. They will no longer ride roughshod over our property rights. Instead, Republicans will protect our natural resources as well as our freedoms.

In its current form, the Endangered Species Act creates perverse incentives for landowners to destroy habitat which could attract endangered species. Once these animals migrate there, landowners lose their property rights to the snails, birds or rats who happen to move in. In essence, the ESA, as currently written discourages the very practices which will ultimately protect endangered species habitats. Instead, we need to ask landowners to participate in preserving our natural resources. Property owners are not villains. Everyone wants to preserve our resources.

In addition, Federal bureaucratic administration and enforcement of the Endangered Species Act is tantamount to Federal zoning of local property. State and local officials have no say in how the ESA is implemented and enforced in their States and communities. State and local officials need to have greater control. They know what is best for their communities.

In my district I can give you several recent examples of government violating the rights of private property owners. One hundred twenty-one acres of the most beautiful property in Dana Point valued at over $1.5 million an acre was devalued because of the discovery of 30 pocket mice, an animal on the endangered species list. Years of planning for the use of this land had to be abandoned. The owner even offered to set aside four acres of his land just for the mice, about $150,000 per mouse, but the government said that was not enough.

In another instance, a property owner had a multimillion dollar piece of property in escrow when the city declared it as wetlands. He was then offered $1 an acre for this useless "wetland". This is a travesty.

Mr. Speaker, Congress passed the Endangered Species Act more than 20 years ago. Originally intended to protect animals, this act hurts humans. It is time to give human needs at least as much consideration as those of birds, fish, insects, and rodents. The time has come for a change. Private, voluntary, incentive-driven environmental protection is the only effective and fair answer to this controversial law.

RESTORING REASON TO ENVIRONMENTAL PROTECTION LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DOOLITTLE] is recognized for 5 minutes.

Mr. DOOLITTLE. Mr. Speaker, I will only use a minute or two, because I know the gentleman from California, [Mr. RADANOVICH] would like to comment on this. I would just commend the gentleman from Alaska [Mr. YOUNG] and the gentleman from California [Mr. POMBO] for their leadership efforts in doing something to restore some reason, I think, to the laws of our country pertaining to this area.

The ESA is something that has a legitimate purpose. We need to have a law, however, that is balanced and reasonable and effective. I would submit that we have a number of stories heard in testimony around the country and I have heard many of these myself as I have sat on the task force, on the committee, and we have held hearings, we have had a number of instances where this has proven not to be the case.

It is one thing to talk about it in theory. It is another to be the private property owner and to have the big hand of Government holding a gun pointed at your head. That is what we heard time and time again from these private property owners who all of a sudden are forced with mandates from the EPA or the Corps of Engineers, or any other number of State and Federal agencies. It is just nearly overwhelming.

Let me just express strong support for the efforts of the chairman of the committee, and indicate to the American people that there is a real need to make sure that we are reasonable and responsible in dealing with our species, but there is also an obligation to protect our private property rights, and there is an obligation to make sure we have a balanced, reasonable, and effective approach on this.

Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. RADANOVICH].

Mr. RADANOVICH. Mr. Speaker, I thank the gentleman. I wanted to add my comments into the RECORD regarding this legislation. I think anybody here on this floor is in favor of protecting endangered species, is in favor of protecting the environment, is in favor of good stewardship. The question remains, though, is it a responsibility of the private property owners, is it a responsibility of local government, is it a responsibility of State government, or is it a responsibility of the Federal Government, and where do those responsibilities lie?

I think the folly of the endangered species over the last year has demonstrated that the heavy hand of Federal Government in care of the environment can produce some pretty crazy results. For instance, there was the arresting of a farmer in California for disking up five kangaroo rats and being sent to trial in Federal court. My hope is that in the adoption of the Endangered Species Act, according to the Pombo-Young bill, that that responsibility begins to be returned away from Federal bureaucrats and back down to the State, local, and private property owner level, because that is where good stewardship begins in this country.

Mr. POMBO. Mr. Speaker, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from California.

Mr. POMBO. Mr. Speaker, the gentleman happens to come from a part of the country that has probably been impacted as greatly as any other region of the country in the central valley in California, with the multitude of species that are directly in the area that have been listed, as well as the aquatic species that survive within the natural river system in California, which has impacted the delivery of irrigation water to a number of the gentleman's constituents.

Is it his opinion that if we went to an incentive-based system that operated where the individuals were rewarded for their stewardship or rewarded for being good stewards of the lands and, quite frankly, had more of an impact on what recovery plans were adopted, what they look like, what best worked, would that work better for your constituency?

Mr. RADANOVICH. Yes, it would. I have a number of cases where people have gone the extra mile to provide habitat on their farms, to provide for the environment, things that they would like to see on there, and then being further penalized because of the fact that they have done that. Current law penalizes any initiative like that that is out there and currently exists.

This country will not survive unless stewardship is brought down to the local level and people are given incentives to take care of their private property and the environment, because that is really a natural thing for people to want to do. I think that natural tendency ought to be encouraged through legislation.

Mr. POMBO. If the gentleman will continue to yield, being a farmer himself, could the gentleman describe the fear that his constituents feel when they may or may not have an endangered species on their property?

Mr. RADANOVICH. I can tell you from personal experience where there were times when we would allow onto our property certain environmental groups to catalog certain species of flowers and different things. There is no way in God's green Earth we would be allowing that right now, simply because what it does is it leads to stealing of your private property rights. So under current law, there is a disincentive. The gentleman earlier mentioned the term "shoot, shovel, and shut up." That is very, very clear in response to current legislation.

□ 1600

REPUBLICAN ENVIRONMENTAL SWAT TEAMS OUT IN FULL FORCE

The SPEAKER pro tempore (Mr. EWING). Under the Speaker's announced policy of May 12, 1995, the gentleman from Michigan [Mr. BONIOR] is recognized for 15 minutes as the designee of the minority leader.

Mr. BONIOR. Mr. Speaker, the Republican environmental SWAT teams are out in full force today.

Speaker GINGRICH is advising his colleagues to do photo-ops at local zoos to counter the image that the Republicans are extremists on the environment.

And over the past few weeks, a number of our Republican colleagues have come to this floor to defend their record on the environment.

Every time I hear one of them, I'm reminded of the story about that man who was arrested for eating a California condor.

He was dragged into court and the judge said, "before I lock you up, what do you have to say for yourself?"

The man said, "Judge, you don't understand. I was out hiking when I got caught in a terrible avalanche. I was trapped for days without food or water. When I was near death, a bird flew over my head, so I shot it down. I didn't know it was a California condor. But judge, if it wasn't for that bird, I would have starved to death."

The judge was so moved that he decided to let the man go free.

As he was walking out of the court, the man was stopped by reporters and they said, "Before you leave, we have to know one thing. What did the bird taste like?"

The man said, "Oh * * * it's kind of a cross between a bald eagle and a spotted owl."

It seems to me that the Republicans have the same problem on the environment. They don't have any credibility.

On one hand they come to this floor to talk about the environment. But on the other hand, they're working in the back room with the polluters lobby to destroy 25 years worth of progress on the environment.

Don't just take my word for it, Mr. Speaker. Listen to what others have said.

The Sierra Club says that the GOP agenda "breaks faith with the American public."

The Natural Resources Defense Fund calls the first session of the Republican Congress "the year of living dangerously."

The nonpartisan National Journal says that a conservative Republican tide is threatening to wash away 25 years of progress on the environment.

And just today, the lead editorial in the Washington Post reads, and I quote, "Republican leaders began to complain last fall that their party has been misunderstood on the environment. They said they intended to moderate their position. But the persistence" of the legislative riders that they are continuing to push even this week "suggests that there's been no moderation."

In other words, they're just as extreme as they were a year ago.

And most telling of all in a recent poll: 55 percent of Republicans say they don't trust their own party on the environment.

Mr. Speaker, all over America today, people are wondering: how did this happen?

How did things go so wrong so fast?

For 25 years, Democrats and Republicans have worked together to protect the environment.

And we are rightfully proud of all that we've been able to accomplish.

Working together, we've made tremendous progress. Today, 60 percent of our lakes and rivers are clean. Major rivers no longer catch on fire. Millions of Americans are breathing cleaner air. Hundreds of toxic dump sites have been cleaned up. And tens of millions of Americans all over this country are reusing and recycling.

Together, we've banned DDT. We've protected millions of children from lead poisoning. We cut toxic emissions from factories in half. And in the process of keeping our environment clean, we've helped create millions of jobs.

This is a proud record of progress shared by both parties. But at the same time, we all know: the job is not done.

Despite all the progress we've made, 40 percent of our lakes and rivers are too polluted for swimming or fishing. One in three Americans still live in an area where the air is unhealthy. Ten million children under the age of 12 live within 4 miles of a toxic waste dump.

And as recently as 3 years ago, 104 people in Milwaukee died and 40,000 got sick when a toxin called cryptosperidium got released in their drinking water.

We've got a lot of work left to do. Yet, at the very moment when we need national leadership most the Republicans have mounted the most aggressive anti-environmental campaign in our history and are busy right now taking the environmental cop off the beat.

To understand how it happened, Mr. Speaker, you don't have to do an extensive search.

All you have to do is understand the environmental journey of one man.

One man who went from the hilltop of environmental protection to the sludgepit of environmental waste.

One man who went from having a 66-percent League of Conservation Voters approval rating all the way down to zero today.

And Mr. Speaker that one man is NEWT GINGRICH himself.

Long before House Republicans ever signed the Contract With America, NEWT GINGRICH signed a different contact, a contract with every polluter and anti-environment special interest in the land.

To understand his journey is to understand the extremism of House of Republicans.

You know, there are a lot of people who like to joke that Speaker GINGRICH is the kind of man who would jump up on a tree stump to give a speech on conservation.

But it wasn't always that way, Mr. Speaker.

In the early 1970's, before he was ever elected to Congress, NEWT GINGRICH actually taught a course on the environment.

In 1982, he earned a League of Conservation Voters approval rating of 66 percent.

In 1987–88, his approval stood at 50 percent.

That's not a stellar rating, but it's not bad.

But in 1989, something happened, Mr. Speaker. Something began to change.

People concerned about the environment began to notice that NEWT GINGRICH would no longer return their phone calls. He no longer spoke out on environmental issues.

And his voting record began to change.

In the 101st Congress, he sided with the oil industry and voted against States' rights to set their own oil spill laws. In 1989, he sided with the timber industry and voted to allow unchecked logging in the Tongass National Forest in Alaska.

In the 102d Congress, he sided with the mining and grazing industry and voted to sacrifice nearly two-thirds of the California Desert to industry. In 1991, he sided with the chemical industry and voted against communities' right to know when toxic waste was being dumped in their neighborhoods.

During this time, his voting record did more somersaults than Mary Lou Retton.

He flip-flopped on a bill to allow oil drilling in the Arctic Refuge. In the past, he sided with environmental protection. But now, he sides with the oil industry.

He's flip-flopped again and again on a bill that would protect endangered species. In the past, he sided with animals and voted yes. Today, he sides with industry.

And through it all, the man whose League of Conservation Voters approval rating stood at 50 percent in 1988 began to take a nosedive.

In 1989, it went down to 10 percent.

In 1990, it stood at 13 percent.

In 1991, it dove to 8 percent.

In 1992, it dropped to 6 percent.

In 1993, he felt guilty, so it went back up to 30 percent.

In 1994—zero percent.

In 1995—zero.

In 1996—zero.

The man who once taught a course on the environment was teaching us all how to sell out on the environment.

How did this happen, Mr. Speaker? What happened in 1989 to change things?

Well, its a simple answer. In 1989, NEWT GINGRICH was elected to his party's leadership. He was elected Whip of the Republican Party.

From the day he was elected whip, Mr. GINGRICH's campaign coffers began to bulge with contributions from the biggest polluters and special interests in America.

I would submit to you, Mr. Speaker, that this is the same exact pattern we see repeating itself in the Republican Party today.

From the minute the Republicans took over last year, a small army of very powerful industry lobbyists descended on Capitol Hill as if they owned the place.

As NEWT GINGRICH's own newspaper, the Atlanta Journal-Constitution wrote last May, these people have been, and I quote, "flooding the campaign coffers of friendly congressmen with hundreds of thousands of dollars in contributions."

Together with their friends in the Republican leadership the polluters lobby has mounted an all out assault on our environmental laws and public health protections.

In one documented case, an industry lobbyist actually sat at the dais during a committee hearing and helped rewrite the environmental laws of this Nation.

The polluters lobby is getting special favors, and the American people are paying the price.

Just listen to the parade of horribles that Speaker GINGRICH and his special interest friends are trying to pass today.

Just listen to what the Republican environmental agenda does in 1 year's time:

It cuts the Environmental Protection Agency by 21 percent.

It cuts pollution enforcement 25 percent.

It denies local communities $712 million in funding to protect drinking water, which is 29 percent below the President's request.

It cuts the land and water conservation fund 25 percent.

It even tried to kill the bipartisan Great Lakes initiative.

Because of all these budget games, 40 percent of all EPA health and safety inspections so far this year have been halted or canceled.

And that's not all.

Their budget cuts Superfund cleanup by 25 percent, which has forced the EPA to halt cleanup at 68 Superfund sites so far this year, including 4 in Michigan.

It rolls back local communities right-to-know about toxic waste.

It cuts Superfund research by 75 percent.

It cuts the Endangered Species Act 38 percent below the President's request.

It bars the listing of any new species as endangered.

It allows oil drilling in the Arctic Refuge.

It delays new meat inspection standards.

It weakens enforcement of the wetlands provisions of the Clean Water Act.

It accelerates—by 40 percent—logging of America's old-growth rain forest.

It eliminates funding for the National Park Service at Mojave Desert.

It terminates the Columbia Basin Ecosystem Management Project.

It delays approving pesticides with lower health risks to farmers.

It even delays new standards for toxic industrial air pollutants.

Under the present system, polluters pay. Under the Republican system, taxpayers would be required to pay the polluters to stop polluting.

No wonder Speaker GINGRICH is advising his colleagues to be seen at zoos. If they have their way zoos are the only place we'll be able to see animals.

And just as important as what they're trying to do is how they're trying to do it.

They knew the American people would never put up with the outright repeal of these bills so they're trying to sneak through the back door.

They knew they couldn't pass a bill to allow oil drilling in the Alaskan wilderness. So they snuck a provision into the reconciliation bill that allows drilling in Alaska.

They knew they couldn't just repeal the Clean Water Act. So they've attached legislative riders to gut environmental laws in 17 different ways.

They knew they couldn't pass a budget that cuts environmental protection. So every week, we get another stop-and-go budget that quietly keeps the EPA from doing its job.

I think the Republican Whip, TOM DELAY, said it best. He stood on this floor in defiance just a few months ago, and he said: "We are going to fund only those programs we want to fund. We're in charge. We don't have to negotiate with the Senate. We don't have to negotiate with the Democrats."

And apparently, they don't care much what the American people think either.

Thankfully, the American people are seeing right through the Republican agenda.

And thankfully, the veto pen of the President is more powerful than the axe of the GINGRICH Republicans.

Time and time again, the President has stood tall against the extreme cuts and we will continue to fight them every step of the way. Because we are a better nation than this and we are a better people than this.

We have come too far as a nation and we have sacrificed too much to turn the clock back now.

For 25 years, Democrats and Republicans worked together to protect the environment.

We have done so because we've always realized that despite our difference in the end we all drink the same water, we all breathe the same air, and we all depend on the same environment for our survival.

We can never forget. We don't just inherit this land from our parents. We borrow it from our children.

Speaker GINGRICH may have made a deal with polluters. But we were elected to what's right for the American people.

And if this Congress isn't going to work to protect the environment for our families and our children, if they aren't going to work to keep our water clean and our air safe, then come November the American people will elect a Congress that will.

□ 1615

THE URGENT NEED TO IMPROVE OUR EDUCATION

The SPEAKER pro tempore (Mr. EWING). Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized for 45 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, I yield first to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, I thank the gentleman for allowing me to share some of his special order time.

Mr. Speaker, today is the last day of the National Education Summit that is being held in New York.

Governors and business leaders from across the Nation recognize the urgent need to deal with America's education dilemma.

Most Americans, too, recognize the need to improve our education system so that every child can have a chance to learn, develop, and to realize his or her full potential, and in doing so, to be able to make a contribution to society. Yet, many Americans understand, regrettably, that there are too many of our Nation's students who are not being prepared for success later in life, but are doomed to failure.

They are in overcrowded classrooms, schools with poor curriculums, limited equipment, and low educational standards. Their teachers are underpaid and overworked. Too many of our students will drop out before completing high school if they are not challenged.

Mr. Speaker, we are at an important crossroads in education. All levels of government, and the private sector, should be working together and investing more resources in education, not less resources.

Again, most Americans are committed to investing more to improve our education system. Most Americans want to support our children and to ensure our Nation's future. And, if we understand the economics of education, we would know that quality education is a good investment.

Too many of my Republican colleagues want to invest less in education—25 percent less in some cases. Others question whether the Federal Government should even have a role in education.

But, the question should be which programs justify higher investment because they provide a sound economic payout? Which programs have worked and have proved their effectiveness? And, how can we insure quality performance and accountability?

The Federal Government supports educational programs and opportunities that the States and local communities are unable to provide. Let me briefly mention three examples of such programs.

The first is Head Start, Healthy Start, and other preschool programs—they have also proven their worth. These programs enable all children to be ready to learn when they enter school.

These programs have been studied, researched, and assessed to determine their value, and the results prove that if they are of high quality, they dramatically increase the educational performance of participants throughout their lives.

Investing in these programs gives back great payoffs for our society.

Title I compensatory education funds is another proven program. Last year, the First Congressional District of North Carolina received $46,267,400 in title I funds. These funds provided support to 30 school districts.

These funds provide for valuable teaching personnel and technology to disadvantaged school districts throughout the Nation.

This program addresses critical needs, identified by local school systems and has an outstanding record of performance where the right staff ratio and application of resources have been made.

The third example, Summer Youth Projects also have proven their value in addressing the need to give young people training and work experience during the summer.

These projects oftentimes provide the first real work experience, a disciplined environment, and the programs teach responsibility for the tasks assigned and how to work cooperatively with others.

Summer Youth Projects are effective in engaging young people in a constructive environment which contributes to their behavior and skill development.

Moreover, these projects are insurance against violence and disruption in our neighborhoods when young people are unsupervised and idle.

The three programs I have cited—the Pre-School Programs, Head Start, and Healthy Start; the Title I Program; and Summer Youth Employment—are all good educational programs that are provided by the Federal Government and deserve continued and increased investment.

These educational programs are a great payoff for our society. The programs can, certainly, be improved, can be made more effective. We should always seek to improve and to require full accountability for all resources. But, we should amend or reform our investment in the programs—not cripple or end them.

Mr. Speaker, We are at a crossroads. We must make required reforms, improvement, and sufficient investment to provide a quality education system where every child—every child has a chance to learn, develop, and contribute.

HEALTH CARE REFORM LEGISLATION

Mr. PALLONE. Mr. Speaker, I am here today, because I wanted to discuss the health care reform legislation that we expect to come to the House floor tomorrow. I was at the Committee on Rules earlier today, and at some point today this afternoon or this evening I would expect that they would report out a rule on the health care reform. My concern is that the bill that will come to the floor tomorrow, rather than being the very simple legislation that was called for and endorsed by President Clinton during his State of the Union Address, instead it would be a much more controversial bill loaded up with many provisions that cannot be agreed upon on a bipartisan basis in this House and in the Senate and that the rare opportunity that we have in this session in the next few weeks to pass meaningful health care reform essentially would be scuttled because of the language and because of the nature of the bill that Speaker GINGRICH and the Republican leadership would bring to the floor tomorrow.

Let me start out by saying that many of the Democrats that I work with were very pleased with it when the President, in his State of the Union Address, indicated that he would like to see brought to his desk and signed into law legislation that was initially sponsored in the Senate by Senator KASSEBAUM and also by Senator KENNEDY on a bipartisan basis. The hallmark of this Kennedy-Kassebaum bill, if you will, is to address the issue of portability and the issue of preexisting conditions.

Portability means your ability to take your health insurance with you, in other words, if you lose your job or you change jobs, that you would not lose your health insurance, that you would be able to carry it with you.

In addition, when we talk about preexisting conditions, we are talking the fact that in many cases in many States, if an individual has a preexisting condition, health condition, where they are disabled or they were hospitalized for a period of time, that they find it difficult to buy health insurance because the insurers simply do not want to cover them because they think it is too much of a risk. It is estimated that something like 30 million Americans are impacted in some way because of problems associated with portability or preexisting conditions and that if this legislation, as originally introduced in the Senate by Senators KENNEDY and KASSEBAUM, or here in the House, legislation that was introduced by the gentlewoman from New Jersey, Mrs. ROUKEMA, who is my colleague, a Republican from the State of New Jersey, that if their bill were to become law, addressing these issues of portability and preexisting conditions, that about 30 million Americans would benefit in some way because they would be able to carry their insurance with them from one job to another or would be able to get health insurance even though they might have a preexisting condition.

So when the President said that he was willing to sign this bill and urged the Congress in his State of the Union Address to move forward in passing this legislation, many of the Democrats were heartened, because we figured that even though this was a very small part of the health insurance reform, that it was something that was positive and we would like to see it moved.

We had about, I think it is, up to 172 Democratic Members in this House who signed on as cosponsors to Congresswoman ROUKEMA's bill and urged that the bill come to the floor exactly the way she had drafted the legislation. I should point out that I am actually the cochair, along with the gentlewoman from Missouri, Ms. MCCARTHY and the gentleman from California, Mr. DOOLEY, of the Democratic health care task force. We have two goals with our task force. One is to increase coverage, because we know a lot of Americans do not have health insurance coverage and the number that do not have coverage continues to grow. And a second goal is affordability. We know that health insurance is increasingly becoming more expensive and out of the reach of a lot of Americans. And so we would like to do what we can legislatively to make health insurance more affordable.

Well, the Kennedy-Kassebaum bill, the Roukema bill here in the House, achieves the purposes of increasing coverage, because more people would be able to obtain coverage through the portability and preexisting conditions provisions, and it certainly does not do anything to make health insurance less affordable. It might even help with the issue of affordability.

So we were very happy with the legislation. Our task force endorsed the legislation. We had 172 Members of the House on the Democratic side that supported the legislation; very optimistic until we found out what the Republican leadership had in mind. We started to hear, a few weeks ago, that they were going to put this bill in various committees, that the various committees were going to come up with all sorts of approaches, some maybe which make sense, a lot which did not make any sense, that would be ideas or legislative provisions that would be added to the Kennedy-Kassebaum bill, in an effort to try to load it up, if you will, with all kinds of controversial provisions that would make it more difficult to pass.

Well, I believe that is what is happening. I believe, Mr. Speaker, that based on what the Committee on Rules is likely to do today, even though myself and other urged them not to, that the bill that comes to the floor tomorrow is going to be a lot more controversial and a lot more complex and a lot more loaded down with provisions that are not necessarily good for the American people and that the bill tomorrow is likely to have provisions providing for MSA's, which are medical savings accounts, it is likely to deal with malpractice-issues, it is likely to deal with antitrust issues, it is likely to deal with a myriad of issues that have nothing to do with the original Kennedy-Kassebaum.

What that means is the Republican leadership is bringing this bill to the floor loaded down with all of these controversial provisions and essentially will kill the bill, because it will not pass. Even if it does pass here, it will not pass with Democratic support, it will not pass the Senate, and the President will not sign it.

The worst part about this is the provisions that they intend to put in with regard to medical savings accounts, because there, unlike the original Kennedy-Kassebaum bill, which expands coverage and which at best leaves the question of affordability the same, this will make health insurance more costly and less affordable to the average American.

The principle of MSA's, or medical savings accounts, basically says that if you are a fairly healthy individual or if you are a fairly wealthy individual or if you happen to be both, then you basically put your money aside in a savings account that is not taxable, essentially, somewhat like an IRA.

□ 1630

You only have coverage for catastrophic illness. So therefore, since you do not really need to pay for a lot of health-related activities, because you are healthy or whatever, or because you can afford to pay when you do go to a doctor out of the medical savings account that you have been accumulating, that you enter into this sort of IRA, and at the end of the road, 10, 20 years down the road, you can simply take the money out of this MSA, like an IRA, and use it for other purposes unrelated to health.

The problem is that it damages the risk pool. Health insurance is based on the notion of a risk pool. The idea is that both the healthy people and the people who are not as healthy are all part of the same pool. If you take out the ones that are the healthiest and leave the ones that are less healthy in the pool, the end result is that more money has to be paid out to cover their health care-related expenses, and therefore the premiums will go up for the people that remain in the pool and who have not opted for the medical savings account.

So what we believe will happen is that if MSA legislation goes into effect, the cost for people who still buy the traditional health insurance and do not enter into a medical savings account will actually rise. Their premiums will go up, and therefore insurance for the average person becomes less affordable instead of more affordable.

So we cannot, those of us who believe that we should be expanding coverage and making insurance more affordable, health insurance, simply cannot support the medical savings account. I am sure there are going to be people that do not support the malpractice changes and the antitrust changes, and all this good effort over the next few weeks to try to pass a clean bill that will simply address the issues of affordability, portability and preexisting conditions, as Kennedy-Kassebaum would do, simply goes down the drain because this bill is loaded up with all the other things that are controversial and make it difficult for the bill to pass and ultimately be signed into law.

I just wanted to make the point, if I could, in some commentaries that have come up over the last few weeks, to sort of back up some of the points that I just made on why we should have a clean health care reform bill, rather than have it loaded up with all these other extraneous provisions.

If I could just briefly read part of the editorial that was in the Washington Post on March 18 that says "Bad Move on Health Care." It says exactly the way I and many of my colleagues on the Democratic side have felt, that:

> Not too many weeks ago it seemed as if Congress was about to pass, and the president to sign, a modest bill to help people keep their health insurance while between jobs. Not even the principal sponsors, Sens. Nancy Kassebaum and Edward Kennedy, describe the bill as more than a first step. It would not help people to afford the insurance, just require insurance companies to offer it to them. Still, it would be an advance.
>
> Now, however, House Republicans are threatening to add to the bill some amendments from their health care wish list that could derail it. If some of these amendments are added, the bill ought to be derailed. The worst is a proposal to begin to subsidize through the Tax Code what are known as medical savings accounts. The underlying bill seeks to strengthen the health insurance system, if not by making it seamless, at least by moving it in that direction. The savings accounts would tend to fragment and weaken the system instead. The Republicans in 1994 accused the President of overreaching on health care reform, in part to satisfy assorted interest groups. He ended up with nothing to put before the voters on Election Day. They risk the same result.
>
> Under current law, if an employer helps buy health insurance for his employees, he can deduct the costs.

I do not need to get into all of this. The Washington Post is recognizing what we all know once again, which is that we have a good bill here as Senators KASSEBAUM and KENNEDY have put forward, along with my colleague the gentlewoman from New Jersey [Mrs. ROUKEMA] and it should not be loaded down with MSA's and all these other provisions.

In fact, when this legislation went before the House Committee on Ways and Means, there were a number of Democrats who essentially expressed the same concern that I have, and they put out a dissenting view on the Kennedy-Kassebaum bill. They referred to the bill that it should be the "sink the good ship Kassebaum-Kennedy bill," because it was designed in every way to torpedo the passage of the modest helpful provisions of Kennedy-Kassebaum-Roukema.

The bill as reported by the Committee on Ways and Means, according to the Democrats in dissent, is not health insurance reform. It includes only a weakened version of the group nondiscrimination provisions of Kennedy-Kassebaum-Roukema. Of course, they again go into the whole problem with the MSA's and the problems that I have outlined before with the medical savings accounts and what they would mean in terms of the average person's health insurance costs or premiums going up.

In fact, we estimate that the proposal to include the medical savings accounts could end up costing taxpayers $2 to $3 billion overall, because essentially what the MSA's do is to encourage skimming or cherry-picking. The healthiest and wealthiest will leave traditional health insurance, thereby raising costs on everyone else. The large out-of-pocket costs and high deductible insurance costing thousands of dollars that result from the MSA's are especially unaffordable for middle-class families or for the recently unemployed, the very people who most need insurance reform.

One of the things that many of the Democrats have also been pointing out about this legislation and the inclusion of the medical savings accounts is that it basically has been included by the Speaker and the Republican leadership in order to placate, if you will, one insurance company, the Golden Rule Insurance Co., and the person who is the leader of that by the name of J. Patrick Rooney. He and the Golden Rule Insurance Co. have actually given $1.2 million to Republican candidates and campaign committees, $157,000 to GOPAC, the Speaker's political action committee, and $45,000 to Speaker GINGRICH's own reelection campaign.

So essentially what we are seeing here again is special interests ruling the day, because the Golden Rule Insurance Co. felt that they would like to see the medical savings accounts proposal included in health insurance reform, because they have a lot to gain, because it is included, it is now in the bill, even though all the Democrats and probably most of the Republicans do not really want to see it there, because they know it will kill any real proposal for reform.

The other thing I wanted to say is that many of the consumer groups have come out very much opposed to this larger grab-bag legislation, and most of the groups, whether it is the American Medical Association, the Independent Insurance Agents, or a number of other health care organizations, have indicated strong support for the Kennedy-Kassebaum bill and have indicated that they would like it brought to the floor as a clean bill, because it will work.

I just wanted, Mr. Speaker, if I could for a minute, to talk about some of the things that the Consumers Union says about this legislation tomorrow and the fact that it has been loaded up with all these other provisions.

They mention with regard to the medical savings accounts that the medical savings accounts disrupt the health insurance market by creating financial incentives that encourage division of health care risks. Actuarial studies conclude that MSA's would appeal to relatively healthy and wealthy individuals. The American Academy of Actuaries estimates the selection process could result in higher premiums, as much as 61 percent, for those remaining in traditional health insurance plans. The Joint Committee on Taxation also estimates that a deduction for MSA's would drain $1.8 billion from Federal revenues, compounding the national debt.

So not only are the medical savings accounts a problem because they are going to take the healthiest and the wealthiest out of the insurance risk pool, not only are they bad because they are going to increase premiums for the average American, but they also have the real possibility of draining Federal revenues and actually compounding the problems that we have with the national debt.

The Consumers Union also opposes the relaxed antitrust provisions for provider networks, it opposes the limitations on medical malpractice, it opposes the private health insurance duplication, and, again, on the issue of malpractice reform and antitrust, a lot of people disagree. I am not saying that the Consumers Union is right when they say that these provisions are necessarily bad, but why include them in this bill? Why go this route? When right now we know that we have an unbelievable consensus on a bipartisan basis for Democrats and Republicans to move forward with the Kennedy-Kassebaum-Roukema bill, why are we loading it up with all these other provisions that are controversial and in many cases are going to actually increase the cost of health care for the average American?

It is nothing more than another example of how the Republican leadership in this House has put special interests first, has taken the interests of the wealthy and juxtaposed them against the interest of the average American. Hopefully some sense will prevail tomorrow. There will be a Democrat substitute offered that is essentially the Kennedy-Kassebaum-Roukema bill in its clean form.

I am hopeful that not only Democrats but Republicans will also support that substitute, and that we can get a clean bill passed here that deals with the issue of portability and also deals with the issue of preexisting conditions and has a good chance of passing in the Senate and ultimately going to the President. But we need to continue to speak out, Mr. Speaker. We have to continue to point out that that is the proper vehicle for this House to consider tomorrow, and not this larger piece of legislation that addresses all these controversial issues and makes it much more difficult for us to get rational health insurance reform in this session of Congress.

RECESS

The SPEAKER pro tempore (Mr. EWING). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 5 p.m.

Accordingly (at 4 o'clock and 41 minutes p.m.), the House stood in recess until 5 p.m.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. ROGERS] at 5 p.m.

SENATE AMENDMENTS TO H.R. 1833, PARTIAL-BIRTH ABORTION BAN ACT

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 389 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions, with Senate amendments thereto, and to consider in the House a single motion to concur in each of the Senate amendments. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

The SPEAKER pro tempore. The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized for 1 hour.

Mrs. WALDHOLTZ. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 389 provides for consideration of the Senate amendments to the Partial-Birth Abortion Ban Act, H.R. 1833. The rule provides for 1 hour of debate on a single motion to concur in each and all of the Senate amendments. The rule further provides that the previous question is considered as ordered on the motion for final adoption.

Mr. Speaker, this rule will allow the House to consider amendments adopted by the Senate to the partial-birth abortion ban including an amendment offered by Senator DOLE that ensures doctors will be able to use this procedure when the life of a woman is in danger.

During consideration of this bill by the House last fall, serious concerns were raised about the affirmative defense provision included in the House bill that said that a doctor could not be convicted of using the partial-birth abortion procedure if the doctor can prove that the procedure was necessary to protect a woman's life. The affirmative defense, however, would not have protected a doctor from being arrested and prosecuted for using the procedure.

The Dole amendment adopted by the Senate addresses and ameliorates this concern. It clearly states that, without fear of prosecution, a doctor may use this procedure, when no other procedure is adequate, in order to protect the life of a woman.

Mr. Speaker, the rule is narrowly drawn so that we can adequately work with the Senate on changes that they have adopted to the bill and to expeditiously move the bill for final action. It is appropriate, Mr. Speaker, to limit debate on the measure to amendments that have been adopted in the Senate and not to use this bill as a vehicle for debating the enormous range of contentious issues relating to abortion.

Abortion is clearly one of the most emotionally charged issues that our Nation faces. People with the best of intentions who have carefully considered this issue come to opposite conclusions, and it is difficult to find areas of common ground. I would hope that this particular bill is an area where we can find that elusive common ground and prohibit a procedure that partially delivers a live child before killing it and completing the procedure, a procedure that one practitioner admits he uses for purely elective abortions about 80 percent of the time he uses this procedure.

Mr. Speaker, the procedure that we are talking about today is one that is gruesome and horrific. Without wishing to offend other Members or the people who may be watching these proceedings, I think it is critical, Mr. Speaker, that we describe exactly what it is we mean by a partial-birth abortion so that people will understand that we are not talking about a series of other issues that are related to the abortion debate, but we are talking in this bill about one very clearly described procedure that should be banned.

In this procedure, which is used during the second and third trimesters of a pregnancy, the practitioner takes 3 days to accomplish the death of the child. For the first 2 days the woman's cervix is dilated so as to promote the ease with which the doctor will perform the abortion. On the third day the woman goes into the doctor's office and through the use of ultrasound the physician locates the legs of the child. Using a pair of forceps, the physician then seizes one of those legs and drags that leg through the birth canal. The doctor then delivers the rest of the child, legs, torso, arms, and stops when the head is still in the birth canal. One practitioner who uses this procedure says the child's head usually stops before being delivered because, of course, the cervix has not been dilated to the point that a regular vaginal delivery would occur because that is not the point of this exercise.

So, once the child's head is stopped in the birth canal, the doctor reaches down to the base of the child's skull, inserts a pair of scissors, ending the child's life, yanks those scissors open to enlarge the hole and uses a vacuum catheter to suck out the contents of the child's cranium.

That is the procedure that we are talking about in this bill, Mr. Speaker, the partial delivery of a living fetus whose life is ended with its head still in the birth canal by the deliberate insertion of a pair of surgical scissors so that an abortion may be accomplished.

That is what we are talking about in this bill, Mr. Speaker. We are not talking about any other type of abortion. We are not dealing with Federal funding. We are not talking about any of the other issues with which we have to grapple in the abortion debate. But we are talking about a so-called procedure that measures life in inches, and we need to agree with the Senate amendments and move this legislation forward, hopefully for signature by the President.

Mr. Speaker, the rule that this bill has attached to it allows for fair consideration of the amendments adopted in the Senate, and I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentlewoman from Utah [Mrs. WALDHOLTZ] for yielding to me the customary half hour of debate time.

Mr. Speaker, we oppose the closed process that would make in order consideration of the Senate amendments to H.R. 1833, the so-called and misnamed partial-birth abortion ban. This is a bill that on the pretense of seeking to ban certain vaguely defined abortion procedures is, in reality, an assault on the constitutionally guaranteed right of women to reproductive freedom and on the freedom of physicians to practice medicine without Government intrusion.

Those of us, Mr. Speaker, who fought for many, many years to secure, and then to preserve and protect, the right of every woman to choose a safe medical procedure to terminate a wanted pregnancy that has gone tragically wrong, and when her life or health are endangered, are deeply troubled by the legislation before us today and by the rule under which it is being considered.

We say at the outset that the other body improved the bill by agreeing to the Smith-Dole amendment which does shield doctors from prosecution if they perform the procedure when the life of the mother was in danger, but only under certain circumstances. However, this is an extremely narrow so-called life exception that requires that the woman's life be endangered by, quote, a "physical disorder, illness or injury," end of quote, and it requires, further, that no other medical procedure would suffice.

It appears that if the mother's life is threatened by the pregnancy itself, then the procedure would still be illegal. And it does not take into account the fact that doctors do not use other procedures because they pose greater risks than does this method of serious health consequences to the mother, including the loss of future fertility.

And of course the Senate amendment does not provide an exception to preserve the mother's health no matter how seriously or permanently it might be damaged.

For those reasons, Mr. Speaker, we feel strongly that a true life and health exception amendment should have been made in order.

It is bad enough, we feel, that we are being asked to vote on this irresponsible piece of legislation. To make matters worse, we are being required to consider it under an unfair rule, and it is one that should be defeated. Once again the majority has brought this most controversial of bills to the floor under a totally closed rule. That we would again be forced to consider a bill of this importance and of this complexity under these restrictions is offensive, to begin with.

Once again, Members are being denied a vote on an amendment that would allow an exception to protect a woman's life under all circumstances or to prevent serious adverse consequences to her health and future fertility.

The Committee on Rules heard very compelling testimony from the gentlewoman from New York [Mrs. LOWEY], the gentleman from Massachusetts [Mr. FRANK], and the gentlewoman from Colorado [Mrs. SCHROEDER] on their request to offer a true life and adverse health exception amendment to the Senate language.

We believe Members should have had the opportunity to vote on allowing those exceptions to the ban.

This is obviously a basic and fundamental concern to women and to their families. Without that exception, the bill will force a woman and her physician to resort to procedures that may be more dangerous to the woman's health and to her very life and that may be more threatening to her ability to bear other children than the method that we seek to ban. Making this amendment in order would have meant that Members could cast a vote that shows respect for the importance of a woman's life, health, and future fertility.

Mr. Speaker, the truth is we have absolutely no business considering this prohibition and criminalization of a constitutionally protected medical procedure. This is, we believe, a dangerous piece of legislation. We oppose it not only because it is the first time the Federal Government would ban a particular form of abortion, but also because it is part of an effort to make it virtually impossible for any abortion to be performed late in the pregnancy, no matter how endangered the mother's life or health might be.

What is at stake here is whether or not it will be compassionate enough to recognize that none of us in this legislative body has all the answers to every tragic situation which confronts a woman and her family. We are debating not merely whether to outlaw a procedure but under what terms.

If we must insist on passing legislation that is unprecedented and telling physicians which medical procedures they may use despite their own best judgment, then we must also, it seems to us, permit a life or adverse health exception. It is the only way we can ensure that the bill might possibly meet the requirements that have been handed down by the U.S. Supreme Court.

Mr. Speaker, this is a very personal matter to the people involved. I would hope that everyone can, but obviously not everyone has had the chance to, read the very moving testimony of one of my own constituents, Mrs. Coreen Costello of Agoura, CA, in opposition to this bill. Mrs. Costello described herself as a conservative pro-life Republican who always believed abortion was wrong until she was faced with the choice that she was in this case faced with.

She recounts in detail the events that have led to confronting the painful reality that her only real option was to terminate her pregnancy. The bill before us would ban the surgical procedure Mrs. Costello had about which she wrote, and I quote her:

"I had one of the safest, gentlest, most compassionate ways of ending a pregnancy that had no hope. Other women, other families, will receive devastating news and have to make decisions -like mine. Congress has no place in our tragedies."

Mr. Speaker, if I may add a personal note, in 1967, then-Governor Ronald Reagan signed California's Therapeutic Abortion Act, which I authored and which was one of the first laws in the Nation to protect the lives and the health of our women.

□ 1715

When the U.S. Supreme Court subsequently ruled in Roe versus Wade that the government cannot restrict abortion in cases where it is necessary to preserve a woman's life or health, I thought that we have come to at least accept the precept that every woman should have the right to choose with her family and her physician, but without government interference, and when her life and health are endangered, how to deal with this most personal and difficult decision.

I see now that obviously I was wrong, and that this Congress is willing even to criminalize for the first time a safe medical procedure that is used only rarely, and almost always to end the most tragic of pregnancies.

Mr. Speaker, as I said, we believe this legislation is unwise, it is unconstitutional, and it is bad public policy to return to the dangerous situation that existed about 30 years ago and more. This legislation is not a moderate measure, as its proponents argue. It is, instead, likely the first step in an ambitious strategy to overturn Roe versus Wade, and we believe it would be a tragedy for all women and their families.

Mr. Speaker, it should be emphasized that what we are talking about making a crime is a medical procedure that is used only in very rare cases, fewer than 500 per year. It is a procedure that is needed only as a last resort, in cases where pregnancies that were planned and are wanted have gone tragically wrong. Adoption of the bill would have these results.

In cases where it is determined that an abortion is necessary to save the life of the women, the Senate amendment would force her to choose a method that may leave her unable to bear children in the future. The language of the Senate amendment will not protect women whose lives are threatened by their pregnancies, and doctors will be forced to choose other procedures, even if they are more dangerous.

Mr. Speaker, choosing to have an abortion is always a terribly difficult and awful decision for a family to make, but we are dealing here with particularly wrenching decisions in particularly tragic circumstances. It seems to us that it would be fitting if we showed some restraint and compassion for women who are facing those devastating decisions.

Let me end, Mr. Speaker, by quoting again, if I may, from Mrs. Costello's testimony before the Senate Committee on the Judiciary, just a very brief amount:

> Due to the safety of this procedure, I am again pregnant now. Fortunately, most of you will never have to walk through the valley we have walked. It deeply saddens me that you are making a decision having never walked in our shoes. When families like ours are given this kind of tragic news, the last people we want to seek advice from are politicians. We talk to our doctors, lost of doctors. We talk to our families and other loved ones, and we ponder long and hard into the night with God.
>
> What happened to our family is heartbreaking and it is private, but we have chosen to share our story with you because we hope it will help you act with wisdom and compassion. I hope you can put aside your political differences, your positions on abortion, and your party affiliations and just try to remember us. We are the ones who know. We are the families that ache to hold our babies, to love them, to nurture them. We are the families who will forever have a hole in our hearts. We are the families that had to choose how our babies would die. Each one of you should be grateful that you and your families have not had to face such a choice. I pray that no one you love ever does. Please put a stop to this terrible bill. Families like mine are counting on you.

Mr. Speaker, we do, as I have said before, strongly oppose the rule before us and the bill that it makes in order. We urge defeat of the rule so we can sent it back to the Committee on Rules and at least ask for a rule that would allow us to vote on an amendment to preserve the life, under all circumstances, and the health of the mother.

Mr. Speaker, I reserve the balance of my time.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield to the next speaker, I think it is important that we recognize that the procedure that we are talking about today is not a legitimate medical procedure recognized by experts of the American Medical Association. With all respect to my colleague on the Committee on Rules, for whom I have great respect and affection, there is no question but that the experience that his constituent had is one that none of us hope we have to share. But, Mr. Speaker, the American Medical Association's Council on Legislation, made up of 12 physicians, voted unanimously to recommend that the American Medical Association board of trustees endorse this partial birth abortion ban.

A member of the council, after they had discussed this procedure, said that they felt that this was not a recognized medical technique, and that the council members had agreed that the procedure was basically repulsive. We are not criminalizing an accepted medical technique, Mr. Speaker. It is unfortunate that we are having to debate what has become medicalized infanticide.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentlewoman for yielding time to me, and I commend her and the Committee on Rules for bringing forth this rule, and the members of the Committee on the Judiciary for originally introducing this legislation.

Mr. Speaker, I was sitting in my office at the time, still practicing medicine in 1993, when I got my copy of the American Medical News in which this procedure was first described where a baby is identified under ultrasound, the abortionist, using a forcep, reaches up into the birth canal and grabs the baby by the feet, dragging the baby out of the birth canal up to the level of its head, and then there, dangling outside the mother, typically with its arms and legs moving, a forcep is inserted into the back of the skull, an opening is created, the brains are sucked out, and the dead baby is then delivered.

I was amazed to read in this article that somebody could actually concoct a procedure this gruesome, and I was further shocked to read that the physicians who developed the procedure then went on to report that in 85 percent of the cases within which they do this procedure, there are no significant birth defects, and some of the defects that they cited, where they justified doing this procedure, included cleft lip and cleft palate.

Mr. Speaker, I was shocked, and frankly I was amazed that I could live in a country where a procedure as gruesome and awful as this could be legalized. Some would call this a safe medical procedure. I would contend that there was a party involved in this procedure where it was anything but safe. Indeed, it was lethal, and it was lethal in a most horrific way.

We in the United States, contrary to the contention of many people, have the most liberal left-wing abortion laws. In Europe, most of Europe that legalized abortion far before we did in this country, this type of procedure is not legal. They have restrictions on how you can do these procedures and when you can do them. Specifically, they are not legalized in late trimester, in late second trimester, and in the third trimester.

My colleague on the other side of the aisle I thought encapsulated the whole issue very well. There are some people who would like the mother to be able to choose how her baby will die. The majority of this body voted once before, and will vote again, that there is a place where the Government of the United States has to draw the line and say, "This is beyond the pale." This is a total repudiation of the principles upon which our Nation was founded. I support the rule. I encourage all my colleagues to vote for the rule.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to my good friend, the gentleman from Ohio [Mr. HALL], a fellow member of the Committee on Rules.

Mr. HALL of Ohio. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the Senate amendments to this legislation and was proud to be an original cosponsor of the House-passed bill.

While abortions, except to save the mother's life, are wrong for those of us who believe in life, this particular procedure is doubly wrong. It requires a partial delivery and involves pain to the baby.

Mr. Speaker, you will hear the medical details of these abortions from other witnesses, but I simply lend my support to the bill as one who tries to ascribe to a moral code and commonsense. A compassionate society should not promote a procedure that is gruesome and inflicts pain on the victim. We have humane methods of capital punishment. We have humane treatment of prisoners. We even have laws to protect animals. It seems to me we should have some standards for abortion as well.

Many years ago surgery was performed on newborns with the thought that they did not feel pain. Now we know they do feel pain. According to Dr. Paul Ranalli, a neurologist at the University of Toronto, at 20 weeks a human fetus is covered by pain receptors and has 1 billion nerve cells—more than us, since ours start dying off with adolescence. Regardless of the arguments surrounding the ethics of the procedure, it does seem that pain is inflicted.

Finally, Mr. Speaker, I do not want to discuss a bill relating to abortion without saying that we have a deep moral obligation to improving the quality of life for children after they are born. I am a Member of Congress who is opposed to abortion. But, I could not sit here and honestly debate this subject with a clear conscience if I did not spend a good portion of my time on hunger and trying to help children and their families achieve a just life once they are born.

We need to promote social policies that ensure the mother and child will receive adequate health care, training and other assistance that will, in turn, enable them to become productive members of society. We have not done a good job so far, and I am afraid to say, this House has been unraveling social programs all too easily. Until our Nation makes a commitment to offering pregnant women and their children a promising future, I am afraid the demand for abortion will not subside.

Enough is enough. If there's one thing this Congress ought to do this year is stop this very reprehensible and gruesome technique of abortion. We treat dogs better than this. Vote yes on this bill.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Speaker, today we will again vote on whether or not it should be lawful for an abortionist to kill a baby that already has been partially delivered in circumstances where the mother's life is not at risk. Remember, the doctor must grasp two kicking, healthy legs to secure the baby so that he can insert into the child's skull a scissor-like device that causes the brain to collapse, and it kills the child. Even those who advocate this type of abortion shudder to describe it. Only the most extreme ideologue could favor such a gruesome procedure where the mother's life is not in jeopardy.

This whole debate is over whether thinking, feeling, healthy little babies who are within weeks or sometimes even days of natural delivery should be robbed of the opportunity to breathe the same air you and I share. These babies, only inches away from being fully born, are no different from mildly premature babies. They deserve to live.

I celebrate the fact that today we will take a step in representing those who cannot represent themselves by passing the partial birth abortion bill, and I strongly, strongly urge Members to vote for its passage.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Speaker, this is not a bill about life, this is a bill about politics. Think about it. The House passed this bill in its original version to ban partial birth abortions. The Senate changed it. The Senate said, "You can make an exception to the ban in the case of the life of the mother." What is going on here? Congress is trying to be your doctor.

I though this was the era of getting Government off our backs, not the era of getting Government more into your personal issues.

□ 1730

Now it seems that we are imposing more Government regulations on a woman's personal life.

It is ironic that this Congress honors this month of March as Women's History Month. We celebrate women overcoming obstacles in their lives, women having liberties, and women having freedom of choice. Now here tonight, in a male-dominated Congress, they want to take away a woman's right to decide what is right for her and for her baby.

I have talked to constituents who have been forced to have this procedure to protect future fertility. I think we are foolish to think that we can handle this issue with our lawmaking process better than women can handle it in the medical arena.

Everyone knows that we cannot save life or make life by ordering it. Do not pass laws that may prevent healthy women from ever, ever becoming loving mothers. Support women. Support womanhood. Reject this rule. Reject this bill. Honor women. Honor medicine. Honor choice. Do not make bad law.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Speaker, I rise in support of this rule which I think is a very good one. It allows the Senate amendments that were made to this bill to be accepted by this House, and I believe that the Senate amendments are reasonable and, as I said before, acceptable.

This rule continues to focus on the matter at hand, only the Senate amendments, and for that reason I do not think we need any extraneous amendments to this bill.

When this House considered the bill in the past, the recent past, it passed it by 288 people voting for it, which showed wide bipartisan support for this bill. Now, under the guise of protecting the mother's health, efforts are being made to change this rule or ask for amendments to allow this exception.

The Supreme Court has considered in the case of Roe versus Bolton that to protect the mother's health, that definition of health can encompass all factors, physical, emotional, psychological, familial, and the woman's age, all relevant to the patient's well-being. This type of exception, as we found in California, would open the door wide open to the humane device of this partial-birth abortion, and certainly would be unacceptable.

Even many of the people that voted in the House earlier for this bill which outlawed this particularly terrible procedure would call themselves prochoice.

I find it somewhat ironic, too, as we are taking up the Endangered Species Act on this Hill and we are talking about preservation of animals in particular, that we actually protect the American eagle and its preborn, the egg of that eagle, more than we protect the preborn of a human being. It is actually a fine of $500 to $5,000, up to 1 year in prison, for destroying an eagle egg, a preborn eagle.

But this issue here is not about the big issue of abortion, but simply outlawing a particularly egregious and terrible procedure that is used. As I argued on the floor before, were we to transfer this type of procedure over to a way of executing people who have committed murder, on death row, there would be many in this body that would be the first to stand up or encourage people to go to court to stop this type of procedure as in violation of the eighth amendment to our Constitution which prohibits cruel and unusual punishment. Were we to take someone, instead of electrocuting them or using the gas chamber or, as in Utah, using the firing squad, and take a screwdriver and crack their skull and suck out their brain, which is this procedure that is used in this particular type of abortion, again we would be in court very quickly to defend that particularly terrible procedure, and I would agree on that.

The example that we used in our earlier debate occurred in Washington State, where a man on death row actually went to court and was able to set aside temporarily his death row conviction or the execution of the death penalty because he was so heavy, over 400 pounds, that he would be decapitated were he hung as was the procedure in Washington.

We have precedent for this, and I would simply say that the American Medical Association Council on Legislation has voted unanimously to recommend that the AMA endorse this bill. I think their opinion would carry an awful lot of weight.

Mr. Speaker, I was very pleased when this body passed H.R. 1833, the Partial-Birth Abortion Ban Act, by an overwhelming 288-to-139 margin. Today we consider the Senate's amendments to the bill and the rule.

The Senate passed the Partial-Birth Abortion Ban Act with similar bipartisan support. And that body's amendments are reasonable and acceptable. Furthermore, the rule simply addresses the matter at hand—the Senate amendments. There is no reason to consider extraneous amendments.

Unfortunately, the President and proabortion extremists continue to oppose this modest, widely supported bill. The President has threatened to veto this bill because it doesn't have amendments that would allow this gruesome procedure for virtually any reason. Under the guise of protecting the mother's health, the radical abortionists want to add a health-of-the-mother exception. The bill already would allow the partial-birth abortion procedure if the abortion was necessary to save the woman's life, and this procedure was the only method of doing so.

However, to add "health" would be tantamount to writing in a loophole through which a Mack truck could be driven. While protecting a mother's health may sound reasonable on its face, the Supreme Court has defined "health" as anything that relates to one's well-being. Does that mean that being depressed or having a cold or allergies or a headache could qualify as jeopardizing health under such an open-ended definition? Certainly. In fact, the Court held in Doe versus Bolton that "health" encompasses "all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient." Therefore, to add "health" to this legislation would gut the bill.

The fact is, according to the doctors who perform most of this type of abortion, 80 percent of partial-birth abortions are elective. That means they are for almost any reason.

Mr. Speaker, let's be completely clear about the procedure that this bill would ban. The opponents of this bill would direct the debate to side issues, and for good reason: If the American people know the facts, they'll want this horrible abortion procedure banned.

While all methods of abortion are repulsive, barbaric, and nauseating, this abortion method reaches depths of inhumanity that only a calloused conscience could approve of.

Remember that this abortion procedure takes place during the second trimester or later. That's after the baby's heart is beating, which occurs at about 3 weeks after conception. That's after the baby's brain waves can be measured, which happens at 6 weeks. That's after morning sickness has usually subsided, after 3 months.

First, the abortionist uses ultrasound—an amazing, high-technology medical tool that gives doctors and parents-to-be a look at the baby inside the womb—the abortionist uses this tool of life as a tool of death. He uses ultrasound to guide his forceps to grab the unborn baby's leg.

Second, the abortionist pulls the baby by his leg into the birth canal and proceeds to deliver the baby's entire body, except for the head.

Next, the abortionist jams scissors into the base of the baby's skull. That's the usual point when the baby dies. Let me interject here that the only thing that separates this act from murder is the fact that the baby's head is still in the birth canal.

Finally, the abortionist removes the scissors and inserts a suction catheter. The baby's brains are sucked out, collapsing the skull. The dead baby is then fully delivered. That's a partial-birth abortion.

Some of the so-called antichoice extremists who support this bill include the American Medical Association's Council on Legislation, which voted unanimously to recommend that the AMA endorse H.R. 1833. The council made that recommendation because its members concluded that partial-birth abortion is not a legitimate medical procedure. This statement begs the question, if partial-birth abortion isn't an acceptable medical procedure according to a professional body in the field of medicine, then what is this procedure? It certainly doesn't reflect the Hippocratic oath, which says doctors should first do no harm.

It is ironic that we wouldn't treat convicted capital offenders this way. The ACLU would be up in arms and in court and crying "cruel and unusual punishment" if a State tried to stab scissors in the base of the prisoner's skull and then suck out his brains with a vacuum cleaner.

In fact, a court in Washington State ruled that hanging convicted murderer Mitchell Rupe, who weighted 400 pounds, would be cruel and unusual punishment. Rupe had appealed his death penalty by arguing that because of his excessive body weight, the noose would decapitate him, and that would be cruel and unusual punishment. The appellate judge agreed with this man, who had been convicted on two counts of first-degree murder.

Mr. Speaker, H.R. 1833 bans the performance of partial-birth abortions, the gruesome procedure that I have described.

As medical technology continues to develop to the point where surgery can be performed on unborn babies, where more and more premature babies survive, where doctors can perform increasingly sophisticated techniques that just 10 or 20 years ago we would have thought of as medical miracles, it's time to take a hard look at biological and medical facts.

H.R. 1833 bans a single abortion technique that even many people who call themselves pro-choice support the banning of. But what are the ethical and moral questions we as a society need to confront? Do the medical facts we have today support the ignorant bliss on which Roe versus Wade and Doe versus Bolton were decided? Is this country still a civilized society? What kind of a people would allow the partial birthing of a half-gestated baby, only to be stabbed with surgical scissors and his brains sucked out, knowing the biological facts we have in 1996?

It is also ironic that this Nation protects unborn eagles more vigorously than it protects unborn human beings. We punish people under three different acts—the Migratory Bird Treaty Act (16 U.S.C. 703), the Bald Eagle Protection Act (16 U.S.C. 668), and the Endangered Species Act (16 U.S.C. 1538 and 1540)—for destroying an eagle egg. The Migratory Bird Treaty Act provides for penalties up to $500 in fines and 6 months in prison for destroying an eagle egg. The penalty under the Bald Eagle Protection Act is a fine up to $5,000 and a year in prison. The Endangered Species Act provides for civil and criminal penalties; the criminal penalties for knowingly destroying an eagle egg, depending on the location where the egg is found, range to $50,000 in fines and 1 year in prison. Unborn eagles have that much protection under law. However, unborn human babies may be aborted at any time throughout the pregnancy. And in the case of partial-birth abortion, the baby can even be forcibly, partially delivered in order for the abortionist to destroy that baby's life.

Mr. Speaker, I have faith that the American people will make the right decision. Give the American people the facts, as has been done regarding partial-birth abortion, and they will arrive at the civilized, decent conclusion that this procedure should be outlawed. I believe the American people will remain true to our Nation's core values, that we are all endowed by our Creator with certain unalienable rights, foremost being the right to life.

I conclude with these verses from Psalm 139: "For you created my inmost being; you knit me together in my mother's womb. * * * My frame was not hidden from you when I was made in the secret place. When I was woven together in the depths of the earth, your eyes saw my unformed body."

Mr. Speaker, I urge that we accede to the Senate's amendments. I urge that we adopt this rule. And I urge the President to reconsider his veto threat.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. FRANK], who serves on the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Mr. Speaker, we will get to debate the substance of the bill, although very briefly. The gentlewoman from Utah [Mrs. WALDHOLTZ] said that this rule provides adequate time to discuss the Senate amendments. This rule, in fact, provides quite deliberately the minimum time that it is legally possible to give a bill on the floor of the House.

The rule gives 1 hour. That is the minimum that is allowed under the basic rules, so this is part of an effort to suppress debate and discussion on this bill. We will get to the substance, but I want to talk here about the outrageous procedure. It is one more example of this majority running absolutely roughshod over the notion of open debate and democracy and fairness. This is, once again, a rule as we say in previous weeks where to achieve their political purpose, to make sure that their political message is unadulterated, the majority sacrifices the right of the American people to have free debate.

For example, the gentlewoman from Utah talked about the amendment that was adopted in the Senate. She said people felt that the life exception for the mother was not done right so the Senate straightened it out. Many of us raised that same point here in the House, and why did we not straighten it out here in the House? Because they had the same rules the last time. The rule did not allow that amendment. It is an amendment that we in the House were prevented from considering because of the close-fisted rule of the majority on this bill.

The Senate did adopt the amendment, so they are giving in and they say, "OK, we will do it". They are almost taking credit for the improvement the Senate made when they refused to allow us to vote on such an amendment here. Now we have another amendment that we want to offer, and I understand here that we cannot even offer a motion to recommit this.

It is a very cleverly crafted procedure they have. This is not a bill. It is a concurrence with the Senate amendment because, by making it that way, we cannot even recommit it and no amendments are in order. We can do nothing in the House to alter this. We can vote up or down. We have twice been asked by the majority, not asked, directed by the majority to vote on this very important issue with no amendment and with the minimum time for debate allowed under the rules of this House.

They want to do it. They want to do it quickly and have as little conversation as possible because it will not stand up, apparently, they believe, to greater scrutiny. They are afraid to allow an amendment.

We have an amendment that we offered, the gentlewoman from Colorado and I. It is an amendment that was offered in the Senate. The Senate adopted one amendment and then the Senate rejected another but it got 47 votes. We are hardly talking about some fringe position; 47 votes, including Republican votes, in the Senate, and we are not being allowed to offer it here.

We cannot do it on the motion to recommit because there is no committee to which it can be recommitted. This is simply a motion to concur in the Senate amendment, and what is the amendment that the majority is afraid to allow the House to vote on?

They cannot plead time. We are less busy than the guys in "Marty," standing around on the corner. "What do you want to do tonight?" "I don't know. What do you want to do tonight?"

Voting is not one of the things, because the majority cannot get itself organized. We have hardly overvoted ourselves this week, but the majority is afraid to allow the amendment.

The amendment says the doctor will not be considered a criminal and sent to prison if he performs this procedure to prevent damage to the health of the mother. If a doctor were to decide that this procedure was necessary to avoid damage to the mother's ability to give birth in the future, he would be committing a crime if he did it because the majority will not even let us vote on an amendment that would say to avoid damage to her ability in the future to bear children. We are talking about serious adverse health effects.

At the Committee on Rules, the majority allowed a debate in the Committee on Rules. They did not want to but they cannot shut us up. They are probably working on a way to do that in the Rules Committee.

The gentlewoman from Colorado said this is so broad. What do we mean by health? My answer is simple. I think serious adverse health is good enough, and I am prepared to put the doctor's opinion up.

But if you think that is too broad, then amend the amendment. My colleagues on the other side of the aisle are afraid of open debate. If you think serious adverse health is too broad, why do you not put very, very, really serious adverse health? Or if you are afraid of psychological, put physical health. I do not agree with that. I would vote against that, but if you want to avoid serious physical damage to the mother but do not want to let in depression, then allow us to vote on it.

But your preferred procedure which you are imposing successfully on this House, I am afraid, I reemphasize this, that procedure requires us to vote and will not allow an amendment that would say to a doctor if you perform this procedure, and by the way it is called a procedure by the American College of Obstetricians and Gynecologists. I will put their letter in opposition to this in the RECORD. You are saying that we cannot even offer an amendment that would say to avoid serious damage to the mother's physical health. Our amendment does not say that, but you could amend the amendment and make that in order.

I know that democracy seems complicated to people who have so little practice with it. You are instead going to demand that we vote to make it criminal even if a doctor wanted to prevent serious physical damange to the health of the mother.

Mr. Speaker, I include the following letter for the RECORD:

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, November 1, 1995.

STATEMENT ON H.R. 1833: THE PARTIAL-BIRTH ABORTION BAN ACT OF 1995

The American College of Obstetricians and Gynecologists is disappointed that the U.S. House of Representatives has attempted to regulate medical decision-making today by passing a bill on so-called "partial-birth" abortion.

The College finds very disturbing any action by Congress that would supersede the medical judgment of trained physicians and that would criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, the bill employs terminology that is not even recognized in the medical community—demonstrating why congressional opinion should never be substituted for professional medical judgment.

The College does not support H.R. 1833, or the companion Senate bill, S. 939.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to simply respond quickly. The gentleman from Massachusetts is an excellent student of the rules of the House, and as such an excellent student of the rules of the House the gentleman knows that the minority had an opportunity to offer a motion to recommit when the House originally considered this bill. At that time the gentleman could have offered his amendment. He chose not to. The minority chose to not offer a motion to recommit. This bill went over to the Senate. It is back now for our concurrence.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Speaker, I rise today in support of House Resolution 1833, the Partial-Birth Abortion Ban Act, and I urge my colleagues to vote in favor of the rule and the final passage of this important legislation.

As a pro-life advocate I am committed to protecting the rights of unborn children. My primary concern is that abortion should not be treated like a routine medical procedure. Although some consider partial-birth abortions routine medical procedures, this could not be further from the truth. Partial-birth abortions are neither routine, legitimate or necessary.

Partial-birth abortions are most often performed in the second or third trimester. I am particularly troubled by the horrifying prospect of late term abortions. Even in Roe versus Wade, abortions are limited to the first trimester. Today we are considering continuing to allow abortions through the third trimester of fetal viability.

House Resolution 1833 not only bans the performance of this type of inhuman abortion but it imposes fines and a maximum of 2 years of imprisonment for any person who administered a partial-birth abortion. This gruesome and brutal procedure should not be permitted.

I strongly believe in the sanctity of life, and if 80 percent of the abortions are elective, we have to reconsider and reevaluate the value our society places on human life. This decision is not made in the case of rape or incest, not if the mother's life is in danger, and not if there are birth defects. In many cases this is a cold, calculated, and selfish decision.

This is not a choice issue. This is a life or death issue for an innocent child. Please join me in making this heinous procedure illegal.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Mrs. SLAUGHTER. Mr. Speaker, in every way this debate today is a tragedy.

First, I want to make it very clear, as clear as I can to people who are interested in knowing the truth, that the third trimester abortions, and the partial-birth abortions are very rare and they are not done as elective surgery at all. They are done in the case of a severely deformed fetus, a dead fetus, or a mother who will not survive until the birth is completed.

It is not a case of grabbing hold of two kicking legs and delivering a child that will be able to grow and respond to life. It is not a case of that at all. Why do we add to the awful tragedy of the families that desperately want the children that they are carrying and lose? Why do we say that the Congress of the United States knows better than the parents do and better than their doctor does, and we are going to require that they continue this pregnancy.

I am scared about the precedent that this legislation sets. To say that the procedure, practice and procedure, should be left to the Congress of the United States and not to medical people is a dangerous idea. A physician cannot choose this procedure even if other procedures would have serious health consequences, and we have talked about that, the possibility of loss of fertility.

□ 1745

But the underlying thing that last bothered me ever since I have been in the Congress of the United States is there is another underlying piece here, and that is that women do not have the right to choose, maybe they are not smart enough, we cannot let them decide what is the best thing in the world for them to do. Some men have to sit around and decide what is best, usually deciding that in legislatures all over the country and this Congress what it is that we can say is appropriate for them.

It is not original with me, but if women were that dumb, how in the world does anybody here expect that they had had a mother who bore them and raised them to extraordinary lengths that they are today? Had a Member of the Congress of the United States. Just like any other patient, a woman deserves the best care based on the best circumstances and the knowledge that it fits her situation. It should not be tailored to fit the needs of Members of Congress or any ideas that they may have. Women should not be considered second-class citizens and that needs a big brother to tell her what is permissible and what is not.

Unfortunately, I think this is only a beginning. The bill's sponsors have consistently stated this is a first step and, if they have the votes, they will prevent all abortion. I think many of them would also prohibit birth control. They want Government intrusion into every doctor's office and eventually into every bedroom. We should not start down this road. We should not prohibit medical procedures by Government fiat. We should not prohibit physicians and patients from making informed decisions based on the individual facts of the particular case.

Mr. Speaker, I ask defeat of this rule, which prohibits this House from modifying the draconian antiwoman provisions of this bill. I then ask my colleagues to preserve the right of women to the most appropriate medical procedure based on the best medical advice by defeating this underlying bill.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself such time as I may consume.

I think it is important to point out the definition of elective and nonelective abortion regarding third-trimester abortions. In this particular situation, it depends on the definition of the person expressing it. One of the doctors who pioneered the partial-birth abortion procedure, as he called it, said the third trimester abortions he performed this way are nonelective, but he said that these abortions also are caused by factors such as maternal risk, rape, incest, psychiatric or pediatric indications. This doctor's definition of nonelective are extremely broad. He went on to tell the Subcommittee on the Constitution that he had performed more than 2,000 of these partial-birth abortions and that he attributed over 1,300 of them to what he called fetal indications or maternal indications.

Of those indications, the most common maternal indication was depression. Other maternal indications included what he called pediatric pelvis, their youth, spousal drug exposure, and substance abuse. Clearly, Mr. Speaker, what is elective or nonelective varies widely depending on the purpose of the person offering the definition.

Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. SOUDER].

Mr. SOUDER. Mr. Speaker, first I want to agree with the earlier speaker that this amendment is actually not needed. We in the House had already protected life of the mother, but in the new language, "necessary to save the life of the mother whose life is endangered by a physical disorder, illness, or injury, provided that no other medical procedure would suffice for that purpose," makes it clear this has nothing to do with life of the mother.

I would also like to address the question of whether we men are trying to regulate women. I think one of the tragedies of this country are men who beat their spouses, mothers and fathers who treat their children as though they are objects to abuse. The question here is whether it is human life. If it is human life, it has nothing to do with whether it is the right of the woman or the right of the man to kill this child.

If we disagree over life, that is one thing. But to act like we are trying to do anything other than protect an innocent life is unfair. In this case, the life is a life. If its head pops out a little bit further but if the legs are out and the heart is beating and the head is inside, then you jab it, it is not a human life. This is a debate over human life, not the rights of women and men.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, abortion is a tough debate under any circumstances, and an emotional one. But I think the reason I oppose this rule and oppose this measure is because in this one this debate is wrongly directed. This is not an issue about whether or not a woman should have a right to choose or what state a fetus is viable or when life begins. The tragic situation in this case is that overwhelmingly the women affected do not want an abortion. They wanted to have this child. But it is being performed in the last trimester because of medical necessities. There are less than 500 of these procedures performed a year. And, yes, what are some of the situations? This has been a pretty graphic debate. Some of the situations, such as brains that have developed outside the fetus's skull, a situation where the woman's health, the mother's health is significantly endangered, once again, this woman, this couple having their child, want to have this child in the overwhelming number of cases I have been able to find, yet they are not able to. They find this out in the last trimester. I have got problems with Congress, a lot of people have problems getting involved in different areas. A lot of people have problems with Congress making important medical decisions, particularly when a woman's life is possibly endangered.

Under this amendment, it is improved a little bit from leaving the House. The prosecution has to show beyond a reasonable doubt the doctor performed this procedure improperly except the only way you get to that point is you charge the doctor and bring that physician to trial. For exercising medical judgment, a physician goes to trial. He or she cannot perform this procedure even to safeguard the severe adverse health effects to the mother, only for the life of the mother.

I guess what concerns me the most is that in this legislation they would permit the doctor to be charged but the woman who requested that understood that something has to be done, requested something be done, she is not charged. This whole thing does not belong in the Congress, and Congress should not start down this road.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 7 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, for more than two decades the multimillion-dollar abortion industry has sanitized abortion methods by aggressively employing the most clever and most benign of euphemisms market research can buy. Until today they succeeded in a massive coverup about the sickening truth about abortion methods, including chemical poisoning of the child by highly concentrated salt water or some other potion, dismemberment of the baby's fragile body by a knife connected to a suction machine that is 20 to 30 times more powerful than the average vacuum cleaner, and now brain extraction, the method at issue today, as if the child's brain were a diseased tooth in need of extraction or a tumor to be excised. Make no mistake about it, Mr. Speaker, partial-birth abortion is child abuse. And those who do it today have an unfettered right to kill. We can revoke that license to kill, Mr. Speaker, and we must. If the President vetoes this legislation, then he alone will have empowered the abortionist to kill babies in this way. If he vetoes this bill, he renews this license to kill. He bears the responsibility for the thousands of kids who will die from this hideous method of abortion. Veto this bill, and there is no doubt whatsoever in my mind that Bill Clinton will go down in history as the abortion President.

Mr. Speaker, the abortion lobby lies to women and they lie to society at large, and they usually get away with it. But not this time. On this issue, they have said that partial-birth abortion is used primarily to save the life of the mother, an exception included in the bill, or for the deformity of the child. Leaving aside the inhumane notion that handicapped kids are throwaways or are to be construed as so much garbage, I thought we took care of that with passage of the Americans with Disabilities Act, which said that handicapped people have rights and they have inherent value, and we need to respect that.

Nevertheless, the fact of the matter is then, perhaps most of the partial-birth abortions procured in the United States are elective; in other words, they are abortions on demand. Dr. Martin Haskell, an abortionist who alone has performed over 1,000 partial-birth abortions, said in a tape recorded interview with the American Medical News that of the procedures he does, from 20 to 24 weeks, 80 percent are, "purely elective."

Mr. Speaker, the abortion lobby has also said that anesthesia kills the babies before they are removed from the womb. Even if that excuse were true, even if that rationalization were true, it would still mean that a baby dies. But again it is another lie. The American Society of Anesthesiologists, the ASA, has testified that such an assertion by the abortion lobby has, and I quote, "absolutely no basis in scientific fact," and is, "misleading and potentially dangerous to pregnant women." According to the ASA general anesthesia given to a pregnant woman does not kill nor does it injure an unborn baby or even provide the baby with protection from pain. And Dr. Haskell himself has said that local anesthesia he uses has no effect on the baby.

Mr. Speaker, to my left is a chart, one of a series of charts, medically correct, a diagram of what the actual procedure is all about. In a paper given by Dr. Haskell to the National Abortion Federation in 1992, entitled "Second Trimester Abortion From Every Angle," in September Dr. Haskell describes the partial birth abortion this way. Remember, this man, one of the pioneers who is trying to promote the use of this despicable form of child abuse, and he says, and I quote,

> With the instrument, when the instrument appears on the sonogram screen, the surgeon is able to open and close its jaws and firmly and reliably grasp a lower extremity of the child. The surgeon then applies firm traction to the instrument, causing a version of the fetus and pulls the extremity into the vagina.

He then goes on to say that,

> With a lower extremity in the vagina, the surgeon uses his fingers to deliver the lower extremity, then the torso, the shoulders, and then the upper extremities, the skull lodges in the internal cervical os. Usually there is not enough dilation for it to pass through. At this point, the right-handed surgeon slides the fingers of the left hand along the back of the fetus and hooks the shoulders of the fetus with the index and ring fingers palm down, while maintaining tension, lifting the cervix and applying traction to the shoulders with the fingers of the left hand. The surgeon takes a pair of blunt curved Metzenbaum scissors in the right hand. He carefully advances its tip curved down along the spine and under his middle finger until he feels it contact the base of the skull.

Mr. Speaker, according to Dr. Haskell, the surgeon then forces the scissors into the skull, right into the skull of that baby. And then he introduces a, suction catheter, holds it and excavates the skull contents.

Mr. Speaker, one nurse, a registered nurse by the name of Brenda Pratt Schaefer, witnessed several of these partial-birth abortions while working for Dr. Haskell. She said, in describing the process that,

> The baby's body was moving, his little fingers were clasping together, he was kicking his feet. All the while his little head was still stuck inside. Dr. Haskell took a pair of scissors, inserted them into the back of the baby's head. Then he opened the scissors up. Then he stuck a high-powered suction tube into the hole and sucked the baby's brains out.

This is child abuse, Mr. Speaker, let us face reality. And we can stop it.

Finally, just let me say, Mr. Speaker, I want to commend the distinguished gentleman from Florida, Mr. CANADY, the chairman of the subcommittee, for his courage in bringing this very important human rights legislation to the floor. The other side hates him for it. The abortion, lobby certainly does. They hate many others who fight for unborn kids.

But just let me say, protecting children and protecting human rights is always difficult. I serve as the chairman of the Subcommittee on International Operations and Human Rights. For 16 years I have been promoting human rights abroad. This, I would say, and submit to my distinguished colleagues, is a human rights abuse. Children are being slaughtered, some say 500, as if 500 is a small number of executions. That is, I think, a very conservative estimate; it is very likely many, many more than that. And it is being promoted as a method of choice.

□ 1800

I would submit that we have the opportunity today to stop this kind of child abuse and to protect little children from this kind of killing. We ought to do it. Support the rule and support the bill.

Mr. BEILENSON. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, I rise in strong opposition to this rule. The bill in question presents a direct challenge to Roe versus Wade. As one member of the majority boasted, "We intend to ban a woman's right to choose, procedure by procedure." I take him at his word, because this legislation will do just that.

I would like to put a human face on this debate and talk about Coreen Costello, who is pictured here. Coreen Costello would have taken any child that God would have given her, regardless of any handicap. But this child, the child that she was expecting, was not a child that could live. The Dole amendment would not have allowed Coreen Costello to use the procedure that now allows her to have other children. She is currently expecting yet another child. The Committee on Rules denied an amendment that would keep Coreen Costello's doctor out of jail.

I urge Members to have a heart. Vote humanitarian, vote for children, vote for women, vote for families, vote against this rule.

Mr. BEILENSON. Mr. Speaker, I yield the balance of my time to the gentlewoman from Colorado [Mrs. SCHROEDER].

The SPEAKER pro tempore (Mr. ROGERS). The gentlewoman from Colorado is recognized for 4 minutes.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from California for yielding me time.

Mr. Speaker, I eagerly, eagerly ask Members to vote against this rule. This rule is one more gag rule put on doctors dealing with women and their families in the most difficult situations that any family would ever have to face. I think it is unbelievable that we are gagging Members of Congress from being able to deal with the severe and adverse health conditions a woman can have, and that is what is being done. We are not being allowed to present that amendment.

The reason we are doing this today is really all political. Let us be honest. We have a letter from the President pointing out he will veto this bill in this form because it violates Roe versus Wade. We now have a new decision, a 100-page decision in Ohio, where the same kind of procedure was tested and the court said no, that is violative of Roe versus Wade.

We have heard so many statements made here that were incorrect, that you do not even know what to say.

People get up and they obsess on this, they obsess on this procedure and they obsess on all this stuff. The real issue is, show me an obstetrician and gynecologist that is going to do something terrible and evil and awful. We try to make this into a witch trial. Show me parents that would want this.

These are crisis situations, where everything has gone wrong. We are only talking here about late, late abortions, where people were clinging to that child trying to go as far as possible. If we deny this kind of procedure, we are going to be denying to young parents their chance to have another shot at being a parent, which is probably one of the most driving desires anyone has.

Why do I say that? Because there are other procedures available. Sure, you could have a hysterectomy. There are other procedures available. But, guess what? You lose your reproductive organs. This procedure has been put together so that the reproductive system can remain whole and they get another shot at parenthood.

Should that not be okay? You hear people talk about how these are elective. Elective? These are not elective. Who in the world would sign up for a process like this, unless it was absolutely essential.

This bill does not do anything about early abortions in the first trimester. Remember what Roe versus Wade said? In the first trimester, you could do whatever. That is the elective part. We are talking about the late part, where Roe versus Wade said States can regulate this except in the case of life and severe health consequences to the mother.

Here is a mother that is happy we did not interfere in that, because she has gone on to be able to have another child, and she lived to see these two children grow to adulthood.

Is it the position of this Congress that other women in the future cannot have that opportunity? Are we going to move in and tell the doctors that would look at her health rather than this law, guess what, they go to prison for 2 years? Are we going to start criminalizing these medical procedures?

This is the first medical procedure we will ever have criminalized. Is that not interesting?

Mr. Speaker, I will put in the RECORD a letter from the American Nurses Association speaking clearly that they are opposed to this bill, and the American College of Gynecologists and Obstetricians, who are the ones that are the specialists who deal with this. They are opposed to this bill.

Mr. Speaker, we ought to be listening to the specialists and to the people who are talking about this. If we really think our medical profession is so badly trained in America, so against life that they are out doing these grizzly, terrible things, then we better look at the whole medical profession. But I do not think so. I hear this obsessing that you are hearing, which is wrong.

Vote "no" against this rule. Allow women to have their severe health consequences taken into consideration.

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS DOES NOT SUPPORT H.R. 1833

DEAR COLLEAGUE: I thought you might be interested in the following statement released by the American College of Obstetricians and Gynecologists. Protect women's health by voting "No" on H.R. 1833.

PAT.

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
November 1, 1995.

STATEMENT OF H.R. 1833—THE PARTIAL-BIRTH ABORTION BAN ACT OF 1995

The American College of Obstetricians and Gynecologists is disappointed that the U.S. House of Representatives has attempted to regulate medical decision-making today by passing a bill on so-called "partial-birth" abortion.

The College finds very disturbing any action by Congress that would supersede the medical judgment of trained physicians and that would criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, the bill employs terminology that is not even recognized in the medical community—demonstrating why congressional opinion should never be substituted for professional medical judgment.

The College does not support H.R. 1833, or the companion Senate bill, S. 939.

AMERICAN NURSES ASSOCIATION,
Washington, DC, November 8, 1995.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: I am writing to express the opposition of the American Nurses Association to H.R. 1833, the "Partial-Birth Abortion Ban Act of 1995", which is scheduled to be considered by the Senate this week. This legislation would impose Federal criminal penalties and provide for civil actions against health care providers who perform certain late-term abortions.

It is the view of the American Nurses Association that this proposal would involve an inappropriate intrusion of the federal government into a therapeutic decision that should be left in the hands of a pregnant woman and her health care provider. ANA has long supported freedom of choice and equitable access of all women to basic health services, including services related to reproductive health. This legislation would impose a significant barrier to those principles.

Furthermore, very few of those late-term abortions are performed each year they are usually necessary either to protect the life of the mother or because of severe fetal abnormalities. It is inappropriate for Congress to mandate a course of action for a woman who is already faced with an intensely personal and difficult decision. This procedure can mean the difference between life and death for a woman.

The American Nurses Association is the only full-service professional organization representing the nation's 2.2 million Registered Nurses through its 53 constituent associations. ANA advances the nursing profession by fostering high standards of nursing practice, promoting the economic and general welfare of nurses in the workplace, projecting a positive and realistic view of nursing, and by lobbying the Congress and regulatory agencies on health care issues affecting nurses and the public.

The American Nurses Association respectfully urges you to vote against H.R. 1833 when it is brought before the Senate.

GERI MARULLO,
Executive Director.

Mr. BEILENSON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to the rule and legislation of H.R. 1833, for the dastardly impact on the life and health of the mother and the fetus and the physicians.

Mr. Speaker, I rise in opposition to the rule for H.R. 1833. We must be allowed to offer amendments to H.R. 1833, specifically, those which would provide for a true exception to save a woman's life, or for serious, adverse health consequences to the woman, including her future fertility, or where there exists severe or potentially fatal fetal abnormalities.

In 1973, and more recently in 1992, the Supreme Court held that a woman has a constitutional right to choose whether or not to have an abortion. H.R. 1833 is a direct attack on the principles established in both Roe versus Wade and Planned Parenthood versus Casey.

H.R. 1833 is a dangerous piece of legislation which would ban a range of late term abortion procedures that are used when a woman's health or life is threatened or when a fetus is diagnosed with severe abnormalities incompatible with life.

Because H.R. 1833 does not use medical terminology, it fails to clearly identify which abortion procedures it seeks to prohibit, and as a result could prohibit physicians from using a range of abortion techniques, including those safest for the woman.

H.R. 1833 is a direct challenge to Roe versus Wade—1973. This legislation would make it a crime to perform a particular abortion method utilized primarily after the 20th week of pregnancy. This legislation represents an unprecedented and unconstitutional attempt to ban abortion and interfere with physicians' ability to provide the best medical care for their patients.

If enacted, such a law would have a devastating effect on women who learn late in their pregnancies that their lives or health are at risk or that the fetuses they are carrying have severe, often fatal, anomalies.

Women like Coreen Costello, a loyal Republican and former abortion protester whose baby had a lethal neurological disease; Mary-Dorothy Lines, a conservative Republican who discovered her baby had severe hydrocephalus; Claudia Ades, who terminated her pregnancy in the sixth month because her baby was riddled with fetal anomalies due to a fatal chromosomal disorder, Vicki Wilson, who discovered at 36 weeks that her baby's brain was growing outside his head; Tammy Watts, whose baby had no eyes, and intestines developing outside the body; and Vikki Stella, who discovered at 34 weeks that her baby had nine severe anomalies that would lead to certain death. All these children were wanted but could not survive. These are the women who would be hurt by H.R. 1833—women and their families who face a terrible tragedy—the loss of a wanted pregnancy.

In Roe, the Supreme Court established that after viability, abortion may be banned by States as long as an exception is provided in cases in which the woman's life or health is at risk. H.R. 1833 provides no true exceptions for cases in which a banned procedure would be necessary to preserve a women's life or health.

The Dole amendment does not cover all cases where a woman's life is in danger. This narrow life exception applies only when a woman's life is threatened by a physical disorder, illness or injury and when no other medical procedure would suffice. By limiting the life exception in this way, the bill would omit the most direct threat to a woman's life in cases involving severe fetal anomalies—the pregnancy itself.

In fact, none of the women who submitted testimony during the Senate and House hearings on this bill would have qualified for the procedure under the Dole life exception. Instead, this bill would require physicians to use an alternative life-saving procedure, even if the alternative renders the woman infertile, or increases her risk of infection, shock, or bleeding. Thus, the result of this provision is that women's lives would be_ jeopardized, not saved.

This bill unravels the fundamental constitutional rights that American women have to receive medical treatment that they and their doctors have determined are safest and medically best for them. By seeking to ban a safe and accepted medical technique, Members of Congress are intruding directly into the practice of medicine and interfering with the ability of physicians and patients to determine the best course of treatment. The creation of felony penalties and Federal tort claims for the performance of a specific medical procedure would mark a dramatic and unprecedented expansion of congressional regulation of health care.

This bill is bad medicine, bad law, and bad policy. Women facing late term abortions due to risks to their lives, health, or severe fetal abnormalities incompatible with life must be able to make this decision in consultation with their families, their physicians, and their god. Women do not need medical instruction from the government. To criminalize a physician for using a procedure which he or she deems to be safest for the mother is tantamount to legislating malpractice.

I urge my colleagues to vote against this rule so that we can offer amendments which would create true life and health exceptions to the bill. These amendments would allow doctors to continue to perform the procedure which they feel is safest for the mother without risk of prosecution.

True life and health amendments would ensure that mothers, and families, facing tragic circumstances would continue to receive the best possible, and safest medical care available.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BECERRA]

Mr. BECERRA. Mr. Speaker, I rise in opposition to the rule and the bill. It is wrong-headed and should fail.

Mr. BEILENSON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I rise in opposition to this legislation, which would prevent doctors from performing a lifesaving medical procedure. This is a direct threat to the health and lives of American women.

Mr. Speaker, we all hope that the number of abortions in this country can be decreased. But this debate is not about abortion. Restricting medical options that endangers the health of women is unconstitutional. The Supreme Court has stated that the Government may ban post-viability abortions, but it cannot restrict abortion when the procedure may be necessary to save the health and life of the mother.

The life exception included in this legislation is far too narrow to protect women's lives effectively. The exception would allow this procedure only as a last resort when a women's life is threatened by physical disorder, illness, and injury—when who other medical procedure would suffice. It does not consider that this may be the safest procedure to protect the health and life of the mother. This so-called life exception would have a women rendered sterile or face critical health risks rather than the use the safe and rare procedure that this legislation is attempting to outlaw.

Families faced with this difficult decision often go on to have successful pregnancies. Yet this legislation does nothing to protect health or future fertility of the mother—in fact, it puts a mother's future fertility at risk.

Mr. Speaker, the so-called partial-birth abortion ban is unconstitutional and inhumane. I urge my colleagues to vote against this legislation.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, I rise in opposition to the rule and the underlying legislation.

Mrs. WALDHOLTZ. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentlewoman from Utah is recognized for 3½ minutes.

Mrs. WALDHOTZ. Mr. Speaker, let me address first the question that has been raised regarding this rule and the procedure by which this bill is brought to the floor.

We have heard complaints, Mr. Speaker, that there was not an opportunity to consider an amendment regarding the health consequences to the mother. But in fact, Mr. Speaker, as I pointed out earlier, the minority chose not to exercise its right to offer a motion to recommit when this bill first came to the floor. That was the opportunity, Mr. Speaker, that the minority had to offer whatever it felt was appropriate to change this bill. They decided not to do that. It is a bit disingenuous to complain about that now after the Senate has already taken up the bill, after the House had completed its debate.

In fact, Mr. Speaker, that particular amendment was offered in the Senate and it failed. We know what the definition of health of the mother is, because the Supreme Court provided us that definition in Doe versus Bolton, the companion case to Roe versus Wade, in which the Supreme Court defined health in the abortion context to include "all factors, physical, emotional, psychological, familial and the woman's age relevant to the well-being of the patient."

This is an extraordinary broadening of this bill. This bill was debated by the House, Mr. Speaker. It was debated by the Senate. We are back now to consider whether we should concur in the amendments that the other side has already stated improve the bill, a change that will allow doctors to exercise their best judgment in performing this procedure when it is necessary to save the life of the mother.

The gentlewoman from Colorado said though, Mr. Speaker, that we ought to look to the specialists, to the physicians, in determining whether this is an appropriate piece of legislation. So I wish to close, Mr. Speaker, by referring to the specialists.

First, Mr. Speaker, I would quote from Dr. Martin Haskell, a practitioner of the partial birth abortion method. When Dr. Haskell was asked about the advantages of this particular procedure he did not talk about the life of the mother. He did not talk about the sensation of the fetus. He did not talk about the health risk to the mother. He said this: "Among its advantages are that it is a quick, surgical, outpatient method that can be performed on a scheduled basis under local anesthesia." Those are not emergency measures, Mr. Speaker.

When Dr. Haskell was asked in an interview with Cincinnati Medicine in the fall of 1993, Dr. Haskell said when asked about the impact to the fetus of this procedure, the question, "Does the fetus feel pain?" This is what Dr. Haskell said: "I am not an expert, but my understanding is that fetal development is insufficient for consciousness." He continued, "It is a lot like pets. We like to think they think like we do. We ascribe humanlike feelings to them, but they are not capable of the same level of awareness we are. It is the same with fetuses."

Mr. Speaker, that is what one specialist, a practitioner of partial birth abortion, says about this procedure. But let us turn to another specialist, Dr. Pamela Smith, Director of Medical Education at the Department of ob-gyn at Mount Sinai Hospital in Chicago. Dr. Smith said, "There is absolutely no obstetrical situations encountered in this country that would require this procedure."

Mr. Speaker, I ask for support on this rule.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mrs. WALDHOLTZ. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 269, nays 148, not voting 14, as follows:

[Roll No. 93]

YEAS—269

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (NJ)
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Thornton
Tiahrt
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—148

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Flake
Foglietta
Frank (MA)
Franks (CT)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gilman
Gonzalez
Green
Greenwood
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Miller (CA)
Minge
Mink
Moakley
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Spratt
Stark
Studds
Thompson
Thurman
Torkildsen
Torres
Towns
Traficant
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates
Zimmer

NOT VOTING—14

Bryant (TX)
Collins (IL)
Dooley
Dornan
Filner
Ford
Fowler
Gibbons
Harman
Smith (WA)
Stokes
Thomas
Torricelli
Weldon (PA)

□ 1832

The Clerk announced the following pairs:

On this vote:

Mr. Thomas for, with Ms. Harman against.

Mrs. Fowler for, with Mr. Stokes against.

Ms. FURSE and Mr. GILMAN changed their vote from "yea" to "nay."

Mrs. KELLY changed her vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 389, I move to take from the Speaker's table the bill (H.R. 1833), to amend title 18, United States Code, to ban partial-birth abortions with the Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Page 2, line 9, strike out [Whoever] and insert: *Any physician who*

Page 2, line 12, after "both." insert: *This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury: Provided, That no other medical procedure would suffice for that purpose. This paragraph shall become effective one day after enactment.*

Page 2, line 13, strike out [As] and insert: *(1) As*

Page 2, after line 16, insert:

"*(2) As used in this section, the term 'physician' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: Provided, however, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provision of this section.*

Page 2, line 17, strike out [(c)(1) The father,] and insert: *(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure,*

Page 3, strike out lines 12 through 20.

MOTION OFFERED BY MR. CANADY

Mr. CANADY of Florida. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. ROGERS). The Clerk will designate the motion.

The Clerk read the motion.

Mr. CANADY of Florida moves to concur in each of the six Senate amendments to H.R. 1833.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. CANADY] and the gentlewoman from Colorado [Mrs. SCHROEDER] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on H.R. 1833.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to express my support for the motion to concur in the

Senate amendments to H.R. 1833, the Partial-Birth Abortion Ban Act. H.R. 1833 bans a particularly heinous late-term abortion procedure unless that procedure is necessary to save the life of the mother.

This is partial-birth abortion:

Guided by ultrasound, the abortionist grabs the live baby's leg with forceps.

Mr. Speaker, then the baby's leg is pulled out into the birth canal by the abortionist.

The abortionist delivers the living baby's entire body, except for the head, which is deliberately kept lodged just within the uterus.

Then the abortionist jams scissors into the baby's skull.

The scissors are then opened to enlarge the hold in the baby's skull.

The scissors are than removed, and a suction catheter is inserted.

The child's brains are sucked out, causing the skull to collapse so that the delivery of the child can be completed.

Clearly, the only difference between partial-birth abortion, the procedure which my colleagues have just seen described, and homicide is a mere 3 inches.

The supporters of partial-birth abortion seek to defend the indefensible, but today the hard truth cries out against them. Despite their relentless effort to misrepresent and confuse the issue, the opponents of this bill can no longer conceal the uncomfortable facts about this horrible procedure.

The ugly reality of partial birth abortion is revealed here in these drawings for all to see.

The Senate amendment to H.R. 1833 makes three acceptable changes to the House passed version of the bill:

First, the Senate amendment clarifies that H.R. 1833 allows a partial-birth abortion to be performed if it is necessary to save the life of the mother. Instead of a life exception in the form of an affirmative defense as passed by the House, the amendment inserts the life exception in the first paragraph of the bill. The effect of the amendment is to force the prosecution to prove beyond a reasonable doubt that the partial-birth abortion was performed to save the life of the mother or that another procedure would have saved her life.

Second, the Senate amendment restricts civil liability under the bill to physicians who perform partial-birth abortions or anyone who directly performs a partial-birth abortion. In other words, the amendment does not allow anyone who assists in a partial-birth abortion to be liable under H.R. 1833.

Third, the Senate amendment allows fathers to sue for damages only if the father was married to the mother at the time the partial-birth abortion was performed.

I believe that if H.R. 1833 is enacted into law with the Senate amendments, it will deter abortionists from partially delivering, and then killing, unborn children.

Unfortunately, Mr. Speaker, President Clinton has threatened to veto H.R. 1833 unless we make gutting changes to the bill. The President does not want to openly defend a procedure that 71 percent of the public says should be banned. Therefore, he is trying to deceive the American people by claiming he supports banning this, as he calls it, disturbing procedure while he has at the same time proposed an amendment that would gut H.R. 1833, making it totally meaningless.

Mr. Speaker, the President wants a bill that allows an abortionist to perform a partial-birth abortion whenever the abortionist says it is to prevent a serious adverse health consequence. The President wants to explicitly leave the definition of serious adverse health up to the abortionist. In Doe versus Bolton, the companion cause to Roe versus Wade, the Supreme Court defined health in the abortion context to include, and I quote, "all factors: physical, emotional, psychological, familial, and the woman's age, relevant to the well-being of the patient." Partial-birth abortions are currently being performed for such health reasons as the mother's depression or young age.

While Dr. Martin Haskell, a prominent practitioner of partial-birth abortion, stated that 80 percent of the partial-birth abortions that he performed from 20 to 24 weeks are purely elective, Dr. James McMahon called the partial-birth abortions he performed in the third trimester non-elective or health related. In documents submitted to the House Subcommittee on the Constitution, Dr. McMahon asserted: after 26 weeks, that is, 6 months, those pregnancies that are not flawed are still non-elective. They are interrupted because of maternal risk, rape, incest, psychiatric or pediatric indications. Dr. McMahon's definition of non-elective is extremely broad.

Accordingly, if President Clinton had his way, even third trimester partial-birth abortions performed because of a mother's youth or depression would be justified to preserve the mother's health. This is simply unacceptable.

Furthermore, Dr. McMahon told the subcommittee that he had performed more than 2000 of what he called intact dilation and evacuation abortions. He attributed more than 1300 of these late-term abortions to fetal indications or maternal indications. The most common maternal indication was depression. Other maternal indications included pediatric pelvis, that is, youth, spousal drug exposure, and substance abuse.

□ 1845

It is never necessary to partially vaginally deliver a living infant at 20 weeks, that is, 4½ months or later, before killing the infant and completing the delivery in order to protect a mother's life or even her health.

During two extensive hearings in the Committee on the Judiciary on H.R. 1833, not one of the medical experts invited to testify by the bill's opponents could point to a single circumstance that would require the use an abortion technique in which the infant was partially delivered alive and then killed. On the contrary, several physicians, including one well-known abortionist, have stated that partial birth abortion poses risks to the health of the mother.

Dr. Pamela Smith, the director of medical education for the Department of Obstetrics and Gynecology at Mr. Sinai Hospital in Chicago, has written:

> There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the health of the mother. Partial birth abortion is a technique devised by abortionists for their own convenience, ignoring the known health risks to the mother. The health status of women in this country will only be enhanced by the banning of this procedure.

Dr. Martin Haskell, himself, said of a partial birth abortion, "Among its advantages are that it is a quick surgical outpatient method that can be performed on a scheduled basis under local anesthesia."

The President and other proponents of partial birth abortion know that adding an exception for health of the mother to H.R. 1833 is unnecessary and would gut the bill, allowing partial birth abortion on demand.

This is the question I would raise to the President and my colleagues who support abortion on demand: Is there ever an instance when abortion or a particular type of abortion is inappropriate? The vehement opposition of abortion rights supporters to H.R. 1833 makes their answer to my question clear. For them there is never an instance when abortion is inappropriate. For them the right to abortion is absolute, and the termination of an unborn child's life is acceptable at whatever time, for whatever reason, and in whatever way a woman or an abortionist so chooses.

To all my colleagues, I say this, Mr. Speaker: Look at this drawing. Open your eyes wide and see what is being done to innocent, defenseless babies. What we see here in this drawing is an offense to the conscience of humankind. Put an end to this detestable practice. Vote in favor of the motion to concur in the Senate amendments to H.R. 1833.

Mr. Speaker, I reserve the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS], the esteemed ranking member of the committee.

Mr. CONYERS. Mr. Speaker, I rise to make observations about two members of the Committee on the Judiciary, and

I respect all of the members on the committee. First, I have asked the gentlewoman from Colorado, PATRICIA SCHROEDER, to manage this bill, because she will long be remembered for her sensitivity and dedication on a subject that is so difficult for all of us to deal with.

The other Member whose attention I would draw the membership to is the gentleman from Florida [Mr. CANADY], the author of this measure. Mr. CANADY is not a doctor, has never been to medical school, and has created a misnomer in the title of this bill. There is no medical term called "partial birth abortion." It is not in the medical dictionary, the American College of Obstetricians and Gynecologists do not use the term and in fact, has come out very strongly against the bill.

Mr. Speaker, assuming that we are not doctors, let us just talk about the law that we have a responsibility to deal with. Since the measure of the Gentleman from Florida was introduced, a Federal court in Ohio has spoken on a very similar measure and the Ohio Federal court has said very, very clearly that this procedure, the dilation and extraction, or D and X procedure, which was banned by an Ohio statute, is unconstitutional. Similarly, this bill is unconstitutional.

I urge my colleagues to consider that Roe versus Wade, through the constitutional process, has protected a woman's right to choose, for over 20 years. This attempt to ban a class of medically appropriate abortions is not only very discouraging, it is unconstitutional.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I think it is important that we talk about what this bill is and what it is not. The term abortion is used rather loosely around this body. Abortion, by definition, occurs before 20 weeks. This procedure is not used before 20 weeks. This procedure is used on viable infants, infants who are viable outside of the womb. So as we hear all the confusing dialogue tonight, it is important that everybody realize that infants, 22 weeks gestation, from the time of conception 22 weeks forward, which is actually less than 21 weeks, by normal count, those are viable infants by definition. Today if a baby is born at 22 weeks we do everything we can to save that baby.

So this bill is not about abortion, this bill is about eliminating the murdering of infants who are otherwise viable outside of the womb.

What is this bill? This bill eliminates a procedure that has been designed to be of benefit only to the abortionist. Every complicated pregnancy that might have an adverse outcome in terms of an indication under the present utilization of this procedure can in fact be delivered in a much more humane, much less traumatic, and much more beneficial way to both the infant and the mother. What this bill provides is the respect that a viable fetus deserves, an infant of 22 weeks.

Let us make no mistake about this, this procedure is utilized to terminate otherwise normal infants the vast majority of the time. We are going to hear otherwise on that, but if you think an infant with a cleft palate is someone who needs to be terminated, if you think adolescent females, because they are pregnant. should qualify under this bill, as the President would have us say, because of their adolescence or because of their age, should otherwise be an exception under this bill, then you do not in fact understand what this procedure is all about.

I would urge my colleagues to think about what this bill really is. This is not an abortion. This procedure is a convenient method for some practitioners to terminate the lives of otherwise viable infants.

Mrs. SCHROEDER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, first of all, let me answer the gentleman who was just in the well. I think it is terribly important to say we were trying to offer the amendment that is the law of the land, which is severe adverse health consequences to the mother. I resent very much hearing that this is about cleft palates and these are designer things and so forth, because this is not, and there is no one in this body trying to make it that way.

Now let me tell you why I hate this debate. I hate this debate because this debate reminds me of my 30th birthday, and let me bring you to my 30th birthday. My 30th birthday was spent in intensive care, an intensive care in which I had been given last rites. I had a 15-day-old baby girl I had not seen and a 4-year-old boy that I was terrified I would not see again. I want to tell the Members, that is scrambling, man. We had doctors, we had everybody running around figuring out what in the world can happen.

I just want to say to people in this Chamber, if you really think families in that situation want you, the U.S. Congress, to come in and tell them which procedures their doctors may use and which ones they may not use, I think you are wrong. I think doctors think this is a zone of privacy and families think this is a zone of privacy, and that we should trust our doctors, although I understand there are some Members here who trust Hamas more than they trust the Government. But I happen to trust my doctor in that instance a whole lot more than I trust you Members of Congress. I want you to know it.

I want you to know I also looked at your drawings. You know what it said on the bottom? It said, "Drawing commissioned by the National Conference of Catholic Bishops." Maybe they deliver babies, and maybe they practice medicine, but I go with the American College of Gynecologists and Obstetricians, because those are the ones I know that deliver babies. I am tired of the playing politics on this. I think America's families are tired of playing politics on this, and I really think that that is all this is about.

I wish there were some way to bring some sanity to this. My time has expired. I have thousands more I could say, but I only want to tell you, my 30th birthday was hell, and because of people like you, I could be dead, and I resent that very much.

Mr. Speaker, I rise to urge my colleagues to oppose the motion that would send to the President an abortion ban that does not have an exception for the life or health of the woman.

When the House first voted on this bill, we fought hard, but unsuccessfully, for an opportunity to debate and vote on an amendment that would provide an exception to the ban in cases where the woman's life or health is at risk. Since the original House vote on this bill, two noteworthy events have occurred.

First, an Ohio court has issued a 100-page opinion setting forth, with great detail and care, the unconstitutionality of a similar provision passed by the Ohio legislature. Central to the court's analysis is the fact that under Roe versus Wade and later cases, the government cannot ban abortions that are necessary to preserve the life or health of the woman.

Second, on February 28, President Clinton sent a letter to the chairman of the Judiciary Committee clearly stating that he will veto the legislation unless it contains a true exception for the life and health of the woman, as required by Roe versus Wade.

Because H.R. 1833, both in its original form and as amended by the Senate, fail to include any exception for the health of the woman, and because the life exception is too narrowly framed to constitute a true life exception, the bill before us today is unconstitutional. It clearly violates Roe versus Wade, and most importantly, it sends an unacceptable message to American women that their lives and health are not worthy of full protection.

In the course of our committee's hearings on this bill, we heard heart-rending stories from four women whose families benefited from the procedure this bill would ban, all in cases where terrible tragedies occurred late in the woman's pregnancy. As I listened to these women's stories, it became obvious to me that, in many respects, this bill is not about abortion at all. These pregnancies were wanted pregnancies, and the women told us that their families loved and cherished the babies that God was giving to them, no matter what disabilities those babies might have.

Unfortunately, these families had to confront the terrible tragedy that life was not to be for these babies, and they had to make decisions about how to manage the medical crises that confronted them in the way that best safeguarded the woman's life, health, and her ability to have another chance at motherhood. They chose this procedure based on advice from multiple medical specialists, knowing that it posed the least risk to them and their future fertility. Some of these women told us that they were pro-life before they had this procedure, and they remain pro-life today. But they oppose this bill because it bans a medical procedure that preserved their health and their future fertility. Several of these women are pregnant again today, thanks to this procedure that safeguarded their reproductive capacity.

So, in truth, the bill before us today is as much about safe motherhood as it is about abortion. In 1920, 800 women died for every 100,000 live births. In 1990, 10 women died for every 100,000 births. While the maternal mortality ratio in the United States has decreased dramatically, pregnancy-related complications and deaths remain an important public health concern.

We cannot get complacent about safe motherhood. And an adjunct of safe motherhood is that when something goes terribly wrong with a pregnancy, the woman, her family, and her doctor have every right to do everything possible to preserve her future reproductive capacity, so that she can have another chance at motherhood.

So many times when we say the words "life and health of the woman" people react as if it's some kind of tricky legal technicality. That women don't die anymore because of pregnancy or childbirth. As a woman who almost died after childbirth, let me assure you, it can happen. And the CDC statistics I am citing are a reminder that the life and the health of the woman can indeed be placed in jeopardy during pregnancies today. The leading causes of pregnancy-related death are hemorrhage, embolism, and hypertensive disorders. Combined, they account for over 70 percent of pregnancy-related deaths. That's why options that reduce the risk of excess bleeding, such as the procedure we are considering today, can in many cases save the life or health of the woman.

You would think that Congress would have the sense to leave the practice of medicine to doctors. You would think that Congress would respect the privacy of the families who confront these terrible tragedies, and their intelligence in deciding how best to manage the life and health risks these tragedies bring with them. Instead, this bill tells these families that Congress would put the doctors who preserved the woman's life, her health, and her future fertility in prison for 2 years.

Look Coreen Costello in the eye, and tell her that the second chance at safe motherhood that this procedure afforded her is something that Congress is taking away. Sit down with her children and explain to them that Congress would subordinate their mother's health to a political agenda, so that supporters of this bill can run sensational 30-second ads to advance their political ambitions.

If this committee were serious about passing a bill that would pass constitutional muster, we would be voting on amendments to cure the constitutional problems that are so carefully detailed in the Ohio court decision and the President's letter. The President's letter makes it clear that he would quickly sign a bill that contained an exception for procedures necessary for the life of the woman or to avert serious adverse health consequences to the woman.

Without altering the bill to cure the vagueness problem, the undue burden on previability abortions, and to add a true life or health exception, everyone in this Chamber knows that this bill would be enjoined immediately by the courts. That being the case, what can the purpose be in forcing this bill to the President's desk without a life or health exception? I am afraid I cannot see one other than political gamesmanship, and it is distressing in the extreme to see that game being played at the expense of the lives and health of very real women in this country, women like Coreen Costello and Mary-Dorothy Line.

Don't play a political game with the lives and health of the women of this country. Don't vote to send this bill to the President without a health exception and without a true life exception.

Mr. Speaker, I include for the RECORD the following:

THE ISSUE IS NOT ABORTION

(By Mary-Dorothy Line)

My husband and I are extremely offended by the ad sponsored by the National Conference of Catholic Bishops that appeared in the March 26, 1996 edition of the Washington Post. A bill pending before the House (H.R. 1833) would ban intact dilation and evacuation (intact D&E) procedures used in some late-term abortions; late term abortions which are provided to protect the mother's life or health when there is no hope for the baby. This legislation is wrong, and it would hurt a lot of American families. We know. We are one of those families.

I am a registered Republican and we are practicing Catholics. Last April, we found out I was pregnant with our first child and were extremely happy. 19 weeks into my pregnancy, an ultrasound indicated that there was something wrong with our baby. The doctor noticed that his head was too large and contained excessive fluid. This problem is called hydrocephalus. Every person's head contains fluid to protect and cushion the brain, but if there is too much fluid, the brain cannot develop.

As practicing Catholics, when we have problems and worries, we turn to prayer. So, our whole family prayed. We were scared, but we are strong people and believe that God would not give us a problem if we couldn't handle it. This was our baby; everything would be fine. We never thought about abortion.

A few weeks later we had two more ultrasounds. We consulted with five specialists, who all told us the same thing. Our little baby had an advanced, textbook case of hydrocephaly. We asked what we could do. They all told us there was no hope and recommended that we terminate the pregnancy. We asked about in utero operations and shunts to remove the fluid, but were again told there was nothing we could do. We were devastated. I can't express the pain we still feel—this was our precious little baby, and he was being taken from us before we even had him.

My doctors, some of the best in the country, recommended the intact D&E procedure. No scissors were used and no one sucked out our baby's brain as is depicted in the inflammatory ads supporting H.R. 1833. A simple needle was used to remove the fluid—the same fluid that killed our son—to allow his head to pass through the birth canal undamaged. This was not our choice—this was God's will.

My doctor knew that we would want to have children in the future, even though it was the furthest thing from my mind at the time. They recommended the best procedure for me and our baby. Because the trauma to my body was minimized by this procedure, I was able to become pregnant again. We are expecting another baby in September.

I pray every day that this will never happen to anyone again, but it will, and those of us unfortunate enough to have to live this nightmare need a procedure which will give us hope for the future.

Congress needs to hear the truth. The truth does make a difference—when people listen. Last week, I testified at a hearing held in the Maryland legislature. A committee there was considering a bill similar to the one Congress in prepared to pass this week. In Maryland, they listened. And in Maryland, several conservative legislators joined in the 15–6 committee vote to reject this bill.

After seeing the callous way our tragedies are regarded by the proponents of H.R. 1833, I know the only hope to protect families lies with the President of the United States. I am told he is a good man. I am told he listens to people. I hope he listens to us, to the truth, and not to the political propaganda. I pray he shows love and compassion for women like me and families like mine. I pray he vetoes this bill.

Many people do not understand the real issue—it is women's health; not abortion and certainly not choice. We must leave decisions about the type of medical procedure to employ with the experts in the medical community and with the families they affect. It is not the place for government.

Mr. CANADY of Florida. Mr. Speaker, I yield 3½ minutes to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, I thank the gentleman from Florida for yielding time to me.

Mr. Speaker, I rise this evening in support of the amended version of H.R. 1833. The practice of partial-birth abortions should spark outrage in all of us. We, of this Congress, have a duty, a duty to protect children who might otherwise fall victim to this procedure. I believe we also have a duty to protect women from the scandalous falsehoods perpetrated by the opponents of this bill.

Those desperate to obscure the true nature of partial-birth abortions claim that the anesthesia given to the mother prior to the procedure results in the death of the child in utero. Based upon this myth they argue that it is misleading to call the procedure a partial-birth abortion, and any concerns that the child experiences pain are misplaced. Extreme abortion advocates have trumpeted this mistaken notion with the complicity of the unquestioning media.

Mr. Speaker, I rely upon the authority of Dr. Norig Ellison, president of the American Society of Anesthesiologists, who says this claim has "absolutely no basis in scientific fact."

Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology, says it is crazy. The American Medical News reported in a January 1 article that

"Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia."

During the House and Senate debates over this measure, we heard several of the opponents piously express concern for the health of women. Yet, they willingly propagate the mistaken rhetoric of the extreme pro-abortionists, and undoubtedly frighten pregnant women in need of anesthesia for other medical reasons.

In Dr. Ellison's words:

> I am deeply concerned that the widespread publicity may cause pregnant women to delay necessary and perhaps life-saving medical procedures totally unrelated to the birthing process, due to misinformation regarding the effects of anesthetics on the fetus.

Mr. Speaker, the Senate amendments to the bill clearly make an exception should the life of the mother depend on the employment of this procedure. I am satisfied that no woman will be harmed as a result of this legislation, and many children will be spared a particularly gruesome fate. To oppose this bill is to display the extremism in the defense of abortion rights that is beyond reason and without compassion.

In the immortal words of Abraham Lincoln:

> Fellow Citizens, we cannot escape history . . . The fiery trial through which we will pass will light us down, in honor or dishonor, to the latest generation.

Let it be recorded by history that this Congress took a stand, not only against cruel medical practice, but for the life and death of women.

□ 1900

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY], the distinguished cochair of the Caucus on Women's Issues.

Mrs. LOWEY. Mr. Speaker, I rise in opposition to H.R. 1833.

Mr. Speaker, we are here today debating this extreme bill because the Republican leadership is absolutely committed to eliminating the right to choose. The pro-life majority in this House has restricted abortion rights throughout the last year—and this bill is yet another step on the road to the back alley. This legislation will criminalize abortion, harass doctors, and prevent women from getting the medical care they need.

Families facing a late-term abortion are families that want to have a child. These couples have chosen to become parents, and only face terminating the pregnancy due to tragic circumstances. Terminating a wanted pregnancy at this stage is agonizing and deeply personal.

This procedure is not about choice, It is about necessity.

Let me tell you about Claudia Ades, who lives in Sanata Monica, CA. She heard about this bill, and called to ask me if there was anything she could do to defeat it. As Claudia said so passionately, "This procedure saved my life and my family."

Three years ago, Claudia was pregnant and happier than she had ever been. However, 6 months into her pregnancy she discovered that the child she was carrying had severe fetal anomalies that made its survival impossible, and placed Claudia's own life at risk.

After speaking to a number of doctors, Claudia and her husband finally concluded that there was no way to save the pregnancy. "This was a desperately wanted pregnancy," Claudia said, "But my child was not meant to be in this world."

Those of us with healthy children can only imagine the horror that Claudia felt when she received the news about her condition. It is the news that all mothers pray every day they will never hear.

But, in those tragic cases where families do hear this horrible news, who should decide? The one thing that I know for sure is that the decision should not be made by Congress. At that horrible, tragic moment, the Government has no place.

Now, the Republican leadership could have made this a better bill by including real life and health exceptions. Not the sham life exception that's included in this bill—written by the Republican presidential candidate from Kansas who never met an abortion restriction that he didn't support. President Clinton even indicated that he would sign the bill if it contained real exceptions. But the Republican leadership doesn't want the President to sign this bill—they want him to veto it. This entire debate is a pay-off to the Christian Coalition and an exercise in election year political theatre.

Mr. Speaker, President Clinton's veto pen is the only thing protecting American women from the back alley. H.R. 1833 is an extreme bill that will put the lives of American women at risk. I urge its defeat.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE], a member of the Committee on the Judiciary.

Mr. GOODLATTE. Mr. Speaker, I thank the chairman for his fine work.

Mr. Speaker, today I rise in support of an eminently reasonable bill to ban a heinous procedure to partially deliver fully formed babies, and then kill them. Again, I repeat, this is a very reasonable bill which the majority of Americans wholeheartedly support. Those who oppose this bill are the excessive ones.

Already, 288 of the Members of this House have voted to ban partial birth abortions. The bill before us today is identical except for three minor changes—all of which I support:

It still allows an exception to the ban in order to save the life of the mother, and now provides in those cases that the prosecution must prove that there was no other alternative available to save the mother's life, rather than placing the burden on the physician.

It clarifies that only the physician who performs the abortion may incur civil liability under the bill.

It allows fathers to sue a physician for damages only if the father and mother of the child were married when the abortion was performed.

We must put an end to this barbaric procedure where the difference between abortion and murder is literally a few inches. This is effective legislation to ban an unbelievably gruesome act. I urge my colleagues to support it.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK], the ranking member of the subcommittee.

Mr. FRANK of Massachusetts. Mr. Speaker, I salute the courage of the gentlewoman from Colorado [Mrs. SCHROEDER] and her willingness to take this issue on.

Mr. Speaker, we are clearly here dealing with a political issue. We heard one of the previous speakers say the purpose of it is to give the President something to veto. The President has said, amend this bill and he will sign it. Amend it to say that if the particular procedure is deemed necessary by a doctor to avoid serious adverse health consequences, he can do it.

Understand that this bill would say to a doctor, if in his judgment performing the abortion in this way is necessary to prevent severe physical damage to the mother, as long it is not life-threatening, he cannot do it. He can do it if it will save her life, but if it will destroy forever her chances of having a child, if it will cause her serious, long-lasting physical pain and disability, this bill says it is a crime to do it.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I think the gentleman is absolutely correct. They are saying that there is a life exception, but it is very cosmetic because the way I read the bill, it is that the doctor would have to prove there was no other medical procedure that would suffice, and maybe there is another medical procedure but it would not be as good for her outcome.

Mr. FRANK of Massachusetts. Mr. Speaker, reclaiming my time, and of course that is only life. It does not deal with health. The majority refused to allow an amendment. Be very clear about it. We have twice asked them let us vote, as the Senate did, and the amendment in the Senate got 46 votes and lost narrowly.

Members have said, "Your health exception is too broad." My colleagues on the other side of the aisle can narrow it if they want to. But they cannot, however, object that we have one that is too broad when they have none at all; when they are asking the House to vote for a bill that will make it a crime for a doctor to perform this procedure even if he believes that performing it is necessary to prevent serious physical, long-lasting, permanent damage to the mother. That is not a reason for going forward under this outrageous bill.

Mrs. SCHROEDER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I salute the gentlewoman from Colorado for her leadership, and I want to reiterate some of the points that have been made before.

Mr. Speaker, it all boils down to this: A doctor is in an operating room, an obstetrician-gynecologist. There is a serious problem that evolves and the doctor has to make a judgment. Does it make any sense for this body, or for any body, to impose the threat of a crime, a criminal penalty and a jail sentence, on that doctor while he or she is making the decision about what is best for health or for life?

Then let us say that we even go with the narrow amendment of life. What is the doctor going to do? Is a doctor not supposed to worry that maybe his or her judgment is different than what a jury might determine 2 years later, not under the glare of the operating room lights?

This amendment is regrettable. It is unfortunate. I have some sympathy with those that disagree with my view on the issue of choice, about the idea that it should not be easy and it should not be a quick decision, and abortion should not be a method of birth control. We are not talking about that here because in these cases the mother, the parents, wanted to have the baby but something happened and an emergency may occur. We, again without a bit of knowledge of what is actually the best medical procedure, are imposing something here, and that is simply wrong.

I would say to my colleagues, resist this amendment. It is not going to be an issue in political campaigns, believe me. It is too arcane and too gruesome. Do the right thing. Rise to the occasion and vote down this awful amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, we hear now today from some of our colleagues that this is an issue of privacy and the U.S. Congress should not vote on it. We vote on issues of speech, and that is very private. We vote on issues of prayer, and that is very private. We vote on issues of guns, and that is everywhere private. Certainly we should vote to ban this kind of procedure that takes the life of a partially delivered baby.

I hear some of my colleagues on this side of the aisle even say that this is a regrettable procedure, an unfortunate procedure. This is a gruesome and brutal procedure, and as we spend billions of dollars every single year on medicine and technology, certainly there is no room in our society for this kind of procedure to continue to take place in 1996, no matter what your view is as a pro-life or a pro-choice Member of Congress.

What are we voting on? A partial birth abortion is defined as a procedure in which a doctor partially delivers a living fetus before killing the fetus and completing the delivery. That is what we are voting on.

What have we added to this in chapter 74, section 1531? "This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of the mother whose life is endangered by a physical disorder, illness or injury."

Finally, let me conclude by saying this issue should not divide pro-choice and pro-life. It should not divide women and men. It should not divide Democrats and Republicans. It is a brutal and inhumane procedure that should be banned, and I urge my colleagues to support this bill.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. LOFGREN], a distinguished Member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Speaker, politicians in Congress have issues. We have wedge issues, we have issues we put in direct mail and we have rhetoric. I have heard a lot of partial discussions, selected comments that are meant to inflame, meant to persuade, and I think in some cases meant to mislead. But the people who will be hurt by this bill do not have issues. They have tragedies, and they do not need this bill to pass.

Mr. Speaker, I want to talk about people I really know, my friend Suzie Wilson's son and daughter-in-law, Bill and Vicki Wilson, and their wonderful children, Jon and Kaitlyn, because 2 years ago this April 8th they lost Abigail.

They were very much looking forward to Abigail. They had had two baby showers. The nursery was full of pink ribbons waiting for Abigail, and in the eighth month they found out that all of Abigail's brains had formed outside of her cranium and that there was no way that this child could survive. It was a tragedy.

They took their case to the doctor, who was able to save Vicki's life and to save her fertility. The question that faced them was not whether Abigail could live, but how would Abigail die and whether Vicki's uterus would burst while Abigail was dying.

I am glad that Vicki and Bill had the chance they did to keep their family intact. I know because we had a lot of tears, we friends of the family. They did not need the Congress of the United States to help them at that moment. They needed a doctor. They needed the love of their friends and their family. They needed the guidance of God.

Mr. Speaker, I have talked to Members in this body who have told me privately that if it were their wife, they would want this procedure, and then gone ahead and voted for this bill. I would ask all of you, do your politics with some other issues. Hurt someone else. Search your conscience and look at my friends, the Wilson family. Think of them and put politics aside.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Speaker, on Friday this House voted to repeal the assault weapons ban as a payoff to the NRA. Today we are voting to ban a rare but sometimes medically necessary procedure as a payoff to certain right-wing elements within the Republican party.

Mr. Speaker, we need to be honest with each other. Anti-choice forces see this ban as the first step toward ending a woman's right to choose in America. As far as the anti-choice forces are concerned, there is no difference between the procedure we are debating today and abortions in the cases of rape and incest.

□ 1915

Yet these same radicals believe that properly manipulated, this late-term procedure can be the wedge issue to divide the overwhelmingly pro-choice American public. Today, it is this procedure. Tomorrow, it is family planning.

Mr. Speaker, no one in this body likes this procedure. And, yes, it is unpleasant. But this rarely used medical procedure remains necessary to ensure that women who must have an abortion are still able to bear children afterwards.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Speaker, I rise today in absolute support of H.R. 1833.

As I walked to the floor this evening, it struck me how ridiculous and sad it is that in this great Chamber in this great Nation, we should even be debating this issue.

What we are talking about today is not the issue of abortion per se.

That is a discussion for another time, and that time will come.

What we are talking about is a procedure that is positively medieval.

The issue of abortion is very emotional and I try to avoid using inflammatory rhetoric on the issue, because I have felt it didn't further the debate.

But in this case murder is not too strong a term.

Partial birth abortion is murder, cold, grisly, and premeditated.

Partial birth is used on babies who are up to 9 months in the womb.

The ninth and final month.

At 9 months, what is the difference between a baby in the womb or a baby in the crib? One is just as helpless as the other.

And yet this procedure exists and is used at will.

We have seen statements from abortionists that not only have they frequently performed this procedure, but they have often performed it in purely elective circumstances.

Can anyone argue that this chilling act is medically necessary?

The American Medical Association's Council on Legislation voted unanimously to recommend that the AMA board of trustees endorse H.R. 1833.

Many council members agreed that, "the procedure is basically repulsive."

To condone the practice of partial birth abortion is to discard and disgrace every shred of morality that we as human beings should embrace.

Mr. Speaker, I strongly urge my colleagues to take a stand against this evil procedure known as partial birth abortion and vote for H.R. 1833.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, we know that after the 24th week, only .01 percent of all abortions are performed, .01 percent. There are two or three procedures that are used, meaning that this particular procedure is used in only a portion of that .01 percent. Of these procedures, all are more terrifying and unpleasant than this one. But if a woman is carrying a fetus which has a severe abnormality or if the woman has a severe health condition which threatens her health if she continues to carry the fetus, one of these procedures must be used. The bill itself states that there are circumstances in which no other procedure will suffice.

The Senate amendments improved the bill only marginally, and I must still vote "no" because, one, I believe strongly that we should not remove a medical option that might preserve the health of a woman or preserve the ability of a woman to have future children. Second, I believe strongly that we should not decide medical procedures on the floor of this House and am deeply concerned about where this might lead. And, third, I believe strongly that we should not criminalize a medical procedure. For these three reasons, I must vote "no."

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I rise in opposition to H.R. 1833 and criminalizing late-term abortions.

First of all, this conference report is a cruel, a very cruel attempt to make a political point. Make no mistake about it, ladies and gentleman, this conference report, with all of the emotional rhetoric and the exaggerated testimony, is a frontal attack on Roe versus Wade by the Gingrich majority, plain and simple. With the Gingrich majority, what they want is to do away with Roe. The radical rights wants to do away with Roe, and H.R. 183 is a good first step as far as they are concerned. So let us be honest about what this debate is really about.

This legislation seeks to prohibit the wide array of medical techniques which are rarely used but are sometimes required in the late stages of pregnancy, like with the Wilson family, in extreme and tragic cases when the life of the mother is in danger, or the fetus is so malformed that it has absolutely no chance of survival; for example, when the fetus has no brain, or the fetus is missing organs or the fetus's spine has grown outside of its body, when the fetus has zero chance of life, when women are forced to carry these malformed fetuses to term, they are in danger of chronic hemorrhaging, permanent infertility, or death.

Woman and their doctors need to make these decisions, not the Congress. Like the Wilsons, the family needs to make this decision with their doctors, not the Congress.

I urge my colleagues to oppose the conference report on H.R. 1833.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, children, however dependent, are not property and no child is ever a throw-away. A pregnancy is not a disease. Yet partial-birth abortions treat a partially delivered child as a tumor, as a wart, as a disease to be destroyed.

Even if you have a doubt, I say to my colleagues concerning the humanity of an unborn child, can you not resolve that doubt in the baby's favor when the infant is half delivered?

Mr. Speaker, for the first time ever, Democrats and Republicans will send to the President a bill that says "no" to the horrific procedure that literally sucks the brains out of a baby's head. This poster to my left is not some kind of fiction. It is the reality of this horrendous child abuse.

A registered nurse, Brenda Pratt Shafer, said after seeing some of these partial-birth abortions, and I quote, "The baby's body was moving, his little fingers were clasping together, he was kicking his feet. All the while, his little head was stuck inside." Dr. Haskell took a pair of scissors and inserted them into the back of the baby's head. Then he opened up the scissors. Then he stuck a high-powered suction tube into the hole and sucked the baby's brains out.

Mr. Speaker, for the first time ever, despite the extraordinary ability of the pro-abortion lobby to obfuscate and confuse, the reality of abortion is finally getting the scrutiny it deserves. By addressing this particular kind of abortion, this legislation compels us to face the dark secret, the cold fact that an unborn baby dies in every abortion.

I am astonished that Members can support this kind of abortion. Two decades of cover up are over. I would say to colleagues that the brutal methods, whether it be chemical poisoning or suction, dismemberment of a baby, in this case a partially delivered baby killed with brain suction, this must be brought to the forefront so the people know exactly what is going on.

I hope the President says to the bill that he will sign it. I hope he signs it. It is not likely. He will have earned the legacy of being the abortion President. What a tragic, what a pathetic legacy to be the abortion President, especially a man who once in his past used to be pro-life.

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am sorry the gentleman would not yield. I wanted to point out it does say it was the Conference of Catholic Bishops that created that poster.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Speaker, it is really tragic, tragic that the personal problems and the anxieties of women who face these very, very difficult decisions that must be made with respect to their health and their safety and the integrity of their family and to have those tragic circumstances of a person's life be used under these circumstances to advance this political goal of trying to do away with abortion.

But I think that the debate clearly points out that what is being attempted here is a denunciation of the rights of women that have been created by the U.S. Supreme Court. That is what is at stake here.

It is not this procedure that is used so few times out of necessity, but it is the principle of interfering with the doctor and the women that require this procedure, taking away that right of a woman to make this difficult decision, taking away the right of a woman to consult with her physician about what needs to be done, allowing the Congress of the United States to make these decisions. I think that is the most reprehensible thing we could even think of.

We talk about getting big government off of the backs of people. Well, let us concentrate about what we are trying to do today. We are trying to take away the rights of reproductive freedom that the Supreme Court has established, which the courts have said we must not interfere, and this is what is before us today, and that is why this Congress must oppose it. That is why this bill must never become law. It is trying to dictate to the doctors how to practice and criminalize their profession. I think it is outrageous.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE], a distinguished member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding this time to me.

I am not a criminal, Mr. Speaker. And I am ashamed that what we are doing today may, in fact, makes innocent women, women who love children, criminals. Coreen Costello, Mary-Dorothy Lines, Claudia Ades, Viki Wilson, Tammy Watts, and Vikki Stella, all women who offered their most personal stories about wanting to conceive and to have a loving child and yet coming upon a physical and debilitating need to have a medical procedure.

Today we have legislation that will not cover all cases where a woman's life is in danger. The bill will not provide a health exception. H.R. 1833 creates obstacles to medical research, and tragically the life exception will not protect women. Criminals, we are making. Women, their families, their physicians. This is not the way to go.

In order to suggest that those of us who rise to support the rights of women do not have a love of a higher authority, how shameful. This is a bad bill. It does not help this country. It does not help women, and it certainly does not help the love we have for our children.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to respond to a point that was made a few moments ago about this bill criminalizing the activities of women and making criminals of women. That is simply not true.

I would suggest that before Members come to the floor to speak about the bill, they might want to read the bill. The bill says clearly a woman upon whom a partial-birth abortion is performed may not be prosecuted under this section.

Mr. Speaker, I reserve the balance of my time.

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Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, I rise in opposition to H.R. 1833. In yet another attempt to roll back a woman's right to choose, to roll back Roe versus Wade, and make all abortions illegal, choice opponents are putting forward legislation which could endanger a woman's life and her ability to have children in the future.

How odd that the majority party would describe itself as family friendly. Plain and simple, the supporters of this bill feel it is more important to save a doomed fetus than the life of a mother and her ability to have children in the future.

Coreen Costello is the mother of two. The Dole amendment would not have allowed her to use this procedure. Coreen Costello said in front of the Senate in her testimony that she would have taken any child that God gave her, regardless of any handicap. But her child was a child that could not live. Fortunately for Coreen and her family, her doctor was able to save her life and her fertility. She is now expecting her next child.

But what about the women who come after Coreen? What will happen to them, their health, their lives, their families, if this life-saving procedure is outlawed? Congress has no place in their decisions and no place in their tragedies.

Mrs. SCHROEDER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentlewoman from Colorado for yielding me time.

If your daughter and son-in-law were faced with the extraordinary tragedy of discovering extreme fetal deformity late in pregnancy or a life threatening development with abortion being the only alternative, would you, would you, each individual Member of this body, want her to have available to her the procedure that was the least threatening to her life and the most protective of her future reproductive capability and the most respectful of the need for the parents to be and their living children to mourn their tragic loss?

Consider the experience of Coreen Costello. Mrs. Costello and her husband hold strong pro-life views, but were suddenly faced with the terrible and painful truth of the problems with her pregnancy. Specialists had determined that the baby had a lethal neurological disorder. Doctors at Cedars-Sinai told the Costellos that their daughter would not live, and due to the amniotic fluid pooling in Mrs. Costello's uterus, as well as the baby's position, there was a serious risk of a ruptured uterus. Natural birth or an induced labor were impossible. Coreen Costello then considered a caesarean section, but the doctors at her hospital were adamant that the risk to her health and life were simply too great.

She and her husband chose not to risk leaving their other children motherless by opting for a D&E procedure. Because of the safety of the procedure, Coreen is now pregnant again.

What right have we here in Congress on this floor to say to this family that you should have risked mom's life and ignored your doctor's advice? By what authority do we tell these women that we know more in each of their cases than their own physicians?

It is ironic that some of you here are advocating legislation that would assure that managed care plans guaranteed physicians the right to tell women all the medical possibilities for treatment, and yet you will legislate here tonight the denial to women of America who face terribly tragic, painful, personal circumstances of the right to have the medical procedure that in truth is safest for them and most protective of their reproductive capability, assures them to the maximum extent possible that they will have more children in their future.

Men of the House of Representatives, women who are Members of Congress, if it were your daughter, would you not want her life and reproductive hopes and dreams protected? Of course you would. Do not do this shortsighted, mean-spirited, terrible thing to women in our Nation.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina [Mrs. MYRICK].

Mrs. MYRICK. Mr. Speaker, I honestly believe that a lot of the problems we have today in society stem from the fact that we have no regard for human life. You can call me old-fashioned, but I believe every individual born into this world is special, needed and important.

You know, our forefathers shared this philosophy when they wrote in our Declaration of Independence that we are endowed by our Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

I ask that we consider the difference. A doctor performs a painful, cruel, partial abortion one day, and it is accepted. And then the next day, if that same mother gave birth to the same age child and then she killed her child, she would be charged with murder. Only a few hours separates these two acts, but one is considered justified and accepted, even promoted, and the other is considered unjust. There is something wrong with our society today if we continue to justify such an unjust procedure.

Mrs. SCHROEDER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I know that there are some Members of Congress who believe they know everything about everything, but maybe once in awhile Members of this body might want to show a little humility. We are discussing a procedure which, as I understand it, is used in .01 of 1 percent of abortions, a situation which occurs only under the most tragic circumstances.

Day after day we hear from our conservative friends about how the big, bad Government should leave people alone and get off of the backs of people. I would urge our conservative friends to heed that advice on this occasion.

This is a tragic circumstance. Let the woman, let her family, let the physician make that decision, not the politicians in Congress.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I rise today in strong support of H.R. 1833, the Partial Birth Abortion Ban Act. Today's battle for the rights of the unborn differ from previous prolife and proabortion debates. Yes, this debate today will not stop all abortions. It will only stop one procedure, the partial birth abortion. It brings to light the fact that when a woman and her unborn child have this type of procedure, that only the woman leaves the operating room.

Mr. Speaker, I think we are all forgetting one thing: A third trimester baby has a very good chance of living, if it was allowed to be born without interference. I urge my colleagues who might otherwise not support a prolife piece of legislation to support this legislation, which simply and narrowly protects against partial birth abortions.

This debate is not about a woman's right to choose, because there are other options. This debate today is about putting an end to a procedure that kills a child just a few inches from full birth.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BECERRA] a distinguished member of the Committee on the Judiciary and also the spouse of a distinguished physician.

Mr. BECERRA. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I am confused. The debate I am hearing from that side has nothing to do with the medical procedure that it seems we are trying to ban. I continue to hear people talk about how we are conducting abortions on babies that otherwise would be able to survive; if the pregnancy were to go to term, we would have a living baby. When in fact, as my wife who happens to be a high-risk obstetrician-gynecologist who deals specifically with women who have difficult pregnancies, has said, this is not a procedure where you are talking about a fetus that will go to term and where you will have a healthy baby born. This is a procedure that is used when it is fairly clear that the baby has no chance to live, and to allow the pregnancy to go to term would jeopardize the health and perhaps the life of the woman. So it seems like the debate is not really on point.

Now, let me read something that came from the American College of Obstetricians and Gynecologists, those doctors that are asked to perform these types of procedures and to protect the women involved.

They state:

> The college finds very disturbing any action by Congress that would supersede the medical judgment of trained physicians and that would criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may or may not perform, the bill employs terminology that is not even recognized in the medical community, demonstrating why congressional opinion should never be substituted for professional medical judgment.

Mr. Speaker, I think that states it best. We have people here who are trying to impose their opinion on a medical profession where technical, highly sophisticated, highly trained individuals are being asked to perform lifesaving procedures.

It does not make sense. We should stay out of this. We should let a woman make that very difficult choice of what type of procedure she would need to preserve her health and her life, and perhaps have a chance to have a pregnancy that will be able to go to term.

Mr. Speaker, I would urge Members to seriously consider voting strongly against this particular bill, because it does not do what the proponents say.

Mrs. SCHROEDER. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. ROGERS). The gentlewoman from Colorado is recognized for 2½ minutes.

Mrs. SCHROEDER. Mr. Speaker, as a woman, when I am with my doctor, I want that doctor focused on my health, and not on their criminal liability. What this bill does is it will focus any doctor on steering away from what they think might be best for the patient, because they could serve 2 years in prison or they could have a criminal record, or on and on and on.

Mr. Speaker, I think every citizen thinks that that is a zone of privacy. This Congress has never interfered in that zone of privacy between a family and their physician. Today, for the first time, if this bill becomes law, we will be moving to make an act criminal by a doctor. I much more trust my doctor than I do Members of this body, I am sorry to say, so I get very angry when I hear some of the things that have been said here.

I have heard people talk about "inhumane, brutal, gruesome, terrible." We have seen the drawings. The drawings were not done by the American College of Gynecologists and Obstetricians. They do not support this bill. They were done, as they say rightfully, by the Catholic Conference of Bishops. Now, they have the right to make their case here, but, please, again, I think most Americans trust their doctors to make those difficult decisions.

We have heard about pain, we have heard about everything. I sat through those hearings. The anesthesiologists who testified said that there is pain in everything. There is pain in birth. So if we are just going to outlaw anything that is painful, we are going to be a very busy Congress. What they were saying is what happened, some of the advocates were misstating anesthesiology procedures. That is possible, because people here are not doctors.

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But they were not supporting the bill. They were just trying to set the record straight. Bottom line, as the gentlewoman from Kansas said, these are in very tragic circumstances. Only .01 percent of all abortions would be affected by this. These are basically a handful of doctors, and thank goodness a handful of families. But I must say as one who has been there, one who almost lost her life, I would be terribly resentful of this happening, and I never thought it could happen to me, so I say to people, please, please, I know this is a difficult issue.

Anything you cannot explain, anything that is difficult to explain, people hesitate to vote against. But please be willing to make this explanation. It is much too important for America's families.

Mr. CANADY of Florida. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I strongly urge my colleagues to support H.R. 1833 with the Senate amendments which would ban this brutal procedure know as partial-birth abortion.

Mr. Speaker, as many of you know, I have 15 grandchildren. Two of my grandchildren, the miracle twins as I call them, were born prematurely at 7 months. They were so tiny that they could fit in your hands but they were perfectly formed little human beings and they are now 14 years old.

It makes me shudder to think that somewhere, perhaps even today, in this country that there are other little preborn human beings 7 months old in their mothers womb that are going to be subject to this brutal, horrible procedure known as a partial birth abortion.

I am not the only one who finds this procedure horrifying. The American Medical Association's Legislative Council unanimously decided that this procedure was not "a recognized medical technique" and that "this procedure is basically repulsive." This is especially true when you realize that 80 percent of these types of abortion are done as a purely elective procedure. It is important to note that this bill does make exception for this type of abortion if it is necessary to save the life of the mother, however, this is an exception that will have to be used rarely.

I think we can all agree that it is inhuman to begin the birthing process and nearly complete the delivery of the baby, only to suck the life out of the child.

I strongly urge my colleagues to support H.R. 1833, with the Senate amendments, which would ban this brutal procedure known as partial birth abortion.

Mr. CANADY of Florida. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

The SPEAKER pro tempore (Mr. ROGERS). The gentleman from Illinois is recognized for 5 minutes.

Mr. HYDE. Mr. Speaker, I listened with great intensity to the debate this evening. It is an important debate. I heard the gentleman from Vermont talk about humility, and he is absolutely right. You do not deal with people's lives in a sense of arrogance at all. But at the same time, if you believe you are right, if you are convinced that you possess the truth and you remain silent, you become the accomplice of liars and forgers. I just ascribe the failure to consider the unborn, and I listened to all of the impassioned remarks of my friends on the other side, they never talk about the unborn. It is the woman, it is her family, it is her doctor, but the little tiny infant in the shadows, the absent person, the invisible person is the unborn, and that is a failure of imagination. That is a compassion deficit.

Mr. Speaker, I guess you have to be healthy to be born. I guess our Declaration of Independence, when it talked about the right to life being inalienable should have said if you are healthy, if you are healthy. God help you if you are handicapped before you are born. But if you make it through the birth canal, we will give you a preferred parking place. That is the way we deal with those situations. No, the partial birth abortion, which is just what it is. It is not an exercise of reproductive rights, and it is not a fetus. It is an abortion. It is not a termination of a pregnancy. It is an extermination of a defenseless little life whose little arms and little legs are wiggling until that scissors gets shoved in his neck and then they stiffen. We heard that testimony. Some of you heard that testimony. There is a coursening of our national conscience when you tolerate this form of torture.

Catholic bishops. Thank God somebody cares about this grotesquery. Thank God, I do not think that invalidates those charts. A political goal? If defending human dignity is political, then I plead guilty. But somebody has to speak up for that little defenseless child almost born, three-quarters born, just the little head left, and they brutally kill that little child, and you do it in the name of compassion. I am sorry, I think that is a coursening, a desensitizing of our conscience.

This bill outlaws a uniquely barbaric method of abortion. Even to describe it is painful, but it is not as painful as the pain that little unborn child feels. If steel traps are too brutal for wild animals, what is too brutal for a tiny member of the human family, an almost-born infant? Have you heard of PETA, People for the Ethical Treatment of Animals? We need a PETA for humans, people for the ethical treatment of tiny, defenseless, cannot rise up in the streets, cannot vote, cannot escape members of the human family. You would not treat a coyote like you treat this little almost-born baby.

Members keep insisting the Government should not intervene. Well, I know some Members are for Government intervention in everything but abortion. I understand that. But who will speak for the baby if the Government does not? What is the purpose of law to protect the weak from the strong? What is weaker than a little child almost born and you destroy that child in a barbaric way? No, I am glad the Government is there. I am not that libertarian that I do not think that Government should not protect the weak from the strong.

The only thing Members consider is the autonomy of the woman, the woman. Well, God bless the woman, and she needs help and care and love and nurturing. But what about the little baby? Why do you leave that out of your equation, our of your calculus?

We had four anesthesiologists tell us those little babies feel pain. That is why they get anesthesia. One of the head of the anesthesiology department at Emory University says the pre-term baby feels pain more that when it is born. That validates the title "silent scream." What about the pain felt by the little baby? Not a word, not a word.

Is there anything, is there anything we say no to? Is everything permitted? God help us if that is true. Let us draw the line here. This should not be tolerated.

Mr. DICKEY. Mr. Speaker, I submit the following material for enclosure in the RECORD:

DILATION AND EXTRACTION FOR LATE SECOND TRIMESTER ABORTION—PRESENTED AT THE NATIONAL ABORTION FEDERATION RISK MANAGEMENT SEMINAR, SEPTEMBER 13, 1992

(By Martin Haskell, M.D.)

INTRODUCTION

The surgical method described in this paper differs from classic D&E in that it does not rely upon dismemberment to remove the fetus. Nor are inductions or infusions used to expel the intact fetus.

Rather, the surgeon grasps and removes a nearly intact fetus through an adequately dilated cervix. The author has coined the term Dilation and Extraction or D&X to distinguish it from dismemberment-type D&E's.

This procedure can be performed in a properly equipped physician's office under local anesthesia. It can be used successfully in patients 20-26 weeks in pregnancy.

The author has performed over 700 of these procedures with a low rate of complications.

BACKGROUND

D&E evolved as an alternative to induction or instillation methods for second trimester abortion in the mid 1970's. This happened in part because of lack of hospital facilities allowing second trimester abortions in some geographic areas, in part because surgeons needed a "right now" solution to complete suction abortions inadvertently started in the second trimester and in part to provide a means of early second trimester abortion to avoid necessary delays for instillation methods.[1] The North Carolina Conference in 1978 established D&E as the preferred method for early second trimester abortions in the U.S.[2], [3], [4]

Classic D&E is accomplished by dismembering the fetus inside the uterus with instruments and removing the pieces through an adequately dilated cervix.[5]

However, most surgeons find dismemberment at twenty weeks and beyond to be difficult due to the toughness of fetal tissues at this stage of development. Consequently, most late second trimester abortions are performed by an induction method.[6], [7], [8]

Two techniques of late second trimester D&E's have been described at previous NAF meetings. The first relies on sterile urea intra-amniotic infusion to cause fetal demise and lysis (or softening) of fetal tissues prior to surgery.[9]

The second technique is to rupture the membranes 24 hours prior to surgery and cut the umbilical cord. Fetal death and ensuing autolysis soften the tissues. There are attendant risks of infection with this method.

In summary, approaches to late second trimester D&E's rely upon some means to induce early fetal demise to soften the fetal tissues making dismemberment easier.

PATIENT SELECTION

The author routinely performs this procedure on all patients 20 through 24 weeks LMP with certain exceptions. The author performs the procedure on selected patients 25 through 26 weeks LMP.

The author refers for induction patients falling into the following categories: previous C-section over 22 weeks; obese patients (more than 20 pounds over large frame ideal weight); twin pregnancy over 21 weeks; patients 26 weeks and over.

DESCRIPTION OF DILATION AND EXTRACTION METHOD

Dilation and extraction takes over three days. In a nutshell, D&X can be described as follows: dilation; more dilation; real-time ultrasound visualization; version (as needed); intact extraction; fetal skull decompression; removal; clean-up; recovery.

Day 1—Dilation

The patient is evaluated with an ultrasound, hemoglobin and Rh. Hadlock scales are used to interpret all ultrasound measurements.

In the operating room, the cervix is prepped, anesthetized and dilated to 9-11 mm. Five, six or seven large Dilapan hydroscopic dilators are placed in the cervix. The patient goes home or to a motel overnight.

Day 2—Dilation

The patient returns to the operating room where the previous day's Dilapan are removed. The cervix is scrubbed and anesthetized. Between 15 and 25 Dilapan are placed in the cervical canal. The patient returns home or to a motel overnight.

Day 3—The Operation

The patient returns to the operating room where the previous day's Dilapan are removed. The surgical assistant administers 10 IU Pitocin intramuscularly. The cervix is scrubbed, anesthetized and grasped with a tenaculum. The membranes are ruptured, if they are not already.

The surgical assistant places an ultrasound probe on the patient's abdomen and scans

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Footnotes at end of article.

the fetus, locating the lower extremities. This scan provides the surgeon information about the orientation of the fetus and approximate location of the lower extremities. The transducer is then held in position over the lower extremities.

The surgeon introduces a large grasping forcep, such as a Bierer or Hern, through the vaginal and cervical canals into the corpus of the uterus. Based upon his knowledge of fetal orientation, he moves the tip of the instrument carefully towards the fetal lower extremities. When the instrument appears on the sonogram screen, the surgeon is able to open and close its jaws to firmly and reliably grasp a lower extremity. The surgeon then applies firm traction to the instrument causing a version of the fetus (if necessary) and pulls the extremity into the vagina.

By observing the movement of the lower extremity and version of the fetus on the ultrasound screen, the surgeon is assured that his instrument has not inappropriately grasped a maternal structure.

With a lower extremity in the vagina, the surgeon uses his fingers to deliver the opposite lower extremity, then the torso, the shoulders and the upper extremities.

The skull lodges at the internal cervical os. Usually there is not enough dilation for it to pass through. The fetus is oriented dorsum or spine up.

At this point, the right-handed surgeon slides the fingers of the left had along the back of the fetus and "hooks" the shoulders of the fetus with the index and ring fingers (palm down). Next he slides the tip of the middle finger along the spine towards the skull while applying traction to the shoulders and lower extremities. The middle finger lifts and pushes the anterior cervical lip out of the way.

While maintaining this tension, lifting the cervix and applying traction to the shoulders with the fingers of the left hand, the surgeon takes a pair of blunt curved Metzenbaum scissors in the right hand. He carefully advances the tip, curved down, along the spine and under his middle finger until he feels it contact the base of the skull under the tip of his middle finger.

Reassessing proper placement of the closed scissors tip and safe elevation of the cervix, the surgeon then forces the scissors into the base of the skull or into the foramen magnum. Having safely entered the skull, he spreads the scissors to enlarge the opening.

The surgeon removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents. With the catheter still in place, he applies traction to the fetus, removing it completely from the patient.

The surgeon finally removes the placenta with forceps and scrapes the uterine walls with a large Evans and a 14 mm suction curette. The procedure ends.

Recovery

Patients are observed a minimum of 2 hours following surgery. A pad check and vital signs are performed every 30 minutes. Patients with minimal bleeding after 30 minutes are encouraged to walk about the building or outside between checks.

Intravenous fluids, pitocin and antibiotics are available for the exceptional times they are needed.

ANESTHESIA

Lidocaine 1% with epinephrine administered intra-cervically is the standard anesthesia. Nitrous-oxide/oxygen analgesic is administered nasally as an adjunct. For the Dilapan insert and Dilapan change, 12cc's is used in 3 equidistant locations around the cervix. For the surgery, 24cc's is used at 6 equidistant spots.

Carbocaine 1% is substituted for lidocaine for patients who expressed lidocaine sensitivity.

MEDICATIONS

All patients not allergic to tetracycline analogues receive doxycycline 200 mgm by mouth daily for 3 days beginning Day 1.

Patients with any history of gonorrhea, chlamydia or pelvic inflammatory disease receive additional doxycycline, 100 mgm by mouth twice daily for six additional days.

Patients allergic to tetracyclines are not given prophylactic antibiotics.

Ergotrate 0.2 mgm by mouth four times daily for three days is dispensed to each patient.

Pitocin 10 IU intramuscularly is administered upon removal of the Dilapan on Day 3.

Rhogam intramuscularly is provided to all Rh negative patients on Day 3.

Ibuprofen orally is provided liberally at a rate of 100 mgm per hour from Day 1 onward.

Patients with severe cramps with Dilapan dilation are provided Phenergan 25 mgm suppositories rectally every 4 hours as needed.

Rare patients require Synalogos DC in order to sleep during Dilapan dilation.

Patients with a hemoglobin less than 10 g/dl prior to surgery receive packed red blood cell transfusions.

FOLLOW-UP

All patients are given a 24 hour physician's number to call in case of a problem or concern.

At least three attempts to contact each patient by phone one week after surgery are made by the office staff.

All patients are asked to return for check-up three weeks following their surgery.

THIRD TRIMESTER

The author is aware of one other surgeon who uses a conceptually similar technique. He adds additional changes of Dilapan and/or lamineria in the 48 hour dilation period. Coupled with other refinements and a slower operating time, he performs these procedures up to 32 weeks or more.[10]

SUMMARY

In conclusion, Dilation and Extraction is an alternative method for achieving late second trimester abortions to 26 weeks. It can be used in the third trimester.

Among its advantages are that it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia

Among its disadvantages are that it requires a high degree of surgical skill, and may not be appropriate for a few patients.

FOOTNOTES

[1] Cates, W. Jr., Schulz, K.F., Grimes D.A., et al: The Effects of Delay and Method of Choice on the Risk of Abortion Morbidity, Family Planning Perspectives, 9:266, 1977.

[2] Borell, U., Emberey, M.P., Bygdeman, M., et al: Midtrimester Abortion by Dilation and Evacuation (Letter), American Journal of Obstetrics and Gynecology, 131:232, 1978.

[3] Centers for Disease Control: Abortion Surveillance 1978, p. 30, November, 1980.

[4] Grimes, D.A., Cates, W. Jr. (Berger, G.S., et al, ed): Dilation and Evacuation, Second Trimester Abortion—Perspectives After a Decade of Experience, Boston, John Wright—PSG, 1981, p. 132.

[5] Ibid, p. 121–128.

[6] Ibid, p. 121.

[7] Kerenyi, T.D. (Bergen, G.S., et al, ed): Hypertonic Saline Instillation, Second Trimester Abortion—Perspectives After a Decade of Experience, Boston, John Wright—PSG, 1981, p. 79.

[8] Hanson, M.S. (Zatuchni, G. I., et al, ed): Midtrimester Abortion: Dilation and Extraction Preceded by Laminaria, Pregnancy Termination Procedures, Safety and New Developments, Hagerstown, Harper and Row, 1979, p. 192.

[9] Hern, W.M., Abortion Practice, Philadelphia, J.B. Lippincott, 1990, p. 127, 144–6.

Mr. TIAHRT. Mr. Speaker, I believe my colleagues will be interested in Dr. Birnbach's testimony related to partial birth abortions.

Mr. Chairman, members of the subcommittee, my name is David Birnbach, M.D., and I am presently the director of obstetric anesthesiology at St. Luke's-Roosevelt Hospital Center, a teaching hospital of Columbia University College of Physicians and Surgeons in New York City. I am also president-elect of the Society for Obstetric Anesthesia and Perinatology, the society which represents my subspecialty.

I am here today to take issue with the previous testimony before committees of the Congress that suggests that anesthesia causes fetal demise. I believe that I am qualified to address this issue because I am a practicing obstetric anesthesiologist. Since completing my anesthesiology and obstetric anesthesiology training at Harvard University, I have administered analgesia to more than 5,000 women in labor and anesthesia to over 1,000 women undergoing caesarean section. Although the majority of these cases were at full term gestation, I have provided anesthesia to approximately 200 patients who were carrying fetuses of less than 30 weeks gestation and who needed emergency nonobstetric surgery during pregnancy. These operations have included appendectomies, gall bladder surgeries, numerous orthopedic procedures such as fractured ankles, uterine and ovarian procedures, including malignant tumor removal, breast surgery, neurosurgery, and cardiac surgery.

The anesthetics which I have administered have included general, epidural, spinal, and local. The patients have included healthy as well as very sick pregnant patients. Although I often use spinal and epidural anesthesia in pregnant patients, I also administer general anesthesia to these patients and, on occasion, have needed to administer huge doses of general anesthesia in order to allow surgeons to perform cardiac surgery or neurosurgery.

In addition, I believe that I am also especially qualified to discuss the effect of maternally administered anesthesia on the fetus, because I am one of only a handful of anesthesiologists who has administered anesthesia to a pregnant patient undergoing in-utero fetal surgery, thus allowing me to watch the fetus as I administered general anesthesia to the mother. A review of the experiences that my associates and I had while administering general anesthesia to a mother while a surgeon operated on her unborn fetus was published in the Journal of Clinical Anesthesia vol. 1, 1989, pp. 363–367. In this paper, we suggested that general anesthesia provides several advantages to the fetus who will undergo surgery and then be replaced in the womb to continue to grow until mature enough to be delivered. Safe doses of anesthesia to the mother most certainly did not cause fetal demise when used for these operations.

Despite my extensive experience with providing anesthesia to the pregnant patient, I have never witnessed a case of fetal demise that could be attributed to an anesthetic. Although some drugs which we administer to the mother may cross the placenta and affect the fetus, in my medical judgment fetal demise is definitely not a consequence of a properly administered anesthetic. In order to cause fetal demise it would be necessary to give the mother dangerous and life-threatening doses of anesthetics. This is not the way we practice anesthesiology in the United States.

Mr. Chairman, I am deeply concerned that the previous congressional testimony and the widespread publicity that has been given this issue will cause unnecessary fear and anxiety in pregnant patients and may cause some to unnecessarily delay emergency surgery. As an example, several newspapers across the United States have stated that anesthesia causes fetal demise. Because this issue has been allowed to become a "controversy" several of my patients have recently expressed concerns about anesthesia, having seen newspaper or heard radio or television coverage of this issue. Evidence that patients are still receiving misinformation regarding the fetal effects of maternally administered anesthesia can be seen by review of an article that a pregnant patient recently brought with her to the labor and delivery floor. In last month's edition of Marie Claire, a magazine which many of my pregnant patients read, an article about partial birth abortion states: "The mother is put under general anesthetic, which reaches the fetus through her bloodstream. By the time the cervix is sufficiently dilated, the fetus has overdosed on the anesthetic and is brain-dead." These incorrect statements continue to find their way into newspapers and magazines around the country. Despite the previous testimony of Dr. Ellison, I have yet to see an article that states, in no uncertain terms, that anesthesia when used property does not harm the fetus. This supposed controversy regarding the effects of anesthesia on the fetus must be finally and definitively put to rest.

In order to address this complex issue, I believe that it is necessary to comment on three of the statements which have recently been made to the Congress.

First, Dr. James McMahon, now deceased, testified that anesthesia causes neurologic fetal demise.

Second, Dr. Lewis Koplick supported Dr. McMahon and stated: "I am certain that anyone who would call Dr. McMahon a liar is speaking from ignorance of abortions in later pregnancy and of Dr. McMahon's technique and integrity."

Third, Dr. Mary Campbell of Planned Parenthood has addressed this issue by writing the following: "Though these doses are high, the incremental administration of the drugs minimizes the probability of negative outcomes for the mother. In the fetus these dosage levels may lead to fetal demise—death—in a fetus weakened by its own developmental anomalies."

My responses to these statements are as follows:

One, there is absolutely no scientific or clinical evidence that a properly administered maternal anesthetic causes fetal demise. To the contrary, there are hundreds of scientific articles which demonstrate the fetal safety of currently used anesthetics.

Two, Dr. Koplick has stated that the "massive" doses used by Dr. McMahon are responsible for fetal demise. This again, is incorrect and there is not scientific or clinical data to support this allegation. I have personally administered "massive" doses of narcotics to intubated critically ill pregnant patients who are being treated in an intensive care unit. I am pleased to say that the fetuses were born alive and did well.

Three, Dr. Campbell has described the narcotic protocol which Dr. McMahon had used during his D&X procedures: it includes the administration of Midazolam (10–40 mg) and Fetanyl (900–2,500 µg). Although there is no evidence that this dose will cause fetal demise, there is clear evidence that this excessive dose could cause maternal death. These doses are far in excess of any anesthetic that would be used by an anesthesiologist and even if they are incrementally given over a 2 to 3 hour period these doses would in all probability cause enough respiratory depression of the mother, to necessitate intubation and/or assisted respiration. Since Dr. McMahon cannot be questioned regarding his "heavy handed" anesthetic practice. I am unable to explain why we would willingly administer such huge amounts of drugs if he did indeed administer 2,500 µg of fentanyl and 40 mg of midazolam to a patient in a clinic, without an anesthesiologist present, he has definitely placing the mother's life at great risk.

In conclusion, I would like to say that I believe that I have a responsibility as a practicing obstetric anesthesiologist to refute any and all testimony that suggests that maternally administered anesthesia causes fetal demise. It is my opinion that in order to achieve that goal one would need to administer such huge doses of anesthetic to the mother as to place her life at jeopardy. Pregnant women must get the message that should they need anesthesia for surgery or analgesia for labor, they may do so without worrying about the effects on their unborn child.

Thank you for your attention. I am happy to respond to your questions.

Mr. VOLKMER. Mr. Speaker, I submit the following material for inclusion in the RECORD:

[From the American Medical News, Nov. 20, 1995]

OUTLAWING ABORTION METHOD: VETO-PROOF MAJORITY IN HOUSE VOTES TO PROHIBIT LATE-TERM PROCEDURE

(By Diane M. Gianelli)

Washington.—His strategy was simple: Find an abortion procedure that almost anyone would describe as "gruesome," and force the opposition to defend it.

When Rep. Charles T. Canady (R. Fla.) learned about "partial birth" abortions, he was set.

He and other anti-abortion lawmakers launched a congressional campaign to outlaw the procedure.

Following a contentious and emotional debate, the bill passed by an overwhelming—and veto-proof—margin: 288–139. It marks the first time the House of Representatives has voted to forbid a method of abortion. And although the November elections yielded a "pro-life" infusion in both the House and Senate, massive crossover voting occurred, with a significant number of "pro-choice" representatives voting to pass the measure.

The controversial procedure, done in second- and third-trimester pregnancies, involves an abortion in which the provider, according to the bill, "partially vaginally delivers a living fetus before killing the fetus and completing the delivery."

"Partial birth" abortions, also called "intact D&E" (for dilation and evacuation), or "D&X" (dilation and extraction) are done by only a handful of U.S. physicians, including Martin Haskell, MD, of Dayton Ohio, and, until his recent death, James T. McMahon, MD of the Los Angeles area. Dr. McMahon said in a 1993 AM/News interview that he had trained about a half-dozen physicians to do the procedure.

The procedure usually involves the extraction of an intact fetus, feet first, through the birth canal, with all but the head delivered. The surgeon forces scissors into the base of the skull, spreads them to enlarge the opening, and uses suction to remove the brain.

The procedure gained notoriety two years ago, when abortion opponents started running newspaper ads that described and illustrated the method. Their goal was to defeat an abortion rights bill then before Congress on grounds it was so extreme that states would have no ability to restrict even late-term abortions on viable fetuses. The bill went nowhere, but strong reaction to the campaign prompted anti-abortion activists to use it again.

They drafted a bill that would ban the procedure, after considering a number of other options. An Ohio law passed earlier this year, for instance, bans "brain suction" abortions, except when all other methods would pose a greater risk to the pregnant woman. It has been enjoined pending a challenge.

MIXED FEELINGS IN MEDICINE

The procedure is controversial in the medical community. On the one hand, organized medicine bristles at the notion of Congress attempting to ban or regulate any procedures or practices. On the other hand, even some in the abortion provider community find the procedure difficult to defend.

"I have very serious reservations about this procedure," said Colorado physician Warren Hern. MD. The author of "Abortion Practice," the nation's most widely used textbook on abortion standards and procedures. Dr. Hern specializes in late-term procedures.

He opposes the bill, he said, because he thinks Congress has no business dabbling in the practice of medicine and because he thinks this signifies just the beginning of a series of legislative attempts to chip away at abortion rights. But of the procedure in question he says. "You really can't defend it. I'm not going to tell somebody else that they should not do this procedure. But I'm not going to do it."

Dr. Hern's concerns center on claims that the procedure in late-term pregnancy can be safest for the pregnant women, and that without this procedure women would have died. "I would dispute any statement that this is the safest procedure to use," he said.

Turning the fetus to a breech position is "potentially dangerous," he added. "You have to be concerned about causing amniotic fluid embolism or placental abruption if you do that."

Pamela Smith, MD, director of medical education, Dept. of Ob-Gyn at Mt. Sinai Hospital in Chicago, added two more concerns: cervical incompetence in subsequent pregnancies caused by three days of forceful dilation of the cervix and uterine rupture caused by rotating the fetus within the womb.

"There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the life of the mother." Dr. Smith wrote in letter to Canady.

The procedure also has its defenders. The procedure is a "well-recognize and safe technique by those who provide abortion care," Lewis H. Koplik, MD, an Albuquerque, N.M., abortion provider, said in a statement that appeared in the Congressional Record.

"The risk of severe cervical laceration and the possibility of damage to the uterine artery by a sharp fragment of calvarium is virtually eliminated. Without the release of thromboplastic material from the fetal central nervous system into the maternal circulation, the risk of coagulation problems, DIC [disseminated intravascular coagulation], does not occur. In skilled hands, uterine perforation is almost unknown," Dr. Koplik said.

Bruce Ferguson, MD, another Albuquerque abortion provider, said in a letter released to Congress that the ban could impact physicians performing late-term abortions by other techniques. He noted that there were "many abortions in which a portion of the fetus may pass into the vaginal canal and there is no clarification of what is meant by 'a living fetus.' Does the doctor have to do some kind of electrocardiogram and brain wave test to be able to prove their fetus was not living before he allows a foot or hand to pass through the cervix?"

Apart from medical and legal concerns, the bill's focus on late-term abortion also raises troubling ethical issues. In fact, the whole strategy, according to Rep. Chris Smith (R, N.J.), is to force citizens and elected officials to move beyond a philosophical discussion of "a woman's right to choose," and focus on the reality of abortion. And, he said, to expose those who support "abortion on demand" as "the real extremists."

Another point of contention is the reason the procedure is performed. During the Nov. 1 debate before the House, opponents of the bill repeatedly stated that the procedure was used only to save the life of the mother or when the fetus had serious anomalies.

Rep. Vic Fazio (D, Calif.) said, "Despite the other side's spin doctors—real doctors know that the late-term abortions this bill seeks to ban are rare and they're done only when there is no better alternative to save the woman, and, if possible, preserve her ability to have children."

Dr. Hern said he could not imagine a circumstance in which this procedure would be safest. He did acknowledge that some doctors use skull-decompression techniques, but he added that in those cases fetal death has been induced and the fetus would not purposely be rotated into a breech position.

Even some physicians who specialize in this procedure do not claim the majority are performed to save the life of the pregnant woman.

In his 1993 interview with AMNews, Dr. Haskell conceded that 80 percent of his late-term abortions were elective. Dr. McMahon said he would not do an elective abortion after 26 weeks. But in a chart he released to the House Judiciary Committee, "depression" was listed most often as the reason for late-term nonelective abortions with maternal indications. "Cleft lip" was listed nine times under fetal indications.

The accuracy of the article was challenged, two years after publication, by Dr. Haskell and the National Abortion Federation, who told Congress the doctors were quoted "out of context." AMNews Editor Barbara Bolsen defended the article, saying AMNews "had full documentation of the interviews, including tape recordings and transcripts."

Bolsen gave the committee a transcript of the contested quotes, including the following, in which Dr. Haskell was asked if the fetus was dead before the end of the procedure.

"No, it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that the cervix is being dilated. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken.

"So in my case, I would say probably about a third of those are definitely dead before I actually start to remove the fetus. And probably the other two-thirds are not," said Dr. Haskell.

In a letter to Congress before his death, Dr. McMahon stated that medications given to the mother induce "a medical coma" in the fetus, and "there is neurological fetal demise."

But Watson Bowes, MD, a maternal-fetus specialist at the University of North Carolina, Chapel Hill, said in a letter to Canady that Dr. McMahon's statement "suggests a lack of understanding of maternal-fetal pharmacology. * * * Having cared for pregnant women who for one reason or another required surgical procedures in the second trimester, I know they were often heavily sedated or anesthesized for the procedures, and the fetuses did not die."

NEXT MOVE IN THE SENATE

At AMNews press time, the Senate was scheduled to debate the bill. Opponents were lining up to tack on amendments, hoping to gut the measure or send it back to a committee where it could be watered down or rejected.

In a statement about the bill, President Clinton did not use the word "veto." But he said he "cannot support" a bill that did not provide an exception to protect the life and health of the mother. Senate opponents of the bill say they will focus on the fact that it does not provide such an exception.

The bill does provide an affirmative defense to a physician who provides this type of abortion if he or she reasonably believes the procedure was necessary to save the life of the mother and no other method would suffice.

But Rep. Patricia Schroeder (D, Colo.) says that's not sufficient. "This means that it is available to the doctor after the handcuffs have snapped around his or her wrists, bond has been posted, and the criminal trial is under way," she said during the House debate.

Canady disagrees. "No physician is going to be prosecuted and convicted under this law if he or she reasonably believes the procedure is necessary to save the life of the mother."

ORGANIZED MEDICINE POSITIONS VARY

The physician community is split on the bill. The California Medical Assn., which says it does not advocate elective abortions in later pregnancy, opposes it as "an unwarranted intrusion into the physician-patient relationship." The American College of Obstetricians and Gynecologists also opposes it on grounds it would "supersede the medical judgment of trained physicians and * * * would criminalize medical procedures that may be necessary to save the life of a woman," said spokeswoman Alice Kirkman.

The AMA has chosen to take no position on the bill, although its Council on Legislation unanimously recommended support. AMA Trustee Nancy W. Dickey, MD, noted that although the board considered seriously the council's recommendations, it ultimately decided to take no position, because it had concerns about some of the bill's language and about Congress legislating medical procedures.

Meanwhile, each side in the abortion debate is calling news conferences to announce how necessary or how ominous the bill is. Opponents highlight poignant stories of women who have elected to terminate wanted pregnancies because of major fetal anomalies.

Rep. Nita Lowey (D, N.Y.) told the story of Claudia Ames, a Santa Monica woman who said the procedure had saved her life and saved her family.

Ames told Lowey that six months into her pregnancy, she discovered the child suffered from severe anomalies that made its survival impossible and placed Ames' life at risk.

The bill's backers were "attempting to exploit one of the greatest tragedies any family can ever face by using graphic pictures and sensationalized language and distortions," Ames said.

Proponents focus on the procedure's cruelty. Frequently quoted is testimony of a nurse. Brenda Shafer, RN, who witnessed three of these procedures in Dr. Haskell's clinic and called it "the most horrifying experience of my life.

"The baby's body was moving. His little fingers were clasping together. He was kicking his feet." Afterwards, she said, "he threw the baby in a pan." She said she saw the baby move. "I still have nightmares about what I saw."

Dr. Hern says if the bill becomes law, he expects it to have "virtually no significance" clinically. But on a political level, "it is very, very significant."

"This bill's about politics," he said, "it's not about medicine."

Mrs. VUCANOVICH. Mr. Speaker, I submit the following material for inclusion in the RECORD:

[From Cincinnati Medicine, Fall 1993]

2ND TRIMESTER ABORTION

(An interview with W. Martin Haskell, MD)

Last summer, American Medical News ran a story on abortion specialists. Included was W. Martin Haskell, MD, a Cincinnati physician who introduced the D&X procedure for second trimester abortions. The Academy received several calls requesting information about D&X. The following interview provides an overview.

Q: What motivated you to become an abortion specialist?

A: I stumbled into it by accident. I did an internship in anesthesia. I worked for a year in general practice in Alabama. I did two years in general surgery, then switched into family practice to get board certified. My intentions at that time were to go into emergency medicine. I enjoyed surgery, but I realized there was an abundance of really good surgeons here in Cincinnati. I didn't feel I'd make much of a contribution. I'd be just another good surgeon. While I was in family practice, I got a part-time job in the Women's Center. Over the course of several months, I recognized things there could be run a lot better, with a much more professional level of service—not necessarily in terms of medical care—in terms of counseling, the physical facility, patient flow, and in the quality of people who provided support services. The typical abortion patient spends less than ten minutes with the physician who performs the surgery. Yet, that patient might be in the facility for three hours.

When I talked to other physicians whose patients were referred here, I saw problems that could be easily corrected. I realized there was an opportunity to improve overall quality of care, and make a contribution. I own the center now.

Q: Back in 1979 when you were making these decisions, did you consider yourself prochoice?

A: I've never been an activist. I've always felt that no matter what the issue, you prove your convictions by your hard work—not by yelling and screaming.

Q: Have there been threats against you?

A: Not directly. Pro-life activist Randall Terry recently said to me that he was going to do everything within his power to have me tried like a Nazi war criminal.

Q: A recent American Medical News article stated that the medical community hadn't really established a point of fetal viability. Why not?

A: Probably because it can't be established with uniform certainty. Biological systems are highly variable. The generally accepted point of fetal viability is around 24–26 weeks. But you can't take a given point in fetal development and apply that 100 percent of the time. It just doesn't happen that way. If you look at premature deliveries and survival percentages at different weeks of gestation, you'll get 24-week fetuses with some survival rate. The fact that you get some survivors demonstrates the difficulty in defining a point.

Q: Most women who get abortions end pregnancies during the first trimester. Who is the typical second-trimester patient?

A: I don't know that there is a typical second-trimester abortion. But if you look at the spectrum of abortions (most women are between the ages of 19 and 29) they tend to be younger. Some are older. The typical thing that happens with older women is that they never realized they were pregnant because they were continuing to bleed during the pregnancy. The other thing we see with older women is fetal malformations or Down's Syndrome. These are being diagnosed much earlier now than they used to be. We're seeing a lot of genetic diagnoses with ultrasound and amniocentesis at 17–18 weeks instead of 22–24 weeks. With the teenagers, anybody who has ever worked with or had teenagers can appreciate how unpredictable they can be at times. They have adult bodies, but a lot of time they don't have adult minds. So their reaction to problems tends to be much more emotional than an adult's might be. It's a question of maturity. So even though they may have been educated about all kinds of issues in reproductive health, when a teenager becomes pregnant, depending upon her relationship with her family, the amount of peer support she has—every one is a highly-individual case—sometimes they delay until they can no longer contain their problem and it finally comes out. Sometimes it's money: It takes them a while to get the money. Sometimes it's just denial.

Q: Do you think more information on abstinence and contraceptives would decrease the number of teenage pregnancies?

A: I grew up in the sixties and nobody talked about contraception with teenagers in the sixties. But today, though it may be controversial in some areas, there's a lot being taught about reproductive health in the high school curricula. I think a lot more is being done, but the bottom line is we're all still just human—with human emotions, and particularly with teenagers, a sense of invulnerability; it can't happen to me. So education helps a lot, but it's not going to eliminate the problem. You can teach a person the skills, but you can't make them use them.

Q: Does it bother you that a second trimester fetus so closely resembles a baby?

A: I really don't think about it. I don't have a problem with believing the fetus is a fertilized egg. Sure it becomes more physically developed but it lacks emotional development. It doesn't have the mental capacity for self-awareness. It's never been an ethical dilemma for me. For people for whom that is an ethical dilemma, this certainly wouldn't be a field they'd want to go into. Many of our patients have ethical dilemmas about abortion. I don't feel it's my role as a physician to tell her she should not have an abortion because of her ethical feelings. As individuals grow and mature, learn more, feel more, experience more, their perspective about themselves and life, morality and ethics change. Facing the situation of abortion is a part of that passage through life for some women—how they resolve that is their decision. I can be their advisor much as a lawyer can be; he can tell you your options, but he can't make you file a suit or tell you not to file a suit. My role is to provide a service and, to a limited degree, help women understand themselves when they make their decision. I'm not to tell them what's right or wrong.

Q: Do your patients ever reconsider?

A: Between our two centers, that happens maybe once a week. There's a patient who changes her mind or becomes truly ambivalent and goes home to reconsider, then might come back a week or two later. I feel that's one of the strengths of how we approach things here. We try not to create pressure to have an abortion. Our view has always been that there are enough women who want abortions that we don't have to coerce anyone to have one. We've always been strongly against pressure on our patients to go ahead with an abortion.

Q: How expensive is a second trimester abortion?

A: Fees range from $1,200–1,600 depending on length of pregnancy. More insurance companies cover abortion than don't cover it. About 15 percent of our patients won't use insurance because they want to maintain privacy. About 10–20 percent use insurance. The rest pay out of pocket.

Q: What led you to develop D&X?

A: D & E's, the procedure typically used for later abortions, have always been somewhat problematic because of the toughness and development of the fetal tissues. Most physicians do terminations after 20 weeks by saline infusion or prosteglandin induction, which terminates the fetus and allows tissue to soften. Here in Cincinnati, I never really explored it, but I didn't think I had that option. There certainly weren't hospitals willing to allow inductions past 18 weeks—even Jewish, when they did abortions, their limit was 18 weeks. I don't know about University. What I saw here in my practice, because we did D & Es, was that we had patients who needed terminations at a later date. So we learned the skills. The later we did them, the more we saw patients who needed them still later. But I just kept doing D & Es because that was what I was comfortable with, up until 24 weeks. But they were very tough. Sometimes it was a 45-minute operation. I noticed that some of the later D & Es were very, very easy. So I asked myself why can't they all happen this way. You see the easy ones would have a foot length presentation, you'd reach in and grab the foot of the fetus, pull the fetus down and the head would hang up and then you would collapse the head and take it out. It was easy. At first, I would reach around trying to identify a lower extremity blindly with the tip of my instrument. I'd get it right about 30–50 percent of the time. Then I said, "Well gee, if I just put the ultrasound up there I could see it all and I wouldn't have to feel around for it. I did that and sure enough, I found it 99 percent of the time. Kind of serendipity.

Q: Does the fetus feel pain?

A: Neurological pain and perception of pain are not the same. Abortion stimulates fibers, but the perception of pain, the memory of pain that we fear and dread are not there. I'm not an expert, but my understanding is that fetal development is insufficient for consciousness. It's a lot like pets. We like to think they think like we do. We ascribe human-like feelings to them, but they are not capable of the same self-awareness we are. It's the same with fetuses. It's natural to project what we feel for babies to a 24-week old fetus.

[From the American Medical News, Jan. 1, 1996]

ANESTHESIOLOGISTS QUESTION CLAIMS IN ABORTION DEBATE

(By Diane M. Gianelli)

WASHINGTON.—When he saw an article in the St. Louis Post-Dispatch that claimed anesthesia caused fetal death in some late-term abortion procedures. David Birnbach, MD, was "shocked."

"I thought, 'This is crazy,'" said Dr. Birnbach, who is director of obstetric anesthesiology at New York's St. Luke's-Roosevelt Hospital Center, and vice president of the Society for Obstetric Anesthesia and Perinatology.

"Everyday we have pregnant patients who get anesthesia—women who break their ankles, need knee surgery, have appendectomies, gallbladder removals, breast biopsies, and so on. Anesthetics done safely by an anesthesiologist do not do harm to either the mother or the baby," he said.

The anesthesia-causes-fetal-death claim was made by one of the two U.S. physicians who specialized in a particular type of late-term abortion that opponents call "partial birth" abortions. The contention has been repeated by other proponents of the procedure, who refer to it as "intact D&E" (for dilation and evacuation) or "D&X" (dilation and extraction).

Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia. But while some are now qualifying their assertion that anesthesia induces fetal death, they are not backing away from it.

When Rep. Charles T. Canady (R, Fla.) introduced a bill to ban the procedure, James T. McMahon, MD, a Los Angeles area family physician who specialized in this procedure before his recent death, responded. Dr. McMahon wrote that the anesthesia given to the mother before the abortion causes "neurological fetal demise."

The bill to ban the procedure, passed late last year by both the House and the Senate, defines it as one in which the provider "partially vaginally delivers a living fetus before killing the fetus and completing the delivery."

The procedure was recently banned in Ohio, where its other main practitioner, Martin Haskell, MD, lives. But a federal judge declared the law there unconstitutional in a preliminary injunction last month.

On the federal level, the bill faces a presidential veto threat, and while the measure passed the House by a 2-to-1 ratio, proponents do not have enough Senate votes to override a veto.

The claim about anesthesia causing fetal death has been repeated by many of the bill's opponents, including the National Abortion Federation, the National Abortion and Reproductive Rights Action League, and members of Congress. A recent Planned Parenthood "fact sheet" on these late-term abortions claims that "the fetus dies from an overdose of anesthesia given to the mother intravenously."

The distinction of when fetal death occurs is critical, because the bill would ban only procedures in which the fetus was killed after being partially delivered alive through the birth canal. If it could be proved that the fetuses died inside the womb—from anesthesia or any other cause—the abortion would not fall under the proposed law.

After reading the anesthesia-kills-fetuses claim in the St. Louis paper, the American Society of Anesthesiologists issued a press release denouncing it. And in testimony before the Senate, Norig Ellison, MD, president of the society—which did not take a position on the bill—called Dr. McMahon's statements "entirely inaccurate."

He added that he was "deeply concerned" that the widespread publicity given to Dr. McMahon's claims "may cause pregnant women to delay necessary and perhaps even life-saving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus."

In fact, cases of maternal concern have already surfaced. Dr. Birnbach said he has already had patents raise questions. And Rep. Tom Coburn, MD, an Oklahoma Republican who still delivers babies when he goes home on weekends, said he just had a patient refuse epidural anesthesia during childbirth after hearing those claims. Dr. Coburn is a co-sponsor of the bill.

Dr. Ellison, vice chair of the Dept. of Anesthesiology at the University of Pennsylvania School of Medicine in Philadelphia, testified that very little of the anesthetic given the mother ever reaches, the fetus. He added that "in my medical judgment, it would be necessary—in order to achieve 'neurological demise' of a fetus in a 'partial birth' abortion—to anesthetize the mother to such a degree as to place her own health in serious jeopardy."

Planned Parenthood's Mary Campbell, MD, who wrote the fact sheet claiming anesthesia cases fetal death, was grilled during the Senate Judiciary Committee hearing Nov. 17, 1995, by Sen. Spence Abraham (R, Mich.).

When prodded, she conceded "I do not know what causes the fetus to die." When asked why her fact sheet attributes the cause to anesthesia, she replied, "I simplified that for Congress."

Afer the hearing, Dr. Campbell wrote to Sen. Barbara Boxer, (D, Calif.), who led the movement against the bill in the Senate. In her letter, Dr. Campbell repeated that anesthesia caused fetal death, but added some caveats. She said it "may lead to fetal demise (death) in a fetus weakened by its own developmental anomalies."

"In other cases," she wrote, "these drugs prevent the perception of pain by the fetus; they cause depression of fetal respiration before the extraction procedure and preclude fetal respiration afterward."

Dr. Birnbach disputes her contention. Even in the very high-end doses she mentioned, he said—10 mg to 40 mg of Versed, given in 1 mg to 2 mg increments, and 900 ug to 2,500 ug of fentanyl, given in 100 ug to 150 ug increments—"anesthesia does not kill an infant if you don't kill the mother."

He added that when patients receive the high-end dosage range specified by Dr. Campbell, the mother was in fact at risk for depressed breathing. "You can't give those high doses without harming the mother unless the mother is assisted in her breathing," he said.

Dr. Birnbach said that, on occasion, he has given even larger doses than the high-end ones cited by Dr. Campbell and has never caused any harm to either the mother or the fetus.

He also said that Dr. Campbell's claims that the medications depress fetal respiration before the abortion takes place were "immaterial" because fetuses don't breathe in the womb.

Dr. Birnbach added, however, that an infant born alive with depressed respiration can still survive normally. "The narcotics are not a problem. We can reverse the narcotics and we can breathe for the baby."

Another recurring theme at both the hearings and during the ensuing debate about the procedure centers around fetal pain. Specialists in this procedure claim the fetus feels no pain for a variety of reasons, but usually because they say fetuses lack the neural development necessary to perceive pain, or if they are capable of feeling pain, anesthesia given to the mother prevents the preception of pain in the fetus.

Robert J. White, MD, PhD, professor of neurosurgery at Case Western University in Cleveland, testified on the topic before Congress last summer. "There are published scientific studies that demonstrate that by the 20th week, many of the neuronal pathways that sense pain have already started to develop," he said. "By the 24th week, the connections of the cortex and the thalamus are well under way. . . . There is no way to argue with impunity that pain reception is not possible."

Michael J. Murray, MD, an anesthesiologist at the Mayo Clinic in Rochester, Minn., and president of the Minnesota Medical Assn., agrees.

In fact, he said, physicians doing fetal surgery inject narcotic fentanyl and muscle relaxants into the umbilical cord to provide pain relief, even though the mother is already anesthetized, "because what they get from the mom is not enough." He added that studies on neonates getting surgery right after birth indicate that those who were given opioids had much better outcomes than those who were just given muscle relaxants.

The bottom line for many anesthesiologists, regardless of their position on abortion: Women should not be concerned about questionable claims thrown out in the heat of the debate.

"Women who need anesthesia for emergency surgery during pregnancy or who request analgesia for labor should take heart that both they and their babies will do just fine," Dr. Birnbach said.

Mr. CANADY of Florida. Mr. Speaker, I submit the following material for inclusion in the RECORD.

March 27, 1996.

THE SMITH-DOLE SENATE AMENDMENT PROTECTS THE LIFE OF THE MOTHER

DEAR COLLEAGUE: This is in response to a March 26 "Dear Colleague" from Reps. Nita Lowey and Nancy Johnson, which ran under the very misleading headline, "The Dole Amendment Endangers Women's Lives."

As initially passed by the House on Nov. 1, 1995—with 288 votes—HR 1833 contained an "affirmative defense" provision that protected a doctor if he showed that he "reasonable believed" that a partial-birth abortion procedure was necessary to save a mother's life. These sorts of "affirmative defense" exceptions are found in literally dozens of federal criminal statutes. However, opponents of HR 1833 distorted the legal effect of the "affirmative defense" mechanism. Therefore, the prime sponsor of the Senate bill, Sen. Bob Smith (who for some curious reason is not mentioned in the Lowey-Johnson letter) and Sen. Dole offered an amendment that says the ban "shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury: Provided, That no other medical procedure would suffice for that purpose."

Senator Barbara Boxer—the leading Senate opponent of HR 1833—immediately endorsed the Smith-Dole Amendment, which was adopted 98–0. Here is what Senator Boxer said on the floor of the Senate: "And now here we have it. Here we have it, an exception now for life of the mother. I think that is progress. I think that is progress, because when we started, there was no exception. It was an affirmative defense." [Congressional Record, Dec. 5, 1995, p. S 18005]

Moreover, in a Jan. 31 letter to Cardinal Anthony Bevilacqua of Philadelphia, President Clinton himself recognized that the Senate had added a life-of-mother exception (but the President continues to demand the addition of the gutting "health exception" endorsed by the National Abortion and Reproductive Rights Action League.)

Reps. Lowey and Johnson write, "It is unclear whether pregnancy would legally constitute a physical disorder." A normal pregnancy does not constitute a life-threatening condition—but in those rare cases in which a "physical disorder, illness, or injury" causes the pregnancy to threaten a mother's life, the Senate exception obviously applies. With respect, our colleagues' reading of the Senate language is absurdly convoluted, and violates standard principles of statutory construction.

As to our colleagues' other objections: let's keep in mind that a partial-birth abortion involves the almost complete delivery of a living baby, who is then killed. Now, if the entire baby has been delivered alive, except for the head, supposedly without jeopardy to the mother, why can't the doctor simply deliver the head as well, without killing the baby?

When the American Medical News put essentially that very question to Dr. Martin Haskell (who has done over 1,000 partial-birth abortions) in a tape-recorded interview, Dr. Haskell's answer was both candid and chilling: "The point here is you're attempting to do an abortion . . . not to see how do I manipulate the situation so that I get a live birth instead," he said.

(There are rare cases in which a baby suffers from such severe hydrocephaly—head enlargement caused by excess fluid in the skull—so that without intervention, both vaginal delivery and a Caesarian could pose risks to the mother. In those cases, according to Prof. Watson Bowes, a nationally eminent authority on fetal and maternal medicine who is co-editor of the Obstetrical and Gynecological Survey, the standard treatment is cephalocentesis—removal of excess fluid through a needle. "Fluid is then withdrawn which results in reduction of the size in the head so that delivery can occur," wrote Prof. Bowes. "This procedure is not intended to kill the fetus, and, in fact, is usually associated with the birth of a live infant.")

Attempts by HR 1833 opponents to "revive" the life-of-mother issue are merely another reflection of their refusal to come to grips with the uncomfortable fact—which is amply documented in the writings and validated statements of partial-birth abortion practitioners—that the overwhelming majority of partial-birth abortions have nothing whatever to do with life-threatening complications of pregnancy, but are (in the words of Dr. Martin Haskell) "purely elective."

Sincerely,

HENRY J. HYDE,
Chairman.

"FETAL DEATH" OR DANGEROUS DECEPTION? THE EFFECTS OF ANESTHESIA DURING A PARTIAL-BIRTH ABORTION

The claim that anesthesia given to a pregnant woman kills her fetus/baby before a partial-birth abortion is performed has "absolutely no basis in scientific fact," according to Dr. Norig Ellison, the president of the American Society of Anesthesiologists. It is "crazy," says Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology.

Despite such authoritative statements, this medical misinformation is still being disseminated. Here are a few examples:

ABORTION ADVOCATES

KATE MICHELMAN OF THE NATIONAL ABORTION RIGHTS ACTION LEAGUE (NARAL)

One of the leading proponents of the "anesthesia myth" is Kate Michelman, president of the National Abortion Rights Action League (NARAL). For example, in an interview on "Newsmakers," KMOX-AM in St. Louis on Nov. 2, 1995, Ms. Michelman said: The other side grossly distorted the procedure. There is no such thing as a "partial-birth." That's, that's a term made up by people like these anti-choice folks that you had on the radio. The fetus—I mean, it is a termination of the fetal life, there's no question about that. And the fetus, is, before the procedure begins, the anesthesia that they give the woman already causes the demise of the fetus. That is, it is not true that they're born partially. That is a gross distortion, and it's really a disservice to the public to say this.

DR. MARY CAMPBELL OF PLANNED PARENTHOOD

Prior to the November 1, 1995, House vote on the bill, Planned Parenthood circulated to lawmakers a "fact sheet" titled, "H.R. 1833, Medical Questions and Answers," which includes this statement:

"Q: When does the fetus die?

"A: The fetus dies of an overdose of anesthesia given to the mother intravenously. A dose is calculated for the mother's weight which is 50 to 100 times the weight of the fetus. The mother gets the anesthesia for each insertion of the dilators, twice a day. This induces brain death in a fetus in a matter of minutes. Fetal demise therefore occurs at the beginning of the procedure while the fetus is still in the womb."

THE NEW YORK DAILY NEWS

The fetus is partially removed from the womb, its head collapsed and brain suctioned out so it will fit through the birth canal. The anesthesia given to the woman kills the fetus before the full procedure takes place. But you won't hear that from the anti-abortion extreme. It would have everybody believe the fetus is dragged alive from the womb of a woman just weeks away from birth. Not true. (Editorial, Dec. 15, 1995)

USA TODAY

"The fetus dies from an overdose of anesthesia given to its mother." (Editorial, Nov. 3, 1995)

THE ST. LOUIS POST-DISPATCH

"The fetus usually dies from the anesthesia administered to the mother before the procedure begins." (News story, Nov. 3, 1995)

SYNDICATED COLUMNIST ELLEN GOODMAN

Syndicated columnist Ellen Goodman wrote in mid-November that, if one relied on statements by supporters of the bill, "You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal."

THE TRUTH

"Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia." (American Medical News, January 1, 1996)

"[A]nesthesia does not kill an infant if you don't kill the mother." (Dr. David Birnbach quoted in American Medical News, January 1, 1996)

"I am deeply concerned, moreover, that widespread publicity . . . may cause pregnant women to delay necessary and perhaps life-saving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus." (Dr. Norig Ellison, Nov. 17, 1995, testimony before Senate Judiciary Committee)

"Drugs administered to the mother, either local anesthesia administered in the paracervical area or sedatives/analgesics administered intramuscularly or intravenously, will provide no-to-little analgesia [relief from pain] to the fetus." (Dr. Norig Ellison, November 22, 1995, letter to Senate Judiciary Committee)

Mr. SALMON. Mr. Speaker, I submit the following material for inclusion in the RECORD:

AMERICAN MEDICAL NEWS,
PUBLISHED BY THE AMA,
Chicago, IL, July 11, 1995.

Hon. CHARLES T. CANADY,
Chairman, Subcommittee on the Constitution, Committee on the Judiciary, U.S. House of Representatives, Rayburn House Office Bldg., Washington, DC

DEAR REPRESENTATIVE CANADY: We have received your July 7 letter outlining allegations of inaccuracies in a July 5, 1993, story in American Medical News, "Shock-tactic ads target late-term abortion procedure."

You noted that in public testimony before your committee, AMNews is alleged to have quoted physicians out of context. You also noted that one such physician submitted testimony contending that AMNews misrepresented his statements. We appreciate your offer of the opportunity to respond to these accusations, which now are part of the permanent subcommittee record.

AMNews stands behind the accuracy of the report cited in the testimony. The report was complete, fair, and balanced. The comments and positions expressed by those interviewed and quoted were reported accurately and in context. The report was based on extensive research and interviews with experts on both sides of the abortion debate, including interviews with two physicians who perform the procedure in questions.

We have full documentation of these interviews, including tape recordings and transcripts. Enclosed is a transcript of the contested quotes that relate to the allegations of inaccuracies made against AMNews.

Let me also note that in the two years since publication of our story, neither the organization nor the physician who complained about the report in testimony to your committee has contacted the reporter or any editor at AMNews to complain about it. AMNews has a longstanding reputation for balance, fairness and accuracy in reporting, including reporting on abortion, an issue that is as divisive within medicine as it is within society in general. We believe that the story in question comports entirely with that reputation.

Thank you for your letter and the opportunity to clarify this matter.

Respectfully yours,

BARBARA BOLSEN,
Editor.

Attachment.

AMERICAN MEDICAL NEWS TRANSCRIPT

Relevant portions of recorded interview with Martin Haskell, M.D.

AMN. Let's talk first about whether or not the fetus is dead beforehand . . .

HASKELL. No it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that the cervix is being dilated. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken. And so in my case, I would think probably about a third of those are definitely are (sic) dead before I actually start to remove the fetus. And probably the other two-thirds are not.

AMN. Is the skull procedure also done to make sure that the fetus is dead so you're not going to have the problem of a live birth?

HASKELL. It's immaterial. If you can't get it out, you can't get it out.

AMN. I mean, you couldn't dilate further? Or is that riskier?

HASKELL. Well, you could dilate further over a period of days.

AMN. would that just make it . . . would it go from a 3-day procedure to a 4- or a 5-?

HASKELL. Exactly. The point here is to effect a safe legal abortion. I mean, you could say the same thing about the D&E procedure. You know, why do you do the D&E procedure? Why do you crush the fetus inside the womb? To kill it before you take it out?

Well, that happens, yes. But that's not why you do it. YOu do it to get it out. I could do the same thing with a D&E procedure. I could put dilapan in for four or five days and say I'm doing a D&E procedure and the fetus could just fall out. But that's not really the point. The point here is you're attempting to do an abortion. And that's the goal of your work, is to complete an abortion. Not to see how do I manipulate the situation so that I get a live birth instead.

AMN, wrapping up the interview. I wanted to make sure I have both you and (Dr.) McMahon saying 'No' then. That this is misinformation, these letters to the editor saying it's only done when the baby's already dead, in case of fetal demise and you have to do an autopsy. But some of them are saying they're getting that information from NAF. Have you talked to Barbara Radford or anyone over there? I called Barbara and she called back, but I haven't gotten back to her.

HASKELL. Well, I had heard that they were giving that information, somebody over there might be giving information like that out. The people that staff the NAF office are not medical people. And many of them when I gave my paper, many of them came in, I learned later, to watch my paper because many of them have never seen an abortion performed of any kind.

AMN. Did you also show a video when you did that?

HASKELL. Yeah. I taped a procedure a couple of years ago, a very brief video, that simply showed the technique. The old story about a picture's worth a thousand words.

AMN. As National Right to Life will tell you.

HASKELL. Afterwards they were just amazed. They just had no idea. And here they're rabid supporters of abortion. They work in the office there. And . . . some of them have never seen one performed . . .

Comments on elective vs. non-elective abortions:

HASKELL. And I'll be quite frank: most of my abortions are elective in that 20-24 week range . . . In my particular case, probably 20% are for genetic reasons. And the other 80% are purely elective.

[From the American Medical News, July 5, 1993]

SHOCK-TACTIC ADS TARGET LATE-TERM ABORTION PROCEDURE

FOES HOPE CAMPAIGN WILL SINK FEDERAL ABORTION RIGHTS LEGISLATION

(By Diana M. Gianelli)

WASHINGTON.—In an attempt to derail an abortion-rights bill maneuvering toward a congressional showdown, opponents have launched a full-scale campaign against late-term abortions.

The centerpieces of the effort are newspaper advertisements and brochures that graphically illustrate a technique used in some second- and third-trimester abortions. A handful of newspapers have run the ads so far, and the National Right to Life Committee has distributed 4 million of the brochures, which were inserted into about a dozen other papers.

By depicting a procedure expected to make most readers squeamish, campaign sponsors hope to convince voters and elected officials that a proposed federal abortion-rights bill is so extreme that states would have no authority to limit abortions—even on potentially viable fetuses.

According to the Alan Guttmacher Institute, a research group affiliated with Planned Parenthood, about 10% of the estimated 1.6 million abortions done each year are in the second and third trimesters.

Barbara Radford of the National Abortion Federation denounced the ad campaign as disingenuous, saying its "real agenda is to outlaw virtually all abortions, not just late-term ones." But she acknowledged it is having an impact, reporting scores of calls from congressional staffers and others who have seen the ads and brochures and are asking pointed questions about the procedure depicted.

The Minneapolis Star-Tribune ran the ad May 12, on its op-ed page. The anti-abortion group Minnesota Citizens Concerned for Life paid for it.

In a series of drawings, the ad illustrates a procedure called "dilation and extraction," or D&X, in which forceps are used to remove second- and third-trimester fetuses from the uterus intact, with only the head remaining inside the uterus.

The surgeon is then shown jamming scissors into the skull. The ad says this is done to create an opening large enough to insert a catheter that suctions the brain, while at the same time making the skull small enough to pull through the cervix.

"Do these drawings shock you?" the ad reads. "We're sorry, but we think you should know the truth."

The ad quotes Martin Haskell, MD, who described the procedure at a September 1992 abortion-federation meeting, as saying he personally has performed 700 of them. It then states that the proposed "Freedom of Choice Act" now moving through Congress would "protect the practice of abortion at all stages and would lead to an increase in the use of this grisly procedure."

ACCURACY QUESTIONED

Some abortion-rights advocates have questioned the ad's accuracy.

A letter to the Star-Tribune said the procedure shown "is only performed after fetal death when an autopsy is necessary or to save the life of the mother." And the Morrisville, Vt., Transcript, which said in an editorial that it allowed the brochure to be inserted in its paper only because it feared legal action if it refused, quoted the abortion federation as providing similar information. "The fetus is dead 24 hours before the pictured procedure is undertaken," the editorial stated.

But Dr. Haskell and another doctor who routinely use the procedure for late-term abortions told AMNews that the majority of fetuses aborted this way are alive until the end of the procedure.

Dr. Haskell said the drawing were accurate "from a technical point of view." But he took issue with the implication that the fetuses were "aware and resisting."

Radford also acknowledged that the information her group was quoted as providing was inaccurate. She has since sent a letter to federation members, outlining guidelines for discussing the matter. Among the points:

Don't apologize; this is a legal procedure.

No abortion method is acceptable to abortion opponents.

The language and graphics in the ads are disturbing to some readers. "Much of the negative reaction, however, is the same reaction that might be invoked if one were to listen to a surgeon describing step-by-step almost any other surgical procedure involving blood, human tissue, etc."

LATE-ABORTION SPECIALISTS

Only Dr. Haskell, James T. McMahon, MD, of Los Angeles, and a handful of other doctors perform the D&X procedure, which Dr. McMahon refers to as "intact D&E." The more common late-term abortion methods are the classic D&E and induction, which usually involves injecting digoxin or another substance into the fetal heart to kill it, then dilating the cervix and inducing labor.

Dr. Haskell, who owns abortion clinics in Cincinnati and Dayton, said he started performing D&Es for late abortions out of necessity. Local hospitals did not allow inductions past 18 weeks, and he had no place to keep patients overnight while doing the procedure.

But the classic D&E, in which the fetus is broken apart inside the womb, carries the risk of perforation, tearing and hemorrhaging, he said. So he turned to the D&X, which he says is far less risky to the mother.

Dr. McMahon acknowledged that the procedure he, Dr. Haskell and a handful of other doctors use makes some people queasy. But he defends it. "Once you decide the uterus must be emptied, you then have to have 100% allegiance to maternal risk. There's no justification to doing a more dangerous procedure because somehow this doesn't offend your sensibilities as much."

BROCHURE CITES N.Y. CASE

The four-page anti-abortion brochures also include a graphic depiction of the D&X procedure. But the cover features a photograph of 16-month-old Ana Rosa Rodriquez, whose right arm was severed during an abortion attempt when her mother was 7 months pregnant.

The child was born two days later, at 32 to 34 weeks' gestation. Abu Hayat, MD, of New York, was convicted of assault and performing an illegal abortion. He was sentenced to up to 29 years in prison for this and another related offense.

New York law bans abortions after 24 weeks, except to save the mother's life. The brochure states that Dr. Hayat never would have been prosecuted if the federal "Freedom of Choice Act" were in effect, because the act would invalidate the New York statute.

The proposed law would allow abortion for any reason until viability. But it would leave it up to individual practitioners—not the state—to define that point. Postviability abortions, however, could not be restricted if done to save a woman's life or health, including emotional health.

The abortion federation's Radford called the Hayat case "an aberration" and stressed that the vast majority of abortions occur within the first trimester. She also said that later abortions usually are done for reasons of fetal abnormality or maternal health.

But Douglas Johnson of the National Right to Life Committee called that suggestion "blatantly false."

"The abortion practitioners themselves will admit the majority of their late-term abortions are elective," he said. "People like Dr. Haskell are just trying to teach others how to do it more efficiently."

NUMBERS GAME

Accurate figures on second- and third-trimester abortions are elusive because a number of states don't require doctors to report abortion statistics. For example, one-third of all abortions are said to occur in California, but the state has no reporting requirements. The Guttmacher Institute estimates there were nearly 168,000 second- and third-trimester abortions in 1988, the last year for which figures are available.

About 60,000 of those occurred in the 16- to 20-week period, with 10,660 at week 21 and beyond, the institute says. Estimates were based on actual gestational age, as opposed to last menstrual period.

There is particular debate over the number of third-trimester abortions. Former Surgeon General C. Everett Koop, MD, estimated in 1984 that 4,000 are performed annually. The abortion federation puts the number at 300 to 500. Dr. Haskell says that "probably Koop's numbers are more correct."

Dr. Haskell said he performs abortions "up until about 25 weeks' "gestation, most of them elective. Dr. McMahon does abortions through all 40 weeks of pregnancy, but said he won't do an elective procedure after 26 weeks. About 80% of those he does after 21 weeks are nonelective, he said.

MIXED FEELINGS

Dr. McMahon admits having mixed feelings about the procedure in which he has chosen to specialize.

"I have two positions that may be internally inconsistent, and that's probably why I fight with this all the time," he said.

"I do have moral compunctions. And if I see a case that's later, like after 20 weeks where it frankly is a child to me, I really agonize over it because the potential is so imminently there. I think, 'Gee, it's too bad that this child couldn't be adopted.'

"On the other hand, I have another position, which I think is superior in the hierarchy of questions, and that is: 'Who owns the child?' It's got to be the mother."

Dr. McMahon says he doesn't want to "hold patients hostage to my technical skill. I can say, 'No, I won't do that,' and then they're stuck with either some criminal solution or some other desperate maneuver."

Dr. Haskell, however, says whatever qualms he has about third-trimester abortions are "only for technical reasons, not for emotional reasons of fetal development."

"I think it's important to distinguish the two," he says, adding that his cutoff point is within the viability threshold noted in *Roe* v. *Wade*, the Supreme Court decision that legalized abortion. The decision said that point usually occurred at 28 weeks "but may occur earlier, even at 24 weeks."

Viability is generally accepted to be "somewhere between 25 and 26 weeks," said Dr. Haskell. "It just depends on who you talk to.

"We don't have a viability law in Ohio. In New York they have a 24-week limitation. That's how Dr. Hayat got in trouble. If somebody tells me I have to use 22 weeks, that's fine . . . . I'm not a trailblazer or activist trying to constantly press the limits."

CAMPAIGN'S IMPACT DEBATED

Whether the ad and brochures will have the full impact abortion opponents intend is yet to be seen.

Congress has yet to schedule a final showdown on the bill. Although it has already passed through the necessary committees, supporters are reluctant to move it for a full House and Senate vote until they are sure they can win.

In fact, House Speaker Tom Foley (D, Wash.) has said he wants to bring the bill for a vote under a "closed rule" procedure, which would prohibit consideration of amendments.

But opponents are lobbying heavily against Foley's plan. Among the amendments they wish to offer is one that would allow, but not require, states to restrict abortion—except to save the mother's life—after 24 weeks.

Mr. SMITH of New Jersey. Mr. Speaker, I submit the following material for inclusion in the RECORD:

PARTIAL-BIRTH ABORTIONS: BEHIND THE MISINFORMATION

(By Douglas Johnson, NRLC Federal Legislative Director)

NOTE: The Partial-Birth Abortion Ban Act (HR 1833) has been approved in slightly different versions by the U.S. House of Representatives (Nov. 1, 1995, on a vote of 288–139) and by the U.S. Senate (Dec. 7, 1995, on a vote of 54–44). It is expected that the House will approve the Senate-passed bill on March 27 and send it to President Clinton soon thereafter. President Clinton will veto the bill because "the President shares the view of many that it would represent an erosion of a woman's right to choose," White House Press Secretary Mike McCurry said on December 20, 1995.

Opponents of the bill have disseminated an extraordinary amount of misinformation regarding the partial-birth abortion procedure and the legislation—much of it starkly contradicted by the past writings and recorded statements of doctors who have performed thousands of partial-birth abortions. Some of this misinformation has been adopted and widely disseminated by some journalists, columnists, editorialists, and lawmakers. This factsheet addresses some of these issues.

WHAT IS THE PARTIAL-BIRTH ABORTION BAN ACT (HR 1833)?

The Partial-Birth Abortion Ban Act (HR 1833) would place a national ban on use of the partial-birth abortion procedure, except in cases (if there are any) in which the procedure is necessary to save the life of a mother.

The bill specifically defines a "partial-birth abortion" as "an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery." [emphasis added] Abortionists who violate the law would be subject to both criminal and civil penalties, but no penalty could be applied to the woman who obtained such an abortion.

The bill is aimed at a procedure that has often been utilized by Dr. Martin Haskell of Dayton, Ohio; by the late Dr. James McMahon of Los Angeles; and by others. This procedure is generally used beginning at 20 weeks (4½ months) into the pregnancy, is "routinely" used to 5½ months, and has often been used even during the final three months of pregnancy.

The Los Angeles Times accurately and succinctly described this abortion method in a June 16, 1995 news story:

> The procedure requires a physician to extract a fetus, feet first, from the womb and through the birth canal until all but its head is exposed. Then the tips of surgical scissors are thrust into the base of the fetus' skull, and a suction catheter is inserted through the opening and the brain is removed.

In 1992, Dr. Haskell wrote a paper ("Dilation and Extraction for Late Second Trimester Abortion") that described in detail, step-by-step, how to perform the procedure. Anyone who is seriously seeking the truth behind the conflicting claims regarding partial-birth abortions would do well to start by reading Dr. Haskell's paper, and the transcripts of the explanatory interviews that Dr. Haskell gave in 1993 to the publications American Medical News (the official AMA newspaper) and Cincinnati Medicine.

Regarding the procedure, Dr. Haskell wrote, "Among its advantages are that it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia." (p. 33). Dr. Haskell also wrote that he "routinely performs this procedure on all patients 20 through 24 weeks LMP [i.e., from last menstrual period] with certain exceptions" [i.e., from 4½ to 5½ months], these "exceptions" involving complicating factors such as being more than 20 pounds overweight.

Dr. Haskell also wrote that he used the procedure through 26 weeks [six months] "on selected patients." [p.28]

Dr. James McMahon used essentially the same procedure to a much later point—even into the ninth month. (Dr. McMahon died of cancer on Oct. 28, 1995.)

In a letter to Congressman Charles Canady dated March 19, 1996, Dr. William Rashbaum of New York City wrote that he has performed the procedure "routinely since 1979. This procedure is performed only in cases of later gestational age."

DOES THE BILL CONTAIN AN EXCEPTION FOR LIFE-OF-THE-MOTHER CASES?

As originally passed by the House on November 1, 1995, HR 1833 contained an "affirmative defense" provision, which would have shielded an abortionist from civil and criminal liability if he showed that he had "reasonably believed" that utilization of the partial-birth abortion procedure was necessary to save the life of a mother.

Similar "affirmative defense" exceptions are found in literally dozens of federal criminal laws. Nevertheless, after bill opponents distorted this provision, NRLC endorsed and the Senate unanimously adopted the Smith-Dole Amendment, which provides that the ban "shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury."

Senator Barbara Boxer (D-Ca.), the lead Senate opponent of the HR 1833, immediately endorsed the Smith-Dole Amendment, saying:

> And now here we have it. Here we have it, an exception now for life of the mother. I think that is progress, because when we started there was no exception. It was an affirmative defense. [Congressional Record, Dec. 5, 1995, p. S 18005]

Under the Smith-Dole Amendment, an abortionist could not be convicted of a violation of the law unless the government proved, beyond a reasonable doubt, that the abortion was not covered by this exception. (In addition, of course, the government would have to prove, beyond a reasonable doubt, all of the other elements of the offense—that the abortionist "knowingly" partly removed a baby from the womb, that the baby was still alive, and that the abortionist then killed the baby.)

In a Jan. 31 letter to Cardinal Anthony Bevilacqua of Philadelphia, President Clinton acknowledged that the Senate had added a life-of-mother exception.

WHAT FURTHER CHANGES DOES PRESIDENT CLINTON DEMAND IN THE BILL?

In a February 28, 1996 letter to certain Members of Congress, the President insisted that abortionists must be permitted to use the procedure, not only to save a mother's life, but also whenever they assert that the procedure is necessary to prevent unspecified "serious health consequences."

The President's letter proposed precisely the language of an amendment offered on the Senate floor by Sen. Barbara Boxer (D-Ca.), which was endorsed by the National Abortion and Reproductive Rights Action League (NARAL) as a "pro-choice vote."

NARAL and other pro-abortion advocacy groups clearly recognized that the Boxer Amendment amounted to a re-statement of the status quo. After the Boxer Amendment was defeated by only a two-vote margin (51 to 47), a spokeswoman for the pro-abortion Alan Guttmacher Institute said, "We were almost able to kill the bill." (Congressional Quarterly Weekly Report, Dec. 9, 1995, page 3738)

President Clinton—a Yale Law School graduate who once taught constitutional law—understands very well that with respect to abortion, "health" is a legal term of art. In Doe v. Bolton (the companion case to Roe v. Wade), the Supreme Court defined "health" (in the abortion context) to include "all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient."

Thus, the Boxer Amendment (demanded by President Clinton) would allow abortionists to continue to perform partial-birth abortions, even during the seventh, eighth, and ninth months, for reasons such as "depression." This is not a far-fetched hypothetical, as discussed below under "For What Reasons Are Partial-Birth Abortions Usually Performed?"

Senator Boxer has added the word "serious" before "health," for optical effect, but adding the word does not legally narrow the scope of "health," since the amendment confers on the abortionist himself the unlimited power to define whether the "depression" or other "health" concern is "serious." No partial-birth abortion would ever be blocked by the law, because the Boxer Amendment confers on the abortionist absolute authority to decide what the law means ("in the medical judgment of the attending physician").

Thus, a "life" exception and a "health" exception are two vastly different things. For example: Prior to enactment of the Hyde Amendment in 1976, the federal Medicaid program paid for 300,000 "health" or "medically necessary" abortions a year; the term was construed to cover any physician-performed abortion. The Hyde Amendment limited reimbursement to "life" cases, which have been on the order of 100 to 200 annually. In other words, the ratio of "health" cases to "life" cases, under Medicaid, was more than 1,000 to 1.

HOW MANY PARTIAL-BIRTH ABORTIONS ARE PERFORMED?

Nobody knows. Pro-abortion groups have claimed that "only" 450 such procedures are performed every year. But the combined practices of Dr. Martin Haskell and the late Dr. James McMahon alone would have approximated that figure.

In a letter to Congressman Canady dated March 19, 1996, New York doctor William K. Rashbaum wrote that he has performed the procedure that would be banned by HR 1833 "routinely since 1979. This procedure is performed only in cases of later gestational age." Moreover, The New York Times reported in a Nov. 6, 1995 news story about the bill:

"Of course I use it, and I've taught it for the last 10 years," said a gynecologist at a New York teaching hospital, who spoke on the condition of anonymity. "So do doctors in other cities."

It is impossible to know how many other abortionists have adopted the procedure, without choosing to write articles or grant interviews on the subject. Both Haskell and McMahon spent years trying to convince other abortionists of the merits of the procedure. That is why Haskell wrote his 1992 instructional paper. For years, Mr. McMahon was director of abortion instruction at the Cedar Sinai Medical Center in Los Angeles.

There are at least 164,000 abortions a year after the first three months of pregnancy, and 13,000 abortions annually after 4½ months, according to the Alan Guttmacher Institute (New York Times, July 5 and November 6, 1995), which is an arm of Planned Parenthood. These numbers should be regarded as minimums, since they are based on voluntary reporting to the AGI.

FOR WHAT REASONS ARE PARTIAL-BIRTH ABORTIONS TYPICALLY PERFORMED?

Some opponents of HR 1833, such as NARAL and the Planned Parenthood Federation of America (PPFA), have persistently disseminated claimed that the procedure is employed only in cases involving extraordinary threats to the mother of grave fetal disorders. Regrettably, more than a few reporters, commentators, and members of Congress have uncritically embraced such claims and disseminated them as "facts."

For example, PPFA said in a press release that the procedure is "done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality." (Nov. 1, 1995) But (as PPFA well knows), this claim is inconsistent with the writings and recorded statements of doctors who have performed thousands of these procedures, or with documents gathered by the House and Senate judiciary committees.

Dayton abortionist Dr. Martin Haskell, who wrote a paper describing step-by-step how to perform the procedure (he's done over 1,000), described it as "a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia."

Dr. Haskell wrote that he "routinely performs this procedure on all patients 20 through 24 weeks" (4½ to 5½ months) pregnant [emphasis added], except on women who are more than 20 pounds overweight, have twins, or have certain other complicating factors.

In 1993, after NRLC's publicizing of Dr. Haskell's paper engendered considerable controversy, the American Medical News—the official newspaper of the AMA—conducted a tape-recorded interview with Dr. Haskell concerning this specific abortion method, in which he said:

And I'll be quite frank: most of my abortions are elective in that 20–24 week range * * * In my particular case, probably 20% [of this procedure] are for genetic reasons. And the other 80% are purely elective.

In testimony in a lawsuit in 1995, Dr. Haskell testified that women come to him for partial-birth abortions with "a variety of conditions. Some medical, some not so medical" Among the "medical" examples he cited was "agoraphobia" (fear of open places).

Moreover, in testimony presented to the Senate Judiciary Committee on November 17, 1995, ob/gyn Dr. Nancy Romer of Dayton (the city in which Dr. Haskell operates one of his abortion clinics) testified that three of her own patients had gone to Haskell's clinic for abortions "well beyond" 4½ months into pregnancy, and that "none of these women had any medical illness, and all three had normal fetuses."

Brenda Pratt Shafer, a registered nurse who observed Dr. Haskell use the procedure to abort three babies in 1993, testified that one little boy had Down Syndrome, while the other two babies were completely normal and their mothers were healthy. [Nurse Shafer's testimony before the House Judiciary subcommittee, with associated documentation, is available on request to NRLC.]

Dr. James McMahon voluntarily submitted to the House Judiciary Constitution subcommittee a breakdown of a self-selected sample of 175 partial-birth abortions that he performed for what he called "maternal indications." Of these,the largest single category of "maternal indication"—39 cases, or 22% of the total sample—were for "depression." (Other "maternal indications" included "spousal drug exposure" and "substance abuse.") Dr. McMahon's self-selected sample of "fetal indications" cases showed he had performed nine of these procedures for "cleft plate." Even though this data is cited in the official report of the committee, when NARAL President Kate Michelman was asked at a November 7, 1995 press conference about "arguments . . . that these procedures . . . are given for depression or cleft palate," Ms. Michelman responded, "That is . . . not only a myth, it's a lie."

Dr. McMahon also wrote: After 26 weeks [six months], those pregnancies that are not flawed are still nonelective. They are interrupted because of maternal risk, rape, incest, psychiatric or pediatric indications. [Emphasis added.] ["Pediatric indications" was Dr. McMahon's terminology for young teenagers.]

Dr. Pamela E. Smith, director of Medical Education, Department of Obstetrics and Gynecology, Mt. Sinai Hospital, Chicago, gave the Senate Judiciary Committee her analysis of Dr. McMahon's sample of 175 cases in which he said he had used the procedure because of maternal health indications. Of this sample, 39 cases (22%) were for maternal "depression," while another 16% were "for conditions consistent with the birth of a normal child (e.g., sickle cell trait, prolapsed uterus, small pelvis)," Dr. Smith noted. She added that in one-third of the cases, the conditions listed as "maternal indications" by Dr. McMahon really indicated that the procedure itself would be seriously risky.

Reporter Karen Tumulty wrote an article about late-term abortions, based in large part on extensive interviews with Dr. McMahon and on direct observation of his practice, which appeared in the Los Angeles Times Magazine (January 7, 1990). She concluded: If there is any other single factor that inflates the number of late abortions, it is youth. Often, teen-agers do not recognize the first signs of pregnancy. Just as frequently, they put off telling anyone as long as they can.

Dr. George Tiller of Wichita, Kansas, specializes in late-term abortions, including third-trimester abortions. Dr. Tiller's spokeswoman, Peggy Jarman, told the Kansas City Star: About three-fourths of Tiller's late-term patients, Jarman said, are teenagers who have denied to themselves or their families they were pregnant until it was too late to hide it.

In 1993, the then-executive director of the National Abortion Federation (NAF) distributed an internal memorandum to the members of that organization which acknowledged that such abortions are performed for "many reasons": There are many reasons why women have late abortions: life endangerment, fetal indications, lack of money or health insurance, social-psychological crises, lack of knowledge about human reproduction, etc."

Likewise, a June 12, 1995, letter from NAF to members of the House of Representatives noted that late abortions are sought by, among others, "very young teenagers . . . who have not recognized the signs of their pregnancies until too late," and by "women in poverty, who have tried desperately to act responsibly and to end an unplanned pregnancy in the early stages, only to face insurmountable financial barriers."

It is true, of course, that some partial-birth abortions involve babies who have grave disorders that will result in death soon after birth. But these unfortunate members of the human family deserve compassion and the best comfort-care that medical science can offer—not a scissors in the back of the head. In some such situations there are good medical reasons to deliver such a child early, after which natural death will follow quickly.

IS A PARTIAL-BIRTH ABORTION EVER THE ONLY WAY TO PRESERVE A MOTHER'S PHYSICAL HEALTH?

Dr. Pamela E. Smith, Director of Medical Education, Department of Obstetrics and Gynecology, Mt. Sinai Hospital, Chicago, testified, "There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the life or health of the mother."

Dr. Harlan R. Giles, a professor of "high-risk" obstetrics and perinatology at the Medical College of Pennsylvania, performs abortions by a variety of procedures up until "viability." In sworn testimony in the U.S. Federal District Court for the Southern District of Ohio (Nov. 13, 1995), Prof. Giles said:

After 23 weeks I do not think there are any maternal conditions that I'm aware of that mandate ending the pregnancy that also require that the fetus be dead or that the fetal life be terminated. In my experience for 20 years, one can deliver these fetuses either vaginally, or by Caesarean section for that matter, depending on the choice of the parents with informed consent . . . But there's no reason these fetuses cannot be delivered intact vaginally after a miniature labor, if you will, and be at least assessed at birth and given the benefit of the doubt. [transcript, page 240]

Opponents of H.R. 1833 have publicized the cases of several women whose babies suffered from severe hydrocephalus (enlargement of the head). But an eminent authority on such matters, Dr. Watson A. Bowes, Jr., professor of ob/gyn (maternal and fetal medicine) at the University of North Carolina, who is co-editor of the Obstetrical and Gynecological Survey, wrote to Congressman Canady:

Critics of your bill who say that this legislation will prevent doctors from performing certain procedures which are standard of care, such as cephalocentesis (removal of fluid from the enlarged head of a fetus with the most severe form of hydrocephalus) are mistaken. In such a procedure a needle is inserted with ultrasound guidance through the mother's abdomen into the uterus and then into the enlarged ventricle of the brain (the space containing cerebrospinal fluid). Fluid is then withdrawn which results in reduction of the size in the head so that delivery can occur. This procedure is not intended to kill the fetus, and, in fact, is usually associated with the birth of a live infant.

IS THE BABY ALIVE WHEN SHE IS PULLED FEET-FIRST FROM THE WOMB?

Yes, in most cases the baby is alive until the end of the procedure. American Medical News reported in 1993, after conducting interviews with Drs. Haskell and McMahon, that the doctors "told AM News that the majority of fetuses aborted this way are alive until the end of the procedure." On July 11, 1995, American Medical News submitted the transcript of the tape-recorded interview with Haskell to the House Judiciary Committee. The transcript contains the following exchange:

American Medical News: Let's talk first about whether or not the fetus is dead beforehand.

Dr. Haskell: No it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that the cervix is being dilated [to permit extraction of the fetus]. Sometimes the membranes rupture and it takes a very small superficial infection to kill a fetus in utero when the membranes are broken. And so in my case, I would think probably about a third of those are definitely are [sic] dead before I actually start to remove the fetus. And probably the other two-thirds are not.

In an interview quoted in the Dec. 10, 1989 Dayton News, Dr. Haskell again conveyed that the scissors thrust is usually the lethal act: "When I do the instrumentation on the skull . . . it destroys the brain tissue sufficiently so that even if it (the Fetus) falls out at that point, it's definitely not alive," Dr. Haskell said.

DOES ANESTHESIA GIVEN TO THE MOTHER KILL THE BABY? DOES THE BABY FEEL PAIN DURING THE PROCEDURE?

In Dr. Haskell's 1992 instructional paper, he lists among the "advantages" of the procedure that "it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia." [emphasis added] According to Prof. David H. Chestnut, editor of Obstetric Anesthesia: Principles and Practice, "Rational use of local anesthetic drugs does not affect the fetus." (Testimony to House Judiciary Constitution Subcommittee, March 21, 1996).

Dr. James McMahon utilized general anesthesia, at least in some cases, but anesthesiologists say that these drugs do not harm the fetus/baby unless given in amounts that would kill the mother or place her in grave danger. (See below.)

Nevertheless, many critics of the bill have insisted that the unborn babies are killed by anesthesia given to the mother, prior to being "extracted" from the womb. For example, syndicated columnist Ellen Goodman wrote in November that, based on her review of statements by supporters of the bill, "You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal."

The Planned Parenthood Federation of America (PPFA) has been among the most persistent purveyors of this mythology. Another leading proponent of the "anesthesia myth" has been Kate Michelman, president of the National Abortion and Reproductive Rights Act League (NARAL). For example, in an interview on "Newsmakers," KMOX-AM in St. Louis on Nov. 2, 1995, Ms. Michelman explained that she thinks it is wrong to call the procedure a "partial birth" because (she claimed) the baby is already dead. Kate Michelman's verbatim statement follows:

The other side grossly distorted the procedure. There is no such thing as a 'partial birth'. That's, that's a term made up by people like these anti-choice folks that you had on the radio. The fetus— I mean, it is a termination of the fetal life, there's no question about that. And the fetus, is, before, the procedure begins, the anesthesia that they give the woman already causes the demise of the fetus. That is, it is not true that they're born partially. That is a gross distortion, and it's really a disservice to the public to say this.

However, the claim that anesthesia can kill an unborn fetus has been emphatically refuted in congressional testimony by the heads of the leading professional societies of anesthesiologists. These exports have criticized both pro-abortion leaders and certain journalists and commentators, for disseminating these bogus claims, while failing to publicize the authoritative statements of experts that these claims are entirely bogus.

In testimony before the Senate Judiciary Committee on November 17, 1995, Dr. Norig Ellison, president of the 34,000-member American Society of Anesthesiologists (ASA), said that such claims have "absolutely no basis in scientific fact." On behalf of the ASA, Dr. Ellison testified that regional anesthesia (used in many partial-birth abortions and most normal deliveries) has virtually no effect on the fetus. General anesthesia has some sedating effect on the fetus, but much less than on the mother; even pain relief for the fetus is doubtful, and certainly anesthesia would not kill the baby, Dr. Ellison testified. (In March 1996, Dr. Ellison said that his testimony had been reported in the medical press and that not one anesthesiologist had contacted ASA to express any disagreement.)

In testimony before the House Judiciary Constitution Subcommittee on March 21, 1996, Dr. David J. Birnbach, president-elect of the Society for Obstetric Anesthesia and Perinatology, testified, "I have never witnessed a case of fetal demise that could be attributed to an anesthetic. . . . In order to cause fetal demise, it would be necessary to give the mother dangerous and life-threatening doses of anesthesia."

Recently, the Planned Parenthood Federation of America (PPFA) and NARAL have tried to "explain" that they were really just referring to the practice of the late Dr. James McMahon—who, they claimed, used massive doses of narcotic anesthesia. But Dr. Birnbach said, "Although there is no evidence that this massive dose will cause fetal demise, there is clear evidence that this excessive dose could cause maternal death."

Brenda Pratt Shafer, a registered nurse from Dayton, Ohio, stood at Haskell's side while he performed three partial-birth abortions in 1993. In testimony before the Senate Judiciary Committee (Nov. 17), Shafer described in detail the first of the three procedures—which involved, she said, a baby boy at 26½ weeks (over 6 months). According to Mrs. Shafer, the abortionist delivered the baby's body and the arms—everything but the head. The doctor kept the baby's head just inside the uterus. The baby's little fingers were clasping and unclasping, and his feet were kicking. Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinch, a startle reaction, like a baby does when he thinks that he might fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby was completely limp.

Since the baby is usually not dead before being removed from the womb, does the baby experience pain? Yes, according to experts such as Professor Robert White, Director of the Division of Neurosurgery and Brain Research Laboratory at Case Western Reserve School of Medicine, who testified before the House Judiciary Constitution Subcommittee: "The fetus within this time frame of gestation, 20 weeks and beyond, is fully capable of experiencing pain." After analyzing the partial-birth procedure step-by-step for the subcommittee, Prof. White concluded: "Without question, all of this is a dreadfully painful experience for any infant subjected to such a surgical procedure."

Similar testimony was presented to the subcommittee on March 21, 1996, by Dr. Jean A. Wright, associate professor of pediatrics and anesthesia at the Emory University School of Medicine in Atlanta. Recent research shows that by the stage of development that a fetus could be a "candidate" for a partial-birth abortion (20 weeks), the fetus "is more sensitive to pain than a full-term infant would be if subjected to the same procedures," Prof. Wright testified. These fetuses have "the anatomical and functional processes responsible for the perception of pain," and have "a much higher density of Opioid (pain) receptors" than older humans, she said.

IS THERE A MORE "OBJECTIVE" TERM FOR THE PROCEDURE THAN "PARTIAL-BIRTH ABORTION"?

Congressman Charles Canady (R-FL), the author of H.R. 1833 and the chairman of the subcommittee that conducted hearings on the bill, said on March 23, "It it time for some in the media to stop editing or denigrating the legal terminology that has been adopted by the U.S. House and the U.S. Senate, which is partial-birth abortion."

(When Congress defined certain firefarms as "assault weapons," that terminology was readily accepted by most journalists and editors—even though manufacturers of such devices utilize other terms.)

Some opponents of the Partial-Birth Abortion Ban Act (H.R. 1833) insist that anyone writing about the bill should say that it bans a procedure "known medically as intact dilation and evacuation." But when journalists comply with this demand, they do so at the expense of accuracy. The bill itself makes no reference whatever to "intact dilation and evacuation" abortions. More importantly, the term "intact dilation and evacuation" is not equivalent to the class of procedures banned by the bill.

The bill would make it a criminal offense (except to save a woman's life) to perform a "partial-birth abortion," which the bill would define—as a matter of law—as "an abortion in which the person performing the abortion partially vaginally delivers a *living* fetus before killing the fetus and completing the delivery." [emphasis added]

In contrast, the term "intact dilation and evacuation" was invented by the late Dr. James McMahon, and until recently, was idiosyncratic to him. It appears in no standard medical textbook or database, nor does it appear anywhere in the standard textbook on abortion methods, Abortion Practice by Dr. Warren Hern.

Because "intact dilation and evacuation" is not a standard, clearly defined medical term, the House Judiciary Constitution Subcommittee staff (which drafted the bill under Congressman Canady's supervision) rejected it as useless for purposes of defining a criminal offense. Indeed, it is worse than useless—a criminal statute that relied on such a term would be stricken by the federal courts as "void for vagueness."

Although there is no clear definition of the term, we know enough to say that it is inaccurate to equate "intact dilation and evacuation" abortions with the procedures banned by HR 1833, since in his writings Dr. McMahon clearly used the term so broadly as to cover certain procedures which would not be affected at all by HR 1833 (e.g., removal of babies who are killed entirely in utero, and removal of babies who have died entirely natural deaths in utero). Indeed, some of the specific women highlighted by opponents of HR 1833 had various types of "intact D&E" abortion procedures that were not covered by HR 1833's definition of "partial-birth abortion."

The term chosen by Congress is in no sense misleading. In sworn testimony in an Ohio lawsuit on Nov. 8, 1995, Dr. Martin Haskell—who has done over 1,000 partial-birth abortions, and who authored the instructional paper that touched off the controversy over the procedure—explained that he first learned of the method when a colleague described very briefly over the phone to me a technique that I later learned came from Dr. McMahon where they internally grab the fetus and rotate it and accomplish—be somewhat equivalent to a breach type of delivery.

In short, it is a misguided notion of objectivity for the any journalist to denigrate the term for a criminal offense that has been adopted and explicitly defined by the U.S. House and the U.S. Senate, in favor of a undefined term recently manufactured by the very special-interest that would be "regulated" by the legislation.

[In his 1992 instructional paper, Dr. Haskell referred to the method as "dilation and extraction" or "D&X"—noting that he "coined the term." The term "dilation and extraction" does not appear in medical dictionaries or databases.]

ARE THE FIVE LINE DRAWINGS OF THE PROCEDURE CIRCULATED BY NRLC ACCURATE, OR ARE THEY MISLEADING?

American Medical News (July 5, 1993) interviewed Dr. Martin Haskell and reported: Dr. Haskell said the drawings were accurate "from a technical point of view." But he took issue with the implication that the fetuses were "aware and resisting."

Moreover, at a June 15, 1995, public hearing before the House Judiciary Subcommittee on the Constitution, Dr. J. Courtland Robinson, a self-described "abortionist" who testified on behalf of the National Abortion Federation, was questioned about the drawings by Congressman Charles Canady (R-Fl.). Mr. Canady directed Dr. Robinson's attention to the drawings, which were displayed in poster size next to the witness table, and asked Dr. Robinson if they were "technically correct." Dr. Robinson responded:

That is exactly probably what is occurring in the hands of the two physicians involved. [Hearing record, page 89.]

Professor Watson Bowes of the University of North Carolina at Chapel Hill, co-editor of the Obstetrical and Gynecological Survey, wrote in a letter to Congressman Canady:

Having read Dr. Haskell's paper, I can assure you that these drawings accurately represent the procedure described therein. . . . Firsthand renditions by a professional medical illustrator, or photographs or a video recording of the procedure would no doubt be more vivid but not necessarily more instructive for a non-medical person who is trying to understand how the procedure is performed.

On Nov. 1, 1995, Congresswoman Patricia Schroeder and her allies actually tried to prevent Congressman Canady from displaying the line drawings during the debate on HR 1833 on the floor of the House of Representatives. But the House voted by nearly a 4-to-1 margin (332 to 86) to permit the drawings to be used.

DOES THE BILL CONTRADICT U.S. SUPREME COURT DECISIONS?

The Supreme Court has never said that there is a constitutional right to kill human beings who are mostly born.

In its official report on HR 1833, the House Judiciary Committee makes the very plausible argument that HR 1833 could be upheld by the Supreme Court without disturbing Roe. In Roe, the Supreme Court said that "the word 'person,' as used in the Fourteenth Amendment, does not include the unborn." Thus, under the Supreme Court's doctrine, a human being becomes a legal "person" upon emerging from the uterus.

But a partial-birth abortion does not involve an "unborn fetus." A partial-birth abortion, by the very definition in the bill, kills a human being who is partly born. Indeed, a partial-birth abortion kills a human being who is four-fifths across the 'line-of-personhood' established by the Supreme Court.

Moreover, in Roe v. Wade itself, the Supreme Court took note of a Texas law that made it a felony to kill a baby "in a state of being born and before actual birth," and the Court did not disturb that law.

Thus, the Supreme Court could very well decide that the killing of a mostly born baby, even if done by a physician, is not protected by Roe v. Wade.

SHOULD CONGRESS EVER BAN SPECIFIC "SURGICAL PROCEDURES"?

Some prominent congressional opponents of the bill to ban partial-birth abortions, including Rep. Schroeder (D-Co.), argue that Congress should not attempt to ban a specific surgical procedure. But Rep. Schroeder is the prime sponsor of HR 941, the "Federal Prohibition of Female Genital Mutilation Act." (The Senate companion bill is S. 1030.) This bill generally would ban anyone (including a licensed physician) from performing the procedure known medically as "infibulation," or "female circumcision." (Some physicians perform the procedure in response to requests from immigrants from certain countries, based on the rationale that those involved otherwise will probably obtain the procedure from persons without medical training.) The bill provides a penalty of up to five years in federal prison. Supporters of this bill argue, persuasively, that subjecting a little girl to infibulation is a form of child abuse. But then, so too is subjecting a baby to the partial-birth abortion procedure.

Mr. WELDON of Florida. Mr. Speaker, I submit the following material for inclusion in the RECORD:

MOUNT SINAI HOSPITAL
MEDICAL CENTER
Chicago, IL, October 28, 1995.

Hon. CHARLES CANADY,
Chairman, Subcommittee on the Constitution, House Committee on the Judiciary, Longworth House Office Building, Washington, DC

DEAR CONGRESSMAN CANADY: It has recently been brought to my attention that opponents of HR 1833 have stated that this particular abortion technique should maintain its legality because it is sometimes employed by physicians in the interest of maternal health. Such an assertion not only runs contrary to facts but ignores the reality of the risks to maternal health that are associated with this procedure which include the following:

1. Since the procedures entails 3 days of forceful dilatation of the cervix the mother could develop cervical incompetence in subsequent pregnancies resulting in spontaneous second trimester pregnancy losses and necessitating the placement of a cerclage (stitch around the cervix) to enable her to carry a fetus to term.

2. Uterine rupture is a well known complication associated with this procedure. In fact, partial birth abortion is a "variant" of internal podalic version . . . a technique sometimes used by obstetricians in this country with the intent of delivering a live child. However, internal podalic version, in this country, has been gradually replaced by Cesarean section in the interest of maternal as well as fetal well being (see excerpts from the standard text Williams Obstetrics pages 520, 521, 865 and 866).

Furthermore, obstetrical emergencies (such as entrapment of the head of a hydrocephalic fetus or of a footling breech that has partially delivered on its own) are never handled by employing this abortion technique. Cephalocentesis, (drainage of fluid from the head of a hydrocephalic fetus) frequently results in the birth of a living child. Relaxing the uterus with anesthesia, cutting the cervix (Duhrssen's incision) and Cesarean section are the standard of care for a normal, head entrapped breech fetus.

There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the health of the mother. Partial birth abortion is a technique devised by abortionists for their own convenience . . . ignoring the known health risks to the mother. The health status of women in this country will thereby only be enhanced by the banning of this procedure.

Sincerely,

PAMELA E. SMITH, MD,
Director of Medical Education, Department of Obstetrics and Gynecology.

THE UNIVERSITY
NORTH CAROLINA,
Chapel Hill, July 11, 1995.

Hon. CHARLES CANADY,
Chairman, Subcommittee on the Constitution, House Committee on the Judiciary, Washington, DC.

DEAR CONGRESSMAN CANADY: I have reviewed the Partial-Birth Abortion Ban Act (HR 1833, S. 939) and the related materials that you submitted to me.

Your bill would ban the use of the "partial-birth abortion" method, which you define as "an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery."

As regards the use of the term "partial-birth abortion" to describe the procedure: The term "partial-birth abortion" is accurate as applied to the procedure described by Dr. Martin Haskell in his 1992 paper entitled "Dilation and Extraction for Late Second Trimester Abortion," distributed by the National Abortion Federation.[1] Dr. Haskell himself refers to that procedure as dilation and extraction," but that is only a term, as he wrote, he "coined." Another practitioner, Dr. James McMahon, who uses a similar technique, uses the term "intact dilation and evacuation."[2]

There is no standard medical term for this period. The method, as described by Dr. Haskell in his paper, involves dilatation of the uterine cervix followed by breech delivery of the fetus up to the point at which only the head of the fetus remains undelivered. At this point surgical scissors are inserted into the brain through the base of the skull, after which a suction catheter is inserted to remove the brain of the fetus. This results in collapse of the fetal skull to facilitate delivery of the fetus. From this description there is nothing misleading about describing this procedure as a "partial-birth abortion," because in most of the cases the fetus is partially born while alive and then dies as a direct result of the procedure (brain aspiration) which allows completion of the birth.

As regards when fetal death occurs during this procedure: Although I have never witnessed this procedure, it seems likely from the description of the procedure by Dr. Haskell that many if not all of the fetuses involved in this procedure are alive until the scissors and the suction catheter are used to remove brain tissue.[1] Dr. Haskell, explicitly contrasts his procedure with two other late abortion methods that do induce fetal death prior to removal of the fetus (these alternative methods being intra-amniotic infusion of urea, and rupture of the membranes and severing of the umbilical cord).[1] Also, Doctor Haskell, in an interview with Diane Gianelli of American Medical News that the majority of the fetuses aborted this way are alive until the end of the procedure."[2] This is consistent with the observations of Brenda Shafer, R.N. who, in a letter to Congressman Tony Hall, described partial-birth abortions performed by Dr. Haskell which she observed.[3]

Moreover, in a document entitled "Testimony Before the House Subcommittee on the Constitution", June 23, 1995, Dr. James McMahon states that narcotic analgesic medications given to the mother induce "a medical coma" in the fetus, and he implies that this causes "a neurological fetal demise."[4] This statement suggests a lack of understanding of maternal/fetal pharmacology. It is a fact that the distribution of analgesic medications given to a pregnant woman result in blood levels of the drugs which are less than those in the mother. Having cared for pregnant women who for one reason or another required surgical procedures in the second trimester, I know that they were often heavily sedated or anesthetized for the procedures, and the fetuses did not die.

Dr. Dru Carlson, a maternal/fetal medicine specialist from Cedars-Sinai Medical Center in Los Angeles, writes that she has personally observed Dr. McMahon perform this procedure. In a letter to Congressman Henry Hyde she described the procedure and wrote that after the fetal body is delivered, it is removal of cerebrospinal fluid from the brain that causes instant brain herniation and death.[5] This statement clearly suggests that the fetus is alive until the suction device is inserted into the brain.

As regards whether the fetus experiences pain during this procedure: Dr. McMahon states that the fetus feels no pain through the entire series of procedures.[4] Although it is true that analgesic medications given to the mother will reach in the fetus and presumably provide some degree of pain relief, the extent to which this renders this procedure pain free would be very difficult to document. I have performed in-utero procedures on fetuses in the second trimester, and in these situations the response of the fetuses to painful stimuli, such as needle sticks, suggest that they are capable of experiencing pain. Further evidence that the fetus is capable of feeling fetal pain is the response of extremely preterm infants to painful stimuli.

As regards the accuracy of the illustrations of this procedure which have been distributed by the National Right to Life Committee: I have read the letters dated June 12, 1995 and June 27, 1995 sent to members of Congress by the National Abortion Federation, which state that the drawings of the partial-birth abortion procedure that have been distributed by you and by the National Right to Life Committee are "highly imaginative . . . with little relationship to the truth" and "misleading."[7]

Having read Dr. Haskell's paper[1], I can assure you that these drawings accurately represent the procedure described therein. Furthermore, Dr. Haskell is reported as saying that the illustrations were accurate "from a technical point of view."[2] First hand renditions by a professional medical illustrator, or photographs or a video recording of the procedure would no doubt be more vivid, but not necessarily more instructive for a non-medical person who is trying to understand how the procedure is performed.

As regards the impact of the banning of the procedure on other indicated standard medical procedures: Critics of your bill who say that this legislation will prevent doctors from performing certain procedures which are standard of care, such as cephalocentesis (removal of fluid from the enlarged head of a fetus with the most severe form of hydrocephalus) are mistaken. In such a procedure a needle is inserted with ultrasound guidance through the mother's abdomen into the uterus and then into the enlarged ventricle of the brain (the space containing cerebrospinal fluid).

Fluid is then withdrawn which results in reduction in the size of the head so that delivery can occur. This procedure is not intended to kill the fetus, and, in fact, is usually associated with the birth of a live infant. This is an important distinction between a needle cephalocentesis which is intended to facilitate the birth of a living fetus as contrasted with the procedure described by Doctors Haskell and McMahon, which is intended to kill a living fetus which has been partially delivered.

The technique of the partial-birth abortion could be used to remove the fetus that had died in utero of natural causes or accident. Such a procedure would not be covered by the definition in your bill, because it would not involve partially delivering a live fetus and then killing it.

As regards viability of preterm infants in the second trimester of pregnancy: I have reviewed a "fact sheet" distributed by the National Abortion and Reproductive Rights Action League (NARAL) in opposition to your legislation.[8] This document states, "Very few premature infants born at 24 weeks' gestation actually survive. The chance for survival at 25 weeks' gestation is 10–15%; one week later—at 26 weeks—the chances of survival double to 24–45%. A survival rate of 50% is achieved only in live births at 27 or more weeks gestation." These figures are outdated and misleading. In a recent study from the National Institute of Child Health and Human Development Neonatal Network, survival was documented in a large number of premature infants born at the seven participating institutions.[9] At 23 weeks gestation the neonatal survival was 23 percent and at 24 weeks' gestation survival was 34 percent. As you can see in Figure 3 in the enclosed article by Maureen Hack et al., there are wide inter-institutional variations in neonatal survival at east gestational age. For example, at 24 weeks' gestation neonatal survival varied from a low of 10 percent to a high of 57 percent. This data applies to infants born without major congenital defects.

I trust this information will be helpful.

Respectfully,

WATSON A. BOWES, Jr., M.D.
Professor.

FOOTNOTES

[1] Haskell M. Dilation and extraction for late second trimester abortion. Presented at the National Abortion Federation Risk Management Seminar, Dallas, Texas, September 13, 1992.

[2] Gianelli D.M. Shock-tactic ads target late-term abortion procedures. American Medical News, July 5, 1993, p 3 ff.

[3] Shafer B. Letter written to Congressman Tony Hall, July 9, 1995.

[4] McMahon JT. Written submission to the House Subcommittee on the Constitution, Washington, D.C., June 23, 1995.

[5] Carlson DE. Letter to the Honorable Henry Hyde, Chairman, House Judiciary Committee, June 27, 1995.

[6] Saporta V, Prohaska G. Letter to Members of Congress, U.S. House of Representatives, June 12, 1995.

[7] Saporta V. Letter to Members of Congress, U.S. House of Representatives, June 27, 1995.

[8] National Abortion and Reproductive Rights Action League. Third-Trimester Abortion: The Myth of "Abortion on Demand". (Date not listed)

[9] Hack M, Hobar JD, Malloy MH, et al. Very low birth weight outcomes of the National Institute of Child Health and Human Development Neonatal Network. Pediatrics. 1991; 87:587–597.

Mr. ABERCROMBIE. Mr. Speaker, today I rise to discuss H.R. 1833, the Partial-Birth Abortion Ban Act. During the course of the debate, gory and graphic descriptions are going to be used to exaggerate and manipulate emotions to obscure the real issues. In fact, the title itself is misleading. This is not about abortion on demand, the issue is about women and their families facing a tragic situation. Women who chose to have a dilation and extraction or a dilatation and evacuation preformed late in their pregnancy, do so only as a last resort. These surgical procedures are

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Footnotes follow at end of Article.

rarely ever utilized. Fewer than 500 a year are performed. These procedures are used in the case of desired pregnancies gone tragically wrong due to severe fetal anomaly or severe risk to the health or life of the mother.

I have read the personal testimony of Coreen Costello and Mary-Dorothy Line.These women and others like them wanted their child and were willing to have a child with disabilities. However, once they realized that the baby could not survive outside of the womb, they had to make a soul searching decision. This was a very difficult decision made by the women and their husbands, but because they chose to have a late term abortion procedure they saved their lives and preserved their ability to have more children. Without the surgical procedures H.R. 1833 outlaws, neither of these women would be pregnant today or even healthy.

Under H.R. 1833, Congress would intrude into the lives of Coreen Costello, Mary-Dorothy Line and other women by denying them surgical procedures which ensure their ability to conceive more children. H.R. 1833 says to American women: your health and fertility mean nothing to us.This bill flagrantly violates women's rights and demotes them to second class citizenry.

The Supreme Court ruled in the cases of *Roe* v. *Wade,* and *Planned Parenthood* v. *Casey* that if a woman's life or health is endangered, late term abortions can not be banned. Yet even as amended by the Senate, H.R. 1833 does not have a genuine life exception. Pregnancy does not qualify as a physical disorder, illness or injury. In addition, H.R. 1833 also does not provide an exception for when the mother's health is at serious risk. The language in H.R. 1833, under legal scrutiny, clearly violates the Supreme Court's rulings since it does not provide life or health exemptions. This bill prevents women from receiving the safest possible medical care in the rare instances when such care is called for in the most trying of personal circumstances and anguish.

The bill is an example of the impossibility of writing a law of general application for situations which clearly demand individualized professional judgement in consultation with the parties personnely effected. To interfere in such conditions is an affront to moral sensibility and it disregards the profound consequences both physicians and their patients must resolve.

Mr. POSHARD. Mr. Speaker, I rise today in strong support of the ban on partial birth abortions, and urge my colleagues to follow suit in passing this important legislation.

I sincerely believe this late-term abortion procedure goes beyond the usual scope of debate we in the House have heard on the issue of abortion. This ban is not only about respecting life, it's about using humane and ethical medical practices. In fact, a number of historically pro-choice Members of this body joined in supporting this ban when it first was conducted by the House because of the nature of the procedure.

As amended by the Senate, this bill continues to allow for such a procedure should the life of the mother be endangered by a physical disorder, illness, or injury. So let us not argue today about the health and well-being of our prospective mothers, because this bill protects those very rights. To include an exception for the health of a mother versus her life, does nothing more than allow this procedure to continue to be used as an elective form of abortion.

For this reason, the Partial Birth Abortion Ban Act deserves the support of every Member of Congress, regardless of your stance on the issue of abortion.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to H.R. 1833. In 1973, and more recently in 1992, the Supreme Court held that a woman has a constitutional right to choose whether or not to have an abortion. H.R. 1833 is a direct attack on the principles established in both Roe versus Wade and Planned Parenthood versus Casey.

H.R. 1833 is a dangerous piece of legislation which would ban a range of late-term abortion procedures that are used when a woman's health or life is threatened or when a fetus is diagnosed with severe abnormalities incompatible with life. Because H.R. 1833 does not use medical terminology, it fails to clearly identify which abortion procedures it seeks to prohibit, and as a result could prohibit physicians from using a range of abortion techniques, including those safest for the woman.

H.R. 1833 is a direct challenge to Roe versus Wade (1973). This legislation would make it a crime to perform a particular abortion method utilized primarily after the 20th week of pregnancy. This legislation represents an unprecedented and unconstitutional attempt to ban abortion and interfere with physicians' ability to provide the best medical care for their patients.

If enacted, such a law would have a devastating effect on women who learn late in their pregnancies that they are carrying have severe, often fatal, anomalies.

Woman like Coreen Castello, a loyal Republican and former abortion protester whose baby had a lethal neurological disease; Mary-Dorothy Lines, a conservative Republican who discovered her baby had severe hydrocephalus; Claudia Ades, who had to terminate her pregnancy in the sixth month because her baby was riddled with fetal anomalies due to a fatal chromosomal disorder; Vicki Wison, who discovered at 36 weeks that her baby's brain was growing outside his head; Tammy Watts, whose baby had no eyes, and intestines developing outside the body; and Vikki Stella, who discovered at 34 weeks that her baby had nine severe anomalies that would lead to certain death. These are not elective procedures. These are the women who would be hurt by H.R. 1833—women and their families who face a terrible tragedy—the loss of a wanted pregnancy.

In Roe, the Supreme Court established that after viability, abortion may be banned by States as long as an exception is provided in cases in which the woman's life or health is at risk. H.R. 1833 provides no true exceptions for cases in which a banned procedure would be necessary to preserve a women's life or health.

The Dole amendment does not cover all cases where a woman's life is in danger. This narrow life exception applies only when a woman's life is threatened by a physical disorder, illness or injury and when no other medical procedure would suffice. By limiting the life exception in this way, the bill would omit the most direct threat to a woman's life in cases involving severe fetal anomalies—the pregnancy itself.

In fact, none of the women who submitted testimony during the Senate and House hearings on this bill would have qualified for the procedure under the Dole life exception. Instead, this bill would require physicians to use an alternative life-saving procedure, even if the alternative renders the woman infertile, or increases her risk of infection, shock or bleeding. Thus, the result of this provision is that women's lives would be jeopardized not saved.

This bill would create an unwarranted intrusion into the physician-patient relationship by preventing physicians from providing necessary medical care to their patients. Furthermore, it would impose a horrendous burden on families who are already facing a crushing personal situation.

Furthermore, the term "Partial birth abortion" is not found in any medical dictionaries, textbooks or coding manuals. It is a term made up by the author of H.R. 1833 to suggest that a living baby is partially delivered and then killed. The definition in H.R. 1833 is so vague as to be uninterpretable, yet chilling. Many OB/GYNs fear that this language could be interpreted to ban all abortions where the fetus remains intact. The supporters of this bill want to intimidate doctors into refusing to do abortions. Given the bill's vagueness, few doctors will risk going to jail in order to perform this procedure. As a result, women and their families will find it even more difficult, if not impossible, to find a doctor who will perform a late-term abortion, and women's lives will be put in even more jeopardy.

Late term abortions are not common; 95.5 percent of abortions take place before 15 weeks. Only a little more than one-half of 1 percent take place at or after 20 weeks. Fewer than 600 abortions per year are done in the third trimester and all are done for reasons of life or health of the mother, severe heart disease, kidney failure, or rapidly advancing cancer, and in the case of severe fetal abnormalities incompatible with the life—no eyes,no kidneys, a heart with one chamber instead of four or large amounts of brain tissue missing or positioned outside of the skull, which itself may be missing.

An abortion performed in the late second trimester or in the third trimester of pregnancy is extremely difficult for everyone involved. However, when serious fetal anomalies are discovered late in a pregnancy, or the mother develops a life-threatening medical condition that is inconsistent with the continuation of the pregnancy, abortion—however heart-wrenching—may be medically necessary.

In such cases, the intact dilation and extraction procedure [IDE]—which would be outlawed by this bill—may provide substantial medical benefits. It is safer in several respects than the alternatives, maintaining uterine integrity, and reducing blood loss and other potential complications. In addition, the procedure permits the performance of a careful autopsy and therefore a more accurate diagnosis of the fetal anomaly. Intact delivery allows geneticists, pathologists, and perinatalogists to determine what exactly the fetus's problems were. As a result, these families, who are extremely desirous of having more children, can receive appropriate genetic counseling and more focused prenatal care and testing in future pregnancies. Often, in these cases, the knowledge that a woman can have another child in the future is the only thing that keeps families going in their time of tragedy.

Political concerns and religious beliefs should not be permitted to take precedence over the health and safety of patients. The determination of the medical need for, and effectiveness of, particular medical procedures must be left to the medical profession, to be reflected in the standard of care.

In passing H.R. 1833, this Congress would set an undesirable precedent which goes way beyond the scope of the abortion debate. Will we someday be standing here debating the validity of a triple bypass or hip replacement procedure? Aren't these dangerous and unpleasant procedures?

The legislative process is ill-suited to evaluate complex medical procedures whose importance may vary with a particular patient's case and with the state of scientific knowledge. The mothers and families who seek late term abortions are already severely distressed. They do not want an abortion—they want a child. Tammy Watts told us that she would have done anything to save her child. She said, "If I could have given my life for my child's I would have done it in a second."

Unfortunately, however, there was nothing she could do. For Tammy, and women like her, a late term abortion is not a choice it is a necessity. We must not compound the physical and emotional trauma facing these women by denying them the safest medical procedure available.

This bill unravels the fundamental constitutional rights that American women have to receive medical treatment that they and their doctors have determined are safest and medically best for them. By seeking to ban a safe and accepted medical technique, members of Congress are intruding directly into the practice of medicine and interfering with the ability of physicians and patients to determine the best course of treatment. The creation of felony penalties and Federal tort claims for the performance of a specific medical procedure would mark a dramatic and unprecedented expansion of congressional regulation of health care.

H.R. 1833 contains no exception for adverse health consequences and no true life exception. The Dole amendment is dangerously narrow and it would force doctors to forgo the safest choice for a woman whose life is at risk.

This bill is bad medicine, bad law, and bad policy. Women facing late term abortions due to risks to their lives, health or severe fetal abnormalities incompatible with life must be able to make this decision in consultation with their families, their physicians, and their God. Women do not need medical instruction from the Government. To criminalize a physician for using a procedure which he or she deems to be safest for the mother is tantamount to legislating malpractice. I urge my colleagues to defeat this dangerous legislation.

Mrs. SMITH of Washington. Mr. Speaker, this evening the House will be voting on the partial birth abortion ban legislation. As a nation, we have created a veil of silence when it comes to the reality of abortion procedures. It is easy to be pro-choice when one can claim ignorance about the ways and means of abortion: whether it is a saline abortion, dilation and extraction, or suction, just to name a few.

Tonight, we are talking about a particular procedure commonly referred to as the "partial birth abortion." The very use of the word "birth" should be a clue as to how this procedure is performed. By inducing a "breech" birth, and I would like to note that I was a "breech" baby, a doctor is able to deliver a baby feet first and while the child's head is still in the birth canal, insert surgical scissors into the base of the baby's skull and remove the brain tissue, thus collapsing the skull and then finishing the delivery of a now dead baby. We are tantalizing a young life as it enters the world, only to collapse its skull and end its life.

I used to be pro-choice, but I am confident that I would have changed my views years earlier had I been aware of the truly horrid nature of abortion. Had I known that this procedure was being performed, my decision to choose life would have been that much simpler. As a mother and grandmother, it is mind boggling to imagine having labor induced, to be giving birth, only to have the opportunity to be a mother stopped in midstream. One mother, Brenda Pratt Shafer, is a nurse who witnessed this procedure. In her own words, she has stated that she "had often expressed strong pro-choice views to my two teenage daughters." However, upon witnessing the partial delivery and death of a baby, she realized that it is easy to be pro-choice when one does not now what abortion is all about.

Some will say that this procedure is only used on children who would otherwise have serious birth defects or other abnormalities. The testimony of the doctors who have performed this procedure say otherwise. One such doctor, Martin Haskell of Ohio, has stated that 80 percent of abortions he has performed using this procedure were elective. Furthermore, as Americans, what is our life ethic if we continue down this slippery slope of wanting only the "perfect" child? I am fearful that as we increasingly hear terms like "gender selection" and the like, we will be banishing more innocent lives to a grisly death. As a mother, I know that there are no "perfect children." Health alone does not make the perfect child. If nothing else, the parents of a child whose life may only last a few hours or days or weeks have the opportunity to bond with their child and then say "goodbye."

Banning this procedure does not mean that other forms of abortion are acceptable. However, I challenge my colleagues in the House and Americans everywhere to justify the partial birth abortion. I ask my colleagues tonight to face the facts and accept this procedure for what it is. Many of us would like to turn the other way and have found ourselves angry that we are being "forced" to look at first hand the graphic nature of this act. I can only respond by saying that man's inhumanity to man is never pleasant. It is necessary to understand what we are up against.

I ask my colleagues in the House to accept the reality of the partially birth abortion and join with me in banning this procedure. It is just plan sick and does not reflect the values upon which this Nation was founded and still embraces to be true today.

Thank you and please join with me in supporting H.R. 1833, the Partial Birth Abortion Ban Act.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in opposition to this misguided and deceptive legislation before us known as H.R. 1833, the Partial Birth Abortion Ban Act. I believe this bill is both bad politics and bad policy.

Mr. Speaker, it is critical to protect women's health and preserve the ability of these women to have future healthy pregnancies. H.R. 1833 prevents women from receiving the safest medical care in the rare cases when a wanted pregnancy has gone tragically wrong. Women need access to the safest medical procedure. Under Roe versus Wade and later reaffirmed in Planned Parenthood versus Casey the Supreme Court explicitly declared that States can ban late term abortions, unless the woman's life or health is endangered, and in fact 41 States have already done so. As passed by the Senate, and earlier by the House, H.R. 1833 is a direct constitutional challenge to both Roe and Casey because it fails to provide a health exception.

Mr. Speaker, we must not be misled by the Senate's addition of language purporting to be a "life exception." As drafted, the "life exception" language is so narrowly crafted that a doctor would still risk criminal prosecution to perform this procedure. It is important to note that the Senate, by a narrow margin, rejected a true "life and adverse health" amendment that would have protected women who face life and health threatening pregnancies.

Mr. Speaker, since the House has considered this bill, public debate on the issue has shifted. The House acted to ban a specific abortion procedure and jail doctors after only brief debate and a prohibition on all amendments. When the far-reaching effects of this legislation were more fully debated both in the Senate and in the news media the bill passed the Senate by only a thin margin. The statements of the bill's proponents both in Congress and in anti-choice movements make it clear that H.R. 1833, far from being a moderate measure, is in fact the first step in an ambitious strategy to use the new congressional anti-choice majority to overturn Roe. I ask my colleagues to stop that from happening.

Mrs. VUCANOVICH. Mr. Speaker, as many of you know, I have 15 grandchildren. Two of my grandchildren, the miracle twins as I call them, were born prematurely at 7 months. They were so tiny that they could fit in your hands but they were perfectly formed little human beings and they are now 14 years old.

It makes me shudder to think that somewhere, perhaps even today, in this country that there are other little pre-born human beings 7 months old in their mothers womb that are going to be subject to this brutal, horrible procedure known as a partial birth abortion.

I am not the only one who finds this procedure horrifying. The American Medical Association's Legislative Council unanimously decided that this procedure was not "a recognized medical technique" and that "this procedure is basically repulsive". This is especially true when you realize that 80 percent of these types of abortion are done as a purely elective procedure. It is important to note that this bill does make exception for this type of abortion if it is necessary to save the life of the mother however, this is an exception that will have to be used rarely.

I think we can all agree that it is inhuman to begin the birthing process and nearly complete the delivery of the baby, only to suck the life out of the child.

I strongly urge my colleagues to support H.R. 1833, with the Senate amendments, which would ban this brutal procedure known as partial birth abortion.

Mr. ZELIFF. Mr. Speaker, I rise today in support of the conference report to H.R. 1833, the Partial Birth Abortion Ban Act, which will prohibit the use of a single medical procedure in the performance of abortions. I do believe that this particular procedure is unnecessary and a particularly cruel method of ending a late-term abortion. I believe that saying no to one procedure (with exemptions for life-threatening situations) in this case is appropriate, and does not affect the reproductive rights of women with regard to the *Roe* v. *Wade* decision, which I support. Enactment of this legislation will not in itself have significant impact on those Constitutionally-guaranteed rights.

But let me be clear, Mr. Speaker, that I will not support a strategy in this body to slowly dismantle reproductive rights under *Roe* v. *Wade* piece by piece, and I will oppose further measures that are part of such a strategy. Having an abortion is a right as guaranteed under the Constitution and upheld by the Supreme Court. To embark on a congressional strategy aimed at slowly striking down that right is not only wrong-headed, it is backhanded. The American people support the right to choose and that fact would make any effort in this House to further restrict the right to choose an effort without the support of the American public.

In sum, Mr. Speaker, while I support this legislation today I will not continue to support an effort by anti-choice forces to slowly dismantle the constitutional rights of women in the country.

Mr. STOCKMAN. Mr. Speaker, I rise in support of the motion and ask you insert this information into the RECORD.

"FETAL DEATH" OR DANGEROUS DECEPTION? THE EFFECTS OF ANESTHESIA DURING A PARTIAL-BIRTH ABORTION

The claim that anesthesia given to a pregnant woman kills her fetus/baby before a partial-birth abortion is performed has "absolutely no basis in scientific fact," according to Dr. Norig Ellison, the president of the American Society of Anesthesiologists. It is "crazy," says Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology.

Despite such authoritative statements, this medical misinformation is still being disseminated. Here are a few examples:

ABORTION ADVOCATES

KATE MICHELMAN OF THE NATIONAL ABORTION RIGHTS ACTION LEAGUE (NARAL)

One of the leading proponents of the "anesthesia myth' is Kate Michelman, president of the National Abortion Rights Action League (NARAL). For example, in an interview on "Newsmakers," KMOX-AM in St. Louis on Nov. 2, 1995, Ms. Michelman said:

> The other side grossly distorted the procedure. There is no such thing as a 'partial-birth'. That's that's a term made up by people like these anti-choice folks that you had on the radio. The fetus—I mean, it is a termination of the fetal life, there's no question about that. And the fetus, is, before the procedure begins, the anesthesia that they give the women already causes the demise of the fetus. That is, it is not true that they're born partially. That is a gross distortion, and it's really a disservice to the public to say this.

DR. MARY CAMPBELL OF PLANNED PARENTHOOD

Prior to the November 1, 1995, House vote on the bill, Planned Parenthood circulated to lawmakers a "fact sheet" titled, "H.R. 1833, Medical Questions and Answers," which includes this statement:

"Q: When does the fetus die?

"A: The fetus dies of an overdose of anesthesia given to the mother intravenously. A dose is calculated for the mother's weight which is 50 to 100 times the weight of the fetus. The mother gets the anesthesia for each insertion of the dilators, twice a day. This induces brain death in a fetus in a matter of minutes. Fetal demise therefore occurs at the beginning of the procedure while the fetus is still in the womb."

THE PRESS

THE NEW YORK DAILY NEWS

The fetus is partially removed from the womb, its head collapsed and brain suctioned out so it will fit through the birth canal. The anesthesia given to the woman kills the fetus before the full procedure takes place. But you won't hear that from the anti-abortion extreme. It would have everybody believe the fetus is dragged alive from the womb of a woman just weeks away from birth. Not true. (Editorial, Dec. 15, 1995)

USA TODAY

"The fetus dies from an overdose of anesthesia given to its mother."

THE ST. LOUIS POST-DISPATCH

"The fetus usually dies from the anesthesia administered to the mother before the procedure begins." (News story, Nov. 3, 1995)

SYNDICATED COLUMNIST ELLEN GOODMAN

Syndicated columnist Ellen Goodman wrote in mid-November that, if one relied on statements by supporters of the bill, "You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal."

THE TRUTH

"Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia." (American Medical News, January 1, 1996)

"[A]nesthesia does not kill an infant if you don't kill the mother." (Dr. David Birnbach quoted in American Medical News, January 1, 1996)

"I am deeply concerned, moreover, that widespread publicity . . . may cause pregnant women to delay necessary and perhaps life-saving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus." (Dr. Norig Elisson, Nov. 17, 1995, testimony before Senate Judiciary Committee)

"Drugs administered to the mother, either local anesthesia administered in the paracervical area or sedatives/analgesics administered intramuscularly or intravenously, will provide no-to-little analgesia [relief from pain] to the fetus." (Dr. Norig Ellison, November 22, 1995, letter to Senate Judiciary Committee)

STATEMENT OF NORIG ELLISON, M.D., PRESIDENT, AMERICAN SOCIETY OF ANESTHESIOLOGISTS

Chairman CANADY, members of the Subcommittee. My name is Norig Ellison, M.D., I am the President of the American Society of Anesthesiologists [ASA], a national professional society consisting of over 34,000 anesthesiologists and other scientists engaged or specially interested in the medical practice of anesthesiology. I am also Professor and Vice-Chair of the Department of Anesthesiology at the University of Pennsylvania School of Medicine in Philadelphia and a staff anesthesiologists at the Hospital of the University of Pennsylvania.

I appear here today for one purpose, and one purpose only; to take issue with the testimony of James T. McMahon, M.D., before this Subcommittee last June. According to his written testimony, of which I have a copy, Dr. McMahon stated that anesthesia given to the mother as part of dilation and extraction abortion procedure eliminates any pain to the fetus and that a medical coma is induced in the fetus, causing a "neurological fetal demise", or—in lay terms—"brain death".

I believe this statement to be entirely inaccurate. I am deeply concerned, moreover, that the widespread publicity given to Dr. McMahon's testimony may cause pregnant women to delay necessary, even lifesaving, medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus. Annually over 50,000 pregnant women are anesthetized for such necessary procedures.

Although it is certainly true that some general analgesic medications given to the mother will reach the fetus and perhaps provide some pain relief, it is equally true that pregnant women are routinely heavily sedated during the second or third trimester for the performance of a variety of necessary surgical procedures with absolutely no adverse effect on the fetus, let alone death or "brain death". In my medical judgment, it would be necssary—in order to achieve "neurological demise" of the fetus in a "partial birth" abortion—to anesthetize the mother to such a degree as to place her own health in serious jeopardy.

As you are aware, Mr. Chairman, I gave the same testimony to a Senate committee 4 months ago. That testimony received wide circulation in anesthesiology circles and to a lesser extent in the lay press. You may be interested in the fact that since my appearance, not one single anesthesiologist or other physician has contacted me to dispute my stated conclusions. Indeed, two eminent obstetric anesthesiologists appear with me today, testifying on their own behalf and not as ASA representatives. I am pleased to note that their testimony reaches the same conclusions that I have expressed.

Thank you for your attention. I am happy to respond to your questions.

Mr. GEJDENSON. Mr. Speaker, today I rise to express my opposition to H.R. 1833, the so-called "Partial-Birth" Abortion bill. I voted against this measure last year when it was first considered by the House and I will do so again today because I do not believe that Congress is the proper authority to decide the appropriateness of a particular medical procedure. This decision should be made by a woman, her family and her physician.

Further, in addition to being the first step in an all-out assault on a woman's right to choose, this bill is also unconstitutional since it fails to make an exception for the life and health of the mother as required by Roe v. Wade. For that reason, President Clinton has indicated that he will veto this measure.

Proponents of H.R. 1833 would like the public to believe that the women who have third trimester abortions do so because after 6 months of pregnancy, they suddenly decide that they do not want a baby. This could not be further from the truth. The women I have heard speak about their experiences—Mary-Dorothy Line, Tammy Watts, Coreen Costello—all desperately wanted their babies, but severe fetal abnormalities left no chance of the child surviving outside of the womb. Nevertheless, they have all insisted that while their decision to have this procedure was a painful one, it was their decision, not one forced upon them by the Federal Government.

With this in mind, it is ironic that while the Republican majority in Congress has spent much of the past year denouncing Government intervention in an individual's private life, they are intent on passing this bill which is the ultimate imposition of Government on a woman's health care choices.

Mr. FAZIO of California. Mr. Speaker, I oppose this rule and the underlying bill, H.R. 1833, because it is cruel and unnecessary Government intrusion into one of the most private and painful decisions a woman could ever face in her life.

When this bill came before the House last fall, and again today, we have a rule that does not offer an opportunity to vote on a true exception to protect the life and health of the woman.

Mr. Speaker, speakers on both sides of this issue have noted accurately that this procedure is rarely used. It is rarely used because the only reason women seek abortions late in pregnancy is because they face the terrible tragedy of a life-threatening or serious health-threatening situation, or when they discover that a very-much-wanted child simply will not survive after birth. When they face this tragedy, this is one of very few, and sometimes is the only procedure that can be used, to protect their ability to become pregnant again.

Testimony from women who have had this procedure is moving and undeniable. They are women who wanted their children and are devastated when they find that something has gone terribly wrong with their own health or that of the fetus.

I submit for the record the stories of two women who both desperately wanted their children, but instead needed this procedure when tragedy struck.

Mr. Speaker, we may never know the sorrow women like these two have faced. And we certainly can't presume to give them the best medical advice or emotional support they need. I urge the defeat of this rule and this bill.

TESTIMONY OF COREEN COSTELLO

My name is Coreen Costello. I live in Agoura, California, with my husband Jim and our son Chad and daughter Carlyn. Jim is a chiropractor and I live being a full-time, stay-at-home wife and mom. I am a registered Republican, and very conservative. I don't believe in abortion. Because of my deeply held Christian beliefs, I knew that I would never have an abortion. In fact, I remember a few years ago when I was nursing my son Chad, I watched a speech Congressman Hyde gave on C-SPAN against abortion. It was so eloquent, it moved me to tears. I even participated in the "Walk for Life" sponsored by our local Christian radio station.

Even now, I amazed at the fact that I am here. I never would have believed that I would be testifying in Congress, supporting an abortion procedure.

In March of last year, we were joyfully expecting the arrival of our third child. Then on March 24, almost a year ago to the day, when I was seven months pregnant, I began having premature contractions and my husband and I rushed to the hospital.

During an ultrasound, the physician became very silent. Soon more physicians came in. Jim told me everything would be fine but I knew there was something very wrong. I went into the bathroom and sobbed. I begged God to let my baby be okay. I prayed like I've never prayed before in my life.

My husband reassured me that we could deal with whatever was wrong. We had talked abut raising a child with disabilities and there was never a question that we would take whatever God gave us.

My doctor arrived at two in the morning. He held my hand, and informed me that they did not expect our baby to live. She was unable to absorb the amniotic fluid and it was puddling into my uterus. The poor precious child had a lethal neurological disorder and had been unable to move for almost two months. The movements I had been feeling over the last few months had been nothing more than bubbles and fluid. Her chest cavity was unable to rise and fall to stretch her lungs to prepare them for air. It was as if she had no lungs at all. Her vital organs were atrophying. Our darling little girl was going to die.

A perinatologist recommended terminating the pregnancy. For my husband and me, this was not an option. We chose to wait to go into labor naturally. We knew that it would not be long. Due to the excess amniotic fluid, a condition called polyhydramnios, premature labor was imminent. I wanted her to come on God's time—I didn't want to interfere.

It was so difficult to go home and be pregnant and go on with life, knowing my baby was dying. I wanted to stay in bed. My husband looked at me and said, "Coreen, this baby is still with us. Let's be proud of her. Let's make these last days of her life as special as possible." I got out of bed and put on my best maternity clothes, and went out with my daughter Carlyn to get ready for her fifth birthday party. I could feel my baby's life inside of me, and somehow I still glowed.

At this time we chose her name—Katherine Grace. "Katherine" meaning pure, and "Grace" representing God's mercy.

We went to many more experts over the next two weeks. It was discovered that Katherine's body was rigid and she was wedged in a transverse position. Most babies are in the fetal position, but Katherine's position was exactly the opposite. It was as if she were doing a swan dive—the soles of her feet were touching the back of her head. Her body was in a U-shape. Due to swelling, her head was already larger than that of a full-term baby. I did exercises every day, trying to change Katherine's position so that she could be delivered naturally. The amniotic fluid continued to puddle into my uterus.

No one expected her to survive labor, but if she had survived a natural birth or a C-section, we knew she would have suffocated immediately after the umbilical cord was cut. She had no lungs. She couldn't take even one breath. More and more ultrasounds made that terrible truth clearer and clearer, that if she were born, her passing would not be peaceful or painless. But we kept praying for a miracle, hoping that she would be able to pass away with our arms wrapped tightly around her, hearing us telling her how much we loved her.

We went back to the hospital again and again, thinking I was in labor. We were completely prepared to bring her into the world, with the hope of having her with us even just for a moment. This was my mission. But it was not to be. We decided to baptize her in utero, while we knew she was still alive.

By this time, I'd seen my own obstetrician, two resident obstetricians at Cedars-Sinai, and four perinatologies. Each of these doctors had consulted with other experts. The doctors all agreed that our safest option was an intact D&E, but Jim and I couldn't face the horrible thought of having an abortion.

Finally, after two and a half weeks, I went to my own doctor again for another ultrasound. The polyhydramnios had grown even worse and my husband and her whole family were afraid for my health. I could not sit or lie down for more than ten minutes because the pressure on my lungs was so great. But I wasn't worried about myself—I only thought of Katherine.

When Dr. Crane, performed the ultrasound, Katherine's heart was barely beating. My doctor turned to my husband and said, "I can't deliver this baby. I could try, but I'm convinced we would end up doing a caesarean and under the circumstances, that is just too dangerous." He said, "I have to send you to Dr. McMahon."

I gasped out loud. Dr. Crane said to Jim, "This is about Coreen now," I began to cry. Again I said, "What about a caesarean?" Dr. Crane said, "I can't justify that risk to you. There is a safer way." When I saw the anguish on my doctor's face, I knew that we had no other choice. Dr. Crane supported us so much in our decision to have Katherine naturally, and he knew that we would have to live with our decision for the rest of our lives. When I saw the pain on his face, I knew I had to go. This wasn't a choice anymore. It wasn't up to us. There was no reason to risk leaving my children motherless if there was no hope of saving Katherine.

We drove to Los Angeles. I cried the whole way, patting my tummy and promising Katherine we would never let anyone hurt or devalue her. On the way, Jim was adamant that if we weren't comfortable, we would turn around and leave no matter what. There was no way he would let his little girl's life end in a way that didn't give her respect and dignity. I'd never felt so scared and sick to my stomach in my life. I kept asking God, "Why are you making this so difficult for us?"

We expected a cold gray building . . . we expected an abortion mill. We expected people who cared about me, but not about Katherine. When we arrived, the place was beautiful and peaceful. But when we walked in, I was still very defensive. I didn't trust these people.

The staff greeted us with such warmth and kindness. I was immediately taken in to see Gale McMahon, the clinic's head nurse. We started to talk, and Gale asked if we had named our baby. "Her name is Katherine Grace," I said and began to cry. When I looked up, she too had tears in her eyes. At that moment a little bit of my wall broke down.

Gale explained the procedure in detail. My husband asked a lot of questions. I was numb—I just kept thinking about Katherine. We then went in to see Dr. McMahon. As he met with us, he performed another ultrasound. I can't tell you the compassion he had for us. He knew how much discomfort I was in from the polyhydramnios and the size of my uterus, and how much we were both suffering at losing our little girl. He was so gentle and kind.

Dr. McMahon immediately asked me the same question Gale had: "Have you named her?" He never referred to her as fetal tissue, or a fetus, or even just a baby. She was always Katherine.

He told us that my condition meant that we had to do this procedure right away. My uterus was far too full of fluid to wait. We asked if there was any way that Katherine could be born alive. He looked carefully at the ultrasound, measured her head and explained sadly how large it was, and said that there was no way it could fit through my cervix without draining some of the fluid. He also explained that due to the difficulty of the position she was in, they would have to go inside my womb and for that, I would be put under heavy anesthesia. With her heartbeat as irregular and slow as it was already, he did not think she would survive the anesthesia.

It was so hard to accept, but we began to understand that it was what we had to do. After Dr. McMahon explained the procedure to us again, I felt comforted. He and his staff understood the pain and anguish we were feeling. I realized I was in the right place. This was the safest way for me to deliver. This left open the possibility of more children. It greatly lowered the health risk to me. Most important, it offered a peaceful, painless passing for Katherine Grace.

For many women, this procedure takes longer, but I went into labor very quickly after Dr. McMahon put in the first set of dilators. When I came back the next morning, my cervix was already dilated sufficiently, and it was time to begin the surgery. I was put under anesthesia.

When I awoke a few hours later, Katherine was brought in to us. Gale gave her to me and said, "She's beautiful." Gale helped me to bond with her. She really was beautiful. She was not missing part of her brain. She had not been stabbed in the head with scissors. She looked peaceful. My husband and I held her tight and sobbed.

One of the things I noticed when I was holding Katherine was that the socks we bought for her were too big. Someone had taken tiny, soft pink ribbons, and tied them gently at the ankles so that her socks would fit. I can't tell you the peace that brought me. I knew they were taking care of her just as we would. We stayed with her for hours, praying and singing lullabies. Giving her back was the hardest moment of my life.

Dr. McMahon and his staff helped us get through the dark days to come. They counseled us and gave us information on help for dealing with our grief—not just for Jim and me, but for our children, so they could get through the grief of losing their sister, and for our parents, so they could cope with their grief at losing their granddaughter.

When I went back for my checkup, Dr. McMahon was so pleased that I was recovering well physically. But he was worried about how I was doing emotionally, and we talked a lot about how I felt. My arms were physically aching, and he told me I wasn't alone, that so many women feel that way. Your arms ache to hold your baby. And then he told me something I've never forgotten. He said, "People don't want to know that this happens. They don't want to know that there are babies born with their brains outside their skulls, that there are babies for whom life is not gift but only cruelty and pain and death. They don't want to know what families like yours have to suffer." I didn't realize just how true that was until I came here.

I know how many of you feel about abortion, because that's how I felt. I still am against abortion. Before this happened to me, I had a friend who had something terrible like this happen in a pregnancy she'd wanted very much. I tried to be empathetic and I never said anything to her that was not kind, but in my heart there was a part of me that judged here. I knew that I would never make that decision. I don't judge anymore.

When I lost Katherine. I was devastated. For some reason God chose not to give her the gift of life. But losing her taught me how precious that gift of life is. I have my health, I have the ability to walk, to run, to enjoy life with my husband and my wonderful children. That is the gift that Dr. McMahon's procedure gave me and I am grateful for that every day of my life.

Because of the safety of this procedure, I am now pregnant again and will have another baby in June. Thanks to the grace of God and the skill and compassion of Dr. McMahon, I can have another healthy baby. If you outlaw this surgical procedure, other women like me will be denied that gift, that joy. They may lose their ability to have more children; they may lose their health; they may lose their lives. The child that I carry today is by no means a replacement for Katherine. There will always be a hole in our hearts where she should be, but this baby is a sign that life goes on and that God is good.

Someday, we'll tell our little boy or girl this story. We'll talk about Katherine, and how she changed our lives—and how, in a way, she went to Washington. We'll talk about how, even though her life ended before it could really begin, the way she left this world allowed us to have this new miracle. We pray that this story has a happy ending. We pray to be able to tell Chad, Carlyn and their little brother or sister that when Congress heard, really heard, the truth about the surgery that helped their Mom, the members of Congress realized that they had no business doing what they were trying to do. They knew that they could never understand. We didn't understand before. Now we do. I pray that you will understand as well and put a stop to this terrible bill. When you vote on this bill again, please remember me. remember my face, remember my name, remember my family and the child I am carrying.

TESTIMONY OF MARY-DOROTHY LINE

My name is Mary-Dorothy Line. I am here today to oppose H.R. 1833. This legislation would outlaw a compassionate medical procedure that helped me and my family through the most difficult situation in our lives. I have come to Washington to oppose this legislation to ensure that it is available to other women and families in the future.

I am a registered Republican and a practicing Catholic. My husband, Bill, is a consulting engineer. We live in Los Angeles, California. Bill and I got married while in college. We had been married almost 14 years before we decided to start our family. Since having children was not a decision we took lightly, we waited until we were financially, emotionally, and spiritually prepared. In April of 1995 when we found out I was pregnant, we were thrilled. We waited to tell my father and our other family members until Father's Day—an extra special Father's Day present.

The first four months proceeded normally. Dr. Pamela Lui, an OB/GYN at Northwestern University Hospital in Chicago was my doctor and I followed her instructions exactly. I read everything I could about pregnancy and parenting. We debated having an amniocentesis, but Dr. Lui said that it was not necessary due to my age (under 35) and no family history of genetic disorders. But she did recommend an alpha-fetoprotein (AFP) test which is routinely performed in most pregnancies to screen for neurological anomalies such as spina bifida. The nurse who drew my blood for the AFP said she would call me with the results in about two weeks, but if there was a problem, the doctor would call.

When Dr. Lui called I was not thinking and started chatting away to her until I remembered what the nurse said; my heart started pounding. Dr. Lui told me that the AFP showed an elevated level of something which might indicate that there was a problem with our baby. She advised us to have an amniocentesis even though the chances were still great that everything was fine.

My husband and I talked about what we would do if there was something "abnormal." We quickly decided that we are strong people and very much in love and, that while having a mentally or physically disabled child would be hard that it would not be too hard. But we also decided that we needed to know what we were dealing with, so I made an appointment with a perinatalogist at Northwestern Hospital to have an amniocentesis. During the ultrasound for the amniocentesis, the doctor noticed that the baby's head was too large and that there was a lot of fluid in his head. He told me to have another ultrasound in two weeks to check the progression.

I had no idea what all this meant so I rushed to Dr. Lui's office and asked her to explain. She drew some pictures and explained that the condition was called hydrocephalus; that in every person's head there is fluid to protect and cushion the brain, but if there is too much fluid, the brain cannot develop. I called my husband at work and had him taken out of a meeting to ask him to meet me right away. I explained everything to him. He said that everything would work out and not to worry. We actually believed everything would be OK in two weeks.

I told my father that we might have a problem, but he also said that everything would be fine since there are no genetic problems in either Bill's family or mine. When we told my mother-in-law, she said she would pray for us. We are all Catholic and go to church every week. When we have problems and worries, we turn to prayer. So, we prayed, as did our parents and grandparents.

To complicate matters even more, while these problems were occurring Bill and I were in the process of moving from Chicago to Los Angeles for my husband's job. As we were driving across the country, we had a week to talk and think and pray.

We arrived at our new apartment in Los Angeles on Sunday afternoon to a letter from Northwestern Hospital in Chicago saying that the amniocentesis results were perfect. We were so relieved. I knew that there was still a chance that the excess fluid on the brain was a problem, but we had been praying so hard and wanted this baby so much that we truly believed that everything was going to be fine. Since it was Sunday, we went to church and thanked God. We went to bed happy that night; our worries were over.

Monday was my husband's first day of work at his new job. I had an appointment scheduled with a perinatalogist from Santa Monica Hospital and Cedar Sinai Hospital for another ultrasound. Bill insisted on coming to the ultrasound, even though I told him that he did not need to be there—after all, it was his first day of work. But I did think it would be exciting for him to see our baby on the ultrasound. I was 21 weeks pregnant.

The doctor, Dr. Connie Agnew, asked why we were there. We explained what the doctors in Chicago had told us and she said she would make her own diagnosis. After about a minute, she told us that she did not have good news; it was a very advanced textbook case of hydrocephaly. My husband almost passed out. We asked what we could do and she said there was nothing we could do. A hydrocephalic baby that advanced has no hope. The baby would most likely be stillborn. She recommended that we terminate the pregnancy.

Our ob/gyn in Los Angeles, Dr. William Frumovitz, recommended a second opinion. Dr. Frumovitz sent us to a wonderful, compassionate doctor at Cedar Sinai Hospital, Dr. Dru Carlson. She stayed late to see us and confirmed our worst fears. She asked us to bear with her as she looked at our baby to see if there were any other problems besides the hydrocephaly. We sat there and watched as she examined our baby, the baby we knew we would never have. She worked very hard for 45 minutes and then told us that in addition to the brain fluid problem, the baby's stomach had not developed and he could not swallow. We asked about in-utero operations and drains to remove the fluid, but Dr. Carlson said there was absolutely nothing we could do. The hydrocephaly was too advanced. Our precious little baby was destined to be taken from us. Dr. Carlson also recommended that we terminate the pregnancy.

My poor husband called our parents and grandparents and told them the awful news. My father started crying; we were all crying. This couldn't be happening to us. But it did happen to us.

Doctors Frumovitz, Agnew and Carlson referred us to Dr. James McMahon. They all said that the procedure that he performs, the intact dilation and evacuation (Intact D&E), was the best and safest procedure for me to have. The multiple days of dilation would not be traumatic to my cervix. This was important to preserve my body and protect my future fertility. They knew that that was very important to my husband and I since we really wanted to have children in the future. Dr. Carlson said that with this procedure they would be able to perform an autopsy to determine if we were likely to face similar problems in future pregnancies. With no hope for this baby, our doctors were recommending the best option, with hope for the future.

Dr. McMahon and his staff were the kindest people you could ever meet. They explained the intact D&E procedure to us. Dr. McMahon used ultrasound to examine the baby, in case the three other specialists were wrong. They were not.

The dilation took three days and two trips a day to his office. These were the worst days of our lives. We had lost our son before we even had him. After the dilation was complete, I was put under heavy anesthesia. A simple needle was used to remove the fluid from the baby's head, the same fluid that killed our son. This enabled his head to fit through my cervix.

My husband and I are disturbed by the way this compassionate medical procedure has been portrayed by members of Congress. We thoroughly investigated this procedure before we had it. Every specialist told us that it is a safe and compassionate procedure. We were very informed and educated before making this decision. What they were saying in Congress bothered us so much that I went back to Dr. McMahon's office to try to figure out why this procedure was being misrepresented. Our anger at how this procedure was portrayed is why I am here today.

This is the hardest thing I have ever been through. I pray that this will never happen to anyone ever again, but it will and those of us unfortunate enough to have to live through this nightmare need a procedure which will give us hope for the future. With this procedure families can see, hold and even bury their babies. In addition, the baby can be visually or clinically studied by specialists to determine if there are genetic abnormalities that can be avoided in future pregnancies. I am lucky that I was able to have this procedure. Because the trauma to my body was minimized by this procedure, I was able to become pregnant again, only four months later. We are expecting another baby in September. Dr. McMahon and the intact D&E procedure made this possible for us.

One of the first things Dr. McMahon told us was that this job was not done until he and his staff receive a baby picture of our next child. At the time, I couldn't imagine becoming pregnant ever again. A month later, it was all I thought about. I desperately wanted to be pregnant and finally start our family. This procedure gave us hope. Please don't take that away from the families who will need it after us. You must leave medical decisions to the families and the medical experts who have to live with the consequences. It is not the place of government to interfere in these very private, personal decisions.

Mr. STUPAK. Mr. Speaker, I rise today to express my support of the Senate amendments to H.R. 1833, legislation to ban partial-birth abortions.

I would like to share with my colleagues some highly cogent articles on the highly emotional issue of partial-birth abortions. I believe Dennis Byrne of the Chicago Sun-Times; George Will, writing for Newsweek magazine; and, John Leo, in U.S. News and World Report, convey some very important views that we should take into consideration as we debate and deliberate this legislation.

[From the Chicago Sun-Times, Dec. 12, 1995]

TRUTH IN REPORTING? GIMME A BREAK

(By Dennis Byrne)

Hands-down winner of the sleazy, dishonest journalism award is NBC's "Dateline" for its "reporting" on the partial-birth abortion ban. Not that NBC didn't have some stiff competition from other pro-choice media acolytes who blindly parrot the line that partial-birth abortions don't hurt the kid and are used only to save mama.

But NBC outdid all of them with a segment broadcast before the Senate voted Thursday to approve the ban on grisly partial-birth abortions. In it, NBC gave the white, middle-aged male senator who backed the bill (apparently no self-respecting woman of child-bearing age could be found to support the bill) a fraction of the time and none of the sympathetic treatment accorded the other side: a tearful woman who told Congress she had to have the procedure because of a defect in her fetus. The grieving, sensitive couple was even interviewed at graveside.

NBC neglected to make one critical fact clear, though: The couple's story had absolutely nothing to do with the ban. The whole story was irrelevant because the law would apply only to such abortions on live fetuses. This couple's was dead.

Continuing the parade of horribles: ABC's Sam Donaldson (M.D., Ph.D., etc.) explained Sunday that partial-birth abortions are used only for the most serious of health reasons. Which ignores what one doctor who performs them, Martin Haskell, told the American Medical Association's newspaper, American Medical News: "In my particular case, probably 20 percent are for genetic reasons. And the other 80 percent are purely elective."

The story also speared some other pro-choice myths, such as the idea that the fetus is dead before the abortion begins. "No, it's not," replied Haskell, estimating that in his case, about two-thirds of the fetuses are alive at the start of the procedure. Naturally, pro-choice extremists attacked the publication for supposedly misrepresenting Haskell, but the paper stood by the reporting, and produced a transcript from a tape recording.

Then comes AP reporter Diane Duston, who, in a story Friday about President Clinton promising to veto the bill, wrote without attribution: "Late second- or third-trimester abortions are performed to remove a severely deformed or already dead fetus that could cause the mother to die, become infertile or otherwise desperately ill." She ignores Haskell, who himself testified that "agoraphobia" (fear of open places) was among the reasons some women had sought a second-trimester abortion. Another physician testified that three of her own patients had gone to Haskell for abortions well beyond 4½ months into pregnancy—and that none were ill and all had normal fetuses. Another doctor who performed partial-birth abortions, the late James McMahon, acknowledged he performed at least 39 partial-birth abortions for "depression" and nine for cleft palate.

Then there is Kate ("I-make-it-up-as-I go-along") Michelman, president of the National Abortion and Reproductive Rights Action League, who said that anesthesia kills the fetus before the abortion. That riled the American Society of Anesthesiologists, which said such claims have "absolutely no basis in scientific fact." It doesn't kill the fetus, and may not even relieve its pain. Such false claims, the group added, endanger pregnant women and their unborn children because they might discourage medically necessary surgical procedures.

Finally, the Chicago Tribune weighed in Nov. 8 with a one-sided report of a National Organization for Women press conference opposing the ban. It was a moving story of a Naperville woman who had this procedure to spare her deformed child the trouble of living. But neither the Tribune nor NBC bothered telling the equally moving and eloquent story of an Oak Park woman, a Democrat, who also testified before Congress about how she decided not to have the procedure. More on her later.

[From the Chicago Sun-Times, Jan. 4 1996]

NEVER LET FACTS IMPEDE IDEOLOGY

(By Dennis Byrne)

Somehow the wacky idea has gotten out that giving pregnant women anesthesia is bad.

The American Society of Anesthesiologists worries that women will delay necessary or even lifesaving medical procedures because they fear anesthesia will harm their fetuses. Dr. David Birnbach, of the Society for Obstetric Anesthesia and Perinatology, says cases of maternal concerns about dangers to the fetus have recently surfaced, the American Medical Association's American Medical News reported. Rep. Tom Coburn (R-Okla.), who still delivers babies, said a patient even refused epidural anesthesia during childbirth.

Birnbach and other experts uniformly insist that the fear is unfounded. Dr. Norig Ellison, president of the American Society of Anesthesiologists, told Congress that more than 50,000 pergant women are safely anesthetized annually without ill effects to mother or fetus.

Yet some folks are saying otherwise, including Kate Michelman, president of the National Abortion and Reproductive Rights Action League. Their insistence that anesthesia administered during partial-birth abortions prevents fetal pain and causes fetal death is having an unfortunate consequence: Some women are becoming afraid that anesthesia will harm babies they're planning to have.

Ellison's group has no position on the controversial ban on partially-birth abortions, in which a live, late-term fetus is partially pulled feet first, from the womb, stabbed in the back of the neck and its brains sucked out. But they do feel strongly about Michelman's misinformation. Birnbach said assertions that anesthesia causes fetal death in such abortions are shocking and crazy.

Ellison branded as "entirely inaccurate" a claim by an abortionist that the anesthesia eliminates fetal pain and causes brain death before the abortion. The fact is, he said, only a small portion of general anesthesia crosses the placenta to reach the fetus, depending on the amount, and none administered regionally does. It is not "absolutely known," he added, that the anesthesia even reduces the fetus' pain. "I have not spoken with one anesthesiologist who agrees with [the abortionist's] conclusion, and in my judgment, it is contrary to scientific fact. It simply must not be allowed to stand," he said.

As their evidence, pro-choicers cite a letter from an Albuquerque physician (not an anesthesiologist), Lewis Koplik, who opposes the ban. I read the letter to Ellison, who branded its conclusions "wrong" and "untrue." A dose of anesthesia massive enough to kill the fetus, as cited in the letter, places the mother's own health "in serious jeopardy," Ellison said, and should require the presence of an anesthesiologist (which is not standard practice).

Despite all this, Michelman's misinformation continues to be repeated as the unqualified truth by, for example, Sen. Carol Moseley-Braun (D-Chicago), syndicated columnist Ellen Goodman, a USA Today editorial, KMOX-AM in St. Louis and Planned Parenthood, said the National Right to Life Committee. Michelman repeated the assertion in a letter to the editor here on Sunday, attacking my support of the ban. (She also claimed I said that the anesthesia "does not affect the fetus"—which I didn't. But accuracy apparently isn't Michelman's strong suit.)

Ellison confesses to frustration that Michelman's misinformation gets circulated without challenge, while his scientific evidence is barely mentioned. Welcome, Doc, to the abortion wars, as referred by the ever-objective media. Never let facts stand in the way of a favored ideological agenda. Not even at the expense of women's health.

[From Newsweek, Dec. 11, 1995]

THE LAST WORD—FANATICS FOR CHOICE

PARTIAL-BIRTH ABORTIONS, SONOGRAM PHOTOS AND THE IDEA THAT "THE FETUS MEANS NOTHING"

(By George F. Will)

Americans are beginning to recoil against the fanaticism that has helped to produce this fact: more than a quarter of all American pregnancies are ended by abortions. Abundant media attention has been given to the extremism that has tainted the right-to-life movement. Now events are exposing the extraordinary moral evasions and callousness characteristic of fanaticism, prevalent in the abortion-rights lobby.

Begin with "partial-birth abortions." Pro-abortion extremists object to that name, preferring "intact dilation and evacuation," for the same reason the pro-abortion movement prefers to be called "pro-choice." What is "intact" is a baby. During the debate that led to House passage of a ban on partial-birth abortions, the right-to-life movement was criticized for the sensationalism of its print advertisements featuring a Dayton nurse's description of such an abortion:

"The mother was six months pregnant. The baby's heartbeat was clearly visible on the ultrasound screen. The doctor went in with forceps and grabbed the baby's legs and pulled them down into the birth canal. Then he delivered the baby's body and the arms—everything but the head. The doctor kept the baby's head just inside the uterus. The baby's little fingers were clasping and unclasping and his feet were kicking. Then the doctor stuck the scissors through the back of his head, and the baby's arms jerked out in a flinch, a startled reaction, like a baby does when he thinks that he might fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out."

To object to this as a sensationalism is to say that discomforting truths should be suppressed. But increasingly the language of pro-abortion people betrays a flinching from facts. In a woman's story about her chemical abortion, published last year in Mother Jones magazine, she quotes her doctor as saying. "By Sunday you won't see on the monitor what we call the heartbeat." "What we call"? In partial-birth abortions the birth is kept (just barely) partial to preserve the legal fiction that a baby (what some pro-abortion people call "fetal material") is not being killed. An abortionist has told The New York Times that some mothers find such abortions comforting because after the killing, the small body can be "dressed and held" so the (if pro-abortionists will pardon the expression) mother can "say goodbye." The New York Times reports, "Most of the doctors interviewed said they saw no moral difference between dismembering the fetus within the uterus and partially delivering it, intact, before killing it." Yes.

Opponents of a ban on partial-birth abortions say almost all such abortions are medically necessary. However, an abortionist at the Dayton clinic is quoted as saying 80 percent are elective. Opponents of a ban on such abortions assert that the baby is killed before the procedure, by the anesthesia given to the mother. (The baby "undergoes demise," in the mincing words of Kate Michelman of the National Abortion and Reproductive Rights Action League. Does Michelman say herbicides cause the crab grass in her lawn to "undergo demise"? Such Orwellian language is a sure sign of squeamishness.) However, the president of the American Society of Anesthesiologists says this "misinformation" has "absolutely no basis in scientific fact" and might endanger pregnant women's health by deterring them from receiving treatment that is safe.

Opponents of a ban say there are only about 600 such procedures a year. Let us suppose, as not everyone does, the number 600 is accurate concerning the more than 13,000 abortions performed after 21 weeks of gestation. Still, 600 is a lot. Think of two crashes of jumbo airliners. Opponents of the ban darkly warn that it would be the first step toward repeal of all abortion rights. Columnist John Leo of U.S. News & World Report says that is akin to the gun lobby's argument that a ban on assault weapons must lead to repeal of the Second Amendment.

In a prophecy born of hope, many pundits have been predicting that the right-to-life "extremists" would drastically divide the Republican Party. But 73 House Democrats voted to ban partial-birth abortions; only 15 Republicans opposed the ban. If the ban survives the Senate, President Clinton will probably veto it. The convention that nominated him refused to allow the Democratic governor of Pennsylvania, Bob Casey, who is pro-life, to speak. Pro-choice speakers addressed the 1992 Republican Convention. The two presidential candidates who hope that a pro-choice stance would resonate among Republicans—Gov. Pete Wilson, Sen. Arlen Specter—have become the first two candidates to fold their tents.

In October in The New Republic, Naomi Wolf, a feminist and pro-choice writer, argued that by resorting to abortion rhetoric that recognizes neither life nor death, pro-choice people "risk becoming precisely what our critics charge us with being: callous, selfish and casually destructive men and women who share a cheapened view of human life." Other consequences of a "lexicon of dehumanization" about the unborn are "hardness of heart, lying and political failure." Wolf said that the "fetus means nothing" stance of the pro-choice movement is refuted by common current practices of parents-to-be who have framed sonogram photos and fetal heartbeat stethoscopes in their homes. Young upscale adults of child-bearing age are a solidly pro-choice demographic group. But they enjoy watching their unborn babies on sonograms, responding to outside stimuli, and they read "The Well Baby Book," which says: "Increasing knowledge is increasing the awe and respect we have for the unborn baby and is causing us to regard the unborn baby as a real person long before birth . . ."

Wolf argued for keeping abortion legal but treating it as a matter of moral gravity because "grief and respect are the proper tones for all discussions about choosing to endanger or destroy a manifestation of life." This temperate judgment drew from Jane Johnson, interim president of Planned Parenthood, a denunciation of the "view that there are good and bad reasons for abortion." So, who now are the fanatics?

[From U.S. News & World Report, Nov. 1995]

HARDER HEARTS ON ABORTION

(By John Leo)

Partial birth abortions are unsettling even to read about—the only version of abortion in which fetuses, either viable, or near viability, are partly visible outside the body while alive and inches away from birth before being dispatched.

They are typically performed at 20 to 24 weeks, but sometimes later. The fetus is manipulated so that its feet and sometimes part of its body are outside the mother. The head is left in the uterus. Then the skull is pierced and the brain is suctioned out, causing skull collapse and death.

Why is the head of the fetus left inside the uterus when the removal of the brain takes place? "Avoiding trauma to the cervix" is usually cited as the reason, but the bottom line is really legal. Stopping the head just short of birth is a legal fig leaf for a procedure that doesn't look like abortion at all. It looks like infanticide.

Brenda Shafer, a registered nurse who supports abortion rights, says she witnessed three of these operations during a brief assignment to assist Dr. Martin Haskell at an Ohio abortion clinic in 1993. She says the three fetuses, two normal and one with Down's syndrome, all three 25 or more weeks along were alive when Dr. Haskell inserted scissors into their skulls. "I still have nightmares about what I saw," she said in a letter to an antiabortion Congressman in urging passage of the Partial Birth Abortion Ban Act.

Abortion-rights supporters have greeted the partial birth issue as the beginning of a new crusade to undermine *Roe* v. *Wade*. For some abortion opponents, it obviously is. But it also is true that a great many Americans. on both sides and in the middle are deeply troubled by the brutality and questionable morality of this particular procedure. It deserves to be judged on its own.

COSTLY VOTE

In the House vote, a dozen pro-choice Congressmen, including Ted Kennedy's son Patrick joined the lopsided majority and voted to ban partial birth procedures. They did this knowing they face some aggressive retribution from the abortion-rights lobby without gaining any support from the antiabortion side. "It was a costly vote." said Rep. Jim Moran of Virginia, an abortion-rights backer. "I'm not going to vote in such a way that I have to put my conscience on the shelf."

It should be noted that the abortion lobby is having trouble getting its facts straight. After Brenda Shafer made her statement. Dr. Haskell said he didn't recall any such person working at his clinic. An employment card was produced. Then Rep. Patricia Schroeder and others extracted a nondenial denial from Dr. Haskell's head nurse, saying that Brenda Shafer "would not" have been present at the three abortions she said she saw.

Kate Michelman and other abortion-rights lobbyists insisted that partial birth abortion is "confined to extraordinary medical circumstances" and that anesthesia "causes fetal demise . . . prior to the procedure." Not true. A 1993 interview with Dr. Haskell in an American Medical Association newspaper quotes him as saying that 80 percent of these procedures are elective and two thirds occur while the fetus is alive. Dr. Haskell wrote a letter strongly implying he was misquoted. But an audiotape was produced showing that he wasn't.

And Michelman said. "It's not only a myth, it's a lie" that partial birth abortions are used to eliminate fetuses for minor defects such as cleft palates. But abortion practitioner Dr. James McMahon already had told Congress he had personally performed nine of these procedures solely because of cleft palates. Compared with the abortion-rights lobby, the O.J. defense looks obsessively ethical and tightly focused on verifiable truth.

In an article last month in the New Republic, feminist Naomi Wolf, an abortion-rights advocate, wrote that "with the prochoice rhetoric we use now, we incur three destructive consequences . . . hardness of heart, lying and political failure." She wrote: "By refusing to look at abortion within a moral framework, we lose the millions of Americans who want to support abortion as a legal right but still need to condemn it as a moral iniquity."

The partial birth issue is a good time for abortion-rights supporters to reclaim the moral framework that Wolf says they have relinquished. This repellent procedure goes way too far. No other Western nation, to my knowledge, allows it. It was unanimously condemned by the American Medical Association's council on legislation. (The full association later decided to-duck the issue and take no position.)

Those who defend it reflexively because it may lead to other legislation are in the exact position of gun lobbyists who shoot down bans on assault weapons because those bans may one day lead to a roundup of everybody's handguns. they refuse, on tactical grounds, to confront the moral issue involved. More of the abstract hardness that Wolf writes about.

Killing a five-month or six-month fetus that's halfway down the birth canal raises a moral issue way beyond that of ordinary abortion. It's perfectly possible to support a woman's right to abort and still think that the anything goes ethic of this horrific procedure has no place in a culture with any reverence left for life.

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered.

The question in on the motion offered by the gentleman from Florida [Mr. CANADY].

The question was taken; and the Speaker pro tempore announced that the ayes appear to have it.

Mr. CANADY of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 286, nays 129, answered "present" 1, not voting 15, as follows:

[Roll No 94]

YEAS—286

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Forbes
Fox
Franks (NJ)
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Jefferson
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kennedy (RI)
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martinez
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Thornton
Tiahrt
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—129

Abercrombie
Ackerman
Andrews
Baldacci
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah

Fazio
Fields (LA)
Frank (MA)
Franks (CT)
Frelinghuysen
Furse
Gejdenson
Gilman
Gonzalez
Green
Greenwood
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Johnston
Kelly
Kennedy (MA)
Kennelly
Kolbe
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Meyers
Miller (CA)
Mink
Morella
Nadler
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Rangel
Reed
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Stark
Studds
Thompson
Thurman
Torkildsen
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates
Zimmer

ANSWERED "PRESENT"—1

Richardson

NOT VOTING—15

Bryant (TX)
Collins (IL)
Dornan
Filner
Ford
Fowler
Gibbons
Harman
Roukema
Smith (WA)
Stokes
Thomas
Torricelli
Ward
Weldon (PA)

☐ 2008

The Clerk announced the following pairs:

On this note:

Mr. Thomas of California for, with Ms. Harman against.

Mr. Fowler of Florida for, with Mr. Stokes against.

Mr. MYERS of Indiana changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WARD. Mr. Speaker, on March 27, 1996, I was unavoidably detained and missed one rollcall vote. I would like the record to show that had I been present for rollcall vote No. 94, on H.R. 1833, the so-called partial-birth abortion ban, I would have voted "no."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ROGERS). Pursuant to the provisions of clause 5 of rule I, the chair will now put the question on each motion to suspend the rules on which further proceeding were postponed on Tuesday, March 26, 1996, in the order in which that motion was entertained.

Votes will be taken in the following order: House Resolution 379, by the yeas and nays: and House Concurrent Resolution 102, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote.

ANNIVERSARY OF MASSACRE OF KURDS BY IRAQI GOVERNMENT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, House Resolution 379.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the resolution, House Resolution 379, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 22, as follows:

[Roll No. 95]

YEAS—409

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Forbes
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—22

Borski
Bryant (TX)
Clinger
Collins (IL)
Conyers
DeLay
Dornan
Filner
Ford
Fowler
Gibbons
Harman
McDermott
Pickett
Smith (WA)
Stark
Stokes
Studds
Thomas
Torricelli
Waters
Weldon (PA)

☐ 2027

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ROGERS). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the additional motion to suspend the rules on which the Chair had postponed further proceedings.

EMANCIPATION OF IRANIAN BAHAI COMMUNITY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 102.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 102, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 408, nays 0, not voting 23, as follows:

[Roll No 96]

YEAS—408

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Flanagan
Foglietta
Foley
Forbes
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
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Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
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Hayes
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Holden
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Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
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LaTourette
Laughlin
Lazio
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Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
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Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
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Maloney
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Markey
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Matsui
McCarthy
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McInnis
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Norwood
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Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
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Pelosi
Peterson (FL)
Peterson (MN)
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Pomeroy
Porter
Portman
Poshard
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Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
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Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stark
Stearns
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Stockman
Stump
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Taylor (MS)
Taylor (NC)
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Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
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Watt (NC)
Watts (OK)
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Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
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Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—23

Berman
Borski
Brewster
Bryant (TX)
Clinger
Collins (IL)
DeLay
Dicks
Dornan
Filner
Flake
Ford
Fowler
Gibbons
Gunderson
Harman
McDermott
Smith (WA)
Stokes
Studds
Thomas
Torricelli
Weldon (PA)

□ 2036

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3136, CONTRACT WITH AMERICA ADVANCEMENT ACT OF 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–500) on the resolution (H. Res. 391) providing for consideration of the bill (H.R. 3136) to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line-Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3103, HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT OF 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–501) on the resolution (H. Res. 392) providing for consideration of the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2854, FEDERAL AGRICULTURE IMPROVEMENT AND REFORM ACT OF 1996

Mr. GOSS, from the Committee on Rules submitted a privileged report (Rept. No. 104–502) on the resolution (H. Res. 393) waiving points of order against the conference report to accompany the bill (H.R. 2854) to modify the operation of certain agricultural programs, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 956, COMMON SENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996

Mr. GOSS, from the Committee on Rules submitted a privileged report (Rept. No. 104–503) on the resolution (H. Res. 394) waiving points of order against the conference report to accompany the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT OF DEPARTMENT OF HEALTH AND HUMAN SERVICES REGARDING RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968—MEASSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Commerce:

To the Congress of the United States:

In accordance with section 540 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360qq) (previously section 360D of the Public Health Service Act), I am submitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act of 1968 during calendar year 1994.

The report recommends the repeal of section 540 of the Federal Food, Drug, and Cosmetic Act that requires the completion of this annual report. All the information found in this report is available to the Congress on a more immediate basis through the Center for Devices and Radiological Health technical reports, the Radiological Health Bulletin, and other publicly available sources. The Agency resources devoted to the preparation of this report could be put to other, better uses.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 27, 1996.*

1996 TRADE POLICY AGENDA AND 1995 ANNUAL REPORT ON TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means:

To the Congress of the United States:

As required by section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 1996 Trade Policy Agenda and 1995 Annual Report on the Trade Agreements Program.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 27, 1996.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
March 27, 1996.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to Rule L (50) of the Rules of the House of Representatives, that I, as custodian of records for the Office of the Clerk, U.S. House of Representatives, have been served with three grand jury subpoenas duces tecum issued by the U.S. District Court for the Eastern District of Michigan.

After consultation with the Office of General Counsel, I have determined that the Clerk's Office has no documents responsive to the subpoenas. Through counsel, I will so notify the appropriate Assistant U.S. Attorney.

Sincerely,

ROBIN H. CARLE,
Clerk of the House of Representatives.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

FDA REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate the opportunity to address my colleagues tonight on a very important topic. Today it was announced that legislation will be introduced this week on FDA reform. This is long overdue here in the Congress, to make sure we help protect the health and safety of our constituents.

□ 2045

Today Congressman GREENWOOD, the task force chairman under Congressman BLILEY started out with a discussion of our mission and was followed with remarks from Chairman BILIRAKIS, Chairman BARTON, Congressman KLUG, Congressman BUYER, Congressman PALLONE, and Congressman RICHARDSON.

It is a bipartisan effort, Mr. Speaker, for the purpose of making sure that we stop the insidious problem we have had in the country with the FDA treatment delayed become FDA treatment denied. We need to save lives, extend the years, and improve quality of life for all of our constituents. An idea whose time has arrived is FDA reform, not just for food, but for medical devices and pharmaceuticals as well.

It may well be the most extensive and important piece of legislation we will deal with in the second session of the 104th Congress, that being FDA reform. If we can hasten the approval process for drugs and medical devices while patients await a cure or a vaccine, we will certainly have accomplished much as Congressman and Senators.

Mr. Speaker, lest anyone believe otherwise, we are certainly not going to reduce in any way the safety of drugs, the efficacy of those drugs, but we want to speed up the process of the approval. It can be done through streamlining the clinical research, through third-party review and through working with international harmonization, by accepting certified results of tests by other countries.

I am hopeful the many people who came to Washington today who had illnesses such as cancer, ALS, epilepsy, AIDS, and a myriad of other conditions they have come to us saying, look, we need to make sure we can live longer, please, do not stop us from getting the experimental drugs, the miracle drugs we need in order to live a little longer and hope for a cure.

I believe today, ladies and gentleman, that we have heard from the American people, that we can work together in a bipartisan fashion, House and Senate together, working with the White House and working with the FDA. Dr. Kessler has a very important organization that he heads. We need to work with him to make sure the reforms we need are ones that can be embraced by all, because what we are talking about is the health care and the life of all of our constituents across this United States, in the country where 85 percent of the new drugs to extend life and to sustain life are being created. We want to make sure those discoveries stay here and the jobs of the people who are, thankfully, making those discoveries every day.

I thank you for the opportunity to address my colleagues, and I hope that we will fast-track this important legislation and it does in fact become passed before the end of the session.

TRIBUTE TO DAVID PACKARD

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Under a previous order of the House, the gentleman from California [Mr. FARR] is recognized for 5 minutes.

Mr. FARR of California. Mr. Speaker, it is with deep sorrow that I rise today to salute a man who, without question, represented the very best of California creativity and American ingenuity. David Packard, who revolutionized both the computer industry and modern-management practices died Tuesday in Palo Alto, CA. He was 83.

For anyone familiar with computers in the 20th century, the name Hewlett-Packard is synonymous with innovation, and with excellence. Founded in 1939 in a Palo Alto garage by Mr. Packard and his good friend William Hewlett, the company is now a recognized leader in its field, employing more than 100,000 workers. The "HP Way," Mr. Packard's standard for corporate practices and employee relations, is commonly cited as one of the best by business experts.

In creating his company, Mr. Packard said, "Get the best employees, stress the importance of teamwork, and fire them up with the will to win." Though many in business may take such words lightly, for Mr. Packard, they represented the only way to succeed.

There were no conventional offices at Hewlett-Packard, not even for the most senior engineers. To stress collaboration and creativity, employees were grouped together in close proximity where they could freely exchange ideas. This respect for the H-P employee also applied in a number of other ways. Hewlett-Packard was among the first in the business world to provide catastrophic medical coverage, flexible work hours and decentralized decision-making.

David Packard also took a keen interest in his global community and was a generous philanthropist. He established the Packard Foundation in 1964 to support community organizations, education, health care, conservation, population projects, the arts, and scientific research.

But while the Nation and the world are remembering David Packard for his business and industrial achievements, the people of the Monterey Bay are remembering David Packard as an ocean pioneer—our nation's Jacques Cousteau. He recently said that "I spent my entire business life in the technology field, and in my industrial career I have seen my share of revolutions in human understanding. I now realize that the ocean is the most important frontier we have."

David Packard used this scientific vision and $55 million to help his daughter Julie develop and open the Montery Bay Aquarium—the world's best example of top science education as good business. David took his vision a step further and built a state of-the-art marine lab at Moss Landing to pioneer new deep ocean exploration technologies. All told, David and his late wife Lucile donated over $450 million to scientific research, education, health care, conservation and the arts.

On a personal note, let me just say that I will sorely miss the many contributions of David Packard. A good family friend, he was one of those few people you cross in life who not only touches our hearts, but also inspires our minds. David was one of a kind. My thoughts and prayers go out to his four children, David, Nancy, Susan and Julie, his colleagues and his many, many friends.

TRIBUTE TO DAVID PACKARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. McINNIS] is recognized for 5 minutes.

Mr. McINNIS. Mr. Speaker, I have just heard the gentleman from California [Mr. FARR] speak, and I want to say with some great deal of pride that Mr. Packard was born in Pueblo, CO. He was indeed a fine, fine gentleman and certainly a leader in our country and a leader in business.

THE STRENGTH OF FAMILY AND RELIGION

But I wanted to speak tonight to my colleagues about a couple of things that over the weekend inspired me about family and about duty to our country. Over the weekend I had an opportunity to visit with a very good friend of mine. His name is Jake. Jake is about 20 years old. He is a young man. He sees opportunity in this world. He is one of our kids. I think I call him a kid; he is a young man. But this young man wants to go into this society and continue in this society and accomplish things that he has dreamed of all of his life.

I was particularly pleased to visit with him this weekend because his friend, her name is Kara, and he is intending to propose to her tonight. Jake and Kara, I think, are good examples of the young people that we have in this country, of the assets that we have. I will come back to youth in just a minute.

The second event I went to this weekend was in Pueblo, CO. Pueblo is called the home of heroes. In Pueblo, CO, we have had four of our people, four citizens from Pueblo, who have won the United States Medal of Honor.

This weekend I got to be the guest at the Medal of Honor dinner, which we do have here in Pueblo, CO, where we honored 18. We had 18 Medal of Honor winners in this room. You talk about inspiration, to sit in here, you see people, such as Mr. Di Havera. Mr. Di Havera not only won the U.S. Medal of Honor but he won the Medal of Honor in the country of Mexico.

But the common thread that I saw at the medal of Honor dinner and with my friends Jake and Kara and with my own family was that they had the foundation of family and not only of the foundation of family but the foundation of religion. Regardless of the type of religion that you practice, it was amazing this weekend to see at the Medal of Honor dinner, how strong the families were in this large ballroom that we had. It was exciting to see the young people, such as Jake and Kara, who want to start out their lives together in this fine country. And what do they talk about? They talk about family. You know, a lot of times up here when we deal with these young people and they come to visit us in our offices, the questions they ask and the issues we talk about are a lot of things going wrong with this country, we have got a deficit, a budget deficit accumulating at a rate of about $30 million an hour, we have got a crime problem, we have got problems with the economy.

But what we oftentimes forget to stress to these young people is that in this country there are a lot more things going right than there are wrong. I think that this generation, the generation of Jake and Kara, is a generation that is going to have opportunities that were never there before for any other generation in the history of this country.

But I think that you have got to give credit for those opportunities to people like those brave people, men and women, on the Medal of Honor winners and the people who have set in this country the importance of family and the importance of religion as a foundation for responsibility, for moral values, and for duty to this country.

In conclusion, Mr. Speaker, I just wanted to share with my colleagues the kind of excitement I feel being around a positive setting, there with the Medal of Honor winners, people who gave it their all and then there with young people who are excited about the future of this country. I, too, share their excitement, and I, too, share the privilege of being able to sit with 18 Medal of Honor winners.

REINTRODUCTION OF THE NATIONAL INFRASTRUCTURE DEVELOPMENT ACT OF 1996

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii [Mr. ABERCROMBIE] is recognized for 5 minutes.

Mr. ABERCROMBIE. Mr. Speaker, I yield to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I thank the gentleman from Hawaii for yielding.

Mr. Speaker, today I am reintroducing the National Infrastructure Development Act, which I first introduced at the end of the 103rd Congress. This bill will create more than 250,000 jobs, and help mend our Nation's crumbling infrastructure. I am pleased to be joined by Democratic Leaders DICK GEPHARDT, VIC FAZIO, and DAVID BONIOR, who have lead countless job creation efforts in this country. During this time of debate over the role of our Federal Government, I am proud to bring a bill to the floor which shows that Government can work for America.

At a time when jobs are disappearing and when we face intense international competition from abroad we badly need to create new jobs and make the investments in our roads, bridges, airports, and sewers to make our Nation more competitive.

I want to remind Americans that since the election of President Clinton, the economy has continued to grow. Nearly 8 million jobs were created since his election; the unemployment rate has fallen from 7.3 percent to 5.5 percent; and, the Federal deficit has been cut in half—reducing interest rates and increasing purchasing power.

Yet, despite this good economic news, there are too many regions of the country where job growth remains slow, wages are stagnant, and people are hurting financially. Although the unemployment rate continues to decline in my home State of Connecticut, the continued threat of job loss is damaging the economic security of many families. The Federal Government must help identify new markets, and expand job opportunities for these hardworking Americans.

The National Infrastructure Development Act meets the needs of America by providing the financing mechanism needed to construct roads, bridges, sewers, schools, and airports. My bill works by leveraging a limited public investment in infrastructure to attract private capital investors. In particular, this legislation targets the pension community and other institutional investors. Together, these investors represent $4.5 trillion in investment potential.

Investments in infrastructure create good, high paying jobs, and enable businesses to perform at full capacity. With a small Federal investment, the National Infrastructure Development Act will improve our nation's infrastructure and create 250,000 jobs.

A public investment in infrastructure will succeed in spurring private sector investments. As evidence, we are already seeing private sector investors beginning to finance major infrastructure projects, such as toll roads. Further, a number of American pension plans are looking overseas to countries like China, where infrastructure investment is common. The United States must make private sector infrastructure investments even more attractive in this country.

My bill will make domestic infrastructure investments more attractive by investing in and insuring infrastructure projects through a government sponsored corporation. The National Infrastructure Corporation—or NIC—would be funded by an annual $1 billion government investment over a 3-year period. Construction or repair of schools, toll roads, airports, bridges, sewage treatment facilities, and clean-water projects are potential NIC investments.

Municipalities and states could borrow from the NIC, or be insured by the NIC for infrastructure projects. These projects would be sound investments for pension funds. In return, these investments would strengthen the U.S. economy, and improve our Nation's infrastructure. Over time, the NIC itself would be a solid investment for pension funds. The goal of this legislation is for private investors to eventually buy the Corporation from the Federal Government, repaying the taxpayer's original investment.

In addition, my bill would enable cities or states to offer bonds to pension funds for infrastructure construction. These bonds, called Public Benefit Bonds, would be attractive investments for pension funds because the bonds enable them to pass on tax benefits to their pensions.

To be clear, the National Infrastructure Development Act is not intended to replace the traditional means of funding infrastructure projects. Federal and State assistance will still be needed to fund highways and mass transit projects, sewers, and other infrastructure projects. My bill in only intended to meet the projected $30 billion annual shortfall of funds that are available for infrastructure projects. The NIC will supplement, not supplant, traditional methods of financing domestic infrastructure development.

Investments through the NIC will enable states to make better use of Federal funds they currently receive for these projects by using a small Federal investment to leverage large private investments. More infrastructure will be funded as a result of this legislation.

The National Infrastructure Development Act builds on President Clinton's goals for improving this Nation's infrastructure. The administration has enabled 32 States to construct 70 projects using a variety of innovative financing techniques. In addition, the Department of Transportation is completing a competition for 11 States to be able to establish State infrastructure banks that have a function similar to the National Infrastructure Corporation. Fifteen States entered this competition, and another 5 States wrote to express interest in entering future competitions.

This Congress has already given its approval of these efforts. The fact that so many States are looking for innovative financing methods should send a clear signal to this Congress that we must do more to meet these national infrastructure needs. The National Infrastructure Development achieves this objective.

This is a good government bill that benefits every American.

American workers benefit through good jobs. Under traditional government transportation and infrastructure investment programs, every billion dollars invested creates 35,000 to 50,000 new jobs. Under my bill, every dollar in Federal investment will result in $10 of actual construction. So each billion dollars in Federal investment will create 240,000 to 450,000 new jobs.

American businesses benefit from reliable infrastructure. Businesses depend on airports, roads, wastewater treatment facilities, and clean water projects. Stronger infrastructure will aid economic expansion.

American taxpayers benefit from better modes of transportation for fewer tax dollars, and better environmental quality.

Pension investors benefit because they can look for investment opportunities in the United States instead of overseas.

Every Member of Congress knows that Federal resources are scarce. The National Infrastructure Development Act will fill a major funding gap with a short term, limited investment and rebuild our Nation's infrastructure. Private investors need to have the opportunity to invest in America, and the Federal Government can work in partnership with the private sector.

This partnership will help us rebuild our country's aging infrastructure, create great jobs, and promote good investments.

I urge my colleagues on both sides of the aisle to closely examine this bill. Now is the time for us to move this important piece of legislation.

Mr. GEPHARDT. Mr. Speaker, I am pleased to join Congresswoman DELAURO in cosponsoring the National Infrastructure Development Act.

A fundamental governmental function is to create an economic environment conducive to growth and the creation of new opportunities and good jobs. No aspect of this function is more important than investing in the human and physical capital of the country.

To prosper, our country must invest in upgrading our public works and transportation systems. With the growing importance of high value added industry and just-in-time manufacturing, a strong transportation system is more vital to economic growth than ever. Unfortunately, we face a $300-billion backlog in transportation investment alone. According to recent studies, our national investment in transportation falls $17 billion short of the amount needed just to maintain current levels of performance.

During the 1980's, real Federal investment in infrastructure fell 16 percent. As the Federal Government reduced its investment, greater burdens fell on the states and municipalities. And many of them—not just inner cities or small towns but suburbs as well—have been unable to meet their needs. The result: falling productivity and a diminished quality of life. People spend hours in traffic jams instead of in offices or at home with their families. Traffic congestion now costs drivers in our largest cities over $40 billion per year. And long-promised road improvements needed to lower accident and fatality rates remain undelivered.

While we have made some progress in recent years, numerous studies document the need for additional investment. Bringing our bridges and highways up to current safety standards would require a doubling of the current highway program. The Bipartisan Commission to Promote Investment in America's Infrastructure reported that America's total investment shortfall in its infrastructure amounts to between $40 billion and $80 billion per year. At the same time, Federal resources are limited. As discretionary spending caps are lowered, the Federal capital investment program will come under enormous pressure.

The purpose of the National Infrastructure Development Act is to increase the public works investment critical to our long-term economic growth. It does so by using innovative financing and techniques already used in the private secton to encourage more investment in our roads, bridges and transit systems.

The National Infrastructure Development Act establishes an innovative, investment-oriented Foreign infrastructure strategy to help States and municipal governments finance needed infrastructure. In creates a National Infrastructure Corporation to provide a broad array of financing for infrastructure projects.

The Clinton administration's innovative investment program shows that there is tremendous interest among States and local governments in new methods that would make Federal capital dollars go further. In the past year along, the administration has given approval to over 70 innovative financing projects in over 30 States. Moreover, 20 States have expressed interest in establishing State infrastructure banks that would enable them to make more created use of Federal transportation funds.

While the Congress in ISTEA provided greater flexibility in our highway program, we have only scratched the surface of the potential. The recent experiences with privately-financed toll roads in California and Virginia and my many discussions with State officials, business leaders, and local leaders lead me to believe that there is a strong need for creative Federal leadership.

By leveraging private and other public sector monies, the corporation would substantially increase the amount of infrastructure created by each Federal public works dollar. Experts estimate that the corporation would leverage up to $10 in private investment for every $1 it receives from the Federal Government. Under this legislation, the corporation's capitalization would be $3 billion. It is anticipated that this could support generate tens of billions in new investment and hundreds of thousands of jobs, while eliminating hundreds of infrastructure bottlenecks that stifle growth.

Congresswoman DELAURO has proposed an innovative mechanism to address the national problem of underinvestment in our public works. The legislation make a valuable contribution to understanding the issue and attaining this goal. I urge my colleagues to join in our effort to boost the Nation's public investment and productivity.

Mr. FAZIO of California. Mr. Speaker, I rise in strong support of legislation creating the National Infrastructure Corporation [NIC], of which I am an original cosponsor.

Today, it is estimated that there are over $30 billion in unfunded infrastructure projects throughout the United States. Due to increasing Federal, State, and local budget constraints, important infrastructure projects are being delayed or not considered at all. While it is clear that the United States is becoming increasingly a technology and information driven based economy, the necessity to build, repair and upgrade our roads, bridges, rail system, schools, and water treatment projects are just as important today as they ever have been.

That is why I have joined my colleagues today to address this important issue. This bill established the National Infrasture Corporation to foster more public/private construction projects and to help create good jobs. The NIC will provide credit assistance in the form of direct loans, bond insurance, and development risk insurance for critically needed infrastructure projects throughout the country.

The creation of the NIC is an innovative or smart financing mechanism to help augment existing Federal and State grant programs. As we in Congress look for better ways to leverage Federal resources, the NIC is a prime example of how the Federal Government can provide initial financial and significant in-kind resources to build new infrastructure and strengthen our old and outdated infrastructure.

To that end, I look forward to working with Representative ROSA DELAURO to bring this legislation to the country's attention and make it a priority in Congress.

□ 2100

REPORT FROM INDIANA ON HOOSIER HEROES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. McINTOSH] is recognized for 5 minutes.

Mr. McINTOSH. Mr. Speaker, I rise today to give my report from Indiana. Every weekend Ruthie and I travel around my district and often meet amazing people, individuals who are truly dedicated to being the backbone of our community.

These are good people, taking responsibility for the future of our community. I like to call them Hoosier heroes. Today I want to praise leaders of the Stop the Violence movement in Anderson, IN, who have come together to help their community. With their persistence and dedication, they have created a very special group called Stop the Violence. Members of the community like Garrett Williams, Rev. Ray Wright, and Al Simmons have joined with schoolteachers and students at the Shadeland Elementary School. They were fed up with gangs and drug dealers and the violence in their streets, and they came together and said, "Stop the violence now." They marched through their streets wearing purple ribbons, purple T-shirts, and a purple ball cap to symbolize peace in our community.

They sent a message to the drug dealers. They were not going to take it anymore. Today, the Stop the Violence movement, which is spearheaded by Rudy Porter in the mayor's office, sends a message to the schoolchildren of Anderson: You do not have to carry guns, you do not have to fight with your classmates, you do not have to buckle under to the pressure of drug dealers to be cool.

Stop the Violence gives schoolchildren and parents hope. They give our entire Nation hope, and I am proud to have been able to march with Rudy and those students, and I wish all Americans could witness the pride and joy that came from those children's faces as they set out to stand up to the criminals and the drug dealers who roam their streets.

They said no. No more violence, no more drugs, no more crime. Hoosier heroes like Rudy Porter and Stop the Violence Committee give us hope that America's best days are indeed yet to come.

That is why I would like to commend not only Rudy, but also the schoolteachers, Karen Crawford and Freddie Williams, and a principal at Shadeland School, - Sharon Taylor Martin, who cares deeply about her children. And let us not forget the children, the children in Shadeland School, whose small, tiny voices, spoke out loudest of all. You made us proud. You are all Hoosier heroes.

If every community in America had Hoosier heroes like Rudy Porter and the students and the leaders of the Stop the Violence movement, our young people would get a message from us, a message loud and clear, we care about you, we have not forgotten who you are.

Thank you, Mr. Speaker. That is my report from Indiana for today. God bless.

NIKE'S RACE TO THE BOTTOM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, in support of our "Come Shop with Me" campaign, the New York Times fortunately ran a story this month on the business page with the subtitle "Low Wages Would Foreign Business, But the Price Is Worker Poverty." The story, which I will enter in the Record tonight, describes how a 22-year-old Indonesian man named Tongris was dismissed from his job making Nike shoes for export to the United States because he was organizing his fellow workers to demand more than the government-dictated poverty wage.

How much was Tongris and his coworkers getting paid to make Nike shoes? Twenty cents an hour. And that is with no benefits.

More than 5,000 workers turn out Nike shoes at this plant in Indonesia, shoes which often sell for over $100 a pair here in the United States. Nike and thousands of other manufacturers have been lured to set up business in Indonesia by the pitifully low wage level, along with the assurance by the Indonesian government that it will tolerate no strikes or independent worker associations. But as the Indonesian government itself admits in the article, it sets its wage purpose fully extremely low to only provide the minimum calories the worker need to survive each day.

My friends, this is no different from how plantation owners though about feeding their slaves. Feed them enough so that they will not die on the job. In fact, I remember visiting the Auschwitz death camp and reading the sign above the entry gate that read "Work will make you free."

Nike would like you to believe that they are truly a great American company. Nike in fact has been spending over $250 million a year in advertising to sell you, the consumer, the message that they are a good American corporate citizen. Nike has virtually bought off the entire American sporting world. Just look at how many college coaches and athletes in the NCAA basketball tournament now being played have been paid to wear Nike's trademark, the Gold Swoosh. Your people across this Nation are literally killing people to acquire Nike products.

The truth of the matter is, Nike does not produce one athletic shoe in this country, not one. It has shut down all its U.S. production while siphoning off billions of dollars in this marketplace through sales. But it employs 75,000 workers in places like Indonesia and China, hidden from view of the news media of this country. And they pay their workers exceedingly low wages, 10 cents an hour in China, 20 cents an hour in Indonesia, work them 7 days a week, under complete control of those employers. And yet though the shoes cost only $6 to make and ship to the United States from Indonesia, we end being asked to pay up to $150 a pair.

So it is fair game to ask who is benefiting from this kind of production system? It is not the American worker who is no longer employed making Nike shoes. It is not the worker in Indonesia or China who earns poverty wages. Finally, it is not the American consumer, who is being gouged to pay outrageous prices for Nike.

As Hakeem Olajuwon, the star basketball player from the Houston Rockets courageously pointed out when he refused to endorse Nike shoes, he said, I saw the prices go from $40 to $90 to $150, and in full cognizance that people were dying for these shoes, including inner-city kids, the kids that Nike was targeting with their inner-city role models. There is one sports figure with a conscience in this country. Thank God for that.

We as American workers and consumers could do one better. We could stop buying Nike shoes until Nike pledges allegiance again to the workers of this country and to its producers around the world. Is it not time we put a little bit of conscience back into corporate America?

Mr. Speaker, I include for the RECORD the New York Times article.

[From the New York Times, March 16, 1996]

AN INDONESIAN ASSET IS ALSO A LIABILITY

(By Edward A. Gargan)

SERANG, Indonesia.—Many days Tongris Situmorang, in his blue baseball hat with a large X on the front hangs around the gates of the enormous Nike sport shoe factory here, talking to friends leaving the assembly lines at the end of the work day.

The gangly 22-year-old used to work inside the well-guarded gates, but five months ago he was dismissed for organizing workers to demand more than the 4,600 rupiah they are paid each day, about $2.10, the Government-dictated minimum wage. Then, after being dismissed, he was locked in a room at the plant and interrogated for seven days by the military, which demanded to know more about his labor activities.

"We went on strike to ask for better wages and an improvement in the food," Mr. Situmorang explained "Twenty-two of us went on strike. They told us not to demand anything. They said we wouldn't get any money. But I have sued to get my job back."

Low wages are a big attraction for foreign companies doing business in Asia as high labor costs in the industrialized nations make the manufacturing of many consumer goods uneconomical. Like a wave washing over Asia, labor-intensive factories have swept south and west as incomes and living standards have risen from Hong Kong, Taiwan and South Korea, across Asia to China, Vietnam and Indonesia.

And across the region, businesses in developing economies are felling pressure from workers like Mr. Situmorang to lift wages. Clashes erupt between workers who want more and businesses and governments that fear that rising wages will drive away jobs to even-lower-wage countries. As strikes and worker-organizing attempts have increased here, the Government has taken a harsher line by cracking down on workers with police and military force.

For some companies, like Levi Strauss, worker complaints, were enough to prompt it to leave Indonesia two years ago. But others, like Nike, whose shoes are made in 35 plants across Asia, have expanded in the region to take advantage of cheap labor.

For the Indonesian Government, the long-term solution may be to find manufacturers of products that can support higher wages. "Our strategy is to improve our products so we are not producing products that are made in China, Vietnam, India or Bangladesh," said Tunghi Ariwibowo, the powerful Minister of Industries and Trade. "We cannot compete on wages with them."

More than 5,000 workers churn out Nike shoes here, shoes that often sell in stores in Asia, Europe and North America for perhaps $100 a pair. Nike and thousands of other manufacturers have been lured to set up business in Indonesia by the low wages—and the assurance that the Government will tolerate no strikes or independent unions.

Yet even at a little more than $2 a day, there is a widespread sense in Government circles that even that is too high for Indonesia to stay competitive.

As the Government tries to hold down wages—wages the Government admits provide only 93 percent of the earnings required for subsistence for one person—strikes and worker organizing have increased. And with the increase in labor agitation have come harsher crackdowns by the Government.

A spokeswoman for Nike in the United States, Donna Gibbs, said she was not aware of Mr. Situmorang's case or of the detention and interrogation of workers for a week. However, when pressed, she said, "Our information is that workers were not held for a week."

All the plants that manufacture Nike shoes in Asia, Ms. Gibbs said, are owned by subcontractors, mostly Koreans. Each subcontractor is required to adhere to a code of conduct drawn up by Nike, she said, and managers from Nike are involved in the daily oversight of subcontractors' operations, including not simply quality control matters, but the treatment and working conditions of the labor force.

Nike's code of conduct, Ms. Gibbs said, requires compliance with all local laws, the prevention of forced labor, compliance with local regulations on health and safety and provisions of workers insurance. She said she was unaware of 13- and 14-year-old girls working at the Nike plant here.

"Certainly we have heard and witnessed abuses over time," she said "and typically what happens is that we ask the contractor to rectify the situation and if it is not resolved we can terminate the business.

Ms. Gibbs said Nike has four to six subcontractors in Indonesia, a number that varies according to production needs. She said the minimum monthly wage was 115,000 rupiah, about $52.50, although the average was 240,000 ripiah, about $110. For a pair of shoes costing $80 in the United States, she said, labor accounts for $2.60 of the total cost.

"The problem is that the minimum wage does not provide for minimum subsistence," an Asian diplomat here said. "And beyond that, the companies don't always pay what is required by law. The level of unrest is not reported, but there are lots of reports from around the country of strikes."

"The philosophy of the minimum wage is to make sure the minimum calorie need per day is fulfilled," said Marzuki Usman, who heads the finance and monetary analysis body for the Finance Ministry and was the first chairman of the Jakarta Stock Exchange. "That is the formula."

On April 1, the minimum wage is to rise in many places to 5,200 rupiah, about $2.37.

"There are so many labor strikes," said Apong Herlima, a lawyer for the Indonesian Legal Aid Foundation who specializes in labor cases in Jakarta. "Employers always call the police and they come and interrogate the workers. Then, the workers are fired."

Because Indonesia's press treads carefully around sensitive issues—and social unrest is among the tenderest of subjects—it is difficult to gauge precisely the level of labor unrest. The Government reported that there were 297 strikes last year, although it did not provide the number of workers involved. Independent labor organizes insist the actual number is far higher.

"The number of strikes is increasing," said Leily Sianipar, a labor organizer in nearby Tangerang. "Most factories don't actually pay the minimum wage. Garment factories should pay 4,600 rupiah each day, but there is usually underpayment. So there are strikes. We try to organize workers. The factory owners use the police and the military to crack down. They try to intimidate the workers."

The Indonesian Government recognizes only one Government-sponsored union, the Federation of All Indonesian Workers Union. But most workers and independent activists maintain that the Government union does nothing to represent Indonesia's 40 million workers.

"Since they don't come from the bottom, and they aren't elected by the workers, there is no hope for the Government union," said Indera Nababan, the director of the Social Communication Foundation, a labor education group sponsored by the Communion of Churches of Indonesia. "I don't think over 10 years there has been any considerable change. The workers have no rights here to argue for their rights."

Not far from the Nike factory here, Usep, a lean man of 25, leaned against the cement wall of the tiny room he shares with his 19-year-old wife, Nursimi. Together, said Mr. Usep, who like most Javanese has only one name, the couple earn about $4.10 a day—or $82 a month. Of that, they must pay about $23 for the 6-foot-by-6-foot cement room they live in, with the remainder for their food and other needs.

A single bare bulb dangles from the ceiling, its dim glare revealing a plain bed, a single gas burner, and a small plastic cabinet. Their room, one of a dozen in a long cement building, is provided with one container of water daily. If they want more water, each jug costs 100 rupiah, about 5 cents.

"Of course we're not satisfied with this," Mr. Usep said, his words coming quietly. "We tried to talk to friends about this, but there is no response. Probably they are worried they will lose their jobs."

It is workers like these whom Ms. Sianipar has been trying to organize for the last seven years, a task that entails the constant risk of arrest.

"If we have a meeting, the police take us to the station and want to know if we want to make a revolution," she said, a laugh breaking over her words. "We had a meeting here last week and the police came. So we changed the topic of the meeting, but they took me to the station anyway. The police got angry and banged the table. But they let me go at 4 in the morning. They had the idea that we were doing underground organization."

Still, she admitted, the attitude of the police has moderated somewhat over the years. "Five years ago," she said, "we would have had much more trouble."

Not all foreign investors who use cheap Indonesian labor have ignored workers' complaints. In 1994, the American clothing company Levi Strauss withdrew its orders from a local garment contractor after reports that the management had strip-searched women to check if they were menstruating.

But many factories that manufacture clothing, shoes or electronic goods for American companies are owned by Taiwan or Korean companies, and labor organizers contend that conditions in these factories are much worse than in factories directly owned by Americans.

"American companies are here because they have to pay very little," said an American who works for a private aid organization, but who did not want his name used. "But American companies are not the worst violators of basic working conditions. The Koreans really stand out for poor conditions in their factories."

Outside the Nike factory, Mr. Situmorang continues his vigil, waiting for a court decision on whether he can get his job back. "I've gone to the labor department and the court," he said. He paused and sighed. "I really don't think in the end I will get my job back. This is Indonesia."

COMPARING 104TH CONGRESS TO 103D CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Georgia [Mr. KINGSTON] is recognized for 60 minutes as the designee of the majority leader.

Mr. KINGSTON. Mr. Speaker, I have a couple of topics we wanted to talk about tonight, and have with me my colleague from Arizona [Mr. HAYWORTH], and we may have others joining us. But what we were going to do is talk about some of the difference between the 103d Congress, the Congress that was here in 1993 and 1994, and contrast that with the current Congress that was elected and began to serve in 1995.

If you look back 2 years ago, which was my first term in Washington, and think about the changes, in 1993 the President had just passed the largest tax increase in the history of the country and then turned around and tried to nationalize or socialize medicine.

At the same time, the bureaucracy did not want to get left out of the action, and OSHA, the Occupational Safety and Health Administration, came up with a proposal that said if you smoke in your own house and you have a domestic employee, then you must have a smoke ventilator in your own kitchen.

The EEOC, meanwhile, came out with a ruling that one of the most dangerous hazards in the workplace today is religious symbols. So if you were working at the Ford plant and you had a "Jesus saves" T-shirt on, or if you had a necklace that had a Star of David, that was offensive. EEOC decided it was time to go after those doggone religious symbols in the workplace. That was the kind of thing that we had going on in the 103d Congress.

Now, contrast that with the 104th Congress. We have a Congress that has cut staff by one-third, reduced its operating expenses by $67 million, and put Congress and all of its Members under the same workplace laws as the private sector.

Now instead of debating should we reform welfare, we are debating how to reform welfare; instead of debating should we balance the budget, we are debating how to balance the budget. And when the crisis with Medicare came that was pointed out to us by a bipartisan committee, this Congress did the responsible thing and acted to protect and preserve it.

This Congress, Mr. Speaker, is night and day compared to that that was the 103d Congress. But we have our criticism. A lot of the criticism comes from the press and its allies over at the White House, Mr. Clinton. What we were going to do tonight is talk about some of the criticism.

Education, apparently Republicans do not have children, we do not care if they get educated or not. Seniors, apparently we all came from test tubes and none of us have moms or dads and we do not care what happens to their Social Security or Medicare, according to the President. Of course, the environment, we want to pave Old Faithful and level the Rocky Mountains.

But what is really going on with these issues, Mr. Speaker? We want to talk a little bit about the environment tonight, we want to talk a little bit about taxes and the middle class, and we will continue through a series of discussions to talk about some of these other issues.

I will yield the floor to Mr. HAYWORTH at this time.

Mr. HAYWORTH. I thank my friend from Georgia. I am heartened by the fact that other colleagues from the majority join us tonight to talk about a variety of topics.

Mr. Speaker, the gentleman from Georgia is absolutely correct. There could not be a greater difference in Government than the difference that exists between the 103d Congress, held captive by the proponents of big Government and more and more centralized planning and more and more taxation and more and more spending, and those of us now in the majority in the 104th Congress, unafraid to offer America, Mr. Speaker, a clear, commonsense approach to Government, an approach which really beckons and harkens back to our founders, an approach typified in the first act this Congress passed, which simply said this: Members of Congress should live under the same laws every other American lives under.

Indeed, as my friend from Georgia pointed out, with a litany of progress on a variety of issues, there is one inescapable fact that we confront at this juncture in the second session of the 104th Congress, and that is the criticism, the carping, the complaining, of liberals, both in this city and nationwide, of the powerful special interests who have as their mission in life the maintenance of the welfare state, the maintenance and enhancement and growth of centralized planning; those disciples of big Government who now would criticize the new commerce in this new majority and paint our agenda, indeed, our contract for America, as somehow being extreme.

Mr. Speaker, it is time to point to this simple fact: The only thing extreme about the agenda of the new majority is the fact that it makes extremely good sense.

I take, for example, the comments of my friend from Georgia, who talked about the fact that in the wake of the 1992 election the incoming President, as one of his first acts, chose to proposed and this Chamber approved by one vote the largest tax increase in American history. Emboldened by that victory, our friend at the other end of Pennsylvania Avenue worked in secret to devise a plan of government, that is to say, socialized medicine.

The American people said "Enough," and in November 1994 gave this new Congress a mandate.

Mr. Speaker, I can vouch as one who watched with interest my colleague from Georgia and my other colleagues here who served in the 103d Congress and served valiantly to point out the absurdity of the extremism of those who always endorse the liberal welfare state, I saw with my eyes their valiant efforts.

□ 2115

But more importantly, through the votes of the good people of the United States of America with a new majority, we have moved to do simple things, ironically, the same things that a candidate for the Presidency, who was ultimately elected in 1992, talked about. My friend from Georgia remembers this well. Remember the campaign rhetoric: I will balance the budget in 5 years?

Mr. KINGSTON. Larry King Live, June 4, 1992.

Mr. HAYWORTH. My friend from Georgia offers the attribution. And if he would continue to yield, we would know that the President has had to be persuaded by Members of his own party to offer a phantom budget that would come into balance in 7 years, and using a personal analogy that I am sure my friend from Georgia can appreciate, since he is a physical fitness buff, the budget that the gentleman at the other end of Pennsylvania Avenue now advocates to try and bring our budget into balance would be akin to me saying I need to go on a diet. I think we can all acknowledge that fact. I think I am going to lose 50 pounds over the next 2 months, but I am going to lose 2 of those pounds in several weeks' time, and I will save the 48 remaining pounds for the final 2 days of the diet. It just does not work.

Theoretically, you can write down numbers on a sheet of paper, but what this new majority has offered is a clear, commonsense plan to bring this budget into balance in 7 years, which this President vetoed; a clear, commonsense plan to reform welfare as we know it, which this President vetoed; and now yielding to my friend from Georgia, I would gladly listen to his points.

Mr. KINGSTON. Mr. Speaker, I think it is important really when we do have a dialog to be factual about it. We have been accused of cutting student loans, and yet our budget calls for increasing student loans from $24 to $36 billion. We have been accused of cutting Medicaid, and yet our budget calls for an increase from $89 to $124 billion. Of course, we have been accused of cutting Medicare, but our budget goes from $180 billion to $290 billion. I think it is important that when we talk about this that we divide the facts from the rhetoric.

Now, one of the things that we have been trying to do with our reforms is to balance things, and I know our friend from Michigan [Mr. EHLERS] is here, and we wanted to talk about yes, there are things we are trying to fix, but we are not trying to destroy things, specifically in the environment. I do a lot of camping, and I plan to continue to do a lot of camping. I have 4 children, and my 12-year-old daughter last year started hunting with me. My 10-year-old son is coming along, and I want that environment there for them. I want there to be plenty of species out there. I want the endangered species to be protected. I want private property rights to be protected as well.

Mr. Speaker, I really get offended when the President accuses us of trying to gut environmental legislation when the Clean Water Act, the Endangered Species Act, and the Environmental Protection Agency all were created in the early 1970's under a Republican administration.

Let me yield to the gentleman from Michigan.

Mr. EHLERS. Thank you very much. I appreciate the gentleman yielding me time, and I would like to take a few moments to talk about some Republican ideas on the environment.

As the gentleman correctly pointed out, we have been criticized severely over the past 2 years for some of the actions taken and some of the votes that were held, but I would like to discuss from my perspective, first of all, as a scientist. I am sure the gentleman is aware of my scientific background. Perhaps not all of my colleagues are. But I would just simply mention I have a doctorate in nuclear physics, and I worked in the field for a number of years, both in research and teaching, before I entered the political arena. That does not make me an environmentalist or an ecologist automatically, but it at least indicates that I have the ability to establish fact from fiction when dealing with environmental issues.

Mr. Speaker, back in 1968, I first became concerned about the environment, and I noticed a little notice in the newspaper in Grand Rapids, MI, my hometown, that there was going to be a meeting to discuss environmental issues. I went to that meeting. There were a group of citizens concerned about some pollution that was taking place at that time in various areas of the State, and we formed an organization called the West Michigan Environmental Action Council, and I served as a charter member of that and I have also served on the board.

That whetted my interest in what was happening to the environment, and I had a good deal of interest in government but had never thought of running for office. But when our county developed a severe landfill problem and we had the possibility of raw garbage piling up in the streets, I decided to run for the county commission, and I used that as a means to straighten out the solid-waste situation in my county. It took the work of a lot of other people, too. I do not want to claim the credit for it. But it shows what a citizen activist who is concerned about the environment can do.

The interesting thing is, when I was elected to office and came up with some solutions, I soon lost many of my environmental friends who thought I was going to be a total purist and save the world. The gentleman knows as well as I, from working on issues here, there are many sides to issues and you have to use a reasonable, logical approach. When you are faced with mounds of garbage coming in the gate and the threat of it piling up on the sidewalks, you have to make some tough choices.

But over a period of time, we managed to totally revamp the solid waste disposal system. In fact, I suggested renaming it the solid waste storage system, because the gentleman knows as well as I that if you put it in the landfill, you have not disposed of it; you have simply stored it, and it is still there to create problems in the future. But in any event, we did resolve the environmental issues, and I will not go into all the details of that.

Later I moved on to the State senate. I was made chairman of the Environmental Affairs and Natural Resources Committee, and in the course of several years, with the help of John Engler, who was senate majority leader at that time, now the Governor of the State of Michigan, we got landmark legislation passed and probably had more environmental legislation passed in those 4 years than at any time in the history of the State of Michigan.

Mr. Speaker, I am giving this not to brag about my accomplishments but simply to point out that those people who think the environment is a Democrat issue and not a Republican issue are sorely mistaken. We have different approaches perhaps, but I believe that we can accomplish a great deal in the end on the environment by working together.

Mr. KINGSTON. I want to emphasize what the gentleman is saying by pointing out that President Theodore Roosevelt started the National Park System, and, of course, he was a great Republican at the time.

Mr. EHLERS. He was a great Republican, and also started in some ways the political meaning of the term conservationist. I always love to point out to my friends that the root word for conservation is the same as the root word for conservative and that any true conservative should be an environmentalist, because it is important for all of us to conserve what we have for the advantage of future generations.

During my time in the political arena and working on environmental issues, I have learned some lessons which I just want to share with my colleagues here. First of all, the environment is extremely important. I can perhaps draw an analogy to something that we discuss here an awful lot: The balanced budget. We approach this, as Republicans, from the standpoint that we want to protect this economy, this Nation for our children and grandchildren. It is simply not right for us to continue to live in debt and expect our children and grandchildren to pay that debt. We want to leave them a promising future and not a huge debt. Well, that is also true of the environment. That is one of the reasons I am a confirmed environmentalist.

It is absolutely wrong for us to leave a polluted country to our children and grandchildren and to other future generations. We have to give them the same resource opportunities that we inherited from our ancestors. We have to give them the same clean environment that we have inherited from those who came before us. That is why the environment is very important to me. I want my children and grandchildren and their grandchildren to inherit a clean country, a clean planet, and to be able to have enough resources to use and enjoy this planet.

Mr. Speaker, another lesson I have learned is that energy, energy and energy use, are probably the single-most important component of the environment. Not everyone realizes this. But once you begin analyzing the sources of pollution, where it comes from, a lot of it is from improper use of energy or inefficient use of energy, and that is something this Congress has to spend more time and energy on, just recognizing the importance of energy and working on the efficient use of energy.

Now, let me make it clear, I am not here talking about energy conservation. Some people confuse those. Somehow they think if they are freezing in the dark, they are helping the environment. Well, that may be true, but it certainly is an uncomfortable way to save the environment. What I am talking about is simple, common-sense efficiency of use of energy which can result in less pollution and less cost and a better environment. Everyone wins in that situation.

Another lesson I have learned is that we have to work together on the environment. This is not a partisan issue. I happen to believe that the current Congress is far too polarized on many issues and sometimes polarized on the environment. But they should not be. The Congress should recognize this is a universal problem. The public certainly recognizes. Eighty percent of them favor a clean environment, and we should work together on this issue and recognize it is not partisan but it is important.

As a scientist, I have also learned that correct science is essential. You cannot ignore science and say there is no problem. You also should not manipulate science to prove your point of view, if it happens to be wrong. The facts are the facts, and you have to deal with it.

But another issue that arises when you are dealing with environmental issues is what I call trans-scientific issues, issues that do not have a ready scientific response because the problems are so immensely complicated, and there we simply have to use our best judgment in trying to come up with a workable solution.

Something else that has developed in science is tremendous improvements in detection of toxic materials or other sorts. But out of that comes a big mistake very frequently. A good example is the Delaney clause, which was passed years ago, said no substance used for human consumption can have any carcinogenic or mutagenic element in it at all. Well, as our detection methods got so much better, and we can now detect one part in a quadrillion, that law no longer makes any sense.

Mr. KINGSTON. If the gentleman will yield on that, I think that that is a real important idea or concept.

How it has been explained to me is that if you take, say, a wading pool that kids are in, not a swimming pool but a wading pool, the little blue, pink plastic kind, and you pour a gallon of pesticide in there, then back in the 1930s, that is what they detect. But today, if you take an eyedropper and into mom and dad's big swimming pool, 34,000 gallons, and you put a little drop of the pesticide in that pool, today we could detect it. Yet in many, many cases, that trace of pesticide is negligible, it is noncarcinogenic, it will not hurt anybody. But because our technology is so advanced, we can detect it, and yet our laws have not kept up with that.

That is what revamping the Delaney clause is all about, and it is so important because there are so many fertilizers that have been taken off the market because of this red tape interpretation of the Delaney clause, and yet other countries are still using those pesticides. So it is affecting us already, and we do need to resolve the issue, again, in a balanced way, protecting the consumer above everything else, but also utilizing the technology for our advantage and not against it.

Mr. EHLERS. Thank you very much. I appreciate that comment, because that is precisely what has happened. I am certainly not arguing for putting toxic materials in food or using the wrong fertilizers or anything like that. I am simply saying that our laws have to keep up with scientific changes, and if you demand a zero tolerance, as we did originally with the Delaney clause, it is a mistake, because there is no such thing in this life as zero risk.

Mr. Speaker, that leads to my next point, and that is, we have to learn as a nation to prioritize, to decide what is good and what is bad, and recognize, everyone has to recognize that there are certain risks to every part of life. For example, it is commonly assumed by many that natural is good. Something that is natural is good. Something that is artificial is bad. That is not necessarily true. For example, peanut butter. Perhaps I should not mention this in the hearing of those who are from Georgia. But peanut butter is a fairly carcinogenic material, and the lab tests have shown that. And if we truly enforce the Delaney clause, we would probably have to ban peanut butter.

Mr. KINGSTON. I do want to ask how you people in Michigan consume peanut butter. I would like to know more about that.

Mr. EHLERS. Well, in fact, everyone consumes peanut butter, and that is why it has not been banned. It is a food staple for so many people. I am simply pointing out that what we have to do is analyze the risks in every situation and prioritize the risks. There is a great deal of concern, of course, in our Nation about toxic waste, but yet, if you analyze in a hard-headed manner what really are the environmental risks we have today, what is the highest environmental risk, you are likely to find that there are many things other than improper disposal of waste that are higher up on the list.

□ 2130

For example, urban sprawl with its destruction of habitat, and destruction of habitat of course is key in the endangerment of species, and that leads to something that my colleague from Maryland sitting here is an expert on, the Endangered Species Act. These are all very, very complex issues. We have to look at all aspects of these and recognize precisely what the problems are, and what the dangers are, and what this leads to, as my final point in this list before I summarize, and that is what we need is common sense regulation. That is something I have strived for throughout my legislative career.

It is very easy to adopt what is called the command and control approach where you simply say something is bad, let us regulate it out of existence. If you do that without looking at the benefits and the costs, you can go down a very dangerous path, dangerous both in terms of health and our economy.

What we, what I, typically did in the Michigan Senate, when we encountered a problem, I would get representatives gathered. I would get scientists together, environmentalists, industrialists, everyone possible, get a representative group together, sit down in a room and pound it out, week, after week, after week, educate each other about the problem and come up with a solution.

Mr. Speaker, frankly, that is what I believe that we have to have the Congress doing as well. That really results in good common sense regulation which gives the maximum return on laws and the maximum return on the investment of time and energy as well as money.

Mr. KINGSTON. If the gentleman would yield, I wanted to illustrate that on a true case that happened in Riverside, CA, where the residents in a neighborhood were not allowed to dig fire trenches because it would endanger kangaroo rat habitat. And so fire breaks were not dug, and a fire came. Thirty homes were destroyed, but, in addition to that, over 20,000 acres of kangaroo rat habitat was destroyed.

Clearly, using what you are saying, common sense approach, this certainly does not benefit the home owners, but it also defeated the whole objective, which was to protect the rat.

So we can clearly, without endangering the animal, we can clearly have more flexibility of the law and get away from the command and control which leaves out common sense.

Mr. EHLERS. Let me give an example, too, that occurred in Michigan.

Years ago it was discovered that the Kirtland's warbler in Michigan was an endangered animal. Everyone loved the Kirtland's warbler, a wonderful bird, beautiful song. It was endangered because of some very peculiar mating habits. This bird is very selective about its habitat for mating. It would only mate in jack pine trees which were less than 6 feet tall. As the forest grew, the jack pine were too tall, and the birds would not mate. So they were becoming extinct.

The initial approach suggested setting aside vast acreages so that there be at any given time enough jack pine available so that the birds would nest and proliferate. In fact, a different approach was developed, and that was to use smaller acreage and provide for selective cuttings of timber in such a fashion that there is always ample jack pine of the appropriate height.

The Kirtland's warbler has flourished. It is no longer endangered. It has become a major tourist attraction in that area. So we find that we have improved the habitat for the Kirtland's warbler. It has benefited the community as well, and it is a good example of meeting the needs of the environment, meeting the needs of the endangered species, and yet not with any undue takings, or anything of that sort.

Mr. Speaker, that is what I mean by commonsense regulation. There are ways of handling most of these problems if we simply take the time to address them properly and study them thoroughly, use scientific evidence, and do not get all wrapped up in rhetoric, or taking sides, or polarizing the issue.

Now this will not be true in every case, but it is true in many cases. Sometimes we will have really tough issues, but if we remember our environmental principles of saying the environment is very important, we have to find a solution, let us find the best possible solution, I think it will serve all of us well.

Well, I have given this as an example of a Republican approach to the environment, and I think it is the approach that we have to take here, that we have to follow, get away from some of our polarization.

To summarize, I would make a few key points. First of all, we must protect the environment; we have no choice about that; for the betterment of our planet and for the benefit of our children, grandchildren and future generations. We must do it scientifically. We cannot do it haphazardly. We have to analyze the risks as best we can and not simply say, "Oh, that is a terrible danger, let us address that and ignore something over here that might be even worse."

We must do it in priority order. We have to develop a method of prioritizing the demands, the problems in the environment, so we are putting our money where it makes sense, and we must use common sense in doing it.

But above all, we must do it for our children, our grandchildren and for any future generations. I thank the gentleman for yielding.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from Michigan.

We have also been joined by the gentleman from Maryland [Mr. GILCHREST] who wanted to comment on a couple of points as well.

Mr. GILCHREST. I thank the gentleman for yielding. I wanted to just say a few things.

Mr. Speaker, we are here talking about a number of issues, one of which is policy relating to environmental issues. The gentleman from Michigan, the gentleman from Arizona, and the gentleman from Georgia, I think, all discussed the direction that we need to move in. The gentleman from Michigan said we need to protect the environment. There is no one in this room that wants to dirty the air, and I do not think there is anybody in this room that says the water is too clean, and I do not think there is anybody in this room that wants to do away with species that we are able to enjoy in the wild so that in years to come they will become extinct.

But there is a way that we can go about doing this in a fundamental manner that will bring more people into the process, and in the long run and in the short run, I believe, we will be more successful.

A hundred years from now, and I am sure that there are people out there listening, Mr. Speaker, that knew people that were alive in 1896. And we will know people that will know people in 2096. I am not sure any of us will know people that are alive in 2096, but our great grandchildren, perhaps our grandchildren, will know people that will be alive in the year 2096. So a hundred-year time span is not very long. And for us to protect the resources that we have right now, I think, is crucially important so that future generations will be able to enjoy the blessings that we have inherited.

Now in order to do that I do not think you can do that from a centralized authority like the Federal Government. We have been accumulating more and more responsibility with the States and the local governments and even private citizens. So, we create environmental legislation which is important for a lot of reasons.

For example, about 40 percent of the pollution problem in the Chesapeake Bay, where I come from, the Chesapeake Bay watershed; I live on the eastern shore of Maryland; about 40 percent of the problem in the Chesapeake Bay is air deposition. That means air pollution, and there is very little you can do about that, and about 60 percent of that air pollution which pollutes the Chesapeake Bay from the air is from automobiles.

We are increasing the number of cars every year; we are increasing the number of people that live in the watershed every year. So we have to begin to find solutions to problems that are difficult to solve because very often, if not always, the problems are as a result of increased population.

The way to do that, I think, is to begin cooperating and consulting with these environmental pieces of legislation, with the State government, with the local government and private citizens developing policies that can actually work. Future generations will not care who cleaned up the pollution, or even who polluted. The fact is they are going to live with what we do.

One other comment about clean air and clean water. Very often the Republicans are tagged with causing gridlock in Washington, with causing partisan politics in Washington, especially when it relates to environmental issues. I would just like to send this message, and that is gridlock. Arguments in Washington are not bad. You do not see the North Koreans arguing. You do not see gridlock in Cuba. What you see here in Washington is an argument about the best way that America should move forward. These arguments are actually bringing out more information. In fact, I would say that the people with the most credibility in

Washington right now are not the ones with long years behind them. They are not the powerful committee chairmen that might have been elected in the 1950's. We do not have that anymore.

Mr. Speaker, the people with the most power in Washington right now are the ones with credibility, and people with credibility are people with information. If we can begin to share information from Member to Member and develop legislation so that we can share responsibility, cooperate with the States, have consultations to do the best that we can with environmental legislation, then I think we are going to move forward to protect the environment.

Mr. HAYWORTH. Mr. Speaker, if the gentleman will yield on that point, first of all, I have the utmost respect for my colleague from Maryland. We serve together on the Committee on Resources. It is no secret that we may not agree on every single jot and tittle with reference to policy.

Yet at the same time I am heartened by the fact that the gentleman from Maryland, as well as my friend from Michigan and my friend from Georgia, all recognize this central theme, that it is not centralization of power or a one-size-fits-all philosophy that oft times is outdated with reference to new technologies that develop, but, instead, the realization that there must be a spirit of conciliation, a spirit of cooperation and the notion that is really quite common sensical when you think about it, the acknowledgment that Phoenix is not the same as Philadelphia, that Monroe, LA, may not be the same as Grand Rapids, MI, that Savannah, GA, may not be the same as St. Louis, MO. There are different issues that confront us all.

So in that spirit, even while there may be some disagreements on how we get to a cleaner environment, how we recapture for the American people the true spirit of conservation, let us start with that premise, and also what the gentleman from Michigan talked about, and that is the sense of balance that must be there, preservation of the environment, a true spirit of conservation, and at the same time a preservation, if you will, of the fragile rural economies this Nation has; for example, in the Sixth District of Arizona.

So it is a challenge. It is not easy to face up to many of these questions, although common sense will rule the day, I believe, and we will ultimately come to some agreements. But let us also categorically reject even amidst the gridlock that my friend from Maryland talked about this need on the part of some within this body and at the other end of Pennsylvania Avenue to try and demonize those who will take another approach, indeed along the same lines of the school lunch debate, really the school lunch scare, and with reference to the mediscare debate. I have yet to see starving children in the streets or the elderly thrown in the streets. And by the same token, I do not believe the vast majority of Americans are turning on their taps and drinking sludge.

So let us articulate up front that, while there may be some slight differences in approaches, the bottom line remains true for members of the new majority. We want to find constructive, common sense solutions that preserve the environment, that preserve the economy and do exactly what the gentleman from Maryland talks about, offers an environment to generations yet unborn that is clean and that may be used, not only for emotional well-being, but for economic well-being for that is the challenge we face in the last decade of the 20th century.

So I am heartened by my friend's remarks and look forward to working with him, even acknowledging some differences along the way. I yield to my friend from Georgia.

Mr. KINGSTON. What is important though is we bring our laws up with our technology and bring our laws up with other levels of government to realize that when the Environmental Protection Agency started in the very early 1970's, it was just about the only and certainly the premier environmental protection agency in the country. Today in Georgia, in Maryland, in Michigan, and Arizona you have narrow groups. You have your own Environmental Protection Agency, which probably is about 10, 15 years old at this point.

□ 2145

Mr. Speaker, I had the honor to speak to the Association of State Environmental Protection Divisions a couple of months ago. I was a little bit worried because I was afraid that, well, I do not know if I am walking into a lion's den or not. They said, "We are ready. We can handly this. We can probably do a better job of attacking pollution cleanup because we are closer to the sites, we can work with turning, or the State legislative, we can get it turned around. Do not run from it, but do not get in our way, either." I think that is important.

Mr. EHLERS. Mr. Speaker, if the gentleman will yield, I would just like to comment on this little discussion, and especially commend the gentleman from Marylandy [Mr. GILCHREST], who is, I believe, without doubt, the wetlands expert of the Congress. He knows a great deal about it, and has made some very important contributions to that.

As I mentioned earlier, Mr. Speaker, I have been involved in the founding of the West Michigan Environmental Council. That group plus another group were instrumental in making Michigan the leader in writing State laws, in many cases before any other State or the Federal Government had. We wrote a wetlands law in Michigan over two decades ago. Michigan still is the only State that has been delegated authority by the EPA to administer its own wetlands law, and is not subject to Federal wetlands law.

It has always puzzled me why other States have not done that because, precisely as the gentleman from Maryland pointed out, each State is often better able to judge the situation within their State. Michigan is a very wet State. We are surrounded by Great Lakes, we have many inland lakes, we have many wetlands, and we have developed a wetlands law that works very well. I do not want to imply that it is without trouble and without dispute, but I can tell the Members from my experience in working with that and slogging through wetlands and working with the laws and working with the people, we managed to work things out.

Mr. Speaker, I was astounded when I came to Washington and discovered the antagonism toward the EPA in most parts of this country with regard to wetlands. I think part of it is, as the gentleman from Arizona mentioned, we have tried to pass one-size-fits-all legislation, and certainly the wetlands requirements in South Dakota and Arizona are different from those in Michigan and in Maryland. I think it is important for us to recognize that. It is also important for the States to take on that responsibility, as Michigan has done in passing its own wetlands law.

Similarly with takings laws, that is a real legal morass, and I regret the takings legislation that passed this body earlier this year, because I think, again, it was an attempt to be a one-size-fits-all, and it certainly did not fit my State. We have struggled with that for years with the wetlands law, with the Sand Dune Protection Act. We have come to a reasonable working arrangement on that, and keep working on trying to improve it.

Again, realize that the real objective is to protect the environment and work in a common-sense fashion that works, that gets the job done. When you were talking about clean water and clean air a moment ago, I was reminded, when I moved to Grand Rapids, Michigan, in 1966, the Grand River, which was a beautiful river flowing right through downtown, was filthy. No one would swim in it. No one boated on it. No one would think of catching fish from it. Now the river is clean enough so it has become a major fishing attraction. People boat on the river, and some even dare to swim in the river.

So we have made considerable progress in the past couple of decades, and I think it is a tribute to the progress we have made. We should never forget that. We have cleaned up most of the biological pollutants in the water and in the air. Now we are working on the chemical pollutants. It is a much tougher problem and much more scientific in nature. We have to, as I said earlier, use good science to do that.

Mr. KINGSTON. Mr. Speaker, as the gentleman points out, though, the need for honesty and integrity in the debate is so important. We have a Superfund bill we have been trying to get reauthorized now for 2 years, and while we are speaking, only about five of the national priority sites get cleaned up each year. Only 12 percent of the polluted national prioritized sites have been cleaned up, after 15 years and $25 billion of Superfund law. It is broken. Let us fix it. There is going to be a little bit of disagreement between the manufacturers in the private sector and the environmental community, but I would suspect there is still 75 percent or 80 percent of the issue that could be moved forward right now.

Mr. Speaker, I am very frustrated by the fact that in Washington, we always have to have this debate from both sides of any issue, "The sky is falling," and the other side wants to accelerate the fall, join me in this fight. It is very difficult in that kind of atmosphere to have an honest debate.

I know the gentleman from Maryland has been in the very center of some of these things.

Mr. GILCHREST. Mr. Speaker, the gentleman from Georgia is correct about the Superfund situation. I think this Congress has begun the process of resolving the vast differences in that complex piece of legislation so we can have as our priority spending the money on cleanup costs rather than litigation costs.

I would like to mention just one thing to the gentleman from Michigan. I know Michigan has assumed the enforcement of the Federal wetlands regulations, and Maryland is about to do the same thing. I would like to make a comment on wetlands, the Endangered Species Act, and these other pieces of environmental legislation which are sometimes very emotionally discussed.

In the State of Maryland, as a result of the Chesapeake Bay improving and having clean water, much of that is attributed to wetlands filtering out a good deal of the nitrogen that comes in as a result of farming, or filters out a variety of other pollutants that get into the groundwater and spawning areas for fish, but wetlands is key to the economic boom in Maryland. There is about $2 billion worth of tourism, commercial fishing, recreational fishing, hunting, boating that comes to the State of Maryland as a result of the type of environment we have, so wetlands regulations help us to manage our resources.

The Endangered Species Act, which in the State of Maryland is actually stricter than the Federal Endangered Species Act, that might cause some alarm for some people, but for the State of Maryland, it assumes that our rural areas, through certain management tools on the Federal, State, and local level, when we work in a pretty cooperative consulting fashion, ensures that our number one industry, or number one and number two industries in the State of Maryland are fishing, tourism, and agriculture. To save these particular industries, we need to work together and now apart.

We do need to recognize the differences in a regional way, but people in Louisiana want clean water, as the people in Maryland want clean water, so it is the consulting process. It is getting involved from all the different levels, including elected officials getting involved in the consulting process.

I just want to close with this one point, Mr. Speaker. I read recently a book from a Montana mayor, and I can't remember his name, the mayor of Missoula, Montana, wrote a book about community and place, and how we can reconcile the difference, especially that seem to become political differences. The essence of the book, without going into it, and I recommend the book to people to read, it is called "Community and the Politics of Place," I think that is the name of it. But the essence of the book is, he said that America used to be a frontier. People used to be able to go places if they did not like where they were. if they had religious differences or had any kind of quarrel or wanted to seek adventure, they could go to the frontier that seemed endless. Now America does not really have a frontier. America is filling up with people, and we are a prosperous Nation, so the next frontier will be the frontier that is based on our ability to consult, to cooperate, to use our intellectual skills to manage the limited resources that we have so that they will still exists for future generations. We cannot do that and argue.

My son told me a couple of years ago when he was in high school, when he sort of was getting ready to look at the world, he said the world to him seemed like two people in a big truck driving down the highway at 90 miles an hour, and the highway ended at a huge precipice, a 10,000-foot drop, and the people were not only not paying attention to where they were going, they were arguing.

So if we are going to be legislators that are going to deal with the problem of the Nation, we have to, together, set the example so we can cooperate here and disseminate that sense of policy to the rest of the country.

Mr. EHLERS. Mr. Speaker, if the gentleman will continue to yield, I simply wanted to comment that I agree wholeheartedly with that. I think, getting back to the theme of what we have been talking about, we are simply trying to demonstrate that we are Republicans are trying to develop a responsible approach to the environment here.

I appreciate the comments that have been made. I thank the gentleman from Maryland especially for his views on wetlands, and obviously, it is very similar to Michigan. There is just one minor correction, by the way. Michigan has its own wetlands law, whereas Maryland and New Jersey will administer the Federal wetlands law.

It was interesting, when I was in office there I heard a lot of complaints about the wetland law, and one legislator proposed repealing the Michigan wetland law. The two groups that argued the most against that were the sportsmen, who think the wetlands law is wonderful, because Michigan has great hunting and fishing and so forth, and business. They said, "We know this law. It works for Michigan. We do not want to be under the Federal law." That shows how each State can design the law that accomplishes the goals better than we can with a one-size-fits-all approach from Washington.

I think we have to set a minimum standard, but encourage the States to go beyond that. As Republicans who are talking about devolution of power, of letting the people in the communities have a say, I think this fits in beautifully with that.

Mr. HAYWORTH. Mr. Speaker, if the gentleman will yield, I appreciate the gentleman making this point, and I simply want to make this point that I think it transcends almost every debate we have here, and it is a philosophical point of view that I think rings true with the majority of the American people.

As you relate to us the experiences of Michigan, as our colleague from Maryland relates the experiences in his State, certainly none among us would argue that at certain time in our history, the Federal Government has played a genuinely worthwhile role in serving as a catalyst to deal with some dramatic issues, but history does not occur in a vacuum.

Therefore, the challenge for us at this juncture in our history is to ask this question: Who do we trust? Do we trust the American people, do we trust local officials, elected by the people close to home, officials elected to State government, the State agencies that have grown up in the last 25 years to confront these problems, or do we always and forever turn these problems over to Washington bureaucrats to offer a Washington solution which may fit Washington, DC, but which might not fit Washington State? that is the essence of the debate that we have on a variety of topics.

I thank the gentleman from Michigan for drawing that distinction yet again when it comes to environmental legislation, the true meaning of conservation, and what it will mean to protect and preserve the environment as we move into the next century.

Mr. EHLERS. I would simply say, Mr. Speaker, we need both. Take clean air, for example. We have to have a Federal law, because the transport across distances is so huge, but we also need local law to regulate how this is applied locally, and do it in a commonsense fashion. Only with everyone working together are we truly going to achieve a clean environment.

THE URGENT NEED FOR MEANINGFUL TAX REFORM

Mr. KINGSTON. Mr. Speaker, we wanted to touch base on the tax situation, with April 15 approaching quickly. I will yield to the gentleman from Arizona on this, but I want to start off with a couple of fun facts, first, about out tax system, because if you are like many of your American friends this last week or two, you took time filling out your tax form.

On an average, it takes 12 hours for you and your family to fill out your tax forms to the degree that you can, and then you take it to your accountant, and pay anywhere from $150 to $700 or $800, depending on where you are and how much you own and so forth. If you are a small business, it takes you 22 hours.

Here is a statistic that I really like, Mr. Speaker. The IRS has 480 tax forms, and 280 of them are forms that tell you how to fill out the other forms. That is absolutely absurd. The West Publishing Co., one of the official publishers of the Federal Tax Code, published the 1994 Tax Code in two volumes. Volume 1 contains sections 1 through 1,000, and it is printed in 1,168 pages. Volume 2 is page 1,500—1,500. We have a 1,564-page Tax Code, Mr. Speaker. It is absolutely absurd. The need for tax reform is urgent, it is great, it is right now. It is appropriate to look at while we are trying to balance the budget.

Mr. Speaker, I yield to the gentleman from Arizona [Mr. HAYWORTH].

□ 2200

Mr. HAYWORTH. I thank my friend the gentleman from Georgia.

In this Chamber where it is oft decried, the level of verbosity that often emanates within this Chamber, you have not seen words, Mr. Speaker, until you take a look at the Tax Code. The gentleman from Georgia talked about it. By wording, the Tax Code as it exists today consists of 555 million words, 555 million words in the last 10 years. In the wake of tax reform of a decade ago there have been 4,000 changes, resulting in the verbiage piling up.

Mr. Speaker, if you think you are paying by the word, that is certainly the case. Because in the wake of our last tax increase, the largest tax increase in American history, the President of the United States, who talks about tax breaks for the middle-class, offered a tax increase so regressive that with the retroactivity attached to it, people who had passed away still owed more from beyond the grave due to retroactivity.

It is the height of absurdity when the American family in 1948, an average family of four, surrendered about 3 percent of its income in taxes to the Federal Government, to where last year the average American family of four surrendered virtually one quarter of its income in taxes to the Federal government. That affects everyone.

Mr. Speaker, we need to make a change. We have taken a look at priorities and we see that clearly, in the wake of these expenditures, Washington's priorities have totally gotten out of whack.

Mr. KINGSTON. What is so important is that the average family in the 1950's paid 3 percent and today pays 24 percent in Federal income taxes. When you add in the other taxes, State and local taxes, the average middle-class family pays about 25-percent taxes.

I had an opportunity to talk to a driver with UPS, United Parcel Service, in my district. He said, "My wife works. She teaches school and has a good job, and I get a lot of overtime driving this truck. We have got three kids, and at the end of the month we do not have anything because it goes into washers and dryers and taxes and regulations and so forth."

That is the story of the middle-class American family today. All they are doing is working for the government. Then we turn around and make them fill out a tax form that is absurd, which they cannot do.

Mr. Speaker, you are on the Committee on Ways and Means. I bet you most Members of Congress cannot even fill out their own tax form. I believe that is real important. If we cannot do it, we who are setting the law, what do we expect of the American people?

Mr. HAYWORTH. If my friend would yield, there is something fundamentally wrong when the average American family pays more in taxes than on food, shelter and clothing combined. There is something wrong when Washington sends its resources to pay for 111,000 IRS employees, and yet can only have 6,700 DEA employees and only 5,900 border patrol employees.

What does that say to the American people? The Washington bureaucrats are saying, "Oh, we do not have time to staunch the flow of illegal drugs. We do not have time to guard the borders, though that is one of the prerogatives of the Federal Government as mandated in the constitution. But we do have time to audit you, Mr. and Ms. America. We do have time to cast aspersions on your honesty. We do have time to try and find our way into your pocketbook again and again and again and again."

Mr. Speaker, there is nothing ignoble or dishonorable about hard-working American taxpayers hanging onto more of their hard-earned money and sending less here to Washington, DC. Indeed, in the days to come once again, I know my friend Georgia disagrees with this notion, we extend our hand in cooperation to the minority. We extend our hand in cooperation to the President of the United States.

We have talked the talk for too long. Now, Mr. Speaker, it is time for us to walk the walk. We voted that way in this Chamber. We hope that those who would give lip service to these ideals would join with us and get about the business of governing. The American people deserve no less.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we have worked to repeal the 1993 Clinton tax increase on Social Security recipients. We have worked to increase the earnings limitations for American seniors. We have worked to increase the estate tax threshold from $600,000 to $750,000, and we have worked to end the marriage tax penalty and the capital gains tax, and the President vetoed that. Along with that, he vetoed a $500 per child tax credit for middle-class families.

Right now in America households all over this land, from Maine to Miami to California, you can reach in your pocket and say here is $500 that was a dividend for my work this year, but it was vetoed by this President of the United States.

We are not going to stop, Mr. Speaker, and talking about taxes is going to take a lot more time. We have with us the gentleman from California who wants to talk about another waste of manpower and money, and that is illegal immigration, so I want to yield to him.

Mr. BILBRAY. Mr. Speaker, I would first like to echo my colleagues' comments. My wife runs our family business which happens to be an income tax business. I heard a lot of talk in 1993 that the Clinton tax increase was only going to be a tax on the rich and the seniors who were wealthy. Well, I do not think the Members of the House really realized what they were doing. I will say this, and I need to say this so that I can go home to my bride in California this weekend.

The fact is that she showed me one individual and talked to one individual who was a classic example of the so-called tax on the rich. This person made less than $14,000 a year, but because he happened to be a Latino who had very strong religious beliefs, he did not divorce his wife. He was married and filing separate. Eighty-five percent of his Social Security is being taxed.

You remember in 1993 they told those of my colleagues who were here, this is only a tax on the wealthy Social Security recipients; it is not on the poor. Well, this man would like to ask: Would somebody in Congress tell him how rich he is?

I think that that is one issue that is not discussed enough and we need to start bringing it up. As somebody who is involved in doing tax returns for the working class in my community in San Diego, Mr. Speaker, I hope to bring up more of those items, talking with the constituents who are being taxed by this Congress under the guise of taxing the rich, when it is the working class that is getting harmed by this unfair and unjust legislation.

Mr. Speaker, another item that is unfair and unjust is that we have been trying to address this last week the fact that this Government of the United States has in the past rewarded people for coming across the border and breaking our immigration laws and then getting welfare, free education and free medicine, to the point where it is costing the State of California immense amounts of revenue, and the Federal Government has been walking away from this expense. The people in States across this country are paying this expense because the Federal Government has ignored it.

Mr. Speaker, with the passage of H.R. 2202, Mr. SMITH's bill, -we are finally now seeing this Congress recognizing its responsibility under the constitution to address the fact of illegal immigration. But there is one part of the illegal immigration issue, Mr. Speaker, that has not been addressed.

Mr. Speaker, I will just ask that we all consider the fact that giving automatic citizenship to children of illegal aliens is a problem we need to address. My bill, H.R. 1363, will address that, and we hope to work on that in the very near future.

WOMEN, WAGES, AND JOBS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized for 60 minutes.

Ms. NORTON. Mr. Speaker, this special order on women, wages, and jobs comes during Women's History Month, but more pertinently it comes because finally the issue of declining wages in our country has made it onto the national agenda.

The underlying discontent that has been there for two decades have come forward, and we see it in the Republican primaries. It is interesting that at least since the early 1980's many of us have been pointing to this un-American phenomenon where the stock market does well and people do poorly. Somehow or other it never caught on. There has been some attention paid to it as it affects men because the manufacturing sector has been so decimated as jobs have moved offshore. Now that the country is beginning to recognize that something different is happening, it is important that we look at all of those of whom something different is happening, and that is why I choose to raise it in relation to women.

As a former chair of the Equal Opportunity Employment Commission, I have long had an interest in discrimination against women. More is at work here than simple discrimination, however. What is at work here is the nature of our economy itself, some historic changes that are underway that reflect upon the kinds of jobs that are being produced and who gets those jobs.

The effect is felt in the widest gap in incomes we have seen since we have been keeping these records. We need to look at how this phenomenon affects women in particular because with the change in the economy there have been the greatest changes in women in the work force.

I want to point to a bill I have introduced, the Fair Pay Act, which in its own way is to the 1990's or seeks to be to the 1990's what the Equal Pay Act was to the 1960's.

This body in 1963 passed the Equal Pay Act in order to close the wage gap between men and women, and the Equal Pay Act has done a very good job for its limited mandate. Essentially, it was to look at people doing the same job and being paid differently for it. Some progress has been made, partly because of the Equal Pay Act, so that we have gone from about a 62-percent gap now to something like a 71-percent gap. That is the good news until we hear the bad news.

The bad news is that the closing of the gap itself reflects an alarming decrease in male wages as well as the new presence of highly educated women or highly skilled women in entry-level positions only. In other words, the average woman is just where she was. The average woman is experiencing what the average man is, stagnant or declining wages. But at entry levels, highly educated women like doctors and lawyers make the same as men, although those women have a gap that develops within their profession after the entry level.

I am this evening interested in the average woman, the silent worker out there every day. The Fair Pay Act is directed specifically to her and to part of what she is experiencing.

The Fair Pay Act simply says if you are doing comparable work you ought to get paid the same. The Fair Pay Act says if you are an emergency services operator, that is a female-dominated profession, you should not be paid less than if you are a fire dispatcher, that is a male-dominated profession.

Under the Fair Pay Act if you are a social worker, you would not earn less than a probation officer simply because you are a woman and he happens to be a man. Should not the market set the rates? That is precisely what the Fair Pay Act tries to do, even as the Equal Pay Act intervened in order to have the market set the rates.

Too often the habits of employers over the decades have built in distortions to the market. Women and minorities paid the price in reduced wages.

I want to emphasize that the Fair Pay Act that is H.R. 1507, would not, in fact, intervene into normal market processes, and that has been the problem people thought they saw in comparable worth work.

□ 2215

My bill would allow the extraction only of the discrimination factor, and the burden would be on the plaintiff, on the woman, as is always the case in discrimination cases, to show that the difference in wage she is experiencing is because of discrimination and not because of unbiased market factors.

I offer that this evening for inspection as one approach to the problem I raise in women and jobs.

I want to move to another remedy as well. We are finally beginning to talk about raising the minimum wage. Here is a subject covered with my mythology. If we are going to talk about women workers, we must talk about the minimum wage. Indeed, if we are going to talk seriously about welfare reform, we must talk about the minimum wage. Who are we talking about when we talk about a minimum wage worker? Some Americans would say, well, I think you are talking about a bunch of teenagers working at McDonald's. The typical minimum wage worker is a white woman over 20 years of age, likely to live in the South, who has not had the opportunity to attend college and who works in a retail trade, agriculture, or service job. That is who the minimum wage worker is. She is your wife and you daughter. She is your aunt and your young friend who has just graduated from high school.

Most minimum wage workers are women; 5.75 million women are paid between $4.25 and $5 per hour. That means 17 percent of all hourly paid female workers earn the minimum age and only the minimum wage. Most female minimum wage workers are not teenagers. They are adults. And when we say women are earning the minimum wage, we are talking about almost certainly the guardians of poor children. Often, most often, these minimum wage workers are women who are raising the poor children.

Now, Mr. Speaker, I am not here talking about the favorite subject of this body, deficit reduction. The minimum wage will add not 1 cent to the United States deficit. What it will do is take 300,000 children immediately out of poverty, 58 percent, almost 60 percent, of minimum wage workers are women. Nearly half of full-time jobs, and the statistics will show that many, if not most, of the others wished they could get full-time jobs, but of part-time minimum wage jobs 15 percent are black, 44 percent of minimum wage workers are Hispanic. What would we do, what would I have us do? Simply to raise the minimum wage to $5.15 per hour. Is there anybody in this body who would think that is too much for them to earn or too much for anyone they know to earn, too much for any constituent of theirs to earn? It would not have to come in one fell swoop. It could go to $4.70 an hour by July 5 this year and to $5.15 an hour by July 1, 1997.

Understand who we are talking about when we say the minimum wage worker. We are talking about the traditional way in which we have set a marker of what it means to be an American below which you shall not be forced to work. We are talking about a person who works typically 40 hours a week, 52 weeks a year, and earns $8,840. The impact of lifting the minimum wage would be that immediately 300,000 people, I want to correct what I said before, 300,000 people would be lifted out of poverty; 100,000 would be children. Only one-third of those affected by such an increase would be teenagers, because almost 70 percent of minimum wage workers are 20 years old or older. They are adults going out to work every day with less than a poverty wage. That is who they are.

Since 1979, we have found that 97 percent of the Nation's increase in wealth has gone to the wealthiest 20 percent. The remaining 3-percent increase in wealth is left to the other 97 percent of the Nation's workers, and who has taken the brunt are those at the very bottom.

The value of the minimum wage has dropped 30 percent, my colleagues, since 1979. I want to put this graphically to you. I want us to face who we are talking about. Let us look at a family of four and consider what would happen if the sole earner is a minimum wage worker above the poverty line. The current poverty line for a family of four is $15,600. Now, if that family of four has one worker earning the minimum wage, $4.25 an hour, working full time the year around, about $8,500 a year, that worker would receive a tax credit, thanks to legislation passed by this body, if we do not cut it terribly much, and there are proposals to cut it, but today that worker would receive a tax credit of $3,400 under the 1996 provisions of the earned income tax credit.

That worker is so poor, that worker, single wage earner in a family of four, that she could collect food stamps worth $3,516. She would nevertheless still pay $650 in payroll taxes after qualifying for benefits and paying her payroll taxes. This family ends up $834 below the poverty line.

This is America, my friends. We cannot continue to send people to work every day, working hard, working in work you do not want to do and I do not want to do, and have them come home below the poverty line. That is dangerous. You are hearing the rumblings of it out there in the Republican primaries. Answer the call now.

In every State there will be large percentages that will benefit from an increase in the minimum wage. In my own city, a fairly small percentage, 7.8 percent, would benefit, and as I look at what would happen in some of the States, I am simply amazed. Idaho, almost 14 percent of the workers would benefit. In Louisiana, almost 20 percent of the workers would benefit. In Michigan, 10.5 percent; in Mississippi, 17 percent of the workers would benefit. In North Dakota, 18.2 percent of the workers would benefit.

I see my good friend and colleague from Georgia, Representative MCKINNEY, here. In Georgia, 11.9 percent of the workers would benefit. Very substantial percentages all across the United States, regardless of sex, regardless of your preconceptions about the place, regardless of whether you think of it as a poor State or a rich State, you have substantial proportions of the population that would immediately benefit from a raise from the minimum wage, not 1 cent added to the deficit, a sharing of income of the kind that has been typical in the United States that as companies become more prosperous there is a greater sharing of the profits with the workers. That is what has not been happening. That is why we are having a growing income gap.

The number of African-Americans who would benefit is important to note. Seventeen percent of all hourly paid African-American workers are minimum wage workers, and most of these low-wage workers are female. Twenty-one percent of all hourly paid Latino workers are minimum wage workers. And Latino women are especially likely to be paid very low wages; 25 percent of hourly paid Latino women earn at the minimum wage.

Now, I want to examine the critique of an increase in the minimum wage that is most often made, and that is that you reduce job opportunities. The answer is that that is not the case. I refer to nearly two dozen independent studies that have found that the last two increases in the minimum wage had a insignificant effect on employment. The Nobel Laureate economist Robert Solow recently told the New York Times that the evidence of job loss is weak, and I am quoting him, "The fact that the evidence is week suggest that the impact on jobs is small." Prof. Richard Freeman of Harvard said the following: At the level of the minimum wage in the late 1980's, moderate legislative increases did not reduce employment and were, if anything, associated with higher employment in some locales. We remember the 1980's, do we not, when there was a plethora of minimum wage jobs breaking out all over in this country? Minimum wage seems not to do what the conventional wisdom tells us. Kind of look at the facts. We have got to look at the studies.

There is also the myth that the blow will be to small businesses. First of all, 90 percent of workers in small business already earn more than the current minimum wage. Do not think that people in small businesses are simply looking for the cheapest labor they can find. They are looking for the best labor they can find. They have got to have people who give them the biggest bang for the buck. In any case, the law does not apply to businesses that do not have annual sales in excess of 4500,000 or employees that participate in interstate commerce. You have got to be in that category even to be covered. That means that many small businesses are simply not affected by the minimum wage at all. Ninety percent of workers in small businesses earn more than the current minimum wage. Indeed, half of minimum wage workers work in firms with more than 100 employees. That is cheating workers.

What this means is, we are giving a break to moderate and larger employers, because we are allowing them to hire people at minimum wage and keep more of the profit for themselves and they pass that on to us, ladies and gentlemen, because those people qualify for supplemental welfare, those people qualify for the supplemental benefits, food stamps and the rest. So go right ahead the way you are doing it, because what is means you are doing when you are allowing people to pay the present minimum wage is your are subsidizing that employer yourself. That is us, we, the taxpayers.

□ 2230

That is us, we, the taxpayers. Let them pay for the labor. Business is doing well. President Clinton has had an extraordinary effect on the stock market because of the way in which he has reduced the deficit. That is one of the factors that is yielding large gains in the stock market.

Where are those gains reflected in the pay envelope of the minimum wage worker? Why should the taxpayers subsidize that worker with food stamps or other supplements, rather than have the employer, who has profited from that worker pay? Let that employer pay.

This line is stark enough so that even without it being a big poster, I think I will make my point that a higher minimum wage does not cost jobs. This is the job level in 1991. This is the job level in 1996 since the last minimum wage increase. What we are seeing is there has been an extraordinary rise in jobs.

By the way, many of these are part-time, temporary, low-wage jobs. Whatever happened to the notion that if you raise the minimum wage, you will not make jobs? This is what has not been proved. This is the myth that is helping to sustain the minimum wage.

This is the myth that means the taxpayers are supplementing people who should be paid for their labor by the companies, almost all of them larger companies, or certainly medium-sized companies at least for whom they work.

Let me take a pause now, because I am very pleased to see that the gentlewoman from Georgia has come to the floor. I am very pleased to welcome the gentlewoman from Georgia, who always does her homework, and who has joined me in this special order.

I yield to the gentlewoman from Georgia, Representative CYNTHIA MCKINNEY.

Ms. MCKINNEY. Thank you very much. I certainly want to commend you for the role that you play in terms of being a role model for the newer Members and for people like me who have long looked up to you and now find myself working right next to you. I just want to say thank you for your leadership.

I have got some posters that I think punctuate what you have said. Here I have a chart that shows how from 1979 to 1995 the wages of men have decreased. The wages of women increased, and then began to decrease. The gap that was closing between men and women was basically because the wages of men were dropping.

Then, of course, as you have pointed out, the income gap. We have not seen the kind of income gap that we are experiencing now since the days just prior to the Great Depression. Here we see that the top 25 percent receive more than 95 percent of the income growth. The other 75 percent of Americans receive less than 5 percent of the income growth. Meanwhile, the top 5 percent of American families got more than 40 percent of America's growth.

Just as you so correctly pointed out about the impact that the President's policies have had on the deficit, the decrease in the deficit, and Wall Street, Wall Street sizzles, and Main Street fizzles.

I have another chart. Again, as you so correctly point out, the subsidies, the social safety net that we have painstakingly constructed or woven, is there because there are some corporations that are getting away with not paying their fair share. Certainly they are not paying their workers what they are worth. What we have seen here just in terms of the corporate income tax is that corporate income taxes have gone down, and, of course, individual income taxes have had to take up the slack.

In the previous special order we had one of our colleagues discussing about the diet that he was on, trying to lose 50 pounds, and he was going to lose 2 pounds and then save the other 48 pounds for the last 2 days of the diet.

Well, I think that is about the way the Republicans have run this ship of state, because they in their budget put off the hard decisions until the out years. But the Progressive Caucus has come up with a budget plan that does not put off the hard decisions into the off years. It goes right in by cutting defense spending and cutting corporate welfare. We demonstrate that you can have a downward trend, a steady downward decline in the deficit, if you make the hard choices, and you make them early.

So basically I would just say that when the economy is bad, nothing else is good. The work that you have put together with the legislation will improve the lives of working women all over this country.

I come from a family where my mother worked. She worked for 40 years at Grady Memorial Hospital as a nurse. I am a single female head of household, and I am a working woman. I suspect that if my son grows up and marries, as I suspect that he will, he will also marry a working woman.

We just want to make sure that the leadership of this country is aware and sensitive of the needs of working women, and that is what your legislation provides for.

I would also say, as the only one in the Georgia delegation, that after we were elected, we had women come to our office for issues that ranged from access to credit, to child support enforcement, to sexual harassment, and even something as simple as a role model who showed to them that, yes, it could be done.

So just as we plead with our colleagues to make sure that the plight of working women is not forgotten, we plead for ourselves, and I commend you for your legislation and the work that you do as a role model for the rest of us.

Ms. NORTON. I want to thank the gentlewoman not only for those very kind remarks, and coming from her they are treasured, but also for that very compelling statement. I very much appreciate her coming forward, particularly this late in the evening. But we have got to use what opportunities we have in order to make these important points at this critical time.

Let me continue then. What has happened to women? The gentlewoman from Georgia indicated that women were in fact beginning to improve, and that is true. But women have now been caught in the same spiral that has dragged men's wages down, and that is why we have really got to step up and take notice.

Until the 1970's women came into the work force drawn there by rising real wages. In order words, they came into the work force because they could earn more money and they were drawn to the work force by virtue of the lure of greater income.

Since the 1970's, there has been sluggish wage growth. Still they come. They come because they must. They come even though the wage gap for them, for the average one of them, is not closing.

Now, it is very interesting, in the 1980's we did see a rather precipitous narrowing of the wage gap. It is not altogether clear why, but we do know this, that 50 percent of the gap remains unexplained. We believe that possible explanations may be occupational segregation, women's jobs versus men's jobs, you are in a woman's occupation. That has typically had low-wage discrimination. Women having secondary rather than primary jobs, internal labor market influences.

In any case, the figures tell you about the creation of a whole new work force in our lifetime. In the 1950's, 30 percent of the work force was women. Today, 45 percent of the work force is women. In other words, we have come to the point where half of the people who go to work every day are men and half of the people who go to work every day are women. Yet the reward of wages is simply not there for the average woman.

Indeed, if we look at where women are employed, the lower the earnings, the greater percentage of women in that occupation. That is whether they are making goods or performing services.

Why are women working? I can tell you this much, they must be working, because there is no other choice, because half of all married women with children under 3 are in the labor force. Few women, unless they are highly educated and making a lot of money, and that is rather few, are going to go to work if they have a child under 3. In the 1970's, it was not half of all married women, it was a quarter. That means we have doubled. They are there because they have to be there. They are there because they are single head of household, or they are there because one wage earner cannot do it any longer in a family of two wage earners.

Women are to the new service economy what men were to the economy of the Industrial Revolution. Let us face it. That is what women are. We have fueled the new economy with women. Except in a very real sense, they look exactly like the male industrial workers, low paid, poor benefits of the 19th century. The conversion is itself remarkable. The conversion I speak of is in the economy itself, which has prepared the way to accept women workers.

In the 1960's three-quarters of all the nonfarm job creation was in services. That is a lot. But by the 1970's, 80 percent of all the nonfarm job creation was in services. By the 1980's, 100 percent of all the net job growth was in the services. Four out of every five women work in a service job.

What do I mean by a service job? Because what I mean by a service job is in fact or tells in fact the story of declining and low wages.

□ 2245

A service job for a woman is a fast-food job. It is a job in a department store. It is a job as a health aide. It is a job as an insurance company clerk. It is a job in residential day care. It is a job as a beautician. It is a job as a clerical. The next time you go into the department store, look at that woman. Look at her closely, and you will know what I mean.

Mr. Speaker, the interesting thing is that historically, women tended to be in school and hospital jobs. There are proportionally few workers there because there are so many other workers in these other service jobs now that they have overwhelmed these school workers and the hospital workers, but watch out.

The school workers and the hospital workers very often were teachers and nurses, and those are relatively high-paid women's jobs, compared with health aides, insurance company clerks, fast-food clerks and department store clerks. These are honorable jobs. These are often good jobs. They just do not pay well. They do not pay what they are worth.

Listen to your constituents. They are hurting. They are hurting because they are not earning what they are worth. We have the only answer, is to get a greater sharing of the benefits of the labor with those who perform the labor. That is the American way, and unless it works that way, you get a disgruntled working class. There is no getting around it. You cannot continue to have a democratic society with a greater and greater share of the wages going to the top and almost none going to those at the bottom.

Now, do we have a situation where the money simply isn't there, that is the problem? That, my friends, is not the problem. You need only open your paper and look at what the stock market is doing, and you will see that the money is there. If anything, downsizing should have resulted in workers who were there getting paid more. It did not. That is why many companies are taking a second look at downsizing, because they have done it on the cheap. They have done it at the expense of workers and have not, in fact, increased productivity, have not done it the old-fashioned way, the American way.

Mr. Speaker, women have become the indispensable new workers who are fodder for the new economy. The last time the country needed the kind of labor supply we have gotten from women in the last two decades were, No. 1, at the time of the great immigration from Europe in the late 19th and early 20th century and No. 2, at the time the black workers in the South left and came north. Today, instead of asking workers to come from Europe or Asia to the United States, and of course there are many immigrants who come, instead what we are saying is, look at your own household and send a worker out for the new economy. If you are going to send a worker out for the new economy from your own household, then should not that new worker be paid what that new worker is worth?

Listen to your constituents now. Hear the cry. I say to my colleagues on the other side of the aisle, listen to your own primary. I never thought I would live to see a Republican sound like a labor Democrat, but I think that is what I heard Pat Buchanan sounding like. Now, that is not his tradition, and that is not the way he has run his political life, but I do think he heard something out there. We all better listen to it.

Whenever we have listened, we have found a remedy. This is not susceptible to yesterday's ideology or even tomorrow's. This is a new problem in the United States. When wages are low, the economy is bad. When wages are high, the economy is good. What is this new phenomenon? The economy is good and wages are low. Should not work that way.

Mr. Speaker, one of the things we can do, if it is working that way, is to look at the minimum wage, which has simply lost its value, and say pay people a little more to work. If you do not, you discourage work and then, of course, my friends get up on the House floor and say why do they not work? If it does not pay to work, how can we expect people to work?

This is America. This is America at the turn of the century. This is a country that must not send people to work only to have them come home poor. That is what is happening.

Economists tell us that there are a number of explanations for the low wages of women in particular. Typically, we are told that a reason for these low wages is crowding or concentration in traditional women's occupations. There may be some of that, but recent studies look to other answers. There was crowding in men's occupations. They had low skills, and yet in manufacturing, they had high wages. Why? My friends, the economists say it was because they were unionized. When the company would not share the profits, men went out and unionized. Women have not done that, and that may be part of the reason the economists tell us that they have not been able to extract a fair share of the profit of their labor from their employers.

We are also told that a reason is low capital investment in the industries in which women work. Even though we may not find the real answer any time soon, we need to look for a remedy very soon. We cannot allow the United States to become a place where you develop a permanent working class or, God forbid, what appear to be the case in many of the inner cities, a permentnt lumpenproletariat, people who never move up. Those would be the homeless, the people who are chronically or constantly unemployed. A greater and greater proportion of our population falls into this category.

This has never been that kind of European-class society. It has been a society where, however poor you were, you could look forward to being better off than your father. You may have been poor, but not as poor as he was. So there was steady progress, and a man could live to see a man who picked cotton live to see his son or daughter go to college. Today, people go to college on college loans and come back home to live because they cannot afford to strike out on their own, the way their parents did.

Mr. Speaker, this is a new America. This is not our America. We do not have all the answers to this America, but we do know this. Surely one of the answers, not maybe, but one of the answers surely is to give back at least some of the value to the minimum wage. It will have an effect, not only on those low-income workers, but it will have something of a ripple effect on those who are nearly as badly off, and you will not know the difference. You will not know it in the deficit. The businesses is question will hardly know it, because a few cents from their profit will go to their workers instead. Who among us would wish for any less?

Mr. Speaker, I recognize that the notion of the minimum wage, or for matter, my Fair Pay Act, are matters that have tended to divide Republican from Democrat, but it was in a Republican primary that one heard this cry first, and it was a Republican candidate that has tried to respond to it. He has responded to it in ways which many, not only in his own party but in mine, simply cannot agree. But he has heard something real. This body must hear something real. It is there. Do not deny it.

Do not tell low-paid workers who go to work every day that something will happen if you only wait for the economy to fit my paradigm, whether it is your flat-tax paradigm, your national sales tax paradigm or, for that matter, paradigms from my side of the aisle, such as stimulation paradigms. People need hope and relief now.

The minimum wage is traditional to American life. Even on the other side of the aisle, few say we should abolish it. There are some, but few. If we put to a vote today to abolish the minimum wage, I believe those of us who say keep it would prevail. The real question is, are you going to keep it at a level that is worthy of the name minimum wage? So far, we have not, and we are going to pay very severe consequences if we do not.

Among other things, any welfare reform bill we pass will come back to hit us in the face because the people on welfare will come back to claim other benefits because they will not be able to earn enough to pay the rent and to put food on the table.

So I come forward this evening to talk about women's wages in particular, and that is not because I think the problem of men's wages is any better. In fact, it is worse. Men have fallen out of the labor force at an astounding rate because of the decline in the manufacturing sector. Men have experienced an extraordinary reduction in their annual wages over the last quarter of a century.

Mr. Speaker, I have come to the floor this evening to talk about women because I do not intend for women to be lost in this debate. Because if you do not speak up for women, they surely will be lost in this debate. The Women's Caucus found them lost in the health debate before we spoke up, as we did today when we introduced the Women's Health Equity Act. Before we spoke up about breast cancer and osteoporosis and, for that matter, clinical trials for women with heart disease, before we spoke up, they got lost in the health debate. We do not intend them to be lost now that the country has heard some voices that say we work every day and it is getting worse.

I come to the floor this evening to say I hear you and I believe that many on both sides of this body hear. They heard it on the other side in their primary. We hear it on this side, as well. Doing something about it through the minimum wage, as a first step, is a good-faith way to say we hear you. We are going to respond not in a radical departure from what we have always done, but in the tradition that we have always used, in an increase in the minimum wage that will give you a small raise in your pay envelope.

Remember that these minimum-wage workers pay the same social security taxes that the rich do, and the difference in the impact on their pay envelopes is gargantuan. They need a break. They need a raise. Many of them are women, and the majority, the great majority, of those who earn the minimum wage are women, and they are the people who take care of your children. They are the people of the next generation. Hear them. Receive them. Respond and remedy.

Mr. DELLUMS. Mr. Speaker, I take this opportunity, as organized by my valued colleague, Congresswoman ELEANOR HOLMES NORTON, to address the economic condition of women, the jobs that they do and have, and the wages that they receive in relation to the general pool of wage earners. Some of us have been deeply concerned by the deteriorating economic status of the vast majority of workers, citizens, in this country. Although this fall from economic grace began about 16 years ago, the cumulative effects of this steady drop are now beginning to be painfully felt by the majority of job holders.

The experience and story of one of my constituents, whom I shall call Geraldine Mason, is descriptive of many other people in my district and throughout the United States.

Ms. Mason has one pre-school child. She works in a produce market and tries to work at least 40 hours a week, 50 weeks a year, but can only get about 32 hours of work a week. She gets more than the minimum wage, $5 an hour. Her wage is a bit higher because the San Francisco bay area is one of the most expensive places to live in the United States. When she is lucky and works a steady 50 weeks in the year, her total income is $8,000 a year. After taxes, her take home pay is $7,710.

She shares an apartment with her sister; Betty's share of the rent is $250 a month or $3,000 a year.

Of course she needs child care. Although she is on several lists for the few subsidized child care slots in the area, there are needier cases than hers—women who have even less income. So she pays something nominal, $100 a month, $1,200 a year to members of family who are available. Her share of the utilities, telephone, and garbage comes to $55 or $660 a year.

Her job is 5 miles from home and she uses public transport. She can't afford the monthly pass, so she pays $1.25 per trip which adds up to $625 a year. Her food comes to $900 a year; supplementary medical care $299 a year; incidentals, $600 a year. Total: $7,710 a year. This income is augmented by the Earned Income Tax Credit which is under attack.

We are citizens of the United States and are indeed blessed and fortunate to be in a land of agricultural wealth, with human and other resources of which we are justifiably proud. Although we suffer natural calamities—floods, droughts, and earthquakes—we are large enough so that by pooling our national resources we have been able to absorb such shocks better than most nations. We have indeed been blessed to not be in permanent drought as is an increasing band of land in the sub-Sahara region or in the frozen tundra of Russia. We are a wealthy nation.

Why then, should Geraldine Mason, who wants to work and does work; who is a responsible mother and a tax-paying citizen, pushed up against an impossible wall to scale? What do we, the lawmakers and the law implementers tell Geraldine Mason how to survive in this economy?

"Between 1979 and 1991, families headed by people under 25 years old saw their incomes drop $7,200 a year from $24,000 to $16,800 * * *." Even the better established 25–34-year-olds suffered an income drop of $4,000 going from $35,600 to $31,500 during this period. There are about 20 million workers in the United States in Betty Mason's situation.

We know that at differing levels, college graduates, postgraduate, and professionals are beginning to feel the simultaneous crunch of income maldistribution, loss of jobs, and job insecurity.

On maldistribution, 1 percent of American households, with net worth of at least $2.3 million each, owns nearly 40 percent of the Nation's wealth; the top 20 percent of American households, with net worth of $180,000 or more, have more than 80 percent of the Nation's wealth; this figure is the highest of all industrial nations.

At the bottom end of the scale, where Geraldine Mason is stuck, and many single, divorced women with children are, the lowest earning 20 percent of Americans earn only 5.7 percent of all the after-tax income paid to individuals in the United States.

According to Marion Anderson, as published in "Running Up the Down Escalator," an Employment Research Associates report,

ENTRY LEVEL WAGES 1979 AND 1991

	High school graduates			College graduates		
	All	Men	Women	All	Men	Women
1979	$8.32	$9.39	$7.12	$11.32	$12.57	$10.07
1991	6.48	6.90	6.02	11.30	11.39	10.75

Here is another worker: Susan Casavant lives in Vermont, in Congressman SANDERS' district. She presented her story to the Progressive Caucus panel at the March 8, 1996, hearing on "The Silent Depression, the Collapse of the American Middle Class" on her work in Vermont. She states

> I feel as if I am a good worker, I've been quite flexible and displayed responsibility and honest work. I have learned how to work in almost every department. Other employees depend on me in order to receive their work. I believe I pull a heavy load, both in and out of work.
>
> I have such a hard time making a living because Peerless Clothing pays poverty-level wages!! Why?

She makes $5.25 an hour, up 25 cents an hour from the $5-an-hour starting wage.

> . . . I work 40 hours per week plus overtime and Saturdays. My less than $200 a week check makes me feel like a fool. . . . It's still hard to make a good living. I still live with my family because I can't afford to pave my own road. . . . The insurance provided to us costs $41.70 per week for me and my son, that's about $168 per month and the worst part is that it doesn't cover half of the things me and my son need. I never thought my future could look so uninviting, I am twenty-one years old and I still depend on my parents; my mother cares for my son because I can't afford a good, safe day-care.
>
> I live in America, the land of freedom, so how do big companies like these get away with bringing down honest people and their hometowns too? I would like to live in security instead of doubt.

When Susan Casavant and other workers tried to form a union, the company said that it would close or move.

What does the 104th Congress say to her?

This is what we can say: American workers need a raise. American workers, who are among the world's most efficient and productive, need to have some sense that they can learn, work, and make a living wage. This Nation needs our workers, and our economy needs their work and needs their buying power.

In this Congress, I am proud to be a cosponsor of three bills raising the minimum wage: Mr. GEPHARDT's H.R. 940 which raises the minimum wage to $4.70 an hour; Mr. SANDERS' H.R. 363 which raises the minimum wage to $5.50, and Mr. SABO's H.R. 619, which raises the minimum wage to $6.50 an hour. It is clear from the rosy picture of our economy that the growth is on the increasingly bowed back of our increasing pool of low-paid workers—a disproportionate share of whom are women.

Franklin D. Roosevelt understood the experience, the lives, the misery of the people struggling to find work and income in the 1930's. As Roosevelt led this country to victory by successfully calling on our sense of national pride, by calling on our sense of fairness and democracy, our sense of justice, he was proud to declare in 1944, and much of the Nation thrilled to hear him declare, his Economic Bill of Rights.

Section 2 of this declaration states the U.S. policy of "The right to earn enough to provide for an adequate living."

Space limits me from quoting the other sections which gave Americans in 1944 and later, such a sense of empowerment and self-respect, empowerment and self-respect that we are now losing, and with it our sense of pride in ourselves and each other.

Twenty three of us in the 104th Congress can say and have said that we can make a living wage and that there can be jobs at decent wages for all who want to work and can work. This statement is embodied in H.R. 1050, A Living Wage, Jobs for All Act, which I was proud to introduce with 22 cosponsors; among them ELEANOR HOLMES NORTON.

It will represent a new contract with our people—one that answers Geraldine Mason and Susan Casavant as to how they can have pride in their work and share equitably in the benefits of our wealthy Nation.

During the 104th Congress many of the ideas can be developed, improved upon, sharpened, critiqued, and openly discussed around the country in public meetings, and by the end of the year brought together into a whole legislative package to be reflected in a new budget for the 105th Congress.

I respectfully urge my distinguished and hard-working colleagues to join me in developing a process which will give our citizens new opportunities for economic security and which will hold out hope for women that they can be made full partners in this economic security.

Ms. JACKSON LEE of Texas. Mr. Speaker, I would like to thank my colleagues in the Women's Caucus for calling attention to the issues facing women in the work force and the difficult work they have done to celebrate this year's Women's History Month celebration. I am delighted to participate in this discussion of women, wages, and jobs, because it is an issue that has become increasingly important to us all, as women are now an integral part of the American work force.

First of all, let me commend the millions of women who juggle the dual role of homemaker and breadwinner, as well as those who choose homemaking as a career—for in our society every woman has a crucial role to play.

From the beginning of time, women have performed tasks which were crucial to the economic and social development of our society. At one time, we were only allowed to become educators nurses, seamstresses, and hairdressers, yet today we have expanded our roles to include doctors, lawyers, judges, administrators, and yes we have conquered the sciences as well. And so I say to the women of America, "you've come a long way."

Yes, we have come a long way, and my colleagues and I serving in the 104th Congress bear witness to that fact, yet we have so much farther to go.

On Friday March 8th, women across the globe celebrated International women's Day. A day which was set aside to mark the beginning of the struggle for equality and rights for women. In many countries, it was a day mixed with celebration and protest. Celebration for the many economic, social, and political obstacles we have successfully overcome, and protest for the ongoing inequalities and barriers that continue to deny us full participation in society. Yet in America, International Women's Day went literally without notice. Did we fail to recognize this day because we have conquered all the obstacles or is it because we have fallen down on the job?

Mr. Speaker, I submit to you that in spite of the strides that have been made, until we eradicate pay inequalities, the glass ceiling, sexual discrimination and the myriad of other problems facing working women, our battle is far from over.

A recent report from the U.S. Department of Labor's Glass Ceiling Commission shows that women represent over half of the adult population and nearly half of the work force in America. Women compose half of the work force, yet we remain disproportionately, clustered in traditionally "female" jobs with lower pay and fewer benefits. These studies show that women who make the same career choices as men and work the same hours as men often still advance more slowly and earn less.

Women remain underrepresented in most nontraditional professional occupations as well as blue collar trades. Consider the following:

Women make up 23 percent of lawyers but only 11 percent of partners in law firms, women are 48 percent of all journalists, but hold only 6 percent of the top jobs in journalism, women physicians earned 53.9 percent of the wages of male physicians, women are only 8.6 percent of all engineers, women are 3.9 percent of airplane pilots and navigators; and in dentistry, women are over 99.3 percent of hygienists, but only 10.5 percent of dentists.

The report found that although the pay gap for women narrowed significantly in fields such as computer analysts, it widened in others. They show that in 1993 women earned only 72 percent of the wages paid to men. This wage gap is worse for women of color. White women earn 72 cents per every dollar made by white men while African-American women earn 64 cents and Latino women earn a mere 54 cents.

Mr. Speaker, working women in this country have been fighting for equal pay for equal work for over 20 years now, and although the gap is closing, it is not happening at the rate any of us should be pleased with. When this government exposes civil or human rights violations in other countries, we are quick to impose sanctions to encourage people to remedy their behavior, yet when companies within our own borders continue to violate these same rights, we turn our heads, and say, "these things just take time." Well, how long will it take before working mothers can actually support their children, without the extra assistance from family, or government.

In closing, I would thank to Rep. NORTON for allowing me the opportunity to speak on this issue.

Ms. WATERS. Mr. Speaker, I would first like to thank my colleague, Congresswoman ELEANOR HOLMES NORTON, for bringing us together to discuss the vital issue of women and wages in our country.

While women have made some economic strides in the past few decades, we still have a long way to go. This session of Congress, under our new Republican leadership, was especially brutal for women—it was, and continues to be, antiwoman, antichoice, and antiworking family.

Today, most women work and spend less time with their children and families. Many cannot afford health insurance for their families and worry about their economic security in old age.

This Republican-led Congress has passed many bills to weaken and threaten women's rights, health, freedom, opportunities, economic equity, and economic security.

They have cut student loans, Social Security, family planning services, and child care. They have tried to take away our constitutional right to choose. They have attempted to slash funding for school nutrition programs, and have abolished important job training programs that train women for higher paying, nontraditional jobs. They have attacked affirmative action.

Let's talk about affirmative action, and how we need it to help level the playing field with men. Today women are still paid less for the same work. Women taxpayers are not getting their money's worth. Even with affirmative action, we make only 72 cents to a man's dollar. This is a disgrace.

In 1993, female managers earned 33 percent less than male managers, female college professors earned 23 percent less than male professors, and female elementary school teachers earned 22 percent less than male elementary school teachers, Let's not dismantle affirmative action until these discrepancies in wages are entirely erased.

The old boy network is alive and strong. Sexism and racism still exist and must be remedied. That's what affirmative action is all about. We must encourage and train women to seek higher paying jobs in order for them to successfully provide for their families.

Did you know that women who choose nontraditional female careers, such as fire-fighters or engineers, can expect to have lifetime earnings that are 150 percent of women who choose traditional careers like clerical workers or beauticians? We will not crack the "glass ceiling" until we break out of the "pink collar ghetto."

At this time of corporate downsizing and Government budget cutting, women must work even harder to secure a place in a changing economy. This is no easy task, especially when important programs for women have been slashed, such as the School-to-Work Opportunities Act.

This program, reduced by 22 percent this year, particularly affects female students who need exposure to high-skill, high-wage career options that are not traditional for girls. Cuts in job training programs, and the elimination of the Women's Educational Equity Act further hurt women's prospects for achieving pay equity with men in the near future.

There is some hope, however. We must start to teach our daughters—the next generation of women workers—to become independent thinkers and problem-solvers, so that they may increase their self-confidence and attain high-paying jobs as adults. We can praise them for taking risks, and for their ideas rather than their appearance.

We can encourage them to master computers and take leadership positions. We can enroll them in sports and begin to discuss career options now. We can serve as mentors and role models.

A few women have made it to the top of the corporate ladder. Two women sit on the Supreme Court, two head the Justice Department, and a record 31 percent of President Clinton's appointments to the Federal bench were women. My State, California, is the only State headed by two female Senators.

President Clinton, in this 1997 budget, has preserved funding for many programs important to women and families, including child care, child support, and job training.

The Congressional Caucus for Women's Issues, under the leadership of Congresswoman NITA LOWEY and Congresswoman CONNIE MORELLA, has been very active in assuring that women's concerns are not forgotten, even when we represent only 10 percent of the House of Representatives. Later on this year, we will continue the tradition of introducing the Women's Economic Equity Act. This package of bills will help women continue to succeed in the workplace.

Thank you, again, Congresswoman NORTON, for your commitment to women and economic equality, and for this opportunity to discuss women in the workplace.

GENERAL LEAVE

Ms. NORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include therein extraneous material on the subject of my special order.

The SPEAKER pro tempore (Mr. COLLINS of Georgia). Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

REPUBLICAN PRIMARIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I rise this evening to talk about a couple of Republican Presidential candidates who are not leading the polls and have not just won in California and other States. Of course, the gentleman who has done that is BOB DOLE. But I wanted to talk a little bit tonight about two friends, because I think that they have a great deal to offer the Republican Party and to the Nation, and I think it would be very unwise for our party and for the leadership that will be emerging from the convention in my hometown in San Diego to ignore either these candidates or the many millions of people whom they represent.

☐ 2300

Mr. Speaker, those two candidates are my great friend and near-seat mate from California [Mr. DORNAN], who sits on the Armed Services Committee with me and whom I have endorsed for President, and another good friend, Pat Buchanan who has made a very spirited run at the Presidential nomination and not quite made it, but, nonetheless, has, I think, touched a nerve with many, many Americans and attracted many Americans to his agenda.

Let me start off by saying, Mr. Speaker, that I listened to my father in the past talk to me about political smear campaigns and how people were denigrated by the press, by the liberal media, to the point where they had no chance of winning an election. I remember him first showing me those evidences of such campaigns back in the Barry Goldwater days when Barry was denounced as someone who would get us into nuclear war, and was unfit to serve in the White House, and was supposed to be a very dangerous person. After he concluded an excellent career in the Senate, he was then regarded by the same pundits and liberal media people as a, quote, conservative statesman, but in those days he was bashed a lot.

And I noticed that Pat Buchanan has taken a lot of bashing, and I think very unfairly, because I look at his positions with respect to free trade. He opposes President Clinton's NAFTA, so there is something wrong with that position from the liberal media standpoint. He supports the right to life of unborn children, a traditional Republican opinion and position, and of course that is opposed by the liberal media. He supports a strong military, and of course that is opposed by the liberal media which watched with dismay as President Reagan's strong military posture dismantled the Soviet Union and ended the cold war.

Mr. Speaker, on a personal note Pat and Shelly are wonderful people. They are fine people, they care about the Nation, they have great compassion for their fellow Americans. And to see the media come out and imply that Pat Buchanan was anti-Semitic, and when you ask why they thought that, they said, well, it is the way he pronounces terms like Goldman Sachs. I thought, my gosh, we live in an age where the media can denounce somebody and call them names because of the way they pronounce a word. I have not seen McCarthyism, but I guess that is probably as close as we will come in these times.

So, Pat Buchanan has a great deal to offer the Republican Party. He really has the traditional Republican positions of fair trade, not free trade. Remember that, when John Kennedy offered one of the first free trade bills back in 1962, it was opposed mainly by three Senators: Barry Goldwater, STROM THURMOND, and a Senator named Prescott Bush, the father of the future President, George Bush. Conservatives opposed free trade because we thought that, if you gave away pieces of the American market and did not get anything in return, you were disserving millions of American working people and small businesses, and that is exactly the case today. And Pat Buchanan has been exactly right about NAFTA, and President Clinton, who fathered NAFTA, has been exactly wrong.

There was a $3 billion trade surplus over Mexico before NAFTA. Today there is a $15 billion trade deficit. That means billions of dollars gone that would have been coming to Americans who are working in America making those components and those products that now are made in Mexico. We have now a $30 billion trade deficit with Communist China, which even now is building short-range and long-range missiles, has a big weapons market in the Third World, selling weapons to Libya and Iraq and other nations.

So Pat Buchanan has traditional Republican principles, and I think it is a tragedy that he was smeared so thoroughly by the American media. I hope that BOB DOLE will open wide his party door and the door to the convention to Pat and to my other great friend, the gentleman from California [Mr. DORNAN].

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WELDON of Pennsylvania (at the request of Mr. ARMEY) for today and the balance of the week, on account of eye surgery.

Mrs. FOWLER (at the request of Mr. ARMEY) for today and the balance of the week, on account of medical reasons.

Mrs. COLLINS of Illinois (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CANADY of Florida) to revise and extend their remarks and include extraneous material:)

Mr. MCINNIS, for 5 minutes, today.

Mr. SMITH of New Jersey, for 5 minutes, today.

Mr. MCINTOSH, for 5 minutes, today.

Mr. BILBRAY, for 5 minutes, today.

Mr. SALMON, for 5 minutes, today.

Mr. SAXTON, for 5 minutes each day, today and on March 28.

Mr. LATOURETTE, for 5 minutes, on March 28.

(The following Members (at the request of Ms. DELAURO) to revise and extend their remarks and include extraneous material:)

Mr. SKELTON, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DOOLITTLE, for 5 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mr. TORKILDSEN, for 5 minutes, on April 15.

Mr. FOX of Pennsylvania, for 5 minutes, today.

(The following Members (at the request of Mr. FARR of California) to revise and extend their remarks and include extraneous material:)

Mr. FARR of California, for 5 minutes, today.

Mr. ABERCROMBIE, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HUNTER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CANADY of Florida) and to include extraneous matter:)

Mr. BURTON of Indiana.

Mr. SHUSTER.

Mr. LEWIS of California in two instances.

(The following Members (at the request of Mr. FARR of California) and to include extraneous matter:)

Mrs. MEEK of Florida.

Mr. UNDERWOOD.

Mr. HAMILTON in three instances.

Mr. WISE.

Mr. HINCHEY.

Mr. POSHARD.

Mr. SABO.

Mrs. SCHROEDER.

Mr. STUDDS.

Mr. BRYANT of Texas.

Mr. HALL of Texas.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. ROBERTS.

Mr. HORN.

Mr. BAKER of California.

Mr. FRANKS of New Jersey.

Mr. SOLOMON.

Mr. WALSH.

Mr. FOX of Pennsylvania.

Mr. MARTINI.

Mr. MCKEON.

(The following Members (at the request of Mr. HUNTER) and to include extraneous matter:)

Mr. RAMSTAD.

Mr. HASTINGS of Washington.

Mr. GILLMOR.

Ms. VELÁZQUEZ.

Ms. DANNER.

Mr. KOLBE.

Mrs. MORELLA.

Mr. HALL of Texas.

Mr. BARCIA.

Ms. SLAUGHTER.

Mr. HOSTETTLER.

ADJOURNMENT

Mr. HUNTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Thursday, March 28, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2301. A letter from the Under Secretary for Acquisition and Technology, Department of Defense, transmitting a report on laboratories designated as eligible to participate in the Department's Laboratory Revitalization Demonstration Program, pursuant to Public Law 104-106, section 2892(d) (110 State. 590); to the Committee on National Security.

2302. A letter from the Secretary of Labor, transmitting a report entitled "Core Data Elements and Common Definitions for Employment and Training Programs," pursuant to Public Law 102-367, section 404(a) (106 Stat. 1085); to the Committee on Economic and Educational Opportunities.

2303. A letter from the Secretary of Energy, transmitting the Department's annual report for the strategic petroleum reserve, covering calendar year 1995, pursuant to 42 U.S.C. 6245(a); to the Committee on Commerce.

2304. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

2305. A letter from the Administrator, U.S. Small Business Administration, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2306. A letter from the Secretary, Naval Sea Cadet Corps, transmitting the annual audit report of the Corps for the year ended December 31, 1995, pursuant to 36 U.S.C. 1101(39) and 1103; to the Committee on the Judiciary.

2307. A letter from the Secretary of Transportation, transmitting a study on innovative financing available under the Airport Improvement Program, pursuant to 49 U.S.C. 47101 note; to the Committee on Transportation and Infrastructure.

2308. A letter from the Deputy Administrator, General Services Administration, transmitting a building project survey report for Research Triangle Park, NC, pursuant to 40 U.S.C. 610(b); to the Committee on Transportation and Infrastructure.

2309. A letter from the Chairman, Pension Benefit Guaranty Corporation, transmitting the 21st annual report of the Corporation, which includes the Corporation's financial statements as of September 30, 1995, pursuant to 29 U.S.C. 1308; jointly, to the Committees on Economic and Educational Opportunities and Ways and Means.

2310. A letter from the Secretary of Transportation, transmitting notification of the actions the Secretary has taken regarding security measures at Hellenikon International Airport, Athens, Greece, pursuant to 49 U.S.C. 44907(d)(3); jointly, to the Committees on Transportation and Infrastructure and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 842. A bill to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund; with an amendment (Rept. 104-499 Pt. 1). Ordered to be printed.

Mr. SOLOMON: Committee on Rules. House Resolution 391. Resolution providing for consideration of the bill (H.R. 3136) to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit (Rept. 104-500). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 392. Resolution providing for the consideration of the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes (Rept. 104-501). Referred to the House Calendar.

Mr. SOLOMON: Committee on Rules. House Resolution 393. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2854) to modify the operation of certain agricultural programs (Rept. 104-502). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 394. Resolution waiving points of order against the conference report to accompany the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes (Rept. 104-503). Referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 842. Referral to the Committee on the Budget extended for a period ending not later than March 29, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MARTINI (for himself, Mr. McCOLLUM, Mr. HYDE, and Mr. SCHUMER):

H.R. 3166. A bill to amend title 18, United States Code, with respect to the crime of false statement in a Government matter; to the Committee on the Judiciary.

By Mr. BAKER of Louisiana (for himself, Mr. KANJORSKI, Mr. McCOLLUM, Mr. BACHUS, Mr. KING, Mr. HAYWORTH, Mr. CHRYSLER, Mr. CREMEANS, Mr. FOX, Mr. METCALF, Mr. WELLER, Mr. LAFALCE, Mr. ORTON, and Mr. BENTSEN):

H.R. 3167. A bill to reform the Federal Home Loan Bank System, and for other purposes; to the Committee on Banking and Financial Services.

By Ms. DELAURO (for herself, Mr. GEPHARDT, Mr. BONIOR, and Mr. FAZIO of California):

H.R. 3168. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Banking and Financial Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FRANKS of New Jersey:

H.R. 3169. A bill to amend the Job Corps program under the Job Training Partnership Act to ensure a drug-free, safe, and cost-effective Job Corps, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. FRANKS of New Jersey (for himself, Mr. PALLONE, Mr. FRELINGHUYSEN, and Mr. ZIMMER):

H.R. 3170. A bill to dispose of contaminated dredged sediments in a more environmentally responsible manner, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOKE:

H.R. 3171. A bill to limit the procurement of aircraft landing gear by the Secretary of Defense to landing gear that is manufactured and assembled in the United States; to the Committee on National Security.

By Mr. KENNEDY of Rhode Island (for himself, Mr. BOEHLERT, Mr. MARKEY, Mr. BLUTE, Mr. PALLONE, Mr. QUINN, Mr. TORKILDSEN, Mr. HINCHEY, and Mr. GEJDENSON):

H.R. 3172. A bill to establish a Commission to develop strategies and policies to mitigate the environmental impacts associated with electric utility restructuring; to the Committee on Commerce.

By Mr. LANTOS (for himself, Mr. BROWN of California, Ms. WATERS, Mr. MORAN, Mr. FRANK of Massachusetts, Mr. ABERCROMBIE, Mr. GEJDENSON, Mr. COLEMAN, Ms. PELOSI, Mr. STARK, Mr. KLECZKA, Mr. MILLER of California, Mr. JACOBS, Mr. SANDERS, Mr. DEFAZIO, Ms. WOOLSEY, Mr. TORRES, Ms. RIVERS, Mr. LEWIS of Georgia, Mr. CARDIN, Mr. CLAY, Mr. DELLUMS, Mr. JOHNSON of South Dakota, Mr. YATES, Mrs. MINK of Hawaii, Mr. SCHUMER, Mr. FARR, Mr. FOGLIETTA, Mr. TORRICELLI, Mr. PORTER, Mr. JOHNSTON of Florida, Mr. SHAYS, and Mr. REED):

H.R. 3173. A bill to establish, wherever possible, nonanimal acute toxicity testing as an acceptable standard for Government regulations requiring an evaluation of the safety of products by the Federal Government; to the Committee on Commerce.

By Mrs. MORELLA:

H.R. 3174. A bill to amend the Public Health Service Act to provide for programs regarding women and the human immunodeficiency virus; to the Committee on Commerce.

H.R. 3175. A bill to amend the Public Health Service Act to provide for an increase in the amount of Federal funds expended to conduct research on alcohol abuse and alcoholism among women; to the Committee on Commerce.

H.R. 3176. A bill to amend the Public Health Service Act to establish programs of research with respect to women and cases of infection with the human immunodeficiency virus; to the Committee on Commerce.

By Mr. SENSENBRENNER (for himself and Mr. OBEY):

H.R. 3177. A bill to repeal the consent of Congress to the Northeast Interstate Dairy Compact, and for other purposes; to the Committee on the Judiciary.

By Ms. SLAUGHTER (for herself, Mrs. MORELLA, Mrs. LOWEY, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. BROWN of Florida, Mrs. CLAYTON, Miss COLLINS of Michigan, Mrs. COLLINS of Illinois, Ms. DELAURO, Ms. ESHOO, Ms. FURSE, Ms. HARMAN, Ms. JACKSON-LEE, Mrs. JOHNSON of Connecticut, Mrs. KELLY, Mrs. KENNELLY, Ms. LOFGREN, Ms. MCKINNEY, Mrs. MALONEY, Mrs. MEEK of Florida, Mrs. MEYERS of Kansas, Mrs. MINK of Hawaii, Ms. NORTON, Ms. PELOSI, Ms. RIVERS, Mrs. ROUKEMA, Ms. ROYBAL-ALLARD, Mrs. SCHROEDER, Mrs. THURMAN, Ms. VELAZQUEZ, Ms. WATERS, and Ms. WOOLSEY):

H.R. 3178. A bill to promote greater equity in the delivery of health care services to American women through expanded research on women's health issues and through improved access to health care services, including preventive health services; to the Committee on Commerce, and in addition to the Committees on Ways and Means, the Judiciary, Agriculture, International Relations, Veterans' Affairs, Economic and Educational Opportunities, National Security, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. VELÁZQUEZ:

H.R. 3179. A bill to modify various Federal health programs to make available certain services to women who are members of racial or ethnic minority groups, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Commerce, Economic and Educational Opportunities, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGEL (for himself, Ms. MOLINARI, Mr. LANTOS, Mr. PORTER, Mr. LEVIN, Mr. KING, Mr. TORRICELLI, Mr. MORAN, Mrs. KELLY, Mr. BONIOR, Mr. MILLER of California, and Mr. ROHRABACHER):

H. Con. Res. 155. Concurrent resolution concerning human and political rights and in support of a resolution of the crisis in Kosova; to the Committee on International Relations.

By Ms. DELAURO:

H. Con. Res. 156. Concurrent resolution expressing the sense of the Congress regarding research on the human papillomavirus and its relation to cervical cancer; to the Committee on Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

211. By the SPEAKER: Memorial of the Senate of the State of Kansas, relative to amending the Federal Food, Drug and Cosmetic Act and the Public Health Service Act to facilitate the development and approval of new drugs and biologics; to the Committee on Commerce.

212. Also, memorial of the Senate of the Commonwealth of Kentucky, relative to recognizing the injustices of human rights in Guatemala; to the Committee on Government Reform and Oversight.

213. Also, memorial of the Legislature of the State of California, relative to forced labor; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 528: Mr. EHLERS.

H.R. 573: Mr. FRANK of Massachusetts.

H.R. 820: Mr. FLAKE, Mr. GRAHAM, Mr. SISISKY, Mr. STENHOLM, Mr. ACKERMAN, Mr. SCHUMER, Ms. LOFGREN, Ms. PRYCE, Mr. SHAYS, and Mr. SERRANO.

H.R. 940: Mr. BRYANT of Texas.

H.R. 957: Mr. LATOURETTE.

H.R. 1023: Mr. GILCHREST, Mr. CHRYSLER, Mr. TAYLOR of North Carolina, Mr. YOUNG of Florida, Mrs. CLAYTON, Mr. DE LA GARZA, Mr. BALDACCI, Mr. LUCAS, and Mr. MYERS of Indiana.

H.R. 1127: Mr. POMEROY.

H.R. 1363: Mr. BALLENGER, Mr. BASS, Mr. BURR, Mr. CHRYSLER, Mrs. CHENOWETH, Mr. CREMEANS, Mr. TIAHRT, Mr. WELDON of Florida, Mr. MCINTOSH, and Mr. JONES.

H.R. 1386: Mr. BARCIA of Michigan, Mr. CLEMENT, and Mr. STENHOLM.

H.R. 1406: Mr. ABERCROMBIE, Mr. MARTINI, and Mr. THORNBERRY.

H.R. 1462: Mr. BALDACCI, Mr. FROST, Ms. MOLINARI, Mr. FRAZER, Mr. FALEOMAVAEGA, Mr. CLAY, and Ms. MCKINNEY.

H.R. 1484: Mr. ABERCROMBIE.

H.R. 1496: Mr. FRANKS of New Jersey.

H.R. 1500: Ms. HARMAN.

H.R. 1619: Mr. FIELDS of Texas, Ms. JACKSON-LEE, and Mr. STOCKMAN.

H.R. 1776: Mr. GINGRICH, Mr. CAMPBELL, Mr. BERMAN, Mr. KENNEDY of Rhode Island, and Mr. DEUTSCH.

H.R. 1802: Mr. QUINN.

H.R. 1810: Mr. MARTINI.

H.R. 1863: Mr. BRYANT of Texas and Mr. ANDREWS.

H.R. 1883: Mr. ZIMMER.

H.R. 2003: Mr. FILNER.

H.R. 2011: Mr. WYNN.

H.R. 2019: Ms. WOOLSEY and Mr. SANDERS.

H.R. 2071: Ms. JACKSON-LEE.

H.R. 2270: Mr. COX.

H.R. 2337: Mr. CRAMER.

H.R. 2510: Mr. MARTINI.

H.R. 2579: Mr. GIBBONS.

H.R. 2618: Mr. BILBRAY.

H.R. 2745: Mr. MANTON, Mr. FOGLIETTA, and Mr. RUSH.

H.R. 2856: Mr. MARTINI and Mr. MCNULTY.

H.R. 2893: Mr. REED and Mr. ROBERTS.

H.R. 2925: Mr. STENHOLM and Mr. VOLKMER.

H.R. 2927: Mr. WELDON of Pennsylvania, Mr. MOORHEAD, and Mr. LEWIS of California.

H.R. 2935: Mr. COOLEY and Mr. TATE.

H.R. 2974: Mr. FOX.

H.R. 2976: Mr. BALDACCI, Mr. CALVERT, Mr. CHAMBLISS, Mr. CRAPO, Mr. DEUTSCH, Mr. DUNCAN, Ms. MCKINNEY, Ms. MOLINARI, and Ms. RIVERS.

H.R. 2994: Mr. MCCOLLUM, Mr. GUNDERSON, and Mr. BROWN of California.

H.R. 3002: Mr. EHLERS.

H.R. 3004: Mr. PETERSON of Minnesota, Mr. NEY, Mr. DEUTSCH, Mr. BILBRAY, Mr. GILLMOR, and Mr. EHLERS.

H.R. 3012: Mr. HEFLEY, Mr. DELLUMS, Mr. SMITH of New Jersey, Mr. BARCIA of Michigan, Mrs. MINK of Hawaii, Mr. FRAZER, Mr. FRANK of Massachusetts, Mr. MANTON, and Mr. MATSUI.

H.R. 3045: Mr. RAHALL.

H.R. 3048: Mr. CASTLE, Mr. CUNNINGHAM, and Mr. WAMP.

H.R. 3050: Mr. BARCIA of Michigan and Ms. KAPTUR.

H.R. 3059: Mr. BARRETT of Wisconsin, Mr. FOGLIETTA, Mr. FRAZER, Mr. FROST, Mr. JEFFERSON, Mr. KLECZKA, Mr. LIPINSKI, Ms. LOFGREN, Ms. MCKINNEY, Mr. MILLER of California, Ms. RIVERS, Mr. THOMPSON, Mr. WAXMAN.

H.R. 3114: Mr. NEAL of Massachusetts, Mrs. JOHNSON of Connecticut, and Mr. FUNDERBURK.

H.R. 3118: Mr. ACKERMAN, Mr. GENE GREEN of Texas, and Mr. CRAMER.

H.R. 3130: Mr. GENE GREEN of Texas.

H.R. 3142: Mr. ENSIGN, Mrs. LOWEY, Mr. GONZALEZ, Mr. CALVERT, Mr. HAYES, Mr. SAXTON, Mr. MONTGOMERY, Mrs. KELLY, Mr. ABERCROMBIE, Mr. FROST, Mr. FORBES, Mr. CLINGER, Mr. TALENT, Mr. CANADY, Mr. METCALF, Mr. BRYANT of Texas, and Mr. HUNTER.

H.R. 3149: Mr. HANCOCK.

H.J. Res. 97: Mr. WISE.

H.J. Res. 159: Mr. WHITFIELD, Mr. BILBRAY, and Mr. ROSE.

H. Con. Res. 47: Mr. CONYERS, Mr. DE LA GARZA, Mr. HILLIARD, Mr. NEY, Mr. SABO, and Ms. VELÁZQUEZ.

H. Con. Res. 144: Mr. TORKILDSEN.

H. Res. 49: Mr. THOMPSON and Mrs. MEEK of Florida.

H. Res. 348: Mr. MCCOLLUM and Mr. GOODLING.

H. Res. 374: Mr. CAMP, Mr. FRELINGHUYSEN, Mr. COBLE, Mr. HUNTER, Mr. PORTER, Mr. MARTINI, Mrs. CUBIN, Mr. NETHERCUTT, Mr. CALVERT, Mr. EHRLICH, Mr. HANCOCK, Mr. NCNULTY, Ms. WOOLSEY, Mr. GENE GREEN of Texas, Mr. WELDON of Pennsylvania, Mr. TRAFICANT, and Mr. YATES.

H. Res. 378: Mrs. MEYERS of Kansas, Mr. ENGLISH of Pennsylvania, Mr. BATEMAN, Mr. WOLF, Ms. NORTON, Mr. DELLUMS, Mr. CALVERT, Mr. BERMAN, and Ms. PELOSI.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

69. The SPEAKER presented a petition of the Transportation Policy Board of the Abilene Metropolitan Planning Organization, Abilene, TX, relative to the issues of appropriate taxation and adequate provision of transportation infrastructure; which was referred jointly, to the Committees on Transportation and Infrastructure and the Budget.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3103

OFFERED BY: MR. DINGELL

AMENDMENT No. 2: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Insurance Reform Act of 1996".

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

TABLE OF CONTENTS OF TITLE

Sec. 100. Definitions.
SUBTITLE A—GROUP MARKET RULES
Sec. 101. Guaranteed availability of health coverage.
Sec. 102. Guaranteed renewability of health coverage.
Sec. 103. Portability of health coverage and limitation on preexisting condition exclusions.
Sec. 104. Special enrollment periods.
Sec. 105. Disclosure of information.
SUBTITLE B—INDIVIDUAL MARKET RULES
Sec. 110. Individual health plan portability.
Sec. 111. Guaranteed renewability of individual health coverage.
Sec. 112. State flexibility in individual market reforms.
Sec. 113. Definition.
SUBTITLE C—COBRA CLARIFICATIONS
Sec. 121. Cobra clarification.
SUBTITLE D—PRIVATE HEALTH PLAN PURCHASING COOPERATIVES
Sec. 131. Private health plan purchasing cooperatives.
SUBTITLE E—APPLICATION AND ENFORCEMENT OF STANDARDS
Sec. 141. Applicability.
Sec. 142. Enforcement of standards.
SUBTITLE F—MISCELLANEOUS PROVISIONS
Sec. 191. Health coverage availability study.
Sec. 192. Effective date.
Sec. 193. Severability.

SEC. 100. DEFINITIONS.

As used in this title:

(1) BENEFICIARY.—The term "beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(2) EMPLOYEE.—The term "employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) EMPLOYER.—The term "employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(4) EMPLOYEE HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term "employee health benefit plan" means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))) that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

(C) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(5) FAMILY.—

(A) IN GENERAL.—The term "family" means an individual, the individual's spouse, and the child of the individual (if any).

(B) CHILD.—For purposes of subparagraph (A), the term "child" means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

(6) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term "group health plan" means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(B) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof;

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(7) GROUP PURCHASER.—The term "group purchaser" means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan. A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

(8) HEALTH PLAN ISSUER.—The term "health plan issuer" means any entity that is licensed (prior to or after the date of enactment of this Act) by a State to offer a group health plan or an individual health plan.

(9) HEALTH STATUS.—The term "health status" includes. with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

(10) PARTICIPANT.—The term "participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(11) PLAN SPONSOR.—The term "plan sponsor" has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

(12) SECRETARY.—The term "Secretary", unless specifically provided otherwise, means the Secretary of Labor.

(13) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subtitle A—Group Market Rules

SECTION 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE.

In General.—

(1) NONDISCRIMINATION.—Except as provided in subsection (b), section 102 and section 103—

(A) a health plan issuer offering a group health plan may not decline to offer whole group coverage to a group purchaser desiring to purchase such coverage; and

(B) an employee health benefit plan or a health plan issuer offering a group health plan may establish eligibility, continuation of eligibility, enrollment, or premium; contribution requirements under the terms of such plan, except that such requirements shall not be based on health status (as defined in section 100(9)).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall prevent an employee health benefit plan or a health plan issuer from establishing premium; discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(b) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered participants and beneficiaries (and additional participants and beneficiaries who will be expected to enroll because of their affiliation with a group purchaser or such previously covered participants or beneficiaries) will be impaired if the health plan issuer is required to offer coverage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(e) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to actively market such plans.

(2) INVOLUNTARY OFFERING OF GROUP HEALTH PLANS.—Nothing is this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a particular market. For the purposes of this paragraph, the term "market" means either the large employer market or the small employer market (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees).

SEC. 102. GUARANTEED RENEWABILITY OF HEALTH COVERAGE.

(A) IN GENERAL.—

(1) GROUP PURCHASER.—Subject to subsections (b) and (c), a group health plan shall be renewed or continued in force by a health plan issuer at the option of the group purchaser, except that the requirement of this subparagraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the group purchaser in accordance with the terms of the group health plan or where the health plan issuer has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the group purchaser;

(C) the termination of the group health plan in accordance with subsection (b); or

(D) the failure of the group purchaser to meet contribution or participation requirements in accordance with paragraph (3).

(2) PARICIPANT.—Subject to subsections (b) and (c), coverage under an employee health benefit plan or group health plan shall be renewed or continued in force, if the group purchaser elects to continue to provide coverage under such plan, at the option of the participant (or beneficiary where such right exists under the terms of the plan or under applicable law), except that the requirement of this paragraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the participant or beneficiary in accordance with the terms of the employee health benefit plan or group health plan or where such plan has not received timely premium payments.

(B) fraud or misrepresentation of material fact on the part of the participant or beneficiary relating to an application for coverage or claim for benefits;

(C) the termination of the employee health benefit plan or group health plan;

(D) loss of eligibility for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.); or

(E) failure of a participant or beneficiary to meet requirements for eligibility for coverage under an employee health benefit plan or group health plan that are not prohibited by this title.

(3) RULES OF CONSTRUCTION.—Nothing in this subsection, nor in section 101(a), shall be construed to—

(A) preclude a health plan issuer from establishing employer contribution rules or group participation rules for group health plans as allowed under applicable State law;

(B) preclude a plan defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(37)) from establishing employer contribution rules or group participation rules; or

(C) permit individuals to decline coverage under an employee health benefit plan if such right is not otherwise available under such plan.

(b) TERMINATION OF GROUP HEALTH PLANS.—

(1) PARTICULAR TYPE OF GROUP HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of group health plan. A group health plan of such type may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each group purchaser covered under a group health plan of this type (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 90 days prior to the date of the discontinuation of such plan;

(B) the health plan issuer offers to each group purchaser covered under a group health plan of this type, the option to purchase any other group health plan currently being offered by the health plan issuer; and

(C) in exercising the option to discontinue a group health plan of this type and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of participants or beneficiaries covered under the group health plan, or new participants or beneficiaries who may become eligible for coverage under the group health plan.

(2) DISCONTINUANCE OF ALL GROUP HEALTH PLANS.—

(A) IN GENERAL.—In any case in which a health plan issuer elects to discontinue offering all group health plans in a State, a group health plan may be discontinued by the health plan issuer only if—

(i) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each group purchaser (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 180 days prior to the date of the expiration of such plan, and

(ii) all group health plans issued or delivered for issuance in the State or discontinued and coverage under such plans is not renewed.

(B) APPLICATION OF PROVISIONS.—The provisions of this paragraph and paragraph (3) may be applied separately by a health plan issuer—

(i) to all group health plans offered to small employers (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees); or

(ii) to all other group health plans offered by the health plan issuer in the State.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any group health plan in the market sector (as described in paragraph (2)(B)) in which issuance of such group health plan was discontinued in the State involved during the 5-year period beginning on the date of the discontinuation of the last group health plan not so renewed.

TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A network plan (as defined in paragraph (2)) may deny continued participation under such plan to participants or beneficiaries who neither live, reside, nor work in an area in which such network plan is offered, but only if such denial is applied uniformly, without regard to health status of particular participants or beneficiaries.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an employee health benefit plan or a group health plan that arranges for the financing and delivery of health care services to participants or beneficiaries covered under such plan, in whole or in part, through arrangements with providers.

(d) COBRA COVERAGE.—Nothing in subsection (a)(2)(E) or subsection (c) shall be construed to affect any right to COBRA continuation coverage as described in part 6 of subtitle B of title I of the employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to treatment of a preexisting condition based on the fact that the condition existed prior to the coverage of the participant or beneficiary under the plan only if—

(1) the limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan;

(2) the limitation or exclusion does not apply to an individual who, within 30 days of the date of birth or placement for adoption (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(c)(3)(B)), was covered under the plan; and

(3) the limitation or exclusion does not apply to a pregnancy.

(b) CREDITING OF PREVIOUS QUALIFYING COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in the period of previous qualifying coverage. With respect to an individual described in subsection (a)(2) who maintains continuous coverage, no limitation or exclusion of benefits relating to treatment of a preexisting condition may be applied to a child within the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) DISCHARGE OF DUTY.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries who coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary, the duty of an employee health benefit plan to verify previous qualifying coverage with respect to a participant or beneficiary is effectively discharged when such employee health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(A) the dates that the participant or beneficiary was covered under the plan; and

(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a second copy of such documentation or such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) DEFINITIONS.—As used in this section:

(A) PREVIOUS QUALIFYING COVERAGE.—The term "previous qualifying coverage" means the period beginning on the date—

(i) a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) an individual is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established under Federal or State law, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) LIMITATION OR EXCLUSION OF BENEFITS RELATING TO TREATMENT OF A PREEXISTING CONDITION.—The term "limitation or exclusion of benefits relating to treatment of a preexisting condition" means a limitation or exclusion of benefits imposed on an individual based on a preexisting condition of such individual.

(4) EFFECT OF PREVIOUS COVERAGE.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a)(1), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved.

(c) LATE ENROLLEES.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or group health plan during a time that is other than the first opportunity to enroll during an enrollment period of at least 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsection (a) and (b) may be excluded except the period of such exclusion may not exceed 18 months beginning on the date of coverage under the plan.

(d) AFFILIATION PERIODS.—With respect to a participant or beneficiary who would otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a late participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the plan. An employee health benefit plan or a health plan issuer offering a group health plan may also use alternative methods to address adverse section as approved by the applicable certifying authority (as defined in section 142(d)). During such an affiliation period, the plan may not be required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(e) PREEXISTING CONDITIONS.—For purposes of this section, the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(f) STATE FLEXIBILITY.—Nothing in this section shall be construed to preempt State laws that—

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are shorter than those provided for under this section; or

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3);

unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 104. SPECIAL ENROLLMENT PERIODS.

In the case of a participant, beneficiary or family member who—

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status, as described in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), that causes the loss of eligibility for coverage, other than COBRA continuation coverage under a group health plan, individual health plan, or employee health benefit plan; or

(3) experiences a loss of eligibility under a group health plan, individual health plan, or employee health benefit plan because of a change in the employment status of a family member;

each employee health benefit plan and each group health plan shall provide for a special enrollment period extending for a reasonable time after such event that would permit the participant to change the individual or family basis of coverage or to enroll in the plan if coverage would have been available to such individual, participant, or beneficiary but for failure to enroll during a previous enrollment period. Such a special enrollment period shall ensure that a child born or placed for adoption shall be deemed to be covered under the plan as of the date of such birth or placement for adoption if such child is enrolled within 30 days of the date of such birth or placement for adoption.

SEC. 105. DISCLOSURE OF INFORMATION.

(a) Disclosure of Information by Health Plan Issuer.—

(1) In general.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(A) the provisions of such group health plan concerning the health plan issuer's right to change premium rates and the factors that may affect changes in premium rates.

(B) the provisions of such group health plan relating to renewability of coverage;

(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) Exception.—With respect to the requirement of paragraph (1), any information that is proprietary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

(3) Construction.—Nothing in this subsection shall be construed to preempt State reporting and disclosure requirements to the extent that such requirements are not preempted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) Disclosure of Information to Participants and Beneficiaries.—

(1) In general.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking "102(a)(1)," and inserting "102(a)(1) that is not a material reduction in covered services or benefits provided,"; and

(B) by adding at the end thereof the following new sentences: "If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, a summary description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.".

(2) Plan description and summary.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting "including the office or title of the individual who is responsible for approving or denying claims for coverage of benefits" after "type of administration of the plan";

(B) by inserting "including the name of the organization responsible for financing claims" after "source of financing of the plan"; and

(C) by inserting "including the office, contact, or title of the individual at the Department of Labor through which participants may seek assistance or information regarding their rights under this Act and title I of the Health Insurance Reform Act of 1996 with respect to health benefits that are not offered through a group health plan." after "benefits under the plan".

Subtitle B—Individual Market Rules

SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.

(a) Limitation on Requirements.—

(1) In general.—Except as provided in subsections (b) and (c), a health plan issuer described in paragraph (3) may not, with respect to an eligible individual (as defined in subsection (b)) desiring to enroll in an individual health plan—

(A) decline to offer coverage to such individual, or deny enrollment to such individual based on the health status of the individual; or

(B) impose a limitation or exclusion of benefits otherwise covered under the plan for the individual based on a preexisting condition unless such limitation or exclusion could have been imposed if the individual remained covered under a group health plan or employee health benefit plan (including providing credit for previous coverage in the manner provided under subtitle A).

(2) Health promotion and disease prevention.—Nothing in this subsection shall be construed to prevent a health plan issuer offering an individual health plan from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion or disease prevention.

(3) Health plan issuer.—A health plan issuer described in this paragraph in a health plan issuer that issues or renews individual health plans.

(4) Premiums.—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount of the premium payable under an individual health plan under applicable State law.

(b) Definition of Eligible Individual.—As used in subsection (a)(1), the term "eligible individual" means an individual who—

(1) was a participant or beneficiary enrolled under one or more group health plans, employee health benefit plans, or public plans established under Federal or State law, for not less than 18 months (without a lapse in coverage of more than 30 consecutive days) immediately prior to the date on which the individual desired to enroll in the individual health plan.

(2) is not eligible for coverage under a group health plan or an employee health benefit plan;

(3) has not had coverage terminated under a group health plan or employee health benefit plan for failure to make required premium payments or contributions, or for fraud or misrepresentation of material fact; and

(4) has, if applicable, accepted and exhausted the maximum required period of continuous coverage as described in section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) or under an equivalent State program.

(c) Applicable of Capacity Limit.—

(1) In general.—Subject to paragraph (2), a health plan issuer offering coverage to individuals under an individual health plan may cease enrolling individuals under the plan if—

(A) the health plan issuer ceases to enroll any new individuals; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered individuals will be impaired if the health plan issuer is required to enroll additional individuals.

Such a health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) First-come-first-served.—A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(d) Market Requirement.—

(1) In general.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) Conversion policies.—A health plan issuer offering group health plans to group purchasers under this title shall not be deemed to be a health plan issuer offering an individual health plan solely because such health plan issuer offers a conversion policy.

(3) Marketing of plans.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.

(a) In General.—Subject to subsections (b) and (c), coverage for individuals under an individual health plan shall be renewed or continued in force by a health plan issuer at the option of the individual, except that the requirement of this subsection shall not apply in the case of—

(1) the nonpayment of premiums or contributions by the individual in accordance with the terms of the individual health plan or where the health plan issuer has not received timely premium payments;

(2) fraud or misrepresentation of material fact on the part of the individual; or

(3) the termination of the individual health plan in accordance with subsection (b).

(b) Termination of Individual Health Plans.—

(1) Particular type of individual health plan not offered.—In any case in which a health plan issuer decides to discontinue offering a particular type of individual health plan to individuals, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the expiration of the plan.

(B) the health plan issuer offers to each individual covered under the plan the option to purchase any other individual health plan currently being offered by the health plan issuer to individuals; and

(C) in exercising the option to discontinue the individual health plan and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of particular individuals.

(21) DISCONTINUANCE OF ALL INDIVIDUAL HEALTH PLANS.—In any case in which a health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each individual covered under the plan of such discontinuation at least 180 days prior to the date of the discontinuation of the plan; and

(B) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A health plan issuer which offers a network plan (as defined in paragraph (2)) may deny continued participation under the plan to individuals who neither live, reside, nor work in an area in which the individual health plan is offered, but only if such denial is applied uniformly, without regard to health status of particular individuals.

(2) NETWORK PLAY.—As used in paragraph (1), the term "network plan" means an individual health plan that arranges for the financing and delivery of health care services to individuals covered under such health plan, in whole or in part, through arrangements with providers.

SEC. 112. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

(a) IN GENERAL.—With respect to any State law with respect to which the Governor of the State notifies the Secretary of Health and Human Services that such State law will achieve the goals of sections 110 and 111, and that is in effect on, or enacted after, the date of enactment of this Act (such as laws providing for guaranteed issue, open enrollment by one or more health plan issuers, high-risk pools, or mandatory conversion policies), such State law shall apply in lieu of the standards described in sections 110 and 111 unless the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing access to affordable health care coverage for those individuals described in sections 110 and 111.

(b) DETERMINATION.—

(1) IN GENERAL.—In making a determination under subsection (a), the Secretary of Health and Human Services shall only—

(A) evaluate whether the State law or program provides guaranteed access to affordable coverage to individuals described in sections 110 and 111;

(B) evaluate whether the State law or program provides coverage for preexisting conditions (as defined in section 103(e)) that were covered under the individuals' previous group health plan or employee health benefit plan for individuals described in sections 110 and 111.

(C) evaluate whether the State law or program provides individuals described in sections 110 and 111 with a choice of health plans or a health plan providing comprehensive coverage, and

(D) evaluate whether the application of the standards described in sections 110 and 111 will have an adverse impact on the number of individuals in such State having access to affordable coverage.

(2) NOTICE OF INTENT.—If, within 6 months after the date of enactment of this Act, the Governor of a State notifies the Secretary of Health and Human Services that the State intends to enact a law, or modify an existing law, described in subsection (a), the Secretary of Health and Human Services may not make a determination under such subsection until the expiration of the 12-month period beginning on the date on which such notification is made, or until January 1, 1998, whichever is later. With respect to a State that provides notice under this paragraph and that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act, the Secretary shall not make a determination under subsection (a) prior to January 1, 1998.

(3) NOTICE TO STATE.—If the Secretary of Health and Human Services determines that a State law or program does not achieve the goals described in subsection (a), the Secretary of Health and Human Services shall provide the State with adequate notice and reasonable opportunity to modify such law or program to achieve such goals prior to making a final determination under subsection (a).

(c) ADOPTION OF NAIC MODEL.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the "NAIC"), through a process which the Secretary of Health and Human Services determines has included consultation with representatives of the insurance industry and consumer groups, adopts a model standard or standards for reform of the individual health insurance market, and

(2) the Secretary of Health and Human Services determines, within 30 days of the adoption of such NAIC standard or standards, that such standards comply with the goals of sections 110 and 111:

a State that elects to adopt such model standards or substantially adopt such model standards shall be deemed to have met the requirements of sections 110 and 111 and shall be subject to a determination under subsection (a).

SEC. 113. DEFINITION.

(a) IN GENERAL.—As used this title, the term "individual health plan" means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(1) Coverage only for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers' compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital of fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) PUBLIC HEALTH SERVICE ACT.—

(1) PERIOD OF COVERAGE.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb-2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(II) by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996", and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(2) ELECTION.—Section 2205(1)(C) of the Public Health Service Act (42 U.S.C. 300bb-5(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof.

(B) in clause (ii), by striking the period and inserting ", or", and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 2202(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb-6(3)) is amended by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb-8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this title.".

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) PERIOD OF COVERAGE.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(ii) by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part",

(B) in subparagraph (D)(i), by inserting before ", or" the following ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(2) ELECTION.—Section 605(1)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof;

(B) in clause (ii), by striking the period and inserting ", or"; and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 602(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.".

(c) INTERNAL REVENUE CODE OF 1986.—

(1) PERIOD OF COVERAGE.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i) by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(B) in clause (iv)(I), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this subclause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this subsection because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in clause (v), by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(2) ELECTION.—Section 4980B(f)(5)(A)(ii) of the Internal Revenue Code of 1986 is amended—

(A) in subclause (I), by striking "or" at the end thereof;

(B) in subclause (II), by striking the period and inserting ", or", and

(C) by adding at the end thereof the following new subclause:

"(III) in the case of an qualified beneficiary described in the last sentence of paragraph (2)(B)(i), the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring on or after the date of enactment of this Act for plan years beginning after December 31, 1997.

(e) NOTIFICATION OF CHANGES.—Not later than 60 days prior to the date on which this section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

Subtitle D—Private Health Plan Purchasing Cooperatives

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) DEFINITION.—As used in this title, the term "health plan purchasing cooperative" means a group of individuals or employers that, on a voluntary basis and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of insurance may not underwrite a cooperative.

(b) CERTIFICATION.—

(1) IN GENERAL.—If a group described in subsection (a) desires to form a health plan purchasing cooperative in accordance with this section and such group appropriately notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, shall certify the group as a health plan purchasing cooperative. The State shall make a determination of whether such group meets the requirements of this section in a timely fashion. Each such cooperative shall also be registered with the Secretary.

(2) STATE REFUSAL TO CERTIFY.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this title, the Secretary shall certify and oversee the operations of such cooperative in such State.

(3) INTERSTATE COOPERATIVES.—For purposes of this section a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of certifying and overseeing the operation of such cooperatives. For purposes of this subsection, a cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each health plan purchasing cooperative shall be governed by a Board of Directors that shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a board cross-section of representatives of employers, employees, and individuals participating in the cooperative. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of individual health plans or group health plans may not hold or control any right to vote with respect to a cooperative.

(2) LIMITATION ON COMPENSATION.—A health plan purchasing cooperative may not provide compensation to members of the Board of Directors. The cooperative may provide reimbursements to such members for the reasonable and necessary expenses incurred by the members in the performance of their duties as members of the Board.

(3) CONFLICT OF INTEREST.—No member of the Board of Directors (or family members of such members) nor any management personnel of the cooperative may be employed by, be a consultant for, be a member of the board of directors or, be affiliated with an agent of, or otherwise be a representative of any health plan issuer, health care provider, or agent or broker. Nothing in the preceding sentence shall limit a member of the Board from purchasing coverage offered through the cooperative.

(d) MEMBERSHIP AND MARKETING AREA.—

(1) MEMBERSHIP.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members of the cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as members on a first-come, first-served basis, or on another basis established by the State to ensure equitable access to the cooperative.

(2) MARKETING AREA.—A State may establish rules regarding the geographic area that must be served by a health plan purchasing cooperative. With respect to a State that has not established such rules, a health plan purchasing cooperative operating in the State shall define the boundaries of the area to be served by the cooperative, except that such boundaries may not be established on the basis of health status of the populations that reside in the area.

(e) DUTIES AND RESPONSIBILITIES.—

(1) IN GENERAL.—A health plan purchasing cooperative shall—

(A) enter into agreements with multiple, unaffiliated health plan issuers, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible.

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State.

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and individual health plans offered through the cooperative);

(E) actively market to all eligible employers and individuals residing within the service area; and

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) PERMISSIBLE ACTIVITIES.—A health plan purchasing cooperative may perform such other functions as necessary to further the purposes of this title, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits directly to participants and beneficiaries only for the purpose of negotiating with providers, and

(E) negotiating with health care providers and health plan issuers.

(f) LIMITATIONS ON COOPERATIVE ACTIVITIES.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plan issuers.

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements for participants, beneficiaries, or individuals based on health status;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization—

(A) in which membership in such organization is not based on health status; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of and employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this title.

(g) LIMITED PREEMPTIONS OF CERTAIN STATE LAWS.—

(1) IN GENERAL.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) HEALTH PLAN ISSUERS.—

(A) RATING.—With respect to a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative that meets the requirements of this section. State premium rating requirement laws, except to the extent provided under subparagraph (B), shall be preempted unless such laws permit premium rates negotiated by the cooperative to be less than rates that would otherwise be permitted under State law, if such rating differential is not based on differences in health status or demographic factors.

(B) EXCEPTION.—State laws referred to in subparagraph (A) shall not be preempted if such laws—

(i) prohibit the variance of premium rates among employers, plan sponsors, or individuals that are members of health plan purchasing cooperative in excess of the amount of such variations that would be permitted under such State rating laws among employers, plan sponsors, and individuals that are not members of the cooperative; and

(ii) prohibit a percentage increase in premium rates for a new rating period that is in excess of that which would be permitted under State rating laws.

(C) BENEFITS.—Except as provided in subparagraph (D), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative shall comply with all State mandated benefit laws that require the offering of any services, category or care, or services of any class or type of provider.

(D) EXCEPTION.—In those states that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(h) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives.

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State.

(5) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employee health benefits plans, or

(6) confer authority up a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, or other similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section.

(i) APPLICATION OF ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) shall apply to a health pan purchasing cooperative as if such plan were an employee welfare benefit plan.

Subtitle E—Application and Enforcement of Standards

SEC. 141. APPLICABILITY.

(A) CONSTRUCTION.—

(1) ENFORCEMENT.—

(A) IN GENERAL.—A requirement or standard imposed under this title on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this title. In the case of a group health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements of standards imposed under the title shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official of officials designated by the State to enforce the requirements of this title.

(B) LIMITATION.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this title as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a Sate enforce the requirements or standards of this title as they relate to employee health benefit plans.

(2) PREEMPTION OF STATE LAW.—Nothing in this title shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) not prescribed in this title; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements, that are consistent with, and are not in direct conflict with, this title and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) CONTINUATION.—Nothing in this title shall be construed as requiring a group health plan or an employee health benefit plan to provide benefits to a particular participant or beneficiary in excess of those provided under the terms of such plan.

SEC. 202. ENFORCEMENT OF STANDARDS.

(a) HEALTH PLAN ISSUERS.—Each State shall require that each group health plan and individual health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this title pursuant to an enforcement plan filed by the State with the Secretary. A State shall submit such information as required by the Secretary demonstrating effective implementation of the State enforcement law.

(b) EMPLOYEE HEALTH BENEFIT PLANS.—With respect to employee health benefit plans, the Secretary shall enforce the reform standards established under this title in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) FAILURE TO IMPLEMENT PLAN.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this title with respect to group health plans and individual health plans as provided for under the State enforcement plan filed under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall implement an enforcement plan meeting the standards of this title in such State. In the case of a State that fails to substantially enforce the standards and requirements set forth in this title, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) APPLICABLE CERTIFYING AUTHORITY.—As used in this title, the term "applicable certifying authority"means, with respect to—

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved; and

(2) an employee health benefit, plan, the Secretary.

(e) REGULATIONS.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this title.

(f) TECHNICAL AMENDMENT.—Section 508 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1138) is amended by inserting "and under the Health Insurance Reform Act of 1996" before the period.

Subtitle F—Miscellaneous Provisions

SEC. 191. HEALTH COVERAGE AVAILABILITY STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretary, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits, shall conclude a two-part study, and prepare and submit reports, in accordance with this section.

(b) EVALUATION OF AVAILABILITY.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation, based on the experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of reasonably priced health coverage to employers purchasing group coverage and to individuals purchasing coverage on a nongroup basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) EVALUATION OF EFFECTIVENESS.—Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of the provisions of this Act and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a nongroup basis.

SEC. 192. EFFECTIVE DATE.

Except as otherwise provided for in this title, the provisions of this title shall apply as follows:

(1) With respect to group health plans and individual health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after January 1, 1997, and

(2) With respect to employee health benefit plans, on the first day of the first plan year beginning on or after January 1, 1997.

SEC. 193. SEVERABILITY.

If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE II—INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

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SEC. 200. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Increase in Deduction For Health Insurance Costs of Self-Employed Individuals

SEC. 201. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—

"(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
After 1996 and before 2002	50 percent.
2002 or thereafter	80 percent."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Revenue Offsets

CHAPTER 1—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

SEC. 211. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsection (f), all property of a covered expatriate to which this section applies shall be treated as sold on the expatriation date for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

"(3) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

"(A) IN GENERAL.—If an expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph) shall not apply to the expatriate, but

"(ii) the expatriate shall be subject to tax under this title, with respect to property to which this section would apply but for such election, in the same manner as if the individual were a United States citizen.

"(B) LIMITATION ON AMOUNT OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of paragraph (2)).

"(c) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(D) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) ELECTION TO DEFER TAX.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property—

"(A) no amount shall be required to be included in gross income under subsection (a)(1) with respect to the gain for such property for the taxable year of the sale, but

"(B) the taxpayer's tax for the taxable year in which such property is disposed of shall be increased by the deferred tax amount with respect to the property.

Except to the extent provided in regulations, subparagraph (B) shall apply to a disposition whether or not gain or loss is recognized in whole or in part on the disposition.

"(2) DEFERRED TAX AMOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'deferred tax amount' means, with respect to any property, an amount equal to the sum of—

"(i) the difference between the amount of tax paid for the taxable year described in paragraph (1)(A) and the amount which would have been paid for such taxable year if the election under paragraph (1) had not applied to such property, plus

"(ii) an amount of interest on the amount described in clause (i) determined for the period—

"(I) beginning on the 91st day after the expatriation date, and

"(II) ending on the due date for the taxable year described in paragraph (1)(B),

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

For purposes of clause (ii), the due date is the date prescribed by law (determined without regard to extension) for filing the return of the tax imposed by this chapter for the taxable year.

"(B) ALLOCATION OF LOSSES.—For purposes of subparagraph (A), any losses described in subsection (a)(2)(B) shall be allocated ratably among the gains described in subsection (a)(2)(A).

"(3) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

"(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2)(A) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(4) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(5) DISPOSITIONS.—For purposes of this subsection, a taxpayer making an election under this subsection with respect to any property shall be treated as having disposed of such property—

"(A) immediately before death if such property is held at such time, and

"(B) at any time the security provided with respect to the property fails to meet the requirements of paragraph (3) and the taxpayer does not correct such failure within the time specified by the Secretary.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(c) COVERED EXPATRIATE.—For purposes of this section—

"(1) IN GENERAL.—The term 'covered expatriate' means an expatriate—

"(A) whose average annual net income tax (as defined in section 38(c)(1)) for the period of 5 taxable years ending before the expatriation date is greater than $100,000, or

"(B) whose net worth as of such date is $500,000 or more.

If the expatriation date is after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1995' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has been a resident of the United Stats (as defined in section 7701(b)(1)(A)(ii)) for not more than 8 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) PROPERTY TO WHICH SECTION APPLIES.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided by the Secretary, this section shall apply to—

"(A) any interest in property held by a covered expatriate on the expatriation date the gain from which would be included in the gross income of the expatriate if such interest had been sold for its fair market value on such data in a transaction in which gain is recognized in whole or in part, and

"(B) any other interest in a trust to which subsection (f) applies.

"(2) EXCEPTIONS.—This section shall not apply to the following property:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

"(B) INTEREST IN CERTAIN RETIREMENT PLANS.—

"(i) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

"(ii) FOREIGN PENSION PLANS.—

"(I) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(II) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes his citizenship, or

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

"(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)).

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)).

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—

"(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the expatriation date occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and "(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year in which the expatriation date occurs, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

"(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest in an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust in the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULE.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(I) which is organized under, and governed by, the laws of the United States or a State, and

"(II) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1)—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

"(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

"(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3).

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) to prevent double taxation by ensuring that—

"(A) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (a)(3), and

"(B) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(3)(B)(i), and

"(2) which provide for the proper allocation of the exclusion under subsection (a)(3) to property to which this section applies.

"(k) CROSS REFERENCE.—

"For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).".

(b) INCLUSION IN INCOME OF GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.".

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).".

(d) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995.".

(2) Section 2107(c) is amended by adding at the end the following new paragraph:

"(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i).".

(3) Section 2501(a)(3) is amended by adding at the end the following new flush sentence: "For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i).".

(4) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to amounts received from expatriates (as so defined) whose expatriation date (as so defined) occurs on and after February 6, 1995.

(3) SPECIAL RULES RELATING TO CERTAIN ACTS OCCURRING BEFORE FEBRUARY 6, 1995.—In the case of an individual who took an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)–(4)) before February 6, 1995, but whose expatriation date (as so defined) occurs after February 6, 1995—

(A) the amendment made by subsection (c) shall not apply,

(B) the amendment made by subsection (d)(1) shall not apply for any period prior to the expatriation date, and

(C) the other amendments made by this section shall apply as of the expatriation date.

(4) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 212. INFORMATION ON INDIVIDUALS EXPATRIATING.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIATING.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any expatriate (within the meaning of section 877A(e)(1)) shall provide a statement which includes the information described in subsection (b).

"(2) TIMING.—

"(A) CITIZENS.—In the case of an expatriate described in section 877(e)(1)(A), such statement shall be—

"(i) provided not later than the expatriation date (within the meaning of section 877A(e)(2)), and

"(ii) provided to the person or court referred to in section 877A(e)(3).

"(B) NONCITIZENS.—In the case of an expatriate described in section 877A(e)(1)(B), such statement shall be provided to the Secretary with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at lease the dollar amount applicable under section 877A(c)(1)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the additional tax required to be paid under section 877A for such year, or

"(2) $1,000, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(d) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual relinquishing United States citizenship (within the meaning of section 877A(e)(3)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

"(e) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if the Secretary determines that applying this section to such individuals is not necessary to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Information on individuals expatriating.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals to whom section 877A of the Internal Revenue Code of 1986 applies and whose expatriation date (as defined in section 877A(e)(2)) occurs on or after February 6, 1995, except that no statement shall be required by such amendments before the 90th day after the date of the enactment of this Act.

CHAPTER 2—FOREIGN TRUST TAX COMPLIANCE

SEC. 221. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identify of the trust and of each trustee and beneficiary or class of beneficiaries) of the trust.

"(3) REPORTABLE EVENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) EXCEPTIONS.—

"(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) DEFERRED COMPENSATION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 402(b), 404(a)(4), or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust.

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

"(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

"(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

"(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

"(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—

"(A) IN GENERAL.—If applicable records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includable in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceeding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(B) APPLICATION OF ACCUMULATION DISTRIBUTION RULES.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

"(d) SPECIAL RULES.—

"(1) DETERMINATION OF WHETHER UNITED STATES PERSON RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.".

(b) INCREASED PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information.

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

"(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d), as amended by sections 11004 and 11045, is amended by striking "or" at the end of subparagraph (U), by striking the period at the end of subparagraph (V) and inserting ",or", and by inserting after subparagraph (V) the following new subparagraph:

"(W) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).".

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 604 Information with respect to certain foreign trusts.".

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts"

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 222. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

"(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.".

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTIONS.—

"(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.".

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)(3)(B)(ii)".

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

"(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

"(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) OUTBOUND TRUST MIGRATIONS.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.".

(d) MODIFICATION RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

"(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.".

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 233. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) EXCEPTIONS.—

"(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—Paragraph (1) shall not apply to any trust if—

"(i) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(ii) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying section 1296.

"(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—If—

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.".

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income.".

(c) DISTRIBUTION BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

"(h) DISTRIBUTION BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.".

(2) Section 665 is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effort on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 224. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039F the following new section:

"SEC. 6039G. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

"(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039F the following new item:

"Sec. 6039G. Notice of large gifts received from foreign persons.".

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 225. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

"(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996.".

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.".

(c) TREATMENT OF LOANS FROM TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title."

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting ", 643(i)," before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

SEC. 226. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking subparagraph

(D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust.".

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMETIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.".

(2) PENALTY.—Section 1494 is amended by adding at the end the following new subsection:

"(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491 with respect to a trust, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

CHAPTER 3—REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS

SEC. 231. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is amended by adding at the end the following new subsections:

"(f) TERMINATION OF RESERVE METHOD.—Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

"(g) 6-YEAR SPREAD OF ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

"(A) such change shall be treated as a change in a method of accounting,

"(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

"(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

"(i) shall be determined by taking into account only applicable excess reserves, and

"(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

"(2) APPLICABLE EXCESS RESERVES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

"(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer's last taxable year beginning before December 31, 1995, over

"(ii) the lesser of—

"(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

"(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

"(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

"(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

"(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

"(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve: except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

"(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

"(A) IN GENERAL.— In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

"(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

"(ii) such taxable year shall be disregarded in determining—

"(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

"(II) the amount of such adjustment.

"(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

"(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term 'residential loan' means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

"(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

"(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

"(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995.

"(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

"(B) TREATMENT UNDER ELECTIVE CUTOFF METHOD.—For purposes of applying section 585(c)(4)—

"(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

"(ii) no amount shall be includable in gross income by reason of such reduction.

"(6) SUSPENDED RESERVE INCLUDED AS SECTION 381(C) ITEMS.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

"(7) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

"(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

"(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spinoffs, and other reorganizations."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

"Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995."

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraph (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking "by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)" and inserting "by a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows:

(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987).".

(C) Paragraph (1) of section 593(e) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581 to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect.".

(8) Section 595 is hereby repealed.

(9) Section 596 is hereby repealed.

(10) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The".

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period.

(11) Paragraph (3) of section 992(d) is amended by striking "or 593".

(12) Section 1038 is amended by striking subsection (f).

(13) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(14) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(15) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(16) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SUBSECTION (b)(7).—The amendments made by subsection (b)(7) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.

EXTENSIONS OF REMARKS

TRIBUTE TO A CIA LEGEND, WILLIAM L. MOSEBEY, JR.

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. SHUSTER. Mr. Speaker, I rise to pay tribute to William Mosebey who will receive, on Friday, March 29, 1996, the Central Intelligence Agency's Distinguished Intelligence Medal from Director of Central Intelligence, John Deutch.

Bill Mosebey has served our country with distinction for 34 years in the faroff outposts of the cold war. In those years, he rose to the highest level in the Central Intelligence Agency's clandestine service, but, more importantly he became a legend. Not since Chinese Gordon defended the gates of Khartoum has an officer reached the stature of William Mosebey. With a wry sense of humor, and a brilliant operational mind, he managed and executed the most difficult of clandestine operations, fulfilling every objective set out for him. He served as a chief of station in four countries. In each of them, he spent his share of time recruiting and managing wellplaced human penetrations.

His arrival in any post was a sure signal that the country was high on our President's priority list. His foes across the stark lines of the cold war knew that they were facing the ultimate professional—one who stands in the intelligence hall of fame with men like Richard Helms and Alan Dulles. At the same time, there was always time for a visit to the Bundu to add a new trophy to his wall.

Bill Mosebey is one of the unsung heros of our great victory over Marxism, but there is also another unsung hero and that is his wife Carolyn. In Bill's own words:

> Whatever contribution I was able to make to our national effort over the years of the cold war and after was sustained by the fact that I had a very engaged and supportive wife who, without question, would go anywhere and do anything the job demanded. As far as I am concerned she is stamped "keep forever" (an old KGB classification).

In Washington, a place that always made him long for the bush, he set an example for young officers. Never was there a time when he didn't have a moment to walk a new recruit through the intricacies of running a spy. Always ready to open his home with a homecooked meal from Carolyn's kitchen, he would entertain into the night with stories and laughter, but one came away from these evenings knowing that they had been in the presence of one of the great ones.

Mr. Speaker, Bill Mosebey is the Central Intelligence Agency's "Riley Ace of Spies." We owe him our gratitude and should shower him with our thanks. But knowing Bill, who has returned to his roots as a farmer in central Pennsylvania, he will be happy if the Sun shines, if it rains after the spring planting, and the hunting remains good this fall. But, he should also be pleased knowing that he left the Central Intelligence Agency with honor, with a distinguished record, and my enduring respect, along with those in the intelligence community, for a job well done.

A TRIBUTE TO UNDERSHERIFF RAY DORSEY

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of San Bernardino County Undersheriff, Ray Dorsey of Redlands, CA. Undersheriff Dorsey will be honored today upon his retirement after almost 29 years of service to the San Bernardino County Sheriff's Department.

Ray Dorsey was born is Los Angeles, graduated from Redlands High School, and attended San Bernardino Valley College and the University of Redlands. He began his career in July 1967, when he was appointed deputy sheriff and assigned to the Glen Helen Rehabilitation Center. After serving his first patrol assignment at the Yucaipa Station, Ray was promoted to detective, his first of many promotions, and assigned to the specialized detective division in 1971 where his responsibilities included crimes against property and homicide investigations.

With his promotion to sergeant in 1973, Ray returned to the Yucaipa Station and assumed his duties as the second-in-command. His promotion to the rank of lieutenant in 1977 was closely followed by his promotion to captain in 1980, where he was given the responsibility of commanding the Sheriff's Specialized Detective Division. Three years later, he was promoted by Sheriff Floyd Tidwell to deputy chief which gave him responsibility over the next 4 years for the Valley-Mountain and Specialized Investigations Bureaus. In 1987, Ray was promoted to assistant sheriff which gave him oversight of the departmental support operations including corrections, training, records, crime laboratory, and identification. In 1991, Ray was appointed undersheriff and given wide responsibility for the overall operations of the department. He has served in this position under the leadership of both Sheriff Dick Williams and Sheriff Gary Penrod.

Mr. Speaker, I ask that you join me, our colleagues, as well as Ray Dorsey's family and many friends, in recognizing the selfless achievements of this remarkable man. Ray has given his professional life to the San Bernardino County Sheriff's Department and has served the citizens of San Bernardino County well for almost 30 years. It is only appropriate that the House recognize Undersheriff Dorsey today as he begins his well deserved retirement.

TURKEY PROPOSES COMPREHENSIVE PEACE IN THE AEGEAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HAMILTON. Mr. Speaker, on March 24, 1996 new Turkish Prime Minister Mesut Yilmaz issued a statement calling for a process of comprehensive negotiations to resolve all bilateral Greek-Turkish problems in the Aegean as a whole.

Mr. Speaker, it is in the national interest of the United States and in the interest of lasting peace and stability in the eastern Mediterranean region that the differences between Greece and Turkey be resolved. We should use bilateral and multilateral means, as well as third-party mediation as necessary. All available opportunities for moving negotiations forward should be explored.

The key here is action, not just rhetoric or good intentions. We will have to see whether Turkey and Greece are willing to take concrete steps to resolve their longstanding differences in the Aegean.

These two NATO allies need to work with each other, with other NATO allies and if necessary with other international institutions to resolve their mutual problems. The proposals of Prime Minister Yilmaz hopefully will provide a timely opportunity to help break the current impasse in Greek-Turkish relations.

In order to inform other Members on the substance of Prime Minister Yilmaz' proposals, I am including the text of his statement in the RECORD. The text follows:

TURKEY PROPOSES COMPREHENSIVE PEACE IN THE AEGEAN

In a statement issued in Ankara today, Prime Minister Mesut Yilmaz called on Greece to enter into negotiations without preconditions with a view to settling all the Aegean questions as a whole, on the basis of respect for international law and agreements establishing the status quo in the Aegean.

The Turkish proposal included talks on the conclusion of a political framework agreement, a swift agreement on a comprehensive set of confidence building measures related to military activities, avoiding unilateral steps and actions that could increase tension and a comprehensive process of peaceful settlement, including third party arbitration.

The statement is as follows:

"During the recent years, there have been important changes in the world political scene, with old enemies increasingly seeking peace with each other. As a matter of fact, many years ago Ataturk and Venizelos were able to settle the Turkish-Greek differences through an epoch-making historical compromise and to usher in an era of long-term friendship and cooperation between the two countries.

"Today, we are going through a tense period in our relations with Greece. The latest crisis has demonstrated once again that the present state of Turkish-Greek relations is fraught with dangers. The fundamental interests of both countries lie in peace and cooperation, not confrontation. We both stand to benefit from developing friendly and good-neighborly relations. Turkey and Greece have to overcome the cycle of conflict into which they have been locked. The failure to settle the existing problems creates an environment conducive to the eruption of new crises. This vicious circle must be broken at some point. The leaders of both countries are faced with a historic responsibility to establish a climate of mutual confidence, to give a new structure to their bilateral relations which would be free of problems, and thus open a brand new chapter in the Turkish-Greek relations. Turkey is ready and determined to do her utmost in that regard. I believe that the Greek leaders also have the necessary political will to live up to this historic responsibility.

"The current problems between the two countries must be taken up with a new and realistic approach. By isolating them from the emotions stemming from history and the chains imposed by short-term temporary considerations, our ultimate goal should be to bring comprehensive and lasting solutions to all the differences and problems between the two sides, especially those related to the Aegean Sea. An eventual settlement of the Aegean issues will only be viable and lasting if it is built on the fundamental rights and legitimate interests of both countries. For that reason, we should discuss our differences on the basis of mutual respect and with a willingness to reach a compromise.

"Turkey is a law-abiding country. In keeping with international law, she has always respected the territorial integrity and the inviolability of borders of all her neighbors, including Greece. In a similar vein, Turkey harbors no intention towards altering the status quo in the Aegean through unilateral steps and to make gains by de facto actions. An essential aspect of Turkey's position on the Aegean issues is respect for the status quo in the Aegean which was established through international agreements. These are the basic principles defining Turkey's approach to both her relations with Greece and the matters related to the Aegean. We have the right to expect Greece to display the same understanding and approach. If Greece also adopts these principles, it will be much easier to reach mutually acceptable solutions than is generally thought. In this spirit, Turkey wants to see all disputes pertaining to the Aegean settled through peaceful means in accordance with international law. She stands ready for such a settlement.

"I am therefore calling on Greece to enter into negotiations without preconditions with a view to settling all the Aegean questions as a whole.

"The search for a comprehensive and lasting solution will be conducted on the basis of respect for international law and the international agreements establishing the status quo in the Aegean. The talks that could be started on an exploratory basis shall not prejudice the respective positions of both sides regarding the substance of the issues.

"When it comes to peaceful means of settlement which would be appropriate to the special nature of the Aegean questions, Turkey does not rule out from the outset any method based on mutual acceptance. We have no prejudices in this respect. Accordingly, we are prepared to discuss with goodwill appropriate third party methods of settlement. The form, conditions and legal requirements of such methods can be taken up in detail in the course of the talks.

"The fundamental aim of such a peace process would be to resolve the differences that emerged after the historic compromise brought about by Ataturk and Venizelos. It is, therefore, essential for the two parties to rise to the occasion and take utmost care to avoid being tempted by petty political gains and a dangerous opportunism, if the peace process is to succeed.

"Concurrently with the initiation of a process of peaceful settlement aimed at bringing a comprehensive and lasting solution to the Aegean disputes, Turkey is also ready to start talks on the conclusion of a political document/declaration containing the basic principals that will govern the relations between the two countries or an agreement of friendship and cooperation. Such a political framework agreement, in addition to the fundamental principles on which the relations will be based, may also specify the avenues of cooperation as well as the procedures and settlement methods to be applied in case of the emergence of differences.

"Likewise, simultaneously with this process, I also propose to start talks in this transitional period with a view to bringing about a swift agreement between the two countries on a comprehensive set of confidence building measures related to military activities.

"Once the process of peaceful settlement is thus initiated, the two sides will naturally have to avoid unilateral steps and actions that could increase tension.

"I am proposing to Greece to engage in a comprehensive process of peaceful settlement that will not exclude from the beginning any method of settlement including third party arbitration. This will make an immense contribution to the strengthening of peace and stability in our region. Similarly, bringing a comprehensive solution to the Aegean questions will also contribute to the settlement of other questions in eastern Mediterranean on their own merits and within their own parameters. As our Greek friends frequently say, "actions speak louder than words." I, therefore, propose action, not words.

"I sincerely hope that Greece will give due consideration to our call for a peaceful settlement based on international law and legitimacy and will not let this historic opportunity slip away. This process may require a period of reflection and preparation. Whenever they respond to our proposal positively and are ready to engage in such a process, Turkey will also be ready.

"I am sure that our two nations living across each other along the shores of the Aegean do not want tension between them. They do not want mutual enmity. What they do want is peace, friendship and cooperation. I believe that as two nations with deep roots in history, the Turkish and Greek peoples deserve them.

"The late President Turgut Ozal, in a speech during a 1985 visit to the United States, stressed the need for such a compromise and said that we owed this to the future generations. I believe that we owe this not only to the future generations, but also to the present generation. History never forgives those who shrink from their responsibility."

TRIBUTE TO 100TH ANNIVERSARY OF APOLLO CLUB MALE CHORUS OF MINNEAPOLIS, MN

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. RAMSTAD. Mr. Speaker, I rise today to bring attention to the prestigious history and legacy of excellence for more than a century of the Apollo Club Male Chorus of Minneapolis, MN.

Just last year, the Apollo Club celebrated 100 years of truly superior musical performances. This marvelous chorus of amateur musicians exemplifies the spirit that makes our country great—friends from all walks of life, gathering outside of their daily and professional lives to fashion a powerful bond made possible only by a common, shared goal in which the group takes precedence over the individual.

The members of the Apollo Chorus have proven for more than 100 years what can be accomplished through a strong work ethic, teamwork, and a commitment to excellence.

The chorus has sung the works of history's greatest composers—Bach, Beethoven, Mozart, and others—all around our great Nation as well as overseas, wowing audiences with its unique, full, and mellow sounds.

Mr. Speaker, from its birthplace at the home of Col. Charles McC. Reeve on the south shore of Lake Harriet in Minneapolis, the chorus has graced a global stage over the years which has included performances at President Eisenhower's inaugural in 1957, the World's Fair in Brussels in 1958, the memorial atop the sunken Battleship *Arizona* at the Pearl Harbor commemorative ceremony in 1985 and international festivals from Wales to Nancy, France.

Among its many awards and honors, the Apollo Male Chorus won second place at the renowned Eisteddfod Choral Festival in 1982. But despite the chorus' success in musical competition, the Apollo Club's real focus has been on moving people with their special music, and educating audiences about the choral style they practice so eloquently.

Mr. Speaker, the members of the Apollo Chorus through the years have been true pioneers of choral song. Audiences swing and sing to the Apollo's international collection of rhythms.

In Greek mythology, Apollo stood for clarity, order, and harmony. In a world that too often leaves us stunned because of its chaos and discord, the Apollo Club delivers a much-needed message of peace and togetherness. Today we thank all the club's singers, leaders, officers, and special musical guests for their gift of beautiful music and extraordinary harmony.

Today, we salute the Apollo Club Male Chorus of Minneapolis for a century of wonderful entertainment and we honor this outstanding group for the joy its members have brought to our lives. The people of Minnesota are proud of the Apollo Club Male Chorus, and we wish them many more years of success.

INDIAN PREMIER SHRUGS OFF SCANDAL

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. SOLOMON. Mr. Speaker, I insert for the RECORD a recent New York Times article regarding the latest corruption scandal in India. The article makes plain that though it is an ostensible democracy, India's system is rotten to the core. Isn't it time the United States stops dumping American taxpayer money into this black hole?

[The New York Times International, Feb. 25, 1996]

INDIAN PREMIER SHRUGS OFF SCANDAL

(By John F. Burns)

NEW DELHI.—After four resignations this week brought to seven the number of Indian Government ministers who have quit since the start of the year in a corruption scandal, Prime Minister P.V. Narasimha Rao told a rally of his governing Congress Party not to worry about the general election expected in April or May.

"The Congress is certain to lead the country," Mr. Rao said at a gathering on Friday of the party's youth wing in Guwahati, the capital of the northeastern state of Assam.

Indians were left to wonder whether Mr. Rao was engaging in bravado or displaying the canny political instincts for which he is renowned.

In the midst of a scandal that many Indian commentators have described as the worst since independence, few discount the possibility that Mr. Rao may yet turn the situation to his advantage.

Opinion surveys have suggested that the Congress Party, which has governed India for all but four years since 1947, has been heading for a drubbing at the polls. Political conjecture focused less on whether the Congress would lose its majority in the 535-seat Parliament than whether it would muster enough seats to lead a coalition

Many analysts forecast a breakthrough for the main opposition group, the Bharatiya Janata Party, whose brand of Hindu nationalism has troubled many Indians attached to the country's secular political tradition.

The Congress Party's woes were frequently blamed on Mr. Rao, who is 74, an uninspiring stump campaigner and beset with what many Indians have said is a near-fatal liability in a Congress leader: a lack of the popular appeal associated with the Nehru-Gandhi political dynasty.

Then came the corruption scandal, involving widespread bribes and kickbacks for Government contracts in a country where nearly half of all officially recorded economic activity is carried out by state-owned industries.

In addition to losing seven ministers, Mr. Rao has been faced with a welter of accusations that he was a beneficiary of some of the payoffs, including a transaction in 1991 in which the accuser says Mr. Rao took 30 million rupees, then the equivalent of $1.7 million, in return for steel contracts.

Yet throughout the weeks that the scandal has been growing, Mr. Rao has remained publicly serene.

Aides say the Indian leader believes that the payoff disclosures could be the savings of the Congress Party at the polls because they have snared major figures in the opposition parties as well as his own, thus depriving the opposition of corruption as an election issue.

One aide, Vithal N. Gadgil, has even said that Mr. Rao will present himself in the election as "Mr. Clean."

What is certain is that the controversy has rocked the opposition Bharatiya Janata Party, or B.J.P., at least as much as the Congress. The first wave of indictments last month included the B.J.P. president, L.K. Advani, who is regarded as the most ardent propagator within the party's upper ranks of the Hindu nationlist creed.

Broadly speaking, this holds that India should shift away from the secularism that has been a Congress principle toward an approach to government that gives primacy to the 700 million of India's 930 million people who are Hindus.

This week, the scandal claimed a new opposition victim in the resignation of Madan Lal Khurana, who as Chief Minister of the Delhi capital district was one of Bharatiya Janata's most prominent elected officials.

Like the 25 other politicians who have been indicted, Mr. Khurana's name appeared in what prosecutors have described as coded entries in diaries listing payoffs of more than $35 million that were seized in 1991 from the New Delhi home of a prominent industrialist, Surendra K. Jain.

Press accounts say Mr. Jain confessed to investigators last year to having been, along with one of his brothers, the principal paymaster in a web of corruption that ensnared dozens of leading politicians and public officials.

In addition to cash bribes, Mr. Jain is said to have told of paying for expensive gifts that included Mercedes-Benz cars, Belgian crystal and foreign trips. Details of many of the payoffs were listed in the diaries, against the initials of the recipients or, in some cases, their telephone numbers.

Mr. Rao seems certain to face heavy criticism in the election campaign for what opponents have described as an attempted cover-up.

Nearly four years passed after the police seizure of the dairies before the Central Bureau of Investigation, which is under the Prime Minister's direct control, made a sustained attempt to question, Mr. Jain and others alleged to have been involved in the payoffs. Even then, the investigative agency delayed any indictments until the Supreme Court intervened in November and set deadlines.

When the director of the investigation bureau reported to the Supreme Court this week that his agency had no "reasonable basis" for charges to be brought against Mr. Rao, the court ordered the investigators not to close the probe of "any person," no matter how important, until all leads were explored.

A lower court in New Delhi followed up on Friday by ordering the bureau to investigate allegations that Mr. Jain, on Prime Minister Rao's orders, paid out nearly $1 million in 1993 to bribe opposition members of Parliament into switching parties, thus saving the Rao Government from defeat on a nonconfidence motion.

There has been widespread debate over whether Mr. Rao kept the lid on the scandal until shortly before the election so as to be able to use the indictments against opponents—and allies whose loyalty he doubted—or whether pressure from the Supreme Court forced his hand.

In any case, many Indians say the scandal has reached proportions that will lead to a far-reaching cleanup of Indian politics.

Previous scandals have subsided without a major shake-up in the political establishment. But this time, many commentators predict, the involvement of the Supreme Court will make it hard to contain the fallout.

"It will not fizzle out," said Rajinder Puri in The Times of India. "The process of destabilizing a rotten, corrupt, repressive and anti-people system will continue until reforms and a new system takes its place."

ANSWERING AMERICA'S CALL

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. ROBERTS. Mr. Speaker, I submit the following script written by Mr. Bradley Areheart, State winner of the Veterans of Foreign Wars of the United States and its Ladies Auxiliary Voice of Democracy broadcast scriptwriting contest. Mr. Areheart is a junior at Emporia High School in Emporia, KS and plans a career in medicine or politics. He was sponsored by the VFW Post 180 in Emporia. The contest theme this year was "Answering America's Call." Bradley has done a wonderful job of capturing the sense of duty that each of us has toward our fellow Americans and toward our future generations. I encourage each one of my colleagues to read Bradley's message and take his suggestions to heart.

ANSWERING AMERICA'S CALL

It's 2:00 in the morning and a lady clutches her heart as if struck! A heart attack! She staggers to the phone and frantically dials the numbers 9-1-1. The police dispatcher's voice comes across clearly but in a lethargic sounding tone. The lady, gasping, screams, "Help me! Help me! I've had a heart attack! Get someone out here!" "Wait right there; I'm going to put you on hold," is the dispatcher's reply as she picks up another line. A frantic call, put on hold by an apathetic operator. Important? Yes, and that call is not unlike the call being made today. A call of far greater importance to everyone in the United States. That call is America's plea for the future; we have several options as we hear that call. We can answer immediately, ignore it, or just like the apathetic operator, put it on hold. However, in my mind, we have only one clear option. If we are to be responsible, caring citizens, we must answer America's call.

Former Secretary of State Cordell Hull said, "I am certain that however great the hardships and the trials which loom ahead, our America will endure and the cause of human freedom will triumph." How truly this reflects the time since the foundation of our nation. In the 1700's America sounded a call for freedom from oppression so 50 brave Americans answered this call and signed the Declaration of Independence. The early part of this century saw America facing the perils of the depression and Franklin Roosevelt rose to meet the call by instilling hope and providing employment. In 1941, when the Japanese bombed our ships in Pearl Harbor, courageous Americans answered the call to arms and continued to fight until the Japanese surrendered. Indeed, history is filled with stories of how Americans have always met their country's call. But what if these calls had been left unanswered or put on hold? What would become of them? And more importantly, what would become of our country? We cannot be half-hearted and we haven't been. We confront situations like a raging bull who has his eyes fixed only on the matador. And that's how things get done—full force? America answers the call because of patriotic citizens and leaders who see a light at the end of the tunnel. America will continue to answer the call because of compassion, pride, and love of country.

I am a youth of today, but a leader of tomorrow. I face certain responsibilities: the responsibility of speaking up for what's right, setting an example, and a willingness to fight for my country.

But currently, America's call is for the future. A call that is widespread and impossible to ignore. It's a call to return to basic values and truths that have always made America so great. The call is for safer streets, moral integrity, and family values. Former president Dwight Eisenhower said that "the problems of America are the family problems multiplied a million fold." And isn't that evident in today's society? As tomorrow's leaders, my generation must answer the call to become responsible, moral, intelligent, and patriotic citizens. The ideals of life, liberty, and the pursuit of happiness are not just empty words and must be stressed for all citizens. We cannot accept the attitude "It doesn't matter how I act; I'm just one person." Instead, we must share the feelings of so many Americans who say" "I love my country; I sincerely care about its future." That attitude must now direct all of us. There's an African proverb that says "it takes an entire village to raise a child." The time has come for all of us in the village to accept responsibilities. You see, we can determine needs and become catalysts for change. America's future demands the commitment of everyone to not only hear, but also answer America's call. Whether it be a call to arms or a call to peace.

Today's call is not an emergency 911 situation because America maintains her greatness at home and abroad. Our commitment must be to maintain that greatness and preserve our freedoms and liberties for future generations. I want to make sure that America is never like the woman making the 911 call, who despite her efforts to get help, is ignored. When my generation answers the call to become responsible citizens, we will be there to be counted. I promise my contributions by pursuing higher education, voting, and maintaining my morals and integrity. When everyone in my generation follows this lead, we will truly be answering America's call.

ANSWERING AMERICA'S CALL

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. WISE. Mr. Speaker, I would like to introduce for the RECORD a script written by John Shirley, a constituent from Berkeley Springs, WV. This script was West Virginia's winning entry into the Veterans of Foreign Wars—Voice of Democracy broadcast scriptwriting contest.

John's script stresses the importance of both cooperating and making unselfish, individual contributions in determining how well the ideals that make America will work for all of us. I encourage my colleagues to keep John's script in mind as we work to find effective solutions to the problems that currently face our Nation.

ANSWERING AMERICA'S CALL

Lost in the maddening crowd of passersby, I walked along the city street. Above the automobile horns and screaming car stereos, I heard a woman's sobs. I made my way through the wall of pedestrians and found her crying as she sat alone on a broken park bench. I sat down beside her and asked her what was wrong.

She gently took my hand and spoke. "Nobody cares about me anymore." I asked her what she meant.

She wiped her tears and struggled to speak again. "There is so much. I see hungry, homeless children shivering on the street. Drug deals take place beside them, and too often they get sucked in. I hear screams at night; men and women beat each other and their children. Gang wars take place on the streets, killing kids and innocent bystanders.

Students drop out of school and depend upon welfare to survive. They never strive to be their best; they settle for second or third place and I have to do the same.

Every day I wear the same white blouse and the same black slacks to make a statement. They are like two races with no connection, no relation and no understanding—just like me.

And worst of all, nobody cares about any of this. They won't use their rights. They don't speak out; they refuse to write it down; they refuse to force the politicians that fight over my body to think rationally and fairly; they refuse to realize the danger."

She buried her head in her hands and I tenderly placed my hand on her shoulder. The sun was setting and I knew that I had to leave. As I walked away I asked her name.

She quietly responded, "My name is America."

I tried to go home but something drew me back. I went to the bench to find her, but she was gone.

America cries out for help, how do we answer her call? A nation is comprised of individuals; in order to change our nation we must change ourselves. We must recognize the problems of America and more importantly, search for the ways to solve them. We need to get involved in our schools, communities and governments whether it be local, state or national.

Education is the key to awareness and understanding. Unfortunately, our current educational system leaves many students behind. Little regard is given to students' individual needs and learning styles. They want and need to know why in addition to how. If education is related to the real world, students will understand its real value.

In addition to formal education, America's youth must be given a basic system of values and beliefs both at home and in the community. We must make them aware that all people are equal despite differences in race, color or creed.

Community is the crucial link between individuals. Civic groups can and have successfully engineered and implemented programs for public education and support. Halfway houses and shelters for women and runaways provide many people with refuge from the streets and a second chance for success. Literacy classes and G.E.D. programs give hundreds of individuals the skills they need for employment. Communities can also come together to combat the growing problem of crime in America. Community watch groups and volunteer patrols have been effective in many American neighborhoods.

Government, the most integral part of America as we know it, has also been neglected. We are not controlled by the government; we are the government and must take an active role in its function. We can do this not only by running for a political office but also through such simple acts as signing a petition, participating in a campaign or rally, writing letters to public officials, voicing our opinions in the news media or by making informed choices at the next election.

These are all things that we can do but what will we do? We must choose our role and get involved. Our greatest victories are not achieved in armed conflict on foreign soil; they are achieved in our everyday lives as active American citizens. If we all take part, then we can ensure that America will not sit crying alone on a broken park bench. Instead, she will continue to hold and protect us and will forever remain in the greatest nation on earth.

A TRIBUTE TO ASSISTANT SHERIFF JIM BRADFORD

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of San Bernardino County Assistant Sheriff Jim Bradford, Jim will be honored today upon his retirement after nearly 27 years of service to the San Bernardino County Sheriff's Department.

Jim grew up in California, graduated from Colton High School, and obtained an associate of arts degree in business administration from San Bernardino Valley College and a bachelor of science degree in public management from Pepperdine University.

Jim began his career with the San Bernardino County Sheriff's Department as a line reserve deputy sheriff at the Yucaipa station in 1967. After serving as a volunteer for 2 years, Jim sold his business and became a full-time deputy sheriff in 1969 and was assigned to the Glen Helen Rehabilitation Center. He remained there until 1971 when he was reassigned to the Yucaipa station where he served as a patrol deputy and a reserve deputy coordinator. In 1973, he was promoted to detective and was assigned to the central detective division in San Bernardino.

Jim was promoted to sergeant in 1975 and returned to the Glen Helen Rehabilitation Center until his reassignment in 1977 as detective sergeant to the central detective division. Three years later, he was promoted to lieutenant where he served as unit commander in the crimes against property and homicide details. Jim was promoted to captain by Sheriff Floyd Tidwell in 1983 and was assigned to central station where he also served as chief of police for the cities of Loma Linda and Grand Terrace. Jim took command of the sheriff's bureau of administration with his promotion to deputy chief in 1987. Four years later, he was promoted once again to the position of assistant chief in charge of criminal operations by Sheriff Dick Williams.

Mr. Speaker, I ask that you join me, our colleagues, as well as Jim Bradford's family and many friends, in recognizing his many outstanding achievements. Jim has devoted his professional life to the San Bernardino County Sheriff's Department and has served the citizens of San Bernardino County well for nearly 27 years. It is only appropriate that the House recognize Assistant Sheriff Bradford today as he begins his well deserved retirement.

PENSIONS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 27, 1996 into the CONGRESSIONAL RECORD.

PENSION PLANS: SAVING FOR A SECURE RETIREMENT

I am impressed by how many constituents stress the importance of working toward a good pension and a comfortable retirement. They put in many long hours to pay the bills and put their kids through school. They emphasize the value of hard work and sacrifice, and believe that a life of hard work should be rewarded with a secure retirement.

Many, however, are increasingly concerned about the outlook for their retirements. They find themselves working harder, often at more than one job, but can't seem to find the money to put away for retirement. In the past, Americans could rely on their employer to guarantee a pension, but the trend in recent years has been toward employers providing less generous pension benefits or no benefits at all, reflecting in part the shift from manufacturing to service-oriented businesses.

The average American will live about 18 years in retirement, more than ever before. Workers will need on average 70% of their pre-retirement income to maintain their standard of living. Today, half of all full-time workers have no private pension coverage. Most Americans rely on a combination of Social Security, individual savings, and pension plans for retirement, but traditional pension benefits represent a shrinking portion of retirement income. Since few pension plans are adjusted for inflation, the benefits retirees ultimately receive can only go so far. Increasingly, employees, rather than employers, are responsible for their pension savings and investment.

PENSION PLANS

There are two basic types of private pensions. The more traditional pension plan—a defined benefit plan—involves a company guaranteeing its workers a set monthly pension benefit based on earnings and years of service. A defined contribution plan, in contrast, involves an interest-bearing account established for each employee into which a contribution is made by the employee, and sometimes the employer. The employee is not guaranteed a set monthly benefit, but receives whatever funds are available in his account upon retirement. Of the 64 million active participants covered by private pension plans, about 39% are covered by a define benefit plan,while the remaining 61% are covered by a defined contribution plan.

In recent years, many employers have shifted from defined contribution plans. The federal government insures and regulates defined benefit plans, adding to their overall cost. Defined contribution plans, like 401(k) plans, are not federally insured and are less complicated and less costly for employers. Career employees tend to favor defined benefit plans because the pension is more predictable and larger. Employees who often change jobs fare better under defined contribution plans because they are portable.

CONCERNS

Concerns have been raised about both types of plans. Defined benefit plans are generally considered safer than contribution plans because they are federally insured and the employer bears the investment risk. Current law, however, does permit businesses to underfund their plans. Furthermore, the soundness of the government fund which insures defined benefit plans has been questioned. Most pension funds are adequately funded, but the federal insurer, the Pension Benefit Guaranty Corporation, has had to step in to pay benefits when bankrupt companies have been unable to do so. Congress, with my support, has taken steps to shore up the insurance fund, but underfunding continues to be a problem among some plans.

Defined contribution plans create a different set of problems. There are substantial funds invested in these plans. Today 401(k) plans, for example, hold $550 billion in assets for 22 million employees, and these plans continue to grow. These plans, however, are not federally insured. Also, recent news reports have shown a number of these plans to be susceptible to fraud. Investment decisions and risks lie with employees. Consequently, more responsibility is placed on employees to know what options they have, to invest their contributions wisely, and to monitor the management of pension funds.

POSSIBLE REFORMS

Congress can take steps to protect pension plans.

First, Congress should block efforts to let employers withdraw money from currently overfunded pension plans. Current law allows companies to use assets from overfunded plans only for retiree health benefits. Speaker Gingrich favors a change in the law to permit companies to raid surplus pension assets for other business purposes. I strongly oppose this proposal.

Second, Congress should consider ways to ease the regulatory burden on pension plans to encourage more companies, particularly small businesses, to establish plans for their employees. Tax incentives and simplified, uniform regulations for employers who offer plans can do much to offer American workers some security in their retirement.

Third, we should look for ways to make pension plans more portable. As workers move from job to job, it is important that they be able to carry benefits and contributions with them. Defined contribution plans offer workers this option, and because of the growth in such plans over the last 10 years, workers' pension plans have become more portable. Defined benefit plans are less portable than contribution plans because employers want to encourage their employees to stay at their jobs. In cases where employees do leave, they should be encouraged to roll over their contributions into an IRA rather than cash out their contributions.

Fourth, we must look at ways to further protect the assets which workers invest in 401(k)'s and other contribution plans, particularly given their recent enormous growth. The Labor Department has proposed several reforms, such as shortening the time an employer has to deposit employee contributions from the current 90-day period and encouraging employers to offer workers general investment information so that employees can better monitor their own plans.

CONCLUSION

Americans understand that planning for the future is crucial, and the sooner they start to save the better. It has become increasingly difficult, however, for workers to set aside a portion of shrinking salaries for retirement.

Congress should consider measures to protect the integrity of the private pension system as well as Social Security, and encourage businesses to expand coverage to those without a pension plan. I have co-sponsored a bill that would create a federal commission to study the pension issue and develop proposals to increase participation in pension plans and provide more protection for pension assets.

JOB CORPS IMPROVEMENT ACT OF 1996

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. FRANKS of New Jersey. Mr. Speaker, today I am introducing legislation to make the Job Corps safer for program participants and more cost-effective for taxpayers.

I support the Job Corps and its important mission. But for too long, Congress has tolerated too much waste, fraud, and inefficiency in this program. The American taxpayer wants more accountability, and the young people that the Job Corps serves need to better prepare themselves for an increasingly competitive job market. My legislation targets these two goals.

Job Corps was created more than three decades ago as part of President Lyndon Johnson's war on poverty. Presently, it is funded at over $1 billion a year, and it is the largest job training program for disadvantaged youth between the ages of 16 and 24.

In 1994, a survey of Job Corps students showed that 68 percent of enrollees had two or more barriers to employment, including not having a high school diploma, lacking basic skills or having limited English proficiency. The program currently serves over 60,000 young adults in 46 States.

The original idea behind Job Corps was to give disadvantaged youths a hand up in order to avoid a lifetime of hand-outs. But as times have changed, so have the problems facing Job Corps students.

And in too many instances the Federal Government has been too slow in adopting policies to adjust to changing times. Today many Job Corps students come from one parent homes in communities ravaged by crime, drugs, and violence—problems whose proportions could scarcely be imagined a generation ago.

In order to maintain an environment within which young people can learn, the centerpiece of my bill institutes a zero tolerance policy for drugs, alcohol abuse, and violence in the Job Corps. I know the Job Corps bureaucracy has recently made strides in combating these scourges. But because violence, alcohol abuse and drugs are anathema to a productive learning environment, Job Corps students deserve a guarantee in law that these centers can be a sanctuary where students can live and learn without fear. My bill ensures that those who enter the Job Corps in order to learn can do so, and those who enter the program without that commitment will be weeded out before they disrupt those who are intent to learn new job skills.

My bill also contains a provision requiring the Department of Labor to undertake an in-depth, comprehensive review of the entire Job Corps program. The purpose of this review would be to ascertain what the Job Corps does well and where further improvement is needed. Such a review has not taken place since 1982, and hard data on how well the Job Corps is fulfilling its mission is largely unknown. For example, the Department of Labor estimates that the overall job placement rate for Job Corps graduates is 70 percent, but some centers have had rates as low as 20 percent for 5 consecutive years. Furthermore, a recent General Accounting Office study found that fully 15 percent of Job Corps' job placement verification procedures were invalid. That means that some Job Corps centers were reporting that their graduates were finding jobs, when in fact they were not.

Reforms are needed to ensure that Job Corps enrollees obtain work upon graduation, and are not merely shuffled through the program. Considering that the average Job Corps student costs taxpayers $24,000 to train, it is no longer acceptable to assess the performance of this program by collecting anecdotal evidence. The comprehensive Job Corps review called for under my legislation is closely modeled after a proposal offered by Senator ARLEN SPECTER of Pennsylvania that passed the Senate last October. It will give Congress and the Department of Labor credible statistics that will allow us to make informed judgments on how best to improve and strengthen this important job training program.

My bill also limits the spending on the Job Corps bureaucracy to 13 percent. Currently 18 percent, or over $180 million is spent on administering this program. That figure is too high, and indicates that efficiencies can be made within the bureaucracy to reduce costs. I want more money spent on students, not on bureaucrats. My bill would force the Department of Labor to examine Job Corps' overhead budget, find the waste and eliminate it.

Today, there are 109 Job Corps centers throughout the country. In an effort to upgrade the performance of each of them, my bill would eliminate the 10 worst Job Corps centers in the Nation by the end of the century. At some Job Corps centers, the buildings and living quarters are in disrepair, the management is inept, the training that students receive is ineffective, and worst of all, violence and drugs are prevalent. Those centers need to be cleaned up or closed down, so the funds saved from their closure can be funneled to productive, well-run centers.

Job Corps is the most expensive Federal youth employment and training program. Despite the fact that Congress is consolidating nearly 100 education and training programs into State block grants, funds for Job Corps are actually slated to increase. The reason Congress has retained this program is because it has demonstrated some meaningful success. Many people are unaware that Job Corps students who do complete their training are five times more likely to get a training-related job, and training-related jobs pay 25 percent higher wages. Moreover, employers who hire Job Corps graduates are generally satisfied with their Job Corps hires.

My bill preserves what is right about Job Corps, and strengthens it for the future. It makes significant reforms to this program, with the promise of additional reform when the comprehensive performance review it calls for becomes available. The Federal Government's investment in this program is too great not to demand improvements, and the at-risk youths this program serves need what this program offers more than ever.

Mr. Speaker, without the Job Corps, many of today's disadvantaged youth would be unskilled, unemployable, and without hope. When it is successful, the Job Corps breaks the cycle of despair and turns unfocused youths into productive citizens. I support an effective Job Corps, and I will continue to fight to improve this important program.

CONGRATULATIONS REPUBLIC OF CHINA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. BURTON of Indiana. Mr. Speaker, on March 23, 1996, the people of the Republic of China on Taiwan overwhelmingly elected Lee Teng-hui as their first directly elected President. Mr. Lee's landslide victory was a clear indication of the voters' confidence in President Lee's ability to handle the challenges that lie ahead for his country. The voters' enthusiasm for this election also proves that democracy is not a system of government unimportant to Asians. The Republic of China on Taiwan should be commended for taking this final step in its transition to a full-fledged democracy, and in my opinion, President Lee is the perfect man to lead Taiwan to even greater achievements in the future. I congratulate the people of the Republic of China on Taiwan on their presidential election.

TRIBUTE TO THE LATE POLICE COLONEL BENJAMIN FRANKLIN AGUON LEON GUERRERO

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. UNDERWOOD. Mr. Speaker, the island of Guam lost one of its premier public servants last Friday night March 22. Guam Police Col. Benjamin Franklin Aguon Leon Guerrero, a man who dedicated half his life in service to the people of Guam through the police department, was stricken by a heart attack which caused his untimely death. He was only 44 years of age.

Col. Leon Guerrero, a close personal friend, worked through the ranks at the Guam Police Department starting out as a patrol officer. Prior to joining the police force, I vividly remember him as a school aide working under my supervision at George Washington High School in Mangilao. Since then, I eagerly watched his rise in the ranks while taking upon various tasks for the department of public safety, the department of corrections, and the Guam Police Department. He went on to become the most senior ranking classified officer in the Guam police force. He was later appointed to be the deputy chief of the Guam Police Department.

I must also make special mention that he was a published poet and a graduate of the 156th session of the Federal Bureau of Investigation [FBI] National Academy. In fact, it wasn't too long ago that I submitted a statement in the CONGRESSIONAL RECORD commending him for having been the first president of the FBI National Academy Hawaii Chapter to hail from outside the State's confines.

His more than 20 years of public service yielded him a collection of awards and decorations. They include the J. Edgar Hoover Medal for Distinguished Public Service, the Guam Police Commendation Service Award, the Guam Police Distinguished Service Medal, the Commanding Officer's Citation, and the Exception Performance Award. He is also listed in the 1992 edition of "Who's Who in American Law Enforcement."

The late Col. Leon Guerrero left a legacy of service and devotion to the island of Guam, to its people and to the United States as a whole. He is remembered my many as a mentor, an adviser, and a great man sensitive to the needs, not only of the police department, but the whole island of Guam.

His passing is a great loss and his presence will surely be missed. On behalf of the people of Guam, I offer my condolences and join his widow, Julie, and their children: Benjamin Franklin II, Peter Jesse, Jesse Ray, Sheena Marie, and Lolana Evette, in mourning the loss of a husband, a father, a very dear friend, and fellow servant to the people of Guam.

TRIBUTE TO G.W. CARVER MIDDLE SCHOOL

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mrs. MEEK of Florida. Mr. Speaker, it is my great pleasure to pay tribute to the staff and students at George Washington Carver Middle School upon their recent award as a Blue Ribbon School of Excellence.

Through strong support from the school district and the regional office, through progressive leadership, committed teachers and counselors, with a clear mission, dedicated students and very involved parents, George Washington Carver has become the only middle school in Dade County to receive the Blue Ribbon of Excellence Award from the U.S. Department of Education.

G.W. Carver Middle School Center for International Studies is the only public middle school to be recognized and accredited by the Governments of France, Spain and Germany. Some of Carver's teachers and textbooks have been provided through the Governments of France and Spain.

Carver Middle School is a magnet school for international studies whose curriculum models the European system of studies, and students' tests scores are among the highest in all standardized tests. It has the highest attendance among Dade County schools, and exemplifies how school violence can virtually be eliminated.

Before 1970, Carver was the pride of the Coconut Grove black community, however, by 1986 plans were being considered to close the school because of dwindling enrollment. Now, 10 years later, it is a source of pride for the community and an example for all of us to follow.

For your superlative educational efforts, I salute you.

UNITED STATES-ORIGIN MILITARY EQUIPMENT IN TURKEY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HAMILTON. Mr. Speaker, on September 8, 1995, I wrote to Secretary of State Christopher, asking several questions about the use and possible misuse of United States-origin military equipment by Turkey. This letter was a followup to an exchange of letters on the same issue earlier in the year, which I inserted in the RECORD at that time.

I have now received a response from the State Department to my September letter, which sets out the administration's position on the human rights situation in Turkey and its relationship to the issue of U.S.-supplied military equipment in the country.

Since I believe that other Members will find the administration's views informative and useful in formulating their own approach to this important issue, I would like to insert both my letter and the administration's response in the RECORD.

DEPARTMENT OF STATE,
Washington, February 29, 1996.

Hon. LEE HAMILTON,
U.S. House of Representatives.

DEAR MR. HAMILTON: This is a follow-up reply to your letter of September 8, 1995, to Secretary Christopher about human rights in Turkey. As stated in our November 1, 1995 interim response, you raised a number of serious questions in your letter. Thank you for your understanding in allowing us time to prepare this reply.

In your letter, you state that human rights abuses in Turkey are a matter of real concern to the U.S. Congress. We appreciate your interest and that of your colleagues in these issues. Congressional hearings, reports, and statements are a valuable way for the U.S. government to indicate concern about human rights in Turkey.

As we consider how best to pursue our objectives in Turkey, it is important to understand just what Turkey is up against. The Kurdistan Workers' Party (PKK) has stated that its primary goal is to create a separate Kurdish state in part of what is now Turkey. In the course of its operations, the PKK has frequently targeted Turkish—civilians. It has not hesitated to attack Western—including American—interests.

The Turkish government has the right to defend itself militarily from this terrorist threat. The Turkish military has said it seeks to distinguish between PKK members and ordinary Kurdish citizens in its operations. We remain concerned, nevertheless, about the manner in which some operations in the southeast have been conducted. As we have documented in our annual human rights reports and in the special report we submitted to Congress last June on the situation in the southeast, these operations have resulted in civilian deaths, village evacuations and burnings.

You ask what the U.S. is doing about information that U.S.-supplied defense articles may have been used by Turkey's military against civilians during the course of operations against the PKK. We discussed those issues at length in our June "Report on Allegations of Human Rights Abuses by the Turkish Military and the Situation in Cyprus."

These reports trouble us deeply. We have frequently cautioned the Turkish government to exercise care that its legitimate military operations avoid targeting civilians and non-combatants. We have made it clear that, in accordance with both the Foreign Assistance and Arms Export Control Acts, human rights considerations will continue to be very carefully weighed in considering whether or not to approve transfers and sales of military equipment.

With regard to death squad activities in the southeast, as we stated in our report last June, we have found reports of government involvement in these incidents to be credible. Others have also been involved. In this regard, a number of Turkish "Hizbullah" terrorists are now on trial for alleged involvement in "mystery killings." According to Turkey's prestigious Human Rights Foundation, these sorts of killings were down sharply in 1995.

We have told the Turks repeatedly that we do not believe a solely military solution will end the problems in the southeast. We urge them to explore political and social solutions which are more likely to succeed over time. These should include fully equal rights—among them cultural and linguistic rights—for all of Turkey's citizens including the Kurds. We have been encouraged by incremental actions toward granting the Kurds such rights. For example, Turkey's High Court of Appeals ruled in October that Kurdish former members of Parliament had not committed crimes when they took their oaths in the Kurdish language, wore Kurdish colors, and stated that Turkish was a foreign language for them. The Appeals Court's decision on these matters, which are very sensitive and emotional in Turkey, may send an important signal to the lower courts and may help expand Kurdish rights.

We believe it is important for those individuals who have been displaced to be compensated for their losses and to be able to return to their homes without fear. If the security situation prevents their return, it is important for the villagers to be compensated and resettled elsewhere. Like you, we are disturbed by Turkey's failure to date to adequately provide for the displaced. We will encourage the new Turkish government to do so.

In the long run, an improved dialog between the government and Kurdish representatives is needed to bring a lasting solution to the southeast. It is important that those who purport to speak for the Kurds do so sincerely and constructively. In this context, you asked whether former DEP members of the Turkish Parliament who were stripped of their immunities and fled to Europe could speak for the Kurds. Unfortunately, some of them associated the "Kurdistan Parliament in Exile" (KPIE), which is financed and controlled by the PKK. We cannot, therefore, advocate negotiations with the so-called KPIE.

There are legitimate interlocutors with whom the government could discuss Kurdish concerns. Although the Pro-Kurdish People's Democracy Party (HADEP) fell substantially short of obtaining the ten percent of the national vote required to take seats in the Turkish Grand National Assembly, the party campaigned well and carried a large number of votes in the southeast. In addition, other parties, politicians, academicians, businesspeople, and journalists also raised Kurdish concerns during the recent election campaign.

These developments are positive, and there are other signs that our active engagement with the Turks on human rights issues are meeting with success. The constitutional amendments enacted this past summer broadened political participation in several ways, including by enfranchising voters over eighteen and those residing outside of Turkey. There is also a move to devolve more authority from the central government to the local authorities. And, on October 27, the Turkish government—with encouragement from the U.S. and Europe—amended Article 8 of the Anti-Terror Law, which had been used to constrain freedom of expression substantially. As a result of this revision, over 130 people were released from prison and many pending cases are being dropped.

U.S. officials will continue to monitor closely human rights developments in Turkey. Our observations on Turkish human rights are the result of a constant, energetic effort by our Embassy and others in our government to stay informed. Our officials meet regularly with elected officials in the Turkish Administration and Parliament. We also speak frequently with critics of the government—including Turkish and international NGOs, bar and medical associations, lawyers, and other human rights activists. U.S. officials travel to the Southeast periodically where they see government officials and the affected parties.

We will also continue to encourage change by supporting those who are committed to human rights and democratic reforms, including Turkish NGOs. This is a long-term effort that will require continued engagement. The important point to keep in the forefront is that the real impetus behind democratic change in Turkey must come from Turkish citizens themselves. Our objective must be to give them all the constructive help we can.

I hope this information is useful. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES,
Washington, September 8, 1995.

Hon. WARREN CHRISTOPHER,
Secretary of State, Department of State,
Washington, DC.

DEAR MR. SECRETARY: Thank you for your reply of August 15th to my letter of June 29th concerning the use and possible misuse of U.S.-origin military equipment by Turkey. I wanted to follow-up that correspondence with two general lines of questioning.

First, I continue to have deep concerns about the use of U.S.-supplied military equipment in Southeast Turkey and about the reports of the misuse of that equipment, the wholesale destruction of villages, and the indiscriminate firing on civilian populations. Such abuses can erode support for Turkey in the Congress.

In your response to my letter, you indicated that internal security, along with self-defense is recognized as an acceptable use of U.S.-supplied defense articles but that the United States is troubled about reports that a large number of civilians have been killed in Turkish government counter-insurgency operations against the PKK. Questions remain:

What precisely are you doing about these reports?

Is it the U.S. policy, for example, to tell the Turks when we see reports of the destruction of villages or the killing of civilians, that we do not like it and cannot tolerate such abuses in the use of U.S.-supplied equipment?

What is the U.S. strategy to insure that such practices end?

Second, I have further questions regarding a related aspect of U.S. policy toward Turkey—resolution of the Kurdish issue in southeast Turkey.

There is considerable sympathy in Congress for the plight of the Kurdish population in Turkey, although-none for terrorist acts by the Kurdish Worker's Party (PKK). I do not know of any Member support for Kurdish separatism or the break up of Turkey, but there is strong support for full equality of rights, including cultural and linguistic rights, for all Turkish citizens, including the Kurds. Members are troubled by the Turkish government's dominant reliance on force to put down the insurrection in the southeast, and would like to see the United States take a more active role in promoting negotiations among a broad base of Turkish citizens to end the violence.

UNITED STATES—ORIGIN MILITARY EQUIPMENT IN TURKEY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HAMILTON. Mr. Speaker, on September 8, 1995, I wrote to Secretary of State Christopher, asking several questions about the use and possible misuse of United States-origin military equipment by Turkey. This letter was a followup to an exchange of letters on the same issue earlier in the year, which I inserted in the RECORD at that time.

I have now received a response from the State Department to my September letter, which sets out the administration's position on the human rights situation in Turkey and its relationship to the issue of U.S.-supplied military equipment in the country.

Since I believe that other Members will find the administration's views informative and useful in formulating their own approach to this important issue, I would like to insert both my letter and the administration's response in the RECORD.

DEPARTMENT OF STATE,
Washington, February 29, 1996.

Hon. LEE HAMILTON,
U.S. House of Representatives.

DEAR MR. HAMILTON: This is a follow-up reply to your letter of September 8, 1995, to Secretary Christopher about human rights in Turkey. As stated in our November 1, 1995 interim response, you raised a number of serious questions in your letter. Thank you for your understanding in allowing us time to prepare this reply.

In your letter, you state that human rights abuses in Turkey are a matter of real concern to the U.S. Congress. We appreciate your interest and that of your colleagues in these issues. Congressional hearings, reports, and statements are a valuable way for the U.S. government to indicate concern about human rights in Turkey.

As we consider how best to pursue our objectives in Turkey, it is important to understand just what Turkey is up against. The Kurdistan Workers' Party (PKK) has stated that its primary goal is to create a separate Kurdish state in part of what is now Turkey. In the course of its operations, the PKK has frequently targeted Turkish—civilians. It has not hesitated to attack Western—including American—interests.

The Turkish government has the right to defend itself militarily from this terrorist threat. The Turkish military has said it seeks to distinguish between PKK members and ordinary Kurdish citizens in its operations. We remain concerned, nevertheless, about the manner in which some operations in the southeast have been conducted. As we have documented in our annual human rights reports and in the special report we submitted to Congress last June on the situation in the southeast, these operations have resulted in civilian deaths, village evacuations and burnings.

You ask what the U.S. is doing about information that U.S.-supplied defense articles may have been used by Turkey's military against civilians during the course of operations against the PKK. We discussed those issues at length in our June "Report on Allegations of Human Rights Abuses by the Turkish Military and the Situation in Cyprus."

These reports trouble us deeply. We have frequently cautioned the Turkish government to exercise care that its legitimate military operations avoid targeting civilians and non-combatants. We have made it clear that, in accordance with both the Foreign Assistance and Arms Export Control Acts, human rights considerations will continue to be very carefully weighed in considering whether or not to approve transfers and sales of military equipment.

With regard to death squad activities in the southeast, as we stated in our report last June, we have found reports of government involvement in these incidents to be credible. Others have also been involved. In this regard, a number of Turkish "Hizbullah" terrorists are now on trial for alleged involvement in "mystery killings." According to Turkey's prestigious Human Rights Foundation, these sorts of killings were down sharply in 1995.

We have told the Turks repeatedly that we do not believe a solely military solution will end the problems in the southeast. We urge them to explore political and social solutions which are more likely to succeed over time. These should include fully equal rights—among them cultural and linguistic rights—for all of Turkey's citizens including the Kurds. We have been encouraged by incremental actions toward granting the Kurds such rights. For example, Turkey's High Court of Appeals ruled in October that Kurdish former members of Parliament had not committed crimes when they took their oaths in the Kurdish language, wore Kurdish colors, and stated that Turkish was a foreign language for them. The Appeals Court's decision on these matters, which are very sensitive and emotional in Turkey, may send an important signal to the lower courts and may help expand Kurdish rights.

We believe it is important for those individuals who have been displaced to be compensated for their losses and to be able to return to their homes without fear. If the security situation prevents their return, it is important for the villagers to be compensated and resettled elsewhere. Like you, we are disturbed by Turkey's failure to date to adequately provide for the displaced. We will encourage the new Turkish government to do so.

In the long run, an improved dialog between the government and Kurdish representatives is needed to bring a lasting solution to the southeast. It is important that those who purport to speak for the Kurds do so sincerely and constructively. In this context, you asked whether former DEP members of the Turkish Parliament who were stripped of their immunities and fled to Europe could speak for the Kurds. Unfortunately, some of them associated the "Kurds. Unfortunately, some of them associated the "Kurdistan Parliament in Exile" (KPIE), which is financadvocate negotiations with the so-called KPIE.

There are legitimate interlocutors with whom the government could discuss Kurdish concerns. Although the Pro-Kurdish People's Democracy Party (HADEP) fell substantially short of obtaining the ten percent of the national vote required to take seats in the Turkish Grand National Assembly, the party campaigned well and carried a large number of votes in the southeast. In addition, other parties, politicians, academicians, businesspeople, and journalists also raised Kurdish concerns during the recent election campaign.

These developments are positive, and there are other signs that our active engagement with the Turks on human rights issues are meeting with success. The constitutional amendments enacted this past summer broadened political participation in several ways, including by enfranchising voters over eighteen and those residing outside of Turkey. There is also a move to devolve more authority from the central government to the local authorities. And, on October 27, the Turkish government—with encouragement from the U.S. and Europe—amended Article 8 of the Anti-Terror Law, which had been used to constrain freedom of expression substantially. As a result of this revision, over 130 people were released from prison and many pending cases are being dropped.

U.S. officials will continue to monitor closely human rights developments in Turkey. Our observations on Turkish human rights are the result of a constant, energetic effort by our Embassy and others in our government to stay informed. Our officials meet regularly with elected officials in the Turkish Administration and Parliament. We also speak frequently with critics of the government—including Turkish and international NGOs, bar and medical associations, lawyers, and other human rights activists. U.S. officials travel to the Southeast periodically where they see government officials and the affected parties.

We will also continue to encourage change by supporting those who are committed to human rights and democratic reforms, including Turkish NGOs. This is a long-term effort that will require continued engagement. The important point to keep in the forefront is that the real impetus behind democratic change in Turkey must come from Turkish citizens themselves. Our objective must be to give them all the constructive help we can.

I hope this information is useful. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES,
Washington, September 8, 1995.

Hon. WARREN CHRISTOPHER,
Secretary of State, Department of State,
Washington, DC.

DEAR MR. SECRETARY: Thank you for your reply of August 15th to my letter of June 29th concerning the use and possible misuse of U.S.-origin military equipment by Turkey. I wanted to follow-up that correspondence with two general lines of questioning.

First, I continue to have deep concerns about the use of U.S.-supplied military equipment in Southeast Turkey and about the reports of the misuse of that equipment, the wholesale destruction of villages, and the indiscriminate firing on civilian populations. Such abuses can erode support for Turkey in the Congress.

In your response to my letter, you indicated that internal security, along with self-defense is recognized as an acceptable use of U.S.-supplied defense articles but that the United States is troubled about reports that a large number of civilians have been killed in Turkish government counter-insurgency operations against the PKK. Questions remain:

What precisely are you doing about these reports?

Is it the U.S. policy, for example, to tell the Turks when we see reports of the destruction of villages or the killing of civilians, that we do not like it and cannot tolerate such abuses in the use of U.S.-supplied equipment?

What is the U.S. strategy to insure that such practices end?

Second, I have further questions regarding a related aspect of U.S. policy toward Turkey—resolution of the Kurdish issue in southeast Turkey.

There is considerable sympathy in Congress for the plight of the Kurdish population in Turkey, although none for terrorist acts by the Kurdish Worker's Party (PKK). I do not know of any Member support for Kurdish separatism or the break up of Turkey, but there is strong support for full equality of rights, including cultural and linguistic rights, for all Turkish citizens, including the Kurds. Members are troubled by the Turkish government's dominant reliance on force to put down the insurrection in the southeast, and would like to see the United States take a more active role in promoting negotiations among a broad base of Turkish citizens to end the violence.

I am concerned that if the present situation persists, the United States will have difficulty sustaining its Turkey policy. An amendment this summer to the Foreign Operations Appropriations bill in the House which limits aid to Turkey because of human rights concerns illustrates some of the problems that arise if these issues are not adequately addressed.

I understand that it is U.S. policy to support Turkey's territorial integrity and its legitimate right to combat terrorism, including terrorist acts by the PKK. I also understand that the U.S. supports democratic reform in Turkey as an integral part of the effort to improve human rights conditions and to undercut support for PKK violence. In this context, I would like to pose the following questions:

What is the United States doing to push efforts in Turkey to amend Article 8 of the antiterrorism law?

What are the implications for U.S. policy and for the situation in the Southeast if efforts to amend Article 8 fail or are abandoned?

What is the United States doing to promote efforts to provide Kurds with equal rights in Turkey? Is it United States policy to support the legitimate political, cultural and linguistic rights of Turkish citizens of the Southeast of Kurdish origin? How do you react to recent comments by senior Turkish officials that the extension of such rights are not a priority of the Turkish government?

In our human rights dialogue, is the U.S. pressing the Turkish government and General Staff to abandon tactics that target the Kurdish civilian population, such as forced evacuation and burning of Kurdish villages?

What is United States policy doing to address allegations that the Turkish government is either sponsoring or tolerating the activities of death squads reported to have killed hundreds of Kurdish activists in the southeast?

What is United States policy on meeting and dealing with the elected representatives of Turkish citizens in the Southeast regardless of whether they are able to sit in the National Assembly at this time? Does the United States support negotiations between several exiled Turkish Kurdish parliamentarians and the Turkish government? With whom do you think the Turkish Government should negotiate?

What kind of political engagement between the Turkish government and Kurdish nationalists does the United States seek to promote in order to encourage Turkey to move away from reliance on a solely military solution?

I look forward to your reply.

With best wishes,

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

THE ENTERPRISE RESOURCE BANK ACT OF 1996

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. BAKER of Louisiana. Mr. Speaker, today I am introducing comphensive legislation to provide the Federal Home Loan Bank System [FHLB] the tools it needs to expand on the significant contributions it has already made to the Nation's housing finance delivery system. It is especially fitting today, as we debate the role of the Federal Government in providing and stimulating economic development in the 104th Congress, to work with an existing private entity to deliver a much-needed and public purpose.

The Federal Home Loan Bank System was established in 1932 primarily to provide a source of intermediate- and long-term credit for savings institutions to finance long-term residential mortgages and to provide a source of liquidity loans for such institutions, neither of which was readily available for savings institutions at that time the Federal Home Loan Bank System was created.

In recent years, the System's membership has expanded to include other depository institutions that are significant housing lenders.

The segment of savings institutions and other depository institutions that are specialized mortgage lenders has decreased in size and market share and may continue to decrease. The establishment of the Federal National Mortgage Association [Fannie Mae], the Federal Home Loan Mortgage Corporation [Freddie Mac], and the Government National Mortgage Association [Ginnie Mae], and the subsequent development of an extensive private secondary market for residential mortgages has challenged the Federal Home Loan Bank System as a source of intermediate- and long-term credit to support primary residential mortgage lenders.

For most depository institutions, residential mortgage lending has been incorporated into the product mix of community banking that typically provides a range of mortgage, consumer, and commercial loans in their communities.

Community banks, particularly those in rural markets, have a difficult time funding their intermediate- and long-term assets held in portfolio and accessing capital markets. For example rural nonfarm businesses tend to rely heavily on community banks as their primary lender. Like the savings association in the 1930's these rural community banks draw most of their funds from local deposits. Longer term credit for many borrowers in rural areas may therefore be difficult to obtain. In short, the economy of rural America may benefit from increased completion if rural community banks are provided enhanced access to capital markets.

Access to liquidity through the FHLB System benefits well-managed, adequately capitalized community banks. For these banks, term advances reduce interest rate risk. In addition, the ability of a community bank to obtain advances to offset deposit decreases or to temporarily fund portfolios during an increase in loan demand reduces the bank's overall cost of operation and allows the institution to better serve their markets and community.

Used prudently, the FHLB System is an integral tool to assist properly regulated, well-capitalized community banks, particularly those who lend in rural areas and underserved neighborhoods, a more stable funding resource for intermediate- and long-term assets.

With that in mind, I have introduced this legislation today to enhance the utility of the Federal Home Loan Bank System. I want the mission of the System to remain strong in the ability to help Americans realize the dream of home ownership, but equally as important: I want the System to enrich the communities in which Americans build their dreams.

America is the world capital of free enterprise. Free enterprise is the foundation on which the American dream is built, and it is the engine by which American ingenuity is driven. My legislation will help nurture American free enterprise. That is why I call this bill the Enterprise Resource Bank Act.

The Enterprise Resource Bank Act will strengthen the System's mission to promote residential mortgage lending—including mortgages on housing for low- and moderate-income families. Enterprise Resource Banks will facilitate community and economic development lending, including rural economic development lending. And Enterprise Resource Banks will facilitate this lending safely and soundly, through a program of collateralized advances and other financial services that provide long-term funding, liquidity, and interest-rate risk management to its stockholders and certain nonmember mortgagees.

Since 1932, the Bank System has served as a link between the capital markets and local housing lenders, quietly making more money available for housing loans at better rates for Americans. Today the Federal Home Loan Banks' 5,700 member financial institutions provide for one out of every four mortgage loans outstanding in this country, including many loans that would not qualify for funding under secondary market criteria. The bank system accomplishes this without a penny of taxpayer money through an exemplary partnership between private capital and public purpose.

More than 3,500 of the bank system's current members are commercial banks, credit unions, and insurance companies that became eligible for bank membership in 1989. They demonstrate the market's value of the bank system by investing in the capital stock of the regional home loan banks. These institutions have recognized the advantages of access to the bank system's credit programs and have responded to their loan communities' needs for mortgage lending. As the financial marketplace grows larger and more complex, I envision the bank system as a necessary vehicle for serving community lending needs especially in rural and inner-city areas.

The Federal Home Loan Bank System serves an active and successful role in financing community lending and affordable housing through the Affordable Housing Program [AHP] and the Community Investment Program [CIP]. The AHP Program provides low-cost funds for member institutions to finance affordable housing, and the CIP Program supports loans made by members to community-based organizations involved in commercial and economic development activities to benefit low-income areas.

The Federal Home Loan Banks' loans—advances—to their members have increased steadily since 1992 to the current level of more than $122 billion. Since 1990, the banks have made $7.1 billion in targeted Community Investment Program advances to finance housing units for low- and moderate-income families and economic development projects. In addition, the banks have contributed more than $350 million through their Affordable Housing Programs to projects that facilitate housing for low- and moderate-income families.

While these figures are impressive, the Federal Home Loan Bank System needs some fine tuning to enable it to continue to meet the needs of all its members in a rapidly changing financial marketplace. The Enterprise Resource Bank Act of 1996 recognizes the changes that have occurred in home lending markets in recent years, which is reflected in the present composition of the bank system's membership. Enacting this legislation will enhance the attractiveness of the banks as a source of funds for housing and related community development lending, and will encourage the banks to maintain their well-recognized financial strength.

Specifically, my legislation—Targets the bank system's mission in statute to emphasize the System's important role of supporting our Nation's housing finance system and its potential role of supporting economic development by providing long-term credit and liquidity to housing lenders;

Targets the bank system's mission in statute to emphasize the System's important role of supporting our Nation's housing finance system and its potential role of supporting economic development by providing long-term credit and liquidity to housing lenders;

Establishes voluntary membership and equal terms of access to the System for all institutions eligible to become bank system members, and eliminates artificial restrictions on the banks' lending to member institutions based on their qualified thrift lender status;

Equalizes and rationalizes bank members' capital stock purchase requirements, preserving the cooperative structure that has served the System well since it creation in 1932;

Separates regulation and corporate governance of the banks that reflect their low level of risk while ensuring the banks can meet their obligations; and

Modifies the methodology for allocating the bank system's annual $300 million REFCORP obligation so that the individual banks' economic incentives are consistent with their statutory mission to support primary lenders in their communities.

Taken together, these interrelated provisions address the major issues identified in a recent series of studies of the bank system that Congress required from the Federal Housing Finance Board [FHFB], the Congressional Budget Office [CBO], the General Accounting Office [GAO], the Department of Housing and Urban Development [HUD], and a Stockholder Study Committee comprised of 24 representatives of Federal Home Loan Bank stockholder institutions from across the country.

The Enterprise Resource Banks Act will make the banks more profitable by enabling them to serve a larger universe of depository institution lenders more efficiently, and it will return control of the banks to their regional boards of directors who are in the best position to determine the needs of their local markets. At the same time, it will provide for the safety and soundness oversight necessary to ensure that this large, sophisticated financial enterprise maintains its financial integrity and continues to meet its obligations.

I first offered comprehensive legislation to modernize the bank system in 1992. The legislation is the culmination of efforts over the last 3 years to address in a balanced way the concerns of the banks' member institutions, community and housing groups, and various Government agencies. I look forward to passage of this important legislation to modernize an institution that works to improve the availability of housing finance and the opportunity of credit for all Americans, particularly those who are underserved.

GREEN EYES ARE SMILING IN CENTRAL NEW YORK

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. WALSH. Mr. Speaker, I am proud today to bring to the attention of my colleagues the environmental work of some high school students in central New York.

A group from Marcellus High School in Onondaga County has been chosen the winners of the Operation Green Eyes competition, an Environmental Protection Agency and MCI Foundation contest with an award of $10,000. Their project was based on a plan to use land mined by a local concrete company for a network of educational nature trails.

Schools from across the United States were challenged to complete an environmental community action project to see their community through Green Eyes and make a positive difference.

Projects were rated on innovation and originality, impact on the community, technical merit, and how well the students utilized the resources which were available to them.

On February 22 and 23 this year, three judges from the National Science Teachers Association met in Washington to judge the entries. They unanimously picked the Marcellus High School project to be the winner.

I want to add my congratulations to the students for this achievement. using their awareness of the environment as well as their critical problem-solving skills to make such a positive contribution to our community is an outstanding accomplishment.

I want to also publicly recognize with congratulations the advisers from the school, the MCI Foundation for its award sponsorship, the W.F. Saunders Co. for its cooperation, and last but not least Sylvester Stallone, who will participate in an award ceremony at the school.

WOMEN AND ALCOHOL RESEARCH EQUITY ACT OF 1996

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mrs. MORELLA. Mr. Speaker, I rise to introduce the Women and Alcohol Research Equity Act of 1996. This legislation will enable the National Institute on Alcohol Abuse and Alcoholism [NIAAA] to increase their research on women and alcoholism.

Over the last few years, NIAAA has made great strides in incorporating women into their research, and I applaud them for their progress. In fiscal year 1995, NIAAA spent 23 percent of their budget on research on alcohol abuse and alcoholism among women. This represents a 69-percent increase over their fiscal year 1992 spending. However, the differences in the effects of alcohol and alcoholism on men and women necessitate further research on women and alcoholism.

The impact of alcoholism on women and men differs greatly. Women are more likely to use nontraditional health care systems for alcohol-related problems. Studies have shown that the development of consequences associated with heavy drinking may be accelerated in women. The death rate of female alcoholics is 50 to 100 percent higher than for male alcoholics. Heavy drinking contributes to menstrual disorders, fertility problems, and premature menopause, and alcohol use by pregnant women is the leading known cause of mental retardation in newborns. FAS strikes between 3,600 to 10,000 babies a year, and a Centers for Disease Control study indicates that the percentage of babies born with alcohol-related health problems increased sixfold between 1979 and 1993. It is critical that we bolster NIAAA's research on women and alcohol, and this legislation will help accomplish this.

This legislation recognizes the progress NIAAA has made. It instructs the NIAAA to maintain their current spending on women and alcoholism within their existing budget. It would also instruct House authorizers to add an additional $25 million in spending for NIAAA on research on alcohol abuse and alcoholism among women. Thus, this additional money would not subtract money from NIAAA's overall budget for women and alcohol, but instead add new funds for this critical research.

Clearly, alcohol abuse among women is a very serious problem with grave consequences. This legislation will include women in NIAAA's research so that we may better understand the effects of alcoholism particular to women and develop solutions that will work for women.

TRIBUTE TO THE LIBERTY TRIBUNE

HON. PAT DANNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Ms. DANNER. Mr. Speaker, since the Liberty Tribune's initial publication on April 4, 1846, and through the Civil War, both World Wars, America's voyages into space and countless other events, great and small, the newspaper has faithfully reported the news of the day. In fact, it is my understanding that the Liberty Tribune is the oldest continually published paper west of the Mississippi. This is truly an impressive accomplishment.

But longevity matters little if it is not accompanied by substance and style. The paper has more than passed muster on all three accounts, and the city of Liberty is a better place today because of it.

Community newspapers such as the Liberty Tribune serve as an important meeting place for generations of people from all walks of life. They provide information, chronicle the rough times, tout the good ones, and serve as a community's conscience when needed.

This is particularly true for our young people, who see that their successes in the classroom and on the ballfields make the local paper. They read about the important contributions of local civic leaders and witness how the power of well-reasoned opinions—on matters from local school district bond issues to international affairs—can affect government.

I know that the Liberty Tribune reports the positive happenings in the community as well as the bad news—true balanced reporting. This should not be surprising as the paper has had plenty of experience.

For instance, it is interesting to note that the Liberty Tribune started publication while James Polk was President. Some of the paper's first articles were about the Mexican-American War, in particular the story of Col. Alexander Donipan and his troops from Clay County who fought in the Battle of Bracito. Year later, the Liberty Tribune covered the Civil War and Jesse James. But to put matters into perspective, all of this is really little more than a quick glance back into history full of so much more news and reporting by the Liberty Tribune.

William Allen White, a towering figure in midwestern journalism for decades, believed that a hometown newspaper should serve a dual role—reporting the news and serving as a booster for the community. He understood that the true community newspaper works diligently not only to deliver the news but also to improve the community.

When the editor of a metropolitan paper scoffed at Mr. White and his Emporia, KS, Gazette, the respected small town editor fired back a timeless response.

"Know this and know it well," White said. "If you would take the clay from your eyes and read the little paper as it is written you would find all of God's beautiful sorrowing, struggling, aspiring world in it—and what you saw would make you touch the paper with reverent hands."

Mr. Speaker, the Liberty Tribune can take pride in being an important part of the strong tradition of balanced, community-minded reporting of which Mr. White spoke so eloquently.

TRIBUTE TO VIRGIL FROST ON HIS RETIREMENT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to an outstanding public servant in northwest Ohio. On December 31, 1995, Virgil Frost retired from his position as a bailiff/probation officer for Bowling Green Municipal Court.

Virgil Frost was born in Athens, OH, and graduated from Athens High School. He received his undergraduate degree from Ohio University and completed his graduate work at Bowling Green State University. He is a member of the Masonic Lodge, the Ohio Correctional and Court Services, the Kiwanis, and the National Criminal Justice Honor Society.

Virgil can look back on his career with great pride. In all of his duties, he has demonstrated a commitment to hard work and honest public service. During the course of his service, Virgil has held positions as a social worker with the Maumee Youth Camp and as the director of the Wood County Adult Probation Department. Because of his extensive experience, he has become a recognized expert in many areas of law enforcement and has received numerous performance awards for his work. Through his caring and dedicated efforts, he has literally improved the lives of a tremendous number of Wood County residents.

Americans would not be able to enjoy the blessings of our country without the tireless dedication of those who have the talent and willingness to work for the community. It is for this reason we owe a special debt of gratitude to people like Virgil, who have done an outstanding job for northwest Ohio. While he may be leaving his official capacity, I know he will continue to be actively involved in those causes dear to him.

I ask my colleagues to join me in paying a special tribute to Virgil, his wife, Patricia, and their sons, Mike, Mark, and Mathew, and wish them all the best in the years ahead.

FAIRNESS TO MINORITY WOMENS HEALTH ACT; WOMENS HEALTH EQUITY ACT

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Ms. VELÁZQUEZ. Mr. Speaker, domestic violence is an epidemic in our country. The statistics on family violence are staggering. Each year 4 million women are severely assaulted by their current or former partners. In fact, domestic violence is the leading cause of injury to women aged 15 to 44.

This national tragedy affects women from all social economic groups. However, poor immigrant women with children face unique challenges and bureaucratic hurdles. Under current law, legal residents who are in abusive relationships are not entitled to AFDC benefits or food stamps if they flee their homes to escape domestic violence. As a result, many women are forced to choose between feeding their children or being battered.

The current system has failed to provide protection and equity for battered immigrant women. This unfortunate situation had led me to introduce the Fairness to Minority Womens Health Act as part of the womens caucus' Womens Health Eqauity Act. My legislation would ensure that AFDC benefits and food stamps are granted to women and their children who escape domestic violent situations.

At times it is difficult for battered women to talk about domestic violence. This is especially true for language minority women who may feel intimated by counselors who do not speak their language. My bill provides bilingual family planning and counseling services.

This legislation also calls for a study on violence in the lives of Latino women and their children. Gathering factual data on the causes and effects must be a priority if the true extent of the problem of violence is to be addressed.

Every women should be able to escape domestic violence. I urge my colleagues on both sides of the aisle to join me in sponsoring this historic piece of legislation. We must work to ensure that all women seeking safety for themselves and their children get the help they desperately need. It's an investment worth making.

TRIBUTE TO PRESIDENT GROVER CLEVELAND

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. MARTINI. Mr. Speaker, I rise today to pay tribute to President Grover Cleveland as we celebrate this year the 159th anniversary of his birth in the great State of New Jersey.

One of New Jersey's most famous sons, Grover Cleveland entered the public arena with plain, honest talk and unwavering, uncompromising principles. His forthrightness in telling the truth was overwhelmingly refreshing for his time. President Cleveland's blunt political style and sincere dedication to public service enabled him to enchant the American people.

During his first year in office, President Cleveland, still a bachelor, worked 18-hour days to prove to the American public that they had elected the right man for the job. In an era of low expectations for the Nation's Chief Executive, President Cleveland labored tirelessly to rejuvenate the prestige, honor, and authority of the Presidency.

After his failed attempt for reelection, Grover Cleveland never lost his zeal for reform or his resolve to succeed. Amazingly, he fully expected to be President once again; a feat in American politics equal to coming back from the dead. However, on the last day of President Cleveland's first term, his new bride, Frances, remarked to a White House staffer to take good care of the furniture because they planned to return in just 4 years from today. Indeed, 4 years later, President Grover Cleveland became the only President in American history to win a second term after a 4-year political hiatus.

Discipline, work, courage, perseverance, and honesty—these are the attributes associated with Grover Cleveland's legacy. I am proud to give praise and honor to President Cleveland's memory and his selfless service to our Nation.

AIDS NOW THIRD LEADING CAUSE OF DEATH IN YOUNG WOMEN

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mrs. MORELLA. Mr. Speaker, I am reintroducing legislation today to address the need for increased research on HIV–AIDS in women and more targeted HIV–AIDS prevention and outreach efforts for women. Senator PAUL SIMON will be reintroducing the bills in the Senate in the next several weeks.

AIDS is now the third leading cause of death among women who are 25–44 years of age, according to the Centers for Disease Control and Prevention. The two largest increases in 1994, the year covered by the latest statistics, were a 30-percent increase among white women and a 28-percent increase among African-American women. AIDS was the cause of death for at least one out of every five young African-American women.

Women of color have been most severely affected; while African-American women and Latinas account for only 21 percent of women in the United States, they make up 54 percent and 20 percent of cumulative AIDS cases among women, respectively.

Since I first introduced legislation addressing HIV–AIDS and women in 1990, we have made progress on these issues. The National Institute on Allergy and Infectious Diseases [NIAID] initiated the women's natural history study, the women's interagency HIV study, and has worked to increase the number of women in clinical trials. Both NIAID and the National Institute of Child Health and Human Development [NICHD] have increased the resources devoted to topical microbicide research. I commend the NIAID and NICHD for their efforts, and I urge the research community to continue the momentum in these directions. This year's research bill reflects the progress that has been made, and provides for additional funding to further these gains.

A major focus of our research bill continues to be funding for research on topical microbicides and barrier methods of protection from sexually transmitted diseases [STD's], including HIV, that women can use with or without their sexual partner's cooperation or knowledge. The development of a topical microbicide—a compound capable of preventing the transmission of HIV and a range of STD's—is critically needed and would revolutionize our U.S. and global HIV and STD prevention programs.

Current HIV prevention methods rely on the cooperation of male partners. Many women lack the power within relationships to insist on condom use, as well as the resources to leave situations that place them at risk. It is critical that we acknowledge and respond to the issues of low self-esteem, economic dependency, fear of domestic violence, and other factors which are barriers to empowering women to negotiate safer sex practices.

The research bill also includes additional funding to continue the women's interagency HIV study, the ongoing study of HIV progression in women, and to conduct other research to determine the impact of potential risk factors for HIV transmission to women, such as infection with other STD's, the use of various contraceptive methods, and the use of vaginal products.

Other provisions include increased funding for support services, such as child care, in order to further the efforts by NIAID to increase enrollment of women in clinical trials. The bill also includes funding to increase data on women through gynecological examinations prior to enrollment in clinical trials and during the course of the trials. It is critical that the full range of questions important to understanding HIV in women are answered.

In regard to prevention, progress has also been made with the implementation of the CDC HIV community planning process. Through this program, State and local health departments work with local community-based organizations, community leaders, people living with HIV–AIDS, and groups at risk for HIV, to develop prevention programs for their own communities. However, despite the new statistics on HIV, most women still do not consider themselves to be at risk.

The prevention bill provides additional funding to family planning providers, community health centers, and other providers who already serve low-income women, to provide community-based HIV prevention programs. Many of them already provide unfunded prevention programs; this funding would allow them to expand their services and provide outreach to women who are not currently using family planning clinics or other community health services for women.

The bill also provides funding for referrals, including treatment for HIV and substance abuse, mental health services, pregnancy and childbirth, pediatric care, housing services, public assistance, job training, child care, respite care, and domestic violence.

Mr. Speaker, we have made progress in addressing the needs of women in the HIV epidemic, but we have far more to do. We are running out of time for a generation of young men—we cannot afford to wait. I urge my colleagues to join me in cosponsoring this legislation.

PERSONAL EXPLANATION

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HOSTETTLER. Mr. Speaker, due to a snow emergency in my district that began early March 19, 1996, I was unable to return to Washington, DC, until late evening on March 20, 1996. As a result of this unforeseen delay, I missed a number of rollcall votes during consideration of H.R. 2202, the Immigration in the National Interest Act. Had I been here for these votes, I would have voted as follows:

On roll No. 68, I would have voted "yea."

On roll No. 71, Beilenson, I would have voted "no."

On roll No. 72, McCollum, I would have voted "no."

On roll No. 73, Bryant, I would have voted "yea."

On roll No. 74, Velázquez, I would have voted "no."

On roll No. 75, Gallegly, I would have voted "yea."

On roll No. 76, Chabot, I would have voted "yea."

On roll No. 77, Gallegly, I would have voted "no."

On roll No. 78, Canady, I would have voted "yea."

On roll No. 79, Dreier, I would have voted "yea."

GENETIC INFORMATION AND HEALTH INSURANCE REFORM

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Ms. SLAUGHTER. Mr. Speaker, health insurance reform is coming to the House floor tomorrow. An important piece of that legislation deals with genetic information and insurance discrimination. Last December, I introduced H.R. 2748, the Genetic Information Nondiscrimination in Health Insurance Act—a bill to prevent the potentially devastating consequences of discrimination based on genetic information.

I am very pleased to learn that both the Republican version of health insurance reform and the Democratic substitute that will be introduced tomorrow contain some of the protections I introduced in my bill last fall.

While the provision in the legislation coming to the floor tomorrow is not as comprehensive as those outlined in my bill, it represents a very important first step in providing protections for people with predisposition to genetic disease.

Let me tell you a little bit about my bill and why it is so important. As chair of the Women's Health Task Force, I closely followed the reports last year indicating that increased funding for breast cancer research had resulted in the discovery of the BRCAI gene-link to breast cancer. While the obvious benefits of the discovery include potential lifesaving early detection and intervention, the inherent dangers of the improper use of genetic information are just becoming evident.

There is increasing concern that based on genetic information, individuals will be denied access to health care and insurance providers will require genetic screening in order to deny coverage to those who would cause a rise in group premiums.

The lessons we have learned from the past including the disastrous results of discriminating against those genetically predisposed to sickle-cell anemia. More recently, there are cases of people with a family history of breast cancer being afraid of getting tested for fear of losing access to insurance. Both these situations point to the need for comprehensive Federal regulations.

The bill I introduced last December would prevent that type of catastrophe by prohibiting insurance providers from:

First, denying or canceling health insurance coverage, or

Second, varying the terms and conditions of health insurance coverage, on the basis of genetic information.

Third, requesting or requiring an individual to disclose genetic information.

Fourth, disclosing genetic information without prior written consent.

The provisions in the health insurance reform bills to be considered on the floor tomorrow prohibit the use of genetic information as a preexisting condition. I applaud the inclusion of that aspect of my legislation in the insurance reform. I hope that my colleagues and I can continue to work together to apply the prohibitions on genetic discrimination across the board to cover all insurance policies and to address the important issue of privacy protection.

As therapies are developed to cure genetic diseases, and potentially to save lives, the women and men affected must be assured access to genetic testing and therapy without concern that they will be discriminated against. As legislators, I believe it is our responsibility to ensure that protection against genetic discrimination is guaranteed. Tomorrow we will take the first step in that direction. I invite my colleagues to join me in making the commitment to ensuring comprehensive protections against genetic discrimination.

CELEBRATING 25 YEARS OF COOPERATION

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. BARCIA. Mr. Speaker, the strength of cooperation is the greatest asset of any entity. I want you to know about the Saginaw Valley Bean and Beet Research Farm which is flush with cooperation, and as a result is proudly celebrating its 25th anniversary of operation this year. This facility, which started operations in 1971, is one of the premier locations in the world for research into matters of concern to sugar beet and dry bean producers and processors.

Michigan Sugar Co. and Monitor Sugar Co. helped to get all of this going by recognizing the importance of ongoing research in the maintenance of a competitive edge. The Michigan Bean Shippers Association, the Michigan Bean Commission, and the Farmers and Manufacturers Beet Sugar Growers Association pushed for creation of a single research farm. Producers helped fund the research by check-off from sales of their commodities, and continue to this day. Today, this facility is a wonderful joint effort of dry bean and sugar beet processors and producers, in cooperation with Michigan State University's Agricultural Experiment Station, the MSU Extension Service, and funding provided through the Cooperate State Research, Education and Extension Service of the U.S. Department of Agriculture. This Federal support has been generously provided with the cooperation of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration; and Related Agencies of the House Appropriations Committee.

It is phenomenal to me to think of the fact that 30 years ago farmers earned $60 million for dry bean crops and $23 million from sugar beet crops, with yields now having increased by about 80 percent since 1970. New varieties of dry beans have been introduced in the area to take advantage of changing consumer demands for dry bean varieties, particularly for the colored dry bean varieties that are so heavily demanded in other markets around the world. The stable prices that our consumers enjoy for sugar have been enhanced by a research program that is committed to improving yield and maintaining quality in an increasingly competitive market.

Work has been done over the years to improve the hardiness of varieties of beans and beets. Environmental concerns have been addressed by reviewing the efficacy of pesticides and herbicides as well as application practices. Planting methodology has been studied, ranging from narrow row planting efforts to increase yield per acre, to dealing with concerns created by soil compaction.

Several people deserve credit for this historic endeavor. Loren Armbruster, John Davis, Ernest Flegenheimer, Dr. Milt Erdman, Maurice Frakes, Dale Harpstead, John A. McGill, Jr., Basil McKenzie, Leyton Nelson, Grant Nichol, and Perc Reeve all deserve a major share of the credit for the creation of this facility. Former Congressman Bob Traxler led the efforts to secure Federal funding for this facility. Bob Young, Bill Bortel, Dale Kuenzli, John McGill, Greg Varner, and Dr. Don Christenson now work for the success of this facility. And support for this project continues to come from myself, Congressman CAMP, and Senator LEVIN.

Mr. Speaker, at a time when we want people to look to themselves for solutions to problems, we need to recognize the accomplishments of the Saginaw Valley Bean and Beet Research-Farm. I urge you and our colleagues to join me in wishing them the happiest 25th anniversary.

IN MEMORY OF MILLARD LEE BRENT

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HALL of Texas. Mr. Speaker, it is a privilege for me to pay tribute today to a legendary educator and outstanding citizen from the Fourth District of Texas—Millard Lee Brent, who died recently at the age of 83. Throughout his life Millard Brent was a prominent and respected figure in Dodd City, and he leaves behind a legacy of accomplishment that will be remembered for years to come.

A native of Dodd City, Millard Brent was born on October 22, 1912, to Ada Finley and Lee William Brent, and devoted much of his life to education. He received a bachelor's degree from Austin College in 1939, a master's degree from East Texas State University in 1951, and was an educator for 46 years. He served as superintendent of Dodd City schools from 1947 to 1962, was superintendent of Fannin County schools from 1962 to 1979, and in 1979 received the Fannin County Teacher of the Year Award. He then served on the board of directors of region 10 on State education from 1979 to 1988.

Millard also devoted much of his time in service to his community and county. He served as president of the Bonham Lions Club and president of the Fort Inglish Society. He served on the board of directors of the American Lung Association of the Dallas area, the Friends of Sam Rayburn Board, the Fannin County Fair Board, the board of the Fannin County Teachers Federal Credit Union, and the Board of Resolution, Conservation and Development. Millard was a member of the

Dodd City Masonic Lodge, past Master, 32d degree Mason, Sherman Scottish Rite, and Denison County Commandry, and was an elder of the Dodd City Church of Christ. He received the Texas Historical Commission Award from Governor Dolph Briscoe and received the Fannin County Farmer Award for Outstanding Conservation.

Millard was married to Evalyn Opal Doan, who preceded him in death. Surviving are his son, Dr. Millard Brent of Sherman; brothers, George Brent of Bonham and C.J. Brent of Lannius; sister, Madeline Veal of Dallas; and several nieces and nephews.

Mr. Speaker, Millard Brent devoted his life to the betterment of his community and to the noble cause of education. His influence was felt in every aspect of his community and county, and there is no way to measure the good that he accomplished. As we adjourn today, I join his family and many friends in paying our last respects to this outstanding individual.

PERSONAL EXPLANATION

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HOSTETTLER. Mr. Speaker, due to a snow emergency in my district that began early March 19, 1996, I was unable to return to Washington, DC, until late evening on March 20, 1996. As a result of this unforeseen delay, I missed passage of H.R. 2937. Had I been able to be here for these votes I would have voted "yea" on roll No. 69.

TRIBUTE TO MORTON CHARLESTEIN

HON. JON D. FOX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. FOX of Pennsylvania. Mr. Speaker, a chosen few among us have the privilege and strength to reach 80 years of productive life. Mr. Morton Charlestein, who marks his 80th birthday on this April 1, has been an inspiration to all who know him and a source of love and support to all who come in contact with his warm and gracious being. He is a husband of over 50 years, a father, and grandfather of five; a leader in the dental and medical products industry; and a giant of support in the philanthropic community of greater Philadelphia whose good works reach across the country and around the world.

As chairman emeritus of the Premier Dental Products Co. and former president of the Dental Manufacturers of America, Mr. Charlestein's professional life has seen the introduction to the U.S. market of many, many innovative and now commonly used essential products in the dental profession. His support for dental schools and dental education is well known.

He is also an active member on the board of Har Zion Temple in Penn Valley, PA and on the board of the Jewish Theological Seminary of America. His support for programs fostering deeper religious understanding and commitment extend not only to his financial giving but to his personal involvement in communal prayer, and in family and institutional life on a daily basis.

Along with his wife, Malvina, and daughter, Ellyn, this man of vision has taken a personal family tragedy—the death of a young son-in-law—and turned it into a commitment of eradicating the suffering caused by amyotrophic lateral sclerosis [ALS]—Lou Gehrig's disease and has helped in the formation of support groups for patients; clinics dedicated to the treatment of this disease; and research projects in leading medical institutions worldwide.

I hold up Mr. Morton Charlestein as an example of a great American, having served his country overseas in World War II, who, in his personal and business dealings knows no barrier of race, social status, religion, or gender; and whose generosity and cheerfulness bring blessing to us all. May such Americans be multiplied and granted long life and good health.

CONGRATULATIONS TO PRESIDENT LEE TENG-HUI

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HINCHEY. Mr. Speaker, I wish to convey my congratulations to President Lee Teng-hui of the Republic of China. In the first direct Presidential election in Chinese history held on March 23, Lee Teng-hui won 54 percent of the vote, far outdistancing his three opponents. Democracy has finally arrived in the Republic of China and I have nothing but admiration and good wishes for President Lee.

I hope my colleagues will join me in wishing that God may continue to grant President Lee, and his Vice President-elect Lien Chan, all the wisdom in government their country in the years ahead, and that the people of the Republic of China will continue to enjoy prosperity and freedom.

GIVE IT BACK, GIVE IT ALL BACK

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mrs. SCHROEDER. Mr. Speaker, the minimum wage was last increased in 1991 by a lousy 65 cents an hour. That works out to a lousy $1,300 a year.

Since 1991, Members of Congress have increased their salaries by a whopping $37,000. That's 30 times the raise minimum wage workers have received.

In fact, that $37,000 raise is more than quadruple what a minimum wage worker earns in total all year. The annual salary of a minimum wageworker is $8,800.

If BOB DOLE and NEWT GINGRICH want to block the proposed 1996 minimum wage increase, I have a suggestion, give back the $37,000.

A TRIBUTE TO MORTON GOULD

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. BRYANT of Texas. Mr. Speaker, it is with much sadness I recognize the death of former ASCAP President Morton Gould on February 21. The current ASCAP president and chairman, Marilyn Bergman aptly stated that "America has lost one of its most distinguished composers and conductors, and the creative community has lost one of its great leaders."

The honors Mr. Gould received during his long and illustrious life are countless. Mr. Gould received the Kennedy Center Honor in 1994 and the Pulitzer Prize in Music in 1995. He was elected to the American Academy of Arts and Letters in 1986. In addition, Mr. Gould was an award winning recording artists, with 12 Grammy nominations and a Grammy award in 1966. Mr. Gould served on ASCAP's board of directors for over 36 years, and led the society as president from 1986 to 1994.

Mr. Gould's contributions spanned eight decades and included significant works for orchestra, chamber ensemble, band, chorus, and soloists, as well as scores composed for film, television, Broadway, and ballet. Throughout his career, his work was particularly American, making use of such roots music styles as jazz, blues, spirituals, and folk music.

His music has been performed by every major American orchestra under the direction of such eminent conductors as Fritz Mahler, Arturo Toscanini, Leopold Stokowski, Sir George Sotti, Andre Previn, Leonard Slatkin, Eugene Ormandy, and Arthur Fiedler. As a conductor, Mr. Gould led countless orchestras throughout the world and recorded over 100 albums.

Mr. Gould was a tireless advocate for new American composers, and constantly sought opportunities to help expose their work. I was privileged to know him and work with him to further these goals. Morton Gould will be missed by millions worldwide who were touched by his talent and music.

COMMEMORATING RAY LANE'S 50 YEARS OF KIWANIS SERVICE

HON. GLENN POSHARD

OF ILLIONIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. POSHARD. Mr. Speaker, as we know, Kiwanis International has stood for outstanding community service with an emphasis on young children for decades. I rise today to honor Mr. Ray Lane, a member and leader of Kiwanis clubs in Toledo, Effingham, and Mattoon, IL for the past 50 years. Since joining Kiwanis in 1946, Ray has worked at it with the same energy and enthusiasm with which he has approached his entire life. I salute him today for his commitment to his fellow citizens.

It comes as no surprise that the leaders of clubs such as Kiwanis are also leaders in their jobs and other activities. This describes Ray Lane. He has always answered the call to duty, and would rather blaze a trail instead of waiting for a path to be carved. Ray received his bachelor's degree and special degree in education from Eastern Illinois University, and it was in the field of education that Ray made his greatest professional mark. Starting out as a teacher and coach while also serving his country for 11 months in the Philippines, he moved on to superintendent of the Toledo school district, despite his protests that he wasn't qualified, when the school board told him, "But you're the only one we can find." Undaunted, Ray went on to excel, assuming his role in the newly formed Greenup and Toledo county school district, and later as superintendent of Effingham Unit No. 40 schools and the Mattoon schools. Ray was not only a gifted administrator, but an innovator in curriculum as well, developing new kindergarten and English rhetoric programs that were adopted by the State board of education. His first love has always been music, and he was instrumental in adding staff in this area and other programs that traditionally received less attention, like special education. Professional affiliations included the National Education Association, the American Association of School Administrators, the National Association of School Business Officials, the Illinois Education Association, the Illinois Association of School Administrators, and Phi Delta Kappa.

All the while, Ray has been active in other community endeavors, including the United Methodist Church, the Masonic Lodge, the Elks Club, American Legion, and the chamber of commerce. What makes his Kiwanis participation perhaps extra special is that it has paralleled all his other achievements and this tribute just scratches the surface of his voluminous contributions to central and eastern Illinois. He has served as president of all three of his Kiwanis clubs, and his service will not be forgotten. He and wife Pauline have accomplished a great deal while also raising two sons. Mr. Speaker, my respect for Ray Lane is momentous. He is an example of all that we can accomplish if we take on life eagerly and acceptingly. It is an honor to represent Ray in the U.S. Congress. I wish him health and happiness in the future, and thanks for his efforts.

INTRODUCTION OF THE PORT REVITALIZATION ACT OF 1996

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. FRANKS of New Jersey. Mr. Speaker, today I am introducing legislation to address the nationwide problem of disposing of contaminated sediments that accumulate in our ports. This bill is entitled "the Port Revitalization Act of 1996. I am pleased to have joining me as original cosponsors Representatives FRANK PALLONE, DICK ZIMMER, and RODNEY FRELINGHUYSEN.

Ports around the country must continually dredge their channels to ensure the safe passage of ships to their berths. If these channels are not dredged, oil tankers, container ships, and even passenger ships face the risk of running aground. While dredging has been a common practice for decades, the presence of contaminants in the mud at the bottom of our harbors now prevents the use of the ocean for disposal of a significant amount of dredged material.

This problem is especially acute in the Port of New York/New Jersey. Almost none of the 6 million cubic yards of required maintenance dredging will occur this year. Large container ships are now either scraping bottom or waiting for high tide to dock, and some shipping lines are already diverting their cargo to ports to Canada.

The Port Revitalization Act has several important features to address dredging crises at ports around the country. First, it expands the use of the Harbor Maintenance Trust Fund, which currently has a $500 million surplus, to allow it to be used for more than just the operation and maintenance expenses of Federal channels. This legislation allows the Fund to be used for the actual disposal of dredged material and for the construction of confined disposal facilities required for the safe disposal of dredged material, such as subaqueous pits, containment islands, and upland disposal options.

Second, under current law, the Federal Government can participate only in the ocean disposal of dredged sediment at a cost sharing ratio with a local sponsor of 65/35. This legislation offers a Federal cost sharing mechanism for the upland disposal of dredged material, as well as the construction of confined disposal facilities.

Third, this legislation reauthorizes, and increases funding for, the decontamination technology pilot study now underway by the Environmental Protection Agency. We must continue to invest in dredged sediment decontamination technology to make the material eligible either for beneficial upland use—golf courses, parking lots, etc., or ocean disposal.

Finally, this legislation authorizes a dredged material containment facility for the Port of New York/New Jersey, subject to the findings of the Army Corps of Engineers' Dredged Materials Management Plan for the Port of New York and New Jersey.

Mr. Speaker, this legislation has bipartisan support, as well as support from businesses, labor groups, State and local governments, and environmental groups. I urge my colleagues to cosponsor this legislation.

TRIBUTE TO TWO PROUD VETERANS

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. STUDDS. Mr. Speaker, I rise to pay tribute to two courageous men whose personal triumphs over discrimination in the military helped hasten the day when all Americans will have the right to serve their country.

Today marks the retirement from active service of Petty Officer V. Keith Meinhold, an openly gay man who successfully challenged the military ban in court and has continued to serve with honor in the U.S. Navy.

The case of Meinhold versus Department of Defense began in 1992, when Petty Officer Meinhold affirmed on national television that he is gay. It ended more than 2 years later, when the Justice Department declined to appeal a decision in Meinhold's favor by the U.S. Court of Appeals for the Ninth Circuit. The court ruled that Petty Officer Meinhold could not be discharged simply for stating that he was gay and ordered the Navy to reinstate him.

Since then, Meinhold has served with distinction as an aviation warfare systems operator first class at the Naval Air Station on Whidbey Island, WA. By all accounts, his performance as a sonar analyst and instructor has been exemplary. His latest evaluation describes him as "a top notch professional * * * with uncompromising standards. * * * highly respected and trusted by superiors and subordinates alike."

His commander notes that "his inspirational leadership has significantly contributed to the efficiency, training, and readiness of my squadron." That squadron has been called the most combat ready unit in the Pacific fleet. So much, Mr. Speaker, for "good order, discipline, and morale."

At 13:30 hours Pacific time today, Petty Officer Meinhold will say goodbye to his comrades in Patrol Squadron 46 and give his final salute—a proud gay veteran who has honored us all by his courage and dignity.

Sadly, Mr. Speaker, this past week also brought news of the death from AIDS of another pioneer in the fight against discrimination in the military. Sergeant First Class Perry J. Watkins was a true hero who challenged the ban years before it became a major national issue.

Sergeant Watkins was an outstanding soldier who served on active duty for 14 years, including tours in Korea and Vietnam. His commanding officer called him "one of our most respected and trusted soldiers," awarding him 85 out of a possible 85 points for performance and professionalism.

Watkins had been completely candid about this sexual orientation from the start of his Army career in 1968. He was permitted to reenlist three times before the Army adopted a more stringent policy on homosexuality and sought his discharge in 1981.

In 1989, the U.S. Court of Appeals for the Ninth Circuit ordered the Army to allow Watkins to reenlist, citing the fact that it had done so repeatedly "with only positive results." In 1990, the Supreme Court refused to hear the Government's appeal.

Sergeant Watkins never returned to the Army. A year after the appeal was rejected, the Army settled the case, agreeing to let Watkins retire with full benefits, back pay, an honorable discharge, and a retroactive promotion to sergeant first class.

I wish that Perry Watkins, who did so much to end this cruel and senseless policy, could have lived to see his goal finally achieved. It is in large part because of what he did that it will be achieved, and for this he will always be remembered.

THE GROWING INCOME GAP IN AMERICA

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. SABO. Mr. Speaker, I rise today to express my continued deep concern over the growing income gap in America. Last week, I stated that we must address this problem now, by enacting policies that encourage responsible corporate citizenship. Today, I would like to offer one example of how we can do so.

It is clear from our recent budget debates that all Members want the legislation we pass to expend Government resources wisely, getting the most value for our Federal dollars and granting the benefits of Federal policy to those who truly deserve them.

Americans from across the political spectrum have decried high CEO pay and perks, which seem only to increase while layoffs grow and worker pay stagnates. Many of our constituents may be surprised to learn, however, that our Government allows corporations generous tax deductions for corporate pay. Meanwhile, the lowest paid worker in the company could be earning the minimum wage and be below the poverty level.

In granting such tax deductions, our Government is implicitly encouraging this type of excessive compensation. I believe that in giving business this tax deduction, we should expect something in return. This is why I introduced the Income Equity Act, H.R. 620. My bill would restrict the amount of executive pay that is tax deductible by linking the tax deduction of those who make the most at a company with the salaries of those who make the least. H.R. 620 would limit the tax deductibility of executive pay to 25 times that of the lowest paid full-time worker. For example, if the lowest paid worker in a company is a janitor who is paid $10,000 per year, then any amount of salary paid to the CEO above $250,000 would no longer be tax deductible as a cost of doing business.

My bill will not restrict the freedom of companies to pay its workers and executives as they please. H.R. 620 will, however, send a strong message that companies should look out for those at the bottom as well as those at the top of the income ladder. H.R. 620 would also raise the minimum wage from the current $4.25 to $6.50 per hour, making up for the loss in buying power the minimum wage has experienced.

The Income Equity Act would be an important first step in crafting Government policies that encourage responsible corporate citizenship. I do not seek to burden businesses, but they must realize that we all have roles to play in bridging the income gap. Today, I ask your support for the Income Equity Act, which is just one piece of what must be a comprehensive plan to restore working Americans' faith in our economy.

PERSONAL EXPLANATION

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. HOSTETTLER. Mr. Speaker, due to a snow emergency in my district that began early March 19, 1996, I was unable to return to Washington, DC, until late evening on March 20, 1996. As a result of this unforeseen delay, I missed the vote on passage of House Concurrent Resolution 48. Had I been able to be here for these votes I would have voted "yea" on roll No. 70.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 28, 1996, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 29

9:30 a.m.

Armed Services

Airland Forces Subcommittee

To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on Army modernization programs.

SR-222

11:00 a.m.

Armed Services

Strategic Forces Subcommittee

To resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on cooperative threat reduction program, arms control, and chemical demilitarization.

SR-232A

APRIL 15

10:00 a.m.

Judiciary

Constitution, Federalism, and Property Rights Subcommittee

To hold hearings on S.J.Res. 49, proposed constitutional amendment to require a two-thirds vote on tax increases.

SD-226

APRIL 16

9:30 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for Air Force and defense agencies' military construction programs.

SD-116

Commerce, Science, and Transportation

To hold hearings on proposed legislation authorizing funds for the National Transportation Safety Board.

SR-253

APRIL 17

9:30 a.m.

Rules and Administration

To resume hearings on proposals to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, and to reform the financing of Federal elections and Senate campaigns.

SR-301

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Air Force programs.

SD-192

1:30 p.m.

Indian Affairs

To hold hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.

SR-485

2:00 p.m.

Judiciary

Administrative Oversight and the Courts Subcommittee

Business meeting, to mark up S. 984, to protect the fundamental right of a parent to direct the upbringing of a child.

SD-226

APRIL 18

9:30 a.m.

Commerce, Science, and Transportation

To resume hearings to examine Spectrum's use and management.

SR-253

1:30 p.m.

Indian Affairs

To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.

SR-485

APRIL 19

1:30 p.m.

Indian Affairs

To continue hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs, and to examine related budgetary issues from fiscal year 1996.

SR-485

APRIL 23

9:30 a.m.

Commerce, Science, and Transportation

Consumer Affairs, Foreign Commerce, and Tourism Subcommittee

To hold hearings on proposed legislation authorizing funds for the Consumer Product Safety Commission.

SR-253

APRIL 24

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Army programs.

SD-192

APRIL 25

9:00 a.m.

Indian Affairs

To hold hearings on S. 1264, to provide for certain benefits of the Missouri River Basin Pick-Sloan Project to the Crow Creek Sioux Tribe.

SR-485

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on proposed legislation authorizing funds for the Federal Trade Commission.

SR-253

MAY 1

9:30 a.m.

Rules and Administration

To resume hearings on issues with regard to the Government Printing Office.

SR-301

SEPTEMBER 17

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.

335 Cannon Building

CANCELLATIONS

MARCH 28

10:30 a.m.

Appropriations

Commerce, Justice, State, and the Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Justice.

S-146, Capitol

2:00 p.m.

Appropriations

Commerce, Justice, State, and the Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Commerce.

S-146, Capitol

SENATE—*Thursday, March 28, 1996*

The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by Rev. Joan Thirkettle from San Diego, CA, Salvation Army of San Diego.

PRAYER

The Reverend Joan Thirkettle, Salvation Army of San Diego, offered the following prayer:

The world new each day, Almighty God, we give You thanks and praise. The days, months, and years You number and sustain. Your wisdom invites this Senate to share the daily administration of this Your United States. Your movement is heard in the walk of the people. The grass blows, the mountains tower, the waters slap the shores, all echo, You among us. Come with Your residence casting Your knowledge and dreams into the debates and decisions made for "We, the People." Take the deliberations of this body fueled with questions, doubts, and varying degrees of what is best and right, and bring consensus of shared patriot leadership for the Republic. It is You, God, who reigns. Guide these Senators as they champion justice, liberty, and peace. Counsel them as they speak, debate, and struggle with the complexities of domestic and global concerns. The mantle of trust is given these persons by the people, Mighty God. Help them carry this heavy mantle in the long hours of work and decisionmaking. Bring each Senator a calm and a confidence of heart this day and in the days to come. Thank You that You have made them ambassadors of Your work. Travel with them in peace. May their work declare Your intentions, Eternal God. This we pray, Lord, in Your name. Amen.

Mrs. BOXER addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from California.

THE GUEST CHAPLAIN

Mrs. BOXER. Thank you so much, Mr. President. I will just take a moment of the Senate's time to say how really thrilled I am to have heard the prayer given by the Reverend Joan Thirkettle this morning. I want to thank the Senate Chaplain, Dr. Ogilvie, for inviting her here today at my request.

To hear the sounds of a woman's voice coming from that particular place in the Senate Chamber is not that usual, but it is becoming more usual as we see more and more women go into this field.

I also say that it is very important because this month we do celebrate Women's History Month. So it is quite appropriate the Reverend Thirkettle spoke to us today.

There is one last point I want to make. She has come a long way from San Diego, CA, a beautiful part of the world. She spends her waking hours helping high school students, helping with family reeducation, helping with reunification, helping with job readiness, working with children, working with the Salvation Army in charge of shelters for youth and running the Christmas toy drive. So this is a woman who lives her beliefs.

I listened to her words today. She offers us, I think, some very good guidance. I thank her, and I thank Dr. Ogilvie.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. CAMPBELL). Under the previous order, leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER. The Senator from Indiana [Mr. LUGAR] is recognized.

SCHEDULE

Mr. LUGAR. Mr. President, on behalf of the majority leader, Senator DOLE, let me say, for the information of all Senators, the Senate will immediately resume consideration of the farm bill conference report under the remaining time agreement reached yesterday.

Following that debate, the conference report will be set aside, and the Senate will begin 30 minutes of debate regarding the cloture motion with respect to the Kennedy amendment to the Presidio legislation.

Following that debate, the Senate will begin a vote on the adoption of the farm bill conference report, to be followed immediately by a vote on invoking cloture with respect to the Kennedy amendment. Additional rollcall votes are possible throughout today's session of the Senate.

AGRICULTURAL MARKET TRANSITION ACT—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the conference report to accompany H.R. 2854, which the clerk will report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2854) a bill to modify the operation of certain agricultural programs, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER. The Senator from Indiana [Mr. LUGAR], is recognized.

Mr. LUGAR. Mr. President, yesterday in the beginning of the debate on the farm bill conference report, much of the debate centered upon title I, which is the Agricultural Market Transition Program. And, indeed, this is an extraordinarily important title for producers in this country. Senators reviewed the fact that the new farm bill will offer maximum flexibility to farmers in choosing what crops to plant and how many acres they will plant to meet market conditions in this country and in the world.

Likewise, the nonrecourse marketing assistance loans will remain. They are a safety net, as well as a method of managing income and operations, for producers.

Not mentioned yesterday, but clearly still in the farm bill, is a peanut program, modified somewhat during debate in both the House and the Senate, a sugar program and a milk price support and marketing order program. The Federal Dairy Export Program, the northeast dairy compact, payment limitations, commodity credit all come under this title I, the Agricultural Market Transition Program. I have no doubt, Mr. President, there will be more debate on that issue this morning. But I want to center on additional aspects of the farm bill that are extraordinarily important to all Americans.

Title II, the trade title, contains Public Law 480 and related programs. The conference report reauthorizes Food for Peace and allows private sector participation for the first time. The Food Security Wheat Reserve is renamed the "Food Security Commodity Reserve" to reflect that corn, rice, and sorghum are added as eligible commodities. A 4-million-metric-ton cap is placed on the reserve and access to reserve commodities is made easier.

Mr. President, there is also a provision for agricultural trade. The conference agreement reauthorizes several trade and export programs, with additional emphasis on high-value and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

value-added products. The Secretary is directed to monitor compliance with the agriculture provisions of the Uruguay round agreement of GATT and report violations to the United States Trade Representative. Agriculture producers are given additional protection against economic effects of agricultural embargoes.

In addition, several unnecessary and outdated provisions of Federal agricultural trade law are repealed.

The trade title contains a market access program. The Market Promotion Program is renamed the "Market Access Program" to more accurately reflect program goals. Expenditures are capped at $90 million per year, and reforms are implemented to restrict participation to small businesses, farmer-owned cooperatives, and agricultural groups.

The Export Enhancement Program is contained in title II. EEP expenditures are capped at $350 million a year in 1996; $250 million in 1997; $500 million in 1998; $550 million in 1999; $579 million in 2000; $478 million in 2001 and 2002.

For the years 2000 to 2002, the funding levels for EEP represent the maximum allowable expenditures under GATT. In addition, the Secretary is given authority to subsidize the export of intermediate value-added products.

Title III of the farm bill contains the conservation programs and, first of all, of course, is the Conservation Reserve Program, the CRP, which gives the Secretary authority to enter into new contracts and to extend CRP contracts. The authorized maximum acreage in CRP is maintained at 36.4 million acres. It also allows participants to terminate CRP contracts, except on those lands that are deemed to be of high environmental value. Funds saved due to termination of contracts may be used by the Secretary to enroll new lands in the program.

I point out, parenthetically, Mr. President, this arguably is the largest conservation program, including one of the most important environmental aspects the Senate will adopt this year.

The Wetlands Reserve Program is retained with modifications to encourage the use of temporary easements and cost-share restorations.

The Environmental Quality Incentive Program [EQIP], is instituted. This program targets approximately $1.2 billion over 7 years to assist crop and livestock producers to deal with environmental and conservation improvements on their farms. Assistance can be used for animal waste management facilities, terraces, waterways, filterstrips or other structural and management practices to protect water, soil, and related resources. Assistance to individual operations is capped at $10,000 a year, for a maximum of 5 years. Large operators, as defined by the Secretary, will be ineligible for assistance.

Other new conservation programs include the Farms for the Future Program providing $35 million to preserve farmland from commercial development. A new conservation farm option offers producers an additional alternative in meeting conservation goals. A Flood Risk Reduction Program is also included to provide farmers incentives to take out of production frequently flooded lands.

The Conservation Compliance Reform Program gives producers enhanced flexibility to modify conservation practices if they can demonstrate that the new practice achieves equal or greater erosion control. Variances from conservation compliance can now be granted on account of adverse weather or disease, and program payment penalties can be adjusted to be commensurate with the violation.

Swampbuster reform is included in title III. The Natural Resources Conservation Service is designated to lead Federal agencies in wetlands delineation and regulation on grazing lands. The agreement stipulates that current wetlands delineations remain valid until a producer requests a review. Penalties can now be adjusted to fit the wetlands violation. Exceptions can be granted for good faith. And wetlands mitigation options are expanded.

Title IV, a very important title, is the Federal Food Stamp Program. The conference agreement reauthorizes the Food Stamp Program for 2 years while Congress continues to work on comprehensive welfare reform legislation.

Mr. President, this issue has come before this body at least twice before. First of all, in the form of the Balanced Budget Act, where the food stamp provisions were a part of the farm bill and likewise a part of welfare reform. The Senate has considered separately welfare reform with food stamp provisions in that legislation.

As the Chair knows, in the case of both the welfare reform and the Balanced Budget Act, President Clinton vetoed this legislation. Therefore, it has been set aside. This farm bill recaptures now and reauthorizes the Food Stamp Program for 2 years pending action either in our committee, that is, the Agriculture Committee, or action by the Congress with regard to welfare reform that might encompass the Food Stamp Program.

Title V is a miscellaneous title, but an important one in the collection of programs that come under it. Crop insurance is one of these programs. The conference agreement eliminates the mandatory nature of catastrophic crop insurance, but requires producers to waive all Federal disaster assistance if they opt not to purchase catastrophic insurance. Dual delivery of crop insurance is eliminated in those States that have adequate private crop insurance delivery.

The bill corrects a provision of current law by amending the Federal Crop Insurance Act to include seed crops. Eligibility to purchase crop insurance is no longer linked to conservation compliance and swampbuster for producers who choose not to participate in the farm programs.

The Office of Risk Management is provided for. We establish in this legislation, within the Department of Agriculture, the Office of Risk Management to oversee and supervise the Federal Crop Insurance Corporation. The bill directs the Secretary to establish a business interruption insurance program that allows producers of program crops to obtain revenue insurance coverage. The Options Pilot Program is also extended through the year 2002. The Office of Risk Management is charged with oversight of these pilot programs.

Mr. President, the farm bill includes an Everglades Agricultural Area provision. The conference agreement provides $200 million for land acquisition in the Florida Everglades for the purpose of environmental restoration. An additional $100 million in Federal support will be financed through the sale or swap of other federally held land in Florida.

The farm bill provides a fund for rural America. And $300 million is provided for the fund in the years 1997 through 1999. This was a request of the President of the United States, and the Secretary of Agriculture placed a high priority on this fund. The Secretary is required to spend at least one-third of the amount on research and one-third of the amount on rural development. The other one-third of the money can be allocated to either purpose at the discretion of the Secretary. All of the funding must be spent through existing research and rural development programs.

The Agricultural Quarantine and Inspection provision appears in the conference report, which amends the Food, Agriculture, Conservation and Trade Act of 1990 to allow the Secretary to collect and spend fees collected over $100 million to cover the cost for providing quarantine and inspection services for imports.

The Safe Meat and Poultry Inspection Panel is created in this farm bill. The Panel of scientists within the Food Safety and Inspection Service will be charged with the responsibility of reviewing all inspection policies from a scientific perspective. The Panel's report and the Secretary's responses must be published in the Federal Register. State-inspected meat was discussed in our conference report. Within 90 days of enactment, the Secretary shall report and recommend to the Congress the steps necessary to achieve interstate shipment of State-inspected meat products.

Title VI of the conference report deals with USDA Farm Lending Program reforms. The conference report redirects farm lending programs to their original intent. Authority to make loans for a variety of nonagricultural purposes such as recreation facilities and small business enterprises is repealed. The Secretary is given authority to use collection agencies to recover delinquent loans. The agreement prohibits additional loans to delinquent borrowers and streamlines procedures for disposal of inventory property. A portion of loan funding is reserved for new and beginning farmers.

I point out, Mr. President, that that set of provisions comes after extensive hearings by the Agriculture Committee in which we found that borrowers sometimes are already delinquent and the Department was obligated, under previous law, to lend money to them in any event. Some of these obvious, glaring deficiencies have been corrected. I commend both committees and the conference for that provision.

Title VII deals with rural development. The Rural Community Advancement Program is authorized, and the Secretary may provide grants and direct and guaranteed loans and other assistance to meet rural development needs across the country. Funding under the Rural Community Advanced Program will be allocated to three areas: First of all, rural community facilities; second, rural utilities; and, third, a rural business and cooperative development. The new program provides greater flexibility, State and local decisionmaking, and a simplified uniform application process.

The Water and Waste Water Systems. Authorization for these systems is increased from $500 million to $590 million.

In telemedicine and distance learning programs, the conference agreement reauthorizes and streamlines these programs. Under the programs, the Secretary can make grants and loans to assist rural communities with construction of facilities and services, to provide distance learning and telemedicine service. Funding is authorized at $100 million annually.

Title VIII is the research title. The conference agreement reauthorizes Federal agricultural research, extension, and education programs for 2 years. This will allow Congress to continue ongoing review of these programs and determine how best to use the $1.7 billion in annual agricultural research, extension, and education spending. Additional research dollars are made available under this bill through the fund for rural America that I discussed earlier and which President Clinton and Secretary Glickman have championed.

Title IX, promotion, the generic commodity promotion program. The Secretary is directed to establish such a program. Under this program, interested industries could petition the Department of Agriculture for the establishment of a promotion program. Currently, each commodity must receive specific authorization from Congress to have a promotion program. Recognizing the generic program will not be operational for some time, the conference agreement authorizes new promotion programs for popcorn, canola, and kiwi fruit.

The full conference report was printed, I point out, Mr. President, in the CONGRESSIONAL RECORD of Monday, March 25, 1996, so that Senators have had an opportunity to review this conference report. The report came after discussion of as many as 500 differences between the House and the Senate bills. During an extensive and constructive conference of the two bodies last Wednesday and last Thursday, all issues were resolved. It is in that spirit that this conference report came to the Senate last evening and for further debate today.

Mr. President, let me simply review the fact that the time limit covering this report is 6 hours. Three of those hours are controlled by the distinguished Democratic leader, Senator DASCHLE, an hour by the ranking Democratic member of the Agriculture Committee, and 2 hours by myself. Approximately an hour and a quarter of debate occurred last evening. The remainder of the debate lies ahead of us. Hopefully, Senators who are controlling that time would be prepared to yield back that time to expedite the work of the Senate.

PRIVILEGE OF THE FLOOR

Mr. LUGAR. Mr. President, I ask unanimous consent that Patrick Sweeney, an employee of the General Accounting Office who has been detailed to the Agriculture Committee, be granted privilege of the floor during the pendency of consideration of the farm bill conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Noting no other Senators prepared to debate the issue, I suggest the absence of a quorum, with the time to be equally charged against the time allocated to the three Senators controlling time in this bill.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask to take time that has been allotted to me under the unanimous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, we spent a lot of months of very, very hard work to craft this farm bill. Today, we are completing the final legislative step in the farm bill process. I am glad that Secretary Glickman has said that he will recommend that the bill be signed.

The Secretary is one of the most knowledgeable Secretaries of Agriculture with which I have ever worked. He has been a Member of the Congress. He has worked on many farm bills. He knows, as I do, that nobody ever gets everything they want in a farm bill. You have to bring in a number of competing interests and ultimately make a judgment of whether the bill should be signed or not. I believe it should be signed. I concur with his judgment.

I am also pleased that the President said he would sign the farm bill. In my discussions with the White House and with the Secretary, I have told them this is a good bipartisan bill that proves we can work together.

We were in a situation, Mr. President, where we were not going to be able to pass a Democratic or a Republican farm bill. However, if we worked as we have in the past in a bipartisan fashion, we could pass a very good farm bill.

There are many who had a hand in this legislation. First and foremost of those is the chairman of the Senate Agriculture, Nutrition and Forestry Committee, the senior Senator from Indiana, Senator LUGAR.

Had it not been for his energy, foresight and perseverance, we would not be on the floor today with a completed conference report. The Agriculture Committee is made up of members with very diverse and, I might say, occasionally conflicting interests. For those who know the Agriculture Committee as Senator LUGAR and I do, that is probably considered an understatement. The Senate has some committees that divide along ideological lines and one can almost predict how a vote might go.

That is not the case in the Senate Agriculture Committee. Conservatives join with liberals on various issues; conservatives break with conservatives; liberals break with liberals; moderates oftentimes have a balance of power; regions have interests that conflict with other regions. This is not a case of ideological balances. This is a case of trying to balance the different needs of different parts of our great and wonderful Nation.

Throughout the year, Chairman LUGAR worked closely with members to craft a bill that provides us with the basic road map for agriculture policy. I appreciate both his leadership and his friendship. The bill recognizes that farm policy has changed. It cannot be just about the production side of agriculture. It is about the consumption side of agriculture, too.

The bill provides important protection to consumers in key environmental conservation issues. The focus is on providing incentives to get farmers to voluntarily do the right thing for the environment, their communities, and their neighbors.

It is a major step away from the old focus of mandatory, detailed regulations. The conservation provisions break with the past. They will provide cash payments to farmers for improvements that make sense for their farms. The bill will help farmers do those things that farmers know should be done. The bill contains the Environmental Quality Incentives Program, EQUIP, to assist farmers in solving critical water quality problems, for those farmers who want to protect lakes, rivers, and the ground water important to both them and their neighbors. This means that farmers will get funds to protect the groundwater that their neighbor's children drink.

There is $300 million in new spending to restore the Florida Everglades which is one of America's national treasures.

All of us should agree, whether we are from Florida or not, that we need to restore the Florida Everglades to its full glory.

There is a $35 million initiative to buy easements sold by willing sellers, on farmland threatened by development. This voluntary program, called Farms for the Future in Vermont, allows farm families to save their farmland for their children.

The bill contains a conservation farm option that will encourage farmers to use good conservation methods. I am pleased that, despite efforts to phase out the Conservation Reserve Program, we were able to save it. It is the Nation's largest, and most successful, private land conservation program.

I also want to mention dairy. Let me speak not as the ranking member of the committee, but as a Vermonter.

I know the farmers in Vermont. They work very, very hard. They rise early every morning and work late into the night just to get their milk into the market. I have sat in the kitchens of farm houses throughout Vermont and talked with the farmers, the women and men, and their sons and daughters, who run these dairy farms. I have gotten up with them at 4 o'clock in the morning and gone into the barns and helped them do their chores and milking. One farmer said I probably made a better Senator than I did a hired hand.

I was helping Bob Howrigan bring a couple different herds in different fields. As I helped him bring one of the herds across to the milking shed, I said, "Bob, I got that herd in for you, and I probably only lost a couple cows on the way over."

He said, "PAT, I appreciate it. If I keep you around a few weeks I can get out of farming altogether."

That is the kind of humor that goes on. These are people who work harder than anybody else I know. These are small family farms. They dot the New England countryside. They are a beautiful part of our heritage. But they exist only if they work hard and efficiently.

So I am pleased this bill includes an issue very important to my region, the Northeast Interstate Dairy Compact. Farmers in my State are not looking for handouts.

All they want is a farm bill that gives them a fair price for an honest day's work. They will work harder than anybody else, but they ought to be recompensed for that work. I am tired of the person in the middle getting all the profits and the typical Vermont farmer going almost 15 years without any kind of a price increase.

This compact is the last best hope of preserving Vermont's heritage. Dairy farmers work harder than anyone I know. Cows have to be milked 7 days a week. It does not make a difference whether it is 25 degrees below zero, as it is often in Vermont, or 5 o'clock in the morning. It makes no difference. The cows have to be milked.

I commend Chairman LUGAR for his help on the dairy compact. I commend the other members of the Vermont delegation. Interestingly enough, we are a State where one-third of our delegation is independent, one-third is Republican, and the remaining third is me. We came together, all three of us, to work for this. Chairman LUGAR talked to farmers in Vermont. He knew how important it was. After years of debate in Congress, we finally have a farm bill that gives them the dairy compact.

I want to remind everyone that while retail prices for dairy products have increased 30 percent, farm prices have actually decreased 5 percent. I want to also point out that although the price of a half gallon of milk has gone from $1.19 to $1.59 over the past 15 years, the farmer's share has remained at just 59 cents.

The dairy compact establishes a system which gives the States and local farmers control over their lives.

It will ensure that New England consumers can find milk in their supermarkets at fair prices.

It will also provide family farmers throughout the region with a decent living, so that they will be able to pass on their farms to their children and their children's children.

Instead of a national standard imposed by the Federal Government, the dairy compact allows local citizens, farmers and officials to make local decisions on milk. That is good for dairy farmers, good for Vermont and good for America.

Mr. President, I ask unanimous consent that a resolution in support of the compact from the New England Governors, letters in support of the compact from various groups in Vermont, the vote totals in each of the State legislatures be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEW ENGLAND GOVERNORS'
CONFERENCE, INC.,
Boston, MA, February 13, 1995.

Hon. PATRICK J. LEAHY,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: I understand the Northeast Interstate Dairy Compact awaits action by the full Senate. On behalf of the New England Governors' Conference, Inc., I write to ask your help in moving the Compact bill forward as quickly as possible.

The attached Resolution of the New England Governors' Conference, Inc. was adopted unanimously at our recent meeting in Washington, D.C.

The Dairy Compact has been enacted into law by the six New England states. We hope you will support this unique experiment in cooperative federalism. The Compact is a bipartisan, state-sponsored, regional response to the chronic problem of low dairy farm prices. If successfully implemented, the Compact will stabilize our region's dairy industry and reinvigorate this crucial segment of our rural economy, without cost to the federal government or adverse impact on the national industry.

Thank you for your consideration of this matter.

Very truly yours,

WILLIAM A. GILDEA,
Executive Director.

RESOLUTION 127—NORTHEAST DAIRY COMPACT

A Resolution of the New England Governors' Conference, Inc. in support of congressional enactment of the Northeast Dairy Compact.

Whereas, the six New England states have enacted the Northeast Interstate Dairy Compact to address the alarming loss of dairy farms in the region; and

Whereas, the Compact is a unique partnership of the region's governments and the dairy industry supported by a broad and active coalition of organizations and people committed to maintaining the vitality of the region's diary industry, including consumers, processors, bankers, equipment dealers, veterinarians, the tourist and travel industry, environmentalists, land conservationists and recreational users of open land; and

Whereas, the Compact would not harm but instead complement the existing federal structure for milk pricing, nor adversely affect the competitive position of any dairy farmer, processor or other market participant in the nation's air industry; and

Whereas, the limited and relatively isolated market position of the New England dairy industry makes it an appropriate locality in which to assess the effectiveness of regional regulation of milk pricing, and

Whereas, the Constitution of the United States expressly authorizes states to enter into interstate compacts with the approval of Congress and government at all levels increasingly recognizes the need to promote cooperative, federalist solutions to local and regional problems; and

Whereas, the Northeast Interstate Dairy Compact has been submitted to Congress for approval as required by the Constitution; Now therefore be it *Resolved*, That the New England Governors' Conference, Inc. requests that Congress approve the Northeast Interstate Dairy Compact; and be it further *Resolved*, That, a copy of this resolution be sent to the leadership of the Senate and the House of Representatives, the Chairs of the appropriate legislative committees, and the Secretary of the United States Department of Agriculture.

Adoption certified by the New England Governors' Conference, Inc. on January 31, 1995.

STEPHEN MERRILL,
Governor of New Hampshire,
Chairman.

VERMONT PUBLIC INTEREST
RESEARCH GROUP,
Montpelier, VT, March 29, 1995.

Re Support for the Northeast Interstate Dairy Compact.

Hon. PATRICK LEAHY,
87 State Street,
Montpelier, VT.

DEAR SENATOR LEAHY: Thank you for your efforts last year to move the Northeast Interstate Dairy Compact through the Senate. VPIRG appreciates that those efforts fell prey to gridlock in Congress. Notwithstanding, we strongly support the Compact—we see it as a means to sustain family farms and agriculture in Vermont. We were thus heartened to see your co-sponsorship of Senate Joint Resolution 28 on March 2nd, and ask you to help accelerate its movement through Congress.

We know that passage will not be easy. But the time is right for a strong push. We need your help more than ever. The mood of Congress is to return power to the states and, in the case of the Compact, allow states greater power to manage their own affairs collectively. Please take advantage of this opportunity to promote passage of the Compact at the earliest time possible.

Time is of the essence—Vermont dairy farmers are in trouble. We read that the Vermont Department of Agriculture reported a loss of 50 more dairy farms in January and February alone, bring the total to below 2,000 farms. If anything, the rate of loss seems to be increasing, and this is of great concern to our club members.

In addition to their direct input into the economy. Vermont dairy farms add to the aesthetic quality of the state. And financially stable farms are better able to deal with agricultural run-off problems and important regulations to deal with non-point pollution. Family-owned dairy farms are also a significant part of Vermont's heritage and it is important that they continue to operate here.

Again, thank you for your efforts in supporting the Compact. We are behind you 100%!

Sincerely,

KATHERINE M. VOSE,
Executive Director.

VERMONT FEDERATION OF
SPORTSMEN'S CLUBS, INC.,
April 13, 1995.

Senator PATRICK LEAHY,
87 State Street,
Montpelier, VT.

DEAR SENATOR LEAHY: Thank you for your efforts last year to move the Northeast Interstate Dairy Compact through the Congress. We appreciate that those efforts fell prey to gridlock. Notwithstanding, the Vermont Federation of Sportsmen Clubs, Inc. continues to strongly support the Compact—we see it as a reintroduction of Senator Joint Resolution 28 on March 2nd, and ask you to help accelerate its movement through Congress.

We know that passage will not be easy. But the time is right for a strong push. The mood of Congress is to return power to the states and, in the case of the Compact, allow states greater power to manage their own affairs collectively. Please take advantage of this opportunity to promote passage of the Compact at the earliest time possible.

Time is of essence for an even more critical reason—Vermont dairy farmers are in trouble. We read that the Vermont Department of Agriculture reported a loss of 50 more dairy farms in January and February alone, bring the total to below 2000 farms. If anything, the rate of loss seems to be increasing, and this is of great concern to our club members.

In addition to their direct input into the economy. Vermont dairy farms add to the aesthetic quality of the state. Tourism and recreational opportunities are enhanced by the open space provided by farms, Family owned dairy farms are a significant part of Vermont's heritage and it is important that they continue to operate here.

Again, thank you for your efforts in supporting the Compact. We are behind you 100%!

Yours in Sportsmanship,

RALPH BUCHANAN,
Secretary, VFSC.

BOURDEAU BROS., INC.,
Champlain, NY.

Re Support for the Northeast Interstate Dairy Compact.

Senator PATRICK LEAHY,
87 State Street,
Montpelier, VT.

DEAR SENATOR LEAHY: Thank you for your efforts last year to move the Northeast Interstate Dairy Company through the Senate. We appreciate that those efforts fell prey to gridlock in Congress. Notwithstanding, Bourdeau Brothers, Inc. continues to strongly support the Compact—we see it as a means to sustain family farms and agriculture in Vermont and the Northeast. A substantial part of our feed and fertilizer business is with Vermont farmers and they need help! We were thus heartened to see the reintroduction of Senate Joint Resolution 28 on March 2nd, and ask you to help accelerate its movement through Congress.

We know that passage will not be easy. But the time is right for a strong push. The mood of Congress is to return power to the states and, in the case of the Compact, allow states greater power to manage their own affairs collectively. Please take advantage of this opportunity to promote passage of the Compact at the earliest time possible.

The Compact is a unique piece of legislation and is clearly a regional solution to a regional problem. In the long-run, it benefits both consumers and producers. It complements the existing federal program, and even has a provision to discourage overproduction. It's a work of art.

Again, thank you for your efforts in supporting the Compact. We are behind you 100%!

Sincerely,

GERMAIN BOURDEAU,
President.

VERMONT HOUSING AND
CONSERVATION COALITION,
Montpelier, VT, April 13, 1995.

Senator PATRICK LEAHY,
87 State Street,
Montpelier, VT.

DEAR PAT: I am writing on behalf of the Vermont Housing and Conservation Coalition to support passage of the Northeast Interstate Dairy Compact legislation. The Coalition is a group of land conservation and affordable housing organizations, including the Vermont Land Trust, that have been instrumental in the creation of the Vermont Housing & Conservation Trust Fund and in the implementation of its program. In less than eight years, that program has permanently protected more than 125 operating farms in Vermont through the acquisition of conservation easements, and the momentum is growing. Over a third of the transactions have involved the transfer of the farm from one generation of owners to the next, which is a key element in maintaining the long-term viability of the agricultural industry in this state.

But that is not the only key element, as you well know. What is also critically important, especially with dairy farming continuing to be the largest sector of Vermont agriculture, is that farmers receive a fair price for their product. If milk prices continue at their present disastrously low levels, Vermont may see a drastic shrinkage in its number of family farms. Even if much of that land is absorbed into other stronger farm operations, Vermont will have lost some of the fabric which makes this state so special.

Congress has been moving in the direction of returning more control to the States. It is therefore highly significant that the six New England States have all adopted the legislation endorsing the compact. The only barrier to returning some sense of fairness and control over milk prices is Congress' authorization.

I understand that the Joint Resolution has been reintroduced in the House and Senate. I hope you will do all you can to push for its passage by Congress at the earliest possible time. Time is short. An officer at the Farm Credit Association, who works with many farmers and is a strong advocate of Vermont's program to purchase development rights on farmland, recently told me that Vermont may lose as many as 800 farms in the next five years. He felt that the next 12–18 months will be the most difficult. We cannot afford to wait for the Compact legislation.

Thank you for your support. With best wishes.

Sincerely,

DARBY BRADLEY,
Co-Chair.

VERMONT SKI AREAS ASSOCIATION,
Montpelier, VT, April 11, 1995.

Re Northeast Interstate Dairy Compact.

Senator PATRICK LEAHY,
87 State Street,
Montpelier, VT.

DEAR SENATOR LEAHY: As you well know, tourism and agriculture in Vermont are mutually dependent industries. More and more, these two industries depend on the health and prosperity of each other. For as long as I can remember, the Vermont ski industry has taken a keen interest in the health and stability of Vermont's dairy farms. We not only share a working landscape, but we also share common markets as well as common values.

On behalf of Vermont ski areas, I want to thank you for your continued support of the Northeast Interstate Dairy Compact. Solving our financial problems within the dairy industry will challenge us for a generation to come, but there is little question that an essential first step is the passage of legislation creating the Northeast Interstate Dairy Compact.

I urge you to give this matter special attention in a very busy legislative session. We in Vermont's ski industry know, perhaps better than ever, what hard economic times can mean and want to lend our voice of support to the enactment of this legislation at the earliest possible date.

Sincerely,

JOSEPH A. PARKINSON,
Executive Director.

VERMONT CURRENT USE
TAX COALITION,
Montpelier, VT, March 30, 1995.

Hon. PATRICK LEAHY,
87 State Street,
Montpelier, VT.

DEAR SENATOR LEAHY: We appreciate your efforts of last year to try to obtain passage of the Northeast Interstate Dairy Compact legislation. Congress did not see fit to act on the legislation. We still believe this legislation deserves your strong support and so urge you to help accelerate Senate Joint Resolution 28 through Congress.

It is clear that passage will not be easy against western and mid-western determination to hold onto control of milk pricing structures over the entire country. But, we believe that if agriculture is to be sustainable over the foreseeable future in New England, we must be able to set prices for our products based on production costs in New England, not in the corn belt, or on vast federal range lands of the west. The dairy industry should lead the way; the other agricultural sectors will follow.

It appears that now is not only an opportune time to press this legislation because of the general mood on federal deregulation and greater empowerment of the states to manage their own affairs, but also because Vermont agriculture, and dairy farms in particular, are undergoing increasingly difficult financial times. Vermont lost 50 more dairy farms in the first two months of this year. Where is it going to end?

The Compact was adopted with near-unanimous support by the six New England state legislatures. The Current Use Tax Coalition supported the process then, and we continue to believe that if agriculture is to remain an active part of our lives in Vermont this key piece of legislation must be passed.

Thank you for your efforts on behalf of Vermont agriculture.

Sincerely,

DAVID A. MCDONOUGH,
Chair, Current Use Tax Coalition.

NATIONAL BANK OF MIDDLEBURY,
Middlebury, VT, April 3, 1995.

Hon. PATRICK LEAHY,
U.S. Senator, State Street,
Montpelier, VT.

DEAR SENATOR LEAHY: Thank you for your efforts last year to move the Northeast Interstate Dairy Compact through the legislature. National Bank of Middlebury continues to strongly support the Compact, and we are pleased to see the re-introduction of Senate Joint Resolution #28 on March 2, We know that passage will not be easy. However, the Compact has received near unanimous support from the six New England state legislatures. There is a clear regional mandate to solve this problem.

Time is of the essence because Vermont dairy farmers are in trouble. The Vermont Department of Agriculture reported a loss of 50 more dairy farms in January and February alone bringing the total farms in Vermont to below 2,000 in number. We will see one of our customers added to the list of casualties in June. The "loss-of-farms" rate is alarming for the industry, but also for the state economy. It is unclear how much farming contributes to the tourism economy and the postal nature of Vermont. Our instincts tell us it is immeasureable. So, we urge you to promote passage of the Compact at the earliest time possible. Thank you for your efforts in supporting the Compact.

Sincerely,

G. KENNETH PERINE,
President.

NORTHEAST INTERSTATE
DAIRY COMPACT COMMITTEE,
Montpelier, VT.

INTERSTATE COMPACT LEGISLATIVE PROCESS

Connecticut: (P.L. 93–320) House vote = 143–4; Senate vote = 30–6. (Joint Committee on Environment voted bill out 22–2; Joint Committee on Government Administration and Relations voted bill out 15–3; Joint Committee on Judiciary voted bill out 28–0)

Maine: Originally adopted Compact enabling legislation in 1989 (P.L. 89–437) Floor votes and Joint Committee on Agriculture vote not recorded. The law was amended in 1993. (P.L. 93–274) House vote = 114–1; Senate vote = 25–0. (Joint Committee on Agriculture vote not recorded)

Massachusetts: (P.L. 93–370) Approved by unrecorded voice votes.

New Hampshire: (P.L. 93–336) Senate vote = 18–4; House vote unrecorded voice vote; (Senate Committee on Interstate Cooperation vote-unrecorded voice vote; House Committee on Agriuclture voted bill out 17–0)

Rhode Island: (P.L. 93–336) House vote=80–7; Senate vote = 38–0. (House Committee on Judiciary voted bill out 11–2; Senate Committee on Judiciary voice vote not recorded.)

Vermont: Originally adopted Compact in 1989 (P.L. 89–95) House vote = unanimous voice vote; Senate vote = 29–1. The law was amended in 1993. (P.L. 93–57) Floor voice votes, and House and Senate Agriculture Committee voice votes, not recorded.

Mr. LEAHY. Mr. President, the bill expands a great program in Vermont called the Farms for the Future.

Vermont's dairy farms are part of what makes Vermont so special. That is why I want to help Vermont farm families keep their land in agriculture through the Farms for the Future Program.

I included this program in the 1990 farm bill, and since then, Vermont has purchased the development rights for nearly 100 farms throughout the State.

Let me put that another way—nearly 100 Vermont farmers received cash payments under this program. This kept their land in farming.

I am pleased that this bill contains $35 million more for farmland protection programs throughout the Nation.

While this bill has many accomplishments, I wish we could have done even more in environmental areas. For example, the Wetlands Reserve Program places a lower cap on enrollments than the bill passed by the Senate.

Retaining the Senate's cap would have provided further environmental insurance to future generations.

The committee I sit on is called the Agriculture, Nutrition, and Forestry Committee for a reason.

We have a long bipartisan history of making sure every child in our Nation—whether they are rich or poor—has enough to eat.

While agriculture programs now extend for 7 more years, one of our most important child nutrition programs, food stamps, will expire 2 years from now.

Fourteen million children benefit from the Food Stamp Program. I fear that our precious children—those least able to defend themselves in our society—will be at risk in 2 years. I intend to work with Senators LUGAR, DASCHLE, DOLE, and others to make certain that this does not happen.

Mr. President, in closing, while this bill adopts important new provisions in farm policy, we must be careful about patting ourselves too much on the back. There are important areas in conservation, the environment and nutrition where we have failed to go the extra step.

Although this bill is called the farm bill, it affects every American every day of their lives. What we pass today will impact families when they take a vacation to one of our national parks, spread a picnic lunch under a tree, bit into a sandwich or drink a glass of juice.

The 2 million farmers are important and this bill will serve them well.

But we cannot forget that farm policy affects the more than 250 million Americans who are concerned about the environment, conservation, and important nutrition programs.

In the last year partisan fights on the budget and other issues have tied up Congress and shut down the Government on two occasions. We all realize that is not the way to govern. That is why last month, when it appeared that the farm bill would be caught in the same trap, I decided to act.

With Senator LUGAR and Senator DOLE, I offered a bipartisan farm bill with strong conservation, environmental and nutrition provisions. I am proud that a bipartisan step led to this final bill. I want to also thank Chairman ROBERTS for his efforts in working with me at conference. His freedom-to-farm idea has captured the hearts of many thousands of farmers through America.

This is Congressman KIKA DE LA GARZA's last farm bill, as it is the last farm bill for Senator PRYOR and Senator HEFLIN. I have greatly enjoyed working with all of them over the years.

Let me focus on the conservation provisions for a moment. They are different from most—they will provide cash payments to farmers for improvements they would want to make anyway.

One program is a voluntary program of payments to Vermont farmers who want to protect Lake Champlain, or protect rivers or other lakes near their fields. It is also a voluntary program for farmers around the Nation.

It can be expensive to manage your land. Some may need assistance in getting the job done right. That is why Senator LUGAR and I designed a conservation program called EQUIP. It cuts redtape and guarantees funding for conservation assistance for the next 7 years.

This is voluntary assistance that will be available if you need it. It can help Vermont farmers comply with the State's new accepted agricultural practices.

We are in this together. We want to keep our streams full of trout. We want to make sure St. Albans Bay, Lake Memphremagog, and Missiquoi Bay are clean for everyone to enjoy. This bill also protects lakes and rivers in all States.

Keeping our State and regional dairy industry strong is the driving force behind the Northeast Dairy Compact. Working together is how we have gotten so far. At a later date I will thank all those involved in getting the dairy compact approved.

Today I want to thank the agriculture committee chairmen in Vermont, Senator Tom Bahre and Representative Bobby Starr, Governor Dean, Commissioner Graves, Congressman SANDERS, and the hundreds of dairy farmers in Vermont who worked with me on getting the job done. And I want to say a special thanks to JIM JEFFORDS. He and I have worked side by side throughout this fight.

I also need to highlight the role of Danny Smith. He came down to Washington and worked directly with me on getting the compact included in the final bill. His support was vital.

The compact has come a long way, from the State legislatures of New England, to the Congress.

Vermonters and all of New England know the importance of the dairy industry. But in New England people know that the dairy compact is more than helping farmers, and helping the dairy industry in the region.

To New Englanders, a vital rural agricultural economy is part of both the heritage they treasure and the future in which they believe.

This bill represents real reform of Federal dairy policy. This bill phases down dairy price supports saving more than $300 million, more than 20 percent compared to the baseline. This bill fully funds the Dairy Export Incentive Program and poises the U.S. dairy industry to capture expanding world markets.

The Federal milk orders remain in place but mandates their reform and consolidated the current number of 33 by about two-thirds. I am concerned that the Secretary has been given only 3 years to complete this process. These provisions were hard fought compromises addressing the concerns of farmers, processors, consumers, and the various regions. No region or interest group is completely satisfied, but that is the sign of a good compromise.

A major thrust of this bill is to reduce regulations that are imposed on farmers and ranchers. It reduces conservation regulations and farm program regulations.

The conference report gives farmers a lot more flexibility to decide what crops to plant. That means farmers will be able to choose the crop rotations that are best for their farms, rather than planting to meet the requirements of the farm program.

The bill eliminates existing penalties for producing hay and other resource-conserving crops, so the environment should benefit as well.

The conference report also brings to an end the practice of requiring farmers to idle productive cropland. No longer will USDA decide each year how much land a farmer must set aside to get farm program payments. From now on, the Government will pay farmers to idle land only when that land is environmentally sensitive.

A key section of this farm bill is the continuation of international food aid programs—Public Law 480, Food for Progress and the Emerging Democracy Program. These programs are critical in our global efforts to fight world hunger. Our responsibility to help others is a moral obligation and I am delighted that the importance these programs play in the fight against world hunger is understood by all conferees.

I am pleased with the strong emphasis that this bill places on importance of maintaining strong U.S. agricultural export markets. Export of U.S. agricultural products, especially in the value-added market, is one of the most profitable and fastest growing sectors in our Nation's economy. My home State of Vermont understands its importance. Vermont export statistics indicate that Vermont exported more than $175 million in agricultural-derived products—many of these in the value-added category. That translates into a thriving economy and local job creation.

This bill also streamlines USDA farm lending programs. The conferees worked hard with Secretary Glickman to produce a title both the administration, Congress and farm borrowers can support, and I believe we have crafted an effective policy to help farmers prepare for the next century without creating the dependency on USDA loan programs that have existed in past to the detriment of both USDA and the individual borrowers.

I am disappointed that the conference report does not provide a better safety net for farmers. Farm program payments will not be tied to market conditions, so farmers may get large Government payments when they do not need them, and may not get sufficient aid when times are hard. I hope that we can work on new ways to help farmers deal with market risk.

I am also concerned with some of the changes that have been made in the Crop Insurance Program. Farmers will no longer be required to purchase crop insurance to get farm program benefits. While I support giving farmers freedom of choice, I fear that too many farmers will fail to obtain insurance.

If we have widespread crop disaster and many farmers do not have insurance coverage, there will again be political pressure to enact ad hoc disaster programs. I supported the effort to reform crop insurance in 1994 largely because I wanted to bring an end to ad hoc disaster programs. I want everyone to understand that my willingness to accept these changes in the Crop Insurance Program should not be misinterpreted as a willingness to return to wasteful disaster programs.

I have two major concerns with the meat and poultry advisory panel. First, it will waste money that would be better spent on meat and poultry inspectors. Second, the scope of what the panel can investigate is too broad.

However, on the positive side, the panel is advisory and does not have the constitutional or statutory power to delay food safety actions of the Secretary. Delays will only result if the Secretary voluntarily agrees that the delay is appropriate.

I accepted the provision on studying the usefulness of permitting the interstate shipment of State-inspected meat. This idea was proposed by the President of the United States in his farm bill recommendations. I think it would be useful to have the Secretary's most recent views on this issue.

I am especially happy that this legislation includes a proposal that was added at my request, the Flood Risk Reduction Program contained in section 385. I first became interested in this situation after the disastrous floods of 1993. I raised this issue in a hearing with then Secretary Espy.

I asked the Secretary whether it would make more sense to stop fighting the Mississippi River and the natural elements of these lands and instead to enroll them in the Wetland Reserve Program.

In addition, I spoke to the President personally about this proposal. I also wrote a letter to the President detailing my emergency wetlands reserve initiative that would improve the proposed disaster relief program for the Mississippi Valley floods. In this letter I continued to attack the inefficiency and high cost of the disaster relief program.

In addition, I pointed out that there is a very good possibility that many of the cropland areas that were once wetlands would be better off returned to wetland status rather than repaired and kept in crops.

The success of voluntary programs to help farmers move off flood prone bottom land can be seen in the example of

Levee District 8 in Iowa. This area had a history of flood damage. It would have cost the taxpayer about $1,500 per acre to return this land to farmable condition. And then a few years later, it would have flooded again. Instead this levee district was voluntarily abolished. A decision that works for the farmers and the taxpayer. I ask unanimous consent that a description of that success story be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE 1993 FLOODS—FROM LEVEE DISTRICT TO WILDLIFE REFUGE

(By Bruce Mountain)

The farmers were grim as they stood at the road below Bob Hawk's house that leads into the upper end of Levee District 8 and Louisa County, Iowa. It was 7 a.m. on July 8, 1993, and it appeared they were going to lose again. There had been record rains in the Iowa River Basin; and Levee District 8, only six miles from the Mississippi, was feeling the brunt of the massive run-off as it funneled 12 million acres down the river.

The levee was built in 1927 to protect 2,000 acres of crop ground. The area also contained 600 acres of old oxbows and sloughs (Spitznogle Lake, Sunfish Lake, Rush Lake, Parsons Lake, Wilson Lake, Hall Lake, and Diggins Slough) and riverine forests. It had been estimated the levee was a 25-year levee (able to withstand floods that occur once every 25 years), but in the last 60 years it had been breached 14 times.

This looked like it would be number 15. Ed Yotter and the other farmers stood at 551 feet above sea level, and the lower end of the district, at 541 feet, was already under several feet of water due to seepage up through the saturated ground and through the levee. By 8 a.m. water started to lap over the top of the levee at several locations, so the 25 farmers and neighbors moved off the main levee and worked to reinforce the cross levee between Levee District 8 and the adjacent upstream levee district, number 11.

At 9 a.m. word came that the main levee of District 11 had broken and water was gushing in. By 11 a.m. water was coming over the main levee in District 8 like a waterfall. Officially, the main levee was breached in six locations and the cross levee was breached in five, but actually these were the accumulation of many smaller breaches all along the levees. At its height, the flood water was more than two feet over the top of the levee, drowning the hopes of another year's crop.

When the flood water finally receded in September, the farmers looked over the damage. They were stunned by the numerous scour holes (some 25 to 100 feet long and 17 feet deep), sand deposits (some 6 inches to 6 feet deep), and flotsam. The Soil Conservation Service (SCS), now known as the Natural Resources Conservation Service, moved in to assess the damage to the crop ground in Levee District 8 (it was later set at up to $3,000 per acre) and to estimate the costs to fix the roads and drainage system. The Army Corps of Engineers obtained estimates to fix the levees.

But the landowners were tired of fighting the river. And conservationists and public officials knew this oft-flooded land shouldn't be farmed. For a brief time after the waters receded and before the repairs would need to begin, the situation was ripe for change, and a variety of agencies and nonprofits seized the opportunity. They put together a buy-out of the properties in Levee District Number 8 and created—a year and a half later—Horseshoe Bend, a division of the Mark Twain National Wildlife Refuge and a good case study of how a coalition can move quickly when conditions—and the will for change—are right.

GATHERING FUNDS AND WILLING BUYERS

If the flooding of Louisa County's levee had been a localized incident the levees would have been rebuilt ($800,000), the drainage ditches cleared ($400,000), the sand bars removed, the scour holes filled, and the debris removed ($1.7 million) for an estimated $2.9 million. This excludes the additional costs and federal dollars for disaster payments ($200,000) as well as crop insurance payments and the non-recoverable costs of the landowners. (Today, it is believed that these estimates were low because in the adjacent levee district, number 11, where the levee was actually repaired, the initial estimate proved to be 80 percent below the actual costs.)

This was not, however, a localized incident. The flooding of the entire Upper Mississippi River Basin in 1993 was the worst in years. At many of the U.S. Geological Survey gauging stations along the Mississippi, the flow levels exceeded the hundred year mark. In response, Congress passed the Emergency Wet and Reserve Program (EWRP) in October 1993 as a part of flood relief support. Without the funds provided by this program, the Louisa Levee District buy-out could not have occurred.

The federal government's disaster aid program was developed to provide compensation for severely damaged crop ground and also to break the cycle of paying for similar damage caused by future floods. Under the program, the Department of Agriculture would purchase a permanent easement on crop acres where the damage caused by the flood exceeded the value of the easement. The easement would prohibit all but very limited agricultural practices, and in Louisa County, it was set at $683 per acre.

In early October, the Iowa office of the SCS proposed the idea of buying out the entire levee district, but only from willing sellers and only if the district were dissolved so as to ensure that future levee reconstruction costs would not be incurred. The SCS did not have the funds or the statutory authority to purchase the district, so, in late October, it organized meeting with its own representatives, the Fish and Wildlife Service (FWS), the Federal Emergency Management Agency (FEMA), the Environmental Protection Agency (EPA), the Corps, the Iowa Department of Natural Resources, the Iowa Natural Heritage Foundation, Pheasants Forever, and other interested parties to seek a solution.

The group immediately realized that for the project to be successful, quick action would be needed. With winter approaching, the dredge barges the Corps needed to repair the levees would soon be frozen out. The group thought that a buy-out of the fee title to the parcels in the levee district could be accomplished through joining the Emergency Wetland Reserve payment with additional cash to be raised to equal the fair market value of the property.

The area also qualified for FEMA assistance. Applications were made to the Iowa Disaster Management Office, which helped handle FEMA payments, to have the buy-out declared as an alternative floodplain project. That declaration would make up to 90 percent of the disaster payments eligible to be applied for the buy-out. However, an estimated additional $500,000 to $600,000 would still be needed to accomplish the project. Representatives for the FWS indicated they would have the money but not until 1994. The National Fish and Wildlife Foundation then agreed to provide a $250,000 grant to be matched by $250,000 from The Conservation Fund; these monies would be used as a loan or stop-gap funding until the FWS funds became available. Other non-profits, such as the Iowa Natural Heritage Foundation and Pheasants Forever, also provided funding.

The Iowa Natural Heritage Foundation, a 15-year-old private group, was asked to be the project facilitator. The Foundation would coordinate the offers to purchase land from the individual landowners, coordinate the Emergency Wetland Reserve Program funding with the National Fish and Wildlife Foundation and Conservation Fund monies, and oversee the eventual transfer of the properties. Before the buy-out could proceed, the ultimate owner and manager of the area had to be determined. The choice was between the Iowa Department of Natural Resources and the Fish and Wildlife Service. Due in part to state budgetary constraints and federal management personnel available at the nearby Mark Twain Wildlife Refuge, the FWS was the logical choice to hold title and manage the project.

Another condition for the project to proceed was the closing of the levee district and drainage district. Therefore, the statutory requirements for closing the districts, including legal notice and voting procedures, had to be researched. The final closing took place on March 31, 1994.

Once the landowners agreed to the concept, offers to purchase had to be negotiated with each landowner. The district is owned by 13 different landowners with parcels ranging in size from 13 acres to more than 1,500 acres. One farm is owned by an investor/operator, and another was deeded by President James Polk under federal patent to the owners, Jack and Merrit Parsons's great-great-grandfather, in 1846. Two sisters, Mary Boysen and Martha Hawk, each owned Century Farms, a designation given to farms that have been in the same family for 100 years. Another farm was acquired by duck hunters in 1929, and it is still operated as a private duck hunting club by the heirs of the six original partners.

We concluded that all of the offers to landowners had to be based on a consistently applied formula. Several of the landowners said that they were dissatisfied with the offers, but eventually agreed to them, based on the knowledge that other landowners were getting the same offers and that there were no "special deals." By sticking to this strategy, individual negotiations and appraisals were avoided.

The first offer was signed December 13, 1993, and the last one was executed May 6, 1994. Seven of the ten landowners had closed by November 30, 1994. The rest closed by the end of 1994 as the farmers finished their field work.

MANY PARTNERS

Completing a project with so many partners and landowners in such a short time required creativity, cooperation, and attention to detail. One of the more important aspects of this partnership was the Cooperative Agreement signed by the Soil Conservation Service, the Fish and Wildlife Service, and the Iowa Natural Heritage Foundation. This agreement delineates the responsibilities of each party. One useful provision of the agreement is one that specifies that access will be available to top-level officials when efforts were stymied on the local level.

The public/private mix in the project was important. The public and private partners can be divided into five categories, each of which served different roles and functions: implementing non-profit organizations, jurisdictional agencies, funding agencies, funding non-profits, and project managing agencies.

In this project, the Iowa Natural Heritage Foundation was an implementing or facilitating non-profit organization. An implementing non-profit was necessary because flexibility and speed were needed to consummate the project. The Iowa Natural Heritage Foundation's Wetlands for Iowa Program was chosen for the project, in part, because it has expertise in land acquisition projects and in forming partnerships with state and federal agencies and other non-profits to fund the purchase of such projects. In this case, the Wetlands for Iowa Program had the responsibility to educate landowners on the concept of merging the Emergency Wetland Reserve Program easement with a buy-out.

The Foundation also had many other tasks. It did a preliminary appraisal of the land in November of 1993 and devised the uniform buy-out plan. It paid for a quick appraisal of cropland and non-cropland based on comparable sales and pre-flood land values. From this, a portion of the value due to the flood damage, as determined by SCS, was deducted to arrive at the current value. In dealing with non-motivated sellers, the Foundation packaged the idea as an attractive alternative to farming in the floodplain and as being fair among all neighbors.

The Foundation also negotiated offers to purchase land with each landowner and provided the flexibility to customize each transaction. Tax deferments were provided through three-way land exchanges. For example, the Foundation purchased land from a third party (pursuant to the instructions of the owner of levee district land) and then traded the land for land in the levee district. The Foundation then would receive the EWRP payment. Non-levee district acres were purchased to round out tracts that were not eligible for the EWRP. For example, the Spitznogle brothers owned 12 acres inside the levee district, but wanted to sell 20 acres to have square boundaries. The additional eight acres was purchased with some of the funds provided by other nonprofits.

Finally, the Iowa Natural Heritage Foundation developed a timetable for all public and private participants to ensure each was fulfilling its responsibilities. These included appraisals, surveys, title problems, financing, preparing grant applications, closing on each parcel, and transferring each to the Fish and Wildlife Service.

The many jurisdictional agencies involved in the project—the Soil Conservation Service, the Fish and Wildlife Service, the Federal Emergency Management Agency, and the Corps—had responsibilities that varied in breadth and longevity. The SCS was responsible for evaluating flood damage to each land parcel and for implementing the Emergency Wetland Reserve Program. The wetland restoration requirements of the EWRP for the participating landowners were the responsibility of the FWS. The FWS also conducted the environmental assessment and environmental impact studies and engaged an independent appraiser to assess the properties and develop comparable figures from in-house appraisers. These figures were very close to the "quickie" appraisal obtained by the Iowa Natural Heritage Foundation.

FEMA's involvement included assessing damage compensation under its statutory authority and developing the project as an alternative plan. FEMA also had a role as a funding agency for the project as did the SCS and the FWS. Funding non-profits included the Iowa Natural Heritage Foundation, the National Fish and Wildlife Foundation, The Conservation Fund, Pheasants Forever, and the Izaak Walton League. The fifth category of partners were project managing agencies, which included the SCS, the FWS, and the Corps.

Typically, this type of project does not work in normal regulatory frameworks. Entrenched bureaucrats, enamored with their own regulations, can be a death knell to a project. The time it takes to babysit hesitant landowners and coordinate state and federal agencies does not permit one agency to be inflexible in interpreting its regulations when the intent of the regulations can be met through cooperative and imaginative initiatives. All partners need access to top agency personnel because someone outside the organization can sometimes get results, whereas agency personnel may not have the authority or the influence to buck their way up the system.

The Louisa County levee buy-out required close interagency cooperation. As an example, SCS defined the value of damages to the land for purposes of qualification for EWRP. FWS then directed its appraisers to use the same data and valuation premises in determining the fair market value of the land. We would have had difficulty closing the project if the agencies had used two different methods of appraisal and the land qualified for EWRP but would not qualify for the buy-out.

Another example: Regulations for the SCS for EWRP easements, and the FWS for land acquisitions, required their respective legal counsel to determine that landowners had marketable title to the land, subject to the guidelines of the project. Through negotiations, SCS agreed to accept FWS opinions of title. This avoided a separate time-consuming step by keeping the project out of the hands of at least one set of government lawyers.

The last ingredient for success was agency flexibility. For example, EWRP regulations require all easements to be surveyed and this would have caused an immense delay in the project. To its credit, SCS waived these regulations, since most of the acquisitions involved the entire tract. Surveys were then conducted only on five parcels split on irregular boundary lines.

SEVERE LESSONS

This unique project is giving farmers an opportunity to find alternative agricultural land to continue farming without fighting the floods. Additionally, it provides short- and long-term savings to taxpayers because a one-time, fair-market purchase of flood-prone land is much cheaper than continued, expensive federal programs to rebuild levees, clean drainage districts, repair land, and pay disaster payments. All of these costs are interspersed with crop-deficiency payments and insurance claims. In addition, our latest calculation shows the Fish and Wildlife Service saved $235,000 by having the Iowa Natural Heritage Foundation facilitate the transactions. The federal government still has the responsibility to provide existing protection in certain floodplains; but it also must develop alternatives to controlling nature, such as relocating willing landowners and returning parts of the floodplain to the river.

The great flood of 1993 taught us some severe lessons. We have to expand our mission from just controlling the water that affects our individual properties to effectively dealing with the effects of the water all the way down the river ecosystem. We also have to learn to live with the river system by holding more of the rain water where it falls and by slowing its movement through the system, thereby allowing the river to reestablish some of its checks and balances.

Lastly, we have to stop "just greasing the squeaky wheel" and find ways to spread the available federal funds for floodplain management among the various alternatives that benefit the general public. This includes developing a management plan for the entire river system, coordinating pertinent programs and agencies and—where there are willing landowners—giving some of our natural resources back to nature.

Mr. LEAHY. The experience with the Emergency Wetland Reserve Program led me to include the flood risk reduction initiative into this legislation. The purpose of this program is to help farmers who farm in areas that flood frequently to move their farming activities off lands that are flooded frequently. It helps farmers by giving them the capital that they need to move their farming operations to fewer risky areas. To the taxpayer, it is a commonsense program that will reduce the long-term taxpayers' exposure for agriculturally related flooding costs. It should help reduce the severity and frequency of floods to the farmers' neighbors.

Crop damages in recent years have been the source of more than half of the property damages in many floods, including the great Midwest flood of 1993. Our farm programs have unfortunately provided incentives that increase flood damages because they have directly supported the growing of easily damaged commodities even in areas that are flood prone. The crop insurance, disaster assistance, and related programs also make the public assume much of the risk of growing commodities in flood prone areas. We have a strong interest in eliminating the authority to help farmers to switch to more flood resistant uses of flood prone land.

It gives farmers the financial capability to move their operations to less risky land. The incentives for farmers to switch to less risky land come from the funds that have in the past been paid to farmers who farm the flood prone land. In this way, we will give farmers in flood prone areas the flexibility to shift to alternative agricultural or conservation uses of land that are less subject to flood damages.

Under section 385 of this act, the Secretary may enter into a contract with a producer under which the producer will agree to forego virtually all of the forms of Federal financial assistance received in flood prone areas. In return, this section provides that the Secretary will provide the farmer a one-time payment equal to 95 percent of the future market transition payments on the land affected. It further provides these funds from the Commodity Credit

Corporation regardless of whether it has received advanced appropriations.

Subsection (e) of this section further authorizes the Secretary to provide additional payments to encourage this switch to less flood-sensitive land. It gives the Secretary the authority to add to the farm bills' lump sum payments, funds appropriated for programs that would otherwise be used to support agriculture in flood plains. For example, at a minimum this would include funds appropriated for crop insurance, disaster assistance or conservation programs.

The Secretary is, of course, free to condition payment for these funds on appropriate conditions.

The conferees, by including a separate subsection (e), were merely recognizing that funds are available to the Secretary from different sources—CCC and advanced appropriations. The conference included language requiring advanced appropriations because the conference wished the Secretary to offset any funds provided through the Flood Risk Reduction Program from funds for other appropriated programs that are saved by the flood risk reduction contract.

As you can see, I have fought hard for this Flood Risk Reduction Program. That is why, I am very pleased it is part of this farm bill.

Mr. President, I will speak further at a later time. I notice other Senators on the floor. I see the distinguished senior Senator from North Dakota here, and I know he wishes to speak. I reserve the remainder of my time.

I ask the distinguished Senator, under whose time is he speaking?

Mr. CONRAD. Who has time?

Mr. LEAHY. I think everybody does, for and against.

Mr. CONRAD. I would be speaking in opposition.

Mr. LEAHY. Then, Mr. President, that time is reserved by the distinguished Democratic leader, Senator DASCHLE. On his behalf, I yield time to the Senator from North Dakota under the control of the time of the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized. How much time does he seek?

Mr. CONRAD. I will just proceed and end at an appropriate time. That is the agreement that I have.

The PRESIDING OFFICER. The Senator from North Dakota [Mr. CONRAD], is recognized.

Mr. CONRAD. I thank the Chair and the ranking member for his courtesy. I thank the chairman of the committee, as well, for his graciousness throughout the debate. We have disagreed, but we have disagreed in a way that I think you would expect of Senators who have mutual respect. I certainly respect the chairman and the ranking member. I wish all committees were conducted in the way the Agriculture Committee is conducted. People are given a complete and fair chance to present their views. We disagree, but we do it without personal rancor. I think that is a tribute to the chairman and ranking member.

Mr. President, we are in 1996, and we are working on the 1995 farm bill. Something is wrong. What is wrong is that there has been a failure to act. This is the first time since 1947 that a farm bill has lapsed before a new farm bill has been put in place. So we are late.

Mr. President, it is critical that we act quickly so that farmers know the rules of the road as they proceed in this new crop year.

This new farm bill has many positive elements. Let me talk about three.

First, this farm bill retains permanent law. That is critically important because, at the end of this 7-year period, if we had followed the lead of the House, there would be nothing. There would be no permanent farm law. Farmers would have no assurance that there was provision for them in the future. Mr. President, we have had tough fights on this question, but permanent law has been preserved.

The second positive element of this bill is that it provides a dramatic increase in flexibility for farmers. They can plant for the market and not for the farm program. That is certainly a significant improvement.

Third, this farm bill provides a guaranteed payment that will help farmers with the repayment of advanced deficiencies from last year. Now, some say that farmers ought to be repaying, without assistance, their advanced deficiencies from last year because prices have been high. It is true that prices are very good right now. But it is also true that you do not benefit from high prices if you do not have a crop.

Mr. President, in my State, many farmers have had 3 years of very poor crops. They have had it because of very serious weather conditions. We have gone from the extraordinary circumstance of the worst drought since the 1930's—in 1988 and 1989—to having the wettest conditions, we have seen in decades, for 3 years in a row.

Mr. President, it is very hard for some people to understand why farmers are complaining about weather conditions, when conditions turn wet. Mr. President, they just did not turn wet; we got the deluge of the century. In one day, one little town in North Dakota received 10 inches of rain. This is an area that gets maybe 25 inches a year. They received 10 inches in one day. We have, in the Devil's Lake basin, what I have described to my colleagues in the past as a remarkable circumstance of a closed basin with a large lake that is rising as a result of these wet conditions. It has gone up 13 feet in the last 2 years. The National Weather Service has just informed us it is going to go up another 2½ feet this year. The surface area of the lake has doubled. We had Federal officials come out to look at the disaster that is occurring there.

They asked the city officials of the little town of Minnewaukan why they built their water treatment facility so close to this lake because now this water treatment facility is surrounded on three sides by this lake. The city officials laughed, and told the Federal officials, "When we built this treatment facility it was 7 miles from the lake. Now it is surrounded by the lake."

Mr. President, those very wet conditions have meant that many farmers have gotten only a partial crop, and even though prices are high they have not had the benefit because they have not had a crop to sell. So these guaranteed payments—especially this year—are important in allowing them to repay and stay in business.

But just as I have talked about what are I think the positive features of this bill, I would be remiss if I did not say that I believe the underlying farm policy contained in this legislation is fatally flawed. First of all, it decouples payments from prices and production. Mr. President, that is wrong. This legislation contains payments that are fixed but sharply declining. That is wrong. This legislation provides no adjustments if prices plunge, or yields are low. That is wrong.

I remember very well in 1986—that was the year I was elected to the U.S. Senate—wheat that is now selling for over $5 a bushel was selling for $2 a bushel. But we had a safety net. We had a deficiency payment system that allowed some offsets from the Federal Government. That saved literally thousands of family farmers in my State. Under this legislation there will be no safety net. Thousands of farmers will be forced off the land if prices plunge, or if yields are abnormally low because of disasters.

I remember very well what it was like in the 1980's going town to town and meeting to meeting. People came up to me broken financially and in spirit because prices collapsed.

Mr. President, we should not fashion a farm policy that turns its back on people in times of disaster, whether it is a price collapse, or a weather disaster. We ought to maintain a safety net in this legislation.

Mr. President, in my State there are now 30,000 farmers. I believe that under this legislation if prices decline—and they will; we know that it is inevitable in agriculture that prices will decline—when they do, literally thousands of family farmers in my State will be at risk. I believe we will lose perhaps as many as 10,000 family farmers. That will be felt in every city and town in my State. Every school, every rural electric cooperative, every farm co-op, and every grocery store will be hard hit, if more farmers leave the land. And what will happen to those people? They will go to the cities of the country—the cities where there are already too many people. I look around us here in the Nation's Capital, Metropolitan D.C. and I see too many people here already. It makes no sense to have more people come to the cities and leave the countryside bare.

Mr. President, in Europe they have a policy to keep people on the land. Europe has that policy because they have recognized that it makes sense. They understand the jobs that are created by having agricultural production in their countries. Mr. President, Europe has been hungry twice. They never intend to be hungry again. As a result, they support their farmers at a level three to four times what we do for ourselves. On exports they support their producers at a level eight times ours. They understand that there are not just the jobs on the farm—that there are the jobs in every element of agriculture that are attached to having that production in their countries.

In this country there are 20 million jobs involved in agribusiness, from trucking to running the elevator, to all the ancillary activities of agricultural production—20 million jobs. Agriculture is one of the two shining lights in the export picture of the United States. Airplanes and agriculture are two places where we enjoy a substantial trade surplus.

But under this legislation, Mr. President, we are raising the white flag of surrender. We are engaged in what I call "unilateral disarmament" because we are saying to our competitors, "You go ahead and aggressively seek these markets. We are going to back off. We are going to back down. We are going to let you take them."

Mr. President, this is a profound mistake. And, if we allow it to go forward, we will see happen to us in agriculture what has happened to us in automobiles and electronics, and every other place where the United States did not fight for its market share.

Mr. President, that is a mistake. We would never do it in a military confrontation. It makes no sense to do it in a trade battle.

Mr. President, for those reasons I will reluctantly vote against this farm bill in the hopes that it will send a signal that there are things we must do for the future.

(The remarks of Mr. CONRAD pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Who yields time?

Mr. DORGAN. Mr. President, can you tell me the circumstances of the time available on each side?

The PRESIDING OFFICER. The Democratic leader has 122 minutes, the Republican leader has 65 minutes. Senator LEAHY has 50 minutes.

Mr. DORGAN. The Democratic leader has how much time?

The PRESIDING OFFICER. He has 120 minutes.

Mr. DORGAN. Let me yield such time as I may consume from the allocation allotted to the Democratic leader.

The PRESIDING OFFICER. The Senator from North Dakota [Mr. DORGAN], is recognized.

Mr. DORGAN. Mr. President, the conference report on the farm bill is now before the Senate. I listened to the presentation by my colleague, Senator CONRAD, who intends to vote against it. I, too, will vote against it. This is not a decent farm bill. It is not a good farm bill. It is attractive to some in the short term. It is sugar coating bad policy.

Those who walk around here with bags of sugar putting out bad policy and want to brag that they have done something good for people I guess might actually, in their minds, feel they have done something good for somebody. However, I cannot conceive that this piece of legislation, being addressed in a serious way, says that we want to help family-sized farms in this country.

This is not a good piece of legislation. This started out as something called Freedom to Farm, which is a handy title, but it really is nothing more than a title. The whole proposition here was to create what is called transition payments. We would create these transition payments in order to get out of a farm program and pull the safety net out from under family farmers.

I guess it is appropriate for those who do not want a minimum wage increase for the folks working at the bottom of the economic ladder to say we do not want a minimum wage for farmers either. Let us pull the rug out from under family farmers. Let us do it this way. Let us provide transition payments to farmers up front as a payment for our getting out of the business of helping farmers when prices collapse.

And so they make the transition payments attractive enough so someone looks at them the first year and says, "well, this is going to a be pretty good circumstance the first year; if I get a good crop and prices are high, I will make good money, plus the Government will give me a good payment." And they say, "well, that is pretty attractive, isn't it?"

Yes, it is attractive. It is wrong. If you have a good crop and prices are high, you do not need the Government to give you a payment for anything. But the whole premise of doing this is so that at the end of the 7 years you can pull the rug out from under them and say, "By the way, we gave you transition payments; we bought you off up front so you have no farm program anymore; you have no safety net any longer."

This bill passed the Congress, both the House and the Senate, and then went to conference, and I wish to show my colleagues a chart that just pulls off the first sentence of a rather lengthy Associated Press piece describing this piece of legislation. It says it better than I could, but let me just read it. Lest anyone who comes here bragging about how wonderful this bill is for family farmers wants to continue to brag about that, here is what this bill is. Robert Green had it right in the Associated Press:

> With a mix of luck, work, and unusual organization, the lobby for big grain companies, railroads, meat companies, millers and shippers scored a big win in the Senate-passed overhaul of farm programs.

This is the overhaul of those farm programs. This is what they won, not farmers. This is what the big grain trade firms won. They scored a big victory. Guess what. When the big grain trade firms win, who loses? Family farmers.

Is it unusual that the winner coming out of a debate about farm policy in this Congress would be the biggest grain trade firms in the world? I guess not. They have been winning right along. Why would they not win this debate?

What bothers me a little bit is that the bill which is going to help family farmers is mislabeled. It is a bill designed to tell farmers this is going to be in your best interests. The bill tries to sound attractive to farmers as a set of agricultural policies, but it is really a big grain trade farm bill. They scored the big victory. They are the winners.

Now, what do we have when we deal with farmers? What we have in most cases is a group of family operations out there around the country. They get up in the morning. They work hard. They go to bed at night. They have tried to make their own way. They have a yard light out there in the yard that shines every night.

If you get on an airplane and fly across this country, fly across Minnesota, North Dakota, South Dakota, Montana, what you see are those thousands of yard lights on at night. They all represent the economic blood vessels that feed into those small towns that make rural life worthwhile and possible. Every time one of those yard lights turns out, it means a little less economic life, a little less opportunity in rural America. And we have seen year after year after year fewer yard lights in our country.

There are some people who say it does not matter whether there are any lights out there in the prairie. They do not care whether the lights dot the prairie at night; that land will be farmed. We do not have to have people living out there to have people farming. We can have corporate agrifactories farm this country from California to Maine. We do not have to worry about the little guy. We do not have to worry about the family. It will get farmed. We have bigger tractors and bigger combines. We have bigger corporations. They will farm it. They are big enough.

So if you do not care who lives there, whether there are families out there, then this is probably a great policy. Of course, food prices will go up once corporations are farming the country, but that is in the longer term. That may be what is behind all this. I do not know.

I do know this. I have a friend who lives 5 miles south of Regent, ND, in Indian Creek. He is down there trying to operate a small farm, planting in the spring, not knowing whether what he is going to spend on planting—buying the seed, fertilizer, having a tractor—it is an older tractor but having a tractor—and all the apparatus to plant that seed, he does not know whether that seed is going to grow.

All that money might be wasted because that seed may not grow. We may have a drought. It may not come up. So you invest all that money at the front end of the year and you may have no crop. Or it may come up and you may have the most beautiful looking crop you have ever seen, and then in July or June a hailstorm comes along and in 15 minutes the crop is gone. Your money is gone. Your dreams are gone. Your hope is gone.

Or let us assume that he plants that crop, it comes up, and it is a gorgeous crop, a bumper crop, and then he fixes up the combine and gases up and goes to harvest that crop and discovers the price has collapsed. This crop cost him $4.70 a bushel to produce, and then he takes the truck to the elevator and drops off his grain or her grain and discovers that the elevator says it is worth $3 a bushel. They have lost a $1.70 a bushel with all that work.

First you may not get a crop. If you get a crop, you may not get a price. Those are the twin risks that almost no one else in our country faces. For that reason, because we want families to have an opportunity to stay on the farm, we have had a safety net. The new mantra here in Washington is "no more safety net." Let's do transition payments, buy them off and say, by the way, we think you ought to operate in the free market.

Now, who is in the free market? What are the sharks out there in the free market going to do when we set all of this free? First of all, you have the big grain trading firms. What do they want? Do they want higher prices? Absolutely not. They would like lower prices. You have the big milling firms. Are they begging for higher grain prices? No. They want lower prices. You have the grocery manufacturers. Do they want higher grain prices? No. They want lower grain prices.

You have all these influences in the marketplace that in every way, every day are trying to knock down grain prices. When they win, farmers lose. Lower grain prices mean farmers simply do not have the opportunity to make a profit on their product.

I have shown you the story that I think is probably the only accurate one I have seen about what really happened with the farm bill passed by the Senate and now is back before us:

> With a mix of luck, work, and unusual organization, the lobby for the big grain companies, railroads, meat companies, millers and shippers scored a big win in the Senate-passed overhaul of farm programs.

When big grain companies, the big shippers, the meat companies, and the grocery manufacturers are having a party, when they are having a day of fiesta because of what this Senate did, does anybody here soberly believe that is in the interest of family farmers? Those interests do not run parallel, and everybody in this Chamber knows it. When these big grain companies win, farmers lose. It is very simple.

Let me talk just for a moment about grain prices. Some people say grain prices are high right now, and they are record high compared to the last 10 years. Take a look at what has happened to the price of wheat in 10 years. It goes all over the board. I must say, in every case the price of wheat is still below what the USDA says it costs to produce a bushel of wheat, $4.70 a bushel. In every case for 10 years the market price is still below what USDA says it costs, the full cost, to produce a bushel of wheat.

Nonetheless, the wheat prices go down to $2.33 in 1977, meander up to $2.49, back to $2.42 in 1986. In fact, just 5 years ago wheat prices were $2.61. I ask anybody in this Chamber, how many farm units do they think will survive if we get to the point of $2.60 wheat and no safety net? What will happen when we have transitioned people out of the farm program because we said we will give you a few payments up front and then you are on your own.

I know I strongly supported retaining permanent law until the year 2002, but everybody understands they included that in this bill to get it passed. The full intention of those who support this farm legislation is to transition farmers out of a circumstance where a safety net exists so when prices collapse they have a little help.

I am the first to admit, when they stand up to talk about, "The farm program does not work," I am the first to admit the farm program, in my judgment, needs improving. It became a straitjacket for farmers. We had the Government telling farmers what to plant and when to plant it, and that did not make any sense. Every proposal before the Congress would have changed that, including the substitute that we offered.

The current program did not work very well. What should have been a bridge across price valleys became a set of golden arches for the biggest producers in the country. I agree with that as well, and that ought to change. But none of those criticisms are a justification for pulling the rug out from under family farmers—none. If we are going to write a farm bill, we ought to do it seriously and thoughtfully, in a way that says this farm bill cares about whether we have family farmers.

Mr. President, if we in the Congress are not interested in who farms, if we are neutral on the question of whether there are family farms out there with yard lights burning and people living on the farms, if we are neutral on that, if we do not care, then get rid of the whole farm program. Get rid of it altogether. We do not need a farm program. Do we need a farm program to give incentives to the biggest agrifactories to produce? I do not think so. Let them produce for the market. Let us get rid of the farm program.

USDA was created under Abraham Lincoln. Abe Lincoln created the Department of Agriculture with nine employees—think of that. In the 1860's, USDA, nine employees. Now, a century and a third later, we have a USDA with close to 100,000 employees. A third of those, I guess, are in the Forest Service. But think of what has happened with the USDA. We do not need a USDA, in my judgment, if the purpose of the farm program here in Congress is not to try to nurture and maintain and help and strengthen family farms.

Someone says, how do you define a family farm? I do not have a simple definition. I guess a yard light. I mean, a family living out there on the farm, human beings living out there, that is a family farm, I guess I could define it.

Michelangelo was asked, "How did you carve David?"

"I chipped away a piece of marble at a time and chipped away everything that was not David."

I could chip away everything that is not a family farm and have a practical definition, I suppose. But my point is: If our business is not to try to help families to have an opportunity to survive the twin risks of the possibility of not being able to produce anything and the possibility of producing something and having no price, what is our business? If our business is not to try to protect those families or give those families some help, let us not have a farm program at all. If it is our business, let us create a farm program that does just that.

This farm program says to farmers, we are neutral on the issue of whether families are living on the land. It says to farmers, "We are going to transition you." We are going to say to you, "We will give you some really attractive-looking things in the first year or so. Then, we are going to pull the rug out."

We are going to say to you, "You might have record wheat prices this year, grain prices this year. You might have a bumper crop this year. You might have the best income you have had in a century of your family living on and operating on the land. We do not care. We are going to give you a big Government payment. But, down the road, you and your family might suffer catastrophe: no crop, no price, and do you know what we are going to say to you then? Tough luck."

This year we are going to say, "Here is a payment you do not need," and a few years down the road we are going to say, "Sayonara, tough luck. We do not care." That is not much of a farm bill, as far as I am concerned.

For farmers in this country, people out there who are trying to make a living, struggling against the odds, trying to deal with economic influences that are so much larger and so much more powerful than they are—this piece of legislation, while attractive in the first year or two, in my judgment undercuts the true long-term interests of trying to maintain a network of family farms in our country.

Let me finish where I started. We have kind of come full circle, in many respects. I know there are people on this floor who do not like what I said. They will stand up and say it is all baloney, this is a wonderful bill, they worked hard on it, they are wonderful people, and so on and so forth.

Let me admit they are wonderful people and worked hard on it, but let me also say the product they came up with does not serve the interests of family farmers in this country. I do not want more Government in agriculture. I want Government to let farmers farm. But I also want to care whether there are family farmers left in our country. I want us, as a country, if we have a farm policy and we are going to spend money on a farm policy, to decide we are going to spend it in pursuit of helping farmers when prices collapse, helping them stay on the land.

If that is not our business, get rid of the whole business, just get rid of it all. Do not come here and pretend you are passing a bill that is good for family farmers when you are going to pull the rug out from under them 5 or 10 years from today.

There is great disagreement in my State among farm organizations and commodity groups on this subject, but there ought to be no disagreement that family farmers have been the economic all-stars in our country. We have had, for some long while, a basic safety net to try to help family farmers over price valleys, when international prices drop and stay down. Those who believe that such a safety net is ill-advised are often the same people who are here suggesting minimum wages do not matter and a whole series of other economic contentions that I fundamentally disagree with.

I think, if we are going to spend billions, we ought to decide to spend billions in pursuit of policies that really do help America's family farmers, America's economic all stars. The failure to do that forces me to vote against this piece of legislation and to conclude that the winners, as is indicated in this piece of work, are the grain trade firms. The winners are the millers. The winners are the grocery manufacturers. Sadly, the losers will be America's family farmers.

We will have another day. This is advertised as a 7-year farm bill. There will be changes in this body and, when there are changes sufficient so that those of us who believe differently can come to the Chamber with additional ideas and have the votes to pass them, you will see a new farm program. This may last a year. But I tell you this, when this Chamber changes, we will be back. Those of us who believe that there are two sides to this issue, that the economic well-being of the big grain trading firms in this country is assured by their economic strength but that the economic well-being of family farmers is assured by our determination to try to help them, will be back. Those of us who believe this will come back with a farm bill that will work for family farms in our country.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

Mr. LUGAR. Mr. President, I yield time to the distinguished Senator from Idaho.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Idaho [Mr. CRAIG], is recognized.

Mr. CRAIG. Mr. President, let me thank the distinguished chairman of the Senate Agriculture Committee, Senator LUGAR, for yielding time.

At the outset, let me thank Chairman LUGAR and the ranking minority member, Senator LEAHY, for the bipartisan way they worked, together with the whole committee, in crafting the farm bill that we have before us today. It was a tremendous pleasure for me and my staff to work with the staff of the Agriculture Committee to produce what I think is a truly revolutionary document, and a change, a positive change for American agriculture.

Let me also recognize Sara Braasch, who worked with me on my staff, for the tremendous effort she put in, working with the Senate Agriculture Committee staff, resolving so many different issues that make up a good farm bill.

Over the course of the last 2 years I have held a series of meetings across my State, meeting with farmers and ranchers about what they thought ought to be in a new farm bill, a new, national, public policy, as to how Government, Federal Government, ought to interface with American agriculture and Idaho agriculture. I heard in so many ways a level of frustration mounting across my State that, while they thought some level of farm policy was necessary, Government was no longer a cooperating partner.

It had become a traffic cop, if you will, a conservation cop, if you will, telling that family farmer how to farm, what to farm, how much residue they could have on their soil, how they would have to do this, maybe they ought to change their equipment line to accomplish a different form of farming.

I doubt that that is the kind of agriculture that Abraham Lincoln envisioned when he created USDA. I think he saw USDA as a partner for research, as a partner for bringing on new concepts and ideas, but certainly not as a large, monolithic governmental agency that was telling production agriculture how it ought to farm, and that is exactly where we saw farm policy heading.

This weekend, I met, once again, with farmers in Idaho to talk about what is in the new farm bill. There were potato growers there, bean growers, wheat growers, barley growers, ranchers—a broad cross-section—along with processors. They were pleased with what they began to see and hear. Dairy was there, and dairy, of course, is a large and growing segment of my State's agriculture. They are concerned, but they believe that we have made the right decisions to move them toward a more open market.

That is exactly what I think we have accomplished: a significant change in agricultural policy, as the chairman of our committee so clearly spoke to last evening, and a very important change.

We are saying to American agriculture, "You have an opportunity now to adjust and change with the markets; that you don't have to farm to the program; that you don't have to have the Federal agent who comes out and says, 'Oh, I think you are 7, 8, 10 percent over acreage, you are beyond the flex, you better take some of that out or change it a little bit.'" Is that farming or playing the game?

The young farmers of Idaho—and, yes, they are family farmers—but they have millions of dollars invested. I find it interesting, when we worry about farmers, we always fall back on the word "family," "family." Farming is a big business in my State today. It is family-run, in many instances, but those families have assets in the millions of dollars, and they work daily as astute, well-trained businessmen and women trying to operate their agribusinesses.

We know agriculture is changing, and we know that it is capable of adapting. When those young farmers and ranchers come to me, in most instances they find Government the liability and not the asset. I think that is why they look at what we are doing in S. 1541, and the new farm bill that we have before us, and say this is good policy.

I will be the first to recommend to our chairman that the responsibility of the Senate Ag Committee over the next several years will be to monitor, to do effective oversight, to make sure that that which we are crafting into policy that will hit the ground in rule and regulation that American agriculture will respond to, we ought to watch, especially in the more complicated areas like the dairy policy. But certainly, as the chairman said last night, there will be fewer visits to the local USDA office by production agriculture in the coming years, he speaks well, because there should be. We are saying to American agriculture and to my farmers in Idaho today, you have great flexibility to do what you said you wanted to do.

There are some provisions in this bill that are enhanced substantially, because along with all that we heard from agriculture over the last several years, Mr. President, there are several things we also heard that we just did not change and did not just take away from farm policy. Conservation is one of those. The CRP program has worked well in my State, and agriculture likes it because it gives us an opportunity to build back wildlife habitat and to improve water quality and to improve the erosion that was happening on some of our more erodible lands, some of our steeper landscapes.

We kept CRP. We strengthened the conservation program. We recognized that here is where USDA and Government can be a cooperating partner, and I underline the word "cooperating," not going in and telling them, "Here is how you must do it," but "Here are a variety of ways to manage your assets in a way that we can provide a better environment, and you can enhance your farmstead and all that you have on your private property."

Clearly, the chairman and the ranking minority member worked with all of us to assure that we had a strong CRP program; the creation of a wildlife habitat program; a grazing lands conservation initiative that will provide technical assistance to private landowners in grazing areas, again, a very positive approach toward dealing with the responsibilities we ought to have; an extension of the resource conservation and development districts. That which the House did not do, we reinstated.

We have strong water language, as was spoken to last night by the Senator from Washington as it relates to the responsibility of the U.S. Forest Service in responding to the relicensing or the recertification of water projects on public lands without holding these municipalities or water districts hostage or blackmailing them, as they should not do but as they were doing. We have offered a moratorium to make sure that we get USDA to understand their responsible and legal role under Western water law, and that is, not to take without compensation a property right as is clearly established under Western water law.

Guaranteed payments to wheat and barley growers to help provide stability over a 7-year period—somebody said no more safety nets. I think we have provided a very good glidepath and a very substantial ramp on which to glide that path toward the market, and that is what we are asking American agriculture to do.

I fought hard for a readjustment in an important program for my State, the sugar program. We have made major changes in deregulating it and creating greater flexibility. But it is a program that is no net cost to the taxpayer. It is one that pays for itself, and it is one in which, again, Government can play a valuable role, and that is to solve the political barriers that oftentimes happen in trade, where we can have massive dumping in a domestic market that could destroy that market for the producer. We have said, "Here are the regulations and the process that will protect the domestic producer, while recognizing our responsibility to the consumer," and I think the sugar program reflects that.

The one program that was the most difficult to change was the program that was the most regulated, and that was the dairy program. Literally for months in the Senate we tried to resolve that issue. In the House, there was a stalemate. Finally, in the last hours, we were able to work out compromises that like, again, all other programs in this bill, moves the dairy producer toward the market while at the same time allowing a tremendous opportunity for that individual producer to get into world markets. That is exactly where production agriculture in our country today must go to remain profitable.

I said on the floor of the Senate some months ago that in my youth, I had the opportunity to be a national officer in the once called Future Farmers of America, now known as FFA. I remember standing on the floor at State conventions around this country and saying one farmer produced enough for his or herself and 30 other Americans.

Today, we know that has changed dramatically. That one farmer produces enough for his or herself and about 130 other Americans or world citizens. I use that to dramatize how important it is for Government to participate with agriculture in knocking down the political barriers that disallow us from entering world markets. That is a legitimate role of Government. It is clearly spoken to in this bill.

Another legitimate role is research. I think that is what our first agricultural President, Abraham Lincoln, had in mind, using the assets of Government to advance agriculture, not to control it and manipulate it and manage it. That is exactly what we have done historically. But, frankly, over the last decade, we have backed away from Government's responsibility in long-term research that has helped advance new variety and kept productivity on the farms of America at ever increasingly higher rates. I think we speak again to that issue in this bill.

Let me conclude, Mr. President, by saying Government does, in my opinion, have a legitimate role in agriculture, and that is as a cooperator, to cooperate in the area of trade, to knock down the political barriers that might artificially be established that disallow production agriculture from getting into world markets.

It also has an area in research. That is what we ought to advance to assure the constant maintenance and ever-increasing productivity on America's farms.

It also has a responsibility to cooperate in conservation and improving environmental standards, but it does not have a responsibility to dictate the market or to micromanage the family farm or the agricultural production unit. That is what this farm bill speaks to.

Let me close by once again thanking the chairman and the ranking member for recognizing our role, as the Senate Ag Committee, to move quality legislation to this floor and now to the President's desk. I am pleased to have been a part of it. I am proud to serve on the Senate Ag Committee. I think we have made a quantum leap forward in working with agriculture to move itself into the 21st century as a market-producing entity of the American economy.

I yield back the balance of my time.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, it has been our habit, at least thus far in the debate, to alternate sides. The distinguished Senator from Idaho has just spoken. The Senator from Oregon has been waiting to speak, but I request that it be permissible for the Chair to recognize a Democratic Party speaker and ask the distinguished ranking member to yield time and then to alternate herein. I will grant time to the Senator from Oregon.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. WELLSTONE. Mr. President, I wish to let the Senator know I am speaking against the bill.

Mr. LEAHY. I understand. I have time reserved in favor of the bill. I wonder if I might yield——

Mr. WELLSTONE. I thought I had time from the minority leader to speak against the bill.

Mr. LEAHY. The Senator does, and the minority leader will let the Senator have whatever time he wants.

Mr. WELLSTONE. Ten minutes.

Mr. LEAHY. Mr. President, I see two colleagues here. We have had a speech in favor. Why do we not let the distinguished——

Mr. WELLSTONE. I would yield myself 10 minutes from the minority leader's time to speak against the bill.

Mr. LEAHY. Could I point out another thing, I say to the Senator? We have a conference on the appropriations, and the distinguished chairman of that wants to go forward. As the distinguished Senator from Florida only wants 5 minutes, why do I not yield to the distinguished Senator from Florida the 5 minutes so the distinguished Senator from Oregon, the chairman of the Appropriations Committee, can then next be recognized and then yield whatever time the distinguished Senator from Minnesota wants.

Mr. WELLSTONE. I have to go to the State Department for an arrangement between a Minnesota company and another country in 15 minutes. That is why I have been here early.

Mr. LEAHY. Mr. President, I ask that the time from the Democratic leader be given to the distinguished Senator from Minnesota to speak in opposition. I ask if he might try, as best he can, to accommodate the others, to limit his time.

Mr. WELLSTONE. Absolutely. I would be pleased to do so.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAHAM. Mr. President, can I ask if I might be recognized after the Senator from Oregon?

Mr. LEAHY. I assure the Senator from Florida, he will be.

Mr. GRAHAM. I thank the Senator.

Mr. WELLSTONE. Mr. President, I thank my colleagues. I am sorry we are all here at once. I will try to be very brief. I have been on the floor for some time waiting to speak.

Mr. President, first of all, let me just thank all of my colleagues for their work on the bill, including the distinguished Senator from Indiana, whom I have a tremendous amount of respect for. I mean that very sincerely.

Let me say that the good news is that farmers need to know where they stand. The spring planting season is upon us. People need to know what the program is going to be.

The good news is that there are some programs, some provisions in this legislation that are positive and very important. One of them is the reauthorization of the Conservation Reserve Program, which I think has been a win-win-win program. It does my heart good when environmentalists and farmers and outdoor recreation people all come to my office, all in strong agreement about the importance of this program.

I also think that the $300 million for rural economic development is extremely important. In particular, the focus on encouraging and providing whatever kind of assistance we can for farmers to form their own value-added processing co-ops and retain as much of the value of what they produce as possible, is right on the mark.

Finally, I am no strong supporter of what was the status quo, and I do believe, as my colleague from North Dakota said, in all too many cases farmers have had to farm a farm bill as opposed to farm the land. No question about it: more flexibility is certainly one of the things that farmers in my State have been very interested in.

Let me talk about two fundamental flaws of this piece of legislation. I take very serious exception—and I do not think it is really provincial on my part to do so—to the dairy provisions. It has to do with why we are elected. We are elected to do our best, to speak for and represent and sometimes, I suppose, fight for people in our States. I thought that the Senate had spoken clearly that we were not in favor of a northeast dairy compact. I was very involved in the effort to knock that provision out. In the conference committee, we got a variation of that, giving the Secretary of Agriculture the right to certify such a compact.

That troubles me to no end. It is a huge flaw in this legislation. The dairy provisions of this bill are not favorable to farmers in Minnesota, period. There is not substantial, genuine reform of the milk marketing order system, which is what we need. We have been losing thousands of dairy farmers in my State.

What this potential northeast dairy compact is all about is it gives one region of the country an opportunity to have its own deal while it takes the problems of another region of the country off the table. It is simply unfair. For that reason alone, I would not vote for this farm bill.

The second reason is—and I could go on and on, but I am not going to out of deference to my colleagues who are also here on the floor to speak—but to make a very long story short, I believe that this piece of legislation is fundamentally flawed in one other respect. What we have here is a carrot followed by a stick.

The carrot is that if prices are high—and they currently are—and in addition to your price, you have a hefty support payment that goes on top of that, it is a carrot. I can hardly blame people for being attracted to that proposition. As a matter of fact, I can hardly blame some farmers in my State who I think are saying, "Look, we don't know, Paul, whether there's going to be any farm program in the future. We might as well get the best financial deal that we can." I understand that.

But the question is, what happens in the future? I heard my colleague from Idaho talk about a glidepath. But glidepath to where? I mean, if we are going to cap the loan rate at $1.89 for a bushel of corn and $2.58 for a bushel of wheat, the 1995 level, my question is, since what goes up, comes down, and what happens when prices are low again? That is the stick. That comes later on.

We are talking about children of farmers who want to farm in the future. We are talking about whether or not farmers are going to have any negotiating power in the marketplace. I think what happens is that eventually, with this piece of legislation, the grain farmers in my State will be on their own. They are on their own with the grain companies, and they are on their own with the Board of Trade. They are on their own with the railroad interests.

I agree with my colleague from North Dakota. I think the Tulsa World had it right: "With a mix of luck, work and unusual organization, the lobby for big grain companies, railroads, meat companies, millers and shippers scored a big win in the Senate-passed overhaul of farm programs . . ."

Mr. President, again, there is so much more to say. Let me put it this way. I wish there was a free market in agriculture. I wish Adam Smith's invisible hand was operative. I wish that in the food industry we had many small economic enterprises in competition with one another. But that is not what a rigorous economic analysis of the food industry really shows us.

The conglomerates have muscled their way to the dinner table, exercising raw economic and political power over farmers, taxpayers, and consumers. Everywhere the farmers look, whether it is on the input side or whether it is the output side, they are the ones, the family farmers are the ones, who really represent the free enterprise part of this, but they are faced with oligarchy at best and monopoly at worst.

I think this bill is a piece of legislation that is great for the grain companies because eventually they will get their prices low. If the farmers, as they look to who they sold their products to, if the farmers could see many small businesses, that would be fine. But that is not what they are faced with. They are faced with concentration. Now we are simply taking away the very leverage that farmers have had for a fair price in the marketplace.

So this piece of legislation is a carrot, followed by a stick. I think it is going to lead to the demise of many family farms. I really do believe that. I know my colleagues disagree with me. I hope they are right. I hope I am wrong. Because the health and the vitality of communities in Minnesota is not based upon the acres of land that are farmed or the number of animals, but the number of family farmers that live there. I see this piece of legislation being a stacked deck against family farmers on the grain front. On the dairy front, the Northeast dairy compact is outrageous and discriminatory and never should have been put in the bill by the conference committee. On that basis alone, as a Senator from Minnesota, I do not support this piece of legislation. I hope my colleagues will vote "no." I yield the floor.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Chair recognizes Senator HATFIELD.

Mr. LUGAR. I yield time to the distinguished Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank the chairman of our Agriculture Committee, the Senator from Indiana, Mr. LUGAR, for yielding time. I, too, want to add my word of congratulations to the leadership of this committee, Senator LUGAR and Senator LEAHY, for bringing forth an upgrading and updating of this agricultural legislation.

Mr. President, the flood of 1996 in my part of the country has had a devastating impact on much of my State. What I have enjoyed for many years, and now in my adopted home, is the lush and green countryside of the coastal area. It is now barren and covered beneath 2 feet of river silt. The once bountiful pasture lands are no more, and the dairy cows struggle, searching the bare landscape to find scant morsels of food. Many businesses, homes, and families have been adversely affected by the flood. Imagine a small part of this flood damage area, a small county in northwestern Oregon, seven raging rivers running through it and the silt-laden waste water flooding into three bays of the Pacific Ocean. There is such a county, and that county, Mr. President, is Tillamook County, a good Indian name, Tillamook County.

Tillamook County on the northern Oregon coast is the poorest per capita income county of the 36 counties in my State. The entire population of the town of Tillamook consists of only 4,000 people. Roads which connect Tillamook to the rest of the State have been and will be closed for months. Highway 6, which is the east-west corridor to Portland, will be closed for months. Highway 101, which is the north-south corridor out of Tillamook, has been closed since November when the storm started hitting this part of the State.

The leading enterprise in the area is dairy. Mr. President, no industry has suffered more than the dairy industry in Tillamook. As a result of the floods primarily, and windstorms, is that thousands of acres of Tillamook are covered with silt—in some cases as high as 2 feet. It may take as long as 2 years for these lands to recover. Added to the destruction of the grazing land, there have been tremendous losses in livestock and feed, along with damaged equipment and facilities.

Of this town of 4,000, more than 400 people work at the Tillamook County Creamery Association, a local co-op of producers and processors. In this county, there are over 2,000 people directly involved in the dairy industry. Those numbers do not include veterinarians, transporters, supply stores, restaurants, and businesses that live and die based on the health of the dairy farmers.

In summary, Mr. President, this community is isolated due to closed roads. The land, which is the lifeblood of the communities, is smothered under 2 feet of silt. The economic base of this community has been decimated. The short-term prospects for this community are bleak.

With such misery heaped upon this little community, it would have been easy for them to give up, but that is not what has happened. The community of Tillamook locked arms and is working their way back. Immediately after the floods, efforts were made to keep production levels as high as possible at the Tillamook County Creamery Association. Haygrowers throughout Oregon donated several thousand tons to feed the animals. The outpouring of relief efforts has been phenomenal. The Oregon Dairy Farmers Association coordinated relief efforts, which included $200,000 in donations from within the industry, lining up hay deliveries, and assisting hard-hit dairies outside of the town of Tillamook—which, by the way, this town of 4,000 is the largest town in that little county. Dairy farmers helping other dairy farmers. Local, State, and Federal agencies are also assisting with potential loan programs and technical expertise.

I inquired if there was anything else that Congress could do for this community. The response was, "Help us with the Pacific Northwest Milk Marketing order." Now, Mr. President, I attempted to include legislation in the farm bill which would have done so. My amendment would have separated, temporarily, Oregon from this regional milk marketing order. What is the Pacific Northwest Milk Marketing order? Let me explain.

Oregon and Washington and a small part of northern Idaho are part of this regional marketing order. Federal milk orders are authorized by the Agricultural Marketing Agreement Act of 1937. Mr. President, this depression legislation, almost 60 years old, unfortunately, is still governing much of our dairy industry. As the Senator from Idaho has indicated, this bill moves the dairy industry closer to the market economy. Under this law the Secretary of Agriculture establishes Federal orders that apply to buyers of milk. Orders are initiated by dairy farmers normally through cooperatives and can be issued only with the approval of the dairy farmers in the affected area. A milk order is a legal document issued to regulate the minimum prices paid to dairy farmers by handlers of grade A milk in a specified marketing area.

Now, Mr. President, my amendment would have temporarily changed the milk marketing order for a period of 2 years to let flexibility apply to this unique situation in one part of that industry in the Northwest, the Tillamook County Creamery Association. The change would have allowed these farmers to get back on their feet and compete in an open market by giving them added flexibility in establishing their prices.

It was at this point that I hit a brick wall. What was that brick wall? Darigold, Inc. Prior to 1989, Oregon had its own milk marketing order, and it was not until that time that efforts were made to combine the orders. Those efforts were headed up and dominated by Darigold. They used their size and their strength to combine Washington and Oregon under one marketing order, against the objections of the small milk handlers in Oregon. Darigold is the fourth largest cooperative in the Nation, the fourth largest cooperative in the entire Nation. Darigold had almost $1 billion in sales in 1994 alone, with much of their production—and please let me underscore this—with much of their production in powdered milk, for example, being purchased by Government surplus markets. Compare this with the Tillamook County Creamery Association, which had $124 million in sales, all in consumer products produced from local milk—consumer products, not big Government contracts. In their January 1996 member newsletter, Darigold claims a 1995 production of 4.7 billion pounds of milk, 10 times the volume of the Tillamook County Creamery Association, with milk purchased from three States. Darigold produces a wide variety of milk products, including powdered milk, ice cream, packaged cheese, and butter. Compare that with Tillamook, which focuses mainly on a specialty product known as the world famous Tillamook Cheese, which is sold to consumers.

How did Darigold hold up this amendment? The same way most things are done in this litigious society we live in—the Darigold lawyers came forth and threatened to tie up this legislation in the courts. They were sure they could do so for at least a year, and this is the year that needs help. This would have blocked the temporary separation of Oregon from the Pacific Northwest Milk Marketing order for this year. Tillamook County and its dairy farmers do not have the luxury of waiting a year. The Darigold brick wall would have been able to thwart the very will of Congress by stalling this amendment, if it had been adopted. Mr. President, this is a terrible injustice and a black eye on the capitalistic system, when the giants can run out the small operators from the marketplace because they have Government contracts.

Tillamook County is small, it is battered, but I know it is not out. The strong will of the people of this community and the dairy industry in Oregon will not allow this setback to discourage them. I am disappointed that we will not be able to give Tillamook a helping hand at this time of great need. I am disappointed with the Darigold lawyers for blocking this assistance, and I am disappointed by the greed of the Darigold, Inc. Mr. President, in this situation, the almighty dollar was the bottom line, and compassion was nowhere to be found. That is not and should not be the character of our economic system.

I thank my good friends from Washington and Idaho, particularly Senator GORTON and Senator CRAIG, who have been very sympathetic of the situation in Oregon. They have offered their assistance where possible, and I thank my colleagues for their sensitivity to the plight of flood-damaged Tillamook and the State of Oregon.

I yield the floor.

Mr. LEAHY. Mr. President, I yield from my time such time as the Senator from Florida might need.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I want to commence by stating my deep appreciation to Chairman LUGAR and the ranking member, Senator LEAHY, for their great consideration of issues that were important to agriculture across America and especially important to agriculture and the people of my State of Florida.

Mr. President, as you well know, the State of Florida is a State peculiarly vulnerable to a variety of climatic and other disasters. One of the things that we have tried to do is to learn from those disasters and avoid, where possible, a repetition of previous mistakes, and to bring to the attention of the appropriate decisionmakers steps that could be taken in order to moderate the impact of future adverse consequences.

In the last few years, we have had an unusual number of incidents that have impacted Florida agriculture. Hurricane Andrew is the best known, but by no means the only such incident. As a result of that, we have assembled a number of lessons learned, in terms of how American agricultural law for disasters, crop insurance, and other steps that are intended to soften the impact of negative events, could be modified to be more effective and applied to the special agriculture of our State.

I wish to thank Senator LUGAR, Senator LEAHY, and their colleagues for their consideration and for the number of steps that are contained in this legislation that will have that effect.

Let me just briefly summarize a few of those provisions. The Federal Crop Insurance Act will be amended by the legislation before us today to provide for coverage of crops that have been destroyed by insect and disease, as well as those destroyed by storm or flood, or other natural conditions.

This act will expand coverage to nursery crops and to aquaculture, which have been two of the fastest-growing aspects of American agriculture. It will require that the Federal Crop Insurance Act consider marketing windows when determining whether it is feasible to require replanting during a crop year.

To elaborate on that, Mr. President, as you know, much of Florida agriculture is targeted on a winter growing season. There have been instances in which a natural disaster had occurred at the end of that season—let us say, in this month of March, there were requirements that you had to replant, even though by replanting the crops, they would mature in the middle of the summer when the window for our particular agriculture had closed. This will allow the Federal crop insurance administrators to consider the economic feasibility, as well as the agricultural feasibility of replanting a crop that has been destroyed. So, Mr. President, that represents an important set of lessons learned from disasters and now applied to moderate the impact of future disasters.

Second, Mr. President, there is an important provision in this legislation that is to avoid what would be not a disaster, but a calamity of global importance, and that is the collapse of the Florida Everglades. The Florida Everglades represent a treasure, which happens to be located within the State of Florida, but has been long recognized as a national treasure since 1947. The second largest national park in the lower 48 States is Everglades National Park. It has been recognized by international bodies, including the United Nations, as an ecosystem of international importance. It is a system that has been in very serious trouble. It is a system, which started thousands of years ago as a unique flow of water, commencing in the central part of south Florida, in a slow incremental process that eventually then led to the area that we now call Florida Bay. It provided one of the most fertile areas for wildlife, plants, and fisheries in the world. It is a system which has been destroyed largely because of its uniqueness.

When Europeans came to this region, they looked at the Everglades, and what they saw was a formidable swamp. They saw something that was different than they had known in their previous home. They committed themselves to the goal of turning this unique system into something that was common and pedestrian. For the better part of a century, that effort was pursued with great vigor, and with the support of the people of Florida, and of the Governments of the State and the Nation.

It has been in the last 30 years that we have fully appreciated the fact that it was that very uniqueness of the Everglades that gave it its essential value. Also, it was that uniqueness that contributed to the many ways in which the Everglades sustained life, for humans and others, in the south Florida region.

So a major effort to save the Everglades has been underway. It has been recognized that that effort would require a partnership, and an important member of that partnership was the Federal Government. The Federal Government has significant interest in the Everglades National Park's national wildlife refuges and national fresh water preserves.

The Federal Government also will play a key role in executing those things that will be necessary for the salvation of the Everglades. The people of Florida do not ask the Federal Government to do this singularly, but they ask for a unity of purpose between the National Government and themselves.

Mr. President, I am especially pleased to recognize the tremendous step forward that this legislation represents with that goal of "save the Everglades." In this legislation, there is contained a direct entitlement funding for a special Everglades restoration initiative of $200 million. There are also contained various provisions which will encourage the disposition of surplus land, with the proceeds of that disposition to be used for Everglades restoration. One of those provisions could provide up to an additional $100 million for restoration of the Everglades.

I want to particularly thank Senator LUGAR, who has been especially vocal in his recognition of the importance of the Everglades, and Senator LEAHY, who has been a staunch advocate of a whole variety of initiatives contained in this legislation that are designed to recognize the fact that there is no conflict between the economics of American agriculture and the protection of the fundamental environmental resources upon which agriculture depends.

I commend both of these colleagues for their outstanding contributions, and there is no place in which this will be more significant or more appreciated than in the contribution toward the salvation of the Everglades.

So I wish, Mr. President, to conclude with a joint statement with my colleague, Senator MACK, elaborating on the provisions that are of special importance to our State contained in this legislation, and to conclude with my deep thanks on behalf of the 14 million citizens of my State for what leaders of this legislation have done to prepare us for future disasters and to contribute to avoidance of what would be a disaster of global proportion if we were to lose the qualities of the Florida Everglades.

Mr. GRAHAM. Mr. President, Senator MACK and I would like to take a moment to thank Chairman LUGAR and ranking member LEAHY for their hard work on the 1996 farm bill. We are particularly pleased with the inclusion of provisions that will have a direct benefit to the State of Florida, our growers, and the Everglades ecosystem.

First of all, this farm bill will address three problems that have faced Florida growers of specialty crops. Upon enactment of Federal Agricultural Improvement and Reform Act, the Federal Crop Insurance Act will be amended to provide for coverage of crops destroyed by insects and disease, expand coverage to all nursery crops and aquaculture, and require the Federal Crop Insurance Act to consider marketing windows when determining whether it is feasible to require replanting during a crop year.

Disasters are a way of life for all involved in agriculture. Disaster relief appropriations are an item of the past. The laws to today need to cover all of agriculture to allow recovery after time of great loss. The amendments which were passed go a long way to addressing inequalities in law and definition to allow coverage for major agricultural segments.

Multiple weather-related disasters, from Hurricane Andrew to the record number of hurricanes in 1995, clearly illustrated deficiencies in disaster coverage of many agricultural commodities. Many agricultural products such as aquatic species and numerous horticultural products are not clearly defined as being eligible for disaster assistance. Additionally, even though the Federal Crop Insurance Act was passed, many agricultural commodities still do not have crop insurance available and as such can not even recoup planting costs under current guidelines.

Changes were clearly needed to allow coverage of all agricultural crops during time of disaster. A tree grown for horticultural purposes should be covered whether it is grown in a port or in rows in the ground. Nontraditional species raised for food purposes should be clearly covered.

Acquaculture-raised species—whether for food or nonfood purposes—should also be covered. Foliage plants are agricultural commodities raised for aesthetic purposes. Tropical fish, while not for food purposes, are clearly raised in aquaculture for aesthetic purposes, and should be covered just as surely as our foliage protection. Many States now find that horticulture and foliage plants have become their No. 1 agricultural commodity.

Disasters are likewise not just weather-related events. A rapidly spreading pest or disease can statistically be a greater danger than a hurricane event.

DEFINITION OF DISASTER FOR FEDERAL CROP INSURANCE ELIGIBILITY

The history of natural disasters in Florida has demonstrated the need for the definition of disaster to include events that are not directly weather-related. Beyond a certain level, the devastation of the gypsy moth, citrus canker, or other pests and diseases constitutes a disaster of major scale. The 1996 farm bill will establish a pilot program to have the term "natural disaster" include extensive crop destruction caused by insects and disease.

DEFINITION OF AGRICULTURE FOR FEDERAL CROP INSURANCE ELIGIBILITY

Florida growers of specialty crops also need a definition of agriculture that includes more than just food, fiber and grain. Historically, for disaster purposes, neither aquaculture or nursery crops have been covered.

As recently as the December freezes, producers in the Hillsborough County area were told that aquaculture species, such as tropical fish and aquatic plants, were not defined as agriculture. While these species are reared for aesthetic purposes, they are certainly agriculture—as much as any other horticultural production.

In-ground plants and trees for the nursery industry were still not covered even after 4 years of negotiation and discussions with Federal Crop Insurance officials in Kansas City. Florida growers are appreciative that this farm bill will expand Federal crop insurance to aquaculture and direct the FCIC to establish a pilot program to allow nursery crops to participate in the Federal Crop Insurance Program.

INCLUDE "MARKETING WINDOW" AS A CRITERIA FOR REQUIRING REPLANTING

A third problem for Florida growers of winter crops has involved the interpretation of the clause requiring replanting where feasible after disaster destruction. Until this farm bill, the Federal Crop Insurance has not considered marketing windows when making judgments about claims. Given that USDA can consider economics, potential marketing of the product must be considered as an economic factor.

As a recent example, a potato crop in Dade County was destroyed. The climate of the county would have permitted the growers to replant and barely get in a crop before that weather became too hot. However, the marketing window and contracts for sale of the product would have been totally nonexistent by the time a long-term crop like potatoes could be raised. The Federal Government required the growers to replant even though no sales of that commodity would have been feasible after the area's marketing period was over. Florida growers raise crops in the dead of winter, and are often double and triple cropping the same land with a succession of commodities to meet very defined and limited marketing windows. I am gratified that the mangers of the farm bill agreed to include our provision requiring the Federal Crop Insurance Corporation to consider marketing windows in determining whether it is feasible to require replanting during a crop year.

BROWN CITRUS APHID RESEARCH

This farm bill also provides authorization of up to $3,000,000 in research funding for the eradication and control of the brown citrus aphid and the citrus tristeza virus. The virus, which is carried by the aphid, poses the most formidable threat in decades to the Florida citrus industry. The citrus tristeza virus, in several forms, has the capability of killing millions of citrus trees in Florida, Texas, and California over the next several years. The language included in this bill will help us provide to the citrus community of our Nation the tools it needs to combat this serious threat.

EVERGLADES RESTORATION FUNDING

The 1996 Farm bill also provides an unprecedented opportunity to further the restoration of the Everglades ecosystem. I yield to Senator MACK.

Mr. MACK. I and my esteemed colleague Senator GRAHAM rise today to congratulate this Congress for its foresight and commitment to one of the most important restoration efforts in our Nation's history, the restoration of the south Florida ecosystem, better known as the Everglades. Under section 506 of the 1996 farm bill, the United States has made a historical commitment to this unique national treasure.

Mr. GRAHAM. The Everglades is an extraordinary ecosystem that travels south from the Kissimmee River through the Everglades and down to Florida Bay. The Everglades ecosystem supports south Florida's industries of tourism, fishing, and agriculture and special quality of life of over 6 million residents by providing water supply and recreational activities. The Federal Government has a direct vested interest in the Everglades ecosystem, which houses the Loxahatchee Refuge, and three national parks: Everglades National Park, Big Cypress National Park and Biscayne Bay National Park.

Mr. MACK. The health of the Everglades ecosystem is critically endangered. The same American spirit of ingenuity and adventure that led us to the Everglades at the turn of the century must now be called upon to save this extraordinary resource that is so emblematic of the American character. The Everglades has taught us that a strong economy and healthy environment are not mutually exclusive.

Mr. GRAHAM. Historically, we have tried to tame the Everglades by focusing on small parts of the ecosystem without regard to how the whole system works. This has proved to be a mistake. As we have tried to develop or manage parts of the ecosystem separately, the result has been to wreak havoc on the entire ecosystem, thus putting the entire ecosystem in jeopardy. The Everglades is not a set of discreet parts like the limbs of a body but instead is a blood line that circulates throughout the entire ecosystem. The long term viability and sustainability of the ecosystem—whether it is wildlife, urban water supply, agriculture, tourism, recreation activities, or fishing—are all dependent upon the same lifeblood, the Everglades, the River of Grass. Decades of diking, damming and using the Everglades for singular purposes has so endangered the health of the Everglades that in the future the ecosystem may not be available to be used for any purpose.

Mr. MACK. The State of Florida has made extraordinary efforts to address the complex problems of the region and to restore this precious resource. Because south Florida is home to 7 of the 10 fastest-growing metropolitan areas in the Nation, we are at a critical crossroad in the Everglades restoration. Together the State of Florida and the Federal Government can continue their developing partnership to consummate Everglades restoration.

Mr. GRAHAM. While it is understood that a significant gap exists in our scientific knowledge about the ultimate ecological and water management needs of the Everglades ecosystem—which necessitates continued detail studies—the framework for restoration and design of major projects for land acquisition, water storage, and restored hydrology are clear. Restoration of one of the largest functioning ecosystems in the world is a massive undertaking. Congress has acknowledged that success will depend on the Federal Government, the State of Florida, and local, regional and tribal interests working in tandem.

Mr. MACK. In acknowledgement of this responsibility, Congress has provided $200,000,000 and possibly as much as $300,000,000 to expedite Everglades restoration activities, which will include acquisition of the highest priority lands needed to improve water storage and water quality critical to the restoration effort. This unprecedented commitment of $200,000,000 will be provided to the Secretary of Interior to either carry out the restoration activities or to provide funding to the State of Florida or the U.S. Army Corps of Engineers to carry out restoration activities. Congress does not intend for these funds to supplant any previous funds committed to any agency of the Federal Government or the State of Florida for the purpose of Everglades restoration, including the commitment to fund STA 1E, a component of the Everglades Restoration Project.

Mr. GRAHAM. Specifically, the legislation does the following:

Section 506(a) directs the Secretary of the Treasury to transfer to the Secretary of the Interior $200,000,000 of any funds not otherwise appropriated.

Sections 506 (b) and (d) authorize the Secretary of the Interior to use the $200,000,000 until December 31, 1999 to conduct restoration activities in the Everglades ecosystem in South Florida. In implementing these sections, the Secretary may rely upon the priorities, programs, projects, and initiatives identified by the Federal South Florida Interagency Task Force.

Under Section 506(b)(3), the Secretary of the Interior can conduct restoration activities that include the acquisition of real property interests intended to expedite resource protection.

Under Section 506(c) as may be appropriate, the Secretary of the Interior and transfer the restoration funds to the U.S. Army Corps of Engineers or the State of Florida or the South Florida Water Management District to carry out restoration activities in the Everglades ecosystem.

Section 506(e) requires the Secretary of the Interior to submit an annual report to Congress that describes what activities were carried out under the initiative.

Section 506(f) also established a special account to be funded by the sale of surplus Federal property in the State of Florida. The special account is to be managed by the Secretary of the Interior to carry out restoration activities. The Secretary of the Interior is limited in his ability to use the special account funds to acquire real property or an interest in real property. The Secretary can use these special account funds for real property acquisition only if the State of Florida contributes or has contributed an amount equal to not less than 50 percent of the appraised value of the real property interest to be acquired. The actual sale of surplus property is to be managed by the Administrator of the General Services Administration. This account will not exceed $100,000,000.

And finally, under section 506(g), the Secretary of the Interior is directed to submit a report to Congress that assesses whether any unreserved and unappropriated Federal lands are suitable for disposal or exchange for the purpose of conducting restoration activities in the Everglades ecosystem. Section 506(g) is not intended to amend or supersede any applicable Federal statute that governs Federal land management, exchange or disposal.

Mr. LEAHY. Mr. President, I thank my distinguished colleague from Florida for his kind words. I note that he and his colleague from Florida worked very, very hard with both Senator LUGAR and me on this issue. It is one where we came together to address not only a Florida issue but what is truly a national issue.

Mr. LUGAR. Mr. President, I thank the distinguished Senator from Florida.

Mr. McCONNELL. Mr. President, I congratulate Senator LUGAR, our conference chairman, and his staff, Senator LEAHY and his staff, Chairman ROBERTS and his staff, and Congressman DE LA GARZA and his staff for helping us get to this important day for American agriculture.

Policymaking decisions in agriculture have never been simple or easy. Chairman LUGAR and the ranking Democrat, Senator LEAHY, chartered a course that led them toward a bipartisan bill. Farmers and ranchers across the country are now awaiting the passage of this important legislation.

For the first time in 60 years, we have a commonsense approach that will release farmers from the bureaucratic controls of USDA. Under this approach, farmers will no longer be told what to plant, where to plant, or how much to grow. Uncertain deficiency payments tied to market prices are eliminated and replaced with preset and market transition payments that farmers can count on with confidence.

This legislation, formerly titled the Agricultural Market Transition Act, has been renamed the Federal Agricultural Improvement and Reform [FAIR] Act of 1996. This legislation not only reforms commodity programs but also includes rural development, conservation, credit, research, trade, and nutrition.

Highlights of the bill include:

Eliminates the requirement to purchase crop insurance to participate in commodity programs.

Establishes an Environmental Quality Incentives Program.

Export and promotion programs are reauthorized and refocused to maximize impact in a post-NAFTA/GATT environment.

Maintains the Conservation Reserve Program.

Reauthorizes nutrition programs.

Reauthorizes Federal agricultural research programs.

Provides for dairy reform. Eliminates the budget assessment on dairy producers, phases down the support price on butter, powder, and cheese over 4 years. Consolidates marketing years.

Provides funding for Florida Everglades restoration.

Establishes fund for rural America to be used for rural development and research.

Retains the 1949 Agricultural Act as permanent law.

Streamlines and consolidates rural development programs to provide a more focused Federal effort while encouraging decisionmaking at the State level.

When we began the process of formulating an agricultural policy about 14 months ago, the message I got was that farmers wanted less Government, less redtape, and less paperwork. They said we need planting flexibility and less regulation—to put it more simply let farmers be farmers.

Mr. President, many commodity programs and provisions in the 1990 farm bill expired on December 31, 1995. It is now late March. Spring planting is already underway in many Southern States, and it is imperative that producers know the requirements of the commodity programs. The farmers in this country already have their schedules altered by Mother Nature—they shouldn't have to wait for Congress too.

Producers who raise wheat and feed grains and other commodities want to know what kind of program will be in operation before they make their planting decisions and seek money for their operating loans. Program announcements are usually made in early- to mid-February, and farmers usually begin to sign up for the programs at the beginning of March.

Farmers in my State and across the country can wait no longer. We need a new farm program in place—quickly. It is time to pass responsible legislation that provides the agriculture sector with policy for the next several years.

There are many other provisions that deserve to be highlighted, however I wanted to mention a few that I took an active role in trying to resolve. I support this package and believe it provides a safety net and the opportunity for the agriculture sector to meet the challenges that lie ahead.

First, I am grateful that language concerning the regulation of commercial transportation of equine to slaughter is included. Under this provision the Secretary of Agriculture is provided authority to develop sound regulations that will protect the well-being of equine that are commercially transported to slaughter. Often these horses are transported for long periods, in overcrowded conditions and often in vehicles that have inadequate head room. Some of these horses are in poor physical condition or have serious injuries. These regulations would allow horses to get to a slaughter facility safely and as quickly as possible with the least amount of stress to the animal. I want to make it very clear this provision does not authorize the Secretary to regulate the transportation of horses other than to slaughter or the transportation of livestock or poultry to slaughter or elsewhere.

Second, I also want to thank Senator COCHRAN for his assistance in confronting what may be the most serious health crisis facing the U.S. equine population. I'm referring to the Department of Agriculture's recent decision to grant a waiver allowing the importation of horses infected with equine piroplasmosis, also known as EP, so that they may compete in the Olympic games to be held in Atlanta this year. With help from Senator COCHRAN we have strong report language stating that the 20-point plan that has been agreed upon by the European Union, the Georgia Department of Agriculture, and the U.S. Department of Agriculture must not be relaxed and the conditions must be followed and administratively enforced.

Third, dairy policy has always been a contentious issue and it was no different during this farm bill. One provision I felt must be included was the continuation of the Fluid Milk Promotion Program. Building a stronger demand for milk is essential to the entire dairy industry. Fluid milk sales account for about 35 percent of the total amount of milk produced, which means changes in this category are significant. I believe continuation of this processor-funded program is a very good way to attack misperceptions and to keep people drinking milk. We need to continue to increase people's understanding of the benefits and importance of milk and continue to show consumers new ways to keep milk in their diets.

Fourth, conservation concerns in Kentucky have centered around how to help farmers improve water quality. A new program—the Environmental Quality Incentive Program [EQIP] will target over $1 billion for 7 years to assist crop and livestock producers with environmental and conservation improvements on their farms. I believe this program will be very beneficial to the farmers in Kentucky in providing cost-share and technical assistance in improving water quality.

Another issue I heard loud and clear from my Kentucky farmers dealt with the mandatory purchase of catastrophic crop insurance [CAT]. I made this one of my top priorities, and I am happy to report that my fellow conferees also heard similar comments from their farmers. The conference agreement eliminates mandatory catastrophic crop insurance, but requires producers waive all Federal disaster assistance if they opt not to purchase CAT insurance. This means that tobacco farmers and grain producers don't have to purchase CAT crop insurance to participate in a commodity program or to get their marketing card. Eligibility to purchase crop insurance is no longer linked to conservation compliance and swampbuster for producers who choose not to participate in farm programs.

Mr. President, today's 2 million farmers and the 19 million workers employed in our food and agriculture system generate over 16 percent of our Nation's income. We must keep the farmer, the rancher, the food, and the agriculture sector healthy and growing. It is time to give our Nation's farmers and ranchers some answers and to pass this conference report today.

Again, I thank our committee chairman, ranking member, and staff for their dedication and hard work.

Mrs. KASSEBAUM. Mr. President, I rise today in support of the final passage of the conference report on H.R. 2854, the Federal Agriculture Improvement and Reform Act of 1996. In some ways, it is only natural that this farm bill occurred like one of the other major factors affecting agriculture, the weather. With the weather, you're never sure when the rains will come, but inevitably, it will rain. This legislation brings an end to the waiting and uncertainty currently surrounding farmers and ranchers in my state, as well as around the country.

I would like to thank Senate Agriculture Committee Chairman LUGAR and ranking member LEAHY for their tireless work to bring together the many different sides and address their concerns in this farm bill. And of course, a hearty congratulations to my fellow Kansans and members of the Kansas agricultural triumvirate, House Agriculture Chairman ROBERTS, Senate majority Leader DOLE, and USDA Secretary Glickman.

As a supporter of Congressman ROBERTS' freedom-to-farm bill, it is rewarding to see its inclusion in the final legislation. For production agriculture, this bill represents producer flexibility, program simplicity, and stability—all important priorities that will allow U.S. agriculture to successfully compete in the world marketplace. For the taxpayer, this legislation shows the continued commitment by agriculture to lower spending and reduce the deficit. Clearly, if all government programs displayed agriculture's commitment towards reduced spending, there would be no deficit today.

Many other important programs are also included in this legislation. A clear priority was given to conservation programs, including a strong Conservation Reserve Program [CRP]. The CRP has proven to be a valuable tool to promote wildlife habitat, reduce soil erosion, and improve water quality. Reauthorizing this program at its current level and allowing increased flexibility for the producer will allow current program benefits to be retained and increase the focus of this program to improve the most environmentally sensitive lands.

It should be noted that this farm bill is truly comprehensive legislation that will affect all Americans. Included in this bill is important trade legislation that maintains our commitment to providing valuable food aid to those nations in need, strengthens our ability to open new markets, and encourages the development of emerging trading partners. Research, nutrition, rural development, and credit programs are all included in this bill to ensure to their future viability.

Mr. President, it is true that the rains will inevitably come. However, no action by Congress can remove the uncertainty of how much, when, and where it will rain; but we in Congress can and should remove the uncertainty surrounding agricultural programs by passing this legislation.

SECTION 147

Mr. LEAHY. Mr. President, the chairman and I want to discuss in more detail what was intended in section 147 of H.R. 2854, the section which grants congressional consent to the northeast interstate dairy compact, subject to certain conditions.

This compact will allow the six New England States to regulate the price of all class I drinking milk sold in those States. The regulation may apply to any class I milk sold in the New England States but produced elsewhere, as well as to such milk produced by New England farmers. The compact also provides that farmers from beyond New England receive its benefits as well as their New England counterparts.

The conditions of congressional consent are intended to ensure the compact operates in harmony with the Federal milk market order program, and in complement with the changes otherwise being imposed on that program by this act. Seven conditions of consent are identified.

The condition in section 147(1) requires that the Secretary of Agriculture make a finding of compelling public interest in the compact region before the compact may be implemented. This provision ensures a determination by the Secretary of the compact's need in the region before the compact's authority to regulate interstate commerce, as granted by the consent provided by this act, can become operational.

The next four conditions of consent outlined in section 147(2) through section 147(5) constitute substantive restrictions on the compact's operation, as entered into by the States. In response to concerns raised by some conferees, section 147(2) limits the compact's regulatory authority to only class I milk. Notwithstanding any provision of the compact to the contrary, the compact commission will not be able to regulate other classes of milk. This condition limits the compact's regulatory reach to only the local and regional, fluid milk market. It ensures that the compact will have no effect on the national market for manufactured dairy products.

Section 147(3) constitutes a procedural limitation on the compact's operation. This condition establishes a finite time limit for the provision of congressional consent to the compact. The section establishes that congressional consent terminates concurrently with the completion of the Federal milk market order consolidation process required under section 143 of the act.

Also in response to concerns raised by committee conferees, conditions in section 147(4) alter the procedure by which additional States may enter the compact. The list of potential new entrants is limited to a named few. Such States may only join if contiguous to a member State and only upon approval by Congress.

Section 147(5) requires the compact commission to compensate the Commodity Credit Corporation [CCC] for purchases by the Corporation attributable to surplus production in the New England States. This condition was necessary for the compact to ensure that there would be no score from the Congressional Budget Office. The compact commission's responsibility to make compensation is to be measured by the Secretary's reference to a comparison of the rate of increased production. The compact commission would have the responsibility to provide compensation for those CCC purchase attributable to an increase in the rate of New England milk production in excess of the national average rate of increase.

Section 147(6) provides for cooperation by the Department of Agriculture in the compact's operation. The Department has in the past construed findings of fact in the Agricultural Marketing Agreement Act of 1937 as precluding the Department's cooperation in the operation of State over-order pricing programs. This condition makes clear these past departmental determinations do not apply to the compact, and that the Department shall provide such technical assistance as requested by the compact commission and requires that the compact commission will reimburse the Department for that assistance. The provision is designed to avoid duplication in audit procedures and any other mechanism needed to administer the compact, and thereby to reduce the compact's regulatory burden and cost.

Except in one regard section 147(7) provides only language of clarification, rather than imposes any additional, substantive, or procedural restriction on the compact's operation. This condition in the main part clarifies that the commission may not limit or prohibit the marketing of milk or milk products in the compact region from any other area in the United States. It also clarifies that the commission may not alter or amend procedures established under Federal milk marketing orders relating to the movement of milk between or among orders.

Neither of the first two sentences of that section is intended to limit the compact commission's authority to establish a compact over-order price regulation for all fluid milk marketed into the compact region in any form, packaged or bulk, produced in another production region in the United States. The last sentence of this section 147(7) delineates this point.

The one substantive restriction of this condition is its limitation of the use of compensatory payments under section 10(6) of the compact. Because the use of compensatory payments is disfavored in milk marketing law, the compact itself placed strict restrictions upon their use in section 10(6). Their use even as so restricted proved to be of some concern, accordingly, the conference report further restricts their use under section 147(7).

Does the chairman agree that this description accurately reflects the views of the conferees.

Mr. LUGAR. That is correct.

Ms. MOSELEY-BRAUN. Section 334 establishes a new conservation program called the environmental quality incentives program. One of the purposes of the program, as stated in section 1240(2)(B), is to assist "farmers and ranchers in complying with this title and Federal and State environmental laws." Could the Senator explain to me how this might occur?

Mr. LEAHY. In order to provide the opportunity for an environmental quality incentives plan to be designed to assure that a producer is in compliance with other Federal State rules, regulations, and laws, USDA should enter into agreements with the appropriate agencies to assure that USDA is the only agency with routine decision-making authority and oversight of development and implementation of the plan. These inter-agency agreements should focus on the development process of the plan, not specific conservation practices or management techniques; strive for maximum flexibility due to the variability of agricultural operations and resource conditions; provide that specific practices in the plan may be implemented in varying timeframes within the duration of the plan; assure that implementation of the plan is not interrupted by frequent revisions caused by changes in agency agreements; and recognize the need to encourage producers to develop plans by allowing reasonable implementation periods that provide for economic recovery of costs. If a plan is designed to assure that a producer is in compliance with other Federal or State rules, regulations, and laws, the producer may request plan revisions when necessary to accommodate any significant operational changes or unforeseen technical problems within the farming or ranching enterprise.

Mr. President, I yield, from the time of the distinguished Democrat leader, Senator DASCHLE, to the Senator from Wisconsin such time as he may need to speak in opposition to the bill.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. Mr. President, I thank the Senator from Vermont.

Mr. President, we have heard many good things about this farm bill and the promises of market orientation and positive reform that it brings to farm policy, but I believe a more critical examination of this bill demonstrates something entirely different, and so I want to refute some of the assertions that have been put forth during this debate.

I think every Member of the Senate would agree that agricultural policy needs reform. The realities of production, markets and budgets change rapidly, and therefore what is demanded is a periodic revamping of agricultural policy. I agree that we need greater market orientation in farm policy, and I agree that we need less Government intervention into the production decisions of farmers. However, we also need a farm policy that is defensible to all citizens of our country, and I believe that this bill will ultimately fall short in this very important regard.

The structure of current farm programs is basically to provide a safety net, making supplemental payments to farmers only when prices are low, and freeing farmers to make their money from the market when prices are sufficiently high, as they are currently.

In contrast, this bill offers farmers a so-called guaranteed payment every year for the next 7 years, based entirely on their past production, regardless of market prices. If market prices are high, as they are today, farmers will receive the same payments as they would in times of low prices. In fact, farmers will not even be required to plant a crop in order to get the Government payment. I have a very hard time defending this as a wise expenditure of Federal dollars.

Another assertion about this bill that I challenge is the idea that the goal of simplification and flexibility in farm programs requires guaranteed payments to farmers, even if they do not plant a crop. We all agree that farmers should have greater planting flexibility and that the Federal Government should get out of the business of dictating planting decisions to farmers. But again, farm programs must be defensible to all citizens of our country, not just those few in a position to reap short-term windfall profits from the Government.

Another assumption that the casual observer of this farm bill debate might be tempted to make after listening to the debate is that this bill cuts the cost of farm programs. Yet, a quick analysis of the cost projections for this bill indicates that in the first 2 years of this bill the taxpayer will be required to pay an additional estimated $4 billion for farm programs over what they would pay under the current program. Why? Because the taxpayer will be required to make large cash payments to farmers in times of expected high market prices, as opposed to making payments to farmers only in those years when prices are low.

While these are a few of my concerns about the overall structure of the bill, as a Senator from Wisconsin, my overriding concerns are with the dairy provisions of this bill. And in that regard I believe that this bill offers a very mixed and a dangerous message.

On the one hand, I am hopeful that the milk marketing order reform provisions of the final farm bill will give the USDA the tools that are necessary to bring about greater regional equity in milk pricing policies and to make the milk marketing order system more reflective of today's markets.

The bill instructs the Secretary of Agriculture to consolidate and reform orders within 3 years, and essentially instructs him to do so without consideration to the existing price system established by the 1985 farm bill. I think this is a positive change, and I am very hopeful it will bring about a marketing system that is more defensible in today's economy and more equitable to all the dairy farmers of our country.

However, I am stunned by the inclusion of another provision of this bill, which I believe goes in the complete opposite direction of market orientation, and that is the northeast interstate dairy compact. While the bill does not approve the compact, it does explicitly give the Secretary of Agriculture the authority to do so on a temporary basis if the Secretary determines that there is a compelling public interest in the area.

My colleagues will recall that during the Senate consideration of the farm bill, we voted to strike the northeast dairy compact from the bill. In doing so, the majority of the Senate demonstrated their disagreement with efforts to establish what amounts to regional dairy cartels, and on the House side the northeast dairy compact never was included.

So it is very hard for me to understand how a dangerous provision like this can appear in a conference report when it has been clearly rejected by both Houses of Congress. In my mind, Mr. President, that is back-room dealing at its worst.

It is true that some provisions have been added to the compact to try to blunt its negative effects. Other safeguards that had been agreed to in previous debates were deleted. But my overriding concern about the northeast dairy compact is now and always has been one of dangerous precedent.

Since my first day in the Senate, I have fought to make Federal dairy policy more equitable to the dairy farmers of the Upper Midwest. Most agricultural economists, and now even the Secretary of Agriculture, agree that the current milk pricing policies have had a disproportionately negative effect on the farmers of my region, and I am hopeful that the milk market order reform provisions of this bill will help reverse that injustice. But I fear that even the most equitable milk market order reforms will be meaningless in the long run if we start allowing regions to segregate themselves from the rest of the country economically through efforts like the Northeast Dairy Compact.

Our country and its Constitution are built on the concept of a unitary market without barriers. While I appreciate the efforts that have been made to water down the ill effects of the compact, I strongly believe that the long-term ramifications of this compact on a State like Wisconsin, which depends so heavily on national markets, are ominous.

A New York Times editorial this past weekend stated the following about the Northeast Dairy Compact:

> A House-Senate conference committee has managed to tarnish the most important farm bill in years by inserting a last-minute provision for a New England milk cartel that would gouge consumers and violate the free market concept that has made the 1996 farm bill worthwhile. The regional milk monopoly is the very opposite of the kind of reform this bill was meant to provide.

It will now be up to those who support true market-oriented dairy pricing reform to make that case to the Secretary of Agriculture and to assure this regional compact does not come into effect.

Lastly, while this farm bill eliminates the 10 cent per hundredweight budget assessment that all dairy farmers hate, its net effect on dairy farm income will be negative. In fact, I know of no other farmers that are asked to give up their price safety net as dairy farmers are through the elimination of the Milk Price Support Program without providing some sort of direct transition payment to soften the blow. While I question the wisdom of the overall structure of this bill, it would seem only logical to apply that structure equitably across commodities, and this bill does not do that with respect to the dairy farmer. So I will cast my vote against this farm bill.

I yield the remainder of my time.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Indiana.

Mr. LUGAR. I yield 10 minutes to the distinguished Senator from Pennsylvania [Mr. SANTORUM].

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I thank the Chair.

Mr. President, I rise in support of this legislation, and I do so enthusiastically, although I must say I do have some reservations about a few of the titles which I will talk about later.

Overall, this bill does move in the right direction. It moves toward freedom to farm, which I think is absolutely important for agriculture in America, to be not only profitable for the farmer but to be able to produce goods that can be sold all over the world.

I am very proud of the conservation title in this legislation. I think the dairy title takes a step in the right direction. Dairy, as has been said by various people on the floor, is probably the toughest area to reform, but we have taken steps in the right direction. It is going to take a little bit longer to get the kind of reforms in dairy that are necessary to be more free market oriented, but I think we have moved substantially in the right direction, and I support this bill.

I have some problems with respect to sugar and peanuts, but they will not keep me from voting in favor of this legislation and to commend both Chairman LUGAR and Senator LEAHY, the ranking member, for a job well done in putting this agreement together under fairly serious time constraints as we approach the planting season.

Let me first focus on the conservation title because this Congress has been excoriated by many in the national media for being an anti-environmental Congress. I suggest this farm bill is the most proenvironmental farm bill ever passed. It makes some terrific reforms by focusing on incentive-based programs, where we encourage farmers to be good stewards of the land. Farmers are good stewards of the land, by and large. We should have programs to complement their natural tendency, which is to take good care of the land that they need to grow their crops or to raise their cattle or sheep or whatever the case may be.

This is a very important step in the right direction. We should commend the leaders here, and the Congress, for putting this bill forward in an area, as I said before, where we are being criticized for not being sensitive to the environment. We have established new programs, incentive-based programs, that I believe will have a tremendously positive effect on the environment in rural America.

As a sponsor of the Environmental Quality Incentive Program that Senators LUGAR and LEAHY introduced and incorporated into this bill, I am particularly encouraged by the cost-shared assistance that will be available for livestock and crop farmers.

Senator LUGAR mentioned the Farms for the Future Program earlier. This is an amendment I offered on the floor of the Senate to provide $35 million for farmland preservation. It is an incredibly successful program in Pennsylvania. In fact, we have an overwhelming demand for this program in Pennsylvania that we simply cannot meet. This is an attempt to have the Federal Government help out to preserve high-quality farmland that happens to be located in an area near an urban area that is under very intense pressure for development. What we are seeing happen, obviously, as the urban sprawl continues to move out into the rural area, we are losing very valuable farmland. In fact, in many of my counties, particularly in southeastern Pennsylvania, we are seeing the whole farm economy destroyed because of the pressure of development. I know it is not just happening in Pennsylvania. It is happening across the country. Farmland preservation is a way to recognize that the farm economies in these areas where we have such high quality farmlands and we have a good agriculture base are worth preserving and protecting. This is a way to do it. So I am very excited about this aspect of the conservation title.

Finally, the whole freedom to farm concept is important with respect to the environment. Instead of dictating our farm policy from Washington, we are now giving flexibility to farmers. So they are not going to plant the same crop on the same ground, year after year. This practice requires increased uses of pesticides and fertilizers, because you are draining the ground of nutrients every year because you are planting the same crops. Now, you will see different crops planted and a reduction in the use of pesticides and herbicides. That is a very important, environmentally positive aspect to the freedom to farm approach.

So, there are a lot of things in this farm bill we should be very excited about from that perspective. I want to congratulate, again, the Agriculture Committee and the conferees, for keeping these programs strong and crafting a good title.

Let me now move to an area I am concerned about and that, obviously, is sugar and peanuts. But one other thing before that. I am disappointed we were not able to eliminate permanent law. Permanent law is from 1949. It is a law that is obviously not in use. It is superseded every few years when we do a farm bill, as we will this time. We will suspend permanent law, but it is still on the books. We say, "What does it matter if it does not come into effect? Why is it so important that you want to get rid of this?"

Permanent law is really the hammer held over our heads, that if we do not pass a farm bill, if we do not keep these farm programs going and we do not repeal permanent law, we kick back to this permanent law which means we have outrageously-priced commodities. This is, really, one of the reasons I believe we continue to pass farm bills and we continue to have an interfering Government hand in agriculture.

If we got rid of permanent law, then the farm bill would have to be passed based on its merits as a bill, not because there is a hammer out there that would throw the economy into disruption if we did not pass a farm bill. So, retaining the permanent law hammer gives me a little bit of trepidation that, when this farm bill comes up again for reauthorization, the transition to more free markets could be hampered because of that hammer. So I am disappointed in that. But, again, it is another fight for another day.

Finally, on the sugar and peanuts—I could talk at length about both, but I am going to focus my attention on what I see is the more egregious of the two programs and that is the peanut program. I stood on the floor right at this spot and offered an amendment on peanuts, which was a gradual phasedown of support price. The opponents of that amendment got up here and demanded—they said, "Look, you guys do not understand. We have real reform in here." They just said, "This is substantially reformed in the original bill. You do not have to go this far. This is outrageous reform, the Senator from Pennsylvania is talking about. This is just too severe. We have real reform in this underlying bill. As a result, you can be for reform of the peanut program and not vote for the amendment of the Senator from Pennsylvania."

Well, as I knew at the time and as I said at the time, I said: Yes, there are some reforms in here. They are not substantial. It is lipstick on a pig. But, yes, you can argue there are reforms here. But you know what is going to happen. These folks, who are advocates of this program, they are going to get in conference and they are going to gut all the reforms and they will come back and it is business as usual.

Surprise, what happened? They get to conference and almost all the minimal reforms that occurred in the original bill are gone. They are gutted. There is almost no reform in this bill anymore with respect to the peanut program in particular. That is fine. I should have known better. In a sense, I did know better. But I will state right here, that this program, while it is only reauthorized every few years—5, 7, whatever years it is—may be only reauthorized that often, but we are going to have another vote on the peanut program this year, maybe more than one vote. We are going to do it on appropriation bills. We may do it on who knows what other bills. We are not going to continue to sandbag reform on peanuts and then go to conference and gut it and have it included in the big bill where you cannot get to it anymore.

This battle is not over. There will not be any argument anymore from the other side that we actually reformed it because you did not reform it. Now we are going to talk about the merits of this program, as to whether it should go forward. Let me talk about the merits of this program. Yes, we cut the support price of peanuts from $678 a ton down to $610 a ton for quota peanuts.

By the way, the world price for peanuts is $350 a ton, but we are now at the tough, mean-spirited rate of $610 a ton, if you are on quota. We have two classes of citizens in peanuts, who grow peanuts. We have people who are lucky enough that their granddaddy was able to get a quota or license from the Government to grow them, and you get $610 a ton. If your granddaddy was not around when they were giving out the quotas, you only get, if you sell them on the additional market to the Government, $132 a ton.

It is the same quality peanuts, maybe grown by the same farmer, some are quota some are additional. But you get $132 versus $610. OK? The world market is $350.

So we have two classes of people out here. You say, "Well, yeah, you reduce the price." "Well, yes, we reduce the price. Guess what? We now have made this a no-cost program." That is the way they sort of got around it.

No, it is not reform. It is not going to cost money anymore. How do they do that? Every year the Secretary of Agriculture estimates what the consumption of peanuts will be in this country and sets the quota. Let us say it is 1.2 million tons of peanuts, and he sets the quota.

The Secretary cannot allow the Government to be a big buyer of peanuts, and the reason is because we cannot get stuck with a lot of expensive peanuts and not be able to sell them.

Mr. President, I ask for 2 additional minutes.

Mr. LUGAR. I yield 1 additional minute.

Mr. SANTORUM. So the problem is, he will have to go out and short the market; in other words, he will have to have a lower quota than they actually expect so they do not end up buying a bunch of peanuts and being stuck with the cost.

We had two provisions in there that actually penalized farmers 5 percent every time they sold their peanuts to the Government when they had a price equal to the quota price available on the market. Well, they gutted that provision. They gutted that provision completely.

How do they do it? First, they said the farmer has to put up his entire crop. What do you mean "entire"? You put up 99 percent of your crop and you sell 1 percent on the open market, and you avoid all penalties. That is No. 1. There is a big loophole here, No. 1.

No. 2, it says that you have to sell your entire crop to the Government for 2 consecutive years, and then you get penalized. One year one producer sells it all to the Government, the next year another one does, and you play games with producers so nobody gets caught. That is another big loophole in this.

I can go on with a whole variety of other gutting amendments that occurred in conference. But the fact of the matter is this program is not reformed in this bill. We are going to have plenty of opportunities on the floor of the Senate over the next 6 months to reform it, and I am looking forward to that debate.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. LEAHY. How much time does the Senator wish?

Mr. HEFLIN. Ten to twelve minutes.

Mr. LEAHY. I yield 10 minutes to the Senator from Alabama. My time is dwindling, so I yield 10 minutes.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise today to talk a few moments on the farm bill conference report that is before the Senate. Last year, when the farm bill process began, farmers came to me representing all types of commodities enthusiastically supporting the continuation of the present programs which provided a safety net for farmers in times of disaster or low market prices. They told me the programs were working well, and, particularly in the South, these programs had worked exceptionally and extremely well, specifically in regard to cotton.

However, there was substantial Republican opposition to the continuation of such programs, even within budgetary limits. Therefore, the Republicans pushed the Agricultural Market Transition Act of 1996, formerly known as the freedom to farm bill, in which the farm program payments were decoupled and all Government programs would ultimately be phased out at the end of 7 years.

In order to gain producers' support for a farm program phaseout, the Republicans advocated fixed, but declining, payments regardless of market prices. The program that they advocated guaranteed payments to farmers whether they needed them or not. This program, in my opinion, constituted a welfare program.

In regard to cotton, it is understood that if you can produce cotton and get a price close to the target price, which is 72.9 cents a pound, you can make a living. The target price was based on the idea of taking the cost of production and the minimum amount necessary to have a return on equity comparable to what business groups endeavor to try to have as a return on equity, on a conservative basis.

But we find that under this program, this freedom to farm act, that if cotton went up to 85 cents a pound, which would be a bonanza year for profits and for prices, nevertheless under this, you would get a Government payment, a mailbox payment. If cotton went, as it did last year, to $1.06 a pound, you would, nevertheless, under the Republican proposal, get a Government subsidy. There is no point in paying money to people who do not need it, and that would be what would have happened last year under this particular program. Support for farmers should be available during times of low market prices or uncontrollable natural disasters. Payments should not be made to farmers when commodity prices are as high as they currently are.

I oppose such an approach, feeling that this program could not survive close public scrutiny and is simply not good policy.

However, in the Senate, there was extended debate, there were cloture motions filed, and it appeared that cloture would not be obtained at one point, so compromises were worked out. Senator LEAHY took a lead in trying to work out a compromise, and I commend him for the end result. I do not like all the compromises, but at least with the circumstances with which we were faced, we did achieve a bill.

One aspect of the compromise was reinstating permanent law. Permanent law will ensure that Congress in the future must address farm programs and not simply allow them to expire.

The addition of permanent law as a part of the now called Federal Agricultural Improvement and Reform Act of 1996 is a vital element for assuring that the Federal Government will refocus its attention on agricultural policy and ensure that we maintain a partnership with rural America and not abandon our agriculture producers at the end of 7 years.

The Senate compromise also reauthorized conservation programs, including the Conservation Reserve Program [CRP] and permitted new CRP enrollments. The conservation title of the farm bill demonstrated a very strong commitment to the environment.

In addition, the very important nutrition programs were also reauthorized.

Discretionary agricultural programs, such as research, trade, rural development and credit were also rolled into the final bill.

The conference report before us today contains much of the Senate bill, and even some improvements were achieved in conference, including improvements in the peanut program. However, to me, this bill contains about an equal amount of good and bad, and this is so even after the compromise changes were included in the conference report.

If I had to weigh the good and the bad on a scale, they would come out about equal. But we are faced today with the fact that the planting season is upon us. A day has not passed in which I do not hear from farmers anxious for some direction from Congress regarding farm programs. Time is of the essence. The planting season is upon us, and that is an element that we must consider.

Nevertheless, I cannot overlook my strong concerns regarding the outyears when it is predicted that commodity prices will fall and the farmers will need an adequate and certain safety net.

The agricultural policy in China, for all practical purposes, is today controlling cotton prices in America, among others. They have vast billions of citizens to feed, and whatever policy they may establish concerning agriculture, it certainly affects the commodity prices in America today. If Chinese agricultural policy changes immediately, or in the next couple of years, then we will again experience commodity price fluctuations and the safety net provided in the bill before the Senate does not provide an adequate safety net to deal with this potential problem, and this concerns me deeply.

But at the same time, we also are faced with another situation. In my State of Alabama and in the Southeast, and in other sections of the country, last year saw disastrous conditions that affected the production of farm commodities. In the cotton belt, we had to deal with the boll weevil, the tobacco budworm, and the beet armyworm. Alabama also experienced a terrible drought, and then had to deal with two hurricanes unfortunately at harvest time. Alabama, along with other regions of the country, each had their share of uncontrollable factors to deal with this last season. Unfortunately, catastrophic crop insurance proved to be inadequate and many farmers struggled to make back their cost of production, and many did not. We tried to pass some limited degree of disaster assistance for cotton farmers during agriculture appropriations, but this effort was unsuccessful. So we are looking at a situation today where the first payment under the, as I call it the freedom to farm act, would act as a disaster payment to farmers for the disastrous situations experienced last year.

Therefore, while I believe this bill to be flawed in some areas, I have decided to vote for the conference report. I base this decision on weighing the good and the bad, and I believe it to be about equal. The fact that it is late in the day and this bill does provide some immediate assistance to farmers, I will, with reservation, vote for this conference report. I have hopes in the future that we will come back and take a responsible look at the policy, a year from now or 2 years from now, and look again at the overall policy pertaining farm programs.

I would like to commend Senator LEAHY for his work in this regard.

Mr. LEAHY. I will yield another minute for that, Mr. President.

Mr. HEFLIN. I think he did a great job and he reestablished a great deal of Democratic principles into the policy that we have, particularly research and conservation and environmental as well as others in regard to it.

I would briefly like to mention the peanut program. In my judgment the peanut program reform went far too far. According to studies that were made by Auburn University, the final version of the peanut program being voted on today will result in a 28-percent loss of income to the peanut farmer. While other commodity producers are receiving transition payments, the peanut producer is seeing nearly a one-third reduction in his income. In my judgment, the degree to which the program was reformed was unnecessary and punitive.

Mr. President, as I am looking at this farm bill, this will be the last farm bill that I will participate in, since I am retiring at the end of the year. I have long been a supporter of the American farmer. My commitment to agricultural producers has been constant throughout my career. I am concerned that the bill before us today does not provide the kind of safety net that I would prefer to see and leave as a legacy for future generations of farmers. I hope that in the future, Congress will not turn its back on American farmers in the event that commodity prices fall and farmers are left without any price protection.

I ask the Senator if I could have a couple more minutes.

Mr. LEAHY. I yield another minute to the Senator.

Mr. HEFLIN. Basically, I think that the farm bill ought to have balance. Take for example feed grains. Feed grains are important to the producers, and the structure of their program is important to them. But so on the other hand are the users of feed grains, such as the producers of cattle, hogs, and catfish. It is so necessary to have a balance. So I hope that as we look to the future and look again in regard to these matters, that we will attempt to achieve a balance between producers and users of agriculture commodities.

I would like to recognize Senator LUGAR for his work on this farm bill. Senator LUGAR has been a good chairman. I disagreed with him on many aspects of the bill and of the overall policy but he was certainly a gentleman throughout; he made certain that everybody had an opportunity to be heard. I think that he wants to achieve a balance in regard to farm policy and hopefully this will be addressed in the future.

So, as we look forward toward the future, we hope we can have a farm policy that has balance. At some time in the future I will deliver a speech to the Senate relative to balance—balance relative to trade, balance in regard to agriculture policy. But today, Mr. President, I will vote for the conference report.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, we are going back and forth. I see a Member on the other side of the aisle. But I note, if I might, the distinguished chairman. I do intend to make a statement later in praise of both Senator HEFLIN and Senator PRYOR, two of our most distinguished Members, who are leaving the committee at the end of this year.

Mr. LUGAR. Mr. President, Senator GRASSLEY is prepared to wait for Senator KERREY's speech. Senator KERREY has been on the floor. I will ask recognition for him to speak following Senator KERREY.

Mr. PRYOR. Mr. President, I am not seeking recognition to speak, but merely to ask the question, is there a possibility that we could seek, once the speakers coming up are through—I have been here for a good while this morning. In fact, I have enjoyed being over here this morning listening to some of this debate. But I see some of my colleagues, Senator KERREY, Senator BRYAN. I would be glad to follow them, if I just knew some order.

Mr. LEAHY. I wonder on our side, as we go back and forth on the Democrat side, I wonder if my colleagues would be willing to have it be the sequence of Senator KERREY, Senator BRYAN, Senator PRYOR. Is that what the Senator is suggesting?

Mr. PRYOR. I would be glad to follow my colleague, Senator BRYAN.

Mr. BRYAN. If I might, the distinguished Senator from Arkansas has been here longer than I.

Mr. LEAHY. Why not Senator KERREY, Senator PRYOR, Senator BRYAN, as we take our turns. That is assuming there will be a chorus between each Democrat of a Republican seeking recognition.

Mr. LUGAR. If the Chair would permit, following Senator KERREY, Senator GRASSLEY would be the Republican speaker, to be followed then by the two Democratic speakers, and then any Republican that comes on the floor.

Mr. LEAHY. I thank the chairman.

Mr. PRYOR. So I will not surprise either of the splendid managers of this piece of legislation, I am going to vote against this bill. But there is one section I find very appealing in this legislation. I want to talk about that section just for a while, 4 minutes.

Mr. LEAHY. Those in opposition will have time yielded by the distinguished Democratic leader, and we will take that at that appropriate time.

The PRESIDING OFFICER. The Democratic leader has 84 minutes.

Mr. LEAHY. Is the Senator from Nebraska speaking in opposition?

Mr. KERREY. Yes. I ask for 10 minutes, to be charged against the Democratic leader's time.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. KERREY. Mr. President, first let me praise the conferees. Given the acrimony surrounding the debate, and given the lateness of the hour, it is entirely possible for conferees to look and produce nothing, or to produce a bill which the President would have had to veto. I appreciate very much—I know a great deal of movement had to occur in order to resolve many of the conflicts. I applaud them for having produced a piece of legislation that the President has indicated that he will sign and that he would like to revisit next year.

Mr. President, I would like to go through some of the things I see are good in this bill. I do intend to vote against it, but there are a number of things that are quite good.

First, in the area of conservation, one of the great success stories of farm programs over the past 60 years has been the tremendous improvement in conservation of soil and of water that has occurred on the private property in this country. Very often one of the political lines is used when describing the farm program as "What a failure it has been." But one need only look at the snapshot of what this country looked like in the 1930's versus what it looks like in the 1990's. Indeed, you can go back to the 1980's and see considerable progress just in the last 10 years. It has been a great, often untold story, this success story in this country.

This bill authorizes the CRP at 36.4 million acres through 2002. All conservation programs are going to become more responsive to State and local needs since the technical committees that control will be required to include agriculture producers as well as nongovernmental organizations, giving them an expanded role.

This is no small item, Mr. President. It empowers people at the State level to come up with plans for the CRP that dovetails with their plans for conservation, their plans for tourism, their plans for water quality. We have tried that at the State level in Nebraska, and I can alert colleagues that groups that typically opposed one another have been able to reach agreement as a consequence of being given the power and control over making these kinds of decisions.

There is simplified conservation planning in this legislation for farmers through the Environmental Quality Incentives Program and the Conservation Farm Options. It is a tremendous improvement. I applaud the conferees for including it.

It provides for pilot wetlands mitigation projects to give farmers flexibility in managing their frequently cropped wetlands that have been badly degraded.

It makes many improvements to the law dealing with good-faith violations of conservation requirements and granting of variances from conservation requirements, stemming from "abandonment" of farmed wetlands and in defining "agricultural land" so the U.S. Department of Agriculture will be the agency responsible for delineating wetlands on pasture, rangelands and tree farms.

Next, the Resource Conservation and Development Program, which has also been very successful in my State, is reauthorized through the year 2002. The next big thing I identify is something quite good, spoken at length by many other people, but we have retained permanent authority for farm programs. Thus, we are not phasing out the farm program, not only at the end of 7 years, but the door is open if this program turns out not to be successful, for us to revisit and perhaps change the law.

Third, it increases planting flexibility, though we take a step backward from the 1990 farm bill in planting flexibility for farmers who want to plant fruits and vegetables. I am pleased the conferees adopted a provision I requested regarding alfalfa and other forages. For the first time, farmers and ranchers will not be penalized for harvesting alfalfa and other forages on their base or contract agencies. This will help farmers meet their conservation compliance requirements and may result in more conserving-use species being grown on environmentally sensitive land.

I point out there was an alternative, called the Farm Security Act, providing tremendous flexibility and simplicity by reverting to the normal crop acreage system, what we, on the Democratic side, proposed and tried to get supported. It would have retained a market orientation but would have provided tremendous new simplicity and flexibility for the farmer.

In addition, the rural development programs are improved. The creation of the Rural Community Advancement Program will give States more flexibility to address their individual needs, and the Fund for Rural America will provide additional resources for addressing needs in both rural development and in research.

Next, on the negative side, now moving from the good to the bad, depending on your point of view, my point of view is that it is very bad to create a fixed payment system that is, in essence, ignorant of the market, ignorant of the farmer's revenue, and ignorant of whether the farmers even plant a crop. This decoupled program of so-called guaranteed payments is far from being market oriented. It is market ignorant. American taxpayers would not stand for our Government giving AFDC payments to a family making $100,000 a year, any more than they will stand for our Government giving producers a freedom-to-farm payment—up to $230,000, in fact—when that farmer has received record-breaking profits or when he decides not to plant at all.

Next, it overpays farmers when revenue is high but leaves farmers without adequate protection during bad years when they need Federal support the most. Worse, the loan rate is capped for the 1995 levels. It can go down, but it can never go up. In a time when farm prices have increased and are projected to remain high for several years, these cap loan rates quickly become as outdated as the crop basis of previous farm bills.

Wheat and feed grain farmers, the individual producers themselves, came and said, "If you take these caps off, we will pay for it by taking reduced guaranteed payments," but the majority party refused to make this commonsense change.

In 1996, the farm program was expected to cost very little. To be clear on this, in 1985 the farm program cost $26 billion; last year, $10 billion. This year was going to cost $6 billion; next year it is forecasted to be $3 billion as a consequence of prices being high. Farmers are getting a decent income from the market, and the taxpayers are benefiting from the greatly reduced cost of the farm bill.

As much as I dislike many of the aspects of the 1990 farm bill, it is undeniable, from a taxpayer's perspective, that the 1990 farm bill was working. Our deficit will actually increase by $4.5 billion by the end of 1997 as a result of this bill.

Yesterday, we heard the Secretary of Agriculture come before the Agriculture Appropriations Subcommittee and present the President's budget for 1997 to Congress, and he had to say, "We did not know what the farm bill would be, so we could not include the farm bill consideration." But his budget, assuming spending needs would be the same as they have been under the 1990 farm bill, shows that there is a $3 billion increase in the mandatory side of the farm program payments.

So, please understand for those who will vote for this thing and issue the press release talking about how it will be cheaper in the first year, and the budget that we will debating this year, the budget will actually increase on the mandatory side by $3 billion. Increasing mandatory spending by $3 billion in 1997 can mean one of only two things, Mr. President: Either the deficit will increase, or discretionary spending will have to decrease.

In the President's 1997 budget, budgetary authority for discretionary spending amounts to $13 billion. Budget authority for mandatory spending is $59 billion, including the nutrition programs. That $13 billion is a $200 million increase over last year. With inflation running about 2½ percent, that is an actual cut, Mr. President. With this $3 billion increase in the mandated side, unless we bust the budget or find an offset someplace else, we will have to take the discretionary programs down even further than is being recommended by the President.

Next, Mr. President, our Nation's neediest people are shortchanged by this bill, since the Food Stamp Program is reauthorized for only 2 years. Only 2 years' authorization of food stamps, while farmers are supposedly guaranteed payments up to $230,000 for 7 years.

Research is shortchanged as well, Mr. President, with programs being authorized only through 1997. This is a result of the House insistence that we should force ourselves to craft a new bill dealing with research within that time period. I agree our research program should be reexamined and updated. However, if the past 14 months is any indication of how quickly the House and Senate Agriculture Committees and Congress as a whole will act to reauthorize agriculture-related programs, the majority's insistence of only a 21-month authorization for research is not a very good idea.

Less planting flexibility for farmers who grow fruits and vegetables is the next objection I have, Mr. President. Potatoes, in particular, is a crop grown increasingly in my State, and not only grown but also processed. So it is an important source of jobs. Under the 1990 farm bill, the current law, any farmer could plant potatoes as long as that farmer agreed to give up any Federal subsidy on the acres that were planted to potatoes. That is fair policy.

Unfortunately, I was unable to persuade the majority that we should adopt the same policy of planting flexibility for potato growers under this bill. Instead, the conferees adopted a provision that will create an allocation system, a quota, Mr. President, for farmers who want to plant potatoes or other fruits and vegetables on contract areas. Instead of allowing any farmer to plant potatoes, if the farmer agrees to forego his Federal subsidy it limits potato production on contract acres to three situations: First, a region with a history of double planting; next, a planting history that includes potatoes; and farmers that can prove to the U.S. Government, the USDA, they have grown potatoes in the past, but that farmer is limited to planting no more than his average production of potatoes in the 1991–95 period.

So in conclusion, we are saying freedom to farm, more flexibility, but you are not able to do what you are allowed under the old farm bill, which is, if you want to plant an alternative crop you are allowed to take a decreased payment off your normal base. I object to this arbitrary planting restriction, particularly since farmers of each of the three situations must also give up their guaranteed payment.

Mr. President, the last time the Congress failed to enact a farm bill during the year it was due was in 1947. I point out, in 1990, when this bill was being debated, when the current law was being debated, in July 1990, there was a great debate over an amendment offered by the Senator from Texas, Senator Bentsen. What he said was, we are going to authorize the Secretary—any section of this farm bill is extended during that 5-year period to reauthorize the rest of the farm bill. Why? Because the Republicans at this time were quite concerned—there was a colloquy between the distinguished Senator from Indiana and the Senator from Kansas saying, we have to do this because July is too late.

We waited far too long, Mr. President, this time around. 1947 was the last year when this happened. That year there was a Democrat in the White House and Republicans controlled the House and the Senate. In my judgment, we are going to have to do the same thing that the voters did in 1948 to break the current logjam we have on the farm bill and the appropriations bill if the American people's will is not going to continue to be frustrated.

However, the conference committee—as I said at the beginning, I must revert to praise—the conference committee does a terrific job. They could have ended the day and passed nothing. They were up against a time line—self-imposed, in my judgment—as a result of not getting the work done. That having been said, it would have been very easy for them to have passed something the President could not have signed.

I hope that the political changes in 1996 present us with an opportunity to revisit this bill on behalf of farmers who need income, on behalf of people in communities who depend upon that income for jobs, on behalf of the taxpayers who are going to pay for it, and, most important, on behalf of the American consumer.

I yield the floor.

Mr. LUGAR. Mr. President, I yield 10 minutes to the Senator from Iowa, Senator GRASSLEY.

Mr. GRASSLEY. Mr. President, Congress and the Senate takes up today the passage of legislation regarding the farming community and is presenting legislation as a basis for a safety net for the agriculture of the next century. The programs of this century are outdated for the agriculture of the next century.

Now, Mr. President, the opponents of this bill take great delight in calling this a welfare bill for farmers. Well, of course, that shows a complete lack of understanding of the farm economy and of farm programs.

First of all, farmers have relied on a Government program for the past 60 years. The urban press has always referred to Government programs as "welfare" because they are too stupid to understand the interrelationship between food production and what goes on in cities and the jobs that it creates.

But what the press does not tell you is what the farmers have done for the American consumer. Farm programs have helped farmers to supply us with the best and the cheapest food supply in the world. Is this welfare? Everyone—most of all, the consumer—has benefited from farm programs, and they will continue to do so under this bill.

But Congress has passed, in this bill, the most sweeping changes in farm programs in 60 years. We will not, in this new environment of change, pull the rug out from under farmers in this legislation.

We are providing in this legislation a glidepath to the free market type of agriculture that most farmers want. This bill provides a glidepath. It provides guaranteed, certain payments to farmers to allow them to adjust to a new era of agriculture.

This era will be heavily influenced by free market forces instead of Government programs. This new era will also be influenced by the opening of markets in Europe and the Pacific rim when free-trade agreements, such as GATT, are allowed a chance to work. Most farmers welcome the opportunity to meet every competitor abroad, compete in every market, and send a clear signal—which this bill does—that we are going to supply that market. We are going to be in the market to stay.

But, of course, during transition, there must be an adjustment period. The Government safety net must continue in order to ease the transition. This bill accomplishes that goal.

And anyone in this Chamber who thinks farmers will take this market transition payment and not plant a crop has a total lack of understanding not only about farming but about economics in general.

The farmers I know cannot afford to pay the property tax on their land and to take these payments and expect to make a living from them. They will have to earn income from the land. Not only do they have to do it, they want to do it. They have to produce and market a crop in order to provide such a living.

With all due respect to any of my colleagues who think otherwise, it is insulting to our farmer constituents to insinuate that they will take a Government payment and fly off to Florida and let the productivity of their land and the return from that productivity be nonexistent.

Obviously, you are not talking to the same farmers that show up at my town meetings and visit my office. These farmers want to continue to farm the land and make a living from that land.

So let us give farmers just a little bit of credit. Let us trust them not only to do the right thing, but to do the only thing that makes sense economically. That is what most of this farm bill is all about—letting farmers make their own decisions, instead of Government making all of their decisions for them.

Mr. President, I simply cannot, on another point, buy the argument made by the opponents of this bill that we have failed to provide an adequate safety net for farmers. The farmers I talk to do not think the current program is any safety net at all.

If you want to see how the current program would work for some farmers if it were extended, talk to the farmers in southern Iowa, western Illinois, and northern Missouri who did not get a crop planted in 1995, and ask them about a safety net. They had little or no crop to market this year. Yet, they did not receive a deficiency payment because prices are so high. They lost a lot of income, and many of them are on the verge of going out of business. Yet, some of my colleagues want to extend the 1990 farm program because they think it is a better safety net.

This new farm bill has all the components of an adequate safety net. First, it makes guaranteed, fixed payments to farmers for the next 7 years—something they can count on. It lets farmers manage their income from the Government, instead of some bureaucrat in Washington doing it.

Since we know the amount that we have to spend on the farm program over the next 7 years—and we have to know that if we are going to get to a balanced budget—why not let the farmers manage this money instead of Washington? Once again, the opponents of the bill would rather keep the powers in the hands of unelected, faceless bureaucrats, when the farmers, business people, as they are and must be, are competent to do this and want to do it and welcome the freedom to do it.

This farm bill also has a strong Marketing Loan Program. This represents the true safety net for our farmers. It protects the farmers against rapid decline in prices. Finally, we establish a new program in this farm bill called revenue insurance. In fact, it is already being used in Iowa under the name of crop revenue coverage. This new product is a public-private partnership that represents the future of farm programs. The farmers I talked to in town meetings over the past weekend are very excited about this product. They feel that it is the only safety net that they need, one that they can control, and one that is related to the marketplace.

So let us not substitute our judgment for that of our farmers. It is their business, their livelihood, and there is nobody who knows better how to manage the 350-acre average-size farm in Iowa than the man who is operating it or the woman who owns and operates it. They know better than many people here. Let them decide what a sufficient safety net is for their business. I think most of them will decide that this new revenue insurance product is a very strong safety net.

Also, Mr. President, the opponents of this bill argue that we are ending Government involvement in farming, and that this is just plain wrong. These are scare tactics designed to undermine the intent of this bill.

First of all, permanent law, specifically the 1949 act, is still in place as an incentive for Congress to consider farm legislation after the year 2002.

Second, I understand from the Congressional Budget Office that agriculture will have about a $4 billion baseline for farm programs after 2002.

Finally, and most significantly, the bill establishes a strong insurance program. This program will be a public-private partnership that provides a very strong safety net for family farmers.

So Government will continue to play a very important role in farming. But the role will be much more limited. It is accurate to say that farmers' business decisions will no longer be made in Washington. But the Federal Government will continue to play a role in providing a safety net.

Maybe the opponents of this bill want the Government to continue to control all aspects of agriculture. But farmers do not want that, and the supporters of this bill do not want that. But it is just fear-mongering to insinuate that the Federal Government will pull the rug out from under the family farmers. This simply will not happen under this very good piece of legislation.

I commend the manager of the bill for writing a very good piece, as well as the Senator from Vermont.

I yield the floor.

Mr. LEAHY. Mr. President, I yield time from the time of the distinguished Democratic leader to the Senator from Arkansas.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the distinguished ranking member, Senator LEAHY, for yielding to me. I want to compliment not only Senator LEAHY but also our friend and chairman of the committee, Senator LUGAR of Indiana.

This has been a very, very difficult process indeed—Mr. President steering this particular piece of legislation through the Agriculture Committee ultimately onto the floor of the Senate. In my opinion, it is long overdue. We will not fight that battle now. That has been the battle of the past days, and perhaps it could be a battle for a future day. But at least let me say that our two ranking members, our two managing members, this afternoon have worked very hard and very closely to bring this matter to the floor of the Senate this afternoon.

I would like to take just a moment to highlight section 926 of the farm bill conference report to my colleagues in the U.S. Senate. I find myself in a very unusual position of pointing to something in this report which I actually support, and those sections are few and far between. But this is section 926 that I strongly support.

As many of my colleagues know, I have not nor will I today support the freedom-to-farm concept espoused in the philosophy of this legislation. I believe it ends the much-needed safety net for our family farmers. However, I have stated my opinion numerous times on this floor, in the Agriculture Committee, and most recently in the last week or so as a member of the conference committee that brought this bill to the floor of the U.S. Senate.

Nevertheless, I would like to very quickly highlight one particular provision which was included to recognize one of our distinguished colleagues in the U.S. Senate. Section 926 of the report designates the research facility operated by the Agricultural Research Service—ARS—near Booneville, AR, as the "Dale Bumpers Small Farms Research Center."

Booneville, AR, by the way, is less than 15 miles south from an even smaller Arkansas town known as Charleston. The reason I bring this up is that Charleston, AR, just so happens to be the hometown of our colleague, the senior Senator from Arkansas, the Honorable Dale Bumpers. At one time Senator BUMPERS not only operated a small business, which was a hardware store, but he was also an attorney in Charleston, AR. He took great pride in stating that he was not only the only attorney but that he was the best attorney in Charleston, AR.

Mr. President, naming this research facility after the Honorable DALE BUMPERS could not be more appropriate, and I am very pleased today to play a very small part in making this distinction possible. Senator DALE BUMPERS has been a tremendous ally for the farmers and ranchers of Arkansas and across the whole country.

As chair and now ranking member of the Agriculture Appropriations Subcommittee, Senator BUMPERS has worked and continues to work tirelessly on behalf of the agriculture community. He is also, as we all know, the former chairman of the Senate Small Business Committee.

It was early 1976 when the Booneville Chamber of Commerce went to work to find a better way to utilize State-owned land near this particular town. With the tireless help of Senator DALE BUMPERS, the necessary groundwork began, and this truly grassroots project was off and running. After consideration of all possible uses for this land, the overwhelming conclusion was that a research facility to benefit small farms would be the most valuable use. I so well remember this project. It seems so many years ago, as I was Governor at the time and did what I could at the State level to push this project forward.

Over the next couple of years working with Senator BUMPERS, with his help, vision, and foresight with the feasibility studies that he was responsible for when they were conducted, additional backing was gained. Certainly they showed that a research facility for small farmers in small farming operations was justified. Since it was State-owned and State-involved, Mr. President, support from the Governor was crucial. And when my successor, Governor Bill Clinton, entered office in 1979 he quickly recognized the merit of establishing a small farms research center. Approval from local organizations was also obtained, and the citizens of Booneville traveled to Washington, DC, to the Nation's Capital to follow through on their efforts. I remember so well those meetings. I also remember the leadership of Senator DALE BUMPERS—that much-needed fire that got these funds committed, and the project was then off the ground.

Finally, in 1980, Mr. President, with all of the planning, and all of the studies finally completed, about 15 acres of State-owned land was leased to the University of Arkansas, which in turn was leased to the Department of Agriculture to be used in research. All of this would not have been possible without the leadership and the vision—and certainly the commitment—of the Honorable DALE BUMPERS.

On behalf of the citizens of Booneville, AR, and throughout our entire State, on behalf of the farmers and the ranchers who have and will continue to benefit from the important research conducted there, let me at this time express the much-deserved appreciation for all of Senator BUMPERS' efforts in making a worthy project become reality. We hope that this small token of recognition will demonstrate our gratitude to Senator DALE BUMPERS.

Let me conclude, Mr. President, by stating that this idea to name this particular facility has been kicking around I must say for a long time. For a long time many members of the community of Booneville have thought that the appropriate name for this center would be the "Dale Bumpers Small Farms Research Center." We have leaders like Jeral Hampton, Rick Lippard, Gene Remy, Don Dunn, A.B. Littlefield, and John T. Hampton who served on a committee to steer this center from the blueprint stage to the active research stage that it finds itself in today.

It is a great opportunity, and I must say a great challenge that lies ahead to benefit not only small farmers in our State but small farmers in research across this great country of ours.

It is a great honor for me. It is great to be able to assist in the proper naming of this U.S. Department of Agriculture research center after our distinguished colleague and senior Senator from the State of Arkansas.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, I understand that under unanimous consent Senator BRYAN would be recognized.

Mr. BRYAN. Responding to the floor manager's inquiry, I will speak for less than 10 minutes, hopefully.

Mr. HARKIN. Parliamentary inquiry: This Senator would like to know what the speaking order is that is coming down the pike?

The PRESIDING OFFICER. Let us defer to the floor manager.

Mr. LUGAR. Mr. President, may I suggest to the Chair that it might be appropriate after Senator BRYAN is recognized that Senator JEFFORDS be recognized on our side, and then Senator HARKIN, if that would work out with the arrangement. We have attempted to alternate back and forth. But there was no Republican present when Mr. BRYAN appeared and, therefore, I recognized that he was the next speaker on that occasion. But after him, I would like to proceed to Senator JEFFORDS.

The PRESIDING OFFICER. I understand Senator BRYAN, Senator JEFFORDS, and Senator HARKIN, in that order.

The Senator from Nevada is recognized.

Mr. BRYAN. I thank the Chair. I thank the majority floor manager for accommodating me and recognizing me in sequence.

Mr. President, I rise today in opposition to the conference report and to speak about an aspect of this farm bill that is particularly troubling to me and has been troubling to me for many years.

Again and again this Senate has passed provisions to reduce and to reform the Market Promotion Program which is also known as MPP. Each and every time the Senate has called for reform of MPP the conference committees which convened subsequent to the passage of those reforms have removed the reform language from the final conference report.

By way of background, Mr. President, the Market Promotion Program was created to encourage the development, maintenance, and expansion of exports of U.S. agricultural products. MPP is a successor to the Targeted Export Assistance Program [TEA] which was established in 1986. TEA was originally created to counter or offset the adverse effect of subsidies, import quotas, or other unfair trade practices of foreign competitors directed at U.S. agricultural exports. Since 1986, the Federal Government has spent $1.43 billion on TEA and MPP.

The General Accounting Office has pointed out that the entire Federal Government spends about $3.5 billion annually on export promotion. While agricultural products account for approximately 10 percent of total U.S. exports, the Department of Agriculture spends about $2.2 billion each year or 63 percent of that total. By contrast, the Department of Commerce spends $236 million annually on trade promotion.

MPP is operated through approximately 64 organizations that either run market promotion programs themselves or pass the funds along to individual companies to spend on their own advertising efforts. In fiscal year 1994, about 43 percent of all MPP activities involved generic promotions while 57 percent involved brand-name promotions.

In fiscal years 1986 through 1993, $92 million of MPP funds went to foreign companies.

Mr. President, when I talk about MPP funds, I am talking about tax dollars collected from American citizens who remit their taxes to the Federal Government each year. That $92 million represents nearly 20 percent of the total funds allocated for brand-name promotions during those 8 years. In fiscal year 1994, more than 140 foreign companies received MPP funds.

Although the stated goal of MPP is to benefit U.S. farmers, the program can also benefit foreign enterprises. By funding foreign firms, the General Accounting Office has contended that MPP can make it more difficult for U.S. firms to compete and to obtain a foothold in foreign markets. While it has been argued that the funding of foreign companies may produce short-term gains in the export of U.S. agricultural commodities, those gains are likely to come at the expense of U.S. firms gaining a more permanent foothold in overseas markets.

On September 20 of last year, the Senate voted 62 to 36 to reform the MPP Program and to lower the amount of Federal Government money supporting it. This amendment was cast in the form of the Bumpers-Bryan amendment and would have made three reforms to MPP.

First, under the provisions of the amendment, only small businesses and Capper-Volstead cooperatives would be eligible for financial assistance.

Second, no funds would be used to provide assistance to foreign trade associations.

Third, the funding level would be reduced to $70 million.

When the fiscal year 1996 agriculture appropriations conference report came back to the Senate on October 12 of last year, it was passed on a voice vote. The conference committee had removed the Senate language reforming MPP and restored its level of annual funding to $110 million.

Again we tried to reform MPP when the 7-year farm program authorization first came before the Senate last month. The Senate passed the Bryan-Kerry-Bumpers-Reid amendment by a vote of 59 to 37, and it contained the same provisions that were previously included in the Bumpers-Bryan amendment, the reforms as well as reducing funding to $70 million annually. Now the farm bill conference report has come back to the Senate and, again, repeating the pattern of the past MPP reforms that passed the Senate, have been removed.

Let me make specific reference, Mr. President, to language contained in the conference report itself that addresses this subject, and I quote:

> Funds shall not be used to provide direct assistance to any foreign for-profit corporation for the corporation's use in promoting foreign-produced products.

Now, at first blush, a superficial reading of the language might suggest that foreign companies would be excluded from receiving money through MPP, but this apparent reform is disingenuous. While the language adopted by the conference committee might prohibit direct assistance to foreign companies, it does not prohibit indirect assistance to foreign companies by nonprofit associations. And in what may be the ultimate irony, the conference report implies that a new reform is being enacted that would preclude payment to foreign corporations for foreign-produced products. MPP was never designed—and I repeat never designed—to compensate corporations for foreign-produced products. This claim of reform is illusory.

At a time when the gospel of budgetary restraint has reportedly been embraced by all, a majority of the agricultural conferees continue to pursue a taxpayer giveaway to foreign corporations.

Finally, this conference report adds a new and rather curious mandate. It officially changes the name of the Market Promotion Program to the Market Access Program [MAP] as it will now be designated. Is this reform? I would submit that if it looks like a duck, walks like a duck, quacks like a duck, swims like a duck, it is a duck. Whether it is called MPP or MAP, this program remains what it has always been, a frivolous use of taxpayer money and a prime example of a corporate welfare program that should be eliminated.

Mr. President, I yield the floor.

Mr. LUGAR. Mr. President, I yield 5 minutes to the distinguished Senator from Vermont, Senator JEFFORDS.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. First of all, I commend the chairman of the Committee on Agriculture, along with the ranking member, for the incredible work that they have put into this bill. I believe it is an excellent piece of legislation that provides stability, enhances markets, streamlines outdated programs, creates incentives to protect the environment, and benefits all farmers from all regions of the country. Having worked on several farm conferences in my period in the House, I know how difficult and how hard it is to come through with a consensus. Not only do you have to worry about all the farm interests but also you have to worry about all of those who are affected by farm policy. It is a tremendous piece of work which they have accomplished. I also thank the Members in the House with whom I worked for many years, for their support at the critical time on the conference committee. Without their help this could not have come about.

I am especially pleased that the conference reached a comprehensive dairy title that reflects the interests of all regions of the country. I was most keenly concerned about the Senate farm bill's inability to give our dairy farmers at least a fair deal. It was this concern that motivated me to vote against the bill for the first time in my 20 years in Congress.

Fortunately, through the help of our chairman and ranking member from my good State of Vermont, the conference committee, after hours of intense consideration produced a dairy title that provides stability for our farmers and true reform in the dairy program. The dairy title eliminates the 10-cent-per-hundredweight assessment paid by dairy producers, returning $150 million annually to dairy producers throughout the country at this difficult time for them. It reforms and consolidates the Federal milk marketing order system, consolidating the orders from 34 to between 10 and 14 will help bring more uniformity in prices throughout the country. It continues price support purchases from December 31, 1999, followed by a recourse loan program for butter, nonfat dry milk and cheese beginning on January 1, 2000, giving the industry the means to compete in world markets and enhancing the future of a strong, renewed dairy industry. Most significantly for the farmers of New England, the bill grants consent to the Northeast Interstate Dairy Compact.

Mr. President, in March of last year, I introduced the Northeast Interstate Dairy Compact along with the entire New England delegation. The dairy compact is intended to help give farmers and consumers fair and stable milk prices in New England. It will establish an interstate commission consisting of one delegation from each of the six New England States. The commission will have the authority to hold public hearings on the fluid class 1 milk market in New England.

The dairy compact originated in the Vermont legislature over 7 years ago. It has universal support among Vermonters and throughout New England and is critical to the maintenance of the region's dairy industry, if not its survival, offering both income stability and income enhancement. The compact has been overwhelmingly approved by the legislatures of all six New England States and simply needed the consent of Congress.

What the State legislatures offered was not at all a novel idea. The widespread support for and central importance of the dairy compact to New England has been throughly emphasized by the regions Governors, legislatures, consumers, farmers, and local processors.

The single most overwhelming fact about the economics of dairying in New England is that the price to the consumer continues to increase at the same time the price to the farmer continues to go down. In fact, current farm milk prices are, as low as they were over 10 years ago while the price to consumers is substantially higher.

The hard working dairy farmers of New England have seen federally set minimum prices return less money than it costs them to produce their milk. The result, during the 1980's, 40 percent of the New England farms ceased to operate. In my own State of Vermont, where agriculture is such an important part of our economy and way of life, nearly 50 percent of the farms have been lost in past 10 years.

The inclusion of the dairy compact in the conference report is a tribute to the hard-working dairy farmers of New England, who are such a vital part of the region's heritage. The compact ensures that family farms from St. Albans to Pawlet, to those in the Northeast Kingdom and all across New England will have the ability to survive and remain economically viable into the next century.

Mr. President, milk processing plants, feed and equipment dealerships, veterinarians, banks, and many others suffer when farms in their communities go out of business.

Not surprisingly, the dairy processors' lobby fought hard to prevent Congress from approving the compact. After all, they have benefited for a long time on both ends of their business from cheaper farm milk and higher consumer prices.

Several of my colleagues have heard from large milk processors in their States about how this compact could hurt the national dairy industry or the farmers in their own State.

Such claims are false. The compact would in no way prevent milk from coming into the region or affect the price of milk in any other region of the country. Despite the claims of the processors' lobby, the fact remains that the compact is very similar to existing State over-order programs currently in place. Like those programs, the compact would not conflict with or alter the Federal milk marketing order system, but only complement its operation. In short, New England States are working cooperatively as a region only to maintain a healthy dairy industry in New England, without adverse effect on the rest of the country.

The compact has been carefully crafted so that it will not affect the national dairy industry. Nonetheless, in order to address any concerns that the conference committee may of, had of, how the compact will work in practice several additions were included.

The compact limits the ability of other States to join; allows farmers outside New England who sell milk within the region to benefit from the compact; restricts the interstate commission to regulate class I milk only, and will terminate concurrent with the Secretary's implementation of the dairy pricing and Federal milk marketing order consolidation and reforms.

Mr. President, I am also pleased that this bill takes great strides at addressing conservation practices. USDA conservation programs have traditionally addressed the problems faced by producers growing row crops. The technical and financial assistance that livestock producers need have not been well addressed by our current set of conservation programs. This bill creates a new Environmental Quality Incentives Program to help farmers with conservation projects, creating new incentives for farmers to protect and enhance the use their land.

In addition, the bill includes a $35 million initiative to buy easements on farmland threatened by development and $50 million wildlife habitat program. These provisions, along with several others will help farmers from throughout the country deal with water quality, erosion and other conservation challenges.

Mr. President, the hard work and partnership with both the House and Senate has produced a comprehensive bill that reflects accountable reform, important market stability, and environmental responsibility.

I encourage my colleagues to support this important piece of legislation.

Mr. DOMENICI. Mr. President, I rise in support of the conference agreement on the farm bill.

This is the first major, fundamental change in Federal agriculture policy since the first farm programs were created in the 1930's.

Today an international market has developed for America's farm products and we need to provide the mechanisms that allow farmers to base decisions on market conditions and not on Government programs.

This conference agreement provides farmers with that mechanism through the Market Transition Program.

The Market Transition Program moves agriculture in a new direction which will give farmers the freedom to plant what they want, when they want.

The Market Transition Program also ends the production control programs of the Depression era.

Under our current system, farmers may be required to take land out of production which allows our foreign competitors to make up the difference in the world markets.

This conference agreement gives the farmer the flexibility to base business decisions on market conditions and not on Government programs.

Mr. President, this conference agreement allows the Department of Agriculture to spend $67.7 billion on commodity, trade, research, rural development, and conservation programs over the next 7 years as estimated from the December 1995 baseline.

CBO's preliminary estimates indicated that this conference agreement saves $2.1 billion over the next 7 years.

This conference agreement does not achieve the $4.6 billion in savings that was included in the Vetoed Balanced Budget Act of 1995. However, it does provide a down payment toward a balanced budget and is a step in the right direction.

Mr. President this bill also adds spending discipline to the commodity programs by including a spending cap. Spending for commodity programs through the Commodity Credit Corporation has varied widely from $600 million in 1975 to $26 billion in 1986.

The spending cap will limit unforseen spending increases which have frequently occurred in past years.

Mr. President, on a more parochial issue, the bill includes a provision regarding the New Mexico valencia peanut pool.

The Senate-passed bill included an amendment to clarify the original intent of the law. The House passed bill had no such provision.

Mr. President, as part of the 1985 farm bill, Congress created an exclusive pool for New Mexico valencia peanuts, and the provision was retained in the 1990 farm bill.

The original intent of the law is to allow only those valencia peanuts physically grown in New Mexico to enter the pools of the State.

However, peanut growers in my home State have notified me that valencia peanuts grown in Texas have entered the New Mexico pool because of a loophole in existing regulations.

It is my understanding that the USDA regulations allow a producer to enter valencia peanuts grown on a Texas farm if that producer has a combined New Mexico-Texas farm that is administered in New Mexico.

The compromise reached in this agreement clarifies that valencia peanuts must be physically produced in New Mexico in order to enter the New Mexico valencia peanut pool for 1996 and subsequent crop years.

The compromise also grandfathers those producers who entered valencia peanuts grown in Texas during the 1990 to 1995 crop years.

Producers may enter Texas grown valencia peanuts in the New Mexico pool, but the amount is limited to the 6-year average—1990 to 1995—that the producer entered into the pool during that period.

For example, producer "A" entered 10 tons of Texas grown valencia peanuts for each year during 1990 to 1995—a total of 60 tons for the 6 year period. Producer "A" would have a 6-year average of 10 tons.

Producer "A" will be able to enter up to 10 tons of Texas grown valencia peanuts per year into the New Mexico pool.

Producer "B" also has a combined New Mexico-Texas farm administered in New Mexico. But, producer "B" has no history of entering Texas grown valencia peanuts into the New Mexico pool during the 1990 to 1995 crop years.

Under this scenario, producer "B" would not be allowed to enter Texas-grown valencia peanuts into the New Mexico pool for future crop years. Producer "B" could, however, continue to participate in the New Mexico pool with peanuts physically grown in New Mexico.

Mr. President, this conference agreement also includes other provisions which are important to native Americans and the operations of the Commodity Supplemental Food Program.

I thank the distinguished chairman and ranking member of the Agriculture Committee for their review and consideration of this and other issues that I brought to the committee's attention.

I urge the adoption of the conference agreement.

Mr. BAUCUS. Mr. President, I rise today to express my support for the conference report to H.R. 2854, the Federal Agriculture Improvement and Reform Act—the farm bill.

Mr. President, this is a bill which has been too long in coming to the floor of the Senate. The authority contained in this bill expired on New Year's Eve. This debate began on the 1995 farm bill. And with the tardiness of our action this bill will barely be in time for the 1996 crop.

I will cast my vote in favor of adopting this report. I feel that it is essential that we get this legislation passed and to the President for his signature. It is time for our Nation's food producers to know what their program will be in the coming year.

It is my hope that by next week, this bill will be signed into law. The Secretary of Agriculture has recommended that the President sign it. And the President has indicated he will do so. So I am pleased that today we will pass this bill.

There are a number of important items which have been included. In my mind, the most important inclusion is retaining the 1949 Agricultural Act as underlying, permanent law. Mr. President, I am convinced that the 1949 act is the reason we have had this farm bill debate. And I expect that 7 years from now, it could very well be the reason we have a farm bill debate at the sunset of this bill.

This legislation contains a number of valuable conservation programs. In our part of the country, the Conservation Reserve Program, the CRP, is a major factor in wildlife habitat conservation, water quality enhancement, and soil conservation. We are continuing this valuable program. And we are authorizing a new Environmental Quality Incentive Program which will help producers of both crops and livestock to make management changes for the improvement of the natural resource on which their future and their livelihood depends. This program will also provide for cooperative efforts with conservation organizations to enhance wildlife habitat. It's a win-win for States like Montana.

I am pleased that this is comprehensive legislation—it extends beyond the commodity programs. In addition to conservation, we have addressed credit, research, trade, rural development, and promotion activities. In the arena of trade we have authorized the important Market Access Program, the Export Promotion Program, and the Foreign Market Development Program. These programs are vital to our export activities.

Agriculture trade is a real bright spot in our total trade effort. Our agriculture exports last year were over $54 billion dollars. This year, we are expected to exceed that, reaching $60 billion. That will leave us a positive agriculture trade surplus of $30 billion.

The commodity program featured in this bill directs our farmers to obtain an ever-increasing percentage of their income from the marketplace. In today's world, that means American producers will need to be very competitive and expand their exports. And while our export programs are not funded at levels I would prefer, they will go a long ways toward our export goals.

The commodity programs will provide farmers the flexibility to plant crops which the market demands. No longer will the Government be making planting decisions. While that will be helpful to many farmers that flexibility will carry with it a need to develop and improve alternative crops to grow more successfully in arid climates like that in Montana. Only then will Montana farmers have true planting flexibility. The work at Agricultural Research Stations like the one in Sidney, MT will be an important part of this equation.

In this year, with good prices and sizeable payments it should be a pretty good year for our Montana producers. I hope that the prices we are now experiencing can be maintained. If so, this program should work well for the entire 7 years it is authorized. However, we need to take advantage of the strong price cycle we are in to reform the crop insurance program so it is a more functional system of risk management. If we fail to accomplish this task we could be in for tough times in the late years of the bill.

There are other problems I see in this bill. I am disappointed that this will end the Emergency Livestock Feed Program. And I would like to see the loan rate caps removed. I would also prefer that the research title was authorized for the entire 7 years. This forces a research title to be authorized next year or to risk authorization by appropriation in our important research program. Some might find these to be small concerns, however, to my State they are important.

Before I close Mr. President, I want the record to reflect my appreciation for the work of our Senate conferees on this issue. They had a difficult task and I would like to thank them because this bill is far preferable to the bill brought to conference by our colleagues across the Hill. So I would thank the conferees, especially the chairman and the ranking member for their efforts in getting this accomplished.

And with that Mr. President, I urge my colleagues to approve this conference report and I yield the floor.

Ms. MOSELEY-BRAUN. Mr. President, I am pleased that the Senate has finally reached closure on the farm bill.

Bringing the farm bill to this final stage in the legislative process has not been an easy task. As we approach the end of this debate, I am reminded of the words of Thomas Jefferson, who once said "Were we directed from Washington when to sow and when to reap, we should soon want bread."

While we are far from wanting bread in America, Jefferson's words sound almost as if they had been said by a farmer only 2 hours ago, instead of two centuries ago. Farmers today, like farmers in Jefferson's time, want to get their profits from the market, with as little Government interference as possible.

The new approach to farm programs embodied in this bill, known as the Market Transition Act, or freedom to farm, finds its roots in these views. The new commodity programs are designed on the belief that it is important to reduce Government interference with planting decisions. These new programs have been fashioned to provide farmers with the simplicity, flexibility, and certainty that they seek.

I have great reservations about some aspects of this new approach, however. Farmers still need a system in place to help moderate risk, and provide a financial safety net. In this regard, the Market Transition Act falls profoundly short. And that is a very serious flaw we must revisit as quickly as possible.

Perhaps these problems would have been resolved had the farm bill been handled by this Congress as farm bills have been handed in the past. For over 40 years, farm bills were considered early, and passed on time. Farm programs, which are so very important to rural America, and which can have far-reaching effects, were rigorously debated and reviewed well in advance of their expiration date. While the results may not have been perfect, previously Congresses gave farm bills the time and attention they deserved.

But, I am not running the Senate. And the hour is late. There is a time to debate, and a time to act. Planting season is upon us. We must move beyond politics, and move ahead. Farmers need a farm bill in place—now.

The Market Transition Act may need to be revisited. But it is time to enact a law. My vote for the 1996 farm bill was a vote to end debate, pass a farm bill, and provide farmers with the certainty they need for this crop year.

There are good things about this farm bill. The bill is strong in the areas of conservation, environment, rural development, and research. The Conservation Reserve Program is maintained at 34.6 million acres. The Environmental Quality Incentives Program is authorized at $200 million per year to help livestock and crop farmers control pollution and erosion. The Fund for Rural America, a program I support, was created to provide $300 million for rural development and research initiatives. The Market Promotion Program, now known as the Market Access Program, survived and is authorized at $90 million to promote U.S. agriculture exports overseas. And permanent law is retained, lessening the danger that in 7 years, Federal support for agriculture will end.

I am particularly pleased this bill includes my proposal to increase the marketing loan rate for oilseeds. For soybeans, a major Illinois commodity, the marketing loan rate will be set at 85 percent of the Olympic 5-year average, but no less than $4.92 or no more than $5.26 per bushel. Allowing the soybean loan rate to rise by 5 percent if prices increase helps to treat soybeans equitably with other crops, allows soybeans to compete more effectively for acreage, and provides some protection for small producers against increased volatility in production and prices that may result from full planting flexibility.

With other aspects of this bill, however, I have serious concerns.

I am greatly disturbed by the decision of the conferees to include the Northeast interstate dairy compact. These provisions were soundly rejected by the Senate, not considered by the House, and, therefore, without question, should never have been included in this conference report. I intend to work with my Midwestern colleagues in the Senate to ensure that the U.S. Department of Agriculture never implements this compact, which would set dangerous constitutional precedent and have a serious impact on both dairy farmers and dairy companies in Illinois.

I am also concerned that food stamps have been reauthorized for only 2 years. Roughly 27 million Americans are served by food stamps, 1.2 million of whom are Illinoisans, and over half of whom are children. Food stamps are about providing the nutrition necessary to ensure that mothers and babies remain healthy, students remain alert, and the unemployed make it through tough times. It is poor policy for Congress to play political games with programs designed to support the health of children, working families, and the elderly.

Many of the improvements in this bill would not have been possible without the leadership of the distinguished Democratic leader, Senator DASCHLE. While he will vote no on this bill, he has worked to make this a better bill, and I commend his leadership on agriculture issues which are so very important to his State.

I would also like to thank the distinguished majority leader, Senator DOLE, and Senators LUGAR, LEAHY, GRASSLEY, and COCHRAN for their work on this bill, and for their assistance and support for programs important to the State of Illinois.

Mr. President, agriculture programs must change with the times. The economic practices and social trends in rural America are vastly different than in decades past. These changes aren't just important to farmers and rural communities. They are not just about dry statistics buried in some obscure report. They are about issues that are critically important to everyday people.

That is why changes to farm programs must be made judiciously. Major changes to Federal farm policies must receive careful attention before they are made, so that inadvertent mistakes that could be very harmful to farmers are avoided.

We can do far better than this bill. But doing nothing—having no bill—is not an option, and that is why I will vote in favor of the 1996 farm bill.

Mr. WELLSTONE. Mr. President, I am pleased that we finally have a farm bill which will pass and will be signed by the President. The bill is long overdue. Farmers should not have to wait any longer for certainty regarding the programs they will operate under.

I regret that the bill has taken so long. The process itself has contributed to a poor outcome for American agriculture and for rural American communities. There are some positive sections of the bill—conservation, nutrition, and needed funding for rural development. But the commodity provisions take us exactly in the wrong direction. The bill decouples Government support from production and from market prices. It caps loan rates at low levels. And it directs the majority of taxpayer payments to the largest, most affluent farms to the same degree as the status-quo programs which operate so unfairly now.

It would be more appropriate to refer to this legislation as the "corporate agribusiness bill" than as a farm bill. After a few short years, American farmers will be left to the tender mercies of a global marketplace that is dominated by corporate conglomerates and trading boards.

We might have produced a better farm bill if our debate over it had been more timely and deliberate. The effort to include an entire 7-year bill in last year's budget reconciliation bill, with little debate and practically no input from Democrats, followed by the now-successful push to pass a plan that was not subjected to extensive hearings or substantial input from rural America has produced a bad bill. Better proposals were offered in both the House and the Senate, including a reform bill introduced here last year by Senate Minority Leader DASCHLE, which I was proud to cosponsor. But those proposals were never given real consideration.

This bill is as deeply flawed now as when I voted against its original Senate version. It was not improved by the conference committee. It does not represent good farm policy and will not likely promote economic revitalization in rural America. I will vote against it now, and it is my hope that as this bill's flaws become even more apparent in its implementation, the result will be its reconsideration by the next Congress so that more genuinely progressive reform of Federal farm policy can be enacted.

Some people, including some Minnesotans, believe that the so-called freedom-to-farm approach to farm policy is the best way forward for American agriculture. I profoundly disagree with that judgment. I believe it is designed to benefit large corporate agribusiness and will actually harm most family farmers. It will likely increase current trends toward economic concentration in agriculture, to the disadvantage of small and moderate-sized farm operations.

I have consistently favored long-term Federal farm policy that would promote family agriculture and revitalize our rural economy. That is not what freedom-to-farm represents. It is such bad policy that it will discredit farm programs forever. The public will not support farm programs that write checks to farmers when prices are high, and no matter what, or even whether anything, is planted.

During initial consideration, Senator DORGAN offered an amendment which I supported, which would have required that farmers plant a crop in order to receive the guaranteed Government payment. That was voted down. I don't think this is the kind of policy that reaches out to the general public for support at a time when we are looking at slashing the budgets for health care and education programs.

Freedom-to-farm represents a dubious carrot followed by a very real stick. What is the short-term carrot? The carrot is so-called "contract" payments, or "transition" payments on the way to the elimination of farm programs. Farmers who have some debt, or who have had a poor crop in the past couple of years, or who did not get good prices last year, would like a Government payment this year on top of decent prices. There is no question about that.

I understand why some people consider that promise attractive. They believe that a promise of 7 years of payments is the best they will get from this Congress. But the contracts cannot be guaranteed. Congress can do another budget bill at any time and reduce or eliminate the payments. The entire purpose of freedom-to-farm is to reduce farm-program spending, then eliminate it. Even current policy, which I have never supported, offers farmers more protection over seven years than freedom-to-farm.

What is the medium-term and the long-term stick? Prices will not stay where they are likely to be this year. Freedom-to-farm caps loan rates at 1995 levels. As the so-called guaranteed payments diminish, and then when they run out, how many Minnesota farmers can make a living off of $1.89-a-bushel corn, or $2.58-a-bushel wheat? Is that the future we want to leave our young farmers?

That is the reality of freedom-to-farm. It ultimately leaves farmers to the tender mercies of the grain companies and the railroads and the Chicago Board of Trade—$1.89 corn is what freedom-to-farm is about. Maybe not this year. But who believes that prices will always be strong? I voted for an amendment to lift the caps off the loan rates. That amendment failed. If farm policy were designed to deliver farmers a fair price in the marketplace, there would be no need for any Government payments. But this bill is designed to encourage maximum production and low prices.

I have supported what I consider to be genuine reform of farm programs. I cosponsored a 7-year proposal last year which called for a targeted marketing-loan approach. That plan would provide farmers the planting flexibility they need. But it also would provide needed long-term protection from some of the uncertainties that farmers face—uncertainties of weather, and of markets that are dominated by large multinational companies. It also would raise loan rates and target farm-program benefits to family-size farmers. I still believe that our proposal, modeled after the Farmers Union plan and endorsed by the Minnesota corn growers, was the best proposal. Perhaps the debate over agriculture policy in the United States will be resumed next year. I intend to see that it is.

Mr. President, I have been working since I arrived to the Senate 5 years ago to achieve an improvement in Federal dairy policy and meaningful reform of the Federal milk marketing orders. This bill does not achieve that goal. Some small improvements in dairy policy were included in the conference committee, notably the elimination of assessments. But not nearly enough. And the bill now will allow creation of a Northeast dairy compact, despite our overwhelming vote here during initial consideration of the farm bill against that outcome, and despite the fact that the compact was not in either the House or Senate version of the bill. The Northeast compact would only further forestall real Federal order reform. It would cut a special deal for one region's dairy farmers to the detriment of dairy farmers in the Upper Midwest. And it would set a bad precedent for interstate commerce in milk by creating new regional barriers. We need good national dairy policy. And I will continue to resist establishment of a Northeast compact in the absence of substantial reform which will benefit the Midwest. Minnesota and Wisconsin are the best natural dairy-producing states in the country. It is not rational that Federal policy should drive thousands of Minnesota producers from business.

Mr. President, I am pleased that we finally have authorized the enrollment of new acres into the successful and popular Conservation Reserve Program [CRP]. I worked very hard on that. And I am pleased that we could include some additional conservation, rural development and nutrition provisions. It is very important that we ensure that rural development efforts include assistance for farmer-owned, value-added processing cooperatives, which represent an extremely hopeful development in rural America. They are the best of rural America's innovative, self-help tradition, which keeps capital and jobs in local communities.

SAFE MEAT AND POULTRY INSPECTION PANEL

Mr. BRADLEY. Mr. President, I am very concerned about the inclusion in the farm bill conference report of language establishing a Safe Meat and Poultry Inspection Panel. This seemingly innocent-sounding organization may actually be a device to delay needed food safety reforms, and give power over crucial safety decisions to a part-time, administratively unworkable group. Under the terms of the conference report, it would be superimposed over the Food Safety and Inspection Service as one more, unaccountable layer of government.

Authorization for this new panel was contained in neither version of the farm bill, and it was not subjected to hearings in either body. It was slipped into the report at the last minute and has had no public or press scrutiny. Not only would it duplicate existing bodies such as the National Advisory Committee on Microbiological Criteria for Foods, the panel would also be exempt from the Federal Advisory Committee Act and its open-government requirements. Even worse, should it be used to delay or restrict needed safety reforms, the result will be disastrous, not just for consumers but also for the industry itself.

At a time when Britain may be compelled to kill its entire cattle herd because of mad cow disease, the meat industry cannot afford any more actions which will diminish public confidence in our food supply.

I am especially concerned that the new panel would delay issuance of the final version of the proposed pathogen reduction; Hazard Analysis and Critical Control Point System [HACCP] rule. This set of regulations, more commonly known as the E. coli rule, is crucial for controlling this deadly organism and modernizing American meat inspection.

Mr. President, a year ago last March I introduced the Family Food Protection Act which built on these regulations and extended them even further. I was moved by the death of Katie O'Connell, a beautiful, happy 2-year-old girl from my home State of New Jersey who died from eating a hamburger at a fast food restaurant. Although her meal was contaminated with the deadly pathogen called E. coli, the meat that Katie ate had been declared safe by inspectors from the U.S. Department of Agriculture.

Katie died from a disease that should have been detected through our Federal meat inspection system. Katie is no longer alive because that system failed her and her family and has failed thousands of others across the country.

Diseases caused by foodborne illness often strike those most vulnerable in our society: our children. Two summers ago, health officials in New Jersey battled another outbreak of the disease that killed Katie O'Connell. One family, the McCormicks of Newton, NJ, had two of their children (ages 2 and 3) hospitalized. Their lives were in danger because they, too, ate meat that was declared safe by Federal inspectors in the Department of Agriculture.

These cases are far from isolated: the Centers for Disease Control estimates that over 9,000 people die and another 6.5 million get sick from food borne illnesses each year.

The USDA regulations proposed a year ago February would require a daily testing for salmonella at meat and poultry processing plants across America. Additionally, each of the Nation's 6,000 slaughterhouses and processing plants would have to develop operating plans designed to minimize possible sources of contamination—in other words, to design systems to avoid contamination in advance instead of fighting it after it breaks out.

This proposal represents a significant improvement over the current system which has remained in place remarkably unchanged for over 90 years—since the reforms put in place in the wake of Upton Sinclair's wrenching expose, "The Jungle."

Ironically, a cost-benefit analysis was done on the proposed rule. Even though it used a very conservative figure for the value of human life, the ratio was still extremely favorable. According to the analysis, while the rule would cost $250 million per year initially, falling to $220 million a year once it was fully implemented, the benefits were at least $1 billion per year. If a more generous value were used for human life, the cost-benefit ratio was, of course, even more positive.

And $220 million would be the cost to consumers only if every penny of the system's costs were passed along—just two-tenths of a cent per pound. That's right. Two-tenths of a cent per pound. So a consumer would have to buy 5 pounds of hamburger before incurring even a penny of cost. Contrast this with the cost to consumers of $1 billion to $3.7 billion per year attributable to lost wages and medical costs that otherwise would occur without the rule. Surely, the typical American would be more than willing to pay this modest price to avoid sickness or even death to a loved one.

I don't want any more children to die. According to the USDA, the summer months are the prime time for food borne diseases. I question the need to reinvent the wheel at this time.

Unfortunately, these proposed regulations have been the subject of countless hearings, roundtable meetings with industry and consumer groups, and on and on. At one point the industry even claimed that the E. coli organism was not technically an adulterant under our food safety laws in an attempt to deny the agency the ability to regulate. This new panel is yet another attempt to delay.

Do we really need to waste years, lives, and money redoing old analyses and creating new ones in an effort to stall or even defeat these regulations?

Mr. President, I am concerned that these regulations are already a target of members in the other body who would try to delay them further through appropriations riders and other techniques. Instead of delay, I urge my colleagues to stop interfering with these regulations. They are exactly the kinds of regulations we claim to want. They are cost-effective, deal with a serious problem, and have been subjected to close scrutiny by a wide variety of interests. We should not misuse the farm bill to thwart these important regulations.

Mr. FEINGOLD. Mr. President, my colleagues have been speaking today about their frustrations with the 1996 farm bill. I share those frustrations as well as dismay about the process in which this body has been engaged.

In early February we considered this legislation on the Senate floor. The specific commodity program provisions of that bill were never once the subject of a Senate Agriculture Committee markup, and in fact, were not even the subject of a single hearing in that committee. That the commodity provisions represented a drastic change from both the philosophy and mechanics of current policy appeared irrelevant to the sponsors of this bill.

The process for consideration of this bill was flawed in numerous ways. For example: The text of the underlying bill considered on the floor was written in the backroom, separate even from the eyes and ears of members, of many members of the Agriculture Committee; Almost immediately after the bill was introduced, the majority leader filed cloture to limit debate on the measure before debate had even begun; This bill was considered on the floor with just 10 hours for members to offer and debate amendments prior to final passage; Farmers, the public, and even Senators were not given an adequate opportunity to review this bill before it passed on the floor of the Senate.

Contrast that to consideration of the 1990 farm bill in which each title of the bill was considered separately by the Agriculture Committee during extensive public markup sessions. Consideration of the 1990 farm bill, reported on June 21, 1990, gave Senators nearly a month to study the bill and another 7 days of floor consideration before final passage. Senators were free to iron out their differences with the managers and were provided time for full and open debate with adequate opportunity to offer amendments to the bill.

The 1985 and 1981 farm bills provided similar opportunities for review and debate. Senators had roughly 2 months to review the 1985 farm bill after it was reported and had 12 days of active floor debate. Following the filing of the committee report on the 1981 farm bill, Senators were provided with over 3 months to study and review the bill before its passage in September after 5 days of floor debate.

It is no wonder that the general public is frustrated with Congress. Based on this farm bill process they have every right to be. The conference agreement on which we are to vote in just a few hours was printed in the RECORD just 2 days ago. I ask how many of my colleagues have had an opportunity to read this bill? There are numerous provisions in this bill that were in neither the House nor the Senate bill. The implications of these provisions have not been fully explored.

I wonder if Senators are aware that this bill gives broad authority to the Secretary of Agriculture to propose and implement commodity promotion programs without an initial congressional authorization. In fact, producers of any commodity could be assessed a mandatory tax under this proposal for a period of 3 years before they ever get a chance to vote on the promotion program they have been forced to pay into. This bill contains no protections for consumers in the event that agricultural processors wish to establish mandatory promotion programs and pass those costs directly on to consumers.

Are Senators aware that section 501 of this bill attempts to rewrite 30 years of legislative history with respect to commodity promotion programs in an effort to combat Federal court challenges to these programs? Mr. President, that language was in neither the House nor the Senate bill and has not been the subject of hearings or debate in either Chamber of Congress. I want to make clear that the legislative findings in section 501 of this bill are not indicative of the views of more than a handful of farm bill conferees. Many of these findings, in fact, do not even make sense unless one is aware of the efforts of dissenting farmers to reform programs or are familiar with the first amendment challenges to these programs. Indeed Mr. President, this bill contains some very creative language intended to rewrite an already well-established history as to the purpose and intent of these programs.

I think this has been a shameful process, Mr. President, irresponsible to farmers, consumers and taxpayers, and completely inconsistent with our responsibilities to carry out a deliberative legislative process.

It seems the Congress can't even decide what this farm bill is about. Since its inception, the name of this farm bill has changed 3 times. First we were told this bill was the freedom to farm bill. Then it became the Agricultural Market Transition Act—a name which perhaps most accurately described the motivation of the sponsors of this legislation: to transition farmers away from the basic safety net provided by existing programs. Now, Mr. President, it is called the Federal Agricultural Improvement and Reform Act, or FAIR. That name creates a catchy, if not superficial, acronym, but is about as inaccurate a name as could be found. It presumes this bill represents both reform and improvement of existing programs. In my opinion, this bill does neither.

Even the catchy acronym is a misnomer. To whom is this bill fair? I don't see any fundamental fairness in this bill.

Is it fair to the average farmer to be given an ultimatum on the very programs that help manage the vagaries of farming caused by factors beyond his control? Because that is what many farmers in Wisconsin felt they were given. They were told that Congress was going to eliminate farm programs in any case, so they had better grab the money in these transition payments while they can.

However, when some of these farmers argue in favor of the bill, they really appear to be arguing for the maintenance of the safety net, not in favor of termination of these programs and the so-called transition payments. They argue that farm programs are critical in allowing family farmers to secure credit. They argue that farm programs provide them with the security to adopt forward-looking business plans. They argue that without farm programs, the attrition rate in farming will only increase while younger people will be unable to enter farming. I have not heard substantive arguments in favor of eliminating the basic safety net for farmers and replacing it with guaranteed but declining payments that aren't tied to market prices.

Is it fair to small farmers who rely more on the existence of farm programs for their survival than larger corporate farms, that this declining pot of money is not targeted more toward their needs? This bill bases a farmers' payment on what he received in the past. Large farmers continue to get large payments under this bill. How does that help small farmers transition away from their reliance on Federal programs? The answer is, it doesn't, Mr. President.

This bill could have provided a tremendous opportunity to reform farm programs by targeting limited Government funds to smaller farmers. While this bill takes some steps to reduce corporate welfare, Congress could have made far greater reductions in the payment limitations. Instead the bill makes a slight reduction in the maximum deficiency payments one can receive but fails to eliminate loopholes that allow large farmers to get twice that amount. Eliminating loopholes and reducing payment limitations would have likely achieved greater Federal savings in commodity programs than the commodity titles in the so-called FAIR Act without hurting America's family farms. Instead, this bill depletes the small pot of money for farmers by providing transition payments in the same proportions as they are now provided. That doesn't sound very fair to me.

Is this bill fair to taxpayers who will now be asked to provide annual checks to farmers even when market prices are good? The fact is that these market transition payments cannot be justified on sound fiscal grounds. While this bill may save money over 7 years, based on CBO projections, it results in far greater costs in the next 2 years for commodity program payments compared to current law. That is because we don't make unnecessary payments under the current farm bill. Government costs are low when market prices are high. Existing programs make payments to farmers only when market conditions are poor and farm income is depressed. But market conditions are expected to be favorable in the next few years. Even so, the FAIR Act doles out the money to producers even if they are making a profit through the marketplace. This bill is fiscally irresponsible and fundamentally unfair to taxpayers. USDA reports that, based on their estimates, taxpayers will pay out $25 billion more to farmers under this bill than under current law. Every taxpayer should ask why they should pay farmers when market prices are high.

Is this bill fair to consumers when the most costly programs from their perspective, such as the sugar and peanut programs, are left fundamentally untouched? Is it fair that the program which has very little effect on consumer prices, the dairy price support program, is the program eliminated in the name of consumer protection? Is it fair to consumers that this bill virtually ignores the aspects of Federal milk marketing orders that do have a substantial impact on consumers—that is the federally established prices for fluid milk that are excessive in many parts of this country? No, Mr. President. This bill is not fair to consumers, particularly on dairy policy. It is a fraud from the standpoint of consumer protection, making only token changes in the programs that most offend the pocketbook.

In my opinion this bill should be called the unfair act of 1996 because it is most unjust to dairy farmers in the upper Midwest. Fundamentally, this bill includes major provisions strongly opposed by the upper Midwest dairy industry. This bill provides congressional consent to the Northeast Dairy Compact and includes much of the House-passed Solomon amendment which the upper Midwest had opposed.

The provisions of the House-passed dairy amendment were improved somewhat in the conference committee but are still devastating to America's family dairy farmers. The House passed amendment reduced dairy farmer income by $4 billion over the next 7 years by eliminating the price support program for milk. The conference agreement is expected to cause only slightly less pain because the support level is not reduced as much prior to program termination. However, the conference agreement eliminates the price support program in 1999 rather than 2000 as provided by the House bill.

It is ironic the dairy price support program is eliminated in this bill given that it was the lowest cost of all commodity programs in fiscal year 1995, except for no-net cost programs such as sugar and tobacco. The program cost less than $4 million in fiscal year 1995 according to USDA. Interestingly, the no-net cost programs all operate under strict supply control mechanisms in order to extract the support price from consumers through higher market prices. The dairy price support program does not rely on supply control and has had little impact on consumer prices unlike the sugar and peanut programs.

And yet, the dairy price support program is the only commodity program actually terminated in this legislation and dairy farmers the only producers not provided with transition payments. Not only do producers of other commodities continue to benefit from their underlying programs maintained in this bill, but they also receive sizable transition payments annually.

As a result, most observers expect dairy farmers to suffer from a larger decrease in family farm income than producers of any other commodity affected by this bill. Producers of some other commodities will actually enjoy income increases out of this so-called reform bill, at least in the next 2 years. But dairy farmers are asked to suffer.

Mr. President, I am baffled as to the reason why this was agreed to in this conference report. The dairy price support program has made great strides toward market orientation and operates truly as a safety net. While the conference agreement authorizes a processor recourse loan program for dairy after price supports are terminated, such a program can merely act as a price stabilizer, not as a price support mechanism.

I am extremely concerned about the impact of terminating the price support program. Wisconsin loses over 1,000 dairy farmers annually. I am fearful that without a basic safety net, that rate will increase in the coming years, particularly if the inequities of the Federal milk marketing order system are not eliminated.

I have spoken often on the floor and to the Agriculture Committee about the need to reform Federal orders to eliminate market distortions, regional inequities, and consumer-related costs caused by excessive class I differentials. Even Secretary of Agriculture Dan Glickman has conceded that Federal orders have created regional inequities and that upper Midwest producers have suffered as a result. I had hoped the farm bill process would ultimately provide for those much needed changes.

I am concerned, however, that this bill does not ensure that such discriminatory features will be eliminated. The House bill provided exceptionally limited reform of the Federal milk marketing order system, which is among the most outrageous commodity programs in existence.

Unfortunately the minimal reforms in the House bill were made only slightly stronger by the conferees. The agreement requires the Secretary to reduce the existing number of orders to between 10 and 14. That is certainly a step in the right direction. However, consolidation alone does not guarantee a fundamental restructuring of class I prices nor does it ensure that Eau Claire, WI will no longer be used as the basing point for pricing milk. These should have been simple assurances to provide if the conferees were sincere in their reform efforts as some claim.

The conference agreement appears to release the Secretary from compliance with statutorily required class I differentials in the reform process, but provides no further guidance on what factors the Secretary is to consider in these deliberations. All too often, those factors are political, not economic, and they do not work in our favor. There is absolutely nothing in this bill to ensure that class I differentials will be reformed or substantially altered from their current levels. In fact, the report language appears to specifically allow for an outcome in which reformed differentials are virtually the same as the current excessive statutory minimums. I will work to ensure that does not happen.

I think, however, that the greatest blow to the upper Midwest is the inclusion of the Northeast Interstate Dairy Compact in the conference agreement. The compact was not only defeated in the Senate, it was also excluded from the House bill. Its emergence in the final conference agreement is outrageous and unconscionable. While many might contend that the conference agreement provides a scaled back version of the compact, I am still concerned about its ultimate approval, its precedent, and its potential impact.

The conference agreement gives congressional consent to the compact subject to the Agriculture Secretary's determination that it serves a compelling public interest in the Northeast. I have a number of concerns with this. First, while this may put some members at ease, I caution those who think the Secretary of Agriculture will be more resilient against the political forces that came to bear upon the entire U.S. Congress and which resulted in the inclusion of this language. Second, a finding of a compelling public interest in the compact region is not an appropriate test for approval of this compact. The U.S. Constitution requires Congress to approve interstate compacts in order to protect the national interest. We can assume that the States agreeing to the compact have already determined that this is in their States' overall public interest. That test should be irrelevant. Rather, Congress should be able to ensure that the compact serves a compelling national public interest. I think the Northeast Dairy Compact would fail that test. Third, I think it is quite cowardly for the Congress to abdicate its role in the approval of this very controversial compact by making the Secretary do the dirty work. Authority for compact approval resides in the legislative branch, not the executive branch. This is a congressional responsibility, and this bill shirks it.

That the term of congressional consent for the compact is tied to the implementation of consolidated Federal orders, is somewhat of an improvement over a compact of indefinite term. I would provide two caveats to those who think this provides protection to dairy producers elsewhere, and in particular in the upper Midwest. First, once consent is provided, it will be easier to reinstate after expiration. Second, the compact could remain in place much longer than the 3-year deadline for implementation of order consolidation. Consolidation can be delayed if the Secretary is enjoined by a court order from implementing order changes, thus providing continuing consent for the compact.

The conference agreement attempts to provide safeguards to prevent the compact from interfering in interstate commerce by keeping noncompact milk outside of its borders. However, the compact commission will still be able to require that anyone buying milk from outside the compact region pay the compact over-order price. That provision, coupled with transportation costs, is still an extremely effective barrier to trade.

I urge my colleagues to keep in mind that the fight over the compact was not just about the regional walls it erected. It was also about the impacts the compact would have on national markets for milk and dairy products. And, Mr. President, the dairy compact will have impacts outside its region. Increasing prices in the compact States, particularly to the levels anticipated by those farmers, will cause increased production. That production will likely spill over from fluid markets into manufactured product markets. That will ultimately impact the base price that all farmers receive for their milk, since prices nationwide are linked to prices for manufactured dairy products. In fact, the conference agreement neglected to include language contained in Senate Joint Resolution 28, ensuring that such production responses would not impact the national market.

Furthermore, the conference agreement will allow the compact States to provide their processors with export subsidies so that they can export their high cost product to other parts of the United States that are playing by the rules. This is the type of subsidy we are asking other countries to eliminate through our trade agreements, yet we are creating our own domestic export subsidies through this compact.

The Senate made clear by voting down the compact during consideration of the farm bill that this type of price fixing compact is not acceptable. And yet here we are again, fighting the Northeast Dairy compact. Having won this issue in the Senate we will now be forced to fight this administratively as well. And if it is approved administratively, we will have to fight when the Northeast comes back to Congress seeking renewal of this consent. And finally, we will fight this battle as other regions come to Congress looking for approval of similar price fixing agreements for dairy farmers in their regions.

Mr. President, I ask unanimous consent that an editorial from the New York Times regarding the compact be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 23, 1996]

MILK SOURS THE FARM BILL

A House-Senate conference committee has managed to tarnish the most important farm bill in years by inserting a last-minute provision for a New England milk cartel that would gouge consumers and violate the free-market concept that has made the 1996 farm bill worthwhile. The full House and Senate need to excise this noxious favor to the New England dairy lobby before approving the bill in voting set for next week.

The dairy interests achieved their victory in the conference committee after failing to persuade either chamber to enact such a proposal earlier. The conferees accepted the bill's major reform, a seven-year phaseout of subsidies for corn, wheat, rice and cotton. That could save billions eventually and release farmers to make their own marketing decisions free of government supervision. But the conferees adopted a weak Senate provision that would reinstate the subsidies after 2002 unless Congress again votes them out.

The conference committee also weakened the Government's ability to preserve wetlands, something neither house had done on its own. The committee wants to restrict the Agriculture Department's valuable program to prevent diversion of fishing streams that run through Federal land.

There were some environmental gains. At least $200 million was approved to buy and restore major stretches of the Florida Everglades. A program to encourage farmers not to develop environmentally fragile land was renewed, as were food stamp and nutrition programs. A program to help farmers keep their animal waste and other pollutants from running off into waterways was adopted.

But the regional milk monopoly is the very opposite of the kind of reform this bill was meant to provide. The bill would authorize the Secretary of Agriculture to permit the six New England states to set high prices and erect tariff hurdles against outside competition. That is totally alien to the central idea of agriculture reform, which is to set loose the forces of free-market competition.

How could such a backlash occur? The agriculture committees of both Senate and House are dominated by farm and dairy interests. By appointing conferees from this limited group, Congressional leadership vests tremendous power with the members least responsive to the current popular concern over the environment and over consumer prices. The full Senate and House can do better.

Mr. FEINGOLD. Mr. President, at the beginning of the 104th Congress I thought it inconceivable, given the deregulatory and market-oriented rhetoric of some of our Senate leaders, that the Northeast Dairy Compact would be granted approval. It is the antithesis of market orientation. It seeks to protect agricultural producers in one particular region by imposing artificially high costs on consumers.

In fact, this compact flies in the face of the rhetoric associated with this very farm bill. I've heard so many Senators claim this bill allows farmers to make decisions based on the market, not on Government payments. But the compact attempts to insulate a small group of farmers from the very market conditions this bill embraces so tightly.

Mr. President, I am opposing this farm bill for the many reasons I have outlined today. And I know this bill will pass. I intend to fight hard for the upper Midwest as both the Northeast compact and Federal order measures proceed through the administrative process. I will work with Secretary Glickman to ensure that meaningful reform of Federal milk marketing orders is implemented in a timely manner.

And if, as the minority leader has suggested, this is a 1 year farm bill, I will be back on this floor trying to improve dairy farmer income which is so badly slashed in this bill.

I yield the floor.

Mr. CHAFEE. Mr. President, on March 15, 1996, I wrote to Chairman LUGAR to express my concerns about the potential undermining of wetlands conservation provisions in the farm bill. Proposals to exempt a vast number of wetlands from the Swampbuster Program and changes to the definition of "agricultural land" for purposes of wetlands delineations were among the specific concerns raised in my letter. I am pleased to report that Chairman LUGAR has responded to these concerns. A letter written by Chairman LUGAR upon the completion of the conference states:

> The bill makes no changes to the existing definition of a wetland, and does not exempt any lands based solely on cropping history or size. Although the report does define "agricultural lands" for the purpose of implementation of the interagency memorandum of agreement on wetlands delineations, it does not amend Section 404 of the Clean Water Act or require any changes to the 1987 Army Corps of Engineers wetlands delineation manual.

Mr. President, I ask unanimous consent that a copy of this letter dated March 23, 1996, be printed in the RECORD following this colloquy. I congratulate Chairman LUGAR and ranking member LEAHY for their efforts in crafting a sound conservation title that will benefit the environment and the economy well into the next century.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LUGAR. I want to thank the Senator from Rhode Island for his kind words. As I mentioned in the letter, I believe that this conference report is the most environmentally responsive and responsible farm legislation in our Nation's history. As chairman of the Environment and Public Works Committee, which has jurisdiction over the Clean Water Act and the Federal Wetlands Program, Senator CHAFEE's support means a great deal to me.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, DC, March 23, 1996.

Hon. JOHN H. CHAFEE,
Chairman, Senate Committee on Environment and Public Works, Dirksen 410, Washington, DC.

DEAR CHAIRMAN CHAFEE: Thank you for your letter of March 15 in which you expressed interest in the conservation provisions of the 1996 farm bill. I am pleased to report that the Conferees agreed to what I feel is the most environmentally responsive and responsible farm legislation in our nation's history.

You specifically mentioned a concern that existing wetland conservation provisions might be undermined in the farm bill. In fact, the Conference agreement makes several common-sense updates to the "swampbuster" compliance requirements that will make the program more flexible for producers while still protecting wetland functions and values. The bill makes no changes to the existing definition of a wetland, and does not exempt any lands based solely on cropping history or size. Although the report does define "agricultural lands" for the purpose of implementation of the interagency memorandum of agreement on wetland deliberations, it does not amend Section 404 of the Clean Water Act or require any changes to the 1987 Army Corps of Engineers wetland delineation manual.

In other areas, the Conference agreement established the new Environmental Quality Incentives Program, which stands to make a significant positive impact on water quality. In addition, the Conservation Reserve Program and Wetlands Reserve Programs are reauthorized through 2002, with new provisions that will make the WRP more attractive to producers. Combined with the new crop planting flexibility provisions in the commodity title, these conservation efforts represent an impressive commitment to addressing the potential adverse environmental impacts of agricultural production. I know that, as Chairman of the Environment and Public Works Committee, you can appreciate the tremendous investment made in this new farm bill. I hope you can enthusiastically support the Conference Report when it is debated on the floor later this week.

Sincerely,

RICHARD G. LUGAR,
Chairman.

Mr. GRASSLEY. I am pleased that the conferees agreed to include a provision in the bill that I originally authored regarding revenue insurance. I and the farmers in my State truly believe that revenue-based risk management tools are a vital resource for today's and tomorrow's American farmer as the weather, market, and global trading patterns continue to fluctuate and pose often unpredictable risks for farmers worldwide.

The FAIR Act would require the Federal Crop Insurance Corporation to offer pilot revenue insurance programs for a number of crops for crop years 1997 through 2000 so that by 2002 and the end of the production flexibility contracts provided under this bill, we will have well-tested revenue based risk management products available for farmers.

It is very important to note, however, that it was never my intent to restrict the authority of the Federal Crop Insurance Corporation as it currently exists under law to conduct pilot programs. There are two revenue insurance pilot programs currently operating for crop year 1996. I, and I do not believe the conferees, intend for this new language in any way to interfere with the operation or expansion of these existing programs to other crops under the same terms and conditions under which they are currently operating. Rather, my intent was to encourage the Corporation to expand current efforts to other crops and speed the development of such products for the American farmer. Does the chairman agree with this interpretation—that the FAIR Act language is not intended to restrict the existing authority of FCIC to approve pilot programs under similar terms as the 1996 revenue pilot programs—for example on a whole State basis, although in a limited number of States?

Mr. LUGAR. Yes; I would agree that the conferees intended for this language not to restrict FCIC authority to implement the revenue insurance pilot program authorized by this Act.

Mr. GRASSLEY. I thank the chairman. I strongly urge the Corporation to further experiment with revenue-based insurance products and to do so under similar terms and conditions represented by the 1996 crop year revenue insurance programs.

Mr. FEINGOLD. Mr. President, the Federal Agricultural Improvement and Reform Act of 1996 eliminates the requirement that farmers buy catastrophic crop insurance in order to participate in other USDA farm programs. However, as I indicated in my letter to you on March 20, there is some concern that language as drafted may not technically delink the crop insurance purchase requirement for forage. The language in the bill delinks the crop insurance purchase requirement for crops planted in spring of 1996. However, forage crops, as perennials, are typically planted once every three or four years. Thus, forage crops which will be harvested in 1996 may have been planted several years ago, and may not be captured by the language in the bill.

It is my understanding that it was the intent of the conference committee and the intent of this legislation to delink crop insurance purchase requirements for participation in other USDA programs for all crops, including forage. Is that correct?

Mr. LUGAR. The Senator is correct. section 193(a)(2) of this bill is intended to allow delinkage of the purchase of catastrophic crop insurance for all crops including forage harvested in 1996 and beyond. Producers of forage crops harvested in 1996 should be able to participate in all USDA programs without purchasing catastrophic crop insurance, regardless of when that forage crop was planted. There was no intent to exclude forage from these delinkage provisions and the Secretary should interpret section 193(a)(2) as such.

Mr. FEINGOLD. I thank the Senator.

Mr. LEVIN. Mr. President, I had hoped to be able to support the farm bill conference report. On balance, however, the conferees did not make enough improvements to the bill passed by the Senate for me to do so. In several important ways, the conferees have made it worse. It is unfortunate that this Congress, overdue in completing action on a farm bill, has produced this bill in apparent haste to get something down.

The conferees have included a dairy title that treats milk producers very differently from other agriculture sectors, and is potentially damaging to Michigan milk producers. This bill reauthorizes the basic dairy price support program that we have today, but reduces the price support level from $10.35 per hundredweight [cwt.] in 1996 to $9.90/cwt. in 1999. Then, in the year 2000, the program is somehow to magically transform into a recourse loan program. This type of experimentation, without adequate consideration or hearings on its economic effects, could seriously harm the dairy sector and producers income, not to mention supply and price stability. I regret that the conferees did not incorporate more of the comprehensive and cost-effective Gunderson approach into the final product.

Further, the bill opens the door for establishment of the Northeast Dairy compact, a door that we had closed in the Senate bill. It gives the Secretary of Agriculture the authority to create the compact if he finds a "compelling public need in the [Northeast] region." This is a mistake and I will join efforts to repeal this provision if this bill becomes law.

I have been open to producers' desire to increase their flexibility, in the context of Federal farm programs, so long as it has not required crops like fruits and vegetables to unfairly compete against crops that receive Federal price supports. This bill continues that protection, which is important for Michigan's diverse and productive fruit and vegetable sector. But, my colleagues and producers should remember why the Federal Government has a farm program—our Nation needs a secure and stable supply of food. Producers have always had the flexibility to not participate in these programs.

The contract payments in the bill may assist producers to achieve greater flexibility and encourage them to be more sensitive to the market. But, I am still disturbed that the Government payments bear no direct relation to market prices. Producers will receive these payments in times of high prices even though they are doing well. That makes no sense. There are no provisions for a safety net when prices drop. That makes no sense either.

The managers of the bill have informed me that there is no requirement that a contract payment recipient actually engage in farming on contract acreage for the 7 years that the contract runs. At a time when we are reforming welfare and emphasizing work, I find it unacceptable to give taxpayers dollars away to a producer or owner who might decide to leave contract land fallow and still collect a tidy Government payment.

Simplification of Federal agriculture programs is generally a good idea. That is one positive concept in the bill before us, which I hope will bear out in implementation. I am also pleased that this bill contains most of the important conservation programs, particularly the Conservation Reserve Program, and the trade, and research titles that were included in the Senate bill. And, we have been able to prevent any serious damage to the sugar program.

In my judgement, however, Congress could and should have put together a better farm bill than this one, and in a more timely way. The majority should have put the farm bill higher up on its agenda so that we would not be acting hastily now to give producers some direction on Government agriculture policy so far into the crop year. This bill charts a controversial and uncertain course for 7 years. But, at least we have retained permanent law so that Congress must revisit agriculture policy no later than 2002.

Mr. FAIRCLOTH. Mr. President, I rise to speak on behalf of the Federal Agriculture Improvement and Reform Act.

Mr. President, I am one of only a few working farmers in Congress. Having worked the land most of my life, I know, first hand, what it is like to try to make a living under Federal farm programs. As my colleagues began crafting a new farm bill, I believed we had a historic opportunity to change the way our farm sector operates while still maintaining a strong commitment to conservation practices that truly protect the environment.

Now that our work is complete, I can tell you that Congress is steering the farm community in the right direction. Through the FAIR Act, farmers will no longer be told by someone in Washington what to plant, how much to plant and even how much not to plant. Farmers will now have the freedom to make their own planting decisions based on market demands rather than mandates from Washington.

The age of micromanaging the farm sector from a corner office at the USDA is over. And it should be. The world has changed dramatically since I first took over the farm from my father. Whether we like it or not, NAFTA and GATT are now the law of the land. Fortunately, Congress recognized this and crafted a farm bill that gives farmers the freedom to respond to these new market demands. Had Congress not done their job by producing the FAIR Act, farming in this country would have been left behind in the cold.

This farm bill also goes a long way toward protecting the environment. Mr. President, it only makes common sense that farmers would support strong conservation practices because a healthy environment is essential to a good harvest. As a matter of fact, the conservation title attracted strong bipartisan support because it reauthorized and expanded the Wetlands Reserve Program and the Conservation Reserve Program and created new conservation initiatives like the Environmental Quality Incentive Program. Through strengthening the conservation title, this Congress has proven our commitment to protecting the environment while allowing farmers to make a living from their land.

I am proud of the work done by my colleagues in both the Senate and the House. Senator LUGAR, Representative ROBERTS, and the conferees have produced a farm bill like no other in the history of this Nation and they should be commended for it.

Mr. HELMS. Mr. President, in many ways this farm legislation is historic. In my 23-plus years as a member of the Senate Agriculture Committee, I have never been faced with so many changes in the overall structure of American agriculture—and, in large measure, for the better most of America and the farmers of this country.

I doubt that anyone seriously imagined that this Congress could succeed in streamlining agriculture programs and increasing the effectiveness of agriculture. This bill includes reforms to most of the major commodity programs, including peanuts, cotton, dairy, feed grains, and wheat.

In my home State of North Carolina, agriculture has long been a leading industry, providing jobs and economic opportunity for countless small family farmers and their communities. This legislation will give North Carolina's farmers stability for at least the next 7 years while removing the strong arm of government controls over our commodity programs. It will ease the strain on rural America.

Mr. President, I applaud the two chairman for undertaking these market-oriented reforms that will unquestionably help the family farmers adapt and adjust to the 21st century. As a former chairman of the Senate Agriculture Committee, I know and understand the difficult and painstaking process that has consumed weeks and months.

I am convinced that this farm bill will help farmers become more productive, and will continue to save tax dollars and it will improve the rural environment.

At a time when the Federal debt has climbed beyond the 5 trillion dollar mark, Congress owes it to the farmers and taxpayers of this country not to enact a meaningless temporary solution, but to establish a sound new policy of agricultural reform.

That is what happened, and I, for one, believe both Agriculture Committees, House and Senate pursued the real reforms that were needed. In that, I am proud of the peanut farmers of my State and other States for embracing a no net cost program and sacrificing close to $500 million out of their pockets to contribute to balancing the Federal budget in 7 years. In order to save the peanut program we all had to sacrifice, but in the end, this bill retains the peanut program and reforms it to make it more efficient for the farmers and less costly for taxpayers.

This bill offers a future to the farmers of America, who can now wake up everyday and knowing what their future payments will be. The taxpayers will know how much of their money will be spent. U.S. agriculture now has a future—our farmers have a future.

Mr. CAMPBELL. Mr. President, I would like to offer my full support for the farm bill conference report. I believe this bill, carefully crafted after many months of hard work and compromise, will offer much needed stability to farmers across America. In addition, it symbolizes a new path for our agricultural industries, leading us away from the Depression-era policies of the past and towards a freer, more flexible system which will empower our farmers to face the challenges of the 21st century.

I am particularly pleased and supportive of the conservation and nutrition components of the bill, which I believe illustrates the strong bi-partisan collaborative work that crafted this compromise. The environmental provisions will help farmers protect agricultural lands through specific appropriations that will conserve farmland from development. With my homestate of Colorado facing a tremendous growth in population, this will enhance the precious preservation of private land, open space and wildlife habitat from developers and subdivisions. In addition, by recognizing the inexorable ties between agriculture and water, this bill will provide much needed support to farmers to help protect our water supplies and maintain water quality.

I also want to congratulate the managers of this bill—Senators LUGAR and LEAHY, and the conferees in maintaining and extending the Food Stamp Program. This will reiterate the commitment of the Federal Government to families, women and children that rely on this vital program for their daily subsistence. I know there are many issues that still need to be resolved for welfare reform legislation, but I am glad that the farm bill recognizes the importance of the Food Stamp Program.

Mr. President, I would like to conclude my statement by reiterating the fundamental importance of agriculture to my homestate of Colorado's economy, environment, and identity. The importance of this bill to my constituents is tremendous, and I hope these dramatic reforms will breathe new life into the farms of America to revitalize the industry for the next century.

Mr. WARNER. Mr. President, as you know, every 5 years Congress undertakes a rewrite of farm legislation. Some years this process is relatively painless, some years it is more difficult. Farm programs are bipartisan efforts, with both sides working to achieve the best result possible for the nation's farmers.

This year has proven to be the most contentious, hard fought farm bill in memory. I am fortunate, through seniority, to have become a member of the Senate Agriculture Committee—the first Senator from Virginia, I might add, in nearly 30 years.

For close to 1 year the Agriculture Committee has been working diligently to craft a new farm bill for our country. On September 30 of this past year, the old farm bill expired. Under the necessary budget changes and spending priorities that we set forth, a large portion of the farm bill was part of the Balanced Budget Act that Congress passed and sent to the President. The President, unfortunately for America, vetoed it. This veto created a critical problem for U.S. agriculture.

The problem is that commodity support programs for the next 7 years were wiped out with the President's veto of the Balanced Budget Act. Existing authority for those programs had expired. All that remain are outdated statutes from 1938 and 1949.

The solution required action. Chairman LUGAR skillfully negotiated the regional and political obstacles that could have doomed this effort. Certainly, there are areas still to be addressed and work to be done. But today we take a major step forward in farm policy—a step toward the future.

Mr. President, the farm bill debate is a microcosm of the larger debate we have witnessed over the balanced budget. It represents a struggle with those who are comfortable with the status-quo, who want to continue the failed policies of big government intervening in people's lives and dictating their decisions. We are ending Washington control of farm policy.

Reformed farm policy is one step towards our goal of smaller government and a balanced budget. But, as you know, this is a new direction. Even the name of this bill—the Agricultural Reform and Improvement Act—indicates the direction toward which farmers want to go.

Briefly, this farm bill will accomplish several things. The bill will reform and modernize farm programs; provide a more certain income safety net for farmers through direct payments; strengthen conservation programs; and, provide broad planting flexibility.

In short, we give farmers what they want—greater flexibility and freedom from Government intervention. Farmers like the plan because it is good for the bottom line. Support is broad because it will have the most positive impact on farm income. The plan is simple, certain and efficient. It eliminates layers of bureaucracy and accompanying regulations. Best of all, this bill shifts decision making from Washington back to the farm.

The bill calls for the end of Government planting controls. It provides an entirely new outlook for American agriculture, which I find very exciting both as a member of the Committee responsible for farm policy and as somebody who has owned and operated a farm.

The plan is simple, in contrast to the needless complexity of current programs.

It offers certainty. Farmers will know what their future payments will be. Taxpayers will know how much these programs will cost. U.S. agriculture will have more security against future budget cuts.

Finally, it is market oriented. Farmers' payments will be the same even if they choose to plant alternate crops. Producers' planting decisions will be based on the market—as these decisions should be. Under this bill there will be planting freedom, not arbitrary government controls.

This bill is good for the environment. It strenghtens conservation programs, enhances wetlands protection, and emphasizes improving water quality, which is of critical importance to Virginia and the Chesapeake Bay.

This bill's agricultural provisions are a long-term plan endorsed by a broad spectrum of agricultural groups, including, in my State, the Virginia Farm Bureau and the Virginia Agribusiness Council. Let us be clear: U.S. producer and agribusiness organizations nationwide support this plan. We owe it to those who work in agriculture in our respective States—not to those who would dictate farm policy from behind a desk—to pass this bill.

Mr. President, I have heard many Senators lament the delay in enacting a new Farm Bill. While this bill is a few months late—due in large part to President Clinton's veto of the balanced budget bill—the reforms it contains are years overdue.

I am proud to have participated in this historic legislation during my first term as a member of the Agriculture Committee. And I commend Chairman LUGAR and his able staff on a job well done.

SECTION 389

Mr. BROWN. Mr. President, section 389 comes as a result of many hours of negotiations involving the U.S. Department of Agriculture, the U.S. Forest Service, the U.S. Fish and Wildlife Service, and various Members of Congress. The language agreed to by the conference committee is a step forward in an effort to ensure that the Forest Service does not take water from existing users without providing proper compensation.

My amendment, as modified by the conference committee, provides for an 18-month moratorium on any U.S. Forest Service decision to require bypass flows or any other relinquishment of the unimpaired use of a decreed water right as a condition of renewal or reissuance of a land use permit. Nothing in this section changes current law regarding the allocation of water or rights to the use of water, and the expiration of the moratorium is not intended to be a recognition or grant of authority to the Forest Service for imposition of bypass flows.

The amendment also creates a water rights task force to study, make recommendations, and report back to the Congress and the administration on questions of: First, whether, and the manner in which, a Federal water right should be acquired by the U.S. Forest Service for minimum instream flow, environmental and watershed management purposes on the National Forests domain either through purchase from or a lawful exchange of valuable consideration with a willing seller; second, measures, if any, deemed to be necessary to protect the free exercise and use of decreed non-Federal water rights which require land use authorization permits from the U.S. Forest Service; and third, the legal and economic effects of creating a Federal environmental water right upon existing state laws, regulations, and customs of water usage and measures that would be useful in avoiding or resolving conflicts with any regulatory taking of a valuable decreed water right pursuant to conditions for the reissuance of a special use permit.

This language is intended to reaffirm the fact that for over 150 years, the United States has followed a policy of deferring to State laws governing the use and allocation of water in the western United States. As the Supreme Court observed in *California* v. *United States*, 438 U.S. 645, 653 (1978):

> The history of the relationship between the Federal Government and the States in the reclamation of the arid lands of the Western States is both long and involved, but through it runs the consistent thread of purposeful and continued deference to State water law by Congress.

It is also necessary to understand that national forests were created to protect and allow water uses, not as an excuse to take water away from people that have been using it for decades. The national forests were created pursuant to the Organic Administration Act of 1897, 16 U.S.C. 481, which explicitly provides for the use of water from national forests for domestic, mining, milling, or irrigation purposes. In *United States* v. *New Mexico*, 438 U.S. 696 (1978), the United States Supreme Court rejected claims by the Forest Service that the Organic Administration Act authorized the assertion of claims to the use of water for fishery and other secondary purposes of the national forests. The Supreme Court held that the Organic Administration Act was enacted by Congress "principally as a means of enhancing the quantity of water that would be available to the settlers of the arid west." The Court rejected the Forest Service claims to the use of water for secondary purposes because they would defeat the purpose for which the national forests were created, in part because these claims would result in a gallon-for-gallon reduction in the water supply available for use by farmers and cities in the West. The bypass flows that the Forest Service now wants to require are for the same secondary purposes, and would result in the same, or even greater, losses of water by existing users.

The assignment of land management functions to a Federal agency in and of itself does not provide an appropriate legal basis for assertion of water rights by Federal agencies to preempt State law with regard to the expropriation of already existing decreed water rights. The enactment of the Multiple Use and Sustained Yield Act [MUSYA], 16 U.S.C. 528–31, and the Federal Land Policy Management Act [FLPMA], did not change or expand the primary purposes for which the national forest lands are to be managed pursuant to the Organic Administration Act. In fact, the National Forest Management Act [NFMA] expressly provides that any change in land use authorizations "shall be subject to valid existing rights," 16 U.S.C. 1604(i). In addition, sections 701 (g) and (h) of the Federal Land Policy Management Act [FLPMA] contain explicit savings provisions regarding the management and use of water, specifically disclaiming any delegation of authority to "affect" the use of water. The provisions make it clear that these acts create no new Federal authority over the use or water, and most certainly do not authorize the imposition of bypass flows on existing facilities.

It is also important to recognize that any Federal claims to water for the Organic Administration Act, Federal Land Policy Management Act [FLPMA], National Forest Management Act [NFMA], or other Federal purposes, whether based upon appropriative rights, riparian rights or reserved rights, must be asserted and established pursuant to the McCarran amendment, 43 U.S.C. 666.

In conclusion, Mr. President, I ask that the Senate act favorably to pass the conference report to H.R. 2854, the Agricultural Market Transition Act, which includes my amendment containing the subject moratorium and task force language. I would hope that in the coming 18 months an agreement will be reached on this subject—an agreement which will ensure the adequate protection of western water.

Mr. KEMPTHORNE. Mr. President, I join my colleagues in supporting the final passage of the conference report for the farm bill, and applauding the efforts the members of the Senate and House Agriculture committees. In particular, I call attention to the efforts of Senator CRAIG, coauthor of the compromise which this body adopted a few weeks ago, and which formed the basis for the bill we are adopting today.

Mr. President, this bill is an important step forward for our Nation's agricultural policy. For Idaho's farmers, it means the freedom to have the Federal Government off their backs and out of their tractors. For the first time in a century, they will be able to plant crops according to the market, instead of according to Uncle Sam's outdated policies. The 7 year contracts and loan programs provided in the bill give farmers the safety net they need to make this transition.

Under the bill, Idaho's wheat farmers will have the security to analyze market demands. Idaho's growing dairy industry will be better prepared to take their place in the world market. And Idaho's sugarbeet growers will be in an excellent position to compete as domestic market restrictions are removed.

This bill grants agricultural producers the freedom to meet the demands of growing international markets. They will be able to step back and look at their crop rotation plans, and to try new and innovative crops that might not have been allowed under the old programs. Some of those new crops may well prove to be the solution to soil erosion, or a dependable alternative source of income. Such individual innovation and specialization were not possible under the old bureaucratic dictates.

Mr. President, this bill is important because of what is changes, but it is also important for what it strengthens, and that is our Nation's commitment to research and international trade development. Of all the concerns raised by Idaho's farmers since we began debate on the bill, commitment to research and international trade has been at the top of their list.

Under the new rural development provisions, and specifically through the agriculture competitiveness initiative, we will see a strengthened agriculture research program, the key to our Nation's strong food supply system. This research program will encourage the development and application of new technologies, such as the precision farming research being conducted at the Idaho National Engineering Laboratory in Idaho Falls.

The bill also maintains a strong commitment to international market development programs. So long as our Nation's agriculture producers face subsidized competition in our foreign markets, we will need to ensure that our producers are in a position to meet that challenge. We have maintained the Export Enhancement Program and the Market Promotion Program, and elevated the Foreign Market Development Program to an independent status. These programs are vital tools for Idaho commodities, such as wheat, beans, peas, and lentils, to help them develop their overseas markets.

The bill also removes needless burdens and provides important incentives. It eliminates the requirement that farmers sign up for crop insurance and encourages private insurance companies to fill the gap. It streamlines current USDA conservation programs, and provides new incentives to help farmers achieve these national goals. I am particularly pleased to see that successful conservation programs, including the Conservation Reserve Program and the Wetlands Reserve Program, will continue to be a tool to protect the environment and provide habitat for wildlife.

Agriculture is Idaho's No. 1 industry. Its diversity forms the foundation for the rest of the State's economy. There is still work to be done to remove regulatory and tax burdens on farmers, these small-business people who are the stewards of our Nation's open spaces. This includes our efforts to reform the Delaney clause and its unrealistic limitations on pesticide tolerances, and to remove disincentives to re-registration of minor crop pesticides. But this farm bill is the first step to bringing Idaho's and the Nation's farmers into the 21st century and I urge my colleagues to support its passage.

Mr. McCAIN. Mr. President, first let me express my sincere admiration and respect for the chairman of the Agriculture Committee, Senator LUGAR of Indiana. Senator LUGAR is a man of vision and reason with respect to our nation's agricultural policies, and the Senate is fortunate to have a man of his caliber as Chairman of the Agriculture Committee. It is an extremely challenging position, due to the pleadings of numerous regional and narrowly-focused agricultural groups that descend in droves upon the Congress every 5 years. They urgently request more and more Federal aid, lest the extent of their taxpayer-funded subsidies, price supports, and grant programs stray too far from the status quo.

A Senate that is split between Members dedicated to fiscal responsibility, and those equally dedicated preserving virtually every aspect of Federal largesse, is not a promising forum for a boldly reformist farm bill. For those of us that were hoping for a significantly less costly, less expansive farm bill, this is deeply regrettable. I cannot support a massive new farm bill that does little to lighten the heavy burden that price supports and farm programs have long placed on taxpayers, and I will oppose this conference report.

Mr. President, the unprecedented election of 1994 has been interpreted in many ways; its signals meant different things to the diverse Members of this body, and among the luminous commentators who purport their views to represent the pulse of the masses. My personal beliefs about what the American people are calling for often run head-on into the resistance of this body. I can, however, confidently convey my judgment about one meaning of the November, 1994 election without reservation. Clearly, the new Congress was not empowered to cautiously piece together an expensive array of farm programs, and pass the bill to taxpayers. This Congress was not directed to timidly wander among agricultural special interest groups and seek a consensus that would offend no one. No one, of course, except for taxpayers, who unknowingly will be stuck with the bill.

I oppose this conference report with regret. I supported H.R. 1541 with the understanding that it would actually reduce the cost of farm programs by 15%. The Senate-passed version of S. 1541 was widely described as a substantial reduction of spending on farm subsidies. I also hoped that the House would make further reductions and fiscally responsible reforms. I was mistaken. This conference report contains almost $50 billion in direct farm subsidies over the next seven years, and in its entirety will cost taxpayers close to $70 billion over that time. If any savings are achieved they will be modest, and I am all too familiar with the outcome of previous farm bills, which routinely cost billions more than anticipated.

This is simply unacceptable, Mr. President. We are acquiescing to the well-organized interests who are satisfied with nothing but a bigger trough from which to feed.

At a time when Congressional overspending has already rung up a $5 trillion dollar debt; and when we must fight the administration and its free-spending allies every step of the way for even the most modest restraints on spending, a $70 billion farm bill is simply indefensible. I cannot justify voting for such a bill to my constituents in Arizona, who this year must work five months a year just to pay their taxes!

The logic of passing a new, $70 billion farm bill escapes me, Mr. President, but I think it will prove positively unfathomable to most Americans. A large segment of the Congress seems to operate in a world completely disconnected from any sense of urgency about deficit spending. News reports which mindlessly turn reductions in increases into life-threatening cuts—as we saw with the School Lunch Program last year—cynically feed this atmosphere. This manipulative shell game will go on and on, I'm sure, until a decisive majority of the Congress—with the support of a President who has the courage to lead—stands up and simply says, "Enough!"

To the contrary, this conference report—and this Administration—continues to say: "No problem."

Just last week the Washington Post had a prominent story about how the fiscal year 96 deficit will be dramatically lower than expected. It will undoubtedly bolster the administration's confidence in striving for billions more in domestic spending. Of course, there was no mention in the article about how this year's cheery, refreshingly low deficit means that at best, the Federal Government will spend $400 million more each day than it takes in. This farm bill will keep the tab on that credit card rolling along with respect to agricultural spending for the next 7 years.

During the initial Senate debate on the 1996 farm bill, I was optimistic that the freedom to farm concept of decoupling farmers from bureaucratic crop controls would be a ground-breaking, cost-effective reform. It has not turned out that way. With this conference report, farmers do get a freedom to farm, but lurking just below its surface is the same, dusty maze of permanent price subsidies that the Congress purportedly wanted to move away from.

Let me point out several other areas where this conference report has stumbled badly away from the Senate bill I supported. First, it has several dairy provisions which boggle the mind of anyone interested in cost-efficient, pro-market farm policies. The Northeast Dairy Compact—a price control consortium reminiscent of the very best of Soviet block agricultural policies—is given new life despite being previously rejected by the Senate. Furthermore, this conference report will allow dairy interests in the State of California to impose a new trade barrier on out-of-state milk. California's price-enhancing dairy regulations jack up milk prices for its nearly 30 million consumers, and they will now be codified in Federal law to shield California's dairy industry from fair and open competition. The California solids-added provision is incontestably anti-competitive, anti-market, and definitely anti-consumer. However, even in 1996, those dubious attributes are not enough to exclude them from being tucked into a farm bill.

There are many more areas of great concern for me in this measure. A new, $300 million-a-year rural development program—added at the behest of the administration—was the subject of some thirty seconds of debate in the Senate. There is a $360 million grant program for private grazing lands; a $600 million grant program for livestock activities; $360 million for a new twist on the Market Promotion Program. And, of course, cherished, old standbys like the sugar and peanut programs.

Let me emphasize, Mr. President, I support providing a credible level of truly-needed assistance to farmers in America. I would oppose pulling the rug out from under them with a complete elimination of farm programs. Many agricultural producers in Arizona have relied on price support programs, and dozens of rural communities in my State have greatly benefitted from important rural development initiatives. We should continue meritorious farm programs that work, and that also comply with the fiscal discipline necessary to balance the budget.

I want to express my gratitude to Senator LUGAR for preserving an amendment that will assist Native American community colleges. Indeed, I recognize that if Senator LUGAR was able to fully develop all of his ideas for federal agricultural policies, our country would be in much better shape. I regret that his best efforts have been dissipated by interests unwilling to yield in their defense of a status quo we can no longer afford.

I cannot support a massive package of $70 billion in agricultural spending at a time when the administration and the Congress has been unwilling to stem the tide of deficit spending. It represents too little real reform, not enough relief for taxpayers, and too much toleration of business as usual.

Mr. GLENN. Mr. President, I rise today in opposition to the conference report on the the farm bill. While I strongly favor some aspects of the bill, I have serious reservation about the 7-year contract and the dairy provisions.

This bill ends the system of giving subsidies to farmers when market prices drop. Instead farmers sign a 7-year contract to get annual market transition payments regardless of market conditions. I support moving to a market oriented farm policy. However, I think it is wrong to pay farmers regardless of market conditions and I strongly oppose paying farmers when they do not plant a crop. In times when commodity prices are high, such as now, farmers will receive big checks they do not need; in bad years farmers will receive little or no support.

I also oppose giving the Secretary of Agriculture the authority to implement the Northeast Interstate Dairy Compact. This provision allows six

States more leeway in setting their own prices. I think we need to take a good look at our current system of dairy price supports and move dairy along with the other commodities into a realistic market oriented system.

I support the conservation provisions put forward in this bill which emphasize land management options for farmers and livestock producers, not simply land retirement, to reduce the harmful environmental and economic impacts of agriculture activities. For example, the bill authorizes the Environmental Quality Incentives Program [EQIP] which combines the functions of several current conservation programs into one voluntary incentive and cost-share program for crop and livestock producers. I am pleased that the bill channels additional needed funds to rural development and agricultural research programs through the Fund for Rural America.

I do not believe this bill is good public policy. I am concerned it will cost us more to phase into the new program than to maintain current law. And finally, I also feel that the Congress will be forced to return to this issue as soon as less favorable market conditions return for farmers.

Mr. HOLLINGS. Mr. President, I rise today to voice my opposition to the 1996 farm bill. Although the conferees have worked hard on this legislation and have obtained many good things for rural America, overall the bill is a bad bill, it is bad policy, and it is bad for the small family farmer in South Carolina. With this bill, Congress isn't the goose that laid the golden egg. It's the goose that is laying the rotten egg. And like rotten eggs, this bill stinks.

As I said, this farm bill does have some positive aspects. We establish the Fund for Rural America to infuse $300 million into research and rural development—something that South Carolina and other rural States can definitely use. We create a new Environmental Quality Incentives Program that will help smaller farms with conservation projects.

We also reauthorize the Conservation Reserve Program, a program which is extremely popular among farmers and which improves millions of highly erodible acres across the country. Finally, we reauthorize several nutrition programs for 7 years. I am disappointed that the conference committee chose to reauthorize food stamps for only 2 years, but I hope we will revisit this issue soon.

Despite the few good portions in this farm bill, it remains bad farm policy. Here's how absurd the bill is. Instead of the current price support system in which we help farmers recover their losses with deficiency payments, this bill allows the Government to pay farmers in each of the next 7 years—regardless of whether they have a good or bad year, regardless of whether they plant anything at all or regardless of market prices. Do you know what that means to the budget? It means we'll have to spend a lot more money than we currently spend on farm programs. It is estimated that this farm bill will cost the taxpayers an additional $4 billion over the next 2 years compared to current law. The current system works—why fix it? Current law provides that farmers do not receive Government subsidies in good years. But under this bill, we'll essentially give farmers a bonus in good years—like this year. That makes no sense to me in this environment of fiscal responsibility in which everybody and his brother is trying to find ways to save money.

The small family farmer—especially the South Carolina farmer—comes under attack in this wrong-minded legislation. Through this bill, payments to farmers will decline over the next 7 years. But farming, like history, occurs in cycles. This bill doesn't take the cyclical nature of farming into account. Over the next 7 years, prices almost certainly will decrease from the high prices we now enjoy. But, at the end of this 7-year farm bill, prices likely will be low at the same time that payments are low. In other words, farmers who might be living high on the hog now will be scraping to make ends meet later on. I am worried that this will have catastrophic effects on the small farmer in my State and that many small farmers will have no choice but to harvest their fields for the last time.

And that, in turn, could lead to the expansion of corporate farming. While I do believe there is a place for corporate farming, I don't believe that their successes should come at the detriment of small family farms. These folks, including many of my friends in Mullins, Dillon, Manning, Kingstree, Bamberg, Hampton, Orangeburg, and Charleston, have faithfully cultivated their land for many years. I believe they should be able to continue their profession, not be forced out of it by ill-conceived legislation. This bill is shortsighted. Down the road, it will hurt farmers.

Mr. President, we should have passed a farm bill last year and farm policy should never have been considered as part of the budget package. The hour, however, is late. Farmers need to know where they stand for the coming crop year. For this reason, I understand that the Secretary of Agriculture has reluctantly recommended that the President sign this legislation, and that the President has agreed to sign it with serious hesitation. The President, however, also has indicated that he will continue to work with Democrats in the Congress to propose more farmer friendly legislation next year. I look forward to working with the President on this issue because, as sure as I stand here today, I guarantee that this farm bill won't be around for the 7 years it stipulates.

The so-called freedom to farm concept has been flawed from the start. This piece of legislation, although it may have a different name, follows in the same disastrous direction. I refuse to turn my back on the family farmers of South Carolina and I believe it is wrong for us to pay money to farmers when they do not need it. As a result, I will vote against the farm bill this afternoon. I look forward to revisiting this issue again next year.

I thank the chair.

Mr. SIMON. Mr. President, In many important ways, this farm bill is a good bill for Illinois. While it is not a perfect bill, I'm pleased to see that some of the most meaningful programs were protected. The bill offers farmers limited certainty in the area of income protection and provides a safety net for farmers in future years. In addition, it improves conservation efforts and reauthorizes important nutrition programs, as well as trade and research titles.

Illinois is second only to Iowa in soybean production, with 9.7 million acres planted to soybeans. Exports for soybeans and soybean products totaled $7.9 billion in 1995, making soybeans the largest export, in terms of value, in U.S. agriculture.

This bill raises the marketing loan rate for soybeans to 85 percent of an Olympic 5-year average, with a ceiling of $5.26 per bushel. Despite a 3-percent annual growth in world demand for vegetable oil and protein meal, U.S. oilseed acreage has declined by 17 percent since 1979. This slight increase in the marketing loan rate creates some incentive for soybean production here at home, which helps our trade balance.

The bill also retains permanent law for farm programs. Agriculture policy should protect family farms as well as consumers. The original freedom to farm proposal eliminated permanent law for farm programs, allowing no safety net past the year 2002. Through the leadership of Senator DASCHLE, Democratic Members of the Senate were able to guarantee a safety net for farmers in year 7.

I strongly object to language in the bill giving the Secretary of Agriculture authority to implement the Northeast Interstate Dairy Compact and will work to see that it is not implemented. Dairy farmers in the Midwest cannot compete against this kind of regional price fixing. It is bad policy, legally questionable and the Senate voted to remove it from the Senate bill.

In addition, we are making a big mistake authorizing the safe meat and poultry inspection panel. The role of the panel is to delay implementation of proposed meat inspection regulations. We need to modernize our meat and poultry inspection system and speed up efforts to implement the proposed hazard analysis and critical control point system, not set up road blocks to improving the system. Meat and poultry inspection is a human health issue. At a time when the world is facing serious food safety problems, such as the British beef crisis, the rejection of United States poultry imports to Russia due to Salmonella contamination and the E. coli disaster in the United States, it is simply irresponsible and short-sighted to be stalling efforts to improve the system. I will work with my Democratic colleagues to prevent funds from being appropriated for the panel.

Ms. MIKULSKI. Mr. President, I will vote against the farm bill conference report. I believe that the farm bill, in its present form, goes against the true purpose of a farm bill—to help America's farmers. While I support the reauthorization of the Conservation Reserve Program and other conservation and nutrition programs, I do not believe this bill is in Maryland's interests.

I realize that spring planting is fast approaching, but that is no reason to be forced into accepting a bill that will hurt Maryland farmers and the Maryland industries that depend on our farmers. This bill does just that.

I believe that the Freedom to Farm Act, included in this bill, will have harmful long-term effects on the family farmer in Maryland. This bill puts the family farm up for sale. The bill does not provide a strong enough safety net for farmers. Setting a flat subsidy rate, then removing it in 7 years, without allowing flexibility during extreme economic conditions or natural disasters, is dangerous for farmers in Maryland and across the country. Under this conference agreement, producers will be paid even when prices are high, but will not receive necessary protection when prices are low.

I am particularly concerned that this bill continues and expands the Sugar Price Support Program to the detriment of cane refiners such as Domino in my hometown of Baltimore. This sugar program jeopardizes the future of the cane refining industry. It provides additional protection to domestic growers that would increase the price of raw cane sugar and put Domino and its 600 employees out of business. This is totally unacceptable. Sugar cane refining is one of the few manufacturing industries still left in our inner cities. The farm bill conference report threatens Domino's future. I see no reason why a farm bill must threaten an entire industry.

Also of deep concern to me is the fact that this bill reauthorizes the Food Stamp Program for only 2 years. What happens to Maryland's poor after that? To add insult to injury, while it provides a helping hand to the most impoverished in our communities for only 2 years, this bill guarantees corporate welfare to huge agribusiness for 7 years.

During this Congress, we have debated the issue of a balanced budget. We need a balanced budget, and I regret that we have not succeeded this year in finding consensus and the sensible center on a plan to eliminate the deficit. This bill will make this task even more difficult. Originally designed to save billions of dollars, this conference report will end up costing the American people an extra $1.3 billion.

It is for these reasons that I must vote against the farm bill. I acknowledge that this bill will likely pass and be signed into law by the President. But I also believe that the flaws in this conference report are so severe that Congress will need to revisit these issues next year. I hope at that time we will be able to produce a workable farm bill, one that addresses the best interests of farmers, business, and families.

Mr. NICKLES. Mr. President, I want to compliment my friend from Indiana, chairman of the Agriculture Committee, and all of my colleagues involved in the farm bill debate for their hard work in crafting legislation which reforms our Nation's agriculture policies. The conference report on the Federal Agricultural Improvement and Reform Act represents a long-term plan to get the Government out of the farming business—an idea I strongly support. The final agreement offers farmers flexibility, simplicity, certainty, opportunity and growth and I urge my colleagues to support its adoption.

Under the provisions of this bill, farmers will have the flexibility to plant the crop or crops that best suit their climate, conditions and market opportunities. No longer will the Government tell farmers which crops to plant and no longer will the Government tell farmers to leave productive land idle in exchange for a Federal handout.

Current agriculture programs will be simplified by allowing farmers to enter into 7-year contracts. After the initial sign-up, many farmers will never need to visit USDA again. I strongly support provisions in the bill which eliminate the countless rules and costly regulations that accompany today's farm programs.

The conference agreement provides certainty to farmers by ensuring they will know all program parameters and payment rates for the next 7 years. Under current programs, payment rates often change after program sign-up and payments in future years are unknown. A fixed stream of payments bolsters confidence in farm lending and all areas of farm business decisions.

I believe in the opportunity this legislation provides to farmers. Decades-old planting patterns that limit profits are eliminated and replaced with flexibility and fixed market transition payments. Farm income will grow as farmers are no longer limited to planting stagnant, low-value, market crops.

With respect to haying and grazing provisions included in the conference agreement, I want to thank both the House and Senate Committees for their commitment to allowing farmers to hay and graze their lands. I was involved in amending the original bill, which restricted haying and grazing, and I thank my colleagues for their continued interest in providing the utmost flexibility to those who earn their living in agriculture.

Finally, as many of you know, Oklahoma and other Western States have suffered a severe drought during the past 6 months. Farmers tell me that if Congress doesn't enact this farm bill many will be forced out of business. Frankly, I do not want to see that happen.

Congress has a responsibility to farmers in Oklahoma and every other agricultural State to enact a farm bill this week. I support the conference report before the Senate and urge my colleagues to vote for its adoption.

APPLICABILITY OF THE CONGRESSIONAL REVIEW ACT

Mr. LUGAR. I would ask the sponsor of the just-passed Congressional Review Act of 1996, the Senator from Oklahoma, Mr. NICKLES, whether the bill, if signed by the President this week, will apply to the Department of Agriculture's rules that will be promulgated under the Agricultural Reform and Improvement Act.

Mr. NICKLES. Yes, I will inform the chairman of the Agriculture Committee that all Federal agency rules will be subject to congressional review upon enactment of the Congressional Review Act.

Mr. LUGAR. I ask the Senator from Oklahoma if the Department of Agriculture were to issue major rules under the Agricultural Reform and Improvement Act, that is rules that would have a large economic impact on the agricultural community might be held up for 60 calendar days by the Congressional Review Act?

Mr. NICKLES. Yes, my colleague is correct. If any Federal agency issues what the Congressional Review Act defines as "major" rules, those rules would not be allowed to go into effect for at least 60 calendar days. However, I advise my colleague that the President, by Executive order, may declare a health, safety, or other emergency, and that particular major rule would be exempt from the 60-day delay. I would add, that the President's determination of whether there is an emergency is not subject to judicial review.

Mr. LUGAR. As the Senator from Oklahoma may know, we in the conference on H.R. 2854 did not contemplate such prompt enactment of the congressional review bill. I would inform the chairman that H.R. 2854 requires that the Secretary of Agriculture, within 45 days of enactment, offer market transition contracts available to eligible producers. These contracts must not be further delayed, or they will not be effective for the 1996 planting season. Moreover, these contracts are worth billions of dollars, and are certainly going to qualify as major rules under the Congressional Review Act. Would the chairman agree that these major rules are the type that are contemplated by his committee as qualifying for the emergency exception available to the President?

Mr. NICKLES. Yes, I agree with the chairman of the committee that the other emergency exception from the 60-day delay of major rules was included for this kind of circumstance. Certainly, it would be totally appropriate for the President to determine by Executive order that the market transition contract rules promulgated this spring under the Agricultural Reform and Improvement Act are emergency rules that would not be subject to the automatic 60-day delay.

Mr. LUGAR. I thank the Senator for that clarification.

Mr. KERRY. Mr. President, today the Senate is considering the conference report on the farm bill. I had hoped that the conference would produce a bill that would be more fiscally responsible than either its House or Senate predecessors. However, I regret that in my view it does not achieve that fiscal reform. I voted against final passage of the Senate's farm bill, S. 1541, when the Senate acted on it last month because, while it was improved considerably in some key respects from the bill that the Republican leadership originally introduced, ultimately, it was not the reform package that I believe our Nation needed and had the right to expect. Unfortunately, neither does this conference report provide the improvements that would be needed to secure my support.

I understand that the President, with some reservation, is expected to sign into law the conference report now before us. I know that farmers, as they head into the spring planting season, need to know the conditions under which they must operate. And I acknowledge that this bill is probably the best package that could be expected to emerge from a conference with the House in the contentious, partisan environment which pervades Capitol Hill. Indeed, the conference package is far better than the House bill, which, in fact, was not complete legislation because it did not reauthorize important conservation and nutrition programs that have traditionally been addressed in omnibus farm legislation.

It is imperative that I congratulate and sincerely compliment the Senators who worked diligently to secure an agreement at least as good as the one before us today. Agriculture Committee Ranking Democrat PAT LEAHY deserves our commendation for his successful struggle to insist that adequate conservation and nutrition provisions be included. Chairman LUGAR again on this bill demonstrated his well-known and respected ability to place the Nation's interests as his first objective instead of partisan scoring and ideological rigidity. The way in which Senators LUGAR and LEAHY worked together in pursuit of responsible legislation that could pass both houses and receive the President's signature is a model that others in this body would do well to emulate.

I compliment Senator LEAHY, also, for his instrumental role in including in this conference agreement a provision important to me and my New England colleagues allowing the Northeast Interstate Dairy Compact to go into effect upon the approval of the Secretary of Agriculture. As a cosponsor of the compact legislation, I am very pleased that it will be included in a bill that apparently will become law.

This conference agreement includes important rural development programs that are important to farmers in my State of Massachusetts as well as to farmers across the country. The bill retains new development initiatives such as the multimillion-dollar Fund for Rural America and the new structure for delivery for rural development programs, the Rural Community Advancement Program [RCAP]. RCAP provides important flexibility to States to allow them to develop innovative approaches to their unique rural development problems by permitting each State director to tailor assistance to local needs. This is a vast improvement over the previous Republican proposal for block grants to the States.

But on the central question of the way it deals with farm incomes, I reluctantly must conclude this conference report fails to make the grade. While it eliminates the current price support structure for many commodities programs, it replaces it with an extremely costly fixed direct payment to farmers. The Congressional Budget Office estimates that for the first 2 years under this new proposal—fiscal years 1996 and 1997—the Treasury will pay out $5 billion more to farmers than would be paid under a continuation of the current price support programs.

While some claim that this 7-year direct payment program is necessary to wean farmers off Federal support, that argument is significantly weakened by the provision in the bill that retains the outdated 1949 Agricultural Act as the permanent law governing Federal commodity programs. According to the United States Department of Agriculture, the 1949 statute, if enacted today, would cost taxpayers $10 billion for 1996 alone, substantially more than the recently expired provisions.

I remain convinced that we need a new approach to farm policy. We need to transition to a situation where we permit the free market to function with much less interference, regardless of how well-intentioned it may be. When this issue first came before the Senate, I supported cloture on the Leahy-Dole reform package—although it was far from ideal in my mind—because it would have replaced the 1949 statute and the financial support provided by the current price support programs with a 7-year phase-out plan. Also, importantly, that package would have reauthorized critical conservation and nutrition programs, including food stamps, through 2002. The conference agreement reauthorizes food stamps for only 2 years.

Today we must vote yes or no on the conference package in its entirety. While it contains many important and acceptable nutrition, conservation and rural development provisions, it falls well short of the kind of bill we ought to be passing. While I accept the explanation of Senators LUGAR and LEAHY that this is the best bill they could get their House counterparts to approve, it falls too far short of what our Nation needs and there will be too little to show for too great an expenditure of tax dollars for me to be able to vote affirmatively.

Mr. President, for these reasons, I will cast my vote in opposition to this conference report.

Mrs. MURRAY. Mr. President, this Farm Bill Conference Report represents a bold new direction for the future of this Nation's agricultural policy. A direction I do not support. The removal of the safety net for our farmers will prove itself to be a mistake, I think. Undermining the safety net is easy now since prices are relatively high, but when prices drop, and we all know they will, I fear this farm bill may come back to haunt us. In fact, it may well come back regardless of prices. It may come back because of the so-called market-transition payments: guaranteed payments to farmers regardless of market conditions or production. I am truly afraid that the American public will not view these payments as a safety net to maintain a safe and stable food supply. They will view the payments as a give-away. Those of us who understand the importance of farm programs know better than to undermine farm support structures in this way. That is why we think the payments should continue to be tied to production and the marketplace.

Many have expressed the sentiment that after the 7 years of Freedom to Farm, we will continue to maintain some kind of farm program. While the preservation of permanent agricultural law in the conference report provides some assurance that this will be the case, I am not so confident. The proponents of "Freedom to Farm" have made it explicitly clear that they view the market transition payments as a transition to nothing. Moreover, I am also concerned that public outcry over these direct payments will force us to revisit the farm bill sooner than 7 years. If this occurs, I am not at all convinced that Congress will seek to rectify the situation by reinstating a more traditional safety net, they may well decide just to end the payments, period.

Which just goes to the point: we had the opportunity to appropriately address national agricultural policy and we failed. Instead, we chose to let budget priorities drive farm policy. By putting forward policies that could not even make it out of committee, we undermined the process and the result is far from satisfactory. Congress has let our farmers down. The farm bill has traditionally been bipartisan with considerable time provided for debate and discussion. Congress sought to provide all parties a chance to provide their input. That tradition has ended with this bill. Take the dairy provisions for example. There is still a considerable amount of disagreement over these provisions, a compromise has not been achieved.

Despite all this, our farmers do need certainty for the 1996 season. I spoke with the wheat growers in my State of Washington yesterday. While they share many of my concerns with this farm bill, they told me they need something for this season. It would be unfair to hold the farmers of America hostage to our disagreements. While in the long term, I have serious concerns about the future of our farms under this bill, in the short term, they need to know what to plant for. I therefore will support this conference report, with serious reservations, in order for my farmers to have the certainty they need this season. I am committed to protecting the ability of our farmers to continue producing a safe and stable food supply for this Nation and the world. I will be watching the impacts of "Freedom to Farm" on our Nation's farms closely as the program, or lack of program, moves forward.

The PRESIDING OFFICER. Who seeks time?

Mr. LEAHY. Mr. President, on the procedure we have, we have been going back and forth. I know the distinguished Senator from Iowa was seeking recognition.

I yield, from the time of the Democratic leader, time to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, there are really two parts to this farm bill. One component was in general put together in a very bipartisan and cooperative manner. That process has produced a number of sound provisions that deserve broad support.

There are many good features in the titles of this bill dealing with conservation, for example, the continuation of the Conservation Reserve Program and the Wetlands Reserve Program, the Environmental Quality Incentives Program and improvements in the wetlands conservation rules. The wetlands rules are something that has concerned me greatly. They have been very confusing and frustrating to many farmers in Iowa, but there some positive changes in this bill that should make wetlands conservation rules more reasonable and workable for farmers.

One of the wetlands changes involves farmland that has been converted in the past and drainage tiles have been put in, but for one reason or another, such as tile plugging up, the land has returned to wetland again. Farmers in this situation have had problems with the rules in trying to reopen their drainage systems. This bill will allow farmers to go in and unplug their tiles and go ahead and drain those fields, if they have already been previously converted. That is very important.

This bill also provides that farmers can take a wet spot, a small spot in the field, and go ahead and convert it and farm it if they mitigate the loss through improving, restoring or creating wetlands in the area. Sometimes that is the best thing to do, because there may be a better area for a wetland than where it is existing right now in the middle of a field. And the bill also calls for clarifying the rules on the types of wetlands that are so insignificant that they are not subject to wetlands rules. So these are very good changes for our farmers.

Although there are a number of positive features in the bill, there is one aspect of the bill that outweighs everything else, and for that reason I cannot support this farm bill. I am speaking about the commodity program provisions in this bill. They are the most substantial part of the bill: $35.6 billion in direct payments alone. Commodity programs involve by far the largest amount of Federal agricultural outlays, and they will have, naturally, the largest effect on the agricultural economy of my State of Iowa. So, if the commodity programs in the farm bill will not be good for the farm families in my State, I simply cannot support the bill. Regrettably, that is the case with this bill.

It is true it is late in the season. This farm bill is at least 6 months late—more like 9 months late. Farmers, at least in my area, are starting in their fields. They are wondering why the leadership of this Congress could not get its work done to pass the farm bill on time. I will not be forced into voting for a farm bill simply because the Republicans could not get their act together and get it done last year.

I have here the CONGRESSIONAL RECORD from July 26, 1990. I was here. I was working on the farm bill at that time, the 1990 farm bill to take effect with the 1991 crop. Here is what the minority leader, Senator DOLE, said at that time, July 1990:

> Mr. President, we are rapidly approaching the August recess, and back in my home State of Kansas farmers are preparing for the seeding of the winter wheat crop. Even as they reflect upon the record Kansas wheat crop recently harvested, uncertainty lies ahead. That is because Congress again has been unable to finish the farm bill in a timely manner so that producers of fall crops will know their program in advance.

Here is the Senator from Kansas, Senator DOLE, complaining in July 1990, that we do not have the farm bill done in July 1990 to cover 1991 crops. Here it is March 1996 and we do not have the 1995 farm bill done to cover 1996 crops.

Again, it was the other side that was in charge. We could have had a farm bill out here on the floor last fall. We passed commodity provisions out of our committee last September. We could have had a farm bill on the floor in October or November or December. We sat here and twiddled our thumbs, waiting to try to get some kind of budget deal that was never agreed upon. We could have had the farm bill done at that time, but the leadership did not bring it up. So now we have a gun held to our heads, saying we have to pass it now, it is awfully late. I do not like to operate in that atmosphere, and I will not vote for it on that basis—just on that basis.

I cannot support the bill because it sets up a farm program with payments that have no relationship to commodity prices, crop production, or farm income levels. This bill has it exactly backward. It will provide far less protection against low farm income than previous farm bills. But then it turns around and makes substantial payments to farmers in good times, when there are good prices and high incomes. What this is going to mean is it will hurt agriculture's image and undermine support for any sound farm policy in the future.

A sound farm policy is one that promotes good farm income from the market, but helps farm families survive circumstances beyond their control, when the market goes down or they have a disaster. The farmers I know want to farm for the market and not the mailbox. This bill says no matter what the market does, no matter how good your income, you are going to get a check in that mailbox. Most farmers I know do not want to farm like that.

I want to make it clear that I want reform in farm programs with full planning flexibility, less paperwork, less redtape, less hassle. We can do that. There was general agreement on both sides of the aisle, in a bipartisan fashion, to make those reforms. We can provide that planting flexibility without adopting the payment scheme in this bill that will send checks to farmers, even when they have a good income from the market.

I want farm programs that work better for farmers, but this bill goes far beyond reasonable reforms to destroy the farm income safety net. It is absolutely unnecessary to take the radical approach in this bill in order to achieve the commonsense reforms that farmers have told me they want.

The proponents of this farm bill are not really telling farmers the whole story. The payments may look good now, but if commodity prices and farm incomes fall—and past cycles in the farm economy show how quickly and devastatingly that can happen—this bill sets farmers up for a big fall. By the time we get to the later years in this farm bill, the maximum payment for corn is about 28 cents a bushel—no matter how low the price may fall, 28 cents a bushel.

Have no doubt about it, what this bill does is it shifts risk. It is a tremendous shift of risk onto farmers. They are being told to produce all they can so that grain companies will have plenty of grain to trade, but if surpluses and low prices develop, as they most certainly have many times before, it will be the farmers who get the short end of the stick.

They will have much less help in working out of that low-price situation than we have had in the past. There will be no farmer owned reserve, for example, because this bill specifically takes it out, and the bill also raises the CCC interest rate by a full percentage point above the cost of money to CCC. I offered amendments here on the Senate floor to put the farmer owned reserve back in and take out the CCC interest rate hike. Only two Republican Senators voted for those amendments and neither was approved.

To see how the farm income safety net is slashed in this bill, let us take, for example, an Iowa farmer with a 350-acre corn base. If the price of corn, let us say, is $1.90 in 2002, that farm will have about $23,000 less income protection under this bill than it would have under the 1990 farm bill. That is because this bill will not respond to low prices.

I suppose some of you might say, "Well, $1.90 a bushel, we won't get to that price." I have been around long enough to remember when Earl Butz in the 1970's said that American farmers should plant "fence row to fence row" to meet burgeoning world demand for U.S. agricultural exports. In my State of Iowa, we plowed up a very large share of the hills in southern Iowa, planted soybeans and planted corn. I tell you, we had a ride. There was a boom. Farmers had a good ride and a lot of them went deeply into debt. Why shouldn't they? There was supposed to be no end to it. Land prices skyrocketed. A lot of big new tractors and combines were bought. Many young farmers, in particular, took on a lot of debt to get started or to expand. Then in a few short years the crash came and out went the young farmers. We had a devastating time in the 1980's. I am very concerned this bill is setting farmers up for that same kind of situation again, because it does not have enough protection against low prices and farm incomes.

This bill also imposes a new cap on loan rates for wheat and feed grains, which is another weakening of the farm income safety net. The loan rate for corn cannot go above $1.89 a bushel, but it can go below $1.89. I offered an amendment in conference, backed by the National Corn Growers and the National Association of Wheat Growers, to lift the cap on loan rates for wheat and feed grains, but, again, I could not get one vote from the Republican side of the aisle.

To illustrate the lack of farm income protection in this bill, I did some rough calculations and determined that if this bill had been in effect in Iowa for the last 5 years of the 1980's, Iowa's farm families would have had about $2 billion less in farm income than they had under the farm bill in effect at that time. That would have been devastating for Iowa's farm families and rural communities. That kind of situation could develop again, and if it does this bill will be woefully inadequate.

I am convinced this bill will hasten the trend to larger farms and the decline of the family farm. The largest share of these contract payments will go to the larger farms, and there will be much less income protection for the smaller farms against low prices and incomes. Do not take my word. Here is an article that appeared in the March 24, 1996 Sunday New York Times:

> The new approach, called Freedom to Farm by its supporters, would accelerate the ongoing consolidation of smaller less profitable farms into larger, more efficient corporate farms. That has serious implications, not only for the face of farming in America but also for the livelihoods of rural communities.

That is from the New York Times. I might also point out, Mr. President, that the New York Times, the Washington Post, and the Wall Street Journal have all editorially endorsed this so-called freedom-to-farm type of program. I tell farmers in Iowa, any time the New York Times, the Wall Street Journal, and the Washington Post all editorially endorse a farm program, I get worried, I get really worried.

Let us talk about fiscal responsibility. Here we are trying to reduce the deficit. We want to get a balanced budget. I support that. We ought to be as tight as we possibly can with taxpayers' dollars. If someone needs help, yes, that is when you come in with some assistance. But if you do not need help, why spend taxpayers' dollars?

This bill will spend $35.6 billion on direct payments to farmers, even if prices are high and farm incomes are high. Those payments, made whether they are needed or not, hold huge potential for embarrassing farmers and those who support sound farm policy. We should save that money for farmers when and if they need it.

Going back to the example of the Iowa farm with the 350-acre corn base, that farmer would get a payment of about $13,000 in 1997, even if corn is $3 a bushel and yields are good. No matter what that farmer makes from the market, the Government will send out a check for $13,000. I just do not see how that is fiscally responsible when we are trying to balance the Federal budget.

Here is another example: a large Kansas wheat and grain sorghum farm, with 1,800 acres of wheat and 600 acres of grain sorghum. Let us assume wheat is selling for $5 and grain sorghum for $3 in 1998. That farm would have a net income of about $195,000 after costs. That is net farm income. On top of that, Uncle Sam will write a check to that farmer for just under $40,000. Furthermore, if a farmer arranges his or her business carefully to take full advantage of the programs and maneuver around the payment limitation, that one individual farmer could receive as much as $80,000 in a year in direct cash payments from Uncle Sam, even if the farmer makes a net income of over $195,000, as in the example, or more. That money will be paid out regardless of how much money that farmer makes in the market.

I want someone to explain to me why the taxpayers—especially taxpayers living in rural communities across this Nation trying to make ends meet in small businesses or working at low wages—should be asked to pay for a farm program that makes sizable payments to farmers, even if they are making a good income from the market?

Where is the fairness in a system of income transfers from taxpayers who are struggling to make a living if that money will be spent in providing payments to other people when they do not need the help?

And the impact of this bill on taxpayers could be substantial. The Congressional Budget Office has estimated this bill will send out over $5 billion more in direct farm payments during fiscal 1996 and 1997 than would be the case under the 1990 farm bill. USDA estimates that this bill will result in direct income support payments of about $25 billion more over the 7-year period than would have been the case if we had just continued the 1990 farm bill.

Mr. President, here is the conference report on the farm bill. I know not too many people read these documents. I just want to read one sentence out of section 113. It is titled "Section 113. Amounts Available for Contract Payments," and it spells out for every fiscal year how much money would be available. It amounts to about $35.6 billion. But listen to this:

> The Secretary shall, to the maximum extent practicable, expend the following amounts to satisfy the obligations of the Secretary under all contracts.

"The Secretary shall, to the maximum extent practicable" make these payments. Wait a minute. I thought we were trying to save money for the taxpayers. I thought we were trying to reduce the deficit and balance the budget. Here is a bill that says USDA has to pay it out no matter what happens, no matter how much money farmers make; to the maximum extent practicable, it has to make those payments.

I would like someone to show me one other bill passed by this Senate or House that says, for example, that the Secretary of Health and Human Services has to pay out, to the maximum extent practicable, a sum of money for welfare payments. Or let me see a bill stating that the Secretary of Education has to pay out, to the maximum extent practicable, money for title I. I do not believe you will find such a provision anywhere.

I certainly have never seen anything like this in an agriculture bill in all the time I have been here. I just do not see how anyone who claims to be a conservative can be in favor of mandating that the Secretary shall make the maximum payments possible no matter what commodity prices or farm incomes are.

I offered an amendment on this very point. My amendment said that payments under this bill could not be any higher than they would have been under the 1990 farm bill, except in the case of a farmer with a disaster loss. Farmers with disaster losses would receive the whole contract payment. Any money saved in a fiscal year through my amendment would be rolled over and reserved for payments to farmers in later years when they may have a greater need for them.

Here is an article from the front page of the Iowa Farm Bureau Spokesman dated November 18, 1995, quoting Dean Kleckner, the president of the American Farm Bureau Federation. Mr. Kleckner is not a member of my political party, and we have disagreed on issues in the past. But here he is, quoted just a few months ago, expressing opposition to the payment mechanism that is in this bill, just as I have:

> "In order to provide a long-term safety net, the conference committee should develop a program that maintains a price-payment linkage and allows budgeted funds not expended in years of high prices to be available in years when farm income is low," the Rudd, Ia., farmer said in a letter to House and Senate budget conferees last week.
>
> "Failure to resolve this issue will render farm programs either an ineffective income support mechanism or subject them to being an irresistible political target," Kleckner said.

Mr. President, I offered an amendment in the conference committee to do just that. It would have kept the money in reserve in times of high prices; USDA would not have paid out any more than under the 1990 farm bill unless the farmer had a disaster. Any money that was not paid out would have been rolled over for use in making payments in future years when the need may be greater because of lower prices or disaster losses. Again, my amendment was rejected along strict party lines. Every Republican voted against it.

Some people get pretty edgy and touchy when they hear it said that this farm bill makes farmers vulnerable to criticism that they are receiving welfare payments. If this bill becomes law, I can only say, get used to it; get used to it. The national press, who have never been friendly to agriculture, will have plenty of new material. There will be television stories and the same editorial writers at the New York Times, the Washington Post, and others will go to work. You mark my words. There will be editorials about USDA making large payments to large farmers no matter how much money they are making from the market.

The editorial writers do not understand what is going on in agriculture anyway, but what I am concerned about is the damage this bill threatens to do to the public's image of farmers and of agriculture programs. Farmers do not want to be perceived as receiving something for nothing, regardless of whether they need it. I do not believe farmers receive welfare, or that farm programs are welfare. Farmers work very hard for their money. They are proud people. They want to get their income from the market and not from the mailbox. There is real potential for this bill to contribute to an impression among the public that farm programs are welfare.

What I am saying is that I firmly believe and most sincerely believe that those who support this program are doing a great disservice to farmers because it sets up farmers for this kind of attack, that they are receiving welfare, getting payments even though they are making good money from the marketplace. It is setting up farmers, I think, for a big fall.

Not only are farmers going to have a greatly reduced farm income safety net under this bill, they are also likely to suffer damage to their public image because of the payment scheme in this bill. We should not pass a bill that gives critics of farmers and sound farm policies more ammunition to fire away in the national press. It can only be damaging to hard-working farmers in Iowa and across our land. It is hard enough sometimes to explain to our urban counterparts why we need a decent farm policy, without having to overcome the image created by this bill.

Mr. President, farm programs should be there as a safety net to provide adequate protection when times are hard, not to pay out over $35 billion to the maximum extent practicable even when commodity prices and farm incomes are high. This bill slashes the farm income safety net, and it is not fiscally responsible. For those reasons, I cannot in good faith support this farm bill. I hope we can come back next year, perhaps, and readjust this bill so that we will have enough money available for farm programs in the years when it is really needed.

I hope and pray this radical so-called freedom-to-farm approach will not devastate our farm families. I am very concerned that the payments made in the next year or so will create a political liability. When we do have a downturn in the farm economy and there is a real need for an adequate farm income safety net, the political capital required to pass the necessary legislation will have been used up. Those of us who care very deeply about family farms and about rural America will not be able to get anything through here to help them through their tough times.

For these reasons, Mr. President, I cannot support this farm bill. I see the train is on the track expect this bill will pass. I understand the President has indicated he will sign it reluctantly. I must say, in all candor, I am disappointed that the President did not rely upon his authority under the existing law to carry out a decent farm program and avoid being cornered into signing a bill as objectionable as this one. Farmers should not be in the position of having an entirely new farm bill enacted at this late date. We should not have been in a position of writing a farm bill with a gun held to our head, instead of working together in a bipartisan fashion to hammer out a really good, sensible farm bill for farmers. I am just sorry the President did not use his authority to avoid this situation. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, let me commend the distinguished Senator from Iowa for his excellent statement. I do not know that anyone could say it any better. He has capsulized very well what many of us feel about this legislation. He has been in the trenches and has fought the fight and has led the effort in many cases. I applaud him for his statement and for the contribution he has made to this debate again this morning.

As I consider the contributions made by many of our colleagues, let me also call attention to the fact that this is the last farm bill that the Senator from Alabama, Senator HEFLIN, and the Senator from Arkansas, Senator PRYOR, will probably be involved in. Over the years they have been remarkable advocates of sound farm policy and leaders in their own right in so many ways. The people of Alabama and the people of Arkansas could do no better than to have the representation that they have had in Senators HEFLIN and PRYOR. They will certainly be missed as we consider farm legislation in the future.

Let me commend as well our distinguished ranking member and the chairman for their work in bringing us to this point. We may not agree entirely on many of the issues involved in farm policy or ultimately on what we should do with this legislation, but no two people have worked harder and in a more bipartisan manner to bring us what we have been able to achieve today. So I again publicly thank them for their leadership.

As I said last night, Mr. President, this bill is long overdue. I do not have an explanation as to why, as late as it is, we are dealing with the 1995 farm bill in 1996, but we do know this, we know that farmers need certainty. We do know that it is too late to start over. We know that the winter crop will soon be harvested. We know that southern crops are already in the ground. We know that midwestern farmers are ready to begin planting.

In fact, just recently a farmer from Volga, SD, called me from a supply store trying to decide what kind of seed to buy for spring planting because the seed was going to be determined in part by what the ground rules are for the farm bill. How much planting time he had available to him, what the planting year was going to be like was going to be determined by what we decided. He simply said, "We can't wait any longer. Get it done. Get it done."

So we are here with that realization. We know we need to get it done. We received hundreds of calls to do something, to provide certainty, to take what we can now and to fix the rest later. That is exactly what we are doing. I do not know what the farm programs eventually will be, but I do know this, that the time for action is long overdue. I know and farmers know that we cannot wait any longer.

As a result, the President is going to be forced to sign this legislation, forced to sign a bad bill because of a late date. He shares our concern about the safety net and the decoupling in this legislation. But with our ranking member and with others, we intend to fight another day, to come back, to do even more to ensure that farmers will have the kind of certainty, the kind of assurances that they have had in past farm legislation.

There are some good provisions in this bill. No one should be misled in that regard. The continuation of the Conservation Reserve Program is a good thing. The incorporation of many of the conservation programs and the adequate funding for those programs is a good thing and would not have happened without the effort made by the ranking member.

The Fund for Rural America is a good thing. That it guarantees spending on rural development and research, that it addresses the needs of rural America, especially in creating new value-added markets all over the country, is a good thing. We provide assistance for value-added processing facilities through the Fund for Rural America. I must tell you, it is one of the best features of this farm legislation.

The increased flexibility for some producers also is a good thing. Simplification is a good thing. Perhaps most importantly of all, the guarantee that we will have permanent law, with the expiration of this legislation, is perhaps the most important thing of all. Ensuring that permanent law will be there, regardless of circumstances, regardless of our inability to find some consensus about what to do after this legislation expires, in my view, is perhaps the best thing.

In spite of all of that, and that does represent a significant amount of bipartisan consensus, there are at least six serious flaws, Mr. President, that in my view, bring me to the same conclusion that the Senator from Iowa has just expressed. I cannot support this bill in large measure because, simply, it fails to provide the safety net that we believe is so essential in any piece of farm legislation.

Loan rates are capped in this bill. They can go down. They can never go up. The farmer owned reserve is eliminated. There is no possibility for farmers to truly have the freedom to farm if they do not have the freedom of access to the tools necessary to farm. The farmer owned reserve is one of the best tools farmers ever had. It is no longer there. It is not freedom to farm when you take the tools, financially and otherwise, away from the same farmers that ostensibly have such freedom today. The Emergency Livestock Feed Program is gone, another tool that undermines a real opportunity to provide the freedom that we all say we want for farmers today.

Not long ago, three South Dakota farmers met with the President. If they expressed anything in the short time they had with the President of the United States, it was this: "Mr. President, we need that safety net. Mr. President, we know we will face national disasters. We will face natural calamities in South Dakota and throughout the Midwest, and for that matter in all parts of the country that will require we have a safety net, an insurance program. Do not be a part of taking that away."

The second and perhaps equally as significant a problem I see with this bill is it pays producers, regardless of price. It requires guaranteed payments, as the Senator from Iowa has indicated today, probably in an unprecedented fashion. It requires the Government to pay producers, regardless of their circumstances. As the Senator so ably said, where else in law today are people required to get a payment, regardless of need, regardless of circumstance? I must say, Mr. President, of all the things in this bill, that is the one that troubles me the most.

Third, while we do have some degree of flexibility, some degree of new-found simplicity in this legislation, no one should be misled about the fact that there are some who have less flexibility. Vegetable producers are treated differently than grain producers. A potato producer in South Dakota is not given the freedom to farm, is not given the flexibility he may need to be able to compete effectively in the marketplace. Why? Because we are protecting other potato producers in other areas of the country.

That kind of freedom to farm is not articulated very well by proponents of this bill. Instead of getting signals from the market, some producers are receiving stronger signals from the Government for certain products, such as potatoes.

Fourth, the research program, in my view, Mr. President, is one of the greatest concerns as I look to the long-term future of farm legislation. What happens in 2 years to research? How do we assure those who are involved in research today in our colleges and universities across this country, in agricultural clinics and laboratories all over the country, what we are going to do with regard to basic and applied research 2 years from now? We do not have the luxury of turning the spigot on and off. We do not have the luxury of telling a researcher out there, "Go ahead and do it, but we cannot give you any guarantees 2 years from now you will have any assurance that money will continue." What kind of a vote of confidence is this? Researchers want to know that when it comes to new production or new markets, we are going to stand, ready in partnership, with research to make sure that agriculture continues to be what it is today.

Mr. President, I am also concerned about the deficit consequences of this legislation. No one denies this bill increases the deficit in the first 2 years by more than $4 billion. In rooms just down the hall we are trying to figure out how to cut billions of dollars from education, the environment, national service, programs that directly affect people in virtually every walk of life. We are cutting billions there and adding billions on the floor as we speak—$4 billion in the next 2 years, largely in payments given to farmers who will tell you privately this is not the year they need them. You do not need farm payments when prices are as high as they are in grain today, but we are going to provide them. We are going to mandate them. We are going to tell farmers you go out and do whatever you want, get as much money as you can from the marketplace, God bless you, we will still give you $50,000, $100,000, $200,000 in some cases.

Mr. President, the nutrition program, as well, troubles me a good deal. How we can reauthorize farm program benefits and these payments to farmers for 7 years, but payments to nutrition for children for only 2 years, is troubling in many ways.

Having said all of that, we recognize the good things. We wish we could improve those that are not good. We recognize that we will fight another day. We recognize that there are a lot of people out there struggling who want certainty. Bob Ode, a farmer near Brandon, SD, who was just in my office the day before yesterday. He is concerned about the lack of a safety net. He has told me that grain farmers and livestock producers in our State 2 years ago lost 13 percent of their income. Last year, they lost 18 percent of their income. In the last 2 years, many farmers have lost over 30 percent of their income, and our response today is to say we are going to take away your safety net. It is no longer there. You are on your own.

Are we really prepared to do that? Do we want to tell Bob Ode and farmers across this country that is the best we can do? Mr. President, we can do better. We must do better. We must come back, whether it is next year or at some time in the not-too-distant future. We must address these deficiencies. We cannot conscientiously allow this to happen.

I am very pleased that the President has promised to join forces with us, next year, to make that happen. We can do better. I yield the floor.

Mr. LEAHY. I understand the Senator wishes to speak in opposition to the bill?

Mr. BUMPERS. Yes.

Mr. LEAHY. I yield 5 minutes, from the distinguished Democratic leader's time.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I thank the distinguished ranking member, my good friend from Vermont.

First, I want to express my profound gratitude to my colleague, Senator PRYOR, for the very laudatory and kind words he delivered on the floor a moment ago when he referred to a provision in the bill to name the U.S. Department of Agriculture Small Farmer Research Center in Arkansas after me.

As I sat there in my office watching Senator PRYOR deliver those accolades I couldn't but help question if it was really me he was describing. He laid it on pretty thick.

The thing that makes Senator PRYOR easily the most popular politician in Arkansas is because he is one of the most generous to a fault and one of the hardest working people I have ever known. You never see his name mentioned in the Arkansas press that it does not say, "Senator PRYOR, the most popular politician in Arkansas," as the lead to whatever story they are reporting.

I have been deeply honored to have him as a colleague, and deeply distressed to know that he will depart this body at the end of this session of Congress. We have had what I think is probably as fine a working relationship as any two Senators in the U.S. Senate have ever had. But I want to publicly express my gratitude to Senator PRYOR for all the kind things he did say about me.

He gave me much too much credit. Of course, that is one of the things that makes him so popular back home. He gives other people credit for everything that happens, no matter what his role was in it.

In this particular case I can honestly say the Senate would have been justified in naming that after an aide, my agriculture assistant back in those days, Rhona Weaver. It was essentially Rhona's idea. She worked with the State leaders and the leaders of the community. I would be remiss if I did not pay tribute to her. We politicians take credit for everything, but the truth of the matter is most of it originates with our staff, and this is a classic case in point.

I am deeply honored, Mr. President. And now, because I detest this bill so much, I am in the very ambivalent position of having to vote against a bill that places a great honor on me. Nevertheless, I have no choice but to vote no.

Let me just say, in these few remarks, that I personally thought the bill before us, which will probably be always remembered as the freedom-to-farm bill, was fatally flawed in concept. Senator CONRAD of North Dakota said it more appropriately several times, and it bears repeating. This bill is like the people who followed Jim Jones down to Guyana, and he told them, when they were committing mass suicide, to drink the Kool-Aid, it tastes good, and the children drank the Kool-Aid. It was after they got it down that the problems began. And so it is with this bill. It is going to taste good to the farmers, initially, because they are going to be paid a handsome bonus on top of record commodity prices. They do not even necessarily have to farm to get the bonus. The conference report did make one improvement from the earlier Senate version. To get the bonus, they at least have to engage in some sort of agricultural activity. But I can think of all kinds of activities that I can argue are "agricultural" in nature but do not resemble farming as farmers in my State would recognize it. You are going to see "60 Minutes" stories of farmers who are maybe getting 80 cents or a dollar a pound for cotton, plus a very handsome, generous payment from "Uncle Sugar." To make matters worse, depending on how they finally define "agricultural activity," you might see farm payments being paid to people who no longer plant a seed or turn a clod of dirt.

That is not what farmers want. They do not want welfare. That is what this is, pure and simple. Actually, I suppose you could argue that welfare is what you give to people who need it, which may not be the case with these freedom-to-farm handouts. But the problem is going to be just like drinking the Kool-Aid. Seven years from now, or sooner, when these payments have been terminated or have dwindled to nearly nothing, if commodity prices are back where they were 2 years ago, I do not know what is going to happen. We either go back to the drawing board and draft a bill similar to the one we are abandoning, or we just say "adios" to the farmers of America. I might remind my colleagues that in 1987 when the farm credit crisis was at its worst, the Congress did not abandon America's farmers. We stood by them in bad times as well as good and helped many of them make a substantial come-back. But with this bill, we are virtually saying "don't let the door hit you on the way out."

The tragedy of this is that many aspects of current law—the marketing loan in particular—that we have used all of these years is working. And they are working as they were intended. According to the CBO baseline estimates—one of our more esoteric exercises—USDA will show a $4 billion reduction in spending of farm programs in 1995 below what we anticipated less than a year ago. While terms like "baseline" do not mean anything to laymen, we all understand that we spent $4 billion less last year than we anticipated because wheat, cotton, and corn are well above the target price. Rice is really the only major commodity that is below the target price, and under current law, rice farmers would benefit. If commodity prices in the next 7 years stay as high as they are right now, the freedom-to-farm bill will cost $21 billion more than current law. In fact, if prices stayed at current prices, and rice improved a little, then every penny paid out as freedom-to-farm welfare is money we have no business spending this way. I can think of lots of better uses of this money for rural America. We are cutting conservation, we are cutting research, we are cutting rural water and sewer programs, we are cutting rural housing, and the list goes on and on. If you will give these billions of dollars that you are willing to give farmers already making record profits to us on the Agriculture Appropriations Subcommittee for discretionary spending, I will show you how we can put it to use in a way that can really make a difference in farming communities in every State of this Nation.

Finally, Mr. President, let me speak about the Market Promotion Program, which Senator BRYAN and I have tried to kill as religiously as I have tried to kill anything in my life. On a very handsome vote in the U.S. Senate, we cut the Market Promotion Program—the program that subsidizes Tyson, McDonald's, Hiram Walker, Gallo Brothers, and many other of the biggest corporations in America These subsidies were paid to them for advertising they ought to be, and perhaps would be, doing on their own, according to the GAO. Finally, we got that program cut back to $70 million less than 2 months ago on the floor of the U.S. Senate. What do you think? Here it is reincarnated in this bill at $90 million.

Senator BRYAN has already spoken on some of the ways the reforms he and I successfully brought to this program were dismantled one by one. Defenders of this program may have tried to hide their changes by changing the name of the program or by using language that appeared to be making reforms but were actually just a restatement of current law. MPP may have become MAP—and I won't begin here to describe the fun the press can have with this new name when you consider some of the former program beneficiaries—but it is really nothing new. Fortune 500 companies will still find ways to taxpayer-finance their already huge advertising budgets and foreign companies can still get the federal government to advertise in a way that might be adverse to similar U.S. companies. And so, is the only reform a provision to prohibit giving federal assistance to foreign companies for the purpose of promoting foreign agricultural production? And they call this bill the Federal Agriculture Improvement and Reform Act [FAIR]? This measure is hardly an improvement or a reform, and it certainly isn't fair.

So MPP, MAP, or whatever it ultimately gets called, lives on. I guess that is one of the unique things about the U.S. Senate. Nothing ever really dies. Rasputin finally died, but it seems that the Market Promotion Program, or whatever you call it, never will. So while there may be some things in the bill that have some redeeming value, they seem to have miraculously escaped my attention under the glare of such unbelievable policies as those I have just described.

So, Mr. President, when the roll is called, I will have no choice but to vote "no" on this. That is not to say that I do not admire the distinguished chairman and ranking member for their endless hours of trying to craft something that this body could agree on and that the House could agree on. Maybe it is the very best anybody could do. I do not know. But those best efforts do not require me to vote "aye." Therefore, I will vote "no."

I yield the floor.

Mr. LEAHY. Mr. President, I will speak on my own time. I always enjoy hearing the distinguished Senator from Arkansas. I told him before that one of the joys of coming here is that we came in the same class. He is one of the best friends I have had for 22 years here. I almost hate to go into this speech and muddy the water with facts, but one that I point out is on the Market Promotion Program, which I voted to cut and change over the years. There are significant changes. We made significant reforms to this program in 1993, and we gave a great deal of flexibility to the Secretary to carry out the reforms we had. I agree that participation in this program should be limited. This program is designed to help those who do not have large marketing organizations or deep pockets. It is designed for the small dairy co-ops in Vermont that use it now to promote exports to Canada, and other places, or the small rice dealers in Arkansas, who might use it. And bit by bit, this supertanker is being turned around, I tell my friend from Arkansas. We are improving it and will continue to do so.

I also tell my friend from Arkansas—and he knows this, as I do—that nobody ever brought to the floor a farm bill where they liked every single page of it. There is no legislation that comes before this Congress that is more a product of having the balanced interests of regions, individuals, of commodities, and balance of the needs of people who are not directly involved with farming, but have an actual interest—people who see the legislation in here to protect the Everglades and to help rehabilitate the Everglades, and those who see a Conservation Reserve Program continued and strengthened, those who see permanent law maintained, those who see improvements in some of our nutrition programs, as well as several new environmental initiatives like the EQUIP program, added here. These are things that effect every one of us, whether we are farmers or not. There are those throughout the country, farmers or not, who applaud these initiatives in this bill.

I would like to take this time, Mr. President, to thank several of my colleagues for their work on behalf of agricultural interests, who will not be here in the next farm bill. One, of course, is the distinguished ranking Member of the House Agriculture Committee, Representative KIKA DE LA GARZA. He went out of his way to be not only bipartisan in his own body, but in this body, as we have tried to bring together competing interests of farm bills. His most recent success was accomplished while chairman of the House Agriculture Committee, with a reorganization of the USDA and overhaul of the Federal Crop Insurance Program.

Then, in our body, let me speak of two Members I will miss greatly, both in serving with them on the Agriculture Committee and serving with them in the Senate.

One is my colleague from Alabama, Senator HEFLIN. I am proud to say I have served for 15 years on the Agriculture Committee with Judge HEFLIN. I served with him also on the Judiciary Committee. But I think in many ways I have relied on his expertise and his good humor. His ability to help forage consensus and coalition has been on the Agriculture Committee. His expertise and his judgment is going to be sorely missed. He has been the spokesman for southern agriculture. Certainly nobody ever discussed peanuts without Judge HEFLIN being there, and so much else of southern agriculture.

I think of the times when I traveled to his State of Alabama with him, with he and his wife, Mike, and on occasion when my wife was able to join us. I remember going to one function—a dinner in a school—where there were several hundred people there. I am positive that the judge called every one by name and asked about members of their family by name. I was then chairman of the Senate Agriculture Committee. I was nothing but a spear carrier on that trip to Alabama. I can assure the Chair, they were there to see Senator HEFLIN and this Eastern Senator who came with him, and who talked funny as far as they were concerned.

So I want to thank Senator HEFLIN for all he has done to further agriculture programs and, in particular, the rural development programs—the rural development programs that helped Alabama but also helped rural Vermont, and have helped rural areas throughout our country.

Another person I want to recognize from that committee is Senator DAVID PRYOR. I never have known any Member of the Senate, Republican or Democrat, who did not have great affection for DAVE PRYOR. I know I have been proud to serve on the Committee with him and proud that he has been one of my close friends in the Senate over the years.

Again, DAVID PRYOR is one who has time and again helped us bring coalitions together—his quiet dedication, his obvious knowledge of the facts, but also his knowledge that, as a Senator, there are certain prerogatives, especially debate prerogatives, that are available to all of us, and my memory of that goes back to the 1985 farm bill.

Senator PRYOR and his colleague Senator BUMPERS were concerned that the bill would cut Federal price supports for the rice industry. They came to the Senate floor and they delayed action by reading their favorite rice recipes into the CONGRESSIONAL RECORD. The opposition finally gave in to these Southern gentleman when

Senator PRYOR announced that he knew of 1,000 rice recipes. I checked that figure with Senator PRYOR this morning, and the distinguished Senator from Arkansas told me that not only did he know them but that he kept copies of them in his desk should the need arise to add to our education in the Senate. Should he suddenly be called upon to give us time for reflection, he is prepared to talk about rice recipes.

That kind of dedication is going to be sorely missed. But these are people—Senator HEFLIN and Senator PRYOR—who have improved the Senate Agriculture Committee by their presence and have left a great legacy for all of us.

Mr. President, I have sometimes joked that Senators are merely constitutional impediments to their staffers, or constitutional necessities for their staffs. But I must say that this bill was made possible by the hard work of staff. And I think of those on my side of the aisle that I was able to appoint who have worked tirelessly in 1995 and 1996 on this farm bill.

I am particularly indebted to my staff director, Ed Barron. He joined me in 1987, and he has been a great fountain of education, encouragement, and tireless work. He is a good friend. He is a good adviser.

In the past he was the lead staff person who handled nutritional and rural development programs. The continuation of the nutrition programs in this bill is a tribute to his commitment to these issues. Ed also had a critical role in getting the dairy compact included in the final bill. His attitude on the compact reflected mine: "Never give up." And he never did.

Ed worked tirelessly in a bipartisan manner demonstrating superb political judgment and negotiating skills.

I thank him for his hard work. And, I believe his sons, James and Stephen, and his wife, Bonnie, will be delighted to know that they finally are going to see him again. They will have him back this weekend.

Jim Cubie, my chief counsel, has been with me over a decade on both appropriations matters and agriculture matters. His commitment to conservation and environmental issues has helped make this the most environmentally progressive farm bill in history. Without his dedication, there would not have been such a strong connection between farm policy and conservation initiatives.

Working alongside Jim was Brooks Preston whose commitment to the environment was forged during a childhood spent outdoors. Brooks provided invaluable legislative support for both my personal office and the committee on environmental and forestry issues.

Pat Westhoff, my chief economist, poured endless amounts of energy providing economic analysis for the committee on commodity program and budgetary issues. I felt confident knowing that Pat was leading the complex negotiations needed to fine tune the intricate details of the bill. Pat, your dedication and service to this committee is recognized and commended.

Thanks, as well, to Pat's wife Elena and to his children Christina, Ben, and Maria for letting us borrow Pat for what seemed to them to be about 50 years.

Kate Howard, my counsel for international trade, joined the staff for the 1994 GATT deliberations. Since then, Kate has continued to play a lead role in the trade, international food aid, and agricultural credit programs. Kate's efforts to build a bipartisan consensus for the international programs in this bill, and her support for the international food assistance programs, is especially appreciated.

Tom Cosgrove played a leading role in the passage of the dairy compact and other dairy reforms. On my committee for the past 5 years, Tom has worked endless hours on behalf of dairy farmers in Vermont and across America. Born on a dairy farm himself, Tom connected with the dairy community and understood their concerns, enabling him to effectively translate their needs into legislation.

David Grahn spent countless hours drafting the bill and deserves a special mention. Without him, the drafting of this legislation would not have been as successful. David would be here now—except that he and his wife just had a baby during the last 2 weeks of the farm bill. Congratulations, David and Jill, on your baby girl, Carolyn Elizabeth Grahn.

Bob Paquin has worked tirelessly for me on agriculture issues in Vermont. I appreciate that he flew down to Washington to help out on the compact at the critical moment. His talents are greatly appreciated.

Diane Coates, who started in my Vermont office and has been working on the committee for 2 years, provided invaluable support to Ed Barron. Her work on nutrition programs was particularly helpful.

Kevin Flynn, who started with me in the Washington office and joined the committee last fall, provides excellent support for everyone on the committee.

I was also very fortunate to have on staff several people as fellows or from the Department of Agriculture. Rob Hedgerg provided invaluable expertise in the areas of conservation, research, and rural development. Kate DeRemer's efforts ensured that the final bill included a research title that prepares our farmers for the next century.

Ron Williams, who arrived right in the thick of things, provided critical assistance. His patience and unflappable personality are invaluable.

There are a number of people who are no longer on the committee but worked very hard to help get us to the point we have reached today. Nick Johnson did a superb job for Vermont and me on rural development and nutrition and I wish him all the best at the Center for Budget and Policy Priorities.

Craig Cox, who left my committee to join the Natural Resources Conservation Service at USDA, spent countless hours over the past 3 years to help lay the foundation for the conservation title that we included in the farm bill.

Bryant Farland, who left the committee last year to enter law school, provided excellent support to the committee. His professional attitude and cheerful approach to every assignment is sorely missed.

Senate legislative counsel—especially Gary Endicott, Tom Cole, and Janine Johnson—deserve a lot of credit for their willingness to stay late and their excellent work.

I must also thank Secretary Glickman, and his chief of staff, Greg Frazier, as well as the Secretary's dedicated staff at USDA for countless hours of support during this long process.

But I have emphasized over and over again that this is bipartisan legislation. I compliment my good friend from Indiana, as I have before, Senator LUGAR, who listened and worked so hard with me so that we could pass this bill. We agreed on some issues and disagreed on others. But, we know that we can always take each other's word.

I think many times staff reflect the Members they work for. Chuck Connor deserves a great deal of credit for that. He works for one of the most honest, dedicated, hard-working Senators here. This is reflected in the type of person Chuck Connor is. He is someone I have respected in all of the years that I have worked with him. I consider him one of the finest staff in this body. I compliment him, and I thank him for his work and the direction he gave to Randy Green, Dave Johnson, and Michael Knipe, and others.

Mr. LUGAR. Mr. President, our side will be represented ably by the majority leader in a moment as he will make a final statement.

For several decades, the U.S. Department of Agriculture subsidized farmers with target prices and deficiency payments. Target prices for wheat, feed grains, cotton, and rice were set at levels believed to represent a fair price for the crops.

Whenever the average market price was below the target price, the Federal Government paid farmers the difference. This was called a deficiency payment.

Now Congress is considering a plan that would scrap deficiency payments and target prices and replace them with fixed payments. The farmer receives the same subsidy payment whether prices are high or low. Advocates for change believe this system provides the certainty farmers need with regard to payments and the predictability taxpayers demand with regard to balancing the target. Defenders of the status quo criticize this plan because farmers receive payment during periods of extremely high prices.

While no one wants subsidies paid when they are not needed, the current system of deficiency payments and target prices fails even the most modest standards of targeting or means testing.

Deficiency payments are a poor indicator of farm wealth. Price represents only one-half of the farm income picture. Cash receipts in farming are a product of price per bushel multiplied by the quantity produced.

Recent history is a case in point: 1994 was a remarkable year for corn production. Total corn production for the country exceeded 10 billion bushels—a feat most thought was impossible. In the Midwest, whole fields averaging over 200 bushel per acre were commonplace.

Large supplies caused prices to fall. The average corn price for the year was $2.26 per bushel—almost 50 cents below the target price. According to our system of calculating farm wealth, 1994 was a terrible year because prices were lower. Taxpayers came to the rescue with substantial subsidies even though farmers harvesting 200 bushels per acre corn at $2.26 per bushel grossed a record breaking $450 per acre.

As is often the case in farming, 1995 was different than 1994. Weather problems and pestilence plagued farmers throughout the year. Many farmers who harvested 200 bushels per acre in 1994 saw their production fall to 90 bushels or less in 1995. Some farmers lost their entire crop. With falling production and strong demand, prices were substantially above target price levels. Corn farmers received $3.00 per bushel or more for their crop.

1995, however, was a very difficult year for many farmers because they had little, if any, crop to sell at higher prices. Ninety bushels per acre at $3.00 per bushel represents a per acre gross of $270 per acre—40 percent below 1994. Yet the USDA declared 1995 as a good income year, and took away all subsidies for the 1995 crop. Generous subsidies were paid to 80 percent of the corn farmers in America in 1994.

Freedom to farm gets the Government out of the business of estimating good income years and poor income years. The 7-year baseline payment levels are distributed—on a declining basis—to farmers over the next 7 years without regard to commodity prices.

Will there be years in which farmers receive a subsidy even though their income was high? Perhaps. But this is no more the case than under present law. The current system has indeed failed to identify genuine need. Let's give the USDA something better to do with their time.

In short, Mr. President, although it has been suggested that the freedom-to-farm bill would not be a good idea in the event that a bad year came along on the farm, the fact is the current program has not been particularly helpful. In those years in which we have had a great abundance of crops in and great revenue from the fields, we have also had target prices in addition or great deficiency payments. That is an important point to make, and I make it for the RECORD.

Mr. President, I thank, once again, the distinguished ranking member, Senator LEAHY, for an extraordinary opportunity to work with him and to create, I believe, a remarkable farm bill.

Today, as we pass a farm bill that shapes the outlook of agriculture for the 21st century, it is time to recognize the tireless efforts of one of the finest staffs on Capitol Hill.

I want to start by recognizing the efforts of the professional staff of the committee led by senior professional staff member, Robert (Randy) Green. Randy deserves special credit for his outstanding professional efforts in translating complex ideas into effective legislation. Often working through the night into the mornings and on countless weekends, Randy and his staff exemplified a dedication to the truth in the details of the committee conference process. While respecting the views of others, the professional staff crafted a bill in a manner that was fair. They have worked on endless proposals and through many very tough negotiating meetings to achieve the exciting new concepts about agriculture that were passed today. Katherine Brunett McGuire, David Stawick, Darrel Choat, Terri Nintemann, Terri Snow, Elizabeth Johnson, Douglass Leslie, Patrick Sweeney, and Bill Simms combined their extensive knowledge of agricultural issues to create this landmark revision of Agriculture policy. They are the unsung heroes who took the plight of the American farmers seriously and kept their shoulders to the task until we have arrived at the conclusion of this conference.

Dave Johnson, chief counsel, Marcia Asquith and Michael Knipe, counsels, spend endless hours giving assiduous attention to the details in the drafting of legislation to forge compromises on the most difficult issues. They worked diligently to negotiate provisions that would be effective and yet pull together diverse interests. Patiently drafting and redrafting a great many ideas that ultimately were not part of this legislation, but necessary in arriving at the concluding language, they never gave up and determinedly made the resulting Farm Bill a strong one.

Chief economist, any Morton, spent hours crunching numbers for the committee to ensure that the bill's cost fell within budgetary constraints. It is a tribute to his ability that this bill is scored so successfully by CBO and achieves the numbers that are required. Andy's knowledge of agricultural economics has proven to be a most valuable resource to the committee.

Andy Fisher did a superb job of keeping the press informed of the bill's progress and his ability to translate complex agricultural issues for the press and operate under severe time constraints ensured that the public was well informed.

Chief clerk, Robert Sturm, along with Debbie Schwertner, Danny Spellacy, David Dayhoff, Mary Kinzer, Jill Clawson, Cathleen Harrington and Barbara Ward kept the office running smoothly throughout this process. In conducting many hearings, both here and in the field, responding to hundreds of letters, answering thousands of telephone calls, and tracking a very active staff they demonstrated their diligence and loyalty to the Committee.

I also want to thank Gary Endicott, Janine Johnson and Thom Cole from the legislative counsel's office for their willingness to respond to the committee's requests and for lending their valuable expertise to the development of this bill.

As well, I want to commend the minority staff of the committee who contributed greatly with their professionalism and cooperation. In particular, I want to thank minority staff director, Edward Barron and chief counsel, Jim Cubie. They led the way to agreement through many continuous issues.

I would especially like to commend staff director, Chuck Conner for his tremendous contribution to the committee. Chuck's leadership and broad expertise in agricultural policy provided the committee with sound guidance on key issues. His resolute attitude and strong convictions kept the conference advancing when the process seemed mired in difficulty. Chuck molded a superb staff and prepared them with precision so that they could navigate a steady course to the passage of this legislation. The public rarely sees the work of the Senate staff but they give so much to our country. Their sacrifice and long hours are shared by their families and I applaud their efforts.

Mr. DOLE. Mr. President, we have had a number of farm bills discussed and passed since I have been in the Senate. Of course, the first question is, is it good for agriculture and good for the consumers and good for the American people generally? I think we can say that the answer is in the affirmative in each case.

I certainly thank Senator LUGAR, the chairman of the committee, and Senator LEAHY, the ranking Democrat on the committee. They have worked together, as we must, in agriculture. I have always found that if you bring a bill to the floor that is too partisan, either Democratic or Republican, it is not going to pass. And so, as has been the case in the past 20, 30 years, as far as I can recollect, this is a bipartisan piece of legislation. It should be bipartisan or nonpartisan. I do not believe that to the American farmer who is sitting out there making his decision on what is good or bad it depends on whether it has a D or an R behind it. But if it is worked out in Congress, as it has been, on a bipartisan basis, then I believe the American farmer, rancher, and, of course, the American taxpayer, too, is generally more satisfied.

This bill is also a good environmental bill, as I will touch on later.

I would like to also congratulate my friends and colleagues on the other side of the Capitol, PAT ROBERTS, and Congressman DE LA GARZA. I have worked with them over the years. My friend, PAT ROBERTS, is my Congressman in western Kansas. He has done an outstanding job working with the Senate and working with the House and again in coming up with a very important piece of legislation. It is truly a bipartisan effort.

I congratulate my colleagues, particularly those who were conferees. It has required a lot of patience and a lot of perseverance, qualities which farmers and ranchers have to have themselves. They have to have patience and persistence or they would not be in business very long.

The legislation before us will transition America's farmers into the 21st century without disrupting the farm economy or land values, and farmers, as other Members in the Chambers have said, finally are going to plant for the market and not for the Government.

In addition, this legislation provides farmers with what they have asked for the most—certainty, simplicity, and flexibility. As I travel across America, farmers and ranchers tell me the same thing: Keep it simple. All Government programs, and especially all regulations, must be simpler and less intrusive. The farm program should pass the common sense test.

As I said, another big winner in this bill is the American taxpayer. This legislation ensures reasonable and responsible spending through a capped entitlement. If we are to balance the budget—and we will—the American farmer will tell you that everyone must contribute including himself. Farmers often remind me that they are taxpayers, too. And as taxpayers, farmers want a balanced budget because they know under a balanced budget, spending on interest payments are projected to decline $15 billion over 7 years. And the farmers would be one of the greatest beneficiaries in that event.

For family farmers who often struggle to make ends meet, the money saved through reduced interest payments could make the difference between success and failure.

This is landmark legislation. The bill contains one of the most significant conservation packages ever enacted. Instead of mandates and the heavy hand of Government, this bill reflects a common sense approach. This historic farm bill is one that conservationists can be proud of.

This legislation includes elements from the conservation bill authored last year by Senators LUGAR, CRAIG, GRASSLEY, and myself, also known as S. 1373, the Agricultural Resource Enhancement Act.

For example, this farm bill continues the Conservation Reserve Program which, at 36.4 million acres, makes the program twice the size of the National Wildlife Refuge System. This program is the Nation's biggest and the most successful private lands conservation program.

The bill streamlines cost-share incentive programs into one revitalized program, the Environmental Quality Incentive Program. The program will spend $200 million per year on cost-share assistance for crop and livestock farmers as they work to control pollution and erosion.

For years, farmers have been planting the same crops year after year which leads to excessive use of fertilizer, chemicals, and tillage to control pests and maintain crop yields. This bill provides farmers with complete planting flexibility, allowing them to plant environmentally sensitive crops.

The bill also ensures sound conservation practices on over 300 million acres. This legislation continues the successful record of the 1985 and 1990 farm bills by requiring participating producers to meet soil conservation and wetlands protection standards.

In addition, the bill provides funding for the restoration of the Florida Everglades, balances conservation compliance regulations, expands mitigation options for wetlands, and authorizes new conservation and wildlife enhancement programs.

Several national farm organizations have praised the conservation provisions as providing a more common sense balance between practical conservation methods and protection of natural resources and wildlife.

As I see it, this bill is not the end but a beginning. It is a positive first step in a larger effort to ensure that rural America prospers. From here, we can address other issues. Tax and regulatory reform are a must. Property rights protection and health care reform are vital. I am committed to taking action on these issues, so that rural America can realize a brighter future.

American agriculture is ready and waiting for policies that will help prepare it for a successful 21st century. This legislation lays a solid foundation for sustained growth.

Like other members on the Ag Committee—and I have been proud to be a member of that committee for a long time—I certainly have had outstanding staff, headed by Mike Torrey, who has worked closely with Chuck Conner and others, along with Dave Spears, who is in my Kansas office but has been back here from time to time to help us on this legislation, and Bruce Knight, who helped us a great deal with the conservation title.

I want to thank my three staff members, in addition to all the others that have been mentioned by Senator LEAHY and Senator LUGAR. Without staff, I do not believe we could be here today, on the verge of voting for this historic legislation.

This is historic legislation. This is a complete departure from the past when it comes to agricultural legislation.

Again, I want to particularly commend our distinguished chairman, Senator LUGAR, along with Senator LEAHY and others, who have made it possible.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, do I have time remaining?

The PRESIDING OFFICER. The time has expired.

Mr. LEAHY. Is the Senator from Montana speaking in favor of the bill?

Mr. BURNS. In favor of the bill.

Mr. LEAHY. How much time does the Senator wish?

Mr. BURNS. Two minutes or less.

Mr. LEAHY. I will yield to the Senator, not to exceed 5 minutes.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank Senator LEAHY, the ranking member of the Ag Committee, and of course Senator LUGAR, who has displayed great leadership crafting this legislation.

I rise today in support of the conference report of the Federal Agriculture Improvement Act of 1996, now known as FAIR. I see this as a positive move forward for agriculture and agricultural production in America. This is a bill—and an idea—that is overdue and now the time has come for the implementation.

As I review this conference report, I see many components that I favor, and of course there are provisions that I think are softer than they should have been for the good of the producer and the good of the Nation and its economy. Positive steps have been taken in the Commodity programs and in the marketing and foreign trade provisions. However, I do believe that we could have provided greater flexibility for our producers in some of the conservation programs.

I have listened to many of the Members of the Senate in the past day discuss that this will doom the future of agriculture, and that we are providing welfare for the American farmer. This is truly not the case. This act will provide for the future of the American farmer in a way that Congress has not had the nerve to address for almost 60 years. This bill will assist many young farmers to have access to the land and allow for the future development of agricultural production in this country.

I have heard many times that we have not provided for a safety net for the small farmer. As I look at the programs that were enacted to protect the small family farmer in the past, they have not done a very good job at offering protection to these people that make their living of the land. In recent years, due to many circumstances, we have seen a decline in the number of small family farmers.

What we have done is bring American agriculture into the future. Gone are the days that a producer can take grain to the elevator and figure that the job is done as they watch the grain drop through the grate. American producers are going to have to take an active role in marketing their own products, from the field to the final product.

I suggest that with the passage of this bill our work has just begun. We now need to work on the improvements for the future of agriculture in our Nation. With the passage of this measure we will finally take a step toward getting Government out of the farming business. We need to set our sights on those areas of law and Government assistance that Government should work on. The role of Government in this new future will be those areas that the individual farmer has little or no real access to. The role of government in the future should be in the development and expansion of research assistance in the marketing in both domestic and foreign markets. This is how we can and should develop the future for our producers.

As we place our producers in the world market, we need to provide them with the tools to compete in this market. To do this we need to offer to them the advancements that will keep American agriculture a lead player in the world. At a time when we see a trend in declining yields, we need to provide our producers with the best research in developing resistant crops. The market is there for them to be active in, but they need the tools available to them to see meaningful gains in the amounts that they can earn from their had labor. Just recently, we have found the presence of a fungus in grain that could, if it was not properly dealt with, permanently damage our access to foreign markets. I would like to commend the Department of Agriculture for the work that they have done with the recent discovery of karnal bunt within our country. With a meaningful and dedicated research effort, we can and should be able to find a way to develop a resistant seed to this and many of the diseases that target our crops in the United States.

In addition, we need to offer to our producers the understanding and assistance in marketing their commodities. As I have previously stated, many producers think that their job is done when it reaches the elevator. As we move into this new program, our producers are going to need the knowledge and the access to information and opportunities to improve their ability to make a return on their investment. In my discussions around the State of Montana, many farmers, young and old, have stated that they are glad to have the Government out of their business. What they would like to see from Government now is a little assistance in learning what it takes to market their product. They do not want Government directly involved. They would like assistance in marketing their efforts, both here in the United States and on the world market. This was one of the major reasons that I worked hard to have this legislation include wording on the foreign market development cooperators program.

Finally, but not least of all, we need to address a major concern in the agriculture community: tax reform. This Congress has been called upon by the people to institute tax reform to address the concerns of all Americans. Any progress that we make on this front will greatly benefit the American small family farmer. Provisions must include changes in the inheritance tax code, to allow more families to keep their operations in the family. For generation after generation, our farm families have worked to keep their operations within the family, yet current tax structure seeks to penalize those people who want to keep the operation in the family.

Another of the Tax Codes that we need to address is the capital gains tax. There are a great number of Montanans who would like to sell their operation. However, with current structure and the price of land, they are not in a position to put their property on the market. Action in this tax will allow many new and younger farmers to move onto land that may now be out of production. This must be addressed, and we must do so soon.

We have taken the first step to address the future of American agriculture. It is only the first step. The future is upon us and we must make the most of it for the family farmer in America. I support this first step and I hope the Senate will endorse it fully for the producers in the field.

I want to make a further comment. I think there are some areas where we have to continue to work. I think the market development amendments we got put in there to develop markets abroad, our foreign trade—we know agricultural exports are one of the great, bright, and shining spots of our trade. But I think tax reform for agriculture still remains a very, very important part of our work to be done here on the floor of the Senate.

We had a hearing this morning on agricultural appropriations and the work of the ARS. Of course, with the inspection service, we know we still have problems. Sometimes we look at the funding. Maybe it is not quite enough in our Agricultural Research Service. We have to continue to do research on how do we produce food and fiber for America, this great Nation, and also, over in the area of inspection, on how do we isolate these very disastrous things that can happen to us in agriculture.

I will give you an example, karnal bunt now in wheat. They got it isolated. They knew what to do. But it is a situation that could have devastated the durum wheat industry in our part of the country. In Montana, it is karnal bunt. All we have to do is look across the ocean and take a look and see how important APHIS is to us, the inspection service on plants and animals, when we take a look at England and the situation they are in with their "mad cow" situation.

So I congratulate the leadership on this bill. We will be supporting this bill. It is a departure from even the carryover from the 1930's.

I thank the leadership, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. Mr. President, my understanding is we will go to discussion on minimum wage at this point?

The PRESIDING OFFICER. Time remains on the farm issue.

Mr. SIMON. I yield the floor.

Mr. DORGAN. Mr. President, my understanding is the minority leader has 12 minutes remaining. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. Mr. President, let me yield myself as much of that 12 minutes as I shall use. I shall not use the entire 12 minutes.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

Mr. DORGAN. Mr. President, my colleague from Montana just a few moments ago spoke of something my colleague from North Dakota spoke about earlier this morning. Let me just make a comment about that topic. I also want to make a couple of final comments about the conference report that is on the floor before us.

My colleague from Montana, Senator BAUCUS, and my colleague, Senator CONRAD, talked about actions Canada has taken in the last 24 hours with respect to the restriction of durum, durum wheat, moving into Canada because of a fungus called karnal bunt. I have in the last couple of hours talked to Chief of Staff at the White House, Leon Panetta, who is going to be contacting the agriculture secretary of the trade ambassador to talk about the actions Canada has taken. It has the possibility of causing some real chaos in our ability to export durum grain, because that durum goes through ports on the Saint Lawrence Seaway that are Canadian facilities. To suggest somehow American durum could not move through those facilities could have a devastating impact on our ability to export durum grain.

The Canadians, I think, have created a circumstance that is fundamentally unfair. Karnal bunt does not survive above the 35th parallel, we are told by the scientists. The suggestion that they can use karnal bunt as some sort of an excuse to injure our ability to serve export markets is, I think, a transparent attempt to create advantage for themselves in international trade at our expense. I have asked the President to take some immediate action to respond to this issue.

But the reason I make that point now is my colleague from Montana made the point about things like karnal bunt and the problem they pose in the marketplace. There are a whole series of things that can cause significant changes in grain prices. We had someone out here recently talking about, "Well, we have a loan rate in this bill which provides a safety net. So there is, in fact, a safety net." However, the fact is that the loan rate in this piece of legislation creates a safety net that is so far below the market price that, for family farmers to make a living, it is not much of a safety net at all.

The point I wanted to make finally in this discussion is one about market power. I brought to the floor a story that was written following the Senate passage of the farm bill. This news story says that the big grain trading firms won in the U.S. Senate, the meat companies won, the millers won, the grocery manufacturers won. The biggest economic interests got a full plate when the Senate passed this farm bill.

The fact is, when the big grain trading firms win in farm policy it means family farmers lose. What happens is, you set people loose in a survival of the fittest circumstance and say, "You just battle it out, out there in the marketplace," And what do you face in the marketplace? You face grain trading firms, one of which has more storage capacity in one firm than all of the wheat raised in my State, one grain trading firm can store all the wheat that is raised in North Dakota—that is market power.

Now, if you put 8 or 9 grain trading firms at the choke neck of the bottle through which all that grain has to move and then you say to the 30,000 North Dakota farmers, "Each you should compete in these circumstances," guess who wins and guess who loses? It is not a surprise. The story I showed on the floor of the Senate describes it accurately.

This bill is a major victory for the biggest grain trading firms, the biggest millers, grocery manufacturers and others, because they like lower grain prices in the long run. They are in the marketplace in order to nick grain prices back, to keep them down. What does that mean? Family farmers cannot survive. The deck is stacked against them. The odds are against them. The fact is, there will be fewer yard lights out there, fewer families able to live on the farm and make a decent living.

When you see those yard lights, those economic blood vessels that serve small communities and create a rural life style, turn out, you lose something important. When those blood vessels shrink away, you devastate something I think is very important in our country.

The reason I keep talking about family farmers is I care who farms this country. It makes a difference to me. It makes a big difference to me, whether an corporate agrifactory is farming America from California to Maine, or whether America is dotted with yard lights where families exist out on the land, trying to make a living.

We had an world renowned author from North Dakota who died last year, whose name was Critchfield. He wrote several wonderful books about what this country gains from the rural parts of America. He talked about the nurturing of values that comes from the farms to the small towns and to the cities, as people move in our country.

I think to suggest somehow that those values, which have always started at the family farm, are not important is a mistake. These values have moved their way through this country of ours—I'm talking about helping one another, shared sacrifices and so on—and to suggest that this is not important in our future is a regrettable oversight for this country.

It does matter who farms in this country. If we do not have a farm bill that stands up for the interest of family farmers, let us not have a farm bill at all; we do not need it. And if we have a farm bill, let us have a farm bill that stands up and speaks for the economic interests of families out there trying to make a living. We need a farm bill for those trying to make a living in circumstances where, if they plant a seed, they may not get a crop, and if they get a crop, they may not get a price. Family farmers face twin risks that no one else in this country faces.

Time after time when international prices drop—and they will and they do—family farmers go bankrupt. That is why we for years have decided we will provide a basic safety net to try to give family farmers a chance to survive over those price valleys.

This bill, for all of the huffing and puffing of those who support it, basically pulls the safety net out from under family farmers. Yes, it is attractive in the first year. Yes, there will be money in the first year, the second year and people will like it. But that money is labeled "transition money."

What is the transition from? The transition is to move farmers away from a safety net. If we do this we will be left one day with more expensive food produced by corporate agrifactories that farm all of this country. There will be precious few lights dotting America's prairies because this Congress says family farmers do not matter.

I will make one final comment. This issue is over this year. We are a year late, we are pretty short on the correct policy initiatives, but this issue is not over for the long term.

Next year there will be a different Senate, and those of us who believe that we ought to invest in the future of family farmers will be here. We will be here to give family farmers a chance to make it in a marketplace where there are a lot of larger interests that want lower prices and do not care whether family farmers survive. Those of us who believe in a different philosophy in a different approach will be back. We will be back to rewrite a farm bill based on a policy approach that is more appropriate for the long-term economic interests of those families who today struggle against the odds.

Mr. President, with that, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I know of no one else who wishes to speak. I have been authorized by the distinguished Democratic leader, Senator DASCHLE, and the ranking member, Mr. LEAHY—and I have exhausted my time—to yield back all time.

The PRESIDING OFFICER. All time is yielded back.

PRESIDIO PROPERTIES ADMINISTRATION ACT

The PRESIDING OFFICER. The clerk will now report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 1296) to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer.

The Senate resumed consideration of the bill.

Pending:

Murkowski Modified amendment No. 3564, in the nature of a substitute.

Dole (for Burns) amendment No. 3571 (to amendment No. 3564), to provide for the exchange of certain land and interests in land located in the Lost Creek area and other areas of the Deerlodge National Forest, Montana.

Dole (for Burns) amendment No. 3572 (to amendment No. 3571), in the nature of substitute.

Kennedy amendment No. 3573, to provide for an increase in the minimum wage rate.

Kerry amendment No. 3574 (to amendment No. 3573), in the nature of a substitute.

Dole motion to commit the bill to the Committee on Finance with instructions.

Dole amendment No. 3653 (to the instructions of the motion to commit), to strike the instructions and insert in lieu thereof "to report back to April 21, 1996 amendments to reform welfare and Medicaid effective one day after the effective date of the bill."

Dole amendment No. 3654 (to amendment No. 3653), in the nature of a substitute.

AMENDMENT NO. 3573

The PRESIDING OFFICER. There will now be 30 minutes equally divided prior to the cloture vote.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I yield myself 2½ minutes.

We are talking about the minimum wage. We are talking about 12 million Americans who can benefit, and what that means to 12 million Americans, people who are struggling, I do not think I need to spell out for most people. But unfortunately, in the U.S. Senate, we have to spell it out.

We ought to spell it out, among other things, in terms of welfare. I have heard the phrase "welfare reform" on the floor of the Senate over and over again this year and last year. Let me tell you, this minimum wage bill will do more to help people on welfare and for welfare reform than any welfare reform bill that has been before us. And it will save money for the Federal Government.

Once in a while, we can do the humanitarian thing and save money. We will save welfare money. We will save money on the earned income tax credit if this is adopted. So for people who are interested in saving money, moving toward a balanced budget, here is one practical way of doing it.

But let me mention one other observation that I think is important, and that is the way we finance campaigns and distort what is taking place. Probably before this session of Congress is over, we are going to reduce the capital gains tax. Primarily 10,000 people will benefit from that. People are going to come out with the numbers, but 60 percent of the benefits go to 10,000 people. But those 10,000 people are contributors on both sides of the aisle, and we listen to them.

How many of the 12 million people earning the minimum wage are big campaign contributors? Virtually none. So their voice is muted in this process. We ought to today speak up for 12 million people who are not big campaign contributors but need our help.

Mr. President, I see you are about to gavel me down, so I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. There are 12 minutes 15 seconds remaining on your side and 15 minutes remains on the other side.

Mr. KENNEDY. I yield 3 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, this minimum wage increase is a very simple and straightforward proposition. Minimum wage right now is $4.25 an hour. You can work 52 weeks a year, 40 hours a week and you still do not make poverty wages. This is important for working families in Minnesota and across the country—almost 200,000 workers in my State—much less their children.

We are talking about a 90-cent increase over 2 years—90 cents over 2 years—to try and respond to the concerns and circumstances of working families in the United States of America, working families in Minnesota.

Let me put it another way. The U.S. Senate a few years ago voted itself 1 year a $30,000 increase in salary. That is almost four times the total yearly income of what minimum wage workers make right now in our country. The U.S. Senate voted itself a $30,000 increase in 1 year, which is almost four times the total annual salary of a minimum wage worker and his or her family in this country, and we cannot raise the minimum wage for working people?

I do not consider this to be partisan strategy. I do not consider this to be a game. I do not consider this to be tactics. People in the United States of America make it a plea that we respond to the issues that they care about; that we respond to fundamental economic justice questions. That a worker in our country should be able to see his or her wage raised from $4.25 an hour to $5.15 an hour over 2 years is a matter of fundamental economic justice. It is what I call a Minnesota economic justice issue, and I urge my colleagues to vote for cloture.

Mr. KENNEDY. Mr. President, I yield 3 minutes to my colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, thank you. I am pleased to join with my colleagues in asking the rest of my colleagues to join with all of us in voting for this increase in the minimum wage.

This vote is not a vote on process, it is not a vote on cloture, it is not a vote on who controls the Senate, it is not a vote on Presidential politics; it is a vote on whether or not people who are today working at the minimum wage who are at a record almost 40-year low in the purchasing power of that wage are going to get a raise.

We hear colleagues try to make diversionary arguments: "Well, this is going to lose jobs."

We have heard those arguments, Mr. President. We put the minimum wage in America into effect in 1938 at 25 cents. Obviously, to get up to the $4.25, it has been raised in the meantime.

In 1989, we raised it here, and 89 U.S. Senators, Democrat and Republican alike, joined in raising the minimum wage. We raised it each time against the arguments that, "Oh, this is going to lose us jobs."

Finally, in the last 5 years, because that argument keeps being raised, a series of studies have been done, study after study. More than two dozen of them have shown you do not lose jobs when you raise the minimum wage. As long as you obviously raise it to a reasonable level, you increase employment.

The study by Lawrence Katz, of Harvard, and Alan Krueger, of Princeton, most recently has showed what happened in New Jersey. New Jersey, Mr. President, raised the minimum wage to a level that is well above the $5.15 that we are seeking. If you had a comparable level today to what they raised it in New Jersey, it would be the equivalent of $5.93. We are only asking to raise it to something that is still 13 percent below the level the minimum wage had in the 1980's. We are not asking to raise it to the full level of purchasing power the minimum wage has had in the past.

America was never slowed by having it at that level in the past. We have increased employment in this country. In fact, after adjusting for inflation, studies would show that if we raised it now to just $5.15 an hour, you would still be below the purchasing power level of the minimum wage in prior years.

The other day we had an employer stand with us talking about the minimum wage. He is in the restaurant business. That is one of the businesses you most often hear about might be negatively impacted. This employer not only pays more than the minimum wage in his restaurant business, but he gives everybody in that business full health care—full health care—more than the minimum wage, and he is doubling his business every single year. He keeps the people employed. He keeps the people working for him. It is good for his business. It is good for the country, Mr. President. This is fair.

When chief executives are getting paid more, when the stock market goes up 34 percent in 1 year, when the productivity of this country increases 12 percentage points over the course of the last 5 years, but wages only go up 2 percent, it is time to say, give those people working at the least point of the economic ladder a raise. I hope we will do that in a bipartisan fashion.

Mr. President, let us not misunderstand this cloture vote today; let us not misunderstand what it means about the prevailing political agenda of the majority leadership who have consistently supported huge tax cuts for the wealthiest Americans and millions of dollars in corporate give-aways, but will not allow a simple up-or-down vote on increasing the minimum wage.

This cloture vote today is that vote. Some on the other side of the aisle would have us believe that this is a vote about schedules, or about Presidential politics, or about Democratic attempts to usurp control of the Senate when, in fact, it is none of those things. It is the vote on whether or not we support an increase in the minimum wage. It's a vote about economic justice.

Mr. President, I have offered, on my part, and we, on this side, have all said that we would "sit down and shut up," in exchange for a vote anytime between now and June—an honest, up-or-down vote on rasing the hourly wage of the poorest American workers. But even that request was rejected by the majority leadership. So, this is not about us—on this side of the aisle—taking hold of the Senate's agenda, or stalling action on the Presidio bill. On the contrary, it is an honest insistence that we address this fundamental issue of fairness and economic justice.

The arguments that we are hearing from the other side—that an increase in the minimum wage loses jobs, that somehow giving people a better chance at survival is a bad thing—simply do not hold up on the economic side or on the fairness side.

In fact, Mr. President, the last time we raised the minimum wage by 90 cents over 2 years, it was with broad bipartisan support and the signature of a Republican President. These arguments never came up then, but now, we cannot even get the Republican majority to bring the issue up for a vote. It would seem to me that the only thing that has significantly changed—besides the inability of 22 million hard working Americans to keep up in this economy—is the political imbalance of a Republican Party sliding hopelessly to the extreme. Because—based on empirical evidence—the need for an increase is clear.

Study after study show that increasing the minimum wage helps.

I have brought up example after example in the last few days of young single mothers and working families in my State, trying desperately to find a job that pays them enough to raise their families with dignity—that pays enough to provide health care for their children, a decent safe place to live—enough to afford daycare and groceries, pay the heat and pay the electricity. Mr. President, is that too much to ask for people on the job and off the doles?

The evidence is clear. This increase would not be out of the range of increases that have been enacted at the Federal level and in some States, and the overwhelming preponderance of evidence—in studies that looked at the two-step 90-cent increase in the Federal minimum at the turn of the decade, as well as State increases at the level of nearly $5.70 an hour in 1996 dollars—is that these increases do not increase job loss.

So any argument here that points to job loss as a reason for voting against giving people a raise, is, on its face, absurd. David Card, in "Industrial and Labor Relations Review" in October 1992, studied the first 45-cent increase to $4.25 in the Federal minimum wage and found there to be no increase in job loss. Now, that study is in 1991 dollars. The equivalent in 1996 dollars is $4.93—without—without causing job loss.

Another study by Card and Alan Krueger, "The Effect of the Minimum Wage on the Fast Food Industry" studied the effects of New Jersey increasing its minimum wage by 80 cents, from $4.25 an hour to $5.05 an hour in 1992—that's $5.69 an hour in 1996 dollars—and they found that the increase did not cause job loss.

And a specific study by David Card entitled, "Do Minimum Wages Reduce Employment: A Case Study of California, 1987-1989" that looked at California's 90-cent increase in the minimum from $3.35 an hour in 1987 to $4.25 an hour in 1988—that's $5.68 in 1996 dollars—has no significant impact on job loss.

Card concluded: "Comparisons of grouped and individual State data confirm that the rise in the minimum wage increased teenagers' wages. There is no evidence of corresponding losses in teenage employment."

Another study by Lawrence Katz of Harvard and Alan Krueger of Princeton examined an increase on the minimum wage on the fast-food industry in Texas and found that the employment effects, if anything, were positive.

Mr. President, let us not be fooled by diversionary arguments that muddy the waters. There's no correlation between increases in the minimum wage and job loss, and that argument should be put to rest once and for all.

Harvard labor economist Richard Freeman, in the International Journal of Manpower, in November 1994, said it best. He said: "at the level of the minimum wage in the 1980s, moderate legislated increases did not reduce employment and were, if anything, associated with higher employment in some locales."

He said, "Studies based on employment across economic units such as States and counties yield more disparate results. Most studies, however, reject the notion that the late 1980's and early 1990's increases had adverse employment effects, and the studies that find adverse effects prior to those increases obtain small elasticities—meaning small employment effects—which confirm the effectiveness of the minimum in redistributing wage income.

He concluded: "That moderate increases in the minimum wage transferred income to the lower paid without any apparent adverse effect on employment at the turn of the 1990's is no mean achievement for a policy tool in an era when the real earnings of the less skilled fell sharply."

Freeman also observed that any net reduction in employment from a higher minimum wage that might occur among teenagers would be mitigated by the extremely high turnover rates of these workers. So even if a higher minimum wage means that it will take some low-wage workers a little longer to find jobs, once they do find a job they will benefit from the higher wages.

Do you know what this vote comes down to, Mr. President? It comes down to whether or not to put $2,000 more in the pockets of workers. In these times, is that a difficult choice? That, $2,000 more for every minimum wage worker in local economies. My Republican friends rail against welfare, but when it comes to being fair, mark them absent.

So what are we arguing about. What are my Republican colleagues trying to tell us. What straws are they grasping at to create an argument about job loss, and teenage employment—or about the imagine hobgoblins that would appear if we were to give more money to the people who need it most.

Mr. President, the truth is that raising the minimum wage to $5.15 an hour, according to everyone, would make up slightly more than half of the ground that was lost to inflation during the 1980's. In fact, after adjusting for inflation, the studies show that even if we raised the minimum wage to $5.15 an hour it would still be 13 percent below its average purchasing power during the 1970's. To have the same purchasing power that it had in 1996 it would have to be raised to $5.93 and we certainly would not get a vote on $5.93 when we can't get one on $5.15.

Mr. President, the purchasing power of the minimum wage is now at its second lowest level in four decades. After adjusting for inflation, the value of the minimum wage is below its level for every year—except 1989—going all the way back to 1955.

To put this in perspective: as real wages for the middle-class have been stagnant, the real wages of people at the bottom end have dropped. And so the dramatic shift in wealth and obvious wage inequities in America are contributing to an extraordinary change in worker morale.

To put it simply: the dreams and hopes of millions of hard-working American families who or on the job and off the dole are at stake here. This is about whether or not we understand what people are going through in this country.

Mr. President, we are talking about the working poor. In 1993 more than half of the poor, some 22 million people, lived in households with someone who went to work everyday—8 hours a day—7 days a week. Some 4.2 million workers in America paid by the hour in 1993 had earnings at or below the minimum wage. This was 6.6 percent of hourly workers. An additional 9.2 million hourly workers had earnings just above the minimum wage.

Mr. President, these are not teenagers. These are not minorities. They are, to large extent, women. Less than one-in-three, 31 percent, were teenagers. About one-in-five, 22 percent, were 20 to 24 years old. Nearly half were aged 25 and older.

And almost 62 percent of them were women.

Mr. President, who are the real losers in today's economy? Not the corporate executives. Not the Republican leadership in the Senate that is looking to give them a massive tax cut, and reward these same corporations with huge giveaways. No. The ones being left further and further behind—are working women.

They represent 46 percent of the paid work force, but 60 percent of those working for the minimum wage. These working women cannot make ends meet on $4.25 an hour. A single working woman with two children cannot pay for daycare, health care, housing, and food on subpoverty wages. For that family of three, the Federal poverty level is $12,500. At the minimum wage that family earns only $8,500, $4,000 below the poverty level. Times have changed since the 1960's and 1970's when the minimum wage was enough to raise families up to the poverty line.

That imbalance is an unacceptable inequity in America. Yet, Republicans in Congress are quibbling over raising the minimum to $5.15—even though, since 1979, the minimum wage has lost 25 percent of its value—while at the same time they favor a tax cut for the wealthiest Americans, and wonder why women who take home less than $132 a week are forced to choose welfare over work.

While it may be easy for some to moralize about values and the dignity of work while they earn a congressional salary that is 10 times the poverty level for a family of three, common sense and common decency require that we look at what a single mother with a child and $148 a week faces in real terms, everyday. She has to hope that her employer provides or subsidizes the cost of daycare. But daycare programs at work are rare, particularly for minimum wage earners. Nationally only 5 percent of employers pay for or subsidize daycare costs for full time employees, and, if a mother is offered a second- or third-shift job, daycare is simply not an option.

The Republicans response is not only to say no to increasing the minimum wage, but to cut food stamps, cut school lunches, and cut nutritional programs for underprivileged children. Yet, they ask single working mothers to work hard, stay off of welfare, pay for daycare, get a decent apartment, feed the children, pay for health care, save for the future, have a good time, and make ends meet.

Times have, indeed, changed in the 57 years since Congress first set the minimum wage at 25 cents an hour in 1938. But what has not changed is our pride and our spirit and our sense of hope. There are millions and millions of young, hard-working Americans in the vanguard of a new labor movement that is no longer fighting against ruthless employers for child labor laws, fair labor practices, health and safety standards, decent working conditions, or an 8-hour day. I hope we have put those fights behind us because those labor wars were fought over the most fundamental rights of people trying to work for a living and survive the unregulated power of ruthless employers.

Now, there is a new labor force struggling against downsizing and technology and a global economy. For them, an increase in the minimum wage is not too much to ask. The last time we voted to increase it, in 1989, a Republican President and a Democratic Congress did it together. And there were none of these arguments that we are hearing today.

We worked together then to raise the minimum from $3.35 an hour to $4.25 an hour, and I was proud to have voted for it. The House passed it by a vote of 382 to 37 with 135 Republicans voting for the increase. It passed the Senate by a vote of 89 to 8 with 36 Republicans on the side of common sense. We can do it again together, if common sense and fairness are still bipartisan virtues in Washington.

I yield the floor.

Mr. KENNEDY. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Massachusetts, has 5 minutes 50 seconds remaining on his side. There are still 15 minutes remaining on the other side.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I am sorry I was distracted. I think the Senator from Massachusetts suggested time run over here.

Mr. KENNEDY. I was inquiring what the allocation of time was that remained.

Mr. MURKOWSKI. Mr. President, as the chairman of the Energy and Natural Resources Committee, the committee that brought the Presidio legislation to the floor, I want to make some very brief comments at this time. I think we are all very much aware that minimum-wage legislation has absolutely nothing to do with the parks package that included the Presidio, the Utah wilderness, Sterling Forest, and numerous other titles. As a matter of fact, we had some 35 titles in the bill that affected some 26 States.

It is no secret that, unfortunately, the parks package coincides with the national convention of the AFL–CIO, or at least their Washington meeting, and it is unfortunate for this legislation that the timing and the announcement by the group that they were going to raise some $35 million to put into the campaign effort against Republicans who were up for reelection. The announcement that they were clearly endorsing the Clinton administration, provided Members on the other side the opportunity to put the minimum wage, which is one of labor's criteria, on something that might move. Unfortunately, the parks package, the Presidio, all the 35-some odd titles, are affected.

The point is, Mr. President, minimum wage legislation has nothing to do with this package of bills before the Senate. It has really no business being offered or even debated while there is one of the most important environmental and conservation legislative packages before the 104th Congress. Yet, they have seen fit to take advantage of this opportunity. They are well within their rights, but, in the opinion of the Senator from Alaska, this is simply politically motivated and it is political grandstanding. We all know it, even if the media refuses to report it that way.

It is rather interesting to see the media's comments with regard to the bill and the support base concerning the adequacy of wilderness in Utah. Not too many people are aware of just how much a million acres of wilderness is in size. It is about three times the size of the State of Rhode Island. Two million acres is about half the size of the State of New Jersey. It is a pretty big hunk of real estate. In any event, in this legislation, there was a provision that would have put 2 million additional acres into a wilderness classification in Utah.

There are those who suggest that the legislation prevents the Federal Government and the Congress from making a determination that additional wilderness might be created. That is absolutely false, Mr. President. Anyone who studied the legislation, anyone who looked at the bill, and particularly the media, should recognize that Congress can create more wilderness any time they see fit, as is evidenced by the creation of 56 million acres of wilderness in my State of Alaska.

So, the point I want to make at this time, Mr. President, is, as we look at the status of this bill and the package in the context of its significance, this package of park-related issues constitutes the most significant single environmental package before the Senate in this Congress.

Those who criticize the package process have a responsibility for two things.

One, ask the question why is the package needed? The answer to that question is simple. As these individual bills came before the Energy and Natural Resources Committee and were reported out, had their hearings, and so forth, a hold was put on virtually every one of these 50 plus bills now found within the 35 titles of this legislation. The Senator from New Jersey who saw fit to hold up the entire collection of reported bills to negotiate his particular interests relative to the State of New York and the State of New Jersey. That issue was Sterling Forest.

We have no problem with that, but it did force us to package all of the individual bills into a single piece of legislation. Some are now suggesting we take it apart. Yet we all know it will not prevail in the House if one goes and the others do not.

Mr. President this process has been going on for a year. Mr. President, the other interesting thing is that hundreds of thousands of dollars have been expended criticizing this package by unnamed, motivated elitists. They do not have to report where the money comes from. They simply write full-page ads in some of the Nation's major newspapers.

I think that is a bit irresponsible, Mr. President, they are responsible to no one. They are well-financed groups that are single focused.

They are not the people of Utah. They are not the legislature of Utah. They are not the delegation from Utah. They are an elitist group that wants to dictate the terms and conditions under which they can recreate in Utah or any other Western State.

I advise my colleagues that perhaps it is time to put a little wilderness in all of our States. We have six States that have no wilderness. Is there justification for that?

Mr. President, in conclusion, I urge my colleagues to show some restraint in their enthusiasm to get 5 seconds on the evening news tonight. Let us move forward with the most important conservation measure to come before this body. We have an opportunity to preserve that magnificent Presidio, provide the necessary authority for the Bureau of Land Management to set aside 2 million acres of new wilderness, and provide critical protection for other areas.

Mr. President this bill affects almost every single State, let us move forward on this important environmental bill and leave this specific amendment for the Labor Committee.

We need to pass the Presidio bill, Mr. President. The minimum wage has no business even being on this bill. We all know it.

I reserve the balance of my time. How much time is remaining?

The PRESIDING OFFICER. The Senator from Alaska has 7 minutes and 32 seconds remaining.

Mr. MURKOWSKI. I yield the floor.

Mr. LEVIN. Mr. President, the issue before us is straightforward. It is about whether or not we are truly committed to helping working people earn a livable wage.

Recently, we have begun to hear more concern expressed about jobs and wages for the working family in America. Some have newly discovered the problems that working families face today: the declining purchasing power of their wages, increasing health care costs, and the high cost of child care are among those most important. But, for some of us, and for the American people, this is not a new issue.

Unfortunately, too little has been done to address these concerns. Today, we have the opportunity to take an important step in the right direction, by making sure that those hard-working Americans at the bottom of the wage ladder get closer to a fair living wage.

Many workers in our society work for low wages and few benefits. They have virtually no bargaining power in their workplaces and any attempt to negotiate for higher wages is futile. For these workers, the government has historically provided protection in the form of a minimum wage.

The Rand Corp. a highly respected think tank, recently reported what they called a double dose of bad news: economic inequality is growing and living standards for millions are getting worse.

The last time we gave minimum wage workers a raise was 5 years ago April 1. The current minimum wage is $4.25. In the last 5 years, because of inflation, the buying power of that wage has fallen 50 cents. The minimum wage is now 29 percent lower in purchasing power than it was in 1979—17 years ago.

With this amendment, the hourly minimum wage would rise to $4.70 this year and to $5.15 next year. Close to 12 million American workers would take a step forward toward a more equitable living wage.

Remarkably, there are some in this Congress who not only would not increase this wage to a fair level, but would eliminate the wage completely. But, I think that they comprise a minority. The last increase had overwhelming bipartisan support. On November 8, 1989, the Senate passed the increase by a vote of 89 to 8. Supporting that increase were the current majority and minority leaders. In the House, this bill passed by a vote of 382 to 37. Voting yes were the current Speaker of the House and the minority leader. Of course, the bill was signed into law by President George Bush.

The results of Rand's study demonstrate once again that the economic squeeze is real. Discounting inflation, the study shows that the median income of families fell more than $2,700 over 4 years to about $27,000 in 1993. People at the lower rungs of the economic ladder have had it the worst.

These figures illustrate that although our economy is growing and unemployment is relatively low, working families are confronting difficult and uncertain times. This amendment would provide a modest boost in earnings for many of these households.

A higher minimum wage could help reverse the growing wage inequality that has occurred since the seventies. A raise in the minimum wage is not only good for workers, but it is also good for business.

The minimum wage is now at a lower level in terms of purchasing power than it has been in three or four decades. That means minimum wage workers buy less. More money in the pockets of workers means more dollars circulating in the local economy.

While some claim a moderate increase in the minimum wage will cost jobs, leading economists find little evidence of loss of employment. Instead, they find that a ripple effect could expand the impact beyond the immediate minimum wage workforce. Some workers in low-wage jobs who currently earn more than the minimum wage may see an increase in their earnings as minimum wages rise.

As the richest nation on Earth, our minimum wage should be a living wage, and it is not. When a father or mother works full-time, 40 hours a week, year-round, they should be able to lift their family out of poverty. Sadly, even the proposed $5.15 an hour will not do that. But, our proposal makes an important stride toward assuring that work is more profitable than welfare.

A minimum wage hike rewards work and lessens the burden of dependency. The current minimum wage is actually about $2 an hour less than what a family of four needs to live above the poverty line. At $4.25 an hour, you earn $680 a month, gross. That's $8,160 per year. The poverty line for a family of four is $15,600 per year.

Adults who support their families would be the prime beneficiaries of our proposal to raise the minimum wage. Nearly two-thirds of minimum wage earners are adults and more than one-third are the sole breadwinners. Nearly 60 percent of the full-time minimum wage earners are women. Often these are women bringing home the family's only paycheck.

We must puncture the myth that a minimum wage hike would only help teens holding down part-time jobs after school. An increase in the minimum wage would improve the standard of living for many working Americans who live paycheck to paycheck, trying to get a foothold on the American dream. In reality, almost half of minimum wage earners work full-time while only one-fifth work less than half time. Only a quarter are teenagers.

In 32 States, including Michigan, over 10 percent of the workforce would benefit directly from an increase in the minimum wage. Workers who now earn less than $5.15 per hour stand to gain immediately. An analysis by the Economic Policy Institute finds 10.5 percent of all Michigan voters, more than 420,000 workers, are in this group.

Mr. President, the bottom line is work should pay, and the current minimum wage is not enough to live on. The minimum wage is a floor beneath which no one should fall. But we should make sure that standing on that floor, a person can reach the table. A full-time minimum wage job should provide a minimum standard of living in addition to giving workers the dignity that comes with a paycheck. Hard-working Americans deserve a fair deal.

Mr. CAMPBELL. Mr. President, I take this opportunity today to clarify my position on the pending Kennedy amendment to increase the minimum wage. As with any debate that takes place in this Chamber, we debate both the merits of a particular legislative initiative as well as, and equally important, the procedures and timing of bringing a legislative initiative to the floor for debate.

Mr. President, last year during debate on S. 1357, the Balanced Budget Act adopted by this Congress, I supported a sense-of-the-Senate resolution to debate and vote on the merits of increasing the minimum wage. While I have been supportive of past minimum wage increases, I don't believe H.R. 1296, the Presidio Act, the underlying bill currently being considered, provides a proper vehicle to increase the current minimum wage. This bill, and the fact that the pending amendment prevents further consideration of this bill, is not conducive to properly address some of its more contentious issues regarding a minimum wage increase.

For example, just as minimum wage opponents may believe the highest proportion of low-wage workers to be young people, proponents of a higher minimum wage often portray the minimum wage work force as largely adult and, therefore, much more in need of an increase. However, we must recognize that this debate hinges upon how one defines youth. If, for example, one defines a youth as between 16 and 19 years of age, then about 36 percent of workers, paid hourly at the minimum wage, are youths and 64 percent adults. However, if one adopts a definition of youth as one between 16 and 24 years of age, then about 60 percent of the work force at the Federal minimum wage are youths and only 40 percent are adults. Indeed, this discrepancy alone warrants further debate.

Mr. President, this brings me to the second, and equally important issue, that of the procedure and timing of this discussion. I believe this debate on the minimum wage deserves to be debated as a vehicle unto itself, and not as a proposal to be attached to each and every legislative initiative that comes up on the floor in this Chamber, in this case H.R. 1296, the Presidio legislation.

The procedure of appending the minimum wage initiative to H.R. 1296, in my view Mr. President, is to attach a nongermane element to a bill that deserves to be debated on its own merits. In this case, it is a bill that has several elements that are important to my State of Colorado.

As a small business owner and former minimum wage laborer, I can truly understand where both sides of this debate are coming from. While a compromise increase of 45 cents over 2 years is something I would consider, Congress should approach this issue with full deliberation; over 80 million workers are covered by the Fair Labor Standards Act's minimum wage, and its impacts would undoubtedly be far reaching.

Therefore, I look forward to working with my colleagues on this issue in the future, and I am hopeful a more suitable legislative vehicle will be found in which we can properly address the issue of raising the Federal minimum wage.

Mr. DODD. Mr. President, I rise today in strong support of this amendment on behalf of American workers and American families.

Here in Washington, and on the campaign trail we hear a lot of talk about corporate downsizing, stagnant wages, and worker anxiety. Throughout this country, American workers and their families are frustrated and anxious of what the future might bring.

And, if we're going to do more than pay lip service to these issues, if we're going to be serious about helping those Americans that work hard and play by the rules then this amendment should pass by a unanimous vote.

Today, with this measure we have a genuine opportunity, on behalf of millions of American workers, to turn the minimum wage into a true living wage.

Today, the real value of the minimum wage is at its second lowest point in 40 years—$4.25 an hour.

Now, I want every person in this room to consider living on $4.25 a hour; or, living on $36 a day. That's an annual income of $8,500 a year—well below the poverty level for a family of three, which is $12,500.

How can any American expect to bring themselves out of poverty or pull themselves up by their bootstraps when they're expected to raise a family on $8,500 a year?

Over the past year I've heard a lot of talk from the other side of the aisle about encouraging responsibility and a strong work ethic among our Nation's welfare recipients. I think it's something we can all agree upon.

But, it is utter hypocrisy to talk about encouraging self-sufficiency and responsibility while we ask our Nation's poorest citizens to live on a meager wage of $36 a day.

Let us be clear, the people affected by the minimum wage aren't high-school kids flipping hamburgers at McDonald's. I can see why people would like to believe that: it certainly makes it easier to oppose this amendment.

We're talking about child care workers, waiters and waitresses, telemarketers, custodians, salesclerks, and the list goes on and on.

The fact is, more than 73 percent of those affected by the minimum wage are adults. More than 47 percent are full-time workers. Four in ten are the sole earner for their families and nearly one in five currently lives in poverty.

What's more, nearly 60 percent of minimum wage workers are women, more than three-quarters of whom are adults. That's 5.2 million adult women, many of whom are also busy raising children who would be directly affected if we pass this amendment.

These figures represent millions of American workers who are just able to keep their heads above water, who are barely subsisting at three-fourths the level of poverty.

For them this amendment isn't about politics or partisan games—this is about economic survival.

Now, my colleagues from across the aisle often use the argument that raising the minimum wage will cost jobs. But study after study has shown that this is a fallacious argument.

Studies done after the minimum wage was raised in 1990 demonstrate that not only did it have a negligible effect on job loss, but in some locales it actually brought higher employment.

The fact is, a higher minimum wage is not only a stronger incentive to work, but it reduces turnover, increases productivity, and lowers cost for retraining and recruiting.

And, the fact is we're not even talking about an enormous increase—only 90 cents an hour. And, while 90 cents may not seem like a lot to most people, it represents $1,800 in potential income for American workers.

For a family struggling to make ends meet, a simple 90-cent-an-hour increase in the minimum wage would pay for 7 months of groceries, or 1 year of health care costs, or more than a year's tuition at a 2-year college.

And if you don't believe me, listen to the experts. According to a recent study by economists William Spriggs and John Schmitt: "The overwhelming weight of recent evidence supports the view that low-wage workers will benefit overwhelmingly from a higher Federal minimum wage."

And that's the choice we have before us today: To raise the minimum wage and make a real difference in the lives of close to 12 million American workers.

If we want to be serious about moving welfare recipients to work, if we want to calm the fears of anxious workers, if we want to provide economic opportunity for every American we have a solemn commitment to pass this amendment and raise the minimum wage for American workers.

In the past, this body has, in a bipartisan manner, overwhelmingly supported increasing the minimum wage. The last time we raised it in 1989, the Senate voted 89 to 8.

Indeed, Senator DOLE, who I often hear talking about the importance of working families on the campaign trail, was a key supporter of raising the minimum wage in 1989.

Well, I hope Senator DOLE and all my colleagues continue the bipartisan tradition of supporting the minimum wage and join me in backing this critically important amendment for American workers.

Mr. KOHL. Mr. President, I rise in support of the Kennedy amendment to raise the minimum wage.

This amendment presents the Senate with a unique opportunity to address one of the most pressing anxieties for America's lower and middle-class workers—stagnant wages. By passing this amendment, Congress can take a small step to help reverse the shrinking purchasing power and suppressed living standards of America's lowest paid workers.

The amendment before us would allow some of the hardest working American's to make a better life for themselves and their families. It would increase the minimum wage from the current level of $4.25 to $5.15 over 2 years. Granting a 90 cent wage increase over 2 year's will not solve the economic problems of the working class nor will it break the bank; but it will help working families.

Mr. President, over 12 million workers would directly benefit from an increase in the minimum wage—over 210,000 of those workers live in Wisconsin.

Contrary to assertions of minimum wage opponents, this amendment would not wreak havoc on job availability. In fact, a large group of prominent economists, including three Nobel prize winners, recently endorsed a minimum wage increase. These economists assert that the moderate Federal minimum wage increase will not significantly jeopardize employment opportunities. The Kennedy amendment represents such a moderate increase.

Mr. President, the plight of the American worker has received more attention in speeches during recent political primaries than through the policy decisions of the 104th Congress. During the first session of the 104th Congress, we have seen proposals to cut education, job training, and workplace safety programs. Perhaps most inexcusable are the severe cuts proposed in the earned income tax credit for low paid working Americans. These are the same workers who are held down by the artificially low minimum wage.

Mr. President, the economy appears healthy, unemployment is down and millions of jobs have been created over the past 3 years. Yet the average American worker remains uneasy. Real wages have become stagnant and many Americans have discovered that their standard of living has decreased over the years.

It has been almost 5 years since the minimum wage has been increased. Studies indicate that after the minimum wage was increased in 1991, the real value of the wage has fallen by nearly 50 cents. Furthermore, the real value of the minimum wage is 29 percent lower than it was in 1979. If this trend continues, the value of the minimum wage will plummet to a 40-year low by 1997.

The importance of increasing the minimum wage looms even larger today as Congress attempts to balance the budget and cut spending for welfare, worker education and training, the earned income tax credit, child care and other resources that families use to stay afloat economically. To deny America's lowest paid workers a sustaining wage during a time of substantial budget cuts simply represents misguided priorities. This is precisely the time when we need to reward the people who work. If we are going to cut funding for education and training, we must provide individuals with the economic tools necessary to get ahead.

The last minimum wage increase under President Bush enjoyed broad bipartisan support. I urge my colleagues in the Senate to undertake a similar bipartisan effort today and demonstrate their commitment to working families by restoring the fair value of the minimum wage. It is time for Congress to remove this issue from Presidential politics and take real legislative action to address the economic problems facing the American worker.

Raising the minimum wage will not solve all of the problems of low-wage workers, but it will go far in demonstrating that Congress can act to help those on the lowest rung of the economic ladder. I urge my colleagues to vote for cloture and pass the minimum wage increase.

Ms. MOSELEY-BRAUN. Mr. President, I support raising the minimum wage over the next 2 years, from its current $4.25 per hour to $5.15 per hour, because I believe in the American dream and I believe in family values.

If a person works hard and diligently, he or she should succeed. This is a deeply held belief in this country and one which I share—this is the American dream. And if a person works hard and diligently, he or she should be able to care for family—this is family values.

Today, 12 million Americans earn the minimum wage. In my State alone, over 10 percent of the workforce earns the minimum wage—545,647 Illinoisans earn $4.25 an hour. This means that an Illinoisan, working 40 hours a week, 52 weeks a year, earns only $8,840.

These workers are not just young people working at their first job—although young people often contribute to their family's income. The majority of the people earning minimum wage—73 percent—are adults. Many of these are parents raising families on under $9,000 a year—still eligible for food stamps. It is a travesty that a mother or father working full-time— 40 hours a week, 52 weeks a year—cannot support a family.

As we continue to purge the welfare roles of children and their mothers, we should remember that close to 60 percent of those earning minimum wage are women. These are women who are taking responsibility for themselves and their children. These are women who are trying to make it on their own. These are women who go to work every single day. And still, minimum wage does not provide them with a living wage for their family.

This legislation would not overcompensate workers. It has been almost 5 years since the minimum wage was last increased. Prices have increased over the last 5 years, as I'm sure anybody who has bought a carton of milk or a dozen eggs lately can tell you.

In this country, we increasingly face a declining standard of living for working people. In the 1980's, 80 percent of Americans did not improve their standard of living. While the average wage increased 67 percent, the average price of a home increased by 100 percent, the average price of a car increased 125 percent, and the cost of a year in college increased by 130 percent. And the minimum wage increased by only 23 percent.

If a 90-cent increase in minimum wage had been part of the Contract With America, by today, a full-time worker earning the minimum wage would have earned an additional $2,000. That money could pay more than 7 months of groceries, rent or mortgage for 4 months, a full year of health care costs, or 9 months of utility bills. The money would make a world of difference to a family—and it is money that the employee earned.

And paying a living wage does not mean that jobs will be lost as opponents of increasing the minimum wage claim. Last year a group of respected economists, including three Nobel Prize winners, concluded that an increase in the minimum wage to $5.15 an hour will have positive effects on the labor market, workers, and the economy.

Workers are our greatest resource. The American worker is what has made this country great. We should recognize the contributions of our workers and reward those who work long and hard to earn a living. And we must make certain that parents working full-time can support their families. If a parent working full-time cannot keep a family above poverty, a child will learn about the American nightmare, not the American dream.

Let us today show that America rewards work, that Americans who try hard can succeed, that America's families are important to us. A living minimum wage is a sign of a just and decent society. I urge my colleagues to vote for cloture and for this modest increase in the minimum wage.

Mr. BAUCUS. Mr. President, this one is real simple. If you raise the minimum wage, you provide working people with a higher salary and a better standard of living. And so I come here in very strong support for the minority leader's effort to give working people a raise by increasing the minimum wage.

BUTTE SAFEWAY

Over the years, Butte, MT, has seen more than its share of hard times. When the mines closed, a lot of people said it was curtains for Butte. But those people had obviously not spent much time in Butte.

Through a lot of hard work, resourcefulness, and community spirit, the folks in Butte fought to rebuild their economy. And they did it. The economic success story that is Butte today is a great example of what can happen when people come together, play by the rules, and work hard.

A few weeks ago, I was in Butte. I spent some time at the Safeway store just listening to people. And I was struck by what a young woman named Rhonda had to say. She was in her early 20's; friendly, energetic, and bright. And like most people that age, she was also anxious to build a better future for herself. But she told me, "Max, I am having a hard time making ends meet on minimum wage. I work hard, but it's just not enough."

A whole lot of Montanans feel just the same. They see their wages increasing too slowly to keep up with the cost of living. They find it harder and harder to save money to send their children to college.

In fact, according to a recent study, over 52,000 Montana workers—more than the entire population of Lewis and Clark County, Montana's sixth largest county—would find it a little easier to make ends meet if we raised the minimum wage to just $5.15 per hour.

FALLING WAGES, RISING COSTS

The experts confirm this. A recent Paine-Webber analysis shows that real wages in America have declined from $7.55 per hour in 1990 to $7.40 in 1995.

We're getting the worst of it in Montana. Our wage growth has been slower than virtually any other State in the Nation. Let me point to a few startling Montana statistics to prove my point:

The purchasing power of the average Montana family has actually fallen by $700 over the last 10 years;

In 1980, Montana's average personal income ranked 33 in the Nation. But today we've slipped to 41;

And the cost of living continues to climb—particularly when it comes to housing costs. Just 5 years ago, the average price of a Montana home was about $48,000. But today that figure has increased by 30 percent to $68,500.

NEED THE RIGHT KIND OF CHANGES

The people who suffer most from this wage stagnation are the middle class—the backbone of America. People who work hard. Pay taxes. Volunteer in their communities. When they suffer, the whole country suffers. Because if our middle class cannot afford homes, or cars, or college educations for the children—ultimately American businesses and America itself will be weaker.

Congress is not going to solve these problems all by itself. But there are some things Congress can do to help.

We need to cut the tax burden on working families. Not by giving new tax breaks to corporations that are already profitable, but by giving a tax deduction for college expenses, so more families can afford college and more children can qualify for high-paying jobs in demanding fields.

We need to make sure family businesses can stay in the family, by reducing the estate and gift tax substantially.

We need to balance the budget, in the right way. Not by threatening retirement and health security. Not by threatening the next generation's prosperity by cutting college loans and vocational education. But by a more serious effort to attack fraud and abuse in Government health care programs, by sticking to the Defense Department's recommendations on security rather than tacking on pork programs, and by resisting the temptation to create new loopholes and deductions for profitable companies.

RECORD OF THE CONGRESS

So these are the people Congress is here to help. And I think it's fair to say that at the beginning of 1995, a lot of Montanans felt this Congress might help. There was a lot of new blood and some new ideas, and people had some high hopes.

But those hopes have vanished in the mess of bumbling revolutionary experiments and Government shutdowns which the leadership in the House has created. Rather than make people a little more prosperous and secure, the Congress seems to have deliberately done just the opposite.

When Speaker GINGRICH, for example, was angry about his seating assignment on Air Force One a few months back, he shut down Yellowstone and Glacier National Park, along with most of the rest of the Government, to take revenge. That drove small businesses in the gateway communities to the edge of bankruptcy. And it threatened to put Park Service employees and Government research scientists on welfare.

A SECOND CHANCE

So the leadership in this 104th Congress has let our State down pretty badly. All too often, rather than do something good and positive for the people, it has done something irrational and destructive.

But we are here today to offer the folks in charge a second chance.

By adopting this amendment, we will give hard-working people a raise. Plain and simple. A 90-cent-an-hour raise in the minimum wage, from $4.25 an hour to $5.15 an hour. That is something concrete for people like Rhonda. People who are working hard and finding they can't make it.

For a young woman working 40 hours a week at the minimum wage, this amendment means a raise of 90 cents per hour. That means almost $2,000 more in the pocket every year. And it means a bump along the wage scale that will give some help to Rhonda's co-workers with a bit more seniority—the men and women struggling to provide for their families on $6 or $7 an hour.

OPPOSITION TO MINIMUM WAGE MISGUIDED

I know some around here don't like the idea. But if they'll step back and look again, they'll find that the opposition to a minimum wage increase boils down to one idea: higher wages are bad for the country.

I simply can't accept that. America cannot prosper by keeping a lid on the prosperity of most of our families. That doesn't make sense.

So by putting party ideology aside, the majority here can rebuild some of the credit it has squandered in the past year and a half. It can do some good for honest, deserving working people like Rhonda. And that is what we ought to do.

This minimum wage increase is a chance for Congress to show some common sense. Some independence from elitist supply-side ideologs. The courage to do what we all know is right.

Let's agree to this amendment and give America a raise.

Thank you, Mr. President, and I yield the floor.

Mr. KENNEDY. I yield myself 4 minutes.

Mr. President, I urge the Senate to vote for cloture and end this unconscionable Republican filibuster against the minimum wage. Senate DOLE is leading this filibuster. He is the one who can end it. It is his decision.

Thumbs up, and 13 million wage earners get their first pay raise in 5 years.

Thumbs down, and 13 million minimum wage workers go on living in poverty, because the minimum wage is not a living wage. A hard day's work deserves a fair day's pay. No one who works for a living should have to live in poverty.

Senator DOLE locks up the nomination, and the first thing he does is lock out the 13 million Americans who are only asking for the fair minimum wage they deserve. Stock prices are going right up through the roof, and the minimum wage is falling through the basement. That is not fair. It is not acceptable.

Speaker GINGRICH and Senator DOLE make a remarkable couple. It is like Bonnie and Clyde writing the Republican platform. NEWT GINGRICH wants to repeal the ban on assault weapons, and BOB DOLE wants to block any increases in the minimum wage. Democrats do not share those appalling priorities and neither do the vast majority of the American people.

Who are the minimum wage workers? The vast majority are not teenagers. More than two-thirds are adults, 59 percent are women. Minimum wage workers are nurses aides caring for patients, child-care workers caring for young children, garment workers, retail clerks, janitors cleaning office buildings.

Last year, we heard the story of Tonya Outlaw. She had been teaching at a child care center in Windsor, NC, for 4 years making the minimum wage. She left a high-paying job because she could not afford the child care for her own two daughters. Earning only $4.25 an hour, she cannot afford medicine for her family. She lives with her uncle and sister. Every bill is a struggle. Why are the Republicans filibustering against giving the raise that she deserves?

David Dow was 23 years old when I met him last year working for a pizza chain, in Southfork, PA, working for the minimum wage, struggling to support his 2-year-old daughter and 1-year-old son. His wife works for telemarketing, just above the minimum wage. They have no health insurance, are repaying college loans, and cannot afford child care. They work different shifts and see each other for an hour or two a day, except on weekends.

This is America in 1996. Who are the Republicans kidding? David Dow needs the pay raise the Republicans are filibustering.

The question is, whose side are you on? You cannot have it both ways. We cannot be for working Americans and their families and against making the minimum wage a decent wage. You cannot be concerned about declining living standards for American families and the widening income gap between the wealthiest Americans and everyone else, and then deny a fair increase in the minimum wage.

Congress has not voted to raise the minimum wage in 5 years. At least three times since that last increase, the Senate has given themselves a pay increase. We take care of the privileged. Surely it is time to take care of those at bottom of the economic ladder.

It is shocking that the longstanding bipartisan support for raising the minimum wage has disappeared. The last vote in the Senate in 1989 was 89–8 in favor of a 90-cent increase in the minimum wage.

The economy is healthier in 1996 than it was in 1989. Inflation and unemployment are lower. Corporate profits and the stock market are at record highs.

BOB DOLE and all but a handful of Republican Senators were in the mainstream in 1989 and voted to make the minimum wage a fair wage. The question now is, why have they changed?

I withhold the balance of the time.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, how much time do we have remaining on this side?

The PRESIDING OFFICER. Seven minutes and thirty-two seconds.

Mr. MURKOWSKI. I will yield my remaining time to the Senator from Oklahoma after I make a few remarks.

Mr. President, I think it is interesting to reflect that the attack now is being made on the majority leader as a consequence of the fact that he is the designee, Republican nominee for President.

The comment has been made that there is a filibuster going on. I do not know that there is a filibuster going on. We voted yesterday on cloture. We will vote today on cloture, but, instead, the attack is on the majority leader. I resent that.

Mr. President, the amendment today being offered would raise the minimum wage from $4.25 to $5.15, a 20-percent increase over 2 years. Now, our Democratic friends suggest that this would be very meritorious and everybody would be a winner. They are accommodating, obviously, the interests of the unions. Of course, those members are virtually all in the unions, receiving a wage much higher than the minimum wage. But look at what they are not addressing and the consequences associated with that.

That is why I oppose the amendment, because of the danger that it is going to foreclose job opportunities precisely for those who we want to help. They do not mention that. Increasing the minimum wage will raise the lower rung of the economic ladder and leave behind those just trying to get a foothold with their first job. They will not be hired and we all know it.

The amendment, though well-intentioned, will cause a loss of entry-level jobs. It will limit job opportunities for low-skilled workers. This will not help raise the standard of living for the poor. They do not even want to address that in the discussion.

The U.S. Senate cannot repeal the law of supply and demand. Common sense tells us we cannot make it more expensive to hire new workers and then expect employers to hire the same number of workers. Experience has shown when we raise the minimum wage, employers hire fewer workers and substitute new machinery and new technology in place of those workers. That is why we pump our own gas today. That is why we pay with a credit card rather than have a gas attendant do the job, wash our windows. It is why we bus our own trays in the fast food restaurants.

Make no mistake about it, Mr. President, this is not a win-win-win. As a consequence, the appropriateness of putting this on the parks bill, the most significant environmental measure to come before this body, is simply unconscionable. It is political opportunism at its worst. The fact that it is directed at the majority leader is absolutely uncalled for.

I yield the balance of my time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. How much time is remaining?

The PRESIDING OFFICER. Four minutes.

Mr. NICKLES. Mr. President, I compliment my friend and colleague from Alaska, Senator MURKOWSKI, for, one, his statement, but also for maybe one of the most important things he said: This amendment has nothing to do with the national parks. It does not belong on this bill.

You might say, well, why is it on this bill? Why was it offered by my friend and colleague from Massachusetts to put on this bill? I will tell you. In my opinion, it is all about politics. It is not about increasing minimum wage. If my friends on the other side of the aisle wanted to increase the minimum wage, they controlled this body in 1993, in 1994. They controlled the White House. They could have done it at that time. They had that right. They had the votes. The majority leader could have called it up any time. They did not do it.

Why did they do it now? Well, Presidential politics. Plus, I noticed an article in the paper that says the AFL–CIO endorses Clinton and approves a $35 million political program. They want to run a lot of independent expenditures, all against Republicans. It is all about politics. It does not belong on this bill. We should reject this amendment.

What is the substance of the amendment? The substance of the amendment is, it says if you make less than $5.15 an hour, you should not have a job. Not only should you not have a job, you cannot have a job. An increase in the minimum wage says it is against the Federal law for you to have a job if you make less than $5.15. You cannot have a job.

I do not care if my friends from the States of Massachusetts, New York, or North Dakota want to increase the minimum wage to $10 an hour in their States; let them do it. I do not think they should do it in my State because they are going to put some people out of work. I heard them say that it has no adverse economic impact and maybe it will increase jobs. If that is the case, let us increase minimum wage to $10 an hour. I do not want everybody to make just $5 an hour; I want everybody to make more than $5 an hour. Why not $10 or $20 an hour? If we can repeal the law of economics, if it makes no difference whatsoever economically, let us make it more because I want people to make a lot more money. I am not against people getting a raise. I want that.

But I do not want to raise the minimum wage and say it is against the law for you to have a job if the best thing you can get is $4.50 or $4.75. I have kids that make that amount of money. We are going to pass a law that says they cannot have a job if it does not pay $5.15. If the infinite wisdom of Washington, DC, says, "If you do not have a job that pays at least $5.15 an hour, you should not have a job," and that person cannot get a job and they are idle, then what are they doing? A lot of times they end up involved in crime or involved in mischief. That is ridiculous. And they do not learn a trade or a new skill.

I worked for minimum wage. I do not make any bones about it. I worked for minimum wage after my wife and I were married, 27½ years ago. We made $1.60 an hour. I needed more, but it was enough. I quit that job and started my own janitor service. I learned a trade, and I hired a lot of people, and they all made more than minimum wage. Why in the world should we set an arbitrary level, a higher level, and say, "If you do not meet this level, you cannot have a job? Uncle Sam says we would rather have you be idle if you cannot meet at least this standard." I think that is ridiculous.

I think the Senator's amendment is wrong in its substance. It is nothing but a political act of appeasement or trying to make organized labor leaders happy. Thank you very much for your $35 million. You are going to get a great program. We are going to try to embarrass BOB DOLE and see if we cannot come up with a great program to thank you for your money. I think that is blatant political abuse and should be rejected. I hope it is rejected.

My colleagues on the other side know this amendment is not going to become law. They hope to score some political points, and I hope they will not be successful.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 1 minute 12 seconds.

Mr. KENNEDY. Mr. President, I yield myself 1 minute 12 seconds.

BOB DOLE, March 28, 1974:

> I am pleased to support the conference report on the minimum wage bill. A living wage for a fair day's work is a hallmark of the American economic philosophy.

May 17, 1989, BOB DOLE on the floor of the Senate:

> I have said, as a Republican, I am not going to stand here and say you can live on $3.25 an hour, or $4.55 an hour.

BOB DOLE on the Senate floor, April 11, 1989:

> To be sure, I am all for helping the working poor. I have spent most of my public life supporting causes on behalf of the working poor, and no one would deny that the working poor are the ones who most deserve a wage increase.

Mr. President, where is that BOB DOLE? Where is that BOB DOLE? I hear from my colleagues that they resent the fact that this is being offered on this particular bill. I want to tell you that it does not make a difference whether any Senator resents it in here. The people who resent us not doing this have a right to, and they are the men and women not getting it. They are the ones who ought to feel the resentment by our failure to provide a decent wage, a livable wage, for working 40 hours a week, 52 weeks of the year.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I will use my leader time.

Mr. President, I think it would be very unfortunate if someone cast this as anything other than what it is—unless we act soon, we will be at the lowest point in terms of purchasing power that we have been in our Nation's history when it comes to the minimum wage. That is a fact.

This is not an effort to encumber an environmental bill, as troubling as one aspect of that bill is. It has nothing to do with Presidential politics, it has nothing to do with labor unions. It has everything to do with the fact that the economic foundation for working families in this country has been, is now, and will continue to be the minimum wage. That is a fact. A fair minimum wage is an economic foundation for working families, period.

Seventy-three percent of those who would benefit from this minimum wage increase are adults. Almost three out of every four people; not just those getting started in life, or just out of high school or college. They are people struggling to make ends meet with a family. And 40 percent of those on minimum wage today are the sole breadwinners.

Let us put an end to the stereotype of the teenager flipping hamburgers so he can buy a car, or somehow get started right out of school. The face of a typical minimum wage worker is a woman working full time or part time to support her family, a single mother working 40 hours a week, and concluding at the end of every week or month when she tries to pay the bills that she is still living in poverty. A minimum wage increase could help, at long last, after 5 years, pull her at least a little bit out of the depths of concern that she has about the economic and financial problems she is facing. A 90-cent increase, which is what this bill would do, provides $1,800 more in a year's time. And 45 cents does not sound like a whole lot, but when you combine 45 cents this year and next, over a period of time you find that it buys more than 7 months worth of groceries, 1 year of health care, including insurance premiums, prescription drugs, and other out-of-pocket costs.

This increase will buy 4 months rent or mortgage payments. This increase pays 9 months of utility bills. So do not let anybody mislead you. This is not just a minuscule amount for a lot of people. This is whether people can eat or have the ability to pay their bills. That is what we are talking about here.

The increase in the minimum wage is obviously just a piece of it. The earned-income tax credit is also a very important part. We have faced, throughout this last 14 months, efforts by many of our Republican colleagues to cut the earned-income tax credit. They tell us that they ought to go out and find a job, they do not need the EITC, they ought to rely on the marketplace to find, somehow, an increase in wages there. If we are going to rely upon the marketplace, we better have a living wage to do that. The minimum wage can only be the beginning for many of these working families.

Republicans often tell us they want to move people off welfare and on to work, and we share that view, that desire, that goal. What do you tell people who work 40 hours a week and are still below the legal level of poverty in this country? How is that an encouragement to tell people to get off welfare? Restoring the minimum wage to a working wage is one of the best ways you get people off of welfare.

Five years, Mr. President, is a long time. In that 5 years, we have had increases in our wages. Just about every CEO in this country has seen dramatic increases in their wages. I do not deny them that. In many cases, they truly deserve it. On April 1, we will see the fifth anniversary of the last increase in the minimum wage. We have seen a 20-year period of wage stagnation, and the gap between the richest and poorest in this country has never been wider. The stratification in this country has to be something this Senate addresses.

A higher minimum wage is the least we can do to begin dealing effectively with that stratification. The real value of the minimum wage has fallen by nearly 50 cents since 1991, and by 29 percent since 1979. If we do not act right now, the real value will be at a 40-year low by January 1997.

This is not just a matter affecting a few people, Mr. President; 12 million working people will benefit directly by what we are going to decide this afternoon. In 32 States, it is over 10 percent of the work force. In study after study, in spite of all the denials you hear from our Republican friends—nearly two dozen in all, not one or two—have shown that a moderate increase in the minimum wage can be achieved without costing jobs. That is not our assertion. That is not something we just postulate about. This is something that actually has been examined in case after case after case, and in every single case it has been reported that you can raise the minimum wage at a moderate level and not cost jobs.

In fact, we see a positive effect on both business and workers. A higher minimum wage reduces turnover, raises productivity, and lowers recruitment and training costs. When workers are paid better, when they get a better living wage, then there is more demand for the products they make.

There are all kinds of advantages in doing this in a proper way. We know that. Apparently, a lot of Republican colleagues share that view because the last time we voted in 1989, 89 Senators supported the increase in the minimum wage. A Republican President signed it into law indicating that he endorsed the principle of a guaranteed and fair minimum wage.

The time has come to show that same bipartisanship and to do it again. A recent Gallup poll said that 77 percent of the American people think that we ought to do it again. Sixty-three percent of Republicans think that we ought to do it again.

This is not a "new mandate." This is not something that we have just dreamed up. This is something we have been doing for decades and decades with the realization you have to start somewhere. The U.S. Conference of Mayors just sent us all a letter that makes it very clear that they endorse an increase in the minimum wage. These are government leaders at the most local level telling us that they see what this does; they know that if we get people off welfare, they can reduce the cost of government. The way to do it is with a minimum wage that works.

So, Mr. President, there are those who say we are somehow encumbering the process. So be it. If there is no other way to ensure that we get a vote on the minimum wage, we have no other choice but to do it this way.

We have all agreed that we will hold off on offering this as an amendment to any other piece of legislation if we can simply get a timeframe within which this can be debated, when we can consider it in a way that gives us a commitment to vote on a minimum wage.

The ultimate irony is that the majority is asking people making $4.25 an hour to wait until the majority figures out a way to cut their Medicare benefits before they allow them a 45-cent increase. Republicans—at least some of them—are prepared to wage a war on working families.

Two days ago, we saw that they are willing to go to any length to avoid a vote and to face a choice. We saw a 4-hour quorum call, a motion to recommit, a recess in one of the biggest weeks of the year, and talk of an unfunded mandates points of order.

Mr. President, never have so few done so much to deny so little to so many.

Working Americans are not going to be fooled. Our Republican colleagues cannot have it both ways. They express newfound concern for workers in a campaign but then manufacture reasons to oppose them when it is real.

If you oppose the minimum wage, as the House majority leader does, then vote against this. But if you believe that 12 million people—many the sole earners for their families—deserve an increase, then vote for it.

The time to face up to that choice is what this is all about. It is what we were elected to do. Let us do it this afternoon.

Several Senators addressed the Chair.

Mrs. BOXER. Mr. President, will the minority leader yield for a question?

Mr. DASCHLE. If I have time available, I will be happy to yield for a question.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you, Mr. President.

I ask the Democrat leader. Is it not so that 51 Senators have already gone on record in favor of raising the minimum wage?

Mr. DASCHLE. The Senator is correct. We have seen a number of Republicans as well as Democrats—in fact, almost unanimously the Democrats and many Republicans have indicated their support in votes taken earlier last year.

So clearly we have a majority vote in the Senate in support of an increase in the minimum wage.

Mrs. BOXER. Mr. President, will my leader agree that these parliamentary maneuvers are really meant to delay, put off, postpone, block an up-or-down vote even though the majority of Senators support such an increase?

Mr. DASCHLE. The Senator is correct.

Several Senators addressed the Chair.

Mr. NICKLES. Mr. President, will the minority leader yield for a question?

Mr. DASCHLE. I am happy to yield, if I have any time.

Mr. NICKLES. I ask the Senator from South Dakota, correct me if I am wrong, but when the Democrats were in control of the Senate and the House in 1993 and 1994 and you had Bill Clinton in the White House, if this is so urgent, why did not you bring it to the floor any time during those 2 years? Is there any reason why it was not brought to the floor at that time?

Mr. DASCHLE. The answer is very simple. Obviously, if we could put some sort of cost of living adjustment in the minimum wage we would do so. We would do so today. We would do so any time. Obviously that is not possible. So we have to revisit the issue from time to time. The average length of time between increases of the minimum wage is 6 or 7 years. You cannot do it the first couple of years. We know that. As much as we would like to, we recognize the limitations of increasing the minimum wage. But over a period of time, you finally have to come to the conclusion that, if you cannot do it in 2 years, if you cannot do it in 3 years, at least you have to do it in 5 years.

That is really what this is all about—a recognition that we could not do it before but we ought to do it now—now that we have reached a purchasing power level that approaches the lowest in history.

So certainly the Senator from Oklahoma recognizes, as all of us do, that this is the time to face up to the facts and adjust this minimum wage as we know we must.

Mr. DORGAN. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. The time has expired.

Mr. DASCHLE. My time has expired. I appreciate the indulgence of the President.

Mr. MURKOWSKI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Fifteen seconds.

Mr. MURKOWSKI. Mr. President, I think we have just witnessed a preview of the course of the Senate action from here on until the elections. It is going to be crass political attacks against the Republican Presidential nominee, BOB DOLE. Nothing meaningful is going to get done in this body, and that is simply too bad.

The PRESIDING OFFICER. All time has expired.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

(The remarks of Mr. WARNER pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

AGRICULTURAL MARKET TRANSITION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. MURKOWSKI. Mr. President, I ask for the yeas and nays on the conference report to accompany H.R. 2854, the farm bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 74, nays 26, as follows:

[Rollcall Vote No. 57 Leg.]

YEAS—74

Abraham
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kyl
Leahy
Lieberman
Lott
Lugar
Mack
McConnell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Robb
Roth
Santorum
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wyden

NAYS—26

Akaka
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Glenn
Harkin
Hollings
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Levin
McCain
Mikulski
Pryor
Reid
Rockefeller
Sarbanes
Wellstone

So the conference report was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRESIDIO PROPERTIES ADMINISTRATION ACT

The Senate continued with the consideration of the bill.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Kennedy amendment No. 3573.

Edward M. Kennedy, Paul Wellstone, Joe Biden, J.J. Exon, Chuck Robb, Carol Moseley-Braun, Christopher Dodd, Bryon L. Dorgan, Claiborne Pell, Kent Conrad, John F. Kerry, Ron Wyden, David Pryor, Russell D. Feingold, Paul Sarbanes, Patrick Leahy, Dianne Feinstein, Frank R. Lautenberg.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate shall be brought to a close?

The yeas and nays are ordered under rule XXII.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. THOMPSON). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—55 yeas, nays 45, as follows:

[Rollcall Vote No. 58 Leg.]

YEAS—55

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
D'Amato
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Simon
Snowe
Specter
Wellstone
Wyden

NAYS—45

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Shelby
Simpson
Smith
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this vote the yeas are 55, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997—CONFERENCE REPORT

Mr. HELMS. Mr. President, I ask that the Chair lay before the Senate the conference report to accompany H.R. 1561, the State Department Authorization bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1561), a bill to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of March 8, 1996.)

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to call off the quorum call for 5 minutes to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO GIFT BAN EXEMPTION

Mr. WELLSTONE. Mr. President, today in the Washington Post, and yesterday in the Congress Daily, there were some articles suggesting that Senator McCONNELL, Chair of the Senate Ethics Committee, was talking about a blanket exemption on the gift ban—and there may be changes to this, and I hope so—for the upcoming political conventions in San Diego and in Chicago.

Mr. President, I want to speak very briefly—and I suspect that I speak on behalf of other colleagues, Senator McCAIN from Arizona, Senator FEINGOLD from Wisconsin, Senator LAUTENBERG, Senator LEVIN—after more than 2½ years of negotiations and several hard-fought battles, just as the ink is drying, for a major change like this to be proposed, I think would be a serious breach of faith with the people in our country.

Mr. President, a friend and former Senator, Eugene McCarthy, who, by the way, will be 80 this weekend, has joked with me about being a "Calvinist" on congressional gift rules, but the reason many of us Senators worked very hard on this reform is that we want people to have more confidence and more trust and more faith in the political process. I just want to say that I really think if there is any kind of blanket exemption here, it would be a terrible mistake.

I can see the headlines now: "Members of Congress Take a Holiday from New Ethics Rule;" or "Pressed By Special Interests, Members Backslide to Provide Access;" or another headline, "Safe Harbor From Ethics Rules Members Let Their Hair Down at the Conventions."

Mr. President, I just want to make it clear to colleagues that we would be making a terrible mistake. It is one thing if there are specific issues that have to be resolved, specific problems where maybe there could be minor clarifications. I say just maybe because I think this gift ban legislation is very reasonable.

But, quite frankly, people do not want to see us go into these conventions and having special interests pay for our hotels or having them pay for various kinds of outings or having them pay for fancy dinners. It is just simply out of the question, Mr. President.

We have a $50 limit on a gift. You can take one up to $50. I say if somebody is thinking about eating more than $50 worth of shrimp at a gathering, this is becoming more a health care issue, not an issue of gift reform.

I do not mean to be just talking about this with a twinkle in my eye, but I want to say to colleagues, I do not know what was intended by these comments, but those who worked very hard on this certainly would be out on the floor. If there was any broad or blanket exemption, we would oppose it with all our might. And, more importantly, people in this country would not stand for it.

Mr. President, let me just say one more time: The ink is barely dried on these new gift rules, and some are now proposing to relax them. All of a sudden we hear about possible exemptions from the gift rules while Members are at the conventions. For Democrats and Republicans alike—let me be bipartisan—it would be a huge mistake to go back on the very reform law that we passed a few months ago. We must not do it.

There should not be any broad exemptions for these political conventions. We ought to live up to the law of the land that we passed. We ought to live up to this reform. We all ought to go by very high standards. I think people want us to.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. HELMS. Now, Mr. President, will the Chair review for me the unanimous consent in terms of time.

The PRESIDING OFFICER. The agreement is 2 hours under the control of the Senator from North Carolina, Senator HELMS, or his designee; 2 hours under the control of Senator KERRY or his designee; 2 hours under the control of Senator NUNN; 3 hours under the control of Senator JOHNSTON; and 1 hour under the control of Senator FEINSTEIN.

Mr. HELMS. That makes 2 hours on our side. That is a total of 10 hours.

The PRESIDING OFFICER. Ten hours.

Mr. HELMS. I yield myself such time as I may consume.

Mr. President, the Senate now has before it the conference report accompanying H.R. 1561, which, of course, is the Foreign Relations Authorization Act for fiscal year 1996 and 1997.

This bill authorizes $6.5 billion for the operation of the Department of State, the U.S. Information Agency, and the Arms Control and Disarmament Agency for 1996 and 1997. That represents a $500 million cut from fiscal year 1995 spending.

After 1996, the bill authorizes funding for the State Department and requires the President to abolish at least one of the three anachronistic foreign affairs agencies: Either the Arms Control and Disarmament Agency, the U.S. Agency for International Development, or the U.S. Information Agency.

During the course of this debate, some may attempt to portray this legislation as isolationist. I hear that all the time. But you better not go out and ask the taxpayers of America what they think of it, because they do not agree with these people who cry isolationism.

These people who oppose this bill and have opposed it will not ever, of course, mention that the Secretary of State, Warren Christopher, himself proposed the abolishment of not one but all three of these agencies. The fact is likely to be ignored, as well, that such prominent isolationists as Henry Kissinger, George Shultz, Larry Eagleburger, General Al Haig, and Jim Baker, all five being former Secretaries of State, support this, testified on behalf of it, and urged that we pare back these anachronistic, bloated foreign affair agencies. Of course, the media did not say much about that. They never do.

This bill, of course, does not cut the muscle out of our foreign affairs apparatus. What it does do is cut the fat—a little bit of it—by making deep and necessary reductions in the current bloated and unwieldy Federal bureaucracy that says it is dedicated to foreign affairs.

This bill cuts $500 million from the 1995 spending level. I have already said that. I do not think that is isolationism. If it is isolationism, Mr. President, let us make the most of it, because if I could have my full way, we would cut even more deeply across the board and save the taxpayers billions upon billions of dollars, not only in terms of the State Department but all across this bloated Federal bureaucracy.

This bill is simply a recognition that the U.S. Government wants too much money and desperately needs to reduce the $5 trillion Federal debt that has been piled up and will be dumped on the backs of young people. Simply put, the State Department can and must do more with less, and the greatest advocates of that have been the present Secretary of State, before he was instructed to take a hike, and five former Secretaries of State, who stood up and said, "This needs to be done."

Most important, in agreeing to this conference report, the Senate has an opportunity to send to the President of the United States a bill to disestablish at least one anachronistic Federal agency and, thereby, save the American taxpayers $1.7 billion. It was my intent, when I embarked on this legislation, to do far better than that, but the distinguished Presiding Officer knows what happened all of last year, and for most of this year—it was filibustered. There were instructions from the White House to delay and obfuscate and not to let this bill pass because it will cost some bureaucrats their jobs. So they filibustered. And only when the Senator from North Carolina said, "All right, if you are going to filibuster this bill, you are not going to get any more ambassadors, and you can tell your President that." Pretty soon, they said, "Let's make a deal." When they made a deal, they got the ambassadors. But if they had not made a deal, at least to have a vote on this legislation, those ambassadors would still be sitting twiddling their thumbs.

Let me remind all involved that Republicans were elected in 1994, in the majority of both the House and Senate, to cut the size of the Federal Government and to eliminate waste by the Federal Government. And this is the first piece of legislation to be sent to the President of the United States which will result in one agency—one anachronistic Federal agency—being abolished.

I sat at home the night that the President delivered his State of the Union Address. I would rather be with Dot Helms than go to any State of the Union Address. She is a lot better company. I heard the President say over and over again—it was a great show, by the way—"The era of big Government is over." Do you remember him saying that? Some people cheered, including the few conservatives who were sitting down there. Well, the President will soon have the opportunity to prove that he meant that. But, already, the White House is sending word that the President is going to veto this bill, minimal as it may be.

Mr. President, after months of footdragging and calculated delays, our friends on the other side grudgingly allowed our reform efforts to be voted on in the Senate and went into a conference committee with the House of Representatives. Mr. President, I have participated, during my nearly 24 years in the Senate, in a lot of conferences. But this conference was one of the most peculiar I have ever seen or heard about, let alone participated in. Prior to the convening of the conference between the House and the Senate, the Democrat Senators made three demands, and I believe the majority made every possible good-faith effort to meet those demands. First was on the question of funding levels. This conference report is consistent with the Commerce, State, Justice appropriations bill on nearly every account. The funding levels contained in this bill are the best that the President of the United States is going to get from a Republican Congress.

Second, despite receiving no input whatsoever—not a syllable—a bipartisan attempt was made to work out an acceptable compromise on population funding. That not being possible, the entire issue was then set aside for later consideration.

Finally, the Democrats demanded that no more aid provisions be included in the final conference agreement. Again, the majority agreed and obliged. Except for the Peace Corps and some antinarcotics funding, there are no foreign aid authorizations in this bill. Important provisions necessary to bring peace in Ireland and to end the embargo of Armenia are included. What do you know? Despite all of these concessions that we made, when the conference began, not one Senate Democratic conferee—except for JOHN KERRY of Massachusetts, with one brief visit by the distinguished Senator from Rhode Island, Senator PELL—attended any meeting of the conference. Senator PELL just visited briefly one time, and JOHN KERRY was there for a while.

Now, the conference met on five separate occasions over a period of 2 weeks, and never did any other Democratic member of the Foreign Relations Committee even set foot in the room.

Mr. President, the Office of Management and Budget recommends that the President veto this bill when it is presented to him. According to an OMB statement, one reason the President should veto the bill is because "it fails to remedy the severe limitation on U.S. population assistance programs placed in the fiscal year 1996 foreign operations bill."

Do not be deceived by the words "population assistance program." It has nothing to do with assisting the population. It has everything to do with unborn babies that the Federal Government wants to finance to be killed.

Now, I suggest, however, that if the President agrees with OMB, then he should not have signed the foreign operations bill if he did not approve of the abortion-related provision in that because it is strange indeed that the President would veto this bill because it does not fix a problem that he, himself, the President, created when he signed the appropriations bill. So that is the inconsistency that we have run into all along.

Mr. President, the distinguished occupant of the Oval Office apparently wants to have his cake and eat it, too. Further, the Office of Management and Budget recommended to the President that he veto the bill because it terminates the Agency for International Development's housing guarantee program. Now, what OMB kept secret, though, was the fact that this program is the international equivalent to the U.S. savings and loan bailout just a few years ago. The General Accounting Office, when recommending the termination of this program reported: "We estimate that the cost to the U.S. Government of future loan default from the existing portfolio of loans is likely to be an additional $600 million."

That is on top of the $400 million already lost, Mr. President. Yet, AID and others in this administration, have been struggling for more than a year to keep this sorry program alive. I suspect that when the American people learn—if the media will dare let them know about it—that Congress has passed and the President has vetoed a bill that would save $1.7 billion and abolish one of those temporary Federal agencies created in 1950—in the 1950's, at least— I think the American people are going to have a definite reaction. By the way, Ronald Reagan used to say, "There is nothing as close to eternal life as a temporary Federal agency." He was right about that. We are trying to do away with one of them. We are not get getting anywhere much. But we will see.

Let me take a moment to recognize the valuable work that has been performed by other of my colleagues on this side of the aisle who served as conferees on this bill— Senator HANK BROWN, Senator COVERDELL, Senator ASHCROFT. Most important, I want to pay my respects to the distinguished Senator from Maine, Ms. SNOWE, who chaired the International Operations Subcommittee and who has worked faithfully side by side with me and others to move this bill forward as best we could in the face of a total blockade by the other side. Senator SNOWE is most knowledgeable about the intricacies of the State Department and the international operations budget.

Well, Mr. President, here we are. We are now at the point, as the saying goes, where "the rubber meets the road." A vote against this conference report is a reaffirmation of the status quo which has contributed so much to the $5 trillion Federal debt that has been run up by the Congress of the United States. Do not blame any President, Democrat or Republican. The damage was done right here and in the House of Representatives. This is where that $5 trillion debt was run up because we could have stopped it.

Those of us over the period of the last 23 years and 3 months, as far as I am concerned, who tried to hold down the spending were described by the liberal media as being tight-fisted and ultraconservative. But I think the young people, when they realize what the Congress of the United States has done in dumping this $5 trillion debt on the American people, are going to have a small revolution of their own. I hope it will start in November among those who are 18 or older.

By the way, Mr. President, back in February 1992, I realized that nobody was paying much attention to the Federal debt which at that time stood at about, as I recall, $3.5 trillion. I think it was February 22 or 23 that I decided to begin making a daily report to the Senate on the Federal debt as of the close of business the previous day. On Mondays the report, of course, was for the close of business the previous Friday.

One day I went into the Cloakroom where Senators were awaiting a rollcall vote that had been scheduled by unanimous consent. I got to thinking about how big $1 trillion is. I went in, and I said, "Fellows, how many million are there in a trillion?" I had all sorts of guesses. These are the folks, myself included, who have been here when this debt has been run up. Only one of them, as I recall, had the vaguest notion of how many million there are in a trillion. Finally one of them got out a piece of paper and scribbled it down. He said, "There are a million million in a trillion." What do you know about that? Now we owe 5 million million dollars—"we" being the coming generation, in the main.

I think that is a criminal act on the part of the Congress of the United States—to run up that debt for these young people to pay.

In any case, a vote in favor of this pending conference report will be a vote to cut Federal spending by $1.7 billion for the American taxpayers while shutting down at least one anachronistic, wasteful, bloated, antiquated agency.

I reserve the remainder of my time and yield the floor.

Mr. DOLE. Mr. President, since last year we have been working hard to reform the foreign policy bureaucracy—to save the taxpayers nearly $2 billion and to get our foreign policy machinery working smoothly. This bill takes a big leap forward in that direction.

And, this bill does even more. It supports numerous U.S. foreign policy goals—from Europe to Asia—at a time when our interests are being challenged around the globe.

In addition to State Department reorganization, this bill has many other important provisions including:

The Humanitarian Aid Corridors Act, which prohibits U.S. aid to other governments does not block U.S. assistance to needy populations;

Full funding of the administration's request for assistance to Israel;

Funding for the International Fund for Ireland and provisions to encourage recipients to use business practices consistent with the so-called MacBride Principles;

A mandate for the establishment of Radio Free Asia and the beginning of broadcasts into China and other Communist countries in Asia;

Prior notice of Security Council votes on U.N. peacekeeping activities and a limitation of the U.S. assessment percentage for U.N. peacekeeping to 25 percent;

Authorization for the Bosnia and Herzegovina and self-defense fund to provide $100 million to arm and train Bosnian Federation Forces.

The list goes on and on. The Point is that no matter how hard the administration tries to muddy the waters with its long list of objections—no matter how much rhetoric administration officials spew forth—it is clear that the Clinton administration is more interested in protecting the foreign policy bureaucracy and promoting the status quo, than protecting and promoting American interests.

We've heard the administration's objections, but let's look at the facts. This bill is silent on abortion. With respect to Vietnam, the Congress is only requiring that the President certify that his own stated criteria have been met before relations with Vietnam are upgraded. This legislation supports U.S. foreign policy interests and only limits bureaucratic redundancy and inefficiency. This bill allows our limited foreign aid dollars to go further.

Mr. President, to threaten to veto this bill is irresponsible. To actually veto this bill is inexcusable.

Mr. HELMS. Mr. President, I ask unanimous consent that the time in the quorum call be deducted proportionately from both sides controlling the time.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may proceed for up to 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. To be charged to each side. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. SPECTER. I thank the Chair. I thank my distinguished colleague from North Carolina.

TEEN PREGNANCY PREVENTION WEEK

Mr. SPECTER. Mr. President, I have sought recognition to comment about the establishment of Teen Pregnancy Prevention Week in the Commonwealth of Pennsylvania from March 18 to March 24, and about a meeting of a number of people at Central High School in Philadelphia on Friday, March 15, at 3 p.m. where a group of educators, ministers, students, and I spoke briefly about this subject.

There is enormous controversy on the subject of pro-choice, pro-life, but there is a consensus that there ought to be the maximum effort made toward prevention of teen pregnancy and that, to the extent possible, information should be distributed and there ought to be positive peer pressure on teens on the subject of abstinence.

The birth rate among teenagers remains at a surprisingly and alarmingly high level compared to those of nearly all other developed countries. In Pennsylvania, the pregnancy rate is 58.3 per 1,000 females aged 15 to 25.

A proclamation was adopted which I ask unanimous consent to be printed at the conclusion of these remarks on Teen Pregnancy Prevention Week.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, this is in line with efforts which are now being made by the Appropriations Subcommittee which I chair, Labor, Health, Human Services and Education, to allocate more funding for Title XX on abstinence. This is a funding issue which I have been active in at the specific request of our colleague, Senator Jeremiah Denton, who was a major spokesman for this issue prior to his departure from the Senate back in 1987.

Mr. President, it is my intention to introduce legislation to increase funding and authorization on the abstinence issue and, also, legislation to promote adoption with tax breaks. My staff and I are currently in the process of securing cosponsors for that legislation, which I anticipate introducing sometime in the latter portion of April.

Mr. President, at this point, I ask unanimous consent that the full text of the proclamation be printed in the RECORD together with the list of the speakers who spoke at the Teen Pregnancy Prevention Week press conference back on March 15, 1996, together with a copy of the "Dear Colleague" letter which I am circulating with the request that any of my colleagues who wish to support this legislation let me know so they may be added as cosponsors.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PHILADELPHIA FAMILY POLICY COUNCIL,
Philadelphia, PA, March 14, 1996.

TEEN PREGNANCY PREVENTION WEEK PRESS CONFERENCE SPEAKERS LIST

1. William Devlin, Director, Philadelphia Family Policy Council.
2. Reverend Ray Barnard, pastor, Impacting Your World Christian Center.
3. Dr. Della Blair, Founder and Director, Blair Christian Academy.
4. Dr. Keith Herzog, prediatrician, affiliated with Holy Redeemer Hospital and Medical Center and St. Christopher's Hospital for Children.
5. Reverend Herb Lusk, pastor, Greater Exodus Baptist Church.
6. Tim Julien, Senior at Central High School.
7. Monica Sneed, Junior at Girls' High.
8. Rachel Toliver, Junior at Central High School.
9. Dan Kim, student at Central High School.
10. Senator Arlen Specter; Signing of Proclamation.

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, March 25, 1996.

DEAR COLLEAGUE: I am writing to urge you to cosponsor two bills I intend to introduce shortly: the Adolescent Family Life and Abstinence Education Act of 1996 and the Adoption Promotion Act of 1996.

While there are obviously great differences of opinion on the pro-life/pro-choice issue, there is a consensus that all efforts should be made to prevent unwanted teen pregnancies through abstinence. The first bill does just that.

Where tax breaks for adoption would encourage carrying to term, we should act on that as well. The second bill does just that.

The following describes the essence of the two bills:

Adolescent Family Life and Abstinence Education Act of 1996.—Reauthorizes the Adolescent Family Life (Title XX) program, which funds demonstration projects focusing on abstinence, adolescent sexuality, adoption alternatives, pregnancy and parenting. This program had bipartisan support when originally enacted in 1981 and when it was reauthorized in 1984. Authority for Title XX expired in 1985 and since then, the program has been operating under funding provided in the annual Labor, HHS, and Education Appropriations bill. For FY 1996, the Labor, HHS, and Education Appropriations Subcommittee, which I chair, has provided $7.7 million for the Adolescent Family Life program. Congress should reauthorize Title XX to demonstrate our commitment to abstinence education and the physical and emotional health of adolescents.

The Adoption Promotion Act of 1996.—Provides tax incentives to encourage adoption, a policy which serves as a compassionate response to children whose own parents are unable or unwilling to care for them. This is particularly important in an era when so many teenagers are having babies and are unable to care for them. This proposal is based substantially on the provisions contained in the balanced budget legislation which Congress passed in 1995 but was vetoed by the President.

I hope you will cosponsor one or both of these bills. If you are interested, please contact me or have your staff contact Dan Renberg at 224–4254.

Sincerely,

ARLEN SPECTER.

P.S. A more detailed statement of the bills is enclosed. My office and I would be glad to provide additional information upon request.

EXHIBIT 1

Whereas, In the United States, birth rates among teenagers remain at alarmingly high levels compared to those of nearly all other developed countries and in Pennsylvania, the pregnancy rate is 58.3 per 1,000 females ages 15–19; and

Whereas, the negative effects of early parenthood on the lifelong health, educational status, and financial condition of adolescents are well documented and babies born to teenage mothers are more prone to low birthweight and to have medical and developmental problems, teenage pregnancy is a public health issue of serious concern. Still, it is just one symptom of the greater problem of teenage sexual activity which carries many additional risk; and

Whereas, sexually transmitted diseases (STD's) some of which can be easily cured but others of which can cause permanent damage, infertility, death or harm to an unborn child, continue to affect 3 million teenagers per year, a solution that offers complete protection from these diseases is needed; and,

Whereas, The emotional consequences of early sexual activity can include anxiety, regret, decreased self-esteem, confusion about intimacy and shattered dreams; and

Whereas, "Safe sex" is at best a relative concept since even consistent, correct use of condoms can not guarantee freedom from STD's or pregnancy and offers no protection from the emotional consequences of intimacy without commitment; and

Whereas, studies indicate a decrease in sexual activity among teenagers in recent years, a recent study indicated that 9 out 10 youths want help in saying "no" to sexual pressure, and, abstinence programs designed for pre-teens and teenagers record a clear reduction both in teen pregnancy rates and teen sexual activity at large; and.

Whereas, the people of the state of Pennsylvania are interested in the health and well being of youth, I recognize that young people must be taught the risks of pre-marital sexual activity, the benefits of abstinence prior to marriage, and how to build healthy relationships on a solid foundation. This indicates my belief in the strength and character of the young people of this fine state.

Now, therefore, I Arlen Specter, United States Senator From Pennsylvania, do hereby proclaim the week of March 18 to 24, 1996 to be Teen Pregnancy Prevention Week. I urge all citizens to take part in activities and observances designed to increase understanding of abstinence as the positive solution to the problems of teenage pregnancy and its related issues. This message is not one of mere prevention, but a message of hope. At the local, state, and national levels, I uphold and support the message of abstinence prior to marriage as the healthy alternative for all Pennsylvanians.

In witness thereof, I have hereunto set my hand.

Mr. SPECTER. I thank the Chair. I yield the floor.

Mr. HELMS. Mr. President, on the basis that I mentioned earlier, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 and 1997—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. KERRY. Mr. President, this conference report that we are now considering on H.R. 1561 is not a traditional nuts-and-bolts authorization bill for the Departments of State, USIA, and ACDA. It is, regrettably, a nonbipartisan and controversial bill in its current form.

This bill seeks to reorganize the foreign affairs agencies of the executive branch by forcing on the President a consolidation of one Agency, USIA, AID, or ACDA, even though the administration has made it very, very clear that is unacceptable to them. So, for that reason alone, this particular bill is subject to veto by the President. He has said that he will, indeed, veto it on that basis. I think it is regrettable we are going to take the time of the Senate to go through the process of sending the President something that he has already said he is going to veto, but that is what we are going to do.

But there are other implications in here. If a President of the United States asserts constitutional authority with respect to particular prerogatives within the formulation of the conduct of American foreign policy, it seems to me we ought to be careful to at least examine, if not respect at face value, those assertions with respect to that constitutional authority. And I think that there are legitimate questions here about whether or not it is appropriate, if the President says that is a prerogative and he does not want to be forced into that position, whether or not we should not respect that and create a different formulation by which we end up with the same result.

We did offer a different formulation by which we would end up with the same result during the course of the conference. That was rejected. Specifically, we offered the same amount of savings that we will achieve under the numbers in this bill—actually, a slightly lower aggregate amount of savings—but we recommended that we only hold out the threat of closure of these agencies if the President refused to return to us a sufficient plan with respect to the reorganization of our foreign policy agencies, and we had the right to determine whether or not we thought that was a sufficient plan. If we did not, we could reject it and start again.

In addition to that, there are a series of policy issues attached to what should, in normal circumstances, be a nuts-and-bolts reauthorization. Those policy decisions, each and every one of them, present their own set of problems. One such policy issue is the very, very significant alteration of our relationship with China, it might be said, literally shaking the foundations of that relationship at a very precarious time in our dealings with both China and Taiwan. I will have more to say about that subsequently, as will other colleagues.

In addition to that, it undermines the President's July 1995 decision with respect to normalization with Vietnam, and puts language into the authorizing process that, in effect, sets back our accountability process on the POW/MIA's.

Furthermore, it fails to meet the administration's budget requests for fiscal year 1997, particularly for the critical account of peacekeeping. The United States is engaged, as we all know, in most critical peacekeeping efforts in the world, most recently in Bosnia. To suggest the Congress is going to be unwilling to meet what we know are the agreed-upon figures and responsibilities for those peacekeeping efforts is simply irresponsible. Moreover, it sends a very, very dangerous, damaging message to our relationships with our allies.

Yesterday, I had the privilege of having a meeting with our Ambassador to the United Nations, Ambassador Albright, whom I think most would agree has been really doing an outstanding job on our behalf in New York at the United Nations. She relates that, literally in every debate, in every single effort, now, to try to bring our allies along on some particular effort, she meets with not just resistance, but a level of cynicism and scorn with respect to the United States' arrearages and the United States' slowness in paying with respect to peacekeeping.

Even in Bosnia, we are $200 million shy of a $200 million commitment. And the on-the-ground effort which the European representative, Carl Bildt, is trying to implement on our behalf and the European's behalf, is significantly restrained by virtue of the perception that we are not serious, we are not there, we are not going to really leverage this and try to guarantee that the on-the-ground civilian component can be as successful as the on-the-ground military component has been to date.

In addition to that, the United States-assessed contributions to the United Nations and its related agencies, as well as ACDA and the International Exchange Programs, are all significantly underfunded for the 1997 year.

I know, as my colleagues know, there is no easier whipping boy in the United States today than foreign policy and the United Nations. If you want to get applause at a local meeting at home, if you want to get people to kind of vent some of their anger at the waste of Washington, all you have to do is say to them, "By God, I think the money ought to be going here to X, Y, or Z town instead of to these foreign efforts." And most people will automatically cheer and say you are absolutely correct.

When you ask most Americans how much money they think is going into our foreign policy effort, it is really amazing how far off most Americans are. I go to town meeting after town meeting; when the issue comes up, I say, "How much do you think we are paying for foreign assistance, foreign aid? Do you think it is 20 percent of the budget?" And a number of hands go up. "Do you think it is 15 percent of the budget?" Quite a few hands go up. "Do you think it is 10, 9, 8 percent of the budget?" A lot of hands go up, the vast majority. "Is it 5 percent of the budget?" And you get the remainder of the hands with the exception of a few.

Then, when you finally get down and say, "Is it 1 percent or less of the budget," I usually have one or two hands go up. That is what it is. That is what it is. It is 1 percent or less. It is less than 1 percent of the budget of the United States that we commit to all of our interests in terms of peacekeeping, AID, efforts to leverage peace in the Middle East. And most of the money, as we know, is contained within, almost, two items, Egypt and Israel, but significant portions are spread around with respect to some of the development programs and other efforts to curb drugs, narcotics, money laundering, immigration—a whole lot of things that we try to do in that field, including, I might add, one of the most important of all today: our economic enterprises.

We are shortchanging ourselves in places like Hong Kong, Singapore, the Far East, with respect to our Foreign Commercial Service, where we are losing countless job opportunities for Americans, countless manufacturing opportunities in this country, because we do not have the people on the ground sufficient to marry those opportunities with the opportunities in this country. That is extraordinarily shortsighted, because we could pay their salaries many times over in a matter of months, and I think that has been proven many times over.

So, Mr. President, the current level of funding is a very significant issue to the administration, and the administration has appropriately, in my judgment, suggested that those numbers are sufficiently low that that is a reason to veto this bill.

In addition to that, there still is no satisfactory solution to the question of family planning, and it is ultimately a bill that, in my judgment, is deficient.

I think many of my colleagues know that Senator HELMS and I have been grappling in good faith with the central and perhaps most controversial issue in this bill, and that was the reorganization of the foreign affairs agencies.

At the start of the year, I was excited about the proposition, and I still remain excited about the proposition, that we could consolidate, we might even merge, we need to reduce the size. I applaud the Senator from North Carolina in his efforts to try to press that. It is very legitimate. There does need to be a savings. There can be some savings, but I think there is an equally legitimate question about whether or not, at first instance, we should make an executive department decision regarding reorganization.

I think if we were to create the framework, if we were to hold a very heavy sword over the head of the administration, suggesting that if they do not do it sufficiently, they will pay a price, I think that would have been a very appropriate approach and it is one which we offered. In the absence of the administration being willing to accept a forced agency numbered closure, it is very difficult, obviously, to pass a bill.

I appreciate the fact—and I want the chairman to know it—I appreciate the fact that this conference report does contain a compromise on reorganization, and I think that did reflect a willingness of the House Republican conferees to move away from the House-passed bill's requirement that all three agencies be abolished. I want to respect the fact that they did move and say it on the record, and it would have been my hope that we might have been able to come to a final agreement on this.

But regrettably, the compromise does not meet the veto proof test, because it denies the President that executive department right of how to reorganize and, therefore, it is not just the fact of reorganization that is being asserted here, it is the principle of Presidential prerogative which, as we know, is not unimportant in the context of foreign policy.

Moreover, there is a very serious question, which I am confident the Senator from Arizona [Mr. MCCAIN], who is on the floor, will share with me, that it is really inappropriate for this conference effort to prohibit the President from following through on an Executive determination and an Executive right with respect to diplomatic relations with another country. Having determined, as a matter of that Presidential right, that we will establish diplomatic relations, for the Congress to then not fund the requisites of that diplomatic process; that is, an embassy, is to come in through the back door to, again, deny the President the prerogatives of Presidential authority in the conduct of foreign affairs.

So, again, that is a problem with respect to this particular issue.

Mr. President, let me say further that one of the most damaging components of this conference report, which I know the Senator from Louisiana is going to talk about and I know Senator NUNN of Georgia is going to talk about, is the very provocative and, in my judgment, ill-advised initiatives with respect to Taiwan and China.

I do not want to suggest that Taiwan should not be considered at some point for membership in GATT or the United Nations. It may well be that in the context of further marching down the road of one China and two systems and of bringing a sufficient dialog together between China and Taiwan, it will be possible to work those details out. But it is clearly on its face ill-advised in the context of the current difficulties for the U.S. Congress to step in and make extraordinarily important and provocative statements about that relationship that can only lend further fears to a Beijing that is so significantly caught up in, convoluted by, constrained by the transition process today, the leadership transition process.

Any of us has to understand that there are certain limits as to what the center of China, the Beijing regime can do at a time when there is a leadership transition in the shadows and perhaps sometimes not even so much in the shadows. For us to step in and alter in a unilateral way the Shanghai communique and the Taiwan Relations Act and the 1982 further communique would be to disrupt and, in fact, make more dangerous an already fragile and difficult situation.

There is no question but that the President of the United States on those items alone—just on the question of President Lee Teng-hui's visit to the United States, GATT and U.N. membership, and on the question of the relationship of the Taiwan Relations Act and the 1982 communique—those items alone, each and every one of them individually, let alone in the aggregate, ought to be grounds for a veto.

I think it is important for us to understand that while all of us here share a deep-rooted belief that the words of the communique are critical with respect to peaceful transition in Taiwan and that the words of the communique are critical with respect to our commitment to the Taiwanese not to ever be subjected to an invasion or to takeover by force or to a subversion of the democracy they are increasingly choosing and practicing, it would be equally wrong for us to just move away from the policy track that has guided our movements in that region for so long.

I think it is fair to say that if we were serious about establishing that as a policy of the United States Congress, it would be fair to understand that China would interpret that as an extraordinarily belligerent, provocative move that would elicit nothing but a hard-line response and wind up having exactly the opposite effect of what we are trying to achieve in the long run and make the world a far more dangerous place.

I believe that we can continue to back the principles of the communique and Taiwan Relations Act without resorting to those measures. We will still sell weapons to Taiwan as they need it for defense, and we will still abide by the guarantees of the two systems and of a peaceful transition. But what a terrible mistake it would be to start to assert a sort of "435-person House and 100-person Secretary of State policy" from the U.S. Congress.

Mr. President, finally, let me just say, turning to the funding levels, I want to speak for a quick moment about not just the peacekeeping money, but the relationship with the United Nations itself and our arrearages.

Ambassador Albright has made it very, very clear, and I think all of us need to really think about this—I encourage colleagues to go to New York and meet with representatives of various countries, find people who they respect in the process as observers and truly inquire independently of an advocate of the administration—whether or not our arrearages are creating a legitimate problem in our ability to achieve the very reforms that we are seeking at the United Nations.

In the context of this conference process, Congressman HAMILTON and I offered a proposal that would have allowed for continued leverage to get reform from the United Nations. We proposed that we not pay the arrearages back in one lump sum so that we lose leverage and control, but rather that we agree to pay them back, that we make it clear that we are going to do that, while simultaneously over a 5-year period achieving a fixed set of reforms within the U.N. itself, as well as achieving from the U.N. commitments with respect to changing the formula for contributions in and of itself.

I believe the contribution formula ought to change. The world has changed since the formula was set up. The gross domestic products of our partners have grown, and, on a relative basis, ours is shrinking compared to theirs. So it is appropriate for us to look to the United Nations and to our allies for fair contribution, for burden sharing and for a more fair distribution of that effort.

But right now, as a consequence of our unilateral decision not to pay, our allies are paying more than 100 percent. I will tell you, our allies, ranging from the British, the Canadians, French and others, are looking at us askance and wondering and increasingly feeling a sense of the inappropriateness of our unilateral actions. I know that our envoys are hearing about this on a regular basis, and it is diminishing our ability, Mr. President, to be able to achieve the very goals we are trying to achieve.

Let me say, finally, that this bill is an improvement over the House-passed bill on a number of different questions. It is my hope that after the President has vetoed this bill, that we might be able to quickly meet and resolve these particular issues. It was my feeling, had we embraced a couple of these concepts in the course of the conference rather than simply shunting them aside, we might still have been able to have the consensus and bipartisanship necessary to pass this.

Mr. President, the conference report on H.R. 1561, which we are now considering, is not just a traditional nuts-and-bolts authorization bill for the Department of State, USIA, and ACDA. It is a controversial bill with far-reaching provisions.

This bill seeks to reorganize the foreign affairs agencies in the executive branch by forcing the President to abolish one agency—USIA, AID or ACDA—even though the administration has made it clear from day one that it will not accept any forced consolidation of agencies. It undermines the President's July 1995 decision to normalize relations with Vietnam and threatens to set back the POW/MIA accounting process that we have worked so hard to put in place. It shakes the foundations of United States relations with China and tilts the balance toward Taiwan at a precarious time in the relations between Taiwan and China. It is a bill which fails to meet the administration's anticipated budget requests for fiscal year 1997, particularly for critical accounts such as peacekeeping, U.S.-assessed contributions to the United Nations and related agencies, ACDA, and international exchange programs. It lacks a satisfactory solution to the family planning issue. In short, it is a bill that I cannot support and that the President has indicated that he will veto.

I think all of my colleagues know that Senator HELMS and I have been grappling with the central, and perhaps most controversial issue in this bill—the reorganization of the foreign affairs agencies—for over a year. As I indicated from the start, I am sympathetic to the idea of consolidation, and I believe that Senator HELMS provided the committee with a thought-provoking plan for reorganizing the foreign affairs agencies. Personally, I can envision ways in which functions of the State Department and one or more of the three other foreign affairs agencies could be merged. In fact, as the chairman knows, I offered an amendment in committee to abolish one agency and consolidate its functions into the State Department. However, this proposal—like the chairman's proposal to abolish all three agencies, AID, USIA, and ACDA—was rejected by the administration.

The fact of the matter is that the administration does not now, and has never, supported the forced consolidation of agencies. That is why I worked with the chairman to forge a compromise in the Senate that would force consolidation through savings rather than through the mandatory abolition of agencies, and at the same time allow the Senate to act on S. 908. It was clear then, as it is clear now, that the Senate-passed version of consolidation was the only version that could possibly gain the support of Democrats in this body and of the administration.

I appreciate the fact that this conference report contains a compromise on reorganization which reflects the willingness of the House Republican conferees to move away from the House-passed bill's requirement that all three agencies be abolished. However, this compromise does not meet the veto-proof test because it denies the President the right to determine how to reorganize the foreign affairs agencies under his control. I believe this is a right that any President, Democrat or Republican, would assert.

Section 1214 of this conference report essentially prohibits the President from establishing an American embassy in Vietnam unless he certifies that Vietnam is fully cooperating on the POW/MIA issue in the four areas set forth by President Clinton. The Senate-passed bill contained nothing on this issue. The House bill contained weaker, sense of the Congress language. Unfortunately, the Republican conferees decided to up the ante by including the language now in section 1214—language which was in the fiscal year 1996 Commerce, State, Justice appropriations conference report that President Clinton vetoed. He indicated his opposition to this provision in that veto statement and he has cited it as one of the provisions that will provoke a veto of this conference report.

On the face of it, section 1214 might look like a harmless provision. But the fact of the matter is, this is a veiled attempt to go backwards—to nullify the decision made by President Clinton last July to normalize our relations with Vietnam.

That decision was the culmination of a process begun several years ago by President Bush, when he laid out a road map for improvement in relations between the United States and Vietnam. Under the road map, which the Clinton administration has embraced, genuine progress on the POW/MIA issue would result in the establishment of full diplomatic relations.

Genuine progress has been made. Through the efforts of people like Gen. John Vessey and the often heroic work by our own joint task force personnel and their Vietnamese counterparts in the field, we have a process in place that is producing that accounting.

Of the 2,154 Americans technically classified as MIA's in all of Southeast Asia, we have only 50 in Vietnam whose fate has yet to be confirmed. That means we have confirmed the fates of 146 of the 196 priority discrepancy cases. We have determined that 567 Americans were lost over water or in other circumstances where survival was doubtful and where the recovery of remains is very difficult. We have recovered 520 remains from Vietnam, 170 of which have already been positively identified as American. The remainder are pending identification by our scientists at CILHI. We have investigated all unresolved live sighting reports and received over 27,000 materials including photos and other archival materials. It is clear that Vietnam is working diligently to help us resolve outstanding POW/MIA cases.

Last November, the Defense Department's POW/MIA office released its comprehensive review of individual cases of Americans unaccounted for in Southeast Asia. In testimony on the report before the Military Personnel Subcommittee of the House Committee on National Security, Deputy Assistant Secretary of Defense James W. Wold stated the bottom line. He said, "We have no evidence that information is being deliberately withheld." In addition, all of our United States military personnel involved in the POW/MIA accounting process, from the Commander in Chief of United States Forces in the Pacific to the private first class excavating a crash site have confirmed that Vietnam's cooperation has been extraordinarily extensive and represents a genuine effort on the part of the Government and people of Vietnam to resolve this issue once and for all.

The United States under Presidents Bush and Clinton made a commitment to Vietnam that the bilateral relationship would move forward as their cooperation on the POW/MIA issue improved. Vietnam is doing its part. The United States must fulfill its commitment in turn. The language in section 1214 of this bill puts that commitment in question and, in so doing, threatens to undermine the successful accounting process that we have put in place.

Apart from the damaging section on Vietnam, this conference report contains several provisions on China-Taiwan issues which are potentially damaging to our bilateral relations with Beijing. For example, section 1708 expresses the Sense of Congress that Taiwanese President Li should be allowed to visit the United States in 1996. Section 1709 advocates Taiwan's admission into GATT and the WTO. Most damaging of all, section 1601 subordinates the 1982 Joint Communique between the United States and China to the Taiwan Relations Act, in order to enable the United States to provide more weapons to Taiwan. This provision unilaterally repudiates a fundamental and longstanding element in the bilateral relationship between the United States and China. The administration has made it clear that this provision is a veto item.

Taken together, these provisions are a provocation to China. They raise the specter of a United States that is tilting toward Taiwan, encouraging Taiwan's apparent quest for independence, and positioning itself to enhance Taiwan's military capabilities in contravention of the fundamental nature of the United States-China relationship. To adopt these provisions now, when China and Taiwan are reaching out to each other to defuse the tensions between them, would be a mistake.

Turning to funding levels, this bill fails to meet the administration's likely budget request for fiscal year 1997, particularly, as I said earlier, in key accounts such as peacekeeping, assessed U.S. contributions to the U.N. international exchanges, and ACDA. I understand that the Republican conferees wanted to stay within the caps set by the budget resolution for function 150, the international affairs function. All of us, including President Clinton, understand that economies must be achieved if the budget is going to be balanced. However, the glide path in the existing budget resolution for function 150 is too steep—as it is for other functions—and if we stick to this glide path, our ability to promote and protect our national interests and to conduct diplomacy will be greatly jeopardized.

For example, we are not going to be able to use our leverage effectively at the United Nations to secure management reforms and revisions in our assessed contributions if we continue to be the deadbeat debtor. This conference report prevents us from paying not only through inadequate authorization levels but also by withholding high percentages of our peacekeeping contributions and our contributions to the regular budget until the President can certify that various reforms have been achieved. There is no disagreement over the need for reform at the United Nations but there is real disagreement among us over how to achieve it. The money card can only work so long and I think its effectiveness has run out. Few, if any, at the United Nations believe we are going to pay and as long as they do not believe it, we have no leverage to promote reform.

This conference report also includes some foreign aid provisions. Of these, the most problematic—and one cited by the administration as a reason for Presidential veto—is section 1111 which effectively terminates the housing guarantee program in several countries such as those in Eastern Europe and South Africa.

Finally, I should point out that this bill is an improvement over the House-passed bill on the question of family planning because it does not contain the objectionable provisions on Mexico City and prohibitions on funding for UNFPA. However, in an effort to avoid a fight over this issue—on which the House and Senate are so divided—the Republican conferees decided to remain silent on the family planning issue. In so doing they missed the opportunity to release funds for population assistance that have been held up under the fiscal year 1996 foreign operations appropriations bill. The restrictions in that bill cut family planning aid by 35 percent below last year's levels, and prohibit using any of the 1996 funds until July. Ironically, such restrictions could actually serve to increase the number of abortions and maternal deaths in developing countries, since they mean fewer couples will have access to contraceptives, health services and information. Therefore, the administration strongly opposes these restrictions and has cited the failure of this conference report to resolve the family planning issue as another reason for a veto.

Mr. President, this conference report represents a radical departure, not only from the traditional bipartisanship that has marked American foreign policy for so long, but also from the traditional bipartisanship that has enabled the foreign affairs committees of the Senate and the House to fulfill their authorizing responsibilities for the State Department and related foreign affairs agencies. Some will argue this is just politics, but they are wrong. The gulf between us is rooted in policy and the policy in this bill is not in our national interests. That is why I am going to vote against this conference report and why the President is going to veto it.

I reserve the remainder of our time at this point in time, Mr. President.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, let me spend just 2 or 3 minutes in respectful response to my friend from Massachusetts. His statement that the Taiwan Relations Act, which is a public law passed by the Congress of the United States, supersedes an Executive order, that is a matter of fact. The United States Congress was clear in its intent to support Taiwan's defense needs when this Taiwan Relations Act was passed.

The 1982 Executive order, referring to the ability of the United States to sell arms to Taiwan, seems to contradict certain terms of the Taiwan Relations Act. Now then, section 1601 does not—does not—repudiate the 1982 Executive order, though I confess that I wish it did. It does, however, clarify that in those instances in which the Taiwan Relations Act and the 1982 Executive order seem to contradict one another, the Taiwan Relations Act is, after all, United States law, therefore, stipulates the policy to which the United States should and must adhere.

Not once—this is the point, Mr. President—not once during the course of the conference between the House and the Senate did a single Member of the House or a single Member of the

Senate raise this provision as a problem. As a matter of fact, I think it is worthy of note that when the staff met preliminarily, the staff of the Senate and the staff of the House, Democrats and Republicans, the Democrats' staff members made it clear that they were not there to participate; they were only to take notes. They refused to take any action or any part in the proceedings. So that is a little bit like the fellow who killed his mother and father and asked for mercy in the court because he was an orphan. They did not participate when we wanted them to, when we were begging them to.

With that said, I remind my colleagues that this provision was adopted by both Houses of Congress. Therefore, it was in both the House and the Senate bills. I also remind my distinguished colleague and friend from Massachusetts that he, himself, voted in support of this exact language during the committee consideration of the State Department authorization bill.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, for a long time now many critics of the administration's Russia policy have been voicing our deep concern that that policy is structured to serve a variety of interests, few of which could be defined as America's national security interests.

Let me just mention two of the more obvious administration positions which manifest a greater concern for Russia's interests than our own. The administration's persistent reluctance to seize the present opportunity to expand NATO has been maintained out of deference to the political sensibilities of current Russian leaders who wish to take political advantage from Russian nostalgia for empire.

The administration's opposition to lifting the unjust arms embargo imposed on the Government of Bosnia, a position which eventually required the United States to deploy our military forces to that country, was partially a consequence of the administration's fear of offending Russia's fraternal regard for the Serbian aggressors in Bosnia.

Mr. President, over the last 2 days we have learned that the administration's Russia policy is intended to serve the interests of at least one American, the President's, to the extent that the President defines his interests as being reelected to office.

The Washington Times reported yesterday and today that at the terrorism summit earlier this month, President Clinton privately pledged to maintain positive relations with President Yeltsin, as both men seek reelection this year, and President Clinton helpfully identified to President Yeltsin one issue of an extraordinary national security value to the United States that the Russian President could help him with—U.S. sales of chickens to Russia.

Mr. President, in the Washington Post today there is an article entitled: "White House Asks for Probe in Leak of Clinton-Yeltsin Talk Memo." Mr. McCurry, that erudite observer of national security issues says in the article:

> The President feels like he ought to be able to sit down with the President of Russia and have a private conversation.

I agree with Mr. McCurry:

> State Department officials said that the Talbott memorandum was circulated fairly widely . . ..

Incidentally, I would like to say I am proud to have opposed Mr. Talbott's nomination on two occasions.

The article goes on:

> The memo, as quoted in the Times, said President Clinton pledged to work with Yeltsin to maintain positive relations with the United States, as both men seek reelection this year. One way to do this, the memo quoted President Clinton as saying, is for Yeltsin to stop restricting poultry imports.

President Clinton said—and I quote:

> "This is a big issue, especially since 40 percent of U.S. poultry is produced in Arkansas," the memo said.

I ask unanimous consent that the article from the Washington Post and an another article from the Washington Times on the issue be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WHITE HOUSE ASKS FOR PROBE IN LEAK OF CLINTON-YELTSIN TALK MEMO

(By John F. Harris)

The White House yesterday asked the Justice Department to investigate the leak of a classified State Department memo detailing a recent conversation between President Clinton and Russian President Boris Yeltsin.

Clinton was "concerned" by a report in yesterday's Washington Times based on a memo written by Deputy Secretary of State Strobe Talbott, according to White House press secretary Michael McCurry. It recounted talks between Clinton and Yeltsin earlier this month when both leaders attended an anti-terrorism summit in Egypt.

National security adviser Anthony Lake instructed an aide to call the Justice Department to encourage the FBI to investigate an apparent "violation of federal law," the spokesman said.

At a news briefing yesterday, McCurry said "the Washington Times appears to be illegally in possession of a classified document," but in a later interview he said that comment had been "inartful." The White House believes the illegality was committed by someone in the government who leaked the information, not by the newspaper in taking the document or publishing it, McCurry explained.

Asked for comment on the investigation yesterday, Times editor-in-chief Wesley Pruden said, "I always wish the FBI well in whatever endeavors they undertake."

McCurry said Clinton and Lake considered the leak to be far more sensitive than the typical anonymous disclosure that is commonplace in Washington journalism. "The president feels like he ought to be able to sit down with the president of Russia and have a private conversation," McCurry said.

State Department officials said that the Talbott memorandum was circulated fairly widely within the administration, and would have been seen by senior officials in other government departments, in addition to the State Department.

The memo, as quoted in the Times, said Clinton pledged to work with Yeltsin to maintain "positive" relations with the United States as both men seek reelection this year. One way to do this, the memo quoted Clinton as saying, is for Yeltsin to stop restricting poultry imports. Clinton said "this is a big issue, especially since 40 percent of U.S. poultry is produced in Arkansas," the memo said.

Lake, according to White House and Justice Department officials, instructed the National Security Council lawyer yesterday to initiate a criminal investigation. Justice officials said yesterday that they had not yet turned the matter over to the FBI but expected to do so soon.

McCurry said administration officials have been concerned about other disclosures published in the Times under reporter Bill Gertz's byline, and hinted that law enforcement officers earlier had been called in to track down his sources.

Lake, he said, wanted the FBI to "add this to any ongoing inquiry that they have going."

Gertz, a national security reporter, in recent months has written other articles based on classified documents concerning arms control and missile defense.

The White House has brought on troubles for itself by encouraging the FBI to launch investigations. When White House travel office staff members were fired in 1993, administration officials called in the FBI to investigate the employees. Congressional critics said that was an attempt by the White House to use the agency for political ends.

CLINTON VOWS HELP FOR YELTSIN CAMPAIGN

(By Bill Gertz)

President Clinton, in a private meeting at the recent anti-terrorism summit, promised Boris Yeltsin he would back the Russian president's re-election bid with "positive" U.S. policies toward Russia.

In exchange, Mr. Clinton asked for Mr. Yeltsin's help in clearing up "negative" issues such as the poultry dispute between the two countries, according to a classified State Department record of the meeting obtained by The Washington Times.

Mr. Clinton told Mr. Yeltsin that "this is a big issue, especially since about 40 percent of U.S. poultry is produced in Arkansas. An effort should be made to keep such things from getting out of hand," the memo said.

White House and State Department spokesmen confirmed the authenticity of the memo but declined to comment on what they acknowledged was an extremely sensitive exchange between the two leaders.

The memorandum on the March 13 talks in Sharm el-Sheikh, Egypt, does not quote the two presidents directly but paraphrases in detail their conversation.

According to the classified memorandum, Mr. Yeltsin said "a leader of international stature such as President Clinton should support Russia and that meant supporting Yeltsin. Thought should be given to how to do that wisely."

The president replied that Secretary of State Warren Christopher and Russian Foreign Minister Yevgeny Primakov "would talk about that" at a meeting in Moscow. The meeting ended last week.

Mr. Clinton told Mr. Yeltsin "there was not much time" before the Russian elections and "he wanted to make sure that everything the United States did would have a positive impact, and nothing should have a negative impact," the memo said.

"The main thing is that the two sides not do anything that would harm the other," Mr. Clinton said to Mr. Yeltsin. "Things could come up between now and the elections in Russia or the United States which could cause conflicts."

The memorandum, contained in a cable sent Friday by Deputy Secretary of State Strobe Talbott, was marked "confidential" and was intended for the "eyes only" of Thomas Pickering, U.S. ambassador to Russia, and James F. Collins, the State Department's senior diplomat for the former Soviet Union.

The memo said Mr. Clinton suggested that the chicken dispute and others like it could be made part of talks between Vice President Al Gore and Russian Prime Minister Victor Chernomyrdin.

Mr. Gore announced Monday that Russia has lifted the ban on U.S. chicken imports that had been imposed out of concern that the chicken was tainted with bacteria.

The Washington Times reported March 8 that Mr. Clinton intervened personally in the poultry dispute late last month.

The president's directives to his staff to solve the problem right away benefited powerful Arkansas poultry concerns. Among them is the nation's leading producer, Tyson Foods Inc., whose owner, Don Tyson, has long been a major contributor to Mr. Clinton's campaigns.

U.S. poultry exports make up one-third of all U.S. exports to Russia and are expected to total $700 million this year.

Asked about the memo on the Clinton-Yeltsin meeting, White House Press Secretary Michael McCurry said yesterday that it is "inaccurate" to say Mr. Clinton promised to orient U.S. policy toward helping the Russian leader's political fortunes. Rather, he said, the president wanted to make sure that issues in the two countries do not hamper good relations. The poultry issue was raised in that context only, the press secretary said.

Mr. McCurry, who said he was present at the meeting, also said the president was referring to "positive relations" between the two countries and not political campaigns.

Those present at the meeting included Mr. Christopher, CIA Director John Deutch, National Security Adviser Anthony Lake and, besides Mr. Yeltsin, four Russian officials, including Mr. Primakov and Mikhail Barsukov, director of the Federal Security Service.

During the discussion, Mr. Yeltsin outlined his political strategy for winning the June presidential elections and said he still had doubts about running as late as last month.

"But after he saw the Communist platform, he decided to run," the memo said, "The Communists would destroy reform, do away with privatization, nationalize production, confiscate land and homes. They would even execute people. This was in their blood."

Mr. Yeltsin said he will begin his campaign early next month, traveling throughout Russia for two months to "get his message to every apartment, house and person" about his plan to strengthen democracy and reforms.

"The aim of Yeltsin and his supporters would be to convince the candidates one by one to withdraw from the race and to throw their support behind Yeltsin," the memo said.

Russian Communist Party leader Gennady Zyuganov is "the one candidate who would not do this" because he is "a die-hard communist," and Mr. Yeltsin noted that he "would need to do battle with him."

Mr. Yeltsin dismissed former Soviet President Mikhail Gorbachev as "not a serious candidate."

"He had awoken one morning and decided to run and would wake up another morning and decide to withdraw his candidacy," Mr. Yeltsin said of his predecessor. "This would be better for him because he now had some standing and if he participated in the elections, he would lose any reputation he had left."

Mr. McCAIN. Mr. President, give me a break. What kind of foreign policy is that? Does President Clinton know that he is President of the United States now and not Governor of Arkansas? Since when is poultry sales a big issue to be discussed between two Presidents? What happened to NATO expansion, Bosnia, proliferation of weapons of mass destruction, recent allusions in Russia to the restoration of the Soviet Union, and a host of other genuine big issues? But what does this President do? He calls a big issue the fact that 40 percent of U.S. poultry is produced in Arkansas, so it is a big issue between himself and President Yeltsin.

Mr. President, that is unacceptable conduct and shows again that on-the-job training has failed as the domestic policy; President puts his toe in the water on foreign policy.

Mr. President, I do not want to diminish the importance of selling chickens to Russia where sales were restricted until now. Poultry sales are a legitimate industry in the United States and surely deserve some consideration. Neither would I begrudge the President's concern for his own home State of Arkansas, which happens to produce about 40 percent of the poultry in the United States. But I would like to think that when the President of the United States sits down with the President of Russia to discuss big issues with him, areas of real security concern to the United States, there would be something somewhat higher on the agenda than chicken sales. I would also like to think that President Clinton would regard United States national security interests to be the priorities of United States policy with Russia, not anyone's reelection.

I assure the President, the satisfactory resolution of outstanding differences with Russia on the questions I have identified will do a lot more to restore the President's credibility as a statesman, and consequently enhance his reelection prospects, than will his efforts to boost chicken sales abroad.

What does the priority given by the President's Russian policy to narrow parochial interests say about his position on other questions which should concern us in Russia? It may say a great deal. The President encourages the IMF to approve one of the biggest loans in its history to Russia. Was this part of the President's plan for his and Mr. Yeltsin's reelection? Is our muted reaction to Moscow's brutality toward Chechnya a consequence of the bilateral Presidential campaign?

As we all read today, the leaked memo by Deputy Secretary of State Strobe Talbott, which referred to this Presidential discussion and President Clinton's intention to conduct our relations in a way that would have only a positive impact on President Yeltsin's reelection prospects, thereby reaffirming once again the administration's personality based Russian policy, has caused the administration to initiate an FBI investigation to determine the identity of the leaker. That endeavor, I am confident, will prove to be a colossal waste of the FBI's time.

What the classified memo really indicates is not some official's indiscretion, but the administration's abuse of the tool of security classification. Chicken sales and the reelection desires of President Yeltsin and President Clinton are not—I repeat, not—state secrets. Indeed, I believe it is very important for the American people to discover at last what interest the administration's policy to Russia, this most critically strategic of relationships, are intended to serve. Today, we have our answer: It is the same interests which most of the administration's policies are intended to serve—President Clinton's reelection.

Mr. President, let me say again, I strongly condemn the use of important U.S. diplomacy, which should be reserved for our most vital national security interests, to serve anyone's campaign interest, much less the President of the United States.

I yield the floor.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I got to the floor to speak about China, but first a word about chickens.

Mr. President, chickens may be an important industry in Arkansas, and they are, but the reason I think it is entirely legitimate—in fact, entirely important—for this President to speak to President Yeltsin about chickens is because Russia was denying entry into the Russian market of American chickens, perhaps grown in Arkansas, but grown in America by Americans, for the wrong reasons. That is, they were not permitting these chickens to come in because they did not want the competition.

Mr. President, this President, any President, has a great interest in open markets, particularly with a country which we are doing a lot to help and who we are encouraging to have open markets. I applaud this President for seeking to do away with those barriers to open markets in Russia.

Mr. SARBANES. Will the Senator yield?

Mr. JOHNSTON. I yield for a question, yes.

Mr. SARBANES. In fact, the President's efforts, it would seem to me, are part of a strategy to try to bring Russia into the international economic system as a legitimate player like other countries that are playing by the rules of trade. Would that not be correct?

Mr. JOHNSTON. That is precisely right. One of the problems with Russia now is that they do not have open markets. We are trying to encourage that. It so happens that chickens are a huge business in Russia, and the American chicken is more economically produced, is a better quality, and is preferred by Russians.

Mr. SARBANES. It could have been any product, for that matter, but the basic point is that we are trying to move Russia toward a market economy, something that the former Soviet Union did not do. That was a command economy.

Everyone says Russia ought to become a market economy, and obviously the United States and other countries in the West have a role to play in that. It seems to me this effort of the President was part and parcel of trying to move Russia in the direction of becoming a free market system and of participating in the global economy.

Mr. JOHNSTON. This is not the only item of interest and not the only thing that the President discusses with President Yeltsin, but it certainly is a legitimate one.

I can say if those were Louisiana chickens, I would be calling him up and saying, "Mr. President, don't stand for this. Speak to your friend, President Yeltsin, about it."

Now, Mr. President, this time last week we had a very dangerous world situation where two American carrier battle groups were steaming in the vicinity of the Strait of Taiwan and where the People's Republic of China, the largest country in the world, was engaging in live-fire tests, close to Taiwan. It is not an understatement to say that the world was in real danger of a conflagration at that time, not because anyone desired war but because the close proximity of these forces involving live fire made the possibility of a misstep, of a bump in the night between two ships, of a misspent or misfired rocket or shell, a very great danger.

Today, Mr. President, we all breathe easier as the crisis has passed. Mr. President, the problem remains. The potential for a huge crisis remains.

I would like to speak to what I regard as a very fateful decision. That is, the pending legislation; the pending legislation, Mr. President, would move this country, in my view, from a policy of engagement with the largest country in the world to a policy of containment of the largest country in the world, and containment equals—make no mistake about it—a new cold war. I can assure my colleagues that if I know anything about China, they will not be contained, and you can get ready for a new cold war if this bill should pass and become law.

Now, this bill, Mr. President, in my view, is potentially the most insidious bill that has been passed by either House in my 24 years in the U.S. Senate. I believe it has the significance, if passed and signed into law, of the Tonkin Gulf resolution. I think Senator NUNN has called it a declaration of war. The President has promised to veto it.

Mr. President, make no mistake, it is a very serious step for the U.S. Congress to be considering. I believe the Senate should sober up before this ill-conceived policy takes root.

Now, just what is this bill, and why do I call it so insidious and potentially—potentially—a Gulf of Tonkin resolution? First, it says that the Taiwan Relations Act supersedes the Shanghai communique. Of course, the Taiwan Relations Act deals with the defense of Taiwan; the Shanghai communique deals principally with a one-China policy. What do we mean by one-China policy? One China, two systems, peaceful reunification. The three points of the triangle which have been repeated by everyone: one China, two systems, peaceful reunification.

To say that the Taiwan Relations Act supersedes the Shanghai communique is not simply to say, as my dear friend from North Carolina, Senator HELMS, says, simply to state the obvious—that is, that an act of Congress supersedes an executive agreement. We know that. What it is saying is that, in effect, it nullifies, it subsumes, it cancels out the Shanghai communique and that the United States Congress, in this case, because it is a sense-of-the-Congress provision, that the United States Congress is abandoning the Shanghai communique. That, Mr. President, is very serious.

It also encourages the Taiwanese to move toward independence. We also rename and upgrade the Taipei representative office. In itself, this does not constitute a move toward independence. But taken together, particularly with an invitation to President Li Teng-hui to visit the United States "with all appropriate courtesies," these three elements taken together, Mr. President, are unmistakable. They are abandonment of the one-China policy, a move for independence for Taiwan.

Now, Mr. President, the House, apparently sensing the seriousness of the step they were taking, adds a further element not contained therein that it is our intention to assist in the defense of Taiwan, which, indeed, might be necessary should we enact this ill-conceived piece of legislation—a fateful, fateful decision, Mr. President.

One thing is absolutely clear: The unilateral declaration of independence by Taiwan is unacceptable to the People's Republic of China and will be resisted. Now, up until last year, things were going along swimmingly. The United States, the People's Republic of China, and Taiwan were all reading off the same song book. We were all saying one China, two systems, peaceful reunification and, indeed, we have reinforced, many times over, the Taiwan Relations Act, which was not at all inconsistent with one China, two systems, peaceful reunification. That is what the Taiwanese were saying, what the PRC was saying, and that is what President Nixon said in the Shanghai communique; that is what President Carter said in the joint communique of 1979; that is what President Reagan said in the joint communique of 1982; that is what President Bush said, and that is what President Clinton is saying. All were saying the same thing.

Things were going along very well. There were 1½ million Taiwanese who visited the People's Republic of China. There were tens of billions of dollars of investment by Taiwan in China. Talks were going on between the leaders of the two countries, or two areas. And then what happens? Well, we had what the Congress regarded as a very innocent invitation by Cornell University to have their distinguished alumni, President Li Teng-hui, come back and make a speech. We, in the Congress—or at least almost everyone in the Congress said, "Look, this is not a State visit, there is no significance to this. This is simply a homecoming to the old university, the old school." Well, Mr. President, we may have thought that in the Congress—but, I did not share that view, and I was the only Member of the Senate who voted against that visit—but I can tell you that the world, and certainly the People's Republic of China, and certainly Taiwan, did not regard it as such an innocent visit. On the visit, he brought along government leaders from Taiwan. He promised no press conferences, but said, "I will be available if you stand behind this bush when I am walking on the Ellipse. You can ask your question and I will give you an answer." And that happened.

He was met by Members of Congress. It had all the trappings, Mr. President, of a State visit, and it was clearly regarded by the People's Republic of China as being something more than a homecoming to the old university. And that, in turn, Mr. President, has been accompanied by a whole barrage of acts and initiatives designed to move in the direction of independence.

Why does a province of China—if that is what Taiwan is, as the Chinese claim—need membership in the United

Nations? That upsets the PRC. We put that kind of language, also, in our resolutions, and, Mr. President, it constitutes still another act of this Congress moving toward unilateral independence of Taiwan.

Mr. President, just a few days ago, Deputy Foreign Minister Liu was meeting with us down in S-211, a stone's throw from where we stand. Ten Senators were there. We had an in-depth discussion with Deputy Foreign Minister Liu. He reiterated the peaceful unification theme. He reiterated the indelible, irrevocable friendship between the United States and the People's Republic of China. But he said, "The United States, of all countries, should understand our attitude in the People's Republic of China about Taiwan." He said, "You fought a civil war, the bloodiest war in the history of your country, about the question of unification, and about the question of unilateral declarations of independence. So you, America, ought to understand our feeling, because our feeling was just like President Lincoln's feeling about the American Civil War." He said, "The issue is sovereignty. We regard a declaration of independence by Taiwan as a matter of sovereignty, which we will safeguard." He said—and I took down these notes—"It is an overriding task. There is no other choice." He quoted Deng Xiaoping as saying this was an "explosive issue, as big as the universe; compared to it, all other issues are easy."

Mr. President, you can take solace from that in the repetition of the peaceful reunification. You can take solace from the fact that it is a one China, two systems, peaceful reunification system, which he repeated. You can take solace from the fact that he repeated the friendship of the People's Republic of China with the United States. But it is unmistakable—unmistakable—that a unilateral declaration of independence by Taiwan and moves by the United States Government to encourage that are unacceptable and are going to lead to trouble.

Now, if that is what we are going to do, Mr. President, as a nation, as a State Department, as an administration, as a Congress, I, for one, want this Congress to have its eyes wide open about what the implications are of that fateful move. This is not a series of moves to invite people back to universities for the old alumni to get together and give the old college yell. It is not about that. It is about war and peace, about the stability of Asia, and it is about the future of this country.

Now, Mr. President, one of the most important questions I think you can ask is: What is the defining international event of this era? Is it the war in Bosnia? Is it peace in the Middle East and all that that portends and all of its implications? Is it the demise of the Soviet Union and the rise of Russia and privatization, and all of the problems that are happening in Russia? I do not believe so. Mr. President, Sareed Zakaria, the managing editor of Foreign Affairs, stated in the New York Times of February 18 that, "The defining international event of this era is the rise of China to world power." It is happening so fast, its implications are so vast that it is an event that is being missed. And, certainly, the implications of the event are being missed by the vast proportion of Americans, and I submit, by most Members of this Congress. Indeed, I, myself, really missed the significance of what is happening.

I first went to China with a number of my colleagues in 1976. At that time, China was backward and poor and oppressive. It was depressing. Everybody dressed the same. No food. No travel. No automobiles. No jobs. No nothing. I remember the one particular riveting sight I saw was the cabbages piled on the street—and this was in November—for the winter. There was just a big mound of cabbages to be used by the people to eat. They were piled on the street, and they would come and grab a cabbage when they needed it. And you could go to the markets, which we did, and there was nothing there.

So, Mr. President, as I read about progress and growth in China, as the years passed since that trip in 1976, I intellectually could believe it. But I just did not really realize it until 1992 when I went to a conference where Larry Summers, who at that time was the chief economist of the World Bank, was making a speech. He said that China would be the largest economy in the world shortly after the turn of the century. These words rang in my head like an unbelievable statement—the largest economy in the world, that backward country that I saw, was impossible I thought.

So I made arrangements within a month to go to China. Mr. President, I was blown away. It was astonishing. It is one vast construction site in China. It is already the second or the ninth largest economy in the world depending on how you calculate those things, what figures you use. But it is arguably the second largest economy in the world. There are traffic jams. There is abundant food. There is colorful and even stylish clothing. Forty percent of the people have color televisions. Twelve percent of the people in China had VCR's. You have CNN, you have five-star hotels, and as I mentioned, you have traffic jams.

In 1976, when we landed in Shanghai, they did not even have automobiles. They had to bring the automobiles down from Beijing on railroad cars. Now when you go to China there are traffic jams. On my trip last year, going back to Beijing from where we were should have taken about 2½ hours. It took 7 hours because of the traffic jams.

The growth is so vast. Kwangtung Province, where I arrived, is larger than any country in the European Community, other than reunited Germany. They have had in the previous 10 years a cumulative growth of 440 percent—440 percent in 10 years. It is a growth rate today of three to four times the growth in the United States. We are very proud of our growth rate here. They continue to project a growth rate of 8 to 9 percent.

Mr. President, it is astonishing what is going on. I urge my colleagues, every Member of the Senate, to get over there and see. See for yourself, not just the growth, but make your own opinion about what kind of country this is and what kind of future they have.

In my view, Mr. President, 20 years from now our country will be judged by its success in foreign policy, in its stability, in the prosperity of its citizens, in the job rate, and in the growth rate, all of those things, but also by how successfully we deal with China and these other rapidly growing countries on the Pacific rim.

This is one area where we make or break, in my judgment, the future of this country.

So just what are the implications then of having a policy—of changing from a commitment to engagement to a policy of containment toward this rapidly growing country? I can tell you, this, Mr. President, a policy of containment, I believe, leads to cold war. Here is what I think is possible. A hot war is possible—not probable, but it is possible. The destabilization of Asia is an expected event.

What is Japan going to do when the area becomes destabilized? I can tell you what Japan is going to do. They are either going to insist that the United States come in with our nuclear umbrella in vastly greater numbers, or they are going to want to rearm. It is tit for tat. When Japan begins to rearm, the People's Republic of China is going to want to rearm that much more. What do they do in Indonesia? They will want to rearm. What about Vietnam, which has been a traditional enemy of the People's Republic of China? They are going to rearm. Pretty soon you have a real donnybrook of a cold war.

Mischief in Korea? Look at the People's Republic of China. They have played a very salutary and peacemaking role with the United States in trying to moderate North Korean policy. Believe me. Everybody knows that. As a member of the Intelligence Committee, I can tell you that everybody knows that. You can read it in the paper. But if they are suddenly our adversary, what is their role going to be with respect to Korea? Arms proliferation? Oh, I know, it has been prominently printed that they have violated the MTCR, the Missile Treaty Control Regime, by shipping M-11 rockets to Pakistan and that they are shipping magnets which can be used for uranium enrichment also to Pakistan.

Mr. President, there is a lot of evidence printed in the paper about these things. I must tell you that, while I clearly do not countenance what they have done or what they have alleged to have done, these are hardly the kind of violations that rise to the level of what is possible. These enrichment magnets that they talk about can be used for uranium enrichment, no doubt. But they do not find themselves on the schedule of things that were prohibited. That is their argument at least; it is for uranium enrichment and not for making bombs. On the MTCR violations, they are not alleged to have shipped anything lately. None of that has appeared in the newspapers.

The administration, faced with the information, did not see fit to put sanctions for that reason. But whatever their present conduct is with respect to proliferation, it is nothing, compared to what they could possibly do. Do not forget what their capabilities would be on proliferation. They have the capacity to vastly increase their military spending. They are being criticized for increasing it way too much right now. But it is less than 12 percent of what we spend.

Mr. President, they have the capacity. If we want to provoke them, if we want to challenge China's pride and national feeling, believe me, they can increase way beyond 11.8 percent of what the United States spends.

What kind of damage would this do to the U.S. economy? Well, you can count on inflation because I guess we, along with all of this new cold war, revoke MFN. And all of these products which we import from them, we pay more for those. How much tax would we pay for this new cold war, for this new military buildup that would come? How many lost jobs in America? Most important, Mr. President, could we be successful? If we set out to contain China, could we be successful? I can tell you this, Mr. President. We successfully contained the Soviet Union, but it took us trillions of dollars, it took us 40 years, and it took the unified support of all of the countries of Western Europe all working together, all joining together in NATO.

Who is coming to the defense of the United States saying, "Yes, United States, let us contain China." Who is doing that? Name for me one country that is doing that outside of Taiwan. Do the Germans? No. Look, Helmut Kohl has been to the PRC—over there at least twice seeking commercial contracts. They have invited Li Peng to come to Germany. The British? Oh, no. They may disagree a little bit about Hong Kong, but, Mr. President, the British are not trying to contain the People's Republic of China. The French? No. The French are selling nuclear reactors to China and beefing up in contracts all the time.

Nobody would support a policy of containment. It is a cold war that we would have to sustain ourselves. So, if we are going to try to contain and have a new cold war with the People's Republic of China, we are going to have to do it alone, and it is going to be a very, very expensive endeavor.

We are not going to pass this kind of legislation on the cheap. It is going to be very expensive—not just in the dollars we put into defense, not just in the jobs lost in America, but what it does to the economy of this country.

To abandon one China, to abandon a policy of containment, to make China our adversary would constitute perhaps the greatest diplomatic failure in United States history.

The fault of all of this is that we are presented with two choices. They say it is either appeasement or it is containment. It is either you are weak or you are strong. You have no other choice in between.

Those are the wrong choices. We are told that if we are weak, you encourage and you reward misconduct. If you do not stand up and tell them exactly what to do on human rights, then you are countenancing all these violations. And there are violations of human rights, to be sure. And the same thing is true of trade and Taiwan and proliferation; you have to stand up and be strong, they say. And if you are strong, we can change it all. We have absolute power, so Americans think, or some Americans think, to change China. All we have to do is tell them what to do and they will do it.

As Orville Schell said in the New Yorker—Orville Schell is a great author. You remember he wrote that book about nuclear winter, so he certainly knows about the dangers of international conflicts. But just last week he said in effect: Mao taught his comrades in arms to respect real power.

The idea that, if you are strong, stand up and it will happen. Or Charles Krauthammer said, "We ought to revoke MFN. Send the fleet into the Taiwan Strait," said Krauthammer, and "After all," he says, "if you wait for war, you invite war."

I am not sure what he meant by that. I took it to mean that you ought to go ahead and risk war right now and let us have it sooner rather than later.

Mr. President, this kind of talk—be tough, challenge them, tell them exactly what to do—in my view are not the choices facing this country. Appeasement or containment are not the proper choices.

The faults of China are very well-known. I really believe that the press, to some degree, has done a job of demonizing China. Part of that is China's fault because reporters go to China and they are treated badly. They treat reporters in China like a lot of politicians in America would like to treat reporters if they thought they could get away with it. But we know better and so we smile all the while. How do you think George Bush would have treated reporters if he thought he could have gotten away with it, or Bill Clinton, how do you think he feels about some of these reporters who write about Whitewater? But the Chinese treat them that way and they get terrible press.

Look, China is not a democracy. They do not have a Bill of Rights. They have all kinds of human rights violations. Ask Wei Jen Sheng about that. No question about that. Trade abuses? Yes. Intellectual property abuses? Yes. Live fire was a provocative thing in the Strait of Taiwan. Proliferation, MTCR, all of these things are faults of China which have been publicly and widely chronicled all over the United States, so we know they have plenty of faults.

Mr. President, if they have faults, they are not nearly as bad as their harshest critics would indicate. This is not a hostile regime. This is not a regime that is threatening its neighbors. It is not threatening to invade Taiwan. It is certainly not threatening any of their other neighbors. They never have, Mr. President. They have committed themselves over and over again to what they called nonhegemony in the region. They are proceeding toward Westernization at an astonishing pace. Privatization.

It may not be a democracy, Mr. President, but it is certainly not communism. Their market is about half-and-half—half free open market and about half State controlled, and the proportion that is free is growing all the time. I remind my colleagues that this country does not have a 100-percent free market. There are vast areas such as the post office, such as the Government which are not free in the United States. But theirs is about 50-50. The products produced are free.

The difference between China in 1976 when I was first there and now is mind-boggling. There is travel now. Just to give you one example is the unit system they used to have in 1976. A block captain would give out the job, the ration stamps, and the housing of every person. They were tethered to and controlled by their block and their block captain. They could not travel. They would not have had the money to travel. There was no job to be had elsewhere.

Indeed, in 1989, Tiananmen Square was more of a revolt against the assignment of jobs, I believe, than it was about democratization. Today, the block system does not exist in vast areas of China. There are hundreds of millions of Chinese who travel and have traveled and take jobs on their own without permission of the block captain.

You want to know what real freedom is, Mr. President, or what real oppression is. It is the inability to travel and get a job and work where you wish. But now there is this freedom to get jobs and jobs in Western-controlled companies where they are absorbing Western culture, Western ways, and Western freedom.

We hear that there are widespread death penalties in China. According to the New York Times, in the first 6 months of 1995 there were 1,865 death penalties meted out in China. That is not disproportionate to the amount of death penalties meted out in this country for those whose conduct merits the death penalty. I happen to be a supporter of the death penalty properly acquired. You may still disagree with 1,865 death penalties meted out in China in the first 6 months, but this is hardly Nazi Germany during their worst times.

The National People's Congress, Mr. President, is acquiring more and more power all the time. Indeed, there are some China watchers who say that Choa Zhenwei, who is the head of the National People's Congress, is a competitor with Jiang Zemin for power. I do not give that as my own view, but it is clear that the National People's Congress is getting additional power and is making a step, a real step in the direction of some kind of democracy. In fact, they fairly recently enacted measures which provide that you cannot be held for more than 30 days without charges being filed, a presumption of innocence.

That sounds fundamental, and it is, but they did not have it in China and they now have it and the National People's Congress gave it to us. You now have lawsuits in China about the environment, about zoning, consumer lawsuits. These did not exist a few years ago. They did not exist, indeed, at the time of Tiananmen Square in 1989.

Now, all of these things which I am telling you may not help Wei Jen Sheng, who is probably the most prominent of the dissidents at this time. But it is progress. And the point is, this is not a rogue regime. It may not be a saintly regime. It is neither. Just as the economy is not a Communist economy, it is not a total free market either. It is about 50–50. And you have to engage China as an emerging country, as a changing country.

What I believe this country needs is to determine what kind of China we want and devise a policy that has some possibility of getting us there. What do we want from China? Most important, we want a responsible member of the international community. We want a country that respects the rule of law—certainly in trade—and in human rights and in commerce and in every way that we can urge them to do so, a responsible member of the international community. We want them, I believe, to be a prosperous China. With 1.2 billion citizens and all that power, a country which is declining, which is not prosperous, is a dangerous country for all of Asia and all the world. Most of all, we want a friendly China.

It is clear, to get there, that China does not respond to a list of demands. I wish that it were true. I wish that we could give them our list and tack it on the church door and expect that these things would be done, but they have shown time and time again that public pressure and hectoring of the Chinese is counterproductive.

I would say the degree of success, of what we are able to extract from the Chinese in terms of our demands, is inversely proportionate to the amount of publicity that we give to those set of demands. Why is it that they are so inordinately sensitive, unreasonably sensitive to the demands of the United States? Very simple. They have one of the most searing histories of humiliation, certainly of a great power, that exists on the face of the Earth. In the last 150 years, they have been dominated at least four times by foreign powers. The opium wars in the 19th century—do you know, Mr. President, in the opium wars, the British invaded and subjugated China because they were trying to restrict their market of opium? Can you imagine anything less reasonable, less civilized, more to be criticized than that? That is what the British did.

The Japanese did not just attack China. You had the rape of Nanking.

When the British controlled Shanghai, as the great commercial center—and they had these clubs; they would not even admit Chinese in the clubs in their own city of Shanghai.

Mr. President, it is a series of humiliations, historically, that have been seared into the consciousness of the Chinese. The 1949 revolution was as much about nationalism as it was about communism, and I can tell you there are strong strands of nationalism that bind the Chinese, all 1.2 billion of them, in the strongest kind of way.

Add to the sensitivity that comes from that historical humiliation the fact that this country is a country in transition. Add to that the explosive growth. In that same article in the New York Times by Sareed Zakaria, the managing editor of foreign affairs, he says, "Nowhere in history has a country grown as fast as China without political and social upheaval."

So here you have a China that is in a power transition, with human growth almost double digits, and you have this sensitivity. So it requires, on our part, the most enormous amount of sophistication and sensitivity that we are capable of giving.

So, what, then, should we do? Mr. President, we ought to get a clear and consistent China policy and articulate it. I wish the President of the United States would make a statement of where we stand. Yes, he has stated that we continue to adhere to the Shanghai communique, but he needs to make that clear. We need to understand that Taiwan is central to this issue of engagement of the largest country in the world in population and soon perhaps to be the largest economy of the world. And what does that mean? It means we need to reassure the People's Republic of China that we will not be a party to unilateral declarations of independence, that the Shanghai communique, that the Nixon doctrine, that the Reagan communique, that the Carter communique are still our policy and are not subsumed and superseded by, but are consistent with, the Taiwan Relations Act.

At the same time, we should continue to reassure Taiwan that we will stand behind them when it comes to any threat of invasion; that unification needs to be peaceful. But that is what we have said all along. That is what China has said all along: One country, two systems, peaceful reunification. Now, what is wrong with that? And why can we not articulate that clearly?

We need to treat their leaders with respect and dignity. As I say, they are enormously sensitive and we frequently fail to recognize that this country, the Middle Kingdom, as it has been historically called, has not, in fact, been treated with the proper respect and dignity.

I do not believe that most Americans know what is going on in China in terms of the huge—not just huge growth, but huge strides forward that they are making. We need to recognize the limitations that there are on human rights. We just cannot give a list of demands, as much as we want to do so. We have to recognize those limitations. That does not mean we do not continue in the strongest way possible, that can be effective, to stand up for human rights and dignity all over the world, but it means that we do so in a way that is likely to be effective.

Mr. President, if we do those things, then it will allow us to be more firm on the missile treaty control regime. It will allow us to be more firm on trade. The problem is, when you have two carrier battle groups steaming in the Strait of Taiwan, then to invoke sanctions on trade looks like a further step toward containment and cold war and makes it inappropriate to take the kind of steps on trade or MTCR that you ought to do.

So that, in effect, by dealing with Taiwan in a traditional way that we should, that is to reassure all parties, one China, two systems, peaceful reunification—to reassure all parties that our policy allows us, then, to be more firm in areas that are likely to make it effective.

We have surely made our point. The Chinese, I submit, have made their point, that is, they are not going to stand for a unilateral declaration of independence. We have made our point with not one but two carrier groups—not one but two carrier battle groups. We have made that point strongly. We have stood up for Taiwan, our friend.

Now it is time for us to be more patient, to lower our voices, to have a greater engagement with the People's Republic of China, to have high level discussions and, most of all, to kill this very ill-considered piece of legislation.

This piece of legislation, at this sensitive time, could do more than anything I know to put us at odds and put us in a position of containment and cold war with the largest nation on Earth.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senate majority leader is recognized.

UNANIMOUS CONSENT AGREEMENT—H.R. 3136

Mr. DOLE. Mr. President, I think we have an agreement on the debt limit which will be coming from the House momentarily.

I ask unanimous consent that when the Senate receives from the House H.R. 3136, the debt limit bill, the bill be read a third time and passed and the motion to reconsider be laid upon the table, all without any intervening action or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. I further ask unanimous consent that the following Senators be recognized for up to 10 minutes each with respect to the debt limit any time during the remainder of today's session: Senator GRAHAM of Florida and Senator PRYOR.

The PRESIDING OFFICER. Without objection, it is so ordered.

INCREASING THE PUBLIC DEBT LIMIT

Mr. ROTH. Mr. President, today the Senate considers H.R. 3136, a bill to increase the public debt limit to $5.5 trillion. The bill would also increase the earnings limit for all Social Security recipients as well as provide regulatory relief for small businesses. The regulatory relief package mirrors S. 942, which passed the Senate earlier this month by a vote of 100 to 0. As of last night, some details of that package were still being finalized. Senator BOND, chairman of the Small Business Committee, will explain that portion of this bill. I will focus my remarks on the Senior Citizens' Right to Work Act of 1996. However, before I do that, let me spend a few moments on the need for the debt-limit increase.

Earlier this year, we passed two bills, H.R. 2924 and H.R. 3021, to provide for temporary relief from the current debt limit. These two bills created new legal borrowing authority not subject to the debt limit for a short period of time. Today we will act on the long-term extension. According to the Congressional Budget Office, this increase should be sufficient through the end of fiscal year 1997.

Over the past decade, many have argued against raising the debt limit, however, let me remind my colleagues that last fall we passed a budget that would have achieved balance in 7 years. That legislation would have gone a long way to reduce the amount of debt limit increases which are always so painful to enact. Unfortunately, as we all know, President Clinton decided to veto the Balanced Budget Act of 1995.

If we fail to concur in the action of the House, or if President Clinton were to veto this bill, we would find ourselves in a fiscal and financial crisis. The Government could not borrow and bills would only be paid out of current receipts, leading to defaults on interest payments and payments to contractors as well as an inability to make all required benefit payments. These defaults would also lead to higher interest rates.

Congress has raised the debt limit 33 times between 1980 and 1995. Many of these increases were short-term temporary extensions. It is important to remember that the increase of $600 billion included in this bill is the third largest increase. The largest increase was in the 1990 budget deal and the second largest was in the 1993 Clinton tax-increase bill.

I hope that the Senate expeditiously enacts this critically important piece of legislation to preserve the full faith and credit of the U.S. Government.

Now let me turn to title I of this bill. The Senior Citizens' Right to Work Act is a big step toward providing greater economic opportunity and security for America's senior citizens.

Under current law, millions of men and women between the ages of 65 and 69 are discouraged from working because they face a loss of their Social Security benefits. If a senior citizen earns more than a certain amount—the so-called earnings limit—he or she loses $1 in Social Security benefits for every $3 earned. The current earnings limit is a very low amount—only $11,520.

Mr. President, this earnings limit is unfair to seniors and is a barrier to a prosperous economic future of all Americans.

For today's seniors, the earnings limit can add up to a whopping tax bite. According to both the Congressional Research Service and the Joint Committee on Taxation, seniors who have wages above the earnings limit can face marginal tax rates over 90 percent, when one factors in Federal and State taxes.

Mr. President, that is not right.

But as unfair as the earnings test is today, it will be an even bigger problem in the future, a future that is rapidly approaching.

We all know the statistics concerning the aging of America. In the same way, we realize more and more that much of our future economic growth will depend on the ability of older Americans to remain working.

Mr. President, why do we even have this earnings limit? Back in 1935, when the Social Security system was designed, it was widely believed that the economy could support only a limited number of workers. Perhaps this belief was understandable 60 years ago—when we were in the middle of the Great Depression. But today, few, if any, economists hold such a belief. In fact, most believe quite the opposite.

Mr. President, I also believe this bill will improve public confidence in the Social Security system.

Social Security is a contract with the American people. Everyone working today knows the taxes the Federal Government takes from them each payday will be returned by the Social Security program when they retire. For parents working to support a family, this sizable tax can be—and often is—overwhelming.

But what too many seniors find out, Mr. President, is that the Government can exact a high price when they reach 65. If they continue to work, seniors are allowed to earn very little before the Government starts taking back benefits. As I noted earlier, for every dollar a senior earns over the earnings limit—currently only $11,530—he or she loses 33 cents in benefits.

Mr. President, the bill now before the Senate would raise the earnings limit for seniors aged 65 to 69 to $12,500 this year, and to $30,000 by 2002. This legislation is entirely paid for with real savings, not gimmicks.

But we are not just spending money. This bill also provides $1.8 billion of deficit reduction over 7 years.

Even better, according to the Social Security Administration, title I of this bill actually improves the long-range health of the Social Security trust fund.

Mr. President, I ask unanimous consent that a memorandum from the Office of the Actuary of the Social Security Administration that makes this point be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ROTH. Mr. President, we all know the Social Security trust fund has a long-range solvency problem. Beginning in 2013, payroll taxes will no longer be enough to cover benefits, and by 2031 the trust fund surplus will be depleted.

Although this bill is in no way a complete solution to that problem, every little bit helps.

Lastly, let me note that title I contains two other provisions important to the health of the Social Security system.

First, the bill provides funding for continuing disability reviews. These reviews are supposed to be done periodically to determine if individuals receiving disability benefits under Social Security or SSI continue to be disabled. Historically, this important program integrity activity has not been well funded, and the Social Security Administration has a backlog of over 1 million reviews waiting to be done. Social Security itself admits that billions of dollars have been lost from not doing these reviews, and even more money will be lost in the future.

This bill will help fix that urgent problem.

Incidentally, the continuing disability review provision is supported by the Administration, and a very similar proposal is continued in the President's 1997 budget.

Second, title I of this bill contains a provision to protect the Social Security and Medicare trust funds from underinvestment or disinvestment—which has been endorsed by the Treasury Department.

Title I of this bill was reported out of the Finance Committee unanimously and a similar measure passed the House by the overwhelmingly bipartisan vote of 411 to 4.

I am grateful to Senators DOLE and MCCAIN, both champions of raising the earnings limit, for their tireless efforts on this issue. I am proud to join them in this effort.

Raising the earnings limit is also strongly supported by AARP.

Mr. President, I ask unanimous consent that a letter from AARP be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. ROTH. Mr. President, in closing on the earnings limit, let me quote two distinguished experts from the Urban Institute, Eugene Steuerle and Jon Bakija. These experts have stated, "The simple fact is that the earnings test is a tattered remnant of a bygone era."

Mr. President, let us act now, and send the message to America's seniors that we value their experience and skills.

EXHIBIT 1

MARCH 22, 1996.

From: Stephen C. Goss, Deputy Chief Actuary.

Subject: Estimated, long-range OASDI financial effects of the Senior Citizens' Right to Work Act of 1966—Information.

To: Harry C. Ballantyne, Chief Actuary.

Enacting the "Senior Citizens' Right to Work Act of 1996" (Title II of H.R. 3136) would increase (improve) the long-range OASDI actuarial balance by a total amount estimated at 0.03 percent of taxable payroll. The long-range solvency of the OASDI program would thus be improved by reducing the long-range deficit from 2.17 percent of taxable payroll to 2.14 percent of taxable payroll. These estimates are based on the intermediate (alternative II) assumptions of the 1995 Trustees Report. The balance of this memorandum describes the long-range financial effects of the individual provisions of the title.

Sections 204 and 205 of this act would each increase (improve) the long-range OASDI actuarial balance by an estimated 0.01 percent of taxable payroll. Section 204 would require one-half support from a stepparent at time of filing for a stepchild to receive benefits on the stepparent's account, and terminate benefits to stepchildren upon the divorce of the stepparent and the natural parent. Section 205 would prohibit eligibility to DI (and SSI) disability benefits based on drug addiction or alcohol abuse, respectively. Section 202, which would raise the earnings test exempt amount for beneficiaries at or above the normal retirement age to $30,000 by 2002, would result in negligible (estimated at less than 0.005 percent of taxable payroll) changes in the long-range OASDI actuarial balance. Sections 206 (pilot study on information for OASDI beneficiaries), 207 (protection of the trust funds), and 208 (professional staff for the Social Security Advisory Board) would also result in negligible effects on the long-range actuarial balance.

Section 203 authorizes the appropriation of specific amounts to be made available for fiscal years 1996 through 2002 for continuing disability reviews. This provision will have the effect of increasing the number of continuing disability reviews through 2002, with the result that total costs of the DI program will be lower for the long-range period and that the solvency of the OASDI program will be improved throughout the long-range period. Additional savings will occur if continuing disability reviews continue at the same level beyond 2002 as is provided for in this provision through the year 2002. The effect of this provision, assuming the appropriation of the specified amounts through 2002, is estimated to be an additional increase (improvement) in the long-range actuarial balance estimated at 0.01 percent of taxable payroll.

STEPHEN C. GOSS.

EXHIBIT 2

AARP,
Washington, DC, March 27, 1996.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN ROTH: The American Association of Retired Persons supports the Senior Citizens Right to Work Act—the proposed increase in the Social Security earnings limit—on the pending debt limit bill. We should be encouraging, not penalizing, those who continue to work and contribute to the economy.

AARP has long supported an increase in the earnings limit. The current level of $11,520 penalizes beneficiaries age 65 through 69 who desire to continue in the workforce. Your proposal, which would increase the limit to $30,000 over a 7-year period, is a fiscally responsible way of enabling many moderate and middle-income beneficiaries to improve their economic situation. AARP commends you and your committee for your leadership in the effort to finally address this long-overdue reform.

AARP believes that the earnings limit increase should be financed in an appropriate manner in order to maintain the integrity of the Social Security trust funds. While tradeoffs within the program are necessary, such financing is the responsible course. Towards this end, the Association notes that the Social Security actuaries have projected that your proposal would result in an improvement in the long range actuarial balance of the Social Security trust funds.

The proposed increase in the earnings limit would also send a strong signal to working beneficiaries that their skills, expertise and enthusiasm are welcome in the workplace. The public policy of this nation should be to encourage older workers to remain in the workforce. Your proposal would further that goal.

The Association remains committed to increasing the earnings limit, and we are pleased that Congress and the Administration have agreed to raise the earnings limit in the 104th Congress. Again, we thank you for your leadership.

Sincerely,

HORACE B. DEETS,
Executive Director.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I express the appreciation and relief of all Members of this body and Americans everywhere that we shall, in very short order, under this agreement extend the debt ceiling to $5.5 trillion. That will take us through this fiscal year and past the next election to about September 30, 1997. This particular drop-dead date is out of our way. We can have a good national debate on other issues.

I make the point, Mr. President, that while, again, we have to extend the debt ceiling, for the first time since the 1960's, the United States has a primary surplus in its budget, which is to say that the revenues from taxes and other activities exceed the costs of the operations of the Federal Government.

Debt service makes for a continuing deficit, but it is coming down. The total deficit this fiscal year will be approximately 2 percent of gross domestic product. It was 5.7 percent just a few years ago. This is a good development. It is a bipartisan one. The vote was bipartisan in the House. It is responsible behavior. I thank all concerned.

Finally, Mr. President, I particularly want to thank my colleague, the chairman of the Committee on Finance.

Mr. President, my friend and distinguished associate, Senator JEFF BINGAMAN, has some very laudable concerns to raise the earnings limit for the blind so that in future years it will increase in parallel with the increase for retirees under Social Security, a provision included in this bill.

In that regard, I would like to take this opportunity to thank Senator MCCAIN for his thoughtfulness in pressing a matter of concern to him. The earnings limitation is an obsolete provision from the 1930's. We are gradually going to get rid of it now. Senator

MCCAIN deserves great credit for that, and I would like to so express my appreciation.

With that, I yield the floor, and I thank the managers of this legislation for allowing us to interrupt. Otherwise, it was default by midnight—well, midnight tomorrow. Even so, we have averted that, and we can go on to the proper business of the Senate. I thank the Chair.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I certainly thank our colleague from New York for his cordial management of this very important issue that had to be resolved.

Mr. BINGAMAN. Mr. President, I had hoped to offer an amendment to the debt limit bill that would have rectified an unjust situation in the legislation concerning the Social Security earnings limit increase for retirees. My amendment would have reestablished the linkage between earnings limit increases for retirees and the blind, a linkage that has existed since 1977. Unfortunately the bill we are considering ends that linkage which I believe is unfair and not supported by adequate policy considerations. However, Mr. President, I understand that passage of this amendment would have potentially damaged completion of the debt limit bill, a bill that has too long been delayed by extremist politics, so therefore I do not feel that now is an appropriate time to pursue my amendment.

However, Mr. President, it is my understanding that the ranking member of the Senate Finance Committee, Mr. MOYNIHAN, has given me his commitment to support my efforts in the Finance Committee and on the floor of the Senate, if necessary, to support an amendment that reestablishes some linkage between the blind and retirees on the next bill reported out of the Finance Committee that amends the Social Security Act. Am I correct in that understanding?

Mr. MOYNIHAN. The Senator from New Mexico is correct.

Mr. BINGAMAN. I also understand that my friend and colleague, Senator MOYNIHAN, will work with me to develop appropriate offsets that will insure that this amendment will not violate the provisions of the Budget Act when the amendment comes before the Senate during this Congress. Am I correct in that understanding?

Mr. MOYNIHAN. Yes, the Senator from New Mexico is correct.

Mr. BINGAMAN. I thank the Senator.

Mr. KYL. Mr. President, I rise in opposition to this bill to increase the public debt limit.

Twice last year, Congress passed legislation that properly coupled a debt limit increase with the steps necessary to balance the budget and thus preclude the need for additional debt limit increases in the future. Twice, the President vetoed the bills.

Let us be clear. If there is any possibility that the Federal Government will default on its obligations, it is a result of the President's insatiable appetite to spend the taxpayers' money.

President Clinton opposed the Balanced Budget Amendment last year. He vetoed the Balanced Budget Act—the first balanced budget to have passed the Congress in 26 years. He vetoed appropriations bills that comply with the strict budget limits for the current fiscal year.

It is the President's spending plan that, more than anything else, threatens to bankrupt the Nation and condemn future generations to a forever declining standard of living.

Mr. President, there is nothing in this bill that will ensure progress toward a balanced budget. The only reason the debt limit increase is going to pass is that it has been coupled with an increase in the Social Security earnings limitation and regulatory reform for small businesses.

Senior citizens and small businesses should not be held hostage to a debt limit increase. We should not have to vote to lead the Nation down the road to bankruptcy in order to ensure that seniors can keep more of their hard-earned income or to relieve small businesses of the regulatory burden that is hindering them.

My constituents know where I stand on the earnings limitation. I have cosponsored legislation in the past to repeal it. I voted four times last year on proposals relating to the repeal or raising of the earnings test, most recently on November 2, 1995.

No American should be discouraged from working, yet that is what the earnings limitation is specifically designed to do. The policy violates the very principles of self-reliance and personal responsibility on which America was founded. It is wrong. Not only does the earnings limit deny seniors the opportunity to work and supplement their retirement incomes, it denies American businesses a lifetime of expertise that many seniors bring to their work. The earnings limitation ought to be repealed.

The regulatory relief provisions of this bill passed the Senate just last week by a vote of 100 to 0. The vote was unanimous. It was unanimous for a reason: small businesses are being overwhelmed by federal rules and regulations.

Obviously, the regulatory relief measure could stand on its own merit. The only reason to include it here is that it will help win votes for the passage of the debt limit increase.

Mr. President, senior citizens, and small businessmen and women deserve better than to be made scapegoats for another debt limit increase. The earnings limit and regulatory reform provisions should be stripped from this bill and passed on their own merit. We should not, however, agree to any further increase in the debt limit until we first put the budget on a path to balance, and obviate the need for future debt limit increases.

Mr. McCAIN. Mr. President, once again we are debating whether or not to raise the Social Security earnings limit. The debt limit increase bill before the Senate contains what is basically the text of S. 1470, the Senior Citizens Right to Work Act.

I have discussed this issue many times on the Senate floor and I do not want to force my colleagues to listen to the same arguments that I have made here for the last 8 years. Therefore, I will be brief.

Passage of this bill will change a depression-era law that is designed to keep seniors out of the workplace. It is long overdue that we take this action.

Mr. President, this bill would raise the Social Security earnings limit from today's level of $11,280 per year to $30,000 per year over a 7-year period. Currently, if a senior citizen earns over the $11,280 earnings limit, the senior loses 1 of every $3 he or she earns. By raising the limit to $30,000, seniors who need to work would be allowed to do so without facing this onerous penalty.

Let me emphasize, this bill does not repeal the earnings limit. Although I would like to see the limit repealed in its entirety, this bill does not do that. It merely raises the limit to $30,000. And, Mr. President, I don't think anyone here in the Senate believes that $30,000 per year is much money.

Rich seniors—those who live of lucrative investments, stock benefit, trust accounts—are not effected by the earnings limit. Their income is safe and sound. The earnings limit only effects seniors who are forced to survive from earned income. Therefore, this bill has no effect on well-off seniors.

On the other hand, a working senior—one who works at McDonalds, or Disney or anywhere just to make ends meet—will benefit greatly by passage of this bill. And the 1.4 million seniors who are burdened by this onerous earnings test will be able to use the money they save due to its change to make their lives a little better.

Again, Mr. President, I don't want to belabor my colleagues with a long dissertation on this matter. They have all heard the arguments again and again. And I believe, if one is to believe the lofty statements that sometimes appear in the RECORD, that virtually every Member of this Senate supports taking action on this matter.

But year after year there have been one reason or another for Members to defeat this bill. There is always some excuse. Well, Mr. President, the time for excuses is over.

The bill before the Senate is not perfect. Many have concerns over technical aspects of it. But, Mr. President, now is the time to pass this measure. If any Members object to a pay for in this bill, then let them suggest an alternative. The sponsors of this bill are open to suggestions. But let me make the record completely clear, any Member who comes to the floor and argues on some technical parliamentary issue is working to defeat this bill.

Unlike the last time this bill was brought before the Senate, we pay for this bill without touching discretionary spending.

This bill is paid for. It is paid for 10 years. It is paid for out of mandatory spending. And specifically, it is paid for out of Social Security.

This bill is paid for by the following changes I will outline:

This bill pays for the increase in the earnings limit through two major changes in present law.

First, the bill ends entitlement to SSDI and SSI disability benefits if drug addiction or alcoholism are the contributing factors material to the determination of disability. Those individuals with drug addiction or alcoholism who have another severe disabling condition will still be able to qualify for benefits based on that disability. So the only individuals who will lose benefits are those whose sole disabling condition is drug addiction or alcoholism.

In fiscal years 1997 and 1998, $50 million of the savings from this change will be added to the Substance Abuse Prevention and Treatment Block Grant, providing additional funds for treatment services. This approach recognizes that while drug addicts and alcoholics need treatment, they are not in fact helped by cash benefits which can be used to pay for their addiction or drinking.

I would like to emphasize that those individuals with a drug addiction or alcoholism condition who have another severe disabling condition will still be able to qualify for benefits based on that disability. In these cases, the bill requires that benefits be paid to a representative payee if the Commissioner of Social Security finds that this would serve the interest of the individual. In addition, the bill requires that individuals whose benefits are paid to a representative payee be referred to the appropriate State agency for substance abuse treatment services. This approach recognizes that such individuals not only need substance abuse treatment but often need the assistance of others to ensure that their cash benefits are not used to sustain their addiction. Over a 5-year period, this change will save approximately $3.5 billion.

Second, the bill makes several changes in the entitlement of stepchildren to Social Security benefits. For a stepchild to receive benefits on the stepparent's account, the bill requires that a stepparent provide at least 50 percent of the stepchild's support, and for stepchildren to receive survivor's benefits, the bill requires that the stepparent provided at least 50 percent of the child's support immediately prior to death. In addition, a stepchild's Social Security benefits are terminated following the divorce of natural parent and the stepparent. These changes will ensure that benefits are only paid to stepchildren who are truly dependent on the stepparent for their support, and only as long as the natural parent and stepparent are married. Over a 5-year period, these changes will save approximately $870 million.

Taken together, these two changes will not only offset the cost of raising the earnings test limit, but will also improve the long term solvency of the Social Security system. In addition, the bill permits adjustments to the discretionary spending caps, so that spending for Continuing Disability Reviews [CDR's] can be increased. If these cap adjustments are fully used and the additional reviews are conducted, an additional savings of approximately $3.5 billion could result. Although these savings are not needed to pay for the increase in the earnings test limit, they would also increase the long term solvency of the Social Security System.

Mr. President, current law applies such an onerous and unfair tax to working seniors that they are effectively forced to stop working. This is unconscionable and it must be changed. Basically, passage of this bill will allow seniors who do not have enough in savings or pensions to work to make ends meet.

It does not help rich seniors who have stocks and bonds. Money derived from those sources is currently exempt from the earnings limit. This limit only affects earned income—money earned by seniors who go to work everyday for an hourly wage.

Mr. President, this bill would raise the Social Security earnings limit from today's level of $11,280 per year to $30,000 per year over a 7 year period.

I strongly believe this reform will result in a change in the behavior of our Nation's seniors. When we raise the earnings limit, seniors will work more, and thus pay more in taxes. I hope that all my colleagues understand this point. This bill will benefit working seniors—those most in need of our help.

Unfortunately, under a static scoring model—one used by the Congressional Budget Office—this amendment would be scored at costing just over $7 billion dollars.

And once again, I want to repeat, this bill is fully paid for without touching discretionary spending.

Mr. President, the Social Security earnings test was created during the depression era when senior citizens were being discouraged from working. This may have been appropriate then when 50 percent of Americans were out of work, but it is certainly not appropriate today. It is not appropriate today when seniors are struggling to get ahead and survive on limited incomes. Many of these seniors are working to survive and make it day to day.

Most people are amazed to find that older Americans are actually penalized by the Social Security earnings test for their productivity. For every $3 earned by a retiree over the $11,280 limit, they lose $1 in Social Security benefits. Due to this cap on earnings, our senior citizens, many of whom are existing on low incomes, are effectively burdened with a 33.3 percent tax on their earned income. Combined with Federal, State, and other Social Security taxes, it will amount to a shocking 55- to 65-percent tax bite, and sometimes even more—Federal tax—15 percent, FICA—7.65 percent, earnings test penalty—33.3 percent, State and local tax—5 percent. Obviously, this earnings cap is punitive, and serves as a tremendous disincentive to work. No one who is struggling along at $11,000 a year should have to face an effective marginal tax rate which exceeds 55 percent.

This is an issue of fairness. Why are we forcing people not to work? Why are we punishing people for trying to "make it." No American should be discouraged from working. Unfortunately, as a result of the earnings test, Americans over the age of 65 are being punished for attempting to be productive. The earnings test doesn't take into account an individual's desire or ability to contribute to society. It arbitrarily mandates that a person retire at age 65 or suffer the consequences.

Perhaps most importantly, the earnings cap is a serious threat to the welfare of low-income senior citizens. Once the earnings cap has been reached, a person with a job providing just $5 an hour would find that the after tax value of that wage drops to less than $3. A person with no private pension or liquid investments—which, by the way, are not counted as "earnings"—from his or her working years may need to work in order to meet the most basic expenses, such as shelter, food and health-care costs.

There is also a myth that repeal of the earnings test would only benefit the rich. Nothing could be further from the truth. The highest effective marginal rates are imposed on the middle income elderly who must work to supplement their income. Plus these middle income seniors are precisely the group that was hit hardest by the 85-percent tax increase included in President Clinton's Budget Reconciliation Act of 1993. This tax increase hits hardest those seniors who were frugal during their working lives in order to save toward their retirement since the tax affects both their Social Security and their savings. The 85 percent increase has hit a group of seniors who are far from rich with a triple whammy and is a further disincentive to these seniors who could further contribute to our economic growth by working.

We have a massive Federal deficit. Studies have found that repealing the earnings test could net $140 million in extra Federal revenue. Furthermore, the earnings test is costing us $15 billion a year in reduced production. Taxes on that lost production would go a long way toward reducing the budget deficit. Nor, as it continues to become tougher to compete globally, can America afford to pursue any policy that adversely affects production or effectively prevents our citizens from working.

Mr. President, let me also note that changes to the earnings test will in no way jeopardize the solvency of the Social Security trust funds. Let me clarify for the record that the Social Security system will in no way be at risk if we alter the status quo in regards to the earnings test. To claim it would is a red herring and is unfortunately nothing more than a cruel scare tactic.

Let me also point out that one very disturbing consequence of the President's tax increase on Social Security is that it continues to punish those seniors who do work—what little they can due to the earnings test—in order to make ends meet. They are hit with both the tax on their benefits and the Social Security earnings test penalty. This is completely unfair.

It is certainly true that our Nation's seniors—as a group —are better off today that they were when Social Security was created in 1935. It is also true that many other groups in our society are suffering from declining standards of living. Deficit reduction and economic growth are of paramount concern for this Nation. But increasing the taxation of Social Security benefits is neither an appropriate nor effective way to achieve these goals.

Finally, it is simply outrageous to continue two separate policies that both keep people out of the work force who are experienced and want to work. We have been warned to expect a labor shortage. Why should we discourage our senior citizens from meeting that challenge? As the U.S. Chamber of Commerce, which strongly supports this legislation, has pointed out, "retraining older workers already is a priority in labor intensive industries, and will become even more critical as we approach the year 2000."

A number of our Nation's prominent senior organizations are lining up in favor of repealing both of these measures. Among these groups are the National Committee to Preserve Social Security and Medicare and the Seniors Coalition.

Mr. President, before I finish, I want to discuss the issue of delinking the blind. Let me clarify for the record that I support what my colleague from New Mexico, Mr. BINGAMAN had wanted to accomplish. The Social Security earnings limit effects more than just the elderly, it also effects the earnings of blind individuals who receive Government benefits. Unfortunately, the provisions of S. 1470 which were added to the debt ceiling bill breaks the link between the blind and the earnings limit.

Now we must act on the debt ceiling, which we must soon pass in order to ensure that the Government is not forced to close. There is not time to amend this bill and call a conference committee. We must send the debt ceiling to the White House as soon as possible. I was not pleased that the rule in the House did not allow for this issue to be fully addressed. But the House has acted and we are now limited by such action. This leaves us with few options.

I would hope, Mr. President, that perhaps the chairman of the Finance Committee, the Senator from New Mexico, and myself could agree on some date certain for the Finance Committee to address this issue. We could give our assurances to the blind community that the Finance Committee would act and that if they did not, then Mr. BINGAMAN and I would offer this amendment to another bill.

I would hope that we could take that path.

I know it is not the perfect solution. But I am doubtful that we will be able to solve this problem today.

Further, the Senator from New Mexico's amendment would not have fully relinked the blind to the earnings limit. The provisions of the Senior Citizens Freedom to Work Act raises the earnings limit from approximately $11,000 to $30,000 over a 7 year period. The Bingaman amendment would only raise the earnings limit for the blind from $11,000 to $14,000. Although this amendment offers the blind some relief, it does not offer full linkage.

I would hope that we could fully relink the blind to the earnings limit at the appropriate time.

I want all my friends in the blind community to know that I will work with them to see to it that this issue is properly addressed. I know that all of my colleagues are keenly aware of the problems associated with employment for the blind. But as I noted, we must pass this debt ceiling bill now. We cannot wait. We cannot risk closing the Government.

And I again, give every assurance I can to the blind community that we will address this issue and we will do it very soon.

Mr. President, in closing, America cannot afford to continue to pursue two separate policies that adversely effect production and are unfairly burdensome to one particular segment of society. Our Nation would be better served if we eliminate the burdensome earnings test and the grossly unfair tax increase and provide freedom, opportunity and fairness for our Nation's senior citizens.

For 8 long years I have fought to relax the Social Security earnings test. When the President signs this bill tonight or tomorrow, the battle will have been won and America's seniors have a right to rejoice.

Mr. COHEN. Mr. President, today, we are considering legislation which will extend the current $4.9 trillion debt ceiling to $5.5 trillion. I am pleased that the administration and the leadership on both sides were able to come together to take permanent action on this issue. However, I want to focus my comments on another important change included in this bill: Senator MCCAIN's proposal to raise the Social Security earnings limit.

This has been a priority for many years because of the earning limit's detrimental impact on retirees with low and moderate incomes who have to work out of necessity to maintain a decent standard of living. I hope that raising the limit will help these senior citizens who are just barely getting by with a Social Security check and whatever other income they can scrape together.

It is also clear that more and more retirees will need to work in the future. Retirement forecasters report that baby boomers did not get an early start on saving for retirement, so even more senior citizens will find it necessary to supplement their retirement savings and benefits with work to maintain a decent standard of living in the future.

To minimize the impact on the financial health of the trust fund that will occur when the limit is raised, we have had to accept tradeoffs. We will eliminate drug addiction and alcoholism as a basis for disability under the Supplemental Security Income Program and the Disability Insurance Program. This change is estimated to save about $5.5 billion in spending.

The operation of these two programs has a direct effect on the stability of Social Security. The public's positive perception of Social Security as our most successful Federal program is being threatened—not only because of the risk of insolvency—but also because of fraud and program inefficiencies in the Federal disability programs.

I want to remind my colleagues that we are already shifting payroll taxes away from the retirement side of Social Security to shore up the disability insurance trust fund. This reallocation has represented a shift of more than $38 billion in the last 2 years. By 2004, more than $190 billion will be transferred to the Disability Insurance Program. We must continue to guard against the abuse of these Federal benefits, particularly when we are taking funds out of retirement and putting funds into a program that is deeply troubled.

A blatant example of how our Federal disability programs have gone haywire came to light more than 2 years ago in an investigation of SSI and SSDI benefits being paid to drug addicts and alcoholics. The investigation was conducted by my staff on the Special Committee on Aging with the General Accounting Office.

We found that the word on the street is that SSI benefits are an easy source of cash for drugs and alcohol. The message of the disability programs had been: "If you are an addict or an alcoholic, the money will keep flowing as long as you stay addicted. If you get off the addiction, the money stops."

Rather than encouraging rehabilitation and treatment, the disability programs' cash payments have perpetuated and enabled drug addiction and dependency.

At a hearing of the Senate Special Committee on Aging I chaired, we heard from Bob Cote, the director of a homeless shelter in Denver. Mr Cote told the committee in riveting testimony that he personally knew 46 drug addicts who had died from drug overdoses from the drugs they bought with SSI checks. Mr. Cote went on to testify that a liquor store down the street from his shelter was the representative payee for over $200,000 in SSI checks, and a bar just two doors down from his shelter was the representative payee for $160,000 in SSI checks.

Taxpayers were outraged to learn that situations like these have been going on for years with almost no oversight by the Social Security Administration on how these tax dollars and trust fund moneys have been used.

Congress took steps to place better protections on the disability payments made to addicts and alcoholics. We mandated that all persons receiving disability benefits due to alcohol or drug abuse must receive treatment, imposed a 3-year cutoff for benefits for addicts and alcoholics, and toughened the representative payee rules in order to get cash out of the hands of addicts.

These reforms are now in effect and early examination suggests that this carrot and stick approach has worked to stem abuses in the disability program. The referral and monitoring system which was overhauled in 1994 more than pays for itself and will save the Federal Government more than $25 million in 1996.

The legislation before us today allows the Commissioner of the Social Security Administration to continue to refer drug addicts and alcoholics to treatment. Eliminating drug addiction and alcoholism as a disability will result in only 25 percent of recipients diagnosed as drug addicts or alcoholics actually leaving the program. A substantial portion will stay on the rolls, continuing to receive checks without receiving treatment. It is very important that the treatment money be made available to the States to rehabilitate substance abusers.

The legislation continues to require the use of responsible representative payees who will ensure that the Federal checks are being used for living expenses—not drugs and not alcohol.

The legislation also takes the necessary step to allocate funding to conduct continuing disability reviews [CDR's]. Until now, our hands have been tied because of the appropriations caps on discretionary spending. I commend Senator McCAIN's acknowledgment that it is short-sighted to ignore the need to provide more resources to SSA to comply with the mandate to perform CDR's. In the SSDI program, the agency is experiencing a backlog rate of more than 1.4 million cases. With that type of backlog, getting on disability means a lifetime of benefits, even for persons who could return to work. A recent HHS Inspector General report concluded that $1.4 billion could be saved if we could perform CDR's just on those backlogged cases.

Finally, we need to turn our attention to the current return to work policies in these two programs. Last year, the Senate Aging Committee began to review the record of SSA to promote rehabilitation for people with disabilities. Appallingly, only about 1 in every 1,000 persons on the disability rolls gets off the program through the SSA's rehabilitation efforts. The Federal disability programs have failed to keep pace with a more accessible workplace being created through the Americans With Disabilities Act and advances in medical technology.

More must be done to ensure that people with disabilities who can and want to return to the work force are given some assistance. There are a significant number of disabled recipients who want to work. Unfortunately, the program now discourages recipients from even trying to work, because they fail to take into consideration how recipients can be retrained and rehabilitated to eventually leave the rolls. I believe that we must pursue a policy which will put a greater emphasis on rehabilitation and return to work. At the same time we are acknowledging the benefits of allowing senior citizens to retain more of their earnings—a work incentive—we need to be open to the same ideas for people with disabilities.

Mr. SIMPSON. Mr. President, because we recently shouldered the important matter of extending the debt limit, I feel obliged to address the provision in that bill that increases the earnings limit for Social Security beneficiaries aged 65–69. As my colleagues know, this is a change that I have expressed serious concern about in the past. Now that enactment of this provision has come to pass, I want to state my views about the general issue of the earnings limit.

First, let me pay tribute to a fine chap, my esteemed colleague from the great State of Arizona, Senator JOHN McCAIN for his dogged determination and tireless efforts to effect this change in the law. I know that my past intervention on this issue has not always been truly welcome to my colleague—but I trust that my intentions, which were always constructive, were apparent.

It has never been my intention to permanently forestall all changes to the earnings limit. I trust that the provision attached to the debt limit extension provides the best available means of achieving the objectives of my friend from Arizona and all others who are interested in raising the earnings limit for seniors.

Clearly, I appreciate the fundamental principle behind the earnings limit legislation. Americans are living longer, are productive for more years, and our retirement systems need to recognize these facts. As chairman of the Senate Finance Subcommittee on Social Security and Family Policy, I have a demonstrated interest and responsibility to see that we adapt wisely and properly to these changes. One of my charges is to monitor any changes in Social Security policy and to ensure that those changes are not detrimental to the long-range solvency of the Social Security system. I have expressed my misgivings about previous funding mechanisms to "pay for" this legislation, and I am pleased to note that the offsets now come in a more straightforward manner from Social Security spending.

Ultimately, Congress must come to grips with the fact that American society is aging. For the benefit of today's workers, we must act to address these issues very soon, or the cost to our children and grandchildren will be catastrophically high. We must make changes to ensure the solvency of future retirement programs—we should increase the retirement age while at the same time offering inducements for Americans to work longer without suffering penalties that discourage continued participation in our work force.

We can't have it both ways—handing out plums that allow workers to stay in the work force in a productive way, while at the same time avoiding the hard choices that must follow—meaning raising of the retirement age. I hope that this first step will lead Congress to confront the next necessary decision. Increases in the Social Security eligibility age must be enacted soon, and the change will have to be phased in over a long period—perhaps 20 years—in order to be fair and effective. Such a plan will allow today's workers to plan for these changes.

This legislation to increase the earnings limit is offset in large part by terminating the disability benefits for drug addicts and alcoholics. Many have considered the payment of benefits to these groups to be an abuse of the Social Security system. This measure passed by the Senate makes a clear choice that we will subsidize the continued working activity of senior citizens instead of subsidizing these addictions of alcohol and drug use. Clearly, the Senate is appropriately going on record as to what activity we wish to encourage and what we want to discourage.

Another change that will offset the cost of this legislation is the increase in reviews of those people who are currently receiving disability benefits. Such payments were never intended to be a lifetime allowance to substitute for employment or self-employment. For years, the Social Security Administration has been unable to complete these required reviews—the result of which is that people are receiving disability payments long after their disability has either ceased or improved to the point where a return to work is possible. Not only will these reviews result in savings for the trust funds, but they will place able Americans who can return to work back in the workplace.

I congratulate Senator MCCAIN for finding the offsets that enable us to pay for the increased earnings limits for seniors. I am very pleased—you can hardly know how much—to be able to speak to this issue without having thrown a monkey wrench into the works and frustrating my colleague from Arizona. I am most hopeful that this measure will be merely a prelude to Congress coming to grips with the much larger issue of the aging of America and the future of our retirement programs. The steps that we must take in the future will never—in any way—be as popular as this measure, but we must have the political fortitude to make those decisions as well. That is our job, that is our duty.

Mr. DASCHLE. Mr. President, it is important that my colleagues recognize two very important aspects of the legislation we are considering today.

First, this legislation increases spending on Social Security and offsets that spending, in part, by using savings that had been identified as necessary to bring about a balanced budget. The language was changed at the last minute so that a point of order against using non-Social Security savings to pay for Social Security spending could be avoided. But I do think my colleagues should be aware that this legislation uses savings that had been identified for reducing the deficit.

Second, the savings in this legislation exceeds the level that is needed to pay for the spending increase. According to the Congressional Budget Office, this legislation achieves $3.5 billion in on-budget savings, and $1.8 billion in net savings over 7 years.

The impact of these provisions on the deficit would actually be higher than the CBO numbers indicate. This is because the bill would allow the discretionary spending caps to be increased in order to conduct more continuing disability reviews. These reviews are conducted to verify that beneficiaries are still entitled to disability benefits. Because of budgetary pressures, and competing priorities, the Social Security Administration has not been able to conduct as many CDRs as they would like. CBO estimates that, if fully utilized, this provision could result in net savings of $800 million dollars by the year 2002.

Finally, the savings are understated because CBO does not take into consideration the fact that raising the earnings limit means that beneficiaries who work will receive higher Social Security benefits. Under current law, if their income is high enough, they will be obligated to pay higher taxes. Actuaries at the Social Security administration estimate the impact to be $726 million over the 7-year budget window.

In sum, Mr. President, the net impact of the legislation we are adopting today is, in effect, to make a down payment on deficit reduction of more than $3 billion over 7 years.

SENIOR CITIZENS' RIGHT TO WORK ACT

Mr. GRAHAM. Mr. President, in this Congress, we have talked a lot about reforming welfare, about empowering people to help themselves, about removing disincentives to work for able-bodied citizens. Well, Mr. President, here is our chance.

Here are citizens who are not looking for hand-outs, who are not looking for favors, who are not even looking for help. These people are not looking for anything but the right to contribute—as working, tax-paying citizens—to their country. Are we going to continue to say, no, you cannot work. No, you cannot contribute. No, you cannot be considered a valuable part of our Nation's workforce?

Mr. President, I submit to you that our senior citizens can be a valuable part of our workforce. They have the experience, the maturity, and the desire to contribute to the workforce. And many of them are able to work and contribute significantly.

Mr. President, the Social Security earnings test may be our Nation's biggest disincentive to allowing those who want to work, who have asked to work, to continue to contribute meaningfully. Isn't it ironic that we have been talking about removing disincentives to work for those who are on welfare, yet preventing our Nation's seniors from contributing in any meaningful way?

These seniors are not on welfare; rather, they have spent a lifetime contributing to the Social Security Program—they have earned their benefits. We should not use the reduction of these benefits to prevent our seniors from working.

For every $3 that seniors aged 65 to 69 earn over $11,520 this year, the Federal Government takes away $1 in Social Security benefits. According to the Social Security Administration, about 930,000 seniors in this age group are affected by the earnings cap. But let me bring this policy issue away from the statistics.

Each month, I take a different job to stay in touch with the people I represent. In 1991, I took a job bagging groceries at the Winn-Dixie supermarket in Pace, FL, which is near Pensacola. I worked with a man by the name of Jim Young, who is a father of three and grandfather of two. And Jim needs to work. Like many Americans, Jim is looking ahead to the legal age of retirement with full benefits, but without a big retirement savings account. Listen to Jim Young explain this issue: "I don't have retirement savings, and there are a lot of other people who don't either."

Jim Young would like to work past the age of 65. He needs to work past the age of 65. And by current law, if Jim makes $18,000 when he turns 65—just $18,000, he will lose $1200 of his Social Security benefits. To people like Jim Young, to most older Americans, that's a lot of money. Why should the Government put up a barrier to block Jim Young from working, from supporting his family?

Some opponents of this legislation may make the argument that reform isn't needed because older Americans are well-off and therefore, don't need to work. To those people, I say: Talk to Jim Young, who now works in the produce department at Winn-Dixie. Talk to Winn-Dixie and find out whether employers want to hire the talents of older Americans like Jim Young.

True, when the Social Security earnings test was designed, it may have made sense to discourage older Americans from working, under the rationale that keeping seniors out of the job market would free up jobs for younger people who needed work.

But times have changed. The declining birth rate after the post-World War II baby boomer generation means that fewer teens are in the job market. Many employers are looking for seniors to fill jobs. And people like Jim Young are ready to work. They need to work. And to these people, we should say, "Go ahead. Support your family. Help yourself to improve your quality of life. We won't stand in your way."

Social Security was not designed to be the sole support of our senior citizens, but now, many seniors—like Jim Young—have little savings to supplement their benefits. And we have been saying to those seniors who can work, to those senior who want to work, that we want to penalize them for their efforts? This policy is unfair to our seniors. And even worse, it doesn't make sense.

Without the earnings cap, more seniors would likely choose to continue working. Additional revenue would be generated through Social Security and income taxes paid on their wages. This would substantially offset the increase in benefit payments.

In addition, we have been struggling to find ways to improve the long-term solvency of the Old Age, Survivors, and Disability Insurance Program. The Social Security Administration estimates that the offsets in this legislation would pay for the increase in the earnings limit. But the offsets would also improve the long-term solvency of the OASDI program by about 0.03 percent. That's not a lot, but it's a step in the right direction.

So you see, Mr. President, we cannot afford to discourage our older population from working. We need their experience. We need their skills. And we need to allow them to provide for their families.

When I go home to Florida and I see Jim Young and all of the other Jim Youngs who are working to support themselves and their loved ones, I want to say, we are proud of your efforts. We salute your efforts. And we thank you for your valuable contributions to this great Nation of ours.

So as we continue to talk about welfare reform and look for ways to help able-bodied people get back to work, I say: Let us take this issue out of the welfare arena and apply it to those who are not on welfare, to those who simply want to receive the benefits they have earned while continuing to be a part of the workforce. Let us look to our mothers, our fathers, our grandparents. Let us look to Jim Young.

Mr. President, approving this legislation to allow our seniors to work is good policy. It is fiscally sound. And it is the right thing to do.

Mr. NICKLES. Mr. President, clearly, the American people believe that Washington has too much control over their everyday lives. They attribute much of this to a Federal bureaucracy that has grown out of control over the last several decades. Today, the Senate will take a major step toward holding regulatory agencies accountable for the rulemakings they issue. In an effort to return common sense to Federal regulations, we are sending to the President legislation which will provide a formal Congressional review process of regulations issued by Federal agencies.

The Congressional Review Act before us is similar to S. 219, the Regulatory Transition Act that passed the Senate 100–0 a year ago this week. I fully concur with changes made by the House to the Senate bill and believe this represents a workable consensus agreement.

It is estimated that the direct cost to the public and private sectors complying with Federal regulations was $668 billion in 1995. This translates into a cost of $6,000 annually for the average American household. This means higher prices for the cars we drive, the houses we live in, and the food we consume. It also means diminished wages, increased taxes, and reduced government services.

The Congressional Review Act provides for a 60-day review period following the issuance of any Federal agency final rule during which the Congress may enact a joint resolution of disapproval, under a fast-track procedure in the Senate. If the joint resolution passes both Houses, it must be presented to the President for his action.

As in the Senate-passed version, the Congressional Review Act provides for a formal congressional review procedure following the issuance of any final rule by a Federal agency, during which the Congress has an opportunity to review the rule and, if it chooses, enact a joint resolution of disapproval. An expedited review procedure is provided in the Senate for 60 session days beginning on the later of the date Congress receives the agency's report on the rule, or the date the final rule is published in the Federal Register.

Upon issuing a final rule, a Federal agency must send to Congress and GAO a report containing a copy of the rule and also send to GAO or if requested, to Congress, the complete cost-benefit analysis, if any, prepared for the rule and the agency's analyses required by the Regulatory Flexibility and Unfunded Mandates Acts.

For major final rules, GAO shall provide within 15 days to the appropriate committee an assessment of the agency's compliance with the regulatory flexibility, unfunded mandates, and cost-benefit analyses performed by the agency.

Any Senator or Representative may introduce a resolution of disapproval of an agency final rule. The joint resolution of disapproval, which declares that the rule has no force or effect, will be referred to the committees of jurisdiction.

As provided in the Senate version the agreement contains the look-back provision provided to permit congressional review of major final rules issued between March 1, 1996, and the date of enactment.

With regard to concerns raised about unnecessary legal challenges to rules, this act, as in the Senate-passed version, provides that "no determination, finding, action, or omission under this title shall be subject to judicial review."

The agreement does not provide for expedited procedures in the House, but terminates the use of the Senate procedures on the 60th session day, instead of the 45-calendar-day review that was provided in the Senate version.

The Senate expedited procedures can be used to consider a resolution of disapproval that may be introduced with respect to most Federal agency final rules. All final rules that are published less than 60 session days before a session of Congress adjourns sine die, or that are published during sine die adjournment, shall be eligible for review and for fast-track disapproval procedures in the Senate for 60 session days beginning on the 15th session day following the date the new session of Congress convenes.

If the Senate committees of jurisdiction have not reported the resolution of disapproval within 20 calendar days from the date Congress receives the agency's report on the rule, or on the date the final rule is published in the Federal Register, whichever is later, a petition signed by 30 Senators may discharge the committee from further consideration and place the resolution of disapproval directly on the calendar.

Under the Senate procedures, the motion to proceed to the joint resolution is privileged and is not debatable. Once the Senate has moved to proceed to the resolution of disapproval, debate on the resolution is limited to 10 hours, equally divided, with no motions—other than a motion to further limit debate—or amendments in order. If the resolution passes one body, it is eligible for immediate consideration on the floor of the other body.

As provided in the Senate version, the Congressional Review Act declares that no court or agency shall infer any intent of the Congress from any action or inaction of the Congress with regard to a rule unless the Congress enacts a joint resolution of disapproval regarding that rule. As all of my colleagues are well aware, the Congress at any time can review and change, or decide not to change, rules or their underlying statutes. Accordingly, it is my belief that the courts should not treat the mere introduction of a joint resolution of disapproval as grounds for granting a stay to any greater or lesser extent than the courts now take cognizance of any other bills that are introduced.

Major final rules, which the Congressional Review Act defines as final rules that meet the criteria for "major rules" set forth in the Reagan Administration's Executive Order 12291, may not take effect until at least 60 calendar days after the rule is published. However, major final rules addressing imminent threats to health and safety, or other emergencies, criminal law enforcement, matters of national security, or issued pursuant to any statute implementing an international trade agreement may be exempted by Executive Order from the 60-day minimum delay in the effective date. The decision by the President to exempt any major final rule from the delay is not subject to judicial review.

Major final rules would not go into effect after the 60-day period if the joint resolution of disapproval has passed both Houses within that time. If the joint resolution of disapproval is vetoed, the effective date of the final rule will continue to be postponed until 30 session days have passed after the veto, or the date on which either House fails to override the veto, whichever is earlier.

To address statutory or judicial deadlines that apply to disapproved rules, these deadlines are extended for one year after the date of enactment of the joint resolution.

Currently, Congress must approve tax increases, and thanks to the Unfunded Mandates Act passed last year must also focus its attention on any major unfunded mandate. But Congress has virtually no formal role, other than oversight, over the promulgation of a Federal regulation, even if its impact on the economy is measured in billions of dollars. There may have been a time in our Nation's history where congressional review wasn't important. But agencies are now very large, with broad authorities and individual agendas. This new act will help Congress carry out its responsibility to the American people to ensure that Federal regulatory agencies are carrying out congressional intent.

Finally, I wish to extend my sincere appreciation to Senator HARRY REID who has worked tirelessly on this issue since its inception.

MIA'S IN NORTH KOREA—SECTION 1607—UNITED STATES-NORTH KOREA AGREED FRAMEWORK

Mr. MURKOWSKI. Mr. President, as we prepare to vote on the conference report on H.R. 1561, the Foreign Relations Revitalization Act of 1995, I would like to direct my colleagues' attention to one provision of the act that relates to what, I believe, is an often-overlooked issue. That issue is the fate of more than 8,100 American servicemen from the Korean war.

We have always demanded the fullest possible accounting in Vietnam for those listed as missing in action, and the question that I think must be asked is, why not North Korea as well?

Of the 8,100 servicemen not accounted for after the Korean war, at least 5,433 of these were lost north of the 38th parallel. In Vietnam, by contrast, the number of unresolved cases is 2,168, and Vietnam has cooperated in 39 joint field activities.

The United States Government recently announced plans to contribute $2 million through United Nations agencies to relieve starvation in North Korea. The donation was consistent with other instances where the United States seeks to relieve human suffering, despite disagreements with the government of the receiving country.

What is inconsistent with United States policy is our failure to ensure that the Democratic People's Republic of Korea addresses the humanitarian issue of greatest concern to the American people—the resolution of the fate of servicemen missing in action since the end of the Korean war.

I think the families of the servicemen see that same inconsistency. I would refer my colleagues to a March 26, 1996, front page story in the Washington Post, "The Other MIAs, Americans Seek Relatives Lost in Korea." In that story, the President of the Korean/Cold War Family Association of the Missing was quoted as saying: "North Korea wants humanitarian assistance, yet they won't give it themselves. Our families are starving to know what happened to their loved ones. We want an accounting for these men. They deserve an accounting. It's grossly dishonorable to walk away from them." I could not say it better.

I remind my colleagues that relations between the United States and Vietnam did not even begin to thaw until the Government of Vietnam agreed to joint field operations with the United States military to search for missing servicemen. The pace and scope of normalization was commensurate with Vietnam's cooperation on the MIA issue and other humanitarian concerns. In every discussion between United States Government officials and their Vietnamese counterparts, the MIA issue war paramount. The Vietnamese received very clear signals that progress in normalizing relations with the United States would come only after progress was made on the MIA issue.

In contrast to our Vietnam policy, United States policy toward North Korea lacks this focus. The recent announcement regarding food aid did not mention our interest in the MIA issue. The agreed framework between the United States and the DPRK does not talk about cooperation on MIA's—even though the framework commits the United States to give the DPRK free oil and supply two highly advanced light-water reactors; a total package that exceeds $5 billion—$4 billion for the reactors and $500 million for the oil, not counting potential future aid for the grid system to distribute the power that the reactors will produce. The agreed framework also envisions the United States lifting trade restrictions and normalizing relations—regardless of any movement on the MIA issue.

The most obvious difference between Vietnam and North Korea is North Korea's nuclear program. The United States has an overriding national security interest in stopping the North Korea nuclear program. Nevertheless, I do not believe we should have ignored the MIA issue. That is why I have introduced legislation (S. 1293) that would prevent establishing full diplomatic relations or lifting the trade embargo until the DPRK has agreed to joint field operations.

The conference report before us is consistent with S. 1293. Section 1607 states the sense of the Congress that:

> the President should not take further steps toward upgrading diplomatic relations with North Korea beyond opening liaison offices or relaxing trade and investment barriers imposed against North Korea without . . . obtaining positive and productive cooperation from North Korea on the recovery of remains of Americans missing in action from the Korean war without consenting to exorbitant demands by North Korea for financial compensation.

I urge the Clinton administration to pursue the policy that is laid out in section 1607.

I recently had the opportunity to sit down with our dedicated armed services personnel in Hawaii who are responsible for negotiating with the North Koreans on the MIA issue. It was clear from that briefing that joint field operations would have a high probability of considerable success because, unlike Vietnam, the United States has concrete evidence of the sites of mass U.N. burial grounds and prisoner-of-war camp locations. But United States personnel have no access in North Korea to these sites. The only thing preventing our personnel from going in and making these identifications is the North Koreans.

The North Koreans have been unilaterally turning over some remains. Unfortunately, the North Koreans, without training in the proper handling of remains, have turned over excavated remains that have not been properly handled, making identification vastly more difficult, if not impossible. Of the 208 sets of remains turned over since 1990, only 5 sets have been identified.

Despite United States aid flowing to North Korea, the Koreans have repeatedly attempted to link progress on the remains issue to separate compensation—amounts of money seemingly far in excess of reimbursement costs for recovery, storage, and transportation of remains. The U.S. Government must stand by its policy not to buy remains—this would degrade the honor of those who died in combat. Instead, the United States has offered to reimburse North Korea for reasonable expenses, as we do in Southeast Asia. Talks to try to move the MIA remains repatriation issue forward at this moment appear stalled.

While the United States has been careful not to link the nuclear issues with other policy concerns in North Korea, it is not unreasonable for the United States to consider North Korea's behavior on other issues, such as the MIA issue, when considering whether to provide humanitarian aid to the closed nation. For the families of the 5,433 soldiers and airmen still missing more than 40 years after the end of the conflict there is no more humane action that North Korea could take than to let America have sufficient access to try to resolve as many of these cases as possible.

We have demanded fullest accountability from the Government of Vietnam on the MIA issue. We should demand the same of the Government of North Korea.

CONGRESSIONAL REVIEW AND SMALL BUSINESS REGULATORY FAIRNESS BILL

Mr. LEVIN. Mr. President, it has been 17 years that I have fought for and supported a mechanism for congressional review of agency rules before they take effect. Believe it or not I ran for the Senate in 1978 on the need for legislative veto. That's what we called the right of Congress to review important regulations and stop the ones that don't make sense before they take effect. After the Chadha case, we changed the name from legislative veto to legislative review since the Supreme Court ruled that legislative vetoes—involving only one or two houses of Congress without the President—were unconstitutional. This bill uses a joint resolution of disapproval which is a constitutional mechanism and which was the cornerstone of a bill I introduced with Senator David Boren from Oklahoma back in the early 1980's.

My proposal was adopted with respect to the Federal Trade Commission and the Consumer Product Safety Commission. It was passed by the Senate, with respect to all Federal agencies, on the omnibus regulatory reform bill, S. 1080, in the 96th Congress. But it didn't become law then, and despite repeated efforts over the year, it hadn't become law until this time.

As a longtime member of the Governmental Affairs Committee, I have worked on various regulatory reform proposals, but none has been as significant to me as legislative veto or legislative review. That's because it, alone, puts important regulatory decisions in the hands of the politically accountable, only directly elected branch of the Government, and that is the Congress. And that's where I think these important public policy decisions belong.

The provision we are adopting today, which is similar to the proposal we passed on S. 219 last year, is not exactly what I would have chosen to support, but it's close enough. I think it would have been wiser to have the legislative review apply only to major rules and not every rule issued by Federal agencies. We want to concentrate our energies—at least in the beginning—on the rules that have the greatest impact and not be overwhelmed with requests to review hundreds of rules at the same time. It's been estimated that over 4,000 rules are issued in any 1 year. That amount could simply overtake our ability to be effective with respect to any one rule. That is why I think it would be preferable to have this legislation apply to only major rules—that is, rules that have an economic impact of over $100 million of costs in any 1 year.

I am also concerned about the requirement that each agency physically send to each house of Congress and to the GAO a copy of the final rule, a description of the rule, and notice of the effective date. That is a large and unnecessary paperwork burden that must be met before any rule can take effect. That means for even a small, routine rule, the agency will have to send us the rule and required description. Almost all rules are already published in the Federal Register and we can read that as readily as the public can. I think this will prove to be an unnecessary requirement that needlessly generates paper, and takes precious staff time at both the agencies and in the office of the Secretary of the Senate and the Clerk of the House.

I am also concerned about the change the House made with respect to counting days as calendar days. The bill we have before us would allow a major rule to take effect within 60 calendar days, but would allow the expedited procedure for congressional review to occur within 60 legislative or session days. That's a very big difference in time. At the end of a session of Congress, that could mean we would have the opportunity to disapprove a rule possibly 6 months after it took effect. I think that opens the rulemaking process to unintended and unnecessary mischief. The rule would be in effect, the regulated community would be expected to comply with the rule, and then Congress could come along, using expedited procedures, and repeal the rule. That will create a great deal of uncertainty for businesses and governments alike.

Moreover, Mr. President, the fact that Congress retains the legal right, using expedited procedures, to overturn a rule should not be used by a court to stay the effective date of a rule or to allow a regulated person to delay compliance. That would violate the intent of this legislation. We are very clear in this legislation that major rules take effect within 60 calendar days and nonmajor rules take effect in after the rule is sent to Congress and in accordance with the agency's normal procedures. There is no basis in this legislation for delaying the effective date or the requirements for compliance with a rule other than what I just described. So a court would not have any basis for delaying compliance based on the longer period for expedited procedures.

The expedited procedures are Congress' internal mechanism for prompt consideration of a joint resolution to disapprove a rule. We could disapprove rules now, by using a joint resolution of disapproval. But being aware of that possibility does not permit a court to waive compliance or delay the effective date of a rule and it shouldn't just because we've added expedited procedures.

I expect we will monitor the implementation of these requirements carefully and make the necessary changes as we identify real-life problems. That will certainly be my intention.

These procedural problems aside, though, Mr. President, I am pleased with this legislation. No longer will be able to tell our constituents who complain about regulations that do not make sense, "talk to the agency," or "your only recourse is the courts." Now we are in a position to do something ourselves. If an agency is proposing a rule that just does not make sense from a cost perspective it will be easier for us to stop it. If a rule doesn't make sense based on practical implementation, we can stop it. If a rule goes too far afield from the intent of Congress in passing the statute in the first place, we can stop it. That's a new day, and one a long time in coming.

How much time these new responsibilities will take and how often the resolution of disapproval will be exercised, no one can predict. We may be surprised in either direction. But as we work with this process and learn from this process, we can make the necessary adjustments in the law. The important thing is that we get this review authority in place and I am very pleased that we are going to be able to do that in this legislation.

I'd like to comment on title III of this bill as well. As a member of both the Small Business Committee and the Governmental Affairs Committee, I am particularly familiar with and interested in the small business regulatory fairness provisions. I support adding judicial review to the Regulatory Flexibility Act and, like legislative review it's been a long time in coming. It will be the stick that forces the regulatory agencies to pay attention to their responsibilities with respect to small governments and small businesses

I have previously commented on my concerns about the provision establishing the SBA Enforcement Ombudsman. While I can support this provision, I do not think it goes far enough in using the traditional role of ombudsman to resolve enforcement disputes, and I will be pursuing legislation in the vein in the Governmental Affairs Committee. I am relieved, however, that we have made it clear that while a responsibility of the ombudsman is to evaluate and rate agencies based on their responsiveness to small business in the area of enforcement, it is not the responsibility of the ombudsman to rate individual personnel of those agencies. This is an important issue because, while we certainly want to promote and ensure fair treatment of small business with respect to regulatory enforcement, we do not want to weaken or intimidate our enforcement personnel so they fail to do the job we require of them. Senator BOND made those assurances in a colloquy we had when this bill initially passed the Senate.

I also want to note that the Small Business Regulatory Fairness Board created by this legislation is subject to the requirements of the Federal Advisory Committee Act. This ensures that the business conducted by this panel is open to the public and that any potential conflicts of interest are known. Obviously, since the bill limits membership, the requirements of FACA for balanced membership would not apply. But to the extent the requirements of FACA can apply, they are expected to apply, and that is why this provision is acceptable.

The provision granting the small business advocacy review panel the opportunity to see a proposed rule before it is published in the Federal Register is a novel step. While the panel is comprised of Federal employees, the panel is directed to obtain comments and input from small entities. The purpose of this comment and review is to assess whether the agency lived up to its responsibilities under the Regulatory Flexibility Act. It is my understanding that the panel is not permitted or expected to share a copy of the draft proposed rule with the small entities with whom it confers, but rather to field comments and concerns about the nature of the rulemaking and its possible effects on small entities. This is an important limitation because to allow otherwise would be to give a unique advantage to one group that is not permitted to other persons affected by the proposed rule.

Mr. President, because this bill is attached to the debt ceiling bill, some of these provisions will take effect immediately. There will be start-up problems with some of these provisions, in particular the congressional review process, because there is no preparation time. We should recognize the reality of these problems and work diligently to mitigate them.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. COVERDELL. Mr. President, I yield myself as much time as I may need. I see several Senators who are waiting to give remarks. I alert them that I will not be long. I simply must make a remark or two about the statements that have been addressed before the Senate by my colleague from Louisiana.

He, obviously, is very much a student of the issues of China and Taiwan and the United States. He speaks with great sincerity and knowledge. I think he raises a significant dilemma. While we all acknowledge the scope of new China, the People's Republic of China, its size, its military prowess, its emerging economy, it almost reminds you of the Gold Rush, the oil booms, but given that, bigness in size and power alone cannot be the stanchions upon which we, or the rest of the world, establish our relationship with the People's Republic of China.

Yes, those are critical ingredients. They cannot stand apart from everything else. The 20 million people who live in the Republic of China Taiwan also have long claim to one-China policy, but it does not accept dictatorship or oppression or many others of the grievous policies of the People's Republic of China.

From the time Chiang Kai-shek retreated to that island in 1949, that was a conquest, in a sense, of Taiwan. The native Taiwanese, who outnumbered those who retreated, have long harbored the independent or nationalistic movement. I think a reality of contemporary review of this situation has to acknowledge that that movement is likely to grow, and a reality of this democratic election that just occurred was that President Li was faced, as we are, with contemporary issues in our own country, with the nationalistic spirit that is emerging there.

The one-China policy cannot, with the flick of a light, turn that way, even though it is much larger, much more powerful. It just cannot obviate this nationalistic movement, and I do not think we can ignore it.

I do not believe that the People's Republic of China—and I heard Dr. Kissinger when he appeared before the Foreign Relations Committee. He basically slapped the wrist of the United States and Taiwan and the People's Republic of China.

But for the People's Republic of China to come to the point where, because of their size and because of their prowess, they are going dictate to the United States who can visit here—I mean, what is a visit is not an abrogation of the one-China policy. Their leaders visit here, too. I think that does need to be confronted, or addressed; maybe that is a better word.

So, I think the Senator is right that it is not just appeasement and not just confrontation. But that projects appeasement as well as confrontation. In the tone of the remarks, I felt it was somewhat of an apology for our endeavoring to struggle with the People's Republic of China and we should accept their edicts because of their size and their power. I personally would reject that. I do not think that is what the Senator meant, but in the tone of it, the excusing of the sale of powerful weapons, human rights violations—that is still a rogue government. It is still a dictatorship.

While I think it is a delicate issue for us to struggle with, I do not accept appeasement because of their size nor because of their economy. I do not mean to dwell on that long, but I did want to comment.

Mr. JOHNSTON. If the Senator would yield, I was not suggesting—and I tried to make it clear—I was not countenancing any violations of the missile treaty control regime, which, by the way, I do not. If they violate it—my own opinion is they did. That violation was, what, 3, 4 years ago. I forget exactly when. They have the capacity to continue to violate it further, but are not at this time.

I do not excuse that. But I say that really what we ought to do is reassure Taiwan, as we have, that the law of the land is the Taiwan Relations Act, that we will not countenance any invasion of Taiwan, but that our policy ought to encourage peaceful reunification, one China, peaceful reunification, two regimes, which six Presidents have signed on to, and we should not change that—that is what I am saying—and reassure both parties.

Mr. COVERDELL. But if I might, six Presidents have reaffirmed that. That is a long time. As the Senator has said, the burgeoning economy of China has gotten to a place that even the Senator had missed, and the Senator has revisited and seen it. That is a massive change during this course of time. The point I am trying to make is, there are equally important changes that are occurring in Taiwan.

Mr. JOHNSTON. Exactly.

Mr. COVERDELL. Among them, that cannot be undone, is there a growing movement that it is a democracy. That is a democracy. The People's Republic of China is not. They are miles apart in that. There is a growing and emerging spirit within this island that they should be free and they should never be intimidated into the kind of government that the People's Republic of China still is, and they have empirical evidence of the way that government would operate by watching even the situation in Hong Kong today, which is a very disruptive situation, as you know, and very controversial.

So they have reason to be deeply concerned about their own freedom which they now own. That is a change in the flow of events among them.

Mr. JOHNSTON. Is the Senator saying that we should encourage a unilateral declaration?

Mr. COVERDELL. No, I am not. That phenomenon is as real and different as some of the changes the Senator pointed to that have occurred in the People's Republic of China. It cannot be ignored.

Mr. JOHNSTON. Would my friend find at fault this formulation, that the United States should make it clear to both sides that reunification, if it occurs, is a bilateral decision of the two countries, to be taken peacefully, and that the United States step aside, step out of the arena, having reassured both sides—Taiwan that we do not countenance any invasion, and the PRC, that we are not encouraging a unilateral declaration of independence—and let those two parties make their decision?

Mr. COVERDELL. I think one of the things that the Senator said in his initial remarks, that would be my answer to that—and it goes back to the point I just made about massive changes occurring in the People's Republic of China and in Taiwan—would be that when you call upon the President to maybe articulate, as much of what all of us say are captured by views and attitudes that perhaps were obsolete.

So I do not know that I would specifically accept or embrace the point the Senator made just now, but I would acknowledge that there are major changes occurring in the geography of the area and it does require all of our attention. I admire the effort that the Senator has given to the subject, but I just wanted to remind us that there are two sets of phenomena and changes that are occurring. I do not believe President Li had any option but to acknowledge the winds of change and attitudes on his own island.

Mr. President, I was going to make some remarks about the drug policy, but I am going to defer that. I see the manager of the bill has returned to the floor. I know the Senator from California——

Mr. THOMAS. Would the Senator yield for a question?

Mr. COVERDELL. I certainly would.

Mr. THOMAS. With regard to the discussion that we are having, I wonder if the gentleman would agree that what we are talking about here basically is the bill before us, and some of the discussion has been about several of the components of that bill which I find do not place us on the side of being opposed to the one-China policy, and they do not place us on the side of being particularly supportive of one or the other of these parties, but rather indicate that we expect to stick with the agreements that are made on both sides.

Mr. COVERDELL. I would agree.

Mr. THOMAS. I was a little surprised that the suggestion was that all of the problems were because President Li came here. There are some problems on the other side, agreements that have not been lived up to. I wonder if the gentleman would agree that that is what this bill is about, is to have agreements with both of these sides and to expect that they be lived up to?

Mr. COVERDELL. I do agree. I appreciate the remarks by the Senator from Wyoming. I mentioned, in the colloquy between myself and the Senator from Louisiana, that, indeed, I do not find the visit by President Li as a reprehensible act. It seemed to me to be a rather normal exchange. I concede the sensitivities, but I do not believe the People's Republic of China should be carrying their concerns and sensitivities to the point that they are telling us who we might have visit the United States.

Mr. JOHNSTON. Will the Senator yield?

Mr. COVERDELL. I will.

Mr. JOHNSTON. When the statute says we should invite President Li, they should come with all appropriate courtesies, that is just not a casual visit, as if by a foreign tourist. "All appropriate courtesies" means, in effect, we ought to invite a head of state and have this, in effect, as a state visit. Is that not what the plain language means?

Mr. COVERDELL. I think you expand the interpretation of the language. That may be interpreted in the eye of the beholder, but it would certainly be viewed by President Li one way and the People's Republic of China another. But we extended appropriate courtesies to the leaders of the People's Republic of China that visited our country.

Mr. JOHNSTON. I know. But when it says we should seek a visit with "all appropriate courtesies," what does "all appropriate courtesies" mean?

Mr. COVERDELL. As I just said, it could be interpreted in many ways. But I would remind the Senator that that is nothing more than a sense of the Congress, and not law.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I yield—how much time does the Senator want?

Mr. THOMAS. Ten minutes.

Mr. HELMS. I yield 5 minutes to the distinguished Senator. But before he begins, Mr. President, I have a little housekeeping task to do for the leader.

WAIVING CERTAIN ENROLLMENT REQUIREMENTS

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 168 received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 168) waiving certain enrollment requirements with respect to two bills of the One Hundred Fourth Congress.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. HELMS. Mr. President, I ask unanimous consent that the joint resolution be considered, read a third time, and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The joint resolution (H.J. Res. 168) was passed.

Mr. HELMS. I thank the Chair, and I thank the Senator.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for up to 5 minutes.

Mr. THOMAS. Mr. President, I rise in support of the conference report on H.R. 1561, the State Department Reorganization Act, and of the distinguished chairman of the Foreign Relations Committee.

I do not need to reiterate for my colleagues the tortuous route that this bill has followed to make it to the floor today; I believe we are all aware of it. Let me just note why I feel this bill is important.

This legislation was the first authorization measure to reach the floor of the Senate within budget targets, fulfilling the mandate the American people gave us last November. This bill is a promise kept: money is saved, redundant bureaucracies eliminated, and the ability of our Nation to conduct foreign policy enhanced.

We will hear all sorts of arguments against this legislation. Let me just address a few that fall within the jurisdiction of my Subcommittee on East Asia. Several of my Democrat colleagues circulated a "Dear Colleague" letter last week on the China-specific provisions of the conference report. In it, they expressed concern that "[s]everal provisions in this report are unnecessarily provocative to China and precipitate continuing destabilization of U.S.-Sino relations."

Let me say here that I am a great supporter of improving relations with the People's Republic of China; I am supportive of the one-China policy. But I have examined the sections with which they were concerned, and find them essentially to be strawman arguments, without impact on our adherence to the one-China policy. Let me go through them one by one.

First, they are concerned with section 1601, which declares that the provision of the Taiwan Relations Act (22 U.S.C. §§3301 et seq.) supersede provisions of the United States-China joint communique of August 17, 1992.

Frankly, as the chairman of the Subcommittee on East Asia and Pacific Affairs, I don't share their opposition to this particular provision. The Taiwan Relations Act, which governs our relationship with Taiwan, is a statute and as such is the law of the land. The only thing which could supersede it would be a treaty. The communique, however, is not a treaty; it was never presented to the Senate for its advice and consent. Rather, it is simply an official announcement of the intentions of the respective parties. Consequently, it is not binding on either party, and has no force of law in the United States.

Section 1601 is therefore simply a restatement of legal fact. As such, I am at a loss to understand why it would be objectionable to the Chinese, objectionable to my colleagues, or a source of encouragement to pro-independence elements on Taiwan.

Second, they fault section 1708 which supports the admission of the President of Taiwan with all appropriate courtesies. Mr. President, while I myself am not a fan of this section, I would note first that the section does not mandate the admission of President Li. Second, I would note that just this week President Lee said we would not seek to make such a visit.

Third, they fault section 1606 which would according to them, and I quote, "impose unnecessary new reporting requirements on the State Department to provide detailed information and political judgments on the implementation of the Sino-British Joint Declaration on Hong Kong".

I find this the least compelling of their concerns. We regularly require the State Department to make these reports all the time; the Department probably prepares such a report on almost every country in the world save some of the smaller ones.

We have a real interest in assuring that the People's Republic of China lives up to their agreements, and such a report would be extremely important that they do so in relation to their promise to protect democracy there after 1997. An annual report would be especially helpful to this body in following developments there.

Their next complaint is that section 1603 would change the name of Taiwan's office here from Taiwan Economic and Cultural Representative Office to Taiwan Representative Office. I fail to see how this simple name change can cause so much consternation.

Finally, Mr. President, they oppose section 1303, regarding Tibet. I would note, however, that this section simply authorizes the President to appoint a special envoy; it does not require him to do so. If he finds the idea so objectionable, then he does not have to make the appointment.

Mr. JOHNSTON. Will the Senator yield?

Mr. THOMAS. I yield.

Mr. JOHNSTON. Mr. President, what I meant is sort of a precipitating event that caused this tit-for-tat thing, and the Chinese are clearly greatly to be criticized for all of those things that my colleague said, but I really meant the precipitating events. You can point to that as the events that started it all, and that has led from that point on.

Mr. THOMAS. I appreciate the comments. I do not think there is any question that we should understand how important that is to the People's Republic of China. It probably means more to them than it does to us and we need to recognize that.

So my colleagues can see that these five sections, taken independently, are of little if any import. Some of my colleagues have said that, while that may be the case, taken together they are alarming. Well, Mr. President, if separately these sections equal zero, then they still equal zero when added together.

I take exception to the argument of the Senator from Louisiana that United States-China relations were going along fine until we decided to admit President Li to the United States, and that these sections will simply make matters worse. Frankly, that's a statement I would expect to hear from the Chinese Ambassador here. What about their nuclear transfers to Pakistan? What about their failure to live to the intellectual property rights agreement? What about their pretensions in the Spratly Islands? What about human rights violations? What about their back-sliding regarding Hong Kong?

Mr. President, the present state of affairs is hardly the sole fault of the United States. And these give sections are hardly going to cause a precipitous downturn in those relations. As the Chinese say, it takes two hands to clap.

So again Mr. President, I rise in support of this proposal. I think it is one of the things that the voters said to us in 1994. They said we need to make some changes in the way the Federal Government operates; that the Government is too big, it spends too much, and that we should find better ways to deliver services, that we should find more efficient ways to use tax dollars.

This bill is the way to do that. Mr. President, every other sector of our Government is facing difficult cuts and reorganization; the foreign policy sector should have to bear the same burden as any other. This is not about isolationism, though many Democrats would have the public believe otherwise in a hope to obscure the issue, not about usurping the role of the executive branch, nor is it about a vendetta aimed at a particular set of bureaucrats.

I cannot commend Chairman HELMS enough on his hard work and persistence on this legislation; I urge my colleagues to support it.

DEBT LIMIT INCREASE

The PRESIDING OFFICER. The Chair announces that H.R. 3136 has just been received from the House, and under the previous order the bill is considered read a third time and passed and the motion to reconsider is laid upon the table.

So the bill (H.R. 3136) was considered read the third time and passed.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

Mrs. FEINSTEIN. Mr. President, I believe I have an hour reserved and I yield myself such time as I may consume.

Mr. President, I rise as a member of the Foreign Relations Committee to express my strong opposition to the conference report to accompany H.R. 1561, the State Department authorization bill.

This bill has been the cause of much turmoil, as we all know. It began with the markup of a bill that the Democrats on the Foreign Relations Committee had no part in drafting, and that many felt contained an excessively far-reaching plan to eliminate three foreign affairs agencies: The Agency for International Development, the Arms Control and Disarmament Agency, and the U.S. Information Agency.

When that bill reached the floor, Republicans were unable to invoke cloture on it. Meanwhile, the Senate was prevented from taking action to confirm 18 ambassadors, several hundred Foreign Service officer promotions, and to consider two critical arms control treaties—START II and the Chemical Weapons Convention.

Finally, last December, after several arduous weeks of negotiating, the distinguished chairman of the Foreign Relations Committee, Senator HELMS, and the distinguished Senator from Massachusetts, Senator KERRY, reached a compromise version of the consolidation plan that allowed the bill to be voted out to conference.

This, in turn, resulted in the Senate immediately confirming the ambassadorial nominations that had been on hold, and taking action soon thereafter to ratify the START II treaty. In addition, hearings are now underway that will lead to a vote by the full Senate on ratification of the Chemical Weapons Convention by April 30. For that I am grateful.

I was among those who voted for S. 908 last December, in part because I felt the compromise consolidation plan reached by Senators HELMS and KERRY was a reasonable plan. However, my major motivation was to get it to conference so that we could take action on the ambassadors and treaties that were before the Senate.

Unfortunately, the bill that has come back from conference has many, many problems. First of all, the consolidation plan that came back from conference has moved considerably from the fairly reasonable compromise reached by Senator HELMS and Senator

KERRY. The conference report version requires the elimination of three agencies: USAID, ACDA, and USIA, two of which the President can later choose to preserve. This provision differs sharply from the preconference version which gave the President full discretion over whether or not to eliminate an agency. The new report also requires $1.7 billion in savings over 4 years, rather than over 5 years, as was in the Senate-passed bill.

Now, philosophically, Mr. President, it is my very strong belief that a President, any President, must and should be able to organize or reorganize the foreign affairs agencies of the United States as he or she sees fit.

I basically believe that foreign policy should be bipartisan, that we should work out our difficulties and speak as one Nation, as represented by our President. But I believe the President must be in charge of foreign policy. I came to that belief, Mr. President, ironically when I was a mayor. I was visited by the Chancellor of Germany, Helmut Schmidt. I saw, when I visited with him at the Fairmont Hotel, that he was chain smoking and was very upset. I said, "What is wrong?" He said to me an interesting thing. He said, "You know, you Americans have no idea what you do when you reinvent the wheel of foreign policy every 4 years. You have no idea what it does to your allies." He went home and, 2 weeks later, he resigned.

I thought that was very interesting, and I never forgot what he said. So I began to watch American foreign policy a little differently. I saw where it is very difficult for many countries to really understand with what voice this Nation really speaks. I understand the separation of powers. I understand the balance of powers. And yet, we must, as a nation, speak to other nations with one voice and with clearly defined policies. I am finding that becomes more and more difficult.

So, consolidation is not the issue. Many of us support consolidation, but we can only support it if it is done in such a way that we provide our President, whether he be Republican or Democrat, with flexibility in the organization of the foreign affairs agencies. Unlike the compromise version that passed the Senate, this conference report returns to a coercive approach that forces the President to eliminate at least one agency over his objections. I simply cannot support a consolidation plan structured in this manner.

Second, this conference report does nothing to address the unprecedented restrictions that were placed on U.S. international population and family planning assistance in the fiscal year 1996 foreign operations bill.

After months of stalemate on that bill, a conference report was sent to the President, which has the effect of cutting U.S. international population and family planning programs by some 85 percent. These restrictions will have a seriously negative effect on women and families around the world. Family planning assistance, which helps women plan and space their pregnancies, has proven to be a major factor in curbing poverty and starvation and overpopulation, and providing the opportunity for a decent way of life in many parts of the world that are badly overcrowded with children starving by the thousands because of lack of food.

Ironically, the restrictions in the foreign operations bill are advocated by those who oppose abortion and argue for a so-called pro-family agenda. But U.S. law already forbids the use of any U.S. foreign assistance for the provision of abortions.

As the distinguished chairman of the Appropriations Committee, who is a proud opponent of abortion, has pointed out time and time again, depriving millions of poor women of access to voluntary family planning services will only result in more unwanted pregnancies and more abortions. This bill fails to address these misguided restrictions.

Third, this bill prohibits any funds from being used to open, expand, or operate diplomatic or consular posts in Vietnam, unless the President certifies that the Vietnamese Government is fully cooperating with the U.S. in a number of areas related to the search for POW's and MIA's—a worthy statement. The problem is that these areas are effectively uncertifiable. In addition, failure to expand our new relationship with Vietnam could actually jeopardize the significant progress that has been made on the POW/MIA issue.

Furthermore, this provision unduly restricts the President's ability to conduct foreign relations according to his understanding of U.S. national interests. And by this I mean that it places conditions on whether or not the President can open an embassy.

Finally, at the time of the vote on S. 908, I made it very clear that there was an entire category of provisions in the bill, wholly separate from the consolidation aspect, that I found deeply troubling. These provisions related in various ways to the United States' relationship with the People's Republic of China, the largest country on Earth, and the most dynamically growing country in the world today.

At that time, I expressed the hope that these provisions would be ameliorated or removed in conference. In fact, I said that the resolution of these matters would be critical to my consideration of whether or not to support the conference report.

Unfortunately, virtually every one of these provisions remains in the bill. Some are in a slightly modified form, but they remain objectionable. There are even some new provisions on China in this conference report that were not in the original bill. Let me first list the provisions in this bill relating to China and then explain why they will result in my voting against this conference report.

Section 1601 declares that the provisions of the Taiwan Relations Act supersede provisions of the United States-China joint communique of August 17, 1982.

Section 1603 allows the Taipei Economic and Cultural Representative Office, TECRO, to change its name to the Taipei Representative Office.

Section 1606 imposes unnecessary new reporting requirements on the Department of State to provide detailed information and political judgments on the implementation of the Sino-British Joint Declaration on Hong Kong.

New in the bill, section 1702 imposes excessive reporting requirements on the President with respect to human rights in China, beyond those already required in the annual Human Rights Report, which I have just read. It is a detailed report, and I believe very strongly that it was inaccurately reported in the press. Section 1702 expresses the sense of Congress that the President should impose human rights-related preconditions on a possible future visit to China.

Section 1708 supports the admission of the President of Taiwan to the United States for a visit in 1996 "with all appropriate courtesies".

A new section, section 1709, supports the United States pushing for Taiwan's admission to the World Trade Organization [WTO], without respect to the status of China's application to join the WTO.

Section 1303 authorizes the President to appoint a special envoy for Tibet, and such a person would have to carry the rank of Ambassador.

Another new section in the bill, section 1701, provides that the President should condemn a prison system in China and, in essence, demand that China dismantle the prisons. What nation has ever told us to dismantle a prison? Would we listen to that, and would we be affected by it if they did that? I think not.

The simple fact of these eight provisions, and others, suggests something about this bill: It is excessively preoccupied with China. No other country receives half the attention China receives in this bill.

But far more serious than the preoccupation with China is the very serious damage that these provisions could do to our increasingly important and, I must say, increasingly strained relationship with China. I happen to believe strongly in the importance of the proper development of a relationship with the People's Republic of China, which is the most overlooked and most significant bilateral relationship in the world today.

I also happen to believe that there are those in China and in this country who would like to see it became an adversarial relationship. Yes. Would they like to see a return to the dangerous, pivotal, bipolar superpower arrangements that existed all during the cold war? That is what is understood by their actions. Nations then line up. They are either in one camp or the other. It is good for weapons sales. I do not want to see that happen. This relationship is too important to peace and stability in Asia. And, yes, it is too important to the prevention of major misunderstanding which could lead to a potential and devastating third world war.

As my colleagues know, the past few weeks have seen tensions in the triangular United States-China-Taiwan relationship reach new heights. As Taiwan's first fully democratic presidential election approached, China felt compelled to vent its displeasure over what it has perceived as a pro-independence policy in Taiwan by conducting missile tests and live-ammunition military exercises in the Taiwan Strait. These tests and exercises by China were unnecessary, dangerous, and provocative. And I have said as much directly to the highest-level Chinese officials.

The administration responded prudently by expressing its deep concern, by sending the U.S.S. *Nimitz* carrier group to join the U.S.S. *Independence* carrier group in the region to monitor events there, and by making it clear to the Chinese that any attack on Taiwan would have very grave consequences. This is in anyone's book strong and definitive action.

Under these tense circumstances Congress, I believe, must be very careful right now, post-Taiwanese election, not to take any action that would make a potentially difficult situation worse. There is a real window of opportunity. There is a calling for the first democratically elected President of Taiwan to take some steps to clarify Taiwanese policy, to indicate the willingness to reinstitute the across-the-strait dialog, and to clarify once and for all—perhaps jointly with China—a One-China policy.

I believe, as far as the United States is concerned, that we do not need legislation to further inflame the situation. The point has been made. The election has been held. The Taiwanese President has been reelected. Now we need to play the pivotal role of encouraging the parties to get together and discuss a peaceful resolution of their difficulties.

Without firm United States adherence to the principle of one China we would be unable to conduct any kind of normal relations with Beijing. This is an undeniable fact of life, no matter what anybody in this body says.

If there is not a One-China policy, we drive the People's Republic of China into the adversarial Soviet Union-type of response and a cold war. I do not believe this is desirable United States policy. And that is the impact. That is the practical, as I would say, "on the streets" impact of this bill.

I do not believe that the United States is going to retreat on a One-China policy. But to amend the Taiwan Relations Act to explicitly supersede the 1982 joint communique is to give substance and credibility to China's fears. That is what they suspect we are up to. Why would we take that provocative step at this time? For what reason other than to enable ourselves to become incendiary? From the Chinese prospective, it would be tantamount to a declaration that we were about to send a new round of arms sales to Taiwan, that we no longer subscribe to the One-China policy, and that we are meddling deeply in their internal affairs.

Not only would passing this provision be foolhardy; it is also unnecessary. The Taiwan Relations Act is the law of the land. And, like any law, it carries greater weight than any diplomatic agreement, other than a treaty.

But to amend the act to explicitly state that it supersedes the 1982 joint communique would be seen by China as an outright repudiation of a critical and stabilizing element of our longstanding policy toward China subscribed to by six United States Presidents.

I want to commend the administration for listing this provision prominently among the principal reasons the President will veto this bill when it lands on his desk.

Elsewhere in this conference report Congress expresses its support for a visit to the United States by the President of Taiwan in 1996 "with all appropriate courtesies". I must ask my colleagues: How short are our memories? For over 10 months our relationship with China has been in crisis. Here is a country—Taiwan—that says it is in opposition to independence, that says as late as March 5 in a written directive by the Taiwanese premier, that "We are in opposition to independence." Why then would we ask a leader who is not representing an independent country to make an official visit? It does not make sense.

Li Teng-hui's visit to Cornell was the event that sparked the incendiary nature of the last few months. And remember, that visit was billed as a private one; an unofficial one. One can only assume by using the phrase "with all appropriate courtesies" the authors of this provision mean to imply some kind of an official visit despite America's commitment—we made a commitment—to maintain only economic, cultural, and unofficial relations with Taiwan. That is our commitment. If our relationship with China has suffered that much over an unofficial visit, one can scarcely imagine the damage it would suffer in the wake of an official one.

I think we face a similar problem with the proposed name change of the Taipei Economic and Cultural Representative Office. It was only a year ago that the Taiwanese reached an agreement with the administration to change the office's name from the Coordinating Committee for North American Affairs to its current title. Now some are advocating a change to the Taipei Representative Office. I have asked the Taiwanese if they asked for this change. They said no, they did not. Then why are we doing it? Only to tweak China? Is this really necessary? Is this how we want to make foreign policy, a tweak here and a tweak there? "We know your Achilles' heel, China, and now we are going to press on it a little bit." Oh, my goodness.

The current title of the office accurately reflects the unofficial nature of our relationship with Taiwan based primarily on economic and cultural relations. There is no need to create a new title that is not desired, that implies some kind of broader recognition, other than to tweak China.

The people of Taiwan are to be congratulated for the democratic elections they have recently held. They can be justifiably proud. But the crux of our difficulties with China is China's concern that we are in some way egging Taiwan on toward a declaration of independence.

That should not be the message we send.

These provisions give credible substance to China's fear. They suggest we are not satisfied with Taiwan's status and will undertake unilateral actions to nudge it in the direction of independence.

As I said, that is not our role. Our role as a friend of China and a friend of Taiwan is to encourage the peaceful resolution of the Taiwan issue by negotiation and mutual decision. The United States has no right to take actions that could lead to either a nonpeaceful outcome or a nonnegotiated outcome. Unilateral actions by any party in this matter are not acceptable.

There are other provisions which will be irritants of our relationship with China at best and counterproductive to our own goals at worst. For example, I am aware that the backers of the provision authorizing a special envoy for Tibet have only the best of intentions—to see life improved for the Tibetan people. However, I can assure my colleagues that the appointment of a special envoy for Tibet with the rank of Ambassador would be seen by the Chinese, once again, as an attempt to advocate for independence of an area they consider within their territorial boundaries. Even if this person never set foot in Lhasa—and we know that with the rank of Ambassador the Chinese would never let him set foot in Lhasa—we know the Chinese will view such a special envoy as interfering in their internal affairs.

Now, I am as committed as any Member of this body to improving the lives of the Tibetan people. My husband and I both regard his Holiness, the Dalai Lama, as a personal friend. I first met him in Dharmsala in 1978 and have spent many hours with him and his representatives discussing ways to help Tibet and Tibetans. In January, in Hong Kong, I met with his older brother, Gyalo Thondup, who has been his representative in many negotiations with the Chinese, and had an extensive discussion.

In 1991, I carried a letter from his Holiness, the Dalai Lama, to President Jiang Zemin asking for negotiations between the two sides. As mayor of San Francisco in 1979, I was the first public official to invite the Dalai Lama to visit a city in the United States—San Francisco, an official visit to my city. And since then I have been trying to find ways to bring the two sides together and to encourage China to understand that it is to China's great advantage to see that the culture and religion of the Tibetan people are protected and that human rights for the Tibetan people are improved.

I recite this background merely to make the point that I am well acquainted with the issue of Tibet and have spent many years working on it. In my view, the appointment of a special envoy by the United States would be counterproductive. It would result in the Chinese being unwilling to talk with us or anyone else about ameliorating conditions for the Tibetan people.

What we need to do instead, through intense, continuing, low-key diplomacy, is to convince the Chinese that it is to their advantage to engage in talks with the Dalai Lama in which all issues other than Tibetan independence would be on the table. This I believe is an achievable goal but only if we avoid somehow injecting ourselves in the issue in such a way that the Chinese see us as advocates for Tibetan independence. You cannot have a special envoy with the rank of Ambassador and not create the impression that what we are trying to do is see Tibet as independent. Therefore, the Chinese will fight any improvements all the way. That is why I think this is not well thought out.

There has already been at least one missed opportunity to advance the cause of Tibet. After the last Panchen Lama died, the Chinese authorities invited the Dalai Lama to come to Beijing for a memorial service, but he declined the invitation. I believe that was a mistake because it would have given a new generation of Chinese leadership an opportunity to get to know the Dalai Lama as the fine person he truly is, as a caring, loving person, and a devout Buddhist.

By all means, we should continue to explore ways to achieve cultural and religious autonomy for Tibet and hopefully one day the return of the Dalai Lama and Tibetans in exile to their native soil. And in the words of an ancient Chinese proverb, "When water flows, there will be a channel." I am hopeful that the water of negotiations will flow before too long.

In my discussions with Chinese leaders over the last year, they have repeatedly raised their concern that the United States is pursuing a policy of containment with respect to China, perhaps in the guise of something else. I do not believe we have such a policy, and I have said so. However, when I look at a bill like this one, full of provisions that deal almost patronizingly with an independent nation, China, I must say it seems that some, for whatever reason, do genuinely want to pursue a policy of containment. One certainly could not blame a Chinese observer for drawing that conclusion.

I think we have discussed at length in the past why a containment policy is unworkable and unwise. China is a nation of 1.2 billion people. It is a nuclear power. It is a permanent member of the U.N. Security Council and one of the fastest growing and most dynamic economies in the world. China is not going to be contained. What we need to do is set a long-term strategic and conceptual, goal-oriented relationship with certain priorities in our policies, areas where we can work together, and a methodology for areas where there is a difference of opinion to be able to sit down over the long term at the table and make progress on those issues that divide us. I believe this is possible. We have enormous national interests in developing a peaceful and cooperative relationship with China, and we cannot do so by setting them apart, by making them the adversary that they do not want to be and that we do not want them to become.

I hope my colleagues will reconsider the wisdom of legislating in this area so excessively in the future.

Mr. President, for all of the problems contained in this bill, I urge my colleagues to oppose the conference report. If the bill is passed, I wish to commend the President for pledging to veto this legislation, and I look forward to congratulating him when he does.

I thank the Chair. I reserve the remainder of my time

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). Who yields time?

Mr. HELMS. Mr. President, I am assuming that Senator KERRY will yield. Would the Chair recognize that assumption?

The PRESIDING OFFICER. The Senator from Illinois is recognized on the time of the Senator from Massachusetts.

Mr. HELMS. Very well.

Mr. SIMON. I thank the Chair, and I will try not to impose on the time of Senator KERRY. I am going to vote against this, though I differ somewhat with my colleague from California, as I will explain very shortly.

I think the bill as a whole does harm to what we are trying to do in the area of foreign relations, and I say this with great respect for my friend from North Carolina, who chairs the Foreign Relations Committee, and who is my neighbor in the Dirksen Building and a friend.

We cut back on foreign aid. I know there is popularity to that. But when at town meetings people say, "Why don't we cut back on foreign aid and help the people in our country?"—as the Presiding Officer knows, I have been voting to help people in our country. Then I ask them, "What percentage of our budget do you think goes for foreign aid?" They usually guess 10 percent, 15 percent, 25 percent. And I say, "Less than 1 percent."

They are startled. We spend less, as a percentage of our budget, on foreign aid than any of the Western European countries and Japan. If you put all the Western European countries and Japan together, we spend less than any of them. It does not make sense.

We are authorizing $6.5 billion for fiscal year 1996–97. That is a $500 million cut, while at the same time, this year, we have given the Pentagon $7 billion more than they requested. U.S. security would be helped immensely if we were to give the Pentagon what they requested and use a portion of this for foreign aid.

For example, the housing guarantee programs in South Africa and Eastern Europe are totally eliminated. I know a little bit about South Africa. I do not know that much about Eastern Europe, but I think the situations are somewhat similar. In South Africa, it is vitally important for that country to show the people of that country that they are going to make some progress. Nelson Mandela is immensely popular today, both in the white and black community in South Africa. Public opinion polls are almost identical for whites and blacks there. But the reality is, he has to show that he can deliver for people who have been oppressed, and the housing program is an inexpensive way for the United States to help. Mr. President, 28 million poor people have been helped by our housing program in Eastern Europe and South Africa—and we want to eliminate that.

Regarding limitations on U.S. assistance on population, if you do not have population assistance, let me tell you, the abortion rates go up and other problems arise. It is very interesting. If you look at Japan, for example, where they have programs to tell people about contraception and other things, you have a very low abortion rate. You also have less than 1 percent of children born out of wedlock. If you have assistance on planned parenthood and that sort of thing, we reduce the abortion rates.

We also reduce the problem—it depends on whose estimates you believe, but the world population is going to grow. It will roughly double in the next 45 to 60 years. The most conservative estimates are 45 years; the more optimistic are 60 years. We ought to be helping out.

The United Nations—and here I applaud my colleague who is the Presiding Officer for being very responsible in this area—the United Nations, we now owe them $1.4 billion. The budget for the United Nations, for New York, Geneva, and the six commissions, not counting peacekeeping, is $1.2 billion for a year. In other words, we owe more than a year's expenses for running the United Nations. Running the United Nations takes $500 million less than running the New York City police department. The No. 1 deadbeat in the world is the United States.

Do not kid yourself that we are not hurting ourselves. Here is today's newspaper, an Associated Press story, "World Bank Arrears Disqualify United States. American contractors can't bid on $2.1 billion in projects." Why? Because the World Bank has a rule, if you get too far back in what you owe, that country cannot bid on projects. So, contractors in Illinois and Arkansas and North Carolina and Vermont are hurt by our being a deadbeat here. I hope we will do better.

Then I would like to comment on the China situation a little bit. Real candidly, if I were to write the language in this resolution, I would write it differently. But I have to say, I do not think we should quake every time China growls. I share with the chairman of the Foreign Relations Committee a feeling that we should let Taiwan know that a freely elected government is regarded as a friend of the United States.

Perhaps inviting President Li officially here right now may not be the right thing while China's leadership is going through this turmoil, but to turn a cold shoulder constantly to Taiwan, when they have a free press, multiparty system, free elections—they are the seventh biggest trading partner of the United States, they are second only to Japan in the foreign reserves they have—to pretend there are not two countries there is just a mistake.

I heard my colleague from California, Senator FEINSTEIN, for whom I have high regard, I heard her talking about the Shanghai communique and, while we have said as a nation we recognize one China, frankly I think that was a mistake. We cannot reverse that overnight. But that was done at a time when we were worried about the Soviet Union and we were trying to keep China and the Soviet Union apart. But the reality is, we ought to treat China and Taiwan as we did West Germany and East Germany. Both East Germany and West Germany did not like it that we recognized the other side, but that did not prevent the two of them from eventually coming together again. But we said the reality is there are two governments and that is the reality today.

I think we have to be sensitive to the Chinese situation. I do not think, to use Senator FEINSTEIN's language, we should just be tweaking China whenever we can. I think we ought to be firm, solid, and let them know that military aggression is not going to be tolerated. We have not been as firm as we should be.

Senator FEINSTEIN is right when she says our policy has been one of zigzagging. Without going to the Presidential level, I frankly think we ought to have cabinet members from both sides appearing in each other's country. When I was in Taiwan, I do not know, 3 years ago or so, the Foreign Minister had a luncheon honoring me, but our representative in Taiwan—we do not even have the courage to call him an ambassador—our representative in Taiwan could not come because the luncheon was in a government building. He is not allowed to go into a government building.

That is just ridiculous. We have to recognize reality. When we face a choice of cuddling up to democracies or dictatorships, the United States of America should not have a difficult time. We ought to be siding with democracies rather than dictatorships.

I think we ought to say to China, "We want you to be our friend." But we also ought to say, just as firmly, "We are for democracies." And I hope gradually we will recognize that there are, in fact, two governments over there. To pretend anything else invites possible trouble.

Let me just add this. I heard Tibet mentioned. That is history now, not good history, but I am afraid that is done. But if we do not say very clearly "you cannot invade Taiwan or send missiles there," dictatorships are never satisfied with just one piece of property.

The reality is, if China takes Tibet, it will not be too long and they are going to go up and take Mongolia. Look at some of those Chinese maps. They already have Mongolia as part of China, and who knows where it goes next. We should learn the lessons from history, and we should side with democracies while we maintain reasonable relations with dictatorships.

Mr. President, I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. JEFFORDS). The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, what we are doing is alternating this side and that side. I suggest it is appropriate now for the Chair to recognize the distinguished Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. HELMS. I thank the Chair.

Ms. SNOWE. Mr. President, I want to thank the chairman, and I want to thank you, Mr. President.

I rise in strong support of the conference report to accompany H.R. 1561, the Foreign Relations Authorization Act for fiscal years 1996 and 1997. As chair of the Foreign Relations Subcommittee on International Operations, we have jurisdiction over these issues contained in this legislation, and I am very pleased with the report that the conference committee issued with respect to this important bill.

I commend the chairman of the Foreign Relations Committee, Chairman HELMS. I know this has been a long and difficult road to bring this authorization bill to this point. Regrettably, we did not have enough assistance from the administration or the State Department to work out the differences that developed between the committee and this administration and the State Department. But regardless, I think the bill that has come before the Senate and has come before the House is a bill that certainly should be accepted by both sides.

Frankly, as one who has been involved in this process as the ranking member of the similar subcommittee in the House for almost 10 years, I am somewhat surprised at the way in which the State Department or the President has refused to negotiate the differences on some of the issues that have been at the forefront of this authorization bill for more than 1 year.

I have never been in a situation in being responsible for this authorization bill in which the President has never submitted an authorization request. We have not yet to date ever received a State Department authorization bill for the issues before us referring to the State Department authorization and the other related agencies, such as international broadcasting activities, international exchanges, as well as international organizations and our contributions to the United Nations as well.

We have never yet in this entire process received a bill from the administration with respect to any one of these issues. And, as I said, this is the first time in all of the years in which I have had the responsibility of addressing the State Department authorization bill that a President has failed to submit a legislative authorization bill.

But be that as it may, we worked it through the process, as Chairman HELMS indicated. It was a difficult process, to say the least. But here in the Senate in December, the bill passed by a margin of 82 to 16. It received tremendous bipartisan support. So I would expect that this conference report should receive the same bipartisan support. If anything, this conference report is even stronger than the bill that passed the Senate back in December.

But I think it is important to review what occurred over this last year to have reached this point and to demonstrate that the conference report that is before this body reconciled the differences, in fact, came a long way to accommodate the differences that the minority had in the committee or here on the floor or that the President had or that the State Department had, but every time we reconciled those differences, they moved the goal posts. They were unwilling to resolve and to reconcile the issues that are before us today.

But I think it is important to review exactly how much we have accommodated the administration's concern, as well as the minority.

First of all, when you are looking at the consolidation issue, it is important to remember that back in January of 1995, Secretary Christopher himself acknowledged that consolidation was possible. He, in fact, proposed to the administration that the consolidation of three agencies into the State Department was a realistic approach.

The Vice President recommended that we could achieve savings in the State Department and related agencies of approximately $5 billion over 4 years. So that is the point at which we started this whole proposition.

So the Senate Foreign Relations Committee, with Chairman HELMS, recommended that we consolidate three agencies with a savings of $3 billion.

We started working through the differences. The minority members of the committee said, "No, we don't want to support consolidating any agencies." But they did, in fact, agree to consolidating one agency with a savings of $2 billion over 4 years. The majority in the committee said we will consolidate three agencies with $3 billion over 4 years.

So here we are at this point with a conference committee report, and what do we have? We have a conference committee report that says we have to reconcile the differences between the Senate and the House. And so the Senate position going into conference was no agency consolidation but a mandate requiring $1.7 billion over the next 4 years.

The House, on the other hand, had a position of consolidating three agencies over the next 5 years, with no specified savings. So what did we do? We came out of the conference committee with one agency, a savings of $1.7 billion. That is very close to the position that was supported by the Senate back in December with a vote of 82 to 16.

I guess it is hard to understand why anybody would suggest that this is an unrealistic or unachievable consolidation proposal. We have come from the Vice President's proposal of $5 billion down to $1.7 billion, and even the minority on the committee supported $2 billion worth of savings, and in the conference report we have $1.7 billion in savings, so even less than what even they supported. They supported one consolidation, one agency to be consolidated in the State Department. That is what came out of the conference committee. We got one agency requirement for consolidation or merging into the State Department. So we have come a long way to reconcile those differences.

It is really hard to understand why there has been so much resistance to this effort and to make some accommodation to bridge the differences. We have certainly gone a long ways to reconciling those differences, not only within this body, but with the House as well.

Then we had the issue of the international family planning proposals. Well, again, the House bill contains some very restrictive language with respect to UNFPA and Mexico City policy provisions that, in fact, those are the same provisions that endangered the foreign operations appropriations bill last year. But we were able to remove those onerous provisions from the conference report. We removed all of them. But yet at the same time, again, we had objections from the other side, because they said, "Well, that's not enough. It is not enough that you took those provisions out. You should also have language in this conference report that overturns the restrictions and the reductions in international family planning programs in the appropriations bill."

That is an interesting recommendation considering the fact that the minority did not want to have any development assistance proposals in the State Department bill, and that is why almost all of the foreign aid language was removed, rightfully so, because the Senate never had that opportunity to consider that legislation. So it was removed. We took out all the international family planning restrictions and all the development assistance legislation. But yet at the same time, they are saying, "It is not enough because we think we should overturn the appropriations language."

Well, that process is occurring right now, hopefully, in the conference committee on the omnibus appropriations bill. But certainly the conference report is not the vehicle to do it, since we have taken out all the other foreign aid components.

I should say that the language that is in the current continuing resolution with respect to the international family planning programs are the very same programs in the very same continuing resolution that the President signed into law and was supported by Members of this body.

The appropriate vehicle for resolving the appropriation differences on international family planning funding is in the conference committee on the omnibus appropriations. That is where that debate should occur, not here in this conference report.

Our goal was to remove the restrictive language on international family planning and Mexico City provisions that would have set us back in those areas. We did that. That was a major accomplishment. There are important issues in this legislation that ought to be supported by all Members of this body.

This legislation contains several important policy initiatives, such as the McBride Principles. This would codify the McBride Principles and place them in permanent law.

The McBride Principles would establish a standard of nondiscrimination for any project or enterprise in Northern Ireland funded through our contributions to the International Fund for Ireland. This is a very important principle to uphold. I think this would be the first time that will provide an opportunity for all Members of this Senate to vote on the McBride Principles and to support codifying them into Federal law.

Another important policy initiative that this bill would place into permanent law is the Humanitarian Aid Corridor Act. This provision, first enacted on a 1-year basis in the foreign operations appropriations bill, would require that recipients of American aid not block the delivery of any humanitarian aid to any neighboring country. While drafted generically, it is intended to send a strong signal to Turkey, which in the past has frequently attempted to block the delivery of desperately needed humanitarian assistance to the people of Armenia.

A third major legislative initiative in this conference report is the Terrorist Exclusion Act, which I first introduced in the last Congress. This would restore the President's authority to exclude the entry into the United States of any individual who is a member of a violent terrorist organization. This is basically to restore the law prior to 1990.

So, I guess it is hard again, going back to the administration's position, to understand why the President and the State Department have gone on record in opposition to this legislation, because the agency reorganization is essential, even by the Secretary of State's own admission, even by the Vice President's own recommendations to save $5 billion.

I cannot imagine that anybody would suggest that we cannot merge one agency into the State Department, that we cannot merge the Arms Control and Disarmament Agency. It is a modest agency of 250 people, that in this day and age when we need a new world order, when it comes to our own State Department and related agencies, we have to reorganize. It is important to have a unified, singular voice when it comes to delivering our foreign policy. That was the basic intent of this agency consolidation. But we have met resistance at every step of the way by the administration, even though at some point in time the administration or Members on the other side have indicated that they support such consolidation.

Let us talk about the funding levels. The authorization level in this conference report represents probably a high point in funding levels for these agencies. In fact, it is in conformance with the budget resolution. The reductions in funding are modest, no more than $500 million under the 1995 funding level.

The President has argued for cuts in domestic programs, but this is the one area in which he is recommending an increase. In fact, the President recommended a $1 billion increase in the foreign aid accounts. I think it is interesting that the President would recommend cuts in so many domestic discretionary programs in order to achieve a balanced budget, but insist on continued growth in foreign spending. But that is exactly the case, because in the statement that was issued by the administration, they objected to the funding levels that were incorporated in this conference report.

There has been opposition by some because of the provision that addresses the International Housing Guarantee Program. This program is routinely criticized as one of AID's most ineffective and wasteful programs. In fact, GAO has conducted a study of this program which subsidized housing for citizens of other countries. The GAO found that this program is well on its way to wasting $1 billion in U.S. taxpayers' money—$1 billion.

I cannot believe that the administration again is objecting to this provision to remove this program when it has already been demonstrated to lose for the taxpayers more than $1 billion. The overall program represents a 40-percent loss to the American taxpayers with respect to the inefficiency and the ineffectiveness of this program. Yet, again, the administration states as one of its objections the fact that it cuts this International Housing Guarantee Program.

We come to the issue of Vietnam. The bill simply requires the President to certify that Vietnam is fully cooperating on the POW/MIA accounting prior to establishing even closer relations with Vietnam. Now, how can anyone find this objectionable? The President has already taken every opportunity to state his belief that Vietnam is fully cooperating.

I may disagree with the President on that assertion, but be that as it may, if the President certifies that they are fully cooperating—that is his own prerogative and initiative as described in this provision—then he can move forward to establish even broader diplomatic relations. So I cannot understand why the President would object to this language.

Mr. President, it has been a long process with respect to this conference report. As I said earlier, again, I think it is important to remind Members of this body that we had no guidance, no counsel, from this administration. The fact is, in the process during the conference committee and prior to the meeting of the conference committee, members of the State Department, representing the administration and the Department, refused to offer language or to cooperate in the process throughout the month-long effort.

I think we could have reached a consensus at some point. It is hard to believe they could not support this conference report, because I cannot imagine being more accommodating on all of the issues that were of concern to them originally in terms of how many agencies would be required to be merged into the State Department, or how much savings we would realize as a result.

I mean, we basically went from three to one agency, and we went from $3 billion to $1.7 billion worth of savings as a result of agency consolidation and reorganization. From my estimation, I think that is a pretty reasonable compromise. I want to further remind this body again the Vice President said that we could achieve $5 billion worth of savings, the Secretary of State said and recommended to the administration that we ought to be able to consolidate three agencies into the State Department. But we are only talking about one here now. We are only talking about saving $1.7 billion.

We have had no legislative recommendations from this administration with respect to this State Department authorization. Again, as I said earlier, for more than a decade that I have been working on this very issue, I have never had an administration not submit a legislative proposal with respect to authorization for the State Department and related agencies.

The President, of course, can veto this legislation and has indicated he will. I hope that he will not because I do believe this conference report does strike a compromise between the House and the Senate. It accommodates the concerns and the views of the administration. I think it is unfortunate if the President moves forward with a veto because he will have failed to seize an opportunity to move forward in this consolidation process and to reorganize our foreign policy structure.

It will be the President who vetoes that consolidation, and it will be the President who vetoes the savings in this bill. It will be the President who vetoes the McBride Principles and the codification of the Humanitarian Aid Corridor Act. It will be the President who denies himself the authority he needs to prevent members of terrorist organizations from entering the United States and endangering the lives of American people. That is the bottom line here with respect to this conference report.

I hope that Members will give this very serious consideration and adopt this conference report because it is, I think, a step toward the kind of goals we want to accomplish for our foreign policy structure, not only for the short term but for the long term.

Mr. President, I yield the floor.

Mr. BUMPERS. Mr. President, I ask unanimous consent to proceed for 2 minutes on the time of the Senator from Massachusetts, to be followed by Senator PRYOR, who has some time coming.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I was sitting in my office earlier this afternoon and the senior Senator from Arizona came to the floor and chastised President Clinton for apparently discussing on the telephone with President Yeltsin the poultry embargo that the Russians had imposed against all American poultry. The Senator suggested that he hoped that the President had much greater things to discuss with the President of Russia.

Now, Mr. President, I do not know what they talked about, but I personally applaud President Clinton for bringing up that very difficult issue. The Russians import $2.1 billion worth of all products in the United States every year, a little over $2 billion, and one-third of that, over $700 million of that, is poultry. Not just my State—it is North Carolina, Mississippi, Alabama, Texas.

Now, the Senator from Arizona acted as though there were something small or childish about the President talking to President Yeltsin about that embargo, which has now been solved. The President did exactly what I would expect him to do.

I know that the Senator from Arizona is not speaking for Senator DOLE. Would he say the same thing if they embargoed rice or wheat? Would we have heard that same speech if President Clinton had called President Yeltsin about a wheat embargo? I do not think so. I know that if Senator DOLE ever became President and we had that kind of an embargo, in my opinion, he would not hesitate to pick up the phone and call the President of Russia about it.

I am just amazed. Here is a big trade issue, and trade is about all we talk about here anymore and about the so-called 301 retaliatory measures. I suspect, frankly, that President Clinton's intervention on that helped resolve it, and the people of my State are working today, the people in North Carolina, Alabama, and Texas are working today because the President called the President of Russia and said, "This is a funny issue. Why don't you let up?" I think that is what solved the problem.

I applaud President Clinton for his intervention. I deplore people trying to treat that in such a cavalier, simplistic manner.

Mr. PRYOR. Mr. President, I ask unanimous consent the Senator from Alaska be recognized for 8 minutes, and after the Senator from Alaska finishes, I be recognized for a 10-minute period. I ask that the time that I use be charged to Senator KERRY of Massachusetts.

The PRESIDING OFFICER. And the time of the Senator from Alaska?

Mr. MURKOWSKI. I believe Senator HELMS indicated a willingness to yield time.

Mr. HELMS. The Senator from Alaska, as far as I am concerned, can speak as long as he likes, but he has stipulated 8 minutes.

Mr. MURKOWSKI. I concur with the floor manager. Senator PRYOR was kind enough to allow me to go out of turn.

The PRESIDING OFFICER. Eight minutes is charged to Senator HELMS. The time of the Senator from Arkansas is charged to Senator KERRY.

Mr. SARBANES. Is it possible to continue the sequence of speakers, or does the chairman not wish to do that?

Mr. PRYOR. If I may respond, what we are doing is continuing the sequencing, because Senator BUMPERS, after finishing his presentation, we have asked that Senator MURKOWSKI on the other side be recognized, and then I would be recognized. I guess I would be recognized after Senator MURKOWSKI.

Mr. HELMS. In the natural course of things, Senator SARBANES would be recognized if time is yielded to him. I am sure that he can get that by unanimous consent, to be charged to Senator KERRY.

Mr. SARBANES. After Senator PRYOR?

Mr. HELMS. No, no, go back and forth. The Senator from Alaska is going to speak only 8 minutes.

Mr. MURKOWSKI. Mr. President, as we prepare to vote on the conference report on H.R. 1561, the Foreign Relations Revitalization Act of 1995, I rise to express my specific concerns that the statement of administration policy indicates that the President appears to be going to veto this bill based at least in part on section 1601, which reaffirms the primacy of the Taiwan Relations Act.

Mr. President, the opponents of the provision claim we are nullifying the joint communique. I totally disagree with this interpretation. Let me refer to the definition of the specific word "supersede" as used in section 1601. The Oxford dictionary say "supersede" means override. I was an original author of this language so I know a little about its legislative intent, and that is that the Taiwan Relations Act overrides the provisions of the communique only if the two are in conflict.

Now, section 3 of the Taiwan Relations Act commits the United States to sell Taiwan whatever defense articles it needs for self-defense and that the executive branch and the Congress will jointly determine what those needs might be.

In 1982, President Reagan pledged in a joint communique with China to decrease arm sales to Taiwan. That was the so-called bucket.

The Taiwan Relations Act was ratified by Congress and is the law of the land. Make no mistake about it. The 1982 communique is an executive agreement never ratified by the Congress.

Now, all that the provision in the conference report says is that the law of the land—the law of the land, Mr. President—the Taiwan Relations Act, will supersede the provisions of the joint communique if the two are in conflict. They have to be in conflict, Mr. President. That is the difference. This is simply a matter of legal precedence.

Mr. President, I ask unanimous consent that the reference from the Oxford dictionary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Supersede: To desist from, discontinue (a procedure, an attempt, etc.); not to proceed with –1750. †b. intr. To desist, forbear, refrain –1850. †2. To refrain from (discourse, disquisition); to omit to mention, refrain from mentioning –1689. †3. To put a stop to (legal proceedings, etc.); to stop, stay –1838. b. Law. To discharge by a writ of supersedeas 1817. †4. To render superfluous or unnecessary –1797. 5. To make of no effect; to render void, nugatory, or useless; to annul; to override. Now rare or Obs. 1654. 6. pass. To be set aside as useless or obsolete; (to be replaced by something regarded as superior 1642.) 7. To take the place of (something set aside or abandoned); to succeed to the place occupied by; to serve, be adopted or accepted instead of 1660. 8. To supply the place of (a person deprived of or removed from an office or position) by another; also, to promote another over the head of; pass. to be removed from office to make way for another 1710. b. To supply the place of (a thing) 1861. 9. Of a person: To take the place of (some one removed from an office, or †promoted); to succeed and supplant (a person) in a position of any kind 1777.

5. The Norman invader superseded Anglo-Saxon institutions 1863. 6. When this work must be superseded by a more perfect history 1838. 7 Oxen were superseding horses in farm-work 1866. 9. Captain Maling takes his passage to s. Captain Nisbet in the Bonne Citoyenne Nelson.

Mr. MURKOWSKI. For example, if the threat to Taiwan is increasing, defensive arm sales should go up. They should not be arbitrarily limited by the bucket. Prior administrations have followed this principle in practice, such as selling F–16's to Taiwan, even though they were outside the dollar limits of the bucket.

It was a matter of convenience. We wanted to do it, so we found a way to do it. I do not see why the administration is objecting to this provision, because it is consistent with current practice. I would also remind my colleagues that the identical language passed out of the Foreign Relations Committee in 1994 on a 20–0 vote when I was a member of that committee.

Mr. President, I again find it incredible that the administration would issue this veto threat over a provision that was intended merely to restate reality: The law of the land takes precedence over a statement of policy. I do not think you could find one constitutional scholar who would disagree with that proposition.

Secretary of State Christopher, in correspondence with me in 1994, acknowledged that it was the administration's position, as it was of previous administrations, that the Taiwan Relations Act as a public law takes legal precedence over the 1982 joint United States-China communique, an Executive communication that was never, as I said, ratified by Congress. Mr. President, I have that letter from Secretary of State Christopher. When the letter was given to me, I told the Secretary, at his request, that I would not release the letter. But I think that the State Department should look up that letter and find out what the Secretary said because I think what he said then is as applicable today, March 28, 1996, as it was April 22, 1994. So I suggest that the State Department do a little backtracking.

It is important to remember that the 1982 communique was based on the premise that the future of Taiwan would be settled solely—this is important—by peaceful means and was signed at a time when decreased tensions between China and Taiwan meant that Taiwan's self-defensive needs were not increasing.

The Senate voted 97–0 last week to reaffirm the commitments made in the Taiwan Relations Act. One of the commitments is that the President, in consultation with the Congress, will review whether the capabilities and intentions of the People's Republic of China have increased the threat to Taiwan. If so, defensive arms sales to Taiwan, obviously, should be adjusted upward accordingly, if indeed that is the case.

Well, we have seen, in recent weeks, the heightened tensions. I do not have to go into the significance of what the M–9 missile message was. It was that

China can indeed launch a missile from the mainland, and it can indeed go to Taiwan. Indeed it has a payload of about 1,200 pounds, and it drops its locomotion in entry, and, as a consequence, it is very difficult to pick up. I am not sure that the technology is available to counter that missile threat.

As we look at some of the other missile threats to the United States, including to my State of Alaska and to Hawaii, we find we are in the range of some of those, which the rest of the United States is not in the range of. I do not think Hawaii and Alaska are expendable, although some of my colleagues may differ from time to time.

Since 1994, China has mounted a series of military exercises near Taiwan. In September and October 1994, the People's Liberation Army conducted combined air, land, and sea exercises on Chou Shan Island, about 60 miles south of Quemoy. At that time, Assistant Secretary of State Winston Lord described these exercises as "the most expansive * * * that China has conducted in 40 or 50 years." In June and July of last year, the PLA conducted more exercises, including firing four medium range M–9 missiles—the first time China had used missiles to threaten an opponent. Right before the Legislative Yuan elections in November, China conducted large-scale combined-arms, amphibious and airborne assault exercises designed to simulate an invasion of Taiwan.

Then, on the eve of the first direct democratic presidential election in Taiwan, China began a series of three more tests. First, China fired four more M–9 missiles into closures within 25 to 35 miles of the two principal northern and southern ports of Taiwan. China followed the missile tests with live ammunition war games in a 2,390-square-mile area in the southern Taiwan Strait, followed by another live ammunition exercise between the Taiwan islands of Matsu and Wuchu.

China may not yet have the capability to invade and conquer the Republic of China on Taiwan, but it does have the capability to do significant harm by mining ports, undertaking a limited blockade with its 5 nuclear-powered and 45 conventional-powered attack submarines, and conducting a terror campaign with missiles capable of carrying nuclear or chemical warheads. Taiwan lacks a reliable missile defense and has only two modern conventional submarines.

I do not consider myself an expert on defense matters, but it appears that Taiwan needs additional deterrence capability, especially with regard to missile defenses. I commend the Clinton administration for sending our carriers into the area of the Taiwan Strait recently to monitor China's war exercises. This exercise should put the Defense Department in a very good position to evaluate the threat to Taiwan from China in determining the level of future arms sales.

Mr. President, I only hope that the diplomats in the State Department do not ignore the military reality in making decisions about future arms sales to Taiwan because of a fear of China's reaction. But, unfortunately, that is what I believe is the driving force behind the veto threat. The administration states that section 1601 "would be seen as a repudiation of a critical and stabilizing element of longstanding U.S. policy toward China, increasing risks at a time of heightened tensions."

Mr. President, the most critical element in U.S. policy toward China is the peaceful resolution of Taiwan's future. If China, by force, repudiates that element, then the basis of the United States' one-China policy is simply stripped away.

We should recognize that that provision in the Foreign Relations Authorization Act does not repudiate U.S. policy, it reaffirms it. I call on the administration to drop this veto threat and implement the law as required.

Mr. President, I am grateful to my good friend from Arkansas, who has accommodated me and my schedule. I thank the floor manager.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

THE DEBT CEILING LEGISLATION

Mr. PRYOR. I thank the Chair. Mr. President, I am going to revert back to a measure that we just passed in the Senate, I think, less than an hour ago, which is the debt ceiling legislation.

On that legislation, the distinguished Senator from Arizona, Senator McCAIN, had included an amendment he had long fought for, and I support that amendment very strongly, Mr. President. That was an amendment relative to the social security earnings test. It was on that particular amendment that I had told the leadership in times past that should that amendment come to the floor, I was going to attempt to amend that particular provision with a measure that would basically clear up, once and forever more, a mistake we made in the GATT Treaty legislation that we passed last year in the U.S. Senate.

In other words, Mr. President, I was going to use that as a vehicle to amend this provision, which allows one particular drug company—Glaxo, for example—to absolutely continue taking advantage of not only the taxpayer, but also the consumer, the aging American, taking this particular drug called Zantac, and prohibiting, precluding generic competition from coming into the marketplace.

Mr. President, on December 13, 1995, I received a letter from my friend and colleague, the distinguished chairman of the Judiciary Committee. In the letter it says, "Please be assured that I intend to honor my commitment. I will begin a hearing on pharmaceutical patent issues February 27, 1996, and I plan to hold a markup by the end of March."

Well, Mr. President, our friend and colleague, the distinguished chairman of the Judiciary Committee, Senator HATCH, did in fact hold a hearing on February 27, 1996. However, the markup on this particular matter, the Glaxo issue, has not been scheduled. It has not been scheduled for any time in March. To the best of my knowledge, it has not been scheduled for April, May, and who knows—I just hope it will be scheduled someday.

But what is at issue is this fact: Every day we refuse in the Senate and in the House of Representatives, the other body, to correct this mistake that we made through this system, in not clearing up the issue of the patent extension for this particular drug company, and about six other drug companies, every day that we refuse, every day that we delay, Mr. President, we are fattening their pocketbooks to the extent of $5 million a day. That is $5 million each day that is being paid for by the consumer, the taxpayer, the Veterans Administration, the HMO's, right on down the line—any consumers that buy Zantac. We have been told that a generic that is ready to go into the marketplace immediately could absolutely walk into that marketplace today, begin competition with Zantac at one-half of the price of this prescription drug. But, Mr. President, we have refused to do it. We have had a vote in December, and we failed by two votes to get enough votes in this body to close this loophole and to state that we are no longer going to continue this very major windfall for one or two or three drug companies.

We made a mistake. We extended all patents from 17 to 20 years in GATT, and we said that a generic company could market their product on the 17-year expiration date, if they already made a substantial investment and were willing to pay a royalty.

We think that is a fair balance of interest. The other thing we did in GATT was that we said we are going to allow every human, every company, every product to have the same extension of their patent rights. However, we set out a perfectly illegitimate reason to give to a few drug companies a unique opportunity to not be included in the GATT legislation. So, therefore, we excluded a few pharmaceutical manufacturers, and we said to them that you are going to have an extra 3 years on your patent. You are not going to have any competition whatsoever in this particular drug marketing and in the sales of the particular drug.

During the February hearing held by Senator HATCH, the chairman of the

Judiciary Committee, we had the evidence, we had the testimony of our U.S. Trade Ambassador, Ambassador Kantor, we had the Patent Office, and we had everyone representing this administration that we could think of say that this was never intended to be a part of the GATT Treaty. The negotiators never intended to carve out a special reason, or a special status, for a very few—if I might say, a handful—of drug manufacturers.

Mr. President, during that testimony that day in late February of 1996, during all of the discussions that we have held on the floor of the U.S. Senate, during the committee meetings that have been addressing this issue, including the Finance Committee, there is not one scintilla of evidence—not one—that one individual has ever maintained that this was a deliberate act by the negotiators, that this was a deliberate act by the Congress of the United States to carve out this special exemption for a handful of drug manufacturers.

We have competition-ready to come to the marketplace. We have cheaper prices ready to be able to come into the marketplace to provide quality drugs at competitive prices—more than competitive prices. For us to believe that we can continue this great windfall, I think is very wrong indeed.

I urge the chairman of the Judiciary Committee to proceed forthwith with a markup for this particular issue. He knows what the issues are.

Mr. President, I further state that at the proper time on the proper legislative vehicle, I will offer to the Senate once again the opportunity to correct the record, once again the opportunity to set things right, because every day that we delay is another $5 million in profits to the pharmaceutical companies that make Zantac and these other drugs. We are delaying now about another 15 to 20 days at least because we are leaving on a 2-week recess tomorrow. That is another $75 million to $80 million for these drug companies in extra profits for them at this time.

We had a vote in December, and we have seen since that time and since that vote another $450 million of profits being given to them in a windfall nature.

I think the American people certainly are calling on us to be responsible to set the record straight and to admit that we made a mistake.

I am going to give the Senate—and hopefully the other body—an opportunity to correct that mistake in the very near future. I will be offering that on the first legislative vehicle that I see the opportunity to attach it to after we return from our Easter break.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I was dismayed to hear the comments our colleague, Senator PRYOR, just made with reference to the Judiciary Committee's deliberations on the GATT/pharmaceutical patent issue.

My colleague was correct in stating that I wrote him a letter in December indicating the committee would hold a hearing and a markup on this issue.

In fact, we held a hearing on February 27 on the specific issue he raised, and 1 week later, March 5, held another hearing on the more general issue of pharmaceutical patent life at which the GATT issue was also commented upon by a number of individuals.

Perhaps my colleague was not aware, that, on Tuesday, I notified the committee that this would be a possible agenda item for markup this week. However, it was not possible to forecast the arduous, time-consuming immigration markup, which extended much longer than any of us had anticipated. In addition, Senator KENNEDY, the ranking member of the Labor Committee and a top member of Judiciary, expressed concerns about how the Judiciary Committee's agenda was conflicting with the FDA reform markup this week in Labor. Accordingly, at the outset of the Judiciary Committee's deliberations on the immigration bill this morning, I made the following statement:

> Finally, let me say a few words the Committee's consideration of how certain GATT transition rules should apply to the generic drug industry—this is the so-called GATT patent issue.
>
> This was the subject of a lengthy floor debate on December 7th and a Committee hearing on February 27th.
>
> As I have stated on a number of occasions, my preference is to achieve some sort of compromise on the issue. But this is a very complex issue that involves the confluence of three interrelated statutes: the GATT implementing law, the Federal Food, Drug, and Cosmetic Act, and the patent code.
>
> I am aware that there are discussions taking place in an attempt to fashion a compromise proposal. I have directed my staff to continue to facilitate these discussions.
>
> Frankly, the Immigration Bill has taken longer that any of us would have liked or could have planned for. It became apparent earlier this week that we would not have time to complete a GATT mark-up before Friday.
>
> We still have many amendments to dispose of on the Immigration Bill. I also know that Chairman Kassebaum's Labor Committee is in the middle of the FDA reform mark-up and that Senator Kennedy wanted to closely coordinate our schedules today. Other members have scheduling conflicts as well.
>
> For these reasons, I am announcing my intent to schedule mark-up on the GATT issue when we return from recess. I would like to consider a compromise that most of us can support. I don't think the PRYOR bill meets that test. I hope we will continue working toward an agreement over the recess.

I wish to make amply clear for the record that Senator PRYOR's staff had informed me that he did not anticipate, nor wish for, a markup on this issue in Judiciary, but rather he wished to pursue a dialogue on the floor. Thus, I was heartened to hear his remarks just now in which he stated he wanted the Judiciary Committee to mark up a bill.

Before closing, I would like to address one specific comment Senator PRYOR made. Those who advocate change in the law argue that the Congress clearly intended to achieve the results of the Pryor/Chafee/Brown amendment when we originally passed the Uruguay Round Agreements Act (URAA). They continue to argue to this day that it was merely a "technical oversight" which led to this "unfair" outcome.

I find it strange that not one person has come forward, that there has been not one shred of evidence, not one memo, nor paragraph of a memo, nor even a sentence in any document supporting Senator PRYOR's contention.

In fact, the Court of Appeals for the Federal circuit, a completely disinterested party, could find no definitive evidence on this issue at all. In the November, 1995 Royce decision, the Federal circuit stated:

> The parties have not pointed to, and we have not discovered, any legislative history on the intent of Congress, at the time of passage of the URAA, regarding the interplay between the URAA and the HATCH-Waxman Act."

I do not wish to rehash the arguments related to the GATT at this time. It is an extraordinarily complex issue, and is not as simple as it might appear to some. It is no secret to this body that I am not supportive of the Pryor amendment as drafted in December.

What I do want to emphasize is that a fair resolution of this issue remains my priority and, as I said at the markup this morning, I am hopeful we can fashion a compromise that is acceptable to the majority of Senators. I hope that my colleagues Senators PRYOR, BROWN and CHAFEE, will be willing to work with us in that regard and I look forward to their suggestions for areas in which a resolution can be crafted.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1996 AND 1997—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. MCCAIN. Mr. President, I was one of the first Members of the Senate to support Senator HELMS' efforts to consolidate U.S. foreign policy agencies. This bill does not go as far as I or many of my colleagues on the Foreign Relations Committee had hoped it would in this respect. I, and I know the chairman, had envisioned a consolidation which would require the dismantlement of three agencies—USAID, USIA, and ACDA. But just getting the bill into and out of the conference committee was a major accomplishment and I commend the chairman for it.

I support the bill and I will vote for it. A savings of $1.7 billion over 4 years and the merging into the State Department of at least one foreign policy agency is a proposition simply too good to pass up.

However, I do want to register my steadfast opposition to one particular provision in the bill. The conference report conditions funding for any expansion in United States diplomatic relations with Vietnam on Presidential certifications in a number of areas related to missing United States servicemen. The Senate wisely refrained from including similar language in its bill, and despite its several efforts to address the issue in previous legislation, the House included only sense-of-the-Congress language.

Given that neither House decided to legislate in this area, I was quite dismayed to find out that somehow during the proceedings of the conference committee, the conferees actually decided to make the House language tougher. One reasonably expects—and common sense would indicate—that a compromise develops midway between two positions. But in this case, compromise involved not only caving to the House position, but giving House conferees something for their trouble.

This is the third time that I have come to the floor to register my opposition to the same language in different conference reports. I know that conferees often have a difficult time dealing with this issue. On one side of the debate are those who seek to block the President's decision to normalize relations with Vietnam at every opportunity. They are extraordinarily focused and unrelenting. In contrast, those on the other side of the debate either have an understandable predominate interest in reaching a real compromise, or truly see no harm in forcing the President's hand.

As was the case with the CJS conference report, the balance of sentiments on this issue in this conference has contributed to the certainty of a Presidential veto. I know that the President would have likely vetoed the bill anyway. He has fought the idea of State Department reorganization since Secretary Christopher first proposed it. However, I think we have complicated the case for consolidation with this provision on Vietnam. In short, we have given the President one more reason to veto the bill. And unlike some of his reasons, to my mind, this one is legitimate.

When the bill returns to the Senate for a possible veto override, I hope the conference will revisit the issue of United States-Vietnam relations and approve language which reflects the will of at least one House of Congress. Consistent with his constitutional powers, the President last year made a decision to normalize relations with Vietnam. As I have pointed out to my colleagues a number of times, this is a fact. The President should not be constrained in his efforts to carry out his decision. If we cannot respect President Clinton's decision on its merits, we ought to at least respect the power his office entitles him to exercise.

Mr. DODD. Mr. President, I oppose H.R. 1561. I do so for many reasons.

I believe that this bill is not only myopic, but it is dangerous. H.R. 1561 calls upon the President to eliminate one of three foreign policy agencies and includes authorization levels that would force the United States to withdraw from some international organizations. It overlooks the successful efforts the administration has already undertaken to reduce its expenditures. Mr. President, the United States is unquestionably the strongest Nation in the world. These foreign affairs agencies are essential to U.S. leadership. H.R. 1561 undermines our strength and leadership in the world.

In addition to objection to the general direction the bill takes us, there are also specific provisions that are seriously flawed. Specifically, look at how this bill treats relations with Vietnam. Section 1214 makes funding for a U.S. Embassy in Vietnam dependent upon a Presidential certification that Vietnam is fully cooperating on the POW/MIA issue. Most certainly we all want to resolve any outstanding POW/MIA cases. However, this provision isn't likely to facilitate that end. This provision, if enacted, could threaten the progress that has already been made on the POW/MIA issue. Moreover, it could restrict the President's ability to pursue our national interests in Vietnam and put United States firms at a competitive disadvantage.

Second, it in terms of U.S. participation in the United Nations, this bill provides inadequate funding levels for fiscal years 1996 and 1997. The United States is already $1.2 billion in arrears to the United Nations. Besides being irresponsible, this outstanding obligation thwarts our influence in the United Nations and impedes our diplomatic efforts to reform the institution. Even Namibia, one of the poorest countries in the world with a GDP 86 times less than the United States, has paid up. That, Mr. President, is shameful.

Third, H.R. 1561 fails to resolve the limitations on U.S. population assistance programs placed in the fiscal year 1996 foreign operations appropriations legislation. Such restriction will have a serious, detrimental impact on women and families in the developing world. These restrictions will cause an estimated 7 million couples in developing countries to be without access to safe, voluntary family planning services. And what will the result be? Millions of unwanted pregnancies and abortions. Mr. President, I am sure that none of my colleagues want to see this happen.

Mr. President, I conclude my statement by reiterating that H.R. 1561 is shortsighted, dangerous, and that I vigorously oppose it. I encourage my colleagues to join me in voting against the conference report.

Mrs. KASSEBAUM. Mr. President, today, we have before us significant legislation which, if it becomes law, will restructure the principal institutions used to conduct America's foreign policy. The process leading to this point may have been less bipartisan and less open than some of us would have desired. But I want to commend the chairman of the Foreign Relations Committee, Senator HELMS, for his determination in shepherding this difficult bill through the legislative process.

The heart of this bill is its reorganization of our Nation's foreign policy bureaucracy. While I still have reservations about the continued deep cuts in our foreign affairs spending—an account that already has sustained deep cuts since the late 1980s—that is not the issue here. Congress made the decision to continue cutting our foreign affairs spending when we passed the budget resolution last year. The purpose of this authorizing legislation is to try to shape those cuts in a manner that will best protect our ability to carry out the Nation's foreign policy.

I believe this conference report's approach to streamlining and consolidation—an approach dramatically different from the original versions introduced a year ago in both Houses—is reasonable. In essence, this legislation would require the abolition of one of our four principal foreign policy agencies and would require a savings of $1.8 billion over 4 years. It wisely vests in the President, however, the maximum possible flexibility to determine the details of reorganization.

Because the reorganization provisions are, in my judgment, reasonable, I intend to vote for this legislation. However, I very much regret that the legislation also contains many foreign policy provisions which have been less scrutinized and which, in my view, would have been better omitted. Let me outline my specific concerns with the legislation:

First, the bill contains a number of provisions that may further irritate our relations with China. Most important among these is the provision asserting that the Taiwan Relations Act takes precedence over the 1982 Sino-United States joint communique. The triangular relationship between Washington, Beijing and Taipei is a delicate diplomatic balance in each of its legs, and in this legislation Congress is needlessly seeking to strengthen one leg—the leg between Washington and Taipei—without regard for the effect on the other two.

Second, the bill unwisely reopens the difficult debate about our relations with Vietnam. In 1994, after weighing the arguments on both sides, Congress concluded that normalizing relations with Vietnam best serves America's national interests in that region. I do not believe we should roll back that decision today.

Third, the bill creates a new category of political asylum for persons fleeing coercive population practices. I have opposed this provision from its inception because I believe it may open a floodgate of false claims for immigrants from certain countries not otherwise able to enter the United States.

Fourth, the conference report restores several provisions that require withholding of U.S. contributions to the United Nations—provisions that were struck from the Senate bill at my request. I believe that we have reached the limits of this nickel-and-dime approach to reforming the United Nations and that these narrow withholding requirements have become counterproductive. What is needed, in my view, is a broader approach to reform. Unfortunately, a provision that I added to the Senate bill to require the administration to submit to Congress an overall proposal for reforming the United Nations consistent with several specific objectives has been dropped from the conference report.

Fifth, this legislation has cherry picked the foreign aid authorization bill, incorporating a small handful of its most politically popular provisions into the broader State Department Authorization bill. This approach ensures that no other foreign aid authorization will be enacted this year. I worry we are creating a situation in which no foreign aid program other than the few in this bill will be authorized and, as a result, funding for any others may be blocked.

Sixth, this authorization legislation does not deal with the difficult population issue of international family planning, despite the compromise reached in the Foreign Operations Appropriations debate stipulating that the matter would be handled in this bill.

Seventh, the legislation ends the United States housing guarantee program, with an exception for our program in South Africa. I tend to believe this is an important program that should not be banned by statute.

Mr. President, this is a long list of objections. To weigh them against the strengths of the bill's reorganization provisions was no easy task. I concluded, however, that the bill on balance is worthwhile—largely because its reorganization provisions will bring an order to the inevitable downsizing of these agencies that otherwise might not exist. I also want to support the Chairman of the Foreign Relations Committee. However, I understand the President has reached a different conclusion and intends to veto this legislation. If that occurs, I cannot give assurances that I would vote to override his veto.

Mr. NICKLES. Mr. President, I want to compliment my friend from North Carolina for moving forward a proposal to reduce the size of government that was opposed by the Administration and those on the other side of the aisle. I think through his persistence we have a bill that may not go as far as most of us in the Senate would like to see, but at least it is a step in the right direction.

I do think, however, that the debate on this bill helps to magnify the fundamental differences between those on this side of the aisle and those on the other side of the aisle.

When this bill was originally proposed it would have eliminated three government agencies, The Agency for International Development [AID], The Arms Control and Disarmament Agency [ACDA] and The United States Information Agency [USIA] and folded these functions back into the State Department. By doing this, the American taxpayer would have saved $3.66 billion during the next four years.

Now we have a bill that calls for the elimination of these three agencies, but the bill allows the President to issue a waiver for the elimination of two of these three agencies. The result is that the American taxpayer will only realize about half of the $3.66 billion in savings as originally proposed.

I want to remind my colleagues how we got from the original version of the bill to the Conference Report. This is especially enlightening because when the bill was originally proposed, it was hailed as the Helms-Christopher plan because the bill mirrored a plan outlined by Secretary of State Warren Christopher to eliminate these agencies.

This is what the January 12, 1995 edition of the Washington Times had to say about this bill:

> If imitation is the sincerest form of flattery, then Secretary of State Warren Christopher and Deputy Secretary of State Strobe Talbott ought to be basking in the glow of admiration beaming upon them from Capitol Hill. Jesse Helms and Rep. Benjamin Gilman, chairmen of the Senate and House Foreign Affairs Committees, recently unveiled their plan for the re-invention of the U.S. State Department and—Ta-da—it bore more than a passing resemblance to the plan produced by Messrs. Christopher and Talbott.

However, when Vice-President GORE and his re-inventing government staff got a hold of Secretary Christoper's plan it was fundamentally altered. Instead of adopting it, the Vice-President decided to streamline these agencies. And since then, according to the August 5, 1995 edition of Congressional Quarterly, "the administration * * * has mounted a furious effort to kill the Helms bill."

Once again, I want to compliment my friend from North Carolina for continuing to move this plan as originally proposed forward in the face of opposition. He moved the bill through his committee, but when the bill got to the floor of the Senate, the Democrats here carried the administration's torch and frustrated efforts to eliminate these agencies.

Twice the Senate tried to cut-off debate, and twice, along party lines, the Senate was prevented from moving forward on the bill.

I wish to remind my friends on the other side of the aisle and the American people, that the bill does not eliminate the functions of The Agency for International Development [AID], The Arms Control and Disarmament Agency [ACDA] and The United States Information Agency [USIA]. Some have argued that the bill in its original form would have eliminated important government functions. I ask how? The bill transfers the functions of these agencies to the State Department and eliminates the bureaucracy created by these independent agencies.

I wish to point out again for my colleagues in the Senate, that the first bill of the 104th Congress that would have eliminated three government agencies faced vigorous opposition by the Democrats in its original form. And the watered down version, which we are about to pass which would eliminate only one government agency, faces a certain veto by the President. This despite the fact that in his state of the union address the President said "the era of the big government is over."

I don't think the American people could get a more clear picture of who is doing what about the size of government.

Mr. COHEN. Mr. President, much of the debate today has addressed issues that are important but peripheral to the focus of this bill, which is the size and organization of the State Department and associated foreign policy agencies.

Going back to the Nixon administration, numerous reviews have been conducted by the Foreign Relations Committee, its House counterpart, and many executive branch-appointed groups to determine how best to streamline the array of foreign policy agencies that exist. My staff at the Oversight of Government Management has studied this issue, as well. A common theme of these reviews has been that more efficiencies can be achieved, and this probably should include the merging of some existing agencies. The conference report now before the Senate directs, in essence, the elimination of at least one of three agencies—the Agency for International Development [AID], the Arms Control and Disarmament Agency [ACDA], or the U.S. Information Agency [USIA]—with primary focus on AID and ACDA.

The 1989 House Foreign Affairs Committee report coauthored by Congressmen HAMILTON and GILMAN called for AID's elimination. A 1992 report by a bipartisan group appointed by AID, itself, called for AID's merger into the State Department.

A decade ago, I cochaired with Harold Brown a study group at the Johns Hopkins School of Advanced International Studies. We commissioned a paper on why ACDA should not be merged into the State Department. Quite frankly, despite the best efforts of the author who was an advocate of ACDA, the resulting paper produced only weak arguments for keeping ACDA as an independent agency.

Three years ago, Lynn Davis, a protege of Secretary Brown, was appointed by the Clinton administration to be Under Secretary of State. One of her first initiatives was to push to merge ACDA into the State Department, but her effort failed in the face of congressional opposition.

Last year, Secretary Christopher, himself, proposed merging these three agencies into the State Department, but his proposal was not accepted.

So the concept of merging ACDA, at least, into the State Department is hardly radical. And few would argue that, in after the "reinvention" initiatives undertaken by the current administrator, more must be done to reduce the size and improve the effectiveness of AID.

This bill makes clear the desire of Congress to see genuine streamlining, talked about for so many years, finally and effectively implemented.

At the same time, legitimate questions have been raised as to whether the specific mechanism in the conference report is the best way to go about it. Throughout the Reagan and Bush administrations, Republicans criticized congressional micromanagement of the President's foreign policy. Some will ask why now, in 1996, we seem to be shifting direction and trying to impose restrictions on the President. Even more than in the case of the reorganization provisions of the conference report, this is true for many of the conference report's policy provisions.

In this regard, I would highlight sections dealing with the Housing Investment Guarantee Program, Vietnamese migrants, and China. Besides being unrelated to the core function of this bill, many such provisions contain unwise policy prescriptions.

We should encourage, for example, aid programs that leverage private international investment, not terminate such programs as the conference report would do. We should encourage enhanced dialogue between United States and Chinese officials, rather than discourage it as the conference report would do.

Despite these deficiencies, however, the bill does make progress on the decades-old project of streamlining the various foreign policy agencies, and so I intend to vote for it.

If the President does veto the conference report, I hope that we can act promptly to rework it into a bill that can be enacted by deleting or modifying these objectionable provisions.

Mr. HELMS. Mr. President, I suggest the absence of a quorum with the time to be charged proportionately.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered. The time will be charged proportionately, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina, managing the bill, was seeking recognition.

The Senator from North Carolina.

Mr. HELMS. Let us be fair about this thing. This is two Democratic Senators. The Senator from Maryland has been waiting around to speak, and I want to be sure that he is agreeable to being preceded.

Mr. BINGAMAN. Mr. President, I yield the floor.

Mr. HELMS. Mr. President, in the case of the Senator from Maryland, will the Chair deem that he has been yielded time by Senator KERRY?

The PRESIDING OFFICER. That is the Chair's understanding. The Senator from Maryland.

Mr. HELMS. Very well.

Mr. SARBANES. Mr. President, I yield myself 10 minutes. How much time is still available to Senator KERRY?

The PRESIDING OFFICER. He has 67 minutes and 45 seconds.

Mr. SARBANES. I yield myself 10 minutes of Senator KERRY's time. I am authorized to do that.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. I thank the Chair, and I thank the distinguished chairman of the committee.

Mr. President, I rise in opposition to the conference report. I regret that should be the case, because I really do think we should make a very strong effort here to develop a bipartisan approach toward our foreign policy. But this bill takes us in so many of the wrong directions that I simply cannot support it.

First of all, we must understand that we are in a new period with respect to foreign policy. Now that the cold war is over, in my judgment the United States needs to bolster its diplomatic, economic, and political capacities to influence events around the world. We need to anticipate and prevent conflicts through mediation and negotiation. We need to promote sustainable development and support human rights in order to avoid conflicts, which would then lead to even larger economic and human costs. We need to protect our citizens—indeed, all of the world's citizens—from disease, environmental degradation, exhaustion of natural resources, the proliferation of weapons of mass destruction, terrorism, and trafficking in narcotics.

These are all issues that transcend national borders. They are sapping the vitality and strength of societies all across the world. And as the focus shifts to economic matters, we need to expand markets for U.S. goods and services and to create a level international playing field for American workers.

Frankly, I think that these things often can be accomplished more safely, more effectively, and at lesser cost through carefully designed foreign assistance programs and skillful diplomatic engagement than by retreat back to our shores, to a new form of isolationism, or by resorting routinely to unilateral military intervention. The reliance on military force is, of course, our ultimate protection. But many of the problems we are now dealing with are amenable to resolution or subject to influence well short of that. This is a major change from the cold war.

This legislation undertakes, in effect, to impose on the executive branch a reorganization of the foreign policy functions of the Government. I am very frank to tell you that I think if the political situation were reversed and there were a Democratic Congress trying to impose this upon a Republican President, my colleagues on the other side of the aisle would be protesting very loudly that this was an inappropriate intrusion into the functions of the Chief Executive, an improper effort to limit the executive's ability to determine the organization of the foreign policy agencies.

Unfortunately, there is not a shared approach on this bill. It was reported out of the committee on a straight party-line vote. It confronted a similar situation on the floor until some concessions were made. Unfortunately, when we got to conference, most of those concessions were abandoned. So the bill now before us is markedly different than the bill that passed the Senate.

I did not support the bill that passed the Senate, and since it has worsened in conference, by definition I would not support the conference report. But for those who did support the Senate bill, I want to underscore the fact that the bill now before us is markedly different from what moved out of the Senate. Moreover, in my judgment, in virtually every instance it is different in the wrong direction. In other words, there is even less reason to support this legislation, and more reason to oppose it.

There are many troubling provisions in this legislation. Let me just touch on some of them. I am not going to try to cover them all. I know the hour is late, and others wish to speak.

I have talked about the reorganization proposal that provides for mandatory elimination of at least one of the foreign policy agencies. I happen to think that these agencies are doing a good job, particularly under the restructuring efforts that are taking place internally, and in that regard I particularly cite for commendation the efforts at AID. Under the able leadership of the Administrator, Brian Atwood, that agency has been streamlined and energized in order to do its job more effectively.

Secondly, this authorization bill would have the effect of providing caps on appropriations—in other words, of setting ceilings on spending—which are far below the levels necessary to conduct foreign policy and to sustain our interests overseas. I think we are going to face important challenges in the coming years. I do not think we ought to hamstring the ability of the Executive to deal with them. I simply offer to my colleagues on the other side the proposition that they have one of their own now seeking to be the Chief Executive, and they ought to stop and think twice whether they would want him hobbled and hamstrung, as I believe this legislation would do.

This legislation imposes very severe cuts in terms of U.S. participation at the United Nations. I know for many people, the United Nations is not the most popular agency, but let me simply submit to you, if we did not have the U.N., we would have to invent it. In many instances, the United Nations helps us to achieve important U.S. foreign policy objectives. Often when a situation breaks out around the world, the first reaction everyone has is, "Well, the United Nations ought to do something about it," and, in many instances, the U.N. has done something about it very successfully.

We are now the largest deadbeat at the U.N. in terms of meeting our dues and assessments. I think for a Nation which constantly asserts that it is the world's leader, this is a sorry state of affairs. Unfortunately, the conference report before us would only exacerbate this situation.

Furthermore, this legislation makes such drastic changes with respect to AID that I doubt very much that that agency would be able to continue to function in any meaningful manner.

In that regard, I ask unanimous consent that a letter from 20 religious and faith-based organizations be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. Mr. President, this is a letter from 20 religious and faith-based organizations urging opposition to H.R. 1561.

Let me quote from that letter urging this opposition to the conference report:

> . . . The bill would eviscerate further the U.S. commitment to self-help development for poor people in the developing world.
>
> We are particularly troubled by the bill's proposal to abolish the Agency for International Development.

They then go on to say that this would be a misordering of U.S. priorities; that support for poverty eradication and self-help development should be a primary objective of U.S. foreign aid and that it should be administered by an independent agency.

They then discuss other matters in the legislation about which they are very concerned. I think this is a very thoughtful letter, and I hope my colleagues will examine it very closely.

Mr. President, the administration has indicated that they will veto this legislation, as I think they should. I have not discussed some of the particular regional matters. A number of my colleagues have discussed the Taiwan Relations Act and the impact that this has on the United States relationship with Taiwan and on our relationship with the People's Republic of China. I do not think the provisions that are in this legislation have been carefully thought through, and if they were adopted we could run a high risk of destabilizing the situation and contributing to heightened tensions in the region.

Others, I know, have talked also about the family planning implications of this legislation and the fact that it misses an opportunity to correct appropriations restrictions that are having a deleterious impact on women and families in the developing world. This is voluntary family planning services that we are talking about. It is not the abortion issue. I am talking about programs that are designed to make family planning information and services safe and accessible, programs that have had a positive impact around the world. In fact, U.S. foreign assistance does not provide funding for abortion. What we are talking about here are international family planning programs which have been in place for many, many years and traditionally are strongly supported on both sides of the aisle.

So, in summary, Mr. President, I think this legislation falls well short of what we should be enacting into law. I very much regret that the end product is, in my view, essentially a partisan affair. We ought not to be formulating our foreign policy that way, but that is what has happened here.

I would also like to commend Senator KERRY of Massachusetts, who has made a yeoman's effort to reach out in an inclusive way and to try to shape reasonable legislation. I very much regret that that was not achieved, and I urge my colleagues to vote against the conference report.

Mr. President, I yield the floor.

EXHIBIT 1

20 RELIGIOUS AND FAITH-BASED ORGANIZATIONS URGE OPPOSITION TO H.R. 1561, THE FOREIGN RELATIONS REVITALIZATION ACT OF 1995

DEAR SENATOR: We strongly urge your opposition to the conference report on H.R. 1561, the Foreign Relations Revitalization Act of 1995, when it is considered by the full Senate. The bill would eviscerate further the U.S. commitment to self-help development for poor people in the developing world.

We are particularly troubled by the bill's proposal to abolish the Agency for International Development. The harm posed by such a proposal is not undone by the provision allowing a presidential waiver of the requirement to abolish two foreign policy agencies. While we support the reform of AID, we do not believe that transferring its functions to the State Department would accomplish such reform. To the contrary, we believe strongly that U.S. assistance for development should be administered by an agency separate from the State Department so that the long-term needs for sustainable development are not sacrificed for short-term political objectives. Assistance in support of political objectives already accounts for the majority of U.S. foreign aid. This, in our view, represents a serious misordering of the priorities that should govern U.S. foreign assistance. We believe that support for poverty eradication and self-help development should be the primary objective of U.S. foreign aid and that it should be administered by an independent agency.

We are also concerned about the funding levels for a number of programs as authorized in the legislation. We believe that funding for U.S. contributions to international organizations, including the general budget of the United Nations, is inadequate. We also believe that funding for U.N. peacekeeping activities for FY 97 is insufficient. We believe that it is imperative that funding be approved that, at a minimum, will not increase the arrearages in U.S. contributions to the U.N., including peacekeeping activities. Continued U.S. disregard for treaty obligations related to assessed contributions will further undermine U.S. leadership in the world.

We oppose the militarization of the international narcotics control program and are especially concerned that funding would nearly double in FY 97 to $213 million. The program has proven largely ineffective in reducing the volume of illicit drugs entering the U.S. At the same time it has strengthened foreign militaries that have engaged in serious and systematic human rights violations.

The bill contains a number of constructive refugee and migration policy provisions that deserve support. We regret that these provisions may not be enacted because of objectionable provisions throughout the rest of the bill.

We are encouraged by the Administration's statement that the President will veto the bill if it is presented to him in its current form. We hope that there will be sufficient opposition in the Senate to defeat the measure, making such a veto unnecessary. We urge you to oppose the bill.

Sincerely,

David Bechmann, President, Bread for the World; Mark Brown, Associate Director for Advocacy, Lutheran Office for Governmental Affairs, Evangelical Lutheran Church in America; Imani

Countess, Executive Director, Washington Office on Africa; Michael Dodd, Director, Columban Fathers Justice and Peace Office; Bill Dyer, Justice and Peace Officer, Missionaries of Africa; Richelle Friedman, Lobbyist, NETWORK, A national Catholic Social Justice Lobby; Jaydee R. Hanson, Assistant General Secretary, Ministry of God's Creation, General Board of Church and Society, United Methodist Church; Maureen Healy, Africa Liaison, Society of St. Ursula; Rev. Dan C. Hoffman, Area Executive, Global Ministries of the United Church of Christ/Disciples of Christ; Rev. Elenora Giddings Ivory, Director, Presbyterian Church (U.S.A.), Washington Office; Kathryn J. Johnson, Interim Director, Asia Pacific Center for Justice and Peace; Jay Lintner, Director, Office for Church in Society;/United Church of Christ; Erich D. Mathias, Program Associate, Global Ministries of the United Church of Christ/Disciples of Christ; James Matlack, Director, Washington Office, American Friends Service Committee; Timothy A. McElwee, Director, Washington Office, Church of the Brethen; Terence W. Miller, Director, Maryknoll Justice and Peace Office; Richard S. Scobie, Executive Director, Unitarian Service Committee, Lawrence Turnipseed, Executive Director, Church World Service; George Vickers, Executive Director, Washington Office on Latin America; Kathryn Wolford, President, Lutheran World Relief.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I yield myself up to 6 minutes off the time Senator KERRY has reserved.

Mr. President, I also oppose the Foreign Relations Revitalization Act of 1995. In my view, it is wrongheaded legislation and, if enacted, it will undermine our national interests. The legislation, in fact, does undermine the President's constitutional mandate to conduct the foreign affairs of the Nation. By passing a bill such as this, we would be trying to run America's foreign policy out of this Chamber rather than allowing the Executive to conduct the Nation's foreign policy.

Among my concerns about this act is the forced consolidation of agencies. By passing the act, we would tell the President that he is required to eliminate at least one foreign affairs agency, either the Arms Control and Disarmament Agency, the U.S. Information Agency, or the Agency for International Development. When the goal becomes putting the Government out of business and wrecking departments and agencies in some haphazard approach without carefully considering the consequences that a particular agency's termination might have, then something has gone very wrong.

Furthermore, the authorization levels that are provided in the bill will force other organizations to retreat further from engagement in world affairs.

America needs to pursue its interests vigorously in international affairs and to assure that the interests of American citizens are promoted. Withdrawing from the world will only help to make our citizens victims of emerging problems to which we will be ill-equipped to respond if this bill becomes law.

The legislation sets authorization ceilings in fiscal years 1996 and 1997 that are far below the levels necessary to conduct the President's foreign policy and to properly maintain U.S. interests abroad in such areas as overseas posts, foreign affairs agencies, arms control and nonproliferation activities, international organizations and peacekeeping, public diplomacy and sustainable development.

In this bill, the Congress is recklessly venturing into an already stressful set of complex problems between the People's Republic of China and Taiwan. By amending the Taiwan Relations Act to state that the act supersedes the provisions of the 1982 joint communique between the United States and China, as the bill instructs, we are certain to pour oil on a smoldering flame. Many commentators and scholars argue that this would be seen as a repudiation of a critical and stabilizing element of the longstanding United States policy toward China.

This bill also expresses the sense of Congress that the President of Taiwan should be admitted to the United States for a visit this year with all appropriate courtesies. We have already gone down that road once. It seems clear to me that it is foolish, if not dangerous, for us to do so once again.

My list of concerns continues in that that bill prohibits any funds from being used to open, expand or operate a diplomatic or consular post in Vietnam unless a number of compliance items are met by Vietnam.

I am not going to debate whether those compliance guidelines are important. I believe that they are probably valid things to pursue, but not as a condition to establishing an embassy or getting it operating. This is cold war legislation that does not appear to recognize that the cold war is over and that the world has moved on. It is not appropriate for this Chamber to micromanage the President's foreign affairs initiatives in this manner.

On other fronts, the Foreign Relations Revitalization Act compels the United States to downgrade its participation in the United Nations, significantly restricts our country's ability to coordinate peacekeeping efforts and intelligence activities, when global stability issues are at stake. Our role in the United Nations is something that certainly deserves national discussion and debate, but this bill presupposes the answer to that discussion.

Mr. President, this act should be rejected. It clearly does not further the best interests of the American public. I urge my colleagues to vote against its passage.

Mr. President, I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 117 minutes.

Mr. NUNN. I will not need all that time. But could I inquire of the Chair what happened to my 3 minutes?

The PRESIDING OFFICER. There were three quorum calls, equally divided. Each one took 1 minute.

Mr. NUNN. I thank the Chair. I can assure my colleagues I will not need all of my time.

Mr. President, I rise in strong opposition to the conference report on H.R. 1561, the Foreign Relations Authorization Act for fiscal years 1996 and 1997. Although I have a number of problems with the conference report, Senator BINGAMAN from New Mexico and others have identified a number of problems that I will identify myself with. I would like to focus my remarks on the provisions relating to China.

Mr. President, I am relieved that tensions in the Taiwan Strait appear to be easing in the aftermath of Democratic elections in Taipei. We are already very proud of what occurred in Taipei and proud of the people in Taiwan for carrying out their democratic elections under great pressure from the mainland.

I am pleased that the Governments of the People's Republic of China and Taiwan are now making conciliatory statements. I hope a high level of dialogue between these two Governments can take place in the near future.

Mr. President, it would be truly ironic if China and Taiwan begin moving down the road to improving their relations while we take actions in the U.S. Congress that will further the deterioration in the relations between the United States and China. I would find that very ironic. But I am afraid that that is what this act will do.

Before I discuss the specific provisions of this conference report, I would note that the Senate passed a concurrent resolution last Thursday expressing the Sense of Congress regarding missile tests and military exercises by China. As I noted in my floor speech on that concurrent resolution, which had bipartisan support and passed by a vote of 97 to 0, it was "well-reasoned and responsible and * * * designed to make a constructive contribution to the situation."

The concurrent resolution reviewed the history of the three joint communiques under three different Presidents, noted the adherence to a one-China policy by the administrations of Presidents Nixon, Ford, Carter, Reagan, Bush, and Clinton, and "deplored" China's missile tests and military exercises as "potentially serious threats to the peace, security, and stability of Taiwan, and not in the spirit of the three United States-China Joint Communiques."

The concurrent resolution went on to cite provisions of the Taiwan Relations Act and ended by stating that—

> The Government of Taiwan should remain committed to the peaceful resolution of its future relations with the People's Republic of China by mutual decision.

Mr. President, the concurrent resolution the Senate passed last week was responsible and was designed to make a constructive contribution to the situation. Unfortunately, the China provisions of the conference report are, in my view, not responsible and not constructive.

I will just go into detail on a couple of the most troublesome provisions. Section 1601 of the Foreign Relations Authorization Act now pending would amend the Taiwan Relations Act to provide that the Act supersedes the provisions of the 1982 Joint Communique issued under President Reagan.

Mr. President, if it is a matter of law, and it is, that the Taiwan Relations Act supersedes the communique, then that already happened without any declaration of the Senate. Less than a week after the Senate, without one dissenting vote, specifically pointed to the three United States-China Joint Communiques, this act, if it becomes law, could be interpreted as nullifying the validity of one of those joint communiques.

Just to go into details of the 1982 Reagan Joint Communique, it stated in part that—

> The Chinese Government reiterates that the question of Taiwan is China's internal affair. The message to compatriots in Taiwan, issued by China on January 1, 1979, promulgated a fundamental policy of striving for peaceful reunification of the motherland. The Nine-Point Proposal put forward by China on September 30, 1981, represented a further major effort under this fundamental policy to strive for a peaceful resolution to the Taiwan question.

Then section 5:

> The United States Government attaches great importance to its relations with China, and reiterates that it has no intention of infringing on Chinese sovereignty and territorial integrity, or interfering in China's internal affairs, or pursuing a policy of "two Chinas" or "one China, one Taiwan."

Then section 6:

> Having in mind the foregoing statements of both sides, the United States Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan, that its arm sales to Taiwan will not exceed either in qualitative or quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China, and that it intends to reduce gradually the sales and arms to Taiwan, leading over a period of time to a final resolution. In so stating, the United States acknowledges China's consistent position regarding the thorough settlement of this issue.

Mr. President, I believe it is instructive and very important for the Senate, because this is an important vote—I do not know whether people are listening. I do not know whether people have studied this act. I do not know whether people understand the far-reaching implications of this, but this is one of the most important votes we will make this year.

I believe it is instructive, particularly for colleagues on the Republican side of the aisle, to note that President Reagan issued a statement in conjunction with the 1982 Joint Communique, which was prepared by the Reagan administration.

In that statement President Reagan stated that—I am quoting—

> Regarding future U.S. arms sales to Taiwan, our policy, set forth clearly in the communique, is fully consistent with the Taiwan Relations Act.

Mr. President, if President Reagan was right in that carefully crafted statement—this was not a speech off the cuff or a remark he made on television or anything of that nature. This was a very carefully crafted statement by President Reagan in 1982, that went along with the communique with China.

Again, I want to point out the most important sentence that he said in that statement that relates to this act tonight. He states:

> Regarding future U.S. arms sales to Taiwan, our policy, set forth clearly in the communique, is fully consistent with the Taiwan Relations Act.

Mr. President, the pending legislation strongly implies that President Reagan was wrong in this carefully crafted statement in 1982. If the Taiwan Relations Act is inconsistent with the 1982 Joint Communique, President Reagan was wrong, and this act would be viewed as creating a new interpretation of United States-China policy.

Make no mistake about it: If President Reagan was right in his statement, then there is absolutely no need for this act to refer to any kind of superseding of the joint communique—if he was correct. If he was wrong, all these years under both President Reagan, President Bush and under President Clinton, then we have had a communique which the State Department, our policy, our three Presidents, have felt was consistent with the Taiwan Relations Act and which we have been following regarding arm sales and so forth, that, in effect, is now being implicitly overruled.

Do we really want to implicitly take a step tonight that could be viewed and certainly will be viewed by China and by others in the world as creating a new interpretation of United States-China policy by law? Are we prepared to do that? That is what this legislation does. If that is what the Senate wants to do tonight, people can go right ahead and vote for it. It will pass, and the President will have to decide what to do.

I do not believe the Senate of the United States is focused on this, and I do not believe my colleagues thoroughly understand the very profound implications of this, in effect, declaration, or implied declaration, that the Taiwan Relations Act is inconsistent with President Reagan's joint communique with China of 1992.

To continue quoting President Reagan in the statement he made after the joint communique, not part of the joint communique: "Arms sales will continue in accordance with the Act and with the full expectation that the approach of the Chinese Government to the resolution of the Taiwan issue will continue to be peaceful."

Do we want to implicitly overrule that sentence? Do we want to implicitly overrule the first sentence that I have already read twice, but will read again, "Regarding future United States arms sales to Taiwan, our policy, set forth clear in the communique, is fully consistent with the Taiwan Relations Act"? Which of those sentences do we want to implicitly state has been superseded by the Taiwan Relations Act?

"Arms sales will continue in accordance with the Act and with the full expectation that the approach of the Chinese Government to the resolution of the Taiwan issue will continue to be peaceful." Is that statement wrong? Is the first statement wrong? That seems to be what we are saying.

"We attach great significance," again, President Reagan's statement, "We attach great significance to the Chinese statement in the communique regarding China's 'fundamental' policy; and it is clear from our statements that our future actions will be conducted with this peaceful policy fully in mind."

Continuing from President Reagan, "The position of the United States Government has always been clear and consistent in this regard. The Taiwan question is a matter for the Chinese people, on both sides of the Taiwan Strait to resolve. We will not interfere in this matter or prejudice the free choice of, or put pressure on, the people of Taiwan in this matter. At the same time, we have an abiding interest and concern that any resolution be peaceful. I shall never waiver from this fundamental position."

Mr. President, this legislation, in effect, says that President Reagan did not know what he was doing when he made that statement, that the Taiwan Relations Act itself superseded the joint communique, because it was inconsistent with it. There is no reason for it to supersede the joint communique unless there is an inconsistency. If there is no inconsistency, there is no reason to say it supersedes it, because the consistent joint communique would not be overruled by a consistent United States law, which the Taiwan Relations Act is—it is law. There is no doubt about that.

President Reagan made it clear in his Presidential statement that the reduction in arms sales to Taiwan is based upon the premise, as expressed in the joint communique, that the Taiwan question will be settled peacefully.

Mr. President, China believes that Taiwan has acted in ways that are inconsistent with the one-China policy. No question but that is what China believes and is the basis of a lot of their action. Taiwan contends it does not seek independence. President Li has said that. President Li has also restated his desire for peaceful reunification with the mainland.

China, in my view, has greatly overreacted to its perceptions by conducting missile launches and military exercises which I believe are inconsistent with the other fundamental principle of settling the Taiwan question peacefully. I happen to believe that what China has done in recent weeks is counterproductive to its own purpose, which is, as stated, eventual peaceful reunification.

The Taiwan Relations Act of 1979 was enacted at the time of the establishment of diplomatic relations between the United States and China, a diplomatic act which established the principle of one China. The Taiwan Relations Act was needed to create a foundation for dealing with Taiwan in the aftermath of the end of diplomatic relations with the Republic of China. It did not, nor did it need to, refer to the one-China principle, because it focused instead on ensuring that the Taiwan question was settled peacefully by ensuring that Taiwan had the means to defend itself.

Enactment of section 1601 of this act pending before us now, which is the pending conference report, could be interpreted—and I say would be interpreted by many—to say that the Taiwan Relations Act is inconsistent and even supersedes the principle of one China. I do not believe that is what the authors intended to do here. Perhaps they can clarify that.

I am fearful that a number of people in the world, including China itself, could very well interpret this legislation as superseding the principle of one China. This is a complex, complicated area where words really do matter. I think we should be very careful this evening.

Mr. President, I believe China's provocative military actions have been dangerous and counterproductive to China's interest and certainly to the interest of stability in that area of the world. I believe that China has greatly overreacted on the subject of Taiwan. The enactment of this conference report will make the situation worse because it would undercut one of the two main principles of our relationship with China and could give the Chinese—probably would give the Chinese—the impression that the United States was no longer willing to live up to its commitments as set out in the three joint communiques by President Nixon, President Carter, and President Reagan, and followed by the other Presidents, including President Bush and President Clinton.

Mr. President, I believe this legislation, if it passed and became law, would be a very, very serious mistake, one of the most profound mistakes this Congress has made and probably any Congress has made in recent years. I think it would take our troubled relations with China and turn them into a real downward spiral of additional trouble.

Mr. President, I also would like to call the Senate's attention to section 1702 of the act, the Declaration of Congress Regarding U.S. Government Human Rights Policy Toward China. Within this section, it is expressed in the sense of the Congress that "The President should decline the invitation to visit China until and unless there is a dramatic overall progress on human rights in China and Tibet and communicate to the Government of China that such a visit cannot take place without such progress."

Mr. President, this is exactly what we have done in this country under two Presidents, President Bush and President Clinton, for the last 7 years. It does not appear to be working very well. This is basically a freezing, if we took the sense of the Congress seriously—if the President did—a freezing of the status quo.

Mr. President, while I believe it is counterproductive to our own goals to make human rights in China the centerpiece and the be-all and end-all of United States-Chinese relations, I do not think we further our goals when we do that, including our human rights goals. The United States has a strong interest in seeing respect for human rights improve in China and, indeed, all over the world. The enactment of this provision or any provision similar to it would run counter to the very actions the United States must take in order to address and help constructively resolve the differences between the United States and China, including, but not limited to, progress on human rights.

Mr. President, I think a lot of people forget that the United States has 38,000 troops in Korea. We have the most isolated regime in the world, North Korea, that is not only on a quest—or has been up until the last year—to become a nuclear power, but also has, according to reports, increasing problems with starvation, including predictions by most organizations that the problems are going to get worse in the next 3 or 4 months.

Mr. President, one of the things that people do not recognize is that China has been very, very constructive in terms of the United States' position on the Korean Peninsula, both in terms of encouraging North Korea to behave in the nuclear area and also encouraging the parties there to resolve their differences with dialogue and without a war.

This is a dangerous situation in Korea. We have 38,000 troops there. In our relationship with China, we appear to forget altogether about the connection between China and the situation in Korea.

I do not see how we can do that and keep our minds on our duty to our own military forces that are stationed there. But it seems to be completely ignored in all of our debates about China. I would say, on the one side, people on the left seem to believe that, in China, 10 dissidents is on the same level, at least, with the whole United States question on the Korean Peninsula. People on the right seem to believe that we can take positions that basically unravel, or at least implicitly unravel, communiques entered into by Presidents Reagan, Carter, and Nixon, and we can do that with impunity, and we can forget any relationship between what we do vis-a-vis China in terms of keeping our agreements, and what they may do regarding helping us resolve the Korean situation peacefully.

There are a lot of other mutual interests we have with China, but they get lost in this atmosphere. Perhaps they will continue to get lost until we have the kind of high-level dialogue between the President of the United States and the President of China, and between our Secretary of State and their Foreign Minister, that can begin to talk about mutual interests and resolve the differences, which are differences of considerable importance, within the framework of working as partners with mutual interests. That is not possible in the current atmosphere.

But what this bill says is that we should place human rights in China and in Tibet above anything else. The Korean Peninsula, the nuclear quest for arms in Korea, the 38,000 American troops that are in Korea, the stability of Northeast Asia, and even Taiwan-China relations. We are saying—if you take this seriously—that the President should not have any kind of visit to China until they act, in American terms, acceptably on human rights both in China and Tibet.

Mr. President, on human rights, I think the United States is unique. But we will really be unique if we take this resolution seriously, because we would be the only country in the world that takes that position. Not a single ally—not one—has taken the position that their head of State should not visit China. That is what we are saying here—that the President should not visit China.

Mr. President, maybe we do not take these sense-of-the-Congress resolutions seriously. They are not law, and would not be binding the President. If we do not take them seriously and they are not important, how do we expect anybody else to take them seriously? Unfortunately, when we put resolutions like this in the bill, the only people that take them seriously are the people they affect adversely. And they react adversely. So I do not know what we are really trying to say here. But I know it is counterproductive. It would postpone, if not preclude, efforts to establish a much-needed strategic dialogue between the United States and China. Clearly, the dialog with China is more important than ever at this time— unless we really want to go into a period of years of cold war and dangers of something far worse than cold war, in that part of the world.

For the strategic dialogue between the United States and China to be successful in working to resolve our differences, participation is required on the highest levels of leadership. That means the President of the United States has an active role to play, whether it be President Clinton or President DOLE in 1997. How soon this resolution would apply to "President" DOLE, saying to him, "You should not have any Presidential visit or dialog with China until they meet our terms on human rights"—I really have a hard time believing that we are serious about saying this.

So whichever President is elected in 1996, that is what this resolution is saying. This is indefinite. This resolution says we do not think you should ever visit China until you have resolved the human rights questions in China and Tibet to our satisfaction.

Mr. President, we have not treated any other country in the world this way. We do not treat Russia that way right now. We expect the President of the United States to meet with President Yeltsin, but most of us deplore what is happening in Chechnya, the continued killing of a tremendous number of innocent people there. We do not say to the President, "Do not visit Russia."

Mr. President, people forget that we are very proud of what Taiwan has done. Taiwan had an election under very serious pressure. We are proud of their economic progress. All of us have very close friends in Taiwan. These are some of the most productive, energetic people in the world. And this country is always going to have a very friendly relationship with the people in Taiwan.

We were very patient with Taiwan. They were not a democracy, in our sense of the word, for years and years. We are celebrating democracy now. For 35 years, we supported Taiwan when they were not a democracy. We have had the same thing with the South Koreans. We celebrate what is happening in South Korea now, with the democratic election of a President. We went for years and years and years, where we spent literally billions of dollars helping defend South Korea when they did not meet our definition of human rights. It is only in recent years that they have. And now we single out China and say, "We do not want our President talking to you, or visiting you, or having any dialogue with you, until you meet our definition of human rights."

I really do not believe the Senate of the United States wants to say this tonight. That is what we will say if we pass this resolution.

Mr. President, 7 years have passed since an American President, or Vice President, has journeyed to Beijing, or the President, or premier, of China has been in Washington. This provision would say to the President: "please do not change this situation. This is a great policy. It is really working." Well, is it working? Does anybody think that helped our relations? I think this is a fundamental error that would be damaging to United States-China relations and United States foreign policy.

This conference report's provisions attempt to deal with differences with China by prohibiting initiatives and efforts that would help resolve the very differences that we are frustrated about.

Quoting from a speech I gave on China about 3 weeks ago:

> Not only must our expectations be realistic, but we cannot wait to engage extensively with China until it has become more like us. . . . We must engage with China and its current leaders now. . . . China's transition and its potential impels America, insofar as possible, to be actors on the scene.

Mr. President, China is determined to preserve the areas it considers part of China, including Taiwan, Hong Kong, Macao, and Tibet. Passage of this legislation will inevitably cause China to harden its position. We should not make miscalculations regarding this.

From the Chinese perspective, Tibet, like Taiwan, is considered to be an issue of sovereignty to be resolved internally by China and Tibet. In the Foreign Relations Authorization Act pending before us, it is expressed as the sense of Congress that "Tibet * * * is an occupied country under the established principles of international law." That is what we are saying in this bill.

Mr. President, as a matter of fact, longstanding United States policy is that Tibet is part of China. That is not a new policy by the Clinton administration. We have had that policy through a number of administrations. This is also shared by every member of the United Nations. Even the Dalai Lama does not go as far as this conference report. What are we doing? What are we doing? Do we know?

Mr. President, I view with concern section 1303 of the act, which advocates establishing a special envoy for Tibet. That is what we are voting on. This provision would have the United States establish a level of official relations with Tibet—if you take it seriously—that undermines our longstanding, established Tibetan policy. More important, this provision would weaken our ability to influence Chinese policies in Tibet and would greatly weaken our influence to protect the people in Tibet from abuses, which we all know have occurred.

My specific concerns are as follows: The proposed duties of the special envoy would duplicate and, I believe, greatly undercut responsibilities already being discharged by the United States State Department—that is, promoting dialog between the Dalai Lama and the Chinese Government concerning the religious and cultural integrity of Tibet and discussing the human rights problems in Tibet with Chinese Government officials.

The President has already appointed, the Senate has confirmed, and the Chinese Government has accepted an envoy to all of China—and that is the United States Ambassador, resident in Beijing—our former colleague, Ambassador Sasser.

The Chinese Government, in my view, would refuse to accept a special envoy for Tibet, and would in all likelihood make regular travel to Tibet impossible for United States diplomats.

Is that what we want? Do we want to imply that Tibet is separate from China, and do we want to have a separate United States envoy, and probably in all likelihood result in virtually cutting off access of the United States to Tibet? Is that what we want? Because that is what we are voting on.

Mr. President, this provision in my view would be counterproductive to its intended purpose. I am sure the purpose of the provision is to help the people of Tibet. My view is that it would be totally counterproductive to that end. The United States can maintain and promote good relations between the Dalai Lama and his representatives. We can promote the need for substantive negotiations to take place between the Dalai Lama, or his representatives, and senior members of the Government of China. We can coordinate United States Government policies, programs, and projects concerning Tibet, and we can carry out any other actions the President deems necessary with regard to Tibet without the need to establish a special envoy in the process.

The United States cannot solve the question of Tibet on the floor of this Congress. Only the people in Tibet and the people all over China, including Tibet, can resolve their differences. A special envoy could neither contribute to this dialogue nor foster a solution, but is likely to be totally counterproductive.

I will close by making just one additional observation on another provision, without getting into detail. Some of my other colleagues have already spoken on this. Section 1708 of the pending authorization bill states that "the President of Taiwan should be admitted to the United States for a visit in 1996 with all appropriate courtesies." Mr. President, this provision, to say the least, is unwise at this point in time—unless we want to deploy our aircraft carriers, several of them, to the region, and spend a great deal of the next several years in the Taiwan Strait.

PRIVILEGE OF THE FLOOR

Mr. NUNN. Mr. President, I ask unanimous consent that Maurice Hutchinson, legislative fellow of my staff, be admitted privileges of the floor during the consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I reserve the remainder of my time.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. NUNN. Does anyone else have time at this point?

The PRESIDING OFFICER. The Senator from Massachusetts has 52 minutes, and the Senator from North Carolina has 37 minutes.

Mr. NUNN. I yield to the former chairman of the Foreign Relations Committee and ranking Democrat, Mr. PELL, whatever time he desires.

Mr. PELL. Mr. President, I thank my colleague.

Mr. President, I regret that I am unable to support this conference report on H.R. 1561, the Foreign Relations Authorization Act, fiscal years 1996 and 1997. I recognize that House and Senate Republican conferees have attempted to find a middle-ground between the respective bills passed by each House and that this conference report is an improvement over the House-passed bill. Although there are some provisions in the bill that I support, I believe the bill is fundamentally flawed in four areas—reorganization of the foreign affairs agencies, funding for the Arms Control and Disarmament Agency and for our contributions to the United Nation, and American policy toward China.

This bill requires the President to abolish one of the foreign affairs agencies—AID, USIA, or CDA. There is no doubt that this is an improvement over the original language in the House bill, which mandated the abolishment of all three of these agencies. However, this conference report falls far short of the Senate bill, which sought to force consolidation through savings rather than the mandatory abolition of agencies. The Senate bill preserved the President's constitutional right to determine how to organize those agencies which carry out the foreign policy directives of the President of the United States. The conference report takes that away. I cannot support a bill which crosses this line and abolishes an important foreign affairs agency simply for the sake of abolishment. On an issue such as this I feel it is important for the Congress to acknowledge the prerogative of the President to organize the foreign affairs agencies in a manner which best serves the nation's interests and the President's foreign policy priorities.

As a strong supporter of ACDA and its mission, I am deeply disturbed by the inadequate funding levels for ACDA in this bill. The fiscal year 1996 authorization of $35.7 million represents a 28 percent reduction from the fiscal year 1995 level. The fiscal year 1997 authorization of $28 million is not only a 44 percent reduction from the fiscal year 1995 level, but cuts ACDA so deeply that it can no longer carry out its core missions, such as being our watchdog on proliferation, verifying arms control agreements, and monitoring compliance with new agreements. This is a foolish and costly approach at a time when our needs in the area of arms control are increasing, not decreasing.

The conference report also fails to authorize the necessary funds for the United States to pay assessed contributions to the United Nations and its related agencies. I agree that we need to do all that we can to force the United Nations to adopt serious management and financial reforms but failing to meet our treaty obligations is not the way to achieve this goal. It simply diminishes our influence and encourages other nations to take the same, ill-advised approach.

Finally, section 1601 of the conference report amends the Taiwan Relations Act [TRA] of 1979, to say that the provisions of the Act relating to arms sales to Taiwan supersede any provision of the joint communique, signed between the United States and China in 1982, limiting such arm sales. I believe this provision was added out of genuine concern for the people of Taiwan, a concern I share. But I also believe that this is the wrong approach to Taiwan's security problem and the wrong time to take it.

Our relationship with the People's Republic of China is at one of its lowest points in history, certainly the lowest point since the Tiananmen massacre. We have major disputes with the Chinese on a number of serious issues, ranging from trade to human rights to proliferation of weapons of mass destruction. While we will not back away from any of these issues, it is important that both governments act prudently and not unnecessarily damage the relationship further. But this bill does the opposite, by undercutting the basis for United States-Chinese relations. Section 1601 constitutes a unilateral revision of one of the cornerstones of the bilateral relationship. Adopting a measure like this would certainly cause a backlash from Beijing, by playing into the hands of hard liners in the Chinese leadership and aiding them in their attempt to promote an anti-Western, anti-United States agenda.

I also think this approach is likely to fail in its fundamental purpose of advancing Taiwan's security. For almost 3 weeks, we saw tensions rise in the Taiwan Strait as China tested M-9 missiles and held massive military exercises in an attempt to intimidate a Taipei it fears is heading toward a declaration of independence, aided by foreign powers. Just this week, after Taiwan's historic presidential election on Saturday, we are seeing some initial positive signs that both governments are reaching out to each other in order to move back toward a more stable relationship. A reversal of U.S. arms sales policy at this time would certainly hamper those efforts. It is very much in Taiwan's security interest that all three capitals work to defuse tensions, not inflame them. Section 1601 would further damage already strained relations with Beijing and likely endanger, rather than strengthen Taiwan. It is the wrong policy at the wrong time.

Mr. President, for these reasons, I intend to vote against this conference report. The President has indicated that he will veto this bill over the issues I have discussed as well as some others, and I ask unanimous consent that the administration's statement to that effect be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADMINISTRATION POLICY H.R. 1561—FOREIGN RELATIONS REVITALIZATION ACT OF 1995

If the conference report on H.R. 1561 is presented to the President in its current form, the President will veto the bill. While steps have been taken to improve the bill, it still contains numerous provisions which do not serve U.S. foreign policy or U.S. national interests.

The principal reasons for the veto are:

Forced Consolidated of Agencies. The legislation interferes with the President's prerogatives to organize the foreign affairs agencies in a manner that best serves the Nation's interests and the Administration's foreign policy priorities. This bill mandates the abolition of at least one foreign affairs agency, and includes authorization levels that would force other organizations to retreat further from engagement in world affairs. The Administration has already implemented significant reinvention of and reductions in international programs and is working towards further streamlining and reorganization. H.R. 1561 fails to provide, however, the necessary flexibility for the Administration to manage the agencies that implement foreign policy, which is essential to United States leadership.

Authorization of Appropriations. The authorization levels included in the bill for FYs 1996 and 1997, which constitute ceilings on appropriations, are below the levels necessary to conduct the President's foreign policy and to maintain U.S. interests overseas in such areas as operating overseas posts of foreign affairs agencies, arms control and nonproliferation, international organizations and peacekeeping, public diplomacy, and sustainable development. In addition, these levels would cause reduction-in-force (RIFs) of highly skilled personnel at several foreign affairs agencies.

Taiwan Relations Act. Section 1601 amends the Taiwan Relations Act to state that the Act supersedes the provisions of the 1982 Joint Communique between the United States and China. This would be seen as a repudiation of a critical and stabilizing element of long-standing U.S. policy towards China, increasing risks at a time of heightened tensions.

Relations with Vietnam. Section 1214, concerning the use of funds to further normalize relations with Vietnam, unduly restricts the President's ability to pursue national interests in Vietnam, and in particular could threaten the progress that has been made on POW/MIA issues and put U.S. firms at a competitive disadvantage. Legislation which restricts the opening of missions also raises constitutional concerns.

U.S. Participation in International Organizations. Provisions related to U.S. participation in the United Nations, which provide inadequate funding levels for FYs 1996 and 1997, and unworkable notification requirements would undermine U.S. diplomatic efforts to reform the U.N. and to reduce the assessed U.S. share of the U.N. budget. Furthermore, the provisions could interfere with ongoing Executive-Legislative Branch discussions aimed at achieving a consensus on UN funding and reform issues.

Housing Guaranty Program. Section 1111 would terminate several worthwhile country program, such as those in Eastern Europe and would eliminate any future programs, including those for South Africa. Additionally, this provision could inadvertently cause the cut-off of development assistance to many of the poorest countries of the world, as well as the cut-off of Economic Support Fund (ESF) anti-crime and narcotics-related assistance.

Family Planning. The conference report fails to remedy the severe limitations on U.S. population assistance programs placed in the FY 1996 foreign operations appropriations legislation. These restrictions will have a major, deleterious impact on women and families in the development world. It is estimated that nearly 7 million couples in developing countries, will have no access to safe, voluntary family planning services. The result will be millions of unwanted pregnancies and abortions.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I am going to suggest the absence of a quorum, but I want to ask unanimous consent that all quorum calls henceforth be charged proportionately.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, this has been cleared on both sides. I ask unanimous consent that the vote on the conference report occur at 9 p.m. tonight, with the time between now and the vote to be divided as follows: Senator BIDEN, for up to 20 minutes, and all remaining time under the control of Senator DOLE, the majority leader, or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RUSSIAN POULTRY MARKET

Mr. BIDEN. Mr. President, I have two comments I would like to make. I first would like to respond very briefly to a speech earlier in the day made by one of my colleagues before I discuss the foreign relations authorization bill pending before the Senate. I would like to address briefly the earlier comments of my good friend, the distinguished Senator from Arizona, regarding the President's involvement in resolving our trade impasse with Russia. The distinguished Senator suggests that it was inappropriate for the President to impress upon Mr. Yeltsin that the poultry industry is important to Mr. Clinton's home State, as well as to many other parts of America; I must say forthrightly, the single most important industry in my State.

Since Russia announced over a month ago that it was banning the import of all American poultry, I have been in daily contact with the White House, our Trade Ambassador Mickey Kantor, and our Agriculture Secretary Dan Glickman, to keep this $500 million market open to American poultry growers.

Fortunately, the hard work of the administration has paid off. Just this week the Russians announced that they are backing down. This would not, in my view, have been possible without the direct involvement of the President, the Vice President, Ambassador Kantor and Secretary Glickman.

Since 1982, Sussex County, one of our counties in Delaware, has remained the No. 1 broiler-producing county in the United States of America. The Delmarva peninsula is home to 21,000 poultry workers, and produces more than 600 million birds per year. It is a major supplier of the Russian poultry market.

Last year, for example, one major Delaware producer exported 1,300 tons of frozen poultry to Russia. Another exported $10 million worth of poultry products.

Those of us who understand this industry know that it is under increasing competitive pressure as grain prices soar and the price of other meats fall. But, they know how to prosper in a competitive environment. That is why we can ship higher quality poultry to Moscow and Saint Petersburg and still beat their prices. In turn, it is the responsibility of this and, I believe, every administration to maintain the open international markets that they need, not only for American poultry but for all American products. Keep in mind that Russia's market was closed as recently as 1991. Now, Russia purchases $500 million worth of poultry every year, and the market has been growing. This is just one of the many products they purchase.

This has been a real success story for American exports. Of American exports, the agricultural community is the only real success story in American exports of continuing, year-in-and-year-out consequence.

I, for one, think it is perfectly appropriate, as a matter of fact absolutely necessary, for the President of the United States, in this case President Clinton, to let President Yeltsin know just how important these exports are. I cannot think of any better way for a President to drive the point home than to make this issue personal.

I wanted very much for the President to successfully resolve this problem of the poultry industry. As any negotiator on the floor of this Senate understands, the one way in which, on a close call, we all appeal to our colleagues ultimately is we say: This is personal to me. This is personal to me.

Mr. Yeltsin is a politician. Every world leader is a politician. Politicians in international relations react no differently than politicians on the Senate floor.

I think it was perfectly appropriate and necessary for the President to use everything in his arsenal to convince the Russians not to violate international trade agreements with regard to poultry or anything else.

Mr. President, I believe that the people who disagree with the President acknowledge he is a master communicator. You can bet Yeltsin got the message.

So let us keep the big picture in mind and not get hung up on questions of style. The results, which are keeping 500 million dollars' worth of export markets open, speak for themselves. I think this is an important achievement on President Clinton's part and an important international trade issue. Had he failed, it would have set the precedent for significant trade consequences for the United States, and not just in poultry. I think most Americans, regardless of political party, feel the President did the right thing. I know I think he did the right thing.

AGAINST BACKDOOR ISOLATIONISM

Mr. BIDEN. Mr. President, I would now like to register my strong opposition to the question we are about to vote on, the conference report on H.R. 1561, the Foreign Relations Authorization Act.

In spite of some modifications, this report still, in my view, suffers from the fatal flaws that afflicted the Senate bill which we voted upon in December and I voted against.

This conference report would abolish three agencies that continue to serve the interests of the American people: The Arms Control and Disarmament Agency, the U.S. Information Agency, and the U.S. Agency for International Development.

While unwisely folding these agencies into the Department of State, it would severely cut funding for diplomatic activities, thereby further undermining our ability to carry out a coherent foreign policy.

The report also includes a sadly inadequate sum for foreign assistance, contains language that would be extremely damaging to POW/MIA identification in Vietnam, unwisely tampers with the 1982 joint communique with China, and generally attempts to give the impression that it is an internationalist piece of legislation.

Mr. President, the intent and impact of this legislation is not internationalist at all. No, the report is, in fact, yet another attempt at backdoor isolationism, in my view.

The legislation has its genesis in a deeply flawed ideological belief that no matter what the objective facts are, less Government tomorrow is better than whatever level of Government we have today. Following this simplistic logic, we have three independent agencies today so let us have two, or one, or even none tomorrow.

Never mind that all three agencies—ACDA, USIA, and AID—have all made significant strides in restructuring their activities and saving large sums of money and large sums of taxpayer dollars on their own accord.

Never mind that the missions of all three of these agencies are even more important today than they were during the cold war.

Less is more, so hack away. If this act were anything more than a numbers game, it would not blithely give the President a waiver authority to save up to any two agencies of his choice. It is like picking draft choices. I will trade you one and you pick any two you want.

It has nothing to do with anything other than the notion that less is better. For, if it were otherwise, we would say, "Mr. President, you must deal specifically with this agency or that agency." This, however, is like giving up future draft choices.

The legislation appears at first glance to have been crafted in blissful ignorance, both of what has been going on in our foreign policy apparatus for years and what it takes to conduct American foreign policy around the globe today.

How else could one explain ignoring ACDA's increasingly critical watchdog role in nuclear nonproliferation. It does not matter that the cold war is over. We now face the danger of nuclear weapons in the hands of several new countries, including rogue States like Iran and Libya.

Moreover, terrorist groups threaten to get ahold of nuclear material for the purpose of blackmailing entire cities and potentially nations. Now, more than ever, we need the proven expertise and independent judgment of ACDA.

Can we really believe that the drafters of this legislation are unaware of USIA's technologically sophisticated efforts to bring America's message to the world? Do they also not know that American public affairs officers are often our embassies' most proactive diplomats? Can they not see that merging them into a large bureaucracy would inevitably smother their creativity?

Mr. President, is it credible to believe that the innovative public-private enterprise funds that USAID has pioneered in Central and Eastern Europe have escaped the notice of the sponsors of this legislation? Do they really not comprehend that development aid is a cost-effective way to head off crises around the world?

No, I think the answer to all these questions is clear: Less is more, so let us slash, let us slash.

It is bad enough that absorbing these agencies would rob them of their independence that has served this Nation so well for decades. But, Mr. President, this legislation adds insult to injury by denying the State Department the necessary funding to adequately carry out the new functions it will now inherit, along with its current duties as the principal vehicle for the carrying out of U.S. foreign policy.

The sponsors of this legislation would have us believe that a profligate and bloated bureaucracy needs to be cut down to size. In my view, nothing can be further from the truth.

The international affairs budget is now 45 percent lower than it was in 1984.

Altogether, it represents only 1.3 percent of Federal spending.

Over the past 3 years alone, the State Department's budget has been cut in real terms by 15 percent, at the same time the Department's responsibilities have been increased with the birth of many new countries out of the wreckage of the Soviet Union.

We see what is happening in Bosnia. We know what is happening in all the former Soviet republics, and it makes sense for us not to have a presence there? It makes sense for us not to be involved? It makes sense for us to close embassies? It makes sense for us not to open consulates?

I cannot believe that is what is motivating this legislation. It is simply this notion that we should cut and slash.

Forced to respond to these fiscal stringencies, the State Department has taken some very painful measures:

It has cut its total work force by 1,700 persons.

It has downsized the Senior Foreign Service by almost one-fifth, and, in my opinion, this measure is a thoughtless waste of a national resource.

It had to cancel, for example, the 1995 and 1996 Foreign Service examinations—in effect, a tragic waste of a future national resource, namely, the best and the brightest college and university graduates who will be unable to join our diplomatic corps and serve this Nation.

It has cut its administrative expenses by nearly $100 million. Anyone visiting an American embassy abroad has seen our highly trained professionals doubling- and even tripling-up in cramped office space, even as they routinely work 12 hours a day or more.

Yet, Mr. President, some politicians see fit to use the Foreign Service and other agencies as whipping boys in an attempt to fuel this mindless anti-Government feeling that afflicts some of our fellow citizens.

I regret to say that last summer, one of our colleagues and a good friend of mine castigated American diplomats for allegedly working in "marble palaces" and "renting long coats and high hats" only a few weeks after Bob Frasure, Joe Kruzel, and Nelson Drew were killed on the Mt. Igman Road above Sarajevo—working not in a marble palace, but in an armored personnel carrier, and wearing fatigues, not long coats and high hats.

Finally, the State Department has been forced to close a string of diplomatic posts, thereby severely hampering our ability to carry out political, economic and cultural diplomacy in an increasingly competitive world.

I come from a State where there are a number of multinational corporations. They have historically—not solely, but in part—had access and information provided to them through economic and commercial officers at our consulates and our embassies. Why are we closing them? In the name of economy, in the name of the long-term future of American economic growth? What is the reason?

From all this, any objective observer, in my view, can see that the foreign policy apparatus of the United States has already been pared down to the bone.

What does this legislation do? After mandating that the State Department assume the functions of ACDA, USIA and AID, it calls for further budget cuts of $1.7 billion over the next 4 years.

I think this is a shell game which ends with nothing left under any one of the shells.

In effect, this legislation will also cripple our ability to head off crises around the world through diplomacy that this President and future Presidents of the United States will be faced with the stark choice of either doing nothing or sending in the military.

Let me make a truly radical suggestion, Mr. President. This year we gave the Pentagon $7 billion more than it asked for. I have consistently supported keeping the U.S. military the strongest military in the world, and I continue to do so.

But why not give the Pentagon only $5 billion more than it asked for and transfer the remaining $2 billion to the international affairs budget, keep the three agencies functioning, and enable this country to get back into the big leagues of international diplomacy?

Unfortunately, with our backdoor isolationists in control of this Congress, this perfectly sensible suggestion, I believe, is totally impossible.

No, Mr. President, this conference report is a triumph of ideologically driven romanticism. It speaks to an earlier, simpler age.

Unfortunately, though, we are approaching the turn of the 21st century. The world is ever more complex, not simple, and closing our eyes will not make the complexity go away.

This bogus administrative reform, combined with purposefully punitive budget cuts, is no more than backdoor isolationism, in my view.

This conference report ought to be titled "The Smoot-Hawley Foreign Policy Act of 1996."

It is a blueprint for the affairs of an inward looking, minor nation, not the world's only remaining superpower.

As you might guess, I will cast my vote against this backdoor isolationism, and I urge my colleagues on both sides of the aisle to do the same.

This is not a time to turn inward. This is a time to look outward. This is a time to claim our mantle, to engage in diplomacy, and to help shape a world that will make it safer and economically more viable for Americans to live in.

I thank my colleagues for their indulgence and yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, the majority leader has suggested that in order to enable Senators to get home a few minutes earlier, that we start the rollcall vote immediately, but to run it on for there to be plenty of time for Senators to arrive. So I make that unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask for the yeas and nays. I thought they had already been ordered.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the conference report to accompany H.R. 1561. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Arkansas [Mr. PRYOR], and the Senator from Nebraska [Mr. EXON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 44, as follows:

[Rollcall Vote No. 59 Leg.]

YEAS—52

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—44

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Reid
Robb
Sarbanes
Simon
Wellstone
Wyden

NOT VOTING—4

Exon
Mack
Pryor
Rockefeller

The conference report was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the conference report was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, on behalf of the majority leader, Senator DOLE, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS DECENCY ACT

Mr. EXON. Mr. President, I would like to make reference to this, and will ask for this to be printed in the RECORD. I notice with great interest a full-page ad in the New York Times of March 26, 1996, and the startling information here in dark type is "Does Sex Turn You off?" Then it goes on to say—this is published by Penthouse—entitled "The Facts of Life."

It says:

> It is a touchy subject. But an important one. Especially if you're a marketer who wants to reach men. If you've never experienced the satisfaction of advertising in Penthouse, there are some facts you should know. Facts that help explain why Penthouse is a savvy business decision, and why it performs as well as it does. For starters, Penthouse's efficiency far surpasses Playboy, GQ, Sports Illustrated and Esquire. We also reach a higher concentration of 25 to 49 year old men. And at newsstands, where a full purchase price helps gauge a magazine's true value to readers, Penthouse's sales are routinely on top.
>
> What's more, study after study has found that the more involved readers are with a magazine's editorial, the more they're involved with its advertising. And no magazine's readers are more involved than Penthouse's. The appeal and leadership of Penthouse extends beyond print, however. On site on the Internet —http://www.penthousemag.com—attracts over 80,000 people daily—(not hits, people.) This not only makes Penthouse one of the Internet's most popular sites, it enables us to guarantee advertisers an audience of 2.4 million people every month. This proposition is

encouraging more and more marketers to take advantage of both Penthouse Magazine and Penthouse Internet. If you're an advertiser who wants the special stimulation Penthouse offers, contact Ms. Audrey Arnold, Publisher, at 212-702-6000.

And it says down here:

Penthouse, The Facts Of life.

Mr. President, when Congress considered the Communications Decency Act, commonly called the CDA, as part of the telecommunications bill, opponents of the Communications Decency Act raised all kinds of concerns that passage of the Communications Decency Act would restrict free speech of adults and end the commercial viability of the Internet.

Let me repeat that last part again: And end the commercial viability of the Internet.

The Washington Post in this regard printed an editorial that the Exon Communications Decency Act would interfere with the matter of making money on the Internet.

I have only cited the article that appeared in a full-page ad in the New York Times and intend to make these remarks tonight to thank the Penthouse magazine for printing that full-page ad, which is their right—pretty expensive but it is their right, and obviously they are a pretty good free enterprise, money-making concern. But I think it points out more than anything else how all of the opponents to the Communications Decency Act are way off base.

The recent full-page ad in the New York Times both refutes and makes meaningless the claims of the elimination of free speech of adults and the end of commercial viability on the Internet. Penthouse Magazine, which until enactment of the Communications Decency Act, offered free adult fare to Internet users of any age, was one of the first purveyors of sexual material to take steps to comply with the new law. That law is clearly working and has already been instituted to create a great success story.

Before our law was introduced and before it was passed, there was thunderous silence, thunderous silence, Mr. President, from both the industry and those loud voices that are now hammering away at the Communications Decency Act.

Published reports have indicated that Penthouse and Hustler Internet sites, referencing great numbers in the wording from the ad that I just read, and maybe some others now require, after passage of the act, a card to access these offerings.

Like it or not, Mr. President, this is the type of electronic pornography that is legal and constitutionally protected for adults. If their actions are as reported of requiring a credit card before you can access this particular part of the Internet that is widely, widely used according to Penthouse, if they have indeed instituted the procedure of having a credit card, then Penthouse and Hustler and their like appear to be in compliance with the new law, and I applaud them for that.

Adult material remains available then to adults but children are not provided pornography. This is precisely what the Communications Decency Act was designed to do, and it is working. The fully anticipated court challenge that is now underway apparently is not aware of this fact or it would be a defense on its face to some of the constitutional challenges that are being made.

The fear that keeping pornography away from children on the Internet would destroy this great medium and all of those charges that have been made are erroneous, they are unfounded, and it is nonsense.

During the year the Communications Decency Act was fully debated, Internet use doubled, and Internet growth has continued since the passage of the bill. Already, AT&T, MCI, and several local telephone companies have announced plans to offer easy Internet access and the Internet is coming to help other media as well and will come as I understand it to cable and satellite television.

Penthouse boasts, as I have just read, that it attracts over 80,000 people daily to its Internet site and an audience of 2.4 million each month. The ad's enthusiasm for the Internet is in keeping with the Communications Decency Act. We know that great system called the Internet that provides information and help to a lot of people is not only important but I simply say that the scare tactics that continue to be used by the Communications Decency Act's opponents are not well founded. It is not censorship, the word opponents of the Communications Decency Act throw around at will, to responsibly protect our children from pornography and, I might add, pedophiles.

The Communications Decency Act was fully debated, extensively negotiated and carefully designed to strike the right balance between the protection of children and the growth of this exciting and promising new technology. Revisionists like to paint a picture of Congress rushing to judgment on computer technology especially as it affects the spread of pornography. In my nearly 18 years in the Senate, I have won passage of many pieces of legislation dealing with the most important issues of the day including bills affecting national security, law enforcement, transportation, safety and deficit reduction. No bill that I have worked on has had as much attention, discussion or debate as the Communications Decency Act. For one full year, the Nation has talked about the Communications Decency Act. And that is good.

The hands-off crowd, though, have argued that protection of children was exclusively and totally the responsibility of the parent. For families to safely enjoy the benefits of the Internet, the family had to be there turning on the computer or turning it off, making sure that whatever the child brought up on the screen was acceptable to them.

The Communications Decency Act does not lessen—and I emphasize again, Mr. President, does not lessen—the need for parents to be vigilant, ever vigilant. But, by putting the law on the side of the families and the children, the Communications Decency Act recognized, as our First Lady might say, "It Takes A Village."

I am also pleased that the President of the United States and the U.S. Department of Justice fully support the Communications Decency Act. I am delighted that the computer industry has been working to develop blocking software and parental control software as well. Before the Communications Decency act was introduced, these products did not exist. But all the blocking software in the world should not absolve an adult from the responsibility for allowing the abuse or the corruption of a child. The Communications Decency Act holds those who attempt to harm children responsible for their acts.

To all of those who are worried, the Communications Decency Act is law, and the Internet, in the meantime, is doing just fine. They should be applauding the article and ad that I read, published by Penthouse.

Adults still have access to their legal vices. But most important, children are steadily gaining protection when they travel on the information superhighway.

Mr. President, I ask unanimous consent that a letter from the President's counsel to me be printed in the RECORD, and I yield the floor.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, February 28, 1996.

Senator JIM EXON,
U.S. Senate,
Washington, DC.

DEAR SENATOR EXON: Thank you for your recent letter to the President concerning the Telecommunications Reform Act of 1996. The President has asked me to respond on his behalf.

On February 8, 1996, the President was pleased to be able to sign the historic Telecommunications Reform Act into law. I know that the President was equally pleased that you were able to participate in the event.

Your letter also referred to Title V of the Telecommunications Reform Act, otherwise known as the Communications Decency Act. As you know, the President is committed to defending efforts to protect children from harmful material whether it is targeted at them via the computer or other media. Accordingly, the President firmly supports the Communications Decency Act.

As you accurately predicted, various challenges to the Communications Decency Act have been filed. The Department of Justice is vigorously defending the Act against these challenges as a proper and narrowly tailored exercise of Congress' power to regulate the exposure of children to computer pornography.

Again, thank you for your letter and for your expression of support for our endeavors to defend the Communications Decency Act.

Sincerely,

JACK QUINN,
Counsel to the President.

A SALUTE TO KANSAS

Mr. DOLE. Mr. President, Kansas Senator Richard L. Bond delivered a moving tribute to the State of Kansas on the occasion of the 135th anniversary of statehood. During our annual celebration in Topeka, WI, Governor Tommy G. Thompson served as the keynote speaker for the evening of celebration and appreciation.

In his narrative, Senator Bond captured the heart and strengths of our State, and I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

A SALUTE TO KANSAS

Governor Graves, Governor Thompson, Senator Kassebaum, Chairman Miller, Distinguished Guests and fellow Kansans, it is my pleasure to offer a salute to Kansas on the occasion of her 135th birthday of statehood. Having turned sixty years of age in the past year I am pleased whenever I'm invited to a birthday party for something older than I am.

This past summer a book titled "Vacation Places Rated" was published which listed Kansas dead last as a desirable vacation spot. The vacationers surveyed apparently felt Kansas had little to offer. Such sentiments are not new. In 1867 Henry Stanley wrote, "Tourists through Kansas would call this place dull enough . . . For a passing traveler in search of pleasure, it certainly possesses few attractions."

If one is in search of a sandy sea-side shore or a snow-capped mountain peak Kansas is not the place to look.

For those of us who call Kansas home we know what may be lost on the casual visitor.

The beauty of Kansas resides in the subtle grace of its geography, the strength of its people's character and the spirit of hope that shapes its future.

America may not turn to Kansas when its looking for a tropical resort but America looks to Kansas for so much more . . .

Today, when Americans want the finest grain in the world they call on Kansas.

Today, when Americans want the finest steak in the world they call on Kansas.

Today, when Americans want oil and natural gas to heat their homes and cook their food they call on Kansas.

Today, when Americans want the finest aircraft in the world they call on Kansas.

And yes, Governor Thompson, we even make some pretty good cheese.

And today, when America needs leadership it calls on Kansas—

Congresswoman Jan Meyers, the first Republican woman to chair a standing committee in the U.S. House.

Congressman Pat Roberts, reshaping farm policy as Chairman of the House Agriculture Committee.

Senator Nancy Kassebaum, the first woman elected to the U.S. Senate in her own right, working to reform welfare, education and job training as Chair of the Senate's Labor and Human Resources committee.

And, Senator Bob Dole who has served as Senate Majority Leader longer than any other person.

We are blessed with an abundance of Republican leaders that reflect the virtues of Kansas—persistence, hard work, common sense and hope. Congressmen Brownback and Tiahrt continue this tradition.

But this Kansas tradition of leadership is nothing new.

Sixty years ago in the depths of the dust bowl and depression Governor Alf Landon worked to balance our state budget and serve as our party's standard bearer in the Presidential election. His dignity and sense of compassion were not victims to the fiscal austerity of the time.

More than fifty years ago when America faced the challenge of World War, Gen. Eisenhower lead our forces to victory in Europe and secured the peace. The boyhood lessons learned in Abilene served him well in that endeavor and during the eight years he served our nation as President. The 34th President whose boyhood home was in the 34th state.

Today, when the need for leadership on the national level has never been greater, Americans again call on Kansas. The man from Russell tested by war and tested in the public arena stands ready to lead our country into the next millennium. His greatest strengths are the gifts of Kansas. A character shaped by faith and family, a determination to confront challenges and an ingenuity to overcome them. When America calls on Kansas we always offer our best. President Bob Dole will be no exception.

Kansas has historically been willing to make tough choices. The choice to reject slavery caused our state to be born in the midst of a bloody struggle. A struggle for which Kansas paid a high price—Kansas suffered the highest mortality rate in the nation during the Civil War. But our birth in troubled times only made Kansans appreciate the price of freedom even more.

From the prairie, Kansans built a way of life—not focused on the value of possessions but on the importance of family, neighbors, faith and community. Obstacles were merely opportunities for innovation and the creative spirit of Kansans always rose to meet the challenge. We have always sought the stars through difficulties.

Floods, grasshoppers, dust storms, drought, tornadoes—all have caused the Kansas spirit to bend but it has never broken.

Tonight, on the occasion of 135 years of statehood Kansas remains a great place to call home. But regardless of our contributions much remains to be done. As President Eisenhower said, "Accomplishment will prove to be a journey, not a destination." Kansas is a young state—one with its best years ahead—full of possibilities. We must work to accomplish the full potential of these possibilities—creating an even better Kansas for future generations.

Some may seek to exploit divisions within our party but I believe many more will seek to focus on that which unites us. Since the Republican Party in Kansas was organized in 1859 in Osawatomie it has known its share of controversy but it has also provided our state with leaders united by a belief that government isn't the solution to every problem and that a limited government that encourages individual opportunity and freedom best serves the citizens of Kansas. With candor, respect and trust we as Republicans can continue to provide such leadership for Kansas. The contrasts that define our differences can be a source of strength not division. We have a great leader in our governor, Bill Graves. His vision for Kansas is worthy of our continued mutual investment.

One hundred years ago a young editor, having recently purchased, The Emporia Gazette, published an editorial entitled, "What's the Matter with Kansas?" With it's publication William Allen White garnered his first national attention. A century later upon revisiting that question we know that there is nothing the matter with Kansas that the people of Kansas can't fix—working together.

It is true that some may look at Kansas and see only what Zebulon Montgomery Pike first described as "The Great American Desert." But those of us that call Kansas home know better. We know that Kansas is a fount of commerce, prosperity, and hope—a place occupied by those who know the importance of faith and family and who believe in a future of unlimited potential. A land of open vista and friendly people. Regardless of where we roam Kansans are sure of one thing—there's no place like home. For all the blessings of Kansas we give thanks.

Happy Birthday Kansas and Many Happy Returns.

TROY SYSTEMS, INC.

Mr. WARNER. Mr. President, I am pleased today to have the opportunity to recognize a company, TROY Systems, Inc., located in the great city of Alexandria, VA. TROY Systems is a shining example of the vitality of the American Dream, having grown from a small disadvantaged section 8(a) company into a national and award winning federal contractor. I would like to especially congratulate their CEO and President, K. David Boyer, for TROY's incredible success. While TROY may soon be graduating from the 8(a) program, I am confident of their continued success.

In 1984, in a small apartment in Alexandria, David Boyer and Felicity Belford started on an entrepreneurial journey. Their plan was to build a company providing information systems and technology support to the Federal Government. Starting with just two employees, TROY Systems has grown to a work force of over 350 employees and revenues in 1995 of almost $25 million.

In 1995, TROY was named by TechNews, Inc. and Deloitte and Touche to their National Technology "Fast 500" list of the fastest growing technology-intensive companies in the United States. The company shared this honor with such heavyweight and well-known corporations such as Microsoft, Dell Computer, and Novel. TROY Systems has received other such awards such as being named to Inc. magazine's list of the 500 fastest growing companies, receiving Ernst & Young's Entrepreneur of the Year award, and being selected by the Virginia Chamber of Commerce as one of the "Fantastic 50" fastest growing small private companies in the commonwealth.

I would like to submit for the record an article which appeared in the November edition of InSight magazine describing TROY Systems' impressive growth and achievements, as well as their involvement in the important Department of Defense Defense Messaging System project.

TROY Systems is a fine example that the American Dream is alive and well and I am proud to salute them for their hard work and accomplishments.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DMS SPOTLIGHT—TROY SYSTEMS, INC.

One member of the DMS contract team is a small business, minority-owned firm with a strong background in government information systems support. TROY Systems, Inc., of Alexandria, Virginia, will be providing training courses to help DMS users get up to speed with products procured through the contract.

TROY became involved with Loral through the Mentor/Protege program sponsored by the Department of Defense. The program encourages large prime contractors to seek out small businesses that can benefit from such an alliance. During the course of the relationship, both companies have learned from the other, and contracts have been pursued with either party acting as the prime. According to K. David Boyer, Jr., President & CEO of TROY, "The major benefit of our relationship with Loral has been the mutual re-engineering of corporate processes, as a result of our learning experience as we work together." Boyer started the business working from a home office in October of 1984. Since its inception, TROY has grown from two people to a staff approaching three hundred people, and has been listed in the INC 500.

TROY has operated under the Small Business Set Aside 8(a) Program and is currently looking forward to graduation in 1996. To position itself as a strong information technology company into the next decade, TROY has built an impressive list of federal and corporate clients. Winning large government contracts over a diverse customer base has led to significant expansion of TROY's capabilities. Since 1990, TROY has developed and conducted worldwide user training for the U.S. Army health care community, the Navy Recruiting Command, and the Veteran's Benefits Administration. TROY currently performs on contracts with three Department of the Navy agencies (NAVSEA, NAVAIR, and NAVSUP), the Air Force, and numerous civilian agencies including GSA, GAO, and the RTC. In addition, TROY serves as IV & V (Independent Verification & Validation) analyst for the Resolution Trust Corporation's massive software systems, which were built by IBM and tested by Troy Systems, Inc.

What seems to set TROY apart from other SDBs (Small, Disadvantaged Businesses) is the consistency between its walk and its talk. Boyer states, "I built this company with the philosophy that 8(a) and other such programs were not necessary for us to succeed. We are a leader in our area of technology expertise. That is why we have won so many contracts."

Loral's award of DMS provides yet another opportunity for TROY to utilize its expertise. Once curricula are completed, approved, and made available, DMS users will be able to choose from the following courses offered through the DMS contract: Basic User; Operating Systems Administrator; Directory System Administrator; Message Handling System Administrator; and Management Workstation System Administrator.

Harry H. Hagenbrock is the senior manager at TROY, responsible for the DMS program. Hagenbrock comments, "Due to the tremendous number of users (projected to be 2,000,000) that will ultimately be on line with DMS, TROY will be building its staff and resources to present the courses in the field, or "train the trainer," for those commands who wish to provide DMS training internally.

TROY Systems, Inc., is ramping up its capabilities, and working closely with Loral Corporation to bring its DMS training and support resources to a state of readiness. CEO Boyer, a former Air Force Officer, is looking forward to the DMS challenge. Boyer concludes, "Our many commercial and military contracts have prepared us to train DMS users. We are looking forward to help make DMS happen."

RECOGNITION OF EDWARD L. KING

Mr. NUNN. Mr. President, I rise today to recognize the contributions to the Senate and to the Nation that have been made by Edward L. King who is leaving the staff of the Senate for the private sector.

Ed King retired from the U.S. Army as a lieutenant colonel in 1969 after a distinguished military career, including combat infantry duty in Korea and assignments in important staff positions with an emphasis on NATO and inter-American matters.

After his military service, Ed turned his hand to writing and authored "The Death Of the Army: A Pre-Mortem" which was selected by the New York Times Review of Books as one of the 12 best current events books of the year for 1972.

In 1971, Ed came to the Hill for the first time, serving as a staff consultant to the Congressional Joint Economic Committee and later that same year as special consultant for NATO affairs to Senator Mike Mansfield. Ed returned to the Hill in 1975 and served as Administrative Assistant to Senator William Hathaway until 1979. Ed subsequently served as special assistant to Senator Paul Tsongas in 1984, during which time he acted as an intermediary to the La Palma—El Salvador—peace talks. From 1985 to 1987, Ed served as a consultant on Central America to Senator ROBERT BYRD. Finally, Ed served on the Senate Democratic Policy Committee from 1987 to the present time. Over the last 10 years, Ed has worked as a senior foreign policy advisor for Majority Leaders ROBERT BYRD and George Mitchell and for Minority Leader THOMAS DASCHLE.

I first came to know Ed King while he was working on the Democratic Policy Committee. I also came to respect and admire Ed as he went from legislative crisis to crisis with the same calm but determined and effective demeanor that I am sure served him and his troops so well as a combat infantry officer. Whether the issue was pop-up legislation dealing with the Persian Gulf, Somalia, Haiti, or Bosnia or setting up a routine meeting for Senators with a visiting foreign official Ed was always on top of the situation, always in full control of the facts, and ready with a solution to bridge ostensibly irreconcilable positions. And despite the stress and the raised voices on the part of some, Ed never lost his good nature and sense of humor.

But what I remember most of all were the numerous occasions on which a long stint of negotiations ended with the parties agreed on the general framework of a solution and leaving it to Ed to come up with the specific text that embodied that general solution. And you knew that the specific text would be ready the first thing the next morning and that it would have been agreed to on all sides at the staff level and vetted with and acceptable to the administration.

Mr. President, the Senate is losing one of its finest staff members. The Nation is losing a fine public servant whose contributions will, for the most part, remain unknown. I, for one, want the record to reflect that this Senator appreciates the service that Ed King has rendered to the Senate and the Nation. I know that he will be successful in the private sector and that he will continue to make a contribution in whatever he does in the future.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, March 27, 1996, the Federal debt stood at $5,069,500,044,702.95.

On a per capita basis, every man, woman and child in America owes $19,165.10 as his or her share of that debt.

It is no wonder that babies come into this world crying.

A TRIBUTE TO GERTRUDE MALLARD PRITCHER

Mr. HOLLINGS. Mr. President, I would like to take this opportunity to wish a very happy birthday to Gertrude Mallard Pritcher of St. George, SC. Mrs. Pritcher will turn 100 years old on April 13.

The 11th of 12 children, Gertrude Pritcher was born in Colleton County in 1896 to John Behlin and Annie Eliza Liston Hucks. In the history of her life, one can trace the history of the South Carolina Lowcountry. She grew up in Smoaks, where she taught school in a one-room schoolhouse, and Sunday school at a Methodist Church. Throughout the 1930s,'40s and '50s, she lived in Beaufort County where she was active in home demonstration clubs, specializing in gardening, cooking and sewing. A member of Daughters of the American Revolution, Mrs. Pritcher has three daughters and one son by her first husband, William Daniel Mallard of Summerville. They were married for almost 50 years, until his death in 1965. Mrs. Pritcher married Asbury Pritcher of Beaufort County in 1972 who has also passed away.

Like a true Southerner, she has a love of and flair for storytelling. With her knowledge of the counties of South Carolina, and with all the family and friends she has, you can bet she has some good ones to tell. She enjoyed a healthy and active life for 85 years, until a stroke in 1981. The condition curtailed her activity somewhat, but she continues to live comfortably in St. George where her children and grandchildren enjoy her company, and her tales. Let's all hope that we can have as rich a life.

THE FLAG AMENDMENT

Mr. HATCH. Mr. President, the February, 1996 issue of the American Legion Magazine contains a column entitled, "We Will Continue To Stand By Our Flag," by Daniel A. Ludwig, national commander of the American Legion. As my colleagues know, the American Legion, other veterans and civics groups, the Citizens Flag Alliance, and countless individuals undertook an effort to pass a constitutional amendment authorizing protection of the American flag. There was nothing in it for any of the participants in that great effort. This effort fell just short in the Senate. But, I note that in 1989 an amendment received 51 votes; in 1990, 58 votes; and in 1995, 63 votes. In the other body, the effort went from falling short in 1989 to an overwhelming win in 1995.

I said in December that the effort to enact a constitutional amendment authorizing protection of the American flag will be back. And so it will, as the column by Commander Ludwig makes clear. I ask unanimous consent that the column be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the American Legion Magazine, Feb. 1996]

WE WILL CONTINUE TO STAND BY OUR FLAG

(By Daniel A. Ludwig)

By the time you read this, the postmortems on the Senate vote on the flag amendment will largely have subsided. The media may finally have stopped smirking their smirks of (supposed) intellectual superiority. The constitutional scholars who were thrust into an unaccustomed limelight will have gone back to their universities to continue the debate in quieter fashion. The public-interest groups who took sides against us—and, we always believed, against the public interest—will have turned their attention to other cherished aspects of traditional American life that need to be "modernized," which is to say, cheapened or twisted or gutted altogether.

Observers have suggested that we, too, should give up the fight. Enough is enough, they say. "You gave it your best, now it's time to pack it in." Those people don't understand what the past six years, since the 1989 Supreme Court decision, have really been about.

From the beginning of our efforts, debate centered on the issue of free speech and whether the proposed amendment infringes on it. But whether flag desecration is free speech, or an abuse of free speech, as Orrin Hatch suggests (and we agree), there is a larger point here that explains why we can't—shouldn't—just fold up our tents and go quietly.

Our adversaries have long argued that opposition to the amendment is not the same as opposition to the flag itself, that it's possible to love the flag and yet vote against protecting it. Perhaps in the best of all possible worlds we could accept such muddled thinking.

Sadly, we do not live in the best of all possible worlds.

In the best of all possible worlds it would not be necessary to install metal detectors in public schools, or have drunk-driving checkpoints on our highways, or give mandatory drug tests to prospective airline employees. Indeed, in the best of all possible worlds, the Pope would not have to make his rounds in a bulletproof vehicle. In all of these cases, we have willingly made certain sacrifices in freedom because we recognize that there are larger interests at stake. In the case of the metal detectors, for example, the safety of our children, and our teachers, and the establishment of a stable climate for instruction to take place, is paramount.

If the flag amendment is about anything, it's about holding the line on respect, on the values that you and I asked our lives to preserve. We live in a society that respects little and honors still less. Most, if not all, of today's ills can be traced to a breakdown in respect—for laws, for traditions, for people, for the things held sacred by the great bulk of us.

Just as the godless are succeeding at removing God from everyday life, growing numbers of people have come to feel they're not answerable to anything larger than themselves. The message seems to be that nothing takes priority over the needs and desires and "rights" of the individual. Nothing is forbidden. Everything is permissible, from the shockingly vulgar music that urges kids to go out and shoot cops, to "art" that depicts Christ plunging into a vat of urine—to the desecration of a cherished symbol like the U.S. Flag.

Are these really the freedoms our forefathers envisioned when they drafted the Bill of Rights? Thomas Jefferson himself did not regard liberty as a no-strings proposition. His concept of democracy presupposed a nation of honorable citizens. Remove the honorable motives from a free society and what you have left is not democracy, but anarchy. What you have left, eventually, is Lord of the Flies.

Amid all this, the flag stands for something. If respect for the flag were institutionalized, and children were brought up to understand the unique collection of principles it represents, there would be inevitable benefits to society, benefits that would help turn the tide of today's chaos and disrespect. For no one who takes such principles to heart—no one who sees the flag as an untouchable symbol of democracy, of decency—could possibly do the things that some people do, these days, in the name of freedom.

The flag stands for something miraculous that took life upon these shores more than two centuries ago and, if we only let it, will live on for centuries more. It stands for a glorious idea that has survived every challenge, that has persevered in the face of external forces who promised to "bury" us and internal forces which promised to tear us apart. Let us never forget this.

And let us not forget that 63 out of 99 senators voted with us, or that we won over 375 legislators in total. Our efforts were no more wasted than were the efforts to take remote outposts in the Pacific a half-century ago. Those efforts, too, failed at first, but eventually we prevailed.

We undertook a noble fight in trying to save our flag, and the fact that we have suffered a temporary setback does not diminish the nobility of what we fought for. This is not over by a long shot. They will hear from us again.

Mr. BYRD. Mr. President, on the Op Ed page of today's edition of the New York Times there is a column I want to call to my colleagues' attention entitled "Line-Item Lunacy" by David Samuels. Even though the current debate on this matter is over for now, I encourage my fellow Senators to take the time to read this thoughtful opinion. Mr. President, to that end, I ask unanimous consent that the column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 28, 1996]

LINE-ITEM LUNACY

(By David Samuels)

It's a scene from a paranoid thriller by Oliver Stone: A mercurial billionaire, elected President with 35 percent of the vote, holds America hostage to his minority agenda by vetoing item after item in the Federal budget, in open breach of the separation of powers doctrine enshrined in the Constitution. Impossible? Not anymore.

With the announcement by Republican leaders that they plan to pass the line-item veto this spring, the specter of a Napoleonic Presidency has moved from the far reaches of poli-sci fiction, where it belongs, to the brink of political possibility.

At the moment, of course, a Presidential dictatorship is far from the minds of the G.O.P. leadership and White House Democrats, who hope that the line-item veto would encourage the President to eliminate pork-barrel giveaways and corporate tax breaks. But to see the measure as a simple procedural reform is to ignore the forces that have reconfigured the political landscape since it was first proposed.

Back in the 1980's, President Ronald Reagan ritually invoked the line-item veto while shifting blame onto a Democratic Congress for ballooning deficits. Part Republican chestnut, part good-government gimmick, the line-item veto became part of the Contract With America in 1994, and this month rose to the top of the political agenda.

What the calculations of Democrats and Republicans leave out, however, is that the unsettled politics of the 1990's bear little relation to the political order of the Reagan years.

In poll after poll, a majority of voters express a raging disaffection with both major parties. With Ross Perot poised to run in November, we could again elect our President with a minority of the popular vote (in 1992, Mr. Clinton won with 43 percent). The line-item veto would hand over unchecked power to a minority President with minority support in Congress, while opponents would have to muster two-thirds support to override the President's veto.

By opening every line in the Federal budget to partisan attack, the likely result would be a chaotic legislature more susceptible than ever to obstructionists who could demand a Presidential veto of Federal arts funding or sex education programs or aid to Israel as the price of their political support.

And conservatives eager to cut Government waste would do well to reflect on what a liberal minority might do to their legislative hopes during a second Clinton term in office.

Nor would the line-item veto likely result in more responsible executive behavior. The zigs and zags of Bill Clinton's first term in office give us a clear picture of the post-partisan Presidency, in which the executive freelances across the airwaves in pursuit of poll numbers regardless of the political coherence of his message or the decaying ties of party. With the adoption of the line-item veto, the temptation for Presidents to strike out on their own would surely grow.

The specter of a President on horseback armed with coercive powers might seem far away to those who dismissed Ross Perot as a freak candidate in the last election. Yet no law states that power-hungry billionaires must be possessed of Mr. Perot's peculiar blend of personal qualities and doomed to fail. Armed with the line-item veto, a future Ross Perot—or Steve Forbes—would be equipped with the means to reward and punish members of the House and Senate by vetoing individual budget items. This would enable an independent President to build a coalition in Congress through a program of threats and horse-trading that would make our present sorely flawed system seem like a model of Ciceronian rectitude.

President Clinton has promised to sign the line-item veto when it reaches his desk. Between now and then, the historic breach of our constitutional separation of powers that the measure proposes should be subject to a vigorous public debate. At the very least, we might reflect on how we intend to govern ourselves at a time when the certainties of two-party politics are dissolving before our eyes.

Mr. BYRD. Mr. President, Mr. Samuels eloquently points out just one of the many concerns this country could very well face with the adoption of this legislation. He focuses on what might happen should our two-party system dissolve and allow for a rogue individual to be elected president by a minority of the American people. In this scenario, the possibility of a tyrannical oppressor freely and recklessly wielding power has to be considered. While at the present time the likelihood of such an event seems farfetched, it is just this type of concern that we elected members of the people's branch must consider.

Indeed, if there is one bright spot on this day after Senate passage of S. 4, it is that in eight years the Congress will revisit this issue. It is my hope that at that time, wisdom will prevail.

EDMUND S. MUSKIE

Mr. DODD. Mr. President, I wanted to take a few moments today to speak about the death of former Senator Edmund Muskie.

I first met Ed Muskie during his visits to my family's house in Connecticut more than 30 years ago as he traveled back to Maine from Washington.

And like my father before me—I was honored to serve with him in Congress. I came to greatly admire and respect his leadership, his conviction, his knowledge and his great devotion to public service.

Edmund Muskie was a truly dedicated member of this body for 22 years. He served both the people of Maine and all the American people as a committed and able legislator.

And when his party and his President called on him he answered. He twice ran for national office as a Democrat: Once for Vice-President in 1968 and once for the Democratic nomination for President in 1972. And he finished his career as Secretary of State, under President Carter in 1980.

Throughout his more than two decades of public service Ed Muskie was ahead of his time in his efforts to keep our environment clean and America's fiscal house in order.

He earned the apt nickname "Mr. Clean" for his pioneering work on the Clean Air Act and Clean Water Act, both of which he shepherded through the Senate. Generations from now, when Americans are enjoying our safe and healthy air and water, they should thank Edmund Muskie for having the foresight and vision to place a clean environment on top of the political agenda.

And even before the era of exploding federal deficits in the 1980's, Edmund Muskie strived to bring fiscal discipline to Congress, as chairman of the Senate Budget Committee.

Yesterday, former President Jimmy Carter said he had "never known any American leader who was more highly qualified to be President of the United States." And it is to the American people's misfortune that a man of such principle never had the opportunity to reach the Oval Office.

As a fellow Democrat and Northeasterner I remain committed to the policies that Edmund Muskie so energetically championed as a U.S. Senator.

My thoughts and prayers go out to his wife Jane, his children, his friends and the people of Maine.

THE CONSTITUTIONALITY OF THE LINE ITEM VETO CONFERENCE REPORT

Mr. HEFLIN. Mr. President, I rise today to explain my opposition to this so-called line-item veto conference report, which passed on March 27. I have been a strong supporter of a line item veto and feel that such legislation would provide the President with an effective weapon to fight wasteful spending. I have voted for several line item veto bills that I felt were constitutional. However, I did not support this legislation, as it violates the plain reading of the Constitution.

In Article I, section 7, the Constitution sets out fundamental procedures for the enactment of a law. It states that every bill should be passed by both houses and then presented to the President to either sign or veto. If the bill is vetoed each house may override such a veto by two-thirds vote. The bill then becomes law once it is signed or a veto is overridden by each house of Congress.

This conference report allows the President, after a bill has become a law, to go back and review that law and to pick and choose what portions of the law he desires to repeal, and to do so in an unconstitutional manner. This flies in the face of the fundamental principal of "separation of powers" and the "checks and balances" of our government. Article I, section 1, of the Constitution states that "[a]ll legislation Powers herein granted shall be vested in a Congress of the United States.

The Supreme Court in INS versus Chadha discussed the importance of the "separation of powers" provisions in Article I, section 1. The court stated that

> [t]hese provisions of Art. I are integral parts of the constitutional design for the separation of powers. We have recently noted that "[t]he principle of separation of powers was not simply an abstract generalization in the minds of the Framers: it was woven into the document that they drafted in Philadelphia in the summer of 1787."

The Court further expressed that,

> [i]t emerges clearly that the prescription for legislative action in Art. I, sections 1, 7, represents the Framers' decisions that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered, procedure.

This conference report would allow the President, in effect, to repeal an existing law; thereby violating the provisions of Article I. The Court in Chadha held that "[a]mendment and repeal of statutes, no less than enactment, must conform with Art. I." The Court went further by stating that

> [t]he bicameral requirement, the Presentment Clauses, the President's veto, and Congress' power to override a veto were intended to erect enduring checks on each Branch and to protect the people from the improvident exercise of power by mandating certain prescribed steps. To preserve those checks, and maintain the separation of powers, the carefully defined limits on the power of each Branch must not be eroded.

This highlights the importance of maintaining the legislative procedures set out by the Constitution and the separate powers the Constitution has bestowed upon the three branches of our government.

Mr. President, this bill chips away at the constitutionally prescribed "checks and balances" set forth by our Founding Fathers. I believe that a line-item veto can be a useful weapon against wasteful spending if drafted so as to protect the fundamental procedures set out by our Constitution; however, this bill as presented cannot sustain constitutional muster.

HELEN KELLY—A FAITHFUL PUBLIC SERVANT

Mr. BYRD. Mr. President, I have been a member of this body for nearly thirty-eight years. During this time, I have come to treasure the traditions of this institution and the unique place it holds in our system of government. Through the Senate I have worked with men and women who possess some of our country's finest and ablest minds, and with them, I have witnessed and been part of history.

While this history will attest to the importance of my fellow Members of the Senate, often what goes unnoticed is the behind-the-scenes work of our staffs. I feel confident in saying that there is not a Member of this body who could represent his or her constituents in this day and age without the diligent, hard work of Senate staffers. And it is to pay tribute to one of these dedicated staffers that I speak on the Senate floor today.

Twenty years ago, on March 8, 1976, Helen B. Kelly came to work in my office as a receptionist. She came with Hill experience, having previously worked for Congressman Broyhill from Virginia. This knowledge, combined with her natural interest and compassion for people, was quickly noted, and Helen was promoted to the position of caseworker.

In my office, as in other Congressional offices, there is no greater matter of importance than constituent services. As we all know, sifting through the federal bureaucracy can be a daunting and often exasperating experience. Well, Helen has mastered the art of cutting through Washington's red tape. Whether it be working out a visa problem for a constituent's family member or giving guidance to a military academy nominee, Helen has shown the dedication and perseverance to get the job done.

I want to say thanks and congratulations to Helen Kelly on behalf of my fellow West Virginians and the Senate. This is a demanding but rewarding profession. Were it not for people like Helen who breathe life and vitality into it, I believe the Senate would not be the premier legislative body that we treasure today.

JAPAN-UNITED STATES EXCHANGES

Mr. LUGAR. Mr. President, I rise today to discuss an important issue in our relationship with Japan. It has come to my attention that for every American student studying in Japan, 20 Japanese study in the United States. This puts the United States at a comparative disadvantage in dealing with issues of economic competitiveness and strategic cooperation that confront and will continue to confront our bilateral ties for many years.

Japan possesses the second-most powerful economy in the world. Its resources and expertise affect the health and vitality of international trade and finance. United States-Japan cooperation and understanding will be required if issues pertaining to the global economy, development, health, peacekeeping, weapons proliferation, the environment, and others are to be addressed constructively. At the same time, Japan's economic prowess poses significant challenges to and opportunities for improving the economic well-being of the United States. We simply must learn how to gain the trust and cooperation of the Japanese people, its entrepreneurs, and policy makers. We need to do better and be better informed about Japan if we hope to correct the nagging imbalance in trade. Historically, we have been ill-prepared for this task. We must be better prepared in the future.

One part of the solution to this problem lies in the education of young Americans in the language, culture, and society of Japan. It is the young Americans of today who will take the lead in dealing with their Japanese peers in a language and style the latter will respect and appreciate. Back channel politics has worked well through the years, but it is insufficient for the future. We now want to make certain there is a very large network of United States students studying in Japan that will make a difference in building the kind of bridges that are required if our relationship with Japan is to be more productive now and in the future.

Finally, Mr. President, I would like to mention that a coalition of public and private organizations is mounting a new program known as the Bridging Project to address this need to educate more Americans in and about Japan. In a time of fiscal stringency and belt tightening, public funds for this and other initiatives are gong to become even more scarce. The private sector must get more involved. Private-public partnerships and other creative solutions involving the private sector will be required if we are going to keep pace with our Japanese competitors. We should encourage this coalition to do everything it can to ensure that the United States remains competitive with Japan in the future.

HABEAS CORPUS REFORM

Mr. HATCH. Mr. President, just short of a year ago, this country was rocked by an attack on the Alfred Murrah Federal building in Oklahoma City, OK. In the wake of that horrible tragedy, this body took up antiterrorism legislation. I fought for the inclusion of meaningful habeas corpus reform legislation in the Senate bill over the initial hesitation of President Clinton. The House bill contains identical language. We will shortly be delivering a conference report to the President for his signature. At long last, after well over a decade of effort, we are about to curb these endless, frivolous appeals of death sentences.

I might add that this is one of the most important criminal law changes in this country's history, and it is about time we get it on track.

To be sure, there are many other important antiterrorism measures which will be included in the final terrorism bill including increased penalties, antiterrorism aid to foreign nations, plastic explosives tagging requirements, and important law enforcement enhancements. But let us make no mistake about it—habeas corpus reform is the most important provision in the terrorism bill. In fact, it is the heart and soul of this bill. It is the only thing in the Senate antiterrorism bill that directly affected the Oklahoma bombing. If the perpetrators of that heinous act are convicted, they will be unable to use frivolous habeas petitions to prevent the imposition of their justly deserved punishment. The survivors and the victims' families of the Oklahoma tragedy recognized the need for habeas reform and called for it to be put in the bill.

The Clinton Administration, which initially opposed meaningful habeas corpus reform, came to its senses and the President himself said he supported our habeas reform proposal. The antiterrorism bill, with the Hatch-Specter habeas proposal passed this body in an overwhelming vote.

Most of those familiar with capital litigation know that support for true habeas reform—support for an end to frivolous death penalty appeals—is the most authentic evidence of an elected official's support for the death penalty. It is against this backdrop that I was surprised to learn recently that on the eve of House debate on the antiterrorism bill—a bill that includes this important habeas reform proposal—the White House had sent emissaries to key Members of the House to lobby for weakening changes to the habeas reform package. Former White House Counsel Abner Mikva, accompanied by White House staff, met with key Members of the House and proposed that the bill be amended to essentially restore the de novo standard of review in habeas petitions. This would have gutted habeas corpus reform by allowing Federal judges to reopen issues that had been lawfully and correctly resolved years earlier. I had thought we had a President who was committed to meaningful habeas reform.

When I first learned of this effort, I was surprised. After all, President Clinton promised that justice in the Oklahoma bombing case would be swift. Indeed, he recognized that an end to frivolous death penalty appeals was critical when he said,

> [Habeas corpus reform] ought to be done in the context of this terrorism legislation so that it would apply to any prosecutions brought against anyone indicted in Oklahoma.

[Larry King Live, June 5, 1995].

But then I began to consider all of the steps this President has taken to undermine the death penalty. For example, President Clinton vetoed legislation late last year which contained language identical to the terrorism bill's habeas corpus proposal. Veto message to H.R. 2586, the temporary debt limit increase, Nov. 13, 1995. Prior to that, in 1994, the Clinton Justice Department lobbied the Democrat controlled House for passage of the so-called Racial Justice Act. This provision, in the guise of protecting against race-based discrimination, would have imposed a quota on the imposition of the death penalty. It would have effectively abolished the death penalty.

When the Senate refused to accept this death penalty abolition proposal, President Clinton decided to issue a directive implementing a so-called Racial Justice Act-type review of all Department of Justice decisions involving the Federal death penalty. [Wall Street Journal, July 21, 1994]. On March 29, 1995, Attorney General Reno issued the directive. Ironically, the Clinton Administration did not see fit to provide the victims' families in death penalty eligible cases with any right to petition the Department on the issue of whether the death penalty should be sought. [A.G. Reno directive on title 9 of the U.S. Attorneys' Manual, March 29, 1995].

To further gauge President Clinton's position on the death penalty and the streamlining of habeas corpus reform, one should consider whether his Department of Justice has supported State efforts to impose capital sentences. According to testimony provided to the Senate Judiciary Committee, the Clinton Justice Department considers the fact that a case involves the death penalty as a factor against filing amicus briefs in support of the State. [Testimony of Paul Cassell, Associate Professor of law, University of Utah, November 14, 1995]. The Bush Administration filed briefs in support of the State in 44.4 percent of the cases on appeal where a defendant's death sentence was being challenged. Briefs were filed in 42.9 percent of these cases and in 1991 and in 37.5 percent of the cases in 1992. In 1994, the Clinton Justice Department failed to file a single brief in support of States trying to carry out capital sentences. Many of these cases presented opportunities to protect the Federal death penalty but the Clinton administration sat on its hands.

On March 14, President Clinton said that, in his opinion, the terrorism bill's habeas corpus provision is not as good as it could be, and that there are some problems in the way that it's done but that he may go along with the version contained in the terrorism bill. [U.P.I. March 14, 1996].

Ironically, President Clinton's support for the terrorism bill seems to be dwindling as the likelihood for passage of habeas corpus reform seems to be increasing. Some Democrats appear to be preparing to scuttle the bill by arguing that it may not go far enough. Indeed, one of my colleagues on the other side of the aisle has gone so far as to call the House terrorism bill useless. We now hear that there is talk within the White House of a possible veto threat unless the terrorism bill is changed.

What I find interesting is that most of the provisions the President and his brethren are flexing their muscles over were not in the administration's original terrorism bill. For example, the President has been critical of the House's bipartisan votes to drop a ban on so-called cop killer bullets and a provision allowing law enforcement to conduct roving wiretaps. On February 10, 1995, Senator BIDEN introduced the administration's original terrorism bill, S. 390. Neither of these provisions were contained in S. 390. Indeed, the House-passed terrorism bill is more comprehensive than the President's original bill.

So I ask my colleagues: Why is a bill which is substantially similar to—in fact broader than—the original Clinton-Biden bill of 1995 useless in 1996? Could the fact that the final terrorism bill will contain tough, true habeas corpus reform be what's really at issue here?

President Clinton's newfound tough on crime rhetoric must be balanced against his administration's record of hostility toward true habeas corpus reform. In a few weeks, the Congress will deliver to President Clinton a tough terrorism bill which will contain our habeas corpus reform provision—a provision to end frivolous death penalty appeals. This reform measure has already been vetoed once and President Clinton has tried to weaken it. If he chooses to veto the terrorism bill, that will be a decision he and the families of murder victims across this country will have to live with. But let's not kid ourselves about why he may do so. To borrow a phrase—keep your eye on the ball. The ball here is habeas corpus reform.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE NATIONAL ENDOWMENT FOR THE ARTS FOR FISCAL YEAR 1994—MESSAGE FROM THE PRESIDENT—PM 137

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

It is my special pleasure to transmit herewith the Annual Report of the National Endowment for the Arts for the fiscal year 1994.

Over the course of its history, the National Endowment for the Arts has awarded grants for arts projects that reach into every community in the Nation. The agency's mission is public service through the arts, and it fulfills this mandate through support of artistic excellence, our cultural heritage and traditions, individual creativity, education, and public and private partnerships for the arts. Perhaps most importantly, the Arts Endowment encourages arts organizations to reach out to the American people, to bring in new audiences for the performing, literary, and visual arts.

The results over the past 30 years can be measured by the increased presence of the arts in the lives of our fellow citizens. More children have contact with working artists in the classroom, at children's museums and festivals, and in the curricula. More older Americans now have access to museums, concert halls, and other venues. The arts reach into the smallest and most isolated communities, and in our inner cities, arts programs are often a haven for the most disadvantaged, a place where our youth can rediscover the power of imagination, creativity, and hope.

We can measure this progress as well in our re-designed communities, in the buildings and sculpture that grace our cities and towns, and in the vitality of the local economy whenever the arts arrive. The National Endowment for the Arts works the way a Government agency should work—in partnership with the private sector, in cooperation with State and local government, and in service to all Americans. We enjoy a rich and diverse culture in the United States, open to every citizen, and supported by the Federal Government for our common good and benefit.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 28, 1996.*

MESSAGES FROM THE HOUSE

At 10:26 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agree to the amendments of the Senate to the bill (H.R. 1833) to amend title, United States State Code, to ban partial-birth abortions.

The message also announced that pursuant to the provisions of section 1 of Public Law 102–246, the Speaker appoints Mrs. Marguerite S. Roll of Paradise Valley, AZ, as a member from private life, to the Library of Congress Trust Fund Board on the part of the House to a 3-year term.

The message further announced that pursuant to the provisions of 22 U.S.C. 276d, the Speaker appoints Mr. Houghton of New York, chairman, on the part of the House to the United States Delegation of the Canada-United States Interparliamentary Group.

The message also announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 102. Concurrent resolution concerning the emancipation of the Iranian Baha'i community.

ENROLLED BILL SIGNED

At 12:07 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2969. An act to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

At 2:49 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House of Representatives to the bill (S. 4) to grant the power to the President to reduce budget authority.

At 5:35 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3136. An act to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit.

At 6:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

S. 4. An act to give the President line item veto authority with respect to appropriations, new direct spending and limited tax benefits.

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the One Hundred Fourth Congress.

The enrolled bill and joint resolution were signed subsequently by the President pro tempore [Mr. THURMOND].

MEASURE PLACED ON THE CALENDAR

The following concurrent resolution was placed on the calendar:

H. Con. Res. 102. Concurrent resolution concerning the emancipation of the Iranian Baha'i community.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on March 22, 1996 he had presented to the President of the United States, the following enrolled joint resolution:

S.J. Res. 38. A joint resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2199. A communication from the Secretary of Labor, transmitting, pursuant to law, a report entitled "Core Data Elements and Common Definitions for Employment and Training Programs"; to the Committee on Labor and Human Resources.

EC–2200. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the Hellenikon International Airport, Athens, Greece; to the Committee on Commerce, Science, and Transportation.

EC–2201. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, the report of a building project survey; to the Committee on Environment and Public Works.

EC–2202. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC–2203. A communication from the Administrator of the U.S. Small Business Administration, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act for fiscal year 1995; to the Committee on Governmental Affairs.

EC–2204. A communication from the Chairman of the U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1995; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–537. A resolution adopted by the Council of the City of Willowick, Lake County, Ohio relative to the Internet; to the Committee on Commerce, Science, and Transportation.

POM–538. A resolution adopted by the Legislature of the Virgin Islands; ordered to lie on the table.

"RESOLUTION NO. 1551

"Whereas, the global spread of HIV infection and AIDS necessitates a worldwide effort to increase communication, education and preventive action to stop the spread of HIV and AIDS; and

"Whereas, the World Health Organization has designated December 1st of each year as World AIDS Day, a day to expand and strengthen the worldwide effort to stop the spread of HIV and AIDS; and

"Whereas, the World Health Organization now estimates that 18.5 million people have been infected with HIV and that more than 1.5 million of them have developed AIDS; and

"Whereas, the American Association for World Health is encouraging a better understanding of the challenge of HIV and AIDS nationally as it recognizes that the number of people diagnosed with HIV and AIDS in the United States continues to increase; and

"Whereas, an estimated 1 in 250 Americans are currently HIV positive and over 441,528 AIDS cases have been reported (as of December 31, 1994); and

"Whereas, of these 441,528 people, 85% were men and 13% were women; and

"Whereas, the remaining 2% were children less than 13 years old; and

"Whereas, through 1994, a total of 870,270 AIDS related deaths have been reported to the Center for Disease Control (CDC); and

"Whereas, the United States has the highest reported rate of AIDS in the industrialized world; and

"Whereas, World AIDS Day provides an opportunity to focus on HIV infection and AIDS, to show care for people with HIV infection and AIDS, and to learn about HIV and AIDS; and

"Whereas, World AIDS Day focuses on "Shared Rights and Shared Responsibilities; and

"Whereas, the Legislature of the Virgin Islands urges Virgin Islanders to protect everyone's right to HIV and AIDS prevention and care; and

"Whereas, the Legislature of the Virgin Islands recognizes that everyone shares the same human rights regardless of their HIV status; and

"Whereas, the Legislature of the Virgin Islands emphasizes the shared responsibilities of individuals, families, and governments and the international community to promote prevention; and

"Whereas, December 1, 1995, has been declared as "World AIDS Day"; and

"Whereas, all Virgin Islanders are urged to take part in activities and observances designed to increase the awareness and understanding of HIV and AIDS as a global challenge by wearing a red ribbon; and

"Whereas, the wearing of a red ribbon unifies the many voices seeking a meaningful response to the AIDS epidemic and shows a commitment to the fight against this disease; and

"Whereas, the red ribbon symbolizes the hope that one day soon the AIDS epidemic will end, that the sick will be healed, and that the stress upon our society will be relieved; and

"Whereas, the red ribbon also serves as a constant reminder of the many people in these Virgin Islands, as well as the world over, suffering as a result of this disease, and of the many people working to find a cure; and

"Whereas, the red ribbon demonstrates compassion for people with AIDS and their caretakers, and shows support for education and research leading to effective treatments, vaccines, and a cure; Now, therefore, be it

"*Resolved by the Legislature of the Virgin Islands:*

"SECTION 1. The Legislature of the Virgin Islands, on behalf of the people of the Virgin Islands, officially recognizes World AIDS Day and joins the global effort to prevent the further spread of HIV and AIDS.

"SECTION 2. Copies of this resolution shall be forwarded to the President of the United States, each member of the United States Congress, and the President of the American Association for World Health.

POM-539. A resolution adopted by the Western Legislative Conference relative to congratulatory message; ordered to lie on the table.

POM-540. A resolution adopted by the Western Legislative Conference relative to export finance assistance; ordered to lie on the table.

POM-541. A resolution adopted by the Western Legislative Conference relative to appreciation; ordered to lie on the table.

POM-542. A resolution adopted by the Western Legislative Conference relative to appreciation; ordered to lie on the table.

POM-543. A resolution adopted by the Western Legislative Conference relative to Federal Medicaid proposals; ordered to lie on the table.

POM-544. A resolution adopted by the Western Legislative Conference relative to long-term care insurance partnerships; ordered to lie on the table.

POM-545. A resolution adopted by the Western Legislative Conference relative to the designation of wilderness areas; ordered to lie on the table.

POM-546. A resolution adopted by the Western Legislative Conference relative to Federal rangeland reforms; ordered to lie on the table.

POM-547. A resolution adopted by the Western Legislative Conference relative to nuclear materials management; ordered to lie on the table.

POM-548. A resolution adopted by the Western Legislative Conference relative to wetlands management; ordered to lie on the table.

POM-549. A resolution adopted by the Western Legislative Conference relative to Federal environmental statutes; ordered to lie on the table.

POM-550. A resolution adopted by the Western Legislative Conference relative to regulatory reform principles; ordered to lie on the table.

POM-551. A resolution adopted by the Western Legislative Conference relative to the Clean Water Act; ordered to lie on the table.

POM-552. A resolution adopted by the Western Legislative Conference relative to the cleanup of hazardous and radioactive wastes at Federal facilities; ordered to lie on the table.

POM-553. A resolution adopted by the Western Legislative Conference relative to coordinated ecosystem management and marine biodiversity; ordered to lie on the table.

POM-554. A resolution adopted by the Western Legislative Conference relative to the management of Pacific fishery resources; ordered to lie on the table.

POM-555. A resolution adopted by the Western Legislative Conference relative to the coastal and ocean management; ordered to lie on the table.

POM-556. A resolution adopted by the Western Legislative Conference relative to economic zones; ordered to lie on the table.

POM-557. A resolution adopted by the Western Legislative Conference relative to the Pacific Ocean; ordered to lie on the table.

POM-558. A resolution adopted by the Western Legislative Conference relative to water issues; ordered to lie on the table.

POM-559. A resolution adopted by the Western Legislative Conference relative to public lands; ordered to lie on the table.

POM-560. A resolution adopted by the Western Legislative Conference relative to the Bureau of Land Management; ordered to lie on the table.

POM-561. A resolution adopted by the Western Legislative Conference relative to higher education programs; ordered to lie on the table.

POM-562. A resolution adopted by the Western Legislative Conference relative to educational technology; ordered to lie on the table.

POM-563. A resolution adopted by the Western Legislative Conference relative to school-to-work systems; ordered to lie on the table.

POM-564. A resolution adopted by the Western Legislative Conference relative to WLC meetings; ordered to lie on the table.

POM-565. A resolution adopted by the Western Legislative Conference relative to Federal transportation grants; ordered to lie on the table.

POM-566. A resolution adopted by the Western Legislative Conference relative to trade; ordered to lie on the table.

POM-567. A petition from a citizen of the State of Wisconsin relative to scholarships; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1596. A bill to direct a property conveyance in the State of California (Rept. No. 104-247).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 255. A bill to designate the Federal Justice Building in Miami, Florida, as the "James Lawrence King Federal Justice Building".

H.R. 869. A bill to designate the Federal building and U.S. Courthouse located at 125 Market Street in Youngstown, Ohio, as the "Thomas D. Lambros Federal Building and U.S. Courthouse".

H.R. 1804. A bill to designate the United States Post Office-Courthouse located at South 6th and Rogers Avenue, Fort Smith, Arkansas, as the "Judge Isaac C. Parker Federal Building".

H.R. 2415. A bill to designate the United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Ysleta in El Paso, Texas, as the "Timothy C. McCaghren Customs Administrative Building".

H.R. 2556. A bill to redesignate the Federal building located at 345 Middlefield Road in Menlo Park, California, and known as the Earth Sciences and Library Building, as the "Vincent E. McKelvey Federal Building".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PRESSLER, from the Committee on Commerce:

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

William L. Wilson, of Minnesota, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation.

COMMUNICATIONS SATELLITE CORPORATION

Barry M. Goldwater, Sr. of Arizona, to be a Member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1998. (Reappointment)

COMMUNICATIONS SATELLITE CORPORATION

Peter S. Knight, of the District of Columbia, to be a Member of the Board of Directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1999. (Reappointment)

COAST GUARD

The following regular officers of the U.S. Coast Guard for promotion to the grade of rear admiral:

John E. Shkor
Paul E. Busnick
John D. Spade
Douglas H. Teeson
Edward J. Barrett

The following regular officers of the U.S. Coast Guard for promotion to the grade of rear admiral (lower half):

Joseph J. McClelland, Jr.
John L. Parker
Paul J. Pluta
Thad W. Allen

COAST GUARD

Vice Admiral James M. Loy, U.S. Coast Guard, to be Chief of Staff, U.S. Coast Guard, with the grade of vice admiral while so serving.

Vice Admiral Richard D. Herr, U.S. Coast Guard, to be vice commandant, U.S. Coast Guard, with the grade of admiral while so serving.

Vice Admiral Kent H. Williams, U.S. Coast Guard, to be commander, Atlantic Area, U.S. Coast Guard, with the grade of vice admiral while so serving.

Rear Admiral Roger T. Rufe, Jr., U.S. Coast Guard, to be commander, Pacific Area, U.S. Coast Guard, with the grade of vice admiral while so serving.

The following-officer of the U.S. Coast Guard Reserve for promotion to the grade of rear admiral:

Richard W. Schneider

The following officer of the U.S. Coast Guard Reserve for promotion to the grade of rear admiral (lower half):

Jan T. Riker

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PRESSLER. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably six nomination lists in the Coast Guard, which were printed in full in the CONGRESSIONAL RECORD on November 28, 1995, January 22, 1996, February 9, 1996, February 20, 1996, March 5, 1996, and March 11, 1996, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of November 28, 1995, January 22, 1996, February 9, 1996, February 20, 1996, March 5, 1996, and March 11, 1996, at the end of the Senate proceedings.)

The following officers of the United States Coast Guard Reserve for promotion to the grade indicated:

To be captain

George J. Santa Cruz
Gregory E. Shapley

To be commander

James E. Litsinger
Dale M. Rausch
Maury A. Weeks
Donald E. Bunn

To be lieutenant commander

Pinkey J. Clark
Kevin M. Pratt

The following individual for appointment as a permanent regular commissioned officer in the United States Coast Guard in the grade of lieutenant:

Sherry A. Comar

Pursuant to the provisions of 14 USC 729, the following-named commanders of the Coast Guard Reserve to be permanent commissioned officers in the Coast Guard Reserve in the grade of captain:

Steven D. Poole
Thomas J. Falvey
John P. Miceli
Gerald P. Fleming
Catherine A. Bennett
Roderick L. Powell
Richard T. Walde
Frank A. Freisheim
Brian J. McDonnell
Ivan R. Krissel
Richard E. Tinsman
Kevin J. MacNaughton

The following Regular officers of the United States Coast Guard for promotion to the grade of lieutenant commander in the Coast Guard:

Michael S. Fijalka
Joseph P. Sargent, Jr.
Gerald E. Anderson
Kristopher G. Furtney
George E. Butler
Gary A. Schenk
Margaret S. Bosin
Guy R. Theriault
Richard A. Sparacino
Mark S. Hemann
Gregory A. Cruthis
Ralph Haes
Charles D. Dahill
Steven R. Godfrey
Wesley E. Driver
Edward B. Swift
Walter B. Wrzesniewski
Francis J. Elfring
Philip F. Dolin
Michael A. Walz
Nicholas F. Russo
Bryan R. Emond
Dale M. Jones, Jr.
Christopher P. Scraba
Stephen C. Rothchild
Byron H. Romine
Michael W. Shomin
Meredith L. Austin
Gary D. Lakin
Stephen S. Scardefield
Joseph D. Phillips
Carlyle A. Blomme
Kelly S. Strong
Thomas J. Hughes
Wayne D. Cawthorn
Joseph C. McGuiness
Frank H. Kingett
Daniel J. Christovich
Robin E. Kane
Robert B. Watts
Keith J. Turro
Lori A. Mathieu
Davis L. Kong
Edward J. Gibbons
Manuel R. Raras III
Edwardo Gagarin
Mathew E. Miller
David M. Singer
Douglas H. Olson
Lincoln H. Benedict
Scott A. Fleming
Brian F. Poskaitis
Kevin P. Crawley
Terry L. Hoover
Duane F. Rumpca
Daniel S. Rotermund
Adolph L. Keyes
Ronald L. Roddam
John T. Fox
Mark R. Dix
James R. Manning
Nancy R. Goodridge
Gregory C. Busch
James J. Fisher
Robert T. Vicente
Timothy A. Cook
Brian C. Emrich
Catherine A. Haines
Todd K. Watanabe
Brendan C. Frost
Michael R. Hicks
Jacob R. Ellefson
James L. Knight
Laura L. Schmitt
James F. Martin
Christine C. Pippenger
Elizabeth A. Lasicki
Steven C. Truhlar
Gary M. Thomas
Jay Jewess
Christopher Yakabe
David A. Vaughn
Geoffrey A. Trivers
Steven V. Carleton
Robert S. Burchell
Robert E. Brogan
Terance E. Keenan
Laurie J. Mosier
Mark S. Ogle
Wayne P. Brown
Steven A. Weiden
Joseph J. Turosky III
Eric J. Forde
Thomas A. Saint, Jr.
Charles A. Schue III
Frederick A. Salisbury
Michael C. Ryan
Wesley S. Trull
Guy A. McArdle
Roger V. Bohnert
George J. Bowen II
John A. Meehan
William J. Ziegler
Douglas W. Stephan
Douglas R. McCrimmon, Jr.
David P. Dangelo
Douglas W. Simpson
Brian L. Dunn
Kenneth J. Reynolds
Douglas I. Hatfield
Brenton S. Michaels
Joseph A. Lukinich, Jr.
Rondal B. Litterell
David C. Hoard
Carl B. Hansen
Gregory S. Omernik
Ernest M. Gaskins
Brian A. Sanborn
Howard R. White
Alberto L. Perez-Vergara
William F. Imle
Linn M. Carper
Jerry R. Honeycutt, Jr.
Joseph B. Kolb
Frederick E. Bartlett
Andrew W. Connor
Gerald A. Green
Carolyn M. Deleo
Robert B. Burris
Christopher L. Roberge
Jon G. Beyer
Patrick Little
John D. Sharon
Michael B. Christian
Michael F. McAllister
Tommey H. Meyers
Matthew Von Ruden
Karl J. Gabrielsen
James S. Plugge
Daniel T. Pippenger
Werner A. Winz
Thomas E. Hickey
Christopher J. Tomney
Mark T. Lunday
James R. Lee
John N. Healey
Kurt A. Van Horn
Mark Dietrich
Hung M. Nguyen
John R. Caplis
Steven T. Baynes
Todd S. Turner
Timothy P. Leary
Brandt G. Rousseaux
James M. Heinz
Mark P. Peterson
Byron E. Thompson
Michael A. Mohn
Gregory J. Sundgaard
Richard K. Hunt
Paul S. Szwed
Mark A. True
Mark A. Cawthorn
Kathryn L. Oakley
Barry A. Compagnoni
Robert J. Klapproth
Craig L. Eller
Mark E. Dolan
Frederick G. Myer
Charles A. Turner
Christopher D. Brewton
Dale A. Bouffiou
Chris A. Nettles
Lia E. Debettencourt
John G. Hornbuckle
Mark J. Metoyer
Richard E. Petherbridge
Craig A. Lindsey
Kimberly J. Nettles

The following Regular and Reserve Officers of the United States Coast Guard to be permanent commissioned officers in the grades indicated:

To be lieutenant

Gerald E. Anderson
Charles D. Dahill
Nancy R. Goodridge
Douglas I. Hatfield
James J. Jones
Mark A. Willis
Stephen E. Schroeder
Timothy J. Gilbride
James J. Mikos
Paul A. Gummel
Edward J. Vandusen
David M. Flaherty
John L. Beamon
Hewitt A. Smith III
Marcus X. Lopez
Sean D. Salter
James Q. Stevens III
Charles H. Simpson, Jr.
Daniel J. Molthen
Rogers W. Henderson
Scott H. Olson
Brian W. Roche
Robert T. Hendrickson, Jr.
Paul E. Gerecke
David W. Mooney
Gerald M. Charlton, Jr.
Kurt A. Lutzow
Gerald A. Williams
Jose A. Saliceti
Timothy A. Mayer
Todd C. Hall
Michael L. Gatlin
Christine R. Gustafson
James Borders, Jr.
Kevin R. Sheer
Thomas S. MacDonald
James W. Bartlett
Peter J. Clemens
James A. Stewart
Carla J. Grantham
Kevin A. Jones
Susan R. Klein
Jeffrey K. Pashai
Wesley K. Pangle
Karen L. Brown
Neil H. Shoemaker
Brian P. Washburn
Kristin K. Barlow
Lara N. Burleson
Christel A. Dahl
Mark A. Emmons
Jose M. Zunica
Andres V. Delgado
Garth B. Hirata
David E. Hoten
George R. Lee
Robert L. Smith
Robert C. Gaudet
Mark J. Morin
Jeffrey A. Baillargeon
Barbara N. Benson
Michelle R. Webber
Darnell C. Baldinelli
Michael H. Day

To be lieutenant (junior grade)

Jeffrey R. McCullars
Paul E. Dittman
Daniel H. Mades
Christopher B. O'Brien
Peter V. Nourse
David R. Simeur II
Dean J. Dardis
Patrick S. McElligatt
Nancy L. Peavy
Edward A. Westfall
William A. Birch
Randall G. Wagner
Douglas R. Campbell
Karl D. Dornburg
Joyce E. Aivalotis
Melvin Wallace
Andre L. McGee
Charles G. Alcock
Thomas J. Salveggio
Tony M. Cortes
Steven E. Vigus
Matthew X. Glavas
Lisa A. Ragone
Ronald K. Grant
Eric L. Tyson
Gregory N. Delong
David A. Bullock
Timothy J. Cotchay
Bob I. Feigenblatt
Stephen A. McCarthy
Ramon E. Ortizvalez
Thomas W. Harker
Kyle A. Adams
Daniel R. Norton
Bruce D. Cheney, Sr.
Christopher K. Bish
Kevin L. Rebrook
Mark P. Doran
Kathleen M. McNulty
Brendan C. Bennick
William E. Runnels
Michael R. Charbonneau
Bradley J. Ripkey
Michael Sakaio
Christina M. Bjergo
James E. Elliott
Brett A. Taft
Joseph F. Rock, Jr.
Joseph M. Fierro
Charles A. Caruolo
Karl I. Meyer
Michael A. Baroody
Robert I. Coller
Robert R. Harper, Jr.
Joseph Ponseti, Jr.
William R. Timmons
Peter A. Yelle
Claudia C. Gelzer
Daniel D. Unruh
Mark Marchione
Matthew D. Woodward
John A. Denard
John B. Milton
John A. Cromwell
Scott A. Hinton
Orin E. Rush, Jr.
Mitchell A. Morrison
Christopher B. Hill
Alan L. Blume
Jeffery W. Thomas
Larry L. Littrell
Christopher M. Holmes
Thomas N. Thomson
Bryan P. Rorke
David H. Anderson
Edward W. Price, Jr.
Thomas J. Robinson II
Richard M. Klein
Jerry J. Briggs
William G. Lutman
Gregory L. Carter
Roger A. Smith
James V. Mahney, Jr.
Kevin N. Knutson
Donna G. Urban

Raymond C. Milne III
Joel B. Roberts
Dale Dean
David J. Wierenga
Mark J. Bruyere
Thomas J. Goldberg
Michael F. Trevett
John G. White
Timothy A. Tobiasz
Christopher S. Nicolson
Dale A. Bluemel
Lawrence A. Kiley
Whitney L. Yelle
James F. Blow
Edward W. Sandlin II
Scott D. Stewart
Ismal Curet
Michael A. Vanvoorhees
Lewis M. Werner
Charles A. Roskam II
James A. Nussbaumer
Kevin Y. Pekarek
Michael T. Lingaitis
Erich M. Telfer
Constantina A. Stevens

The following cadets of the United States Coast Guard Academy for appointment to the grade of ensign:

Stephen Adler
Todd Adrian
Andrew Aguilar
Christopher Allan Ahearn
Kristina Marie Ahmann
Lee Allison
Brian Robert Anderson
Pete Agrao
David Lewis Arritt
Scott Aten
Jonathan Dickinson Baker
Alain Velasco Balmacedo
Clifford Ronald Bambach
Agustus James Bannan
Timothy James Barelli
Che Jeremy Barnes
Jennifer Alice Beaver
Eric Michael Belleque
Scott David Benson
John Berry
Robert Humber Bickerstaff
Jeff Brian Bippert
Dawn Black
Chad Eric Bland
Jed Robert Boba
George Charles Bobb
Michael Bolz
Fred Van Boone
Russell Eugene Bowman
Sean Terrence Brady
Paul Brooks
Andy Scott Brown
Heath Michael Brown
Jessica Irene Brown
Thomas Russell Brown
Timothy Tyson Brown
William Alan Budovec
Marc Alan Burd
Erva Jennifer Burhans
Travis Lance Burns
Colin Edward Campbell
Rachelle Lyn Cannon
Willie Lee Carmichael
Scott Eric Carroll
Anthony Cella
Adam Abraham Chamie
Casey Louis Chmielewski
Bradley Clare
Kathryn Nadene Clevenger
Eric Mitchell Cooper
Phillip Alexander Cowall
Phillip Allen Crigler
Timothy Patrick Cronin
Christopher Francis Dabbieri
Quincy Lamont Davis
Seth Joo Yong Denning
Jared Colin Dillian
Patrick Dougan
William Albert Dronen
William Earle Duncan
Michael P. Duren
Michael Arthur Edwards
Timothy Aaron Mahr
Zachary Joseph Malinoski
Gary Mason
Gregory Alen Matyas
Austin Joseph McGuire
Eileen Patricia Meehan
Tracy Walsh Mehr
Brian Arthur Meier
Peter Neal Melnick
Sally Messer
Brian Miles
Christopher Michael Milkie
Gabrielle Genevieve Miller
Emily Minbiole
Erica Lea Mohr
Robert Thomas Moorhouse
Joe L. Morgan
Seal Gregory Morrissey
Jesse Clate Morton
Todd William Moyer
Michael Shawn Moyers
Jonathan Edward Musman
Adam Eric Nebrich
Benjamin Louis Nicholson
Craig Mickael O'Brien
John Kenneth O'Connor
James Joseph O'Kane
Thomas Andrew Olenchock
Matthew Orendorff
Drew Francis Orsinger
Brian Palm
Michael John Paradise
Andrew Thomas Pecora
Scott Thomas Peterein
Hillary Genelle Peterson
Ty Jeremy Peterson
Christopher Brian Phelan
Lena Michele Piazza
Richard Charles Pokropski
Michelle Lee Quach
Brian Kevin Riemer
Erick Roane
Keith Michael Ropella
Michael Ray Roschel
Andrew Eric Rosenbaum
Brad Rosello
Herbert Henry Eggert
Michael James Ennis
Philip Allan Ero
Salvatore Jason Fazio
Michele Flaherty
Taina Fonseca
Anthony F. Franzago
Michael Shariff Fredie
Ernie Toledo Gameng
Juan Garcia
Christofer Lyle German
Michael Ryan Gesele
William Raymond Gibbons
Steven Gilbert
Kevin David Glynn
Raja Goel
Peter Ward Gooding
Dennis Michael Gordon
Michael Patrick Guldin
Fernando Gutierrez
Timothy Dale Hammond
Colin Harding
Mark Koffman Harris
Rebecca Pearl Harvey
Chris S. Hayter
Jalyn Gail Heil
Robert Hengst
John Hennigan
Mark Donald Heupel
Eric Edwards Hoernemann
Christy Lynn Hogan
Eli Hoory
Eric Kenneth Horn
Walter Laurence Horne
Robert Anthony Hueller
John Paul Humpage
Mark Alan Jackson
Benjamin Alexandea Janczyk
Merle Johnson
Reese Parker Johnson
Samuel Johnson
Anthony Raymond Jones
Alexander Sarol Joves
Eirik Thomasson Kellogg
Carl Martin Kepper
Robert John Keramidas
Adam Lincoln Kerr
Timothy James Kerze
Fair Charlie Kim
Jooyi Kim
William Anderson King
Heather Kristine Klemme
Chris Kluckhuhn
Sean Adam Komatinsky
Gabrielle Nicole Krajenski
Jason A. Kremer
Paul Emil Lafond
Karl David Lander
James Willis Larson
Ryon L. Little
Scott Stanley Littlefield
Katherine Mary MacDonald
Ryan Alexander Roslonek
Anthony Lee Russell
Michael Ryan
Olav Magnus Saboe
Andrea Lynn Sacchetti
Jerry Wayne Saddler
Matthew J. Salas
Aaron Michael Sanders
Derek Thomas Schade
Daniel Schaeffer
Tabitha A. Schiro
Michael Schoonover
Cynthia Seamands
Edward See
Richard Servantez
John Edward Shkor
Jeremy Charles Smith
Christain Jared Souter
Eric Ryan St. Pierre
Nell Baynham Stamper
Jane Elizabeth Stegmaier
Scott Allan Stoermer
Brian Patrick Storey
Tracy Ann Strock
Daniel Matthew Stulack
Jonathan Theel
Michael David Thomas
Randall Thomas
Paul Edward Tressa
Woodrow E. Turner
Todd David Vance
Mark Aaron Voris
Gretchen Anne Wagner
Michael Anthony Walsh
Daniel Ward
Eric Ward
Donis Wayne Waters
Michelle Renee Watson
Andres Michael Went
William Edward Whitaker
Laurina Mae-Anne Wilcox
Mark Wilcox
Anthony Wade Williams
Douglas Erhardt Williams
Torrence Bement Wilson
Kimberly Zust

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. HUTCHISON:

S. 1648. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Herco Tyme;* to the Committee on Commerce, Science, and Transportation.

By Mr. KERREY (for himself, Mr. DOLE, Mr. EXON, and Mrs. KASSEBAUM):

S. 1649. A bill to extend contracts between the Bureau of Reclamation and irrigation districts in Kansas and Nebraska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself, Mr. KERRY, Mr. SIMON, Mr. LEAHY, Ms. MIKULSKI, and Mr. INOUYE):

S. 1650. A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WARNER:

S. 1651. A bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to medicare to enroll in the Federal Employees Health Benefits program; to the Committee on Armed Services.

By Mr. McCONNELL:

S. 1652. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to establish a national resource center and clearinghouse to carry out training of State and local law enforcement personnel to more effectively respond to cases involving missing or exploited children, and for other purposes; to the Committee on the Judiciary.

By Mr. CONRAD:

S. 1653. A bill to prohibit imports into the United States of grain and grain products from Canada, and for other purposes; to the Committee on Finance.

By Mrs. BOXER (for herself and Mr. BRADLEY):

S. 1654. A bill to apply equal standards to certain foreign made and domestically produced handguns; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. PELL, Mr. D'AMATO, Mr. PRESSLER, Mr. LEVIN, and Mr. FEINGOLD):

S. Con. Res. 50. A concurrent resolution concerning human and political rights and in support of a resolution of the crisis in Kosova; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERREY (for himself, Mr. DOLE, Mr. EXON, and Mrs. KASSEBAUM):

S. 1649. A bill to extend contracts between the Bureau of Reclamation and irrigation districts in Kansas and Nebraska, and for other purposes; to the Committee on Energy and Natural Resources.

THE IRRIGATION PROJECT CONTRACT EXTENSION ACT OF 1996

• Mr. KERREY. Mr. President, I introduce legislation to extend the water service contracts for irrigation projects in Nebraska and Kansas.

Mr. President, a little over 50 years ago, Congress authorized construction of a set of water management projects as a part of the Flood Control Act of 1944. These projects were designed to provide control, conservation, and use of water resources throughout the Missouri River basin. Known as the Pick-Sloan Missouri Basin Program, the system has provided flood control, power generation and irrigation to over 3.7 million acres, as well as stream pollution abatement, sediment control, water supplies for cities and industry, enhancement of fish and wildlife, and recreation opportunities.

Each of the projects had 40-year water service contracts for irrigation with the Bureau of Reclamation, in the Department of the Interior. These contracts are beginning to expire. In fact, three of those 40-year contracts will expire on December 31 of this year. Though the procedures for contract renewal were not spelled out, it is clear that contract renewal was considered when the original agreements were made. It is also clear that an immediate extension of the service contracts is necessary. Extending these contracts will give the Bureau of Reclamation the necessary time to complete the contract renewal process as well as provide us time to collect input to fully evaluate our options and maximize the benefits of the best option.

The legislation I introduce today is straight-forward and simple: It would extend each of 10 water service contracts upon expiration for a period of 4 years. The terms of each contract would be the same as those originally negotiated.

I am glad to be able to say that this legislation has the full and bipartisan support of each Senator from both of the affected States, Nebraska and Kansas. It has been a real pleasure to work with each of my cosponsors on an issue where we found such clear and easy agreement, both about what needed to be done and how to get there. So, on behalf of myself, the majority leader, BOB DOLE, my friend and fellow Nebraskan JIM EXON, NANCY KASSEBAUM, and the thousands of Nebraskans, Kansans, and visitors who benefit from these projects, I introduce the Irrigation Project Contract Extension Act of 1996.•

By Mr. HARKIN (for himself, Mr. KERRY, Mr. SIMON, Mr. LEAHY, Ms. MIKULSKI, and Mr. INOUYE):

S. 1650. A bill to amend the Fair Labor Standards Act of 1938 to prohibit discrimination in the payment of wages on account of sex, race, or national origin, and for other purposes; to the Committee on Labor and Human Resources.

THE FAIR PAY ACT OF 1996

• Mr. HARKIN. Mr. President, the Equal Pay Act, passed in 1963, made it illegal to discriminate against women when determining pay levels for the same job. Since then, we have made some progress in reducing employment discrimination against women. But we cannot have equality of opportunity in the workplace without equality and fairness in wages and salary. Even though many women have moved up and out of traditionally female jobs, stereotypes and historical discrimination remain firmly imbedded in pay scales.

Current law has not done enough to combat wage discrimination when employers routinely pay lower wages to jobs that are dominated by women. That is why I am introducing the Fair Pay Act of 1996. The Fair Pay Act is designed to pick up where the Equal Pay Act left off by paying women equally for equivalent work.

The heart of the Fair Pay Act will make it illegal to discriminate against employees on the basis of sex, race, and national origin by requiring equal pay for work in jobs that are comparable in skill, effort, responsibility, and working conditions. Women and minorities make up 57 percent of the workforce and their salaries are an essential component of family income. It is a fundamental issue of fairness to provide equal pay for work that is of equal value to an employer.

Wage gaps can result from differences in education, experience, or time in the workforce and the Fair Pay Act does not interfere with that. But, just as there is a glass ceiling in the American workplace, there is also what I call a glass wall—where women are on the exact same level as their male coworkers. They have the same skills, they have the same type of responsibilities, but they are still obstructed from receiving the same pay. It is a hidden barrier, but a barrier all the same. And it is keeping out equality, opportunity, and above all fairness. The Fair Pay Act is about knocking down the glass wall.

To illustrate, consider a study done in the county of Los Angeles that compared the job requirements and salaries of children's social service workers who were mostly women and probation officers who were mostly men. The two jobs required the same skills and education, and the working conditions were similar. However, the social service workers were paid an average of $35,000 a year while the probation officers were paid an average of $55,000 a year—a $20,000 difference in salary.

Over a lifetime, that kind of wage gap adds up. The average woman loses $420,000 over a lifetime due to unequal pay practices. Such gaps in income are life changing: it can mean the difference between welfare and self-sufficiency, owning a home or renting, sending your kids to college or to flip burgers, or having a decent retirement instead of an uncertain old age.

The Fair Pay Act is a commonsense business issue. Women and minorities make up over half of the work force and fair pay is essential to attract and keep good workers.

The Fair Pay Act is an economic issue. Working women, after all, don't get special discounts when they buy milk. They can't get a special rate buying clothes for their kids. Bread and gasoline don't cost less for working women than working men. And women and minorities are certainly taxed at the same rate as men are, yet they don't get any break when April 15 rolls around.

The Fair Pay Act is a family issue. Family budgets are getting squeezed by the day. When women are discriminated against in their pay, they aren't the only ones who lose. When women aren't paid what they're worth, husbands and children get cheated too.

Now, I've heard the critics. Some say there is no discrimination in the workplace. It's just the natural economic forces paying workers their fair share.

Others say that this is a decision that should be left to the private sector alone. If the private sector wants to discriminate, they say, that should be their right. Well, we as a society have said discrimination in any form should not be tolerated and that's what this bill is about.

There is perhaps no other form of discrimination that has as direct an impact on the day-to-day lives of workers as economic discrimination. The Equal Pay Act was designed to end that. And it has helped. But we need to go further to address economic discrimination for equivalent work.

And most importantly, the American people want fair pay legislation. The Fair Pay Act has already been endorsed by a wide variety of groups and organizations. In addition, polling data consistently show that over 70 percent of the American people support a law requiring the same pay for men and women in jobs requiring similar skills and responsibilities. Please join me in supporting the Fair Pay Act of 1996. I welcome your ideas and suggestions.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WE SUPPORT THE FAIR PAY ACT

A. Philip Randolph Institute.
Adams National Bank.
AFL–CIO.
AFSCME.
American Association of Retired Persons.
American Association of University Women.
American Civil Liberties Union.
American Federation of Government Employees.
American Library Association.
American Nurses Association.
American Physical Therapy Association.
Americans for Democratic Action.
Bakery, Confectionery, Tobacco Workers International Union.
B'nai B'rith Women.
Business and Professional Women/USA.
Center for the Advancement of Public Policy.
Coal Employment Project.
Coalition of Black Trade Unionists.
Coalition of Labor Union Women.
Dulles Area NOW.
Episcopal Church Center, Women in Mission & Ministry.
Equal Rights Advocates.
Federally Employed Women.
Federation of Organizations for Professional Women (FOPW).
Financial Women International Fund for the Feminist Majority.
General Federation of Women's Clubs.
Industrial Union Department, AFL–CIO.
Institute for Research on Women's Health.
International Brotherhood of Teamsters.
Int'l Union of Electronic, Electrical, Salaried, Machine & Furn. Workers Union.
International Union, United Auto Workers.
Hubbard and Revo-Cohen, Inc.
Kentucky Commission on Women.
League of United Latin American Citizens.
MANA: A National Latina Organization.
National Association for Commissions for Women.
National Association for Girls and Women in Sport.
National Association of Social Workers.
National Association for the Advancement of Colored People.
National Committee on Pay Equity.
National Council of Jewish Women.
National Council of Negro Women.
National Education Association.
National Federation of Federal Employees.
National Organization for Women.
National Treasury Employees Union.
National Urban League.
National Women's Law Center.
Network: A National Catholic Social Justice Lobby.
Office and Professional Employees Int'l Union.
Self Help for Equal Rights.
Service Employees International Union.
The Newspaper Guild.
UNITE! Union of Needletrades, Industrial and Textile Employees.
United Food and Commercial Workers Union.
United Methodist Church.
Utility Workers Union of America.
Wider Opportunities for Women.
Women Employed.
Women in Communications, Inc.
Women on the Job.
Women of the Job Taskforce.
Women Work! The National Network for Women's Employment.
Women's Information Network.
Women's Legal Defense Fund.
Women's Self Employment Project.
YWCA of the USA.●

● Mr. LEAHY. Mr. President, today, more than half our population faces discrimination every day. Hard to believe, but it is true.

Women currently earn, on average, 28 percent less than men. That means for every dollar a man earns, a woman earns only 72 cents. Over a lifetime, the average woman will earn $420,000 less than the average man based solely on her sex. This is unacceptable. We must correct this gross inequity, and we must correct it now.

How is this possible with our Federal laws prohibiting discrimination? It is possible because we in Congress have failed to protect one of the most fundamental human rights—the right to be paid fairly for an honest day's work.

Unfortunately, our laws ignore wage discrimination against women and minorities, which continues to fester like a cancer in workplaces across the country. The Fair Pay Act of 1996 would close this legal loophole by prohibiting discrimination based on wages.

I do not pretend that this act will solve all the problems that women and minorities face in the workplace. It is, however, an essential piece of the puzzle.

Equal pay for equal work is often a subtle problem that is difficult to combat. And it does not stand alone as an issue that women and minorities face in the workplace. It is deeply intertwined with the problem of unequal opportunity. Closing this loophole is not enough if we fail to provide the opportunity for women and minorities, regardless of their merit, to reach higher paying positions.

The Government, by itself, cannot change the attitudes and perceptions of individuals or private businesses in hiring and advancing women and minorities, but it can set an example. Certainly, President Clinton has shown great leadership by appointing an unprecedented number of women to his administration. Earlier this week, the Department of Defense, the Nation's largest employer of women, reached a milestone when President Clinton appointed the first female three-star general, Maj. Gen. Carol Mutter of the U.S. Marine Corps. I share her sentiment when she said she could not wait until there were no more firsts for women. The Government has a long way to go, however, since General Mutter will be the lone woman out of more than 100 three-star officers.

The private sector also has a long way to go to provide equal opportunity. The report released by the Glass Ceiling Commission last year found that 95 percent of the senior managers of Fortune 1000 industrial and Fortune 500 companies are white males. The Glass Ceiling Commission also found that when there are women and minorities in high places, their compensation is lower than white males in similar positions. This wage inequality is the issue we seek to address today.

In the next decade, the changing nature of the workplace—women and minority men will make up 62 percent of the work force by the year 2005—will force businesses to look at the larger pool of qualified Americans to continue to be competitive in the marketplace. As this change occurs, we must demand fair pay for equal work.

For the first time in our country's long history, this bill outlaws discrimination in wages paid to employees in equivalent jobs solely on the basis of a worker's sex, race, or national origin. I say it is about time. I commend Senator HARKIN for introducing the Fair Pay Act, and I am proud to be an original cosponsor of it.

The Fair Pay Act would remedy gender and race wage gaps under a balanced approach that takes advantage of the employment expertise of the Equal Employment Opportunity Commission [EEOC], while providing flexibility to small employers . In addition, it would safeguard legitimate wage differences caused by a seniority or merit pay system. And the legislation directs the EEOC to provide educational materials and technical assistance to help employers design fair pay policies.

It is a basic issue of fairness to provide equal pay for work of equal value. The Fair Pay Act makes it possible for women and minorities to finally achieve this fundamental fairness. I urge my colleagues to support this legislation.●

By Mr. WARNER:

S. 1651. A bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to medicare to enroll in the Federal Employees Health Benefits program; to the Committee on Armed Services.

MILITARY RETIREES HEALTH BENEFITS LEGISLATION

Mr. WARNER. Mr. President, today I am pleased to introduce legislation which will return a sense of fairness to the military health care system by providing Medicare-eligible uniformed services retirees the same health care plan that is currently available to every other retired federal employee. This proposed legislation would allow all Medicare-eligible military retirees and family members to participate in the Federal Employee Health Benefits Plan [FEHBP].

Under the current system, military retirees are the only group of Federal employees whose health plan is taken away at age 65, requiring them to rely exclusively on Medicare. This is a broken promise, one made as they took their oath of office. I am sure that my colleagues would agree that this situation is not only inherently unfair, but that it also breaks a long standing health care commitment to our military retirees. It is worth noting that nearly all of the largest U.S. corporations, such as General Motors, IBM and Exxon, provide their retirees with substantial employer-paid health coverage in addition to Medicare. The commonly held belief that the health care provided for military retirees is second to none is a myth. The truth is that when compared to what is provided by other large employers including the rest of the Federal Government, the health care that is provided to our Medicare-eligible military retirees and their family members has become second to almost all others.

This legislation is a major step toward the application of equitable standards of health care for all Federal Employees and honors our commitments to those veterans who served our Nation faithfully through many years of arduous military service. I invite my colleagues to join me as cosponsors of this bill. I would like to thank Jack Hoggard, Commander, USN(RET) and Mike Matthes, Commander, USN for their efforts in producing this important legislation. •

By Mr. McCONNELL:

S. 1652. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to establish a national resource center and clearinghouse to carry out training of State and local law enforcement personnel to more effectively respond to cases involving missing or exploited children, and for other purposes; to the Committee on the Judiciary.

THE JIMMY RYCE LAW ENFORCEMENT TRAINING CENTER ESTABLISHMENT ACT OF 1996

• Mr. McCONNELL. Mr. President, I am pleased to introduce a bill to establish the Jimmy Ryce Law Enforcement Training Center for the Recovery of Missing and Exploited Children.

Each year tens of thousands of children are reported missing from their homes. The Department of Justice estimates that 3,000 to 4,000 children are taken coercively by nonfamily members. And the National Center for Missing and Exploited Children gets involved with almost 300 cases a year which involve children abducted by strangers intending harm. Many of these children are never seen again.

This is the most critical factor in a missing child investigation. And too, often, local law enforcement officials lack the experience and the resources to conduct a swift and effective investigation which will maximize the chances for a safe recovery.

The Jimmy Ryce Center, which will be established by this bill, will combine the resources of the National Center for Missing and Exploited Children with those the F.B.I.'s National Crime Information Center and Child Abduction and Serial Killer Unit, as well as the Office of Juvenile Justice and Delinquency Prevention. The Jimmy Ryce Center will be a national training center for law enforcement officials from all over the United States and its programs will address: identifying the elements of a missing and exploited child case investigations; applying research regarding missing and exploited child case investigations and analyzing successful and unsuccessful investigative techniques; and educating about the national resources available to assist local efforts in a missing and exploited child case investigation.

The Jimmy Ryce Center will also make it a priority to provide comprehensive nationwide training for law enforcement regarding report taking and NCIC entry of missing child information. And, the training center will expand current training done by the Office of Juvenile Justice and Delinquency Prevention and coordinate programs in all 50 States and the District of Columbia.

I am confident the bill will have the support of the Department of Justice. It already has the support of the Fraternal Order of Police, and I ask unanimous consent that the FOP's letter, as well a copy of the bill, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) an investigation to find a missing child presents unique circumstances for law enforcement agencies, including the need for specialized training and the capability of swift response to maximize the chances for the safe recovery of the child;

(2) local law enforcement officials often lack experience and are unaware of the Federal resources available to assist in the investigation of cases involving a missing child; and

(3) a national training facility should be established to assist State and local law enforcement agencies in—

(A) providing comprehensive training in investigations of cases involving missing or exploited children;

(B) ensuring uniform, consistent, and meaningful use of reporting systems and processes; and

(C) promoting the use of vital national resources.

SEC. 2. AMENDMENT.

Section 404(b)(2)(D) of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended by striking "children; and" and inserting "children, including—

"(i) the establishment of an onsite training center at the national clearinghouse to be known as the Jimmy Ryce Law Enforcement Training Center for the Recovery of Missing Children, designed to—

"(I) assist high-level law enforcement leaders from across the country, selected by State officials, to develop effective protocols and policies for the investigation and prosecution of cases involving a missing or exploited child; and

"(II) introduce those officials to resources available from the clearinghouse and Federal agencies to assist in cases involving a missing or exploited child;

"(ii) nationwide training in report-taking and data entry in cases involving missing or exploited children for information specialists, conducted at State and local law enforcement facilities by employees of the national clearinghouse and the National Crime Information Center of the Federal Bureau of Investigation, designed to ensure that necessary information regarding cases involving missing or exploited children is gathered and entered at the local level in a timely and effective manner; and

"(iii) State-based basic investigation training in cases involving missing or exploited children for State and local police investigators selected by State officials, conducted by employees of the national clearinghouse and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice, designed to provide practical instruction in the investigation of cases involving missing or exploited children; and".

FRATERNAL ORDER OF POLICE,
NATIONAL LEGISLATIVE PROGRAM,
Washington, DC, March 27, 1996.

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

Hon. PETER DEUTSCH,
U.S. House of Representatives, Washington, DC.

GENTLEMEN: On behalf of the 270,000 members of the Fraternal Order of Police, this is to express our strong support for your legislation to provide funding and facilities to train state and local law enforcement officers in investigative techniques for utilization in missing and exploited children case.

As a member of the Board of the National Center for Missing and Exploited Children (NCMEC), I am thoroughly familiar with the wonderful work of the Center, and with the strong bond which the NCMEC has forged with state and local officers. The proposed Jimmy Ryce Law Enforcement Training Center for the Recovery of Missing Children, which would operate within the framework of the NCMEC, can only enhance that relationship, and will make it even more productive.

We thank both of you for your leadership on this issue, and in the many other areas where both of you have weighed in on the side of tough yet progressive law enforcement.

Sincerely,
GILBERT G. GALLEGOS,
National President.•

By Mr. CONRAD:

S. 1653. A bill to prohibit imports into the United States of grain and grain products from Canada, and for other purposes; to the Committee on Finance.

THE IMPORT PROHIBITION ACT OF 1996

Mr. CONRAD. Mr. President, on another matter, we learned yesterday that Canada is banning all imports of United States durum as a result of the karnal bunt fungus found in Arizona. Mr. President, this ban means that no durum may be exported to Canada. Durum is the wheat that makes pasta. So all the pasta lovers should understand most of the durum that makes pasta in this country is grown in North Dakota. Eighty-seven percent of the durum wheat that makes pasta is grown in North Dakota. And our Canadian friends from the north have now banned all imports of U.S. durum wheat. What does that mean? Well, it means a lot.

It means that our durum is not going to be able to leave through the Great Lakes. That is where the grain that is grown in North Dakota and the rest of the Midwest is transferred to what we call lakers, ships that go on the lake to transoceanic vessels. Those transfers are made in Canadian ports.

This ban will mean that our grain cannot leave through those Canadian ports. That means our grain is going to have to go south through the gulf adding a lot of cost and expense. That means we are going to be less competitive against the Canadians.

Mr. President, one might understand what the Canadians are doing here if in some way they were threatened. They themselves have acknowledged they are not threatened. They themselves have acknowledged that karnal bunt cannot survive in the cold of Canada. And there is no karnal bunt that has been found in the Midwest. The only place it was found was on isolated farms in some southwestern States.

So the Canadians are engaged, I believe, in a deception. They are saying they are banning our exports of durum wheat through their ports to protect their producers. But by their own statements they know—and they have acknowledged—that they are not threatened.

So what is really going on, Mr. President? I believe it is an attempt to secure a competitive advantage, and we should not allow it. We should fight back.

Today, I am introducing two bills: One that will ban imports of Canadian durum until Canada drops its restriction on our grain. And the second bill would ban the imports of all cattle and beef from Canada given the fact that we have seen the mad cow disease develop in England. We know there have been shipments of cattle from England to Canada in the past.

If they are going to threaten us because of karnal bunt found in Arizona, we can threaten them in the same way and shut off all imports from Canada of their beef and their cattle because of the mad cow syndrome in England when we know there have been shipments of beef from that country to Canada.

It makes just as much sense to ban imports of cattle and beef from Canada where there is no known BSE as it does to ban imports of wheat from the upper midwest where there are no known outbreaks of karnal bunt.

That is equivalent treatment. That is standing up for America. I hope that other of my colleagues will join me in supporting this legislation to send a clear message to our neighbors to the north that we are not going to accept their refusal to take our exports of durum through their markets.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) The Canadian Government has imposed a ban on the importation of durum wheat from the United States because of an outbreak of karnal bunt in Arizona.

(2) The ban applies to all imports of durum wheat from the United States, including wheat from States where no evidence of karnal bunt has been found.

(3) No karnal bunt has been found in any wheat produced in Montana, North Dakota, South Dakota, Minnesota, or in the Great Lakes region.

(4) The Canadian Government has stated that due to the cold climate in Canada there is no risk of an outbreak of karnal bunt in Canada.

(5) Canada's ban on shipments of durum wheat through the Great Lakes ports is unjustifiable and the ban places unnecessary restrictions on shipments of other wheat through the Great Lakes ports.

SEC. 2. PROHIBITION AGAINST ENTRY OF CERTAIN CANADIAN GRAIN PRODUCTS.

(a) IN GENERAL.—Not later than 15 days after the date of the enactment of this Act, the President shall prohibit the entry, or withdrawal from warehouse for consumption, of all grain products (described in heading 1001 or 1101.00.00 of the Harmonized Tariff Schedule of the United States) which are produced, grown, or manufactured in Canada.

(b) DURATION.—The prohibition imposed under subsection (a) shall remain in full force and effect until the Secretary of Agriculture and the United States Trade Representative—

(1) determine that Canada has removed the prohibition on imports described in subsection (c), and that durum wheat products produced in the United States are permitted full and fair access to the markets of such country; and

(2) submit to the Congress the determination under paragraph (1), together with the reasons underlying the determination.

(c) PROHIBITION DESCRIBED.—The prohibition described in this subsection is a prohibition on the importation of durum wheat products produced in the United States where there is not sufficient evidence that karnal bunt exists with respect to such wheat.

By Mrs. BOXER (for herself and Mr. BRADLEY):

S. 1654. A bill to apply equal standards to certain foreign made and domestically produced handguns; to the Committee on the Judiciary.

THE JUNK GUN VIOLENCE PROTECTION ACT OF 1996

• Mrs. BOXER. Mr. President, I am introducing, along with my distinguished colleague from New Jersey, Senator BRADLEY, a bill to give equal treatment to the manufacture, transfer, and possession of both foreign made and domestically produced junk guns.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1654

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Junk Gun Violence Protection Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the prohibition on the importation of handguns that are not generally recognized as particularly suitable for or readily adaptable to sporting purposes, often described as junk guns or Saturday night specials, has led to the creation of a high-volume market for these weapons that are domestically manufactured;

(2) traffic in junk guns constitutes a serious threat to public welfare and to law enforcement officers, and the use of such firearms is increasing;

(3) junk guns are used disproportionately in the commission of crimes;

(4) of the firearms traced in 1995, the 3 firearms most commonly traced to crimes were junk guns; and

(5) the domestic manufacture, transfer, and possession of junk guns should be restricted.

SEC. 3. RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN HANDGUNS.

(a) RESTRICTION.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(y)(1) It shall be unlawful for a person to manufacture, transfer, or possess a junk gun that has been shipped or transported in interstate or foreign commerce.

"(2) Paragraph (1) shall not apply to—

"(A) the possession or transfer of any junk gun otherwise lawfully possessed under Federal law on the date of the enactment of the Junk Gun Violence Protection Act;

"(B) any firearm or replica of a firearm that has been rendered permanently inoperative;

"(C) the manufacture for, transfer to, or possession by the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, or a transfer to or possession by a law enforcement officer employed by such an entity for law enforcement purposes (whether on or off duty); or

"(D) the manufacture, transfer, or possession of a junk gun by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.".

(b) DEFINITION OF JUNK GUN.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(33)(A) The term 'junk gun' means any firearm that is not described in section 925(d)(3), and any regulations issued under such section.".•

ADDITIONAL COSPONSORS

S. 704

At the request of Mr. SIMON, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 1219

At the request of Mr. MCCAIN, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1219, a bill to reform the financing of Federal elections, and for other purposes.

S. 1483

At the request of Mr. KYL, the names of the Senator from Wyoming [Mr. THOMAS], the Senator from Texas [Mr. GRAMM], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 1483, a bill to control crime, and for other purposes.

S. 1487

At the request of Mr. GRAMM, the names of the Senator from Nevada [Mr. REID], the Senator from North Carolina [Mr. HELMS], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 1487, a bill to establish a demonstration project to provide that the Department of Defense may receive Medicare reimbursement for health care services provided to certain medicare-eligible covered military beneficiaries.

S. 1612

At the request of Mr. HELMS, the names of the Senator from New Hampshire [Mr. SMITH], and the Senator from Pennsylvania [Mr. SANTORUM] were added as cosponsors of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1623

At the request of Mr. WARNER, the names of the Senator from Oklahoma [Mr. INHOFE], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1623, a bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. LOTT, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of Senate Concurrent Resolution 26, a concurrent resolution to authorize the Newington-Cropsey Foundation to erect on the Capitol Grounds and present to Congress and the people of the United States a monument dedicated to the Bill of Rights.

SENATE RESOLUTION 215

At the request of Mr. LAUTENBERG, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of Senate Resolution 215, a resolution to designate June 19, 1996, as "National Baseball Day."

SENATE RESOLUTION 226

At the request of Mr. DOMENICI, the names of the Senator from Indiana [Mr. COATS], the Senator from Florida [Mr. MACK], the Senator from Arizona [Mr. MCCAIN], the Senator from Wyoming [Mr. SIMPSON], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Resolution 226, a resolution to proclaim the week of October 13 through October 19, 1996, as "National Character Counts Week".

SENATE CONCURRENT RESOLUTION 50—RELATIVE TO KOSOVA

Mr. DOLE (for himself, Mr. PELL, Mr. D'AMATO, Mr. PRESSLER, Mr. LEVIN, and Mr. FEINGOLD) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 50

Whereas the Constitution of the Socialist Federal Republic of Yugoslavia, adopted in 1946 and the amended Yugoslav Constitution adopted in 1974, described the status of Kosova as one of the 8 constituent territorial units of the Yugoslav Federation;

Whereas the political rights of the Albanian majority in Kosova were curtailed when the Government of Yugoslavia illegally amended the Yugoslav federal constitution without the consent of the people of Kosova on March 23, 1989, revoking Kosova's autonomous status;

Whereas in 1990, the Parliament and Government of Kosova were abolished by further unlawful amendments to the Constitution of Yugoslavia;

Whereas in September 1990, a referendum on the question of independence for Kosova was held in which 87 percent of those eligible to participate voted and 99 percent of those voting supported independence for Kosova;

Whereas in May 1992, a Kosovar national parliament and President, Dr. Ibrahim Rugova, were freely and fairly elected, but were not permitted to assemble in Kosova;

Whereas according to the State Department Country Reports on Human Rights for 1995, "police repression continued at a high level against the ethnic Albanians of Kosova * * * and reflected a general campaign to keep [those] who are not ethnic Serbs intimidated and unable to exercise basic human and civil rights";

Whereas over 100,000 ethnic Albanians employed in the public sector have been removed from their jobs and replaced by Serbs since 1989;

Whereas the government in Belgrade has severely restricted the access of ethnic Albanians in Kosova to all levels of education, especially in the Albanian language;

Whereas the Organization on Security and Cooperation in Europe observers dispatched to Kosova in 1991 were expelled by the government in Belgrade in July 1993, and have not been reinstated as called for in United Nations Security Council Resolution 855 of August 1993;

Whereas following the departure of such observers, international human rights organizations have documented an increase in abuses;

Whereas the United Nations announced on February 27, 1995, that Serbia had granted it permission to open a Belgrade office to monitor human rights in Serbia and Kosova;

Whereas Congress directed the State Department to establish a United States Information Agency (U.S.I.A.) cultural center in Prishtina, Kosova, in section 223 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993;

Whereas Secretary of State Warren Christopher announced on February 27, 1996, that Serbian leader Slobodan Milosevic has agreed to the establishment of such center and that preparations for the establishment of the center are proceeding;

Whereas with the signing of the Dayton agreement on Bosnia, future peace in the Balkans hinges largely on a settlement of the status of Kosova; and

Whereas the President has explicitly warned the Government of Serbia that the United States is prepared to respond in the event of escalated conflict in Kosova caused by Serbia: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the situation in Kosova must be resolved before the outer wall of sanctions against Serbia is lifted and Serbia is able to return to the international community;

(2) the human rights of the people of Kosova must be restored to levels guaranteed by international law;

(3) the United States should support the legitimate claims of the people of Kosova to determine their own political future;

(4) international observers should be returned to Kosova as soon as possible;

(5) the elected government of Kosova should be permitted to meet and exercise its legitimate mandate as elected representatives of the people of Kosova;

(6) all individuals whose employment was terminated on the basis of their ethnicity should be reinstated to their previous positions;

(7) the education system in Kosova should be reopened to all residents of Kosova regardless of ethnicity and the majority ethnic Albanian population should be allowed to educate its youth in its native tongue;

(8) progress toward the establishment of a United States Information Agency cultural center in Prishtina, Kosova, is to be commended and the Secretary of State should redouble efforts to open the center as soon as possible; and

(9) the President should appoint a special envoy to aid in negotiating a resolution to the crisis in Kosova.

Mr. DOLE. Mr. President, I rise to submit a concurrent resolution regarding human rights in Kosova and in support of resolving the crisis in Kosova. I am pleased to be joined by Senator PELL, Senator D'AMATO, Senator PRESSLER, Senator LEVIN and Senator FEINGOLD.

This resolution is being submitted today in the House by Representatives ENGEL, MOLINARI, and KING. We are submitting this resolution because Kosova has been pushed to the sidelines by this administration—as well as the previous administration. And, without resolving the crisis in Kosova there is little, if any, hope of achieving a lasting peace in the Balkans.

This resolution cites the course of events since 1989, during which the Albanian people in Kosova have been denied their fundamental human and political rights by the Milosevic regime. The 1995 State Department country human rights reports stated the following about the deplorable situation in Kosova, and I quote, "Police repression continued at a high level against the ethnic Albanians of Kosova, and reflected a general campaign to keep [those] who are not ethnic Serbs intimidated and unable to exercise basic human and civil rights."

Since martial law was imposed in Kosova more than 7 years ago, Albanians have been fired from their jobs, restricted access to all levels of education, especially in their own language, denied basic political rights, and subjected to severe human rights abuses, including torture.

Among other things, this resolution calls on the Clinton administration to maintain the so-called outer wall of sanctions against Serbia until the situation in Kosova is resolved, to redouble efforts to open a USIA cultural center in Pristina, Kosova, and to appoint a special envoy to aid in negotiating a resolution to the crisis in Kosova.

Since the Dayton accords were signed, there are those who claim that peace in the Balkans has been achieved. That is wishful thinking. Let me be clear: There will be no lasting peace or stability in the Balkans unless and until the situation in Kosova has been resolved. Indeed, ignoring Kosova could lead to yet another violent conflict that could bring in our NATO allies on opposite sides. Therefore, the United States must pressure the Milosevic regime diplomatically and economically to end its repression of the 2 million Albanians in Kosova.

Mr. President, we must bring Kosova from the back burner to the front burner. We need a comprehensive approach to the Balkans which includes Kosova. I hope that the submission of this resolution will send a message to the administration that it is high time to exercise U.S. leadership on this critical matter.

Mr. PELL. Mr. President, I am pleased to join Senator DOLE in submitting this resolution on Kosova. Congressman ENGEL has taken the lead in submitting a companion resolution in the House.

I remain concerned about the situation in Kosova, where the majority Albanian population continues to suffer severe human rights abuses. If left unchecked, the situation in Kosova could be the spark that ignites another powder keg of violence in the former Yugoslavia.

Since 1989, more than 100,000 ethnic Albanians employed in the public sector have been removed from their jobs and replaced by Serbs. The Belgrade Government has severely restricted the access of ethnic Albanians in Kosova to all levels of education, and has pursued a general campaign of intimidation and repression. This country has invested a great deal in creating and maintaining peace in Bosnia. Our diplomats and our military personnel are to be commended for the fine job that they are doing with regard to Bosnia. I am concerned, however, that if the situation in Kosova is not resolved, our diplomatic, economic, and military investment in Bosnia will be for naught. A comprehensive solution to the former Yugoslavia must address Kosova.

This resolution is designed to focus attention on Kosova—as a key component to stability in the region. It expresses the sense of Congress that among other things, the situation in Kosova must be resolved before the outer wall of sanctions be lifted against Serbia. In other words, Serbia would continue to be denied access to international financial institution assistance and to be denied full diplomatic relations with the United States and its allies pending the resolution of Kosova and other issues. There are signs that international consensus on maintaining this outer wall is cracking, and this resolution is therefore useful in keeping attention focused on Kosova. I believe it is important to send a signal to Serbian President Milosevic that he cannot hope to bring Serbia back into the international community's fold unless and until he agrees to address the issue of Kosova.

The resolution also welcomes the progress that has been made toward the establishment of a USIA office in Kosova. As one who sponsored legislation several years ago that authorized the creation of such a center, I am particularly interested in ensuring that the United States establish a presence in Kosova. Secretary Christopher should be commended for securing President Milosevic's approval to establish such a center.

The resolution also calls on Serbia to allow international observers to return to Kosova, and urges the President to appoint a special envoy to help in negotiating a resolution to the Kosova issue.

I believe it is in our interest to maintain a spotlight on Kosova, and I would encourage my colleagues to join me in supporting this resolution.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, March 28, 1996, at 10 a.m., in open session, to receive testimony from the unified commanders on their military strategies and operational requirements in review of the Defense authorization request for fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, March 28, 1996, to conduct a hearing on S. 1547, "a bill to limit the provision of assistance to the Government of Mexico using the exchange stabilization fund established pursuant to section 5302 of title 31, United States Code, and for other purposes".

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Thursday, March 28, 1996 session of the Senate for the purpose of conducting an executive session and markup.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, March 28, 1996, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on the issue of competitive change in the electric power industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LUGAR. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet to consider pending business Thursday, March 28, at 9:15 a.m., hearing room SD–406.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 28, 1996 at 10 a.m. to hold hearing, agenda attached.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to conduct an oversight hearing during the session of the Senate on Thursday, March 28, 1996, on the recent settlement and accommodation agreements concerning the Navajo and Hopi land dispute. The hearing will be held at 9 a.m. in room 485 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LUGAR. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, March 28, 1996, at 10 a.m., to hold an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. LUGAR. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 28, 1996 at 2 p.m., in SH-219, to hold a closed briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. LUGAR. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Thursday, March 28, 1996, at 9:30 a.m., to hold a hearing to discuss adverse drug reactions and the effects on the elderly.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. LUGAR. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 28, 1996, at 2 p.m., to hold hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. LUGAR. Mr. President, I ask unanimous consent that the Subcommittee on Seapower be authorized to meet at 2:30 p.m. on Thursday, March 28, 1996, to receive testimony on the multiyear procurement proposal for the C-17 strategic airlifter.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COST ESTIMATE ON S. 1467

• Mr. MURKOWSKI. Mr. President, when the Committee on Energy and Natural Resources filed its report on S. 1467, the Fort Peck Rural County Water Supply System Act, the estimate from the CBO was not available. We have now received the estimate and I ask that it be printed in the RECORD for the information of the Senate. The CBO estimate states that enactment of S. 1467 would not affect direct spending or receipts and does not contain any unfunded mandates.

The estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 27, 1996.

HON. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1467, the Fort Peck Rural County Water Supply System Act of 1995.

Enactment of S. 1467 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL,
Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 1467.

2. Bill title: Fort Peck Rural County Water Supply System Act of 1995.

3. Bill status: As reported by the Senate Committee on Energy and Natural Resources on March 15, 1996.

4. Bill purpose: The bill would authorize the construction of the Fort Peck Rural County Water Supply System and authorize assistance to the Fort Peck Rural County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the proposed water system.

5. Estimated cost to the Federal Government: Assuming appropriation of the authorized amounts for fiscal year 1997, S. 1467 would result in discretionary spending totaling $6.6 million over the 1996-2000 period. This estimate reflects the basic authorization of $5.8 million, increased, as specified in the bill, by the estimated impact of inflation during the time between October 1, 1994, and the construction period. Outlays are estimated based on historical spending rates for similar water projects. Funding for the Fort Peck project would constitute new spending—to date, no amounts have been appropriate for this project.

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
Spending subject to appropriations action:					
Authorization level ...	0	7	0	0	0
Estimated outlays ...	0	1	5	1	0

The costs of this bill fall within budget function 300.

6. Pay-as-you-go considerations: None.

7. Estimated impact on State, local, and tribal governments: S. 1467 contains no intergovernmental mandates as defined in Public Law 104-4 and would impose no direct costs on state, local, or tribal governments.

The bill would limit the federal share of this project to 80 percent. The Fort Peck Rural County Water District would have to provide matching funds of about $1.5 million in order to receive the full amount of federal assistance authorized. This project would be voluntary on the part of the district, however.

8. Estimated impact on the private sector: The bill would impose no new federal/private sector mandates, as defined in Public Law 104-4.

9. Previous CBO estimate: None.

10. Estimate prepared by: Federal cost estimate: Gary Brown. State and Local Government Impact: Marjorie Miller. Private Sector Impact: Patrice Gordon.

11. Estimate approved by: Robert A. Sunshine, for Paul N. Van de Water, Assistant Director for Budget Analysis.•

U.S. MARSHAL SERVICE'S DISTINGUISHED SERVICE AWARD

• Mr. LEVIN. Mr. President, I rise today to honor U.S. Marshal Barbara C. Lee and the Western District Office of Michigan, United States Marshals Service in Grand Rapids, MI. On March 1, 1996, in a special ceremony in Oklahoma City, Marshal Lee was presented the U.S. Marshals Service's Distinguished Service Award for the district office she heads. I am proud to note that I nominated Marshal Lee, who was sworn into office by President Clinton in 1994.

Before her current appointment, Marshal Lee served as a Deputy U.S. Marshal and as a Special Agent with the Internal Revenue Service. Marshal Lee studied criminal justice and accounting at Grand Valley State University, in Allendale, MI. Marshal Lee was nominated for the Laura Cross Award, the Federal Government's highest honor for career achievement by a female law enforcement officer.

Marshal Lee's office was selected for the district award because of its leadership in accomplishing court security tasks within the confines of a tight budget. The district office shuffled personnel, travel and overtime expenses while continuing to provide exceptional security. During the presentation of the award, Director Eduardo Gonzalez noted the special security Marshal Lee's operation provided for several judicial conferences and high-threat trials.

Despite diminishing resources, Marshal Lee and her office have continued to provide the exceptional security services for which the U.S. Marshals Service is known. I know that my Senate colleagues join me in congratulating U.S. Marshal Barbara C. Lee and the Western District Office of Michigan for being awarded the U.S. Marshals Service's Distinguished Service Award.•

HONORING THE ROTARY CLUB OF MERIDEN

Mr. LIEBERMAN. Mr. President, I rise today to honor the Rotary Club of Meriden, CT, on the occasion of their 75th anniversary.

On April 26, 1921, Meriden joined the nationwide movement of Rotary Clubs under Charter 898. Numbering only 27 businessmen, the club had no idea then that they would grow into one of the pillars of the community. Ever since their founding, the club has immersed itself in the every-day life of Meriden, constantly striving to make the city a better place through the sponsoring of various activities and events.

The Rotary Club of Meriden reaches out to the people in numerous ways. They were the first organization in the city to sponsor Little League Baseball, the great American game. The youth of Meriden are also assisted through college scholarships provided by the Rotary Club, as well as through the Meriden Public Library Career Center, which the club has long supported.

The Rotary Club not only contributes to Meriden's spiritual beauty, but to its physical beauty as well. The club is responsible for planting over one thousand trees in the city. They work closely with other humanitarian groups, either bell ringing for the Salvation Army or sponsoring bloodmobiles for the Red Cross.

The Rotary Club also strives to help those outside Meriden, its influence reaching as far as the international community. Their exchange study groups bring business and professional people to Meriden from countries such as France, Germany, and Japan, so that all may learn from one another.

Meriden and the entire State of Connecticut is fortunate to have had a group such as the Meriden Rotary Club in its service for 75 years. Another 75 years of service and support is eagerly anticipated.

CAMPAIGN FINANCE REFORM

Mr. KOHL. Mr. President, I rise today to discuss one of the most difficult issues facing our democracy—campaign finance reform. First, we must recognize that our democratic system has come a long way in the last 30 years. Information on who finances campaigns and how that money is spent is now available to any citizen. With the advance of the Internet, most of this information can be found through your home computer.

But, while disclosures laws passed in the 1970's have worked largely as intended, other reforms instituted at that time have created a new set of problems. In order to more clearly identify who was contributing to campaigns, Congress created a new mechanism for democratic involvement—Political Action Committees. Twenty years ago, PAC's were seen as positive vehicles to channel special interest dollars through public organizations.

Unfortunately, the proliferation of PAC's and special interest contributions in our election system has overtaken most other forms of democratic involvement. Because of the high costs of running campaigns, especially the cost of purchasing television ads, American political campaign funding is dominated by special interest contributions.

It should not surprise us that the American public has become increasingly cynical as this trend has become worse. This public disillusionment contributes to pessimism about the future of our Government and has led to a disturbing lack of faith in our democratic institutions. Despite the good efforts of many grassroots citizen organizations and elected officials, every attempt in Congress to reform the campaign finance system since 1979 has failed.

This lack of progress is not the fault of one political party or one branch of government. Democrats and Republicans have tried to push through meaningful reform for the last two decades, and reasonable people can disagree about the best course for the future. But, this gridlock must not be allowed to stand any longer. The American public is demanding a fundamental change in the way campaigns are financed and we must act this year to implement that change.

These are the reasons that I am cosponsoring S. 1219, the Senate Campaign Finance Reform Act. This legislation, sponsored by Senator MCCAIN and my Wisconsin colleague Russ FEINGOLD, is the first meaningful bipartisan campaign finance bill to be seriously considered in two decades. The fact that the House of Representatives has a similar bipartisan bill only adds credibility to this proposal.

S. 1219 strikes at the heart at much of what is wrong with our campaign finance system: it eliminates PAC contributions; caps the amounts that can be spent in campaigns; curtails the practice of bundling contributions; and closes the loopholes allowing so-called "soft money" contributions. The legislation establishes many of these limits through a voluntary system, thereby conforming with Supreme Court rulings governing campaign financing.

Like many Senators, if I had drafted my own bill, I would have omitted some provisions of this legislation and included others. But any meaningful bipartisan reform must be a compromise between competing proposals. And campaign finance reform must be done in a bipartisan fashion—legislation crafted by one party and rammed through the Congress will not and should not get the support of the American people.

Mr. President, I recognize there are deep divisions among Members of Congress over the how to reform our campaign finance system. These divisions have led to stalemate after stalemate over twenty years. And without serious reform the American public will continue to mistrust not only the way we elect candidates, but the very fundamental precipes of our Government. This must not go on.

S. 1219 is the best option currently moving through the Congress to renew America's faith in our elections and curtail the influence of special interest contributions. I am pleased to add my name as a cosponsor of this bill, and urge my colleagues to join us in this important effort.

TRIBUTE TO PLYMOUTH STATE COLLEGE ON THEIR 125TH ANNIVERSARY

• Mr. SMITH. Mr. President, I rise today to pay tribute to Plymouth State College on the occasion of their 125th anniversary. I would like to congratulate this outstanding educational institution on reaching such an important milestone. The trustees, faculty, and students should be proud of the academic excellence and high education standards the college represents; not just in the State of New Hampshire but all over New England.

Located in the foothills of the White Mountains in New Hampshire, Plymouth State College, originally named the Plymouth Normal School, first opened its doors on March 15, 1871 to 80 students pursuing teaching degrees. Today, over 125 years later, 4,000 students attend Plymouth State College, pursuing degrees in the performing arts, the sciences, social work, languages, humanities, interdisciplinary studies, the social sciences, business, and many other academic fields.

The history of Plymouth State College originally stemmed from the Holmes Plymouth Academy, which dates back to 1808, as one of the first teaching institutions in New England. In 1871, the academy buildings were presented to the State of New Hampshire and the campus was renamed the Plymouth Normal School. The school began to grow at a steady rate during the late 1800's. Rounds Hall, which included a library and classrooms, was dedicated in August 1891. The growth of the Normal School under Dr. Charles C. Rounds caused the State legislature to appropriate funds for a new dormitory called Normal Hall. During the turn of the century, the enrollment of the Normal School increased, approaching 150 students.

From 1911 to 1946, Dr. Ernest Silver served as the college's principal. In 1911, Dr. Silver hired the famous American poet and New Hampshire native, Robert L. Frost, to teach psychology and the history of education. Robert Frost also shared Dr. Silver's residence, a house opposite Normal Hall that had recently been purchased. During Dr. Silver's administration, the school saw another period of campus expansion and modernization including the opening of the new training school providing added space in Rounds Hall for manual training and other classes. Two new dormitories were constructed, a modern library was built, and facilities for recreation and physical education were improved.

In 1939, Plymouth Normal School changed its name again to Plymouth Teacher's College. Construction and expansion increased during the 1950's and the new Lamson Library was built across Highland Street in 1964. Boyd Hall, a new fieldhouse and gym were built in 1968 and 1969. The fieldhouse contains an indoor track, gymnasium, swimming pool, and other facilities for the physical education program at the college.

Just last year, the Hartman Union Building opened its new facility on the property where the old high school once stood. This student center contains a full-size court, weight room, snackbar, bookstore, the college radio station, the college newspaper, a sidewalk cafe, complete U.S. Postal Mail Service, and many more student services.

Most recently, Plymouth State College added a business program to the numerous choices of degrees students can pursue at the college. Today's president of the college, Donald Wharton, believes that every student must receive a strong education and specialized instruction in a particular field. The faculty and staff at Plymouth State College are proud of the fine reputation the teaching program has received over the years, and the specialized degrees in liberal arts majors.

Congratulations to 125 years of academic excellence. Plymouth State College has provided outstanding instruction and a superior learning environment for New Hampshire students for years. Best wishes for continued success and expansion in the years to come.●

TRIBUTE TO DAVID PACKARD

● Mr. BINGAMAN. Mr. President, the Nation lost a great leader Tuesday with the death of David Packard. He was the first and greatest of the acquisition reformers in the top reaches of the Pentagon. As Deputy Secretary of Defense in the first Nixon administration, he fostered competition in a wide range of programs, including the Air Force fighter program that produced the F–16 and F–18. He helped found the Defense Systems Management College at Fort Belvoir in order to bring modern management techniques to the defense acquisition system. And throughout the almost quarter century since he stepped down as Deputy Secretary of Defense, he continued in an advisory capacity to the most senior reaches of Government to argue for the need for change in the way the Pentagon develops and buys weapon systems.

It is perhaps fitting that under Secretary Bill Perry's leadership, the reforms which Mr. Packard advocated for so long are now taking firm root throughout the military services. Dr. Perry and all the reformers with whom I have had the pleasure of working during my 13 years service in the Senate point to David Packard as the first to show the way toward a more rational acquisition system.

Mr. President, I am grateful that I was able to work with David Packard over the last decade on several important issues. He was at an age when most people stop work and take up retirement. But not David Packard. He would answer the call of public service whenever it sounded. He suffered from a bad back, and taking transcontinental plane flights forced him to endure real pain to serve his country, but serve he did.

David Packard always was focused on the art of the possible. He knew that change was incremental and he would take what progress he could make today to build for another day. I first met him in 1985. He came to me, a Democrat then in the minority here in the Senate, because I had indicated an interest in a report he had written in 1983 for the White House Science Council. Its topic was how to improve the Federal Government-operated research laboratories. He had called for significant changes in personnel policy, in acquisition of laboratory equipment, and in improving laboratory infrastructure.

The most important change he and his panel had advocated was to allow all the laboratories to go to a more flexible personnel system along the lines of the system then in place at the Naval Weapons Center at China Lake, CA. Mr. Packard had been frustrated by the slow pace of the Reagan administration in considering his panel's proposals. He wanted to jumpstart congressional consideration with my help and that of then Congressman Don Fuqua, another Democrat.

Unfortunately, all we were able to win in the short run was the adoption of a flexible personnel system at the National Bureau of Standards, now the National Institute of Standards and Technology. As predicted, that personnel system has worked very well and helped NIST maintain its leadership in a broad range of technologies. As usual, David Packard was ahead of his time. What he recommended more than a decade ago on lab personnel reform is now part of the effort to reinvent the Pentagon's laboratories.

Mr. President, I will miss David Packard's wisdom and guidance, and so will many of my colleagues on both sides of the aisle. There's a passage from T. E. Lawrence's book Seven Pillars of Wisdom, which reads:

> All men dream, but not equally. Some dream by night in the dusty recesses of their minds, and wake in the day to find it is vanity. But the dreamers of the day are dangerous men. For they act their dream with open eyes to make it possible.

David Packard was a dreamer of the day who deserves to be remembered by a grateful Nation for the dreams he made possible. I am glad to have known him.●

SAGINAW HIGH SCHOOL TROJANS

● Mr. LEVIN. Mr. President, I rise today to honor the Saginaw High School boys basketball team. On Saturday, March 23, 1996, the Trojans from Saginaw, MI, won the Michigan Class A State basketball championship over Southfield Lathrup by a score of 67 to 60. The game took place in front of 11,000 raucous fans at Michigan State University's Breslin Center.

The Trojans showed great character in their journey to the State championship. In their semifinal game, the Trojans rebounded from a 19-point deficit to win and move on to the championship. Once again in the championship game, the Trojans had to come back from a large deficit to win—this time they were behind by 12 points.

In the championship game, the Trojans succeeded against great odds. The story of David and Goliath comes to mind when envisioning the game between Saginaw and Southfield Lathrup. Saginaw High faced a team with a considerable size advantage, but the Trojans were not intimidated and continued to play the way they had all season long, stressing teamwork and defense. The Trojans caused 21 turnovers, scoring 22 points off those turnovers.

The Trojans' hard work and determination which marked their championship victory is nothing new to those familiar with the team. The Trojans' coach, Marshall Thomas, said after the game, "No other team will outwork us." The Trojans have surely shown us how hard they will work and what heart they have in coming back from two large deficits to win the Michigan State championship.

But it wasn't just the team who showed great heart in winning the State championship, as the players and coaches are quick to point out. Support from the students, faculty and community was vital for the Trojans to overcome such long odds. Trojans' fans traveled all over the State to cheer their team on to victory. The fans continued to give their team strong support regardless of the score of the game.

I know that my Senate colleagues join me in congratulating Saginaw High School on winning the Michigan Class A State basketball championship.●

THE DEATH OF HUNG WO CHING

● Mr. AKAKA. Mr. President, I rise to pay tribute to a very dear friend and pioneer Hawaii businessman, Hung Wo Ching, Aloha Airgroup vice chairman, who died on March 26, 1996, in Honolulu. Since 1958, Mr. Ching served on the interisland carrier's board of directors and held a number of executive positions with the company. Under his leadership, Aloha Airlines Inc. grew from an upstart airline to become the dominant interisland carrier in the State of Hawaii.

Hung Wo Ching was raised in Hawaii by immigrant parents from Canton, China. He graduated from Honolulu's McKinley High School in 1931 and attended the University of Hawaii. Following his freshman year, he studied liberal arts at Yenching University in Beijing, China.

In 1935, he returned to the United States and completed his undergraduate education at Utah State University, where he earned a bachelor's degree in agricultural economics. In 1945, he received his doctorate in agricultural economics from Cornell University. When he was 41 years old, he attended Harvard University as a visiting scholar.

In 1945, Mr. Ching traveled to Tientsin, China to start a sugarbeet industry. The outbreak of civil war in China

2 years later put an end to those dreams, and he returned to Hawaii to concentrate on his real estate investments. Shortly after his return to Hawaii, the founder of Trans Pacific Airlines encouraged him to invest in his upstart airline.

In addition to being on Aloha's board of directors, Mr. Ching was also a director for Bishop Insurance of Hawaii, Inc., and the chairman of the board of directors of Diamond Head Memorial Park and Nuuanu Memorial Park. He was an honorary trustee of the U.S. Committee for Economic Development and the Bishop Museum, and a member of the advisory councils of Cornell University and Utah State University. He was a member of the Judicial Council of the Supreme Court of Hawaii, the Hawaiian Civic Club, and the advisory board of Liliuokalani Trust.

Over the years, Mr. Ching has held trusteeships and directorships with many Hawaii companies and charitable foundations, including Bishop Estate, Bank of Hawaii, Alexander and Baldwin, Matson Navigation Co., Hawaiian Telephone, Hawaiian Life Insurance Co., Ltd., Hawaiian Western Steel, Ltd., and Hauoli Sales, Ltd.

Mr. President, I ask my colleagues in the Senate to join me in paying tribute to the memory of Hung Wo Ching, and pass along our deepest sympathies to his wife, Elizabeth, and his children and grandchildren.•

THE LEARNING WINDOW

• Mr. CONRAD. Mr. President, Newsweek magazine on February 19, 1996, published an article regarding research that is underway by several pediatric neurobiologists in the United States on the development of a child's brain. The research examined the significance of early childhood experiences, particularly for children ages 0–3, on the development of the brain.

According to researchers, "it's the experiences of early childhood, determining which neurons are used, that wire the circuit of the brain as surely as a programmer at a keyboard reconfigures the circuits in a computer. Which keys that are typed—which experiences a child ahs—determines whether the child grows up to be intelligent or dull, fearful or self-assured, articulate or tongue-tied." According to the researchers, almost anything is possible provided children are exposed to the right experiences at an early age. As one researcher, Harry Chugani of Wayne State University remarked, "early experiences are powerful, they can completely change the way a person turns out."

Mr. President, the findings of these neurobiologists support a much closer examination by Congress of whether we are providing sufficient support at the Federal level for Head Start programs, and especially the Zero-to-Three initiative for infants and toddlers. As my colleagues may recall, during consideration of Head Start reauthorization in 1994, authority for a new infant and toddler initiative was adopted as part of the reauthorization of Head Start programs. Under the reauthorization, 3 percent of total appropriations for fiscal year 1995—$3.5 billion—was set aside for Zero-to-Three programs.

Currently, funding for the Zero-to-Three initiative totals $106 million. By 1998, the level of funding for the Zero-to-Three initiative will increase to 5 percent of total appropriations. President Clinton has requested $3.9 billion for Head Start in his fiscal year 1997 budget. Under Head Start fiscal year 1995 appropriations, more than 750,000 children between the ages of 3 and 4 are participating in Head Start programs nationwide.

Mr. President, the research of neurobiologists suggests that we may be missing an opportunity to ensure that our children develop to their fullest potential during the early years in life, ages 0–3. The neurobiologists point out that there is a narrow window of opportunity to develop the brain's potential and that to wait until the ages of 3 and 4 when most children begin Head Start programs may be too late to have a significant impact on the brain's development.

I urge my colleagues to examine the research regarding the development of a child's brain that is discussed in the February 19 issue of Newsweek. I ask that the text of the article from Newsweek appear in the RECORD at the conclusion of my remarks.

[From Newsweek, Feb. 19, 1996]

YOUR CHILD'S BRAIN

(By Sharon Begley)

(A baby's brain is a work in progress, trillions of neurons waiting to be wired into a mind. The experiences of childhood, pioneering research shows, help form the brain's circuits—for music and math, language and emotion)

You hold your newborn so his sky-blue eyes are just inches from the brightly patterned wallpaper, *ZZZt:* a neuron from his retina makes an electrical connection with one in his brain's visual cortex. You gently touch his palm with a clothespin; he grasps it, drops it, and you return it to him with soft words and a smile. *Crackle:* neurons from his hand strengthen their connection to those in his sensory-motor cortex. He cries in the night; you feed him, holding his gaze because nature has seen to it that the distance from a parent's crooked elbow to his eyes exactly matches the distance at which a baby focuses. *Zap:* neurons in the brain's amygdala send pulses of electricity through the circuits that control emotion. You hold him on your lap and talk . . . and neurons from his ears start hard-wiring connections to the auditory cortex.

And you thought you were just playing with your kid.

When a baby comes into the world her brain is a jumble of neurons, all waiting to be woven into the intricate tapestry of the mind. Some of the neurons have already been hard-wired, by the genes in the fertilized egg, into circuits that command breathing or control heartbeat, regulate body temperature or produce reflexes. But trillions upon trillions more are like the Pentium chips in a computer before the factory preloads the software. They are pure and of almost infinite potential, unprogrammed circuits that might one day compose rap songs and do calculus, erupt in fury and melt in ecstasy. If the neurons are used, they become integrated into the circuitry of the brain by connecting to other neurons; if they are not used, they may die. It is the experiences of childhood, determining which neurons are used, that wire the circuits of the brain as surely as a programmer at a keyboard reconfigures the circuits in a computer. Which keys are typed—which experiences a child has—determines whether the child grows up to be intelligent or dull, fearful or self-assured, articulate or tongue-tied. Early experiences are so powerful, says pediatric neurobiologist Harry Chugani of Wayne State University, that "they can completely change the way a person turns out."

By adulthood the brain is crisscrossed with more than 100 billion neurons, each reaching out to thousands of others so that, all told, the brain has more than 100 trillion connections. It is those connections—more than the number of galaxies in the known universe—that give the brain its unrivaled powers. The traditional view was that the wiring diagram is predetermined, like one for a new house, by the genes in the fertilized egg. Unfortunately, even though half the genes—50,000—are involved in the central nervous system in some way, there are not enough of them to specify the brain's incomparably complex wiring. That leaves another possibility: genes might determine only the brain's main circuits, with something else shaping the trillions of finer connections. That something else is the environment, the myriad messages that the brain receives from the outside world. According to the emerging paradigm, "there are two broad stages of brain wiring," says developmental neurobiologist Carla Shatz of the University of California, Berkeley: "an early period, when experience is not required, and a later one, when it is."

Yet, once wired, there are limits to the brain's ability to create itself. Time limits. Called "critical periods," they are windows of opportunity that nature flings open, starting before birth, and then slams shut, one by one, with every additional candle on the child's birthday cake. In the experiments that gave birth to this paradigm in the 1970, Torsten Wiesel and David Hubel found that sewing shut one eye of a newborn kitten rewired its brain: so few neurons connected from the shut eye to the visual cortex that the animal was blind even after its eye was reopened. Such rewiring did not occur in adult cats whose eyes were shut. Conclusion: there is a short, early period when circuits connect the retina to the visual cortex. When brain regions mature dictates how long they stay malleable. Sensory areas mature in early childhood; the emotional limbic system is wired by puberty; the frontal lobes—seat of understanding—develop at least through the age of 16.

The implications of this new understanding are at once promising and disturbing. They suggest that, with the right input at the right time, almost anything is possible. But they imply, too, that if you miss the window you're playing with a handicap. They offer an explanation of why the gains a toddler makes in Head Start are so often evanescent: this intensive instruction begins too late to fundamentally rewire the brain. And they make clear the mistake of postponing instruction in a second language. As Chugani asks, "What idiot decreed that foreign-language instruction not begin until high school?"

Neurobiologists are still at the dawn of understanding exactly which kinds of experiences, or sensory input, wire the brain in which ways. They know a great deal about the circuit for vision. It has a neuron-growth spurt at the age of 2 to 4 months, which corresponds to when babies start to really notice the world, and peaks at 8 months, when each neuron is connected to an astonishing 15,000 other neurons. A baby whose eyes are clouded by cataracts from birth will, despite cataract-removal surgery at the age of 2, be forever blind. For other systems, researchers know what happens, but not—at the level of neurons and molecules—how. They nevertheless remain confident that cognitive abilities work much like sensory ones, for the brain is parsimonious in how it conducts its affairs: a mechanism that works fine for wiring vision is not likely to be abandoned when it comes to circuits for music. "Connections are not forming willy-nilly," says Dale Purves of Duke University, "but are promoted by activity."

LANGUAGE

Before there are words, in the world of a newborn, there are sounds. In English they are phonemes such as sharp ba's and da's, drawn-out ee's and ll's and sibilant sss's. In Japanese they are different—barked *hi's*, merged rr/ll's. When a child hears a phoneme over and over, neurons from his ear stimulate the formation of dedicated connections in his brain's auditory cortex. This "perceptual map," explains Patricia Kuhl of the University of Washington, reflects the apparent distance—and thus the similarity—between sounds. So in English-speakers, neurons in the auditory cortex that respond to "ra" lie far from those that respond to "la." But for Japanese, where the sounds are nearly identical, neurons that respond to "ra" are practically intertwined, like L.A. freeway spaghetti, with those for "la." As a result, a Japanese-speaker will have trouble distinguishing the two sounds.

Researchers find evidence of these tendencies across many languages. By 6 months of age, Kuhl reports, infants in English-speaking homes already have different auditory maps (as shown by electrical measurements that identify which neurons respond to different sounds) from those in Swedish-speaking homes. Children are functionally deaf to sounds absent from their native tongue. The map is completed by the first birthday. "By 12 months," says Kuhl, "infants have lost the ability to discriminate sounds that are not significant in their language, and their babbling has acquired the sound of their language."

Kuhl's findings help explain why learning a second language after, rather than with, the first is so difficult. "The perceptual map of the first language constrains the learning of a second," she says. In other words, the circuits are already wired for Spanish, and the remaining undedicated neurons have lost their ability to form basic new connections for, say, Greek. A child taught a second language after the age of 10 or so is unlikely ever to speak it like a native. Kuhl's work also suggests why related languages such as Spanish and French are easier to learn than unrelated ones: more of the existing circuits can do double duty.

With this basic circuitry established, a baby is primed to turn sounds into words. The more words a child hears, the faster she learns language, according to psychiatrist Janellen Huttenlocher of the University of Chicago. Infants whose mothers spoke to them a lot knew 131 more words at 20 months than did babies of more taciturn, or less involved, mothers; at 24 months, the gap had widened to 295 words. (Presumably the findings would also apply to a father if he were the primary caregiver.) It didn't matter which words the mother used—monosyllables seemed to work. The sound of words, it seems, builds up neural circuitry that can then absorb more words, much as creating a computer file allows the user to fill it with prose. "There is a huge vocabulary to be acquired," says Huttenlocher, "and it can only be acquired through repeated exposure to words."

MUSIC

Last October researchers at the University of Konstanz in Germany reported that exposure to music rewires neural circuits. In the brains of nine string players examined with magnetic resonance imaging, the amount of somatosensory cortex dedicated to the thumb and fifth finger of the left hand—the fingering digits—was significantly larger than in nonplayers. How long the players practiced each day did not affect the cortical map. But the age at which they had been introduced to their muse did: the younger the child when she took up an instrument, the more cortex she devoted to playing it.

Like other circuits formed early in life, the ones for music endure. Wayne State's Chugani played the guitar as a child, then gave it up. A few years ago he started taking piano lessons with his young daughter. She learned easily, but he couldn't get his fingers to follow his wishes. Yet when Chugani recently picked up a guitar, he found to his delight that "the songs are still there," much like the muscle memory for riding a bicycle.

MATH AND LOGIC

At UC Irvine, Gordon Shaw suspected that all higher-order thinking is characterized by similar patterns of neuron firing. "If you're working with little kids," says Shaw, "you're not going to teach them higher mathematics or chess. But they are interested in and can process music." So Shaw and Frances Rauscher gave 19 preschoolers piano or singing lessons. After eight months, the researchers found, the children "dramatically improved in spatial reasoning," compared with children given no music lessons, as shown in their ability to work mazes, draw geometric figures and copy patterns of two-color blocks. The mechanism behind the "Mozart effect" remains murky, but Shaw suspects that when children exercise cortical neurons by listening to classical music, they are also strengthening circuits used for mathematics. Music, says the UC team, "excites the inherent brain patterns and enhances their use in complex reasoning tasks."

EMOTIONS

The trunk lines for the circuits controlling emotion are laid down before birth. Then parents take over. Perhaps the strongest influence is what psychiatrist Daniel Stern calls attunement—whether caregivers "play back a child's inner feelings." If a baby's squeal of delight at a puppy is met with a smile and hug, if her excitement at seeing a plane overhead is mirrored, circuits for these emotions are reinforced. Apparently, the brain uses the same pathways to generate an emotion as to respond to one. So if an emotion is reciprocated, the electrical and chemical signals that produced it are reinforced. But if emotions are repeatedly met with indifference or a clashing response—Baby is proud of building a skyscraper out of Mom's best pots, and Mom is terminally annoyed—those circuits become confused and fail to strengthen. The key here is "repeatedly": one dismissive harrumph will not scar a child for life. It's the pattern that counts, and it can be very powerful: in one of Stern's studies, a baby whose mother never matched her level of excitement became extremely passive, unable to feel excitement or joy.

Experience can also wire the brain's "calm down" circuit, as Daniel Goleman describes in his best-selling "Emotional Intelligence." One father gently soothes his crying infant, another drops him into his crib; one mother hugs the toddler who just skinned her knee, another screams "It's your own stupid fault!" The first responses are attuned to the child's distress; the others are wildly out of emotional sync. Between 10 and 18 months, a cluster of cells in the rational prefrontal cortex is busy hooking up to the emotion regions. The circuit seems to grow into a control switch, able to calm agitation by infusing reason into emotion. Perhaps parental soothing trains this circuit, strengthening the neural connections that form it, so that the child learns how to calm herself down. This all happens so early that the effects of nurture can be misperceived as innate nature.

Stress and constant threats also rewire emotion circuits. These circuits are centered on the amygdala, a little almond-shaped structure deep in the brain whose job is to scan incoming sights and sounds for emotional content. According to a wiring diagram worked out by Joseph LeDoux of New York University, impulses from eye and ear reach the amygdala before they get to the rational, thoughtful neocortex. If a sight, sound or experience has proved painful before—Dad's drunken arrival home was followed by a beating—then the amygdala floods the circuits with neurochemicals before the higher brain knows what's happening. The more often this pathway is used, the easier it is to trigger: the mere memory of Dad may induce fear. Since the circuits can stay excited for days, the brain remains on high alert. In this state, says neuroscientist Bruce Perry of Baylor College of Medicine, more circuits attend to nonverbal cues—facial expressions, angry noises—that warn of impending danger. As a result, the cortex falls behind in development and has trouble assimilating complex information such as language.

MOVEMENT

Fetal movements begin at 7 weeks and peak between the 15th and 17th weeks. That is when regions of the brain controlling movement start to wire up. The critical period lasts a while: it takes up to two years for cells in the cerebellum, which controls posture and movement, to form functional circuits. "A lot of organization takes place using information gleaned from when the child moves about in the world," says William Greenough of the University of Illinois. "If you restrict activity you inhibit the formation of synaptic connections in the cerebellum." The child's initially spastic movements send a signal to the brain's motor cortex; the more the arm, for instance, moves, the stronger the circuit, and the better the brain will become at moving the arm intentionally and fluidly. The window lasts only a few years: a child immobilized in a body cast until the age of 4 will learn to walk eventually, but never smoothly.

There are many more circuits to discover, and many more environmental influences to pin down. Still, neuro labs are filled with an unmistakable air of optimism these days. It stems from a growing understanding of how, at the level of nerve cells and molecules, the brain's circuits form. In the beginning, the brain-to-be consists of only a few advance scouts breaking trail: within a week of conception they march out of the embryo's "neural tube," a cylinder of cells extending from head to tail. Multiplying as they go (the brain adds an astonishing 250,000 neurons per minute during gestation), the neurons clump into the brain stem which commands heartbeat and breathing, build the little cerebellum at the back of the head which controls posture and movement, and form the grooved and rumpled cortex wherein thought and perception originate. The neural cells are so small, and the distance so great, that a neuron striking out for what will be the prefrontal cortex migrates a distance equivalent to a human's walking from New York to California, says developmental neurobiologist Mary Beth Hatten of Rockefeller University.

Only when they reach their destinations do these cells become true neurons. They grow a fiber called an axon that carries electrical signals. The axon might reach only to a neuron next door, or it might wend its way clear across to the other side of the brain. It is the axonal connections that form the brain's circuits. Genes determine the main highways along which axons travel to make their connection. But to reach particular target cells, axons follow chemical cues strewn along their path. Some of these chemicals attract: this way to the motor cortex! Some repel: no, that way to the olfactory cortex. By the fifth month of gestation most axons have reached their general destination. But like the prettiest girl in the bar, target cells attract way more suitors—axons—than they can accommodate.

How does the wiring get sorted out? The baby neurons fire electrical pulses once a minute, in a fit of what Berkeley's Shatz calls auto-dialing. If cells fire together, the target cells "ring" together. The target cells then release a flood of chemicals, called trophic factors, that strengthen the incipient connections. Active neurons respond better to trophic factors than inactive ones, Barbara Barres of Stanford University reported in October. So neurons that are quiet when others throb lose their grip on the target cell. "Cells that fire together wire together," says Shatz.

The same basic process continues after birth. Now, it is not an auto-dialer that sends signals, but stimuli from the senses. In experiments with rats, Illinois's Greenough found that animals raised with playmates and toys and other stimuli grow 25 percent more synapses than rats deprived of such stimuli.

Rats are not children, but all evidence suggests that the same rules of brain development hold. For decades Head Start has fallen short of the high hopes invested in it: the children's IQ gains fade after about three years. Craig Ramey of the University of Alabama suspected the culprit was timing: Head Start enrolls 2-, 3- and 4-year-olds. So in 1972 he launched the Abecedarian Project. Children from 120 poor families were assigned to one of our groups: intensive early education in a day-care center from about 4 months to age 8, from 4 months to 5 years, from 5 to 8 years, or none of all. What does it mean to "educate" a 4-month-old? Nothing fancy: blocks, beads, talking to him, playing games such as peek-a-boo. As outlined in the book "Learningames," each of the 200-odd activities was designed to enhance cognitive, language, social or motor development. In a recent paper, Ramey and Frances Campbell of the University of North Carolina report that children enrolled in Abecedarian as preschoolers still scored higher in math and reading at the age of 15 than untreated children. The children still retained an average IQ edge was 4.6 points. The earlier the children were enrolled, the more enduring the gain. And intervention after age 5 conferred no IQ or academic benefit.

All of which raises a troubling question. If the windows of the mind close, for the most part, before we're out of elementary school, is all hope lost for children whose parents did not have them count beads to stimulate their math circuits, or babble to them to build their language loops? At one level, no: the brain retains the ability to learn throughout life, as witness anyone who was befuddled by Greek in college only to master it during retirement. But on a deeper level the news is sobering. Children whose neural circuits are not stimulated before kindergarten are never going to be what they could have been. "You want to say that it is never too late," says Joseph Sparling, who designed the Abecedarian curriculum. "But there seems to be something very special about the early years."

And yet . . . there is new evidence that certain kinds of intervention can reach even the older brain and, like a microscopic screwdriver. rewire broken circuits. In January, scientists led by Paula Tallal of Rutgers University and Michael Merzenich of UC San Francisco described a study of children who have "language-based learning disabilities"—reading problems. LLD affects 7 million children in the United States. Tallal has long argued that LLD arises from a child's inability to distinguish short staccato sounds—such as "d" and "b." Normally, it takes neurons in the auditory cortex something like .015 second to respond to a signal from the ear, calm down and get ready to respond to the next sound; in LLD children, it takes five to 10 times as long. (Merzenich speculates that the defect might be the result of chronic middle-ear infections in infancy: the brain never "hears" sounds clearly and so fails to draw a sharp auditory map.) Short sounds such as "b" and "d" go by too fast—.04 second—to process. Unable to associate sounds with letters, the children develop reading problems.

The scientists drilled the 5- to 10-year-olds three hours a day with computer-produced sound that draws out short consonants, like an LP played too slow. The result: LLD children who were one to three years behind in language ability improved by a full two years after only four weeks. The improvement has lasted. The training, Merzenich suspect, redrew the wiring diagram in children's auditory cortex to process fast sounds. Their reading problems vanished like the sounds of the letters that, before, they never heard.

Such neural rehab may be the ultimate payoff of the discovery that the experiences of life are etched in the bumps and squiggles of the brain. For now, it is enough to know that we are born with a world of potential—potential that will be realized only if it is tapped. And that is challenge enough.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GRASSLEY. Again, for the majority leader, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Executive Calendar nominations Nos. 502, 531, 532, 533, 535, 536, 537, 538, 539, and all nominations placed on the Secretary's desk in the Air Force, Army and Navy.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, that any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

AIR FORCE

The following named officer for appointment to the grade of general while assigned to a position of importance and responsibility under Title 10, United States code, Section 601: _

To be general

Lt. Gen. Michael E. Ryan, 505–54/9889, U.S. Air Force.

DEPARTMENTOF DEFENSE

Kenneth H. Bacon, of the District of Columbia, to be an Assistant Secretary of Defense. (New Position)

Franklin D. Kramer, of the District of Columbia, to be an Assistant Secretary of Defense.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Joseph J. DiNunno, of Maryland to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2000. (Reappointment)

AIR FORCE

The following-named officer for promotion in the Regular Air Force of the United States to the grade indicated under title 19, United States Code, section 624:

To be brigadier general

Col. Timothy J. McMahon, 138–38–1034

The following-named officer for appointment to the grade of lieutenant general wile assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. Kenneth E. Eickmann, 456–72–2203, United States Air Force

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. Richard T. Swope, 051–34–6942, U.S. Air Force

ARMY

The following-named officer for reappointment to the grade of lieutenant general in the United States Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Lt. Gen. John G. Coburn, 364–38–3232, U.S. Army

The following-named officer for appointment to the grade of lieutenant general in the United States Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. John J. Cusick, 196-32-4700, U.S. Army

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

APPOINTMENTS BY THE MAJORITY AND MINORITY LEADERS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that pursuant to Public Law 103-432, the following members be named to the Advisory Board on Welfare Indicators:

Jo Anne B. Barnhart, of Virginia; Martin H. Gerry, of Kansas; Gerald H. Miller, of Michigan, upon the recommendation of the majority leader, and Paul E. Barton, of New Jersey, upon the recommendation of the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY, MARCH 29, 1996

Mr. GRASSLEY. Mr. President, I further ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Friday, March 29; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business until the hour of 12:30, with Senators to speak for up to 5 minutes each except for the following: Senator THOMAS, 30 minutes; Senator DORGAN, 20 minutes; Senator HATCH, 20 minutes; Senator COHEN, 15 minutes; Senator FAIRCLOTH, 10 minutes; Senator HUTCHISON, 5 minutes; Senator WELLSTONE, 10 minutes; Senator MURKOWSKI, 15 minutes; Senator GLENN, 15 minutes; and Senator MCCONNELL, 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I thank the Chair.

PROGRAM

Mr. GRASSLEY. Mr. President, the leader would like me to inform all of our colleagues that there will be a period for morning business for 2½ hours to accommodate a number of requests by Members. It is hoped that during tomorrow's session, the omnibus appropriations conference report will become available. Senators should therefore be aware rollcall votes are possible during Friday's session. The Senate may also be asked to turn to any other legislative or executive items for action.

ORDER FOR ADJOURNMENT

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, for the benefit of everybody, this is probably going to be something less than 10 minutes. I ask permission to speak for a period of time as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VOID IN MORAL LEADERSHIP PART IV

Mr. GRASSLEY. Mr. President, last week I began giving a series of speeches about the void in moral leadership in the White House.

By moral leadership, I don't mean morality. I mean simply setting a good example for the American people: Being trustworthy, honest, candid, and so on, simple, basic values that all Americans share, and that all Americans expect to see in their leaders.

Frankly, there has been a failure by this White House to set a good example.

And I have been very specific about my observations, what the President, the First Lady and others have done, and where the good example broke down.

I began this series of speeches with the words of two great American presidents in mind.

The first was a pronouncement by Franklin Delano Roosevelt.

FDR said that, the Presidency is preeminently about moral leadership.

It's not about being a good engineer or a good decisionmaker or a good speaker.

It's about moral leadership.

The second was from Teddy Roosevelt.

He talked about the obligation we have to tell the truth about the President, more than any other American.

To not do so, he said, was both base and servile.

And so I have felt an obligation to make this observation, Mr. President:

There has been a failure in this White House of setting a good example for the American people.

Today, I will further support my claim.

I will refer to a new Washington Post-ABC News poll, conducted March 14-17 of 1,512 randomly selected adults.

In the survey, half of the respondents said they thought the First Lady is not telling the truth about Whitewater.

Questions about the candor and straight-forwardness of the First Lady go right to the heart of my point.

It goes beyond the issue of anyone calling anyone dishonest, or a liar.

That would not be proper!

My point is that there is a growing perception out there in grassroots America that the First Lady has not told the truth.

How can the moral authority to lead survive such a perception with this White House?

At this point, the most qualified outside observer of the Whitewater and Travelgate issues is James B. Stewart. Mr. Stewart was given access to sources by the White House. Mr. Stewart is also described as ideologically akin to the Clintons. He is a respected, Pulitzer Prize-winning journalist, formerly with the Wall Street Journal. His bona fides are generally recognized as impeccable.

On March 11, Mr. Stewart was interviewed by ABC's Ted Koppel on "Nightline."

Mr. Koppel asked the following question:

> And to those who say, has all of this investigation, the congressional investigations, the independent prosecutors, the time that you have spent in putting this book together * * * was it all worth all the money and the time and the effort and the pain?

Here is Mr. Stewart's reply:

> I think in the end we'll find that it was—that the truth is important in our society, that justice is important in our society.
>
> I don't think you can put a pricetag on those things.
>
> Yes, It's terribly expensive, and at times it seems very wasteful, and at times it's nasty and partisan.
>
> It often is a blood sport, as Vince Foster said. But why is that?
>
> It's because the truth was never honored in the first place, and I hope if there's any lesson that comes out of that, that people in the future will recognize that.

Mr. President, that is a hard punch taken at the White House.

That truth was never honored in the first place.

But it is a fair punch.

It is observations like Mr. Stewart's which are having an impact out at the grassroots.

The Washington Post ran a story about the new Post-ABC poll in its March 24 edition.

The article was written by R.H. Melton, and was entitled, "First Lady Bears the Brunt of Unfavorable Opinion on Whitewater."

One grocery store manager in Pontiac, MI, seems to support the contention of Mr. Stewart on "Nightline."

The store manager, Dwight Bradford, age 27, said:

> This is something he should have settled before becoming president.

> By him not taking action, the Republicans have made him look a little dumbfounded.
>
> And if she knew something, she's been withholding evidence.
>
> And that is wrong for a government official.
>
> It makes the United States look bad.

The Post article also showed that the Whitewater response by the White House is having repercussions that cut across party affiliation.

Rouvain Benison, a Democrat, is also quoted in the story, saying the following:

> Whitewater is a symptom, the lack of moral leadership, of moral integrity, strength, courage—all the good things in a person's character.

These were not my words, Mr. President.

In fact, this gentleman stated the case more eloquently than I did in each of my speeches of the past week.

It is a symptom of a lack of moral leadership.

Word is getting out in the countryside, Mr. President.

The people we serve know when their leaders are failing to lead.

They know that moral leadership is not coming from their White House.

Since the time of the Post-ABC survey, a new revelation from the White House has reinforced the perception of a lack of candor.

I am referring to the First Lady's March 21 responses to formal questions from the House Committee on Government Reform and Oversight.

The subject matter was, who knew what, when, about the firing of innocent workers in the White House Travel Office.

Never mind that the White House released her responses too late for the evening news shows to do any serious reporting.

That is an old trick in this town.

If there is bad news, or if you want to minimize coverage, just wait till the TV news shows are over to release it.

But the real news in this story—the real news in the First Lady's responses—was the fueling of the perception of a lack of straight forwardness, of candor.

In a 25-page response, only 16 pages of which contained actual responses, here is what appeared: the words "I do not recall" appeared 21 times; the words "I do not believe" appeared 9 times; the words "I believe" appeared 7 times; the words "I may have" appeared 5 times; the words "it is possible that" appeared 3 times; the words "no specific recollection" appeared 2 times; in one case, she reports "she had heard" something, which is hearsay, yet in three other cases she reports merely that she had "no first-hand knowledge"; and, the following phrases were used once each: "I cannot recall"; "he may have mentioned"; "a vague recollection"; "I do not remember"; "it is hard to remember"; and "a general recollection."

In other words, Mr. President, these were not necessarily totally forthcoming answers.

I believe the First Lady may be totally sincere in these responses, as opposed to taking the advice of some clever lawyer and doing a soft shoe routine.

But, given the White House's history of not being forthcoming, do you not see how this could further fuel the perception of a lack of candor.

Do you not now see why honoring the truth in the first place—as "Blood Sport" author Jim Stewart put it—is so important for our national leaders.

Do you not now see my point about the need for our leaders to set a good example.

That Washington Post-ABC poll tells me that about half the people of this country do not have the level of confidence they should in their leadership in the White House.

In my view, Mr. President, setting the example is the most important thing for our leaders in the White House.

In that respect, I agree with FDR—who I quoted earlier—but I do not believe we are getting that example, and a growing number in this country apparently agree with me.

It is a serious erosion of leadership and public confidence, and it must be restored.

I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m., Friday, March 29.

Thereupon, the Senate, at 9:46 p.m., adjourned until Friday, March 29, 1996, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 28, 1996:

TENNESSEE VALLEY AUTHORITY

JOHNNY H. HAYES, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR A TERM EXPIRING MAY 18, 2005. (REAPPOINTMENT)

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

GEN. JOHN H. TILELLI, JR. [redacted] U.S. ARMY.

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS ASSISTANT COMMANDANT OF THE MARINE CORPS, HEADQUARTERS, U.S. MARINE CORPS, AND APPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THAT POSITION UNDER THE PROVISIONS OF SECTION 5044, TITLE 10, UNITED STATES CODE:

ASSISTANT COMMANDANT OF THE MARINE CORPS

To be general

LT. GEN. RICHARD I. NEAL [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER SECTION 601, TITLE 10, UNITED STATES CODE:

To be lieutenant general

MAJ. GEN. TERRENCE R. DRAKE [redacted]

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE NAVY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

UNRESTRICTED LINE

To be rear admiral

REAR ADM. (LH) JAMES F. AMERAULT [redacted] U.S. NAVY.
REAR ADM. (LH) LYLE G. BIEN, [redacted] U.S. NAVY.
REAR ADM. (LH) RICHARD A. BUCHANAN, [redacted] U.S. NAVY.
REAR ADM. (LH) WILLIAM V. CROSS II, [redacted] U.S. NAVY.
REAR ADM. (LH) WALTER F. DORAN, [redacted] U.S. NAVY.
REAR ADM. (LH) JAMES O. ELLIS, JR [redacted] U.S. NAVY.
REAR ADM. (LH) WILLIAM J. FALLON, [redacted] U.S. NAVY.
REAR ADM. (LH) THOMAS B. FARGO, [redacted] U.S. NAVY.
REAR ADM. (LH) DENNIS V. MCGINN, [redacted] U.S. NAVY.
REAR ADM. (LH) JOSEPH S. MOBLEY, [redacted] U.S. NAVY.
REAR ADM. (LH) EDWARD MOORE, JR., [redacted] U.S. NAVY.
REAR ADM. (LH) DANIEL J. MURPHY, [redacted] U.S. NAVY.
REAR ADM. (LH) RODNEY P. REMPT, [redacted] U.S. NAVY.
REAR ADM. (LH) NORBERT R. RYAN, JR. [redacted] U.S. NAVY.
REAR ADM. (LH) RAYMOND C. SMITH, JR. [redacted]
REAR ADM. (LH) ANTHONY J. WATSON [redacted]

RESTRICTED LINE

To be rear admiral

REAR ADM. (LH) GEORGE P. NANOS, JR. [redacted] U.S. NAVY.
REAR ADM. (LH) CRAIG E. STEIDLE [redacted] U.S. NAVY.
REAR ADM. (LH) JAMES L. TAYLOR [redacted] U.S. NAVY.
REAR ADM. (LH) PATRICIA A. TRACEY [redacted] U.S. NAVY.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 28, 1996:

DEPARTMENT OF DEFENSE

KENNETH H. BACON, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

FRANKLIN D. KRAMER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

JOSEPH J. DINUNNO, OF MARYLAND, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 2000.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. MICHAEL E. RYAN, [redacted] U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR PROMOTION IN THE REGULAR AIR FORCE OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be brigadier general

COL. TIMOTHY J. MCMAHON, [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. KENNETH E. EICKMANN, [redacted] U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. RICHARD T. SWOPE, [redacted] U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

to be lieutenant general

LT. GEN. JOHN G. COBURN, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

to be lieutenant general

MAJ. GEN. JOHN J. CUSICK [redacted] U.S. ARMY.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING HAROLD E. BURCHAM, AND ENDING KEVIN W. MORRILL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 26, 1996.

AIR FORCE NOMINATIONS BEGINNING DOUGLAS W. ANDERSON, AND ENDING HAROLD D. HITES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 5, 1996.

AIR FORCE NOMINATIONS BEGINNING ROBERT J. ABELL, AND ENDING LEO R. SHOCKLEY, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 11, 1996.

IN THE ARMY

ARMY NOMINATION OF GARY N. JOHNSTON, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 20, 1996.

ARMY NOMINATIONS BEGINNING PAT W. SIMPSON, AND ENDING WARNER J. ANDERSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 20, 1996.

ARMY NOMINATIONS BEGINNING MARGARET B. BAINES, AND ENDING *JEFFREY S. WILLIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 20, 1996.

ARMY NOMINATIONS BEGINNING ANTHONY C. CRESCENZI, AND ENDING ALBERT R. SMITH, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 20, 1996.

ARMY NOMINATIONS BEGINNING PATRICK V. ADAMCIK, AND ENDING JOSEPH M. ZIMA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 26, 1996.

IN THE NAVY

NAVY NOMINATION OF JOHN M. COONEY, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 7, 1995.

NAVY NOMINATION OF REX A. AUKER, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 20, 1996.

NAVY NOMINATIONS BEGINNING RICHARD D. BOYER, AND ENDING EDWARD J. POSNAK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 20, 1996.

NAVY NOMINATIONS BEGINNING MARK A. ADMIRAL, AND ENDING ALICE A. ZENGEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 5, 1996.

NAVY NOMINATIONS BEGINNING MICHAEL P. CAVIL, AND ENDING CHARLES K. NIXON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 11, 1996.

NAVY NOMINATIONS BEGINNING JAMES L. ABRAM, AND ENDING ROBERT E. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 14, 1996.

HOUSE OF REPRESENTATIVES—*Thursday, March 28, 1996*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We recognize, O God, that we as a people have been blessed with means both spiritual and material, that we have been given knowledge and insight into the workings of the world and the revelations of the human spirit. Yet, we know too that we have not always aspired to use our resources in ways that strengthen our land and give vision and hope to every person. May Your word, O God, speak to us, may Your spirit inspire us, and may Your grace encircle us this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Missouri [Ms. MCCARTHY] come forward and lead the House in the Pledge of Allegiance.

Ms. MCCARTHY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agreed to the following resolution:

S. RES. 234

Whereas, the Senate fondly remembers former Secretary of State, former Governor of Maine, and former Senator from Maine, Edmund S. Muskie;

Whereas, Edmund S. Muskie spent six years in the Maine House of Representatives, becoming minority leader;

Whereas, in 1954, voters made Edmund S. Muskie the State's first Democratic Governor in 20 years;

Whereas, after a second two-year term, he went on in 1958 to become the first popularly elected Democratic Senator in Maine's history;

Whereas, Edmund S. Muskie in 1968, was chosen as Democratic Vice-Presidential nominee;

Whereas, Edmund S. Muskie left the Senate to become President Carter's Secretary of State; and

Whereas, Edmund S. Muskie served with honor and distinction in each of these capacities: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Edmund S. Muskie, formerly a Senator from the State of Maine.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Senator.

The message also announced that the Senate had passed without amendment concurrent resolutions of the House of the following titles:

H. Con. Res. 146. Concurrent resolution authorizing the 1996 Special Olympics Torch Relay to be run through the Capitol Grounds; and

H. Con. Res. 147. Concurrent resolution authorizing the use of the Capitol grounds for the fifteenth annual National Peace Officers' Memorial Service.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4) "An act to grant the power to the President to reduce budget authority."

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 49. Concurrent resolution providing for certain corrections to be made in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 15 Members on each side for 1-minutes.

UNION BOSSES ATTACKING THE PREFERRED REPUBLICAN VISION OF THE FUTURE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, most working men and women in this country prefer the Republican vision of the future. They support a change in the way the Federal Government works and operates, they want a change in the way the welfare system operates, they want an end to race and gender preferences on the job and in our schools, and they want to decide who spends their money and on what. Yet, the self-proclaimed champions of "working men and women" resist this popular agenda at every turn.

On Monday, a group of elite, liberal, big union bosses levied a $35 million tax increase on the men and women of the AFL–CIO, money they will use to attack the pro-family, pro-middle-class agenda of change offered by this Republican-led Congress. Despite their efforts, the union bosses better be wary, because it is only a matter of time before the rank and file throws them out and replaces them.

HEALTH REFORM DOES NOT HELP THE JOBLESS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I will support the health reform bill today; portability is long overdue. But I do have a question. What good is portability to many Americans who do not have a job?

It is about jobs, Congress, and around here jobs has become an absolute four-letter word to the highest degree.

Check out some of the new high paying jobs American workers could apply for: Deep fried foods specialist. Gizzard skin remover. Corn cob pipe assembler. Pantyhose crotch closer machine operator. How about a poultry impregnator? Tell me, Mr. Speaker, what exactly is a poultry impregnator?

I am going to vote for the health reform bill, but it is a help to those who have, but it does absolutely nothing for those that have not. A job, that is.

Think about that.

THE REFUSE-TO-LOSE BASKETBALL OF MY UMASS MINUTEMEN

(Mr. TORKILDSEN asked and was given permission to address the House for 1 minute.)

Mr. TORKILDSEN. Mr. Speaker, I rise today to recognize the extraordinary accomplishments of the all-but-ordinary UMass Minutemen, the best basketball team in the country.

Center Marcus Camby has dominated as a scorer, rebounder, and shot-blocker, and is the best player in the country.

Starting guards Carmelo Travieso and Edgar Padilla personify teamwork. They combine their unique talents, under any circumstance, to make an assist, shoot a three, steal a ball, or steal a game.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Donta Bright is the best finisher in the country. And Dana Dingle is one of the quietest threats in college ball, averaging 14 points per game.

But no description of the UMass team would be complete without recognizing the enormous contribution made by Coach John Calipari, the best coach in the country. As the Minutemen sprinted from Midnight Madness to March Madness, Coach Cal reminded America that through hard work and determination, good guys can finish first.

As the only UMass-Amherst graduate ever to serve in Congress, I share great pride in our team.

And for all those who marvel at the success of refuse-to-lose basketball, and UMass itself, there is only one message: The best is yet to come.

HOUSE LEADERSHIP HAS SURRENDERED TO THEIR EXTREMISTS

(Ms. McCARTHY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. McCARTHY. Mr. Speaker, today we have an opportunity to give the American people something they want and something they need, a guarantee that if they change jobs they will not lose their health insurance.

It is that simple. We know how to do it. The President, the Republican Senate and House Democrats all agree.

So I ask what is the problem? the problem is that the House leadership has surrendered to their extremists and loaded up a truly bipartisan bill with special interest provisions that would cost the American taxpayer millions of dollars.

My constituents are not asking for something for nothing. They are willing to pay for health insurance.

Let us push those special interests aside, work together, and give American families basic security.

Mr. Speaker, I urge the Republican leadership to put politics aside, clean up this bill so we can give Americans this important first step toward health care reform. It is the right thing to do.

WHO DO WE TRUST?

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to my colleague from Missouri. Many things she said I agree with: the notion of health insurance being able to be taken from job to job; the notion of affordability and portability is important. But again my friends on the other side would rather play politics and indulge in name calling than deal with sound policy.

No, it is not extreme to let the American people have medical savings accounts so that they can decide how to spend their health care dollars. Mr. Speaker, the fact is that will help American taxpayers and the hard-working men and women of America immeasurably, and once again, Mr. Speaker, it comes down to this basic question:

Why should we be afraid to let the American people have control of their own money, have control of their own future, and again, Mr. Speaker, it comes down to this question:

Who do we trust; the people of the United States or the Washington bureaucrats?

Mr. Speaker, I trust the people of the United States.

END HEALTH CARE INSURANCE DISCRIMINATION

(Mr. BENTSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, the House later today can do something that has really been quite rare in this Congress. We can pass legislation which will actually help average Americans, and I would say to the gentleman from Arizona, we can pass legislation that 191 Members of this House on both sides of the aisle support, that was introduced by a Member of the gentleman's side of the aisle, the 55 Members of the other body, a majority of the other body, support, that every group, from the American Medical Association and the American Hospital Association to the independent insurance agents and the National Association of Manufacturers support.

We can pass legislation that does away with insurance discrimination for preexisting conditions, that says, If someone loses their job, or they get sick, they can stll retain their right to buy insurance that has common sense market reform, that everyone should agree with, and not load it up with special interests' gobbledygook which will kill this bill forever.

This Congres has accomplished virtually nothing, but today we have an opportunity to get something passed that the other body will pass in April, that the President will sign, and do right by the American people.

So the gentleman from Arizona [Mr. HAYWORTH] is way off base with what he is saying. Let us do right by the American people and pass a democratic substitute of health care reform.

FOOD AND DRUG ADMINISTRATION REFORM

(Mr. BURR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURR. Mr. Speaker, the United States has the best health care system in the world. It is unthinkable for Americans to have anything less than superior access to lifesaving drugs. By safety streamlining the drug approval process we can not only help families and seniors by lowering drug prices and keeping high paying jobs on American soil, but we will give terminally ill patients access to lifesaving treatments.

Yesterday patients from across this country came to Washington and told us their hard stories about being denied access to drugs that may, in fact, save their lives. It is these courageous people that inspire us to reform the Food and Drug Administration.

America's health care industry and patients are chained to a FDA process that provides no flexibility, no common sense, and has no human face. The average time for the drug approval in this country is a whopping 13 to 15 years. For terminally ill patients with no hope that timeable simply will not do.

I urge my colleagues to watch FDA reform as it comes to this House floor later this month.

DO NOT KILL HEALTH CARE REFORM

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, by adding these medical savings accounts to the health care reform bill today, the Republican leadership is essentially killing health care reform. What they are doing is making it possible for the wealthy and the healthiest among us to get into these medical savings accounts and take away their contribution from the risk pool, so that what is left is that the average person's premiums are going to go up, because if someone is not wealthy and they are not healthy and they have to stay in the traditional health insurance pool, they are actually going to have to pay more, and the bill is going to be less affordable.

Do not load down this bill. Just listen to this quote from Senator ROBERT BENNETT, a Republican who says, "The Republicans on the House side are going to turn this bill into the vehicle to attach MSA's and other things, and if they do that, it'll die."

That is what the Republican leadership is doing today, killing this bill with all this extraneous material that only helps wealthy people and exposes the rest of the country to higher premiums for their health insurance.

□ 1015

LASALLE LANCERS: 1996 OHIO STATE DIVISION I HIGH SCHOOL BASKETBALL CHAMPIONS

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, I want to take a moment this morning to pay tribute to the 1996 Ohio State Division I high school basketball champions, the LaSalle Lancers of Cincinnati, OH.

After finishing in last place in their league during the regular season, LaSalle refused to give up. The team confounded the experts by going all the way to Columbus, knocking off powerhouse Toledo St. John's in the State championship game on Saturday night and winning the entire State championship.

I will admit to some personal bias in this instance. LaSalle High School is not only in my congressional district, it is my alma mater. In fact, I got my start in politics at LaSalle running for student council office. I realize some people probably still hold LaSalle responsible for getting my political career off the ground, but that is life.

Coach Fleming and Coach Scott Tillett, about whom a wonderful front page article appeared in the Cincinnati Enquirer yesterday, and all of the fine young men that were on the team at LaSalle, they brought so much glory to our hometown, they certainly are entitled to our tribute.

I want to thank the LaSalle Lancers and congratulate them for winning the State championship this year. Way to go, Lancers.

PRESERVE BIPARTISANSHIP IN SUPPORT FOR HEALTH CARE REFORM

(Mr. WYNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYNN. Mr. Speaker, as Members well know, bipartisanship are those rare occasions on which the Democrats and the Republicans agree. We have found some agreement. We agree we need health care reform that provides portability so people can change jobs and keep their health insurance. We agree that we need to prevent people from being barred from insurance because of preexisting conditions. The question becomes, why do we not pass the bill that we both agree on. I will tell Members why: because the Republicans want to ruin this bill, kill this bill with extraneous material to benefit their wealthy friends.

Once again, they ruined bipartisan support by putting on benefits for the wealthy. Just like the tax breaks, here they come again. These medical savings accounts are basically a boondoggle to benefit wealthy, healthy people. They take their money and put it in savings accounts and get a tax advantage. That leaves the rest of us, those who are poor, those who are sick, the regular working guy, to pay higher insurance rates. That is not right.

Every major editorial paper in this country has criticized these medical savings accounts because they only benefit a few wealthy people. We need bipartisanship. We have an opportunity. Please, Republicans, do not ruin it.

VOTE FOR THE REPUBLICAN HEALTH CARE REFORM PLAN

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, when it comes to this health care debate, we have to ask ourselves: What are the Washington liberal Democrats afraid of? Why are the Democrats so anticonsumer choice? Why are they so against power to the people? Why are they doing everything possible to defeat medical savings accounts, which would allow their own constituents to have more health care choices without the edicts and interference of insurance companies, health care agencies, managed care business types? Why are Democrats afraid of consumer choice?

It is simple. If their constituents find out that they are in a better position to make choices that suit themselves better than what Washington liberals want them to do, then their consumers and constituents are going to figure out, you know, "We do not need all the bureaucracy that the Democrats keep taxing us for. In fact, we do not need these Democrats." They will probably invite them to come home. That, Mr. Speaker, seems to be why they are so afraid of anything that would give more decision-making power to the American consumers and less to the Washington bureaucracy. Vote for the Republican health care reform plan.

SUPPORT GOOD HEALTH CARE REFORM: SUPPORT THE KENNEDY-KASSEBAUM BILL

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise this morning in the name of bipartisanship and good health reform, but I wonder if many of us know the story of Robin Hood and the seven thieves, because that is just what we have today. The whole issue of health reform has already gotten bipartisanship support. The Kennedy-Kassebaum bill simply says we want to give people the ability to have health care if they lose their job. If, tragically, they have a preexisting disease, lung disease, cancer, or heart disease, then we still care about them, and they can have insurance and be able to survivie.

But Robin Hood and the seven thieves, the House Republican leadership, wants to say, "We want to give the money to the rich. We want to make sure we have a medical savings plans," which allows people to hoard money away, and those who are working and the working poor and those who are sick will not have the ability to have good health insurance because the medical savings plan is applicable only to the wealthy and the healthy. We will find out that under this Republican medical savings plan, working people will be left out in the cold. They would leave less healthy people to buy ordinary medical insurance at elevated prices because of this proposed medical savings plan. People who in fact lost their jobs would not have insurance.

Let us not kill this bill. Let us support good health reform. Let us pass the Kennedy-Kassebaum bill in a truly bipartisan manner for all Americans to have portability in health insurance coverage and coverage if you have a preexisting condition.

SUPPORT H.R. 3103, THE HEALTH CARE COVERAGE AVAILABILITY AND AFFORDABILITY ACT

(Mr. NORWOOD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mr. NORWOOD. Mr. Speaker, today we will make a great step forward, in my opinion, in making health care available to all Americans. The Health Care Coverage Availability and Affordability Act will give Americans the two things they need most: increased access to health care and decreased cost. We will give hardworking Americans increased access by addressing the issues of preexisting conditions and portability. We will decrease the cost by tax deductibility for the self-employed, authorizing small employers' purchasing pools, and allowing Americans to have medical savings accounts. We are going to accomplish this without increasing government bureaucracy or writing thousands of pages of new regulations.

Mr. Speaker, we are increasing access while lowering costs. Should that not be the goal of any health care legislation? We are doing it with as little government influence as possible, or interference. I urge my colleagues to support 3103, and I would remind them that when we talk in this body about rich and wealthy, the liberal Democrats define that as anybody with a job.

DO NOT LET THE REPUBLICAN PARTY OBSTRUCT HEALTH CARE REFORM TODAY

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, among the greatest failures of this failed Republican Congress is the failure to address the real health care needs of the American people. Mr. Speaker, the failed Contract on America was essentially silent on this question. Last year Speaker GINGRICH's entire program on health care was, to use his words, let Medicare wither on the vine for the health care security of our seniors.

This year the strategy is a little different. It has been spelled out here in black and white in the House Republican national strategic plan for 1996. The health care plan they outline is, and I quote: "We will pursue a targeted inoculation strategy on Medicare"; not to inoculate against illness among the American people, but to inoculate against one of the most highly contagious illnesses politically in this country, and that is that the American people are beginning to understand the neglect and the failure of this Congress brought on by this Republican Party that cares more about special interests than the true national interests of the American people. Do not let them obstruct health care reform today. Let us do something for the 42 million American people who lack health insurance, health insurance coverage.

THE TRUTH ABOUT THE SPEAKER'S REMARKS ON HCFA AND MEDICAL SAVINGS ACCOUNTS

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, I rise to correct the RECORD. The Speaker of the House stated that he would like to see the Health Care Financing Administration, which is the big bureaucracy created by liberal Democrats in Washington that processes all the claims, he would like to see that wither on the vine, and the gentleman from Texas has misquoted the Speaker.

I would also like to rise in support of medical savings accounts. One of the biggest reasons why we have terrible health care inflation in American is because the providers and the consumers, both the doctor and the patient, are not the ones picking up the tab, and in medical savings accounts, the patients suddenly become wise and discriminating consumers. Where medical savings accounts have been implemented, cost savings average 17 percent. A 17-percent reduction in our health care costs in this Nation would be a huge benefit to our economy, a huge benefit to our industries, and a huge benefit for our competitiveness in the international markets.

It is good for consumers. Support the Republican health care bill.

THE HEALTH CARE REFORM BILL

(Ms. McKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. McKINNEY. Mr. Speaker, last Friday was political payday for the NRA with a vote to repeal the assault weapons ban. Yesterday was political payday for the antichoice crowd with a vote to ban an extremely rare abortion procedure. And today, Mr. Speaker, is political payday for the Golden Rule Insurance Co. and its medical savings account scheme.

Today we will vote on a health insurance reform bill which includes medical savings accounts, at a cost of $2 billion to taxpayers. It is no coincidence, however, that the Golden Rule Insurance Co. has given more than $14 million to Republicans.

This chart, Mr. Speaker, demonstrates how a few large, well-placed contributions to the GOP resulted in today's vote on medical savings accounts.

Mr. Speaker, the old saying is true: He who has the gold, rules. And while the American people want serious health insurance reform, all they are getting from the GOP is cash-and-carry government.

RECOGNIZING A GOOD IDEA: MEDICAL SAVINGS ACCOUNTS

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, I was going to speak on another subject, but I have to comment on the lack of information that the other side has on medical savings accounts. I, in fact, as chair of the Subcommittee on Civil Service of the Committee on Government Reform and Oversight, held hearings on this. We found that in every instance, for almost every State and local government that testified on these, we found lower costs, lower premiums, expanded coverage.

Because it was not a Washington command and control idea, they do not like it. Because it does not limit your choices, the other side does not like it. Because it is not an old government idea or solution, they do not like it. Mr. Speaker, I think if we had a new idea and it came up and bit them on the leg, they would not even recognize it. Mr. Speaker, this is a new idea. It saves costs. It saves premiums. It is a good idea. It is time for it.

REPUBLICAN ADD-ONS MAY DERAIL BIPARTISAN HEALTH REFORM TRAIN

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, health insurance has really not been insurance for a very long time, because we have allowed those companies to refuse coverage to anybody who needs it. So today we have a great chance to do something about this. We have a chance to free people up who have been locked in their jobs because they do not dare lose their health insurance, and we have the ability of people to be able to port around their insurance coverage. And the Republican extremists in the House are about to derail this bipartisan train, this bipartisan train that came speeding out of the Senate, and this bipartisan train that the New York Times is talking about today, as they say, "The House Republicans have added amendments that are not only bad health policy, but could delay passage of this useful health care reform."

Mr. Speaker, I think it is time we stand up and say to the extremists, "Please, stop this. America has been waiting much too long for this portability and for having some price constraints, and ending the denying of these preexisting conditions as a way to shut you out of your health care. Stand up to the extremists, finally. Please, let us get some health care reform."

SUPPORT NEEDED AMENDMENT TO HEALTH CARE REFORM TO PROVIDE FOR LONG-TERM CARE

(Mr. ENSIGN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENSIGN. Mr. Speaker, the Senate bill was, frankly, inadequate. I offered an amendment in the Committee on Ways and Means, which was accepted, which will address long-term health care for Americans. Most elderly Americans are unaware of the magnitude of long-term care costs and of the limits of Government assistance. Many Americans wrongly assumed that Government programs or their general insurance will cover the costs of any long-term care services they might need. The reality is that the cost of long-term care can quickly wipe out the assets of even those who have worked and saved for a lifetime.

For example, the average cost of nursing home care is now over $38,000 a year. If you happen to need such care, your options are limited under the current system. Only about 2 percent of long-term care costs are handled by private insurance. Normally, everyone else pays out of pocket or is forced to Medicaid, to the degree that nearly 40 percent of Medicaid costs are swallowed by long-term care components.

This bill now includes the language that allows tax deductions for long-term care services, as is allowable for medical services. I urge the support of this amendment and the support of this bill.

URGING PASSAGE OF THE KASSEBAUM - KENNEDY - ROUKEMA HEALTH CARE REFORM BILL

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, American families are losing their health insurance every day because of corporate downsizing. The original Kennedy-Kassebaum health insurance bill was bipartisan common-sense reform that gave families a few simple protections. It cut down on denials due to preexisting conditions, it helped people get individual coverage when they lost group or COBRA coverage, it began chipping away at job lock, where fear of losing health insurance keeps people from changing jobs.

□ 1030

But the House Republican leadership is turning straightforward reform into a goodie bag for a privileged few. Medical savings accounts, a payoff to a fat cat contributor to the majority. Limits on malpractice awards to people whose lives and dreams have been ruined.

The Republican leadership has demonstrated once again they just do not care about average working people. We should pass the Kennedy-Kassebaum-Roukema bill and not a special interest spinoff. It is the very least we can do.

CHANGE THE RULES ON OIL

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, it has been 5 years since the gulf war, and we have done nothing to end our dependence on oil, foreign oil.

Today the United States imports more than 50 percent of its oil from foreign countries, not because we want to, but because our laws have forced us to. When we mandate that all companies have to get 1,000 permits and regulations to drill just one well, anytime we increase the regulatory cost by $37 billion, when we close off their access to oil-rich land and when we support a destructive tax code that contains provisions like the alternative minimum tax, we are just asking for lost jobs and foreign dependence.

Is it any wonder our oil companies have lost over 500,000 jobs since 1972, closed half of their refineries and moved to Vietnam, China, and Russia?

Mr. Speaker, we must change the rules to allow our oil industry to flourish, create jobs and provide a strong and secure America for us and our children.

HEALTH CARE REFORM

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, today we have a choice. We can take a simple, single step to ensure people who can change their jobs or lose their jobs that they can take their health insurance with them. Or we can let this simple, necessary piece of legislation get totally complicated in a maze of complications.

It cannot be said too often. Everybody agrees that individuals who change their job should be able to take their health insurance with them. People who are in a job should not be locked in that job because they are afraid they will lose their health insurance. The President agrees. He said, I will sign Kennedy-Kassebaum, it is a good first beginning in health care reform. The other body agrees. They have passed a bipartisan piece of legislation. The House Democrats agree. We will offer a substitute today that contains the Kennedy-Kassebaum bill. It is a clean, a good bill. Even some House Republicans agree. The substitute that we will introduce today was introduced originally by a Republican.

Mr. Speaker, there is one problem. Some people are not satisfied with fixing this problem. They want to add 10 new provisions in health care reform, 10 new insurance provisions that are too complicated. Pass the Kennedy-Kassebaum bill, begin health care reform.

NOT IF BUT WHEN

(Mr. ISTOOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ISTOOK. Mr. Speaker, no nation can be secure if it depends on another nation for its economic lifeblood. Five years ago, we sent 500,000 American troops to the Persian Gulf to fight for oil. In 1991 we imported 45 percent of our oil. Today, we import 52 percent, 9 million barrels per day, annually $60 billion going out of the country to buy oil.

The number of producing wells in this country has declined by 11 percent since the gulf war. Instead of becoming less dependent on foreign oil, we are more so. No nation can be secure with such dependency, and because 60 percent of America's oil wells, 60 percent, Mr. Speaker, are developed not by major oil companies but by independent producers, it is in America's national interest to do all that we can to preserve America's independent producers of petroleum.

HEALTH CARE REFORM

(Ms. DELAURO asked and was given permission to address the house for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, today we have a golden opportunity to pass health care reform which, in fact, will be a first step to improving the lives of hard-working Americans. People that I hear from every day in my community say to me they are scared to death that, if they change their jobs, they will lose their health care or, if they or their children have had an illness which they have managed to survive, that in fact insurance companies will deny them insurance because of a preexisting condition.

The piece of legislation that we talk about today, a bipartisan piece of legislation, can help begin to change that fact in the lives of working families today. What is stopping this event? The Republican leadership has decided to load this up with special goodies for their special interests.

Mr. Speaker, let me just quote the Washington Times. Do not take my word for it. The Washington Times, not a liberal newspaper, says that riders imperil health reforms. That is what this is about.

My Republican colleague of the Committee on Commerce, Mr. BLILEY, the chairman, said yesterday, and I quote, "The more you load the wagon, the heavier it is to move."

Do not let them pass this bill with these riders. It will end health care for working families in this country.

THE LINE-ITEM VETO

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker and my colleagues, today is perhaps the most exciting day in my 18-year career here in this Congress, as it is for another former President, President Ronald Reagan. President Reagan, I hope you are listening. You said in your book entitled Autobiography by Ronald Reagan, on American life with the following paragraphs, you said: And yet, as I reflected on what we had accomplished, I had a sense of incompleteness, that there was still work to be done.

We need a constitutional amendment to require a balanced budget, said Ronald Reagan. He went on to say: And the President needs a line-item veto to cut out unnecessary spending.

Today, the Congress is agreeing, the Senate has already acted. We will act in the next hour, and we will send to the President a true line-item veto that is going to put a dent in this big-spending Congress once and for all, and the American people are going to yell hooray, hooray, hooray.

PREEMPTION OF STATE PROTECTIONS IS A BAD IDEA

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, today the House Republicans will pass up a golden opportunity to advance realistic bipartisan health care reform when it considers H.R. 3103, instead of sponsoring and passing the Roukema-Kassebaum-Kennedy health reform bill that I cosponsored.

The bill which the House considers today will have disastrous consequences for consumers. Carefully crafted State insurance laws will be replaced by a uniform standard developed and implemented by the Department of Labor here in Washington. That is right. We are taking away States' ability to regulate and move it here to Washington. They want to move it to an agency that one of my Republican colleagues said was led by what he thought was a Communist.

What does this mean to the average American family? State statutes and rules requiring certain benefits be covered by health insurance policies may no longer apply. For instance, many States like Texas, where I am from, have statutes requiring the inclusion of newborn infant coverage in their State law. That will be wiped out if this bill passes today.

Under the Republican health plan, this may no longer apply. This is moving from State control to Washington control. That must have been in the fine print of the Contract With America.

A GREAT DAY FOR AMERICA

Mr. GOSS. Mr. Speaker, I think that the gentleman from New York [Mr. SOLOMON] said it very well. This is a historic day in this body. We are going to pass the line-item veto today. It is something that we have worked hard on and long on, and we finally are in a position where we are going to deliver a version of the line-item veto which works.

This is part of the new majority here. We are getting spending under control. This matters to America, so I hope Americans will stay tuned.

It is also remarkable to me that on the very same day we are doing this historic event, we are also going to be bringing forward the first meaningful health care reform in many, many a year for the people of this country who need access to affordable health care. That is in the agenda for today as well, and I believe we are going to get that done, too. A great day for America.

HEALTH CARE REFORM

(Mr. ROMERO-BARCELÓ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

(Mr. ROMERO-BARCELÓ. Mr. Speaker, today, the House will begin consideration of the Health Coverage Availability Act. As we embark on this very important discussion, I would like to urge my colleagues on the other side of the aisle not to pass up on what is a truly golden opportunity to advance realistic, bipartisan health care reform legislation.

History has shown us that past efforts to tackle this issue have failed largely because they tried to accomplish too much. Unfortunately, by giving in to special interest groups, the majority seems to be headed down that same path once again.

Let's keep things simple. The Roukema-Kassebaum-Kennedy [RKK] bill is a sound piece of legislation that has broad bipartisan support. By helping millions of Americans keep their health insurance when they switch jobs, regardless of their health condition, it provides a much needed and relatively noncontroversial solution that a vast majority of the Members of this Chamber can agree on.

The demands of the moment require both Democrats and Republicans to unite behind the RKK bill if there is to be any realistic possibility for health reform during this Congress. Let us pass RKK now. The other issues can be worked out separately and moved separately.

REPUBLICANS PAY BACK TO SPECIAL INTERESTS

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, the Republicans are at it again. No different than we have done in the past here, my colleagues take a good bill, one that everything on both sides really has supported to pass, the Senate supports it, the President supports it. It is known as the Roukema-Kassebaum-Kennedy bill. It provides for portability, it provides for health care for preexisting conditions. And then my colleagues take that good bill and they put a terrible piece of legislation along with it, because they think well, we cannot pass that terrible piece of legislation by itself, and we can only pass it if we tack it on a big one.

Mr. Speaker, this is what they are doing. They are tacking it on. And what is it? It is payoff time. It is payoff time to the special interests of this House, the people that are paying for the Republicans' campaign. That is what it is.

What does the Washington Times say about it? "Riders imperil health reforms."

So really, do they want to do health reform? No; they want to pass something for their special interests. That is what they want to do. Let us vote them down.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole under the 5-minute rule. Those committees are the Committee on Banking and Financial Services, the Committee on Commerce, the Committee on Economic and Educational Opportunities, the Committee on Government Reform and Oversight, the Committee on International Relations, the Committee on the Judiciary, the Committee on National Security, the Committee on Resources, the Committee on Science, the Committee on Transportation and Infrastructure, and the Permanent Select Committee on Intelligence.

Mr. Speaker, it is my understanding that the minority has been consulted and that there are no objections to this request.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from New York?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 3136, CONTRACT WITH AMERICA ADVANCEMENT ACT OF 1996

Mr. SOLOMON. Mr. Chairman, by direction of the Committee on Rules, I call up House Resolution 391 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 391

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order (except those arising under section 425(a) of the Congressional Budget Act of 1974) to consider in the House the bill (H.R. 3136) to provide for the enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit. The amendments specified in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; (2) a further amendment, if offered by the chairman of the Committee on Ways and Means, which shall be in order without intervention of any point of order (except those arising under section

425(a) of the Congressional Budget Act of 1974) or demand for division of the question, shall be considered as read, and shall be separately debatable for 10 minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit, which may include instructions only if offered by the Minority Leader or his designee.

SEC. 2. If, before March 30, 1996, the House has received a message informing it that the Senate has adopted the conference report to accompany the bill (S. 4) to grant the power to the President to reduce budget authority, and for other purposes, then—

(a) in the engrossment of H.R. 3136 the Clerk shall strike title II (unless it has been amended) and redesignate the subsequent titles accordingly; and

(b) the House shall be considered to have adopted that conference report.

□ 1045

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. SOLOMON asked and was given permission to include extraneous material.)

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON:

Page 2, line 9, strike "one hour" and all that follows through "Means" on line 12, and insert in lieu thereof the following:

"80 minutes of debate on the bill, as amended, with 60 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform and Oversight or their designees".

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the amendment be agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from California [Mr. BEILENSON]. He is one of the most understanding Members of this body. He is going to be leaving us at the end of this year and we are going to miss him. We do not always agree, but he is one fine gentleman.

Mr. Speaker, House Resolution 391 provides for consideration of the bill H.R. 3136, the Contract With America Advancement Act of 1996. That is important. This bill contains the Senior Citizens Right to Work Act of 1996. It contains the Line-Item Veto Act, the Small Business Growth and Fairness Act of 1996, and a permanent increase in the public debt limit.

Believe me, if it were not for these other issues I just read off, I would not be standing up here supporting the increase in the debt limit for this Government. Not only does this bill represent the completion of three major contract promises, but it represents the product of bipartisan, bicameral and dual-branch negotiations. Think about that, ladies and gentlemen. That is cooperation. The bill before us today addresses concerns of both houses of Congress and the Clinton administration as well.

Mr. Speaker, this rule provides for consideration in the House of H.R. 3136, as modified by the amendments designated in the Committee on Rules report on this resolution. The rule provides for the adoption of two amendments. The first amendment is to title III of the bill relating to regulatory reform, and the second amendment is to title I of this bill relating to the Social Security earnings test limit. Both amendments address specific concerns of the administration and have been included in the bill in the spirit of bipartisan cooperation. It is hoped that the final product will meet the concerns of all parties involved.

The rule waives all points of order against consideration of the bill except those arising under section 425(a) of the Budget Act relating to unfunded mandates. The rule provides for 1 hour of debate equally divided between the chairman and ranking member of the Committee on Ways and Means, and of course we have just enacted an addendum to that, an amendment giving the gentleman from Pennsylvania [Mr. CLINGER] and his committee an additional 20 minutes, equally divided between the chairman and the ranking member.

The rule further provides for the consideration of an amendment to be offered by the gentleman from Texas [Mr. ARCHER] or his designee, which is debatable for 10 minutes. This further amendment was provided to the manager of the bill in order to accommodate any further negotiations between Congress and the administration that occurred last night after the Committee on Rules reported this bill. It is my understanding now, however, that the use of this authority will not be necessary. Upon completion of debate, the rule provides for one motion to recommit which, if containing instructions, may only be offered by the minority leader or his designee.

Finally, Mr. Speaker, the rule provides that if before March 30, 1996, the House has received a Senate message stating that the Senate has adopted the conference report on S. 4, which is the Line-Item Veto Act, then following House passage and engrossment of H.R. 3136, the Clerk shall be instructed to strike title II unless amended from this bill. This title contains the exact text of the conference report of Senate bill 4.

Furthermore, upon the actions of the House, it will be deemed to have adopted the conference report on S. 4, which is the line-item veto conference report. This final procedure has been included in the rule as part of our continuing efforts to expedite the consideration of this terribly, terribly important piece of legislation.

Mr. Speaker, as to the text of H.R. 3136, let me express my strong support for these Contract With America measures. Title I, the Senior Citizens Right to Work Act of 1996, is crucial legislation which will lift the current impediments seniors throughout my district and yours and throughout this entire country face as they try to increase their income by working in their later years.

It is the most ridiculous thing when you have paid into Social Security with your own money, over all of these years, 30, 40, 50, 60, whatever it might be, that money is yours. It is being paid back to you from a trust, and yet you are penalized if you earn more than $11,000, three to one; you have to give back one dollar for every three you earn over $11,000. That is about the most undemocratic thing that I have ever seen. This bill is going to correct that.

It also provides relief that was made in 1994 and is a promise that is going to be kept today. Title III, the Small Business Growth and Fairness Act of 1996, will provide needed regulatory relief and flexibility to millions of small business owners, to farmers and families across this country, enabling these job creators, and these kind of businesses create 75 percent of every new job in America every single year. It allows them to expand employment in the marketplace and to grow our Nation's economy and grow jobs for high school students graduating and college students, as well.

Now, while this regulatory reform does not go as far as I would like to see it, it still represents a dramatic shift in the direction of regulatory relief that was promised in the contract for America. Mr. Speaker, this was another promise Republicans made, and this is another promise Republicans are going to keep here today.

Mr. Speaker, title II of the bill represents legislation that is near and dear to my personal heart, legislation that I have worked to pass for more than 18 years here in this Congress. Title II is the Line-Item Veto Act. It represents fundamental budget process reform, and I never thought it would happen. After many hearings, three committee markups, 2 days of floor consideration in the House, 1 week of floor consideration in the Senate, and more than a year of debate in a committee on conference, a thoroughly researched, extensively debated and well drafted bill has finally been produced. The conferees, led by the gentleman from Pennsylvania, Chairman CLINGER, sitting next to me over here, are to be commended for bringing the House such thorough and historic budget process reform and getting it through the Senate.

Mr. Speaker, as you well know, I have been an ardent supporter of the line-item veto all these years. Nevertheless, I believe the conference report language before us today will provide the President, any President, regardless of political party, with an even more effective, yet limited line-item veto authority that I ever thought could be possible.

Without question, it will result in lower, more responsible Government spending. Under the bill, the President is delegated the constitutional authority to cancel dollar amounts of discretionary appropriations. He is granted the ability to limit tax benefits or increases in direct spending, and these cancellations must be transmitted by special message to the Congress within 5 days of signing the original bill into law.

With report to dollar amounts of discretionary appropriations, the President is permitted to cancel specific items in appropriations bills, any governing committee reports or joint explanatory statements to accompany a conference report. What that means is the bill will also allow the President to cancel any increase in direct spending, which includes entitlements and the Food Stamp Program. Believe me, that is going to make a difference, since that takes up almost all of the budget, these entitlement programs.

This delegated authority will allow the President to cancel any new expansions of direct spending.

Now, with regard to tax benefits, the President is permitted to cancel any limited tax benefits identified by the nonpartisan Joint Committee on Taxation in any revenue or reconciliation law. In an effort to limit this delegated cancellation authority, the line-item veto requires that the cancellations may be made if the President can determine that such cancellation would reduce the Federal budget deficit.

Most importantly, Mr. Speaker, in order to ensure reductions the deficit, a lot of people ought to listen to this because this is something we have been fighting for years, the bill has established a lock bloc mechanism lowering the statutory spending caps, locking in any savings gained through the use of the line-item veto.

How many times have we offered amendments on this floor and we have cut out spending on a project only to find the money was reinstated for another project later on? That is going to stop right now when the President signs this bill.

The bill also provides for expedited procedures in both the House and the Senate for consideration of a bill to disapprove any cancellation by the President. That disapproval bill would then be subject to a veto by the President, which would then have to be overriden by a two-thirds vote of both houses in order for the money, intended to be canceled, to be spent or to take effect. I intend to discuss the specifics of these expedited procedures later on in the debate, as will my good friend, the gentleman from Pennsylvania [Mr. CLINGER], the chairman of the conference on line-item veto. However, I will say now that these expedited procedures were intentionally drafted to allow any Member, majority or minority, who can muster sufficient support to receive a vote to disapprove on the floor of this House any particular veto.

The bill also provides for expedited judicial review of any challenge to the constitutionality of the act. No severability or nonseverability provisions were included in the bill, but it is the intention of the conferees that any judicial determinations regarding the constitutionality of the bill be applied severably to the legislation. This is consistent with the current rule of thumb regarding constitutional challenges to any law that is silent on the issue of severability.

Finally, the line-item veto authority becomes effective on the date of the earlier of these two: enactment of a 7-year balanced budget plan, or January 1, 1997. This authority would sunset on January 1, 2005.

Now, there has been some discussion whether the delay in the effective date has been motivated by partisan politics, but let us set the record straight here and now. As was stated in the Committee on Rules yesterday, this effective date has been agreed to by the signers of the conference report on both sides of the aisle, which were bipartisan. The Senate majority leader and Republican nominee for President, BOB DOLE, and President Clinton himself, after a conversation between Majority Leader DOLE and the President, both agreed to this effective date publicly in press conferences. Furthermore, the effective date was also chosen in part to take away any partisan games involving the line-item veto, take it out of the picture during the presidential election year.

Mr. Speaker, with that discussion of the rule and the major provisions of the line-item veto, I urge support of the rule and the bill for this historic occasion.

I include the following material for the RECORD:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of March 27, 1996]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	59	59
Modified Closed[3]	49	47	25	25
Closed[4]	9	9	16	16
Total	104	100	100	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of March 27, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of March 27, 1996]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H. Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	A: voice vote (11/14/95).
H. Res. 261 (11/9/95)	C	H.J. Res. 115	Cont. Resolution	A: 223–182 (11/10/95).
H. Res. 262 (11/9/95)	C	H.R. 2586	Increase Debt Limit	A: 220–185 (11/10/95).
H. Res. 269 (11/15/95)	O	H.R. 2564	Lobbying Reform	A: voice vote (11/16/95).
H. Res. 270 (11/15/95)	C	H.J. Res. 122	Further Cont. Resolution	A: 229–176 (11/15/95).
H. Res. 273 (11/16/95)	MC	H.R. 2606	Prohibition on Funds for Bosnia	A: 239–181 (11/17/95).
H. Res. 284 (11/29/95)	O	H.R. 1788	Amtrak Reform	A: voice vote (11/30/95).
H. Res. 287 (11/30/95)	O	H.R. 1350	Maritime Security Act	A: voice vote (12/6/95).
H. Res. 293 (12/7/95)	C	H.R. 2621	Protect Federal Trust Funds	PQ: 223–183 A: 228–184 (12/14/95).
H. Res. 303 (12/13/95)	O	H.R. 1745	Utah Public Lands.	
H. Res. 309 (12/18/95)	C	H. Con. Res. 122	Budget Res. W/President	PQ: 230–188 A: 229–189 (12/19/95).
H. Res. 313 (12/19/95)	O	H.R. 558	Texas Low-Level Radioactive	A: voice vote (12/20/95).
H. Res. 323 (12/21/95)	C	H.R. 2677	Natl. Parks & Wildlife Refuge	Tabled (2/28/96).
H. Res. 366 (2/27/96)	MC	H.R. 2854	Farm Bill	PQ: 228–182 A: 244–168 (2/28/96).
H. Res. 368 (2/28/96)	O	H.R. 994	Small Business Growth	
H. Res. 371 (3/6/96)	C	H.R. 3021	Debt Limit Increase	A: voice vote (3/7/96).
H. Res. 372 (3/6/96)	MC	H.R. 3019	Cont. Approps. FY 1996	PQ: voice vote A: 235–175 (3/7/96).
H. Res. 380 (3/12/96)	MC	H.R. 2703	Effective Death Penalty	A: 251–157 (3/13/96).
H. Res. 384 (3/14/96)	MC	H.R. 2202	Immigration	PQ: 233–152 A: voice vote (3/21/96).
H. Res. 386 (3/20/96)	C	H.J. Res. 165	Further Cont. Approps	PQ: 234–187 A: 237–183 (3/21/96).
H. Res. 388 (3/20/96)	C	H.R. 125	Gun Crime Enforcement	A: 244–166 (3/22/96).
H. Res. 391 (3/27/96)	C	H.R. 3136	Contract w/America Advancement	
H. Res. 392 (3/27/96)	MC	H.R. 3103	Health Coverage Affordability	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from New York, my chairman and my good friend, for his kind words.

Mr. Speaker, we have very serious concerns about this rule and about the bill that makes in order the so-called Contract With America Advancement Act. This legislation provides for an increase in the public debt limit to $5.5 trillion, but it also includes three measures that are completely unrelated to the debt limit: a bill increasing the Social Security earnings limit, a conference report on the so-called Line Item Veto Act, and a new version of regulatory reform legislation entitled the Small Business Growth and Fairness Act.

The rule before us continues the disturbing trend under the Republican majority of disregarding normal legislative procedures and unreasonably restricting debate. This is a closed rule. No amendments are in order except one that the gentleman from Texas [Mr. ARCHER] is permitted to offer. When the Committee on Rules met last night on this matter, the committee allowed this amendment without knowing what it would be. We hope it is a good amendment.

The rule also sets up a highly unusual procedure, which the gentleman from New York [Mr. SOLOMON] described a few minutes ago, for disposing of the Line Item Veto Act. The rule provides that if the other body approves the conference report on this bill before Saturday and the House passes H.R. 3136, the conference report shall be sent to the President as a freestanding bill.

Because the Senate approved the conference report last night, that part of this bill will in fact be separated upon passage of this legislation. We believe it is unnecessary and unwise to construct final action on the Line Item Veto Act in this convoluted manner. There is no good reason why this matter should not be considered in the same way other conference reports are normally considered; that is, as freestanding legislation and without reference to action by the other body. For that matter, there is no good reason why any of the extraneous legislation included in this increase in the debt limit must be included.

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While we understand that the inclusion of the three bills here reflects an agreement, reached between the President and the Republican leadership in both Houses of the Congress, we regret that is the case. We think it would have been much more responsible and appropriate for us to consider a simple, straightforward debt limit increase. The raising of the debt limit is an extremely urgent matter, as we all know. We have to do it very soon to prevent a Government default. The fact this very necessary legislation is encumbered with unrelated controversial matters will cause, unfortunately, some of us who otherwise would support raising the debt limit to instead vote against it.

In the Committee on Rules last night, we offered an amendment to make in order a clean debt limit increase. Unfortunately, Mr. Speaker, our amendment was defeated on a party line vote, as were several other amendments we offered that would have given the House more choices in the outcome of this important legislation.

Mr. Speaker, the most troubling portion of this legislation, in my view, is the Line Item Veto Act conference report. While we all agree that reducing Federal budget deficits is one of the most important tasks facing us, many of us do not believe that providing the President with the extraordinary new authority contained in the Line Item Veto Act will do much, if anything, to help us achieve that goal.

What this legislation will do is transfer power from Congress to the President and enhance the power of a minority in Congress to override the will of a majority on matters of spending priorities. Under this legislation, the President's cancellation of line items in appropriations, which includes not only items listed in bills but also in committee reports and joint statements of managers or direct spending or targeted tax benefits, would automatically take effect unless Congress specifically passes a resolution disapproving the cancellation. If Congress overturns the President's action, the President could then veto the disapproval, which, in turn, would have to be overridden by two-thirds of both Houses. Thus the President would be empowered to cancel any such item with the support of only a minority of Members of either House. A one-third plus 1 minority, working with the President, would control spending.

This procedure would result in a dramatic and quite possibly unconstitutional shift in responsibility and power from the legislative branch to the executive branch. This broad shift of powers could easily lead to abuses. The President could target the rescissions against particular legislators or particular regions of the country or against the judicial branch. This power could be used to force Congress to pay for a pet Presidential project that a majority of Members oppose or to agree to a policy that is completely unrelated to budgetary matters.

Furthermore, we would be transferring this unprecedented amount of power to the President with little reason to believe that it would have much of an effect on the Federal budget deficit. This new line item veto would be used primarily for annually appropriated discretionary spending. However, discretionary spending, as Members know, which accounts for less than one-third of the budget, is already the most tightly controlled type of spending, since it is subject to strict caps. It has been declining both as a percentage of the total Federal budget and as a percentage of GDP for the last several years. It will continue to do so into the foreseeable future.

Additional controls in this area of the budget will not accomplish much, if anything, in the way of deficit reduction. In fact, discretionary spending is an area of the budget where Presidents have wanted more spending than Congress has approved. According to the Office of Management and Budget, from 1982 to 1993, Congress appropriated $59 billion less than the President had requested.

In addition, over the last 20 years, Congress has rescinded $20 billion more than the President has requested in rescissions. If those patterns continue and the President is given greater leverage in the appropriations process, it is likely that he will use this new line item veto authority as a threat to secure appropriations for programs he wants funded rather than to reduce total amount of spending.

I would also like to point out that the legislation is unlikely to accomplish what its advocates claim it will in the way of including special-interest targeted tax benefits under this new authority. That is because the bill allows the Joint Tax Committee, which is controlled by the House and Senate tax-writing committees, to determine what provisions in the bill constitute a targeted tax benefit before it is sent to the President. Thus it is highly unlikely that many special-interest tax benefits, if any at all, will be subject to the line item veto authority.

For all of these reasons, Mr. Speaker, if the House moves forward with approval of this line item veto authority, I believe even the measure's most ardent supporter will in time come to regret it.

The other troubling piece of this package, at least in this Member's view, is the increase in the Social Security earnings limits for recipients aged 65 to 69. While this legislation is extremely popular, I believe it moves in the wrong direction in terms of what we need to accomplish to control spending, and perhaps it is more than a little ironic that it is coupled with the line item veto in this piece of legislation. This part of the legislation would increase Social Security benefits, already our Nation's most expensive entitlement program by far, by an estimated $7 billion over the next 7 years alone. Most of that benefit increase also, most, would go to relatively well-off recipients while some of the spending cuts used to pay for those benefit increases would fall on those of more modest means.

In addition, the legislation would take a giant step toward turning Social Security retirement benefits into a reward for turning age 65 rather than insurance against the loss of income that comes with retirement, as the Social Security system was designed to provide. We ought to consider very carefully whether that kind of change is wise, particularly when we know we are facing a huge shortfall in the funds that will be needed to pay existing levels of benefits when the large baby-boom generation reaches retirement age in the early part of the next century.

Finally, Mr. Speaker, although many of us on this side of the aisle would have greatly preferred a rule providing for a straightforward debt limit extension, we believe that if this legislation is going to be encumbered with extraneous matters that are a priority to our Republican Members, then the rule also ought to permit us to at least consider one legislative priority from this side of the aisle as well. One of our highest priorities is increasing the minimum wage,

So, at the end of this debate, we shall move, Mr. Speaker, to defeat the previous question so that we may amend the rule to provide for consideration of an amendment that would raise the minimum wage in two steps to $5.15 an hour.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I would say to my good friend, first of all, this line-item veto does not apply to just the small portion of the budget dealing with discretionary spending. The conference final report expanded that to include all entitlement programs, including food stamps. It includes the entire budget.

Second, the gentleman complains that there are extraneous matters in this bill other than the debt ceiling; namely, Social Security, repeal of penalties and the line-item veto and regulatory relief. And yet, in their trying to defeat the previous question, they will add further extraneous material. That I do not understand.

Mr. Speaker, I yield 3½ minutes to the gentleman from Sanibel, FL [Mr. GOSS], one of the most respected and hardest-working Members of this body. He is a member of the Committee on Rules and also a tremendous help as a conferee on the line-item veto measure.

Mr. GOSS. Mr. Speaker, this is a fair rule for business at hand that allows the House to approve necessary legislation to preserve the full faith and credit of the United States—while keeping important promises to the American people. I confess, I am extremely uncomfortable voting for an extension of the debt ceiling. An offer of extended credit is a false favor to someone who is having trouble paying the bills. And the same holds true for the national budget—higher debt limits simply postpone and exacerbate the inevitable pain of paying the bill. We have a moral obligation to break the cycle of debt. Of course we know that decades of neglect cannot be reversed overnight. But that does not mean we should not spend every day moving in that direction. Although President Clinton torpedoed our effort to lock in this year a glidepath to balance in 7 years, the drive toward a balanced budget is continuing. Our new majority has already saved billions of dollars in this year's spending cycle alone. We've crafted positive reforms to preserve and strengthen our national safety net—while shrinking the size and reach of the Federal bureaucracy. We've made tough choices to secure our children's future—and we are not going to be sidetracked by President Clinton's overactive veto pen. We all know the pen is filled with red ink, just like his budget pen. Mr. Speaker, I will vote for this debt ceiling increase—but only because we are finally on the right track toward a balanced budget and fiscal sanity. I hope next time we vote on the debt limit we will be voting to lower the ceiling, nor raise it. Thankfully, there is good news in this bill—items that represent promises kept to America. With this bill we will be implementing the line-item veto, a major deficit cutting tool that we are delegating to the President in the interest of saving the taxpayers money. After more than a year of hard work, the conference has completed an agreement to grant the President real, effective and carefully defined line-item veto authority over spending and tax bills.

This historic delegation of power will be a significant new weapon in our arsenal as we fight for deficit reduction. It is not a matter of the President pitted against the Congress. It is a matter of the two branches of government working together to ensure wise management of the Nation's finances. For the first time, the bias will shift away from spending and toward saving. Americans understand that big spending and tax bills often get signed into law, carrying with them provisions of questionable national merit that might not stand on their own. The line-item veto allows the President to zero in on these items and bring them to the light of day. That is just the kind of accountability we so desperately need in the Federal budget process to bring our spending under control. Finally, Mr. Speaker, I am delighted that this legislation includes the Senior Citizens' Right to Work Act, legislation to increase, to restore some fairness to our Tax Code for seniors. I take my hat off to the gentleman from Kentucky [Mr. BUNNING] for the incredible work he has done on that, as well. The Social Security earnings limit is a dinosaur—and it discriminates mightily against those seniors who want to be productive. This is a long-overdue first step toward the ultimate goal of repealing the unfair restriction altogether. Support this rule and the bill.

I take my hat off to the gentleman from New York [Mr. SOLOMON], the chairman, and the gentleman from Pennsylvania [Mr. CLINGER], the chairman, and the gentleman from Massachusetts [Mr. BLUTE], for the extraordinary work they did in prevailing in the conference on this version we are passing today.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I strongly urge my colleagues to reject this unfair rule. If we are going to attach unrelated items to this debt limit extension, then I believe the working people of America deserve to know why the Gingrich Republicans will not allow the House to vote on an amendment that would increase the minimum wage.

What is the majority so afraid of? Why are they in opposition to paying working parents enough, enough to support their families and enough to take care of their kids?

Clearly, Mr. Speaker, the new majority knows that if it came to a vote, it would be next to impossible for Members of this House to deny the fact that the 10 million minimum wage earners in this country deserve a raise.

Mr. Speaker, in light of the fact that April 1 will mark the 5-year anniversary of the last time this House approved an increase in the minimum wage, the truth is the minimum wage has significantly lost its value and it keeps families in poverty.

Mr. Speaker, it is time for this body to do something good for the working families of this country and to make work pay.

To my colleagues who care about working people in this country, I urge you to reject this rule and show the new majority that it is high time for an increase in the minimum wage.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in opposition to the rule because it denies a long-overdue opportunity to raise the minimum wage.

Yesterday the Committee on Rules rejected my request to offer an amendment to increase the minimum wage. They have left in the cold families who are working hard and playing by the rules and who are being left behind.

Think about it, the minimum wage today is $4.25 an hour. That means the approximate annual salary for a full-time minimum wage worker is $8,500, barely half the official poverty line for a family of four and below what people make on welfare. They would deny a 90-cent-an-hour increase. Imagine 90 cents. This, from people who make over $130,000 a year.

Members of Congress earned more during the Government shutdown than a full-time minimum wage worker earns in a single year.

America needs a raise. Reject this rule. Help hard-working families by putting more money in their paychecks.

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Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds just to respond to the last two speakers, to say that yes, there is some merit in raising the minimum wage. I believe that it should be raised. But, just to give an example, I met with farmers from all over New York State yesterday, and we discussed that and how it would reflect on them. They said:

> JERRY, if you can just give us some regulatory relief, in other words, so we don't have to spend so much of our money meeting all of these regulations, we certainly wouldn't object to a raise in the minimum wage.

Let the regulatory relief bills go through that we pushed for the last 2 years, and I think you would find some support.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER], someone I have great respect for. The gentleman came to the body 18 years ago with me and is the chairman of the Committee on Government Reform and Oversight. He was the chairman of our conference for over a year on the line-item veto. If you want to know why his hair is a little grayer, it is because of that, I assure you. He did yeoman work. We could not be here today without BILL CLINGER.

Mr. CLINGER. Mr. Speaker, I thank the chairman for yielding time to me.

Mr. Speaker, I rise in strong support of this rule.

Mr. Speaker, we often engage in this body in hyperbole, some would say hot air. But I have got to say today we really are entitled to say this is a historic time we are engaged in. This bill we are going to be considering today is indeed a historic bill.

For years a lot of us have talked the talk about the line-item veto. But, unfortunately, we have been unable to bring it to the floor to get a vote. Today we are going to be able to walk the walk. So I am very delighted as chairman of the conference on the line-item veto to bring our product to this floor as part of the increase in the debt limit. I think it is absolutely appropriate that it should be considered as part of this increase in the debt limit.

Mr. Speaker, we are about to consider a bill that will increase the Federal debt limit to $5.5 trillion. That is $22,000 for every man, woman, and child in this country. We have got to find a better way to get control of this spending. What this bill will do is give the President a scalpel instead of a hacksaw to really deal with the enormous debt that we keep building up year after year after year and the deficits we run year after year. This is an enormous burden we have been imposing on the American people. This is the first serious effort to really provide an effective means to address this enormous problem.

I have to say we would not be here without the hard work of a lot of people. BOB DOLE, our nominee for President, was an inspiration and really was the driving force in getting us to resolve this conference and get an agreement with the White House on what could pass and be signed by the President. The gentleman from New York [Mr. SOLOMON] has been a tireless worker for this legislation for, as he said, 10 years and longer. The gentleman from Florida [Mr. GOSS], the gentleman from Massachusetts [Mr. BLUTE], the gentleman from Kentucky [Mr. BUNNING], all of whom served over this whole year on this conference, have just been invaluable in bringing us to this day. At times we did not think we would get an agreement because of determined opposition. Despite that tough opposition from people on both sides of the aisle and both sides of the Capitol, we have gotten an agreement.

Mr. Speaker, this is a good bill. I urge support for the line-item veto and for this bill.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, I thank the gentleman from California for the time.

Mr. Speaker, this is one of those occasions when every Member of this body should be mindful of the undertaking that we make at the beginning of every Congress to protect and defend the Constitution of the United States, because the line-item veto provision in this proposed bill runs absolutely in the face of that obligation.

The first words of the Constitution are, "All legislative powers herein granted shall be vested in a Congress of the United States." A few pages later, dealing with the President's responsibility with regard to legislation, the Constitution states as follows: "If he approves, he shall sign it,"—the bill—"but, if not, he shall return it with his objections."

Those are the basic parameters of the legislative responsibilities that we have under the Constitution and that the President has under the Constitution, and it is not in our power to change them. It is our responsibility in fact to respect and preserve them.

While the friends that we have across the ocean in Britain are having second thoughts these days about their monarchy, this line-item veto provision and its effect will be to start the gradual accretion of power in an American monarchy.

If we recall those grand words of the Declaration of Independence in which we protested the usurpation of power by King George, then mark my words, we will live to regard the usurpation of power that we invite by future Presidents of the United States if this provision becomes law.

Thank God that the courts will be there to do the right thing and find it, as it is, contrary to the Constitution.

The court has spoken to this point many times, but most recently and on point I think in the Chadha case, making it absolutely clear that the powers of neither branch with respect to the division and responsibility on legislation can be eroded.

What is even more bizarre in this particular proposal is the provision for the 5-day "cancellation" period. Now, think about that. This is a metaphysical leap of Herculean proportions.

The enactment provisions of the Constitution say that once the President signs a bill, it shall be law. We propose that he then gets a 5-day cancellation right after signing a bill? That is absolutely absurd. This defies any logical reading of the clear meaning of the Constitution with regard to these provisions.

But beyond the constitutional arguments, this proposal is fundamentally unwise, and it manifests a disrespect of our own responsibilities in this body under law and under the Constitution.

On the large issues, let us think back to what would have happened during the Reagan administration, with a President who, for his own reasons, sent budgets to this body zeroing out most categories of education funding in the Federal budget. Presumably, if that President had this power, it would be exercised to eliminate most education funding by the U.S. Government, and 34 Senators representing 9 percent of the people of this country, in league with the President, could have brought about that outcome.

Even more pernicious, and the invitation to usurpation that lies in this language can also be understood by going back to those days in the late eighties when we were still debating whether we would continue aid to the Contras. Now, if I happened to have been fortunate enough to have gotten, let us say, a provision in an appropriations bill for a needed post office or a needed courthouse in my district, and it was down at the White House awaiting signature at the same time we were debating aid to the Contras, I would guarantee you I would have gotten a call from someone at the White House saying, "Congressman, I notice you had some success in dealing with this need in your district. We are pleased at that, but we need your support on aid to the Contras."

That is exactly the kind of absolutely evil excess of power that we are inviting future Presidents to use. Pick your issue. That is one that comes to my mind.

It is clear that the Governors of the several States who have this power use it in exactly this way, to get their version of spending adopted in contradiction to the legislative judgment.

Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds to just say to my good friend that I suspect he protests too much. From Thomas Jefferson to Richard Nixon, Presidents had the right of rescission. If they did not want to spend the money because it was not necessary, they did not have to do it. Unfortunately for America, this Congress took that President to the Supreme Court, and the Supreme Court made him spend the money. That is what happened, and that is why we are in the fiscal mess we are in today. We are attempting to turn around a little bit of that.

Mr. Speaker, I yield 3 minutes to the gentleman from Southgate, KY, Mr. JIM BUNNING, someone I used to worship when I was growing up. He was a hero of mine because of his baseball prowess, throwing no-hitters and pitching shutouts. He is no less a hero today, especially for what he has done today on this line-item veto.

Mr. BUNNING of Kentucky. Mr. Speaker, the first bill I signed on when I came to Congress 9 years ago was the line-item veto, and, thank God, we are finally going to get it passed today. It has been a long time coming, but we have taken another major step in restoring fiscal responsibility to the budget process. Of course, I am talking about the line-item veto.

The line-item veto will allow the President to end, once and for all, that notion that Federal spending cannot be controlled. As President Truman said, the buck will truly stop with the President. If he does not use that power that we give him, shame on him. I have been for this bill, by the way, when a Republican was in office, and now I am for it while a Democrat is in office.

Mr. Speaker, we are going to give the President the opportunity to restore the fiscal integrity of this Government and to end the era of pork-barrel spending. We all have spending needs in our States and districts, but we have a duty to the country not to bankrupt the Treasury. All spending is not the same. Alpine Ski slides in tropical locations and ice hockey warming huts are not of the same importance as people with adequate needs for post offices and courthouses.

Mr. Speaker, the bill before us is not perfect. We have worked hard to make something work that everyone can use, that is good for the American people. It was crafted in an effort to accommodate the concerns of the broadest cross-section of the Members of this House and the Senate.

I wish we had not gone down the road of applying the line-item veto to tax issues, but even on that issue we have tried to meet the concerns with the majority of this Congress. I hope and pray that everyone realizes that this line-item veto is in the best interest of the United States of America, and if in fact the courts look at this bill, as one of the prior speakers has talked about, that they will find how much the need is there for this and it will be ruled constitutional by the courts. We will let them decide. Let us just do our work and pass this bill today.

Mr. Speaker, it's been a long time in coming but we are about to take another major step toward restoring fiscal responsibility to the budget process. I am, of course, talking about finally giving the President the line-item veto.

The line-item veto will allow the President to end, once and for all, the notion that federal spending cannot be controlled. As President Truman said, the buck will truly stop with the President.

If he doesn't use the power that we give him, shame on him.

We are going to give him the opportunity to restore the fiscal integrity of this Government and end the era of the pork barrel.

We all have spending needs in our States and districts but we also have a duty to the country not to bankrupt the Treasury.

All spending is not the same. Alpine Ski slides in tropical locations and ice hockey warming huts are not of the same importance to the people as adequate post offices and courthouses.

The bill before us is not perfect but we have worked hard to make it something that will work for the American people.

It was crafted in an effort to accommodate the concerns of the broadest cross-section of the Members of the House and Senate.

I wish we had not gone done the road of applying the line-item veto to taxes. But, even on that issue we have tried to meet the concerns of the majority of our Members.

The line-item veto before us today will be criticized by some who think that it goes too far. Others will say that we did not do enough. That satisfies me that we did the right thing.

To those who wanted us to include more on taxes, I would simply remind them that our financial problems have not been caused by too few revenues but by too much spending.

In 1981, the year before the Reagan tax cut took effect, revenues were $599 billion and by 1993 revenues had grown to nearly $1.15 trillion., Even though revenues nearly doubled spending grew at an even faster pace.

To paraphrase President Reagan, the American people are not taxed too little, their Government spends too much.

Nonetheless, we recognized that there is the potential for abuse in the tax laws and we have taken adequate steps to address that problem.

The limited tax provisions which appear from time to time in a large tax bill and which under the Democrats were often targeted to a specific taxpayer are now going to be subject to the line-item veto.

That means that Congress will now specifically point out to the President what these provisions of limited benefit are and he can use the line-item veto on them.

The nonpartisan Joint Tax Committee will identify these limited tax provisions for the tax writing committees based on the definition in this bill. And we will clearly point to them in what we send to the President for his signature.

I feel confident that the President will see the good policy behind some of these very narrow tax breaks such as the orphan drug tax credit which provides a tax incentive for research into drugs for rare diseases.

But he can use his veto pen to make sure that no unfair tax breaks are given to one or just a few taxpayers as has happened from time to time.

I would also remind those who think that we should have gone farther on allowing the President to item veto tax provisions to remember that tax breaks allow people to keep their own money.

Spending provisions take money from one person's pocket to be used for someone else's benefit.

If that distinction isn't clear to you, I imagine that your constituents can help you see the light. They know whose money we are spending.

This is a good bill and by passing it we can keep one of our most important promises from the Contract With America. I urge my colleagues to support line-item veto.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in opposition to this rule and urge the House to defeat the previous question. My opposition to the rule is very simple: This rule denies that House an opportunity to consider an amendment to increase the minimum wage that was offered before the Rules Committee by my colleague, Representative DELAURO.

Some on the other side of the aisle will argue that a minimum wage increase is not germane to a bill increasing the debt limit. I remind my colleagues that the Republican leadership has chosen to load this bill with extraneous matters, including regulatory reform for small business, which is of questionable germaneness. The Republican leadership has deliberately decided not to allow this body to consider wage relief for the working poor.

Mr. Speaker, it is time for this House to give workers a raise, a raise that is long overdue. April 1 will mark the fifth anniversary of the last time the minimum wage was increased. The real wages of American workers have been declining for over two decades and the disparity between rich and poor in this country continues to grow. In terms of distribution of wealth, the United States has become the most unequal industrialized nation in the world. Increasing the minimum wage is one modest step toward addressing this problem.

The Republican leadership of this House enjoys the distinction of destroying the spirit of bipartisanship on so many issues, including the minimum wage. In 1989, for example, the minimum wage increase passed this body by a vote of 382 to 37, with 135 Republicans voting for the bill, and 89 to 8 in the Senate, with the support of 36 Republicans. In fact, Speaker GINGRICH, Senator DOLE, and my committee chairman, BILL GOODLING voted for the last increase. Regrettably, Republicans now appear too embarrassed to even allow this body to vote on that issue.

We often talk about how important it is to get people off welfare. If we are serious about that, if we really want to get people off welfare as opposed to just talking about it, there is one simple way to do that—to make work pay.

Recent studies suggest that 300,000 workers would be lifted out of poverty if the minimum wage were raised to $5.15 per hour. It is time to do something positive for the working poor.

Mr. Speaker, the vast majority of Americans support raising the minimum wage. It is unconscionable for the Republican leadership of this House to block the will of the American public.

Defeat this rule, defeat the previous question, allow us to consider increasing the minimum wage.

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Mr. BEILENSON. Mr. Speaker, I yield 2 minutes and 45 seconds to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. SOLOMON. Mr. Speaker, I yield 15 seconds to the gentleman from Maryland [Mr. HOYER].

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Maryland [Mr. HOYER] is recognized for 3 minutes.

Mr. HOYER. Mr. Speaker, let me say that the debt limit part of this bill should have been passed last year. It is another indication of the inability of the leadership of this House to get issues of fiscal importance to the floor in a timely fashion. The debt has been confronting us since September of last year and has placed at risk the good credit of the United States of America, which in fact placed, therefore, the fiscal stability of the international community at risk.

Mr. Speaker, I will vote against this rule, and I will vote against it because it marries two issues, one which I very strongly support.

Finally, the Republican leadership has come to the extension of the debt until 1997, so that it will not be a political football but will be the recognition of fiscal responsibility.

It is late but welcomed. However, they have married to that bill a line item veto. It is a line item veto which the gentleman from Colorado, one of the previous speakers, has characterized as contrary to the provisions of the Constitution of the United States. I agree with that premise. I am hopeful that the courts will find this provision unconstitutional, because I believe with Senator BYRD and I would hope with at least some of my colleagues that this is a radical shift of authority from the people of the United States and their representatives to the Executive of the United States.

Now, I support an enhanced rescission. That is a device which would allow the President of the United States to take out of a piece of legislation and say to the American public, this item should not be passed but the bill should be passed. But then the enhanced rescission would say, we have to bring it back to the House in the full light of the American public's scrutiny in a democracy and pass it. But what it would not do is to give to the President the ability to have one-third plus one of a House say that I and I alone will top this from going into effect.

Mr. Speaker, that will be a radical shift of power. It is not surprising that we pass radical proposals in this Congress, of course, but the fact of the matter is it is bad policy. In my opinion, we will live to regret it.

It is ironic, indeed, that those who have waited 9 years, according to the gentleman from Kentucky, Mr. BUNNING, to see this legislation pass, propose today to have it delayed until January. If it is so important, why not now? Is it perhaps because President Clinton is a Democrat? I hope not.

Mr. SOLOMON. Mr. Speaker, I yield myself 45 seconds. I was proud to yield 15 to my good friend over there so he would have some time.

The President of the United States is a part of this agreement to make it January 1, 1997. That was what we call cooperation, bipartisanship.

Let me just say to my good friends, as I listened to the speakers up here, one after another get up and oppose this line-item veto, I look at the National Taxpayers Union and almost every one of them appear as the biggest spenders in the Congress. They used to be a majority, and they are the ones that drove this debt through the ceiling, $5 trillion.

It irritates me to have to stand up here today and vote to raise the debt ceiling by $500 billion when I voted for none of it, none of that debt.

Well, the reason I am going to vote for it is because we have a chance now to do something for the senior citizens, get rid of this heinous tax that is on Social Security now, on the earnings tax. We have a chance to do the line item veto, which is going to put a crimp in every one of these big spenders. There are not many left around here. Most of them got beat, but there are still a few and we are going to cut their spending off.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, the gentleman is not referring to me personally, I take it.

Mr. SOLOMON. No; absolutely not. I have great respect for my friend, although I will check the list to see if he is on it.

Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. BLUTE], someone I have great respect for, from Shewsbury, MA. He has only been here now for about 3½ years. But let me tell my colleagues, he has been a leader on this line item veto. With him and some of the others, like the gentleman from New York [Mr. QUINN] and the gentleman from Delaware [Mr. CASTLE] and many others, the gentleman from Tennessee [Mr. DUNCAN], who is not here on the floor yet, but because of them, we have this line-item veto here now. He is a great American.

Mr. BLUTE. Mr. Speaker, I thank the chairman for his kind words. This is, as others have said, a very important day, a very exciting day because it means that this Government is going to make a break from the past and we are going to continue the process of turning the Federal ship of state away from deficits and-debt and toward fiscal sanity and fiscal balance by giving the President of the United States the line-item veto authority. It is a major step forward in eliminating wasteful Federal spending.

In passing the conference report on S. 4, the Line-Item Veto Act, Congress is saying to the American people that we have listened to the call for fiscal responsibility. For more than a century, Presidents like Ronald Reagan have called for the line-item veto, but it took this Republican Congress to give it to a Democratic President in a true showing of bipartisanship.

Bipartisanship is exactly what has characterized this legislation from its inception. It passed the House on February 6, 1995, by the overwhelming vote of 294 to 134. All along, Members from both sides of the aisle have pushed this legislation toward this ultimate destination. In a process that took more than a year, the House and Senate conferees worked out the differences in two bills which could not have been more different. The product of that work is an extremely workable procedure that mirrors what the House has passed.

Congress has delegated to the President the very serious power to cancel individual spending items that are normally buried in appropriations bills. However, we did not stop there. This conference report expands the line-item veto to include direct spending and limited tax benefits that cost the American taxpayers more in some cases than appropriations bills. Unlike other attempts at rescissions legislation, the emphasis in this conference report is on deficit reduction and not spending.

Mr. Speaker, the President will be able to cancel individual spending items, increases in direct spending and limited tax benefits. Congress must then pass a bill to disapprove of those cancellations and affirm it wants to spend the money. The President can veto the disapproval legislation and Congress must override by a two-thirds majority. Make no mistake about it, this is a powerful tool of fiscal accountability.

When the Congress cannot muster the two-thirds to override the President, the total of the cancellations must be deposited in a lockbox. This mechanism will guarantee that a cancellation or rescission in spending cannot be used in another account. Instead, any savings must be used toward deficit reduction.

This line-item veto, Mr. Speaker, has been field tested in 43 States with very impressive results. It is common sensical. It works, It is what the American people want.

Let us continue the revolution of fiscal sanity begun by the 104th Congress and give the President this fiscal tool.

Mr. Speaker, on a personal note, I would like to commend and thank the gentleman from Pennsylvania [Mr. CLINGER], the gentleman from New York [Mr. SOLOMON], the gentleman from Florida [Mr. GOSS], and the gentleman from Kentucky [Mr. BUNNING], for allowing me the extraordinary opportunity to serve with them on this historic conference report.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding time to me.

The Contract With America Advancement Act: what a true abuse of the English language. If this is an advancement of the Contract With America, the one thing it demonstrates is that some of our Republican colleagues cannot tell backward from forward. Let us look at what is included in this great advancement of the Contract With America failed agenda.

Well, the first thing is an increase in the Social Security earnings limit. A laudable measure. So laudable that 411 Members of this body last year voted to approve it, and only four voted against it. Our seniors would have this Social Security earnings limit adjusted already if our Republican colleagues had advanced it at the beginning of this Congress instead of at this point.

What is the second item? Regulatory reform. Far different from the regulatory wreckage of the unilateral disarmament of our health and safety laws that they proposed last year. Again, if they had advanced this very modest regulatory reform, our small businesses across America would have had relief in 1995, not a promise in 1996. Finally and most important, it advances the contract through the line-item veto. What is the history of the line-item veto in this body?

Well, last February we took it up, and we considered it, and we approved it by a vote of 294 to 134. It is true that the version that is here before us today is improved, improved in part because at the time of that debate in February, my Republican colleagues rejected the sunset amendment that I proposed, and today they have incorporated that very amendment into this proposal.

The Speaker of the House came to the floor that night and he told us, and I quote: "You have a Republican majority giving to a Democratic President this year without any gimmicks an increased power over spending, which we think is important."

Unfortunately, he did not think it was important enough to appoint conferees for 6 months, or the President would have had this tool last year. What we have here is a Contract With America that is a flop, and this advancement act is a sop.

Mr. BEILENSON. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, the vote we are about to have on this rule, on the previous question on the rule, will be a vote on whether or not we as Members of this body want to raise the minimum wage, whether we want to raise the minimum wage.

Mr. Speaker, all over America people are working hard. They are working overtime. They are working second jobs. They are working third jobs to make ends meet. They deserve a break. They deserve to have a government that is on their side, that will not stand in their way. But once again, we are here and the majority will not, the majority will not even allow us a vote on an issue to put more money in the pockets of Americans. That is what we are talking about, putting more money in the pockets of working people and families in this country.

Now, the minimum wage has not been raised since 1989. Back then two people who supported the raise were NEWT GINGRICH and BOB DOLE. But they are standing in the way today of helping working families. Mr. Speaker, when are my friends on this side of the aisle going to learn they cannot talk about family values if they are not going to value the family and they cannot move from welfare to work if they do not make work pay.

The minimum wage is not enough. It is less than $9,000 a year for a full-time worker. One cannot raise a family on that amount of money. There are literally millions of single parents in this country who are trying to do just that. Think about it. Could we raise a child or two children on that? It is a disgrace that people who make that choice to choose work over welfare, who work hard every single day, they try to set a good example for their kids, for their neighborhood, cannot lift themselves above the poverty line.

□ 1145

Now these are not kids we are talking about. We are talking about 60 percent of the people on the minimum wage are working women with children who work hard and deserve a raise. They do not come to this floor, do not come to this floor, I tell my colleagues, to tell us that it will cost jobs, because every study that has been done over the last few years, from California to the studies that were done in Pennsylvania and New Jersey, have indicated that there would not be a loss of jobs. In fact, some of the studies say that there would be an increase in jobs in this country if we, in fact, raise the minimum wage.

Mr. Speaker, that is why over a hundred economists, three Nobel laureates, have said raise the minimum wage. When the minimum wage goes up, everybody benefits. People who make a little bit more than the minimum wage will get a raise, people above them will get a raise, and what we will have is people circulating more money in the economy. People will be buying more at the grocery store, they will be buying more at the hardware store. It will create a dynamic where people will have more money in their pockets, and they will be spending money, and they will help the economy in general.

Now over 12 million Americans would benefit right away from a 90-cent increase in the minimum wage, including about 42,000 people in my own State of Michigan alone.

Mr. Speaker, it has been 5 years since we raised the minimum wage. Its value, as I said at the beginning of my remarks, it at its 40-year low, 40-year low. Seventy percent of the American people in a recent poll say they support an increase in the minimum wage.

Now is the chance for my colleagues to stand up and face this issue head-on because here it is. This vote on the previous question on the rule is whether or not my colleagues are going to support having this made in order so we could vote on this important question and put money in the pockets of Americans today.

I urge my colleagues to vote "no" on the previous question so we can have the opportunity to raise this issue, and I thank my colleague for having yielded me this time.

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to the gentleman from Tennessee [Mr. DUNCAN], who has led the fight for as long as I can remember, ever since he succeeded his father as a Congressman, and he has been a real leader on this.

Mr. DUNCAN. Mr. Speaker, I rise in strong support of this bill which includes a very important provision—the line-item veto.

Mr. Speaker, I first want to thank my good friend, the gentleman from New York [Mr. SOLOMON], with whom I have worked so closely on this issue in the past, for yielding me this time.

Mr. Speaker, when we pass this legislation, I think there is no one in this House who will deserve more credit for it than the gentleman from New York, JERRY SOLOMON. I congratulate him for his work on this very important piece of legislation.

Mr. Speaker, on the first day of every Congress since I was elected in 1988, I have introduced a line-item veto bill that is almost identical to the provision that we are considering now.

While past Congresses have been unwilling to pass a line-item veto with real teeth in it, and in fact we passed one that the Wall Street Journal in 1993 called a voodoo line-item veto bill, I am pleased that today we are on the verge of approving a line-item veto that will truly be effective in reducing pork barrel spending.

In fact, the other body overwhelmingly passed this provision yesterday by a vote of 69 to 31.

Mr. Speaker, this is not a partisan issue. Forty-three of our Nation's Governors, both Democratic and Republican, already have the line-item veto and are using it to cut spending in their States and balance their budgets.

It is time for Congress to give this same tool to the President, so that he can eliminate the most outrageous examples of wasteful and unnecessary spending without vetoing entire appropriation bills.

The General Accounting Office estimated in 1992 that more than $70 billion of pork-barrel spending could have been cut between 1984 and 1989 if Presidents Reagan and Bush had had a line-item veto.

The Cato Institute estimates that $5 to $10 billion a year could be saved with a line-item veto.

In last year's State of the Union Address, President Clinton highlighted some of the most absurd examples of pork-barrel spending approved by the 103d Congress, and said "If you give me the line-item veto, I will remove some of that unnecessary spending."

Mr. Speaker, I wish we did not need such things as a balanced-budget amendment and a line-item veto to bring our Federal spending under control.

Unfortunately, however, Mr. Speaker, Congress has proven time and again that it does not have the will to cut spending on its own.

That is why this legislation is so very necessary today. If the Congress does not really want to cut spending, it will have to say so, and say so publicly.

Mr. Speaker, with a national debt of over $5 trillion, we simply cannot afford to withhold this important tool from the President any longer.

Former Senator Paul Tsongas, writing in the Christian Science Monitor a few months ago, said that if present trends continue, the young people of today will face average lifetime tax rates of an incredible 82 percent.

We must do something about this to give a good economic future to our children and grandchildren.

This will not solve our problems by itself, but it will be a big step in the right direction. I urge passage of this very important legislation.

Mr. SOLOMON. Mr. Speaker, I yield 45 seconds to the gentleman from Harrisburg, PA [Mr. GEKAS].

Mr. GEKAS. I thank the gentleman for yielding this time to me.

Mr. Speaker, when I first ran for the Congress many years ago, I ran on a platform that included 10 separate items, much like the Contract With America. One of them, much like the Contract With America, was to advance the cause of line-item veto. My own Commonwealth, Pennsylvania, had enjoyed since its constitutional existence long time ago that privilege on the part of the Governor, the chief executive. I wanted, as part of my campaign for election to the Congress, to try to transfer that responsibility to the Chief Executive of the United States.

We are at the threshold now of accomplishing one of my points of my own personal Contract With America. Second, another point, regulatory flexibility with judicial review is also at hand with this vote.

I urge support of the previous question.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Let me simply advise Members that if the previous question is defeated, we will offer an amendment to the rule which would make in order the floor amendment to incrementally increase the minimum wage from its current $4.25 an hour to $5.15 an hour beginning on the Fourth of July 1997.

Mr. Speaker, I yield the balance of my time to the gentleman from Missouri [Mr. GEPHARDT], our distinguished minority leader.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Missouri is recognized for 1¾ minutes.

Mr. GEPHARDT. Mr. Speaker, Members of the House, I urge my colleagues to vote against the previous question so that we can add an amendment to this bill that will increase the minimum wage. I simply want to say that wages, decent wages, are a family value. People who earn the minimum wage today earn a little over $8,000 a year. The minimum wage has not been increased in 5 years. It is a 40-year low. One-third of the people on the minimum wage are the sole wage earner in their family. It will not cost jobs, as some have asserted.

I met a woman in my district the other day, a single mother with 2 minimum wage jobs. She told me she was worried that her kids would not be a victim of a crime; she was worried they would perpetrate crimes. People cannot spend time with their family if they do not earn a decent wage.

I urge Members to vote against this previous question, and I say to my friends on the other side, "You've not heard the last of the minimum wage. I suspect we won't prevail on this vote. But we are going to bring it back and back and back and back until we finally prevail for America's families and workers."

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from New York is recognized for 3 minutes.

Mr. SOLOMON. Mr. Speaker, let me say to my good friend, the minority leader, who I have great respect for, I just cannot help but feel that there are some political games being played here. As my colleagues know, written into this rule was a little provision that said during the time after the Committee on Rules finished meeting last night, and while Mr. Panetta or the President were meeting with our Republican leadership, they could have negotiated to add anything into this bill, anything. That was not even mentioned once, this business of the increasing the minimum wage. Where this has come from I do not know, but I just suspect it is political games.

So let us just do away with that, and let me just in closing give my colleagues a little bit of history because it is kind of interesting, especially when we consider the word BYRD from West Virginia, something to do with the other body. As my colleagues know, in 1876; that was 120 years ago, Representative Charles Falken of West Virginia—remember him, George; was the gentleman here then?—came to the floor of this House and introduced a bill granting the President the authority to veto individual items in spending measures. Can my colleagues imagine that 120 years ago, a Representative from West Virginia? Boy, how times change over 120 years.

When I first came to this Congress 17 years ago, one of the first bills I introduced was the line-item veto. We have been waiting 17 years. In 1980, when Ronald Reagan entered the White House and asked Congress to grant him line-item veto authority, that was 16 years ago. In 1994 the Republican candidates for the House of Representatives all across this great country campaigned on a promise in the Contract With America that, if elected, they would pass a bill giving the President line-item veto, no matter who that President was, Republican, Democrat.

Mr. Speaker, I stand here today at the finish line of a race that has lasted 120 years, and I get so excited I can jump up and down. Today I stand with my Republican colleagues and a good number of Democrats. Wait and see, most of the Democrats on that side of the aisle will vote to deliver a promise to the American people.

As a conferee on the line-item veto, I must submit that this historic moment is due in no small part to the efforts of our conference chairman, the gentleman from Pennsylvania [Mr. CLINGER], sitting right next to me, and that of the Senate majority leader, BOB DOLE. If BOB DOLE had not put his weight behind this, we never would have got it by many of those Senators who do not want to give up that power. They want to spend, spend, spend, but they did, thanks to BOB DOLE.

Mr. Speaker, I ask unanimous consent to include in the RECORD further explanatory information regarding the expedited procedures of congressional consideration of a Presidential message.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The statement referred to is as follows:

Mr. Speaker, in order to ensure that the provisions relating to the receipt and consideration of a cancellation message and a disapproval bill are clearly understood, I believe it is necessary to provide some further explanation.

Upon the cancellation of a dollar amount of discretionary budget authority, an item of direct spending or a limited tax benefit, the President must transmit to Congress a special message outlining the cancellation as required. When Congress receives this special message it shall be referred to the Committee on the Budget and the appropriate committee or committees of jurisdiction in each House. For example, the message pertaining to the cancellation of a dollar amount of discretionary budget authority from an appropriation law would be referred to the Committee on Appropriations of each House; a message pertaining to the cancellation of an item of direct spending would be referred to the authorizing committee or committees of each House from which the original authorization law derived. Any special message relating to more than one committee's jurisdiction, i.e., a cancellation message from a large omnibus law such as a reconciliation law, shall be referred to each committee of each House with the appropriate jurisdiction.

Every special message is referred to the Committees on the Budget of both the House and the Senate. This is due to the requirement in the bill that the President include in each special message certain calculations made by the Office of Management and Budget. These OMB calculations pertain to the adjustments made to the discretionary spending limits under section 601 and the pay-as-go balances under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, as a result of the cancellation to which the special message refers.

Upon receipt in the House, each special message shall be printed as a document of the House of Representatives.

In order to assist Congress in assuring a vote of disapproval on the President's cancellation message, a series of expedited procedures are established for the consideration of a disapproval bill. A disapproval bill qualifies for these expedited procedures if it meets certain time requirements within an overall time period established for congressional consideration. The time clock for congressional consideration starts the first calendar day of session after the date on which the special message is received in the House and Senate. Congress has 30 calendar days of session in which to approve or disapprove under these expedited procedures of the President's action. A calendar day of session is defined as only those days in which both Houses of Congress are in session.

During this 30-day time period, a disapproval bill may qualify for these expedited procedures in both Houses. However, upon the expiration of this 30 day period a disapproval bill may no longer qualify for these expedited procedures in the House of Representatives. A disapproval bill may qualify at any time for the expedited procedures in the Senate.

If Congress adjourns sine die prior to the expiration of the 30-calendar day of session time period and a disapproval bill relating to a special message was at that time pending before either House of Congress or any committee thereof or was pending before the President, a disapproval bill with respect to the same message may be reintroduced within the first 5 calendar days of session of the next Congress. This reintroduced disapproval bill qualifies for the expedited procedures and the 30-day period for congressional consideration begins over.

In order for a disapproval bill to qualify for the expedited procedures outlined in this section it must meet two requirements. First, a disapproval bill must meet the definition of a disapproval bill. Second, the disapproval bill must be introduced in later than the 5th calendar day of session following the receipt of the President's special message. Any disapproval bill introduced after the 5th calendar day of session is subject to the regular rules of the House of Representatives regarding consideration of a bill.

It should be noted that the expedited procedures provide strict time limitations at all stages of floor consideration of a disapproval bill. The conferees intend to provide both Houses of Congress with the means to expeditiously reach a resolution and to foreclose any and all delaying tactics—including, but clearly not limited to: extraneous amendments, repeated quorum calls, motions to recommit, or motions to instruct conferees. The conferees believe these expedited procedures provide ample time for Congress to consider the President's cancellations and work its will upon them.

Any disapproval bill introduced in the House of Representatives must disapprove all of the cancellations in the special message to which the disapproval bill relates. Each such disapproval bill must include in the first blank space a list of the reference numbers for all of the cancellations made by the President in that special message.

Any disapproval bill introduced in the Senate may disapprove all or part of the cancellations in the special message to which the disapproval bill relates.

Any disapproval bill shall be referred to the appropriate committee or committees of jurisdiction. Any committee or committees of the House of Representatives to which such a disapproval bill has been referred shall report it without amendment, and with or without recommendation, not later than the seventh calendar day of session after the date of its introduction.

If any committee fails to report the disapproval bill within that period, it shall be in order for any Member of the House to move that the House discharge that committee from further consideration of the bill. However, such a notion is not in order after the committee has reported a disapproval bill with respect to the same special message. This motion shall only be made by a Member favoring the bill and only 1 day after the calendar day in which the Member offering the motion has announced to the House his intention to make such a motion and the form of which that motion takes. Furthermore, this motion to discharge shall only be made at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day in which the Member gives the House proper notice.

This motion to discharge shall be highly privileged. Debate on the motion shall be limited to not more than 1 hour and shall be equally divided between a proponent and an opponent. After completion of debate, the previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion was agreed to or not agreed to shall not be in order. It shall not be in order to consider more than one such motion to discharge pertaining to a particular special message.

After a disapproval bill has been reported or a committee has been discharged from further consideration, it shall be in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the disapproval bill. If the bill has been reported, the report on the bill must be available for at least one calendar day prior to consideration of the bill. All points of order, except that lying against the bill and its consideration for failure to comply with the one day layover, against the bill and against its consideration shall be waived. The motion that the House resolve into the Committee of the Whole shall be highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate on the disapproval bill shall be confined to the bill and shall not exceed 1 hour equally divided between and controlled by a proponent and an opponent of the bill. After completion of the 1 hour of general debate, the bill shall be considered as read for amendment under the 5-minute rule. Only one motion that the committee rise shall be in order unless that motion is offered by the manager of the bill.

No amendment shall be in order except any Member if supported by 49 other Members, a quorum being present, may offer an amendment striking the reference number or reference numbers of a cancellation or cancellations from the disapproval bill. This process allows Members the opportunity to narrow the focus of the disapproval bill striking references to cancellations they wish to overturn. A vote in favor of the disapproval bill is a vote to spend the money the President sought to cancel. A vote against the disapproval bill is a vote to agree with the President to cancel the spending.

No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. At the conclusion of consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without any intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

All appeals of decisions of the Chair relating to the application of the rules of the House of Representatives to this procedure for consideration of the disapproval bill shall be decided without debate.

It shall be in order to consider only one disapproval bill pertaining to each special message under these expedited messages except for consideration of a similar Senate bill. However, if the House has already rejected a disapproval bill with respect to the same special message as that to which the Senate bill refers, it shall not be in order to consider that bill.

In the event of disagreement between the two Houses over the content of a disapproval bill passed by both Houses, conferees should be promptly appointed and a conference on the disapproval bill promptly convened.

Upon conclusion of such a committee of conference it shall be in order to consider the report of such a conference provided such report has been available to the House for 1 calendar day excluding Saturdays, Sundays, or legal holidays, unless the House is in session on such a day, and the accompanying statement has been filed in the House.

Debate in the House of Representatives on the conference report and any amendments in disagreement on any disapproval bill shall be limited to not more than 1 hour equally divided and controlled by a proponent and an opponent. A motion to further limit debate shall not be debatable. A motion to recommit the conference report shall not be in order and it shall not be in order to reconsider the vote by which the conference report is agreed to or disagreed to.

Mr. SOLOMON. Mr. Speaker, in closing I just would like to point out that President Ronald Reagan closed his autobiography entitled Ronald Reagan In American Life with these following paragraphs, which I cited in my 1 minute earlier today. He said:

"And yet, as I reflected on what we had accomplished, I had a sense of incompleteness, that there was still work to be done. We need a constitutional amendment to require a balanced budget," said Ronald Reagan, "and the President needs a line-item veto to cut out unnecessary spending."

Come over here and give Ronald Reagan another birthday present. Let us pass this line-item veto. Give it to the President who has guaranteed, "I will sign it."

Come over here and vote for it.

Mr. DINGELL. Mr. Speaker, I rise in opposition to this rule.

We have just been informed that this closed rule self-executes into this debt limit bill a completely unrelated Senate-passed bill that will promote fraud by rogue operators posing as small businesses. This bill has not been reviewed by the House committees of jurisdiction, and the SEC strongly opposes it as drafted.

While I strongly support initiatives to aid small business development, this legislation includes provisions that gives preferential treatment to small businesses that engage in securities fraud. One section would require the SEC to adopt a program to reduce, or in some circumstances to waive, civil penalties for violations of statutes or rules by small entities. This would have the obvious effect of encouraging rogues and knaves to conduct unlawful activities through small-business shells in order to get off with a slap on the wrist or a free fraud. Mr. Speaker, this is outrageously bad public policy.

I ask unanimous consent to include in the RECORD a copy of a letter from the Chairman of the SEC outlining the problems with the small business bill.

I urge my colleagues to defeat this rule.

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, March 27, 1996.

Hon. JOHN D. DINGELL,
House of Representatives, Committee on Commerce, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN DINGELL: I am writing to express the views of the Securities and Exchange Commission ("SEC" or "Commission") regarding S. 942, the "Small Business Regulatory Enforcement Fairness Act of 1996." S. 942 recently passed the Senate and we understand that it may soon be considered by the House. Although the Commission is very supportive of fostering small business endeavors, it has serious concerns that the bill could have a negative impact on the Commission's enforcement program. The Commission's principal concerns are as follows:

The Commission is concerned about the provisions in S. 942 that suggest that preferential treatment should be afforded to small businesses that engage in violative conduct. Fraud is by no means confined to large entities: some of the most egregious securities frauds in recent years (*e.g.*, involving penny stocks, prime bank notes, and wireless cable) have been perpetrated by shell companies and other entities that could qualify as "small entities" under S. 942. In fact, nearly three-quarters of the firms in the securities industry could be considered "small entities." As a general matter, the Commission believes that rules involving market integrity should apply and be enforced equally as to all firms, large as well as small.

Another troubling provision in S. 942 would shift attorneys fees and other expenses to the Commission, even in cases where the Commission prevails in court, but where it fails to obtain the *full* relief it has sought. In order to protect investor funds from fraud and abuse, the SEC often must act with swift, decisive enforcement action against fraud or other misconduct. The requirements of S. 942 could serve to hamper the Commission's enforcement efforts as it seeks penalties or other appropriate relief from wrongdoers.

The Commission's enforcement program is well-recognized for its fairness. As a general practice, potential defendants are given the opportunity through "Wells" submissions to directly address the merits of proposed SEC enforcement actions before they are instituted by the Commission. In addition, pursuant to The Securities Enforcement Remedies and Penny Stock Reform Act of 1990, Congress already requires the Commission to weigh various factors before seeking or imposing civil penalties. These include mitigating factors—such as the ability of the respondent to pay a penalty as well as its ability to continue in business. The Commission is concerned, however, that the imposition of S. 942's additional requirements could "tilt" the enforcement balance in favor of small firms, regardless of the damage that may be done to public investors.

The Commission has a record on small business issues that is second to none. In recent years, the Commission has created a new, simpler registration and disclosure regime for small businesses that seek to raise capital in the securities markets. It also has sought to expand the category of small businesses that are exempt from the registration and full disclosure requirements of the Exchange Act. Most recently, the Commission's internal Task Force on Disclosure Simplification released a report recommending the elimination of numerous SEC regulations and forms, and proposing a variety of additional steps to ease the capital formation process for small businesses.

The Commission recognizes that still more can be done to reduce the regulatory burdens of small business, and we are committed to continuing our efforts in this area. However, while it is possible to streamline disclosure requirements for small business issuers without impairing market fairness, there is much less room to dilute or alter the regulatory and enforcement framework that applies to market professionals who handle investors' retirement funds and savings. In applying and enforcing rules relating to market integrity, the Commission believes that investor protection must come first.

The attached staff analysis discusses the issues raised by S. 942 in greater detail. We believe that the Commission's concerns can be easily met through appropriate exemptive provisions for the SEC. We ask your assistance in raising these issues on behalf of the Commission when S. 942 is considered by the House.

Sincerely,

ARTHUR LEVITT,
Chairman.

Attachment.

STAFF ANALYSIS OF EFFECTS OF S. 942 ON SECURITIES AND EXCHANGE COMMISSION

The Securities and Exchange Commission ("SEC" or "Commission") has traditionally supported efforts to facilitate the capital formation process for small business. However, SEC staff is concerned that S. 942's proposals for small business regulatory reform sweep too broadly—that the bill could potentially impair regulatory and enforcement efforts that are crucial to the integrity of the securities markets, while imposing significant new costs upon the Commission.[1] This analysis focuses on parts of the bill that the Commission staff believes are the most troublesome.

SMALL BUSINESS ENFORCEMENT VARIANCE

Section 202 of S. 942 would require each agency to adopt a policy or program "to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties" for violations of statutes or rules by small entities. This section appears to be premised on the assumption that violations by medium-sized or large businesses should be penalized, but that violations by small businesses should be tolerated. This approach does not seem appropriate for the regulation of the securities markets, which depend on the exercise of professional judgment and self-vigilance by *all* market participants, regardless of size.[2]

As a threshold matter, it is important to recognize that serious fraud is not confined to large entities: some of the most egregious frauds in recent years (involving penny stocks, prime bank notes, and wireless cable) have involved firms that could qualify as "small entities" under S. 942. In addition, this enforcement philosophy would also be applied to non-scienter based securities violations that are equally critical to the integrity of the securities market, for example, broker-dealer capital requirements. Notably, in crafting rules such as the capital requirements, the Commission already considers the size and the nature of a broker-dealer's business; if a firm violates the requirements applicable to them, there is no reason to consider these matters in the enforcement context.

This provision already exempts matter relating to environmental health and safety; on additional exemption relating to securities violations would appear equally tenable.

In any event, the language of the general requirement of Section 202 suggests that the reduction of civil penalties for violations by small businesses in mandatory; at a minimum, this language should be changed to clarify that the agency has discretion to consider "appropriate circumstances" in determining whether to reduce civil penalties.

AMENDMENTS TO EQUAL ACCESS TO JUSTICE ACT

S. 942 would increase the ability of all qualifying litigants (and not just small businesses) to recover fees from agencies under the Equal Access to Justice Act ("EAJA"). Currently, EAJA permits litigants to recover attorney's fees and other expenses from an agency if the agency's position was not "substantially justified." S. 942 would expand the opportunities for such recovery by permitting the award of fees and expenses if the judgment or decision of the court or adjudicative officer is "disproportionately less favorable" to the SEC than the relief the SEC requested. In practical terms, this means that the SEC could "lose, even if it wins" in a lawsuit or other enforcement proceeding.

The changes to EAJA made by S. 942 would significantly increase the exposure of the Commission to fee awards, in at least two ways:

First, the SEC might have to pay EAJA fees even in cases that it wins, in the event that it does not obtain the full relief it initially sought. For example, in enforcement actions, the Commission frequently seeks to obtain an injunction against securities law violations. While the court could find that a violation has occurred, it might not award an injunction for other reasons—for example, if the defendant is too old, working in a different type of business, or has expressed remorse for the violation. In such situations, the court's final judgment may be "disproportionately less favorable" to the Commission than the relief requested for reasons wholly unrelated to the merits of the Commission's case.

Second, the SEC would be vulnerable to fee awards in cases where it loses central issues of fact or law, regardless of the reasonableness of the Commission's position. The Commission faces some litigation risk every time it brings an enforcement action. Enforcement cases for insider trading fraud, for example, generally require the Commission to piece together documentary evidence such as telephone records and securities trading patterns. If a jury or judge disagrees with the Commission's interpretation of the facts and exonerates a defendant, the Commission could be liable for EAJA fees, even if the Commission had reasonably interpreted the available evidence and sought relief that it believed was substantially justified by such evidence.

Similarly, adverse resolution of legal issues could subject the Commission to EAJA fee awards. Even the most settled interpretations of the securities laws are subject to dissenting approaches of judicial or adjudicatory decisionmakers. In a recent case, for example, the U.S. Court of Appeals for the Fourth Circuit refused to follow several other circuit courts that had long recognized a claim for fraudulent insider trading based on the misappropriation of material nonpublic information. *United States* v. *Bryan*, 58 F.3d 933 (4th Cir. 1995). In such situations of novel or unanticipated legal decisions, the adverse resolution of a central issue can remove any grounds for relief and subject the Commission to fee awards.[3]

Finally, the Commission often must act with swift, decisive enforcement action against fraud, particularly in cases where money may be moved quickly outside of the jurisdiction of a U.S. Court. The requirements of S. 942 would hamper the Commission's enforcement efforts by requiring it to evaluate the risks to its own funds before seeing penalties or other appropriate relief from wrongdoers.

Because the Commission could be liable for EAJA awards even when it prevails in a lawsuit, or when its position is reasonable,[4] the Commission opposes the EAJA provisions of S. 942.[5]

AMENDMENTS TO REGULATORY FLEXIBILITY ACT

S. 942 would amend the Regulatory Flexibility Act ("Reg. Flex. Act") to permit court challenge of the Commission's final regulatory flexibility analyses. Enacted in 1980, the Reg. Flex. Act currently requires the Commission to prepare regulatory flexibility analyses evaluating the economic impact of proposed SEC rules and rule changes on small businesses. The SEC takes seriously the Reg. Flex. Act requirements, and faithfully prepares the requisite analyses for every rulemaking action it takes. Nevertheless, the Act requires the Commission to predict future events—that is, the effects that new and untested rules will have on small businesses operating in ever-changing markets. Such predictions are intrinsically imprecise; the Commission cannot predict market forces and behavior in advance.

The Reg. Flex. Act amendments in S. 942 would enable small businesses to challenge in court the SEC's compliance with the Reg. Flex. Act. A small business might try to argue, for example, that the SEC did not adequately foresee the impact that a rule change would have on small businesses. As a result of such a challenge, a court could order the SEC to defer enforcement of the rule against small entities until the court completed its review of the challenge, unless the court were to find "good cause" for continuing the enforcement of the rule.

The amendments contained in S. 942 would thus make it possible for a party who opposes any Commission rule proposal to use the Reg. Flex. analysis (regardless of the care and effort taken in its preparation) as a pretext for litigation. Conceivably, even rules that reduce burdens or provide exemptions for businesses—large or small—could be subject to attack under the Reg. Flex. Act amendments on the grounds that the Commission did not foresee their potential impact on small businesses, even where the impact was shaped in large part by market shifts or economic forces. In any event, the Commission believes that, as a general matter, rules regulating market participants and relating to market integrity issues should apply equally to all firms, large as well as small.

CONGRESSIONAL REVIEW OF COMMISSION RULEMAKING

Title V of S. 942 permits Congress to override an agency's adoption of any rules. This legislative veto authority does not extend, however, to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee. Because the Commission's rules directly concern the integrity and efficiency of the securities markets, and are often closely tied to the stability of such markets, we believe that it is appropriate to accord the same exemption for SEC rules as is accorded to the Federal Reserve and the FOMC.[6]

FOOTNOTES

[1] Senator Bond has made notable efforts to narrow the scope of S. 942. However, the bill passed by the Senate continues to pose significant issues with respect to the Commission's enforcement and regulatory programs. This analysis outlines those concerns for the Commerce Committee.

[2] In fact, of the approximately 7600 broker-dealers registered with the Commission, over 5300 are small entities.

[3] Although the proposed EAJA amendments provide an exception from fee awards if the "party or small entity has committed a willful violation of law or otherwise acted in bad faith, or special circumstances made an award of attorney's fees unjust," a court or administrative law judge probably could not make a finding of "willful violation" or bad faith action by the defendant if it determined that, even in a close case, its interpretation of the law or the facts did not permit the relief requested by the Commission.

[4] Under existing law, EAJA fees have not been imposed on the SEC when the court has found that there was a reasonable basis for the Commission's action. *See, e.g., SEC v. Switzer*, 590 F. Supp. 756 (W.D. Okla. 1984) (refusing to award EAJA fees, despite finding no securities law violation, because of reasonable basis for Commission's enforcement action).

[5] Even though the Commission by law forwards the civil penalties it obtains in enforcement actions to the U.S. Treasury, the Commission must pay EAJA fees directly out of its annual appropriation. Amendments to EAJA under S. 942 would further increase the burden on the Commission by increasing the fee rate for attorney's fees from $75 per hour to $125 per hour.

[6] Similar concerns arise regarding H.R. 994, a separate regulatory reform bill that is currently under consideration in the House. That bill would require the Commission to engage in a lengthy, costly and onerous review of all of its rules (even those involving market integrity), despite the substantial efforts the Commission has made in the past to tailor its rules to the changing conditions of the securities industry. A similar exception in H.R. 994 for the

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Footnotes at end of article.

rules of the federal banking agencies should be extended to include the Commission.

Mr. SOLOMON. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the "ayes" appeared to have it.

Mr. BEILENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution, as amended.

The vote was taken by electronic device and there were—yeas 232, nays 180, not voting 19, as follows:

[Roll No. 97]

YEAS—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart

Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton

Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Neumann
Ney
Norwood
Nussle
Oxley

Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton

Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)

Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—180

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Bonior
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt

Gibbons
Gonzalez
Gordon
Green
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver

Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—19

Blute
Borski
Bryant (TX)
Chapman
Collins (IL)

Fields (LA)
Filner
Forbes
Fowler
Gutierrez

Jefferson
Kaptur
Kennedy (RI)

Lazio
Nethercutt

Sisisky
Smith (WA)

Stokes
Weldon (PA)

□ 1214

The Clerk announced the following pairs:

On this vote:

Mrs. Fowler for, with Mrs. Collins of Illinois against.

Mr. Lazio of New York for, with Mr. Stokes against.

Mr. GIBBONS and Mr. DEUTSCH changed their vote from "yea" to "nay."

Mr. SHAYS changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BEILENSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 232, noes 177, not voting 22, as follows:

[Roll No. 98]

AYES—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Collins (GA)
Combest
Cooley
Cox
Crane

Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert

Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh

McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—177

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Bonior
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Clay
Clayton
Clyburn
Coburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—22

Blute
Borski
Bryant (TX)
Chapman
Collins (IL)
Dickey
Fields (LA)
Filner
Fowler
Gejdenson
Gutierrez
Hayes
Kaptur
Kennedy (RI)
Lazio
Longley
Nethercutt
Roth
Smith (WA)
Stokes
Tauzin
Weldon (PA)

□ 1224

The Clerk announced the following pairs:

On this vote:

Mrs. Fowler for, with Mrs. Collins of Illinois against.

Mr. Lazio of New York for, with Mr. Stokes against.

Mr. BARCIA changed his vote from "aye" to "no."

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BLUTE. Mr. Speaker, on rollcall No. 98, I was attending a White House bill-signing ceremony on the Senior Citizens Housing Safety Act. Had I been present, I would have voted "yes."

(For text of conference report deemed adopted pursuant to Resolution 391, see proceedings of the House of March 21, 1996, at page 6016.)

CONTRACT WITH AMERICA ADVANCEMENT ACT OF 1996

Mr. ARCHER. Mr. Speaker, pursuant to House Resolution 391, I call up the bill—H.R. 3136—to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line-Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to House Resolution 391, the amendments printed in House Report 104–500 are adopted.

The text of H.R. 3136, as amended pursuant to House Resolution 391, is as follows:

H.R. 3136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Contract with America Advancement Act of 1996".

TITLE I—SOCIAL SECURITY EARNINGS LIMITATION AMENDMENTS

SEC. 101. SHORT TITLE OF TITLE.

This title may be cited as the "Senior Citizens' Right to Work Act of 1996".

SEC. 102. INCREASES IN MONTHLY EXEMPT AMOUNT FOR PURPOSES OF THE SOCIAL SECURITY EARNINGS LIMIT.

(a) INCREASE IN MONTHLY EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. 403(f)(8)(D)) is amended to read as follows:

"(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be—

"(i) for each month of any taxable year ending after 1995 and before 1997, $1,041.66⅔,

"(ii) for each month of any taxable year ending after 1996 and before 1998, $1,125.00,

"(iii) for each month of any taxable year ending after 1997 and before 1999, $1,208.33⅓,

"(iv) for each month of any taxable year ending after 1998 and before 2000, $1,291.66⅔,

"(v) for each month of any taxable year ending after 1999 and before 2001, $1,416.66⅔,

"(vi) for each month of any taxable year ending after 2000 and before 2002, $2,083.33⅓, and

"(vii) for each month of any taxable year ending after 2001 and before 2003, $2,500.00.".

(b) CONFORMING AMENDMENTS.—

(1) Section 203(f)(8)(B)(ii) of such Act (42 U.S.C. 403(f)(8)(B)(ii)) is amended—

(A) by striking "the taxable year ending after 1993 and before 1995" and inserting "the taxable year ending after 2001 and before 2003 (with respect to individuals described in subparagraph (D)) or the taxable year ending after 1993 and before 1995 (with respect to other individuals)"; and

(B) in subclause (II), by striking "for 1992" and inserting "for 2000 (with respect to individuals described in subparagraph (D)) or 1992 (with respect to other individuals)".

(2) The second sentence of section 223(d)(4)(A) of such Act (42 U.S.C. 423(d)(4)(A)) is amended by striking "the exempt amount under section 203(f)(8) which is applicable to individuals described in subparagraph (D) thereof" and inserting the following: "an amount equal to the exempt amount which would be applicable under section 203(f)(8), to individuals described in subparagraph (D) thereof, if section 102 of the Senior Citizens' Right to Work Act of 1996 had not been enacted".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years ending after 1995.

SEC. 103. CONTINUING DISABILITY REVIEWS.

(a) AUTHORIZATION FOR APPROPRIATIONS FOR CONTINUING DISABILITY REVIEWS.—Section 201(g)(1)(A) of the Social Security Act (42 U.S.C. 401(g)(1)(A)) is amended by adding at the end the following: "Of the amounts authorized to be made available out of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under the preceding sentence, there are hereby authorized to be made available from either or both of such Trust Funds for continuing disability reviews—

"(i) for fiscal year 1996, $260,000,000;

"(ii) for fiscal year 1997, $360,000,000;

"(iii) for fiscal year 1998, $570,000,000;

"(iv) for fiscal year 1999, $720,000,000;

"(v) for fiscal year 2000, $720,000,000;

"(vi) for fiscal year 2001, $720,000,000; and

"(viii) for fiscal year 2002, $720,000,000.

For purposes of this subparagraph, the term 'continuing disability review' means a review conducted pursuant to section 221(i) and a review or disability eligibility redetermination conducted to determine the continuing disability and eligibility of a recipient of benefits under the supplemental security income program under title XVI, including any review or redetermination conducted pursuant to section 207 or 208 of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103-296).".

(b) ADJUSTMENT TO DISCRETIONARY SPENDING LIMITS.—Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding the following new subparagraph:

"(H) CONTINUING DISABILITY REVIEWS.—(i) Whenever a bill or joint resolution making appropriations for fiscal year 1996, 1997, 1998, 1999, 2000, 2001, or 2002 is enacted that specifies an amount for continuing disability reviews under the heading 'Limitation on Administrative Expenses' for the Social Security Administration, the adjustments for that fiscal year shall be the additional new budget authority provided in that Act for such reviews for that fiscal year and the additional outlays flowing from such amounts, but shall not exceed—

"(I) for fiscal year 1996, $15,000,000 in additional new budget authority and $60,000,000 in additional outlays;

"(II) for fiscal year 1997, $25,000,000 in additional new budget authority and $160,000,000 in additional outlays;

"(III) for fiscal year 1998, $145,000,000 in additional new budget authority and $370,000,000 in additional outlays;

"(IV) for fiscal year 1999, $280,000,000 in additional new budget authority and $520,000,000 in additional outlays;

"(V) for fiscal year 2000, $317,500,000 in additional new budget authority and $520,000,000 in additional outlays;

"(VI) for fiscal year 2001, $317,500,000 in additional new budget authority and $520,000,000 in additional outlays; and

"(VII) for fiscal year 2002, $317,500,000 in additional new budget authority and $520,000,000 in additional outlays.

"(ii) As used in this subparagraph—

"(I) the term 'continuing disability reviews' has the meaning given such term by section 201(g)(1)(A) of the Social Security Act;

"(II) the term 'additional new budget authority' means new budget authority provided for a fiscal year, in excess of $100,000,000, for the Supplemental Security Income program and specified to pay for the costs of continuing disability reviews attributable to the Supplemental Security Income program; and

"(III) the term 'additional outlays' means outlays, in excess of $200,000,000 in a fiscal year, flowing from the amounts specified for continuing disability reviews under the heading 'Limitation on Administrative Expenses' for the Social Security Administration, including outlays in that fiscal year flowing from amounts specified in Acts enacted for prior fiscal years (but not before 1996).".

(c) BUDGET ALLOCATION ADJUSTMENT BY BUDGET COMMITTEE.—Section 606 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding the following new subsection:

"(e) CONTINUING DISABILITY REVIEW ADJUSTMENT.—

"(1) IN GENERAL.—(A) For fiscal year 1996, upon the enactment of the Contract with America Advancement Act of 1996, the Chairmen of the Committees on the Budget of the Senate and House of Representatives shall make the adjustments referred to in subparagraph (C) to reflect $15,000,000 in additional new budget authority and $60,000,000 in additional outlays for continuing disability reviews (as defined in section 201(g)(1)(A) of the Social Security Act).

"(B) When the Committee on Appropriations reports an appropriations measure for fiscal year 1997, 1998, 1999, 2000, 2001, or 2002 that specifies an amount for continuing disability reviews under the heading 'Limitation on Administrative Expenses' for the Social Security Administration, or when a conference committee submits a conference report thereon, the Chairman of the Committee on the Budget of the Senate or House of Representatives (whichever is appropriate) shall make the adjustments referred to in subparagraph (C) to reflect the additional new budget authority for continuing disability reviews provided in that measure or conference report and the additional outlays flowing from such amounts for continuing disability reviews.

"(C) The adjustments referred to in this subparagraph consist of adjustments to—

"(i) the discretionary spending limits for that fiscal year as set forth in the most recently adopted concurrent resolution on the budget;

"(ii) the allocations to the Committees on Appropriations of the Senate and the House of Representatives for that fiscal year under sections 302(a) and 602(a); and

"(iii) the appropriate budgetary aggregates for that fiscal year in the most recently adopted concurrent resolution on the budget.

"(D) The adjustments under this paragraph for any fiscal year shall not exceed the levels set forth in section 251(b)(2)(H) of the Balanced Budget and Emergency Deficit Control Act of 1985 for that fiscal year. The adjusted discretionary spending limits, allocations, and aggregates under this paragraph shall be considered the appropriate limits, allocations, and aggregates for purposes of congressional enforcement of this Act and concurrent budget resolutions under this Act.

"(2) REPORTING REVISED SUBALLOCATIONS.—Following the adjustments made under paragraph (1), the Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised suballocations pursuant to sections 302(b) and 602(b) of this Act to carry out this subsection.

"(3) DEFINITIONS.—As used in this section, the terms 'continuing disability reviews', 'additional new budget authority', and 'additional outlays' shall have the same meanings as provided in section 251(b)(2)(H)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(d) USE OF FUNDS AND REPORTS.—

(1) IN GENERAL.—The Commissioner of Social Security shall ensure that funds made available for continuing disability reviews (as defined in section 201(g)(1)(A) of the Social Security Act) are used, to the greatest extent practicable, to maximize the combined savings in the old-age, survivors, and disability insurance, supplemental security income, medicare, and medicaid programs.

(2) REPORT.—The Commissioner of Social Security shall provide annually (at the conclusion of each of the fiscal years 1996 through 2002) to the Congress a report on continuing disability reviews which includes—

(A) the amount spent on continuing disability reviews in the fiscal year covered by the report, and the number of reviews conducted, by category of review;

(B) the results of the continuing disability reviews in terms of cessations of benefits or determinations of continuing eligibility, by program; and

(C) the estimated savings over the short-, medium-, and long-term to the old-age, survivors, and disability insurance, supplemental security income, medicare, and medicaid programs from continuing disability reviews which result in cessations of benefits and the estimated present value of such savings.

(e) OFFICE OF CHIEF ACTUARY IN THE SOCIAL SECURITY ADMINISTRATION.—

(1) IN GENERAL.—Section 702 of the Social Security Act (42 U.S.C. 902) is amended—

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(B) by inserting after subsection (b) the following new subsection:

"Chief Actuary

"(c)(1) There shall be in the Administration a Chief Actuary, who shall be appointed by, and in direct line of authority to, the Commissioner. The Chief Actuary shall be appointed from individuals who have demonstrated, by their education and experience, superior expertise in the actuarial sciences. The Chief Actuary shall serve as the chief actuarial officer of the Administration, and shall exercise such duties as are appropriate for the office of the Chief Actuary and in accordance with professional standards of actuarial independence. The Chief Actuary may be removed only for cause.

"(2) The Chief Actuary shall be compensated at the highest rate of basic pay for the Senior Executive Service under section 5382(b) of title 5, United States Code.".

(2) EFFECTIVE DATE OF SUBSECTION.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SEC. 104. ENTITLEMENT OF STEPCHILDREN TO CHILD'S INSURANCE BENEFITS BASED ON ACTUAL DEPENDENCY ON STEPPARENT SUPPORT.

(a) REQUIREMENT OF ACTUAL DEPENDENCY FOR FUTURE ENTITLEMENTS.—

(1) IN GENERAL.—Section 202(d)(4) of the Social Security Act (42 U.S.C. 402(d)(4)) is amended by striking "was living with or".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to benefits of individuals who become entitled to such benefits for months after the third month following the month in which this Act is enacted.

(b) TERMINATION OF CHILD'S INSURANCE BENEFITS BASED ON WORK RECORD OF STEPPARENT UPON NATURAL PARENT'S DIVORCE FROM STEPPARENT.—

(1) IN GENERAL.—Section 202(d)(1) of the Social Security Act (42 U.S.C. 402(d)(1)) is amended—

(A) by striking "or" at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting "; or"; and

(C) by inserting after subparagraph (G) the following new subparagraph:

"(H) if the benefits under this subsection are based on the wages and self-employment income of a stepparent who is subsequently divorced from such child's natural parent, the month after the month in which such divorce becomes final.".

(2) NOTIFICATION.—Section 202(d) of such Act (42 U.S.C. 402(d)) is amended by adding the following new paragraph:

"(10) For purposes of paragraph (1)(H)—

"(A) each stepparent shall notify the Commissioner of Social Security of any divorce upon such divorce becoming final; and

"(B) the Commissioner shall annually notify any stepparent of the rule for termination described in paragraph (1)(H) and of the requirement described in subparagraph (A).".

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall apply with respect to final divorces occurring after the third month following the month in which this Act is enacted.

(B) The amendment made by paragraph (2) shall take effect on the date of the enactment of this Act.

SEC. 105. DENIAL OF DISABILITY BENEFITS TO DRUG ADDICTS AND ALCOHOLICS.

(a) AMENDMENTS RELATING TO TITLE II DISABILITY BENEFITS.—

(1) IN GENERAL.—Section 223(d)(2) of the Social Security Act (42 U.S.C. 423(d)(2)) is amended by adding at the end the following:

"(C) An individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.".

(2) REPRESENTATIVE PAYEE REQUIREMENTS.—

(A) Section 205(j)(1)(B) of such Act (42 U.S.C. 405(j)(1)(B)) is amended to read as follows:

"(B) In the case of an individual entitled to benefits based on disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) and the individual is incapable of managing such benefits.".

(B) Section 205(j)(2)(C)(v) of such Act (42 U.S.C. 405(j)(2)(C)(v)) is amended by striking "entitled to benefits" and all that follows through "under a disability" and inserting "described in paragraph (1)(B)".

(C) Section 205(j)(2)(D)(ii)(II) of such Act (42 U.S.C. 405(j)(2)(D)(ii)(II)) is amended by striking all that follows "15 years, or" and inserting "described in paragraph (1)(B).".

(D) Section 205(j)(4)(A)(i)(II) of such Act (42 U.S.C. 405(j)(4)(A)(ii)(II)) is amended by striking "entitled to benefits" and all that follows through "under a disability" and inserting "described in paragraph (1)(B)".

(3) TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION.—Section 222 of such Act (42 U.S.C. 422) is amended by adding at the end the following new subsection:

"Treatment Referrals for Individuals with an Alcoholism or Drug Addiction Condition

"(e) In the case of any individual whose benefits under this title are paid to a representative payee pursuant to section 205(j)(1)(B), the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x-21 et seq.).".

(4) CONFORMING AMENDMENT.—Subsection (c) of section 225 of such Act (42 U.S.C. 425(c)) is repealed.

(5) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1) and (4) shall apply to any individual who applies for, or whose claim is finally adjudicated by the Commissioner of Social Security with respect to, benefits under title II of the Social Security Act based on disability on or after the date of the enactment of this Act, and, in the case of any individual who has applied for, and whose claim has been finally adjudicated by the Commissioner with respect to, such benefits before such date of enactment, such amendments shall apply only with respect to such benefits for months beginning on or after January 1, 1997.

(B) The amendments made by paragraphs (2) and (3) shall apply with respect to benefits for which applications are filed after the third month following the month in which this Act is enacted.

(C) Within 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify each individual who is entitled to monthly insurance benefits under title II of the Social Security Act based on disability for the month in which this Act is enacted and whose entitlement to such benefits would terminate by reason of the amendments made by this subsection. If such an individual reapplies for benefits under title II of such Act (as amended by this Act) based on disability within 120 days after the date of the enactment of this Act, the Commissioner of Social Security shall, not later than January 1, 1997, complete the entitlement redetermination (including a new medical determination) with respect to such individual pursuant to the procedures of such title.

(b) AMENDMENTS RELATING TO SSI BENEFITS.—

(1) IN GENERAL.—Section 1614(a)(3) of the Social Security Act (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

"(I) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.".

(2) REPRESENTATIVE PAYEE REQUIREMENTS.—

(A) Section 1631(a)(2)(A)(ii)(II) of such Act (42 U.S.C. 1383(a)(2)(A)(ii)(II)) is amended to read as follows:

"(II) In the case of an individual eligible for benefits under this title by reason of disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) and the individual is incapable of managing such benefits.".

(B) Section 1631(a)(2)(B)(vii) of such Act (42 U.S.C. 1383(a)(2)(B)(vii)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(C) Section 1631(a)(2)(B)(ix)(II) of such Act (42 U.S.C. 1383(a)(2)(B)(ix)(II)) is amended by striking all that follows "15 years, or" and inserting "described in subparagraph (A)(ii)(II).".

(D) Section 1631(a)(2)(D)(i)(II) of such Act (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(3) TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION.—Title XVI of such Act (42 U.S.C. 1381 et seq.) is amended by adding at the end the following new section:

"TREATMENT REFERRALS FOR INDIVIDUALS WITH AN ALCOHOLISM OR DRUG ADDICTION CONDITION

"SEC. 1636. In the case of any individual whose benefits under this title are paid to a representative payee pursuant to section 1631(a)(2)(A)(ii)(II), the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x-21 et seq.).".

(4) CONFORMING AMENDMENTS.—

(A) Section 1611(e) of such Act (42 U.S.C. 1382(e)) is amended by striking paragraph (3).

(B) Section 1634 of such Act (42 U.S.C. 1383c) is amended by striking subsection (e).

(5) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1) and (4) shall apply to any individual who applies for, or whose claim is finally adjudicated by the Commissioner of Social Security with respect to, supplemental security income benefits under title XVI of the Social Security Act based on disability on or after the date of the enactment of this Act, and, in the case of any individual who has applied for, and whose claim has been finally adjudicated by the Commissioner with respect to, such benefits before such date of enactment, such amendments shall apply only with respect to such benefits for months beginning on or after January 1, 1997.

(B) The amendments made by paragraphs (2) and (3) shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act for which applications are filed after the third month following the month in which this Act is enacted.

(C) Within 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify each individual who is eligible for supplemental security income benefits under title XVI of the Social Security Act for the month in which this Act is enacted and whose eligibility for such benefits would terminate by reason of the amendments made by this subsection. If such an individual reapplies for supplemental security income benefits under title XVI of such Act (as amended by this Act) within 120 days after the date of the enactment of this Act, the Commissioner of Social Security shall, not later than January 1, 1997, complete the eligibility redetermination (including a new medical determination) with respect to such individual pursuant to the procedures of such title.

(D) For purposes of this paragraph, the phrase "supplemental security income benefits under title XVI of the Social Security Act" includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.

(c) CONFORMING AMENDMENT.—Section 201(c) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is repealed.

(d) SUPPLEMENTAL FUNDING FOR ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS.—

(1) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are hereby appropriated to supplement State and Tribal programs funded under section 1933 of the Public Health Service Act (42 U.S.C. 300x-33), $50,000,000 for each of the fiscal years 1997 and 1998.

(2) ADDITIONAL FUNDS.—Amounts appropriated under paragraph (1) shall be in addition to any funds otherwise appropriated for allotments under section 1933 of the Public Health Service Act (42 U.S.C. 300x-33) and shall be allocated pursuant to such section 1933.

(3) USE OF FUNDS.—A State or Tribal government receiving an allotment under this subsection shall consider as priorities, for purposes of expending funds allotted under this subsection, activities relating to the treatment of the abuse of alcohol and other drugs.

SEC. 106. PILOT STUDY OF EFFICACY OF PROVIDING INDIVIDUALIZED INFORMATION TO RECIPIENTS OF OLD-AGE AND SURVIVORS INSURANCE BENEFITS.

(a) IN GENERAL.—During a 2-year period beginning as soon as practicable in 1996, the

Commissioner of Social Security shall conduct a pilot study of the efficacy of providing certain individualized information to recipients of monthly insurance benefits under section 202 of the Social Security Act, designed to promote better understanding of their contributions and benefits under the social security system. The study shall involve solely beneficiaries whose entitlement to such benefits first occurred in or after 1984 and who have remained entitled to such benefits for a continuous period of not less than 5 years. The number of such recipients involved in the study shall be of sufficient size to generate a statistically valid sample for purposes of the study, but shall not exceed 600,000 beneficiaries.

(b) ANNUALIZED STATEMENTS.—During the course of the study, the Commissioner shall provide to each of the beneficiaries involved in the study one annualized statement, setting forth the following information:

(1) an estimate of the aggregate wages and self-employment income earned by the individual on whose wages and self-employment income the benefit is based, as shown on the records of the Commissioner as of the end of the last calendar year ending prior to the beneficiary's first month of entitlement;

(2) an estimate of the aggregate of the employee and self-employment contributions, and the aggregate of the employer contributions (separately identified), made with respect to the wages and self-employment income on which the benefit is based, as shown on the records of the Commissioner as of the end of the calendar year preceding the beneficiary's first month of entitlement; and

(3) an estimate of the total amount paid as benefits under section 202 of the Social Security Act based on such wages and self-employment income, as shown on the records of the Commissioner as of the end of the last calendar year preceding the issuance of the statement for which complete information is available.

(c) INCLUSION WITH MATTER OTHERWISE DISTRIBUTED TO BENEFICIARIES.—The Commissioner shall ensure that reports provided pursuant to this section are, to the maximum extent practicable, included with other reports currently provided to beneficiaries on an annual basis.

(d) REPORT TO THE CONGRESS.—The Commissioner shall report to each House of the Congress regarding the results of the pilot study conducted pursuant to this section not later than 60 days after the completion of such study.

SEC. 107. PROTECTION OF SOCIAL SECURITY AND MEDICARE TRUST FUNDS.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"PROTECTION OF SOCIAL SECURITY AND MEDICARE TRUST FUNDS

"SEC. 1145. (a) IN GENERAL.—No officer or employee of the United States shall—

"(1) delay the deposit of any amount into (or delay the credit of any amount to) any Federal fund or otherwise vary from the normal terms, procedures, or timing for making such deposits or credits,

"(2) refrain from the investment in public debt obligations of amounts in any Federal fund, or

"(3) redeem prior to maturity amounts in any Federal fund which are invested in public debt obligations for any purpose other than the payment of benefits or administrative expenses from such Federal fund.

"(b) PUBLIC DEBT OBLIGATION.—For purposes of this section, the term 'public debt obligation' means any obligation subject to the public debt limit established under section 3101 of title 31, United States Code.

"(c) FEDERAL FUND.—For purposes of this section, the term 'Federal fund' means—

"(1) the Federal Old-Age and Survivors Insurance Trust Fund;

"(2) the Federal Disability Insurance Trust Fund;

"(3) the Federal Hospital Insurance Trust Fund; and

"(4) the Federal Supplementary Medical Insurance Trust Fund.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 108. PROFESSIONAL STAFF FOR THE SOCIAL SECURITY ADVISORY BOARD.

Section 703(i) of the Social Security Act (42 U.S.C. 903(i)) is amended in the first sentence by inserting after "Staff Director" the following: ", and three professional staff members one of whom shall be appointed from among individuals approved by the members of the Board who are not members of the political party represented by the majority of the Board,".

TITLE II—LINE ITEM VETO

SEC. 201. SHORT TITLE.

This title may be cited as the "Line Item Veto Act".

SEC. 202. LINE ITEM VETO AUTHORITY.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) is amended by adding at the end the following new part:

"PART C—LINE ITEM VETO

"LINE ITEM VETO AUTHORITY

"SEC. 1021. (a) IN GENERAL.—Notwithstanding the provisions of parts A and B, and subject to the provisions of this part, the President may, with respect to any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States, cancel in whole—

"(1) any dollar amount of discretionary budget authority;

"(2) any item of new direct spending; or

"(3) any limited tax benefit;

if the President—

"(A) determines that such cancellation will—

"(i) reduce the Federal budget deficit;

"(ii) not impair any essential Government functions; and

"(iii) not harm the national interest; and

"(B) notifies the Congress of such cancellation by transmitting a special message, in accordance with section 1022, within five calendar days (excluding Sundays) after the enactment of the law providing the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit that was canceled.

"(b) IDENTIFICATION OF CANCELLATIONS.—In identifying dollar amounts of discretionary budget authority, items of new direct spending, and limited tax benefits for cancellation, the President shall—

"(1) consider the legislative history, construction, and purposes of the law which contains such dollar amounts, items, or benefits;

"(2) consider any specific sources of information referenced in such law or, in the absence of specific sources of information, the best available information; and

"(3) use the definitions contained in section 1026 in applying this part to the specific provisions of such law.

"(c) EXCEPTION FOR DISAPPROVAL BILLS.—The authority granted by subsection (a) shall not apply to any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit contained in any law that is a disapproval bill as defined in section 1026.

"SPECIAL MESSAGES

"SEC. 1022. (a) IN GENERAL.—For each law from which a cancellation has been made under this part, the President shall transmit a single special message to the Congress.

"(b) CONTENTS.—

"(1) The special message shall specify—

"(A) the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit which has been canceled, and provide a corresponding reference number for each cancellation;

"(B) the determinations required under section 1021(a), together with any supporting material;

"(C) the reasons for the cancellation;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the cancellation;

"(E) all facts, circumstances and considerations relating to or bearing upon the cancellation, and to the maximum extent practicable, the estimated effect of the cancellation upon the objects, purposes and programs for which the canceled authority was provided; and

"(F) include the adjustments that will be made pursuant to section 1024 to the discretionary spending limits under section 601 and an evaluation of the effects of those adjustments upon the sequestration procedures of section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(2) In the case of a cancellation of any dollar amount of discretionary budget authority or item of new direct spending, the special message shall also include, if applicable-

"(A) any account, department, or establishment of the Government for which such budget authority was to have been available for obligation and the specific project or governmental functions involved;

"(B) the specific States and congressional districts, if any, affected by the cancellation; and

"(C) the total number of cancellations imposed during the current session of Congress on States and congressional districts identified in subparagraph (B).

"(c) TRANSMISSION OF SPECIAL MESSAGES TO HOUSE AND SENATE.—

"(1) The President shall transmit to the Congress each special message under this part within five calendar days (excluding Sundays) after enactment of the law to which the cancellation applies. Each special message shall be transmitted to the House of Representatives and the Senate on the same calendar day. Such special message shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session.

"(2) Any special message transmitted under this part shall be printed in the first issue of the Federal Register published after such transmittal.

"CANCELLATION EFFECTIVE UNLESS DISAPPROVED

"SEC. 1023. (a) IN GENERAL.—The cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect upon receipt in the House of Representatives and the Senate of the special message notifying the Congress of the cancellation. If a disapproval bill for such special message is enacted into law, then all cancellations disapproved in that law shall be null and void and any such dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall be effective as of the original date provided in the law to which the cancellation applied.

"(b) COMMENSURATE REDUCTIONS IN DISCRETIONARY BUDGET AUTHORITY.—Upon the cancellation of a dollar amount of discretionary budget authority under subsection (a), the total appropriation for each relevant account of which that dollar amount is a part shall be simultaneously reduced by the dollar amount of that cancellation.

"DEFICIT REDUCTION

"SEC. 1024. (a) IN GENERAL.—

"(1) DISCRETIONARY BUDGET AUTHORITY.—OMB shall, for each dollar amount of discretionary budget authority and for each item of new direct spending canceled from an appropriation law under section 1021(a)—

"(A) reflect the reduction that results from such cancellation in the estimates required by section 251(a)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 in accordance with that Act, including an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear; and

"(B) include a reduction to the discretionary spending limits for budget authority and outlays in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985 for each applicable fiscal year set forth in section 601(a)(2) by amounts equal to the amounts for each fiscal year estimated pursuant to subparagraph (A).

"(2) DIRECT SPENDING AND LIMITED TAX BENEFITS.—(A) OMB shall, for each item of new direct spending or limited tax benefit canceled from a law under section 1021(a), estimate the deficit decrease caused by the cancellation of such item or benefit in that law and include such estimate as a separate entry in the report prepared pursuant to section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(B) OMB shall not include any change in the deficit resulting from a cancellation of any item of new direct spending or limited tax benefit, or the enactment of a disapproval bill for any such cancellation, under this part in the estimates and reports required by sections 252(b) and 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(b) ADJUSTMENTS TO SPENDING LIMITS.—After ten calendar days (excluding Sundays) after the expiration of the time period in section 1025(b)(1) for expedited congressional consideration of a disapproval bill for a special message containing a cancellation of discretionary budget authority, OMB shall make the reduction included in subsection (a)(1)(B) as part of the next sequester report required by section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(c) EXCEPTION.—Subsection (b) shall not apply to a cancellation if a disapproval bill or other law that disapproves that cancellation is enacted into law prior to 10 calendar days (excluding Sundays) after the expiration of the time period set forth in section 1025(b)(1).

"(d) CONGRESSIONAL BUDGET OFFICE ESTIMATES.—As soon as practicable after the President makes a cancellation from a law under section 1021(a), the Director of the Congressional Budget Office shall provide the Committees on the Budget of the House of Representatives and the Senate with an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear.

"EXPEDITED CONGRESSIONAL CONSIDERATION OF DISAPPROVAL BILLS

"SEC. 1025. (a) RECEIPT AND REFERRAL OF SPECIAL MESSAGE.—Each special message transmitted under this part shall be referred to the Committee on the Budget and the appropriate committee or committees of the Senate and the Committee on the Budget and the appropriate committee or committees of the House of Representatives. Each such message shall be printed as a document of the House of Representatives.

"(b) TIME PERIOD FOR EXPEDITED PROCEDURES.—

"(1) There shall be a congressional review period of 30 calendar days of session, beginning on the first calendar day of session after the date on which the special message is received in the House of Representatives and the Senate, during which the procedures contained in this section shall apply to both Houses of Congress.

"(2) In the House of Representatives the procedures set forth in this section shall not apply after the end of the period described in paragraph (1).

"(3) If Congress adjourns at the end of a Congress prior to the expiration of the period described in paragraph (1) and a disapproval bill was then pending in either House of Congress or a committee thereof (including a conference committee of the two Houses of Congress), or was pending before the President, a disapproval bill for the same special message may be introduced within the first five calendar days of session of the next Congress and shall be treated as a disapproval bill under this part, and the time period described in paragraph (1) shall commence on the day of introduction of that disapproval bill.

"(c) INTRODUCTION OF DISAPPROVAL BILLS.—(1) In order for a disapproval bill to be considered under the procedures set forth in this section, the bill must meet the definition of a disapproval bill and must be introduced no later than the fifth calendar day of session following the beginning of the period described in subsection (b)(1).

"(2) In the case of a disapproval bill introduced in the House of Representatives, such bill shall include in the first blank space referred to in section 1026(6)(C) a list of the reference numbers for all cancellations made by the President in the special message to which such disapproval bill relates.

"(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—(1) Any committee of the House of Representatives to which a disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the seventh calendar day of session after the date of its introduction. If any committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill, except that such a motion may not be made after the committee has reported a disapproval bill with respect to the same special message. A motion to discharge may be made only by a Member favoring the bill (but only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

"(2) After a disapproval bill is reported or a committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. If reported and the report has been available for at least one calendar day, all points of order against the bill and against consideration of the bill are waived. If discharged, all points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed, shall be confined to the bill, and shall not exceed one hour equally divided and controlled by a proponent and an opponent of the bill. The bill shall be considered as read for amendment under the five-minute rule. Only one motion to rise shall be in order, except if offered by the manager. No amendment to the bill is in order, except any Member if supported by 49 other Members (a quorum being present) may offer an amendment striking the reference number or numbers of a cancellation or cancellations from the bill. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

"(3) Appeals from decisions of the Chair regarding application of the rules of the House of Representatives to the procedure relating to a disapproval bill shall be decided without debate.

"(4) It shall not be in order to consider under this subsection more than one disapproval bill for the same special message except for consideration of a similar Senate bill (unless the House has already rejected a disapproval bill for the same special message) or more than one motion to discharge described in paragraph (1) with respect to a disapproval bill for that special message.

"(e) CONSIDERATION IN THE SENATE.—

"(1) REFERRAL AND REPORTING.—Any disapproval bill introduced in the Senate shall be referred to the appropriate committee or committees. A committee to which a disapproval bill has been referred shall report the bill not later than the seventh day of session following the date of introduction of that bill. If any committee fails to report the bill within that period, that committee shall be automatically discharged from further consideration of the bill and the bill shall be placed on the Calendar.

"(2) DISAPPROVAL BILL FROM HOUSE.—When the Senate receives from the House of Representatives a disapproval bill, such bill shall not be referred to committee and shall be placed on the Calendar.

"(3) CONSIDERATION OF SINGLE DISAPPROVAL BILL.—After the Senate has proceeded to the consideration of a disapproval bill for a special message, then no other disapproval bill originating in that same House relating to that same message shall be subject to the procedures set forth in this subsection.

"(4) AMENDMENTS.—

"(A) AMENDMENTS IN ORDER.—The only amendments in order to a disapproval bill are—

"(i) an amendment that strikes the reference number of a cancellation from the disapproval bill; and

"(ii) an amendment that only inserts the reference number of a cancellation included in the special message to which the disapproval bill relates that is not already contained in such bill.

"(B) WAIVER OR APPEAL.—An affirmative vote of three-fifths of the Senators, duly chosen and sworn, shall be required in the Senate—

"(i) to waive or suspend this paragraph; or

"(ii) to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

"(5) MOTION NONDEBATABLE.—A motion to proceed to consideration of a disapproval bill under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

"(6) LIMIT ON CONSIDERATION.— (A) After no more than 10 hours of consideration of a disapproval bill, the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or to table.

"(B) A single motion to extend the time for consideration under subparagraph (A) for no more than an additional five hours is in order prior to the expiration of such time and shall be decided without debate.

"(C) The time for debate on the disapproval bill shall be equally divided between the Majority Leader and the Minority Leader or their designees.

"(7) DEBATE ON AMENDMENTS.—Debate on any amendment to a disapproval bill shall be limited to one hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.

"(8) NO MOTION TO RECOMMIT.—A motion to recommit a disapproval bill shall not be in order.

"(9) DISPOSITION OF SENATE DISAPPROVAL BILL.—If the Senate has read for the third time a disapproval bill that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of a disapproval bill for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate disapproval bill, agree to the Senate amendment, and vote on final disposition of the House disapproval bill, all without any intervening action or debate.

"(10) CONSIDERATION OF HOUSE MESSAGE.—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on a disapproval bill shall be limited to not more than four hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

"(f) CONSIDERATION IN CONFERENCE—

"(1) CONVENING OF CONFERENCE.—In the case of disagreement between the two Houses of Congress with respect to a disapproval bill passed by both Houses, conferees should be promptly appointed and a conference promptly convened, if necessary.

"(2) HOUSE CONSIDERATION.—(A) Notwithstanding any other rule of the House of Representatives, it shall be in order to consider the report of a committee of conference relating to a disapproval bill provided such report has been available for one calendar day (excluding Saturdays, Sundays, or legal holidays, unless the House is in session on such a day) and the accompanying statement shall have been filed in the House.

"(B) Debate in the House of Representatives on the conference report and any amendments in disagreement on any disapproval bill shall each be limited to not more than one hour equally divided and controlled by a proponent and an opponent. A motion to further limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(3) SENATE CONSIDERATION.—Consideration in the Senate of the conference report and any amendments in disagreement on a disapproval bill shall be limited to not more than four hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

"(4) LIMITS ON SCOPE.—(A) When a disagreement to an amendment in the nature of a substitute has been referred to a conference, the conferees shall report those cancellations that were included in both the bill and the amendment, and may report a cancellation included in either the bill or the amendment, but shall not include any other matter.

"(B) When a disagreement on an amendment or amendments of one House to the disapproval bill of the other House has been referred to a committee of conference, the conferees shall report those cancellations upon which both Houses agree and may report any or all of those cancellations upon which there is disagreement, but shall not include any other matter.

"DEFINITIONS

"SEC. 1026. As used in this part:

"(1) APPROPRIATION LAW.—The term 'appropriation law' means an Act referred to in section 105 of title 1, United States Code, including any general or special appropriation Act, or any Act making supplemental, deficiency, or continuing appropriations, that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States.

"(2) CALENDAR DAY.—The term 'calendar day' means a standard 24-hour period beginning at midnight.

"(3) CALENDAR DAYS OF SESSION.—The term 'calendar days of session' shall mean only those days on which both Houses of Congress are in session.

"(4) CANCEL.—The term 'cancel' or 'cancellation' means—

"(A) with respect to any dollar amount of discretionary budget authority, to rescind;

"(B) with respect to any item of new direct spending—

"(i) that is budget authority provided by law (other than an appropriation law), to prevent such budget authority from having legal force or effect;

"(ii) that is entitlement authority, to prevent the specific legal obligation of the United States from having legal force or effect; or

"(iii) through the food stamp program, to prevent the specific provision of law that results in an increase in budget authority or outlays for that program from having legal force or effect; and

"(C) with respect to a limited tax benefit, to prevent the specific provision of law that provides such benefit from having legal force or effect.

"(5) DIRECT SPENDING.—The term 'direct spending' means—

"(A) budget authority provided by law (other than an appropriation law);

"(B) entitlement authority; and

"(C) the food stamp program.

"(6) DISAPPROVAL BILL.—The term 'disapproval bill' means a bill or joint resolution which only disapproves one or more cancellations of dollar amounts of discretionary budget authority, items of new direct spending, or limited tax benefits in a special message transmitted by the President under this part and—

"(A) the title of which is as follows: 'A bill disapproving the cancellations transmitted by the President on _______', the blank space being filled in with the date of transmission of the relevant special message and the public law number to which the message relates;

"(B) which does not have a preamble; and

"(C) which provides only the following after the enacting clause: 'That Congress disapproves of cancellations _______', the blank space being filled in with a list by reference number of one or more cancellations contained in the President's special message, 'as transmitted by the President in a special message on _______', the blank space being filled in with the appropriate date, 'regarding _______.', the blank space being filled in with the public law number to which the special message relates.

"(7) DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY.—(A) Except as provided in subparagraph (B), the term 'dollar amount of discretionary budget authority' means the entire dollar amount of budget authority—

"(i) specified in an appropriation law, or the entire dollar amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included;

"(ii) represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law;

"(iii) required to be allocated for a specific program, project, or activity in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law;

"(iv) represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law; and "(v) represented by the product of the estimated procurement cost and the total quantity of items required to be provided in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law.

"(B) The term 'dollar amount of discretionary budget authority' does not include—

"(i) direct spending;

"(ii) budget authority in an appropriation law which funds direct spending provided for in other law;

"(iii) any existing budget authority rescinded or canceled in an appropriation law; or

"(iv) any restriction, condition, or limitation in an appropriation law or the accompanying statement of managers or committee reports on the expenditure of budget authority for an account, program, project, or activity, or on activities involving such expenditure.

"(8) ITEM OF NEW DIRECT SPENDING.—The term 'item of new direct spending' means any specific provision of law that is estimated to result in an increase in budget authority or outlays for direct spending relative to the most recent levels calculated pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(9) LIMITED TAX BENEFIT.—(A) The term 'limited tax benefit' means—

"(i) any revenue-losing provision which provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries under the Internal Revenue Code of 1986 in any fiscal year for which the provision is in effect; and

"(ii) any Federal tax provision which provides temporary or permanent transitional relief for 10 or fewer beneficiaries in any fiscal year from a change to the Internal Revenue Code of 1986.

"(B) A provision shall not be treated as described in subparagraph (A)(i) if the effect of that provision is that—

"(i) all persons in the same industry or engaged in the same type of activity receive the same treatment;

"(ii) all persons owning the same type of property, or issuing the same type of investment, receive the same treatment; or

"(iii) any difference in the treatment of persons is based solely on—

"(I) in the case of businesses and associations, the size or form of the business or association involved;

"(II) in the case of individuals, general demographic conditions, such as income, marital status, number of dependents, or tax return filing status;

"(III) the amount involved; or

"(IV) a generally-available election under the Internal Revenue Code of 1986.

"(C) A provision shall not be treated as described in subparagraph (A)(ii) if—

"(i) it provides for the retention of prior law with respect to all binding contracts or other legally enforceable obligations in existence on a date contemporaneous with congressional action specifying such date; or

"(ii) it is a technical correction to previously enacted legislation that is estimated to have no revenue effect.

"(D) For purposes of subparagraph (A)—

"(i) all businesses and associations which are related within the meaning of sections 707(b) and 1563(a) of the Internal Revenue Code of 1986 shall be treated as a single beneficiary;

"(ii) all qualified plans of an employer shall be treated as a single beneficiary;

"(iii) all holders of the same bond issue shall be treated as a single beneficiary; and

"(iv) if a corporation, partnership, association, trust or estate is the beneficiary of a provision, the shareholders of the corporation, the partners of the partnership, the members of the association, or the beneficiaries of the trust or estate shall not also be treated as beneficiaries of such provision.

"(E) For purposes of this paragraph, the term 'revenue-losing provision' means any provision which results in a reduction in Federal tax revenues for any one of the two following periods—

"(i) the first fiscal year for which the provision is effective; or

"(ii) the period of the 5 fiscal years beginning with the first fiscal year for which the provision is effective.

"(F) The terms used in this paragraph shall have the same meaning as those terms have generally in the Internal Revenue Code of 1986, unless otherwise expressly provided.

"(10) OMB.—The term 'OMB' means the Director of the Office of Management and Budget.

"IDENTIFICATION OF LIMITED TAX BENEFITS

"SEC. 1027. (a) STATEMENT BY JOINT TAX COMMITTEE.—The Joint Committee on Taxation shall review any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 that is being prepared for filing by a committee of conference of the two Houses, and shall identify whether such bill or joint resolution contains any limited tax benefits. The Joint Committee on Taxation shall provide to the committee of conference a statement identifying any such limited tax benefits or declaring that the bill or joint resolution does not contain any limited tax benefits. Any such statement shall be made available to any Member of Congress by the Joint Committee on Taxation immediately upon request.

"(b) STATEMENT INCLUDED IN LEGISLATION.—(1) Notwithstanding any other rule of the House of Representatives or any rule or precedent of the Senate, any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 reported by a committee of conference of the two Houses may include, as a separate section of such bill or joint resolution, the information contained in the statement of the Joint Committee on Taxation, but only in the manner set forth in paragraph (2).

"(2) The separate section permitted under paragraph (1) shall read as follows: 'Section 1021(a)(3) of the Congressional Budget and Impoundment Control Act of 1974 shall _______ apply to _________.', with the blank spaces being filled in with —

"(A) in any case in which the Joint Committee on Taxation identifies limited tax benefits in the statement required under subsection (a), the word 'only' in the first blank space and a list of all of the specific provisions of the bill or joint resolution identified by the Joint Committee on Taxation in such statement in the second blank space; or

"(B) in any case in which the Joint Committee on Taxation declares that there are no limited tax benefits in the statement required under subsection (a), the word 'not' in the first blank space and the phrase 'any provision of this Act' in the second blank space.

"(c) PRESIDENT'S AUTHORITY.—If any revenue or reconciliation bill or joint resolution is signed into law pursuant to Article I, section 7, of the Constitution of the United States—

"(1) with a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) only to cancel any limited tax benefit in that law, if any, identified in such separate section; or

"(2) without a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) to cancel any limited tax benefit in that law that meets the definition in section 1026.

"(d) CONGRESSIONAL IDENTIFICATIONS OF LIMITED TAX BENEFITS.—There shall be no judicial review of the congressional identification under subsections (a) and (b) of a limited tax benefit in a conference report.".

SEC. 203. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress or any individual adversely affected by part C of title X of the Congressional Budget and Impoundment Control Act of 1974 may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this part violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered; and the jurisdictional statement shall be filed within 30 calendar days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

SEC. 204. CONFORMING AMENDMENTS.

(a) SHORT TITLES.—Section 1(a) of the Congressional Budget and Impoundment Control Act of 1974 is amended by—

(1) striking "and" before "title X" and inserting a period;

(2) inserting "Parts A and B of" before "title X"; and

(3) inserting at the end the following new sentence: "Part C of title X may be cited as the 'Line Item Veto Act of 1996'.".

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end the following:

"PART C—LINE ITEM VETO

"Sec. 1021. Line item veto authority.
"Sec. 1022. Special messages.
"Sec. 1023. Cancellation effective unless disapproved.

"Sec. 1024. Deficit reduction.
"Sec. 1025. Expedited congressional consideration of disapproval bills.
"Sec. 1026. Definitions.
"Sec. 1027. Identification of limited tax benefits.".

(c) EXERCISE OF RULEMAKING POWERS.—Section 904(a) of the Congressional Budget Act of 1974 is amended by striking "and 1017" and inserting ", 1017, 1025, and 1027".

SEC. 205. EFFECTIVE DATES.

This Act and the amendments made by it shall take effect and apply to measures enacted on the earlier of—

(1) the day after the enactment into law, pursuant to Article I, section 7, of the Constitution of the United States, of an Act entitled "An Act to provide for a seven-year plan for deficit reduction and achieve a balanced Federal budget."; or

(2) January 1, 1997;

and shall have no force or effect on or after January 1, 2005.

TITLE III—SMALL BUSINESS REGULATORY FAIRNESS

SEC. 301. SHORT TITLE.

This title may be cited as the "Small Business Regulatory Enforcement Fairness Act of 1996".

SEC. 302. FINDINGS.

Congress finds that—

(1) a vibrant and growing small business sector is critical to creating jobs in a dynamic economy;

(2) small businesses bear a disproportionate share of regulatory costs and burdens;

(3) fundamental changes that are needed in the regulatory and enforcement culture of Federal agencies to make agencies more responsive to small business can be made without compromising the statutory missions of the agencies;

(4) three of the top recommendations of the 1995 White House Conference on Small Business involve reforms to the way government regulations are developed and enforced, and reductions in government paperwork requirements;

(5) the requirements of chapter 6 of title 5, United States Code, have too often been ignored by government agencies, resulting in greater regulatory burdens on small entities than necessitated by statute; and

(6) small entities should be given the opportunity to seek judicial review of agency actions required by chapter 6 of title 5, United States Code.

SEC. 303. PURPOSES.

The purposes of this title are—

(1) to implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations;

(2) to provide for judicial review of chapter 6 of title 5, United States Code;

(3) to encourage the effective participation of small businesses in the Federal regulatory process;

(4) to simplify the language of Federal regulations affecting small businesses;

(5) to develop more accessible sources of information on regulatory and reporting requirements for small businesses;

(6) to create a more cooperative regulatory environment among agencies and small businesses that is less punitive and more solution-oriented; and

(7) to make Federal regulators more accountable for their enforcement actions by providing small entities with a meaningful opportunity for redress of excessive enforcement activities.

Subtitle A—Regulatory Compliance Simplification

SEC. 311. DEFINITIONS.

For purposes of this subtitle—

(1) the terms "rule" and "small entity" have the same meanings as in section 601 of title 5, United States Code;

(2) the term "agency" has the same meaning as in section 551 of title 5, United States Code; and

(3) the term "small entity compliance guide" means a document designated as such by an agency.

SEC. 312. COMPLIANCE GUIDES.

(a) COMPLIANCE GUIDE.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604 of title 5, United States Code, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides". The guides shall explain the actions a small entity is required to take to comply with a rule or group of rules. The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities, and may cooperate with associations of small entities to develop and distribute such guides.

(b) COMPREHENSIVE SOURCE OF INFORMATION.—Agencies shall cooperate to make available to small entities through comprehensive sources of information, the small entity compliance guides and all other available information on statutory and regulatory requirements affecting small entities.

(c) LIMITATION ON JUDICIAL REVIEW.—An agency's small entity compliance guide shall not be subject to judicial review, except that in any civil or administrative action against a small entity for a violation occurring after the effective date of this section, the content of the small entity compliance guide may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages.

SEC. 313. INFORMAL SMALL ENTITY GUIDANCE.

(a) GENERAL.—Whenever appropriate in the interest of administering statutes and regulations within the jurisdiction of an agency which regulates small entities, it shall be the practice of the agency to answer inquiries by small entities concerning information on, and advice about, compliance with such statutes and regulations, interpreting and applying the law to specific sets of facts supplied by the small entity. In any civil or administrative action against a small entity, guidance given by an agency applying the law to facts provided by the small entity may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages sought against such small entity.

(b) PROGRAM.—Each agency regulating the activities of small entities shall establish a program for responding to such inquiries no later than 1 year after enactment of this section, utilizing existing functions and personnel of the agency to the extent practicable.

(c) REPORTING.—Each agency regulating the activities of small business shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on the Judiciary of the House of Representatives no later than 2 years after the date of the enactment of this section on the scope of the agency's program, the number of small entities using the program, and the achievements of the program to assist small entity compliance with agency regulations.

SEC. 314. SERVICES OF SMALL BUSINESS DEVELOPMENT CENTERS.

(a) Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (O), by striking "and" at the end;

(2) in subparagraph (P), by striking the period at the end and inserting a semicolon; and

(3) by inserting after subparagraph (P) the following new subparagraphs:

"(Q) providing information to small business concerns regarding compliance with regulatory requirements; and

"(R) developing informational publications, establishing resource centers of reference materials, and distributing compliance guides published under section 312(a) of the Small Business Regulatory Enforcement Fairness Act of 1996.".

(b) Nothing in this Act in any way affects or limits the ability of other technical assistance or extension programs to perform or continue to perform services related to compliance assistance.

SEC. 315. COOPERATION ON GUIDANCE.

Agencies may, to the extent resources are available and where appropriate, in cooperation with the states, develop guides that fully integrate requirements of both Federal and state regulations where regulations within an agency's area of interest at the Federal and state levels impact small entities. Where regulations vary among the states, separate guides may be created for separate states in cooperation with State agencies.

SEC. 316. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the expiration of 90 days after the date of enactment of this subtitle.

Subtitle B—Regulatory Enforcement Reforms

SEC. 321. DEFINITIONS.

For purposes of this subtitle—

(1) the terms "rule" and "small entity" have the same meanings as in section 601 of title 5, United States Code;

(2) the term "agency" has the same meaning as in section 551 of title 5, United States Code; and

(3) the term "small entity compliance guide" means a document designated as such by an agency.

SEC. 322. SMALL BUSINESS AND AGRICULTURE ENFORCEMENT OMBUDSMAN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

"SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

"(a) DEFINITIONS.—For purposes of this section, the term—

"(1) 'Board' means a Regional Small Business Regulatory Fairness Board established under subsection (c); and

"(2) 'Ombudsman' means the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under subsection (b).

"(b) SBA ENFORCEMENT OMBUDSMAN.—

"(1) Not later than 180 days after the date of enactment of this section, the Administrator shall designate a Small Business and Agriculture Regulatory Enforcement Ombudsman, who shall report directly to the

Administrator, utilizing personnel of the Small Business Administration to the extent practicable. Other agencies shall assist the Ombudsman and take actions as necessary to ensure compliance with the requirements of this section. Nothing in this section is intended to replace or diminish the activities of any Ombudsman or similar office in any other agency.

"(2) The Ombudsman shall—

"(A) work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by such personnel;

"(B) establish means to receive comments from small business concerns regarding actions by agency employees conducting compliance or enforcement activities with respect to the small business concern, means to refer comments to the Inspector General of the affected agency in the appropriate circumstances, and otherwise seek to maintain the identity of the person and small business concern making such comments on a confidential basis to the same extent as employee identities are protected under section 7 of the Inspector General Act of 1978 (5 U.S.C.App.);

"(C) based on substantiated comments received from small business concerns and the Boards, annually report to Congress and affected agencies evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each agency;

"(D) coordinate and report annually on the activities, findings and recommendations of the Boards to the Administrator and to the heads of affected agencies; and

"(E) provide the affected agency with an opportunity to comment on draft reports prepared under subparagraph (C), and include a section of the final report in which the affected agency may make such comments as are not addressed by the Ombudsman in revisions to the draft.

"(c) Regional Small Business Regulatory Fairness Boards.—

"(1) Not later than 180 days after the date of enactment of this section, the Administrator shall establish a Small Business Regulatory Fairness Board in each regional office of the Small Business Administration.

"(2) Each Board established under paragraph (1) shall—

"(A) meet at least annually to advise the Ombudsman on matters of concern to small businesses relating to the enforcement activities of agencies;

"(B) report to the Ombudsman on substantiated instances of excessive enforcement actions of agencies against small business concerns including any findings or recommendations of the Board as to agency enforcement policy or practice; and

"(C) prior to publication, provide comment on the annual report of the Ombudsman prepared under subsection (b).

"(3) Each Board shall consist of five members, who are owners, operators, or officers of small business concerns, appointed by the Administrator, after receiving the recommendations of the chair and ranking minority member of the Committees on Small Business of the House of Representatives and the Senate. Not more than three of the Board members shall be of the same political party. No member shall be an officer or employee of the Federal Government, in either the executive branch or the Congress.

"(4) Members of the Board shall serve at the pleasure of the Administrator for terms of three years or less.

"(5) The Administrator shall select a chair from among the members of the Board who shall serve at the pleasure of the Administrator for not more than 1 year as chair.

"(6) A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

"(d) Powers of the Boards.

"(1) The Board may hold such hearings and collect such information as appropriate for carrying out this section.

"(2) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(3) The Board may accept donations of services necessary to conduct its business, provided that the donations and their sources are disclosed by the Board.

"(4) Members of the Board shall serve without compensation, provided that, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.".

SEC. 323. RIGHTS OF SMALL ENTITIES IN ENFORCEMENT ACTIONS.

(a) In General.—Each agency regulating the activities of small entities shall establish a policy or program within 1 year of enactment of this section to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties for violations of a statutory or regulatory requirement by a small entity. Under appropriate circumstances, an agency may consider ability to pay in determining penalty assessments on small entities.

(b) Conditions and Exclusions.—Subject to the requirements or limitations of other statutes, policies or programs established under this section shall contain conditions or exclusions which may include, but shall not be limited to—

(1) requiring the small entity to correct the violation within a reasonable correction period;

(2) limiting the applicability to violations discovered through participation by the small entity in a compliance assistance or audit program operated or supported by the agency or a state;

(3) excluding small entities that have been subject to multiple enforcement actions by the agency;

(4) excluding violations involving willful or criminal conduct;

(5) excluding violations that pose serious health, safety or environmental threats; and

(6) requiring a good faith effort to comply with the law.

(c) Reporting.—Agencies shall report to the Committee on Small Business and Committee on Governmental Affairs of the Senate and the Committee on Small Business and Committee on Judiciary of the House of Representatives no later than 2 years after the date of enactment of this section on the scope of their program or policy, the number of enforcement actions against small entities that qualified or failed to qualify for the program or policy, and the total amount of penalty reductions and waivers.

SEC. 324. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the expiration of 90 days after the date of enactment of this subtitle.

Subtitle C—Equal Access to Justice Act Amendments

SEC. 331. ADMINISTRATIVE PROCEEDINGS.

(a) Section 504(a) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(4) If, in an adversary adjudication arising from an agency action to enforce a party's compliance with a statutory or regulatory requirement, the demand by the agency is substantially in excess of the decision of the adjudicative officer and is unreasonable when compared with such decision, under the facts and circumstances of the case, the adjudicative officer shall award to the party the fees and other expenses related to defending against the excessive demand, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust. Fees and expenses awarded under this paragraph shall be paid only as a consequence of appropriations provided in advance.".

(b) Section 504(b) of title 5, United States Code, is amended—

(1) in paragraph (1)(A), by striking "$75" and inserting "$125";

(2) at the end of paragraph (1)(B), by inserting before the semicolon "or for purposes of subsection (a)(4), a small entity as defined in section 601";

(3) at the end of paragraph (1)(D), by striking "and";

(4) at the end of paragraph (1)(E), by striking the period and inserting "; and"; and

(5) at the end of paragraph (1), by adding the following new subparagraph:

"(F) 'demand' means the express demand of the agency which led to the adversary adjudication, but does not include a recitation by the agency of the maximum statutory penalty (i) in the administrative complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount.".

SEC. 332. JUDICIAL PROCEEDINGS.

(a) Section 2412(d)(1) of title 28, United States Code, is amended by adding at the end the following new subparagraph:

"(D) If, in a civil action brought by the United States, or a proceeding for judicial review of an adversary adjudication described in section 504(a)(4) of title 5 the demand by the United States is substantially in excess of the judgment finally obtained by the United States and is unreasonable when compared with such judgment, under the facts and circumstances of the case, the court shall award to the party the fees and other expenses related to defending against the excessive demand, unless the party has committed a willful violation of law or otherwise acted in bad faith, or special circumstances make an award unjust. Fees and expenses awarded under this subparagraph shall be paid only as a consequence of appropriations provided in advance.".

(b) Section 2412(d) of title 28, United States Code, is amended—

(1) in paragraph (2)(A), by striking "$75" and inserting "$125";

(2) at the end of paragraph (2)(B), by inserting before the semicolon "or for purposes of subsection (d)(1)(D), a small entity as defined in section 601 of title 5";

(3) at the end of paragraph (2)(G), by striking "and";

(4) at the end of paragraph (2)(H), by striking the period and inserting "; and"; and

(5) at the end of paragraph (2), by adding the following new subparagraph:

"(I) 'demand' means the express demand of the United States which led to the adversary adjudication, but shall not include a recitation of the maximum statutory penalty (i) in the complaint, or (ii) elsewhere when accompanied by an express demand for a lesser amount.".

SEC. 333. EFFECTIVE DATE.

The amendments made by sections 331 and 332 shall apply to civil actions and adversary adjudications commenced on or after the date of the enactment of this subtitle.

Subtitle D—Regulatory Flexibility Act Amendments

SEC. 341. REGULATORY FLEXIBILITY ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) SECTION 603.—Section 603(a) of title 5, United States Code, is amended—

(A) by inserting after "proposed rule", the phrase ", or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States"; and

(B) by inserting at the end of the subsection, the following new sentence: "In the case of an interpretative rule involving the internal revenue laws of the United States, this chapter applies to interpretative rules published in the Federal Register for codification in the Code of Federal Regulations, but only to the extent that such interpretative rules impose on small entities a collection of information requirement.".

(2) SECTION 601.—Section 601 of title 5, United States Code, is amended by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting "; and", and by adding at the end the following:

"(7) the term 'collection of information'—

"(A) means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

"(i) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, 10 or more persons, other than agencies, instrumentalities, or employees of the United States; or

"(ii) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes; and

"(B) shall not include a collection of information described under section 3518(c)(1) of title 44, United States Code.

"(8) RECORDKEEPING REQUIREMENT.—The term 'recordkeeping requirement' means a requirement imposed by an agency on persons to maintain specified records.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of title 5, United States Code, is amended—

(1) in subsection (a) to read as follows:

"(a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue laws of the United States as described in section 603(a), the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain—

"(1) a succinct statement of the need for, and objectives of, the rule;

"(2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

"(3) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;

"(4) a description of the projected reporting, record keeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and

"(5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected."; and

(2) in subsection (b), by striking "at the time" and all that follows and inserting "such analysis or a summary thereof.".

SEC. 342. JUDICIAL REVIEW.

Section 611 of title 5, United States Code, is amended to read as follows:

"§ 611. Judicial review

"(a)(1) For any rule subject to this chapter, a small entity that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.

"(2) Each court having jurisdiction to review such rule for compliance with section 553, or under any other provision of law, shall have jurisdiction to review any claims of noncompliance with sections 601, 604, 605(b), 608(b), and 610 in accordance with chapter 7. Agency compliance with sections 607 and 609(a) shall be judicially reviewable in connection with judicial review of section 604.

"(3)(A) A small entity may seek such review during the period beginning on the date of final agency action and ending one year later, except that where a provision of law requires that an action challenging a final agency action be commenced before the expiration of one year, such lesser period shall apply to an action for judicial review under this section.

"(B) In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b) of this chapter, an action for judicial review under this section shall be filed not later than—

"(i) one year after the date the analysis is made available to the public, or

"(ii) where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period, the number of days specified in such provision of law that is after the date the analysis is made available to the public.

"(4) In granting any relief in an action under this section, the court shall order the agency to take corrective action consistent with this chapter and chapter 7, including, but not limited to—

"(A) remanding the rule to the agency, and

"(B) deferring the enforcement of the rule against small entities unless the court finds that continued enforcement of the rule is in the public interest.

"(5) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law or to grant any other relief in addition to the requirements of this section.

"(b) In an action for the judicial review of a rule, the regulatory flexibility analysis for such rule, including an analysis prepared or corrected pursuant to paragraph (a)(4), shall constitute part of the entire record of agency action in connection with such review.

"(c) Compliance or noncompliance by an agency with the provisions of this chapter shall be subject to judicial review only in accordance with this section.

"(d) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise permitted by law.".

SEC. 343. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 605(b) of title 5, United States Code, is amended to read as follows:

"(b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a statement providing the factual basis for such certification. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.".

(b) Section 612 of title 5, United States Code is amended—

(1) in subsection (a), by striking "the committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives" and inserting "the Committees on the Judiciary and Small Business of the Senate and House of Representatives".

(2) in subsection (b), by striking "his views with respect to the" and inserting in lieu thereof, "his or her views with respect to compliance with this chapter, the adequacy of the rulemaking record with respect to small entities and the".

SEC. 344. SMALL BUSINESS ADVOCACY REVIEW PANELS.

(a) SMALL BUSINESS OUTREACH AND INTERAGENCY COORDINATION.— Section 609 of title 5, United States Code is amended—

(1) before "techniques," by inserting "the reasonable use of";

(2) in paragraph (4), after "entities" by inserting "including soliciting and receiving comments over computer networks";

(3) by designating the current text as subsection (a); and

(4) by adding the following:

"(b) Prior to publication of an initial regulatory flexibility analysis which a covered agency is required to conduct by this chapter—

"(1) a covered agency shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected;

"(2) not later than 15 days after the date of receipt of the materials described in paragraph (1), the Chief Counsel shall identify individuals representative of affected small entities for the purpose of obtaining advice and recommendations from those individuals about the potential impacts of the proposed rule;

"(3) the agency shall convene a review panel for such rule consisting wholly of full time Federal employees of the office within the agency responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs within the Office of Management and Budget, and the Chief Counsel;

"(4) the panel shall review any material the agency has prepared in connection with this chapter, including any draft proposed rule, collect advice and recommendations of each individual small entity representative identified by the agency after consultation with the Chief Counsel, on issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c);

"(5) not later than 60 days after the date a covered agency convenes a review panel pursuant to paragraph (3), the review panel shall report on the comments of the small entity representatives and its findings as to issues related to subsections 603(b), paragraphs (3), (4) and (5) and 603(c), provided that such report shall be made public as part of the rulemaking record; and

"(6) where appropriate, the agency shall modify the proposed rule, the initial regulatory flexibility analysis or the decision on whether an initial regulatory flexibility analysis is required.

"(c) An agency may in its discretion apply subsection (b) to rules that the agency intends to certify under subsection 605(b), but the agency believes may have a greater than de minimis impact on a substantial number of small entities.

"(d) For purposed of this section, the term covered agency means the Environmental Protection Agency and the Occupational Safety and Health Administration of the Department of Labor.

"(e) The Chief Counsel for Advocacy, in consultation with the individuals identified in subsection (b)(2), and with the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget, may waive the requirements of subsections (b)(3), (b)(4), and (b)(5) by including in the rulemaking record a written finding, with reasons therefor, that those requirements would not advance the effective participation of small entities in the rulemaking process. For purposes of this subsection, the factors to be considered in making such a finding are as follows:

"(1) In developing a proposed rule, the extent to which the covered agency consulted with individuals representative of affected small entities with respect to the potential impacts of the rule and took such concerns into consideration.

"(2) Special circumstances requiring prompt issuance of the rule.

"(3) Whether the requirements of subsection (b) would provide the individuals identified in subsection (b)(2) with a competitive advantage relative to other small entities.".

(b) SMALL BUSINESS ADVOCACY CHAIRPERSONS.—Not later than 30 days after the date of enactment of this Act, the head of each covered agency that has conducted a final regulatory flexibility analysis shall designate a small business advocacy chairperson using existing personnel to the extent possible, to be responsible for implementing this section and to act as permanent chair of the agency's review panels established pursuant to this section.

SEC. 345. EFFECTIVE DATE.

This subtitle shall become effective on the expiration of 90 days after the date of enactment of this subtitle, except that such amendments shall not apply to interpretative rules for which a notice of proposed rulemaking was published prior to the date of enactment.

Subtitle E—Congressional Review

SEC. 351. CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.

Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"Sec.
"801. Congressional review.
"802. Congressional disapproval procedure.
"803. Special rule on statutory, regulatory, and judicial deadlines.
"804. Definitions.
"805. Judicial review.
"806. Applicability; severability.
"807. Exemption for monetary policy.
"808. Effective date of certain rules.

"§ 801. Congressional review

"(a)(1)(A) Before a rule can take effect, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

"(i) a copy of the rule;

"(ii) a concise general statement relating to the rule, including whether it is a major rule; and

"(iii) the proposed effective date of the rule.

"(B) On the date of the submission of the report under subparagraph (A), the Federal agency promulgating the rule shall submit to the Comptroller General and make available to each House of Congress—

"(i) a complete copy of the cost-benefit analysis of the rule, if any;

"(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

"(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

"(iv) any other relevant information or requirements under any other Act and any relevant Executive Orders.

"(C) Upon receipt of a report submitted under subparagraph (A), each House shall provide copies of the report to the Chairman and Ranking Member of each standing committee with jurisdiction under the rules of the House of Representatives or the Senate to report a bill to amend the provision of law under which the rule is issued.

"(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction in each House of the Congress by the end of 15 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

"(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

"(3) A major rule relating to a report submitted under paragraph (1) shall take effect on the latest of—

"(A) the later of the date occurring 60 days after the date on which—

"(i) the Congress receives the report submitted under paragraph (1); or

"(ii) the rule is published in the Federal Register, if so published;

"(B) if the Congress passes a joint resolution of disapproval described in section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

"(i) on which either House of Congress votes and fails to override the veto of the President; or

"(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

"(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

"(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

"(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802.

"(b)(1) A rule shall not take effect (or continue), if the Congress enacts a joint resolution of disapproval, described under section 802, of the rule.

"(2) A rule that does not take effect (or does not continue) under paragraph (1) may not be reissued in substantially the same form, and a new rule that is substantially the same as such a rule may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule.

"(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of subsection (a)(3) may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

"(2) Paragraph (1) applies to a determination made by the President by Executive Order that the rule should take effect because such rule is—

"(A) necessary because of an imminent threat to health or safety or other emergency;

"(B) necessary for the enforcement of criminal laws;

"(C) necessary for national security; or

"(D) issued pursuant to any statute implementing an international trade agreement.

"(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

"(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule for which a report was submitted in accordance with subsection (a)(1)(A) during the period beginning on the date occurring—

"(A) in the case of the Senate, 60 session days, or

"(B) in the case of the House of Representatives, 60 legislative days,

before the date the Congress adjourns a session of Congress through the date on which the same or succeeding Congress first convenes its next session, section 802 shall apply to such rule in the succeeding session of Congress.

"(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

"(i) such rule were published in the Federal Register (as a rule that shall take effect) on—

"(I) in the case of the Senate, the 15th session day, or

"(II) in the case of the House of Representatives, the 15th legislative day, after the succeeding session of Congress first convenes; and

"(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a rule can take effect.

"(3) A rule described under paragraph (1) shall take effect as otherwise provided by law (including other subsections of this section).

"(e)(1) For purposes of this subsection, section 802 shall also apply to any major rule promulgated between March 1, 1996, and the date of the enactment of this chapter.

"(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

"(A) such rule were published in the Federal Register on the date of enactment of this chapter; and

"(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

"(f) Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

"(g) If the Congress does not enact a joint resolution of disapproval under section 802 respecting a rule, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

"§ 802. Congressional disapproval procedure

"(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced in the period beginning on the date on which the report referred to in section 801(a)(1)(A) is received by Congress and ending 60 days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ___ relating to ___, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in).

"(b)(1) A joint resolution described in subsection (a) shall be referred to the committees in each House of Congress with jurisdiction.

"(2) For purposes of this section, the term 'submission or publication date' means the later of the date on which—

"(A) the Congress receives the report submitted under section 801(a)(1); or

"(B) the rule is published in the Federal Register, if so published.

"(c) In the Senate, if the committee to which is referred a joint resolution described in subsection (a) has not reported such joint resolution (or an identical joint resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

"(d)(1) In the Senate, when the committee to which a joint resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of a joint resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

"(2) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

"(3) In the Senate, immediately following the conclusion of the debate on a joint resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

"(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

"(e) In the Senate the procedure specified in subsection (c) or (d) shall not apply to the consideration of a joint resolution respecting a rule—

"(1) after the expiration of the 60 session days beginning with the applicable submission or publication date, or

"(2) if the report under section 801(a)(1)(A) was submitted during the period referred to in section 801(d)(1), after the expiration of the 60 session days beginning on the 15th session day after the succeeding session of Congress first convenes.

"(f) If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply:

"(1) The joint resolution of the other House shall not be referred to a committee.

"(2) With respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

"(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(B) the vote on final passage shall be on the joint resolution of the other House.

"(g) This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"§ 803. Special rule on statutory, regulatory, and judicial deadlines

"(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of enactment of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

"(b) The term 'deadline' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

"§ 804. Definitions

"For purposes of this chapter—

"(1) The term 'Federal agency' means any agency as that term is defined in section 551(1).

"(2) The term "major rule" means any rule that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in—

"(A) an annual effect on the economy of $100,000,000 or more;

"(B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

"(C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

The term does not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.

"(3) The term 'rule' has the meaning given such term in section 551, except that such term does not include—

"(A) any rule of particular applicability, including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing;

"(B) any rule relating to agency management or personnel; or

"(C) any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

"§ 805. Judicial review

"No determination, finding, action, or omission under this chapter shall be subject to judicial review.

"§ 806. Applicability; severability

"(a) This chapter shall apply notwithstanding any other provision of law.

"(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

"§ 807. Exemption for monetary policy

"Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

"§808. Effective date of certain rules

"Notwithstanding section 801—

"(1) any rule that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity related to hunting, fishing, or camping, or

"(2) any rule which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest,

shall take effect at such time as the Federal agency promulgating the rule determines.".

SEC. 352. EFFECTIVE DATE.

The amendment made by section 351 shall take effect on the date of enactment of this Act.

SEC. 353. TECHNICAL AMENDMENT.

The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rulemaking .... 801".

TITLE IV—PUBLIC DEBT LIMIT

SEC. 401. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar limitation contained in such subsection and inserting "$5,500,000,000,000".

The SPEAKER pro tempore. Pursuant to House Resolution 391, as amended, the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes, the gentleman from Florida [Mr. GIBBONS] will be recognized for 30 minutes, the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 10 minutes, and the gentlewoman from New York [Ms. SLAUGHTER], the designee of the ranking minority member, will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on and include extraneous material on the bill H.R. 3136.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 3136, the Contract With America Advancement Act of 1996. This legislation contains the Senior Citizens' Right to Work Act, the Line-Item-Veto Act, the Small Business Growth and Fairness Act of 1996, and provides for a permanent increase in the public debt limit.

Let me first compliment Chairmen SOLOMON, CLINGER, and BUNNING, and the rest of the line-item-veto conferees for their hard work. As the original author of line-item-veto legislation at the request of President Reagan, I am a true believer in the line-item veto. I know that it will help control spending and therefore aid us in obtaining a balanced budget. Accordingly, I welcome its inclusion in H.R. 3136.

I am also proud that the Senior Citizens' Right to Work Act will be included in this legislation. It is another of my career-long projects—one which I began working on with former Senator Goldwater in the early 1970's. As you know the House has already approved this measure by a large bipartisan vote of 411 to 4 last December 5. It would raise the earnings limit for seniors between the ages of 65 and 69 to $30,000 by the year 2002, while fully preserving the long-term financial integrity of the Social Security trust funds. In fact, according to the Social Security actuaries, this bill improves the long-range solvency of the trust funds by a significant amount.

This legislation is also strongly supported by a broad group of seniors' associations, including the AARP.

We all know that the current earnings limit is too low and is nothing more than a tax on hard-working seniors.

In our Contract With America, we promised to raise the earnings limit which discourages older workers from remaining in the work force and sharing their experience, knowledge, and skills with younger workers. Today, we take another important step in fulfilling that promise by providing relief from the onerous earnings limit to almost 1 million senior citizens who want or need to work. Again, I want to compliment Social Security Subcommittee Chairman JIM BUNNING and Whip DENNY HASTERT for their outstanding efforts on this legislation. They have been untiring in their work on this project.

Mr. Speaker, H.R. 3136 also includes another important element of our Contract With America, regulatory relief for small business. This is a vital element of the bill, and I believe Chairman HYDE will be speaking on it in more detail.

Finally, H.R. 3136 contains an increase in the permanent statutory debt ceiling from its current level of $4.9 trillion to $5.5 trillion. This amount should provide the Government with enough authority to operate through fiscal year 1997. This is the level including in the Balanced Budget Act, and sought by the Treasury Department. We have receive correspondence from Treasury expressing their support for the provision.

This is a straightforward debt limit extension. As you know, we need to pass this legislation quickly as the current temporary limit expires tomorrow.

Section 107 of this legislation codifies Congress' understanding that the Secretary of Treasury and other Federal officials are not authorized to use Social Security and Medicare funds for debt management purposes under any circumstances. Specifically, the Secretary of the Treasury and other Federal officials are required not to delay or otherwise underinvest incoming receipts to the Social Security and Medicare trust funds. They are also required not to sell, redeem or otherwise disinvest securities, obligations or other assets of these trust funds except when necessary to provide for the payment of benefits and administrative expenses of these programs. The legislation applies to the following trust funds: Federal Old-Age and Survivors Insurance [OASI] Trust Fund; Federal Hospital Insurance [HI] Trust Fund; and Federal Supplementary Medical Insurance [SMI] Trust Fund.

Since late October, the total amount of public debt obligations has been very close to the public debt limit. This has given rise to concerns that the Social Security and Medicare trust funds might be underinvested or disinvested for debt management purposes. While the administration has stated that it would not take such action, it is desirable to make clear in law that these funds could not be used for debt management purposes. It is the purpose of this legislation to clarify that any limitation on the public debt shall not be used as an excuse to avoid the full and timely investment of the Social Security trust funds. The Secretary, by law, is the managing trustee of these trust funds, and also the chief financial officer of the U.S. Government charged with its day-to-day cash management. As such, he shall take all necessary steps to ensure the full and timely investment of the Social Security and Medicare trust funds.

This bill seeks to assure that the Secretary of the Treasury and other Federal officials shall invest and disinvest Social Security and Medicare trust funds solely for the purposes of accounting for the income and disbursements of these programs. There are no circumstances envisioned under which the investments of the trust funds will not be made in a timely fashion in accordance with the normal investment practices of the Treasury, or under which the trust funds are drawn down prematurely for the purpose of avoiding limitations on the public debt or to make room under the statutory debt limit for the Secretary of the Treasury to issue new debt obligations in order to cover the expenditures of the Government.

Mr. Speaker, this is an excellent bill, which advances many important elements of our Contract With America, keeping our promises to the American people. I urge my colleagues on both sides of the aisle to support it today.

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Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield 30 seconds to the gentlewoman from California [Ms. HARMAN].

PERSONAL EXPLANATION

Ms. HARMAN. Mr. Speaker, I was in my district yesterday on official business. Had I been present, I would have voted "no" on the rule and "no" on passage of H.R. 1833, the partial birth abortion bill; "yes" on the passage of House Resolution 379; and "yes" on the passage of House Concurrent Resolution 102.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, this is a paradox day in the U.S. House of Representatives. We are going to raise the earnings limit under Social Security immediately from about $11,000 a year to $14,000 or so a year, I believe, and that will, on average, mean an income of about $20,000 for a Social Security retiree. That is a very good thing to do.

The paradox is, at the same time we are not going to be doing anything about the minimum wage. So what are we saying in essence? We are saying that the person who is retired and might work part time needs $24,000 a year, but the young person who is working every day of the week and working hard, maybe digging ditches, and has children to support can get by just fine on $8,840 a year. So I want to congratulate my colleagues on a sense of humor, I suppose, and a wonderful paradox.

Mr. ARCHER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Speaker, I rise in opposition to H.R. 3136.

Mr. Speaker, I strongly support increasing the Social Security earnings limit. The current earnings limit of $11,280 hurts low-to-moderate-income seniors who work out of necessity, not choice.

Our Nation achieved unprecedented wealth and power because of the strong work ethic, self-reliance, and personal responsibility of today's senior citizens. They are the generation that built this Nation. To punish these productive, industrious seniors, who are the ones that made America great is absolutely absurd. All Americans lose when the earnings limit prevents us from employing the teaching and experience of our Nation's most precious resource.

Let me also say I support wholeheartedly empowering small businesses to challenge burdensome regulations. In fact, observation of the catastrophic effects extraneous regulations have on small businesses and property owners was a major motivation for my seeking office.

We should pass legislation to increase the Social Security earnings limit, and to empower small business, and I hope we do it soon. However, I must vote against this measure today because I simply cannot support what would be a monumental mistake that would be made by this Congress if we hand over legislative powers to the president in the form of a line-item veto.

Mr. Speaker, let me first say that I believe that a line item veto could be effective in eliminating wasteful port. However, I strongly believe that the consequences of shifting the delicate power balance of between the executive and legislative branches of government would far outweigh any advantages gained by this measure.

Let me remind you of Alexander Hamilton's stern warning in Federalist No. 76 of why we must keep the powers given respectively to the legislature and executive branches of government separate:

> Without the one or the other the former would be unable to defend himself against the depredations of that latter. (The Legislature) might gradually be stripped of his authorities by successive resolutions. . .
>
> And in one mode or the other, the legislative and executive powers might speedily come to be blended in the same hands.

Mr. Speaker, the Constitution specifically gives the power of the purse to the people, which are represented in the Congress. Let us not give that sacred responsibility away to the President because we as a Congress do not have the discipline to make necessary spending cuts. The more powers we give to the executive to control the spending of taxpayer dollars, the less we will have of a representative government our Founding Fathers envisioned.

Mr. Speaker, I strongly believe that the Congress will regret the day that we surrender this tremendous power to the executive. I urge my colleagues to stand back and take a hard look at what we are doing today, and whether it is really worth giving away power that rightfully belongs to this, the people's House.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HYDE], the highly respected chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I rise in support of H.R. 3136, and particularly title III of that bill, the Small Business Regulatory Enforcement Fairness Act of 1996.

Title III, as amended by the rule, is patterned after the provisions of S. 942, legislation sponsored by Senator CHRISTOPHER BOND of Missouri, which passed the Senate on March 19 by the vote of 100 to 0. It would provide important regulatory relief for America's small businesses.

This measure is vitally important to the small business community, which is particularly burdened by the effect of multiple, and many times conflicting, regulatory requirements. It should be viewed not as a total solution to all regulatory problems, but as a good first step of making rules more fair, more rational, and more carefully tailored to achieve the goal they are designed to accomplish.

First, title III proposes important changes in the Regulatory Flexibility Act, allowing judicial review of certain aspects of that statute. The Regulatory Flexibility Act was first enacted in 1980. Under its terms, Federal agencies are directed to consider the special needs and concerns of small entities—that is, small businesses, local governments, farmers, and so forth, whenever they engage in a rulemaking subject to the Administrative Procedure Act. The agencies must then prepare and publish a regulatory flexibility analysis of the impact of the proposed rule on small entities, unless the head of the agency certifies that the proposed rule will not "have a significant economic impact on a substantial number of small entities."

From the beginning, the problem with this law has been the lack of availability of a judicial reviews mechanism to enforce the purposes of the law. Right now, if agencies do not actually conduct a regulatory flexibility analysis or fail to follow the other procedures set down in the act, there is no sanction. Thus, under current law, the small business community has no remedy.

Title III would cure this problem. In instances where an agency should have undertaken a regulatory flexibility analysis and did not, or where the agency needs to take corrective action with respect to a flexibility analysis that was prepared, small entities are authorized to seek judicial review within 1 year after final agency action. A court will then review the agency's action under the judicial review provisions of the Administrative Procedure Act. The remedies that a court may order include remanding the rule back to the agency and deferring enforcement of the rule against small entities, pending agency compliance with the Regulatory Flexibility Act.

Another important aspect of title III is the congressional review procedure. This will allow Congress to review all proposed rules to determine whether or not they should take effect. Specifically, title III would allow Congress to postpone for 60 days the implementation of any major rule, generally defined as having an annual effect on the economy of $100 million or more. The language allows the President to bypass the 60-day delay through the issuance of an Executive order, if the rule addresses an imminent threat to the public health or safety, or other emergency, or matters involving criminal law enforcement or national security.

This legislation was developed by Senator DON NICKLES and Senator HARRY REID. My Judiciary Committee staff has worked very closely with Senator NICKLES' staff concerning the details of this provision.

I think it is important to emphasize that this approach means that Congress must be prepared to take on greater responsibility in the rulemaking process. If during the review period, Congress identifies problems in a proposed major rule prior to its promulgation, we must be prepared to take action. Each standing committee will have to carefully monitor the regulatory activities of those agencies falling within their jurisdiction.

Title III also includes a provision which will require Federal agencies to simplify forms and publish a plain English guide to help small businesses comply with Federal regulations. These compliance guides will not be subject to judicial review, but may be considered as evidence of the reasonableness of any proposed fines or penalties. Federal agencies would also be directed to reduce or waive fines for small businesses in appropriate circumstances, if violations are corrected within a certain period.

The proposal would also create an ombudsman within the Small Business Administration to gather information from small businesses about compliance and enforcement practices, and to work with the various agencies so as to respond to the concerns of small businesses regarding those practices.

In addition, some important changes would be made in the Equal Access to Justice Act. The Equal Access to Justice Act [EAJA] currently provides that certain parties who prevail over the Federal Government in regulatory or court proceedings are entitled to an award in attorneys' fees and other expenses, unless the Government can demonstrate that its position was substantially justified or that special circumstances would make the award unjust. Eligible parties are individuals whose net worth does not exceed $2 million or businesses, organizations, associations, or units of local government with a net worth of no more than $7 million and no more than 500 employees. The act covers both adversary administrative proceedings and civil court actions.

Title III proposes to change the Equal Access to Justice Act so as to make it easier for small businesses to recover their attorneys fees, if they have been subjected to excessive and unsustainable proposed penalties. It would amend the EAJA to create a new avenue for small entities to recover their attorneys fees in situations where the Government has instituted an administrative or civil action against a small entity to enforce a statutory or regulatory requirement. In these situations, the test for recovering attorneys' fees would become whether the final demand of the United States, prior to the initiation of the adjudication or civil action, was substantially in excess of the decision or judgment ultimately obtained and is unreasonable when compared to such decision or judgment. The important point here is that this legislation will level the playing field and make it far more likely that the United States will not seek excessive fines or penalties from small businesses and will be more likely to make fair settlement offers prior to proceeding with a formal regulatory enforcement action or before going to court to collect the civil fine or penalty.

Mr. Speaker, I have only described in very general terms today the substance of this important title. Because the language is the product of negotiation and compromise with the Senate, there is no formal legislative history available to explain its terms. To cure this deficiency, I will be inserting in the CONGRESSIONAL RECORD at a later date a document which will serve as the equivalent of a statement of managers. The same document will be submitted to the RECORD in the Senate. It is the committee's intent that that document carry the weight of legislative history regarding title III of H.R. 3136.

Mr. Speaker, this legislation represents an important and significant step toward removing unnecessary and unduly burdensome regulations from the backs of small businesses. I urge my colleagues to support H.R. 3136 and look forward to its prompt passage and it being signed into law.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, I rise to speak against H.R. 3136. My opposition stems not from a desire to prevent the needed increase in the debt limit, nor do I oppose the increase in the Social Security earnings limit contained in section 4, a proposition I supported with my vote in favor of H.R. 2684 last December.

Rather, my objection, Mr. Speaker, is to the measure before us, which rests on my adamant opposition to the line-item veto provisions of section 3. The line-item veto is not about money as such. It is about power, specifically the balance of power between the executive and legislative branches of the Federal Government. This has nothing to do with Republicans and Democrats. It has nothing to do with the contract except the contract we should be keeping with history that provided for our constitutional democracy to be able to sustain a balance between the executive and the legislative. It assumes that the executive branch, compared to the legislature, is inherently inclined to restrain spending. In fact, however, congressional appropriations have been lower than the amounts requested by the past three Presidents, Democrat and Republican alike. In denying Congress the authority to single out proposed rescissions for individual consideration, H.R. 3136 denies to the Congress an authority it grants to the President.

If the President can unilaterally veto individual items in a single bill, why is Congress required to sustain or override those vetoes as an indivisible package? Why is Congress denied the authority, why are we denying ourselves the authority to judge each veto cast by the President? The upshot is more power for the executive branch, less for the legislature. By giving the President power to veto specific tax and appropriation items within a single bill, H.R. 3136 deprives the legislative branch of its share of its ability to strike a compromise with the executive.

Mr. Speaker, it upsets the carefully calibrated balance between the legislative and executive branches of Government. That balance is what inclines our political system to compromise. Look at what is happening in the rest of the world where the executive has exclusive authority. I know I am going to be among the few votes that is going to be cast today. What I regret is, and this has happened before in our legislative history, there will be a few who will try to strike a balance to keep the power of the legislature against the executive, and one day there will be a Ph.D. writing a thesis about it, how we gave up our power, how we gave up the balance of power that exists in our democracy. Vote "no" on 3136.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky [Mr. BUNNING], the respected chairman of the Subcommittee on Social Security of the Committee on Ways and Means.

Mr. BUNNING of Kentucky. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, hopefully the third time around will be the charm and the Social Security earnings limit will be passed. I want to thank DENNIS HASTERT, the deputy whip, and all the Republican Members of the 100th Congress class, because this has been a class project for over 8 years.

Mr. Speaker, the House has twice passed legislation to increase this onerous earnings limit in the 104th Congress, but lack of Senate action has kept this measure off the President's desk.

I have a very good feeling that the tide has turned and our colleagues in the other body want to see this done as much as we do.

I want to commend the House and Senate leadership for working with the Ways and Means Committee and the Finance Committee to make the earnings limit increase part of the debt limit legislation.

We have worked out a fair bill which makes good policy while actually improving the financial integrity of the Social Security trust funds.

By increasing the earnings limit on working senior citizens, we are fulfilling the commitment we made in the Contract With America to bring economic relief to older workers.

The earnings limit is a depression-era relic that has outlived its usefulness. Older workers have a great deal of knowledge and experience and our country needs the skills of experienced workers. The current limit is unrealistically low and sends the message that the Federal Government does not want seniors to continue working and contributing.

Today's older Americans are living longer and healthier. They want to continue contributing to society, but they have to ask themselves if it is worth losing a good part of their Social Security benefits to do so.

In most cases, the answer is "No." By discouraging skilled older workers from working, we are forgoing one of society's greatest resources—experienced workers—a commodity every employer in the United States needs and values.

The earnings limit is particularly harsh on lower to middle-income seniors who must work to supplement their Social Security benefits.

Approximately 1 million working seniors have some or all of their benefits withheld because of the current earnings limit. These are not wealthy working seniors.

These are seniors who do not have substantial pensions, investments or savings to supplement their Social Security checks.

The earnings limit is nothing less than a tax on work. Seniors need and deserve some tax relief. I urge my colleagues to join me in making this long overdue change to increase the earnings limit to $30,000.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, I voted against the rule on this particular bill, not because I oppose the provisions of the bill in general but in specific, I have a problem with one provision on line-item veto.

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I am a long-time supporter of the line-item veto. That is an issue which has not been partisan. It is an issue that the administration has asked for. I have supported it, and many on both sides of the aisle have supported it. The concern I have is that the line-item veto, under this bill, will not go into effect when we pass the bill. It will not go into effect until the end of the current term of this President. This President is a Democrat. This Congress is controlled by Republicans. That looks to the public like business as usual, like the Republicans are afraid to give a Democratic President the authority to veto specific items of pork.

It is not like we do not have a problem ongoing with park-barrel spending. I have in my hand the Citizens Against Government Waste's 1996 Congressional Pig Book. In that they identify $12.5 billion in just 8 appropriation bills that we passed in 1996, 8 of the 13, $12.5 billion of pork.

We passed in February 1995 through this House and in March through the other body a line-item veto bill. It took 6 months to even appoint conferees. Now we finally have the line-item veto coming to passage as part of this bill. It is too late for 1996 and these billions of dollars. Under this bill, it is too late for 1997 as well.

Did they believe that, by passing line-item veto, there would only be Republican Presidents in the future? A Democratic President would not be eligible to use the line-item veto? Well, I am going to put into the RECORD statements by the majority leader of the House, majority leader in the Senate and majority whip in the Senate. I am also going to put into the RECORD statements by the Committee on Rules chairman and other people on the floor of this House, saying we are not afraid to give it to a Democrat President. Here we are giving it, it is not just a Republican, we are giving it to him. No, you are not, not unless he wins reelection.

So I simply believe that we ought to change one provision in this bill. Let us make line-item veto effective immediately upon enactment. If the President does not appropriately use it, then Congress can challenge the President. If the President does appropriately use it, we start cutting inappropriate spending today rather than waiting until after the 1997 fiscal year.

So I would urge my colleagues to revise this bill, and I hope that we will have a motion to recommit with instructions to do so.

Mr. CLINGER. Mr. Speaker, I yield myself 2 minutes.

As chairman of the Government Reform and Oversight Committee, I am very pleased to rise in strong support of this measure. Two of the provisions in this measure were initiated in the Government Reform and Oversight Committee, and we are very proud they are part of this debt ceiling increase, because the line-item veto goes directly to the question of trying to hold down the debt, which we are now going to be forced to increase today.

The previous speaker said that this was a provision that we should give the President right now. I would point out to the gentleman that this was a suggestion that the President himself made. Contrary to many of the Members on the other side of the aisle, this President, our President, supports the line-item veto and supports the date that has been selected.

I would also point out he does have within his own power the key to unlock this provision and make it effective today, and that would be if he would agree to a balanced budget agreement. That is, as I say, in his power.

We had a lot of trouble reconciling the many differences, frankly, that existed between the Senate and the House. Many in this room will remember how vast those differences were. But we were able, in the final analysis, to come to agreement. It was a bipartisan bicameral agreement. There are Members on both sides who support strongly the provision of the line-item veto. There are Members on both sides, frankly, who disagree with the line-item veto.

The intent of the legislation, Mr. Speaker, is to provide the President a tool, only a tool, to approach this question of deficit reduction. We have provided it not just for the appropriations process, which would only get at about 30 percent of the spending, we have also provided it for entitlements. We have provided it for targeted tax preferences which have been so abused in the past. The President is going to have a broad authority and broad ability to deal with the deficit and to deal with the debt, which has been spiraling out of control.

I would point out it is important to note, consistent with the demand of both Houses in the conference, the conference report does not allow the President to strike any restriction, condition, or limitation on how funds may be spent. It is limited to whole dollar amounts. No policy can be changed as a result of this.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield 30 seconds to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, just in response to my friend who just mentioned that it was the President who asked for this, yes, the President asked for line-item veto. The President did not ask for line-item veto to be until after the new year of 1997. It was offered by the majority leader, Senator DOLE, to be available then, and the President said he wanted line-item veto, he would be willing to accept it and would accept it under those terms.

It was not the President suggesting to delay line-item veto until 1997. The President did accept it, but he has asked for it consistently to be effective immediately, and I have a letter so stating.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me explain to the Chair what I am about to do. I am going to yield to the gentlewoman from Connecticut [Mrs. KENNELLY], then I am going to get out of the way and let the gentlewoman from New York use her 10 minutes.

I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I am delighted to stand here today, on March 28, 1996, because it is a good day for the United States of America, it is a good day for the economic security of the United States of America, it is a good day for the financial markets of the United States of America, but most importantly it is a good day for the full faith and credit of the United States.

We are raising the debt limit. We should have done it 5 months ago, but we are doing it today, and I am pleased that that is happening.

There are those who say it did not matter if we did not raise it when we should have 5 months ago. I have to differ because I do not think there is any way of knowing if there were not interest rate increases or delaying schedules of auctions for securities, or, in fact, holding those actions for securities, or, in fact, holding those auctions when they should have.

Having said that, I am glad today has come. There is one disappointment I have, though, in this bill. For 19 years, for 19 years, the blind of this country have been joined with the elderly of this country, in being able to earn a certain amount of money over and above the Social Security earnings test. For some reason, the majority has decided to drop the blind from this joint relationship with those over 65. I do think it is too bad, because it really hurts the economic independence of the blind in this country.

I certainly hope the majority in another time will look at this piece of legislation. I know the gentleman from Texas [Mr. ARCHER] introduced it originally. I do hope once again we can couple the blind with those over 65 so economic independence can be theirs also.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is perhaps a good day but it certainly is a strange one. I would never have thought I would be part of a Congress of the United States that would unilaterally hand over major parts of its power to the executive department. To me, the strength of the Government of the United States, as written by the Founding Fathers, was the separation of powers, for each part of the legislative, the executive, and the judiciary, well defined.

With the action taken here in the House and in the Senate, we are unilaterally handing over to the President, whomever he or she may be, the right to veto all the work that we do here in Congress. Members of the House who have served under Governors, who have the right of line-item veto, have told me that in many cases it is a genteel way to commit blackmail.

Will we save money with the line-item veto? Well, consider this scenario: Let us say there is a President who is finding it very difficult, perhaps, to get reelected, and to get support from the members of his party who serve in the House or in the Senate. He would call in a delegation, perhaps mine, New York, which is rather large, and says to us, you are not supporting me, but I do notice here that in the bills that have been sent to me, that there is a very critical item under New York that has so much money. We are then, Members, confronted with either determining whether we are going to stand pat, face the President of the United States and tell him to forget about it, or allow him simply to line out what is necessary for the people that we represent.

It is possible, is it not, that under those circumstances, that a delegation, a legislator, anyone, a leader would decide not to spend less money, Mr. Speaker, but could be induced to spend more? Indeed, it may be that such a President wants more than that has been asked for; the line-item veto does not say that in all cases that they will be going for less; it is entirely possible that a President will ask for more.

I believe that this measure is unconstitutional, and I hope that it will be judged so. It is a tragedy to me that this has been added on to what is one of the most important pieces of legislation that we have to come before us. The threat of fiscal default hanging over the United States of America has left a cloud over us that should never have been there in the first place. No nation ever talked about defaulting by choice until this time. To put, again, a sort of genteel from of blackmail, things that we normally would like to debate, strikes me as not the best way to do business.

We have heard this conference report being bipartisan and the great support that you have had on both sides of the aisle. I think it is important to point out, Mr. Speaker, that the conference that took place, took place only between House and Senate Republicans. No Democrats in the House or Senate were a part of that conference, and indeed the Democrats only saw the conference report after it was filed. Without any question, this side of the House had no impact whatever on that conference report.

But in addition, this conference report goes much further than either the House bill or the Contract With America went. For example, it includes Medicare, Medicaid, Social Security, and all other entitlement programs. We are now going to say to the President, "If you do not like the increases that we have given in Social Security, get rid of them." We have put Medicare and Medicaid again up to the vagaries of the President without the ability of the people here to make the determination for the people who sent us, the 500,000 and more in each district who depend upon us to make those decisions, now you want to turn these decision over to the President.

But there is one other piece that I was particularly involved in myself during the 100 days of the Contract With America when line-item veto was brought up. We were concerned over on our side about the fact that in many cases it is just as serious a drain on the Federal Treasury, in many cases, just as much a breach of faith, to use tax policy. And we put forth an amendment on this side to make sure that tax policy, giving benefits to certain groups, certain persons in the United States, would be looked at and scrutinized if the line-item veto indeed became law. That has been narrowed to the point of nonrecognition. Your tax-break friends are safe.

What we are saying with this bill, this line-item veto today, is that the President may run through the bills in any way he or she likes, taking out anything or everything no matter the importance of it or what it may mean for the country. However, when it comes to tax benefits and tax policy, given to favorite constituents or constituent groups, nobody is going to be touching that. That is going to be sacred.

Obviously, this bill is important for us to pass. Our fiscal responsibility and our fiscal reputation depend on it, and it is high time that the Social Security recipients receive some attention with the fact that they have been limited in the income that they can receive. Without jeopardizing their Social Security.

But, Mr. Speaker, adding line-item veto to this is an abrogation of our power. It is an abrogation of the Constitution of the United States, and, frankly, I think that putting it on this bill says to the Nation basically we cannot be trusted. It is going to have to be somebody at 1600 Pennsylvania Avenue to make these final decisions. That is a decision and a statement that I personally am not willing to make.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I would just like to briefly carry on the discussion of how much power has been transferred from Congress to the President. Article I, section 9 of the Constitution says that Congress shall control the purse strings. Article 1 of section VII of the Constitution says that Congress shall decide how deep we go into debt.

I bring this chart to portray the authority and responsibility that Congress has now given away to the President of the United States. This pie chart represents the Federal budget for this coming year. The blue area represents the 52 percent of spending now in these welfare entitlement programs. The spending in those programs cannot be changed without the consent of the President.

□ 1300

It has been demonstrated now that also the administration has the authority to go deeper in debt without the consent of Congress.

Transferring even greater power to the administrative branch, to the President, by saying that he will have the authority to line out, to veto anything in an appropriation bill, is a tremendous transfer of power.

I served under three governors while in the State legislature in Michigan. Every one of those governors, liberal and conservative, used the leverage of the line-item veto to get spending they wanted. A lot of States have the line-item veto. Almost every one of those States also have a constitutional provision that says they have to have a balanced budget.

In the State legislature, while the Governor says "I want to shift priorities to what I think is important spending," either for political purposes or for philosophic goals. In the U.S. Government, where we do not have that kind of safeguard of a balanced budget, there is a danger of actually increasing spending and not decreasing spending as some presume.

During the last three decades, a lot of us wished that the President had authority to veto spending we did not like. But we now have a Congress that is becoming more frugal, is being more conscientious of a balanced budget, and is more interested in cutting. Now we are saying we are going to take away responsibility from this Chamber, from this body and give it to the President. This is inconsistent with what our Founding Fathers thought was an appropriate balance. I think this legislation could have different results than some expect. I hope we do not see the dangers that could result from further disrupting the balance of power.

Ms. SLAUGHTER. Mr. Speaker, I yield the balance of my time to the gentleman from Wisconsin [Mr. BARRETT].

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Wisconsin is recognized for 1½ minutes.

Mr. BARRETT of Wisconsin. Mr. Speaker, I thank the gentlewoman for yielding me the time.

Mr. Speaker, I support the line-item veto. It is a good measure, a measure that the American people want. Why? They want the line-item veto because they are concerned about two things. They are concerned about pork barrel spending, and they are concerned about special interest tax breaks.

This bill does a good job of taking care of the pork barrel spending, but it does a lousy job of taking care of special interest tax breaks. Why is that? It is because the people on the Republican side of the aisle like special interest tax breaks.

We hear on the floor day after day proponents of tax reform from the Republican side say, "Let's have a flat tax. Let's get rid of all these deductions. Let's get rid of all these loopholes."

Well, this was the opportunity to get rid of those. This bill was the opportunity to say we do not believe in special interest tax loopholes.

But when they came up to bat, they swung and missed. They had no desire to give the President of the United States the ability to get rid of special interest tax loopholes. Why not? Because they are the gift that just keeps on giving. You can tuck them away into a revenue bill. You do not have to go through the appropriations process. It just keeps giving and giving and giving.

The other irony of this entire debate is something that has happened to me over the last year and a half when I have gone back to my district and talked at Rotary lunches or Kiwanis lunches. They always talk about the Presidential line-item veto. I say, "Mark my words: We will get it, but the Republican leadership will find a way to make sure that President Clinton does not have the authority to get rid of their pork barrel spending or their special interest tax loopholes in the 104th Congress."

The provisions we are passing today do not give the President the ability to do it in this Congress.

Mr. CLINGER. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I rise in very strong support of this legislation, noting that 43 Governors have the line-item veto. Governor John Engler of Michigan has spoken out strongly that it does restrain unwise spending.

Mr. Speaker, there are some supporters of line-item veto who may have despaired of ever getting it done. I must admit that there were days over the past 13 months when I had my doubts. Well, in the spirit of Sean Connery I am reminded "never to say never." Today we fulfill a major plank in the Contract With America and implement a powerful budget-cutting tool. Title II of the bill before us is the text of our conference agreement on the line-item veto. It reflects countless hours of meetings and discussions—and an enormously good faith effort by all the conferees to ensure that this significant delegation of power from the Congress to the President is effective, workable and clearly defined. The conferees understood the magnitude of a delegation of authority of this kind. Quite simply, it is historic. Although some of our colleagues are fundamentally opposed to transferring such power to the President—any President—I firmly believe that this is a legitimate and necessary element of our battle to bring the Federal budget under control. We have been very careful in this conference report to carefully define our terms and the limitations that Congress is placing on the President's use of the line-item veto authority. The purpose of the line-item veto is to add to our arsenal of weapons against low-priority or unnecessary Federal spending. The goal is deficit reduction and we have ensured that the authority applies only to money being spent. Just as 43 Governors do today, the President, under the line-item veto, will have the ability to cancel individual items of spending and tax legislation if he believes doing so will help reduce the deficit. The burden of proof will then be on the Congress to come up with a two-thirds majority to override the President and spend the money over his objections. If the Congress is unable to muster that supermajority, then the funds are not spent and are applied to deficit reduction. The remarkable thing about this measure is that it fundamentally shifts the bias away from spending and toward saving the taxpayers money. That is a change that more than 70 percent of Americans have been asking for. Americans know that when huge spending and tax bills go to the President for his signature or veto, often individual items of less or even questionable national merit get carried into law by the greater good in the bill. That costs money—lots of money—and that's what this tool is designed to control. Our conference built upon the House enhanced rescission model and, I believe, made it stronger by expanding the authority beyond appropriation measures to include new entitlements. As everyone knows, entitlement programs are a major culprit in our current budget imbalance—and the line-item veto should help to curb the creation of new programs that we can't afford. The conference report also allows the President to use his line-item veto to cancel limited tax benefits—provisions that are slipped into the Tax Code to benefit 100 or fewer people at a cost to the taxpayers at large.

Mr. Speaker, our staff has spent countless hours refining the language of this measure to ensure that we understand the repercussions of this delegation of authority. While we recognize the possibility for gaming of the system—by the Congress and the executive—we have built in important safeguards, including an 8-year sunset to allow us an opportunity to assess the line-item veto's effectiveness. Finally, Mr. Speaker, I point out to my colleagues that the President and the House leadership have agreed that the effective date of this new authority will be January 1, 1997, or enactment of a 7-year balanced budget, whichever comes sooner. This is a practical result that ensures sufficient time for the Executive and Congress to consider the measure's provisions and impact. In addition, this specified effective date allows the line-item veto to rise above short-term political realities. I think it is an enormously sensible decision and I applaud the President and our leaders for it.

Mr. Speaker, last night the other body adopted this conference report by a 69-to-31 vote. It's time for this House to deliver a similar result.

Mr. CLINGER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DELAY], the distinguished majority whip and tireless leader in the battle to achieve a line-item veto.

Mr. DELAY. Mr. Speaker, I thank the gentleman for his words.

Mr. Speaker, I rise in strong support of the Contract With America Advancement Act, and I urge my colleagues to vote for it.

This bill proves the pundits wrong. The Contract With America is alive and well, and is working to better the lives of American families.

I am especially pleased by two provisions in this legislation.

The regulatory flexibility act is a small but significant step in the right direction for making commonsense changes to our regulatory system.

This bill will bring much needed congressional accountability to the regulatory process. No Congress before this one has been willing to take responsibility for the way laws are implemented after they are signed.

I believe it is both appropriate and necessary for Congress to conduct oversight over agencies' promulgation of regulations, and am very pleased that this, the first Republican Congress in 40 years, is the one to make it happen.

We also are finally enacting the line-item veto.

When I was first elected to the House, I made the line-item veto one of my top priorities.

This may not be a good week for pork, but it is a great week for the American taxpayer.

Gone are the days, when Congresses inserted pork barrel projects to buy votes for their Members.

With this line-item veto, we will make certain that those days of wasting taxpayer dollars are gone forever.

I applaud my colleagues for their work on this legislation, and I urge them to send this bill to the President.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I rise in strong support of this legislation, but it is interesting how we got here. We got here today because the Republican leadership and the Democrat administration worked together to bring this bill forward. We have Democrats and Republicans working together, and when we work together it is amazing what we can accomplish.

This bill is important. It does deal with the Social Security earning limitation. For too long senior citizens have been penalized for working with outrageously high tax rates. This bill corrects that.

The line-item veto is an important bill. It helps to spotlight individual appropriations. We pass these omnibus bills where none of us really have an opportunity to study each and every provision in that legislation. The line-item veto will give us an opportunity to look at these items individually and give the President a role as to whether they should become law.

Small business regulatory relief, there are problems with small business. The oversight function of Congress should be to take a look at what regulations impact on small business, and this bill does that.

Increasing the debt ceiling, we all know that we need to do that. We have already spent the money. We have got to honor our obligations.

But it is interesting, why have we delayed for so long in bringing these bills forward? As I listened on the floor when we were considering other debt extension bills, the Republican leadership told us we could not consider it because we had to deal with deficit reduction. This bill does not deal with deficit reduction; it deals with extending the debt limit, as it should.

Perhaps the only lesson that we can take out of this bill on deficit reduction and balancing the budget is if we use the process of Democrats and Republicans working together, then we can accomplish a balanced budget in this Congress. So I hope this legislation will spill over to other efforts between Democrats and Republicans to bring sound legislation to the floor, not in a vacuum by one party, but in cooperation by both parties, between the Congress and the President. If we do that, we will indeed serve our constituents well.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS], the chairwoman of the Committee on Small Business.

Mrs. MEYERS of Kansas. Mr. Speaker, I would like to thank the chairman very much for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 3136. I support the increase in the senior citizens earning threshold, I support the line-item veto, and particularly I support title III of this act, which is of enormous importance to this country's 21 million small businesses.

Subtitle A of title III provides that agencies will provide plain English guides on new regulations for small business. Subtitle B provides for a regulatory ombudsman to assist small businesses in disputes with the Federal Government. These two subtitles, along with subtitle D, the Regulatory Flexibility Act, were among the very top priorities listed by the White House Conference on Small Business.

I would like to focus for a moment on the Regulatory Flexibility Act, which those interested in small business have been working for for many years. The Regulatory Flexibility Act has been on the books since 1980, and it provides that agencies must review all new rules and regulations for their specific impact on small business and then help mitigate that impact if it is extreme. But there is no enforcement mechanism, and the agencies have largely ignored it.

This bill would provide for judicial review of the process, and thus put teeth in that Regulatory Flexibility Act. This judicial review of regulatory flexibility has strong bipartisan support. It has passed this House by a vote of 415 to 15, and last week it passed the Senate by 100 to 0.

There are many good reasons to support this bill, but its value and importance to small business is the best reason to me and to the Committee on Small Business.

I urge my colleagues to support H.R. 3136.

Mr. CLINGER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Florida [Mr. MICA] who has been a champion for regulatory reform and also a leader in the line-item veto battle.

Mr. MICA. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, small business is really the largest employer in our country. Small business in fact is the cornerstone of free enterprise. Today small business in the United States is being choked to death on mindless regulations, edicts and paperwork, and federally mandated compliance forms.

When they write the epitaph of American small business, let me read for you what the tombstone is going to say: "Here lies American small business, murdered by overregulation, murdered by taxation and litigation."

Today we cannot totally free the bondage of small business in America. What we can do today, however, is allow some regulatory flexibility, and that is what this legislation does.

Today, through this legislation, small business will have a small but a fighting chance to challenge this crazy Federal bureaucratic rulemaking process. Today we can let Congress place a small check on the bureaucrats who have made a lifetime career of pumping out mindless, costly, and ineffective regulations.

Today, if we are going to sink our Nation further into the rathole of debt, we can, through these regulatory reform measures, give small business, who employ our people, who pay our taxes, a small but fighting chance to dig us out of that rathole of debt.

Mr. CLINGER. Mr. Speaker, I am very pleased to yield 2 minutes to the gentleman from Indiana [Mr. MCINTOSH] who has been a leader in this Congress on regulatory reform and an active participant on our committee, and chairman of the Subcommittee on Regulatory Reform.

Mr. MCINTOSH. Mr. Speaker, I thank the chairman for yielding me time, and thank him for his leadership on this bill.

Mr. Speaker, I rise in strong support of the line-item veto provision, the provision removing penalties from senior citizens, and title III, the Small Business Regulatory Enforcement Fairness Act of 1996.

What we have before us today is a small step toward reforming our regulatory process. It is time, Mr. Speaker, that we get Government off of our backs, and back on our side in this country.

Small businesses create 75 percent of the new jobs in this country, and I am particularly pleased to support the provisions of this bill that will allow small businesses to challenge agency decisions in court when they ignore the needs of small businesses and they write new regulations and create redtape.

I am also very pleased with subtitle E that will bring agency regulations back to Congress for a vote. This part of the bill originated as a companion bill to my legislation, H.R. 450, the Regulatory Transition Act of 1995. And I was pleased to work with the gentleman from Pennsylvania, Chairman CLINGER, the gentleman from New York, Chairman SOLOMON, and the gentleman from Illinois, Chairman HYDE, along with Senator DON NICKLES, to craft provisions that will be acceptable to both bodies and provide for meaningful congressional review of agency rulemaking actions.

Our Subcommittee on Regulatory Affairs has held field hearings around the country. We have heard from many people who are suffering because of Federal over-regulation. One person is Bruce Gohman, a small businessman in Minnesota, who says that he consciously limits his job creation to 50 employees. He will not hire more people because of the fear of being subjected to more redtape and more Government regulations.

I say we need this reform to allow Mr. Gohman to create more good jobs and to pay higher wages to his employees so that we can get this economy going again.

Mr. Speaker, I strongly support title III of this bill, and say it is time we have regulations that are smarter, safer, and provide more environmental protection, and less redtape.

Mr. Speaker, this title is one of the most important pieces of legislation for small business growth and job creation that we will take up this year. In fact, it is the number one legislative priority for small business. Although this is not a comprehensive regulatory reform bill, this is an important first step in enacting needed reform for hard-working Americans in their struggle against the regulatory bureaucracy in Washington. Moreover, this title will hold the administration accountable for the impact of rules on all Americans.

As I have said, I am especially pleased with the reforms in subtitles D and E, which address issues that I have been concerned about for a number of years. Subtitle D will strengthen the Regulatory Flexibility Act by allowing affected small businesses, local governments, and other small entities to challenge certain agency action and inaction in court. Currently, the Regulatory Flexibility Act requires Federal agencies issuing new rules to consider the impact the rules would have on small entities and prepare a regulatory flexibility analysis unless it certifies that the rule would not have a significant economic impact on a substantial number of small entities. In my experience working with Vice President Quayle on the President's Council on Competitiveness, I discovered that the Federal agencies often ignored the mandate of the act and refused to prepare a regulatory flexibility analysis. The limited judicial review provided in subtitle D will serve as a needed check on agency behavior and help enforce the mandate of the act.

Subtitle E will add a new chapter 8 to the Administrative Procedure Act, which will allow Congress to review agency rulemaking actions and determine whether Congress should pass joint resolutions under expedited procedures to overrule the rulemaking action. This subtitle originated almost one year ago as companion legislation to H.R. 450, the Regulatory Transition Act of 1995, which was reported out of my Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs. Although I would have liked this subtitle to go further, the bill we are going to pass today is a good start and can easily be amended in the future to provide for an expedited procedure to review and stop the most wrong-headed rulemaking proceedings before they waste more agency and private resources.

As the principal House sponsor of the Congressional Review subtitle, I am very proud that this bill will soon be sent to the President again, and I hope signed by him this time. The House and Senate passed an earlier version of this subtitle as section 3006 of H.R. 2586, which was vetoed by the President last November. Before it becomes law, this bill will have passed the Senate at least four times and passed the House at least twice. In discussions with the Senate and House co-sponsors this past week, we made several changes to the version of this subtitle that both bodies passed on November 9, 1995, and the version that the Senate passed last week. I will be happy to work with Chairman HYDE and Chairman CLINGER on a document that we can insert in the CONGRESSIONAL RECORD at a later time to serve as the equivalent of a floor managers' statement. But because this bill will not likely have a conference report or managers' statement prior to passage, I offer the following brief explanation for some of the changes in the subtitle:

DEFINITION OF A "MAJOR RULE"

The version of subtitle E that we will pass today takes the definition of a "major rule" from President Reagan's Executive Order 12291. Although President Clinton's Executive Order 12866 contains a definition of a significant rule that is purportedly as broad, several of the administration's significant rule determinations under Executive Order 12866 have been questionable. The administration's narrow interpretation of "significant rulemaking action" under Executive Order 12866 helped convince me that Congress should not adopt that definition. We intend the term "major rule" to be broadly construed, particularly the nonnumerical factors contained in the new subsection 804(2) (B) and (C).

AGENCY INTERPRETIVE RULES, GENERAL STATEMENTS OF POLICY, GUIDELINES, AND STATEMENTS OF AGENCY POLICY AND PROCEDURE ARE COVERED BY THE BILL

All too often, agencies have attempted to circumvent the notice and comment requirements of the Administrative Procedure Act by trying to give legal effect to general policy statements, guidelines, and agency policy and procedure manuals. Although agency interpretive rules, general statements of policy, guideline documents, and agency policy and procedure manuals may not be subject to the notice and comment provisions of section 553(c) of title 5, United States Code, these types of documents are covered under the congressional review provisions of the new chapter 8 of title 5.

Under section 801(a), covered rules, with very few exceptions, may not go into effect until the relevant agency submits a copy of the rule and an accompanying report to both Houses of Congress. Interpretive rules, general statements of policy, and analogous agency policy guidelines are covered without qualification because they meet the definition of a "rule" borrowed from section 551 of title 5, and are not excluded from the definition of a rule.

Pursuant to section 801(3)(C), a rule of agency organization, procedure, or practice, is only excluded if it "does not substantially affect the rights or obligations of nonagency parties." The focus of the test is not on the type of rule but on its effect on the rights or obligations of nonagency parties. A statement of agency procedure or practice with a truly minor, incidental effect on nonagency parties is excluded from the definition of a rule. Any other effect, whether direct or indirect, on the rights or obligations of nonagency parties is a substantial effect within the meaning of the exception. Thus, this exception should be read narrowly and resolved in favor of nonagency parties who can demonstrate that the rule will have a nontrivial effect on their rights or obligations.

THE 60-DAY DELAY ON THE EFFECTIVENESS OF MAJOR RULES AND THE EMERGENCY AND GOOD CAUSE EXCEPTIONS

Two of the three previous Senate versions of this subtitle would have delayed the effective date of a major rule until at least 45 days after the relevant agency submitted the major rule and an accompanying report to Congress. One of the Senate versions and both House versions opted for at least a 60-day delay on the effectiveness of a major rule. The 60-day period was selected to provide a more meaningful time within which Congress could act to pass a joint resolution before a major rule went into effect. Even though the expedited congressional procedures extend beyond this period—and some of the special House and Senate rules would never expire—it would be preferable for the Congress to act before outside parties are forced to comply with the rule.

The subtitle provides an emergency exception in section 801(c) and a limited good cause exception in section 808(2) from the 60-day delay on the effectiveness of a major rule. Sections 801(c) and 808(2) should be narrowly construed, for any other reading of these exceptions would defeat the purpose of the delay period. The emergency exception in section 801(c) is only available pursuant to Executive order and after congressional notification that a specified situation exists. The good cause exception in section 808(2) is borrowed from the chapter 5 of the Administrative Procedure Act and applies only to rules which are exempt from notice and comment under section 553. Even in such cases, the agency should provide for the 60-day delay in the effective date unless such delay is clearly contrary to the public interest. This is because a determination under section 801(c) and 808(2) shall have no effect on the procedures under 802 to enact joint resolutions of disapproval respecting such rule, and it is contrary to the policy of this legislation that major rules take effect before Congress has had a meaningful opportunity to act on such joint resolutions.

ALL EXECUTIVE AGENCIES AND SO-CALLED INDEPENDENT AGENCIES ARE COVERED BY THE BILL

Congress intends this legislation to be comprehensive. It covers any agency or other entity that fits the "Federal agency" definition borrowed from 5 U.S.C. 551(1). That definition includes "each authority of the government" that is not expressly excluded by section 551(1)(A)–(H). The objective is to cover each and every entity in the executive branch, whether it is a department, independent agency, independent establishment, or Government corporation, whether or not it conducts its rulemaking under section 553(c), and whether or not it is even covered by other provisions of title 5, U.S. Code. This definition of "Federal agency" is also intended to cover entities and establishments within the executive branch, such as the U.S. Postal Service, that are sometimes excluded from the definition of an agency in other parts of the U.S. Code. This is because Congress is enacting the congressional review legislation, in large part, as an exercise of its oversight and legislative responsibility over the executive branch. Regardless of the justification for excluding or granting independence for certain entities from the coverage of certain laws, that justification does not apply in this legislation, where Congress has an interest in exercising its constitutional oversight and legislative responsibility over all executive branch agencies and entities within its jurisdiction.

Examples too numerous to mention abound in which Federal entities and agencies issue regulations and rules that impact businesses, small and large, as well as major segments of the American public, yet are not subject to the traditional 5 U.S.C. 553(c) rulemaking process. It is essential that this regulatory reform measure include every agency, authority, or entity that establishes policies affecting all or any segment of the general public. Where it is necessary, a few special adjustments have been made, such as the exclusion for the monetary policy activities of the Board of Governors of the Federal Reserve System, rules of particular applicability, and rules of agency management and personnel. Where it is not necessary, no exemption is provided and the rule is that the entity's regulations are covered by this act. This is made clear by the provisions of the new section 806 which states that the act applies notwithstanding any other provision of law.

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Mr. CLINGER. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. ROYCE].

Mr. ROYCE. Mr. Speaker, I rise in support of this legislation which is urgently needed to avoid financial chaos. This is a compromise bill. In exchange for extending the debt limit, it provides a much needed procedure for reducing unnecessary pork barrel spending. That procedure is the line-item veto. As cochairman of the congressional pork busters coalition, I strongly support the line-item veto as an essential tool to eliminate pork from appropriations bills. We have been battling pork for 6 years on the floor of this House, but not always successfully.

This legislation provides much needed back up power to the Executive, allowing him to surgically slice out those items which do not deserve funding. Governors in 43 States, including California, already have this power and it has worked well. In our State of California, it has allowed our Governors to balance the budget. The House voted for a line-item veto over a year ago, and it has been bottled up in the Senate ever since. This is a golden opportunity to finally achieve our goal.

Mr. GIBBONS. Mr. Speaker, I yield 4 minutes to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, I want to thank one of the heroes of D-day for the opportunity, the gentleman from Florida [Mr. GIBBONS].

When the new majority came to power 1 year ago, they promised the American people that Congress would change its ways, that we would live by all the laws of the land. Obviously one of the laws that we are not going to live by is the law of regulating false advertising. The very name of this bill is false advertising. It has nothing to do with the Contract With America. It has everything to do with raising the debt limit by $600 billion.

The American people have consistently said that the biggest threat to this Nation is our horrible debt. It is a vulnerability greater than any other thing because it is eating up so much of our taxes. Just the interest on the national debt eats up more of our taxes than Medicare, than Medicaid, twice as much as Medicaid, the national defense, 10 times more than food stamps, and 12 times more than welfare.

In the 2 minutes that I have spoken to my colleagues, this Nation has spent $1 million on interest on the national debt, just in the past 2 minutes.

So what is their solution? We will borrow more money. We will pay more interest. That is crazy.

Mr. Speaker, what do they do? Do they come to the floor and be honest with the American people and say we want to borrow some more money? No, they hide it. They hide it behind three bills that have already passed this body on their own merit, three bills that were just waiting for the U.S. Senate to agree to so they can become law.

There is only one purpose for this bill. It is to borrow more money and to waste more money on interest on the national debt. Instead of the balanced budget that the American people were promised, this is just more borrow and spend. But it is not the first time since I have come to Congress that this has happened. Around November 7, 1989, I got a call from then-President Bush's White House. I was very new to this body. It said, can you do us a favor? Can you help us just one time temporarily raise the national debt? Just a temporary thing.

Mr. Speaker, I had only been here a couple of weeks, and, my goodness, the President of the United States called. I was flabbergasted and honored, and, of course, Mr. President, you made perfect sense. We have got to do that. So the debt was raised from 2.87 trillion to 3.1 trillion. That was not the end of it. In October 26, 1990, this House came back, and H.R. 5838 permanently raised the debt ceiling from 3.1 to 4.1 trillion, just a couple years later. And then again on August 5, 1993, the House raised the debt ceiling from 4.1 to 4.9.

It is like saying, I am going to pay off my Visa card but first I am going to raise my debt limit on my visa card from 5,000 to 10,000. You do not ever get there.

Today they are being asked to raise it from 4.9 to 5.5 trillion. Voting to raise the debt limit is a lot like an alcoholic saying, I am just going to have one more drink. A very good friend of mine from Pascagoula, MS, just came out of alcoholic rehab. He said, I would wake up every morning and I could always find an excuse for just one more drink. It is Thanksgiving. It is the week before Christmas. It is Mardi Gras. It is spring break. There is always one more excuse, one more drink. But until he work up and said, I am not going to have any more excuses, no more drinks, did he cure his problem.

Mr. Speaker, America has to run out of excuses. We have got to quit borrowing. We cannot be for a balanced budget and then turn around and borrow $600 billion more. Let us draw the line today. Let us quit fooling the American people. Let us do what is right for this country.

I thank the chairman and the great hero of D-Day. This gentleman, in case Members do not know, paratrooped into Normandy the night before the D-Day invasion. He is going to end his congressional career this year. He is a great American, and we are going to miss him.

Mr. ARCHER. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I thank my friend, the gentleman from Texas [Mr. ARCHER] for yielding time to me. I want to congratulate the gentleman from Pennsylvania [Mr. CLINGER] and, of course, congratulate the gentleman from Florida [Mr. GIBBONS]. We are going to miss him greatly.

Mr. Speaker, it saddens me that we have gotten to the point where we have to rely on the line-item veto to turn the corner on the profligate spending that we have seen go on for decades. We have seen it successful in 38 States. I would simply like the RECORD to show that in our State of California, Governor Wilson has used the line-item veto 354 times, saving our State's taxpayers nearly $800 million.

I hope very much that we can proceed with passage of this very important measure.

Mr. GIBBONS. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, let us see if this sounds right. Congress is frustrated with political pork. Congress has tried but Congress is fed up with pork-barrel spending.

Congress honestly and desperately wants to stop all of this political pork. So Congress today, in both desperation and frustration, has decided that the only way to stop political pork is by giving the top politician in America, the President, the power to control political pork. Beam me up here. Let me remind everybody herein assembled, this is not Rotary. This is the Super Bowl of politics. And as we speak, White House staffers are not only watching and listening to what we say but how we say it, and they will be individually scoring your voting records to determine who may need some discipline.

In America the people are supposed to govern. My problem with the line item veto is very simple. It is an awesome transfer of the people's power to one person who needs to get elected and then needs 34 Senators in his hip pocket to run America. I guarantee not one of those 34 Senators will ever worry about a line item veto.

Mr. Speaker, let me say this today in the little bit of time I have, watch what we say from here on out, bite our tongues, mind our votes, mind our votes. And consider our votes politically, folks, because the White House is watching, the White House is keeping score.

I think there is a better way to do this without transferring the power from the people to the White House. We are making the White House too powerful in the United States of America. I think we are endangering the freedom of our Nation and the power of our people.

With that, I appreciate the gentleman for giving me the time. I want to echo the remarks of the gentleman from Mississippi [Mr. TAYLOR].

I have been quite aggressive in some of my opposition at times to the Committee on Ways and Means, but never to the gentleman personally. I think the gentleman is an absolute great American. We are going to miss the gentleman from Florida [Mr. GIBBONS]. I thank him for putting up with me. A lot of Members love him; I certainly do.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, as one who did not support the line item veto because I do not think we can always count on the President of the United States, regardless of who he is, not to have some pettiness in his surroundings. But what I do not understand is there was a big push to do the line item veto early on over here, and I understand that this transaction will not go into place until 1997. Why would not the line item veto go and this President have the benefits of it for the next 7 months?

Mr. TRAFICANT. Mr. Speaker, I would like to respond by saying evidently the next President-elect will have the line item veto authority. It is amazing to me. I think it is unconstitutional, to start with, but I can remember a vote on a Btu tax, and the President wanted a Btu tax. I can remember that I happened to be the only Democrat in the Congress to speak out against that tax. With the line item veto it is not a very comfortable position. Maybe someone from that side might say the reason why.

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Pennsylvania. We are going to miss him as well.

Mr. CLINGER. Just to briefly say, Mr. Speaker, the President has agreed to the date. Obviously he is confident that he is in fact going to be reelected. I do not share that confidence, but he believes that he will be. Therefore, he is going to have that ability on January 1 in his view. The second thing is he has the key to provide the line-item veto to his use now upon signing a balanced budget agreement.

Mr. TRAFICANT. Reclaiming my time, I do not care if it is a Democrat or Republican, we are all Americans. We are expanding the power of the Presidency. That is not good for our country, Mr. Speaker.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the deputy whip, the gentleman from Illinois [Mr. HASTERT], a respected Member of the House.

Mr. HASTERT. Mr. Speaker, I thank the gentleman for yielding time to me.

This is the third time the House of Representatives has taken up legislation to raise the earnings limit for working seniors in the 104th Congress. I want to congratulate the gentleman from Texas [Mr. ARCHER], who I think for 13 Congresses has worked to make this thing possible. I also want to congratulate the gentleman from Kentucky [Mr. BUNNING], who is the chairman of the Social Security Subcommittee, along with Members of the 100th class who have been working on this project for another 8 years. They have made this thing happen.

Mr. Speaker, every time this legislation has come to the floor, it has passed with nearly a huge bipartisan margin. It is clear the House understands that working seniors, people who have to earn money by the sweat of their brow, usually people who have earned money by the sweat of their brow their whole life, who have not been able to accumulate huge savings or investments or those revenues or huge pensions, that today they have to go out and work to supplement their pension, to supplement their Social Security so that they can have a decent life, so that they can help put their grandchildren through college, so that they can maybe go on a vacation or somebody pay their property taxes or even buy a new car. These people are affected by this bill.

I am proud to be able to stand here today and say that those seniors will be able to make more money this year without paying a tax on work. Those seniors will be able to eventually realize and take the earnings test up to $30,000 so that they can share the benefits of work that all Americans can have without paying a penalty or a tax on it.

Mr. Speaker, I sincerely wish we were able to raise the limits faster, as in earlier versions of this bill, but I am glad we have been able to come up with a plan that the President will sign. The seniors need and deserve relief. They have waited patiently for too long. In fact, I think those people who have to work by the sweat of their brow, people who work at McDonald's and flower shops and drive school buses need a break today, and we are going to give it to them.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, to my friend, the gentleman from Pennsylvania [Mr. CLINGER], who is leaving this august body and has been a friend for a lot of years, everything that is in this bill that we are debating here today, as soon as the President signs it, will go into effect with the exception of the line-item veto; is that right?

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Speaker, as I indicated, this would also go into effect if the President would agree to the balanced-budget agreement.

Mr. HEFNER. The balanced budget is not what we are voting on.

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The gentleman is saying to the President, If you will do what we want to do, we'll give you the line-item veto this year, but everything else extending the debt limit and everything else will go into effect as soon as he signs it, with the exception of the line-item veto which we passed well over a year ago, in the first year of this new administration.

Why? I do not understand why the gentleman would object to giving the President the line-item veto when he has got all these bills that are coming up for all the appropriations for everything that we authorized this year. Why would the gentleman want to wait until 1997, because we can save a lot of money? Would it have been possible until you make it effective as soon as the bill is signed?

Mr. Speaker, just as among friends here, we are just friends here, would it not have been possible to put into this legislation that as soon as the President signs it, he will have the line-item veto? It is just that simple.

Yes or no; could the gentleman have done it that way?

Mr. CLINGER. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. That could be done but would kill the conference agreement and prevent enactment of the bill. The President has in fact agreed that the date should be January——

Mr. HEFNER. That is not exactly true, Mr. CLINGER.

Mr. CLINGER. He did agree to that date; did he not?

Mr. HEFNER. That was the best he could get, but I think he would agree, if it were made possible, that the line-item veto would go into effect as soon as he—I do not think he would have any problem with that.

Mr. CLINGER. I would understand that, but if the gentleman would yield——

Mr. HEFNER. But it could be done.

Mr. CLINGER. There is a recognition that this is an effort to try to——

Mr. HEFNER. Mr. Speaker, taking back my time, the gentleman is setting the legislative agenda here. He could have made it in order that everything would go into effect, the line-item veto, everything, would have gone into effect. It could have been done; am I right or not? Yes or no?

Mr. CLINGER. No. Not and pass the bill.

Mr. HEFNER. I reclaim my time.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The time of the gentleman from North Carolina [Mr. HEFNER] has expired.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding this time to me.

The American farmer and the owner of a small business will be, at the end of this day, applauding the action of the Congress of the United States. For too long they have suffered the indignity of the Federal regulator, the agency head, who burdens the farmer and burdens the small business man with countless items of regulation that stifle business, it stifles the ability of the farmer to expand his operation and, thus, have created a situation in our country where entrepreneurs are afraid to hire new people, are afraid to embark on new enterprises.

What we do here today in reforming regulatory flexibility is for the first time give a disaffected regulatee, if there be such a word, the right to appeal a burdensome regulation that has been foisted upon them by administrative agencies. That is a tremendous advance. Instead of having to sit back and take whatever the agency says as a mandate, now for the first time we will have the farmer and the small business man say to himself and to the community, "I'll be able to do something about this adverse regulation."

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I thank the distinguished gentleman for yielding this time to me, and let me just say I support this legislation in every aspect of it. I think many, many good things are happening here.

I only have a minute and a half. I want to talk about the line-item veto. I think we need to look at the record first of all. Congress over the years, Republicans and Democrats, have spent a tremendous amount of money, more than, perhaps, we should have. I think this country really wants mechanisms in place which are going to help us reduce that burden of spending, and I believe strongly the line-item veto will do it.

I have listened to this whole argument today because I am interested in it. As a Governor of a State for 8 years, I had the line-item veto. We are one of the 43 States which has it. I can tell my colleagues it was beneficial in my State from both points of view. It caused us to get into a room together and to discuss our budgets, and to make absolutely sure we were in concert with each other and we were doing what was in the best interests of the State. It was beneficial, without a doubt, to the budget process of the State of Delaware and I am convinced it will be beneficial to the budget process of the United States of America.

We, in my judgment, are not yielding power to the President absolutely. We are allowing the President to become involved in the budget process. But we also retain the right to override vetoes in the circumstances in which they arise, and, quite frankly, if we have a President who for political reasons, ideological reasons, political reasons, whatever it may be, decides to make an issue of all of this, we have the ability to just as easily point out that it is politics and that it is wrong.

What will really happen in this process is that we will be able to sit down together to negotiate things that are absolutely in the pork barrel category. They can be eliminated.

So for the reasons of that and the rest of this very good bill I hope we will all support it here in a few minutes.

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from New York [Mr. QUINN].

Mr. QUINN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise today in support of the entire bill which includes the most important line-item veto. This 104th Congress has been hailed as a reform-minded Congress. We have made historic attempts to cut wasteful Government spending, scale back a bloated bureaucracy and, most importantly, balance our Federal budget.

Although we have made great strides in these areas, our budgets still suffer from a deficit increasing plague which is known as pork barrel spending. In order to complete this goal of returning fiscal responsibility to the Federal Government, we must enact this measure.

With the line-item veto the President can literally draw a line through any item in the Federal budget without having to veto the entire budget. No longer will taxpayer dollars be spent on wasteful projects. Instead, the stroke of a pen from the President will eliminate millions of dollars of pork from each year's budget.

Furthermore, these savings will go into a lockbox, insuring that they be used for deficit reduction. In fact, the General Accounting Office, during the course of our discussion on this matter these last 2 years, has reported that they would have saved or been able to save over $70 billion had the line-item veto been in effect.

Mr. Speaker, we are here again with this opportunity to pass a historic measure. On a day when we are asking to support an increase in the debt limit to a record $5.5 billion, I think it is imperative and it is appropriate that we give the President this authority.

Mr. Speaker, I also want to take a moment at this time to commend our colleague, the gentleman from Pennsylvania [Mr. CLINGER], who is retiring after this session. We said yesterday at the Committee on Rules, I will say it again, his work on the line-item veto bill, as well as many other numerous reform problems and perspectives, has been truly remarkable. Without his effort it would still be stuck in conference. We appreciate his work and ask everybody to vote for the line-item veto.

Mr. ARCHER. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, I thank the gentleman from Texas for yielding time to a person that wants to talk against the bill.

Mr. Speaker, what this bill does is increases the debt of the United States by $600 billion. At 5-percent interest, that is another $30 billion a year that taxpayers will have to pay.

I think it is unconscionable to continue to increase the debt without some guidelines, without some actual legislative change, at the very least some direction, to cut the spending of this overbloated Government. Borrowing has obscured the true siege of Government. Ultimately we must reach a balanced budget. This bill does not do that, and that is why I am voting against it.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. I thank the gentleman for yielding me the time.

Mr. Speaker, let me rise in opposition to H.R. 3136 and mention that, along with some of the Members who have spoken earlier, I, too, believe that this bill will ultimately be found constitutional if it is signed into law. I also note with curiosity that we made the line-item veto effective after the term of the current President, Bill Clinton, has expired, and I think that is somewhat questionable as to why this Congress, under the new majority, has decided not to allow this particular President the opportunity to exercise a line-item veto if they are so adamantly for it.

But let me mention something that I find extremely disturbing in this particular bill, which I cannot understand why it is even in here, and that is the whole issue of regulatory reform. I do not think there is any Member of Congress who does not wish to see regulatory flexibility and decreasing the burden on small business so long as we provide protections to the environment, to workers, and to people, our consumers.

But, disturbingly, this bill commits an end run on the whole issue of regulatory reform because what it does is it provides, in this particular piece of legislation, through an amendment which I must say just came to us last night, which amends this bill which came to us just 2 days ago, the whole structure used to regulate agencies and regulate businesses out there in this country. How someone is supposed to be able to know what something that they got 2 days ago completely means and then now have to analyze something that they got last night, what that means is beyond me. But that is what we are being asked to swallow here through this end run.

I am not sure what is wrong with this particular bill, but why was it that the majority was unwilling to let sunshine on these provisions so we could decide if, in fact, this is the true regulatory reform we need?

Let me mention a couple of other things. This legislation creates, in the regulatory reform provisions, so-called regulatory fairness boards and advocacy panels. These are panels and boards that may be made up completely of a few favored small businesses that are trying to get themselves out of regulation, or can even include people who are exclusively major campaign contributors to particular Members of Congress or to particular parties. That I find very disturbing and very offensive.

What else does this legislation do? It allows for private ex parte communications. In other words, all the interested parties are normally under the customary practice allowed to sit in, in an open and fair process on the record, on what should be done with regard to regulatory reform.

This legislation says no, we do not need to do that any more. Let us go ahead and let a few people who happen to sit on these boards or advocacy panels have the opportunity to privately, without the other interested parties, sit down with some of these agencies that are actually going to create these particular regulations or remove certain regulations. That is unfair to those businesses that are trying to do this in a fair and evenhanded manner.

Finally, the environment is at stake. I would urge all the Members to, if they really have a chance, take a look at this. We are going to take out the penalties for environmental violations of law.

As I was saying, take a look at the provisions that deal with environmental regulations. What we see here are waivers of penalties that would otherwise apply to those businesses that we find in violation of our clean water and safe drinking water standards. Any penalty for having violated those particular laws or regulations could be waived.

Not only that, but because we have not had enough time to examine it, it is going to be fairly clear from some of the cryptic language that is used that they are going to create a nest egg for attorneys, because they will be able to go in there and take this to court because so much of this is so difficult to understand. What they are doing though is putting the consumer at risk, they are putting the environment at risk, and I would urge Members to take a close look for all the reasons I stated on why we should oppose H.R. 3136.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume simply to very briefly respond to the gentleman who has just spoken.

Mr. Speaker, this legislation on small business regulatory reform should not come as a big surprise to him because it was debated thoroughly on the floor of this House last year. This was one of the elements of the Contract With America.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield 1½ minutes to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I have voted on the three main components of this bill already, regulatory reform, Social Security earnings limit increase, and a line-item veto. I think it is very important that the American public knows what this bill is. This is adding things to increase the debt for our children. What is wrong with the scenario to say that we are in debt, we have no figured-out way, no agreed-to plan, to solve that debt, and we are going back to the bank to borrow more money?

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Mr. Speaker, the Members of this Congress need to make sure they know what they are doing when they vote to extend the debt and jeopardize the future of our children by not doing the proper thing in terms of living within our means today.

Consider what it will be like when we are 70 or 80 years of age. They will not, our children or grandchildren, be able to buy a home, will not be able to own a car. Their living standard will be halved, because we did the wrong thing today. This is not about the Social Security earnings limit, this is not about the line-item veto, this is not about reg reform, this is about not living up to the very hard responsibility that this Congress has been entrusted with, and that is not to live beyond our means.

I would urge each Member of Congress to consider what the real issue is here today, and vote not to extend his debt limit until we have an agreement that gives us a plan on how we manage the finances of this country.

Mr. CLINGER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in reluctant opposition to this legislation.

Mr. Speaker, I want my colleagues to know that I have absolutely no quarrel with the heart of this bill—the mechanism by which we enact a long-term increase in the debt limit. My colleagues know that I have long advocated decisive action on the debt limit and feel this step is long overdue. In addition, I have supported the increase in the Social Security earnings limit and believe the so-called reg flex provisions of this bill are an improvement on current law.

My opposition is prompted exclusively by the inclusion of the line-item veto in this must-pass legislation.

Mr. Speaker and my colleagues, enactment of the line-item veto is a serious error and a fundamental violation of the basic constitutional principal of the separation of powers. Every school child in America should have learned that. The separation of powers is a foundation of our democracy.

Mr. Speaker, Mr. David Samuels has it right in an Op-Ed piece in today's New York Times—"Line Item Lunacy." I include this article for the RECORD.

David Samuels writes:

The line-item veto would hand over unchecked power to a minority President with minority support in Congress, while opponents would have to muster two-thirds support to override the President's veto.

[From the New York Times, Mar. 28, 1996]

LINE-ITEM LUNACY

(By David Samuels)

It's a scene from a paranoid thriller by Oliver Stone: A mercurial billionaire, elected President with 35 percent of the vote, holds America hostage to his minority agenda by vetoing item after item in the Federal budget, in open breach of the separation of powers doctrine enshrined in the Constitution. Impossible? Not anymore.

With the announcement by Republican leaders that they plan to pass the line-item veto this spring, the specter of a Napoleonic Presidency has moved from the far reaches of poli-sci fiction, where it belongs, to the brink of political possibility.

At the moment, of course, a Presidential dictatorship is far from the minds of the G.O.P. leadership and White House Democrats, who hope that the line-item veto would encourage the President to eliminate pork-barrel giveaways and corporate tax breaks. But to see the measure as a simple procedural reform is to ignore the forces that have reconfigured the political landscape since it was first proposed.

Back in the 1980's, President Ronald Reagan ritually invoked the line-item veto while shifting blame onto a Democratic Congress for ballooning deficits. Part Republican chestnut, part good-government gimmick, the line-item veto became part of the Contract With America in 1994, and this month rose to the top of the political agenda.

What the calculations of Democrats and Republicans leave out, however, is that the unsettled politics of the 1990's bear little relation to the political order of the Reagan years.

In poll after poll, a majority of voters express a raging disaffection with both major parties. With Ross Perot poised to run in November, we could again elect our President with a minority of the popular vote (in 1992, Mr. Clinton won with 43 percent). The line-item veto would hand over unchecked power to a minority President with minority support in Congress, while opponents would have to muster two-thirds support to override the President's veto.

By opening every line in the Federal budget to partisan attack, the likely result would be a chaotic legislature more susceptible than ever to obstructionists who could demand a Presidential veto of Federal arts funding or sex education programs or aid to Israel as the price of their political support.

And conservatives eager to cut Government waste would do well to reflect on what a liberal minority might do to their legislative hopes during a second Clinton term in office.

Nor would the line-item veto likely result in more responsible executive behavior. The zigs and zags of Bill Clinton's first term in office give us a clear picture of the post-partisan Presidency, in which the executive freelances across the airwaves in pursuit of poll numbers regardless of the political coherence of his message or the decaying ties of party. With the adoption of the line-item veto, the temptation for Presidents to strike out on their own would surely grow.

The specter of a President on horseback armed with coercive powers might seem far away to those who dismissed Ross Perot as a freak candidate in the last election. Yet no law states that power-hungry billionaires must be possessed of Mr. Perot's peculiar blend of personal qualities and doomed to fail. Armed with the line-item veto, a future Ross Perrot—or Steve Forbes—would be equipped with the means to reward and punish members of the House and Senate by vetoing individual budget items. This would enable an independent President to build a coalition in Congress through a program of threats and horse-trading that would make our present sorely flawed system seem like a model of Ciceronian rectitude.

President Clinton has promised to sign the line-item veto when it reaches his desk. Between now and then, the historic breach of our constitutional separation of powers that the measure proposes should be subject to a vigorous public debate. At the very least, we might reflect on how we intend to govern ourselves at a time when the certainties of two-party politics are dissolving before our eyes.

He's absolutely right! A pure line-item veto—and the version included in this bill is fairly pure—would give the President of the United States new dramatic, unilateral powers. It would mean that any President, operating in league with just 34 Senators, could strip any spending proposal or tax cut, no matter their merit, from any bill. The consolidation of power in the executive branch is undeniable.

As Mr. Samuels writes, "By opening every line in the Federal budget to partisan attack, the likely result would be a chaotic legislature more susceptible than ever to obstructionists . . ."

This line-item veto could easily take legislative horse-trading to a new level. While many President's have held out the prospect of pork in order to enlist votes for legislation they wanted—that is, the vote trading that occurred during the NAFTA debate—the line-item veto will allow a President to threaten specific programs and projects proposed by Members in order to compel their cooperation on other votes.

This is a dramatic shift in the balance of power is an open invitation to any President to engage in legislative blackmail. For example, what if President Clinton decided to remove only Republican initiatives from a measure? If 34 Democratic Senators uphold his action, the President wins.

We all recognize the genius of the framers of our U.S. Constitution. They did not want a king or a dictator or an oligarchy—a small group ruling the Nation. So they wrote the Constitution based on a delicate system of checks and balances and the separation of powers doctrine.

I have supported a so-called expedited rescissions process which will maintain the delicate balance of powers by allowing the President to reject spending and tax changes with a majority vote of Congress.

I am convinced, however, that the Supreme Court of the United States will save this Congress from itself. This proposed violates the foundation of our Constitution and will be overturned at its first judicial challenge.

Mr. Speaker, I regret that inclusion of this line-item veto will force me to vote "no" on this vital legislation.

Many of my colleagues know that I have been a strong voice urging quick passage of a long-term debt limit extension. I spoke out on this issue as early as November 15 in a letter to Speaker GINGRICH and again in letters in late January, in late February, and early March.

And today—finally, finally—we are doing the right thing.

For too long, many in this Congress threatened to use this long-term debt limit extension bill as leverage in the effort to enact entitlement reform or other legislation.

That was playing with fire.

When it comes to our financial obligations, the stakes are simply too high. In its 219-year history, the United States has never defaulted on its financial obligations. The full faith and credit of the United States must not be jeopardized.

Default could set off a chain reaction of economic events, at home and abroad, that could be both uncontrollable and catastrophic. Even talking about a default carries costs that are being borne by the taxpayers and private businesses.

As Members dedicated to fiscal responsibility and protecting the economic future of our country, I am pleased that we are finally taking responsible action to increase the debt ceiling and, in doing so, avoid default.

Mr. Speaker, I also support enactment of a phased increase in the Social Security earnings limit and the provisions of the small business regulatory flexibility act.

Mr. CLINGER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, 75 percent of the American people support the line-item veto, and have supported the line-item veto for a long time. I am sorry the gentleman from North Carolina did not stay on the floor. He asked me the question, could we not have made this effective now? I would return the question and say why did not the majority, the then-majority party, provide a line-item veto for the 40 years in which they controlled this body?

It has been suggested that there are a number of reasons why we should not enact this legislation. It has been suggested that it is unconstitutional. It is not really our job to determine what is constitutional or what is not unconstitutional, but the fact is that we do provide severability in this measure. If a provision, any provision of the matter is considered to be unconstitutional, it can be stricken and the rest of the matter can stand.

It has also been suggested, Mr. Speaker, that we have engaged in a reckless transfer of power. I would suggest, on the contrary, this provides the President with a refined tool to attack the deficit problem that looms over us. It merely gives him an effort to be more selective in the way that he goes about deficit reduction.

Congress retains the power to override any Presidential veto. We have not given that power away. I am sure that we will exercise that power. We also limit his ability to do this to whole dollar amounts. He cannot single out projects unless they are congressional earmarks. He has to take out the entire amount if he is going to do anything, so that was, I think, an important addition that we got in conference.

Mr. Speaker, there are the dire results that have been indicated by some of the Members who have spoken against this measure, if, in fact, that turns out to be true, there is a sunset provision in this legislation that provides that there will be an opportunity to review this matter at a time within 8 years. Mr. Speaker, I think this is a reasonable, a reasoned, and a sensible measure that should be enacted.

I want to discuss just one other brief area that needs clarification in this legislation. We created small business and agriculture enforcement ombudsmen who would be appointed by the Administrator in the SBA. Concerns have arisen in the inspector general community that those ombudsmen would have new enforcement powers that would conflict with those currently held by the inspectors general. I want to make it very clear that nothing in this act is intended to supercede or conflict with the Inspector General Act of 1978, as amended, or to otherwise restrict or interfere with the activities of any office of the inspector general but, rather, be used to help our small business and work with the inspectors general.

Mr. Speaker, I urge a strong bipartisan support for the increase in the debt limit and the line-item veto and regulatory reform.

Mr. Speaker, I include for the RECORD a letter from the Joint Committee on Taxation containing examples of how the tax provisions of this measure would work.

The material referred to is as follows:

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, March 26, 1996.
Hon. PETER BLUTE,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. BLUTE: This is in response to your letter of March 24, 1996, in which you requested the staff of the Joint Committee on Taxation to prepare some examples of how the provisions of S. 4, the "Line Item Veto Act," would apply to tax legislation.

The Line Item Veto Act provides that each "limited tax benefit" is subject to the President's line-item veto authority. In general, the Line Item Veto Act defines a "limited tax benefit" as any provision prescribing tax consequences under the Internal Revenue Code that is either (1) a revenue-losing provision that provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries in any fiscal year for which the provision is in effect (subject to certain exceptions described below); or (2) a Federal tax provision that provides temporary or permanent transitional relief to 10 or fewer beneficiaries in any fiscal year, except to the extent that the provision provides for the retention of prior law for all binding contracts (or other legally-enforceable obligations) in existence on a date contemporaneous with Congressional action specifying such a date. The Joint Committee on Taxation is responsible for identifying limited tax benefits.

A provision is defined as "revenue-losing" if it results in a reduction in Federal tax revenues either for the first year in which the provision is effective or for the 5-year period beginning with the fiscal year in which the provision is effective. A revenue-losing provision that affects 100 or fewer beneficiaries in a fiscal year is not a limited tax benefit if any of certain enumerated exceptions is satisfied. First, if a provision has the effect of providing all persons in the same industry or engaged in the same activity with the same treatment, the item is not a limited tax benefit even if there are 100 or fewer persons in the affected industry. For this purpose, the staff of the Joint Committee on Taxation believes that a broad definition of "activity" is intended to be applied, e.g. for purposes of determining whether a proposal related to drug testing is a limited tax benefit, all persons engaged in drug testing would be considered to be engaged in the same activity or the same industry rather than all persons engaged in clinical testing of drugs for certain diseases. A second exception is for provisions that have the effect of providing the same treatment to all persons owning the same type of property or issuing the same type of investment instrument. Finally, a provision is not a limited tax benefit if the only reason the provision affects different persons differently is because of: (1) the size or form of the business or association involved; (2) general demographic conditions affecting individuals, such as their income level, marital status, number of dependents, or tax return filing status; (3) the amount involved; or (4) a generally available election provided under the Internal Revenue Code.

We have made a preliminary review of the Balanced Budget Act of 1995 (the "BBA"), as passed by the Congress, and have also provided examples of items from earlier legislation that would constitute limited tax benefits if the Line Item Veto Act were in effect at the time such provisions were enacted. (The Line Item Veto Act is scheduled to go into effect on January 1, 1997, or the day after a seven-year balanced budget act has been enacted, whichever is earlier.) The attached list is not intended to be dispositive of exhaustive. The Joint Committee staff continued to analyze the provisions in the BBA and other tax legislation and it is possible that additional provisions will be identified as limited tax benefits.

I hope that this information is helpful to you. If we can be of further assistance, please let me know.

Sincerely,

KENNETH J. KIES,
Chief of Staff.

EXAMPLES OF LIMITED TAX BENEFITS WITHIN THE MEANING OF S. 4, THE LINE-ITEM VETO ACT

THE BALANCED BUDGET ACT ("BBA") OF 1995

1. Exemption from the generation-skipping transfer tax for transfers to individuals with deceased parents (sec. 11074)

Under present law, a generation-skipping transfer tax generally is imposed on transfers to an individual who is more than one generation younger than the transferor. An exception provides that a transfer from a grandparent to a grandchild is not subject to the generation-skipping tax if the grandchild's parent (who is the grandparent's child) is deceased at the time of the transfer. The BBA provision would expand the present-law exception to apply also in other limited circumstances, e.g., to transfers to grandnieces and grandnephews whose parents are deceased.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 beneficiaries in at least one fiscal year in which the provision would be in effect, and it does not fall within any of the stated exceptions. It does not provide the same treatment to all persons engaged in the same activity—making generation-skipping transfers—because transfers to individuals with deceased parents would be treated differently than transfers to individuals whose parents are still alive.

2. Extension of the orphan drug tax credit (sec. 11114)

Prior to January 1, 1995, a 50-percent tax credit was allowed for qualified clinical testing expenses incurred in the testing of certain drugs for rare diseases or conditions. The BBA provision would extend the credit through December 31, 1997.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 drug companies in at least one fiscal year in which the provision would be in effect, and all persons engaged in the activity of drug testing are not treated the same. Only certain types of drug testing would qualify for the credit.

3. Extension of binding contract date for biomass and coal facilities (sec. 11142)

Under present law, a tax credit is provided for fuel produced from certain "nonconventional sources." In the case of synthetic fuel produced from coal and gas produced from biomass, the credit is available only for fuel from facilities placed in service before January 1, 1997, pursuant to a binding contract entered into before January 1, 1996. The BBA provision would extend the credit to facilities placed in service before January 1, 1998, pursuant to a binding contract entered into before July 1, 1996.

This provision is a "limited tax benefit" because it loses revenue, it is expected to affect fewer than 100 fuel producers, and all persons engaged in the production of fuel from nonconventional sources are not treated the same. Persons producing fuel from nonconventional sources in facilities placed in service after July 1, 1996 would not be eligible for the credit.

4. Exemption from diesel fuel dyeing requirements with respect to certain States (sec. 11143)

Under present law, an excise tax is imposed on all diesel fuel removed from a terminal facility unless the fuel is destined for a nontaxable use and is indelibly dyed pursuant to Treasury Department regulations. A similar dyeing regime exists for diesel fuel under the Clean Air Act, but the State of Alaska is partially exempt from the dyeing regime of the Clean Air Act. The BBA provision would exempt diesel fuel sold in the State of Alaska from the excise tax dyeing requirement during the period when that State is exempt from the Clean Air Act dyeing requirement.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 beneficiaries in at least one fiscal year in which the provision would be in effect, and it does not fall within any of the stated exceptions. The provision does not treat all persons engaged in the same activity the same way, because persons removing diesel fuel from terminals in Alaska would be treated differently than those removing diesel fuel from terminals in other areas of the United States.

5. Common investment fund for private foundations (sec. 11276)

The BBA provision would grant tax-exempt status to any cooperative service organization comprised solely of members that are tax-exempt private foundations and community foundations, if the organization meets certain requirements and is organized and operated solely to hold, commingle, and collectively invest and reinvest funds contributed by the members in stocks and securities, and to collect income from such investments and turn over such income, less expenses, to the members.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 beneficiaries in at least one fiscal year in which the provision would be in effect, and it does not fall within any of the stated exceptions. The provision does not treat all persons engaged in the same activity the same way, because mutual funds that are engaged in the same type of activity, i.e., collectively investing funds in stocks and securities, would not receive the benefit of the provision.

6. Transition relief from repeal of section 936 credit (sec. 11305)

Under present law, certain domestic corporations with business operations in the U.S. possessions may elect the section 936 credit which significantly reduces the U.S. tax on certain income related to their operations in the possessions. The BBA generally would repeal section 936 for taxable years beginning after December 31, 1995. However, transition rules would be provided under which corporations that are existing claimants under section 936 would be eligible to claim credits for a transition period. One of these transition rules would allow a corporation that is an existing claimant with respect to operations in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands to continue to determine its section 936 credit with respect to its operations in such possessions under present law for its taxable years beginning before January 1, 2006.

This transition rule for corporations operating in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands is a "limited tax benefit" because it is expected to provide transitional relief from a change to the Internal Revenue Code to 10 or fewer beneficiaries in at least one fiscal year in which the provision would be in effect, and it does not meet the binding contract exception.

7. Modification to excise tax on ozone-depleting chemicals (sec. 11332)

Under present law, an excise tax is imposed on the sale or use by the manufacturer or importer of certain ozone-depleting chemicals. Taxable chemicals that are recovered and recycled within the United States are exempt from tax. The BBA provision would extend the exemption to imported recycled halons.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 importers in at least one fiscal year in which the provision would be in effect, and it does not fall within any of the stated exceptions. Although anyone who imports recycled halons would receive the same treatment under the provision, others engaged in the manufacture or import of ozone-depleting chemicals would not qualify for the exemption.

8. Modification to tax-exempt bond penalties for local furnishers of electricity and gas (sec. 11333)

Under present law, tax-exempt bonds may be issued to benefit private businesses engaged in the furnishing of electric energy or gas if the business's service area does not exceed either two contiguous counties or a city and one contiguous county. If, after such bonds are issued, the service area is expanded beyond the permitted geographic area, interest on the bonds becomes taxable, and interest paid by the private parties on bond-financed loans becomes nondeductible. The BBA provision would allow private businesses engaged in the local furnishing of electricity or gas to expand their service areas beyond the geographic bounds allowed under present law without penalty under certain specified circumstances.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 beneficiaries in at least one fiscal year in which the provision would be in effect, and it does not fall within any of the stated exceptions. All persons engaged in the activity of generating electricity or gas would not be treated the same.

9. Tax-exempt bonds for sale of Alaska Power Administration Facility (sec. 11334)

Under present law, tax-exempt bonds may be issued for the benefit of certain private electric utilities. If the bonds are used to finance acquisition of existing property by these utilities, a minimum amount of rehabilitation must be performed on the property as a condition of receiving the tax-exempt bond financing. The BBA provision would waive the rehabilitation requirement in the case of bonds to be issued as part of the sale of the Snettisham facility by the Alaska Power Administration.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit only one issuer of tax-exempt bonds, and it does not fall within any of the stated exceptions. No other issuers of tax-exempt bonds would benefit from the provision.

10. Transitional rule under section 2056A (sec. 11614)

Under present law, a marital deduction generally is allowed for estate and gift tax purposes for the value of property passing to a spouse. The marital deduction is not available for property passing to a non-U.S.-citizen spouse outside a qualified domestic trust ("QDT"). The requirements for a qualified domestic trust were modified in the Omnibus Budget Reconciliation Act of 1990 ("OBRA 1990"). The BBA provision would allow trusts created before the enactment of OBRA 1990 to qualify as QDTs if they satisfy the requirements that were in effect before the enactment of OBRA 1990.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 beneficiaries in at least one fiscal year in which the provision would be in effect, and it does not fall within any of the stated exceptions. The provision would benefit a closed group of taxpayers. Trusts created before the enactment of OBRA 1990 would be treated differently than trusts created after the enactment of OBRA 1990.

11. Organizations subject to section 833 (sec. 11703)

Present-law section 833 (created in the Tax Reform Act of 1986) provides special tax benefits to Blue Cross or Blue Shield organizations existing on August 16, 1986, which have not experienced a material change in structure or operations since that date. The BBA provision would extend this special rule to other similarly-structured organizations that were in existence on August 16, 1986, and have not materially changed in structure or operations since that date.

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit fewer than 100 beneficiaries in at least one fiscal year in which the provision would be in effect, and all persons engaged in the same activity would not be entitled to take the benefit. The benefit would be available only to a closed group of taxpayers that were in existence in 1986, and would not be available to any newly formed entities.

EXAMPLES OF "LIMITED TAX BENEFITS" FROM OTHER STATUTES

1. The original income tax, as enacted in 1913, exempted the sitting President

The 1913 Act imposing the first income tax provided an exemption for the sitting President of the United States for the remainder of his term. If the Line Item Veto Act had been applicable at the time, the President would have had the option of canceling this "limited tax benefit."

2. Financial institution transition rule to interest allocation rules

A provision in the Tax Reform Act of 1986 changed the rules relating to how multinational corporations allocate interest expense for foreign tax credit purposes. The provision included a favorable rule for banks, and also included a special exception allowing "certain" nonbanks to use the favorable bank rule. The special exception applied to any corporation if "(A) such corporation is a Delaware corporation incorporated on August 20, 1959, and (B) such corporation was primarily engaged in the financing of dealer inventory or consumer purchases on May 29, 1985, and at all times thereafter before the close of the taxable year." P.L. 99-514, 100 Stat. 2548, sec. 1215(c)(5).

This transition rule would have been a "limited tax benefit" if it were expected to provide transitional relief from a change to the Internal Revenue Code to 10 or fewer beneficiaries in at least one fiscal year in which the provision would be in effect. (In retrospect, it is believed that 10 or fewer beneficiaries actually received the benefit of this provision.)

3. Community development corporations

The Omnibus Budget Reconciliation Act of 1993 included a provision that created an income tax credit for entities that make qualified cash contributions to one of 20 "community development corporations" ("CDCs") to be selected by the Secretary of HUD using certain selection criteria. Each CDC could designate which contributions (up to $2 million per CDC) would be eligible for the credit.

This provision would have constituted a "limited tax benefit" if it were expected to provide a benefit to 100 or fewer contributors in at least one fiscal year in which the provision would be in effect. (In retrospect, it is believed that 100 or fewer contributors received the benefit of this provision.) All persons who engage in the activity of making contributions to CDCs are not treated the same, and the difference is not based upon size, filing status, or any of the other enumerated factors.

4. Exemptions from cutbacks in meal and entertainment expense deductions

Prior to 1986, a 100-percent deduction was provided for certain meal and entertainment expenses. In 1986, the deduction was reduced to an 80-percent deduction. In 1993, the deduction was again reduced, to a 50-percent deduction. In both 1986 and 1993, an exemption was provided for food and beverages provided on an offshore oil or gas platform or drilling rig. A separate exemption was provided for support camps in proximity to and integral to such a platform or rig, if the platform or rig is located in the United States north of 54 degrees north latitude (i.e., in Alaska).

These exemptions both would have been "limited tax benefits" in 1986 if they had been expected to provide transitional relief from a change to the Internal Revenue Code to 10 or fewer beneficiaries in at least one fiscal year in which the provision would be in effect.

5. Transition relief from private activity bond requirements

The Omnibus Budget Reconciliation Act of 1987 created a new category of private activity bond for bonds issued by a governmental unit to acquire certain nongovernmental output property, e.g., electrical generation facilities. Such bonds generally are subject to a State's annual private activity volume limitation. However, specific transition relief was provided for "bonds issued—(A) after October 13, 1987, by an authority created by a statute—(i) approved by the State Governor on July 24, 1986 and (ii) sections 1 through 10 of which became effective on January 15, 1987, and (B) to provide facilities serving the area specified in such statute on the date of its enactment."

This provision is a "limited tax benefit" because it loses revenue, it is expected to benefit only on issuer of tax-exempt bonds, and it does not fall within any of the stated exceptions. No other issuers of tax-exempt bonds would benefit from the provision.

6. Various Tax Reform Act of 1986 provisions

The Tax Reform Act of 1986 contains a number of provisions that are clearly targeted to only one taxpayer (in some cases, even referring to the taxpayer by name). For example:

"* * * indebtedness (which was outstanding on May 29, 1985) of a corporation incorporated on June 13, 1917, which has its principal place of business in Bartlesville, Oklahoma." (sec. 1215(c)(2)(D))

"In the case of an affiliated group of domestic corporations the common parent of which has its principal office in New Brunswick, New Jersey, and has a certificate of organization which was filed with the Secretary of the State of New Jersey on November 10, 1887 * * *" (sec. 1215(c)(6)(A))

A facility if "(i) such facility is to be used by both a National Hockey League team and a National Basketball Association team, (ii) such facility is to be constructed on a platform using air rights over land acquired by a State authority and identified as site B in a report dated May 30, 1984, prepared for a State urban development corporation, and (iii) such facility is eligible for real property tax (and power and energy) benefits pursuant to State legislation approved and effective as of July 7, 1982." (sec. 1317(3)(S))

"A project is described in this subparagraph if such project is consistent with an urban renewal plan adopted or ordered prepared before August 28, 1986, by the city council of the most populous city in a state which entered the Union on February 14, 1859." (sec. 1317(6)(U))

A facility if "(i) such facility is to be used for an annual civic festival, (ii) a referendum was held in the spring of 1985 in which voters permitted the city council to lease 130 acres of dedicated parkland to such festival, and (iii) the city council passed an inducement resolution on June 19, 1986." (sec. 1317(7)(J))

A residential rental property if "(i) it is a new residential development with approximately 98 dwelling units located in census tract No. 4701, and (ii) there was an inducement ordinance for such project adopted by a city council on August 14, 1984." (sec. 1317(13)(M))

"A facility is described in this subparagraph if it consists of the rehabilitation of the Andover Town Hall in Andover, Massachusetts." (sec. 1317(27)(I))

Proceeds of an issue if "(i) such issue is issued on behalf of a university established by Charter granted by King George II of England on October 31, 1754, to accomplish a refunding (including an advance refunding) of bonds issued to finance 1 or more projects, and (ii) the application or other request for the issuance of the issue to the appropriate State issuer was made by or on behalf of such university before February 26, 1986." (sec. 1317(33)(C))

Mr. GIBBONS. Mr. Speaker, I yield back the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas [Mr. ARMEY].

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Texas [Mr. ARMEY] is recognized for 12 minutes.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, when we wrote the Contract With America, we promised the American people a new deal, a change, a real change which would be meaningful in their real lives. We promised innovation and responsiveness.

Today we bring forward the Contract With America Advancement Act, and it includes the line-item veto. The line-item veto is something the American people have called for for years. The chairman of the committee, the gentleman from Texas [Mr. ARCHER], who first came to Congress with Richard Nixon was in the White House, introduced the line-item veto at that time.

Through the end of the Nixon Presidency and through the Ford Presidency, through the Carter Presidency, the Reagan Presidency, the Bush Presidency, and thus far through the Clinton Presidency, the chairman has fought for a line-item veto, and through all that time the other party, while in the majority, were unwilling to give this authority to the President of the United States. They were unwilling to give this authority to any President, Republican or Democrat, because they claimed it for themselves, in defiance of the will of the American people. Today we will pass it, Mr. Speaker.

We promised and we are delivering today, regulatory reform to give relief to the small business men and women of this country who create the majority of our new good jobs. Again, we are trying to roll back the regulatory steamroller that has been running over small business in America and has been the hallmark of initiatives of the past Democrat majorities.

In this landmark piece of legislation, we are increasing the limitation on earnings available to our senior citizens before they see a reduction of their Social Security benefits, benefits that were bought and paid for with after-tax dollars throughout all their working years, a simple justice for senior Americans, denied to them for all these years by the Democrat majorities in the past.

They say we are late in getting this done. In the first few months of the second session of our first term in the majority in 40 years, they say we are late in getting done what it is they never would or never could even try to do. We will stand on our promptness. These contract items that will go forward today, I expect the President will sign. Unhappily, he has vetoed others.

The President has already vetoed lower taxes for the working men and women of this country. Welfare reform, much needed and much called for by the people of this country, the President has vetoed twice. A balanced budget the President has vetoed; significant spending reductions and reform, the President has vetoed. The President has not been an agent of change for the American people, Mr. Speaker. The President has been a veto for the status quo.

When the President vetoed these bills, he shut down the Government, and yes, he won a short-term public relations battle. Many were counting us out in our new majority by the end of last year, but we came back in March, and we are back. We have just completed the most productive month of this Congress. During this month of March we have passed a farm bill that is truly revolutionary, taking agriculture in a new direction of freedom for all Americans.

As I have observed the move of farm policy in the past, I have found myself observing that when the American farmers bit on it and joined a partnership with the Federal Government, they became the junior partners, not free on their own land. We are fixing that this month.

We are passing this month a job that we began in 1990, that we had prepared in 1991, that was disallowed to come to this floor by the Democrat majority in 1991, that would move health legislation to end job lock, and would make insurance more affordable for all Americans. That will be done before we leave this week.

We will pass this week product liability reforms. The gentleman from Illinois, HENRY HYDE, our distinguished chairman of the Committee on the Judiciary, sat on that committee for 22 years, 22 years of time when the American people cried for relief from the product liability laws that were choking off job creation in America, and the gentleman from Illinois never got to see even a single hearing on the subject under Democrat chairmen. We will pass that on to the President this week. He says he will veto it on behalf of the trial lawyers.

We have passed already in March the most effective death penalty ever. We have passed an immigration reform that, one, protects our borders; and two, reflects the true openness and compassion to lovers of freedom that this country has demonstrated through its foundation and through its entire history.

Today in Roll Call, Mr. Speaker, this legislation was called landmark and nontraditional. It is landmark and it is nontraditional, nontraditional in the sense that for the past 40 years we had a do-nothing majority that only chose to build on the status quo, never chose to dare to take a chance on freedom, never chose to dare to innovate, never chose to keep faith and be responsive to the demands of the American people.

We are doing that today, and we will do that through the rest of this term, and we will do that in the next Congress, because, Mr. Speaker, the American people deserve a Congress that has the ability to know their goodness and the decency to respect it. That is what they will have.

Mr. SKAGGS. Mr. Speaker, this is one of those occasions when every Member should be mindful of the undertaking that we make at the beginning of every Congress to protect and defend the Constitution of the United States, because adopting the line-item veto provision in this proposed bill would run absolutely counter to that obligation. The first words of Article I, sec. 1 of the Constitution are, "All legislative powers herein granted shall be vested in a Congress of the United States." Later in Article I, sec. 7 dealing with the President's responsibility with regard to legislation, the Constitution states as follows: "If he approve, he shall sign it,"—the bill—"but, if not, he shall return it with his objections."

Those are the basic parameters of the legislative responsibilities that we have under the

Constitution and that the President has under the Constitution, and it is not in our power to change them. It is our responsibility in fact to respect and preserve them.

While our friends across the ocean in Britain are having second thoughts these days about their monarchy, this line-item veto provision will effectively start the accretion of monarchical power in the American presidency. The Founders would surely be appalled.

Incredibly, under this proposal, after an appropriations bill has been passed by the Congress and signed it into law, the President can repeal, the authors of this bill say "cancel," those parts of that law he opposes by the mere act of writing them down on paper and sending the list to Congress. This "repeal" power may be suitable for Royalty but it is an unconstitutional insult to the principle of representative democracy.

Recall those grand words of the Declaration of Independence in which we protested the usurpation of power by King George, and mark my words, we will live to regret the usurpation of power that we invite on the part of future Presidents of the United States if this provision becomes law.

Thank God the courts stand ready to do the right thing and to find this provision, as it is, contrary to the Constitution.

The Supreme Court has spoken to this issue most recently and on point in the Chadha case, there making it absolutely clear that the powers of neither branch with respect to the division of responsibility on legislation can be legislatively eroded.

What is even more bizarre in this particular proposal is the provision for the 5 day cancellation period. Now think about that. This is a metaphysical leap of Herculean proportions.

The enactment provisions of the Constitution say that once the President signs a bill, it shall be law. We propose that he then has a 5 day cancellation right, after signing a bill? That is absolutely absurd. This defies any logical reading of the clear meaning to the provisions of the Constitution that delineate the roles and powers of Congress and the President with respect to legislation.

But beyond the constitutional arguments, this proposal is fundamentally unwise. And, sadly, it manifests a shameful disrespect by us of our own responsibilities and the Constitution.

On the large issues, let us think back to what would have happened during the Reagan administration, with a President who, for his own reasons, sent budgets to this body zeroing most categories of education funding in the Federal budget. Presumably, if that President had this power, it would be exercised to eliminate most education funding by the United States Government, and 34 Senators representing 9 percent of the people of this country, in league with the President, could have brought about the outcome.

The invitation to usurpation that lies in this language is even more pernicious and can also be understood by going back to the late eighties, when we were still debating whether we would continue aid to the Contras. Now, let's say I happened to have been fortunate enough to have gotten a provision in an appropriations bill for a needed post office or a needed courthouse in my district, and the bill was down at the White House awaiting signature at the same time we were debating aid to the Contras. I would guarantee you I would have gotten a call from someone at the White House saying "Congressman, I notice you had some success in dealing with this need in your district. We are pleased at that, but we need your support on aid to the Contras." The not so subtle message: your vote on what we want, or you lose the post office.

That is the kind of extortionate excess of power that we are inviting future presidents to apply.

Pick your issue. That is one that comes to my mind.

It is clear that the Governors of the several States who have this power use it in exactly this way, to get their version of spending adopted. As one former Governor recently stated, the real use of the line-item veto power he had as Governor was not to control a bloated budget but to persuade legislators to change their votes on important issues. Ironically, this may actually result in more spending; in most cases, certainly no reduction.

Last year, the majority in this body rejected the expedited rescissions proposal that represented a constitutionally acceptable approach to this issue, requiring each Member of Congress to be accountable with a specific vote on any items a President might find objectionable enough to rescind. Without that mechanism for requiring congressional reconsideration, the line-item veto proposal before us is clearly unconstitutional.

The language in the Constitution clearly gives Congress the responsibility for crafting legislation, while the President is limited to simple approval or disapproval of bills presented to him. Article I, section 7 refers to the President returning a bill, not pieces of a bill. Yes, the Constitution allows the President to state his objections to a bill upon returning it, but the objections merely serve as guidelines for Congress should it choose to redraft the legislation.

We have no legitimate power to pass a statute to the contrary. The Constitution does not allow the President to repeal a provision of law by striking a spending level approved by Congress. We have no legitimate power to pass a statute to the contrary.

As the Supreme Court noted in its decision I.N.S. versus Chadha, "Explicit and unambiguous provisions of the Constitution prescribe and define the respective functions of the Congress and of the Executive in the legislative process."

The Court continues, "These provisions of Article 1 are integral parts of the constitutional design for the separation of powers." The line-item veto proposal in the bill before us would impermissibly alter the "constitutional design for the separation of powers" between the executive and legislative branches by allowing the President singlehandedly to repeal or amend legislation which Congress has approved, and the President has already signed into law.

The Framers were deliberate and precise in dividing legislative powers. In the Federalist papers, Hamilton and Madison both expressed the view that the legislature would be the most powerful branch of government. Thus, they also recognized the need for some checks on its powers. So, the Constitution provides for a bicameral legislature, with each body elected under different terms and districts. And it affords the President a veto power. Other constraints are also imposed, such as requirements for origination of certain legislation in the House.

The President's veto power, as a check on Congress, was recognized to be a blunt instrument. As Hamilton explains in Federalist 73, the Framers acknowledged that with the veto power "the power of preventing bad laws includes that of preventing good ones." It was their sense, however, that "the negative would be employed with great caution."

The line-item veto being considered today, by providing the President with the authority to repeal or "cancel" appropriations and some tax laws, turns the framework defined in article I, section 7 on its head. What the President might decide to "cancel" under this provision is simply repealed, unless the Congress goes through an entire repetition of the article I legislative process, including a two-thirds vote of both houses. This would allow the President and a minority in only one house of Congress to frustrate the will of the majority—an outcome that-flies in the face of the constitutional principle of majority rule.

Finally, Mr. Speaker, I must comment on a very deceptive provision of this line-item veto bill. The authors of the bill claim it doesn't focus unfairly on appropriations bills—which traditionally include funding for education, environmental, health, and other governmental programs—because it also includes tax provisions among the items the President can "cancel."

But, the only tax provisions that can be cancelled are "limited tax benefits," defined as revenue-losing provisions that provide a benefit to "100 or fewer beneficiaries under the Internal Revenue Code of 1986." A tax break for a particular industry that takes millions of dollars out of the Federal treasury can't be cancelled by the President. And even a so-called limited tax break can be easily finessed—that is, immunized from veto—if the conference report merely fails to identify it as such.

Why? I think the answer is obvious. Many members of the majority party are fond of handing out tax breaks to their friends in particular industries. So, under this bill, a member who wants to include funding in an appropriations bill for a national park in her Congressional District must worry about the President cancelling a benefit to her District, but a member who wants to provide funding to his favorite industry or business by including a tax break in a larger tax bill doesn't need to be concerned.

Mr. Chairman, this proposal goes too far in fuzzing the separation of powers set forth in the Constitution. It subjects members of Congress to a new, extreme form of executive branch pressure. It unfairly targets appropriation expenditures while ignoring most tax expenditures. I urge my colleagues to reject it before it is rejected by the courts. Regrettably, this provision so taints this entire bill, otherwise needed to extend the debt limit, that the bill itself should be defeated.

Mr. STEARNS. Mr. Speaker. I rise in support of this legislation to raise the debt ceiling because I do not believe we can allow our

Government to go into default. To do otherwise would wreak havoc on our Nation's good standing and would result in Social Security and Veterans benefits from being sent out.

It is difficult to take this action but I can tell you that because of this Congress' vigilance we have already saved approximately $23 billion in spending over the past year. This is a very good start on the road to achieving a balanced budget.

There are two provisions in particular that are included in this measure that allow me to vote in favor of H.R. 3136.

We provide the means to give the President the line-item veto. President Reagan asked Congress over and over again—"Give me the line-item veto." If only Congress had given him this mechanism for fiscal discipline, we wouldn't have these huge debts which, if not reduced, threaten to crush the next generation with huge taxes and a diminished quality of life.

Today we have been given a rare opportunity to enact legislation that will accomplish this.

My other chief reason for voting for this bill is that it contains an increase in the earnings limit for those age 65 to 69 to $30,000 by the year 2002. Currently, a working senior who reaches $11,280 in earned income loses $1 in Social Security for each $3 earned thereafter. That's a marginal tax rate of 33 percent. That's a high price for merely wanting to work.

The earnings test limit is unjust. It treats Social Security benefits less like a pension and more like welfare. It represents a Social Security bias in favor of unearned income over earned income.

It is effectively a mandatory retirement mechanism our country no longer accepts or needs. It precludes greater flexibility for the elderly worker and also prevents America's full use of eager, experienced and educated elderly workers. Finally, it deprives the U.S. economy of the additional income tax which would be generated by the elderly workers.

Let's pass this bill today so that we can get America back on the right track.

Mr. VENTO. Mr. Speaker, I reluctantly support this measure, H.R. 3136, the debt limit package. First, we need to honor the debt which our Nation has incurred. The U.S. credit rating must not be in question, nor should the risk of default. For over 200 years through civil and world wars, recession and depression, the United States has honored our debt.

Certainly it is deplorable that the total U.S. debt has grown so dramatically in the past decades, but the 1993 Clinton budget measure passed by Congress has had a dramatic and positive impact. The deficit of 1996 is half of the 1993 projected 1996 deficit, lowering the amount of deficit by $150 billion this 1996 fiscal year, and at the same time our Nation's economy has performed positively, inflation is in check, unemployment remains low and productivity growth, G.D.P., and business profitability are strong.

This debt ceiling will act to accommodate the Federal budget needs until late 1997. It is past time to take this off the Republican political agenda. The threat of default and intimidation won't work, to sell GOP budget programs that lack merit.

Included in this package of legislative measures is a constitutionally questionable line item veto power for the President. President Clinton, of course, wants this power, but this sloppy rearrangement of the fundamental separation of powers proviso won't pass muster. Furthermore, the line item veto power in this promises much but delivers little. First, it doesn't apply to authorization and appropriation riders.

Therefore, the environmental riders so controversial this fiscal year would be beyond the line item veto reach of this measure. Second, it only applies to categories of spending, making it impossible to single out the specific bad apple in the basket. Finally it doesn't apply to bad tax policy, only specific narrow tax provisions of specific small groups as certified by the Joint Tax Committee.

Yet another dubious congressional limit in the constitutional separation of powers and unique congressional authority which cannot be delegated to the nonelected apparently is the rush to give away congressional powers held by the previous Democratic Congress. The Republicans have today sold symbolism, not substance, to the Executive Office, and they bought it. To add further limits, the measure has a short life—1997 to 2005. This line item veto is weak, not likely to be effective and will be rendered inoperable by the courts and/or its limited scope.

Everyone can record it on their political campaign literature as an accomplishment, that's probably its best use; other issues added to the debt ceiling measure apparently are popular and the further price of the 2-year debt ceiling which the President agreed to. I'm concerned that the expanded Social Security earning limit, the retirement test ceiling may undermine support for the Social Security Retirement System. The basic predicate of Social Security retirement is that the beneficiary is no longer working. This means a job and slot is available to a less senior worker.

For many, this elevated ceiling means they will receive Social Security retirement benefits but remain on the same job, in essence claiming a retirement income and the wages of a worker. The idea regarding the Social Security retirement is that workers are not able to continue working and that the Social Security income provides for that person and family during that phase of one's life. At least this measure maintains a ceiling and earlier versions lifted it even further.

The income group that benefits from this provision is healthy and generally better off financially. It would be regrettable if the upshot of this policy change would undermine Social Security retirement for those unable to work.

Finally, this overall bill contains some regulatory relief for smaller enterprises. Candidly, I've had serious reservations about the broad ranging measures that try to pass as regulatory relief. Too many have been put forth and passed by the 104th Congress whose intent was to render inoperable important health, safety, and environmental laws.

Rules and regulations are the wheels which carry laws into implementation. Usually the Administrative Procedures Act [APA] provides sufficient assurance of participation and monitoring of the executive department or agency rule and regulatory process. The features of this provision seems reasonable—ironically expanding the potential for lawsuits and litigation—after the Republican majority in this House and Congress have beat the drum and attempted to enact ill considered punitive measures on the legal process and limiting the peoples right to seek redress.

Mr. Speaker, legislation is the art of compromise and as we can note from this document a big dose of symbolism. I'm voting for this measure with little enthusiasm, but with a pragmatic eye.

The Republicans have finally arrived at a point of talking with a Democratic President and have convinced themselves to move forward on the debt ceiling, the main vehicle and single most important engine which necessitates this legislation before the House.

Mr. CONYERS. Mr. Speaker, I am opposed to the regulatory reform provisions of the bill for the following reasons.

On process: This bill has never been considered by the Judiciary Committee or by any other committee in the House. It's stealth process—we only saw the final draft late last night—continues the Republican record of disdain for the committees and for proper democratic process. This bill was created by a secret process in the House, and will allow special interests to secretly influence regulations in the executive branch.

The secret influences of the few: Under the bill, so-called Regulatory Fairness Boards and Advocacy Panels are to be established to directly influence the content of regulations and the nature of regulatory enforcement. These boards are to be made up solely of a few favored small businesses, and can include exclusively campaign contributors.

Ex parte contacts in reg writing: The boards and advocacy panels will provide an avenue for private ex parte contacts with the agencies and the OIRA administrator to influence regulations and enforcement—a departure from the commonly accepted principle that the regulation writing process should be open and on the record. They provide an ex parte and secret forum for these favored businesses to complain about how statutorily mandated regulations are written and enforced.

Yet another attack on the environment: While we all support the concept of regulatory flexibility—that is helping small businesses comply with a vast array of Federal regulations—this bill takes the concept to the extreme. For it allows the waiver of some of our most important environmental penalties relating to safe drinking water and clean air. If, for example, it happens to be a small business that is operating a chemical manufacturing operation or a small business that is a water supplier, laws protecting citizens from drinking water hazards like cryptosporidium or other chemical contamination could simply be waived (section 323). Our environmental safety and health is at risk from these hazards regardless of the source of the hazards.

Still more litigation for the lawyers: Section 611 allows for environmental regulations that protect our air, water, food, and workplaces to be suspended or even overturned by the courts if these and other ill-defined provisions are not strictly adhered to. This judicial review is different from what the House has voted on in the past—for past regulatory flexibility bills that we've voted on allow for judicial review of the reg flex analysis only. This bill, however, could put hundreds of environmental rules at risk, and subject them to endless litigation in the courts for merely procedural reasons that are only marginally related to the fundamental issues surrounding the promulgation of the rule.

Mrs. MALONEY. Mr. Speaker, I intend to vote for this bill. It contains measures which I strongly support. Most importantly, raising the debt ceiling is absolutely essential to ensuring the continued full faith and credit of the United States. Without passage of this bill, the economic security of our country would be gravely imperiled. The legislation also contains provisions to relieve the regulatory burden on our Nation's small businesses and a measure, which I strongly support, to increase the earnings limit for Social Security recipients.

This measure also contains a line-item veto provision about which I have very serious concerns. First, this conference report grants to the President the significant power to item veto new entitlement spending. Spending on Medicare, Medicaid, Social Security, and food stamps help out most vulnerable citizens, the elderly, and infirm. The original House bill, and the Republican's own contract on America, did not grant this authority.

The line-item veto provision before us today also would not become effective until January 1, 1997. This timing conveniently exempts the fiscal year 1997 appropriations cycle from Presidential line-item vetoes. Cynics might conclude that the Republican majority wants one last chance to tuck the pet projects into this year's appropriations bills.

Finally and most egregiously Mr. Chairman, this line-item veto measure takes a loophole included in the House-passed bill and expanded it into a black hole for special interests. The House bill included a provision on allowing the President to item veto targeted tax breaks. Unfortunately, the majority breached its own contract in defining that term very narrowly to mean only those tax giveaways that affect 100 or fewer people. This artificial number can easily be fudged by a smart tax lawyer—you simply have to help out 101 or 102 people.

This conference report includes this loophole and expands it into a black hole for special interests by allowing the President to item veto only those targeted tax benefits identified by the Joint Committee on Taxation, a committee controlled by the tax writing committees of Congress. So if they say it isn't a special interest tax break, the President can never veto it. Mr. Chairman, this is a sham.

The Republican Party was committed to the much broader definition right up to the moment they gained the majority, then they had a sudden change of heart. With this bill the Republicans claim they will end special interest tax breaks, but if you read the fine print you'll see they expect nothing of the kind.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of H.R. 3136, the Contract With America Advancement Act.

This Member is particularly pleased that, as reported on the House floor H.R. 3136 included the Line-Item Veto Act. An important tool in the battle to reduce spending would be to give the President line-item veto authority.

A line-item veto would enable the President to veto individual items in an appropriations bill without vetoing the entire bill. With a line-item veto the executive could strike a pen to the pork-barrel projects that too often find their way into appropriations bills.

This power is currently given to 43 of the Nation's Governors, where it has been a successful tool that discourages unnecessary expenditures at the State level. It is appropriate that the President have this authority as well.

This Member has cosponsored legislation to institute a line-item veto since 1985, and is pleased that this initiative may soon be enacted into law. Legislation to provide for a line-item veto has been introduced in Congress for over 100 years. The time has come to recognize the need for more stringent and binding budget mechanisms.

This Member is also pleased that H.R. 3136 raises the limit on income senior citizens may earn and still receive full Social Security benefits. In the last three Congresses, this Member cosponsored related legislation, and has consistently supported efforts to reduce or eliminate the Social Security earnings limit on senior citizens who must work to make ends meet. Seniors of modest means who have to work to supplement their Social Security checks should be allowed to work without paying an effective marginal tax rate higher than that of millionaires.

In addition, this legislation also includes much-needed regulatory relief provisions that would inject some common sense into the current regulatory and bureaucratic framework which now exists.

Federal regulations cost the economy hundred so billions of dollars each year. Too often, these regulations were not based on sound science and resulted in little or no benefit to society. This is an issue which must be addressed to provide relief from the plethora of Federal regulations.

This Member urges his colleagues to support H.R. 3136 as reported to the House floor, in order to advance important initiatives to establish a line-item veto, provide regulatory relief, and limit an unfair tax on senior citizens.

Mr. FRANKS of Connecticut. Mr. Speaker, I rise today in strong support of H.R. 3136, the Contract With America Advancement Act, a measure to provide for a line-item veto, for Social Security benefits relief for our senior citizens and for small business regulatory reform.

Mr. Speaker, during my tenure in the Congress, I have been a solid and steady advocate of a platform that recognizes we need to bring real change to this Federal Government of ours. For example, during my freshman and sophomore years, I had sponsored legislation providing for the implementation of a Presidential line-item veto to end the days where the legislatively-spawned Government pork and largesse would cause our deficit to grow like an unkempt bush in one's front yard and the President would not have the hedge clippers to trim it.

However, during those two Congresses, I and other fervent supporters of the line-item veto had been frustrated and thwarted by the then-Democratic majority. The Democrats would say that a line-item veto would render Congress impotent or that Congress does not need to use such a draconian measure as a line-item veto and that we can solve our Nation's fiscal problems by just saying no to pork. Mr. Speaker, I did not accept the Democrats' empty assurances about spending then, and my instincts were proved current when that supposed discipline was nowhere to be found.

Thankfully, Mr. Speaker, times have changed. With the passage of H.R. 3136, the President of the United States, be he Republican or Democrat, will be able to eliminate specific spending and target tax provision in legislation passed by the Congress. This is important, for now the President will have the ability to veto out pork barrel spending in a bill which he may view in an otherwise favorable light. Mr. Speaker, this is a mechanism that 43 of our Governors now possess, and we should extend it to the President of the United States.

Mr. Speaker, I also want to take note of other provisions in H.R. 3136 that I support. I feel that the bill's provisions which raise the limit of income senior citizens may earn while still receiving full Social Security benefits would be beneficial to those concerned.

Presently, senior citizens between the ages of 65 and 69 lose $1 in Social Security benefits for every $3 they earn above $11,520 while the earnings test amounts to an additional 33 percent marginal tax rate on top of existing income taxes. Because of this, seniors who want to work past the age 64 would not have the ability to remain productive, and thus, they are unfairly treated. H.R. 3136 would gradually raise the earnings limit for seniors between the ages of 65 and 90 from the current level of $11,520 to $30,000 by the year 2002.

I have spoken with many seniors around my district, and they, Mr. Speaker, have indicated to me that this measure sounds like a pretty good idea. Many of the seniors in my district still want to work full time or part time. They want to be productive members of society and by raising the limit on income, they can achieve this desired lifestyle. We should definitely support this initiative.

Finally, I rise in full support of the measures in H.R. 3136 which would provide regulatory relief to our Nation's small businesses. Presently, Federal regulations cost our Nation's small businesses an astronomical $430 billion per year while spending a ludicrous 1.9 billions hours per year completing Federal regulatory forms.

Included in these relief provisions are reforms providing for regulatory compliance simplification, regulatory flexibility, procedures for Congress to disapprove new regulations, and small business legal fees associated with fighting excessive proposed penalties.

Mr. Speaker, small businesses are the true lifeblood of our Nation's economy. By helping our small businesses by providing regulatory fairness, we will truly help our workers, our families, our towns and our cities.

Mr. Speaker, I support H.R. 3136, and I urge my colleagues to do likewise when it comes time to vote.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to speak about H.R. 3136, the Contract With America Advancement Act. I will vote for this bill because it raises the debt limit, however, I must state that I would have preferred a clean debt limit bill. I support the increase in the earnings limit for social security beneficiaries, however, I would like to have had more debate about the small business regulatory flexibility provisions.

I am a strong supporter of small business, which is the foundation of America's economic base. I support regulatory flexibility for small business and having clear guidelines so that small businesses can more easily comply with Government standards. However, I have concerns about bogging down Government agencies in frivolous lawsuits that would draw their attention away from maintaining Government standards for the environment and ensuring workplace safety.

Mr. Speaker, I would also like to discuss this bill in the context of the current ongoing budget debate, and I would urge that we as a body do more for the American people than pass a debt limit increase. Although we will be discussing other important issues the Health Coverage Availability Act, I would like to remind this House of the glaring fact that we do not yet have a balanced budget for the United States, when this fiscal year is half over, and we have not provided funding for all of the Government agencies that serve the American public. This outrageous fact is not forgotten by the American people, and I would urge the leadership on both sides to not forget their duty to the citizens of this country.

The summer is fast approaching and teens that participate in the Summer Jobs Program are wondering if the budget will leave their program intact, or if it will be eliminated. Students and families across the country are wondering what is going on in this House.

Mr. Speaker, I will vote for this debt limit increase bill, but I would urge my colleagues to remember that we are not finished with the budget and that the American people are watching and that they know what the real issues are. Thank you, Mr. Speaker, and I reserve the balance of my time.

Mr. EWING of Illinois. Mr. Speaker, I rise in strong support of this legislation which contains judicial review of the Regulatory Flexibility Act [RFA].

This is an issue which I have been heavily involved in for nearly 5 years, when I was first elected to Congress in 1991. At that time, one of the top concerns I heard about from my constituents was the burden of excessive Federal regulations. Small businesses in particular felt that the money and time they spent complying with rules and regulations handed down from the Federal Government were crippling their ability to complete and invest in productive activity. In the 4½ years since I was elected, these concerns have only increased.

When I was elected, I looked for ways to reduce unnecessary regulation. I found that way back in 1980 Congress passed, and President Carter signed into law, the RFA. Simply put, the RFA required Federal regulators to conduct an analysis of the impact of any proposed new regulation could have on small businesses and small governmental entities. The RFA required the regulators to seek corrective ways to minimize the impact of those proposed rules before they are finalized.

Despite the good intentions of the RFA, the act has been almost totally ignored by Federal regulators for the 16 years its has been on the books. When I looked further into this issue, I found that Federal agencies were routinely using a loophole in the law which allows then to publish a statement in the Federal Register certifying that their regulation does not affect a significant number of small entities, and therefore allowing the agency to avoid conducing the analyses required by the RFA. In fact, I found that RFA analyses are rarely conducted, even when a regulation clearly would have a major impact on the small entities being regulated.

Herein lies the achilles heel of the RFA. When an agency certifies that a regulation will not significantly affect small entities, that certification cannot be challenged in court. A small business owner is prohibited from asking the courts to review whether the Federal agency has complied with the RFA. It is because the agencies know their decision to ignore the RFA cannot be challenged that they almost always do ignore the act. This fact has been confirmed to me as I have met with dozens of small business organizations and hundreds of small business owners over the past 4 years to discuss this issue. A number of hearings have been held in both the Small Business Committee and the Judiciary Committee and scores of witnesses have convinced me and many others in Congress that without judicial review, the Federal regulators will continue to ignore the RFA.

Many of us talk about reducing the cost which Government regulations impost on the American economy, but with passage of this legislation this Congress is actually doing something about it. We are living up to our campaign promises to make the Government less intrusive, less burdensome on the private sector. We will make Government regulations more sensible, more responsive to those who must comply with them. And we will do it without jeopardizing the environment, or public health and safety.

Many of this issues we debate in Congress have become polarized by partisanship and deep philosophical differences. But this issue, providing judicial review of the RFA, is a fine example of how both parties can identify a problem which the American people want us to fix, and how we can work together, both Republicans and Democrats, to solve a problem and help the American people. I am proud to have worked in a bipartisan fashion with JAN MEYERS, IKE SKELTON, and JOHN LAFALCE for 4 years to pass judicial review of the RFA. Working together, we convinced over 250 Members of the last Congress to cosponsor our legislation, and have passed RFA judicial review with overwhelming majorities in the House. We have put aside our partisan differences to pass this commonsense legislation.

The Republican Congress and President Clinton, who have disagreed on so many issues, have come together in support of providing judicial review of the RFA. Vice President GORE's Reinventing Government Commission recommended providing RFA judicial review as its top priority for the Small Business Administration. RFA judicial review was again a top recommendation of the White House Conference on Small Business conducted last year. We have received letters pledging strong support for RFA judicial review from the President, Chief of Staff Leon Panetta, and SBA Administrator Philip Lader. I would like to request consent to include those letters in the RECORD. Mr. Jere Glover, the administration's chief advocate for small business, has been a strong supporter of judicial review and his influence has been very important.

Virtually every national small business organization has been strongly supportive of RFA judicial review, but a handful of groups have been active participants of the Regulatory Flexibility Act coalition for the past 4 years, and have made this issue a top priority for their members. I would like to recognize these organizations for their outstanding work and commitment to passing this legislation. Jim Morrison, Benson Goldstein and Becky Anderson of the National Association for the Self Employed have provided invaluable institutional knowledge about how the RFA can and should work. David Voight of the U.S. Chamber of Commerce has also provided great institutional knowledge about the RFA, and the Chamber has lent considerable clout to this legislation. The National Federation of Independent Business, and their employees Nelson Litterst and Kent Knutson, have worked endlessly to mobilize hundreds of thousands of small businesses in support of this legislation. Both-the NFIB and the Chamber of Commerce have included Reg Flex votes in their "Key Vote" programs which have been extremely important in informing Members of Congress about how important this issue is to their small business constituents. Craig Brightup and the National Roofing Contractors Association have made this issue a top priority from the very beginning, and in fact was the first small business organization to bring this issue to my attention. Marcel Dubois and the American Trucking Associations have been extremely active in mobilizing small businesses in support of RFA judicial review. Finally, Tom Halicki of the National Association of Towns and Townships has played a critical role in bringing to the attention of Congress the importance of judicial review not only to small businesses, but to small governmental bodies as well.

Finally, I want to thank Representatives MEYERS, LAFALCE, and SKELTON and their staff, particularly Harry Katrichis of the Small Business Committee, and Eric Nicoll of my staff for their persistent dedication to passing this legislation over the past 4 years.

SMALL BUSINESS ADMINISTRATION,
October 8, 1994.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: The Administration supports strong judicial review of agency determinations under the Regulatory Flexibility Act that will permit small businesses to challenge agencies and receive strong remedies when agencies do not comply with the protections afforded by this important statute.

In fact, the National Performance Review publicly endorsed this policy to ensure that the Act's intent is achieved and the regulatory and paperwork burdens on small businesses, states, and other entities are reduced.

As Chairman of the Policy Committee of the National Performance Review, under Vice President Gore's leadership I vigorously advocate this position. I have continued to champion this policy within the Administration.

If confirmed as Administrator of the U.S. Small Business Administration, I will join the Congress and the small business community in continued efforts to pass legislation for such judicial review.

Thank you for your leadership on this important issue to small business.

Sincerely,

PHILIP LADER,
Administrator-Designate.

THE WHITE HOUSE,
Washington, October 7, 1994.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: Your particular question about the Administration's position on judicial review of actions taken under the Regulatory Flexibility Act has come to my attention.

As you have discussed with Senator Bumpers, the Administration supports such judicial review of "Reg Flex."

The Administration supports a strong judicial review provision that will permit small businesses to challenge agencies and receive meaningful redress when they choose to ignore the protections afforded by this important statute.

In fact, the National Performance Review endorsed this policy to ensure that the Act's intent is achieved and the regulatory and paperwork burdens on small business, states, and other entities are reduced.

Ironically, Phil Lader, our nominee for Administrator of the Small Business Administration (whose nomination was voted favorably today by a 22–0 vote of the Senate Small Business Committee) has been a principal champion of judicial review of "Reg Flex." In his capacity as Chairman of the Policy Committee on the National Performance Review, Phil vigorously advocated this position. I know that, if confirmed, as SBA Administrator, he would join us in continued efforts to win Congressional support for such judicial review.

Sincerely,

LEON E. PANETTA,
Chief of Staff.

THE VICE PRESIDENT,
Washington, November 1, 1994.

Hon. THOMAS W. EWING,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE EWING: Thank you for contacting me regarding the Regulatory Flexibility Act.

As the President and I have made clear, we strongly support judicial review of agency determinations rendered under the Regulatory Flexibility Act. We remain committed to securing this important reform during the next Congress and will work with Congress for the enactment of strong judicial review for small businesses.

We also understand that it will be important to continue our work with small businesses to ensure that such an amendment provides a sensible, reasonable, and rational approach to judicial review, as recommended by the National Performance Review. As you know, the National Performance Review recommended that which was (and continues to be) sought by the small business community—i.e., an amendment that furthers the intent of the Act and reduces the paperwork burdens on small businesses.

The President and I look forward to working with Congress on this matter and appreciate your leadership in this area.

Sincerely,

AL GORE.

THE WHITE HOUSE,
Washington, October 8, 1994.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: My Administration strongly supports judicial review of agency determinations under the Regulatory Flexibility Act, and I appreciate your leadership over the past years in fighting for this reform on behalf of small business owners.

Although legislation establishing such review was not enacted during the 103rd Congress, my Administration remains committed to securing this very important reform. Toward that end, my Administration will continue to work with the Congress and the small business community next year for enactment of a strong judicial review that will permit small businesses to challenge agencies and receive meaningful redress when agencies ignore the protections afforded by this statute.

As you know, the National Performance Review endorsed this policy to ensure that the Act's intent is achieved and the regulatory and paperwork burdens on small business, states, and other entities are reduced.

Again, thank you for your continued leadership in this area.

Sincerely,

BILL CLINTON.

Mr. SHAW. Mr. Chairman, I rise today in support of H.R. 3136, the Contract With America Advancement Act, which includes language to raise the amount of money a senior citizen may earn before losing Social Security benefits. Twice before I have supported this legislation; in the Senior Citizens' Equity Act, and in the Senior Citizens Right to Work Act. Support of this legislation is my commitment to the senior citizens of my district to remove the disincentive to continue working after they begin receiving their Social Security benefits. Increasing the Social Security earnings limit from $11,520 to $30,000 will significantly improve benefits for moderate- and middle-income beneficiaries who work out of necessity, not choice. It will also remove the penalty on those with income from work, but not from other sources such as dividends and interest. I urge my colleagues to help our Nation's seniors by voting for this bill.

Mr. DAVIS. Mr. Chairman, I rise to speak in favor of the Senior Citizens' Right to Work Act which has been included in H.R. 3136. This bill will encourage seniors between the ages of 65 to 69 to work by eliminating financial penalties on hardworking seniors who want to supplement meager Social Security benefits. I strongly urge all of my colleagues to support H.R. 3136 and our senior citizens by increasing the Social Security earnings limit.

The Senior Citizens' Right to Work Act also contains a provision which will eliminate Social Security disability benefits to drug addicts and alcoholics. While I adamantly support this provision, I would like to voice my concern about the fraud and abuse that will occur as a result. Given past abuses in the SSI and SSDI programs, we must be alert to the likelihood that many of these drug addicts and alcoholics currently on Federal disability rolls will attempt to requalify for Social Security benefits under other disability categories. I believe that more can and should be done to ensure accountability in these programs, eliminate fraud and abuse, and save Federal dollars.

Mr. Chairman, we should support referral and monitoring agency programs that currently use national case tracking systems to identify drug addicts and alcoholics who are improperly receiving Federal checks. These types of programs have already saved the Federal taxpayers millions of dollars that would have been spent as a result of the fraudulent practices of drug addicts and alcoholics. Unfortunately, this legislation, in eliminating the drug addiction and alcoholism benefit category, will also eliminate these types of tracking programs. I hope that we can correct this blow to current fraud and abuse monitoring practices in order to ensure that drug addicts and alcoholics do not find a way around the major accomplishments we are achieving today.

Mr. BROWN of California. Mr. Speaker, small manufacturing businesses striving to meet Federal regulatory requirements must have access to the technological information they need to comply with Federal and State laws and regulations. Therefore, I am pleased that the Regulatory Flexibility Act title of this conference report makes it clear that any Federal agency with the requisite expertise is empowered to help in this effort. I am especially pleased that the Manufacturing Extension Program [MEP] of the National Institute of Standards and -Technology will continue to provide its full menu of services in southern California and throughout the Nation.

Those of us who have worked to promote the concept of technology extension over the years are well aware of the unique roles played by the Small Business Development Centers [SBDC], the Agricultural Extension Service, and other specialized programs in helping small business. Each of these programs, however, has limited funding; even when they are all putting forth their best efforts, there may not be enough resources to go around. If small business people are required to take time away from production to comply with environmental and other standards, we want them to locate the help to do so as readily as possible, whether that help comes from the Small Business Administration, the Department of Commerce, or the Department of Agriculture.

Given that SBDC's have a broad mission to serve all small business, specialized programs like the MEP are often best situated to meet the regulatory compliance needs of small manufacturers. In my native southern California, for example, there are many excellent examples where the MEP provided help to small businesses that no SBDC could have been expected to provide. Our region is blessed by a large number of small manufacturers, including defense subcontractors, who need very specialized assistance to meet California's air and water quality standards. This led the MEP to set up the Los Angeles Pollution Prevention Center, which provides the specialized environmental engineering expertise both to companies and also to other manufacturing extension centers.

Let me give some specific examples. Without this center, it would have been extremely difficult for Nelson Name Plate, a small manufacturer of metal and plastic nameplates, to survive the mandated phase-out of chemicals it was using for cleaning its brass stock. The center helped Nelson implement a closed loop, customized cleaning system which required no modification of its sanitation permits.

The Pollution Prevention Center also permitted Art-Craft, a 20-person firm in the Santa Barbara area, to identify a waterborne primer for painting aircraft which met the exacting standards of both Boeing and the Clean Air Act and to develop the monitoring system it needed to show compliance. It helped CUI, a medical prosthesis company, to replace a curing process using ozone-depleting chemicals with a low-cost, solvent-free process that led to reductions both in hazardous wastes and air emissions.

Mr. Speaker, clearly it is in the Nation's interest to write our laws so that small businesses can provide good jobs and high-quality products while complying fully with environmental and other important regulations. I thank the conferees on this Title for avoiding a legislative turf fight and for allowing the MEP to continue one of its most important missions.

Mr. REED. Mr. Speaker, it is with reluctance that I will vote in favor of this bill before us today.

For almost 6 months, this Nation's good faith and credit has been questioned due to the failure of the Republican majority to complete its budgetary responsibilities.

Apparently, my Republican colleagues have come to their senses and will end their last minute, stop gap extensions of the Government's ability to meet its obligations to bond holders and Social Security recipients.

However, while my colleagues are acting to prevent default they have attached a number of controversial provisions to this must-pass legislation—namely, some of the bill's regulatory reform language as well as line-item veto authority for the President.

Let me be clear, while I am concerned with some of the regulatory reform provisions included in this bill, I support regulatory reform.

I am pleased that legislation to provide judicial review of the Regulatory Flexibility Act is finally on its way to becoming law.

Small businesses have been working to pass this legislation for years, and it will give real teeth to the small business protections in the Regulatory Flexibility Act. My subcommittee marked up this legislation last year, and this will be the second time a version of this legislation has passed the House.

However, there are other regulatory reform-related provisions in the debt ceiling bill that were never considered by the Judiciary Committee, nor any other House committee.

These provisions were not in H.R. 3136 as introduced. Instead, these items were slipped into a manager's amendment that was adopted by passage of the rule. Moreover, they are not identical to the provisions that passed the Senate as part of Senator Bond's bill, S. 942.

For example, one of the non-Senate provisions requires the chief counsel of the SBA to select individuals representative of affected small entities who would review a proposed rule before it is available to the public at large and lobby for changes. These individuals could be campaign contributors of special interest representatives. This provision has been limited to OSHA and EPA rules, since apparently the majority realized what havoc it would wreak if certain politically connected individuals were able to preview IRS, SEC, and other rules—and were thus able to restructure their financial transactions, for example.

Many of the regulatory reform provisions in the bill are meritorious and are based on S. 942. However, that is no reason to circumvent the deliberative legislative process. We ought to review these provisions in committee and work on a bipartisan basis to evaluate and improve upon them instead of slipping them in to must pass legislation.

If my colleagues are not concerned with some of the provisions of the regulatory reform language in H.R. 3136, I would urge them to consider the implications of the line-item veto section of this bill.

I am concerned with wasteful spending, and I have voted to cut a multitude of unneeded programs like the superconducting supercollider and the advanced liquid rocket motor.

However, I am opposed to the line-item veto because it would disrupt the checks and balances of the Constitution. Currently, the President has the power to veto any legislation and Congress can attempt to override this veto. A line-item veto would severely inhibit the legislative branch's say in the spending priorities of this Nation.

The line-item veto sounds innocuous enough, but the people of a small State like Rhode Island know full well what giving the President the authority to pick and choose budget items means.

Indeed, Rhode Island has experienced a Presidential effort through existing executive branch authority to eliminate an essential program.

In 1992, President Bush tried to rescind funding for the *Seawolf* submarine program which is vital to our Nation's defense and is the livelihood of thousands of working Rhode Islanders.

Fortunately, Democrats beat back this attempt, but I am concerned that the line-item provision before us would make future battles closer to a Sisyphean battle than a fair fight. For example, a President—of any political party—could use the line-item veto to eliminate other programs that are important to Rhode Island without fear because a small State like mine only has four votes in Congress.

I would argue that it was this fear of retribution which motivated the Founding Fathers to give the legislative branch the power of the purse and restrict the President's veto powers.

Regrettably, the line-item veto before us today, would grossly distort the Constitution's delicate balance of power and tilt it to the President, and I cannot support such a shift with the interests of my State in mind.

Mr. Speaker, as I stated earlier, I will support this bill because it is imperative that we prevent the Government from defaulting on obligations made many years ago.

In addition, I will also vote for this legislation because it contains provisions that would increase the amount of income that Social Security recipients can earn without losing any benefits.

Under current law, Social Security recipients between the ages of 65 and 69 can earn up to $11,520 in 1996 without having their benefits reduced. Each $3 in wages earned in excess of this limit results in a deduction of $1 in Social Security benefits.

This legislation gradually increases the amount seniors under age 70 can earn without losing any benefits to $30,000 by the year 2002.

I support increasing the Social Security earnings test and voted in favor of the Senior Citizens' Right to Work Act, which included this increase. The House overwhelmingly passed this bill on December 5, 1995 by a vote of 411 to 4.

Approximately 1 million of the 42 million Social Security recipients are expected to benefit from this increase in the earnings limit.

Increasing the earnings test will help improve the overall economic situation of low and middle income seniors in Rhode Island who work out of necessity, not by choice. For example, a Rhode Island senior currently making $12,500 loses almost $330 in Social Security benefits. With the increase included in the legislation before us, that senior would not lose any benefits.

Our seniors have the skills, expertise, and enthusiasm that employers value, and they should be encouraged to work and contribute, not penalized for it.

Mr. Speaker, in closing, I believe I have a duty to prevent the default of the U.S. Government and I will support H.R. 3136, but I would urge my Republican colleagues to stop using important budget legislation as a vehicle for pet causes. Thank you, Mr. Speaker.

Ms. DUNN of Washington. Mr. Speaker, I rise today in support of H.R. 3136, the Contract With American Advancement Act. Over the past 15 months, Republicans have made truly historic efforts to change business as usual here in Washington, DC. Central to those efforts has been our drive to finally put our Nation on a credible path to a balanced budget.

Despite the fact that Republicans crafted the first balanced budget since 1969, we have learned that a supposedly revolutionary idea like balancing the budget takes two elections. Despite this setback, we have not given up the fight.

Republicans continue to believe that Washington spends too much, taxes too much, and that government is too big. That is why we are doing all we can to reduce spending, reduce taxes, and shrink the size of government.

While we may not be able to accomplish as much this year as we had hoped, we are dedicated to doing as much as we can—right now. That brings me to the measure before us today. While we continue to work to keep our promises to the American people for a balanced budget, we must not put the Nation at undue risk. This vote—to authorize the Government to borrow more money by increasing the Nation's debt limit—is not easy.

Congress has twice sent the President a bill that extends the Government's borrowing authority. President Clinton has vetoed both bills. Now Republicans again act to avoid default.

Our current debt limit stands at $4.9 trillion. And it is growing everyday. Someone, someday has to pay off this debt. I do not want to leave it to the next generation. We have a responsibility to our children, and to our children's children, to end this pattern of destructive out-of-control spending.

Mr. Chairman, $4.9 trillion is a lot of money. To put that figure into perspective I want to share just a few facts. If we were to pay all of the debt off today, a family of four would need to contribute over $72,000 as their share of the debt. A single person's bill would come to just $18,000.

Every week we continue to have this debt, that family's personal share of the debt rises by $89. Every month—$383. For most families, this is a monthly car payment which ends in 4 or 5 years. But this is not a car payment, it is our national debt. You keep giving, but you get nothing in return and you continue to pass the tab onto our children.

Included in this measure is what I believe to be one of the most important tools necessary to fix our irresponsible spending habits—the line-item veto. To demonstrate how important this tool is, I am willing to give the authority to a President of a different party. To those who say the President will use it for political purposes, I say nonsense. The President currently has veto authority. With line item authority he simply could remove the misguided pork barrel spending without killing the entire bill.

It is time we give the President what 43 Governors have: the fiscal responsibility to strike out the pork. The American people clearly are in favor of this provision, as well they should be. With a new debt ceiling of $5.5 trillion, it is time we stop Congress' out of control spending.

The bottom line is that we are in far too deeply. Over the past 15 months Republicans have made the difficult choices necessary to reduce the size of the Federal Government, to provide families and employers with badly needed tax relief, and to provide for a balanced budget in 7 years. We are building a path to the future that restores both hope and opportunity for all Americans—from my parents to my children and to their children yet to be born.

Our Nation is at a crossroads. There are two competing visions of America's future. We can either adhere to the status quo as the President suggests—which means higher taxes on families, more spending, more debt, fewer jobs, and less opportunity for our children—or we can follow a new responsible course by balancing our Nation's budget, cutting taxes and restoring hope, confidence, opportunity, and prosperity.

To be sure, it has not been easy making the tough choices needed to reach a balanced budget. But those are decisions that we have been willing to confront. In no way should today's extension of the debt limit relieve us of this responsibility. To the contrary, we must be more vigilant than ever in bringing our Nation back to a responsible fiscal path. To the next generation—to my own two sons—I say that Republicans are committed to redoubling our efforts to convince the President that enactment of a balanced budget is our single most important responsibility.

Mr. BLILEY. Mr. Speaker, I commend Chairman HYDE of the Judiciary Committee and Senator BOND for their leadership on this bill. We share the goals of reducing regulatory burdens on small business and, in so doing, promoting job creation and economic growth.

S. 942 sweeps across a wide range of Federal regulation. Oversight of the Securities and Exchange Commission [SEC] falls within the jurisdiction of the Commerce. The SEC is charged with the important role of preventing fraud in our securities markets. Though its enforcement of the anti-fraud provisions of the securities laws, the SEC builds confidence of investors and makes our financial markets liquid and transparent.

My analysis of the provisions of S. 942 indicates that the bill will not have any negative effect on the enforcement activities of the SEC. We will not tolerate, and this bill does not create, any free pass for financial fraud. Specifically, Section 323(b)(4) of the bill expressly excludes "violations involving wilful or criminal conduct" from the small business enforcement variance. In the context of the Federal securities laws, I understand "wilful" to have the longstanding judicial construction as expressed in, for example, *Tager* v. *Securities and Exchange Commission*, 344 F.2d 5, 7 (2d. Cir. 1965).

In addition, it is my understanding that the enforcement procedures followed by the SEC under current law, specifically the Securities Enforcement Remedies and Penny Stock Reform Act of 1990, satisfy the requirements of Section 323, and said section does not impose requirements beyond those of the Remedies Act.

In connection with the provisions of S. 942 dealing with attorneys fees, the fill excludes awards of attorneys fees in connection with wilful violations. In the context of the Federal securities laws, the term "wilful" has the meaning set forth in Tager, supra at 7.

Additionally, provisions of S. 942 makes useful changes in what constitutes a demand by the Government. My understanding is that the term "demand" when applied in the context of the Federal securities laws, does not include notices or other communication with the staff or members of the SEC that occur in the context of the "Wells" procedure.

Finally, my understanding of the provisions for Congressional review of major rules, the definition of major rules would not extend to actions for exemptive relief under the securities laws. Such exemptive rules are those that permit regulated entities to engage in transactions that would otherwise be proscribed by statute. It would be perverse to read this deregulatory bill in such a way as to inhibit exemptive relief for regulated persons by the SEC.

Mr. HYDE. Mr. Speaker, I submit for the RECORD a summary of the Small Business Regulatory Enforcement Fairness Act, included in H.R. 3136.

SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT VIEWS OF THE HOUSE COMMITTEES OF JURISDICTION ON THE CONGRESSIONAL INTENT REGARDING THE "SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT OF 1996"

I. SUMMARY OF THE LEGISLATION

The Hyde amendment to H.R. 3136 replaced Title III of the Contract with America Advancement Act of 1996 to incorporate a revised version of the Small Business Regulatory Enforcement Fairness Act of 1996 (the "Act"). As enacted, Title III of H.R. 3136 became Title II of Public Law 104-121. This legislation was originally passed by the Senate as S. 942. The Hyde amendment makes a number of changes to the Senate bill to better implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations, including judicial review of agency actions under the Regulatory Flexibility Act (RFA). The amendment also provides for expedited procedures for Congress to review agency rules and to enact Resolutions of Disapproval voiding agency rules.

The goal of the legislation is to foster a more cooperative, less threatening regulatory environment among agencies, small businesses and other small entities. The legislation provides a framework to make federal regulators more accountable for their enforcement actions by providing small entities with an opportunity for redress of arbitrary enforcement actions. The centerpiece of the legislation is the RFA which requires a regulatory flexibility analysis of all rules that have a "significant economic impact on a substantial number" of small entities. Under the RFA, this term "small entities" includes small businesses, small non-profit organizations, and small governmental units.

II. SECTION-BY-SECTION ANALYSIS

Section 201

This section entitles the Act the "Small Business Regulatory Enforcement Fairness Act of 1996.'

Section 202

This section of the Act sets forth findings as to the need for a strong small business sector, the disproportionate impact of regulations on small businesses, the recommendations of the 1995 White House Conference on Small Business, and the need for judicial review of the Regulatory Flexibility Act.

Section 203

This section of the Act sets forth the purposes of this legislation. These include the need to address some of the key Federal regulatory recommendations of the 1995 White House Conference on Small Business. The White House Conference produced a consensus that small businesses should be included earlier and more effectively in the regulatory process. The Act seeks to create a more cooperative and less threatening regulatory environment to help small businesses in their compliance efforts. The Act also provides small businesses with legal redress from arbitrary enforcement actions by making Federal regulators accountable for their actions. Additionally, the Act provides for judicial review of the RFA.

Subtitle A—Regulatory Compliance Simplification

Agencies would be required to publish easily understood guides to assist small businesses in complying with regulations and provide them informal, non-binding advice about regulatory compliance. This subtitle creates permissive authority for Small Business Development Centers to offer regulatory compliance information to small businesses and to establish resource centers to disseminate reference materials. Federal agencies are directed to cooperate with states to create guides that fully integrate Federal and state regulatory requirements on small businesses.

Section 211

This section defines certain terms as used in this subtitle. The term "small entity" is currently defined in the RFA (5 U.S.C. 601) to include small business concerns, as defined by section 3(a) of the Small Business Act (15 U.S.C. 632(a)) small nonprofit organizations and small governmental jurisdictions. The process of determining whether a given business qualifies as a small business is straightforward, using size standard thresholds established by the SBA based on Standard Industrial Classification codes. The RFA also defines small organization and small governmental jurisdiction (5 U.S.C. 601). Any definition established by an agency for purposes of implementing the RFA would also apply to this Act.

Section 212

This section requires agencies to publish "small entity compliance guides" to assist small entities in complying with regulations which are the subject of a final regulatory flexibility analysis. The bill does not allow judicial review of the guide itself. However, the agency's claim that the guide provides "plain English" assistance would be a matter of public record. In addition, the small business compliance guide would be available as evidence of the reasonableness of any proposed fine on the small entity.

Agencies should endeavor to make these "plain English" guides available to small entities through a coordinated distribution system for regulatory compliance information utilizing means such as the SBA's U.S. Business Advisor, the Small Business Ombudsman at the Environmental Protection Agency, state-run compliance assistance programs established under section 507 of the Clean Air Act, Manufacturing Technology Centers or Small Business Development Centers established under the Small Business Act.

Section 213

This section directs agencies that regulate small entities to answer inquiries of small entities seeking information on and advice about regulatory compliance. Some agencies already have established successful programs to provide compliance assistance and the amendment intends to encourage these efforts. For example, the IRS, SEC and the Customs Service have an established practice of issuing private letter rulings applying the law to a particular set of facts. This legislation does not require other agencies to establish programs with the same level of formality as found in the current practice of issuing private letter rulings. The use of toll free telephone numbers and other informal means of responding to small entities is encouraged. This legislation does not mandate changes in current programs at the IRS, SEC and Customs Service, but these agencies should consider establishing less formal means of providing small entities with informal guidance in accordance with this section.

This section gives agencies discretion to establish procedures and conditions under which they would provide advice to small entities. There is no requirement that the agency's advice to small entities be binding as to the legal effects of the actions of other entities. Any guidance provided by the agency applying statutory or regulatory provisions to facts supplied by the small entity would be available as relevant evidence of the reasonableness of any subsequently proposed fine on the small entity.

Section 214

This section creates permissive authority for Small Business Development Centers (SBDC) to provide information to small businesses regarding compliance with regulatory requirements. SBDCs would not become the predominant source of regulatory information, but would supplement agency efforts to make such information widely available. This section is not intended to grant an exclusive franchise to SBDC's for providing information on regulatory compliance.

There are small business information and technical assistance programs, both Federal and state, in various forms throughout this country. Some of the manufacturing technology centers and other similar extension programs administered by the National Institute of Standards and Technology are providing environmental compliance assistance in addition to general technology assistance. The small business stationary source technical and environmental compliance assistance programs established under section 507 of the Clean Air Act Amendments of 1990 is also providing compliance assistance to small businesses. This section is designed to add to the currently available resources for small businesses.

Compliance assistance programs can save small businesses money, improve their environmental performance and increase their competitiveness. They can help small businesses learn about cost-saving pollution prevention programs and new environmental technologies. Most importantly, they can help small business owners avoid potentially costly regulatory citations and adjudications. Comments from small business representatives in a variety of fora support the need for expansion of technical information assistance programs.

Section 215

This section directs agencies to cooperate with states to create guides that fully integrate Federal and state requirements on small entities. Separate guides may be created for each state, or states may modify or supplement a guide to Federal requirements. Since different types of small entities are affected by different agency regulations, or are affected in different ways, agencies should consider preparing separate guides for the various sectors of the small business community and other small entities subject to their jurisdiction. Priority in producing these guides should be given to areas of law where rules are complex and where the regulated community tend to be small entities. Agencies may contract with outside providers to produce these guides and, to the extent practicable, agencies should utilize entities with the greatest experience in developing similar guides.

Section 216

This section provides that the effective date for this subtitle is 90 days after the date of enactment. The requirement for agencies to publish compliance guides applies to final rules published after the effective date. Agencies have one year from the date of enactment to develop their programs for informal small entity guidance, but these programs should assist small entities with regulatory questions regardless of the date of publication of the regulation at issue.

Subtitle B—Regulatory Enforcement Reforms

This subtitle creates a Small Business and Agriculture Regulatory Enforcement Ombudsman at the Small Business Administration to give small businesses a confidential means to comment on and rate the performance of agency enforcement personnel. It also creates Regional Small Business Regulatory Fairness Boards at the Small Business Administration to coordinate with the Ombudsman and to provide small businesses a greater opportunity to come together on a regional basis to assess the enforcement activities of the various Federal regulatory agencies.

This subtitle directs all Federal agencies that regulate small entities to develop policies or programs providing for waivers or reductions of civil penalties for violations by small entities, under appropriate circumstances.

Section 221

This section provides definitions for the terms as used in the subtitle. [See discussion set forth under "Section 211" above.]

Section 222

The Act creates a Small Business and Agriculture Regulatory Enforcement Ombudsman at the SBA to give small businesses a confidential means to comment on Federal regulatory agency enforcement activities. This might include providing toll-free telephone numbers, computer access points, or mail-in forms allowing businesses to comment on the enforcement activities of inspectors, auditors and other enforcement personnel. As used in this section of the bill, the term "audit" is not intended to refer to audits conducted by Inspectors General. This Ombudsman would not replace or diminish any similar ombudsman programs in other agencies.

Concerns have arisen in the Inspector General community that this Ombudsman might have new enforcement powers that would conflict with those currently held by the Inspectors General. Nothing in the Act is intended to supersede or conflict with the provisions of the Inspector General Act of 1978, as amended, or to otherwise restrict or interfere with the activities of any Office of the Inspector General.

The Ombudsman will compile the comments of small businesses and provide an annual evaluation similar to a "customer satisfaction" rating for different agencies, regions, or offices. The goal of this rating system is to see whether agencies and their personnel are in fact treating small businesses more like customers than potential criminals. Agencies will be provided an opportunity to comment on the Ombudsman's draft report, as is currently the practice with reports by the General Accounting Office. The final report may include a section in which an agency can address any concerns that the Ombudsman does not choose to address.

The Act states that the Ombudsman shall "work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by such personnel." The SBA shall publicize the existence of the Ombudsman generally to the small business community and also work cooperatively with enforcement agencies to make small businesses aware of the program at the time of agency enforcement activity. The Ombudsman shall report annually to Congress based on substantiated comments received from small business concerns and the Boards, evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each regulatory agency. The report to Congress shall in part be based on the findings and recommendation of the Boards as reported by the Ombudsman to affected agencies. While this language allows for comment on the enforcement activities of agency personnel in order to identify potential abuses of the regulatory process, it does not provide a mandate for the boards and the Ombudsman to create a public performance rating of individual agency employees.

The goal of this section is to reduce the instances of excessive and abusive enforcement actions. Those actions clearly originate in the acts of individual enforcement personnel. Sometimes the problem is with the policies of an agency, and the goal of this section is also to change the culture and policies of Federal regulatory agencies. At other times, the problem is not agency policy, but individuals who violate the agency's enforcement policy. To address this issue, the legislation includes a provision to allow the Ombudsman, where appropriate, to refer serious problems with individuals to the agency's Inspector General for proper action.

The intent of the Act is to give small businesses a voice in evaluating the overall performances of agencies and agency offices in their dealings with the small business community. The purpose of the Ombudsman's reports is not to rate individual agency personnel, but to assess each program's or agency's performance as a whole. The Ombudsman's report to Congress should not single out individual agency employees by name or assign an individual evaluation or rating that might interfere with agency management and personnel policies.

The Act also creates Regional Small Business Regulatory Fairness Boards at the SBA to coordinate with the Ombudsman and to provide small businesses a greater opportunity to track and comment on agency enforcement policies and practices. These boards provide an opportunity for representatives of small businesses to come together on a regional basis to assess the enforcement activities of the various federal regulatory agencies. The boards may meet to collect information about these activities, and report and make recommendations to the Ombudsman about the impact of agency enforcement policies or practices on small businesses. The boards will consist of owners, operators or officers of small entities who are appointed by the Administrator of the Small Business Administration. Prior to appointing any board members, the Administrator must consult with the leadership of the House and Senate Small Business Committees. There is nothing in the bill that would exempt the boards from the Federal Advisory Committee Act, which would apply according to its terms. The Boards may accept donations of services such as the use of a regional SBA office for conducting their meetings.

Section 223

The Act directs all federal agencies that regulate small entities to develop policies or programs providing for waivers or reductions of civil penalties for violations by small entities in certain circumstances. This section builds on the current Executive Order on small business enforcement practices and is intended to allow agencies flexibility to tailor their specific programs to their missions and charters. Agencies should also consider the ability of a small entity to pay in determining penalty assessments under appropriate circumstances. Each agency would have discretion to condition and limit the policy or program on appropriate conditions. For purposes of illustration, these could include requiring the small entity to act in good faith, requiring that violations be discovered through participation in agency supported compliance assistance programs, or requiring that violations be corrected within a reasonable time.

An agency's policy or program could also provide for suitable exclusions. Again, for purposes of illustration, these could include circumstances where the small entity has been subject to multiple enforcement actions, the violation involves criminal conduct, or poses a grave threat to worker safety, public health, safety or the environment.

In establishing their programs, it is up to each agency to develop the boundaries of their program and the specific circumstances for providing for a waiver or reduction of penalties; but once established, an agency must implement its program in an even-handed fashion. Agencies may distinguish among types of small entities and among classes of civil penalties. Some agencies have already established formal or informal policies or programs that would meet the requirements of this section. For example, the Environmental Protection Agency has adopted a small business enforcement policy that satisfies this section. While this legislation sets out a general requirement to establish penalty waiver and reduction programs, some agencies may be subject to other statutory requirements or limitations applicable to the agency or to a particular program. For example, this section is not intended to override, amend or affect provisions of the Occupational Safety and Health Act or the Mine Safety and Health Act that may impose specific limitations on the operation of penalty reduction or waiver programs.

Section 224

This section provides that this subtitle takes effect 90 days after the date of enactment.

Subtitle C—Equal Access to Justice Act Amendments

The Equal Access to Justice Act (EAJA) provides a means for prevailing parties to recover their attorneys fees in a wide variety of civil and administrative actions between eligible parties and the government. This Act amends EAJA to create a new avenue for parties to recover a portion of their attorneys fees and costs where the government makes excessive demands in enforcing compliance with a statutory or regulatory requirement, either in an adversary adjudication or judicial review of the agency's enforcement action, or in a civil enforcement action. While this is a significant change from current law, the legislation is not intended to result in the awarding of attorneys fees as a matter of course. Rather, the legislation is intended to assist in changing the culture among government regulators to increase the reasonableness and fairness of their enforcement practices. Past agency practice too often has been to treat small businesses like suspects. One goal of this bill is to encourage government regulatory agencies to treat small businesses as partners sharing in a common goal of informed regulatory compliance. Government enforcement attorneys often take the position that they must zealously advocate for their client, in this case a regulatory agency, to the maximum extent permitted by law, as if they were representing an individual or other private party. But in the new regulatory climate for small businesses under this legislation, government attorneys with the advantages and resources of the federal government behind them in dealing with small entities must adjust their actions accordingly and not routinely issue original penalties or other demands at the high end of the scale merely as a way of pressuring small entities to agree to quick settlements.

Sections 231 and 232

H.R. 3136 will allow parties which do not prevail in a case involving the government to nevertheless recover a portion of their fees and cost in certain circumstances. The test for recovering attorneys fees is whether the agency or government demand that led to the administrative or civil action is substantially in excess of the final outcome of the case and is unreasonable when compared to the final outcome (whether a fine, injunctive relief or damages) under the facts and circumstances of the case.

For purposes of this Act, the term "party" is amended to include a "small entity" as that term is defined in section 601(6) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This will ensure consistency of coverage between the provisions of this subtitle and those of the Small Business Act (15 U.S.C. 632 (a)). This broadening of the term "party" is intended solely for purposes of the amendments to the EAJA effected under this subtitle. Other portions of the EAJA will continue to be governed by the definition of "party" as appears in current law.

The comparison called for in the Act is always between a "demand" by the government for injunctive and monetary relief taken as a whole and the final outcome of the case in terms of injunctive and monetary relief taken as a whole. As used in these amendments, the term "demand" means an express written demand that leads directly to an adversary adjudication or civil action. Thus, the "demand" at issue would be the government's demand that was pending upon commencement of the adjudication or action. A written demand by the government for performance or payment qualifies under this section regardless of form; it would include, but not be limited to, a fine, penalty notice, demand letter or citation. In the case of an adversary adjudication, the demand would often be a statement of the "Definitive Penalty Amount." In the case of a civil action brought by the United States, the demand could be in the form of a demand for settlement issued prior to commencement to the litigation. In a civil action to review the determination of an administrative proceeding, the demand could be the demand that led to such proceeding. However, the term "demand" should not be read to extend to a mere recitation of facts and law in a complaint. The bill's definition of the term "demand" expressly excludes a recitation of the maximum statutory penalty in the complaint or elsewhere when accompanied by an express demand for a lesser amount. This definition is not intended to suggest that a statement of the maximum statutory penalty somewhere other than the complaint, which is not accompanied by an express demand for a lesser amount, is per se a demand, but would depend on the circumstances.

This test should not be a simple mathematical comparison. The Committee intends for it to be applied in such a way that it identifies and corrects situations where the agency's demand is so far in excess of the true value of the case, as compared to the final outcome, and where it appears the agency's assessment or enforcement action did not represent a reasonable effort to match the penalty to the actual facts and circumstances of the case.

In addition, the bill excludes awards in connection with willful violations, bad faith actions and in special circumstances that would make such an award unjust. These additional factors are intended to provide a "safety valve" to ensure that the government is not unduly deterred from advancing its case in good faith. Whether a violation is "willful" should be determined in accordance with existing judicial construction of the subject matter to which the case relates. Special circumstances are intended to include both legal and factual considerations which may make it unjust to require the public to pay attorneys fees and costs, even in situations where the ultimate award is significantly less than the amount demanded. Special circumstances could include instances where the party seeking fees engaged in a flagrant violation of the law, endangered the lives of others, or engaged in some other type of conduct that would make the award of the fees unjust. The actions covered by "bad faith" include the conduct of the party seeking fees both at the time of the underlying violation, and during the enforcement action. For example, if the party seeking fees attempted to elude government officials, cover up its conduct, or otherwise impede the government's law enforcement activities, then attorneys' fees and costs should not be awarded.

The Committee does not intend by this provision to compensate a party for fees and costs which it would have been expended even had the government demand been reasonable under the circumstances. The amount of the award which a party may recover under this section is limited to the proportion of attorneys' fees and costs attributable to the excessive demand. Thus, for example, if the ultimate decision of the administrative law judge or the judgment of the court is twenty percent of the relevant government demand, the defendant might be entitled to eighty percent of fees and costs. The ultimate determination of the amount of fees and costs to be awarded is to be made by the administrative law judge or the court, based on the facts and circumstances of each case.

The Act also increases the maximum hourly rate for attorneys fees under the EAJA from $75 to $125. Agencies could avoid the possibility of paying attorneys fees by settling with the small entity prior to final judgement. The Committee anticipates that if a settlement is reached, all further claims of either party, including claims for attorneys fees, could be included as part of the settlement. The government may obtain a release specifically including attorneys fees under EAJA.

Additional language is included in the Act to ensure that the legislation did not violate of the PAYGO requirements of the Budget Act. This language requires agencies to satisfy any award of attorneys fees or expenses arising from an agency enforcement action from their discretionary appropriated funds, but does not require that an agency seek or obtain an individual line item or earmarked appropriation for these amounts.

Section 233

The new provisions of the EAJA apply to civil actions and adversary adjudications commenced on or after the date of enactment.

Subtitle D—Regulatory Flexibility Act Amendments

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.), was first enacted in 1980. Under its terms, federal agencies are directed to consider the special needs and concerns of small entities—small businesses, small local governments, farmers, etc.—whenever they engage in a rulemaking subject to the Administrative Procedure Act. The agencies must then prepare and publish a regulatory flexibility analysis of the impact of the proposed rule on small entities, unless the head of the agency certifies that the proposed rule will not "have a significant economic impact on a substantial number of small entities."

Under current law, there is no provision for judicial review of agency action under the RFA. This makes the agencies completely unaccountable for their failure to comply with its requirements. This current prohibition on judicial enforcement of the RFA is contrary to the general principle of administrative law, and it has long been criticized by small business owners. Many small business owners believe that agencies have given lip service at best to the RFA, and small entities have been denied legal recourse to enforce the Act's requirements. Subtitle D gives teeth to the RFA by specifically providing for judicial review of selected sections.

Section 241

H.R. 3136 expands the coverage of the RFA to include Internal Revenue Service interpretative rules that provide for a "collection of information" from small entities. Many IRS rulemakings involve "interpretative rules" that IRS contends need not be promulgated pursuant to section 553 of the Administrative Procedures Act. However, these interpretative rules may have significant economic effects on small entities and should be covered by the RFA. The amendment applies to those IRS interpretative rulemakings that are published in the Federal Register for notice and comment and that will be codified in the Code of Federal Regulations. This limitation is intended to exclude from the RFA other, less formal IRS publications such as revenue rulings, revenue procedures, announcements, publications or private letter rulings.

The requirement that IRS interpretative rules comply with the RFA is further limited to those involving a "collection of information." The term "collection of information" is defined in the Act to include the obtaining, causing to be obtained, soliciting of facts or opinions by an agency through a variety of means that would include the use of written report forms, schedules, or reporting or other record keeping requirements. It would also include any requirements that require the disclosure to third parties of any information. The intent of this phrase "collection of information" in the context of the RFA is to include all IRS interpretative rules of general applicability that lead to or result in small entities keeping records, filing reports or otherwise providing information to IRS or third parties.

While the term "collection of information" also is used in the Paperwork Reduction Act (44 U.S.C. 3502(4))("PRA"), the purpose of the term in the context of the RFA is different than the purpose of the term in the PRA. Thus, while some courts have interpreted the PRA to exempt from its requirements certain recordkeeping requirements that are explicitly required by statute, such an interpretation would be inappropriate in the context of the RFA. If a collection of information is explicitly required by a regulation that will ultimately be codified in the Code of Federal Regulations ("CFR"), the effect might be to limit the possible regulatory alternatives available to the IRS in the proposed rulemaking, but would not exempt the IRS from conducting a regulatory flexibility analysis.

Some IRS interpretative rules merely reiterate or restate the statutorily required tax liability. While a small entity's tax liability may be a burden, the RFA cannot act to supersede the statutorily required tax rate. However, most IRS interpretative rules involve some aspect of defining or establishing requirements for compliance with the CFR, or otherwise require small entities to maintain records to comply with the CFR now be covered by the RFA. One of the primary purposes of the RFA is to reduce the compliance burdens on small entities whenever possible under the statute. To accomplish this purpose, the IRS should take an expansive approach in interpreting the phrase "collection of information" when considering whether to conduct a regulatory flexibility analysis.

The courts generally are given broad discretion to formulate appropriate remedies under the facts and circumstances of each individual case. The rights of judicial review and remedial authority of the courts provided in the Act as to IRS interpretative rules should be applied in a manner consistent with the purposes of the Anti-Injunction Act (26 U.S.C. 7421), which may limit remedies available in particular circumstances. The RFA, as amended by the Act, permits the court to remand a rule to an Agency for further consideration of the rule's impact on small entities. The amendment also directs the court to consider the public interest in determining whether or not to delay enforcement of a rule against small entities pending agency compliance with the court's findings. The filing of an action requesting judicial review pursuant to this section does not automatically stay the implementation of the rule. Rather, the court has discretion in determining whether enforcement of the rule shall be deferred as it relates to small entities. In the context of IRS interpretative rulemakings, this language should be read to require the court to give appropriate deference to the legitimate public interest in the assessment and collection of taxes reflected by the Anti-Injunction Act. The court should not exercise its discretion more broadly than necessary under the circumstances or in a way that might encourage excessive litigation.

If an agency is required to publish an initial regulatory flexibility analysis, the agency also must publish a final regulatory flexibility analysis. In the final regulatory flexibility analysis, agencies will be required to describe the impacts of the rule on small entities and to specify the actions taken by the agency to modify the proposed rule to minimize the regulatory impact on small entities. Nothing in the bill directs the agency to choose a regulatory alternative that is not authorized by the statute granting regulatory authority. The goal of the final regulatory flexibility analysis is to demonstrate how the agency has minimized the impact on small entities consistent with the underlying statute and other applicable legal requirements.

Section 242

H.R. 3136 removes the current prohibition on judicial review of agency compliance with certain sections of the RFA. It allows adversely affected small entities to seek judicial review of agency compliance with the RFA within one year after final agency action, except where a provision of law requires a shorter period for challenging a final agency action. The amendment is not intended to encourage or allow spurious lawsuits which might hinder important governmental functions. The Act does not subject all regulations issued since the enactment of the RFA to judicial review. The one-year limitation on seeking judicial review ensures that this legislation will not permit indefinite, retroactive application of judicial review.

For rules promulgated after the effective date, judicial review will be available pursuant to this Act. The procedures and standards for review to be used are those set forth in the Administrative Procedure Act at Chapter 7 of Title 5. If the court finds that a final agency action was arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law, the court may set aside the rule or order the agency to take other corrective action. The court may also decide that the failure to comply with the RFA warrants remanding the rule to the agency or delaying the application of the rule to small entities pending completion of the court ordered corrective action. However, in some circumstances, the court may find that there is good cause to allow the rule to be enforced and to remain in effect pending the corrective action.

Judicial review of the RFA is limited to agency compliance with the requirements of sections 601, 604, 605(b), 608(b) and 610. Review under these sections is not limited to the agency's compliance with the procedural aspects of the RFA; final agency action under these sections will be subject to the normal judicial review standards of Chapter 7 of Title 5. While the Committees determined that agency compliance with sections 607 and 609(a) of the RFA is important, it did not believe that a party should be entitled to judicial review of agency compliance with those sections in the absence of a judiciable claim for review of agency compliance with section 604. Therefore, under the Act, an agency's failure to comply with sections 607 or 609(a) may be reviewed only in conjunction with a challenge under section 604 of the RFA.

Section 243

Section 243 of the Act alters the content of the statement which an agency must publish when making a certification under section 605 of the RFA that a regulation will not impose a significant economic impact on a substantial number of small entities. Current law requires only that the agency publish a "succinct statement explaining the reasons for such certification." The Committee believes that more specific justification for its determination should be provided by the agency. Under the amendment, the agency must state its factual basis for the certification. This will provide a record upon which a court may review the agency's determination in accordance with the judicial review provisions of the Administrative Procedure Act.

Section 244

H.R. 3136 amends the existing requirements of section 609 of the RFA for small business participation in the rulemaking process by incorporating a modified version of S. 917, the Small Business Advocacy Act, which was introduced by Senator Domenici, to provide early input from small businesses into the regulatory process. For proposed rules with a significant economic impact on a substantial number of small entities, EPA and OSHA would have to collect advice and recommendations from small businesses to better inform the agency's regulatory flexibility analysis on the potential impacts of the rule. The House version drops the provision of the Senate bill that would have required the panels to reconvene prior to publication of the final rule.

The agency promulgating the rule would consult with the SBA's Chief Counsel for Advocacy to identify individuals who are representative of affected small businesses. The agency would designate a senior level official to be responsible for implementing this section and chairing an interagency review panel for the rule. Before the publication of an initial regulatory flexibility analysis for a proposed EPA or OSHA rule, the SBA's Chief Counsel for Advocacy will gather information from individual representatives of small businesses and other small entities, such as small local governments, about the potential impacts of that proposed rule. This information will then be reviewed by a panel composed of members from EPA or OSHA, OIRA, and the Chief Counsel for Advocacy. The panel will then issue a report on those individuals' comments, which will become part of the rulemaking record. The review panel's report and related rulemaking information will be placed in the rulemaking record in a timely fashion so that others who are interested in the proposed rule may have an opportunity to review that information and submit their own responses for the record before the close of the agency's public comment period for the proposed rule. The legislation includes limits on the period during which the review panel conducts its review. It also creates a limited process allowing the Chief Counsel for Advocacy to waive certain requirements of the section after consultation with the Office of Information and Regulatory Affairs and small businesses.

Section 245

This section provides that the effective date of subtitle D is 90 days after enactment. Proposed rules published after the effective date must be accompanied by an initial regulatory flexibility analysis or a certification under section 605 of the RFA. Final rules published after the effective date must be accompanied by a final regulatory flexibility analysis or a certification under section 605 of the RFA, regardless of when the rule was first proposed. Thus judicial review shall apply to any final regulation published after the effective date regardless of when the rule was proposed. However, IRS interpretative rules proposed prior to enactment will not be subject to the amendments made in this subchapter expanding the scope of the RFA to include IRS interpretative rules. Thus, the IRS could finalize previously proposed interpretative rules according to the terms of currently applicable law, regardless of when the final interpretative rule is published.

Subtitle E—Congressional review subtitle

Subtitle E adds a new chapter to the Administrative Procedure Act (APA), "Congressional Review of Agency Rulemaking," which is codified in the United States Code as chapter 8 of title 5. The congressional review chapter creates a special mechanism for Congress to review new rules issued by federal agencies (including modification, repeal, or reissuance of existing rules). During the review period, Congress may use expedited procedures to enact joint resolutions of disapproval to overrule the federal rulemaking actions. In the 104th Congress, four slightly different versions of this legislation passed the Senate and two different versions passed the House. Yet, no formal legislative history document was prepared to explain the legislation or the reasons for changes in the final language negotiated between the House and Senate. This joint statement of the committees of jurisdiction on the congressional review subtitle is intended to cure this deficiency.

Background

As the number and complexity of federal statutory programs has increased over the last fifty years, Congress has come to depend more and more upon Executive Branch agencies to fill out the details of the programs it enacts. As complex as some statutory schemes passed by Congress are, the implementing regulation is often more complex by several orders of magnitude. As more and more of Congress' legislative functions have been delegated to federal regulatory agencies, many have complained that Congress has effectively abdicated its constitutional role as the national legislature in allowing federal agencies so much latitude in implementing and interpreting congressional enactments.

In many cases, this criticism is well founded. Our constitutional scheme creates a delicate balance between the appropriate roles of the Congress in enacting laws, and the Executive Branch in implementing those laws. This legislation will help to redress the balance, reclaiming for Congress some of its policymaking authority, without at the same time requiring Congress to become a super regulatory agency.

This legislation establishes a government-wide congressional review mechanism for most new rules. This allows Congress the opportunity to review a rule before it takes effect and to disapprove any rule to which Congress objects. Congress may find a rule to be too burdensome, excessive, inappropriate or duplicative. Subtitle E uses the mechanism of a joint resolution of disapproval which requires passage by both houses of Congress and the President (or veto by the President and a two-thirds' override by Congress) to be effective. In other words, enactment of a joint resolution of disapproval is the same as enactment of a law.

Congress has considered various proposals for reviewing rules before they take effect for almost twenty years. Use of a simple (one-house), concurrent (two-house), or joint (two houses plus the President) resolution are among the options that have been debated and in some cases previously implemented on a limited basis. In *INS* v. *Chadha*, 462 U.S. 919 (1983), the Supreme Court struck down as unconstitutional any procedure where executive action could be overturned by less than the full process required under the Constitution to make laws—that is, approval by both houses of Congress and presentment to the President. That narrowed Congress' options to use a joint resolution of disapproval. The one-house or two-house legislative veto (as procedures involving simple and concurrent resolutions were previously called), was thus voided.

Because Congress often is unable to anticipate the numerous situations to which the laws it passes must apply, Executive Branch agencies sometimes develop regulatory schemes at odds with congressional expectations. Moreover, during the time lapse between passage of legislation and its implementation, the nature of the problem addressed, and its proper solution, can change. Rules can be surprisingly different from the expectations of Congress or the public. Congressional review gives the public the opportunity to call the attention of politically accountable, elected officials to concerns about new agency rules. If these concerns are sufficiently serious, Congress can stop the rule.

Brief procedural history of congressional review chapter

In the 104th Congress, the congressional review legislation originated as S. 348, the "Regulatory Oversight Act," which was introduced on February 2, 1995. The text of S. 348 was offered by its sponsors, Senators Don Nickles and Harry Reid, as a substitute amendment to S. 219, the "Regulatory Transition Act of 1995." As amended, S. 219 provided for a 45-day delay on the effectiveness of a major rule, and provided expedited procedures that Congress could use to pass resolutions disapproving of the rule. On March 29, 1995, the Senate passed the amended version of S. 219 by a vote of 100-0. The Senate later substituted the text of S. 219 for the text of H.R. 450, the House passed "Regulatory Transition Act of 1995." Although the

House did not agree to a conference on H.R. 450 and S. 219, both Houses continued to incorporate the congressional review provisions in other legislative packages. On May 25, the Senate Governmental Affairs Committee reported out S. 343, the "Comprehensive Regulatory Reform Act of 1995," and S. 291, the "Regulatory Reform Act of 1995," both with congressional review provisions. On May 26, 1995, the Senate Judiciary Committee reported out a different version of S. 343, the "Comprehensive Regulatory Reform Act of 1995," which also included a congressional review provision. The congressional review provision in S. 343 that was debated by the Senate was quite similar to S. 219, except that the delay period in the effectiveness of a major rule was extended to 60 days and the legislation did not apply to rules issued prior to enactment. A fillibuster of S. 343, unrelated to the congressional review provisions, led to the withdrawal of that bill.

The House next took up the congressional review legislation by attaching a version of it (as section 3006) to H.R. 2586, the first debt limit extension bill. The House made several changes in the legislation that was attached to H.R. 2586, including a provision that would allow the expedited procedures also to apply to resolutions disapproving of proposed rules, and provisions that would have extended the 60-day delay on the effectiveness of a major rule for any period when the House or Senate was in recess for more than three days. On November 9, 1995 both the House and Senate passed this version of the congressional review legislation as part of the first debt limit extension bill. President Clinton vetoed the bill a few days later, for reasons unrelated to the congressional review provision.

On February 29, 1996, a House version of the congressional review legislation was published in the Congressional Record as title III of H.R. 994, which was scheduled to be brought to the House floor in the coming weeks. The congressional review title was almost identical to the legislation approved by both Houses in H.R. 2586. On March 19, 1996, the Senate adopted a congressional review amendment by voice vote to S. 942, which bill passed the Senate 100-0. The congressional review legislation in S. 942 was similar to the original version of S. 219 that passed the Senate on March 29, 1995.

Soon after passage of S. 942, representatives of the relevant House and Senate committees and principal sponsors of the congressional review legislation met to craft a congressional review subtitle that was acceptable to both Houses and would be added to the debt limit bill that was scheduled to be taken up in Congress the week of March 24. The final compromise language was the result of these joint discussions and negotiations.

On March 28, 1996, the House and Senate passed title III, the "Small Business Regulatory Enforcement Fairness Act of 1996," as part of the second debt limit bill, H.R. 3136. There was no separate vote in either body on the congressional review subtitle or on title III of H.R. 3136. However, title III received broad support in the House and the entire bill passed in the Senate by unanimous consent. The President signed H.R. 3136 into law on March 29, 1996, exactly one year after the first congressional review bill passed the Senate.

Submission of rules to Congress and to GAO

Pursuant to subsection 801(a)(1)(A), a federal agency promulgating a rule must submit a copy of the rule and a brief report about it to each House of Congress and to the Comptroller General before the rule can take effect. In addition to a copy of the rule, the report shall contain a concise general statement relating to the rule, including whether it is a major rule under the chapter, and the proposed effective date of the rule. Because most rules covered by the chapter must be published in the Federal Register before they can take effect, it is not expected that the submission of the rule and the report to Congress and the Comptroller General will lead to any additional delay.

Section 808 provides the only exception to the requirement that rules must be submitted to each House of Congress and the Comptroller General before they can take effect. Subsection 808(1) excepts specified rules relating to commercial, recreational, or subsistence hunting, fishing, and camping. Subsection 808(2) excepts certain rules that are not subject to notice-and-comment procedures. It provides that if the relevant agency finds "for good cause ... that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, [such rules] shall take effect at such time as the Federal agency promulgating the rule determines." Although rules described in section 808 shall take effect when the relevant Federal agency determines pursuant to other provisions of law, the federal agency still must submit such rules and the accompanying report to each House of Congress and to the Comptroller General as soon as practicable after promulgation. Thus, rules described in section 808 are subject to congressional review and the expedited procedures governing joint resolutions of disapproval. Moreover, the congressional review period will not begin to run until such rules and the accompanying reports are submitted to each House of Congress and the Comptroller General.

In accordance with current House and Senate rules, covered agency rules and the accompanying report must be separately addressed and transmitted to the Speaker of the House (the Capitol, Room H-209), the President of the Senate (the Capitol, Room S-212), and the Comptroller General (GAO Building, 441 G Street, N.W., Room 1139). Except for rules described in section 808, any covered rule not submitted to Congress and the Comptroller General will remain ineffective until it is submitted pursuant to subsection 801(a)(1)(A). In almost all cases, there will be sufficient time for an agency to submit notice-and-comment rules or other rules that must be published to these legislative officers during normal office hours. There may be a rare instance, however, when a federal agency must issue an emergency rule that is effective upon actual notice and does not meet one of the section 808 exceptions. In such a rare case, the federal agency may provide contemporaneous notice to the Speaker of the House, the President of the Senate, and the Comptroller General. These legislative officers have accommodated the receipt of similar, emergency communications in the past and will utilize the same means to receive emergency rules and reports during non-business hours. If no other means of delivery is possible, delivery of the rule and related report by telefax to the Speaker of the House, the President of the Senate, and the Comptroller General shall satisfy the requirements of subsection 801(a)(1)(A).

Additional delay in the effectiveness of major rules

Subsection 553(d) of the APA requires publication or service of most substantive rules at least 30 days prior to their effective date. Pursuant to subsection 801(a)(3)(A), a major rule (as defined in subsection 804(2)) shall not take effect until at least 60 calendar days after the later of the date on which the rule and accompanying information is submitted to Congress or the date on which the rule is published in the Federal Register, if it is so published. If the Congress passes a joint resolution of disapproval and the President vetoes such resolution, the delay in the effectiveness of a major rule is extended by subsection 801(a)(3)(B) until the earlier date on which either House of Congress votes and fails to override the veto or 30 session days[1] after the date on which the Congress receives the veto and objections from the President. By necessary implication, if the Congress passes a joint resolution of disapproval within the 60 calendar days provided in subsection 801(a)(3)(A), the delay period in the effectiveness of a major rule must be extended at least until the President acts on the joint resolution or until the time expires for the President to act. Any other result would be inconsistent with subsection 801(a)(3)(B), which extends the delay in the effectiveness of a major rule for a period of time after the President vetoes a resolution.

Of course, if Congress fails to pass a joint resolution of disapproval within the 60-day period provided by subsection 801(a)(3)(A), subsection 801(a)(3)(B) would not apply and would not further delay the effective date of the rule. Moreover, pursuant to subsection 801(a)(5), the effective date of a rule shall not be delayed by this chapter beyond the date on which either house of Congress votes to reject a joint resolution of disapproval.

Although it is not expressly provided in the congressional review chapter, it is the committees' intent that a rule may take effect if an adjournment of Congress prevents the President from returning his veto and objections within the meaning of the Constitution. Such will be the case if the President does not act on a joint resolution within 10 days (Sundays excepted) after it is presented to him, and "the Congress by their Adjournment prevent its Return" within the meaning of Article I, §7, cl. 2, or when the President affirmatively vetoes a resolution during such an adjournment. This is the logical result because Congress cannot act to override these vetoes. Congress would have to begin anew, pass a second resolution, and present it to the President in order for it to become law. It is also the committees' intent that a rule may take effect immediately if the President returns a veto and his objections to Congress but Congress adjourns its last session sine die before the expiration of time provided in subsection 801(a)(3)(B). Like the situations described immediately above, no subsequent Congress can act further on the veto, and the next Congress would have to begin anew, pass a second resolution of disapproval, and present it to the President in order for it to become law.

Purpose of and exceptions to the delay of major rules

The reason for the delay in the effectiveness of a major rule beyond that provided in APA subsection 553(d) is to try to provide Congress with an opportunity to act on resolutions of disapproval before regulated parties must invest the significant resources necessary to comply with a major rule. Congress may continue to use the expedited procedures to pass resolutions of disapproval for a period of time after a major rule takes effect, but it would be preferable for Congress to act during the delay period so that fewer resources would be wasted. To increase the likelihood that Congress would act before a major rule took effect, the committees agreed on an approximately 60-day delay period in the effective date of a major rule, rather than an approximately 45-day delay period in some earlier versions of the legislation.

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[1] In the Senate, a "session day" is a calendar day in which the Senate is in session. In the House of Representatives, the same term is normally expressed as a "legislative day." In the congressional review chapter, however, the term "session day" means both a "session day" of the Senate and a "legislative day" of the House of Representatives unless the context of the sentence or paragraph indicates otherwise.

There are four exceptions to the required delay in the effectiveness of a major rule in the congressional review chapter. The first is in subsection 801(c), which provides that a major rule is not subject to the delay period of subsection 801(a)(3) if the President determines in an executive order that one of four specified situations exist and notifies Congress of his determination. The second is in subsection 808(1), which excepts specified rules relating to commercial, recreational, or subsistence hunting, fishing, and camping from the initial delay specified in subsection 801(a)(1)(A) and from the delay in the effective date of a major rule provided in subsection 801(a)(3). The third is in subsection 808(2), which excepts certain rules from the initial delay specified in subsection 801(a)(1)(A) and from the delay in the effective date of a major rule provided in subsection 801(a)(3) if the relevant agency finds "for good cause . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." This "good cause" exception in subsection 808(2) is taken from the APA and applies only to rules which are exempt from notice and comment under subsection 553(b)(B) or an analogous statute. The fourth exception is in subsection 804(2). Any rule promulgated under the Telecommunications Act of 1996 or any amendments made by that Act that otherwise could be classified as a "major rule" is exempt from that definition and from the 60-day delay in section 801(a)(3). However, such an issuance still would fall within the definition of "rule" and would be subject to the requirements of the legislation for non-major rules. A determination under subsection 801(c), subsection 804(2), or section 808 shall have no effect on the procedures to enact joint resolutions of disapproval.

A court may not stay or suspend the effectiveness of a rule beyond the period specified in section 801 simply because a resolution of disapproval is pending in Congress

The committees discussed the relationship between the period of time that a major rule is delayed and the period of time during which Congress could use the expedited procedures in section 802 to pass a resolution of disapproval. Although it would be best for Congress to act pursuant to this chapter before a major rule goes into effect, it was recognized that Congress could not often act immediately after a rule was issued because it may be issued during a recesses of Congress, shortly before such recesses, or during other periods when Congress cannot devote the time to complete prompt legislative action. Accordingly, the committees determined that the proper public policy was to give Congress an adequate opportunity to deliberate and act on joint resolutions of disapproval, while ensuring that major rules could go into effect without unreasonable delay. In short, the committees decided that major rules could take effect after an approximate 60-day delay, but the period governing the expedited procedures in section 802 for review of joint resolution of disapproval would extend for a period of time beyond that.

Accordingly, courts may not stay or suspend the effectiveness of any rule beyond the periods specified in section 801 simply because a joint resolution is pending before Congress. Such action would be contrary to the many express provisions governing when different types of rules may take effect. Such court action also would be contrary to the committees' intent because it would upset an important compromise on how long a delay there should be on the effectiveness of a major rule. The final delay period was selected as a compromise between the period specified in the version that passed the Senate on March 19, 1995 and the version that passed both Houses on November 9, 1995. It is also the committees' belief that such court action would be inconsistent with the principles of (and potentially violate) the Constitution, art. I, §7, cl. 2, in that courts may not give legal effect to legislative action unless it results in the enactment of law pursuant that Clause. See *INS* v. *Chadha*, 462 U.S. 919 (1983). Finally, the committees believe that a court may not predicate a stay on the basis of possible future congressional action because it would be improper for a court to rule that the movant had demonstrated a "likelihood of success on the merits," unless and until a joint resolution is enacted into law. A judicial stay prior to that time would raise serious separation of powers concerns because it would be tantamount to the court making a prediction of what Congress is likely to do and then exercising its own power in furtherance of that prediction. Indeed, the committees believe that Congress may have been reluctant to pass congressional review legislation at all if its action or inaction pursuant to this chapter would be treated differently than its action or inaction regarding any other bill or resolution.

Time periods governing passage of joint resolutions of disapproval

Subsection 802(a) provides that a joint resolution disapproving of a particular rule may be introduced in either House beginning on the date the rule and accompanying report are received by Congress until 60 calendar days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress). But if Congress did not have sufficient time in a previous session to introduce or consider a resolution of disapproval, as set forth in subsection 801(d), the rule and accompanying report will be treated as if it were first received by Congress on the 15th session day in the Senate, or 15th legislative day in the House, after the start of its next session. When a rule was submitted near the end of a Congress or prior to the start of the next Congress, a joint resolution of disapproval regarding that rule may be introduced in the next Congress beginning on the 15th session day in the Senate or the 15th legislative day in the House until 60 calendar days thereafter (excluding days either House of Congress is adjourned for more than 3 days during the session) regardless of whether such a resolution was introduced in the prior Congress. Of course, any joint resolution pending from the first session of a Congress, may be considered further in the next session of the same Congress.

Subsections 802(c)–(d) specify special procedures that apply to the consideration of a joint resolution of disapproval in the Senate. Subsection 802(c) allows 30 Senators to petition for the discharge of resolution from a Senate committee after a specified period of time (the later of 20 calendar days after the rule is submitted to Congress or published in the Federal Register, if it is so published). Subsection 802(d) specifies procedures for the consideration of a resolution on the Senate floor. Such a resolution is highly privileged, points of order are waived, a motion to postpone consideration is not in order, the resolution is unamendable, and debate on the joint resolution and "on all debatable motions and appeals in connection therewith" (including a motion to proceed) is limited to no more than 10 hours.

Subsection 802(e) provides that the special Senate procedures specified in subsections 802(c)–(d) shall not apply to the consideration of any joint resolution of disapproval of a rule after 60 session days of the Senate beginning with the later date that rule is submitted to Congress or published, if it is so published. However, if a rule and accompanying report are submitted to Congress shortly before the end of a session or during an intersession recess as described in subsection 801(d)(1), the special Senate procedures specified in subsections 802(c)–(d) shall expire 60 session days after the 15th session day of the succeeding session of Congress—or on the 75th session day after the succeeding session of Congress first convenes. For purposes of subsection 802(e), the term "session day" refers only to a day the Senate is in session, rather than a day both Houses are in session. However, in computing the time specified in subsection 801(d)(1), that subsection specifies that there shall be an additional period of review in the next session if either House did not have an adequate opportunity to complete action on a joint resolution. Thus, if either House of Congress did not have adequate time to consider a joint resolution in a given session (60 session days in the Senate and 60 legislative days in the House), resolutions of disapproval may be introduced or reintroduced in both Houses in the next session, and the special Senate procedures specified in subsection 802(c)–(d) shall apply in the next session of the Senate.

If a joint resolution of disapproval is pending when the expedited Senate procedures specified in subsections 802(c)–(d) expire, the resolution shall not die in either House but shall simply be considered pursuant to the normal rules of either House—with one exception. Subsection 802(f) sets forth one unique provision that does not expire in either House. Subsection 802(f) provides procedures for passage of a joint resolution of disapproval when one House passes a joint resolution and transmits it to the other House that has not yet completed action. In both Houses, the joint resolution of the first House to act shall not be referred to a committee but shall be held at the desk. In the Senate, a House-passed resolution may be considered directly only under normal Senate procedures, regardless of when it is received by the Senate. A resolution of disapproval that originated in the Senate may be considered under the expedited procedures only during the period specified in subsection 802(e). Regardless of the procedures used to consider a joint resolution in either House, the final vote of the second House shall be on the joint resolution of the first House (no matter when that vote takes place). If the second House passes the resolution, no conference is necessary and the joint resolution will be presented to the President for his signature. Subsection 802(f) is justified because subsection 802(a) sets forth the required language of a joint resolution in each House, and thus, permits little variance in the joint resolutions that could be introduced in each House.

Effect of enactment of a joint resolution of disapproval

Subsection 801(b)(1) provides that: "A rule shall not take effect (or continue), if the Congress enacts a joint resolution of disapproval, described under section 802, of the rule." Subsection 801(b)(2) provides that such a disapproved rule "may not be reissued in substantially the same form, and a new rule that is substantially the same as such a rule may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule." Subsection 801(b)(2) is necessary to prevent circumvention of a resolution of disapproval. Nevertheless, it may have a different impact on the issuing agencies depending on the nature of the underlying law that authorized the rule.

If the law that authorized the disapproved rule provides broad discretion to the issuing agency regarding the substance of such rule, the agency may exercise its broad discretion to issue a substantially different rule. If the law that authorized the disapproved rule did not mandate the promulgation of any rule, the issuing agency may exercise its discretion not to issue any new rule. Depending on the law that authorized the rule, an issuing agency may have both options. But if an agency is mandated to promulgate a particular rule and its discretion in issuing the rule is narrowly circumscribed, the enactment of a resolution of disapproval for that rule may work to prohibit the reissuance of any rule. The committees intend the debate on any resolution of disapproval to focus on the law that authorized the rule and make the congressional intent clear regarding the agency's options or lack thereof after enactment of a joint resolution of disapproval. It will be the agency's responsibility in the first instance when promulgating the rule to determine the range of discretion afforded under the original law and whether the law authorizes the agency to issue a substantially different rule. Then, the agency must give effect to the resolution of disapproval.

Limitation on judicial review of congressional or administrative actions

Section 805 provides that a court may not review any congressional or administrative "determination, finding, action, or omission under this chapter." Thus, the major rule determinations made by the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget are not subject to judicial review. Nor may a court review whether Congress complied with the congressional review procedures in this chapter. This latter limitation on the scope of judicial review was drafted in recognition of the constitutional right of each House of Congress to "determine the Rules of its Proceedings," U.S. Const., art. I, §5, cl. 2, which includes being the final arbiter of compliance with such Rules.

The limitation on a court's review of subsidiary determination or compliance with congressional procedures, however, does not bar a court from giving effect to a resolution of disapproval that was enacted into law. A court with proper jurisdiction may treat the congressional enactment of a joint resolution of disapproval as it would treat the enactment of any other federal law. Thus, a court with proper jurisdiction may review the resolution of disapproval and the law that authorized the disapproved rule to determine whether the issuing agency has the legal authority to issue a substantially different rule. The language of subsection 801(g) is also instructive. Subsection 801(g) prohibits a court or agency from inferring any intent of the Congress only when "Congress does not enact a joint resolution of disapproval," or by implication, when it has not yet done so. In deciding cases or controversies properly before it, a court or agency must give effect to the intent of the Congress when such a resolution is enacted and becomes the law of the land. The limitation on judicial review in no way prohibits a court from determining whether a rule is in effect. For example, the committees expect that a court might recognize that a rule has no legal effect due to the operation of subsections 801(a)(1)(A) or 801(a)(3).

Enactment of a joint resolution of disapproval for a rule that was already in effect

Subsection 801(f) provides that: "Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect." Application of this subsection should be consistent with existing judicial precedents on rules that are deemed never to have taken effect.

Agency information required to be submitted to GAO

Pursuant to subsection 801(a)(1)(B), the federal agency promulgating the rule shall submit to the Comptroller General (and make available to each House) (i) a complete copy of the cost-benefit analysis of the rule, if any, (ii) the agency's actions related to the Regulatory Flexibility Act, (iii) the agency's actions related to the Unfunded Mandates Reform Act, and (iv) "any other relevant information or requirements under any other Act and any relevant Executive Orders." Pursuant to subsection 801(a)(1)(B), this information must be submitted to the Comptroller General on the day the agency submits the rule to Congress and to GAO.

The committees intend information supplied in conformity with subsection 801(a)(1)(B)(iv) to encompass both agency-specific statutes and government-wide statutes and executive orders that impose requirements relevant to each rule. Examples of agency-specific statutes include information regarding compliance with the law that authorized the rule and any agency-specific procedural requirements, such as section 9 of the Consumer Product Safety Act, as amended, 15 U.S.C. §2054 (procedures for consumer product safety rules); section 6 of the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §655 (promulgation of standards); section 307(d) of the Clean Air Act, as amended, 42 U.S.C. §7607(d) (promulgation of rules); and section 501 of the Department of Energy Organization Act, 42 U.S.C. §7191 (procedure for issuance of rules, regulations, and orders). Examples of government-wide statutes include other chapters of the Administrative Procedure Act, 5 U.S.C. §§551-559 and 701-706; and the Paperwork Reduction Act, as amended, 44 U.S.C. §§3501-3520.

Examples of relevant executive orders include E.O. No. 12866 (Sept. 30, 1993) (Regulatory Planning and Review); E.O. No. 12606 (Sept. 2, 1987) (Family Considerations in Policy Formulation and Implementation); E.O. No. 12612 (Oct. 26, 1987) (Federalism Considerations in Policy Formulation and Implementation); E.O. No. 12630 (Mar. 15, 1988) (Government Actions and Interference with Constitutionally Protected Property Rights); E.O. No. 12875 (Oct. 26, 1993) (Enhancing the Intergovernmental Partnership); E.O. No. 12778 (Oct. 23, 1991) (Civil Justice Reform); E.O. No. 12988 (Feb. 5, 1996) (Civil Justice Reform) (effective May 5, 1996).

GAO reports on major rules

Fifteen days after the federal agency submits a copy of a major rule and report to each House of Congress and the Comptroller General, the Comptroller General shall prepare and provide a report on the major rule to the committees of jurisdiction in each House. Subsection 801(a)(2)(B) requires agencies to cooperate with the Comptroller General in providing information relevant to the Comptroller General's reports on major rules. Given the 15-day deadline for these reports, it is essential that the agencies' initial submission to the General Accounting Office (GAO) contain all of the information necessary for GAO to conduct its analysis. At a minimum, the agency's submission must include the information required of all rules pursuant to 801(a)(1)(B). Whenever possible, OMB should work with GAO to alert GAO when a major rule is likely to be issued and to provide as much advance information to GAO as possible on such proposed major rule. In particular, OMB should attempt to provide the complete cost-benefit analysis on a major rule, if any, well in advance of the final rule's promulgation.

It also is essential for the agencies to present this information in a format that will facilitate the GAO's analysis. The committees expect that GAO and OMB will work together to develop, to the greatest extent practicable, standard formats for agency submissions. OMB also should ensure that agencies follow such formats. The committees also expect that agencies will provide expeditiously any additional information that GAO may require for a thorough report. The committees do not intend the Comptroller General's reports to be delayed beyond the 15-day deadline due to lack of information or resources unless the committees of jurisdiction indicate a different preference. Of course, the Comptroller General may supplement his initial report at any time with any additional information, on its own, or at the request of the relevant committees of jurisdiction.

Covered agencies and entities in the executive branch

The committees intend this chapter to be comprehensive in the agencies and entities that are subject to it. The term "Federal agency" in subsection 804(1) was taken from 5 U.S.C. §551(1). That definition includes "each authority of the Government" that is not expressly excluded by subsection 551(1)(A)-(H). With those few exceptions, the objective was to cover each and every government entity, whether it is a department, independent agency, independent establishment, or government corporation. This is because Congress is enacting the congressional review chapter, in large part, as an exercise of its oversight and legislative responsibility. Regardless of the justification for excluding or granting independence to some entities from the coverage of other laws, that justification does not apply to this chapter, where Congress has an interest in exercising its constitutional oversight and legislative responsibility as broadly as possible over all agencies and entities within its legislative jurisdiction.

In some instances, federal entities and agencies issue rules that are not subject to the traditional 5 U.S.C. §553(c) rulemaking process. However, the committees intend the congressional review chapter to cover every agency, authority, or entity covered by subsection 551(1) that establishes policies affecting any segment of the general public. Where it was necessary, a few special exceptions were provided, such as the exclusion for the monetary policy activities of the Board of Governors of the Federal Reserve System, rules of particular applicability, and rules of agency management and personnel. Where it was not necessary, no exemption was provided and no exemption should be inferred from other law. This is made clear by the provision of section 806 which states that the Act applies notwithstanding any other provision of law.

Definition of a "major rule"

The definition of a "major rule" in subsection 804(2) is taken from President Reagan's Executive Order 12291. Although President Clinton's Executive Order 12866 contains a definition of a "significant regulatory action" that is seemingly as broad, several of the Administration's significant rule determinations under Executive Order 12866 have been called into question. The committees intend the term "major rule" in this chapter to be broadly construed, including the non-numerical factors contained in the subsections 804(2) (B) and (C).

Pursuant to subsection 804(2), the Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget (the Administrator) must make the major rule determination. The committees believe that centralizing this function in the Administrator will lead to consistency across agency lines. Moreover, from 1981–93, OIRA staff interpreted and applied the same major rule definition under E.O. 12291. Thus, the Administrator should rely on guidance documents prepared by OIRA during that time and previous major rule determinations from that Office as a guide in applying the statutory definition to new rules.

Certain covered agencies, including many "independent agencies," include their proposed rules in the Unified Regulatory Agenda published by OMB but do not normally submit their final rules to OMB for review. Moreover, interpretative rules and general statements of policy are not normally submitted to OMB for review. Nevertheless, it is the Administrator that must make the major rule determination under this chapter whenever a new rule is issued. The Administrator may request the recommendation of any agency covered by this chapter on whether a proposed rule is a major rule within the meaning of subsection 804(2), but the Administrator is responsible for the ultimate determination. Thus, all agencies or entities covered by this chapter will have to coordinate their rulemaking activity with OIRA so that the Administrator may make the final, major rule determination.

Scope of rules covered

The committees intend this chapter to be interpreted broadly with regard to the type and scope of rules that are subject to congressional review. The term "rule" in subsection 804(3) begins with the definition of a "rule" in subsection 551(4) and excludes three subsets of rules that are modeled on APA sections 551 and 553. This definition of a rule does not turn on whether a given agency must normally comply with the notice-and-comment provisions of the APA, or whether the rule at issue is subject to any other notice-and-comment procedures. The definition of "rule" in subsection 551(4) covers a wide spectrum of activities. First, there is formal rulemaking under section 553 that must adhere to procedures of sections 556 and 557 of title 5. Second, there is informal rulemaking, which must comply with the notice-and-comment requirements of subsection 553(c). Third, there are rules subject to the requirements of subsection 552(a)(1) and (2). This third category of rules normally either must be published in the Federal Register before they can adversely affect a person, or must be indexed and made available for inspection and copying or purchase before they can be used as precedent by an agency against a non-agency party. Documents covered by subsection 552(a) include statements of general policy, interpretations of general applicability, and administrative staff manuals and instructions to staff that affect a member of the public. Fourth, there is a body of materials that fall within the APA definition of "rule" and are the product of agency process, but that meet none of the procedural specifications of the first three classes. These include guidance documents and the like. For purposes of this section, the term rule also includes any rule, rule change, or rule interpretation by a self regulatory organization that is approved by a Federal agency. Accordingly, all "rules" are covered under this chapter, whether issued at the agency's initiative or in response to a petition, unless they are expressly excluded by subsections 804(3)(A)–(C). The committees are concerned that some agencies have attempted to circumvent notice-and-comment requirements by trying to give legal effect to general statements of policy, "guidelines," and agency policy and procedure manuals. The committees admonish the agencies that the APA's broad definition of "rule" was adopted by the authors of this legislation to discourage circumvention of the requirements of chapter 8.

The definition of a rule in subsection 551(4) covers most agency statements of general applicability and future effect. Subsection 804(3)(A) excludes "any rule of particular applicability, including a rule that approves or prescribes rates, wages, prices, services, or allowances therefore, corporate and financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing" from the definition of a rule. Many agencies, including the Treasury, Justice, and Commerce Departments, issue letter rulings or other opinion letters to individuals who request a specific ruling on the facts of their situation. These letter rulings are sometimes published and relied upon by other people in similar situations, but the agency is not bound by the earlier rulings even on facts that are analogous. Thus, such letter rulings or opinion letters do not fall within the definition of a rule within the meaning of subsection 804(3).

The different types of rules issued pursuant to the internal revenue laws of the United States are good examples of the distinction between rules of general and particular applicability. IRS private letter rulings and Customs Service letter rulings are classic examples of rules of particular applicability, notwithstanding that they may be cited as authority in transactions involving the same circumstances. Examples of substantive and interpretative rules of general applicability will include most temporary and final Treasury regulations issued pursuant to notice-and-comment rulemaking procedures, and most revenue rulings, revenue procedures, IRS notices, and IRS announcements. It does not matter that these later types of rules are issued without notice-and-comment rulemaking procedures or that they are accorded less deference by the courts than notice-and-comment rules. In fact, revenue rulings have been described by the courts as the "classic example of an interpretative rul[e]" within the meaning of the APA. See *Wing* v. *Commissioner*, 81 T.C. 17, 26 (1983). The test is whether such rules announce a general statement of policy or an interpretation of law of general applicability.

Most rules or other agency actions that grant an approval, license, registration, or similar authority to a particular person or particular entities, or grant or recognize an exemption or relieve a restriction for a particular person or particular entities, or permit new or improved applications of technology for a particular person or particular entities, or allow the manufacture, distribution, sale, or use of a substance or product are exempted under subsection 804(3)(A) from the definition of a rule. This is probably the largest category of agency actions excluded from the definition of a rule. Examples include import and export licenses, individual rate and tariff approvals, wetlands permits, grazing permits, plant licenses or permits, drug and medical device approvals, new source review permits, hunting and fishing take limits, incidental take permits and habitat conservation plans, broadcast licenses, and product approvals, including approvals that set forth the conditions under which a product may be distributed.

Subsection 804(3)(B) excludes "any rule relating to agency management or personnel" from the definition of a rule. Pursuant to subsection 804(3)(C), however, a "rule of agency organization, procedure, or practice," is only excluded if it "does not substantially affect the rights or obligations of non-agency parties." The committees' intent in these subsections is to exclude matters of purely internal agency management and organization, but to include matters that substantially affect the rights or obligations of outside parties. The essential focus of this inquiry is not on the type of rule but on its effect on the rights or obligations of non-agency parties.

The SPEAKER pro tempore. Pursuant to House Resolution 391, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BONIOR

Mr. BONIOR. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BONIOR. I am in its present form, Mr. Speaker.

Mr. ARCHER. Mr. Speaker, I reserve a point of order against the motion to recommit.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BONIOR moves to recommit the bill to the Committee on Ways and Means with an instruction to report the bill back to the House forthwith with the following amendment: Add at the end of section 331(b) the following:

The amendment made by subsection (a) shall only apply during periods when the minimum wage under section 6(a)(1) of the Fair Labor Standards Act is not less than $4.70 an hour during the year beginning on July 4, 1996 and not less than $5.15 an hour after July 3, 1997.

POINT OF ORDER

Mr. ARCHER. Mr. Speaker, I make a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. ARCHER. Mr. Speaker, I make, actually, two points of order: a point of order that the motion to recommit with instructions is not germane to the bill; and, second, that the motion to recommit with instructions constitutes an unfunded intergovernmental mandate under section 425 of the Congressional Budget Act.

I would ask that a ruling first be made on the point of order against germaneness, on the basis of germaneness.

The SPEAKER pro tempore. Does the gentleman from Michigan [Mr. BONIOR] desire to be heard on the point of order?

Mr. BONIOR. I do, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Michigan [Mr. BONIOR] on the point of order.

Mr. BONIOR. Mr. Speaker, this bill is very broad in its scope. This bill provides that the President be given a line-item veto authority. This bill provides for an increase in the amount Social Security recipients could earn before their Social Security benefits are reduced. Third, it allows small businesses to seek judicial review of regulations.

Mr. Speaker, this bill has to do with taxpayers. There is nothing more important to taxpayers and citizens in this country than to be able to have revenues in their pockets. What we are offering and what we are suggesting under this motion to recommit is that we be given the chance to vote on the increase in the minimum wage, which has not been raised for the past 5 years. The minimum wage is a very important part of a variety of laws in this country that deal with ability of people to make ends meet. People today have incomes——

The SPEAKER pro tempore. The Chair would advise the gentleman from Michigan [Mr. BONIOR] to speak on the point of order, and keep his remarks confined to what is pending.

Mr. BONIOR. I would say to the Speaker that the minimum wage is directly related to the interest of small business in our country today.

The third piece of this bill that was added in the Committee on Rules allows small business to seek judicial review of regulations. In that sense, Mr. Speaker, it seems to me that those people who are affiliated with small business on the employment side ought to have redress to getting a decent wage in this country. You cannot live and raise a family on $9,000 a year or less. We are asking millions of Americans to do that. This bill will provide an opportunity for——

Mr. ARCHER. Mr. Speaker, may we have regular order on the debate on the point of order?

The SPEAKER pro tempore. The gentleman is correct. The gentleman from Michigan is reminded to confine his remarks to the germaneness of the point of order as raised by the gentleman from Texas [Mr. ARCHER].

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Mr. BONIOR. Let me just add another point to my argument, Mr. Speaker, on a more technical ground, because I am not able, under the admonition of the Speaker, and the proper admonition, I would say, to talk about the substance, which deals with giving people a fair wage in this country. So I will talk about subtitle c of the bill that requires that the Department of Labor certify whether any of its rules, including rules governing the minimum wage, where a small business could go to court seeking a stay of the Department of Labor's rules governing the minimum wage.

It seems to me that, because of the addition of that subsection and the broadening of the bill, the minimum wage indeed is in order as a discussion point in a motion to recommit.

I would further add, Mr. Speaker, that my recommittal motion is logically relevant to the bill and establishes a condition that is logically relevant to subtitle c. Under the House precedent, my motion, I think, meets this test. If we are meeting the test for employers, if we are meeting the test for seniors, it seems to me we ought to be meeting the test for those women, primarily, millions of them raising kids on their own making less than $8,000 a year. They ought to be given the chance to have this debated and voted on by the House of Representatives.

Mr. Speaker, wages are important, they are stagnant in this country.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman will suspend.

Mr. ARCHER. Mr. Speaker, I regret again that I must ask for regular order. The gentleman wants to wander afield and to debate the substance of the motion to recommit, which is improper at this moment in the House.

The SPEAKER pro tempore. The Chair has observed that the gentleman is to confine his remarks to the point of order, and not the substance.

Mr. BONIOR. Mr. Speaker, I apologize to my friend from Texas and to the Speaker for wandering. I have difficulty not talking emotionally about this issue because of what I see in the country. But I will confine my remarks to subsection c of the bill that requires that the Department of Labor certify. And I would tell my friend from Texas, the Department of Labor has to certify whether any of its rules, including rules governing the minimum wage. And that, it seems to me, is the direct connection in this bill with the needs of working people in this country who are working for a minimum wage and deserve to have the opportunity to have that wage increase.

Mr. ARCHER. Mr. Speaker, may I be heard on my point of order?

The SPEAKER pro tempore. The gentleman from Texas is recognized.

Mr. ARCHER. Mr. Speaker, I would like to be heard on the point of order on germaneness first and, subsequent to the ruling on that point of order, be heard on the second point of order on intergovernmental mandates.

Mr. Speaker, the motion to recommit is not germane because it seeks to introduce material within the jurisdiction of a committee that is not dealt with in this bill. That is, the subject of the amendment, the minimum wage falls within the jurisdiction of the Committee on Economic and Educational Opportunities, while the subject matter of the bill falls only within the jurisdiction of the Committee on Ways and Means, the Committee on the Budget, the Committee on Rules, the Committee on the Judiciary, the Committee on Small Business, and the Committee on Government Reform and Oversight.

In addition, the motion to recommit seeks to amend the Fair Labor Standards Act, which is not amended by this bill.

Finally, there is the gentleman's argument about rulemaking. The rulemaking authority under this bill is general and not agency specific. Therefore, the motion to recommit is not germane to the bill and should be ruled out of order on that basis.

Mr. ENGEL. Point of order, Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman from New York [Mr. ENGEL] wish to be heard on the point of order raised by the gentleman from Texas [Mr. ARCHER]?

Mr. ENGEL. Yes; I would.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. ENGEL. Mr. Speaker, I must say that I think it is disingenuous and outrageous to say that the minority leader's point of order is not in order here.

The SPEAKER pro tempore. The gentleman will suspend.

Mr. ARCHER. Mr. Speaker, the gentlemen on the other side of the aisle can debate substance at another point in time. This debate now is on the point of order, and they should be told to restrain their comments on the point of order.

The SPEAKER pro tempore. The gentleman from Texas is correct. The Chair would remind the gentleman from New York, as he reminded the minority whip, that he is to confine his remarks to the question of germaneness as raised on the point of order by the gentleman from Texas.

Mr. ENGEL. Mr. Speaker, it would seem to me, if we are debating this bill on raising the debt ceiling limit, that something to do with the minimum wage is about as germane to the debt ceiling limit lifting as the line-item veto is and as allowing seniors to make more money for Social Security purposes. I cannot see why one would not be germane and why these other things are germane. In fact, we should have a clean lifting of the debt ceiling and then we would not have to worry about germaneness after all.

So it would seem to me that we cannot on the one hand attach all kinds of extraneous things to the lifting of the debt ceiling and then on the other hand claim that the minimum wage is not at least as relevant to the lifting of the debt ceiling as the line-item veto and senior citizens are. I just do not think it is fair if we are going to talk about playing by fair rules. I think we ought to be fair. While they may want to stifle free speech on the other side of the aisle, I think we have a right to ask for equity here.

The SPEAKER pro tempore. The Chair is prepared to rule on the point of order raised by the gentleman from Texas on germaneness. The gentleman from Texas makes a point of order that the amendment proposed in a motion to recommit offered by the gentleman from Michigan is not germane to the bill. The text of germaneness in the case of a motion to recommit with instructions is a relationship of those instructions to the bill as a whole.

The pending bill permanently increases the debt limit. It also comprehensively addresses several other unrelated programs, specifically, the Senior Citizens' Right to Work Act, which amends the Social Security Act, the Line-Item Veto Act, which amends the Congressional Budget and Impoundment Control Act, and the Small Business Growth and Fairness Act of 1996, which amends the Regulatory Flexibility Act and the Small Business Act, and it establishes congressional review of agency rulemaking.

The motion does not amend the Fair Labor Standards Act. The motion does not directly amend the laws that go directly to the jurisdiction of the Committee on Economic and Educational Opportunities.

The Chair would cite to page 600 of the Manual the following: An amendment that conditions the availability of funds covered by a bill by adopting as a measure of their availability the monthly increases in the debt limit may be germane so long as the amendment does not directly affect other provisions of law or impose unrelated contingencies.

Therefore, the Chair rules that this motion is germane and overrules that point of order.

UNFUNDED MANDATE POINT OF ORDER

Mr. ARCHER. Mr. Speaker, I urge my second point of order that the motion to recommit with instructions constitutes an unfunded governmental mandate under section 425 of the Congressional Budget Act. Section 425 prohibits consideration of a measure containing unfunded intergovernmental mandates whose total unfunded direct costs exceeds $50 million annually. The precise language in question is the text of the instructions that amends the Fair Labor Standards Act to increase the minimum wage.

According to the Congressional Budget Office, an increase in the minimum wage from $4.25 to $5.15 would exceed the threshold amount under the rule of $50 million. In fact, CBO estimates that it would impose an unfunded mandate burden of over $1 billion over 5 years.

Let me also point out that CBO estimates that this provision would result in a 0.5- to 2-percent reduction in the employment level of teenagers and a smaller percentage reduction for young adults. These would produce employment losses of roughly 100,000 to 500,000 jobs. Therefore, I urge the Chair to sustain this point of order, and I urge my colleagues to vote against the consideration of this unfunded mandate on State and local governments.

The SPEAKER pro tempore. The gentleman from Texas makes a point of order that the motion violates section 425 of the Congressional Budget Act of 1974. In accordance with section 426(b)(2) of the Act, the gentleman has met his threshold burden to identify the specific language of the motion. Under section 426(b)(4) of the Act, the gentleman from Texas [Mr. ARCHER] and a Member opposed will each control 10 minutes of debate on the point of order.

Pursuant to section 426(b)(3) of the Act, after debate on the point of order, the Chair will put the question of consideration, to wit: Will the House now consider the motion?

Mr. BONIOR. Mr. Speaker, I seek time in opposition to the point of order.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] will control 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, I reserve the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is indeed ironic that a point of order would be made on this particular motion on the basis that this provides an additional burden on small businesses in this country. That is from our perspective not accurate, not fair. Let me take the accuracy argument first.

Every study recently done in New Jersey, in Pennsylvania, in California, has come to the conclusion that an increase in the minimum wage which has not been increased in 5 years, which is at $4.25 an hour, which is at its lowest level in 40 years, would not only, Mr. Speaker, would not only not cost businesses, would not cost jobs, it would add jobs. That is what some of these studies have said. Over 100 economists, three Nobel laureates, have suggested it is way past the time that we raise the minimum wage for these folks who have chosen work over welfare, 70 percent of them who are adults, many of them single women with children who need to have more money in their pockets so that they can survive and so they can live in dignity and teach their children that work indeed does pay in this country.

That is what we are all about here, making work pay. Five years ago we passed a similar bill, 90 cents over 2 years, which President Bush supported. Some of my friends on this side of the aisle support it. And here we are again, 5 years later, people struggling to make ends meet, having to work because they are getting paid the minimum wage and in various parts of this country having to work overtime in some jobs, having to work two or three jobs; fathers who cannot come home at night and be with their kids for athletic events, who are not there for PTA meetings; mothers who have to work overtime who are not there reading them bedtime stories, teaching their kids right from wrong.

Mr. Speaker, that is what this is all about. This issue is more than about wages. This is about community. This is about family.

Mr. Speaker, there is nothing more important than increasing the wages of the 80 percent of Americans in this society today who have not seen an increase since 1979.

□ 1415

Since 1979, 98 percent of all income growth in America has gone to the top 20 percent. The other 80 percent got 2 percent of that growth. So the minimum wage, while it will not help all of those 80 percent, will help some of them and it will help the people who are above the minimum wage a little bit. But it more importantly will circulate money throughout the economy, and the more money people have, the more they spend at the hardware store, the more they spend at the grocery store.

This indeed is necessary for us to do justice to those who are working in this society today and who have been denied economic justice for too long. So I do not believe, Mr. Speaker, that this is a violation of the unfunded mandates bill. This is a funding of the mandates of people to take care of their families. That is what this is about, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, this clearly is an unfunded mandate on State and local government. It is the very thing that this Congress overwhelmingly passed a law to prevent last year. It will significantly increase the cost of State and local government. If the Federal Government is to do that by its own legislation, it has an obligation to reimburse the State and local governments. That is not mandatory that we do that, but we took the position that it was inappropriate for us to do that. That is why we are having this debate today, because of the unfunded mandate legislation that was passed and signed into law by the President last year.

In addition, it places an unfunded mandate of unquantified amount on employers, which was also part of the law that we passed on a bipartisan basis and signed by the President of the United States last year. Here already the provisions of that law are to be tested. Did we really mean it? Well, if this motion to recommit passes, it will say to the American people we did not really mean it.

I do not think that is an appropriate thing for this Congress to do. CBO estimates that the potential loss of jobs will range, will reduce the employment level of teenagers and a smaller percentage reduction of young adults, reducing by a half a percent to 2 percent in the employment level of those types of individuals. They would produce employment losses of 90 cents per hour, increasing the minimum wage. From roughly 100,000 to 500,000 jobs, that 90-cent-per-hour increase will cost employment that much.

I urge a positive vote on the point of order on unfunded mandates, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank the minority whip for yielding me the time.

Mr. Speaker, let us say what this really is. This is an attempt by the Republican majority not to allow the whole issue of minimum wage, of raising the minimum wage for American workers to come to the floor. I serve on the Committee on Economic and Educational Opportunities. We cannot get that bill to come to committee. The Republican leadership has blocked it. We cannot get that bill to come to the floor. The Republican leadership has blocked it.

They could care less about raising the minimum wage. They expect people to work at a $4.25 an hour standard, which is less than people who are on welfare are getting. So much for welfare reform. They claim they are for welfare reform, but they do not want to pay someone who wants to work for a living a decent wage. Apparently they think coolie wages is what we should do, $4.25 an hour. This would simply raise it to $5.15.

The last raise was 5 years ago. Workers' moneys in terms of what they make on minimum wage are at a 40-year low. Is there no decency? Do we not care about what people who are trying to work for a living do?

The Republican majority does not want this to come to a vote. I may ask my colleagues on the other side of the aisle, what are they afraid of? All we are saying is that the minimum wage ought to be raised from $4.25 to $5.15. We owe it to America's workers to do this. This is simple decency. What are you afraid of? Are you afraid that the vote will pass and that people on your side of the aisle, some of them, may even vote for it?

There has been an attempt to block this bill from being in the committee and from being on the floor. We cannot get a vote. All we are saying is let us vote up or down whether or not the minimum wage should be raised. That is all we are asking and that is all we want here this afternoon.

PARLIAMENTARY INQUIRY

Mr. ARCHER. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman will state it.

Mr. ARCHER. Would the Speaker please explain to the House how this vote will be framed and what a "yes" or "no" vote will mean, because this is the first time that we have had a test of the unfunded mandate legislation?

The SPEAKER pro tempore. The question will be put by the Chair, to wit, will the House now consider the motion to recommit? So an "aye" vote would mean that the House should indeed consider the motion to recommit. A "no" vote would mean that the House would not consider the motion to recommit.

Mr. ARCHER. Mr. Speaker, would it be fair to say that a "no" vote then would sustain the point of order?

The SPEAKER pro tempore. Yes.

Mr. BONIOR. Mr. Speaker, that is not a point of order. Mr. Speaker, may I be heard?

The SPEAKER pro tempore. The statute provides that on this point of order the House shall decide that question and not a ruling from the Chair on whether to consider the motion. It would not be a prerogative of the Chair to make that judgment.

Mr. CLINGER. Mr. Speaker, I would indicate that I think a "yes" vote on this matter would in effect be saying that we would allow an unfunded mandate to be passed through, or open the door to passing through, an unfunded mandate to the States.

Those who would want to sustain the unfunded mandate legislation, and this is our first look at this thing, the first time we have had to consider this procedure, those who want to sustain that should vote "no" on this measure.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DELAY], the majority whip.

Mr. DELAY. Mr. Speaker, I hope Members are watching this debate because this is the first time that we have had this kind of vote in the 104th Congress, and I am urging a "no" vote on this particular motion.

I hope Members will really take a look at what is happening here. This is blatant politics and blatant hypocrisy. The gentleman from New York who just spoke before I did said in his speech that we owe the American workers this vote and we owe the American workers to raise the minimum wage. Where did he get that? I submit he got that from the convention that was just held in this town by the AFL–CIO who said that they would raise over $35 million to take this majority out.

That is what this vote is all about. This group over here on this side of the aisle has been screaming and yelling for the last many weeks.

Mr. BONIOR. Mr. Speaker, I move that the gentleman's words be taken down. He used the word "hypocrisy."

□ 1425

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Clerk will report the last words by the gentleman from Texas [Mr. DELAY].

The Clerk read as follows:

> The gentleman from New York, who just spoke before I did, said in his speech that we owe the American workers this vote and we owe the American workers to raise the minimum wage. I submit he got that from the convention that was just held in this town by the AFL–CIO, who said that they would raise over $35 million to take this majority out. That is what this vote is all about. This group over here on this side of the aisle has been screaming and yelling for the last many weeks.

The SPEAKER pro tempore. The Chair does not believe that anything in those remarks constitutes any personal reference to any other Member of this body.

Mr. BONIOR. Mr. Speaker, may I be heard?

The SPEAKER pro tempore. The gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, the Clerk needs to go back farther, because there was reference and the use of the word "hypocrite," and the Clerk has not gone back far enough to pick up the words that I objected to. The word "hypocrisy" was used, excuse me, Mr. Speaker.

The SPEAKER pro tempore. The Chair would remind the gentleman that on points such as that, the point of order from the gentleman making the point of order has to be timely. The Clerk has gone back several sentences to transcribe what the gentleman had said, and the gentleman's demand certainly was not timely in this instance.

The gentleman from Texas may proceed with his remarks.

POINT OF ORDER

Mr. BONIOR. Point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. BONIOR. Mr. Speaker, that dialog that I am referring to could not have taken more than 30 seconds, and it seems to me that I was indeed timely when I rose to my feet as the gentleman was completing his idea, which included referring to the gentleman from New York [Mr. ENGEL] with the term "hypocrisy."

The SPEAKER pro tempore. Under the precedents set, those points of order raised by the gentleman have to be on a timely basis. This is precedent that has been set in this body for a number of years where there are intervening remarks that you are alluding to. So the Chair rules that the gentleman from Texas may proceed.

Mr. BONIOR. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. The question is: Shall the decision of the Chair stand as the judgment of the House?

MOTION TO TABLE OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Speaker, I move to table the appeal of the ruling of the Chair.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARCHER] to lay on the table the appeal of the ruling of the Chair.

The question was taken; and the Speaker pro tempore announced that they ayes appeared to have it.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 232, noes 185, not voting 14, as follows:

[Roll No. 99]

AYES—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—185

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—14

Bryant (TX)
Collins (IL)
Fields (LA)
Filner
Fowler
Frost
Hayes
Martinez
McNulty
Smith (WA)
Stokes
Tejeda
Weldon (PA)
Williams

☐ 1453

So the motion to lay on the table the appeal of the ruling of the Chair was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. TEJEDA. Mr. Speaker, I was at the White House on official business and missed vote No. 99. Had I been present, I would have voted "no."

I ask that my statement appear in the RECORD immediately after the vote.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under the order of business, the debate is on a point of order by the gentleman from Texas [Mr. ARCHER].

The gentleman from Texas [Mr. DELAY], the majority whip, has 1 minute remaining.

The Chair recognizes the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, all I was trying to say was is it not interesting that we are having a motion on the floor, 3 days after the AFL–CIO had a convention calling for an increase in the minimum wage and promising to raise $35 million by assessing their membership more of their hard-earned wages, to take out the majority that is trying to allow working families to keep more of their hard-earned wages?

I hope everyone that was outraged by the gun vote last week will vote "no" on this, because we were accused of the same thing.

Is it not also interesting that we have heard time and time again that we have not had enough hearings in this body; that we have to look at these issues, hold hearings on these issues. yet we have the Democrats bringing a motion to the floor that wants to do away with the unfunded mandate legislation that was passed by the Senate and debated in less than 20 minutes.

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARCHER] has 5½ minutes remaining, and the gentleman from Michigan [Mr. BONIOR] has 4 minutes remaining.

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. GOODLING], the chairman of the Committee on Economic and Educational Opportunities.

Mr. GOODLING. Mr. Speaker, I think the first thing I would like to do is remind all Members that our balanced budget provides an instant raise for workers in the form of lower taxes, reduced interest rates, and greater economic growth.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. VOLKMER. Mr. Speaker, do we have the balanced budget before us to speak on? What is the issue which the speakers in the well should address?

☐ 1500

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The House is debating whether to consider the motion to recommit; the question that the House is debating right now is whether the pending recommittal motion should be considered.

Mr. VOLKMER. A recommittal motion.

The SPEAKER pro tempore. Whether to consider a recommittal motion.

Mr. VOLKMER. Whether to consider a recommittal motion.

The SPEAKER pro tempore. That is correct.

The gentleman from Pennsylvania [Mr. GOODLING] is recognized for 1½ minutes.

Mr. GOODLING. Mr. Speaker, our balanced budget provides an instant raise for workers in the form of lower taxes, reduced interest costs, and greater economic opportunity which will lead to higher wages for America's workers.

Let me assure Members that the committee of jurisdiction will look at the overall picture as to why in the last 3 years we have had a very stagnant economy, which has resulted in a very stagnant growth in relationship to wages and benefits. We will look at the overall picture. We will see whether it is unfunded mandates, such as one that was proposed today. We will look to see whether it is regulatory reform that is needed. But we will not look at a single issue because the issue is all-encompassing and we have to look at every piece of that and we will do it in a conference. We will do it in committee. We will do it in hearings. But we will not be rushed to do something that will, in fact, stagnate the economy even more. We cannot afford to grow at 1 percent or less, or we will never get out of this stagnated economy that we are presently in.

Mr. BONIOR. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Speaker, I am surprised that the leadership of this House would suggest that requesting an increase in the minimum wage for American workers is an unfunded mandate. If we follow that logic, adhere to it, then this body would not be able to do anything to protect the health and welfare of the American people.

We just heard it said that the so-called balanced budget contains provisions that will be beneficial to the American workers, tax cuts. In fact the opposite is true. We are chopping away at the earned income tax credit. We are going to raise taxes for minimum wage people. That is what my colleagues are going to do.

Mr. Speaker, the American people need an increase in their wages. They need an increase in wage. They have come to this Congress and asked for it. The last time this Congress authorized an increase in their salary was 1989. They are falling way behind. At the rate of this minimum wage, a person working full time makes only $8,500 a year. That is below the poverty level. The American people need an increase in their wage. They have asked for it. We have a responsibility to give it to them. Let us give them an increase.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume, simply to respond that the Parliamentarian and the Speaker have decided that there are adequate grounds, that there is an unfunded mandate in this bill, or we would not be having this procedural vote. Let me make that very clear. This is a procedural vote. There are adequate grounds to establish that there is an unfunded mandate in this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume.

Let me correct the gentleman from Texas by suggesting that this is a motion to proceed on a vote to have a debate on the minimum wage. That is what we are discussing. That is the issue that is before us. The question is will we even proceed to discuss this basic fundamental economic justice issue of whether people can earn a decent living and whether they should move to work as opposed to welfare in this country. That is what this is about.

My friend, and he is my friend, from Texas said and preached to us just a few minutes ago about the AFL–CIO wanting this vote. Those people do not make the minimum wage. They do not make it because they got together. They banded together in unity for a decent wage for themselves. They are working for other folks. They are trying to get them a decent wage.

Mr. Speaker, the distinguished gentleman from Pennsylvania [Mr. GOODLING], who is also my friend, says we need to study this. We are not going to be rushed. We need to go slow. It is at its 40-year low, 40-year low, the minimum wage. No hearings have been held in this Congress.

We have got about 30-some days left in the legislative calendar. My colleagues do not want a vote. They are blocking a vote. They blocked the vote on the minimum wage in the Senate. They are blocking it here again in the House. Wages are important to people. We want to put money in people's pockets by raising their wages. That is what this issue is all about.

Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, the Republican majority will find any excuse to hurt hard-working middle-class families in this country. Today the Republican majority would deny and block a vote to increase the minimum wage. Mothers and fathers are working harder, longer hours, two and three jobs, and have seen their wages not rise but decrease. They scramble to pay their bills, to make ends meet at the end of every week. More than two-thirds of minimum wage workers are 20 years and older, they are not teenagers.

The approximate annual average salary of a minimum wage worker is $8,500 a year. It is below the poverty level. It is below the welfare level.

Imagine, this Republican majority says no to a 90 cents increase an hour for working families in this country, 90 cents, when they make over $130,000 a year.

That is not justice. It is wrong to happen to working families in this country. Shame. Stop the excuses. Let us vote on a minimum wage in this House and let us past minimum wage for working families in this country.

PARLIAMENTARY INQUIRIES

Mr. VOLKMER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. VOLKMER. Mr. Speaker, as a result of my previous parliamentary inquiry to the Chair and to others, that the debate was on the motion to recommit to determine whether or not it is an unfunded mandate; is that correct or incorrect?

The SPEAKER pro tempore. The Chair will read from section 426(b) of the Budget Act as to what the House is debating: question of consideration, "as disposition of points of order under section 425 or subsection (a) of this section, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order."

Mr. VOLKMER. The point of order is the motion to recommit is an unfunded mandate; is that correct?

The SPEAKER pro tempore. That is correct.

Mr. VOLKMER. That is the point of order.

Now, the Parliamentarian does not rule on this and we are to vote and make an individual decision as to whether or not we believe that this is an unfunded mandate if the point of order is proper; is that correct, as an individual?

The SPEAKER pro tempore. The question is simply on whether this body wants to consider the motion to recommit, notwithstanding the point of order.

Mr. VOLKMER. Notwithstanding the point of order. Therefore, any Member can raise a point of order not on the motion to recommit or an amendment or anything under this rule, correct?

The SPEAKER pro tempore. Only against this motion at this time.

Mr. VOLKMER. Only against the motion.

Now, should the Members not make a decision based on recommendations like the Congressional Budget Office which says this is not an unfunded mandate?

The SPEAKER pro tempore. The Chair would remind Members that the reason the House is having this debate is so the Members can make up their minds on which way they want to vote on this question.

Mr. VOLKMER. Without listening to the Congressional Budget Office.

Mr. FRANK of Massachusetts. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. FRANK of Massachusetts. Mr. Speaker, it has to do with the nature of the question we are voting on.

As I understand it, we are talking about the new rule adopted at the beginning of this Congress dealing with what to do when there is an unfunded mandate. Would this vote, and this would help, I believe, us clarify it, because we have dealt with this once before in my recollection, would a vote now to proceed with the minimum wage vote be the equivalent of what the House did when we adopted the rule on the agriculture bill which waived the unfunded mandate point of order?

When the House adopted the majority's proposed rule on the agriculture bill, it waived the point of order with regard to unfunded mandates and allowed us then to proceed on the bill which CBO said had unfunded mandates. Are we now being asked to do the same thing; namely, take up the bill although CBO does not say there are unfunded mandates in there, as we did when we adopted the majority's rule on the agriculture bill?

The SPEAKER pro tempore. The Chair can only respond that the reason the House is having this debate is so the House can make the judgment on whether there shall be a vote on the motion to recommit.

Mr. ENGEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ENGEL. Mr. Speaker, the previous gentleman mentioned that the rule on the agriculture bill waived a point of order with regard to unfunded mandates. Is this the blatant politics and blatant hypocrisy that the majority whip was referring to?

The SPEAKER pro tempore. The gentleman is not stating a parliamentary inquiry.

The Chair would advise Members that the gentleman from Texas [Mr. ARCHER] has 3½ minutes remaining, the gentleman from Michigan [Mr. BONIOR] has 30 seconds remaining, and the gentleman from Texas [Mr. ARCHER] has the right to close.

Mr. BONOIR. Mr. Speaker, I yield 30 seconds to the gentleman from Vermont [Mr. SANDERS].

☐ 1515

Mr. SANDERS. Mr. Speaker, the leadership of this Congress has passed huge tax breaks for the rich and for the largest corporations in America.

But somehow, when some of us want to raise the minimum wage for millions of American workers, we are told that we are not even allowed to have a vote.

People today are working longer hours for lower wages, and they are entitled to a raise. Mr. Speaker, let us raise the minimum wage; more importantly, let us have the guts to vote on the issue.

Mr. ARCHER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas [Mr. ARMEY], the majority leader.

Mr. ARMEY. Mr. Speaker, after years of frustration and months of hard work we are here today to do three good things for the American people: to give the President of the United States the long-sought line-item veto authority the American people wish for him to have, to give the senior citizens of America a chance to work in their senior years and still retain their Social Security benefits with less prejudice from the Government's desire to take their earnings away, their benefits away, if they earn money, and to create job opportunities by lessening the red tape burden on small business. We are here to do these things that the minority, when they were in the majority, would not do, and we can complete that work.

Now we are being asked, and I might say it has been a very colorful and entertaining show; we are being asked to go back on the work that we did earlier on unfunded mandates and pose an unfunded mandate on the communities in our country in order to raise the minimum wage. Is this an effort to stop three good things from happening or to do one bad thing?

I was just asked by one of my colleagues a moment ago why is it the minority did not raise the minimum wage last year when they had the majority in the House, they had the majority in the Senate and they had the White House?

Mr. Speaker, I suspect the reason is that they read page 27 of Time magazine on February 6, 1995, where the President was quoted as saying that raising the minimum wage is, and I quote, "the wrong way to raise the incomes of low wage earners." Perhaps they did not.

We have had an interesting show, I have been much entertained by it, I am sure the Nation has been entertained. But this body belongs to the people for serious work.

I propose that we vote down this motion, get on with our work, and do some good things for America rather than punish the working poor.

The SPEAKER pro tempore. The question is, will the House now consider the motion to recommit?

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 228, not voting 11, as follows:

[Roll No. 100]

AYES—192

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Riggs
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs

Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stenholm
Stockman
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOES—228

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Solomon
Souder
Spence
Stearns
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Bryant (TX)
Collins (IL)
Diaz-Balart
Fields (LA)
Filner
Fowler
McNulty
Ros-Lehtinen
Smith (WA)
Stokes
Weldon (PA)

□ 1537

Mr. GILMAN changed his vote from "no" to "aye."

So the question of consideration was decided in the negative.

The result of the vote was announced as above recorded.

Mr. MOAKLEY. Mr. Speaker, I would like to clarify for the RECORD inaccurate claims made by those on the Republican side of the aisle that this motion contains an unfunded intergovernmental mandate. The fact of the matter is, Mr. Speaker, it does not. They suggested that the Congressional Budget Office has determined that this motion regarding the minimum wage contained an unfunded mandate. CBO did not make any such determination. In fact, CBO has determined just the opposite, that this motion does not contain any unfunded mandates. The document to which the Republicans referred did not cite this language at all but rather referred to a letter written by CBO last year to a Member of the other body on another piece of legislation under consideration by that Chamber. That legislation contained specific language which would have directly increased the minimum wage. To equate that legislation with this modest motion is to compare apples and oranges—make that grapes and watermelons.

I want to place at this point in my statement, a letter from the Congressional Budget Office that states that this motion does not contain an unfunded mandate:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 28, 1996.

Hon. JOHN JOSEPH MOAKLEY,
Ranking Minority Member, Committee on Rules, House of Representatives, Washington, DC.

DEAR CONGRESSMAN: As you requested, we have reviewed the motion made by Mr. Bonior to determine whether it contains an intergovernmental mandate as defined by the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). The motion would require H.R. 3136, the Contract with America Advancement Act of 1996, to be recommitted to the House Committee on Ways and Means, with instructions to add a new section to the bill. The new section would amend section 331 of Subtitle C to prohibit the administrative proceedings provisions of that subtitle from applying in any period during which the minimum wage was less than $4.70 per hour beginning on July 4, 1996, and $5.15 per hour after July 3, 1997.

The motion and the new section would not increase the minimum wage, but would make other provisions conditional on such an increase. Subsequent legislation would be necessary to increase the minimum wage. Public Law 104-4 defines an intergovernmental mandate as "any provision in legislation . . . that would impose an enforceable duty upon state, local, or tribal governments." The motion contains no such enforceable duty and thus does not contain an intergovernmental mandate.

If you wish further details on this matter, we would be pleased to provide them. The CBO staff contact is Theresa Gullo.

Sincerely,

JUNE E. O'NEILL,
Director.

It is very important that the membership of the House of Representatives, during this first formal raising of the unfunded mandate point-of-order, be aware of this attempt by the Republican majority to misuse, confuse, and distort the once laudable intention of this law. The unfunded mandates legislation enjoyed widespread bi-partisan support, passing the House by vote of 394 to 28. I was a member of the conference committee and a supporter of this measure. Members on both sides of the aisle supported this initiative because of growing concern over the imposition of unfunded Federal requirements on the public and private sector.

I am deeply concerned that the unfunded mandates law is being used not to curb the past practice of imposing financial burdens on State and local government entities and the private sector, but instead to stifle debate on certain legislative items.

During the consideration on the unfunded mandates legislation in January 1995, I expressed my concern on the section of the bill that implemented this new point-of-order. The legislation specifically prevents the Rules Committee from waiving the point-of-order that is triggered when there is an unfunded mandate—as defined by Public 104-4—in any bill, joint resolution, motion, conference report, or amendment. Only a small handful of House rules in the history of the House of Representatives have been given this special protection. If a member raises an unfunded mandates point-of-order, all he or she need do is to cite the provision in the measure under debate. There is an automatic 20 minutes of debate followed by a vote.

There is no parliamentary or budgetary ruling and there is no burden of proof on the Member raising the point-of-order. It does not matter if the point-of-order is baseless, simply by raising the point-of-order, the House is required to vote on whether to consider the text that is challenged. A simple majority of the House, for any reason, regardless of whether there is any legitimate financial imposition or not, can deny the opportunity of a Member to proceed with an otherwise germane and viable legislative measure. I raised the concern at that time that this could be used both to stop legislation not containing unfunded mandates from being considered on the floor and as a dilatory tactic to disrupt the legislative process. I was always assured that this would not be used for this purpose. Even then, however, I did not anticipate that the very first use of this tactic would be to deny the minority the right to offer an entirely legitimate and germane motion to recommit.

One of the Republican leadership's first changes to the House rules on the 104th Congress guaranteed the minority the right to recommit with instructions. In fact, during the 102d and 103d Congresses in particular, we in the majority were crudely accused of "raping the rights of the minority" by, on rare occasion, denying them instructions on the motion to recommit. Now it appears they are grossly misusing the new unfunded mandates law and, on this first challenge out of the gate, we are being denied the very right that was so vital to the Republicans in previous Congresses.

I am deeply troubled that if this practice continues, it could simply become a backdoor approach used to gag legitimate debate, whether on the motion to recommit or on any other responsible and germane legislative initiatives. I urge the majority to carefully consider the ramifications of misusing the unfunded mandates point-of-order for purposes other than the legitimate intentions spelled out in Public Law 104–4. The unfunded mandates law should be used as tool to fix legislation that imposes unfair financial burdens on state and local governments and the private sector. It should not be used as a weapon to prevent the consideration of viable and responsible legislation initiatives.

MOTION TO RECOMMIT OFFERED BY MR. ORTON

Mr. ORTON. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is the gentleman opposed to the bill?

Mr. ORTON. I am in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ORTON moves to recommit the bill to the Committee on Ways and Means with instructions to report the bill forthwith with the following amendment:

On page 60, strike lines 5 through 15 and insert the following:

SEC. 205. EFFECTIVE DATES.

This title and the amendments made by it shall take effect and apply to measures enacted after the date of its enactment and shall have no force or effect on or after January 1, 2005.

PARLIAMENTARY INQUIRIES

Mr. ORTON. Mr. Speaker, before being recognized to speak on my motion to recommit, I have a parliamentary inquiry which is important to resolve, so people can understand the motion to recommit and how it fits into what we have been voting on.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ORTON. Mr. Speaker, is it correct that the rule which was adopted providing for debate on this bill did automatically adopt the conference report on the line-item veto as a separate bill and authorize that to be sent to the President for his signature?

The SPEAKER pro tempore. The Chair would tell the gentleman that the answer to that is yes.

Mr. ORTON. Further parliamentary inquiry, Mr. Speaker. Is it correct that the rule provides that title II in this bill, which is the line-item veto title, would be stripped from this bill if unamended, and the bill would be sent without title II, but if amended, title II would remain in this bill and go to the Senate for their consideration?

The SPEAKER pro tempore. In response to the gentleman, if title II were amended as a result of a motion to recommit, then it would not be stricken from the engrossed bill. But the operation of section 2(b) of the House Resolution 391 would not be affected. The conference report on S. 4 would stand as adopted.

Mr. ORTON. Therefore, Mr. Speaker, the conference report, standing as adopted, would go to the President for his signature, regardless of whether this motion to recommit is adopted and the title is amended. The only effect of amending the title would be to keep title II in the bill as amended for Senate consideration of the title II as amended, is that correct?

The SPEAKER pro tempore. That is correct.

Mr. ORTON. So if we adopt the motion to recommit and amend this title II, the President would have the original conference bill under the rule for his signature, and assuming the Senate adopted this bill with the amendment, would also have title II as amended, under this bill for his signature, is that correct?

The SPEAKER pro tempore. That would be possible.

Mr. ORTON. I thank the Speaker.

The SPEAKER pro tempore. The gentleman from Utah [Mr. ORTON] is recognized for 5 minutes on the motion to recommit.

Mr. ORTON. Mr. Speaker, I will be as clear and concise as I can. This motion to recommit does one thing and one thing only to the bill we are considering. It simply says that the line-item veto provisions of the bill would become effective immediately upon enactment, rather than waiting until the next calendar year to become effective. That is all it does.

Therefore, the President will already get the opportunity to sign the conference report making line-item veto effective the beginning of next year.

□ 1545

This amendment will give him the opportunity, if adopted, to make it effective immediately and give the President the authority to veto items of specific spending between the date of enactment and the next calendar year. That is the only difference.

Now, Mr. Speaker, let me just in explanation suggest that not only I but many of my colleagues on both sides of the aisle support this line-item veto. The line-item veto has not been partisan. It is supported by both Democrats and Republicans, by the Congress and the President. In fact, during floor debate in the other body on March 23, 1995, the majority leader said the following: "During the 1980's, opponents of the line-item veto used to say that Republicans supported it only because the President happened to be a Republican at the time. Now, we are in the majority and we are prepared, nearly all of us on this side, to give this authority to a Democratic President."

The Senate majority whip said the following: "Why be afraid of allowing this current President to use his power? We on this side of the aisle, the Republicans, are ready to give this opportunity to President Clinton so he can have the opportunity to pare spending."

In this body in February 1995 during debate on this line-item veto bill, the Chairman of the Committee on Rules, Mr. SOLOMON, said the following: "Well, here we are. We get a Democrat President, and here is SOLOMON up here fighting for the same line-item veto for the Democrat President."

Finally, the gentleman from Florida [Mr. GOSS] during the same debate said, "Let us give it to the President whether the President is Democrat or Republican. Let us stop the games. Let us get into budget management."

That is what this amendment is about. It is about budget management. It is about stopping the partisan games. It is about saying we are for line-item veto now, not next year or next decade; we want it to be effective upon enactment.

Mr. Speaker, that is all this amendment will do. If passed, it will send it to the other body for consideration and the President's signature, which would then give us all the opportunity to drop partisan rhetoric and actually have the opportunity to cut spending.

Now someone suggests we do not really need it because we are cutting spending. This is the 1996 congressional pig book put out by the Citizens Against Government Waste. They have identified over $12.5 billion in the eight appropriation bills that we have already passed for 1996 of questionable spending which, if the President had this authority right now, he could veto. That is for 1996. We have lost that opportunity. Let us not lose the opportunity for 1997. Let us give him the opportunity during the appropriation process of 1997.

Mr. Speaker, I yield to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I thank the gentleman from Utah for yielding.

I would say this is a very simple motion. I voted for a line-item veto for President Bush. I voted for the rule to give the line-item veto immediately to the President 2 hours ago. This motion will say, do not wait until 1997, do not play politics, do not do what the American people do not want us to do. Let the President cut $25 billion out of spending now.

Mr. Speaker, it would be interesting to see and explain to our constituents why we did not extend the line-item veto to the President of the United States tomorrow.

Mr. ORTON. Mr. Speaker, in closing let me just say we do not want to make this a partisan fight. This motion to recommit is not partisan. This motion to recommit does nothing to the bill which we are adopting except one thing: making the line-item veto effective immediately upon enactment so that this President has not only the opportunity, but the responsibility, to look at each item of spending and veto those items that he believes are inappropriate, send them back under new legislation. It is appropriate, it is responsible, it is the thing to do. I would urge adoption of the motion to recommit.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Texas [Mr. ARCHER] is recognized for 5 minutes in opposition to the motion to recommit.

Mr. ARCHER. Mr. Speaker, I yield to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I am a little concerned with what I am hearing here today because Senate Majority Leader DOLE and President Clinton chose the effective dates that are in this bill today. If we want to kill line-item veto, we will unbalance this very, very delicate document we have here today.

Mr. Speaker, our conferees have spent a year now working together with people who did not want a line-item veto over in the other body. There were a lot of them. But finally, with the leadership of BOB DOLE we got them to move, and they conceded to us on almost everything, almost everything. We have a real, true line-item veto here today, something we have always wanted.

Now, there are things in here I do not like. There is a sunset provision for 8 years. I wanted it to be permanent. Know what we did? We traded that off to get something that my colleagues and I want, and that is a lockbox provision, so that if any President vetoes an item and it sticks, that means that money cannot be reprogrammed. It means it is cut out of the budget and we have that satisfaction.

Mr. Speaker, Ronald Reagan told me once, JERRY, the art of compromise means success in politics; people have other views. We have worked diligently with Senator EXON and other good Democrats on the other side of the aisle in the Senate to put this together. We better vote down this motion to recommit and vote for this, and let us give the President a true line-item veto. That is what the American people want.

Mr. ARCHER. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. CLINGER], the chairman of the Committee on Government Reform and Oversight.

Mr. CLINGER. Mr. Speaker, I served as chairman of the conference on the line-item veto. It was a difficult, contentious, hotly contested conference. We argued and debated over the issues long and hard. It took us a year, yes, it took us longer than any of us would have wanted.

It was not a partisan matter; in fact, there are those who support line-item veto, the gentleman from Utah being one of the staunchest supporters of the line-item veto on both sides of the aisle and in both Chambers, so this is not a partisan issue. But what we finally arrived at, I think, is the best that we can get. One of the items that was agreed to was an effective date. That was only finally resolved because there was an agreement reached between the President of the United States and the majority leader of the Senate to depoliticize the issue.

Mr. Speaker, I would point out that to change the effective date now would really put this right square in the middle of the Presidential debate. I think it would clearly distort what we are trying to do here. By putting it on January 1, obviously the gentleman from Utah [Mr. ORTON] and Members on the other side of the aisle feel very strongly that they will, in fact, reelect our President, their party leader. We, on the other hand, feel very strongly that we will elect our nominee, Mr. DOLE. This takes it out of the political spectrum. It gives the next President or the continuing President the ability to use this line-item veto.

So I would urge, and urge strongly, Members on both sides not to upset the apple cart here, because it really could do violence to what we had agreed to.

Our conference report is on its way to the President now. It was, in fact, passed as a result of the rule that passed. It was passed. Now, if we were to adopt this amendment, it would change a deal that has been made, an agreement that has been reached, bipartisan on both sides of the aisle and I think would possibly make it difficult for us actually to exercise the line-item veto.

So I would urge as strongly as I can, please, keep the effective date where it is, keep it out of the political and the Presidential campaign this year.

Mr. ARCHER. Mr. Speaker, to reiterate what was said in the earlier debate, that the President has within his power unilaterally to activate this authority immediately after his signature on the bill by signing and agreeing to a balanced budget for this country and does not have to wait until January 1, 1997.

Further, to say to the Members that the perfect can be the enemy of good movement for what has taken so very, very long, and I know it better than anybody else, because I initiated line-item veto as a proposal before the Congress. It is not agreed to, it can be signed into law. Let us not put it back into the maze of procedure that could further tie it up this year. I urge a vote against the motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ORTON. Mr. Speaker, on that I demand the yeas and nays. The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 159, nays 256, not voting 16, as follows:

[Roll No. 101]

YEAS—159

Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Cardin
Chapman
Clay
Clement
Clyburn
Coburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Deutsch
Dingell
Doggett
Dooley
Doyle
Durbin
Edwards
Ensign
Eshoo
Farr
Fattah
Fazio
Flake
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Graham
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kleczka
LaFalce
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
Meehan
Menendez
Miller (CA)
Minge
Mink
Moakley
Moran
Neal
Neumann
Obey
Olver
Orton
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sawyer
Schroeder
Schumer
Shadegg
Shays
Sisisky
Skaggs
Skelton
Slaughter
Souder
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torres
Upton
Vento
Visclosky
Volkmer
Wamp
Ward
Waters
Waxman
Wilson
Wise
Woolsey
Wynn
Zimmer

NAYS—256

Abercrombie
Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clayton
Clinger
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Dixon
Doolittle
Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Evans
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foglietta
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly

Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kildee
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McKinney
Meek
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nadler
Nethercutt
Ney
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Parker
Pastor
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Roukema
Sanders
Sanford
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Serrano
Shaw
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Spence
Stark
Stearns
Stockman
Stump
Talent
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Towns
Traficant
Velazquez
Vucanovich
Waldholtz
Walker
Walsh
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wolf
Yates
Young (AK)
Young (FL)
Zeliff

NOT VOTING—16

Bryant (TX)
Collins (IL)
Duncan
Fields (LA)
Filner
Fowler
Lantos
McIntosh
McNulty
Ros-Lehtinen
Smith (WA)
Spratt
Stokes
Tate
Torricelli
Weldon (PA)

□ 1614

The Clerk announced the following pair:

On this vote:

Mrs. Collins of Illinois for, with Mrs. Fowler against.

Mrs. MYRICK, Ms. JACKSON-LEE of Texas, Mrs. CLAYTON, Mr. WATT of North Carolina, and Mr. NADLER changed their vote from "yea" to "nay"

Messrs. PAYNE of New Jersey, SHADEGG, and SALMON changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CLINGER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 328, noes 91, not voting 12, as follows:

[Roll No. 102]

AYES—328

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Collins (GA)
Combest
Costello
Cox
Coyne
Cramer
Crane
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Ford
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hefley
Hefner
Heineman
Hilleary
Hinchey
Hobson
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Menendez
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Myrick
Nadler
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Rose
Roth
Royce
Rush
Sawyer
Saxton
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Upton
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—91

Abercrombie
Baker (CA)
Barr
Bartlett
Barton
Becerra
Beilenson
Berman
Borski
Bunn
Chenoweth
Clay
Clyburn
Coburn
Coleman
Collins (MI)
Condit
Conyers
Cooley
Crapo
Dellums
Dingell
Doolittle
Evans
Fattah
Forbes
Frank (MA)
Gonzalez
Hastings (FL)
Hayworth
Herger
Hilliard
Hoekstra
Jackson (IL)
Jacobs
Jefferson
Johnston
Kanjorski
Kingston
Klink
LaFalce
Largent
Lewis (CA)
Lofgren
Markey
Martinez
Matsui
McDermott
McKinney
Meek
Metcalf
Mink
Mollohan
Murtha
Myers
Neal
Oberstar
Olver
Owens
Payne (NJ)
Pelosi
Pombo
Rahall
Rangel
Roukema
Roybal-Allard
Sabo
Salmon
Sanders
Sanford
Scarborough
Schroeder
Serrano
Shadegg
Shays
Skaggs
Smith (MI)
Stark
Stockman
Studds
Stump
Taylor (MS)
Thompson
Towns
Traficant
Velazquez
Waters
Watt (NC)
Waxman
White
Yates

NOT VOTING—12

Bryant (TX)
Collins (IL)
Fields (LA)
Filner
Fowler
Lantos
McNulty
Ros-Lehtinen
Smith (WA)
Stokes
Torricelli
Weldon (PA)

□ 1632

The Clerk announced the following pairs:

On this vote:

Mrs. Fowler for, with Mrs. Collins of Illinois against.

Ms. Ros-Lehtinen for, with Mr. Filner against.

Mrs. Smith of Washington for, with Mr. Stokes against.

Mr. CRAPO and Mr. BARTLETT of Maryland changed their vote from "aye" to "no."

Mr. FOGLIETTA changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

ANNUAL REPORT OF NATIONAL ENDOWMENT FOR THE ARTS, FISCAL YEAR 1994—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. KOLBE) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Economic and Educational Opportunities:

To the Congress of the United States:

It is my special pleasure to transmit herewith the Annual Report of the National Endowment for the Arts for the fiscal year 1994.

Over the course of its history, the National Endowment for the Arts has awarded grants for arts projects that reach into every community in the Nation. The agency's mission is public service through the arts, and it fulfills this mandate through support of artistic excellence, our cultural heritage and traditions, individual creativity, education, and public and private partnerships for the arts. Perhaps most importantly, the Arts Endowment encourages arts organizations to reach out to the American people, to bring in new audiences for the performing, literary, and visual arts.

The results over the past 30 years can be measured by the increased presence of the arts in the lives of our fellow citizens. More children have contact with working artists in the classroom, at children's museums and festivals, and in the curricula. More older Americans now have access to museums, concert halls, and other venues. The arts reach into the smallest and most isolated communities, and in our inner cities, arts programs are often a haven for the most disadvantaged, a place where our youth can rediscover the power of imagination, creativity, and hope.

We can measure this progress as well in our re-designed communities, in the buildings and sculpture that grace our cities and towns, and in the vitality of the local economy whenever the arts arrive. The National Endowment for the Arts works the way a Government agency should work—in partnership with the private sector, in cooperation with State and local government, and in service to all Americans. We enjoy a rich and diverse culture in the United States, open to every citizen, and supported by the Federal Government for our common good and benefit.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 28, 1996.*

HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT OF 1996

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 392 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 392

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes. An amendment in the nature of a substitute consisting of the text of H.R. 3160, modified by the amendment specified in part 1 of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. All points of order against the bill, as amended, and against its consideration are waived (except those arising under section 425(a) of the Congressional Budget Act of 1974). The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) two hours of debate on the bill, as amended, with 45 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, 45 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce, and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Economic and Educational Opportunities; (2) the further amendment specified in part 2 of the Committee on Rules, if offered by the minority leader or his designee, which shall be in order without intervention of any point of order (except those arising under section 425(a) of the Congressional Budget Act of 1974) or demand for division of the question, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit, which may include instructions only if offered by the minority leader or his designee. The yeas and nays shall be considered as ordered on the question of passage of the bill and on any conference report thereon. Clause 5(c) of rule XXI shall not apply to the bill, amendments thereto, or conference reports thereon.

The SPEAKER pro tempore. The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purpose of debate only I yield the customary 30 minutes to the distinguished gentleman from Massachusetts [Mr. MOAKLEY], the ranking member of the Committee on Rules, pending which I yield myself such time as I may consume. During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, the Rules Committee has carefully crafted this rule to allow for ample debate on the major issues of health insurance reform without opening ourselves up to a free-for-all. The purpose is to pass a streamlined bill that accomplishes meaningful, results without getting bogged down in a replay of last Congress' frustrating and fruitless health reform debate.

Mr. Speaker, this rule is a modified closed rule that allows us to knit together the work product of five major committees. This rule makes in order as base text for the purpose of amendment the text of H.R. 3160, modified by a technical amendment printed in part 1 of the Rules Committee report. The rule waives all points of order against the bill as amended and against its consideration, except those arising under section 425(e) of the Congressional Budget Act of 1974, relating to unfunded mandates. The rule provides for a total of 2 hours of debate, with 45 minutes equally divided between the chairman and ranking member of the Committee on Ways and Means, 45 minutes equally divided between the chairman and ranking member of the Committee on Commerce, and 30 minutes equally divided between the chairman and ranking member of the Committee on Economic and Educational Opportunities. The rule allows the minority to offer the amendment in the nature of a substitute, as referenced to the CONGRESSIONAL RECORD in part 2 of our Rules Committee report. That amendment shall not be subject to any point of order—except relating to section 425(e) of the budget act—or to any demand for a division of the question. The amendment shall be debatable for 1 hour, equally divided between a proponent and an opponent. The previous question shall be considered as ordered on the bill as amended and on any further amendment thereto, to final passage, without intervening motion, except as specified. The rule provides for the traditional right of the minority to offer one motion to recommit, with or without instructions, but instructions may be offered by the minority leader or a designee.

Finally, this rule provides that the yeas and nays are ordered on final passage and that the provisions of clause 5(c) of rule XXI shall not apply to votes on the bill, amendments thereto or conference reports thereon. The purpose of this last provision, Mr. Speaker, is one of an abundance of caution with respect to the new House rule requiring a supermajority vote for any amendment or measure containing a Federal income tax rate increase. The provision in question in the bill is a popular one with Members on both sides of the aisle. It closes the loophole that currently allows people to renounce their citizenship to avoid paying U.S. taxes.

Although most people might agree that bringing a currently exempt group of people under an existing income tax rate is not an increase in Federal income tax rates, and thus would not be subject to the new House rule, we have been advised that some might disagree. And possibly the MSA withdrawal penalty could be construed by some as a tax rate increase but I do not believe that was what the rule was aiming at.

And so, to ensure that this important provision does not jeopardize passage of this bill, we are providing this protection from the rule.

Mr. Speaker, I am pleased to support this cooperative product, to provide genuine health insurance reform for working Americans. The committees of this House have taken the bill from the other body and built upon it, achieving a better product without overloading it to the point of failure. This bill improves on the other body's bill by addressing and fixing the problem of affordability. This bill ensures that individuals will not be denied health insurance if they change jobs. It ensures that individuals who move to another job that doesn't offer coverage can buy an individual policy without fear of preexisting condition restrictions. These portability provisions are the cornerstone, but we have done more because we recognize that if we provide access to the uninsured without making it affordable, we have accomplished nothing.

Today, 85 percent of the uninsured work for small businesses. We respond by allowing small employers to join together to purchase health insurance. This bill allows self-employed individuals to deduct 50 percent of their health insurance premiums, giving them the same advantage larger companies already enjoy. By establishing medical savings accounts, this bill offers individuals more control over their own health care costs. We propose to limit lawsuit abuse—which drives up health care costs and makes insurance more expensive for everyone—and attack fraud and abuse, with stiff penalties on those who cheat the system. It's a solid package of real reform.

Mr. Speaker, this bill had not even been produced before opponents began tearing it apart.

The same folks who in the last Congress tried to engineer socialized medicine, Government-run medicine that tells you when you are sick, what doctor you must see and what pills you must take. Well, those folks have joined together again to deride our plan which they said would ruin the prospect for health care reform. I believe their goal is to have Government run all of your lives. But this bill is a positive set of proposals for meaningful and doable health care reform now.

Support the rule; support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to point out today's rule is one more closed rule in a year of 100 percent restrictive rules. I just want to remind Members of this because of the orations we used to hear from the other side on closed rules.

This year, every rule that has come out of the Committee on Rules so far has been restricted in some form. It also waives the three-fifth vote required for tax increases, which my Republican colleagues like so much, they wanted to make it an amendment to the Constitution. If the three-fifth vote for tax increases is that important, Mr. Speaker, why are Republicans waiving it on this bill? In fact, this is the second time the three-fifths vote has come up and it is the second time that they have waived it.

☐ 1645

Mr. Speaker, today we have a great opportunity. We have the chance to make a huge difference in the lives of millions of Americans. We have the chance to pass a bipartisan health bill that will do two things that will affect every single American. Today, if Republicans will join with the Democrats, we could pass a bill that would enable more people to take their health care with them when they leave a job, and limit preexisting conditions so that people are not denied health care just because they have been previously ill.

But, Mr. Speaker, even though this opportunity is right at our fingertips in the form of the Kennedy-Kassebaum-Roukema bill, it is about to slip away. It is because my Republican colleagues have loaded up a very excellent bill with a lot of goodies for special interests. My Republican colleagues, Mr. Speaker, have also added medical savings accounts which will take over $2 billion from Medicare and spend it on tax breaks for younger and wealthier people, and they have added controversial malpractice provisions which will virtually ensure the bill's veto.

Mr. Speaker, over the last year I have had a lot of hands-on experience with the American health care system, and I know how important good health care is, and I know how important good health insurance is. I can tell my colleagues there is not a single person in this country that does not worry that they may lose their health care if they change jobs, or even worse, they would be denied their health care coverage just because they have had a previous illness.

But this Republican-controlled House is once again about to put the good of special interests before the good of the Nation.

Mr. Speaker, this is a time of great uncertainty in our country. Today many workers wake up each morning wondering whether they will have a job at the end of the day and even whether they will be able to provide their family health care. Today health care costs are skyrocketing, and the Republican House is turning a blind eye to the needs of working men and women.

But we have heard over and over again our Republican colleagues talk about providing opportunity for America's middle class. Mr. Speaker, if ever there was a chance to do that, this is the bill. This is our chance to do something for the people of this country, and we should take it.

I urge my colleagues to defeat the rule, defeat the previous question. It is time to put the American people and their health care before politics.

Mr. Speaker, I reserve the balance of my time.

Mr. McINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think there are a couple of points that need to be made here.

Technically of course, at the very onset of this rule debate, this is not a closed rule which we are debating. This is a modified closed rule. What is the difference? The difference in the importance of a modified closed rule is that the modified closed rule allows their side the opportunity to offer a complete substitute. In addition to that, it allows them to make a motion to recommit. There is certainly plenty of room for them to maneuver over there, to offer the kind of amendments or changes that they feel are important.

Second, Mr. Speaker, I think a few words should be said in response to the comments made about the waiver of clause 5(c) of rule XXI in this rule against the bill and the amendments thereto. As my colleagues are aware, clause 5(c) requires a three-fifths vote on the adoption or passage of any bill, joint resolution, amendment or conference report carrying, quote, a Federal income tax rate increase, unquote.

We do not feel there is any provision in this bill that raises Federal income tax rates as construed by the legislative history on this rule. As the section-by-section analysis of this rule explained when the rule was adopted on January 4 of 1995, and I quote:

> For purposes of these rules the term "Federal income tax rate increase" is, for example, an increase in the individual income tax rates established in section 1 and the corporate income tax rates established in section 11, respectfully, of the Internal Revenue Code of 1986.

Those are commonly understood marginal tax rates, or income bracket tax rates, applicable to various minimum and maximum income dollar amounts for individuals and corporations.

In response to the letter from the ranking minority member of the Committee on Rules to the chairman last year requesting a clarification of this rule, the Committee on Rules published such a clarification in the report on the rule for the reconciliation bill. The bottom lien of that clarification reads as follows, and again I quote:

> It is the intent of this committee that the term "Federal income tax rate increase" should be narrowly construed and confined to the rate specified in those two sections,

that is sections 1 and 11 of the Internal Revenue Code, respectfully, establishing marginal rates for individuals and corporations.

Nothing in the bill before us increases either the individual income tax rates contained in section 1 of the Code or the corporate income tax rates contained in section 11 of the Code. Thus, according to the Committee on Rules clarification, as requested by the ranking minority member, this bill does not trigger a three-fifths vote on either the minority substitute or on the bill itself. However, as was mentioned in the opening statement on this rule, the waiver was provided out of an abundance of caution to avoid unnecessary points of order.

EXPLANATION AND DISCUSSION OF CLAUSE 5(c), RULE XXI WAIVER

(Excerpted From the Rules Committee's Report on H. Res. 245, the Reconciliation Rule)

As indicated in the preceding paragraph, the Committee has provided in this rule that the provisions of clause 5(c) of House Rule XXI, which require a three-fifths vote on any bill, joint resolution, amendment or conference report "carrying a Federal income tax rate increase," shall not apply to the votes on passage of H.R. 2491, or to the votes any amendment thereto or conference report thereon.

The suspension of clause 5(c) of rule XXI is not being done because there are any Federal income tax rate increases contained in the reconciliation substitute being made in order as base text by this rule. As the Committee on Ways and Means has pointed out in its portion of the report on the reconciliation bill—

"The Committee has carefully reviewed the provisions of Title XIII and XIV of the revenue reconciliation provisions approved by the Committee to determine whether any of these provisions constitute a Federal income tax rate increase within the meaning of the House Rules. It is the opinion of the Committee that there is no provision of Titles XIII and XIV of the revenue reconciliation provisions that constitutes a Federal income tax rate increase within the meaning of House Rule XXI, 5(c) of (d)."

Nevertheless, the Committee on Rules has suspended the application of clause 5(c) as a precautionary measure to avoid unnecessary points of order that might otherwise arise over confusion or misinterpretations of what is meant by an income tax rate increase.

Such point of order was raised and overruled on the final passage vote of H.R. 1215, the omnibus tax bill, on April 15, 1995. The ranking minority member of the Rules Committee subsequently wrote to the chairman of this Committee requesting a clarification of the rule. An exchange of correspondence with the Parliamentarian and the Counsel of the Joint Tax Committee was subsequently released by the chairman of this Committee on June 13, 1995, regarding the ruling and the provision of the bill which gave rise to the point of order.

The Committee would simply conclude this discussion by citing from the section-by-section analysis of H. Res. 6, adopting House Rules for the 104th Congress, placed in the Congressional Record at the time the rules were adopted on January 4, 1995. With respect to clauses 5(c) and (d) which require a three-fifths vote on any income tax rate increase and prohibit consideration of any retroactive income tax rate increase, respectively:

"For purposes of these rules, the term "Federal income tax rate increase" is, for example, an increase in the individual income tax rates established in section 1, and the corporate income tax rates established in section 11, respectively, of the Internal Revenue Code of 1986, (Congressional Record, Jan, 4, 1995, p. H–34)".

The rates established by those sections are the commonly understood "marginal' tax rates or income "bracket" tax rates applicable to various minimum and maximum income dollar amounts for individuals and corporations. It is the intent of this committee that the term "Federal income tax rate increase" should be narrowly construed and confined to the rates specified in those two sections. As indicated in the Ways and Means Committee's report, those rates have not been increased by any provision contained in H.R. 2491 as made in order as base text by this resolution.

Mr. Speaker, I yield 6 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. I think the gentleman from Colorado for yielding me this time.

Mr. Speaker, I think we need to talk about how this bill came about and what is in it and what is not in it. The bill is an amalgam of ideas that have been tested around this House for the last 5 or 6 years, things that made eminent good sense.

Now this year of course the House has been working on Medicare and Medicaid, and insurance reform has been on the back burner, but we have always tried to use the issue and work the issue of portability so that we could have people move from group to group and group to individual.

Now, in the Senate bill there was some controversy with the group to individual because people who were basically healthy, when they lose their jobs, many times do not go out and buy a very expensive insurance policy. People who are sick, or if they are 15 years of age, and three kids, and a wife who is going to deliver, or if they are 55 years of age and have a preexisting condition, and need to go into immediate health insurance coverage, they are going to go out and buy that insurance policy, probably at whatever cost. So we thought that it was very, very important that we design and change the group to individual policy so that only sick people would not buy individual insurance, that we could hold down the cost so that insurance can be available and affordable to everybody.

So, the way that we structure group to individual allows for that, but it is really the central theme of what this bill does.

Health care availability is something that we all strive for. We know that there are a lot of Mercedes and Rolls Royces out there that are available. The problem is people do not drive them because they cannot afford them. Well, my colleagues, that is the same way in health care. If someone cannot afford the health care, if they cannot afford that insurance policy, then they do not buy it, and those folks riding around in Mercedes and Rolls Royces certainly have a lot of money to spend, and they can probably afford anything. But most of those people are people that do not have jobs.

So that is the issue. How do we take people who need a health care bill and they do not have a job?

Our approach to that is an approach of a type of policy that they can buy that is a low-cost policy, maybe a deductible, but something that is affordable, not for just people who are sick, but people who are well. So the theme of affordability and availability is central to everything that we have put in this package, and my colleagues know this package goes a little bit beyond the Senate package, but it is because we think that the Senate package was lacking.

We have had four committees that have worked on this bill and four committees that went out and structured things that were within their jurisdiction and moved legislation through their committees, had hearings, subcommittee hearings, full committee hearings, took amendments, listened to amendments, went through the debate and moved out a package; each bill within the jurisdiction of that committee. The Committee on Rules then put those three bills together, plus some information or piece of legislation that came out of the Committee on the Judiciary and put it together in the Rules Committee yesterday.

Now what is the difference between this bill, the House Republican bill sponsored by the chairmen of the four committees and subcommittee chairman, and the Senate bill? For one thing, we have medical savings accounts, and my colleagues will hear people over here saying, "Boy, medical savings accounts are only for rich people," and that is just a fraud.

Medical savings accounts are for everybody. The average employer cost per employee family in this country is about $4,500 a year. If my colleagues had a $4,500 savings or $4,500 life insurance policy, Medisave, a policy, probably my colleagues would take a $2,000 deductible and buy a high deductible policy; my colleagues would take that other $2,500 and put it in their medical savings account.

Now is that for rich people? No, that is for the average worker. That is for the guy who carries a lunch bucket to work. But a fellow or a person or a family that wants to control his own choice in health care, that does not want an HMO or an insurance company telling him what doctor to go to, or what hospital to go to, or what type of treatment to get, somebody that wants to control their own health care choice, and with a medical savings account we do just that.

Now if my colleagues do not spend that money, then they get to keep it, and that is real portability, because if my colleagues had this insurance policy for a couple of years and they have $10,000 or $15,000 or $20,000 in their medical savings account, that gives them real portability. My colleagues can move that and take it wherever they want, or buy insurance with it, pay for health care costs with it.

Also, this bill has long-term care expense so people, seniors, can take their assets and move it into long-term care, or if they have a fatal disease, they can take their life insurance, cash it in, and buy long-term care or health care with it.

We also have small group employer, so the 85 percent of the people who do not have insurance today that live in families that work for small businesses, that they can go to the marketplace and get the same break that big businesses get.

Now this is commonsense reform, my colleagues. It is something that everybody can work with, it makes health care not just available, but affordable. I hope that my colleagues would vote for this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Speaker, I rise in opposition to the Republican effort to sabotage realistic and meaningful health care this year. Senators KENNEDY and KASSEBAUM have sponsored health insurance reform legislation that is a positive first step to removing the barriers for coverage for thousands of Rhode Islanders and millions of Americans.

I am cosponsor of the Kennedy-Kassebaum bill. It will be offered as a Democratic substitute, and this bill would prohibit insurance companies from dropping coverage when a person changes jobs or preventing coverage if a person has a preexisting condition. In addition, this bill would increase the tax deduction for the self-employed from 30 percent to 80 percent by the year 2002. It is also estimated that this bill would help 25 million Americans each year, with minimal impact on individual premiums or the federal budget. In Rhode Island this would be terribly helpful for thousands of Almacs workers who were recently laid off when the store closed, a supermarket chain.

□ 1700

These are individuals that need this type of coverage. Regrettably, House Republicans decided against taking up this bipartisan bill. House Republicans chose instead to cater to special interests and consider a bill with controversial and costly provisions. This Republican plan will doom the prospect of meaningful health care reform this year in the Congress.

Mr. Speaker, I urge rejection of this measure.

Mr. KENNEDY of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. REED. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, this bill is very simple. There was a deal cut in the U.S. Senate, the Kennedy-Kassebaum bill. President Clinton agreed to Kennedy-Kassebaum. All the Republicans in the Senate agreed to Kennedy-Kassebaum. The Kennedy-Kassebaum bill does three things. It says to the ordinary citizens of this country that if they are willing to pay their health care premium if they change their jobs, they are going to continue to get health care. If they lose their job, they are going to continue to get health care. If they get sick, they will continue to get health care.

With the Republican substitute, the Republicans have taken a stake and thrown it into the heart of health care reform. This notion of supporting MSA's, this notion of including caps on damages so if you lose your leg you are only going to pay people $250,000, ends up doing one thing; that is, throwing off the track the ability of the American people, once and for all, to get needed health care coverage.

All we are trying to do is enrich the pockets of the doctors, enrich the pockets of the lawyers, and take away from the serious effort of getting the people that do not have health insurance or that lose health insurance simply because they get sick, simply because they lose their job, taking that hope away.

We have the opportunity to get the job done. Let us come together, and let us support the Democratic substitute which will once again put health reform back on track.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I thank my friend, the gentleman from Massachusetts, for yielding me this time.

Mr. Speaker, this is a bad rule. I thought we were going to get a rule and a bill before us that will let us deal with health insurance portability and preexisting conditions, that will let us deal with the problems that our constituents are facing of losing their jobs and losing their health benefits, and being unable to get health insurance without preexisting condition restrictions. Democrats and Republicans agreed to deal with that issue.

Yet this rule makes it less likely we will get to that day. This rule does not permit any amendments to be offered. Many amendments were suggested in the Committee on Rules, that would help improve the bill that has been brought forward.

Let me just mention a couple of the areas that troubled me. The bill preempts State laws in many, many ways. I thought we were supposed to be returning power to our States. This bill makes it very difficult for our States to respond to health insurance problems. In my own State, we have adopted small group market reform. Yet the provisions in the underlying bill would seriously jeopardize Maryland's ability to continue that small market reform.

I had offered an amendment in the Committee on Rules for fraud and abuse. There are new provisions in this bill that make it more difficult for the Justice Department to bring fraud cases against providers that are cheating. Yet the Committee on Rules did not make that amendment in order.

The group-to-individual provisions need to be improved. They are too restrictive to a person who loses their health insurance and must provide an individual plan. This rule does not allow us the opportunity to go forward with the type of portability that we need. The only option before us is to support the Democratic substitute if we want portability and eliminating preexisting conditions.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Speaker, I rise in opposition to this rule. I had hoped to have an amendment made in order which would raise the lifetime benefit cap on health insurance from $1 million to $10 million. My amendment would have benefited the 1,500 Americans a year who exceed the current cap, and some 10,000 Americans between now and the year 2000. It would save Medicaid $7 billion over 5 years, and the cost is small. The American Academy of Actuaries estimates a 1-percent to 2-percent increase in premiums.

Mr. Speaker, a medical catastrophe could befall any one of us here in this Chamber and in this body, any one of our children, our parents, our loved ones, at any time. Many times I say to myself, "There but for the grace of God go I." Not being able to have sufficient health insurance coverage severely compounds the catastrophe. A point that needs to be made is the plight of the distinguished actor Christopher Reeve, who is well known to all of us. In honor of his courage, I introduced legislation upon which the amendment was based, named the Christopher Reeve Health Insurance Reform Act.

Mr. Speaker, every day we see inflation adjustments for other needed services: for consumer products, for education. In some of these cases, the adjustment reflects the reality of current costs. In others, they offer protection to the American people. My amendment would have done both. I am disappointed not for myself, but for the people of this Nation that my amendment was not allowed under this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise today on behalf of the hardworking families in my district, families who struggle to pay their bills, work hard, and they play by the rules. They live in fear of losing their health insurance if they change jobs. They cannot get health care coverage because of a preexisting condition. These families are a pink slip away from disaster.

I went to visit the Tomaso Construction Co. in my district. I met with workers there, and a worker said to me that he was frightened to death that he may lose his job. He has a child with a terminal illness. He stays up nights worrying that he will lose his job and will not be able to have the health insurance he needs for his child. Today Congress has the chance to prove that we are here to help working families.

The bipartisan Kennedy-Kassebaum-Roukema bill expands access to health insurance. It increases portability, it limits a health insurance company's ability to deny coverage because of preexisting medical conditions. Rather than helping these hardworking families, the Republican leadership has hijacked the bill to make a payoff to their special interest cronies. The bill provides a big windfall to the Golden Rule Insurance Company by including a provision for medical savings accounts. The Wall Street Journal said today that Golden Rule was the third biggest corporate giver to the Republican party in the last election. The Washington Times, not a liberal newspaper, says, "Riders imperil health reform."

Mr. Speaker, I urge my colleagues to reject this special interest payoff and support the Democratic substitute. It will provide real health care security to the hardworking families of this country.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, the bill reported out under this rule preempts and therefore eliminates consumer protections existing in State law for employers and employees insuring through associations or multiple employer arrangements known as MEWAs. This preemption of State law is a horrible idea, and deserves separate consideration and debate while the bill is before the House.

The consequence of allowing insuring entities to operate without effective State oversight creates a situation where small businesses will be ripped off. Folks who believe they are insured by their company's plan will find out they are not, often after they have racked up ruinous health bills.

Mr. Speaker, I am the only Member of this Chamber to have served as a State insurance commissioner. I know full well people will be hit with fraudulent insurance practices if this bill is enacted. I have seen it happen. In the home State of the gentleman from Florida [Mr. GOSS], a fraudulent entity collected nearly $35 million in premiums from 7,000 employers. It collapsed, leaving 40,000 employees without coverage, and $29 million in unpaid claims.

Why in the world would the majority want to wipe out the State laws developed to keep this from happening again? Why in the world would the Committee on Rules not allow separate consideration on this issue? Time and time again we have heard the new majority hail the role of State government, yet today's bill wipes out the efforts of States to protect small businesses and the workers they ensure. Vote "no" on this bad bill.

Mr. GOSS. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. I thank the gentleman for yielding time to me.

Mr. Speaker, the gentleman has made the statement that it is a terrible thing to preempt State law, but the gentleman must be aware that under the ERISA statute, most of private health care in this Nation is indeed a situation where State law has been preempted, and employer-provided health care is basically self-insured, or some with fully insured plans. So this is not the evil thing that one would think.

All we are suggesting is that small employers might have the same advantages as large employers have. That is all.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this Congress has a historic opportunity to pass limited, but meaningful health insurance reform. Just an hour from now, however, we'll begin to debate a bill specifically constructed by the Republican leadership to sabotage any meaningful reform this Congress.

Rather than supporting the bipartisan Kennedy-Kassebaum-Roukema bill, the G.O.P. House leaders insist on pushing their own bill which contains controversial provisions like medical savings accounts.

And why medical savings accounts? Just follow the money. The Golden Rule Insurance Co. has given more than $1.4 million to the G.O.P. and, coincidentally, Golden Rule just happens to be the premier company peddling medical savings accounts.

Mr. Speaker, the old saying is true: He who has the gold, rules. And while the American people want serious health insurance reform, all they are getting from the G.O.P. is cash-and-carry government.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank the gentleman from Massachusetts for yielding time to me.

Mr. Speaker, for the whole day today the Republican leadership blocked consideration of a raise in the minimum wage. Then the majority whip, in relation to my speech that I made, said, "This is blatant politics and blatant hypocrisy." His words clearly should have been taken down, but the Speaker disallowed it.

Now the Republican leadership shamefully is not allowing us to consider a clean version of the Kennedy-Kassebaum-Roukema health reform bill, even though the American people want it. The American people want to know that if they lose their jobs, they can continue to have health insurance. The American people want to know that if there is a preexisting condition used as a excuse not to give them or a loved one health insurance, that that cannot be used as an excuse anymore. It has bipartisan support in the Senate, and is supported by the President. It represents the minimum that can be done to provide additional health security to the American people.

Again, the Republican leadership is blocking it, taking this bill and weighing it down with all kinds of strange things that do not belong in this bill. They know it is going to kill the bill. That is their real motive, to kill this bill. They can pretend they are for health care reform, but in reality what they are doing to this bill kills the bill, and the American people ought to know that.

Republicans have been talking a lot about how they want to reconnect with average working people. Is this the way they do it? By blocking the Roukema bill, this demonstrates that the Republican leadership are more interested in political gain than in passing legislation that helps the American worker. This is really shameful.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as we debate the merits of health insurance reform, it is crucial that we keep in mind a newly emerging and very important aspect of health insurance reform, that is genetic information and the potential for insurance discrimination. Last December, I introduced H.R. 2748, the Genetic Information Non-discrimination in Health Insurance Act—a bill to prevent the potentially devastating consequences of discrimination based on genetic information.

I am very pleased to learn that both the Republican version of health insurance reform and the Democratic substitute contain some of the protections I introduced in my bill last fall.

While the provision included in both versions of the legislation on the floor today is not as comprehensive as those outlined in my bill, it represents a crucial first step in providing protection for people with predisposition to genetic disease.

As chair of the Women's Health Task Force, I closely followed the reports last year indicating that increased funding for breast cancer research had resulted in the discovery of the BRCA-1 gene-link to breast cancer. While the obvious benefits of the discovery include potential lifesaving early detection and intervention, the inherent dangers of the improper use of genetic information are just becoming evident.

We must learn from the lessons of the past. We must remember the disastrous results of discriminating against those genetically predisposed to sickle cell anemia. And, we must guard against history repeating itself. There are recent reports of people with a family history of breast cancer afraid of getting tested for fear of losing access to insurance. We must assure our citizens that advances in our understanding of human genetics will be used to promote health and not to promote discrimination. Both the lessons of the past and the recent discoveries point to the need for comprehensive Federal regulations.

The bill I introduced last December would prevent discrimination by prohibiting insurance providers from: denying or canceling health insurance coverage, or varying the terms and conditions of health insurance coverage, on the basis of genetic information; requesting or requiring an individual to disclose genetic information, and disclosing genetic information without prior written consent.

Mr. Speaker, the provisions contained in the legislation being considered today prohibit the use of genetic information as a preexisting condition. I applaud the inclusion of that aspect of my legislation in the insurance reform packages. However, the provisions are limited in two major respects. One, the pool of people covered by this legislation is restricted to those in the employment market. Two, the legislation does not address the important issue of privacy protection.

I hope that my colleagues and I can continue to work together to apply the prohibitions on genetic discrimination across the board to cover all insurance policies and to prohibit disclosure of genetic information.

As therapies are developed to cure genetic diseases, and potentially to save lives, the women and men affected must be assured access to genetic testing and therapy without concern that they will be discriminated against. As legislators, I believe it is our responsibility to ensure that protection against genetic discrimination is guaranteed. Today, we will take the first step in that direction. I invite my colleagues to join me in making the commitment to ensuring the passage of comprehensive protections against genetic discrimination.

Mr. Speaker, I urge a "no" vote on this rule.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for those who are distressed about the opportunity they might have or might not have a chance to get at the bill known as the Kassebaum-Kennedy-Roukema, I believe it is the substitute that is going to be made in order, and they should take it up with the leadership on the other side of the aisle.

Mr. Speaker, I yield 2 minutes to my friend and colleague, the distinguished gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as the chairman of the Subcommittee on Health and Environment of the Committee on Commerce, I truly believe that reforming our Nation's health care system is one of the most important issues before Congress today.

Mr. Speaker, who does not support insurance portability? Who does not believe that people with preexisting conditions have a right to purchase health insurance at a reasonable price, just like everyone else?

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And who can argue that fraud in our health care system has to be controlled or that unnecessary paperwork should be eliminated? The legislation before us today would address these and other important issues so that they could be enacted into law this year.

Mr. Speaker, our legislation is a starting point for reform, a reasonable beginning in resolving our Nation's health care problems. The bill in the Senate is also a reasonable beginning, and I commend Chairwoman KASSEBAUM for her work, but it does not go far enough. Even the President's bill in the last Congress addressed administrative simplicity and medical malpractice reform. Those, along with waste, fraud, and abuse, are consensus items.

If we enact into law, Mr. Speaker, these important consensus items, then many Americans will certainly benefit. I urge my colleagues to show the American people that we truly want change by supporting this rule and acting now on health reform.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, how often do we get a clear shot at helping 25 million people? Twenty-five million. Today, we have that chance. We can help them stay healthy. We can help them end their fear. We can help them achieve their dreams. Unfortunately, however, some Members of this body do not want us to have a clear shot with a clean bill. They want to gum up the works with proposals we do not need, proposals that doom this entire bill.

Why would they do this? Two words, Mr. Speaker: Special interests.

Mr. Speaker, many Democrats agree, many Republicans agree, the President agrees. Do not gum up the works, do not support special interests over our interests. Twenty-five million people are waiting. Do not let them down. Vote against this rule.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arizona [Mr. SALMON].

Mr. SALMON. Mr. Speaker, I rise to strongly endorse this rule.

I would like to talk about one particular component of the piece of legislation that is exposed in the rule, and that is medical savings accounts. It truly is an idea whose time has come.

Let us face the facts. Those on the other side had more confidence in bureaucracy and the heavy-handed government than they do in individuals. In fact, they do not want to give individuals these kinds of choices because they believe that Washington knows better what their needs are than they know what their own needs are for themselves. Medical savings accounts are being demanded by people out there. In fact, there are some 3,000 companies who are already offering medical savings accounts.

Mr. Speaker, the only problem is our tax policy is discriminatory. It does not give the same kind of tax advantage to people wanting to establish medical savings accounts as it does to those companies providing premium coverage for traditional health care. Despite the charges of the opponents, MSA's are great for sick people and for the less well off. Why? Because you get first-dollar coverage.

It astounds me the arguments that the other side has used against medical savings accounts saying that only healthy people would flock to them. Why? When you have a high deductible health care policy that kicks in when your medical savings account ends, you are going to get first-dollar coverage, and sick people would want it as well as healthy people.

Finally, I would just like to say that they will work, by cutting out the bureaucracy, the redtape and the paperwork and replacing it with a free market. Individuals will be able to shop around and get the best deal that they can. When my last child was born, we had a traditional health care policy that paid $3,500 for the delivery. Two months later my sister-in-law had a baby at the same hospital, same doctor, yet they negotiated a cash payment of $1,500. They work.

Let us talk about special interests, let us talk about the fact that the biggest interest group against this is managed care. Why? Because they would rather see the savings go into the managed care, the HMO programs, than they would back in the individual's pockets. Let us get rid of the heavy-handed government and let us really think about special interests and who is in whose pocket.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. I thank the gentleman from Massachusetts, and I would simply say that every time we address this health reform question, the American people see us collapse. We do not have to collapse today, Mr. Speaker. We can support the Kassebaum-Kennedy-Roukema bill in the Democratic substitute, which allows for portability, and it protects those with preexisting conditions.

In addition, it recognizes the small businessperson who has been working an striving. It allows them an 80-percent deduction for their small business health insurance by the year 2002.

Mr. Speaker, let us stop the game. We know that the medical savings plans are simply for those who are healthy and wealthy. Let us face it. Whenever we hear from our seniors and those that are least able to take care of themselves, they are in these HMO plans and they cap them out, the doctors say I cannot see you because I have limits.

We need real health reform. Let us provide the American worker with portability and the opportunity to be covered for a preexisting condition. Likewise, let us not take the State administrators out of determining whether the rates are too high when you have to pay for an insurance plan. It is time to support a bill that the Senate will support.

The New York Times said, health reform now. But the Republican plan will kill it. Let us be bipartisan. Support the Kennedy-Kassebaum-Roukema bill, which is a Democratic substitute, and make sure that we do not collapse on the American people. Provide them with good health reform, good insurance, portability, and the coverage of preexisting disease.

Mr. Speaker, I rise today in support of the Democratic substitute to the Health Coverage Availability Act. This bill contains the portability provisions found in the Kassebaum-Kennedy-Roukema proposal, and it also increases the tax deduction for the self-employed health insurance costs, which is 30 to 80 percent in 2002, instead of the 50 percent offered in the Republican bill. I believe that this promise of portability assists the American worker who changes jobs and needs health insurance. I also support increasing the tax deduction to 80 percent because it would grant to the self-employed the tax favored status for approximately the same portion of their health insurance costs as is enjoyed by many employees.

This Democratic substitute has the provisions that hold bipartisan support. I believe that we should work together to pass some meaningful health care reform this year, and we should not attach controversial provisions that will defeat the bill. Contrary to what supporters of MSA's claim, medical savings accounts are not equitable. Medical savings accounts will be used primarily by upper income healthy individuals who can afford the high deductible.

I do not support MSA's, because medical savings accounts would appeal mainly to healthy people, and this would leave less healthy people to buy medical coverage at increased cost. This will obviously make health insurance more expensive. This so-called reform measure goes against the goal of real health care reform, which is to create a more standardized health package for everyone and equalize the less healthy and the poorer with those more able. The bill generally prohibits punitive damages in cases involving drug and medical device manufacturers or sellers whose products had been approved by the Food and Drug Administration. Prohibiting punitive damages for pharmaceutical and manufacturers of medical devices takes away their ongoing responsibility to public health after they have received FDA approval.

The Republican bill allows small employers to band together to purchase coverage for their workers but then exempts them from State taxation. I support such associations, however, this bill would take these co-ops out of State administration, and thus makes State level health reform more difficult.

The substitute amendment like the Republican bill assures group to group and group to individual portability. It limits the exclusion for preexisting conditions to 12 months and provides that the exclusion would be reduced by the period of time the person was covered in his or her previous job.

The substitute prohibits insurance carriers and HMO's from denying coverage to employers with two or more employees and prohibits employment-based health plans from excluding any employee from coverage based on health status. This substitute amendment also requires health plans to renew coverage for groups and individuals as long as the premiums are paid. All of these measures help to assure some significant health reform for Americans.

If we are truly committed to health care reform, then I urge my colleagues to pass the substitute amendment. Thank you, Mr. Speaker, and I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Speaker, I thank the gentleman from Florida for yielding me this time.

Mr. Speaker, I rise today in support of Medical Savings Accounts. Unfortunately, MSAs have become a polarizing and partisan issue in this House. By giving MSAs tax treatment that is equal to other types of employer-provided health insurance plans, we will be giving the American people what they desperately need in their health care: Portability, lower costs, and more choices.

MSAs should not be a partisan issue. In fact, Democrats were the initial sponsors of MSAs, and MSAs unanimously passed the House Ways and Means Committee in 1994 during the debate on the Clinton health care plan. While I understand that many of my colleagues do not want to weigh down or destroy any health insurance reform with any extraneous and unnecessary provisions, I believe that MSAs are an essential part of insurance reforms that will benefit all Americans. It goes without saying that the health care of the American people should always hold priority over partisan politics.

Those opposed to MSAs claim that they will lead to adverse risk selection. But of the over 2,000 MSA plans that employers have in place, there are no actual examples of adverse risk selection. And the very sick will save money in most cases because their out of-pocket-costs will be less under MSAs.

I also support basic health insurance provisions included in the Democratic substitute that allow for portability, limits on the exclusion for pre-existing conditions, and increases in the health insurance tax deductions for the self-employed. These provisions would allow employees who get laid off to keep their health insurance, and gives an individual the peace of mind to change jobs or start their own business based on what is best for their career and family without worrying about his or her family's health insurance.

In addition to portability, exclusion of pre-existing conditions, tax deductions, and MSA's, an ideal health insurance reform bill would also include provisions that allow small employers to pool together to purchase health insurance. These small businesses should be allowed the same exemptions from State regulations that big businesses enjoy. But, I do not believe that medical malpractice provisions that put a price on pain and suffering as low as $250,000 should be included in any health insurance bill that we pass today.

In any case, MSA's should be added to health insurance reform because they will lower costs while still giving individuals the freedom to make career decisions based on the best interests of the individual. MSA's do lead to cost containment, as studies have shown. Soaring health costs are a large reason for an increasing anxiety among cash-strapped working Americans, and MSA's are proven to lower costs to employers and employees without sacrificing service and care.

Lastly, MSA's give the consumer unlimited choices. Patients are allowed to shop around to choose their personal doctors based on their own unique needs.

Mr. Speaker, we should subdue our partisan politics for 1 day and include MSA's in health insurance reform so Americans can worry less about their health care and more about their career and family.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, when I talk to my constituents about health insurance reform, basically they say, look, the quality of health care is good in this country, but the problem is a lot of people do not have health care coverage and the cost of health insurance keeps going on.

So when we talk about the Kennedy-Kassebaum-Roukema bill, it accomplishes the goal of expanding coverage because a lot more people that have the problem with preexisting conditions or problems with portability should be able to get health insurance now who were not able to get it before. But on the issue of affordability, essentially by adding these medical savings accounts to this bill, which I think is a big mistake and will essentially kill the bill, what we are doing is making health insurance less affordable, going against the goal and what most people want.

The reason is very simple, and that is why I do not understand some of the comments on the other side. Essentially the people who are going to take advantage of MSAs are people who have a lot of money, or people who are healthy who figure that they can put this money aside and have it collect, and they only need catastrophic health care coverage. People who are sicker and need to go to the doctor or the hospital more often are not going to be able to afford a medical savings account, because they will have to constantly shell out money to pay for the health care coverage that they are receiving.

So what is essentially going to happen is that this risk pool is going to be split. The healthy and the wealthy are going to get out of the risk pool and have the MSAs. The people who are sicker or do not have as much money, probably who will be the majority, they will see their premiums go up; and in essence health insurance will be less affordable.

Vote against the rule and vote against this Republican leadership bill.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, I thank the gentleman from the opportunity to address the question of MSA's and also follow the gentleman from New Jersey [Mr. PALLONE].

I serve as chairman of the Subcommittee on Civil Service of the Committee on Government Reform and Oversight and actually had the opportunity to conduct hearings on MSA's. We have heard the other side of the aisle and the gentleman from New Jersey [Mr. PALLONE] just bash MSA's.

Let me say what Mayor Schundler testified to, the mayor of Jersey City, NJ, who came before our subcommittee. He said MSA's were offered and 60 percent of eligible employees chose MSA's over their previous plan. What were the results? And this is a city facing financial disaster and not being able to provide health care for their employees. The results reduced the out-of-pocket costs to employees and still saved the city about $275 per employee, but they do not want to deal with the facts on the other side.

Let us take another area, a small county, Ada County, ID, testified that under their county's MSA plan, the taxpayer saved money and the employees saved out-of-pocket costs which were reduced.

Then the private sector was at our hearing. At the hearing the subcommittee heard of reported cost savings ranging from 17 to 40 percent by more than 1,000 private businesses that have adopted MSA's.

Finally, how about the AFL–CIO? Let us see what one of their affiliates said. They called MSA's an option offered to their employees a win win situation.

So if we went to provide health care cost effectively, these are the facts, this is the result, and this is how we can do it. It just happens to be a new idea whose time has arrived.

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Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, there is a lot that could and should be said about MSA's. I am going to save that for another time. Right now I would like to spend maybe a minute and a half and talk about the subject of hypocrisy.

Tomorrow the Committee on Rules is going to bring up a rule for a constitutional amendment that would require a two-thirds vote to raise income taxes, and then, the very next legislative day, April 15, when we get back from vacation, we are going to bring that bill up on the floor to require a two-thirds vote.

Now on the first day of this legislative term back in January 1995, we passed a law that was supposed to govern all of our actions that said we require a three-fifths vote to raise taxes, and do you know, every single time it has applied, it has been waived, and here is the third time that the Committee on Rules again waives the three-fifths requirement.

We had to waive it, with that Contract With America, Tax Relief Act that was a big issue. Remember I raised a point of order. It turns out that, sure enough, it did include a tax increase. So the Parliamentarian recognized we had to waive it.

The second time we had the budget resolution, we had the Committee on Rules had to waive it, and now the third time we have got tax increases here. We are going to waive the rule because it is inconvenient to let it apply to this bill, but is it not unbelievable that tomorrow the Committee on Rules—just for pure expedience, political gain—is going to bring up this rule saying that you need a two-thirds vote, putting it in the Constitution and then expecting us to vote on it April 15. Unbelievable. I think some of the members of the Committee on Rules ought to be embarrassed about this one.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. ROYCE].

Mr. ROYCE. Mr. Speaker, I rise in support of the rule and this legislation because this legislation gives individuals greater control over their own health care through the introduction of medical savings accounts.

These medical savings accounts put individuals in charge of their own health care. It gives them greater freedom and more choices, and it will drive down costs. At the same time, they help resolve the portability issue.

One problem with the current health insurance system in this country is that coverage for working people is usually tied to the job rather than the individual. Medical savings accounts, which would be owned by the individual for life, move with the individual. It is the ultimate in portability.

Medical savings accounts are becoming increasingly common in the public sector. This popularity in the private sector is even more significant considering the fact that they are handicapped by tax laws which give deductions to employers who pay their workers' insurance premiums but not to the employers who are paying into the medical savings accounts. This inequitable tax treatment penalizes individuals who want to select their own health providers and plans as well as individuals without health plans at work.

The legislation before us today removes this handicap and allows individuals and employers to make tax-deductible contributions to the accounts when employees are covered by a high deductible health insurance policy.

Further, in allowing for a tax-free buildup of these accounts, this bill makes the choice of medical savings accounts available to many more Americans, and everyone owning an MSA would have an incentive to spend their money wisely. That is a marked contrast to the use-it-or-lose-it approach fostered by third-payer plans. The savings would be theirs, and so would the choice.

The competition would also put pressure on providers to reduce costs so everyone would benefit, and while MSA options may not solve every problem, it would certainly help consumers giving them more choices, more control, lifetime security, and lower costs.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan [Mr. DINGELL], the former chairman of the Committee on Commerce.

Mr. DINGELL. Mr. Speaker, I rise in opposition to this closed rule.

I want to acknowledge the gracious reception I received at the Committee on Rules hearing yesterday from Chairman SOLOMON and the other members of the Rules Committee. And I appreciate that the rule makes in order a substitute, which I will offer together with my colleagues (Mr. SPRATT and Mr. BENTSEN), that will enable us to pare this bill down to two simple and uncontroversial propositions: a clean Kassebaum-Roukema bill, and tax deductibility of health insurance for the self-employed.

But what we asked for was an open rule, and we have not gotten one. Thus, while the Republican leadership has loaded this bill down with a fine assortment of goodies for their friends in the health insurance industry, the medical profession, the HMO's, and other special pleaders, Democrats will not have a fair opportunity out here on the floor to make changes in those special-interest provisions.

For example, I had hoped to offer an amendment to strike a provision in the Republican bill that contains a sneak attack on the pocketbooks of America's seniors. This sneaky provision would put millions of our senior citizens at the mercy of health insurance scam artists who want to sell policy after policy to the same frightened and infirm people, whether they need it or not. The Republican bill would repeal existing protections in the Medicare law that regulate the sale of duplicative policies that had seniors paying premiums over and over again for coverage they didn't need.

But my amendment was not made in order. It seems that my Republican colleagues care more about helping their friends in the health insurance business than about protecting seniors from rip-offs. Oppose this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, the original bill had broad bipartisan support that guaranteed that those who lose their job for any reason can still get health insurance coverage.

This bill is loaded up with so many special interest provisions that for the consumer, the poor and the sick, it does more harm than good. The medical savings accounts will allow a few health people to take money out of the Medicare Program, leaving behind a group that are, on average, sicker and, therefore, will have higher health care costs.

The malpractice changes are all slanted to help the wrongdoer at the expense of the victim. They only preempt State laws to the extent that they hurt the victim. Incredibly, the bill provides if the victim is hurt worse under State law, then the State law prevails.

Mr. Speaker, we should reject the special-interest wrongdoer protections and instead pass the original bipartisan consumer protection health care bill.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I am sure that the Members are watching and listening to this debate on the rule for the so-called Health Coverage Availability and Affordability Act.

I hope Members will really take a look at what is happened here. This is blatant politics and blatant hypocrisy. The bill's title speaks of laudatory goals, while the provisions of the bill for medical savings accounts will ultimately have adverse effects on health insurance policies of all persons in this country who are not wealthy and cannot afford a medical savings account. The Golden Rule Insurance Co. is being repaid by the Gingrich majority for Golden Rules contribution to GOPAC and the Republican's campaign coffers. It's more than 30 pieces of silver. It is millions from taxpayers' pockets to put into the pockets of Golden Rule. Blatant politics and blatant hypocrisy.

Mr. GOSS. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Speaker, I would like to talk about what the American people want and the facts about the bill before us. They want medical insurance that is available, affordable, and portable. Most Americans without health insurance work for small business. Most small businesses also want to provide health insurance to their employees but find it too expensive to do so. Large corporations, on the other hand, are able to buy health insurance in bulk for their thousands of employees at more affordable rates.

Current law does not give small businesses the same opportunities to join together with other small businesses and purchase insurance in bulk. The end result is that insurance is not affordable.

Our bill makes health insurance affordable and available for small businesses by allowing them to pool together and buy insurance for their employees in bulk at affordable rates. This change will make medical insurance available and affordable for tens of millions of Americans who work for small businesses and have no insurance today. This is supported by small business associations across the board and deserves the full support of Congress.

We also make insurance more portable. We make it easier for employees to take their health insurance with them when they change jobs. For too long employees have resisted changing jobs and advancing in their careers because of fear of losing their health insurance. By making health insurance more portable, we open new job opportunities for millions of Americans. This is a good bill. Let us pass the bill. Let us pass the rule. If there is anything blatant about this, it is blatant democracy at work.

Mr. GOSS. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Florida [Mr. SCARBOROUGH].

Mr. SCARBOROUGH. Mr. Speaker, I have been really intrigued by this debate. We hear actually some of the architects of the Clinton health care plan, that would socialize the health care system and one-seventh of our economy, lecturing us on how we need to now fix health care in America. Very intriguing.

The fact of the matter is that what it shows is we have two different views of America; those Americans who believe in empowering Americans, and those Americans who believe that we must socialize government, socialize health care, and do everything we can to take the decision out of the hands of the consumers and the doctors.

Who could not like medical savings accounts? Who could not? They take the middle man out. They give power to patients and doctors, family doctors, to sit down and decide what the best course of treatment is to cure people who are ill that come to their office without_ having to call an insurance company first and decide how to use the money.

Somebody said it helps special interests and actually drives up costs. Let me tell my colleagues, that is a novel approach. I wonder what economics class has ever been taught that shows that free enterprise and empowering consumers drives up the cost of medical care. It makes absolutely no sense.

So let us look at the two different views of America. With Democrats in control, they wanted to socialize; with the Republicans in control, we want to privatize. We want to drive down cost, and we want to empower doctors and patients to sit down together and decide what is best for their medical future. That makes sense to me.

I support the rule and the bill.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I thank my colleague for yielding this time to me.

Mr. Speaker, I rise in support of this rule. The legislation we will vote on today addressed the most fundamental and important issues that currently prevent a large majority of the uninsured from accessing the health care system.

What do Americans want from Health Care Reform?

They want health care reform that ensures portability, controls costs, and expands access.

If we are to have true health care reform, we must include malpractice reforms, medical savings accounts, increases in tax deduction for health insurance for self-employed individuals, provisions to prevent waste, fraud, and abuse, and administrative reforms. Without providing such necessary relief, we will not succeed in bringing down the costs associated with delivering health care.

Passage of this bill will benefit all Americans, especially the 39 million who lack any type of health coverage. These individuals must live in constant fear of becoming sick and not having the necessary insurance to meet their medical needs.

Lastly, I am particularly pleased that my suggestion to include "genetic information" in the definition of health status was agreed to and made part of the final package. I believe by doing so we have enhanced and made it an even better piece of legislation. I will have more to say about this in the next period of debate.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, I find it amazing that last year the group that wanted to nationalize health care has taken exception with the Republican Party because we want to go beyond the portability issue. What is it that we want to do that we disagree? Medical savings accounts, giving consumers choices rather than command-and-control Washington Bureaucrats. We want to stop waste, fraud, and abuse.

I realize the Democratic Party is partial to waste, and I can understand that. We want to stop medical malpractice, and we have tort reform. The Hill newspaper, though, explains the Democrats' position on that with $2.2 million in campaign contributions last year going to political candidates, 94 percent Democrats.

I will put this in the RECORD, Mr. Speaker.

That is why they are against this. It is a tort reform issue. It is a trial lawyers' issue. They are also against small businesses. I like the idea of pet shops, clothes stores, bicycle shops, combining together to get economies of scale that large corporations can. My small businesses are in favor of that, as are all small businesses all over America. Then again, the Democratic Party has never been partial to small businesses. What is it on long-term health care? We want long-term health care.

Mr. Speaker, I support the rule and strongly urge a "yes" vote on the bill.

The article referred to follows:

TRIAL ATTORNEYS SEEK MORE HILL CLOUT

(By Craig Karmin)

In a move that would increase the political power of trial lawyers and benefit Democratic congressional candidates, the Association of Trial Lawyers of America is planning a new program to encourage its members to contribute to ATLA-endorsed candidates.

These individual contributions would supplement ATLA's political action committee, which was the sixth largest contributor during the 1994 elections. It donated more than $2.2 million to congressional campaigns, with Democrats receiving 94 percent of the funds. In 1995, despite Republican majorities in the House and Senate, the association gave 79 percent of its $700,000 in campaign contributions to Democrats.

The political and financial clout of the trial lawyers has been credited with President Clinton's threat to veto the product liability law, and the group has come under fire from congressional Republicans.

According to a letter the association sent to the Federal Election Commission, ATLA would "obtain advance commitments from its members to contribute a specified amount" to certain candidates. It would further "recommend the size of contributions that members should send to particular candidates" and "suggest when members should mail their contributions."

The FEC met last week on the subject and is expected to approve ATLA's request to engage in these activities in the near future. But these contributions could be prohibited under bipartisan campaign finance reform bills pending in both the House and Senate. ATLA contends that these contributions are constitutionally protected by the First Amendment.

The association's plan to strongly urge its 60,000 members to contribute to congressional campaigns would expand the power and influence of an already formidable special interest on Capitol Hill and in the White House.

Josh Goldstein of the Center for Responsive Politics said he thought the ATLA plan would provide "a way for trial lawyers to distinguish themselves from other lawyers when giving to campaigns," and therefore "give them more bang for their buck on Capitol Hill."

ATLA's program encouraged Democrats about their chances in the fall elections. "I think it could impact a number of races because it will probably benefit Democrats more than Republicans," said Don Sweizer, a Democratic consultant and former finance director at the Democratic National Committee. "It's good news for our team."

Republicans seemed to agree. "In general, I think Republicans should be concerned," said Dawn Sciarrino, a vice president at Brockmeyer, Allen and Associates, a Republican consulting firm. "This helps them funnel a great deal of money to the candidates of their choice."

Pam Liapakis, president of ATLA, said that she was inspired by a similar program at EMILY's List, an association whose contributors give money to Democratic pro-choice women candidates. Liapakis expects to have the program "up and running" well before the November elections.

But if campaign reformers have their way, this could be the only election in which ATLA, EMILY's List, or any other organization can engage in what is sometimes referred to as "bundling" contributions. Bipartisan campaign finance reform bills submitted in the House and Senate would ban this kind of activity.

Liapakis, however, said she believed ATLA's program was within the law. "There is a right under the First Amendment to communicate and to participate in elections," she said.

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Mr. MOAKLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Speaker, as a physician, I am particularly concerned with the section of this bill that many may not have had a chance to study. Buried within the 300-plus pages of this bill is a 29-page section called "Administrative simplification."

Now, "administrative simplification" has a nice right to it, but let me tell you why everyone concerned with the future of health care in this country should oppose the inclusion of this section in any health care reform bill.

First of all, section 1173 on page 222 forces a physician to reveal confidential patient information for billing purposes. The bill says "The Secretary shall adopt standards for transactions and data elements for such transactions to enable health information to be exchange electronically." This bill sets up electronic clearinghouses for all the health care administration information in this country.

Now, among the transactions that doctors will be forced to make, on page 223, it says "Claims or equivalent encounter information." This will require doctors to submit not just general information, but personal, private information that patients need to disclose to their doctors.

Next, this bill fails to adequately protect the privacy of patient health information, which is vital if you are going to have good quality care in this country. Instead of actual privacy protections, the administrative simplification section provided vague promises to develop privacy standards in the future.

The bottom of page 226, part E of section 1173, it says "Privacy standards for health information." It reads, "The Secretary shall adopt standards with respect to the privacy of individually identifiable health information."

Now, we do not know what those protections are going to look like, yet we are going to set in place a collection mechanism from all the patients in this country in this bill. We have overridden all States, all insurance commissioners, everybody else in one provision, stuck in a 300-page bill that most people on this floor have never read.

When I asked in the Committee on Ways and Means about this section, they said it has been cleared with all the groups. So I called some of the groups, and it has not been cleared with the groups. They understand that this is an invasion of privacy.

I cannot understand how Republicans can be putting a bill out here that invades the public privacy for people who say they want privacy, and they want the Government out of their lives, to suddenly say to the insurance industry in a 29-page section buried in this bill, you can gather all the information you want and have a electronic transfer, so any insurance company can type in a name and here it will come printed out somewhere in a computer somewhere.

That is what is being set up in this bill, and it is for the insurance industry, and everybody ought to understand it. You are going to come to rue the day that you pass this bill without talking about it.

Mr. MOAKLEY. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. KOLBE). The gentleman from Massachusetts is recognized for 1½ minutes.

Mr. MOAKLEY. Mr. Speaker, I urge a "no" vote on the previous question. If the previous question is defeated, I shall offer an amendment to the rule which will make in order the amendment by the gentleman from Wisconsin [Mr. GUNDERSON], the gentleman from Illinois [Mr. POSHARD], the gentleman from Kansas [Mr. ROBERTS], the gentleman from Texas [Mr. STENHOLM], the gentleman from Minnesota [Mr. GUTKNECHT], and other members of the Rural Health Coalition.

Yesterday several of these members appeared before the Committee on Rules and spoke eloquently on the importance of a 24-hour emergency care antitrust relief to small rural hospitals and expanded telemedicine services in rural areas. It is important when we consider health care reform to ensure that Americans who live in small towns and rural communities are able to enjoy the same access to health care as those in urban areas.

Mr. Speaker, the text of my proposed amendment is as follows:

PREVIOUS QUESTION AMENDMENT TEXT (H.R. 3103–H. RES. 392)

On page 3, line 11 of House Resolution 392, immediately after "opponent;" strike "and 93)" and insert the following:

"(3) the amendment printed in Section 2 of the resolution by Representatives Gunderson, Poshard, Roberts and Gutknecht or their designee, which shall be in order without intervention of any point of order (except those arising under section 425(a) of the Congressional Budget Act of 1974) or demand for division of the question, shall be considered as read, and shall be separately debatable for 30 minutes equally divided and controlled by the proponent and opponent; and (4)".

At the end of the resolution, add the following new section:

"Sec. 2. At the end of the bill, add the following new title (and conform the table of contents accordingly):

TITLE V—PROMOTING ACCESS AND AVAILABILITY OF HEALTH COVERAGE IN RURAL AREAS

Subtitle A—Medicare Program

SEC. 501. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 of the Social Security Act (42 U.S.C. 1395i–4) is amended to read as follows:

"MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

"SEC. 1820. (a) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (b) may establish a medicare rural hospital flexibility program described in subsection (c).

"(b) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (c) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of one or more rural health networks (as defined in subsection (d)) in the State,

"(ii) promotes regionalization of rural health services in the State, and

"(iii) improves access to hospital and other health services for rural residents of the State;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

"(3) such other information and assurances as the Secretary may require.

"(c) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

"(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (b), may establish a medicare rural hospital flexibility program that provides that—

"(A) the State shall develop at least one rural health network (as defined in subsection (d)) in the State; and

"(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

"(2) STATE DESIGNATION OF FACILITIES.—

"(A) IN GENERAL.—A State may designate one or more facilities as a critical access hospital in accordance with subparagraph (B).

"(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

"(i) is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

"(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection, or

"(II) is certified by the State as being a necessary provider of health care services to residents in the area;

"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

"(iii) provides not more than 6 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 72 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 72-hour restriction on a case-by-case basis;

"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

"(II) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off-site basis under arrangements as defined in section 1861(w)(1), and

"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(v) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

"(d) RURAL HEALTH NETWORK DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital, and

"(B) at least 1 hospital that furnishes acute care services.

"(2) AGREEMENTS.—

"(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

"(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communications systems including (where feasible)—

"(I) telemetry systems, and

"(II) systems for electronic sharing of patient data.

"(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

"(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least 1—

"(i) hospital that is a member of the network;

"(ii) peer review organization or equivalent entity; or

"(iii) other appropriate and qualified entity identified in the State rural health care plan.

"(e) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (c);

"(2) is designated as a critical access hospital by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(f) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a critical access hospital solely because, at the time the facility applies to the State for designation as a critical access hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed 12 beds (minus the number of inpatient beds used for providing inpatient care in the facility pursuant to subsection (c)(2)(B)(iii)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a critical access hospital.

"(g) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.".

(b) PART A AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) DEFINITIONS.—Section 1861(mm) of such Act (42 U.S.C. 1395x(mm)) is amended to read as follows:

"Critical Access Hospital; Critical Access Hospital Services

"(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(e).

"(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(2) COVERAGE AND PAYMENT.—(A) Section 1812(a)(1) of such Act (42 U.S.C. 1395d(a)(1)) is amended by striking "or inpatient rural primary care hospital services" and inserting "or inpatient critical access hospital services".

(B) Sections 1813(a) and section 1813(b)(3)(A) of such Act (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient rural primary care hospital services" each place it appears, and inserting "inpatient critical access hospital services".

(C) Section 1813(b)(3)(B) of such Act (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services".

(D) Section 1814 of such Act (42 U.S.C. 1395f) is amended—

(i) in subsection (a)(8) by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(ii) in subsection (b), by striking "other than a rural primary care hospital providing inpatient rural primary care hospital services," and inserting "other than a critical access hospital providing inpatient critical access hospital services,"; and

(iii) by amending subsection (l) to read as follows:

"(l) PAYMENT FOR INPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(3) TREATMENT OF CRITICAL ACCESS HOSPITALS AS PROVIDERS OF SERVICES.—(A) Section 1861(u) of such Act (42 U.S.C. 1395x(u)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking "a rural primary care hospital" and inserting "a critical access hospital".

(4) CONFORMING AMENDMENTS.—(A) Section 1128A(b)(1) of such Act (42 U.S.C. 1320a-7a(b)(1)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(B) Section 1128B(c) of such Act (42 U.S.C. 1320a-7b(c)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(C) Section 1134 of such Act (42 U.S.C. 1320b-4) is amended by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(D) Section 1138(a)(1) of such Act (42 U.S.C. 1320b-8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital".

(E) Section 1816(c)(2)(C) of such Act (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(F) Section 1833 of such Act (42 U.S.C. 1395l) is amended—

(i) in subsection (h)(5)(A)(iii), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (i)(1)(A), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (i)(3)(A), by striking "rural primary care hospital services" and inserting "critical access hospital services";

(iv) in subsection (l)(5)(A), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(v) in subsection (l)(5)(B), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(G) Section 1835(c) of such Act (42 U.S.C. 1395n(c)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(H) Section 1842(b)(6)(A)(ii) of such Act (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(I) Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services"; and

(II) in paragraph (2), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in the last sentence of subsection (e), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (v)(1)(S)(ii)(III), by striking "rural primary care hospital" and inserting "critical access hospital";

(iv) in subsection (w)(1), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(v) in subsection (w)(2), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(J) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(K) Section 1866(a)(1) of such Act (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by striking "rural primary care hospitals" and inserting "critical access hospitals";

(ii) in subparagraph (H), in the matter preceding clause (i), by striking "rural primary care hospitals" and "rural primary care hospital services" and inserting "critical access hospitals" and "critical access hospital services", respectively;

(iii) in subparagraph (I), in the matter preceding clause (i), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking "rural primary care hospitals" and inserting "critical access hospitals", and

(II) in clause (i), by striking "rural primary care hospital" and inserting "critical access hospital".

(L) Section 1866(a)(3) of such Act (42 U.S.C. 1395cc(a)(3)) is amended—

(i) by striking "rural primary care hospital" each place it appears in subparagraphs (A) and (B) and inserting "critical access hospital"; and

(ii) in subparagraph (C)(ii)(II), by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(M) Section 1867(e)(5) of such Act (42 U.S.C. 1395dd(e)(5)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(c) PAYMENT CONTINUED TO DESIGNATED EACHS.—Section 1886(d)(5)(D) of such Act (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(1) in clause (iii)(III), by inserting "as in effect on September 30, 1995" before the period at the end; and

(2) in clause (v)—

(A) by inserting "as in effect on September 30, 1995" after "1820 (i)(1)"; and

(B) by striking "1820(g)" and inserting "1820(e)".

(d) PART B AMENDMENTS RELATING TO CRITICAL ACCESS HOSPITALS.—

(1) COVERAGE.—(A) Section 1861(mm) of such Act (42 U.S.C. 1395x(mm)) as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.".

(B) Section 1832(a)(2)(H) of such Act (42 U.S.C. 1395k(a)(2)(H)) is amended by striking "rural primary care hospital services" and inserting "critical access hospital services".

(2) PAYMENT.—(A) Section 1833(a) of such Act (42 U.S.C. 1395l(a)) is amended in paragraph (6), by striking "outpatient rural primary care hospital services" and inserting "outpatient critical access hospital services".

(B) Section 1834(g) of such Act (42 U.S.C. 1395m(g)) is amended to read as follows:

"(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1996.

SEC. 502. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS.

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services

"(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:

"(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).

"(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.

"(C) The facility is in danger of closing due to low inpatient utilization rates and operating losses, and the closure of the facility would limit the access to emergency services of individuals residing in the facility's service area.

"(D) The facility has entered into (or plans to enter into) an agreement with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receive data from and transmit data to the facility.

"(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.

"(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.

"(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraphs (E) and (F); and

"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part-time, off-site basis.

"(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' were deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners or nurses'); except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).

"(2) The term 'rural emergency access care hospital services' means the following services provided by a rural emergency access care hospital and furnished to an individual over a continuous period not to exceed 24 hours (except that such services may be furnished over a longer period in the case of an individual who is unable to leave the hospital because of inclement weather):

"(A) An appropriate medical screening examination (as described in section 1867(a)).

"(B) Necessary stabilizing examination and treatment services for an emergency medical condition and labor (as described in section 1867(b)).".

(b) REQUIRING RURAL EMERGENCY ACCESS CARE HOSPITALS TO MEET HOSPITAL ANTI-DUMPING REQUIREMENTS.—Section 1867(e)(5) of such Act (42 U.S.C. 1395dd(e)(5)) is amended by striking "1861(mm)(1))" and inserting "1861(mm)(1)) and a rural emergency access care hospital (as defined in section 1861(oo)(1))".

(c) COVERAGE AND PAYMENT FOR SERVICES.—

(1) COVERAGE.—Section 1832(a)(2) of such Act (42 U.S.C. 1395k(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (I);

(B) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).".

(2) PAYMENT BASED ON PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—

(A) IN GENERAL.—Section 1833(a)(6) of such Act (42 U.S.C. 1395l(a)(6)), as amended by section 501(f)(2), is amended by striking "services," and inserting "services and rural emergency access care hospital services,".

(B) PAYMENT METHODOLOGY DESCRIBED.—Section 1834(g) of such Act (42 U.S.C. 1395m(g)), as amended by section 501(f)(2)(B), is amended—

(i) in the heading, by striking "SERVICES" and inserting "SERVICES AND RURAL EMERGENCY ACCESS CARE HOSPITAL SERVICES"; and

(ii) by adding at the end the following new sentence: "The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning on or after October 1, 1996.

SEC. 503. CLASSIFICATION OF RURAL REFERRAL CENTERS.

(a) PROHIBITING DENIAL OF REQUEST FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.—

(1) IN GENERAL.—Section 1886(d)(10)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

"(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which is classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.".

(2) EFFECTIVE DATE.—Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board during the 30-day period beginning on the date of the enactment of this Act requesting a change in its classification for purposes of determining the area wage index applicable to the hospital under section 1886(d)(3)(D) of such Act for fiscal year 1997, if the hospital would be eligible for such a change in its classification under the standards described in section 1886(d)(10)(D) of such Act (as amended by paragraph (1)) but for its failure to meet the deadline for applications under section 1886(d)(10)(C)(ii) of such Act.

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1994 shall be classified as such a rural referral center for fiscal year 1997 and each subsequent fiscal year.

Subtitle B—Small Rural Hospital Antitrust Fairness

SEC. 511. ANTITRUST EXEMPTION.

The antitrust laws shall not apply with respect to—

(1) the merger of, or the attempt to merge, 2 or more hospitals,

(2) a contract entered into solely by 2 or more hospitals to allocate hospital services, or

(3) the attempt by only 2 or more hospitals to enter into a contract to allocate hospital services,

if each of such hospitals satisfies all of the requirements of section 512 at the time such hospitals engage in the conduct described in paragraph (1), (2), or (3), as the case may be.

SEC. 512. REQUIREMENTS.

The requirements referred to in section 511 are as follows:

(1) The hospital is located outside of a city, or in a city that has less than 150,000 inhabitants, as determined in accordance with the most recent data available from the Bureau of the Census.

(2) In the most recently concluded calendar year, the hospital received more than 40 percent of its gross revenue from payments made under Federal programs.

(3) There is in effect with respect to the hospital a certificate issued by the Health Care Financing Administration specifying that such Administration has determined that Federal expenditures would be reduced, consumer costs would not increase, and access to health care services would not be reduced, if the hospital and the other hospitals that requested such certificate merge, or allocate the hospital services specified in such request, as the case may be.

SEC. 513. DEFINITION.

For purposes of this title, the term "antitrust laws" has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies with respect to unfair methods of competition.

Subtitle C—Miscellaneous Provisions

SEC. 521. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS.

"(a) GENERAL RULE.—Gross income shall not include any qualified loan repayment.

"(b) QUALIFIED LOAN REPAYMENT.—For purposes of this section, the term 'qualified loan repayment' means any payment made on behalf of the taxpayer by the National Health Service Corps Loan Repayment Program under section 338B(g) of the Public Health Service Act.".

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 338B(g) of the Public Health Service Act is amended by striking "Federal, State, or local" and inserting "State or local".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. National Health Service Corps loan repayments.

"Sec. 138. Cross references to other Acts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made under section 338B(g) of the Public Health Service Act after the date of the enactment of this Act.

SEC. 522. TELEMEDICINE SERVICES.

The Secretary of Health and Human Services shall establish a methodology for making payments under part B of the medicare program for telemedicine services furnished on an emergency basis to individuals residing in an area designated as a health professional shortage area (under section 332(a) of the Public Health Service Act).

Mr. Speaker, every single rule the House has adopted this session has been a restrictive rule. You heard that correctly. The Republican House has so far adopted 100 percent restrictive rules in this session. If it is adopted, the rule before us will leave that 100 percent purely restrictive rules record intact.

This is the 65th restrictive rule reported out of the Committee on Rules in this Congress. In addition, 71 percent of the legislation considered this session has not been reported from committee. Ten out of 14 measures brought up this session have been unreported. Mr. Speaker, I include the following material for the RECORD:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 101	To transfer a parcel of land to the Taos Pueblo Indians of New Mexico.	H. Res. 51	Open	N/A.
H.R. 400	To provide for the exchange of lands within Gates of the Arctic National Park Preserve.	H. Res. 52	Open	N/A.
H.R. 440	To provide for the conveyance of lands to certain individuals in Butte County, California.	H. Res. 53	Open	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min. each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	N/A.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1977	Interior Appropriations	H.Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments preprinted before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 Of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority. ***RULE AMENDED***.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title..	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min.); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	ID.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min.) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min.), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional record.	N/A.
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min.) If adopted, it is considered as base text; Pre-printing gets priority.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes).	1D
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes).	1D
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min.); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min.); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min.) on regulatory reform.	5R
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A.
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A.
H.R. 1788	Amtrak Reform and Privatization Act of 1995	H. Res. 289	Open; waives all points of order against the bill's consideration; makes in order the Transportation substitute modified by the amend in the report; Bill read by title; waives all points of order against the substitute; makes in order a managers amend as the first order of business, if adopted it is considered-base text (10 min.); waives all points of order against the amendment; Pre-printing gets priority.	N/A.
H.R. 1350	Maritime Security Act of 1995	H. Res. 287	Open; makes in order the committee substitute as original text; makes in order a managers amendment which if adopted is considered as original text (20 min.) unamendable; pre-printing gets priority.	N/A.
H.R. 2621	To Protect Federal Trust Funds	H. Res.	Closed; provides for the adoption of the Ways & Means amendment printed in the report. 1 hr. of general debate.	N/A.
H.R. 1745	Utah Public Lands Management Act of 1995	H.Res. 303	Open; waives cl 2(l)(6) of rule XI and sections 302(f) and 311(a) of the Budget Act against the bill's consideration. Makes in order the Resources substitute as base text and waives cl 7 of rule XVI and sections 302(f) and 308(a) of the Budget Act; makes in order a managers' amend as the first order of business, if adopted it is considered base text (10 min)..	N/A.
H.Res. 304	Providing for Debate and Consideration of Three Measures Relating to U.S. Troop Deployments in Bosnia.	N/A	Closed; makes in order three resolutions; H.R. 2770 (Dorman), H.Res. 302 (Buyer), and H.Res. 306 (Gephardt); 1 hour of debate on each..	1D; 2R
H.Res. 309	Revised Budget Resolution	H.Res. 309	Closed; provides 2 hours of general debate in the House.	N/A.
H.R. 558	Texas Low-Level Radioactive Waste Disposal Compact Consent Act	H.Res. 313	Open; pre-printing gets priority	N/A.
H.R. 2677	The National Parks and National Wildlife Refuge Systems Freedom Act of 1995.	H. Res. 323	Closed; consideration in the House; self-executes Young amendment	N/A.
PROCEDURE IN THE 104TH CONGRESS 2D SESSION				
H.R. 1643	To authorize the extension of nondiscriminatory treatment (MFN) to the products of Bulgaria.	H. Res. 334	Closed; provides to take the bill from the Speaker's table with the Senate amendment, and consider in the House the motion printed in the Rules Committee report; 1 hr. of general debate; previous question is considered as ordered. ** NR.	N/A.
H.J. Res. 134 H. Con. Res. 131	Making continuing appropriations/establishing procedures making the transmission of the continuing resolution H.J. Res. 134.	H. Res. 336	Closed; provides to take from the Speaker's table H.J. Res. 134 with the Senate amendment and concur with the Senate amendment with an amendment (H. Con. Res. 131) which is self-executed in the rule. The rule provides further that the bill shall not be sent back to the Senate until the Senate agrees to the provisions of H. Con. Res. 131. ** NR.	N/A.
H. R. 1358	Conveyance of National Marine Fisheries Service Laboratory at Gloucester, Massachusetts.	H. Res. 338	Closed; provides to take the bill from the Speakers table with the Senate amendment, and consider in the house the motion printed in the Rules Committee report; 1 hr. of general debate; previous quesetion is considered as ordered. ** NR.	N/A.
H.R. 2924	Social Security Guarantee Act	H. Res. 355	Closed; ** NR	N/A.
H.R. 2854	The Agricultural Market Transition Program	H. Res. 366	Restrictive; waives all points of order against the bill; 2 hrs of general debate; makes in order a committee substitute as original text and waives all points of order against the substitute; makes in order only the 16 amends printed in the report and waives all points of order against the amendments; circumvents unfunded mandates law; Chairman has en bloc authority for amends in report (20 min.) on each en bloc..	5D; 9R; 2 Bipartisan.
H.R. 994	Regulatory Sunset & Review Act of 1995	H.Res 368	Open rule; makes in order the Hyde substitute printed in the Record as original text; waives cl 7 of rule XVI against the substitute; Pre-printing gets priority; vacates the House action on S. 219 and provides to take the bill from the Speakers table and consider the Senate bill; allows Chrmn. Clinger a motion to strike all after the enacting clause of the Senate bill and insert the text of H.R. 994 as passed by the House (1 hr) debate; waives germaneness against the motion; provides if the motion is adopted that it is in order for the House to insist on its amendments and request a conference.	N/A.
H.R. 3021	To Guarantee the Continuing Full Investment of Social security and Other Federal Funds in Obligations of the United States.	H.Res 371	Closed rule; gives one motion to recommit, which if it contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	N/A.
H.R. 3019	A Further Downpayment Toward a Balanced Budget	H.Res. 372	Restrictive; self-executes CBO language regarding contingency funds in section 2 of the rule; makes in order only the amendments printed in the report; Lowey (20 min), Istook (20 min), Crapo (20 min), Obey (1 hr); waives all points of order against the amendments; give one motion to recommit, which if contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	2D/2R.
H.R. 2703	The Effective Death Penalty and Public Safety Act of 1996	H. Res. 380	Restrictive; makes in order only the amendments printed in the report; waives all points of orer against the amendments; gives Judiciary Chairman en bloc authority (20 min.) on enblocs; provides a Senate hook-up with S. 735. ** NR.	6D; 7R; 4 Bipartisan.
H.R. 2202	The Immigration and National Interest Act of 1995	H. Res. 384	Restrictive; waives all points of order against the bill and amendments in the report except for those arising under sec. 425(a) of the Budget Act (unfunded mandates); 2 hrs. of general debate on the bill; makes in order the committee substitute as base text; makes in order only the amends in the report; gives the Judiciary Chairman en bloc authority (20 min.) of debate on the en blocs; self-executes the Smith (TX) amendment re: employee verification program..	12D; 19R; 1 Bipartisan.
H.J. Res. 165	Making further continuing appropriations for FY 1996	H. Res. 386	Closed; provides for the consideration of the CR in the House and gives one motion to recommit which may contain instructions only if offered by the Minority Leader; the rule also waives cl 4(b) of rule XI against the following: an omnibus appropriations bill, another CR, a bill extending the debt limit. ** NR.	N/A.
H.R. 125	The Gun Crime Enforcement and Second Amendment Restoration Act of 1996.	H. Res. 388	Closed; self-executes an amendment; provides one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee. ** NR.	N/A
H.R. 3136	The Contract With America Advancement Act of 1996	H. Res. 391	Closed; provides for the consideration of the bill in the House; self-executes an amendment in the Rules report; waives all points of order, except sec. 425(a)(unfunded mandates) of the CBA, against the bill's consideration; orders the PQ except 1 hr. of general debate between the Chairman and Ranking Member of Ways and Means; one Archer amendment (10 min.); one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee; Provides a Senate hookup if the Senate passes S. 4 by March 30, 1996. **NR.	N/A

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 3103	The Health Coverage Availability and Affordability Act of 1996	H. Res. 392	Restrictive: 2 hrs. of general debate (45 min. split by Ways and Means) (45 split by Commerce) (30 split by Economic and Educational Opportunities); self-executes H.R. 3160 as modified by the amendment in the Rules report as original text; waives all points of order, except sec. 425(a) (unfunded mandates) of the CBA; makes in order a Democratic substitute (1 hr.) waives all points of order, except sec. 425(a) (unfunded mandates) of the CBA, against the amendment; one motion to recommit which may contain instructions only if offered by the Minority Leader or his designee; waives cl 5(c) of Rule XXI (requiring 3/5 vote on any tax increase) on votes on the bill, amendments or conference reports.	N/A

*Contract Bills, 67% restrictive; 33% open. **All legislation 1st Session, 53% restrictive; 47% open. ***All legislation 2d Session, 94% restrictive; 6% open. ****All legislation 104th Congress, 65% restrictive; 35% open. *****NR indicates that the legislation being considered by the House for amendment has circumvented standard procedure and was never reported from any House committee. ******Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103d Congress. N/A means not available.

Mr. GOSS. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from Florida is recognized for 1 minute.

Mr. GOSS. Mr. Speaker, first of all I would like to say that we have considered many amendments in this process and it is quite clear there are many good ideas.

This does not pretend to be comprehensive health care reform. This is very special, and it is meant to be doable and accomplished now, to take a subject we think we can do to make improvement for access and affordability for a great many Americans, to take the bill the Senate has worked on and to make it better here and to send it to the American people. We think that is doable.

We have given the other side two bites at this. We have given them their own substitute and the right to recommit, of course.

Some have said, "Oh, my gosh; what we need to do here is get back on the health care track." Let me remind you, the health care track of the last 40 years was derailed in a monumental train wreck under the Clinton administration. They cannot even find the engineer for that.

We now have something that is doable today, and all we need to do is get this rule on the floor, have the debate, vote this health care reform, and we come out with more health care opportunities for more Americans than we have today. It is worth doing.

Mr. Speaker, I urge support of the rule.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GOSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 229, nays 186, not voting 16, as follows:

[Roll No. 103]

YEAS—229

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—186

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOT VOTING—16

Becerra
Bryant (TX)
Collins (IL)
Conyers
Fields (LA)
Fowler
Lantos
McNulty
Neal
Ros-Lehtinen
Smith (TX)
Smith (WA)
Stokes
Torricelli
Weldon (PA)
Wilson

□ 1809

Ms. FURSE and Mr. BALDACCI changed their vote from "yea" to "nay."

Mr. COBURN and Mr. THOMAS of California changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. COMBEST). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 3136. An act to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line-Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit; and

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the One Hundred Fourth Congress.

The message also announced that the Senate agrees, to the report of the committee of conference on the disagreeing votes of the two House on the amendment of the Senate to the bill (H.R. 2854) "An act to modify the operation of certain agricultural programs."

□ 1815

HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT OF 1996

Mr. ARCHER. Mr. Speaker, pursuant to House Resolution 392, I call up the bill (H.R. 3103), to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. COMBEST). Pursuant to House Resolution 392, the amendment in the nature of a substitute consisting of the text of H.R. 3160 modified by the amendment specified in part 1 of House Report 104–501 is adopted.

The text of H.R. 3103 consisting of the text of H.R. 3160, as modified, is as follows:

H.R. 3160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Coverage Availability and Affordability Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVED AVAILABILITY AND PORTABILITY OF HEALTH INSURANCE COVERAGE

Subtitle A—Coverage Under Group Health Plans

Sec. 101. Portability of coverage for previously covered individuals.
Sec. 102. Limitation on preexisting condition exclusions; no application to certain newborns, adopted children, and pregnancy.
Sec. 103. Prohibiting exclusions based on health status and providing for enrollment periods.
Sec. 104. Enforcement.

Subtitle B—Certain Requirements for Insurers and HMOs in the Group and Individual Markets

PART 1—AVAILABILITY OF GROUP HEALTH INSURANCE COVERAGE

Sec. 131. Guaranteed availability of general coverage in the small group market.
Sec. 132. Guaranteed renewability of group coverage.

PART 2—AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE

Sec. 141. Guaranteed availability of individual health insurance coverage to certain individuals with prior group coverage.
Sec. 142. Guaranteed renewability of individual health insurance coverage.

PART 3—ENFORCEMENT

Sec. 151. Incorporation of provisions for State enforcement with Federal fallback authority.

Subtitle C—Affordable and Available Health Coverage Through Multiple Employer Pooling Arrangements

Sec. 161. Clarification of duty of the Secretary of Labor to implement provisions of current law providing for exemptions and solvency standards for multiple employer health plans.

"PART 7—RULES GOVERNING REGULATION OF MULTIPLE EMPLOYER HEALTH PLANS

"Sec. 701. Definitions.
"Sec. 702. Clarification of duty of the Secretary to implement provisions of current law providing for exemptions and solvency standards for multiple employer health plans.
"Sec. 703. Requirements relating to sponsors, boards of trustees, and plan operations.
"Sec. 704. Other requirements for exemption.
"Sec. 705. Maintenance of reserves.
"Sec. 706. Notice requirements for voluntary termination.
"Sec. 707. Corrective actions and mandatory termination.
"Sec. 708. Additional rules regarding State authority.".

Sec. 162. Affordable and available fully insured health coverage through voluntary health insurance associations.
Sec. 163. State authority fully applicable to self-insured multiple employer welfare arrangements providing medical care which are not exempted under new part 7.
Sec. 164. Clarification of treatment of single employer arrangements.
Sec. 165. Clarification of treatment of certain collectively bargained arrangements.
Sec. 166. Treatment of church plans.
Sec. 167. Enforcement provisions relating to multiple employer welfare arrangements.
Sec. 168. Cooperation between Federal and State authorities.
Sec. 169. Filing and disclosure requirements for multiple employer welfare arrangements offering health benefits.
Sec. 170. Single annual filing for all participating employers.
Sec. 171. Effective date; transitional rule.

Subtitle D—Definitions; General Provisions

Sec. 191. Definitions; scope of coverage.
Sec. 192. State flexibility to provide greater protection.
Sec. 193. Effective date.
Sec. 194. Rule of construction.
Sec. 195. Findings relating to exercise of commerce clause authority.

TITLE II—PREVENTING HEALTH CARE FRAUD AND ABUSE; ADMINISTRATIVE SIMPLIFICATION; MEDICAL LIABILITY REFORM

Sec. 200. References in title.

Subtitle A—Fraud and Abuse Control Program

Sec. 201. Fraud and abuse control program.
Sec. 202. Medicare integrity program.
Sec. 203. Beneficiary incentive programs.
Sec. 204. Application of certain health anti-fraud and abuse sanctions to fraud and abuse against Federal health care programs.
Sec. 205. Guidance regarding application of health care fraud and abuse sanctions.

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

Sec. 211. Mandatory exclusion from participation in medicare and State health care programs.
Sec. 212. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.
Sec. 213. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.
Sec. 214. Sanctions against practitioners and persons for failure to comply with statutory obligations.
Sec. 215. Intermediate sanctions for medicare health maintenance organizations.
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TITLE I—IMPROVED AVAILABILITY AND PORTABILITY OF HEALTH INSURANCE COVERAGE

Subtitle A—Coverage Under Group Health Plans

SEC. 101. PORTABILITY OF COVERAGE FOR PREVIOUSLY COVERED INDIVIDUALS.

(a) CREDITING PERIODS OF PREVIOUS COVERAGE TOWARD PREEXISTING CONDITION RESTRICTIONS.—Subject to the succeeding provisions of this section, a group health plan, and an insurer or health maintenance organization offering health insurance coverage in connection with a group health plan, shall provide that any preexisting condition limitation period (as defined in subsection (b)(2)) is reduced by the length of the aggregate period of qualified prior coverage (if any, as defined in subsection (b)(3)) applicable to the participant or beneficiary as of the date of commencement of coverage under the plan.

(b) DEFINITIONS AND OTHER PROVISIONS RELATING TO PREEXISTING CONDITIONS.—

(1) PREEXISTING CONDITION.—

(A) IN GENERAL.—For purposes of this subtitle, subject to subparagraph (B), the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before—

(i) the effective date of the coverage of such participant or beneficiary, or

(ii) the earliest date upon which such coverage could have been effective if there were no waiting period applicable,

whichever is earlier.

(B) TREATMENT OF GENETIC INFORMATION.—For purposes of this section, genetic information shall not be considered to be a preexisting condition, so long as treatment of the condition to which the information is applicable has not been sought during the 6-month period described in subparagraph (A).

(2) PREEXISTING CONDITION LIMITATION PERIOD.—For purposes of this subtitle, the term "preexisting condition limitation period" means, with respect to coverage of an individual under a group health plan or under health insurance coverage, the period during which benefits with respect to treatment of a condition of such individual are not provided based on the fact that the condition is a preexisting condition.

(3) AGGREGATE PERIOD OF QUALIFIED PRIOR COVERAGE.—

(A) IN GENERAL.—For purposes of this section, the term "aggregate period of qualified prior coverage" means, with respect to commencement of coverage of an individual under a group health plan or health insurance coverage offered in connection with a group health plan, the aggregate of the qualified coverage periods (as defined in subparagraph (B)) of such individual occurring before the date of such commencement. Such period shall be treated as zero if there is more than a 60-day break in coverage under a group health plan (or health insurance coverage offered in connection with such a plan) between the date the most recent qualified coverage period ends and the date of such commencement.

(B) QUALIFIED COVERAGE PERIOD.—

(i) IN GENERAL.—For purposes of this paragraph, subject to subsection (c), the term "qualified coverage period" means, with respect to an individual, any period of coverage of the individual under a group health plan, health insurance coverage, under title XVIII or XIX of the Social Security Act, coverage under the TRICARE program under chapter 55 of title 10, United States Code, a program of the Indian Health Service, and State health insurance coverage or risk pool, and includes coverage under a health plan offered under chapter 89 of title 5, United States Code.

(ii) DISREGARDING PERIODS BEFORE BREAKS IN COVERAGE.—Such term does not include any period occurring before any 60-day break in coverage described in subparagraph (A).

(C) WAITING PERIOD NOT TREATED AS A BREAK IN COVERAGE.—For purposes of subparagraphs (A) and (B), any period that is in a waiting period for any coverage under a group health plan (or for health insurance coverage offered in connection with a group health plan) shall not be considered to be a break in coverage described in subparagraph (B)(ii).

(D) ESTABLISHMENT OF PERIOD.—A qualified coverage period with respect to an individual shall be established through presentation of certifications described in subsection (c) or in such other manner as may be specified in regulations to carry out this title.

(c) CERTIFICATIONS OF COVERAGE; CONFORMING COVERAGE.—

(1) IN GENERAL.—The plan administrator of a group health plan, or the insurer or HMO

offering health insurance coverage in connection with a group health plan, shall, on request made on behalf of an individual covered (or previously covered within the previous 18 months) under the plan or coverage, provide for a certification of the period of coverage of the individual under such plan or coverage and of the waiting period (if any) imposed with respect to the individual for any coverage under the plan.

(2) STANDARD METHOD.—Subject to paragraph (3), a group health plan, or insurer or HMO offering health insurance coverage in connection with a group health plan, shall determine qualified coverage periods under subsection (b)(3)(B) by including all periods described in such subsection, without regard to the specific benefits offered during such a period.

(3) ALTERNATIVE METHOD.—Such a plan, insurer, or HMO may elect to make such determination on a benefit-specific basis for all participants and beneficiaries and not to include as a qualified coverage period with respect to a specific benefit coverage during a previous period unless such previous coverage for that benefit was included at the end of the most recent period of coverage. In the case of such an election—

(A) the plan, insurer, or HMO shall prominently state in any disclosure statements concerning the plan or coverage and to each enrollee at the time of enrollment under the plan (or at the time the health insurance coverage is offered for sale in the group health market) that the plan or coverage has made such election and shall include a description of the effect of this election; and

(B) upon the request of the plan, insurer, or HMO, the entity providing a certification under paragraph (1)—

(i) shall promptly disclose to the requesting plan, insurer, or HMO the plan statement (insofar as it relates to health benefits under the plan) or other detailed benefit information on the benefits available under the previous plan or coverage, and

(ii) may charge for the reasonable cost of providing such information.

SEC. 102. LIMITATION ON PREEXISTING CONDITION EXCLUSIONS; NO APPLICATION TO CERTAIN NEWBORNS, ADOPTED CHILDREN, AND PREGNANCY.

(a) LIMITATION OF PERIOD.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, a group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, shall provide that any preexisting condition limitation period (as defined in section 101(b)(2)) does not exceed 12 months, counting from the effective date of coverage.

(2) EXTENSION OF PERIOD IN THE CASE OF LATE ENROLLMENT.—In the case of a participant or beneficiary whose initial coverage commences after the date the participant or beneficiary first becomes eligible for coverage under the group health plan, the reference in paragraph (1) to "12 months" is deemed a reference to "18 months".

(b) EXCLUSION NOT APPLICABLE TO CERTAIN NEWBORNS AND CERTAIN ADOPTIONS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, may not provide any limitation on benefits based on the existence of a preexisting condition in the case of—

(A) an individual who within the 30-day period beginning with the date of birth, or

(B) an adopted child or a child placed for adoption beginning at the time of adoption or placement if the individual, within the 30-day period beginning on the date of adoption or placement,

becomes covered under a group health plan or otherwise becomes covered under health insurance coverage (or covered for medical assistance under title XIX of the Social Security Act).

(2) LOSS IF BREAK IN COVERAGE.—Paragraph (1) shall no longer apply to an individual if the individual does not have any coverage described in section 101(b)(3)(B)(i) for a continuous period of 60 days, not counting in such period any days that are in a waiting period for any coverage under a group health plan.

(3) PLACED FOR ADOPTION DEFINED.—In this subsection and section 103(e), the term "placement", or being "placed", for adoption, in connection with any placement for adoption of a child with any person, means the assumption and retention by such person of a legal obligation for total or partial support of such child in anticipation of adoption of such child. The child's placement with such person terminates upon the termination of such legal obligation.

(c) EXCLUSION NOT APPLICABLE TO PREGNANCY.—For purposes of this section, pregnancy shall not be treated as a preexisting condition.

(d) ELIGIBILITY PERIOD IMPOSED BY HEALTH MAINTENANCE ORGANIZATIONS AS ALTERNATIVE TO PREEXISTING CONDITION LIMITATION.—A health maintenance organization which offers health insurance coverage in connection with a group health plan and which does not use the preexisting condition limitations allowed under this section and section 101 with respect to any particular coverage option may impose an eligibility period for such coverage option, but only if such period does not exceed—

(1) 60 days, in the case of a participant or beneficiary whose initial coverage commences at the time such participant or beneficiary first becomes eligible for coverage under the plan, or

(2) 90 days, in the case of a participant or beneficiary whose initial coverage commences after the date on which such participant or beneficiary first becomes eligible for coverage.

Such an HMO may use alternative methods, from those described in the previous sentence, to address adverse selection as approved by the applicable State authority. For purposes of this subsection, the term "eligibility period" means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. Any such eligibility period shall be treated for purposes of this subtitle as a waiting period under the plan and shall run concurrently with any other applicable waiting period under the plan.

SEC. 103. PROHIBITING EXCLUSIONS BASED ON HEALTH STATUS AND PROVIDING FOR ENROLLMENT PERIODS.

(a) PROHIBITION OF EXCLUSION OF PARTICIPANTS OR BENEFICIARIES BASED ON HEALTH STATUS.—

(1) IN GENERAL.—A group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, may not exclude an employee or his or her beneficiary from being (or continuing to be) enrolled as a participant or beneficiary under the terms of such plan or coverage based on health status (as defined in section 191(c)(6)).

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the establishment of preexisting condition limitations and restrictions to the extent consistent with the provisions of this subtitle.

(b) PROHIBITION OF DISCRIMINATION IN PREMIUM CONTRIBUTIONS OF INDIVIDUAL PARTICIPANTS OR BENEFICIARIES BASED ON HEALTH STATUS.—

(1) IN GENERAL.—A group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, may not require a participant or beneficiary to pay a premium or contribution which is greater than such premium or contribution for a similarly situated participant or beneficiary solely on the basis of the health status of the participant or beneficiary.

(2) CONSTRUCTION.—Nothing in this subsection is intended—

(A) to effect the premium rates an insurer or HMO may charge an employer for health insurance coverage provided in connection a group health plan,

(B) to prevent a group health plan (or insurer or HMO in health insurance coverage offered in connection with such a plan) from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention, or

(C) to prevent such a plan, insurer, or HMO from varying the premiums or contributions required of participants or beneficiaries based on factors (such as scope of benefits, geographic area of residence, or wage levels) that are not directly related to health status.

(c) ENROLLMENT OF ELIGIBLE INDIVIDUALS WHO LOSE OTHER COVERAGE.—A group health plan shall permit an uncovered employee who is otherwise eligible for coverage under the terms of the plan (or an uncovered dependent, as defined under the terms of the plan, of such an employee, if family coverage is available) to enroll for coverage under the plan under at least one benefit option if each of the following conditions is met:

(1) The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or individual.

(2) The employee stated in writing at such time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment.

(3) The employee or dependent lost coverage under a group health plan or health insurance coverage (as a result of loss of eligibility for the coverage, termination of employment, or reduction in the number of hours of employment).

(4) The employee requests such enrollment within 30 days after the date of termination of such coverage.

(d) DEPENDENT BENEFICIARIES.—

(1) IN GENERAL.—If a group health plan makes family coverage available, the plan may not require, as a condition of coverage of an individual as a dependent (as defined under the terms of the plan) of a participant in the plan, a waiting period applicable to the coverage of a dependent who—

(A) is a newborn,

(B) is an adopted child or child placed for adoption (within the meaning of section 102(b)(3)), at the time of adoption or placement, or

(C) is a spouse, at the time of marriage,

if the participant has met any waiting period applicable to that participant.

(2) TIMELY ENROLLMENT.—

(A) IN GENERAL.—Enrollment of a participant's beneficiary described in paragraph (1) shall be considered to be timely if a request for enrollment is made within 30 days of the date family coverage is first made available or, in the case described in—

(i) paragraph (1)(A), within 30 days of the date of the birth,

(ii) paragraph (1)(B), within 30 days of the date of the adoption or placement for adoption, or

(iii) paragraph (1)(C), within 30 days of the date of the marriage with such a beneficiary who is the spouse of the participant,

if family coverage is available as of such date.

(B) COVERAGE.—If available coverage includes family coverage and enrollment is made under such coverage on a timely basis under subparagraph (A), the coverage shall become effective not later than the first day of the first month beginning 15 days after the date the completed request for enrollment is received.

(e) MULTIEMPLOYER PLANS, MULTIPLE EMPLOYER HEALTH PLANS, AND MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—A group health plan which is a multi-employer plan, a multiple employer health plan (as defined in section 701(4) of the Employee Retirement Income Security Act of 1974), or a multiple employer welfare arrangement (to the extent to which benefits under the arrangement consist of medical care) may not deny an employer whose employees are covered under such a plan or arrangement continued access to the same or different coverage under the terms of such a plan or arrangement, other than—

(1) for nonpayment of contributions,

(2) for fraud or other intentional misrepresentation of material fact by the employer,

(3) for noncompliance with material plan or arrangement provisions,

(4) because the plan or arrangement is ceasing to offer any coverage in a geographic area,

(5) for failure to meet the terms of an applicable collective bargaining agreement, to renew a collective bargaining or other agreement requiring or authorizing contributions to the plan, or to employ employees covered by such an agreement,

(6) in the case of a plan or arrangement to which subparagraph (C), (D), or (E) of section 3(40) of the Employee Retirement Income Security Act of 1974 applies, to the extent necessary to meet the requirements of such subparagraph, or

(7) in the case of a multiple employer health plan (as defined in section 701(4) of such Act), for failure to meet the requirements under part 7 of subtitle B of title I of such Act for exemption under section 514(b)(6)(B) of such Act.

SEC. 104. ENFORCEMENT.

(a) ENFORCEMENT THROUGH COBRA PROVISIONS IN INTERNAL REVENUE CODE.—

(1) APPLICATION OF COBRA SANCTIONS.—Subsection (a) of section 4980B of the Internal Revenue Code of 1986 is amended by striking "the requirements of" and all that follows and inserting "the requirements of—

"(1) subsection (f) with respect to any qualified beneficiary, or

"(2) subject to subsection (h)—

"(A) section 101 or 102 of the Health Coverage Availability and Affordability Act of 1996 with respect to any individual covered under the group health plan, or

"(B) section 103 (other than subsection (e)) of such Act with respect to any individual.".

(2) NOTICE REQUIREMENT.—Section 4980B(f)(6)(A) of such Code is amended by inserting before the period the following: "and subtitle A of title I of the Health Coverage Availability and Affordability Act of 1996".

(3) SPECIAL RULES.—Section 4980B of such Code is amended by adding at the end the following:

"(h) SPECIAL RULES.—For purposes of applying this section in the case of requirements described in subsection (a)(2) relating to section 101, section 102, or section 103 (other than subsection (e)) of the Health Coverage Availability and Affordability Act of 1996—

"(1) IN GENERAL.—

"(A) DEFINITION OF GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term in section 191(a) of the Health Coverage Availability and Affordability Act of 1996.

"(B) QUALIFIED BENEFICIARY.—Subsections (b), (c), and (e) shall be applied by substituting the term 'individual' for the term 'qualified beneficiary' each place it appears.

"(C) NONCOMPLIANCE PERIOD.—Clause (ii) of subsection (b)(2)(B) and the second sentence of subsection (b)(2) shall not apply.

"(D) LIMITATION ON TAX.—Subparagraph (B) of subsection (c)(3) shall not apply.

"(E) LIABILITY FOR TAX.—Paragraph (2) of subsection (e) shall not apply.

"(2) DEFERRAL TO STATE REGULATION.—No tax shall be imposed by this section on any failure to meet the requirements of such section by any entity which offers health insurance coverage and which is an insurer or health maintenance organization (as defined in section 191(c) of the Health Coverage Availability and Affordability Act of 1996) regulated by a State unless the Secretary of Health and Human Services has made the determination described in section 104(c)(2) of such Act with respect to such State, section, and entity.

"(3) LIMITATION FOR INSURED PLANS.—In the case of a group health plan of a small employer (as defined in section 191 of the Health Coverage Availability and Affordability Act of 1996) that provides health care benefits solely through a contract with an insurer or health maintenance organization (as defined in such section), no tax shall be imposed by this section upon the employer on a failure to meet such requirements if the failure is solely because of the product offered by the insurer or organization under such contract.

"(4) LIMITATION ON IMPOSITION OF TAX.—In no case shall a tax be imposed by this section for a failure to meet such a requirement if—

"(A) a civil money penalty has been imposed by the Secretary of Labor under part 5 of subtitle A of title I of the Employee Retirement Income Security Act of 1974 with respect to such failure, or

"(B) a civil money penalty has been imposed by the Secretary of Health and Human Services under section 104(c) of the Health Coverage Availability and Affordability Act of 1996 with respect to such failure.".

(b) ENFORCEMENT THROUGH ERISA SANCTIONS FOR CERTAIN GROUP HEALTH PLANS.—

(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, sections 101 through 103 of this subtitle (and subtitle D insofar as it is applicable to such sections) shall be deemed to be provisions of title I of the Employee Retirement Income Security Act of 1974 for purposes of applying such title.

(2) FEDERAL ENFORCEMENT ONLY IF NO ENFORCEMENT THROUGH STATE.—The Secretary of Labor shall enforce each section referred to in paragraph (1) with respect to any entity which is an insurer or health maintenance organization regulated by a State only if the Secretary of Labor determines that such State has not provided for enforcement of State laws which govern the same matters as are governed by such section and which require compliance by such entity with at least the same requirements as those provided under such section.

(3) LIMITATIONS ON LIABILITY.—

(A) NO APPLICATION WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No liability shall be imposed under this subsection on the basis of any failure during any period for which it is established to the satisfaction of the Secretary of Labor that none of the persons against whom the liability would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

(B) NO APPLICATION WHERE FAILURE CORRECTED WITHIN 30 DAYS.—No liability shall be imposed under this subsection on the basis of any failure if such failure was due to reasonable cause and not to willful neglect, and such failure is corrected during the 30-day period beginning on the first day any of the persons against whom the liability would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

(4) AVOIDING DUPLICATION OF CERTAIN PENALTIES.—In no case shall a civil money penalty be imposed under the authority provided under paragraph (1) for a violation of this subtitle for which an excise tax has been imposed under section 4980B of the Internal Revenue Code of 1986 or a civil money penalty imposed under subsection (c).

(c) ENFORCEMENT THROUGH CIVIL MONEY PENALTIES.—

(1) IMPOSITION.—

(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, any group health plan, insurer, or organization that fails to meet a requirement of this subtitle (other than section 103(e)) is subject to a civil money penalty under this section.

(B) LIABILITY FOR PENALTY.—Rules similar to the rules described in section 4980B(e) of the Internal Revenue Code of 1986 for liability for a tax imposed under section 4980B(a) of such Code shall apply to liability for a penalty imposed under subparagraph (A).

(C) AMOUNT OF PENALTY.—

(i) IN GENERAL.—The maximum amount of penalty imposed under this paragraph is $100 for each day for each individual with respect to which such a failure occurs.

(ii) CONSIDERATIONS IN IMPOSITION.—In determining the amount of any penalty to be assessed under this paragraph, the Secretary of Health and Human Services shall take into account the previous record of compliance of the person being assessed with the applicable requirements of this subtitle, the gravity of the violation, and the overall limitations for unintentional failures provided under section 4980B(c)(4) of the Internal Revenue Code of 1986.

(iii) LIMITATIONS.—

(I) PENALTY NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No civil money penalty shall be imposed under this paragraph on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons against whom the penalty would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

(II) PENALTY NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No civil money penalty shall be imposed under this paragraph on any failure if such failure was due to reasonable cause and not to willful neglect, and such failure is corrected during the 30-day period beginning on the first day any of the persons against whom the penalty would be imposed knew, or exercising reasonable diligence would have known, that such failure existed.

(D) ADMINISTRATIVE REVIEW.—

(i) OPPORTUNITY FOR HEARING.—The person assessed shall be afforded an opportunity for hearing by the Secretary upon request made within 30 days after the date of the issuance of a notice of assessment. In such hearing the decision shall be made on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested, the assessment shall constitute a final and unappealable order.

(ii) HEARING PROCEDURE.—If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 30 days after the date of the decision of the judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subparagraph (D).

(E) JUDICIAL REVIEW.—

(i) FILING OF ACTION FOR REVIEW.—Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this paragraph may obtain review by the United States district court for any district in which such person is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within 30 days from the date of such order, and simultaneously sending a copy of such notice be registered mail to the Secretary.

(ii) CERTIFICATION OF ADMINISTRATIVE RECORD.—The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed.

(iii) STANDARD FOR REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

(iv) APPEAL.—Any final decision, order, or judgment of such district court concerning such review shall be subject to appeal as provided in chapter 83 of title 28 of such Code.

(F) FAILURE TO PAY ASSESSMENT; MAINTENANCE OF ACTION.—

(i) FAILURE TO PAY ASSESSMENT.—If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed by action in the appropriate United States district court.

(ii) NONREVIEWABILITY.—In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(G) PAYMENT OF PENALTIES.—Except as otherwise provided, penalties collected under this paragraph shall be paid to the Secretary (or other officer) imposing the penalty and shall be available without appropriation and until expended for the purpose of enforcing the provisions with respect to which the penalty was imposed.

(2) FEDERAL ENFORCEMENT ONLY IF NO ENFORCEMENT THROUGH STATE.—Paragraph (1) shall apply to enforcement of the requirements of section 101, 102, or 103 (other than section 103(e)) with respect to any entity which offers health insurance coverage and which is an insurer or HMO regulated by a State only if the Secretary of Health and Human Services has determined that such State has not provided for enforcement of State laws which govern the same matters as are governed by such section and which require compliance by such entity with at least the same requirements as those provided under such section.

(3) NONDUPLICATION OF SANCTIONS.—In no case shall a civil money penalty be imposed under this subsection for a violation of this subtitle for which an excise tax has been imposed under section 4980B of the Internal Revenue Code of 1986 or for which a civil money penalty has been imposed under the authority provided under subsection (b).

(d) COORDINATION IN ADMINISTRATION.—The Secretaries of the Treasury, Labor, and Health and Human Services shall issue regulations that are nonduplicative to carry out this subtitle. Such regulations shall be issued in a manner that assures coordination and nonduplication in their activities under this subtitle.

Subtitle B—Certain Requirements for Insurers and HMOs in the Group and Individual Markets

PART 1—AVAILABILITY OF GROUP HEALTH INSURANCE COVERAGE

SEC. 131. GUARANTEED AVAILABILITY OF GENERAL COVERAGE IN THE SMALL GROUP MARKET.

(a) ISSUANCE OF COVERAGE.—

(1) IN GENERAL.—Subject to the succeeding subsections of this section, each insurer or HMO that offers health insurance coverage in the small group market in a State—

(A) must accept every small employer in the State that applies for such coverage; and

(B) must accept for enrollment under such coverage every eligible individual (as defined in paragraph (2)) who applies for enrollment during the initial period in which the individual first becomes eligible for coverage under the group health plan and may not place any restriction which is inconsistent with section 103(a) on an individual being a participant or beneficiary so long as such individual is an eligible individual.

(2) ELIGIBLE INDIVIDUAL DEFINED.—In this section, the term "eligible individual" means, with respect to an insurer or HMO that offers health insurance coverage to any small employer in the small group market, such an individual in relation to the employer as shall be determined—

(A) in accordance with the terms of such plan,

(B) as provided by the insurer or HMO under rules of the insurer or HMO which are uniformly applicable, and

(C) in accordance with all applicable State laws governing such insurer or HMO.

(b) SPECIAL RULES FOR NETWORK PLANS AND HMOS.—

(1) IN GENERAL.—In the case of an insurer that offers health insurance coverage in the small group market through a network plan and in the case of an HMO that offers health insurance coverage in connection with such a plan, the insurer or HMO may—

(A) limit the employers that may apply for such coverage to those with eligible individuals whose place of employment or residence is in the service area for such plan or HMO;

(B) limit the individuals who may be enrolled under such coverage to those whose place of residence or employment is within the service area for such plan or HMO; and

(C) within the service area of such plan or HMO, deny such coverage to such employers if the insurer or HMO demonstrates that—

(i) it will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees, and

(ii) it is applying this paragraph uniformly to all employers without regard to the claims experience of those employers and their employees (and their beneficiaries) or the health status of such employees and beneficiaries.

(2) 180-DAY SUSPENSION UPON DENIAL OF COVERAGE.—An insurer or HMO, upon denying health insurance coverage in any service area in accordance with paragraph (1)(C), may not offer coverage in the small group market within such service area for a period of 180 days after such coverage is denied.

(c) SPECIAL RULE FOR FINANCIAL CAPACITY LIMITS.—

(1) IN GENERAL.—An insurer or HMO may deny health insurance coverage in the small group market if the insurer or HMO demonstrates to the applicable State authority that—

(A) it does not have the financial reserves necessary to underwrite additional coverage, and

(B) it is applying this paragraph uniformly to all employers without regard to the claims experience or duration of coverage of those employers and their employees (and their beneficiaries) or the health status of such employees and beneficiaries.

(2) 180-DAY SUSPENSION UPON DENIAL OF COVERAGE.—An insurer or HMO upon denying health insurance coverage in connection with group health plans in any service area in accordance with paragraph (1) may not offer coverage in connection with group health plans in the small group market within such service area for a period of 180 days after such coverage is denied.

(d) EXCEPTION TO REQUIREMENT FOR ISSUANCE OF COVERAGE BY REASON OF FAILURE BY PLAN TO MEET CERTAIN MINIMUM PARTICIPATION OR CONTRIBUTION RULES.—

(1) IN GENERAL.—Subsection (a) shall not apply in the case of any group health plan with respect to which—

(A) participation rules of an insurer or HMO which are described in paragraph (2) are not met, or

(B) contribution rules of an insurer or HMO which are described in paragraph (3) are not met.

(2) PARTICIPATION RULES.—For purposes of paragraph (1)(A), participation rules (if any) of an insurer or HMO shall be treated as met with respect to a group health plan only if such rules are uniformly applicable and in accordance with applicable State law and the number or percentage of eligible individuals who, under the plan, are participants or beneficiaries equals or exceeds a level which is determined in accordance with such rules.

(3) CONTRIBUTION RULES.—For purposes of paragraph (1)(B), contribution rules (if any) of an insurer or HMO shall be treated as met with respect to a group health plan only if such rules are in accordance with applicable State law.

SEC. 132. GUARANTEED RENEWABILITY OF GROUP COVERAGE.

(a) IN GENERAL.—Except as provided in this section, if an insurer or health maintenance organization offers health insurance coverage in the small or large group market, the insurer or organization must renew or continue in force such coverage at the option of the employer.

(b) GENERAL EXCEPTIONS.—An insurer or organization may nonrenew or discontinue health insurance coverage offered an employer based only on one or more of the following:

(1) NONPAYMENT OF PREMIUMS.—The employer has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the insurer or organization has not received timely premium payments.

(2) FRAUD.—The employer has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(3) VIOLATION WITH PARTICIPATION OR CONTRIBUTION RULES.—The employer has failed to comply with a material plan provision relating to participation or contribution rules in accordance with section 131(d).

(4) TERMINATION OF PLAN.—Subject to subsection (c), the insurer or organization is ceasing to offer coverage in the small or large group market in a State (or, in the case of a network plan or HMO, in a geographic area).

(5) MOVEMENT OUTSIDE SERVICE AREA.—The employer has changed the place of employment in such manner that employees and dependents reside and are employed outside the service area of the insurer or organization or outside the area for which the insurer or organization is authorized to do business.

Paragraph (5) shall apply to an insurer or HMO only if it is applied uniformly without regard to the claims experience of employers and their employees (and their beneficiaries) or the health status of such employees and beneficiaries.

(c) EXCEPTIONS FOR UNIFORM TERMINATION OF COVERAGE.—

(1) PARTICULAR TYPE OF COVERAGE NOT OFFERED.—In any case in which a insurer or HMO decides to discontinue offering a particular type of health insurance coverage in the small or large group market, coverage of such type may be discontinued by the insurer or organization only if—

(A) the insurer or organization provides notice to each employer provided coverage of this type in such market (and participants and beneficiaries covered under such coverage) of such discontinuation at least 90 days prior to the date of the discontinuation of such coverage;

(B) the insurer or organization offers to each employer in the small employer or large employer market provided coverage of this type, the option to purchase any other health insurance coverage currently being offered by the insurer or organization for employers in such market; and

(C) in exercising the option to discontinue coverage of this type and in offering one or more replacement coverage, the insurer or organization acts uniformly without regard to the health status or insurability of participants or beneficiaries covered or new participants or beneficiaries who may become eligible for such coverage.

(2) DISCONTINUANCE OF ALL COVERAGE.—

(A) IN GENERAL.—Subject to subparagraph (C), in any case in which an insurer or HMO elects to discontinue offering all health insurance coverage in the small group market or the large group market, or both markets, in a State, health insurance coverage may be discontinued by the insurer or organization only if—

(i) the insurer or organization provides notice to the applicable State authority and to each employer (and participants and beneficiaries covered under such coverage) of such discontinuation at least 180 days prior to the date of the expiration of such coverage, and

(ii) all health insurance issued or delivered for issuance in the State in such market (or markets) are discontinued and coverage under such health insurance coverage in such market (or markets) is not renewed.

(B) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under subparagraph (A) in one or both markets, the insurer or organization may not provide for the issuance of any health insurance coverage in the market and State involved during the 5-year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

(d) EXCEPTION FOR UNIFORM MODIFICATION OF COVERAGE.—At the time of coverage renewal, an insurer or HMO may modify the coverage offered to a group health plan in the group health market so long as such modification is effective on a uniform basis among group health plans with that type of coverage.

PART 2—AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE

SEC. 141. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO CERTAIN INDIVIDUALS WITH PRIOR GROUP COVERAGE.

(a) GOALS.—The goals of this section are—

(1) to guarantee that any qualifying individual (as defined in subsection (b)(1)) is able to obtain qualifying coverage (as defined in subsection (b)(2)); and

(2) to assure that qualifying individuals obtaining such coverage receive credit for their prior coverage toward the new coverage's preexisting condition exclusion period (if any) in a manner consistent with subsection (b)(3).

(b) QUALIFYING INDIVIDUAL AND HEALTH INSURANCE COVERAGE DEFINED.—In this section—

(1) QUALIFYING INDIVIDUAL.—The term "qualifying individual" means an individual—

(A)(i) for whom, as of the date on which the individual seeks coverage under this section, the aggregate of the qualified coverage periods (as defined in section 101(b)(3)(B)) is 18 or more months and (ii) whose most recent prior coverage was under a group health plan, governmental plan, or church plan (or health insurance coverage offered in connection with any such plan);

(B) who is not eligible for coverage under (i) a group health plan, (ii) part A or part B of title XVIII of the Social Security Act, or (iii) a State plan under title XIX of such Act (or any successor program), and does not have individual health insurance coverage;

(C) with respect to whom the most recent coverage within the coverage period described in subparagraph (A)(i) was not terminated based on a factor described in paragraph (1) or (2) of section 132(b);

(D) if the individual had been offered the option of continuation coverage under a COBRA continuation provision or under a similar State program, who elected such coverage; and

(E) who, if the individual elected such continuation coverage, has exhausted such continuation coverage.

In applying subparagraph (A)(i), the reference in section 101(b)(3)(B)(ii) to a 60-day break in coverage is deemed a reference to a 60-day break in any coverage described in section 101(b)(3)(B)(i).

(2) QUALIFYING COVERAGE.—

(A) IN GENERAL.—The term "qualifying coverage" means, with respect to an insurer or HMO in relation to an qualifying individual, individual health insurance coverage for which the actuarial value of the benefits is not less than—

(i) the weighted average actuarial value of the benefits provided by all the individual health insurance coverage issued by the insurer or HMO in the State during the previous year (not including coverage issued under this section), or

(ii) the weighted average of the actuarial value of the benefits provided by all the individual health insurance coverage issued by all insurers and HMOs in the State during the previous year (not including coverage issued under this section),

as elected by the plan or by the State under subsection (c)(1).

(B) ASSUMPTIONS.—For purposes of subparagraph (A), the actuarial value of benefits provided under individual health insurance coverage shall be calculated based on a standardized population and a set of standardized utilization and cost factors.

(3) CREDITING FOR PREVIOUS COVERAGE.—Crediting is consistent with this paragraph only if any preexisting condition exclusion period is reduced at least to the extent such a period would be reduced if the coverage under this section were under a group health plan to which section 101(a) applies. In carrying out this subsection, provisions similar to the provisions of section 101(c) shall apply.

(c) OPTIONAL STATE ESTABLISHMENT OF MECHANISMS TO ACHIEVE GOALS OF GUARANTEEING AVAILABILITY OF COVERAGE.—

(1) IN GENERAL.—Any State may establish, to the extent of the State's authority, public or private mechanisms reasonably designed to meet the goals specified in subsection (a). If a State implements such a mechanism by the deadline specified in paragraph (4), the State may elect to have such mechanisms apply instead of having subsection (d)(3) apply in the State. An election under this paragraph shall be by notice from the chief executive officer of the State to the Secretary of Health and Human Services on a timely basis consistent with the deadlines specified in paragraph (4). In establishing what is qualifying coverage under such a mechanism under this subsection, a State may exercise the election described in subsection (b)(2)(A) with respect to each insurer or HMO in the State (or on a collective basis after exercising such election for each such insurer or HMO).

(2) TYPES OF MECHANISMS.—State mechanisms under this subsection may include one or more (or a combination) of the following:

(A) Health insurance coverage pools or programs authorized or established by the State.

(B) Mandatory group conversion policies.

(C) Guaranteed issue of one or more plans of individual health insurance coverage to qualifying individuals.

(D) Open enrollment by one or more insurers or HMOs.

The mechanisms described in the previous sentence are not an exclusive list of the mechanisms (or combinations of mechanisms) that may be used under this subsection.

(3) SAFE HARBOR FOR BENEFITS UNDER CURRENT RISK POOLS.—In the case of a State that has a health insurance coverage pool or risk pool in effect on March 12, 1996, and that implements the mechanism described in paragraph (2)(A), the benefits under such mechanism (or benefits the actuarial value of which is not less than the actuarial value of such current benefits, using the assumptions described in subsection (b)(2)(B)) are deemed, for purposes of this section, to constitute qualified coverage.

(4) DEADLINE FOR STATE IMPLEMENTATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the deadline under this paragraph is July 1, 1997.

(B) EXTENSION TO PERMIT LEGISLATION.—The deadline under this paragraph is July 1, 1998, in the case of a State the legislature of which does not have a regular legislative session at any time between January 1, 1997, and June 30, 1997.

(C) CONSTRUCTION.—Nothing in this section shall be construed as preventing a State from—

(i) implementing guaranteed availability mechanisms before the deadline,

(ii) continuing in effect mechanisms that are in effect before the date of the enactment of this Act,

(iii) offering guaranteed availability of coverage that is not qualifying coverage, or

(iv) offering guaranteed availability of coverage to individuals who are not qualifying individuals.

(d) FALLBACK PROVISIONS.—

(1) NO STATE ELECTION.—If a State has not provided notice to the Secretary of an election on a timely basis under subsection (c), the Secretary shall notify the State that paragraph (3) will be applied in the State.

(2) PRELIMINARY DETERMINATION AFTER STATE ELECTION.—If—

(A) a State has provided notice of an election on a timely basis under subsection (c), and

(B) the Secretary finds, after consultation with the chief executive officer of the State and the insurance commissioner or chief insurance regulatory official of the State, that such a mechanism (for which notice was provided) is not reasonably designed to meet the goals specified in subsection (a),

the Secretary shall notify the State of such preliminary determination, of the consequences under paragraph (3) of a failure to implement such a mechanism, and permit the State a reasonable opportunity in which to modify the mechanism (or to adopt another mechanism) that is reasonably designed to meet the goals specified in subsection (a). The Secretary shall not make such a determination on any basis other than the basis described in subparagraph (B). If, after providing such notice and opportunity, the Secretary finds that the State has not implemented such a mechanism, the Secretary shall notify the State that paragraph (3) will be applied in the State.

(3) DESCRIPTION OF FALLBACK MECHANISM.—As provided under paragraphs (1) and (2) and subject to paragraph (5), each insurer or HMO in the State involved that issues individual health insurance coverage—

(A) shall offer qualifying health insurance coverage, in which qualifying individuals obtaining such coverage receive credit for their prior coverage toward the new coverage's preexisting condition exclusion period (if any) in a manner consistent with subsection (b)(3), to each qualifying individual in the State, and

(B) may not decline to issue such coverage to such an individual based on health status (except as permitted under paragraph (4)).

(4) APPLICATION OF NETWORK AND CAPACITY LIMITS.—Under regulations, the provisions of subsections (b) and (c) of section 131 shall apply to an individual in the individual health insurance market under this subsection in the same manner as they apply under section 131 to an employer in the small group market.

(5) TERMINATION OF FALLBACK MECHANISM.—The provisions of this subsection shall cease to apply to a State if the Secretary finds that a State has implemented a mechanism that is reasonably designed to meet the goals specified in subsection (a), and until the Secretary finds that such mechanism is no longer being implemented.

(e) CONSTRUCTION.—

(1) PREMIUMS.—Nothing in this section shall be construed to affect the determination of an insurer or HMO as to the amount of the premium payable under an individual health insurance coverage under applicable state law.

(2) MARKET REQUIREMENTS.—

(A) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that an insurer or HMO offering health insurance coverage only in connection with a group health plan or an association offer individual health insurance coverage.

(B) CONVERSION POLICIES.—An insurer or HMO offering health insurance coverage in connection with a group health plan under subtitle A shall not be deemed to be an insurer or HMO offering an individual health insurance coverage solely because such insurer or HMO offers a conversion policy.

(3) DISREGARD OF ASSOCIATION COVERAGE.—An insurer or HMO that offers health insurance coverage only in connection with a group health plan or in connection with individuals based on affiliation with one or more bona fide associations is not considered, for purposes of this subtitle, to be offering individual health insurance coverage.

(4) MARKETING OF PLANS.—Nothing in this section shall be construed to prevent a State from requiring insurer or HMOs offering individual health insurance coverage to actively market such coverage.

SEC. 142. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE.

(a) GUARANTEED RENEWABILITY.—Subject to the succeeding provisions of this section, an insurer or HMO that provides individual health insurance coverage to an individual shall renew or continue such coverage at the option of the individual.

(b) NONRENEWAL PERMITTED IN CERTAIN CASES.—An insurer or HMO may nonrenew or discontinue individual health insurance coverage of an individual only based on one or more of the following:

(1) NONPAYMENT.—The individual fails to pay payment of premiums or contributions in accordance with the terms of the coverage or the insurer or organization has not failed to receive timely premium payments.

(2) FRAUD.—The individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(3) TERMINATION OF COVERAGE.—Subject to subsection (c), the insurer or HMO is ceasing to offer health insurance coverage in the individual market in a State (or, in the case of a network plan or HMO, in a geographic area).

(4) MOVEMENT OUTSIDE SERVICE AREA.—The individual has changed residence and resides outside the service area of the insurer or organization or outside the area for which the insurer or organization is authorized to do business.

Paragraph (4) shall apply to an insurer or HMO only if it is applied uniformly without regard to the claims experience of employers and their employees (and their beneficiaries) or the health status of such employees and beneficiaries.

(c) TERMINATION OF INDIVIDUAL COVERAGE.—The provisions of section 132(c) shall apply to this section in the same manner as they apply under section 132, except that any reference to an employer or market is deemed a reference to the covered individual or the individual market, respectively.

(d) EXCEPTION FOR UNIFORM MODIFICATION OF COVERAGE.—The provisions of section 132(d) shall apply to individual health insurance coverage in the individual market under this section in the same manner as it applies to health insurance coverage offered in connection with a group health plan in the group market under such section.

PART 3—ENFORCEMENT

SEC. 151. INCORPORATION OF PROVISIONS FOR STATE ENFORCEMENT WITH FEDERAL FALLBACK AUTHORITY.

The provisions of paragraphs (1) and (2) of section 104(c) shall apply to enforcement of requirements in each section in part 1 or part 2 with respect to insurers and HMOs regulated by a State in the same manner as such provisions apply to enforcement of requirements in section 101, 102, or 103 with respect to insurers and HMOs regulated by a State.

Subtitle C—Affordable and Available Health Coverage Through Multiple Employer Pooling Arrangements

SEC. 161. CLARIFICATION OF DUTY OF THE SECRETARY OF LABOR TO IMPLEMENT PROVISIONS OF CURRENT LAW PROVIDING FOR EXEMPTIONS AND SOLVENCY STANDARDS FOR MULTIPLE EMPLOYER HEALTH PLANS.

(a) RULES GOVERNING REGULATION OF MULTIPLE EMPLOYER HEALTH PLANS.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by the preceding provisions of this title) is amended by inserting after part 6 the following new part:

"PART 7—RULES GOVERNING REGULATION OF MULTIPLE EMPLOYER HEALTH PLANS

"SEC. 701. DEFINITIONS.

"For purposes of this part—

"(1) FULLY INSURED.—A particular benefit under a group health plan or a multiple employer welfare arrangement is 'fully insured' if such benefit (irrespective of any recourse available against other parties) is provided by an insurer or a health maintenance organization in a manner so that such benefit constitutes insurance regulated by the law of a State (within the meaning of section 514(b)(2)(A)).

"(2) INSURER.—The term 'insurer' means an insurance company, insurance service, or insurance organization which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2)(A)).

"(3) HEALTH MAINTENANCE ORGANIZATION.—The terms 'health maintenance organization' means—

"(A) a Federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act (42 U.S.C. 300e(a))),

"(B) an organization recognized under State law as a health maintenance organization, or

"(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization,

if it is subject to State law which regulates insurance (within the meaning of section 514(b)(2)(A)).

"(4) MULTIPLE EMPLOYER HEALTH PLAN.—The term 'multiple employer health plan' means a multiple employer welfare arrangement which provides medical care and which is or has been exempt under section 514(b)(6)(B).

"(5) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with a multiple employer welfare arrangement, any employer if any of its employees, or any of the individuals who are dependents (as defined under the terms of the arrangement) of its employees, are or were covered under such arrangement in connection with the employment of the employees.

"(6) SPONSOR.—The term 'sponsor' means, in connection with a multiple employer welfare arrangement, the association or other entity which establishes or maintains the arrangement.

"(7) STATE INSURANCE COMMISSIONER.—The term 'State insurance commissioner' means the insurance commissioner (or similar official) of a State.

"SEC. 702. CLARIFICATION OF DUTY OF THE SECRETARY TO IMPLEMENT PROVISIONS OF CURRENT LAW PROVIDING FOR EXEMPTIONS AND SOLVENCY STANDARDS FOR MULTIPLE EMPLOYER HEALTH PLANS.

"(a) TREATMENT AS EMPLOYEE WELFARE BENEFIT PLAN WHICH IS A GROUP HEALTH PLAN.—

"(1) IN GENERAL.—A multiple employer welfare arrangement—

"(A) under which the benefits consist solely of medical care (disregarding such incidental benefits as the Secretary shall specify by regulation), and

"(B) under which some or all benefits are not fully insured,

shall be treated for purposes of subtitle A and the other parts of this title as an employee welfare benefit plan which is a group health plan if the arrangement is exempt under section 514(b)(6)(B) in accordance with this part.

"(2) EXCEPTION.—In the case of a multiple employer welfare arrangement which would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii), paragraph (1) shall apply with respect to such arrangement, but only with respect to benefits provided thereunder which constitute medical care.

"(b) TREATMENT UNDER PREEMPTION RULES.—

"(1) IN GENERAL.—The Secretary shall prescribe regulations described in section 514(b)(6)(B)(i), applicable to multiple employer welfare arrangements described in subparagraphs (A) and (B) of subsection (a)(1), providing a procedure for granting exemptions from section 514(b)(6)(A)(ii) with respect to such arrangements. Under such regulations, any such arrangement treated under subsection (a) as an employee welfare benefit plan shall be deemed to be an arrangement described in section 514(b)(6)(B)(ii).

"(2) STANDARDS.—Under the procedure prescribed pursuant to paragraph (1), the Secretary shall grant an arrangement described in subsection (a) an exemption described in subsection (a) only if the Secretary finds that—

"(A) such exemption—

"(i) is administratively feasible,

"(ii) is not adverse to the interests of the individuals covered under the arrangement, and

"(iii) is protective of the rights and benefits of the individuals covered under the arrangement,

"(B) the application for the exemption meets the requirements of paragraph (3), and

"(C) the requirements of sections 703 and 704 are met with respect to the arrangement.

"(3) INFORMATION TO BE INCLUDED IN APPLICATION FOR EXEMPTION.—An application for an exemption described in subsection (a) meets the requirements of this paragraph only if it includes, in a manner and form prescribed in regulations of the Secretary, at least the following information:

"(A) IDENTIFYING INFORMATION.—The names and addresses of—

"(i) the sponsor, and

"(ii) the members of the board of trustees of the arrangement.

"(B) STATES IN WHICH ARRANGEMENT INTENDS TO DO BUSINESS.—The States in which individuals covered under the arrangement are to be located and the number of such individuals expected to be located in each such State.

"(C) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

"(D) PLAN DOCUMENTS.—A copy of the documents governing the arrangement (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits and coverage that will be provided to individuals covered under the arrangement.

"(E) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the arrangement and contract administrators and other service providers.

"(F) FUNDING REPORT.—A report setting forth information determined as of a date within the 120-day period ending with the date of the application, including the following:

"(i) RESERVES.—A statement, certified by the board of trustees of the arrangement, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 705 are or will be met in accordance with regulations which the Secretary shall prescribe.

"(ii) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the arrangement for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the arrangement. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

"(iii) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the arrangement and a projection of the assets, liabilities, income, and expenses of the arrangement for the 12-month period referred to in clause (ii). The income statement shall identify separately the arrangement's administrative expenses and claims.

"(iv) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the arrangement.

"(v) OTHER INFORMATION.—Any other information which may be prescribed in regulations of the Secretary as necessary to carry out the purposes of this part.

"(4) FILING FEE.—Under the procedure prescribed pursuant to paragraph (1), a multiple employer welfare arrangement shall pay to the Secretary at the time of filing an application for an exemption referred to in subsection (a) a filing fee in the amount of $5,000, which shall be available, to the extent provided in appropriation Acts, to the Secretary for the sole purpose of administering the exemption procedures applicable with respect to such arrangement.

"(5) CLASS EXEMPTION TREATMENT FOR EXISTING LARGE ARRANGEMENTS.—Under the procedure prescribed pursuant to paragraph (1), if—

"(A) at the time of application for an exemption under section 514(b)(6)(B) with respect to an arrangement which has been in existence as of the date of the enactment of the Health Coverage Availability and Affordability Act of 1996 for at least 3 years, either (A) the arrangement covers at least 1,000 participants and beneficiaries, or (B) with respect to the arrangement there are at least 2,000 employees of eligible participating employers,

"(B) a complete application for the exemption with respect to the arrangement has been filed and is pending, and

"(C) the application meets such requirements (if any) as the Secretary may provide with respect to class exemptions under this subsection,

the exemption shall be treated as having been granted with respect to the arrangement unless and until the Secretary provides appropriate notice that the exemption has been denied.

"(c) FILING NOTICE OF EXEMPTION WITH STATES.—An exemption granted under section 514(b)(6)(B) to a multiple employer welfare arrangement shall not be effective unless written notice of such exemption is filed with the State insurance commissioner of each State in which at least 5 percent of the individuals covered under the arrangement are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed. The Secretary may by regulation provide in specified cases for the application of the preceding sentence with lesser percentages in lieu of such 5 percent amount.

"(d) NOTICE OF MATERIAL CHANGES.—In the case of any multiple employer welfare arrangement exempt under section 514(b)(6)(B), descriptions of material changes in any information which was required to be submitted with the application for the exemption under this part shall be filed in such form and manner as shall be prescribed in regulations of the Secretary. The Secretary may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the exemption.

"(e) REPORTING REQUIREMENTS.—Under regulations of the Secretary, the requirements of sections 102, 103, and 104 shall apply with respect to any multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) in the same manner and to the same extent as such requirements apply to employee welfare benefit plans, irrespective of whether such exemption continues in effect. The annual report required under section 103 for any plan year in the case of any such multiple employer welfare arrangement shall also include information described in subsection (b)(3)(F) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed not later than 90 days after the close of the plan year.

"(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) shall engage, on behalf of all covered individuals, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

"(1) are in the aggregate reasonably related to the experience of the arrangement and to reasonable expectations, and

"(2) represent such actuary's best estimate of anticipated experience under the arrangement.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

"SEC. 703. REQUIREMENTS RELATING TO SPONSORS, BOARDS OF TRUSTEES, AND PLAN OPERATIONS.

"(a) IN GENERAL.—A complete application for an exemption under section 514(b)(6)(B) shall include information which the Secretary determines to be complete and accurate and sufficient to demonstrate that the following requirements are met with respect to the arrangement:

"(1) SPONSOR.—The sponsor is, and has been (together with its immediate predecessor, if any) for a continuous period of not less than 5 years before the date of the application, organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a trade association, an industry association, a professional association, or a chamber of commerce (or similar business group, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care (within the meaning of section 607(1)), and the applicant demonstrates to the satisfaction of the Secretary that the sponsor is established as a permanent entity which receives the active support of its members and collects dues or contributions from its members on a periodic basis, without conditioning such dues or contributions on the basis of the health status of the employees of such members or the dependents of such employees or on the basis of participation in a group health plan. Any sponsor consisting of an association of entities meeting the preceding requirements of this paragraph shall be treated as meeting the requirements of this paragraph.

"(2) BOARD OF TRUSTEES.—The arrangement is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement, and the board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the arrangement and to meet all requirements of this title applicable to the arrangement. The members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business. No such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the arrangement, except that officers or employees of a sponsor which is a service provider (other than a contract administrator) to the arrangement may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the arrangement other than on behalf of the sponsor. The board has sole authority to approve applications for participation in the arrangement and to contract with a service provider to administer the day-to-day affairs of the arrangement.

"(3) COVERED PERSONS.—The instruments governing the arrangement include a written instrument which provides that, effective upon becoming an arrangement exempt under section 514(b)(6)(B)—

"(A) all participating employers must be members or affiliated members of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or affiliated member of the sponsor, participating employers may also include such employer,

"(B) all individuals thereafter commencing coverage under the arrangement must be—

"(i) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers, or

"(ii) the beneficiaries of individuals described in clause (i), and

"(C) no participating employer may provide health insurance coverage in the individual market for any employee not covered under the arrangement which is similar to the coverage contemporaneously provided to employees of the employer under the arrangement, if such exclusion of the employee from coverage under the arrangement is based in whole or in part on the health status of the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the arrangement.

"(4) INCLUSION OF ELIGIBLE EMPLOYERS AND EMPLOYEES.—No employer described in paragraph (3) is excluded as a participating employer (except to the extent that requirements of the type referred to in section 131(d)(2) of the Health Coverage Availability and Affordability Act of 1996 are not met) and the requirements of section 103 of such Act (as referred to in section 104(b)(1) of such Act) are met.

"(5) RESTRICTION ON VARIATIONS OF PREMIUM RATES.—Premium rates under the arrangement with respect to any particular employer do not vary on the basis of the claims experience of such employer alone.

"(b) TREATMENT OF FRANCHISE NETWORKS.—In the case of a multiple employer welfare arrangement which is established and maintained by a franchisor for a franchise network consisting of its franchisees, the requirements of subsection (a)(1) shall not apply with respect to such network in any case in which such requirements would be met if the franchisor were deemed to be the sponsor referred to in subsection (a)(1), such network were deemed to be an association described in subsection (a)(1), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in subsection (a)(1).

"(c) CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.—In the case of a multiple employer welfare arrangement in existence on March 6, 1996, which would be described in section 3(40)(A)(i) but solely for the failure to meet the requirements of section 3(40)(C)(ii) or (to the extent provided in regulations of the Secretary) solely for the failure to meet the requirements of subparagraph (D) or (F) of section 3(40)—

"(1) subsection (a)(1) shall not apply, and

"(2) the joint board of trustees shall be considered the board of trustees required under subsection (a)(2).

"(d) CERTAIN ARRANGEMENTS NOT MEETING SINGLE EMPLOYER REQUIREMENT.—

"(1) IN GENERAL.—In any case in which the majority of the employees covered under a multiple employer welfare arrangement are employees of a single employer (within the meaning of clauses (i) and (ii) of section 3(40)(B)), if all other employees covered under the arrangement are employed by employers who are related to such single employer—

"(A) subsection (a)(1) shall not apply if the sponsor of the arrangement is the person who would be the plan sponsor if the related employers were disregarded in determining whether the requirements of section 3(40)(B) are met, and

"(B) subsection (a)(2) shall be treated as satisfied if the board of trustees is the named fiduciary in connection with the arrangement.

"(2) RELATED EMPLOYERS.—For purposes of paragraph (1), employers are 'related' if there is among all such employers a common ownership interest or a substantial commonality of business operations based on common suppliers or customers.

"SEC. 704. OTHER REQUIREMENTS FOR EXEMPTION.

"A multiple employer welfare arrangement exempt under section 514(b)(6)(B) shall meet the following requirements:

"(1) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the arrangement include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

"(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)),

"(B) provides that the sponsor of the arrangement is to serve as plan sponsor (referred to in section 3(16)(B)), and

"(C) incorporates the requirements of section 705.

"(2) CONTRIBUTION RATES.—The contribution rates referred to in section 702(b)(3)(F)(ii) are adequate.

"(3) REGULATORY REQUIREMENTS.—Such other requirements as the Secretary may prescribe by regulation as necessary to carry out the purposes of this part.

"SEC. 705. MAINTENANCE OF RESERVES.

"(a) IN GENERAL.—Each multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) and under which benefits are not fully insured shall establish and maintain reserves, consisting of—

"(1) a reserve sufficient for unearned contributions,

"(2) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities, and

"(3) a reserve, in an amount recommended by the qualified actuary, for any other obligations of the arrangement.

"(b) MINIMUM AMOUNT FOR CERTAIN RESERVES.—The total of the reserves described in subsection (a)(2) shall not be less than an amount equal to the greater of—

"(1) 25 percent of expected incurred claims and expenses for the plan year, or

"(2) $400,000.

"(c) REQUIRED MARGIN.—In determining the amounts of reserves required under this section in connection with any multiple employer welfare arrangement, the qualified actuary shall include a margin for error and other fluctuations taking into account the specific circumstances of such arrangement.

"(d) ADDITIONAL REQUIREMENTS.—The Secretary may provide such additional requirements relating to reserves and excess/stop loss coverage as the Secretary considers appropriate. Such requirements may be provided, by regulation or otherwise, with respect to any arrangement or any class of arrangements.

"(e) ADJUSTMENTS FOR EXCESS/STOP LOSS COVERAGE.—The Secretary may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any arrangement or class of arrangements to take into account excess/stop loss coverage provided with respect to such arrangement or arrangements.

"(f) ALTERNATIVE MEANS OF COMPLIANCE.—The Secretary may permit an arrangement to substitute, for all or part of the requirements of this section, such security, guarantee, hold-harmless arrangement, or other financial arrangement as the Secretary determines to be adequate to enable the arrangement to fully meet all its financial obligations on a timely basis. The Secretary may take into account, for purposes of this subsection, evidence provided by the arrangement or sponsor which demonstrates an assumption of liability with respect to the arrangement. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the arrangement in the form of assessments of participating employers, security, or other financial arrangement.

"SEC. 706. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

"Except as provided in section 707(b), a multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) may terminate only if the board of trustees—

"(1) not less than 60 days before the proposed termination date, provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date,

"(2) develops a plan for winding up the affairs of the arrangement in connection with such termination in a manner which will result in timely payment of all benefits for which the arrangement is obligated, and

"(3) submits such plan in writing to the Secretary.

Actions required under this paragraph shall be taken in such form and manner as may be prescribed in regulations of the Secretary.

"SEC. 707. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

"(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—A multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) shall continue to meet the requirements of section 705, irrespective of whether such exemption continues in effect. The board of trustees of such arrangement shall determine quarterly whether the requirements of section 705 are met. In any case in which the committee determines that there is reason to believe that there is or will be a failure to meet such requirements, or the Secretary makes such a determination and so notifies the committee, the committee shall immediately notify the qualified actuary engaged by the arrangement, and such actuary shall, not later than the end of the next following month, make such recommendations to the committee for corrective action as the actuary determines necessary to ensure compliance with section 705. Not later than 10 days after receiving from the actuary recommendations for corrective actions, the committee shall notify the Secretary (in such form and manner as the Secretary may prescribe by regulation) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the committee has taken or plans to take in response to such recommendations. The committee shall thereafter report to the Secretary, in such form and frequency as the Secretary may specify to the committee, regarding corrective action taken by the committee until the requirements of section 705 are met.

"(b) MANDATORY TERMINATION.—In any case in which—

"(1) the Secretary has been notified under subsection (a) of a failure of a multiple employer welfare arrangement which is or has been exempt under section 514(b)(6)(B) to meet the requirements of section 705 and has not been notified by the board of trustees of the arrangement that corrective action has restored compliance with such requirements, and

"(2) the Secretary determines that the continuing failure to meet the requirements of section 705 can be reasonably expected to result in a continuing failure to pay benefits for which the arrangement is obligated,

the board of trustees of the arrangement shall, at the direction of the Secretary, terminate the arrangement and, in the course of the termination, take such actions as the Secretary may require, including recovering for the arrangement any liability under section 705(f), as necessary to ensure that the affairs of the arrangement will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the arrangement is obligated.

"SEC. 708. ADDITIONAL RULES REGARDING STATE AUTHORITY.

"(a) EXCLUSION OF ARRANGEMENTS FROM THE SMALL GROUP MARKET IN ANY STATE UPON STATE'S CERTIFICATION OF GUARANTEED ACCESS TO HEALTH INSURANCE COVERAGE IN SUCH STATE.—

"(1) IN GENERAL.—If a State certifies to the Secretary that such State provides to its residents guaranteed access to health insurance coverage, during the period for which such certification is in effect, the law of such State may regulate any health care coverage provided in the small group market in such State (or prohibit the provision of such coverage) by a multiple employer welfare arrangement which is otherwise exempt under section 514(b)(6)(B) and whose sponsor is described in section 703(a)(1), notwithstanding such exemption. Any such certification shall be in effect for such period, not greater than 3 years, as is designated in such certification. Such certification shall apply with respect to such arrangements as are identified, individually or by class, in the certification.

"(2) GUARANTEED ACCESS.—For purposes of this subsection, the certification by a State that such State provides 'guaranteed access' to health insurance coverage to the residents of such State means—

"(A) certification that the number of residents of such State who are covered by a group health plan or otherwise have health insurance coverage exceeds 90 percent of the total number of the residents of such State, or

"(B) certification that—

"(i) the small group market in such State provides guaranteed issue for employees with respect to at least one option of health insurance coverage offered by insurers and health maintenance organizations in such market, and

"(ii) the State has implemented rating reforms in the small group market in such State which are designed to make health insurance coverage more affordable.

"(b) EXCEPTIONS.—

"(1) CERTAIN MULTISTATE ASSOCIATIONS.—Subsection (a) shall not apply in the case of a multiple employer welfare arrangement operating in any State which has made a certification under subsection (a)(2)(B) if—

"(A) in the application for the exemption under section 514(b)(6)(B), the sponsor of such arrangement demonstrates to the Secretary (in such form and manner as shall be prescribed in regulations of the Secretary) that—

"(i) such sponsor operates in the majority of the 50 States and in at least 2 of the regions of the United States, and

"(ii) the arrangement covers, or is to cover (in the case of a newly established arrangement), at least 7,500 participants and beneficiaries, and

"(B) at the time of such application, the arrangement does not have pending against it any enforcement action by the State.

"(2) EXISTING ARRANGEMENTS.—Subsection (a) shall not apply with respect to an arrangement operating in any State if—

"(A) such arrangement was operating in such State as of March 6, 1996, and

"(B) at the time of the application for the exemption under section 514(b)(6), the arrangement does not have pending against it any enforcement action by the State.

"(3) LIMITATIONS.—Paragraphs (1) and (2) shall not apply in the case of any State which has made a certification under subsection (a) and which, as of January 1, 1996, had enacted a law that either—

"(A) provided guaranteed issue of individual health insurance coverage offered by insurers and health maintenance organizations in the individual market using pure community rating and did not provide for any transition period (after the effective date of the guaranteed issue requirement) in the implementation of pure community rating; or

"(B) required insurers offering health insurance coverage in connection with group health plans to reimburse insurers offering individual health insurance coverage for losses resulting from those insurers offering individual health insurance coverage on an open enrollment basis.

Regulations under this part may provide for an exemption from the applicability of paragraph (1) in the case of certain arrangements that are limited to a single industry.

"(c) ASSESSMENT AUTHORITY WITH RESPECT TO NEW ARRANGEMENTS.—

"(1) IN GENERAL.—Notwithstanding section 514, a State may impose by law a premium tax on multiple employer welfare arrangements which are otherwise exempt under section 514(b)(6)(B) and the sponsor of which is described in section 703(a)(1)—

"(A) in the case of an arrangement established after March 6, 1996, and

"(B) in the case of an arrangement in existence as of March 6, 1996, if the arrangement commenced operations in such State after March 6, 1996.

"(2) PREMIUM TAX.—For purposes of this subsection, the term 'premium tax' imposed by a State on a multiple employer welfare arrangement means any tax imposed by such State if—

"(A) such tax is computed by applying a rate to the amount of premiums or contributions received by the arrangement from participating employers located in such State with respect to individuals covered under the arrangement who are residents of such State,

"(B) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan,

"(C) such tax is otherwise nondiscriminatory, and

"(D) the amount of any such tax assessed on the arrangement is reduced by the amount of any tax or assessment imposed by the State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage (or other insurance related to the provision of medical care under the arrangement) provided by such insurers or health maintenance organizations in such State to such arrangement.

"(d) DEFINITIONS.—For purposes of this section—

"(1) SMALL GROUP MARKET.—The term 'small group market' means the health insurance coverage market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) on the basis of employment or other relationship with respect to a small employer.

"(2) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a calandar year, an employer who employs at least 2 but fewer than 51 employees on a typical business day in the year. For purposes of this paragraph, 2 or more trades or businesses, whether or not incorporated, shall be deemed a single employer if such trades or businesses are within the same control group (within the meaning of section 3(40)(B)(ii)).

"(3) REGION.—The term 'region' means any of the following regions:

"(A) The East Region, consisting of the States of Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, and Ohio, and the District of Columbia.

"(B) The Southeast Region, consisting of the States of Texas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, and Tennessee.

"(C) The Midwest Region, consisting of the States of Montana, South Dakota, North Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Wisconsin, Michigan, Illinois, and Indiana.

"(D) The West Region, consisting of the States of Oregon, Washington, Idaho, Nevada, California, New Mexico, Arizona, Nebraska, Wyoming, Hawaii, Alaska, Colorado, and Utah.".

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6)(A)(i) of such Act (29 U.S.C. 1144(b)(6)(A)(i)) is amended by striking "is fully insured" and inserting "under which all benefits are fully insured", and by inserting "and which is not described in section 702(a)(1)" after "subparagraph (B)".

(2) Section 514(b)(6)(B) of such Act (29 U.S.C. 1144(b)(6)(B)) is amended—

(A) by inserting "(i)" after "(B)";

(B) by striking "which are not fully insured" and inserting "under which any benefit is not fully insured"; and

(C) by striking "Any such exemption" and inserting:

"(ii) Subject to part 7, any exemption under clause (i)".

(c) CONFORMING AMENDMENT TO DEFINITION OF PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 1002(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes the sponsor (as defined in section 701(6)) of a multiple employer welfare arrangement which is or has been a multiple employer health plan (as defined in section 701(4)).".

(d) DEFINITIONS.—

(1) GROUP HEALTH PLAN.—Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

"(42) Except as otherwise provided in this title, the term 'group health plan' means an employee welfare benefit plan to the extent that the plan provides medical care (within the meaning of section 607(1)) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise.".

(2) INCLUSION OF CERTAIN PARTNERS AND SELF-EMPLOYED SPONSORS IN DEFINITION OF PARTICIPANT.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended—

(A) by inserting "(A)" after "(7)"; and

(B) by adding at the end the following new paragraph:

"(B) In the case of a group health plan, such term includes—

"(i) in connection with a group health plan maintained by a partnership, an individual who is a partner in relation to the partnership, or

"(ii) in connection with a group health plan maintained by a self-employed individual (under which one or more employees are participants), the self-employed individual,

if such individual is or may become eligible to receive a benefit under the plan or such individual's beneficiaries may be eligible to receive any such benefit.".

(3) HEALTH INSURANCE COVERAGE.—Section 3 of such Act (as amended by paragraph (1)) is amended further by adding at the end the following new paragraph:

"(43)(A) Except as provided in subparagraph (B), the term 'health insurance coverage' means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract offered by an insurer or a health maintenance organization.

"(B) Such term does not include coverage under any separate policy, certificate, or contract only for one or more of any of the following:

"(i) Coverage for accident, credit-only, vision, disability income, long-term care, nursing home care, community-based care dental, on-site medical clinics, or employee assistance programs, or any combination thereof.

"(ii) Medicare supplemental health insurance (within the meaning of section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1))) and similar supplemental coverage provided under a group health plan.

"(iii) Coverage issued as a supplement to liability insurance.

"(iv) Liability insurance, including general liability insurance and automobile liability insurance.

"(v) Workers' compensation or similar insurance.

"(vi) Automobile medical-payment insurance.

"(vii) Coverage for a specified disease or illness.

"(viii) Hospital or fixed indemnity insurance.

"(ix) Short-term limited duration insurance.

"(x) Such other coverage, comparable to that described in previous clauses, as may be specified in regulations.".

(4) MEDICAL CARE.—Section 607(1) of such Act (29 U.S.C. 1167(1)) is amended—

(A) by striking "The term" and inserting the following:

"(A) IN GENERAL.—The term";

(B) by striking "(as defined" and all that follows through "1986)"; and

(C) by adding at the end the following new subparagraph:

"(B) MEDICAL CARE.—For purposes of this paragraph, the term 'medical care' means—

"(i) amounts paid for, or items or services in the form of, the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for, or items or services provided for, the purpose of affecting any structure or function of the body,

"(ii) amounts paid for, or services in the form of, transportation primarily for and essential to medical care referred to in clause (i), and

"(iii) amounts paid for insurance covering medical care referred to in clauses (i) and (ii).".

(5) OTHER DEFINITIONS.—Section 514 of such Act is further amended by adding at the end the following new subsection:

"(e) For purposes of this section, the terms 'fully insured', 'health maintenance organization', and 'insurer' have the meanings given such terms in section 701.".

(e) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (as amended by section 102(g)) is amended by inserting after the item relating to section 609 the following new items:

"PART 7—RULES GOVERNING REGULATION OF MULTIPLE EMPLOYER HEALTH PLANS

"Sec. 701. Definitions.
"Sec. 702. Clarification of duty of the Secretary to implement provisions of current law provising for exemptions and solvency standards for multiple employer health plans.
"Sec. 703. Requirements relating to sponsors, boards of trustees, and plan operations.
"Sec. 704. Other requirements for exemption.
"Sec. 705. Maintenance of reserves.
"Sec. 706. Notice requirements for voluntary termination.
"Sec. 707. Corrective actions and mandatory termination.
"Sec. 708. Additional rules regarding State authority.

SEC. 162. AFFORDABLE AND AVAILABLE FULLY INSURED HEALTH COVERAGE THROUGH VOLUNTARY HEALTH INSURANCE ASSOCIATIONS.

Section 514 of the Employee Retirement Income Security Act of 1974 is amended—

(1) by redesignating subsections (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) The provisions of this title shall supercede any and all State laws which regulate insurance insofar as they may now or hereafter—

"(A) preclude an insurer or health maintenance organization from offering health insurance coverage under voluntary health insurance associations,

"(B) preclude an insurer or health maintenance organization from setting premium rates under a voluntary health insurance association based on the claims experience of the voluntary health insurance association (without varying the premium rates of any particular employer on the basis of the claims experience of such employer alone), or

"(C) require—

"(i) health insurance coverage in connection with a voluntary health insurance association to include specific items or services consisting of medical care, or

"(ii) an insurer or health maintenance organization offering health insurance coverage in connection with a voluntary health insurance association to include in such health insurance coverage specific items or services consisting of medical care,

except to the extent that such State laws prohibit an exclusion for a specific disease in such health insurance coverage.

Subparagraph (C) shall apply only with respect to items and services which shall be specified in a list which shall be prescribed in regulations of the Secretary.

"(2)(A) If a State certifies to the Secretary that such State provides to its residents guaranteed access to health insurance coverage, during the period for which such certification is in effect, the law of such State may regulate any health insurance coverage provided in the small group market in such State (or prohibit the provision of such coverage) by a voluntary health insurance association. Any such certification shall be in effect for such period, not greater than 3 years, as is designated in such certification.

"(B) For purposes of this paragraph, the certification by a State that such State provides 'guaranteed access' to health insurance coverage to the residents of such State means—

"(i) certification that the number of residents of such State who are covered by a group health plan or otherwise have health insurance coverage exceeds 90 percent of the total number of the residents of such State, or

"(ii) certification that—

"(I) the small group market in such State provides guaranteed issue for employees with respect to at least one option of health insurance coverage offered by insurers and health maintenance organizations in such market, and

"(II) the State has implemented rating reforms in the small group market in such State which are designed to make health insurance coverage more affordable.

"(3)(A) Paragraph (2) shall not apply in the case of any voluntary health insurance association with respect to any State if the qualified association demonstrates to the Secretary (in such form and manner as shall be prescribed in regulations of the Secretary) that—

"(i) such qualified association operates in the majority of the 50 States and in at least 2 of the regions of the United States,

"(ii) the arrangement covers, or is to cover (in the case of a newly established arrangement), at least 7,500 participants and beneficiaries, and

"(iii) under the terms of the arrangement, either—

"(I) the qualified association does not exclude from membership any small employer in the State, or

"(II) the arrangement accepts every small employer in the State that applies for coverage.

"(B)(i) Subject to clause (ii), paragraph (2) shall not apply with respect to a voluntary health insurance association operating in any State if such association was operating in such State as of March 6, 1996.

"(ii) Clause (i) shall apply in the case of an arrangement in connection with any State only if the qualified association demonstrates to the Secretary (in such form and manner as shall be prescribed in regulations of the Secretary) either—

"(I) that the qualified association does not exclude from membership any small employer in the State, or

"(II) that the arrangement accepts every small employer in such State that applies for coverage.

"(C) Subparagraphs (A) and (B) shall not apply in the case of any State which has made a certification under paragraph (2) and which, as of January 1, 1996, had enacted a law that either—

"(i) provided guaranteed issue of individual health insurance coverage offered by insurers and health maintenance organizations in the individual market using pure community rating and did not provide for any transition period (after the effective date of the guaranteed issue requirement) in the implementation of pure community rating; or

"(ii) required insurers offering health insurance coverage in connection with group health plans to reimburse insurers offering individual health insurance coverage for losses resulting from those insurers offering individual health insurance coverage on an open enrollment basis.

"(5) For purposes of this subsection—

"(A) The term 'voluntary health insurance association' means a multiple employer welfare arrangement—

"(i) under which benefits include medical care (within the meaning of section 607(1)),

"(ii) under which all benefits consisting of such medical care are fully insured,

"(iii) which is maintained by a qualified association,

"(iv) under which no employer is excluded as a participating employer (except to the extent that requirements of the type referred to in section 131(d)(2) of the Health Coverage Availability and Affordability Act of 1996 are not met), the requirements of section 103 of such Act (as referred to in section 104(b)(1) of such Act) are met, and all health insurance coverage options are aggressively marketed to eligible employees and their dependents, and

"(v) under which, with respect to the operations of the arrangement in any State, the health insurance coverage is provided by an insurer or health maintenance organization to which the laws of such State applies.

"(B) The term 'qualified association' means an association with respect to which the following requirements are met:

"(i) The sponsor of the association is, and has been (together with its immediate predecessor, if any) for a continuous period of not less than 5 years, organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose, as a trade association, an industry association, a professional association, or a chamber of commerce (or similar business group), for substantial purposes other than that of obtaining or providing medical care (within the meaning of section 607(1)).

"(ii) The sponsor of the association is established as a permanent entity which receives the active support of its members.

"(iii) The constitution and bylaws of the association provide for periodic meetings on at least an annual basis.

"(iv) The association collects dues or contributions from its members on a periodic basis, without conditioning such dues or contributions on the basis of the health status of the employees of such members or the dependents of such employees or on the basis of participation in a group health plan or voluntary health insurance association.

Such term includes a group of qualified associations, as defined in the preceding provisions of this clause.

"(C) The term 'small group market' means the health insurance coverage market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) on the basis of employment or other relationship with respect to a small employer.

"(D) The term 'small employer' means, in connection with a group health plan with respect to a calandar year, an employer who employs at least 2 but fewer than 51 employees on a typical business day in the year. For purposes of this paragraph, 2 or more trades or businesses, whether or not incorporated, shall be deemed a single employer if such trades or businesses are within the same control group (within the meaning of section 3(40)(B)(ii)).

"(E) The term 'region' means any of the following regions:

"(i) The East Region, consisting of the States of Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, and Ohio and the District of Columbia.

"(ii) The Southeast Region, consisting of the States of Texas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, and Tennessee.

"(iii) The Midwest Region, consisting of the States of Montana, South Dakota, North Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Wisconsin, Michigan, Illinois, and Indiana.

"(iv) The West Region, consisting of the States of Oregon, Washington, Idaho, Nevada, California, New Mexico, Arizona, Nebraska, Wyoming, Hawaii, Alaska, Colorado, and Utah.".

SEC. 163. STATE AUTHORITY FULLY APPLICABLE TO SELF-INSURED MULTIPLE EMPLOYER WELFARE ARRANGEMENTS PROVIDING MEDICAL CARE WHICH ARE NOT EXEMPTED UNDER NEW PART 7.

(a) IN GENERAL.—Section 514(b)(6)(A)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(6)(A)(ii)) is amended by inserting before the period the following: ", except that, in any such case, if the arrangement provides medical care (within the meaning of section 607(1)), such a law of any State may apply without limitation under this title".

(b) CROSS-REFERENCE.—Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) (as amended by section 301) is amended by adding at the end the following new subparagraph:

"(G) For additional rules relating to exemption from subparagraph (A)(ii) of multiple employer health plans, see part 7.".

SEC. 164. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting "for any plan year of any such plan, or any fiscal year of

any such other arrangement," after "single employer", and by inserting "during such year or at any time during the preceding 1-year period" after "control group";

(2) in clause (iii)—

(A) by striking "common control shall not be based on an interest of less than 25 percent" and inserting "an interest of greater than 25 percent may not be required as the minimum interest necessary for common control"; and

(B) by striking "similar to" and inserting "consistent and coextensive with";

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

"(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only 1 participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement,".

SEC. 165. CLARIFICATION OF TREATMENT OF CERTAIN COLLECTIVELY BARGAINED ARRANGEMENTS.

(a) In General.—Section 3(40)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(A)(i)) is amended to read as follows:

"(i)(I) under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, and (II) in accordance with subparagraphs (C), (D), and (E),".

(b) Limitations.—Section 3(40) of such Act (29 U.S.C. 1002(40)) is amended by adding at the end the following new subparagraphs:

"(C) A plan or other arrangement is established or maintained in accordance with this subparagraph only if the following requirements are met:

"(i) The plan or other arrangement, and the employee organization or any other entity sponsoring the plan or other arrangement, do not—

"(I) utilize the services of any licensed insurance agent or broker for soliciting or enrolling employers or individuals as participating employers or covered individuals under the plan or other arrangement, or

"(II) pay a commission or any other type of compensation to a person, other than a full time employee of the employee organization (or a member of the organization to the extent provided in regulations of the Secretary), that is related either to the volume or number of employers or individuals solicited or enrolled as participating employers or covered individuals under the plan or other arrangement, or to the dollar amount or size of the contributions made by participating employers or covered individuals to the plan or other arrangement,

except to the extent that the services used by the plan, arrangement, organization, or other entity consist solely of preparation of documents necessary for compliance with the reporting and disclosure requirements of part 1 or administrative, investment, or consulting services unrelated to solicitation or enrollment of covered individuals.

"(ii) As of the end of the preceding plan year, the number of covered individuals under the plan or other arrangement who are identified to the plan or arrangement and who are neither—

"(I) employed within a bargaining unit covered by any of the collective bargaining agreements with a participating employer (nor covered on the basis of an individual's employment in such a bargaining unit), nor

"(II) present employees (or former employees who were covered while employed) of the sponsoring employee organization, of an employer who is or was a party to any of the collective bargaining agreements, or of the plan or other arrangement or a related plan or arrangement (nor covered on the basis of such present or former employment),

does not exceed 15 percent of the total number of individuals who are covered under the plan or arrangement and who are present or former employees who are or were covered under the plan or arrangement pursuant to a collective bargaining agreement with a participating employer. The requirements of the preceding provisions of this clause shall be treated as satisfied if, as of the end of the preceding plan year, such covered individuals are comprised solely of individuals who were covered individuals under the plan or other arrangement as of the date of the enactment of the Health Coverage Availability and Affordability Act 1996 and, as of the end of the preceding plan year, the number of such covered individuals does not exceed 25 percent of the total number of present and former employees enrolled under the plan or other arrangement.

"(iii) The employee organization or other entity sponsoring the plan or other arrangement certifies to the Secretary each year, in a form and manner which shall be prescribed in regulations of the Secretary that the plan or other arrangement meets the requirements of clauses (i) and (ii).

"(D) A plan or arrangement is established or maintained in accordance with this subparagraph only if—

"(i) all of the benefits provided under the plan or arrangement are fully insured (as defined in section 701(2)), or

"(ii)(I) the plan or arrangement is a multiemployer plan, and

"(II) the requirements of clause (B) of the proviso to clause (5) of section 302(c) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)) are met with respect to such plan or other arrangement.

"(E) A plan or arrangement is established or maintained in accordance with this subparagraph only if—

"(i) the plan or arrangement is in effect as of the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, or

"(ii) the employee organization or other entity sponsoring the plan or arrangement—

"(I) has been in existence for at least 3 years or is affiliated with another employee organization which has been in existence for at least 3 years, or

"(II) demonstrates to the satisfaction of the Secretary that the requirements of subparagraphs (C) and (D) are met with respect to the plan or other arrangement.".

(c) Conforming Amendments to Definitions of Participant and Beneficiary.—Section 3(7) of such Act (29 U.S.C. 1002(7)) is amended by adding at the end the following new sentence: "Such term includes an individual who is a covered individual described in paragraph (40)(C)(ii).".

SEC. 166. TREATMENT OF CHURCH PLANS.

(a) Special Rules for Church Plans.—

(1) In general.—Part 7 of subtitle B of title I of such Act (as added and amended by the preceding provisions of this Act) is amended by adding at the end the following new section:

"SEC. 709. SPECIAL RULES FOR CHURCH PLANS.

"(a) Election for Church Plans.—

"(1) In general.—Notwithstanding section 4(b)(2), if the church or convention or association of churches which maintains a church plan covered under this section makes an election with respect to such plan under this subsection (in such form and manner as the Secretary may by regulations prescribe), then, subject to this section, the provisions of this part (and other provisions of this title to the extent that they apply to group health plans which are multiple employer welfare arrangements) shall apply to such church plan, with respect to benefits provided under such plan consisting of medical care, as if—

"(A) section 4(b)(2) did not contain an exclusion for church plans, and

"(B) such plan were an arrangement eligible to apply for an exemption under this part.

"(2) Election irrevocable.—An election under this subsection with respect to any church plan shall be binding with respect to such plan, and, once made, shall be irrevocable.

"(b) Covered Church Plans.—A church plan is covered under this section if such plan provides benefits which include medical care and some or all of such benefits are not fully insured.

"(c) Sponsor and Board of Trustees.—For purposes of this part, in the case of a church plan to which this part applies pursuant to an election under subsection (a), in treating such plan as if it were a multiple employer welfare arrangement under this part—

"(1) the church, convention or association of churches, or other organization described in section 3(33)(C)(i) which is the entity maintaining the plan shall be treated as the sponsor referred to in section 703(a)(1), and the requirements of section 703(a)(1) shall not apply, and

"(2) the board of trustees, board of directors, or other similar governing body of such sponsor shall be treated as the board of trustees referred to in section 703(a)(2), and the requirements of section 703(a)(2) shall be deemed satisfied with respect to the board of trustees.

"(d) Deemed Satisfaction of Trust Requirements.—The requirements of section 403 shall not be treated as not satisfied with respect to a church plan to which this part applies pursuant to an election under subsection (a) solely because assets of the plan are held by an organization described in section 3(33)(C)(i), if—

"(1) such organization is incorporated separately from the church or convention or association of churches involved, and

"(2) such assets with respect to medical care are separately accounted for.

"(e) Deemed Satisfaction of Exclusive Benefit Requirements.—The requirements of section 404 shall not be treated as not satisfied with respect to a church plan to which this part applies pursuant to an election under subsection (a) solely because assets of the plan which are in excess of reserves required for exemption under section 514(b)(6)(B) are held in a fund in which such assets are pooled with assets of other church plans, if the assets held by such fund may not, under the terms of the plan and the terms governing such fund, be used for, or diverted to, any purpose other than for the exclusive benefit of the participants and beneficiaries of the church plans whose assets are pooled in such fund.

"(f) INAPPLICABILITY OF CERTAIN PROVISIONS.—

"(1) PROHIBITED TRANSACTIONS.—Section 406 shall not apply to a church plan by reason of an election under subsection (a).

"(2) CONTINUATION COVERAGE.—Section 601 shall not apply to a church plan by reason of an election under subsection (a).".

(b) CONFORMING AMENDMENTS.—

(1) Section 4(b)(2) of such Act (29 U.S.C. 1003(b)(2)) is amended by inserting before the semicolon the following: ", except with respect to provisions made applicable under any election made under section 704(a) of this Act".

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (a), by inserting "(including a church plan which is not exempt under section 4(b)(2) by reason of an election under section 704)" before the period in the first sentence; and

(B) in subsection (b)(2)(B), by inserting "and including a church plan which is not exempt under section 4(b)(2) by reason of an election under section 704" after "death benefits".

(c) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (as amended by the preceding provisions of this title) is further amended by inserting after the item relating to section 703 the following new item:

"Sec. 709. Special rules for church plans.".

SEC. 167. ENFORCEMENT PROVISIONS RELATING TO MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.

(a) ENFORCEMENT OF FILING REQUIREMENTS.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) (as amended by sections 102(c)) is further amended—

(1) in subsection (a)(6), by striking "paragraph (2) or (5)" and inserting "paragraph (2), (5), or (6)"; and

(2) by adding at the end of subsection (c) the following new paragraph:

"(6) The Secretary may assess a civil penalty against any person of up to $1,000 a day from the date of such person's failure or refusal to file the information required to be filed with the Secretary under section 101(g).".

(b) ACTIONS BY STATES IN FEDERAL COURT.—Section 502(a) of such Act (29 U.S.C. 1132(a)) is amended—

(1) in paragraph (8), by striking "or" at the end;

(2) in paragraph (9), by striking the period and inserting ", or"; and

(3) by adding at the end the following:

"(10) by a State official having authority under the law of such State to enforce the laws of such State regulating insurance, to enjoin any act or practice which violates any requirement under part 7 for an exemption under section 514(b)(6)(B) which such State has the power to enforce pursuant to section 506(c)(1).".

(c) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of such Act (29 U.S.C. 1131) is amended—

(1) by inserting "(a)" after "SEC. 501."; and

(2) by adding at the end the following new subsection:

"(b) Any person who, either willfully or with willful blindness, falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, an arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

"(1) being a multiple employer welfare arrangement to which an exemption has been granted under section 514(b)(6)(B),

"(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws, or

"(3) being a plan or arrangement with respect to which the requirements of subparagraph (C), (D), or (E) of section 3(40) are met,

shall, upon conviction, be imprisoned not more than five years, be fined under title 18, United States Code, or both.".

(d) CESSATION OF ACTIVITIES IN ABSENCE OF EFFECTIVE STATE REGULATION UNLESS STANDARDS UNDER ERISA EXEMPTION ARE MET.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(n)(1) Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of a multiple employer welfare arrangement providing benefits consisting of medical care (within the meaning of section 607(1)) that—

"(A) is not licensed, registered, or otherwise approved under the insurance laws of the States in which the arrangement offers or provides benefits, and

"(B) if there is in effect with respect to such arrangement an exemption under section 514(b)(6)(B), is not operating in accordance with the requirements under part 7 for such an exemption,

a district court of the United States shall enter an order requiring that the arrangement cease activities.

"(2) Paragraph (1) shall not apply in the case of a multiple employer welfare arrangement if the arrangement shows that—

"(A) all benefits under it referred to in paragraph (1) are fully insured, within the meaning of section 701(1), and

"(B) with respect to each State in which the arrangement offers or provides benefits, the arrangement is operating in accordance with applicable State insurance laws that are not superseded under section 514.

"(3) The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the arrangement.".

(e) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133) is amended by adding at the end (after and below paragraph (2)) the following new sentence: "The terms of each multiple employer health plan (within the meaning of section 701(4)) shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.".

SEC. 168. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

"(c) STATE AUTHORITY WITH RESPECT TO MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—

"(1) STATE ENFORCEMENT.—

"(A) AGREEMENTS WITH STATES.—A State may enter into an agreement with the Secretary for delegation to the State of some or all of the Secretary's authority under sections 502 and 504 to enforce the requirements under section 514(d) or the requirements under part 7 for an exemption under section 514(b)(6)(B). The Secretary shall enter into the agreement if the Secretary determines that the delegation provided for therein would not result in a lower level or quality of enforcement of the provisions of this title.

"(B) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this paragraph may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.

"(C) CONCURRENT AUTHORITY OF THE SECRETARY.—If the Secretary delegates authority to a State in an agreement entered into under subparagraph (A), the Secretary may continue to exercise such authority concurrently with the State.

"(D) RECOGNITION OF PRIMARY DOMICILE STATE.—In entering into any agreement with a State under subparagraph (A), the Secretary shall ensure that, as a result of such agreement and all other agreements entered into under subparagraph (A), only one State will be recognized, with respect to any particular multiple employer welfare arrangement, as the primary domicile State to which authority has been delegated pursuant to such agreements.

"(2) ASSISTANCE TO STATES.—The Secretary shall—

"(A) provide enforcement assistance to the States with respect to multiple employer welfare arrangements, including, but not limited to, coordinating Federal and State efforts through the establishment of cooperative agreements with appropriate State agencies under which the Pension and Welfare Benefits Administration keeps the States informed of the status of its cases and makes available to the States information obtained by it,

"(B) provide continuing technical assistance to the States with respect to issues involving multiple employer welfare arrangements and this Act,

"(C) make readily available to the States timely and complete responses to requests for advisory opinions on issues described in subparagraph (B), and

"(D) distribute copies of all advisory opinions described in subparagraph (C) to the State insurance commissioner of each State.".

SEC. 169. FILING AND DISCLOSURE REQUIREMENTS FOR MULTIPLE EMPLOYER WELFARE ARRANGEMENTS OFFERING HEALTH BENEFITS.

(a) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended—

(1) by redesignating subsection (g) as subsection (i); and

(2) by inserting after subsection (f) the following new subsections:

"(g) REGISTRATION OF MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—(1) Each multiple employer welfare arrangement shall file with the Secretary a registration statement described in paragraph (2) within 60 days before commencing operations (in the case of an arrangement commencing operations on or after January 1, 1997) and no later than February 15 of each year (in the case of an arrangement in operation since the beginning of such year), unless, as of the date by which such filing otherwise must be made, such arrangement provides no benefits consisting of medical care (within the meaning of section 607(1))).

"(2) Each registration statement—

"(A) shall be filed in such form, and contain such information concerning the multiple employer welfare arrangement and any persons involved in its operation (including whether coverage under the arrangement is fully insured), as shall be provided in regulations which shall be prescribed by the Secretary, and

"(B) if any benefits under the arrangement consisting of medical care (within the meaning of section 607(1)) are not fully insured, shall contain a certification that copies of such registration statement have been transmitted by certified mail to—

"(i) in the case of an arrangement which is a multiple employer health plan (as defined in section 701(4)), the State insurance commissioner of the domicile State of such arrangement, or

"(ii) in the case of an arrangement which is not a multiple employer health plan, the State insurance commissioner of each State in which the arrangement is located.

"(3) The person or persons responsible for filing the annual registration statement are—

"(A) the trustee or trustees so designated by the terms of the instrument under which the multiple employer welfare arrangement is established or maintained, or

"(B) in the case of a multiple employer welfare arrangement for which the trustee or trustees cannot be identified, or upon the failure of the trustee or trustees of an arrangement to file, the person or persons actually responsible for the acquisition, disposition, control, or management of the cash or property of the arrangement, irrespective of whether such acquisition, disposition, control, or management is exercised directly by such person or persons or through an agent designated by such person or persons.

"(4) Any agreement entered into under section 506(c) with a State as the primary domicile State with respect to any multiple employer welfare arrangement shall provide for simultaneous filings of reports required under this subsection with the Secretary and with the State insurance commissioner of such State.

"(5) For purposes of this subsection, the term 'domicile State' means, in connection with a multiple employer welfare arrangement, the State in which, according to the application for an exemption under this 514(b)(6)(B), most individuals to be covered under the arrangement are located, except that, in any case in which information contained in the latest annual report of the arrangement filed under this part indicates that most individuals covered under the arrangement are located in a different State, such term means such different State.

"(6) The Secretary may exempt from the requirements of this subsection such class of multiple employer welfare arrangements as the Secretary deems appropriate.

"(h) FILING REQUIREMENTS FOR MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—

"(1) IN GENERAL.—A multiple employer welfare arrangement which provides benefits consisting of medical care (within the meaning of section 607(1)) shall issue to each participating employer—

"(A) a document equivalent to the summary plan description required of plans under this part,

"(B) information describing the contribution rates applicable to participating employers, and

"(C) a statement indicating—

"(i) that the arrangement is not a licensed insurer under the laws of any State,

"(ii) the extent to which any benefits under the arrangement are fully insured,

"(iii) if any benefits under the arrangement are not fully insured, whether the arrangement has been granted an exemption under section 514(b)(6)(B) (or whether such an exemption has ceased to be effective).

"(2) TIME FOR DISCLOSURE.—Such information shall be issued to employers within such reasonable period of time before becoming participating employers as may be prescribed in regulations of the Secretary.".

(b) EFFECTIVE DATES.—Section 101(g) of the Employee Retirement Income Security Act of 1974 (added by subsection (a)) shall take effect on the date of the enactment of this Act. Section 101(h) of such Act (added by subsection (a)) shall take effect as provided in section 171.

SEC. 170. SINGLE ANNUAL FILING FOR ALL PARTICIPATING EMPLOYERS.

(a) IN GENERAL.—Section 110 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1030) is amended by adding at the end the following new subsection:

"(c) The Secretary shall prescribe by regulation or otherwise an alternative method providing for the filing of a single annual report (as referred to in section 104(a)(1)(A)) with respect to all employers who are participating employers under a multiple employer welfare arrangement under which all coverage consists of medical care (within the meaning of section 607(1)) and is fully insured (as defined in section 701(1)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. The Secretary of Labor shall prescribe the alternative method referred to in section 110(c) of the Employee Retirement Income Security Act of 1974, as added by such amendment, within 90 days after the date of the enactment of this Act.

SEC. 171. EFFECTIVE DATE; TRANSITIONAL RULE.

(a) EFFECTIVE DATE.—Except as otherwise provided in section 170(b), the amendments made by this subtitle shall take effect January 1, 1998. The Secretary shall issue all regulations necessary to carry out the amendments made by this subtitle before January 1, 1998.

(b) TRANSITIONAL RULE.—

(1) IN GENERAL.—If the sponsor of a multiple employer welfare arrangement which, as of the effective date specified in subsection (a), provides benefits consisting of medical care (within the meaning of section 607(1) of the Employee Retirement Income Security Act of 1974) files with the Secretary of Labor an application for an exemption under section 514(b)(6)(B) of such Act within 180 days after such date and the Secretary has not, as of 90 days after receipt of such application, found such application to be materially deficient, then section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) shall not apply with respect to such arrangement during the period following such date and ending on the earlier of—

(A) the date on which the Secretary denies the application under the amendments made by this title or determines, in the Secretary's sole discretion, that such exclusion from coverage under the provisions of such section 514(b)(6)(A) of such arrangement would be detrimental to the interests of individuals covered under such arrangement, or

(B) 18 months after such effective date.

(2) NO PENDING STATE ACTION.—Subparagraph (A) shall apply in the case of an arrangement only if, at the time of the application for the exemption under section 514(b)(6)(B), the arrangement does not have pending against it an enforcement action by a State.

Subtitle D—Definitions; General Provisions

SEC. 191. DEFINITIONS; SCOPE OF COVERAGE.

(a) GROUP HEALTH PLAN.—

(1) DEFINITION.—Subject to the succeeding provisions of this subsection and subsection (d)(1), the term "group health plan" means an employee welfare benefit plan to the extent that the plan provides medical care (as defined in subsection (c)(9)) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise, and includes a group health plan (within the meaning of section 5000(b)(1) of the Internal Revenue Code of 1986).

(2) LIMITATION OF REQUIREMENTS TO PLANS WITH 2 OR MORE EMPLOYEE PARTICIPANTS.—The requirements of subtitle A and part 1 of subtitle B shall apply in the case of a group health plan for any plan year, or for health insurance coverage offered in connection with a group health plan for a year, only if the group health plan has two or more participants as current employees on the first day of the plan year.

(3) EXCLUSION OF PLANS WITH LIMITED COVERAGE.—An employee welfare benefit plan shall be treated as a group health plan under this title only with respect to medical care which is provided under the plan and which does not consist of coverage excluded from the definition of health insurance coverage under subsection (c)(4)(B).

(4) TREATMENT OF CHURCH PLANS.—

(A) EXCLUSION.—The requirements of this title insofar as they apply to group health plans shall not apply to church plans.

(B) OPTIONAL DISREGARD IN DETERMINING PERIOD OF COVERAGE.—For purposes of applying section 101(b)(3)(B)(i), a group health plan may elect to disregard periods of coverage of an individual under a church plan that, pursuant to subparagraph (A), is not subject to the requirements of this title.

(5) TREATMENT OF GOVERNMENTAL PLANS.—

(A) ELECTION TO BE EXCLUDED.—If the plan sponsor of a governmental plan which is a group health plan to which the provisions of this subtitle otherwise apply makes an election under this paragraph for any specified period (in such form and manner as the Secretary of Health and Human Services may by regulations prescribe), then the requirements of this title insofar as they apply to group health plans shall not apply to such governmental plans for such period.

(B) OPTIONAL DISREGARD IN DETERMINING PERIOD OF COVERAGE IF ELECTION MADE.—For purposes of applying section 101(b)(3)(B)(i), a group health plan may elect to disregard periods of coverage of an individual under a governmental plan that, under an election under subparagraph (A), is not subject to the requirements of this title.

(6) TREATMENT OF MEDICAID PLAN AS GROUP HEALTH PLAN.—A State plan under title XIX of the Social Security Act shall be treated as a group health plan for purposes of applying section 101(c)(1), unless the State elects not to be so treated.

(7) TREATMENT OF MEDICARE AND INDIAN HEALTH SERVICE PROGRAMS AS GROUP HEALTH PLAN.—Title XVIII of the Social Security Act and a program of the Indian Health Service shall be treated as a group health plan for purposes of applying section 101(c)(1).

(b) INCORPORATION OF CERTAIN DEFINITIONS IN EMPLOYEE RETIREMENT INCOME SECURITY

ACT OF 1974.—Except as provided in this section, the terms "beneficiary", "church plan", "employee", "employee welfare benefit plan", "employer", "governmental plan", "multiemployer plan", "multiple employer welfare arrangement", "participant", "plan sponsor", and "State" have the meanings given such terms in section 3 of the Employee Retirement Income Security Act of 1974.

(c) OTHER DEFINITIONS.—For purposes of this title:

(1) APPLICABLE STATE AUTHORITY.—The term "applicable State authority" means, with respect to an insurer or health maintenance organization in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved with respect to such insurer or organization.

(2) BONA FIDE ASSOCIATION.—The term "bona fide association" means an association which—

(A) has been actively in existence for at least 5 years,

(B) has been formed and maintained in good faith for purposes other than obtaining insurance,

(C) does not condition membership in the association on health status,

(D) makes health insurance coverage offered through the association available to all members regardless of health status,

(E) does not make health insurance coverage offered through the association available to any individual who is not a member (or dependent of a member) of the association at the time the coverage is initially issued,

(F) does not impose preexisting condition exclusions except in a manner consistent with the requirements of sections 101 and 102 as they relate to group health plans, and

(G) provides for renewal and continuation of health insurance coverage in a manner consistent with the requirements of section 132 as they relate to the renewal and continuation in force of coverage in a group market.

(3) COBRA CONTINUATION PROVISION.—The term "COBRA continuation provision" means any of the following:

(A) Section 4980B of the Internal Revenue Code of 1986, other than subsection (f)(1) of such section insofar as it relates to pediatric vaccines.

(B) Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.), other than section 609.

(C) Title XXII of the Public Health Service Act.

(4) HEALTH INSURANCE COVERAGE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "health insurance coverage" means benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract offered by an insurer or a health maintenance organization.

(B) EXCEPTION.—Such term does not include coverage under any separate policy, certificate, or contract only for one or more of any of the following:

(i) Coverage for accident, credit-only, vision, disability income, long-term care, nursing home care, community-based care dental, on-site medical clinics, or employee assistance programs, or any combination thereof.

(ii) Medicare supplemental health insurance (within the meaning of section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1))) and similar supplemental coverage provided under a group health plan.

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers' compensation or similar insurance.

(vi) Automobile medical-payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Such other coverage, comparable to that described in previous clauses, as may be specified in regulations prescribed under this title.

(5) HEALTH MAINTENANCE ORGANIZATION; HMO.—The terms "health maintenance organization" and "HMO" mean—

(A) a Federally qualified health maintenance organization (as defined in section 1301(a) of the Public Health Service Act (42 U.S.C. 300e(a))),

(B) an organization recognized under State law as a health maintenance organization, or

(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization,

if (other than for purposes of part 2 of subtitle B) it is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974).

(6) HEALTH STATUS.—The term "health status" includes, with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

(7) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term "individual health insurance coverage" means health insurance coverage offered to individuals if the coverage is not offered in connection with a group health plan (other than such a plan that has fewer than two participants as current employees on the first day of the plan year).

(8) INSURER.—The term "insurer" means an insurance company, insurance service, or insurance organization which is licensed to engage in the business of insurance in a State and which (except for purposes of part 2 of subtitle B) is subject to State law which regulates insurance (within the meaning of section 514(b)(2)(A) of the Employee Retirement Income Security Act of 1974).

(9) MEDICAL CARE.—The term "medical care" means—

(A) amounts paid for, or items or services in the form of, the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for, or items or services provided for, the purpose of affecting any structure or function of the body,

(B) amounts paid for, or services in the form of, transportation primarily for and essential to medical care referred to in subparagraph (A), and

(C) amounts paid for insurance covering medical care referred to in subparagraphs (A) and (B).

(10) NETWORK PLAN.—The term "network plan" means, with respect to health insurance coverage, an arrangement of an insurer or a health maintenance organization under which the financing and delivery of medical care are provided, in whole or in part, through a defined set of providers under contract with the insurer or health maintenance organization.

(11) WAITING PERIOD.—The term "waiting period" means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the minimum period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the plan.

(d) TREATMENT OF PARTNERSHIPS.—

(1) TREATMENT AS A GROUP HEALTH PLAN.—Any plan, fund, or program which would not be (but for this paragraph) an employee welfare benefit plan and which is established or maintained by a partnership, to the extent that such plan, fund, or program provides medical care to present or former partners in the partnership or to their dependents (as defined under the terms of the plan, fund, or program), directly or through insurance, reimbursement, or otherwise, shall be treated (subject to paragraph (1)) as an employee welfare benefit plan which is a group health plan.

(2) TREATMENT OF PARTNERSHIP AND PARTNERS AND EMPLOYER AND PARTICIPANTS.—In the case of a group health plan—

(A) the term "employer" includes the partnership in relation to any partner; and

(B) the term "participant" includes—

(i) in connection with a group health plan maintained by a partnership, an individual who is a partner in relation to the partnership, or

(ii) in connection with a group health plan maintained by a self-employed individual (under which one or more employees are participants), the self-employed individual,

if such individual is or may become eligible to receive a benefit under the plan or such individual's beneficiaries may be eligible to receive any such benefit.

(e) DEFINITIONS RELATING TO MARKETS AND SMALL EMPLOYERS.—As used in this title:

(1) INDIVIDUAL MARKET.—The term "individual market" means the market for health insurance coverage offered to individuals and not to employers or in connection with a group health plan and does not include the market for such coverage issued only by an insurer or HMO that makes such coverage available only on the basis of affiliation with a bona fide association (as defined in subsection (c)(2)).

(2) LARGE GROUP MARKET.—The term "large group market" means the market for health insurance coverage offered to employers (other than small employers) on behalf of their employees (and their dependents) and does not include health insurance coverage available solely in connection with a bona fide association (as defined in subsection (c)(2)).

(3) SMALL EMPLOYER.—The term "small employer" means, in connection with a group health plan with respect to a calendar year, an employer who employs at least 2 but fewer than 51 employees on a typical business day in the year. All persons treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer for purposes of this title.

(4) SMALL GROUP MARKET.—The term "small group market" means the health insurance market under which individuals obtain health insurance coverage (directly or through any arrangement) on behalf of themselves (and their dependents) on the

basis of employment or other relationship with respect to a small employer and does not include health insurance coverage available solely in connection with a bona fide association (as defined in subsection (c)(2)).

SEC. 192. STATE FLEXIBILITY TO PROVIDE GREATER PROTECTION.

(a) State Flexibility To Provide Greater Protection.—Subject to subsection (b), nothing in this subtitle or subtitle A or B shall be construed to preempt State laws—

(1) that relate to matters not specifically addressed in such subtitles; or

(2) that require insurers or HMOs—

(A) to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for a period that is shorter than the applicable period provided for under such subtitles;

(B) to allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 60-day periods provided for under sections 101(b)(3)(A), 101(b)(3)(B)(ii), and 102(b)(2); or

(C) in defining pre-existing condition, to have a look-back period that is shorter than the 6-month period described in section 101(b)(1)(A).

(b) No Override of ERISA Preemption.—Except as provided specifically in subtitle C, nothing in this Act shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 193. EFFECTIVE DATE.

(a) In General.—Except as otherwise provided for in this title, the provisions of this title shall apply with respect to—

(1) group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after January 1, 1998, and

(2) individual health insurance coverage issued, renewed, in effect, or operated on or after July 1, 1998.

(b) Consideration of Previous Coverage.—The Secretaries of Health and Human Services, Treasury, and Labor shall jointly establish rules regarding the treatment (in determining qualified coverage periods under sections 102(b) and 141(b)) of coverage before the applicable effective date specified in subsection (a).

(c) Timely Issuance of Regulations.—The Secretaries of Health and Human Services, the Treasury, and Labor shall issue such regulations on a timely basis as may be required to carry out this title.

SEC. 194. RULE OF CONSTRUCTION.

Nothing in this title or any amendment made thereby may be construed to require (or to authorize any regulation that requires) the coverage of any specific procedure, treatment, or service under a group health plan or health insurance coverage.

SEC. 195. FINDINGS RELATING TO EXERCISE OF COMMERCE CLAUSE AUTHORITY.

Congress finds the following in relation to the provisions of this title:

(1) Provisions in group health plans and health insurance coverage that impose certain pre-existing conditions impact the ability of employees to seek employment in interstate commerce, thereby impeding such commerce.

(2) Health insurance coverage is commercial in nature and is in and affects interstate commerce.

(3) It is a necessary and proper exercise of Congressional authority to impose requirements under this title on group health plans and health insurance coverage (including coverage offered to individuals previously covered under group health plans) in order to promote commerce among the States.

(4) Congress, however, intends to defer to States, to the maximum extent practicable, in carrying out such requirements with respect to insurers and health maintenance organizations that are subject to State regulation, consistent with the provisions of the Employee Retirement Income Security Act of 1974.

TITLE II—PREVENTING HEALTH CARE FRAUD AND ABUSE; ADMINISTRATIVE SIMPLIFICATION; MEDICAL LIABILITY REFORM

SEC. 200. REFERENCES IN TITLE.

Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

Subtitle A—Fraud and Abuse Control Program

SEC. 201. FRAUD AND ABUSE CONTROL PROGRAM.

(a) Establishment of Program.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM

"Sec. 1128C. (a) Establishment of Program.—

"(1) In general.—Not later than January 1, 1997, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

"(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to health plans,

"(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

"(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse,

"(D) to provide for the modification and establishment of safe harbors and to issue advisory opinions and special fraud alerts pursuant to section 1128D, and

"(E) to provide for the reporting and disclosure of certain final adverse actions against health care providers, suppliers, or practitioners pursuant to the data collection system established under section 1128E.

"(2) Coordination with health plans.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

"(3) Guidelines.—

"(A) In general.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) Information guidelines.—

"(i) In general.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

"(ii) Confidentiality.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

"(iii) Qualified immunity for providing information.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) Ensuring access to documentation.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) Authority of inspector general.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) Additional Use of Funds by Inspector General.—

"(1) Reimbursements for investigations.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payor, or otherwise.

"(2) Crediting.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

"(c) Health Plan Defined.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization; and

"(3) a membership agreement with a health maintenance organization or other prepaid health plan.".

(b) Establishment of Health Care Fraud and Abuse Control Account in Federal Hospital Insurance Trust Fund.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) Health Care Fraud and Abuse Control Account.—

"(1) Establishment.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

"(2) Appropriated amounts to trust fund.—

"(A) In general.—There are hereby appropriated to the Trust Fund—

"(i) such gifts and bequests as may be made as provided in subparagraph (B);

"(ii) such amounts as may be deposited in the Trust Fund as provided in sections 242(b) and 249(c) of the Health Coverage Availability and Affordability Act of 1996, and title XI; and

"(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

"(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

"(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

"(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

"(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XIX, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

"(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

"(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

"(3) APPROPRIATED AMOUNTS TO ACCOUNT FOR FRAUD AND ABUSE CONTROL PROGRAM, ETC.—

"(A) DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND JUSTICE.—

"(i) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (C), to be available without further appropriation, in an amount not to exceed—

"(I) for fiscal year 1997, $104,000,000,

"(II) for each of the fiscal years 1998 through 2003, the limit for the preceding fiscal year, increased by 15 percent; and

"(III) for each fiscal year after fiscal year 2003, the limit for fiscal year 2003.

"(ii) MEDICARE AND MEDICAID ACTIVITIES.—For each fiscal year, of the amount appropriated in clause (i), the following amounts shall be available only for the purposes of the activities of the Office of the Inspector General of the Department of Health and Human Services with respect to the medicare and medicaid programs—

"(I) for fiscal year 1997, not less than $60,000,000 and not more than $70,000,000;

"(II) for fiscal year 1998, not less than $80,000,000 and not more than $90,000,000;

"(III) for fiscal year 1999, not less than $90,000,000 and not more than $100,000,000;

"(IV) for fiscal year 2000, not less than $110,000,000 and not more than $120,000,000;

"(V) for fiscal year 2001, not less than $120,000,000 and not more than $130,000,000;

"(VI) for fiscal year 2002, not less than $140,000,000 and not more than $150,000,000; and

"(VII) for each fiscal year after fiscal year 2002, not less than $150,000,000 and not more than $160,000,000.

"(B) FEDERAL BUREAU OF INVESTIGATION.—There are hereby appropriated from the general fund of the United States Treasury and hereby appropriated to the Account for transfer to the Federal Bureau of Investigation to carry out the purposes described in subparagraph (C), to be available without further appropriation—

"(i) for fiscal year 1997, $47,000,000;

"(ii) for fiscal year 1998, $56,000,000;

"(iii) for fiscal year 1999, $66,000,000;

"(iv) for fiscal year 2000, $76,000,000;

"(v) for fiscal year 2001, $88,000,000;

"(vi) for fiscal year 2002, $101,000,000; and

"(vii) for each fiscal year after fiscal year 2002, $114,000,000.

"(C) USE OF FUNDS.—The purposes described in this subparagraph are to cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

"(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(ii) investigations;

"(iii) financial and performance audits of health care programs and operations;

"(iv) inspections and other evaluations; and

"(v) provider and consumer education regarding compliance with the provisions of title XI.

"(4) APPROPRIATED AMOUNTS TO ACCOUNT FOR MEDICARE INTEGRITY PROGRAM.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under section 1893, subject to subparagraph (B) and to be available without further appropriation.

"(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

"(i) For fiscal year 1997, such amount shall be not less than $430,000,000 and not more than $440,000,000.

"(ii) For fiscal year 1998, such amount shall be not less than $490,000,000 and not more than $500,000,000.

"(iii) For fiscal year 1999, such amount shall be not less than $550,000,000 and not more than $560,000,000.

"(iv) For fiscal year 2000, such amount shall be not less than $620,000,000 and not more than $630,000,000.

"(v) For fiscal year 2001, such amount shall be not less than $670,000,000 and not more than $680,000,000.

"(vi) For fiscal year 2002, such amount shall be not less than $690,000,000 and not more than $700,000,000.

"(vii) For each fiscal year after fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(5) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.".

SEC. 202. MEDICARE INTEGRITY PROGRAM.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII is amended by adding at the end the following new section:

"MEDICARE INTEGRITY PROGRAM

"SEC. 1893. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

"(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

"(2) Audit of cost reports.

"(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(5) Developing (and periodically updating) a list of items of durable medical equipment in accordance with section 1834(a)(15) which are subject to prior authorization under such section.

"(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

"(1) the entity has demonstrated capability to carry out such activities;

"(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

"(3) the entity demonstrates to the Secretary that the entity's financial holdings, interests, or relationships will not interfere with its ability to perform the functions to be required by the contract in an effective and impartial manner; and

"(4) the entity meets such other requirements as the Secretary may impose.

In the case of the activity described in subsection (b)(5), an entity shall be deemed to be eligible to enter into a contract under the Program to carry out the activity if the entity is a carrier with a contract in effect under section 1842.

"(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following:

"(1) The Secretary shall determine the appropriate number of separate contracts which are necessary to carry out the Program and the appropriate times at which the Secretary shall enter into such contracts.

"(2)(A) Except as provided in subparagraph (B), the provisions of section 1153(e)(1) shall apply to contracts and contracting authority under this section.

"(B) Competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary, except that the Secretary may contract with entities that are carrying out the activities described in this section pursuant to agreements under section 1816 or contracts under section 1842 in effect on the date of the enactment of this section.

"(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

"(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.".

(b) ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(l) No agency or organization may carry out (or receive payment for carrying out) any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893.".

(2) RESPONSIBILITIES OF CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(6) No carrier may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5) (relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).".

SEC. 203. BENEFICIARY INCENTIVE PROGRAMS.

(a) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide an explanation of benefits under the medicare program under title XVIII of the Social Security Act with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(b) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(c) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 204. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH CARE PROGRAMS.

(a) IN GENERAL.—Section 1128B (42 U.S.C. 1320a–7b) is amended as follows:

(1) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(2) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128(h))" and inserting "a Federal health care program".

(3) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program".

(4) In the second sentence of subsection (a)—

(A) by striking "a State plan approved under title XIX" and inserting "a Federal health care program", and

(B) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

(5) In subsection (b), by striking "title XVIII or a State health care program" each place it appears and inserting "a Federal health care program".

(6) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(7) By adding at the end the following new subsection:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government (other than the health insurance program under chapter 89 of title 5, United States Code); or

"(2) any State health care program, as defined in section 1128(h).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

SEC. 205. GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS.

Title XI (42 U.S.C. 1301 et seq.), as amended by section 201, is amended by inserting after section 1128C the following new section:

"GUIDANCE REGARDING APPLICATION OF HEALTH CARE FRAUD AND ABUSE SANCTIONS

"SEC. 1128D. (a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

"(1) IN GENERAL.—

"(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1997, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

"(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

"(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) and shall not serve as the basis for an exclusion under section 1128(b)(7);

"(iii) advisory opinions to be issued pursuant to subsection (b); and

"(iv) special fraud alerts to be issued pursuant to subsection (c).

"(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

"(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the 'Inspector General') shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

"(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

"(A) An increase or decrease in access to health care services.

"(B) An increase or decrease in the quality of health care services.

"(C) An increase or decrease in patient freedom of choice among health care providers.

"(D) An increase or decrease in competition among health care providers.

"(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

"(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f)).

"(G) An increase or decrease in the potential overutilization of health care services.

"(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

"(i) whether to order a health care item or service; or "(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

"(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

"(b) Advisory Opinions.—

"(1) Issuance of advisory opinions.—The Secretary shall issue written advisory opinions as provided in this subsection.

"(2) Matters subject to advisory opinions.—The Secretary shall issue advisory opinions as to the following matters:

"(A) What constitutes prohibited remuneration within the meaning of section 1128B(b).

"(B) Whether an arrangement or proposed arrangement satisfies the criteria set forth in section 1128B(b)(3) for activities which do not result in prohibited remuneration.

"(C) Whether an arrangement or proposed arrangement satisfies the criteria which the Secretary has established, or shall establish by regulation for activities which do not result in prohibited remuneration.

"(D) What constitutes an inducement to reduce or limit services to individuals entitled to benefits under title XVIII or title XIX or title XXI within the meaning of section 1128B(b).

"(E) Whether any activity or proposed activity constitutes grounds for the imposition of a sanction under section 1128, 1128A, or 1128B.

"(3) Matters not subject to advisory opinions.—Such advisory opinions shall not address the following matters:

"(A) Whether the fair market value shall be, or was paid or received for any goods, services or property.

"(B) Whether an individual is a bona fide employee within the requirements of section 3121(d)(2) of the Internal Revenue Code of 1986.

"(4) Effect of advisory opinions.—

"(A) Binding as to secretary and parties involved.—Each advisory opinion issued by the Secretary shall be binding as to the Secretary and the party or parties requesting the opinion.

"(B) Failure to seek opinion.—The failure of a party to seek an advisory opinion may not be introduced into evidence to prove that the party intended to violate the provisions of sections 1128, 1128A, or 1128B.

"(5) Regulations.—

"(A) In general.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue regulations to carry out this section. Such regulations shall provide for—

"(i) the procedure to be followed by a party applying for an advisory opinion;

"(ii) the procedure to be followed by the Secretary in responding to a request for an advisory opinion;

"(iii) the interval in which the Secretary shall respond;

"(iv) the reasonable fee to be charged to the party requesting an advisory opinion; and

"(v) the manner in which advisory opinions will be made available to the public.

"(B) Specific contents.—Under the regulations promulgated pursuant to subparagraph (A)—

"(i) the Secretary shall be required to respond to a party requesting an advisory opinion by not later than 30 days after the request is received; and

"(ii) the fee charged to the party requesting an advisory opinion shall be equal to the costs incurred by the Secretary in responding to the request.

"(c) Special Fraud Alerts.—

"(1) In general.—

"(A) Request for special fraud alerts.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under the medicare program or a State health care program, as defined in section 1128(h) (in this subsection referred to as a 'special fraud alert').

"(B) Issuance and publication of special fraud alerts.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

"(2) Criteria for special fraud alerts.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

"(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

"(B) the volume and frequency of the conduct that would be identified in the special fraud alert.".

Subtitle B—Revisions to Current Sanctions for Fraud and Abuse

SEC. 211. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) Individual Convicted of Felony Relating to Health Care Fraud.—

(1) In general.—Section 1128(a) (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

"(3) Felony conviction relating to health care fraud.—Any individual or entity that has been convicted after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) Conforming amendment.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a–7(b)) is amended to read as follows:

"(1) Conviction relating to fraud.—Any individual or entity that has been convicted after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, under Federal or State law—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) Individual Convicted of Felony Relating to Controlled Substance.—

(1) In general.—Section 1128(a) (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) Felony conviction relating to controlled substance.—Any individual or entity that has been convicted after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) Conforming amendment.—Section 1128(b)(3) (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking "Conviction" and inserting "Misdemeanor conviction"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 212. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 213. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

"(15) Individuals controlling a sanctioned entity.—(A) Any individual—

"(i) who has a direct or indirect ownership or control interest in a sanctioned entity and who knows or should know (as defined in section 1128A(i)(6)) of the action constituting the basis for the conviction or exclusion described in subparagraph (B); or

"(ii) who is an officer or managing employee (as defined in section 1126(b)) of such an entity.

"(B) For purposes of subparagraph (A), the term 'sanctioned entity' means an entity—

"(i) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(ii) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 214. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c–5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 215. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

SEC. 216. ADDITIONAL EXCEPTION TO ANTI-KICKBACK PENALTIES FOR DISCOUNTING AND MANAGED CARE ARRANGEMENTS.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) any remuneration between an organization and an individual or entity providing items or services, or a combination thereof, pursuant to a written agreement between the organization and the individual or entity if the organization is an eligible organization under section 1876 or if the written agreement places the individual or entity at substantial financial risk for the cost or utilization of the items or services, or a combination thereof, which the individual or entity is obligated to provide, whether through a withhold, capitation, incentive pool, per diem payment, or any other similar risk arrangement which places the individual or entity at substantial financial risk.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to written agreements entered into on or after January 1, 1997.

SEC. 217. CRIMINAL PENALTY FOR FRAUDULENT DISPOSITION OF ASSETS IN ORDER TO OBTAIN MEDICAID BENEFITS.

Section 1128B(a) (42 U.S.C. 1320a–7b(a)) is amended—

(1) by striking "or" at the end of paragraph (4);

(2) by adding "or" at the end of paragraph (5); and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) knowingly and willfully disposes of assets (including by any transfer in trust) in order for an individual to become eligible for medical assistance under a State plan under title XIX, if disposing of the assets results in the imposition of a period of ineligibility for such assistance under section 1917(c),".

SEC. 218. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect January 1, 1997.

Subtitle C—Data Collection

SEC. 221. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.), as amended by sections 201 and 205, is amended by inserting after section 1128D the following new section:

"HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

"SEC. 1128E. (a) GENERAL PURPOSE.—Not later than January 1, 1997, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

"(b) REPORTING OF INFORMATION.—

"(1) IN GENERAL.—Each Government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

"(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

"(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

"(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

"(C) The nature of the final adverse action and whether such action is on appeal.

"(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

"(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

"(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

"(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

"(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

"(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

"(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

"(B) procedures in the case of disputed accuracy of the information.

"(2) Corrections.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

"(d) Access to Reported Information.—

"(1) Availability.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

"(2) Fees for disclosure.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee shall be sufficient to recover the full costs of operating the database. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

"(e) Protection From Liability for Reporting.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

"(f) Definitions and Special Rules.—For purposes of this section:

"(1) Final adverse action.—

"(A) In general.—The term 'final adverse action' includes:

"(i) Civil judgments against a health care provider, supplier, or practitioner in Federal or State court related to the delivery of a health care item or service.

"(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

"(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

"(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

"(II) any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, nonrenewability, or otherwise, or

"(III) any other negative action or finding by such Federal or State agency that is publicly available information.

"(iv) Exclusion from participation in Federal or State health care programs.

"(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

"(B) Exception.—The term does not include any action with respect to a malpractice claim.

"(2) Practitioner.—The terms 'licensed health care practitioner', 'licensed practitioner', and 'practitioner' mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

"(3) Government agency.—The term 'Government agency' shall include:

"(A) The Department of Justice.

"(B) The Department of Health and Human Services.

"(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

"(D) State law enforcement agencies.

"(E) State medicaid fraud control units.

"(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

"(4) Health plan.—The term 'health plan' has the meaning given such term by section 1128C(c).

"(5) Determination of conviction.—For purposes of paragraph (1), the existence of a conviction shall be determined under paragraph (4) of section 1128(i).".

(b) Improved Prevention in Issuance of Medicare Provider Numbers.—Section 1842(r) (42 U.S.C. 1395u(r)) is amended by adding at the end the following new sentence: "Under such system, the Secretary may impose appropriate fees on such physicians to cover the costs of investigation and recertification activities with respect to the issuance of the identifiers.".

Subtitle D—Civil Monetary Penalties

SEC. 231. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) General Civil Monetary Penalties.—Section 1128A (42 U.S.C. 1320a–7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128B(f)(1))".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Coverage Availability and Affordability Act of 1996 (as estimated by the Secretary) shall be deposited into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C).".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))",

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)", and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) Excluded Individual Retaining Ownership or Control Interest in Participating Entity.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection—

"(A) retains a direct or indirect ownership or control interest in an entity that is participating in a program under title XVIII or a State health care program, and who knows or should know of the action constituting the basis for the exclusion; or

"(B) is an officer or managing employee (as defined in section 1126(b)) of such an entity;".

(c) Modifications of Amounts of Penalties and Assessments.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

(3) by striking "twice the amount" and inserting "3 times the amount".

(d) Claim for Item or Service Based on Incorrect Coding or Medically Unnecessary Services.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting "claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end; and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or should know is not medically necessary; or".

(e) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) (42 U.S.C. 1320c-5(b)(3)) is amended by striking "the actual or estimated cost" and inserting "up to $10,000 for each instance".

(f) PROCEDURAL PROVISIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)), as amended by section 215(a)(2), is amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (B)(i) or (C)(i) in the same manner as such provisions apply to a civil money penalty or proceeding under section 1128A(a).".

(g) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)), as amended by subsection (b), is amended—

(A) by striking "or" at the end of paragraph (3);

(B) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(D) by inserting after paragraph (4) the following new paragraph:

"(5) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program (as so defined);".

(2) REMUNERATION DEFINED.—Section 1128A(i) (42 U.S.C. 1320a-7a(i)) is amended by adding at the end the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payers, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.".

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1997.

SEC. 232. CLARIFICATION OF LEVEL OF INTENT REQUIRED FOR IMPOSITION OF SANCTIONS.

(a) CLARIFICATION OF LEVEL OF KNOWLEDGE REQUIRED FOR IMPOSITION OF CIVIL MONETARY PENALTIES.—

(1) IN GENERAL.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(A) in paragraphs (1) and (2), by inserting "knowingly" before "presents" each place it appears; and

(B) in paragraph (3), by striking "gives" and inserting "knowingly gives or causes to be given".

(2) DEFINITION OF STANDARD.—Section 1128A(i) (42 U.S.C. 1320a-7a(i)), as amended by section 231(g)(2), is amended by adding at the end the following new paragraph:

"(7) The term 'should know' means that a person, with respect to information—

"(A) acts in deliberate ignorance of the truth or falsity of the information; or

"(B) acts in reckless disregard of the truth or falsity of the information,

and no proof of specific intent to defraud is required.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to acts or omissions occurring on or after January 1, 1997.

SEC. 233. PENALTY FOR FALSE CERTIFICATION FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1128A(b) (42 U.S.C. 1320a-7a(b)) is amended by adding at the end the following new paragraph:

"(3)(A) Any physician who executes a document described in subparagraph (B) with respect to an individual knowing that all of the requirements referred to in such subparagraph are not met with respect to the individual shall be subject to a civil monetary penalty of not more than the greater of—

"(i) $5,000, or

"(ii) three times the amount of the payments under title XVIII for home health services which are made pursuant to such certification.

"(B) A document described in this subparagraph is any document that certifies, for purposes of title XVIII, that an individual meets the requirements of section 1814(a)(2)(C) or 1835(a)(2)(A) in the case of home health services furnished to the individual.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to certifications made on or after the date of the enactment of this Act.

Subtitle E—Revisions to Criminal Law

SEC. 241. DEFINITIONS RELATING TO FEDERAL HEALTH CARE OFFENSE.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

"§ 24. Definitions relating to Federal health care offense

"(a) As used in this title, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(1) section 669, 1035, 1347, or 1518 of this title; or

"(2) section 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of this title, if the violation or conspiracy relates to a health care benefit program.

"(b) As used in this title, the term 'health care benefit program' means any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 23 the following new item:

"24. Definitions relating to Federal health care offense.".

SEC. 242. HEALTH CARE FRAUD.

(a) OFFENSE.—

(1) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1347. Health care fraud

"Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health care benefit program; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined under this title or imprisoned not more than 20 years, or both; and if the violation results in death, such person shall be fined under this title, or imprisoned for any term of years or for life, or both.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

(b) CRIMINAL FINES DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—The Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act (42 U.S.C. 1395i) an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 243. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"§ 669. Theft or embezzlement in connection with health care

"(a) Whoever embezzles, steals, or otherwise without authority knowingly converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health care benefit program, shall be fined under this title or imprisoned not more than 10 years, or both; but if the value of such property does not exceed the sum of $100 the defendant shall be fined under this title or imprisoned not more than one year, or both.

"(b) As used in this section, the term 'health care benefit program' has the meaning given such term in section 1347(b) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or embezzlement in connection with health care.".

SEC. 244. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1035. False statements relating to health care matters

"(a) Whoever, in any matter involving a health care benefit program, knowingly—

"(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or

"(2) makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section, the term 'health care benefit program' has the meaning given such term in section 1347(b) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

"1035. False statements relating to health care matters.".

SEC. 245. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"§ 1518. Obstruction of criminal investigations of health care offenses

"(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a violation of a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

"1518. Obstruction of criminal investigations of health care offenses.".

SEC. 246. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following:

"(F) Any act or activity constituting an offense involving a Federal health care offense.".

SEC. 247. INJUNCTIVE RELIEF RELATING TO HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following:

"(C) committing or about to commit a Federal health care offense.".

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense" after "title)".

SEC. 248. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding after section 3485 the following:

"§ 3486. Authorized investigative demand procedures

"(a) AUTHORIZATION.—In any investigation relating to any act or activity involving a Federal health care offense, the Attorney General or the Attorney General's designee may issue in writing and cause to be served a subpoena requiring the production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control. A subpoena shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(b) SERVICE.—A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c) ENFORCEMENT.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

"(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a summons under this section, who complies in good faith with the summons and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e) LIMITATION ON USE.—(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefor.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3485 the following new item:

"3486. Authorized investigative demand procedures.".

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486 of title 18)," after "subpoena".

SEC. 249. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.".

(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting "or (a)(6)" after "(a)(1)".

(c) PROPERTY FORFEITED DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 301(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term "payment of the costs of asset forfeiture" means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services;

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

SEC. 250. RELATION TO ERISA AUTHORITY.

Nothing in this subtitle shall be construed as affecting the authority of the Secretary of Labor under section 506(b) of the Employee Retirement Income Security Act of 1974, including the Secretary's authority with respect to violations of title 18, United States Code (as amended by this subtitle).

Subtitle F—Administrative Simplification

SEC. 251. PURPOSE.

It is the purpose of this subtitle to improve the medicare program under title XVIII of the Social Security Act, the medicaid program under title XIX of such Act, and the efficiency and effectiveness of the health care system, by encouraging the development of a health information system through the establishment of standards and requirements for the electronic transmission of certain health information.

SEC. 252. ADMINISTRATIVE SIMPLIFICATION.

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.) is amended by adding at the end the following:

"PART C—ADMINISTRATIVE SIMPLIFICATION

"DEFINITIONS

"SEC. 1171. For purposes of this part:

"(1) CLEARINGHOUSE.—The term 'clearinghouse' means a public or private entity that processes or facilitates the processing of nonstandard data elements of health information into standard data elements.

"(2) CODE SET.—The term 'code set' means any set of codes used for encoding data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes.

"(3) HEALTH CARE PROVIDER.—The term 'health care provider' includes a provider of services (as defined in section 1861(u)), a provider of medical or other health services (as defined in section 1861(s)), and any other person furnishing health care services or supplies.

"(4) HEALTH INFORMATION.—The term 'health information' means any information, whether oral or recorded in any form or medium that—

"(A) is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or clearinghouse; and

"(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

"(5) HEALTH PLAN.—The term 'health plan' means a plan which provides, or pays the cost of, health benefits. Such term includes the following, and any combination thereof:

"(A) Part A or part B of the medicare program under title XVIII.

"(B) The medicaid program under title XIX.

"(C) A medicare supplemental policy (as defined in section 1882(g)(1)).

"(D) A long-term care policy, including a nursing home fixed indemnity policy (unless the Secretary determines that such a policy does not provide sufficiently comprehensive coverage of a benefit so that the policy should be treated as a health plan).

"(E) Health benefits of an employee welfare benefit plan, as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), but only to the extent the plan is established or maintained for the purpose of providing health benefits and has 50 or more participants (as defined in section 3(7) of such Act).

"(F) An employee welfare benefit plan or any other arrangement which is established or maintained for the purpose of offering or providing health benefits to the employees of 2 or more employers.

"(G) The health care program for active military personnel under title 10, United States Code.

"(H) The veterans health care program under chapter 17 of title 38, United States Code.

"(I) The Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), as defined in section 1073(4) of title 10, United States Code.

"(J) The Indian health service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(K) The Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code.

"(6) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term 'individually identifiable health information' means any information, including demographic information collected from an individual, that—

"(A) is created or received by a health care provider, health plan, employer, or clearinghouse; and

"(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, and—

"(i) identifies the individual; or

"(ii) with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

"(7) STANDARD.—The term 'standard', when used with reference to a data element of health information or a transaction referred to in section 1173(a)(1), means any such data element or transaction that meets each of the standards and implementation specifications adopted or established by the Secretary with respect to the data element or transaction under sections 1172 through 1174.

"(8) STANDARD SETTING ORGANIZATION.—The term 'standard setting organization' means a standard setting organization accredited by the American National Standards Institute, including the National Council for Prescription Drug Programs, that develops standards for information transactions, data elements, or any other standard that is necessary to, or will facilitate, the implementation of this part.

"GENERAL REQUIREMENTS FOR ADOPTION OF STANDARDS

"SEC. 1172. (a) APPLICABILITY.—Any standard adopted under this part shall apply, in whole or in part, to the following persons:

"(1) An health plan.

"(2) A clearinghouse.

"(3) A health care provider who transmits any health information in electronic form in connection with a transaction referred to in section 1173(a)(1).

"(b) REDUCTION OF COSTS.—Any standard adopted under this part shall be consistent with the objective of reducing the administrative costs of providing and paying for health care.

"(c) ROLE OF STANDARD SETTING ORGANIZATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any standard adopted under this part shall be a standard that has been developed, adopted, or modified by a standard setting organization.

"(2) SPECIAL RULES.—

"(A) DIFFERENT STANDARDS.—The Secretary may adopt a standard that is different from any standard developed, adopted, or modified by a standard setting organization, if—

"(i) the different standard will substantially reduce administrative costs to health care providers and health plans compared to the alternatives; and

"(ii) the standard is promulgated in accordance with the rulemaking procedures of subchapter III of chapter 5 of title 5, United States Code.

"(B) NO STANDARD BY STANDARD SETTING ORGANIZATION.—If no standard setting organization has developed, adopted, or modified any standard relating to a standard that the Secretary is authorized or required to adopt under this part—

"(i) paragraph (1) shall not apply; and

"(ii) subsection (f) shall apply.

"(d) IMPLEMENTATION SPECIFICATIONS.—The Secretary shall establish specifications for implementing each of the standards adopted under this part.

"(e) PROTECTION OF TRADE SECRETS.—Except as otherwise required by law, a standard adopted under this part shall not require disclosure of trade secrets or confidential commercial information by a person required to comply with this part.

"(f) ASSISTANCE TO THE SECRETARY.—In complying with the requirements of this part, the Secretary shall rely on the recommendations of the National Committee on Vital and Health Statistics established under section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)) and shall consult with appropriate Federal and State agencies and private organizations. The Secretary shall publish in the Federal Register any recommendation of the National Committee on Vital and Health Statistics regarding the adoption of a standard under this part.

"(g) APPLICATION TO MODIFICATIONS OF STANDARDS.—This section shall apply to a modification to a standard (including an addition to a standard) adopted under section 1174(b) in the same manner as it applies to an initial standard adopted under section 1174(a).

"STANDARDS FOR INFORMATION TRANSACTIONS AND DATA ELEMENTS

"SEC. 1173. (a) STANDARDS TO ENABLE ELECTRONIC EXCHANGE.—

"(1) IN GENERAL.—The Secretary shall adopt standards for transactions, and data elements for such transactions, to enable health information to be exchanged electronically, that are appropriate for—

"(A) the financial and administrative transactions described in paragraph (2); and

"(B) other financial and administrative transactions determined appropriate by the Secretary consistent with the goals of improving the operation of the health care system and reducing administrative costs.

"(2) TRANSACTIONS.—The transactions referred to in paragraph (1)(A) are the following:

"(A) Claims (including coordination of benefits) or equivalent encounter information.

"(B) Claims attachments.

"(C) Enrollment and disenrollment.

"(D) Eligibility.

"(E) Health care payment and remittance advice.

"(F) Premium payments.

"(G) First report of injury.

"(H) Claims status.

"(I) Referral certification and authorization.

"(3) ACCOMMODATION OF SPECIFIC PROVIDERS.—The standards adopted by the Secretary under paragraph (1) shall accommodate the needs of different types of health care providers.

"(b) UNIQUE HEALTH IDENTIFIERS.—

"(1) IN GENERAL.—The Secretary shall adopt standards providing for a standard unique health identifier for each individual, employer, health plan, and health care provider for use in the health care system. In carrying out the preceding sentence for each health plan and health care provider, the Secretary shall take into account multiple uses for identifiers and multiple locations and specialty classifications for health care providers.

"(2) USE OF IDENTIFIERS.—The standards adopted under paragraphs (1) shall specify the purposes for which a unique health identifier may be used.

"(c) CODE SETS.—

"(1) IN GENERAL.—The Secretary shall adopt standards that—

"(A) select code sets for appropriate data elements for the transactions referred to in subsection (a)(1) from among the code sets that have been developed by private and public entities; or

"(B) establish code sets for such data elements if no code sets for the data elements have been developed.

"(2) DISTRIBUTION.—The Secretary shall establish efficient and low-cost procedures for distribution (including electronic distribution) of code sets and modifications made to such code sets under section 1174(b).

"(d) SECURITY STANDARDS FOR HEALTH INFORMATION.—

"(1) SECURITY STANDARDS.—The Secretary shall adopt security standards that—

"(A) take into account—

"(i) the technical capabilities of record systems used to maintain health information;

"(ii) the costs of security measures;

"(iii) the need for training persons who have access to health information;

"(iv) the value of audit trails in computerized record systems; and

"(v) the needs and capabilities of small health care providers and rural health care providers (as such providers are defined by the Secretary); and

"(B) ensure that a clearinghouse, if it is part of a larger organization, has policies and security procedures which isolate the activities of the clearinghouse with respect to processing information in a manner that prevents unauthorized access to such information by such larger organization.

"(2) SAFEGUARDS.—Each person described in section 1172(a) who maintains or transmits health information shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

"(A) to ensure the integrity and confidentiality of the information;

"(B) to protect against any reasonably anticipated—

"(i) threats or hazards to the security or integrity of the information; and

"(ii) unauthorized uses or disclosures of the information; and

"(C) otherwise to ensure compliance with this part by the officers and employees of such person.

"(e) PRIVACY STANDARDS FOR HEALTH INFORMATION.—The Secretary shall adopt standards with respect to the privacy of individually identifiable health information transmitted in connection with the transactions referred to in subsection (a)(1). Such standards shall include standards concerning at least the following:

"(1) The rights of an individual who is a subject of such information.

"(2) The procedures to be established for the exercise of such rights.

"(3) The uses and disclosures of such information that are authorized or required.

"(f) ELECTRONIC SIGNATURE.—

"(1) IN GENERAL.—

"(A) STANDARDS.—The Secretary, in coordination with the Secretary of Commerce, shall adopt standards specifying procedures for the electronic transmission and authentication of signatures with respect to the transactions referred to in subsection (a)(1).

"(B) EFFECT OF COMPLIANCE.—Compliance with the standards adopted under subparagraph (A) shall be deemed to satisfy Federal and State statutory requirements for written signatures with respect to the transactions referred to in subsection (a)(1).

"(2) PAYMENTS FOR SERVICES AND PREMIUMS.—Nothing in this part shall be construed to prohibit payment for health care services or health plan premiums by debit, credit, payment card or numbers, or other electronic means.

"(g) TRANSFER OF INFORMATION AMONG HEALTH PLANS.—The Secretary shall adopt standards for transferring among health plans appropriate standard data elements needed for the coordination of benefits, the sequential processing of claims, and other data elements for individuals who have more than one health plan.

"TIMETABLES FOR ADOPTION OF STANDARDS

"SEC. 1174. (a) INITIAL STANDARDS.—The Secretary shall carry out section 1173 not later than 18 months after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, except that standards relating to claims attachments shall be adopted not later than 30 months after such date.

"(b) ADDITIONS AND MODIFICATIONS TO STANDARDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall review the standards adopted under section 1173, and shall adopt modifications to the standards (including additions to the standards), as determined appropriate, but not more frequently than once every 6 months. Any addition or modification to a standard shall be completed in a manner which minimizes the disruption and cost of compliance.

"(2) SPECIAL RULES.—

"(A) FIRST 12-MONTH PERIOD.—Except with respect to additions and modifications to code sets under subparagraph (B), the Secretary may not adopt any modification to a standard adopted under this part during the 12-month period beginning on the date the standard is initially adopted, unless the Secretary determines that the modification is necessary in order to permit compliance with the standard.

"(B) ADDITIONS AND MODIFICATIONS TO CODE SETS.—

"(i) IN GENERAL.—The Secretary shall ensure that procedures exist for the routine maintenance, testing, enhancement, and expansion of code sets.

"(ii) ADDITIONAL RULES.—If a code set is modified under this subsection, the modified code set shall include instructions on how data elements of health information that were encoded prior to the modification may be converted or translated so as to preserve the informational value of the data elements that existed before the modification. Any modification to a code set under this subsection shall be implemented in a manner that minimizes the disruption and cost of complying with such modification.

"REQUIREMENTS

"SEC. 1175. (a) CONDUCT OF TRANSACTIONS BY PLANS.—

"(1) IN GENERAL.—If a person desires to conduct a transaction referred to in section 1173(a)(1) with a health plan as a standard transaction—

"(A) the health plan may not refuse to conduct such transaction as a standard transaction;

"(B) the health plan may not delay such transaction, or otherwise adversely affect, or attempt to adversely affect, the person or the transaction on the ground that the transaction is a standard transaction; and

"(C) the information transmitted and received in connection with the transaction shall be in the form of standard data elements of health information.

"(2) SATISFACTION OF REQUIREMENTS.—A health plan may satisfy the requirements under paragraph (1) by—

"(A) directly transmitting and receiving standard data elements of health information; or

"(B) submitting nonstandard data elements to a clearinghouse for processing into standard data elements and transmission by the clearinghouse, and receiving standard data elements through the clearinghouse.

"(3) TIMETABLE FOR COMPLIANCE.—Paragraph (1) shall not be construed to require a health plan to comply with any standard, implementation specification, or modification to a standard or specification adopted or established by the Secretary under sections 1172 through 1174 at any time prior to the date on which the plan is required to comply with the standard or specification under subsection (b).

"(b) COMPLIANCE WITH STANDARDS.—

"(1) INITIAL COMPLIANCE.—

"(A) IN GENERAL.—Not later than 24 months after the date on which an initial standard or implementation specification is adopted or established under sections 1172 and 1173, each person to whom the standard or implementation specification applies shall comply with the standard or specification.

"(B) SPECIAL RULE FOR SMALL HEALTH PLANS.—In the case of a small health plan, paragraph (1) shall be applied by substituting '36 months' for '24 months'. For purposes of this subsection, the Secretary shall determine the plans that qualify as small health plans.

"(2) COMPLIANCE WITH MODIFIED STANDARDS.—If the Secretary adopts a modification to a standard or implementation specification under this part, each person to whom the standard or implementation specification applies shall comply with the modified standard or implementation specification at such time as the Secretary determines appropriate, taking into account the time needed to comply due to the nature and extent of the modification. The time determined appropriate under the preceding sentence may not be earlier than the last day of the 180-day period beginning on the date such modification is adopted. The Secretary may extend the time for compliance for small insurance plans, if the Secretary determines that such extension is appropriate.

"GENERAL PENALTY FOR FAILURE TO COMPLY WITH REQUIREMENTS AND STANDARDS

"SEC. 1176. (a) GENERAL PENALTY.—

"(1) IN GENERAL.—Except as provided in subsection (b), the Secretary shall impose on any person who violates a provision of this part a penalty of not more than $100 for each such violation, except that the total amount imposed on the person for all violations of an identical requirement or prohibition during a calendar year may not exceed $25,000.

"(2) PROCEDURES.—The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil money penalty under this subsection in the same manner as such provisions apply to the imposition of a penalty under such section 1128A.

"(b) LIMITATIONS.—

"(1) OFFENSES OTHERWISE PUNISHABLE.—A penalty may not be imposed under subsection (a) with respect to an act if the act constitutes an offense punishable under section 1177.

"(2) NONCOMPLIANCE NOT DISCOVERED.—A penalty may not be imposed under subsection (a) with respect to a provision of this part if it is established to the satisfaction of the Secretary that the person liable for the penalty did not know, and by exercising reasonable diligence would not have known, that such person violated the provision.

"(3) FAILURES DUE TO REASONABLE CAUSE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a penalty may not be imposed under subsection (a) if—

"(i) the failure to comply was due to reasonable cause and not to willful neglect; and

"(ii) the failure to comply is corrected during the 30-day period beginning on the first date the person liable for the penalty knew, or by exercising reasonable diligence would have known, that the failure to comply occurred.

"(B) EXTENSION OF PERIOD.—

"(i) NO PENALTY.—The period referred to in subparagraph (A)(ii) may be extended as determined appropriate by the Secretary based on the nature and extent of the failure to comply.

"(ii) ASSISTANCE.—If the Secretary determines that a person failed to comply because the person was unable to comply, the Secretary may provide technical assistance to the person during the period described in subparagraph (A)(ii). Such assistance shall be provided in any manner determined appropriate by the Secretary.

"(4) REDUCTION.—In the case of a failure to comply which is due to reasonable cause and not to willful neglect, any penalty under subsection (a) that is not entirely waived under paragraph (3) may be waived to the extent that the payment of such penalty would be excessive relative to the compliance failure involved.

"WRONGFUL DISCLOSURE OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION

"SEC. 1177. (a) OFFENSE.—A person who knowingly and in violation of this part—

"(1) uses or causes to be used a unique health identifier;

"(2) obtains individually identifiable health information relating to an individual; or

"(3) discloses individually identifiable health information to another person,

shall be punished as provided in subsection (b).

"(b) PENALTIES.—A person described in subsection (a) shall—

"(1) be fined not more than $50,000, imprisoned not more than 1 year, or both;

"(2) if the offense is committed under false pretenses, be fined not more than $100,000, imprisoned not more than 5 years, or both; and

"(3) if the offense is committed with intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm, fined not more than $250,000, imprisoned not more than 10 years, or both.

"EFFECT ON STATE LAW

"SEC. 1178. (a) GENERAL EFFECT.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), a provision or requirement under this part, or a standard or implementation specification adopted or established under sections 1172 through 1174, shall supersede any contrary provision of State law, including a provision of State law that requires medical or health plan records (including billing information) to be maintained or transmitted in written rather than electronic form.

"(2) EXCEPTIONS.—A provision or requirement under this part, or a standard or implementation specification adopted or established under sections 1172 through 1174, shall not supersede a contrary provision of State law, if the provision of State law—

"(A) imposes requirements, standards, or implementation specifications that are more stringent than the requirements, standards, or implementation specifications under this part with respect to the privacy of individually identifiable health information; or

"(B) is a provision the Secretary determines—

"(i) is necessary to prevent fraud and abuse, or for other purposes; or

"(ii) addresses controlled substances.

"(b) PUBLIC HEALTH REPORTING.—Nothing in this part shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention.".

(b) CONFORMING AMENDMENTS.—

(1) REQUIREMENT FOR MEDICARE PROVIDERS.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (P);

(B) by striking the period at the end of subparagraph (Q) and inserting "; and"; and

(C) by inserting immediately after subparagraph (Q) the following new subparagraph:

"(R) to contract only with a clearinghouse (as defined in section 1171) that meets each standard and implementation specification adopted or established under part C of title XI on or after the date on which the clearinghouse is required to comply with the standard or specification.".

(2) TITLE HEADING.—Title XI (42 U.S.C. 1301 et seq.) is amended by striking the title heading and inserting the following:

"TITLE XI—GENERAL PROVISIONS, PEER REVIEW, AND ADMINISTRATIVE SIMPLIFICATION".

SEC. 253. CHANGES IN MEMBERSHIP AND DUTIES OF NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS.

Section 306(k) of the Public Health Service Act (42 U.S.C. 242k(k)) is amended—

(1) in paragraph (1), by striking "16" and inserting "18";

(2) by amending paragraph (2) to read as follows:

"(2) The members of the Committee shall be appointed from among persons who have distinguished themselves in the fields of health statistics, electronic interchange of health care information, privacy and security of electronic information, population-based public health, purchasing or financing health care services, integrated computerized health information systems, health services research, consumer interests in health information, health data standards, epidemiology, and the provision of health services. Members of the Committee shall be appointed for terms of 4 years.";

(3) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and inserting after paragraph (2) the following:

"(3) Of the members of the Committee—

"(A) 1 shall be appointed, not later than 60 days after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, by the Speaker of the House of Representatives after consultation with the minority leader of the House of Representatives;

"(B) 1 shall be appointed, not later than 60 days after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, by the President pro tempore of the Senate after consultation with the minority leader of the Senate; and

"(C) 16 shall be appointed by the Secretary.";

(4) by amending paragraph (5) (as so redesignated) to read as follows:

"(5) The Committee—

"(A) shall assist and advise the Secretary—

"(i) to delineate statistical problems bearing on health and health services which are of national or international interest;

"(ii) to stimulate studies of such problems by other-organizations and agencies whenever possible or to make investigations of such problems through subcommittees;

"(iii) to determine, approve, and revise the terms, definitions, classifications, and guidelines for assessing health status and health services, their distribution and costs, for use (I) within the Department of Health and Human Services, (II) by all programs administered or funded by the Secretary, including the Federal-State-local cooperative health statistics system referred to in subsection (e), and (III) to the extent possible as determined by the head of the agency involved, by the Department of Veterans Affairs, the Department of Defense, and other Federal agencies concerned with health and health services;

"(iv) with respect to the design of and approval of health statistical and health information systems concerned with the collection, processing, and tabulation of health statistics within the Department of Health and Human Services, with respect to the Cooperative Health Statistics System established under subsection (e), and with respect to the standardized means for the collection of health information and statistics to be established by the Secretary under subsection (j)(1);

"(v) to review and comment on findings and proposals developed by other organizations and agencies and to make recommendations for their adoption or implementation by local, State, national, or international agencies;

"(vi) to cooperate with national committees of other countries and with the World Health Organization and other national agencies in the studies of problems of mutual interest;

"(vii) to issue an annual report on the state of the Nation's health, its health services, their costs and distributions, and to make proposals for improvement of the Nation's health statistics and health information systems; and

"(viii) in complying with the requirements imposed on the Secretary under part C of title XI of the Social Security Act;

"(B) shall study the issues related to the adoption of uniform data standards for patient medical record information and the electronic exchange of such information;

"(C) shall report to the Secretary not later than 4 years after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996 recommendations and legislative proposals for such standards and electronic exchange; and

"(D) shall be responsible generally for advising the Secretary and the Congress on the status of the implementation of part C of title XI of the Social Security Act."; and

(5) by adding at the end the following:

"(7) Not later than 1 year after the date of the enactment of the Health Coverage Availability and Affordability Act of 1996, and annually thereafter, the Committee shall submit to the Congress, and make public, a report regarding—

"(A) the extent to which persons required to comply with part C of title XI of the Social Security Act are cooperating in implementing the standards adopted under such part;

"(B) the extent to which such entities are meeting the privacy and security standards adopted under such part and the types of penalties assessed for noncompliance with such standards;

"(C) whether the Federal and State Governments are receiving information of sufficient quality to meet their responsibilities under such part;

"(D) any problems that exist with respect to implementation of such part; and

"(E) the extent to which timetables under such part are being met.".

Subtitle G—Duplication and Coordination of Medicare-Related Plans

SEC. 261. DUPLICATION AND COORDINATION OF MEDICARE-RELATED PLANS.

(a) Treatment of Certain Health Insurance Policies as Nonduplicative.—Effective as if included in the enactment of section 4354 of the Omnibus Budget Reconciliation Act of 1990, section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(1) in clause (iii), by striking "clause (i)" and inserting "clause (i)(II)"; and

(2) by adding at the end the following:

"(iv) For purposes of this subparagraph, a health insurance policy providing for benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual is not considered to 'duplicate' any health benefits under this title, under title XIX, or under a health insurance policy, and subclauses (I) and (III) of clause (i) does not apply to such a policy.

"(v)(I) For purposes of this subparagraph, a health insurance policy (or a rider to an insurance contract which is not a health insurance policy), providing benefits for long-term care, nursing home care, home health care, or community-based care and that coordinates against or excludes items and services available or paid for under this title and (for policies sold or issued on or after 90 days after the date of enactment of this clause) that discloses such coordination or exclusion in the policy's outline of coverage, is not considered to 'duplicate' health benefits under this title.

"(II) For purposes of this subparagraph, a health insurance policy (which may be a contract with a health maintenance organization) that is a replacement product for another health insurance policy that is being terminated by the issuer, that is being provided to an individual entitled to benefits under part A on the basis of section 226(b), and that coordinates against or excludes items and services available or paid for under this title is not considered to 'duplicate' health benefits under this title.

"(III) For purposes of this clause, the terms 'coordinates' and 'coordination' mean, with respect to a policy in relation to health benefits under this title, that the policy under its terms is secondary to, or excludes from payment, items and services to the extent available or paid for under this title.

"(vi) Notwithstanding any other provision of law, no criminal or civil penalty may be imposed at any time under this subparagraph and no legal action may be brought or continued at any time in any Federal or State court if the penalty or action is based on an act or omission that occurred after November 5, 1991, and before the date of the enactment of this clause, and relates to the sale, issuance, or renewal of any health insurance policy or rider during such period, if such policy or rider meets the nonduplication requirements of clause (iv) or (v).

"(vii) A State may not impose, in the case of the sale, issuance, or renewal of a health insurance policy (other than a medicare supplemental policy) or rider to an insurance contract which is not a health insurance policy, that meets the nonduplication requirements of this section pursuant to clause (iv) or (v) to an individual entitled to benefits under part A or enrolled under part B, any requirement relating to any duplication (or nonduplication) of health benefits under such policy or rider with health benefits to which the individual is otherwise entitled to under this title.".

(b) Conforming Amendments.—Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended—

(1) in subparagraph (C)—

(A) by striking "with respect to (i)" and inserting "with respect to", and

(B) by striking ", (ii) the sale" and all that follows up to the period at the end; and

(2) by striking subparagraph (D).

Subtitle H—Medical Liability Reform

PART 1—GENERAL PROVISIONS

SEC. 271. FEDERAL REFORM OF HEALTH CARE LIABILITY ACTIONS.

(a) Applicability.—This subtitle shall apply with respect to any health care liability action brought in any State or Federal court, except that this subtitle shall not apply to—

(1) an action for damages arising from a vaccine-related injury or death to the extent that title XXI of the Public Health Service Act applies to the action, or

(2) an action under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(b) Preemption.—This subtitle shall preempt any State law to the extent such law is inconsistent with the limitations contained in this subtitle. This subtitle shall not preempt any State law that provides for defenses or places limitations on a person's liability in addition to those contained in this subtitle or otherwise imposes greater restrictions than those provided in this subtitle.

(c) Effect on Sovereign Immunity and Choice of Law or Venue.—Nothing in subsection (b) shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) Amount in Controversy.—In an action to which this subtitle applies and which is brought under section 1332 of title 28, United States Code, the amount of noneconomic damages or punitive damages, and attorneys' fees or costs, shall not be included in determining whether the matter in controversy exceeds the sum or value of $50,000.

(e) Federal Court Jurisdiction Not Established on Federal Question Grounds.—Nothing in this subtitle shall be construed to establish any jurisdiction in the district courts of the United States over health care liability actions on the basis of section 1331 or 1337 of title 28, United States Code.

SEC. 272. DEFINITIONS.

As used in this subtitle:

(1) Actual damages.—The term "actual damages" means damages awarded to pay for economic loss.

(2) Alternative dispute resolution system; ADR.—The term "alternative dispute resolution system" or "ADR" means a system established under Federal or State law that provides for the resolution of health care liability claims in a manner other than through health care liability actions.

(3) Claimant.—The term "claimant" means any person who brings a health care liability action and any person on whose behalf such an action is brought. If such action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(4) Clear and convincing evidence.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. Such measure or degree of proof is more than that required under preponderance of the evidence but less than that required for proof beyond a reasonable doubt.

(5) Collateral source payments.—The term "collateral source payments" means any amount paid or reasonably likely to be paid in the future to or on behalf of a claimant, or any service, product, or other benefit provided or reasonably likely to be provided in the future to or on behalf of a claimant, as a result of an injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident or workers' compensation Act;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(6) Drug.—The term "drug" has the meaning given such term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(7) Economic loss.—The term "economic loss" means any pecuniary loss resulting from injury (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent recovery for such loss is allowed under applicable State law.

(8) HARM.—The term "harm" means any legally cognizable wrong or injury for which punitive damages may be imposed.

(9) HEALTH BENEFIT PLAN.—The term "health benefit plan" means—

(A) a hospital or medical expense incurred policy or certificate,

(B) a hospital or medical service plan contract,

(C) a health maintenance subscriber contract,

(D) a multiple employer welfare arrangement or employee benefit plan (as defined under the Employee Retirement Income Security Act of 1974), or

(E) a MedicarePlus product (offered under part C of title XVIII of the Social Security Act),

that provides benefits with respect to health care services.

(10) HEALTH CARE LIABILITY ACTION.—The term "health care liability action" means a civil action brought in a State or Federal court against a health care provider, an entity which is obligated to provide or pay for health benefits under any health benefit plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit), or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, in which the claimant alleges a claim (including third party claims, cross claims, counter claims, or distribution claims) based upon the provision of (or the failure to provide or pay for) health care services or the use of a medical product, regardless of the theory of liability on which the claim is based or the number of plaintiffs, defendants, or causes of action.

(11) HEALTH CARE LIABILITY CLAIM.—The term "health care liability claim" means a claim in which the claimant alleges that injury was caused by the provision of (or the failure to provide) health care services.

(12) HEALTH CARE PROVIDER.—The term "health care provider" means any person that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(13) HEALTH CARE SERVICE.—The term "health care service" means any service for which payment may be made under a health benefit plan including services related to the delivery or administration of such service.

(14) MEDICAL DEVICE.—The term "medical device" has the meaning given such term in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(15) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages paid to an individual for pain and suffering, inconvenience, emotional distress, mental anguish, loss of consortium, injury to reputation, humiliation, and other nonpecuniary losses.

(16) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(17) PRODUCT SELLER.—The term "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, rents, leases, prepares, blends, packages, labels a product, is otherwise involved in placing a product in the stream of commerce, or installs, repairs, or maintains the harm-causing aspect of a product. The term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; or

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

(18) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded against any person not to compensate for actual injury suffered, but to punish or deter such person or others from engaging in similar behavior in the future.

(19) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 273. EFFECTIVE DATE.

This subtitle will apply to any health care liability action brought in a Federal or State court and to any health care liability claim subject to an alternative dispute resolution system, that is initiated on or after the date of enactment of this subtitle, except that any health care liability claim or action arising from an injury occurring prior to the date of enactment of this subtitle shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

PART 2—UNIFORM STANDARDS FOR HEALTH CARE LIABILITY ACTIONS

SEC. 281. STATUTE OF LIMITATIONS.

A health care liability action may not be brought after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of the action was discovered or should reasonably have been discovered, but in no case after the expiration of the 5-year period that begins on the date the alleged injury occurred.

SEC. 282. CALCULATION AND PAYMENT OF DAMAGES.

(a) TREATMENT OF NONECONOMIC DAMAGES.—

(1) LIMITATION ON NONECONOMIC DAMAGES.—The total amount of noneconomic damages that may be awarded to a claimant for losses resulting from the injury which is the subject of a health care liability action may not exceed $250,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury.

(2) JOINT AND SEVERAL LIABILITY.—In any health care liability action brought in State or Federal court, a defendant shall be liable only for the amount of noneconomic damages attributable to such defendant in direct proportion to such defendant's share of fault or responsibility for the claimant's actual damages, as determined by the trier of fact. In all such cases, the liability of a defendant for noneconomic damages shall be several and not joint.

(b) TREATMENT OF PUNITIVE DAMAGES.—

(1) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded in any health care liability action for harm in any Federal or State court against a defendant if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct—

(A) specifically intended to cause harm, or

(B) conduct manifesting a conscious, flagrant indifference to the rights or safety of others.

(2) PROPORTIONAL AWARDS.—The amount of punitive damages that may be awarded in any health care liability action subject to this subtitle shall not exceed 3 times the amount of damages awarded to the claimant for economic loss, or $250,000, whichever is greater. This paragraph shall be applied by the court and shall not be disclosed to the jury.

(3) APPLICABILITY.—This subsection shall apply to any health care liability action brought in any Federal or State court on any theory where punitive damages are sought. This subsection does not create a cause of action for punitive damages. This subsection does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages.

(4) BIFURCATION.—At the request of any party, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded and the amount of such award. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether actual damages are to be awarded.

(5) DRUGS AND DEVICES.—

(A) IN_ GENERAL.—(i) Punitive damages shall not be awarded against a manufacturer or product seller of a drug or medical device which caused the claimant's harm where—

(I) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm, or the adequacy of the packaging or labeling of such drug or device which caused the harm, and such drug, device, packaging, or labeling was approved by the Food and Drug Administration; or

(II) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(ii) Clause (i) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(I) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant, or

(II) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(B) PACKAGING.—In a health care liability action for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

(c) PERIODIC PAYMENTS FOR FUTURE LOSSES.—

(1) GENERAL RULE.—In any health care liability action in which the damages awarded for future economic and noneconomic loss exceeds $50,000, a person shall not be required

to pay such damages in a single, lump-sum payment, but shall be permitted to make such payments periodically based on when the damages are found likely to occur, as such payments are determined by the court.

(2) FINALITY OF JUDGMENT.—The judgment of the court awarding periodic payments under this subsection may not, in the absence of fraud, be reopened at any time to contest, amend, or modify the schedule or amount of the payments.

(3) LUMP-SUM SETTLEMENTS.—This subsection shall not be construed to preclude a settlement providing for a single, lump-sum payment.

(d) TREATMENT OF COLLATERAL SOURCE PAYMENTS.—

(1) INTRODUCTION INTO EVIDENCE.—In any health care liability action, any defendant may introduce evidence of collateral source payments. If any defendant elects to introduce such evidence, the claimant may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the claimant to secure the right to such collateral source payments.

(2) NO SUBROGATION.—No provider of collateral source payments shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated the right of the claimant in a health care liability action.

(3) APPLICATION TO SETTLEMENTS.—This subsection shall apply to an action that is settled as well as an action that is resolved by a fact finder.

SEC. 283. ALTERNATIVE DISPUTE RESOLUTION.

Any ADR used to resolve a health care liability action or claim shall contain provisions relating to statute of limitations, noneconomic damages, joint and several liability, punitive damages, collateral source rule, and periodic payments which are identical to the provisions relating to such matters in this subtitle.

TITLE III—TAX-RELATED HEALTH PROVISIONS

SEC. 300. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Medical Savings Accounts

SEC. 301. MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. MEDICAL SAVINGS ACCOUNTS.

"(a) DEDUCTION ALLOWED.—In the case of an individual who is an eligible individual for any month during the taxable year, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year by such individual to a medical savings account of such individual.

"(b) LIMITATIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount allowable as a deduction under subsection (a) to an individual for the taxable year shall not exceed—

"(A) except as provided in subparagraph (B), the lesser of—

"(i) $2,000, or

"(ii) the annual deductible limit for any individual covered under the high deductible health plan, or

"(B) in the case of a high deductible health plan covering the taxpayer and any other eligible individual who is the spouse or any dependent (as defined in section 152) of the taxpayer, the lesser of—

"(i) $4,000, or

"(ii) the annual limit under the plan on the aggregate amount of deductibles required to be paid by all individuals.

The preceding sentence shall not apply if the spouse of such individual is covered under any other high deductible health plan.

"(2) SPECIAL RULE FOR MARRIED INDIVIDUALS.—

"(A) IN GENERAL.—This subsection shall be applied separately for each married individual.

"(B) SPECIAL RULE.—If individuals who are married to each other are covered under the same high deductible health plan, then the amounts applicable under paragraph (1)(B) shall be divided equally between them unless they agree on a different division.

"(3) COORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS.—No deduction shall be allowed under this section for any amount paid for any taxable year to a medical savings account of an individual if—

"(A) any amount is paid to any medical savings account of such individual which is excludable from gross income under section 106(b) for such year, or

"(B) in a case described in paragraph (2)(B), any amount is paid to any medical savings account of either spouse which is so excludable for such year.

"(4) PRORATION OF LIMITATION.—

"(A) IN GENERAL.—The limitation under paragraph (1) shall be the sum of the monthly limitations for months during the taxable year that the individual is an eligible individual if—

"(i) such individual is not an eligible individual for all months of the taxable year,

"(ii) the deductible under the high deductible health plan covering such individual is not the same throughout such taxable year, or

"(iii) such limitation is determined under paragraph (1)(B) for some but not all months during such taxable year.

"(B) MONTHLY LIMITATION.—The monthly limitation for any month shall be an amount equal to 1/12 of the limitation which would (but for this paragraph and paragraph (3)) be determined under paragraph (1) if the facts and circumstances as of the first day of such month that such individual is covered under a high deductible health plan were true for the entire taxable year.

"(5) DENIAL OF DEDUCTION TO DEPENDENTS.—No deduction shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means, with respect to any month, any individual—

"(i) who is covered under a high deductible health plan as of the 1st day of such month, and

"(ii) who is not, while covered under a high deductible health plan, covered under any health plan—

"(I) which is not a high deductible health plan, and

"(II) which provides coverage for any benefit which is covered under the high deductible health plan.

"(B) CERTAIN COVERAGE DISREGARDED.—Subparagraph (A)(ii) shall be applied without regard to—

"(i) coverage for any benefit provided by permitted insurance, and

"(ii) coverage (whether through insurance or otherwise) for accidents, disability, dental care, vision care, or long-term care.

"(2) HIGH DEDUCTIBLE HEALTH PLAN.—The term 'high deductible health plan' means a health plan which—

"(A) has an annual deductible limit for each individual covered by the plan which is not less than $1,500, and

"(B) has an annual limit on the aggregate amount of deductibles required to be paid with respect to all individuals covered by the plan which is not less than $3,000.

Such term does not include a health plan if substantially all of its coverage is coverage described in paragraph (1)(B). A plan shall not fail to be treated as a high deductible health plan by reason of failing to have a deductible for preventive care if the absence of a deductible for such care is required by State law.

"(3) PERMITTED INSURANCE.—The term 'permitted insurance' means—

"(A) Medicare supplemental insurance,

"(B) insurance if substantially all of the coverage provided under such insurance relates to—

"(i) liabilities incurred under workers' compensation laws,

"(ii) tort liabilities,

"(iii) liabilities relating to ownership or use of property, or

"(iv) such other similar liabilities as the Secretary may specify by regulations,

"(C) insurance for a specified disease or illness, and

"(D) insurance paying a fixed amount per day (or other period) of hospitalization.

"(d) MEDICAL SAVINGS ACCOUNT.—For purposes of this section—

"(1) MEDICAL SAVINGS ACCOUNT.—The term 'medical savings account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

"(A) Except in the case of a rollover contribution described in subsection (f)(5), no contribution will be accepted—

"(i) unless it is in cash, or

"(ii) to the extent such contribution, when added to previous contributions to the trust for the calendar year, exceeds $4,000.

"(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) The interest of an individual in the balance in his account is nonforfeitable.

"(2) QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The term 'qualified medical expenses' means, with respect to an account holder, amounts paid by such holder for medical care (as defined in section 213(d)) for such individual, the spouse of such individual, and any dependent (as defined in section 152) of such individual, but only to the extent such amounts are not compensated for by insurance or otherwise.

"(B) HEALTH INSURANCE MAY NOT BE PURCHASED FROM ACCOUNT.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any payment for insurance.

"(ii) EXCEPTIONS.—Clause (i) shall not apply to any expense for coverage under—

"(I) a health plan during any period of continuation coverage required under any Federal law,

"(II) a qualified long-term care insurance contract (as defined in section 7702B(b)), or

"(III) a health plan during a period in which the individual is receiving unemployment compensation under any Federal or State law.

"(3) ACCOUNT HOLDER.—The term 'account holder' means the individual on whose behalf the medical savings account was established.

"(4) CERTAIN RULES TO APPLY.—Rules similar to the following rules shall apply for purposes of this section:

"(A) Section 219(d)(2) (relating to no deduction for rollovers).

"(B) Section 219(f)(3) (relating to time when contributions deemed made).

"(C) Except as provided in section 106(b), section 219(f)(5) (relating to employer payments).

"(D) Section 408(g) (relating to community property laws).

"(E) Section 408(h) (relating to custodial accounts).

"(e) TAX TREATMENT OF ACCOUNTS.—

"(1) IN GENERAL.—A medical savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) ACCOUNT TERMINATIONS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to medical savings accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

"(f) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) AMOUNTS USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is used exclusively to pay qualified medical expenses of any account holder (or any spouse or dependent of the holder) shall not be includible in gross income.

"(B) TREATMENT AFTER DEATH OF ACCOUNT HOLDER.—

"(i) TREATMENT IF HOLDER IS SPOUSE.—If, after the death of the account holder, the account holder's interest is payable to (or for the benefit of) the holder's spouse, the medical savings account shall be treated as if the spouse were the account holder.

"(ii) TREATMENT IF DESIGNATED HOLDER IS NOT SPOUSE.—In the case of an account holder's interest in a medical savings account which is payable to (or for the benefit of) any person other than such holder's spouse upon the death of such holder—

"(I) such account shall cease to be a medical savings account as of the date of death, and

"(II) an amount equal to the fair market value of the assets in such account on such date shall be includible if such person is not the estate of such holder, in such person's gross income for the taxable year which includes such date, or if such person is the estate of such holder, in such holder's gross income for the last taxable year of such holder.

"(2) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is not used exclusively to pay the qualified medical expenses of the account holder or of the spouse or dependents of such holder shall be included in the gross income of such holder.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all medical savings accounts of the account holder shall be treated as 1 account,

"(ii) all payments and distributions during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—If the aggregate contributions (other than rollover contributions) for a taxable year to the medical savings accounts of an individual exceed the amount allowable as a deduction under this section for such contributions, paragraph (2) shall not apply to distributions from such accounts (in an amount not greater than such excess) if—

"(A) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual's return for such taxable year, and

"(B) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (B) shall be included in the gross income of the individual for the taxable year in which it is received.

"(4) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The tax imposed by this chapter on the account holder for any taxable year in which there is a payment or distribution from a medical savings account of such holder which is includible in gross income under paragraph (2) shall be increased by 10 percent of the amount which is so includible.

"(B) EXCEPTION FOR DISABILITY OR DEATH.—Subparagraph (A) shall not apply if the payment or distribution is made after the account holder becomes disabled within the meaning of section 72(m)(7) or dies.

"(C) EXCEPTION FOR DISTRIBUTIONS AFTER AGE 59½.—Subparagraph (A) shall not apply to any payment or distribution after the date on which the account holder attains age 59½.

"(5) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

"(A) IN GENERAL.—Paragraph (2) shall not apply to any amount paid or distributed from a medical savings account to the account holder to the extent the amount received is paid into a medical savings account for the benefit of such holder not later than the 60th day after the day on which the holder receives the payment or distribution.

"(B) LIMITATION.—This paragraph shall not apply to any amount described in subparagraph (A) received by an individual from a medical savings account if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from a medical savings account which was not includible in the individual's gross income because of the application of this paragraph.

"(6) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of determining the amount of the deduction under section 213, any payment or distribution out of a medical savings account for qualified medical expenses shall not be treated as an expense paid for medical care.

"(7) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in a medical savings account to an individual's spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2) shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest shall, after such transfer, be treated as a medical savings account with respect to which the spouse is the account holder.

"(g) COST-OF-LIVING ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount in subsection (b)(1), (c)(2), or (d)(1)(A) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the medical care cost adjustment for such calendar year.

If any increase under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

"(2) MEDICAL CARE COST ADJUSTMENT.—For purposes of paragraph (1), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(A) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(B) such component for August of 1996.

"(h) REPORTS.—The Secretary may require the trustee of a medical savings account to make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary determines appropriate. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations."

(b) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

"(16) MEDICAL SAVINGS ACCOUNTS.—The deduction allowed by section 220."

(c) EXCLUSIONS FOR EMPLOYER CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

(1) EXCLUSION FROM INCOME TAX.—The text of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, gross income of an employee does not include employer-provided coverage under an accident or health plan.

"(b) CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

"(1) IN GENERAL.—In the case of an employee who is an eligible individual, gross income does not include amounts contributed by such employee's employer to any medical savings account of such employee.

"(2) COORDINATION WITH DEDUCTION LIMITATION.—The amount excluded from the gross income of an employee under this subsection for any taxable year shall not exceed the limitation under section 220(b)(1) (determined without regard to this subsection) which is applicable to such employee for such taxable year.

"(3) No constructive receipt.—No amount shall be included in the gross income of any employee solely because the employee may choose between the contributions referred to in paragraph (1) and employer contributions to another health plan of the employer.

"(4) Special rule for deduction of employer contributions.—Any employer contribution to a medical savings account, if otherwise allowable as a deduction under this chapter, shall be allowed only for the taxable year in which paid.

"(5) Definitions.—For purposes of this subsection, the terms 'eligible individual' and 'medical savings account' have the respective meanings given to such terms by section 220."

(2) Exclusion from employment taxes.—

(A) Social security taxes.—

(i) Subsection (a) of section 3121 is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting "; or", and by inserting after paragraph (21) the following new paragraph:

"(22) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(ii) Subsection (a) of section 209 of the Social Security Act is amended by striking "or" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting "; or", and by inserting after paragraph (18) the following new paragraph:

"(19) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b) of the Internal Revenue Code of 1986."

(B) Railroad retirement tax.—Subsection (e) of section 3231 is amended by adding at the end the following new paragraph:

"(10) Medical savings account contributions.—The term 'compensation' shall not include any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(C) Unemployment tax.—Subsection (b) of section 3306 is amended by striking "or" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting "; or", and by inserting after paragraph (16) the following new paragraph:

"(17) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(D) Withholding tax.—Subsection (a) of section 3401 is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by inserting after paragraph (20) the following new paragraph:

"(21) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(d) Medical Savings Account Contributions Not Available Under Cafeteria Plans.—Subsection (f) of section 125 of such Code is amended by inserting "106(b)," before "117".

(e) Exclusion of Medical Savings Accounts From Estate Tax.—Part IV of subchapter A of chapter 11 is amended by adding at the end the following new section:

"SEC. 2057. MEDICAL SAVINGS ACCOUNTS.

"For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any medical savings account (as defined in section 220(d)) included in the gross estate."

(f) Tax on Excess Contributions.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "**MEDICAL SAVINGS ACCOUNTS,**" after "**ACCOUNTS,**" in the heading of such section,

(2) by striking "or" at the end of paragraph (1) of subsection (a),

(3) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a medical savings account (within the meaning of section 220(d)), or", and

(4) by adding at the end the following new subsection:

"(d) Excess Contributions to Medical Savings Accounts.—For purposes of this section, in the case of a medical savings accounts (within the meaning of section 220(d)), the term 'excess contributions' means the sum of—

"(1) the amount by which the amount contributed for the taxable year to the accounts (other than rollover contributions described in section 220(f)(5)) exceeds the amount allowable as a deduction under section 220 for such contributions, and

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the sum of distributions out of the account included in gross income under section 220(f) (2) or (3) and the excess (if any) of the maximum amount allowable as a deduction under section 220 for the taxable year over the amount contributed to the accounts.

For purposes of this subsection, any contribution which is distributed out of the medical savings account in a distribution to which section 220(f)(3) applies shall be treated as an amount not contributed."

(g) Tax on Prohibited Transactions.—

(1) Section 4975 (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

"(4) Special rule for medical savings accounts.—An individual for whose benefit a medical savings account (within the meaning of section 220(d)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 220(e)(2) to such account."

(2) Paragraph (1) of section 4975(e) is amended to read as follows:

"(1) Plan.—For purposes of this section, the term 'plan' means—

"(A) a trust described in section 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

"(B) an individual retirement account described in section 408(a),

"(C) an individual retirement annuity described in section 408(b),

"(D) a medical savings account described in section 220(d), or

"(E) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph."

(h) Failure To Provide Reports on Medical Savings Accounts.—

(1) Subsection (a) of section 6693 (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

"(a) Reports.—

"(1) In general.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

"(2) Provisions.—The provisions referred to in this paragraph are—

"(A) subsections (i) and (l) of section 408 (relating to individual retirement plans), and

"(B) section 220(h) (relating to medical savings accounts)."

(i) Exception From Capitalization of Policy Acquisition Expenses.—Subparagraph (B) of section 848(e)(1) (defining specified insurance contract) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any contract which is a medical savings account (as defined in section 220(d)).".

(j) Clerical Amendments.—

(1) The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following:

"Sec. 220. Medical savings accounts.
"Sec. 221. Cross reference."

(2) The table of sections for part IV of subchapter A of chapter 11 is amended by adding at the end the following new item:

"Sec. 2057. Medical savings accounts."

(k) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Increase in Deduction for Health Insurance Costs of Self-Employed Individuals

SEC. 311. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) In General.—Paragraph (1) of section 162(l) is amended to read as follows:

"(1) Allowance of deduction.—

"(A) In general.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(B) Applicable percentage.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
1998	35 percent
1999, 2000, or 2001	40 percent
2002	45 percent
2003 or thereafter ...	50 percent."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1997.

Subtitle C—Long-Term Care Services and Contracts

PART I—GENERAL PROVISIONS

SEC. 321. TREATMENT OF LONG-TERM CARE INSURANCE.

(a) General Rule.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

"SEC. 7702B. TREATMENT OF QUALIFIED LONG-TERM CARE INSURANCE.

"(a) In General.—For purposes of this title—

"(1) a qualified long-term care insurance contract shall be treated as an accident and health insurance contract,

"(2) amounts (other than policyholder dividends, as defined in section 808, or premium refunds) received under a qualified long-term care insurance contract shall be treated as amounts received for personal injuries and sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

"(3) any plan of an employer providing coverage under a qualified long-term care insurance contract shall be treated as an accident and health plan with respect to such coverage,

"(4) except as provided in subsection (e)(3), amounts paid for a qualified long-term care insurance contract providing the benefits described in subsection (b)(2)(A) shall be treated as payments made for insurance for purposes of section 213(d)(1)(D), and

"(5) a qualified long-term care insurance contract shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

"(b) Qualified Long-Term Care Insurance Contract.—For purposes of this title—

"(1) In general.—The term 'qualified long-term care insurance contract' means any insurance contract if—

"(A) the only insurance protection provided under such contract is coverage of qualified long-term care services,

"(B) such contract does not pay or reimburse expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

"(C) such contract is guaranteed renewable,

"(D) such contract does not provide for a cash surrender value or other money that can be—

"(i) paid, assigned, or pledged as collateral for a loan, or

"(ii) borrowed,

other than as provided in subparagraph (E) or paragraph (2)(C),

"(E) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits, and

"(F) such contract meets the requirements of subsection (f).

"(2) Special rules.—

"(A) Per diem, etc. payments permitted.—A contract shall not fail to be described in subparagraph (A) or (B) of paragraph (1) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(B) Special rules relating to medicare.—

"(i) Paragraph (1)(B) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(ii) No provision of law shall be construed or applied so as to prohibit the offering of a qualified long-term care insurance contract on the basis that the contract coordinates its benefits with those provided under such title.

"(C) Refunds of premiums.—Paragraph (1)(E) shall not apply to any refund on the death of the insured, or on a complete surrender or cancellation of the contract, which cannot exceed the aggregate premiums paid under the contract. Any refund on a complete surrender or cancellation of the contract shall be includible in gross income to the extent that any deduction or exclusion was allowable with respect to the premiums.

"(c) Qualified Long-Term Care Services.—For purposes of this section—

"(1) In general.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services, which—

"(A) are required by a chronically ill individual, and

"(B) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(2) Chronically ill individual.—

"(A) In general.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

"(i) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity,

"(ii) having a level of disability similar (as determined by the Secretary in consultation with the Secretary of Health and Human Services) to the level of disability described in clause (i), or

"(iii) requiring substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the preceding 12-month period a licensed health care practitioner has certified that such individual meets such requirements.

"(B) Activities of daily living.—For purposes of subparagraph (A), each of the following is an activity of daily living:

"(i) Eating.

"(ii) Toileting.

"(iii) Transferring.

"(iv) Bathing.

"(v) Dressing.

"(vi) Continence.

Nothing in this section shall be construed to require a contract to take into account all of the preceding activities of daily living.

"(3) Maintenance or personal care services.—The term 'maintenance or personal care services' means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

"(4) Licensed health care practitioner.—The term 'licensed health care practitioner' means any physician (as defined in section 1861(r)(1) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

"(d) Aggregate Payments in Excess of Limits.—

"(1) In general.—If the aggregate amount of periodic payments under all qualified long-term care insurance contracts with respect to an insured for any period exceeds the dollar amount in effect for such period under paragraph (3), such excess payments shall be treated as made for qualified long-term care services only to the extent of the costs incurred by the payee (not otherwise compensated for by insurance or otherwise) for qualified long-term care services provided during such period for such insured.

"(2) Periodic payments.—For purposes of paragraph (1), the term 'periodic payment' means any payment (whether on a periodic basis or otherwise) made without regard to the extent of the costs incurred by the payee for qualified long-term care services.

"(3) Dollar amount.—The dollar amount in effect under this subsection shall be $175 per day (or the equivalent amount in the case of payments on another periodic basis).

"(4) Inflation adjustment.—In the case of a calendar year after 1997, the dollar amount contained in paragraph (3) shall be increased at the same time and in the same manner as amounts are increased pursuant to section 213(d)(10).

"(e) Treatment of Coverage Provided as Part of a Life Insurance Contract.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on or as part of a life insurance contract—

"(1) In general.—This section shall apply as if the portion of the contract providing such coverage is a separate contract.

"(2) Application of 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

"(A) by the sum of any charges (but not premium payments) against the life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage made to that date under the contract, less

"(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

"(3) Application of section 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the rider is a qualified long-term care insurance contract under subsection (b).

"(4) Portion defined.—For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to the coverage under a qualified long-term care insurance contract."

(b) Long-Term Care Insurance Not Permitted Under Cafeteria Plans or Flexible Spending Arrangements.—

(1) Cafeteria plans.—Section 125(f) is amended by adding at the end the following new sentence: "Such term shall not include any long-term care insurance contract (as defined in section 4980C)."

(2) Flexible spending arrangements.—Section 106 (relating to contributions by employer to accident and health plans), as amended by section 301(c), is amended by adding at the end the following new subsection:

"(c) Inclusion of Long-Term Care Benefits Provided Through Flexible Spending Arrangements.—

"(1) In general.—Effective on and after January 1, 1997, gross income of an employee shall include employer-provided coverage for qualified long-term care services (as defined in section 7702B(c)) to the extent that such coverage is provided through a flexible spending or similar arrangement.

"(2) FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

"(A) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(B) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage."

(c) CONTINUATION COVERAGE EXCISE TAX NOT TO APPLY.—Subsection (f) of section 4980B is amended by adding at the end the following new paragraph:

"(9) CONTINUATION OF LONG-TERM CARE COVERAGE NOT REQUIRED.—A group health plan shall not be treated as failing to meet the requirements of this subsection solely by reason of failing to provide coverage under any qualified long-term care insurance contract (as defined in section 7702B(b))."

(d) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

"Sec. 7702B. Treatment of qualified long-term care insurance.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued after December 31, 1996.

(2) CONTINUATION OF EXISTING POLICIES.—In the case of any contract issued before January 1, 1997, which met the long-term care insurance requirements of the State in which the contract was sitused at the time the contract was issued—

(A) such contract shall be treated for purposes of the Internal Revenue Code of 1986 as a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), and

(B) services provided under, or reimbursed by, such contract shall be treated for such purposes as qualified long-term care services (as defined in section 7702B(c) of such Code).

(3) EXCHANGES OF EXISTING POLICIES.—If, after the date of enactment of this Act and before January 1, 1998, a contract providing for long-term care insurance coverage is exchanged solely for a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), no gain or loss shall be recognized on the exchange. If, in addition to a qualified long-term care insurance contract, money or other property is received in the exchange, then any gain shall be recognized to the extent of the sum of the money and the fair market value of the other property received. For purposes of this paragraph, the cancellation of a contract providing for long-term care insurance coverage and reinvestment of the cancellation proceeds in a qualified long-term care insurance contract within 60 days thereafter shall be treated as an exchange.

(4) ISSUANCE OF CERTAIN RIDERS PERMITTED.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a rider which is treated as a qualified long-term care insurance contract under section 7702B, and

(B) the addition of any provision required to conform any other long-term care rider to be so treated,

shall not be treated as a modification or material change of such contract.

SEC. 322. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in section 7702B(c)), or".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended by inserting before the period "or for any qualified long-term care insurance contract (as defined in section 7702B(b))".

(2)(A) Paragraph (1) of section 213(d) is amended by adding at the end the following new flush sentence:

"In the case of a qualified long-term care insurance contract (as defined in section 7702B(b)), only eligible long-term care premiums (as defined in paragraph (10)) shall be taken into account under subparagraph (D)."

(B) Subsection (d) of section 213 is amended by adding at the end the following new paragraphs:

"(10) ELIGIBLE LONG-TERM CARE PREMIUMS.—

"(A) IN GENERAL.—For purposes of this section, the term 'eligible long-term care premiums' means the amount paid during a taxable year for any qualified long-term care insurance contract (as defined in section 7702B(b)) covering an individual, to the extent such amount does not exceed the limitation determined under the following table:

"In the case of an individual with an attained age before the close of the taxable year of:	**The limitation is:**
40 or less	$ 200
More than 40 but not more than 50 ...	375
More than 50 but not more than 60	750
More than 60 but not more than 70 ...	2,000
More than 70	2,500.

"(B) INDEXING.—

"(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each dollar amount contained in subparagraph (A) shall be increased by the medical care cost adjustment of such amount for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(ii) MEDICAL CARE COST ADJUSTMENT.—For purposes of clause (i), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(I) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(II) such component for August of 1996.

The Secretary shall, in consultation with the Secretary of Health and Human Services, prescribe an adjustment which the Secretary determines is more appropriate for purposes of this paragraph than the adjustment described in the preceding sentence, and the adjustment so prescribed shall apply in lieu of the adjustment described in the preceding sentence.

"(11) CERTAIN PAYMENTS TO RELATIVES TREATED AS NOT PAID FOR MEDICAL CARE.—An amount paid for a qualified long-term care service (as defined in section 7702B(c)) provided to an individual shall be treated as not paid for medical care if such service is provided—

"(A) by the spouse of the individual or by a relative (directly or through a partnership, corporation, or other entity) unless the service is provided by a licensed professional with respect to such service, or

"(B) by a corporation or partnership which is related (within the meaning of section 267(b) or 707(b)) to the individual.

For purposes of this paragraph, the term 'relative' means an individual bearing a relationship to the individual which is described in any of paragraphs (1) through (8) of section 152(a). This paragraph shall not apply for purposes of section 105(b) with respect to reimbursements through insurance."

(3) Paragraph (6) of section 213(d) is amended—

(A) by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)", and

(B) by striking "paragraph (1)(C)" in subparagraph (A) and inserting "paragraph (1)(D)".

(4) Paragraph (7) of section 213(d) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

(2) DEDUCTION FOR LONG-TERM CARE SERVICES.—Amounts paid for qualified long-term care services (as defined in section 7702B(c) of the Internal Revenue Code of 1986, as added by this Act) furnished in any taxable year beginning before January 1, 1998, shall not be taken into account under section 213 of the Internal Revenue Code of 1986.

SEC. 323. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new section:

"SEC. 6050Q. CERTAIN LONG-TERM CARE BENEFITS.

"(a) REQUIREMENT OF REPORTING.—Any person who pays long-term care benefits shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

"(1) the aggregate amount of such benefits paid by such person to any individual during any calendar year, and

"(2) the name, address, and TIN of such individual.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the person making the payments, and

"(2) the aggregate amount of long-term care benefits paid to the individual which are required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) LONG-TERM CARE BENEFITS.—For purposes of this section, the term 'long-term care benefit' means—

"(1) any amount paid under a long-term care insurance policy (within the meaning of section 4980C(e)), and

"(2) payments which are excludable from gross income by reason of section 101(g).".

(b) PENALTIES.—

(1) Subparagraph (B) of section 6724(d)(1) is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

"(ix) section 6050Q (relating to certain long-term care benefits),".

(2) Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, and by inserting after subparagraph (P) the following new subparagraph:

"(Q) section 6050Q(b) (relating to certain long-term care benefits),".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050Q. Certain long-term care benefits."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits paid after December 31, 1996.

PART II—CONSUMER PROTECTION PROVISIONS

SEC. 325. POLICY REQUIREMENTS.

Section 7702B (as added by section 321) is amended by adding at the end the following new subsection:

"(f) CONSUMER PROTECTION PROVISIONS.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to any contract if any long-term care insurance policy issued under the contract meets—

"(A) the requirements of the model regulation and model Act described in paragraph (2),

"(B) the disclosure requirement of paragraph (3), and

"(C) the requirements relating to nonforfeitability under paragraph (4).

"(2) REQUIREMENTS OF MODEL REGULATION AND ACT.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any policy if such policy meets—

"(i) MODEL REGULATION.—The following requirements of the model regulation:

"(I) Section 7A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 7A.

"(II) Section 7B (relating to prohibitions on limitations and exclusions).

"(III) Section 7C (relating to extension of benefits).

"(IV) Section 7D (relating to continuation or conversion of coverage).

"(V) Section 7E (relating to discontinuance and replacement of policies).

"(VI) Section 8 (relating to unintentional lapse).

"(VII) Section 9 (relating to disclosure), other than section 9F thereof.

"(VIII) Section 10 (relating to prohibitions against post-claims underwriting).

"(IX) Section 11 (relating to minimum standards).

"(X) Section 12 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

"(XI) Section 23 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

"(ii) MODEL ACT.—The following requirements of the model Act:

"(I) Section 6C (relating to preexisting conditions).

"(II) Section 6D (relating to prior hospitalization).

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) MODEL PROVISIONS.—The terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of January 1993).

"(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

"(iii) DETERMINATION.—For purposes of this section and section 4980C, the determination of whether any requirement of a model regulation or the model Act has been met shall be made by the Secretary.

"(3) DISCLOSURE REQUIREMENT.—The requirement of this paragraph is met with respect to any policy if such policy meets the requirements of section 4980C(d)(1).

"(4) NONFORFEITURE REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any level premium long-term care insurance policy, if the issuer of such policy offers to the policyholder, including any group policyholder, a nonforfeiture provision meeting the requirements of subparagraph (B).

"(B) REQUIREMENTS OF PROVISION.—The nonforfeiture provision required under subparagraph (A) shall meet the following requirements:

"(i) The nonforfeiture provision shall be appropriately captioned.

"(ii) The nonforfeiture provision shall provide for a benefit available in the event of a default in the payment of any premiums and the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying policies approved by the Secretary for the same policy form.

"(iii) The nonforfeiture provision shall provide at least one of the following:

"(I) Reduced paid-up insurance.

"(II) Extended term insurance.

"(III) Shortened benefit period.

"(IV) Other similar offerings approved by the Secretary.

"(5) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this subsection, the term 'long-term care insurance policy' has the meaning given such term by section 4980C(e).".

SEC. 326. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Chapter 43 is amended by adding at the end the following new section:

"SEC. 4980C. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

"(a) GENERAL RULE.—There is hereby imposed on any person failing to meet the requirements of subsection (c) or (d) a tax in the amount determined under subsection (b).

"(b) AMOUNT.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be $100 per policy for each day any requirements of subsection (c) or (d) are not met with respect to each long-term care insurance policy.

"(2) WAIVER.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of the tax would be excessive relative to the failure involved.

"(c) RESPONSIBILITIES.—The requirements of this subsection are as follows:

"(1) REQUIREMENTS OF MODEL PROVISIONS.—

"(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

"(i) Section 13 (relating to application forms and replacement coverage).

"(ii) Section 14 (relating to reporting requirements), except that the issuer shall also report at least annually the number of claims denied during the reporting period for each class of business (expressed as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

"(iii) Section 20 (relating to filing requirements for marketing).

"(iv) Section 21 (relating to standards for marketing), including inaccurate completion of medical histories, other than sections 21C(1) and 21C(6) thereof, except that—

"(I) in addition to such requirements, no person shall, in selling or offering to sell a long-term care insurance policy, misrepresent a material fact; and

"(II) no such requirements shall include a requirement to inquire or identify whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance.

"(v) Section 22 (relating to appropriateness of recommended purchase).

"(vi) Section 24 (relating to standard format outline of coverage).

"(vii) Section 25 (relating to requirement to deliver shopper's guide).

"(B) MODEL ACT.—The following requirements of the model Act must be met:

"(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

"(ii) Section 6G (relating to outline of coverage).

"(iii) Section 6H (relating to requirements for certificates under group plans).

"(iv) Section 6I (relating to policy summary).

"(v) Section 6J (relating to monthly reports on accelerated death benefits).

"(vi) Section 7 (relating to incontestability period).

"(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such terms by section 7702B(f)(2)(B).

"(2) DELIVERY OF POLICY.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is approved, the issuer shall deliver to the applicant (or policyholder or certificateholder) the policy (or certificate) of insurance not later than 30 days after the date of the approval.

"(3) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a long-term care insurance policy is denied, the issuer shall, within 60 days of the date of a written request by the policyholder or certificateholder (or representative)—

"(A) provide a written explanation of the reasons for the denial, and

"(B) make available all information directly relating to such denial.

"(d) DISCLOSURE.—The requirements of this subsection are met if the issuer of a long-term care insurance policy discloses in such policy and in the outline of coverage required under subsection (c)(1)(B)(ii) that the policy is intended to be a qualified long-term care insurance contract under section 7702B(b).

"(e) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this section, the term 'long-term care insurance policy' means any product which is advertised, marketed, or offered as long-term care insurance.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

"Sec. 4980C. Requirements for issuers of long-term care insurance policies.".

SEC. 327. COORDINATION WITH STATE REQUIREMENTS.

Nothing in this part shall prevent a State from establishing, implementing, or continuing in effect standards related to the protection of policyholders of long-term care insurance policies (as defined in section 4980C(e) of the Internal Revenue Code of 1986), if such standards are not in conflict with or inconsistent with the standards established under such Code.

SEC. 328. EFFECTIVE DATES.

(a) IN GENERAL.—The provisions of, and amendments made by, this part shall apply to contracts issued after December 31, 1996. The provisions of section 321(g) (relating to transition rule) shall apply to such contracts.

(b) ISSUERS.—The amendments made by section 326 shall apply to actions taken after December 31, 1996.

Subtitle D—Treatment of Accelerated Death Benefits

SEC. 331. TREATMENT OF ACCELERATED DEATH BENEFITS BY RECIPIENT.

(a) IN GENERAL.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, the following amounts shall be treated as an amount paid by reason of the death of an insured:

"(A) Any amount received under a life insurance contract on the life of an insured who is a terminally ill individual.

"(B) Any amount received under a life insurance contract on the life of an insured who is a chronically ill individual (as defined in section 7702B(c)(2)) but only if such amount is received under a rider or other provision of such contract which is treated as a qualified long-term care insurance contract under section 7702B and such amount is treated under section 7702B (after the application of subsection (d) thereof) as a payment for qualified long-term care services (as defined in such section).

"(2) TREATMENT OF VIATICAL SETTLEMENTS.—

"(A) IN GENERAL.—In the case of a life insurance contract on the life of an insured described in paragraph (1), if—

"(i) any portion of such contract is sold to any viatical settlement provider, or

"(ii) any portion of the death benefit is assigned to such a provider,

the amount paid for such sale or assignment shall be treated as an amount paid under the life insurance contract by reason of the death of such insured.

"(B) VIATICAL SETTLEMENT PROVIDER.—The term 'viatical settlement provider' means any person regularly engaged in the trade or business of purchasing, or taking assignments of, life insurance contracts on the lives of insureds described in paragraph (1) if—

"(i) such person is licensed for such purposes in the State in which the insured resides, or

"(ii) in the case of an insured who resides in a State not requiring the licensing of such persons for such purposes—

"(I) such person meets the requirements of sections 8 and 9 of the Viatical Settlements Model Act of the National Association of Insurance Commissioners, and

"(II) meets the requirements of the Model Regulations of the National Association of Insurance Commissioners (relating to standards for evaluation of reasonable payments) in determining amounts paid by such person in connection with such purchases or assignments.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) TERMINALLY ILL INDIVIDUAL.—The term 'terminally ill individual' means an individual who has been certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 24 months or less after the date of the certification.

"(B) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)).

"(4) EXCEPTION FOR BUSINESS-RELATED POLICIES.—This subsection shall not apply in the case of any amount paid to any taxpayer other than the insured if such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured being financially interested in any trade or business carried on by the taxpayer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after December 31, 1996.

SEC. 332. TAX TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

"(g) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—For purposes of this part—

"(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance contract if the only payments under the rider are payments meeting the requirements of section 101(g).

"(3) EXCEPTION FOR LONG-TERM CARE RIDERS.—Paragraph (1) shall not apply to any rider which is treated as a long-term care insurance contract under section 7702B."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect on January 1, 1997.

(2) ISSUANCE OF RIDER NOT TREATED AS MATERIAL CHANGE.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

(A) the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)), and

(B) the addition of any provision required to conform an accelerated death benefit rider to the requirements of such section 818(g),

shall not be treated as a modification or material change of such contract.

Subtitle E—High-Risk Pools

SEC. 341. EXEMPTION FROM INCOME TAX FOR STATE-SPONSORED ORGANIZATIONS PROVIDING HEALTH COVERAGE FOR HIGH-RISK INDIVIDUALS.

(a) IN GENERAL.—Subsection (c) of section 501 (relating to list of exempt organizations) is amended by adding at the end the following new paragraph:

"(26) Any membership organization if—

"(A) such organization is established by a State exclusively to provide coverage for medical care (as defined in section 213(d)) on a not-for-profit basis to individuals described in subparagraph (B) through—

"(i) insurance issued by the organization, or

"(ii) a health maintenance organization under an arrangement with the organization,

"(B) the only individuals receiving such coverage through the organization are individuals—

"(i) who are residents of such State, and

"(ii) who, by reason of the existence or history of a medical condition, are unable to acquire medical care coverage for such condition through insurance or from a health maintenance organization or are able to acquire such coverage only at a rate which is substantially in excess of the rate for such coverage through the membership organization,

"(C) the composition of the membership in such organization is specified by such State, and

"(D) no part of the net earnings of the organization inures to the benefit of any private shareholder or individual."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle F—Organizations Subject to Section 833

SEC. 351. ORGANIZATIONS SUBJECT TO SECTION 833.

(a) IN GENERAL.—Section 833(c) (relating to organization to which section applies) is amended by adding at the end the following new paragraph:

"(4) TREATMENT AS EXISTING BLUE CROSS OR BLUE SHIELD ORGANIZATION.—

"(A) IN GENERAL.—Paragraph (2) shall be applied to an organization described in subparagraph (B) as if it were a Blue Cross or Blue Shield organization.

"(B) APPLICABLE ORGANIZATION.—An organization is described in this subparagraph if it—

"(i) is organized under, and governed by, State laws which are specifically and exclusively applicable to not-for-profit health insurance or health service type organizations, and

"(ii) is not a Blue Cross or Blue Shield organization or health maintenance organization.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 1996.

TITLE IV—REVENUE OFFSETS

SEC. 400. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Repeal of Bad Debt Reserve Method for Thrift Savings Associations

SEC. 401. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) In General.—Section 593 (relating to reserves for losses on loans) is amended by adding at the end the following new subsections:

"(f) Termination of Reserve Method.—Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

"(g) 6-Year Spread of Adjustments.—

"(1) In general.—In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

"(A) such change shall be treated as a change in a method of accounting,

"(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

"(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

"(i) shall be determined by taking into account only applicable excess reserves, and

"(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

"(2) Applicable excess reserves.—

"(A) In general.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

"(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer's last taxable year beginning before December 31, 1995, over

"(ii) the lesser of—

"(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

"(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

"(B) Special rule for thrifts which become small banks.—In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

"(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

"(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

"(3) Recapture of pre-1988 reserves where taxpayer ceases to be bank.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve; except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

"(4) Suspension of recapture if residential loan requirement met.—

"(A) In general.—In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

"(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

"(ii) such taxable year shall be disregarded in determining—

"(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

"(II) the amount of such adjustment.

"(B) Residential loan requirement.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

"(C) Residential loan.—For purposes of this paragraph, the term 'residential loan' means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

"(D) Base amount.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

"(E) Controlled groups.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

"(5) Continued application of fresh start under section 585 transitional rules.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995:

"(A) In general.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

"(B) Treatment under elective cut-off method.—For purposes of applying section 585(c)(4)—

"(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

"(ii) no amount shall be includible in gross income by reason of such reduction.

"(6) Suspended reserve included as section 381(c) items.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

"(7) Conversions to credit unions.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

"(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

"(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

"(8) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spin-offs, and other reorganizations."

(b) Conforming Amendments.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

"Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995."

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking "by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)" and inserting "by a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows:

"(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987),".

(C) Paragraph (1) of section 593(e) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581) to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect."

(8) Section 595 is hereby repealed.

(9) Section 596 is hereby repealed.

(10) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The",

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period.

(11) Paragraph (3) of section 992(d) is amended by striking "or 593".

(12) Section 1038 is amended by striking subsection (f).

(13) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(14) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(15) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(16) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(c) Effective Dates.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) Subsection (b)(7).—The amendments made by subsection (b)(7) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) Subsection (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) Subsection (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.

Subtitle B—Reform of the Earned Income Credit

SEC. 411. EARNED INCOME CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) In General.—Section 32(c)(1) (relating to individuals eligible to claim the earned income credit) is amended by adding at the end the following new subparagraph:

"(F) Identification number requirement.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.".

(b) Special Identification Number.—Section 32 is amended by adding at the end the following new subsection:

"(l) Identification Numbers.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).".

(c) Extension of Procedures Applicable to Mathematical or Clerical Errors.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

"(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income credit) to be included on a return, and

"(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Treatment of Individuals Who Lose United States Citizenship

SEC. 421. REVISION OF INCOME, ESTATE, AND GIFT TAXES ON INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP.

(a) In General.—Subsection (a) of section 877 is amended to read as follows:

"(a) Treatment of Expatriates.—

"(1) In general.—Every nonresident alien individual who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle B, shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

"(2) Certain individuals treated as having tax avoidance purpose.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if—

"(A) the average annual net income tax (as defined in section 38(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than $100,000, or

"(B) the net worth of the individual as of such date is $500,000 or more.

In the case of the loss of United States citizenship in any calendar year after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1994' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000."

(b) Exceptions.—

(1) In general.—Section 877 is amended by striking subsection (d), by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

"(c) Tax Avoidance Not Presumed in Certain Cases.—

"(1) In general.—Subsection (a)(2) shall not apply to an individual if—

"(A) such individual is described in a subparagraph of paragraph (2) of this subsection, and

"(B) within the 1-year period beginning on the date of the loss of United States citizenship, such individual submits a ruling request for the Secretary's determination as to whether such loss has for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle B.

"(2) Individuals described.—

"(A) Dual citizenship, etc.—An individual is described in this subparagraph if—

"(i) the individual became at birth a citizen of the United States and a citizen of another country and continues to be a citizen of such other country, or

"(ii) the individual becomes (not later than the close of a reasonable period after loss of United States citizenship) a citizen of the country in which—

"(I) such individual was born,

"(II) if such individual is married, such individual's spouse was born, or

"(III) either of such individual's parents were born.

"(B) Long-term foreign residents.—An individual is described in this subparagraph if, for each year in the 10-year period ending on the date of loss of United States citizenship, the individual was present in the United States for 30 days or less. The rule of section 7701(b)(3)(D)(ii) shall apply for purposes of this subparagraph.

"(C) Renunciation upon reaching age of majority.—An individual is described in this subparagraph if the individual's loss of United States citizenship occurs before such individual attains age 18½.

"(D) Individuals specified in regulations.—An individual is described in this subparagraph if the individual is described in a category of individuals prescribed by regulation by the Secretary."

(2) Technical amendment.—Paragraph (1) of section 877(b) of such Code is amended by striking "subsection (c)" and inserting "subsection (d)".

(c) Treatment of Property Disposed of in Nonrecognition Transactions; Treatment of Distributions From Certain Controlled Foreign Corporations.—Subsection (d) of section 877, as redesignated by subsection (b), is amended to read as follows:

"(d) Special Rules for Source, Etc.—For purposes of subsection (b)—

"(1) Source rules.—The following items of gross income shall be treated as income from sources within the United States:

"(A) Sale of property.—Gains on the sale or exchange of property (other than stock or debt obligations) located in the United States.

"(B) Stock or debt obligations.—Gains on the sale or exchange of stock issued by a domestic corporation or debt obligations of United States persons or of the United States, a State or political subdivision thereof, or the District of Columbia.

"(C) Income or gain derived from controlled foreign corporation.—Any income or gain derived from stock in a foreign corporation but only—

"(i) if the individual losing United States citizenship owned (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), at any time during the 2-year period ending on the date of the loss of United States citizenship, more than 50 percent of—

"(I) the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(II) the total value of the stock of such corporation, and

"(ii) to the extent such income or gain does not exceed the earnings and profits attributable to such stock which were earned or accumulated before the loss of citizenship and during periods that the ownership requirements of clause (i) are met.

"(2) Gain recognition on certain exchanges.—

"(A) In general.—In the case of any exchange of property to which this paragraph applies, notwithstanding any other provision of this title, such property shall be treated as sold for its fair market value on the date of such exchange, and any gain shall be recognized for the taxable year which includes such date.

"(B) Exchanges to which paragraph applies.—This paragraph shall apply to any exchange during the 10-year period described in subsection (a) if—

"(i) gain would not (but for this paragraph) be recognized on such exchange in whole or in part for purposes of this subtitle,

"(ii) income derived from such property was from sources within the United States (or, if no income was so derived, would have been from such sources), and

"(iii) income derived from the property acquired in the exchange would be from sources outside the United States.

"(C) EXCEPTION.—Subparagraph (A) shall not apply if the individual enters into an agreement with the Secretary which specifies that any income or gain derived from the property acquired in the exchange (or any other property which has a basis determined in whole or part by reference to such property) during such 10-year period shall be treated as from sources within the United States. If the property transferred in the exchange is disposed of by the person acquiring such property, such agreement shall terminate and any gain which was not recognized by reason of such agreement shall be recognized as of the date of such disposition.

"(D) SECRETARY MAY EXTEND PERIOD.—To the extent provided in regulations prescribed by the Secretary, subparagraph (B) shall be applied by substituting the 15-year period beginning 5 years before the loss of United States citizenship for the 10-year period referred to therein.

"(E) SECRETARY MAY REQUIRE RECOGNITION OF GAIN IN CERTAIN CASES.—To the extent provided in regulations prescribed by the Secretary—

"(i) the removal of appreciated tangible personal property from the United States, and

"(ii) any other occurrence which (without recognition of gain) results in a change in the source of the income or gain from property from sources within the United States to sources outside the United States,

shall be treated as an exchange to which this paragraph applies.

"(3) SUBSTANTIAL DIMINISHING OF RISKS OF OWNERSHIP.—For purposes of determining whether this section applies to any gain on the sale or exchange of any property, the running of the 10-year period described in subsection (a) shall be suspended for any period during which the individual's risk of loss with respect to the property is substantially diminished by—

"(A) the holding of a put with respect to such property (or similar property),

"(B) the holding by another person of a right to acquire the property, or

"(C) a short sale or any other transaction."

(d) CREDIT FOR FOREIGN TAXES IMPOSED ON UNITED STATES SOURCE INCOME.—

(1) Subsection (b) of section 877 is amended by adding at the end the following new sentence: "The tax imposed solely by reason of this section shall be reduced (but not below zero) by the amount of any income, war profits, and excess profits taxes (within the meaning of section 903) paid to any foreign country or possession of the United States on any income of the taxpayer on which tax is imposed solely by reason of this section."

(2) Subsection (a) of section 877, as amended by subsection (a), is amended by inserting "(after any reduction in such tax under the last sentence of such subsection)" after "such subsection".

(e) COMPARABLE ESTATE AND GIFT TAX TREATMENT.—

(1) ESTATE TAX.—

(A) IN GENERAL.—Subsection (a) of section 2107 is amended to read as follows:

"(a) TREATMENT OF EXPATRIATES.—

"(1) RATE OF TAX.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States if, within the 10-year period ending with the date of death, such decedent lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

"(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—

"(A) IN GENERAL.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a decedent meeting the requirements of section 877(c)(1)."

(B) CREDIT FOR FOREIGN DEATH TAXES.—Subsection (c) of section 2107 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) CREDIT FOR FOREIGN DEATH TAXES.—

"(A) IN GENERAL.—The tax imposed by subsection (a) shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any foreign country in respect of any property which is included in the gross estate solely by reason of subsection (b).

"(B) LIMITATION ON CREDIT.—The credit allowed by subparagraph (A) for such taxes paid to a foreign country shall not exceed the lesser of—

"(i) the amount which bears the same ratio to the amount of such taxes actually paid to such foreign country in respect of property included in the gross estate as the value of the property included in the gross estate solely by reason of subsection (b) bears to the value of all property subjected to such taxes by such foreign country, or

"(ii) such property's proportionate share of the excess of—

"(I) the tax imposed by subsection (a), over

"(II) the tax which would be imposed by section 2101 but for this section.

"(C) PROPORTIONATE SHARE.—For purposes of subparagraph (B), a property's proportionate share is the percentage of the value of the property which is included in the gross estate solely by reason of subsection (b) bears to the total value of the gross estate."

(C) EXPANSION OF INCLUSION IN GROSS ESTATE OF STOCK OF FOREIGN CORPORATIONS.—Paragraph (2) of section 2107(b) is amended by striking "more than 50 percent of" and all that follows and inserting "more than 50 percent of—

"(A) the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(B) the total value of the stock of such corporation,".

(2) GIFT TAX.—

(A) IN GENERAL.—Paragraph (3) of section 2501(a) is amended to read as follows:

"(3) EXCEPTION.—

"(A) CERTAIN INDIVIDUALS.—Paragraph (2) shall not apply in the case of a donor who, within the 10-year period ending with the date of transfer, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

"(B) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of subparagraph (A), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

"(C) EXCEPTION FOR CERTAIN INDIVIDUALS.—Subparagraph (B) shall not apply to a decedent meeting the requirements of section 877(c)(1).

"(D) CREDIT FOR FOREIGN GIFT TAXES.—The tax imposed by this section solely by reason of this paragraph shall be credited with the amount of any gift tax actually paid to any foreign country in respect of any gift which is taxable under this section solely by reason of this paragraph."

(f) COMPARABLE TREATMENT OF LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—

(1) IN GENERAL.—Section 877 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) COMPARABLE TREATMENT OF LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—

"(1) IN GENERAL.—Any long-term resident of the United States who—

"(A) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(B) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country,

shall be treated for purposes of this section and sections 2107, 2501, and 6039F in the same manner as if such resident were a citizen of the United States who lost United States citizenship on the date of such cessation or commencement.

"(2) LONG-TERM RESIDENT.—For purposes of this subsection, the term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the event described in subparagraph (A) or (B) of paragraph (1) occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(3) SPECIAL RULES.—

"(A) EXCEPTIONS NOT TO APPLY.—Subsection (c) shall not apply to an individual who is treated as provided in paragraph (1).

"(B) STEP-UP IN BASIS.—Solely for purposes of determining any tax imposed by reason of this subsection, property which was held by the long-term resident on the date the individual first became a resident of the United States shall be treated as having a basis on such date of not less than the fair market value of such property on such date. The preceding sentence shall not apply if the individual elects not to have such sentence apply. Such an election, once made, shall be irrevocable.

"(4) AUTHORITY TO EXEMPT INDIVIDUALS.—This subsection shall not apply to an individual who is described in a category of individuals prescribed by regulation by the Secretary.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations providing for the application of this subsection in cases where an alien individual becomes a resident of the United States during the 10-year period after being treated as provided in paragraph (1)."

(2) CONFORMING AMENDMENTS.—

(A) Section 2107 is amended by striking subsection (d), by redesignating subsection (e) as subsection (d), and by inserting after subsection (d) (as so redesignated) the following new subsection:

"(e) CROSS REFERENCE.—

"For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e)."

(B) Paragraph (3) of section 2501(a) (as amended by subsection (e)) is amended by adding at the end the following new subparagraph:

"(E) CROSS REFERENCE.—

"For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e)."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to—

(A) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

(B) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after February 6, 1995.

(2) SPECIAL RULE.—

(A) IN GENERAL.—In the case of an individual who performed an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)) before February 6, 1995, but who did not, on or before such date, furnish to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of such act, the amendments made by this section and section 11349 shall apply to such individual except that—

(i) the 10-year period described in section 877(a) of such Code shall not expire before the end of the 10-year period beginning on the date such statement is so furnished, and

(ii) the 1-year period referred to in section 877(c) of such Code, as amended by this section, shall not expire before the date which is 1 year after the date of the enactment of this Act.

(B) EXCEPTION.—Subparagraph (A) shall not apply if the individual establishes to the satisfaction of the Secretary of the Treasury that such loss of United States citizenship occurred before February 6, 1994.

SEC. 422. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

"(a) IN GENERAL.—Notwithstanding any other provision of law, any individual who loses United States citizenship (within the meaning of section 877(a)) shall provide a statement which includes the information described in subsection (b). Such statement shall be—

"(1) provided not later than the earliest date of any act referred to in subsection (c), and

"(2) provided to the person or court referred to in subsection (c) with respect to such act.

"(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877(a)(2)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) ACTS DESCRIBED.—For purposes of this section, the acts referred to in this subsection are—

"(1) the individual's renunciation of his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(2) the individual's furnishing to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(3) the issuance by the United States Department of State of a certificate of loss of nationality to the individual, or

"(4) the cancellation by a court of the United States of a naturalized citizen's certificate of naturalization.

"(d) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year (of the 10-year period beginning on the date of loss of United States citizenship) during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the tax required to be paid under section 877 for the taxable year ending during such year, or

"(2) $1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(e) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

"(f) REPORTING BY LONG-TERM LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—In lieu of applying the last sentence of subsection (a), any individual who is required to provide a statement under this section by reason of section 877(e)(1) shall provide such statement with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(g) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Information on individuals losing United States citizenship."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

(2) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after such date.

In no event shall any statement required by such amendments be due before the 90th day after the date of the enactment of this Act.

SEC. 423. REPORT ON TAX COMPLIANCE BY UNITED STATES CITIZENS AND RESIDENTS LIVING ABROAD.

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report—

(1) describing the compliance with subtitle A of the Internal Revenue Code of 1986 by citizens and lawful permanent residents of the United States (within the meaning of section 7701(b)(6) of such Code) residing outside the United States, and

(2) recommending measures to improve such compliance (including improved coordination between executive branch agencies).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. ARCHER], the gentleman from California [Mr. STARK], the gentleman from Virginia [Mr. BLILEY], and the gentleman from Michigan [Mr. DINGELL] will each be recognized for 22½ minutes; and the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Missouri [Mr. CLAY] will each be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous materials on the bill, H.R. 3103.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I rise in support of the bill.

Mr. Speaker, I want to thank the members and staff of the Commerce and Ways and Means Committees for including administrative simplification in the Health Coverage Availability and Affordability Act. This provision is based on legislation that TOM SAWYER, NANCY JOHNSON, and I introduced earlier in this Congress.

We have the most advanced health care services in the world due mainly to our success in using technology. We can use this same technology to improve the way our health care system is run. Our provision removes the barriers that have prevented modern technology from replacing outdated, paper-based health information systems.

Today, the lack of uniform standards for financial and administrative health information is a barrier to modernizing health information systems. Most health plans already transmit data electronically, but the data is nonstandard or incomplete, and cannot be used to coordinate benefits or effectively track fraud and abuse.

Uniform standards for health information would enable the private sector to reduce paperwork (which adds nearly 10 cents to every health care dollar), expose fraud (which is difficult to do in a confusing, disjointed paperwork system), and provide consumers with the information they need to compare health plans and services.

The Health Care Financing Administration [HCFA] is implementing a Medicare transaction system for handling standardized Medicare claims. Under current law, HCFA has the authority to adopt Government standards for health information, and to mandate the use of those standards by the private sector.

Our administrative simplification provision, as it was included in this bill, limits HCFA to adopting standards that already have been developed by a voluntary, consensus process that has included input from the private and public sectors. It establishes a process for the standardization of health data that builds on progress in the private sector.

Our provision was developed over several years in a cooperative effort between the private and public sectors. Political support for our provision is bipartisan and bicameral—it was introduced as H.R. 1766 by Representatives DAVE HOBSON, TOM SAWYER, and NANCY JOHNSON, and as S. 872 by Senators KIT BOND and JOSEPH LIEBERMAN.

Also, as the original author of this provision, I want to clarify that our intention is that health benefits under employee welfare benefit plans would not include hospital or fixed indemnity, specified disease, accident, disability income, dental, and vision benefits.

These provisions and the overall bill respond to the need for health care reform in a responsible way. I encourage Members to vote for the bill.

Mr. ARCHER. Mr. Speaker, I yield 30 seconds to the gentleman from Ohio [Mr. KASICH], the chairman of the Committee on the Budget.

Mr. KASICH. Mr. Speaker, I want to congratulate all of the chairmen on what we are producing here today, which is a fantastic improvement in the lives for all Americans who have been held hostage from changing jobs because of a lack of portability, which we guarantee in this bill, and to give them security in knowing that preexisting conditions that have denied them health insurance or have denied them the ability to be secure in their homes are being removed with this bill.

This is a great day for the American people, a great day for the American family, and we did it without socializing the system. I thank my colleagues for producing this bill.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. COLLINS].

Mr. COLLINS of Georgia. Mr. Speaker, I rise in full support of this legislation.

Mr. Speaker, the health care reform legislation now under consideration by the Republican-controlled House of Representatives draws a dramatic contrast against the health care reform legislation considered by Congress in 1994 under a Democrat majority.

The legislation of 1994, crafted by President Clinton and introduced by the Democrat leader, Mr. RICHARD GEPHARDT, would have created a new bureaucratic government agency with authority over most of the health care choices each private citizen makes.

This year, however, under a Republican-controlled House, we are considering health care reform legislation that avoids the explosion of government bureaucracy. This legislation is a direct response to the views and concerns expressed by American citizens during the 1994 health care debate when we defeated the Clinton socialistic health care proposal.

This year's reform legislation will provide greater access to health care without increasing government bureaucracy. It will eliminate permanent preexisting condition limitations; ensure greater insurance portability so those who change jobs will have access to coverage; offer greater tax fairness for individuals; provide tax deductible contributions to medical savings accounts targeting those middle-income individuals and families without health care; streamline administrative costs and procedures; combat fraud and abuse in the health care industry; invoke medical malpractice reform that discourages unnecessary litigation currently driving up the cost of health care; and above all preserve the quality and freedom of choice that exists in our current market-based system.

One of the most important and unique components of this health care reform legislation is the creation of medical savings accounts [MSA's]. This provision will allow individuals and families to purchase a high deductible health plan and make tax deductible contributions to MSA's for the purpose of saving money for health care expenditures. In addition, contributions by employers on behalf of their employees will be excludable from taxable income. This proposal will finally provide an ideal way for young individuals and young families just starting out, to obtain affordable, quality health care coverage.

Estimates indicate that at least 1 million people will open medical savings accounts. Approximately 650,000 people who earn between $40,000 and $75,000 per year will choose MSA's; while 120,000 people who earn between $30,000 and $40,000 per year will join. The vast majority of those benefiting from the MSA will be middle-income families who, in today's market, face the most difficult challenge in obtaining coverage.

MSA's create more fairness for small employers and their employees by eliminating barriers to coverage. As a small business owner, I know first hand what kind of limitations small businesses face when trying to establish health care coverage for their employees. Often, providing health care becomes too complicated or too expensive for these employers.

MSA's will be an ideal way for small businesses to assist employees in obtaining health care coverage. MSA's may very well mean the difference between those employees who have no insurance and those that have access to affordable health care.

MSA's will provide the maximum degree of portability for employees. When an employee leaves, he or she will take the MSA to the next job.

MSA's will ultimately reduce the long-term care expenditures of medicare and Medicaid by promoting the purchase of long-term care insurance. The provision will allow individuals to make a tax-free withdrawal for the purposes of paying long-term care insurance premiums. Long-term is among the largest expenditures in entitlement health care programs. Encouraging citizens to purchase coverage in the private markets means reduced costs to the taxpayers.

MSA's will provide the maximum amount of choice for health care consumers. Individuals and families will have the maximum amount of control over the choices they make in their health care. Maximizing the ability of the consumer to choose means increased competition and cost savings for that individual or family purchasing health coverage.

MSA's have a long history of bipartisan support. In 1994, the Democrat party leader, Representative GEPHARDT, endorsed MSA's. In 1994, Senator PAUL SIMON introduced legislation to establish MSA's. In addition, States have passed State-level legislation that exempt MSA deposits from State-level taxes.

Mr. Speaker, the MSA provision is one of several very important health care reform components of the Health Coverage Availability and Affordability Act. The health care debate began during the last Congress (103d). Today, in the 104th Congress we are fulfilling the commitment to enact common sense health care reform that will provide greater portability and accessibility of health care for all Americans.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House considers the Health Coverage Availability and Affordability Act of 1996. This bill, Mr. Speaker, is truly historic. After years of talking about health reform, we are now, with the new Republican majority in this House, going to enact health reform. Most importantly, H.R. 3103 reflects what Americans want in health reform because it addresses the two issues that concern our citizens the most, availability and affordability of health insurance coverage and health care.

A key to increasing the availability of health insurance is insuring portability of coverage if a breadwinner changes jobs. No one should ever say no to a new job simply because he or she fears that the new health insurance company will say no to them. This bill tells workers that they will not have to worry about preexisting conditions limiting their ability to get coverage if they change jobs.

Both to increase the availability and affordability of health care coverage, we establish medical savings accounts. Deductions for MSA's with health insurance protection ought to be an option available to working Americans. MSA's offer Americans the ultimate in portability because, with an MSA, you take the money with you and retain the savings to spend on your health care needs regardless of a change in your employment or life circumstances.

A new study by the Joint Committee on Taxation demonstrates that the M in MSA stands for middle income. The joint committee estimates that 650,000 out of the 1 million people who will be covered by MSA's earn between $40,000 and $75,000 a year while another 120,000 people who will choose MSA's earn below $40,000 per year.

The bill further insures affordability of coverage by raising the deductibility of health insurance for 3.2 million self-employed Americans. At the beginning of this Congress the deduction had expired. Congress increased it to 30 percent last year, and now we increase it to 50 percent.

H.R. 3103 also provides important incentives for Americans to protect their families through the purchase of long-term care insurance, and it allows for accelerated death benefits for those with terminal illnesses such as cancer or HIV. Both of these important measures were part of our Contract With America.

Our bill makes health insurance and medical care more affordable by attacking a key health care cost driver that runs up costs for everyone, and that is fraud and abuse. It is tough on health care crooks by creating new criminal penalties for health care fraud, expanding other penalties and providing the necessary funds for Federal investigator to route out health care crime.

Another cost driver this bill addresses is the current quagmire of paperwork. The bill will make the process cheaper and easier by promoting a common claims form and electronic transmission of this information.

Finally H.R. 3103 undermines one of the major cost drivers, and that is medical malpractice. It gives real reform and will promote health insurance pooling for small employers.

The bill was truly a group effort by four of the House committees with health jurisdiction. I cannot stress enough the leadership provided in developing this joint initiative by the gentleman from Illinois [Mr. HASTERT] and all the chairmen of the committees involved and their subcommittee. I am particularly grateful for the contribution of the bill's chief cosponsor, the Committee on Ways and Means' Subcommittee on Health chairman, the gentleman from California [Mr. THOMAS].

Availability and affordability, two issues important to all Americans; both are the prescription for real achievable private sector health care reform this year. I am confident my colleagues will join me in supporting the Health Coverage Availability and Affordability act of 1996.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is called the Health Coverage Availability and Affordability Act, but it ain't. Because of the medical savings accounts and other provisions in here, the Republicans have managed through some legislative legerdemain to turn a silk purse into a sow's ear.

The Democratic substitute will, in fact, bring back the Roukema-Kassebaum-Kennedy bill with some technical corrections to make sure that it limits preexisting conditions, and would by far be a better bill, a truly bipartisan bill, one that will pass in the Senate and one that would in fact be signed by the President.

Now, if the Republican intention is to fill up prime time with a bill that they know will pass, it is to me a very sick trick to play on the seniors.

First of all, this bill purports to increase the deduction for self-employed, but really it only does it for 50 percent, and that is in 2003. The Democratic alternative does it at 8 percent, and it does it right up front and pays for it. It is not flimflamming the American public into thinking they are getting something that they are not.

It is also a bad bill because the insurance reforms are weaker. It limits individuals to just one policy and guarantees issue only to small firms of less than 50 people. The rest are out on the street. It spends over $2.5 billion of Medicare money on MSA tax breaks. We should save easy anti-fraud money for Medicare trust fund relief. Not only are the MSA's a bad policy, they are a payoff to the Golden Rule Insurance Company who has contributed almost $1.5 million to Speaker GINGRICH'S political operations.

If that is not bad enough policy, I do not know what is.

This bill actually increases costs in traditional insurance pools. The MSA's, the mean ones, will drive up the rates for most people.

The GOP has mislabeled their bill, I suspect intentionally. The GOP anti-fraud provisions contain 3 pro-fraud loopholes: advisory opinions, harder proof for civil monetary penalties, and they are allowing kickbacks in managed care plans. The CBO, the Republican CBO, says their plans will cost the system a billion dollars.

There is also a payoff to American Family Life. It takes out the Medigap anti-duplication laws, will return us to the days of ripping off seniors by unscrupulous insurance salesmen.

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The payoff to the AMA is in the malpractice caps that reward doctors. I would remind Members that it was released today that there are over 13,000 doctors convicted of sex crimes and other crimes who are still practicing in this country, who will go untouched if the Republicans remove the malpractice caps.

Mr. Speaker, the GOP expatriate language is too weak. We should keep it simple. We should support the Dingell-Spratt-Bentsen substitute, and give the people true portability and true reform.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], the most respected chairman of the Subcommittee on Oversight of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman, the chairman of the committee, for yielding time to me.

Mr. Speaker, this is a great day or night for Americans. Health security is important to every man, woman, and child. Tonight we take a giant step toward guaranteeing coverage, in spite of preexisting conditions, protecting millions of Americans and their families.

I introduced the first insurance reform bill, and in fact, with our former colleague Rod Chandler, introduced the first legislation to enable small businesses to group together to provide lower cost insurance for businesses. Tonight we bring a lot of that thinking, 5 years old, to fruition, and for the first time, we are going to put on the President's desk a reform bill that will really directly affect the lives of our constituents and create for them the opportunity to move from job to job, developing their careers, without fear of losing health coverage for their spouse and children.

Twenty-five million workers and dependents are affected by changes in employment every single year; 3.6 million will face job lock. That is 3.6 million workers, but all of their dependents as well. They are the people whose fears will be allayed by tonight's legislation. One hundred and thirty-eight million workers and their dependents are covered by employer plans, and any one of them at any time could need what we do here tonight. This is, indeed, a giant step toward health security for all working Americans.

Underneath that bill, included in it, is the accomplishment of other goals that we have long aspired to. For 5 years we have tried to spread long-term care insurance to protect seniors against the cost of nursing home care, without forcing them to spend down to poverty. This is a remarkable piece of legislation. It is long overdue. It represents the culmination of solid study over 5 years. Mr. Speaker, I urge the Members' support.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, this could have been a great night in this Chamber. In fact, we came very close to having this a great night in this Chamber.

Mr. Speaker, Senator KASSEBAUM and Senator KENNEDY introduced a piece of legislation, very simple, very precise, very direct. What that legislation said was, "If you lose your job or if you change your job and you have a preexisting health condition, you will not lose your health insurance."

What happened? Senator KASSEBAUM daily appealed to her colleagues to keep the bill direct and simple. This very afternoon, Senator BRADLEY stood next to Senator KASSEBAUM. He was very much interested, as many of us have been, that if you have a baby you should be allowed to stay in the hospital for 48 hours. What did he say? He said, "I will not put forth my amendment because it might jeopardize Senator KASSEBAUM's bill."

Mr. Speaker, did that happen over in this side of the House? It certainly did not. The bill that we have before us tonight has 301 additional pages of insurance changes. As I listened to people talk, and we have talked about this bill all day, I hear some on the majority side say that the additions to the bill have a very definite policy objective; namely, to make health insurance more affordable. How I wish that was true.

However, two of the most controversial riders, tax breaks for medical savings accounts, and an exemption from State insurance laws for certain health plans, could actually make health insurance higher for many, many people, the cost of health insurance. Both of these provisions would promote risk skimming, which puts the healthiest Americans in a separate health care plan. For anyone who knows about insurance, you know when you do not have a decent risk pool, the risk pool does not work.

Mr. Speaker, we have an opportunity tonight to move forward in a bipartisan legislative manner. Senator KASSEBAUM and KENNEDY's bill was put forth here by the gentlewoman from Connecticut, Mrs. ROUKEMA, and many Members of this body. We could take this bill, this simple, precise bill, and have portability for health insurance. That is all we have to do. We do not have to do everything that would just complicate matters. We can help millions of Americans by doing a simple, good bill.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr HOUGHTON], a respected member of the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Speaker, I would like to talk on the portability issue. I think it is an important one. I know that a lot of people have talked on it. It will not be the last discussion about this. However, I think it is important. I know a little bit about it, and it is really at the heart of this whole bill.

Mr. Speaker, basically what it does is to free up somebody to work wherever he or she wants. That is not a bad concept. You work for company A and you want to move to company B, but company B does not have any health insurance program. You get a job at company C, but at a far less salary. You would rather take the job at company B. You cannot do it. You cannot help your family.

Under this condition, you must be given an opportunity to have an insurance policy yourself or through the company, irrespective of where you are working or irrespective of the preexisting conditions. It makes a lot of sense, Mr. Speaker. I fully endorse this.

Mr. STARK. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I thank my friend, the gentleman from California, for yielding me this time.

Mr. Speaker, let me say to my good friend, the chairman of the Committee on Ways and Means, this bill has certainly changed since it left the Committee on Ways and Means. That is unfortunate, because I know that the chairman agrees with me that we are trying to return power to our States. This bill moves in exactly the opposite direction. By preempting our States in health insurance, which has been a traditional role for State governments to regulate, this bill moves in the wrong direction. It preempts our States without providing adequate Federal protection.

Mr. Speaker, let me just give one example of the impact that this bill will have, if it becomes law, on the State of Maryland. We enacted small market reform in our State. It covers employers that have employees, between 2 and 50 employees. It also covers the association plans, and now also covers our self-employed. The plan is working.

Mr. Speaker, let me just read from a letter that I received from our State officials:

> The reforms went into effect July 1, 1994. . . . The small business community (the Maryland Chamber, Retail Merchants Association, individual businesses) and insurance agents report the reforms have stabilized the market, increased price competition, and increased choice of delivery systems.

The reforms proved so successful to the general assembly that they expanded it to include the self-employed.

Yet, the provisions that are included in this bill would seriously jeopardize our ability to continue that plan in Maryland, for, you see, companies would be able to come under Federal regulation and void the State plan, and therefore, defeat the purpose of the pooling arrangements in our State. That is unfortunate and it is wrong.

Let me give a second example. My State has passed the emergency room care legislation, that uses the "reasonable lay person" definition on when that person should be reimbursed for care in an emergency room. We are not waiting for the Federal Government to act on it. The Federal Government has not acted on it. Do not penalize my State by allowing more and more insurance plans to be able to get out from under State regulation and be able to avoid their responsibility to cover emergency room care. That is what this bill will allow to happen. More and more companies will be able to avoid State regulation. That is wrong. It should not happen. We should allow the States to respond.

Let me quote, if I might, from the National Association of Insurance Commissioners:

> Unfortunately, we continue to have grave concerns that subtitle C of title I of H.R. 3160 would significantly erode existing State level insurance reforms. The net effect of the final provisions relating to MEWA's is extremely damaging to States authority to govern their own insurance market.

Mr. Speaker, I do not understand why we are moving in the wrong direction by taking more power, rather than giving our States the ability to control health insurance. The National Association of State legislators opposed those provisions in the bill, and for good reason. I regret that the only option we have is to support the Democratic substitute if we want to deal with preexisting conditions.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HERGER], another respected member of the Committee on Ways and Means.

Mr. HERGER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, in 1996, an estimated 3.1 million self-employed Americans will be unfairly denied adequate tax relief for their health insurance costs. Individuals that receive health coverage through their employers do no pay taxes on those benefits while self-employed individuals are only allowed to deduct 30 percent of what they spend on health care insurance.

Mr. Speaker, this mere 30 percent deduction inadequate, discriminatory, and discourages the self-employed from obtaining proper medical coverage and care. While this bill doesn't completely end this inequitable tax treatment of the self-employed, it moves us closer to that goal by increasing the health care deduction for the self-employed to 50 percent.

Mr. Speaker, I urge my colleagues to support the self-employed in this country by adopting this much-needed legislation.

Mr. STARK. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, I support Kennedy-Kassebaum. This bill before us now is not Kennedy-Kassebaum-plus, it is Kennedy-Kassebaum-minus. In a way, this bill is the story of this session so far. When the Republicans have a chance to do something good, they ruin it by overreaching. They simply cannot resist excess, and they cannot resist turning a bipartisan bill, which Kennedy-Kassebaum is, into a partisan one.

Mr. Speaker, why is this Kennedy-Kassebaum-minus? I think it is very clear, when someone who is covered by group insurance leaves and must have individual insurance, there is going to be less protection for affordability under the bill we have here than Kennedy-Kassebaum, period. It is likely that the individual will pay more.

Second, they have included MSA's, which are likely to draw the healthiest away and hurt everybody else in terms of premiums. Let me just say one thing about MSA's. They are really a potential tax shelter for wealthy people, because if you put money into them, you do not pay Social Security taxes. You indefinitely defer income taxes. And if you keep them until death, you avoid estate taxes. IRA's are structured to avoid that kind of sheltering. What these MSA's, as the Republicans here in the House, once again going to an extreme, what they have done is to promote tax sheltering for very wealthy families.

One last point, and we have made it a number of times, on fraud and abuse. Why make it tougher for the Government to impose civil and monetary penalties in the case of fraud and abuse? Why do that? Why do you require that the proof be recklessness instead of negligence, when the Government relies on the providers, the tens of thousands, to submit accurate bills? Mr. Speaker, I do not understand what pressure group you are reacting to, but it is bad for the public at large.

So for all of these reasons, I urge that we reject this bill. Unfortunately, once again, they have gone much too far. Nothing exceeds like excess, as has been said many years ago. I think we have no alternative but then to vote for the substitute. Let us do Kennedy-Kassebaum, taking care of the self-employed. Let us not go backward. Let us not turn this into a political issue. This reform is long overdue.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. MCCRERY], a respected member of the Committee on Ways and Means.

Mr. MCCRERY. Mr. Speaker, medical savings accounts will provide hard-working Americans the freedom to personally manage and even save a portion of their health care dollars. By granting consumers complete control, MSA's allow working men and women and their families to tailor health care spending to their individual needs. This element of personal responsibility will lead to more cost-conscious and cost-efficient spending choices.

MSA's are easily portable from one job to another and provide total freedom when choosing a family's health care provider. In the case of a serious illness or injury, MSA beneficiaries will continue to have comprehensive medical coverage through a high-deductible health plan which meets those costs. Furthermore, this bill helps individuals plan for their future long-term care needs by allowing MSA funds to be used to purchase long-term care insurance or services.

In short, Mr. Speaker, MSA's provide hard-working American families the ultimate in health insurance: choice, flexibility, and portability.

Mr. STARK. Mr. Speaker, I yield 4 minutes to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Speaker, I wish that we were out here voting on the Kennedy-Kassebaum-Roukema bill, but we are not. HIAA, the Health Insurance Association of America, did not want that bill to come to the floor, and so we have this bill we have before us. This bill was written by, or at least for, the insurance industry.

The first thing in it is data collection. I mentioned that under the rule, they collect data, they have electronic clearinghouses that can shift that information. There is no privacy protection in this bill whatsoever. This is the first time the Federal Government has gotten into collecting health care data, and there are no privacy protections.

But worst about this bill is that it purports to be about portability. Portability means you have insurance, you lose your job, what happens to you? Well, how can you carry your insurance until you get your next job, or what do you do to cover your family? Now, this bill says that, if you were in a company that had 50 people or you had a group insurance and you go out there and you start looking for insurance, the insurance company or the State can decide what they are going to offer you.

Mr. Speaker, we are not going to get the same policy we have now. No one listening to this should think that portability means what I have now I will have tomorrow, because it simply is not so. We give the insurance companies the ability to say, we will give you the average actuarial value policy. What does that mean? It has never been done in the United States. This is a pig in a poke. Anybody who thinks that the insurance companies when they do not have to give you insurance are going to give you the same thing, they are going to jack the price. And you are going to get less benefits, particularly if you have any kind of medical problem.

They are going to medically underwrite you. If you have cancer or heart attack or anything, diabetes, whatever, you suddenly are going to find out you do not have the same benefits you had under your old group policy.

Now, let us say we have a job and we lose it and move to another company. We may get into the next company, but the company that has more than 50 employees has no guarantee that they can go out and buy a policy. There is no guarantee of issue to an employer who has more than 50 people.

Mr. Speaker, all of these proposals fit the insurance company's ability to cherry pick and avoid the sick people and make their choices and find ways to make money. Anything that is in this bill could be done now by the insurance companies. The Republicans have put out there essentially what I say is a guarantee that we can buy a Cadillac in this country. Now, we can pass a bill and say everybody can buy a Cadillac. We guarantee that Cadillac dealerships must issue us the keys to a Cadillac.

Mr. Speaker, why do people not have Cadillacs? They have not got the money to buy Cadillacs. This bill is a fraud because it says, we get portability. But just like a bill that says we get a Cadillac, we would not get one.

Now, if that were not enough, if it were not just the issue of portability, the opportunities for fraud by insurance companies are increased in this bill. We passed a law since I came to Congress that said that insurance companies could not sell a policy to old people for things that are covered by Medicare. We could not duplicate without saying to the old folks: This policy covers what is under your Medicare. Now, any old folk would say to that: Well, that is stupid. Why should I buy that policy?

So they quit selling those policies. This bill says that an insurance company can go out selling something all over the place that covers what is covered by Medicare. It is simply an opportunity to legalize their fraud.

This is a bad bill. Vote for Dingell, Spratt, and Bentsen.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. I thank the gentleman for yielding me the time.

Mr. Speaker, last year alone, $31 billion was lost to Medicare fraud and abuse, Medicare and Medicaid fraud and abuse. Everyone here talks about doing something about waste, fraud and abuse in our health care system. This bill finally does something to eliminate these parasites on our health care system.

Mr. Speaker, our bill establishes the Medicare integrity program, which increases the ability of Medicare to prevent payments for fraudulent, abusive or erroneous claims.

We, for the first time, require the Health Care Finance Agency to use state-of-the-art computer software, the same type used by private insurers, and to hire private sector companies with proven track records to prevent fraud and abuse. This will result, according to the CBO, in a net savings of almost $2 billion over the next 6 years.

The other provisions that fight health care fraud and abuse are listed on this chart, Mr. Speaker. I urge approval of this bill to get at waste, fraud, and abuse.

Mr. STARK. Mr. Speaker, I yield myself such time as I may consume.

It is interesting that the previous speaker spoke about parasites I think here to enlighten us about parasites. is the gentleman from Virginia [Mr. MORAN], who will tell us about the Golden Rule Insurance Company, which gave Mr. GINGRICH's political operations over $1.5 million, which is why we are discussing these MSA's.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, as the gentleman from California [Mr. STARK] has explained, I think we know why MSA's are included in this legislation and why the Republican Party wants so much to make them into law. The principal beneficiary of this legislation would be Golden Rule Insurance Co.

All we have to do is to track the campaign contributions to the Speaker and GOPAC and the Republican committee.

Let me explain why the Democrats are not supporting Golden Rule Insurance Co. and their medical savings accounts. In the 1992 annual statement, only 54 cents out of every premium dollar was actually going into medical costs. Imagine. Half of the revenue went into shareholder profits and the like.

Let me explain why the State of Vermont kicked these medical savings account of Golden Rule Insurance Co. out of the State. It is because half of the people in Vermont, 5,000 people have these policies, half of them found that in the tiny writing at the bottom that Golden Rule had excluded whole body parts from coverage. They excluded their arms, their breasts, their backs, their hips, their hands, their legs, their circulatory system. Imagine excluding these things from coverage.

Let me tell my colleagues why the State of Kentucky had so much problem with Golden Rule Insurance Co. Golden Rule Insurance Co. does not want to cover newborns. They will not cover them until they prove that the newborn is healthy. Kentucky passed a law that says you have to cover newborns for the first 30 days of life. Golden Rule sued the State because they do not want to cover newborns for the first 30 days of life.

Mr. Speaker, let me tell my colleagues about some other folks who had specific experience. Carol Schreul of Aurora, IL, Golden Rule rejected her insurance for a brain tumor, $39,000. They would not cover it. They said that she listed her weight as 190 pounds but that it was actually 210 pounds.

Let me tell my colleagues about another Golden Rule policyholder who suffered a stroke, $20,000 in bills. James Anderle was a Milwaukee barber. It turns out that they said he had a preexisting condition, that he had the flu, and that this was a preexisting condition. And so they did not want to cover it.

Claims for $49,000 were denied Harry Baglayan, a self-employed repairman. He underwent bypass surgery. They said that he did not tell them that he had nausea 4 months earlier, and that was a preexisting condition.

I will just quote from the Wall Street Journal, which, it seems to me, probably has a little bit of credibility around these parts. The Wall Street Journal says that they are a sham, that in fact they are most known for cherry picking. In fact, when a claim actually is accepted, they wind up suing the beneficiary and the State. They have piled up $1 billion in assets. It is a sham, Mr. Speaker. We should not include this in our bill.

Mr. ARCHER. Mr. Speaker, I yield myself 15 seconds simply to say that the previous speaker made a very interesting emotional presentation. It just so happens that it has no relevancy to what we are talking about today.

Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. SAM JOHNSON].

Mr. SAM JOHNSON of Texas. Mr. Speaker, medical savings accounts are for middle-income America. There is a chart that proves it. Medical savings accounts, therefore, must be part of any health care plan we pass. They are an important option for both employers and employees. They give enhanced portability, preserve consumer choice, allow retirement savings and contain costs.

Medical savings accounts offer all Americans the opportunity to buy a plan that best meets their individual needs.

Mr. Speaker, middle-income Americans are my constituents. They repeatedly tell me that one of the most important things that they want is the ability to choose their own doctor. Medical savings accounts do that. They will allow people to achieve control over their own health care dollars, make it more cost-conscious and bring down the total cost of medical costs for everyone.

Medical savings accounts are good for America. Medical savings accounts offer Americans a freedom they deserve.

Mr. STARK. Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. PORTMAN].

Mr. PORTMAN. Mr. Speaker, I rise today in strong support of the bill and I do so because I think it will provide greater security to millions of working Americans by eliminating some significant obstacles to health care.

I think this is precisely the kind of health care reform, Mr. Speaker, that the American people have called for. It is targeted reform. It is incremental reform. It makes commonsense improvements to an imperfect system.

Let me give my colleagues an example. This bill helps level the playing field between those who are self-employed and those who work for corporations. The health insurance deduction for the self-employed goes from 30 percent to 50 percent over a 7-year period. With this single step, we are making health care more affordable for 3.2 million Americans, many of those Americans who are now caught in the net, Americans who are now uninsured. That means the mon and pop grocery store down the street. That means that our favorite barber. That means that our local mechanic. All of these people may be self-employed.

In my State of Ohio alone, this enhanced deduction will affect more than 50,000 farm families. It makes sense. Corporations receive a significant deduction, and it is only fair that the self-employed do, too.

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Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Nevada [Mr. ENSIGN], a respected member of the Committee on Ways and Means.

Mr. ENSIGN. Mr. Speaker, in southern Nevada, with the fastest-growing senior population in the country, I constantly hear from elderly constituents about the exorbitant costs of long-term care. People like our parents and grandparents are paying about $40,000 a year for nursing home care. If they do not have the money, Medicaid requires that they lose virtually everything or legally hide everything before they can get help with long-term care from the government.

Currently, there is no provision in the Tax Code that relates to long-term care expenses. Most people incorrectly believe that private insurance will pick up this tab when they need it. But this is simply not the case for 98 percent of long-term care recipients. This bill incorporates the Ensign amendment that treats long-term care expenses as tax-deductible medical expenses. Some of my senior Democratic Ways and Means Committee members have told me they have been trying to do this for over 10 years. Best of all, it is fully paid by making billionaires who renounce their U.S. citizenship for tax purposes pay their fair share. This should have been done years ago, and certainly we should all support this bill with this amendment.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. CHRISTENSEN], a respected member of the Committee on Ways and Means.

Mr. CHRISTENSEN. Mr. Speaker, I rise today to speak in favor of a provision that will help senior citizens in my home State of Nebraska, and throughout the country.

What I am referring to are the provisions in this bill that dramatically improve the way we treat long-term care, making long-term care more affordable and accessible.

This bill puts long-term care on a level playing field with other important forms of insurance and provides a much-needed incentive for individuals to take personal responsibility for their long-term care needs.

First, this legislation requires that long-term care insurance be treated like accident and health insurance, meaning that it will generally be excluded from an employee's gross income for tax purposes.

Second, thanks in large part to my colleague Mr. ENSIGN from Nevada, this bill provides that many long-term care expenses will now be deductible.

We as a nation must come together in a bipartisan fashion to put an end to a long-term care system that pulls seniors into poverty and forces taxpayers to step in to bear the burden.

This legislation does just that.

Once again we are doing what we said we would do by ensuring a bright future for our senior citizens.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, I think the Republicans should be lauded for attempting at least to pick up the pieces of what has to be a concern to all Americans, and that is inadequate health care for most of our citizens, especially those people who are working and do not have access to insurance. They are not insured by the Federal Government, because they make too much money, and, of course, they do not have enough money to get their own insurance.

But why the Republicans would come in with an insurance plan that allows tax exemptions for people who can afford just to put it in a bank account and if they make certain that it is a high deductible, that is that the only time that they can use it is for catastrophic diseases, then it just seems to me that what we are doing is allowing the insurance companies to cherry-pick and select those people who are healthy and then those people who are not insured by that can come right back and fall on the regular public system that is there.

What we do need is a comprehensive insurance program that really was the one that was initiated before, and perhaps it was too much to consume at one time, but we cannot forget that there are 40 million people out there in the United States that have no insurance at all, and these are the people that are the most vulnerable and these are the people that cannot afford to have these type of savings accounts which are there to protect those who already have.

I think that instead of just selecting those parts of the people that they believe would give political support, that what we have to have in this country is an insurance, a health insurance system where every American, regardless of how much money they have or whether they do not have any at all, can say in this great country that people will not die just because they lack access to health care.

All over we see we are cutting back the public share. If we want to do more in the private sector, let it be fairer.

Mr. ARCHER. Mr. Speaker, I yield myself 1 minute.

I think the debate, Mr. Speaker, has been very curious today. On the one hand, the Democrats accuse us of overreaching, of having too comprehensive a bill. This is from the same people that gave us the unbelievably complex Government takeover of the entire health care system in 1994. It is fascinating. And then they come and say, oh, we are concerned about insurance companies taking a part of the money paid on the premiums and not spending it on health care, but they want to deny medical savings accounts where the individual spends his or her own money without regard to a third-party payer.

There is an enormous inconsistency here, but in a sense it is consistent because in 1994 they wanted to deny choice to the people of this country and now they want to deny choice to the people of this country to have their own medical savings accounts.

Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield myself the balance of my time.

I would just suggest that the Republicans would like to spend almost $4 billion on long-term care insurance at the same time they cut $90 billion out of Medicaid, which pays for long-term care for the poorest. It is true that we had a bill that would have provided health insurance to all Americans, and there are 40 million Americans out there uninsured who obviously the Republicans do not give a hoot about. All they care about are the rich, who can enjoy the medical savings accounts.

So if you do not have insurance and your children do not have insurance, the Republicans are doing nothing. If you are very rich or you know some rich people, they get helped by this bill.

The Dingell-Spratt-Bentsen amendment would be the bill to support, which would get us the Roukema-Kennedy-Kassebaum bill, which does all the good things on a bipartisan basis that we need to do and does away with the claptrap that has been added on to this bill with the awful intention of killing it, which to me is cynical, and it is cynical because it is going to hurt the poor and the elderly while it helps the rich, like Ross Perot and the friends of the Republicans. And that is not what this country needs.

We have 40 million people who do not, whose COBRA benefits could protect them; 3½ million who will expire. The Republicans voted against extending it.

Support the Dingell-Spratt-Bentsen amendment.

Mr. ARCHER. Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. THOMAS], the highly respected, helpful creator of a big part of this bill, the chairman of the health subcommittee of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, I thank the chairman, the gentleman from Texas [Mr. ARCHER], for yielding me this time. I want to compliment him as I want to compliment the chairmen of the other committees, the gentleman from Virginia [Mr. BLILEY] and the gentleman from Pennsylvania [Mr. GOODLING]. It really is exciting, and I am pleased that this new majority for the first time in more than 40 years has a work product on the floor that could not be produced by the former majority.

The Democrats had more than 40 years. In fact, it has been more than 10 years since the last health insurance bill has been on the floor. The Democrats owned Washington in the entire 103d Congress; the Democrats had a majority in the House. They had a majority in the Senate. They had a President. Not one product to deal with the plight of the American worker, so eloquently described by the Democrats over and over again, on this floor ever came to the floor. We were never provided the opportunity to help. We had the opportunity to hear of the plight of the poor worker just as we did a few minutes ago. The gentlewoman from

Connecticut talked about that poor beleaguered person, and I am sure he is and he has been for a long time and he was during the entire time the Democrats were in the majority.

The major committees in the House, not just one committee, the major committees of responsibility have come together and we have produced H.R. 3103. It is not too much, it is not too little, it is just about right for responsible and reasonable health care reform. We have actually accomplished a modest improvement for the self-employed. We moved their deductibility from 30 percent to 50 percent, prospectively. That is really all that we thought was prudent and appropriate.

Criticism from the minority over this? We do not do enough, fast enough. Who was it that left those same self-employed without any protection whatsoever for the entire calendar year of 1994? All of a sudden they want to do something for these people. When they were in control they did absolutely nothing. They allowed the deductibility for health care to lapse. When you were running the place, why were not you more responsible?

H.R. 3103 reforms tort law in the area of medical malpractice. Is it radical? Half the States limit noneconomic damages. Is it controversial? Last March, with 247 votes, 44 Democrats, 23 from the North, 21 from the South, joining the new majority, the responsible Democrats and the Republicans passed medical malpractice reform. We put it in the product liability bill. The exact same language as passed the floor of the House is in this bill. We have put together increased penalties for fraud and abuse. Tougher rules, stiffer penalties. We find it, we fix it, and we make sure that we can fight it. Stiffer penalties, stronger rules. What is wrong with requiring the government to tell people when they ask the government is this OK?

What is wrong with advisory opinions? Apparently, the gentleman from California [Mr. STARK] did not find anything wrong with advisory opinions last June, outside the context of the political responses we have been hearing today. In H.R. 1912, the gentleman from California [Mr. STARK] introduced a bill to deal with health care fraud and abuse. On page 41, the gentleman from California has a provision, subtitled (d), advisory opinions, on kickbacks, and self-referrals.

We also have greater availability and greater affordability of health insurance, you have heard from many of my colleagues in the area of medical savings accounts. We have heard over here from the minority, how horrendous is this provision. Well, is it really? It is choice. It does not say that you must, it says you can. It does not say you shall, it says you may. It is a choice. It is one more choice. Possibly it is a product that people who now cannot find a product in the marketplace will use.

Who are those people? We have heard the profile of those individuals characterized as the healthy and the wealthy. Take a look at, again, the chart that the gentleman from Texas, Mr. SAM JOHNSON, focused on. According to the Joint Tax Committee, 51 percent of the people who are going to find this a useful product are in the $50,000 to $74,000 range, middle class. On the far right of the chart that is $100,000 and above; that is everybody who makes more than $100,000, $200,000, $300,000, $400,000, a million. That is out there less than 12%. That is that enormous group on the other end of the chart. Let us look at the lower end, from $40,000 to $49,000, 13 percent, from $30,000 to $39,000, 11 percent, the vast majority of people who will find this product usable are the middle and the lower middle class.

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What is wrong with small employers being able to voluntarily pool their resources so they can save on their health insurance, just like large employers? We begin to make sure that people who more and more need to invest in long-term health care, their cost of the insurance, and the cost of the health care itself, thanks to the gentleman from Nevada, an amendment in the Committee on Ways and Means, will be allowed under the Tax Code. Long overdue, and never done by the Democrats when they were in the majority.

Finally, the heart of the matter: The American worker will no longer have to worry about changing jobs or losing insurance.

H.R. 3103 is a good bill support it.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. BLILEY] is recognized for 22½ minutes and the gentleman from Michigan [Mr. DINGELL] is recognized for 22½ minutes.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the substitute to H.R. 3103, The Health Coverage Availability and Affordability Act of 1996. During my tenure in Congress, I do not recall the House ever passing a health insurance market reform bill. We are about to take an historic action to change that.

The legislation before you today makes real reforms, and most importantly, it makes health insurance coverage both available—and affordable—for millions of Americans.

The substitute represents a consensus agreement that was developed as a result of the provisions that were reported out of the Commerce Committee, as well as those developed by the Committee on Ways and Means, the Committee on the Judiciary, and the Committee on Economic and Educational Opportunities. It is designed to address the interrelated issues of accessibility and affordability of health insurance coverage.

The provisions of this bill within the jurisdiction of the Commerce Committee are designed to deal with the difficult problem of job lock, or, put more simply, an employee's reluctance to change jobs because of pre-existing condition exclusions in health care coverage. This bill will ensure that individuals who have an opportunity to move to new or better jobs will not have to face limitations in their coverage for pre-existing medical conditions that will affect them or their families. This bill will also assure people in group health plans that they cannot be excluded from coverage, or from renewing their coverage, based on their health status. It provides limits on the period of exclusion for a pre-existing condition and assures that, once covered, the condition will not be excluded from future coverage if the individual meets the requirements of the bill.

The Commerce Committee reported provisions also provide for guaranteed availability of coverage to employees in the small group market. Each insurer that offers coverage in the small group market would have to accept every small employer and every eligible individual within the group.

The bill would also ensure portability of health insurance for qualifying individuals moving from group to individual coverage. This is accomplished by giving States flexibility to achieve individual coverage through a variety of means that include risk pools, group conversion policies, open enrollment by one or more insurers and guaranteed issue.

The bill also contains a number of other provisions which we strongly support. It allows small employers to take advantage of pooling so they can purchase affordable health insurance coverage. It reforms the medical malpractice system which will help contain costs and it provides for new health choices for those who want to purchase medical savings accounts.

It also includes provisions on fraud and abuse and administrative simplification. The General Accounting Office has estimated that fraud and abuse accounts for one out of every ten dollars spent on health care. Regrettably, fraud and abuse not only contributes to the ever-increasing cost of health care, it also leads to a lack of confidence in the health care system and its providers. Providing concrete laws and guidelines and stringent penalties for violations will ensure the continued integrity of the nation's health care system.

The administrative simplification provisions are needed to ensure that there are standards for the transmission of financial and administrative data. Much of this information is currently transmitted in an electronic format. However, there is not a uniform standard and there are no consistent security standards or safeguards regarding the use of this information.

I urge my colleagues to join me in supporting this bill which will begin to help solve some very real problems for many Americans.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, today we choose between the people who carry a lunchbox to work, and the people who carry Gucci briefcases and wear imported loafers.

The people who carry lunchboxes aren't asking for special favors or special treatment. They're not asking for a tax loophole. What they want is very simple. When they change jobs, or if they fall prey to downsizing, or if a loved one contracts cancer or diabetes, they want to be able to buy health insurance. That's all.

I am afraid that this very modest request from the people who carry lunchboxes is going to fall on deaf ears in this House. The majority has instead constructed a monument to the influence industry.

We can pass a bill that makes health insurance portable and prohibits discrimination or restrictions because of pre-existing conditions. This simple bill would help 25 million Americans. Another provision in this bill on the tax deductibility of health insurance for the self-employed would help 3 million Americans.

We could pass that bill, sail it through the Senate, and have it on the President's desk for signature tonight. Instead, we're going to be voting on a Christmas tree bill adorned with ornaments for various special interests. And like a Christmas tree, it's soon going to be put out on the lawn for garbage pickup.

I know whose side I'm on. I'm voting with the people who carry lunchboxes. I urge my colleagues to do the same.

Mr. Speaker, I submit the following material for the RECORD:

HEALTH CARE? YOU COMPARE

H.R. 3103 BASE TEXT

A stripped-down Roukema/Kassebaum bill: no choice of plans for workers who lose their jobs; no guarantees for businesses with more than 50 workers; preempts State laws that protect consumers.

Limits deductibility of health insurance premiums for the self-employed to 50%.

Controversial Medical Savings Accounts.

Controversial medical malpractice law changes.

Controversial repeal of protections for seniors so they won't be ripped off by sale of useless, duplicative health insurance policies.

Controversial provisions overriding state insurance laws.

Controversial provisions making it harder to find and punish wrongdoers.

DINGELL/SPRATT/BENTSEN

A clean Roukema/Kassebaum bill: full portability; protection against discrimination due to preexisting conditions; guaranteed renewal.

Increases deductibility of health insurance premiums for the self-employed from 30% to 80%.

No other controversial provisions to weigh down the bill, slow down the conference, or provoke a Presidential veto.

Keep it simple. Keep it clean. Give the American people what they need.

Support the substitute. Oppose H.R. 3103's base text.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield myself 30 seconds to respond to my good friend, the gentleman from Michigan.

What a difference, my colleagues, 2 years makes. On this very night, the night before we broke for our Easter recess, 2 years ago, I sat over there next to my then chairman, the gentleman from Michigan, and said, "Mr. Chairman, the President's bill is too heavy. It is too much. It is socialized medicine. We can't move it. We ought to take up the Rowland-Bilirakis bill, bipartisan bill, which was modest, like our bill, and deal with it and mark it up in committee." He said "It can't be done. I am sorry." Now he is back. What a difference.

Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. BILIRAKIS] the chairman of the subcommittee.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I am pleased to be here today to add my voice to those in favor of health care reform for America's families.

I must say that this moment is both satisfying and, at the same time, deeply ironic. For, now, the House finally has the opportunity to approve health care reforms many of us have advocated for many years. The irony lies in the fact we could have accomplished many of these reforms over 2 years ago if the former leadership had been willing to act and the current administration willing to compromise.

Despite all the political attacks you may hear today—and make no mistake, they are political attacks—health care reform is an idea whose time has come—again and again. The problems we seek to fix today we identified long ago along with many of the solutions contained in this legislation.

Many of you in this Chamber may remember that during the 103d Congress, Congressman Roy Rowland and I introduced consensus health reform legislation. The Rowland-Bilirakis bill was the only true bipartisan bill—but we never got our day in court. Not one vote was ever scheduled on our proposal despite broad support for the provisions contained in the bill.

Despite the great hue and cry in 1994 for reform, my own Commerce Committee did not even schedule a markup on my bill—or any other version of health reform. Today, we have the opportunity to change all that.

We finally have the opportunity to cast a historic vote on a health reform package which contains many of the items advocated by the Rowland-Bilirakis bill in the last Congress.

Like my previous proposal, this legislation will raise deductions for the self-employed, enact provisions on fraud and abuse, promote administrative simplification, establish pooling for small employers, provide for medical malpractice reform, and ensure insurance portability.

To be sure, not all items in this legislation are precisely as we proposed back in 1994. But many of the core items have been subject to bipartisan agreement in the past and should now be viewed in a similar light. I urge my colleagues, on both sides of the aisle, to set aside any remaining differences and pass-this bill.

Indeed, it is thus somewhat mystifying when I hear that this bill is somehow too loaded up. And it is a little more than ironic when the main criticism of the previous Rowland-Bilirakis bill was that it didn't do enough.

You can't have it both ways. We have to do something to resolve problems in our health care system now, in this Congress. We never had the chance in 1994.

Health care is too expensive. This bill will help make health care more affordable for millions of families. Access to health care is too restricted—this bill allows policies to be carried from one job to another. Too many people have too few choices with regard to health care—this bill will expand the number of opportunities we all have to secure an effective health care plan for our family.

These are problems we can solve now and which will improve the lives of millions of working Americans. We cannot let this moment pass without passing this bill. I strongly urge my colleagues to support our efforts to improve our Nation's health care delivery system and help make health care in this country both more accessible and affordable.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I am very happy to be here today. Many of my colleagues know that I am the House sponsor of the Kassebaum-Kennedy health insurance reform package. If I had my way, we would be debating and quickly passing a clean version of that legislation.

The portability and the guaranteed issue that it will deliver to 30 million Americans now.

Kassebaum-Kennedy-Roukema is legislation that has been cosponsored in the House by a wide multitude of bipartisan support and in the Senate, Senate Committee on Labor and Resources, it was passed unanimously. It deserves bipartisan support.

The American people want health care reform, and they need it. They are sick and tired of partisan bickering and political gamesmanship. They want results and they want them now.

Unfortunately, I fear the Hastert omnibus bill will inevitably lead to more gridlock and inaction. I fear that, in the end, the American people will not get the common sense reforms that they deserve.

I think it should be noted right here and now that within the last 24 hours, two prominent Republican leaders in the Senate, Senator KASSEBAUM and Senator BENNETT, have confirmed their firm opposition to an omnibus bill. I think we should keep that in mind today.

I expect that if this should be blocked and it should end up in gridlock, I expect that the American people will hold us responsible in November.

Now, do not get me wrong. Some of the reforms that are not part of the Kassebaum-Roukema bill, such as medical malpractice reforms, I have supported in the past and will continue to support. But let us understand and be frank about it. Whether we support them or do not support them, the key components, malpractice, expansion and medical savings account, let us understand and be frank about that, that medical malpractice reform, medical savings account and ERISA expansion are controversial components. They are controversial, they are complex, and they demand individual consideration as individual pieces of legislation.

Mr. Speaker, I again say that we must answer to the American people and pass this legislation in its clean form tonight.

Mr. Speaker, I rise this evening in support of commonsense health insurance reform.

Many of my colleagues know that I am the House sponsor of the Kassebaum-Kennedy health insurance reform package. If I had my way, we would be debating and quickly passing a "clean" version of the Kassebaum-Roukema plan today and the portability and guaranteed issue that it presents to 30 million Americans.

Kassebaum-Roukema is legislation that has been cosponsored by 193 House members, and which the Senate Labor and Human Resources Committee approved unanimously.

The American people want healthcare reform. They are sick and tired of partisan bickering and political gamesmanship. They want results and they want them now.

Unfortunately, I fear the Hastert omnibus package will inevitably lead to more gridlock and inaction. And I fear that, in the end, the American people will not get the commonsense reform they deserve.

And it should be noted that within the last 24 hours 2 prominent Republican leaders in the Senate have confirmed their firm opposition to an omnibus bill.

Should that happen, I expect the American people to hold the 104th Congress accountable, as well they should.

Now don't get me wrong. Some of the reforms in H.R. 3103 that are not part of the Kassebaum-Roukema plan—such as medical malpractice reforms—I have supported in the past, and will continue to support in the future.

However, there can be no doubt that certain elements of the underlying bill (such as medical malpractice reform, medical savings accounts, and an ERISA expansion) should be fully debated by the Congress on a case-by-case basis—not wrapped-up into one gigantic package. Each one of these components are complex and controversial and should be properly considered independently.

In the past, I have been a very strong advocate of medical malpractice reforms so that physicians can stop practicing defensive medicine in order to insulate themselves from frivolous lawsuits that only lead to over-utilization of the health care system and higher liability insurance premiums. I will vigorously support these reforms in the future as well.

Nevertheless, I recognize that medical malpractice reform is a very controversial idea that faces serious obstacles in the Senate, and perhaps a veto by President Clinton.

With regard to medical savings accounts, I have some very serious reservations about this idea.

While the notion of empowering individuals to make their own health care decisions has a certain amount of merit, I am concerned that medical savings accounts could, in the long term, serve to ruin the health insurance market.

Medical savings accounts could serve to segregate the population into two groups: Young, healthy people using medical savings accounts and older, sicker people in conventional health plans. If this kind of risk-segmentation happened, the health insurance premiums for older, sicker individuals would skyrocket beyond imagination.

I refuse to support health reform legislation that makes this scenario a reality. Medical savings accounts should be reviewed and debated on their own merit—not as part of some, larger package.

Finally, I want to discuss my concerns about those provisions in the omnibus package that expand the ERISA pre-emption of state insurance laws.

For many years, I served as the ranking minority member of the then House Education and Labor Subcommittee on Labor and Management Relations, which had jurisdiction over ERISA, the Federal law governing employee benefits such as health care or pensions.

The single, most important lesson I learned about ERISA from my time on the subcommittee was this: the more you think you've learned about ERISA and how it works, the more you realize how little you truly know.

I am increasingly of the view that while ERISA as originally devised served a useful purpose, we need a new ERISA for the modern context.

As more and more employers self-insure, thereby receiving a pre-emption from any State insurance rule, regulation or law, employees find themselves at the mercy of their employer's choice of health benefit plan.

For example, New Jersey and other States have enacted laws that require at least 48 hours of hospitalization coverage for women giving birth. These laws are a response to the efforts of managed care networks to discharge women, and their newborn children, within 24 hours of labor and delivery.

When employers self-insure, their employees do not receive the benefit of any of these protections because of the ERISA preemption.

With the expected rapid growth in managed care networks and their enrolles in the future, this trend will only get worse, not better.

Consequently, rather than the significant expansion of the current ERISA as envisioned in H.R. 3103, I believe we need to carefully examine ERISA and devise a new form of this law to meet our current needs.

We should not be considering any ERISA expansion as part of a larger package, where these kinds of issues get lost in the shuffle.

Passing a clean version of the Kassebaum-Roukema plan avoids all of these problems. I hope that we don't let this golden opportunity to slip through our collective fingers.

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Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. GANSKE], a valued member of the committee.

Mr. GANSKE. Mr. Speaker, this bill will help fix a health care system that has been beyond the means for many Americans.

Now a worker who wants to pursue his career but cannot change jobs because of an illness in the family would be covered by a new employer's insurance, group-to-group portability. Now an employee who is laid off or between jobs and cannot get individual coverage for his preexisting condition would be able to get coverage, group-to-individual portability. Now the small business employee, whose employer cannot afford to purchase insurance for the firm's five employees because one of them has a chronic illness, would be able to better afford health insurance.

Mr. Speaker, this bill makes it easier for Americans to get and keep health insurance. It is important that this bill includes medical savings accounts. They will return control over health care spending to consumers, save money, and lower health care overutilization. I am pleased that this bill also increases the health insurance deduction for self-employed individuals from 30 percent to 50 percent by the year 2003. While big businesses have been able to deduct all their health care costs, millions of self-employed individuals have been left without a similar benefit. That is not fair. We must give people more incentives and more options to carry health insurance for their families.

The Health Coverage Availability and Affordability Act will also crack down on fraud and abuse, saving millions of dollars. This, too, would keep the cost of your premiums down.

Mr. Speaker, finally, medical malpractice reform will help hold down the cost of defensive medicine and help keep premiums down. If health care is more affordable, more people will have real access to it.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I am so pleased that my colleague, the gentlewoman from New Jersey [Mrs. ROUKEMA] spoke just before me, because basically she pointed out that what we really need tonight is a clean bill, not loaded down with medical savings accounts and all the other things that are being suggested by the Republican leadership.

Mr. Speaker, the gentlewoman was trying to address portability and preexisting conditions, essentially expand coverage for many people now who cannot get coverage, and also keep health insurance affordable, and she achieves that essentially by saying that if you lose your job or change jobs, the insurance companies still have to provide you with individual coverage. She also limits the situations where the insurance companies can refuse to cover you because of preexisting medical conditions.

This is a very modest bill. We, on the Democratic side, managed to get 172 Members here to cosponsor her bill. In the Senate, there are 54 current cosponsors of the Kassebaum-Kennedy bill, so we know we can move this legislation, and the legislation is good because it is very modest. It basically keeps the insurance pool intact. It does not encourage healthy people to opt out. It does not bring in a lot of new people who are unemployed or who cannot afford insurance or who are critically ill that would increase the costs of health insurance.

But lo and behold, what do we get from the Republican leadership? They throw in the medical savings accounts, and what does that do? It breaks the risk pool. It breaks the insurance risk pool. Essentially what it does is to encourage healthy people and wealthy people to opt out and buy catastrophic coverage and get a tax break to put their money aside and leave everyone else in this risk pool so that they have to pay higher premiums, because it is going to cost more to insure them. It does the very thing, the very opposite, if you will, of what the gentlewoman from New Jersey, Mrs. ROUKEMA, and Senators KASSEBAUM and KENNEDY strove to do.

Mr. Speaker, what will be the ultimate result of increasing the costs of health insurance who remain and do not opt for the medical savings accounts? there will be fewer people insured, fewer people insured.

Mr. BLILEY. Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, the chance for basic bipartisan health care reform may be slipping away, because some have taken a good idea and loaded it up with a lot of gifts to special interests. Why do we not put the American people first for a change?

Mr. Speaker, we all agree there are a few minor changes that we could make to our health care system that would cost the American taxpayer nothing, would offer security to millions of Americans in need of basic health care coverage. I say let us do those things that we can agree on. That is preexisting condition and portability.

We have to stop the unjust practice of denying those with preexisting conditions insurance coverage. Many people who need insurance the most cannot get it because of these preexisting conditions. Another 4 million Americans who have insurance are afraid to leave their jobs, fearing that they never might be insured at another job again.

Mr. Speaker, we should ask ourselves, how many are throwing themselves, begging for a medical savings account? That is for the healthy and for the wealthy. All our constituents are definitely knocking down our doors, demanding us to cut important services like medicare and medicaid and education so that we can spend billions on creating medical savings account.

There are too many controversial malpractice reforms in this bill. Why do we have to load it up? Why can we not do like the other body does and for a change let us say they have taken the right path and pass a bill like Roukema-Kennedy-Kassebaum. That is what we were elected to do. We all said we would do it. Now we have other political agendas that might prevent a good bipartisan health package from being enacted.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. Mr. Speaker, I rise today in support of the Health Care Coverage Availability and Affordability Act. In this time of economic insecurity and increasing pressure on America's working-class families, this bill is a common sense approach to health care access that also makes health care more affordable. In 1993, the Clinton administration and the liberals in Congress lined up behind the big government socialized medicine plan. This plan was an utter failure, not because the American people did not want security in their health coverage but because it was the wrong approach, though our Committee on Commerce in the 103d Congress had the right approach with the gentleman from Florida [Mr. BILIRAKIS] and Dr. Rowland of Georgia.

H.R. 3103 takes the right approach in dealing with their anxiety, ensuring that people who change or lose their jobs will have access to health care, regardless of preexisting conditions. This is important and deals with the same issues as the Kassebaum bill. However, while this is a good starting point, it just does not go far enough. Providing portability is important but on its own, it fails to deal with the forces that drive health care costs higher.

Mr. Speaker, it is nonsense to tell the American people that we will increase their access to health care without making health care more affordable. If we do nothing to bring down the cost of health care, we have the same old problem. We will be told that some provisions were included in this bill to kill health care reform. That is bull. Increasing access and reducing health care costs are two sides of the same coin.

This bill attempts to remove the influence of the trial lawyers in medicine by reforming the medical liability system. It gives young people, a large portion of whom do not have coverage, more health care choices. We must pass H.R. 3103.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, if I might have the attention of the distinguished chairman.

Am I correct that his bill prohibits group health plans or insurers offering coverage through group health plans from requiring a participant to pay a premium contribution that is greater than a premium contribution for a similarly situated participant or beneficiary solely on the basis of the health status of the participant or beneficiary?

Mr. BLILEY. Mr. Speaker, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Speaker, the gentleman is correct.

Mr. STUDDS. Am I further correct that the word "solely" in this provision means that there can be no discrimination at all in the setting of premium contribution amounts for a participant on the basis of health status?

Mr. BLILEY. Mr. Speaker, if the gentleman will continue to yield, the gentleman is correct.

Mr. STUDDS. Mr. Speaker, although I am somewhat underwhelmed by both of the propositions before us, I think this is a significant step in the right direction.

Mr. BLILEY. Mr. Speaker, how much time is remaining on both sides?

The SPEAKER pro tempore (Mr. COMBEST). The gentleman from Virginia [Mr. BLILEY] has 11 minutes remaining, and the gentleman from Michigan [Mr. DINGELL] has 12¾ minutes remaining.

Mr. BLILEY. Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I rise in support of the Kassebaum-Roukema-Kennedy legislation. I rise lamenting the fact that we will not take "yes" for an answer. Very frankly, the Kennedy-Kassebaum-Roukema bill was bottled up in the Senate until the heat got so high recently that the Republican in the Senate who then publicly admitted holding up the bill said no, let it go forward.

Mr. Speaker, all of us in a bipartisan way agree that we ought to preclude preexisting conditions being an impediment to our citizens getting insurance. All of us believe that people ought not to be locked into their jobs because they do not have portability of health care security through their insurance. All of us believe that in a bipartisan way. That is what the gentlewoman from New Jersey [Mrs. ROUKEMA] was saying. That is what Senator KASSEBAUM is saying from Kansas. But we are having trouble taking yes for an answer.

Mr. Speaker, I personally believe that the medical savings account, although superficially appearing to provide some options, in fact will increase the cost for those who are less healthy and less wealthy. That is not just a fancy phrase. I think it is reality.

In addition, as my colleague, the gentleman from Maryland [Mr. CARDIN] expressed when he spoke on Ways and Means, our State is very concerned about precluding it from making determinations. In fact, we are stopping States from having the flexibility that our Republican colleagues say they ought to have.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS], a distinguished member of the committee.

Mr. STEARNS. Mr. Speaker, I rise in support of the Archer/Bliley bill because I believe the issue of genetic privacy is of tremendous importance. I introduced H.R. 2690, the Genetic Privacy and Nondiscrimination Act of 1995. My bill would ban discrimination based on a person's genetic profile.

I wish to acknowledge my colleague and good friend Representative JOE KENNEDY who is helping me on the other side of the aisle. He and I are working together on this bill.

With new forms of genetic testing able to reveal an individual's likelihood of contracting a number of diseases, the possibility arises that employers and health insurers could use that information to discriminate.

This is a civil rights issue. People who are already at risk due to their genetic makeup shouldn't have to worry about the additional hardship of losing their job or health insurance.

Like a companion bill introduced by Senators MARK HATFIELD and CONNIE MACK, H.R. 2690 would also ban the disclosure of genetic information by anyone without the written authorization of the individual. This safeguard would protect the privacy of individuals who would rather their genetic information be kept private.

I am pleased that I was able to add a portion of my bill to the Archer-Bliley bill.

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Genetic testing has proved effective in certain cases, and it can be argued that the detection of a gene or a certain genetic characteristic will not necessarily result in the onset of a particular illness. So, we have an ambiguity here. We have an opportunity where somebody could have a defect which somebody would interpret different ways which would prevent them from having good health care insurance.

Genetic testing is moving along, as we all know, and it raises many ethical and legal and social questions relating to access to genetic testing, insurability and employability, and we need to make this confidential. The purpose of the Genetic Privacy Act, which I have provided, is to establish some guidelines concerning disclosure and use of genetic information with the goal of balancing the rights of the individuals against the needs of society.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, I rise in support of the substitute which gives us an opportunity to pass a reform we know will be signed by the President.

In the last Congress we saw the demise of comprehensive health care reform, and those who objected to that initiative said that it was too much. We ended up with nothing. Hundreds of thousands of New Jerseyans and millions of Americans continued to languish in the insecurity of no health care coverage.

Today we can address one major concern of millions of working Americans, the fear of moving from job to job because of the possible loss of comprehensive health insurance. We can eliminate the condition referred to as job lock and free up opportunities for working men and women to seek new employment.

We also have an opportunity to provide necessary protection for those Americans with preexisting illnesses who are trapped in a job solely because of their inability to become insured if they leave their position. We have the opportunity to eliminate the discriminatory practice of denying continued health care to people with diabetes and other illnesses for which insurance coverage has been nearly impossible to obtain.

But the committee's bill contains provisions which are unacceptable to the President, the Senate and which, if included, may end any hope of enacting even modest health care reform, and I hope this is not the cynical reason behind the bill.

Twenty-five percent of my constituents have no health care insurance whatsoever. If we have to enact health care reform one step at a time, so be it. But let us take the first step today by insuring more people, liberating them in their choices through the adoption of the Democratic substitute.

Mr. BLILEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I rise to support the Archer-Bliley bill, which will be the antidote to the problem we have in the United States of making sure we have sufficient coverage for all Americans.

As my colleagues know, the United States spends far more per capita on health care than any other major Nation in the world. But yet despite the rising costs of health care, millions of Americans are without health insurance and millions more expected to join the ranks of the uninsured.

The solution to the problem, I believe, Mr. Speaker, is in fact contained in H.R. 3103. The reforms before us here tonight in the House reform current health care insurance practices to make health insurance more available and more affordable.

The bill encourages insurance companies to provide coverages to the workers who change from one-employer provided plan to another. It gives the portability everybody wants. They lose their job and move to a job without coverage. It allows small employers to join together to purchase group health insurance for the first time, to do so for their employees, and allows self-employed individuals, Mr. Speaker, to deduct increasing percentages of their health insurance premiums from their income taxes.

This is an idea whose time has arrived, and I would ask for my colleagues to support this legislation for those reasons, but still a few more. It allows organizations such as trade associations and chambers of commerce to voluntarily associate to purchase health insurance which would be available to all member organizations. Further, it provides incentives to encourage individuals and their employers to make tax-deductible contributions in lieu of health insurance premiums.

Finally, Mr. Speaker, it increases penalties for fraud.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Speaker, three years ago the insurance industry spent $100 million to kill comprehensive health care reform. How many of these companies are ominously silent on this Gingrich special interest health care bill.

One politically active insurance company located in Indiana would benefit handsomely under the Gingrich plan thinks to a special interest giveaway larded onto the Republican bill. Medical savings accounts will enrich a select group of high-end catastrophic providers, skim the well-off and the healthy out of the insurance pool, and increase costs for everyone left behind.

This Gingrich special interest plan is a bill written by the insurance companies, of the insurance companies, and for the insurance companies. Approximately 40 million Americans are without health care and without health insurance. A majority of these Americans are from working families, working hard, paying their taxes, playing by the rules. They need our help in this Chamber tonight.

Mr. Speaker, pass the Dingell substitute. Defeat the Gingrich special interest bill.

Mr. BILILEY. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, I find it appalling that the Democrats would bring in this special interest thing. The integrity of the debate; is it possible to have a honest debate any more at all?

I mean if my colleagues want to talk about special interests, read yesterday's Hill newspaper article. The American Trial Lawyers just gave $2.2 million to candidates last year, 94 percent going to Democrats opposed to this bill because it has tort reform. My colleagues want to talk special interests? Weigh on in, because my colleagues are the ones who are in the pocket of the American trial bar.

Let us get to the real issue here. Medical savings accounts gives choice to Americans. It takes it away from our Washington bureaucrat command and control allies and puts it in the hands of the American public where it belongs. That is what our constituents want, and once they start making their own decisions on health care, they are going to decide a whole lot of other things, like they may need somebody else to represent them in Congress.

I think it is important to also know that our colleagues are standing one more time against small businesses by opposing legislation that would allow pet stores and clothing stores and barber shops to pool together and buy their insurance as a group.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, more women in the United States are injured and killed through domestic violence than by automobile accidents, muggings, and rapes by strangers combined. Domestic violence is a terrible plague in American society.

Given that reality, it is an absolute outrage that a number of insurance companies deny health insurance to women who have been battered and who have been victims of domestic violence. These insurance companies argue that domestic violence is a preexisting condition and that it might not be profitable for them to insure these women. Under these conditions women are being abused twice, first by their batterers and, secondly, by the insurance companies who refuse to insure them and their families.

Mr. Speaker, I am delighted that both the Republican and Democratic health care bills before us tonight include an amendment which I offered which would once and for all put an end to this outrage. Women who are battered are entitled to health insurance just like anyone else.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. COX], chairman of the Republican Policy Committee.

Mr. COX of California. Mr. Speaker, I would just like to thank my colleague from Vermont. My understanding of his remarks is that he is pleased with the bill because it includes provisions that will make sure that domestic violence is covered, that it is not excluded from our protections as a preexisting condition.

That is my understanding. Is that correct?

Mr. SANDERS. Mr. Speaker, will the gentleman yield?

Mr. COX of California. I yield to the gentleman from Vermont.

Mr. SANDERS. Included both in the Republican bill and the Dingell bill as well, yes.

Mr. COX of California. I thank the gentleman for pointing out that additional salutary impact of this legislation.

There is something else in this legislation that I would like to highlight, in addition to the fact that it will solve the problems that we have all agreed need to be solved on preexisting conditions and on portability of coverage. That is reducing costs in the way that the Congressional Budget Office has told us is the most effective way possible.

A September 1993 Office of Technology Assessment report said that a ceiling on noneconomic damages in medical lawsuits is the best way that we can get a grip on costs. Earlier in this session we have devoted our attention to this issue, and this Congress has, by overwhelming bipartisan vote, approved this kind of health care liability reform that, I want to point out, is also included in this bill and provides a very solid reason for voting for it.

One of the key elements is what in California we call MICRA. It is health care cost control that we have had in place for many, many years. It was passed by a Democratic legislature, signed by a Democratic governor. It is bipartisan in this Congress, as well. I was very pleased to be the Member who offered this legislation in the first session of Congress and to see the strong bipartisan support that it won.

We do have too many frivolous lawsuits, and, as a matter of fact, we can through this proven technique, already a law in California, control them for the benefit of every single individual insured person in America. Driving down health care costs this way is very, very important.

Mr. DINGELL. I yield 1½ minutes to the distinguished gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, among the many provisions, hundreds of pages of provisions which the insurance industry added to the Kennedy-Kassebaum bill that passed the Senate with, God forbid, bipartisan support, the most insidious of those provisions are those that provide for the medical savings accounts because they would set off a chain reaction.

First, they encourage the healthy and particularly the wealthy who can afford the high deductibles of MSA's to opt out of their current insurance pool. That shrinks the insurance pool needed to keep premiums more affordable for everybody.

Next, that is injury to hard-working middle-income people left behind in the pool because they are going to see their premiums go up, they are going to have to make up the loss of the healthiest and wealthiest.

And, finally to add insult to injury, the same middle-income workers paying higher premiums will also be paying taxes to replace the tax breaks handed to those who can afford these accounts.

Mr. Speaker, that is wrong, and I urge my colleagues to support the substitute which is a clean Kennedy-Kassebaum-Roukema bill. It is real reform with several clean good steps toward real health insurance reform. It eliminates the denials for preexisting conditions when someone changes jobs, it eliminates some of the job lock which keeps people from changing jobs due to fear of losing their insurance, and it reduces the burden on the self-employed by raising their health insurance deduction to 50 percent.

Mr. BLILEY. Mr. Speaker, I have only one speaker left, and I reserve the balance of my time. I understand I have the right to close.

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Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, we have a real opportunity tonight to do something for the working families in this country. The American public is clamoring for health care relief. It is one of the fundamental concerns of the people of this country. People in this Nation are frightened that they will lose their jobs, that they will lose their health care, that they will be denied health insurance because of a preexisting condition that they may have or that their children may have.

Mr. Speaker, the Kassebaum-Kennedy-Roukema bill takes a first step toward addressing these problems. It is a good bill, it is a bipartisan bill. It addresses the needs of the American people. Do not load up the bill with politically contentious issues that are designed to kill this bill, this opportunity for health care reform. It is wrong. It is not what the people of this Nation have sent us here to do. It is not what our jobs are about.

Mr. Speaker, the authors of this bill have asked for a clean bill, not to be loaded up. Mrs. KASSEBAUM earlier today said, "I think there are some who, by design, would like to see problems." The Washington Times today says that "Riders Imperil Health Care Reforms," and it says that "House and Senate Republicans said they planned to add a series of controversial provisions to a popular health insurance reform bill, clouding chances for quick passage."

The gentleman from Virginia [Mr. BLILEY] himself has said that, "If you load up the wagon, it is heavier to pull." Do not sacrifice health care reform. Do not sacrifice the American public for special interests tonight. It is wrong to do that. We have a golden opportunity to do something, not for the Golden Rule Insurance Co., but for the American people, for the working families of this country who deserve to have relief from the perils of a disastrous illness. Vote against this bill, vote for the Democratic substitute.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, when President Clinton stood here a few months ago and announced his support for a bill that had been authored by Senator KASSEBAUM and the gentlewoman from New Jersey, Mrs. ROUKEMA, to be joined by the gentlemen from Massachusetts, Senator TED KENNEDY, and JOSEPH KENNEDY, the country was ecstatic. They were convinced for the first time we would actually do something about the need to make health insurance portable and to prevent prior conditions from making insurance either unavailable or unaffordable to many people.

Tragically, we are here tonight debating a bill that goes far beyond that consensus, that moves us into conflict on issues like MSAs, that are a pure giveaway to a gentleman from Indiana named Mr. Rooney, who legitimate insurance salesmen in my district claim they would never sell policies for.

We have watered down portability, we have limited the ability to prevent prior conditions from being remedied in this legislation, because we have taken an approach that does not really give people what they have been told they will get. They will pay more if there are fortunate enough at all to be able to continue to have health coverage. They are not going to be able to keep the kind of plan they have had. This proposal ensures they will pay more.

Tragically, in the process of making this bill difficult to pass and sign, we have not done enough to help small business people who need 80 percent, if not 100 percent, deductibility, and we have weakened consumer protections and gutted State law.

Please oppose this bill and support the substitute.

Mr. Speaker, I offer my strong support for the Democratic substitute.

The Republican bill is loaded down with special interest amendments like MSA's political paybacks for the Golden Rule Insurance Co.

These paybacks mean everyone else will have to pay more for their insurance.

The Democratic substitute will help tens of millions of Americans keep their health insurance when they switch jobs, regardless of their condition.

The Democratic substitute addresses several fundamental problems.

If an employee who has been covered for at least 18 months switches or loses his or her job, that employee could buy insurance without exclusions for pre-existing medical conditions.

Workers will no longer be locked into jobs or prevented from starting their own businesses for fear of losing their own coverage.

The substitute also contains an increase in the deductibility of health insurance for the self-employed.

Greater deductibility serves two important goals.

First, greater deductibility increases affordability. Increasing deductibility will help millions of farmers, small businesses, and other working families afford the high cost of health care insurance.

Second, greater deductibility ensures greater fairness in our tax code. Corporations have long enjoyed full deductibility for their health insurance costs. It is time to narrow the gap between Wall Street and Main Street.

This substitute represents legislation that we can pass today and that the President would sign tomorrow. It has received wide bipartisan support, both here in the House and in the other body.

Let us not miss this opportunity to enact health care insurance reform that will benefit millions of hard-working Americans.

I urge a yes vote on this substitute.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. MARKEY] to conclude debate on this side.

Mr. MARKEY. Mr. Speaker, it is with sorrow and frustration that I rise to oppose this bill. Reform of our health care system is long overdue. The fact that some 40 million Americans do not have health insurance is an absolute disgrace, and it is high time that we do something about it. Last week the Committee on Commerce unanimously approved legislation that would have provided at least some relief to millions of hardworking American families by ending job lock and limiting the use of preexisting condition clauses.

It was a good first step. It was incremental, to be sure. It would have guaranteed that health care was affordable, but at least it would have been accessible. It was modest, and for that reason I had hoped that a large majority of Members from both sides of the aisle could support it.

Mr. Speaker, my mother always says that a half a loaf is better than none, and I supported that bill, even though it was really only a couple of slices. I know the American people want the whole loaf. Unfortunately, the leadership has taken a couple of good, wholesome slices of health insurance reform and slapped a whole lot of extraneous junk food on top, creating a health care hoagie of medical savings accounts, caps on medical malpractice awards, and other unhealthy additives. These anchovies and olives and onions are sure to tickle the taste buds of a very few special interests, but cause heartburn for millions of consumers.

Barry Goldwater's old words can be twisted here this evening, because now the Republican Party believes that extremism and the defense of special interests is no vice. "The American Medical Association wants it, we will just toss it into this bill."

Barbara Tuchman wrote a very famous book back in the early 1980's, entitled the "March of Folly", basically chronicling throughout the ages the mistakes.

Mr. BLILEY. Mr. Speaker, it is with pleasure that I yield the balance of my time to the gentleman from Illinois [Mr. HASTERT], the chief deputy whip, a gentleman who has worked tirelessly on this legislation.

The SPEAKER pro tempore (Mr. COMBEST). The gentleman from Illinois [Mr. HASTERT] is recognized for 4½ minutes.

Mr. HASTERT. Mr. Speaker, I thank the chairman of the Committee on Energy and Commerce for yielding time to me. As a matter of fact, Mr. Speaker, I thank all of those chairmen of the committees who have worked together to make this bill possible, and the subcommittee chairmen, and I would be remiss if I did not thank the staff of the combined committees, who did an excellent job in working together to make sure that this bill was successful.

Mr. Speaker, I have heard a lot of outrageous statements from the other side of the aisle tonight, and even one from our side of the aisle. But it questions me, it wonders me, I guess you would say, who are those special interests that everybody is talking about? Is it the small businessman who needs to have the ability, the deductibility; that if he has a small business and wants to get his employees covered, 85 percent of which are people who work today and do not have insurance and end up in situations with one family member that works for a small business, that we give them the ability to pool that and take it to the marketplace with the same advantages that big business gets? Is that a special interest?

Is it a special interest for a family who wants to get health care and make choices of their own, instead of having an HMO or a doctor or an insurance company tell them, is that the special interest they talk about?

Maybe, Mr. Speaker, there are some dinosaurs still in this Congress that do not want to have change, some dinosaurs that still want to have big Federal health care take care of everything, and take over everything, and if they cannot have it their way, then they are going to do the very minimum, the very minimum to cover the ladies and gentleman of this country and the families of this country.

Mr. Speaker, we have traveled a long road in a short period of time with this reform bill. For that, I applaud the cooperation of everybody. It must be noted that with this legislation, we have succeeded where previous Congresses have failed, and we have put together reforms in the health care delivery system that will help people today. Our legislature will lower the cost of health care insurance while making it more available and affordable to middle-income American families.

Who among our critics will deny that health insurance is too expensive? Who among our critics will deny that American families should have more control over their health care spending? Who among our critics will deny that patients deserve more health care dollars than bureaucrats and trial lawyers? I have listened with intent interest, and the charges of some of the members of the minority party are just outrageous.

They claim our bill does too much, that it goes too far, and that it is too ambitious for this Congress. This claim, coming from proponents of the President's ill-conceived centralized, federalized health care scheme, can only be seen as a farce. I contend that the President's first health care bill was far too big. The Kennedy approach now advocated by the President is just too small. Our health care plan is just right for the American family.

Our colleagues in the other body deserve a great deal of credit for trying to remove the barriers created by preexisting conditions. It is a needed reform, and it is contained in our bill. This bill gives people who lose or change jobs the insurance that they can keep their health insurance when they need it most.

One other misstatement of fact. The Senate has not passed the Kennedy bill. It has only moved out of committee. Only yesterday the letter comes out of the Senate that the leadership in the U.S. Senate approves of our bill. They ratify our bill. They commend us for doing these things, for doing more for the American people.

I have to say that a letter from the small business groups in this country says that this is the right thing to do for the American working people, for those people who have to carry a lunch bucket to work. It gives them choice, it gives them coverage, and Mr. Speaker, the time has come to pass this legislation. I ask for its approval.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 15 minutes, and the gentleman from Missouri [Mr. CLAY] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I yield myself 4½ minutes.

Mr. Speaker, today this House of the people has a historic opportunity to cast their vote for landmark legislation designed to address the health insurance concerns expressed by the people.

For nearly three decades the American people have looked to Congress to improve private health insurance accessibility, affordability, and accountability. Unfortunately, until this point, efforts to nationalize health care have deprived our people of the added security that would result from the commonsense and bipartisan elements of targeted health insurance reform contained in the measure we are now considering. These elements, such as health insurance portability, renewability, and pooling for small employers, have been long debated and included in various legislative proposals offered by the members of the Economic and Educational Opportunities Committee and many others.

These needed well-targeted reforms did not advance in the last Congress because of the failed efforts by the President to promote his government-run health care plan. The American people were not fooled—the elements of the President's plan proved too costly, too bureaucratic, and would have led to health care rationing. However, our efforts here today give evidence that we are seriously taking President Clinton at his word which was given in his State of the Union address last year, "Let's do it step by step; let's do whatever we have to do to get something done" in regard to incremental health insurance reform.

That is why the legislation before us is deliberately more modest in scope. Rather than trying to create a new health care system, the Health Coverage Availability and Affordability Act seeks to build on those elements of the Nation's employment-based system that work well—namely the fully insured and self-insured group health plans under ERISA—while at the same time making the important changes to the current system which are needed.

The changes called for by the American people, like the people who have spoken at my town meetings in York, PA, include helping end job-lock for employees seeking new employment by limiting preexisting condition restrictions under the new employer's plan and eliminating such restrictions for those who maintain continuous health insurance coverage. This proposal, like the bill reported by our Committee, does that and more.

In addition, an employer would not be able to exclude new workers from their company health plan simply because that worker or a member of his or her family may have a serious health condition. Such individuals would have to be permitted to enroll and be able to choose a benefit package under the plan. If family coverage is offered under a group health plan, spouses who lose other coverage and newborns would have to be allowed to be enrolled.

Smaller businesses have also expressed concern that insurers not be able to drop their coverage because of the health status of their employees. The legislation addresses this concern by prohibiting insurers and multiple employer plans from failing to renew health insurance coverage because of adverse claims experience or other reasons. Smaller employers and their employees would also have an expanded choice of health insurance coverage because of provisions in the bill allowing employers to choose their coverage from among all of the products offered by insurers and HMO's participating in the small group market.

I believe these changes reflect the kind of important reforms the American public expect of us. But we must also help those who have no coverage at all. The problem of the uninsured is primarily one of small businesses that cannot afford to buy insurance for their workers.

The many witnesses who spoke at our committee's hearings stressed that making health insurance more affordable was the key to making it more available to the American worker and his or her family. Therefore, the legislation contains provisions that will help achieve the goal of expanding coverage to the nearly 34 million individuals in working families who now do not have health insurance coverage. It does this by clarifying the ERISA law to allow employers, especially smaller employers, to form multiple employer plans through the associations that represent the Nation's trades and businesses and by allowing employers and employees to choose and negotiate for the type of coverage they need and can afford.

In 1974, Congress enacted the Employee Retirement Income Security Act or, as it came to be known, ERISA. In doing so, Congress shaped and put into place the cornerstone of our country's employee benefits law. More importantly, it laid the foundation upon which employers and negotiated multiemployer plans have been able to successfully provide benefits to workers and their families, including pensions, health, and other benefits. As Dr. Richard Lesher, president of the U.S. Chamber of Commerce, has testified, "Our membership is convinced that preservation of ERISA is a critical step on the road to significant health care reform. We support H.R. 995 [the bill reported by the Committee] as it builds upon ERISA by including needed insurance market reform."

This is one issue on which employers and unions agree. For example, Mr. Robert Georgine, chairman of the National Coordinating Committee for Multiemployer Plans, stated in testimony that:

> Given this reality [that there will be no employer mandate] the next best approach is a policy that encourages an expansion of voluntary, employment-based coverage without imposing additional costs on existing health plans. * * * H.R. 995 [the bill reported by the Committee] takes this approach. We are pleased that the bill uses ERISA as its vehicle.

By utilizing the time-tested features contained in ERISA, the provision under subtitle C, like those under H.R. 995, build upon the successes produced by private sector innovation and market competition.

Under subtitle C of the bill, multiple employer plans could self-insure or fully insure, gaining all of the advantages this entails including economies-of-scale and lower costs. Small employers who now do not have access to coverage, or cannot afford it, would be automatically eligible for more affordable health coverage through the plans sponsored by their business and trade associations. Together with other provisions of the bill, such as the increase in the deduction of health insurance costs for the self-employed, this legislation will unleash small employers into a more competitive health insurance marketplace, thus enabling them to secure more affordable health coverage in the same manner as do larger employers.

Subtitle C also brings more accountability to the health insurance market. The Department of Labor inspector general, Mr. Charles Masten, testified that this is necessary and important legislation to stop health insurance fraud perpetrated by bogus unions and other illegitimate operators. Legitimate plans will be made accountable and fraudulent schemes will be halted when these provisions are enacted.

In sum, subtitle C and the other provisions of the Health Coverage Availabilty and Affordability Act present this Congress with perhaps its best opportunity since the passage of ERISA to expand access to affordable health insurance for many American families.

The measure is superior to other bills in either body in regard to protecting the American worker and his family and offering the opportunity for true portability of health insurance coverage, by increasing the likelihood that the mobile worker's next employer will also be offering a health plan. The fact that small employers strongly support the pooling provisions in the bill is testament to the vast potential multiple employer plans have for expanding coverage and reducing the cost-shifting from the uninsured to the insured worker that currently takes place.

The House bill is also more protective under its portability provisions. The bill would allow a 60-day lapse in coverge before portability protection for preexisting conditions would be interrupted while other bills would allow only a 30-day lapse in coverage to terminate an employee's portability protection. The House bill has also been crafted carefully to be both more protective and administrable with regard to the evidence employees must give to received portability credit for prior coverage. It is anticipated that under the House bill most group health plans would utilize the simpler portability rule which credits employees with period of prior coverage for purposes of reducing a new 12-month preexisting condition period without requiring a demonstration that the prior coverage actually covered the preexisting condition—a potentially lengthy and costly determination.

The House bill has also been carefully drawn to avoid issues that made the Clinton plan so controversial such as provisions requiring group health plans to include particular forms or types of benefit.

In sum, the provisions of the Health Coverage Availability and Affordability Act represent the best opportunity in decades for American workers and their families to gain increased access to more affordable and accountable health insurance coverage. I urge my colleagues to vote for this workable responsible targeted health insurance reform bill. The American people will thank you for the increased security they will have when you make history by passing this landmark health coverage legislation.

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Mr. CLAY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in opposition to H.R. 3103. The Republican leadership is passing up a golden opportunity today to pass a realistic, bipartisan health reform bill. Instead of bringing to the floor the Roukema-Kassebaum-Kennedy bill, the leadership is bringing up for consideration H.R. 3103. This bill is so weighted down with complex, controversial, and special interest provisions that it could doom health reform for 1996.

Members will have a chance, however, to vote for sensible, bipartisan health reform legislation today. The democratic substitute is the Roukema bill, and I urge my colleagues to support it.

The Nation cries out for the reasonable, constructive approach of the Roukema bill. Democrats and Republicans should unite behind this bill. It has broad bipartisan support in both Houses of Congress. The President has said he will sign it.

The House Republican leadership is on the verge of dashing the hopes of millions of people. They are on the verge of blocking the modest legislative objectives of a large, bipartisan group of Members in the House and Senate.

Mr. SPEAKER, included in H.R. 3103 is a proposal to exempt self-funded, multi-employer health plans, or MEWA's, from State law. This proposal is opposed by the National Conference of State Legislatures and the National Association of Insurance Commissioners.

The large, self-funded health plans created by this bill would be financial disasters waiting to happen. There is a reason Congress delegated responsibility for regulating MEWA's to the States in 1983. While many legitimate, successful MEWA's exist, the MEWA business continues to attract unscrupulous operators and to experience an inordinate failure rate.

Considering the fraud and abuse that has long been associated with MEWA's, it is incredible that the bill would grandfather existing MEWA's. The bill would immediately exempt large, existing MEWA's—the good, the bad, and the ugly—from State solvency and insurance laws. Having obtained this instant "Good Housekeeping Seal of Approval," unscrupulous and inadequately financed operators could begin preying on the public—one step ahead of the Labor Department which might still be reviewing their application for a Federal certificate.

The bill's solvency standards are inadequate to the task assigned to the Labor Department to regulate hundreds of multistate, multiemployer health plans enrolling up to as many as 20 million people. Consumers could find very little standing behind a Federal MEWA if it should get into financial trouble.

This bill is an ironic example of legislative forum shopping; it greatly expands Federal authority over the private sector. The Federal Government for the first time would be in the business of chartering and regulating the solvency of privately run, national health plans.

Perhaps nothing the Republicans have passed during the 104th Congress would increase Federal financial exposure more than this bill's MEWA provision. It would only be a matter of time before a large, multistate MEWA would go under, leaving consumers with millions of dollars in unpaid medical bills.

And to whom will these angry, aggrieved consumers turn when this happens? Their State insurance regulator?

No. Consumers will turn to the Labor Department and Members of Congress for relief. And, as with the savings and loans insolvencies of the 1980's, the urge and political pressure to bail out these MEWA's and protect constituents will be irresistible.

Finally, considering the hostility, not to mention the appropriations riders and budget cuts, that has met Labor Department regulatory activity during this Congress, it is almost certain that the Labor Department will be a weak regulator.

Do you want the Federal Government to assume responsibility for regulating large, multistate health plans whose insolvencies could expose the Federal Government to multimillion-dollar bailouts—especially in an era of Federal Government downsizing, anti-regulating zeal, and diminishing budgets?

Mr. Speaker, this bill brings market fragmentation to an even higher plain. It carves up the multiemployer plan market, treating large plans differently than small plans, old plans differently than new plans, single industry plans differently than multiindustry plans, plans in one State differently than plans in another.

Its exemptions, its exceptions to the exemptions, and its loopholes to the exceptions to the exemptions—never mind the bill's grandfathering of scoundrels along with the saints—makes this bill look like swiss cheese and smell like limburger.

Finally, the United States has an extremely fragmented health insurance market. This bill would make it worse. The expansion of self-funded plans would greatly exacerbate market fragmentation.

The bill's expansion of the ERISA preemption to self-funded multiemployer plans, and the cost savings associated with not having to comply with State solvency and insurance rules, will make being a Federal MEWA an extremely attractive option for existing multiemployer plans and trade association plans that currently offer fully insured products to their members. Many of these plans would seek to become federally chartered self-funded MEWA's. And, many employers that now offer an insured product to their employees—through Blue Cross-Blue Shield, for example—will transfer their coverage to these Federal MEWA's.

These Federal, self-funded MEWA's will siphon healthier, younger groups from traditional insurance markets and, as a consequence, will undermine those markets as well as State health reform initiatives. As healthier groups exit the insurance market, premiums will rise, forcing some individuals to drop coverage. In addition, shrinkage in the size of insurance markets means a shrinkage in both a State's insurance premium tax base and high risk pool assessment base; H.R. 3103 would cost States millions and millions of dollars in lost revenues—revenues which States use to finance high risk pools for the uninsured. This bill will make it more difficult for States to maintain and expand their efforts to expand coverage to the uninsured. That would be a travesty.

I urge Members to oppose H.R. 3103 and to support the Democratic substitute.

NATIONAL ASSOCIATION OF
INSURANCE COMMISSIONERS,
Washington, DC, March 28, 1996.

Hon. NEWT GINGRICH,
Speaker of the House, Washington, DC.

DEAR MR. SPEAKER: I am writing to comment upon the "Health Coverage Availability and Affordability Act of 1996", H.R. 3160, adopted by the House Rules Committee yesterday and scheduled for a vote by the full House of Representatives today. As you are aware, over the last few weeks, the National Association of Insurance Commissioners' (NAIC) Special Committee on Health Insurance (the "NAIC Committee"), together with the National Conference of State Legislatures ("NCSL"), has provided comments upon H.R. 995, H.R. 3063 and H.R. 3070.

We appreciate the legislation's extension of portability reforms to self-funded health care plans governed by the Federal Employee Retirement Income Security Act ("ERISA"); the NAIC has long called for these reforms and federal intervention in this area is laudable. We also appreciate certain clarification that were made to provisions in the bills adopted by the committees of jurisdiction relating to state flexibility and the Medicare anti-duplication prohibitions. However, as detailed below, we continue to have serious concerns with the bill's provisions relating to multiple employer welfare arrangements ("MEWAs").

We commend the additional clarifications made within Title 1, Subtitle D, Section 192, relating to "State Flexibility to Provide Greater Protection". The bill contains further limits on the scope of its preemption than were contained in H.R. 3063 and H.R. 3070. The legislative now states that it does not preempt those state laws "that related to matters not specifically addressed" in the bill. The bill also specifically saves several areas of state laws. We appreciate this enhanced state flexibility. We do, however, remain concerned about the absence of a broader construction clause explicitly saving from preemption any state laws that are not inconsistent with the bill and which provide greater beneficiary protection. In the absence of such a clause, the bill might be construed to "preempt the field" of any state law that touches upon any area minimally mentioned in the bill, even if the bill's provisions were not intended to preempt such state law. Since this a new area of federal intervention, we urge caution and care in the final crafting of preemption language.

We also appreciate the significant strides made in refining the range of health insurance policies which are not to be considered duplicative for the purposes of the application of the new Medicare anti-duplication provisions. We would appreciate the opportunity to clarify the states' remaining jurisdiction concerning health insurance policies governed by these provisions (possibly within legislative history) and to provide technical comments. We would like to commend you for tightening the consumer protections in these provisions from the earlier provisions adopted by amendment in committee.

We reiterate the concerns raised in our letter of March 18, 1996 to Chairmen Archer and Bliley concerning the long term care insurance related provisions within the legislation.

Unfortunately, we continue to have grave concerns that Subtitle C of Title 1 of H.R. 3160 would significantly erode existing state-level insurance reforms. The net effect of the final provisions relating to MEWAs is extremely damaging to states' authority to govern their own insurance market. The final language contains many layers of savings for, and exemptions from, state laws. This maze clouds the picture. Upon close examination of the multiple tiers of provisions, the bill preempts state laws governing health insurance, including those governing MEWAs, in all but a small number of states.

In sum, the changes made to Subtitle C do not represent a significant improvement from those contained within H.R. 995. We therefore remain opposed to most of the provisions contained within Subtitle C of Title I of the bill and reiterate the prior concerns expressed by the NAIC Committee on this topic. (See Joint NAIC Committee/NCSL letter dated March 5, 1996 to Representative William Goodling).

In addition, the bill still preempts state rating laws applicable to association plans thereby creating an unlevel playing field between these plans and other insured plans. Market fragmentation will thereby worsen and costs within the insured market could spiral. With respect to association plans, the bill also preempts state mandated benefit laws which have been enacted by the states.

The state budgetary impact of the bill is still likely to be significant. The bill only allows states to apply premium taxes to newly-formed or newly operating arrangements. Any arrangement that can argue they were already "operating" in a state cannot be taxed on a level playing field with state-regulated insurers. This provision thus promotes unfair competition and could significantly diminish state premium tax income.

The bill strips states of their oversight responsibility over a significant class of MEWAs. We question whether states could in good conscience accept responsibility for MEWA activities by asking the U.S. Department of Labor, pursuant to the option in the bill, for the authority to enforce the inadequate federal standards set forth in the bill. While gaps and ambiguities in federal law have led to some enforcement difficulties, this should be addressed by clarifications in federal law, not by the sweeping preemption of state regulatory authority over MEWAs proposed through H.R. 3160.

Thank you for your consideration of our comments. We look forward to continuing to work together on legislation to promote portability and availability of health insurance. Please feel free to call Kevin Cronin, the NAIC's Acting Executive Vice President and Washington Counsel at (202) 624-7790, with any questions you may have.

Sincerely,

BRIAN K. ATCHINSON,
President, NAIC,
Superintendent, Maine Bureau of Insurance.

NATIONAL CONFERENCE OF STATE
LEGISLATURES,
Washington, DC, March 27, 1996.

Hon. JOHN JOSEPH MOAKLEY,
Ranking Member, Committee on Rules,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE MOAKLEY: On behalf of the National Conference of State Legislatures, I would like to share our thoughts on H.R. 3160, pending health insurance reform legislation. NCSL supports efforts to extend portability to individuals covered by ERISA plans and to establish minimum federal standards for insured plans. We are pleased that Title I, Subtitles A and B, build on the foundation for reform built by states over the last several years. We have been assured that the intent of Subtitles A and B is to continue to support state regulation and innovation in the small group and individual markets. We are pleased that changes have been made since the mark-up of H.R. 3070 and H.R. 3103, to provide additional clarity with regard to the ability of states to exceed the federal standards, established in the bill. We continue to have some concerns. For example, Section 103(b)(1) that states, ". . . A group health plan, and an insurer or HMO offering health insurance coverage in connection with a group health plan, may not require a participant or beneficiary to pay a premium or contribution which is greater than such premium or contribution for a similarly situated participant or beneficiary *solely* on the basis of the health status of the participant or beneficiary." NCSL is concerned that state rating laws that prohibit or restrict the use of health status in a manner different than prescribed in the bill, may be preempted. For example, in cases where plans that include a rating component in addition to health status, state rating reforms may not apply. We hope to work with you to obtain additional clarity.

While we support the thrust of Subtitles A and B of Title I, NCSL opposes Subtitle C and urges you not to include these provisions in the House health insurance reform bill. Subtitle C fails to recognize the traditional role of states in the regulation of insurance and the important contributions state legislators have made in increasing accessibility and portability of health insurance and addressing fraud and consumer protection issues with regard to Multiple Employer Welfare Associations, by eliminating state authority to oversee Multiple Employer Welfare Associations (MEWAs). Instead, Subtitle C: (1) creates incentives for the establishment of federally regulated MEWAs, moving more individuals out of the reach of state insurance regulators and the protections those regulators provide; (2) permits some MEWAs to operate without receiving full federal approval; and (3) expands the Department of Labor's (DOL) authority over employer solvency and MEWAs, but fails to authorize funds for expanding DOL staff to perform these functions. NCSL opposes this preemption of state authority and the deregulation of MEWAs.

The MEWA provisions of H.R. 3160 would: (1) disrupt the existing health insurance market, undermining existing state efforts to improve access to health care and adversely affecting insurance premiums overall, and (2) make it easier for unscrupulous individuals to commit fraud under the protective umbrella of this proposed federal law which fails to provide adequate protections for plan participants. NCSL supports and encourages the development of public and private purchasing cooperatives and other innovative ventures that permit individuals and groups to negotiate affordable health care coverage on the same basis as large groups. We also believe that these entities should and must be regulated and that consumers must be protected. Work remains to be done at both the state and federal government levels to strike a reasonable balance for MEWAs. NCSL urges you to retain the state role in regulating MEWAs.

States have made tremendous progress in reforming the small group insurance market. Since 1990 at least, 43 states have enacted laws that require carriers to renew coverage guaranteed renewal); 37 states have enacted laws that require carriers to offer coverage to small groups regardless of the health status of their employees or previous claims experience (guaranteed issue); and 45 states limit pre-existing condition waiting periods and require carriers to give individuals credit for previous coverage. In addition, similar efforts are underway in a number of states with respect to the individual insurance market. Since 1991 at least, 16 states have enacted guaranteed renewal; 11 states have enacted guaranteed issue; and 22 states have limited pre-existing condition waiting periods. Twenty-four states have established state high-risk health insurance pools that enrolled over 100,000 individuals last year. Finally, states are continuing to work with MEWAs to strike a balance between reasonable state regulations, plan flexibility and consumer protection.

NCSL joins the many other groups in urging you to move forward without further delay on these incremental, but important steps toward health reform. NCSL looks forward to working with you and your colleagues in the future as we work together toward expanding health care access and affordability.

Sincerely,

WILIAM POUND,
Executive Director.

Mr. CLAY. Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Speaker, I rise in support of the bill to open access and make health care affordable.

Mr. Speaker, today, with the passage of this bill, H.R. 3103, we will be expanding health care coverage to millions of Americans. After years of discussing how best to bring reform to our health care system, this bill brings meaningful incremental health care reform. H.R. 3103, the Health Care Coverage Availability and Affordability Act, addresses two crucial needs in our health care system—access and affordability.

First, let's review our current situation. Eighty-five percent of the population has health insurance, mostly through their employer. The uninsured, approximately 39 million Americans, today are not poor and are not elderly. The poor are covered by Medicaid; the elderly are covered by Medicare. Of the uninsured, 47 percent were employed full time; 38 percent worked part-time; 16 percent were unemployed. If incentives can be created in the market so more employed individuals can get affordable coverage and those between jobs can get coverage; then, the number of uninsured individuals will go down. Meaning millions of Americans will be covered by medical insurance.

Furthermore, many individuals cannot get coverage due to pre-existing conditions or because it is too expensive. Many businesses cannot get coverage because one of the employees or a dependent of an employee has a pre-existing condition. Employees are discouraged from changing jobs or starting their own businesses because they cannot get coverage due to a pre-existing condition.

H.R. 3103 will help create incentives so more individuals receive affordable insurance. First, it addresses the problems of access and affordability. Under H.R. 3103, group health plans (large employer plans, insurers, health maintenance organizations) are prohibited from imposing a pre-existing condition exclusion that exceeds 12 months for conditions that were diagnosed or treated within the previous 6 months on individuals that move from one group plan to another group plan. Pre-existing conditions would not affect newborns, adopted children, or pregnancy. Health insurance providers must reduce previous condition exclusion periods for an individual who enrolls in another program by the amount of time the individual was covered by a group health plan, health insurance, and HMO or Medicaid. Health insurance providers may not deny coverage to individuals in group health plans because of (1) a medical condition, (2) claims experience, (3) receipt of treatments for a medical condition, (4) medical history, (5) evidence of insurability or (6) disability.

H.R. 3103 also ensures portability of health insurance for those moving from group coverage to individual coverage, such as someone leaving a large employer to start a business. Many States, including Indiana, have addressed this issue. Under H.R. 3103, States are given the flexibility to address this problem such as by risk pools, or conversion policies, open enrollment periods, guaranteed issue, or any means that a State sees fit. However, for those State's that have not acted adequately, an insurer or HMO issuing individual health insurance coverage would have to offer an insurance policy equal to the average acturial value of the plans offered in the individual market by that insurer. The insurer would be prohibited to decline to issue coverage based on health status.

One of the key provisions of the bill allows small employers to voluntarily form groups for the purpose of self-insuring or providing health care coverage. Associations, like the NFIB or the Farm Bureau, would be able to band their members together for health insurance purposes and be treated like large multi-state employers. The regulatory structure that enables General Motors or IBM or AT&T to offer health insurance coverage, will now exist for the local hardware store, the corner grocer, and the farmer to purchase affordable health care coverage.

Voluntary health insurance associations are not new. In northwest Indiana a group of businesses have banded together to gain market clout to buy health care coverage for their employees. Typically, the employers in the alliance enjoy savings of 10 percent to 40 percent and can access 11 different health plans. H.R. 3103 should make their task easier and the bill should encourage other entities to band together to get access to affordable health insurance.

These provisions address the regulatory side of health insurance. By themselves, they make this bill worthy of support, but H.R. 3103 does not stop at insurance reform. It includes noteworthy tax relief as well.

First, H.R. 3103 increases the health insurance deduction for self-employed individuals from 30 percent to 50 percent by the year 2003. In 1995, Congress made this deduction permanent and raised it from 25 percent to 30 percent. We need to take care of the entrepreneurial spirit of America which lies in small business. This bill will increase the deduction to 50 percent. As large employers get a complete write-off of health insurance expenses, this bill brings an element of tax fairness to the system.

The bill also extends the medical expense tax deduction to include long-term care services that are curing or rehabilitative in nature, or are maintenance and personal care required by the chronically ill. This should give some relief to taxpayers who need long-term care. In additon, benefits paid out under life insurance "accelerated death benefits" contracts would not be treated as taxable income to the terminally or chronically ill beneficiary.

H.R. 3103 also includes Medical Savings Accounts. Individuals covered by a high deductible health insurance plan or their employer could make tax deductible contributions to a medical savings account. Funds could only be used for qualified medical expenses and disbursements for non-medical reasons would be treated as taxable income and subject to an additional 10 percent penalty. MSAs are true portability. The account belongs to the individual and is under the individual's control. This is a creative solution to provide more affordable insurance coverage and greater choice.

Finally, H.R. 3103 addresses fraud. Recent studies estimate that fraud costs consumers 5 to 10 percent of ever health care dollar spent. This is literally billions of dollars and leads to higher costs and higher premiums. It authorizes the Secretary of Health and Human Services and the Attorney General to jointly establish a national program to combat health care fraud. Under Medicare, the Secretary of HHS is required to establish a program to encourage individuals to report suspected fraud and abuse in the Medicare Program. Individuals who have been convicted of felonies relating to health care fraud or controlled substances would be excluded from Medicare and State health care programs for a minimum of 5 years. Criminal penalties would be revised and enhanced.

H.R. 3103 is a good bill with much needed reform. It goes beyond simple portability and addresses access, affordability, and choice. Once enacted, it will mean that someone today without insurance has a better chance of getting it and affording it tomorrow.

Mr. GOODLING. Mr. Speaker, I yield 4½ minutes to the gentleman from Illinois [Mr. FAWELL], who has spent probably hundreds of hours putting this legislation together and guiding us in committee.

Mr. FAWELL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to enthusiastically support H.R. 3160. The bill includes key small business health insurance reform that was in H.R. 995, reported by the Economic Opportunities Committee: It gives small employers the right to form groups for the purpose of self-insuring or fully insuring and thereby gain access to affordable health care with the economies of scale that large employers and union plans have had for years under ERISA.

The problem of the uninsured is predominately a problem of small business lacking access to affordable insurance. Eighty-five percent of the 40 million uninsured are in families with at least one employed worker, the majority of whom work in a small business. Small businesses face health insurance premiums 30 percent higher than larger companies due to higher administration costs, and an additional 30 percent more due to costly State mandated coverages.

Small business people—through the National Federation of Independent Business—call this reform "A remarkable advancement for small businesses over current law * * * a massive improvement". Here's what NFIB says. I am going to be quoting from a letter from them.

> NFIB is seeking to correct a basic unfairness in our health care system. Big business is allowed to buy health insurance under a different set of rules than small business. Because of ERISA, large self-insured businesses are exempted from State law in their health plans while small business is stuck with State insurance coverage mandates . . . and other forms of regulation. This inequity between big business and small business in large part explains why the premiums of corporate America are going down, while small business premiums are going up.
>
> H.R. 3160 would stop this unfairness by allowing small firms to band together across State lines to purchase health insurance with nearly the same exemption from State law that big business has. Small employers will be able to cut their premiums by as much as a third. The legislation give(s) small firms almost every advantage they lack in purchasing health insurance today,

As I have indicated, big business has all of these advantages.

Achieving this is NFIB's highest health reform priority. Any substitute that does not directly address this inequity between big and small business is unacceptable to the more than 600,000 members of NFIB.

Of course, NFIB is but one of dozens of employer groups that support this approach. It is backed by the Chamber of Commerce, National Association of Manufacturers, National Association of Wholesalers, the National Restaurant Association, the National Retail Federation, the church groups, and many others, and I might also add, by labor unions that understand how valuable this type of legislation is.

A recent editorial in the Chicago Tribune entitled "Free the Health Insurance Market" expressed it this way:

"Freed of the need to offer 50 different policies, an organization such as the National Restaurant Association could arrange with an insurer to offer a basic policy to all its members. Without mandating coverage or capping premiums—two odious features of President Clinton's failed reform plan—the (bill) spurs the private insurance market to absorb a good portion of the Nation's 41 million uninsured, the vast majority of whom either have jobs or have a jobholder in he family."

Unless we do something there by the way, what good is portability?

Mr. Speaker, many of the Governors had concerns about the original H.R. 995 as introduced last year. I am pleased to report that we worked very closely with many of them over the past year, and have addressed their concerns. Several changes were made that are acceptable to the Governors and the employer community.

Let me ask this one question, and think about it: Who benefits from this legislation? The people who cut your hair, serve you at restaurants, repair your car, clean your clothes—the millions of people working in small businesses all over America and who produce most of our new jobs.

I urge my colleagues to vote no on the substitute and vote yes on final passage of H.R. 3160. Allow employees of small businesses the same kind of access to affordable health care as that available to employees of large businesses.

SECTION-BY-SECTION ANALYSIS OF PROVISIONS RELATING TO ERISA GROUP HEALTH PLANS CONSIDERED BY THE COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES IN THE HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT OF 1996

TITLE I—INCREASED AVAILABILITY AND PORTABILITY OF HEALTH PLAN INSURANCE COVERAGE

Subtitle A—Coverage Under Group Health Plans

Sec. 101. Portability of coverage for previously covered individuals, and

Sec. 102. Limitation on preexisting condition exclusions; no application to certain newborns, adopted children, and pregnancy.

Group health plans, insurers, and health maintenance organizations would be prohibited from imposing a preexisting condition exclusion that exceeded 12 months for conditions for which medical advice, diagnosis, or treatment was received or recommended within the previous 6 months prior to becoming insured. In the event that the individual was a late enrollee, the preexisting condition exclusion could not exceed 18 months.

Preexisting condition exclusions or limitations could not be applied to newborns and adopted children so long as these individuals become insured within 30 days of birth or placement for adoption. Pregnancy could not be treated as a preexisting condition. In addition, genetic information could not be considered a preexisting condition, so long as treatment of the condition to which the information was applicable had not been sought during the 6 months prior to becoming covered.

Group health plans, insurers, and health maintenance organizations (HMOs) would be required to credit periods of qualified previous coverage toward the fulfillment of a preexisting condition exclusion period when an individual moves from one source of group health coverage to another. Specifically, a preexisting condition limitation period would be reduced by the length of the aggregate period of any qualified prior coverage. Prior coverage would not have to be credited toward a preexisting condition limitation period if the individual experienced a break in qualified group coverage of more than 60 days. (Qualified group coverage means any period of coverage of the individual under a group health plan, health insurance coverage, Medicaid, Medicare, military health care, the Indian Health Service, state health insurance coverage or state risk pool, and coverage under the Federal Employee Health Benefits Program (FEHBP).) A waiting period for any coverage under a group health plan (or for health insurance coverage offered in connection with a group health plan) would not be considered a break in coverage.

Presentation of a certification of prior coverage would establish an individual's eligibility for credit against a preexisting condition limitation period. Group health plan administrators, insurers, HMOs, and state Medicaid programs would be required to provide such certifications of coverage upon request of the individual.

In determining whether an individual has met qualified coverage periods, a group health plan, insurer, or HMO offering group coverage could elect one of two methods. Under the first, it could include all periods, without regard to the specific benefits offered during the period of prior coverage. Under the second, it could look at periods of prior coverage on a benefit-specific basis and not include as a qualified coverage period a specific benefit unless coverage for that benefit was included at the end of the most recent period of coverage. Entities electing the second method would have to state prominently in any disclosure statements concerning the plan or coverage and to each enrollee at the time of enrollment or sale that the plan or coverage had made such an election and would have to include a description of the effect of this election. Upon the request of the plan, insurer, or HMO, the entity providing the certification would have to promptly disclose information on benefits under its plan. It could charge the reasonable cost for providing this information.

Sec. 103. Prohibiting exclusions based on health status and providing for enrollment periods.

This section provides for availability of coverage. The bill would ensure that employees and their dependents could not, based on health status, be excluded from enrolling in their group health plan and being continually enrolled. Health status is defined to include, with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

Group health plans would be required to provide for special enrollment periods for eligible individuals who lose other sources of coverage if certain conditions were met. An individual would have to be allowed to enroll under at least one benefit option if: (1) the employee (or dependent) had been covered under another group health plan at the time coverage was previously offered, (2) that this was the reason for declining enrollment, (3) that the individual lost their coverage as a result of certain events (loss of eligibility for coverage, termination or employment, or reduction in the number of hours of employment), and (4) the employee requested such enrollment within 30 days of termination of the coverage.

In the event that a group health plan provided family coverage, the plan could not require, as a condition of coverage of a beneficiary or participant in the plan a waiting period applicable to the coverage of a beneficiary who is a newborn, an adopted child or child placed for adoption, or a spouse, at the time of marriage, if the participant has met any waiting period applicable to that participant. The bill defines timely enrollment as being within 30 days of the birth, adoption, or marriage if family coverage was available as of that date.

Renewability requirements apply to certain arrangements to assure continued access of employers to health coverage to offer their employees. A group health plan which is a multiemployer plan, a multiple employer health plan (as defined in section 704 of ERISA), and a multiple employer welfare arrangement (providing medical care) may not deny an employer whose employees are covered under such a plan or arrangement continued access to the same or other coverage under the terms of such plan or arrangement other than (1) for nonpayment of premiums or contributions, (2) for fraud or other intentional misrepresentation of material fact by the employer, (3) for noncompliance with material plan or arrangement provisions, (4) because the plan or arrangement is ceasing to offer any coverage in a geographic area, (5) for failure to meet the terms of an applicable collective bargaining agreement, to renew a collective bargaining or other agreement requiring or authorizing contributions to the plan, or to employ employees covered by such an agreement, (6) in the case of a plan or arrangement to which subparagraph (C), (D), or (E) of section 3(40) of ERISA applies, to the extent necessary to meet the requirement of such subparagraph, or (7) in the case of a multiple employer health plan (as defined in section 701(4) of such Act), for failure to meet the requirements under part 7 of ERISA for exemption under section 514(b)(6)(B) of such Act. It is not included that anything in this section be construed to preclude any such plan or arrangement from establishing employer contribution requirements or group participation requirements not otherwise prohibited by this Act.

Sec. 104. Enforcement.

The above provisions would be enforced through penalties assessed through the Internal Revenue Code (IRC), Employee Retirement Income Security Act (ERISA), or through civil money penalties assessed by the Secretary of Health and Human Services (HHS). The Secretaries of Treasury, Labor, and HHS would be required to issue regulations that are nonduplicative and in a manner that assures coordination and nonduplication in their activities as provided for under this Act.

Enforcement through ERISA. Sections 101, 102, and 103 of Subtitle A (and the definitions under Subtitle D insofar as they are applicable to such sections) are deemed to be provisions of Title I of the Employee Retirement Income Security Act of 1974 (ERISA) for purposes of applying the enforcement, fiduciary and other provisions of such title. The Secretary of Labor would only apply the sanctions under ERISA to an insurer or HMO that was subject to state law (within the meaning of section 514(b)(2)(A)) in the event that the Secretary determines that the state has not provided for enforcement of the above provisions of the Act. Sanctions would not apply in the event that the Secretary of Labor established that none of the persons against whom the liability would be imposed knew, or exercising reasonable diligence, would have known that a failure existed, or if the noncomplying entity acted within 30 days to correct the failure. In no case would a civil money penalty be imposed under ERISA for a violation for which an excise tax under the COBRA enforcement provisions under the Internal Revenue Code was imposed or for which a civil money penalty was imposed by the Security of HHS.

Enforcement through the IRC. IRC enforcement would be done through the Consolidated Omnibus Budget Reconciliation Act (COBRA) health insurance continuation provisions (section 4980B). In general, a noncomplying plan would be subject to an excise tax of $100 per day per violation. Penalties would not be assessed in the event that the failure was determined to be unintentional or a correction was made within 30 days. For purposes of applying the COBRA enforcement language, special rules would apply: (1) no tax could be imposed by this provision on a noncomplying insurer or HMO subject to state insurance regulation if the Secretary of HHS determined that the state had an effective enforcement mechanism; (2) in the case of a group health plan of a smaller employer that provided coverage solely through a contract with an insurer or HMO, no tax would be imposed upon the employer if the failure was solely because of the product offered by the insurer or HMO; and (3) no tax penalty would be assessed for a failure under this provision if a sanction had been imposed under ERISA or by the Secretary of HHS with respect to such failure.

Enforcement through Civil Money Penalties. A group health plan, insurer, or HMO that failed to meet the above requirements would be subject to a civil money penalty. Rules similar to those imposed under the COBRA penalties would apply. The maximum amount of penalty would be a $100 for each day for each individual with respect to which a failure occurred. In determining the penalty amount, the Secretary would be required to take into account the previous record of compliance of the person being assessed with the applicable requirements of the bill, the gravity of the violation, and the overall limitations for unintentional failures provided under the IRC COBRA provisions. No penalty could be assessed if the failure was not intentional or if the failure was corrected within 30 days. A procedure would be available for administrative and judicial review of a penalty assessment.

The authority for the Secretary of HHS to impose civil money penalties would not apply to enforcement with respect to any entity which offered health insurance coverage and which was an insurer or HMO subject to state regulation (within the meaning of section 514(b)(2)(A) of ERISA) by an applicable state authority if the Secretary of HHS determined that the state had established an enforcement plan. In no case would a civil money penalty be imposed under this provision for a violation for which an excise tax under COBRA or civil money penalty under ERISA was assessed.

Subtitle B—Certain Requirements for Insurers and HMOs in the Group and Individual Markets

Part 1. Availability of Group Health Insurance Coverage

Sec. 131. Guaranteed availability of general coverage in the small group market.

This section provides for guaranteed availability of general coverage in the small group market. Each insurer or HMO that offered general coverage in the small group market in a state would have to: (1) accept every small employer in the state that applied for such coverage; and (2) accept for enrollment every eligible individual who applied for enrollment during the initial enrollment period in which the individual first became eligible for coverage under the group health plan. No restriction based on health status could be placed on the ability of an eligible individual to enroll.

The small group market is generally defined as employer groups with more than 2 and less than 51 employees. An eligible individual is one in relation to the employer as determined: (1) in accordance with the terms of the plan; (2) as provided by the insurer or HMO under rules which would have to be applied uniformly; and (3) in accordance with applicable state laws. Special rules would apply to network plans and HMOs to ensure that this guaranteed availability provision did not lead to capacity problems. In addition, such entities would not have to enroll a small group whose employees worked or lived outside the entity's service area. Insurers and HMOs could deny enrollment to an eligible small group in the event that the group failed to meet certain minimum participation or contribution requirements that were consistent with state law.

Sec. 132. Guaranteed Renewability of group coverage.

This section provides for guaranteed renewability of group coverage. If an insurer or HMO offered health insurance coverage in the small or large group market, the coverage would have to be renewed or continued in forced at the option of the employer. (An insurer or HMO could modify the coverage offered to a group health plan so long as the modification was effective on a uniform basis among group health plans with that type of coverage.) Exceptions to the guaranteed renewability requirement would apply in the event that the employer failed to pay the premiums, committed fraud, violated the participation rules, or moved outside the service area. In addition, guaranteed renewability would not apply if: (a) the insurer or HMO ceased to offer any such coverage in a state (or in the case of a network plan, in a geographic area); (b) in the event that the insurer or HMO uniformly terminated offering a particular type of coverage and provided adequate notice and the opportunity to elect other health insurance being offered in that market; and (c) in the event that the entity discontinued offering all health insurance coverage in the small or large group market or in both markets in a state, provided for adequate notice. In the last instance, such an entity could not reenter the market it left for at least 5 years.

Subtitle C—Affordable and Available Health Coverage Through Multiple Employer Pooling Arrangements

Sec. 161. Clarification of duty of the Secretary of Labor to implement provisions of current law providing for exemptions from State regulation of multiple employer health plans.

Sec. 161, Subsection (a). Rules governing state regulation of multiple employer health plans.

This subsection adds a new Part 7 (Rules Governing State Regulation of Multiple Employer Health Plans) to Title I of ERISA, as follows:

"Sec. 701. Definitions.

This section defines the following terms: insurer, fully-insured, medical care (as under current law), multiple employer health plan, participating employer, sponsor, and state insurance commissioner.

"Sec. 702. Clarification of duty of the Secretary of Labor to implement provisions of current law providing for exemptions from State regulation of multiple employer health plans.

This section clarifies the conditions under which multiple employer health plans (MEHPs), non-fully-insured multiple employer arrangements providing medical care, may apply for an exemption from certain state laws. The exemption process is contained in current ERISA law, which also contains restrictions on the ability of states to fully regulate such entities. Specifically, existing section 514(b)(6)(A)(ii) of ERISA provides that in the case of such a partly insured or fully self-insured arrangement, any law of any State which regulates insurance may apply only "to the extent not inconsistent with other parts of ERISA." However, under section 514(b)(6)(B), the Department of Labor (DOL) may issue an exemption from state law with respect to such self-insured arrangements.

"Section 702 clarifies that only certain legitimate association health plans and other arrangements (described below) which are not fully insured are eligible for an exemption and thereby treated as ERISA employee welfare benefit plans. This is accomplished by clarifying the duty of the Secretary of Labor to implement the provisions of current law section 514(b)(6)(B) to provide such exemptions for MEHPs. Under section 514(a) of ERISA, States are preempted from regulating employee welfare benefit plans, but an exception is made under section 702 to allow states to enforce the conditions of an exemption granted a MEHP.

"Section 702 further sets forth criteria which a self-insured arrangement must meet to qualify for an exemption and thus become a MEHP. The Secretary shall grant an exemption to an arrangement only if: (1) a complete application has been filed, accompanied by the filing fee of $5,000; (2) the application demonstrates compliance with requirements established in sections 703 and 704 below; (3) the Secretary finds that the exemption is administratively feasible, not adverse to the interests of the individuals covered under it, and protective of the rights and benefits of the individuals covered under the arrangement, and (4) all other terms of the exemption are met (including financial, actuarial, reporting, participation, and such other requirements as may be specified as a condition of the exemption).

"The application must include the following: (1) identifying information about the arrangement and the states in which it will operate; (2) evidence that ERISA's bonding requirements will be met; (3) copies of all plan documents and agreements with service providers; (4) a funding report indicating that the reserve requirements of section 705 will be met, the contribution rates will be adequate to cover obligations, and that a qualified actuary (a member in good standing of the American Academy of Actuaries or an actuary meeting such other standards the Secretary considers adequate) has issued an opinion with respect to the arrangement's assets, liabilities, and projected costs; and (5) any other information prescribed by the Secretary. Exempt arrangements must notify the Secretary of any material changes in this information at any time, must file annual reports with the Secretary, and must engage a qualified actuary.

"Section 702 also provides for a class exemption from section 514(b)(6(A)(ii) of ERISA for large MEHPs that have been in operation for at least five years on the date of enactment. An arrangement qualified for this class exemption if: (1) at the time of application for exemption, the arrangement covers at least 1,000 participants and beneficiaries, or has at least 2,000 employees of eligible participating employers; (2) a complete application has been filed and is pending; and (3) the application meets requirements established by the Secretary with respect to class exemptions. Class exemptions would be treated as having been granted with respect to the arrangement unless the Secretary provides appropriate notice that the exemption has been denied. It is expected that the standards applicable to entities eligible for a class exemption will be no less protective than if an individual exemption were granted to such an entity.

"Sec. 703. Requirements relating to sponsors, board of trustees, and plan operations.

This section establishes eligibility requirements for MEHPs. Applications must comply with requirements established by the Secretary. Applications must demonstrate that the arrangement's sponsor has been in existence for a continuous period of at least 5 years and is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for a least annual meetings, as a trade association, an industry association, a professional association, or a chamber of commerce (or similar business group, including a corporation or similar organization that operates on a cooperative basis within the meaning of section 1381 of the IRC) for purposes other than that of obtaining or providing medical care. Also, the applicant must demonstrate that the sponsor is established as a permanent entity, has the active support of its members, and collects dues from its members without conditioning such on the basis of the health status or claims experience of plan participants or beneficiaries or on the basis of the member's participation in the MEHP.

"Section 703 also requires that the arrangement be operated, pursuant to a trust agreement, by a "board of trustees" which has complete fiscal control and which is responsible for all operations of the arrangement. The board of trustees must develop rules of operation and financial control based on a three-year plan of operation which is adequate to carry out the terms of the arrangement and to meet all applicable requirements of the exemption and Title I of ERISA. The rules also require that all employers who are association members be eligible for participation under the terms of the plan. Eligible individuals of such participating employers cannot be excluded from enrolling in the plan because of health status as required under section 103 of the Act (nor be excluded by purchasing an individual policy of health insurance coverage for a person based on their health status). The rules also stipulate that premium rates established under the plan with respect to any particular participating employer cannot be based on the claims experience of the particular employer.

"In addition to the associations described above, certain other entities are eligible to seek an exemption as MEHPs under section 514(b)(6)(B) of ERISA. These include (1) franchise networks (section 703(b)), (2) certain existing collectively bargained arrangements which fail to meet the statutory exemption criteria (section 703(c)), and (3) certain arrangements not meeting the statutory exemption criteria for single employer plans (section 703(d)). (Section 709 of ERISA, added by Section 166, also makes eligible certain church plans electing to seek an exemption.)"

"Sec. 704. Other Requirements For Exemption.

"Section 704 requires a MEHP to meet the following requirements: (1) its governing instruments must provide that the board of trustees serves as the named fiduciary and plan administrator, that the sponsor serves as plan sponsor, and that the reserve requirements of section 705 are met; (2) the contribution rates must be adequate, and (3) any other requirements set out in regulations by the Secretary must be met."

"Sec. 705. Maintenance of Reserves.

"Section 705 requires MEHPs to establish and maintain reserves sufficient for unearned contributions, benefit liabilities incurred but not yet satisfied and for which risk of loss has not been transferred, expected administrative costs, and any other obligations and margin for error recommended by the qualified actuary. The minimum reserves must be no less than 25% of expected incurred claims and expenses for the year or $400,000. The Secretary may provide additional requirements relating to reserves and excess/stop loss coverage and may provide adjustments to the levels of reserves otherwise required to take into account excess/stop loss coverage or other financial arrangements."

"Sec. 706. Notice Requirements for Voluntary Termination.

"Section 706 provides that, except as permitted in section 707, a MEHP may terminate only if the board of trustees provides 60 days advance written notice to participants and beneficiaries and submits to the Secretary a plan providing for timely payment of all benefit obligations."

"Sec. 707. Corrective Actions and Mandatory Termination.

"Section 707 requires a MEHP to continue to meet the reserve requirements even if its exemption is no longer in effect. The board of trustees must quarterly determine whether the reserve requirements of section 705 are being met and, if they are not, must, in consultation with the qualified actuary, develop a plan to ensure compliance and report such information to the Secretary. In any case where a MEHP notifies the Secretary that it has failed to meet the reserve requirements and corrective action has not restored compliance, and the Secretary determines that the failure will result in a continuing failure to pay benefit obligations, the Secretary may direct the board to terminate the arrangement."

"Sec. 708. Additional Rules Regarding State Authority.

Under section 708(a), a state which certifies to the Secretary that it provides guaranteed access to health coverage may elect to opt out of the MEHP provisions outlined above and deny a MEHP the right to offer coverage in the small group market (or otherwise regulate such MEHP with respect to such coverage), except as described below. A state is considered to provide such guaranteed access, if (1) the state certifies that at least 90% of all state residents are covered by a group health plan or otherwise have health insurance coverage, or (2) the state has, in the small group market, provided for guaranteed issue of at least one standard benefits package and for rating reforms designed to make health insurance coverage more affordable. In states without such guaranteed access, MEHPs could offer coverage in the small group market in the state as long as they meet the standards set forth in Part 7. For purposes of item (2) above and the similar provision under section 162 of the bill, it is intended that states that have achieved very high levels of health insurance coverage through means such as tax-preferred status for entities required to provide guaranteed issue, community-rated coverage be considered to meet the requirement under (2) regardless of how long a state law requiring such has been in effect.

"Section 708(b) provides a limited exception to the above described state opt out for certain large, multi-state arrangements. The state opt out (described in item (2) in the above paragraph) does not apply to new and existing MEHPs that meet the following criteria: (1) the sponsor operates in a majority of the 50 states and in at least 2 of the regions of the country; (2) the arrangement covers or will cover at least 7,500 participants and beneficiaries; and (3) at the time the application to become a MEHP is filed, the arrangement does not have pending against it any enforcement action by the state. In addition, the state opt out (described in items (1) and (2) in the above paragraph) does not apply in a state in which an arrangement meeting the MEHP standards operates on March 6, 1996, to the extent a state enforcement action is not pending against such an entity at the time an application for an exemption is made. The above two exceptions do not apply to any state which, as of January 1, 1996, either (1) has enacted a law providing for guaranteed issue of fully community rated individual health insurance coverage offered by insurers and HMOs, or (2) requires insurers offering group health coverage to reimburse insurers individual coverage for losses resulting from their offering individual coverage on an open enrollment basis. Regulations may also apply certain limitations to single industry plans.

"Under section 708, a state could assess new association-based MEHPs (former after March 6, 1996) nondiscriminatory state premium taxes set at a rate no greater than that applicable to any insurer or health maintenance organization offering health insurance coverage in the state. MEHPs existing as of March 6, 1996 would remain exempt from state premium taxes; however, if they expand into a new state, the state could apply the above rule.

Section 162. Affordable and Available Fully-Insured Health Coverage Through Voluntary Health Insurance Associations.

This section adds a new subsection (d) to section 514 of ERISA which provides for the establishment of Voluntary Health Insurance Associations (VHIAs). Under this section, a VHIA is defined as a multiple employer welfare arrangement, maintained by a qualified association, under which all medical benefits are fully-insured, under which no employer is excluded as a participating employer (subject to minimum participation requirements of an insurer), under which the enrollment requirements of section 103 of the Act apply, under which all health insurance coverage options are aggressively marketed, and under which the health insurance coverage is provided by an insurer or HMO to which the laws of the state in which it operates apply.

The term qualified association means an association in which the sponsor of the association is, and has been (together with its immediate predecessor, if any) for a continuous period of not less than 5 years, organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose, as a trade association, an industry association, a professional association, or a chamber of commerce (or similar business group), for substantial purposes other than that of obtaining or providing medical care (within the meaning of section 607(1) of ERISA), is established as a permanent entity which receives the active support of its members and meets at least annually, and collects dues without conditioning such dues on the basis of the health status or claims experience of plan participants or beneficiaries or on the basis of participation in a VHIA.

Section 162 sets forth the preemption rules applicable to VHIAs. This provision would preempt two types of state laws and leave unaffected any other applicable state law not otherwise preempted under current law (i.e., section 514 of ERISA). The first type of law preempted is a law which might otherwise preclude an insurer or HMO from setting premium rates based on the claims experience of the employers participating in a VHIA (without varying the premium rates of a particular employer on the basis of the employer's own experience). As a result of this provision, a qualified association could form a VHIA and offer health insurance coverage and establish and distribute plan costs in a manner similar to that permitted under current law for self-insured plans. This will empower employees and employers to form groups to more effectively and cost-efficiently purchase fully-insured health insurance coverage.

Section 162 also preempts a second type of State law that requires health insurance coverage in connection with group health plans to cover specific items or services consisting of medical care (but does not preempt laws prohibiting the exclusion of specific diseases). This will enable employers and employees to establish health insurance packages which include benefits which they want and which they can afford.

Under this section, a state which certifies to the Secretary that it provides "guaranteed access"' to health coverage may deny a VHIA the right to offer coverage in the small group market (or otherwise regulate such VHIA with respect to such coverage), except as described below. A state is considered to provide such guaranteed access if (1) the state certifies that at least 90% of all state residents are covered by a group health plan or otherwise have health insurance coverage, or (2) the state has, in the small group market, provided for guaranteed issue of at least one standard benefits package and for rating reforms designed to make health insurance coverage more affordable. In a state without such guaranteed access, VHIAs could offer coverage in the small group market in the state as long as they meet the standards for such entities.

This section also provides a limited exception to the above described state opt out for certain large, multi-state arrangements. The state opt out (described in item (2) in the paragraph above) does not apply to VHIAs that meet the following criteria: (1) the sponsor operates in a majority of the 50 states and in at least 2 of the regions of the country; (2) the arrangement covers or will cover at least 7,500 participants and beneficiaries; and (3) under the terms of the arrangement, either the qualified association does not exclude from membership any small employer in the state, or the arrangement accepts every small employer in the state that applies for coverage.

In addition, the state opt out (described in items (1) and (2) in the paragraph two paragraphs above) does not apply in a state in which an arrangement operates on March 6, 1996 and under the terms of the arrangement, either the qualified association does not exclude from membership any small employer in the state, or the arrangement accepts every small employer in the state that applies for coverage.

The above exceptions for multi-state plans and existing plans do not apply to any state which, as of January 1, 1996, either (1) has enacted a law providing for guaranteed issue of fully community rated individual health insurance coverage offered by insurers and HMOs, or (2) requires insurers offering group health coverage to reimburse insurers offering individual coverage for losses resulting from their offering individual coverage on an open enrollment basis.

Sec. 163. State authority fully applicable to self-insured multiple employer welfare arrangements providing medical care which are not exempted under new part 7.

This section clarifies the scope of ERISA preemption to make clear the authority of states to fully regulate non-fully-insured MEWAs which are not provided an exemption under new Part 7 of ERISA.

Sec. 164. Clarification of treatment of single employer arrangements

This section modifies the treatment of certain single employer arrangements under the section of ERISA that defines a MEWA (section 3(40)). The treatment of a single employer plan as being excluded from the definition of MEWA (and thus from state law) is clarified by defining the minimum interest required for two or more entities to be in "common control" as a percentage which cannot be required to be greater than 25%. Also a plan would be considered a single employer plan if less than 25% of the covered employees are employed by other participating employers.

Sec. 165. Clarification of treatment of certain collectively bargained arrangements.

This section clarifies the conditions under which multiemployer and other collectively-bargained arrangements are exempted from the MEWA definition, and thus exempt from state law. This is intended to address the problem of "bogus unions" and other illegitimate health insurance operators. The provision amends the definition of MEWA to exclude a plan or arrangement which is established or maintained under or pursuant to a collective bargaining agreement (as described in the National Labor Relations Act, the Railway Labor Act, and similar state public employee relation laws). (Current law requires the Secretary to "find" that a collective bargaining agreement exists, but no such finding has ever been issued). It then specifies additional conditions which must be met for such a plan to be a statutorily excluded collectively bargained arrangement and thus not a MEWA. These include:

(1) The plan cannot utilize the services of any licensed insurance agent or broker to solicit or enroll employers or pay a commission or other form of compensation to certain persons that is related to the volume or number of employers or individuals solicited or enrolled in the plan.

(2) A maximum 15 percent rule applies to the number of covered individuals in the plan who are not employees (or their beneficiaries) within a bargaining unit covered by any of the collective bargaining agreements with a participating employer or who are not present or former employees (or their beneficiaries) of sponsoring employee organizations or employers who are or were a party to any of the collective bargaining agreements.

(3) The employee organization or other entity sponsoring the plan or arrangement must certify annually to the Secretary the plan has met the previous requirements.

(4) If the plan or arrangement is not fully insured, it must be a multiemployer plan meeting specific requirements of the Labor Management Relations Act (i.e., the requirement for joint labor-management trusteeship under section 302(c)(5)(B)).

(5) If the plan or arrangement is not in effect as of the date of enactment, the employee organization or other entity sponsoring the plan or arrangement must have existed for at least 3 years or have been affiliated with another employee organization in existence for at least 3 years, or demonstrate to the Secretary that certain of the above requirements have been met.

Sec. 166. Treatment of church plans.

This section adds a new section 709 to ERISA permitting church plans to voluntarily elect to apply to the Department of Labor for an exemption under section 514(b)(6)(B) and in accordance with new ERISA Part 7. An exempted church plan would, with certain exceptions, have to comply with the provisions of ERISA Title I in order to receive an exception from state law. The election to be covered by ERISA would be irrevocable. A church plan is covered under this section if the plan provides benefits which include medical care and some or all of the benefits are not fully insured.

Sec. 167. Enforcement provisions relating to multiple employer welfare arrangements.

This section amends specific provisions of ERISA to establish enforcement provisions relating to the multiple employer elements of the bill: (1) a civil penalty applies for failure of MEWAs to file registration statements under section 169 of the bill; (2) the section provides for State enforcement through Federal courts with respect to violations by multiple employer health plans, subject to the existence of enforcement agreements described in section 168 below; (3) willful misrepresentation that an entity is an exempted MEWA or collectively-bargained arrangement may result in criminal penalties; (4) the section provides for cease activity orders for arrangements found to be neither licensed, registered, or otherwise approved under State insurance law, or operating in accordance with the terms of an exemption granted by the Secretary under new part 7; and (5) the section provides for the responsibility of the fiduciary or board of trustees of a MEHP to comply with the required claims procedure under ERISA.

Sec. 168. Cooperation between Federal and State authorities.

This section amends section 506 of ERISA (relating to coordination and responsibility of agencies enforcing ERISA and related laws) to specify State responsibility with respect to self-insured Multiple Employer Health Plans and Voluntary Health Insurance Associations. A State may enter into an agreement with the Secretary for delegation to the State of some or all of the Secretary's authority to enforce provisions of ERISA applicable to exempted MEHPs or to VHIAs. The Secretary is required to enter into the agreement if the Secretary determines that delegation to the State would not result in a lower level or quality of enforcement. However, if the Secretary delegates authority to a State, the Secretary can continue to exercise such authority concurrently with the State. The Secretary is required to provide enforcement assistance to the States with respect to MEWAs.

Sec. 169. Filing requirements for multiple employer welfare arrangements offering health benefits.

This section amends the reporting and disclosure requirements of ERISA to require MEWAs offering health benefits to file with the Secretary a registration statement within 60 days before beginning operations (for those starting on or after January 1, 1997) and no later than February 15 of each year. The section also requires MEWAs providing medical care to issue to participating employers certain information including summary plan descriptions, contribution rates, and the status of the arrangement (whether fully-insured or an exempted self-insured plan).

Sec. 170. Single annual filing for all participating employers.

This section amends ERISA's section 110 (relating to alternative methods of compliance with reporting and disclosure requirements) to provide for a single annual filing for all participating employers of fully insured MEWAs.

Sec. 171. Effective date; transitional rule.

This section provides that, in general, the amendments made by this title are effective January 1, 1998. In addition, the Secretary is required to issue all regulations needed to carry out the amendments before January 1, 1998. The section provides for transition rules for self-insured MEWAs in operation as of the effective date so that those applying to the Secretary for an exemption from State regulation are deemed to be excluded for a period not to exceed 18 months unless the Secretary denies the exemption or finds the MEWAs application deficient, provided that the arrangement does not have pending against it an enforcement action by a state. The Secretary can revoke the exemption at any time if it would be detrimental to the interests of individuals covered under the Act.

Subtitle D—Definitions; General Provisions

Sec. 191. Definitions; scope of coverage, and

Sec. 192. State flexibility to provide greater protection.

In addition to providing definitions of terms used in this title of the Act, this subtitle provides that, subject to the ERISA savings clause below, nothing in Subtitle A, B, or D should be construed to preempt state laws: (1) that relate to matters not specifically addressed in such subtitles, (2) that require insurers or HMOs to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition period for a period that is shorter than the applicable period provided under such subtitles; (3) that allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 60-day periods provided for under sections 101 and 102, or (4) that, in defining "preexisting condition" to have a look-back period that is shorter than 6 months. The ERISA savings clause states that, except as provided specifically in subtitle C, nothing in this Act shall be construed to affect or modify the provisions of section 514 of ERISA (relating to federal preemption of state laws relating to employee benefit plans).

Sec. 193. Effective Date.

In general, except as otherwise provided for in this title, the provisions of this title would apply with respect to: (1) group health plans and health insurance coverage offered in connection with group health plans, for plan years beginning on or after January 1, 1998; and (2) individual insurance coverage issued, renewed, in effect, or operated on or after January 1, 1998.

The Secretaries of HHS, Treasury, and Labor would be required to issue regulations on a timely basis as may be required to carry out this title.

Sec. 194. Rule of Construction.

Nothing in this title or any amendment made thereby may be construed to require the coverage of any specific procedure, treatment, or service as part of a group health plan or health insurance coverage under this title or through regulation.

Mr. CLAY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Speaker, I would like to thank my colleague and ranking member from Missouri for yielding me the time.

Mr. Speaker, I rise in opposition to H.R. 3103, and a little background. I was honored to serve 20 years in the Texas legislature, Mr. Speaker, and work for many of those years with the statehouse members to beef up and strengthen our State health insurance regulation laws so that people who buy group insurance would know what they are purchasing. Here today I see this bill would actually abolish that protection, not only in the State of Texas, but State legislatures all over the country have worked for many years to provide and strengthen State oversight of these laws.

Mr. Speaker, yesterday I asked the Committee on Rules to make in order my amendment striking the preemption of these multiple employer welfare arrangements, also known as the MEWA insurance laws, because what happens now is in all of our States, we regulate them. This bill will take away that State regulation and move it to Washington to definitely a universal national standard developed and implemented from Washington and will replace these carefully crafted local State insurance laws that meet the needs of our local States and not necessarily what is from Washington.

Mr. Speaker, that is right. The majority of the Republicans want to move the regulation of these insurance laws from the States to an agency led by what one of my Republican colleagues said in his turn were Communists.

We hear a lot of rhetoric from the other side about giving more power to the States, and yet in this issue the Republicans want to take away the States' authority to regulate these health plans and give it to the Federal Government. While we have heard about local control rhetoric so much, the House Republicans want to expand the authority of the Department of Labor with these regulations.

In his own estimates, Secretary Reich will have to develop 26 new regulations to deal with the federalization of multiple employer welfare arrangements. The Federal Government got out of this business of regulating MEWA's in 1983 because the States were better equipped to deal with the high instances of fraud on the local level. But now we see this bill will preempt those States rights, and what will it mean to the average American family. State statutes requiring that certain benefits covered by health insurance policies may no longer apply.

Again, let me give an example from the State of Texas. In 1973 we changed the law that required insurance policies in Texas have to cover newborn infants. Up until then, a newborn infant had to survive 14 days before the group insurance policy would cover them. That was a mandated benefit, and this bill would possibly take that away unless the Department of Labor somehow says, OK, we are going to have this minimum benefit. This protection would be no longer available, at least on the local level, that the States have decided need to be provided to the purchasers of insurance.

Unlike block grants, States have tested and successfully regulated MEWA's, and there is no compelling reason or need to preempt State authority in this area.

Mr. CLAY. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS. Mr. Speaker, I would like to thank the gentleman from Missouri [Mr. CLAY], the ranking member, for yielding me this time.

Mr. Speaker, there are two sets of ideas before the House tonight. There is a set of ideas on which there is disagreement, whether we should limit the amount people can recover if they are a victim of malpractice; whether or not people should have medical savings accounts; whether or not there should be pooling arrangements for small businesses. There is legitimate disagreement about those things.

Then there is another set of ideas on which there is virtual unanimous agreement, broad consensus that we should make it illegal to say you cannot deny someone an insurance policy because they have been sick, and that people should be able to take their insurance from job to job.

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Mr. Speaker, logical people would say that we put aside the things on which we cannot agree and debate about them and try to refine them and deal with them another day and then we take the things on which we do agree and pass them so we can send them to the President of the United States and make them law.

But we are not going to do that. What we are going to do tonight in the bill that is before us is take a lot of controversial provisions and maybe pass them out of here and send them to a conference that will, in likelihood, I believe they will wither on the vine and die.

Now, this is not just another cynical example of the cynical exercise of how politics is practiced in our country. It is more than that. It has a lot to do with real people in real families and their real lives.

Mr. Speaker, the American people understand this. A woman with breast cancer, a man who has had a triple bypass heart operation, a shipyard worker who has had asbestosis can be denied health insurance coverage now because the have been sick. If the substitute offered by the gentlewoman from New Jersey [Mrs. ROUKEMA] does not pass tonight, they can still be denied that coverage. We need to make it illegal, illegal for an insurance company in this country to say to that woman with breast cancer of that man with asbestosis or that person who has had the triple bypass operation that, we are not going to sell you a policy or that we are going to charge you the Moon and the stars to buy the policy. A unanimous vote in a Senate committee said they agreed with that. Dozens of Republicans and Democrats, if not hundreds around here, have said they agree with that. The President of the United States has said he would sign that. But unless the Roukema substitute passes, we are not going do do that.

Do the right thing tonight. Vote "yes" on the Roukema substitute and "no" on this bill.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank the ranking member for yielding me this time.

Mr. Speaker, this bill ought to be defeated. We should be considering a clean version of the Kennedy-Kassebaum-Roukema health reform bill, and I would say that the reason we are not considering a clean version of the Kennedy-Kassebaum-Roukema health reform bill is because the Republican leadership really does not want to see health care reform come into law.

They really want to see it defeated. But, quite frankly, they do not have the guts to say it. So they are weighing this bill down with all kinds of extraneous things that do not belong in the bill, knowing full well that this will kill the bill.

The Senate is going to pass a clean version. The President has said he will sign a clean version, and yet what we are doing today is a political charade. We are not passing a clean version, we are deliberately not passing the version the Senate is passing, and we know that the President will not agree.

So it is a charade. And, again, the Republican leadership does not have the guts to say the truth. You know, the gentleman from Texas [Mr. DELAY], the Republican whip, had it right before, when he said on the House floor, and I quote the gentleman from Texas from his speech on the House floor, "This is blatant politics and blatant hypocrisy." Except he was wrong in directing it to me and the Democrats. It seems to me the blatant, as the gentleman from Texas [Mr. DELAY] said, "blatant politics and blatant hypocrisy" is on the part of the gentleman from Texas [Mr. DELAY] and the Republican leadership because they do not have the guts to say we are against health care reform; instead, they are just weighing down this bill with a bunch of nonsense.

We believe that portability ought to become law. We believe that preexisting conditions is not a reason to deny people health care coverage. The Roukema bill does that. The Roukema bill will pass. The Roukema bill has the votes to pass, yet what they are doing is making it impossible for the Roukema bill to pass, and that to me is, quote, as the gentleman from Texas [Mr. DELAY] says, "blatant politics and blatant hypocrisy."

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in strong support of H.R. 3103 because it allows small employers to form Multiple Employer Health Plans [MEHPs] which can cross State lines. Small businesses operate closer to the bottom line than larger businesses, and are often unable to obtain coverage at any price. They pay higher premiums if they do obtain coverage, and cannot count on stable premiums.

MEHPs can self insure, in which case they would be required to register and maintain substantial capital reserves—a minimum of $400,000 or 25 percent of the expected claims—whichever was higher.

MEHPs would allow small employers to band together around the country, thereby avoiding expensive State-mandated benefits. Right now, small businesses pay up to 30 percent more in premiums than big businesses that can make use of ERISA exemptions.

The substitute does not allow small employers to form MEHPs across State lines.

I urge my colleagues to support 3103.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of H.R. 3103, and want to address the provisions relating to medical savings accounts for MSA's.

During the debate over the President's health care reform package during the 103d Congress, we saw that Americans view choice as fundamental to our health care system. By allowing people the chance to choose a high-deductible health insurance plan and to place the premium savings into a personal savings account, we are providing a way for people to manage their health care expenses. This plan would be used to cover major health costs while the savings account would cover routine and preventive care.

Under this bill, individuals could deposit up to $2,000 per year and could save, in the account, what they didn't use. Any withdrawals from the account for non-medical expenses would be taxable and subject to an early withdrawal penalty of 10 percent. Also, MSAs would allow patients to choose their own doctors and participate in their own care. These accounts belong to the individual and are portable during a job change.

Employers are currently able to offer MSA-like plans. However, unlike other traditional plans, the Government does not allow these plans to be tax deductible. MSAs should receive equal treatment, because recent studies indicate that these plans reduce the health care costs for employers by around 12 percent compared to traditional plans. This cost reduction directly enables employers to maintain quality health benefit plans to their employees at no additional charge. As we look for market-oriented ways to contain the costs of health care, MSAs should be viewed as an attractive option.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I wish for once Members of Congress would put themselves in the shoes of hard-working Americans, whether those shoes are loafers or construction boots, and then Americans would work together to reform in a simplistic and bipartisan commonsense way our health care system.

Now, we have two choices tonight: We can either support H.R. 3103, a convoluted measure that is highly controversial, with all kinds of special-interest provisions that will never become law, or we can support a bipartisan provision from Senator KENNEDY, Senator KASSEBAUM, and the gentlewoman from New Jersey [Mrs. ROUKEMA].

There is a bipartisan approach, a commonsense approach to provide portability, to provide health care for workers who lose their jobs. Let me give an example of why this is important. IBM has laid off 40,000 people; AT&T 40,000 people. These people are hard workers. They have children that may have diabetes or leukemia. And now health insurance companies can say, "We don't want to cover you anymore." If you vote for the Roukema Bill, the Kennedy-Kassebaum bill, you will allow these hard-working Americans to take their insurance with them and to not let the insurance companies be prejudiced against these people.

Vote for our children. Vote for our hard-working people in America, and vote for commonsense bipartisanship.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. KNOLLENBERG].–

Mr. KNOLLENBERG. Mr. Speaker, I rise in strong support of H.R. 3103 and commend my colleague, the gentleman from Illinois [Mr. FAWELL] for his efforts in bringing this legislation, which is badly needed, to the floor.

H.R. 3103 is not about big insurance companies or some Government takeover, as some would suggest. It is about providing coverage for millions of uninsured, and it allows them to get it on an accessible and affordable basis.

H.R. 3103 is about providing insurance to those millions of people that are currently unable to get insurance. For too long this system has stacked the deck against small business. Big businesses, such as GM, IBM, I just heard, have had the luxury of providing employees insurance through self-insuring, while small businesses lack the resources to self-insure. This bill directly addresses the inequality by allowing small businesses to join together to self-insure.

Mr. Speaker, Kassebaum-Kennedy is a Cadillac coverage program, one size fits all, without affordability. I urge my colleagues to vote for H.R. 3103.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in strong support of this bill for a variety of different reasons, probably chief of which is that it will allow many small employers to pool their resources together and purchase health care benefits in bulk.

This is an advantage the has been held by large corporations for many years and has been denied small businesses, and, as a consequence of that, those small businesses have to pay a much higher premium and they therefore choose not to provide coverage.

I would like to also additionally briefly address the issue of medical savings accounts. We have heard a lot of discussion about how bad these supposedly are, but I would assert that if medical savings accounts were available to the employees that work for Members of the minority, the majority of their employees would select medical savings accounts because medical savings accounts truly give the health care consumer the freedom to choose how to spend their health care dollars. It has been shown repeatedly that they over and over save a considerable amount of money. One of the biggest problems in our health car system is the third-party payer system.

Mr. CLAY. Mr. Speaker, I yield the balance of my time to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, the Dingell-Kennedy-Kassebaum substitute is a modest but significant step forward for health care. I rise in support of the substitute.

It is good that we are here addressing problems such as portability or increased deductibility for small businesses and preexisting condition discrimination. These small steps forward are important, but the American people should not be misled.

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The noble goal of universal health care, health care for all Americans, is not being discussed tonight. The administration bill in the 103d Congress was striving to help Americans join the other civilized, industrialized nations and provide health care for the 43 million Americans who are not covered with any health care plan.

This bill moves us no closer to health care for everybody. Looming over all of us in our present health care system is the dangerous threat to the Medicaid entitlement. That is not being discussed, but the Medicaid entitlement is America's beachhead for universal health care. Even if we pass the highly desirable Kennedy-Kassebaum-Dingell substitute, we will be taking a giant step backward if we throw away the Medicaid entitlement within a few weeks.

The American people must not be swindled. Two actions are needed. Tonight we have to pass the substitute, and we also have to make certain that in the future, the next few weeks, we deny the Governors, the majority Republicans in this body, the opportunity to roll back the clock to destroy 30 years of good health care by eliminating the Medicaid entitlement. The Medicaid entitlement is absolutely necessary for the 43 million Americans who are not covered. The hope for those 43 million lies in keeping the Medicaid entitlement and expanding it.

This was the noble goal of the administration's bill in the 103d Congress. It was very difficult because they were looking to close that gap. It was very difficult because the 103d Congress proposal by the administration was attempting to have America join the other civilized industrialized nations for universal health care.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, I am proud to be an original cosponsor of H.R. 3103. Approximately 17 percent of our nonelderly population does not have health care insurance coverage in the United States of America. This very important piece of legislation decreases that rank of the uninsured, that 17 percent, by making health insurance more readily available and affordable. Many things we should have done many years ago: Guaranteeing the portability of health insurance for workers changing or leaving jobs, limiting the ability of insurers to use preexisting conditions to deny health insurance coverage, making health insurance more affordable by reforming malpractice laws and cracking down on fraud and abuse, and several other measures which are here.

This focused reform bill compliments the efforts of States to expand health insurance coverage within their borders rather than superseding them.

I would like to say a word or two about those who argue that this would kill Kassebaum-Kennedy. This bill does not kill what our colleagues in the Senate have accomplished. This bill builds upon the sound principles to expand availability contained in Kassebaum-Kennedy, but also addresses affordability, which is not addressed in that bill.

Mr. Speaker, I encourage all of us to support this excellent piece of legislation.

Mr. GOODLING. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I think all one can say, I would just compliment the leadership on this side of the aisle. I would like to point out, too, that you will notice that no one, no one on this side of the aisle, criticized the legislation that that side is pushing. Yet I think it is fair to say we have had an abundance of criticism from that side.

We are simply asking that small employers have the rights that mid-sized and large employers have had for a long time, and that is to be able to self-insure. They preempt state law. You have heard it say there are 138 million people today under the ERISA law.

Mr. DEFAZIO. Mr. Speaker, I rise in opposition to H.R. 3103, the so-called "Health Coverage Availability and Affordability Act," and in support of the Democratic substitute.

We all agree that the American system of health care is in dire need of an overhaul. Health care costs are skyrocketing out of control. Having doubled in the last decade, they're far beyond the reach of any American who's uninsured and can't afford exorbitant insurance premiums. Four million Americans lost health insurance between 1988 and 1994. Millions more are just a pinkslip away from losing all of their health care coverage.

There are provisions in H.R. 3103 that I support. I agree that it is high time Congress acts to correct some of the more egregious practices of insurance companies. Denying insurance to individuals because of pre-existing conditions, genetic information, or a history of domestic violence is outrageous. It is a good start to ban these practices.

I've supported legislation that would correct these policies. I've authored legislation that would prohibit using domestic violence as a risk factor. I've also co-sponsored the Kennedy-Kassebaum-Roukema health care reform bill, which has the support of Senate Republicans and Democrats as well as the President.

The Democratic substitute would replace H.R. 3103 with language from the Kennedy-Kassebaum-Roukema bill. This bill would expand access to health insurance for Americans by increasing portability and limiting insurance companies' ability to deny coverage because of pre-existing conditions. The political consensus for the Kennedy-Kassebaum-Roukema bill means that it could become law in a matter of weeks.

But H.R. 3103 embraces controversial, divisive policies that doom any chance of insurance reform and minimal health security for the American people.

As a long-time advocate of fiscal responsibility, I must oppose the provisions in this bill establishing generous Medical Savings Accounts [MSAs]. The MSAs would result in a significant loss of taxpayer dollars without a substantial revenue offset. Under this bill, individuals could deposit up to $2,000 annually and families up to $4,000 in tax-free MSAs. The Joint Committee on Taxation has estimated that this provision alone would cost the U.S. taxpayers approximately $2 billion. This flies in the face of the deficit reduction goals to which this Congress purports to aspire.

The Republican leadership counters that the bill contains budgetary savings to offset the revenue loss from MSAs. This assertion is laughable and cynical. The budgetary savings are achieved through "reforms" in the Medicare program—the health plan for America's senior citizens. This is the same Medicare program that the Republicans claim is in such a dire financial crisis.

Any savings achieved through Medicare reforms should be used to shore up the Medicare trust fund. Failing that, these savings should be used to lower deductibles and increase benefits for Medicare beneficiaries. It makes no sense to use this savings to offset a tax break for the limited number of individuals who can afford MSAs.

Individuals who choose to open MSAs will likely be healthier, wealthier and younger than average. Unfortunately, the majority of the Medicare population is among the older and sicker and would not benefit from MSAs. The Republican leadership's bill would, therefore, steal money from Medicare recipients to pay for tax breaks for healthier Americans.

Ironically, H.R. 3103 would also remove state oversight and replace it with Federal regulation to advantage insurance companies. This would be a severe blow to the States' rights movement. For the past year we have heard Republicans disparage the role of the Federal Government. Yet, under this legislation, the Republican leadership conveniently tosses aside this argument in favor of Federal supremacy over insurance coverage. This legislation preempts existing state insurance reforms and State regulation of self-funded multiple employer plans [MEWAs].

In Oregon, local leaders have developed a series of health care initiatives with the active support of insurers, consumers and the business community. H.R. 3103 could seriously jeopardize these reforms, as well as reforms already enacted in other States.

Every American should have lifetime access to quality, affordable health care. All of our major economic competitors have adopted comprehensive health care reforms. Surely the United States of America, the greatest industrial power on Earth, can adopt the minimal protections in the Kennedy-Kassebaum-Roukema bill.

If you truly want to bring some relief to our constituents, I urge my colleagues to support the Democratic substitute which would replace the controversial Republican leadership's proposal with the language in the Kennedy-Kassebaum-Roukema bill.

Mr. CLINGER. Mr. Speaker, I rise in strong support of the "Health Coverage Availability and Affordability Act of 1996." This legislation takes very practical, needed steps to ensure working Americans that they will always have access to health insurance regardless of their health, their family's health, or their employer. H.R. 3103 will ensure Americans portability and renewability of their health coverage while eliminating the fear of losing coverage because of pre-existing condition limitations when changing or losing a job.

I am particularly pleased to see provisions in the bill that set tough policies to combat health care fraud and abuse. Recent studies estimate that overcharging, double billing, and charging for services not rendered to patients cost consumers up to 10 percent of every health care dollar spent. This results in both higher health care costs and insurance premiums for everyone.

Under H.R. 3103, penalties for defrauding the Government through Federal health care programs, such as Medicare and Medicaid, will be stiffened. Furthermore, the bill will require the Secretary of Health and Human Services and the Attorney General to jointly establish a national health care fraud and abuse control program to coordinate Federal, State and local law enforcement to combat fraud with respect to health plans.

In addition, the "Health Coverage Availability and Affordability Act of 1996" will require the Secretary of Health and Human Services to exclude from Medicare and State health care programs for a minimum of 5 years individuals and entities who have been convicted of felony offenses relating to health care fraud; require the Secretary to provide beneficiaries with an explanation of each item or service for which payment was made under Medicare; and require the Secretary to establish a program to encourage individuals to report suspected fraud and abuse in the Medicare program.

I firmly believe that the fraud and abuse provisions in H.R. 3103 are long overdue and represent a serious effort to reduce fraudulent activity, which drives up the cost of health care for everyone. The Government Reform and Oversight Committee, which I chair, has held several hearings on this very issue, and I feel strongly that we need to act now to crack down on health care fraud and abuse.

Also, as a representative of a largely rural district, I am pleased to see provisions in H.R. 3103 that will allow small businesses to join together to form purchasing cooperatives. This provision exempts small businesses from certain State insurance regulations—an exemption that big business now enjoys. This change will make health insurance affordable for small businesses who cannot afford it at the present time—a problem that is particularly noticeable in rural areas. Some predict that small employers will be able to cut their business premiums by as much as a third, even while paying State premium taxes, which is provided for under the bill. This provision will certainly increase access to quality health care to rural individuals.

Again, I urge my colleagues to support this sensible, responsible approach to health care reform.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 3103, the Health Coverage Availability and Affordability Act and urge my colleagues to support this well intentioned bill.

As one of the Republican cosponsors of the Roukema/Kassebaum/Kennedy portability measure, I am acutely aware of the need for Congress to approve a health coverage measure which will ensure working people and families that they will always have access to health insurance regardless of their health, their family's health, or their employer. Accordingly, I commend my colleague, Representative ROUKEMA, for her efforts in the House to bring this portability measure before the House today.

Similarly, I am pleased that the House will have an opportunity to make a good bill better. In addition to making health insurance more available to all Americans, H.R. 3103 makes it more affordable and provides more choices.

H.R. 3103 will provide incentives to encourage individuals, and their employers, to make tax deductible contributions—in lieu of health insurance premiums—to a specialized savings account [MSA] to be used at a later date for health expenses; it increases penalties for fraud and abuse of the federally-funded health care system; and allows self employed individuals and small businesses to voluntarily associate to purchase health insurance which would be available to all member organizations.

All of these provisions mentioned above will help our Nation's farmers, self-employed, and small business entrepreneurs to provide health insurance for their families and employees.

Though H.R. 3103 may not be a perfect bill it does provide important health insurance reforms that will ensure broad health coverage for our constituents.

Furthermore, this measure is a step in the right direction. I look forward to working further with my colleagues on health care reform measures which will protect those Americans who currently do not have health insurance coverage.

I urge my colleagues to support H.R. 3103.

Mr. STENHOLM. Mr. Speaker, in an effort to keep health insurance reform moving through the legislative process, I rise with some reservation to support H.R. 3103, the Health Coverage Availability Act of 1996.

My record clearly reflects my strong support of health insurance reform. In addition to efforts on rural health issues and system-wide reform, I have worked for many years to make health insurance both accessible and affordable for millions of underserved Americans, many of whom reside in the 17th District of Texas. In one very recent example, I heard from a constituent who has been employed since 1954, working the last 10 years with her sister in a bookkeeping and secretarial business. At one point, she had hospitalization insurance, but the price of the policy continually increased to the point that she finally had to drop it because she could no longer afford it. She now worries about the health and economic vulnerability of her situation.

While this legislation does not specifically address all of her needs, I believe certain provisions such as portability of health insurance, limitation on pre-existing conditions, increased tax deductibility for the self-employed, and guaranteed availability of insurance for small employers, are definitely steps in the right direction.

Because the Senate has taken the lead on a health insurance reform bill which the President has pledged to sign, I must express my concerns about the political ramifications of loading this bill down with some of the more controversial issues that have been included here today. I recall just a few years ago, during a similar health care debate, when my friends on the other side of the aisle were criticizing Democrats for "overreaching" on health care reform proposals. Now, I fear we are back to square one.

Like many Members of this body, I would like to see additional health care reforms, including reforms to develop rural health networks and preserve rural health services. Facing political reality, however, I realize that this might not be the proper vehicle to achieve these goals.

I am also concerned that rather than promoting the goals of greater health insurance access and affordability, some provisions in this bill may have the reverse impact in the long run because sufficient safeguards were not added to the provisions. For example, I have strongly supported small employer pooling arrangements with effective certification and solvency standards, as well as protections to ensure that the pool is large enough to manage risk. However, I am worried that the pooling section of this legislation fails to meet those concerns.

I am especially concerned that the bill we are considering today includes provisions and changes which were made after the Committees of jurisdiction reported out their components of the bill.

While I am not convinced that this House bill meets many of my concerns, I do believe that these issues can be worked out in conference. Therefore, in the spirit of keeping the process moving forward, I intend to vote yes on final passage. It is my hope that we not let another opportunity to achieve some type of bipartisan health care reform pass us by, simply because we again overreach the boundaries of consensus. That is why I am cautiously supporting H.R. 3103, with the hope that the conference committee will inject bipartisan commonsense into the process and develop a health insurance reform bill that will get a Presidential signature.

After all, without both a congressional majority and a Presidential signature, my constituents in the 17th district, or Americans anywhere else, will receive no benefit from this political exercise. In the final analysis, I would hope that the ultimate goal for us all is weighed not in political, special interest terms, but in terms of caring for the health needs of our un- and under-insured populations.

Mr. HORN. Mr. Speaker, there has been a campaign of misinformation about this legislation. Americans have been told that this bill would deny them continued health insurance coverage for alternative medical treatments. This is untrue.

This bill does not deal with health insurance coverage for alternative medical treatments. This is an issue that must be addressed by the States. H.R. 3103 only requires that each State implement a mechanism to ensure individual coverage.

This bill does increase choices for health care delivery systems by providing for medical savings accounts. With these accounts, Americans can utilize their health care dollars for whatever treatment fits their needs. That is the way to ensure that alternative medical treatments remain available for anyone who wants them.

Mr. FRANKS of Connecticut. Mr. Speaker, H.R. 3103, the Health Care Coverage Availability and Affordability Act will ensure that Americans have access to health care coverage. More importantly, however, the bill will insure that people do not lose their insurance coverage when they switch jobs.

During the March 17th hearing this subcommittee held on insurance reform I stated that I had worked for both small businesses and for Fortune 500 companies. During my tenure in the business world I saw first hand the concern of individuals who have worked hard and suddenly found themselves without employment or insurance coverage. These individuals worry about how they will make their insurance payments to COBRA. COBRA benefits are supposed to cover individuals during periods of unemployment, but without a job how can the individual keep up his or her COBRA payments. They can't, so they simply slip through the cracks in our insurance industry. These are the individuals that we must be most concerned with.

This same scenario can be applied to the self employed. Should a self-employed individual's company fail, what would happen during the period of unemployment. I have recently reintroduced legislation I sponsored during the 103d Congress. My bill would allow us to look at the situation I just described in a similar fashion to the way in which we look at unemployment compensation, with the exception that the employer will not have to contribute. While a person is employed, why not have that person make contributions to an uninsurance trust. The employee would be able to contribute money to the trust and then access it during periods of unemployment. We also need this kind of return.

The bill before us today brings about much-needed reform to the insurance industry in this country. It addresses such important issues as portability and pre-existing conditions. Individuals will no longer have to remain in a job they do not like in order to maintain insurance coverage. Under this bill if an individual changes jobs his or her insurance coverage will follow. Also, according to this bill insurance companies will no longer be able to deny coverage to individuals with pre-existing conditions.

H.R. 3103 addresses the problem of medical malpractice as well. The bill establishes uniform standards for health care liability suits brought in court. Malpractice lawsuit awards are capped at $250,000 for non-economic damages and $250,000 or three times the non-economic damages for punitive damages. This capping of damages will aid in driving down health care costs.

This bill will allow organizations, like trade associations, to voluntarily associate to purchase health care insurance. This insurance would then be available to all member organizations. The voluntary association organizations for the purpose of buying health insurance will allow them to increase their purchasing power, thus allowing them to purchase insurance at a significant savings.

The bill provides relief for self-employed individuals by allowing them to deduct increasing percentages of their health insurance costs from their income taxes. This provision, like many of the others contained in this bill, will make the purchasing of health insurance more affordable. This is especially important for self-employed individuals because all too often they fall through the cracks in our health insurance industry.

Penalties for fraud and abuse of the federally funded health care system are increased under this legislation. Overcharging, double billing, and charging for services not rendered has become too prevalent. These types of fraud cost consumes 5 to 10 percent of ever health care dollar. This results in higher health care costs as well as higher in insurance premiums.

Finally the bill allows for the establishment of medical savings accounts, MSA's. MSA's will bring about changes to health insurance. These accounts will place the consumer in charge of his or her health care. The consumer will have total control over his or her health care. This will allow the consumer to spend his or her health care dollars as he or she wants.

Mr. Speaker, the legislation before us takes important steps toward reforming the health insurance industry in this country. I applaud this legislation and look forward to its passage. Thank you and I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, I rise today in support of the Health Coverage Availability and Affordability Act of 1996. This bill includes provisions I have long supported on paperwork reduction.

I am pleased to see that today, the House will have the opportunity to vote on these and other needed reforms. Legislation aimed at making health insurance more available and affordable while reducing administrative paperwork is long overdue. While President George Bush introduced similar legislation in 1992, the then Democrat-controlled Congress blocked its consideration. It was not until the defeat of President Clinton's nationalized health care system that a consensus coalesced around these market-based reforms.

Currently, excessive paperwork, redtape, and duplicative administrative costs add nearly 10 cents to every health care dollar spent in the United States. In response to this concern I introduced legislation during the 102d Congress, along with our former colleague, Alex McMillan, to reduce these unnecessary costs through the establishment of uniform health claims and electronic billing standards.

Following this first ever free-standing bill on billing simplification, my Ohio colleague, DAVE HOBSON, took up the cause, improving upon our efforts. Congressman HOBSON's work has been integral in the promotion of the benefits of a uniform electronic billing system.

Mr. Speaker, I support the passage of the Health Care Coverage Availability and Affordability Act. American working families need and deserve the flexibility and cost-saving measures this bill provides.

Mr. PARKER. I want to congratulate the many Members who have been instrumental in bringing to the floor this important health care reform legislation.

In the 103d Congress, a number of us worked diligently on a similar, incremental package that would have corrected many identifiable problems in our health care delivery system.

Unfortunately, we never had an opportunity to vote on such a measure.

Today, however, I am pleased that we will finally be able to tell our constituents that help is on the way—changes will be made to address many of their health care concerns.

The passage of this legislation will assure people that they can change jobs and obtain group health insurance coverage through a new employer, without pre-existing condition limitations.

For those individuals who are between jobs and have been unable to obtain coverage due to a pre-existing condition, this bill will make it possible for them to do so.

For small employers, new pooling arrangements and an increased deduction for health insurance premiums will make it easier for them to purchase insurance coverage for their employees.

For individuals and families, medical savings accounts will now be available that allow them to control their own health care decisions and costs.

And for the many States like my own that provide health care coverage for uninsured high-risk individuals, this bill will clarify the tax-exempt status of State-established health insurance risk pools.

Currently, such risk pools are not automatically exempt from Federal income taxes.

This bill provides the necessary legislative fix to assist States in making much-needed medical insurance available to uninsurable residents.

Of course this bill, like the proposal I worked on in the last Congress, also includes provisions addressing such important needs as administrative simplification, fraud and abuse elimination, and medical malpractice reform.

In closing, we are taking the critical first steps toward a health care delivery system that is more accessible and affordable.

H.R. 3103 establishes a strong foundation on which future reforms in our health care delivery system can be based.

We should not let this opportunity to improve the Nation's health care system slip away once again.

Mr. CONYERS. Mr. Speaker, medical malpractice is a widespread and serious problem in our society. Studies have established that it is the third leading cause of preventable death, second only to those deaths associated with cigarette smoking and alcohol abuse. More than 1.3 million hospitalized Americans, or nearly 1 in 25, are estimated to be injured annually by medical treatment, and about 100,000 such patients, or 1 in 400, die each year as a direct result of such injuries.

Unfortunately, in federalizing this state law matter, the Republican proposals would absolutely decimate the protections the states have provided for against medical malpractice and other forms of misconduct. A summary of these provisions follows:

A. Statute of Limitations/§281—Prohibits victims from bringing any state health care liability action more than two years after an injury is discovered or five years after the negligent conduct that caused the injury first occurred. Such a proposed new federal statute of limitations takes no account of the fact that many injuries caused by medical malpractice or faulty drugs often take years to manifest themselves. Thus under the proposal, a patient who is negligently inflicted with HIV-infected blood and develops AIDs six years later would be forever barred from filing a medical malpractice or product liability claim.

B. $250,000 Cap on Non-economic Damages/§ 282(a)(1)—Caps the award of non-economic damages in medical malpractice actions at $250,000. The bulk of data indicates that dollar caps do not provide significant savings. Using information derived from a 1992 GAO study, the ABA's Special Committee on Medical Professional Liability found that state tort reform proposals "have not had any measurable impact on overall health [care] costs" and that personal health care spending had doubled between 1982 and 1990, regardless of the type of "reforms" adopted. A 1986 GAO study on the impact of specific tort changes on medical malpractice claims revealed that claims and insurance costs continue to rise despite state-adopted limits on victim compensation.

Even the total elimination of malpractice costs would provide only negligible savings to the health care system. According to separate reviews by the U.S. Department of Health and Human Services and CBO, the total amount of *all* liability premiums paid in the United States represents less than 1% of the Nation's health care costs. And factoring in the costs of so-called "defensive medicine" would not result in any significant additional savings to the health care system, according to both the CBO and the Congressional Office of Technology Assessment.

An additional concern with caps on non-economic damages is that they could unfairly penalize those victims who suffer the most severe injury and are most in need of financial security. Although harder to scientifically measure, non-economic damages compensate victims for real losses—such as loss of sight, disfigurement, inability to bear children, incontinence, inability to feed or bathe oneself, or loss of a limb—that are not accounted for in lost wages. And non-economic damage caps have been found to have a disproportionately negative impact on women, minorities, the poor, the young, and the unemployed; since they generally have less wages, a greater proportion of their losses is non-economic.

C. Joint and Several Liability/§ 282(a)(2)—Eliminates the state doctrine of joint and several liability for non-economic damages. This will allow wrongdoers to profit at the expense of innocent victims, rather than forcing tortfeasors to allocate liability among themselves, as has traditionally been the case under state law. And since women, minorities, and the poor generally earn less wages, such limitations on non-economic damages could have a disproportionately negative impact on these groups.

D. Limits on Punitive Damages/§ 282(b)—Caps punitive damage awards at the greater of $250,000 or three times economic damages; limit the state law standard for the award of punitive damages to intentional or "consciously indifferent" conduct; allow a bifurcated proceeding to determine issues relating to punitive damages; and completely ban punitive damages in the case of drugs or other devices that have been approved by the FDA or any other drug "generally recognized as safe and effective" pursuant to FDA-established conditions.

These proposed limitations raise a number of concerns. Arbitrary caps on punitive damages may provide unjustified windfalls to the few tortfeasors responsible for blatant and wanton medical misconduct. (In fact, studies have shown that only 265 medical malpractice punitive awards were awarded in the United States in the 30 years between 1963 and 1993.) By insulating grossly negligent conduct, the proposed new federal standard for establishing punitive damages comes close to criminalizing tort law. Permitting defendants to bifurcate proceedings concerning the award of punitive damages may well lead to far more costly and time-consuming proceedings, again working to the disadvantage of injured victims. And banning punitive damages for FDA-approved products is likely to have a disproportionate impact on women, since they make up the largest class of victims of medical products.

E. Periodic Payments/§ 282(c)—Grants wrongdoers the option of paying damage awards in excess of $50,000 on a periodic basis. This provision would apply not only to future economic damages realized over time, such as lost wages, but to non-economic losses, like the loss of a limb, that are realized all at once. Also, in contrast to many state law periodic payment provisions, the Republican proposal does not seek to protect the victim from the risk of nonpayment resulting from future insolvency by the wrongdoer or to specify that future payments should be increased to account for inflation or to reflect changed circumstances.

F. Collateral Source and Subrogation/§ 282(d)—In most states under the collateral source rule, a victim is able to obtain compensation for the full amount of damages incurred, and his or her health insurance provider is able to seek subrogation in respect of its own payments to the victim. This ensures that the true cost of damages lies with the wrongdoer while eliminating the possibility of double recovery by the victim. The Republican proposal would turn this system on its head by allowing tortfeasors to introduce evidence of potential collateral payments owing from the insurer to the victim. This could have the effect of shifting costs from negligent doctors to the health insurance system in general and taxpayers in particular, resulting in increased health premiums paid by workers and businesses.

Another problematic feature of Republican malpractice proposals has been their one-sided, anti-victim nature. For example, their proposal allows States to enact more restrictive caps and damage limitations, but not permit the states freedom to grant victims any greater legal rights. Their proposals also ignore a number of complex legal issues. For example, in the state law context, various damage caps have been held to violate state constitutional guarantees relating to equal protection, due process, and rights of trial by jury and access to the courts; and these very same concerns are likely to be present at the federal level. And by layering a system of federal rules on top of a two-century-old system of state common law, the Republican proposals will inevitably lead to confusing conflicts, not only within the federal and state courts, but between federal and state courts.

I urge opposition to these proposals which would harm victims and insulate wrongdoers from liability.

Mr. NEAL of Massachusetts. Mr. Speaker, one lesson that both Democrats and Republicans learned from the health care reform debate in the 103d Congress is that retaining access to affordable health insurance is an anxiety that plagues most American families.

We exhausted the health care debate a few years ago in this Congress searching for ways to do it all—to make health care cheaper, better, and more accessible for everyone. And though we didn't pass health care reform legislation at that time, the fact that we are here today talking about limiting pre-existing condition exclusions and making health insurance portable—two consensus issues that Democrats and Republicans both support—is proof that our efforts did not fail.

I'd like to take a moment today to applaud our President for choosing to act upon America's health care concerns, and for having the courage to bring the issue of health care reform to the forefront of our national agenda.

The United States, and Massachusetts in particular, is home to the best quality health care in the world, and it is our job as Members of this House to make quality care available to Americans. The pre-existing condition limits and portability provisions in this bill meet this goal.

We also have a unique opportunity today to make health insurance more affordable to the self-employed by increasing the deductibility of health insurance premiums. Under current law, the self-employed are allowed a 30 percent deduction. The bill before us today gradually increases the deduction to 50 percent and 50 percent is not phased in until 2003.

The Democratic substitute addresses this issue in a more sensible and equitable manner. The Democratic substitute would increase the deduction to 50 percent in 1997 and 80 percent in 2002. Affordability is the greatest barrier to expanding health coverage. Increasing the deduction to 50 percent in 1997 will help make insurance affordable to those who lack coverage. Now, the self-employed may be able to fit into their budget the cost of health insurance.

Equity in the tax code should be one of our primary focuses. Corporations are allowed to deduct 100 percent of the cost of providing health insurance. Narrowing the gap between corporations and the self-employed restores greater tax equity.

Self-employed businesses range in spectrum from family farms to sole practitioners. These businesses are a vital part of our economy. We need to make health care affordable for them.

I urge you to support the Democratic substitute which tackles the issues where there is agreement and will make a difference in the health care of Americans.

Mrs. VUCANOVICH. Mr. Speaker, it took many years of debate, and thousands of town hall meetings, but by George, I think we've got it.

Congress has finally stepped up to the plate to ensure that Americans are able to obtain health insurance. Too many Americans are shut out of health care insurance because of preexisting conditions, or because they change jobs. With one swing of the bat in the first inning of the game, we have successfully completed a "Triple A"—much better than a triple play. The bill provides "A"-vailability, "A"-ffordability and "A"-ccountability. It helps employees who try to obtain health insurance, employers who try to provide health insurance, and the bill tackles the high cost of health care.

It makes good on promises by raising the health deduction for self-employed to 50 percent by the year 2003, provides citizens the opportunity to contribute to Medical Savings Accounts, and allows individuals to deduct long-term care expenses.

The House Committees' team has made the advancement up to third base, and it's up to the rest of us to take it home. I urge my colleagues and teammates to support this historic bill.

Mr. CUNNINGHAM. Mr. Speaker, today I rise in support of Health Coverage Availability and Affordability Act, H.R. 3103, particularly the provisions which will provide small employers with the ability to reduce health insurance costs through the formation of multiple employer arrangements [MEWĀs]. H.R. 3103 will bring affordable health care to millions of Americans who currently are uninsured, and will also provide greater assurance that those who already have health coverage will not lose it when they change jobs.

Without the small employer pooling provisions, any incremental health reform measure only addresses the problem of security for those who currently have health insurance. However, by providing small business with the same tools that are already available to large corporations in obtaining health coverage, we can also help the problem of the uninsured.

Eighty-five percent of the forty million uninsured are persons in families with at least one employed worker, and the majority of these workers are employed in small businesses. As small business becomes a larger portion of the economy, more and more people will find themselves employed by smaller companies. Thus, if we are ever going to make health coverage affordable for the uninsured, it is imperative that we provide small business with the same opportunities that already are available to large corporations for keeping health costs down.

Small employer pooling arrangements must operate uniformly across state lines, just like large employer arrangements do currently. We must provide a market-oriented, 21st century solution to the problem of the uninsured.

I urge you to vote in favor of H.R. 3103 to increase health care security and affordability for American workers.

Mr. LAZIO of New York. Mr. Speaker, I rise today in proud support of H.R. 3103, the Health Coverage & Affordability Act of 1996, of which I am a cosponsor.

This is a day which I have been looking forward to since I first took office over 3 years ago. Today, we are taking a long overdue step to provide real, substantive change to our health care system which will help working class families across America, and in my home district of Long Island.

For far too long, many Americans have worried that losing a job or having a preexisting condition would jeopardize the portability of their health insurance.

Because of this bill, workers will continue to have coverage if they change or lose their job—even with preexisting conditions. General Accounting Office [GAO] statistics show that 12 million workers with employer-based insurance leave their jobs every year, and millions more lose their jobs. H.R. 3103 would benefit up to 25 million Americans per year, including those who face job-lock, by eliminating the preexisting condition exclusions for persons with prior health insurance coverage.

An important feature of H.R. 3103 will eliminate discrimination based on genetic information. This would allow thousands of men and women to undergo genetic testing needed to preserve their health without fear of losing their health insurance or not being able to acquire it. This protection is essential for the women of Long Island, where instances of breast cancer are among the highest in the country. With H.R. 3103 in place, these women can be tested for BRCA–1, a gene linked to the disease, without fear of losing the insurance needed to meet their medical needs.

As a result of our efforts today, health care will become more affordable. H.R. 3103 tackles the problem created by rampant fraud and lawsuit abuse that drives up the cost, and will increase penalties for those who commit fraud and abuse. Importantly, this bill also increases the health insurance deduction for self-employed individuals from 30 percent to 50 percent by 2003, and allows taxpayers to make tax-deductible contributions to a medical savings account.

I urge my colleagues to support this bill and these reforms which will ease some of those worries of families who are already being squeezed by high taxes and falling wages by ensuring availability, affordability, and accountability to those who receive health care through their jobs. The American people deserve this and we owe it to them to pass it by a wide bi-partisan margin.

Mr. KLECZKA. Mr. Speaker, Americans will today witness firsthand an overt effort by the Republican leadership to sink a much-needed piece of legislation for the sake of preserving their cozy relationship with special-interests. A perfectly good insurance reform bill introduced by Senators KENNEDY and KASSEBAUM and Representative ROUKEMA in the House has been loaded with extra, controversial provisions that will make it difficult, if not impossible, to pass into law.

While modest, the original bill could help 21 million Americans by waiving the pre-existing condition exclusions for individuals who have had continuous health coverage. As many as 4 million people who are currently "locked" into their jobs for fear of losing needed health coverage for themselves or their family would benefit from the bill's national portability standards.

Yet, despite the fact that this bill will benefit 25 million Americans, Republicans in the House do not support it. In the Ways and Means Committee, the Kennedy-Kassebaum-Roukema bill did not receive one Republican vote. Apparently, 25 million hard-working Americans are not enough to convince the GOP that we need this legislation. Evidently, unless it has the blessing of the Health Insurance Association of America it is not worth voting for.

Why else would these Members condition their support for insurance reform on adding "sweeteners" like medical liability provisions that limit the legal rights of malpractice victims? Why do we need to permit insurance companies to sell Medicare beneficiaries unnecessary and costly policies that duplicate benefits they already have?

The Republican bill (H.R. 3103) includes other items that will likely meet strong opposition in the Senate, namely, controversial provisions that effectively limit the ability of States to enact health care reforms by pre-empting existing state regulations on multi-employer health plans. Already, a large percentage of employers are exempt from state reforms under the ERISA. With this provision, Congress takes even more health plans out of states' reach.

This add-on is especially puzzling since it flies in the face of the States' rights argument we have been hearing over and over from the Republicans. They want to block grant Medicaid, welfare, public housing, senior employment programs and other Federal initiatives and let the states administer and regulate them. Why not health care reform? Their own argument that the states can do things better and more efficiently than the Federal Government is contradicts this new policy.

As one of only four Democrats that cast their vote in favor of the Ways and Means insurance reform legislation, I strongly support providing my constituents with health coverage they can take from job to job. But, I differ from my Republican colleagues in one important respect. Not only do I support it—I also want it to pass. This final version of the bill bends over backwards so far to please so many special interests that it severs the spine that holds it together and paralyzes the legislative process.

Mr. Speaker, I support the clean Democratic substitute, which is identical to the original Kennedy-Kassebaum-Roukema bill and I urge my colleagues to do likewise.

Mr. COSTELLO. Mr. Speaker, I rise today in support of the Kennedy-Kassebaum substitute to be offered by the Democratic leader, and in opposition to the bill as a whole. Unfortunately, radical members of the majority conference have hijacked this bill and turned it into a special-interest Christmas tree, which could very well jeopardize its passage in the Congress.

Health insurance reform is long past due. Millions of Americans are still routinely denied health care coverage because of preexisting conditions. Some are forced to remain in stagnant jobs and turn down promotions or other job opportunities in order to insure the continuation of their employer-sponsored health care benefits.

The Senate has introduced legislation with wide bipartisan support to address the issue of portability of insurance. That legislation, the Kassebaum-Kennedy bill, ensures health insurance portability when individuals move from one employer to another. President Clinton voiced his support for this legislation during his State of the Union Address. In the House of Representatives, my colleague, Representative ROUKEMA has introduced similar legislation, and 192 of my colleagues have joined me in cosponsoring Representative ROUKEMA's legislation.

With the broad bipartisan support of this health insurance reform, it is a disgrace that the Republican leadership has sabotaged the enactment of this legislation by adding controversial provisions to the bill. Some Members in the Senate have suggested these provisions may end the chances of passage of this legislation, which is why I will vote for the Kennedy-Kassebaum-Roukema substitute and against final passage. This issue is too important to let partisan politics jeopardize the health care of the American people. We have waited for too long. The time is now to pass and enact a clean health insurance reform bill that will assure the portability of health insurance when individuals change jobs.

Ms. DUNN of Washington. Mr. Speaker, I rise today in strong support of the Health Coverage Availability and Affordability Act of 1996. This legislation solves the health insurance problems most common among my constituents in Washington State—eliminating job lock and preexisting conditions while keeping the costs of premiums down.

A critical component of our efforts to keep the cost of health insurance down is the set of provisions to reduce fraud and abuse in our Nation's health care system.

According to the General Accounting Office, each year as much as 10 percent of our Nation's total health care expenditures are lost to fraud and abuse. With annual health care costs in the United States approaching $1 trillion, fraud and abuse is robbing taxpayers and policyholders of about $100 billion each year.

Let me repeat that because it is an important fact: fraud and abuse is costing our constituents about $100 billion each year.

Despite the enormity of the problem, the GAO concluded that "only a small fraction of the fraud and abuse committed against the health care system is identified."

The Department of Health and Human Services has estimated that Medicare and Medicaid programs alone lose as much as $31 billion annually to fraud and abuse.

And who pays? Patients, that is who. And in the case of Medicare and Medicaid, taxpayers pay for health care fraud and abuse in the form of higher health care costs and higher premiums.

For all these reasons attacking fraud and abuse is an essential component of the measure before us today.

For instance, we get tough on fraudulent and unscrupulous suppliers and providers who game the system in order to reap billions of dollars.

Through the establishment of the Medicare Integrity Program, we greatly increase Medicare's ability to prevent payments for fraudulent, or erroneous claims, and to identify illegal billing schemes early to avoid large losses.

We provide incentives for individual beneficiaries to report fraudulent, abusive, or wasteful claims practices.

Under the bill, a Health Care Fraud and Abuse Account with the Federal hospital trust fund is created. Moneys derived from the newly coordinated health care antifraud and abuse programs will be transferred into the trust for the expressed purposes of fighting fraud and abuse.

This new funding is vital because there has been a 45-percent drop in per claim spending on Medicare fraud and abuse prevention activities since 1989, despite historic savings rates in excess of $10 for every $1 invested in prevention. Our plan devotes more resources to the fight against fraud and abuse.

We also toughen criminal laws and enforcement tools for intentional fraud and abuse. The lack of a specific Federal health care fraud criminal statute, coupled with weak sanctions, has significantly hampered law enforcement's efforts to combat health care fraud. That is why it is so necessary to create this new criminal offense for activities such as theft, embezzlement, false statements, and money laundering. We then provide for mandatory forfeiture of property in such cases. In addition, civil monetary penalties will be substantially increased from $2,000 to $10,000 for each item or service involved. All of these efforts will serve to deter future abuses.

Strengthening prevention, increased funding for the battle against fraud and abuse, better coordination and enforcement, new criminal fraud statutes—all of these are included in this bill. I urge my colleagues to support our effort to end this annual $100 billion rip-off of taxpayers by supporting the bill.

Mr. MANZULLO. Mr. Speaker, the legislation we are considering here today, H.R. 3103, will enable millions of Americans to purchase affordable health insurance. H.R. 3103 will extend to Americans of all incomes, health status, and employment status the ability to enter into the health care market.

One of the biggest problems facing workers in job transition is that health insurance is not portable. Although the average person will change jobs eight times during his working life, employees are limited in their ability to keep their health insurance during job changes and periods of unemployment. One consequence is that many employees experience job lock, remaining in jobs just to keep their health insurance.

H.R. 3103 addresses this problem in several ways. This bill allows individuals to purchase tax-free medical savings accounts [MSA's], which allow people to contribute to their own health care savings fund. Under MSA's, people could confine health insurance to catastrophic coverage, reduce their monthly insurance premiums and make deposits to a MSA instead. Insurance would be used to pay for expensive and infrequent treatments, while MSA funds would be used to pay small bills covering routine medical services. Moreover, these accounts would be portable so that if one person moves to another job or loses their job, health coverage would not end. MSA's would make it easier for employees to pay premiums during unemployment or job transition. Since workers are spending their own money, MSA's also would restrain health care spending by empowering consumers to make cost-conscious purchasing decisions.

This legislation also provides portability for persons moving from one employer group health plan to another. Under this bill, when a person is covered by an employer health plan, the plan cannot refuse to cover a preexisting condition for more than 12 months. However, individuals changing jobs would receive credit for periods of continuous health care coverage under their previous employer's group health plan. So if a person has employer-sponsored health coverage for at least 12 months and switches to another employer who provides health benefits, no preexisting condition exclusion will be allowed.

The Health Coverage Availability and Affordability Act also allows small employers to band together in associations to form multiple employer groups that could fully-insure or self-insure. Under current law, large businesses are allowed to buy health insurance under a different set of rules than small business. Large, self-insured businesses are exempted from State law in their health plans while small businesses are stuck with State mandates, premium taxes, and other forms of regulation. This inequity between big business and small business in large part explains why the premiums of corporate America are going down while small business premiums are going up.

In addition, this legislation seeks to provide a greater incentive for the self-employed of this country to purchase health insurance by raising the amount they can deduct for health care costs from 30 percent to 50 percent by the year 2003. One of the major problems facing small business is the high cost of health insurance. There are nearly 3 million self-employed Americans without health insurance. If this group of business owners were given a greater deduction, many of these uninsured would purchase insurance, substantially reducing the number of uninsured Americans.

Mr. Chairman, H.R. 3103 encompasses measures that will enhance the current market system and make health insurance accessible and affordable for millions of Americans, and I strongly support its passage.

Mr. KOLBE. Mr. Speaker, I have heard from a number of my constituents from Tucson, some healthy, some with diabetes, multiple sclerosis, or asthma, and many who have a child that has health problems. It is for these people that we will vote on reform of the health insurance market.

Our current health insurance market provides too little protection for individuals and families with significant health problems and makes it to difficult for employers—particularly small employers—to obtain adequate health coverage for their employees.

Mr. Speaker we need to ask ourselves what will the health Care Availability and Affordability Act do for the American people:

The bill will allow workers to move from job to job.

The bill will allow workers who lose their job to maintain their health care insurance, and

The bill will allow workers to maintain their health care insurance if they move to a company that does not offer health care services.

What will the Health Care Availability and Affordability Act do for business community:

The bill will allow small business to join together under the auspices of ERISA to purchase insurance coverage or to cover their employees under self-insured multiple employer health plans.

Mr. Speaker, it is obvious how this will help the American people. Smaller companies will have the opportunities to pool together to purchase health care insurance, therefore, increasing the access of health care services to small business employees while reducing the cost of insurance premiums. It put small and large business in the same playing field.

Mr. Speaker, the Health Care Availability and Affordability Act, in addition to making health insurance more available and portable, addresses a even more pressing issue the affordability of health care services.

The bill will raise the health insurance deductible percent age from 30 to 50 percent for the self-employed.

The bill will allow individuals to include long-term care services as part of their health care expenditures Federal income tax deduction, and most importantly the bill will allow individuals covered by a high deductible health insurance plan or their employer to make a tax deductible contribution to a medicare savings account.

Mr. Speaker, the working families of this country have demanded changes to the health insurance market, and we have provided the mechanism, in the Health Care Availability and Affordability Act, that will give the American people what they need.

Mr. Speaker I urge my colleagues to join me in voting "aye" on the Health Care Availability and Affordability Act.

The SPEAKER pro tempore (Mr. COMBEST). All time for debate has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, as the designee of the minority leader, under the rule, and on behalf of myself and my two colleagues, the gentleman from South Carolina [Mr. SPRATT] and the gentleman from Texas [Mr. BENTSEN], I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. DINGELL:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Insurance Reform Act of 1996".

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

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Sec. 110. Individual health plan portability.
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SUBTITLE C—COBRA CLARIFICATIONS

Sec. 121. Cobra clarification.

SUBTITLE D—PRIVATE HEALTH PLAN PURCHASING COOPERATIVES

Sec. 131. Private health plan purchasing cooperatives.

SUBTITLE E—APPLICATION AND ENFORCEMENT OF STANDARDS

Sec. 141. Applicability.
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SUBTITLE F—MISCELLANEOUS PROVISIONS

Sec. 191. Health coverage availability study.
Sec. 192. Effective date.
Sec. 193. Severability.

SEC. 100. DEFINITIONS.

As used in this title:

(1) BENEFICIARY.—The term "beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(2) EMPLOYEE.—The term "employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) EMPLOYER.—The term "employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(4) EMPLOYEE HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term "employee health benefit plan" means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))) that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

(C) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(5) FAMILY.—

(A) IN GENERAL.—The term "family" means an individual, the individual's spouse, and the child of the individual (if any).

(B) CHILD.—For purposes of subparagraph (A), the term "child" means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

(6) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term "group health plan" means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(B) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof;

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(7) GROUP PURCHASER.—The term "group purchaser" means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan. A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

(8) HEALTH PLAN ISSUER.—The term "health plan issuer" means any entity that is licensed (prior to or after the date of enactment of this Act) by a State to offer a group health plan or an individual health plan.

(9) HEALTH STATUS.—The term "health status" includes. with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

(10) PARTICIPANT.—The term "participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(11) PLAN SPONSOR.—The term "plan sponsor" has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

(12) SECRETARY.—The term "Secretary", unless specifically provided otherwise, means the Secretary of Labor.

(13) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subtitle A—Group Market Rules

SECTION 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE.

In General.—

(1) NONDISCRIMINATION.—Except as provided in subsection (b), section 102 and section 103—

(A) a health plan issuer offering a group health plan may not decline to offer whole group coverage to a group purchaser desiring to purchase such coverage; and

(B) an employee health benefit plan or a health plan issuer offering a group health plan may establish eligibility, continuation of eligibility, enrollment, or premium; contribution requirements under the terms of such plan, except that such requirements shall not be based on health status (as defined in section 100(9)).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall prevent an employee health benefit plan or a health plan issuer from establishing premiums; discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(b) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered participants and beneficiaries (and additional participants and beneficiaries who will be expected to enroll because of their affiliation with a group purchaser or such previously covered participants or beneficiaries) will be impaired if the health plan issuer is required to offer coverage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(e) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to actively market such plans.

(2) INVOLUNTARY OFFERING OF GROUP HEALTH PLANS.—Nothing is this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a particular market. For the purposes of this paragraph, the term "market" means either the large employer market or the small employer market (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees).

SEC. 102. GUARANTEED RENEWABILITY OF HEALTH COVERAGE.

(A) IN GENERAL.—

(1) GROUP PURCHASER.—Subject to subsections (b) and (c), a group health plan shall be renewed or continued in force by a health plan issuer at the option of the group purchaser, except that the requirement of this subparagraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the group purchaser in accordance with the terms of the group health plan or where the health plan issuer has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the group purchaser;

(C) the termination of the group health plan in accordance with subsection (b); or

(D) the failure of the group purchaser to meet contribution or participation requirements in accordance with paragraph (3).

(2) PARTICIPANT.—Subject to subsections (b) and (c), coverage under an employee health benefit plan or group health plan shall be renewed or continued in force, if the group purchaser elects to continue to provide coverage under such plan, at the option of the participant (or beneficiary where such right exists under the terms of the plan or under applicable law), except that the requirement of this paragraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the participant or beneficiary in accordance with the terms of the employee health benefit plan or group health plan or where such plan has not received timely premium payments.

(B) fraud or misrepresentation of material fact on the part of the participant or beneficiary relating to an application for coverage or claim for benefits;

(C) the termination of the employee health benefit plan or group health plan;

(D) loss of eligibility for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.); or

(E) failure of a participant or beneficiary to meet requirements for eligibility for coverage under an employee health benefit plan or group health plan that are not prohibited by this title.

(3) RULES OF CONSTRUCTION.—Nothing in this subsection, nor in section 101(a), shall be construed to—

(A) preclude a health plan issuer from establishing employer contribution rules or group participation rules for group health plans as allowed under applicable State law;

(B) preclude a plan defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(37)) from establishing employer contribution rules or group participation rules; or

(C) permit individuals to decline coverage under an employee health benefit plan if such right is not otherwise available under such plan.

(b) TERMINATION OF GROUP HEALTH PLANS.—

(1) PARTICULAR TYPE OF GROUP HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of group health plan. A group health plan of such type may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each group purchaser covered under a group health plan of this type (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 90 days prior to the date of the discontinuation of such plan;

(B) the health plan issuer offers to each group purchaser covered under a group health plan of this type, the option to purchase any other group health plan currently being offered by the health plan issuer; and

(C) in exercising the option to discontinue a group health plan of this type and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of participants or beneficiaries covered under the group health plan, or new participants or beneficiaries who may become eligible for coverage under the group health plan.

(2) DISCONTINUANCE OF ALL GROUP HEALTH PLANS.—

(A) IN GENERAL.—In any case in which a health plan issuer elects to discontinue offering all group health plans in a State, a group health plan may be discontinued by the health plan issuer only if—

(i) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each group purchaser (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 180 days prior to the date of the expiration of such plan, and

(ii) all group health plans issued or delivered for issuance in the State or discontinued and coverage under such plans is not renewed.

(B) APPLICATION OF PROVISIONS.—The provisions of this paragraph and paragraph (3) may be applied separately by a health plan issuer—

(i) to all group health plans offered to small employers (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees); or

(ii) to all other group health plans offered by the health plan issuer in the State.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any group health plan in the market sector (as described in paragraph (2)(B)) in which issuance of such group health plan was discontinued in the State involved during the 5-year period beginning on the date of the discontinuation of the last group health plan not so renewed.

TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A network plan (as defined in paragraph (2)) may deny continued participation under such plan to participants or beneficiaries who neither live, reside, nor work in an area in which such network plan is offered, but only if such denial is applied uniformly, without regard to health status of particular participants or beneficiaries.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an employee health benefit plan or a group health plan that arranges for the financing and delivery of health care services to participants or beneficiaries covered under such plan, in whole or in part, through arrangements with providers.

(d) COBRA COVERAGE.—Nothing in subsection (a)(2)(E) or subsection (c) shall be construed to affect any right to COBRA continuation coverage as described in part 6 of subtitle B of title I of the employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to treatment of a preexisting condition based on the fact that the condition existed prior to the coverage of the participant or beneficiary under the plan only if—

(1) the limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan;

(2) the limitation or exclusion does not apply to an individual who, within 30 days of the date of birth or placement for adoption (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(c)(3)(B)), was covered under the plan; and

(3) the limitation or exclusion does not apply to a pregnancy.

(b) CREDITING OF PREVIOUS QUALIFYING COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in the period of previous qualifying coverage. With respect to an individual described in subsection (a)(2) who maintains continuous coverage, no limitation or exclusion of benefits relating to treatment of a preexisting condition may be applied to a child within the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) DISCHARGE OF DUTY.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries who coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary, the duty of an employee health benefit plan to verify previous qualifying coverage with respect to a participant or beneficiary is effectively discharged when such employee health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(A) the dates that the participant or beneficiary was covered under the plan; and

(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a second copy of such documentation or such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) DEFINITIONS.—As used in this section:

(A) PREVIOUS QUALIFYING COVERAGE.—The term "previous qualifying coverage" means the period beginning on the date—

(i) a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) an individual is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established under Federal or State law, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) LIMITATION OR EXCLUSION OF BENEFITS RELATING TO TREATMENT OF A PREEXISTING CONDITION.—The term "limitation or exclusion of benefits relating to treatment of a preexisting condition" means a limitation or exclusion of benefits imposed on an individual based on a preexisting condition of such individual.

(4) EFFECT OF PREVIOUS COVERAGE.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a)(1), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved.

(c) LATE ENROLLEES.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or group health plan during a time that is other than the first opportunity to enroll during an enrollment period of at least 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsection (a) and (b) may be excluded except the period of such exclusion may not exceed 18 months beginning on the date of coverage under the plan.

(d) AFFILIATION PERIODS.—With respect to a participant or beneficiary who would otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a late participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the plan. An employee health benefit plan or a health plan issuer offering a group health plan may also use alternative methods to address adverse section as approved by the applicable certifying authority (as defined in section 142(d)). During such an affiliation period, the plan may not be required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(e) PREEXISTING CONDITIONS.—For purposes of this section, the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(f) STATE FLEXIBILITY.—Nothing in this section shall be construed to preempt State laws that—

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are shorter than those provided for under this section; or

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3);

unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 104. SPECIAL ENROLLMENT PERIODS.

In the case of a participant, beneficiary or family member who—

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status, as described in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), that causes the loss of eligibility for coverage, other than COBRA continuation coverage under a group health plan, individual health plan, or employee health benefit plan; or

(3) experiences a loss of eligibility under a group health plan, individual health plan, or employee health benefit plan because of a change in the employment status of a family member;

each employee health benefit plan and each group health plan shall provide for a special enrollment period extending for a reasonable time after such event that would permit the participant to change the individual or family basis of coverage or to enroll in the plan if coverage would have been available to such individual, participant, or beneficiary but for failure to enroll during a previous enrollment period. Such a special enrollment period shall ensure that a child born or placed for adoption shall be deemed to be covered under the plan as of the date of such birth or placement for adoption if such child is enrolled within 30 days of the date of such birth or placement for adoption.

SEC. 105. DISCLOSURE OF INFORMATION.

(a) DISCLOSURE OF INFORMATION BY HEALTH PLAN ISSUER.—

(1) IN GENERAL.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(A) the provisions of such group health plan concerning the health plan issuer's right to change premium rates and the factors that may affect changes in premium rates.

(B) the provisions of such group health plan relating to renewability of coverage;

(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) EXCEPTION.—With respect to the requirement of paragraph (1), any information that is proprietary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to preempt State reporting and disclosure requirements to the extent that such requirements are not preempted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking "102(a)(1)," and inserting "102(a)(1) that is not a material reduction in covered services or benefits provided,"; and

(B) by adding at the end thereof the following new sentences: "If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, a summary description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.".

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting "including the office or title of the individual who is responsible for approving or denying claims for coverage of benefits" after "type of administration of the plan";

(B) by inserting "including the name of the organization responsible for financing claims" after "source of financing of the plan"; and

(C) by inserting "including the office, contact, or title of the individual at the Department of Labor through which participants may seek assistance or information regarding their rights under this Act and title I of the Health Insurance Reform Act of 1996 with respect to health benefits that are not offered through a group health plan." after "benefits under the plan".

Subtitle B—Individual Market Rules

SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.

(a) LIMITATION ON REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsections (b) and (c), a health plan issuer described in paragraph (3) may not, with respect to an eligible individual (as defined in subsection (b)) desiring to enroll in an individual health plan—

(A) decline to offer coverage to such individual, or deny enrollment to such individual based on the health status of the individual; or

(B) impose a limitation or exclusion of benefits otherwise covered under the plan for the individual based on a preexisting condition unless such limitation or exclusion could have been imposed if the individual remained covered under a group health plan or employee health benefit plan (including providing credit for previous coverage in the manner provided under subtitle A).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall be construed to prevent a health plan issuer offering an individual health plan from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion or disease prevention.

(3) HEALTH PLAN ISSUER.—A health plan issuer described in this paragraph in a health plan issuer that issues or renews individual health plans.

(4) PREMIUMS.—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount of the premium payable under an individual health plan under applicable State law.

(b) DEFINITION OF ELIGIBLE INDIVIDUAL.—As used in subsection (a)(1), the term "eligible individual" means an individual who—

(1) was a participant or beneficiary enrolled under one or more group health plans, employee health benefit plans, or public plans established under Federal or State law, for not less than 18 months (without a lapse in coverage of more than 30 consecutive days) immediately prior to the date on which the individual desired to enroll in the individual health plan.

(2) is not eligible for coverage under a group health plan or an employee health benefit plan;

(3) has not had coverage terminated under a group health plan or employee health benefit plan for failure to make required premium payments or contributions, or for fraud or misrepresentation of material fact; and

(4) has, if applicable, accepted and exhausted the maximum required period of continuous coverage as described in section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) or under an equivalent State program.

(c) APPLICABLE OF CAPACITY LIMIT.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering coverage to individuals under an individual health plan may cease enrolling individuals under the plan if—

(A) the health plan issuer ceases to enroll any new individuals; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered individuals will be impaired if the health plan issuer is required to enroll additional individuals.

Such a health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(d) MARKET REQUIREMENT.—

(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) CONVERSION POLICIES.—A health plan issuer offering group health plans to group purchasers under this title shall not be deemed to be a health plan issuer offering an individual health plan solely because such health plan issuer offers a conversion policy.

(3) MARKETING OF PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.

(a) IN GENERAL.—Subject to subsections (b) and (c), coverage for individuals under an individual health plan shall be renewed or continued in force by a health plan issuer at the option of the individual, except that the requirement of this subsection shall not apply in the case of—

(1) the nonpayment of premiums or contributions by the individual in accordance with the terms of the individual health plan or where the health plan issuer has not received timely premium payments;

(2) fraud or misrepresentation of material fact on the part of the individual; or

(3) the termination of the individual health plan in accordance with subsection (b).

(b) TERMINATION OF INDIVIDUAL HEALTH PLANS.—

(1) PARTICULAR TYPE OF INDIVIDUAL HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of individual health plan to individuals, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the expiration of the plan.

(B) the health plan issuer offers to each individual covered under the plan the option to purchase any other individual health plan currently being offered by the health plan issuer to individuals; and

(C) in exercising the option to discontinue the individual health plan and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of particular individuals.

(21) DISCONTINUANCE OF ALL INDIVIDUAL HEALTH PLANS.—In any case in which a health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each individual covered under the plan of such discontinuation at least 180 days prior to the date of the discontinuation of the plan; and

(B) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A health plan issuer which offers a network plan (as defined in paragraph (2)) may deny continued participation under the plan to individuals who neither live, reside, nor work in an area in which the individual health plan is offered, but only if such denial is applied uniformly, without regard to health status of particular individuals.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an individual health plan that arranges for the financing and delivery of health care services to individuals covered under such health plan, in whole or in part, through arrangements with providers.

SEC. 112. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

(a) IN GENERAL.—With respect to any State law with respect to which the Governor of the State notifies the Secretary of Health and Human Services that such State law will achieve the goals of sections 110 and 111, and that is in effect on, or enacted after, the date of enactment of this Act (such as laws providing for guaranteed issue, open enrollment by one or more health plan issuers, high-risk pools, or mandatory conversion policies), such State law shall apply in lieu of the standards described in sections 110 and 111 unless the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing access to affordable health care coverage for those individuals described in sections 110 and 111.

(b) DETERMINATION.—

(1) IN GENERAL.—In making a determination under subsection (a), the Secretary of Health and Human Services shall only—

(A) evaluate whether the State law or program provides guaranteed access to affordable coverage to individuals described in sections 110 and 111;

(B) evaluate whether the State law or program provides coverage for preexisting conditions (as defined in section 103(e)) that were covered under the individuals' previous group health plan or employee health benefit plan for individuals described in sections 110 and 111.

(C) evaluate whether the State law or program provides individuals_described in sections 110 and 111 with a choice of health plans or a health plan providing comprehensive coverage, and

(D) evaluate whether the application of the standards described in sections 110 and 111 will have an adverse impact on the number of individuals in such State having access to affordable coverage.

(2) NOTICE OF INTENT.—If, within 6 months after the date of enactment of this Act, the Governor of a State notifies the Secretary of Health and Human Services that the State intends to enact a law, or modify an existing law, described in subsection (a), the Secretary of Health and Human Services may not make a determination under such subsection until the expiration of the 12-month period beginning on the date on which such notification is made, or until January 1, 1998, whichever is later. With respect to a State that provides notice under this paragraph and that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act, the Secretary shall not make a determination under subsection (a) prior to January 1, 1998.

(3) NOTICE TO STATE.—If the Secretary of Health and Human Services determines that a State law or program does not achieve the goals described in subsection (a), the Secretary of Health and Human Services shall provide the State with adequate notice and reasonable opportunity to modify such law or program to achieve such goals prior to making a final determination under subsection (a).

(c) ADOPTION OF NAIC MODEL.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the "NAIC"), through a process which the Secretary of Health and Human Services determines has included consultation with representatives of the insurance industry and consumer groups, adopts a model standard or standards for reform of the individual health insurance market, and

(2) the Secretary of Health and Human Services determines, within 30 days of the adoption of such NAIC standard or standards, that such standards comply with the goals of sections 110 and 111: a State that elects to adopt such model standards or substantially adopt such model standards shall be deemed to have met the requirements of sections 110 and 111 and shall be subject to a determination under subsection (a).

SEC. 113. DEFINITION.

(a) IN GENERAL.—As used this title, the term "individual health plan" means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(1) Coverage only for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers' compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital of fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) PUBLIC HEALTH SERVICE ACT.—

(1) PERIOD OF COVERAGE.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb–2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(II) by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996", and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title",

(2) ELECTION.—Section 2205(1)(C) of the Public Health Service Act (42 U.S.C. 300bb–5(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof.

(B) in clause (ii), by striking the period and inserting ", or", and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 2202(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb–6(3)) is amended by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb–8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this title.".

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) PERIOD OF COVERAGE.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by inserting ", or a beneficiary-family member of the individual." after "an individual"; and

(ii) by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part",

(B) in subparagraph (D)(i), by inserting before, ", or" the following ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(2) ELECTION.—Section 605(1)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof;

(B) in clause (ii), by striking the period and inserting ", or"; and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 602(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.".

(c) INTERNAL REVENUE CODE OF 1986.—

(1) PERIOD OF COVERAGE.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i) by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(B) in clause (iv)(I), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this subclause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this subsection because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in clause (v), by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(2) ELECTION.—Section 4980B(f)(5)(A)(ii) of the Internal Revenue Code of 1986 is amended—

(A) in subclause (I), by striking "or" at the end thereof;

(B) in subclause (II), by striking the period and inserting ", or", and

(C) by adding at the end thereof the following new subclause:

"(III) in the case of an qualified beneficiary described in the last sentence of paragraph (2)(B)(i), the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring on or after the date of enactment of this Act for plan years beginning after December 31, 1997.

(e) NOTIFICATION OF CHANGES.—Not later than 60 days prior to the date on which this section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

Subtitle D—Private Health Plan Purchasing Cooperatives

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) DEFINITION.—As used in this title, the term "health plan purchasing cooperative" means a group of individuals or employers that, on a voluntary basis and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of insurance may not underwrite a cooperative.

(b) CERTIFICATION.—

(1) IN GENERAL.—If a group described in subsection (a) desires to form a health plan purchasing cooperative in accordance with this section and such group appropriately notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, shall certify the group as a health plan purchasing cooperative. The State shall make a determination of whether such group meets the requirements of this section in a timely fashion. Each such cooperative shall also be registered with the Secretary.

(2) STATE REFUSAL TO CERTIFY.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this title, the Secretary shall certify and oversee the operations of such cooperative in such State.

(3) INTERSTATE COOPERATIVES.—For purposes of this section a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of certifying and overseeing the operation of such cooperatives. For purposes of this subsection, a cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each health plan purchasing cooperative shall be governed by a Board of Directors that shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a board cross-section of representatives of employers, employees, and individuals participating in the cooperative. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of individual health plans or group health plans may not hold or control any right to vote with respect to a cooperative.

(2) LIMITATION ON COMPENSATION.—A health plan purchasing cooperative may not provide compensation to members of the Board of Directors. The cooperative may provide reimbursements to such members for the reasonable and necessary expenses incurred by the members in the performance of their duties as members of the Board.

(3) CONFLICT OF INTEREST.—No member of the Board of Directors (or family members of such members) nor any management personnel of the cooperative may be employed by, be a consultant of, be a member of the board of directors or, be affiliated with an agent of, or otherwise be a representative of any health plan issuer, health care provider, or agent or broker. Nothing in the preceding sentence shall limit a member of the Board from purchasing coverage offered through the cooperative.

(d) MEMBERSHIP AND MARKETING AREA.—

(1) MEMBERSHIP.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members of the cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as members on a first-come, first-served basis, or on another basis established by the State to ensure equitable access to the cooperative.

(2) MARKETING AREA.—A State may establish rules regarding the geographic area that must be served by a health plan purchasing cooperative. With respect to a State that has not established such rules, a health plan purchasing cooperative operating in the State shall define the boundaries of the area to be served by the cooperative, except that such boundaries may not be established on the basis of health status of the populations that reside in the area.

(e) DUTIES AND RESPONSIBILITIES.—

(1) IN GENERAL.—A health plan purchasing cooperative shall—

(A) enter into agreements with multiple, unaffiliated health plan issuers, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible.

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State.

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and individual health plans offered through the cooperative);

(E) actively market to all eligible employers and individuals residing within the service area; and

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) PERMISSIBLE ACTIVITIES.—A health plan purchasing cooperative may perform such other functions as necessary to further the purposes of this title, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits directly to participants and beneficiaries only for the purpose of negotiating with providers, and

(E) negotiating with health care providers and health plan issuers.

(f) LIMITATIONS ON COOPERATIVE ACTIVITIES.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plan issuers.

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements for participants, beneficiaries, or individuals based on health status;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization—

(A) in which membership in such organization is not based on health status; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of and employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this title.

(g) LIMITED PREEMPTIONS OF CERTAIN STATE LAWS.—

(1) IN GENERAL.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) HEALTH PLAN ISSUERS.—

(A) RATING.—With respect to a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative that meets the requirements of this section. State premium rating requirement laws, except to the extent provided under subparagraph (B), shall be preempted unless such laws permit premium rates negotiated by the cooperative to be less than rates that would otherwise be permitted under State law, if such rating differential is not based on differences in health status or demographic factors.

(B) EXCEPTION.—State laws referred to in subparagraph (A) shall not be preempted if such laws—

(i) prohibit the variance of premium rates among employers, plan sponsors, or individuals that are members of health plan purchasing cooperative in excess of the amount of such variations that would be permitted under such State rating laws among employers, plan sponsors, and individuals that are not members of the cooperative; and

(ii) prohibit a percentage increase in premium rates for a new rating period that is in excess of that which would be permitted under State rating laws.

(C) BENEFITS.—Except as provided in subparagraph (D), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative shall comply with all State mandated benefit laws that require the offering of any services, category or care, or services of any class or type of provider.

(D) EXCEPTION.—In those states that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(h) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives.

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State.

(5) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employee health benefits plans, or

(6) confer authority up a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, or other similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section.

(i) APPLICATION OF ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) shall apply to a health pan purchasing cooperative as if such plan were an employee welfare benefit plan.

Subtitle E—Application and Enforcement of Standards

SEC. 141. APPLICABILITY.

(A) CONSTRUCTION.—

(1) ENFORCEMENT.—

(A) IN GENERAL.—A requirement or standard imposed under this title on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this title. In the case of a group health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements of standards imposed under the title shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official of officials designated by the State to enforce the requirements of this title.

(B) LIMITATION.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this title as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a Sate enforce the requirements or standards of this title as they relate to employee health benefit plans.

(2) PREEMPTION OF STATE LAW.—Nothing in this title shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) not prescribed in this title; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements, that are consistent with, and are not in direct conflict with, this title and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) CONTINUATION.—Nothing in this title shall be construed as requiring a group health plan or an employee health benefit plan to provide benefits to a particular participant or beneficiary in excess of those provided under the terms of such plan.

SEC. 202. ENFORCEMENT OF STANDARDS.

(a) HEALTH PLAN ISSUERS.—Each State shall require that each group health plan and individual health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this title pursuant to an enforcement plan filed by the State with the Secretary. A State shall submit such information as required by the Secretary demonstrating effective implementation of the State enforcement law.

(b) EMPLOYEE HEALTH BENEFIT PLANS.—With respect to employee health benefit plans, the Secretary shall enforce the reform standards established under this title in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) FAILURE TO IMPLEMENT PLAN.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this title with respect to group health plans and individual health plans as provided for under the State enforcement plan filed under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall implement an enforcement plan meeting the standards of this title in such State. In the case of a State that fails to substantially enforce the standards and requirements set forth in this title, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) APPLICABLE CERTIFYING AUTHORITY.—As used in this title, the term "applicable certifying authority"means, with respect to—

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved; and

(2) an employee health benefit, plan, the Secretary.

(e) REGULATIONS.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this title.

(f) TECHNICAL AMENDMENT.—Section 508 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1138) is amended by inserting "and under the Health Insurance Reform Act of 1996" before the period.

Subtitle F—Miscellaneous Provisions

SEC. 191. HEALTH COVERAGE AVAILABILITY STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretary, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits, shall conclude a two-part study, and prepare and submit reports, in accordance with this section.

(b) EVALUATION OF AVAILABILITY.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation, based on the experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of reasonably priced health coverage to employers purchasing group coverage and to individuals purchasing coverage on a nongroup basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) EVALUATION OF EFFECTIVENESS.—Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of the provisions of this Act and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a nongroup basis.

SEC. 192. EFFECTIVE DATE.

Except as otherwise provided for in this title, the provisions of this title shall apply as follows:

(1) With respect to group health plans and individual health plans, such provisions shall

apply to plans offered, sold, issued, renewed, in effect, or operated on or after January 1, 1997, and

(2) With respect to employee health benefit plans, on the first day of the first plan year beginning on or after January 1, 1997.

SEC. 193. SEVERABILITY.

If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE II—INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

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Sec. 231. Repeal of bad debt reserve method for thrift savings associations.

SEC. 200. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Increase in Deduction For Health Insurance Costs of Self-Employed Individuals

SEC. 201. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) is amended to read as follows:

"(1) ALLOWANCE OF DEDUCTION.—

"(A) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined under the following table:

"For taxable years beginning in calendar year—	The applicable percentage is—
After 1996 and before 2002	50 percent.
2002 or thereafter	80 percent."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Revenue Offsets

CHAPTER 1—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

SEC. 211. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsection (f), all property of a covered expatriate to which this section applies shall be treated as sold on the expatriation date for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

"(3) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

"(A) IN GENERAL.—If an expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph) shall not apply to the expatriate, but

"(ii) the expatriate shall be subject to tax under this title, with respect to property to which this section would apply but for such election, in the same manner as if the individual were a United States citizen.

"(B) LIMITATION ON AMOUNT OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of paragraph (2)).

"(c) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(D) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) ELECTION TO DEFER TAX.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property—

"(A) no amount shall be required to be included in gross income under subsection (a)(1) with respect to the gain for such property for the taxable year of the sale, but

"(B) the taxpayer's tax for the taxable year in which such property is disposed of shall be increased by the deferred tax amount with respect to the property.

Except to the extent provided in regulations, subparagraph (B) shall apply to a disposition whether or not gain or loss is recognized in whole or in part on the disposition.

"(2) DEFERRED TAX AMOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'deferred tax amount' means, with respect to any property, an amount equal to the sum of—

"(i) the difference between the amount of tax paid for the taxable year described in paragraph (1)(A) and the amount which would have been paid for such taxable year if the election under paragraph (1) had not applied to such property, plus

"(ii) an amount of interest on the amount described in clause (i) determined for the period—

"(I) beginning on the 91st day after the expatriation date, and

"(II) ending on the due date for the taxable year described in paragraph (1)(B),

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

For purposes of clause (ii), the due date is the date prescribed by law (determined without regard to extension) for filing the return of the tax imposed by this chapter for the taxable year.

"(B) ALLOCATION OF LOSSES.—For purposes of subparagraph (A), any losses described in subsection (a)(2)(B) shall be allocated ratably among the gains described in subsection (a)(2)(A).

"(3) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

"(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2)(A) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(4) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(5) DISPOSITIONS.—For purposes of this subsection, a taxpayer making an election under this subsection with respect to any property shall be treated as having disposed of such property—

"(A) immediately before death if such property is held at such time, and

"(B) at any time the security provided with respect to the property fails to meet the requirements of paragraph (3) and the taxpayer does not correct such failure within the time specified by the Secretary.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(c) COVERED EXPATRIATE.—For purposes of this section—

"(1) IN GENERAL.—The term 'covered expatriate' means an expatriate—

"(A) whose average annual net income tax (as defined in section 38(c)(1)) for the period of 5 taxable years ending before the expatriation date is greater than $100,000, or

"(B) whose net worth as of such date is $500,000 or more.

If the expatriation date is after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1995' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has been a resident of the United Stats (as defined in section 7701(b)(1)(A)(ii)) for not more than 8 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) PROPERTY TO WHICH SECTION APPLIES.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided by the Secretary, this section shall apply to—

"(A) any interest in property held by a covered expatriate on the expatriation date the gain from which would be included in the gross income of the expatriate if such interest had been sold for its fair market value on such data in a transaction in which gain is recognized in whole or in part, and

"(B) any other interest in a trust to which subsection (f) applies.

"(2) EXCEPTIONS.—This section shall not apply to the following property:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

"(B) INTEREST IN CERTAIN RETIREMENT PLANS.—

"(i) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

"(ii) FOREIGN PENSION PLANS.—

"(I) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(II) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes his citizenship, or

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

"(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)).

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)).

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—

"(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the expatriation date occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year in which the expatriation date occurs, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

"(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest in an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust in the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULE.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(I) which is organized under, and governed by, the laws of the United States or a State, and

"(II) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1)—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

"(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

"(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3).

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) to prevent double taxation by ensuring that—

"(A) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (a)(3), and

"(B) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(3)(B)(i), and

"(2) which provide for the proper allocation of the exclusion under subsection (a)(3) to property to which this section applies.

"(k) CROSS REFERENCE.—

"For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).".

(b) INCLUSION IN INCOME OF GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatristion date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.".

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).".

(d) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995.".

(2) Section 2107(c) is amended by adding at the end the following new paragraph:

"(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i).".

(3) Section 2501(a)(3) is amended by adding at the end the following new flush sentence: "For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i).".

(4) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added

by subsection (b)) shall apply to amounts received from expatriates (as so defined) whose expatriation date (as so defined) occurs on and after February 6, 1995.

(3) SPECIAL RULES RELATING TO CERTAIN ACTS OCCURRING BEFORE FEBRUARY 6, 1995.—In the case of an individual who took an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)-(4)) before February 6, 1995, but whose expatriation date (as so defined) occurs after February 6, 1995—

(A) the amendment made by subsection (c) shall not apply,

(B) the amendment made by subsection (d)(1) shall not apply for any period prior to the expatriation date, and

(C) the other amendments made by this section shall apply as of the expatriation date.

(4) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 212. INFORMATION ON INDIVIDUALS EXPATRIATING.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIATING.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any expatriate (within the meaning of section 877A(e)(1)) shall provide a statement which includes the information described in subsection (b).

"(2) TIMING.—

"(A) CITIZENS.—In the case of an expatriate described in section 877(e)(1)(A), such statement shall be—

"(i) provided not later than the expatriation date (within the meaning of section 877A(e)(2)), and

"(ii) provided to the person or court referred to in section 877A(e)(3).

"(B) NONCITIZENS.—In the case of an expatriate described in section 877A(e)(1)(B), such statement shall be provided to the Secretary with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at lease the dollar amount applicable under section 877A(c)(1)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the additional tax required to be paid under section 877A for such year, or

"(2) $1,000, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(d) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual relinquishing United States citizenship (within the meaning of section 877A(e)(3)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

"(e) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if the Secretary determines that applying this section to such individuals is not necessary to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Information on individuals expatriating.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals to whom section 877A of the Internal Revenue Code of 1986 applies and whose expatriation date (as defined in section 877A(e)(2)) occurs on or after February 6, 1995, except that no statement shall be required by such amendments before the 90th day after the date of the enactment of this Act.

CHAPTER 2—FOREIGN TRUST TAX COMPLIANCE

SEC. 221. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identify of the trust and of each trustee and beneficiary or class of beneficiaries) of the trust.

"(3) REPORTABLE EVENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) EXCEPTIONS.—

"(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) DEFERRED COMPENSATION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 402(b), 404(a)(4), or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust.

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

"(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

"(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary.

"(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) Other rules to apply.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) Reporting by United States Beneficiaries of Foreign Trusts.—

"(1) In general.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) Inclusion in income if records not provided.—

"(A) In general.—If applicable records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includable in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceeding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(B) Application of accumulation distribution rules.—For purposes of applying section 668 in a case to which subparagraph (A) applies, the applicable number of years for purposes of section 668(a) shall be ½ of the number of years the trust has been in existence.

"(d) Special Rules.—

"(1) Determination of whether United States person receives distribution.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) Domestic trusts with foreign activities.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) Time and manner of filing information.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) Modification of return requirements.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.".

(b) Increased Penalties.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) Civil Penalty.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information.

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

"(b) Special Rules for Returns Under Section 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) Gross Reportable Amount.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) Reasonable Cause Exception.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) Deficiency Procedures Not To Apply.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).".

(c) Conforming Amendments.—

(1) Paragraph (2) of section 6724(d), as amended by sections 11004 and 11045, is amended by striking "or" at the end of subparagraph (U), by striking the period at the end of subparagraph (V) and inserting ",or", and by inserting after subparagraph (V) the following new subparagraph:

"(W) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).".

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 604 Information with respect to certain foreign trusts.".

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts"

(d) Effective Dates.—

(1) Reportable events.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) Grantor trust reporting.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) Reporting by United States beneficiaries.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 222. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) Treatment of Trust Obligations, Etc.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

"(B) Transfers at fair market value.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.".

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) Certain obligations not taken into account under fair market value exceptions.—

"(A) In general.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) Treatment of principal payments on obligation.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) Persons described.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.".

(b) Exemption of Transfers to Charitable Trusts.—Subsection (a) of section 679 is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)*(3)(B)(ii)".

(c) Other Modifications.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

"(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

"(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) OUTBOUND TRUST MIGRATIONS.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.".

(d) MODIFICATION RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraph:

"(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.".

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 233. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) EXCEPTIONS.—

"(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—Paragraph (1) shall not apply to any trust if—

"(i) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(ii) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying section 1296.

"(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—If—

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.".

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income.".

(c) DISTRIBUTION BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

"(h) DISTRIBUTION BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.".

(2) Section 665 is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effort on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 224. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039F the following new section:

"SEC. 6039G. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning after December 31, 1996, the $10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (B) thereof shall be applied by substituting '1995' for '1992'.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

"(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039F the following new item:

"Sec. 6039G. Notice of large gifts received from foreign persons.".

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 225. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

"(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996.".

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.".

(c) TREATMENT OF LOANS FROM TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title."

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting ", 643(i)." before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

SEC. 226. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust.".

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMETIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.".

(2) PENALTY.—Section 1494 is amended by adding at the end the following new subsection:

"(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491 with respect to a trust, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

CHAPTER 3—REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS

SEC. 231. REPEAL OF BAD DEBT RESERVE METHOD FOR THRIFT SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 593 (relating to reserves for losses on loans) is amended by adding at the end the following new subsections:

"(f) TERMINATION OF RESERVE METHOD.—Subsections (a), (b), (c), and (d) shall not apply to any taxable year beginning after December 31, 1995.

"(g) 6-YEAR SPREAD OF ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any taxpayer who is required by reason of subsection (f) to change its method of computing reserves for bad debts—

"(A) such change shall be treated as a change in a method of accounting,

"(B) such change shall be treated as initiated by the taxpayer and as having been made with the consent of the Secretary, and

"(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481(a)—

"(i) shall be determined by taking into account only applicable excess reserves, and

"(ii) as so determined, shall be taken into account ratably over the 6-taxable year period beginning with the first taxable year beginning after December 31, 1995.

"(2) APPLICABLE EXCESS RESERVES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable excess reserves' means the excess (if any) of—

"(i) the balance of the reserves described in subsection (c)(1) (other than the supplemental reserve) as of the close of the taxpayer's last taxable year beginning before December 31, 1995, over

"(ii) the lesser of—

"(I) the balance of such reserves as of the close of the taxpayer's last taxable year beginning before January 1, 1988, or

"(II) the balance of the reserves described in subclause (I), reduced in the same manner as under section 585(b)(2)(B)(ii) on the basis of the taxable years described in clause (i) and this clause.

"(B) SPECIAL RULE FOR THRIFTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 581) which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995—

"(i) the balance taken into account under subparagraph (A)(ii) shall not be less than the amount which would be the balance of such reserves as of the close of its last taxable year beginning before such date if the additions to such reserves for all taxable years had been determined under section 585(b)(2)(A), and

"(ii) the opening balance of the reserve for bad debts as of the beginning of such first taxable year shall be the balance taken into account under subparagraph (A)(ii) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subsection (e)(1).

"(3) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If, during any taxable year beginning after December 31, 1995, a taxpayer to which paragraph (1) applied is not a bank (as defined in section 581), paragraph (1) shall apply to the reserves described in paragraph (2)(A)(ii) and the supplemental reserve; except that such reserves shall be taken into account ratably over the 6-taxable year period beginning with such taxable year.

"(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

"(A) IN GENERAL.— In the case of a bank which meets the residential loan requirement of subparagraph (B) for the first taxable year beginning after December 31, 1995, or for the following taxable year—

"(i) no adjustment shall be taken into account under paragraph (1) for such taxable year, and

"(ii) such taxable year shall be disregarded in determining—

"(I) whether any other taxable year is a taxable year for which an adjustment is required to be taken into account under paragraph (1), and

"(II) the amount of such adjustment.

"(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph for any taxable year if the principal amount of the residential loans made by the taxpayer during such year is not less than the base amount for such year.

"(C) RESIDENTIAL LOAN.—For purposes of this paragraph, the term 'residential loan' means any loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

"(D) BASE AMOUNT.—For purposes of subparagraph (B), the base amount is the average of the principal amounts of the residential loans made by the taxpayer during the 6 most recent taxable years beginning on or before December 31, 1995. At the election of the taxpayer who made such loans during each of such 6 taxable years, the preceding sentence shall be applied without regard to the taxable year in which such principal amount was the highest and the taxable year in such principal amount was the lowest. Such an election may be made only for the first taxable year beginning after such date, and, if made for such taxable year, shall apply to the succeeding taxable year unless revoked with the consent of the Secretary.

"(E) CONTROLLED GROUPS.—In the case of a taxpayer which is a member of any controlled group of corporations described in section 1563(a)(1), subparagraph (B) shall be applied with respect to such group.

"(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995.

"(A) IN GENERAL.—For purposes of determining the net amount of adjustments referred to in section 585(c)(3)(A)(iii), there shall be taken into account only the excess (if any) of the reserve for bad debts as of the close of the last taxable year before the disqualification year over the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection.

"(B) TREATMENT UNDER ELECTIVE CUTOFF METHOD.—For purposes of applying section 585(c)(4)—

"(i) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

"(ii) no amount shall be includable in gross income by reason of such reduction.

"(6) SUSPENDED RESERVE INCLUDED AS SECTION 381(C) ITEMS.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 381(c).

"(7) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

"(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

"(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spinoffs, and other reorganizations."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence:

"Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995."

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraph (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 291(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking "by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 591(b)" and inserting "by a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows:

(B) then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987).".

(C) Paragraph (1) of section 593(e) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any distribution of all of the stock of a bank (as defined in section 581 to another corporation if, immediately after the distribution, such bank and such other corporation are members of the same affiliated group (as defined in section 1504) and the provisions of section 5(e) of the Federal Deposit Insurance Act (as in effect on December 31, 1995) or similar provisions are in effect.".

(8) Section 595 is hereby repealed.

(9) Section 596 is hereby repealed.

(10) Subsection (a) of section 860E is amended—

(A) by striking "Except as provided in paragraph (2), the" in paragraph (1) and inserting "The".

(B) by striking paragraphs (2) and (4) and redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively, and

(C) by striking in paragraph (2) (as so redesignated) all that follows "subsection" and inserting a period.

(11) Paragraph (3) of section 992(d) is amended by striking "or 593".

(12) Section 1038 is amended by striking subsection (f).

(13) Clause (ii) of section 1042(c)(4)(B) is amended by striking "or 593".

(14) Subsection (c) of section 1277 is amended by striking "or to which section 593 applies".

(15) Subparagraph (B) of section 1361(b)(2) is amended by striking "or to which section 593 applies".

(16) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SUBSECTION (b)(7).—The amendments made by subsection (b)(7) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. DINGELL] and a Member opposed will each control 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DINGELL. Mr. Speaker, I believe I will have the right to close under this as the author of the amendment?

The SPEAKER pro tempore. Who seeks control in opposition?

Mr. THOMAS. Mr. Speaker, I seek to control the time in opposition.

The SPEAKER pro tempore. The Chair would state that because the gentleman from California [Mr. THOMAS] is a member of the Committee on Ways and Means, the gentleman from California would have the right to close.

Mr. DINGELL. Mr. Speaker, further parliamentary inquiry. Is it not the rule that the author of the amendment has the right to close?

The SPEAKER pro tempore. The manager of the bill has the right to close, and the Committee on Ways and Means is the reporting committee on the pending bill.

Mr. DINGELL. That is a rather extraordinary ruling.

PARLIAMENTARY INQUIRY

Mr. THOMAS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. THOMAS. Mr. Speaker, is it rather unusual for the committee that offers the bill on which a Member offers a substitute to the committee bill not to close? Is that a rather unusual ruling, or is that the ordinary rule around this place and has been for years?

The SPEAKER pro tempore. The Chair indicated that the representative of the managing committee would have the right to close.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas [Mr. BENTSEN], a coauthor of the amendment.

Mr. BENTSEN. Mr. Speaker, I thank the gentleman from Michigan for yielding me time.

Mr. Speaker, I am pleased to join with my distinguished colleagues, Mr. DINGELL and Mr. SPRATT, in offering this substitute.

Mr. Speaker, earlier today, my wife called to tell me that our 2-year-old daughter Meredith had gotten hold of her sister's cough medicine. The doctor ordered her to the hospital and my wife rushed her to the emergency room. As I drove to meet her, I was concerned about my daughter, but I didn't worry about the bill. We in Congress have health insurance. Fortunately, Meredith is OK, and we need not worry about how we pay.

That's not the case for the young woman I recently met in my district who could not purchase health insurance because her daughter had a heart condition. Her husband earns too much to be on Medicaid, nor does she want to receive such assistance. She only wants the right to buy health insurance, but her daughter's preexisting heart condition precludes that. The Bentsen-Spratt-Dingell substitute would prohibit discrimination based on such preexisting conditions and ensure that this family could finally provide health care for their child without falling into poverty.

Today, this House has the opportunity to pass simple, straightforward steps that will help millions of Americans like this Channelview, TX, family. If we focus on reforms that have broad, bipartisan support, and put aside for now those proposals that divide us, as this substitute does, we can begin to address the health care fears that weigh ever heavier on the minds of families across this country.

I urge my colleagues to keep in mind the people we are trying to help. Let us remember the 40 million Americans who are without health insurance today, including 4.6 million people in my home State of Texas. That is 1 million more Americans without insurance than when Congress last debated health care 2 years ago. Millions more face becoming uninsured if they lose or change jobs, and others are locked in jobs they do not want because they or a family member have a preexisting condition.

These are the people we must remember as we debate this issue today. That young mother in Channelview needs our help now. She and millions of other Americans do not have the luxury of waiting as we spend months, even years, debating the controversial, untested provisions, such as Medical Savings Accounts, that are in the bill before us. These provisions may even have merit. But they should not be allowed to hold up or kill the commonsense, bipartisan, noncontroversial reforms in our substitute. The American people deserve what we in Congress have, and our substitute provides that.

This substitute tracks the bipartisan Health Insurance Reform Act of 1996 as introduced in the other body by Senators NANCY KASSEBAUM and EDWARD KENNEDY and as filed in the House by our Republican colleague, MARGE ROUKEMA. I want to congratulate my colleague from New Jersey for her leadership on this issue and urge her and others on her side of the aisle to join us in supporting this substitute.

This substitute ends insurance discrimination against people with preexisting health conditions. It guarantees people access to group or individual coverage if they change jobs, lose jobs, or get sick. It helps small businesses to join together and purchase more affordable coverage.

Our substitute makes one major addition to the Roukema bill. It phases in an increase from 30 to 80 percent the amount that self-employed individuals can deduct from their taxes for the cost of health insurance, affording the same treatment to the self-employed as we do to corporations.

Altogether, these reforms will help 28 million Americans to buy and keep health insurance.

Mr. Speaker, I want to underscore the broad consensus for these reforms. Most of us in this body from both sides of the aisle support them. The President supports them. More than 135 organizations representing business, workers, and health care providers support them. These include the American Medical Association, the American Hospital Association, the AFL–CIO, the Independent Insurance Agents, and the National Association of Manufacturers.

We need to remember the lessons learned from Congresses past regarding health care reform. A comprehensive, complicated reform bill is too controversial and cannot be enacted in whole. Instead we should pass this consensus bill of incremental reforms that will bring immediate help to millions of Americans.

But the addition of controversial provisions isn't the only reason we should pass this substitute. The Republican bill also has weaker portability provisions than the substitute and weakens important consumer protections.

The Republican bill weakens the portability provision by limiting group to individual transfer to a single plan. This will ensure that high risk individuals are pooled together and forced to pay exorbitant premiums.

The Republican plan also would limit the number of businesses that could benefit from this plan. The Republican plan only guarantees first-time issuance of insurance for businesses employing between 2 and 50 people. All businesses with more than 51 employees would not be protected.

This bill also would create a new class of insurance with lower capital and solvency requirements, thus increasing risk to the small businesses that purchase from these new plans. It would contradict the McCarran-Ferguson Act, creating federally regulated insurance using lower standards. And it provides a huge loophole for New York and New Jersey, but not the other 48 States.

Finally, the Republican plan would weaken consumer protection laws by eliminating regulations that prohibit the sale of duplicative health insurance policies to senior citizens. Under the bill, insurance companies would be permitted to sell policies that duplicate Medicare benefits and then collect premiums from seniors who already are covered under Medicare. They would pay twice. These plans are currently prohibited and I am concerned that many seniors will not be aware of the risks associated with purchasing such plans.

Mr. Speaker, this is a fairly easy vote. We can vote to increase the economic security of hundreds of millions of Americans who are currently covered by private insurance by passing this amendment and end once and for all insurance discrimination against: people with a preexisting medical condition; people who lose their job but still need health insurance; and small businesses of any size that want to buy safe, sound, and affordable health insurance for their employees.

It is a market-based plan that the American people support, that addresses their real concerns, and that can become a reality tomorrow. The Republican bill fails this test and will take years to even come close to becoming law. My colleagues, tonight let's forget we are Democrats and Republicans for one shining moment of compromise. Let us put victory for the American people and their health security ahead of political victory. Let's do right by the American people and pass the Bentsen-Spratt-Dingell substitute.

Mr. THOMAS. Mr. Speaker, I yield 15 minutes to the gentleman from Virginia [Mr. BLILEY], the chairman of the Committee on Commerce, and ask unanimous consent that he be allowed to allocate said time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. THOMAS. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, the special rule for coordination of long-term care policies has been misinterpreted by some in the administration. I want to clarify that this rule applies to policies that provide health care benefits only for long-term care and similar benefits, such as community-based care, and would not apply to a policy that covers other health care benefits.

Mr. Speaker, we have been hearing for some time that all the Democrats want is Kassebaum. The gentleman from New York said "Let's have 'pure' Kassebaum."

Let me tell you, what you have in front of you is not pure Kassebaum. As you might expect, the Democrats have changed the bill. They have told you they have only added things to it. They said, "We just wanted to help the self-employed more than the Republicans."

You left the self-employed stranded for a whole year in 1994 when you were in the majority. Nice to have you come around and have you helping the self-employed.

If this is supposed to be pure Kassebaum, why don't you include the items on page 105? Title III, miscellaneous provisions. "HMO's allowed to offer plans with deductibles to individuals with medical savings accounts."

Kassebaum includes medical savings accounts and the ability to apply to an HMO to receive benefits while you have a medical savings account. You conveniently left that out. If you want pure Kassebaum, you would have MSA's in the bill.

On page 106, Sense of the Senate. "It is the sense of the Senate that the Congress should take measures to further the purposes of this act, including any necessary changes to the Internal Revenue Code of 1986 to encourage groups and individuals to obtain health coverage and to promote access, equity, portability, affordability, and security of health benefits." That is exactly what the Committee on Ways and Means has done.

The Senate committee cried out in the Kassebaum bill, "We don't have jurisdiction over the Tax Code, but if we did, these are the kinds of things that we would do." And what they asked for, we have included in our bill.

Only one committee has looked at the Kassebaum bill in the Senate. It is not on the floor of the Senate. They did not have jurisdiction over the revenue code. Four committees in the House looked at our bill, and given our distinct and unique jurisdictions, we contributed to and improved this bill. We did exactly what Senator KASSEBAUM asked us to do. We added items that provided and promoted access, equity, portability, affordability and security of health benefits.

Guess what you left in the bill? Notwithstanding all of the protestations on the floor about the Democrats in terms of States rights, and, after all, the Republicans are going to usurp the States rights, take a look at page 91 in the Kassebaum bill.

It says under subtitle D(b), certification, number 2, State refusal to certify. It says, "If a state fails to implement a program for a certifying health plan purchasing cooperative in accordance with the standards under this act, the secretary shall certify and oversee operations of such cooperative's Federal preemption."

Notwithstanding all of your crocodile tears, about "pure" Kassebaum, the Feds have a role in play to your substitution.

I would tell my Republican colleagues, beware: This is not Kansas. This bill is not from Dorothy. It isn't even from Toto. It has been written and comes from the Land of Oz.

□ 2100

Mr. BLILEY. Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I thank the gentleman from Michigan [Mr. DINGELL] for yielding me time to express my strong support for his substitute to H.R. 3103, an omnibus package of health reform proposals.

The Dingell amendment is comprised, essentially, of two items: the so-called Kassebaum-Kennedy-Roukema health insurance reform package and a proposal to allow self-employed individuals to deduct 80 percent of their health insurance premiums, rather than the 30 percent current law allows for.

The difference between this package and H.R. 3103 is this simple: If the House approves the Dingell plan it can be quickly passed by the Senate and signed into law by President Clinton immediately. This will immediately deliver insurance portability; eliminate job lock and give guaranteed insurance to 30 million Americans who presently do not qualify.

H.R. 3103, as brought to the House floor today, cannot.

The Republican leadership's package, which contains several very controversial elements, faces a guaranteed Senate filibuster, or, if it were to ever get that far, a certain veto at the White House.

If you want to vote in support of health insurance reform legislation that will make a real difference in the daily lives of millions of Americans this year, support the Dingell alternative.

Anything else won't survive the legislative process, and is simply a political exercise rather than an attempt to enact commonsense, bipartisan health reforms.

I am very proud to be the House author of the companion bill to the Kassebaum-Kennedy measure, H.R. 2893—which currently has 193 cosponsors—17 Republicans and 176 Democrats—which encompasses precisely the kind of incremental health reforms that the Republicans so strongly advocated in 1993-94 when the 103d Congress was debating President Clinton's massive health care reform plan.

This modest package of insurance reforms would simply make health insurance plans portable for workers leaving one job for another; restrict the ability of insurance carriers to impose pre-existing condition limitations in their policies; and allow small employers to pool together to purchase health benefits for their workers.

A very strong and broad coalition has endorsed the Kassebaum-Roukema legislation including: The National Governors Association; the American Medical Association; the American Hospital Association; the National Association of Manufacturers; the Business Roundtable, and the AFL-CIO—on the Senate side, the U.S. Chamber of Commerce has endorsed the Kassebaum-Kennedy package, too; the Healthcare Leadership Council, and the Independent Insurance Agents Association; and the ERISA Industry Committee [ERIC], and the American Association of Retired Persons [AARP] are just a few of the more prominent supporters of the Kassebaum-Kennedy-Roukema legislation.

I might add that, during his State of the Union speech 2 months ago, President Clinton endorsed this bill, and has repeatedly stated that he is prepared to sign this legislation if we can just move it through the Congress this year.

Some of the reforms in H.R. 3103—such as medical malpractice reforms—I have supported in the past, and will continue to support in the future as freestanding measures.

However, we must acknowledge that these issues raise significant policy questions.

Reforms such as medical malpractice and medical savings accounts should be debated by the Congress on an individual, case-by-case basis, particularly given the level of controversy that these proposals raise in both parties of the House and Senate.

In addition, it is highly unlikely that, given the limited number of legislative days in our session this year, that the Senate would ever be able to pass such a controversial and omnibus package of health reforms.

In fact, prominent Republican Senators have repeatedly and publicly stated their opposition to such an omnibus bill, as recently as a day or 2 ago.

It's time for the Congress to stop playing these games—the American people are sick and tired of bickering and political gamesmanship.

We must immediately enact common-sense, incremental health insurance reforms.

The General Accounting Office [GAO] has estimated that up to 30 million American citizens would benefit from the health insurance reforms incorporated in the Kassebaum-Roukema plan.

Let's not permit such a golden opportunity to help so many people slip through our collective fingers because of partisan politics.

In closing, Mr. Speaker, I urge my colleagues to join me in support of the Dingell substitute to H.R. 3103, because it's the right thing to do for the American people now.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, with all due respect to my good friend and colleague from new Jersey [Mrs. ROUKEMA], we had a bipartisan plan in the last Congress authored by my good friend from Florida, the chairman now of our Subcommittee on Health and Environment of the Committee on Commerce, and the gentleman from Georgia who is no longer with us, Dr. Roy Rowland. I sat right over there on this night 2 years ago with then the chairman of my committee, and I said, you cannot move this massive socialized medicine bill of the President's. We have a good bipartisan bill and we ought to take it up. It was not enough for him.

Mr. Speaker, but now all of a sudden, this bill, which is more modest than the Bilirakis-Rowland bill, is too much. I find that rather ironic.

Mr. Speaker, I rise in strong opposition to the substitute. While it is a well-intentioned proposal, it simply falls short of the mark of ensuring that health insurance is both available and affordable.

Our bill is focused on the real problems people encounter in obtaining health insurance in the small business market. Small employers who are trying to provide their employees and their families with adequate coverage will not be helped by this substitute. They will not be able to purchase affordable health insurance coverage.

In addition, a recent letter from the National Association of Independent Businesses points out that big business is in the position of purchasing health insurance under a different set of rules than small business. Their letter points out that the Health Coverage Availability and Affordability Act would stop the unfairness by allowing small firms to band together across State lines to purchase health insurance with nearly the same exemption from State law that big business has. Achieving this is NFIB's highest health reform priority. And I quote from their letter: "Any substitute amendment that does not directly address this inequity between big and small business is unacceptable to the more than 600,000 members of NFIB."

Mr. Speaker, the Democratic substitute does not address this inequity. It is all form and no substance. Its pooling provisions simply allow the formation of purchasing cooperatives, which can be formed under current law. Thus, it falls short of the mark in addressing the key concerns of small business in reforming the small employer health insurance market.

Mr. Speaker, I would also like to point out to my colleagues that National Right to Life has raised a serious concern about the nondiscrimination language in the substitute. The nondiscrimination language could be read to apply to the content of a benefits package. Thus, the language could be used to require the inclusion of elective abortions in all health insurance plans. This problem has not been addressed in the substitute and remains an issue for pro-life Members.

In addition, the Democrat substitute fails to allow for medical savings accounts, an option that provides true portability for individuals, including the self-employed. It does not encourage the purchasing of long-term health insurance coverage, because it does not allow expenses for long-term care and long-term care insurance premiums to be tax deductible.

Mr. Speaker, it also fails to address the question of affordability because it does nothing to address the increased costs our current malpractice laws bring to the health care system.

Perhaps the substitute's most glaring omission is its failure to address the issue of fraud and abuse, which has also contributed to the high cost of health insurance coverage. According to the General Accounting Office, each year as much as 10 percent of total health care costs are lost to fraud and abuse. Given that annual health care costs in the United States are now approaching $1 trillion, fraud and abuse are costing taxpayers and policyholders large sums of money. Despite the enormity of the problem, GAO has concluded that only a small fraction of this fraud and abuse is detected. The failure of a health reform bill to address this issue is unfortunate.

The HHS Inspector General in a letter to the ranking member of the Committee on Commerce points out that the provisions in the Republican bill will help to reduce fraud and abuse. It states:

> Generally speaking, these provisions are excellent . . . The bill contains many improvements to the laws intended to address health care fraud. In our judgment, enactment of the provisions . . . would be very effective in reducing the amount of fraud and abuse in the health care system . . .

Finally, I feel I must address the constant refrain we have heard that somehow Senators KASSEBAUM and KENNEDY's bill, is the gold standard and cannot be amended. It is absolutely absurd for us to say that a bill cannot be improved. It is also rather naive for us to say that a bill that comes out of Committee in the Senate will not be amended on the floor of that body where there are no germaneness rules and anything can be attached to anything.

Mr. Speaker, do not expect a clean Kassebaum-Kennedy bill to come out of the Senate. I assure my colleagues that whatever we do tonight, we will be in conference.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of Bentsen-Spratt-Dingell. There is a lot on our agenda about which the American people are undecided or divided, but clearly they want us to change the way that health insurance in this country is written. They want the law to say that if they lose their jobs or leave it, they can take their health insurance with them; if they have an illness or an injury, they can keep their insurance and not be ostracized by carriers as having preexisting conditions.

Mr. Speaker, there is something else the American people want. They want an end to partisan bickering. Our substitute goes to both goals. It is not just a chance to change health insurance. It is a chance to do something bipartisan. We make health insurance portable. We take care of people with preexisting conditions, and we do it in a bipartisan bill, a clean bill that is unencumbered by pet provisions.

Mr. Speaker, the differences between the base bill, H.R. 3103, and our substitute, which is essentially Kennedy-Kassebaum-Roukema, are seemingly small but the differences are potentially insidious.

First of all, let me just cover a couple. The base bill in our substitute says that if you lose your job, you can convert from group to individual coverage once your extension under COBRA has expired. But in the substitute, we say that when you convert, you have the right to pick among the policies that an insurance company offers.

In the base bill, people lose this flexibility. They have got a Hobson's choice. That is because the base bill has been amended to let the States restrict individuals to a single policy, and that one policy is bound to become the high-risk pool for all the rejects and bad risks. That will make the premium cost excessive, probably beyond the reach of most people who need it, and we are not giving health insurance availability unless we give health insurance affordability.

There is another provision very deep in this base bill which differs from the substitute. Both of us permit small employers to band together to purchase insurance, and, banded together, they can broaden their risk pool and get better rates. So far, so good. But the base bill goes on to exempt multiemployer health plans from State regulations that govern other multiemployer health plans and places these under the Department of Labor. You got it. The Republicans want to give the Federal Government the power to regulate these insurance, self-insurance plans, and take it away from the State government.

Here, do not take it from me, listen to what Mr. Gradison, a very respected member of this body from the other side of the aisle, now head of the Health Insurance Association of America, says about that particular provision of the main bill before us. He says,

> We strongly oppose the provision contained in the House leadership bill which we believe will undermine the progress States have made in reforming their small employer insurance markets and leave an unstable health care market in its wake.

Mr. Speaker, we have a chance to pass a bipartisan bill, to keep this bill on track and I urge support for the bill.

Mr. Speaker, there is much of our agenda about which the people are undecided or divided. But clearly they want us to change the way health insurance is written. They want the law to say that if they lose their job or leave it, they don't have to lose their health insurance—they can take it with them. And if they have an illness or injury, they can keep their insurance, and not be ostracized by carriers for a "preexisting condition."

There's something else people want: They want an end to partisan bickering.

Our substitute goes to both goals. It is not just a chance to change health insurance, it's a chance to do something bipartisan. We make health insurance portable; we take care of people with preexisting conditions; and we do it in a bipartisan bill, a clean bill, unencumbered by pet provisions and special concessions.

The differences between the base bill, H.R. 3103, and our substitute, which is the Kennedy-Kassebaum-Roukema bill, are seemingly small but potentially insidious.

First of all, both the base bill and our substitute say that if you lose your job, you can convert from group to individual coverage once your 18-month extension under COBRA has expired. But in the substitute, we say that when you convert, you can pick among the policies a company offers. In the base bill, you lose this flexibility. That's because the base bill was amended to let the States restrict individuals to a single policy; and that one policy is bound to become the high-risk pool for all the rejects and bad risks. This will make the premium cost excessive, probably beyond the reach of most who need it. Our substitute guarantees individual coverage, but it does not limit that guarantee to one insurance policy. The person who converts may still have his premium rated, adjusted upward for a preexisting condition; but he can also buy into an insurance pool with lots of other people who are ordinary, unrated risks. And while this bill gives that no one protection against higher premiums, our substitute leaves the States the power to regulate premiums, as many already have. And if you are in an insurance pool with ordinary risks, the States can limit the rated premium you have to pay for your policy, say, to 50 percent of the standard premium. But if you end up in a risk pool with all bad risks, there is no way to spread the cost and mitigate the premiums.

Next, the base bill, as well as our substitute, permits small employers to band together to purchase insurance. In banding together, they can broaden their risk pool and get better rates. But the base bill exempts multiemployer health plans from the State regulations that govern other multiemployer plans, and places these under the Department of Labor. In bypassing State laws, particularly on what constitutes an adequately capitalized plan, the base bill, in the words of the Health Insurance Association of America, sets up "a very flimsy safety net for employees with self-insured, federally regulated coverage." It puts the insured in peril of being in an unsound plan and not having coverage when it is needed. Our bill respects the competency of the States in this field, and leaves multiemployer insurance plans subject to State law.

Next, the base bill includes Medicare fraud and abuse provisions, and claims savings back into Medicare to boost the solvency of the Part A trust fund. Instead these Medicare funds are used to offset the tax revenues lost by allowing MSA's. This comes from the group that for the past year has told seniors that deep cuts in Medicare were needed to keep the trust fund solvent.

Next, the base bill raises the tax deduction allowed the self-employed to 50 percent of the premiums they pay, but reaches that level only in year 2003. On this subject, our substitute departs from Kennedy-Kassebaum-Roukema; it too increases the tax deduction for the self-employed, but we go to 80 percent by the year 2002. I am not altogether opposed to MSA's, but I would much rather use the tax offsets to cover the revenue losses to pay for a higher rate of deductibility. More small business people, more self-employed Americans, will benefit from being able to deduct 80 percent of their health insurance premiums than will benefit from medical savings accounts.

Finally, the base bill repeals current laws that we put in place to regulate the sale of policies that duplicate Medicare coverage. These protections were enacted to protect unsuspecting seniors from purchasing coverage that they already have under Medicare. The base bill opens a loophole that would allow insurers to sell Medicare beneficiaries a policy that is not identical to Medicare coverage, say offering additional homecare visits, but include a rider in the policy that denies payment for any service covered by Medicare.

Mrs. ROUKEMA tonight, and Senator KASSEBAUM several days ago, have all warned against overloading this bill with extraneous stuff, like medical savings accounts and malpractice reform. I am not opposed to all those add-ons; I've voted for malpractice reform; but what I favor most is moving this bill. It is a shame to bog it down with controversial provisions, and a shame to blow this opportunity to do something bipartisan for a change.

Let's keep this bill on track; let's keep it clean and make it bipartisan. Vote for the Bentsen-Spratt-Dingell substitute.

Mr. THOMAS of California. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], an extremely important member of the Committee on Ways and Means and the chairman of the Subcommittee on Oversight.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the chairman.

Mr. Speaker, I rise in strong opposition to the substitute, not because it is not an admirable bill. In fact, Senators KASSEBAUM and KENNEDY deserve enormous credit for bringing this issue of insurance reform to the top of the agenda of both Houses, but our bill is literally better. My amendment conformed this bill in many of its details to the Kassebaum-Kennedy bill, working with my chairman. Our bill actually adds protection, not in the Kassebaum-Kennedy bill, to assure that genetic information about an individual cannot be used to exclude that person from health coverage. Our bill is far better on portability. It is far more generous in its determination of what is continuous coverage and what is a break in service because it counts, that is gives credit for coverage, time on Medicare, Medicaid, DOD's Tricare, the Indian Health Service, the Federal Employees Health Benefits programs and State risk pools. Furthermore, our bill gives protection that the Kennedy-Kassebaum bill does not give to people covered under individual policies to assure that they can get into a new policy without discrimination if they move outside the service area or if the insurer goes out of business.

In many of its details, our bill is simply an improved version, a stronger bill than the Kennedy-Kassebaum bill. In its breadth it is also superior. This Chamber has had before it for 5 years, proposals to allow people to deduct the premiums of long-term-care insurance so that we can get employers providing long-term-care insurance and we can encourage seniors to buy long-term-care insurance so that in the future, seniors will not have to spend down to poverty, spend every cent they worked for and were able to save, to cover the costs of nursing home care.

□ 2115

That kind of public-private partnership is imperative to providing security and dignity to our seniors in their retirement years. This is the only bill that has ever brought those long-term-care provisions to the floor of the House in a form in which the President would sign the bill.

Furthermore, this bill will allow deduction of long-term home care costs. Think for how many seniors that is terribly important. For many, it will probably wipe out their entire tax liability.

So this bill is a thoughtful broadening, an inclusion of a number of terribly important health policy solutions that this House at other times has supported, that are not that controversial, that the President will clearly sign, and ought to be part of a health care reform—and part of this Congress' accomplishments.

So do not yield to the siren song of all we can pass is Kennedy-Kassebaum. It is simply far too little. It is too narrow a vision. It does not answer the needs of the American people.

Mr. BLILEY. Mr. Speaker, I reserve the balance of my time.

Mr. BENTSEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, today employees who have insurance coverage where they work fear that if they lose their job or change jobs they will not be able to get insurance. If they have a medical problem, they worry they will be excluded from coverage permanently or that they will have a long waiting period before they can be covered. They face the so-called "job lock" where they cannot move on to other or better jobs because they cannot risk the loss of their health insurance coverage, and if they lose their job, their situation is made worse by facing the loss of that insurance.

The substitute before us would change that. It would guarantee them access to health insurance coverage. It would assure them that an existing health problem would not be a reason to exclude them from coverage.

Now this base bill that we are seeking to amend has provisions that are similar to Kennedy-Kassebaum, the Dingell bill, the Roukema bill. There really is not a lot of difference between all these provisions. There are some differences, but they are minor, and they are differences that can be worked out if people sat down and talked them through. In fact, I voted for the Kennedy-Kassebaum-Roukema version of this legislation when it was in the Committee on Commerce. Everybody did. It was a unanimous vote.

But the Republican proposal before us adds some things that I think will make this legislation fail ultimately to become law. They take medical savings accounts, which may or may not be a good idea; the small employer pooling, which may or may not work. A lot of people fear that it will lead to cherry-picking of the least risky people by insurance companies. They make medical malpractice changes, which are very controversial because some people fear that this will deprive injured parties of their full redress. They take savings from the Medicare Program because of an antifraud provision, and they use those savings to fund the tax breaks for medical savings accounts.

Those are controversial issues. They should not be in a bill that can be passed on a bipartisan basis and turned into law.

There are things I would like us to do, because let us realize what we are not addressing is the problem of the 40 million uninsured in this country. I do not care what version of the bills we pass today, they are not going to be covered after all is said and done.

I think there are important changes we need in our health care system, but if we do not have a consensus to accomplish them, let us do what we can and pass the bill that would prevent this job lock and assure that people will get insurance if they leave their jobs and take another job or want to buy a private insurance policy.

I would urge support for the substitute. I will not go through the denigration of what the other people have to say. What I do say is let us pass what we can into law. Let us not lose this chance.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS], the chairman of the Health and Environment Subcommittee, a pioneer in health care reform, the man who led the bipartisan effort in the 103d Congress.

Mr. BILIRAKIS. I thank the gentleman for yielding the time to me.

Mr. Speaker, I rise in opposition to this substitute, and yet without question I certainly support the goals of the substitute. Both bills address insurance portability, eliminate preexisting condition prohibitions, end job lock, and both bills address medical savings accounts.

The Kassebaum bill amends the HMO act to allow the offering of high deductible MSA's, and it also provides a sense of committee resolution to encourage MSA's. But that is where the common elements end. The substitute simply falls far short of the mark on true practical health care reform.

Our bill offers more options to the American people. My constituents are always asking me, I am sure my colleagues' are, what Congress is doing to address fraud and abuse. What is Congress doing to eliminate unnecessary paperwork? When will our medical malpractice laws be changed? Our bill addresses these important areas.

In addition, it also extends the medical expenses deduction to long-term care services which is important to our seniors. A Band-Aid solution like the substitute proposes would not address more systematic problems which drive up costs and limit access to our health care system.

On health care reform, the American people deserve more than a Band-Aid. They deserve our best efforts to fix what we can in a system which everyone agrees is broken.

Mr. BENTSEN. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Speaker, I just wanted to talk a little bit about the matter that is before us. One of the previous speakers talked about a bipartisan effort called Roland-Bilirakis. Mr. Speaker, While I respect both of the people greatly who came out with that effort, it did not pass this House, it did not have the necessary support, and so we are here today trying to figure out what steps we can take to make an improvement upon the trillion dollar industry that is health care in this Nation.

Mr. Speaker, I would suggest that Roukema-Kassebaum-Kennedy is that modest step. It is that first step that is going to help tens of millions of Americans keep their health insurance when they switch their jobs, regardless of preexisting health conditions.

The Republicans, though, in this House are proposing a health insurance reform that is not as strong as Roukema-Kassebaum-Kennedy. They are adding on what I believe to be special interest amendments and paybacks that are going to sabotage the first real attempt we had to be able to do a bipartisan step in the right direction for the working people of this country.

Now, we are talking about two editions, that in one instance the CBO is saying that the bill's profraud loopholes are going to cost $400 million. Less revenue coming in, and enforcement of fraud is going to suffer. Why should we want to do this?

The MSA proposal is not going to fly in the Senate, it is not going to fly with the President. Why would the Republicans want to doom this package by adding these two things to it?

Mr. THOMAS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, tonight I rise to deliver to my congressional colleagues a message from the 180,000 Medicare beneficiaries who reside in my south Florida district, and that message is simply:

Stop the fraudulent and abusive practices against the Medicare Program, and do it now.

This substitute ignores the issue of fraud and abuse.

Mr. Speaker, this body has already voted for the Medicare fraud and abuse provisions that are included in this bill when it passed the Medicare Preservation Act, and, as we all remember, the Medicare Preservation Act was vetoed by President Clinton. Now we have another chance to move a step closer to saving the Medicare Program from bankruptcy.

This bill is the toughest and most serious attempt that this Congress has made to stop fraud and abuse in the Medicare Program and health care generally with the new strong criminal penalties for offenses against the American people. I am proud to have contributed to this effort, and I know that when my constituents learn of their new rights under the Medicare Program, they will be proud of this Congress, too.

Let us pass this bill and save Medicare millions of dollars and save all the American taxpayers billions of dollars in reducing fraud and abuse.

Mr. BENTSEN. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. ROYBAL-ALLARD].

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in support of the Democratic substitute. By correcting the most obvious deficiencies in the health insurance market, this legislation is a much-needed, albeit small step toward reforming our health care system, because it frees the American worker from job lock which prevents millions from taking better jobs for fear of losing their health care coverage.

It protects people with preexisting conditions by limiting the exclusion period and prohibiting employers and insurers from denying coverage to these individuals. It expands availability and access by prohibiting insurers from denying coverage to specific employee groups, and it increases the deduction for the self-employed to 80 percent in support of America's small business.

The Democratic substitute brings a measure of fairness and justice to our health insurance system without the special interest provisions in the House Republican bill. I urge all Members to vote in favor of the Democratic substitute.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS], a distinguished member of the Committee on the Budget.

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, a number of years ago the President came in with major reform of health care. It was wide reaching, it was well beyond what anyone in this House wanted to do, and now we have a bill that in my judgment is very sensible. It is very logical. The Roland-Bilirakis bill never passed 2 years ago because it never had a vote. It never had a vote because unfortunately the other party was jealously guarding the jurisdictions of each committee.

This bill here has the input of the Committee on the Judiciary, the Committee on Commerce, the Committee on Ways and Means, and the Committee on Economic and Educational Opportunities, and in it there is a very significant portion of this bill dealing with fraud, title II, preventing health care fraud and abuse; it goes for about 70 pages. I have a hard time understanding what is meant by a clean bill.

☐ 2130

What is a clean bill that does not deal with waste, fraud, and abuse? We have been having hearings for decades about the waste, fraud, and abuse. That so-called clean substitute ignores it completely. This bill here deals with waste, fraud, and abuse, and for the first time makes health care fraud a Federal offense, an all-payer system, not just for Medicare and Medicaid and Champus, but for all health care fraud. We are determined that this House is going to do something responsible.

I will just conclude by saying I am totally convinced that this House is going to pass a health care bill. It may not be exactly like this one when we deal with our conference with the Senate, but it will be a meaningful bill, and it will be far better than the substitute bill presented. I urge my colleagues to take part in what we are doing. We are going after waste, fraud, and abuse for the first time in a serious way. It is happening under our watch. Be proud of it.

Mr. BENTSEN. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Once again, Mr. Speaker, the Gingrich Republicans are standing in the way of meaningful health care reform and it's American families who are going to wind up paying the price. While Speaker GINGRICH says his plan may make health insurance more available, it does nothing whatsoever to make it affordable.

Thankfully, for the American people, we have another choice before us today. We have the Democratic substitute. The one bill that will extend coverage to 25 million Americans. The one bill that has bipartisan support in the Senate. And the one bill that will be signed into law by the President.

To my colleagues on the other side of the aisle: Don't use your vote to scuttle significant health care reform this year. Instead, stand up for working families, and support the Democratic substitute.

Mr. BENTSEN. Mr. Speaker, I yield 1½ minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, several years ago I introduced legislation which allowed a full 100 percent deductibility of health insurance premiums for self-employed people. I represent a rural district. I represent a lot of farm families. It is very difficult for them to buy health insurance, and when they do, it is expensive, and they find that they can only deduct now 30 percent of the cost of the premiums.

The real unfairness is the fact that corporations can deduct 100 percent of the cost of health insurance premiums. Self-employed people cannot. What we do with the Democratic substitute is to address this in an honest way. I hope some of my Republican colleagues will consider breaking ranks tonight and joining in this bipartisan approach to health care reform.

Let me tell the Members what we know now. The fastest growing sector in the American economy are self-employed people, people who are starting their own businesses. If you ask them their No. 1 headache, you are going to find, to your surprise, it is health insurance; how to pay for it, how to cover your family and a few employees.

What we do in the Democratic substitute is to allow up to 80 percent deductibility over a period of several years. If Members take a look at the alternative on the Republican side, they will find they only reach 50 percent. This is a big difference for a small business.

I hope that some of my colleagues will think twice and join us. I think it is far better for us to come together, Democrats and Republicans, pass real health care reform, instead of trying to score some political victory for the Golden Rule Life Insurance Company. Let us do something for the real self-employed people who need a helping hand.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from Illinois [Mr. WELLER], who knows full well that in the calendar year 1994 it was the Democrats who left the self-employed with no deductibility whatsoever.

Mr. WELLER. Mr. Speaker, I rise to oppose the substitute and support H.R. 3103, which deserves the votes of Democrats as well as Republicans. Mr. Speaker, H.R. 3103 addresses a real problem faced by almost 40 million Americans, 85 percent of whom are small business people, the self-employed, farmers, and their families and workers.

I have listened over the last several years to many families unable to afford health insurance. They say the prices of health insurance are too high if they are self-employed or work for small business. H.R. 3103 helps the little guy, the self-employed, and small business; frankly, people like my mother and father, fifth generation family farmers who, because their rates are based on two, face very high rates.

Mr. Speaker, H.R. 3103 helps make health insurance more affordable, the risk pools allowing small employers, perhaps through the Farm Bureau or the local Chamber of Commerce, to purchase in a cooperative fashion a bigger group policy, getting more affordable rates, also giving 100 percent tax deduction for long-term care, and raising the 50 percent self-employed taxes.

Mr. BENTSEN. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, for 8 years I had the privilege of representing North Dakota as its State insurance commissioner. During that time I evaluated the health insurance crises experienced by families all across the State. While undoubtedly there were many facets to the problems I encountered, far and away the largest problem was affordability.

I am astounded that the previous speaker could talk about affordability as a health issue addressed by the majority plan and deride the substitute, when in fact, deductibility of health insurance premium geared specifically at enhancing the affordability of coverage is the feature best exemplified in the substitute, as opposed to the majority plan. Look at the facts: Fifty percent deductibility immediately under the substitute, and only 30 percent under the majority plan, phasing up to 80 percent deductibility under the substitute plan, and only 50 percent in the majority plan.

The difference between 80 percent and 50 percent deductibility is the difference between affordability and unaffordability of health insurance for farm families, for self-employed families in North Dakota and all across the country. The No. 1 problem for so many families with health insurance tonight, Mr. Speaker, is affordability. Let us make it more affordable by increasing the deductibility. Only the substitute, in my opinion, goes the limits it needs to increasing the deductibility for purposes of making this coverage more affordable.

Mr. BLILEY. Mr. Speaker, I yield 3 minutes to the deputy whip, the gentleman from Illinois [Mr. HASTERT], a gentleman who has put more work into this bill than anyone on the Committee on Commerce.

Mr. HASTERT. Mr. Speaker, I thank the gentleman for yielding time to me.

I guess we just need to straighten out some things. To my friend who just talked over here about the deductibility, I guess plagiarism is one of the best compliments there is. To my friend, the gentleman from Illinois, who talked about the deductibility issue, it is interesting, it is the same folks who for years just let the deductibility for small businesses go to zero and left it there until we moved it to 30 percent. We are going to move it to 50 percent. They are talking about something in 2002. It is a promise, folks. I would not count on that promise.

Mr. Speaker, also I would say to my good friend from New Jersey, who says that the Senate leadership wants this Kassebaum bill, it is interesting, she did not read her papers, because the Senate leadership endorses our bill. They are going to move an add-on to the Senate to exactly what we have passed in this House tonight, so she might be apprised of that.

Mr. Speaker, we have heard a lot of outrageous claims on the other side of the aisle. I think now is the time of reckoning. This substitute is just a whisper in the dark. It does not do anything to help health care. We cover group-to-group, we cover group-to-individual, and we also make health care affordable for the American people.

If Members want real change in health care, if we really want to help Americans from the shoestore and the barber shop and the truck drivers and the real people that work out there in America, defeat this substitute, the farce out here that they are putting out as the substitute, and support the Republican bill.

Mr. BENTSEN. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I urge my colleagues to support this substitute, this alternative. It does two things, and it does them better than the original bill. First, it provides for portability. It does it better than the underlying bill, because if you lose your job and you lose your insurance and you try to find an individual plan, the substitute allows you to have some options and lets you be able to buy an affordable individual plan.

The second thing this bill does is deal with the self-employed by allowing them to be able to deduct 80 percent of their premium, whereas the underlying bill is at 50 percent. It makes it better for the self-employed. Both of these issues enjoy strong bipartisan support. This bill, the alternate, if it is passed, will be signed quickly by the President, will be approved by the Senate. It can be a reality. It is stronger than the underlying bill, and it can be passed and enacted into law.

Mr. Speaker, I urge my colleagues to support the substitute.

Mr. THOMAS. Mr. Speaker, it is my privilege to yield 1 minute to the gentleman from Oregon [Mr. BUNN], who came here to make a difference, and he does.

Mr. BUNN of Oregon. Mr. Speaker, I am pleased tonight to say that the substitute is a good bill, but the Republican version is a better bill. We have a win-win tonight. I think we ought to be pleased with that.

Mr. Speaker, I am also delighted that we had the opportunity to address some concerns in the Committee on Rules, and the Committee on Rules was willing to make the necessary changes to assure that this bill is a floor, not a ceiling, so that reforms like Oregon passed just last year will be maintained. I think we are on track to assuring that Americans will have good, affordable health care, and State reforms which will stay on track.

Again, we have a win-win. Theirs is good, ours is great. I support maintaining the Republican version, which means saying no to a good substitute.

Mr. Speaker, let me start by saying that I am glad that we were able to protect State health insurance reform efforts within this bill. As many people brought to my attention, including my State insurance commissioner, State insurance reform efforts may have been jeopardized by specific language not exempting them within this bill. I am proud to say that the language currently in this bill is very similar to that of the Democratic substitute, and while I support many of the reform efforts contained in that bill, I believe the Republican bill goes even further and ensures even broader coverage than that alternative. I am supporting the base bill and opposing the substitute. I look forward to reforming our national health insurance laws as soon as possible.

Mr. BENTSEN. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I am pleased to join with my colleagues in supporting the substitute. It is time to stop just talk about health care reform, and accomplish some real health care reform. This substitute represents a sensible approach to health care reform, and it may be the only chance we have to enact affordable health care for the American people. This bill would prohibit many of the current unfair insurance practices which deny and exclude individuals and families with significant health problems. Insurers often deny health coverage for preexisting conditions, the very illnesses most likely to require quality medical care.

Approximately 81 million Americans have medical conditions which could result in the denial of coverage. We know from recent studies that African-American women are dying at a faster rate from heart disease and stroke. Minority children are dying and experiencing more complications from asthma and other preventable respiratory diseases. We are seeing an increase in the infection rate for HIV and AIDS among young African-American males.

We know that low-income persons are dying because they simply cannot purchase the ability to live. Many of those who are fortunate enough to have insurance give up opportunities for new jobs because they are afraid of losing what little coverage they have. We must have portability. This substitute, while it does not address all health care concerns, does move in the right direction.

Mr. BLILEY. Mr. Speaker, it gives me great pleasure to yield 2 minutes to the distinguished gentleman from Louisiana [Mr. MCCRERY], a member of the Committee on Ways and Means.

Mr. MCCRERY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to congratulate the gentlewoman from New Jersey, the gentleman from Michigan, the gentleman from South Carolina, the gentleman from Texas, for I think putting forth a well-intentioned effort to improve the lot of people in this country vis-a-vis the health insurance system. It is a good effort. However, in the face of what we should be doing in health care reform in this country, it is weak. It is watered down. It is half-hearted.

Mr. Speaker, we should not be so timid in this House to bend to the threats of the President of the United States, who is up for reelection this year. We should do what we think is right for the American people in our health care system. If you go to a town meeting and listen to the people, what do they talk about? They talk about portability. That is a problem. We solved that in our bill. But what is the main thing they talk about? Cost. "Mr. Congressman, do something about the escalating cost in our health care system."

The substitute, regrettably, does nothing for cost containment. Our bill, on the other hand, has medical malpractice reform, which goes to the heart of the escalation of costs in the health care system. We attack fraud and abuse, waste in the system, which goes to the heart of cost escalation. We introduce a new concept, make it tax-advantaged, medical savings accounts, which will allow a lot of little people in this country to get health care coverage for the first time.

☐ 2145

These are all things that we should be doing if we were not so timid. We need to vote against the substitute and vote for the underlying bill.

Mr. BENTSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GIBBONS], the ranking member of the Committee on Ways and Means.

Mr. GIBBONS. Mr. Speaker, I want to take just a couple of minutes to explain why the medical savings account is not popular on our side of the aisle, and why it probably is pretty popular with our colleagues over here, our Republicans friends.

If we look at the average family in America, it has an average family income of $34,000 a year, $34,000 a year. That is what half of the taxpayers have as family income. Now, if we look very closely at that family, they are paying about an 18- or 20-percent tax level, but only 3 or 4 percent of that tax is income tax. All the rest of it is FICA tax. They are only getting a medical savings account deduction out of income tax, not out of FICA tax.

So half of the people in the United States that we claim as constituents and part of our party get absolutely nothing out of these medical savings accounts. But what do we do for our very well-off friends?

Mr. Speaker, first of all, they can afford it. They get a large deduction percentage-wise in all of this as opposed to 2 or 3 percent for our folks. Second, do not even make them pay FICA tax on that cash that they get as income. So that is another tax reduction they get, and we have not even talked about it here.

Third, and this is the insult of all, this allows them to exclude it from their estate tax. Now, how many of our constituents over here even have to worry about an estate tax? Obviously, many of my colleagues' do. My colleagues exempt them from the estate tax.

Now, what do we have to have in the estate tax? Well, between husband and wife, they can have millions of dollars and not pay any estate tax. But when the last of the family dies, they have an estate tax. They have to have $600,000 before they pay a penny's worth of estate tax. This thing is just designed for very wealthy people.

Mr. BLILEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I rise in opposition to the substitute. I think the substitute is a laudable effort, but there are a lot of other things that we can do that are important to this issue. There is a bipartisan bill, it is called Hobson-Sawyer, and it is called Bond-Lieberman in the Senate, and it is in our bill, it is not in this bill. It is the administrative simplification bill.

It gets rid of a lot of forms that have to be transferred around, a multiplicity of forms. It makes it simple. Everyone agrees that that is good. It also gets at fraud. Everyone agrees we ought to do that, but it is not in my colleagues' bill, and it should be in their bill. Everybody agrees that it is a good bill. There is no opposition. This part of the bill passed out of the committee 30 to zip. It is a good piece of legislation, it ought to be passed. That is why I support our bill and do not support the substitute.

Mr. BLILEY. Mr. Speaker, I have no further requests for time. I yield my remaining 1 minute back to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I have 5 minutes and I have one speaker left. Under the rules we have the right to close.

Mr. BENTSEN. Mr. Speaker, I yield the balance of my time to the chief sponsor of the amendment, the gentleman from Michigan [Mr. DINGELL], the ranking member of the Committee on Commerce.

Mr. DINGELL. My colleagues, this has been a good debate. I think we owe a great debt of gratitude to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA] for the leadership which she has shown in this matter which has brought us to where we are tonight, and I would urge my colleague to appreciate her great effort in this matter.

Having said that, it is very important to us to look at the situation we confront here. As an old friend of mine once observed, the perfect good is the enemy of the good. That means that, if we load this bill down with a vast plethora of amendments, we are liable to get no bill at all.

I yield to no man in my devotion to the concept that we must change the medical practice in this country to afford greater opportunity in this country to afford greater opportunity in this country and greater security to all the people.

The fact is that we had that opportunity before us in the last Congress and it was rejected. My Republican colleagues have made a great talk about what it was that we did in those days and what we are doing tonight. The hard fact of the matter is that neither of these bills solves the problem.

But the real fact is that the bill and the substitute which is offered by the Democratic Members has the ability to solve the problems in large part of some 25 million Americans who need portability and who need protection against prohibitions on preexisting conditions in insurance policies. It also does something else. It ups the amount of deductibility to 80 percent for individuals and small business. That is extremely important in terms of making health insurance available to large numbers of people who would otherwise be denied that benefit.

So I urge my colleagues to support the simpler and the cleaner bill, and I would urge them to recognize that the special interest amendments which are inserted in the Republican bill accomplish nothing but benefiting special interests and denying people the real opportunity to access to meaningful health insurance.

Mr. Speaker, let us look a little bit at what is in the Republican bill. First of all, it is loaded down like a Christmas tree, and I am satisfied that it will wind up with the same fate of a Christmas tree, dumped on the lawn at the conclusion of the discussion. It affords no chance for workers who lose their jobs to have a choice of plans. It makes no guarantees of businesses with more than 50 workers. It preempts State laws that protect consumers. It limits the deductibility of insurance premiums only to 50 percent. It has the controversial medical savings plans which do only one thing, and that is to benefit the insurance companies that have spent millions of dollars lobbying for this particular benefit for themselves, to benefit those who are healthy and those who have money, not those who are ill and who have need.

It has controversial medical malpractice law changes. Now I happen to think we need some changes in medical malpractice, but I did not think that we need the changes that are here. It also makes it harder to catch and to punish wrongdoers. Perhaps one of the worst things that it does is that it repeals protections that we invested in seniors some years ago to prevent them from being ripped off by useless, duplicative health insurance policies under which they pay for the same benefits which they are getting from Medicare, but in which they are prohibited from collecting benefits because of clauses in the legislation and because the prior liability goes to the Medicare policies.

There are also controversial provisions in here which override State insurance laws.

Mr. Speaker, the hard fact is that tonight we should be working to make it simple. We should be working to make this a proposal which will go to the President, which will pass quickly through the House and Senate, which will move easily through conference, and which will go to the President for quick and easy signature. To risk veto or to arrive at a situation where we do not help the some 25 million people who are dependent on the question of portability and who are afflicted with the problems of not being able to have preexisting conditions treated under their health insurance plans or under health insurance plans which would be made available under this legislation is both unwise and unnecessary and inconsistent with our responsibilities to the people.

I would hope that soon we will be able to address a really meaningful proposal for health insurance for all the people, to see to it that we provide that last element of security for the American people, which every American finds to be troublesome in the extreme, because it is an essential and important part of the security net which Americans think that every American should have. Regrettably, that choice is not before us. Regrettably, the Republican Members of this body have chosen not to move forward on that.

President Clinton tried to do that 2 years ago and it was rejected overwhelmingly on this side of the aisle. I would urge my colleagues to recognize that a little that we can get quickly which will really help people is a lot better than an illusory lot which will help no one and not become law and not help anybody.

I would urge my colleagues to therefore vote for the substitute which the Democratic Members will be offering tonight and to do something which is going to benefit all of the people and which will be of significant benefit to some 25 million who will derive benefits under the portability and under the preexisting provisions.

I urge my colleagues to vote in the interests of the country. I urge them to vote for the substitute. I urge them to vote for a proposal which will give us significant progress, rather than the assurance of further confusion, further controversy, and possible veto and loss of this legislation in the Senate or in a conference between the House and Senate.

Mr. Speaker, I yield myself 3 minutes, and ask unanimous consent to revise and extend my remarks.

Mr. Speaker, we are faced today with a simple choice:

Will the House give the American people what they want—a straightforward, simple, and uncontroversial bill to reform health insurance, a bill that can go to conference with the Senate quickly and be enacted into law?

Or will the House doom the chances for enacting such a bill by erecting a Christmas tree, decorated with all manner of controversial ornaments?

I want to commend my colleague from New Jersey, Mrs. ROUKEMA, for recognizing the simplicity of this equation early on, and for introducing in the House the companion to Senator KASSEBAUM's bill in the Senate. The Kassebaum-Roukema bill has enjoyed widespread and bipartisan support. It has been endorsed by 135 organizations, including the AMA, the American Hospital Association, the Independent Insurance Agents, the National Association of Manufacturers, and the Healthcare Leadership Council.

Many of us have tried, on a bipartisan basis, to persuade the leadership to keep this health insurance bill limited only to the Roukema-Kassebaum bill and to tax deductibility of health insurance for the self-employed, another uncontroversial provision with broad support. But in spite of the very public pleas from our side of the aisle, as well as from Representative ROUKEMA, Senator KASSEBAUM, and Senator BENNETT on the Republican side, we have ended up instead with a Christmas tree.

The Dingell-Spratt-Bentsen substitute incorporates the Roukema bill as title I. The amendment is very simple. It ends discrimination against people with preexisting conditions so they can get health insurance. It guarantees that Americans who lose or change their jobs can get health insurance. It requires health insurance companies to renew people's policies. And in title II, it increases the health insurance tax deduction for self-employed individuals from 30 percent to 80 percent, a major priority for small businesses and family farmers.

By voting for the substitute, my friends, you will be telling your constituents that you want the House to pass a bill that can be signed and become law. By voting against it, you will be telling them that they will have wait longer for health insurance reform—and how long? Perhaps years?—because you can't say no to the special interests who want to load this bill up with controversial add-ons and thereby kill its chances for passage.

Now I know that many of my colleagues, on both sides of the aisle, don't happen to think that each and every one of these provisions added by the Republican leadership is bad. Medical savings accounts, antitrust relief, malpractice reform—there are strongly held views on both sides of these issues. But regardless of our personal views on any of them, one thing is clear: they are all controversial; they all weigh this bill down; and they all significantly reduce the chances of enacting the kind of simple health insurance reform the American people are demanding.

Mr. Speaker, I urge my colleagues:

Don't kill this chance for health insurance reform by passing a Christmas tree instead of a clean bill. Support a clean bill by supporting the substitute. Vote "yes" on Dingell-Spratt-Bentsen.

Mr. THOMAS. Mr. Speaker, it is my privilege and honor to yield the remainder of the majority's time on this substitute to the Speaker of the House, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I thank my friend from California for yielding me the time to close, and I say I always rise with some slight trepidation after my dear friend from Michigan, who has been a leader in the House and is a very effective articulator of his side.

Mr. Speaker, I would say to him, however, that to describe as a Christmas tree a series of things the American people want is different than describing as a Christmas tree things only politicians want. And I do plead guilty to the charge that on a bipartisan basis we tried to reach out and actually listen to the American people, and that some people are very grateful to us for that.

Let me start, for example, with the Alzheimer's Association. The Alzheimer's Association wrote us and said:

> The Alzheimer's Association is writing in general support of the provisions in H.R. 3160 to clarify the Tax Code so that taxpayers may deduct their long-term care expenses as medical expenses. We are particularly pleased to note the committee's addition of specific language to assure that this deduction is available to taxpayers who are incurring expenses for care for persons who are cognitively impaired.

They go on to say:

> This change in the Tax Code has had strong bipartisan support for a number of years and has appeared in virtually every version of health reform legislation seriously considered over the last two Congresses.

Now, maybe to some of our friends that is a Christmas tree. But if one has a parent with Alzheimer's, if one has a loved one with Alzheimer's, or if one has a child with a chronic disease, or a child born with a genetic defect that requires permanent long-term care, this provision is a good step in the right direction, and we should be proud that we listened to the American people.

The American Health Care Association, largely representing folks who are involved in nursing homes, an area where we have a growing population and as more Americans live beyond 80 years of age there will be even more Americans, they said: "We applaud and support your efforts to enact health insurance reform legislation that also addresses long-term care."

Now, that is very important. And yes, it is true we added it to the bill because we listened. We think that, while the start in the Senate was a useful start and we respect the work of the other body, we do not think the House is bound automatically to simply say, oh, please send us something that we can rubber stamp.

☐ 2200

The American Farm Bureau Federation wrote, and they said:

> A provision of the Health Coverage Availability and Affordability Act of 1996, one which deals with cooperative insurance purchasing arrangements, is particularly important to the 4.5-million-member families of the American Farm Bureau Federation. Farmers are, by and large, self-employed, and as such must purchase health insurance for themselves and their families. Many join together in cooperative purchasing arrangements in order to obtain quality health insurance plans at affordable rates. The Farm Bureau applauds and supports your effort on this issue and the section of the legislation that would facilitate voluntary insurance purchasing cooperatives so that individuals and small companies can negotiate and receive the same price advantage that many larger businesses presently receive.

So, yes, it is true we listened to the Farm Bureau, and we listened to the rural families of America and to the small family farmers.

The National Federation of Independent Businesses, and I am particularly surprised that so many of my friends who normally rail against the rich and declare class warfare and worry about the giant corporations, that they could get a letter like this from the National Federation of Independent Businesses and ignore it.

Here is what the National Federation of Independent Businesses said:

> As the House prepares to take up health care reform, I am writing to let you know how important the small employer pooling provisions of the Health Coverage Availability and Affordability Act are to the members of the National Federation of Independent Businesses. NFIB is seeking to correct a basic unfairness in our current health system, the fact that big business is allowed to buy health insurance under a different set of rules than small business. Because of the Employment Retirement Income Security Act, large self-insured businesses are exempted from State law, in their health plans, while small business is stuck with State insurance coverage mandates, premium taxes, and other forms of regulation. This inequity between big business and small business in large part explains why the premiums of corporate America are going down while small business premiums are going up. State mandates alone can increase premiums for small business by 30 percent. The Health Coverage Availability and Affordability Act would stop this unfairness by allowing small firms to band together across State lines to purchase health insurance with nearly the same exemption from State law that big business has. Achieving this is NFIB's highest health reform priority. Any substitute amendment that does not directly address this inequity between big and small businesses is unacceptable to the more than 600,000 members of the National Federation of Independent Businesses. I hope you will stand up for small business and oppose efforts to remove the small employer pooling provisions of the Health Coverage Availability and Affordability Act. Passage of these pooling provisions will drive coverage up and premiums down for small business.

I particularly congratulate the gentleman from Illinois [Mr. FAWELL], who has done such yeoman work in that area.

The Chamber of Commerce said here were the returns of their poll: 97.8 percent said they needed small employer pooling; 97.1 percent said they needed to allow self-employed individuals to fully deduct the cost of their health coverage; 96 percent said they needed administrative simplification; 92 percent said they wanted medical malpractice reform.

Let me say to my good friends on the left, yes, it is true, we listened to the American people. We heard the American people say that access was a start but access was not enough, you also have to have affordability because the truth is if you do not keep the price down, you do not have access if you are too poor to pay the premium.

So just passing some Washington law with a Washington rule for a Washington bureaucrat, that does not mean that a small business or a family farm can actually pay for it, does not get the job done. So we went to part 2, which was affordability. We guaranteed accessibility, and we added affordability.

And there is a third part. We had strong provisions on fraud, and I particularly want to congratulate the gentleman from Oklahoma [Mr. COBURN], who is a medical doctor, who is infuriated at the level of fraud that we have in the system today, and Dr. COBURN is a Representative from Oklahoma who has worked tirelessly in his first term to make sure that we have strong steps and strong penalties against fraud.

When the General Accounting Office reports that fraud may account for 10 percent of health care costs, that is $100 billion a year. We have anecdote after anecdote on this floor from Members who have had members of their family involved in situations of clear-cut fraud, when you watch on NBC as a woman reports that she called in to complain because they had charged her for her autopsy and, since she was still alive, she does not think she had one, and their answer was that must have been an EKG. She said, "Honey, I did not have that either."

We had one of our colleagues who walked up to me one day and said, you know, his mother had called him, she heard us talking about fraud, and she said she got billed for two mammograms. She called the doctor's office. She said, "You did not have two mammograms." They said, "Oh, yes. We must have done two mammograms." She said, "I had a mastectomy 7 years ago. I know you did not do two mammograms." Their next comment was, "What do you care?" The Government will pay the bill."

What this bill establishes is it directs the Secretary of Health and Human Services to establish a system for senior citizens to turn in fraud and to give senior citizens the power to help us police the system so people engaged in ripping off you, the taxpayer, and rip off the consumer of Medicare is better protected and has a better incentive to turn in fraud.

I would say if you want accountability, we have it. If you want access, we have better access. We give twice as long a period as Kennedy-Kassebaum between insurance without losing coverage, twice as long. We have a better system of access, and it is far more affordable under our bill than it is under the substitute.

So I would simply say to my friends, do not be partisan about this. Here is an occasion where we started with a bill that was bipartisan in the Senate. We have improved the bill. Medical savings accounts is, in fact, an issue of great concern to some people. It is a brand-new idea. We believe it will help things.

I want the House to know that if the President sends up a veto signal, we are not going to risk vetoing coverage for all Americans in medical savings accounts, but we want to make the case. We want to try to convince him that he ought to be willing to sign it.

There are other items in here. Malpractice reform, my good friend admitted we need to do something, too, on malpractice reform. The trial lawyers should not be ripping America off.

I talked about a week ago to the American dental association. It occurred to me, if dentists acted like the Bar, they would be urging every child to get cavities. There would be commercials to eat sugar and not brush your teeth. Just think about it. It is terrible. A patient walks into a doctor's office. They should both be on the same team, fighting the disease, and there is a lawyer running an ad that says, "Why don't you walk in there as a potential plaintiff and see if you can't find a good excuse to sue?" It is culturally sick to have this kind of litigation, conflict-ridden system. We take the first step down the road.

If the President sends up a veto signal, maybe we would have to back down. But we want a chance to convince him this is wrong to favor the trial lawyers over the patients and the doctors.

But all I would say to my friends is, the substitute is well-meaning, but it is inadequate. It is too little, it is too narrow, it is too small. We can do better.

We have listened, and we are doing better. This is a better bill than Kennedy-Kassebaum. This is a more complete bill. This offers better access. It is more affordable, and it guarantees greater accountability, and it is worthy of your consideration.

I will just close with this point: Five major leaders in the Senate yesterday announced their endorsement of this bill. And this bill will almost certainly be offered in the Senate as the substitute for the earlier well-meaning, but weaker, bill that Kennedy-Kassebaum introduced, and, with our help, we can send a signal to the Senate. Let us get the job done a lot better, and let us do it for a lot more people. That is why we should vote "no" on the substitute and "yes" on final passage.

Mrs. MINK of Hawaii. Mr. Speaker, I rise to speak in favor of the Democratic substitute to H.R. 3103.

Why are we considering H.R. 3103? H.R. 3103 was reported with only nine cosponsors. The Roukema bill, which the Democratic substitute is based on, has 193 cosponsors. Seldom do we have legislation with such widespread support. Instead of hearing the Roukema bill, we are spending time on legislation loaded with controversy and doomed to fail.

We now have before us an opportunity to provide relief for hardworking Americans enslaved to their health care policies.

The core of the Democratic substitute is twofold. First it will guarantee individuals leaving a job, where they are covered by group insurance, to be able to obtain group or individual insurance at their next job; and second, it will forbid insurance companies from denying coverage because of preexisting conditions. These are two very simple concepts with little opposition and if implemented would result in enormous social benefits.

In addition, both the Republican bill and the Democratic substitute increase the permitted health insurance tax deduction for self-employed individuals. The levels allotted in the Democratic substitute, however, are significantly higher. Health insurance costs for the self-employed are often a heavy burden. Tax deductions at the levels proposed in the Democratic substitute would ease this burden.

H.R. 1303 on the other hand contains many provisions which are not well thought out and will be harmful to the overall health care objectives.

One of these proposals relates to medical malpractice. Congress should not set maximum monetary amounts that can be awarded for pain and suffering, and for punitive damages. I cannot support this anti-consumer provisions.

With respect to Medical Savings Accounts, I took a hard look at this proposal. It seemed like a good idea to give individuals the option to contribute to a tax deductible savings account which must be used for medical purposes and also require them to enroll in a catastrophic health care plan with relatively lower premiums and a high yearly deductible.

Two questions came to mind: First, will this reform help the uninsured; and second, will this reform divide the pool of insured resulting in the systematic breakdown of the insurance system.

Medical Savings Accounts would not be attractive for the high risk and the poor, those who need health care the most, because they would be unable to afford the high yearly deductible over a extended period of time. If the poor did enroll in this plan they would be unlikely to obtain preventive care because it would have to be paid for from their account or from their own pocket.

Meanwhile, the healthy and wealthy, who do not have a problem obtaining health insurance, would be more likely to choose a Medical Savings Account because they can afford the high deductible. The different choices of these demographic groups will result in the healthy vacating the traditional insurance pool leaving only high-risk individuals remaining. The pool will be concentrated with high-risk individuals and costs will rise causing insurance to be unaffordable for many. Fewer people who need coverage will be insured. The Republican proposal for Medical Savings Accounts will divide the insurance pool leading to an insurance system breakdown.

Moreover, I feel compelled to speak out against the multiple employer welfare arrangement [MEWA] provisions contained in this bill. I am concerned that the federal regulation provided will not be adequate and that by preempting established State systems, programs will be harmed.

As a result of these new MEWA provisions, I am concerned that Hawaii may no longer be granted an ERISA exemption for the Hawaii Prepaid Health Care Act. Majority committee staff indicated that Hawaii's ERISA exemption was included in the bill reported out of the Committee on Economic and Education Opportunities. However, due to the extreme handicap of having to evaluate, debate, and vote on a bill mere hours after it is printed and made public, I have been unable to confirm whether or not Hawaii's exemption was preserved. The Federal Government will not be able to take on this new responsibility, liability, and expense. The retention of State authority is critical. Not to do so is a fatal flaw.

Mr. Speaker, the Democratic substitute focuses solely on insurance portability and prohibiting denial of coverage due to preexisting conditions. We must not load up this bill with controversial provisions that will incite opposition and thwart the enactment of valuable and the noncontroversial provisions in this bill.

This substitute will not overhaul the health care system but will provide greater health security and make a positive difference in the lives of millions of Americans. We must not allow this opportunity to slip through our fingers.

I urge a yes vote for the Democratic substitute.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today as a member of the health profession to encourage my colleagues to support a comprehensive health care reform measure that would make appropriate health care accessible for all Americans. As we consider H.R. 3103, the Health Coverage Affordability and Availability Act, it is important that we realize that there is no clear consensus on the best means to attain universal coverage. Limitations on exclusions for preexisting conditions and guarantees for portability will help millions of Americans move away from job-lock and the terrifying prospect of losing health care coverage that comes with job loss or change brought about by corporate downsizing and other market forces.

As a nurse, it is my opinion that this Congress needs to continue to foster high standards in the health care industry and promote the economic and general welfare of Americans in the workplace. All year we have heard that the Medicare hospital trust fund is about to go bankrupt and therefore we have to make massive cuts in Medicare to save it. Now they propose taking the easiest money in Medicare—the money gained from fighting fraud—and spending it to give medical savings account tax breaks to younger people who are likely to be in the highest tax brackets and the healthiest members of our society.

Mr. Chairman, while considering health care legislation today, we as a Congress must keep the process simple. There is no place for adding on special interest amendments and pay backs that will sabotage the passage of good reforms. We must also remember the working poor of this Nation that are effectively priced-our of the health insurance market.

Mr. Chairman, I encourage my colleagues to support the Democratic substitute to H.R. 3103 because the substitute does not contain any of the bill's highly controversial provisions—such as medical savings accounts—that would jeopardize any possibility of enacting health insurance reform this year. The Kassebaum-Kennedy-Roukema bill, which assures health insurance portability, enjoys broad bipartisan support in both Chambers, and the President has endorsed it. We should not let this opportunity for enacting meaningful health reform slip away by loading down this bill with a number of controversial provisions. The only way to enact health reform is to support the Kassebaum-Kennedy-Roukema alternative which the substitute embodies.

I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I rise today to oppose the bill and support the Democratic substitute on this important issue of health insurance reform.

It is clear that there are serious problems with our current health care system. In 1994, Congress was working to address these problems and implement broad health care reforms, expanding access to health care coverage and reining in escalating health care costs. Those efforts were stymied, and during the past year and a half Republicans have mostly concentrated on cutting back on health care, by attempting to slash Medicare and Medicaid. In fact half the specified savings in the GOP reconciliation plan were from health care, that is, Medicare and Medicaid cuts.

In the absence of broader health care reforms, Americans are relying on us to at least enact some limited but important insurance reforms. There is some bipartisan support for many of the provisions before us today, but unfortunately, the Republican leadership is polarizing and threatening the enactment of these modest reforms. The GOP House leadership is seriously jeopardizing the bill by loading it up like a Christmas tree with controversial ornaments, like medical savings accounts and medical malpractice reform. These ornaments are a distraction from the issues and while they may be pretty to look at, we should certainly examine and consider these provisos separately, not as part of the basic agreed upon reforms.

In our dysfunctional health care system, insurance companies have too often taken steps to shift costs and deny health care coverage to people in order to lower their risk and increase their profit margin and competitiveness. The Democratic substitute is the best alternative today. It prohibits insurers and employers from limiting or denying coverage because of a preexisting condition. It would prohibit insurers from denying coverage to employers and prevent health plans from excluding any employee on the basis of health status. Health plans would be required to renew coverage for groups and individuals as long as premiums are paid. The Democratic substitute would also guarantee that individuals who leave group coverage will be able to purchase individual health insurance policies.

Millions of Americans would benefit from such legislation. It would allow people who want to change their jobs to take their health insurance with them, ending the phenomenon of job lock. It would end the unfair insurance practice of employing preexisting conditions clauses to avoid coverage of categories of persons. These changes proposed in the Democratic substitute are needed to increase health care security for working American families.

However, the Republican proposal is disingenous and demonstrates today their policy path; solve health care problems by changing the topic. They have included a provision in their bill to establish medical savings accounts which will in essence drive health care costs up for most and balloon the deficit. This proposal will weaken the overall health system as healthier and wealthier people leave the traditional insurance risk pool. First of all most Americans cannot afford to put aside $2,000 a year into a tax-free account. People with existing health problems and without savings income would be left in the traditional insurance pool and will find it more difficult to afford escalating health care costs. I do not believe that this is the kind of change in the health care system that the American people want. This will further polarize and divide the concept of community rating. In fact, the main beneficiaries of this proposal will be the insurance companies.

For months, Republicans have delayed consideration of this bill until they were embarrassed into bringing it to the floor by the President's State of the Union statement. Now the Republicans are going to burden the bill by overloading the vehicle so that it will sink. The Republican political agenda apparently takes precedent over good people policy. The special interests wish list that the Republican leadership tries to satisfy threatens the passage of the core insurance reforms necessary to secure health care coverage for millions of Americans. This is wrong and should be rejected.

Congress must respond to the needs of the American people and enact responsible health insurance reform, not sidetrack the issue and leave the American people in the lurch. I urge my colleagues to oppose the controversial provisions of the bill and support the Democratic substitute.

Mr. RICHARDSON. Mr. Speaker, voting for this substitute means that you are serious about allowing your constituents to have access to health insurance.

This substitute is simple policy. If you want to tell insurance companies they cannot deny Americans who have beat a life-threatening disease or condition insurance coverage, vote for this substitute.

If you want to allow hard working families in your district to keep their health care when they change jobs, vote for this substitute.

If you want to help small businesses and entrepreneurs afford health care, vote for this substitute.

This substitute is a bipartisan effort. Republicans and Democrats in the Senate agree on it.

A Republican Member introduced this bill in the House and over 170 Democrats have cosponsored it.

Mr. Speaker, this is not about partisan politics. It is about doing what is right for the American people. About giving working American families access to insurance coverage for themselves and their families.

The SPEAKER pro tempore (Mr. COMBEST). Pursuant to House Resolution 392, the previous question is ordered on the bill as amended.

The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. DINGELL].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BENTSEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make a point of order a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 192, nays 226, not voting 14, as follows:

[Roll No. 104]

YEAS—192

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Brewster -
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Duncan
Durbin
Edwards
Engel
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Quinn
Rahall
Rangel
Reed
Richardson
Rivers
Roberts
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wynn
Yates

NAYS—226

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady

Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Radanovich
Ramstad
Regula
Riggs
Rogers
Rohrabacher
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—14

Bryant (TX)
Coleman
Collins (IL)
Dooley
Eshoo
Fields (LA)
Fowler
McNulty
Neal
Ros-Lehtinen
Smith (TX)
Smith (WA)
Stokes
Weldon (PA)

□ 2225

Messrs. HILLEARY, NUSSLE, and STOCKMAN changed their vote from "yea" to "nay."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. COMBEST). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 2230

MOTION TO RECOMMIT OFFERED BY MR. PALLONE

Mr. PALLONE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. COMBEST). Is the gentleman opposed to the bill?

Mr. PALLONE. Yes, Mr. Speaker, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. PALLONE moves to recommit the bill, H.R. 3103, to the Committee on Ways and Means with instructions that the Committee report the bill back to the House forthwith with the following amendment:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Insurance Reform Act of 1996".

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY

TABLE OF CONTENTS OF TITLE

Sec. 100. Definitions.
SUBTITLE A—GROUP MARKET RULES
Sec. 101. Guaranteed availability of health coverage.
Sec. 102. Guaranteed renewability of health coverage.
Sec. 103. Portability of health coverage and limitation on preexisting condition exclusions.
Sec. 104. Special enrollment periods.
Sec. 105. Disclosure of information.
SUBTITLE B—INDIVIDUAL MARKET RULES
Sec. 110. Individual health plan portability.
Sec. 111. Guaranteed renewability of individual health coverage.
Sec. 112. State flexibility in individual market reforms.
Sec. 113. Definition.
SUBTITLE C—COBRA CLARIFICATIONS
Sec. 121. Cobra clarification.
SUBTITLE D—PRIVATE HEALTH PLAN PURCHASING COOPERATIVES
Sec. 131. Private health plan purchasing cooperatives.
SUBTITLE E—APPLICATION AND ENFORCEMENT OF STANDARDS
Sec. 141. Applicability.
Sec. 142. Enforcement of standards.
SUBTITLE F—MISCELLANEOUS PROVISIONS
Sec. 191. Health coverage availability study.
Sec. 192. Effective date.
Sec. 193. Severability.

SEC. 100. DEFINITIONS.

As used in this title:

(1) BENEFICIARY.—The term "beneficiary" has the meaning given such term under section 3(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(8)).

(2) EMPLOYEE.—The term "employee" has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) EMPLOYER.—The term "employer" has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include only employers of two or more employees.

(4) EMPLOYEE HEALTH BENEFIT PLAN.—

(A) IN GENERAL.—The term "employee health benefit plan" means any employee welfare benefit plan, governmental plan, or church plan (as defined under paragraphs (1), (32), and (33) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (32), and (33))) that provides or pays for health benefits (such as provider and hospital benefits) for participants and beneficiaries whether—

(i) directly;

(ii) through a group health plan offered by a health plan issuer as defined in paragraph (8); or

(iii) otherwise.

(B) RULE OF CONSTRUCTION.—An employee health benefit plan shall not be construed to be a group health plan, an individual health plan, or a health plan issuer.

(C) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof:

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(viii) Hospital or fixed indemnity insurance.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(5) FAMILY.—

(A) IN GENERAL.—The term "family" means an individual, the individual's spouse, and the child of the individual (if any).

(B) CHILD.—For purposes of subparagraph (A), the term "child" means any individual who is a child within the meaning of section 151(c)(3) of the Internal Revenue Code of 1986.

(6) GROUP HEALTH PLAN.—

(A) IN GENERAL.—The term "group health plan" means any contract, policy, certificate or other arrangement offered by a health plan issuer to a group purchaser that provides or pays for health benefits (such as provider and hospital benefits) in connection with an employee health benefit plan.

(B) ARRANGEMENTS NOT INCLUDED.—Such term does not include the following, or any combination thereof;

(i) Coverage only for accident, or disability income insurance, or any combination thereof.

(ii) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(iii) Coverage issued as a supplement to liability insurance.

(iv) Liability insurance, including general liability insurance and automobile liability insurance.

(v) Workers compensation or similar insurance.

(vi) Automobile medical payment insurance.

(vii) Coverage for a specified disease or illness.

(ix) Short-term limited duration insurance.

(x) Credit-only, dental-only, or vision-only insurance.

(xi) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

(7) GROUP PURCHASER.—The term "group purchaser" means any person (as defined under paragraph (9) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(9)) or entity that purchases or pays for health benefits (such as provider or hospital benefits) on behalf of two or more participants or beneficiaries in connection with an employee health benefit plan. A health plan purchasing cooperative established under section 131 shall not be considered to be a group purchaser.

(8) HEALTH PLAN ISSUER.—The term "health plan issuer" means any entity that is licensed (prior to or after the date of enactment of this Act) by a State to offer a group health plan or an individual health plan.

(9) HEALTH STATUS.—The term "health status" includes. with respect to an individual, medical condition, claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), or disability.

(10) PARTICIPANT.—The term "participant" has the meaning given such term under section 3(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(7)).

(11) PLAN SPONSOR.—The term "plan sponsor" has the meaning given such term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(16)(B)).

(12) SECRETARY.—The term "Secretary", unless specifically provided otherwise, means the Secretary of Labor.

(13) STATE.—The term "State" means each of the several States, the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Subtitle A—Group Market Rules

SECTION 101. GUARANTEED AVAILABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) NONDISCRIMINATION.—Except as provided in subsection (b), section 102 and section 103—

(A) a health plan issuer offering a group health plan may not decline to offer whole group coverage to a group purchaser desiring to purchase such coverage; and

(B) an employee health benefit plan or a health plan issuer offering a group health plan may establish eligibility, continuation of eligibility, enrollment, or premium; contribution requirements under the terms of such plan, except that such requirements shall not be based on health status (as defined in section 100(9)).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall prevent an employee health benefit plan or a health plan issuer from establishing premium; discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(b) APPLICATION OF CAPACITY LIMITS.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered participants and beneficiaries (and additional participants and beneficiaries who will be expected to enroll because of their affiliation with a group purchaser or such previously covered participants or beneficiaries) will be impaired if the health plan issuer is required to offer coverage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(c) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to actively market such plans.

(2) INVOLUNTARY OFFERING OF GROUP HEALTH PLANS.—Nothing is this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a particular market. For the purposes of this paragraph, the term "market" means either the large employer market or the small employer market (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees).

SEC. 102. GUARANTEED RENEWABILITY OF HEALTH COVERAGE.

(a) IN GENERAL.—

(1) GROUP PURCHASER.—Subject to subsections (b) and (c), a group health plan shall be renewed or continued in force by a health plan issuer at the option of the group purchaser, except that the requirement of this subparagraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the group purchaser in accordance with the terms of the group health plan or where the health plan issuer has not received timely premium payments;

(B) fraud or misrepresentation of material fact on the part of the group purchaser;

(C) the termination of the group health plan in accordance with subsection (b); or

(D) the failure of the group purchaser to meet contribution or participation requirements in accordance with paragraph (3).

(2) PARTICIPANT.—Subject to subsections (b) and (c), coverage under an employee health benefit plan or group health plan shall be renewed or continued in force, if the group purchaser elects to continue to provide coverage under such plan, at the option of the participant (or beneficiary where such right exists under the terms of the plan or under applicable law), except that the requirement of this paragraph shall not apply in the case of—

(A) the nonpayment of premiums or contributions by the participant or beneficiary in accordance with the terms of the employee health benefit plan or group health plan or where such plan has not received timely premium payments.

(B) fraud or misrepresentation of material fact on the part of the participant or beneficiary relating to an application for coverage or claim for benefits;

(C) the termination of the employee health benefit plan or group health plan;

(D) loss of eligibility for continuation coverage as described in part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.); or

(E) failure of a participant or beneficiary to meet requirements for eligibility for coverage under an employee health benefit plan or group health plan that are not prohibited by this title.

(3) RULES OF CONSTRUCTION.—Nothing in this subsection, nor in section 101(a), shall be construed to—

(A) preclude a health plan issuer from establishing employer contribution rules or group participation rules for group health plans as allowed under applicable State law;

(B) preclude a plan defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(37)) from establishing employer contribution rules or group participation rules; or

(C) permit individuals to decline coverage under an employee health benefit plan if such right is not otherwise available under such plan.

(b) TERMINATION OF GROUP HEALTH PLANS.—

(1) PARTICULAR TYPE OF GROUP HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of group health plan. A group health plan of such type may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each group purchaser covered under a group health plan of this type (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 90 days prior to the date of the discontinuation of such plan;

(B) the health plan issuer offers to each group purchaser covered under a group health plan of this type, the option to purchase any other group health plan currently being offered by the health plan issuer; and

(C) in exercising the option to discontinue a group health plan of this type and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of participants or beneficiaries covered under the group health plan, or new participants or beneficiaries who may become eligible for coverage under the group health plan.

(2) DISCONTINUANCE OF ALL GROUP HEALTH PLANS.—

(A) IN GENERAL.—In any case in which a health plan issuer elects to discontinue offering all group health plans in a State, a group health plan may be discontinued by the health plan issuer only if—

(i) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each group purchaser (and participants and beneficiaries covered under such group health plan) of such discontinuation at least 180 days prior to the date of the expiration of such plan, and

(ii) all group health plans issued or delivered for issuance in the State or discontinued and coverage under such plans is not renewed.

(B) APPLICATION OF PROVISIONS.—The provisions of this paragraph and paragraph (3) may be applied separately by a health plan issuer—

(i) to all group health plans offered to small employers (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees); or

(ii) to all other group health plans offered by the health plan issuer in the State.

(3) PROHIBITION ON MARKET REENTRY.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any group health plan in the market sector (as described in paragraph (2)(B)) in which issuance of such group health plan was discontinued in the State involved during the 5-year period beginning on the date of the discontinuation of the last group health plan not so renewed.

(c) TREATMENT OF NETWORK PLANS.—

(1) GEOGRAPHIC LIMITATIONS.—A network plan (as defined in paragraph (2)) may deny continued participation under such plan to participants or beneficiaries who neither live, reside, nor work in an area in which such network plan is offered, but only if such denial is applied uniformly, without regard to health status of particular participants or beneficiaries.

(2) NETWORK PLAN.—As used in paragraph (1), the term "network plan" means an employee health benefit plan or a group health plan that arranges for the financing and delivery of health care services to participants or beneficiaries covered under such plan, in whole or in part, through arrangements with providers.

(d) COBRA COVERAGE.—Nothing in subsection (a)(2)(E) or subsection (c) shall be construed to affect any right to COBRA continuation coverage as described in part 6 of subtitle B of title I of the employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to treatment of a preexisting condition based on the fact that the condition existed prior to the coverage of the participant or beneficiary under the plan only if—

(1) the limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan;

(2) the limitation or exclusion does not apply to an individual who, within 30 days of the date of birth or placement for adoption (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(c)(3)(B)), was covered under the plan; and

(3) the limitation or exclusion does not apply to a pregnancy.

(b) CREDITING OF PREVIOUS QUALIFYING COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of coverage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in the period of previous qualifying coverage. With respect to an individual described in subsection (a)(2) who maintains continuous coverage, no limitation or exclusion of benefits relating to treatment of a preexisting condition may be applied to a child within the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) DISCHARGE OF DUTY.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries who coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary, the duty of an employee health benefit plan to verify previous qualifying coverage with respect to a participant or beneficiary is effectively discharged when such employee health benefit plan provides documentation to a participant or beneficiary that includes the following information:

(A) the dates that the participant or beneficiary was covered under the plan; and

(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a second copy of such documentation or such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) DEFINITIONS.—As used in this section:

(A) PREVIOUS QUALIFYING COVERAGE.—The term "previous qualifying coverage" means the period beginning on the date—

(i) a participant or beneficiary is enrolled under an employee health benefit plan or a group health plan, and ending on the date the participant or beneficiary is not so enrolled; or

(ii) an individual is enrolled under an individual health plan (as defined in section 113) or under a public or private health plan established under Federal or State law, and ending on the date the individual is not so enrolled;

for a continuous period of more than 30 days (without regard to any waiting period).

(B) LIMITATION OR EXCLUSION OF BENEFITS RELATING TO TREATMENT OF A PREEXISTING CONDITION.—The term "limitation or exclusion of benefits relating to treatment of a preexisting condition" means a limitation or exclusion of benefits imposed on an individual based on a preexisting condition of such individual.

(4) EFFECT OF PREVIOUS COVERAGE.—An employee health benefit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition, subject to the limits in subsection (a)(1), only to the extent that such service or benefit was not previously covered under the group health plan, employee health benefit plan, or individual health plan in which the participant or beneficiary was enrolled immediately prior to enrollment in the plan involved.

(c) LATE ENROLLEES.—Except as provided in section 104, with respect to a participant or beneficiary enrolling in an employee health benefit plan or group health plan during a time that is other than the first opportunity to enroll during an enrollment period of at least 30 days, coverage with respect to benefits or services relating to the treatment of a preexisting condition in accordance with subsection (a) and (b) may be excluded except the period of such exclusion may not exceed 18 months beginning on the date of coverage under the plan.

(d) AFFILIATION PERIODS.—With respect to a participant or beneficiary who would otherwise be eligible to receive benefits under an employee health benefit plan or a group health plan but for the operation of a preexisting condition limitation or exclusion, if such plan does not utilize a limitation or exclusion of benefits relating to the treatment of a preexisting condition, such plan may impose an affiliation period on such participant or beneficiary not to exceed 60 days (or in the case of a late participant or beneficiary described in subsection (c), 90 days) from the date on which the participant or beneficiary would otherwise be eligible to receive benefits under the plan. An employee health benefit plan or a health plan issuer offering a group health plan may also use alternative methods to address adverse section as approved by the applicable certifying authority (as defined in section 142(d)). During such an affiliation period, the plan may not be required to provide health care services or benefits and no premium shall be charged to the participant or beneficiary.

(e) PREEXISTING CONDITIONS.—For purposes of this section, the term "preexisting condition" means a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the day before the effective date of the coverage (without regard to any waiting period).

(f) STATE FLEXIBILITY.—Nothing in this section shall be construed to preempt State laws that—

(1) require health plan issuers to impose a limitation or exclusion of benefits relating to the treatment of a preexisting condition for periods that are shorter than those provided for under this section; or

(2) allow individuals, participants, and beneficiaries to be considered to be in a period of previous qualifying coverage if such individual, participant, or beneficiary experiences a lapse in coverage that is greater than the 30-day period provided for under subsection (b)(3);

unless such laws are preempted by section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

SEC. 104. SPECIAL ENROLLMENT PERIODS.

In the case of a participant, beneficiary or family member who—

(1) through marriage, separation, divorce, death, birth or placement of a child for adoption, experiences a change in family composition affecting eligibility under a group health plan, individual health plan, or employee health benefit plan;

(2) experiences a change in employment status, as described in section 603(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163(2)), that causes the loss of eligibility for coverage, other than COBRA continuation coverage under a group health plan, individual health plan, or employee health benefit plan; or

(3) experiences a loss of eligibility under a group health plan, individual health plan, or employee health benefit plan because of a change in the employment status of a family member;

each employee health benefit plan and each group health plan shall provide for a special enrollment period extending for a reasonable time after such event that would permit the participant to change the individual or family basis of coverage or to enroll in the plan if coverage would have been available to such individual, participant, or beneficiary but for failure to enroll during a previous enrollment period. Such a special enrollment period shall ensure that a child born or placed for adoption shall be deemed to be covered under the plan as of the date of such birth or placement for adoption if such child is enrolled within 30 days of the date of such birth or placement for adoption.

SEC. 105. DISCLOSURE OF INFORMATION.

(a) DISCLOSURE OF INFORMATION BY HEALTH PLAN ISSUER.—

(1) IN GENERAL.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(A) the provisions of such group health plan concerning the health plan issuer's right to change premium rates and the factors that may affect changes in premium rates.

(B) the provisions of such group health plan relating to renewability of coverage;

(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) EXCEPTION.—With respect to the requirement of paragraph (1), any information that is proprietary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to preempt State reporting and disclosure requirements to the extent that such requirements are not preempted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (B)—

(A) by striking "102(a)(1)," and inserting "102(a)(1) that is not a material reduction in covered services or benefits provided,"; and

(B) by adding at the end thereof the following new sentences: "If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, a summary description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.".

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting "including the office or title of the individual who is responsible for approving or denying claims for coverage of benefits" after "type of administration of the plan";

(B) by inserting "including the name of the organization responsible for financing claims" after "source of financing of the plan"; and

(C) by inserting "including the office, contact, or title of the individual at the Department of Labor through which participants may seek assistance or information regarding their rights under this Act and title I of the Health Insurance Reform Act of 1996 with respect to health benefits that are not offered through a group health plan." after "benefits under the plan".

Subtitle B—Individual Market Rules

SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.

(a) LIMITATION ON REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in subsections (b) and (c), a health plan issuer described in paragraph (3) may not, with respect to an eligible individual (as defined in subsection (b)) desiring to enroll in an individual health plan—

(A) decline to offer coverage to such individual, or deny enrollment to such individual based on the health status of the individual; or

(B) impose a limitation or exclusion of benefits otherwise covered under the plan for the individual based on a preexisting condition unless such limitation or exclusion could have been imposed if the individual remained covered under a group health plan or employee health benefit plan (including providing credit for previous coverage in the manner provided under subtitle A).

(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall be construed to prevent a health plan issuer offering an individual health plan from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion or disease prevention.

(3) HEALTH PLAN ISSUER.—A health plan issuer described in this paragraph in a health plan issuer that issues or renews individual health plans.

(4) PREMIUMS.—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount of the premium payable under an individual health plan under applicable State law.

(b) DEFINITION OF ELIGIBLE INDIVIDUAL.—As used in subsection (a)(1), the term "eligible individual" means an individual who—

(1) was a participant or beneficiary enrolled under one or more group health plans, employee health benefit plans, or public plans established under Federal or State law, for not less than 18 months (without a lapse in coverage of more than 30 consecutive days) immediately prior to the date on which the individual desired to enroll in the individual health plan.

(2) is not eligible for coverage under a group health plan or an employee health benefit plan;

(3) has not had coverage terminated under a group health plan or employee health benefit plan for failure to make required premium payments or contributions, or for fraud or misrepresentation of material fact; and

(4) has, if applicable, accepted and exhausted the maximum required period of continuous coverage as described in section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) or under an equivalent State program.

(c) APPLICABLE OF CAPACITY LIMIT.—

(1) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering coverage to individuals under an individual health plan may cease enrolling individuals under the plan if—

(A) the health plan issuer ceases to enroll any new individuals; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)), if required, that its financial or provider capacity to serve previously covered individuals will be impaired if the health plan issuer is required to enroll additional individuals.

Such a health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan issuer can demonstrate to the applicable certifying authority (as defined in section 142(d)) that the health plan issuer has adequate capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering coverage to individuals under an individual health plan is only eligible to exercise the limitations provided for in paragraph (1) if the health plan issuer provides for enrollment of individuals under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid risk selection.

(d) MARKET REQUIREMENT.—

(1) IN GENERAL.—The provisions of subsection (a) shall not be construed to require that a health plan issuer offering group health plans to group purchasers offer individual health plans to individuals.

(2) CONVERSION POLICIES.—A health plan issuer offering group health plans to group purchasers under this title shall not be deemed to be a health plan issuer offering an individual health plan solely because such health plan issuer offers a conversion policy.

(3) MARKETING OF PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering coverage to individuals under an individual health plan to actively market such plan.

SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.

(a) IN GENERAL.—Subject to subsections (b) and (c), coverage for individuals under an individual health plan shall be renewed or continued in force by a health plan issuer at the option of the individual, except that the requirement of this subsection shall not apply in the case of—

(1) the nonpayment of premiums or contributions by the individual in accordance with the terms of the individual health plan or where the health plan issuer has not received timely premium payments;

(2) fraud or misrepresentation of material fact on the part of the individual; or

(3) the termination of the individual health plan in accordance with subsection (b).

(b) TERMINATION OF INDIVIDUAL HEALTH PLANS.—

(1) PARTICULAR TYPE OF INDIVIDUAL HEALTH PLAN NOT OFFERED.—In any case in which a health plan issuer decides to discontinue offering a particular type of individual health plan to individuals, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to each individual covered under the plan of such discontinuation at least 90 days prior to the date of the expiration of the plan.

(B) the health plan issuer offers to each individual covered under the plan the option to purchase any other individual health plan currently being offered by the health plan issuer to individuals; and

(C) in exercising the option to discontinue the individual health plan and in offering one or more replacement plans, the health plan issuer acts uniformly without regard to the health status of particular individuals.

(21) DISCONTINUANCE OF ALL INDIVIDUAL HEALTH PLANS.—In any case in which a

health plan issuer elects to discontinue all individual health plans in a State, an individual health plan may be discontinued by the health plan issuer only if—

(A) the health plan issuer provides notice to the applicable certifying authority (as defined in section 142(d)) and to each individual covered under the plan of such discontinuation at least 180 days prior to the date of the discontinuation of the plan; and

(B) all individual health plans issued or delivered for issuance in the State are discontinued and coverage under such plans is not renewed.

(3) Prohibition on market reentry.—In the case of a discontinuation under paragraph (2), the health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(c) Treatment of Network Plans.—

(1) Geographic limitations.—A health plan issuer which offers a network plan (as defined in paragraph (2)) may deny continued participation under the plan to individuals who neither live, reside, nor work in an area in which the individual health plan is offered, but only if such denial is applied uniformly, without regard to health status of particular individuals.

(2) Network play.—As used in paragraph (1), the term "network plan" means an individual health plan that arranges for the financing and delivery of health care services to individuals covered under such health plan, in whole or in part, through arrangements with providers.

SEC. 112. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.

(a) In General.—With respect to any State law with respect to which the Governor of the State notifies the Secretary of Health and Human Services that such State law will achieve the goals of sections 110 and 111, and that is in effect on, or enacted after, the date of enactment of this Act (such as laws providing for guaranteed issue, open enrollment by one or more health plan issuers, high-risk pools, or mandatory conversion policies), such State law shall apply in lieu of the standards described in sections 110 and 111 unless the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing access to affordable health care coverage for those individuals described in sections 110 and 111.

(b) Determination.—

(1) In general.—In making a determination under subsection (a), the Secretary of Health and Human Services shall only—

(A) evaluate whether the State law or program provides guaranteed access to affordable coverage to individuals described in sections 110 and 111;

(B) evaluate whether the State law or program provides coverage for preexisting conditions (as defined in section 103(e)) that were covered under the individuals' previous group health plan or employee health benefit plan for individuals described in sections 110 and 111.

(C) evaluate whether the State law or program provides individuals described in sections 110 and 111 with a choice of health plans or a health plan providing comprehensive coverage, and

(D) evaluate whether the application of the standards described in sections 110 and 111 will have an adverse impact on the number of individuals in such State having access to affordable coverage.

(2) Notice of intent.—If, within 6 months after the date of enactment of this Act, the Governor of a State notifies the Secretary of Health and Human Services that the State intends to enact a law, or modify an existing law, described in subsection (a), the Secretary of Health and Human Services may not make a determination under such subsection until the expiration of the 12-month period beginning on the date on which such notification is made, or until January 1, 1998, whichever is later. With respect to a State that provides notice under this paragraph and that has a legislature that does not meet within the 12-month period beginning on the date of enactment of this Act, the Secretary shall not make a determination under subsection (a) prior to January 1, 1998.

(3) Notice to state.—If the Secretary of Health and Human Services determines that a State law or program does not achieve the goals described in subsection (a), the Secretary of Health and Human Services shall provide the State with adequate notice and reasonable opportunity to modify such law or program to achieve such goals prior to making a final determination under subsection (a).

(c) Adoption of NAIC Model.—If, not later than 9 months after the date of enactment of this Act—

(1) the National Association of Insurance Commissioners (hereafter referred to as the "NAIC"), through a process which the Secretary of Health and Human Services determines has included consultation with representatives of the insurance industry and consumer groups, adopts a model standard or standards for reform of the individual health insurance market, and

(2) the Secretary of Health and Human Services determines, within 30 days of the adoption of such NAIC standard or standards, that such standards comply with the goals of sections 110 and 111:

a State that elects to adopt such model standards or substantially adopt such model standards shall be deemed to have met the requirements of sections 110 and 111 and shall be subject to a determination under subsection (a).

SEC. 113. DEFINITION.

(a) In General.—As used this title, the term "individual health plan" means any contract, policy, certificate or other arrangement offered to individuals by a health plan issuer that provides or pays for health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) Arrangements Not Included.—Such term does not include the following, or any combination thereof:

(1) Coverage only for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers' compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital of fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) Public Health Service Act.—

(1) Period of coverage.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb-2(2)) is amended—

(A) in subparagraph (A)—

(i) by transferring the sentence immediately preceding clause (iv) so as to appear immediately following such clause (iv); and

(ii) in the last sentence (as so transferred)—

(I) by inserting ", or a beneficiary-family member of the individual," after "an individual"; and

(II) by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title";

(B) in subparagraph (D)(i), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996", and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title",

(2) Election.—Section 2205(1)(C) of the Public Health Service Act (42 U.S.C. 300bb-5(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof.

(B) in clause (ii), by striking the period and inserting ", or", and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 2202(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) Notices.—Section 2206(3) of the Public Health Service Act (42 U.S.C. 300bb-6(3)) is amended by striking "at the time of a qualifying event described in section 2203(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this title".

(4) Birth or adoption of a child.—Section 2208(3)(A) of the Public Health Service Act (42 U.S.C. 300bb-8(3)(A)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this title.".

(b) Employee Retirement Income Security Act of 1974.—

(1) Period of coverage.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in the last sentence of subparagraph (A)—

(i) by inserting ", or a beneficiary-family member of the individual." after "an individual"; and

(ii) by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part",

(B) in subparagraph (D)(i), by inserting before, ", or" the following ", except that the exclusion or limitation contained in this clause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this section because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in subparagraph (E), by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(2) ELECTION.—Section 605(1)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(1)(C)) is amended—

(A) in clause (i), by striking "or" at the end thereof;

(B) in clause (ii), by striking the period and inserting ", or"; and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of an individual described in the last sentence of section 602(2)(A), or a beneficiary-family member of the individual, the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking "at the time of a qualifying event described in section 603(2)" and inserting "at any time during the initial 18-month period of continuing coverage under this part".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.".

(c) INTERNAL REVENUE CODE OF 1986.—

(1) PERIOD OF COVERAGE.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in the last sentence of clause (i) by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(B) in clause (iv)(I), by inserting before ", or" the following: ", except that the exclusion or limitation contained in this subclause shall not be considered to apply to a plan under which a preexisting condition or exclusion does not apply to an individual otherwise eligible for continuation coverage under this subsection because of the provision of the Health Insurance Reform Act of 1996"; and

(C) in clause (v), by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(2) ELECTION.—Section 4980B(f)(5)(A)(ii) of the Internal Revenue Code of 1986 is amended—

(A) in subclause (I), by striking "or" at the end thereof;

(B) in subclause (II), by striking the period and inserting ", or", and

(C) by adding at the end thereof the following new subclause:

"(III) in the case of an qualified beneficiary described in the last sentence of paragraph (2)(B)(i), the date such individual is determined to have been disabled.".

(3) NOTICES.—Section 4980B(f)(6)(C) of the Internal Revenue Code of 1986 is amended by striking "at the time of a qualifying event described in paragraph (3)(B)" and inserting "at any time during the initial 18-month period of continuing coverage under this section".

(4) BIRTH OR ADOPTION OF A CHILD.—Section 4980B(g)(1)(A) of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new flush sentence:

"Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring on or after the date of enactment of this Act for plan years beginning after December 31, 1997.

(e) NOTIFICATION OF CHANGES.—Not later than 60 days prior to the date on which this section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and section 4980B(f) of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part or section of the amendments made by this section.

Subtitle D—Private Health Plan Purchasing Cooperatives

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) DEFINITION.—As used in this title, the term "health plan purchasing cooperative" means a group of individuals or employers that, on a voluntary basis and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of insurance may not underwrite a cooperative.

(b) CERTIFICATION.—

(1) IN GENERAL.—If a group described in subsection (a) desires to form a health plan purchasing cooperative in accordance with this section and such group appropriately notifies the State and the Secretary of such desire, the State, upon a determination that such group meets the requirements of this section, shall certify the group as a health plan purchasing cooperative. The State shall make a determination of whether such group meets the requirements of this section in a timely fashion. Each such cooperative shall also be registered with the Secretary.

(2) STATE REFUSAL TO CERTIFY.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this title, the Secretary shall certify and oversee the operations of such cooperative in such State.

(3) INTERSTATE COOPERATIVES.—For purposes of this section a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of certifying and overseeing the operation of such cooperatives. For purposes of this subsection, a cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each health plan purchasing cooperative shall be governed by a Board of Directors that shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a board cross-section of representatives of employers, employees, and individuals participating in the cooperative. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of individual health plans or group health plans may not hold or control any right to vote with respect to a cooperative.

(2) LIMITATION ON COMPENSATION.—A health plan purchasing cooperative may not provide compensation to members of the Board of Directors. The cooperative may provide reimbursements to such members for the reasonable and necessary expenses incurred by the members in the performance of their duties as members of the Board.

(3) CONFLICT OF INTEREST.—No member of the Board of Directors (or family members of such members) nor any management personnel of the cooperative may be employed by, be a consultant of, be a member of the board of directors or, be affiliated with an agent of, or otherwise be a representative of any health plan issuer, health care provider, or agent or broker. Nothing in the preceding sentence shall limit a member of the Board from purchasing coverage offered through the cooperative.

(d) MEMBERSHIP AND MARKETING AREA.—

(1) MEMBERSHIP.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members of the cooperative, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall, except as provided in subparagraph (B), accept all employers (or individuals) residing within the area served by the cooperative who meet such requirements as members on a first-come, first-served basis, or on another basis established by the State to ensure equitable access to the cooperative.

(2) MARKETING AREA.—A State may establish rules regarding the geographic area that must be served by a health plan purchasing cooperative. With respect to a State that has not established such rules, a health plan purchasing cooperative operating in the State shall define the boundaries of the area to be served by the cooperative, except that such boundaries may not be established on the basis of health status of the populations that reside in the area.

(e) DUTIES AND RESPONSIBILITIES.—

(1) IN GENERAL.—A health plan purchasing cooperative shall—

(A) enter into agreements with multiple, unaffiliated health plan issuers, except that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not possible.

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State.

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and individual health plans offered through the cooperative);

(E) actively market to all eligible employers and individuals residing within the service area; and

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) PERMISSIBLE ACTIVITIES.—A health plan purchasing cooperative may perform such

other functions as necessary to further the purposes of this title, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers;

(D) cooperating with (or accepting as members) employers who provide health benefits directly to participants and beneficiaries only for the purpose of negotiating with providers, and

(E) negotiating with health care providers and health plan issuers.

(f) LIMITATIONS ON COOPERATIVE ACTIVITIES.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plan issuers.

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements for participants, beneficiaries, or individuals based on health status;

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization—

(A) in which membership in such organization is not based on health status; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of and employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this title.

(g) LIMITED PREEMPTIONS OF CERTAIN STATE LAWS.—

(1) IN GENERAL.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) HEALTH PLAN ISSUERS.—

(A) RATING.—With respect to a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative that meets the requirements of this section. State premium rating requirement laws, except to the extent provided under subparagraph (B), shall be preempted unless such laws permit premium rates negotiated by the cooperative to be less than rates that would otherwise be permitted under State law, if such rating differential is not based on differences in health status or demographic factors.

(B) EXCEPTION.—State laws referred to in subparagraph (A) shall not be preempted if such laws—

(i) prohibit the variance of premium rates among employers, plan sponsors, or individuals that are members of health plan purchasing cooperative in excess of the amount of such variations that would be permitted under such State rating laws among employers, plan sponsors, and individuals that are not members of the cooperative; and

(ii) prohibit a percentage increase in premium rates for a new rating period that is in excess of that which would be permitted under State rating laws.

(C) BENEFITS.—Except as provided in subparagraph (D), a health plan issuer offering a group health plan or individual health plan through a health plan purchasing cooperative shall comply with all State mandated benefit laws that require the offering of any services, category or care, or services of any class or type of provider.

(D) EXCEPTION.—In those states that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(h) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives.

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State.

(5) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employee health benefits plans, or

(6) confer authority up a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions, or other similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section.

(i) APPLICATION OF ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) shall apply to a health pan purchasing cooperative as if such plan were an employee welfare benefit plan.

SUBTITLE E—APPLICATION AND ENFORCEMENT OF STANDARDS

SEC. 141. APPLICABILITY.

(a) CONSTRUCTION.—

(1) ENFORCEMENT.—

(A) IN GENERAL.—A requirement or standard imposed under this title on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this title. In the case of a group health plan offered by a health plan issuer in connection with an employee health benefit plan, the requirements of standards imposed under the title shall be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official of officials designated by the State to enforce the requirements of this title.

(B) LIMITATION.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this title as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a Sate enforce the requirements or standards of this title as they relate to employee health benefit plans.

(2) PREEMPTION OF STATE LAW.—Nothing in this title shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) not prescribed in this title; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements, that are consistent with, and are not in direct conflict with, this title and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(c) CONTINUATION.—Nothing in this title shall be construed as requiring a group health plan or an employee health benefit plan to provide benefits to a particular participant or beneficiary in excess of those provided under the terms of such plan.

SEC. 202. ENFORCEMENT OF STANDARDS.

(a) HEALTH PLAN ISSUERS.—Each State shall require that each group health plan and individual health plan issued, sold, renewed, offered for sale or operated in such State by a health plan issuer meet the standards established under this title pursuant to an enforcement plan filed by the State with the Secretary. A State shall submit such information as required by the Secretary demonstrating effective implementation of the State enforcement law.

(b) EMPLOYEE HEALTH BENEFIT PLANS.—With respect to employee health benefit plans, the Secretary shall enforce the reform standards established under this title in the same manner as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(c) FAILURE TO IMPLEMENT PLAN.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this title with respect to group health plans and individual health plans as provided for under the State enforcement plan filed under subsection (a), the Secretary, in consultation with the Secretary of Health and Human Services, shall implement an enforcement plan meeting the standards of this title in such State. In the case of a State that fails to substantially enforce the standards and requirements set forth in this title, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, 506, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2)) shall apply to any information required by the Secretary to be disclosed and reported under this section.

(d) APPLICABLE CERTIFYING AUTHORITY.—As used in this title, the term "applicable certifying authority"means, with respect to—

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved; and

(2) an employee health benefit, plan, the Secretary.

(e) REGULATIONS.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this title.

(f) TECHNICAL AMENDMENT.—Section 508 of the Employee Retirement Income Security

Act of 1974 (29 U.S.C. 1138) is amended by inserting "and under the Health Insurance Reform Act of 1996" before the period.

Subtitle F—Miscellaneous Provisions

SEC. 191. HEALTH COVERAGE AVAILABILITY STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretary, representatives of State officials, consumers, and other representatives of individuals and entities that have expertise in health insurance and employee benefits, shall conclude a two-part study, and prepare and submit reports, in accordance with this section.

(b) EVALUATION OF AVAILABILITY.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation, based on the experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of reasonably priced health coverage to employers purchasing group coverage and to individuals purchasing coverage on a nongroup basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) EVALUATION OF EFFECTIVENESS.—Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of the provisions of this Act and the various State laws, in ensuring the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a nongroup basis.

SEC. 192. EFFECTIVE DATE.

Except as otherwise provided for in this title, the provisions of this title shall apply as follows:

(1) With respect to group health plans and individual health plans, such provisions shall apply to plans offered, sold, issued, renewed, in effect, or operated on or after January 1, 1997, and

(2) With respect to employee health benefit plans, on the first day of the first plan year beginning on or after January 1, 1997.

SEC. 193. SEVERABILITY.

If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Mr. ARCHER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PALLONE. Mr. Speaker, I have offered this motion to recommit with instructions with my colleague from Missouri [Ms. MCCARTHY] because I am concerned that we are about to go down a perilous path of ending any chances of health insurance reform. Our motion to recommit incorporates the Kennedy-Kassebaum-Roukema provisions without any additons. It would make it easier for workers who lose or change jobs to buy health coverage. It would limit the length of time that insurers could refuse to cover an applicant's preexisting medical problems.

Mr. Speaker, there are two distinct choices that we can make with this next vote. This House can make the decision to support this motion and do the right thing for the American people, or the House can vote against this motion and tell the American people that it is more important to keep promises with various special interests.

The Kennedy-Kassebaum-Roukema bill is crafted to keep premiums affordable, because it would not impact the insurance risk pool by encouraging healthy individuals to drop their coverage. It has bipartisan support in both the Senate and the House of Representatives. The President has indicated that he will support the Roukema bill. The motion to recommit will ensure that this legislation is enacted into law.

Mr. Speaker, why does the Republican leadership insist on messing up this legislation with controversial poison pill amendments? One of the provisions that the Republican leadership insists on including is the medical savings accounts, which will favor the wealthy and healthy. MSA's will be just another tax shelter for the rich. Americans who do not choose to join the MSA's because of the high risks involved will see their health insurance premiums increase. The MSA's, among other extraneous provisions, will guarantee the failure of any health insurance reform in this Congress. We all know this, Mr. Speaker. The gentlewoman from New Jersey [Mrs. ROUKEMA], who courageously took this floor tonight, has said as much. So has her counterpart in the other body, Senator KASSEBAUM. These women should not be vilified tonight. Instead, they should be thanked for doing the right thing for the American people.

Mr. Speaker, let us all do the right thing tonight. I urge a "yes" vote on the motion to recommit if Members want health insurance reform this year.

Mr. Speaker, I yield to the gentlewoman from Missouri [Ms. MCCARTHY].

Ms. MCCARTHY. Mr. Speaker, I join with the gentleman from New Jersey in moving to recommit this bill to committee with instruction to report the Roukema bill, H.R. 2893, for final passage. Kennedy-Kassebaum-Roukema has supported from the White House, from the American public, from the health care industry, and bipartisan support in the Senate. It is legislation which can be signed into law tonight.

To recommit puts sound public policy above special interests. To recommit assures American families of security by providing genuine health care reform. In a Congress that touts fiscal responsibility, to vote against this motion is fiscally irresponsible. I urge my colleagues to vote "yes" on this motion, to stand for true reform, to stand against special interests, to stand for the American people. Vote "yes" to recommit.

Mr. ARCHER. Mr. Speaker, I rise in opposition to the motion to recommit.

I yield to the gentleman from California [Mr. THOMAS], chairman of the Subcommittee on Health of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, I really do not know who to direct my remarks to, because apparently this motion to recommit is Dingell minus the increase for the self-employed. Two of our colleagues on the other side, the gentleman from North Dakota and the gentleman from Illinois [Mr. DURBIN], took the well and talked about how much better the Democrat substitute was because it did better for the self-employed. Now what we have here is Dingell lite.

Mr. Speaker, is it not interesting and, by the way how, cynical they were more for the self-employed if it was honey to attract people to the Democratic substitute, and so I guess I am addressing my remarks to the 10 Republicans who went for the improvement of Kassebaum because of the self-employed provision. That is out. It lasted 5 minutes. Show your commitment, it did not draw enough, so it is gone. It is not there because they believe in the self-employed and want to increase the deductibility, it was there to attract people. Since it did not get anybody, they pulled it out.

If you did not like Dingell, they will not like Dingell lite. Vote "no" on the motion to recommit.

Mr. ARCHER. Mr. Speaker, as I listen to this debate, I must say that I am puzzled by the reluctance of some Democrats to support a bill that will provide millions of Americans with increased access to health care insurance at a more affordable price. What a strange turnaround from 2 years ago when my friends across the aisle stood up and fought for a big government takeover of our nation's health care system. Here is a description of that plan that they offered and that they supported 2 years ago.

But tonight, they claim ours is too far-reaching, it should be shaved back. The same people who presented this to us in 1994. It is broken, they said. Health care is in crisis. We must fix it. The President and Hillary Clinton know just how to get that done. Well, the big government Democrat prescription for our Nation's health care ills was rejected by the American people and properly so.

Mr. Speaker, America has the best health care system in the world, no thanks to government, but thanks to our Nation's great private sector. The answer does not lie in a big-government takeover of health care. Rather, the way to provide the American people with health care that is more available and affordable is through a targeted measure that relies on the strength of the private sector, not the government, and that is what this bill does.

It is a strong bill, a solid bill, a bill that will bring help to millions of needy Americans, and it does it by relying on the private sector, not the Government. It is exactly the right dose of medicine to cure our health care ills. So why do some, thankfully not all, but some Democrats oppose it?

Mr. Speaker, I conclude the reason the Democrat leadership opposes this bill is because their big-government version of health care reform failed and they do not want to see the Republicans move forward with one that will succeed. They know that the American people support each and every one of the targeted reforms that we have proposed, but the Democrat leadership and their trial lawyer friends have rejected a bipartisan approach to health care reform and instead offer only obstruction and opposition.

The Democrat opposition stems from sour grapes and special interests. Mr. Speaker, sour grapes and special interests. The bill we have today before us is a landmark. It is a bill that brings me great pride and satisfaction, and this is a very proud day for the House and for the Nation. Health care reform is moving forward, and I predict it will be signed into law. We look forward to working with the President and the Senate on this bill. It will be our only chance to improve America's health care system. We must be careful not to let it slip away, without making as many changes as we can reasonably on behalf of the American people.

Too much medicine is bad for the patient, but too little will not help the patient get better. This bill is the right does of medicine. Vote "no" on the motion to recommit and "aye" on the bill.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. PALLONE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the question of final passage.

The vote was taken by electronic device, and there were—ayes 182, noes 236, not voting 13, as follows:

[Roll No. 105]

AYES—182

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Quinn
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wynn
Yates

NOES—236

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Bryant (TX)
Collins (IL)
Eshoo
Fields (LA)
Fowler
Martinez
McNulty
Neal
Ros-Lehtinen
Smith (TX)
Smith (WA)
Stokes
Weldon (PA)

□ 2257

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. COMBEST). The question is on the passage of the bill.

Pursuant to House Resolution 392, the yeas and nays are ordered.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 267, nays 151, not voting 14, as follows:

[Roll No. 106]

YEAS—267

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle

Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Rose
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Studds
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—151

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Miller (CA)
Mink
Moakley
Mollohan
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stupak
Tejeda
Thompson
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—14

Bryant (TX)
Collins (IL)
Dornan
Eshoo
Fields (LA)
Fowler
McNulty
Neal
Ros-Lehtinen
Skelton
Smith (TX)
Smith (WA)
Stokes
Weldon (PA)

□ 2305

Mr. KENNEDY of Massachusetts and Mr. FOGLIETTA changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DORNAN. Mr. Speaker, on rollcall No. 106, Passage of the Health Coverage Availability and Affordability Act, I was just outside the main door discussing a compromise with appropriators. Unfortunately, I missed the vote. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. SKELTON. Mr. Speaker, on Thursday, March 28, I was unavoidably detained and missed rollcall vote No. 106. I would have voted "no" on rollcall No. 106, final passage of H.R. 3103, the Health Coverage Availability Act.

RESIGNATION AS CONFEREE AND APPOINTMENT OF REPLACEMENT CONFEREE ON H.R. 3019, BALANCED BUDGET DOWNPAYMENT ACT, II

The SPEAKER pro tempore laid before the House the following resignation as a conferee:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 28, 1996.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, H232, The Capitol, Washington, DC.

DEAR MR. SPEAKER: Effective immediately, I hereby resign from the conference of H.R. 3019, the Omnibus Appropriations Act for Fiscal Year 1996, Conference Report.

Sincerely,

LOUIS STOKES,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted and without objection, the Chair appoints the gentleman from Maryland [Mr. HOYER] to fill the resulting vacancy among the primary panel of conferees.

There was no objection.

The SPEAKER pro tempore. The clerk will notify the Senate of the change in conferees.

PARLIAMENTARY INQUIRIES

Mr. FAZIO of California. Mr. Speaker, I have a parliamentary inquiry. I have a question about the rule that is about to be brought before us on the farm bill.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. FAZIO of California. Mr. Speaker, I would ask, is there a waiver in this rule of the unfunded mandate provision?

The SPEAKER pro tempore. When the rule is read, the gentleman will under stand it. There is a waiver of all points of order in the resolution.

Mr. FAZIO of California. Among all those points of order that were waived, is one of them the unfunded mandate provision, Mr. Speaker?

Mr. SPEAKER pro tempore. The gentleman will understand when the resolution is read.

Mr. FAZIO of California. Further parliamentary inquiry, Mr.Speaker. Is there an analysis available to the Members from the Congressional Budget Office that would inform us as to whether this was in fact an unfunded mandate that would require——

Mr. SOLOMON. Mr. Speaker, yes there is.

The SPEAKER pro tempore. The gentleman should address that question to the Committee on Rules.

Mr. SOLOMON. Yes, there is.

CONFERENCE REPORT ON H.R. 2854, FEDERAL AGRICULTURE IMPROVEMENT AND REFORM ACT OF 1996

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on rules, I call up House Resolution 393 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 393

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2854) to modify the operation of certain agricultural programs. All points of order against the conference report and against its consideration are waived.

SEC. 2. Senate Concurrent Resolution 49 is hereby agreed to.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman form Ohio [Mr. HALL], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, I would say to the Members, if I could just have their attention, we will dispose of this rule in 10 minutes, at the most, with no vote necessary, since it is not controversial. So let us get on with it.

Mr. Speaker, the rule before the House today is necessary to permit the House to consider the conference report on the Federal Agriculture Improvement and Reform Act, or FAIR Act.

The rule waives all points of order against the conference report and against its consideration. The waivers are necessary in large part because the Senate passed a much broader bill than the House.

For example, the Senate bill and the conference report contain an extension of the Food Stamp Program, while there was no such provision in the original House bill.

The rule also provides for the adoption of a Senate concurrent Resolution which directs the enrolling clerk to correct an error in the conference report as filed.

Mr. Speaker, this conference report represents the culmination of a long effort to change the way farming is done in America.

Instead of having farmers produce to meet the requirements of Government programs, this bill is designed to move the Government out of the farming business, and let farmers start producing to meet the needs of consumers.

In the long run this will result in lower cost to the taxpayers, and more efficient production of food for the market.

Were it not for the dogged determination and strong leadership of the chairman of the Agriculture Committee, the gentleman from Kansas [Mr. ROBERTS], this bill might never have materialized in its present form.

Because this bill represents a change in 60 years of Federal farming policy, it has been one of the toughest farm bills ever in the history of this House to manage.

The distinguished gentleman from Kansas, who used to serve in the U.S. Marines, I will note, has demonstrated the guts to get it through. We are all in your debt, Mr. Chairman.

I would also like to commend the ranking minority member of the Agriculture Committee, the gentleman from Texas [Mr. DE LA GARZA], and the other members of the committee for the long hours of work they have put into working out this final product.

We have ended up with a bill that the President has said he is going to sign, and this is an indication of the degree to which concerns on both sides of the aisle have been taken into consideration.

Putting this all together required not only bipartisan cooperation, but also a willingness to work out differences between the House and the Senate.

Senator LUGAR, the chairman of the Senate Agriculture Committee, proved an able Representative of the other body during long negotiations.

Finally I would like to thank the staff members on both sides of the hill who worked on this conference agreement. Much of their work is not seen on the outside, but we who know how hard they work appreciate their efforts.

Mr. Speaker, as many of you know the dairy provisions in this conference agreement have been of particular concern to me, since I represent one of the largest milk producing districts in the Nation. We have ended up with a fair and workable dairy program, one that ends Government subsidies to processors of milk products, like butter, powder, and cheese, but continues a non-taxpaying funded liquid milk price stabilization program that will guarantee small dairy farmers a fair and reasonable price for their milk.

Finally, Mr. Speaker, we need to remember that the planting season is about to begin in some parts of the country, and that means that farmers need to know what the Government's farm policy is going to be. This bill provides the answer to that question. And in order to consider this conference report, it is necessary to adopt this rule. Therefore, I ask for a "yes" vote on the rule and a "yes" vote on the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution, House Resolution 393, makes in order to consider the conference report on H.R. 2854, the Federal Agriculture Improvement and Reform Act, and it waives all points of order against the conference report.

The conference report on H.R. 2854 reauthorizes farm programs for 7 years. It replaces the current Federal programs for major crops with a new system of fixed annual cash payments that would eventually be phased out. The measure is a dramatic overhaul of our Nation's farm laws, and if successful, it will cut Federal spending on agriculture, at the same time giving farmers greater flexibility in choosing which crops to plant.

The conference report also reauthorizes various overseas food assistance and export programs of the Department of Agriculture. This includes a 7-year reauthorization of the Food for Peace Program, which is known as Public Law 480.

□ 2315

This is a very important program that feeds millions of people around the world. I have seen the food being delivered, I have seen it being used, and I have seen it save lives.

During House consideration of the bill, I worked to include an amendment to make useful changes in the Public Law 480 program, and most of those changes were adopted by the conferees.

Mr. Speaker, I do regret that the technical change in the conference report made by the rule might reduce the ability to implement the program in the period near the end of the fiscal year, and I hope that Congress will monitor the effect of this change and be prepared to make any additional changes to ensure the smooth operation of the program.

The conference report sets payments for farmers for the next 7 years, but I also regret that it only reauthorizes the food stamp program for 2 years. The food stamp program is a lifeline to the hungry in America and one of our most successful antipoverty programs. I believe that they should be given the same kind of long-term assurance that the farmers receive.

Mr. Speaker, it is essential that Congress approve a farm bill quickly before the spring planting season begins, and I urge the adoption of the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, with all due respect to the Members on this side, we are going to ask them not to speak. We are going to have one unanimous consent statement and 1 minute to the distinguished Chairman of the Committee on the Budget, and that is going to be it. We are going to roll this thing.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS], of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I rise in strong support of this brilliant, fair rule.

I thank the gentleman from Glens Falls for yielding me this time, and I rise in support of the rule for the farm bill conference report. This is a fair rule, and it follows standard House procedure for the consideration of conference reports while fixing an important technical mistake. However, Mr. Speaker, I do have some concerns with the underlying bill. It is clearly a mixed bag for southwest Florida. On the one hand, we have seen a real breakthrough in Federal efforts to restore the Everglades—the $200 million in this conference report, in conjunction with the additional land swap authority added in conference, provides a jump start to the joint efforts by the State, the Federal Government, and the south Florida water management district to restore the everglades. This is a serious commitment, and a necessary one. We have not been good stewards of the Everglades and Florida Bay—a series of actions by the State, the federal government, agricultural interests and others has transformed a unique 50-mile wide freshwater river and its surrounding ecosystem—and not for the better. The periodic sheetflow of fresh water has been reduced, rechannelled and regulated for the convenience of agricultural interests and residential developments—causing a rapid loss of habitat necessary to sustain fisheries, waterfowl, and other wildlife. The nutrient pollution of this water has further degraded what habitat is left. Downstream, Florida Bay is dying. These situations have damaged resources that are vital to the economy and quality of life in Florida. We now understand that the once prevalent view that the Everglades is just a swamp is somewhat akin to looking at the grand canyon as just a big pothole.

There has been a renewed interest in the Everglades system over the past few years, and we've seen several smaller-scale efforts toward restoration, but it is time to get the ball rolling on a comprehensive, coordinated plan to save what remains of this national treasure. And $200 million is a responsible sum to allocate. I do wish that we were more specific in identifying a funding source or sources for this money. Some of my Florida colleagues have suggested an assessment on agricultural interests that have benefited from the changes in the Everglades, and I think this idea should be given serious consideration. The taxpayers in southwest Florida are already paying more than their fair share in State taxes and extra water fees. The State has agreed to match Federal funds 50–50. Still, while I think we have some work to do in finding an offset, I strongly support the Everglades provision in this bill and I congratulate the conferees for their hard work.

Unfortunately, Mr. Speaker, I cannot support other aspects of this bill. For instance, the continuation of many large subsidy and price support programs concerns me. I recognize the difficulty involved in making significant changes in these programs. And there are some victories here—for instance, under this bill the dairy subsidy will be phased out over a 5 year period. But, the minor reforms in most of the price support and subsidy programs just aren't enough. I am disappointed that Congress has missed this opportunity to remove the heavy hand of Government from the agricultural marketplace. I do not believe it makes much sense to lock in place these special benefit programs over the next 7 years when we are committed to phasing out unnecessary Government spending and involvement in private enterprise.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. KASICH], chairman of the Committee on the Budget, to give some accolades to somebody we know.

Mr. KASICH. Mr. Speaker, I want to thank the gentleman, and I think the Members here tonight should realize that, even though the hour is late, we are about to do something that is truly historic. That is to have the most sweeping change in the farm bill in over 40 years.

Basically, when people across this country say they could never understand why we pay people not to do anything, not to plant anything, this will make such a major reform of the crops that they will not ever have to ask that question again at the end of the day.

I think that the move towards the free market is where we ought to go; I think we could have saved a few more dollars; I think we could have reformed a few more crops, but I want to recommend that the freedom to farm act is a very positive step. The New York Times just the other day commended the committee for the most sweeping reform based on the free market that we have seen. I think it is an appropriate bill as we head into the 21st century. I want to congratulate the distinguished Chairman of the Committee on Agriculture [Mr. ROBERTS] who has done a yeoman's job and walked over an awful lot of hot coals in order to see this day actually happen. So I want to congratulate him, congratulate Members on both sides of the aisle and to say I think the American people, when they understand what is in this bill, are going to give accolades to this Congress for having the courage to move the farm bill into the 21st century.

Mr. SOLOMON. Mr. Speaker, the majority is prepared to yield back all of its time and ask for a nonrecorded vote as soon as the minority yields back their time.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, I know that the hour is late, and I do not oppose this bill. My point in speaking at this late hour is simple. Earlier today when the gentleman from Michigan [Mr. BONIOR] made a motion which would address the issue of a minimum wage for the American worker, the majority decided to invoke a rule that would strike that motion on the premise that it somehow was an unfunded mandate.

CBO has now ruled of course that that motion did not constitute an unfunded mandate. But in this bill, there is an unfunded mandate, and of course the rule waives that. Now, that is not the first time. I am sure the majority will use its power whenever it so wishes to deem something an unfunded mandate and then ignore another unfunded mandate and present the Members with a fait accompli.

This was also typical of the three-fifths rule on tax increases. I cannot remember how many times we have waived that rule which we so proudly adopted on the opening day of this session.

My reason for speaking is not to the substance of this bill but a constant attention to the majority's propensity to constitute whatever rules it wishes in violation of whatever standards it has adopted, even in this Congress where it took so much credit for changing the way we do our business here. Many Members on both sides of the aisle, the gentleman from California [Mr. CONDIT], certainly the leader, decided that the unfunded mandate issue needed to be addressed.

Well, here, once again, we get the headline, and then when it comes down to implementation, we reject taking any action on this unfunded mandate. Yet we use it as an excuse when we do not want to deal with an issue that is unpopular for the majority but overwhelmingly popular in the country.

So, Mr. Speaker, I simply have to rise in protest over the continuing misuse of the rules by the majority.

Mr. Speaker, I rise in reluctant support of the conference report to the bill H.R. 2854, the Federal Agricultural Improvement and Reform Act, better known as the 1996 farm bill.

In considering this legislation today, it is important to put it in some perspective, because as we all know, this was supposed to have been the 1995 farm bill.

Since 1965, we have passed multiyear farm bills to reauthorize a wide variety of commodity, trade, research, conservation, rural development and nutrition programs.

We passed farm bills in 1965, 1970, 1973, 1977, 1981, 1985, and 1990. The most recent two farm bills were passed with overwhelming bipartisan majorities.

But when 1995 came and the Republicans took over control of the House and Senate, they decided to adopt a different tact. They abandoned what in past years was a broad-based, bipartisan bill based on open debate about our national agriculture policies and priorities.

You might say that in their first year behind the plow, the GOP leadership used a new kind of fertilizer: partisan politics—to cultivate their favorite crop—political points.

Instead of debating this legislation in a systematic fashion throughout the year, the Republicans waited until late in the year when appropriations bills, continuing resolutions, and debt ceilings held center stage. Then and only then, in a budget-driven exercise, GOP leaders decided to tie the farm bill's fate to controversial budget reconciliation legislation about which Democrats and President Clinton had expressed severe reservations.

The chairman of the Agriculture Committee could not even muster a majority of votes within his committee and was forced to use special procedures to have the Budget Committee report the so-called farm bill as part of the reconciliation bill.

Once the reconciliation bill was vetoed and the GOP strategy was shown to be flawed, farmers and consumers across the country watched the important authorizations for these programs expire. Farm fill consideration was forced to start from ground zero.

This is not the way to make national agriculture policy.

This is not the way to treat our largest industry, the United States' biggest employer, and our biggest export earner.

In short, this is not the way to treat American farmers and the millions of Americans who depend upon them.

These legislative tactics caused needless anxiety across the country, and to what end?

The end is the conference report we consider today—a bill in better balance—similar to those we have always brought forward in the past—that will move agriculture production forward in the years to come. But it is a bill we should have considered and passed into law many months ago.

The conference report contains all the traditional titles included in the farm bill in the farm bill in addition to the commodity titles—rural development, export promotion, foreign food assistance, domestic nutrition programs, and conservation.

I think the GOP leadership needs to ask itself what might have happened last year if they had approached this crucial legislation in the same spirit as reflected by the conference report today. My sense is you would have a very similar product but you would have avoided the specter of partisanship. Better yet, you would have saved our farmers months of needless anxiety.

Perhaps the GOP leadership considered the freedom to farm concept to be too controversial for any but heavy-handed and partisan tactics.

But farmers in California understand that we must move to a market-based farm economy. In fact, agriculture producers across the country have been positioning themselves, as we have in California, to take advantage of increased trade opportunities from NAFTA and GATT. Agribusiness has been making the investments necessary to respond to a growing, yet demanding and sophisticated world market.

However, for my part, I believe there are two flaws in this bill that require attention, even if they are not sufficient to require a "no" vote today.

First, the Senate voted down and the conference turned its back on a simple requirement that farmers plant a crop in order to qualify for a freedom to farm payment. Certainly, most farmers will continue their historic pattern of farming while using the expanded flexibility in this bill to boost production and pursue new marketing opportunities. But there will be many marginal farmers who will view payments not linked to planting as a one-time opportunity to take the money and run. The horror stories of farm welfare in the years to come are easy to anticipate, and they will represent a black eye for American agriculture, which is already not well understood by many Americans. It is a black eye that easily could have been avoided.

Second, in moving to a market-oriented economy, we effectively have eliminated a safety net program for our program crop farmers that is linked to prices. Prices are high now, and trade is booming. But not every future year will turn out that way, and there are always special problems that arise affecting individual commodities. I am concerned that trade wars or other unpredictable events in future years will wash away farmers who otherwise might have weathered the storm if a safety net program were in place.

The conference has wisely included various conservation, export, research, credit, and promotion programs. These agriculture programs often receive less attention than commodity programs, but they are at the heart of American agriculture's success. Leaving them out of the House bill was a major mistake—one of the reasons I opposed the House version of this bill—and I'm pleased the conference has put them back in.

In the final analysis, this bill is not perfect, and lacking perfection, it is a bill we could have arrived at many months ago. Ultimately, the GOP leadership must ask themselves if their partisan tactics have produced an improved product—I think the answer is a resounding no.

Has the GOP leadership positioned Congress well to weather the charges of welfare for farmers that are likely to arise?

Could the GOP's quest for budget savings have been accomplished much more easily by providing price-based safety net programs and being far more generous to research and trade promotion programs?

Only time will answer these questions as we watch the effects of the bill we consider today in the years to come.

While I cast a reserved "yes" vote for the farm bill conference report today, I unreservedly reaffirm my commitment to a strengthened American agriculture in the years to come. Congress must monitor the effects of this legislation carefully and be prepared to act again if necessary to ensure that American agriculture retains its preeminent position in the world.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I want to begin by not apologizing at all for speaking on a major piece of legislation in the House of Representatives. The majority's manipulation of the schedule is outrageous enough, but now to say that this major piece of legislation, which the House majority leader a few years ago described I think aptly, he predicted welfare for farmers as he said in his Heritage Foundation piece. And I would not necessarily mind welfare for farmers, but they get 7 years of welfare, the AFDC recipients get 5, and of course there is no work requirements.

But for the House to spend so much time doing so little for so long, and then take up a major piece of legislation, and the leadership decides it will come up late at night and then to say oh, well, it is late at night, you cannot debate it. That is like the kid who kills his parents and say, have mercy, I am an orphan.

As the gentleman from California pointed out, before we were told that something is not an unfunded mandate, could not even be debated, the minimum wage, but this bill, according to CBO, has five unfunded mandates. And when it came before us as a bill, the Committee on Rules waived it. They would not even vote on that. So we get a bill with a lot of unfunded mandates.

The first test of the new rule on unfunded mandates, they do not pay any attention to. They now are trying to browbeat the House into ignoring all of these important substantive issues, give the farmers welfare, spend billions of dollars, let us have some unfunded mandates, but it is 11:30, let us go home. Well, if my colleagues do not want to debate things at 11:30, they control the House, schedule them at a reasonable hour. But to take a major piece of legislation like this and then so manipulate the schedule that they want to sneak it through without adequate debate is unworthy of the House.

Mr. Speaker, we ought to debate these unfunded mandates. We ought to debate the fact that farmers get billions of dollars for years for doing absolutely nothing whatsoever. I hope that the House will in fact repudiate these tactics.

Let us debate this. My colleagues have waited a very long time. We could pick an- appropriate time of the day and debate it honestly and fairly, and do not come here, deliberately work the schedule this way and then say, oh, but we want to be nice to everybody, let us go home. If Members want to go home, let them go home and let the rest of us stay here and do the business that we are paid to do.

Mr. HALL of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I just want to tell the gentleman from Boston that this bill guarantees the people of Boston are going to have fresh milk for the next 7 years.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The text of Senate Concurrent Resolution concurred in pursuant to House Resolution 393 is as follows:

S. CON. RES. 49

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs, shall make the following corrections:

In section 215—

(1) in paragraph (1), insert "and" at the end;

(2) in paragraph (2), strike "; and" at the end and insert a period; and

(3) strike paragraph (3).

Mr. ROBERTS. Mr. Speaker, pursuant to House Resolution 393, I call up the conference report on the bill (H.R. 2854) to modify the operation of certain agricultural programs.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. OXLEY). Pursuant to House Resolution 393, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of March 25, 1996, at page 6121.)

The SPEAKER pro tempore. The gentleman from Kansas [Mr. ROBERTS] and the gentleman from Texas [Mr. DE LA GARZA] each will control 30 minutes.

Mr. VOLKMER. Mr. Speaker, I rise in opposition to the conference report. It is my understanding that the gentleman from Kansas [Mr. ROBERTS] and the gentleman from Texas [Mr. DE LA GARZA] are both proponents of it, and I would like to claim time in opposition.

The SPEAKER pro tempore. Is the gentleman from Texas opposed?

Mr. DE LA GARZA. I am not opposed.

The SPEAKER pro tempore. The gentleman is not opposed. If the gentleman from Texas is not opposed, the gentlemen from Kansas and Texas and Missouri will each be recognized for 20 minutes. The gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. VOLKMER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

The House has before it today a historic conference report, H.R. 2854, the Federal Agriculture Improvement and Reform Act of 1996. I call it historic because the Committees on Agriculture have produced a farm bill that represent a major departure from the past and a bold plan in regard to the future.

Mr. Speaker, I have some 16 pages of very pertinent comments in regard to the Freedom to Farm concept that we have passed, but I am going to revise and extend my remarks and we are going to hope to try to conclude this.

The Senate has passed the similar conference report 74 to 26, and the reason that we are trying to expedite this bill is to get it to the President as fast as possible. We have assurance from the Secretary of Agriculture that the President will sign it, and farmers have been waiting and waiting and waiting. And so as soon as we conclude this debate, we will try to make it just as short as possible to accommodate not only every farmer and rancher of America, but my colleagues here who I know wish to go home.

Mr. Speaker, the House has before it today an historic conference report—H.R. 2854—the Federal Agriculture Improvement and Reform Act of 1996. I call it historic because the Agriculture Committees have produced a farm bill that represents a major departure from the past and a bold plan for the future.

Embodied in the Conference Report before us today is what is commonly referred to as the Freedom to Farm concept that I, along with Congressman Barrett of Nebraska, introduced last August. Freedom to Farm was developed after the Committee conducted 19 field hearings and traveled over 60,000 miles last spring listening to over 10,000 farmers, ranchers, and the agribusiness community.

The original New Deal farm programs, over 60 years, ago were based on the principal of supply management. Control supply and raise prices. Over the last 20 years the principal justification for the programs has been that farmers receive federal assistance in return for setting aside a portion of their acreage. That assistance was largely in the form of deficiency payments to compensate farmers for prices below a government-set target price for their production.

Today that system has collapsed as an effective way to deliver assistance to farmers. Worldwide agricultural competition usurps markets when we reduce production. World demand (along with the Conservation Reserve Program) has tightened supplies so that there have been no set-asides in wheat for five years—and none are projected in the foreseeable future, eliminating that justification for the programs. In short, the supply management rationale not only fails under close scrutiny by the many critics of agriculture policy, it has enabled our competitors to simply increase their production by more than we "set aside," thereby causing significant impact on American farmers through lost market shares.

The budget cuts of the last ten years have produced greater and greater bureaucratic controls on farmers. In fact, decoupling of the payments from production actually occurred ten years ago when Congress froze payment yields to save money. In 1990 the concept of "unpaid flex acres" was introduced to further weaken and devalue the programs in a budget-cutting move. For the last ten years, in effect, Congressional farm policy has been driven almost completely by budget reduction, and the 1995 debate reaffirmed the budget as the driving force for program policy.

Most in the agricultural community have come to the realization that annual set-asides are counter-productive and only encourage our competitors to plant more and steal market share. However, to eliminate the Secretary of Agriculture's reliance on set-asides would cost either the taxpayers or the farmers $6.6 billion under the present farm program according to the Congressional Budget Office (CBO).

The Freedom to Farm Act [FFA] was born of an effort to create a new farm policy from an entirely new perspective. Acknowledging that budget cuts were inevitable, FFA sets up a new set of goals and criteria for farm policy; Get the government out of the farmers' fields; return to farmers the ability to produce for the markets, not government programs; provide a predictable and guaranteed phasing down of federal financial assistance.

By removing government controls on land use, FFA effectively eliminates the No. 1 complaint of farmers about the programs: Bureaucratic redtape and government interference. Complaints about endless waits at the county office would end. Hassles over field sizes and whether the right crop was planted to the correct amount of acres would be a thing of the past. Environmentalists should be pleased that the government will no longer force planting of surplus crops and monoculture agriculture. Producers who want to introduce a rotation on their farm for agronomic reasons will be free of current restrictions. Allowing farmers to rotate their crops will allow them to reduce the use of pesticides, herbicides and fertilizer. This sample fact makes this bill the most "green" or environmentally friendly farm bill in my memory.

Under FFA, farmers can plant or idle all of their acres at their discretion. The restrictions on what they can plant are greatly reduced. Response to the market would assume a larger role in farmer planning. Divorcing payments from production (a process already begun when yields were frozen in 1985) will end any pressure from the government in choosing crops to pursue. All production incentives in the future should come from the marketplace.

The guarantee of a fixed (albeit declining) payment for seven years will provide the predictability that farmers have wanted and provide certainty to creditors as a basis for lending. The current situation in wheat, corn and cotton under which prices are very high, but large numbers of producers have lost their crops to weather or pests would be corrected by FFA. Those producers last year could not access the high prices without crops, and instead of getting help when they need it most, the old system cuts off their deficiency payments and even demands that they repay advance deficiency payments. FFA insures that whatever government financial assistance is available will be delivered, regardless of the circumstances, because the producer signs a binding contract with the Federal government for the next seven years.

Some of my colleagues have expressed reservations about making high payments during period of high prices. First, the payments will not be high. You can't cut the amount of money we have cut out of agriculture spending over the last 20 years and still have "high" payments. No farmer is likely to take his market transition payment and retire. Farmers will continue to farm.

Second, under FFA, the payments made to producers must be looked at from a new perspective. It is a transition to full farmer responsibility for his economic life. Just as farmers will need to look to the market for production and marketing signals, the FFA will require that farmers manage their finances to meet price swings. It is true that when prices are high, farmers will receive a full market transition payment. It is equally true that if prices decline, farmers will receive no more than the fixed market transition payment. That means the farmer must manage all his income, both market and government, to account for weather and price fluctuations.

In short, the FFP authorizes Transition Payments to farmers—as opposed to the current program's deficiency payments—to serve as a form of compensation as we move U.S. agriculture from an economy heavily influenced by the federal government to one in which the government's role is substantially reduced and the primary influence is the market place.

The old program provided market insulation for each bushel of production, but that system is collapsing under the weight of budget cuts. The FFA enhances the farmer's total economic situation—in fact, FFA results in the highest net farm income over the next 7 years of any of the proposals before Congress. This allows the farmer to become accustomed to saving when times are good and using those savings when times are tough. With government assistance declining, it is imperative that producers assume total responsibility for their economic futures. In the years that prices are strong and the farmer receives a payment, it will be his personal responsibility to save that money for the bad year or pay off debt so he can weather the bad years.

The severest critics of farm programs at the New York Times, the Washington Post, the Economist, and a host of regional newspapers have hailed FFA as the most significant reform in ag policy since the 30's. Many congressional critics have also decided that FFA represents the kind of reform they can support. If the "welfare" charge was to be leveled, it should have come from this corner. Instead, they believe FFA is the kind of reform that is needed. Nearly every agricultural economist who has commented on FFA has supported it structure and its probable effect on farmers and the agricultural sector.

The only people who are worried about it being classed as "welfare" are those populists who want to keep the status quo, some farm groups and others who are supportive of the old farm programs. Agriculture is now at a crossroads. It can either sink deeper into government controls and rapidly sagging government support, or it can strike out in a new direction that at least holds out the prospect of an assisted transition to the private marketplace. H.R. 2854 and the Freedom to Farm Act is that new direction and Congress needs to seize it.

Never before has a farm program proposal enjoyed such broad and diverse support as this one. From the Ivory Towers of academia and the think tanks to the editorial board rooms of our nation's newspapers to a broad spectrum of farm, commodity and agribusiness groups, support for this proposal is strong. Most importantly, Freedom to Farm enjoys widespread support among individual farmers across the country who are fed up with convoluted government programs, and exploding government debt.

The following groups or individuals have endorsed either the Freedom to Farm Act or that concept as contained in H.R. 2854. I ask unanimous consent to insert in the record at this point a list of groups, organizations, and newspapers who have endorsed the Freedom to Farm concept:

FARM AND TRADE ORGANIZATIONS

American Farm Bureau Federation, National Corn Growers Association, National Grain Trade Council, National Grain & Feed Association, American Cotton Shippers, Iowa Farm Bureau Federation, Iowa Corn Growers Association, Iowa Cattleman's Association, Kansas Farm Bureau, Kansas Association of Wheat Growers, Kansas Bankers Association, Kansas Grain & Feed Association, Kansas Fertilizer & Chemical Association, North Dakota Grain Growers Association, the Minnesota Association of Wheat Growers, the National Turkey Federation, the National Sunflower Association, National Food Processors' Association, Agricultural Retailers Association, American Feed Industry Association, American Frozen Food Institute, Biscuit & Cracker Manufacturers' Association, National Oilseed Processors Association, Millers' National Federation, and the Coalition for a Competitive Food and Agricultural System (representing 126 members).

PUBLIC INTEREST ORGANIZATIONS AND REPRESENTATIVES

U.S. Chamber of Commerce, Citizens Against Government Waste; John Frydenlund—The Heritage Foundation; Paul Beckner—Citizens for a Sound Economy; David Keating—National Taxpayers Union; Grover Norquist—Americans for Tax Reform; Fran Smith—Consumer Alert; Ed Hudgins—The Cato Institute; Jonathan Tolman—Competitive Enterprise Institute.

A SAMPLING OF NEWSPAPER ENDORSEMENTS

Wall Street Journal, New York Times, Washington Post, Des Moines Register, USA Today, Dallas Morning News, Chicago Tribune, Minneapolis Star Tribune, Denver Post, Kansas City Star, Wisconsin State Journal, The Daily Oklahoman, The Wichita Eagle, The Indianapolis News, The Hartford Courant, The Louisville Courier Journal, Washington Times, The Garden City Telegram, The Manhattan (KS) Mercury. Also, Feedstuffs, Farm Journal, New England Farmer.

ECONOMISTS

Prof. Willard W. Cochrane, University of Minnesota, Director Agricultural Economics, USDA, Kennedy Administration; Dr. Lynn Daft, Abel, Daft, Earley & Ward International, Agricultural Counselor, White House, Carter Administration; Dr. Bruce Gardner, University of Maryland, Assistant Secretary for Economics, USDA, Bush Administration; Dr. Dale Hathaway, National Center for Food & Agricultural Policy, Under Secretary for Economics, USDA, Carter Administration; Dr. Robert Innes, University of Arizona, Council of Economic Advisors, Clinton Administration; Dr. D. Gale Johnson, University of Chicago; Dr. William Lesher, Russell and Lesher, Assistant Secretary for Economics, USDA, Reagan Administration; Dr. Lawrence W. Libby, University of Florida; Dr. Don Paarlburg, Purdue University, Special Assistant, President Eisenhower, Director of Agriculture Economics, Assistant Secretary of Agriculture, USDA, Nixon-Ford Administrations; Dr. Robert Paarlburg, Wellesley College and Harvard University; Dr. C. Ford Runge, University of Minnesota; Dr. John Schnittker, Schnittker Associates, Under Secretary of Agriculture, USDA, Johnson Administration; Mr. Daniel A. Sumner, University of California—Davis, Assistant Secretary for Economics, USDA, Council of Economic Advisers, Bush Administration; Dr. Robert L. Thompson, Winrock International, Assistant Secretary for Economics, USDA—Reagan Administration; Dr. Luther Tweeten, The Ohio State University; and Dr. Barry Flinchbaugh, Kansas State University.

Clearly the support for the concept of Freedom to Farm is widespread. But this bill is more than just Freedom To Farm. There are other major reforms contained in this package. This bill reforms the dairy industry. It instructs the Secretary to reduce the number of milk marketing orders in the nation. It phases out the price support. This bill provides regulatory relief for farmers in terms of conservation compliance and wetlands by injecting a little common sense into the process.

This bill has a very strong trade title. It has strong embargo protection language that reminds the President we can't have a market-oriented farm policy and allow the State Department to destroy those markets through foreign policy embargoes. The American farmer remembers the Soviet Grain Embargo of 1980—that nearly wiped out a generation of farmers. We can't go down that road again and this bill makes it more difficult for a President to choose that path.

This bill also contains the Commission on 21st Century Agriculture. As I have alluded to, this is a transition bill. But many farmers have raised the question of a transition of what? This bill charges the Commission to look at where we have been and where we should head and report to Congress on the appropriate role of the Federal government in production agriculture after 2002.

This bill also authorizes existing research programs for two years while Congress can undertake an extensive review of the $1.7 billion we spend on agricultural research. The House Agriculture Committee has sent out 57 questions to the research community stakeholders asking them for their guidance and input. On Wednesday, we began the hearing process that will hopefully lead to reform legislation that moves agricultural research in the direction of helping our farmers compete in a global marketplace against very tough competitors.

This bill takes a small stab at reforming the way USDA goes about buying its computers. In the past, the USDA through the Commodity Credit Corporation has spent hundreds of millions of dollars on computers and information systems, often without very much Congressional oversight. The result has been the various agencies of the USDA all have different computer systems with little ability to communicate. Several years ago the USDA embarked upon Infoshare supposedly to better manage its computer and information systems. The Clinton administration abandoned that and is proposing to spend $175 million next year on yet another computer purchasing extravaganza. This bill attempts to get a Congressional grip on those purchases and make them subject to greater Congressional review and accountability.

This bill reforms and streamlines the current rural development system by establishing the Rural Community Advancement Program [RCAP], which authorizes the Secretary to provide grants, direct and guaranteed loans and other assistance to meet rural development needs across the country. The new program provides greater flexibility, state and local decision making and a simplified, uniform application process.

In summary, this bill is truly reform. It moves agricultural program policy into the 21st Century. I urge my colleagues to support it.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I rise in support of this conference agreement.

Mr. Speaker, I say to my colleagues that we bring them the most difficult title of this conference report, the dairy title. It has been the most acrimonious, but I think we bring a consensus package today which represents the most comprehensive reform of dairy policy in the last 50 years.

What it does is first and foremost prepares us to deal with the inequities of dairy pricing across this country over the next 3-year period; and secondly, it allows us over the next 4 years to prepare for the American dairy farmer to successfully participate in the post-GATT world dairy economy.

This is significant legislation, and I would encourage everyone to support it.

Mr. Speaker, I would now like to take just a few moments go through the dairy chapter of the conference report section by section to describe the improvements the conference report has made in the House-passed bill.

Section 141 retains the dairy price support program for 4 years, but eliminates the budget assessment on producers immediately. The support price will be set at $10.35/cwt in 1996, $10.20/cwt in 1997, $10.05/cwt in 1998, and $9.90/cwt in 1999. This level of support is higher than that provided by the Solomon-Dooley language in the House-passed bill, thereby assuring producers a higher income in those years.

During this period, the Secretary is authorized to alter how the support price is allocated between butter and nonfat dry milk in an effort to minimize price support program purchases and maximize exports of those commodities.

This section also terminates the dairy price support program on December 31, 1999, rather than on December 31, 2000, as the House-passed bill would have done. This will allow the U.S. dairy industry to become competitive in the world market a full year before Solomon-Dooley would have. This is absolutely critical to the future of the industry because the Uruguay Round will free up about 25 percent of the world market for butter, nonfat dry milk, and cheese from subsidies by the end of the century.

Section 142 replaces the dairy price support program with a recourse loan program for processors of cheddar cheese, butter, and nonfat dry milk at a rate of $9.90/cwt of milk equivalent on a 3.67 butterfat basis. This marketing tool will be an important stabilizing tool as it enters the world market. It also serves a secondary purpose of maintaining a budget baseline for dairy commodity program outlays in the last 3 years of our 7 year budget cycle.

Section 143 provides for milk marketing order consolidation and pricing reform to be completed by USDA during the 3 years that follow the enactment of the bill. This is 2 years faster than the 5-year period proposed by the Solomon-Dooley language in the House-passed bill.

In completing the consolidation of the current 33 Federal milk marketing orders into not less than 10 nor more than 14 orders, the Secretary will have to redesign the entire price surface for milk in this country from the basic formula price for manufacturing milk to any differential for fluid (beverage) milk. Uniform component pricing for milk is specifically mentioned.

The bill language also specifically prohibits the Secretary from using the current fluid milk differentials in any way to achieve that new price surface. Rather, it suggests that he review utilization rates and multiple basing points, among other issues, when designing that new fluid milk pricing system. This will undoubtedly result in a flatter price surface for fluid milk and a more level playing field nationally.

All of the issues related to consolidation and pricing reform will be addressed through the information rulemaking process, assuring their completion within 3 years of the enactment of the legislation. There is a further safeguard to assure the timely completion of this reform in that, if the Secretary fails to complete these tasks within the allotted period of time, he will lose his authority to assess producers and handlers for marketing order services and administrative costs until those reforms are, indeed, completed.

Section 144 is offered in an attempt to exempt California from existing Federal standards for the solids not fact content in Class I (fluid) milk. Regrettably, this section is drafted in such a way that the State standards would become a barrier to interstate commerce in fluid milk and, as a result, will likely spawn years of additional lawsuits on this issue.

Section 145 resolves the so-called "section 102"—(California make allowance—issue which has, similarly, been the subject matter of frequent, contentious litigation. Specifically, section 102 of the 1990 farm bill is repealed and replaced, for a 4-year period, with a ceiling on State manufacturing allowances of $1.65/cwt for butter/nonfat dry milk and $1.80/cwt for cheese.

The section further clarifies that these ceilings are the numbers which result from a State's yield and product price formulas, not the numbers which are plugged into and, then, adjusted by these formulas. If a manufacturing allowance resulting from the yield and pricing formulas of a State milk marketing order exceed these ceilings, processors in that State are precluded from selling surplus commodities to the Commodity Credit Corporation under the dairy price support program.

Section 146 extends the fluid milk promotion program through the year 2002. The House reluctantly accepted this provision even though we have not had hearings on this reauthorization to date. We will, in fact, have those hearings later this spring.

Section 147 relates to the Northeast Interstate Dairy compact. While this interstate agreement has little support on the House side, we were confronted with a situation in conference that threatened the entire farm bill process if the Northeast compact were not among the provisions of the conference report. Given the delay that the Reconciliation process already imposed on a new farm bill and the prospect of farmers beginning their planting season without a farm bill, the House conferees reluctantly agreed to include the Northeast compact among the other farm bill provisions only after its proponents had agreed to the following limitations.

First of all, consent is granted to the compact only if the Secretary of Agriculture finds that there is a compelling public interest for the compact in the region. Second, any consent will be terminated when the Secretary implements the consolidation and pricing reforms required by section 143.

Further, the compact over-order price would be applicable only to fluid milk, and the CCC would have to be reimbursed for any additional purchases of milk and the products of milk resulting from any increased milk production in the compact region in excess of the increase in milk production nationally.

Most importantly, the compact and its over-order price are not allowed to create a domestic trade barrier to milk and milk products coming into the compact region from other production areas around the country. While the mere establishment of an over-order price by the Compact Commission for use within the region itself will not be considered a prohibition or limitation on interstate commerce or the imposition of a compensatory payment, the Commission cannot require handlers bringing fluid milk into the region, either in bulk, packaged, or producer form, to add a compensatory payment or other up-charge to that milk.

In this regard, the language in condition number seven is clear and unambiguous—the

Compact Commission cannot prohibit or otherwise limit milk or milk products from other regions of the country from entering the region, it must abide by the rules and regulations that Federal orders have set up with respect to the classification of milk and the allocation of the proceeds from inter-order sales of milk, and it cannot use compensatory payments under section 10(6) of the compact.

In short, Mr. Speaker, the legislation prevents the Northeast to use its compact in any way that could lead to the economic disadvantage or detriment of producers and processors in other regions of the country.

Section 148 requires the full funding of the Dairy Export Incentive Program [DEIP] to Uruguay Round limits and gives the Secretary of Agriculture the sole discretion over the program to eliminate interagency disputes over the use of this program in the future.

Sections 149 and 150 authorize the Secretary to assist the American dairy industry in establishing one or more export trading companies autonomous of the U.S. government and to find sources of funding for their activities. These entities would, then, assist U.S. companies in entering and remaining competitive in the world market. -

Section 151 requires the Secretary to study and report to the Congress on the impact that the new access cheese that our negotiators agreed to during the Uruguay Round proceedings will have on producer income and government purchases of cheese under the price support program.

Finally, section 152 re-emphasizes the authority the National Dairy Board already has to use a portion of its annual budget to promote American dairy products internationally.

As you can see, Mr. Speaker, this is a good dairy bill. Not only does it get us into the world market for dairy faster and provide greater marketing tools for the dairy industry than the Solomon-Dooley provisions, but is also kinder to producer income and gets us order reform and a more level domestic playing field faster than those Solomon-Dooley provisions. Accordingly, I recommend its adoption by my colleagues.

Mr. ROBERTS. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I would like to engage in a colloquy with the gentleman from Kansas regarding Section 892 of H.R. 2854, currently entitled "Use of Remote Sensing Data and Other Data to Anticipate Potential Food, Feed, and Fiber Shortages or Excesses and to Provide Timely Information to Assist Farmers with Planting Decisions." The gentleman from Michigan, Mr. Smith, and I worked out some language on how we can encourage the use of remote sensing data to aid farmers across this country, but the language contained in Section 892 of H.R. 2854 differs from what we agreed on and might be interpreted differently than is intended.

First of all, the title of the section conveys a different meaning than intended. It should indicate that the federal government's role in this area is to assist farmers in using remote sensing data, not to provide the data directly. Subparagraph (b) of Section 892 directs the NASA Administrator and Secretary of Agriculture to work with the private sector to provide information, through remote sensing, on crop conditions, fertilization and irrigation needs, pest infiltration, soil conditions, projected food, feed, and fiber production, and any other information available through remote sensing. Some might interpret that to mean that NASA should provide data directly to farmers, even if private remote sensing firms can already meet those needs. That is not what is intended by this paragraph.

Mr. ROBERTS. You are correct. That is not the intention of this language. There are excellent capabilities within NASA and the private sector to use remote sensing data for crop forecasting, precision agriculture, and projecting food yield. We do want to find innovative ways of bringing these capabilities to the benefit of the American farmer. Under Subparagraph (b), NASA and the Secretary of Agriculture should work with the private sector to teach farmers how to obtain and use remote sensing data from commercial data providers for the purposes you mentioned. The NASA Administrator or the Secretary of Agriculture should not interpret this to mean that they are to provide farmers with remote sensing data that the private sector is making available on the market.

Mr. WALKER. The NASA Administrator and the Secretary of Agriculture, then will not be allowed to compete with the private sector in providing earth remote sensing data, interpretation services, or tools to the agricultural community. It is also intended that NASA's efforts under this provision be managed by the Earth Observation for Commercial Application Program [EOCAP], based the Stennis Space Center in Mississippi.

Mr. ROBERTS. Well, the gentleman is absolutely correct. The intention of this subparagraph is for the NASA Administrator and the Secretary of Agriculture to help the commercial remote sensing industry better meet the needs of the agricultural community through development of new pre-commercial remote sensing technologies and interpretive tools. That way, we will ensure a steady steam of services and products that benefit American agriculture without adding to government expenditures or making American farmers dependent on the provision of government services. The EOCAP (E-OH-CAP) program has the most expertise in bringing these diverse requirements and capabilities together.

Mr. WALKER. Subparagraph (c) also calls on the Secretary of Agriculture and the NADA Administrator to jointly develop a proposal to provide farmers and other prospective users with supply and demand information about food and fibers. We do not intend that this section shall require or direct the NASA Administrator to conduct a program within NASA that does crop forecasting.

Mr. ROBERTS. The gentleman has hit the nail on the head again. This subparagraph is intended to urge the NASA Administrator to provide to the Secretary of Agriculture remote sensing data or interpretative tools that it develops under its normal activities, if and when such data and tools may be helpful in understanding the supply and demand for food and fibers. This is not intended to place any requirements for programs or research efforts on the NASA Administrator that add to NASA's current responsibilities.

□ 2330

Mr. Speaker, I reserve the balance of my time.

Mr. VOLKMER. Mr. Speaker, I yield myself such time as I may consume.

Before I yield to the gentleman, I would just like to observe that the little Mutt and Jeff or whatever kind of show that went on was quite a joke, and this bill is quite a joke.

Mr. Speaker, I yield 5 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me this time.

I would observe I have never heard my colleagues more eloquent.

I want to tell you at the outset that I feel badly all of you have to remain tonight for the debate preceding the vote. We asked the chairman to roll the vote. We are going to be here tomorrow. We might have had an extended debate, not inconveniencing you, but a full debate before the vote tomorrow.

The chairman refused the request to roll the vote, and that is why you will participate in the debate. We will not be rushed in our effort to get on the record our reservations about this bill. And I do not care what tactics they use to put us in an awkward situation debating the bill at 11:30 at night.

You are going to hear tonight a lot of thumping of the chests, a lot of patting on the back. We are passing a farm bill. You know, it is as though they did not realize the last farm bill expired at the end of 1995. We have had farmers all across the country considering very difficult decisions in terms of what to plant, what financing to get in place, not just the farmers but lenders, agribusiness men, all wondering about the actions of this Congress. As far as I am concerned, the House Ag Committee had one thing and one thing only to do in 1995, and that is get a farm bill passed. And the House Committee on Agriculture failed to do it.

Come 1996 January came and went, come February, against a vote that all of us opposed on this side of the aisle.

The House voted to adjourn and went home, leaving several opportune weeks to get a farm bill in place wasted, as Members went back to their districts. Come March, the weeks start to toll, and now here, on March 28, and the chairman says we have to remain in session until sometime near midnight so we get a farm program in place for farmers.

I think it has been an absolutely shameful debacle of a process that has brought this bill that left the last farm bill expiring before we had a new program in place for our farmers, and that is just the start of my reservations about this particular farm bill before us.

I do not deny for a minute that the guaranteed payments, especially in the early going under the so-called freedom to farm bill we will be passing tonight, will be helpful to the farmers of North Dakota and across the country. It is what the farmers have been asked to give up for these early upfront payments that give me the most heartburn about this bill.

For decades we have preserved the safety net for family farmers, recognizing that they expose enormous amounts of capital, but have their fate turning largely upon market prices over which they have no control whatsoever.

We have provided a backstop when prices collapsed. We have given farmers a floor so that we do not drive them off their land, and this bill eliminates that hallmark of traditional family farm programs maintained by past Congresses.

What makes this bill even more troubling is that American farmers were assured in exchange for giving up this long-term safety net they would have regulatory relief. Well, there is a good deal in there about planting flexibility, and I think those are positive components of this bill. But if falls short of regulatory relief. In conference committee the conference adopted an amendment proposed by the gentleman from South Dakota [Mr. JOHNSON] and myself to reform the swampbuster legislation. I think more reform was needed here. And yet, without question, farmers will find the increased flexibility somewhat helpful. More should have been done. The promise of regulatory relief really, I think falls short in delivery than what was promised. In many other ways, this bill is still superior to the freedom to the farm package that was before the House at the end of February. It contains an oilseed marketing loan and a fund for rural America, both provisions that we offered in the House agriculture committee, but they were defeated by the Republican majority Members. Now they are in the final report. It makes it a better bill. It does not make it a bill worthy of passage.

The debate on this bill has been long and contentious. It is unfortunate we did not have more of an opportunity for honest give-and-take in the terms of trying to resolve our differences. I think once the farmers of our Nation get a good look at this program, they will see that at the end of 7 years, they are left without a safety net, they are left without the freedom to farm payments, and they will realize that this deal has been a bad deal for rural America.

My sincere hope is that the Congress will have the chance to review and correct the grievous mistakes it is making in passing this legislation before the last family farmers in America are finally run out of business.

Mr. ROBERTS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Nebraska [Mr. BARRETT], the coauthor of the Freedom to Farm Act.

Mr. BARRETT of Nebraska. Mr. Speaker, I thank my chairman for yielding me this time.

Mr. Speaker, I do rise tonight in support of the conference report on H.R. 2854. I want to thank the chairman of the full ag committee for yielding to me and for his leadership in bringing this historic piece of legislation to this point.

I am pleased that Congress will pass the conference report tonight. It will unleash agriculture, the Nation's single largest industry, from antiquated programs, and excessive Federal control.

As the largest newspaper in Nebraska said on yesterday, it will allow farmers to, and here I quote, "throw away the crutch of government subsidies and break free from the unending flow of dictates from Washington."

Mr. Speaker, in the interest of time and because of the lateness of the hour, I will conclude my remarks at this time and insert a longer statement in the RECORD.

Mr. Speaker, I rise today in support of the conference agreement on the Federal Agricultural Improvement Act.

As chairman of the General Farm Commodities Subcommittee, I traveled across the country last spring to receive testimony on our Nation's farm policy. I chaired a total of eight different hearings. The full committee held many more. Farmers, bankers, producer groups, and agribusinesses all had a chance to be heard.

Mr. Speaker, there was a common theme running through that testimony the theme was give farmers the freedom to plant what they need to plant for the market, and give them the tools to do it. I'm pleased and even excited, that the 1996 farm bill does just that.

As I travelled my district this past weekend, listening to the excitement in farmer's voices as they discussed their planting options, I couldn't help but think of all the changes that have occurred in agriculture in America over the past few decades, and wonder why it ever took so long to reform farm policy.

Today, on farms across the country, computers and cellular phones are almost as common as tractors. Satellites, once used only at the Department of Defense, are now used to forecast weather, and track crop conditions. On the other hand, federal farm programs have not changed. They have not adapted to changing markets and advances in technology.

Since the Great Depression, the federal government has attempted to maintain a federally determined income standard for farmers. The government offered loans, price supports, cash payments, and even placed restrictions on the use of agricultural land.

Our economy is based on risk taking and competition—with few restrictions. These programs have made American agriculture run counter to most other sectors of our economy. Unfortunately, agriculture in America has not been market oriented.

I'm pleased that the House has before it today, a Farm Bill conference report that would allow producers to plant for the market, to make choices, to weigh risk, and to be in charge of their future. The FAIR Act reforms agriculture the American way, and I urge my colleagues to support the conference report.

Mr. VOLKMER. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise in opposition to this conference report. Proponents of H.R. 2854 say that it represents reform of our antiquated federal agriculture policy. But I say it is business as usual.

Proponents of the bill say it reforms the peanut program—one of the most glaring examples of misguided agriculture policy. But that is simply not true. The cosmetic reforms included in this bill do not sufficiently address my concerns with this program.

The peanut program supports peanut quota holders at the expense of 250 million American consumers and taxpayers. The GAO has estimated that this program passes on $500 million per year in higher peanut prices to consumers.

The bill also lacks real reform of the sugar program. Like the peanut subsidy, the sugar program artificially inflates the price of sugar in America for the benefit of a handful of sugar growers. American consumers pay $1.4 billion more each year for products with sugar in them as a result of this program. That is a total consumer price tag of almost $2 billion for these two programs.

This conference report also includes a provision that was placed in the bill during conference without having been debated or amended on the floor. The bill creates the mis-named Safe Meat and Poultry Inspection Panel to review and evaluate food safety procedures, adding another hurdle to the Food Safety and Inspection Service's efforts to protect the U.S. food supply.

Mr. Speaker, this is an outrage. There are 4,000 deaths and 5 million illnesses annually in the U.S. as a result of food-borne pathogens. FSIS is trying to cut down this number, but they have been facing opposition every step of the way. This provision is another in a series of attempts to hinder their efforts. It was not in the House or Senate versions of the Farm Bill. It was not debated. It was not amended. Yet here it is in the conference report. This is no way to legislate.

Just last week Mike Taylor, the Undersecretary of Agriculture for Food Safety, came before the Agriculture Appropriations Subcommittee and told us how difficult it is for his agency to accomplish its goals of protecting our food supply with the limited budget it has been given. Now we are going to shoulder them with the fiscal burden of this panel. Unacceptable!

Mr. Speaker, this conference report is filled with provisions that send our agriculture policy in the wrong direction. We can do much, much better. I urge my colleagues to defeat this bill.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. POSHARD], our distinguished colleague.

Mr. POSHARD. Mr. Speaker, I rise today in strong support of the Federal Agricultural Improvement and Reform Act conference report, because I believe this legislation is good for our farmers, environment, and rural communities. The bill also moves us closer toward our goal of balancing the Nation's budget while allowing our farmers to provide consumers with high quality and low-cost food products.

This conference agreement provides our farmers with the flexibility they need to meet growing and changing market demands. Under the bill, farmers can plant most any crop on acreage subject to a production flexibility contract. In addition, these new production contracts will greatly lessen the amount of paperwork and time required of farmers who enrolled in farm programs of years past.

The conference report provides for continued marketing assistance loans to producers of program crops, as well as soybeans. In fact, the agreement includes an increase in the loan rate for soybeans that I am proud to say was added to the Senate bill by my Illinois colleague, Senator CAROL MOSELEY-BRAUN. The bill also reauthorizes the farm lending program, which has assisted many farmers and their families in my congressional district.

The conference agreement reauthorizes two very important programs that assist our Nation's farmers in continuing to be good stewards of our environment and lands, the Conservation and Wetlands Reserve Programs. These two programs have been very successful in making it cost-effective for farmers to set aside environmentally sensitive lands. While the conference report caps enrollment in the programs, it allows new acreage to be enrolled as idle land is taken out of the programs. The bill also provides $200 million annually for a new Environmental Quality Incentives Program which will provide technical and financial assistance to livestock producers and farmers to improve water quality.

The bill authorizes a new USDA Rural Community Advancement Program to provide grants, loans and loan guarantees to meet the rural development needs of our local communities. The agreement provides $300 million over 3 years for a fund for rural America which will be available for rural development and competitive research activities. In addition, the conference report reauthorizes USDA's rural water programs.

I am pleased the agreement reauthorizes various Federal agricultural research, extension, and education programs. These programs are essential to the future of our Nation's agricultural community and its future in the global marketplace. In Illinois, research and extension programs have played a major role in the Illinois agricultural community's success as a domestic producer and exporter of farm commodities.

I thank the conferees for working swiftly on the conference report so that our farmers can begin planning and planting this year's crops. This bill provides our farmers with flexibility, our environment with effective and reasonable protections, and rural communities with new and expanded ways to invest in needed infrastructure and economic development. I truly believe this legislation is a step in the right direction for our agricultural and rural communities, and I urge my colleagues to join me in supporting this agreement.

Mr. VOLKMER. Mr. Speaker, I yield 4 minutes to the gentleman from Mississippi [Mr. TAYLOR], who is an outstanding legislator and knows a little bit about agriculture, quite a bit.

Mr. TAYLOR of Mississippi. Mr. Speaker, gentlemen and ladies, last year, during the welfare debate, I heard speaker after speaker come to this floor and say that we had to end the practice of paying people to do nothing, that we should no longer pay people not to work.

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Something remarkable happened that day. Every single Member of this body voted to no longer pay people for not working. Many of us supported the coalition plan, the rest of the folks supported the Republican plan, but everyone supported at least one plan that would stop paying people for doing nothing. And it was remarkable, and it was a good thing.

Unfortunately, in this bill there is a plan to pay people up to $80,000 a year per individual for 7 years to do nothing. You do not have to plant a crop, you do not have to work a field, you do not have to work fences, you do not have to start the tractor, you do not have to do anything. You do not even have to try to farm, and you get $80,000 a year.

Earlier today this body by a majority voted to raise the debt limit up to $5.5 trillion. We are spending $2 million every 4 minutes on interest on the national debt. Where do we stop?

I am not going to criticize the whole bill, but I can tell you, freedom to farm is a bad idea, because you can never wean people off Government dependence by paying them to do nothing, whether they are a welfare mother or whether they are a father who happens to be a farmer. It does not work. It does not work with welfare, and it will not work with farming.

Please vote against this bill.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I would like to point out to the House it is not just $80,000 to big investors that do not even live on the farm, they are in New York and Chicago and other places, they are getting the $80,000. They have not even been to the farm, and they are going to get the $80,000. But it is $36 billion, $36 billion over 7 years, to people that do not want to farm. That is right. Not $80,000; $36 billion. That is how much you are talking about, folks. Let us get the real numbers, Yes, $36 billion.

Mr. TAYLOR of Mississippi. Mr. Speaker, reclaiming my time, the new majority came to town promising to balance the budget, and yet this year's budget according to the Congressional Budget Office, will spend $270 billion more than we collect in taxes. If we can cut out anything, let us start with a program that pays people up to $80,000 a year not to go to work. Please vote against this bill.

Mr. VOLKMER. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I was sorry the gentleman from New York would not yield to me. He said there was a glass of milk here from Massachusetts. Yes, there is a dairy compact from New England, which I opposed, which I think will hurt the consumers which was not in the House bill or the Senate bill. As I understand it, it shows up in the conference report. Typical. If people want to know what contempt of Congress means, it is the way the House has been treated recently on major issues, with the minimum debate the rules of the House allow. And now I can understand why they do not want to debate this.

The gentleman from Mississippi talked about this program. This is the biggest welfare program we have left. It will be bigger than AFDC from the

Federal dollar standpoint. What we are saying is, farmers will get welfare payments. There is a difference, however.

By the way, I am not the only one who first thought of this. I must give credit where credit was due. In 1990, RICHARD ARMEY, writing in the Heritage Foundation, said "If the goal of our farm programs is to help needy farmers, we should do so directly with welfare payments rather than with the complex and costly system of price supports. That would only cost $4 billion a year, rather than $12 billion."

Mr. ARMEY was a prophet, and that is what we are doing. We are giving to welfare to farmers because they are in need, rather than costly price supports. But the majority leader Mr. ARMEY is a little more expansive than the critic Mr. ARMEY, because we are going to do $35 billion over 7 years, so it is $5 billion a year rather than $4 billion.

Note it is 7 years. If you are a 3-year-old whose mother has not done everything she should have done, you get cut off after 2 years, as I understand it, in the bill. So the farmer's welfare lasts for 7 years.

Also if you are a 3-year-old, your parent has a work requirement. There is no work requirement in here for the farmers. There is not even, as I understand, it is a life requirement. If I am correct, under this bill a farmer who dies may pass on his share of these billions of dollars to his or her heirs.

So at the same time we talk about how tough we are going to be on the dependent children, we are going to cut them off after 2 years. We are going to have a work requirement. Very late at night, in the hopes there will be no debate, we are going to give $35 billion to able-bodied working people. As the majority leader said, "let's give them welfare instead of requirements," and they will simply get that $35 billion.

The inconsistency between the toughness that is meted out to the poor and the lavish and gentle treatment that goes to the favored political few is outrageous. What right do people have morally to condemn the poorest people in this country, to not even allow them to debate the minimum wage, to cut welfare, to cut Medicaid, to cut everything else. But the farmers, apparently free enterprise has no real meaning here.

Let us take $35 billion of deficit spending and simply give it to farmers because they happen to be farmers over the next 7 years. That is what is in the majority's bill, and that is why they are trying to burp this discussion and have it late at night and hit and run, and not have it talked about.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I would like to point out to the House that to get this money, all you have to do was be in the program 1 year out of the last 5 years. If anybody would come to this House and say that I have been on welfare, I have been on AFDC, or on food stamps once in the last 5 years, and therefore I am entitled to 7 more years of it, we would say they are crazy, they are lunatic, that is crazy. But that is what this is. That is identical to what this is.

Mr. FRANK of Massachusetts. Mr. Speaker, reclaiming my time, let me just say, of course there is no foolishness in here about States rights. This is a pure, 100 percent unadulterated Federal entitlement. So we have fiscal discipline and toughness and harshness and work requirements and strict time limits for the very poor, but for those who can vote and those whose support politically is important to the majority, all of these hifalutin principles go out the window, and they are treated with a degree of consideration and care that the poor never get.

Mr. DE LA GARZA. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, we spend over $26 billion a year for food stamps, we provide additional monies for school lunch, for school breakfast, for temporary emergency food assistance, and for other assistance programs for migrants. No one can say that we are not attempting to care for the poor. Yet even as we try to provide assistance to the poor, we have managed to reduce expenditures in Agriculture programs in order to balance the budget.

Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise in support of H.R. 2854

Mr. Speaker, it is with some considerable reservation that I stand here tonight encouraging my colleagues to vote "yes" for the 1996 [FAIR] Federal Agricultural Improvement and Reform Act. However, I suggest to you all that we must put philosophical differences aside and think clearly and with conscientious conviction about who, not what we are supporting. Today's vote is for American farmers and the communities with families who sustain them. If this were March 1995 and we were debating future farm policy, but had functional farm laws in place, I would be adamant in my opposition to this legislation because it removes the safety net from under these peoples' lives. Unfortunately, we don't have that luxury today. At this stage in the game, with planting and credit decisions still in limbo, we must believe that any further delay only imperils the livelihoods of millions of people. Even with all it's potential shortcomings and pitfalls, I have to accept this legislation as the best we can provide at this time. I would not have authored it, but the majority's views prevailed. Although I believe many of the aspects of this bill will come back and haunt us, our debate, limited as it was, is over for now. We must move forward and provide some degree of predictability and assurance to our agricultural producers.

If we force ourselves to stand back, remove emotion, and objectively view farm programs and their overall effects on society, it's apparent to me that the level of stability offered to markets by our support has allowed the American farmer to become the envy of the world. No farm programs that exist today are perfect; they never will be. From a long view though, they have been successful. It may be the time to embark on new social experiments but we cannot ignore or forget what has worked in the past.

The current leadership believes in a textbook free market, but this completely ignores the role of other governments that don't practice free trade. The recent GATT accord has not changed this. The European Union, for example, over the past 5 years outspent the United States 6 to 1 in terms of export subsidies, $10.6 billion versus less than $2 billion by the United States, and will be able to maintain its historical advantage under the GATT Agreement. American farmers cannot unilaterally disarm in an international marketplace. I don't know of a single farmer who wouldn't rather receive his income from the marketplace, but the real world is subsidized agriculture. This is one of the areas where our Government must stand shoulder to shoulder with us. We must use all our tools to boost commodity export: first, programs to help U.S. exporters compete in terms of price; second, programs to help importers obtain credit needed to purchase U.S. commodities; and third, programs to provide U.S. farm products as food aid.

All our efforts will be wasted however, if we neglect the infrastructure of rural America. We must continue to provide critical resources for rural communities as they work to address unmet needs at the local level. Water and sewer requirements alone cannot be met with the money that have been authorized. Research, education, extension, and seed money to develop value added programs are essential too, for rural economies to diversify and position themselves to compete in a rapidly changing global economy. Without public investment in stabilizing agriculture, you will witness further declines in rural America's security and strength.

The provisions of the FAIR Act will result in dramatic adjustments in U.S. policy and continues cuts in spending. Overall, numerous challenges confront U.S. agriculture—challenges of first, responding to competition in the global marketplace; second, ensuring a profitable, sustainable food and agriculture sector; third, safeguarding natural resources and the environment; fourth, ensuring balanced nutrition and a high-quality food supply; and revitalizing rural America. The stakes are high, but the opportunities and rewards are unlimited. Whether the agriculture industry continues its move forward or falls behind is largely dependent upon the vision and imagination of its participants. More importantly, we cannot be afraid to re-examine any policy as it relates to the vitality and stability of the sector it is meant to serve. With that in mind, I urge you to vote "yes" and put our farmers back to work.

Mr. VOLKMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to comment to the ones yelling "vote," I am the one that tried to get the chairman to roll the vote so you would not have to be here.

Mr. Speaker, I first would like to point out to the House, as the gentleman who started this debate on our side from North Dakota pointed out, that we are here tonight in a hurry to do something that should have been done last year in regular time, but it was not done, and it is not the fault of those of us on this side. It is the fault, no question about it, of those that are in the majority that did not do their job.

Now, the next thing, the decoupling that has taken place between asking farmers to do things to help provide a food supply for this country is gone. It is no longer in this bill. The farmer does not have to plan at all, and in some parts of this country this year you are going to see less planting, you are going to see less rice, I will guarantee you, than we have ever had for years, and you are going to see other things happen.

I talked to some agricultural economists about this problem. Mr. Speaker, what you are going to see in the future, right now we have shortages, so you have good prices, so you are going to see production. You are going to see all-out production. In about 2 years, with good crops, we are going to have overproduction, we are going to have oversupply. The price is going to drop, and the loan rate is capped in this bill, which means a lot of farmers out there are not going to make money.

All farmers do not get this payment. Let me remind you of that. In my district, 60 percent of the farmers get nothing from this bill. The gentleman from Kansas, the chairman of the committee, in his district 85 percent of the farmers get $30,000 a year, on average. My farmers, even those 40 percent, only get $3,500. Down in parts of Texas, cotton country, you get up to $80,000. In parts of rice country, you get around $60,000 to $70,000.

There is no longer going to be a Federal crop program. It is gone, as good as gone. So when you look at that adequate food supply, you are going to see fewer farmers, you are going to see shortages, you are going to go back to the time, it is all history, you are going to go back to the time when there were no Government programs basically, and the big cycle starts, not only in prices, but in food supply. Yes, in food supply. You are going to have ups and downs. And when you have the down, you understand, then you are going to have problems with people having food.

That is what you are getting out of this program. In the meantime, yes, big investors, bit people, 22 percent of that $36 billion is going to go to 2 percent of the farmers, and most of those people have never been on a farm. They are investors, most of them. Investors own farmers. They are going to get the big bucks.

I do not know why we cannot learn from history. I do not know why we have to go back to the days of old and go through the same problems with agriculture, but that is basically where this program leads you. In 7 years, they say we are going to wean them off after 7 years. I do not believe so. But there is going to be no incentives in this program for farmers to produce, as we do in our regular programs when we had the safety net.

We also have mechanisms to get people to produce certain crops so we can have additional crops if we need those crops. That is no longer here. That is gone. We have completely decoupled the programs of even what we call supply management from this bill completely. That is gone, folks. It is not in here anymore.

And this all is not new, this whole program is not brand new. But what is really interesting to me is to find that when this freedom to farm, they call it, I call it freedom not to farm, first surfaced last summer, overwhelmingly rejected by most people, especially on this side.

Well, I will say this to you, the gentleman from Kansas, Mr. Chairman, you have been persistent. You have wore them down. You have not worn me down. I said then and I will say now it is the wrong way for agriculture, it is a disaster for this country, and I say vote against H.R. 2854.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Speaker, I thank the chairman for yielding me time. I rise in strong support for this conference report, the most comprehensive reform of agriculture in my lifetime, the Federal Agricultural Improvement and Reform Act.

Mr. Speaker, I rise in strong support of this conference report and would like to congratulate my full committee chairman, Mr. ROBERTS and subcommittee chairman Mr. GUNDERSON for all their time and hard work.

For the first time Washington has seen fit to give producers the flexibility they have been demanding for years. The Federal Agricultural Improvement and Reform [FAIR] Act finally allows our farmers and ranchers to produce for the market instead of the Government.

The FAIR Act accomplishes the three goals that were set for this legislation: it transitions our agriculture sector towards the 21st century global economy; it saves the taxpayers billions of dollars; and it protects the environment.

The FAIR Act represents the most sweeping reform in agriculture policy in 60 years. It puts farmers, not the Government in charge of planting decisions. Farmers are no longer required to plant the same crops year after year to receive assistance, allowing greater crop rotation and less dependence on synthetic fertilizers and pesticides.

In addition to this the FAIR Act targets $1.2 billion over 7 years to assist crop and livestock producers with environmental and conservation improvements on the farm. Assistance can be used for animal waste management facilities, terraces, waterways, filterstrips, or other structural and management practices to protect water, soil, and related resources.

Producers, the first and best stewards of the land, are given enhanced flexibility to modify conservation practices if they can demonstrate that the new practices achieve equal or greater erosion control. It also takes measures to ensure the protection of the Florida Everglades, a national treasure.

This is the most environmentally friendly farm bill in history. We enhance the protection of the environment without new mandates, regulations, requirements and redtape. It makes the Federal Government a partner with producers in addressing environmental challenges, rather than an adversary. It is voluntary and incentive-based. Most importantly, it works.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, I give strong compliments to the chairman, Mr. ROBERTS, and Senator DOLE for their leadership on this excellent farm bill we are about to pass. I rise today in strong support of the conference report to accompany H.R. 2854, the Federal Agricultural Improvement and Reform Act, historic legislation to completely overhaul this Nation's farm policy. Yet, as we move toward a more market-oriented agricultural policy in this Nation, one fact is easily overlooked in this entire farm bill debate—and that is Congress is about to pass the most environmentally sensitive farm bill ever. All of this is done without any new mandates, regulations, requirements or bureaucratic redtape. It makes the Federal Government a partner with agricultural producers in addressing agricultural changes, rather than an adversary.

In particular, I am especially pleased that this conference report contains $200 million for funding of land acquisition and environmental restoration activities in one of our true national treasures—the Florida Everglades. Additionally, the bill does something that we should be all proud to support. It allows the Federal Government to dispose of surplus lands, up to $100 million, within the State of Florida for the purpose of acquiring additional environmentally sensitive lands in the Everglades.

As the author of this provision in the House, I would like to take this time to thank those Members of Congress who worked so hard on finalizing this issue. First of all, I would like to thank Representative RICHARD POMBO from California, who was thrust into the role of attempting to reshape the legislation in conference and did an outstanding job in that role. Second, many thanks go to the House and Senate majority leadership—in particular Speaker NEWT GINGRICH who was especially instrumental in the role of discussing the idea of surplus land disposal for the purpose of environmental restoration.

Senator BOB DOLE played a vital role in inserting this language in the Senate bill when it was originally considered earlier this year. Special thanks go to my colleagues from Florida, especially the State's two outstanding Senators, MACK and GRAHAM—both who worked in a bipartisan fashion to craft an acceptable provision to work on behalf of the Florida Everglades. Finally, thanks to my 299 Members of Congress who originally gave their stamp of approval to my amendment on February 29, 1996.

Since there is no report language accompanying the Everglades provisions, I would like to further take this opportunity as the author of the House provision to explain in greater detail some of the background behind this measure.

The Everglades ecosystem is a unique national treasure that includes the Kissimmee River, the Everglades, and Florida Bay. Its long-term viability is critical to tourism, fishing, recreational activities, and agricultural industries as well as to the water supply, economy and quality of life for south Florida's population of more than six million people. Additionally, the restoration of the Everglades will have direct benefits to the Federal Government in that the Everglades ecosystem includes the Loxahatchee Wildlife Refuge, and two National Parks, Everglades National Park and Biscayne Bay National Park.

The State of Florida, in particular the State legislature has a long standing commitment to address the complex problems of the region and to restore this precious resource. Additionally, the agricultural industry south of Lake Okechobbee has committed up to $320 million for Everglades restoration as part of the 1993 Everglades Forever Act. While many would seek to find a single scapegoat for problems in the Everglades, I find this to be lacking in commitment to acting to preserve this precious resource. Therefore, today, it is important to remember that because south Florida is home to 7 of the 10 fastest-growing metropolitan areas in the country, restoration is clearly on a critical path.

It is clearly understood by all who are involved in the efforts to restore the Everglades that there is a significant gap in or scientific knowledge about ultimate ecological and water management needs of south Florida, and this necessitates continued detailed study. Yet, the framework for restoration and the design of major projects for land acquisition, water storage and restored hydrology is clear.

Restoration of one of the largest functioning ecosystems in the world is a massive undertaking, and success will depend upon the Federal Government, the State of Florida, and all local, regional, and tribal interests working in tandem. As the author of this language in the House, it is not my intent that these funds supplant any previous funds committed to south Florida for the purpose of Everglades restoration. However, it is my intent that the purchasing agents give the absolute highest priority to those lands owned by willing sellers but taxpayer dollars should not be wasted by paying more than fair market value for lands purchased with these funds. This underscores importance of the annual report to Congress by the Secretary of Interior describing all activities associated with the expenditure of these funds.

Mr. Speaker, this is a historic day for the Hose of Representatives, and a historic day for the Everglades. I'm proud to be the sponsor of this original language, and I now would encourage my colleague to support the final passage of this bill and urge the President to quickly sign this bill into law.

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Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. BOEHLERT], who has been such a help to us on the environmental section of the bill.

Mr. BOEHLERT. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I rise in strong support of this farm bill—a bill that is good for farmers, good for consumers, good for taxpayers, and good for environmentalists—categories that, I hasten to add, are hardly mutually exclusive.

I want to focus on two aspects of the bill, in particular—first, the dairy provisions. This bill eliminates the assessments farmers pay, phases out price supports, funds export promotion, and consolidates milk marketing orders. The bill, in short, saves farmers and taxpayers money without imposing new burdens on consumers or creating chaos for Northeast dairy farmers. I want to thank the farmers in my district and throughout our region for their patience, their time, and most of all their critical guidance during this protracted debate. They worked closely with my colleagues and me in the Northeast ag caucus, which I am privileged to cochair, and together we fashioned responsible legislation.

Now, let me turn to the conservation title of this bill, which is another cause for celebration.

This week the Washington Post has run a series of spirited editorials critical of Republican environmental initiatives. I hope the Post and others take notice of the revolutionary conservation measures included in the 1996 farm bill.

The 1996 farm bill is not only the greenest farm bill in the history of the Republic, it is the most significant environmental legislation passed in this Congress or the previous Congress, which by the way was Democrat controlled.

The over $3 billion provided in the farm bill for the Wetlands Reserve Program, the Conservation Reserve Program, the Environmental Quality Improvement Program, and the restoration of the Everglades will do more to improve water quality and wildlife habitat in this country than any bill proposed by the Clinton administration in the past 4 years. Millions of acres of environmentally sensitive lands across the nation will be protected.

Two weeks ago a conservation amendment to the farm bill, an amendment I authored, was adopted on the House floor by a vote of 372 to 37. A Republican amendment on the environment involving millions of acres of land and billions of dollars was approved with resounding bipartisan support.

Republicans have gotten the message on the environment, and unlike many in this town, we are responding with sensible, proenvironment, legislation like the 1996 farm bill.

The Republican Party is returning to its roots, as the party of conservation and sensible environmental protection. Teddy Roosevelt would be proud of the conservation initiatives being advanced in the 1996 farm bill.

I urge all my colleagues to support this proenvironment, profarmer legislation.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. ALLARD], a valued member of the committee.

Mr. ALLARD. Mr. Speaker, I rise in support of H.R. 2854. This is the most market-oriented environmental farmer friendly bill we have ever passed.

It balances the needs of producers and the needs of the environment, while providing significant regulatory relief to producers.

We reauthorize the Conservation Reserve Program which provides incentives to producers to idle environmentally sensitive land. The new CRP takes into account water quality needs important to midwestern states and soil erosion and wildlife habitat concerns of the Great Plains. The conference committee did a remarkable job of balancing the needs of different regions so we can all claim to be winners.

The conference report also provides money for the restoration of the Everglades. The provisions that we included will protect the Everglades and hopefully provide a model for restoration of other environmentally sensitive areas.

The conference report also establishes a new account that will provide mandatory money for cost share practices to reduce soil erosion and protect water quality. This program incorporates provisions from the legislation I introduced earlier this year, but expands it to include more money and more practices. It is an important program that will provide tremendous environmental benefits in rural and urban areas.

Also, the conference committee included language that will place a moratorium on actions by the Forest Service that have the effect of denying owners of water the use of that water through regulatory action. During the time this moratorium is in effect experts in the fields of public land law and Western water law will study this issue and issue a report on how to avoid the illegal taking of water from agricultural and municipal users. I am happy to have this provision in law, but want to make clear that it in no way recognizes the legality of recent Forest Service actions. The language in the conference report is an attempt to stop the Forest Service from taking actions that run counter to law and allow them to find alternatives to imposing by-pass flows and avoid law suites they would surely lose.

Finally, this legislation incorporates other important reforms that we can be proud of, such as; making the USDA loan process more responsible and allowing the Department to more quickly release inventory property. Reform of Conservation Compliance that will allow the Department and the producer to work in a more cooperative manner while reducing regulatory burdens on the producer.

This is groundbreaking legislation that I hope all of my colleagues can support.

Mr. ROBERTS. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. EWING], chairman of the Subcommittee on Risk Management and Specialty Crops.

Mr. EWING. Mr. Speaker, I thank the chairman for a job well done.

I would just like to say a couple things about the peanut and sugar program, which were under my subcommittee. First, these programs will not cost the taxpayer one dollar. Yes, without these programs, you might have a lot more cost to the consumers in this country. I would remind the gentlewoman from New York, who was so critical of these programs, that these programs were so bureaucratic after decades of being controlled on that side of the aisle in farm programs that it would have truly been unfair to the people who farm and grow peanuts and sugar in America, a lot of little people, had we cut their legs off at the knees and expected them to go out of these programs immediately. These are a good transition to the marketplace.

Mr. ROBERTS. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, all over this country, family farms have been disappearing in great numbers as a result of the failure of our current agricultural policy. In Vermont, in 1977, we had 3,300 farms. Today we have less than 2,000. All over the country this is happening. This is an American tragedy.

In 1989, some people in New England got together to figure out how we could save the family farm in our region, and they came up with a concept called the Northeast Dairy Compact. This compact could provide dairy farmers in New England finally with a fair price for their product, a fair price which they are not getting today. It is an opportunity to save the family farm. All six legislatures in New England overwhelmingly approved the compact; all six Governors, liberal and conservatives, approved the compact.

Mr. Speaker, originally when we voted on the bill, the compact was not in the farm bill, but today it is in the farm bill as a result of the work the conferees did. Mr. Speaker, the Northeast Dairy Compact could become a model for farms all over this country for regions all over this country. It is good for New England. It is good for America.

There is a lot in this bill that I do not support, but I certainly fervently support the Northeast Dairy Compact section.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Speaker, I rise in support of this bill, the origins of which are partly in the Iowa plan.

Whether we call it the Fair Agriculture Improvement and Reform Act, the Agricultural Market Transition Act, or my favorite, the freedom to farm act, this is truly an evolutionary piece of legislation.

For the first time since the 1930's when Federal farm policy took shape, we will begin to remove the inside-the-beltway, Washington bureaucrat from the backs of the American farmer.

Although we had to wait until 1996, nearly an entire lifetime, I am pleased that this body has come to the realization that farmers, out in the fields, actually know more about farming than the bureaucrats in Washington do. In no small part do we owe our thanks to Chairman ROBERTS for bringing us to this enlightened state.

This is a good bill. It saves taxpayers money. It provides long needed flexibility. It makes good free-market sense. It is proenvironment. And it stops paying farmers not to plant.

Under the freedom to farm approach in this bill, we provide flexibility and develop a true safety net for our farmers. That is why the Iowa Farm Bureau Federation, the Iowa Corn Growers Association, the Iowa Soybean Association, the Iowa Pork Producers, the Iowa Cattlemen Association, and the Iowa Agribusiness Association all support this bill.

Those in opposition to this legislation will say that it either ends the safety net for our farmers or its is a free handout just like welfare. This is simply not true.

Opponents of this bill have a vested interest in maintaining the status quo. They want to continue to force the agricultural community to come to Washington, hat in hand. They want to continue the micromanagement of the farm. They want to continue to hamper development of robust export markets with top-down we-know-best policies.

A vote for this bill is a refjection of those failed policies of the past. A vote for this bill is a vote for reform. A vote for this bill shows the farmers of this country that this Congress truly cares about bringing agriculture policy into the 21st century. I commend Chairman ROBERTS for his efforts and I strongly urge my colleagues to support this bill.

Mr. ROBERTS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, taken as a whole, this is a good bill. There are a number of essential programs. For example, one-fifth of all the $210 billion global trade in agriculture belongs to the United States, and we have to protect ourselves. But our leadership in this area is under assault from all our competitors, whether it is Asia, Europe, wherever it might be. We must fight these unfair trade practices in agriculture and this bill does that.

This bill makes the first real reform in dairy policy in over a decade. This legislation is long overdue, and the reforms in here are long overdue, especially in the milk marketing order. The current milk marketing order is totally out of date. It is a relic of a bygone era when raw milk had to be transported great distances for processing. Today our dairy industry is highly efficient.

Mr. Speaker, while I support the overall bill, I must register my serious concerns about the provisions which establish a special dairy system for the New England region. In essence, this is Government-mandated protectionism for one segment of our Nation's dairy industry. When this bill is going toward a free market system, this particular provision takes us in the totally different direction.

Nevertheless, this is a good bill. Overall, it is a good bill. It makes major reforms that will help our farmers and our exporters. It will contribute to a stronger, more competitive and expanding agricultural sector, and it will help the United States remain the world's leader in agriculture in the 1990's and the 21st century. Remember, of the $210 billion export market in agriculture, one-fifth belongs to the United States, and we want to make sure we continue in that direction and this bill does that.

Mr. Speaker, taken as a whole, this farm bill is good legislation and should be passed. Let me address three provisions of the bill which I have worked on. Title 2 reflects the amendment which I offered along with Mr. BEREUTER, Mr. HAMILTON and Mr. HALL on February 29. This title reauthorizes and strengthens our agricultural trade programs.

These programs are essential to the competitive position of American agriculture in world markets.

Currently the United States has one-fifth of the $210 billion global trade in agricultural goods.

But our leadership is under assault, by our competitors in Europe, and Asia and Latin America.

In my Subcommittee on International Economic Policy and Trade, we carefully examined the competition in world agriculture.

The reality is, every major trading nation has programs to help their exporters take sales away from Americans.

We have to meet this competition. The amendment I offered, which is now part of this final bill, reflects the recommendations of every major farm group in the country.

This title extends our export credit programs for farm goods.

These programs support $3 billion in farm exports.

This title also improves our programs to combat unfair trading practices in agriculture.

Without these programs, we would have no defenses against the predatory financial inducements that other countries use to undercut American farmers and exporters.

This title also reauthorizes and reforms our food assistance programs, which are vital to the relief of starvation and suffering around the globe.

In our domestic farm programs, this bill makes the first real reforms in U.S. dairy policy for more than a decade. In particular, this bill requires long-overdue reforms in the milk marketing order system.

The bill incorporates the approach I recommended in legislation which I have sponsored for a number of years. The current milk marketing order system is an out-of-date artifact of a bye-gone era when raw milk had to be transported great distances for processing.

Today, our dairy industry is highly efficient, but the old pricing system remains. Efficient dairy farmers in Wisconsin and other Great Lakes States are penalized under this unfair system.

This legislation is a major step toward reform.

While I support this bill overall, I must register my serious concern about the provisions which establish a special dairy system for New England regions.

In essence, this is Government-mandated protectionism for one segment of the Nation's dairy industry.

It goes against the rest of the bill, which moves American agriculture toward a more market-oriented system.

Nevertheless, this is a good bill overall.

It makes major reforms that will help our farmers and our exporters.

It will contribute to a stronger, more competitive and expanding agriculture sector.

And it will help the United States remain the world's leader in agriculture into the 21st century.

Therefore, I urge my colleagues to join me in voting for this landmark legislation.

Mr. DE LA GARZA. Mr. Speaker I yield 1 minute to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, I voted against this bill the first time it came before the House of Representatives and voted against it in committee. I had serious reservations then and still I have some reservations now. But, I will take comfort in the fact that this conference report is the best legislation for our farmers and ranchers that we can achieve at this point in time. I am certain though that we will revisit this topic in the near future.

It is obvious that this legislation is greatly improved from when it left the House. Cognizant of that fact, I will reluctantly support this bill. The conference report now includes funds for nutrition programs that were not present in the House version, funds for environmental improvement programs, and conservation programs and funds for rural development; however, I do not believe that the rural development funds are sufficient to meet the existing needs in our communities.

I believe so strongly in funding rural development properly that I introduced an amendment in the Agriculture Committee that asked for $3.5 billion for the Fund for Rural America. However, the amendment was defeated in committee by a party-line vote. It was then reintroduced as an en bloc amendment by the ranking minority member KIKA DE LA GARZA during floor consideration. Even though the amendment was again defeated in a roll call vote, the Senate version of the bill included the $3.5 billion for Rural Economic Development. Ultimately, the final figure was wheedled down to $300 million during the conference deliberations—only a drop in the bucket. But, I do think that these limited funds are a step in the right direction and will be well spent on the infrastructure and research needs of rural America.

I realize that small family farmers still need help while many of the traditional safety nets are being removed. After lengthy deliberation I have decided that farmers must have some protection and ability to farm their land.

We are fast approaching the planting season and need to begin to identify ways in which we can help our farmers put their crops in the ground.

I was also heartened that the conference report retains permanent agricultural authorization law, thereby reducing the chances that farmer programs would end altogether after the year 2002, when the authorization for the production flexibility contracts expires.

In addition, I was pleased to see that the peanut program was not abolished outright, but instead reformed substantially.

The conference report was also stengthened as it retained the Senate language for the new Environmental Quality Program [EQIP], which would provide payments to livestock producers and farmers for nutrient and manure management to improve water quality.

I urge my colleagues to join me in supporting this conference report.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. FARR],

Mr. FARR of California. Mr. Speaker, I rise this evening in support of this farm bill. It is not perfect. Freedom to farm certainly deserves a lot of debate. But this bill is better than no bill. California farmers in my district are the most productive specialty crop growers in the world. They produce $2.5 billion worth of fresh vegetables a year without any Federal price supports or even Federal water. But even market-driven agriculture needs a national farm policy and a vision toward the future. Conservation, research, rural development and market promotion are areas that need a Federal partner.

Mr. Speaker, I am happy that this farm bill is a major step in building this new national agriculture policy. This bill begins to draw the line, the green line, to stop urban sprawl from paving over prime ag lands, and I am particularly happy that this bill makes the Federal Government a partner with the States in efforts to protect prime farm land from urban sprawl.

I am also glad that this bill allows the Secretary to provide seed money grants to private food programs that bring fresh, healthy food to low-income communities. I urge the support of this bill.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is not perfect legislation, but I feel that we should approve it because it addresses all of the areas of concern to rural America; from feeding the poor to making affordable improvements out in the rural areas.

Mr. Speaker, let me say that in 1981, I managed my first farm bill. This is the fourth time that I rise to support a farm bill and it will be my last time that I do so. I stated then that it was a long, long way from the banks of the Rio Grande to Washington, DC. A poor boy shining shoes in the streets of Mission, TX, to managing a farm bill. It is with great pride now that I do so. This will be the fourth time I have managed a farm bill, this is the greatest number of anyone who has served in this House.

I ask you to support this legislation, not because of myself or what I have done, but because it is the art of the possible. Legislating is the art of the possible. What is possible now may not be possible 1 hour from now. It addresses human needs. It addresses the issues of the poor.

We are the best fed people in the world, in the history of the world, for the best amount of disposable income per family. We have the best quality food in the world. A lot of the costs that people complain about are for the many other areas in agriculture such as meat inspection and poultry inspection. That is not to say that agriculture programs are perfect. Now and then you have a fault, but the intent is to help farmers provide reasonable, safe, and affordable food. We have gone, I think, Mr. Speaker, a long, long way in helping ensure that we are the best fed people in the world in the history of the world.

Mr. Speaker, I would like to thank the chairman for his kindness to me; his working with me. This is not perfect legislation. I have never said that any bill that I brought to the floor was perfect legislation. If there are flaws in this bill, they may yet be corrected in the future. We have reduced the budget deficit. Agriculture has reduced the deficit over $60 billion in the past 10 years. If every committee in the House had done that, we would not be worried about a balanced budget. We have reduced that, but we have done it quietly. We have done it with a scalpel, not with a meat ax. You should be proud of what agriculture has done and what we have worked for and what we will continue to work for. But for me today, this is my last hurrah.

Mr. Speaker, I yield to the gentleman from Kansas [Mr. ROBERTS], my chairman.

Mr. ROBERTS. Mr. Speaker, I thank the chairman emeritus of the Committee on Agriculture for yielding to me.

Note for my colleagues in the House, I know the hour is late, but note that I said the chairman emeritus of the House Committee on Agriculture. The gentleman from Texas, Mr. KIKA DE LA GARZA, is not the ranking member. He has been our leader, and in words that I cannot describe, the real chairman emeritus of the committee.

The fourth farm bill. He has seen us through the despair and the farm crisis days of the 1980's. He has seen us during unprecedented good times in the modern miracle of agriculture. He is without question the international secretary of state of agriculture. He has led the committee with comity, with leadership, with decency and always with a revering institutional memory of our committee. I think it is time that the House of Representatives rise and a thank you and a tribute to KIKA DE LA GARZA.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman very much.

Mr. Speaker, I accept your ovation on behalf of all of those who were the wind beneath my wings when we flew.

Mr. Speaker, let me say that I thank all of my colleagues, and one final time, let me say that a long time ago I went on a submarine. I asked the commander how long he could keep that submarine underwater. We knew that the other side knew where our troops were, where our ships were, where our planes were. The only thing the other side did not know was where that submarine was under the ice cap. Because of this deterrent peace and democracy came out the winner throughout the world.

When I asked the commander how long, he said, "As long as I have food for my crew."

Mr. Speaker, it was farmers and ranchers of America for whom we worked tonight that brought the peace, that brought democracy, that made us the leader in the world we are today, and I dedicate this, my last words, to them who have kept us fed—the best fed people in the world.

Mr. Speaker, I support the conference report on H.R. 2854. I do this with the recognition that this conference report is not perfect. Most legislation that we pass in Congress is not perfect.

As I have said before, legislation is the art of the possible, and what is possible at this moment may not be possible 1 hour from now. However, as with any legislation, we as elected representatives must evaluate and decide whether or not, in its entirety, a specific piece of legislation addresses the concerns of our constituents. I have decided that this bill does just that.

When the Agriculture Committee started the legislative process on H.R. 2854 we were very much divided, not only along regional lines, as most farm legislation is, but also along partisan lines. I am glad to report that the partisan differences have disappeared and we were able to come together as a body to do what is best for American agriculture.

When we started this process, I had three major areas of concern. First was the lack of recognition that agriculture has contributed more to deficit reduction than any other major entitlement program—and continues to do so. Yet, we were being asked to cut more than any other sector. This bill saves over $2 billion from the December baseline, and we are proud of the fact that agriculture is the only entitlement program to enact real budget deficit reduction this Congress.

Clearly, agriculture has more than met its responsibility to budget deficit reduction. Indeed, with this bill, agriculture—once again—continues to contribute more than its fair share to budget deficit reduction. Once again, agriculture leads the way to a balanced budget.

My second concern was centered on the lack of a safety net for farmers and therefore for consumers. Let everyone understand, to the extent that there is volatility in commodity prices, consumers will pay. We tried to design agricultural programs in the past that would ameliorate wide fluctuations. Were the programs perfect? No. Is this program perfect. No. However, this bill does go a long way in addressing flexibility and commodity distortions. Still, I am concerned that the loan rates may be too rigid in times of low prices.

We are able to maintain the 1949 Act as permanent law. Although most would not advocate implementing the 1949 Act, it is important in that it reaffirms our future commitment to farmers and it will give us the impetus needed in 7 years to actively address agricultural programs.

Frankly, I am concerned about the political ability to maintain these guaranteed contracts in times of high prices or record farm income. However, I must trust that future Congresses will have the wisdom to do what is best for agriculture.

My third concern was that the House bill failed to address the totality of circumstances in rural America. Gone is the time when we as policymakers could rely on farm programs alone to provide rural development. The country is much more complex than that today. People need telecommunications and business and industrial development in addition to the very basic infrastructure development of water and waste water facilities.

The Fund for Rural America goes a long way in addressing these rural development needs. By providing additional money for research it provides resources for the future of agriculture. It is through research that we will maintain our status as the premier food production system in the world.

In addition, by reauthorizing the nutrition programs we ensure that our less fortunate neighbors are not left out. To those who want welfare reform, reauthorizing the programs for 2 years still allows us to do what we need to do to get people to self-sufficiency while at the same time providing certainty to the beneficiaries of the continuation of the programs.

Once again, I support this bill. On the whole, it addresses my concerns regarding rural America, and I am hopeful that it will meet the needs of American agriculture and our Nation as we move into the 21st century. To the extent that problems arise during the next 7 years, I am confident that corrective action can be taken to address any such problems.

Mr. Speaker, I yield back the balance of my time.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

I would like to entertain a colloquy with the distinguished chairman of the Committee on the Judiciary, the gentleman from Illinois [Mr. HYDE]. I would ask the sponsor of the just-passed Congressional Review Act of 1996, the gentleman from Illinois and chairman of the Committee on the Judiciary [Mr. HYDE], whether the bill, if signed by the President this week will apply to the Department of Agriculture's rules that will be promulgated under the Federal Agricultural Improvement and Reform Act.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, yes, I will inform my colleagues that all Federal agency rules will be subject to congressional review upon enactment of the Congress Review Act.

Mr. ROBERTS. Mr. Speaker, obviously the rules implementing the Federal Agriculture Improvement and Reform Act will have a large economic impact on the agricultural community and farmers. I ask the distinguished chairman of the Committee on the Judiciary, if the Department of Agriculture were to issue major rules under the Federal Agriculture Improvement and Reform Act, will they be held up for 60 calendar days by the Congressional Review Act?

Mr. HYDE. Mr. Speaker, if the gentleman will continue to yield, yes, my colleague is correct. If any Federal agency issues what the Congressional Review Act defines as major rules, those rules would not be allowed to go into effect for at least 60 calendar days. However, I advise my colleague that the President, by executive order, may declare a health, safety or other emergency, and that particular major rule would be exempt from the 60-day delay. I would add that the President's determination of whether there is an emergency is not subject to judicial review.

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Mr. ROBERTS. As the chairman of the Committee on the Judiciary may know, we in the conference on H.R. 2854 did not contemplate such prompt enactment of the congressional review bill. I would inform the chairman that H.R. 2854 requires that the Secretary of Agriculture, within 45 days of enactment, offer market transition contracts available to eligible producers. These contracts must not be further delayed, or they will not be effective for the 1996 planting season. Moreover, these contracts are worth billions of dollars, and they are certainly going to qualify as major rules under the Congressional Review Act.

Would the chairman agree that these major rules are the type that are contemplated by his committee as qualifying for the emergency exemption available to the President?

Mr. HYDE. Yes, I agree with the chairman of the committee that the other emergency exception from the 60-day delay of major rules was included for this kind of circumstance. Certainly, it would be totally appropriate for the President to determine by Executive order that the market transition contract rules promulgated this spring under the Federal Agriculture Improvement and Reform Act are emergency rules that would not be subject to the automatic 60-day delay.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman from Illinois [Mr. HYDE].

Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Ohio [Mr. BOEHNER], a valued member of the committee.

Mr. BOEHNER. Mr. Speaker, we are here, and over the last year I think all my colleagues know that none of us at any time thought we would ever get here, but I want to congratulate the chairman of the committee, Mr. ROBERTS, for the work that he has done to guide this bill throughout the last year. He has done a marvelous job, along with the members of our committee.

Let me also say to the gentleman from Texas [Mr. DE LA GARZA] and to the gentleman from Texas [Mr. STENHOLM], who were great partners along the way, sometimes difficult moments, but they were a great help to us in the conference. This is an effort that was a team effort, and all of us are to be congratulated for the job we have done on behalf of American agriculture.

Mr. ROBERTS. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I thank the distinguished chairman of the committee for yielding this time to me, and I first want to commend him for the outstanding job of leadership that he has provided us during this most difficult year as we have undertaken agricultural restructuring in a legislative sense. He is to be highly commended for his patience and his many enduring qualities including his patience with me.

I finally want to say hail and farewell in just this momentary sense to our dear friend, the gentleman from Texas [Mr. DE LA GARZA]. I would like to associate myself with his remarks here this evening. Our chairman emeritus has always spoken with the most deeply felt passion about America's No. 1 industry, agriculture, and his voice will continue to be heard, I am sure, even though after this year he will no longer be speaking from this Chamber.

So, I say to the gentleman, "KIKA, God bless you, and thank you for all the great efforts that you have made over the years. You have been truly an inspiration."

Finally, Mr. Speaker, I rise in support of the measure before the House.

Mr. SPEAKER, I rise in support of H.R. 2854, the Federal Agriculture Improvement and Reform Act of 1996. This conference agreement will provide American farm producers with a definitive farm program plan as they begin planting the 1996 crop and prepare for a new crop marketing year. This bill gives farmers the direction they need while also delivering the U.S. taxpayer a program that represents budgetary savings over the next 7 years.

For many years now, the American consumer has enjoyed the most abundant and affordable supply of food and fiber in the world. Our Nation's Federal agricultural policy is responsible, in part, for this success and it is on that foundation that we must work toward the future.

The world around us has evolved over the past 6 years and now our agricultural livelihood must evolve in response to those changes. As we prepare for the next millennium of American agriculture, we will look to the future and see a global market that is more critical to the American producer than ever before. Moreover, in some reaches of the globe, the outlook has never looked so promising.

This conference agreement before us today is a step forward in the evolution of farm policy. H.R. 2854, the Federal Agriculture Improvement and Reform Act, includes budgetary saving provisions contained in the Balanced Budget Act of 1995. It represents sweeping change in farm policy by presenting farm producers with greater flexibility to pursue profits from the marketplace, but retains elements of the policy that has served us so well over the years such as the nonrecourse marketing loans.

This measure also contains improvements to the widely supported Food for Peace Program, which build on the successful aspects of the program by making modifications to refine and update the existing structure.

The Federal Agricultural Improvement and Reform Act represents compromises made to help ensure that producers in all regions of the country will make a smooth transition to a more market-oriented program. Most importantly, it offers the regulatory reform and flexibility that farmers have been seeking to help them plant for the world market rather than the U.S. Government. Moreover, H.R. 2854 moves future farming generations toward a more secure financial future by helping attain our responsible balanced Federal budget goals.

Today, we have the opportunity to get our Federal fiscal policy and farm legislation back on the right track through the passage of this conference report—I strongly urge its adoption.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I say to the gentleman from Missouri, "Mr. EMERSON, we love you, man."

And to Mr. POMEROY and Mr. TAYLOR and Mr. VOLKMER, good friends of mine all, I have a lengthy, lengthy refutation as to why freedom to farm is not welfare, and how we have halved the budget in regards to agriculture and saved $10 billion. But I am just going to autograph what I have down here, and turn it in, and revise and extend.

THE MARKET TRANSITION PAYMENT AND THE WELFARE MYTH

The political rhetoric: Currently within the agricultural community there are some who seem to be concerned with the appropriateness of federal payments—"market transition payments" under the Agricultural Market Transition Act—for farmers during periods of high prices. Some even liken market transition payments to welfare. Agriculture Secretary Dan Glickman, in recommending a Presidential veto of the Balanced Budget Act, restated this position:

> . . . As we move to balance the budget, farmers should not receive windfall payments when market conditions are good. They should receive assistance when in greatest need—when prices are low, as provided for by the current structure of programs. . . .

I have highlighted "market conditions" and "low prices." This statement may reflect the Secretary's thinking, but is the statement accurate in the real world of agriculture? First, farm programs are not welfare and partisan statements equating farm programs with welfare do a disservice to farmers and ranchers.

Check Webster's—Agriculture doesn't fit the definition of welfare: One of the most unfair arguments against farmers is to say that agriculture payments—of any kind—are welfare payments. Under current law, to receive "welfare," whether it's food stamps or Aid to Families with Dependent Children (AFDC), an individual simply meets the definition of "disadvantaged" to receive government assistance. In total contrast, farmers work on their land, and receive a payment for agreeing to a variety of conditions. FIRST, farmers must adhere to environmental mandates—conservation compliance and wetlands requirements—in return for a federal payment. There is a clear exchange of beneficial environmental practices for benefits received by farmers in the program. Second, the federal payment helps to offset unfair trading practices under which farmers live. Farmers are at the mercy of many trade restrictions. Major markets in the Middle East such as Iran and Iraq are under export embargoes. Threats to continued trade with China also pose significant concern in American agriculture. And finally, due to federal assistance, U.S. farmers can ensure a stable and affordable food supply for American consumers. A federal payment is a small price for a national food supply that guarantees the basic staples of bread, meat and milk at the lowest prices in the world.

What about "high and low prices" and farm income: Those who call a market transition payment "welfare" follow the basic proposition that Congress cannot justify paying farmers when prices are high because they would get an enormous "windfall." For this scenario to work, farmers must be selling above average quantities of commodities at very high prices. But, does that often happen? The answer is no.

Here's how it really works: Think of the basics of supply and demand: When supplies are tight, prices go up; when supplies are excessive, prices drop. Supply—tight or excessive—usually determines a windfall profit. Farmers receiving a windfall through a market transition payment during periods of high commodity prices, as Secretary Glickman indicates, depends upon whether farmers actually have a commodity to sell.

Follow this example: Consider the two following scenarios that a wheat farmer could face:

High prices: Wheat: $5.00 per bushel; average production: 15/bu./acre; Gross Revenue acre: $75/acre.

Low Prices: Wheat: $3.00 per bushel; Average Production: 40 bu./acre; Gross Revenue/Acre: $120/acre.

Who's right?: Under the current government program in the situation outlined above, the farmer should receive a payment in the year of relative low prices even though his income is higher. In fact, those who complain about giving a payment when prices are high cannot justify their view when you compare farmers' gross revenues. When you actually look at the real world facts, the rhetorically-popular "welfare" argument no longer hold up.

Market transition payments allow farmers to manage their own destinies: A market transition payment gives the farmer responsibility for his own economic life. Just as farmers will need to look to the market for production and market signals, the Agricultural Market Transition Program will require farmers to manage their own finances to meet market swings. Government is out of the business of running the farm.

Don't believe us—check with the economists: The economic consulting firm of Abel, Daft, Earley and Ward looked at the calculations and agreed. They said, "variations in production more than offset variations in market price, usually in the opposite direction. While market prices typically are lower with a larger crop, the positive impact of an increase in crop size on crop value more than offsets the negative impact of a lower market price. And, the reverse is true as well. The increase in market price associated with a small crop is typically not sufficient to offset the negative effect a small crop has on crop value."

How to avoid a $2 billion payback disaster: The facts prove that the market transition payment is NOT welfare for farmers. Indeed, it actually corrects a major flaw in the present target price system. High prices, but no crop, means farmers have to pay back their advance deficiency payments. Without a crop or federal payment, farmers have repeatedly called for disaster assistance in the past—which costs billions of dollars. That's why the market transition payment is a sound basis for the transition out of a 60-year-old government-run farm program. The key in looking at the policy options is to consider farm income, not high price.

What about "market conditions": Market conditions involve much more than price. One "market condition" could be the circumstance of weather-related factors. The market transition contract will provide payments in lean years as well as in a year such as this when production is down in various regions of the country, but prices are strong. One thing is very clear: The market transition payment is not a welfare payment.

THE FEDERAL AGRICULTURAL IMPROVEMENT AND REFORM ACT IS RESPONSIBLE TO TAXPAYERS

1. Average expenditures for commodity and export programs in this farm bill are significantly less than previous farm bills.

Average expenditures for commodity and export programs (CCC expenditures): 1985 Act-$15.5 billion per year; 1990 Act-$10.6 billion per year; HR 2854-$6.7 billion per year.

2. Budget Certainty. Expenditures are capped so that ag program spending is no longer an open-ended entitlement.

CBO is the 1985 farm bill would cost $55 billion over 5 years—it cost nearly $80 billion.

The 1990 farm bill was supposed to cost about $41 billion—instead it cost $56 billion.

Under this bill there is budget certainty—expenditures will not exceed $47 billion on farm programs and ag. export promotion programs.

3. Payment limitation is reduced by 20 percent, to $40,000 from the current level of $50,000.

4. Part of the payments are really to compensate producers for the fact that deficiency payments have been capitalized in land values. The transition payments will buffer any shocks to land values that may come about as we move to a more market-oriented agriculture.

5. The Market Transition Payment recognizes the fact that high prices do not translate into high income levels. Often the reason prices are high is because farmers didn't have a crop and a high price times no crops does not equal high income.

6. Payments are based on 85 percent of each farm's former base acres and program yield multiplied by the per bushel payment. Estimated average payments are corn: 36 cents per bushel, wheat: 63 cents per bushel, upland cotton: 7.3 cents per pound and rice: $2.43 per cwt.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, March 20, 1996.

Hon. PAT ROBERTS,
Chairman, Committee on Agriculture,
Washington, DC.

DEAR MR. CHAIRMAN: Although the Speaker declined to name members from the Committee on Resources as conferees on the House and Senate farm bills, both measures do contain provisions which fall within the Committee on Resources' jurisdiction. I am sending this letter to confirm our continued jurisdictional interest in these provisions and hope that you will take our views into consideration during the conference on S. 1541 and H.R. 2854.

Senate bill (S. 1541)

Section 313, Wetlands Reserve Program. Section 313 of the Senate bill amends the wetlands reserve program of the Food Security Act. As the primary successor in interest to the Merchant Marine and Fisheries Committee, the Resources Committee received its jurisdiction over "fisheries and wildlife, including restoration and conservation". The Merchant Marine and Fisheries Committee has successfully argued that the crucial role that wetlands serve as habitat for migratory waterfowl, their contribution to the nutrient base and habitat for many species of fish and wildlife (including endangered species) at critical stages in their development and their function in shoreline protection and flood protection all gave that Committee a strong jurisdictional interest in legislation affecting wetlands. The Merchant Marine Committee's jurisdiction over bills affecting wetlands, including those amending or affecting the Food Security Act, have long been recognized, with the Committee receiving sequential referrals on the wetlands provisions of the farm bills in both 1985 and 1990. The 1985 Food Security Act report (H. Rept. 99-272, Part II) states "(t)he Merchant Marine and Fisheries Committee's jurisdiction over fish and wildlife, including habitat, provides the basis for Committee jurisdiction over legislation affecting wetlands". Most recently, the Merchant Marine Committee was also represented on the 1990 conference on the Food, Agriculture, Conservation and Trade Act. Finally, the Resources Committee itself has received referrals of wetlands bills in the past (see H.R. 1203, a bill to promote the conservation of migratory waterfowl and to offset or prevent the serious loss of wetlands by the acquisition of wetlands and other essential habitat, referred to the Committee on Interior and Insular Affairs in the 99th Congress).

The changes proposed to the wetlands reserve program in section 313 of the Senate bill will enhance benefits for fish and wildlife while also recognizing landowner rights. We have no objection to including the measure in the conference report as long as our jurisdictional interests in this matter continue to be recognized.

Section_545. Cooperative Work for Protection, Management, and Improvement of the National Forest System. The Committee on Resources has jurisdiction over "forest reserves . . . created from the public domain". This provision would affect the operation of these forests. With this understanding of our jurisdictional interest, however, we have no objection to having the provision included in the conference report.

Section 554, Wildlife Habitat Incentives Program. This section establishes a $50 million Wildlife Habitat Incentive Program overseen by the Secretary of Agriculture. The program will provide payments to landowners to develop "upland wildlife, wetland wildlife, threatened and endangered species, fisheries and other types of wildlife habitat approved by the Secretary."

We are sympathetic to the policy underlying this measure, which is similar to provisions included in H.R. 2275, reauthorizing the Endangered Species Act of 1972, However, we also believe that, based on the arguments outlined above, the Committee on Resources would be the primary committee of jurisdiction should this provision be introduced as a separate bill. We have no objection to its inclusion in the conference report, but will fully exercise our jurisdiction over the implementation of the program in the future.

Section 557, Clarification of Effect of Resource Planning on Allocation or Use of Water. Section 557 amends the Forest and Rangeland Renewable Resources Planning Act and the Federal Land Policy and Management Act to ensure that private property rights, including water rights, will be recognized and protected in the course of special use permitting decisions. The Committee on Resources shares jurisdiction over these laws based on its jurisdiction over "forest reserves and national parks created from the public domain". Section 557 would affect the management of National Forests created from the public domain.

We agree with the policy underlying these amendments and would have no objection to including the provision in the conference report with this recognition of our shared jurisdiction.

Section 824, Aquaculture Assistance Programs. The Committee on Resources enjoys jurisdiction over aquaculture, as outlined in the discussion below. The amendments made by this section to the National Agricultural Research, Extension, and Teaching Policy Act of 1977 implement the National Aquaculture Act referenced below for the Department of Agriculture. Although we prefer that all aquaculture activities take place as part of the larger aquaculture plan developed under the National Aquaculture Act, the amendments made by this section are acceptable and we have no objection to including this provision in the final conference report.

Section 872, Stuttgart National Aquaculture Research Center. This provision is a slightly modified version of H.R. 33, a bill introduced in the 104th Congress by Congresswoman Lincoln to transfer a fish laboratory in Arkansas from the Department of the Interior to the Department of Agriculture. The bill was referred solely to the Committee on Resources, and passed by the House of Representatives on December 18, 1995, by voice vote under Suspension of the Rules.

With this understanding of our jurisdiction, we have no objection to including this measure in the conference report, with one change. We noticed after passage in the House that the bill contains a typographical error: it refers to "station and stations"; it should be "station or stations" to execute properly.

Section 873, National Aquaculture Policy, Planning and Development. This section amends the National Aquaculture Act of 1980. The bill creating that Act (H.R. 20, 96th Congress) was referred originally to the Merchant Marine and Fisheries Committee. I was an original cosponsor of the measure. After it was reported, it was sequentially referred to the Committee on Agriculture. The reauthorization of the law in 1984 was provided for in H.R. 2676 (98th Congress); the referral pattern is the same. The law was again reauthorized in 1985 as part of the Food Security Act of 1985, which incorporated the National Aquaculture Act reauthorization measure H.R. 1544, a bill referred originally to Merchant Marine and sequentially to Agriculture. Finally, the Act was reauthorized in 1990 in the Food Security Act of 1990. As stated earlier, the Merchant Marine Committee received a sequential referral of the 1990 and 1985 farm bills, including a referral of sections of the bills dealing with aquaculture.

In addition, in the 103rd Congress, Congressman Studds introduced H.R. 4853, which amended the National Sea Grant College Program Act and the Coastal Zone Management Act to enhance marine aquaculture in the United States. This bill was referred solely to the Merchant Marine and Fisheries Committee. Mr. Studds also introduced H.R. 4854, which amended the National Aquaculture Act of 1980; that bill was jointly referred to the Merchant Marine and Agriculture Committees. Finally, in the 103rd Congress, Congresswoman Lambert introduced H.R. 4676, a bill which looks remarkably similar to Section 873. This bill was also jointly referred to Merchant Marine and Agriculture Committees. It is very clear that the Committee on Resources has a substantial jurisdictional interest in aquaculture.

Section 873 makes radical changes to the National Aquaculture Act, including changing the definition of "aquaculture" to exclude private ocean ranching of Pacific salmon in a State where such salmon is prohibited by law. In addition, the section adds a definition of "private aquaculture" to include the activities of "the Federal Government, any State or local government, or any Indian tribe recognized by the Bureau of Indian Affairs." Most importantly, the amendments to the National Aquaculture Act strips the co-equal decision making authority of the Secretaries of Interior, Commerce and Agriculture in developing Federal aquaculture policy, and gives this authority to the Secretary of Agriculture, with a mere consultative role for the other Secretaries. In short, if adopted, these proposed amendments would cede authority for all forms of aquaculture, both onshore and offshore, to the Department of Agriculture.

This is a major policy departure from the original Act. In the 1980 law, it is clear that all three Departments will have equal status in developing policy, regulations and the continuing assessment of aquaculture in the United States. In fact, the Act authorizes equal funding for the three Departments for Fiscal Years 1991, 1992 and 1993.

While changes to the National Aquaculture Act may be warranted, we have not addressed this issue during the 104th Congress. Therefore, until the Committee on Resources has had an opportunity to examine the need for change in United States aquaculture policy and these specific changes, we ask that you drop this provision from any conference agreement at this time.

HOUSE BILL (H.R. 2854)

Section 507, Everglades Agricultural Area. Section 507, as added on the House Floor, provides $210 million to the Secretary of the Interior for restoration of the Florida Everglades. Even under a very restrictive view of the Rules of the House, the Committee on Resources would have primary jurisdiction over this provision as it affects the Everglades National Park, several National Wildlife Refuges, the Florida Keys National Marine Sanctuary and the restoration of the Everglades for the benefit of fish and wildlife.

One of the House conferees on this section, Congressman Richard Pombo has been working extensively with me and my staff to see that protections for the Everglades are effective, reasonable and in the public interest. Therefore, I would support the inclusion of an Everglades acquisition provision in the final conference report IF the provision is acceptable to Congressman Pombo.

New Provision. We understand that the conference committee may include a measure similar to section 872 of the Senate bill which transfers a fish culture laboratory in Marion, Alabama, from the Department of the Interior to the Department of Agriculture. This provision is taken from H.R. 1205, the Marion National Aquaculture Research Center Act of 1995, introduced by Congressman Hilliard. The bill was referred to both resources and Agriculture Committees.

Although we do not have the benefit of a hearing record on this measure (as with the Stuttgart fish laboratory transfer), we know of no reason why the laboratory should not be transferred between the departments. Therefore, with this recognition of our jurisdiction, we have no objection to this discretionary measure being included in the conference report.

I appreciate your consideration of these recommendations (which affect what I hope are noncontroversial provisions in the historic Agricultural Market Transition Act) and ask that you include this letter in the conference report on the bills. You and your staff should be congratulated on the reforms you are trying to accomplish in the text of these bills.

Sincerely,

DON YOUNG,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC, March 27, 1996.

Hon. PAT ROBERTS,
Chairman, Committee on Agriculture,
Washington, DC.

DEAR CHAIRMAN ROBERTS: I am writing to clarify the legislative history associated with the termination of the Agricultural Weather Service which you reference in the Joint Explanatory Statement of the Committee of Conference on H.R. 2854, the Federal Agriculture Improvement and Reform Act of 1996. As you are aware, under Rule X (n)(11) of the House of Representatives, the National Weather Service (NWS) and all its programs are within the jurisdiction of the Science Committee.

Last year, during consideration of the fiscal year (FY) 1996 authorization of the NWS' programs, the Science Committee amended the NWS Organic Act to forbid the NWS from continuing specialized weather services that can be provided by the private sector including the Agricultural Weather Service. The Committee also included report language which specifically addressed the issue of the Agricultural Weather Service. Report 104–237 (Part 1) reads:

"* * * The Committee supports terminating the National Weather Service Agricultural and Fruit Frost specialized weather forecast programs in fiscal year 1996. The Committee notes that concerns have been raised about terminating the programs on October 1, 1995. The Committee believes that the Secretary of Commerce should have flexibility to continue the programs beyond October 1, 1995 if he finds that the private sector is unwilling or unable to provide replacement services. Under no circumstances should such an extension last beyond April 1, 1996.

"* * * No additional money has been authorized for the continuation of existing Agricultural and Fruit Frost services and any expenses associated with these services, if necessary, should come from National Weather Service's operating budget * * *"

The Committee's NWS authorization passed the House on October 12, 1995 as part of H.R. 2405, the Omnibus Civilian Science Authorization Act of 1995. On March 4, 1996, the National Oceanic and Atmospheric Administration (NOAA) printed notice of its intent to terminate specialized weather services including the Agricultural Weather Service on April 1, 1996 in the Federal Register.

The Science Committee continues to support the privatization of specialized weather services such as the Agricultural Weather Service. The Committee expects the service to be terminated on April 1, 1996. Further, the Committee has not authorized appropriations for Agricultural Weather Service for FY 1996 or FY 1997, and no money should be appropriated for its continuation.

I hope this letter helps clarify the legislative history associated with the Agricultural Weather Service. Please let me know if I can provide you with any additional information on the subject.

Cordially,

ROBERT S. WALKER,
Chairman.

Hon. ROBERT S. WALKER,
Chairman, Committee on Science,
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter. As you indicate, under Rule X of the House of Representatives, the National Weather Service and all its programs fall under the primary jurisdiction of the Committee on Science. The statement of the Joint Explanatory Statement of the Committee of Conference on H.R. 2854, the "Federal Agriculture Improvement and Reform Act of 1996", was intended as an expression of support for a program within the Science Committee's jurisdiction and this Committee's concern that weather service be provided to rural areas and that those involved in agriculture continue to have adequate collection and dissemination of weather data.

Thank you for providing me with the historical context under which the Department of Commerce has recommended terminating the agricultural weather service.

Sincerely,

PAT ROBERTS,
Chairman.

Ms. KAPTUR. Mr. Speaker, I must express my strong opposition to language inserted in the bill during the conference which will severely impact our ability to move to a modern science-based meat and poultry inspection system.

Section 918 of this bill establishes a permanent advisory committee to evaluate and review meat and poultry inspection programs. This proposal is similar in effect to the proposal made last summer in the Appropriations Committee to slow meat and poultry inspection reform by forcing USDA to undertake negotiated rulemaking at a late point in the regulatory process.

Section 918 was never subject to public hearings and was not included in the Senate or House passed bills.

This advisory committee would review every decision made by the Food Safety Inspection Service, including inspection procedures, labor relations, employee work rules, food safety practices in meat and poultry plants and approval of new technologies. This could delay the implementation of the new Hazard Analysis and Critical Control Points [HACCP] inspection system, a science-based system endorsed by both industry and consumers.

Further, this panel will be able to meet in secret and conduct its deliberations outside of public scrutiny because it is specifically exempt from the requirements of Federal Advisory Committee Act.

Mr. Speaker, last year there were five million foodborne illnesses and 4,000 deaths in our Nation. Section 918 has no place in this bill and we should take no actions which will decrease public confidence in the healthfulness and safety of our meat and poultry products. Have we learned nothing from the recent British experience?

Mrs. MORELLA. Mr. Speaker, the conference report of the farm bill, which is before us today, will benefit farmers, rural communities, and taxpayers. I congratulate the members of the conference committee for their diligence in crafting an innovative bill that will continue to provide Americans with an affordable food supply.

I am particularly pleased that the final report contains a provision that will provide Federal funding for State farmland protection efforts. This provision will make the Federal Government a partner in State efforts to gain long-term protection of important agricultural resources. The measure will help to counter the loss of millions of acres of productive farmland to urbanization.

It has come to my attention, however, that a provision has been added to the bill in conference that threatens consumer confidence in the safety of meat and poultry in the United States. Constituents have advised me that language has been included in the conference report to establish a meat and poultry inspection panel to review every decision made by the Food Safety and Inspection Service [FSIS]. This panel could delay the implementation of the new Hazard Analysis and Critical Control Points [HACCP] inspection system and undermine the authority of the FSIS.

The language calls for two new Federal Register publication steps in the decision process which would add delays to the existing decision-making process. Moreover, the provision was not subject to hearings or public debate, and it has been my experience over the years that meat and poultry inspection issues have been considered separately, not as part of past farm bills.

It is my understanding that FSIS is underfunded, and that both meat and poultry producers have complained about the shortage of inspectors. The agency simply cannot afford to pay for another advisory panel.

The Centers for Disease Control and the Department of Agriculture point out that contaminated meat and poultry cause five million illnesses and four thousand deaths every year. The purpose of the meat and poultry inspection program is to protect human health. If this provision is implemented, public confidence in the safety of meat and poultry products could erode, which will not be beneficial to either consumers or the industry.

I appreciate the opportunity to add my comments regarding this innovative and important farm bill.

Mr. LATHAM. Mr. Speaker, I am pleased that the conferees agreed to include a provision in the bill that I originally sponsored in the House regarding revenue insurance. I believe, as do farmers in Iowa's 5th District, that revenue-based risk management tools are a vital resource for today's and tomorrow's American farmer as the weather, market, and global trading patterns continue to fluctuate and pose often unpredictable risks for farmers worldwide.

The FAIR Act would require the Federal Crop Insurance Corporation to offer pilot revenue insurance programs for a number of crops for crop years 1997 through 2000 so that by 2002—when the production flexibility contracts expire—we will have well-tested revenue based risk management products available for farmers.

It is very important to note, however, that it was never my intent to restrict the authority of the Federal Crop Insurance Corporation as it currently exists under law to conduct pilot programs. There are two revenue insurance pilot programs currently operating for crop year 1996. I don't, and I don't believe the Conferees, intend for this new language in any way to interfere with the operation or expansion of these existing programs to other crops under the same terms and conditions under which they are currently operating—for example, on a whole state basis. Rather, my intent was to encourage the Corporation to expand current efforts to other crops and speed the development of such products for the American farmer.

I strongly urge the Corporation to further experiment with revenue-based insurance products and to do so under similar terms and conditions represented by the 1996 crop year revenue insurance programs.

I wish to state for the RECORD that I fully agree with Representative LATHAM that the FAIR Act is not intended to restrict the existing authority of the FCIC to approve pilot programs under similar terms as the 1996 revenue pilot programs. The language agreed to by the Conferees is intended to be liberating, not restricting, in terms of FCIC authority.

Mr. BUYER. Mr. Speaker, the Federal Agricultural Improvement and Reform Act [FAIR] is truly an historic opportunity for farmers and for rural communities. This legislation seeks to reform Federal agriculture programs that begin to wean farmers off government subsidies and move them toward more market oriented principles. In addition, it consolidates existing grant and loan authorities and places primary administrative responsibility with the states and is the most environmentally friendly farm bill in 60 years. This legislation is a giant step in the right direction and I enthusiastically support it.

Hoosier farmers will be the beneficiary of such incremental steps to move the farmer into the next century and be able to plant for the market. Washington bureaucrats have told farmers for far too long what to plant, when to plant, and where to plant. The result has been ineffective farm policy.

The weaning of farmers off government subsidies is important to our country's financial health. Government should not be in the business of subsidizing inefficient operations.

Technology is ever so important to farmers. If Indiana farmers are to successfully move into the next century and compete in the world marketplace, we must continue the public/private research initiatives. This legislation will aid in the transition into the market-oriented farm policy of the future.

Furthermore, this legislation reduces the regulatory burden on farmers. Every time I meet with Hoosier farmers, the discussion quickly turns to regulatory relief. The regulatory demands on time and resources upon the family farmer is too great. This bill is the beginning of the end of needless, overbearing regulations.

The FAIR Act continues our commitment to rural communities. Indiana, and particularly the Fifth District, have benefited tremendously over the years from rural development programs. Many rural communities throughout Indiana need assistance to meet needs which include rural housing, rural water supply and wastewater infrastructure, and rural economic development.

There are several Federal programs to assist rural communities in meeting their needs through a combination of loan and grant funds. It is this position that streamlines and consolidates a variety of existing rural development programs, in order to provide a more focused federal effort and encourage additional decision-making at the state level.

It is important that we address rural programs that: First, provide assistance to attain basic human amenities; second, alleviate health hazards; third, promote stability of rural areas by meeting the need for new and improved rural water and waste disposal systems; fourth, meet national safe drinking water and clean water standards. Most very small systems have no credit history and have never raised capital in financial markets. Increasingly, many small communities are being forced to install or remodel water and wastewater systems in order to meet state and federal water quality standards. It is these smaller, mostly rural communities that have the most difficulty in complying with drinking water regulations and securing the financial resources to meet their needs.

This legislation seeks to authorize a new delivery system for rural development programs called the Rural Community Advancement Program. It would consolidate existing grant and loan authorities and place primary administrative responsibility with the state directors of USDA's RECD offices. Existing rural housing, development, and research programs would receive $300 million in mandatory funding.

The demand by local communities in Indiana's 5th Congressional District facing these funding concerns during my three years in office have included, Medaryville, Francesville, Goodland, Bass Lake, Lake of the Woods, Monticello, Buffalo, New London, Lowell, Cedar Lake, Cayuga, Wheatfield, DeMotte, Kewanna and Fowler. All of these communities are small towns with limited resources. Municipal water supplies and wastewater treatment facilities not only help protect the environmental resources of these communities, but they also form the infrastructure framework necessary to attract economic development.

Rural development is an integral part of the farm bill. Rural America must have access to the economic infrastructure to enable it to compete, including clean water, adequate housing, and good/low cost sewage infrastructure; all of which are prominent issues to Hoosiers in rural America.

The FAIR Act marks the most environmentally friendly farm bill in 60 years. It lifts the requirements that tie farmers to the same crop year after year, which will allow them to maintain soil health and fertility through crop rotation. Thus, farmers will rely less on chemical fertilizers, herbicides and pesticides to maintain yields.

The FAIR Act promotes soil conservation and wetlands protection by requiring all regulations of such, to be met in order for farmers to qualify for payments. Additionally, it reauthorizes for seven years two successful programs, the Conservation Reserve Program and the Wetlands Reserve Programs, creates the Quality Incentives Program, and protects wetlands, water quality, and fights erosion.

Hoosiers will be the beneficiary of this legislation. Weaning farmers off government subsidies and lessening government involvement will provide America's agri-businesses the opportunity to continue to be the most productive and the most cost effective in the world.

Mr. Speaker, the Federal Agricultural Improvement and Reform Act is an historic opportunity for farmers and for rural communities. The FAIR Act reforms programs designed in the depression area and moves them into the next century. This bill gives Hoosier farmers the opportunity to do what they do best—farm the land with minimal government control and provide the resources to improve the quality of life in rural communities. I strongly support the FAIR Act.

Mr. RICHARDSON. Mr. Speaker, farmers in my district are in desperate need of some type of farm legislation now.

Although I am not totally sold on the freedom to farm concept, I fully support this conference report which will provide our nation's producers with some direction immediately.

I think the House and Senate Agriculture Committees have done a good job of shaping a bill with peanut program reforms that will make it no-net costs.

I believe the conservation programs contained in this bill are the strongest that we have ever reported out in a farm bill. This bill retains our commitment to help farmers as the stewards of America's land.

I am also pleased to see that the conference committee chose to include the fund for rural America. This fund will give small towns in rural America the tools through research and economic development activities to provide their citizens with safewater and sewer systems and the basic infrastructure to survive.

When we talk about reforming agriculture policies we must also talk about the needs of rural communities whose economies rely heavily on agriculture production.

Mr. Speaker it is time to send the President this agreement on farm policy.

Mr. SKAGGS. Mr. Speaker, I want to focus briefly on one section of this conference report that's particularly important for Colorado and other western States where municipal water supply facilities are located on or above National Forest lands.

During its consideration of this bill, the Senate adopted an amendment by Colorado's senior Senator that would have amended existing laws applicable to the National Forest System. The amendment was explained as a response to Forest Service proposals that renewal of permits for water facilities serving several Colorado municipalities be accompanied by changes in the management of those facilities that would result in smaller diversions from streams on National Forest lands.

In arid States like Colorado, Mr. Speaker, no issues are more sensitive and important than those relating to water. So, even though I had very serious concerns about how his amendment would affect management of the National Forests, I understood why Senator BROWN attached such importance to this matter.

But I was disappointed to note that in his explanation of the amendment, the Senator referred to Boulder, a city located in my congressional district. It seems to me that this could have lead some to mistakenly think there's a need for new legislation to resolve a dispute between that city and the Forest Service. In fact, however, that is not the case. It's true that the city of Boulder wants to replace a water supply pipeline that now brings water across National Forest lands. But the city and the Forest Service are not in deadlock. Rather, they are both acting in accordance with agreements, worked out with my direct participation, establishing the terms and conditions of an easement for the pipeline and the procedure to be followed in determining its route. Furthermore, Boulder has reached an agreement with the State of Colorado regarding continued in-stream flows, and the Forest Service has determined that this meets relevant requirements, so that there is no need for the city to take further steps to maintain bypass flows.

So, in addition to other serious reservations about Senator BROWN's amendment, I was concerned that its enactment might undermine the progress that Boulder and the Forest Service had made in connection with the pipeline project.

I also was concerned that a letter from Boulder's city manager to Senator BROWN regarding the amendment might have the inadvertent effect of creating confusion about the Boulder pipeline project. To clarify matters, I've both met and corresponded with the city manager, who confirmed that the city was continuing to work toward a successful outcome to the pipeline project. For reference, I am attaching my letter to the city manager and his reply as part of this statement.

For all these reasons, I'm glad that the conference report drops the original language of the Brown amendment and instead provides for an 18-month moratorium on certain Forest Service decisions while a special task force develops recommendations for possible ways to address this subject in the future.

I also am very pleased to note that the conferees, in the statement of managers regarding section 389, make it clear that "the moratorium imposed by this section is not intended to interfere with the ability of the Forest Service to negotiate or comply with the requirements of voluntary agreements concerning the use of National Forest land for water supply facilities."

In other words, Mr. Speaker, enactment of section 389 of this conference report will neither rewrite the laws applicable to management of the National Forests nor interfere with continued progress in connection with Boulder's pipeline. The Forest Service will be able to proceed with issuance of a draft environmental impact statement concerning possible routes, and the terms and conditions of an easement across National Forest lands will be as provided in the existing agreement between the Forest Service and the city of Boulder.

Therefore, I can support this part of the conference report.

U.S. HOUSE OF REPRESENTATIVES,
March 26, 1996.

Mr. STEPHEN T. HONEY,
City Manager, City of Boulder, Boulder, CO.

DEAR TIM: I'm glad to have had the chance to briefly discuss with you the status of Boulder's application or renewal of the permit for the Lakewood Pipeline. I also appreciate your providing me a copy of your February 16 letter to Senator Brown expressing support for his amendment to the farm bill dealing with water facilities on national forest land.

Your letter repeats some of the city's previously expressed complaints about the U.S. Forest Service's approach to permitting renewal for the Lakewood Pipeline, and it provides a separate historical outline that includes description of more recent negotiations, agreements, and environmental reviews in which the city and the Forest Service are engaged.

Frankly, I was a little surprised by the letter's emphasis on problems the city feels it has had in the past with this process since I had believed that, through negotiations I was pleased to sponsor, most of those problems had been resolved or set aside.

In particular, the city and the Forest Service agreed to language for a water conveyance facility easement for the pipeline. That language does not, as I understand it, negate the city's claim to a permanent right-of-way for the pipeline, but rather postpones an assertion of that right while the negotiated easement is in place.

I was also pleased that we were able to secure in the easement negotiated with the Forest Service its acknowledgement that the city's instream-flow agreement with the State of Colorado is sufficient for forest management purposes.

Also, as you know, the city and the Forest Service have entered into a memorandum of understanding that is now guiding formal and public consideration and comparison, under the National Environmental Policy Act (NEPA), of alternate locations for the rebuilt pipeline. While these agreements are described in the background paper attached to the letter, the letter itself seems to suggest that there has been a lack of cooperation and effort on the part of the Forest Service toward fulfillment of these agreements.

The letter, for example, speaks of the city's difficulty with another provision in the easement language agreement, relating to compliance with Forest Management Plan standards and guidelines. Is there some chance that the city intends to withdraw from that portion of the agreements? If so, I'd like to know more about that.

The letter also includes a discussion of projected problems with alternatives being considered in the NEPA review, including statements that I would have expected to be made in the form of comments on the imminently forthcoming draft Environmental Impact Statement.

As you know, I have believed that issues surrounding the Lakewood Pipeline permitting process can and should be settled locally through negotiations and without resorting to the expense and trouble of litigation or to legislation that would revise one or more of the laws applicable to the National Forest System. Because I believed that the Forest Service and the City of Boulder were making progress along those lines, I found it surprising that Senator Brown cited Boulder's experience in connection with the Lakewood Pipeline as demonstrating the need for new legislation.

I assume the city hasn't changed its position regarding the desirability of resolving this matter through the existing agreement with the Forest Service. And, if the city believes that the Forest Service is failing to fulfill its obligations under the memorandum of understanding or other agreements, I would like to know more about that failure and what steps I could take to assist to rectify the situation. In any case I'd appreciate an update about progress made and work completed under the framework of the existing agreements.

Thanks again for your continuing efforts to keep me informed and, where I can be useful, involved on this matter. I look forward to continuing to do what I can toward a successful outcome.

Sincerely yours,

DAVID E. SKAGGS.

CITY OF BOULDER, OFFICE OF THE CITY MANAGER,
March 26, 1996.
Hon. DAVID SKAGGS, LONGWORTH H.O.B., WASHINGTON, DC.

DEAR CONGRESSMAN SKAGGS, I am pleased to respond to your March 26th letter and your request for clarification on specific issues surrounding the Lakewood Pipeline Environmental Impact Statement (EIS).

Please keep in mind that as of today, March 26th, a draft EIS has not been released by the Forest Service. Although we have been working with the Forest Service staff in supplying information for them to review and possibly use in the EIS, we have not received any final, written documents from the Forest Service as to their assessment of the issues. Their preliminary assessment will be included in the draft EIS and their record of decision is scheduled to be implemented in November, 1996. As such, perhaps my February 16th letter was more an expression of the frustration about the timeliness for this project than the integrity of the project. If so, I apologize for that.

You are correct that the language for the water conveyance facility easement does not negate the City's claim to a permanent right-of-way, but rather postpones a decision on that right while the easement is in place. If the EIS contains all this information and an easement is executed, then this concern will be resolved.

With regards to the City's in-stream flow agreement with the State of Colorado, I did not mean to imply that the Forest Service doesn't recognize and support this program. In fact, it is our understanding that the Forest Service has evaluated and determined that the in-stream flow program does meet the Forest Management Plan standards and guidelines and no additional bypass flows will be required, and I expect that the draft EIS will reflect this.

With respect to compliance with the Forest Management Plan, the MOU indicates that the EIS will analyze the information in compliance with the National Forest Management Act of 1976, as well as other applicable statutes, regulations and Forest Service Manual direction. In addition, the MOU says the Forest Service will assure compliance with all federal and state laws and regulations. There is not specific statement about the Forest Management Plan standards and guidelines. At this point, we don't know if there will be any difficulty in complying with the Forest Management Plan until the draft EIS is released and the Forest Service's analysis is reviewed by the public. Between the time I signed the MOU and the decision is implemented, more than 2 years will have passed, and some changes to the Forest Management Plan may have occurred. At this point, I just don't know what the impacts of these changes may mean.

My previous letter included a discussion about some of the alternatives. We do intend to fully and carefully comment on the draft EIS when it is released, but the comments may change depending upon the content of the draft EIS. I believe it is important for the City to discuss the issues throughout the process, but I apologize for any confusion which may have resulted from our concerns about what may appear in the draft EIS.

The City continues to work toward a successful outcome for this project. Your assistance and leadership in this project has been essential, and the City greatly appreciates your commitment to achieving the goals set forward in our joint MOU with the Forest Service.

Sincerely,

STEPHEN T. HONEY,
City Manager.

Mr. LIPINSKI. Mr. Speaker, I rise today to express my opposition to the safe meat and poultry inspection panel provision which was added at the last minute, with no hearings or public debate, to the farm bill. Although its title suggests otherwise, the safe meat and poultry inspection panel will actually hamper consumer protection efforts by delaying meat and poultry inspection reform.

The seven-member panel, consisting primarily of meat scientists, poultry scientists, and food scientists, would be responsible for reviewing every decision made by the USDA's Food Safety and Inspection Service [FSIS]. This industry-friendly panel would have broad authority over USDA decision making in such matters as inspection procedures, labor relations, employee work rules, food safety standards, food safety practices in meat and poultry plants, and approval of new technologies. Such broad authority gives tremendous power to a part-time panel that does not necessarily include public health doctors. Yet, even if the panel met full time year round, it could not meaningfully address the large volume of decisions made regularly by the USDA's FSIS. It is obvious that the safe meat and poultry inspection panel would quickly cause a bottleneck in the FSIS decision making process. The FSIS food safety reform agenda would be substantially delayed, if not entirely blocked, by this panel.

In fact, the safe meat and poultry inspection panel is actually an attempt at back door regulatory reform. It puts additional regulatory review power in the hands of industry-friendly panel members. This panel provision also adds two new Federal Register publication steps to the existing decision process. In other words, it creates another regulatory hurdle to delay implementation of additional safeguards. However, each delay in the reform process further undermines the public's confidence in the meat and poultry inspection system and food supply.

In these times of severe budget constraints, the Food Safety Inspection Service is struggling to simultaneously meet its current inspection responsibilities and make needed food safety reforms. The agency certainly cannot afford to pay for another advisory panel; yet, this provision provides no new funds to finance the panel. I cannot believe that at a time when Americans want less Government, the Congress is creating an unfinanced panel that actually duplicates the work of the existing National Advisory Committee on Microbiological Criteria for Food [NACMCF], which has a diverse membership and has worked closely with the FSIS since 1987.

The safe meat and poultry inspection panel is not needed and would actually work against the consumer protection mission of the FSIS. It has no place in this otherwise fine farm bill compromise. Mr. Speaker, I appreciate this opportunity to express my opposition and greatly urge my colleagues to join me in opposition to the safe meat and poultry inspection panel.

Mrs. KENNELLY. Mr. Speaker, I rise in support of the conference report on the farm bill.

I voted against this legislation when it was first addressed by the House, because I was concerned that the legislation did not address reauthorization of nutrition programs and did not include the northeast dairy compact. I am pleased that the conference committee saw fit to include these provisions in the conference report.

The northeast dairy compact was approved by all six New England and will play a significant role in boosting farm income and stabilizing the dairy industry in the northeast through interstate cooperation. It is my hope that this compact will serve as a model partnership between farmers and consumers to maintain stable milk prices.

I am also pleased that in reauthorizing many nutrition programs, the conference committee included the Community Food Security Act which will provide a one-time infusion of funds for projects designed to meet the food needs of low-income people. This vital assistance will help to make good quality, and reasonably priced food available to many low-income communities like those in my home city of Hartford.

While I believe that this farm bill conference report is greatly improved, I remain concerned about the seven year market transition, which would make payments to farmers without requiring them to farm at all. But I believe that the reauthorization of nutrition programs, strong conservation provisions, and the inclusion of the Community Food Security Act and the northeast dairy compact has greatly improved this legislation and I urge my colleagues to support passage of this legislation.

Mr. GOODLING. Mr. Speaker, I am pleased the House and Senate conferees for S. 1541, the Agricultural Market Transition Act of 1996, included a provision to protect horses during transport to slaughterhouses. In particular, I would like to thank Congressman STEVE GUNDERSON and Chairman PAT ROBERTS for their support.

Last year, I introduced H.R. 2433, the Safe Commercial Transportation of Horses for Slaughter Act, intended to improve the handling, care, and equipment requirement for the safe transportation of horses to slaughterhouse facilities. My colleague, Senator MITCH MCCONNELL, introduced similar legislation in the Senate. Since then, my office has received tremendous support for introducing this legislation from the public and Members of Congress who have large horseman populations in their congressional districts.

Two years ago, I sent a dear colleague to Members bringing their attention to an article I read in "equidae," the National Horseman's Inc. publication, that exposed the inhumane treatment of horses transported for slaughter. Two constituents in my district visited a horse auction in New Holland, PA and described the horrible conditions to which these horses are subjected. Imagine injured, pregnant, and ill horses crammed into cattle cars with combative stallions and other horses to be shipped on long journeys to slaughterhouses with no dividers separating them. Often, these horses travel for days without food or water. As a thoroughbred owner, I find this appalling.

While Americans traditionally view horses as pets or companions, the reality is that many of our beloved friends are sent to slaughterhouses for consumption in European, Asian, and Latin countries. Horses have a unique, trusting relationship with people and deserve to have a humane and dignified end to their lives as other household pets.

Fortunately, through the hard work of Senator MITCH MCCONNELL, Congressman GUNDERSON and other members of the House and Senate Agriculture Committee, the conference committee was able to come to a compromise on language that will ensure the safe transportation of horses for slaughter while protecting other livestock and poultry for slaughter from regulation. The language provides authority to the Secretary of Agriculture to authorize guidelines for the regulation of persons engaged in the commercial transportation of horses for slaughter. The Secretary shall consider in carrying out this section of the bill food, water, rest, and the segregation of stallions from other horses during transportation.

I am hopeful these guidelines will be issued in timely manner to protect the thousands of horses sent to slaughter each year. I would suggest the Secretary consider requiring horses be rested and provided food and water after traveling no longer than 10 hours, vehicles be required to be in sanitary condition and provide at least 7 feet, 6 inches of headroom, and provide for the separation of stallions from other horses.

This legislation has the full support of the horse industry and animal feed industry including the American Horse Council, the American Horse Protection Association, the Humane Society of the United States, the American Association of Equine Practitioners, American Horse Shows Association, American Veterinary Medical Association, Pennsylvania Horse Breeders Association, the American Feed Industry Association, and the National Pork Producers.

Once again, I would like to thank the Members of the House and Senate conference committee for their compassion and hardwork. I am sure this legislation will go a long way in protecting horses transported for slaughter and provide incentive for those in the industry to treat horses with greater care and respect.

Mr. BILIRAKIS. Mr. Speaker, I rise in support of the conference report for H.R. 2854, the "Agricultural Market Transition Act." This measure reforms numerous laws affecting the business of farmers, including dairy farmers. In modifying laws that pertain to dairy farmers, H.R. 2854 has the effect of amending the Food Drug and Cosmetic Act [FFDCA] as it pertains to standards of identity and nutrition labeling requirements for fluid milk under milk marketing orders. As Chairman of the Committee on Commerce Subcommittee on Health and Environment, I would like to note the jurisdictional interest of both the full Committee and my Subcommittee in these modifications of our country's dairy program.

Portions of the language in the conference report regarding dairy programs supersede certain provisions in the FFDCA by making them inapplicable in some circumstances. The FFDCA is a statute within the exclusive jurisdiction of the Committee on Commerce. Therefore, the amendment to the FFDCA in the conference report for H.R. 2854 is also within the exclusive jurisdiction of the Commerce Committee. In accordance with rule X of the rules of the House, I look forward to continued exercise of our legislative jurisdiction in this area.

Mr. ROBERTS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. OXLEY). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 318, noes 89, not voting 24, as follows:

[Roll No. 107]

AYES—318

Abercrombie
Ackerman
Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Flake
Flanagan
Foley
Forbes
Franks (CT)
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Maloney

Manton
Manzullo
Mascara
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Meek
Metcalf
Meyers
Mica
Mink
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Olver
Ortiz
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Roth
Royce
Rush
Salmon
Sanders
Sawyer
Schaefer
Schiff
Schumer
Scott
Seastrand
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torres
Torricelli
Towns
Upton
Vucanovich
Waldholtz
Walker
Walsh
Ward
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)
Zeliff

NOES—89

Andrews
Baesler
Barrett (WI)
Becerra
Blute
Bonior
Borski
Brown (CA)
Cardin
Chabot
Clay
Collins (MI)
Conyers
Coyne
DeFazio
Dellums
Dicks
Doggett
Dooley
Doyle
Engel
Fattah
Filner
Foglietta
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Gephardt
Goss
Green
Gutierrez
Hoke
Jackson (IL)
Jacobs
Johnson (SD)
Johnston
Kaptur
Kennedy (MA)
Kleczka
Levin
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Markey
Martini
McCarthy
McDermott
McKinney
Menendez
Miller (CA)
Miller (FL)
Minge
Moakley
Moran
Nadler
Oberstar
Obey
Owens
Pallone
Payne (NJ)
Pelosi
Peterson (MN)
Pomeroy
Rivers
Roybal-Allard
Sabo
Sanford
Saxton
Scarborough
Sensenbrenner
Serrano
Skaggs
Stark
Taylor (MS)
Torkildsen
Traficant
Velazquez
Vento
Visclosky
Volkmer
Wamp
Waters
Williams
Zimmer

NOT VOTING—24

Beilenson
Bryant (TX)
Coleman
Collins (IL)
Eshoo
Fowler
Gibbons
Hayes
Lantos
Martinez
McNulty
Meehan
Neal
Ros-Lehtinen
Rose
Roukema
Schroeder
Smith (TX)
Smith (WA)
Stokes
Studds
Waxman
Weldon (PA)
Yates

□ 0036

Mr. FOX of Pennsylvania changed his vote from "aye" to "no."

Mr. TORRES changed his vote from "no" to "aye."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. ROS-LEHTINEN. Mr. Speaker, it was necessary for me to return to my district on Thursday, March 28, before the final vote of the day was taken. I would have voted "no" on the procedural motion to H.R. 3136; "yes" on the final passage of H.R. 3136, "yes" on ordering the previous question on the modified closed rule (H. Res. 392) for H.R. 3103; "no" on the amendment in the nature of a substitute (H. Res. 392) to H.R. 3103; "no" on the motion to recommit H.R. 3103; "yes" on passage of H.R. 3103; "yes" on agreeing to the conference report on H.R. 2854.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 2854 just passed.

The SPEAKER pro tempore (Mr. OXLEY). Is there objection to the request of the gentleman from Kansas?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was grant to:

Mrs. SMITH of Washington, (at the request of Mr. ARMEY) for today, on account of illness.

Mr. MCNULTY (at the request of Mr. GEPHARDT) for today after 2:15 p.m. and the balance of the week, on account of death in the family.

Ms. ESHOO (at the request of Mr. GEPHARDT) for today after 8:30 p.m. and the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. JEFFERSON) to revise and extend their remarks and include extraneous material:)

Mr. SKELTON, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. PETE GEREN of Texas, for 5 minutes, today.

Mr. BROWDER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mr. MOAKLEY, and to include extraneous material, after debate on the unfunded mandate motion to recommit H.R. 3136 today.)

(Mr. FAWELL and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,742.)

(Mr. MCINNIS (at the request of Mr. KOLBE), and to include extraneous material on the reconciliation rule of last year.)

(The following Members (at the request of Mr. JEFFERSON) and to include extraneous matter:)

Mr. TORRES.
Mr. STARK.
Mr. NEAL of Massachusetts.
Mr. POSHARD.
Mr. WARD.
Mr. MILLER of California.
Mr. FROST.
Mr. JACOBS.
Ms. ESHOO.
Ms. FURSE.
Ms. EDDIE BERNICE JOHNSON of Texas.
Mr. MONTGOMERY.
Mr. BROWDER.
Mrs. LOWEY.
Mr. SKAGGS.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. BUNNING of Kentucky.
Mr. SHUSTER.
Mr. SOLOMON.
Mr. COMBEST.
Mr. FLANAGAN.
Mr. DAVIS.
Mr. FORBES.
Mr. CAMP.
Mr. ROGERS.
Mr. WELDON of Pennsylvania.
Mr. GANSKE.
Mr. MOORHEAD.
Mr. EWING.
Mr. CUNNINGHAM.
Mr. RIGGS, in two instances.
Mr. SMITH of Michigan.
Mrs. KELLY.
Mr. OXLEY.
Mr. HORN.
Ms. MOLINARI.
Mr. CLINGER.
Mr. GILMAN.
Mr. BUYER.
Mr. PACKARD.
Mr. BUNN of Oregon.
Mrs. MYRICK.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2969. An act to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897.

H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the 104th Congress.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 4. An act to give the President line item veto authority with respect to appropriations, new direct spending, and limited tax benefits.

ADJOURNMENT

Mr. HAYWORTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 42 minutes a.m.), the House adjourned until today, Friday, March 29, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2311. A letter from the Secretary of Defense, transmitting the Department's report entitled "Annual Report to the President and the Congress, March 1996," pursuant to 10 U.S.C. 113 (c) and (e); to the Committee on National Security.

2312. A letter from the Comptroller General of the United States, transmitting the list of all reports issued or released in February 1996, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

2313. A letter from the Executive Director, District of Columbia Financial Responsibility and Management Assistance Authority, transmitting a report entitled "Report on the Mayor's District of Columbia FY 1997 Budget and Multiyear Plan" adopted by the District of Columbia Financial Responsibility and Management Assistance Authority on March 21, 1996, pursuant to section 202(d) of Public Law 104-8; to the Committee on Government Reform and Oversight.

2314. A letter from the Chairman, Nuclear Regulatory Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1995, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

2315. A letter from the Commissioner, Social Security Administration, transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GOODLING: Committee on Economic and Educational Opportunities. H.R. 3055. A bill to amend section 326 of the Higher Education Act of 1965 to permit continued participation by Historically Black Graduate Professional Schools in the grant program authorized by that section (Rept. 104-504). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOODLING. Committee on Economic and Educational Opportunities. H.R. 3049. A bill to amend section 1505 of the Higher Education Act of 1965 to provide for the continuity of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development (Rept. 104-505). Referred to the Committee of the Whole House of the State of the Union.

Mr. ARCHER: Committee on Ways and Means. H.R. 2337. A bill to amend the Internal Revenue Code of 1986 to provide for increased taxpayer protections; with an amendment (Rept. 104-506). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2501. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes; with an amendment (Rept. 104-507). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2630. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois; with an amendment (Rept. 104-508). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2695. A bill to extend the deadline under the Federal Power Act applicable to the construction of certain hydroelectric projects in the State of Pennsylvania; with an amendment (Rept. 104-509). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2773. A bill to extend the deadline under the Federal Power Act applicable to the construction of 2 hydroelectric projects in North Carolina, and for other purposes; with an amendment (Rept. 104-510). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2816. A bill to reinstate the license for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Ohio, and for other purposes (Rept. 104-511). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2869. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Kentucky; with an amendment (Rept. 104-512). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FROST:

H.R. 3180. A bill to increase penalties for sex offenses against children; to the Committee on the Judiciary.

By Ms. ESHOO:

H.R. 3181. A bill to prohibit providers of cellular and other mobile radio services from blocking access to 911 emergency services; to the Committee on Commerce.

By Mr. EWING (for himself, Mr. POSHARD, Mr. WELLER, Mr. LAHOOD, and Mr. EMERSON):

H.R. 3182. A bill to amend title 49, United States Code, relating to alcohol and controlled substances testing of operators of motor vehicles used to transport agricultural commodities and property for small local governments; to the Committee on Transportation and Infrastructure.

By Mr. MONTGOMERY:

H.R. 3183. A bill to amend title 38, United States Code, to limit the amount of recoupment from veterans' disability compensation that is required in the case of veterans who have received certain separation payments from the Department of Defense; to the Committee on Veterans' Affairs.

By Mr. HORN (for himself, Mr. CLINGER, Mr. DAVIS, Mrs. MALONEY, and Mr. PETERSON of Minnesota):

H.R. 3184. A bill to streamline and improve the effectiveness of chapter 75 of title 31, United States Code—commonly referred to as the Single Audit Act; to the Committee on Government Reform and Oversight.

By Mr. DINGELL (for himself, Mr. BENTSEN, and Mr. SPRATT):

H.R. 3185. A bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, to increase the deduction for health insurance costs of self-employed individuals, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CLAY:

H.R. 3186. A bill to designate the Federal building located at 1655 Woodson Road in Overland, MO, as the "Sammy L. Davis Federal Building"; to the Committee on Transportation and Infrastructure.

By Mr. CLYBURN:

H.R. 3187. A bill to amend title 49, United States Code, to provide protection for airline employees who provide certain air safety information; to the Committee on Transportation and Infrastructure.

By Mr. COMBEST:

H.R. 3188. A bill to amend title 49, United States Code, to limit the applicability of hazardous material transportation registration and fee requirements for persons who offer crude oil and condensate for transport in commerce, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. DAVIS (for himself, Mr. ENGLISH of Pennsylvania, and Mr. MORAN):

H.R. 3189. A bill to delay the privatization of the Office of Federal Investigations of the Office of Personnel Management in order to allow sufficient time for a thorough review to be conducted as to the feasibility and desirability of any such privatization, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. FRANKS of Connecticut:

H.R. 3190. A bill to prohibit Federal agencies to require or encourage preferences based on race, sex, or ethnic origin, in connection with Federal contracts; to the Committee on Government Reform and Oversight.

By Mr. KLINK:

H.R. 3191. A bill to authorize a program of grants to improve the quality of technical education in manufacturing and other vocational technologies; to the Committee on Economic and Educational Opportunities.

By Mr. MOORHEAD:

H.R. 3192. A bill to make amendments to section 119 of title 17 of the United States Code; to the Committee on the Judiciary.

By Ms. PELOSI:

H.R. 3193. A bill to recognize the significance of the AIDS Memorial Grove, located in Golden Gate Park in San Francisco, CA, and to direct the Secretary of the Interior to designate the AIDS Memorial Grove as a national memorial; to the Committee on Resources.

By Mr. PICKETT:

H.R. 3194. A bill to provide that the property of innocent owners is not subject to forfeiture under the laws of the United States; to the Committee on the Judiciary.

By Mr. SANFORD (for himself, Mr. Brewster, and Mr. Largent):

H.R. 3195. A bill to amend title 23, United States Code, to modify the minimum allocation formula under the Federal-aid highway program, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SHAYS:

H.R. 3196. A bill to increase the penalty for trafficking in powdered cocaine to the same level as the penalty for trafficking in crack cocaine, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARTON of Texas (for himself, Mr. Pete Geren of Texas, Mr. Archer, Mr. Shadegg, and Mr. Hall of Texas):

H.J. Res. 169. Joint resolution proposing an amendment to the Constitution of the United States relating to taxes; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause I of rule XXII,

Mr. PICKETT introduced a bill (H.R. 3197) for the relief of Emma W. Todd; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 244: Mr. Hoke.

H.R. 452: Mr. Inglis of South Carolina.

H.R. 580: Mr. Cox.

H.R. 894: Mr. Ackerman.

H.R. 895: Mr. Bonilla, Mr. Gene Green of Texas, Mr. Duncan, Mr. Hoekstra, Mr. Neal of Massachusetts, Mr. Bono, Mr. Cunningham, Mr. Stupak, Ms. Pryce, Mr. DeFazio, Mr. Thornberry, and Mr. Visclosky.

H.R. 1044: Mrs. Myrick.

H.R. 1363: Mr. Bryant of Tennessee and Mr. Heineman.

H.R. 1496: Mr. Saxton.

H.R. 1560: Mr. Menendez and Mrs. Thurman.

H.R. 1619: Mr. Torres.

H.R. 1625: Mr. Quillen.

H.R. 1627: Mrs. Roukema.

H.R. 1755: Mr. Camp and Mr. Barcia of Michigan.

H.R. 1893: Mr. Rahall, Mr. Evans, Mr. Ehrlich, and Ms. DeLauro.

H.R. 1963: Mr. Hilliard.

H.R. 2089: Mr. White, Mr. McDermott, Mr. Dicks, and Mr. Peterson of Minnesota.

H.R. 2200: Mr. Zeliff, Mr. Bonior, Mr. Hostettler, and Mr. Montgomery.

H.R. 2240: Mr. Reed.

H.R. 2320: Mr. Martini, Mr. McKeon, Mr. English of Pennsylvania, Mr. Nussle, Mr. Matsui, Mr. Thomas, and Mr. Manton.

H.R. 2471: Mr. Barrett of Wisconsin.

H.R. 2508: Mr. Kildee, Mr. Livingston, Mr. Barr, Mr. Callahan, Mr. Canady, and Mr. Wise.

H.R. 2531: Mr. Weller and Mr. Schaefer.

H.R. 2566: Mr. Kleczka.

H.R. 2579: Mr. Sawyer, Mr. Burr, and Mr. White.

H.R. 2651: Mr. Bilirakis, Mr. McHale, and Mr. Solomon.

H.R. 2697: Mr. Gutierrez and Mr. Abercrombie.

H.R. 2745: Mr. Kasich.

H.R. 2820: Mr. Collins of Georgia, Mr. Laughlin, Mr. Talent, and Mr. McCrery.

H.R. 2864: Mr. Vento.

H.R. 2892: Mr. Clement, Mr. Calvert, Mr. Olver, Mr. Abercrombie, Mr. Baker of Louisiana, and Mr. Lipinski.

H.R. 2912: Mr. Kleczka, Mr. Hilliard, Mr. Rahall, Mrs. Thurman, and Mr. Kildee.

H.R. 2925: Mr. Bonilla.

H.R. 2928: Mr. Metcalf, Mr. Weller, and Mr. Coburn.

H.R. 2930: Mr. Watts of Oklahoma.

H.R. 2938: Mr. Durbin, Mr. Ehlers, Mr. Smith of New Jersey, Mrs. Johnson of Connecticut, and Mr. Bilbray.

H.R. 2959: Mr. Leach.

H.R. 3011: Mr. Tate, Mr. McIntosh, and Mr. Frank of Massachusetts.

H.R. 3067: Mr. Condit, Mr. Manton, Mrs. Thurman, and Ms. Danner.

H.R. 3095: Mr. Kolbe.

H.R. 3142: Mr. Stearns, Mrs. Seastrand, Mr. Sawyer, Mr. Gordon, Mr. Cox, Mr. Dornan, Mr. Farr, Mr. Oberstar, and Mrs. Smith of Washington.

H.R. 3159: Ms. Brown of Florida.

H.J. Res. 70: Mr. Tejeda, Mr. Berman, and Mr. Sanders.

H. Con. Res. 26: Ms. Molinari.

H. Con. Res. 47: Mr. Hunter.

H. Con. Res. 152: Mr. Nethercutt, Mr. Ortiz, Mr. McHugh, Mr. Bonilla, and Mr. Stupak.

H. Con. Res. 155: Mr. Payne of New Jersey, Mrs. Clayton, and Mr. Gilman.

H. Res. 123: Mr. Rahall, Mr. Packard, and Mr. Dornan.

H. Res. 285: Mr. Bonior.

H. Res. 359: Mr. Frazer, Ms. Molinari, Mr. Andrews, Mrs. Kennelly, Mrs. Meek of Florida, Mr. Vento, and Mr. McInnis.

H. Res. 381: Mr. DeFazio, Mr. Kennedy of Rhode Island, Mr. Underwood, Mrs. Seastrand, Mr. Horn, and Mr. Stockman.

H. Res. 385: Mrs. Morella, Mr. Rangel, and Mr. Orton.

EXTENSIONS OF REMARKS

STEVEN REDDINGTON'S WINNING ESSAY

HON. MICHAEL PATRICK FLANAGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. FLANAGAN. Mr. Speaker, the winner of the first annual Fifth Congressional District essay contest is Steven Reddington, a student in the Saint Priscilla School at 7001 West Addison Street in Chicago. The principal of the school, Sister Joyce Roehl, is to be commended for allowing her students to participate in the contest.

Evidently, Steven Reddington has learned the lessons of his English faculty adviser, Ms. Corinne Schade, well. The contest asked students to write about an American invention of the student's choosing and describe how that invention impacted society. Over 100 schools in the Fifth District were invited to participate in the essay contest and my office received an overwhelming response. Out of all the essays received, Steven's was the only one that was written from the perspective of the inventor. He chose to write about Thomas Edison and his electric light bulb. Steven entitled his imaginative and inventive essay, "The Quest for Light."

I urge my colleagues to read Steven's essay. If you do, you will find a fine example of creative writing by a young man who may well make a mark in American literature in the 21st century. Steven Reddington's essay follows:

THE QUEST FOR LIGHT

(By Steven Reddington)

As the sun begins to set, the light in my laboratory grows too faint to work any longer. I must put away my work until tomorrow. Out on the street the arc lamps are lit to burn until the sun rises again. I have thought long about finding an artificial light, and each day my endless research takes me closer to my goal.

How the world would change with my invention. I can only imagine what it would be like to have light twenty-four hours a day. Life in the home would change dramatically. There would be no more going to bed when the room became too dark for seeing. Now I could read the morning newspaper in the evening while my children study or play games. One day would be so much longer. The economy would flourish. Factories could run all day and night producing more goods and employing new workers. In turn these workers would have more money to spend, and more time to spend it. This would open up a whole new world of nightly entertainment for people to enjoy. Now we could attend social gatherings and church services that before would only take place during daylight hours.

Picture what Grand Central Station would be like with thousands of glowing lights as passengers board the midnight trains to Boston. Hospitals could care for the sick, and perform life saving operations without the use of dim light given off by oil burning lamps. Fires from these type of lamps would no longer be a concern. All the lives and homes that would be spared if a new source of light could be produced. The benefits and use to humanity would certainly be worth all the painstaking hours of work that I have dedicated to this project. As I've always said, "One-percent inspiration and ninety-nine percent perspiration!".

It is now October of 1874, I believe I have finally realized my dream. At my laboratory in Menlo Park, New Jersey, I have before me a glass tube with a wire thread inside of it. Next, electricity flows through a wire and into the glass tube. The wire thread glows with heat, and the room is illuminated with a soft light. As I gaze with pride, I understand the effects this will have on the future of our everyday lives.

Now if I could give it the proper name. Maybe I should call it the Thomas Edison, or perhaps the Edison Bulb. No, I have it! I'll call it the light bulb. That would be a most fitting name!

TRIBUTE TO LT. COL. WILLIAM JOHN NICHOLS, U.S. AIR FORCE

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. COMBEST. Mr. Speaker, I rise to recognize the dedication, public service, and patriotism of Lt. Col. William John Nichols, U.S. Air Force, on the occasion of his retirement after a career of faithful service to our Nation. Col. John Nichols' strong commitment to excellence will leave a lasting impact on the vitality of our modern warfighters, commanding admiration and respect from his military colleagues and Members of Congress.

Colonel Nichols, a 1977 graduate of Cornell University and the Reserve Officer Training Corps, is serving his last day of a 15-month assignment as the special assistant for space, command, control, communications, and intelligence, and special operations programs, with the Office of the Assistant Secretary of Defense for Legislative Affairs.

Colonel Nichols' first duty assignment was to the 6931st Electronic Security Squadron, Iraklion Air Station, Crete, Greece, as a flight commander, from April 1978 through July 1980. John was then sent to Osan Air Base, Korea, where he headed intelligence collection operations in support of U.S. Forces in Korea. He was also responsible for U–2 intelligence collection operations during this 1-year remote assignment. In August 1981, John was reassigned to Headquarters Electronic Security Command in San Antonio, TX, where he managed tactical intelligence collection assets. Next Colonel Nichols was assigned to 13th Air Force at Clark Air Base, Philippines, from January 1983 to October 1984, where he was responsible for electronic combat programs throughout the Pacific region. In this capacity, John orchestrated the first ever involvement of electronic combat and intelligence assets into Cope Thunder air combat training exercises.

Colonel Nichols was next assigned as detachment commander for the 6947th Electronic Security Squadron in Key West, FL, where he led a 70-person intelligence operation providing key support to operations in the Caribbean Basin. After almost 3 years in this position John was assigned to RAF Mildenhall, England, in July 1987 as the operations officer for the 6988th Electronic Security Squadron. In this job he led a 200-person RC–135 airborne reconnaissance operation in support of theater and national intelligence collection requirements. In July 1990, he was reassigned to Air University in Alabama where he was a distinguished graduate and top performer at Air Command Staff College and where he earned a master of airpower art and science degree as a student in the first class of the School of Advanced Airpower Studies.

In July 1992, Colonel Nichols was assigned to the intelligence staff at Headquarters U.S. Air Force in the Pentagon. He quickly moved to the Air Force Secretariat where he was assigned to the Office of Legislative Affairs. After serving for a year and a half in this capacity he moved to the Office of the Secretary of Defense for Legislative Affairs where he ably represented the Department of Defense on important intelligence issues until his retirement today. John's support of the Congress and in particular to the House Permanent Select Committee on Intelligence, which I chair, has been commendable. We understand the importance of the challenges imposed by legislative liaison. Colonel Nichols met them with frankness and aplomb. His expertise will truly be missed.

Colonel Nichol's military awards include the Defense Superior Service Medal, the Meritorious Service Medal, the Air Medal, the Aerial Achievement Medal, the Air Force Commendation Medal, the Air Force Achievement Medal, the National Defense Service Medal, the South West Asia Service Medal with campaign star, and several unit commendations and service ribbons. John is married and resides with his wife Wil and daughters Sarah and Rachel In Woodbridge, VA.

Our Nation, the Department of Defense, the U.S. Air Force, and his family can truly be proud of the colonel's many accomplishments. A man of extraordinary talent and integrity is rare indeed. While his honorable service will be genuinely missed in the Department of Defense, it gives me great pleasure to recognize Col. John Nichols before my colleagues and wish him all of our best wishes in his new and exciting career.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

TRIBUTE TO JIMMY F. BATES

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. SHUSTER. Mr. Speaker, I want to bring to the attention of my colleagues the achievements of Mr. Jimmy F. Bates, the Deputy Director of Civil Works for the headquarters of the Army Corps of Engineers. After more than three decades of public service, Mr. Bates is retiring from the Corps.

As the Deputy Director of Civil Works, a registered professional engineer, and the senior civilian in the Corps of Engineers' water resources program, Jimmy's responsibilities include managing, directing, and providing stable leadership for the Nation's premier engineering and water resources agency. The Civil Works Program, with a total annual responsibility of about $3.5 billion, provides water infrastructure that is essential to America's safety, well-being and economic growth. This thoughtful leader has devoted a career to improving the development and implementation of comprehensive water policy and water infrastructure, ranging from the development of projects to reduce damages from devastating floods and improvements to the national system of inland waterways to the implementation of new environmental authorities provided by Congress.

A native of Tennessee, Jimmy began and spent most of his Federal career with the Corps' Nashville District. He also served in the agency's Ohio River Division in Cincinnati, OH, as well as in the Washington headquarters. In addition, Jimmy had a distinguished career in the Army Reserve, rising to the rank of major general.

Through his extensive experience in the planning and engineering aspects of water resources projects and his numerous leadership assignments, he has earned a reputation of a seasoned professional and an expert in Federal water policy. More important, his dedication, loyalty, and character make him one of the most respected and emulated leaders in government. Although the Corps of Engineers is losing a paragon of leadership and integrity, the Nation will long benefit from the contributions Jimmy has made to water infrastructure and the development of Federal water policy. He has been a model citizen, soldier, and public servant throughout his career.

As Jimmy leaves Federal service, we extend best wishes to him, his wife Sharon, and their children.

THE ACCESS TO EMERGENCY SERVICES ACT

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Ms. ESHOO. Mr. Speaker, today I am introducing the Access to Emergency Services Act. This legislation would require the FCC to establish a framework which would prohibit the blocking of 911 calls placed by cellular and wireless users.

Why is this legislation necessary? In many markets, cellular phone users have been put in jeopardy because they are unable to access emergency 911 help when they were not subscribed to the local cellular company. Fortunately, cellular companies in California no longer block emergency 911 calls.

However, this change in policy did not happen soon enough for a California woman who, in December 1994, was shot and robbed because her calls to 911 on her cellular phone were blocked by the local cellular company.

The irony is, of course, that many cellular customers purchase cellular phones for just these emergency situations. Would they have become customers if they realized they might not be able to reach 911 when necessary?

The FCC is currently conducting a rulemaking on wireless 911 services. I hope the FCC will do the right thing, and address this issue in its rulemaking.

I am introducing this legislation because this issue is too important to cellular users to leave to chance. We must ensure that no one is victimized because he or she was unable to reach 911 on their cellular phone.

These cellular licenses were given to cellular companies in order to develop a new service for the American people. As a member of the Commerce Committee, I take very seriously my responsibility to ensure that the public's airwaves are put to good public use. At the very least, cellular users deserve access to local 911 emergency services.

I urge my colleagues to support this legislation.

WESTMORELAND COUNTY ATTORNEYS DO PRO BONO WORK

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. KLINK. Mr. Speaker, I rise today to congratulate the many attorneys who perform pro bono work in Westmoreland County. These men and women take time out of their busy schedules to help those less fortunate with legal representation.

Pro bono work is essential in our communities. Many people who need representation in this country cannot afford it. Legal service organizations can only help on a limited basis. This is due to a lack of funding which leaves them overworked and underpaid.

Many legal organizations have realized the need for pro bono work and have actively influenced their members to participate. Some States have considered adding pro bono work to continuing legal education requirements.

Pro bono work reflects what is great about our country, giving back to our community—62 attorneys in Westmoreland County are doing just that.

With that in mind, Mr. Speaker, I along with my colleagues in this House would like to show our appreciation to those 62 attorneys for their efforts.

They are as follows:

A.C. Ansani; Bruce A. Antowiak; Brian D. Aston; Lawrence F. Becker, III; H. Reginald Belden, Jr.; Alan K. Berk; Eric E. Bonomi; William D. Boyle; Jennie K. Bullard; David A. Colecchia; James B. Crowley; Sandra E. Davis; Anthony W. DeBernardo, Jr.; Patricia A. DeConcilis.

Rhonda Anderson Marks; James A. Meade; Scott O. Mears; James R. Michael; Paul S. Miller, Jr.; David J. Millstein; John M. Noble; Jeffry A Pavetti; Richard F. Pohl; Dwayne E. Ross; William A. Ryan; Thomas R. Shaner; Mark J. Shire; Bernard S. Shire.

Michael J. Drag; James M. Duffy; Paul J. Elias; Scott A. Fatur; Karen L. Ferri; Henry B. Furio; William C. Gallishen; Mark S. Galper; Edward E. Gilbert; Barry B. Gindlesberger; Abby S. Harrison; Thomas A. Himler, Jr.; Stuart J. Horner, Jr.; Carl P. Izzo, Jr.; Richard L. Jim; Robert I. Johnston; K. Lawrence Kemp.

Lawrence D. Kerr; Randall G. Klimchock; Maureen S. Kroll; Stephen Langton; Marceline A. Lavelle; Wm. Jeffrey Leonard; Larry D. Loperito; Irene Lubin; Robert H. Slone; Thomas W. Smith; Marvin D. Snyder, Jr.; Mark L. Sorice; Margaret A. Tremba; R.E. Valasek; James A. Wells; Ronald J. Zera; Susan M. Zydonik.

A TRUE AMERICAN HERO

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. RIGGS. Mr. Speaker, I rise today to recognize and honor a true American hero, Mr. Arthur E. Lewis. Arthur Lewis now resides at the Yountville Veterans Home of California.

During the trying years of World War Two, Seaman "Art" Lewis was assigned aboard the U.S.S. *Balch*. In the spring of 1942, the U.S.S. *Balch* sailed with Task Force 16. Task Force 16 was a group of ships that launched the successful daylight bombing raid on Tokyo by General Doolittle and his sixteen Army B–25 bombers. The Doolittle raids were an enormous boost to the morale of the American people in the first months of the war following the tragic Japanese surprise attack on Pearl Harbor.

Not long after this important mission, the U.S.S. *Balch* was to again engage the enemy in the pivotal battle of Midway Island. Aboard the U.S.S. *Balch*, Art Lewis demonstrated his gallantry and bravery under adverse and treacherous conditions.

The Battle for Midway would result in a resounding victory for the United States Navy. However, the battle did not end without exacting a substantial toll on the American forces. In the concluding hours of the historic sea battle, the aircraft carrier *Yorktown* was mortally damaged. Its crew abandoned ship in the shark-infested waters of the South Pacific. The sailors of the *Yorktown* were scattered about the ocean, wounded, exhausted, and oil-soaked. They were in danger of being lost if immediate assistance was not forthcoming. Seaman Lewis, with disregard for his own safety, took immediate action to save the lives of his fellow sailors by carrying buoyed lines 300 to 400 years out to exhausted swimmers.

Uncertain whether the Japanese would strike again, all ships in the vicinity were under orders to make full speed in the event of another air attack. Despite this possibility, Seaman Lewis continued to save the lives of his comrades.

Fortunately, the Japanese did not launch a second attack, and 9 hours after the sinking of the *Yorktown*, the rescue operations were complete. Art, along with others had saved the lives of 2,270 Americans on that historic day in June, 1942.

Art's story of gallantry is not a fading memory of an aging veteran. Along with many military historians, Adm. Chester Nimitz made note of Art's bravery in his written accounts of the Battle of Midway.

Despite these facts, Art was never officially recognized for his acts of bravery. Because of the length of time since the Battle of Midway, military regulations make it impossible to award Seaman Lewis with the Bronze Star, the medal he would have received during World War Two for his actions.

While the Pentagon cannot bestow Mr. Lewis with a Bronze Star, I feel it is incumbent upon me and all Americans to make note of Mr. Lewis' brave acts. At the very least, it is important to make record of Mr. Lewis' dedication and courage. Mr.Speaker, on behalf of the American people, I convey-our gratitude and thanks to a true American hero, Seaman Art Lewis.

IN RECOGNITION OF ARLENE GIBEAU

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. BUNNING of Kentucky. Mr. Speaker, I would like to take this opportunity to recognize the fine efforts of one of my constituents, Arlene Gibeau of Covington, KY.

In northern Kentucky, Arlene's name is synonymous with the arts. For the last 13 years, she has served with distinction as a volunteer and then executive director of the Northern Arts Council. Through her dynamism and determination, she has helped build the council and its home, the Carnegie Center for the Arts, into the most respected showcase for the arts and culture in the Cincinnati area.

Along with all of her other activities, Arlene has also managed to find time to help run our Artistic Discovery Competition in the Fourth District. Every year she has always done a first-rate job, and I have no idea how we could have done it without her.

A dancer and musician, Arlene came from an artistic family. She established her own dance company at the age of 14 and ran it until World War II broke out. Widowed by the war, she raised her two daughters on her own until she remarried 3 years later. She eventually had two more daughters and a son.

Her children carry her love of culture. Two of her daughters are writers and one son works in movies. A granddaughter performs as a Shakespearian actress.

As an artist, Arlene's greatest strength has always been her determination that no student should be deprived of the joy of learning about the arts. When she worked at the Carnegie Center, she organized arts programs for children that really made a difference in many young lives. Over the years, word spread and kids literally walked in off the street. Arlene always found for each youngster an art project to help teach and enhance their lives.

Being married to an artist myself, I think that I understand some of Arlene's passion for culture and how the arts can enrich our lives. She has helped make our corner of the world more beautiful and enjoyable.

She has made a difference.

Mr. Speaker, Arlene Gibeau deserves our recognition and respect for all of her efforts on behalf of the arts. I know that the city of Covington and northern Kentucky are certainly all the more rich because of her good works.

WOMEN'S HEALTH ENVIRONMENTAL FACTORS RESEARCH ACT

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Ms. FURSE. Mr. Speaker, today's introduction of the Women's Health Equity Act is extremely important. This landmark legislation holds much promise for the women of our great Nation.

I authored one piece of it, the Women's Health Environmental Factors Research Act, and will introduce it soon as its own freestanding bill. This act calls for the National Institute of Environmental Health Sciences to do two things. First, NIEHS is to compile a status report on what we already know about the effects on women's health of environmental exposure and then, NIEHS is to outline a research agenda to fill in the gaps.

We need more information about the impact of certain environmental factors on women's health. Breast cancer, immune dysfunction, and other women's health issues may be partially the result of environmental factors.

Many chemicals in our environment today are compounds that mimic human estrogen. For many years, risk assessment research inadvertently excluded gender-specific problems from the studies. It is quite possible that some chemicals affect women differently than men.

We must put women's health research back into the equation.

I look forward to working with my colleagues on the Women's Health Environmental Factors Research Act, as well as the entire Women's Health Equity Act.

HONORING THE PAINTSVILLE HIGH SCHOOL TIGERS

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. ROGERS. Mr. Speaker, I rise today to honor the 1996 Kentucky Boys High School basketball champions—the Paintsville High School Tigers.

High school basketball holds a special place in the heart of every person in eastern Kentucky. This is especially true in the city of Paintsville.

The 1995–96 Paintsville Tigers beat the odds and captured the State championship with hard work and determination. The Tigers began the year with a rigorous schedule against some of the toughest competition available.

Head Coach Bill Mike Runyon and Assistant Coach David VanHoose guided the Tigers through a tough regular season which included Lexington Catholic, Harlan, and Boyd County. These regular season tests would prove critical in preparing the Tigers for their eventual showdown in Rupp Arena.

Paintsville's road to the sweet sixteen was paved with hard-won victories. The Tigers defeated longtime rival Magoffin County to win the district crown. The two teams faced each other again in the 15th region final, with Paintsville winning again.

After a trip down the Mountain Parkway to Lexington, the Tigers were ready to face Kentucky's best teams. Paintsville defeated Owensboro, Allen County-Scottsville, and Lexington Catholic to advance to the Saturday night final. The Tigers cruised to victory in the title game with a resounding defeat of Ashland.

Paintsville's team was rich in talent and size. They were led by sophomore sensation J.R. VanHoose. The 6'10" center set a new, single-game, tournament record for rebounds—breaking the old record held by NBA great Wes Unseld. VanHoose was also named the tournament's most valuable player.

Joining VanHoose were seniors Craig and Matt Ratliff, Todd Tackett and Josh McKenzie completed the Tigers' primary lineup. Other members of the varsity squad included: Danny Scott, Kyle Adams, Josh Greiner, Jason Conley, Kyle Kretzer, Devon Pack, Jeremy Watkins, Mike Short, Mikie Burchett, Mark Grim, and Eric Addington.

Mr. Speaker, the Paintsville Tigers have made the people of Johnson County and eastern Kentucky very proud. They now have their own chapter in Kentucky's renowned history of high school basketball.

TRIBUTE TO GEORGE GAZMARARIAN

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize Mr. George Gazmararian of Alma College, as he celebrates his retirement as emeriti professor of business administration. During his 30-year career at Alma College, Mr. Gazmararian has touched many lives. He has served as an extraordinary leadership figure to numerous students who are striving to learn and grow at Alma College. He has instilled in them courage and self-confidence as they entered into the professional world. He has prepared his students for extraordinary community leadership and involvement by promoting the essential attributes of integrity, ambition, and initiative. Mr. Gazmararian has set the standards for conscientious attention to student needs, teaching the practical application of business principles and encouraging lifelong learning for his mentorees.

Through his strong commitment to educating and promoting excellence in others, he has served as an example to fellow professors and community leaders. He established longstanding relationships with his students, enabling him to serve as a motivator, counselor, and educator.

Professor Gazmararian is a great instructor and strong advocate of education. I know you will join me in recognizing him for all that he has done as he celebrates his retirement from the staff of Alma College.

THE VILLAGE TIMES NEWSPAPER CELEBRATES 20TH ANNIVERSARY

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. FORBES. Mr. Speaker, I rise today to pay tribute and to congratulate "The Village Times" and its founder, Leah S. Dunaief, for 20 years of dedicated service to the people of Suffolk County.

On April 8, 1976, as Americans were getting ready to celebrate the 200th Birthday of their Nation, Leah S. Dunaief founded The Village Times as a weekly newspaper to cover the historic Three Village area of Long Island's North Shore. Starting off with little more than the notion that a newspaper should devote itself fully towards serving the community it covers, while always maintaining the highest journalistic ideals, Dunaief's business grew into a six-newspaper chain with a circulation of over 30,000, covering the entire North Shore area from Wading River to Smithtown.

During her 20 years in the weekly community newspaper business, Dunaief has never wavered from that original mission. While other newspapers and television news outlets may have chased sensationalistic stories in the pursuit of a profit, Dunaief's Times/Beacon/Record chain has maintained what she terms "that starry-eyed commitment to serving this community." That commitment has often meant stepping outside the traditional role of journalists as observers and becoming active participants in the events of their hometown. A recent example of Dunaief's commitment to her hometown was having her newspapers cosponsor, with John T. Mather Hospital of Port Jefferson, the Cardio-Wise Cafe, a workshop at the hospital that taught local residents how to adopt heart-healthy lifestyles and nutritional habits.

The Cardio-Wise Cafe is just one example of the projects and involvements that have helped Times/Beacon/Record Newspapers become an integral part of the foundation of the communities they serve. Each of the six newspapers were built by Dunaief from the ground up, growing into respected members of the Long Island, New York and National journalism community. Along the way, they have garnered journalism awards too numerous to list in full. "Excellence" is the motto of the Times/Beacon/Record newspaper company, and judging by the opinion of other journalists who have assessed the work of Dunaief's reporters and editors, "Excellence" is the word to which they are committed.

Among the many honors bestowed upon Times/Beacon Record journalists by their peers are the National Newspaper Associations' awards for Best Investigative Reporting and for Feature Photography. The New York Press Association consistently honors Dunaief's newspapers with top prizes, including the prestigious Stuart Dorman Award for General Excellence for the best overall community newspaper in the state. Other New York Press Association awards include top honors for Community Service, Editorial Excellence, Best Front Page, Best Editorial Page, Best Advertising Campaign and Best Looking Advertisement and Dunaief herself has been honored for Best Column. Additionally, the University of Missouri Journalism School has awarded Times/Beacon/Record Newspapers with its Penny-Missouri Award for Best Lifestyle Section. Locally, the Long Island Press Association has honored Dunaief's reporters and editors with numerous awards for journalistic Excellence.

After 20 years in the weekly newspaper business, Dunaief's newspapers have become vital members of the North Shore communities they serve, along the way earning the respect of readers and peers alike. In this age of rapidly emerging technologies, where news and other information are readily available via computer and the Internet, a weekly newspaper is still the only medium that can ably chronicle the happenings and define the character of an entire community. Every Thursday for the past 20 years, The Village Times has done an extraordinary job of offering its readers the kind of news, insight, and guidance that simply isn't available anywhere else. The Times/Beacon/Record Newspapers are the paradigm of what community journalism should be, garnering success and glory by always putting its readers' interest first and always striving for "Excellence."

Congratulations to Leah Dunaief and her able team at "The Village Times." May you continue to serve the community for many years to come.

CLINTON'S DAMAGE TO U.S. FOREIGN POLICY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. SOLOMON. Mr. Speaker, I insert for the record two articles which point out the depths to which the Clinton administration has brought U.S. foreign policy. The first is an oped by Charles Krauthammer, detailing the administration's obsequious appeasement of Communist China, which seems more like a parody with each passing day.

The second is a Washington Times article revealing President Clinton's offer to help Boris Yeltsin get reelected in Russia, in exchange for Russia dropping a recent ban on United States chicken imports. Of course, this ban severely impacted some of President Clinton's friends back in Arkansas.

What is so pathetic is that after Russia imposed this absurd chicken import ban, the Clinton administration's response was not to use our enormous leverage with Russia due to the fact that we provide them with billions of dollars of taxpayer aid. Instead, the President offered to help Yeltsin get reelected, which means making more concessions on matters of national security such as NATO expansion and missile defenses.

Mr. Speaker, China and Russia are two nuclear armed giants that grow more adversarial by the day, and this administration is doing nothing about it. In fact, they are openly encouraging this dangerous trend, and voters should do something about it this November.

[From the Washington Post, Mar. 22, 1996]

CHINA'S FOUR SLAPS—AND THE UNITED STATES' CRAVEN RESPONSE

(By Charles Krauthammer)

The semi-communist rulers of China like to assign numbers to things. They particularly like the number 4. There was the Gang of Four. There were the Four Modernizations (agriculture, industry, technology and national defense). And now, I dare say, we have the Four Slaps: four dramatic demonstrations of Chinese contempt for expressed American interests and for the Clinton administration's ability to do anything to defend them.

(1) Proliferation. The Clinton administration makes clear to China that it strongly objects to the export of nuclear and other mass destruction military technology. What does China do? Last month, reports the CIA, China secretly sent 5,000 ring magnets to Pakistan for nuclear bomb-making and sent ready-made poison gas factories to Iran.

(2) Human rights. Clinton comes into office chiding Bush for "coddling dictators." In March 1994, Secretary of State Warren Christopher goes to China wagging his finger about human rights. The Chinese respond by placing more than a dozen dissidents under house arrest while Christopher is there, then declare that human rights in China are none of his business. Christopher slinks away.

(3) Trade. The administration signs agreements with China under which it pledges to halt its massive pirating of American software and other intellectual property. China doesn't just break the agreements, it flouts them. Two years later the piracy thrives.

(4) And now Taiwan. For a quarter-century, the United States has insisted that the unification of Taiwan with China must occur only peacefully. Yet for the last two weeks, China has been conducting the most threatening military demonstration against Taiwan in 40 years: firing M-9 surface-to-surface missiles within miles of the island, holding huge live-fire war games with practice invasions, closing shipping in the Taiwan Strait.

Slap four is the logical outcome of the first three, each of which was met with a supine American response, some sputtering expression of concern backed by nothing. On nuclear proliferation, for example, Clinton suspended granting new loan guarantees for U.S. businesses in China—itself a risible sanction—for all of one month!

"Our policy is one of engagement, not containment," says Winston Lord, assistant secretary of state for East Asian and Pacific affairs. This is neither. This is encouragement.

Two issues are a stake here. The first is the fate of Taiwan and its democracy. Taiwan is important not just because it is our eighth-largest trading partner. With its presidential elections tomorrow, Taiwan becomes the first Chinese state in history to become a full-fledged democracy. It thus constitutes the definitive rebuff to the claim of Asian dictators from Beijing to Singapore that democracy is alien to Confucian societies. Hence Beijing's furious bullying response.

The second issue has nothing to do with Taiwan. It is freedom of the seas. As the world's major naval power, we are, like 19th century Britain, its guarantor—and not from altruism. Living on an island continent, America is a maritime trading nation with allies and interests and commerce across the seas. If the United States has any vital interests at all—forget for the moment Taiwan or even democracy—it is freedom of navigation.

Chinese Premier Li Peng warns Washington not to make a show of force—i.e., send our Navy—through the Taiwan Strait. Secretary of Defense William Perry responds with a boast that while the Chinese "are a great military power, the premier—the strongest—military power in the Western Pacific in the United States."

Fine words. But Perry has been keeping his Navy away from the strait. This is to talk loudly and carry a twig. If we have, in Perry's words, "the best damned Navy in the world," why are its movements being dictated by Li Peng? The Taiwan Strait is not a Chinese lake. It is indisputably international water and a vital shipping lane. Send the fleet through it.

And tell China that its continued flouting of the rules of civil international conduct—everything from commercial piracy to nuclear proliferation, culminating with its intimidation of Taiwan—means the cancellation of most-favored-nation trading status with the United States.

Yes, revoking MFN would hurt the United States somewhat. But U.S.-China trade amounts to a mere two-thirds of one percent of U.S. GDP. It amounts to fully 9 percent of Chinese GDP. Revocation would be a major blow to China.

Yet astonishingly, with live Chinese fire lighting up the Taiwan Strait, Treasury Secretary Robert Rubin said Tuesday that the Clinton administration supports continued MFN for China. He did aver that Congress, angered by recent events, would probably not go along.

This is timorousness compounded. Revoking MFN is the least we should do in response to China's provocations. Pointing to Congress is a classic Clinton cop-out. The issue is not Congress's zeal. It is Beijing's thuggery.

Quiet diplomacy is one thing. But this is craven diplomacy. What does it take to get this administration to act? The actual invasion of Taiwan? you wait for war, you invite war.

[From the Washington Times, Mar. 27, 1996]

CLINTON VOWS HELP FOR YELTSIN CAMPAIGN—ARKANSAS' INTEREST IN POULTRY DISPUTE DISCUSSED AT ANTITERRORISM SUMMIT

(By Bill Gertz)

President Clinton, in a private meeting at the recent anti-terrorism summit, promised Boris Yeltsin he would back the Russian president's re-election bid with "positive" U.S. policies toward Russia.

In exchange, Mr. Clinton asked for Mr. Yeltsin's help in clearing up "negative" issues such as the poultry dispute between the two countries, according to a classified State Department record of the meeting obtained by The Washington Times.

Mr. Clinton told Mr. Yeltsin that "this is a big issue, especially since about 40 percent of U.S. poultry is produced in Arkansas. An effort should be made to keep such things from getting out of hand," the memo said.

White House and State Department spokesmen confirmed the authenticity of the memo but declined to comment on what they acknowledged was an extremely sensitive exchange between the two leaders.

The memorandum on the March 13 talks in Sharm el-Sheikh, Egypt, does not quote the two presidents directly but paraphrases in detail their conversation.

According to the classified memorandum, Mr. Yeltsin said "a leader of international stature such as President Clinton should support Russia and that meant supporting Yeltsin. Thought should be given to how to do that wisely."

The president replied that Secretary of State Warren Christopher and Russian Foreign Minister Yevgeny Primakov "would talk about that" at a meeting in Moscow. The meeting ended last week.

Mr. Clinton told Mr. Yeltsin "there was not much time" before the Russian elections and "he wanted to make sure that everything the United States did would have a positive impact, and nothing should have a negative impact," the memo said.

"The main thing is that the two sides not do anything that would harm the other," Mr. Clinton said to Mr. Yeltsin. "Things could come up between now and the elections in Russia or the United States which could cause conflicts."

The memorandum, contained in a cable sent Friday by Deputy Secretary of State Strobe Talbott, was marked "confidential" and was intended for the "eyes only" of Thomas Pickering, U.S. ambassador to Russia, and James F. Collins, the State Department's senior diplomat for the former Soviet Union.

The memo said Mr. Clinton suggested that the chicken dispute and others like it could be made part of talks between Vice President Al Gore and Russian Prime Minister Victor Chernomyrdin.

Mr. Gore announced Monday that Russia has lifted the ban on U.S. chicken imports that had been imposed out of concern that the chicken was tainted with bacteria.

The Washington Times reported March 8 that Mr. Clinton intervened personally in the poultry dispute late last month.

The president's directives to his staff to solve the problem right away benefited powerful Arkansas poultry concerns. Among them is the nation's leading producer, Tyson Foods Inc., whose owner, Don Tyson, has long been a major contributor to Mr. Clinton's campaigns.

U.S. poultry exports made up one-third of all U.S. exports to Russia and are expected to total $700 million this year.

Asked about the memo on the Clinton-Yeltsin meeting, White House Press Secretary Michael McCurry said yesterday that it is "inaccurate" to say Mr. Clinton promised to orient U.S. policy toward helping the Russian leader's political fortunes. Rather, he said, the president wanted to make sure that issues in the two countries do not hamper good relations. The poulty issue was raised in that context only, the press secretary said.

Mr. McCurry, who said he was present at the meeting, also said the president was referring to "positive relations" between the two countries and not political campaigns.

Those present at the meeting included Mr. Christopher, CIA Director John Deutch, National Security adviser Anthony Lake and, besides Mr. Yeltsin, four Russian officials, including Mr. Primakov and Mikhail Barsukov, director of the Federal Security Service.

During the discussion, Mr. Yeltsin outlined his political strategy for winning the June presidential elections and said he still had doubts about running as late as last month.

"But after he saw the Communist platform, he decided to run," the memo said. "The Communists would destroy reform, do away with privatization, nationalize production, confiscate land and homes. They would even execute people. This was in their blood."

Mr. Yeltsin said he will begin his campaign early next month, traveling throughout Russia for two months to "get his message to every apartment, house and person" about his plan to strengthen democracy and reforms.

"The aim of Yeltsin and his supporters would be to convince the candidates one by one to withdraw from the race and to throw their support behind Yeltsin," the memo said.

Russian Communist Party leader Gennady Zyuganov is "the one candidate who would not do this" because he is "a die-hard communist," and Mr. Yeltsin noted that he "would need to do battle with him."

Mr. Yeltsin dismissed former Soviet President Mikhail Gorbachev as "not a serious candidate."

"He had awaken one morning and decided to run and would wake up another morning and decide to withdraw his candidacy," Mr. Yeltsin said of his predecessor. "This would be better for him because he now had some standing and if he participated in the elections, he would lose any reputation he had left."

CONTRACT WITH AMERICA ADVANCEMENT

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. PACKARD. Mr. Speaker, the American people overwhelmingly supported our Contract With America. Today we take another step toward implementing the commonsense reforms the American people support.

The measure before us today goes a long way toward ensuring the American dream. It raises the Social Security earnings limit to $30,000 by 2002. The current law punishes our seniors who chose to remain productive beyond age 64. Seniors lose $1 in Social Security benefits for every $3 they earn above $11,250. Today's seniors have a lot to offer and the Government should not penalize them for it.

One of the greatest things this country has to offer is its entrepreneurial spirit. Yet ironically, it is the vehicle for this entreprenuerialism—small business—that bears the burden of overwhelming regulatory machinery. The small business items in the contract return common sense to the regulatory process and gives small businesses the advantages they need to succeed. Small business is the engine that drives this country. When small business succeeds, America succeeds.

Finally, we have the opportunity to implement one of Ronald Reagan's great visions—the line-item veto. This provision would allow the President to selectively weed out wasteful pork-barrel spending in a bill. It ensures Government spends hard-working American's tax dollars wisely.

Mr. Speaker, the Contract With America outlines a vision for our country based on the values that our Nation holds dear—individual liberty, economic opportunity, and personal responsibility. Our vote today puts us another step closer to making this vision a reality.

HONORING ROBERT P. HARTZELL

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. RIGGS. Mr. Speaker, I rise today to pay special tribute to Robert P. Hartzell, the outgoing president of the California Association of Winegrape Growers [CAGW].

The wine and winegrape industries are extremely important to my district and to the State of California. Let me share with my colleagues some figures to illustrate this point:

At $1.7 billion, grapes are the second highest-ranked California commodity based on farm gate value.

The State's wine industry generates over $10 billion in annual revenue.

In 1995, over 3 million tourists visited California's wineries.

The California industry produces over 90 percent of the wine produced in the United States.

More than 2.6 million tons of grapes are crushed annually for use as wine and concentrate.

These numbers clearly demonstrate the beneficial impact of this important industry on California's economy.

Mr. Hartzell, who has served as CAWG's president since 1978, recently announced his retirement from the association. Prior to his tenure at CAWG, Mr. Hartzell served as deputy director of the California Department of Food and Agriculture under then-Governor Ronald Reagan.

Mr. Hartzell's 17 years of hard work and dedication has contributed to the success of California's winegrape growers in developing a successful and profitable industry. In the mid-1970's, grape growers faced extremely difficult economic times. During those years, Mr. Hartzell was instrumental in the development of a statewide winegrape grower group created to assist the industry.

Mr. Hartzell also is credited with increasing the industry's ability to compete in international markets through his extensive efforts to fund viticulture, consumer, and marketing research. As this industry grows, the development of new export markets becomes increasingly important. Mr. Hartzell recognized the importance of exports long before many others in the wine and winegrape industry.

Over the years, Mr. Hartzell has served as a diplomat for California's winegrape industry, and his efforts have earned the industry respect in the United States and throughout the world.

I commend Mr. Hartzell for his years of service on behalf of the winegrape growers. His efforts will be greatly missed by the entire industry. I wish him the best of luck in his future endeavors.

PORNOGRAPHY ON THE INTERNET

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. SMITH of Michigan. Mr. Speaker, I am concerned about recent stories of children accessing pornographic material on the Internet. This does not, however, mean that there is a problem with the Internet, rather it tells us how much the moral fiber of America has decayed. In short, this material is available because people are demanding it.

When a product is in demand, such as pornographic material on the Internet, there is no system more powerful in delivering these demands than our free market. Therefore, we must focus on strengthening our families' and citizens' morality, so it is no longer acceptable to transmit or possess this material. The Government cannot prevent the market from delivering its product to a want in consumer. We must change the focus of the debate from Government prevention, back to the family responsibility.

Short of this, the Government can only hope to help business by allowing them to be responsible and close off children's access to this material. That's why I supported Representative CHRIS COX'S amendment in the House, which allowed business to filter material without threat of a lawsuit.

A TRIBUTE TO MY MOTHER

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. WELDON of Pennsylvania. Mr. Speaker, I am saddened today to bring to your attention the recent passing of one of this Nation's finest, most caring, and gentlest women—my mother.

Catherine C. Weldon, as she is known to others, was a devoted mother. And devoted she had to be to be put up with raising myself, my six brothers, and my two sisters. Yet she cared for each of us as if we were an only child, giving every one of us the individual attention that children need from their mother. And she did so happily and from the bottom of her heart.

One would think that simply raising the nine of us would have been a full-time job, yet she still found time to become an activist in our church. There she volunteered her time at the Sunday school and various other church activities. She also was the founder and leader of the Pioneer Girls of Marcus Hook Baptist Church.

My mother served her community in other ways as well. She was a regular volunteer for the Red Cross and their local bloodmobile. Additionally, she served on the Parent-Teachers Association at Marcus Hook Elementary School, the school my brothers, sisters, and I attended.

She was married to the late Stephen Weldon, Sr., mother of 9 children: Harry Weldon, Dick Weldon, Kay Weldon Nass, Don Weldon, Betty Weldon Doyle, Bob Weldon, Paul Weldon, myself, and the late Steve Weldon, Jr; 37 grandchildren: Stephen W. Weldon III, Lillian Weldon Speakman, Doris Weldon, Catherine Weldon LeMand, John Weldon, Jennifer Weldon Higgins, Harry Weldon, Jr., Earl Weldon, Lisa Weldon Cowper, Paula Weldon Chaplin, David Weldon, Richard Weldon, Jr., Kerry Weldon McDermott, Timothy Weldon, Craig Weldon, Robert Nass II, Curt Nass, Scott Nass, Tracy Nass Brown, the late Christopher Nass, Donald Weldon, Jr., Glen Weldon, Sandra Doyle Moon, Sharon Doyle Freeman, the late Robert Weldon II, Jeff Weldon, Greg Weldon, Julie Weldon, Clay Weldon, Clint Weldon, Chad Weldon, Christie Weldon, Karen Weldon, Kristin Weldon, Kimberly Weldon, Curt Weldon, Jr., and Andrew Weldon; 54 great-grandchildren, and 2 great-great grandchildren.

Her funeral service will be held at Marcus Hook Baptist Church, in Linwood, PA, on April 2, 1996, at 11 a.m. Friends may call from 9:30 a.m. until 11 a.m. at the church. Internment will follow the service at Lawncroft Memorial Cemetery in Linwood. The Catherine Weldon Christian Education Fund has been setup to receive donations in lieu of flowers. Contributions will be used to provide educational funding for children of families throughout the area. Donations can be sent to the Catherine Weldon Christian Education Fund, c/o the First National Bank of West Chester, P.O. Box 523, West Chester PA 19381.

My mother was truly a remarkable woman. Words cannot express how deeply she will be missed by her friends, neighbors, and relatives.

150 YEARS FOR THE FIRST UNITED METHODIST CHURCH OF DALLAS

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to celebrate the sesquicentennial of the First United Methodist Church of Dallas. This church has seen the city of Dallas grow from the small town that Dallas was in the late 1860's to the booming metroplex of today.

The history of the First United Methodist Church of Dallas begins in 1846 when the Methodist Church sent a minister to the small town of Dallas. The population of the city was about 200. The reverend from the Methodist church met with several resident, formed a small congregation and proceeded to build Dallas' first church on the corner of Commerce and Lamar. In 1879, the church was destroyed by fire. The second church resided at the corner of Commerce and Prather from 1894 to 1916. Then, the church purchased land on the corner on Ross and Harwood and began the construction of the church we know today. It was not completed until February 7, 1926, exactly 80 years after its formation.

During the 1960's, the church was a meeting place for civil rights activists in downtown

Dallas. No other church would let blacks meet in Dallas, but the First United Methodist Church has never discriminated and has always allowed groups to congregate nonviolently within their walls. They believe in accepting people into their church and not turning away people who need their help.

The First United Methodist Church of Dallas, today, is a downtown church which has a distinct identity and culture all of its own and has been able to flourish. People come from as far as north Texas and Waco making the trek downtown, and they pass more convenient churches along the way. Music and the arts are the First United Methodist Church's outreach to its congregation. Many people attend the other activities at the church during the week as well as on Sunday. On Wednesday, the church holds a weekly midday music program where the music is free and a hot home-cooked meal is provided for $5.

While downtown churches in many cities are shutting their doors, and are experiencing a decline or moving to the suburbs, the First United Methodist Church of Dallas is holding its own with no plans of abandoning its home in the inner city.

The church is a spiritual landmark for anyone who has lived in Dallas, and everyone has come to know the First United Methodist Church of Dallas and the people who work there as friends. It provides a wealth of services in support to the community and should truly be congratulated for its commitment to Dallas and the people who attend this church. This 150th anniversary celebration recognizes all that the church has given to Dallas, and now it is our turn to give back to it. We wish the First United Methodist Church of Dallas a happy 150 years and many more.

TRIBUTE TO AMERICA'S VOLUNTEER FIREFIGHTERS

HON. GLEN BROWDER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. BROWDER. Mr. Speaker, I rise to pay special tribute to the 1.7 million men and women across America who serve as firefighters. They risk their own lives each day to protect our communities from the destruction that fire causes. They are truly American heroes.

Our Nation, rich in so many things, cannot escape fire's grasp. The United States has a higher incidence of death and property loss due to fire than any other industrialized nation in the world. Each year, we are painfully reminded of the death and destruction fire can cause. Last year alone, 4,275 people died in fires—an average of one death every 2 hours. Fires injured over 27,000 others.

Specifically, I rise today to commend our volunteer firefighters for the excellent job they do in protecting our country's and my State's rural areas. These special people take their own free time, after working long hours on their regular jobs, and volunteer so that others might rest assured that they are well protected. They give everything and expect nothing.

Almost 90 percent of our Nation's fire service is volunteer. In my State of Alabama, 30,000 men and women proudly serve as volunteer firefighters. These dedicated volunteers often must overcome more than just deadly fires. Their fire departments often operate on small budgets, using old equipment, and with small water supplies.

The value of volunteer fire departments extends beyond fire and safety protection. In Alabama's small communities, the building often serves as the community center. Firefighters bind communities together, and they truly embody the idea of people helping other people.

Last fall, after Hurricane Opal's destruction came through Alabama, I accompanied the volunteer department in Gold Hill one Sunday cleaning up the yard of an elderly woman. A huge tree lay across her driveway. We spent several hours removing the limbs and debris from the blocked driveway, clearing a path for her in case of a medical emergency. Being part of such a show of community spirit after such a devastating storm was truly remarkable.

On the way home that evening, I spoke with a crew of power company employees who had just returned from their job of restoring power to homes. One employee told me that were it not for the thousands of volunteer firefighters who began clearing downed trees from the road, it would have been impossible for the power company to reach many of Alabama's hardest hit areas and restore electricity.

Finally, Mr. Speaker, I rise to pay tribute to the three Alabamians who were among the Nation's fallen firefighters. There names were inscribed on the Fallen Firefighters Memorial in Maryland last fall. Jay Boothe, a 17 year old from Shelby County, Bedford Cash, a member of the U.S. Forest Service in Tuskegee, and Herbert Smith, also of Shelby County, paid the ultimate price—giving their lives in the line of duty. In the January edition of the Volunteer, the newsletter of the Alabama Association of Volunteer Fire Departments, Linda Boothe, the mother of Jay Boothe, wrote about the memorial dedication:

> The honor and tributes paid to these fallen heroes is a wonderful display of how a country does care and remember its other heroes—those who serve their country in their own communities and fight the war against the fiery dragon that threatens through carelessness. The monumental plaque with the names of the firefighters that died in 1994 now stands at the monument site so that others can read these heroes' names for years to come.

That, Mr. Speaker, truly sums up the valuable role these volunteers play in so many lives each and every day across this great country. On behalf of the U.S. Congress and a grateful Nation, I say Thank you and God bless you.

INTRODUCTION OF THE SATELLITE HOME VIEWER PROTECTION ACT OF 1996

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. MOORHEAD. Mr. Speaker, the Satellite Home Viewer Protection Act of 1996 seeks to break the logjam in negotiations between the satellite TV industry and network broadcasters created by the Satellite Home Viewer Act of 1994, and to provide subscribers with rights and remedies with respect to reception of satellite-delivered network signals. The Home Viewer Protection Act accomplishes these goals in several ways.

The bill adds new section 119(a)(2)(D) which requires satellite carriers to notify their new and existing subscribers of the network signal restrictions of the 1994 Home Viewer Act. Many subscribers have complained that they have spent hundreds of dollars on satellite equipment without being told that they may not be eligible for service of certain network signals. Further, existing subscribers have had their network service turned off with little or no explanation or information from their satellite carriers. The bill will resolve this problem by placing an affirmative duty on satellite carriers to inform their potential subscribers of the network restrictions prior to their providing service, as well as inform their current subscribers of the restrictions by a date certain.

The bill also provides subscribers, whose service of network signals is challenged by their local network affiliates, a direct means of determining whether they are still eligible for service. If a local affiliate challenges a subscriber in its local service area under the 1994 act, the satellite carrier must inform the subscriber of the challenge in writing. The subscriber then has 30 days to request the satellite carrier to conduct a signal intensity measurement at his household to determine if he is eligible for service of the network signal that is the subject of the challenge. If the subscriber does not make a timely written request, then the satellite carrier must terminate service. The limits placed on the number of measurements that the satellite carrier must conduct, established in the 1994 act, are retained.

If the signal intensity measurement determines that the subscriber is an unserved household, then the local network affiliate must reimburse the satellite carrier for the cost of the survey. If the measurement reveals that the subscriber does not reside in an unserved household, then subscriber must reimburse the satellite carrier.

In order for the new signal intensity measurement procedure to work, there must, of course, be accepted standards for the measurement. Both satellite carriers and broadcasters agreed in 1994 that they would work out the parameters of the measurement under the current law, but they have been unable to do so. The bill provides both sides with a short negotiation period in which to voluntarily agree to terms and conditions, followed by binding arbitration. Arbitration would be governed by the provisions of title 9 of the United States

Code. Whether the signal intensity measurement standards are developed through agreement or arbitration, they must be deposited with the Register of Copyrights for public inspection and copying.

Finally, the bill makes two additional changes regarding the signal intensity measurement. By deleting section 119(a)(8)(D), the measurement is confined to only those subscribers residing within the predicted grade B contour, local service area, of the network affiliate station issuing the challenge. Under the current law, the network has the option of challenging and testing subscribers outside their local service area. As a practical matter, however, most broadcast stations' advertising rate cards are based upon viewers residing within the stations' local service area, so loss of viewership resulting from subscribers outside the local service area does not economically harm broadcasters. Consequently, there is no reason to vest broadcasters with the ability to issue challenges against, and terminate the service of, subscribers who do not reside within their local service area.

The signal intensity measurement procedures of the current law are scheduled to expire at the end of this year. Because of the lack of industry agreement, the procedures have not functioned as envisioned in 1994. Consequently, the bill extends the procedures by an additional year, so that the network challenge and signal intensity measurement regime will not expire until December 31, 1997. I intend to announce a hearing date and a date for markup after the Easter/Passover break.

CONGRATULATIONS TO COLETTE JOHNSON

HON. GREG GANSKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. GANSKE. Mr. Speaker, I would like to bring your attention to the excellent work and accomplishment of Colette Johnson for being a national winner in the Voice of Democracy contest sponsored by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary. Colette is a senior at Abraham Lincoln High School in Council Bluffs, IA.

I want to offer my congratulations to Colette and to VFW Post 737 in Council Bluffs for sponsoring her in this contest. Following is Colette's inspirational essay "Answering America's Call."

ANSWERING AMERICA'S CALL

(By Colette Johnson)

It's time to put the phone back on the hook. She's been trying to get through to you. You took the phone off to forget about your responsibilities. But it's an urgent call. She's been trying to get through. She needs your help. She's calling now. America's calling. You need to answer her call.

Who's calling? America? Your country. But without people she's just a name. A country isn't great because of its land. A country isn't great because of its buildings or cars or weapons. The only thing that can make a country great is its people—people who care, people who are willing to give of themselves, because they have a dream bigger than themselves—a dream of what America should be. America needs dreamers. She needs people who see a land free from the destruction of pollution, where the beauty of nature is cherished and protected. She needs people who see a land free from the shame of pornography, where women and children are never exploited, but are respected. America needs people who see a land where every home is safe from drug abuse and alcoholism, where it is safe to drive through every neighborhood, where every child is free from the fear of abuse and kidnapping, where no one is discriminated against because of their age or color or disability, where all men are brothers, and all brothers are kind. America needs dreamers.

But America needs dreamers who will wake up and do something. It's not enough to dream. America needs people who will make their dreams a reality. She needs people who will do what they should do and not just what is easy to do. America needs dreamers who will plant trees, conserve water, ride bikes, people who will protest pornography and protect its victims. She needs dreamers who will provide foster homes and adopt and love unloved children. America's dreamers need to work with drug and alcohol rehabilitation. America needs dreamers who will look beyond age and color and disability and love all people.

Be a dreamer. America needs dreamers. But more importantly, be a dreamer who makes a dream a reality. As Henry David Thoreau said, "If one advances confidently in the direction of his dreams, and endeavors to live the life which he has imagined, he will meet with a success unexpected in common hours." Don't leave the phone off the hook any longer. Answer America's call. She needs you.

ELIMINATE DOUBLE TAXATION OF LUMP SUM SEPARATION BENEFITS FOR VETERANS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. MONTGOMERY. Mr. Speaker, I am introducing legislation today, H.R. 3183, which would eliminate double taxation of lump sum separation benefits for a veteran who is subsequently determined to be entitled to compensation for a service-connected disability.

This bill would not only do equity, it would correct a legislative oversight.

Prior to 1981, the Department of Veterans Affairs was required to recoup only 75 percent of the total amount of the military separation payment by withholding disability compensation. This provision was intended to account for the inequity of recouping taxable separation pay with nontaxable compensation.

The enactment of 10 U.S.C. 1174(h) eliminated the percentage recoupment and established total recoupment of separation pay. The effect is to require the veteran who has paid income tax on the total separation pay to, in effect, pay that tax again, out of his disability compensation.

H.R. 3183 would correct this inequity by limiting future recoupment of separation pay to no more that 75 percent of the benefit received.

I urge my colleagues to join me in cosponsoring this legislation.

RETIREMENT OF JAMES E. SULLIVAN

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. NEAL of Massachusetts. Mr. Speaker, today I would like to congratulate Mr. James E. Sullivan of Springfield, MA, on his retirement from the Massachusetts Turnpike Authority after more than 20 years of diligent service. Mr. Sullivan, or Jimmy, is a lifelong resident of Springfield and hails from a family with a strong tradition in public service. The youngest of five brothers, James answered the call to public service shortly after his graduation from Cathedral High School in 1949 when he joined the 104th Air National Guard. Jimmy served the Guard dutifully for 9 years, handling supplies and public relations for the 104th. Following his honorable discharge, James began a distinguished working career in a wide_variety of occupations including finance, sales, media, and ultimately transportation. It was in this final area that James excelled, working his way up the ladder of the Massachusetts Turnpike Authority from a toll taker to an assistant superintendent, a position he held for the past 17 years.

In addition to his outstanding work for the MTA, Jimmy was extremely active in a host of community activities. He served as president of the Sacred Heart Holy Name Society and is currently a lecturer and a eucharistic minister at Our Lady of Hope Parish in Springfield. He was also a member of several organizations that have made tremendous contributions to the Springfield community. Among these organizations are the Knights of Columbus, the Archbishop Williams Council, and the Springfield Elks Lodge. James also served as the chairman of the Ward 2 Democratic Committee in Springfield. It was also from this position that he offered tremendous support for the many area politicians who hailed from ward 2, including myself.

In addition to these other activities, Jimmy has been tremendously active in Irish affairs both at home and abroad. As a member of the John Boyle O'Reilly Club and the host of an Irish radio program for 25 years, he is intensely proud of his Irish heritage. These two activities have provided him with an ideal vehicle to expose several generations of Irish-Americans, in the Springfield area, to the rich traditions of song and history that Ireland enjoys. He has also been a longtime advocate of the peace process and I know he has done much to promote this sentiment throughout our region.

I would like to congratulate Jimmy on a wonderful career and I wish him all the best as he enjoys his retirement with his wife Peggy, his children Margaret, Sean, and Thomas, and his granddaughter Kaila. While this retirement is a tremendous loss for the MTA, I know that it will enable him to devote even more time to a family he cares for deeply.

I would also like to salute Jimmy Sullivan as a true public servant. His devotion to his family, his church, his job, his country, and his heritage have enabled him to enrich the lives of all who know him. As his Congressman, fellow Democrat, and personal friend, I join the citizens of the Second Congressional District in offering Jimmy our heartfelt congratulations. His life and service to his community are an inspiration to us all and I thank him for all that he has done.

GROWING SUPPORT FOR MINIMUM WAGE INCREASE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. STARK. Mr. Speaker, the last minimum wage adjustment made in 1989 has been completely eroded by inflation. However, we can learn from the experience of that last increase to help assuage the fears that another increase will be detrimental to employment opportunities.

According to analysis by Richard B. Freeman, the preeminent labor economist from Harvard University, studies done on the 1989 minimum wage increase show "that moderate increases in the minimum (wage) transferred income to the lower paid without any apparent adverse effect on employement. * * *"

Translation: the 1989 minimum wage increase did not cost jobs; it did boost the incomes of affected workers.

Mr. Speaker, the 1989 increase was overwhelmingly supported on a bipartisan basis in both the House and the Senate before being signed into law by President Bush. It is time for this Congress to address the wage erosion for low-wage workers with a meaningful minimum wage increase. It is time that the people's House began addressing the real concerns of people.

CONTRIBUTIONS TO THE AMERICAN HERITAGE CLUBS OF NORWALK-LA MIRADA AND CARSON, CA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. TORRES. Mr. Speaker, I rise today to recognize a special group of individuals who have generously supported the American Heritage Clubs of Norwalk-La Mirada and Carson, CA. It is through these contributions of time, energy, and unwavering dedication, that the young people of our community receive the educational opportunity they deserve. The kindness of the following individuals is greatly appreciated:

Roger Leue, for three decades of dedication to Carson's youth; Ted Kimura's support of the 1995 tour of our Nation's Capital; Dr. Caroline Hee for her continuous support and her special floral arrangement at the 1995 Luau; the leadership Elito Santarina displayed in organizing the Carson High American Heritage tour of Washington, DC; the financial support of Dr. Dhyan Lal for the 1994–95 trip; to our 1996 grand marshall, Jesse Sapolu and the fine example he sets for not only the youth of the Pacific Islands, but for all Americans; and the financial support provided by Mayor Don Dear greatly contributed to the success of the Washington, DC, tour for students of Stephen White Middle School.

In addition, we owe a debt of gratitude to Peggy Flores for her guidance and smiling face; Cheri Webster for her willingness to always rise to the challenges that the Washington tours present; Desiree Sullenger for her tireless work on numerous fundraisers; Jim and Bette Hannum, Bev Thies and Marianne Estes, your presence on the trips to Washington was immeasurable; Ernie and Jolinda Marquez and Joe and Mary Mendoza, concerned and caring parents are the foundation of the American Heritage Clubs.

Mr. Speaker, I ask my colleagues to join me in paying tribute to these special individuals. Their commitment enables the youth of Norwalk-La Mirada and Carson to make these annual historic and educational trips to Washington, DC. The youth in our community will be forever grateful to each of these caring individuals for helping with this extremely valuable experience.

THE INDIANA REGIONAL MINORITY SUPPLIER DEVELOPMENT COUNCIL IS VERY GOOD NEWS

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. JACOBS. Mr. Speaker, thank God there is good news as well as bad.

The Indiana Regional Minority Supplier Development Council is very good news because it plays a positive and effective role in building up the backbone of American enterprise, small business.

For nearly 20 years the council has brought together large majority businesses with small minority business suppliers in the State of Indiana. And the result has been a very happy one both for the large and small corporations.

In 1976 the Indiana Regional Minority Supplier Development Council was responsible for generating about 6 million dollars' worth of business between the large and small companies. By 1982 that figure had grown to $38,800,000. All this meant expanding employment opportunities and expanding businesses which have proved their capacity to endure and continue contributing to our economy.

All Hoosiers and, in a larger sense, all Americans are the beneficiaries of this fine organization which under the leadership of Donald Jones is obviously here to stay and one more reason why the American free enterprise system is also here to stay.

CITIZENS FROM FORT WORTH EARN EDUCATIONAL HONORS

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. FROST. Mr. Speaker, I would like to take this opportunity to acknowledge two outstanding citizens from the city of Forth Worth who have won national education honors and made themselves shining examples to their community.

When Shirley Knox-Benton, who is the principal of Dunbar High School in Fort Worth, first arrived at the school she encountered a situation where students were unable to learn. Gang violence was rampant, trash was everywhere, and good students were afraid to shine.

Mr. Speaker, along with the invaluable help from some dedicated parents, Mrs. Knox-Benton turned Dunbar High around. That success has not gone unnoticed, as this week Mrs. Knox-Benton was notified that she had won a 1996 Reader's Digest American Hero in Education award along with a $10,000 check for Dunbar High and $5,000 for herself.

Mr. Speaker, Mrs. Knox-Benton is the first Fort Worth winner in this 8-year program. She was chosen from a pool of 650 nominees nationwide. Her commitment to excellence, and her leadership at this critical time in our Nation's education system both deserve the highest honor.

Mr. Speaker, I also want to honor a student at Dunbar High, senior Kim Wood. Mr. Wood is the only student in the Fort Worth school district to win a National Achievement Scholarship for Black Americans.

Mr. Wood won the award by scoring in the 98th percentile among all juniors nationwide and in the top 3 percent among black students on the Preliminary Scholastic Assessment Test.

Mr. Speaker, by winning these national honors, Mrs. Knox-Benton and Mr. Wood have held themselves up as shining examples of what can be accomplished through hard work and a dedication to success. I wish them both the best in their future endeavors.

NATIONAL INVASIVE SPECIES ACT OF 1996

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. MILLER of California, Mr. Speaker, I am pleased to be an original cosponsor of the National Invasive Species Act of 1996 which is being introduced today by Congressman STEVEN LATOURETTE and Senator JOHN GLENN to establish a national voluntary ballast management program for vessels visiting U.S. ports. In addition to ballast management, this legislation will provide for research, education, and new technology to investigate and prevent species introduction in coastal and inland waters.

Aquatic species invasion is of tremendous concern in the San Francisco Bay/Delta Estuary. According to a recent report, the San

Francisco Bay and the entire Delta is now considered "the most invaded aquatic ecosystem in North America."

Current estimates indicate that an average of at least one new species is established every 12 weeks in the Bay, posing serious threats to the Bay ecosystem and economy. Hundreds of thousands of dollars are spent on controlling introduced species, and there are other expenses, such as reduced shipping efficiency due to hull fouling species and damages to piers from wood boring species.

The most disturbing cost of introduced species is the extinction or regional eradication of native species in the Estuary through competition and predation from introduced species. Introduced species have contributed to the extinction of some species of California freshwater fish and are now strongly contributing to the further demise of some endangered marsh birds and mammals. One introduced species, the Chinese mitten crab, can multiply so prolifically that it poses a threat to the Bay-Delta Estuary's ecology, agriculture, and water agencies. The presence of this species and other introduced species have lead to increasing restrictions on channel dredging, levee maintenance, water diversions, and other economic activities in and near-the Estuary, with costly implications for the whole of California's economy.

The ballast water of commercial vessels is a leading vector by which nonindigenous species enter U.S. waters. Cargo vessels arrive with thousands of tons of ballast water used to achieve the necessary trim and stability for ocean voyage. The ballast water contains eggs, larvae, and other marine organisms which are released in port depending on a vessel's cargo-loading requirements. One vessel could discharge tens of millions of viable organisms in San Francisco Bay. Hundreds of cargo vessels arrive each year in the Bay, establishing essentially a "biotic corridor" for species invasions in this coastal area. Ballast exchange can reduce the probability of ballast transfers of these non-native species.

There is tremendous support for Mr. LATOURETTE's bill among environmental groups, water agencies, and state and federal agencies in the Bay Area and throughout the country. Understanding the patterns of species invasions and reducing the occurrence of those invasions is imperative in promoting the economic and ecological health of our coastal resources. I encourage members to join me in supporting this legislation.

CELEBRATING THE RETIREMENT OF BETTY BOYER

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to Mrs. Betty Boyer, a legend in Illinois journalism who is retiring this month. In 1966, she started her own newspaper, the Coles County Daily Times, in Charleston, IL, because she was not satisfied with the quality of local news reporting. You can imagine what the reaction was to such an enterprise at that time. Despite her detractors, Betty not only survived, but thrived, and in the process raised the standard for news coverage in the area. I would like to congratulate her on a distinguished career, and also thank her for her contributions to the quality of life in the 19th District.

Betty started her journalism career working for the other paper in town, The Courier-News. After a couple of years with the Times, Betty purchased the competition, and in 1969 formed the Times-Courier. She sold the paper to Howard Publications in 1972, but remained there to run the show, same as before. Perhaps Betty's most extraordinary quality is her diverse character. Regarded by all as sweet-natured, she is a loving wife and mother of three, and also has six grandchildren. She is equally known for her tough stances in dealing with city officials who objected to her straight-ahead style of journalism. Add to that the talented and professional staff who worked for her, many of whom moved on to larger arenas, that still consider her a magnificent boss, if not a surrogate mother. The stories of Betty desperately seeking bank loans or saving the paper supply from a flooded basement have joined a canon that encompasses a career of over 30 years. In addition to her journalistic accomplishments, Betty was named the "Outstanding Citizen" in 1982 by the Charleston Area Chamber of Commerce and has been a patron of the local arts.

Mr. Speaker, conventional wisdom says that you cannot believe everything you read. Regular readers of the Times-Courier beg to differ. Thankfully, the quality Betty has worked so hard to achieve will be with us for a long time. It has been an honor to represent Betty Boyer in the U.S. Congress, I wish her every happiness as she enters this new stage of her life.

TRIBUTE TO LOUIS PATAKI

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mrs. KELLY. Mr. Speaker, the Hudson Valley and the people of my congressional district sustained a tremendous loss this week when Louis Pataki, father of New York Governor George Pataki, passed away.

A life-long resident of the Hudson Valley, Mr. Pataki was born in Peekskill, NY, into a family of Hungarian immigrants. It was in Peekskill that he raised his own family and continued to operate the family farm for many years. Mr. Pataki was a beloved father and grandfather whose devoted care shaped the lives of his children and grandchildren.

Louis Pataki was also devoted to his community and to his country. He worked as a mailman and retired as assistant postmaster in Peekskill after 30 years of service. For more than 50 years, he also served as a volunteer fireman who protected the lives and property of his neighbors.

Speaking on behalf of the Pataki family, the Governor said "* * * no one cared more or did more for his family and community than our father. We owe everything to him, and we will miss him enormously." What better tribute to family values has any of us ever heard?

Mr. Speaker, we have sustained a great loss and we reach out to the Pataki family in their grief. But even so, the spirit and integrity of Louis Pataki continues on in his wonderful family, and in the memory of his many friends whose own lives were enriched by him.

THE MARCH OF THE LIVING PROGRAM

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mrs. LOWEY. Mr. Speaker, next month thousands of young people will participate in the March of the Living Program. I would like to take this opportunity to commemorate the participants and organizers of this very special program.

Since 1988, the March of the Living Program has provided over 20,000 young people from around the world with an extraordinary method of Holocaust education. Participants of the program are taken to visit the concentration camps in Poland to view the sites of Nazi atrocities. They are shown the gas chambers, crematoria, and piles of personal articles confiscated from the children who perished in the camps. From there, the participants go to Israel to see the great triumph of those who survived the Holocaust and went on to create a nation.

Although this program will be a unique and wonderful opportunity for the participants, it will not receive the support of the Austrian Government. The Austrian Government has chosen not to participate in the program, and is thereby passing up an opportunity to affirm its commitment to the preservation of Jewish heritage. I am very disappointed in this decision, and have written to the Austrian President and Ambassador asking them to reconsider this decision.

The March of the Living will go forward this year, and it will be a profound experience for all those participating. It will be truly unfortunate, however, if the Austrian Government is not one of those participants.

TRIBUTE TO TRUMAN KOEHLER ON HIS RETIREMENT FROM SANDOZ CORP.

HON. SUE MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mrs. MYRICK. Mr. Speaker, in a time when America so desperately needs clear leadership; in a time when America so desperately needs ethical leaders; in a time when America needs to rally all of our best resources to find effective and fair ways to make crucial business, community and government decisions, I am pleased to bring to your attention an excellent role model for all of us.

The exemplary business leader to whom I refer is Truman L. Koehler. Truman currently serves Sandoz Corp. as the president of Master Builders, Inc., based in Cleveland, OH, and as a member of the executive committee for Sandoz Corp., based in New York. But he plans to retire from these positions on May 1 to return to his home since 1981 in my favorite city, Charlotte, NC.

This is good news for Charlotte, for North Carolina, and for America. For during all of his business life, Truman has used his time, mind, and leadership talents to improve the quality of life on local, State, and national levels. With time away from daily management duties, I fully expect us to benefit from Truman's leadership in many ways on all of these levels.

Truman prepared himself for industry by earning a bachelor's degree in chemistry from Muhlenberg College in Allentown, PA. He continued to prepare himself for business leadership by earning a master's degree in experimental statistics from Rutgers University in New Brunswick, NJ, while working in quality control for Sylvania Electric Products, Inc., from 1952 to 1957. His keen mind and straight-forward manner were great assets to American Cyanamid Corp. in a wide variety of technical, marketing, and management assignments from 1957 to 1981. While taking on increasing management responsibility, Truman took time to develop and teach a series of evening courses in applied statistics in areas such as biology, agriculture, and ecology.

Truman came to Charlotte in 1981 as president and chief executive officer for the Sodyeco Division of Martin Marietta Corp. When Sandoz Ltd. of Basel, Switzerland, purchased Sodyeco in 1983, and later merged it with Sandoz United States dyes and chemical businesses, Sandoz worldwide executives selected Truman to continue to run the new company, Sandoz Chemicals Corp. As president and chief executive officer of these businesses for 10 years, Truman led State and local initiatives that brought community and business interests together for the benefit of all our citizens.

For example; during his 10 years in Charlotte, Truman chaired the mayor's Blue Ribbon Committee that recommended and then guided the development of an emergency response system for the city; served as a director Executive Committee member and a leader of the nationally acclaimed Environmental School for the Charlotte Chamber of Commerce; encouraged the development of a Manufacturer's Council to assure a steady and effective partnership among manufacturing merchandising and service members within the Charlotte Chamber; and to represent manufacturing interests in the community; served the community as a trustee of Science Museums of Charlotte; served all of the citizens of the State as chairman of the North Carolina Governor's Commission on Hazardous Waste Disposal; and continued to serve his alma mater as a trustee of Muhlenberg College on Allentown, PA.

During that time, Truman also served our Nation by using his commitment to intelligent and safe management of safety and environmental issues to help set standards and policies for the professions and industries he has served. He is a Fellow of the American Society for Quality Control and has served as director of the National Association of Manufacturers, the Chemical Manufacturers Association, and the National Paint and Coating Association.

Truman is recognized by his professional colleagues as a strong example of the best in American management. They know him to be an able and talented manager with a sincere concern for the financial and safety welfare of his employees; committed to safety and environmental responsibility; and an intelligent business executive who cares about the quality of life for his employees and his communities.

Charlotte enthusiastically welcomes back one of our most progressive and effective business civic leaders.

TRIBUTE TO EDDIEMAE LIVINGSTON, A "CAN DO" WOMAN

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. PAYNE of New Jersey. Mr. Speaker, I would like to introduce my colleagues to Ms. Eddiemae Livingston. Ms. Livingston is a true "can do" woman. I have known her for 30+ years and I still marvel at her compassion, passions, and competence.

Eddiemae Livingston was born in Newberry, SC. She was the valedictorian of her high school graduating class and graduated cum laude from Benedict College in 1942. She was employed for nearly 5 years by the Federal Government in Washington, DC, and Newark, NJ. The city of Newark benefited from Ms. Livingston's expertise for more than 40 years. She served in a variety of positions from clerk-typist to assistant chief clerk, and executive secretary.

Ms. Livingston has a passion for perfection. This quality is evident in her professional, civic, social, and religious activities. She is active in many organizations and her skills and leadership have been recognized by all.

She has been active as a girls' counselor at the Newark YMWCA. Her work with the Newark Branch NAACP has been extraordinary. She served as an executive board member for 12 years. She now holds the title of Board Member Emeritus. She holds two NAACP life memberships and two NAACP Golden Heritage memberships. Her membership with the Hopewell Baptist Church began in 1963. She has served as its financial secretary for more than 12 years. Ms. Livingston has been a board member of the Newark Community Health Centers for 7 years and a member of the Mayor's Commission on the Status of Women.

Eddiemae Livingston enjoys bridge and poetry writing. In 1989, I was deeply honored when Ms. Livingston read one of her original compositions at the swearing-in reception for my first term in Congress. She has written two books, "Poems and Reflections For All Occasions" and "Bridge Reflections in Rhyme."

Mr. Speaker, I am honored to commend to the permanent record of the U.S. Congress the life and works of Ms. Eddiemae Livingston.

COLORADO UNIVERSITY ATOMIC PHYSICS PROGRAM IS NO. 1

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Mr. SKAGGS. Mr. Speaker, I rise to congratulate the Atomic and Molecular Physics Program at the University of Colorado, which was recently ranked first in the Nation by U.S. News and World Report.

Coloradans are very proud of these CU scientists, who this year won a ranking above such great institutions as Harvard, MIT, Stanford, and the University of California, in gaining this recognition.

The 8 professors and 40 graduate students in this small but powerful program have reason to be proud. The No. 1 ranking was based on a survey of department heads and directors of graduate schools who rated the institutions on the excellence of scholarship, curriculum, and quality of both faculty and graduate students.

Special recognition goes to CU physicists Eric Cornell and Carl Weiman and graduate students Jason Ensher and Michael Matthews who gained headlines last year when they created a new state of matter that was first predicted by Albert Einstein. This team, in a cooperative effort with the National Institute of Standards and Technology [NIST], created a new state of matter by cooling rubidium atoms to less than 170 billionths of a degree above absolute zero. At that temperature, atoms lose their individual identity and combine into a superatom form. For more than 25 years, scientists have been working to create this effect.

I've been watching the achievement of this great program for years and I am thrilled that they are finally getting the recognition they deserve. I join Chancellor Roderic Park, the faculty, students, and alumni at CU and physicists everywhere in celebrating the achievements of this great program.

HONORING GREEK INDEPENDENCE DAY

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 28, 1996

Ms. MOLINARI. Mr. Speaker, last week marked a monumental day for the thousands of Greek-American residents throughout our country. As you know, the very democratic principles which our American Founding Fathers were inspired by in creating our independence were originally born in ancient Greece. This past March 25, we celebrated the 175th anniversary of the independence of the nation of Greece.

In more modern times, the Greek-United States relationship has grown especially strong. In fact, Greece is one of only three countries in the world which allied itself with the United States in every major international conflict in this century.

Our celebration this day was unfortunately tempered by the pain and outrage felt by Cypriots who have lived with 20 years of occupation and horrible human rights abuses. We must keep in mind how essential it is for the United States to: First, keep the pressure on Turkey, second, to address these terrible atrocities, third, to further help the people of Cyprus, and finally fourth, to do all we can to stabilize relations between Turkey and Greece.

In closing, Mr. Speaker, let me mention that this weekend many of my friends and colleagues—including several constituents from the Holy Cross Greek Orthodox Church in my district—will be marching up Fifth Avenue to celebrate this historic event. I join with them, and the over 1 million American citizens who are of Greek ancestry, in celebrating this very special occasion. I look forward to many more years of fostering the close relationship which exists between America and Greece.

SENATE—*Friday, March 29, 1996*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord God, Sovereign of this Nation, we praise You for the gift of authentic hope. More than wishful thinking, yearning, or shallow optimism, we turn to You for lasting hope. We have learned that true hope is based on the expectation of the interventions of Your spirit that always are on time and in time. You are the intervening Lord of the Passover, the opening of the Red Sea, the giving of the Ten Commandments. You have vanquished the forces of evil, death, and fear through the cross and the Resurrection. All through the history of our Nation, You have blessed us with Your providential care. It is with gratitude that we affirm, "Blessed is the Nation whose God is the Lord."—Psalm 33:12.

May this sacred season culminating in the Holy Week before us, including Passover, Good Friday, and Easter, be a time of rebirth of hope in us. May Your spirit of hope displace the discordant spirit of cynicism, discouragement, and disunity. Hope through us, O God of hope. Flow through us patiently until we hope for one another what You have hoped for us. Then Lord, give us the vision and courage to confront those problems that have made life seem hopeless for some people. Make us communicators of hope. We trust our lives, the work of the Senate, and the future of our Nation into Your all-powerful hands. In the name of the Hope of the World. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. For the information of all Senators, this morning the Senate will conduct a period for morning business until 12:30 p.m., to accommodate a number of requests on both sides of the aisle. It is still the hope that the omnibus appropriations conference report will be available for consideration today. Senators should be aware that rollcall votes are possible throughout today's session of the Senate. The Senate may also consider any other legislative or executive items that can be cleared for action. At this time I think it is safe to say we just are not sure whether or not action will be completed on the omnibus appropriations bill, and if not, what other action may be taken; but I am sure that the appropriators will be meeting and working on this problem and trying to find a solution. As soon as information is received on that, it will be conveyed to the Senators.

Mr. President, I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. DEWINE). Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wyoming [Mr. THOMAS] is recognized to speak for up to 30 minutes.

Mr. THOMAS. Thank you, Mr. President. I ask unanimous consent that in that 30 minutes, I be permitted to speak for about 10 minutes, the Senator from Georgia for about 10 minutes, and the Senator from Texas for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUNDAMENTAL CHANGE IN THE FEDERAL GOVERNMENT

Mr. THOMAS. Mr. President, we are now well into this year, the second year of this congressional session, preparing to go on a recess, to go back to our districts, do our business. So it is sort of interesting to reflect a bit on where we are and I guess more importantly where we go.

It seems to me that this has been an extraordinary year, a year in which for the first time in 30 years, there has been a great effort to bring about a fundamental change in the operation of the Federal Government. Much of it, I think, results from the fact that the 1994 elections, at least to most of us, had a message. The message was, the Federal Government is too large, costs too much, and it is overregulated. And there are consequences, there are consequences to that.

Obviously, the consequence of being overregulated, one of them, is to keep a damper on the growth of the economy. It has to do with jobs, it has to do with wages. And we all want to change that.

The idea of overspending, of course, has a couple of consequences. One of them is that we enjoy the benefits, we continue to add cost to Government without paying for it, to put it on the credit card—on your credit card. And you will be paying for it.

The other is, of course, it takes more and more money from families, money that was earned by families, sent to the Government when more of it could be used by families themselves.

What has really happened over the 30 years is we tended to go ahead with the Great Society programs in the social arena. We tended to simply discuss here how much more do we put into the programs that have been there for a very long time. They are not all bad programs. But certainly after a number of years, there needs be to be a real look at whether or not those programs need to be there, whether, those, programs can be done more efficiently, whether, indeed, those programs can be transferred to local governments, closer to those who are governed, whether they need to be discontinued.

So I am very pleased, frankly, with this year, even though we have not come to closure on as many things as I hoped we would have. We still have an opportunity in this week. And this week has been a good week for that.

Nevertheless, the debate has changed entirely. The debate has changed from one of how much more money do we put into the program, to a real analysis of the program, a real change. Frankly, I guess being a freshman here makes it a little more exciting to help bring about that change, as the Presiding Officer would agree.

But it is something that I think most of us want to do, and we intend to continue to do that. I had the good opportunity this last week, Mr. President, as I often do, to go to schools in my district. I went to CY Junior High in Caspar, WY. They asked me to come and talk a little bit about politics and particularly the primary. I am always happy to do that. I am happy to do it for a couple reasons.

One is, of course, even though we sort of despair about politics and we call them politicians and all those things, politics is the way we govern ourselves. Politics is the way people in Caspar, WY, in my precinct where I am a precinct chairman, have input into what is done in this country, regardless of the party that they are in. So that is what politics is about. Obviously, I have urged young people to learn about it and become involved in it.

The other, of course, is the primary, which is a very interesting aspect of our society, particularly when we generally have two parties, a two-party

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

system. So there is in general a difference between the parties. Indeed, there should be. It is legitimate that there be that. That is what gives people a choice on how they govern themselves.

Of course, generally, Republicans have been more conservative, the Republicans have been for less government, the Republicans have been for moving more government to the States. The Democrats, on the other hand, have generally supported more Federal Government and making more of the decisions there. Both of these are legitimate views. I happen to feel rather strongly about my view. I do not insist, however, that it is always correct.

But it has been interesting this week, I think, Mr. President, to see how many of the things we have talked about just in the last couple of days would tend to show that that is indeed the case.

The farm bill, we talked about the farm bill yesterday. It was a pretty clear choice as to where we go in the future. The choice is basically whether we continue to have a farm program—and I happen to come from a background of agriculture, and I can recall people, when I first got into agriculture in the 1960's, people saying, "Hey, we have got to get out of this farm program. We have to get so we're producing for the market. We have got to get to doing something where farmers have more choices for themselves." We have not done that until now. Now we have an opportunity in this farm bill to move out over a period of adjustment into the marketplace, where we ought to be. It is pretty clear, a pretty clear division. We could see it on the floor yesterday.

Health care—we will work today, we will work this week, we have worked for a very long time on health care. There are some very clear definitions there as to whether we want to deal with health care in the private sector, where people can make their choices, where we have IRA's for health care, where we do something about private insurance, or whether we move, as the administration sought to, 2 years ago, to a Government-controlled program. It is pretty clear.

I think it is really important that we do understand that there are some philosophical differences here that have impact. I used to debate a Congressman from California, Mr. GEORGE MILLER, on issues about land and the environment, but we had to make it clear to begin with that we had a great difference of philosophy, because often we were not really arguing about the bill but arguing about philosophy. GEORGE MILLER would like to have the Government own more land. I tend to say there ought to be a limit, and private ownership ought to be sustained.

Jobs and wages—I think all of us are concerned about that. We see two very different approaches taking place. One is to encourage the private sector. The Republicans are saying we should do something about that, do something about capital gains so people are encouraged and given incentives to invest, to create jobs, do something about overregulation; on the other hand, our friends with a little different point of view, different philosophy, say, "Look, we ought to get the Government involved here and put these corporations in different categories, and if they behave properly with respect to Government regulations, then we give them some sort of preference."

I guess, Mr. President, what I am saying is, we talked a bit about differences, about choices. Obviously, no one agrees entirely with everything their party is for, but they find the party that most closely represents their point of view. That is what primaries are about. That is what elections are about. People ought to see where they are—the 10th amendment, the idea of involving the States more.

Mr. President, I think this has been an exciting year. I look forward to completing more of that fundamental change that has been brought about here. One of the final comments I make, it was interesting that the Chief of Staff of the White House was indicating the other day it is up to the Congress to deliver to the President the kind of bill that he wants. Let me suggest that is not exactly the way it is set up, in my view.

Under the Constitution, there are three equal divisions of the Federal Government—judicial, legislative, and executive. Each of them has the authority to make some decisions for themselves, and, indeed, the President has the perfect right to veto, and he should veto. That is his constitutional privilege. To veto does not mean the Congress has to continue to bring everything back until it meets his particular point of view. This is not a unilateral decision. This is a joint decision.

My only point is the White House needs to make some accommodations, as well. The way you make that work is after a couple vetoes, you do not send any more, and there is no opportunity for the President to work.

I hope we do come together. Certainly, we never will all agree. We do have the responsibility to move forward. We do have the responsibility to make the system work.

Mr. President, I hope that we can move on some of those things. We have passed a great number of items in this Congress, all of which have met the same fate at the White House. We will change that. We will have to change that, so that we can move forward and respond to those voters who spoke very clearly in 1994.

I yield to the Senator from Georgia.

Mr. COVERDELL. Mr. President, I appreciate the remarks of my distinguished colleague from Wyoming. Many of my remarks will reinforce the point he is making. Sometimes we need to step back from the fray to sort of size up the situation we are in.

Here in the waning days of March 1996, over 3 years after the election of President Clinton, I think we can come to the conclusion that the President does not want a balanced budget. He does not want a balanced budget.

Those that might be listening would say, "Well, how do you come to that conclusion?" First, this recent budget we received from the President is his ninth attempt—ninth. He promised the American voters in 1992 that he would balance the budget within 5 years. He has yet to take an affirmative step to do that. In the first 2 years, he raised taxes in an unprecedented level—over 200-plus billion dollars. And the first effort he made was to add $20 billion to the deficit. That was his first financial overture to the people of the United States.

Well, we wrangled over that for a period of time, and finally the 104th Congress, this Congress, sent the President a balanced budget, and he vetoed it. This Congress tried to pass a balanced budget amendment to the Constitution, and he rose in opposition and defeated it. He caused six Members of his own party who voted for the exact proposition the year before to change their votes because he did not want a balanced budget amendment to the Constitution, a discipline that would cause America to have to live within its means.

At the time he and his colleagues said, "Well, we just have to have the will. We do not need an amendment to the Constitution. Congress just has to have the fortitude and utilize its own jurisdictional powers and pass a balanced budget." Lo and behold, we did. And he vetoed it, and he opposed the balanced budget amendment. Then he would not submit a balanced budget. Then the Government closed down twice.

Now we have the latest attempt in his last year of office under this term. He submits his ninth attempt. What does it do? Well, the first thing that happens is that 70 percent of the savings that theoretically would produce a balanced budget occur after he leaves office, if he is elected the second time. So all the work has to occur when he is long gone. As a world statesman, it is sort of like, "Here, you handle it, America. You take care of it." Mr. President, 70 percent of the correctional devices occur after he is out of office.

It makes no structural adjustments in the area of Medicaid and Medicare. In the case of Medicare, he totally ignores his own trustees who have told the President, they have told the Presiding Officer, they have told me, our colleagues in the Nation, that Medicare will write its last check in 5 years. This budget ignores that crisis, and therefore is ignoring all those senior citizens dependent upon that program. Once again, "Here, you handle it—later. We will look at that after the next election."

Mr. President, these budgets talk of big, big numbers. They are hard to follow, even if you work on it every day, much less if you are trying to do the things that you are responsible for at home—get the kids up, get them fed, get them to school, get to the job, leave the job, someone is sick, get to the school, to the doctor, back home, one of the parents comes—we know the routine very well, Mr. President. Those families are the ones that are most impacted by the failure of this budget.

What it does to that family, that average Georgia family at home, is it leaves enormous burdens right on their shoulders and backs. That family today makes about $40,000. Both parents work, as I just described, and they have two kids. Under this plan that the President has given us, they are going to take about 20 to 25 percent of the total earnings—gross earnings—of that family and ship it up here to Washington. Another 10 percent—$3,000 to $4,000—comes out to take care of State and local government. This is an interesting figure: Out of the $40,000 they make, they will contribute $6,500 for the regulatory apparatus we have set up in America.

Under this President, it is going up. Just since he has been President, the bill for the regulatory apparatus has gone up $688 in the last 36 months. They are going to get to pay about $2,000 as their share of the interest on our debt, which we just increased last night.

When you add it all up, how much do they have left to do what we have asked them to do for the country? Remember what we asked them to do, Mr. President? We said raise the country, educate the country, feed it, house it, transport it, see to its health. What does this budget that the President has just given us leave for that family to do its work? About half. They have $20,000 to $22,000 to do all the work we have asked them to do and to build their dreams—to build their dreams. That is what this President's budget leaves for them.

When he vetoed a balanced budget, in effect, he took $3,000 out of their checking account—$3,000. Just think what that family could do with that. That is the equivalent of a 10- to 20-percent pay raise in that family. But this President thinks that the $3,000 is better used up here than in their checking account. Sometimes we wonder why people are so frustrated.

When we took that $3,000 out of their account and brought it up here, it reminds us that when they sent Secretary O'Leary and her aides and friends all over the world, flying first class, staying in the best hotels, it cost $3.7 million, which took 739 Georgia families to pay for that travel bill. It took all that they sent up here to pay for that travel bill. To send her to China took 170 Georgia families, my neighbors, just to get her to China. No wonder they are furious. To send her to India, it took 144 Georgia families—everything they have earned and worked for and sent up here went to get her to India. It took 140 families to get her to South Africa.

When the First Lady and her entourage went to Beijing, that took 499 Georgia families to pay for that. Here is the whopper: To send Commerce Secretary Ron Brown and his aides around the country and the world, it took 13,700 Georgia families. We ask them to raise the country, feed the country, house the country, educate the country, prepare the country for the future. And here we have 17,000 Georgia families, and everything they earn, all that hard sweat that came up here just to fund this kind of foolishness. This budget that we just got from the President leaves all that burden and all that apparatus right in place, and it leaves all that pressure on those families. And it is not right.

Sooner or later, the demand for balanced budgets, which leaves those resources in those families, will prevail, despite the opposition of this President.

Mr. President, I yield to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President. What is the order?

The PRESIDING OFFICER. The Senator has up to 10 minutes.

Mrs. HUTCHISON. Thank you, Mr. President. I want to commend the Senator from Georgia. He really talked about the effect on people of wasteful, big Federal Government. He did not just talk about numbers on a page that do not relate to anything. He talked about how much it costs to have a bureaucrat waste taxpayer dollars, how many Georgia and Texas families it takes to pay for the waste in Government, families that do not have the ability to waste money because they are working so hard to do the things for their children that they would hope to do. So I thank the Senator from Georgia for bringing this into a debate about people and the effect on people's lives.

Balancing the Federal budget is not about the runaway Federal deficit, or the debt ceiling, or even about temporary Government shutdowns. It is about the future of our country, about what America will be like tomorrow and the next day and a generation from now.

Most Americans believe they are better off than their parents. But it is amazing how many Americans do not believe their children will be better off than they were. The American dream has always been about progress, about growth from one generation to the next, about generational improvements, that our children will have more opportunities, more choices, better lives than their parents. Why is it, for the first time in history, that a generation of Americans have lost hope, have lost confidence in our future? The answer is that too many people are in Washington, DC, making decisions about how to spend our money. For too long, Washington has spent more than it takes in.

I was listening to the radio this morning, and a man called in and he said, "I remember a quote about Thomas Jefferson." Thomas Jefferson was brought the Federal budget, and his budget advisers put it on his desk. Thomas Jefferson had one simple question: "Do we take in more than we spend? That is the only question that matters because if we do not take in more than we are spending, take it back, do something with it, that is the only question that you have to answer right."

Thomas Jefferson said what we should be saying today instead of too many people in Washington spending our tax dollars the way they see fit and many times for the wrong reasons.

The President's budget proposal asks for $600 million for increased audits and enforcement and $850 million, on top of the $4 billion already spent, to improve tax collection procedures. Americans want the Federal Tax Code to be made simple, fair, and uniform. But they really do not want billions more to be spent on IRS bureaucrats.

The President's budget fails to institute real work requirements for welfare recipients. It also guarantees that illegal immigrants will be able to receive food stamps. By refusing to sign the welfare reform legislation that Congress has sent to him twice, the President guarantees that welfare dependency will continue in the country and that the American people will continue to foot the bill. The working American will continue to foot the bill.

I believe that is why Republicans were elected in 1994—to end politics as usual. For decades, politicians came to Washington and put Band-Aids on a bad situation until the next election.

That is not what we are here for. We were sent here to offer real long-term solutions—not for the next election but for the generation.

That is why we are trying hard to do what we said we would do and balance the budget. It is why we sent a balanced budget to the President. But he has vetoed that balanced budget. The balanced budget is not about numbers. It is about people just as the Senator from Georgia was just saying.

I think of parents with children in high school afraid their children will not be able to attend college because they cannot afford the interest rates for college loans. I think of the newly married couple that wants to buy their piece of the American dream—a new home—but they are not going to be able to afford the interest rates on the mortgage. I think about working people in their forties and fifties who are trying desperately to set aside that little bit of extra money they are earning for their retirement security. And yet in the budget that the President has submitted it does not even allow homemakers to set aside $2,000 a year for IRA's like those who work outside the home are able to do. They are not even thinking about one-income earner couples that are sacrificing so that one spouse—the homemaker—will stay home and raise children. And I think of senior citizens who are depending on Medicare but are afraid that it may not be there when they really need it.

These are real people with real concerns and real fears. Unfortunately, instead of hope, President Clinton hyped the status quo. Instead of inspiring Americans to have confidence in their future, instead he incites fear.

It is wrong to ask that American people live within their means but not ask the Federal Government to do the same. Is it wrong to demand that Washington stop wasting taxpayer dollars? Is it wrong to demand an end to politics as usual?

That is what we are demanding—a return to principle instead of politics; a commitment to the next generation instead of the next election.

We are 4 years away from a new millennium. The year 2000 should be a new beginning. Where will we be in the year 2000? As we look forward to the year 2000, where will we be starting with what we need to do today?

As that ball drops in Times Square, and people all over our Nation are celebrating a new beginning, will we be firmly on the path to a balanced budget, and a growing economy? Or will the deficit still be eating away at the working people's livelihood in this country? Will we have reformed the welfare system, or will it continue to undermine the work ethic destroying families and ruin the very lives of people who are receiving welfare? Will we have reduced the excessive tax burden on the American family leaving them with more of their money in their pockets or will we continue to have taxes that takes people's extra money so they cannot put it away for saving for their retirement? Will we have reformed Medicare so that our future generations will know that it will be there for them so that it will be stronger? Or will we have continued on the path that we are on now? And will Medicare be 2 years away from going out of business so that seniors in this country really will have to fear whether it is going to be there for them?

In short, Mr. President, will we have continued business as usual for these 4 years that we have been elected to make change, or will we have kept the promise that we made to the American people?

I hope that in the year 2000 we will have said this year there is no more politics as usual, no more excuses, that we kept our promises in 1996 so that in the year 2000 when we are celebrating a new beginning we will indeed have a strong and thriving economy, and that we will have American families with the hope that their children will be able to have a better life than they have had just as so many generations in the past have been able to hope.

Mr. President, the time to prepare for a new beginning in a new millennium is right now, and we are missing that opportunity with a budget by the President that does not speak to tax fairness and equity for the working families of this country. We are trying to make a difference.

The President has vetoed welfare reform. He has vetoed a balanced budget. He has vetoed middle-class tax cuts. All of the things that he promised and all of the things that we promised—and we are trying to deliver—have been vetoed by the President.

The time is now for us to put partisanship aside and do what all of us said we would do for the American people—balance the budget. That is our commitment. And, Mr. President, we have a chance to keep our promise. And that is what we are trying to do.

Thank you, Mr. President.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized to speak for up to 20 minutes.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for as much time as I need.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ROLE OF GOVERNMENT

Mr. DORGAN. Mr. President, this is, it seems to me, a time to talk about change in this country. I think the central question is what kind of change will make this a better place in which to live?

We have had a lot of struggles in our history in this country about what the role of government is. Is there a role for government? What kind of government, and how much government do we want? We have struggled over the decades with that question.

I go back to the early 1900's which relates to the struggle we had over the question of food inspection. I have told my colleagues this before. Some know it because of the readings they have done. But even then we began the struggle over all of these issues.

On the issue of food inspection, Upton Sinclair wrote a book at the turn of the century. He did an investigative book on his discoveries in the meat packing plants, I believe in Chicago, where he discovered that in the meat packing plants they had rats running around the plants. And they were trying to, of course, control the problem of rats in the meat packing plants. That is a pretty big problem. So they would put out bread laced with arsenic and lay it around the meat plants. And the rats would eat the bread, and die. And they would throw the rats and the bread and the meat down the same chute, and out comes mystery meat on the other side sold as sausage in some location somewhere in America to an unsuspecting consumer. Rats, arsenic, poison bread, meat and sausage.

Upton Sinclair wrote about that—about the outrage of that, about the threat to this country's health as a result of that. And guess what happened? The debate in this country turned quickly to the question of how to stop that. How do we prevent that? How do we assure ourselves that our food supply is safe?

We created in this country a level of government that says we are going to inspect food so that when you eat food you are not going to eat mystery meat laced with bread and arsenic that was used to poison rats. Even then we had people who said it is none of government's business; let the private sector decide. Well, arsenic and rats in meat are the public's business.

Oh, we have gone several stages from that. And in the mid-1960's half of America's senior citizens had no health care. They reached an age where they were not working. They reached retirement age, and did not have any money; nothing really to speak of. And they had no health care coverage.

I remember driving one fellow to the hospital some 55 miles away when I was a teenager—an old fellow that lived by himself, had no one, had nothing, had no insurance, and was very sick. And my father, who could not take him, asked me to take him to the hospital. I drove him there. They said, "Do you have money, or insurance?" Of course not. They took him in anyway.

But back then half of American seniors had no health coverage at all. In the mid-1960's we had a discussion about that in this country, and we decided that we would develop a Medicare Program.

A lot of people—90 percent of the majority party now—in Congress voted against it and said we do not want Medicare the first time we voted on it. Some are still bragging they voted against it.

Do you know something? Ninety-nine percent of American senior citizens are now covered by health care. I am proud of that.

Do we have some problems with Medicare? Yes, we do. Should we fix it? You had better believe it.

But should we decide to retreat on the things we have done to make this a better country—food inspection and health care and dozens of other areas? I do not think so. I do not think it really does much good to suggest that somehow all of government is unhealthy or unholy and does nothing to protect people. Government is our teachers. Government is our police force. Government is our fire department. Government is the food inspectors, the air traffic controllers. A lot of folks do a lot of good work.

Now, we are reducing the size of government, and we should. There are fewer people working for the Federal Government today than have been at any time since John F. Kennedy. Why? Reinventing Government, headed by AL GORE, the Vice President, developed by Bill Clinton. Reinventing government is reducing the size of government. Do not believe me? There are 200,000 less people working for the Federal Government now than there were 4, 5 years ago. We have program after program after program that has been abolished or disbanded because it did not work. Other programs are reduced. Some programs that are important are expanded.

That is what we ought to do. We ought to use good judgment to see what works and what does not. Let us get rid of what does not work. We ought to ask two questions about everything we do in Congress: Do we need it? Can we afford it? And if the answer is yes, let us go and do it as a country.

I am a little confused, I guess, about some of the things that I have heard in some discussion today, and I have certainly heard a lot of it previously, about what an awful place this is, America has gone to hell in a handbasket. Gee, this country is just in terrible shape. And then we have folks out running for President who want to build a fence between the United States and Mexico and keep the Mexicans out. And we have folks from every other country of the world who want to come to this country. We have a serious immigration problem.

Why would that be? Is it because this place is such an awful place to live? No, it is because this place is still a remarkable country, a country filled with people with enormous strength and vitality and interest to make this a better place.

How do we make it a better place? Do we make it a better place by calling for changes that say, well, let us decide to retract our commitment to Medicare; let us decide it is not important for a poor kid to have an entitlement to a hot lunch in the middle of the day at school; let us decide that is not important; let us decide that what we really need to do is cut the Star Schools Program which is designed to try to boost our country in math and sciences and education; let us cut Star Schools by 40 percent, and let us increase the star wars program by over 100 percent because we want to build more missiles and put an astrodome over America with missile defense and we want to do it much faster with much more money than the generals and admirals think is appropriate because these folks know better about that, so increase that spending 100 percent and cut Star Schools investments by 40 percent. Does that advance this country's interests? I do not think so.

Maybe build some orphanages, as a welfare solution. Maybe give every poor kid a laptop, take their lunch away but give them a laptop. And the other one is term limits. If you can just have term limits, you would solve all the problems. I tell you, it is hard not to laugh out loud to see people walk in this Chamber who served here 30 years and vote for term limits and say, "Yes, the problem is I have served here too long so stop me before I run again, except the term limit I want to vote for will not apply to me."

That is what they say. It is hard not to laugh out loud when you see that. They do not believe that. And it is wrong not to deal with the real issues.

Do you know what the real issues are, in my judgment? The real issues I think you can categorize in about three areas. Kids. That is our future. Jobs. There is no social program in this country more important than a good job that pays well. Jobs. How do we get jobs? How do we expand jobs and create jobs and have an economy that provides more opportunity? Kids, jobs, and the other issue is values.

Those are the core issues I think we have to address. We can run around on dozens of other issues. I just heard discussions about the balanced budget amendment. We ought to pass a balanced budget amendment. But anybody who thinks they are going to get a balanced budget through this Chamber that loots the Social Security system by taking the Social Security trust funds to the tune of nearly $700 billion in 7 years is dreaming.

I am not going to vote for that. I did not come here to vote to loot the Social Security trust funds. We ought to balance the budget honestly. The Social Security trust funds are dedicated only to be used for Social Security, and to use them for other purposes is dishonest budgeting. To those who say, well, we could not get it through the Chamber of the Senate, I say I voted for a constitutional amendment to balance the budget, one that said the Social Security trust funds will have a firewall; you cannot use Social Security trust funds as operating budget revenues because it is dishonest. Guess what. The folks who said they wanted a balanced budget voted against that because they wanted a balanced budget amendment in the Constitution that created a constitutional opportunity for them to misuse $1.2 trillion in Social Security trust funds over 10 years.

No wonder it did not get through the Senate. It is the goofiest idea I ever heard—tell people we are going to take money out of your paychecks, called Social Security taxes; we are going to put it in a trust fund; and we promise we will get it in a trust fund dedicated only for that use. But now we have decided to put in the Constitution a provision that says we are going to use hundreds of billions of dollars of the trust funds as offsets against other operating revenue. And by the way, what are our priorities for the revenue and expenditures on the rest of the budget? Well, we say, while we balance the budget let's provide a tax cut. Let's provide a very large tax cut for people with very large incomes and let's provide a minuscule tax cut for all the rest. It seems to me maybe people are bound to be a little skeptical about that.

So what do you do about the central issues that I think really relate to people's lives? Kids, what about our kids, jobs and values? When people in my hometown sit down to have supper —we call it in Regent, ND; we sit down for supper—and you talk about your circumstances, what is important? What is important is how are your kids doing. What kind of opportunities are your kids going to have. It is also important, how are we doing? Do we have more income now? We are working harder. Are we making more? How are we doing? What kind of economic opportunity will we have?

And then the issue of values. There is a collapsing kind of value system, coarsening language, difficulty with what our children see on television, more crime, and a whole series of related issues that I think fall under the heading of values. But let me talk just for a moment about kids.

The first issue with kids that matters most to this country, in my judgment, is not all the peripheral antigovernment nonsense. It is, do you have in this country the best education system in the world or do you not? Because if you do not, we will not win. Our country ought to dedicate itself at every single level of Government, and we ought to dedicate ourselves in every home with every set of parents and in every school that America is going to have the best education system on the face of the Earth. American kids are going to be the best educated kids in the world. That ought to be the central debate.

Now, most of education is run by State and local governments. It is not run by the Federal Government. We play a peripheral role. We play a role of providing financial aid to college students largely, plus we have some title programs—title I which moves some money to school districts to help some of the disadvantaged kids. But education is largely a function of State and local government. We must, it seems to me, as a country, not necessarily with a central plan but as a country in which all of us work together, decide our goal is to have the finest education system on the face of the Earth. That is the way this country will succeed and win in the future.

I have told my colleagues before, and I am going to again because I think it is so illustrative, the first week I came to Congress some years ago I walked into the office of the oldest Member of the House, Claude Pepper, and I will never forget what I saw on the wall behind his chair. Two pictures. One was Orville and Wilbur Wright making the first airplane flight down at Kitty Hawk, and Claude was an old fellow, wonderful old fellow at that point. He had an autographed picture of Orville Wright making the first flight autographed to Congressman Claude Pepper, an autographed picture to him before he died, and then he had a picture of Neil Armstrong walking on the Moon autographed to Congressman Claude Pepper. I thought to myself, here is the person who has an autograph of the first American to leave the ground and fly and the first person to step on the Moon. What is the significance of leaving the ground to fly, and flying to the Moon? Education, massive investments in education, so that this country led the world in technological achievement in dozens of areas from airplanes to television to medicine—you name it. Education; it is the key to this country's future.

Second, with respect to kids, is welfare. I know people talk about welfare in this Chamber with respect to able-bodied people who will not work. Able-bodied people on welfare ought to go to work. We offered a program called Work First, which I am enormously proud of, that says to people, "If you are down and out and disadvantaged we will give you a hand up and a helping hand, but your obligation is to get up and out and get a job."

But understand the reality of welfare. Two-thirds of the welfare payments in this country go to kids under 16 years of age. A young boy named David spoke at a hearing I went to some years ago, a 10-year-old boy from New York who lived in a homeless shelter. He said, "No 10-year-old boy like me ought to have to lay his head down on his desk in the middle of the afternoon at school because it hurts to be hungry." Welfare largely relates to America's children as well. One in four children in America under the age of 3 is living in circumstances of poverty. We must have a welfare system that says to able-bodied people, "We are going to help you get a job because you cannot, as able-bodied persons, remain on welfare indefinitely."

But we must also have a welfare system that understands kids and the needs of kids. It is not their fault they were born in circumstances of poverty. And those who parade around these Chambers and say, "By the way, let us retract the entitlement for a poor kid to be able to get a hot lunch in the middle of the day of school," do no service for children. Let us care about kids, educate them, help them become better educated citizens for the future of this country.

With respect to jobs, we can talk about a hundred other issues but there is no social program that we will discuss in the 104th Congress that is as important to this country and as important for Americans as a good job that pays a good income.

We have seen what causes the anxiety. The chief executive officers of America's corporations increased their compensation 23 percent last year; last year alone, a 23-percent increase for the people at the top. But guess what? For 60 percent of the American families now, when they sit down for supper at night and talk about their lot in life after 20 years, they are working harder and they are making less money. When you adjust their income for inflation they have less purchasing power now than they had 20 years ago.

How can all that have happen? Last year we had the largest trade deficit, merchandise trade deficit in the history of this country; the largest merchandise trade deficit in history. That means jobs are leaving, not coming. It means we are competing with 2 or 3 billion other people in the world, some of whom will make 12 cents, 18 cents, 50 cents, or $1 an hour, working in unsafe plants that are dumping pollution into the air and water. That is not fair competition and we should not have to deal with it. We must deal with the issue of jobs and do it now. We must bring jobs issues to the floor of the Senate and respond in a real way.

Those who come to the floor talking about helping people do no service, especially to working people at the bottom of the ladder, when they also embrace policies that will pull out the rug from under those people on the earned income tax credit, because that is the kind of policy designed to help working people at the bottom of the economic ladder.

Finally, on the issue of values, I think there is general agreement in this Chamber, between Republicans and Democrats, that there is a collapsing of values in this country that is troublesome. There are, perhaps, many reason for it. But the restoration of values starts in the home, in the neighborhood, in the community. It starts with all of us. Television is too coarse, language is too coarse during times when children are watching. There is too much violence on television. America has become too violent a country. We are the murder capital of the world. We are the cocaine capital of the world. We have 23,000 murders and 110,000 rapes every year, and we must respond to it. And that is one of the areas, I think, in which Republicans and Democrats have joined in trying to respond in a significant way. But we must understand the collapsing of values in this country is also causing significant concern.

Let me, finally, point out about those who spend a lot of time talking about how awful Government is—and there are plenty of areas of Government that have gone awry, that we must rein in and correct—I applaud those and join them when they want to do that. I would also say it is important for us to talk about what works and what is right. Do you know we now use twice as much energy as we did 20 years ago, but we have less water pollution and less air pollution? We have cleaner air and water than we did 20 years ago, despite the fact we have doubled our energy use. Is that accidental? No, it is not. It is because this Congress decided we are going to start penalizing people who pollute; there is only one Earth to live on, and we want the environment to be clean.

I urge my colleagues to understand, there is a lot of what has been done by people of this country in public policy, ranging from cleaning up our air and water to providing health care for senior citizens, intervening in the lives of young children to provide education and to deal with hunger and nutrition issues, and many other areas that have made this a better country.

As I conclude, let me just say I had a town meeting in which I said to people who, I am sure, listen to all of the talk shows—and everyday in every way we have all these shows that talk about what is wrong with America. They hold up this little thing and say, "Isn't this ugly? See this? Is this not awful?" I understand, it is what entertains.

I said, "Why don't we talk about what works? Let us be positive for a half-hour. Let's talk about only what works in our lives." It was a remarkable transformation, because a lot of people talked about a lot of good things in their lives, a lot of things that are improving, a lot of things that are working. Then from that we discovered what is left, what is left for us to do as a people together to make this a better country.

I hope, in the coming months, the challenges that were discussed by the Members of the majority party today and myself and others are challenges we will decide to embrace quickly and debate in a thoughtful way. What about the future of our children? What about our kids? What kind of jobs and opportunities will we have in the future? How do we address the issue of collapsing values in our country? Those are the central challenges I think we face in our country today.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, my understanding, I say to my colleagues, is that I have 10 minutes in morning business. I will not exceed that. I will be very brief.

The PRESIDING OFFICER. That is correct.

NATIONAL DOMESTIC VIOLENCE HOTLINE

Mr. WELLSTONE. Mr. President, for the past 2 weeks I have tried to come to the floor every day, whenever my colleagues would generously allow me a few minutes, to announce the realization of another component of our initiative to prevent violence against women, which the Senator from Utah has been a very, very strong leader in, the national domestic violence hotline. The hotline, which officially opened on February 24, signifies the realization of the key provision of the Violence Against Women Act, passed by the Congress as part of the 1994 crime bill.

The toll free number—I have tried to announce this on the floor over the last several weeks—is 1-800-799-SAFE. This will provide immediate crisis assistance and counseling and local shelter referrals to women across the country, 24 hours a day. There is also a TDD number for the hearing impaired, and that number is 1-800-787-3224.

Today, on the last day of the 2-week period in which I promised to highlight the hotline, I want to take the opportunity to stress how much work still has to be done to fight domestic abuse in our country. On Tuesday of this week, the chief prosecutor in Alexandria, VA, John Kloch, called for tougher strategies against domestic violence in response to a murder of a local schoolteacher, Karen Mitsoff, who was killed early Monday of this week by an ex-boyfriend who had been stalking her.

Miss Mitsoff's former boyfriend, Mr. Senet, reportedly broke into her apartment on March 10 and threatened to kill her and himself. Senet was charged with burglary and then released on a $2,500 bond in a routine hearing.

This past Monday, 1 week after his arrest, he apparently broke into Miss Mitsoff's apartment and fatally shot her before killing himself. Commonwealth Attorney Kloch was quoted as saying:

> This case shows that there are holes in the system. Somehow we failed to stop this. This case clearly illustrates that in many instances, potential threats to women are not addressed with enough urgency.

Let me explain just how urgent these threats to the safety of women and children are.

Every 12 seconds, a woman is beaten by a husband, boyfriend, or partner in the United States of America—every 12 seconds;

Over 4,000 women are killed every year by their abuser;

Every 6 minutes in our country, a woman is forcibly raped;

Severe repeated violence occurs in 1 out of every 14 marriages, with an average of 35 incidents before it is reported;

Roughly 1 million women are victims of domestic violence each year, and battering may be the most common cause of injury to women, more common than auto accidents, muggings, or rapes by a stranger.

According to the FBI, Mr. President, one out of every two women in America will be beaten at least once in the course of an intimate relationship. Let me repeat that. According to the FBI, one out of every two women in America will be beaten at least once in the course of an intimate relationship.

It is estimated that the new hotline, that we have shown and brought out to the floor of the Senate as often as we could over the last 2 weeks, will receive close to 10,000 calls a day.

The first day I came to the floor to talk about the hotline, I shared a story told to me by my wife, Sheila, while she was speaking in southern Minnesota 2 days before the hotline opened. I would like to tell the story again of a courageous woman in danger whose story illustrates how crucial the existence of a national domestic violence hotline will be in saving the lives of women and children in danger.

This woman had been living in New York with her abusive husband and a 5-month-old child. Her husband had moved to New York following their marriage, and he kept his wife and child very isolated there. The husband was very controlling and made it impossible for his wife to socialize, to make friends, or have a job. He checked on her all the time to make sure that she was at home with her baby.

In addition to beating her routinely and savagely, he took out a life insurance policy on her, so she lived in constant fear of being killed.

This woman told my wife, Sheila, that every time she opened the apartment door, she was sure someone would be on the other side with a shotgun.

Her husband had a one-time, out-of-town business deal. He left in the afternoon and planned on returning the following morning. After he left, she decided that it was her only chance to get away. Panicked and pressed for time, she called a local hotline number but found it was disconnected. She was devastated. She called the Legal Aid Society in New York City and was initially told that they could not help her.

Out of sheer desperation, she persisted with Legal Aid and was finally given a local agency phone number. Calling the local agency, the woman informed them she wanted to return to Minnesota. They were able to access a computer and put her in touch with a battered woman's shelter in Minnesota in her hometown. She and her baby were on a plane the next morning before her husband got home.

Mr. President, this woman was lucky; she was able to obtain the information she needed. But how much better it would be if that hotline had been up and running to give her the information immediately. Unfortunately, some women might not have the whole day to track down information. I think this shows how crucial a national network, like the hotline, will be for keeping women and children safe, literally saving their lives.

So today, I ask everyone listening to honor the memory of Karen Mitshoff of Alexandria, VA, as well as all the other women who lose their lives every year at the hands of a husband or a boyfriend or a partner.

I also ask you to honor all of the women who have been hurt at the hands of someone with whom they have had an intimate relationship. Chances are you already know one of those women—a coworker, a sister, a mother, a daughter, or a friend.

I commend innovations like the national domestic violence hotline. I want to support more creative solutions to stopping this family violence. I want all of us to do that, Democrats and Republicans alike. But most important, today I want to remember Karen Mitshoff who lost her life on Monday, and remind everyone that these efforts to stop this violence in our homes must be ongoing.

Mr. President, once again, at the end of this 2-week period, I want to one more time talk about the hotline number. The toll free number of the national domestic violence hotline is 1-800-799-SAFE and 1-800-787-3224 for the hearing impaired.

Everyone has the right to be safe in their own home. Share the number today, those of you who are watching, and maybe you will help someone make themselves safe.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. COATS). Under the previous order, the Senator from Utah, Senator HATCH, is recognized to speak for up to 20 minutes.

JUDICIAL SELECTION

Mr. HATCH. Mr. President, I rise to address a subject that I have discussed several times in the past few weeks, and that is the issue of judicial selection. As I said in those speeches, differences in judicial philosophy can have real and profound consequences for the safety of Americans in their neighborhoods, homes, and workplaces. Sound judging is every bit as much a part of the Federal anticrime effort as FBI and DEA agents and prosecutors.

It does the Nation little good to put more cops on the beat if judges put the criminals back on the street. And, I might add, the President overstates the number of police that the Federal Government is helping put on the street.

I see that the President has attempted this week to respond to my speeches through his subordinates. One argument, made by his former White House counsel, maintains that it is really the home State Senators who appoint judges. This argument is just another example of the President attempting to hide from the consequences of his decisions. The last time that I looked in the Constitution, it stated that the President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges." Presidents may look to individual Senators to recommend good nominees in each State, but the Constitution itself makes clear that the choice of judges is the President's responsibility and the President's alone.

I do agree with one thing that Lloyd Cutler said in his Washington Post oped. It sometimes is difficult to predict what nominees will be like once they ascend to the Federal bench. While the executive branch, as Mr. Cutler said, has "an extensive vetting process," we in the Senate do not. For the most part, a President's nominees usually are confirmed by the Senate. When the people elect a President, they put into office with him his judicial philosophy and the judges he will appoint. But perhaps the Senate does need to spend more resources vetting nominees. Perhaps the Senate should interview each and every judicial nominee as a matter of routine, if Lloyd Cutler is right.

Another argument made by President Clinton's current White House counsel, Jack Quinn, is that there are soft-on-crime decisions by judges appointed by Presidents Reagan and Bush. As I said on Monday, I do not agree with every decision by a Republican-appointed judge or disagree with every decision by a Democrat-appointed judge. Moreover, we all know that prosecutors and police sometimes go over the line, and that it is the job of state and federal judges to correct those mistakes. Unfortunately, sometimes those decisions will benefit criminals that we all know to be guilty.

But what we are talking about here are not a few isolated cases or incidents. We are talking about track records: about the fact that judges appointed by Democrat Presidents, and President Clinton in particular, generally will be softer-on-crime and will be more likely to follow an activist judicial philosophy than judges appointed by Republican Presidents. Just as President Johnson appointed Judge J. Skelly Wright to the D.C. Circuit, a notorious judicial activist, and President Carter appointed, among many others, Judge Stephan Reinhardt of the ninth circuit, a judge who is so activist that the Supreme Court regularly overturns his decisions, so has President Clinton appointed judges such as Judges Baer and Beaty, Judges Michael and Calabresi, and Judges Sarokin and Barkett, whom I will discuss today.

The President seems to think that it is wrong to evaluate the decisions of these judges. "The point is that it is unfair to evaluate any judge on the basis of any single case," writes his counsel in the Wall Street Journal. I disagree. It is only by reading the opinions of these judges that we can make a determination of the kinds of men and women that President Clinton has chosen to send to the Federal bench. Let me also be clear that it is not the result of an individual case that is the problem. The problem with these Clinton judges is the way they reach their decisions—their willingness, perhaps even eagerness, to stretch the law, to expand criminal rights at the expense of the community, to seize on petty technicalities to release defendants, to find new constitutional rights where there were none before. Many of these judges are activists who simply cannot understand that their role as is to interpret the law, not to make it.

But the President's approach—that once a judge is on the bench, and you cannot read his or her opinions—is a convenient one. It is the only way that he can explain his decision to appoint Judge H. Lee Sarokin to the U.S. Court of Appeals for the Third Circuit and Judge Rosemary Barkett to the U.S. Court of Appeals for the Eleventh Circuit. These were judges with crystal-clear track records of being liberal, soft-on-crime activists, when President Clinton appointed them. These two judges, who sit on the second most powerful courts in the land, have displayed an undue and excessive sympathy for the criminals who are destroying our society and who are all too willing to impose their own moral beliefs onto the law and onto our communities.

I led the fight to oppose the confirmation of these two judges because their judicial records indicated that they would be activists who would legislate from the bench. Senators from both sides of the aisle joined me in that fight. I regret to conclude that we have been proven right in our predictions of their activism on the Federal bench.

Let us look at what Judge Sarokin has been up to since President Clinton chose to elevate him in 1994. The Senate confirmed his nomination 63–35—a pretty large vote against him—on October 4, 1994. I think that it is safe to say that no Republican President would have nominated a judge like Judge Sarokin, and that if the Republicans had control of the Senate in 1994, Judge Sarokin would never have been confirmed.

Let me tell the American people about the cases of William Henry Flamer and Billie Bailey, which were heard by the third circuit late last year. Delaware versus Flamer; Delaware versus Bailey. This was a case involving two multiple murders in which Judge Sarokin voted to overturn a jury's imposition of the death penalty.

In the Flamer case, on a snowy February 7, 1979, at 8:00 a.m. in the morning, Arthur Smith, the 35-year old son of Alberta and Byard Smith, walked across the street to his parents' house in Delaware. He found them sprawled on the living room floor obviously murdered in cold blood. Both parents died of multiple stab wounds in the head and neck. The medical examiner counted 79 wounds on Mr. Smith's body and 66 wounds on Mrs. Smith's body.

Their car was stolen, a television was missing, chairs were overturned, bags of frozen food were strewn about, and Mr. Smith's pockets were turned inside out. The son—can you imagine what it must be like for a son to discover such violence to his parents in their own home—called the police.

Eyewitnesses indicated that William Henry Flamer, whose mother was Mrs. Smith's half-sister, might be the killer. Police went to his family's residence and found the missing television, frozen food similar to that strewn about the Smiths' home, and a bayonet with dried blood stains on the blade. When police arrested Flamer, they found blood on his fingernails and coat and fresh scratches on his neck and chest.

After he had been read his Miranda rights numerous times and after his arraignment, Flamer confessed. He told police that he and another man brought a knife, the bayonet, and a shotgun, and that he had told Mrs. Smith, his aunt, that his grandmother had experienced a stroke and was missing in order to gain entrance to the Smiths' home.

In early 1980, a jury convicted Flamer of two charges of intentionally causing the death of another person and two charges of felony murder. A jury then sentenced Flamer to death because of several aggravating sentencing factors, such as Flamer's prior criminal record, the age of his two victims, the frailty of his aunt Mrs. Smith, and his exploitation of his aunt and uncle's trust in order to gain entrance to their home.

Flamer had the opportunity to challenge both his conviction and his sentence on direct appeal. The Delaware Supreme Court rejected his appeal and the U.S. Supreme Court denied certiorari in his case twice. Flamer filed for post-conviction relief in State court, but his petitions were denied. Nevertheless, Flamer filed a habeas petition in Federal district court alleging a number of trial errors. Judge Joseph Farman of the U.S. District Court for the District of Delaware, who was appointed by President Reagan in 1985, dismissed the petition. Flamer appealed to the Third Circuit Court of Appeals.

The third circuit consolidated Flamer's appeal with that of Billie Bailey, another multiple murderer convicted by the Delaware state courts.

Bailey had been assigned to a work release facility in Wilmington, but he escaped and then proceeded to rob a package store at gunpoint. He received a ride to Lambertson's Corner, 1½ miles away from the store. Bailey then entered the farmhouse of Gilbert Lambertson, who was 80 years old, and of his wife, Clara Lambertson, who was 73. Bailey shot Mr. Lambertson twice in the chest with his pistol and once in the head with the Lambertsons' shotgun. He shot Mrs. Lambertson in the shoulder with the pistol and in the abdomen and neck with the shotgun. Both Lambertsons died. Bailey fled from the scene but was spotted by a police helicopter. He shot at the helicopter, but was apprehended.

Bailey was convicted of murder and was sentenced by a jury to death. The jury found that two factors—that the defendant's conduct had resulted in the deaths of two persons where the deaths were a probable consequence of the defendant's conduct; and that the murders were outrageous or wantonly vile, horrible, or inhuman—and they in turn supported the imposition of death. Bailey appealed, but the Delaware Supreme Court affirmed the conviction and the sentence, and the U.S. Supreme Court denied certiorari.

Like Flamer, Bailey filed a writ of habeas corpus in Federal district court, claiming that the jury had considered improper factors when imposing the death sentence. Judge Roderick McKelvie, a Bush appointee, denied the writ.

On appeal before the entire third circuit sitting en banc, Flamer and Bailey argued that the imposition of the death penalty was unconstitutional because the juries had considered an invalid factor: whether the murders were wantonly vile, horrible, or inhuman. It is true that the Supreme Court had held that such a factor is so vague as to be unconstitutional. But in the case of *Zant* v. *Stephens* in 1983, 462 U.S. 862 (1983), the Supreme Court also held that so long as the jury's capital sentence was also based on other, legitimate considerations, then the death penalty is not unconstitutional.

This, of course, was precisely the case with both Flamer and Bailey. In both situations, the juries had found that other factors, such as Flamer's commission of the murder in the course of a robbery, also justified the death penalty. As a result, a majority of the third circuit affirmed the convictions.

Let me add that no one challenged the finding that either Flamer or Bailey committed the horrendous murders. No one showed that either jury was biased or had reached the wrong result. Instead, the defendants were using the writ to raise technical objections in the hopes of delaying the rightful execution of the death penalty. It is abuses of the writ such as these that lead the American people to believe that something is wrong with our courts. It is abuses like these that lead the American people to demand habeas corpus reform.

The American people's belief would only be confirmed if they read the Flamer and Bailey case, because Judge Sarokin was in dissent. Judge Sarokin believed that the defendants had received an unfair trial, even though they had both had the opportunity to fully appeal all the way to the U.S. Supreme Court. He argued that the judge's instructions and interrogatories asking the jury what factors they relied upon in reaching their decision had "shifted the neutral balance contemplated under the statute and with it, the scales of justice as well."

According to Judge Sarokin, State judges cannot ask juries why they imposed the death penalty, even though judges do this to ensure that the juries were unbiased. In Judge Sarokin's mind, for judges to ask jurors this commonsense question renders the whole process unconstitutional.

The eighth amendment says only that "Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted."

Further, Judge Sarokin argued that allowing juries to consider the invalid vile, horrible, and inhuman factor—and who can doubt that these murders were utterly heinous—so infected the juries' considerations as to render them unconstitutional. He reached this conclusion despite the Supreme Court's clear holding in Zant that consideration of one invalid factor does not make the whole decision unconstitutional.

By a 10 to 4 vote, the majority on the court reached the right result, because the Constitution guarantees a fair trial, not a perfect one. Allowing defendants to win reversals on technicalities even when no one disputes that the defendant is guilty and deserves the death penalty would truly undermine the public's faith in our criminal justice system. As the Supreme Court has said many times, and as the majority recognized in Flamer, a harmless error does not render a trial unconstitutional, and there was no showing in this case that any error had influenced the jury's verdict or caused the defendant's any prejudice.

If one needed any more confirmation that Judge Sarokin was wrong, one need only look to the epilogue of the Flamer and Bailey story. Both defendants appealed directly to the U.S. Supreme Court again. The Court refused to grant certiorari in either the Bailey or the Flamer cases, and the Court refused to stay their executions. Both men were executed in late January 1996. Certainly the U.S. Supreme Court thought little of Judge Sarokin's dissent. Unlike Judge Sarokin, the Justices of the Supreme Court thought enough was enough and that it was time to allow the State of Delaware to operate its own criminal justice system.

But Judge Sarokin was willing to overturn the considered judgments of the juries, of the Delaware Supreme Court, of the U.S. Supreme Court, of two Federal district court judges, and of the majority of his colleagues, because the jury did not think about the death penalty the way he wanted them to, and because the judge asked the jury a question. Judge Sarokin believes that Federal judges have a roving mandate to interfere in the operation of the State criminal justice system, just because he found a technicality that no one showed had any influence on the outcome of the trial.

Judge Sarokin suffers from the same problem that Judges Beaty and Baer do—an inability to understand their role as judges. They have not been appointed as Federal judges to legislate from their benches or to act as philosopher-kings. If Judge Sarokin does not like the way that Delaware has chosen to operate its criminal justice system, then he should be running for Governor of the State—but the last place he should be imposing his policy views is from the Federal bench.

Of course, as I said earlier, judicial activism of this sort is not restricted solely to judges appointed by Democratic Presidents. In the Flamer case, Judge Timothy Lewis, who was appointed in the waning days of the Bush administration, also argued that the capital sentences should be overturned. Judge Lewis agreed with Judge Sarokin that the consideration of the invalid factor had an injurious effect on the defendant, even though no such influence on the verdict was shown, and that the judge's interrogatories prejudiced the jury. Judge Lewis also questioned why, quoting Justice Blackmun, "We should no longer tinker with the machinery of death." He called the Nation's system of capital punishment cluttered and confusing and ultimately questioned whether it comported with fundamental principles of liberty and due process.

While one Reagan judge, Judge Carol Mansmann, also joined Judge Lewis, it should be noted that the rest of the Reagan-Bush appointees, joined by one Carter judge, correctly upheld the imposition of the death penalty. The two judges appointed by President Clinton—Judges Sarokin and McKee—did not. I believe that Judges Lewis and Mansmann were wrong, just as Judge Sarokin was wrong. But I believe that their mistake is not representative of a pattern and practice of activism, as it is on the part of Judge Sarokin.

If there can be any more doubt about the activist character of Judge Sarokin, one can find proof in his other opinions. Although I do not have the time to discuss other decisions in detail, I would just note the case of *United States* v. *Baird* [63 F.3d 1213 (CA3 1995)].

In Baird, Judge Sarokin, dissenting, argued that administrative forfeiture of drug proceeds preclude criminals from being prosecuted under the double jeopardy clause. That case involved the seizure of a criminal's drug factory, drug stockpiles, and ill-gotten drug proceeds, in the amount of $2,582. The Drug Enforcement Administration carried out an administrative forfeiture of the drug proceeds.

Following the DEA's administrative forfeiture, Baird was then indicted for a variety of Federal drug and drug-related crimes. For Judge Sarokin, the administrative forfeiture was enough to opine that if Baird, the drug-producer, had owned the money, then the first proceeding was enough to bar the Government from prosecuting him for the drug crimes.

Judge Sarokin relied on a Supreme Court case, Austin versus United States, that did not even apply to the double jeopardy context. Judge Sarokin showed a willingness to stretch Supreme Court precedent beyond its proper bounds and to read the double jeopardy clause expansively at the expense of law enforcement, and to the benefit of illegal drugmakers and dealers. Incidentally, Baird never even claimed ownership of the money, making Judge Sarokin's result all the more strange.

In Judge Sarokin's strange universe, if the Government convicts a criminal of drug selling, it cannot require the criminal to forfeit the money made through his illegal activity; but if the Government first tries to forfeit the proceeds, then it cannot prosecute the drug seller. Again, Judge Sarokin has shown a willingness to interpret the Constitution expansively to defeat society's legitimate interest in combating crime and maintaining public health and safety.

Judge Sarokin, who I understand will soon be taking senior status, is perhaps second only to Judge Barkett in his continuation of an activist, soft-on-crime approach upon reaching the Federal bench. In 1994, by a vote of 61 to 37, the Senate confirmed Judge Barkett—a nominee that no Republican would have appointed to the Federal bench. I opposed her nomination because, time and again, Judge Barkett as a member of the Florida Supreme Court erroneously had favored lawbreakers and criminals over the interests of the police and of the community to enforce the law. The full record of my concerns is set forth in the March 22, 1994, CONGRESSIONAL RECORD. As I declared there, there were just too many cases, across too wide a range of subjects, where Judge Barkett had stepped beyond the line of responsible judging.

In particular, I warned that Judge Barkett should not be confirmed because of her unduly restrictive view of the fourth amendment that would hamstring the police, especially with regard to controlling drugs. I highlighted the case of Bostick versus State, a case involving cocaine trafficking, in which Judge Barkett adopted an across-the-board per se ban on bus passenger searches, even though Supreme Court precedent clearly called for an analysis of the search based on the particular circumstances present. The Supreme Court of the United States had to grant certiorari and reverse Judge Barkett's soft on crime decision.

I am sorry to say that Judge Barkett's misunderstanding of search and seizure law has only continued. Only now, thanks to President Clinton, her opinions apply to all prosecutions brought in Georgia and in Alabama as well as in Florida. Her ongoing willingness to raise groundless fourth amendment arguments to prevent our Nation from combating the damage that drugs are causing our society is evident in two recent opinions, Merrett versus Moore [Feb. 26, 1996], in which Judge Barkett dissented from denial of en banc review, and in Chandler versus Miller, [73 F.3d 1543 (CA11 1996)], in which Judge Barkett again dissented.

In Merrett, Florida law enforcement officials and the Florida Highway Patrol set up roadblocks on four Florida highways for the chief purpose of locating illegal drugs. On two successive days from 4 p.m. to 10 p.m., Florida police briefly stopped vehicles, checked for obvious safety defects, and examined drivers' licenses and vehicle registrations. While this examination was undertaken, the police used dogs to sniff the outside of each car for illegal drugs. If a dog alerted to the presence of drugs, the car was pulled out of line. As Judge Edmonson, a Reagan appointee, noted for the majority, these searches were minimal and the entire encounter between police and the motorist lasted only a few minutes. Police also moved traffic through without stopping cars when long backups developed.

Of the 2,100 vehicles that passed through the checkpoints and of the 1,300 vehicles stopped, there were few long delays, one car overheated, one minor accident occurred, the dogs scratched a few cars, and one person was bitten by a dog. Judge Edmonson, joined by Judge Birch, a Bush appointee, and Judge Hill, a senior judge appointed by President Ford, properly held that the roadblocks were reasonable under the fourth amendment's search and seizure clause. The intrusion of the search was minimal and was far outweighed by the State's interest in enforcing its traffic laws and in preventing the flow of drugs into our Nation. Indeed, recognizing these facts, the Supreme Court has approved reasonable roadblock searches before for the purpose of checking sobriety, [see *Michigan Department of State Police* v. *Sitz* [496 U.S. 444 (1990)], and for border patrols [see *United States* v. *Martinez-Fuerte*, 428 U.S. 543 (1976)].

But the persuasive reasoning of Judge Edmonson and his colleagues, the decisions of the Supreme Court, and the need to stem the flow of destructive drugs into our society were not enough for Judge Barkett. Judge Barkett voted to grant review of the decision before the entire eleventh circuit, and she wrote a dissent joined by Judges Kravitch and Hatchett, both Carter appointees, when she lost. Fortunately, the six Reagan-Bush appointees, the one Ford appointee, and one Carter appointee voted to keep Judge Edmonson's ruling in place.

Continuing her unduly restrictive view of the fourth amendment's application to drug searches, Judge Barkett declared:

> In my view, permitting law enforcement to stop every vehicle at a roadblock based on the mere possibility that one or more of the vehicles passing through will contain illegal drugs—evidence of a crime completely unrelated to highway safety—is * * * intolerable and unreasonable.

I would have thought that drug use would be a great threat to highway safety, and as I have noted, the Supreme Court has already held that sobriety checkpoints—alcohol is, after all, a drug—are constitutional.

Judge Barkett and her dissenting colleagues also should examine the text of the fourth amendment, which she never even quoted in her opinion. The fourth amendment states that "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated." Unlike the judges in the majority, Judge Barkett never asked whether the roadblock searches were reasonable. Instead, she sought vainly to say that using roadblocks to search for drugs was patently illegal. But most judges of the courts of appeals, most Justices of the Supreme Court, and, I think, most of the American people, would agree that the minimal search involved here—a stop for a few minutes combined with a sniff by a dog—is certainly reasonable, especially when balanced against the need to combat the influx of destructive drugs in our society.

Judge Barkett also continues to remain suspicious of the efforts of police to defend our communities against crime and against drugs. In Merrett, she declared that she believed that Florida's claim that the roadblock was also used to check for traffic violations was only a pretext for an illegal search for drugs. In Judge Barkett's mind, this raised the fundamental concern that officers will attempt to evade the requirements of the fourth amendment by using a traffic stop to detain someone for a purpose that would not lawfully support a detention.

I believe that our police officers are good people who are laying their lives on the line to protect our lives, our families, and our communities. Like Judge Baer, Judge Barkett sees our law enforcement officers as using any pretext they can to conduct illegal searches. I see them asking for a minimal amount of time to ensure that drugs are not being transported for distribution to our children and to our poor. Judges like Judge Barkett and Judge Baer are all too willing to place legal technicalities as obstacles before our law enforcement officers, who are only trying to take criminals off of the street.

Furthermore, as the majority in the original case noted, and as the Supreme Court has made clear before, roadblocks are often more respective of fourth amendment values because they are random. They do not rely upon the discretion of the police officer to choose whom to stop and search—all are treated the same. Roadblocks, in the Supreme Court's words, avoid the standardless and unconstrained discretion present in individual stops. [*Delaware* v. *Prouse*, 440 U.S. 648, 661 (1979).]

I presume that Judge Barkett also would find fault with the metal detectors at airports and government buildings, or stops at the border, or customs searches, because even though they are all minimal intrusions into an individual's privacy, they subject everyone to a search without a warrant. Fortunately, Judge Barkett's feelings on this point conflict with Supreme Court precedent, and even though Judge Barkett seems to have always had trouble following the precedent of the Supreme Court, most other Federal judges do not, including the Republican-appointed judges on the eleventh circuit.

Merrett is not the only case in which Judge Barkett has been willing to place obstacles before our Nation's war on drugs, a war in which the administration has been AWOL—absent without leadership. In Chandler versus Miller, a January 1996 case, Judge Barkett again dissented in a case involving drugs and search and seizure. Georgia passed a statute requiring drug testing of political candidates and nominees for State offices. In cases such as *National Treasury Employees* v. *Von Raab* [489 U.S. 656 (1989)], *Skinner* v. *Railway Labor Executives' Association* [489 U.S. 602 (1989)], and last Term's *Vernonia School District* v. *Acton* [115 S.Ct. 2386 (1995)], the Supreme Court has declared that courts must balance the individual's privacy expectations against the Government's special interests in preventing drug use in that area.

In these cases, the Supreme Court has upheld drug testing of drug agents, of railway workers, and of high school athletes. For Judge Barkett, however, these were all narrow exceptions to a general rule in her own mind that no one should be subject to drug testing, including candidates for high public office. In her mind, controlling drug use among the highest public officials involves no immediate or direct threat to public safety, and that there is no showing that waiting to obtain a warrant based on individualized suspicion would cause any dire consequences. In Judge Barkett's words, "[t]here is nothing so special or immediate about the generalized governmental interests involved here to as to warrant suspension" of the warrant requirement.

But as the majority correctly held, the Government's interest in preventing drug use among its highest public officials is a powerful one. In the majority's words, the people of a State place their most valuable possessions, their liberty, their safety, the economic well-being, ultimate responsibility for law enforcement, in the hands of their elected and appointed officials, and the nature of high public office demands the highest levels of honesty, clear-sightedness, and clear-thinking. We permit drug testing of drug agents; we permit drug testing of railroad engineers; we even permit drug testing of high school athletes. Judge Barkett would have us believe that the damage that would be caused by drug use in these situations is far greater than that caused by drug use by legislators, by executive branch officials, and by judges. Judge Barkett's reasoning strikes me as unreasonable, and her efforts again appear designed to restrict the tools that our society can use to combat drug use, even in the face of contrary Supreme Court precedent.

Perhaps Judge Barkett's position on the fourth amendment in Chandler was a reasonable one. But no one can claim that her further statements in that case had any grounding in Federal constitutional or statutory law. Not only did Judge Barkett argue that the Georgia statute was an illegal search, she also argued that it was a violation of the candidates' first amendment rights.

I am not making this up.

If you don't believe me, Mr. President, listen to her own words. "This statute is neither neutral nor procedural, but, * * * attempts to ensure that only candidates with a certain point of view qualify for public office." Judge Barkett interprets the drug testing requirement as an attempt to "ban[] from positions of political power not only those candidates who might disagree with the current policy criminalizing drug use, but also those who challenge the intrusive governmental means to detect such use among its citizenry."

Such reasoning reeks of the very worst of the moral relativism that characterizes liberal judicial activism. Judge Barkett appears to believe that if one is in favor of drug legalization or against drug testing, why, one must be a drug user. In fact, Judge Barkett appears to believe that drug use is an ideology and that drug testing is, in her words, "a content-based restriction on free expression." If that is so, then does Judge Barkett believe that any effort to prevent drug use is an attempt to suppress the first amendment rights of drug users, and that drug use itself is a form of expression?

Mr. President, this is the 1990's, not the 1960's; America has not been transformed into a Woodstock from sea to shining sea. The first amendment does not protect illegal, harmful conduct, and it does not permit people to plan and encourage illegal conduct. Although this administration has been absent without leadership in the drug area, the American people and the Congress are not. We are determined to prevent drugs from ruining the lives of our young people, and the tolerant attitude of some of the Clinton administration's nominees, who equate drug use with protected first amendment expression, will not stand in our way.

Why is this so important? As a practical matter, the Senate gives each president deference in confirming judicial candidates. A Republican President would not nominate the same judges that a Democrat would, and vice versa. The President has been elected by the whole country and, while this President has been unable to put all of his choices on the bench, there are hundreds of judgeships to fill in order to keep the justice system functioning.

Indicia of judicial activism or a soft-on-crime outlook are not always present in a nominee's record. But, in the cases of Judge Sarokin and Barkett, there were crystal clear signs of their activist mindsets. Yet the President appointed these two judges and pushed hard successfully to get them through the Judiciary Committee and the Senate, despite opposition, largely on this side of the aisle.

We can now view the products of the President's choices. We do not just have two trial judges, Judges Baer and Beaty, who have trouble understanding the role of the Federal courts in law enforcement and in the war on crime. We now can see that President Clinton has sent liberal activists to the Federal appellate courts, where their decisions bind millions of Americans.

Judge Sarokin's opinions, if they garner a majority, are the law in Pennsylvania, New Jersey, and Delaware. Judge Barkett's opinions, if they garner a majority, are the law in Florida, Georgia, and Alabama. Criminals whom they would set free on technicalities can strike again, anywhere, anytime. This makes all Americans potential victims of these judges and their soft-on-crime outlook.

The general judicial philosophy of nominees to the Federal bench reflects the judicial philosophy of the person occupying the Oval Office. We, in Congress, have sought to restore and strengthen our Nation's war on crime and on drugs and to guarantee the safety of Americans in their streets, homes, and workplaces. For all of the President's tough-on-crime talk, his judicial nominations too often elevate the rights of the criminal above the rights of the law-abiding citizen, and undermine safety in our streets, in our homes, and in our workplaces.

The PRESIDING OFFICER. Under the previous order the Chair now recognizes the Senator from North Carolina to speak for up to 10 minutes as in morning business.

Mr. FAIRCLOTH. Mr. President, I thank the Chair.

(The remarks of Mr. FAIRCLOTH pertaining to the submission of Senate Resolution 237 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

PRIVILEGE OF THE FLOOR

Mr. GLENN. Mr. President, I ask unanimous consent that Allegra Cangelosi and Patricia Cicero be permitted privileges of the floor while I introduce this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. GLENN and Mr. LEAHY pertaining to the introduction of S. 1660 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska is recognized to speak for up to 15 minutes.

THE FOREIGN RELATIONS REVITALIZATION ACT RELATING TO TAIWAN

Mr. MURKOWSKI. Mr. President, last night we had several hours of debate and that debate was around the issue of the Foreign Relations Revitalization Act relating to Taiwan. As we addressed the disposition of the conference report, this particular portion received a good deal of scrutiny. There were a lot of words spoken, a lot of technical interpretations. What I am going to do today is simplify that debate by referring to the Taiwan Relations Act as the law of the land. I will also give a brief explanation of the section that was the subject of the debate, but I will use the actual factual language, as well as definitions, not just personal interpretations.

I was surprised by the debate surrounding one provision in particular, and that was section 1601, which states that sections 3(a) and 3(b) of the Taiwan Relations Act supersede any provision of the 1982 joint communique between the United States and China.

I was surprised by the debate because, obviously, a number of people seem to be cloudy on just what "supersede" means. Allow me to clear up any misconceptions of that term. The Oxford dictionary refers to the term "supersede" specifically as "overrides, takes precedence over." That definition seems pretty clear to me, Mr. President.

The administration indicated it is going to veto the entire conference report, in part because of opposition to section 1601, even though that section only restates reality.

In order to enlighten some of my colleagues on this issue, I have a chart here. I would like to refer to the chart. This is April 10, 1979, section 3(a):

> . . . [T]he United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability."

Section 3(b):

> The President and the Congress shall determine the nature and quantity of such defense articles and defense services based solely upon their judgments of the needs of Taiwan. . . .

It could not be any clearer, "solely on their judgments of the needs of Taiwan." That is to say, the President and the Congress shall determine the nature, quantity of such defense articles, et cetera. It is crystal clear. The issue is the interpretation of the United States-China joint communique. The previous reference was the law of the land. This is a communique. In the communique, August 17, 1982, the administration pledged, "to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution." Paragraph 6.

This pledge to reduce arms sales over time, for those of us who have labored in this vineyard and those in the defense community, we recognize this as the "bucket," so to speak; that is, after the executive branch implemented the pledge by decreasing the amount of defensive goods and services that would be sold to Taiwan. That is readily understood. That was the specific intent.

This is the communique, the other is the law of the land. But you can see the difference. Congress, and the President, clearly have the authority under the law of the land to designate and determine the nature and quantity of defensive arms provided to Taiwan.

Yesterday in the debate, several of my colleagues claimed that section 1601 nullified the entire basis of United States-China policy.

This simply is not true, Mr. President. I should know, this was my legislation. I know what the legislative intent was. As the original author of this legislation, I know the intent of the legislation is simply to reassert the legal primacy of the Taiwan Relations Act as public law over a statement of policy, such as the joint communique.

It is this intent that so many of my colleagues on the other side, and evidently the State Department, are missing. It reasserts the legal primacy of the Taiwan Relations Act as public law over a statement of policy, such as the joint communique, if the two are in conflict. That puts the burden on the President and the Congress where it belongs.

For example, if the threat to Taiwan is increasing, defensive arms sales may need to go up, and this should not be arbitrarily limited by the bucket. It has not been in the past. The bucket is whether it is inside or outside, and we have seen sales outside. Prior administrations have followed the principle and practice, such as President Bush's decision to sell the F-16's to Taiwan, even though they were outside the dollar limits and, therefore, outside that bucket. It is referred to, basically, as decreasing in the amount of collective arms sales to Taiwan.

The point I want to make today is, more important, that Secretary Christopher, in a letter dated April 22, 1994, to me assured me that this administration's position is as previous administrations; the Taiwan Relations Act as public law takes legal precedent over the 1982 Joint United States-China Communique. That is the issue, does it take legal precedent or does it not? The Secretary of State said it did.

Let me make one more distinction, Mr. President. That communique I referred to, has never been ratified by Congress. The Taiwan Relations Act is the law of the land.

In referring to this letter of April 26, 1994, the Secretary provided that letter and asked me not to release it for the RECORD. I am going to honor that commitment.

But now the administration seems to say it is ready to veto the entire conference report, and one of the reasons, in part, is because of a provision that simply acknowledges their prior position. If they are going to veto it, that is their own business, but let us be up front about the veto, if other rationale is the driving force.

Why is this being selected? I do not know. Has the administration been pressured to change some of its positions? I am sending a letter to Secretary Christopher today asking him to clarify his position: Does the administration stand by the April 22, 1994, letter or not? If not, then why not? It is my hope to share that answer with my colleagues.

This is important, because many on the other side are very uncomfortable now as they recognize what the law of the land says and the fact the law of the land supersedes the communique if the two are in conflict. Very few people seem to have picked up on that difference and it's significance.

Some of my colleagues have asked why this provision was necessary and if it was. My response is simply this: it sets legal precedent. This is a reason I think my colleagues on both sides of the aisle will appreciate. Sometimes it is necessary to remind the executive branch that the Executive policies cannot ignore the law of the land, and that is where we are today. The Taiwan Relations Act is the law of the land.

So, Mr. President, this administration cannot ignore Taiwan's defensive needs nor the role of Congress in determining these needs, even if some in China demand it. That is what this legislation is really all about.

Some of my friends in this body may imply that this language somehow suggests that former President Reagan was wrong when he signed the communique. That is certainly not my interpretation, nor my my intention. But the reality is, this is 1996, not 1982, and this language dictates that if the threat to Taiwan is greater now than in 1982, arms sales may go up accordingly.

So that is where we are, Mr. President. I hope that sheds some light on the debate over this language. I simply stated what was actually written, and hope my colleagues on the other side of the aisle will recognize this.

(Mr. CRAIG assumed the chair.)

THE BUDGET

Mr. MURKOWSKI. Mr. President, I would like to make reference, in my remaining time, to some facts on the budget.

It is rather curious, but in the last 13 months, President Clinton has sent up to the Congress nine separate budget bills. We have one now, like the others, containing, in my opinion, some fairytale numbers, some rosy scenarios. They propose economics and delays into the next century when the spending cuts are actually going to take place, when it will be reduced.

Mr. President, 60 percent of the President's spending cuts are in the years 2001 and 2002 when we know, regardless of what happens this year, President Clinton will not be in office.

Spending will increase 25 percent from $1.5 trillion this year to $1.9 trillion in the year 2002. Spending will increase 25 percent, and the national debt will rise by more than one-third, from $4.9 to $6.5 trillion.

Think about that, Mr. President. From $4.9 trillion to $6.5 trillion we are increasing the debt. That is like increasing the balance on your credit card or increasing the overdraft, if your bank holds such an overdraft.

Although the deficit drops to $158 billion this year under the President's proposed reelection budget, the deficit goes up to $164 billion next year. This is our annual deficit. This means every year we are spending more than we are generating in revenue. We will spend $164 billion more than we generate in revenue, yet we mandate the American public balance their checking accounts. The Federal Government goes through a budget process. Everything it needs, beyond what it generates in revenues, it gets by adding to the deficit to the tune now of increasing it from $4.9 trillion—that is the total accumulated debt that has arisen as a consequence of the debts each year—we are going to increase that up to $6.5 trillion.

I spent a little bit of time in the banking business before I got in the business of being a Senator from the State of Alaska. Interest costs are, I think, one of the most interesting and underrated considerations in this process, certainly among the more deceptive elements of the President's budget.

This year we are going to spend 14 cents of every $1 of Federal spending on our $235 billion interest bill—14 cents out of every $1 of Federal spending. That costs us $235 billion. Next year the interest costs are going to rise to $238 billion. That is about 14.5 percent of the budget.

Interest is like having a horse that eats while you sleep. It continues throughout the night eventually eating faster than you can feed it. Interest does not employ anybody, does not provide any new jobs, and does not pay any taxes in that sense. It has to be addressed if you have debt. The United States has debt.

There is a rather curious process going on here. I will try and wind this up because I see my friend from Tennessee is on the floor as well. But the administration says that by the year 2002, interest costs are only going to be 12 percent of the budget and interest spending will be down to $223 billion. How is it possible for debt service costs to go down while the debt goes up from $4.9 trillion to $6.5 trillion? Is it lower interest costs? The President assumes flat interest rates at 5 to 10 percent on 10-year notes. So that is not it.

As I said, I used to be a banker. It does not take a rocket scientist to figure out that if the size of your debt rises by a third and interest rates are flat, the amount of interest you are going to pay has to go up.

Why does that not happen under President Clinton? I wonder if we have rejected some of the principles of mathematics. The answer, Mr. President, is hidden in the back of the President's budget. I think this deserves the light of day. During the next several years, trust fund surpluses, especially the surpluses in the Social Security trust fund, rise by nearly $1 trillion. For every $1 of surplus, the Federal Government issues a special debt note—a debt note—to the trust fund that is not counted as interest under our budget rules. I would ask the Chair why. I am sure the Chair would have the same difficulty in explaining it.

But for every $1 of that Social Security trust fund, which is going to be somewhere in the area of $1 trillion, for every $1 of surplus, the Federal Government issues a special debt note to the trust fund that is not counted as interest under our budget rules. That is $1 trillion of debt service not counted in the President's budget.

If you counted the interest we will pay the trust fund on the $1 trillion in new debt we owe the trust fund, as a consequence of that, going into the interest formula, the real interest figure would look more like $350 billion as interest on the debt in the year 2002 instead of $225 billion, which is what the administration would have us basically accept or believe in this proposal.

My point is, Mr. President, the administration projects the interest at 14.5 percent, or 14.5 cents on the dollar, when in reality it is 18 percent as a consequence of borrowing from the trust fund.

Mr. President, I will attempt to pursue this after the recess with some charts that I think will more visually show just what is going on here. The American public better be concerned because, as we look at greater portions of our total budget going for interest on the debt, we recognize we are going to have less for social needs and other priorities in our country.

This must come to a halt. It could only come to a halt by adopting a balanced budget. We still have not been able to convince the White House of the realism of a real balanced budget that will actually cut spending.

I thank the Chair and wish the Chair a good day.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

ORGAN DONOR AWARENESS

Mr. FRIST. Mr. President, I rise today to bring attention to an issue that is literally an issue of life and death. Mr. President, any one of the Senators here today or any member of our families, whether through accident or misfortune, could find ourselves needing a life-saving organ transplant operation tomorrow. If that should happen, we would be placed on a waiting list to join about 43,000 other Americans who right now, this very second, are waiting their turn—or their death if they never get that turn.

Since 1990, the number of people diagnosed as needing an organ transplant has doubled. Today, every 18 minutes a new name is added to this list of people waiting. By the end of this year, the list of people waiting for a transplant will be over 50,000 people long. But those are just the people that we know about, people who are lucky enough to have made it into the medical system, who have jumped through the financial hurdles of diagnosis and have been recommended to a transplant center.

The real numbers are even more staggering: Approximately 100,000 people—100,000 people—need an organ transplant this very year. Yet, only a small fraction of that 100,000 people will receive a transplant to live or to have a better quality of life.

In fact, every day eight people die because a donor, an organ donor, does not become available. We have 100,000 people that could benefit from transplantation, yet only one in five, about 20,000, will actually receive a transplant.

Why? Is it because donors must be a certain age or race or blood type or physical condition? Is it because of outdated State laws or Federal regulations? Or is it because it is difficult to qualify or to designate one's organs for donation? The answer to all three of those questions is no.

The reason can be summed up in four simple words: lack of public awareness. There are no limits for organ donation for any of the reasons I just mentioned. Every person is potentially a donor. Even those under the age of 18 can sign up with a parent's permission. Yet, tragically, there are only about 5,000 actual donors every year. Experts estimate that organ donation could be increased by 80 percent simply through better public education and awareness.

I began my training to become a heart and lung transplant surgeon 22 years ago. At that time, I could only dream of the science and the technology and the medical know-how that today is routinely used to save people's lives through transplantation or to give people a better quality of life. It is no longer an experimental procedure, but a life-saving, life-improving medical operation that is performed routinely in centers all over this country. Yet, today, for people who need a heart transplant, about one out of four die needlessly, senselessly because an organ donor is not available.

Now I am a U.S. Senator, now in a position to change and help people save lives through public awareness; and that is my goal, to bring public awareness in line with the advances in medical science and technology that we have today.

Together with my colleagues, Senator SIMON, Senator DEWINE, and Senator LEVIN, we have just launched a drive to focus congressional attention on organ transplantation and to encourage every Member of Congress to consider signing up as an organ donor. We ask them to do three things: First, learn the benefits of transplantation; second, consider signing an organ donor card; and third, and probably most importantly, discuss their decision with their next of kin and loved ones.

So far, more than a third of my colleagues in the U.S. Senate have done so, and more are adding their names to this list every day. On the House side, Congressman JOE MOAKLEY of Massachusetts is urging his colleagues to do the same. We must continue to do this because just as our list is growing, so too is that list of children and men and women who are waiting for that transplant procedure.

I want to urge today every one of my Senate colleagues and every Member of the House to perform that heroic, life-saving act, which is selfless, unselfish, and sign an organ donor card to give others a new chance at life. Our goal is 100 percent congressional participation.

The week of April 21 through the 27th is National Organ and Tissue Donor Awareness Week.

That is one month from now. On Tuesday of that week we will be having hearings in the Senate Committee on Labor and Human Resources, dedicated to this issue of public awareness surrounding organ donation, tissue donation, and transplant patients. We can start right here by recognizing that public policy—and we, as legislators—can only do so much. The problem is the shortage of organs. The solution is public awareness. Doing our part, here today, and over the coming months to raise public awareness will go a long way in helping us achieve our policy goals, as well.

The 104th Congress has been unparalleled in the amount of attention that we have been able to focus on the important issues now before our Nation. This is one of them. We have the opportunity to give the most important service you will ever give to fellow Americans. Be a hero. Join the fight, and save a life.

Mr. President, I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

ENVIRONMENTAL POLICY

Mrs. HUTCHISON. Mr. President, over the last 30 years, we have greatly improved the environment in the United States. Our air and water in this country is the cleanest it has been in 40 years. Now we are at a crossroads in environmental policy. We can preserve all of the environmental gains of the past three decades and move forward to assure our children a safer, cleaner, and healthier environment. But we will not be able to do it under the old top-down, command and control solutions from Washington, DC.

This approach is outdated and counterproductive. Rather than advancing our important environmental goals, the Washington bureaucracy and its extremist allies are actually harming the environment. Timber growers have been known to cut trees on the basis of even a rumor that their property might have an endangered species to be listed. Why? In order to avoid having Washington bureaucrats tell them they cannot cut down a tree that they have spent their lifetime harvesting.

In central Texas, the Fish and Wildlife Service originally suggested setting aside an area the size of the State of Rhode Island to protect the golden-cheeked warbler. In order to do that, they told the property owners they could not cut cedar trees. Now, cedar trees have another harmful impact on the people who must have water for our cultivation of lands and to drink, because cedar trees absorb water to a greater extent than most other trees. If you do not cut cedar trees, which our farmers and ranchers are trying to do as much as they can, the water supply dries up, and it affects the water supply of the city of San Antonio and affects the ability of farmers and ranchers to use their land. The size of the area is a ridiculous amount—the size of the State of Rhode Island for one bird, when we could have set aside a reasonable number of acres for its preservation.

In the Texas Panhandle, protecting a bait fish called the Arkansas river shiner may keep both the agricultural producers and municipal utilities from being able to have access to an adequate supply of water, even though there is a thriving population of the Arkansas river shiner in the State of New Mexico. Now, many of my constituents are a little fed up with a Government that gives snakes and salamanders priority over human beings and constitutional rights.

The Endangered Species Act has worked well as a means of focusing attention on the need to preserve plants and animals from extinction. There have been many successes for high-profile species, but the heavyhanded means that are being employed to preserve hundreds of subspecies are increasingly counterproductive. If we cannot rely on the support and cooperation of the people who live with the animals that we want to save, I think those animals chances of survival are not very good. That is why I am making a priority of reforming the Endangered Species Act. We need to forge a new consensus about saving endangered species and making private property owners stakeholders, not adversaries in the process.

The Superfund was created to identify and clean up hundreds of hazardous waste sites around the country, but the regulations written in Washington to govern cleanup are so complicated and cumbersome that almost no cleanup is getting done. Only 291, or about 25 percent, of the 1,238 worst hazardous waste sites have actually been cleaned up.

Where is the money going? Billions of dollars have gone into this. The money has gone to lawyers, consultants, and bureaucrats in Washington. That is where the money has gone that should have been going to clean up these hazardous waste sites. Companies contributing to the cleanup have spent 39 percent of their money on lawyers, 20 percent on negotiations, 9 percent on studies, and 15 percent on cleanup.

It is not just business that is being sued. The Catholic Archdiocese of Newark has been sued for a landfill in New Jersey. The archdiocese purchased land to expand its Holy Name Cemetery and inadvertently became potentially responsible for its cleanup. One landfill site in New York has 600 defendants, including an Elks Club, an exercise gym, two nursing homes and a kennel, which has a septic tank that needs to be cleaned.

Something must be done. We must put the money where it will benefit the public and the environment. This waste will go on and on unless we reopen the Superfund law and put some common sense back into it. Hazardous waste sites are local problems. We want to have a voice at the local level to be sure that the waste site in a town is cleaned up and made safe.

Unlike other major environmental laws, it is all handled by Federal bureaucrats, not the State and local representatives. While the lawsuits have gone on for years and years and the consultants and the bureaucrats argue endlessly about how many parts per million is acceptable, our children are at risk.

The Clean Air Act requires States and localities to meet a series of ambitious new pollution reduction targets in the years ahead. Achieving these goals will make the air we breathe cleaner and healthier. But the Washington bureaucrats have not been content just to set the standards. They are also trying to dictate how to achieve the goals, down to the smallest detail. In order to reduce auto pollution, emission testing requirements are part of the Clean Air Act. Rather than allowing States to decide, Federal regulators have been using threats to force States to set up entirely new automobile inspection networks, completely separate from the existing State auto inspection systems, and it is costing our consumers millions of dollars.

What we need to do, Mr. President, is achieve better protection of human health and the environment by regulating smarter. The fact is, businesses—big and small—private property owners, and commuters, are spending too much time, too much money, trying to comply with too much paperwork and too many regulations from too many Washington bureaucrats.

If we are going to move forward for a safer, cleaner, healthier future, we must change the way Washington regulates. States and communities should be allowed and encouraged to take a greater role in environmental regulations and oversight. But the improvements we need in Washington go far beyond State and local involvement. We need to plan for the future, not just for today.

Science and technology are constantly changing and improving, but the Federal Government is not keeping up with these changes, and the old regulations are outdated. Extremists in the environmental lobby are trying to keep the status quo. What we want are some immediate changes that will give us better regulations for the environment, to preserve it, and allow people the freedom to use their private properties and cultivate the land at the same time.

Mr. President, I know my time has expired.

Mr. COHEN. Mr. President, I ask unanimous consent that the period of morning business be extended until the hour of 1:30, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I will have 3 or 4 more minutes.

Mr. President, here are the things that I would like to see done to change the regulatory harassment from Washington, DC. Let us put some common sense into the regulation. Let us do a thorough review of the environmental regulations that are now in place to determine what we need, what we do not, and make sure we do not add any new unnecessary, unproductive regulations.

Washington should be required to disclose the expected costs of current and new environmental regulations. I think the public has a right to know how much they are going to cost, and whether they are going to get their money's worth.

Three, in trying to make regulatory decisions involving the environment, the Federal Government should use best-estimate and realistic assumptions, rather than worst-case scenarios advanced by environmental extremists.

Fourth, new regulations should be based on the most advanced and credible knowledge available—in other words, good science. We have a situation where we have seen the devastation of the timber industry in the Northwest. It has cost thousands of people their jobs. Their families and their livelihoods have depended on the timber industry. It has cost every person in America that has built a new home more because timber prices have increased. Why? To protect a spotted owl.

Mr. President, what has happened is that reports have come back that, in fact, the spotted owl is not going into extinction, that it has been spotted in places nearby. So we have had a devastation of an industry, a devastation of people's lives and their livelihoods, their jobs, and whole communities have been ruined, when we did not even have good, sound science.

In Texas, in the city of Big Springs, 15,000 people had to move a reservoir to protect a conclo snake that was later determined to be prolific in a county nearby. They spent $6 million in taxpayer money—the money of hard-working people—to move a whole reservoir in order to accommodate a snake that was not really endangered.

So, Mr. President, it is time to restore common sense to environmental law. This is how we would move forward for a cleaner, safer future for our country, and to protect private property rights and jobs as we do it. We can work together to keep endangered species, to clean air and water, and clean hazardous waste sites. We can do all of these things and still have a thriving economy.

Mr. President, that should be our goal, and that is why we are trying to reform Superfund, reform the Endangered Species Act, and make the Clean Air Act, the Clean Water Act, and the Safe Drinking Water Act good for people as well as animals and the environment. We need to work together so we can live together in safety.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized to speak for up to 15 minutes.

APPOINTING MEMBERS TO CERTAIN SENATE COMMITTEES

Mr. COHEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 236, submitted earlier today by Senator DOLE and Senator DASCHLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 236) appointing Members to certain Senate committees.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. COHEN. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 236) was agreed to, as follows:

S. RES. 236

Resolved, That, notwithstanding the provisions of the Standing Rules of the Senate, the following Members are hereby appointed to the following Senate committees:

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS: Mr. Bennett and Mr. Wyden.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION: Mr. Abraham and Mr. Wyden.

COMMITTEE ON THE BUDGET: Mr. Grams and Mr. Wyden.

SPECIAL COMMITTEE ON AGING: Mr. Warner and Mr. Wyden.

THE PASSING OF DAVID PACKARD—INDUSTRIAL GIANT

Mr. COHEN. Mr. President, last Tuesday, an industrial giant died, David Packard, a former Deputy Secretary of Defense during the Nixon administration. I have a letter sent to me as chairman of the Seapower Subcommittee by the Secretary of the Navy.

I ask unanimous consent that this letter to me be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, DC, March 27, 1996.

Hon. WILLIAM S. COHEN,
Chairman, Subcommittee on Seapower, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you know, David Packard passed away Tuesday, March 26, 1996. I would like to submit the following statement for the Congressional Record.

We are deeply saddened by the passing of a great American and a true friend of the Department of the Navy, David Packard.

David Packard, together with his friend and Stanford University classmate, Bill Hewlett, sparked the development of the high technology industry from a one car garage back in 1938, to a giant in the electronics industry as the Hewlett-Packard Company. He set a new standard in management style that became known as "the HP Way", which emphasized "management by objective, rather than by directive" and encouraged employees to work toward common goals by giving them a wide range of freedom in which to operate. He created more than just a company, he created an industry and a management philosophy.

Mr. Packard served as Deputy Secretary of Defense under Secretary Melvin Laird where he developed a reputation for candor and independent thinking and a tendency to challenge political influence on defense decisions. He was part of a team that is considered by many to be one of the strongest teams ever to run the Defense Department.

A decade ago he made another huge and enduring contribution to good government. He chaired the Packard Commission, which recommended a revolution in defense procurement procedures through the application of standard business practices. His recommendations are still being implemented today. They enable the military to modernize more quickly and at a lower cost.

Although he was one of the richest men in America, he lived modestly. He donated the bulk of his wealth to a foundation that has given hundreds of millions of dollars to Stanford University, the Monterey Bay Aquarium, and other charitable causes.

David Packard was a giant in industry, in public service and philanthropy. We will miss him greatly.

Sincerely,

JOHN H. DALTON,
Secretary of the Navy.

THE PASSING OF EDMUND S. MUSKIE

Mr. COHEN. Mr. President, last Tuesday, the State of Maine and the entire Nation mourned the loss of a political giant, Edmund S. Muskie.

From Maine to California, the newspapers are filled with long stories detailing and encapsulating the life and times of Ed Muskie and his accomplishments. There were columns that appeared in the New York Times, the Washington Post, the Boston Globe, the Bangor Daily News, the Portland Press Herald—all across the country.

While each of the articles was written from the unique perspective of the authors, there were common elements in each one of them. The articles spoke of Senator Muskie's intellect, which indeed was muscular. They spoke of his integrity, which was unquestioned. They spoke of his candor, which was unmatched. They spoke of his courage, which I think was incomparable.

He took on some of the most powerful interests in this country and, never once, did he ever flinch, he never sought favor, and never acted out of fear. He was indeed a brave heart.

He was careful, and some say he was cautious.

I read a tribute recently, which I will quote:

> Perhaps the strongest feature in his character was prudence, never acting until every circumstance, every consideration, was maturely weighed; refraining when he saw doubt, but when once decided, going through with his purpose whatever obstacles opposed. His integrity was the most pure, his justice the most inflexible I have ever known, no motives or interest or consanguinity, or friendship or hatred being able to bias his decision. He was indeed, in every sense of the words, a wise, a good, and a great man.

These words were not about Ed Muskie. These are the words of Thomas Jefferson assessing the character of George Washington. But they might just as well have been said about Ed Muskie.

In Ecclesiastes, the question is asked, "What is best for men to do during their few days of life under the sun?"

Well, it was clear from the very beginning what the answer was for Ed Muskie. He was not born to be a spectator or a bystander. He did not come into this world to sit in a darkened theater and express his approval or rejection of those on stage.

He knew, as Justice Holmes before him knew, that "Life is action and passion, and we must share in that action and passion at the risk of being judged not to have lived."

Ed Muskie was at the very center of the action of his days—whether it was on the civil rights legislation, or protecting the environment, or waging the fight to control the budget, as chairman of the Budget Committee, or promoting America's role in a dangerous world, as the Secretary of State.

When he was on the Senate floor in full-throated debate, and when he blended that magnificent mind of his with the rhetorical power and grace of the orator, then he became one with the poet Hopkins, who said, "What I do is for me; for this I care."

Dr. Robert Sheehan once wrote, "The world belongs to those who laugh and cry. Laughter is the beginning of wisdom, the first evidence of the divine sense of humor. Those who know laughter have learned the secret of living."

Well, Ed laughed a lot. He had a wry, down-east Yankee wit. He loved a good cigar, a good story, and he loved a good joke.

While passion was his virtue, it was also said to be his vice. He had a cool, cerebral intellect, but he also had a quick and, some would say, also Vesuvian temper, particularly when he witnessed an injustice being done, an act of hypocrisy or unfairness being inflicted. He had little tolerance for character assassination.

We are all familiar with that fateful moment in New Hampshire when he was standing on a flatbed during a snowfall. Ed Muskie decided that he had enough of the dirty tricks that were being practiced upon him at that time, enough of the daily diatribes that appeared in one of New Hampshire's newspapers. But, of course, he was not the only object of attack that week. He rose on that day to denounce the attacks against his wife, Jane, as being mean and cowardly. There was one prominent journalist, David Broder, who wrote that Senator Muskie appeared to be crying during that time—although, to this day, there is some question as to whether they were actually snowflakes falling or streaming down his cheeks, as opposed to tears.

But it was a moment in history—a turning point in his campaign for the Presidency because many, after that moment, judged him to be too passionate to be President.

There is some irony in the retelling of this story and this event because, some 16 years later, another Democratic candidate for the Presidency was thought to be too cool, too bland, and bloodless in his response to a question about what he would do if his wife had been raped.

So we have come to learn that politics is not a sport where the rules are always well defined, or indeed consistent.

Some people who have run unsuccessfully for the Presidency are broken by the experience. Defeat never shattered Ed Muskie's love of politics and his love for this institution. He possessed an inner self-confidence and self-awareness of his place in the uncompleted puzzle of existence. It was a serenity which permitted him to continue to serve nobly in the Senate and then later as Secretary of State.

Mr. President, back in 1976, I had given consideration to running against Senator Muskie. I was then a young Congressman from the Second Congressional District of Maine. I was being urged, indeed, to run against Senator Muskie. I was pondering. I thought about it for a long time. I retreated to Sugarloaf Mountain in Maine to contemplate whether or not I would take this great step. I had with me at that time a book called "Zen and the Art of Motorcycle Maintenance" written by Robert Pirsig. It was one of the most intellectually challenging books I think I had read at that time.

As I was reading through the book, the decision really clicked into my mind. I came across the words of Pirsig when he said:

> When you try to climb a mountain to prove how big you are, you almost never make it. And even if you do, it's a hollow victory. In order to sustain the victory you have to prove yourself again and again in some other way, and again and again and again, driven forever to fill a false image, haunted by the fear that the image is not true and someone will find out. That's never the way. . . .

I knew, upon reading these words, that I was in danger of letting my own ambition race beyond my abilities and that even if I could defeat Ed Muskie—and the polls showed me doing that—I knew in my heart that I would need a fistful of four-leaf clovers and a whole lot of money. Even then in my heart of hearts I knew that it would be a tough race for me to run, and that, even if I were to win—which was always in doubt—the State of Maine and this country would not have been well served. He was by far a superior man, and history has proven that to be the case.

So I declined to enter the race. I called Ed Muskie and told him of my decision—never revealing at that time that I had been reading "Zen and the Art of Motorcycle Maintenance" which helped me reach that conclusion.

John Kennedy once remarked that when the high court of history sits in judgment on each of us, recording in our brief span of service whether we fulfilled our responsibilities, our success will be measured by the answers to four questions:

First, were we truly men of courage?

Second, were we truly men of judgment?

Third, were we truly men of integrity?

Fourth, were we truly men of dedication?

As history judges Ed Muskie, the answer to each of these questions is an unqualified "yes." These are the very qualities that characterized his service in Government. He will be remembered as one of the finest public servants to ever have graced the Governor's Mansion in Maine, the U.S. Senate, and the Office of Secretary of State.

Tomorrow when he is laid to rest in Arlington National Cemetery, Ed Muskie will be in the hearts and in the minds of the people of Maine and this country and shall remain there for generations to come.

Mr. President, I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

WELFARE REFORM

Mr. ROTH. Mr. President, it has been 37 months since President Clinton outlined his welfare reform goals. On February 2, 1993, he told the Nation's Governors he would announce the formation of a welfare reform group within 10 days to work with the Governors to develop a welfare reform plan. But welfare reform was not enacted that year nor the following year.

Fourteen months ago, President Clinton declared at a joint session of Congress that, "Nothing has done more to undermine our sense of common responsibility than our failed welfare system. It rewards welfare over work. It undermines family values."

In response, the new Congress passed welfare reform twice in 1995. H.R. 4, the Personal Responsibility and Work Opportunity Act of 1995, received bipartisan support in both the House and Senate as it was being drafted. Yet, 10 weeks ago, President Clinton vetoed welfare reform for a second time. With a stroke of his pen, President Clinton wiped out the welfare reform American families need and expect. By vetoing welfare reform, President Clinton has accepted the status quo in which millions of children are trapped in a vicious cycle of dependency.

Two weeks after he vetoed H.R. 4 President Clinton once again pledged his support for welfare reform in his 1996 State of the Union Address.

The President also declared that, "the era of big government is over." But his actions contradict his words.

On February 6, the Nation's Governors issued their own bold challenge to reform the welfare state. The Governors' unanimously adopted a bipartisan—I emphasize "a bipartisan"—blueprint for returning the power and authority over the welfare system, including Medicaid, to the States. Since then, the Finance Committee has held three hearings on the welfare and Medicaid proposals forwarded by the National Governors' Association. The Governors specifically built upon the welfare reform conference report rejected by the President.

On February 28, Secretary Shalala testified for the administration on the Governors' proposals. Once again, we found that the administration has an incredible capacity to blow hot and cold air at the same time. While lauding the Governors for their effort, Secretary Shalala opposed every major provision of the bipartisan proposals.

The Nation's Governors assembled again this week, this time in Palisades, NY, for a National Education Summit. The purpose of this meeting was for the States to share their ideas and strategies for introducing new technologies, standards, and assessments to improve the education of our children.

The Governors invited the business leaders who will help develop the new learning systems which will combine education and technology. The Governors also invited President Clinton to address the summit and, who no doubt, pledged his support and commitment to our children's future.

But among all of the dignitaries, there was an uninvited and unwelcome guest at the banquet. Medicaid, the uninvited guest, will consume much of the necessary resources intended for education and will leave only scraps for the education of our children.

The insatiable appetite of Medicaid spending is limiting the ability of the Governors to fully fund education as they wish as Medicaid's share of State spending has nearly doubled in just 7 years. Its share has grown from 10 percent of State spending in 1987 to 19.4 in 1994.

During this same time, the share of State spending for elementary and secondary education dropped from 22.8 to 20.3 percent. Higher education's share dropped from 12.3 to 10.5 percent.

In 1990, Medicaid spending replaced higher education as the second largest State spending category, exceeded only by elementary and secondary education.

If present trends continue, Medicaid will soon pass elementary and secondary education as well. As shares of total State spending, both elementary and secondary education and higher education are at their lowest point in memory.

Between fiscal years 1993 and 1994, elementary and secondary education grew by just 2 percent. In comparison, Medicaid grew by more than 12 percent.

These alarming trends have consequences in other vital services as well. Transportation's share has dropped from 10.6 percent of State spending to 8.9 percent. The broad category of all other which includes public safety, investment in infrastructure, and many other services has declined 3 percentage points.

Another hidden threat of Medicaid is how State government is funded. Medicaid forces States to borrow more to finance the cost of education.

States cannot sell bonds to finance Medicaid, so the cost and burden of borrowing is passed on to other budget categories.

In 1987, 6.4 percent of bonds issued were to finance higher education. In 1984, 19.2 percent of bonds were used to fund higher education. This debt, of course, is ultimately passed on to our children. Even worse, as Medicaid spending consumes even greater shares of spending, leaving less for education, the cost of education may well rise beyond the ability of many families to spend their children to college to all.

The consequences of the failed welfare system are realized in many ways. It spreads its ill effects throughout society.

Now we find that unlimited entitlement spending threatens our democratic institutions as well. Mandatory Medicaid spending is draining State and Federal budgets. Governors and State legislatures are no longer in control of their State governments—they are being held hostage by the demands of Federal bureaucrats.

Mr. President, if we truly care about the education and future of our children, we must enact authentic welfare reform. Medicaid is the largest welfare program and the threat of its uncontrolled growth is spreading. Without welfare and Medicaid reform, whatever President Clinton promised for education last Wednesday in New York, is certain to be consumed by Medicaid tomorrow.

Mr. President, I yield back the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent for roughly 10 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PACIFIC NORTHWEST SALMON RESTORATION

Mr. GORTON. Mr. President, the Columbia River is the crown jewel of our Pacific Northwest. Its waters passing through our dams light our cities and towns. Its waters held back at times by those dams have saved thousands of lives from destructive floods. Its waters spread on our dry land have made the desert bloom and provide food for millions of people around the world. At the same time, that magnificent Columbia River has been the home to the most munificent runs of salmon anywhere in the lower 48 States of the United States of America.

Now that very civilization that has built those dams and used these waters so constructively threatens the future of these wonderful salmon runs. What should we do? How should we see to it that we both have the benefits of power and of irrigation and flood control and at the same time preserve and strengthen and restore these wonderful runs of salmon?

I think it is becoming more and more evident what we should not do. In the last 5 years, Federal bureaucrats here in Washington, DC, have billed us in the Pacific Northwest $1.5 billion for salmon restoration, half a billion dollars last year alone, and we have not seen any positive results at all. In spite of this investment, an investment the people of the Pacific Northwest have not begrudged, the results are nothing. The results are a continued decline in our salmon runs. These costs are welcomed by the people of the Pacific Northwest, but the results are not.

I am convinced that this failure of Washington, DC, bureaucrats means that we cannot succeed if we continue to do business in the same way that we are doing it at the present time. I believe, and I believe firmly, that we can do a far better job in the Pacific Northwest if we are allowed to make the decisions that affect our lives and affect our resources.

Personally, I am totally committed to restoring an abundant salmon fishery in the Columbia and the Snake Rivers. Healthy and strong salmon runs are vitally important to our economy, to thousands of people whose livelihoods rest on them. But there is something more important even than those who are professionals in these fields. Salmon are a distinct part of our society and of our culture. Everyone who grows up in the Pacific Northwest has his favorite stories—his or her own big catch, the thrill of the child catching that first salmon, or just of a summer cookout with the family with salmon on the grill. I would find it unacceptable that my grandchildren would not have in their lifetime the same opportunities that I have had.

I have also to confess that my thinking, along with that of many in the Pacific Northwest, has grown and expanded over the years to emphasize the vital importance of native salmon runs. We have spent much of our time building hatcheries and creating artificial runs where native runs once existed. Those hatcheries are important. They are an important supplement. But we now recognize that it is vital that we strengthen the native runs and help restore them at the same time.

I am convinced that the people of the Pacific Northwest are willing to pay money, money literally in the hundreds of millions and billions of dollars that has already been wasted, in order to restore these salmon runs, but at the same time the people of the Pacific Northwest want that money to be spent effectively. They also want the amount of money they are going to spend to be predictable, and they want it to be spent in a scientifically credible fashion.

Last November, the National Academy of Sciences, the most prestigious institute of science in the free world, came up with a set of reports indicating what we know and what we do not know and suggesting some courses of action. That report has been almost totally ignored by the Federal bureaucrats who are in charge of spending our money and telling us what to do.

So I believe we need a change. I think we need to change a system that has failed and come up with a system that will work. I believe that that system is most likely to be developed by the people who are going to pay the bills and benefit from any success and pay the penalty for any failure.

Mr. President, do you not agree that the people of our region are better capable of answering these questions than the bureaucrats here in Washington, DC? Should not authority over how we deal with these runs be turned over to us, collectively—our sportsmen, our commercial fishermen, our citizens in cities and towns, our irrigators and farmers, our Indian tribes? Are they not going to be able to come up with a better answer to this question than we have gotten so far from Washington, DC?

Mr. President, I am convinced that is the case. I am convinced that this Congress should require a significant amount of money to be spent on the restoration of our salmon runs, should allow our people to spend more, if they wish to do so, should allow us to come up with a predictable number of dollars for this effort, and then, most vitally, should allow us, using the best science we can possibly find through these wonderful national and international scientists, to decide how best to spend that money so that we, you and I and all of us from the Pacific Northwest, may be able to pass on to our children and grandchildren the wonderful heritage of an abundant fishery at the same time that we preserve power for our cities and towns, water for our farms, rivers for our recreation, and safety for our citizens.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Texas.

Mr. GRAMM. Mr. President, I ask unanimous consent to proceed as in morning business for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

BIG GOVERNMENT OVER? NO, BIGGEST GOVERNMENT EVER

Mr. GRAMM. Mr. President, we have received last week the President's official budget for 1997 and for the next 6 years thereafter. I would like to take some time this afternoon not to do the standard presentation that we all make, where we take the President's budget and say what in it is phony, what is smoke and mirrors, and what in it has no hope of coming true?

If people took the President's budget this year and did that, I think they could make a magnificent presentation because the President's budget is based on optimistic assumptions that things are going to get better without any change in policy to make them better.

But that is not what I want to do this afternoon. What I want to do this afternoon is to talk about the President's budget proposal from a point of view that we don't use enough, and that is, if we assume that everything in the President's budget is valid, if every word in here is backed up by sound policy, if everything the President assumes will happen will happen, if we grant the President every benefit of the doubt, then let us look historically at the kind of America that this budget will produce. That is what I would like to do for a few moments here this morning.

I would like to set it in historical perspective by using a series of charts. On this first chart I compare expenditures on national defense starting the day that World War II ended. So I look at the decade of the 1940's after World War II, the decade of the 1950's, 1960's, 1970's, 1980's, and then I look at the Clinton budget as projected for the next decade, in his own numbers.

To simplify the comparison and avoid the impact of inflation or overall growth in the economy, I have decided to look at budget expenditures as a percentage of the total production of the American economy. So when I am going through these numbers, think of it as the Nation's overall income, the value of everything we produce and sell, and how much of that is going for these particular purposes.

Looked at in this way, this chart shows that in the second half of the 1940's, from 1945 to 1950, 7.9 cents out of every dollar earned by every American was spent on national defense. As the cold war accelerated, that grew to 10.6 cents out of every dollar. It fell off some in the 1960's to 8.9 cents out of every dollar. In the 1970's and 1980's, it was 6 cents out of every dollar.

If President Clinton's budget is adopted exactly as it is written, if every word in it turns out to be backed up by sound policy, and if everything it assumes will happen happens, under his policy we will, in the decade of the Clinton budget, be spending 3.4 percent of the Federal budget on national defense.

There are several important points here. First of all, that is the lowest expenditure on national defense—3.4 cents out of every dollar earned by every American going to national defense—since the 1930's.

Second, that is 43 percent less than we spent in the decade of the 1980's, and if every penny that has been cut out of defense had gone to deficit reduction, we would have a balanced Federal budget today.

Let me state it in another way. The whole peace dividend for winning the cold war, which allowed us in real terms to spend about $150 billion less on defense every single year, every penny of the peace dividend has been seized and spent by Government. This is the first major victory in the history of America where the fruits of that victory—whether it was the Civil War, World War I or World War II—this will be the first time in American history that when the conflict ended we did not give the money back to the people we took it from to fight the conflict. Every penny of the peace dividend will have gone to Government and will have been spent on nondefense programs.

The second point I want to make is about social spending. Again, beginning the day World War II ended and for each of the decades, I have the percentage of all of the income in America that was spent by Government on nondefense programs, basically social programs with the overwhelming preponderance entitlement programs. Again, the level was 7.4 percent in the 1950's, it rose to 10.2 percent in the 1960's, rose to 14.6 cents out of every dollar earned by every American spent by Government on social programs in the 1970's. That rose to 17.1 percent in the 1980's and, under President Clinton's budget, if we met every savings proposal that he has, if all of his assumptions came true about saving money—and it would be the first budget in history where that ever happened—even under the best scenario, President Clinton has promised the largest expenditure on social programs in the history of the United States of America. By his own numbers he will spend 17.3 cents out of every dollar earned by every American in Washington DC, through the Federal Government, on social programs.

So, when our President says the era of big Government is over, and when we are trying to assess what that really means, I do not know what he means when he says it but his budget spends 69 percent more on social programs, as a percentage of the income of all Americans, than we spent during the decade the great society programs began under Lyndon Johnson.

Taxes: Beginning the day that World War II ended, the American people have borne the following tax burdens. From 1945 to 1950, on average, Americans paid 16.5 cents out of every dollar they earned in taxes to the Federal Government. That has steadily risen, and under President Clinton's budget, if fully implemented, we would have the highest Federal tax burden in the history of the United States of America.

Under President Clinton's budget, if implemented, Americans would send 19.3 cents out of every dollar earned by every American, on average, to Washington to be spent by the Federal Government.

Let me sum this up on these three charts. President Clinton's budget calls for the lowest level of expenditure on defense since World War II—since the 1930's, the highest level of expenditures on social programs in the history of the United States of America, almost 70 percent higher as a percentage of our national income than we had in the mid-1960's at the peak of the Great Society, and Clinton's own budget calls for the largest tax burden in American history.

This is what the tax burden looks like if you plot it out, adding up State and local government. What you see by this chart is that, if implemented, President Clinton's budget would give us the largest tax burden ever borne by Americans at any time in the history of our country.

The President talks about a tax cut in his budget, but what really happens in his budget is that the tax cut is sunsetted and ends while the tax increases continue. By the time you get to the year 2001, we have actually a tax increase in the Clinton budget.

But now, to get down to why all this is relevant. What difference does it make that the Clinton budget has the highest social spending in American history? What difference does it make, other than to the taxpayer, that it has the highest tax burden in American history?

What I have plotted here is economic growth. This represents the rate of growth in the production of income and opportunity and jobs in America. These numbers are very revealing.

In the 1950's, the American economy grew at 4 percent a year on average. What that means is that in the aggregate, the average family in America was seeing its income grow by roughly 4 percent a year.

In the decade of the 1960's, that grew to 4.4 percent, most of that growth in the first half of the 1960's.

By the 1970's, it was down to 3.2 percent.

In the 1980's, it was down to 2.8 percent, and in President Clinton's own optimistic assumptions, with his Government spending burden and his tax burden, his own budget concludes that, on average, for the next 10 years, we would have 2.3 percent economic growth, meaning that, whereas in the 1960's the average family could look forward to its income growing at 4.4 percent a year, under the President's program of taxing and spending, the average American family will be able to look forward to economic growth at roughly half the rate that we experienced in the 1960's.

Why is that relevant? Let me give you a figure. If the American economy for the next 20 years grew at 4 percent a year, which is about the rate it grew in the fifties and sixties, rather than at the rate that it will grow under the Clinton budget by his own assumptions, that would mean that the average family of four in America 20 years from now, would have $40,157 more of income than they will have at President Clinton's growth rate.

Why is this budget proposed by the President so destructive? It is so destructive because it is giving America a future that is shortchanging the people who do the work and pay the taxes and pull the wagon in America. It is giving American families an economy that is growing at roughly half the rate it grew in the 1950's and the 1960's.

What that means is that when families sit down around their kitchen table every night and they dream the American dream and they make hard choices to make it come true, only roughly half as many families are going to achieve the American dream under the Clinton budget as would have achieved the American dream if we could go back to the kind of economic growth that we had for the first 20 years after 1945.

What really happened in the 1960's, and it happened roughly in 1965 when you look at the figures, is that America made a decision—a decision that was never debated and that there never was one single vote on it—but we made a decision that has profoundly affected our country. Prior to that point, for all of the 20th century, the American economy had grown at over 3 percent a year. From 1950 to 1965, the American economy had grown at over 4 percent a year. But beginning in the mid-1960's, we traded in an economy growing at 4 percent a year for a Government that has grown at 9 percent a year ever since.

Since the mid-1960's, the American Government has grown twice as fast as the income of the average American family and, in recent years, three times as fast.

The net result is we have had a decline in jobs, in growth, and opportunity. When you ask Americans, "Are you confident your children are going to have a brighter future than you had?" and when over 60 percent say no, they clearly perceive what is happening in America.

I am opposed to the President's budget. I intend to work to defeat it. I intend to adopt an alternative, because I do not want the highest growth rates in American history for social programs. I do not want the highest tax burden in American history, and I do not want the lowest level of opportunity for working people in this country that we have ever had in the history of the United States of America. That is what this budget promises.

Budgets represent a vision for the future. They define a relationship between the Government and the people. The relationship that is defined in the Clinton budget is a relationship of Government getting bigger, of Government spending getting larger, of taxes getting higher and of opportunity getting smaller. That is not the future that I want.

Let me conclude by reminding my colleagues and anyone who might be listening that the President earlier this year vetoed a budget that balanced the Federal budget. The President vetoed a budget that, because it balanced the Federal budget, would have brought interest rates down by 2 percent, that would have saved the average family in my State in Texas $2,754 a year on their mortgage payments because of lower mortgage rates, and would have given an average family of four a tax cut of $1,000 a year which they could have invested in their own family, in their own future. If we had adopted that budget, we would not be looking at the lowest economic growth rate in American history.

I think it is vitally important, Mr. President, that we reject the Clinton budget, not because it is phony, not because most of its figures are made up, not because the numbers do not add up—all that is true—but the reason we should reject that budget is because it does not paint a future that America wants. Americans do not want higher Government spending, higher taxes and less growth. They want less Government. They want more freedom.

Our job is to see they get it. That is why I am opposed to the Clinton budget. That is why I am in favor of balancing the Federal budget by cutting spending. I thought it was important to come over today and talk about these numbers and give this speech because later this afternoon we are going to be voting on a spending bill that spends $4 billion more than we set out in our appropriations earlier this year. The President is saying that he is going to veto this bill because it does not spend $8 billion more than we set out in our appropriations earlier in the year.

Somehow there is a disconnect between what we are saying in Washington and what we are doing. If we want the return of jobs, growth and opportunity—if we want to restore the kind of opportunity that was routinely available to America when the Presiding Officer of the Senate was growing up and when I was growing up—we are going to have to change the way we do business.

We are going to have to spend less of the taxpayers' money in Washington, so that the taxpayer can keep it, so the taxpayer and the taxpayer's family can spend it, so that they can invest it in their future and, therefore, America's future. That is the difference between the Clinton vision and the vision of Republican Members of the House and the Senate.

I yield the floor, and I thank my colleague. I want to apologize to him. During the speech of our colleague, Senator GORTON, I had walked into the anteroom, and he did not see me here on the floor. I am sorry for the inconvenience.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank my colleague from Texas for those comments. We try on the floor to respect those who have arrived earlier. I had not known that the distinguished Senator from Texas had been awaiting recognition. I walked in; he was not on the floor. But I learned a little by listening to Senator GRAMM, which I do when I listen to Senator GRAMM. I have had occasion to listen to Senator GRAMM a great deal over the past year and have learned from the Senator over the course of the last year in other activities I have undertaken.

THE OMNIBUS APPROPRIATIONS BILL

Mr. SPECTER. I have sought recognition, Mr. President, to express my chagrin and disappointment that we are apparently not going to have an omnibus appropriations bill, but later today are going to proceed with another continuing resolution. Perhaps it is appropriate on April 1, on April Fool's Day, that Washington, DC, again looks like a collective group of April fools unable to pass a budget, and on April Fool's Day unable to finish the business of the preceding year, 1995.

Within the past hour I have come from the conference of the House and Senate where very strenuous efforts have been made for the past several days to find a compromise on appropriations.

I have the honor to chair the Senate Subcommittee on Labor, Health and Human Services. Perhaps I use the wrong word when I say it is an "honor." It has been really an embarrassment that we have not been able to bring a bill, the legislation, to fruition for funding which should have been in place by last October 1. But that bill has been tied up for a variety of reasons, with equal blame apportioned on both sides of the aisle, while we have been in gridlock on a number of matters.

For many, many weeks I have been pressing very hard to try to get the matter resolved, have been working with Chief of Staff Leon Panetta to find offsets, have scheduled a series of hearings with the Secretaries of the three Departments—Labor, Health and Human Services, and Education—and we finally brought the bill to the Senate floor and finally got it passed by a very substantial number, 79 to 21.

The key part of that bill was a bipartisan amendment worked out by the distinguished Senator from Iowa, Senator HARKIN, and myself, Senator HARKIN being the ranking member of the committee. We passed that amendment 84 to 16. During about 20 hours of conferencing, Mr. President, I think we had been able to finally thread the needle to find a bill which would probably have been signed by the President and which was acceptable to the House of Representatives.

That is pretty hard to do in Washington, DC, today. There is considerably more flexibility in the U.S. Senate in trying to arrive at accommodation. We passed the bill which had the amendment which Senator HARKIN and I had constructed and fashioned, which added

$2.7 billion to some very important functions, to education, worker safety, and to health and human services.

Notwithstanding that addition, the President had sent word that he wanted some $484 million more. Well, we were at the break point with the bill which we conferenced with the House of Representatives when we had called for $2.7 billion more in spending.

Let me point out that that $2.7 billion was endorsed by both leaders, Senator DOLE and Senator DASCHLE, 37 out of the 53 Republicans voted for the amendment, 37 Republicans voted for it and 16 voted against it, more than two-thirds of our Republican body voted for it, which is a very, very strong showing, given the constituency of our Senate caucus, and the amendment received all of the 47 Democratic votes. So, when we went to conference with this bill I thought, Senator HARKIN thought, Senator HATFIELD thought, that we were within range to have it signed by the President. We were not sure, but we thought we were within that range.

We also constructed the bill so that it would be agreed to by our House colleagues. We were not sure about that either. It was very, very tough on negotiations. Finally, the House Labor, Health and Human Services conferees approved the bill by a vote of 6 to 5. You cannot get any closer than 6 to 5. But what we were veritably doing is running between the raindrops in a hurricane to find something which would satisfy our House colleagues and something which might be signed by the President.

Regrettably, that is all for naught or mostly all for naught—mostly for naught or probably for naught—because when we do not get the bill and have a 3-week hiatus, it all unravels.

Senator Baker was the majority leader when I first came to this body. I learned a great deal from Senator Baker. One of his famous statements—we were here at 11:30 one night. We were on the finance bill. There were 63 amendments pending. Senator Baker said, "We're going to proceed and finish this bill because amendments, like mushrooms, grow overnight." We stayed through until 6:30 in the morning. We had some accepted. We had half a dozen votes. Many dropped by the wayside. We finished the bill.

The dynamism in the U.S. Senate and the House is, if you do not push to get it through, it all unravels. We were on the verge of getting it through. I compliment our distinguished colleague, Senator HATFIELD, for his prodigious work in shepherding this matter through and would note his consternation and amazement when he heard last night that we were going to have a continuing resolution. That was not known by the chairman of the Senate Appropriations Committee, who was chairing the conference.

I think it is very regrettable because, if we were going to have the time to present this bill on the floor today, or perhaps tomorrow—it would not be unheard of or out of line for us to work on a Saturday, even if it would mean a day less of the recess. That has happened before.

These matters just do not coalesce until the very last minute. If there is more time for argument, more time for discussion, and more time for disagreement, when we finally work it out, it is an accommodation and a compromise. Nobody is really happy, and if you have more time to argue it some more, you expected to be in session last night until past midnight and then again today.

With that pressure on, we were on the verge of having an omnibus appropriations bill, which I think would have concluded the matter. It is with considerable chagrin and considerable disappointment, speaking for myself, that we are not finishing. I think it is with considerable chagrin and considerable disappointment that the American people are watching the process and seeing April 1 come and seeing a bunch of "April fools" in Washington, DC, at both ends of Pennsylvania Avenue, unable to get the matter done. There is a responsibility in both Houses, a bicameral responsibility, and a responsibility on both sides of the aisle—Republicans and Democrats are equally at fault—and responsibility at both ends of Pennsylvania Avenue, because there is no easy compromise and no meeting of the minds without an elaborate, inordinate thrashing process where the White House always wants more and some here always want less. We are on the verge of getting it done. I think it is very regrettable we did not conclude it.

Mr. President, when we added the $2.7 billion included in the Specter-Harkin amendment, we were able to add to some very, very important programs on education—that is a priority, second to none—and important matters on worker safety, important matters on Health and Human Services.

I know my distinguished colleague from Rhode Island is on the floor waiting to speak, and I will not go through the detail which I would have. Sometimes on Friday afternoon at 1:30 there is nobody seeking recognition on the floor. Instead, I will have printed in the RECORD this chart which shows a comparison, a transition, as to where the appropriations process had been, how we made the additions, how we came to the accommodations and compromises, and finish within $20 million, which is a small fraction of the $2.7 billion, we came in $20 million under the $2.7 billion, and actually only $14 million, because a $6 million addition was added by Congresswoman PELOSI on an education program, which I thought was fine.

So we did the job. Regrettably, it is not altogether finished. Hopefully, a good part of this work will last, and we will be able to build on this when we come back, to finish this omnibus appropriations bill.

There are a few outstanding matters on language and a few other outstanding issues, but I think they would have been resolved fairly quickly had the pressure been maintained to finish this, without the talk of a continuing resolution.

I ask unanimous consent that this chart be printed at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

	Fiscal year 1995	House	Specter/Harkin floor amend.	Senate	Conference, proposal, 3/27/96	Conference 3/27/96 vs. Senate	Conference, proposal, 3/28/96	Conference 3/28/96 vs. Senate
Labor:								
School to Work	$122,500	$95,000	$91,000	$186,000	170,000	(16,000)	170,000	(16,000)
Dislocated Workers	1,228,550	867,000	333,000	1,200,000	1,100,000	(100,000)	1,100,000	(100,000)
One-Stop Career Ctrs.	100,000	125,000	18,000	110,000				
Summer Youth Jobs	867,000	0	635,000	635,000	635,000	0	625,000	(10,000)
Adult Training	996,813	830,000	154,300	900,000	850,000	(50,000)	850,000	(50,000)
OSHA	311,660			289,000	289,000	0	289,000	0
Total, Labor	3,626,523	1,917,000	1,231,300	3,320,300	3,044,000	(166,000)	3,034,000	(176,000)
HHS:								
HRSA:								
Consolidated Health Centers	756,518	756,518		759,623	759,623		759,623	0
Natl Health Service Corps	120,185	120,185		115,000	115,000	0	115,000	0
Health Professions	278,977	278,977		235,669	260,162	24,493	260,162	24,493
Pediatric Emergency	10,000	11,000		10,500	11,000	500	11,000	500
Ryan White, Title II	198,147	250,147		198,147	250,147	52,000	250,147	52,000
Health Care Facilities	10,000	10,000		10,000	20,000	10,000	20,000	10,000
SAMHSA	2,180,668	1,883,715		1,800,469	1,859,146	58,677	1,859,146	58,677
AHCPR	135,290	94,186		65,390	94,186	28,796	94,186	28,796
HCFA Medicare Contractors	1,604,171	1,604,171		1,584,767	1,604,171	19,404	1,604,171	19,404

	Fiscal year 1995	House	Specter/Harkin floor amend.	Senate	Conference, proposal, 3/27/96	Conference 3/27/96 vs. Senate	Conference, proposal, 3/28/96	Conference 3/28/96 vs. Senate
ACF:								
Head Start	3,534,129	3,397,429	136,700	3,534,129	3,570,129	36,000	3,570,129	36,000
Social Services BG	2,800,000	2,520,000	....	2,310,000	2,420,000	110,000	2,311,000	1,000
Child Welfare Services	291,989	277,389	....	268,629	277,389	8,760	277,389	8,760
Admin. on Aging:								
AOA Research	25,630	0	....	4,991	2,850	(2,141)	2,850	(2,141)
HHS Office of the Secretary:								
HHS Gen'l Dept. Mgt.	88,150	96,439	....	96,439	98,439	2,000	98,439	2,000
Office of Minority Health	0	27,000	....	20,000	27,000	7,000	27,000	7,000
Inspector General	89,456	73,956	....	79,162	79,162	0	79,162	0
Total, HHS	12,123,310	11,401,112	136,700	11,092,915	11,448,404	355,489	11,339,404	246,489
Education:								
Goals 2000	371,870	362,000	60,000	350,000	350,000	0	350,000	0
Title I (Total)	7,228,116	7,010,113	814,489	7,328,000	7,228,116	(99,884)	7,228,116	99,884
Basic Grants	(5,968,235)	(5,405,895)	(700,228)	(5,960,089)	(5,792,897)	....	(5,968,235)	....
Concentration Grants	(663,137)	(1,044,945)	(114,261)	(805,459)	(905,459)	....	(663,137)	....
BIA Set-Aside	(66,984)	(65,160)	....	(68,339)	....	....	(66,984)	....
Drug Free Schools	465,981	200,000	200,000	400,000	366,000	(34,000)	400,000	0
School to Work	122,500	95,000	91,000	186,000	170,000	(16,000)	180,000	(6,000)
Charter Schools	6,000	8,000	8,000	16,000	16,000	0	18,000	2,000
Ed. Technology	22,500	25,000	10,000	35,000	48,000	13,000	48,000	13,000
Voc. Ed Basic Grants	972,750	890,000	82,750	972,750	953,105	(19,645)	972,750	0
Perkins Loans	158,000	0	58,000	158,000	75,000	(83,000)	93,297	(64,703)
SSIG	63,375	31,375	32,000	63,375	31,375	(32,000)	31,375	(32,000)
Impact Aid	728,000	693,000	....	691,159	693,000	1,841	693,000	1,841
Bilingual Education	206,700	....	....	150,000	167,000	17,000	175,000	25,000
Prison Literacy	5,100	4,346	....	5,100	4,723	(377)	4,723	(377)
Pell Grants	6,178,680	5,423,331	....	4,814,000	....	....	4,967,446	153,446
Max Grant	....	(2,440)	....	(2,500)	....	....	(2,470)	....
Howard University	204,663	174,671	....	174,671	182,348	7,677	182,348	7,677
Ellender	3,000	0	....	2,760	1,500	(1,260)	1,500	(1,260)
Libraries	144,161	131,505	....	131,505	132,505	1,000	132,505	1,000
Total, Education	16,734,235	14,916,836	1,356,239	15,344,055	10,284,667	(245,388)	15,344,055	0
Related Agencies:								
Corp Natl Comm Service	214,624	196,270	....	201,294	198,393	(2,901)	198,393	(2,901)
Fed Med Conciliation Service	31,344	32,896	....	32,396	32,896	500	32,896	500
Social Security Admin	3,125,356	2,946,197	....	2,785,875	2,760,875	(25,000)	2,736,375	(49,500)
Railroad Retirement Board	90,816	90,816	....	89,094	89,955	861	89,955	861
Total, Related Agencies	3,462,140	3,266,179	....	3,108,659	3,082,119	(26,540)	3,057,619	(51,040)
Scorekeeping Adjust:								
1% Cap Perf. Awards	(30,500)	0	....	(30,500)	0	30,500	(30,500)	0
Direct Loans Admin	....	....	....	460,000	....	....	420,000	(40,000)
Totals	35,915,708	31,501,127	2,724,239	33,295,129	27,859,190	(51,939)	33,164,578	(20,551)

Mr. SPECTER. I yield the floor.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. CHAFEE. Mr. President, I ask unanimous consent that morning business be extended until the hour of 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN MEMORY OF DAVID PACKARD

Mr. CHAFEE. Mr. President, 3 days ago in Palo Alto, CA, a very remarkable and truly great American died, David Packard. David Packard deserves ranking with the most innovative and outstanding builders and manufacturers in our Nation's history.

He and his partner, Bill Hewlett, were the fathers of the electronic industry in Silicon Valley. Starting just 60 years ago, literally, in a garage, David Packard and Bill Hewlett began building an innovative audio oscillator under the name of the Hewlett-Packard Co. How did they choose the name Hewlett-Packard? To decide whose name came first, they flipped a coin, and Dave lost. His name came second. From that humble beginning, just 60 years ago, grew a company that today has more than 100,000 employees and sales last year of $31.5 billion. It is a worldwide leader in the electronics industry.

What a success story. A great part of the success, Mr. President, of Hewlett-Packard has come about because of the management style which could be called managing by objective, namely, setting goals and giving employees wide latitude in achieving those goals. This was the style that Dave Packard believed in deeply. Obviously, it works.

But David Packard's achievements went beyond his success with Hewlett-Packard. He was a philanthropist who did much more than write out a check. He became deeply involved with the projects to which he contributed.

A case in point: The Lucile Salter Packard Children's Hospital in Palo Alto, which the Packard family gave to Stanford University Medical School and which I have had the privilege of visiting. This is a children-friendly hospital, built for children, and one in which children can feel safe at home. Dave and Lucile Packard made sure that was the way it was built. Let me give an illustration: The registration desk in this hospital when you come in—usually, a very forbidding structure—has peepholes in it at a child's level, so when a child comes in with his or her parent, the child can look through the peephole and see what is going on behind this forbidding desk.

The Packards founded and funded the Monterey Bay Aquarium, first opened 11 years ago, in 1985. Dave Packard was deeply involved with the innovations at that aquarium. He designed and built, in his own workshop, some of the wave-generating equipment that is in that marvelous aquarium. The Monterey Bay Aquarium, with an annual attendance of over 1.5 million people every year, is the second-most popular aquarium in the United States of America.

In his book called "The HP Way," Dave wrote the following: "The word 'philanthropy' is derived from a Greek word that means 'lover of mankind.'" I think this is the phrase that best describes David Packard. It was his enduring belief that his efforts, both individual and corporate, could make this world a better place for all to live in.

In 1969, David Packard became Deputy Secretary of Defense, and that is when I came to know him, because I was, at the time, appointed Secretary of the Navy. My distinguished colleague from Virginia also came to know Dave Packard at the same time, when the distinguished Senator from Virginia was appointed Under Secretary of the Navy. For 3 years I had the privilege of working with Dave Packard and came to admire him greatly. He had the ability to cut right to the heart of a problem. He was laconic. He was not a great talker or backslapper. Indeed, he had a semi-gruff-appearing visage, but he was extremely fair, and he was helpful if one ran into a problem. Most of all, he wanted to see the job done and done well.

He made extremely valuable contributions to our Nation as Deputy Secretary of Defense, especially in the procurement area. During the years we were together in the Defense Department, my wife Ginny and I came to become friends with David and Lucile Packard. It was a friendship we greatly valued. They were truly a team—and a wonderful one. Lucile was a lovely lady in every way.

Dave was always a bit bemused by the abundance of aides and assistants one had in the Pentagon. I remember him commenting that he and Bill Hewlett ran Hewlett-Packard Co. sharing one secretary and one office.

Always a good athlete and an outdoor sportsman, Dave played basketball and football at Stanford, and later, while working for General Electric in Schnectady, NY, in the depths of the Depression, in 1935, he made a few extra dollars a week playing professional basketball. A hunter and fisherman since boyhood, he maintained those interests throughout his life, and was a major contributor to conservation organizations.

Dave Packard was an extremely thoughtful person and would go out of his way to help an individual. I was the beneficiary of his kindness in many areas, many times, including a special tour for Ginny and me of the aquarium, by he and Lucile, contributions of his, and his personal appearances at various political fundraisers for me in San Francisco and hospitality at his Palo Alto home.

In his death, I feel like a great oak tree has fallen in the forest. I have lost a real friend, and our Nation has lost a unique and extraordinarily constructive and thoughtful patriot.

Mr. WARNER. Mr. President, I add my comments to those of my distinguished colleague and my former boss in the Department of the Navy, Secretary JOHN CHAFEE of Rhode Island. Those are days that neither of us will ever forget.

It is interesting to go back in history. When President Nixon was searching for a Secretary of Defense—and I will test the recollection of my colleague—there was much thought about one of the most famous Members, contemporary Members of the Senate, Scoop Jackson, taking the post. Senator Jackson did consult with the President, but there came a time when Jackson felt he could fulfill his goals with the Senate. They were extraordinary goals, which, indeed, he did fulfill, and that is by continuing in the Senate. But Jackson pointed this out to Secretary Laird, then-Congressman Laird from Wisconsin, ranking member of the Defense Subcommittee on Appropriations. I remember Laird saying that it was difficult for him to give up a life in the House of Representatives and in the Congress and representing his State, which he loved so dearly. But he did it.

But, as a condition, he said, "Mr. President, I want to pick my team in the Department of Defense," thereby deviating—and at that time I was in the transition office of President Nixon—from the White House sort of selecting the principal deputies. It was Melvin Laird who selected David Packard, and it became known as the Laird-Packard team. We must also remember that, at that time, our Nation was engaged in the peak of the war in Vietnam, and the responsibilities on the leadership in the Department of Defense were enormous, particularly that of Secretary Laird, who had to be before the Congress with great frequency, and all across the Nation, to answer the question, "Why must we continue in this war?"

I spoke briefly today with Secretary Laird. He remembers that Dave Packard and Melvin Laird were the architects of Vietnamization under the guidance of President Nixon. That was the first time this Nation began to focus on how, with honor and dignity, we could begin to allow the Vietnamese people—South Vietnam—to assume the burden of the war and to begin the withdrawal of the American forces.

I remember so well Secretary Laird telling me, when he arrived at the Pentagon, that there was not a single plan as to how, eventually, the United States could turn over the burden of that war to others. They worked together. The responsibilities on Dave Packard were greater than on any Deputy Secretary of Defense, because of the war. It was a team. As was mentioned, Packard was awesome. He was awesome in size—over six-foot-four, in perfect physical condition, proportionately. He was awesome not only in physical stature but in intellectual ability. His hallmark was humility. Would the Senator not share that opinion?

Mr. CHAFEE. Yes. He certainly was awesome. He was a big six-foot-four. He took charge. He had what you might call "command presence."

Mr. WARNER. That is correct.

Mr. CHAFEE. I remember, when I first got in the Pentagon, the phone rang from Mr. Packard, and I stood up before I answered it.

I would like to say one other thing. I remember Secretary Laird saying this when he was seeking a deputy. He asked all through the business world, and he knew what he wanted. He wanted somebody who could handle the procurement side of the Pentagon. Mel Laird and David Packard worked out what you might call a "Mr. Inside and Mr. Outside" team, in which Mel Laird would deal with the Congress. He knew George Mahon, head of the Appropriations Committee, intimately. He knew Senator "Scoop" Jackson, and so forth—

Mr. WARNER. And Senator Stennis, of course.

Mr. CHAFEE. Senator Stennis, of course. Mel Laird would handle the legislative side of matters, the appropriations, the relationships with the White House and with the Congress. That is no easy job. Dave Packard was assigned what you might call the inside of the Pentagon. He was the man that we would consult with on procurement problems. We were deep into procurement problems—the F-15, the F-14, the 963 destroyers, the 688 class submarines, and on and on it went. Those are the matters we would report to David Packard on. He would watch over how we were doing and whether we were coming in on cost, whether we were meeting our milestones in the construction, and the whole process.

Mr. WARNER. On that, we also want to mention Senators THURMOND, Tower, and Goldwater.

Mr. CHAFEE. Yes, and Margaret Chase SMITH.

Mr. WARNER. Who all had great reverence for him. I remember one contract very clearly. It was a contract for the new antisubmarine aircraft, the S-3. At that time, the contractor was having severe financial difficulties. Packard called me in and he said, "Look, we are not going to award this contract until you determine that there is a financial program by which this contractor can go through and assume the enormous responsibilities of the carrying costs of this contract." I worked under the tutelage of Dave Packard for some several weeks, and, finally, we made the decision to give that contractor the opportunity to build it. They did build that plane, and it became a workhorse of the U.S. Navy. That contractor today, although merged, is still one of the major contractors in national defense. But he wanted to give the opportunity to the industrial base to prove itself. He held them accountable, I say to my friend from Rhode Island, in those days.

I ask unanimous consent to have printed at the conclusion of our colloquy today a statement by the former Secretary of Defense, a former Member of the U.S. Congress, Melvin Laird, who contributed quite a documentary on Dave Packard upon learning of his death.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. Mr. Laird told me today, in a saddened voice, that he had just talked to Dave not more than a week ago, as they did almost every week of their lives after leaving the Pentagon. They were like brothers. That is one of the rich heritages of those privileged to have served in Federal service—bringing, from all across America, people to work in the departments and agencies of the Federal Government, and the forming of lifetime friendships as a basis for that public service.

So I say to my friend, I am privileged to join with him. I think the Senator covered his contributions in the field of health and, indeed, the military services. They have their own educational facility now for the purpose of preparing young men and women for doctors and medical assistants.

Mr. CHAFEE. Actually, I did not touch on that.

Mr. WARNER. That is an important contribution.

Mr. CHAFEE. I failed to mention that. The Uniformed Services Medical College.

Mr. WARNER. That was his dream.

Mr. CHAFEE. It came from Dave Packard. He was the principal proponent of it. He felt we were having trouble getting physicians in the military service forces, and that we had these major research hospitals and outstanding hospitals, Walter Reed and Bethesda, and we needed our own medical school, which we did get.

Mr. WARNER. You touched on the procurement reform. Each time Congress goes back in an effort to try to strengthen procurement reform, they go back time and time again to that report.

I want to conclude with a personal note. Back to the word "awesome." There was a certain amount of trepidation each time we had to encounter David Packard. One of the principal avenues to soften him was his lovely wife, who was called Lou. She was a statuesque, beautiful woman, and very quiet and dignified. She, and she alone, could handle Dave Packard. That is my recollection.

Mr. CHAFEE. Well, the Senator is absolutely right. There was a certain trepidation when you got a call that "Mr. Packard wants to see you in his office." I would hustle around to see if I missed out somewhere, or if I left something undone that I ought to have done. It was sort of like when you were in school and being called to the principal's office. I tell. It kept you on your toes.

Mr. WARNER. Indeed it did.

We should also mention that the concept of the All-Volunteer Force originated under Secretaries Laird and Packard. We accept it today, and it has worked far beyond the expectations of any of us. But there was a lot of concern when we initiated that. Would we see a precipitous dropoff in the ability of the United States to attract quality young men and women to the uniformed services? They were the men that had the vision to give us the opportunity to prove it, and it has worked. And it has worked well.

So the achievements of the Laird-Packard team were monumental and—with the exception of the present company of the Senator and myself—they were able to draw from all quarters of the United States the finest to come and serve in the Department of Defense in the three military departments. The introduction of greater responsibility for women in the military services indeed was during that period of time. They laid the foundation for the service academies being opened to women.

As I remember, as I succeeded Senator CHAFEE, one of the last things on my watch was opening up Annapolis to women. And that has worked exceptionally well.

So, Mr. President, it is a privilege for me to join with my former boss and dear friend to say these brief remarks on behalf of our lost company.

I thank the Chair. I thank the Senator.

EXHIBIT 1

REMARKS OF FORMER SECRETARY OF DEFENSE MELVIN LAIRD

A giant of a man in every way, David Packard helped me in the '50s as a young congressman when I was ranking member of health, education, and welfare and labor developing the university programs for NIH, Health and Education research. He also helped me as my deputy while I was serving as Secretary of Defense. His contribution in both cases was monumental.

We established the draft lottery system and created the All Volunteer Service, ending the draft, managed the orderly withdrawal from Vietnam, an organized the Defense Department procurement policies.

His contribution to our nation and the world will be an everlasting memorial to him.

He was a true friend, a great contributor to the best things our nation stands for. We all will be forever in his debt, a true friend for whom I will always have the deepest love.

Mrs. FEINSTEIN. Mr. President, David Packard is a legend in California, and will forever remain a treasured part of California's proud history.

A man of humble beginnings, through sheer ingenuity and determination, David Packard became one of the most influential entrepreneurs in American business.

One of the original cofounders of computer giant Hewlett-Packard, he was considered the patriarch of hi-tech's famed Silicon Valley. His innovation sparked the technology revolution that put California on the map as the information leader of the world.

But it was his leadership that inspired generations of hi-tech wizards to break new ground and reach new heights. He truly believed that nothing was impossible if the spirit to succeed was there. And David Packard believed in the American spirit.

David Packard set a standard of excellence for business schools all over the world with his ideas of "management by objective" and "management by walking around."

And he put a human face on success by never climbing out of the reach of the people who worked for him. "The HP Way" broke barriers between management and employees, fostering teamwork and a pride of ownership that reached every level of his company.

David Packard also served his country as Deputy Secretary of Defense under President Nixon, and, with his wife Lucile, was unmatched as our Nation's most dedicated and generous philanthropist. The David and Lucile Packard Foundation last year distributed more than $116 million to more than 700 recipients.

His contributions to Stanford University, my alma mater, leave a legacy that will touch many future generations, who will stand on his shoulders and continue to lead this Nation to new heights of excellence, compassion, and greatness.

David Packard will be sorely missed.

Mr. BOND. Mr. President, I ask unanimous consent that I may be permitted to proceed as if in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

WHITEWATER

Mr. BOND. Mr. President, as we are working on many important matters, including wrapping up of the appropriations conference, on which we, unfortunately, are not able to close all sections today, we also are, I hope, going to resolve the issue of whether the Whitewater Committee is extended.

There have been a lot of questions asked. What has Whitewater found? Why are we here?

I have a very lengthy analysis which I will make available, because many people who have not had the pleasure and the privilege—as the occupant of the Chair and I have had—of sitting through the lengthy hearings may not appreciate what we have learned and how many more questions there are.

Mr. President, the investigation of the matters involving financial land transactions of the President, the First Lady and top officials in Arkansas, and subsequent actions by these officials, or their subordinates to interfere with, obtain information about, or delay investigations into those matters has come to be known generally as Whitewater.

From the beginning of this episode, we saw efforts to mislead Congress or to deny information. My first encounter with this matter came over 2 years ago when, before the Banking Committee, the Deputy Secretary of the Treasury misled us in answering my question as to when the White House was first advised of the significant nonpublic information that a criminal referral was pending in the investigation of the financial irregularities in Arkansas. He said they were not. They were.

The most recent example was the unexplained, mysterious reappearance of the critically important billing records of Mrs. Clinton's law firm, which, although subpoenaed more than 2 years ago by the independent counsel and the Resolution Trust Corporation and this past fall by the Whitewater Committee, only found their way to all of us in January 1996.

Investigation of records further demonstrated that Mrs. Clinton—and other representatives of the White House—had not spoken truthfully about her involvement with the failed savings and loan in Arkansas and, in specific, her transactions involving one of the most egregious and costly land transactions utilized to loot the savings and loan known as Madison Guaranty in Little Rock, AR.

Throughout this process, many of us have had questions about why the administration has been so deeply involved in what appears to be improper efforts to cover up and interfere with the Arkansas activities investigation. Had the role of the President and the First Lady been limited solely to an investment in a failed land development—as the White House initially contended, and was contended in the campaign of 1992—it would not have made any sense for so many officials to risk charges of perjury or obstruction of justice. The cost to many of these individuals for activities involved in this coverup have been significant, as colleagues on the other side of the aisle have noted. The cost of legal counsel has been burdensome for many.

More important, however, is the fact that the broad Washington misconduct has led to resignations of the White House counsel, a Deputy Secretary of the Treasury, a general counsel of the Treasury, as well as a rapid turnover in the post of White House counsel ever since.

Indeed, the nature and extent of the activities directed by the White House toward the investigations in Arkansas made it incumbent upon us to determine what happened in Arkansas that was potentially so dangerous that they warranted these extensive coverups.

Although the committee is still reviewing the delayed production documents and has not been able to interview central figures in Arkansas, it appears that the Whitewater matter involves substantial abuse and misuse of gubernatorial power in Arkansas, the use of official positions for private gain, possible violations of Federal tax laws in the reporting of deductions, and active legal representation by the First Lady of individuals and institutions involved in fraudulent activity resulting in the significant losses to the savings and loan insurance fund and the rest of the taxpayers.

So far in Arkansas, there have been nine guilty pleas. These include guilty pleas by the real estate appraiser who appraised a fraudulent land value on land in one of the scam transactions; a judge who defrauded a Federal agency; two bankers who attempted to bribe a Federal loan agent; three Madison employees who made false statements to defraud a Federal agency; and a friend of the Clinton's who had concealed cash payments to the 1990 Clinton campaign.

In addition, as most of us know, there is, right now, a criminal trial underway against the Clintons' major fundraiser, who was also a former business partner and the President's key political ally, who is now the Governor of Arkansas. Indictments are pending against the Clintons' friend and former business partner and criminal indictments against two Clinton supporters for concealing cash payments to his 1990 campaigns.

Mr. President, we have learned this. We have learned this in the course of hearings. I set this out today not because the investigation or the hearings have concluded. We have not answered all of the questions that need to be answered. But some of my colleagues on the other side of the aisle in this body—and on the Whitewater Committee—have said we have not learned anything, that there is not anything there.

Well, Mr. President, there has been a tremendous amount of smoke with the recent revelations of the documents that just mysteriously have started appearing in the last several months. We have found out why they all hang together. The documents—the billing records of Mrs. Clinton at the Rose Law Firm—would have told us, would have enabled us to phrase our questions and come to an earlier resolution. These were taken out of the White House. Webster Hubbell had them and apparently gave them to Vince Foster, and then somehow, mysteriously, they just appeared in the book room, in the reading room of the White House in January. They were under subpoena. They were under subpoena. And, lo and behold, they just turned up.

The assistant in the White House who picked them up initially realized in January that these were records that had been subpoenaed, and she brought them forward. Notes of a never disclosed, heretofore secret meeting in the White House between White House lawyers and Government officials and the defense attorneys representing the Clinton's personally—notes from this meeting which told about so many interesting activities—all of a sudden started appearing from everybody's files 2 weeks before the hearings were to conclude.

Those memos, those notes, suggest possibly that the meeting engaged in efforts to obstruct justice by tampering with witnesses. The billing records themselves show that Mrs. Clinton and others did not speak truthfully about her role in Madison Guaranty representation and in her work on Castle Grande. We have been unable in the Whitewater Committee to interview central witnesses to these transactions because they have been subpoenaed to testify in the trial being conducted by the special prosecutor in Little Rock. I hope that we are near to an agreement to extend the life of this committee so that we can complete the analysis of all the documents that have just turned up, so that we can determine whether the author, Mr. James Stewart, of "Blood Sport," may have had access to relevant documents that we have been denied, so that we will be able to question people who may be able to give us direct testimony on many of the things that we have now seen by strong circumstantial evidence, though it is only circumstantial evidence. I believe there is clear evidence of wrongdoing. There is clear evidence that we have not been told the truth in political campaigns, in press statements by the White House, and in sworn testimony to us, to the committee, and to others.

Mr. President, I had a draft report prepared that represents my views of what we have learned as of the current time on the Whitewater Committee, and also listing the questions that must be answered by the committee before we can close this; questions like: Who placed Mrs. Clinton's subpoenaed records in the White House book room? Where were they for the years that they were under subpoena but not brought forward? Was there obstruction of justice by the White House officials who met and as a result of that meeting people visited a key witness in Arkansas? Did the White House improperly receive confidential information about the SBA investigation into certain wrongdoings in Little Rock? Was there witness tampering by the White House response team? Did some of the people who have in the past testified that they lied to their diary come up with other falsehoods that are totally inconsistent with written records?

These are questions that must be answered.

Mr. President, I send this report forward, and I ask if anyone would like to receive a copy of this report, please contact my office.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FURTHER CONTINUING APPROPRIATIONS—HOUSE JOINT RESOLUTION 170

UNANIMOUS-CONSENT AGREEMENT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the debate on House Joint Resolution 170, further that debate on the joint resolution be limited to the following, Senator HARKIN 15 minutes; Senator BYRD 15 minutes; Senator HATFIELD 15 minutes. I further ask unanimous consent that no amendments be in order, and that immediately following the expiration or yielding back of time, the joint resolution be read a third time, and that the Senate proceed to vote on passage of the joint resolution, with no intervening action, provided the following Senators be recognized to speak following the vote: Senator GRAHAM of Florida, this Senator, and Senator KENNEDY of Massachusetts.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Further, Mr. President, I ask unanimous consent that that agreement be in effect notwithstanding the receipt of the papers from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Let me indicate, I hope this can all be done by voice vote. I know there is one request on the other side for a rollcall vote. I think it is a simple extension. The appropriators worked all through the night. It is no one's fault they did not finish everything, because they have been working with the White House. I hope that we do not punish our colleagues who had to leave earlier in the day. So perhaps after the debate we could have a voice vote. But if necessary, I guess we will have a rollcall vote.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon.

Mr. HATFIELD. Thank you, Mr. President.

Mr. President, this joint resolution provides continuing appropriations until April 24, 1996, for the departments and agencies of the Federal Government normally provided for under the five appropriations bills that have not yet been signed into law.

Special provision has been made for a labor-management matter at the Federal Aviation Administration, for the Federal payments to the District of Columbia, for a matter relative to the Auburn Indian Restoration Act, and for economic assistance to Bosnia.

Adoption of this joint resolution will extend funding authority for the departments and agencies concerned for another 3½ weeks, enabling the appropriations committees, the joint leadership, and the White House to continue discussions on the omnibus appropriations bill now in conference, and reach agreement thereon. We have already made a great deal of progress on the omnibus bill.

Mr. President, most of our issues have been resolved and major portions of the bill have been closed. But there are still some significant matters requiring leadership attention that will need to be discussed during the recess and resolved when we resume the conference on April 15. I have indicated that I will convene that conference on that date, April 15, at some hour during that afternoon.

I am confident that our discussions will be fruitful and we will produce a bill that the President will endorse. That is our goal. I yield back the remainder of my time.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. BYRD. Mr. President, the distinguished chairman of the appropriations committee has made a most appropriate and eloquent and all-embracing statement concerning the conference report, concerning the continuing resolution.

Mr. President, this resolution will continue the operations through April 24, 1996, of those departments and agencies for which full-year appropriations for fiscal year 1996 have not yet been enacted. As Senators are aware, five of the regular thirteen appropriation bills have not been enacted: Commerce/Justice/State, the District of Columbia, Interior, Labor/HHS, and VA/HUD.

As Senators also know, an appropriations conference has been ongoing over the past several days on H.R. 3019, an omnibus appropriations act, which would provide full-year funding for all of these departments and agencies. That measure contains approximately 1,500 pages of bill language, and while I greatly credit Chairman HATFIELD, Chairman LIVINGSTON, and the other House and Senate conferees on the intensive effort that has been underway to complete action on this measure, several issues still remain in a number of the chapters which have caused us to reach the point of bringing this short-term continuing resolution to the Senate for its consideration.

In addition to the extension of the date of the present continuing resolution through April 24th, House Joint Resolution 170 would also provide the District of Columbia with its full payment for the entire fiscal year and, importantly, would provide the $198 million requested by the President in funds for assistance for Eastern Europe and the Baltic States. The need for these funds is immediate, and I support their inclusion in this short-term continuing resolution.

Mr. DASCHLE. Mr. President, the Senate should not be considering the 12th continuing resolution of this fiscal year. Congress should have completed work on the fiscal year 1996 budget last October, when it was supposed to have been completed. It is indeed unprecedented and outrageous that Congress has so utterly failed to address this year's budget in a timely fashion.

It is unprecedented in the history of this Nation to find ourselves 6 months into the fiscal year with four appropriations bills unfinished. This Senator finds it all the more outrageous that the Senate is considering another short-term continuing resolution when it could have easily completed its work this week.

Leaders were in the process of negotiating a number of difficult issues that would have led to a reasonable omnibus appropriations bill that the President could sign. Negotiations were progressing on this bill, and if they were permitted to continue for only a few more days, Congress might be able to complete all of the unfinished business in this year's appropriations process. Because much more work is needed, Congress should have stayed in this weekend or into next week to finish the fiscal year 1996 budget.

But the majority insists on leaving for a 2-week break.

The omnibus bill passed the Senate over a week ago. But the majority did not schedule its first meeting of the conferees until this Wednesday, more than a week after the Senate passed the bill. As a result, conferees found themselves working late into the night yesterday, actually until 1 a.m. this morning. Still, today they could not complete the people's business, so Congress is off for a 2-week recess.

Instead of working through the difficult issues remaining to be resolved in the fiscal year 1996 budget, the Republican leadership decided to delay with yet another stopgap measure. And the American people will pay the price.

Continued government by continuing resolution spells slow death on the installment plan for a number of critical Government programs. The funding levels are simply too low to adequately fund a number of basic functions of Government. In addition, the uncertainty facing Government agencies and the people they serve has undermined the effectiveness of programs designed to improve our children's education, clean up the environment, and put police on the streets.

Under the 12 continung resolutions this year, education is suffering drastic funding cutbacks. Schools can't plan. Children, teachers, and families are being shortchanged.

Environmental cleanup efforts have been slowed, and superfund sites left unattended.

Because of reductions in the COPS Program, fewer police are on our streets.

Having said that, it is important to note that this continuing resolution does accomplish several important goals that I fully support.

First, the District of Columbia is finally provided in this legislation the balance of its Federal payment for the rest of this fiscal year.

Another provision clarifies that Federal Aviation Administration labor representatives retain their statutory role.

Perhaps most important is the $200 million in reconstruction aid for Bosnia contained in this bill. This money is critically important if the Dayton Accord's peace plan is to be implemented successfully. Bosnia's infrastructure has sustained great damage in its years of war, and this aid is critically needed to help with the restoration effort. I am pleased it was included.

Nevertheless, on balance, this legislation does not deserve the support of this body. I will vote no on this continuing resolution, not because of what it includes, but because of what it does not include—the essential education, environment, and law enforcement services it fails to provide—and because of the mismanagement it represents. Congress should remain in session and finish the real work that should have been completed 6 months ago.

Mr. BYRD. Mr. President, I ask unanimous consent that Senator HARKIN be recognized for his time following Senator KENNEDY in the previous agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

All time has been yielded back. Without objection, the joint resolution is considered as having been read for the third time.

Mr. NUNN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on passage of the joint resolution. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from New York [Mr. D'AMATO], the Senator from North Carolina [Mr. HELMS], the Senator from Oklahoma [Mr. INHOFE], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Florida [Mr. MACK], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Vermont [Mr. LEAHY], the Senator from Arkansas [Mr. BUMPERS], and the Senator from New York [Mr. MOYNIHAN] are necessarily absent.

The result was announced—yeas 64, nays 24, as follows:

[Rollcall Vote No. 60 Leg.]

YEAS—64

Abraham
Ashcroft
Baucus
Bennett
Bond
Bradley
Breaux
Brown
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
DeWine
Dole
Domenici
Exon
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Hutchison
Inouye
Jeffords
Johnston
Kempthorne
Kohl
Kyl
Lieberman
Lott
Lugar
McCain
Mikulski
Murkowski
Nickles
Nunn
Pell
Pressler
Robb
Roth
Santorum
Sarbanes
Shelby
Simon
Smith
Snowe
Specter
Thomas
Thompson
Thurmond
Warner

NAYS—24

Akaka
Biden
Bingaman
Boxer
Bryan
Conrad
Daschle
Dodd
Dorgan
Faircloth
Glenn
Harkin
Hollings
Kennedy
Kerrey
Kerry
Lautenberg
Levin
Moseley-Braun
Murray
Pryor
Reid
Wellstone
Wyden

NOT VOTING—12

Bumpers
D'Amato
Helms
Inhofe
Kassebaum
Leahy
Mack
McConnell
Moynihan
Rockefeller
Simpson
Stevens

The PRESIDING OFFICER. With respect to the prospective passage of House Joint Resolution 170, the yeas are 64, and the nays are 24. And the joint resolution is deemed passed.

So the joint resolution (H.J. Res. 170) was deemed passed.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the joint resolution was deemed passed.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I will take only a few moments. I know the chairman of the Appropriations Committee has pending business.

Mr. President, I wanted to comment a little bit on the continuing resolution that we just passed—and to express my dismay and perhaps a little bit of frustration at what has happened here in the last week or so, and with this continuing resolution.

I took the floor a couple of weeks ago. I said March madness is in full swing around the country with all of the basketball games going on with the men's final four and the women's NCAA. But beyond that, Mr. President, in school after school in Iowa and across this country school administrators and school boards are wrestling with the decision about which teachers will lose their jobs and which students will not get title I reading assistance.

They are contemplating what vocational educational activities will go by the wayside; how to deal with the cuts in the Safe and Drug-Free School Program. The list goes on.

In my State of Iowa, school districts must send the layoff notices by April 30, a mere 6 days after this resolution expires. That means school districts will have less than a week to make important decisions about how many teachers they will be able to keep on the payroll, how many kids will be denied the opportunity to improve their reading and math skills. In the next 4 weeks, the uncertainty about the level of funding for our schools will cause problems for many families. Teachers and their families are worried about their jobs and parents are worried about their kids and about being denied the most basic help they can get.

Mr. President, I am not going to read the whole letter, but I have here a letter from a parent of a child who is in the title I program. The letter is dated March 7. These parents are saying that their son has had tremendous help and tremendous improvement because of title I, and she said:

> I wish you could personally follow our son's progress. This program has truly been a godsend for him and for us. We feel confident he can attend future grades with an excellent attitude toward school because of what title I has gained for him—most importantly, his self-esteem and attitude. Yes, he is still going to struggle some but not as severely as it would be without the aid of chapter 1.

For these parents and for our children and school boards and school districts across the country what we are doing today really is not much help.

I have here two articles that were in the newspaper in Cedar Rapids, IA, the Cedar Rapids Gazette. The first one is dated February 27, and it says "6 Schools To Lose Remedial Reading."

"Cedar Rapids district cites expected $350,000 cut in Federal funds," in the title I program. That is February 27.

Shortly after that, the Senate adopted the Specter-Harkin amendment, which was supported, I might add, on this floor with a strong bipartisan vote, 84 votes in favor of the Specter-Harkin amendment, to put the money back in for title I and other education programs. So now here is the followup article on March 14 in the Cedar Rapids Gazette. "Senate Restores Reading Funds." And it talks about the Specter-Harkin amendment, that it was approved 84 to 16.

Well, I guess tomorrow there will be another story in the Cedar Rapids Gazette; they will go right back to this: "Cedar Rapids To Lose Remedial Reading."

What kind of a yo-yo is this to these people? These are parents like the one who just wrote me this letter about their son who has been in title I, still in title I. What are they to think? What are the teachers to think? How about the school boards? Pink slips are going to be going out pretty soon.

I had the Farm Bureau in here this week. I talked at a breakfast to my Farm Bureau members. After it was over, I had a couple of the people who were there at the Farm Bureau meeting come up to me. They did not want to talk about farm programs. They wanted to talk about what we are going to do about title I, because they serve on the local school boards and they saw what was happening to their funding cuts and how much they needed this program. Their basic question was, "What should we do?"

I had to answer, "Well, I thought we were going to get the appropriations bill through that would have the funding for you." I was confident we would do that. Well, today, with this short-term CR, we do not have it. We go back down to the lower levels on title I funding.

Mr. President, that is why I voted no on this—not that I wish to shut the Government down, but we were very close to having an agreement. This is the 12th CR of this year—the 12th one. It is a prescription for disaster for our kids. If the cuts in this bill are allowed to continue, the Iowa Department of Education estimates that across the State, 7,300 fewer students will get title I assistance; 200 teachers will be laid off. This scenario will be repeated in every single State and school district across the country: 40,000 teachers will be laid off nationwide as a result of this $1.1 billion cut in title I.

Mr. President, the sixth national education goal calls upon us to ensure that by the turn of the century every adult American will be literate and will possess the knowledge and skills necessary to compete in the global economy, but the deep cut in job training programs in this bill is a retreat from that goal. These cuts could not come at a worse time. You can hardly pick up a newspaper or turn on the evening news without seeing yet another story about downsizing some company, workers are put out of work, dislocations caused by downsizing.

Last year, JTPA assisted 105 workers who lost their jobs in the small town of LeMars, IA; 85 individuals employed in the small town of Sergeant Bluff, IA. The cuts in retraining for dislocated workers means that next year 300 fewer Iowans will benefit from such assistance.

In the Senate, we acted in a bipartisan manner to correct these problems. As I said, Senator SPECTER and I worked together with the assistance of Senator HATFIELD. We crafted a bipartisan compromise to restore most of the cuts to these education and training programs. Again, as I said, the Senate passed the amendment 84 to 16. It was a powerful signal from this body on a bipartisan basis that we wanted to move ahead and fund these programs, get the money out, and send a clear signal to our schools, our teachers, and our parents across the country that we were going to fund these programs.

Well, we were meeting, and I must say that Senator SPECTER sat there day after day in meetings with our House counterparts. I would join him. We had already worked out our differences. We did not have any disagreements. But we could not quite seem to get over a lot of these hurdles.

Finally, we worked out our differences. We had our agreements made. But there were some riders that were attached, riders that more appropriately belong in the authorizing committees, not the Appropriations Committee, that held this up. Therefore, we could not reach an agreement. But we were very close.

Again, I wish to pay my respects and my thanks to the chairman of our Appropriations Committee. I was there last night. We were all dogged tired at about 1 a.m. in the morning, and he wanted to continue. He wanted to finish it, because I know the Senator from Oregon realizes how important these programs are. And he was reflecting the will of this body, the 84 votes that we had, to make sure that we reached an agreement and moved ahead.

I daresay, I do not know how many hours and how many days the Senator from Oregon put in in the last 2 or 3 weeks trying to get this thing put together, working, as I said, to the midnight hour and beyond last night, to make sure we did not have these draconian cuts. All of that work we have done, all the work that we did in a bipartisan fashion in the Senate, all of the work that Senator HATFIELD has done has now been thrown overboard. All of us lost in this bill which continues the draconian cuts of the previous 11 continuing resolutions.

We were close. I am deeply disappointed. I heard last night—we had a break in our conference last night, and I heard some rumblings from people that there was going to be a short-term CR. So I expressed my opinion in the conference last night. I said: Here we are; we are working trying to reach these agreements, coming very close, but if the rug is going to be pulled out from underneath us by a short-term CR, then why are we here?

I feel that if we are going to continue like this, then what use is it of the Appropriations Committee to try to hammer out these agreements. These are tough negotiations. And yet we reached all the numbers. We had no problems with our numbers. We had agreed on all of the numbers. We had agreed on the offsets. We had a few items, as I said, some disagreements on riders which more appropriately belong with the authorizing committee, not the Appropriations Committee, and as the chairman of the Appropriations Committee knows, if the authorizing committees would do their work and get the authorizing down, we would not have the riders on our bill holding us up.

So I thank Chairman HATFIELD for his doggedness and his determination, and I am just sorry that the rug got pulled out from underneath us. Those are not his words; those are mine. But that is exactly how I feel. I hoped before that that would be the last CR. I hope this is the last CR. If it is not, we are really going to be in tough shape, and I think a lot of our school districts around the country now are just going to throw up their hands in despair; they thought they were going to have the cuts. Then they thought they were going to be restored. I know from talking to people in Iowa that they thought they could now go ahead and plan for their schools next year because of that overwhelming vote we had in the Senate. Well, now they do not know what to do.

Mr. President, this is no way to run the Government. This is no way to govern. It is totally and absolutely irresponsible. And all I can say is, I sure hope this is the last short-term CR. I hope the good work we have done on appropriations we can hold onto, that when we come back from the Easter break, rather than starting all over again, we can pick up where we were and hopefully have this resolution done expeditiously so that we can get our funding out for education, worker training, dislocated workers, Head Start, and all the other programs so vital to the future of our country.

Mr. President, I thank you, and I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to express my thanks to the Senator from Iowa for his analysis of the situation we find ourselves in as the Appropriations Committee. I would also like to again reiterate that we have 13 appropriations subcommittees. In other words, we have 13 subcommittees with chairs for each of those subcommittees, ranking members for each one of those subcommittees. I think our committee is unique in that sense, because we do not bring a bill to the floor unless it has been a bill developed on a bipartisan basis within each of those subcommittees.

Mr. HARKIN, our colleague from Iowa, was formerly chairman of the Labor-HHS Subcommittee of the Appropriations Committee, which now is chaired by Senator SPECTER, of Pennsylvania. So he brought into that partnership that kind of background and understanding, as we have on most every one of our subcommittees. The chair is now being occupied by the Senator from Washington State, who chairs the Interior Subcommittee. His ranking member is former chairman, Senator BYRD.

So, in effect, we have been jointly producing these bills; it is bipartisan, and giving the Senate a very strong position. Then, when we went to conference, we had 40 Democrats and 39 Republicans voting for the Senate product, including both the leaders, the Republican leader and the Democratic leader.

Sure, we knew we were going to be in tough negotiations, but, nevertheless, we had a great number of accomplishments. We had, as the Senator knows, 12 of our 13 subcommittees involved, most of them with language, but with 5 unresolved appropriation bills. We were able to reduce the five to two. In other words, we closed the chapters on three of them. We closed the chapter on a couple of the others that were in the language area. So that, in effect, when we come back on April 15 and we take up the unfinished business of the Labor-HHS, for which the Senator from Iowa is the ranking member, we will have the figures, the dollars, pretty well resolved, as the Senator has said. We are now talking about language, riders.

I wish we did not have them. I wish we would have those issues taken up by the authorizers where they belong. But there is a trend line upward, by the fact that the authorizing actions have become very, very slow. As an example, the Endangered Species Act; 4 years ago it expired. We, in the Appropriations Committee, have been keeping it funded and keeping it going.

I could say that when there was an effort made by a few of my colleagues to convince me, as chairman of the Appropriations Committee, that we should not fund expired authorization programs, I did not have any idea what the scope of that might be, so I went to CBO. I asked CBO to give us a quick analysis of the expired authorizations that we were continuing to fund. Mr. President, $95 billion is what they came up with for their estimate on expired authorizations; a goodly percentage of them in the Justice Department, and particularly those relating to fighting crime—expired authorizations.

So we, in effect, have almost taken on double our responsibility, of not only funding but, assuming that in that funding we authorize for that year, we extend the authorization that has expired. It is not a task that we have desired or we have asked for.

I like to always remind our colleagues, no other committee but the Appropriations Committee has to pass legislation. Every other committee can consider authorization, but there is no basic command to perform. Only the Appropriations Committee must keep the Government running. We have to pass a bill—in fact, 13 of them. So, lots of times, knowing that, we get piggybacked. Others who are finding an inability to either extend authorization or renew authorization or deal with authorizing items come and piggyback on the appropriations bill. We are taking on those duties, but I am saying to the Senator, there are a lot of reasons why this situation becomes increasingly difficult.

I thank the colleagues on the committee. I have never seen a more dedicated group working together on a bipartisan basis to do their duty as I have with the subcommittees of our Appropriations Committee and the staff. I just cannot pay too high a tribute to the staffs on both sides that assist the members. It is a collegial experience.

Mr. President, I ask unanimous consent to proceed as in morning business in order to introduce a bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. HATFIELD. I thank the Chair.

(The remarks of Mr. HATFIELD pertaining to the introduction of S. 1662 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Oregon yield the floor?

Mr. HATFIELD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Thank you, Mr. President.

SENATOR HATFIELD'S PATIENCE, DILIGENCE, AND SKILL

Mr. LAUTENBERG. Mr. President, I would just take 1 minute from my other remarks to say, though this may have been the last major appropriations conference the distinguished Senator from Oregon manages, with his fairly delicate but forceful touch, as I watched him as a member of the committee deal with a number of issues, a number of temperaments, always with his excellent eye on the mission, I marvel at Senator HATFIELD's patience and diligence and skill.

This is no time for eulogies or goodbyes, but he will be missed. That aisle does not separate our friendship in any way at all. As a matter of fact, few issues separate our friendship. But my respect for his ability, for his service to country will be a permanent thing. I hope that it is also recognized in this body of ours that too few times do we have an opportunity to work with someone who has the kind of compassion and concern that is essential if one is to render the best service possible to this country of ours.

I thank the Senator for his sacrifices, for his willingness to bend to the task, and his skill for getting the job done for so many years.

TRIBUTE TO KATHLEEN STANFIELD WEINSTEIN

Mr. LAUTENBERG. Mr. President, I rise today to honor the life of a constituent of mine whose name was Kathleen Stanfield Weinstein.

Unfortunately, she has been in the papers a lot in this last week. Her life was at once ordinary and extraordinary. She was a resident of a town called Tinton Falls in New Jersey. She was a wife to her husband, Paul, and the mother to their 6-year-old son, Daniel. Mrs. Weinstein taught special education classes at Thorne Middle School in Middletown Township in New Jersey.

She was a teacher, the kind of a teacher that we all wish our children had at some point in their education. She had begun a program in which children were given special recognition for committing "random acts of kindness," toward their fellow students and the community—random acts of kindness. Everyone knows that plays on other words. The other words will become clearer in focus as I discuss Mrs. Weinstein's end of life.

Today, Mr. President, the billboard in front of Thorne Middle School reads "Mrs. Weinstein, Thank You for Your Random Acts of Kindness. We Will Miss You."

She did not retire, Mr. President. Some days ago while on her way to take a test for a graduate school course, Kathleen Weinstein did what so many of us do ordinarily. She stopped at a local delicatessen in a shopping mall for a sandwich. When she returned to her car, a young man jumped in the car with her, threatened her, saying he had a gun, and abducted her with the car. Some time later, a day or so, her body was found in a wooded area where she had been smothered with her own coat.

Unfortunately, in these times, Mr. President, this kind of event does not seem extraordinary. Indeed, Kathleen Weinstein was an extraordinary woman. At some time during her ordeal she had the presence of mind to reach into her coat pocket and turn on a small tape recorder. She recorded the conversation that she had with her soon-to-be killer, capturing her final conversation.

Kathleen Weinstein pleaded for her life, but not until she had engaged her young—turned out to be 17-year-old—attacker, just turned 17, in what has been described as "a meaningful conversation about a great many things." They talked about the consequences for his young life, and there was still time, she cautioned him, to turn things around. They talked about "what happens by the decisions * * * that you make."

The young man did not take her advice. You see, he was about to become 17 years old, and in New Jersey that is the age for a driving license. He wanted a car just like hers. So he took it. In the process, he took her life—a despicable, horrible, outrageous act.

Mr. President, Kathleen Stanfield Weinstein's exceptional character and tragic death have touched the heart of Americans from around the country. It is ironic that a woman dedicated to teaching random acts of kindness to our children should be taken by a single random act of violence. She was ordinary, yet extraordinary. The legacy of her life will continue to touch New Jerseyans for a long, long time to come.

I have an excerpt from a newspaper, the Cincinnati Post, that includes some of the conversation that she had with this young man. I will take the liberty of reading some parts of it.

> In a secretly recorded tape she hid in her coat pocket, the teacher is heard doing everything she can to reason with a teen-age carjacker, authorities said. Eventually she breaks down and begs in vain for her life.

She says to him, "You haven't done anything yet. All you have to do is let me go and take my car."

> The woman's miniature tape recorder clicked to a stop before she was smothered with her own coat and other pieces of clothing, officials said.
>
> She "valiantly and persistently used every skill and power she had to convince her attacker to simply take her car and not her life," [the prosecutor] said.
>
> This 24-minute recording provides the key piece of evidence against the 17-year-old suspect.

Through this article are accurate, precise statements that she made. The attack was described this way:

> After her attacker grabbed her from behind and forced his way into her car at gunpoint, she managed to turn on the voice-activated miniature cassette player hidden in a bag.

She said to him, before he killed her,

> Don't you understand, though, what kind of trouble you are going to get in? Don't you think they are going to find you? You haven't done anything yet. All you have to do is let me go and take my car. For my life, don't you think I should be concerned and let you take my car? For my life! Do you really want that on your head?

Mr. President I ask unanimous consent that the full article as it appeared in the Cincinnati Post be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

> [From the Cincinnati Post, Mar. 20, 1996]
>
> ### Teacher's Final Minutes Taped Secret Recording: She Begs Carjacker For Life
>
> When investigators found the body of Kathleen Weinstein, she was still able to tell them about her last moments alive.
>
> In a secretly recorded tape she hid in her coat pocket, the teacher is heard doing everything she can to reason with a teen-age carjacker, authorities said. Eventually she breaks downs and begs in vain for her life.
>
> "You haven't done anything yet. All you have to do is to let me go and take my car," Ms. Weinstein tells the boy.
>
> The woman's miniature tape recorder clicked to a stop before she was smothered with her own coat and other pieces of clothing, officials said.
>
> "I have no doubt Kathleen Weinstein spoke to us through that tape," prosecutor Daniel Carluccio said as he released transcripts of the tape Tuesday.
>
> She "valiantly and persistently used every skill and power she had to convince her attacker to simply take her car and not her life," he said.
>
> The 24-minute recording provides the key piece of evidence against the 17-year-old suspect-identified only as M.L.—who was caught Sunday driving the women's car. His first name, age and details about his past were on the tape.
>
> The prosecutor read some of Ms. Weinstein's comments but did not disclose any of the youth's taped comments.
>
> He was jailed on murder and carjacking charges. Carluccio said he would seek to have him tried as an adult.
>
> Ms. Weinstein, 45, of Tinton Falls, disappeared Thursday after staying home from her job as a special education teacher to study for a graduate school exam. She was en route to take the test when she stopped to buy a sandwich.
>
> After her attacker grabbed her from behind and forced his way into her car at gunpoint, she managed to turn on the voice-activated miniature cassette player hidden in a bag, Carluccio said. She later removed the tape and slipped it in her coat.
>
> her body was found Sunday in woods near a highway in Berkley Township. She leaves a husband and 6-year-old son.
>
> Text of fax box follows:
>
> A victim's final words
>
> Here are excerpts from the 24-minute recording made by Kathleen Weinstein, the teacher who secretly recorded her pleas to a teen-ager who police said stole her car and then killed her. Authorities provided only selected quotes:
>
> "Don't you understand, though, what kind of trouble you are going to get in? Don't you think they are going to find you?"
>
> "You haven't done anything yet. All you have to do is to let me go and take my car."
>
> "For my life, don't you think I should be concerned and let you take my car? For my life!"
>
> "Do you really want to have that on your head?"
>
> "Why don't you just tell me? Of course it's important, it's determining your whole life and the direction you're taking. It's important. We're here for a purpose. That's what happens by the decisions and things that you make."
>
> "Whatever trouble you're in, you didn't add to it yet, right?"
>
> "I'll make you a promise that I won't tell anybody. Because you won't be taking my car and you won't be hurting me. And maybe you can get away another way."
>
> "You can't have a life of crime like this. You'll wind up spending your life in prison if you don't get killed."
>
> On her plans to take in a foster child or adopt a child: "I want to give something to somebody, to give . . . to give something back."

Mr. LAUTENBERG. I make particular point of this horrible murder because it strikes a chord in all of us of our disappointment in the violence that threads our society, whether it is a young kid like this out to take a car or another youngster out to take a jacket—a senseless killing. Or like the killing recently here in Washington, DC, a 15-year-old boy, apparently a nice young man, good student, in trying to defend an argument between his younger sibling and another child—stabbed to death.

Mr. President, I ask a question that must go on in every home in everyone's mind in America: When will we stop this violence? How do we stop it? We sure do not stop it by a vote in the House of Representatives that says, "Take away the ban on assault weapons. Let them have their assault weapons. That is part of freedom in America." That is nonsense.

If I was not on public record I would use other words, perhaps, to describe it—to make sure that people could get their hands on weapons that are designed to kill people. That is what the vote was over there—some 230 votes for, and against, 170.

I fought in World War II, Mr. President. I was no war hero, but I carried a weapon that could fire less shots than these assault weapons. I was supposed to kill the guys on the other side of the line. I was not called on to do it and they did not do it to me, either. The fact of the matter is the weapons issued to me as a soldier in the European theater were far less menacing than the kind of weapons we want to make sure everybody in America has, because the National Rifle Association says that is what we ought to do—make sure we free people up so they can bear their arms against their fellow citizens. That is hardly a way for a civilized society to conduct itself. When will we be so sick of violence that we will say no, no, no, you just cannot get a gun because you want one, and you are going to have to wait and pass a test just like you do when you want to drive a car?

In my State, and in every State in this country, in the State of the distinguished occupant of the chair, there is a confrontation that could very well result in death and disaster. Lots of weapons are involved. In my State, a man walked into the post office in Montclair, my hometown, and shot four people. He is an ex-employee of the post office. At the Long Island Railroad out of New York City, a man shot and killed a number of people, one of them a young woman from New Jersey, whose parents I know. He did not know them, did not ever see them before.

We hear about children picking up guns and killing other children. We hear about despondent daughters or sons taking their father's legitimately owned gun and blowing their heads off. We had four kids commit suicide in New Jersey a couple of years ago. They got hold of weapons and killed one another. There are disgruntled employees, disappointed partners, and family members who kill everybody in the family.

We hear this trite old expression that makes me ill: "Guns do not kill people, people kill people." Well, how do people get the ability to kill other people? I never heard of a drive-by knifing.

Mr. President, one of these days, we are going to have to come to our senses about gun ownership, the proliferation of guns. I have legislation that I introduced the other day to reduce, on a Federal level, purchases of guns more than once a month. One gun a month, 12 guns a year. That does not sound like much of a restriction. But we have a fight on our hands. Maryland just passed it in one of the bodies of legislature there, in their Senate. It is predicted that it will go through with dispatch. Virginia has a one-gun-a-month program. Because Virginia has a limit of 1 gun a month—can you imagine, 12 guns a year are able to be purchased? They have reduced the gun presence in the Northeast of guns coming from the State of Virginia by 60-some percent by restricting gun purchases to one gun a month. The madness of it all. In order to protect those who demand an arsenal, they can buy 12 guns a year. It does not seem like that is a necessary thing to me.

But I am willing to take whatever steps I can to reduce the proliferation of guns in our society. I have become friends with Sarah and Jim Brady. I would not have before Jim was shot because we were in different parties and of different political or philosophical persuasions, because I never belonged to a gun organization. But Jim Brady was a good friend of the National Rifle Association, until someone attempted to kill President Reagan and shot Jim Brady in the attack. Jim Brady, who has been physically disabled, wheelchair bound since that time, has turned the opposite way, and so did his wife, when they saw what a terrible thing a gun could do. There are others I have met who used to support the National Rifle Association agenda, and when they suddenly see violence in their homes, they are opposed to gun ownership as randomly as it exists in this country.

I have also introduced legislation that says that anyone convicted of even a misdemeanor on domestic violence charges should not be able to own a gun. Right now, someone who has indicated that their rage is so impossible to control that they can come home and beat up their wife or kids and get convicted and stand in front of a judge in Baltimore County, and he says, "I cannot assign criminal penalties to someone who is not a criminal," after the man killed his wife. He gave him community service and, I think, 5 months in jail after he killed his wife. He does not call it a criminal act.

Now, Mr. President, we cannot do the job by simply building more jails. There was an editorial piece, an op-ed piece, in the New York Times the other day—and that is not gospel, but it was reporting facts—written by Anthony Lewis. He said that the biggest program for building in California was the building of jails. While the number of students per teacher increases, meaning less attention to the students' needs, jails are being built. I think criminals ought to be punished and punished hard. But I think we also ought to look at what it is that drives all these people to criminality with all of the penalties that we impose, each of them getting longer and larger and tougher. That has not curbed the violence problem. Maybe we ought to say, hey, perhaps there is a different way to do this and examine the alternative. I hope that we will, Mr. President.

If I sound agitated, I am. I think about this young woman, a devoted parent and teacher, a teacher of the type that we all respect and want in our schools. She was murdered by some young punk who decides he wants her car. He was encouraged by what he sees on television and what he sees in gun ownership. She is threatened by a gun and did not even know that it existed, but she knows when someone says they have a gun, very often that is the case.

I hope we will learn from this courageous woman's death, and many other murders around the country, that we ought to do something differently. I hope that police departments across the country will start to prepare some advisory so that women can protect themselves. I have heard—and I do not know whether this is true; I state it secondhand—that a woman is better off to resist in a public place than to permit herself to be taken out of the public limelight. I do not know whether it is true, but I hope police departments—I would like to see police departments across the country prescribe actions in response to an attack of that type, to do something to protect themselves, to thwart the intentions of somebody who wants to take their lives, or take their property first and, typically, then their lives, and often whether or not the property is gained.

Mr. President, I hope we do not have to keep on discussing these kinds of things in the U.S. Senate, or in the Congress, or in our Government, and that we can look forward to a more peaceful time within our society. We are all shocked and horrified by the prospect of military engagement in Bosnia and in other parts of the world, and we look with horror upon the period in Vietnam when so many of our young people fought bravely and gallantly against a bad policy decision. We lost 50,000 people in the period of years that the Vietnam war went on. Now we lose over 15,000 people a year in this country to gun murders. Unfortunately, it does not get a lot of attention.

Mr. President, I yield the floor.

CORRECTION OF THE RECORD

Mr. BYRD. Mr. President, I believe it was on March 21 that I spoke on this floor in reference to Senator SAM NUNN and the late Senator Richard B. Russell and their fine work on the Armed Services Committee of the Senate. I made a comparison in the course of those remarks of Mr. NUNN to Marshal Michael Ney, who was one of the top officers in Napoleon's army. I referred to Marshal Ney's having been separated from the army of Napoleon, but having fought his way back to join the army. He fought through thousands of cossacks and had come to the river Dnieper, D-n-i-e-p-e-r. He had lost all of his guns, but he crossed the river and rejoined the main forces of Napoleon's army.

I stated that Napoleon was overjoyed when he heard that Marshal Ney had escaped and rejoined the army. And he made the comment to other officers at that point—he said, "I have more than 400 million francs in the cellars," c-e-l-l-a-r-s, "of the Tuileries," T-u-i-l-e-r-i-e-s. "I would gladly have given them all for the ransom of my old companion in arms."

Well, I suppose I was talking like I had my mouth full of turnips, and the official reporter did not get the name of the river correctly spelled—D-n-i-e-p-e-r—Dnieper; the reporter substituted the name of the river Niemen, N-i-e-m-e-n. It was a river in White Russia. When I saw that name I thought, "My, I never heard of the name of such a river." So I went to Webster's dictionary and I found there, indeed, the name of a river called the Niemen River. So it sounded very much like the Dnieper River.

I make these remarks today, Mr. President, just to call attention to the error which was inadvertent on the part of the reporter and was really my fault. I ask unanimous consent that the permanent RECORD be shown to state that it was the Dnieper River, D-n-i-e-p-e-r, not the Niemen River, to which I referred in my remarks. I yield back the balance of my time.

UNANIMOUS-CONSENT AGREEMENT—H.J. RES. 170

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

THE CONTINUING RESOLUTION

Mr. GRAHAM. Mr. President, a little more than an hour ago, the Senate voted for the 12th time in this 6 months of the 1996 fiscal year for a short-term continuing resolution for many of our most important Federal agencies.

Mr. President, I voted for that continuing resolution as I have for its predecessors out of a sense of frustration and the absence of any other reasonable alternative. But, Mr. President, I am taking this occasion to announce that will be my last vote for such a continuing resolution because I believe that we are acting in a highly irresponsible and embarrassing—and adverse to the interests of the people of this Nation—manner by the way in which we are conducting the fiscal affairs of this great Nation.

When the Congress, or any other entity responsible for spending funds, sets out to enact a budget, one of those important goals of such enactment is to chart the future. The essence of budgeting is to carry out a plan with certain objectives and destinations. Budgets should be the means by which that plan is given life.

In a cruel irony, however, Mr. President, a perverse Washington twice has turned budgeting upside down. The current budget process frustrates—even prevents—effective planning and implementation. Instead of reducing uncertainty about the future, our current budget process—the one that we have followed for the last 6 months—enhances uncertainty.

How, we would ask, did this happen? We are in the 6th month of the Federal fiscal year, but we have still not approved a budget for nine of the most important departments of the Federal Government and numerous other Federal agencies. Instead of approving an annual budget for these nine Cabinet departments and Federal agencies, Congress has passed now 12 separate continuing resolutions to operate parts of the Government at 75 percent of funding levels for brief periods of time.

Mr. President, this is Band-Aid budgeting, and it is a Band-Aid that hurts. These Band-Aid budgets are hurting the very people our Government is trying to help. And just as important, our failure to pass a final—a real—budget for 1996 makes planning difficult, if not impossible, for those charged with carrying out the mission of assisting our people through or with the financial support of the Federal Government.

To that lament, some might say, "So what?" So what if Government is inconvenienced by an uncertain budget process. So what if bureaucrats have to survive with a certain amount of anxiety, uncertainty, and closely bitten nails. To those who say "So what," I offer the simple truth that the way we are doing business with these Band-Aid budgets is bad business.

When managers cannot plan, when contracts cannot be honored, when commitments cannot be fulfilled, that, Mr. President, is bad business.

Today I want to highlight just a few examples of the impact of our Band-Aid budgeting. In my State of Florida, we are on the verge of shutting down substance abuse programs.

Let me repeat that. If we do not straighten out this budget mess within the State of Florida, there will be a termination of substance abuse programs.

It is ironic that possibly in the next few weeks we may be considering the question of whether the United States should punish through decertification certain countries that we consider to be inadequate in their commitment to the fight against the supply of drugs coming into the United States. The irony is that those same countries look north, and they say the reason that there is this supply of drugs is because the United States of America is such an overwhelming and inordinate user of drugs; it creates such an enormous demand for these illegal substances. If we were to send the message to these countries that we are now about to cut off our programs that are intended to deal with the prevention and treatment of substance abuse, they might be inclined to say they should decertify us because we were not using our full efforts in order to deal with this scourge.

What is it going to mean in Florida for 150 agencies which are providing substance abuse services—150 agencies and nonprofit groups which depend in whole or in part on Federal funds for their ability to provide these services?

The range of services which will be terminated include detoxification, drug rehabilitation for children, adolescents, and adults, in-jail services, and substance abuse prevention.

In Florida, 27,000 people a year are referred to detoxification centers. The typical per-day cost of these facilities is $123. If we shut down the detoxification centers, we would have some options—more expensive options. We could send these people to jail. We could send these people to a hospital. If we sent them to a hospital, the average per-day cost is $450 for detoxification services.

One way we deal with heroin addiction in this society is methadone treatment. Many people on methadone are able to live a reasonably normal life and hold down a self-sustaining job. What happens when you shut down the methadone programs? People go into withdrawal. The odds go up that these expensive, negative results will occur. There will be a relapse to heroin or other drugs. There will be the use of dirty needles that spread HIV. Jobs will end, and crime will begin.

Mr. President, those are some of the consequences in the area of substance abuse treatment, education, and prevention that is about to occur because of the Band-Aid budgeting in which we are engaged.

The problem does not, however, end with substance abuse. What about education? In Dade County, Miami, FL, our educators are so uncertain about the next year's school budget that they do not know whether they should retain some 1,000 teachers and aides who are currently providing educational services.

What is the reason for this uncertainty? The reason is that these teaching positions are funded by title I Federal grant dollars. These are funds which are used to provide educational services to the most at-risk and to the most at-need children.

Dade County received approximately $59 million in title I funding last year. How much will Dade County schools receive next year? Mr. President, your guess is as good as mine because we still do not have a budget.

In Fort Myers, I recently visited the Salvation Army. The Salvation Army in Fort Myers, as its counterparts across the country, performs a wide variety of valuable services. In southwest Florida, these services include feeding and housing the homeless, operating a minimum security prison, a small hospital, and offering drug and alcohol treatment programs.

To provide these services, the Salvation Army in Fort Myers relies on the Federal Government for up to 35 percent of its budget.

Let me give you one example of a problem Salvation Army officials are facing in Fort Myers, FL.

In an ordinary year, the Salvation Army will receive emergency food and shelter funds from the Federal Emergency Management Agency in October. As you are aware, Mr. President, this October was no ordinary October. This has been no ordinary year.

As a result of the budget impasse, the emergency funds for food and shelter to the Salvation Army did not arrive in Fort Myers in October. The funds did not arrive in November either. December came and passed; there were no funds—and January. It was not until February that the Salvation Army received the first allotment of its funds which were supposed to have arrived in October.

Now the Salvation Army is waiting once again to receive the remainder of its funds for a fiscal year that is now halfway over. Without this money, the services provided by the good people at the Salvation Army in Fort Myers will be severely hampered and the organization may experience a major deficit.

In many instances, organizations have not only had to reduce services, but they have had to suspend them altogether.

Let me give you another example. This situation was experienced by the Florida Division of Vocational Rehabilitation. The division of vocational rehabilitation awards contracts to nonprofit organizations to provide rehabilitative services to the disabled. For many individuals, these services offer the only chance to become skilled, productive, independent citizens. Due to the Government shutdown, two organizations in Florida which provide these rehabilitative services for disabled citizens, Goodwill and Easter Seals, had to close their doors to the disabled.

Let me repeat that, Mr. President. The shutdown caused Goodwill and Easter Seals to close their doors to people who are striving to better themselves so that they can find gainful employment. These are the practical effects to human beings in the communities, consequences of the Band-Aid budgeting in which we have been engaged.

Mr. President, I say enough is enough. Twelve times in six months is enough for us to limp along day to day, week to week. This process is having severe, embarrassing, and hurtful consequences on innocent people. Twelve times we have resorted to these short-term extensions. Enough, Mr. President, is enough.

Let us commit ourselves to the completion of the 1996 budget at the earliest possible date. Then let us recommit ourselves not to repeat anything like this in 1997 or ever again.

Mr. President, enough is enough.

PROVIDING FOR AN ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator in New Mexico.

Mr. DOMENICI. I have been asked by the leader to make this unanimous-consent request. It has been cleared on the other side.

I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 157 just received from the House.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> A concurrent resolution (H. Con. Res. 157) providing for an adjournment or recess of the two Houses.

Mr. DOMENICI. I ask unanimous consent that the resolution be considered and agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 157) was agreed to.

Mr. DOMENICI. Mr. President, I will speak for just a few moments. I understand there is still another Senator who wishes to speak, but I will not take very long.

MEDICARE FINANCING CRISIS

Mr. DOMENICI. Mr. President, I wish to speak for a moment about the Medicare Program which our senior citizens are very concerned about and most Americans are very concerned about.

Last year, the Medicare trustees told the President and the Congress that the Medicare Program is in financial crisis. Specifically, they said, and I quote, "The Federal hospital insurance trust fund which pays inpatient hospital expenses will be able to pay benefits for only about 7 years and is severely out of financial balance in the long run."

The Medicare trustees were even more blunt. "The Medicare Program is clearly unsustainable in its present form," they said. "The hospital insurance trust fund continues to be severely out of financial balance and is projected to be exhausted in 7 years."

That is what they said last year—7 years. In 1995, the trustees were telling us we have 7 years before the part A trust fund ran out of money. Last year's report projected that this fund would be insolvent in the year 2002. Based on the same data, I made a more precise prediction that bankruptcy would occur in early February 2002.

Very soon, we are going to receive from the Medicare trustees an annual update to this report. I have looked at the data that the trustees used to generate their report, and I can say now that last year's projections were too optimistic. This year's report will show that the hospital trust fund is going bankrupt in the year 2001—not 2002. The projections were too optimistic last year.

A year ago my colleagues and I were urging the Senate and the President to follow the trustees' recommendation and address the Medicare financing crisis. This is why the reforms in Medicare were proposed last year. This Congress had a choice in 1995, and the choice was to address the Medicare financing crisis, restructure Medicare for the next century by providing seniors with more choices and containing costs to providers, or to ignore the crisis and let the problem languish for another year.

This Congress chose to act to try to save Medicare from the pending bankruptcy. When we made the choice, we had a 7-year window available to us and to the American people—7 years before part A would be bankrupt, without sufficient money to pay its bills.

Mr. President and fellow Senators, that is now down to 5 years. We spent a year trying to reform Medicare, only to have the reform fail and to have the President veto the reform measures. And we will soon officially hear from the trustees that we lost another year.

Last year we were told that we had until 2002. Now we will learn that we have until 2001. The Medicare part A problem is now worse than it was a year ago. Based on the data the trustees will be using in their annual report, which we have now had an opportunity to review, I can predict for the Senate and for those who are interested, the seniors across America, that the Medicare part A trust fund will be without sufficient funds to pay its bills in late May of 2001. Essentially, it will be bankrupt in May of 2001 instead of 2002. This is 5 years and 2 months from now—5 years and 2 months, not 7 years.

It is important to remember that while attention has focused on the impending bankruptcy of part A, the hospital plan, the underlying problem is the uncontrolled spending and the growth of the entire program.

Last year, the Congressional Budget Office projections showed that Medicare part A spending was growing at 8 percent a year, and it showed that part B spending was growing at 14 percent a year. There is no question that if we can slow the growth by reform, if we can make both part A and part B more streamlined and in touch and in tune with the modern delivery of health care, we can slow the growth. Our present spending is just not sustainable. Simply put, the trust fund will be bankrupt in 5 years and 2 months. The remainder is growing at 14 percent a year.

When we pursue that goal of making it sustainable, of slowing Medicare spending, one result will be that we will save the part A trust fund, the hospital trust fund. The Balanced Budget Act passed this year by Congress—that is last year, in this year's cycle—and vetoed by the President, would have extended the life of part A past the year 2010. That same Medicare reform took the necessary steps toward addressing our long-term entitlement problem. Unfortunately, it, too, was vetoed when the Balanced Budget Act was vetoed.

I do not relish being the bearer of bad news. No one likes to hear that a program as valuable and as important as Medicare is in financial trouble. But we cannot simply bury our heads and hope that the problem will go away. It will not. We spent a year trying to address a problem here in the Congress, and now it appears that that effort may fall victim to a Presidential election. If we wait another year to address Medicare, we will be 4 years, if not shorter, from bankruptcy. I am concerned that 1 year from now I will be standing here on the floor of the Senate, reporting on the impending bankruptcy of the part A trust fund, and we will have spent a year doing nothing to address it.

I hope that is not the case. But I hope that more Senators and more leadership in this country will understand that if we do not change some things about the program there will be no program—not for the younger generation, but for seniors who are on the program right now. Because there are many senior citizens who are on the program right now who will still need hospitalization in the year 2001, 5 years from now. Unless we choose to do something now, it will not be available to them. We will have spent the money in the trust fund and the bills will be coming in faster than the revenue, and that equals bankruptcy.

So, I thought, today, after a careful study of the facts, that I would share this news, bring it to the floor and share it right now. I thought, as soon as I had it, I ought to share it with everyone. I believe what I am saying is correct. I believe I am slightly ahead of the trustees, but I know the information they have, and their experts, for that is shared information. There is no question in my mind the fund is going bankrupt faster than was estimated last year, and we are now 5 years and 2 months away from the fund not having money to pay the bills of senior citizens who are in hospitals.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Massachusetts.

Mr. KENNEDY. Are we in morning business at this time?

The PRESIDING OFFICER. We are.

Mr. KENNEDY. I ask unanimous consent I might be able to proceed in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FDA REFORM MARKUP

Mr. KENNEDY. Mr. President, today when Americans get up in the morning and brush their teeth, they do not think about whether the toothpaste they are using is safe. When they eat their breakfast they do not think about the safety of the food they are eating. When they take a pill to treat an illness they do not worry about whether the drugs are safe. They do not worry about whether those drugs work. Americans have confidence in all of these products because the Food and Drug Administration is an independent agency with enormous credibility.

Yesterday, the Senate labor and human resource committee approved a FDA reform bill, S. 1477, that will destroy that confidence. S. 1477 will cripple the FDA, and turn many of its functions over to private industry.

The history of food and drug legislation is that we have learned from the tragedies of the past. The United States was fortunate to avoid the Thalidomide tragedy in the 1950's. But in the 1950's and 1960's, we did not avoid the tragedy of DES, Diethylstilbestrol, which causes cancer in the daughters of women who took it.

In the 1970's we did not avoid the tragedy of the Dalkon Shield, which caused thousands of cases of infertility in women who used it. In recent years we did not avoid the tragedy of the Shiley Heart Valve which broke and caused many deaths.

As a result of the Thalidomide tragedy, we strengthened our drug laws in 1962. As a result of the Dalkon Shield tragedy we strengthened our medical device laws in 1976 and we strengthened them again in 1990 after the Shiley valve tragedy.

Most recently, we reduced the delays in approving prescription drugs with user fees. As a result, we are now approving drugs faster than the United Kingdom. We have fixed the drug lag. In fact, the United States approves more important new drugs faster than any other country in the world.

But equally important, we have the best record in the world of blocking the approval of unsafe or ineffective drugs that have to be withdrawn after patients have been killed or injured.

The bill reported from the committee goes in the wrong direction. The lessons of the past have been turned on their heads, and those who have failed to learn from the history of Thalidomide, Dalkon Shield and DES, will condemn the American public to new device and drug tragedies. The basic theme of the legislation the committee approved is privatization. It says, "let us return to the days when drug manufacturers decided what was safe and effective." It says, "let device manufacturers pay private bodies to determine if their heart valves and pacemakers will help or harm patients, instead of relying on the scientists at the FDA, who have no interest except the public interest." If this bill is enacted into law, the Food and Drug Administration will no longer have the principle responsibility for making critical decisions about the safety of the food supply and the safety and effectiveness of drugs and medical devices. Instead, those decisions will be made by private companies.

In the cases of medical devices, those companies will be selected and paid by the medical device industry to decide the safety and effectiveness of the products. No company that is paid to do product reviews can be objective, if future business depends on whether it grants a favorable decision. And to make the conflict of interest even more blatant, it will be up to the regulated industry to determine how much compensation the regulator will receive for the review.

Do you get this? That the medical device company will make the judgment as to which individual will come and inspect their particular medical device, and they, the inspector and the company, will work out the terms of payments.

If you were one of those inspectors, how long do you think you will make adverse judgments against those companies if you ever expect to get paid or hired again? You have a basic, fundamental conflict of interest. Compare this with the current situation where an inspector has no financial interest in making the judgment and bases decisions only upon pure science. That is how we do it at the present time.

As I said, we do it very successfully with regard to drugs and biologicals. It is slower with regard to medical devices, and various animal vaccines. We grant the FDA has not done well enough. But over the 30 years that our committee has been reviewing how to speed up the FDA, we have only been successful with one major change and that is when we put on the user fees, with the support of the pharmaceutical industry, with the support of President Bush, and with the support of Congress. And we have seen a dramatic change in terms of performance, in the approvals; significant reductions in terms of the considerations of those items. It has been successful. Now we are about to tamper with that particular effort, which has been reviewed by GAO, and by the Tufts Medical School, which has been constantly critical of the FDA, but all of them say that this is a program that is working.

It is not working as well in the device areas, as I mentioned, but what we are doing, I believe, is putting seriously at risk the successful programs that have been enacted in recent times.

In Britain in the last few weeks, we have had a stark demonstration of what can happen when the regulatory body charged with protecting the public interest has a conflict of interest.

Britain is in a food safety crisis over the meat from cattle with mad-cow disease because the Government paid too much attention to commercial interests and not enough attention to the health of consumers. Now, because there is growing concern that mad-cow disease can be linked to a fatal disease in humans, British meat is being banned in every country in the world.

In Britain, the public is demanding to know why there is no independent body like America's Food and Drug Administration to protect the public. That is the question on the minds of British consumers.

How ironic that just a few days after the mad-cow disease disaster came to light, legislation was approved by our committee to dismantle the regulatory agency that is universally recognized abroad as the gold standard for the world. The FDA is our strongest defense against this kind of crisis in the United States. We have the safest food supply and the safest medical products in the world. We should not take any steps that jeopardize the confidence of American consumers in the safety of food and medical products. Yet this bill would seriously weaken current protections.

In addition to privatizing review of medical devices, this bill tells the public to trust drug manufacturers to make changes in the manufacturing process without FDA review to determine whether the changes affect safety or effectiveness. Companies under pressure to increase profits sometimes put profits first or simply sometimes make mistakes. In fact, most experts believe that mad-cow disease spread throughout Britain by a change in the manufacturing process of animal feed by some companies, the kind of change that S. 1477 leaves up to American companies to decide on their own.

Under this legislation, no change in the manufacturing process would require prior approval from the FDA. Yet, a change in the manufacturing process can determine whether a polio vaccine prevents polio or causes it. A change in the manufacturing process can determine whether a blood transfusion is life saving or whether it transmits AIDS or hepatitis to the patient. An independent FDA is needed to protect the public against these tragedies. Commercial interests should not prevail.

Further, the bill sets excessive time limits for review with no additional resources. The FDA will be unable to meet these requirements and do its job.

Even worse, the bill sets the wrong priorities so that every "me-too" drug of little additional therapeutic value receives the same priority as urgently needed new cures, and if FDA cannot meet the unrealistic time limits in the bill, the agency is required to contract its responsibility out, leading to further unacceptable privatization.

What did we do in the earlier legislation? We said on the priority drugs, we are going to make sure that these are going to be addressed within the first 6 months and then those that are of lesser significance and importance within 12 months. Therefore, the FDA is able to use some discretion in the areas of breakthrough drugs. The last drug on AIDS was only about 2½ months under review because FDA had worked with the company further up the line to accelerate the consideration and the whole development time.

So FDA has been moving in the area of priority drugs. Now what does the legislation say? The legislation says you have to examine all of them, all of the drugs within the 6 months. The fact of the matter is, as anybody who understands what goes on out at the FDA knows, the vast majority of those other drugs are "me-too" drugs, not the breakthrough drugs.

So now instead of bringing focus and attention of the gifted and able scientists out at FDA on those drugs that could be breakthrough drugs in cancer, in AIDS, in hepatitis, in all kinds of diseases, we are going to divert their attention to looking after the "me-too" drugs that can make extra bucks for the pharmaceutical companies. Is the public interest served there? It is not.

This is a direct result of the pharmaceutical companies wanting to get some additional attention so that they can put on the market and promote and advertise and make additional profits from those "me-too" drugs. This is unwise, ill-conceived, and bad health policy. Mr. President, we all know that when the Congress previously acted in a bipartisan way with the Executive together with the pharmaceutical companies, all of them working together, setting the goals, setting the standards, setting the accountability on what the FDA should do—96 percent of the goals that were established were achieved, and now we are saying, "Well, that isn't good enough. That isn't good enough even though the GAO says we are the best in the world. That isn't good enough, and we are going to change that system," alter that system in a way which I think diminishes the efficiency of the FDA and could very well diminish the opportunities of moving the breakthrough drugs to the consumer in a more orderly, effective, and rapid way.

Mr. President, I was talking about the changes in both time limits for the consideration of priority drugs and also about the changes in the manufacturing processes that do not have to have prior approval by the FDA.

FDA is the most respected regulatory agency in the world. With too few resources now, FDA still gives us the safest food supply in the world and the best medical products. The FDA seal of approval is accepted with confidence and trusted worldwide. American companies benefit immensely from that confidence. This bill will turn that seal of approval into a label that cannot pass the truth-in-advertising test. Whether the product is heart valves or blood derivatives or vaccines or food, the American people will be at risk.

There are ways that FDA should improve. Some products do need to get to market faster. FDA should collaborate as much as possible with companies and researchers to reduce the time of bringing safe and effective products to market. They are doing a good job now; they ought to do a better one. But we should not gut FDA's independence or the laws that give it that independence.

This legislation puts the commercial interests of companies ahead of the best interest of consumers. I am hopeful, Mr. President, that the provisions of S. 1477 that undermine health and safety can be revised before the bill comes to the floor. I know that Senator KASSEBAUM is committed to working with all interested Senators, and I pay tribute to Senator KASSEBAUM. She has spent an enormous amount of time herself on this issue. She has listened to different positions taken by those who are committed to the public health interests. She has listened to Members of the Senate.

I have the highest regard for her and the way that she has conducted the hearings and the leadership she has provided in this area, but I do find that I come out on a different side than she does with regard to the bill itself.

The present bill would destroy the safeguards protecting the American people that have been built up over the decades. It will cripple the world's best regulatory agency. It would be tragic if it became law. When the American people understand what is in it, I believe they will reject it.

Mr. President, I yield the floor.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

READ AND SUCCEED—MEETING THE CHALLENGE OF ILLITERACY IN AMERICA

Mr. INHOFE. Mr. President, I rise today to share some thoughts on a subject of growing concern to many Americans, particularly to parents who seek a better and brighter future for their children through education.

It is that we are failing to teach our children to read effectively. In 1940, the literacy rate in the United States was 97 percent. It has now plunged to 76 percent—a rate which is lower than that of over 100 other nations.

To me, this is intolerable. America's future depends on restoring the reading skills of its people.

If we value our responsibility for leadership; if we seek to stay competitive in the world economy, we must address the problem of illiteracy in America.

We cannot stand by and watch our children sentenced to a life of mediocrity and illiteracy.

This problem exists in spite of the good intentions of Government and the expenditure of billions of taxpayer dollars over many years.

Reading is the most basic skill every child needs to achieve individual success and happiness—both in work and in life. Yet in failing to impart this skill effectively, we are directly undermining the success our children seek and deserve.

The evidence of our failure is all around us. Teachers and administrators see it in our schools, where 60 percent of entering college freshmen find themselves in need of remedial courses in reading or math.

Employers and businesspeople see it in the workplace, where industry spends exorbitant amounts on employee remedial training in basic verbal skills. Researchers and scholars detect it in their studies.

Hardly a week goes by that we do not see stories in the media about declining test scores or startling accounts of the growing problem of lagging reading skills in America. For example:

According to the U.S. Department of Education report known as the National Assessment of Education Progress [NEAP], "the average reading proficiency of 12th grade students declined significantly from 1992 to 1994."

This important study is widely considered to be one of the best barometers of overall student achievement. It reported that "70 percent of 4th graders, 30 percent of 8th graders, and 64 percent of 12th graders did not attain a proficient level of reading." In other words, these students did not reach a minimum skill level in reading which is considered necessary to do the work at that grade level.

According to a recent 5-year study, entitled "Adult Literacy in America," conducted by the National Center for Education Statistics, similar startling results were found. It stated that: 42 million Americans, 22 percent of the population cannot read; 50 million, 27 percent, can recognize so few printed words they are limited to a fourth or fifth grade reading level; 55 to 60 million, 30 percent, are limited to sixth, seventh, or eighth grade reading levels; only 30 million, 16 percent, have ninth and tenth grade reading levels; only 6 to 7 million, 3.5 percent, demonstrated skills necessary to do college level work.

SAT scores have declined steadily for most of the last 35 years. Verbal achievement has declined by nearly 90 points since 1960.

A U.S. Department of Labor study found that 20 percent of U.S. high school graduates could not even read their diplomas.

Mr. President, this is serious. All of this has consequences—in our economy, in our standard of living, in our competitive position in the world, and in our national security. For example:

The lower the literacy rate: the less productive our economy becomes, the less hours are worked and the less money they make in the form of wages and income, the higher the incidence of crime and welfare and their costs to society, the less effectively we are able to compete in world markets, the less capability we will have in our Armed Forces which are increasingly dependent on advanced technology and highly trained personnel as opposed to just sheer numbers.

Clearly, our level of literacy is closely linked to our success in the world. If we fix this problem, the benefits will spread through our entire society. I firmly believe that if we know how to read, we will know how to succeed.

Secretary of Education Richard Riley recently confirmed the problem when he said:

> Our Nation's reading scores are flat and have been flat for far too long . . . Too many of our young people are groping through school without having mastered the most essential and basic skill.

Riley said that "the most urgent task" facing American schools is to improve reading instruction. So we know the problem exists. We can rejoice there is a solution.

Right now, we can take a giant step forward simply by doing what we can to demonstrate and celebrate what works when it comes to basic reading instruction.

Mr. President, we know what works in teaching children and adults to read. We can point to evidence backed by more than 60 years of educational research and experience.

What works is when our teachers and administrators return their emphasis to the use of phonics as the basis of reading skills instruction. Phonics refers to that body of knowledge which allows us to break down the letters of the alphabet into sounds so that words can be deciphered and sounded out according to simple rules.

With phonics-based programs, students learn not by memorizing huge numbers of whole words, but rather by mastering the very limited number of sounds and corresponding letter combinations which are the building blocks of all words. With this essential grounding, they are better equipped to move ahead to learn more advanced reading skills and techniques.

I do not argue that phonics is the only answer to the many problems faced by today's teachers in improving reading skills. The breakdown of the family, the impact of television, the force of popular culture—all of these and more pose challenges which were unheard of a generation ago. But clearly it is time for the pendulum in emphasis to swing back toward phonics—and not away as we have been moving more and more in recent years.

Phonics-based programs work. History and statistics have proven it. Now, similar grassroots evidence is sprouting up in more and more parts of the country.

For example, in one of the poorest districts in Houston, TX, there is a success story from which all of us can learn. There at the Wesley Elementary School, its principal, Dr. Thaddeus Lott, has encouraged teachers to use proven methods such as phonics in a concentrated effort to improve reading skills. The program is working.

Students are leaving this school reading at two or three levels above their grade. Many go on to private academies because their achievement levels are so far beyond the public schools they would otherwise attend.

Now, Dr. Lott has been appointed to a blue ribbon committee in the Houston Independent School District to expand his quality education techniques to other schools in this, the seventh largest school district in the Nation. It worked in Houston and it is working elsewhere.

Near one of Chicago's low-income housing projects, Mrs. Marva Collins of the Westside Preparatory School is making a real difference. Her phonics-based methods are helping all her students learn to read by the end of first grade. By the time her students reach third grade, they are memorizing poetry, discussing Shakespeare, and talking about early American history.

In Inglewood, CA, similar targeted programs have also proven highly successful.

Now, as the Washington Post reported last week, the State of California is urging all of its 7,700 school district "to place more emphasis on phonics" in order to reverse the dismal results they have been seeing on their statewide reading exams.

These are just a few recent examples—out of many—which show that the trend back to a renewed emphasis on phonics is growing. But much more needs to be done.

To help foster similar successful programs and to help focus public attention on what can and should be done, I propose to take the initiative in my home State of Oklahoma.

In the near future, I plan to help establish a limited in scope, privately funded, reading foundation in Oklahoma City.

Its purpose, broadly stated, will be to identify children, as well as adults, in need of enhanced reading instruction and to help them take advantage of a good phonics-based reading program that works.

If this limited demonstration project is successful, I would hope to expand it to Tulsa and perhaps to other cities throughout Oklahoma.

The goal is to show through private voluntary efforts that we as concerned citizens can address this one serious problem constructively, without resorting to Government mandates or vast infusions of Federal tax dollars which obviously have not worked.

Indeed, I want to make it very clear that I do not seek to establish a new Federal program, nor do I seek any new expenditure of taxpayer dollars. I propose no new legislation or Government mandate.

At the same time, I seek no direct intrusion into the day-to-day business of the public schools. I have long been opposed to Federal control of local education and I am not about to change my position now.

Rather, what I am talking about is fostering voluntary and cooperative efforts through the use of private funds, through persuasion, through example, and through a genuine concern for helping our young people and others achieve success in life.

This is a good cause. I intend to demonstrate that what works in Dr. Lott's school in Houston and Mrs. Collins' school in Chicago can and will work in Oklahoma City. When it does, we will offer it throughout the State.

Mr. President, there is absolutely no excuse for us in the United States of America to lag behind other industrialized nations in our reading skills—we are going to take the initiative and correct it.

AN ANNIVERSARY TO REMEMBER

Mr. INHOFE. Mr. President, this past Saturday, March 23, marked the 13th anniversary of President Ronald Reagan's address to the Nation in which he outlined a vision of the future based on the common sense wisdom of developing a national defense against missile attack.

To commemorate this occasion, I ask unanimous consent that a transcript of President Reagan's remarks on missile defense from this historic speech be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. INHOFE. Mr. President, on that day in 1983, President Reagan announced his decision to begin the long march away from the suicidal defense doctrine known as mutual assured destruction. In one bold stroke, he singlehandedly committed the Nation to an intense research and development program designed to harness our technology to the task of countering the threat posed by ballistic missiles, and to do it with measures that are defensive. Wouldn't it be better, he asked, "to save lives rather than to avenge them?"

In retrospect, we can see that it was a speech that truly rocked the world. In the context of the closing strategy of the cold war, it posed the decisive final challenge to the Soviet Union. Three years later, at the Reykjavik Summit, extraordinary Soviet efforts to deter Reagan from his commitment to missile defense failed. As a result, the evil empire's days were numbered and Soviet leader Gorbachev knew it.

In the context of domestic politics, Reagan's 1983 speech ignited a passionate debate over defense policy which still continues today. Within just hours after the speech, one of our distinguished colleagues in this body coined the term star wars. Opponents claimed Reagan's idea was a fantasy, that he wanted a perfect astrodome defense which would cost trillions of dollars.

Despite such rhetoric, in the context of science and technology, the speech helped focus inquiries on numerous fronts which led to remarkable breakthroughs. Is it technically feasible, at an affordable cost, to "intercept and destroy strategic ballistic missiles before they reach our own soil or that of our allies?" In 1983, many critics answered "no." Today, such questions are themselves—as Reagan would say—largely "impotent and obsolete."

But still, 13 years later, America has not deployed, nor is it committed to deploy, any national missile defense system. Why? In a fundamental sense, the answer lies in the triumph of politics over science. The real technological barriers have been broken. We have the know-how. Even funding is no longer the real issue.

Rather, it is the many political barriers that remain, and they are formidable. The Soviet Union is gone, and with it, the perceived threat posed by its awesome missile arsenal. Proliferation of missiles to other countries continues, but we are told that any real concern about it is premature. Today's Democrat President, like the Democrat Congresses before him, argues strenuously that the 1972 Anti-Ballistic Missile Treaty should remain as the "cornerstone" of U.S. strategic defense policy. It prohibits the deployment of effective defenses on the theory that deterrence should rest solely on threat of instant retaliation—the same theory President Reagan sought to transcend.

So the struggle for national missile defense continues. "It will take years, probably decades, of effort on many fronts," President Reagan said, and he was right.

Today, I stand proudly with those who remain committed to the moral vision articulated by President Reagan: "That the human spirit must be capable of rising above dealing with other nations and human beings by threatening their existence."

We will continue the efforts President Reagan began. And I hope, that in marking this anniversary, we can take increased devotion to the cause of world peace and freedom—that we can learn from the wisdom, the foresight, the courage and the example of President Reagan.

Like Ronald Reagan before us, we pursue this cause not because some public opinion poll told us it was the popular thing to do. We act because we know it is the right thing to do for our country and for future generations.

EXHIBIT 1

ADDRESS TO THE NATION ON NATIONAL SECURITY BY PRESIDENT RONALD REAGAN, MARCH 23, 1983

The calls for cutting back the defense budget come in nice, simple arithmetic. They're the same kind of talk that led the democracies to neglect their defenses in the 1930's and invited the tragedy of World War II. We must not let that grim chapter of history repeat itself through apathy or neglect.

This is why I'm speaking to you tonight—to urge you to tell your Senators and Congressmen that you know we must continue to restore our military strength. If we stop in midstream, we will send a signal of decline, of lessened will, to friends and adversaries alike. Free people must voluntarily, through open debate and democratic means, meet the challenge that totalitarians pose by compulsion. It's up to us, in our time, to choose and choose wisely between the hard but necessary task of preserving peace and freedom and the temptation to ignore our duty and blindly hope for the best while the enemies of freedom grow stronger day by day.

The solution is well within our grasp. But to reach it, there is simply no alternative but to continue this year, in this budget, to provide the resources we need to preserve the peace and guarantee our freedom.

Now, thus far tonight I've shared with you my thoughts on the problems of national security we must face together. My predecessors in the Oval Office have appeared before you on other occasions to describe the threat posed by Soviet power and have proposed steps to address that threat. But since the advent of nuclear weapons, those steps have been increasingly directed toward deterrence of aggression through the promise of retaliation.

This approach to stability through offensive threat has worked. We and our allies have succeeded in preventing nuclear war for more than three decades. In recent months, however, my advisers, including in particular the Joint Chiefs of Staff, have underscored the necessity to break out of a future that relies solely on offensive retaliation for our security.

Over the course of these discussions, I've become more and more deeply convinced that the human spirit must be capable of rising above dealing with other nations and human beings by threatening their existence. Feeling this way, I believe we must thoroughly examine every opportunity for reducing tensions and for introducing greater stability into the strategic calculus on both sides.

One of the most important contributions we can make is, of course, to lower the level of all arms, and particularly nuclear arms. We're engaged right now in several negotiations with the Soviet Union to bring about a mutual reduction of weapons. I will report to you a week from tomorrow my thoughts on that score. But let me just say, I'm totally committed to this course.

If the Soviet Union will join with us in our effort to achieve major arms reduction, we will have succeeded in stabilizing the nuclear balance. Nevertheless, it will still be necessary to rely on the specter of retaliation, on mutual threat. And that's a sad commentary on the human condition. Wouldn't it be better to save lives than to avenge them? Are we not capable of demonstrating our peaceful intentions by applying all our abilities and our ingenuity to achieving a truly lasting stability? I think we are. Indeed, we must.

After careful consultation with my advisers, including the Joint Chiefs of Staff, I believe there is a way. Let me share with you a vision of the future which offers hope. It is that we embark on a program to counter the awesome Soviet missile threat with measures that are defensive. Let us turn to the very strengths in technology that spawned our great industrial base and that have given us the quality of life we enjoy today.

What if free people could live secure in the knowledge that their security did not rest upon the threat of instant U.S. retaliation to deter a Soviet attack, that we could intercept and destroy strategic ballistic missiles before they reached our own soil or that of our allies?

I know this is a formidable, technical task, one that may not be accomplished before the end of this century. Yet, current technology has attained a level of sophistication where it's reasonable for us to begin this effort. It will take years, probably decades of effort on many fronts. There will be failures and setbacks, just as there will be successes and breakthroughs. And as we proceed, we must remain constant in preserving the nuclear deterrent and maintaining a solid capability for flexible response. But isn't it worth every investment necessary to free the world from the threat of nuclear war? We know it is.

In the meantime, we will continue to pursue real reductions in nuclear arms, negotiating from a position of strength that can be ensured only by modernizing our strategic forces. At the same time, we must take steps to reduce the risk of a conventional military conflict escalating to nuclear war by improving our nonnuclear capabilities.

America does possess—now—the technologies to attain very significant improvements in the effectiveness of our conventional, nonnuclear forces. Proceeding boldly with these new technologies, we can significantly reduce any incentive that the Soviet Union may have to threaten attack against the United States or its allies.

As we pursue our goal of defensive technologies, we recognize that our allies rely upon our strategic offensive power to deter attacks against them. Their vital interests and ours are inextricably linked. Their safety and ours are one. And no change in technology can or will alter that reality. We must and shall continue to honor our commitments.

I clearly recognize that defensive systems have limitations and raise certain problems and ambiguities. If paired with offensive systems, they can be viewed as fostering an aggressive policy, and no one wants that. But with these considerations firmly in mind, I call upon the scientific community in our country, those who gave us nuclear weapons, to turn their great talents now to the cause of mankind and world peace, to give us the means of rendering these nuclear weapons impotent and obsolete.

Tonight, consistent with our obligations of the ABM treaty and recognizing the need for closer consultation with our allies, I'm taking an important first step. I am directing a comprehensive and intensive effort to define a long-term research and development program to begin to achieve our ultimate goal of eliminating the threat posed by strategic nuclear missiles. This could pave the way for arms control measures to eliminate the weapons themselves. We seek neither military superiority nor political advantage. Our only purpose—one all people share—is to search for ways to reduce the danger of nuclear war.

My fellow Americans, tonight we're launching an effort which holds the promise of changing the course of human history. There will be risks, and results take time. But I believe we can do it. As we cross this threshold, I ask for your prayers and your support.

Thank you, good night, and God bless you.

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUARTERLY REPORTS—1996 APRIL

The mailing and filing date of the April quarterly report required by the Federal Election Campaign Act, as amended, is Monday, April 15, 1996. All principal campaign committees supporting Senate candidates in the 1996 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116. Senators may wish to advise their campaign committee personnel of this requirement.

The Public Records office will be open from 8 a.m. until 7 p.m. on April 15, to receive these filings. For further information, please contact the Office of Public Records on (202) 224-0322.

REGISTRATION OF MASS MAILINGS

The filing date for 1996 first quarter mass mailings is April 25, 1996. If a Senator's office did no mass mailings during this period, please submit a form that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116.

The Public Records office will be open from 8 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office on (202) 224-0322.

COAST GUARD AUTHORIZATION ACT OF 1996

Mr. LOTT. Mr. President, I support the motion to go to conference on S. 1004, the Coast Guard Authorization Act of 1996. Both the House and the Senate have passed versions of this bill. The House called for a conference with the Senate to resolve differences in the bill and appointed conferees. The Senate must respond to this request. We need to do this before the recess so staff can meet and have issues ready for the conferees to vote on in early April.

My colleague from South Carolina opposes going to conference on this bill. I do not understand why he is so opposed to going forward with this basic process. Last time I checked, conference is the process to resolve differences between the House and the Senate. The House has its bill. We have the Senate bill. Conferees sit down together to iron out the differences. Why should he object?

I know there is a provision in the House-passed Coast Guard bill that my colleague opposes. Each year, hundreds of foreign crewmembers file suit in U.S. courts against foreign ship owners in U.S. courts. Since 1989, 724 of these cases have been filed in one Florida county alone. The House bill includes a provision that would address this flood of nonresident crew cases against ship owners being brought in the United States. The House passed this provision as part of the Coast Guard bill twice.

Mr. President, I happen to agree with the House provision. There is no public or private policy reason to litigate these cases in the U.S. legal system.

These cases: Contribute to the overcrowding of court dockets, frustrate the ability of U.S. citizens to obtain timely resolution of their claims, and require citizens to serve as jurors on cases which do not affect U.S. public or private interests.

In Dade County, FL, it costs about $3,000 a day to conduct a jury trial. The U.S. taxpayer and consumer should not bear the cost of litigating these cases in our courts.

Of course we know who opposes this provision—the trial lawyers. There is no reason for these foreign cases to be heard in U.S. courts at the expense of the U.S. taxpayer, but a small handful of trial attorneys enriched by these cases resist any change. The trial lawyers as a group resist this tiny change because they see it as the camel's nose under the tent.

We have seen this from the trial lawyers before:

We saw it with reform of the general aviation liability laws. The lawyers nearly wrecked a whole industry before Congress was able to enact a very modest reform.

We saw it with modest efforts to reform securities laws. The President vetoed this measure at the urging of the trial lawyers and sustained his first veto override.

We saw it as recently as last week with efforts to oppose reasonable product liability laws. The trial lawyers may prevail on the President to veto this as well.

To take a quote from a former candidate, the trial lawyers will oppose any legal reform until hell freezes over, and then they will fight on the ice. That is what is happening here.

The trial lawyers do not care what is good for the country, what makes sense for consumers and businesses, what the burden is to the taxpayer. They only care if it enhances their ability to rake in huge contingency fees. If a change affects that ability, they will oppose it no matter how reasonable or meritorious.

A recent Florida Supreme Court case highlighted the problem created in Florida by lawyers using its courts for the whole world's litigation. In Kinney System, Inc. versus The Continental Insurance Co., the Florida court noted that the growing trend of lawyers filing suit in the United States for injuries occurring outside the United States was growing to abusive levels. The court was concerned about the burden these cases impose on trial courts. The court concluded, "(n)othing in our law establishes a policy that Florida must be a courthouse for the world, nor that the taxpayers of the State must pay to resolve disputes utterly unconnected with this State's interests." I agree.

Mr. President, the forum selection provision in the House Coast Guard bill is a reasonable legal reform that attempts to address part of the problem described in the Kinney case.

The provision will: Help assure the U.S. courts are available for U.S. citizens, provide an alternative to devoting scarce judicial resources to cases utterly unconnected to the Nation's interests, and assure that nonresident alien seamen receive fair treatment.

It does not affect the ability of U.S. citizens or permanent resident aliens to bring suit in U.S. courts.

It does not leave foreign crewmembers without a remedy. The provision would honor forum selection provisions in foreign employment contracts where there is an adequate remedy available to the seaman. And these remedies are available in other countries. Contrary to what the trial lawyers may want to believe, the United States is not the only civilized nation in the world. I have a whole stack of letters from different countries outlining the remedies available to seamen: Jamaica, Canada, Greece, Italy, Norway.

Mr. President, I could go on, but this issue should be resolved in conference. Its in the House bill—its not in the Senate bill. We need to resolve the differences between the House and the Senate on this important bill and go on and send it to the President. The only way we are going to do this is agree to the House request for a conference and appoint conferees. I urge my colleagues to do that and let the Senate get on about its business.

TRIBUTE TO SENATOR RUSSELL AND SENATOR NUNN

Mr. BYRD. Mr. President, I want to comment on two very distinguished Senators from Georgia, Senator Richard Brevard Russell and his successor, the very able Senator SAMUEL AUGUSTUS NUNN. On January 24, 1996, I had the great pleasure of taking part in the dedication of a statute of Senator Russell in the rotunda of the Russell Senate Office building. The unveiling of Senator Russell's statue last month occurred 25 years after Senator Russell's death in 1971. I was very pleased to be a part of this ceremony, because of my own high regard and esteem for Senator Russell. Twenty-four years ago, in 1972, I offered the resolution to rename the "Old Senate Office Building," as it was then known, in honor of Senator Russell. The grandeur embodied in both the building and the statue are fitting monuments to the very great legacy of statesmanship bequeathed to us by Senator Richard Brevard Russell.

The statue of Senator Russell stands in front of the entry to the Senate Armed Services Committee, where Senator Russell served as chairman for fifteen years during his 38-year Senate career, and where Senator NUNN has served as chairman and ranking member for ten years. Senator SAM NUNN is a worthy successor to Senator Russell's great legacy on national defense. He was first elected to the Senate on November 7, 1972, to complete the unexpired term of Senator Russell, and has since won reelection three times. Together, Senator Russell and Senator NUNN have provided 62 years of remarkable service to the Senate and the Nation, and 20 years of consummate leadership on national defense. If we add to that number the leadership on national defense offered by Senator NUNN's granduncle, Representative Carl Vinson, who for many years was chairman of the House Armed Services Committee, this record of leadership is even more remarkable. Senator NUNN's legacy on defense matters, and his service to the State of Georgia, is equally distinguished.

Like Senator Russell and Representative Vinson before him, Senator NUNN has devoted himself to sustaining and improving the military strength of the United States. He was instrumental in crafting the 1986 Defense Reorganization Act that has shaped the forces that the United States deploys today. He has dedicated himself to ensuring the quality of the all-volunteer force, and to seeing that these men and women are adequately compensated and cared for. He has also fought the Pentagon to preserve systems that DoD did not always want, but which ultimately proved their worth. One such system was the F-117 Stealth fighter, which was invaluable during Desert Storm. Since that fight, Senator NUNN has pushed to spread the benefits of stealth technology to the next generation of fighters, including the F-22. Finally, Senator NUNN has demonstrated his leadership in strengthening and preserving the NATO alliance, complementing U.S. military strength with the seamless and coordinated combined strength of our European allies.

He has become, in the process, a leader in U.S. foreign policy as well. Senator NUNN will be remembered for championing the Nunn-Lugar program to effectively reduce the Soviet nuclear threat to the United States, for his efforts to address and counter the proliferation of weapons of mass destruction, and for his role in shaping and defining the use of U.S. military force. He has been an integral part of every debate concerning the use of U.S. military forces, from Vietnam, to Lebanon, to the Persian Gulf War, to Somalia, Haiti, and Bosnia. I respect the cogent and well thought out arguments that Senator NUNN invariably brings to the discussion. He brings to these difficult debates a mature understanding of the subtleties of each situation and a clear vision of the strategic interests of the United States. To each debate, his talents for achieving a compromise are tested and proven anew. This ability surely will be missed after his departure from the Senate.

Mr. President, the State of Georgia has offered to the Congress and the nation statesmen and leaders of remarkable ability and durability during this century. The Congress and the nation have been the better and the stronger for the service of these sons of Georgia, from Carl Vinson, to Richard Brevard Russell, to SAMUEL AUGUSTUS NUNN. The legacy of these three men alone, and on national defense and security issues alone, is a remarkable testament. I am honored to have served with all three. As I have said before, Senator NUNN stepped into big shoes when he came to the Senate. With his retirement this fall, he will leave an equally large pair of shoes to fill.

Mr. President, I ask unanimous consent that a letter to me from Senator NUNN, along with the transcript of the ceremony, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, February 14, 1996.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, DC.

DEAR SENATOR BYRD: Please find enclosed a transcript of the Richard B. Russell Statute Dedication Ceremony of January 24, 1996. Your active participation in planning and chairing the dedication ceremony ensured its success.

I believe it would be a fitting tribute to Senator Russell for these proceedings to be a part of the historical record honoring his distinguished career. If you deem it appropriate, I would be honored for you, in your role as chairman of this special event, to insert the transcript into the Congressional Record.

I know your heartfelt remarks at the dedication ceremony meant a great deal to Senator Russell's family, friends, and former colleagues. Your personal remarks about my own service in the Senate at the ceremony and later, after my 10,000th vote, will always be among the most meaningful memories of my career in public service.

Sincerely,

SAM NUNN.

Enclosure.

SENATOR RICHARD RUSSELL STATUE DEDICATION, JANUARY 24, 1996, RUSSELL SENATE OFFICE BUILDING ROTUNDA

PROCEEDINGS

Senator NUNN. Our beloved Senate Chaplain, Dr. Lloyd John Ogilvie, will give the invocation.

Chaplain OGILVIE. Let us pray. Almighty God, sovereign of our beloved nation and Lord of our lives, we praise you that you call leaders to shape the course of history.

We have gathered here today to thank you for the impact on history of Senator Richard Russell. Here in this building that bears his name we place this statue of his likeness. May this statue call all of us to the excellence that distinguished his career, the nobility of his character that made an indelible mark on history, and his faith in you that gave him supernatural gifts of wisdom and discernment and vision.

Thank you for the lasting impact of the rare blend of humility and stature, patriotism and statesmanship, that made him a legend in his own time—Georgia's pride, a lodestar leader, a senator's senator for 38 years, and a truly great American. May we measure our commitment by his indefatigable faithfulness and set as a benchmark for our lives his belief that work in the government is one of the highest callings.

In this spirit of dedication to your best for America and in affirmation of this giant of history, we renew our commitment to serve you in the name of Jesus Christ our Lord. Amen.

Senator NUNN. Ladies and gentlemen, please be seated.

Charlie Campbell, the president of the Russell Foundation, will give more elaborate introductions, but let me begin by welcoming the members of the Russell family here today. I understand there are about 100 of you. We are very, very proud to have each and every one of you here.

The Russell trustees and supporters, we welcome you, and we thank you for all of your efforts in making this historic day possible; past and present members of the United States Senate who will be introduced later; and friends and admirers of Richard B. Russell.

This is indeed an important event in the life of the United States Senate. Every day since I have been serving in this unique legislative body, I have considered it a great honor to be the temporary holder of what I think of as the Russell seat in the Senate.

I am also proud that I had the opportunity to follow Senator Russell's footsteps as chairman of the Senate Armed Services Committee, which he chaired so ably for 15 years during the Cold War, the Korean War, the Cuban Missile Crisis, and the construction of the Berlin Wall.

I will never forget when I was a 23-year-old lawyer sitting in the back of the Senate Armed Services Chamber right down the hall as Congressman Carl Vinson of Georgia, the chairman of the House Armed Services Committee, presented the House position on a legislative matter to Senator Richard Russell at the other end of the table, also of Georgia and chairman of the Senate Armed Services Committee. Those were the days for Georgia and for our nation.

Twenty-seven years later, as chairman of the Senate Armed Services Committee, I watched with the rest of the world as the Berlin Wall was torn down, Eastern Europe regained its freedom, and the Soviet empire disintegrated. I have often thought that this occurred without a nuclear war and without worldwide destruction in considerable part because of the wise leadership of Richard Russell and Carl Vinson in building a strong United States and a strong NATO alliance.

[Applause.]

Senator NUNN: When this historic building was named in honor of Richard Brevard Russell in 1972, the powerful imprint of his record of service was still very fresh in the memory of the Senate and of our nation. Today, with the dedication of this magnificent statue, we have occasion to remember why Richard Russell made such an indelible imprint on the history of Georgia, the U.S. Senate, and our nation.

Although our nation is very different today than it was at the time of Senator Russell's election in 1932, or even at the time of his death 25 years ago, his service and his example are more instructive now than ever before.

In this context, no one is better suited to begin this ceremony of remembrance, recognition and dedication than our next speaker. Like Richard Russell, Vice President Al Gore was molded by his southern heritage and by a loving family that encouraged and supported his early and energetic and total commitment to public service.

Like Richard Russell, Al Gore is the son of a prominent political father. Indeed, Al Gore, Sr., served in the Senate with Richard Russell and with many in attendance here today. Richard Russell's own father was Chief Justice of the Georgia Supreme Court, and in that capacity, administered the oath of office when his son became Governor Russell of Georgia.

Just as our vice president was known as "Young Al" when he began his political career, Richard Russell was known as "Young Dick." Like Richard Russell, Al Gore spent a lot of time on the family farm, and as young boy these youthful experiences gave both men a special understanding of people who work with their hands, work in manual labor, as well as an abiding appreciation of conservation and the environment.

Like Richard Russell, Al Gore served on the Senate Armed Services Committee and devoted a considerable portion of his time to building a stronger America and a safer world. Like Richard Russell, Al Gore was elected as a very young man to Congress, and he has dedicated his life to the people of his state and to the people of our nation.

Ladies and gentlemen, please help me welcome the Vice President of the United States.

[Applause.]

Vice President GORE: Thank you.

[Continuing applause.]

Vice President GORE: Thank you very much. Thank you. Thank you very much, ladies and gentlemen.

And, Senator Nunn, thank you for your very kind words of introduction. One of my greatest honors in the time I served in the United States Senate was serving under your chairmanship in the Armed Services Committee, and thank you so much for your kind words.

Senator Byrd and Senator Stevens, two close friends and great leaders of this institution, other members of the Senate who are present—forgive me for not even attempting to single out individual senators because there is such a great turnout and such a large presence here at this event—former members of the Senate who are here, as well.

Governor Zell Miller, thank you for honoring us and this occasion with your presence here, and thank you for your leadership in Georgia and in our country.

To Charles Campbell, Chairman of the Richard B. Russell Foundation; to Frederick Hart, the sculptor; and to Chaplain Ogilvie—thank you for your invocation; to members of the family of Senator Russell—Carolyn Nelson and Pat Peterson especially, sisters of Senator Russell; to all of the other family members who are here.

It is an honor to him that so many of you are present. This really is a very, very special day, and to hear Sam Nunn introduce me with even slight comparisons is beyond what I can—that sets off my hubris alarm, Sam, because Senator Russell is rightly regarded as a legend, and all who had the privilege of serving with him understand that.

Incidentally, not too many days ago some tourists remarked to an acquaintance of mine from Tennessee that they had seen the Al Gore statue on the White House lawn, and I said, "What day was that?"

[Laughter.]

Vice President GORE: It's been so cold here recently people who don't know me thought I was frozen stiff. But in any event, ladies and gentleman, from this day forward, in the Rotunda of this majestic building named in his honor, a statue of Richard Brevard Russell will stand sentry. Georgia's senator, America's senator, a legendary figure in American politics will gaze over us—a fitting tribute to a towering presence.

I knew Senator Russell when I was a young man. I did not have the opportunity to serve in the Congress during his time of service, but my father's service in the Congress overlapped with his for 32 years. These two men had a great deal in common. Eighteen of those years my father served in the Senate with Senator Russell. Both were sons of the South and both provided shoulders on which a new generation of Democrats now stands.

Both believed that public service was an honorable calling that demanded common courtesy and rewarded basic decency. Both marched in the direction pointed by the compass of their conscience, no matter the prevailing winds or the calls to shift their course.

I remember often hearing my father say that whatever their occasional disagreements—and they did have some; on occasion they stood toe to toe, but when it came to certain core ideals; love of country, devotion to duty, respect for principles, they always saw eye to eye. But whatever the occasional disagreements, on one matter my father was resolute whenever he spoke about Senator Russell. Dick Russell had a heart of gold and was one of the most honorable individuals ever to serve in the United States Senate throughout its more than 200-year history.

To six United States presidents, Richard Russell was a mentor and an occasional menace. He stood up for Franklin Roosevelt at the 1932 Democratic Convention, nominating him for president when some people thought Roosevelt couldn't win. And then he stood up to Roosevelt a few years later, casting a deciding vote against his court-backing plan when some people thought Roosevelt couldn't lose.

He challenged Harry Truman for the presidential nomination in 1948, but he challenged the nation to honor Truman's authority as Commander-in-Chief when he presided over the Senate's Army MacArthur hearings three years later.

President Johnson knew him best among all the presidents served by Richard Russell, and the relationship between Richard Russell and Lyndon Johnson began as so many of his relationships had. Johnson was the student, and Russell was the teacher.

They became very, very close friends, even though they too had occasional disagreements and feuded from time to time. And Johnson owed much of his rise to the benevolence and wisdom of the Georgia Giant.

Senator Russell, we all remember, was an austere man, and, ironically, Johnson lavished him with gifts from time to time-fancy neckties, glass bowls, one time a watch just like the one that President Johnson wore. And, as the story goes, one Christmas Johnson gave Senator Russell a beautiful Christian Dior handkerchief. The Senator thanked him, and he said, "Now, Lyndon, I'm going to have to buy a new suit to go with this."

When Johnson was vice president, he hosted a dinner in Senator Russell's honor, which was a grand affair swarming with cabinet officers, elected officials and Washington's elite. And at that dinner, Johnson told the assembled gathering that if he were able to personally choose the president of the United States, he would select Richard Russell.

Richard Russell was indeed a president's senator and a senator's senator. And if things had gone a little bit differently, if the South had been a little bit different, if other things had been just a little bit different, he might have been a senator's president.

On some things Senator Russell was way ahead of his time, a little bit like that great Barbara Mandell song "I Was Country Before Country Was Cool." For example, Richard Russell was reinventing government before reinventing government was cool.

We're still in that period before reinventing government is cool.

[Laughter.]

Vice President GORE: As governor, he reduced the number of state bureaus, commissions and agencies from 102 to 17. He cut the cost of government 20 percent, saved the state the then-astronomical sum of a million dollars. He knew that a government that didn't spend money as wisely and carefully as a family could never earn any family's respect.

On national security, of course, Senator Russell had no peer. He championed a robust national defense, and he helped build a Pentagon that was the envy of the world. He also influenced all of those who came after him. Many members of the United States Senate today owe something of their bearing and approach to the job to their learning experience in watching Senator Russell.

In fact, I have sometimes though—and I dare say I'm not the only one—in watching the level of excellence brought to the job of chairman of the Armed Services Committee and now ranking member by Sam Nunn—that his experience, along with others, in watching Senator Russell was an important factor in giving our nation the degree of commitment to public service that we find from so many who watched Senator Russell carefully.

But perhaps his most lasting influence was on matters that were less explosive and less immediately tied to life and death, less immediately newsworthy—bringing electricity to rural America, getting loans for Georgia's farmers, making sure that poor children could eat a decent lunch at school. And there was always that reverence to his life, his spartan apartment, his utter devotion to the Senate as an institution, his enduring selflessness that inspired even those with whom he disagreed.

I do understand that more than 100 members of the Russell family are here this afternoon, and we all thank you for sharing your outstanding brother, uncle, cousin with the United States of America.

I guess we all should have expected, however, that even at the dedication of his statue, Senator Russell would make certain he had the votes to come out on top in case any question was put.

[Laughter.]

There's no need to worry about that this afternoon. Today and forever, this leader, this patriot, this legend, remains where he belongs—in the Senate standing tall.

[Applause.]

Senator NUNN. Thank you very much, Mr. Vice President. Richard Russell was an astute judge of the character and the quality of his fellow senators. He made his judgment, not only on the basis of their words, but also on the basis of what he observed—their deeds. When Richard Russell determined that you were a man or woman of honor, he was your champion for life.

One young senator who met this Russell test was Robert Byrd. The last vote Senator Russell cast before he died was cast from his hospital bed in favor of Robert Byrd's bid to become the majority whip of the Senate in 1971.

Senator Russell was an advisor and confidant to six presidents. He served under seven, but only a brief time under one. He had the deepest respect for the office of President, so much so that he never called any sitting president, even his old friend and protege Lyndon Johnson, anything but Mr. President.

With a similar respect, Senator Byrd never called Senator Russell anything but Senator Russell. Senator Russell believed strongly in the independence and coequal role of the Congress of the United States, and he insisted on more than one occasion that he had not served under six presidents, Al, but, rather, he served with six presidents—a real difference.

Like Richard Russell, Robert Byrd reveres the Senate of the United States, not just because he serves in it, but because of his respect for its role in the history of our nation and the world. Like Richard Russell in his day, Robert Byrd by the power of his intellect, by the depth of his understanding of history and the Senate rules, by the strength of his character and by his faith in God, is today the custodian of the Senate ideals that go back, not only to the founding fathers but, indeed, to ancient Rome.

Like Richard Russell, Robert Byrd embodies the traditions, the dignity, and, indeed, the honor of the United States Senate. It is my great privilege to introduce the honored friend of Richard B. Russell, Robert C. Byrd.

[Applause.]

Senator BYRD. Thank you.

Mr. Vice President, my colleagues, fellow Americans, ladies and gentlemen.

If I appear today to wear a pained expression, that's because I have some pain. If any of you have ever had the shingles, you know what I'm talking about. Although a great number of people think I wear that expression all the time.

[Laughter.]

And they're not far wrong.

I want to thank, first of all, the Senate Chaplain, Dr. Ogilvie, who performed the most important part in the program. I thank Mr. Campbell for inviting me to participate in this program. And I thank Sam Nunn. He stepped into some big shoes when he came to the Senate, and those shoes fit today.

[Applause.]

The Duke of Wellington once said that the presence of Napoleon on the field was worth 40,000 men in the balance. And so it is when Sam Nunn speaks on the subject of our national defense. He has no peer in the Senate, and everybody listens.

Let me say that I'm very grateful for the presence of so many of our colleagues here today. My eyes are growing dim, but I had the pleasure of personally greeting some of my colleagues before I came up here. So I want to thank John Warner and Danny Inouye and former Senator and former Judge Mr. Griffin; Thad Cochran and Jesse Helms, Mark Hatfield and Paul Sarbanes; and the only man in the Senate who has served longer in the Senate than I have. Strom Thurmond.

[Applause.]

Senator Byrd. That is in the Senate.

My tenure on the Hill is a little bit more than Strom's. Claiborne Pell. And our old friend Russell Long.

[Applause.]

Senator Byrd. Our great friend Mac Mathias, Paul Coverdell. I think I see Ted Moss and Wyche Fowler. There may be others. You'll forgive me if I can't see you from here, but thank you for coming.

When I first came to the Senate in January 1959, my office was in Room 342 of this building, then known as the Old Senate Office Building. That was still 13 years before the Senate would adopt the resolution that I offered renaming the building in honor of Senator Richard Brevard Russell.

Yet even though his name was not yet affixed to the wall of the building, it might well have been because he was the senator, the uncrowned king of the southern block, and he was as truly a Senate man as was Henry Clay or Daniel Webster or John C. Calhoun or Thomas Minton or any of the other giants who had preceded him.

Back in January 1959, I was the other relatively young senator of 41. Twenty years my senior, Senator Russell had already served over a quarter of a century in the United States Senate. He was a patrician in all aspects of the word, and of all the senators with whom I have served over these past 37 years, he was the only senator whom I never addressed by his first name when speaking to him personally. That was the measure of my respect and admiration for Senator Richard Russell.

On many occasions I sought his opinion and advice, and I always found him courteous and easy to talk with. He was urbane and scholarly, courtly and polite, a statesman by every definition.

His arrival in Washington in 1933 coincided with the start of Franklin Delano Roosevelt's New Deal Administration. Recognizing the severity of the Great Depression, Senator Russell gave loyal support to President Roosevelt whom he viewed as a great leader who sympathized with the problems of ordinary citizens. Russell's colleagues quickly recognized the talents and the abilities of this young senator. As a freshman, he won an almost unheard of appointment to the Senate Appropriations Committee.

Richard Russell never married. We used to say he was married to the Senate. Governor Miller, he studied its traditions and its customs, its rules, its history and its practices assiduously. Ted Stevens, Senator Russell avoided speaking often on the floor but preferred to do his work quietly in the committee rooms.

Senator Russell's philosophy of government was rooted in constitutionalism. His belief in the limits of federal power and the separation of powers among the three equal branches of government was the main force behind his opposition to what were popularly known then as civil rights acts. His attitude toward the role of government he summed up once by saying, "I am a reactionary when times are good; in a Depression, I'm a liberal."

He was always regarded as one of the most fair and conscientious members of this body. The truth of this was clearly demonstrated during the Senate inquiry of President Truman's dissmissal of General Douglas MacArthur from his command in Korea. Senator Russell presided over those hearings from May 3 to June 27, 1951. During that time, he was unfailingly courteous and was particularly solicitious of the General's views. In hindsight, it has been claimed that his judicious handling of this volatile event did much to diffuse an explosive situation.

Through it all he served his nation well. Richard Russell followed his own star. He did not pander. His confident was his conscience. He was always the good and faithful servant of the people. He was good for the Senate, and he loved it dearly. I can say without any hesitation that he was a remarkable senator, a remarkable American, a remarkable man who enjoyed the respect and the affection of all who served with him.

In the death of Senator Russell, I felt a great personal loss. From my first days in the Senate, I looked upon him as my mentor, and he was the man I most admired in Washington, a man of great intellect, the finest of public servants, and his patriotism of love, of country, will never be excelled.

"I saw the sun sink in hte golden west. No angry cloud obscured its latest view. Around the couch on which it sank to rest shone all the splendor of a summer day and long the lost of view its radiant light reflected from the skies delayed the night. Thus, when a good man's life comes to a close, no doubts arise to cloud his soul with gloom, but faith triumphant on each feature glows, and benedictions fill the sacred room. And long do men his virtues wide proclaim, while generations rise to bless his name."

And so to his kinspeople, to his kinspeople and his host of friends, I say, I am honored indeed to have been invited to participate in this ceremony in which we dedicate this handiwork of the sculptor to the memory of Richard Brevard Russell, late a senator from the state of Georgia. How poor this world would be without the memories of its mighty dead. Only the voiceless speak forever, the memory of this noble man will ever be like a star which is not extinguished when it sets upon the distant horizon. It but goes to shine in other skies and then reappears in ours as fresh as when it first arose.

[Applause.]

Senator NUNN. The distinguished senator we will hear from next also served with Senator Russell, but from across the table. Like Richard Russell, Ted Stevens' record of supporting his state's concerns and his record on national and international issues have made him a formidable force in his own home state and throughout the nation. In his own state of Alaska, his record discourages most potential opposition and crushes those who are daring enough to run against him.

Like Richard Russell, Ted Stevens has chaired the Defense Appropriations Subcommittee and has been an effective proponent of a strong national defense. Like Senator Russell, Ted Stevens is a champion of both our veterans and our men and women in uniform, and he fights to see that our troops have the weapons and the equipment they need to prevail in combat.

Like Richard Russell, Ted Stevens believes that when our flag is committed, it is time to transcend partisan politics and to support our troops. Richard Russell once described the legislative process well when he said, quoting him, "Only through a meeting of the minds and by concessions can we legislate."

Like Richard Russell, Ted Stevens understands that the legislation requires cooperation and coalition building in both political parties, not only to pass but to last.

Ted, to you and to my good friend and colleague Paul Coverdell, one message to majority leader Bob Dole who wanted to be here today but had other pressing commitments. In Georgia, we have a small town that might remind Bob Dole of home in case he ever has any reason in the next few weeks or months to wander into our territory, and it's called Russell, Georgia. We'll be proud to have him there at any time.

I am proud to present to you the distinguished senator from the state of Alaska, a friend of Richard Russell, the Honorable Ted Stevens.

[Applause.]

Senator STEVENS. Thank you very much, Senator Nunn. You embarrassed me with that introduction. I am delighted to be able to pinch-hit for Senator Dole and to be here with this distinguished group.

After listening to my good friend—and he is my great friend—Senator Byrd, I am reminded of a friend of mine that told me when he was ready to make a speech he felt like Lady Astor's seventh husband. He knew what he had to do, but he didn't know how to make it interesting.

[Laughter.]

Senator STEVENS. After a speech such as Senator Byrd's and the vice president's, I'm humbled to be here. But I am delighted to be here, Sam, because as you said, Senator Russell was the Chairman of the Subcommittee that I've been chairman of twice now, and that's the Defense Subcommittee, and I really feel greatly the responsibility of that position.

Because he spent half of his lifetime in the Senate and enjoyed relationships with every president from Franklin Roosevelt to Richard Nixon, as you've heard, Senator Russell had a deep understanding of the nation and a deeper understanding of how our government works, more so than most Americans.

He was very generous in sharing his wisdom and insight with new senators regardless of their political affiliation. That legacy lives on today, and I am one of the beneficiaries as Senator Nunn mentioned. Senator Henry "Scoop" Jackson and Senator Mansfield, Senator Stennis are people who served with him. They served as mentors for me and others, regardless of politics.

When we came to the Senate, and I came to the Senate 28 years ago, we were the recipients of the attention of Senator Russell, and we were guided by the senators that he had so well instilled with the love of this institution. As they took us under their wing, as Senator Russell had done to them, they counseled us in our first years in the Senate. Those were years when senators were seen and not heard for a few years, but I was an appointed senator so they sort of made an exception because they weren't sure I'd be back.

I think that there was no question that at that time we all recognized that we were serving with the foremost congressional authority on our nation's defense, and really the architect of our nation's security. He was chairman of the Armed Services Committee and chairman of the Defense Appropriations Subcommittee at the same time as I recall. I always remember that because I'm sorry that I can't enjoy that same circumstance. Senator Hatfield will understand that.

But it is something for all of us to remember that he worked primarily to assure that this nation remained strong. And he was very bipartisan in dealing with that, and I'm very serious about saying he took time with young senators to explain his understanding of defense and why it was so necessary to keep such a firm foundation.

I think he played a greater role than any other senator in shaping the defense establishment of our post-World War II period here in America. President Nixon said this of Senator Russell: When the security of the United States was at issue, six American presidents leaned upon this great patriot, Richard Russell. He never failed them.

By remaining bipartisan, Senator Russell kept our nation from retreating into isolationism during a period that was very essential to our history, the period right after World War II.

Long before Dwight Eisenhower became president, Senator Russell and Ike were great friends. Their friendship continued and grew after Eisenhower was in the White House.

In testimony to America's spirit of democracy throughout the world, Senator Russell showed our nation the importance of rebuilding, rebuilding not only our nation but our enemies'—Germany and Japan—after World War II.

Ensuring that the Marshall Plan became a reality was one of Dick Russell's real goals, and he was most successful. And while he was a tower of strength for our national defense, I am sure you know, Sam and the senators here from Georgia, he was a faithful representative of the people of Georgia. He saw better than others the future of the burgeoning discoveries in science and ensured that funds would be available for research in new technologies in medicine, agriculture and in conservation.

I feel truly honored to have been able to serve with Richard Russell, and I am deeply honored to my friend Robert Dole for being elsewhere so I could say it here today. Twenty-five years ago, just a few years after his death, I was a young senator, but I joined other senators in paying tribute to our departed friend.

Let me just repeat now what I said then. He never sought publicity nor attempted to impress his colleagues with flashy rhetoric, but that is not to say he was not a forceful advocate and a fierce adversary. I am confident that history will mark him as a consummate statesman who transcended regional boundaries to become a senator for all here in the United States. He was a paragon worth emulating by those who would pursue a life in public service.

Nothing has changed in the 25 years since I said those words. Russell is still a great influence, his legacy is alive today as it was then, his achievements and unique abilities will never be forgotten as Senator Byrd has so ably said, and I'm pleased to be here to be part of the dedication of this statue and pleased even more, as I said, to have been fortunate enough to have been able to serve with this great man, Richard Russell.

Thank you very much.

[Applause.]

Senator NUNN. Like Richard Russell, our next speaker has dedicated his life to public service, and has recognized that political leadership is an honorable calling. Like Richard Russell, Zell Miller comes from north of what we in Georgia call "The Gnat Line," the geological fall-line that separates north Georgia from south Georgia, with 90 percent of the gnats on the southern side of the line where I live.

Many north Georgia politicians never get elected because they never master a vital skill; that is, to be able to blow away the gnats and talk at the same time.

[Laughter and applause.]

Senator NUNN. Like Richard Russell, Zell Miller clearly mastered this skill despite his geographic disadvantage.

Like Governor Richard Russell and Senator Richard Russell, Governor Zell Miller has been a champion of job creation and fiscal responsibility.

Like Richard Russell, Zell Miller has a powerful commitment to the education of all of our children. As governor of Georgia, Richard Russell recognized and reorganized higher education. He established the Board of Regents and paved the way for Georgia's top institutions to become leaders in our nation.

In Washington, Senator Russell was the father of the school lunch program, one of his proudest accomplishments.

As governor, Zell Miller established the HOPE Scholarship Program which enables every student in Georgia who achieves a B average in high school to receive free tuition in college for as long as they maintain a B average. Currently, over 105,000 Georgia students are being helped by this program.

[Applause.]

Senator NUNN. As governor, Zell Miller is the father also of Georgia's pre-kindergarten program, the most comprehensive program for four-year-olds in the entire nation, one of his proudest accomplishments.

Ladies and gentlemen, I am proud to introduce the Governor of Georgia, my good friend, the Honorable Zell Miller.

[Applause.]

Governor MILLER. Thank you.

Thank you very much, Senator Nunn, for that introduction, but, most importantly, thank you for all that you have done for our state of Georgia and for this nation.

[Applause.]

Governor MILLER. Mr. Vice President, Senator Byrd, Senator Stevens, Senator Coverdell, other members of the U.S. Senate present and past, members of the Georgia Congressional Delegation past and present, Russell Foundation Chairman Charles Campbell, former Georgia Governor Ernest Vandiver, and Mrs. Betty Russell Vandiver and all the members of the Russell family——

[Applause.]

Governor MILLER [continuing]. Distinguished guests and ladies and gentlemen.

It is certainly a great honor to be on this platform and to have this opportunity to speak on behalf of the state of Georgia at this ceremony. Although it has now been 25 years, a quarter of a century, since his passing, many of us knew and still vividly remember Richard Russell.

Some knew him as a senator's senator whose knowledge and reverence of the United States Senate as an institution was so deep that even his colleagues who opposed him on the issues or bad conflicting philosophies of government had a level of respect for him that bordered on reverence.

Others knew Richard Russell as a president's senator, personal advisor, as we have known, to six Presidents beginning with Franklin Roosevelt. It was often said that the only power that the president had that Dick Russell didn't have was the ability to push the button. And no president would have thought of pushing that button without first consulting with Senator Russell.

But back home in Georgia we knew him as our senator, and when we sent him to Washington in 1933, it was because we already knew what a remarkable leader this man was.

Dick Russell became the youngest member of the Georgia Legislature when he was elected state representative at the age of 23, and he became Speaker of the House of Representatives in Georgia while he was still in his 20s. He was elected the youngest governor in Georgia's history at the age of 33. During those early years in state government, he honed the leadership skills that served him so well in Washington.

He was open, he was honest in his dealings, he was always fair and civil to both sides in an argument, and once he had given his word he stood by it without equivocation.

He was a genuine representative of the people who shunned political labels and special interests, and he was scrupulous about doing his homework on the issues, so that when he spoke, it was from personal understanding.

The Dick Russell we Georgians knew regarded public service as his life and his work and devoted himself unstintingly to it. He worked 12-hour days, cooked his own meals, washed his own socks in an austere bachelor apartment. He cared deeply about his large family, and his only indulgence was frequent visits with his kinfolk at the Russell family home in the little town of Winder, Georgia.

Many of you, of course, remember him as Mr. Defense, the powerful chairman of the Senate Armed Services Committee. And in Georgia, we still feel the positive economic impact of the many federal facilities be brought to our state.

In Georgia, we also remember, however, that by his own measure, as Senator Nunn mentioned awhile ago, in his own mind the highest accomplishment of his career and the only piece of legislation for which he jealously guarded his authorship, was the school lunch program.

Here in Washington, his name lives on in this impressive Senate Office Building. In Georgia, the infrastructure is a little less imposing. The post office in Winder is named for him, as is an elementary school in Cobb County, an agriculture research center in Athens, the federal district courthouse in Atlanta, an Army Corps of Engineers reservoir, and a scenic stretch of north Georgia highway.

But we really remember him better through ideas and intellect, the Russell Chair in American History at the University of Georgia; the Russell All-State High School Debate Championship; the Russell Teaching Awards; the Russell Leadership Program for Outstanding College Students; the Russell Public Policy Symposium; and the Russell Library for Political Research and Studies.

These activities are supported by the Richard B. Russell Foundation, which also commissioned this statue to bring a remembrance of the man himself into this building that honors him.

But at the same time that we always remember Richard Russell as Georgia's senator, the unfailing champion in Washington of our interests and our state, at the same time we remember that, as another great Georgia Senator by the name of Sam Nunn pointed out, Richard Russell was a statesman.

And these are Sam Nunn's words: He understood the simple and powerful truth that the best way to serve your state is to do the best job you can in serving your nation.

And that is what made him a senator's senator and a president's senator and a Georgia's senator, and a senator for the ages.

[Applause.]

Senator NUNN. Ladies and gentlemen, to conclude our program and acknowledge our special guests and, in particular, the Russell family, I would like to call on Mr. Charles Campbell.

Charlie served on the staff of Senator Russell during the last six years of his life and was his administrative assistant at the time of Senator Russell's death. Senator Byrd will recall that Charles was with Senator Russell when he cast his last vote that I mentioned earlier and that Senator Byrd mentioned—his vote by proxy from his hospital bed in 1971 for Senator Byrd to be majority whip.

It is my pleasure to introduce the Chairman of the Richard B. Russell Foundation and someone who must have been the youngest administrative assistant in the history of the United States Senate, Mr. Charlie Campbell.

[Applause.]

Mr. CAMPBELL. Thank you, Senator Nunn.

Vice President Gore, Senator Byrd, Senator Stevens, Senator Nunn, Governor Miller, other distinguished guests, friends and family of Senator Russell, ladies and gentlemen.

On behalf of the Russell Foundation, it is my pleasure to welcome you to the dedication and unveiling of the Russell statue and to thank you for your attendance.

There are so many distinguished guests present that we cannot hope to recognize all of them, but I know Senator Russell would be particularly pleased with the large number of currently serving and former members of Congress in the audience. And I would like to ask all of the currently serving and former members of Congress, both House and Senate in attendance, to please stand and let us recognize them.

[Applause.]

Mr. CAMPBELL. I want to recognize individually the senators who are here and who served with Senator Russell. You have already met Senator Byrd and Senator Stevens. The other senators who served with Senator Russell and who are present today and still serving in the Senate are:

Senator Mark Hatfield of Oregon.

Senator William Roth of Delaware.

Senator Strom Thurmond of South Carolina.

Senator Claiborne Pell of Rhode Island.

And Senator Daniel Inouye of Hawaii.

I'd like to ask them to please stand and be recognized.

[Applause.]

Mr. CAMPBELL. We are also delighted to have present certain former members of the Senate who served with Senator Russell, some for extended periods of time. I would now like to recognize these senators:

Senator Vance Hartke of Indiana.

Senator Birch Bayh of Indiana.

Senator Charles Mathias of Maryland.

Senator Robert Griffin of Michigan.

Senator Russell Long of Louisiana.

Senator Mike Mansfield of Montana.

Senator George McGovern of South Dakota.

Senator Frank Moss of Utah.

Senator William Proxmire of Wisconsin.

And Senator Harrison Williams of New Jersey.

I'd like to ask these senators to stand, please, and be recognized.

[Applause.]

Mr. CAMPBELL. As many of you know, Senator Russell was one of 13 brothers and sisters, and the Russell family is an exceedingly large family. It is well-represented here today. I would like to ask each member of the Russell family in attendance to please stand.

[Applause.]

Mr. CAMPBELL. We also have with us a number of the members of Senator Russell's staff or the staff of the committees which he chaired or on which he served, and I would like to ask the members of the Russell staff who are in attendance to please stand.

[Applause.]

Mr. CAMPBELL. The Russell Foundation, of which I am honored to serve as Chairman, is fortunate to have a dedicated Board of Trustees, the names of whom are published in your program. A number of the Russell trustees are in attendance today, and I would like for them to stand and be recognized.

[Applause.]

Mr. CAMPBELL. Each of the donors who contributed $5,000 or more to the Russell statue are listed in your program, and I would like to ask the individual contributors or representatives of corporate contributors who are in attendance today to please stand and be recognized.

[Applause.]

Mr. CAMPBELL. A project such as the Russell statue could not be accomplished without the assistance of a lot of people. I particularly want to thank Senator Sam Nunn and his staff for the many things they have done to bring this project to fruition, and I also can't let the occasion pass without saying, Senator, particularly in light of your retirement now, how much we appreciate your 24 years of Richard Russell-type service in the United States Senate.

[Applause.]

Mr. CAMPBELL. Senator Paul Coverdell and his staff have been of immeasurable assistance to us in putting on this program, and I want to ask Senator Coverdell to please stand and be recognized.

[Applause.]

Mr. CAMPBELL. Senator Russell's close friend, Senator Robert Byrd, has served as the official sponsor of the dedication of the Russell statue and the reception that will follow in the Caucus Room on the third floor of the Russell Building, to which you are each invited. I would like to thank Senator Byrd and his staff for all of the help they have given us with the Russell statue dedication.

[Applause.]

Mr. CAMPBELL. With respect to the Russell statue itself, we are indebted to the stone carver and the sculptor. As you will see when the statue is unveiled in a few minutes, the master stone-carver at the National Cathedral, Mr. Vincenzo Palumbo, who carved the Russell statue from a large block of white Italian marble using the model developed by the sculptor, did an outstanding job. I would like to ask Mr. Palumbo and his family to stand and be recognized.

[Applause.]

Mr. CAMPBELL. We were particularly blessed to have a talented sculptor who had a special interest in this project. The Russell Foundation selected Frederick Hart from a number of sculptors who were interviewed. We were particularly impressed by some of his public works, including the soldier figures at the Vietnam Memorial, and the Creation sculptures at the entrance to the National Cathedral here in Washington.

Frederick Hart is a native of Atlanta, Georgia, and he was already well-acquainted with Richard Russell's career before commencing his work on the Russell statue. In fact, his father was in the television business and was active in the 1952 campaign for the Democratic presidential nomination on behalf of the late Senator Estes Kefauver of Tennessee who was a candidate for president that year.

Senator Russell was himself a candidate for president in the 1952 Democratic Presidential Primaries.

Frederick Hart is not only an excellent sculptor, but was a pleasure to work with on the Russell statue. I would like to ask Rick and his wife and two sons who are in the audience to please stand and be recognized at this time.

[Applause.]

Mr. CAMPBELL. And before we unveil the Russell statue, I would like to make a request of three groups, if they would, to, after the dedication is over, come down front so we can have some photographs made of these groups with the statue.

The first ones are senators here who served with Senator Russell, both currently serving senators and former senators.

Secondly, the Russell trustees.

Third, the Russell staff.

If you would come down after the dedication is over to the front so we can have some photographs made with the statue.

Now, for the unveiling of the statue. I would like to ask the sculptor, Frederick Hart, and Senator Russell's two surviving sisters, Mrs. Pat Peterson and Mrs. Caroline Nelson, who are seated over here, to come forward to unveil the statue.

[The statue is unveiled.]

[Sustained applause.]

Mr. CAMPBELL. Rick, I think that Senator Russell, who was known to be quite a critic of portraits and likenesses, would say that it's a great job, and thank you so much.

That concludes our program. Everyone is invited to the reception up on the third floor in the Caucus Room, and thank you very much for attending.

[Applause.]

[Whereupon, the ceremony was concluded.]

DR. VERNE CHANEY

Mr. PELL. Mr. President, before entering the Senate I was closely associated with the International Rescue Committee [IRC], serving as a vice president in charge of IRC's Washington office. During my time with IRC, I had the privilege of knowing the legendary Dr. Tom Dooley, who helped to found Medical International Cooperation [MEDICO] as a division of the IRC with the goal of providing medical assistance to the underserved in Southeast Asia.

In 4 short years with MEDICO, Dr. Dooley established 17 medical programs in 14 countries and raised millions of dollars for their support. Dr. Tom Dooley truly became a legend in his own time.

Tragically, Dr. Dooley died of cancer in January 1961, one day after his 34th birthday. However, Mr. President, Dr. Dooley's magnificent work did not cease with his death. A dedicated colleague, Verne Chaney, M.D., gave up a lucrative private practice of thoracic surgery in Monterey, CA, to establish the Dooley Foundation. This year marks the 35th anniversary of the Dooley Foundation and Dr. Chaney has served as its president throughout the 35 year of its existence.

I want to take the occasion of this anniversary to recognize and pay personal tribute to the outstanding contribution which Verne Chaney has made in fighting disease, ignorance, and suffering in so many underserved areas of the world.

Dr. Chaney, a native of Kansas City, MO, and an honor graduate of the Virginia Military Institute, developed an interest in medical assistance work very early in his career. Even before graduating from the Johns Hopkins Medical School in 1948, he spent two summers in Newfoundland and Labrador as a volunteer assisting local doctors in small cottage hospitals. One day after the Korean war broke out on June 25, 1950, Dr. Chaney resigned his position as resident in surgery at the Johns Hopkins Hospital to volunteer with the Army Medical Corps.

He was assigned to a Mobile Army Surgical Hospital [MASH] in Korea. He then volunteered for assignment to a battalion aid station with the 23d Regiment of the 2d Infantry Division where he served for 13 months. Captain Chaney was highly decorated, receiving the Silver Star, Bronze Star (V), Purple Heart, and the French Croix de Guerre.

After an honorable discharge, he continued his residency in thoracic surgery at the Johns Hopkins Hospital and the University of North Carolina. Soon after completing his residency, Dr. Chaney volunteered to work at the Hospital Albert Schweitzer in Haiti as chief of surgery. After 15 months, Dr. Chaney returned from Haiti and entered into the private practice of thoracic surgery in Monterey, CA.

A defining moment in Dr. Chaney's life occurred in the summer of 1960, when he met Dr. Tom Dooley. Dr. Dooley was recruiting for MEDICO and asked Dr. Chaney to volunteer for 3 months in Cambodia and Vietnam to perform surgical procedures and to train host country health personnel. Dr. Chaney quickly agreed and was assigned to work in a hospital in Kratie, Cambodia, and at a tuberculosis hospital in Quang Ngai, South Vietnam. He was also asked to provide clinical services at the An-Lac Orphanage in Saigon.

After finishing his first assignment with MEDICO, Dr. Chaney returned to private practice in Monterey, CA. On the night of Tom Dooley's death he was asked by Tom's brother, Malcolm, to accept the position of medical director for MEDICO's projects in Asia. Taking a leave of absence from his practice, Verne Chaney spent the next year overseeing medical programs in Afghanistan, Cambodia, Hong Kong, Laos, Malaysia, and Vietnam.

In the fall of 1961, MEDICO had a severe financial problem; and was forced to cut back its overseas projects, later becoming a division of CARE. However, Dr. Chaney was determined to continue independently the overseas projects started by Tom Dooley and in September 1961, he established the Dooley Foundation in San Francisco, CA. Under the aegis of the Dooley Foundation, medical assistance projects were continued in Cambodia, Hong Kong, Laos, Vietnam, and with Tibetan refugees in northern India. In spite of his heavy responsibilities with the Dooley Foundation, Dr. Chaney, in 1965, volunteered to work for several months with Dr. Albert Schweitzer in Lambarene, Gabon, to provide medical and surgical services.

With the end of the Indochina war in December 1975, and the takeover by the Communists, the Dooley Foundation was forced to leave the region. However, the foundation found new opportunities for service.

Over the years, project activities have included the training of nurses and physical therapists in Nepal; assistance to refugees from Laos and Cambodia in Thailand; medical and educational assistance to Tibetan refugee children in India; medical assistance to a clinic for nomads in Niger; and medical assistance to refugees and internally displaced persons in El Salvador, Honduras—partially financed by a contract with USAID—Nicaragua and Afghan refugees in Pakistan. New medical assistance projects are pending in Laos, Cambodia, and Mongolia.

Mr. President, as Dr. Chaney looks back on his 35 years of service with the Dooley Foundation, he can indeed take great satisfaction in the accomplishments of the foundation. However, it is also appropriate to note that the need to serve the world's underprivileged continues. So long as there are children and villagers in the developing nations of the world who are without adequate nutrition, sanitation, and clean water; so long as immunizations against preventable diseases are lacking; so long as mothers are ignorant of proper hygiene and nutrition, there is need for the person-to-person humanitarian care which has been provided by the Dooley Foundation and for the inspiring leadership and service of physicians like Verne Chaney.

In closing Mr. President I want to quote Dr. Chaney directly: "but the task is never done—though battles are won—the war against hunger, disease, and ignorance is unending and must be fought by men and women united by a consciousness of the brotherhood of man." As Edmund Burke said, "The only thing necessary for the triumph of evil is for good men to do nothing."

Mr. President, our country has always been very proud of the American tradition of selfless humanitarian service to the less fortunate of the world—which dedicated Americans like Tom Dooley and Verne Chaney so beautifully exemplify. Their devotion to serving others is an inspiration for all of us.

CONGRATULATING THE FORT HAYS STATE MEN'S BASKETBALL TEAM

Mr. DOLE. Mr. President, once again, the 1995–96 basketball season has shown the Nation that when it comes to basketball, the State of Kansas is head and shoulders above the rest. I would like to congratulate the University of Kansas men's and women's basketball teams for once again making it to the NCAA tournament, and I would like to congratulate Kansas State University on their season and entry into the NCAA tournament. While both of these schools had great seasons, the year belongs to Coach Gary Garner and the Fort Hays State Men's Basketball Team for their outstanding 1995–96 season, which they capped off by winning the NCAA II Men's National Basketball Championship. Their effort is certainly one that all Kansans can be proud of.

The Tigers of Fort Hays State completed a 34 to 0 season this year by defeating Northern Kentucky University 70 to 63 in the championship game. En route to their championship victory and outstanding season, the Tigers entered elite company, by becoming the third unbeaten team to win the tournament in NCAA II History. Fort Hays State finished the season ranked No. 1 and currently holds the Nation's longest winning streak. This has been an amazing season for Coach Garner and his team. I am proud to recognize their effort, and I look forward to next season, when the State of Kansas will once again make its presence known to the basketball world.

PROPOSED UNION PACIFIC-SOUTHERN PACIFIC MERGER

Mr. DOLE. Mr. President, I would like to comment on a situation that much of the country is following very closely. I am speaking of the proposed merger between the Union Pacific and Southern Pacific Railroads.

I have been contacted by various groups and organizations regarding this merger. I realize that there are concerns regarding the effects of the merger, and I have encouraged any person or group having concerns to participate in the open-comment period of the Surface Transportation Board, which ends today. The Surface Transportation Board, the Government agency now responsible for overseeing railroad mergers since the elimination of the Interstate Commerce Commission, will review all information and make the appropriate decisions regarding the merger.

I also want to acknowledge that there are a number of individuals involved in the merger who are active supporters of my Presidential campaign. In order to avoid any appearance of conflict of interest, this Senator wants to make clear his intention to not become involved in any discussion related to the proposed merger.

TRIBUTE TO DAVID PACKARD

Mr. NUNN. Mr. President, I rise today to pay tribute to David Packard, whose death on March 26 ended the distinguished career of one of America's most innovative, visionary, and generous business leaders.

David Packard was an outstanding public servant as well. He was Deputy Secretary of Defense under Secretary Melvin Laird, 1969–71, in what many consider one of the strongest teams ever to head the Department of Defense. His understanding of both broad issues and nuts and bolts of management was the ideal complement to Laird's knowledge of the Pentagon and Washington.

More recently, Packard chaired the President's Blue Ribbon Commission on Defense Management under President Reagan—generally known as the Packard Commission. The Commission's study of the Department's procurement process led to the establishment of the position of Undersecretary for Acquisition and to the streamlining of military buying practices. He testified on a number of occasions before the Armed Services Committee and provided valuable advice on organization and buying procedures. He was always extremely helpful to the committee and to me whenever we called on him.

A few years after their graduation from Stanford during the Great Depression, David Packard and William Hewlett borrowed $538 from a former professor and launched Hewlett-Packard in the garage of Packard's rented house. It is one of the great American success stories.

"We weren't interested in the idea of making money. Our idea was if you couldn't find a job, you'd make one for yourself. Our first several years we made 25 cents an hour." Today his company is our Nation's second largest computer company and Silicon Valley's biggest employer, with 100,000 employees around the world and $31 billion in sales last year.

Packard became one of the richest men in America, but he lived modestly to the end, using his great wealth to follow, on a broader scale, the principles that guided him in managing the company—encouraging individual creativity, providing opportunity for development of knowledge and skills, fostering mutual respect and trust.

The key to his business success was the key to his character as well. The important thing was to make or do something useful. He had no patience with ostentation in corporate executives, nor with those who made short-term profits made by cutting long-term investment in research, new product development, customer services, or facilities and equipment.

David Packard's management philosophy and methods became models for other companies. He viewed his employees as colleagues with ideas, skills, loyalty, and understanding he valued. He practiced management by walking the factory floor and insisted on an open-door policy in executive offices. Workers called him Dave and he encouraged them to come to him with their gripes as well as their ideas for improving products and operations. In return, they gave him undying loyalty and the benefit of their best efforts and creative ideas.

He was semiretired through the 1980's, but he and William Hewlett returned to the company in 1991 when it experienced a financial slump. Packard was the driving force behind the reorganization that revitalized the company.

When Packard retired as chairman for a second time in 1993, someone asked him what was his proudest moment. Instead of pointing to one of his many accomplishments, David Packard said simply, "Do something useful, then forget about it and go on to the next thing. Don't gloat about it."

That accurately described his own approach throughout a long and imminently successful life. Whenever he finished doing something useful, he looked for something else useful to do.

A Phi Beta Kappa, football and basketball player at Stanford, he was a dedicated outdoorsman all his life, and a staunch Republican. He made major gifts over the years to Stanford, the Monterey Bay Aquarium, and the Wolf Trap Foundation.

One of his last acts, not long before he died, was to give a generous donation to the Paralympics that will be held in Atlanta this summer, the week after the Centennial Olympic games. It was typical of David Packard that, at 83, he was thinking about ways to encourage individual excellence, helping to provide talented athletes from disabled community the opportunity to participate in international competition.

Our Nation is a better place because of his innovations, his philosophy, his example, and his dedication to both making and doing something useful. David Packard's character matched his physique—he was a giant of a man.

His beloved wife, Lucille Laura Salter Packard, died in 1987. I know the Senate joins me in expressing our deepest sympathy to his children, who were at his side when he died: David Woodley Packard, Nancy Ann Packard Burnett, Susan Packard Orr, and Julie Elizabeth Packard.

TRIBUTE TO EDMUND S. MUSKIE

Mr. NUNN. Mr. President, I rise to join with my fellow Senators in mourning the death of former Senator Edmund S. Muskie of Maine, and in paying tribute to one of the most distinguished and influential Members of this body during a turbulent period in our history.

Ed Muskie worked his way through Bates College, where he was a Phi Beta Kappa, and earned a scholarship to Cornell's law school. After serving in the Navy on destroyer escorts during World War II, he was elected to the Maine House, where he served as minority leader. He won the Governorship of Maine during the Eisenhower years when no Democrat had held the office in 20 years, and was easily re-elected. He revitalized the State party and was elected and re-elected to the U.S. Senate until his resignation to become Secretary of State in 1980 during the last difficult months of the Iran hostage crisis. It was a time of great tension following the Soviet invasion of Afghanistan, during which the United States boycotted the Olympic games in Moscow.

Ed Muskie was Hubert Humphrey's Vice-Presidential running mate in 1968. Few people remember how close that election was, and one reason it was so close was the strength Ed Muskie brought to the ticket. He started out the frontrunner, but his own campaign for the Presidential nomination in 1972 was unsuccessful, damaged by the dirty tricks the Nation would only learn about only later. It is ironic, but a tribute to the man, that the most damaging thing his enemies could point to in his conduct was that he loved his wife enough to lose his usual control when they attempted to slander her.

Senator Muskie returned to the Senate and in 1974 became the first chairman of the Budget Committee. I had the privilege of serving with him on the committee during my formative early years in the Senate. He was a strong voice for budget stability. The processes he established for monitoring Federal spending, and his insistence on holding down spending across a broad range, including the areas of his own major concerns. This is the same process being used today in our attempt to achieve a balanced budget by 2007.

Senator Muskie deserves major credit for most of the important early environmental legislation. He held together fragile coalitions of liberals and conservatives in budget battles, challenged Presidential policies and his own wing of the Democratic party for its failure to change. Through it all, he earned the respect of both allies and foes.

After his stint as Secretary of State, he retired to private law practice. He returned briefly to public service in 1987 on the Special Review Board on the Iran-Contra Scandal, also known as the Tower Commission.

Ed Muskie was a big man, big enough to still the voices of hecklers by inviting them up on the platform with him, big enough early in his Senate career to stand up to majority leader Lyndon Johnson at the height of his power, and big enough to gain the respect of his fellow Senators, and of Johnson himself. He believe in what he called a politics of trust, not of fear.

Ed Muskie was often described as "Lincolnesque." His middle name, Sixtus, was the name of five Popes during the 15th and 16th centuries. His last name had been shortened by immigration officials from what they considered the unpronounceable Polish name of his forefathers when his father arrived at Ellis Island. But whatever people called him, wherever his names came from, Ed Muskie was his own man.

What we remember is not the occasional flash of temper but his modesty, moderation, and self-deprecating humor, and his capacity for bridging differences. He was a man of great humanity who stood for reason and reconciliation in a time of division and disunity.

Ed Muskie graced this body with his healing and imposing presence, his self-deprecating humor, and his personal integrity for 21 years. He served his State and country courageously for more than three decades. I am honored to have served with him, and want to express my deepest sympathy, and that of this body, to Jane, his wonderful wife of 48 years, and to their children Stephen, Ellen, Melinda, Martha, and Edmund, Jr.

CHILD CARE PROVIDERS WEEK

Mr. PRESSLER. Mr. President, every morning, millions of parents kiss their children goodbye as they trade the hat of parent for the hat of teacher, police officer, waitress or doctor. When they leave home to work, they must leave their precious young ones in the care of someone else. Sometimes, parents find a relative. More often, they rely on strangers. As a parent myself, I know how difficult it can be to trust someone else with the well being of your child. Fortunately, most parents have reliable child care providers to depend on. We hear occasional horror stories of abuse and mistreatment by child care providers, but the majority of child care workers always have the best interests of the child at heart. April 21–28 will be the Week of the Young Child. During this important week, South Dakota will recognize Child Care Provider's Day on April 22. I would like to take this opportunity to recognize these hard working child care providers who support millions of American families each day.

My State has a claim to fame that most Americans would not guess. According to the most recent census data, 71 percent of mothers with children under the age of six are working moms. The national average is less than 60 percent. This means that reliable, quality child care is an issue not just for parents in urban areas. Families in rural States must search for adequate child care, too. For families who live in remote areas of South Dakota, this may mean driving to the next town to find day care services.

Child care providers do not have an easy task. A child's formative years are crucial. Caretakers must provide a stimulating environment for growth and learning. They do not merely babysit. Each child must be reached individually to develop language, reasoning and motor skills. Only a secure and nurturing environment can allow this to happen. In creating a home away from home, child care workers are providing American families with a very valuable service. For most families, success at work and stable home relationships hinge on professional child care.

Congress has been working hard over the last year to reform the Federal child care system. I wholeheartedly support efforts to end overlap of programs and needless bureaucracy. Child care should be affordable, accessible, and reliable. I will continue working in Washington to ensure quality child care for all American families.

Many thanks to the child care workers who daily provide for our children. They keep our families and workplaces on track. They should receive special recognition during the Week of the Young Child.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, March 28, 1996, the Federal debt stood at $5,071,791,748,467.89.

On a per capita basis, every man, woman, and child in America owes $19,173.26 as his or her share of that debt.

GATT

Mr. PRYOR. Mr. President, yesterday I spoke briefly about our failure to correct a loophole in the GATT legislation which gives a handful of companies unprecedented and unintended special treatment. Our distinguished colleague, Senator HATCH, raised a few points which my distinguished colleague, Senator CHAFEE and I feel deserve clarification.

For several months, we have sought an opportunity to remedy the mistake made by Congress and the administration when the GATT implementing legislation was enacted. The legislation's grandfather provisions were meant to apply to every person, product, company, and industry in the country. But the final GATT legislation accidentally excluded the prescription drug industry because it lacked a conforming amendment to the Food, Drug and Cosmetic Act. As a result, the prescription drug industry is the only industry in the country which received the patent extension but is unfairly exempted and shielded from competition. Because of this mistake, consumers and taxpayers are paying billions of dollars far too much for a handful of drugs, including Zantac, the world's best-selling drug.

Mr. CHAFEE. Mr. President, I agree entirely with my colleague, Senator PRYOR, and wish to raise one simple but important point. It should be noted clearly and conclusively that there is an extensive record of evidence from the U.S. Trade Representative, the Patent and Trademark Office, and the Food and Drug Administration that a mistake was made by both the Congress and the administration. There is absolutely no question as to this fact. To dispel any doubts, I would like to submit for the RECORD an excerpt from Ambassador Mickey Kantor's testimony to the Senate Judiciary Committee on February 27:

> The Congress and the Administration did not, however, take into account the technical interrelationship between the Patent Act and the regulation of pharmaceutical products by the Federal Food, Drug and Cosmetic Act. In fact, no one—including those in the private sector who watched these developments closely—took this interrelationship into account. This [Senate Judiciary] Committee and the House Judiciary Committee held a joint hearing on August 12, 1994, to review the intellectual property provisions of the URAA and not a single reference was made to this system. In all this time, not a single reference was made to the fact that pharmaceuticals may be treated differently than other forms of technology, not even by Gerald Mossinghoff of the Pharmaceutical Research and Manufacturers of America, who testified in support of this legislation without referring to this provision . . . We did not intend for this to happen and we support the correction of this oversight through the appropriate amendments to the Food, Drug and Cosmetic Act and the Patent Act.

Mr. PRYOR. Mr. President, I concur wholeheartedly with Senator CHAFEE. Let me add that for a number of months, we have sought an opportunity to vote on the missing conforming amendment. In December, a primary argument against acting on the amendment was the alleged need for a committee hearing. The February 27 hearing was never sought by us and, in fact, it did not add a single additional fact to the public record on this issue. The hearing simply reinforced the substantial body of evidence which proves a costly and inequitable mistake was made and is in urgent need of correction.

Nor has a markup in any committee ever been an objective of those seeking to correct this congressional mistake. As chairman of the Judiciary Committee, Senator HATCH promised a markup on this issue by the end of March. That apparently was not possible. My colleagues, Senators CHAFEE and BROWN, and I believe very strongly that any further delay in remedying this clear and costly congressional error will only benefit a handful of companies at the expense of their competitors and the American public.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a withdrawal and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 11:59 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3136. An act to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit.

The enrolled bill was signed subsequently by the President pro tempore [Mr. THURMOND].

At 3:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2854) to modify the operation of certain agricultural programs.

The message also announced that the Speaker appoints Mr. HOYER of Maryland to fill the vacancy occasioned by the resignation of Mr. STOKES of Ohio in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

The message further announced that the House has passed the following joint resolution, in which it request the concurrence of the Senate:

H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in it requests the concurrence of the Senate:

H. Con. Res. 157. Concurrent resolution providing for an adjournment or recess of the two Houses.

ENROLLED JOINT RESOLUTION SIGNED

At 4:35 p.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

The enrolled joint resolution was signed subsequently by the President pro tempore [Mr. THURMOND].

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1271. A bill to amend the Nuclear Waste Policy Act of 1982 (Rept. No. 104–248).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Ms. SNOWE (for herself and Mr. LEAHY):

S. 1655. A bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decision making at the National Cancer Institute; to the Committee on Labor and Human Resources.

By Ms. SNOWE:

S. 1656. A bill to permit individuals to continue health plan coverage of services while participating in approved clinical studies; to the Committee on Labor and Human Resources.

By Mr. FAIRCLOTH:

S. 1657. A bill requiring the Secretary of the Treasury to make recommendations for reducing the national debt; to the Committee on Finance.

By Mr. MCCONNELL:

S. 1658. A bill to amend the Internal Revenue Code of 1986 to provide improved access to quality long-term care services and to provide incentives for the purchase of long-term care insurance, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1659. A bill to declare a portion of Queens County, New York, to be nonnavigable waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GLENN (for himself, Mr. LEAHY, Mr. JEFFORDS, Mr. JOHNSTON, Mr. LEVIN, Mr. D'AMATO, Mr. SARBANES, Mr. INOUYE, and Ms. MIKULSKI):

S. 1660. A bill to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PRESSLER (for himself, Mr. BURNS, Mr. INHOFE, Mr. DASCHLE, and Mr. BAUCUS):

S. 1661. A bill to specify that States may waive certain requirements relating to commercial motor vehicle operators under chapter 313 of title 49, United States Code, with respect to the operators of certain farm vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATFIELD:

S. 1662. A bill to establish areas of wilderness and recreation in the State of Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATFIELD (for himself and Mr. HARKIN):

S. 1663. A bill to amend the Internal Revenue Code of 1986 to improve revenue collection and to provide that a taxpayer conscientiously opposed to participation in war may elect to have such taxpayer's income, estate, or gift tax payments spent for nonmilitary purposes, to create the United States Peace Tax Fund to receive such tax payments, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 236. A resolution appointing Members to certain Senate commitees; considered and agreed to.

By Mr. FAIRCLOTH:

S. Res. 237. A resolution to express the sense of the Senate regarding reduction of the national debt; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee has thirty days to report or be discharged.

By Mr. HELMS (for himself, Mr. ROTH, Mr. LOTT, Mr. D'AMATO, Mr. NICKLES, Mrs. HUTCHISON, Mr. FAIRCLOTH, Mr. BREAUX, Mr. SHELBY, Mr. BENNETT, and Mr. SANTORUM):

S. Res. 238. A resolution expressing the sense of the Senate that any budget or tax legislation should include expanded access to individual retirement accounts; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August, 4, 1977, with instructions that if one Committee reports, the other Committee has thirty days to report or be discharged.

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 239. A resolution to authorize representation by Senate Legal Counsel; considered and agreed to.

By Mr. WARNER (for himself and Mr. FORD):

S. Res. 240. A resolution to authorize representation by Senate Legal Counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE (for herself and Mr. LEAHY):

S. 1655. A bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decision making at the National Cancer Institute; to the Committee on Labor and Human Resources.

By Ms. SNOWE:

S. 1656. A bill to permit individuals to continue health plan coverage of services while participating in approved clinical studies; to the Committee on Labor and Human Resources.

BREAST CANCER LEGISLATION

Ms. SNOWE. Mr. President, I introduce two important pieces of legislation which promise to be of great significance to women with breast cancer: the Consumer Involvement in Breast Cancer Research Act of 1996, and the Improved Patient Access to Clinical Studies Act of 1996.

Breast cancer is a national health crisis of enormous proportions. Each year, breast cancer strikes approximately 182,000 women, resulting in 46,000 deaths. It has become the most common form of cancer and the second leading cause of death among American women. An estimated 2.6 million women in the United States are living with breast cancer, 1.6 million have been diagnosed with the disease, and an estimated 1 million women do not yet know they have breast cancer.

Some 1 out of 8 women in our country will develop breast cancer in her lifetime, up from one out of 14 in 1960. In fact, this year, a new case of breast cancer will be diagnosed every 3 minutes, and a woman will die from breast cancer every 11 minutes.

Breast cancer is a crisis that has tragically claimed the lives of almost 1 million women of all ages and backgrounds since 1960. It has become the leading cause of death for women age 40 to 44, and the leading cause of cancer death in women age 25 to 54.

In 1994, 900 Maine women were diagnosed with breast cancer. This is the most commonly diagnosed form of cancer among Maine women, and represents more than 30 percent of all new cancer among women in Maine.

Over the past few years, we have made significant gains in funding for breast cancer research. In fiscal year 1991, Congress spent $92.7 million on breast cancer research at the National Institutes of Health. By fiscal year 1995, spending had increased to $308.7 million. Moreover, the Department of Defense has received $460 million over the past 3 years to undertake breast cancer research.

However, funding alone is not enough. We must work to ensure that the most worthy and innovative projects are pursued and funded. This means funding projects which victims of breast cancer believe are important and meaningful to them in their fight to live with this disease.

Over the past 3 years, the Department of Defense has included lay breast cancer advocates in breast cancer research decision making. The involvement of these breast cancer advocates has helped foster new and innovative breast cancer research funding designs and research projects. While maintaining the highest level of quality assurance through peer review, breast cancer advocates have helped to ensure that all breast cancer research reflects the experiences and wisdom of the individuals who have lived with the disease. In addition, breast cancer advocates provide a vital educational link between the scientific and lay communities.

My bill, the Consumer Involvement in Breast Cancer Research Act of 1996, urges the National Institutes of Health to follow the DOD's lead. It urges NIH to include breast cancer advocates in breast cancer research decision making, and to report on progress that the Institute is making next year.

I believe that this legislation provides the critical next step in making breast cancer research more responsive to the needs of millions of American women living with breast cancer.

But it is not the only step we need to take. People suffering from diseases with no known cure often have access to the latest, most-innovative therapies only through clinical trials. This is often the case for women with breast cancer. Yet insurance companies regularly deny coverage for such treatments on the basis that they are experimental or investigational.

As a result, many patients who could benefit from these potentially life-saving investigational treatments do not have access to them because their insurance will not cover the costs. Denying reimbursement for these services also impedes the ability of scientists to conduct important research, by reducing the number of patients who are eligible to participate in clinical trials.

The second bill I am introducing today, the Improved Patient Access to Clinical Studies Act of 1996, addresses this problem. This bill would prohibit insurance companies from denying coverage for services provided to individuals participating in clinical trials, if those services would otherwise be covered by the plan. This bill would also prevent health plans from discriminating against enrollees who choose to participate in clinical trials.

Mr. President, March is Women's History Month. We should take this opportunity to celebrate the important gains we have made over the past few years in the area of women's health research. At the same time, we must also recognize how far we still have to go. I believe that the bills I have introduced today represent continued progress in the fight against breast cancer, and I urge my colleagues to support them.

By Mr. McCONNELL:

S. 1658. A bill to amend the Internal Revenue Code of 1986 to provide improved access to quality long-term care services and to provide incentives for the purchases of long-term care insurance, and for other purposes; to the Committee on Finance.

THE FAMILY CHOICE IN LONG-TERM CARE ACT

• Mr. McCONNELL. Mr. President, the graying of America means significant changes for our Nation's families. Traditionally, a family member, most likely a wife or daughter, has cared for an ailing spouse or parent at home. However, today's pressures of work, child-rearing, and family mobility greatly restrict the ability of adult children to administer to the day-to-day needs of a chronically ill parent. In addition, the rigors of home-based care can have a debilitating impact on the health and well-being of a caring spouse.

Few families are fully prepared for the physical, emotional, or financial demands of long-term care. For too many, this difficult journey begins with a unexpected jolt from a sudden accident, the death of a spouse or parent, or the diagnosis of a debilitating, long-term illness.

As America's population ages, the need for long-term care increases. In 1993, almost 33 million Americans were over the age of 65, and by 2011, the elderly population is estimated to number close to 40 million. While the opportunity for a happy and healthy retirement is better than ever, an October 1995 long-term care survey by Harvard/Harris revealed that 1 in 5 Americans over age 50 is at high risk of needing long-term care during the next 12 months.

Today, a variety of long-term care services are available, from help in cleaning one's home and getting groceries to skilled nursing care with 24-hour supervision. However, the means to pay for long-term care are still very limited and the expense can be overwhelming. For example, $59 billion was spent on nursing home care for the elderly in 1993, and 90 percent was covered by out-of-pocket payments and Medicaid.

The cost of paying out-of-pocket for 1 year in a nursing home is more than triple a senior's average annual income. Long-term care expenses put a lifetime of work and investment at risk. To gain Medicaid coverage, seniors must spend down their assets in order to meet State eligibility requirements. While Medicare takes care of hospital costs and home care, it provides only limited coverage for short-term stays in skilled nursing facilities.

The medical side of long-term care has seen enormous advances over the years in new technologies, facilities, treatment methods, and even psychological studies of the effects of long-term care on patients. But the financing side of long-term care has simply failed to keep up, and as a result it is ill-prepared for seniors' future needs. Today, private insurance pays for less than 2 percent of long-term care costs. As Federal mandates for Medicaid coverage have increased, States have attempted to contain costs by restricting services for the elderly. State-imposed caps on the number of Medicaid-sponsored nursing home beds has separated families from their loved ones because the only Medicaid beds available were hundreds of miles away from their community. Most disturbingly, the remaining assets of a deceased elderly couple can be tapped through an estate recovery action to compensate the State for the couple's Medicaid expenses.

Since 1990, Medicaid expenditures for long-term care have been increasing by almost 15 percent annually, causing costs to double every 5 years. Medicaid's service as the sole long-term care safety net for middle class seniors may seriously impair the program's ability to serve the underprivileged. While low-income families accounted for 73 percent of Medicaid's beneficiaries in 1993, nearly 60 percent of expenditures went to nursing home care and other long-term care services. For example, in 1993, Kentucky's Medicaid spending per enrollee for children was $964; while the cost for elderly beneficiaries was $6,540. Without relief, a harsh battle between generations may emerge.

Mr. President, I rise today to introduce the Family Choice in Long-Term Care Act, a bill that would alleviate dependence on Medicaid by enabling families and seniors to plan ahead for their long-term care needs. Currently, our tax code does not define long-term care as a medical expense. My proposal would end this discrimination and allow long-term care expenses and policy premiums to be tax deductible.

Like health care insurance, payments under long-term care insurance would not be taxable when received. Children would be able to purchase policies on behalf of their parents. In addition, employer-based plans would be treated like accident or health policies. Individuals could convert a life insurance contract in favor of a long-term care policy without suffering a tax penalty. Under my bill, terminally or chronically ill patients could receive accelerated death benefits to pay for their long-term care needs. And my legislation would also permit qualified withdrawals from individual retirement accounts of 401(k) plans for the purchase of a long-term care policy.

Interest in long-term care insurance is growing. According to the American Health Care Association, the average growth rate in long-term care policy sales has averaged 27 percent annually since 1987. In 1993 alone, a total of 3.4 million insurance policies were sold. A study conducted by the research firm of Cohen, Kumar & Wallack found that it is not just higher-income seniors who are interested in long-term care insurance. The study showed that 30 percent of surveyed long-term care policy-holders earned less than $20,000 annually.

While tax clarifications will make long-term care plans more affordable to seniors and families, attention must be paid to assure investment quality and security. My proposal would establish the National Long-Term Care Insurance Advisory Council to advise Congress on the market's development and promote public education on the necessity of long-term care planning and the options available. The bill also outlines consumer protection standards for policies as recommended by the National Association of Insurance Commissioners.

Finally, my proposal would require the Secretary of Health and Human Services to develop and distribute a summary of recommended health care practices to Medicare beneficiaries. As always, prevention is the first step in curtailing the demand for high-cost medical care.

While there has been a great deal of rhetoric about tax cuts lately, long-term care tax clarification benefits everyone. Seniors can invest in a quality long-term care plan without fear of losing everything they own, and families will have access to the support they feel is most appropriate for their loved ones.

In addition, Medicaid will continue to provide long-term care services for seniors in need. A 1994 study published in Health Affairs estimates that Medicaid would save $8,000 to $15,500 on each nursing home entrant who held a long-term care policy. Also, the probability of a senior's spending down to Medicaid eligibility would be reduced by 40 percent. Private long-term care insurance would preserve the medical safety net for seniors and benefit other Medicaid recipients, particularly low-income children and the disabled.

Mr. President, in sum, private long-term care insurance translates into quality, flexible care for seniors, more Medicaid funds for low-income families and the disabled, and essential support for families who want their loved ones to be safe and secure. These are priorities that all Members of Congress share. We should not miss this opportunity to help America's families prepare for the challenges of long-term care.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 1659. A bill to declare a portion of Queens County, New York, to be nonnavigable waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

THE QUEENS-WEST WATERFRONT DEVELOPMENT ACT OF 1996

Mr. MOYNIHAN. Mr. President, I rise to introduce, with my esteemed colleague Senator D'AMATO, a bill to eliminate an impediment to an important economic development project in Queens. The Queens West development is 12 years in the making. Construction of the first apartment tower should create 1,000 construction jobs, and the entire project should ultimately create 14,000 construction jobs and 10,000 permanent jobs. This in a county with unemployment two points higher than the State average.

With the financial parties ready to go to closing this month, the title search turned up an impediment that threatens to make the entire project uninsurable, and therefore untenable. A portion of the development would be built on an area that in the last century was on the watery side of the historical high water mark of the East River. Since then it has been filled, bulkheaded, or otherwise developed. The Federal Government, however, retains the right of navigational servitude, which means the Government can condemn the area because it is still navigable in law, if not in fact.

The only solution is for Congress to declare the area nonnavigable. This bill does so. The declaration of nonnavigability would apply only to areas that "will be bulkheaded, filled, or otherwise occupied by permanent structures or other physical improvements"—including parklands. The declaration would expire in 20 years if the area is not occupied by permanent structures.

Mr. President, I believe this is a commonsense effort to allow an important project to go forward. We will not need to resume navigating this portion of the East River. We do need the economic development that the Queens West project will bring. Senator D'AMATO and I ask for the support of our colleagues.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1659

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DECLARATION OF NONNAVIGABILITY FOR PORTION OF QUEENS COUNTY, NEW YORK.

(a) DESCRIPTION OF NONNAVIGABLE AREA.—Subject to subsections (b) and (c), that portion of Long Island City, Queens County, New York, which is not submerged and lies between the existing southerly high water line of Anable Basin (also known as the 11th Street Basin) and the existing northerly high water line of Newtown Creek and extends from the existing high water line of the East River to the original high water line of the East River is declared to be nonnavigable waters of the United States.

(b) REQUIREMENT THAT AREAS BE IMPROVED.—

(1) IN GENERAL.—The declaration of nonnavigability under subsection (a) shall apply only to those portions of the areas described in subsection (a) that are or will be bulkhead, filled, or otherwise occupied by permanent structures or other permanent physical improvements (including parklands).

(2) APPLICABILITY OF FEDERAL LAW.—The work to meet the requirements of paragraph (1) shall be subject to applicable Federal laws, including—

(A) sections 9 and 10 of the Act of March 3, 1899, commonly known as the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 401 and 403);

(B) section 404 of the Federal Water pollution Control Act (33 U.S.C. 1344); and

(C) the National Environmental Policy Act of 1969 (43 U.S.C. 4321 et seq.).

(c) EXPIRATION DATE.—The declaration of nonnavigability under subsection (a) shall expire with respect to a portion of an area described in subsection (b), if that portion—

(1) is not filled or otherwise occupied by a permanent structure or other permanent physical improvement (including parkland) in accordance with subsection (b) by the date that is 20 years after the date of enactment of this Act; or

(2) requires work described in subsection (b)(2) that is subject to a permit under an applicable Federal law, and that work is not commenced by the date that is 5 years after the date of issuance of that permit.

Mr. D'AMATO. Mr. President, I rise today to join with my friend and colleague, Senator MOYNIHAN, in introducing legislation that will allow for the commencement of a project of immense economic significance in the city of New York and the Borough of Queens. This project, which has been named Queens West, will produce a myriad of waterfront apartment buildings, parkland, hotel, and commercial space and will create 14,000 construction jobs as well as 10,000 permanent jobs. This ambitious project will rejuvenate this section of New York and add to its vitality for countless generations to come.

As I am sure many of my colleagues can understand, there is a great deal of excitement about the Queens West project. However, with the parties ready to close, a single issue has emerged that could delay the financing and disrupt the timing of this project. Some of the land upon which Queens West is to be built falls within the historic, unobstructed high water mark of the East River that was established in the 1800's. However, a bulkhead has since been established in this particular area and industrial development has occurred there for many years. Nevertheless, this area still remains defined as "navigable in law" which allows the Federal Government to retain a right to navigational servitude. Because of this glitch, the project may not be insurable and may not therefore commence in a timely fashion.

The legislation that Senator MOYNIHAN and I are introducing will rectify this situation. Simply, it will declare this portion of the land nonnavigable and thus take the property out of navigational servitude. Should no permanent structure be built on this site within 20 years, the area reverts to its current status. Once this bill is passed, the Borough of Queens and indeed all of New York will receive a vital economic boost. This legislation is identical to H.R. 2987, which Congressman TOM MANTON introduced in the House of Representatives, and enjoys support from State and city officials.

Mr. President, the thousands of jobs, the housing, the recreational opportunities, and the commercial benefits created by the Queens West project are urgently needed. I urge my colleagues to join Senator MOYNIHAN and I in supporting speedy passage of this legislation.

By Mr. GLENN (for himself, Mr. LEAHY, Mr. JEFFORDS, Mr. MOYNIHAN, Mr. SARBANES, Mr. JOHNSTON, Mr. INOUYE, Ms. MIKULSKI, Mr. D'AMATO, and Mr. LEVIN):

S. 1660. A bill to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

THE NATIONAL INVASIVE SPECIES ACT OF 1996

Mr. GLENN. Mr. President, today I rise to introduce the National Invasive Species Act of 1996 with my colleagues Senators LEAHY, JEFFORDS, MOYNIHAN, SARBANES, JOHNSTON, INOUYE, MIKULSKI, and LEVIN. This act is a reauthorization and expansion of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990. I am pleased that my Ohio colleague, Congressman LATOURETTE and 18 of his colleagues in the House of Representatives also are introducing this act today.

Picture a pollution spill in the waters of your region that simply will not go away. Government and industry teams work to disperse it with chemicals and mechanical barriers, but as soon as the treatments stop, the pollution resurges. Worse yet, the spill spreads and concentrates in connecting water ways, and is further seeded by unintentional transport overland. Municipalities, manufacturers, and agriculture experience degraded water supplies and higher operating costs. Shell fisheries and fin fisheries permanently decline.

This scenario seems like a nightmare, yet it closely approximates the result of unintentional releases of nonindigenous species, or biological pollution, into U.S. waters. As a Senator from the Great Lakes region, where we spend many millions of dollars annually to battle sea lamprey and zebra mussel infestations, I can attest that such biological spills can and do happen, their impacts on the receiving system are additive, and the resource degradation is permanent.

As shown in the display map, the zebra mussel, a native species of eastern Europe, has spread throughout the United States from the Great Lakes where it was unintentionally introduced in ballast water of commercial vessels around 1986. Wherever it becomes established, the zebra mussel threatens both economic and environmental well-being. It clogs intake pipes, fouls drinking water, and covers swimming beaches with sharp shells. The zebra mussel also has led to the loss of many highly valued native species of freshwater mussel in both the Great Lakes and the Mississippi River.

I remember when Allegra Cangelosi, who is with me on the floor today, first came into my office and talked about zebra mussels in the 1980's. She had a bottle of these critters and set them on my desk and said, "Here is what they are." And they multiply—each zebra mussel lays about 30,000 eggs a year. Eggs that are laid early in the season mature into adult zebra mussels by the end of the season.

Zebra mussels and other nonindigenous species can survive in ballast water transported into our nations waters largely because we now have faster sea transportation. Ironically, some of our own waters in this country are cleaner, allowing the species to become established.

The Great Lakes are not the only entryway for invasive species into U.S. waters. Last week, I hosted a National Forum on Nonindigenous Species Invasions of U.S. and Fresh Waters in cooperation with the Northeast-Midwest Institute. At the day long event, experts and natural resource stakeholders from around the country cited invasion impacts in just about all of America's fresh and marine waters. Biodiversity and economic well-being are suffering due to invasions of nonindigenous species in San Francisco Bay, the Pacific Islands, the Gulf of Mexico, the Mississippi River, the Northeast and Southeast Atlantic coasts, the Great Lakes, and Lake Champlain.

In 1990, I authored and gained enactment of the Nonindigenous Aquatic Nuisance Prevention and Control Act to begin to address the tremendous problem of unintentional invasions of aquatic species into the Great Lakes and other U.S. waters. The 1990 act consisted of two basic parts: One which focused on prevention of new introductions of species into the Great Lakes by the ballast water of vessels; and the other which established a national program of prevention, monitoring, management, and control of invasive species already established in U.S. waters. All of the many vectors of aquatic species transfers fell under the purview of this portion of the act. Most of the revisions contained in the bill which I am introducing today with my Senate and House colleagues pertain to the prevention portion of the program.

With respect to prevention, the 1990 act focused on ballast water of vessels. This water is the leading vector for unintentional transfers of nonindigenous species into United States waters. Ships carry ballast water to maintain trim when they are empty or partially empty of cargo. They discharge this water at their ports of call. Currently, there is practically nothing to prevent the uptake, transfer, and discharge of organisms along with that water.

An estimated 21 billion gallons of ballast water from vessels from foreign ports is discharged into U.S. waters each year. That's 58 million gallons per day, and 2.4 million gallons per hour. This ballast water contains just about everything and anything that was in the harbor from which the water was drawn. It is estimated that 3,000 species of aquatic organisms are in transit in ballast tanks around the world in any given 24-hour period. Most of these organisms will come to nothing in the receiving ports, but any one of them could cause billions of dollars of damage. It's a huge gamble. Even human cholera is transported unintentionally in ballast water and has been detected in ships visiting Mobile Bay and the Chesapeake, among other regions.

Fortunately, a ballast management practice known as high seas ballast exchange greatly reduces the transfers of dangerous organisms through ballast water. This technique is not applicable in all circumstances; it cannot be employed in stormy weather and with some types of vessels. However, where it can be employed safely, it results in a substantial reduction in the risk of invasive species transfers. It is for this reason that the Australian Government among other nations, and the International Maritime Organization, already encourage ballast management practices for commercial vessels.

The 1990 law included a voluntary ballast management program for the Great Lakes which automatically became regulatory in 1992. The act assigned the Coast Guard the task of consulting with the maritime industry and Canada to develop voluntary guidelines, conducting education and outreach, and, after 2 years, promulgating regulations to help reduce the probability of new introductions of alien species by commercial vessels into the Great Lakes.

The 1990 act also included several studies to help build information on the threat and impacts of ballast discharge on other U.S. waters. These studies, now complete, provide strong evidence that unmitigated ballast water exchange is a serious economic and environmental threat in regions outside the Great Lakes. In particular, the biological study conducted pursuant to the act found that a new species of aquatic organism invades San Francisco Bay every 12 weeks. Serious risks of invasion to the Chesapeake Bay and Florida coasts have also been documented. A crab which is the host of a dangerous human parasite has been found in United States waters within the Gulf of Mexico, fortunately not yet established.

In light of this information, and based on the successful experience with the Great Lakes voluntary ballast management program, my 1996 proposal establishes a national voluntary ballast management program to begin to address concerns of other United States coastal regions. The Coast Guard is directed to issue voluntary ballast management guidelines for all vessels visiting U.S. ports after operating outside the exclusive economic zone. Consistent with the Great Lakes program, I want to stress, Mr. President, that this program puts safety first. The guidelines will protect the safety of vessel and crew, whatever that may entail, including waiving the requirement where necessary.

While there will be no penalty against vessels which do not participate in the national program, record keeping by vessels to document participation is required. In the interest of maintaining a level playing field, the Coast Guard has authority to issue the same guidelines as regulations in regions where a review of ship records reveals poor cooperation with the voluntary approach. Importantly, the maritime industry would see only one set of rules nationally. However, over time, there may be enforcement mechanisms associated with the guidelines in certain regions. Of great interest to the Great Lakes community, the successful Great Lakes regulatory program remains in place. For better prevention of invasions in the future, a ballast water management demonstration program is established in the Act. This project will demonstrate promising ballast technologies and practices to prevent the introduction and spread of nonindigenous species through ballast water.

Other changes to the 1990 program which are contained in our National Invasive Species Act of 1996 include: First, the authorization of research in several coastal regions—including the Chesapeake Bay, Lake Champlain, the Mississippi River and the Gulf of Mexico—which are at particular risk of degradation by species invasions; second, voluntary guidelines to help recreational boaters to prevent unintentional transfer of zebra mussels; and third, provisions to encourage more regions to set up coordinating panels and develop State management plans for invasive species prevention and control. Though now much broader in scope, I am proud to announce that the overall cost of the National Invasive Species Act of 1996 does not exceed that of the 1990 law.

I would like to close by pointing out that species invasions that originate anywhere on the continent have the potential to affect all of us. Once established on the North American continent nonindigenous invasive organisms will make their way to the far reaches of their potential range. Just as the zebra mussel has expanded its range from the Great Lakes to the entire Mississippi River and has been found on recreational vessels entering California, the east coast marine resources could be harmed by invasions on the west coast and vice-versa. Moreover, biological pollution of U.S. waters, so far, has not had serious public health implications. But the 1992 transfer of human cholera from South American ports to the shellfish beds of Mobile Bay via ballast water of commercial vessels reminds us that our luck may not hold forever. It is in everyone's interest to improve our Nation's precautions against invasions of aquatic nuisance species. Mr. President, I will ask unanimous consent that an updated version of a Northeast-Midwest Economic Review article be printed in the RECORD following my remarks. This article provides further background on the context, history, and content of the National Invasive Species Act.

I am personally quite excited about the progress that we can make in protecting the economy, the environment, and the biodiversity of our coasts through passing the National Invasive Species Act this year. Unusual in the environmental arena, this issue offers us low-hanging fruit and bipartisan enthusiasm. I am grateful to my colleagues, Senators LEAHY and SARBANES for authoring legislation last year which helped draw attention to the national scope of the invasive species problem, and to my other colleagues for joining us in support of the National Invasive Species Act. I look forward to working closely with them to gain its enactment. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, along with the article previously mentioned.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BIOLOGICAL INVASIONS: CONGRESS TAKES A SECOND LOOK

(By Allegra Cangelosi, Senior Policy Analyst of the Northeast-Midwest Institute,)

[From an Updated Version of an Article That Appeared in the Northwest-Midwest Economic Review, September 1995]

Five years into implementation of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (NANPCA), there is new awareness of the magnitude of the exotic species problem and the difficulty of the management task. As Congress prepares to reauthorize the Act, it faces pressure to broaden the prevention program to include coastal areas in addition to the Great Lakes, while keeping the burdens of regulation to a minimum.

THE LIFE AND TIMES OF NANPCA '90

In 1989 and 1990, the zebra mussel infestation of the lower Great Lakes exploded before the startled eyes of the region's natural resource managers and industrial water users. Mussel encrustation of intake pipes shut-down the Monroe, MI city water supply for two-days, bringing the impact of the zebra mussel (Dreissena polymorpha) directly to the homes of basin residents. Meanwhile, a population of Eurasian ruffe (Gymnocephalus cernuus), a small forage fish native to Eastern Europe, staged in Duluth/Superior Harbor, preparing for an all but inevitable migration from the cold waters of Lake Superior to the more habitable lower Great Lakes.

For fishery and biodiversity experts, the appearance of both the zebra mussel and the ruffe implied permanent degradation of the Great Lakes ecosystem. Over time, the two alien species were expected to spread to all five Great Lakes and most of the U.S. freshwater system. Irreversible loss in biological diversity was inevitable; the only question was whether the degradation would be cataclysmic, or gradual and insidious.

These concerns arose from hard experience. The sea lamprey (Petromyzon marinus), native to the Atlantic, caused a near collapse of the Great Lakes fishery in the 1950s. A fortuitous discovery of a chemical lampricide is the only reason the fishery is once again abundant. But lampricide treatments, even coupled with vigorous fish stocking efforts by the States, have been effective only at restoring the rough appearance of the pre-lamprey fishery. They cannot restore the system's previous structure, composition or self-sustainability. Moreover, without annual treatments with the lampricide, the populations of lampreys would quickly rebound. The annual battle to continue funding for the lamprey control program provides Great Lakes fishery experts constant incentive to avert the costly and enduring impacts of further exotic species invasions.

The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (NANPCA) originated in draft in 1989 in response to concern over the potential impact of the Eurasian ruffe on the Great Lakes fishery. But the zebra mussel infestation ultimately filled its political sails, to reach final enactment in just a year.

The Act, championed by Senator John Glenn of Ohio, enjoyed enthusiastic support of the bipartisan Great Lakes delegation in both chambers, and several federal agencies, especially the Fish and Wildlife Service. It also benefitted from the commitment of environment committee leadership from outside the basin.

NANPCA set forth a national program for preventing, researching, monitoring and controlling infestations in U.S. waters of alien aquatic species. It set up a standing multi-agency task force (the Aquatic Nuisance Species Task Force), chaired by NOAA and the Fish and Wildlife Service, to develop and oversee the program, a policy review of the impacts of intentional introductions of exotic species (such as for sport fishing or biological pest control), a zebra mussel demonstration project, and state aquatic nuisance management planning. It created a Great Lakes Aquatic Nuisance Species Panel to help coordinate federal, state, local and private sector activities to prevent and control exotic species within the Great Lakes basin. Other provisions addressed the brown tree snake, research protocols to prevent the spread of exotics by research and risk assessment.

Most importantly, the Act assigned the Coast Guard the task of promulgating voluntary guidelines and, after two-years, regulations to help reduce the probability of new introductions of alien species by commercial vessels. The ballast water of commercial vessels is a leading vector by which alien aquatic species enter U.S. waters. The zebra mussel and the ruffe, along with the spiny water flea (Bythotrephes cederstroemi), and many of the hundred-plus other alien organisms that currently complicate the Great Lakes ecosystem were transported to the Great Lakes in the ballast holds of transoceanic vessels. Red tide, human cholera, and the brown clam (Perna perna), are examples of ballast stow-aways that have been discharged into U.S. marine coastal environments.

The 1990 Act underwent many changes as it moved through the Congressional process to enactment. Perhaps the most significant such change was the decision by the Senate Commerce Committee to reduce the scope of the Coast Guard prevention program from national to Great Lakes-only. Besides fiscal concerns of the Coast Guard, the political rationale for such a change was clear. The maritime community had no choice but to acknowledge the obvious though unintended impacts of its ballasting practices on the Great Lakes environment. Moreover, as residents of the basin, Great Lakes port operators and the laker association members shared concern over the condition of the Great Lakes ecosystem. But in areas other than the Great Lakes, there was less awareness of exotic species impacts and the broader maritime community was under less pressure to change its ballasting practices.

TODAY'S CONTEXT

Today, six years after initial passage of the Act, there is growing interest in reforming the measure to better address other U.S. waters. The zebra mussel has become established in much of the freshwater systems of the eastern United States, including the upper Mississippi River, where it has degraded an economically valuable commercial mollusk fishery. Similarly, there is new awareness of the threat of nonindigenous species to marine coastal areas. Perna perna, native to the Indo-Pacific region, invaded South America via ballast discharge years ago, and was transported to the Gulf of Mexico near Galveston, Texas, more recently. The non-native mussel threatens Mangrove communities, coats hard surfaces and could compete with native oysters.

In some cases, concern over the impact of exotic species on aquatic systems beyond the Great Lakes has been elevated to the Congressional level. In 1995, Senator Sarbanes (MD) introduced the Chesapeake Bay Ballast Water Management Act of 1995, S. 938, to assure that the reauthorization of NANPCA broadens the Coast Guard's ballast management program to include saltwater coasts. In response the mussel's spread to Vermont, Senator Leahy introduced a measure, the Lake Champlain Zebra Mussel Control Act, S. 1089, to focus the reauthorization on the needs of Lake Champlain.

Both legislative measures are firmly rooted in the expressed interests of local constituencies. For example, the Sarbanes bill is a response to resolutions passed by the Maryland, Virginia and Pennsylvania general assemblies urging action to prevent future introductions of nonindigenous aquatic species into the Chesapeake Bay through ballast management. A report developed by a wide range of stakeholders and endorsed by the Chesapeake Bay Commission further spells out the recommendations of the States. While the Sarbanes bill proposes national voluntary guidelines for ballast management, the Chesapeake Bay proposal urges a follow-on regulatory system nationally within 24 months if participation or effectiveness of the voluntary system is inadequate.

NATIONAL INVASIVE SPECIES ACT OF 1996

Senator Glenn, author of the 1990 NANPCA, is the lead sponsor of the National Invasive Species Act of 1996 (NISA) which reauthorizes and expands the 1990 Act. A bipartisan group of Senators from in and outside the Great Lakes region has joined him in sponsoring the measure. Congressman LaTourette and his colleagues are the sponsors of a companion bill in the House of Representatives. As in 1990, the Senate Commerce Committee is expected to have jurisdiction over the prevention portion of the measure, while the Environment and Public Works Committee will consider the remainder of the bill. Both the Resources Committee and the Committee on Transportation and Infrastructure will likely have jurisdiction over part or all of the House measure.

In the stark light of 1995–1996 budget fights, a national regulatory ballast management program such as the one proposed in the original 1990 bill appears impractical and unaffordable. To implement such a scheme, the Coast Guard would have to monitor compliance with regulations at each harbor, stretching human and monetary resources beyond their limits. On the other hand, if the Coast Guard were to simply issue national voluntary guidelines, the effort would lack accountability, providing little additional protection for regions eager for change such as the Chesapeake Bay.

NISA 1996 finds a middle ground. It emphasizes a voluntary approach in light of the positive response of the shipping community to the voluntary phase of the Great Lakes program. But it reserves authority for the Coast Guard to promulgate the same voluntary guidelines as regulations in coastal regions where recordkeeping or compliance with the voluntary system seem to be lacking. Such an approach gives shippers and ports both the opportunity and incentive to cooperate with voluntary guidelines, while conserving Coast Guard resources for regions with special needs.

Whether voluntary or not, a national ballast management program which employs existing port inspection infrastructure will hold the additional hassle for ports, shippers and the Coast Guard to a minimum. NISA 1996 urges a cooperative approach between the Coast Guard and the Animal and Plant Health Inspection Service (APHIS), which already boards vessels to inspect for crop pests. The addition of just a few items on the questionnaire that APHIS routinely distributes to vessel masters could meet new ballast-related reporting needs.

Among other changes that are included in NISA 1996 are: Ballast technology demonstrations: A bill introduced in the 103rd Congress (and passed in the House) to create a demonstration program for ballast technologies that can be installed or designed into commercial vessels to prevent the unintentional transfers of exotic species is incorporated into NISA 1996.

Naval ballast management: A provision from the Sarbanes bill (S. 938) to incorporate ballast management procedures into naval operations is included.

Ecological surveys, ballast discharge surveys: The package authorizes the National Aquatic Nuisance Species Task Force to undertake ecological and ballast discharge surveys for selected harbor areas to assess the risks and impacts of invasions by exotic species.

Voluntary guidelines for recreational boaters: The recent discovery of live zebra mussels on the hull of a recreational vessel ready to enter California waters underscores the role of recreational boating in spreading exotic species infestations. A provision of Senator Leahy's legislation (S. 1089) to create national voluntary guidelines for recreational boaters to prevent the spread of zebra mussels is included in NISA 1996.

Regional coordination: The reauthorization package includes a provision to encourage the establishment of regional coordinating panels for other regions of the country in addition to the Great Lakes.

While the U.S. government invests over $100 million annually to prevent new invasions of exotic agricultural pests, less than $1 million is being invested to prevent new introductions of nonindigenous aquatic organisms as devastation as the sea lamprey. NISA 1996 offers Congress an important opportunity to better protect the nation's valuable marine and freshwater resources from exotic pests. But only support from a broad political spectrum and diverse geographic regions can assure enactment.

Mr. SARBANES. Mr. President, I am pleased to join as an original cosponsor of the National Invasive Species Act of 1996, to address the serious threat posed by nonindigenous aquatic species entering the U.S. waters from the exchange of ballast water. I want to thank and commend my colleague, Senator GLENN, for his leadership in crafting this very important legislation.

The introduction of nonindigenous species through the exchange of ballast water is a serious national and international problem with potentially profound economic and environmental consequences. These invasive species, such as the zebra mussel, have already caused millions of dollars in damage to municipal and industrial water intake pipes, and valuable fisheries throughout the United States and Canada. By the turn of the century, damage to aquatic ecosystems and public and private infrastructure is expected to be in the billions of dollars from the zebra mussel alone.

In the Chesapeake Bay, our Nation's largest estuary, the threat of these invading species is particularly acute due to the extensive release of ballast water from foreign ports. Over 3 billion gallons of ballast water a year—more than any other east or west coast port—is released into the bay from ships calling at the ports of Baltimore and Norfolk. This water originates from 48 different foreign ports. An ongoing study by the Smithsonian Environmental Research Center, one of foremost authorities on this issue, found that nearly 90 percent of the vessels sampled arriving at Chesapeake Bay ports had living organisms in their ballast water, placing the bay at very high risk from these potentially harmful species. Indeed, some scientists speculate that the diseases that devastated oyster stocks in the bay were introduced through the exchange of ballast water. It is estimated that there more than 100 exotic species now established in the bay, some of which are recent arrivals via ballast water discharge.

The interstate and international nature of ballast-mediated invasions make it impractical for the individual States of the Chesapeake region to address this risk alone. Various interests in the Chesapeake Bay community, as well as the State legislatures of Maryland, Pennsylvania, and Virginia, are, in fact, seeking increased Federal action to address this important concern. I want to particularly commend the Chesapeake Bay Commission for focussing attention on this very important issue.

Mr. President, this measure is an important step forward in understanding and managing the risks of ballast-mediated invasions. It incorporates provisions of legislation I introduced last year, S. 938, to study and manage ballast water releases in the Chesapeake Bay. It establishes national voluntary guidelines for vessels entering U.S. waters to reduce the probability of ballast transfers of these exotic species. It authorizes research, demonstration, and education programs to help prevent the introduction and spread of these species into our lakes, rivers, and bays. I urge my colleagues to join with us in support of this important legislation.

Mr. LEAHY. Mr. President, I am proud to join my colleagues in introducing the National Invasive Species Act of 1996. This comprehensive bill includes the provisions of my Lake Champlain Zebra Mussel Control Act and is the vehicle which can help Vermont and other States wage war on exotic nuisance species like the zebra mussel.

Mr. President, a tiny mussel the size of my thumbnail threatens to choke off

25 percent of Vermont's drinking water, clog our hatcheries, and unravel the Lake Champlain ecosystem. It was only three summers ago when the mussel was first discovered in the South Lake near Orwell, VT, by a young boy. Two years later, zebra mussel densities has reached 134,000 larvae per cubit meter. The end is not in sight.

We did not ask for them, but we got them. Now Vermont has to face the consequences of a problem that Vermont has been powerless to stop. The zebra mussel problem in Lake Champlain deserves immediate and swift action. This exotic pest poses a serious risk to the water resources throughout Vermont, economic opportunities along the lake, and the health and safety of the people of Vermont.

This bill we are introducing today addresses a number of issues that can only be resolved through Federal coordination and cooperation. Millions of gallons of water are imported each day from foreign ports throughout the globe. One gallon can contain the seeds of an invasive species epidemic that can wipe out domestic species, ecosystems, and economic resources. Vermonters know this well through our experience with lampreys on trophy sportfish, millfoil throughout our lakes, and zebra mussels in Lake Champlain.

The United States needs this bill now. Our inland and marine seaports are a ticking time bomb. The heart of this bill is a nationwide effort to control the transportation and discharge of ballast water from international cargo ships. One seaport cannot tackle this problem alone without risking their economic base. However, if every port works together, we can protect fisheries, marine resources, and ultimately taxpayers from the enormous cost of fighting an exotic nuisance species.

The other major theme in this bill is a concerted effort to control exotic species once they have arrived and multiplied. This second theme is based largely on my bill, the Lake Champlain Zebra Mussel Control Act. In addition to highlighting the specific needs of Lake Champlain, my bill—and this bill—includes a three point plan for tackling exotic species.

First, establishes national voluntary guidelines for recreational boaters who are a major mechanism for the spread of zebra mussels and other exotics within the United States freshwater bodies.

Second, allows states to work cooperatively on watershed approaches to attack this problem. If Vermont devotes millions of dollars to this effort and our neighbors do nothing, the effort will be futile.

Third, reauthorizes and enhances the Federal authority for agencies to fight exotics. The nuisance species problem crosses many jurisdictions. Therefore, the comprehensive strategy set forth in this bill includes the Army Corps of Engineers, the Environmental Protection Agency, the Department of the Interior, the Department of Commerce, the Coast Guard, the Smithsonian, and other Federal efforts. As our Federal foot soldiers in this war against the zebra mussel and other species, all of these departments and agencies need the authority, resources, and flexibility to win the battle.

Mr. President, every minute that we delay an effort to stop the zebra mussels, the mussels multiply exponentially and risk the physical and economic health of Vermont. While my colleagues may not know first hand the scourge of zebra mussels or other exotic species, let me assure them that the ounce of prevention in my bill will save them pounds of cure. To turn our backs on this problem of national significance only guarantees that it gets much worse. Mr. President, I hope we can move this bill quickly.

By Mr. PRESSLER (for himself, Mr. BURNS, Mr. INHOFE, Mr. DASCHLE, and Mr. BAUCUS):

S. 1661. A bill to specify that States may waive certain requirements relating to commercial motor vehicle operators under chapter 313 of title 49, United States Code, with respect to the operators of certain farm vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CUSTOMER HARVESTERS LEGISLATION

Mr. PRESSLER. Mr. President, earlier this year the U.S. Custom Harvesters held their annual meeting in Sioux Falls, SD. South Dakotans put out the welcome mat for custom harvesters throughout the country, and the annual meeting was a resounding success.

During that meeting it was brought to my attention that custom harvesters were not granted equal treatment as farmers and farm workers under Federal laws requiring commercial driving licenses [CDL]. Presently, States can grant waivers to the Federal CDL requirement to farmers and farm workers. Those same waiver requirements are not afforded to custom harvesters.

In many parts of the country, including South Dakota, custom harvesters are a crucial component in agricultural production. The bill I am introducing today simply grants States the right to waive CDL requirements for custom harvesters similar to those waivers currently afforded farmers and farm-related businesses. Joining me in this effort are Senators BURNS, INHOFE, DASCHLE, and BAUCUS.

Mr. President, customer harvesters normally drive less than 5,000 miles per year. They drive mostly on roads leading to and from farms and to the local grain elevator. Little time is spent on highways. Generally, custom harvesters drive less that 500 miles annually on interstate highways. It is a simple matter of fairness that they be treated equally.

My bill would provide relief to custom harvesters from onerous and costly CDL requirements. Under the waivers, family members can take an active role in custom harvesting and drivers with experience and trust can be hired to drive custom harvesting vehicles.

Custom harvesting involves many small, family owned companies. Custom operators account for nearly 40 percent of the total wheat acreage harvested annually. Their equipment must be utilized properly, kept in tip-top working conditions and safe in order to provide quality services. These harvesters go the extra mile to maintain equipment, train employees, and operate in the safest way possible.

In 1988, States were provided the authority to waive CDL requirements for farmers. In 1991, the Senate passed a bill to provide the authority to individual States to provide the same exemption to custom harvesters. Unfortunately, that bill never passed and custom harvesters are still burdened with CDL requirements. My bill is similar to the measure passed in 1991. Given past Senate support for this measure, I am hopeful adoption of this bill will occur soon. I thank those Senators who have joined me in this effort and urge the Senate to adopt this bill.

By Mr. HATFIELD:

S. 1662. A bill to establish areas of wilderness and recreation in the State of Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

THE OPAL CREEK WILDERNESS AND OPAL CREEK SCENIC RECREATION AREA ACT OF 1996

Mr. HATFIELD. Mr. President, the natural resources of my State are indisputably among the most significant and spectacular in the world. It has been almost 30 years since the enactment of the Oregon wilderness bill—the massive, 100,000-acre Mt. Jefferson Wilderness in central Oregon. I sponsored that bill and two other comprehensive pieces of legislation in 1978 and 1984, which increased Oregon's wilderness system fourfold, from 500,000 acres to 2.1 million acres.

Throughout my years in the Senate I have attempted to protect Oregon's resources by following the philosophy of the one of our Nation's first and foremost conservationists, the original U.S. Forest Service Chief, Gifford Pinchot. Gifford Pinchot said:

> The conservation of natural resources [in this country] is the key to the future. It is the key to the safety and prosperity of the American people. Conservation is the greatest material question of all.

This principle of conservation has led me to sponsor numerous land protection bills over the years.

Let me say, as I list this record of legislation, I want it clearly understood that, like anything else that happens in this Senate and in the legislative body, it was a team effort. It was a group effort. We had the advocates in the population and communities, we had the organizations sponsoring such issues in the public, and I had colleagues, colleagues not only in the Senate but colleagues in the House of Representatives, who were all part of this record that I am reciting today. In addition to that is the staff, the staff that serves these committees with such dedication, such expertise. None of it could have happened solely on the energy or effort of any one Member.

I have also sponsored legislation enacting the Columbia River Gorge National Scenic Area, the Oregon Dunes National Recreation Area, the Hells Canyon National Recreation Area, Yaquina Head and Cascade Head on the Oregon coast, the John Day Fossil Beds National Monument, the Newberry Crater National Monument, and the Oregon Wild and Scenic Rivers Act, which includes protection of 42 Oregon rivers, more than any other State in the Union.

In fact, the next highest State is California with 11.

To put Oregon's 42 wild and scenic rivers into context, having just made that statement about California, Alaska has displaced California. Alaska now has 25 rivers. Next comes Michigan, with 16. California now has 13 and Arkansas 8. I am proud that Oregon has led the way in protecting our wild and scenic rivers. Again, having stated the figures of those other States, Oregon is 42.

Each time I have labored to protect these special areas, I have been forcefully reminded that I represent a State that is often sharply divided on natural resource issues. These divides generally reflect the difference between the urban and the rural way of life. During the decades I have devoted to public service, I have sought to bridge the chasm that has formed between the urban and rural citizens of my State and bring some order and balance to natural resource conflicts by addressing both sides of the debate.

Today, in a sense, I am coming full circle to where I started with the 1968 Mt. Jefferson Wilderness Act. Today, I am introducing legislation to, once again, increase Oregon's wilderness system and protect one of Oregon's most important low-elevation old growth forests, Opal Creek. This legislation, called the Oregon Resources Conservation Act, also includes solutions to two other natural resource issues in my State on which I have been working for many years: protection of the Mt. Hood corridor; and promotion of consensus-based working groups in the Klamath and Deschutes River Basins. I am also including a so-called placeholder title for the Coquille Forest proposal, which will require a significant amount of public input prior to the introduction of any legislation.

Title I of the Oregon Resources Conservation Act creates a 25,800-acre Opal Creek Wilderness and National Scenic-Recreation Area. Opal Creek is truly one of Oregon's ecological crown jewels. It is one of the last remaining intact, low-elevation old-growth forest areas in western Oregon. Portions of Opal Creek are literally blanketed with majestic old-growth forests and crystal clear, stair-stepping waters.

I have always felt this area should be protected in perpetuity from commercial timber harvesting and mining. In fact, I included it in the original versions of both my 1984 Oregon Wilderness Act and my 1988 Oregon Wild and Scenic Rivers Act. Each time, however, the area was removed from these bills at the request of the State's Governor.

In 1991, I sponsored additional Opal Creek protection legislation when I included a provision which was enacted as part of the fiscal year 1992 Department of Defense appropriations bill to to facilitate the issuance of a patent on the key access property to Opal Creek. This provision was necessary to facilitate a large charitable donation of land and mineral interests by a mining company to the Nature Conservancy for the protection of the area. Unfortunately, the Nature Conservancy was forced to reject this donation due to its concerns about potential liability for an existing contaminated abandoned mining site in the Opal Creek area. Subsequently the Friends of Opal Creek, a local conservation group, stepped forward to accept this large charitable donation.

In 1994, there was another Opal Creek protection bill before the Congress. The bill, sponsored by my good friend, then-Representative Mike Kopetski of Oregon, passed the House of Representatives under his fine leadership and was referred to the Senate Committee on Energy and Natural Resources in the final days of the 103d Congress.

In fact, Mr. President, I invited my former colleague, Congressman Mike Kopetski, to be here today on this very historic occasion to share in the results of many of his long years of commitment and his dedicated effort.

The Senate was unable to take final action on this legislation in the few remaining weeks prior to sine die. These difficulties were enhanced by the administration's initial opposition and ambivalence toward the proposal.

I called for and chaired a hearing before the the Senate Committee on Energy and Natural Resources on October 5, 1994, which examined the concerns with the bill and sought to build momentum for a working group process at the local level which would attempt to build consensus and bring divergent parties together on this controversial issue.

This hearing did, indeed, create the momentum necessary for the formation of an Opal Creek working group, and on September 1, 1995, the first meeting of the group was held in Salem, OR. The Willamette University Dispute Resolution Center agreed to facilitate the meeting and attempt to build a consensus on the issue. The group, with the benefit of the outstanding facilitation skills of Prof. Richard Birke, met from September 1995 to March of this year and has developed a several-hundred page report summarizing its deliberations. I believe the group has done an excellent job discussing difficult issues and working together to find a solution. Mind you, this was a very broadly based group representing industry, local officials, environmental organizations, user groups and so forth. While no clear-cut consensus emerged from the group, their report has given me a strong understanding of the existing natural values of the area, the issues involved in protection of the area and the positions of all groups involved in the debate. Indeed, this report has greatly assisted me in developing the legislation I am introducing today.

As many of my colleagues know, we have a political environment in Oregon and the Pacific Northwest that is as splintered as any I have seen in my political career. This environment is characterized by a lack of trust on all sides of the political spectrum and extreme polarization. The Opal Creek working group, therefore, is a great success in bringing parties together in an attempt to heal old wounds and build new partnerships. The group also represents in my mind a great success in addressing one of my major concerns with the House's legislation from 1994, which was the general lack of agreements and limited dialog regarding protection of this forested area. I thank each and every member of the group of their dedication to this 6-month process and to resolving this difficult issue.

Again, I want to say, parenthetically, that one of the outstanding members of that group is former Congressman Mike Kopetski who, again, was able to give leadership from some of his experience in giving his life effort to the development of Opal Creek.

The legislation I am introducing today also addresses another major concern I had with the 1994 Opal Creek bill, its lack of ecosystem watershed management principles. The 1994 bill would have protected approximately 22,000 acres in the Opal Creek area. My bill protects 25,800 acres, including the creation of approximately 12,800 acres of new wilderness. Each and every one of the sub watersheds—we took a map, and we looked at that map as an ecosystem. We looked at that map as a great basin, a watershed. So we took from that map, with concern for protection of the entire ecosystem. Each and every one of those sub watersheds in the Little North Fork Santiam River drainage are addressed in some way in my legislation, either through a wilderness or a national scenic recreation area designation.

By doing this, we have attempted to protect the outstanding resource values in each of these sub drainages, while at the same time addressing the area comprehensively as an intact ecosystem.

In addition to addressing the protection of the entire watershed, the Opal Creek title of this bill maintains recreation at existing levels and allows for growth in uses where appropriate. The bill also calls for historical, cultural and ecological interpretation in the newly-created area to be conducted in a balanced and factually accurate manner. Motorized recreation will be prohibited except on the existing road system and nonmotorized use will be permitted throughout the area, except, of course, in the wilderness. The existing road system will be analyzed and evaluated through a management planning process, which will decide which roads to close and which to leave open. No new water impoundments will be allowed in this area. No new mining claims will be allowed to be filed under the 1872 mining law, and no existing claims will be allowed to be patented. In addition, the bill calls for the creation of an advisory council composed of members of the local community, industry, environmental groups, locally elected officials, the Forest Service and an appointee by the Governor. Finally, the bill will not allow commercial timber harvesting of any kind in the Opal Creek area except to prevent the spread of a forest fire or to to protect public health and safety. It is important to note that the lands covered by my legislation are not included—not included—in the timber base and are not open to commercial harvest today.

The final element of the Opal Creek package, Mr. President, was an important part of the working group's discussions. I am referring to an economic development package for the Santiam Canyon, which includes the communities immediately adjacent to the Opal Creek area. This package is based, primarily, on a set of infrastructure improvements developed by these communities in conjunction with the State Economic Development Office, which are designed to improve the water quality and delivery systems of the communities in the area.

I have made the first downpayment on this economic commitment package by including a $300,000 appropriation in the fiscal year 1996 Omnibus Appropriations Act to help begin the clean up of the contaminated Amalgamated Mill site at Jawbone Flats in Opal Creek.

Throughout the coming fiscal year 1997 appropriations cycle, I will work closely with Oregon's Gov. John Kitzhaber, and my colleague on the House Appropriations Committee from Oregon, JIM BUNN, to further refine this package and provide additional funding, as needed, for the Amalgamated Mill cleanup and for the critical community infrastructure projects designed to allow these former timber communities to diversify their economic bases and improve their water systems.

In short, the Opal Creek title of this bill attempts to address every issue raised both in the 1994 hearings on Opal Creek and in the working group process conducted out in Oregon. This is an issue I have worked on for almost 20 years. I am extremely pleased that, with this legislation and accompanying infrastructure development package, we will finally be able to address the protection of Opal Creek and the adjacent portions of the Little North Fork Santiam Watershed, as well as improvements to the water quality and delivery systems of nearby, timber-dependent communities.

Mr. President, the Oregon Resources Conservation Act also contains two other titles. The first is a relatively noncontroversial provision which promulgates a land exchange in the Mt. Hood Corridor between the Bureau of Land Management and the Longview Fibre timber company in the State of Washington. Both parties are willing participants in this process, which seeks to protect the viewshed along the Highway 26 corridor on the way to Mt. Hood, the highest mountain peak in my State.

Longview Fibre owns approximately 3,500 acres of timber land in the scenic Mt. Hood corridor, which are interspersed with BLM lands in a checkerboard fashion. Longview would like to harvest these lands within the next 5 years, but is sensitive about the public perception regarding these clearcuts along such a heavily traveled route. I agree with Longview Fibre and feel harvesting these trees along Highway 26 would be a disaster both for the ecological and visual characteristics of the resource. Longview, to their credit, has been extremely interested in working with local planning and environmental groups to identify BLM parcels elsewhere in western Oregon that could be traded for the Longview Fibre lands in the corridor.

This proposal is a unique opportunity to forge ahead with a plan that has been built at the local level over the past 5 years and which has virtually unanimous support, including the local county government, local businesses, the timber industry, and local environmental groups.

The third, and final, title of the Oregon Resource Conservation Act includes the establishment of a 5-year pilot project for two, consensus-based natural resource planning bodies now working in Oregon's Klamath and Deschutes Basins. Both of these bodies are already in place and have been working to provide the Federal agencies with recommendations about how best to prioritize spending for ecological restoration, economic health, and reducing drought impacts.

I called for the creation of the Upper Klamath Basin working group in 1995. This group is citizen-led and includes environmentalists, irrigators, local business leaders, locally elected officials, educators, the Klamath Tribes, and Federal land management agencies in an advisory capacity. This group was charged with developing both short- and long-term recommendations for restoring ecological health in the Klamath Basin. They were successful in developing short-term funding recommendations ranging from riparian and wetland restoration, to fish passage and the coordination of geological information systems in the basin. I followed through on these recommendations and was able to obtain either funding or direction to the pertinent agencies in the fiscal year 1996 appropriations process.

The group has also developed a long-term recommendation which includes a formal registration of the group as a State-sanctioned foundation and congressional legislation enabling them to help land management agencies set priorities for how money is spent in the basin on various ecological restoration and economic stabilization projects.

The legislation I am introducing today addresses their long-term recommendation by creating a 5-year pilot project to allow the Upper Klamath Basin Working Group-Foundation, in conjunction with the Federal land management agencies in the basin, to develop funding priorities for ecological restoration in the basin. It will provide $1 million per year to be spent consistent with these priorities. This money will be administered by the agencies and matched by an equal amount of non-Federal dollars.

The Deschutes Basin in central Oregon would also be allowed to develop a similar regime using, as its base, a group formed by the Warm Springs Tribes, the Environmental Defense Fund, local irrigators, and locally elected officials. This group has been meeting and collaborating on projects in the basin for several years.

Recently, both of these working groups have been able to make significant progress in building coalitions and consensus on natural resource management challenges that, not too long ago, many felt were insurmountable. By given them more authority to temporarily assist Federal agencies with setting policy priorities using a finite amount of money, I hope we can begin to enter a new era of more local control and greater public input regarding resource management decisions. I also hope these groups, and others that may follow, will continue to use the consensus-based management approach to return resource management decisions to a collaborative, inclusive process rather than divisive, litigious morass in which we find ourselves today.

Mr. President, today I had also planned on introducing a bill to create a 59,000-acre Coquille Forest as part of the federally-recognized Coquille Tribes' economic self-sufficiency plan. However, because of a number of unresolved issues, including the apparent lack of agreement, understanding or consensus at the local level, I am withholding my introduction of this bill until after I have had an opportunity to gather more public input through the congressional hearing process. And also there is a local election that is being held in May concerning this issue.

I am extremely pleased with this bill. It protects two of Oregon's most important natural resource areas, Opal Creek and the Mt. Hood Corridor, and it promotes consensus-based, watershed planning at the local level in the Klamath and Deschutes Basins. I have worked many years to protect Oregon's magnificent natural resources. I am pleased that in this, my last year in the Senate, I will be able to continue this legacy of protecting Oregon's beauty for the enjoyment and use of future generations.

I look forward to speedy hearings on the Oregon Resources Conservation Act, of which I have been promised by the chairman of the committee, Senator MURKOWSKI of Alaska. We will have that hearing later in the month of April.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD. This bill is ready to be sent to the House.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1662

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Oregon Resource Conservation Act of 1996".

TITLE I—OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA

SEC. 101. SHORT TITLE.

This title may be cited as the "Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996".

SEC. 102. DEFINITIONS.

In this title:

(1) BULL OF THE WOODS WILDERNESS.—The term "Bull of the Woods Wilderness" means the land designated as wilderness by section 3(4) of the Oregon Wilderness Act of 1984 (Public Law 98–328; 16 U.S.C. 1132 note).

(2) IMMEDIATE FAMILY.—The term "immediate family" means, with respect to the owner of record of land or an interest in land, a spouse, sibling, child (whether natural or adopted), stepchild, and any lineal descendant of the owner.

(3) OPAL CREEK WILDERNESS.—The term "Opal Creek Wilderness" means certain land in the Willamette National Forest in the State of Oregon comprising approximately 13,212 acres, as generally depicted on the map entitled "Proposed Opal Creek Wilderness and Scenic-Recreation Area", dated March 1996.

(4) SCENIC RECREATION AREA.—The term "Scenic Recreation Area" means the Opal Creek Scenic Recreation Area established under section 103(a)(3).

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 103. ESTABLISHMENT OF OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA.

(a) ESTABLISHMENT.—On a determination by the Secretary under subsection (b)—

(1) the Opal Creek Wilderness shall become a component of the National Wilderness System and shall be known as the Opal Creek Wilderness;

(2) the part of the Bull of the Woods Wilderness that is located in the Willamette National Forest shall be incorporated into the Opal Creek Wilderness; and

(3) the Secretary shall establish the Opal Creek Scenic Recreation Area in the Willamette National Forest in the State of Oregon, comprising approximately 13,013 acres, as generally depicted on the map entitled "Proposed Opal Creek Wilderness and Scenic-Recreation Area", dated March 1996.

(b) CONDITIONS.—Subsection (a) shall not take effect unless the Secretary makes a determination, not later than 2 years after the date of enactment of this Act, that the following have been donated to the United States in an acceptable condition and without encumbrances:

(1) All right, title, and interest in the following patented parcels of land:

(A) Santiam number 1, mineral survey number 992, as described in patent number 39–92–0002, dated December 11, 1991.

(B) Ruth Quartz Mine number 2, mineral survey number 994, as described in patent number 39–91–0012, dated February 12, 1991.

(C) Morning Star Lode, mineral survey number 993, as described in patent number 36–91–0011, dated February 12, 1991.

(D) Certain land belonging to the Times Mirror Land and Timber Company located in section 18, township 8 south, range 5 east, Marion County, Oregon, Eureka numbers 6, 7, and 8, and 13 patented mining claims.

(2) A public easement across the Hewitt, Starvation, and Poor Boy Mill Sites, mineral survey number 990, as described in patent number 36–91–0017, dated May 9, 1991, or any alternative route for the easement that may be available.

(c) EXPANSION OF SCENIC RECREATION AREA BOUNDARIES.—On acquiring all or substantially all of the land located in section 36, township 8 south, range 4 east, of the Willamette Meridian, Marion County, Oregon, by exchange, purchase, or donation, the Secretary shall expand the boundary of the Scenic Recreation Area to include the land.

SEC. 104. ADMINISTRATION OF THE SCENIC RECREATION AREA.

(a) IN GENERAL.—The Secretary shall administer the Scenic Recreation Area in accordance with the laws (including regulations) applicable to the National Forest System.

(b) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 years after the date of establishment of the Scenic Recreation Area, the Secretary, in consultation with the advisory committee established under section 105(a), shall prepare a comprehensive management plan for the Scenic Recreation Area.

(2) INCORPORATION IN LAND AND RESOURCE MANAGEMENT PLAN.—On completion of the management plan, the management plan shall become part of the land and resource management plan for the Willamette National Forest and supersede any conflicting provision in the land and resource management plan.

(3) REQUIREMENTS.—The management plan shall provide a broad range of land uses, including—

(A) recreation;

(B) harvesting of nontraditional forest products, such as gathering mushrooms and material to make baskets; and

(C) educational and research opportunities.

(4) PLAN AMENDMENTS.—The Secretary may amend the management plan as the Secretary may determine to be necessary.

(c) CULTURAL AND HISTORIC RESOURCE INVENTORY.—

(1) IN GENERAL.—Not later than 1 year after the date of establishment of the Scenic Recreation Area, the Secretary shall review and revise the inventory of the cultural and historic resources on the public land in the Scenic Recreation Area that were developed pursuant to the Oregon Wilderness Act of 1984 (Public Law 98–328; 98 Stat. 272).

(2) INTERPRETATION.—Interpretive activities shall be developed under the management plan in consultation with State and local historic preservation organizations and shall include a balanced and factually-based interpretation of the cultural, ecological, and industrial history of forestry and mining in the Scenic Recreation Area.

(d) TRANSPORTATION PLANNING.—

(1) IN GENERAL.—To maintain access to recreation sites and facilities in existence on the date of enactment of this Act, the Secretary shall prepare a transportation plan for the Scenic Recreation Area that evaluates the road network within the Scenic Recreation Area to determine which roads should be retained and which roads closed.

(2) ACCESS BY PERSONS WITH DISABILITIES.—The Secretary, in consultation with private inholders in the Scenic Recreation Area, shall consider the access needs of persons with disabilities in preparing the transportation plan for the Scenic Recreation Area.

(3) MOTOR VEHICLES.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and in the transportation plan under paragraph (1), motorized vehicles shall not be permitted in the Scenic Recreation Area.

(B) EXCEPTION.—Forest road 3209 beyond the gate to the Scenic Recreation Area, as depicted on the map described in section 103(a)(3), may be used by motorized vehicles for administrative purposes and for access to a private inholding, subject to such terms and conditions as the Secretary may determine to be necessary.

(4) ROAD IMPROVEMENT.—Any construction or improvement of forest road 3209 beyond the gate to the Scenic Recreation Area may not include paving or any work beyond 50 feet from the centerline of the road.

(e) HUNTING AND FISHING.—

(1) IN GENERAL.—Subject to other Federal and State law, the Secretary shall permit hunting and fishing in the Scenic Recreation Area.

(2) LIMITATION.—The Secretary may designate zones in which, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment.

(3) CONSULTATION.—Except during an emergency, as determined by the Secretary, the Secretary shall consult with the Oregon State Department of Fish and Wildlife before issuing any regulation under this section.

(f) TIMBER CUTTING.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall prohibit the cutting of trees in the Scenic Recreation Area.

(2) PERMITTED CUTTING.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may allow the cutting of trees in the Scenic Recreation Area—

(i) for public safety, such as to control the spread of a forest fire in the Scenic Recreation Area or on land adjacent to the Scenic Recreation Area; or

(ii) for activities related to administration of the Scenic Recreation Area.

(B) SALVAGE SALES.—The Secretary may not allow a salvage sale in the Scenic Recreation Area.

(g) WITHDRAWAL.—Subject to rights perfected before the date of enactment of this Act, all land in the Scenic Recreation Area are withdrawn from—

(1) any form of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under the mineral and geothermal leasing laws.

(h) WATER IMPOUNDMENTS.—Notwithstanding the Federal Power Act (16 U.S.C. 791a et seq.), the Federal Energy Regulatory Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work in the Scenic Recreation Area.

(i) RECREATION.—

(1) RECOGNITION.—Congress recognizes recreation as an appropriate use of the Scenic Recreation Area.

(2) MINIMUM LEVELS.—The management plan shall accommodate recreation at not less than the levels in existence on the date of enactment of this Act.

(3) HIGHER LEVELS.—The management plan may provide for levels of recreation use higher than the levels in existence on the date of enactment of this Act if the levels are consistent with the protection of resource values.

(j) PARTICIPATION.—In order that the knowledge, expertise, and views of all agencies and groups may contribute affirmatively to the most sensitive present and future use of the Scenic Recreation Area and its various subareas for the benefit of the public:

(1) ADVISORY COUNCIL.—The Secretary shall consult on a periodic and regular basis with the advisory council established under section 105 with respect to matters relating to management of the Scenic Recreation Area.

(2) PUBLIC PARTICIPATION.—The Secretary shall seek the views of private groups, individuals, and the public concerning the Scenic Recreation Area.

(3) OTHER AGENCIES.—The Secretary shall seek the views and assistance of, and cooperate with, any other Federal, State, or local agency with any responsibility for the zoning, planning, or natural resources of the Scenic Recreation Area.

(4) NONPROFIT AGENCIES AND ORGANIZATIONS.—The Secretary shall seek the views of any nonprofit agency or organization that may contribute information or expertise about the resources and the management of the Scenic Recreation Area.

SEC. 105. ADVISORY COUNCIL.

(a) ESTABLISHMENT.—On the establishment of the Scenic Recreation Area, the Secretary shall establish an advisory council for the Scenic Recreation Area.

(b) MEMBERSHIP.—The advisory council shall consist of not more than 11 members, of whom—

(1) 1 member shall represent Marion County, Oregon, and shall be designated by the governing body of the county;

(2) 1 member shall represent the State of Oregon and shall be designated by the Governor of Oregon; and

(3) not more than 8 members shall be appointed by the Secretary from among persons who, individually or through association with a national or local organization, have an interest in the administration of the Scenic Recreation Area, including representatives of the timber industry, environmental organizations, and economic development interests.

(c) STAGGERED TERMS.—Members of the advisory council shall serve for staggered terms of 3 years.

(d) CHAIRMAN.—The Secretary shall designate 1 member of the advisory council as chairman.

(e) VACANCIES.—The Secretary shall fill a vacancy on the advisory council in the same manner as the original appointment.

(f) COMPENSATION.—A member of the advisory council shall not receive any compensation for the member's service to the advisory council.

SEC. 106. GENERAL PROVISIONS.

(a) LAND ACQUISITION.—

(1) IN GENERAL.—Subject to the other provisions of this subsection, the Secretary may acquire any lands, waters, or interests in land or water in the Scenic Recreation Area or the Opal Creek Wilderness that the Secretary determines are needed to carry out this title.

(2) PUBLIC LAND.—Any lands, waters, or interests in land or water owned by a State or a political subdivision of a State may be acquired only by donation or exchange.

(3) CONDEMNATION.—Subject to paragraph (4), the Secretary may not acquire any privately owned land or interest in land without the consent of the owner unless the Secretary finds that—

(A) the nature of land use has changed significantly, or the landowner has demonstrated intent to change the land use significantly, from the use that existed on the date of the enactment of this Act; and

(B) acquisition by the Secretary of the land or interest in land is essential to ensure use of the land or interest in land in accordance with the management plan prepared under section 104(b).

(4) RIGHT OF FIRST REFUSAL.—

(A) IN GENERAL.—The following privately owned lands, interests in land, and structures may not be disposed of by donation, exchange, sale, or other conveyance without first being offered at not more than fair market value to the Secretary:

(i) The lode mining claims known as the Princess Lode, Black Prince Lode, and King Number 4 Lode, embracing portions of sections 29 and 32, township 8 south, range 5 east, Willamette Meridian, Marion County, Oregon, the claims being more particularly described in the field notes and depicted on the plat of mineral survey number 887, Oregon.

(ii) Ruth Quartz Mine Number 1, mineral survey number 994, as described in patent number 39-91-0012, dated February 12, 1991.

(B) ACCEPTANCE PERIOD.—The Secretary shall have not less than 120 days in which to accept an offer under subparagraph (A).

(C) ACQUISITION.—The Secretary shall have not less than 45 days after the end of the fiscal year following the fiscal year in which an offer was accepted under subparagraph (B) to acquire the land, interest in land, or structure offered under subparagraph (A).

(D) PROHIBITION OF CHEAPER SALES.—Any land, interest in land, or structure offered to the Secretary under subparagraph (A) may not be sold or conveyed at a price below the price at which the land, interest in land, or structure was offered.

(E) REOFFER.—

(i) IN GENERAL.—Subject to clause (ii), any land, interest in land, or structure offered to the Secretary under subparagraph (A) may not be reoffered for sale or conveyance unless the land, interest in land, or structure is first reoffered to the Secretary.

(ii) IMMEDIATE FAMILY.—Clause (i) shall not apply to a change in ownership of land, an interest in land, or a structure within the immediate family of the owner of record on January 1, 1996.

(F) PROCEEDS.—The proceeds of any sale to the Secretary under this paragraph may be used only for—

(i) trail, road, and bridge maintenance;

(ii) elementary, secondary, undergraduate and graduate level interpretive, research, and educational programs and activities, such as public school field study programs, laboratory studies, workshops, and seminars; and

(iii) construction of visitor facilities, such as restrooms, information kiosks, and trail signage.

(b) ENVIRONMENTAL RESPONSE ACTIONS AND COST RECOVERY.—

(1) RESPONSE ACTIONS.—Nothing in this title shall limit the authority of the Secretary or a responsible party to conduct an environmental response action in the Scenic Recreation Area in connection with the release, threatened release, or cleanup of a hazardous substance, pollutant, or contaminant, including a response action conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(2) LIABILITY.—Nothing in this title shall limit the authority of the Secretary or a responsible party to recover costs related to the release, threatened release, or cleanup of any hazardous substance or pollutant or contaminant in the Scenic Recreation Area.

(c) MAPS AND DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a boundary description for the Opal Creek Wilderness and for the Scenic Recreation Area with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) FORCE AND EFFECT.—The boundary description and map shall have the same force and effect as if the description and map were included in this title, except that the Secretary may correct clerical and typographical errors in the boundary description and map.

(3) AVAILABILITY.—The map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 107. DESIGNATION OF ELKHORN CREEK AS A WILD AND SCENIC RIVER.

Section 3(a) of the Wild and Scenic Recreation Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

"( ) ELKHORN CREEK.—Elkhorn Creek from its source to its confluence on Federal land, to be administered by agencies of the Departments of the Interior and Agriculture as agreed on by the Secretary of the Interior and the Secretary of Agriculture or as directed by the President. Notwithstanding subsection (b), the boundaries of the Elkhorn River shall include an average of not more than 640 acres per mile measured from the ordinary high water mark on both sides of the river.".

SEC. 108. SAVINGS CLAUSE.

Nothing in this title shall—

(1) interfere with any activity for which a special use permit has been issued (and not revoked) before the date of enactment of this Act, subject to the terms of the permit; or

(2) otherwise abridge the valid existing rights of an unpatented mining claimant under the general mining laws of the United States.

TITLE II—UPPER KLAMATH BASIN

SEC. 201. UPPER KLAMATH BASIN ECOLOGICAL RESTORATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ECOSYSTEM RESTORATION OFFICE.—The term "Ecosystem Restoration Office" means the Klamath Basin Ecosystem Restoration Office operated cooperatively by the United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, and Forest Service.

(2) WORKING GROUP.—The term "Working Group" means the Upper Klamath Basin Working Group, established before the date of enactment of this Act, consisting of representatives of the environmental community, Klamath Tribes, water users, local industry, Klamath County, Oregon, the Department of Fish and Wildlife of the State of Oregon, the Oregon Institute of Technology, the city of Klamath Falls, Oregon, and the United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Forest Service, Natural Resources Conservation Service, and Ecosystem Restoration Office.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(b) COOPERATIVE AGREEMENT.—

(1) IN GENERAL.—The Secretary shall enter into a cooperative agreement with the Working Group under which—

(A) the Working Group through the Ecosystem Restoration Office, with technical assistance from the Secretary, will propose ecological restoration projects to be undertaken in the Upper Klamath Basin based on a consensus of interested persons in the community;

(B) the Working Group will accept donations from the public and place the amount of any donations received in a trust fund, to be expended on the performance of ecological restoration projects approved by the Secretary;

(C) on continued satisfaction of the condition stated in subsection (c), the Secretary shall pay not more than 50 percent of the cost of performing any ecological restoration project approved by the Secretary, up to a total amount of $1,000,000 during each of fiscal years 1997 through 2001;

(D) funds made available under this title shall be distributed by the Department of the Interior, the Fish and Wildlife Service, and the Ecosystem Restoration Office;

(E) the Ecosystem Restoration Office may utilize not more than 15 percent of all funds administered under this section for administrative costs relating to the implementation of this title; and

(F) Federal agencies located in the Upper Klamath Basin, including the Fish and Wildlife Service, Bureau of Reclamation, National Park Service, Forest Service, Natural Resources Conservation Service, and Ecosystem Restoration Office shall provide technical assistance to the Working Group and actively participate in Working Group meetings as nonvoting members.

(c) CONDITIONS.—The conditions stated in this subsection are—

(1) that the representatives and interested persons on the Working Group on the date of enactment of this Act continue to serve, and in the future consist of not less than—

(A) 3 tribal members;

(B) 2 representatives of the city of Klamath Falls, Oregon;

(C) 2 representatives of Klamath County, Oregon;

(D) 1 representative of institutions of higher education in the Upper Klamath Basin;

(E) 4 representatives of the environmental community;

(F) 4 representatives of local businesses and industries;

(G) 4 representatives of the ranching and farming community;

(H) 2 representatives of the State of Oregon; and

(I) 2 representatives from the local community; and

(2) that the Working Group conduct all meetings consistent with Federal open meeting and public participation laws.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1997 through 2002.

SEC. 202. DESCHUTES BASIN RESTORATION PROJECTS.

There is hereby authorized the Deschutes Basin Working Group to be constituted in the same manner, with the same membership, provided with the same appropriations and provided with the same ability to offer recommendations to Federal agencies regarding the expenditure of funds as the Klamath Basin Group.

TITLE III—MOUNT HOOD CORRIDOR

SEC. 301. LAND EXCHANGE.

(a) AUTHORIZATION.—Notwithstanding any other law, if Longview Fibre Company (referred to in this section as "Longview") offers and conveys title that is acceptable to the United States to the land described in subsection (b), the Secretary of the Interior (referred to in this section as the "Secretary") shall convey to Longview title to some or all of the land described in subsection (c), as necessary to satisfy the requirements of subsection (d).

(b) LAND TO BE OFFERED BY LONGVIEW.—The land referred to in subsection (a) as the land to be offered by Longview is the land described as follows:

(1) T. 2 S., R. 6 E., sec. 13—E½SW¼, W½SE¼, containing 160 record acres, more or less;

(2) T. 2 S., R. 6 E., sec. 14—All, containing 640 record acres, more or less;

(3) T. 2 S., R. 6 E., sec. 16—N½, SW½, N½SE¼, SW¼SE½, containing 600 record acres, more or less;

(4) T. 2 S., R. 6 E., sec. 26—NW¼, N½SW¼, SW¼SW¼, NW¼SE¼; (and a strip of land to be used for right-of-way purposes in sec. 23), containing 320 record acres, more or less;

(5) T. 2 S., R. 6 E., sec. 27—S½NE¼NE¼, NW¼NE¼, SE¼NE¼, NW¼NW¼, containing 140 record acres, more or less;

(6) T. 2 S., R. 6 E., sec. 28—N½, Except a tract of land 100 feet square bordering and lying west of Wild Cat Creek and bordering on the north line of Sec. 28, described as follows: Beginning at a point on the west bank of Wild Cat Creek and the north boundary of sec. 28, running thence W. 100 feet, thence S. 100 feet parallel with the west bank of Wild Cat Creek, thence E. to the west bank of Wild Cat Creek, thence N. along said bank of Wild Cat Creek to the point of beginning, containing 319.77 record acres, more or less;

(7) T. 2 S., R. 7 E., sec. 19—E½SW¼, SW¼SE¼, Except a tract of land described in deed recorded on August 6, 1991, as Recorder's Fee No. 91-39007, and except the portion lying within public roads, containing 117.50 record acres, more or less;

(8) T. 2 S., R. 7 E., sec. 20—S½SW¼SW¼, containing 20 record acres, more or less;

(9) T. 2 S., R. 7 E., sec. 27—W½SW¼, containing 80 record acres, more or less;

(10) T. 2 S., R. 7 E., sec. 28—S½, containing 320 record acres, more or less;

(11) T. 2 S., R. 7 E., sec. 29—SW¼NE¼, W½SE¼NE¼, NW¼, SE¼, containing 380 record acres, more or less;

(12) T. 2 S., R. 7 E., sec. 30—E½NE¼, NW½NE¼, Except the portion lying within Timberline Rim Division 4, and except the portion lying within the county road, containing 115 record acres, more or less;

(13) T. 2 S., R. 7 E., sec. 33—N½NE¼, E½NW¼NW¼, NE¼SW¼NW¼, containing 110 record acres, more or less;

(14) T. 3 S., R. 5 E., sec. 13—NE¼SE¼, containing 40 record acres, more or less;

(15) T. 3 S., R. 5 E., sec. 25—The portion of the E½NE¼ lying southerly of Eagle Creek and northeasterly of South Fork Eagle Creek, containing 14 record acres, more or less;

(16) T. 3 S., R. 5 E., sec. 26—The portion of the N½SW¼ lying northeasterly of South Fork Eagle Creek, containing 36 record acres, more or less; and

(17) T. 6 S., R. 2 E., sec. 4—SW¼, containing 160.00 record acres, more or less.

(c) LAND TO BE CONVEYED BY THE SECRETARY.—The land referred to in subsection (a) as the land to be conveyed by the Secretary is the land described as follows:

(1) T. 1 S., R. 5 E., sec. 9—SE¼NE¼, SE¼SE¼, containing 80 record acres, more or less;

(2) T. 2 S., R. 5 E., sec. 33—NE¼NE¼, containing 40 record acres, more or less;

(3) T. 2½ S., R. 6 E., sec. 31—Lots 1-4, incl. containing 50.65 record acres, more or less;

(4) T. 2½ S., R. 6 E., sec. 32—Lots 1-4, incl. containing 60.25 record acres, more or less;

(5) T. 3 S., R. 5 E., sec. 1—NE¼SW¼, SE¼, containing 200 record acres, more or less;

(6) T. 3 S., R. 5 E., sec. 9—S½SE¼, containing 80 record acres, more or less;

(7) T. 3 S., R. 5 E., sec. 17—N½NE¼, containing 80 record acres, more or less;

(8) T. 3 S., R. 5 E., sec. 23—W½NW¼, NW¼SW¼, containing 120 record acres, more or less;

(9) T. 3 S., R. 5 E., sec. 25—The portion of the S½S½ lying southwesterly of South Fork Eagle Creek, containing 125 record acres, more or less;

(10) T. 3 S., R. 5 E., sec. 31—Unnumbered lot (SW¼SW¼), containing 40.33 record acres, more or less;

(11) T. 7 S., R. 1 E., sec. 23—SE¼SE¼, containing 40 record acres, more or less;

(12) T. 10 S., R. 2 E., sec. 34—SW¼SW¼, containing 40 record acres, more or less;

(13) T. 10 S., R. 4 E., sec. 9—NW¼NW¼, containing 40 record acres, more or less;

(14) T. 10 S., R. 4 E., sec. 21—E½SW¼, containing 80 record acres, more or less;

(15) T. 4 N., R. 3 W., sec. 35—W½SW¼, containing 80 record acres, more or less;

(16) T. 3 N., R. 3 W., sec. 7—E½NE¼, containing 80 record acres, more or less;

(17) T. 3 N., R. 3 W., sec. 9—NE¼NE¼, containing 40 record acres, more or less;

(18) T. 3 N., R. 3 W., sec. 17—S½NE¼, containing 80 record acres, more or less; and

(19) T. 3 N., R. 3 W., sec. 21—Lot 1, N½NW¼, SW¼NW¼, containing 157.99 record acres, more or less.

(d) EQUAL VALUE.—The land and interests in land exchanged under this section—

(1) shall be of equal market value; or

(2) shall be equalized using nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law.

(e) REDESIGNATION OF LAND TO MAINTAIN REVENUE FLOW.—So as to maintain the current flow of revenue from land subject to the Act entitled "An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land situated in the state of Oregon", approved August 28, 1937 (43 U.S.C. 1181a et seq.), the Secretary may redesignate public domain land located in and west of Range 9 East, Willamette Meridian, Oregon, as land subject to that Act.

(f) TIMETABLE.—The exchange directed by this section shall be consummated not later than 2 years after the date of enactment of this Act.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE IV—COQUILLE FOREST ECOSYSTEM MANAGEMENT PLAN

[*To be supplied.*]

By Mr. HATFIELD (for himself and Mr. HARKIN):

S. 1663. A bill to amend the Internal Revenue Code of 1986 to improve revenue collection and to provide that a taxpayer conscientiously opposed to participation in war may elect to have such taxpayer's income, estate, or gift tax payments spent for nomilitary purposes, to create the U.S. Peace Tax Fund to receive such tax payments, and for other purposes; to the Committee on Finance.

THE U.S. PEACE TAX FUND ACT OF 1996

Mr. HATFIELD. Madam President, As tax day approaches, I once again come before the Senate to introduce the United States Peace Tax Fund. I am joined in this effort by the Senator from Iowa, Senator HARKIN, who has been a longtime original cosponsor of this bill.

I first introduced the Peace Tax Fund during the 95th Congress, nearly 20 years ago. I have reintroduced the Peace Tax Fund in every Congress since then because I believe it is important legislation.

Since 1945 eligible conscientious objectors have been excused from combat. Although our Nation long has recognized moral and religious opposition to war, it has failed to address the depth and scope of such objections. Our tax laws do not recognize that conscience not only prohibits participation on the battlefield, but also in the preparation for war through payments to the military. CO's may withhold their bodies but not their money.

The Peace Tax Fund Act, if enacted, would allow complete participation in our Federal Government by all citizens without many being forced to compromise deeply held beliefs of any citizen.

Over the years I have received many letters from constituents describing their disapproval of military taxes and their desire to have the Federal Government respect such objections. Some citizens write of their decision to set aside their beliefs and pay their taxes in full, despite the anguish such payment causes. Others, perhaps following Albert Einstein's advice, "Never do anything against conscience even if the State demands it," refuse to pay a portion of their taxes. Some Americans purposefully keep their income below the taxable level, so that they can avoid the decision altogether.

It is important to point out what the Peace Tax Fund legislation is not. The Peace tax Fund is not a method by which a citizen may lodge protest over wasteful defense programs. Nor is it a tool to circumvent foreign policy initiatives. Tax liabilities cannot be reduced through participation in the Peace Tax Fund. The Peace Tax Fund Act was developed not for those individuals seeking to alter national policy, but rather to allow certain individuals to fully uphold Federal law without violating their consciences.

The Peace Tax Fund would allow these sincere conscientious objectors the opportunity to pay their Federal taxes in full. Those who qualify may choose to have that portion of their taxes which would go to military activities instead be diverted to a special trust fund—the Peace Tax Fund—and then disbursed to two Federal programs: Head Start and WIC. The bill would not reduce the amount of funding for military activities. Nor would it result in any significant loss of revenue, according to the Joint Committee on Taxation.

As defined by the Peace Tax Fund Act, an eligible conscientious objector is anyone who has obtained this status under the Military Selective Service Act. Others may submit a questionnaire to the Secretary of the Treasury certifying his or her beliefs and how those beliefs affect that individual's life.

In the 20-plus years that this issue has been debated, only two hearings have been held. The last hearing was held by the House Ways and Means Committee in 1992. The Senate has never held hearings on the Peace Tax Fund. It is my hope that before I leave the Senate the Finance Committee will hold a hearing on this issue.

The Peace Tax Fund has had the support of many committed religious and peace organizations throughout the years. I ask unanimous consent that a partial listing of the organizations endorsing the Peace Tax Fund be included in the RECORD.

I urge my colleagues to join me in support of this legislation so important to the protection of personal and religious beliefs of many citizens who find themselves each tax season torn between the law and conscience.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PARTIAL LISTING OF ORGANIZATIONS ENDORSING THE PEACE TAX FUND

1. American Arab Anti-Discrimination Committee.
2. American Friends Service Committee.
3. Baptist Peace Fellowship of North America.
4. Buddhist Peace Fellowship.
5. Catholic Committee of Appalachia.
6. Central Committee for Conscientious Objectors.
7. Church of the Brethren.
8. Consortium on Peace Research Education and Development.
9. Episcopal Peace Fellowship.
10. Evangelicals for Social Action.
11. Fellowship of Reconciliation.
12. Franciscan Federation of Brothers and Sisters.
13. Franciscans Sisters of the Poor.
14. Friends Committee on National Legislation.
15. Friends United Meeting.
16. Fund For Peace.
17. General Conference of the Mennonite Church.
18. Grandmothers for Peace.
19. Jewish Peace Fellowship.
20. Leadership Conference of Women Religious—Peace/Disarmament Task Force.
21. Lutheran Campus Ministry.
22. Lutheran Peace Fellowship.
23. Mennonite Central Committee.
24. Mennonite Church General Board.
25. Mercian Orthodox Catholic Church.
26. National Assembly of Religious Women.
27. National Council of Churches Ecumenical Witness Conference.
28. National Federation of Priests' Councils.
29. National Interreligious Service Board for Conscientious Objectors.
30. National Jobs with Peace Campaign.
31. NETWORK—A National Catholic Social Justice Lobby.
32. New Call to Peacemaking.
33. Nonviolence International.
34. Nuclear Free America.
35. Pax Christi USA.
36. Presbyterian Church USA.
37. Presbyterian Peace Fellowship.
38. Project for Conversion of Johns Hopkins Applied Physicis Laboratory.
39. School Sisters of St. Francis.
40. Society of the Sacred heart—US Province Provincial Team.
41. Sojourners.
42. Unitarian Universalist Association.
43. United Church of Christ.
44. United Methodist Church.
45. US Province Office of the US Provincials.
46. Veterans for Peace.
47. War Resisters' League.
48. Women Strike for Peace.
49. Women's International League for Peace and Freedom.
50. World Peacemakers.

ADDITIONAL COSPONSORS

S. 491

At the request of Mr. BREAUX, the name of the Senator from New Mexico

[Mr. BINGAMAN] was added as a cosponsor of S. 491, a bill to amend title XVIII of the Social Security Act to provide coverage of outpatient self-management training services under part B of the Medicare program for individuals with diabetes.

S. 605

At the request of Mr. DOLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 605, a bill to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment.

S. 864

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 864, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners and clinical nurse specialists to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 953

At the request of Mr. DOLE, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 953, a bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots.

S. 969

At the request of Mr. BRADLEY, the names of the Senator from Tennessee [Mr. FRIST], the Senator from Delaware [Mr. BIDEN], and the Senator from Minnesota [Mr. GRAMS] were added as cosponsors of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 1028

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1039

At the request of Mr. ABRAHAM, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 1039, a bill to require Congress to specify the source of authority under the United States Constitution for the enactment of laws, and for other purposes.

S. 1178

At the request of Mr. CHAFEE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1178, a bill to amend title XVIII of the Social Security Act to provide for coverage of colorectal screening under part B of the Medicare program.

S. 1373

At the request of Mr. DOLE, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1373, a bill to amend the Food Security Act of 1985 to minimize the regulatory burden on agricultural producers in the conservation of highly erodible land, wetland, and retired cropland, and for other purposes.

S. 1506

At the request of Mr. ABRAHAM, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1506, a bill to provide for a reduction in regulatory costs by maintaining Federal average fuel economy standards applicable to automobiles in effect at current levels until changed by law, and for other purposes.

S. 1610

At the request of Mr. BOND, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1612

At the request of Mr. HELMS, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1619

At the request of Mr. HATCH, the name of the Senator from Tennessee [Mr. THOMPSON] was added as a cosponsor of S. 1619, a bill to amend the provisions of title 17, United States Code, to provide for an exemption of copyright infringement for the performance of nondramatic musical works in small commercial establishments, and for other purposes.

S. 1635

At the request of Mr. DOLE, the names of the Senator from Texas [Mr. GRAMM], the Senator from Missouri [Mr. ASHCROFT], and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 1635, a bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes.

S. 1654

At the request of Mrs. BOXER, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1654, a bill to apply equal standards to certain foreign made and domestically produced handguns.

SENATE RESOLUTION 217

At the request of Mrs. KASSEBAUM, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from South Dakota [Mr. DASCHLE], the Senator from New York [Mr. D'AMATO], the Senator from Tennessee [Mr. FRIST], the Senator from Michigan [Mr. LEVIN], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of Senate Resolution 217, a resolution to designate the first Friday in May 1996, as "American Foreign Service Day" in recognition of the men and women who have served or are presently serving in the American Foreign Service, and to honor those in the American Foreign Service who have given their lives in the line of duty.

SENATE RESOLUTION 226

At the request of Mr. DOMENICI, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from South Carolina [Mr. THURMOND], the Senator from Alabama [Mr. HEFLIN], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Resolution 226, a resolution to proclaim the week of October 13 through October 19, 1996, as "National Character Counts Week."

SENATE RESOLUTION 236—APPOINTING MEMBERS TO CERTAIN SENATE COMMITTEES

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 236

Resolved, That, notwithstanding the provisions of the Standing Rules of the Senate, the following Members are hereby appointed to the following Senate committees:

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS: Mr. Bennett and Mr. Wyden.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION: Mr. Abraham and Mr. Wyden.

COMMITTEE ON THE BUDGET: Mr. Grams and Mr. Wyden.

SPECIAL COMMITTEE ON AGING: Mr. Warner and Mr. Wyden.

SENATE RESOLUTION 237—RELATIVE TO THE NATIONAL DEBT

Mr. FAIRCLOTH submitted the following resolution; which was referred to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged:

S. RES. 237

Whereas, the United States national debt is approximately $4.9 trillion;

Whereas, the Congress has authorized the national debt by law to reach $5.5 trillion;

Whereas, the 104th Congress and the President have both presented plans to balance the budget by the year 2002, by which time our national debt will be approximately $6.5 trillion;

Whereas, this accumulated debt represents a significant financial burden that will require excessive taxation and lost economic opportunity for future generations of the United States;

Resolved, That, it is the sense of the Senate that any comprehensive legislation that balances the budget by a certain date and that is agreed to by the Congress and the President shall also contain a strategy for reducing the national debt of the United States.

NATIONAL DEBT REDUCTION

Mr. FAIRCLOTH. Mr. President, today I am introducing legislation that will require the Treasury Secretary to prepare a report for Congress on recommendations to reduce the national debt. Further, Mr. President, I am submitting a sense-of-the-Senate resolution that if we enact a balanced budget plan this year, such legislation should also contain a strategy for reducing the national debt.

Yesterday, the Congress raised the national debt to $5.5 trillion, a figure beyond the comprehension of most people. By most estimates, we will not even begin to balance a budget until the year 2002, at which point the national debt will, of course, be even larger—$6.5 trillion.

Mr. President, I am concerned about this debt burden that we have placed on our children, grandchildren, and children yet born. We continue to spend money we do not have on day-to-day needs—not investments—just simply for day-to-day needs—we spend money we do not have. However, if we continue this irresponsible pattern, we will bring great harm to future generations. We talk about doing something for our children, and, yet, we could do them few greater services than to leave them a debt-free country.

It took this country nearly 200 years to accumulate a debt of $1 trillion. In the last 16 years, however, the debt has increased fivefold. This Republican Congress has attempted to move the budget toward balance. This Congress has tried to stop the flow of red ink. The President has, regrettably, vetoed our Balanced Budget Act.

Indeed, most of our time has been spent just trying to stop deficit spending, and we have worked to move toward a balanced budget in the year 2002. We still have not succeeded in doing this.

Beyond the plan to put this country on the track toward a balanced budget, however, we have no plan—no plan whatsoever—and no thought has been given to how we will reduce the national debt. We merely have been trying to slow the train. Even if we balance the budget 7 years from now, Mr. President, we have no plans to reduce the $6.5 trillion debt that we will have accumulated.

This $6.5 trillion debt represents a tremendous amount of money—an incomprehensible amount of money to practically all of us—but what does it mean in real terms to the average working person? Six-point-five trillion dollars would build 50 million houses and finance 187 million college educations. It would buy 310 million tractors. It would buy 433 million automobiles.

Permit me to put that in perspective. Fifty million new homes—built at the average price of $130,000 each—would mean a new house for every married couple in America. If housing is an important goal, we could have bought everyone a new house. Six-point-five trillion dollars would pay the full 4-year college tuition of every American over the age of 18. If education is an important goal, we could have sent every American adult to college.

Six-point-five trillion dollars would buy 310 million farm tractors. It would buy 433 million automobiles. We started producing automobiles in this country around 1900 or immediately thereafter. Since then, we have not come close to producing 433 million cars. Mr. President, our debt would buy every automobile ever produced in this country, and it probably would still carry us through another couple years.

These illustrations underscore the massive spending spree that we have been on for the last 20 years. Mr. President, it is important to remember that 80 percent of this debt has been accumulated since 1980, so a great part of these examples could have been accomplished in just the last 20 years.

Perhaps the most startling fact is how interest costs are consuming us. Over 40 percent of the personal income taxes paid this year—40 percent of the personal income taxes collected in this country this year—will be used to pay the interest on the debt.

In terms of spending per person, the numbers are astonishing, and they are shocking. Interest on the national debt is the third most expensive budgetary category per person behind Social Security and defense. We spend more on interest than on Medicare, other health expenditures, education, housing, environment, and agriculture—all these eclipsed by just interest.

These are things that are important to the American people, and, yet, there is less to spend because we insist on spending more than we have. And we are adding to this debt every day. Every day we add to this debt somewhere close to $350 million.

Mr. President, the average 21-year-old will face a lifetime tax burden of $115,000 just to pay the interest on the national debt. As graduation season approaches, every college graduate looks forward to receiving a diploma, but that diploma will be accompanied by a bill from the U.S. Government for $115,000 as his or her part of the interest on the debt. So inside each diploma should be a bill from the Federal Government for $115,000.

If we had been responsible here in Washington and were really concerned about the future of the young people of this country—rather than just making platitudes about being nice to them—their future would look different. The $115,000 that the IRS will demand from our children could have been better spent. Four years of college, a new car, the down payment on a house, and, Mr. President, each would still have $60,000 left over. But, no, they are going to receive a $115,000 interest bill on the day we hand them a diploma.

Further, their future would be brighter because we would have reduced interest rates significantly, without the Government taking $350 million a day from the lending pool in this world. Interest rates would be down, and down considerably.

President Clinton likes to make much of the fact that he is young, that he appeals to young voters, and that his wife is active in the Children's Defense Fund. But how concerned is he really about America's young people? How concerned, really, is he? When he leaves office in 1997, America will be another $1 trillion deeper in debt than we were when he came. It took him 3 years into his Presidency to submit a balanced budget, and it was really not a balanced budget. It did not balance the budget, in fact, and it was just a pretense of a balanced budget. It took him 3 years of "amateur night" before he came up with a proposal that he could even pretend was a balanced budget, and, really, he did it after he was driven to do it by a Republican Congress.

If they are interested in doing something for the children, it is my belief that the best Children's Defense Fund is a national debt with a zero balance.

Mr. President, let me conclude by saying that the two bills I am introducing are a small step in a long journey to reduce our debt. We must develop a plan to bring down the debt. One idea is to establish a national debt reduction fund much like the Presidential campaign fund. Perhaps there are other ways we can use incentives to reduce the debt.

It is important to consider methods to reduce the debt, and this is a critical issue, but, Mr. President, this Congress must muster the fortitude to stop spending. And, so far, we have not managed to do that.

If we do not begin now, if we do not start now, when will we? If we do not do it in this Congress, if the people now here do not do it, who will do it?

Mr. President, I yield the remainder of my time. I thank you.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio is recognized to speak as if in morning business for up to 15 minutes.

Mr. GLENN. I thank the Chair.

Mr. President, I did not come to speak on this particular subject that was just addressed by Senator FAIRCLOTH, but I wanted to set some facts straight in the interest of fairness.

The facts are that when President Reagan took office, the national debt was at $1 trillion—the result of a build-up through all of the Presidents since George Washington through Jimmy Carter. During the Reagan-Bush years, we added $3.9 trillion. Currently, the national debt is about $5 trillion.

In the summer of 1993, President Clinton announced the reconciliation bill that he put forward with his economic policies. We passed the bill in the U.S. Senate without a single Republican vote—not one. It resulted in the first 3 years of budget deficit reduction since Harry Truman was in office. We went from a budget deficit of $292 billion in the year we passed the reconciliation bill in 1993, down to approximately $240 billion in 1994 and $163 billion in 1995. This year the budget deficit is estimated to be $142 billion. There are several estimates on that amount, including CBO. For the first time since Harry Truman, we have had a steady reduction of the Federal deficit over a 3-year period. We worked for a balanced budget, and we are on the road to attaining it.

SENATE RESOLUTION 238—RELATIVE TO BUDGET OR TAX LEGISLATION AND EXPANDED ACCESS TO INDIVIDUAL RETIREMENT ACCOUNTS

Mr. HELMS (for himself, Mr. ROTH, Mr. LOTT, Mr. D'AMATO, Mr. NICKLES, Mrs. HUTCHISON, Mr. FAIRCLOTH, Mr. BREAUX, Mr. SHELBY, Mr. BENNETT, and Mr. SANTORUM) submitted a resolution which was referred to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged:

S. RES. 238

Whereas the Congress recognizes that an increased saving rate would be beneficial for the American economy, providing much needed capital for investment which leads to economic growth and increases in jobs and wages;

Whereas the personal saving rate in America averaged between 6 percent and 8 percent from 1950 through 1980, but dropped below 5 percent in the late 1980's, where it remains today;

Whereas the United States now has the lowest saving rate of all other industrialized nations in the world and this results in deficit financing and foreign borrowing to finance our consumption and investment;

Whereas when the deductibility of contributions to individual retirement accounts ("IRAs") was significantly curbed in 1986, deductible contributions to IRAs dropped from almost $40,000,000,000 in 1985 to a low of about $7,000,000,000 in 1993;

Whereas millions of people are currently precluded from making fully deductible IRA contributions, and they are relying on Congress to increase the current income limit on individuals eligible to contribute to IRAs and to create a new nondeductible IRA so all Americans can utilize IRAs to save for their futures;

Whereas the time has come to allow spouses working at home to have an equal opportunity to invest in an IRA since out of the 53,000,000 households with married couples, at least 35 percent have only one wage earner in the household, thereby illustrating the need for IRAs for spouses working at home;

Whereas because of the current restrictions on IRAs, only around 8 percent of American workers invest in them;

Whereas unless remedial action is quickly taken to increase the saving rate, millions of American will be lacking in sufficient resources to fund their retirement needs;

Whereas 50 years ago 42 workers contributed Social Security taxes for every beneficiary, today there are fewer than 4 workers per beneficiary, and by 2025 the ratio will have dropped to only 2.2 workers per beneficiary;

Whereas if an expanded individual retirement package is included in any budget agreement or appropriate to measure, it will give millions of American the opportunity to use IRA funds to provide for retirement, buy a first home, pay for children's college education, or protect themselves in the event of extended unemployment—all without incurring any penalty; and

Whereas if an expanded individual retirement accounted package is included in any budget agreement or appropriate tax measure, millions of Americans can immediately begin using IRAs to save for their futures, reducing dependence on government, and millions of unemployed or underemployed Americans can pursue the American Dream: Now, therefore, be it

Resolved, That it is the sense of the Senate that any budget agreement or appropriate tax measure coming before Congress this year shall include expanded access to individual retirement accounts so that the saving crisis in America can be reverse, new jobs can be created, economic growth can be increased, and the American Dream can be restored.

Mr. HELMS. Mr. President, in 1981 President Reagan proposed that individual retirement accounts be expanded to allow all workers to supplement their employer pensions with individual, tax-deferred savings. You see, Mr. President, Ronald Reagan understood the importance of increased national savings; he correctly perceived that the expanded use of IRA's would result in additional savings by families and individual citizens.

The year President Reagan proposed the IRA expansion, citizens across America invested $4.8 billion in tax-deferred IRA accounts. Three years later, in 1984, the amount of contributions to IRA's had increased to more than $35 billion.

And this past year, Mr. President, IRA contributions dwindled to about $7 billion—due in large part to the ramifications of the Tax Reform Act of 1986, which limited tax-deferred IRA contributions only to workers having no employer-sponsored retirement plans in which to invest and save—and to those citizens meeting an income test. Not surprisingly, these unwise restrictions diminished IRAs as an effective way to save for broad segments of society.

It's high time that the Federal Government's tax policy again encourage the American people to save through tax-deferred IRA's. So, Mr. President, I'm introducing a resolution expressing the sense of the Senate that, if a budget agreement is reached this year, it should include expanded access to IRAs.

The distinguished chairman of the Finance Committee, Senator Roth, along with the Senator from Louisiana, Mr. BREAUX, have introduced an effective bill (S.12) to encourage savings and investment through IRAs. This legislation gradually restores the universal availability of the tax-deductible IRA. It also establishes the back-end IRA, a new investment instrument in which contributions are not tax deductible, but earnings are not taxed at withdrawal.

The Congress should make certain that all Americans, including those who choose to work at home, have the opportunity to participate fully in IRA savings. Moreover, the tax system should allow investors to withdraw savings for a limited number of contingencies For example, families should be allowed to make penalty-free withdrawals for certain education expenses, first-time home purchases, catastrophic illness and long-term unemployment. These commonsense proposals must be included in any budget agreement struck this year, or any appropriate tax measure considered by the Senate.

Mr. President, the saving rate in America has declined significantly in the past two decades. In the 1970's, Americans saved 8 percent of average disposable income. By 1994, that figure had dropped to 4 percent. The saving rate in Japan, for example, is three times that in America; Canadians save twice as much as Americans. According to the Federal Reserve Board Chairman, Alan Greenspan, reversing the low saving rate is one of the most important long-term economic challenges in America.

If the availability of IRAs is expanded, savings will increase, and that will benefit the entire economy. A boost in savings will fuel added investment spending, which in turn drives the engine of economic growth and job creation. Likewise, it will reduce our reliance on foreign investment.

The importance of individual savings has never been greater, Mr. President, as the current demographic situation makes clear. The population as a whole is aging and the ratio of retirees to workers is increasing in the 1940's, for example, approximately 40 workers contributed to Social Security for every beneficiary of Social Security. Today, there are fewer than four workers per beneficiary, and by 2025 the ratio will have dropped to only 2.2 American workers per retiree. This is certain to place enormous stress on the public pension system in America.

Younger workers, especially, should be encouraged to save for their retirement needs. Personal responsibility and personal savings are the wave of the future, Mr. President. The Senate should, therefore, include expanded savings opportunities in any future budget agreement, or in any appropriate tax measure to come before the Senate.

Mr. LOTT. Mr. President, I am very pleased to be a cosponsor of Senator HELMS' sense of the Senate resolution that an expanded IRA should be included in any budget agreement we are able to reach.

I am still hopeful that we will be able to reach an agreement this year. Some say I am the eternal optimist. But, I truly believe it is in the best interest of our country to enact the changes necessary to put us on the path to a balanced budget. And, I hope that, in the end, this will prevail.

I also believe that tax relief should be included in any final agreement. It is critical that we provide incentives for economic growth and relief to families.

The tax cuts in the 1980's led to significant increases in real savings and real net worth of U.S. households; they also attracted huge influxes of foreign capital. All of this helped finance vigorous economic growth.

To the contrary, the increase in marginal taxes in 1990 and 1993 have suppressed private-sector savings and led to stagnation in investment in the United States by foreign investors. To increase the U.S. economy's capacity to expand, we must reverse the tax rate increases of the past 4 years.

There are two aspects to our national savings problem:

First, public dissaving in the form of large Federal deficits, and

Second, a decline in private savings, especially for retirement.

We addressed both of these in the Balanced Budget Act of 1995 which the President vetoed last December.

Our national savings rate is alarmingly low: It has fallen 50 percent since 1970. Americans are saving less today than at almost any time since World War II.

From 1993 to 2020, the percentage of Americans over 65 years old will increase by 64 percent. The Baby Boom generation is aging, and people are spending more years in retirement than ever before. Yet, studies show that Baby Boomers are only saving one-third of what they need for an adequate retirement.

The ratio of those paying into Social Security versus those drawing it is shrinking. People must realize this trend and acknowledge that their Social Security benefits should only be the foundation for their retirement: They must also take personal responsibility.

The personal savings rate has plummeted from 8 percent of disposable income in 1970 to only 4 percent in 1994. This represents a loss of roughly $200 billion in capital that could have been put to work in our economy.

Our savings rate is lower than any industrialized country. For example, Japan's savings rate was 14.8 percent in 1994, compared to ours of just over 4 percent.

Low rates of savings and investment have limited productivity growth and employment opportunities for more than two decades. This has held back investments and kept the United States at sub-par growth levels.

We must address this long-term problem, realizing the importance of savings to the economy and the well-being of current and future generations.

If we do not take steps now to increase private savings, our deficits will preempt all projected private savings early in the next century.

Expanded IRA's will provide the incentive people need to save.

I have always been an advocate of IRA's. Contributions to IRA's grew from $5 billion in 1981 to about $38 billion in 1986, accounting for 30 percent of the total saving by individuals that year. IRA's were working as they were supposed to.

I thought it was wrong in 1986 to limit the deductibility of contributions. As a result, by 1990 annual contributions to IRA's fell to less than $10 billion, and participation fell from more than 15 percent of income tax filers in 1986 to only 4 percent in 1990.

We have made several efforts since then to restore the deduction, but to date have not been able to accomplish this. We were close this year. The Balanced Budget Act would have allowed penalty-free withdrawals from IRA's for first-time home purchases, medical expenses, education expenses and unemployment. Individuals would have been allowed to withdraw for themselves and members of their families.

In addition, the bill would have allowed for a super IRA and spousal IRA's. It blows my mind that women who work in the home are not allowed to contribute but $250 to an IRA; this is just basically unfair.

I believe expanded IRA's will serve as an incentive to Americans to save for their own retirement. Studies show that approximately one-third of Americans have put away almost nothing for their retirement. While saving for retirement is important for social reasons, there is an added benefit: Increased IRA savings will allow capital investment which will, in turn, spur economic growth.

So, in conclusion, I would urge my colleagues to support this sense of the Senate resolution. And, I would urge them to continue to support legislation to make investment in IRA's possible for all Americans.

Let's give people the opportunity to take control of their own lives and retirements and restore the American dream.

SENATE RESOLUTION 239—RELATIVE TO THE SENATE LEGAL COUNSEL

Mr. DOLE (for himself and Mr. DASCHLE) submitted a resolution; which was considered and agreed to:

S. RES. 239

Whereas, in the case of *Robert E. Barrett* versus *United States Senate, et al.*, No. 96CV00385 (D.D.C.), pending in the United States District Court for the District of Columbia, the plaintiff has named the United States Senate as a defendant;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1) (1994), the Senate may direct its counsel to defend the Senate in civil actions relating to its official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the United States Senate in the case of *Robert E. Barrett* versus *United States Senate, et al.*

SENATE RESOLUTION 240—TO AUTHORIZE REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. WARNER (for himself and Mr. FORD) submitted the following resolution; which was considered and agreed to:

S. RES. 240

Whereas, in the case of *United States* versus *Byron C. Dale, et al.*, Civil No. 95-1023, pending in the United States District Court for the District of South Dakota, Northern Division, the defendants have named Senator Robert J. Dole as a codefendant in a counterclaim against the United States;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1) (1994), the Senate may direct its counsel to defend its Members in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Dole in the case of *United States* versus *Byron C. Dale, et al.*

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Energy Research and Development.

The hearing will take place Tuesday, April 16, 1996, at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1646, a bill to authorize and facilitate a program to enhance safety, training research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Judy Brown or David Garman at (202) 224–8115.

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing chaired by Senator Warner on Small Business and Employee Involvement. The TEAM Act Proposal on Thursday, April 18, 1996, at 9:30 a.m., in room 428A of the Russell Senate Office Building.

For further information, please contact Melissa Bailey at 224–5175.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a field hearing in Salem, OR, before the Subcommittee on Forests and Public Land Management on S. 1662, the Omnibus Oregon Resources Conservation Act.

The hearing will be held on Thursday, April 12, 1996, 1 p.m.–4 p.m. at the Willamette University, College of Law, 245 Winter Street, SE., Salem, OR 97301. Testimony will be received on the two major titles of the bill: Opal Creek Wilderness and Scenic-Recreation Area and Coquille Forest Proposal.

Because of the limited time available, witnesses may testify by invitation only. Written testimony will be accepted for the record. Witnesses testifying at the hearing are requested to bring 10 copies of their testimony with them on the day of the hearing. In addition, please send or fax a copy in advance to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. Fax to 202–228–0539 and fax a copy to Dave Robertson with Senator Hatfield at 503–326–2351.

For further information, please contact Mark Rey, Energy and Natural Resources Committee, at 202–224–6170 and Dave Robertson with Senator HATFIELD at 503–326–3386.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND

Mr. CRAIG. Mr. President, I would like to announce for the information of the senate and the public the scheduling of a hearing before the Subcommittee on Forests and Public Land Management on S. 1401, Surface mining Control and Reclamation Amendments Act of 1995.

The hearing will take place on Tuesday, April 23, 1996 at 9:30 a.m. in room SD 366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Michael Flannigan of the Subcommittee staff at 202–224–6170.

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Oversight and Investigations Subcommittee of the Energy and Natural Resources Committee to review the socioeconomic impacts of the Department of the Interior's regulatory requirements and planning process.

The hearing will take place on Saturday, April 13 at 9 a.m. in Rock Springs, WY. The exact location to be announced at a later date.

Those wishing to testify or submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Kelly Johnson or Jo Meuse at (202) 224–6730.

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, April 17, 1996, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review S. 128, a bill to establish the Thomas Cole National Historic Site in the State of New York; S. 695, a bill to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas; and S. 1476, a bill to establish the Boston Harbor Islands National Recreation Area.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation, and Recreation, Committee on Energy and National Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GOHEN. Mr. President, I ask unanimous consent that the Strategic Forces Subcommittee of the Committee on Armed Services be authorized to meet at 11 a.m. on Friday, March 29 in open session, to receive testimony on arms control, cooperative threat reduction program, and chemical demilitarization in review of the defense authorization request for the fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GOHEN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Friday, March 22, 1996, at 10 a.m. in SH216.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AIRLAND FORCES

Mr. GOHEN. Mr. President, I ask unanimous consent that the Subcommittee on Airland Forces be authorized to meet at 9 a.m. on Friday, March 29, 1996, to receive testimony on Army and unmanned aerial vehicle [UAV] modernization efforts in review of the defense authorization request for fiscal year 1997 and the Future Years Defense Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. GOHEN. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Friday, March 22, 1996, to hold hearings on the Global Proliferation of Weapons of Mass Destruction, Part II.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MINIMUM WAGE AMENDMENT

• Mr. ABRAHAM. Mr. President, I wanted to take just a minute to comment on the amendment offered by Senators KERRY and KENNEDY to raise the minimum wage from $4.35 an hour to $5.15 an hour over the next 2 years and why I oppose closing debate on this amendment at this time.

In my mind, few issues better define the differences between Republicans and Democrats than efforts to raise this starting wage. On the one hand, members of the Democratic Party seek to increase living standards through a Government mandate. On the other, Republicans are seeking to increase family incomes by cutting Federal taxes, reducing regulatory burdens, and increasing job opportunities. Democrats believe in Government while Republicans place their faith in families and individuals.

The case for the minimum wage has been refuted time and again. Far from raising living standards, studies show the minimum wage actually hurts the very workers its supposed to help. Harvard economist Robert Barro argues that "the minimum wage misses the mark because it worsens the status of most disadvantaged youths."

Economist David Neumark of my alma mater, Michigan State University, and William Wascher of the Federal Reserve have concluded that raising the minimum wage to $5.15 an hour would result in over 500,000 lost job opportunities for teenagers and young adults. Fully 77 percent of the members of the American Economic Association believe an increase in the minimum wage eliminates entry-level jobs.

Mr. President, under President Clinton's tenure, American families have seen their incomes stagnate while their tax burden have gone up. This Clinton crunch is forcing millions of families to get by with less. That's why the Republican Congress offered hard-working American families tax cuts like the $500 per child family tax credit, marriage penalty relief, and expanded individual retirement accounts. We wanted to let families keep more of what they earn, so they could finance their own priorities, not the Government's. These efforts were cut short when President Clinton vetoed the bill.

Now, the President and his party are pressing forward to mandate higher standards of living through Government action. This effort is misdirected and destructive. Furthermore, its timing is suspect. I am troubled that the same week this issue is raised on the Senate floor, the AFL–CIO has pledged to raise and spend $35 million through November to defeat Republican candidates.

If this issue is so pressing, why did President Clinton and congressional Democrats fail to bring it up in 1993 and 1994, when they controlled both the White House and the Congress? They joined hands to raise taxes on American families in 1993, but at no time during the last Congress did they ever consider raising the minimum wage. Now, with a Republican majority in Congress and the labor unions pledging them record financial support, raising the minimum wage becomes a priority.

Mr. President, I am unwilling to turn my back on low-skilled workers or to sacrifice their interests for an ideological and political agenda. Nor am I willing to impose another unfunded mandate on small business men and women across the country. For that reason, I oppose closing debate on this amendment at this time, and I call on my colleagues from both sides of the aisle to assist all working families by reducing the real barriers to higher wages and living standards—excessive taxes and regulations.•

GREEK INDEPENDENCE

• Mr. SARBANES. Mr. President, I rise today to salute the Greek people, who on March 25 commemorated the 175th Anniversary of the beginning of their struggle for independence from nearly four centuries of Ottoman Turkish rule. Against great odds, Greek patriots reestablished freedom and self-government in the country that gave birth to democracy.

This decade-long struggle attracted the attention of freedom-loving peoples throughout the world but enjoyed particularly strong support from the young American Republic. Americans held rallies in support of the Greek cause and sent both supplies and volunteers to aid the independence effort.

From that time, the American and Greek peoples forged an alliance for democracy which has stood the test of time and political change. In both World Wars and through the cold war period, America and Greece remained steadfast in their commitment to freedom and together fought successfully against the forces of modern tyranny and totalitarianism. In all of these struggles, the Greek people fought valiantly and at great sacrifice to their land and lives. It can be rightly said that no land so small gave so much to the modern cause of freedom.

As the challenges and opportunities of the post-cold-war world begin to emerge, the resourceful people of Greece are poised to join with America and other democracies in encouraging new hopes for freedom and democracy in Eastern Europe and the former Soviet Union. Greece, as one of the oldest continuing democracies of the modern period, has the experience in self-government to be of enormous assistance to nations struggling to develop open societies.

Greece is also the only country in the Balkans and Eastern Mediterranean region with membership in the European Union. This fact equips Greece to play a special role in the economic and political reconstruction of those regions. From the dawn of history, Greek travelers and traders have lived and worked in these areas developing relationships that can promote peace and prosperity in this new era.

Mr. President, the significance of the longstanding and close partnership between the United States and Greece is being reinforced by the exchange of official visits and by representatives of our two countries. As I speak, Hillary Clinton, our First Lady, is in Greece participating in the lighting of the Olympic Torch, which will eventually make its way to Atlanta, GA, for the centennial of the modern Olympics. Mrs. Clinton's presence at this important event reflects America's respect for and recognition of Greece's historic role in establishing these games and promoting friendly competition and cooperation among nations.

Within days, the Honorable Costas Simitis, newly installed Prime Minister of Greece, will visit Washington for a series of meetings with President Clinton and other administration officials. Prime Minister Simitis represents a new generation of Greek political leadership which promises to build on the strength of the existing United States-Greek relationship while seeking new areas of cooperation. In early May, Greek President Costas Stephanopoulos will also visit Washington for an official state visit. This again will offer an opportunity for renewing and reinforcing the ties between the citizens of these two democratic countries. We look forward to these visits and express warm appreciation to President Clinton for extending these invitations.

These are occasions also for the leaders of both America and Greece to recognize the impressive contributions that Greek-Americans have made to the strength and progress of democracy in both nations. The ties between our two countries have been tangibly strengthened by the constructive involvement of Greek-Americans in virtually every sphere of American life.

As we celebrate the bravery of the heroes and heroines of March 25, 1821, we recall with pride their unshakeable devotion to freedom. It is a commitment they have honored with their blood and tears over two centuries and an undertaking which has always found them in alliance with the American people and all those who value democracy and the rule of law. As we enter this new post-war period, I am confident that America and Greece will work together in the great effort to build and expand democracy. That will be the highest tribute to the spirit of Greek Independence first proclaimed on March 25, 1821.•

BREAST CANCER

• Mr. SMITH. Mr. President, I rise before you today to plea for the support of the world's wives, daughters, mother, and loved ones who prevail under a merciless dark shadow we've come to know as breast cancer. Over the past two decades, the risk of acquiring breast cancer has nearly tripled; from 1 in 20, to 1 in 8. Breast cancer alone is predicted to murder over 184,300 American women this year. To date, researchers have not been able to locate its cause or find a technique to eradicate it.

Paramount in our struggle to save our loved ones is the frequent inspection to detect possible irregularities. Caught early, measures can be undertaken to lower the risk of a further contamination of the body. However, the postponing of medical attention could result in the cancer expanding into the bloodstream, carrying tumor cells to the liver, lungs, and bones. Once diagnosed, the style of treatment is decided between the patient and the physician after considering the stage and type of cancer in question. Most often, a modified mastectomy—the removal of only the breast tissue—or a lumpectomy—the local removal of the tumor—followed by radiotherapy is the standard method. Unfortunately, the pain and suffering do not end after surgery. Once involved in therapy, the real struggle to return to a life lost begins.

What is commonly overlooked in the rehabilitation of a breast cancer victim is the unrestrictive support by loved ones as a means of therapy, and in most cases, this is vital to their recovery. Families facing cancer are severally challenged as their lives become increasingly complex. Psychosocial research has shown that the stress of adopting new roles, relating to and communicating with others, self-care responsibilities, and the over all nature of the cancer experience can cause unrest in the family unit. This in turn, greatly influences and in most cases, hinders the complete healing process. On the other hand, families that have stood by and supported relatives by educating themselves and responding properly tot he needs of the victim were able to significantly add to the recovery process. Therefore, I believe that as we work toward advancements in treatment, cure, and diagnosis of breast cancer, our programs must also stress involvement by family members in the care and support of loved ones.•

DAVID PACKARD

• Mrs. BOXER. Mr. President, I was deeply saddened to learn of the death of David Packard yesterday. My heartfelt thoughts and prayers go out to his family as people around the Nation pay tribute to his remarkable life and mourn his passing.

Untold numbers of people's lives were touched by David Packard or changed by the advent of his innovations. Not only will he be remembered for his pioneering work in the area of electronic and computer technology, but also his progressive management philosophy promises to remain fundamental in the high-tech industry in particular and American business in general.

Although his work at Hewlett-Packard was best known to the public, he found time to donate his valuable energy and resources to his country and many organizations and causes which are now an integral part of California's communities and elsewhere. The Monterey Bay Aquarium and the Lucile Salter Packard Children's Hospital at Stanford University are just two of his most visible contributions. His generosity, as most clearly manifest by the continuing work of the David and Lucile Packard Foundation, will long be remembered as the living legacy of a departed friend.•

TRIBUTE TO LOUISVILLE MALE HIGH SCHOOL

• Mr. MCCONNELL. Mr. President, on April 27 to April 29, 1996, more than 1,300 students from 50 States and the District of Columbia will be in Washington, DC to compete in the national finals of the We the People . . . The Citizen and the Constitution program. I am proud to announce that a class from Male High School in Louisville will represent Kentucky. These young scholars have worked diligently to reach the national finals by winning local competitions in our home State.

The distinguished member of the team representing Kentucky are: Abby Alster, Jil Beyerle, Lori Buchter, Adam Burns, Melissa Chandler, Sienna Greenwell, Patrick Hallahan, Nicole Hardin, Tony Heun, Michelle Hill, Patricia Holloway, Cammie Kramer, Kevin Laugherty, Anne-Marie Lucchese, Astrud Masterson, Kimberly Merritt, Tiffany Miller, Matthew Parish, Angela Rankin, Dana Smith, Danielle Vereen, Maleka Williams, Jamie Zeller.

I would also like to recognize their teacher, Sandra Hoover, who deserves a lot of credit for the success of the team. The district coordinator, Diane Meredith, and the State coordinators, Deborah Williamson and Jennifer Van Hoose, also contributed a significant amount of time and effort to help the team reach the national finals.

The We the People . . . The Citizen and the Constitution program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civic Education, the We the People . . . program, now in its 9th academic year, has reached more than 70,400 teachers and 22,600,000 students nationwide at the upper elementary, middle, and high school levels. Members of Congress and their staff enhance the program by discussing current constitutional issues with students and teachers.

The We the People . . . program provides an excellent opportunity for students to gain an informed perspective on the significance of the U.S. Constitution and its place in our history and our lives. I wish these students the best of luck in the national finals and look forward to their continued success in the years ahead.•

CONFIRMATION OF FEDERAL JUDGES

• Mr. LEAHY. Mr. President, I take our advice and consent function very seriously and especially so when it comes to the confirmation of Federal judges who are given lifetime appointments. In our system of Government, with coordinate branches and separation of powers, that is our responsibility in the Senate. But once a Federal judge is confirmed, our role is concluded.

I have voted to confirm some judges who rendered decisions with which I strongly disagreed and have voted against a few who have surprised me by turning out to be better judges than I predicted. Whenever I disagreed with a particular ruling in a particular case, after a Federal judge was nominated, examined and confirmed, I have not attacked that judge or tried to influence that judge's consideration of an ongoing matter.

If we disagree with the result in a case, we can determine whether the law needs to be amended or new law needs to be enacted. If a judge decides a case incorrectly, the remedy in our system is through judicial appeal. Indeed, the reason the Founders included the protections of a lifetime appointment for Federal judges was to insulate them from politics and political influence.

I ask that a statement from a group of distinguished judges from the U.S. Court of Appeals from the Second Circuit and an editorial from the Washington Post on this subject be made part of the RECORD.

The material follows:

JOINT STATEMENT

The following is a joint statement of Jon O. Newman, J. Edward Lumbard, Wilfred Feinberg, and James L. Oakes, who are respectively, the current and former chief judges of the United States Court of Appeals for the Second Circuit:

The recent attacks on a trial judge of our Circuit have gone too far. They threaten to weaken the constitutional structure of this Nation, which has well served our citizens for more than 200 years.

Last Friday, the White House press secretary announced that the President would await the judge's decision on a pending motion to reconsider a prior ruling before deciding whether to call for the judge's resignation. The plain implication is that the judge should resign if his decision is contrary to the President's preference. That attack is an extraordinary intimidation.

Last Saturday, the Senator Majority leader escalated the attack by stating that if the judge does not resign, he should be impeached. The Constitution limits impeachment to those who have committed "high crimes and misdemeanors." A ruling in a contested case cannot remotely be considered a ground for impeachment.

These attacks do a grave disservice to the principle of an independent judiciary, and, more significantly, mislead the public as to the role of judges in a constitutional democracy.

The Framers of our Constitution gave federal judges life tenure, after nomination by the President and confirmation by the Senate. They did not provide for resignation or impeachment whenever a judge makes a decision with which elected officials disagree.

Judges are called upon to make hundreds of decisions each year. These decisions are made after consideration of opposing contentions, both of which are often based on reasonable interpretations of the laws of the United States and the Constitution. Most rulings are subject to appeal, as is the one that has occasioned these attacks.

When a judge is threatened with a call for resignation or impeachment because of disagreement with a ruling, the entire process of orderly resolution of legal disputes is undermined.

We have no quarrel with criticism of any decision rendered by any judge. Informed comment and disagreement from lawyers, academics, and public officials have been hallmarks of the American legal tradition.

But there is an important line between legitimate criticism of a decision and illegitimate attack upon a judge. Criticism of a decision can illuminate issues and sometimes point the way toward better decisions. Attacks on a judge risk inhibition of all judges as they conscientiously endeavor to discharge their constitutional responsibilities.

In most circumstances, we would be constrained from making this statement by the Code of Conduct for United States Judges, which precludes public comment about a pending case. However, the Code also places on judges an affirmative duty to uphold the integrity and independence of the judiciary. In this instance, we believe our duty under this latter provision overrides whatever indirect comment on a pending case might be inferred from this statement (and we intend none).

We urge reconsideration of this rhetoric. We do so not because we doubt the courage of the federal judges of this Circuit, or of this Nation. They have endured attacks, both verbal and physical, and they have established a tradition of judicial independence and faithful regard for the Constitution that is the envy of the world. We are confident they will remain steadfast to that tradition.

Rather, we urge that attacks on a judge of our Circuit cease because of the disservice they do to the Constitution and the danger they create of seriously misleading the American public as to the proper functioning of the federal judiciary.

Each of us has important responsibilities in a constitutional democracy. All of the judges of this Circuit will continue to discharge theirs. We implore the leaders of the Executive and Legislative Branches to abide by theirs.

[From the Washington Post, Mar. 26, 1996]

LIFE TENURE FOR A REASON

In an angry and misguided response to an unpopular judicial ruling in New York last month, the White House let it be known that it was considering asking for the resignation of the federal judge in question. Within days of this thinly veiled and constitutionally empty threat, however, cooler heads prevailed. In a letter to a member of Congress who had called for resignation, the president's counsel, Jack Quinn, took the right tack, declaring that "the proper way for the executive branch to contest judicial decisions with which it disagrees is to challenge them in the courts, exactly as the Clinton administration is doing in this case."

At issue is a decision by Judge Harold Baer, a Clinton appointee, to suppress evidence in a multimillion-dollar drug case because the police did not, in his opinion, have probable cause to stop and search the car being used to transport the drugs. Such a ruling is always unpopular, especially in a case like this, in which a defendant at risk of a life sentence will go free if the evidence is inadmissible. But Judge Baer unfortunately used this opportunity to take a gratuitous swipe at the police. It was reasonable, he wrote, for the men involved in this crime to run from the police, because in their neighborhood officers have a reputation for corruption and violence.

The public uproar has caused Judge Baer to reconsider his ruling. But whether he is correct on the law is of secondary interest. Because this evidence is crucial to the case, the government can appeal an adverse decision and get a ruling from a higher court before the trial proceeds.

What is notable about the case is the eagerness of elected officials to demand the ouster of the judge, not because of corruption but because they did not agree with his ruling in one case. It is exactly this kind of situation that the Framers of the Constitution sought to avoid by providing life tenure for judges. Because of their wisdom, a judge acting in good faith who makes an unpopular call—protecting the free speech of political dissenters, for example—cannot be removed from office. The president, members of Congress and the public in general can demand his resignation until they are blue in the face, but a judge cannot be personally punished for taking an unpopular position. He can be removed only by impeachment.

An election-year assault on the judiciary is already in full swing. There will be the expected claims that one side will pack the courts with turn-'em-loose liberals and the other will nominate only right-to-life stalwarts. Fortunately for the country, judicial officers are sufficiently insulated from the political process that they are able to do the right thing even when the majority objects. Their mistakes can be reversed. Their independence from political pressure must be preserved.●

RESTRICTION OF FREEDOM OF EXPRESSION IN LEBANON

Mr. D'AMATO. Mr. President, I rise today to address some of the human rights violations that the Lebanese government is guilty of committing. In testimony to the Senate Foreign Relations Committee, a representative of the Independent Communications Network (ICN) explains the repeated limitations that the Lebanese Government places on the freedoms of speech and press. While I disagree with ICN's recommendation concerning the lifting of the State Department's travel ban to the country, I believe that ICN raises some valid points.

ICN's testimony details some of the measures taken by the government to repress any political opposition. They are unwilling to allow any form of free and open political debate, and they are vigilant about ensuring that radio and TV airwaves are strictly limited and under their control. The example of the hardships that ICN has had to endure show the oppressive policies of the Lebanese government.

As a country that firmly believes in the freedoms of speech and press, we can not sit idly by and tolerate these gross injustices. We must do what is possible to restore a sense of freedom to the country. It is in this spirit that I ask that ICN's testimony to the Senate Foreign Relations Committee be entered into the CONGRESSIONAL RECORD in its entirety. The testimony follows:

TESTIMONY SUBMITTED FOR THE RECORD BY THE INDEPENDENT COMMUNICATIONS NETWORK, FEBRUARY 27, 1996

Mr. Chairman. Thank you for this opportunity to testify to this distinguished committee. The Independent Communications Network [ICN] is an independent television broadcaster in Beirut committed to an independent Lebanon.

We are philosophically as well as professionally committed to freedom of speech and freedom of the press, two fundamental rights which we believe are threatened in our country.

We know you have no jurisdiction in Lebanon, but what you say and do here in Washington and in this respected and influential committee has an impact in Beirut and beyond.

The immediate issue before you today is United States ban on travel to Lebanon. We understand the Department of State will announce its decision tomorrow. Such decisions are not and cannot be made in a vacuum. It is with that in mind that we urge you to replace the lifting the travel ban with a strong advisory that not only warns travelers but also makes it clear to the Lebanese government that the United States government expects it to make a concerted effort to improve its efforts to assure the personal security of visitors to Lebanon as well as to secure human rights and freedom of speech for all Lebanese.

Lebanon is a unique country in the Middle East, and it has historically chosen a unique mission: spreading the liberty and freedom of speech in our part of the world. This mission, which we share with America, is threatened by a government which seems intent on turning Lebanon into a police state.

Before 1990, the Muslims in Lebanon were demanding a fair share of power. Lebanon has been governed since 1943 by a National Pact dividing power between Christians and Muslims on a six-to-five basis in favor of Christians. In 1990, Lebanese parliamentarians met in the Saudi summer resort town of Taif, and under American, Saudi and Syrian auspices developed a "peace plan" that shifted the imbalance to the favor of the Muslims this time.

This situation has led to an unbalanced government. General elections were boycotted by most Lebanese, leading to a parliament representing no more than 13 percent of the country. We are sliding more and more towards dictatorship and a "savage ownership" of the country and the media by the multi-billionaire who is currently prime minister, Sheikh Rafiq Hariri.

Today the fundamentalists are gaining influence in our country, taking advantage of a collapsing economy and the government's efforts to gag the media.

The government is seeking to stifle dissent by limiting the number of radio and television stations permitted to operate in Lebanon. Those that remain are becoming little more than political booty for the prime minister and his friends and a club to silence the opposition. The government already has approved legislation permitting only six television and 12 radio stations for the entire country.

Of those six permitted television stations, one belongs to the Speaker of the Parliament, Nabih Berri; another to the Minister of the Interior, Michel Murr and a third to Prime Minister Hariri.

ICN, as its name implies, is an independent voice not beholden to the government or any political party. It is no coincidence that it is not among the six stations sanctioned by Mr. Hariri and his government.

The government has ignored the petition of more than 40 members of Parliament asking to review and restudy this unjust law. It also has ignored demonstrations in the streets of Beirut protesting the law and more are scheduled later this week.

Mr. Chairman, we wish to share with you an example of the current state of freedom and democracy and respect for human rights in a country that is slaughtering freedom.

Earlier this month, ICN was broadcasting live a roundtable discussion with several parliamentary deputies from the opposition who were critical of the government's attempt to parcel out television channels to its supporters. State security forces sealed off the ICN building in Beirut, and the host of the show and some participants were threatened by plainclothes security men about what they were doing and saying.

The State Department Report on Human Rights, the Middle East Watch report on human rights and other groups have been critical of the policies of the Lebanese government regarding human rights and freedom of speech.

In 1993 the government banned ICN for nine months until a resolution passed by the United States Congress urged that it be allowed to reopen. But the government did not cease its efforts to silence INC, even after the courts found ICN innocent of the trumped up charges made by the government. The Hariri government continues attempting to promulgate what can only be called unconscionable efforts to silence all opposition and criticism.

This unbearable political and economic situation has led the Lebanese Workers Union to call for a national strike and demonstrations on February 29. It is no coincidence that threat came from Interior Minister Murr, the owner of one of the six sanctioned television puppet stations.

It is important to note that the basis of the Lebanese government's demand that the United States lift the travel ban is its repeated claim that it is in full control of national security. It is also asking the United State and the United Nations to force Israel to withdraw from South Lebanon; President Elias Hraoui contends that the Lebanese Army is ready to deploy and maintain security there.

If the government is as strong as it claims, how can it turn around and say it is banning the constitutional right of demonstration to the workers because security is still fragile and that such demonstrations could jeopardize the national security.

They can't have it both ways.

We urge the Congress to see for itself by dispatching a fact finding mission to Lebanon to look into what the government is doing to protect human rights and freedom of speech.

The first stop for that delegation should be the U.S. Embassy, where you and your colleagues can ask America's new ambassador, Mr. Richard Jones, why, if the government has the security control it contends, he had to secretly land in Beirut and clandestinely head to the Embassy earlier this month to take up his new post. And ask why it is American officials can only use the "helicopter bridge" into Beirut, not their automobiles.

In conclusion, Mr. Chairman, we support replacing the travel ban with an advisory, but its continuation should be linked not only to the government's ability to protect public safety and the security of American visitors but also to the government respect for the fundamental rights of its citizens.

Mr. Chairman, we appreciate this opportunity to testify before you and this distinguished committee. Thank you.•

TAIWAN RELATIONS ACT

• Mrs. FEINSTEIN. Mr. President, this morning, the distinguished Senator from Alaska, Senator MURKOWSKI, was on the floor speaking about a provision in the State Department Authorization conference report that was voted out last night.

The provision was section 1601, which declares that the provisions of the Taiwan Relations Act supersede provisions of the United States-China Joint Communique of August 17, 1992.

His basic point was that the provision was written not to be a wholesale repudiation of the 1982 Joint Communique, but rather to say that where the two conflict, specifically with respect to arms sales to Taiwan, the Taiwan Relations Act, as the law of the land, must override the communique. He referred to an April 22, 1994 letter he received from Secretary Christopher saying that the Administration agrees that the Taiwan Relations Act takes legal precedence over the communique.

Indeed, it is true that the Taiwan Relations Act takes legal precedence over the 1982 Joint Communique. One is the law of the land, and the other is a diplomatic agreement not ratified by Congress.

But that is precisely what makes this provision superfluous. If the intent is to say that the law of the land takes legal precedence over other documents, it is absolutely unnecessary. If we add this language to the Taiwan Relations Act, we may as well add it to every other law we pass: "The provisions of this act supersede the speech made by the President on a similar topic on such-and-such a date."

The Senator from Alaska says the meaning of the word "supersede" is that the Taiwan Relations Act overrides the Communique only if their provisions conflict. He cites the Oxford English Dictionary's definition of "supersede." But, according to Webster's Third New International Dictionary, the word "supersede" also means "to make obsolete," "to make void," " to annul," "to make superfluous or unnecessary," and "to take the place of and outmode by superiority."

Therefore, regardless of the provision's intent, it has the appearance of Congress issuing a wholesale repudiation of the 1982 Joint Communique.

This Joint Communique includes not just a paragraph on arms sales, but a reaffirmation of the One-China policy and the principles of sovereignty and territorial integrity as espoused in the two previous Joint Communiques of 1972 and 1979. By saying we supersede the 1982 Joint Communique, we give the impression that we might be repudiating it outright. To do this would shake United States-China relations to their very core. The fundamental basis of the relationship would be called into question.

Under any circumstances, this would be a dangerous course of action, but it is especially so at this extremely sensitive time in relations between the United States, China, and Taiwan.

Congress needs to be exceedingly careful not to take actions that will have farther-reaching effects than we intend. We should not underestimate how seriously this provision—which may seem harmless to us—would be viewed not just in Beijing, but also in Taipei.

It seems particularly foolhardy to take such a risk over an unnecessary provision, which essentially says nothing more than that the law of the land is the law of the land, which of course it is.•

SOCIAL SECURITY EARNINGS TEST

• Mr. SMITH. Mr. President, last night, the Senate passed the "Contract With America Advancement Act." I rise to speak to one provision of that legislation, which I believe is a significant achievement for senior citizens. That is the "Senior Citizens' Right to Work Act of 1996." This legislation raises the Social Security earnings limit to $30,000 by the year 2002, more than double what it would be under current law.

Every year, the earnings limitation test takes $1 of every $3 that Social Security beneficiaries 65 to 69 years old earn above $11,280. I hear from hundreds of senior citizens every year complaining that this test is unfair. And they are correct. In fact, the earnings test affects an estimated 1.4 million beneficiaries each year.

More importantly, Mr. President, the earnings test flies right smack in the fact of the most basic principles we teach our kids in grade school economics. Specifically: no work, no pay. Can you imagine trying to explain a system that pays people not to work? Well, that is what our Social Security system does with the earnings test.

You might argue that our welfare system has similar disincentives, and you would be absolutely right. The Republican Congress is trying to fix that. If only we could overcome the little obstacle of President Clinton's veto pen, we would be well on our way to real welfare reform.

But, the earnings test takes this perverse concept one step further. And this is where we really get into the fairness issue. It says that if you are wealthy and you get your income through interest or dividends, you get full benefits. But, if you are poor and need to work to supplement your income, you get penalized. Seniors have been waiting a long time for this reform. It was in the Contract With America, and it is a part of the Republican Party Platform. I am pleased that we are about to make good on our promise to America's seniors.•

TRIBUTE TO JUDGE KING OF FLORIDA

• Mr. GRAHAM. The State of Florida has produced some of the finest legal minds in America's judicial system. The personification of that standard of excellence is U.S. District Judge James Lawrence King of Miami.

As a native of the Miami community, I am honored to be part of the effort to name the Federal justice building in Miami, FL, for Judge King.

Judge King's distinguished tenure on the bench has spanned four decades, during which our judicial system has faced some of the most challenging disputes in the history of our Nation.

In 1964 Mr. King was appointed circuit judge for the 11th Judicial Circuit of Florida. In 1970, President Nixon appointed Judge King as a U.S. district judge for the Southern District of Florida. In 1984, he became chief judge of the U.S. district court for the Southern District of Florida. During his outstanding career, Judge King has had more than 200 published opinions.

In addition to his contributions to our judicial system from the bench, Judge King has been an effective advocate for improved judicial administration. Judge King served as 1 of 23 members on the Judicial Conference of the United States. He was also a member of the Judicial Counsel of the 11th Circuit Administrative Conference, the Judicial Ethics Committee and the Long Range Planning Committee for the Federal Judiciary, serving all with distinction.

While fulfilling his duties, Judge King foresaw the need for new courtroom and administrative facilities to accommodate the growing needs of the district and the law enforcement community. He began contacting community leaders to share his vision. After years of tireless effort, Judge King's vision became a reality.

The Federal justice building was built by the city of Miami with city bonds backed by a long-term lease from the General Services Administration. Today, this state-of-the-art facility houses the U.S. attorneys' office and will be home to six district judges, an 11th circuit judge and complete trial and appellate courts.

While many community leaders worked to complete the Federal justice building, Judge King was the guiding force behind its creation. This building should be named as a tribute to Judge King for his vision, leadership and effective stewardship of justice.•

CONGRATULATING KIEREN P. KNAPP, D.O.

• Mr. SANTORUM. Mr. President, I rise today so that I might call attention to a special honor bestowed upon Dr. Kieren P. Knapp of Seven Valleys, PA.

Mr. President, I would like to congratulate Dr. Knapp on his upcoming installation as the 81st president of the Pennsylvania Osteopathic Medical Association. Dr. Knapp will be installed as president at the 88th Annual POMA Clinical Assembly in Philadelphia on April 26, 1996.

I would like to call attention to this distinction by asking that a proclamation honoring Dr. Knapp be printed in the RECORD.

The proclamation follows:

PROCLAMATION

To honor Kieren P. Knapp, D.O., on his installation as the 81st President of the Pennsylvania Osteopathic Medical Association.

Whereas, Kieren P. Knapp has been Vice-President and delegate to the Pennsylvania Osteopathic Medical Association, and is a member of the House of Delegates to the American Osteopathic Association;

Whereas, Kieren P. Knapp has served on the Board of Trustees of the Pennsylvania Osteopathic General Practitioners Society;

Whereas, Kieren P. Knapp is a graduate of Iowa State University and the College of Osteopathic Medicine and Surgery in Des Moines, Iowa: and

Whereas, Kieren P. Knapp has distinguished himself as a dedicated physician continuing the osteopathic tradition of providing quality and compassionate health care to his community;

Now, therefore, the Senate congratulates Kieren P. Knapp, D.O., on his installation as the 81st President of the Pennsylvania Osteopathic Medical Association, and wishes him the best for a successful and rewarding tenure.

Again Mr. President, this is a special achievement for Dr. Knapp, and I would like to congratulate him on this honor and extend my best wishes to the Pennsylvania Osteopathic Medical Association on a successful conference.•

THE CALIFORNIA ENTERTAINMENT INDUSTRY

• Mrs. BOXER. Mr. President, today we received some disturbing reports on America's balance of trade. The trade deficit—the difference between the value of our exports and the value of imports—soared to 10.27 billion in January, a stunning 48 percent increase over December, 1995.

Congress and the President must not ignore this report. While the balance of trade is only one measure of economic health, in this increasingly global economy, I believe that it is a measure that should be given great weight in deciding whether we are doing enough to promote healthy economic growth. The reports today should prompt Federal policy makers to renew their commitments to promoting American business and products overseas, and making our trading partners play fair by living up to the trading agreements they have entered into willingly with us.

The bright side of this picture is that the U.S. continues to be the most dynamic economy in the world. We are the most productive and we make the best products.

In my own State of California, there is one industry which I wish to single out today that is one of the key reasons for American economic dominance—the entertainment industry.

The movie and television industry in California has a payroll of $7.4 billion. Motion picture production alone counts for more than 133,500 jobs in California. American made entertainment products are the most popular and broadly distributed on the globe, and they constitute a large part of America's balance of trade. Foreign sales of copyrighted products amounted to $45.8 billion in 1995.

Unfortunately, the entertainment industry is a victim of one of the most egregious foreign trade practices—illegal duplication of copyrighted material—or "piracy."

The United States has signed agreements with many other countries which obligate their governments to take steps necessary to protect U.S. copyrighted material from piracy. In the case of the People's Republic of China, however, despite the fact that they have willingly signed several such agreements, rampant piracy of American entertainment products by Chinese factories has continued. It is estimated that U.S. companies lose approximately 1 billion dollars a year in sales because of China's failure to protect U.S. intellectual property.

In February, 1995, the United States and the People's Republic of China signed an agreement that obligated China to strengthen its patent, copyright and trade secret laws, and to improve the protection of U.S. intellectual property. Since that time, however, according to reports by the U.S. trade representative, only one of the 27 piracy plants in China has closed.

I know that trade representative Mickey Kantor has been very, very supportive of the U.S. entertainment industry in pressing the Chinese to live up to the agreement they signed. I applaud his decision to send his deputy Charlene Barshevsky to China on April 5 to raise the profile of the problem directly with Chinese officials.

I hope that in their meetings, our U.S. officials will emphasize that China is legally obligated to comply with the terms of the agreement they signed last year. It's not just a policy; it's the law.

Our delegation should make it clear to the Chinese that the terms of the agreement must be met by a date certain. Whether that's May 1, June 1, or after—doesn't matter. But it should be made clear to them that we will hold them to their promises. If they don't fulfill them, the U.S. Government will take all appropriate and legal steps.

In addition, I strongly urge other members of the Clinton administration in the Departments of State, Treasury, Commerce and others, to support the trade representative's efforts wholeheartedly. They should know that it's not just a question of one industry and one trading partner; if we allow the agreement we signed just a year ago to be ignored, what kind of signal will that send to our other nations about the will and strength of the United States in international relations?

Mr. President, I would also like to take this opportunity in speaking about our extraordinary entertainment industry to praise the leaders of that community for their historic actions with respect to the television violence issue.

They have shown real leadership and responsibility in responding to this important social concern by announcing that they will institute a voluntary rating system for all television programs. In my view, this will give parents the information they need in order to make appropriate decisions about the programs their children watch.

In light of the forthrightness of the industry in coming forward with plans to voluntarily rate its programs, I believe that now is not the time to bring up other content-related measures. I have, in fact, informed the Democratic leader and others that I would oppose any attempt to bring up such measures for debate in the Senate.

Finally, Mr. President, I would like to talk about another issue of great importance to California's entertainment industry—copyright term extension. Legislation is pending in both the House and Senate to extend the current copyright in the U.S. to "life plus 70 years". This change would harmonize our laws with those of the European union which extended terms to life plus 70 last July. Without the change, our copyright holders—including California's movie, television, video, and audio producers—would be unable to take advantage of the longer term of protection in Europe. American copyright owners and their heirs will suffer economic hardship and the U.S. balance of trade will be further exacerbated.

Congress should pass this bill now. It has no opposition that I am aware of. I strongly urge the parties involved in negotiations on this measure to move quickly on it and send it to the President so that it can be signed into law. Copyright extension can pass quickly and be signed into law.•

TRIBUTE TO SULLIVAN COLLEGE

• Mr. McCONNELL. Mr. President, I rise today to congratulate Sullivan College in Louisville, KY on their championship victory in the National Junior College Athletic Association [NJCAA] National Championship Tournament. I would also like to congratulate Sullivan coach Gary Shourds on being selected the National Junior College Coach of the Year and player Eric Martin on being named tournament Most Valuable Player.

The Sullivan Executives, which were unranked going into the tournament, defeated the No. 1, No. 5, No. 7, and No. 15 ranked teams in the country. The Executives clenched the title in Hutchinson, KS after a 104–98 overtime victory over Allegheny College of Maryland.

As the Courier-Journal reported, when asked if he ever thought the Executives would win the title, Sullivan college President A.R. Sullivan responded, "Never. Not with this team this year." The Executives had the worst record (23–10) in the 16-team field. However, out of their last 24 games, they won 22 of them. "This team did not come together as a team until the regional final in Gallatin, Tennessee," Mr. Sullivan told the Courier-Journal. "[I]t took a personality like (coach) Gary Shourds to get them to play together."

Shourds is a first-year Sullivan coach who played for the Executives from 1982 to 1984. He told the Courier-Journal, "I'm really a teacher. I do this (coaching) on the side. It ends up taking more time than teaching, but that's my choice."

Mr. President, I ask you and my colleagues to join me in paying tribute to Sullivan College and Coach Gary Shourds and congratulating the entire team on their National Championship victory.•

TRIBUTE TO VICTOR CRAWFORD

• Mr. SARBANES. Mr. President, I rise today to join the citizens of Maryland in honoring a distinguished public servant, an accomplished trial lawyer, and, above all, a courageous man, Victor Crawford, who died earlier this month after a long battle with cancer.

I first met Vic in January 1967 as a newly elected member of the Maryland House of Delegates. He was an articulate and skilled master of the legislative process who, throughout his years in the Maryland Legislature, enjoyed a deserved reputation as a dazzling orator and tenacious advocate for the people of Maryland.

But Vic's crowning achievement came not in the legislative arena, but in his nationally acclaimed battle for stronger antismoking laws. After years as a heavy smoker and a period spent as a lobbyist for the tobacco industry, Vic became a staunch and vocal advocate for antismoking legislation and education and prevention efforts. Vic dedicated himself wholeheartedly to this important mission which he conducted with the same skill and determination that characterized his legislative career.

Vic's indomitable efforts in this area brought him to the attention of President Clinton who believed Vic's strong antismoking message should be shared, not just with Marylanders, but with all Americans, and invited him to address the Nation on his weekly radio broadcast. It was among his finest hours and Vic's words inspired citizens throughout the Nation to work for stronger antismoking laws.

His last years were not easy, but with humor and determination Vic lived out his life in dignity and exhibited the same courage and strength we had all come to expect from this remarkable man. Vic Crawford was a good friend and a valued counselor. I would like to take this opportunity to extend my deepest and heartfelt sympathies to his wife, Linda, and to his children, Charlene and Victor Junior.

Mr. President, in testimony to Vic's exceptional service on behalf of all Americans, I request that obituaries from the Baltimore Sun, the New York Times, and the Washington Post which pay tribute to this respected and honorable man, be printed in the RECORD.

The obituaries follow:

[From the Washington Post, Mar. 12, 1996]

FORMER LAWMAKER, LOBBYIST IS REMEMBERED BY FRIENDS; GLENDENING EULOGIZES ANTISMOKING ACTIVIST

Victor L. Crawford, the former Maryland legislator and tobacco lobbyist who turned into a national voice against smoking after he was found to have throat and lung cancer, was honored yesterday at a memorial service in College Park attended by nearly 1,000 mourners.

Crawford, who died March 2 at age 63 after a two-year bout with cancer, was remembered fondly by people who had contact with him at various points of his life, from Maryland Gov. Parris N. Glendening to Carl Nuzman, 23, a student at the University of Maryland who is attending classes on a scholarship Crawford helped establish during his years in Annapolis.

The service at the nondemoninational University of Maryland Chapel drew a host of state legislators and politicians from Montgomery County, which Crawford represented in the House of Delegates and Senate for 16 years. Even the pastor, the Rev. Charles W. Gilchrist, was a former Montgomery County executive. Crawford also was remembered as a skillful lawyer who could charm juries with his smile and affable nature.

"Vic's legacy was that he had the boldness to do something that many of us find difficult," Glendening said during his eulogy. "That is, he came out and he said that he had made a mistake in his life. He took personal responsibility for that."

But it was his unyielding crusade against smoking that everyone recalled with the greatest admiration. After spending several years of his post-legislative career working as a lobbyist for the Tobacco Institute, Crawford, a longtime smoker, was found to have terminal cancer two years ago.

Knowing death was coming, he spent those two years using his skills as a politician and a lawyer to fight the very people he once represented, even though he had been severely weakened by the disease.

"I got the sense that he'd never felt so close to his own mortality before," said Gail Ewing (D-At Large), president of the Montgomery County Council, recalling the day Crawford told her about his cancer. "He really wanted to do something that mattered."

County Executive Douglas M. Duncan said: "He was a great senator for Montgomery County. He was one of the few who could influence the state on important issues. If you wanted something done in Annapolis, he was the one you called."

And although his political career never left Maryland, he took his last battle across the country by lobbying in many states and appearing on network television.

Despite the sadness of the occasion, the service had an air of Crawford's good-natured spirit about it. As the gathering assembled, Dixieland music filled the vaulted chapel, and sunlight streamed through the windows.

"I walked up the steps, and I heard music. I walked to the door, and I said, 'This must be the place,'" said Mississippi Attorney General Mike Moore, who became friends with Crawford during his campaign against the tobacco industry. "Every time I saw Vic Crawford, I felt good about myself. Today I was feeling kind of down, but I felt better when I walked in the door."

It was that same ability to make people feel good about themselves that Wendy Satin, a Rockville lawyer who began her career under Crawford's tutelage, remarked upon in her recollection of a law career that grew to fabled dimensions within Rockville's legal circles.

She remembered how Crawford's good nature would win juries over to his side. "The jurors felt that they knew him because, by the end of the trial, they did. They were charmed by him, and they wanted to be on his side. The lesson," she said, "is to always be yourself."

[From the New York Times, Mar. 10, 1996]

VICTOR CRAWFORD, 63; OPPOSED SMOKING

BALTIMORE.—Victor Crawford, a former tobacco lobbyist who became a crusader against smoking after his throat cancer was diagnosed, died on March 2, 1996 at Johns Hopkins Hospital here. He was 63 and lived in Chevy Chase, MD.

Mr. Crawford, a former Maryland legislator, was a lobbyist for the Tobacco Institute for six years until his cancer was diagnosed in 1991. He then began speaking out against smoking, was featured on the CBS News program "60 Minutes," and spoke on President Clinton's weekly radio address.

"I told politicians that there was no evidence that smoking causes cancer," he said in a 1995 interview. "If that's not lying, I don't know what is. I'm just trying to undo some of the damage I've done."

Mr. Crawford, a Democrat, was elected to the House of Delegates in 1966 and appointed to the State Senate in 1969 to fill a term. He retired from the Senate in 1983.

Mr. Crawford is survived by his wife, Linda; a daughter, Charlene, and a son, Victor Jr.

[From the Washington Post, Mar. 4, 1996]

VICTOR L. CRAWFORD, MARYLAND, ANTISMOKING ACTIVIST, DIES

Victor L. Crawford, 63, a former Maryland state legislator who had lobbied for the tobacco industry before a diagnosis of cancer turned him into an antismoking activist, died March 2 at Johns Hopkins Hospital in Baltimore.

A veteran trial lawyer and a flamboyant figure in Annapolis during a 26-year career representing eastern Montgomery County, Mr. Crawford employed his skills at persuasion and vivid presentation in recent months to warn in high-profile media appearances against the hazards of smoking.

His stark message appeared in Ann Landers's syndicated newspaper advice column, on the "60 Minutes" television show, in public-service radio ads and in a broadcast from the Oval Office last summer with President Clinton.

"It's too late for me, but it's not too late for you," he advised listeners throughout the nation Aug. 12 on the president's weekly Saturday morning broadcast.

"I fooled a lot of people," he said. "And kids, I fooled myself, too."

In printed interviews and in raspy-voiced on-the-air statements, Mr. Crawford told how cancer was discovered in his throat and lungs after years of heavy smoking that began when he was 13.

After leaving the legislature, he spent six years in the late 1980s as a contract lobbyist for the Tobacco Institute, receiving about $20,000 in fees.

"I was in it for the money," he said in a 1995 interview, "and I was never concerned if people were dying." He said his job was to kill bills that would discourage smoking and advance those that would encourage it.

"Now I'm trying to make amends," he said, "to stop people from smoking so they won't suffer like I have."

Mr. Crawford was born in Richmond and raised in New York and in the Trinidad area of Northeast Washington.

Two years after graduating from Georgetown University Law School, he helped defend Joseph E. Johnson Jr., a black Montgomery County man who was sentenced to death in the rape of a white teenager, in a controversial case that attracted national attention. Johnson was convicted, but he later was pardoned by the governor after it was shown that prosecutors had withheld evidence.

In 1992, he summarized a career of 1,000 trials by describing himself as "the court of last resort," the only barrier between a defendant and the power of the state.

"Whenever I see a guy getting a raw deal, particularly if racism has permeated the trial, no matter whether it's one side or the other, it gets my Irish dander up."

Mr. Crawford was elected to the state House of Delegates in 1966 to represent Silver Spring, went on to the state Senate 16 years later and decided against seeking reelection in 1982.

Offering a swashbuckling image to statehouse colleagues that led some to liken him in dress and demeanor to a riverboat gambler, Mr. Crawford was remembered for the fine clothes, unpredictable floor antics, a large mustache and cigars.

Survivors include his wife, Linda, of Chevy Chase, and a daughter, Charlene, and a son, Victor Jr., both of Berwyn Heights.

[From the Baltimore Sun, Mar. 4, 1996]

VICTOR CRAWFORD, CRUSADER AGAINST SMOKING, DIES AT 63; CANCER VICTIM ONCE WAS TOBACCO LOBBYIST

Victor L. Crawford, a debonair former Maryland legislator who achieved national prominence in recent years for his conversion from tobacco lobbyist to anti-smoking crusader, died Saturday night at Johns Hopkins Hospital after a prolonged battle with cancer. He was 63.

Mr. Crawford, a resident of Chevy Chase, was an accomplished trial lawyer who represented eastern Montgomery County in the General Assembly for 16 years. It was there that he earned the nickname of "the Riverboat Gambler" because of his pinky ring, vest, gold watch—and cigars.

His smoking—2½ packs of cigarettes at first, then cigars and pipes—led to the passion of the final two years of his life, as an outspoken foe of smoking. While battling cancer, he lobbied state legislatures, gave interviews and spoke out on the dangers of tobacco and the industry on whose behalf he had worked.

"It's too late for me, but it's not too late for you," Mr. Crawford said during one of President Clinton's weekly nationwide radio addresses last summer. "I smoked heavily, and I started when I was 13 years old. And now, in my throat and in my lungs, where the smoke used to be, there is a cancer that I know is killing me. Use your brain. Don't let anybody fool you. Don't smoke."

After retiring from the Senate, Mr. Crawford had worked for the Tobacco Institute for six years, lobbying his former legislative colleagues to kill or weaken smoking restrictions. Then, in 1991, he was diagnosed with cancer. He went public with his disease and his appeal to stop smoking in 1994, appearing at a hearing in Annapolis on proposed regulations to limit smoking in the workplace.

"He didn't mince words, and he didn't spare himself," recalled former state Sen. Howard A. Denis, a Montgomery County Republican who was a close friend. "He didn't blame anyone but himself for his problems. All he wanted to do was teach others to avoid the mistakes he had made."

Mr. Crawford later went nationwide with his message, appearing on the CBS newsmagazine show, "60 Minutes" and writing to syndicated advice columnist Ann Landers, among others. He lobbied on behalf of antismoking legislation in Florida and campaigned to block a smokers' rights referendum in California, said his wife of 14 years, Linda.

"He made a difference," said Mr. Denis. "This was one of the things that kept him going in the last five years. He knew he was influencing young lives."

"He worked until the day he went into the hospital," Mrs. Crawford said. She said she drove him to Hopkins on Feb. 2 only after he had appeared in court. "He went fighting," she added.

Mr. Crawford was born in Richmond, Va., but grew up in New York City and Washington, D.C. He was a graduate of Georgetown University Law School.

He was elected to the House of Delegates as a Democrat in 1966, then appointed to the state Senate in 1969 to fill the term of Blair Lee III, who had been appointed secretary of state by then-Gov. Marvin Mandel.

One of the legislative accomplishments of which Mr. Crawford was proudest, said Mr. Denis, was creation of the Distinguished Scholar Program, which provided financial aid to academically talented but needy students to attend college or graduate school in Maryland.

Mr. Crawford's legal career spanned 30 years and he represented a black Montgomery County man in 1962 accused of raping a white teen-ager in a case that drew civil rights protests and national attention.

A memorial service will be held at 1 p.m. March 11 in the chapel at the University of Maryland College Park campus.

Other survivors include a daughter, Charlene; and a son, Victor Jr., both of Berwyn Heights.•

TRIBUTE TO THE EMPLOYEES OF RAYTHEON ELECTRONIC SYSTEMS DIVISION, ANDOVER, MA

• Mr. SMITH. Mr. President, I rise today to pay tribute to some unsung heroes of the United States: the employees of Raytheon Electronic Systems Division in Andover, MA.

Each year, the Congress evaluates the military requirements of our Nation and the pros and cons of various weapons systems. We routinely make decisions that affect the livelihoods of literally thousands of American workers. While we strive to be objective and to make sound judgments, this human component does not always get the attention it deserves.

Today I want to take this opportunity to honor the men and women of Raytheon who devote their lives to the defense of this Nation. They do not often get a lot of publicity or see their names in the paper, but they are a collection of true American heroes. They deserve our respect and admiration.

As a member of the Armed Services Committee, I have the unique responsibility of overseeing the development and acquisition of the systems needed to defend our Nation. I see first hand the contribution these employees make to our national security. It is enormous.

Whether building key components for the Patriot missile system, or the AMRAAM, or the ground based radar, these workers are constantly striving to expand the state-of-the-art, and to deliver the best possible product at the most efficient cost. They are a family, these workers from New Hampshire and Massachusetts, committed to a noble calling. And the fruits of their labors are the freedoms and security that we hold so dear.

As we prepare for the upcoming authorization and appropriations processes, I ask my colleagues to reflect for a moment upon these great patriots. They were the backbone of our military in the cold war and Desert Storm. They are the ones whose innovations and dedication are helping to preserve our prosperity in the future. Their service is an inspiration for those of us who are privileged to represent them here in Washington.

In an uncertain and dangerous world, we can take much comfort in the knowledge that the men and women of Raytheon Electronic Systems Division are on the job, each and every day, tirelessly striving to produce the technologies and systems to defend this great Nation.•

RESTORATION OF THE FLORIDA EVERGLADES

• Mr. LEAHY. Mr. President, yesterday the Senate gave final passage to the 1996 farm bill. With House action, the bill will be sent to President Clinton who is expected to sign it.

The farm bill contains many important environmental and conservation provisions. One of these provides for the spending of up to $300 million by the Secretary of the Interior to help restore the Florida Everglades. This rapid and significant infusion of funds—$200 million of which will be available in less than 100 days—is a critical first step to implement the administration's ambitious $1.5 billion proposal to save one of the world's most unique ecosystems. The farm bill conferees intend that this national treasure receive immediate attention.

Prior to the 1940's the Everglades ecosystem covered most of south Florida, from its headwaters in the Kissimmee River basin to the coral reefs of Florida Bay. Because of man's alterations, the once "river of grass" is now fragmented and deteriorating, threatening not only the wildlife of the ecosystem, but also the water supply, economy, and quality of life for the people who live in Florida.

Throughout the system, clean, fresh water has been replaced by murky, nutrient-laden water that does not support native plant and animal species. Years of water diversion and pollutants have degraded not only the Everglades, but also Florida Bay, one of the most important estuaries and fisheries in America. The bay is suffering from a lack of fresh water that had led to algal blooms and contributed to the extinction of North America's only native coral reef. As a consequence, this once teeming estuary now is closed to commercial fishing, and the tourism industry of the region is threatened.

We must not let the Everglades die. Although the decline of the ecosystem continues, it is reversible.

To speed the Everglades restoration, the farm bill conferees created a $200 million entitlement, to be available in less than 100 days, for this important project. The conferees also approved an additional $100 million of spending for Everglades restoration which will come from the sale of surplus Federal lands in Florida that have not been set aside for conservation purposes or are not environmentally sensitive.

To have the maximum impact on Everglades restoration, the conferees intend that funds provided for in this legislation be used in priority areas. Prior to acceptance of the Everglades provisions, discussions among conferees focused on the importance of acquiring and restoring land in the Everglades Agricultural Area. The conferees expected that the Secretary of the Interior would give priority to acquiring and restoring lands within the Everglades Agricultural Area, including the Talisman tract, in order to make those lands available for water storage and delivery. Both the House and Senate bills used identical language to make this point as well:

> The Secretary of the Interior * * * shall use the funds to conduct restoration activities in the Everglades ecosystem which may include acquiring private acreage in the Everglades Agricultural Area including approximately 52,000 acres that is commonly known as the Talisman tract.

At the meeting of conferees, I pointed out that the greatest need for restoration is in the over 130,000 acres of the Everglades Agricultural Area which includes much of the land that makes up the Talisman tract. I intend to monitor this issue closely to make certain that the funds are properly spent.

This small down payment will be insufficient for total restoration. It is only part of the Federal Government's share of this coordinated restoration effort. More important, it in no way relieves others—particularly the sugarcane industry that has benefited from the alteration of the system and continues to pollute it—of its obligation to contribute to restoration costs.

Senator LUGAR and I have proposed that Florida sugar producers contribute for restoration purposes a 2-cent per pound assessment on sugar grown in the Everglades. The administration supports a 1-cent assessment. These proposals have widespread support in Florida.

On March 25, Mary Barley, chair of the citizens group, Save Our Everglades, announced the launching of a ballot initiative to protect and restore the Everglades. She said that "we are facing a crisis and time is running out." In proposing a "Penny for the Everglades," Mrs. Barley spoke eloquently about her late husband, George, who devoted the last years of his life to restoring this national treasure.

At that announcement, Mary quoted George who had said:

> Long after we are gone, the Everglades ecosystem will be our legacy—to our children and the rest of the nation.

George Barley was right then and Mary Barley is right today. Congress and the administration must follow their lead and require sugar growers in the region to pay their fair share to restore the Everglades.•

RELEASE OF THE REPORT BY THE TASK FORCE ON NATIONAL DRUG POLICY

• Mr. D'AMATO. Mr. President, this bicameral task force was established for one reason: To closely examine the current state of affairs of our national drug policy. Along with my Senate and House colleagues, I am distressed that the problem has escalated to this present level.

The one startling and depressing fact revealed by the report released yesterday is that drug use among teenagers is actually on the rise, after years of decline.

There is no disputing the rise in illicit drug use by adolescents. Studies have shown that 2.9 million teenagers used marijuana in 1994, an increase of 1.3 million just from 1992. This alarming trend shows that one in three high school seniors smoke marijuana. Since 1992, drug use by 10th graders has risen nearly two-thirds. Drug use by eighth graders has nearly doubled since 1991. Of a class of 30 students in a New York City high school or junior high, approximately 5 use marijuana or other illicit drugs heavily.

The rise in marijuana use has serious implications. The Center on Addiction and Substance Abuse indicates that teenagers who use marijuana are 85 times more likely to use other dangerous drugs in the future, such as cocaine. Obviously, the use of drugs cannot be pushed aside but must be placed on the national agenda and confronted. Real efforts must be made to reverse this trend.

Ignoring these numbers is destructive to our children. A report by the Senate Judiciary Committee notes that, "If such increases are allowed to continue for just 2 more years, America will be at risk of returning to the epidemic drug use of the 1970's."

The impact on our Nation's cities will be just as detrimental. The Center on Addiction and Substance Abuse at Columbia University in New York released a report showing the costs related to substance abuse were $20 billion in the city of New York. These costs take into account all types of substance abuses and reflect the amount spent in terms of crime, violence, health care, emergency services, abuse, social programs, and business costs. If drug use is rising among teenagers, the cost to New York City will skyrocket as they get older.

Even more frightening is the fact that the authors of the study state that "Among 15- to 24-year-olds, substance abuse, in the form of AIDS, homicides, and drug and alcohol overdoses, accounts for 64 percent of deaths." Those deaths could have been prevented.

Our law enforcement agencies are feeling the rise in drug use. The March issue of Police Chief, which is dedicated to the war on drugs, describes the growing presence of illegal drugs and the ever-increasing rise in violence that accompanies it. The result is a scared populous and an overextended law enforcement, including local law enforcement. An article coauthored by Chief Bob Warshaw of the Rochester Police Department in New York and DEA Assistant Administrator Paul Daly describes the feeling across the Nation: "The distribution and abuse of powder and crack cocaine have resulted in an unprecedented wave of violence across our country, the debiliating effect of which has been seen in cities and towns, large and small, throughout the United States."

It is our obligation, and the responsibility of the administration, to find the reason for the increase in teenage drug use and to tackle it forcefully. We must start taking an aggressive action against this drug epidemic.

The Clinton administration, however, has become complacent and that is reflected in their lack of attention to the illicit drug trade. The number of Federal prosecutions dropped by 12 percent within 2 years. Overall, transit zone seizures, or disruptions, decreased more than 50 percent, from 1993 to mid-1995. Budget priorities were shifted in the Customs Service, the Department of Defense, and the U.S. Coast Guard away from counternarcotics.

With drug use on rise with teenagers, the administration has to start allocating adequate resources in order to reduce the presence of narcotics in the United States. But instead, when President Clinton took office, he cut the Office of National Drug Control Policy from 147 to 25, an indication of the President's priorities. When faced with criticism of a failed drug strategy, President Clinton has found the need to restaff the drug czar's office.

While the administration prefers to ignore the statistics, the task force has taken matters into its own hands and compiled a list of recommendations that will help to reverse the disturbing trend of teenage drug use.

By using state-of-the-art technology at U.S. ports of entry, narcotics can be intercepted at the border, before it ever reaches children. This also means a shift in focus for agencies at our borders and airports that are primarily responsible for drug interdiction.

In addition, the United States must do all it can to convince foreign countries to cooperate on the counternarcotics effort. Certification must be strictly applied, and sanctions imposed. When a country fails to cooperate with the United States to combat drug trafficking, the President who has the obligation to accurately report on the certification status of a targeted country, must apply those sanctions accordingly. Unfortunately, this certification process has not been taken seriously.

Despite the administration's awareness that 60 to 70 percent of the illegal drugs flowed from Mexico into the United States, and that 75 percent of the cocaine in the United States comes from our neighbor to the South, the administration certified Mexico as fully cooperating in the counternarcotics efforts. Sanctions must be applied, we can no longer pay lipservice to the certification process.

And efforts must be stringent in the United States. Drug traffickers and drug-related violent criminals must serve their full sentence. Drug awareness programs must be accountable. Throwing money at the problem does not solve it.

All aspects of drug control strategy must be defined: "public disapproval, information, law enforcement, interdiction, and treatment." While treatment is merely one component of the effort to combat the drug epidemic, it cannot be the sole solution. Alone, it will not work. One clear indication of the failure of treatment alone is the emergency room rate for cocaine and heroin-related cases, as studied by the Drug Abuse Warning Network. Heroin episodes in emergency rooms rose 66 percent in 1993. Evaluations should be conducted so that only effective programs will be maintained.

Ninety percent of the American public sees the drug problem as a top priority. It is time the administration does the same. This is our clear, undeniable message: If the administration refuses to be a leader on this issue, then we will. This report was our first step to put a tough drug strategy on the national agenda.•

CALIFORNIA YEAR OF THE ALUMNI

• Mrs. BOXER. Mr. President, on April 11, 1996, graduates of the California State University will gather in Washington, DC, to celebrate 1996 as "California Year of the Alumni". Today I wish to recognize the achievements and contributions of the more than 2.1 million alumni of that great institution.

The California State University is a vibrant, important part of California's public university system. Its graduates are an integral part of the many communities which comprise our great State. An estimated 10 percent of the workforce in the State of California are alumni of the California State University. Their contributions, both separate and collective, are evident in all aspects of life in my State.

CSU graduates are active in the arts, commerce, the professions, government, and elsewhere. Proud of an educational experience made possible by the foresight of Californians who came before them, CSU alumni are committed to maintaining first-rate educational institutions in California.

The alumni of the California State University promote and support campus environments where today the values of scholarship, citizenship, and self-development are shared and nurtured by more than 300,000 students and faculty on 21 campuses. Additionally, thousands of graduates volunteer their time, energy, and resources to myriad other causes, providing themselves daily as ambassadors and stewards of positive change.

It is my great pleasure to honor the alumni of the California State University on the floor of the U.S. Senate today as they celebrate the "California Year of the Alumni."•

SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT

• Mr. BOND. Mr. President, on March 19th by a vote of 100 to 0, the Senate passed S. 942, the Small Business Regulatory Enforcement Fairness Act, legislation to implement some of the most important recommendations of the

White House Conference on Small Business. Yesterday, the House passed H.R. 3136, the Contract With America Advancement Act of 1996 which incorporates the Small Business Regulatory Enforcement Fairness Act as amended in the House by the Hyde amendment. The Senate has now approved H.R. 3136 by unanimous consent and Senator BUMPERS and I would like to take this opportunity to further explain the purpose of the act. On March 15, we gave a detailed explanation of the managers amendment adopted by the Senate prior to passage of S. 942. The amendment offered by Representative HYDE is substantially similar to S. 942 as passed by the Senate.

Three changes are worth noting. First, the amendments to the Equal Access to Justice Act were revised by the House to take into account some of the concerns raised by the administration in the Statement of Administration Position. The new language embodies the intent of our managers amendment but clarifies that attorneys fees would be awarded when there is an unreasonably large difference between an agency demand and the final outcome of the case. Second, the House dropped the second phase of the Small Business Advocacy Review Panels. Thus the panels now only apply at the proposal stage of EPA and OSHA rulemakings. Finally the time period for the congressional review of regulations, adopted as part of the Nickles-Reid amendment, was extended from 45 to 60 days. We expect the authors of the Nickles-Reid amendment will have a detailed explanation of the Congressional Review Subtitle.

In order to provide additional guidance for agencies to comply with the requirements of the Small Business Regulatory Enforcement Fairness Act, I ask to have printed in the RECORD a section-by-section analysis of the subtitles A through D of act as modified by the Hyde amendment. Since there will not be a conference report on the act, this statement and a companion statement in the House should serve as the best legislative history of the legislation as finally enacted.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT—JOINT MANAGERS STATEMENT OF LEGISLATIVE HISTORY AND CONGRESSIONAL INTENT

I. SUMMARY OF THE LEGISLATION

The Hyde amendment to H.R. 3136 replaces Title III of the Contract with America Advancement Act of 1996 to incorporate a revised version of the Small Business Regulatory Enforcement Fairness Act of 1996 (the "Act"). This legislation was originally passed by the Senate as S. 942. The Hyde amendment makes a number of changes to the Senate bill to better implement certain recommendations of the 1995 White House Conference on Small Business regarding the development and enforcement of Federal regulations, including judicial review of agency actions under the Regulatory Flexibility Act (RFA). The amendment also provides for expedited procedures for Congress to review agency rules and to enact Resolutions of Disapproval voiding agency rules.

The goal of the legislation is to foster a more cooperative, less threatening regulatory environment among agencies, small businesses and other small entities. The legislation provides a framework to make federal regulators more accountable for their enforcement actions by providing small entities with an opportunity for redress of arbitrary enforcement actions. The centerpiece of the legislation is the RFA which requires a regulatory flexibility analysis of all rules that have a "significant economic impact on a substantial number" of small entities. Under the RFA, this term "small entities" includes small businesses, small non-profit organizations, and small governmental units.

II. SECTION-BY-SECTION ANALYSIS

Section 301

This section entitles the Act the "Small Business Regulatory Enforcement Fairness Act of 1996."

Section 302

The Act makes findings as to the need for a strong small business sector, the disproportionate impact of regulations on small businesses, the recommendations of the 1995 White House Conference on Small Business, and the need for judicial review of the Regulatory Flexibility Act.

Section 303

The purpose of the Act is to address some of the key federal regulatory recommendations of the 1995 White House Conference on Small Business. The White House Conference produced a consensus that small businesses should be included earlier and more effectively in the regulatory process. The Act seeks to create a more cooperative and less threatening regulatory environment to help small businesses in their compliance efforts. The Act also provides small businesses with legal redress from arbitrary enforcement actions by making federal regulators accountable for their actions.

Subtitle A—Regulatory Compliance Simplification

Section 311

This section defines certain terms as used in the subtitle. The term "small entity" is currently defined in the RFA to include small business concerns, as defined by the Small Business Act, small nonprofit organizations and small governmental jurisdictions. The process of determining whether a given business qualifies as a small entity is straightforward, using thresholds established by the SBA for Standard Industrial Classification codes. The RFA also defines small organization and small governmental jurisdiction. Any definition established by an agency for purposes of implementing the RFA would also apply to this Act.

Section 312

The Act requires agencies to publish "small entity compliance guides" to assist small entities in complying with regulations which are the subject of a required Reg Flex analysis. The bill does not allow judicial review of the guide itself. However, the agency's claim that the guide provides "plain English" assistance would be a matter of public record. In addition, the small business compliance guide would be available as evidence of the reasonableness of any proposed fine on the small entity.

Agencies should endeavor to make these "plain English" guides available to small entities through a coordinated distribution system for regulatory compliance information utilizing means such as the SBA's U.S. Business Advisor, the Small Business Ombudsman at the Environmental Protection Agency, state-run compliance assistance programs established under section 507 of the Clean Air Act, Manufacturing Technology Centers or Small Business Development Centers established under the Small Business Act.

Section 313

The Act directs agencies that regulate small entities to answer inquiries of small entities seeking information on and advice about regulatory compliance. Some agencies already have established successful programs to provide compliance assistance and the amendment intends to encourage these efforts. For example, the IRS, SEC and the Customs Service have an established practice of issuing private letter rulings applying the laws to a particular set of facts. This legislation does not require other agencies to establish programs with the same level of formality as found in the current practice of issuing private letter rulings. The use of toll free telephone numbers and other informal means of responding to small entities is encouraged. This legislation does not mandate changes in current programs at the IRS, SEC and Customs Service, but these agencies should consider establishing less formal means of providing small entities with informal guidance in accordance with this section.

The Act gives agencies discretion to establish procedures and conditions under which they would provide advice to small entities. There is no requirement that the agency's advice to small businesses be binding as to the legal effects of the actions of other entities. Any guidance provided by the agency applying statutory or regulatory provisions to facts supplied by the small entity would be available as relevant evidence of the reasonableness of any subsequently proposed fine on the small entity.

Section 314

The Act creates permissive authority for Small Business Development Centers (SBDC) to provide information to small entities regarding compliance with regulatory requirements. SBDC's would not become the single-point source of regulatory information, but would supplement agency efforts to make this information widely available. This section is not intended to grant an exclusive franchise to SBDC's for providing information on regulatory compliance.

There are small business information and technical assistance programs, both federal and state, in various forms in different states. Some of the manufacturing technology centers and other similar extension programs administered by the National Institute of Standards and Technology are providing environmental compliance assistance in addition to general technology assistance. The small business stationary source technical and environmental compliance assistance programs established under section 507 of the Clean Air Act Amendments of 1990 is also providing compliance assistance to small businesses. This section is designed to add to the currently available resources to small businesses.

Compliance assistance programs can save small businesses money, improve their environmental performance and increase their competitiveness. They can help small businesses learn about cost-saving pollution prevention programs and new environmental technologies. Most importantly, they can help small business owners avoid potentially costly regulatory citations and adjudications. Comments from small business representatives in a variety of fora support the need for expansion of technical assistance programs.

Section 315

This section directs agencies to cooperate with states to create guides that fully integrate federal and state requirements on small businesses. Separate guides may be created for each state, or states may modify or supplement a guide to federal requirements. Since different types of small businesses are affected by different agency regulations, or are affected in different ways, agencies should consider preparing separate guides for the various sectors of the small business community subject to their jurisdiction. Priority in producing these guides should be given to areas of law where rules are complex and where businesses tend to be small. Agencies may contract with outside entities to produce these guides and, to the extent practicable, agencies should utilize entities with the greatest experience in developing similar guides.

Section 316

This section provides that the effective date for the subtitle is 90 days after the date of enactment. The requirement for agencies to publish compliance guides applies to final rules published after the effective date. Agencies have one year from the date of enactment to develop their programs for informal small entity guidance, but these programs should assist small entities with regulatory questions regardless of the date of publication of the regulation at issue.

Subtitle B—Regulatory Enforcement Reforms

Section 321

This section provides definitions for the terms as used in the subtitle.

Section 322

The Act creates a Small Business and Agriculture Regulatory Enforcement Ombudsman at the SBA to give small businesses a confidential means to comment on the enforcement activity of agency enforcement activities. This might include providing toll-free telephone numbers, computer access points, or mail-in forms allowing businesses to comment on the enforcement activities of inspectors, auditors and other enforcement personnel. As used in this section of the bill, the term "audit" is not intended to refer to audits conducted by Inspectors General. This Ombudsman would not replace or diminish any similar ombudsman programs in other agencies.

Concerns have arisen in the Inspector General community that those Ombudsmen might have new enforcement powers that would conflict with those currently held by the Inspector Generals. Nothing in the Act is intended to supersede or conflict with the provisions of the Inspector General Act of 1978, as amended, or to otherwise restrict or interfere with the activities of any Office of the Inspector General.

The Ombudsman will compile the comments of small businesses and provide an annual evaluation similar to a "customer satisfaction" rating for different agencies, regions, or offices. The goal of this rating system is to see whether agencies and their personnel are in fact treating small businesses more like customers than potential criminals. Agencies will be provided an opportunity to comment on the Ombudsman's draft report, as is currently the practice with reports by the General Accounting Office. The final report may include a section in which an agency can address any concerns that the Ombudsman does not choose to address.

The Act states that the Ombudsman shall "work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort, or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by such personnel." The SBA shall publicize the existence of the Ombudsman generally to the small business community and also work cooperatively with enforcement agencies to make small businesses aware of the program at the time of agency enforcement activity. The Ombudsman shall report annually to Congress based on substantiated comments received from small business concerns and the Boards, evaluating the enforcement activities of agency personnel including a rating of the responsiveness to small business of the various regional and program offices of each agency. The report to Congress shall in part be based on the findings and recommendation of the Boards as reported by the Ombudsman to affected agencies. While this language allows for comment on the enforcement activities of agency personnel in order to identify potential abuses of the regulatory process, it does not provide a mandate for the boards and the Ombudsman to create a public performance rating of individual agency employees.

The goal of this section is to reduce the instances of excessive and abusive enforcement actions. Those actions clearly originate in the acts of individual enforcement personnel. Sometimes the problem is with the policies of an agency, and the goal of this section is also to change the culture and policies of Federal regulatory agencies. At other times, the problem is not agency policy, but individuals who violate the agency's enforcement policy. To address this issue, the legislation includes a provision to allow the Ombudsman, where appropriate, to refer serious problems with individuals to the agency's Inspector General for proper action.

The intent of the Act is to give small businesses a voice in evaluating the overall performances of agencies and agency offices in their dealings with the small business community. The purpose of the Ombudsman's reports is not to rate individual agency personnel, but to assess each program's or agency's performance as a whole. The Ombudsman's report to Congress should not single out individual agency employees by name or assign an individual evaluation or rating that might interfere with agency management and personnel policies.

The Act also creates Regional Small Business Regulatory Fairness Boards at the SBA to coordinate with the Ombudsman and to provide small businesses a greater opportunity to track and comment on agency enforcement policies and practices. These boards provide an opportunity for representatives of small businesses to come together on a regional basis to assess the enforcement activities of the various federal regulatory agencies. The boards may meet to collect information about these activities, and report and make recommendations to the Ombudsman about the impact of agency enforcement policies or practices on small businesses. The boards will consist of owners, operators or officers of small entities who are appointed by the Administrator of the Small Business Administration. Prior to appointing any board members, the Administrator must consult with the leadership of the Congressional Small Business Committees. There is nothing in the bill that would exempt the boards from the Federal Advisory Committee Act, which would apply according to its terms. The Boards may accept donations of services such as the use of a regional SBA office for conducting their meetings.

Section 323

The Act directs all federal agencies that regulate small businesses to develop policies or programs providing for waivers or reductions of civil penalties for violations by small businesses in certain circumstances. This section builds on the current Executive Order on small business enforcement practices and is intended to allow agencies flexibility to tailor their specific programs to their missions and charters. Agencies should also consider the ability of a small entity to pay in determining penalty assessments under appropriate circumstances. Each agency would have discretion to condition and limit the policy or program on appropriate conditions. For purposes of illustration, these could include requiring the small business to act in good faith, requiring that violations be discovered through participation in agency supported compliance assistance programs, or requiring that violations be corrected within a reasonable time.

An agency's policy or program could also provide for suitable exclusions. Again, for purposes of illustration, these could include circumstances where the small entity has been subject to multiple enforcement actions, the violation involves criminal conduct, or poses a grave threat to worker safety, public health, safety or the environment.

In establishing their programs, it is up to each agency to develop the boundaries of their program and the specific circumstances for providing for a waiver or reduction of penalties, but once establish, an agency must implement its program in an even-handed fashion. Agencies may distinguish among types of small entities and among classes of civil penalties. Some agencies have already established formal or informal policies or programs that would meet the requirements of this section. For example, the Environmental Protection Agency has adopted a small business enforcement policy that satisfies this section. While this legislation sets out a general requirement to establish penalty waiver and reduction programs, some agencies may be subject to other statutory requirements or limitations applicable to the agency or to a particular program. For example, this section is not intended to override, amend or affect provisions of the Occupational Health and Safety Act or the Mine Safety and Health Act that may impose specific limitations on the operation of penalty reduction or waiver programs.

Section 324

This section provides that the subtitle takes effect 90 days after the date of enactment.

Subtitle C—Equal Access to Justice Act Amendments

Sections 331 & 332

The Act amends the Equal Access to Justice Act to assist eligible small businesses in recovering their attorneys fees and expenses in certain instances when unreasonable agency demands for fines or civil penalties in enforcement actions are not sustained by the court or by an administrative law judge. While this is a significant change from current law, the legislation is not intended to result in the awarding of attorneys fees as a matter of course. Rather, the legislation is intended to assist in changing the culture among government regulators to increase the reasonableness and fairness of their enforcement practices. Past agency practice too often has been to treat small businesses like suspects. One goal of this bill is to encourage government regulatory agencies to treat small businesses as partners sharing in a common goal of informed regulatory compliance. Government enforcement attorneys often take the position that they must zealously advocate for their client, in this case a regulatory agency, to the maximum extent permitted by law, as if they were representing an individual or other private party. But in the new regulatory climate for small businesses under this legislation, government attorneys with the advantages and resources of the federal government behind them in dealing with small entities must adjust their actions accordingly and not routinely issue original penalties or other demands at the high end of the scale merely as a way of pressuring small entities to agree to quick settlements.

The Equal Access to Justice Act (EAJA) provides a means for prevailing parties to recover their attorneys fees in a wide variety of civil and administrative actions between eligible parties and the government. This bill amends the EAJA to create a new avenue for small entities to recover their attorneys fees where the government makes excessive demands in enforcing compliance with a statutory or regulatory requirement, either in an adversary adjudication or judicial review of the agency's enforcement action, or in a civil enforcement action. In these situations, the test for recovering attorneys fees is whether the agency or government demand that led to the administrative or civil action is substantially in excess of the final outcome of the case so as to be unreasonable when compared to the final outcome (whether a fine, injunctive relief or damages) under the facts and circumstances of the case.

The comparison called for in the Act is always between a "demand" by the government for injunctive and monetary relief taken as a whole and the final outcome of the case in terms of injunctive and monetary relief taken as a whole. As used in these amendments, the term "demand" means an express written demand that leads to an adversary adjudication or civil action. A written demand by the government for performance or payment qualifies under this section regardless of form, including an original fine, penalty notice, demand letter, citation or otherwise. In the case of an adversary adjudication, the demand would often be a statement of the "Definitive Penalty Amount." In the case of a civil action brought by the United States, the demand could be in the form of a demand for settlement issued prior to commencement to the litigation. In a civil action to review the determination of an administrative proceeding, the demand could be the demand that led to such proceeding. However, the term "demand" should not be read to extend to a mere recitation of facts and law in a complaint. The bill's definition of the term "demand" expressly excludes a recitation of the maximum statutory penalty in the complaint or elsewhere when accompanied by an express demand for a lesser amount. This definition is not intended to suggest that a statement of the maximum statutory penalty somewhere other than the complaint, which is not accompanied by an express demand for a lesser amount, is per se a demand, but would depend on the circumstances.

This test should not be a simple mathematical comparison. The Committee intends for it to be applied in such a way that it identifies and corrects situations where the agency's demand is so far in excess of the true value of the case, as demonstrated by the final outcome, that it appears the agency's assessment or enforcement action did not represent a reasonable effort to match the penalty to the actual facts and circumstances of the case.

In addition, the bill excludes attorneys fee awards in connection with willful violations, bad faith actions and in special circumstances that would make such an award unjust. These additional factors are intended to provide a "safety valve" to ensure that the government is not unduly deterred from advancing its case in good faith. Special circumstances are intended to include both legal and factual considerations which may make it unjust to require the public to pay attorneys fees, even in situations where the ultimate award is significantly less than the amount demanded. Special circumstances could include instances where the party seeking fees engaged in a flagrant violation of the law, endangered the lives of others, or engaged in some other type of conduct that would make the award of the fees unjust. The actions covered by "bad faith" include the conduct of the party seeking fees both at the time of the underlying violation, and during the enforcement action. For example, if the party seeking fees attempted to elude government officials, cover up its conduct, or otherwise impede the Government's law enforcement activities, then attorney's fees should not be awarded.

The bill also increases the maximum hourly rate for attorneys fees under the EAJA from $75 to $125. Agencies could avoid the possibility of paying attorneys fees by settling with the small entity prior to final judgement. The Committee anticipates that if a settlement is reached, all further claims of either party, including claims for attorneys fees, could be included as part of the settlement. The government may obtain a release specifically including attorneys fees under EAJA.

Additional language is included in the Act to ensure that the legislation did not violate of the PAYGO requirements of the Budget Act. This language requires agencies to satisfy any award of attorneys fees or expenses arising from an agency enforcement action from their discretionary appropriated funds, but does not require that an agency seek or obtain an individual line item or earmarked appropriation for these amounts.

Section 333

The new provisions of the EAJA apply to civil actions and adversary adjudications commenced on or after the date 14 days after the date of enactment.

Subtitle D—Regulatory Flexibility Act Amendments

Section 341

The bill expands the coverage of the RFA to include IRS interpretive rules that provide for a "collection of information" from small entities. Many IRS rulemakings involve "interpretative rules" that IRS contends need not be promulgated pursuant to section 553 of the Administrative Procedures Act. However, these interpretative rules may have significant economic effects on small entities and should be covered by the RFA. The amendment applies to those IRS interpretative rulemakings that are published in the Federal Register for notice and comment and that will be codified in the Code of Federal Regulations. This limitation is intended to exclude from the RFA other, less formal IRS publications such as revenue rulings, revenue procedures, announcements, publications or private letter rulings.

The requirement that IRS interpretative rules comply with the RFA is further limited to those involving a "collection of information." The term "collection of information" is defined in the Act to include the obtaining, causing to be obtained, soliciting of facts or opinions by an agency through a variety of means that would include the use of written report forms, schedules, or reporting or other record keeping requirements. It would also include any requirements that require the disclosure to third parties of any information. The intent of this phrase "collection of information" in the context of the RFA is to include all IRS interpretive rules of general applicability that lead to or result in small entities making calculations, keeping records, filing reports or otherwise providing information to IRS or third parties.

While the term "collection of information" also is used in the Paperwork Reduction Act (Title 44 U.S.C. Section 3502(4)("PRA"), the purpose of the term in the context of the RFA is different that the purpose of the term in the PRA. Thus, while some courts have interpreted the PRA to exempt from its requirements certain recordkeeping requirements that are explicitly required by statute, such an interpretation would be inappropriate in the context of the RFA. If a collection of information is explicitly required by the Code, the effect might be to limit the possible regulatory alternatives available to the IRS in the proposed rulemaking, but would not exempt the IRS from conducting a regulatory flexibility analysis.

Some IRS interpretative rules merely reiterate or restate the statutorily required tax liability. While a small entity's tax liability may be a burden, the RFA cannot act to supersede the statutorily required tax rate. However, most IRS interpretative rules involve some aspect of defining or establishing requirements for compliance with the Code, or otherwise require small entities to maintain records to comply with the Code, and would now be covered by the RFA. One of the primary purposes of the RFA is to reduce the compliance burdens on small entities whenever possible under the statute. To accomplish this purpose, the IRS should take an expansive approach in interpreting the phrase "collection of information" when considering whether to conduct a regulatory flexibility analysis.

The Act provides for judicial review of the RFA, and the courts generally are given broad discretion to formulate appropriate remedies under the facts and circumstances of each individual case. The rights of judicial review and remedial authority of the courts provided in the Act as to IRS interpretative rules should be applied in a manner consistent with the purposes of the Anti-Injunction Act (26 U.S.C. 7421), which may limit remedies available in particular circumstances. The RFA, as amended by the Act, permits the court to remand a rule to an Agency for further consideration of the rule's impact on small entities. The amendment also directs the court to consider the public interest in determining whether or not to delay enforcement of a rule against small entities pending agency compliance with the court's findings. In the context of IRS interpretative rulemakings, this language should be read to require the court to give appropriate deference to the legitimate public interest in the assessment and collection of taxes reflected by the Anti-Junction Act. The court should not exercise its discretion more broadly than necessary under the circumstances or in a way that might encourage excessive litigation.

If an agency is required to publish an initial regulatory flexibility analysis, the agency also must publish a final regulatory flexibility analysis. In the final regulatory flexibility analysis, agencies will be required to describe the impacts of the rule on small entities and to specify the actions taken by the agency to modify the proposed rule to minimize the regulatory impact on small entities. Nothing in the bill directs the agency to choose to regulatory alternative that is not authorized by the statute granting regulatory authority. The goal of the final regulatory flexibility analysis is to demonstrate how the agency has minimized the impact on small entities consistent with the underlying statute and other applicable legal requirements.

Section 342

The bill removes the current prohibition on judicial review of agency compliance with the RFA and allows adversely affected small entities to seek judicial review of agency compliance with the Act within one year after final agency action, except where a provision of law requires a shorter period for challenging a final agency action. The prohibition on judicial enforcement of the RFA is contrary to the general principle of administrative law, and it has long been criticized by small business owners. Many small business owners believe that agencies have given lip service at best to RFA, and small entities have been denied legal recourse to enforce the Act's requirements.

The amendment is not intended to encourage or allow spurious lawsuits which might hinder important governmental functions. The one-year limitation on seeking judicial review ensures that this legislation will not permit indefinite, retroactive application of judicial review. The bill does not subject all regulations issued since the enactment of the RFA to judicial review. After the effective date, if the court finds that a final agency action was arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law, the court may set aside the rule or order the agency to take other corrective action. The court may also decide that the failure to comply with the RFA warrants remanding the rule to the agency or delaying the application of the rule to small entities pending completion of the court ordered corrective action. However, in some circumstances, the court may find that there is good cause to allow the rule to be enforced and to remain in effect pending the corrective action.

Section 343

The bill requires agencies to publish their factual, policy and legal reasons when making a certification under section 605 of the RFA that the regulations will not impose a significant economic impact on a substantial number of small entities.

Section 344

The bill amends the existing requirements of RFA section 609 for small business participation in the rulemaking process by incorporating a modified version of S. 917, the Small Business Advocacy Act, introduced by Senator DOMENICI, to provide early input from small business into the regulatory process. For proposed rules with a significant economic impact on a substantial number of small entities, EPA and OSHA would have to collect advice and recommendations from small businesses to better inform the agency's regulatory flexibility analysis on the potential impacts of the rule. The House version drops the provision of the Senate bill that would have required the panels to reconvene prior to publication of the final rule.

The agency promulgating the rule would consult with the SBA's Chief Counsel for Advocacy to identify individuals who are representative of affected small businesses. The Agency would designate a senior level official to be responsible for implementing this section and chairing an interagency review panel for the rule. Before the publication of an initial regulatory flexibility analysis for a proposed EPA or OSHA rule, the SBA's Chief Counsel for Advocacy will gather information from individual representatives of small businesses and other small entities, such as small local governments, about the potential impacts of that proposed rule. This information will then be reviewed by a panel composed of members from EPA or OSHA, OIRA, and the Chief Counsel. The panel will then issue a report on those individuals' comments, which will become part of the rulemaking record. The review panel's report and related rulemaking information will be placed in the rulemaking record in a timely fashion so that others who are interested in the proposed rule may have an opportunity to review that information and submit their own responses for the record before the close of the agency's public comment period for the proposed rule. The legislation includes limits on the period during which the review panel conducts its review. It also creates a limited process allowing the Chief Counsel to waive certain requirements of the section after consultation with the Office of Information and Regulatory Affairs and small businesses.

Section 345

This section provides that the effective date of the RFA amendment is 90 days after enactment. Proposed rules published after the effective date must be accompanied by an initial regulatory flexibility analysis or a certification under section 605 of the RFA. Final rules published after the effective date must be accompanied by a final regulatory flexibility analysis or a certification under section 605 of the RFA, regardless of when the rule was first proposed. Thus judicial review shall apply to any final regulation published after the effective date regardless of when the rule was proposed. However, IRS interpretive rules proposed prior to enactment will not be subject to the amendments made in this subchapter expanding the scope of the RFA to include IRS interpretive rules. Thus, the IRS could finalize previously proposed interpretive rules according to the terms of currently applicable law, regardless of when the final interpretive rule is published.•

SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT

• Mr. BUMPERS. Mr. President, I want to associate myself with the remarks of the distinguished chairman of our committee and the principle author of S. 942. He and I, as well as our staffs, worked together on this bill in a true spirit of bipartisanship. The shortness of time between the markup of S. 942 and consideration on the floor did not permit the staff to prepare a full-blown report, as we usually do. Instead, we have offered this section-by-section analysis as a joint explanatory statement by the managers, even though there was not a formal conference on this bill. The House chose to amend S. 942 in several respects. The chairman and I were consulted about these changes, and we agree that they are helpful. It is our hope that anyone reading this statement will treat it exactly as they would a formal Senate committee report since it reflects the consensus views of many Senators on both sides of the aisle who have participated in completion of S. 942, which is now title III, in H.R. 3136.•

THE SWISS BANKS, THE NAZIS, AND HOLOCAUST ASSETS

• Mr. D'AMATO. Mr. President, I rise today to discuss the issue that I spoke about yesterday, namely that of the return, by Swiss banks, of assets deposited by European Jews and others in the years preceding the Holocaust.

Today, I would like to discuss the revelations disclosed in newly discovered documents by my staff. These documents explain the connections of certain wartime Swiss bankers with Nazi Germany. The documents are disturbing to read, especially when one considers the history of the times and the horrors that took place because of the murderous actions of the Nazi regime with which these men dealt.

One such declassified document, dated August 2, 1945, from the American Embassy in London, from which made up the American Occupational project, "Operation Safe Haven," details the membership of the board of directors of the I.G. Farben Co. I.G. Farben was, at the time, the largest chemical company in the world, and is known, quite infamously for the fact that one of its subsidiaries produced "Zyklon B," the poison gas used in the gas chambers in the Nazi extermination camps in Europe. While voluminous, the document provides short biographies of the directors.

At this time, I would like to ask unanimous consent that a portion of this document be printed in the RECORD at the conclusion of my remarks.

It is in this document that several Swiss nationals are listed and some are listed as owners or directors of Swiss banks. Following are the names of the bankers:

August Germann: Described as the "Director of the Bank Fuer Unternehmungen, Zurich."

Carlo Mollwo: Described as "A cover man for I.G. Farben formally holding 100 percent of the shares of the Swiss bank, Ed. Greutert & Cie. (Now H. Sturzenegger & Cie.)."

Hans Sturzenegger: Described as "A Swiss and relative of Greutert, became Managing Director of the Swiss Bank, Ed. Greutert & Cie. * * * In 1942, Sturzenegger was listed as the unlimited partner of the bank and Industrie Bank A.G. of Zurich was listed as the limited partner."

Theodor Wolfensperger: Described as the "President of Industrie Bank, Zurich. Known as a member of the I.G. clique."

Mr. President, I know that this is the stuff of history, but it serves to point out one vital factor in understanding how this controversy in Switzerland today, came about. Here we have Swiss owners, or directors of banks in Switzerland, which might well have been the place of deposit for funds of European Jews, and they are sitting on the board of I.G. Farben, clearly a notorious company, by any standard. These men, as you will see by the document, also headed companies which acted as fronts for the Nazis, and later perhaps helped get assets looted by the Nazis, out of Europe. My question is, if they would do all this for the Nazis, what would they do with the assets of Europe's Jews?

Mr. President, this is a disturbing question, and to one that I truly do not know the answer. Nevertheless, I fear the worst. Yet, when considering this question, it inevitably begs a further question. What role did the Swiss Government play in this regard?

To provide a possible answer to this question, I would like to introduce the now declassified report of Daniel J. Reagan, then Counselor of Legation for Economic Affairs at the U.S. legation in Bern, who wrote to the Secretary of State on October 4, 1945 concerning the lack of cooperation of the Swiss Government.

I would ask that the text of this report be inserted in the RECORD at this time.

Mr. President, this is a devastating indictment of the Swiss Government and it illustrates how the Swiss went out of their way to avoid cooperating with the Allies in breaking up the German war effort and its vast economic structure.

This is only the beginning of our inquiry. We are finding documents daily, and with each search, we find more evidence which, I hope will place us closer to the truth, namely the authoritative, accurate and final accounting of all assets that numerous Swiss banks continue to hold from this time period and to which the survivors and rightful heirs are entitled.

The report follows:

SECRET ATTACHMENT

Sponsor Agency: External Security Intelligence Coordinating Committee, Washington, D.C.

11. In Switzerland or Connected with the Swiss Business.

Fritz Fleiner—Member of the Board of I.G. Chemie.

Dr. Albert Gadow—I.G. Farbon's Swiss representative. Member of the Board of each chief figure in I.G.

Chemie, Basle. Brother-in-law of Hermann Schmitz.

August Gormann—Member of I.G. Chemie's Board of Directors, and Director of the Bank Fuer Unternehmungen, Zurich.

Paul Haefliger—(See IV. A.2.).

Anton Heinrich—(See IV. A.3.).

Ernst Huelsmann—(See IV. A.3.).

Felix Iselin—President of I.G. Chemie, Basle, replacing Hermann Schmitz in 1940. One of most important lawyers in eastern Switzerland, a colonel in the Swiss Army, and chief of its Intelligence Service. Also President of the Schweizerische Treuhand—Gesellschaft of Basle, the chartered accountant firm of the Swiss chemical concerns Ciba, Geigy, and Sandoz. A former colleague of Iselin's has stated that Iselin is a prominent representative of absolutely German interests, and that he goes to Berlin to take orders from Hermann Schmitz and then telephones them to New York from Basle, thus pretending to protect Swiss interests where he is really protecting the interests of I. G. Farben.

Gottfried Keller—Member of the Board of Directors of I.G. Chemie, Basle.

Carlo Mollwo—German by birth, married to a Swiss, Became a Swiss citizen. "A cover man for I.G. Farben" formerly, holding 100% of the shares of the Swiss bank, Ed. Greutert & Cie. (now H. Sturzenegger & Cie.). He was especially active for I.G. in the nitrogen cartel through Greutert & Cie. President of the Board of Administration of Societe Auxiliaire de Participations et de Depots S.A., and member of the Board of Directors of I.G. Chemie, Basle. Chief auditor for I.G. Chemie since 1929.

Karl Pfoiffer—(See IV. A.1.).

Hormann Schmitz—(See IV. A.2.) Resigned as President of I.G. Chemie in 1940 and was replaced by Felix Isolin.

Hans Sturzeneggor—A Swiss and relative of Groutort, became Managing Director of the Swiss bank, Ed. Greutert & Cio., upon the death of Greutort in 1939, and the name of the bank was changed to H. Sturzeneggor & Cio. He had been trained in the Frankfurt offices of Metallgesellschaft and in the Finance Dept. of I.G. In 1942 Sturzenogger was listed as the unlimited partner of the bank and Industrie Bank A.G. of Zurich was listed as the limited partner. He is a member of the Board of I.G. Chemie

Theordor Wolfensperger—President of Industrie Bank, Zurich, Switzerland. Known as a member of the I.G. clique. He has been used as a nominee for I.G. in other dummy holding companies, as for instance Mapro, an I.G. camouflaged holding company in the Dutch East Indies.

12. TURKEY

Widmann—Manger of Bayor; Turkey. His private funds and personal possessions insured for LT 85,000 are held by Dr. Feridun Frik, Istanbul, at the house of Salahettin Ozgen, Eskisohir.

13. LATIN AMERICAN

Johann Carl Ahrons—Nominal partner in A. Quimica.

Bayor Lda., Brazil, Probably a front for I.G. Farben.

Ernst Holmut Andreas—German radio engineer who operated a radio station, "Radio Bayer" in Managua, Nicaragua, from 1929 to 1940. It advertised Bayer products and in the later years its programs included Nazi propaganda. (In 1940 the station was sold to Joso Mondoza.) He was deported to the U.S. in 1942 and in 1945 was a soldier in the U.S. Army. Believed to be a Nazi and to have operated a secret transmission set in Managua.

BERN, *October 4, 1945.*

Subject: Transmission of statement from Swiss purporting to give an indication of results of census of German assets.

[Via air mail pouch—USA War Crimes Office, Oct. 26, 1945—Secret]

The HONORABLE
The SECRETARY OF STATE,
Washington.

SIR: I have the honor to refer to the Legation's telegram No. 4211 (Repeated to London as 1407 and to Paris as 692), September 25, 1945, wherein it was reported that despite repeated and joint efforts of the British, French and ourselves during the past six months to induce the Swiss to implement effectively the agreement of March 8, it now appears that the Swiss are failing to meet in certain respects their engagements under that agreement, indulging in procrastinating tactics and also undermining economic warfare measures. As evidence of this statement there is transmitted, in the original and in translation, a memorandum presented to the Economic Counselor by Mr. Kohli on behalf of the Federal Political Department, embracing what the Swiss describe as their interim report on the census of German assets as promised two months ago (Par. 4, Legation's telegram No. 3667, July 24). As it may be seen, this statement presents a mere description of the mode of operation of the Swiss Compensation office, the number of cases blocked without any indication of the results of the census. Mr. Kohli refused to indicate, moreover, when, if at all, any results of the census would be made available to the Allies. He did not contest the joint understanding of the British, French, and ourselves that the Swiss would make available at least the approximate value of interim blocked assets, but they have now failed to do so.

Early in August Mr. Schwab, Chief of the Swiss Compensation Office, informed the Economic Counselor that he had in the course of preparation what he intimated was a complete report which he was preparing for the Federal Political Department. Mr. Schwab stated at the time that he understood this report was intended for the Allies. Shortly afterwards Mr. Kohli, of the Federal Political Department, informed the Economic Counselor that he had received this report but that it was being translated from German into French for us. The Economic Counselor indicated that the German text would be satisfactory. Mr. Kohli stated he thought it more polite to transmit it in French. On August 23 Mr. Kohli was again reminded that we had not received this document. He stated that the translation had not yet been completed but that we would obtain it in the near future.

At a meeting on September 12 the Economic Counselor stated that he could not understand why this report, which had been in Mr. Kohli's hands for approximately a month, had not yet been transmitted. Mr. Kohli replied that after the translation had been made from German into French, the latter text had been submitted to Mr. Schwab of the Swiss Compensation Office for the latter's approval, but that Mr. Schwab had been on vacation for two weeks. The Economic Counselor informed Mr. Kohli that this statement was most remarkable, for members of his office had been in communication with Mr. Schwab by telephone several times during the preceding week. The Economic Counselor added that he had advised the Department of State of the promise to supply a report giving the pertinent information so far obtained on the census, but that it now appeared that this report, although completed a month ago by the Swiss Compensation Office, had been held up by the Federal Political Department. He expressed the fear that its transmission to us was, for reasons unknown, no longer intended. Mr. Kohli thereupon gave instructions to his assistant to assure that the French text of the report be delivered to us on the following day, which it was. It should be observed that the Aide-Memoire enclosed herewith bears the date of August 27, although it was not delivered until September 13.

The foregoing incident has been recited in detail because it suggests that the report prepared by the Swiss Compensation Office and intended for this and the British Legation and the French Embassy was censored and a perfunctory resumé substituted therefor. The enclosed report, it is hardly necessary to state, represents a failure on the part of the Swiss to carry out their promise to acquaint us with the interim results of the census and was delivered two weeks after the census was technically closed on August 31.

This failure of the Swiss to respect their promises is of especial significance at this time. It would appear to be related to the neglect the Swiss have shewn *inter alia* for those provisions of the March 8 agreement which related to the prompt adoption of legislating necessary to facilitate the restoration of looted property and to the attempt made by the Swiss in the Viscose Suisse case, as reported in Legation's telegram 4211, September 25, to negate the influence of the Allied Proclaimed Lists. Reference must also be made by the belated response offered by the Swiss on September 25 (reported in Legation's telegram 4236 of September 28) to Legation's note of August 3 asserting title to German assets and to the Swiss failure to make any response to the Legation's note of July 12. The latter, as reported in Legation's dispatch 12188 of July 27, 1947, requested the Swiss to take steps, in accordance with the March 8 agreement, to assure that no disposition of German or German-controlled property in Switzerland would occur. As reported in Legation's telegram No. 4201 of September 24, 1945, despite this note and despite adequate notice from the Economic Counselor of this Legation that one such disposition was about to occur, the Swiss Government took no steps to intervene in the proposed sale of a German school at Davos.

From these incidents one inference is difficult to avoid: the Swiss Government is pursuing dilatory tactics designed to test the sincerity, firmness, and unity of the Allies with respect to the German assets in Switzerland and with respect to the commercial future of those Swiss enterprises and individuals whose pro-German activities were sufficiently notorious to merit inclusion on the Allied black lists. These tactics are being employed, it would appear, in the belief that, in the interim, the Allies will become so preoccupied with other affairs as to neglect to press for further execution of the March 8, agreement. If they are successful, the Swiss will thereby have escaped the proper and legitimate obligations which the majority of other neutrals have assumed, vis-a-vis the Allies, to put an end to the more important potentials for the continuation of Nazi activities.

In this connection, attention must be directed to recent discussions in the Swiss Parliament and the Swiss press. As reported in Legation's telegrams 4176, September 20 and 4186, September 21, 1945, Federal Councilor Stampfli, Chief of the Department of Public Economy, and Mr. Dutweiler, influential Swiss political leader, have violently attacked the Allies' listing policy. They have chosen deliberately to misrepresent the purposes and objectives of the Allies with respect to German and Japanese assets and the Proclaimed List. They have categorized these purposes and objectives as "economic warfare" directed against the Swiss economy, a statement so palpably false as to require no comment here. The significant point is that these responsible officials and influential spokesmen, supported by large sections of the Swiss press, choose this time to launch an offensive against our lists and the policy behind the lists. This campaign is mounting in scope and intensity. The conclusion here too is difficult to avoid: the Swiss officials are endeavoring to create a public opinion which will accept as proper and in the interests of Switzerland the failures of the Swiss Government to perform wholly in accordance with the provisions and spirit of the agreements made with the Allies.

Meanwhile, the concealment of German assets is facilitated by inadequate enforcement of existing inadequate legislation and Swiss nationals, in direct contravention of the March 8 agreement, are taking title to important German enterprises located here, steps which further complicate the detection of enemy property and the restoration of looted property.

Respectfully yours, For the Chargé d'Affaires a.i.

DANIEL J. REAGAN,
Counselor of Legation
for Economic Affairs.•

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration, en bloc, of Senate Resolution 239, a resolution submitted by Senators DOLE and DASCHLE and Senate Resolution 240, submitted by Senators WARNER and FORD; I further ask that the resolutions be agreed to, the motions to reconsider be laid upon the table, all en bloc, and that any statements relating to the resolutions appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolutions en bloc (S. Res. 239 and S. Res. 240) were agreed to.

The preambles were agreed to.

The resolutions, en bloc, with their preambles, are as follows:

S. RES. 239

Whereas, in the case of *Robert E. Barrett* v. *United States Senate, et al.*, No. 96CV00385 (D.D.C.), pending in the United States District Court for the District of Columbia, the plaintiff has named the United States Senate as a defendant;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1)(1994), the Senate may direct its counsel to defend the Senate in civil actions relating to its official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the United States Senate in the case of *Robert E. Barrett* v. *United States Senate, et al.*

Mr. DOLE. Mr. President, the plaintiff in Barrett versus United States Senate is a Federal prisoner in Michigan. He has brought a civil action in Federal district court in the District of Columbia, seeking, among other things, a declaration from the court that the U.S. Court of Appeals for the Seventh Circuit is unable to adjudicate his claims impartially because of its bias against prisoners.

The plaintiff has named the U.S. Senate, among others, as a defendant in his lawsuit. The Senate is not, however, a proper party to this suit. In fact, the plaintiff asserts no claim against the Senate. This resolution authorizes the Senate Legal Counsel to represent the Senate in this action.

S. RES. 240

Whereas, in the case of *United States* v. *Byron C. Dale, et al.*, Civil No. 95–1023, in the United States District Court for the District of South Dakota, Northern Division, the defendants have named Senator Robert J. Dole as a codefendant in a counterclaim against the United States;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1)(1994), the Senate may direct its counsel to defend its Members in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Dole in the case of *United States* v. *Byron C. Dale, et al.*

Mr. WARNER. Mr. President, the legal action United States versus Dale, currently pending in the U.S. District Court in South Dakota, was brought by the United States to foreclose two mortgages executed by the Farmers Home Administration of the U.S. Department of Agriculture on real estate in Corson County, SD, belonging to the defendants.

The defendants in that action have filed a counterclaim against the United States, naming as codefendants Speaker of the House NEWT GINGRICH, Federal Reserve Chairman Alan Greenspan, Treasury Secretary Robert Rubin, Secretary of Agricultural Dan Glickman, and the Senator majority leader. The counterclaim seeks a court order compelling televised congressional hearings regarding Federal farm and monetary policy and the enactment of legislation favored by the defendant.

Lawsuits alleging that citizens have been aggrieved by a Member's failure to act in accordance with the citizens' views have been filed against Members of Congress from time to time. As the Senate has noted previously in response to such lawsuits, every citizen has a constitutionally protected right to petition the Government for the redress of grievances. However, elected officials have the discretion to agree or disagree with communications they receive, and to decide how best to respond to the many points of view which are presented to them. This resolution authorizes the Senate Legal Counsel to represent the majority leader in this action.

MEASURE PLACED ON CALENDAR—H.R. 1296

Mr. LOTT. Mr. President, I ask unanimous consent that calendar No. 300, H.R. 1296 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Executive Calendar nominations 515 and 516.

I further ask unanimous consent that the nominations be confirmed, en bloc, the motions to reconsider be laid upon the table en bloc, that any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

FEDERAL DEPOSIT INSURANCE CORPORATION

Gaston L. Gianni, Jr., of Virginia, to be Inspector General, Federal Deposit Insurance Corporation. (New Position)

DEPARTMENT OF COMMERCE

Stuart E. Eizenstat, of Maryland, to be Under Secretary of Commerce for International Trade, vice Jeffrey E. Garten, resigned.

NOMINATION OF STUART EIZENSTAT

Mr. HOLLINGS. Mr. President, I rise today to speak on behalf of the nomination of Stuart Eizenstat to be the Under Secretary of Commerce for International Trade. In Stu Eizenstat, President Clinton has chosen a real winner. Ambassador Eizenstat brings a wealth of experience and talent to the administration's economic policy team. In Ron Brown we have had the most energetic and effective Secretary of Commerce that has ever held office at the Hoover Building. And, with the selection of Stu Eizenstat, we finally will have an Under Secretary of Commerce for trade who will serve as an aggressive advocate for U.S. business overseas, and an individual who will help defend American business against unfair competition.

Ambassador Eizenstat is a native of Georgia and, in this period of March madness, I should also note that he developed quite a reputation as an exception basketball player. He is a graduate of the University of North Carolina and Harvard Law School.

As a young man Stu served in the White House under President Lyndon Johnson. And, from 1977–80 he served as President Carter's domestic policy advisor. Since leaving the White House, he has served as a lecturer at the John F. Kennedy School of Government at Harvard and as a guest scholar at the Brookings Institute. He is an expert in trade law and he made a name for himself in private practice in Atlanta and Washington. President Clinton named him to serve in Brussels as the United States Ambassador to the European Union. And, in that role he has championed the cause of U.S. business regarding tariff and nontariff barriers to work toward a level playing field for American business.

Stu Eizenstat is outstanding member of our Jewish American community. Throughout his life he has been very active in the Jewish community in Atlanta. While in Brussels, he also served as Special U.S. Envoy for Property Claims in Central Europe, seeking restitution of Jewish communal and private property confiscated by the Nazis during the Second World War.

Mr. President, the International Trade Administration is the cornerstone in our U.S. trade programs. It is the principal agency responsible for promoting U.S. business and exports overseas. It staffs the U.S. Trade Representative, conducts trade missions, and provides policy makers with necessary information on industry and trading partners. And, through the Import Administration and the Office of Textiles and Apparel, ITA is responsible for protecting our markets from unfair competition, like dumping. ITA has typically been the Commerce Secretary's right hand; it has been the most important bureau in Commerce, regardless of who holds office, whether Mac Baldridge or Bill Verity or Pete Peterson or Elliot Richardson. I have no doubt that Stuart Eizenstat will make ITA even more effective as he assumes command.

I have no doubt that Ambassador Eizenstat will hit the ground running when he gets over to the Commerce Department. I know his first objective will be to strengthen our trade enforcement activities. He intends to create a new center to monitor foreign countries compliance with trade agreements. Another principal goal of his is to get Asian nations to open their markets to U.S. products. During this recess, I will be reviewing his efforts to build a new American business center in Shanghai, China.

Mr. President, Stu Eizenstat is a man of superb intellect and high integrity. I can tell you that he knows how to get the job done. I know that he will be an effective leader at ITA and Commerce and I urge my colleagues to support his nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

ORDER FOR STAR PRINT—S. 969

Mr. LOTT. Mr. President, I ask unanimous consent that S. 969, the Newborns' and Mothers' Health Protection Act, be star printed to reflect the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, today I am pleased to join my colleagues, Senator NANCY KASSEBAUM and Senator BILL FRIST, in announcing a revised and improved version of S. 969, the Newborns' and Mothers' Health Protection Act of 1996.

This bill requires insurers to allow mothers and their newborns to remain in the hospital for a minimum of 48 hours after a normal vaginal delivery and 96 hours after a caesarean section. Shorter hospital stays are permitted, provided that the attending health care provider, in consultation with the mother, determines that is the best course of action.

S. 969 has garnered wide support and endorsements. Currently, 34 of our Senate colleagues, 21 Democrats and 13 Republicans are cosponsors. Major medical organizations such as the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Academy of Pediatrics have endorsed this legislation.

More than 83,000 Americans from every State in this Nation have communicated their support to my office.

Today, I ask unanimous consent that a summary of the clarifications and changes to S. 969 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT OF 1996

The following comments detail the clarifications and technical changes made to S. 969.:

1. The original bill did not comment on whether or not an attending health care provider would need to obtain authorization in order to keep a mother and newborn in the hospital for the 48/96 hours that are guaranteed for insurance coverage.

The re-introduced bill states that attending health care providers do not need to obtain authorization in order to keep mothers and newborns in the hospital for this period of time.

2. The original bill stated that a decision for early discharge (eg prior to the 48/96 hours) could be made by either the attending health care provider OR mother.

The re-introduced bill states that a decision for early discharge can be made by the attending health care provider in consultation with the mother.

3. The original bill did not address time parameters with regard to follow-up care.

The re-introduced bill states that follow-up care must be timely and must be provided within 24–27 hours following discharge.

4. The original bill did not specify a full range of health care providers.

The re-introduced bill specifies: physicians (obstetricians-gynecologists, pediatricians, family physicians, other physicians), nurse practitioners, nurses, nurse midwives, and physician assistants (where appropriate).

5. The original bill was ambiguous regarding preemption.

The re-introduced bill states that state laws that provide for a guarantee of insurance coverage for 48/96 hours OR have laws that guarantee care based on guidelines from the American College of Obstetricians—Gynecologist and the American Academy of Pediatrics AND have followed-up care consistent with federal law.

AUTHORITY FOR SUBMISSION OF STATEMENTS REGARDING THE DEATH OF EDMUND S. MUSKIE

Mr. LOTT. Mr. President, I ask unanimous consent that Senators have until April 20, 1996, to submit statements with regard to the death of the late Senator Edmund S. Muskie, and that the statements then be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. LOTT. Mr. President, I ask unanimous consent that the committees have between 10 a.m. and 3 p.m. on Wednesday, April 10, to file legislative or executive reported legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. LOTT. Mr. President, I now move to proceed to Senate Resolution 227, the Whitewater legislation, and send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the the motion to proceed to Senate Resolution 227, regarding the Whitewater extension.

> Alfonse D'Amato, Dan Coats, Phil Gramm, Bob Smith, Mike DeWine, Bill Roth, Bill Cohen, Jim Jeffords, R.F. Bennett, John Warner, Larry Pressler, Spencer Abraham, Conrad Burns, Al Simpson, John H. Chafee, Frank H. Murkowski.

Mr. LOTT. Mr. President, I ask unanimous consent that the cloture vote occur at 2:15 p.m. on Tuesday, April 16, and that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I now withdraw the motion.

ORDERS FOR MONDAY, APRIL 15, 1996

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment under the provisions of the adjournment resolution until the hour of 10 a.m. on Monday, April 15; further, that immediately following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and that there then be a period for morning business until the hour of 2 p.m., with Senators permitted to speak therein for up to 5 minutes each, except for the following: Senator HATCH, 20 minutes; Senator DASCHLE or his designee, 90 minutes; Senator COVERDELL, for 90 minutes.

I further ask unanimous consent that immediately following morning business, the Senate begin consideration of the illegal immigration bill reported by the Judiciary Committee during the adjournment of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, following morning business on Monday, April 15, it will be the intention of the majority leader to begin consideration of the immigration reform bill. Amendments are expected to be offered to that bill. Therefore, I hope that any Senator who intends to offer an amendment will be available on Monday, April 15, to offer and debate their amendments.

Rollcall votes will not occur during Monday's session. However, if any votes are ordered on amendments, those rollcall votes would be ordered to occur during Tuesday's session of the Senate.

Also on Monday, the Senate may be asked to consider any other legislative or executive items that could be cleared for action. Senators should also be reminded that a cloture motion was filed today with respect to the Whitewater Special Committee. Therefore, the cloture vote will occur on Tuesday, April 16, at 2:15 p.m.

ADJOURNMENT UNTIL 10 A.M., MONDAY, APRIL 15, 1996

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the provisions of House Concurrent Resolution 157.

There being no objection, the Senate, at 5:13 p.m., adjourned until 10 a.m., Monday, April 15, 1996.

NOMINATIONS

Executive nominations received by the Senate March 29, 1996:

THE JUDICIARY

M. MARGARET MCKEOWN, OF WASHINGTON, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE J. JEROME FARRIS, RETIRED.

LAWRENCE BASKIR, OF MARYLAND, TO BE A JUDGE OF THE U.S. COURT OF FEDERAL CLAIMS FOR A TERM OF 15 YEARS, VICE REGINALD W. GIBSON, RETIRED.

COLLEEN KOLLAR-KOTELLY, OF THE DISTRICT OF COLUMBIA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA VICE HAROLD H. GREENE, RETIRED.

JOAN B. GOTTSCHALL, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS VICE JAMES B. MORAN, RETIRED.

FRANK R. ZAPATA, OF ARIZONA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA VICE RICHARD M. BILBY, RETIRED.

DEPARTMENT OF STATE

LESLIE M. ALEXANDER, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ECUADOR.

PRUDENCE BUSHNELL, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KENYA.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. RICHARD B. MYERS, [redacted] U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. JOHN P. JUMPER [redacted] U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. RALPH E. EBERHART [redacted] U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. RONALD T. KADISH [redacted] U.S. AIR FORCE.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 29, 1996:

FEDERAL DEPOSIT INSURANCE CORPORATION

GASTON L. GIANNI, JR., OF VIRGINIA, TO BE INSPECTOR GENERAL, FEDERAL DEPOSIT INSURANCE CORPORATION.

DEPARTMENT OF COMMERCE

STUART E. EIZENSTAT, OF MARYLAND, TO BE UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL TRADE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

WITHDRAWAL

Executive message transmitted by the President to the Senate on March 29, 1996, withdrawing from further Senate consideration the following nomination:

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

MARY BURRUS BABSON, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 1 YEAR (NEW POSITION), WHICH WAS SENT TO THE SENATE ON JANUARY 22, 1996.

HOUSE OF REPRESENTATIVES—*Friday, March 29, 1996*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. GUNDERSON].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 29, 1996.

I hereby designate the Honorable STEVE GUNDERSON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious God, from whom comes every good gift, we thank You today for the gifts of our past, those moments in our history when justice flowed down like waters and righteousness like an everflowing stream. We are grateful that women and men from the years of our birth have been models of character and stood for truth. May their witness in their day encourage our witness in our day and may their commitment to justice encourage each of us to that same commitment, an obligation and duty that inspires and makes whole, a responsibility that blesses and gives life. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. GENE GREEN of Texas. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GENE GREEN of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Washington [Mr. NETHERCUTT] come forward and lead the House in the Pledge of Allegiance.

Mr. NETHERCUTT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1561), an act to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for U.S. foreign assistance programs for fiscal years 1996 and 1997, and for other purposes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. In the interest of time, the Chair will receive five 1-minute speeches from each side.

Further 1-minutes will be allowed at the conclusion of legislative business for the day.

ONE GREAT LEGISLATIVE DAY

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, let me say I just wanted to remind our Members, because we were so busy yesterday and it may not have been obvious, how much we got done in 1 day.

In 1 day this House sent to the President a landmark freedom-to-farm bill which revises 60 years and provides reform for a 60-year-old program.

We sent to the President a historic line-item veto bill which Presidents, beginning with Grant in the 1860's, requested from the Congress, and for the first time we passed it to send to the President.

We sent to the President an earnings limit increase for senior citizens so they could work without being punished by the Social Security Administration taking money away from them, something which every senior citizens' group has supported and which encourages people to stay active and be healthy.

We sent to the President real regulatory relief to help small businesses create jobs, helping the economy and reducing the amount of unnecessary redtape in this society.

We passed health care reforms to end job lock and make health care more affordable, the Health Coverage Affordability Act of 1996, which dramatically increases the ability to change jobs without worrying about preconditions, guaranteeing portability, which prevents health care fraud and abuse and establishes a senior citizen incentive to turn in fraud, which creates administrative simplification to save on redtape, which passes medical liability reform to reduce the number of lawsuits and increase the amount of care that is focused on health care rather than legal behavior, which has tax-related concerns that guarantee deductibility for long-term care and which establishes the deductibility of medical savings accounts.

All of those were done in 1 legislative day.

I think this Congress can be proud of its commitment to reform and the serious, practical, commonsense work we are engaged in to give the American people a better government at lower cost with better services.

THE CONTRACT WITH AMERICA IS ON TRACK

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, my colleagues may not have seen this, but today's Washington Post features a neat little chart showing the progress in the Contract With America.

Congressional compliance—signed into law; unfunded mandates—signed into law; Defense spending increases—signed into law; and on and on.

Mr. Speaker, just this week, Congress gave the President the line-item veto, we lifted the regulatory burden on small business, we started reversing the Clinton Social Security tax on the elderly, and we passed commonsense health care reform.

We have a solid record of achievement in the 104th Congress. Our Contract With America is on track—just

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

like it says here in the Post—and, in addition, we have changed the terms of debate here in Washington.

It is no longer about should we do the right thing, it is about how we do the right thing. I am honored to be in the party that stands for America's values, not Washington's values.

THE PRIDE OF KENTUCKY

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, I stand before this body today to share my pride in Kentucky basketball. This past Saturday night, Sullivan College in my hometown of Louisville, won the National Junior College Athletic Association national championship basketball tournament in Hutchinson, KS—the first Kentucky team to win this championship since 1969. Sullivan defeated Allegheny College of Maryland by a score of 104 to 98 in overtime. All of us in Louisville are very proud of this team and their head coach, Gary Shourds, and president, A.R. Sullivan.

This has been a phenomenal year for Kentucky basketball. You know we are very proud of our basketball in Kentucky with the University of Louisville and the University of Kentucky both in the NCAA Division I tournament. This weekend UK, my alma mater, goes for the NCAA national championship in New Jersey. In addition, Georgetown College of Georgetown, finished second in the NAIA national tournament and Northern Kentucky University finished second in the NCAA Division II national championship.

I also share with pride that Coach Gary Shourds of Sullivan College has been selected as the National Junior College Coach of the Year and will receive his championship award at the National Basketball Coach's Association luncheon this Sunday in New York City.

So I raise this declaration to all present that Kentucky is still the grandest State for basketball in all of these United States.

MISMANAGEMENT OF USDA FOOD AND CONSUMER SERVICE

(Mr. NETHERCUTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NETHERCUTT. Mr. Speaker, last Wednesday, in the Agriculture appropriations hearing, I examined what can only be described as gross mismanagement in the agency that oversees our Nation's food programs. Without clear explanation, the USDA's Food and Consumer Service could not specifically account for $13.5 billion, one-third of their budget in 1994. We do know that the agency spent $500,000 on gourmet chefs to design food for kids and $400,000 for the Disney Corp. to promote "Lion King" commercials in the name of child nutrition.

While Republicans have been attacked for trying to make certain that Federal agencies use taxpayer money efficiently and effectively, the Food and Consumer Service has in fact had so much money they don't know where it went. The inspector general made such a finding. Every American should be outraged at this administration's mismanagement of these funds for children, and we better look at other agencies, too, to be certain about spending in efficiency in this administration.

WAKE UP TO JAPANESE TRADE DEFICIT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, 10 years ago the 10 biggest banks in the world were American banks. Today the 10 biggest banks in the world are Japanese banks, all 10. Even after the merger of America's 2 biggest banks, they did not even make the top 10.

Wake up, Congress. Japanese banks did not get fat on the yen. Japanese banks got fat pigging out on American dollars. The trade deficit just came out last month. It skyrocketed 48 percent, a 48-percent increase in 1 month, over $10.3 billion.

Japan takes, America gives; Japan protects, America counsels; Japan regulates, America negotiates.

Let us tell it like it is. If America's trade program was so good, why does Japan not try it?

We are getting our clock cleaned, and we are not even talking about it. Think about that.

INTRODUCTION OF CONGRESSIONAL CAMPAIGN FINANCE REFORM ACT

(Mr. BASS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BASS. Mr. Speaker, in the 104th Congress the new Republican majority has made great strides in reforming Congress and restoring America's faith in the honesty and integrity of this institution. Indeed, our accomplishments are a shining example of promises made and promises kept.

Although we can be proud of these changes, one more vital reform remains, and that is campaign finance reform.

Today I am introducing the Congressional Campaign Finance Reform Act to restore credibility and public confidence in elections. It includes provisions that bring elections back home by requiring a majority of campaign funds to be raised from in State sources, it emphasizes grassroots fundraising by reducing PAC contributions to $1,000 per election, and it controls the exorbitant costs of campaigns by allowing States to enact voluntary campaign spending limits as we have done in New Hampshire and in other States.

For those of my colleagues who want to complete the reform of Congress that we started so well a year and-a-half ago, let us move forward, and I urge everyone to cosponsor my legislation or any of the other bills. Let us get a vote after the April recess.

□ 1015

AMERICAN LIBERATION FROM FOREIGN OIL DEPENDENCE

(Mr. PETE GEREN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETE GEREN of Texas. Mr. Speaker, I rise today to join many of my colleagues in a month-long effort to bring attention to our growing dependence on foreign all. On the fifth anniversary of the end of the Persian Gulf war and the liberation of Kuwait, it is the logical time to reflect on our domestic oil production, which is at a 40-year low.

Today there are 85,000 fewer people working in the oil and gas industry in the United States than there were at the beginning of the gulf war. Everything that the United States had at stake at the beginning of the gulf war is still on the line, even more so. Americans consume 17 million barrels of oil a day, and today over 50 percent of that consumption is imported from foreign sources.

Last year, a Department of Commerce study revealed that the Nation's reliance on foreign oil was a threat to our national security, because it increases our vulnerability to oil supply interruptions.

Mr. Speaker, foreign oil dependency can be alleviated. One way would be to allow our Nation's industry more access to promising areas offshore. Our Government also must lift unnecessary and burdensome regulations that provide no environmental benefits but cost American jobs and drive our oil and gas industry overseas.

Congress must take the lead in developing a Federal energy policy that encourages rather than punishes domestic oil and gas production. As the world's leader, America must learn from history's mistakes rather than repeat them. This is a job's issue, it is a national security issue, and time is not on our side.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro temore (Mr. GUNDERSON). The Chair will entertain three more 1-minutes on each side.

URGING SUPPORT OF THE ESSENTIAL AIR SERVICE, A PROGRAM IMPORTANT TO RURAL AMERICA

(Mr. BARRETT of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT of Nebraska. Mr. Speaker, as we begin the fiscal year 1997 appropriations process, I'd like to call your attention to a small but important program to rural America—the Essential Air Service. EAS was created in the early 1980's to provide assistance to small communities, and to maintain an integrated, national air service network. Air service is vital to rural communities, it is their link to the rest of the world.

Over the past several years, funding for EAS has steadily decreased, falling victim to an urban-dominated Congress, and budget cuts.

Therefore, I've introduced an alternative to the EAS, the Small Community Air Service Act. My bill, H.R. 2881 would allow States to charge a small fee on passenger tickets to fund an EAS-type program. It would be designed by the State, and for the State. I believe my bill is a viable alternative to the current program.

I ask my colleagues to seriously consider H.R. 2881. And as we continue the appropriations process I ask for your support of EAS.

THE UNITED STATES MUST MINIMIZE ITS DEPENDENCE ON FOREIGN OIL

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr GENE GREEN of Texas. Mr. Speaker, 5 years after the Persian Gulf war, the United States still imports 9 million barrels of oil. In fact, our Nation is more dependent on foreign oil than ever before. More than 50 percent of our oil is imported, and about 20 percent comes from the Persian Gulf. While we may never completely eliminate our dependence on foreign oil, we must minimize our reliance on foreign sources from the volatile Middle East. We should look more toward our neighbors and trading partners in the Western Hemisphere, like Venezuela, which has made significant investment in the United States and recently opened its oil industry to investment by U.S. companies.

Mr. Speaker, I encourage my colleagues to move toward a policy that encourages domestic oil and gas exploration and production, to ensure a vibrant and healthy economy.

AMERICA MUST WORK TOWARD ENERGY INDEPENDENCE

(Mr. WATTS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATTS of Oklahoma. Mr. Speaker, on this historic fifth anniversary of the Persian Gulf war, the lessons seem clear: America must work toward energy independence. But, this Nation seems to be ignoring the lessons of the past and heading in exactly the wrong direction—toward over dependence on foreign energy sources.

As leaders, we must make every effort to help America's oil and gas industry thrive. By helping the American oil and gas industry thrive, we will create new jobs, more revenues and increased national security. But we must unleash this strategic industry from its regulatory noose. Currently, instead of cutting down on bureaucratic regulations, the administration and some in Congress have proposed more than $14 billion in new industry regulations that would take effect over the next 5 years.

My colleagues on the House Resources Committee seem to understand these costs. Today, they will markup a bill, the Oil and Gas Royalty Fairness and Implication Act, that makes sense. It cuts through the bureaucracy and provides certainty, simplicity, fairness and efficiency in royalty collection. This is something that industry and the administration can agree on. I hope we can too.

It is time to free America's oil and gas industry from over regulations so that this Nation can be free from its foreign oil dependency.

IT IS TIME SOME REPUBLICANS IN THIS BODY GOT RELIGION AND SUPPORTED EDUCATION

(Mr. JACKSON of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JACKSON of Illinois. Mr. Speaker, I represent the Second Congressional District of Illinois, where education is considered sacred. This Nation should have no higher priority than to educate its populace. Senator DOLE and a majority of the Republicans in the Senate voted 84 to 16 on Tuesday to restore funding for key education and job training programs. Now that Senator DOLE is candidate DOLE, he has religion. Yet, in this body, there is still a majority in the majority who are determined to cut funding for basic education and math skills, cut funding for safe and drug-free schools, cut funding for vocational education, and that is wrong.

Mr. Speaker, education helps preserve family values. Education is the cornerstone of our democracy. It is good for business. It is good for meaningful, well-paying, and socially useful jobs. Education aids economic growth and keeps us competitive in the global marketplace, adds quality to a person's life, and enhances one's self-image. A mind, Mr. Speaker, is a terrible thing to waste. It is time some Republicans in this body got religion and supported the full funding of education.

PASO ROBLES MAKES TOP 50 LIST OF SMALL TOWNS TO LIVE IN

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, I rise today to pay tribute to Paso Robles, a beautiful small town on the central coast of California.

Recently in its April issue, Money magazine described Paso Robles as one of "America's 50 Hottest Little Boomtowns."

Paso Robles, a computer-age company town with tremendous growth potential—just a few miles north of California's commercial space port is considered one of the 50 best towns to live and work because of its growing promise of jobs in its electronics manufacturing and winery industry.

The Money magazine article ranked Paso Robles 43 out of 50 best places to live based on the city's projected population growth of 12 percent, its attractive median income and typical home cost.

I proudly salute Paso Robles and its citizens and encourage them to take pride in the fact that it is truly one of America's best kept secrets.

RESIST THE GOP'S CUTS IN EDUCATION: APPROVE A BUDGET THAT BRINGS FINANCIAL STABILITY TO EDUCATING TOMORROW'S LEADERS

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, in upper New York State, far from Washington's budget battles, an elementary school teacher named Theresa McAnaney has learned she may be laid off, because her school district does not know how much money it will receive from the Federal Government.

The plight of Ms. McAnaney and 15 colleagues facing layoffs is profiled in a recent New York Times story, but their case is not unique.

In my own State of Michigan, pink slip notices must be given to teachers by April 8, less than 2 weeks from today.

Across the Nation, 40,000 people face layoffs, because school districts cannot plan their budgets.

The New York Times article goes on to say that, faced with uncertainty, school districts are also scrapping long-range plans.

Hurt most are programs in poor and urban school districts, dependent on Federal aid for remedial instruction in reading and math, drug-free School Zone, Head Start, and Title I.

Surveys from the Washington Post and the Wall Street Journal reveal that most people consider education their top issue, and favor the same level or increased spending for education.

Mr. Speaker, we must resist the GOP's cuts in education and approve a budget that brings financial stability to educating tomorrow's leaders.

URGING TREASURY DEPARTMENT TO UPDATE REGULATIONS TO TAKE FULL ADVANTAGE OF DOMESTIC OIL RESERVES

(Mr. McCRERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCRERY. Mr. Speaker, no single component of our national economy is more important than energy. Yet, today we find ourselves more dependent on foreign sources of petroleum than at any time since 1977. Right now, imported oil accounts for over 50 percent of domestic consumption. By the year 2015, the Department of Energy forecasts that America will only supply one-third of its domestic needs. That means our Nation will rely heavily on other countries to fuel our cars, heat our homes, and drive our economy.

I am concerned that we are not being sufficiently aggressive in our efforts to reverse this trend. In the United States, we have vast proven reserves in existing fields that can be accessed, but only with advanced oil recovery technologies. Since 1990, we have recognized that to reduce our dependence on foreign energy sources, certain new recovery technologies should be encouraged through the enhanced oil recovery credit. Unfortunately, the eligible technologies identified do not reflect the latest developments in this field.

To take full advantage of our domestic oil reserves, I urge the Treasury Department to use the specific authority Congress provided, to update the regulations to include new recovery technologies. Doing so will reopen access to much needed domestic oil and provide new skilled job opportunities in the domestic economy.

LET US REWARD WORK AND INCREASE THE MINIMUM WAGE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, today's New York Times reports that 1995 was a very good year for the heads of corporations. According to the report, their median salary and cash bonuses rose to more than $2 million. That is $2 million a year in compensation.

Since 1990, corporate salaries have been rising at a fast clip of 9 percent per year, while wages and salaries of the Nation's workers are dead in the water, going nowhere. Hard-working families in America are scrambling to figure out how to find the money to pay their bills. Yesterday we had an opportunity to do something for those families, and instead, this House turned its back. At a time when corporate CEO's average $2 million a year, when Members of this Congress earn over $130,000 a year, House Republicans yesterday killed an attempt to raise the minimum wage by 90 cents, just 90 cents. It is shameful.

This Monday is the anniversary of the last increase in the minimum wage, which is now at a 40-year low. America needs a raise. Let us reward work and increase the minimum wage.

MAKING IN ORDER CONSIDERATION OF HOUSE JOINT RESOLUTION 170, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 170) making further continuing appropriations for the fiscal year 1996, and for other purposes when called up; and that it be in order at any time to consider the joint resolution in the House; that the joint resolution be debatable for not to exceed 1 hour, to be equally divided and controlled by myself and the gentleman from Wisconsin [Mr. OBEY]; that all points of order against the joint resolution and against its consideration be waived; and that the previous question be considered as ordered on the joint resolution to final passage without intervening motion, except one motion to recommit, with or without instructions.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. OBEY. Reserving the right to object, Mr. Speaker, let me simply say that I do not intend to object. The gentleman has consulted on this side of the aisle, and I think that the process which he has in mind for bringing up this resolution is the correct one. We do not necessarily like the result that flows from it, but I think it is in order to facilitate its consideration at a later point today, so I have no objection.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, so I can clarify, can the gentleman tell us when he plans to take up the legislation? I do not plan to object.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I would tell the gentleman, this continuing resolution will continue the existing temporary funding laws in effect until April 24, which avoid any government shutdown and while it sounds like a long time, is really only 6 legislative days from today.

Mr. VOLKMER. Does the gentleman plan to take it up later today, this afternoon, Mr. Speaker?

Mr. LIVINGSTON. I am sorry, this CR will be brought up later today, after the product liability conference report.

Mr. VOLKMER. I thank the gentleman.

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 956, COMMONSENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 394 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 394

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes. All points of order against the conference report and against its consideration are waived.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

□ 1030

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 394 provides for the consideration of the conference report for H.R. 956, the Commonsense Product Liability Legal Reform Act of 1996, and waives all points of order against its consideration. The House rules allow for 1 hour of general debate to be equally divided between the chairman and ranking minority member of the Judiciary Committee.

Mr. Speaker, the struggle to craft bipartisan product liability reforms has been over two decades in the making, and we have before us legislation that will save segments of our economy and create new jobs across America.

Mr. Speaker, I do not wish to unleash partisan charges that the President is playing politics with this important reform measure. The assessment that the President is playing politics has already been sufficiently made by members of the President's own party. I want to begin by recounting just a few of these appraisals of the President's motives.

Senator JOSEPH LIEBERMAN, a Democrat, has stated that the "President is dead wrong about this bill" and Senator JAY ROCKEFELLER, a Democrat, stated that the President has "his eye on the electoral college." Senator ROCKEFELLER continued by stating:

> Special interests and raw political considerations in the White House have overridden sound policy judgment. I am extremely disappointed the President has taken such a shortsighted political view of a serious bipartisan effort that would restore common sense to the American legal system.

Mr. Speaker, in response to Senator ROCKEFELLER's charge that special interests and raw political considerations in the White House has overridden sound policy judgment—I must say that this is nothing new.

As has been the case with countless pieces of historic legislation that have passed both the House and Senate, the President has disavowed good public policy and embraced his special interest friends. In this case, we have reached bipartisan agreement on legal reform, and it appears that the only obstacles to these moderate reforms are the trial lawyers and an antireform, status quo President.

The President is—and has been—the one roadblock to the reforms that the public wants. In his shortsighted, political view of the Nation, the President plans to add a veto of legal reform to his two vetoes of welfare reform and the historic balanced budget bill.

The Commonsense Legal Reform Act will end many frivolous lawsuits which have imposed significant costs on small businesses and killed American jobs. These indiscriminate lawsuits have caused the withdrawal of products from the market, including medical devices and medication available in most of the world, sadly resulting in preventable deaths.

The President has professed that the bill would reduce product safety, which it will not. His real anxiety about this reform bill is that it would reduce the fees of the trial lawyers who now receive from 50 to 70 percent of every dollar spent on product liability litigation. The trial lawyers have bragged about Bill Clinton's commitment to terminate any legislative effort to end frivolous lawsuits. The Arkansas trial lawyer president boasted about the fact that Arkansas has had no tort reform and stated that—and I quote—"this success would not have occurred without Bill Clinton. I can never remember an occasion when he failed to do the right thing where we trial lawyers were concerned."

Mr. Speaker, the future of the country is more important than some payoff to the trial lawyers. Our competitiveness overseas is being undermined. Rather than deal with the product liability litigation problem, American firms have left markets to foreign competitors and decided not to develop new products, technologies, and medical breakthroughs. These losses are impossible to calculate, and it is clear to everyone except the President that thousands of American small businesses are just one lawsuit away from bankruptcy. The provisions included in this bill were greatly pared down from the much-needed and broader changes we passed in the Contract With America. The bill does not include everything that I would have wanted, but this Congress understands that sometimes you have to compromise, and this is a start down the right road.

This is about restoring fairness to the American legal system and this bill should not be a political issue. These are modest, but critically important, reforms that will benefit the American people. I urge my colleagues to support the rule and the reform legislation, and I urge the President to reconsider his unfortunate veto threat of commonsense legal reforms.

I want to close by quoting the Washington Post editorial page:

> The President's announcement over the weekend that he will veto product liability legislation has surprised and disappointed even senior Democrats in the Senate—and well it should. The decision is a terrible one. But the lawyers want the sky to be the limit. The President's decision to capitulate to their pressure is transparent, shortsighted, and wrong. The compromise should be accepted by both Houses and signed by the President.

Mr. Speaker, the Senate did their job by passing the bill by a 59-to-40 margin, and I expect the House to follow suit by passing this bill with equally overwhelming support. I urge the President to forgo politics and do his job.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this conference report and to the rule providing for its consideration. This conference agreement caps punitive damage awards to consumers who have been harmed because of the products they have purchased and used. This conference agreement removes any incentive that might currently exist which makes corporations and manufacturers keep those harmful products off the market.

In the name of competitiveness, the conference has proposed a new legal framework that truly lives up to the old adage, caveat emptor. Mr. Speaker, I cannot support any legislation which places profit ahead of responsibility, and which puts the bottom line ahead of public safety. This agreement, all in the name of reform for the sake of reform, takes away expected and necessary protections for workers and consumers. The American people deserve better.

I urge my colleagues to defeat this conference report. I do not understand why this House should be a party to creating a legal climate that would hurt consumers who have already been injured by the negligence of product manufacturers.

Mr. Speaker, the proponents of this legislation have used little hard evidence in their zeal to push for passage of this legislation. But, I submit there are real people whose real cases demonstrate precisely how the current system has improved public safety and has promoted responsible corporate behavior.

For example, what would the proponents of this legislation say to the parents of the 4-year-old girl whose pajama top caught fire and who suffered second- and third-degree burns all over her upper body? Would the proponents say that there should be a cap on punitive damages when the manufacturer of the child's pajamas was well aware of the flammability of those garments? So well, in fact, that one company official admitted that the company was always sitting on a powder keg, even though treating the pajamas with flame-retardant chemicals was economically feasible?

Well, Mr. Speaker, the scars on that little girl—both physical and emotional—are permanent and she bears those scars only because of the negligence of that company. The $1 million punitive damage award in that case was small recompense for that little girl and her family. And yet, this conference agreement would deny that little girl such an award. And, Mr. Speaker, it was that award that served as the prime motivator for removing those garments from the market.

Or, Mr. Speaker, let's talk about defects in cribs. Two years ago, a 5-month-old baby boy died from injuries suffered from a defective crib. He died in spite of the fact that the crib's manufacturer had ignored warnings 10 years before by the U.S. Product Safety Commission of just such defects. Or, let's talk about exploding Pintos, or asbestos insulation in office buildings and in schools, or tractors that suddenly self-shift gears. There have been court cases involving all these products that have resulted in punitive damage awards to those who have been injured, maimed, or killed by them. Those punitive awards have benefited us all. Mr.

Speaker, because they have forced companies to do the right thing—to fix, to recall, or to discontinue the manufacture and sale of products that injure, maim, or kill people.

And so, Mr. Speaker, we too have a chance to do the right thing today for American consumers. I encourage my colleagues to take a stand and to reject this conference agreement.

Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, at this time I have no requests for time, and I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

The SPEAKER pro tempore (Mr. GUNDERSON). The gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 6 minutes.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Texas and the gentleman from Georgia for yielding me this time.

I just want to say to Members, I certainly hope they help us defeat the previous question, because Members of this body have voted twice to do something that is now no longer in this piece of legislation, and I think Members are going to be really surprised when they find out that the Senate removed this.

What is this? Well, this is a very, very key component that, it is kind of like a Federal long arm statute, but it says that for any foreign manufacturer that wants to partake of the benefits of this law, the benefits of this law, they must subject themselves to discovery and to the jurisdiction of the U.S. courts.

Now, I think with the benefits go the responsibilities, and we are giving them a great benefit when we pass this. When we pass this bill, what we are doing is limiting their liability, allowing them to get away with all sorts of things. I think it goes way too far. But I just say to this body, if you are going to do that, and you are not going to have this provision dealing with foreign manufacturers, I think that we ought to strike the name of this. How can you possibly call it common sense? Because once again, you will be putting our manufacturers under one standard, but foreign manufacturers under an entirely different standard. They can limit their liability, they can do very well, but guess what? They do not have to be under the jurisdiction of U.S. courts and they do not have to be under the discovery proposals.

Twice this House voted by 256 votes for this proposal. The gentleman from Michigan, the esteemed ranking member, Mr. CONYERS, has pursued this and pursued this and pursued this, and convinced this body of this issue. Unfortunately, in the other body, it seems that foreign manufacturers have a lot more gravitas and something happened. It disappeared.

So if we can defeat the previous question, this side will be moving to try and put in that very key component so that this really is common sense, and what our manufacturers get, foreign manufacturers are going to get too, and they are going to have a level playing field. I just think the American people are going to be very distressed to find out one more time foreign manufacturers are given the wing-wing, or a better deal under this.

Now, I also have great trouble with the bill for one other reason. When we talk family values, we ought to mean family values, and we talk family values all the time. One of the things that this legislation does is it values a corporate paycheck way more than it does a person's reproductive capacity. If someone loses their reproductive capacity, that is considered noneconomic damage. Now, that may be noneconomic to some accountant, but to anybody with a heart and a soul, I think the loss of your reproductive organs is way, way more valuable than any economic damages you could ever have. What this bill does is that it puts punitive caps on that, and I just think that that is really wrong.

When you look at the history of women's experience, whether it is with silicon breast implants, the Dalkon shield, with all sorts of things such as DES, and so forth, that have been marketed, and then turned out to harm women's reproductive systems, now we really are capping what kind of value that has. I think people would be shocked to know that a Congress that speaks family values is going along with this. So I urge a no vote on the previous question.

Mr. HYDE. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Illinois [Mr. HYDE.]

Mr. HYDE. Mr. Speaker, with great respect I would like to advise the gentlewoman, there is no limitation on economic damages or noneconomic damages. It is punitive damages only that there is a limitation. That provision was taken out of the bill and there just is no limitation on economic or noneconomic damages.

Mrs. SCHROEDER. Well, Mr. Speaker, reclaiming my time, the gentleman, my esteemed chairman, is correct as far as he goes, but let us talk about joint and several and let us talk about punitive damages, and the punitive damages caps.

Mr. HYDE. Mr. Speaker, if the gentlewoman will continue to yield, I thought you were talking about economic and noneconomic. The punitive damages, yes, there are limitations.

Mrs. SCHROEDER. That is right. And when you look at the economic damages, they always weigh in a whole lot more. The noneconomic damages, and without the punitive add-on to it, and the joint and several, I really think women or men, for that matter, I think we are going to learn more and more about men losing their reproductive capacity. We do not know why, but we are starting to see more articles about this new disturbing trend.

Mr. VOLKMER. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I am curious. Maybe the gentlewoman can tell me what the economic loss is for the ability to have a child. What is the economic loss of the inability to have a child? I do not think you can put a dollar figure as an economic loss on that. So if there is no economic loss and no punitive damages, what damages are they then?

Mrs. SCHROEDER. Mr. Speaker, reclaiming my time, as the gentleman knows, this law would supersede the traditional common law, and it would eliminate joint and several liability for noneconomic damages such as pain and suffering. So obviously, the loss of reproductive organs is considered a noneconomic damage, and in the past, pain and suffering for that has been recognized, because common law recognized human beings and their pain. So when we supersede that, when we repeal that, that is my point.

Mr. VOLKMER. Mr. Speaker, if the gentlewoman would continue to yield, what I am trying to get across is what you are going to end up with is there is no damages, really, for a woman's loss of the ability to have a baby.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time.

The President has threatened to veto heart transplants, heart valves, brain shunts, knee joint replacement, hip joint replacements and 100 other medical devices that people are starving for, waiting for their lives to be helped with the implantation of these medical devices.

Title II of this bill provides for relief for biomedical suppliers who in the past have provided a little bit of plastic for a heart valve or a little bit of a gimmick for a brain shunt, and now the suppliers who have been hit with tremendous lawsuits are going out of the business of supplying these little bit of elements for much-needed medical devices.

□ 1045

So in title II, we solve that problem and we know the companies that have been heretofore supplying these medical devices are going to be back in business. If we allow this bill to be vetoed, and I hope it is not, what is going to happen is that the medical device developers and manufacturers will again be short of the materials they need to create these devices. We ought to pass the rule and pass the bill and then urge the President not to veto it.

Mr. Speaker, there are 8 million people in our country who today have some kind of medical device implant, pacemakers, as I said, brain shunts, all kinds of things, including hip joints and knee joints, which are part of the makeup of many of the Members of Congress. But if we do not pass this bill, then the suppliers of the basic elements required for these medical devices will simply not supply them because of the fear of massive lawsuits. That is what we are talking about.

When you talk about the consumer as being damaged by the passage of this bill, I am telling you that the person who is waiting for a heart transplant is being damaged by the failure to pass this legislation. The recipient of a brain shunt is being damaged by the failure to pass this legislation, and he is a consumer too.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Speaker, I appreciate the opportunity to speak on this. I would urge that we defeat the previous question, and we oppose the rule under which this bill will be brought up today. The last speaker spoke about consumers, and that is what I would like to talk a little bit about here today and hope they do not get lost in this whole discussion.

Mr. Speaker, today we will hear from my friends on your side of the aisle that it costs so much more to do products, whether it is a medical device or a simple stepladder. It costs one-third more because of product liability insurance. We have heard a lot about especially the stepladder; it seems to be the one that is making the TV news. So I called my local hardware, Walter Brothers True Value up in Menominee, and I said, how much does it cost for a stepladder, an 8-foot aluminum stepladder? They said it is $130. So if one-third of it goes for product liability insurance, then we should be able to reduce that upon enactment of this bill by $43, so that stepladder should now only cost $87.

Mr. Speaker, I offered an amendment to do just that, to make sure that consumers are protected, not only for product safety but also protect their pocketbook and the cost that they say would be generated if we pass this legislation. Of course my amendment was rejected. So let us see who gets the money here and who gets protection here.

Will the manufacturers be required to reduce their costs by one-third underneath this bill? No. Will the product liability insurance companies be required to reduce their premium notices by one-third? No. Will the consumer be required to do anything in this bill? Yes.

They will be required to give up some rights. They will be required to bring action. They will be required to give up rights for punitive damages for faulty manufacture, for defective products, for inadequate warnings. So who is losing here? The consumer. The consumer.

From the fall on the ladder, the windfall goes not to the consumer but to the insurance company and the manufacturers. Not just stepladders, but the decrease in the cost of vaccinations, will that occur in this bill? Is there any requirement here? No. How about medical insurance? No. How about child safety seats? No.

Mr. Speaker, we are going to limit the rights of ordinary people to bring a cause of action for their injuries and damages, and it is a windfall for large corporations, manufacturers, and the insurance company. My amendment would have helped to ensure it would put some integrity into the system to make sure those cost savings are passed back to the American people and, unfortunately, my amendment failed and was not even considered by the majority.

So I have great reservations and hope we will oppose the previous question and hope we go back and get an equitable rule on this.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. STUPAK. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Does the gentleman consider a person who is waiting for a heart transplant a consumer that ought to be protected and should have the benefit of a heart transplant and should have laws in place that will facilitate the flow of materials to the medical device manufacturer, who will eventually be part of the heart transplant device? Does the gentleman favor legislation that would make it easier for a transplant recipient to receive that transplant?

Mr. STUPAK. Yes. I favor that the hear transplant be done safely for less money.

Mr. GEKAS. Of course.

Mr. STUPAK. for less cost.

Mr. GEKAS. Of course.

Mr. STUPAK. And that the consumer be protected. That is not in this bill.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker. I would like to tell the gentleman from Michigan that his amendment was not ignored by the majority. It was considered and found wanting.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I am really truly amazed. I heard this morning when I came over the Speaker talk about what great things they had done yesterday with the legislation, but one of the things he did not mention in that legislation was the exemption of certain insurance policies under that health bill from State regulation. Now we do not have any Federal regulation. That is taking away States' rights from the majority.

Mr. Speaker, they always talk about States' rights, what States should be able to do, and then in this bill, right in this bill, one of the worst things I have ever seen proposed is that in product liability cases, in the future under this legislation, in the State court, we are not going to be able to follow State law. Never, never in the history of this country has that been done, never.

We cannot follow State law. We have to follow this law in State courts. It preempts all 50 State product liability laws as relates to suits by consumers. But if it is a suit by a commercial firm against a manufacturer, it is not preempted. Hey, wait a minute. Why? Well, that is business and business. It is OK for business and business, State law. But when it comes to consumers and manufacturers, then it is not.

Mr. Speaker, I thought that we should provide that if we want to do it for Federal courts and Federal law, that is one thing. But for this reason alone, the preemption of all State product liability laws, we are telling our State legislatures out there, our State courts that they do not know what is going on, they do not have the right to decide what laws should affect cases, not only in the State of Missouri, but the State of Wisconsin, the State of New York. No, we have to follow the Federal law in the State court. Never has that been done. For that reason alone, I urge the President to veto this legislation.

One other matter that I like to bring out that has not been discussed here, utilities out here, gas companies and others. There is strict liability on what they do. That means if they do it, and we prove that they did it, we do not have to prove gross negligence or anything else. Not anymore. Not under this bill. They have damage caps. We still have the strict liability. But damage caps are on it.

To give a little example, and these things happen not regularly but every once in a while throughout this whole United States. We have natural gas, which I use in my home, both up here and out in Hannibal, used in my office when I was practicing law back in Hannibal for heating, et cetera. Once in a while, there are gas leaks and there are explosions and people get hurt. Ok, so we get economic damages, we get our out-of-pocket.

But what happens when the utility has been notified, that gas company has been notified well in advance not one time, not two times, not three times, but at least a dozen times over a period of 2 weeks and they do nothing and you have an explosion and people are killed and people are maimed for life and burned, disfigured. Two hundred fifty thousand dollars on punitive damages, that is it.

That is what we are telling the consumers out there. That is all they can get. That is it. We have to follow this. We cannot go to State court. We have to do it under Federal law. We have to do it under this law. Veto the bill, Mr. President.

Mr. LINDER. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. Cox].

Mr. COX of California. Mr. Speaker, not long ago we read about an arson that was committed at the DuPont Plaza Hotel, Puerto Rico. The place burned down, but it was an arson, so naturally the lawyers descended on the scene, and they did not sue the arsonist. They sued every manufacturer of anything that was contained in the hotel. They sued the manufacturer of the drapes and the beddings. They sued the manufacturer even of the casino dice.

The kind of feeding frenzy that occurs at the filing of these lawsuits and the attempt to get everyone to settle is really best described as extortion. The people that are getting extorted in the first instance of course are all the people who are being made to pay for something that they did not do. But in the end, the people who are being made to pay are all of our constituents; in fact, all of us.

Mr. Speaker, we pay more for things like our home insurance. We pay more for things like a new computer or even or common stepladder. We pay more certainly for our car insurance. All of these things are taxed by an unfair tort system that right now, because of excesses, not because of the substance of justice that we all want to preserve but because of excesses, has turned our civil justice system into a great wheel or fortune lottery.

In 1987, my home State of California was home to 107,000 lawyers. Now, we had some rough years for our State's economy thereafter, but over the next 5 years, while other things were suffering, the legal industry did quite nicely, thank you. California gained 28,000 lawyers on top of the 107,000 for an increase of more than 25 percent. Today, there are more than 143,000 lawyers in California. Few, if any industries in California, in our State, can claim that kind of growth rate.

As fast as the number of lawyers has been growing, legal fees, the revenues of the legal industry, have been growing faster still. In 1987, the California legal industry, lawyers' fees, took in $10.4 billion, or should we say took out from the economy $10.4 billion. But over the next 5 years, again when the economy was not doing that well, this amount grew to $16.3 billion. Those were the revenues of the legal industry, an increase of 57 percent.

That $16.3 billion in revenues for the California legal industry is more than we spend on auto repairs, on funerals, on tanning salons, on 1-hour photo finishers, video tape rentals, detectives and armored car guards, bug exterminators, laundry, day care, shoe repairs, septic tank cleaning combined. Combine all of those industries in California, you do not get as much as we shell out for lawyers. There is an excess and we are trying to scale it back.

Mr. Speaker, this is not loser pays. This is not some of the things that we watch our competitor nations around the world use to rein in these excesses. It is a very simple reform. It applies only to products and to charities, and it does not, I would like to make this very plain, cap punitive damages. It does not.

Everybody is complaining oh, my gosh, there is a $250,000 cap on punitive damages, but there is not at all. The cap on punitive damages in this bill is infinity. That is why it is so bipartisan. That is why everyone is willing to sponsor it. Technically, what we have said is that you can get as punitive damages the greater of $250,000 or twice compensatory damages. Compensatory damages is a lawyer's word for things like pain and suffering, emotional distress, injured feelings, and there is no limit whatever on that. Infinity is the limit on such damages, so they claim the sky is the limit there and multiply it by two and that is the limit on punitive damages in this bill.

This modest reform is supported, therefore, by Democrats and Republicans in both Chambers. It is as modest as we can get, and those who stand up and oppose it, I say, want no reform at all.

□ 1100

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from West Virginia [Mr. Wise].

Mr. WISE. Mr. Speaker, I am trying to figure out why it is that the State of West Virginia cannot make its own decision in this regard as it has done since it became a State in 1863. I am trying to figure out why it is the State of California or Illinois or Texas or, whenever, Alaska cannot make its own decisions about how ti protects its own citizens as they each have done since they came into the Union.

I am trying to figure out why it is that in an era when we seem to be moving in and this Congress seems to be wanting to be moving toward deregulation, toward, quote, taking regulation off the backs of people, unquote, in which the Government tries to safeguard the population in safety and workplace safety and consumer product safety and other areas, at a time when regulation is being cut back because we want to encourage the individual, why it is then we are not letting the individual retain the individual's ability to protect themselves and to protect themselves against products that are created unsafe, that are used in the workplace or by consumers.

Regulation is going down at the same time you are going to tell individuals their ability to protect themselves is going down as well. Who is it that thinks you can stand up to a major international corporation and one person if you do not have the aspect that you are going to pay for what you do. Oh, I know the arguments that are going to be made. The argument is that, well, for compensable injuries where you can show the medical damages, no limit on that, and for noneconomic damages, that is pain and suffering, that is right, that means that you are in a wheelchair for the rest of your life and somebody is trying to put a dollar value on that. Good luck. However, they even limit that by saying joint and several liability, it would not be applied there. That means that if you have several defendants and one of them goes bankrupt, you cannot recover the full amount from the others. That would be eliminated.

I am trying to figure out why it is the State of West Virginia is not able to enact the laws to protect its own citizens. It seems to me, if there is a problem here, frivolous lawsuits are being filed, then it would seem to me the States would be the first ones to leave.

The gentleman from California who just spoke, I believe it was California that just defeated by referendum several so-called tort reform measures that go exactly to what is trying to be accomplished in this bill. You have got frivolous lawsuits, then, fine, there are sanctions against lawyers that can be taken. You want to stiffen those sanctions, that is fine; the States do that. In our State we elect our judges. Are judges giving away unfair, unruly verdicts? Fine, deal with those judges. Is there a problem that can be fixed by the legislature? Legislatures can each pass one of these pieces of legislation. Fine, deal with the legislature, and our people have an ability to get to that quickly at a time when the States are being the ones that are seen as closest to the people, and more power should be devolved upon the States. This seems to go in the opposite direction, does it not? It seems to say we do not trust the States to protect their own people. That is what I think is most offensive about this so-called product liability. I urge defeat of the rule and the bill.

Mr. LINDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. Hyde], the chairman of the Committee on the Judiciary.

Mr. HDYE. Mr. Speaker, I thank the gentleman for yielding me this time

Mr. Speaker, I would like to say to my good friend from West Virginia and a more aptly named human being I do not know, Mr. WISE, that back in 1789 that argument made sense. Each colony could take care of its own. But today we have a mobile society, and over 70 percent of items that are manufactured get into interstate commerce and a patchwork of 50 different sets of laws having to do with product liability gives insurance companies nightmares trying to predict what rates to charge. It makes it very difficult to comply with all of the different patchwork laws. So because interstate commerce is so intimately involved in modern-day manufacturing and shipping, it was felt useful to have some standard to which manufacturers could repair, to which insurance companies who cover these incidents could repair, and even plaintiff's lawyers could repair. So that is really the reason. It is a concession to modernity.

Now, the gentleman who spoke before from Hannibal, who unfortunately had to leave the floor for one reason or another, or chose to, I would like to have informed him that his graphic example of the natural gas explosion is specifically excluded in the bill, and you know one of the problems I learned early in life is people know so many things that are not so, and reading the bill is a great idea. And if he had done that, he would have known that there is an exclusion. There are many exclusions, electricity, water, delivered by utility, natural gas or steam, water delivery; they are specifically excluded. So his example of the explosion that killed so many people and injured so many people, the sky would be the limit, would be a plaintiff's lawyers' dream.

So I just wanted him to know that.

Mr. FROST. Mr. Speaker, I yield 3½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me this time and the member of the Committee on Rules and my colleagues from Texas.

Mr. Speaker, I think it is misconstruing the concern that is being raised today of the people, those of us who have risen to oppose the rule, as not having a general sense and appreciation for the concerns of small businesses and the concerns of those who would want to have an equal balance and fairness between litigants in the courtroom.

What disturbs me is the approach that this bill has taken. First of all, it refutes a basic principle that the Republicans have been espousing now for more than a year under the new Republican leadership, leave it to the States. My State, the State of Texas, has very adequately and very ably handled tort reform. It was a consensus effort between consumers and businesses alike, and they are now functioning under new State tort reform law signed by the Governor of the State of Texas. Yet this Congress now wants to tell my State that any law we pass today will preempt the consensus built over years and months of negotiation. That troubles me.

Then we find ourselves faced with an unfair attack on consumers, particularly those who are not as economically endowed as the chief of one of our corporate 500 companies or maybe one who is maybe independently wealthy. And so if you happen to be retired, or a housewife, or a student, then you do not have a basis for a reward that is attributable and equal to the injury that you have suffered because your economic losses would be low. That is unfair to consumers.

We find ourselves now passing legislation that will alter the standard of proof. For years this constitutional Nation has acted under a preponderance of the evidence in civil matters. Now we are asking consumers with little means to be able to go into court against major corporations and businesses with massive resources and now be required to prove clear and convincing evidence which would show a conscious, flagrant indifference to the rights and safety of those harmed. How unfair.

First of all, I think many of my colleagues will admit when you go into a civil court on any major tort litigation, you wind up being there for at least between 6 to 10 years. It may be even longer. There is no rush to settlement on these cases, and so you have got the injured family, the family of a deceased loved one, tragically having to mourn their loss and then deal with an elongated process in the courts. And now this legislation would require the plaintiff to prove clear and convincing, to climb over this hill beyond what is going on in other cases in civil suits.

Just take, for example, this provision that talks about older products, the older products provision that prohibits a course of action if the product is 15 years old. What about the playground equipment that a child may play on? Fifteen years is not very long. What if it is 15½ years? Does that severely injured child not have a remedy?

What about the provision 82 Republicans supported that would put foreign manufacturers under U.S. laws? We do not have that anymore. What about the provision that we tried to amend this particular bill to protect products used by women, affecting reproductive organs, causing fetal malfunction? We do not have that. This is not a good piece of legislation.

Let us leave it to the States. Let us resolve to find a way to be fair to the consumers of America.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, the ostensible justification for moving this legislation today is that our criminal justice system is overcrowded, sluggish, excessively costly. We have to do something about it. And if this bill did anything about it, I think that we could give some praise to the Republican Party.

However, what they have done here is avoid the real litigation explosion in our country. Product liability cases constitute only about 2 percent of all lawsuits filed in State courts and only about 3 percent of all civil jury trials. By comparison, 48 percent of the civil lawsuits filed in State courts and 18 percent of all the cases tried are disputes between businesses. These business-versus-business lawsuits accounted for 63 percent of the lawsuits since 1989 which resulted in a verdict or a settlement exceeding $50 million.

So what has the conference report done on these lawsuits? Absolutely nothing. The Committee on Rules would not even allow me to bring an amendment out here on the floor on this blight upon the law system of our country. The conference report actually contains provisions that explicitly exempt all civil actions brought for commercial lawsuits from any of the harsh new procedural substantive provisions in the bill.

Let us just consider some of the cases they do not want to deal with. McDonald's brought a temporary restraining order to prevent Burger King from airing ads comparing the Big Mac unfavorably with the Whopper. Walt Disney sued the Motion Picture Academy to force a public apology for an unflattering portrayal of Snow White at the Academy Awards ceremony. Advil sued Tylenol for such weighty legal issues as whether Tylenol was as effective as Advil for headache pain and whether Tylenol is unbeatable for a headache. Scott Paper sued Procter & Gamble, claiming it had allegedly misled consumers about the absorptive power of Bounty paper towels by claiming Bounty was the Quicker Picker-Upper.

Now, did they go after these cases in this bill? Absolutely not. Business suing business frivolously, and area after area? Which case do the Republicans want to take on? It is where an individual has been harmed by a product, where the lawnmower, where some consumer product has exploded in the face of a family member. Those are the people they are going to take on. Those are the people they are going to tell cannot sue any longer.

This is a disgrace. The real abuse in the courts are businesses suing businesses. That is 90 percent of the problem that we have got, frivolous case after frivolous case being brought. It is time that we brought the truth to these issues and rejected this conference report.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to take enough time to point out to the gentleman from Massachusetts that he did not bring his amendment to the Committee on Rules and we do not amend conference reports.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, clearly this bill is anticonsumer. It is antiaverage person because indeed it is putting the greater burden on those who trust and buy products. It is saying to those persons that we prefer to protect the businesses that make and purport to make it safe for your consumption.

□ 1115

This is not a bill that is talking about frivolous cases. It is not frivolous, indeed, when there is an implant that destroys the life of a woman. It is not frivolous indeed when a mother buys a baby garment and that garment harms that child. These are not frivolous cases; these are cases about life and death.

So why would you even claim that when an individual is injured or is maimed or killed, that is frivolous? How is human life frivolous? It is frivolous to say that a mother or child is less valuable than with someone who works. To compute the $250,000 cap based on that, and that the award is based on their economic value, is to deny the individual worth of all individuals.

Mr. Speaker, this is a bad bill. Americans know this is a bad bill. This is a bill to award big business, to remove their liability for all the consumers. I urge the defeat of this rule and the defeat of the bill.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, strangely, this piece of legislation rejects the notion that I have heard so often voiced from this microphone about the concept of personal responsibility. It is OK to demand personal responsibility of the most disadvantaged, of the poorest people, of the most vulnerable people in our society. But, for some reason, it is the position of those who support this conference report that it is inappropriate to demand full personal responsibility of those who kill and maim and destroy the lives of their neighbors.

In many cases, the cases that generate the largest verdicts, that get talked about the most, result from those who place profits over safety, time and time again, when they had one report after another coming in from across America that people were being damaged, that they were being hurt, being killed by their products, and those reports were ignored and the lives of other Americans were endangered as a result. But that concept of personal responsibility is totally and completely disregarded by those who support this bill.

The second concept that has been talked about so much, as if it were a new invention, is that of States rights. What is wrong with the jurisdiction and the legislatures of these 50 United States addressing this issue? Why is it that from this microphone there is only support for State wrongs, but never support for States rights?

I say that the States ought to be able to address these issues themselves. I had a small business person in my office last week speaking generally in favor of this piece of legislation. Yet every one of the reforms that he thought were important to be implemented in this legislation had already been implemented by the Texas legislature.

Why not have these decisions made on Congress Avenue in Austin, TX, instead of up here on the Potomac in Washington? What is going to be the dividing line? If we are going to have the Congress of the United States interfere in States rights in this issue, why not in every other part of our life?

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of the rule and of the conference report. Our out-of-control legal system is ruining the productivity of American manufacturing. Because the price of all of these crazy lawsuits and big judgments and product liability insurance premiums are all folded into our products that we try to sell, both at home and abroad, we end up being at a significant competitive disadvantage to our foreign competition, and specifically the British and the Germans and the Japanese.

This legislation is a significant step forward to bringing American manufacturing more competitive. When that happens, that is going to mean more jobs for American people. So we are not talking about protecting big business here, we are talking about creating jobs at home, rather than having our legal system destroy jobs at home and create jobs abroad.

Second, the original bill that passed the House contained medical malpractice insurance reform. It is no longer necessary to consider that issue in the context of this legislation, because the House took care of that issue last night when we passed the insurance reform bill with a medical malpractice reform component in it. So splitting off medical malpractice into other legislation has made this legislation easier to pass through reaching an agreement in the conference committee.

I want to commend the gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary and chairman of the conference committee, for crafting a very good bill that will be in the public interest. I hope it passes by more than a two-thirds vote today, because that will send the White House a needed message to sign this legislation.

Mr. FROST. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I want to thank the gentleman from Texas [Mr. FROST] for his management of the rule in this matter, and bring to the attention of the Members the one reason that this rule should be rejected. That is because the provision that I put in the bill that would have helped American consumers by making it easier to obtain legal process and discovery against foreign manufacturers was quietly dropped in conference, at the insistence of foreign lobbyists. It was dropped, even though we then instructed the conferees to retain this provision in conference, overwhelmingly bipartisan.

So join me in rejecting the rule to have this amendment that would make foreign manufacturers liable like domestic manufacturers are for defective products.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I just rise in support of the rule. It is a long time in coming on this product liability. I know many of us were on what is called the old subcommittee on competitiveness in which we had an opportunity to have hearings on this, and this has been part of the Republican contract for America. But, more importantly, it has been an agenda which both Democrats and Republicans have had bipartisan support for. This support goes back to the 103d Congress where I had the opportunity to be the ranking member with the gentlewoman from Illinois [Mrs. COLLINS]. She and I passed a product liability bill out of our subcommittee which had bipartisan support. So I am in strong support of this rule, and I hope the bill will pass overwhelmingly.

Mr. FROST. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. GUNDERSON). The gentleman from Texas is recognized for 1½ minutes.

Mr. FROST. Mr. Speaker, I urge a "no" vote on the previous question.

If the previous question is defeated I intend to offer an amendment to the rule which would provide that the House will have adopted a concurrent resolution directing the Clerk to correct the enrollment of this conference report by adding the Conyers foreign manufacturers amendment, section 107 of the House passed bill.

This amendment would level the playing field by subjecting foreign corporations to the same jurisdiction and discovery rules that their U.S. counterparts face.

The text of my amendment as follows:

AMENDMENT TO RULE ON PRODUCTS LIABILITY CONFERENCE REPORT

At the end of the resolution, add the following:

"SECTION . Upon the adoption of this resolution, the House shall be considered to have adopted a concurrent resolution directing the Clerk of the House to correct the enrollment of H.R. 956 and consisting of the text contained in the next section of this resolution.

"SECTION . *Resolved by the House of Representatives (the Senate concurring)*, That in the enrollment of the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

At the appropriate place, add the following:

SEC. . FOREIGN PRODUCTS.

(a) GENERAL RULE.—In any product liability action for injury that was sustained in the United States and that relates to the purchase or use of a product manufactured outside the United States by a foreign manufacturer, the Federal court in which such action is brought shall have jurisdiction over such manufacturer if the manufacturer knew or reasonably should have known that the product would be imported for sale or use in the United States.

(b) ADMISSION.—If in any product liability action a foreign manufacturer of the product involved in such action fails to furnish any testimony, document, or other thing upon a duly issued discovery order by the court in such action, such failure shall be deemed an admission of any fact with respect to which the discovery order relates.

(c) PROCESS.—Process in an action described in subsection (a) may be served wherever the foreign manufacturer is located, has an agent, or transacts business.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just would like to point out for those coming to the floor to vote on this issue that nobody criticized the rule. It is a normal rule for a conference report. The debate throughout the whole last hour has been on the bill. We will have an opportunity to debate that in the next hour and vote on that.

I urge my colleagues to come to the floor and vote for the previous question, vote for the rule, and move on to the bill.

Mr. Speaker, I yield back the balance of time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 237, nays 173, not voting 21, as follows:

[Roll No. 108]

YEAS—237

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)
Zeliff
Zimmer

NAYS—173

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Durbin
Edwards
Engel
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gibbons
Gonzalez
Green
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—21

Bryant (TX)
Collins (IL)
Coyne
de la Garza
Eshoo
Fields (TX)
Ford
Fowler
Gephardt
Goodling
Gutierrez
Hayes
McNulty
Serrano
Smith (TX)
Stokes
Torres
Velazquez
Weldon (PA)
Williams
Young (AK)

☐ 1142

Mrs. KENNELLY, and Messrs. PETERSON of Florida, BARRETT of Wisconsin, and RANGEL changed their vote from "yea" to "nay."

Mr. GORDON changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

☐ 1145

The SPEAKER pro tempore (Mr. GUNDERSON). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1972

Mrs. MINK of Hawaii. I ask unanimous consent that my name be removed as a cosponsor of the bill H.R. 1972.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Hawaii?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2754

Mr. QUILLEN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill H.R. 2754.

The SPEAKER pro tempore (Mr. GUNDERSON). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question de novo of the Speaker's approval of the Journal.

The question is on the Speaker's approval of the Journal of the last day's proceedings.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 323, noes 83, answered "present" 1, not voting 24, as follows:

[Roll No. 109]

AYES—323

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLauro
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fields (LA)
Flake
Flanagan
Foglietta
Foley
Forbes
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martinez
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McKinney
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Petri
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torricelli
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wynn
Young (FL)
Zeliff

NOES—83

Abercrombie
Baldacci
Becerra
Bonior
Borski
Brown (CA)
Brown (FL)
Clay
Clayton
Coleman
Collins (MI)
DeFazio
Deutsch
Dingell
Durbin
Edwards
Engel
Fazio
Filner
Frost
Gephardt
Gibbons
Gillmor
Green
Gutknecht
Hall (OH)
Hastings (FL)
Hefley
Hilliard
Hinchey
Jacobs
Johnson, E. B.
Johnston
Kennedy (RI)
Kildee
LaFalce
Levin
Lewis (GA)
Markey
Matsui
McDermott
McHale
Meek
Menendez
Miller (CA)
Mink
Nadler
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Peterson (MN)
Pickett
Pombo
Richardson
Rush
Sabo
Sawyer
Schroeder
Scott
Skaggs
Slaughter
Spratt
Stark
Studds
Taylor (MS)
Thompson
Thurman
Torkildsen
Towns
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Wise
Yates
Zimmer

ANSWERED "PRESENT"—1

Harman

NOT VOTING—24

Bryant (TX)
Collins (IL)
de la Garza
Doggett
Eshoo
Fields (TX)
Ford
Fowler
Goodling
Gutierrez
Hayes
Kolbe
McNulty
Pelosi
Sanders
Seastrand
Serrano
Smith (TX)
Stokes
Torres
Velazquez
Weldon (PA)
Williams
Young (AK)

□ 1159

Mr. DINGELL changed his vote from "aye" to "no."

Mr. BARCIA changed his vote from "no" to "aye."

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, this morning I was attending the funeral of a close friend. Regrettably, I missed rollcall vote 108, House Resolution 394, on ordering the previous question. I also missed rollcall vote 109 on approving the Journal. Had I been present I would have voted "yea" on both.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 159

Mr. GOSS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Joint Resolution 159.

The SPEAKER pro tempore (Mr. GUNDERSON). Is there objection to the request of the gentleman from Florida?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 159, TAX LIMITATION CONSTITUTIONAL AMENDMENT

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–513) on the resolution (H. Res. 395) providing for consideration of the joint resolution (H.J. Res. 159) proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 842, TRUTH IN BUDGETING ACT

Mr. GOSS, from the Committee on Rules, submitted a privileged report

(Rept. No. 104-514) on the resolution (H. Res. 396) providing for consideration of the bill (H.R. 842) to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund, which was referred to the House Calendar and ordered to be printed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1834

Ms. JOHNSON of Connecticut. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1834.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

CONFERENCE REPORT ON H.R. 956, COMMONSENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996

Mr. HYDE. Mr. Speaker, pursuant to House Resolution 394, I call up the conference report on the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to clause 2(c) of rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of March 14, 1996, at page 4784.)

The SPEAKER pro tempore. The gentleman from Illinois [Mr. HYDE] and the gentleman from Michigan [Mr. CONYERS] each will control 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 956.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield 15 minutes of my time to the gentleman from Virginia [Mr. BLILEY], chairman of the Committee on Commerce, and I ask unanimous consent that he may be permitted to control that 15 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield 15 minutes to the gentleman from Michigan [Mr. DINGELL], former ranking member of the Committee on Commerce, the Dean of the House, and I ask unanimous consent that he be permitted to yield time in blocks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HYDE. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise in support of the conference report on H.R. 956, the Commonsense Product Liability Legal Reform Act of 1996. This legislation is an important first step in the longstanding congressional effort to reform our legal system. Although the reforms contained in the conference report do not go as far as I and many in this Chamber would have liked, this legislation takes some important first steps in restraining the excesses of the current out-of-control legal system. It is a solid downpayment on long-needed reform.

When the House passed H.R. 956, the Commonsense Product Liability Legal Reform Act of 1995, in March of last year, we did so on a strong bipartisan vote of 265 to 161. That vote sent a message that the new Republican majority in Congress was resolute in its commitment to bring about broad-based legal reform and an end to lawsuit abuse. It has taken us more than a year to complete this process, but we now have before us a conference agreement which, while not as ambitious as the House bill, will for the first time in the history of Congress take aim at the inequities and inefficiencies of our legal system.

This is not only a first step in the direction we need to head, but it is a step which we can realistically enact this year. The Senate has already approved this measure by a vote of 59 to 40. Despite the fact that the agreement does not go far as reforms that the House voted for—notably extending relief to all civil actions—we must not lose sight of the fact that product liability reform is an historic accomplishment. It will unleash an American job creation boom and will translate into real growth for our economy.

I would like to take this opportunity to highlight several key provisions contained in the conference report.

STATUTE OF REPOSE

One very important part of this conference agreement imposes a uniform statute of repose of 15 years for cases involving durable goods. A statute of repose specifies the period of time after manufacture of a product during which a lawsuit relating to the product may be brought. The statute of repose addresses the unfairness that results when manufacturers are sued on the basis of products that left their control many years ago. This allows U.S. manufacturers to compete with foreign companies that have entered the marketplace in recent years and face no liability exposure for very old products.

Section 101(7) of the conference report defines the term durable good as meaning first, "any product or any component of any such product which has a normal life expectancy of three or more years" or second, any product which "is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986 and which is: (A) used in a trade or business; (B) held for the production of income; or (C) sold or donated to a governmental or private entity for the production of goods, training, demonstration or any other similar purpose." Thus, the agreement describes two distinct categories of products which will be covered by the statute of repose provision.

Under the first clause of the definition, a manufacturer of a product such as a machine tool, farm equipment, a bicycle or a ladder, a toaster or gas furnace, an elevator, or building materials such as plate glass, wall coatings, or roofing tiles could not be sued based on harm allegedly caused by that product more than 15 years after the product was first delivered. Thus, a product which has a normal life expectancy of 3 or more years need not meet any other criteria to qualify as a durable good.

Again, the second clause of section 101(7) covers products that are subject to allowance for depreciation under the Internal Revenue Code and used in a trade or business, held for the production of income, or sold or donated to a governmental or private entity for the production of goods, training, or similar purposes. These types of products would also be covered by the 15-year statute of repose adopted in the conference agreement.

Some have erroneously stated that the statute of repose in the conference report is confined to goods used in the workplace. That is not correct. The language of the conference agreement is clearly not limited in this manner, nor should it be.

In his eloquent statement in support of the legislation, Senator GORTON pointed out two examples—step ladders and football helmets—where a large proportion of the price of the product is accounted for by the cost of product liability actions and insurance. Senator GORTON's use of these examples underscores the irrationality of any workplace limitation on the statute of repose. A workplace limitation would make unjustified and unfair distinctions between products, and could produce wildly inconsistent results for manufacturers who may have no control over where, and under what circumstances, their products may be used.

For example, if the statute of repose were limited in such a manner, a manufacturer of a ladder used in the workplace would be protected 15 years after the ladder is sold; but if that same ladder is used in the home the statute of repose would not apply. A football helmet used in professional sports would be covered by the statute of repose; but one used in other settings would not be. There are numerous other examples of arbitrary distinctions and unequal treatment that would result from a workplace limitation. A manufacturer of a mower used by a farmer would be protected from lawsuits after 15 years, while one whose same product is used by a weekend gardener would not be. The conference report rightly eliminates these types of arbitrary and unfair distinctions.

The statute of repose provision contains certain exceptions. It does not, for example, preempt the 18-year statute of repose contained in the General Aviation Revitalization Act of 1994. Neither does it apply in a case involving a vehicle used primarily for hire, where the existing State statute of repose, if any, would continue to apply.

The conference agreement provisions will also not apply in the case where the manufacturer or seller has expressly warranted the safety or life expectancy of the product to be longer than 15 years. In those cases, the private agreement of the parties will control.

The statute of repose also includes a toxic harm exception, which has been the source of a great deal of confusion and uncertainty. This exception was included in the Senate-passed bill to address a concern which had been raised about products that cause physical injuries that are latent, that is, injuries that do not manifest themselves for many years after a person is first exposed to a product.

Because the term "toxic harm" was not defined in the Senate bill and is not defined in the conference report, I want to spend a few moments clarifying the congressional intent with respect to the scope of this provision. Numerous Federal statutes and regulations contain definitions of the word "toxic," and some of those definitions differ widely from others. Some of those definitions, if relied upon to interpret the "toxic harm" exception in H.R. 956, would broadly except from the statute of repose products where the alleged harm ranges from harm caused by excessive noise, cold, vibration, or repetitive motion—such as repetitive stress injury—to those in which the alleged harm is caused by chemical or other elements, to products like asbestos, where the injury to a person caused by the product may be latent for many years. The conferees did not adopt or incorporate these wide-ranging definitions.

The House-passed bill contained a provision which addressed the problem the Senate bill sought to address, but which used different words. The House provision excluded from the statute of repose products that cause latent harm, specifically, a "physical illness the evidence of which does not ordinarily appear less than 15 years after the first exposure to the product." Although the words used were different, the intent of the House and Senate provisions was the same: to except from the statute's time bar actions involving products alleged to cause latent illness.

The House, therefore, receded to the Senate bill's use of the "toxic harm" language, because it too is intended to provide an exception only for products that cause physical illness, evidence of which cannot be detected until long after exposure to the product, such as, harm that cannot be detected within a 15-year period.

Finally, it is important to note that the statute of repose contained in the conference agreement only preempts State statutes of repose which are longer than 15 years. It also does not limit a State statute of repose from extending beyond durable goods to other types of products. Thus, for example, a State statute of repose, which limits suits to those brought within 12 years of delivery of the product, and which covers all goods, would not be affected by the conference agreement.

PUNITIVE DAMAGES

The conference agreement generally adopts the Senate's language regarding a limitation on punitive damages. Punitive damages are intended for cases where the defendant's conduct has been particularly harmful—where the conduct involved gross negligence or intentional conduct. They should be awarded only in the most serious cases.

Punitive damages are generally limited to two times compensatory damages or $250,000 whichever is greater. This limitation will be imposed by the court in the event that a jury—which is not to be told of the cap—awards a higher amount. In the event that the cap operates to limit an otherwise higher jury award, the conference agreement allows the court to consider whether that cap is appropriate. If after reviewing the facts of the case the court finds that the amount of punitive damages allowed under the cap is inadequate, the court may increase the award, up to the amount of the initial jury punitive damage award level. In no event may the punitive damage award exceed the amount of the original jury verdict.

The limitation on the court's ability to award punitive damages in excess of the cap in no way suggests that the court will not have the normal discretion to review and decrease punitive damage awards in the proper circumstances. This power will continue to exist whether or not the initial jury award exceeds the limitation imposed under the conference agreement.

A special rule applies in the case of defendants with a net worth of $500,000 or less, or entities employing 25 or fewer full-time employees. For cases involving those defendants, the cap on punitive damages will be two times compensatory damages or $250,000, whichever is greater. For cases involving those defendants, the court may not increase the award beyond the statutory limit.

The limitations imposed by the section are to be applied defendant by defendant. Thus, in a case involving two or more defendants, the plaintiff could potentially obtain the maximum amount of punitive damages from each defendant. For purposes of calculating the limit for each defendant, compensatory damages will include only the percentage of damages for which that defendant is found liable.

The conference agreement permits a court to award additional damage under section 108(a)(3), but only in cases of egregious conduct. Egregious conduct in this context means conduct where the defendant against which the punitive damages are awarded specifically intended to cause the harm that is the subject of the action or acted with actual malice toward the claimant. Unless the defendant's conduct meets this standard, the provisions of section 108(a)(3) will not apply, and the court will have no authority to exceed the amount of punitive damages established in section 108(a)(1).

The provisions of the conference agreement in section 108(a)(3) which allow the court to exceed limitations on punitive damages are intended by the conferees to be treated as severable in the event a court determines that judges lack constitutional authority to award additional amounts of punitive damages. Should a court so find, the continued operation of the limitations otherwise imposed by section 108 will not be affected.

Section 108 does not preempt State laws which more narrowly limit the amount of punitive damages that may be awarded. Thus, if a State imposes a dollar limit on punitive damages which is less than the cap set forth in section 108(a)(1), the State law will apply, and the conference agreement's provision allowing for the award of additional damages by the court will not apply. Similarly, if the State law contains a provision for additur, but restricts the amount of additur permitted to less than the initial jury award, the provisions of the State law will prevail.

Thus, the punitive damage reforms of H.R. 956 are minimum standards and limitations designed to provide some measure of rationality; they would not displace the law of States with more restrictive punitive damage regimes. For example, many States have punitive damage limitations that do not allow the judge to override the statutory maximum. Nothing in the conference report displaces the laws of such States. Similarly, States are free to require higher standards of proof and to impose substantive requirements in addition to those in the conference report.

The preemptive effect of the punitive damage reforms turns on three separate provisions of the conference report. First, the Federal law "supersedes State law only to the extent that State law applies to an issue covered by the Act." Second, the conference report provides that "punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant if the claimant establishes by clear and convincing evidence that conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action." Third, the conference report provides that the Act "does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages."

Mr. Speaker, the express preservation of State laws that further limit the award of punitive damages was part of the bill approved by the House in March, but it was not part of the amendment passed by the Senate. During the Conference, I led the House conferees in insisting that this provision be included. The conference report adopts the House preemption language—language that makes very clear the preemptive effect of the punitive damage reforms.

Taken together with the other provisions, this provision conclusively demonstrates that the Act would not expand liability for punitive damages, or increase the permissible amount of punitive damages, in any State. If State law imposes substantive or procedural requirements concerning the circumstances under which punitive damages may be awarded that are more stringent than the Federal law, the State law controls. Similarly, if the application of State law limits on the amount of punitive damages results in an award of punitive damages that is less than that permitted under the Federal law, the State law controls. Let me explain, Mr. Speaker, why this is the only interpretation that is consistent with the plain language of the conference report, as well as the intent of its drafters.

Consider, for example, more stringent State standards for the award of punitive damages. Everyone agrees that the act would not make punitive damages available in States, such as Washington, that do not currently allow the award of punitive damages. In such States, no award of punitive damages is permitted by applicable State law and the punitive damage provisions therefore do not come into play.

Likewise, the act would not lower the standards for awarding punitive damages in States such as Colorado—which requires proof beyond a reasonable doubt—or Maryland—which requires proof of actual malice. If a claimant meets the standard of proof in the Federal law but not the higher standard imposed by State law, no award of punitive damages is permitted by applicable state law. Again, the punitive damage provisions of the Federal statute simply do not apply to cases in which punitive damages would not otherwise be available under State law.

In addition, State laws that impose a higher standard of proof than the Federal act, or that provide for additional substantive requirements, further limit awards of punitive damages and therefore are not preempted by the act, which does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages. Any State law that would make punitive damages unavailable even if the Federal requirements are met, or that would result in an award of punitive damages lower than the Federal limitations, is one that further limits the award of punitive damages. Such laws expressly are not preempted.

It is also important to recognize, Mr. Speaker, that the act would not affect State caps on punitive damages. In most cases, the act would limit punitive damages to the greater of $250,000 or two times compensatory damages. At the same time, many States have limited punitive damages by providing a maximum dollar amount, a multiplier, or some other statutory limitation on the amount of punitive damages. In many cases, application of these State limitations would result in a lower punitive damage award than would application of the Federal limitations. In such cases, these State laws would remain in effect.

For example, Virginia has enacted an absolute cap of $350,000 for punitive damages. Illinois limits punitive damages to three times economic damages. Application of these limitations to a punitive damage award results in the maximum amount of punitive damages permitted by applicable State law. Even if the Federal law would allow a higher award of punitive damages, therefore, the State law limitations would control. By contrast, if the Federal limitations resulted in a lower amount, the Federal limitations would control.

Lest there be any doubt on this subject, the conference report expressly provides that the act "does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages." This provision can only mean that if application of a State limitation would result in a lower award of punitive damages than the Federal rule, the further limit of the State law controls.

COMMERCIAL LOSS

The conference revisions to H.R. 956 are intended to clarify congressional intent concerning claims for commercial loss. Commercial loss, as defined in section 101(5), means any loss or damage to a product itself, loss relating to a dispute over its value, or consequential economic loss. As further stated in the definition, any claim for any of these three types of loss is to be governed by the Uniform Commercial Code or State law versions of its provisions, or by contract law. This definitional requirement that all actions for commercial loss be governed by commercial or contract law is accompanied by the affirmative mandate in section 102(a)(2) that any civil action brought for commercial loss shall be governed only by applicable commercial or contract law. Congressional intent is to codify the historical approach that tort theories are not applicable to such claims, and may not be employed with respect to them.

The reforms contained in H.R. 956 are aimed predominantly at correcting certain abuses and providing some reasonable uniformity in the tort law of products liability. Claims for commercial loss traditionally do not fall in the tort realm, but are dealt with in accordance with the contractual agreement created by the parties themselves, or by the UCC. This economic loss rule is typified by the opinions of the California supreme court in Seely versus White Motor Company, and the U.S. Supreme Court in East River Steamship Corporation versus Transamerica Delavel. Despite limited judicial inroads by other courts that have sought inappropriately to engraft tort branches onto the commercial tree, the bill excludes commercial loss from the scope of its tort-related provisions. In so excluding commercial loss, Congress did not seek to carve out a category of loss undeserving of the bill's protections, but rather to recognize that there is a massive, extant body of commercial and contract law historically more suited to such claims. In order to assure that such claims are not subject to tort system abuses that the bill aims to rectify, the conference chose affirmatively to mandate that commercial loss claims be governed exclusively by commercial or contract law. Such a rule of law is necessary to promote uniformity and predictability, in the interests of interstate commerce and due process. This position is entirely consistent with the House Judiciary Committee report (H. Rept. 104–64), and codifies the common law rule.

This bill does not intend to disrupt or affect application of the economic loss doctrine. Congress fully supports the traditional rule that disputes that essentially involve failed commercial expectations, damage or loss to a product itself, or diminished product value, are not recoverable in tort. Exclusion of commercial loss from the bill is intended to protect the body of extant contract and commercial law, and while assuring that tort or other inappropriate causes of action are not engrafted onto that body of law.

DEFINITION OF PRODUCT

The definition of a product in section 101(14) of the conference agreement is not intended to include improvements to real property. A manufacturer is able to test its product and control quality in a way that is impossible on a construction site where a variety of systems are being coordinated to create a more complex structure. Each construction project is built from an extremely complicated and unique set of drawings and specifications involving interrelated systems and many individual products specified by a design professional and over which the constructor has little control. Forty-seven States have recognized this distinction between a product and an improvement to real property by enacting specific statutes of repose for improvements to real property. It was the intent of the conferees that the definition of product in H.R. 956 honor this distinction.

Mr. Speaker, after nearly two decades of effort to fashion a comprehensive set of product liability reforms, we have crafted a bipartisan consensus package of bottom-up reforms. These reforms are desperately needed to restore some fairness to our present system and to remove roadblocks to our country's economic growth and job creation. I urge my colleagues to join me in supporting the conference report to accompany H.R. 956.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a continuation of the war on public safety. We have before us a conference measure which would not only cap and limit the amount of damages an injured victim can recover, but would, in instances, completely cut off our consumers' and workers' rights to seek compensation, even in uncontested cases of negligence.

Mr. Speaker, this bill, the conference measure before us, in every conceivable way has been designed to disadvantage American consumers and benefit negligent corporations. The question that hangs over this discussion is why.

Remember, the Conyers amendment to get tough with foreign corporations, which we voted twice, was dropped in conference, to require the foreign corporations to subject themselves to the discovery and jurisdiction in the U.S. courts as a condition of doing business in this country, just like everybody else. What is wrong with this, and why did the conference committee specifically refute the judgment of the majority of Members, Democratic and Republican, about this provision?

To make matters worse, Mr. Speaker, we are considering the bill at the same time the majority leader of the House, the gentleman from Texas, Mr. ARMEY, is proposing to completely eliminate safety agencies like the Consumer Product Safety Commission, while simultaneously slashing and eliminating safety regulations. Why?

If Members do not think that the threat of private lawsuits can help keep dangerous products off the market, which is what we hope to continue to do in our legal system, just ask the parents of children who have been killed by flammable pajamas, or the women who have been maimed by the Dalkon shield. Both these products are now off the market, thanks to the threat of punitive damages.

Mr. Speaker, this bill will not reduce litigation, but will stack jury awards in favor of those with large incomes or that can afford powerful legal counsel, and it would remove the most important deterrence that stopped dangerous products from coming into our homes and communities. So the bill will not reduce litigation, Mr. Speaker, because, contrary to the myth, product liability suits represent a minute portion of litigation in the United States.

Is there a law student in any school in America that is not aware that product liability suits represent less than 2 percent of the litigation carried on in the U.S. courts? Is there anybody that does not know that? This is not a partisan fact, it is not a factoid: Less than 2 percent of all the suits in the country involve product liability; and also, that product liability premiums are going down.

Punitive damages is also a myth that must be addressed among lawyers and Members of Congress. There are only an average of 14 awards a year in punitive damages. Please, 14 awards a year in punitive damages. When they are awarded, they prevent against deadly dangers in the marketplace, asbestos cases, dangerous intrauterine devices. The cap of $250,000 on punitive damages is tragic. No Fortune 500 company, or some not even Fortune 500, will be deterred from placing dangerous products on the market because of a quarter of a million dollar threat of punitive damages. It will be factored into the pricing.

Mr. Speaker, I think more and more of us are aware of that, and are going to oppose this measure for those reasons.

Mr. Speaker, in this measure before us, a conference bill, we limit the victim's rights to recover what are known as noneconomic damages when they are joint tort feasors. So if a dangerous product induces a loss of reproductive capacity in a housewife, say, she may likely be limited in her recovery where there are joint tort feasors; but if a corporate executive of some expense is injured by the same product or a different one and loses his large salary, the bill ensures that he will be fully compensated.

Mr. Speaker, I appeal to Members on the sense of fairness, this is a one-way street of Federalism: Return power to the States, as long as it disadvantages consumers and working people.

Finally, do not forget about the special interest favors lurking in the bill. Gun sellers and bar owners have obtained special language limiting their potential liability for careless sales to third parties. Did Members know that was there? It is. Electricity, water, and gas utilities corporations have obtained a provision overruling liability laws in States which hold them strictly liable for utility disasters. Do Members know that is in the bill?

Like ministers, Congressmen can preach through little babies' cries. It does not bother me a bit.

There are other hidden favors. Mothers Against Drunk Drivers are opposed to the bill. Special interests have poured $26 million into it to see these special things occur. Mr. Speaker, this bill is of special interests, by special interests, and for special interests. The administration has indicated that it will veto it. It is going nowhere, again, so vote against this extremely damaging, discriminatory piece of legislation.

The following is a more detailed description of the final conference report, outlining my concerns with the bill.

Section 1. Short Title and Table of Contents

Sec. 2. Findings and Purposes.—Sets forth a number of findings, most notably that our nation is experiencing a litigation explosion which harms our competitiveness. What the conference report fails to note is that the most recent study by the Bureau of Justice Statistics found that product liability cases represent a mere 1.67 percent of civil cases. And the clear trend of product liability filings as well as damages awarded has been decreasing: according to the National Association of Insurance Commissioners, product liability insurance premiums have dropped more than 28 percent between 1989 and 1994. The incidence of punitive damages in product liability cases is far rarer yet: a study by Professor Michael Rustad, termed by the U.S. Supreme Court as the "most exhaustive study" ever, found an average of only 14 such cases per year from 1965–1990. The conference report also fails to note that the bill will have very little effect on American competitiveness, since the total of all product liability costs represent a mere one cent per five dollar purchase (according to a comprehensive study completed by the Consumer Federation of America). The one provision in the House bill which would have helped U.S. firms compete—by making it easier for American consumers to sue negligent foreign manufacturers on the same terms as American firms—was quietly dropped in conference, even though the Conyers Amendment on this matter passed by a bipartisan vote of 285–166, and the House later approved a motion instructing conferees to retain the provision by a vote of 256–142.

Section 101. Definitions.—The term "product" is defined to include (i) electricity, water and gas utilities which are ordinarily subject to a strict liability in tort, and (ii) human tissue, organs, and blood products (both categories of items which were specifically excluded from the House-passed bill). The utility provision has the effect of granting utilities in 44 States the benefit of the various damage caps and limitations in the bill. No rationale has been proffered for treating utilities in these states more beneficially than others.

Sec. 102. Applicability and Preemption.—The conference report preempts product liability law in all 50 states and the District of Columbia to the extent they are inconsistent with the report. This represents one of the most significant shifts ever in power from the states to the federal government. Despite the fact that 47 states have altered their product liability laws in the last decade, states will no longer be free to promulgate laws which protect their citizens from dangerous and harmful products (although the bill generally does not preempt states from having more restrictive anti-consumer laws). The bill does not apply to limit the product liability rights of businesses suing manufacturers because it includes a "commercial loss" exception. In other words, the bill only applies to limit the rights of workers and individual citizens, not corporations.

Sec. 103. Seller and Lessor Liability.—Provides that a seller or lessor may only be sued for breach of an express warranty, failure to exercise reasonable care, or intentional wrongdoing, unless the court determines the victim would be unable to enforce a judgment against the manufacturer in any state court. This could force victims to bring actions in out-of-state venues against outside manufacturers, rather than being able to bring suit against their instate seller who could then bring the manufacturer into the action. This section could also have the effect of eliminating a seller's common law liability for failure to warn a consumer about its unsafe characteristics and eliminate the doctrine of implied product warranties by sellers. Although this section does not apply to "negligent entrustment" actions, such as those relating to careless sale of liquor or guns, the provision is drafted in a manner so that such liquor and gun sellers would benefit from the other sections of the bill (e.g., relating to limits on punitive damages and joint and several liability). The definition of "manufacturer" is so narrowly written that the entity who assembled the product may in some instances not be included within its scope (*e.g.*, the assembler used the preexisting design of another party). In such an event there may be no responsible party for the injured victim to sue—the seller is relieved of liability and there is no "manufacturer."

Sec. 104. Defense Based on Claimant's use of Alcohol or Drugs.—Alters the common law rule of contributory negligence (under which a victim's damages are limited to the extent that his or her own negligence contributed to the accident in question) by specifying that it shall be a complete defense to a product liability action if the victim was intoxicated and was more than 50% responsible for the accident. Since the section provides for no exceptions, it can result in a number of unfair results. For example manufacturers of devices designed to protect against using a product while intoxicated—such as breathalyzers now installed on some cars—would appear to be fully immunized from liability.

Sec. 105. Misuse or Alteration.—Defendants may have their liability lessened by the percentage of liability attributable to any alteration or misuse of the product. This would even apply in cases where a third party (other than an employer) was responsible for the alteration.

Sec. 106. Time Limitations of Liability.—Section 106(a) provides for a nationwide two-year statute of limitations, preempting longer statutes in 25 states and the District of Columbia. Section 106(b) creates a new federal "statute of repose," barring *any* product liability action for certain goods not brought within fifteen years of the date of delivery. The statute of repose applies not only to business goods (such as machinery), but to consumer goods (such as bicycles and microwaves) having a life expectancy of three or more years. The statute of repose provision would result in many occasions where a defective product leads to harm that is totally non-compensable. The one-sided nature of the statute of repose provision is highlighted by the fact that it does not preempt state laws providing for a shorter statute of repose.

Sec. 107. Alternative Dispute Resolution Procedures.—Parties are encouraged to pursue alternative dispute resolution under applicable state law, but there are no penalties for parties who refuse to participate.

Sec. 108. Punitive Damages.—Would arbitrarily limit the maximum amount of punitive damages which may be awarded to the greater of two times compensatory damages or $250,000 (although the judge would have very limited discretion to allow an increased award based on a variety of very narrow extenuating factors). Lawsuits against individuals whose net worth does not exceed $500,000 and businesses with less than 25 full-time employees would be subject to a reduced punitive damages cap equal to the *lesser* of $250,000 or two times compensatory damages. The bill would also limit the award of punitive damages to only those cases where the victim had established by "clear and convincing evidence" that the injury was the "proximate cause" of conduct specifically intended to cause harm manifesting a "conscious, flagrant indifference to the rights and safety of others." Finally, the section would permit any party to request a separate proceeding to determine whether punitive damages should be awarded and the extent of such damages. Again, the punitive damages cap is written so it only preempts states with no punitive damage caps or higher caps, it does not preempt states with lower caps. (This could create confusion to the extent a state's cap is more lenient in some respects, and more restrictive in other respects than the federal standard.)

These changes would in large part eliminate the role of punitive damages in the product liability system, thereby reducing the system's overall deterrent effect. For a civil case, these proposed evidentiary and substantive standards come close to "criminalizing" tort law for purposes of punitive damages: in other words, an injured victim would almost have to show that a manufacturer acted with "criminal intent"—and not gross negligence. Moreover, the legislation creates a standard of "conscious indifference" which appears to be so narrow as to be mutually exclusive. Permitting parties to bifurcate proceedings concerning the award of punitive damages will lead to far more costly and time consuming proceedings, generally working to the disadvantage of harmed victims. The proposed caps largely eliminate incentives for manufacturers to remove life-threatening products from the market place, and instead allow defendants to substitute "cost-benefit" analyses based on the estimated value of lives. The exception for "small businesses" would insulate more than ⅔ of American businesses from significant punitive damages (according to Census Bureau data), and create perverse new incentives to avoid expanding employment opportunities. The "additur" procedure allowing the court to increase punitive damages above the statutory cap may well be held to be an unconstitutional violation of the defendant's right to a jury trial in federal court. *See Dimick* v. *Schiedt*, 293 U.S. 474 (1935).

Sec. 109. Liability for Certain Claims Related to Death.—This incorporates provisions from the Senate bill so that the punitive damages cap does not apply to a particular action brought in Alabama.

Sec. 110. Joint and Several Liability—Would supersede traditional state common law by eliminating joint and several liability for non-economic damages, such as pain and suffering. (The justification for the common law rule is that it is better that a wrongdoer who can afford to do so pay more than its share, rather than an innocent victim obtain less than full recovery; also, a defendant who pays more than its share of damages can seek contribution from the other defendants.) The provision has the effect of discriminating against groups less likely to be able to establish significant economic damages, such as women, minorities, seniors and the poor. Moreover, the elimination of joint and several liability would actually increase courts' caseloads and increase litigation costs, by discouraging settlements and requiring injured consumers to initiate multiple claims.

Sec. 111. Workers Compensation Subrogation—In addition to codifying certain state laws permitting employers to seek subrogation from their employees, this provision allows a responsible manufacturer to seek contribution from a negligent employer up to the amount of workers compensation benefits paid by the employer. (The provision also provides for reimbursement of the employer's legal fees by the manufacturer if the employer is wrongfully brought into an action.) Legal aspects of workers compensation are new issues that the House has never considered or debated before.

Title II—Limitation on Liability relating to Medical Implants—Suppliers of raw material and component parts used to assemble medical implants (such as breast implants) would only be liable under State law if a victim establishes the supplier failed to meet the contract requirements or specifications for the implant. The bill also specifies new rules for bringing suits against biomaterials manufacturers and sellers, provides for an expedited removal procedure for the biomaterials suits and provides for reimbursement of the defendant's legal fees if the victim's claim against it is found to be meritless. (No reimbursement mechanism is provided for the victim if the suit is successful, however.)

Title III—Limits on Application; Effective Date—Specifies that federal appellate court decisions supersede other court interpretations and the Act applies to lawsuits brought after the date of enactment.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in support of the conference report on H.R. 956, the Commonsense Product Liability and legal Reform Act of 1995. This is a projobs, procompetitiveness bill that will help to bring fairness and accountability back into our legal system.

Almost two decades ago, the Commerce Committee began a bipartisan effort to reform our product liability laws. Over the years, we have held dozens of hearings, receiving written and oral testimony from hundreds of witnesses. Early last year, the committee reported legislation which is incorporated into the conference report before us now. And today, as part of the Contract with America, and with the leadership of the distinguished chairman of the Judiciary Committee, we stand ready to put some historic changes into place.

I regret that the conference report falls somewhat short of the reforms included in our earlier House bill, which passed the House by a wide, bipartisan margin. Nonetheless, the conference report contains a number of reforms which the Commerce Committee has worked on, and which will clearly help to relieve the burden of excessive litigation.

For example, the conference report still contains critical protections for biomaterials suppliers developed in our committee to ensure that consumers will have continued access to lifesaving and lifeenhancing medical devices. It also still contains provisions for reasonableness and balance in product liability punitive damage awards, and sets forth enumerated guidelines which should be considered before such awards are made. In addition, it includes important exceptions for environmental claims, and allows for reasonable limits on the life expectancy for products in the workplace.

These reforms are essential to the long-term competitiveness of the American economy, as we established in our work in the Commerce Committee over the past number of years.

Mr. Speaker, I include for the Record, relevant portions of the Commerce's Committee's report on H.R. 917, legislation which was incorporated in significant part into H.R. 956, the bill before us today.

Excerpts From House Report 104–63, Part 1

BACKGROUND AND NEED FOR LEGISLATION

For two decades, the Committee on Commerce has grappled with the issue of product liability reform. After developing an extensive record on the subject of product liability law, the Committee has concluded that the present system places an enormous burden on interstate commerce, inflates prices, stifles innovation, and subjects manufacturers and sellers to a capricious lottery where sanctions can exceed any found in criminal law. In light of these facts, Congressional action is long overdue.

Historically, injury caused by a defective product gave rise to a tort action in State courts. As transportation and communications systems developed, more products crossed State boundaries, increasing the volume of interstate commerce exponentially, creating more interstate product liability. From 1973 to 1988, product liability suits in Federal courts increased 1000%; in State courts the increase was between 300% and 500%. Meanwhile, tort doctrine in State courts evolved from fault-based standards to strict liability for manufacturers and sellers.

Tort costs have risen significantly as well, reaching an estimated $132 billion in 1991. (Tillinghast. (1992) tort Cost Trends: An International Perspective. New York: Tillinghast.) Products manufactured in one State are now sold in another and cause injury in yet others. Because each State has different rules governing recovery in tort, forum shopping is encouraged, common law is developed unevenly, and manufacturers are found liable for conduct in one State that would fail to give rise to a cause of action in another.

American manufacturers and sellers have found that, given the multiplicity of evidentiary standards in State tort law, products may be found defective even after full compliance with all applicable regulations. The vast majority of product liability cases are filed in State courts. This leaves manufacturers and sellers without the benefit of uniform standards on which to base conduct in the design, manufacture and sale of goods. Manufacturers are told that their products must be "safe," without being told what constitutes safety.

In many jurisdictions, liability on the part of a manufacturer for economic and punitive damages is found in the absence of negligence or malice. The doctrine of joint and several liability often compels a defendant to pay damages far in excess of his proportionate responsibility for the injury, and the plaintiff's Bar has become remarkably skilled at identifying and joining defendants with deep pockets who, despite limited responsibility for injury, would rather settle a case than face the costs and publicity associated with litigation.

Because over 70% of products manufactured in any one State cross State borders before the point of final sale, American manufacturers must contend with the uncertainty created by 51 different product liability jurisdictions in their own domestic market. The result is a de facto "liability tax" which chills interstate commerce and deprives consumers of product choice available to consumers in other nations throughout the world. Unfortunately, instead of encouraging the development of safer products, the present system often forces manufacturers to increase product prices or withdraw products from the market altogether. According to surveys reported to the committee by Pace University Professor of Law M. Stuart Madden, because of liability costs, 36% of American manufacturers have withdrawn products from the world market, 47% have withdrawn products from the domestic market, 39% have decided not to introduce new products, and 25% have discontinued new product research.

The case of Bendectin is illustrative: Bendectin is the only prescription drug in the United States ever approved for combating nausea and vomiting in pregnancy. Introduced in 1956, the drug was used in over 30 million pregnancies. In 1969, allegations that Bendectin could cause birth defects appeared in some scientific journals. Despite the fact that no causal relationship between Bendectin and birth defects was ever established (the Food and Drug Administration affirmed the drug's safety), nearly 1,700 product liability suits were brought against the manufacturer.

Almost all cases that went to court were decided in favor of the manufacturer, yet annual revenues from the sale of the drug barely exceeded legal fees and insurance premiums. The manufacturer voluntarily withdrew Bendectin from the market in 1983. While the rate of birth defects has not declined since Bendectin was withdrawn, the cost in the U.S. for treatment of severe nausea during pregnancy is now nearly $40 million per year.

Another example comes from the sporting goods industry. In a 1988 Forbes magazine article, author Peter Huber noted that product liability legal fees and insurance premiums accounted for 55% of the price of a football helmet. (Peter Huber. (Oct. 1988) Forbes "The Litigation Scandal.") In 1988, Rawlings Sporting Goods announced that it would no longer manufacture, distribute, or sell football helmets. Rawlings was the 18th company in 18 years to abandon the football helmet business due to liability exposure, joining Spaulding, MacGregor, Medalist, Hutch, and other manufacturers. As one commentator observed:

> "This situation is not what the crafters of product liability law intended. Product liability law was created to improve product safety and compensate victims of unsafe products. It was not meant to penalize conscientious companies that provide products and services vital to the U.S. economy."

(Frederick B. Sontag. (1994) Product Liability and Innovation. "Indirect Effects of Product Liability on a Corporation." National Academy of Engineering.)

In addition to driving products from the marketplace, raising prices, and draining capital, the patchwork of liability standards throughout the nation severely inhibits the competitiveness of U.S. industry. While it is true that a foreign company doing business in the United States is subject to the same liability laws as a U.S. company, most U.S. companies have had products in the marketplace for longer than their foreign competitors.

Since many states have no statute of repose, products which have been in use for 15 or more years can still expose a manufacturer to liability. The costs of insuring against product liability and legal fees spent in liability lawsuits are built into the cost of such products, creating a price disadvantage for domestic producers facing well financed foreign competition with far less liability exposure.

American industry's chief foreign competitors face no such handicap in their domestic markets. Both the European Community (EC) and Japan have uniform product liability regulations. The EC Directive establishing product liability standards was published in 1985, and differs significantly from product liability law in the United States in the following ways: first, a single definition of product "defect" applies; second, if a product complies with mandatory regulations issued by public authorities, the manufacturer has no liability exposure; third, noneconomic damages (pain and suffering) are limited; fourth, punitive damages are generally not allowed; fifth, most EC countries limit liability to known technical knowledge; and sixth, a 10-year statute of repose begins when the manufacturer puts a product into the stream of commerce. Operating under the provisions of this Directive, European manufacturers and sellers pay, on average, twenty times less for liability coverage than their American competitors.

The status quo also retards the ability of American firms to create jobs. A memorandum dated November 30, 1990, from the Office of Vice President Quayle to Members of Congressional Committees considering product liability reform legislation states that 40% of chief executive said product liability has had a major impact on their business; 36% stopped some manufacturing as a result; 15% laid off workers, and 8% closed plants. Almost 90% of American companies will be defendants in a product liability claim at least once according to a 1988 Rand Institute study. In the study, of 19,500 companies surveyed, 17,000 were lead defendants in at least one product liability suit.

In summarizing the background and need for H.R. 917, the Committee finds itself in agreement with the observations of Francois Castaing:

"It is well understood that product liability laws have a purpose. They are supposed to compensate for injury, promote safety, and penalize gross negligence. If a corporation is irresponsible, it should be held accountable. But in the United States, the situation has gone beyond punishing gross negligence. Now punishment is meted out for many risks that simply cannot be avoided when a product is produced and sold to a public that has wide discretion in how it chooses to use that product. When no distinctions are made in assigning responsibility for risk and companies are held responsible (and penalized) for all risk—from those attributable to the vagaries of human nature to those truly within a company's aegis—the ability to innovate, engineer, and compete is compromised."

Francois J. Castaing. (1994) Product Liability and Innovation. "Automotive Engineering and Product Liability," National Academy of Engineering.

The present product liability system in the United States unfairly denies consumers the right of free choice in the marketplace and inflates prices for available products. For manufacturers and sellers, the system discourages innovation, retards capital formation, and creates a distinct competitive disadvantage in the world market.

The Committee has developed an extensive record on the negative impact of product liability on commerce in the United States, and has concluded that Congressional action is long overdue. Support for product liability reform within the Commerce Committee has always been bipartisan, and legislation has been reported from the Committee to the House under both Republican and Democratic Chairmen.

HEARINGS

During the 104th Congress, the Subcommittee on Commerce, Trade, and Hazardous Materials held one day of hearings on H.R. 917, the Common Sense Product Liability Reform Act, and related legislation, including section 103 of H.R. 10, the Common Sense Legal Reform Act. Additionally, since the 99th Congress, the Committee has held 12 days of hearings on the subject of product liability reform and that record contributed significantly to the Committee's consideration of H.R. 917.

On February 21, 1995, the Subcommittee on Commerce, Trade, and Hazardous Materials held a hearing on H.R. 917, the Common Sense Product Liability Reform Act and Related legislation. Testimony was received from Mr. Paul R. Huard, Senior Vice President, National Association of Manufacturers; Mr. Larry S. Stewart, President, Association of Trial Lawyers of America; Mr. Victor E. Schwartz, Esq., General Counsel, Product Liability Coordinating Committee; Mr. Daniel E. Richardson, Administrator, Latta Road Nursing Home, (testifying on behalf of the National Federation of Independent Business); Mr. Jeffery J. Teitz, Executive Committee, Vice-Chair, Assembly on Federal Issues of the National Conference of State Legislators; and Mr. James A. Anderson, Jr., Vice President of Government Relations, National Association of Wholesaler-Distributors.

During the 103rd Congress, the Subcommittee on Commerce, Consumer Protection and Competitiveness held three days of hearings on H.R. 1910, the Fairness in Product Liability Act, whose language is closely tracked by H.R. 917. The first hearing was held on February 2, 1994 and focused on the impact of product liability reform on the health care industry. The Subcommittee received testimony from Ms. Stephanie Kanarek; Mr. Ted R. Mannen, Executive Vice-President, Health Industry Manufacturers Association; Mr. Calvin A. Campbell, Jr., President and CEO, Goodman Equipment Corporation (testifying on behalf of the American Mining Congress); Ms. Lucinda Finley, Professor, State University of New York at Buffalo Law School; Mr. Victor E. Schwartz, Esq., General Counsel, Product Liability Coordinating Committee; and Mr. Bruce Finzen, Robins, Kaplan, Miller & Ciresi.

The second hearing sought a broad spectrum of opinion on the bill from consumers, manufacturers, and academics and was held on April 21, 1994. The Subcommittee received testimony from Mr. Marcus Griffith, President, The Hairlox Company (testifying on behalf of the National Association of Manufacturers); Ms. Dianne Weaver, Weaver, Weaver & Lipton; Ms. Norma Wallis, President, Livernois Engineering (testifying on behalf of the Association of Manufacturing Technology); Mr. Robert Creamer, Executive Director, Illinois Public Action; Professor Stuart Madden, Pace University School of Law; and Professor Andrew Popper, Deputy Dean, Washington College of Law, The American University.

The Subcommittee received testimony from victims of defective products and other interested parties on May 3, 1994, from Janey and Lawrence Fair; Amy Goldrich for Sybil Goldrich, Command Trust Network; Charles Ruhl (accompanied by Don Singer, Attorney); James L. Martin, Director, State & Federal Affairs, National Governors Association; Emmett W. McCarthy, Dreis and Krump Manufacturing Company; James Oliphant, President, Defense Research Institute; Liberty Magarian (testifying on behalf of the Product liability Coordinating Committee); and Larry R. Rogers, Power, Rogers, & Smith.

In the 100th Congress, the Subcommittee on Commerce, Consumer Protection, and Competitiveness held seven hearings on Federal product liability reform covering punitive damages reform, joint and several liability, workplace safety, the impact of product liability reform on the general aviation industry, state-of-the-art and government standards defenses, the effect of product liability reform on the affordability and availability of product liability insurance, and the issue of product liability reform in general.

Witnesses included: Representatives Jim Slattery and Al Swift; the Honorable Malcolm Baldrige, Secretary of Commerce; The Honorable Harry L. Carrico, Chief Justice, Supreme Court of Virginia; Mr. Robert H. Mallot, Chairman and CEO, FMC Corporation; Mr. Victor E. Schwartz, Esq., Crowell & Moring; Mr. John B. Curico, Chairman, President, and CEO, Mack Trucks, Inc.; Mr. Marcus M. Griffith, Hairlox Company; Mr. Joseph Goffman, Public Citizen; Ms. Pamela Gilbert, United States Public Interest Research Group; Mr. Gene Kimmelman, Legislative Director, Consumer Federation of America; Robert L. Habush, President, Association of Trial Lawyers of America; Mr. John T. Subak, Action Commission to Improve the Tort Liability System, American Bar Association; Mr. Stephen Daniels, Project Director, Punitive Damage Project, American Bar Foundation; Professor David G. Owen, University of South Carolina School of Law; Mr. Malcolm Wheeler, Esq., Skadden, Arps, Slate, Meagher & Flom; Mr. Bill Wagner, Esq., Wagner, Cunningham; Mr. George S. Frazza Esq., General Counsel, Johnson and Johnson Products, Inc.; Professor David Randolph Smith, Vanderbilt University School of Law; Professor Aaron Twerski, Brooklyn Law School; Senator Robert Frey, National Conference of State Legislators; Mr. Alfred W. Cortese, Jr., Esq., Kirkland & Ellis (representing Lawyers for Civil Justice); Mr. Robert Martin, Esq., Martin, Pringle, Oliver, Tripplett & Wallace (representing Beech Aircraft Corporation); Mr. Charles T. Hvass, Jr.; Mr. Frederick B. Sontag, President, Unison Industries; Mr. C.O. Miller, Safety Systems, Inc.; Mr. John S. Yodice, Esq., General Counsel, Aircraft Owners and Pilots Association; Mr. Jonathan Howe, President, National Business Aircraft Association; Mr. David M. Silberman, Associate General Counsel, AFL–CIO; Mr. John Mottley III, Director of Federal Government Relations, National Federation of Independent Business; Mr. Richard Duffy Director, Department of Occupational Health and Safety, International Association of Firefighters (accompanied by Cheryl Gannon, Legislative Assistant); Mr. Kent Martin, Chairman of Government Affairs Committee, National Printing Equipment and Supply Association (accompanied by Mr. Mark J. Nuzzaco, NPES Government Affairs Director); Mr. James A. Mack, Public Affairs Director, National Machine Tool Builders Association; Mr. Jonathan Reynolds, Esq., Cosco, Inc.; Mr. Clarence Ditlow, Executive Director, Center for Auto Safety; Mr. Geoffry R.W. Smith, Esq., McCutchen, Doyle, Brown, and Enerson; Dr. Sidney Wolfe, Health Research Group; Mr. R. David Pittle, Technical Director, Consumers Union; Professor Nicolas A. Ashford, Associate Professor of Technology and Policy, Massachusetts Institute of Technology; Mr. Howard M. Acosta, Esq., Rahdert, Acosta, and Dickson, P.A.; Professor Jerry Phillips, University of Tennessee School of Law; Richard A. Bowman, Esq., Bowman and Brook; Mr. Frank S. Swain, Chief Counsel for Advocacy, United States Small Business Administration; Professor Joseph A. Page, Georgetown University Law Center; Mr. Edward H. Southton, Deputy Commissioner for Company Supervision, Office of the Insurance Commissioner; Ms. Linda Matson, State Director, National Federation of Independent Business (accompanied by Ms. Mary Jane Norville, National Federal of Independent Business); Ms. Jean Stinson, Vice President, R.W. Summers Railroad Contractor, Inc.; Ms. Debra Ballen, Vice President for Policy Development and Research, American Insurance Association; and Mr. Thomas A. O'Day, Associate Vice President, Alliance of American Insurers (accompanied by Mavis A. Walters, Senior Vice President, Insurance Services Office).

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title; Table of Contents.

This section provides the title of the Act and a table of contents.

Section 2. Preemption.

This section establishes the scope of the Common Sense Product Liability Reform Act, governing any product liability action in any State or Federal court brought against a manufacturer or product seller, on any theory, for harm caused by a product. It does not include actions for commercial loss. State law is only superseded to the extent that State law applies to the same issue. The Act does not affect the sovereign immunity of the States, choice-of-law rules, venue, or environmental laws.

Section 3. Product Seller Liability.

This section sets forth the standard of liability for product sellers. A product seller is only liable for harm caused by its product where (1) the claimant establishes that the product was sold by the seller, that the seller failed to exercise reasonable care regarding the product, and that such failure was a proximate cause of the claimant's harm; (2) the seller made an independent express warranty, the product failed to conform to the warranty, and such failure caused the claimant's harm; or (3) the seller was engaged in intentional wrongdoing as determined under State law, and such wrongdoing was the proximate cause of the claimant's harm. Sellers are not required to inspect a product where there is no reasonable opportunity to inspect such product in a manner which would reasonably have revealed the aspect of the product which caused the claimant's harm. A seller would become liable, however, by stepping into the shoes of the manufacturer if the State where the action is filed would not be able to serve process against the manufacturer, or if the State determines that the claimant would be unable to enforce a judgment against the manufacturer.

Section 4. Alcohol and Drug Defense.

This section provides a defense to a liability action where a claimant is more than 50% responsible for the accident causing harm as a result of being under the influence of intoxicating alcohol or illegal drug. The determination of intoxication or whether the claimant is under the influence of alcohol or drugs shall be made according to the relevant State law. Illegal drugs include any controlled substances according to federal law.

Section 5. Misuse or Alteration.

This section allows a manufacturer or product seller to establish that a percentage of a claimant's harm was proximately caused by the misuse or alteration of a product in violation of an express warning or instructions, or by the misuse or alteration of a product involving a risk of harm which would be known by the typical consumer. The award of damages against the manufacturer or product seller would be reduced by such percentage of claimant's misuse or alteration. The manufacturer's or product seller's liability shall not, however, be reduced by the percentage of responsibility for the harm attributable to the misuse or alteration of a product by the claimant's employer or coemployees who are immune from suit by the claimant pursuant to State law applicable to workplace injuries. These provisions only supersede State law to the extent that State laws are inconsistent.

Section 6. Statute of Repose.

This section bars liability for a product liability action unless the complaint is served and filed within 15 years of the time of first retail purchase. This bar will only apply, however, if the claimant is eligible for workers' compensation for the harm, if the harm did not cause a chronic illness, and if the manufacturer or seller did not include an express written warranty as to the useful safe life of the product which was longer than 15 years.

Section 7. Punitive Damagers.

This section provides that where states allow punitive damages, such damages may be awarded where a claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct manifesting a conscious, flagrant indifference to the safety of those persons who might be harmed by the product. The punitive damages awarded shall not exceed the greater of $250,000 or three times the economic injury.

A failure to exercise reasonable care in selecting among alternative product designs or warnings shall not by itself constitute conduct meriting punitive damages, and punitive damages may not be awarded unless compensatory damages have been awarded which are not merely nominal damages. A defendant may request a separate proceeding to determine an award of punitive damages, in which case evidence related only to the claim of punitive damages shall not be admissible in the proceedings to determine compensatory damages.

The trier of fact shall consider all relevant evidence in determining a punitive damage award, including the severity of harm, the duration, concealment, or profitability of the defendant's conduct, the number of products sold by the defendant which can cause such harm, previous punitive awards to similar claimants, prospective compensatory awards to other claimants, the criminal or civil penalties imposed on the defendant for the complained of conduct, and whether any of the foregoing have been presented in a prior proceeding involving the defendant.

Punitive damages shall not be awarded against a manufacturer or seller of a drug or device which caused the claimant's harm where such product was preapproved by the Food and Drug Administration (FDA) with respect to its formulation, performance, or adequacy of packaging or labeling, or where it is generally recognized as safe and effective pursuant to conditions established by the FDA. This bar on punitive damages shall not apply where the defendant, before or after FDA approval, intentionally and wrongfully withheld from or misrepresented to the FDA information which is required to be submitted concerning the drug or device, or if any illegal payment to FDA employees were made for the purpose of securing or maintaining drug or device approval.

The manufacturer and seller of a drug shall not be held liable for punitive damages for a product liability action for harm relating to the adequacy of the drug packaging or labeling, where the drug is required to have tamper-resistance packaging (and labeling) under regulations of the Secretary of Health and Human Services, unless the claimant establishes by clear and convincing evidence that the drug product is substantially out of compliance with such regulations.

Section 8. Several Liability for Noneconomic Damages.

This section provides that joint liability for noneconomic damages shall not be recognized. A separate judgment shall be rendered against each defendant for their several liability for noneconomic damages, which shall be in direct proportion to their individual percentage of responsibility for the claimant's harm, as determined by the trier of fact.

Section 9. Federal Cause of Action Precluded.

This section precludes any new Federal cause of action pursuant to a Federal question or Act Congress regulating commerce. It is intended to ensure that no additional jurisdiction is granted under this Act to the Federal courts.

Section 10. Frivolous Pleadings.

This section provides that the signing or verification of a pleading in a product liability action shall be considered a certification that to the signor's or verifor's best knowledge, information, and belief, formed after reasonable inquiry, the pleading is not frivolous. A pleading is defined as frivolous if the pleading is groundless and brought in bad faith or for the purpose of harassment or other improper purpose such as to cause unnecessary delay or needless increase in the cost of litigation. Groundless is defined as having no basis in fact or unwarranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

Within 60 days after a pleading in a product action is filed, a party may petition the court to determine the pleading is frivolous. In making this determination, the court shall consider the multiplicity of parties, the complexity of the claims and defenses, the length of time available to the party to investigate and conduct discovery, and the affidavits, depositions, and other relevant matters. If the court determines that a pleading is indeed frivolous, the court shall impose an appropriate sanction on the signatory or verifier of the pleading, which may include the striking of the offending portion or the entire pleading, the dismissal of a party, or an order to pay the reasonable expenses of an opposition party incurred because of the filing of the pleading, including costs, fees of attorneys, witnesses and experts, and deposition expenses. A general denial and the amount requested for damages shall not constitute a frivolous pleading.

Section 11. Liability of Biomaterials Suppliers.

This section provides that a biomaterials supplier is liable for harm caused by a medical device only if the claimant establishes that the biomaterials supplier's failure to meet contract specifications as set forth below was an actual and proximate cause of harm to the plaintiff. The biomaterials supplier is deemed to have failed to meet contract specifications if the raw materials or component parts delivered by the biomaterials supplier did not constitute the product described in the contract between the biomaterials supplier and purchaser, or they fail to meet any specifications that were provided to the biomaterials supplier and not expressly repudiated prior to acceptance of delivery of the supplies, or that were provided to the biomaterials supplier or to the manufacturer by the biomaterials supplier, or which are contained in a master file submitted by the biomaterials supplier to the Secretary of Health and Human Services (HHS) that is currently maintained by the biomaterials supplier for the purposes of premarket approval of medical devices, or specifications that were included in the submissions of the purposes of premarket approval or review by the Secretary of HHS and which have received such clearance and were not expressly repudiated by the biomaterials supplier prior to acceptance.

Section 12. Definitions.

This section provides definitions for the following terms: "biomaterials supplier," "claimant," "commercial loss," "harm," "manufacturer," "product," "product liability action," "product seller," and "State."

Section 13. Effective Date.

This section provides that the Act shall apply to actions which are commenced after the date of its enactment.

Mr. Speaker, I believe this information will help to establish the need for a number of the reforms contained in the pending conference report.

Mr. Speaker, we need commonsense legal reform that will put more power into the hands of the American people to make their own consumer choices, and bring some sanity back to our legal system. We need reforms that recognize responsible behavior, and put an end to the legal jackpot mentality. We need commonsense legal reforms today.

I urge support of this bill.

□ 1215

Mr. DINGELL. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I will vote for the conference report today for three reasons. The first is that the context is relatively balanced and sound. The second, it is consistent with similar legislation which I have supported over the years. Third, it represents a complete and utter repudiation of the extremist Republican agenda, which included tacking on to the original House bill a host of special interest amendments stripping average Americans of the traditional legal rights for the benefits of the wealthy and the powerful few.

I take some measure of pride, Mr. Speaker, in having launched the original product liability reform movement in the Congress back in the late 1970's. So it is as one who is no John-Dingell-come-lately to this issue. I am pleased today for those people in America's manufacturing community who have worked with me for many years on this issue. I particularly want to single out one individual for special thanks, Dr. Victor Schwarz, an attorney, professor, casebook editor, and nationally renowned expert on tort law who, for nearly 20 years has helped guide this movement and its supporters in the Congress with sound advice, good judgment, and personal integrity.

But I have trouble mustering any great enthusiasm for today's events. The reason is simple. The process leading up to our having this legislation on the floor today has been an utter disgrace. The conference on this bill was a complete sham. At the one and only meeting which the conferees held in December, we were told that the conference would be open and bipartisan. Nothing was further from the truth. Instead, precisely the opposite occurred. The House Republicans proceeded to cut a secret deal in closed meetings with no participation by anybody else. There was no discussion, no consultation, and no conference meeting after that time.

Our staffs were presented with the final conference report on a take-it-or-leave-it basis late one evening after the Members had gone home. We were not even given the courtesy of being able to review the documents overnight. This is apparently the Republican definition of open and bipartisan. It may be open and bipartisan on the other side of the aisle, but it is not open and bipartisan, nor is it a process which follows the traditions of this House or which takes into consideration the concerns of the American people that the matters of this Congress should be done in an open and honorable fashion.

The House Republicans not only excluded Democratic conferees from all discussions and decisions, but they ignored the will of the House on one very important issue. Last year the House voted to include a provision ensuring that foreign companies that sell defective products to American consumers are treated the same way as American corporations. That amendment was adopted under the leadership of the distinguished gentleman from Michigan [Mr. CONYERS]. The House recently reaffirmed that commonsense position by voting to instruct the House conferees to insist on this provision in the conference. Despite two overwhelming and bipartisan votes, I note, the Republican conferees dropped the provision entirely. To my knowledge, the Republican Members never even raised this issue in the secret backroom discussions on this legislation.

I note that all eight House Republican conferees voted against the original amendment on the motion to instruct. Those few Members are entitled to their views, but those views get preferential treatment to foreign corporations to the disadvantages of American corporations. But that should not empower them to so brazenly disregard the expressed will of the House, the expressed will of the American people as clearly expressed by this House. The Republicans say they want to reduce Federal power, yet last year they were busy sticking the Federal snout into dog bite cases, accidents, and slip and fall disputes.

The bill that passed last year as a part of the contract on America amounted to a wish list of all manner of scoundrels and wrongdoers. That legislation protected drunk drivers, sexual predators, scoundrels, and others who prey upon the weak, defenseless, and infirm, and those who intentionally inflict great harm and damage. They treated cases involving intentional and gross misconduct as though they were simple negligence cases.

Fortunately, they are not going to get their way. I do not believe that the Republican leadership ever wanted enactment of this bill as public law. If they did, they would not have allowed it to languish for the best part of a year before even asking for a conference. If they did, they would not have included in the process a system which systematically excluded House Democrats like me who have for years supported product liability reform, and they would not have conducted the overall matter in the way in which they did. Instead, this will get what they really want, not a law, but a campaign issue.

We have reached the bottom of the barrel when for pure partisan games, Republicans will not let Democrats who agree with them work with them or participate in the legislative process. Once again, we have seen, as it has happened so many times in this Republican Congress, the constituents who need real action are getting just promises and press conferences and not real action. They will be the losers.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time.

I stand here today to plead for a special interest, I say to the gentleman from Michigan, who so quickly criticizes every manner and means of special interest. The special interest for which I make a plea are some 8 million Americans who this day contain in their bodies medical devices that have been implanted, which have saved their lives in many cases, and the supplies for which are being threatened by the massive lawsuits that have caused the suppliers of raw materials to withhold those materials from future medical devices, like heart transplants, brain shunts, heart valves, knee replacements, hip replacements.

That is a special interest, I say to the gentleman from Michigan, where we ought to be doing everything we can to make sure that those consumers who need replacements, who need heart valves, who need all of these medical devices for the sake of their health and their lives, we ought to give them the opportunity to have future medical devices available, access to them. And what title II does, of this piece of legislation, is to release a little bit of the raw material suppliers from that type of massive liability that makes no sense, that keeps them from supplying these raw materials to the manufacturers of these lifesaving medical devices.

When are we going to try to understand that special interests sometimes are those people who are victims of heart attacks, victims of disease that we can help if we simply relax a little bit on the restrictions on liability that some of the suppliers of these raw materials have to face.

I say it is time for us to encourage the President not to veto heart transplants, not to veto brain shunts, not to veto hip replacements, but rather to sign the bill into law that will acquire for the American people a balance and allow them to have access to all sorts of new and wonderful lifesaving medical devices.

Mr. CONYERS. Mr. Speaker, I yield myself 30 seconds to remind my friend from Pennsylvania, Mr. GEKAS, that title II of the products liability conference report would prohibit most women from recovering any damages from the supplier of silicone gel, despite evidence that the supplier misled women and many of their doctors about the safety of that product. It would also prohibit suits against suppliers of biomaterials used in the manufacture of medical implants.

Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. SCOTT], a distinguished member of the Committee on the Judiciary.

Mr. SCOTT. Mr. Speaker, there is no explosion in punitive damage products cases. This chart shows the total number of civil cases that are filed, now many are products liability cases. The products liability cases get decided by trial, and then when you get down to punitive damage awards in liability cases, it is in the millions; 391 million of the cases filed are punitive damage cases involving products.

Mr. Speaker, one study in 1995 of cases decided in 1992 could only find three punitive damage cases in the entire United States.

This bill is not balanced. It helps corporate wrongdoings at the expense of innocent victims. One is the limitation on punitive damages. Although they are rare, they have a deterrent effect. Those pajamas that the ranking member pointed out, for 3 cents per set of pajamas, they could have made them inflammable pajamas, and yet they wanted to make that extra 3 cents for every set of pajamas. It is only the punitive damages that took them off the market.

Mr. Speaker, another benefit for wrongdoers is the issue of joint and several liability. Most States allow the wrongdoers to figure out who has to pay the total damages. This bill forces the innocent victim to chase all the insolvent, out of town, and uncooperative defendants in order to get their full cooperation.

Another little benefit for the corporate wrongdoers is that only overturned State laws can benefit the consumers. The State laws are free to provide additional protection for the corporate wrongdoers, but not allowed to provide any more protection for the consumers.

Mr. Speaker, this hurts the consumer, it helps the corporate wrongdoers, it eliminates the deterrent effect, it benefits the wrongdoers and forces the plaintiff to chase around for the defendants, and I think we should defeat this bill and keep the State laws as they are today.

□ 1230

Mr. BLILEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida [Mr. STEARNS], a member of the committee.

Mr. STEARNS. Mr. Speaker, I thank my colleague for yielding time to me.

Mr. Speaker, I also rise in support of the conference report, and I was very glad to hear that the gentleman from Michigan [Mr. DINGELL], who is the former chairman of the Committee on Commerce, supports the bill. Also I want to recognize Victor Schwarz for all his long-term work on this project.

For almost two decades, Congress has been struggling to interject common sense into our product liability laws. I want to commend the conferees for their success in bringing balance and reasonableness to our legal system. Everyone has heard justice delayed is justice denied. Well, this legislation ensures legitimate plaintiffs finally have their day in court by ending the frivolous lawsuits that needlessly tie up our judicial system.

Mr. Speaker, these lawsuits have effectively prohibited individuals from pursuing legitimate grievances through the judicial system due to the fact that the dockets are overcrowded with meritless lawsuits. There are studies that indicate that fully half of the costs of our tort system are consumed in legal fees and expenses, while only one quarter goes to compensate actual economic losses. Attorneys are primarily the ones benefiting under the current system. This legislation encourages settlements out of court, thereby getting lawyers out of the way.

I urge all of my colleagues to support this conference report that emphasizes fairness and individual accountability while maintaining an injured party's fundamental right to restitution.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding time to me.

In this very serious and weighty debate, I cannot help but be a little amused that some of the same forces that come here and complain about the litigation explosion, about how our courts are too crowded are the same folks that I read about this week in USA Today who are going around the country making it against the law to speak ill of vegetables. Yes, if you bad mouth brussels sprouts, the USA Today reports, it could cost you, if you are opposed to onions, if you diss a kiwi. Now in 12 States, it is against the law to do that and you can be hauled into court.

So the same folks that come here and say there are too many lawsuits in our courts are going around the country, in fact they are trying to do it this week in Maryland, enacting laws to get us in trouble for speaking ill of vegetables. But if they turn us into a vegetable because of their disregard for safety and health in this country, then our rights will be limited.

Mr. Speaker, this is not about the litigation explosion, it is about limiting the rights of individuals whose health and safety is affected. What about the effect on cost and on jobs that we have heard so much about? Well, the folks that put out Consumer Reports, that is the magazine that a lot of us turn to when we have got to buy a refrigerator or television or some kind of service and we want to find out what the most cost effective alternative is, they report that over 30 million Americans each year are injured by consumer products and 29,000 are killed. Only a small fraction of those result in lawsuits, but the total cost to us of having assurance that there is protection in the event that there is harm caused by a defective product comes to about one penny one of a $5 purchase.

That is a very small price to pay for the assurance that someone who is burned and who will face one painful skin graft after another, to a young family whose infant is going to require care for the rest of that child's life, to a young child who is scarred for life, why deny rights to those people when the cost to America is 1 cent for a $5 purchase?

But we are told, of course, that this is a jobs bill, that it means more jobs. It is only anecdotal evidence that tells us that, but why then if it is a jobs bill are we replacing the concept of personal responsibility with giving foreign manufacturers an advantage over American manufacturers? We say that if you build your project in Taiwan, in Singapore, in Germany, you are going to have under this piece of legislation advantages that are not available to American manufacturers. I think that has got it all backward.

Just as this reliance on something other than personal responsibility has got it all backwards, just as the argument of States' rights, of letting our States resolve these issues, rather than turning them all over to the Federal Government to resolve, has got it all backwards.

Mr. HYDE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from South Carolina [Mr. INGLIS].

Mr. INGLIS of South Carolina. Mr. Speaker, I thank the chairman for yielding me the time.

I rise in strong support of this conference report and with some observations. We have heard a lot about how this is going to impair the ability of those that are legitimately injured to recover, so I think it is important just to go through an example. Let us assume, as I did recently when I had an opportunity to discuss this bill at the Wilson Equipment Co. in Spartanburg, SC, that one of their John Deere tractors injures somebody.

Let us assume this scenario. Mr. Jones is cutting grass with a riding lawnmower. A rock is thrown out of the lawnmower, hits Mrs. Jones who is nearby tending the flower garden or something. Mrs. Jones is hurt badly. Let us say she is hurt real badly. Let us see what happens in this case. Well, of course the Jones are going to sue for the medical bills that Mrs. Jones incurred. They are also going to probably sue for pain and suffering, and they are going to sue for punitive damages, everybody does. So let us see what happens.

Economic damages, let us say she had medical bills of $200,000. Again, I am assuming that Mrs. Jones is really hurt. If she is really, really hurt, it is more than $200,000. But I am intentionally choosing a relatively low number, $200,000 economic damages. Now, let us assume that the jury awards Mrs. Jones $200,000 for pain and suffering. Mind you, it is very important to note this is not limited in this bill. Pain and suffering will not be limited so the jury is free to decide whatever they want. Mrs. Jones is really hurt and they give her $200,000 pain and suffering. She has $200,000 economic damages, $200,000 pain and suffering.

Now we come to the only limit imposed in the bill and that is of course punitive damages. The jury is instructed and here is what they can do. They can give her 200 plus 200 times 2, would be the maximum that they could give in this case. So Mrs. Jones here will get $400,000 potentially in punitive damages. So she has gotten $200,000 economic damages, plus $200,000 pain and suffering, plus $400,000 punitive damages. I am sorry, plus $800,000. She has 200 plus 200 times 2, so that is $800,000 punitive damage amount. So Mrs. Jones can recover 200 plus 200 plus 800, which is $1.2 million.

Now, that is a fair amount of money, but it does not really put Mrs. Jones back where she was, and we have to admit that. If she is really badly hurt, it is just a bad situation. She has gotten $1.2 million, but she would really rather not have the money. She would really rather have her health back. But we cannot put her health back, so we give her $1.2 million. That is our system operating rationally, I believe; $1.2 million for this hurt Mrs. Jones.

Now mind you, there is still plenty of money for the trial lawyers, and I realize a lot of people in this body defend trial lawyers as though they are the greatest folks in America. There is still one-third for them, so in this case the trail lawyers get $400,000. There is still plenty of money in the system for adequate recovery.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from California. [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Speaker, I rise in support of this bill.

I would like to take this time to comment on the issue of tort reform, and its ramifications on our business community, and especially upon California's Silicon Valley.

For years, the debate has raged over whether our country engages in excessive litigation. Some have offered the argument that lawsuits are socially useful in defusing workplace tension, deterring dangerous means of production, and compensating those who have been harmed. Others have as strongly maintained that lawsuits have siphoned off scandalous amounts of time and energy, caused many good ideas never to be commercialized, dried up capital for investment, and crippled America in competition with the world. So, who is right?

I have concluded that our civil liability laws are indeed in need of reform to stem the flood of frivolous lawsuits that have detrimentally affected productivity and overall employment not only in California but across the Nation. My position is based upon a study that I participated in, which showed conclusively that the more a State reformed its civil liability laws, the greater its productivity and employment increased.

Here are a few facts and statistics:

Frivolous strike suits, which allege fraud when stocks take inevitable dips, have hit every one of Silicon Valley's top 10 companies and more than 60 percent of the valley's high-technology firms.

According to one estimate, shareholder suits are a $1.4 billion a year business, with settlements averaging $11 million.

A suit brought against 60 computer monitor manufacturers alleges fraud on behalf of the manufacturers because monitors labeled as 15 inches have—due to the dark border characteristic of computer technology—an actual viewing space of 14¾ inches.

The accounting firm of Tillinghast-Towers Perrin reports that the tort portion of our legal system cost $152 billion in 1994—two and half times the industrialized world average.

What we need are reforms that will stem this explosion of tort litigation; reforms like placing caps on contingent fees and pain and suffering awards; allowing defendants to pay damages over time; constraining punitive damages; and modifying the joint-and-several-liability rule where a party only partly at fault can end up paying the entire damage award if the other parties at fault cannot.

I want to make clear that I seek only to bar frivolous lawsuits and not block those that have merit. A step in this direction was taken when Congress over-rode a Presidential veto and enacted the Securities and Litigation Reform Act of 1996. It reigns in frivolous class-action suits that victimize employers and investors across State lines. It provides, for example, protection to companies with solid records of rapid growth from lawsuits over a minor loss in a single quarter. And when legal costs can easily rise to the millions of dollars, mostly new, startup entrepreneurial high-technology firms are at greatest risk. This is especially true for Silicon Valley.

The litigation mess is not only affecting big business. It also prevents small businesses from expanding, causes new drugs and new products never to reach the market, and results in charities running short of volunteers.

Everyone today is a potential hostage to capricious and expensive lawsuits. National civil liability reform is needed to correct this broken system. I do not seek to sanction corporate irresponsibility, but merely to obtain reforms necessary to obtain fairness and common sense; with the result being more jobs and greater productivity in every State.

Finally, I was disturbed to learn that there is now an Internet web site which invites the public to invest in shares of lawsuit stock. Essentially what this outfit wants to do is publicly sell and trade stock based not on the performance of a corporation, but on the outcome of a lawsuit. I cannot view this approach in any other light than as another example of how out of control our tort system has become and how essential it is that we institute systemic reforms like the ones I have mentioned.

Mr. CONYERS. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, I remind the distinguished gentleman from South Carolina [Mr. INGLIS] that in his hypothetical, he used up 1 of the 14 punitive damages cases that occur annually in the U.S. courts.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. BONIOR], the minority whip.

Mr. BONIOR. Mr. Speaker, I thank the gentleman from Michigan [Mr. CONYERS] for yielding me the time.

Let us be clear what this bill does. Let me put this in another perspective from the example that was just given by my friend from South Carolina. If you are a corporate CEO and you make $1 million a year and God forbid you should have an accident because of a product malfunction, this bill says that you can receive full recovery of your economic losses. But if you are a working mom and you make $15,000 a year and you are struggling to put a little away for your child's education and you should be injured by that same accident and that accident involves more than one wrongdoer and God forbid you should lose your ability to have children, you may never be fully compensated for pain and loss. Now that is what this bill does.

This bill says the lives of corporate CEO's and Wall Street bankers and the economic elite are more important and more valuable than the lives of the working men and women, and I think it is shameful. Mr. Speaker, we do not need a bill that tilts the balance away from victims of defective products and toward the big corporations who make them.

We certainly do not need a bill that gives foreign manufacturers a leg up on American companies. Even though 82 of my Republican friends supported an amendment that put America first, it was dropped in the conference committee by the Republicans. That too is shameful. Mr. Speaker, if we live in a country where 98 percent of the growth in income since 1979 has gone to the top 20 percent, the other 80 percent has gotten 2 percent of real income growth in this country. What is going on here?

Mr. Speaker, yesterday the Republican leadership, in both this body and in the other body, blocked efforts to raise the minimum wage, and once again we are here today trying to write special rules for the wealthy one more time. Mr. Speaker, enough is enough.

It is a tragedy when anybody is injured by a faulty product. Let us not make women and children and seniors pay a special price.

I urge my colleagues to vote "no" on this conference report. The President has indicated he will veto this bill because of the reasons and other reasons that have been given on this floor, the reasons that I gave and others have given, and we will need roughly 140-some votes to sustain his veto. So this is a very important vote this afternoon, and I urge my colleagues for economic justice for the people that we represent that we send this measure down to defeat this afternoon.

Mr. BLILEY. Mr. Speaker, could we get a report on how much time remains?

The SPEAKER pro tempore (Mr. GUNDERSON). The gentleman from Virginia [Mr. BLILEY] has 11 minutes remaining, the gentleman from Illinois [Mr. HYDE] has 8 minutes remaining, the gentleman from Michigan [Mr. CONYERS] has 1½ minutes remaining, and the gentleman from Michigan [Mr. DINGELL] has 7 minutes remaining.

Mr. BLILEY. Mr. Speaker, I yield 2½ minutes to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise in support of the conference report.

For almost two decades now, the House Committee on Commerce has grappled with the issue of product liability reform. After developing an extensive record on the subject of product liability law, the committee concluded that the present system places an enormous burden on interstate commerce, inflates prices, stifles innovation, and subjects manufacturers and sellers to a capricious lottery where sanctions can exceed any found in criminal law.

Last year, we worked with the Judiciary Committee to draft a joint legal reform bill to bring some common sense back into our legal system. We then worked with our Senate counterparts to help them move this critical legislation forward. While the final conference agreement falls somewhat short of the reforms passed in the House, it still represents a great achievement and far more than anyone might have hoped for just 2 years ago.

For the first time in our Nation's history, we will enjoy the protections of proportionality requirements for punitive damage awards. Damage awards for speculative noneconomic injuries will now be based directly on someone's actual responsibility for the harm, not on the depth of a defendant's financial pockets. Plaintiffs who harm themselves primarily through their own excessive use of drugs and alcohol will no longer be able to transfer the costs of their addiction to third parties, and frivolous claims against innocent product sellers and biomaterials suppliers will no longer be allowed.

These reforms will play a critical role in increasing the long-term competitiveness of American industry and thereby protecting American jobs. And they will create a renewed emphasis on fairness and accountability in our legal system, without undercutting the basic rights to restitution for consumers.

I recognize that the President has promised to veto this pro-jobs, pro-fairness bill. This is unfortunate. As Governor, President Clinton twice supported resolutions drafted and unanimously approved by the National Governors Association calling for Federal product liability reform.

Throughout the last year we have been working with Senator ROCKEFELLER's staff in the Senate to communicate with the President and modify the bill accordingly, deleting numerous stronger House reforms and adopting an extended additur provision for punitive damages which his own Cabinet helped to write. The administration's last minute bait-and-switch was subsequently decried by Senator ROCKEFELLER, who noted that "Special interests and raw political considerations in the White House have overridden sound policy judgment." This sort of trial lawyer protectionism and turnstile politics, revealed earlier on securities litigation reform, is beginning to ring very hollow.

Part of the premise of the Contract With America was to put an end to politics as usual in Washington. This legislation is a consensus solution, built on decades of bipartisan efforts by my Democratic colleagues and fellow Republicans, for bringing some balance and reasonableness back into our legal system. I ask your support in helping us bring this commonsense reform back into our legal system.

Let us pass this with an overwhelming vote and send it to the President and hope he changes his mind.

□ 1245

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise in opposition to the conference report on the product liability reform. This bill benefits those who place profits above the health and safety of the American public, and it should be defeated.

Let's look at some of the real-life consequences that this ill-considered legislation would have.

Currently, there are approximately 1 million women who have silicone breast implants. To date 100,000 of them have suffered real harm from these devices. Although these women were told that the implants were safe, many began to leak and break—exposing the women to the silicone inside. If this bill is passed, implant manufacturers will be exempted from liability, and thousands of the women who are ill will be prevented from recovering damages.

This bill will hurt American women in other ways. The legislation eliminates joint and several liability for noneconomic losses—which means that if a housewife from my district and Donald Trump are both injured by the same defective product, Donald Trump will be able to recover much more money for injuries. That's wrong Mr. Speaker—we must not make it more difficult for women to recover damages from the companies of defective products.

I would also like to bring to my colleagues' attention a very shocking unintended result of this bill. Mothers Against Drunk Driving opposes this bill because it will cap punitive damages that can be enforced against those who serve alcoholic beverages to obviously intoxicated persons and minors.

Last year, this House passed a measure that I introduced that will finally get tough on underage drunk driving. That measure is now the law of the land and States that do not have zero tolerance policies for teens who drink and drive are in the process of adopting them. We must not now take away one of the biggest disincentives bar owners have to serving minors by passing this bill. We must not send a mixed message to Americans about drunk driving.

My colleagues, this bill says to companies that making defective products is just another cost of doing business. We must demand that companies take responsibility for their actions—just as we demand that individuals do. Those who put profits ahead of their fellow human beings do not deserve our protection.

Mr. HYDE. Mr. Speaker, I yield myself 30 seconds simply to say I have heard so many things about this bill that just are not so. There is nothing in the world inhibiting a woman who has a faulty breast implant from suing and getting full recovery, economic, noneconomic, and, if the case warrants, punitive damages, twice whatever the economic and noneconomic total up to. And if it is an egregious case, the judge can add more to it.

So I just do not know what I am hearing here. They are talking about some other bill that has not been written.

Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Speaker, I thank the gentleman for yielding me this time.

I, too, rise in strong support of this bill, this conference report, and think it is a very modest bit of reform.

As an attorney who practiced in the civil litigation area for a number of years, it is interesting to hear the debate on this floor. It is very different being in the courtroom where you can respond directly to statements that are made, sometimes outrageous statements that are made, sometimes misstatements that are made. And in the arena on this floor it is difficult to sit here and listen to some of these examples that are being thrown out as why this very good reform should not occur.

Let me tell you what, let me respond, I guess, in the best way I can to some of the allegations being made about this bill. The chart goes up and says, well, punitive damages cases are not that significant in number, very few are filed in a year, even less awarded.

Let me tell you in the real world how punitive damage cases affect you and I that cause a huge litigation tax on the average American citizen that is in the thousands of dollars each year that we all pay for in some way or another in direct or indirect costs of product liability lawsuits.

Every case that comes in that has punitive damages claims has to be assessed and has to be judged as to whether or not what that case is worth in terms of actual compensatory damages and what it is worth from a punitive damages standpoint. Many of these cases are settled before they even result in lawsuits. They are settled before a case is even filed. Those cases are not going to show up on this chart. Most cases are settled, once they are filed, out of court before they go to judgment. As you settle these cases wherever it is in the process, you have to take into account what is this case worth from a punitive damage standpoint. It affects very dramatically the cost of litigation. Cases that should be settled early should be settled quickly, that do not have to go through the long extensive litigation that costs everyone, are not settled because of this. If we place a cap, a reasonable cap, on punitive damages, it will help the consumer, it will help the injured plaintiff get quicker disposition of their lawsuit, quicker settlement, quicker money in their hands, quicker compensation. And I suggest to you it would be more fair to all concerned. It completely allows full recovery for compensatory damages. This bill is no way affects a person's right to recover for pain and suffering, permanent disability, lost time from work, future income, earning capacity diminished, medical bills. It affects that in no way. All it affects are punitive damages, and its gets some correlation, some relationship between this case and not a pie-in-the-sky figure that that particular jury feels like awarding that day, whether it is a McDonald's case or the BMW case or whatever. It makes the person responsible pay for the negligence they caused, their portion of the injury. If a defendant is found liable for 20 percent of the injury, they do not have to pay 100 percent of the damages. That is only fair. You only pay what you are responsible for causing. And we are hearing complaints about that.

We have heard about the special-interest groups here, and we are not really, I guess I should say that this debate really may even be moot because we have already been told by our President that he is going to veto this bill. He says he is for small business and for doing things to stimulate the economy and helping out the small people. But yet he is already saying he is going to veto this very modest bill that is supported by people on both sides.

This is not a Republican-Democrat issue.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN], a distinguished member of the Committee on the Judiciary.

Mr. BERMAN. Mr. Speaker, I rise in opposition to the conference report on what I would view as the Victim Compensation Depriving and Deterrence Weakening Product Liability Report.

I do not oppose this bill in the belief that American law on product liability is perfect. But like many other Members of this body, I found that my efforts, in committee and on the floor, to moderate the excesses of this legislation, and in so doing, to articulate the sorts of reforms I can support, were entirely shut out by a majority hell-bent on moving an industry agenda at the expense of American consumers.

Nor is it the notion of uniform Federal law on the subject of product liability which I oppose, even though this subject has traditionally been viewed as a matter for State law. States' rights is not my watchword, though I thought it was the operating principle for my colleagues in the majority, a principle they seem to set aside when expedience dictates.

But what we find in this conference report is not uniformity. Instead, what we have is Federal standards except where a State's law is worse in terms of consumer protection. So let there be no mistake about what this legislation is about. Uniform national standards? Hogwash. This is lowest common denominator justice for consumers.

I also want to express my very strong support for solving the problems faced by biomaterials suppliers. I am dismayed that their interests have been sacrificed to advance an extreme agenda I cannot support. If this bill is indeed vetoed, and that veto is sustained, I hope that we can move the biomaterials access reforms to solve that particular industry's problems for the benefit of all Americans.

Mr. Speaker, I cannot support legislation that deprives injured victims of fair compensation, and eliminates important deterrents to the design and manufacture of unsafe products in the first place. I oppose this conference report, and I urge my colleagues to do so as well.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from North Carolina [Mr. WATT], a member of the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, I rise today in opposition to House conference bill H.R. 956, the conference report on the Products Liability Reform Act.

Folks are on the floor today blaming lawyers for all the ills in America today. And this conference report is suppose to protect America from these greedy trial lawyers. Well, for the record I want you all to know that prior to coming to this place, I practiced law for 22 years and I'm proud of that and I'm proud of the contributions of the bar in shaping America and making it a better place for all of us.

People often quote the line from Shakespeare's "Henry VI," "First thing we do, let's kill all the lawyers." Sounds funny out of context. But they don't tell you about the scene. It's a scene where a corrupt king and his followers are trying to figure out how to suspend everybody's freedoms and rights and the only folks who could possibly stand in their way—you got it, the lawyers. Think about that the next time you're tempted to use this quote.

Calling someone a hypocrite might be funny too, if it's taken out of context. And yesterday, we spent an hour debating whether it was proper debate for one of my Republican colleagues to call Democrats hypocrites. Well, I want to be careful not to call any one or any party a hypocrite, even though the ruling of the Chair yesterday confirmed that I would be within my rights to do so. I would, however, like to pose the question in the context of this debate on product liability reform: Exactly who is being hypocritical?

Who is being hypocritical when they claim they want to stop the explosion of individual product liability claims so that you can alleviate the backlog on civil court dockets when, in fact, the backlog has been cased by an explosion of civil claims filed by big businesses against other big businesses over commercial disputes? My 22 years of practicing law showed me, and the statistics confirm it, that antitrust and commercial litigation is getting longer and longer, more and more complex and taking up more and more court time. At the same time, individuals are being squeezed out and priced out of courts. Courts are no longer for the people. They can't afford them.

Who is being hypocritical when they preach about personal responsibility for individual citizens but then absolve corporate citizens from responsibility for injuries they cause, even when the corporations make a calculated business decision to do so?

Who is being hypocritical when they claim to be champions of States' rights and a limited Federal Government on one hand, but then fight for this legislation, which would preempt the laws of 50 States which have developed over hundreds of years on the other hand?

Finally, who is being hypocritical when they claim to support individual rights even though they're supporting a bill that will severely limit an individual's access to justice? That's what this bill does.

Vote "no" on this bill. Fight hypocrisy.

Mr. CONYERS. Mr. Speaker, I yield 1 minute and 20 seconds to the gentleman from Massachusetts [Mr. FRANK], the ranking member of the Subcommittee on the Constitution of the Committee on the Judiciary.

Mr. FRANK of Massachusetts. Mr. Speaker, I had been undecided on this bill. I am now going to vote against it. It is a far better bill than the one the House previously did. I still have concerns about the unequal effects on women.

But I must tell you that I am very unprepared at this point to vote for one more piece of legislation that the corporate leadership of the country wants at a time when it has unfortunately been so resistant and unyielding to the cries many of us have made for some fairness and for some social justice.

A company in the city I represent, New Bedford, we just learned, has been bought up by a larger entity and a profitable company will be shut down, jobs will be lost, and it will be moved away. In the right overall mix, I am prepared to support product liability. But at a time when the minimum wage is stonewalled, when unions are, in effect, dismantled by the misuse of the law by employers, when corporate salaries go up and up and up and we get no sympathy whatsoever for the plight of workers, I am not prepared to provide one more thing on the shopping list of those who are already doing well.

On the merits, as part of an overall package, I could support this. I would hope it would be somewhat better drafted. But I will not at this point contribute, will not be part of furthering a public policy imbalance which says that those who own do better and better and those who work, unfortunately, are treated less and less fairly.

As part of an overall approach to fairness in America, I would be supportive of this, but not as simply one more gift to those who are already gifted.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. GANSKE], a member of the committee.

Mr. GANSKE. Mr. Speaker, I would just like to address the gentleman from Massachusetts for a moment and ask that he strongly consider supporting this bill. I am going to deviate from my notes and speak to a prior speaker who had concerns about breast implants.

My mother had breast cancer when she was 24 years old. I can remember as a child her external implant falling out of her swimming suit. She has had a breast implant since then, and this has been a great thing for her.

As a physician, I have been involved with medical devices. I am concerned about the availability of these products for our patients. My wife had a sister who was born with a condition called hydrocephalus. This is where the cerebral spinal fluid does not get absorbed, and if there is not a cerebral spinal fluid shot, the head rapidly expands. Had that product been available to my wife's sister, she would still be alive today.

If we do not get a handle on product liability, we will not have the type of medical devices that will be necessary to protect the lives and health of our brothers, our sisters, our parents. This is a very reasonable and modest bill. I am glad that my colleague from Michigan [Mr. DINGELL], the ranking member of the Committee on Commerce, supports this bill.

I would urge the President to sign this bill. This is a bipartisan bill. This is not about politics. This should not be about politics. This bill is about providing products for people's health and their lives.

Mr. GANSKE. Mr. Speaker, this do-something Congress is working hard for the American people. Yesterday, we passed legislation to make health insurance more affordable. We passed a bill to allow senior citizens to retain more of their earnings if they remain in the work force. We passed a bill to give regulatory relief to businesses. We passed the line-item veto. And we gave final approval to legislation to modernize our Depression-era farm programs.

Today, we will send to the President product liability legislation to restore common sense in this area; to protect consumers and prevent abuse that unnecessarily raises the price of practically everything we buy. Amazingly, President Clinton has threatened to veto this modest bill that Mr. DINGELL supports.

Mr. Speaker, if the President vetoes this bill, the losers will be the American people, victims of a hidden lawsuit tax. They pay more for goods and services because businesses are forced to spend hundreds of millions of dollars in defending frivolous lawsuits.

Mr. Speaker, this is not partisan politics. A leading Democrat in the other body said "Unfortunately, special interests and raw political considerations in the White House have overridden sound policy judgment." That's a Member of the President's own party speaking.

I urge my colleagues to vote for this limited legal reform bill and to give it the votes necessary to override a threatened veto.

This bill isn't everything I think is important, nor is it everything my colleague from Michigan wants. But in the spirit of cooperation in order to move to a better solution, we are both supporting this bill. I urge Members of both sides to put aside partisan politics and support this bill.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I rise in strenuous opposition to this conference report.

Remember the famous Pinto automobile recall, the exploding gas tanks. Remember the fact that the manufacturer knew the gas tank in the back of the car would explode if hit in an accident. Remember the in-house memo that the manufacturer sent that admitted they knew the gas tank would explode, but made the cold-blooded decision it would not be cost-effective to recall the car? They said it would cost them too much money. Lives were lost. People were harmed.

How dare anybody suggest we dismantle our current product liability laws? Greedy corporations will increase their profits at the expense of the American people if we, as public policymakers, do not have enough backbone to stand up for the protections for our citizens. We do not deserve to be here if we cannot protect them. As many as 6,000 American lives were saved each year due to the current deterrent of product liability laws.

Mr. Speaker, this bill is a sham. It must be defeated.

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Mr. HYDE. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Virginia [Mr. GOODLATTE], a distinguished member of the Committee on the Judiciary.

Mr. GOODLATTE. Mr. Speaker, I thank the chairman of the committee for yielding me this time.

Mr. Speaker, the other side and the President have a number of times said that this is an anticonsumer bill. Mr. Speaker, this is a proconsumer bill. This bill is very fair to those who may experience harm as a result of a defective product, but at the same time taking away from juries the opportunity to give unlimited amounts of awards that affect every consumer in this country by taking product off the market, as the previous speaker, the gentleman from Iowa [Mr. GANSKE], just indicated, and by increasing the cost of insurance and, as every corporation in this country does, spreading that increased cost to every consumer in this country with increased prices. This is a very fair bill. Juries should not be legislators. They are unelected. They should have the opportunity to determine the compensatory damages, to determine the pain and suffering award, and a reasonable amount of punitive damages in cases where they find it appropriate, but it should not be unlimited.

Mr. Speaker, I urge support of this report.

Mr. CONYERS. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. GUNDERSON). The gentleman from Michigan has 10 seconds remaining.

Mr. CONYERS. Mr. Speaker, I yield the balance of my time to the gentleman from Michigan [Mr. DINGELL], the dean of the House, and ask unanimous consent that he be allowed to allocate that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, on balance, this conference report is transparently unbalanced. It is bad where State laws would otherwise benefit consumers and victims, and it is good where State laws would benefit manufacturers. The problems for States, this law preempts States that wish to take action at the State level against product liability abuse.

Who does this conference report exclude the Conyers provision that would have held foreign manufacturers liable for damaging, injuring, killing American citizens?

Why does this conference report on the manufacturer of a defective elevator that might be 14 years, 364 days old, let that victim sue that manufacturer of that defective elevator, but the next day that same victim would not be able to sue because of a statute of limitations that would not allow that to occur?

Why does a victim of a manufacturer's product have to prove, through a higher burden of proof, the damage occurred or the injury occurred?

This is an unbalanced conference report. It does not deserve the support of this conference, because it does not support the American consumer. I urge a "no" vote.

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. WHITE], a member of the committee.

Mr. WHITE. Mr. Speaker, until about a year and a half ago, for 15 years I practiced law in the city of Seattle. I have to tell you that anybody who has been involved in our legal system and has taken a fair and objective look at it knows that, unfortunately, our legal system is broken and badly needs to be fixed.

It does not have so much to do with the number of cases that are filed, the number of product liability cases that we have. It is the fact that every week we hear a new ruling that offends our fundamental sense of justice about what our system is supposed to produce. Every week we hear about the cup of coffee is spilled on someone when they are driving in their car and all of a sudden they can collect $2 or $3 million for that. We hear about the paint job that was not quite right on the BMW, and somehow that results in a judgment of multimillions of dollars.

Ordinary people and lawyers and all of us who hear these things get the impression that, unfortunately, it is becoming true that our legal system has turned into an elaborate game of chance, where if you play the game right, you have the right lawyers, you can hit the jackpot and make a lot of money.

That is the most pernicious thing about the developments we have seen in our legal system over the last several years. It is a tragedy when a child is killed or someone is injured because of using a product. But the fact is, no matter how much money we compensate that person for, we cannot bring back the child, we cannot bring back the arm that is cut off, or we cannot fully solve the damages. Unfortunately, our system seems to equate paying money to solving that problem. It is something we just cannot do.

This bill is a modest bill. This bill does not go far enough. There are many additional things that we should do to solve the problems in our legal system. But it is a modest step that we need to take.

Mr. Speaker, I urge my colleagues to vote for this, and I hope very much the White House will change its mind and sign this bill when we pass it in this Congress.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, the sad part of this whole debate is the fact that it attacks the confidence and credibility of an institution that has served Great Britain and the United States and our various States now for some 700 years, and that is the jury trial. Sure, juries are composed of humans, and you are going to find some cases that many people will disagree with the outcome of. Jessie James' brother, Frank James, for instance, was acquitted, even though there was hard evidence that he held up those banks. Many people disagreed with the outcome of the O.J. Simpson case. But overall, Mr. Speaker, the jury trial is a very basic institution. What this does is this takes it out of balance.

I had the opportunity through the years to participate in the American justice system by trying cases, by defending people accused in civil cases, by representing others. So I think we should do our very best maybe to look at this again in light of the fact that we have a very sound institution called the jury system.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I was shocked to learn that the jury system is somehow no longer applicable. That is news to me.

Mr. BLILEY. Mr. Speaker, it gives me pleasure to yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN], a member of the committee.

Mr. TAUZIN. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, let me first make a confession: I am a former trial lawyer. I still hold a law degree.

Let me also disabuse you all of a notion: This House is not composed of a majority of lawyers. Only 170 Members of this House admit or believe they have a law degree; 435 Members, 170, that means three-fifths of this House are not lawyers. That surprises most people. They think it is the other way around.

Many of the lawyers in this House rise as I do today in support of these commonsense legal reforms, and it is to the lawyers in the House I want to speak for a minute.

We have a responsibility to the legal profession. We were educated in it. Many of us practiced in it. Our obligation is to make sure that it is a good profession, that it works well, that justice arises out of it. And when the law and when the practice of the law is such that it encourages frivolous lawsuits, that it encourages the pursuit of deep-pocket defendants instead of responsible parties, when it does not make people personally responsible for their own actions, as this bill does when it says if you are drunk or on drugs and you have an accident and that is the real cause of the injury you ought not be able to sue someone and collect, when we in this body are prepared to write comonsense legal reform, lawyers ought to be the first ones to rise and say we are prepared to do it.

We did that on security litigation reform. We passed that bill by a two-thirds vote of this House and the other body. The President vetoed it. We overrode his veto. We passed good commonsense medical reform, malpractice reform yesterday in this House. I hope we see that through to finish.

If we pass this bill today and send it to the President, I hope he will do something very important. If lawyers in this House can say yes to commonsense legal reform, then the President ought to be able to say no to some of his trial lawyer friends, and he ought to sign this good bill when it hits his desk.

Mr. BLILEY. Mr. Speaker, it is a great pleasure to yield the balance of my time to the gentleman from Colorado [Mr. SCHAEFER], the chairman of the subcommittee.

The SPEAKER pro tempore. The gentleman from Colorado is recognized for 2½ minutes.

Mr. SCHAEFER. Mr. Speaker, I thank the chairman of the committee for yielding time to me. I commend the work of the House conferees on this important legislation. This plan will bring some commonsense to our country's product liability laws.

Sadly, frivolous litigation has become a fact of American life. Too often, bringing people to court has taken the place of personal responsibility. People treat liability damages like a lottery. Urged on by attorneys with huge financial stakes, many people no longer look at themselves first for blame, but instead search out the easiest way for a big court settlement.

Frivolous suits cost our economy up to $80 billion every year. Thus, American companies have become hesitant to pursue technological innovation and product development for fear that their actions may result in never-ending court battles and financial ruin. This well-founded fear is costing jobs, consumer benefits and, if continued unchecked, it will cost America its competitive edge.

I would like to address one particular section, the biomaterials access provision. One of America's leading industries is the biomaterial device field. These products literally save and enhance lives every day. From pacemakers to artificial heart valves to cataract replacements, the products afford miraculous opportunities for recovery, allowing people to continue their lives.

The suppliers of base materials oftentimes provide the manufacturer with elements of the device that are too costly to produce except in mass quantities, but alone have no implant value or purpose.

Unfortunately, in recent years, these suppliers have been named as codefendants in lawsuits against actual device manufacturers. In almost every case, they are cleared of any wrong-doing or negligence. Nevertheless, in the process, they are forced to spend vast financial resources to achieve exoneration.

This litigation risk has caused many supply companies to, quite simply, stop providing base materials for these life-savings devices. Consequently, the inability of device manufacturers to obtain the needed base supplies is causing the death of the biomaterials industry in America.

The biomaterials section addresses this tragic consequence of overzealous litigation. This language will assure that, quite simply, unless the supplier is negligent in the design specifications requested by the device manufacturer or if the supplier is also a party in the overall manufacture or marketing of the device, the supplier is cleared from liability.

This commonsense legal reform bill goes a long way toward ending this litigation madness, while preserving each individual's right to pursue just compensation for actual harm. I urge my colleagues to support this long overdue reform.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas, Mr. PETE GEREN.

Mr. PETE GEREN of Texas. Mr. Speaker, I rise in support of this conference report.

I believe the Commonsense Product Liability Legal Reform Act has become necessary to deal with our increasingly litigious society and the arbitrary and capricious nature of many punitive damage awards.

Today, in 1996, product liability unquestionably has become a major factor in interstate commerce. Less so 20 years ago, but today product liability determines what goods are available in what States and at what price. Further, liability laws have had the impact of sending the manufacture of goods overseas, taking American jobs with them, for example, as we've seen in the private aircraft industry.

There can be no doubt that the measures in this legislation—punitive damage reform, joint and several liability reform, and a provision similar to an amendment that I offered to the original House bill—that limits the liability of rental and leasing agencies for the tortious acts of another—fall well within this category of appropriate and much needed reform. The changes proposed in this bill will rearrange the legal landscape, but they will further the cause of commerce and competitiveness, reduce costs for consumers and create jobs across America.

The problems we address in this bill are national problems. American citizens, businesses, municipalities, and other charities across our Nation pay $80 billion a year as a litigation tax. And these costs are paid by all of us through increased costs in our goods and services. Today 30 percent of the price of a stepladder and over 95 percent of the price of childhood vaccines go to cover the costs of tort liability. Each new private aircraft made by American workers has a $100,000 litigation tax added to its cost. The present system costs jobs, costs lives, and burdens every citizen in America with a litigation tax that is unaffordable.

The time has come for sensible product liability reform. This legislation will strengthen the economy and the free market by removing the impediments to interstate commerce and encouraging innovation. This legislation provides a national solution to a national problem, and I hope my colleagues will join me in supporting it.

Mr. DINGELL. Mr. Speaker, I yield the balance of my time to the gentlewoman from Texas [Ms. JACKSON-LEE].

The SPEAKER pro tempore (Mr. GUNDERSON). The gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 2 minutes and 10 seconds.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am here to talk about people. I think that is what we have missed in this whole debate. Thirty million Americans are injured by consumer products, not including automobiles; 29,000 people are killed in tragedies that involve everything from medical devices to chain saws.

It is important that my colleagues realize that we should not draw the line in the sand amongst ourselves. This is in fact the people's House. Most do not care what side we are on. They only ask that we remedy a problem that exists for the American people.

I have heard my colleagues talk about frivolous lawsuits and moneys that are expended.

Mr. Speaker, may I share with my colleagues that the Department of Justice said that product liability cases represent only 1.6 percent of civil cases. May I say to my colleagues that we have only had 14 injury awards of punitive damages annually for the last 2 years. But allow me to tell Members a story of an American worker who may be injured by a product older than 15 years old. That injured worker may be injured by a product that explodes while he is trying to work for his family. That individual has no rights under this law. But yet his corporation or his factory could still go to court and charge that the product maker interfered with his business. But that injured employee can no longer go to the court under this legislation. Thirty million Americans are injured by devices.

I heard my colleague talk about breast implants. Let me respect his expertise and the acknowledgment of the progress that has been made in breast implants. But there are many, many women who have suffered under the present design. I want to make sure that the sons and daughters in the future will not suffer the pain of these women who are involved in present-day breast implant litigation.

That is what this House is here for. The people's House is here to ensure the people's rights. And this products liability bill is, in fact, what the New York Times said, it is the "Anticonsumer bill for 1996."

Remember the 30 million, remember the 29,000. Vote against this legislation.

Mr. Speaker, I rise today to express my concerns regarding the conference report on H.R. 956, the product liability reform bill. The proponents of H.R. 956 may have intended for this bill to level the playing field among consumers and manufacturers but it does not achieve this goal. The bill eliminates joint liability for noneconomic damages and caps punitive damages at $250,000 or two times compensatory damages, whichever is greater.

While most interested observers agree that some elements of the current product liability system need to be reformed, they do not believe that such reform is necessary because of a great explosion of product liability lawsuits. The Justice Department's Bureau of Justice Statistics indicates that product liability cases represent only 1.6 percent of civil cases. Another influential study on product liability lawsuits indicates that there have been only an average of 14 jury awards of punitive damages annually for the last two decades.

Contrary to arguments made by proponents of the bill, the current system is not discouraging capital investment or increasing the costs of developing new products. In fact, the General Accounting Office reports that insurance costs to businesses represent less than 1 percent of most businesses' gross annual receipts. Moreover, the National Association of Insurance Commissioners indicate that product liability insurance premiums have dropped by nearly 30 percent over the last 6 years.

President Clinton has already announced that he will veto this bill because it preempts State law when such law favor consumers and defers to State law when such provisions favor the manufacturers. I am surprised that many members of the majority party in the House support this bill's uniform, Federal product liability standards since these Members strongly favor granting more authority to State governments.

Specifically, I am concerned about the elimination of joint and several liability for noneconomic losses because of its potentially disproportionate impact on women, children, and the elderly. The bill retains joint and several liability for economic losses such as lost wages. Noneconomic losses such as disfigurement or loss of fertility deserve similar treatment by the legal system as economic losses such as lost wages. This particularly impacts the number of breast implant cases affecting women across America.

The provisions of the bill relating to punitive damages must be carefully examined because punitive damages provide a powerful incentive for manufacturers to make strong efforts to ensure that their products are safe. A cap of $250,000 on punitive damages would mean that some large companies may incorporate this figure as a cost of doing business as they implement their quality control procedures for manufacturing products. Moreover, a provision in the bill permits judges to award punitive damages exceeding $250,000 in egregious circumstances. The intent of the bill however, is that a judge would rarely exercise this discretion.

Additionally, I am concerned about the statute of repose provision that prohibits courts from awarding damages for injuries caused by durable goods that are 15 years or older. The definition of durable goods is narrow and excludes various consumer products.

During the recent elections in California, the voters of that State rejected various referenda that would have changed the tort liability system by restricting the rights of consumers.

Mr. Speaker, I urge the Members of the House to carefully review the provisions of this bill and consider its potential impact on millions of American consumers.

Mr. HYDE. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. MANZULLO].

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MANZULLO] is recognized for 3 minutes.

Mr. MANZULLO. Mr. Speaker, today we have a great opportunity to move America forward by passing this conference report on products liability reform. This is not a perfect bill, but it is a fair bill. It is fair to the consumers in America, and it is fair to the companies that make the products.

One of the companies is Mattison Technologies of Rockford, IL. This is a company facing liability lawsuits involving products that are as old as the company itself. Madison is celebrating its 100th year of operation. That is correct, Mr. Speaker, Mattison Technologies have been manufacturing tools for one century.

Recently they were sued by a plaintiff in Ohio for a machine that was built in 1917. That is right, 1917, the same year Americans went to fight in the First World War, the same year the Bolsheviks were turning out Czar Nicholas. That is a long time for a machine tool to be functioning and too long for a company to be held liable for one of its products. Mattison has 150 employees and yet every 3 months the sheriff shows up with a brandnew summons bringing a brandnew lawsuit against the company.

I have a letter from Robert Jennings, the general manager. Listen to what he said: "The present product liability situation in this country has had a tremendous impact on our ability to successfully compete in the marketplace."

We are continuously defending lawsuits concerning machines built 30, 60, and even 70 years ago. "We are being penalized for building quality and longevity into our equipment, yet we believe this is what made in America is all about."

And what a bitter irony it is that current law keeps manufacturers from making better equipment or modifying it because that modification could be used to prove the initial design may not have been safe enough.

This bill would help rectify the problem. A 15-year statute of repose would stop such lawsuits on old products.

Mr. Speaker, a company being sued for a machine they manufactured in 1917. This is outrageous. This bill provides a balance. It protects the consumers. It protects the employers. And it also protects employees. Why are the 150 employees of Mattison Technologies the beneficiaries of this legislation? It is easy. Because if Mattison did not have to defend against these lawsuits, they could pour more into productivity, more into investment, more employees would be hired. They would become more competitive overseas.

Mr. Speaker, this is a good bill. It is a tough bill. It is a bill that is good for the economy of America. It is a bill that relates to one of the 1,800 companies in the district that I represent. I would encourage the Members of this body to vote in favor of the conference report.

MATTISON TECHNOLOGIES INC.,
Rockford, IL, March 28, 1996.

Re Common Sense Product Liability Legal Reform Act.

Hon. DONALD MANZULLO,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MANZULLO: On behalf of Mattison Technologies, Inc. and its 150 employees, I ask that you support the above referenced legislation.

The present product liability situation in this country has had a tremendous impact on our ability to successfully compete in the marketplace.

We are required to defend product liability claims against equipment that we built 50, 60, and yes, even 70 years ago.

We recently received a Complaint on a woodworking machine we built and shipped in 1917; that's 79 years ago!

We are being penalized for building quality and longevity into our equipment, yet we believe this is what "Made In America" is all about.

Among other sensible uniform product liability changes, this Act addresses the "forever liability problem" with a 15 year Statute of Repose.

The machinery manufacturing community, so vital to Illinois and the nation's economy, needs this reform.

Thank you for your support.

Sincerely yours,
ROBERT K. JENNINGS.

Mr. CARDIN. Mr. Speaker, I rise to express my disappointment with the conference report on H.R. 956, the Product Liability Reform Act. I have long been a supporter of legal reform and in particular, product liability tort reform. Unfortunately, some of the measures in this bill are too extreme and therefore, I must vote "no" on final passage.

I support a number of the provisions in the conference report including the abolishment of joint and several liability for noneconomic damages and the encouragement of alternative dispute resolution. In addition, the FDA defense proposed in the original House-passed bill was lifted in conference. Under the House bill, plaintiffs would have been barred from winning punitive damages for harm caused by products approved by the Food and Drug Administration.

The conference agreement also contains a more workable legal standard for punitive damages. Under the House bill, plaintiffs would be required to prove that a product was specifically intended to cause harm. The conference languages, which sets a standard of clear and convincing evidence for punitive damages, is a much more reasonable standard.

While the conference report improves on the House-passed legislation on punitive damages restrictions, I believe the language is still unacceptable. I support reasonable caps on punitive damages. However, the conference report allows a large number of businesses to be subject to an unreasonably low cap on punitive damages. In addition, an overall limit on $250,000, or two times compensatory damages, is also too low. I and many of my colleagues had suggested a cap of $500,000. I regret that the Conference Committee did not accept that recommendation.

The additur language was a good attempt to ease the impact of the punitive damage cap. It would allow a judge to award punitive damages above the cap if the judge determines the defendant's conduct was egregious. Although this provision is an improvement, it is subject to constitutional challenge, and would not apply to small business.

As I have indicated, I support many provisions in the conference report. However, there is much that I cannot support, including the preemption of States' rights, the statue of limitations, and lawsuit limits placed on victims of firearms violence.

I find particularly offensive the inclusion of negligent entrustment cases under the limits of this legislation. Sensible product liability reform should not subject cases involving gun or alcohol sales to minors to these new lower punitive damage limits or higher standards of proof.

Mr. Speaker, we can reform the legal system while still ensuring consumer protection. As a supporter of legal reform, I urge a "no" vote on this conference report so that it can be sent back to conference for further consideration.

Mr. BILBRAY. Mr. Speaker, I rise in strong support of H.R. 956.

Because of unwarranted product litigation, medical device manufacturers are in danger of being denied access to essential raw materials for the production of life-saving technologies. An alarming number of suppliers are refusing to sell these raw products to the manufacturers, for fear of being joined in a liability suit against the manufacturer.

Mr. Speaker, a full 32 percent of the Nation's medical device manufacturers are headquartered in California. A great number of these are in my San Diego district. These companies make pacemakers, heart valves, and other implantable medical devices which improve the quality of life and ease the suffering of innumerable patients. These companies depend on patented alloys and synthetics, such as Teflon and synthetic polymers, to ensure that these devices will be compatible with the patients who need them.

Under current law, the suppliers of these raw materials can be liable in product liability actions brought against device manufacturers, even though they have no role in the production or sale of the finished devices. As a result, many suppliers have announced plans to limit or discontinue sales of these raw biomaterials to device companies. This would drastically restrict the ability to provide these innovative devices to people who desperately need them.

This bipartisan conference report will reform this tragic situation, by allowing suppliers to resume sales to cutting-edge California device manufacturers, and in turn ensure that patients nationwide retain access to state-of-the-art technologies. This is about people, Mr. Chairman, and doing what we can to make sure patients in need are provided relief from their afflictions and suffering.

Mr. Speaker, this is a fair and bipartisan reform package, and I urge my colleagues to support it. Let us send H.R. 956 to the President, with the knowledge that Californians who need this reform are watching, as is the entire Nation. A veto of this bill, as promised by the President and supported by the Trial Lawyers Association, would be tragic; however, it would clearly demonstrate to the American people where the priorities of this administration truly lie.

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in opposition to the conference report on H.R. 956, the so-called Commonsense Product Liability Legal Reform Act. The only relation this bill has to common sense is that it takes just a little common sense to see that it is designed to protect big business at the expense of U.S. consumers.

It pulls the rug out from under U.S. consumers by applying unfair limitations on the means through which they can seek relief if hurt by a faulty product. It is puzzling that the party who has screamed about States' rights for the last year chooses to impose a Federal standard when it comes to limiting the rights of consumers. While this bill sets a Federal standard for product liability cases it allows States to retain their own laws only when it benefits big business. Specifically it requires States to adhere to the cap placed on punitive damages by this bill, but it does not require punitive damages in States that currently do not have punitive damages.

The arbitrary cap on punitive damages at $250,000 or two times actual damages, which ever is greater, is based on highly inflammatory rhetoric about the explosion of unreasonable jury awards in product liability cases. Product liability cases make up less than 0.5 percent of all lawsuits in the Nation. Cases in which punitive damages were awarded are even fewer. In 1994, punitive damages were awarded in only 15 cases nationwide. And nearly 80 percent of these cases resulted in the withdrawal of the product, improved product design, or strengthened warnings. Punitive damages are meant to punish wrongful actions of manufacturers and to deter the future production of similar faulty products. A cap of $250,000 is hardly a deterrent for a mega-corporation.

For smaller businesses the cap is the lesser of $250,000 or two times actual damages. Utilizing a different standard for small business establishes a precedent that a person harmed by a small business is entitled to less, even though the loss, disfigurement, or pain is equal to or greater than an injury incurred by a product of a larger business.

Furthermore, the bill imposes a more difficult burden of proof in order for punitive damages to be awarded, further reducing the effectiveness of punitive damages as a deterrent. Punitive damages are allowed to be awarded only if the plaintiff proves clear and convincing evidence that the conduct of the defendant was a conscious flagrant indifference to the rights and safety.

The most offensive provision to me personally is the provision which discriminates against women, children, and the elderly by barring joint and several liability for noneconomic damages. Treating economic and noneconomic damages differently establishes a two-tiered system which hurts women, children and the elderly, who typically have damages not related to lost wages. Their damages are injury related and go to pain and suffering, disability and physical losses. Under this bill a high-paid corporate executive would recoup all of his economic, income, damages while a woman who stays home with her children, a person with little or no economic loss, would not. Equal justice should not be dependent on age, employment, and economic status.

The intent of this bill is to discriminate against women, children, and the elderly. Since women have been subject to so many faulty products and drugs, like DES, silicone breast implants, IUD's, and the Dalkon Shield, it is grossly unfair.

I am a DES mother who took this harmful drug. If this law had been in effect at the time of my lawsuit, it would have been very upsetting. My losses would not have qualified for access to joint and several liability. Such a bar to fair and equitable recovery is unconscionable. This bill must be defeated.

If we are going to move toward a national standard on product liability, let it be a fair standard. One that treats men and women the same, one that recognizes the value of noneconomic damages, one that applies fairly to all businesses, and one that does not arbitrarily limit punitive measures needed to curb the production of faulty products.

Mr. Speaker, I urge my colleagues to vote down this conference report.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of this measure and to express his pleasure that this legislation has advanced to this stage and is one step closer to becoming law.

This Member introduced the first product liability legislation in the Nebraska Unicameral Legislature in 1977. During this process this Member realized that this issue must be dealt with on the Federal level, because the vast majority of products and services move through interstate commerce. Addressing product liability at the State level is like patching 1 hole in a tire with 50 holes.

Mr. Speaker, all Americans are paying higher prices for consumer goods and services because this legislation has been delayed for so very long. The insurance costs incurred by companies protecting against and paying for outrageous product liability suits are passed along to the consumer each and every day, in each and every product and service purchased.

Perhaps even more outrageously, the current system unfairly imposes upon the American public product design standards, which are created in response to penalties awarded in a few States with the highest punitive and compensatory damages. Those States get to impose their juries' ideas of appropriate design and safety standards on the rest of the Nation. That is a perversion of federalism. National standards should be set by the national legislature. That is what this bill will do.

Mr. Speaker, this Member has been a longtime cosponsor of product liability reform, dating back to at least 1986 when this Member was an early cosponsor of registration introduced by his distinguished colleague, Mr. ROTH. This Member is pleased that this conference report is before the House for final approval and urges his colleagues to support it.

Mr. RAMSTAD. Mr. Speaker, as chair of the task force which crafted the legal reform plank of the Contract With America, I feel extremely gratified to see an important part of our efforts come so far in the process.

Although the reforms contained in the conference report are not as sweeping as those the House put forward last year, they are a vast improvement over the present legal system. Our present system results in higher prices for consumers, lost jobs, and stifled innovation.

I want to talk about a particular provision in this conference report which is more than just sound economic policy; it is sound health policy.

Over 11 million Americans rely on implanted medical technologies, ranging from artificial joints to complex mechanical devices such as cardiac defribrillators and drug infusion pumps.

Unfortunately, the spectre of product liability litigation has caused many raw material suppliers to restrict the use of their products in implanted medical devices. The lack of materials and components for these medical devices jeopardizes the well-being—and in some cases the very lives—of the millions of Americans who depend on these technologies.

The biomaterials access assurance provisions of H.R. 956 will help ensure that the threat of product liability litigation will not hurt patients who need access to implanted medical devices. H.R. 956 will prohibit claims against a biomaterials supplier unless the company acted irresponsibly and its mistake actually caused the harm.

It is also important to note what the biomaterials access assurance provisions will not do. Nothing will reduce the amount of money to which a person injured by a defective implant is entitled. Device manufacturers will design suitability and performance specifications for the raw materials, certified by the FDA, and suppliers will continue to be liable when materials or components do not meet the specifications.

But suppliers will not be responsible when their products meet the manufacturer's specifications. In these circumstances, the manufacturers will be responsible for any product defect. This commonsense approach protects the rights of injured plaintiffs, but at the same time prevents a biomaterials shortage our country just cannot afford.

I urge my colleagues to support this important bill.

Mr. BUYER. Mr. Speaker, I am pleased to support this legislation which will return common sense to our legal system as it applies to products. While these reforms do not go as far as I would like, they are essential to restoring balance to our legal system as we seek to protect consumers while providing predictability to manufacturers.

The bill establishes a 15-year limit on when a manufacturer may be held liable for its products. Product sellers will not be liable in cases where illegal drugs or alcohol contributed more than 50 percent toward the harm. In addition, producers will not be liable for the percentage of blame attributed to product misuse or alteration.

This measure makes clear that punitive damages should be awarded only in the most serious cases of egregious conduct. Punitive damage awards will be linked to the actual harm caused by allowing punitive damage awards of up to two times the compensatory damages or $250,000, whichever is greater. There are special rules for individuals of limited net worth and to small businesses.

Liability for noneconomic damages will be several, rather than joint, making defendants liable only for their proportionate share of the fault. This addresses the deep pocket syndrome.

The bill also addresses the unique difficulty faced by biomedical device manufacturers. Medical device manufacturers are quickly losing suppliers of materials due to litigation. Huge awards are often sought from suppliers even though they had no role in the design, manufacture, or sale of a device. The courts are not finding suppliers liable, yet millions of dollars and countless hours are spent on defense in court. This bill will provide expedited dismissal against suppliers in court and they cannot be sued unless they are a manufacturer or a seller of devices and as long as they have abided by the contract and supply specifications of the manufacturer. Biomedical device manufacturers in Warsaw, IN, BIOMET, Zimmer, DePuy, and Danek, are producing the needed devices, pacemakers, heart valves, artificial blood vessels, hip and knee joints, that add so much to the quality of life for countless individuals.

There are so many small businesses in the Fifth District of Indiana that will be helped by this legislation. These businesses will be able to concentrate on product development and expansion rather than fighting lawsuits. One such company is Whallon Machinery of Royal Center, IN, which manufacturers industrial material handling machines. In nearly 30 years of business, over 83 percent of all machines built are still in use. Prior to 1993, Whallon had no product liability claims. One customer had modified a Whallon machine. Had this legislation been in place then, Whallon Machinery may not have faced a fourfold increase in insurance premiums.

It is time to return a sense of reasonableness to ensure that injured parties are compensated in a manner that protects all consumers and America's competitiveness. This legislation is a very good start.

Mr. COSTELLO. Mr. Speaker, I rise today in strong opposition to the product liability conference report. This bill effectively condones egregious misconduct, carelessness, and greed of manufacturers which produce and sell defective products. This bill makes it cost-effective for some companies to put profits ahead of safe products. In my opinion, Mr. Speaker, this is wrong. The unfortunate victims of the repercussions of this legislation are the American consumers.

I object to the provisions in this bill which arbitrarily limit the amount of punitive damages injured person may recoup when harmed by faulty or dangerous products. Punitive damages should serve as a deterrent to manufacturers who knowingly build and sell dangerous products. Punitive damages force companies to fix dangerous products. For example, punitive damages have been effective in making safer children's pajamas and baby cribs, automobiles, and medical devices. Without the threat of these large damage awards, manufacturers have an incentive to settle with individuals hurt by dangerous products rather than correcting their wrongs. We cannot actively condone and promote such unconscionable business practice.

Proponents of this legislation argue for the need to limit punitive damages to $250,000 because without such caps juries have awarded ridiculously high punitive damage awards. This is simply not true. The National Center for State Courts reports that only 600 of the 1 million tort actions filed each year result in punitive damages. It should further be noted that most of those are reduced on appeal. It is easy to talk about the outrageous $2.7 million award to the woman who was burned by the hot coffee at McDonald's. However, let us examine the facts. This grandmother had to undergo extensive skin grafts for her burns. McDonald's had ignored 700 prior complaints about too-hot coffee and, in fact, the judge reduced the punitive damage award to $400,000. How many burns must it take to have a company change its harmful ways? The unfortunate fact remains that business usually comes down to dollars. Mr. Speaker, it cannot pay to make dangerous products. I urge my colleagues to defeat this bill.

Mrs. MEEK of Florida. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, I strongly oppose the so-called Common Sense Product Liability Legal Reform Act.

There is no common sense in it.

What is the common sense of having Washington dictate to juries in each of the 50 States how to decide a case where someone has been injured by a dangerous product?

What is the common sense of having Washington dictate to the voters and State legislatures in each of the 50 States? The States are acting. For example, in 1988 Florida's voters rejected, by a vote of 57 percent to 43 percent, an amendment to the constitution that would have arbitrarily capped noneconomic damages in all tort cases at $100,000. Since 1986, 31 State legislatures have altered their product liability laws.

The Republican majority preaches federalism and returning power to the people. But its actions speak louder than its words. The Republican leadership wants to override what the States are doing because it does not like what the citizens of each State are deciding.

The Republican leadership preaches that individuals should be accountable for their actions. Why not apply the same standard to corporations that make and sell dangerous products?

Title II of this bill will prevent women who needlessly suffered from faulty breast implants from suing the company that negligently supplied the silicone gel. That is wrong.

Mr. Speaker, President Clinton is right when he said he will veto this bill. This conference report favors corporate profits over the health and safety of our citizens, and I urge my colleagues to vote against it.

Mr. KLECZKA. Mr. Speaker, I rise in opposition to the conference report on H.R. 956, product liability reform.

Last March, I voted in favor of this legislation because I believed there were problems in our product liability system which needed to be addressed. We have all heard stories of excessive awards, or juries granting vastly different awards for similar injuries. However, the conference report before us today and recent congressional action radically shift the balance against the consumers.

To get a better understanding how this new version of product liability reform would affect the buying public, I met with Mary Griffin from Consumers Union. She discussed with me a number of the conference report's provisions which would adversely impact consumers, including the 15-year statute of repose, pre-emption of State laws more favorable to plaintiffs, the combined effect of the bill and other deregulatory efforts, and the 2-year statute of limitations on filing lawsuits.

This legislation contains a number of provisions which, in my judgment, would place unreasonable restrictions on individuals' ability to receive compensation for injuries caused by faulty products. Taken together, these provisions cause the product liability system to tilt dramatically against consumers.

The bill establishes a false and unfair distinction between individuals and corporations by limiting the ability of the individual to collect damages in product liability cases. For example, the statute of repose is set at 15 years for durable products like heavy machinery and elevators. If a defective product is more than 15 years old, an individual may not sue the manufacturer for injuries the product caused. Companies, however, could still go to court to recover damages. As a result, if a 16-year-old defective furnace explodes in a factory and kills a worker, that individual's family cannot sue the furnace manufacturer. The employer, however, is still permitted to take the furnace company to court to collect compensation for lost production, repairs, and so on.

The State pre-emption provisions of the conference report also trouble me deeply.

State laws more favorable to consumers, such as higher or unlimited punitive damages, are pre-empted by this bill. At the same time, if the State standards are stricter, they are allowed to stand. This position is ironic to me given the current mood of Congress in returning authority to the States. Evidently, the congressional leadership is not confident that States will protect big business sufficiently. Under this legislation, companies would not have to go to the trouble of venue-shopping; Congress simply guarantees them the best possible deal. These pre-emption provisions have earned the bill the opposition of the National Conference of State Legislatures, the Conference of Chief Justices, Mothers Against Drunk Driving, and many other groups.

I am troubled by the apparent link between this product liability reform bill and the current congressional efforts toward deregulation. Congress is cutting the budgets of agencies like the Occupational Safety and Health Administration and the Consumer Product Safety Commission, which are responsible for overseeing the safety of products in the workplace and the home. It simply does not make sense to cut government safety oversight and, at the same time, slam the courthouse door on consumers who are injured by defective products.

Finally, I must object to the 2-year statute of limitations inserted by the conference committee. Under this provision, a person must file a lawsuit within 2 years of discovering their injury. Mr. Speaker, many of the ailments caused by these injuries are progressive in nature, developing over time. A person cannot possibly file a lawsuit when they have no idea how their condition may progress and what sort of medical treatment they may require in the future.

For these reasons, I cannot support the conference report on H.R. 956. I urge my colleagues to vote "no" on this legislation.

Mr. PALLONE. Mr. Speaker, I am strongly opposed to H.R. 956, the so-called Common Sense Product Liability Legal Reform Act.

H.R. 956 would pre-empt State law to require a $250,000 cap on punitive damage awards. Punitive damages are not compensation to a victim—through they serve that purpose—they are intended as punishment to businesses that are negligent. Punitive damage awards serve as a deterrent to bad actors in the market place who put explosive water heaters or automobiles on the market. It forces companies to be very careful and it forces them not to cut corners in an attempt to make a few dollars more.

It does not take a degree in math to realize that a $250,000 punitive damage award is hardly a deterrent to negligent Fortune 500 companies that rake in hundreds of millions or even billions of dollars each year. In fact, what this fixed figure does is allow companies to carefully calculate the costs and benefits of being negligent. Right now, because punitive damage awards are uncertain, the maker of a gas heater that has a faulty valve has no idea how much the company will lose as a result of successful suits against its faulty product. But under this bill, all that manufacturer would have to do is figure out how many of those heaters will explode, multiply by $250,000 and then compare that with expected profits. If profits outweigh damage awards, then you can bet that that deadly product will be out on the market.

This bill also does not contain language that I and 257 of my colleagues supported to hold foreign manufacturers to at least the same silly standards in this bill. So if you lose your sight, or your arms, or your children because of some negligent U.S. manufacturer, you can take some solace in the fact that you will get limited compensation, and the manufacturer will have to pay a little bit of money for being bad. But, if you lose a family member or your legs as a result of some faulty product from a foreign manufacturer, you get nothing. That company gets away scot-free, because H.R. 956 gives foreign manufacturers a free ride on the health, safety, and welfare of American consumers.

I also find it ironic that Republicans—who have harped on the issue of States rights for many years—have put together a bill that tramples on States rights. Currently, States enjoy the right to impose either ceilings or floors on punitive damages; however, this legislation would impose a ceiling while still allowing States to enact even lower damage caps. A similar situation exists with regard to the statute of repose which is capped at 15 years. In addition, a provision was recently added to the bill that would pre-empt the law in numerous States governing the liability of certain utilities, including gas pipelines.

The truth is time after time in this Congress, Republicans have put special corporate interests ahead of the needs of the average American. That is why I wrote to the President recently urging him to veto H.R. 956, and I ask that the text of my letter be made part of the RECORD.

This is just the latest in a series of efforts to undermine consumer protection at the expense of the health and safety of the average American. This undermining of American health and safety law represents a sea change from the consensus that reigned here for many years. But things have changed, and they have changed for the worse.

For example, early in the year, we passed a risk assessment bill that, if enacted, would have effectively repealed current statutory and regulatory standards designed to protect health, safety, and the environment. That bill contained language that in a mindless, sweeping way, would have wiped away decades of work done by Congress, and by State and Federal courts.

And just today, as we were considering H.R. 965, Republicans were telling us that the Consumer Product Safety Commission—which each year helps prevent millions of injuries due to negligent manufacturers or faulty products—had outlived its usefulness because the people were well protected by our Nation's product liability laws.

Mr. Speaker, we need to ensure public safety. We need to protect small children. But what we do not need is the H.R. 956 the corporate dollars and sense Product Liability Reform Act. I am sure the President will veto, and I hope my colleagues will sustain his veto and stop Republicans from gutting consumer protections for the benefit of corporate special interests.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 25, 1996.

Hon. WILLIAM J. CLINTON,
President of the United States,
Washington, DC.

DEAR PRESIDENT CLINTON: I am writing in support of your announced intention to veto H.R. 956, the Common Sense Product Liability Legal Reform Act.

H.R. 956 would pre-empt state law to require a $250,000 cap on punitive damage awards. Currently, states enjoy the right to impose either ceilings or floors on punitive damages; however, this legislation would impose a ceiling while still allowing states to enact even lower damage caps. A similar situation exists with regard to the statute of repose which is capped at 15 years. In addition, a provision was recently added to the bill that would pre-empt the law in numerous states governing the liability of certain utilities, including gas pipelines.

Also, it is clear that the threat of a $250,000 penalty is not a sufficient deterrent to irresponsible behavior in many instances. Nor is it adequate punishment for conduct that results in death or serious injury such as the loss of a limb. Coupled with the legislation's elimination of joint-and-several liability for noneconomic damages, this bill, if enacted, would definitively tip the balance against consumers and in favor of those who manufacture and market defective products.

Finally, it is important to note that this legislation is not being considered in a vacuum. The Republican majority in Congress continues to attack public health, safety and consumer protection laws both through the authorization process and by underfunding the agencies that enforce those laws. Enactment of extreme legislation, like H.R. 956, taken together with these other efforts will surely threaten the health, safety and well being of all Americans.

For these reasons, I urge you to veto H.R. 956.

Sincerely,

FRANK PALLONE, Jr.,
Member of Congress.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HYDE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 259, nays 158, not voting 14, as follows:

[Roll No. 110]

YEAS—259

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer

Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Dickey
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennelly
Kim
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—158

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clyburn
Coble
Coleman
Collins (MI)
Conyers
Costello
Coyne
Danner
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dixon
Doggett
Doyle
Durbin
Engel
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Green
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kildee
King
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pickett
Pomeroy
Poshard
Rahall
Rangel
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Stark
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—14

Bryant (TX)
Collins (IL)
de la Garza
Eshoo
Fields (TX)
Ford
Fowler
Hayes
McNulty
Smith (TX)
Stokes
Torres
Weldon (PA)
Weller

□ 1343

The Clerk announced the following pair:

On this vote:

Mrs. Fowler for, with Mrs. Collins of Illinois against.

Mr. EDWARDS changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business for certain votes on Friday, March 29, 1996. Had I been present on the House floor I would have cast my votes as follows: Roll No. 108: Nay on ordering the previous question on H. Res. 394; Roll No. 109: Yes on approving the journal; and, Roll No. 110: Nay on agreeing to conference report H. Rept. 104–481.

PERSONAL EXPLANATION

Mr. WELLER. Mr. Speaker, on rollcall No. 110, H.R. 956, conference report on product liability reform, while I was present on the floor and inserted my voting card, it appears that my vote was not recorded. I do want to note that I voted in favor of H.R. 956 when it originally passed the House.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, pursuant to the order of the House, I call up the joint resolution (H.J. Res. 170) making further continuing appropriations for the fiscal year 1996, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of the joint resolution is as follows:

H.J. RES. 170

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 104–99 is further amended by striking out "March 29, 1996" in sections 106(c), 112, 126(c), 202(c) and 214 and inserting in lieu thereof "April 24, 1996"; and that Public Law 104–92 is further amended by striking out "April 3, 1996" in section 106(c) and inserting in lieu thereof "April 24, 1996" and by inserting in Title IV in the matter before section 401 "out of any money in the Treasury not otherwise appropriated, and" before "out of the general fund"; and that section 347(b)(3) of Public Law 104–50 is amended to read as follows:

"(3) chapter 71, relating to labor-management relations;'; and that section 204(a) of the Auburn Indian Restoration Act (25 U.S.C. 1300*l*–2(a)) is amended by striking "shall" in the first sentence and inserting in lieu thereof "may".

SEC. 2. That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, and for other purposes, namely:

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

FUNDS APPROPRIATED TO THE PRESIDENT, AGENCY FOR INTERNATIONAL DEVELOPMENT

Assistance for Eastern Europe and the Baltic States

(Including Transfers of Funds)

For an additional amount for "Assistance for Eastern Europe and the Baltic States" for Bosnia and Herzegovina, including demining assistance, $198,000,000: Provided, That of the funds appropriated under this heading by this Act that are made available for the economic revitalization program in Bosnia and Herzegovina, not less than 87.5 percent shall be obligated and expended for programs, projects, and activities, within the sector assigned to American forces of the military Implementation Force (IFOR) established by the North Atlantic Council pursuant to the General Framework Agreement for Peace in Bosnia and Herzegovina and within the Sarajevo area: Provided further, That the preceding proviso shall not apply to any project that involves activities in both the American IFOR sector and other contiguous sectors: Provided further, That priority consideration should be given to projects and activities designated in the IFOR "Task Force Eagle civil military project list" in making available funds for the economic revitalization program: Provided further, That none of the funds appropriated under this heading by this Act shall be made available for the construction of new housing or residences in Bosnia and Herzegovina: Provided further, That none of the funds appropriated under this heading by this Act or under this heading in Public Law 104–107 may be made available for the purposes of repairing housing in areas where refugees or displaced persons are refused, by Federation or local authorities, the right of return due to ethnicity or political party affiliation: Provided further, That not to exceed $5,000,000 may be transferred to "Debt Restructuring" to be made available only for the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and loan guarantees, notwithstanding any other provision of law: Provided further, That $3,000,000 shall be transferred to "Operating Expenses of the Agency for International Development" for administrative expenses: Provided further, That the additional amount appropriated or otherwise made available herein is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the provisions of section 515 of Public Law 104–107, and any similar provision of law requiring advance notification to the Congress, shall be applicable to funds appropriated under this heading, except that the requirements of those provisions shall be satisfied by notification five days in advance of the obligation of such funds: Provided further, That, effective ninety days after the date of enactment of this Act, none of the funds appropriated under this heading by this Act may be made available for the purposes of economic revitalization in Bosnia and Herzegovina unless the President determines and certifies in writing to the Committees on Appropriations that the aggregate bilateral contributions pledged by non-United States donors for economic revitalization are at least equivalent to the United States bilateral contributions for economic revitalization made by this Act and in Public Law 104–107: Provided further, That 50 percent of the funds appropriated under this heading by this Act that are made available for economic revitalization shall not be available for obligation unless the President determines and certifies to the Committees on Appropriations that the Federation of Bosnia and Herzegovina has complied with article III of Annex 1–A of the General Framework Agreement for Peace in Bosnia and Herzegovina concerning the withdrawal of foreign forces, and that intelligence cooperation on training, investigations, and related activities between Iranian officials and Bosnian officials has been terminated: Provided further, That funds withheld from obligation pursuant to the previous proviso may be made available for obligation and expenditure after June 15, 1996, notwithstanding the previous proviso if the President determines and reports to the Committees on Appropriations that it is important to the national security interest of the United States to do so: Provided further, That the authority contained in the previous proviso to make such a determination may be exercised by the President only and may not be delegated: Provided further, That with regard to funds appropriated under this heading by this Act (and local currencies generated by such funds) that are made available for economic revitalization, the Administrator of the Agency for International Development shall provide written approval for grants and loans prior to the obligation and expenditure of funds for such purposes, and the Administrator shall receive the agreement of grantees that such funds shall be subject to audits by the Inspector General of the Agency for International Development: Provided further, That with regard to funds appropriated under this heading by this Act (and local currencies generated by such funds) that are made available for economic revitalization, the Administrator of the Agency for International Development shall provide written approval for the use of funds that have been returned or repaid to any lending facility and grantee under the economic revitalization program prior to the use of such returned or repaid funds: Provided further, That, notwithstanding any provision of law under this heading in Public Law 104–107, the provisions of section 532 of that Act shall be applicable to funds appropriated under this heading that are used under the economic revitalization program and to local currencies generated by such funds: Provided further, That such local currencies may be used only for program purposes: Provided further, That for the purposes of this Act, local currency generations under the economic revitalization program shall include the conversion of funds appropriated under this heading into currency used by Bosnia and Herzegovina as local currency and local currency returned or repaid under such program.

The SPEAKER pro tempore (Mr. GUTKNECHT). Pursuant to the order of the House today, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] will each control 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 170, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr LIVINGSTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I had hoped to stand before the House today and ask for the opportunity to present the final solution, if you will, for fiscal year 1996, the wrap-up bill, the omnibus bill, the bill that has plagued this House for the last 6 months. Unfortunately, that was not to be the case.

However, I am very pleased to tell the Speaker and our colleagues that we are really within hours of presenting that solution. Unfortunately, we cannot complete it before we go on break for the district work period. Therefore, Mr. Speaker, we have to come back in a few days after the recess and complete our business. In fact, I really do not think it will take very long. Assuming our leadership continues to work with the White House, and we get cooperation from all parties, we should be able to conclude the mighty bill.

The fact is most of the issues in the remaining appropriations bills have been resolved, but there are still a few of them that are uncompleted. We also have not quite resolved both the payment of the funding level for those bills and the "paid fors" anything that exceeds the House budget levels.

We are still working on offsets; we are still working on such problems as the HIV issue within the national security bill; the abortion issue within the foreign operations bill, ergonomics, and various other isolated issues. I want to compliment all of the conferees in both House and Senate, Republican and Democrat, Mr. Speaker, for pitching in, shoulder to shoulder, over the last few days and working diligently in the hopes that we could finalize our negotiations by this time today. It was not to be, but it was not for lack of a conscientious bipartisan effort. I am deeply grateful to all of the Members for pitching in.

Since that is the case, Mr. Speaker, I am compelled and pleased to present to the House the current bill, which extends all of the current continuing resolutions and all of the appropriations bills that are contained within those continuing resolutions, through April 24.

Tomorrow, Members will go back to their districts to hold town meetings, make appearances, and spend time with their families. This may be a change from the last few weeks, but the fact is that by the time they return, there will only be 6 legislative days before the end of the this current continuing resolution we're presenting to the House today.

Mr. Speaker, this bill also provides four separate items which we feel are of such an emergency status that we must address them. The first provides a full year Federal payment to the District of Columbia, of without which the District of Columbia would collapse and cease to function. Second, it appropriates $198 million for Bosnia and Herzegovina for economic revitalization, money that is needed today. It is needed with most urgency in order to help our troops complete their tasks and pull out of that troubled region. These funds would have been included in the conference agreement on H.R. 3019, but because of the urgent need, they are being advanced in this resolution.

Then, really, there are only two technical provisions. One amends the fiscal year 1996 Transportation Appropriation Act to clarify FAA personnel reforms, and the other simply amends the Auburn Indian Restoration Act to create discretionary authority for the Secretary of the Interior to accept lands into trust status on behalf of the tribe. These two items are technical in nature, and meet bipartisan consensus, and there is no objection to them.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me simply say that I am extremely disappointed that once again we are having to fund government on a stop-and-go basis, with yet, I believe, the 12th or 13th, maybe it is lucky 13, 13th CR or continuing resolution for this fiscal year.

I am extremely disappointed that more progress was not made this week in finishing action on the entire set of appropriation matters for the remainder of the fiscal year. What the situation is, is basically this: The Senate, in a constructive move, moved this process much closer to a possible White House signature by the changes that they made in the House appropriation bills when they were before the Senate, but as the White House has made quite clear, much as they welcome that movement in the Senate, they still require some additional movement in order to achieve a bipartisan compromise.

It is not just enough for the Members of the House to reach agreement with the Members of the Senate, or for Members of one party in the House to reach agreement with the Members of their party in the Senate. We also have to reach agreement between the leadership of the Congress and the leadership of the executive branch, which means the President of the United States. He has indicated he still is considerably concerned about remaining insufficiencies, especially in the area of education, worker training, and environmental protection.

So I think, Mr. Speaker, we will be focusing on those issues very firmly over the next 2 weeks. Meanwhile, the committee has again brought a short-term continuing resolution to the floor. This resolution is, regrettably, and in my view unnecessarily restrictive in terms of the funding levels that it provides for a number of areas, most especially including programs like chapter 1; and we know that we have some 40,000 school districts who are facing the prospect of having to lay off teachers if this is not resolved. That is why this must be resolved. But we are not quite there yet. I think we are moving a bit closer, but it is really going to require earnest negotiations over the next 2 weeks in order to put this matter to bed for the remainder of the fiscal year.

Let me simply say, Mr. Speaker, I know Members what to get out of here. I regret very much the fact that this resolution has such a restricted funding level, especially in the area of education, as I have said, but that is what we have before us. I would simply say that it is my determination to pursue every possible avenue of compromise over the next 2 weeks, so we can get the matter resolved. I thank the chairman of the committee for his assistance in dealing with issues on which we both agree and disagree.

Mr. Speaker, I yield back the balance of my time.

Mr. LIVINGSTON. Mr. Speaker, I yield myself such time as I may consume.

I would just simply urge all our Members, Mr. Speaker, to keep the Government open, support this resolution, and have a happy Easter; and notice how I said that: Have a very happy Easter.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WELCOME TO WASHINGTON'S NEWEST REPUBLICAN, WILLIAM HANNA BOGER IV

(Mr. CRAPO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAPO. Mr. Speaker, I rise today to welcome to Washington the Nation's newest Republican, William Hanna Boger IV. William was born Tuesday, March 26 at 8:24 a.m., was 20 inches long and weighed 7 pounds, 7 ounces.

His proud parents are my executive assistant, Dorothy S. Boger of Morrow, LA and her husband William, of Columbus, OH, partner at the law firm of Wilkinson, Barker, Knauer and Quinn and a former staffer of my good friend BOB LIVINGSTON.

Although he was immediately registered as a Republican for the 2014 elections his parents extend their thanks to their friends on both sides of the aisle for the many expressions of support they received over the last few days.

Congratulations, Dorothy, Bill, and little Billy.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. CRAPO. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, would the child like some counseling about this registration, before he takes this very serious step?

Mr. CRAPO. Mr. Speaker, I would tell the gentleman, I would offer that to his parents, but I will tell him, I think I am in a good position, and I will provide that counseling, if he does not mind.

Mr. HOYER. Congratulations to the family.

PROVIDING FOR ADJOURNMENT OF THE HOUSE FROM FRIDAY, MARCH 29, 1996, TO MONDAY, APRIL 15, 1996, AND ADJOURNMENT OR RECESS OF THE SENATE FROM FRIDAY, MARCH 29, 1996, OR THEREAFTER, TO MONDAY, APRIL 15, 1996

Mr. ARMEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 157) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 157

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Friday, March 29, 1996, it stand adjourned until 12:30 p.m. on Monday, April 15, 1996, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Friday, March 29, 1996, Saturday, March 30, 1996, or Sunday, March 31, 1996, pursuant to a motion made by the Majority Leader or his designee in accordance with this resolution, it stand recessed or adjourned until noon on Monday, April 15, 1996, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

☐ 1400

ELECTION OF MEMBER TO COMMITTEE ON WAYS AND MEANS

Mr. ARMEY. Mr. Speaker, I offer a privileged resolution (H. Res. 397) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 397

Resolved, that the following named Member be, and he is hereby, elected to the following standing committee of the House of Representatives:

Committee on Ways and Means: Mr. HAYES of Louisiana, to rank following Mr. PORTMAN of Ohio.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I yield to the gentleman from Texas [Mr. ARMEY], the majority leader, for the purpose of inquiring of the schedule for when we are coming back and what the majority perceives to be the business as we come back.

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Speaker, this marks the last vote for the day and the beginning of the April district work period. As the adjournment resolution indicated, we will be back on April 15, and we expect to have votes after 5 p.m. on Monday, April 15. We would at that time be taking up for consideration H.J. Res. 159, proposed constitutional amendment to require a two-thirds vote to raise taxes, the taxpayer bill of rights; and H.R. 842, to provide off-budget treatment for transportation trust funds, both subject to a rule. During the course of that week we would consider these items. Of course, conference reports, if they are available. We would expect to be out by 6 p.m. on Thursday, with no votes on Friday.

I should also mention we will have some suspensions which we will make available to both the minority and majority Members on the first day back.

Mr. HOYER. I thank the majority leader and wish he and his colleagues the very best and hope that as we come back, we will come back to a productive session, particularly as it relates to getting the business of the CR completed and moving on to the budget for the coming fiscal year.

Mr. ARMEY. If the gentleman would yield again.

Mr. HOYER. I yield to my friend from Texas.

Mr. ARMEY. It has been my privilege to work with and to observe the extraordinarily hard work that has been put out by Members from both sides of the aisle, from both parties, on the appropriations process these past couple of weeks. I think we can all, the entire body can be proud of all of these Members for their willingness to work on that, and the effort made by the staff as well. I have every confidence that we will be able to come back in 2 weeks and see some renewed effort that will be fruitful.

Mr. HOYER. I thank the gentleman for his comments and wish him well.

PERMISSION FOR MEMBERS TO EXTEND THEIR REMARKS IN THE RECORD FOR TODAY

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that for today all Members be permitted to extend their remarks and to include extraneous material in that section of the RECORD entitled "Extension of Remarks."

The SPEAKER pro tempore (Mr. GUTKNECHT). Is there objection to the request to the gentleman from Texas?

There was no objection.

AUTHORIZING THE SPEAKER AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS, NOTWITHSTANDING ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Monday, April 15, 1996, the Speaker and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, APRIL 17, 1996

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that business in order under the Calendar Wednesday rule be dispensed with on Wednesday, April 17, 1996.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DESIGNATION OF THE HONORABLE BILL EMERSON TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH APRIL 15, 1996

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 29, 1996.

I hereby designate the Honorable BILL EMERSON to act as Speaker pro tempore to sign enrolled bills and joint resolutions through Monday, April 15, 1996.

NEWT GINGRICH,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objections, the designation is agreed to.

There was no objection.

COMMUNICATION OF THE HONORABLE KENNETH E. BENTSEN, JR., MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable KENNETH E. BENTSEN, Jr., Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 26, 1996.

Hon. NEWT GINGRICH,
Speaker of the House, House of Representatives,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the United States District Court for the District of Columbia. This subpoena relates to her employment by a former Member of the House.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and procedures of the House.

With kindest personal regards,
Sincerely,
KENNETH E. BENTSEN, Jr.,
Member of Congress.

UNITED STATES ON SLIPPERY SLOPE TOWARD EXTENDED DEPLOYMENT

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. SKELTON. Mr. Speaker, this is the fourth in a series of speeches I am giving on the status of the NATO peacekeeping mission in Bosnia.

Our troops continue to do an outstanding job. They are fully deployed. They are completing tasks according to schedule, although not always under optimum circumstances.

However, I have concerns about three conditions that may cause us to stay in Bosnia past our scheduled departure at the end of 1996. I outlined these three concerns in a letter I sent to the President this morning. I will place the letter into the RECORD at the end of my remarks.

First, the March 21 edition of the New York Times reported the United States-and NATO are being urged to keep our forces in Bosnia after the end of the year. International civilian and military authorities are alleged to be pressing for continued NATO presence beyond our scheduled departure.

To keep American troops in Bosnia past the end of 1996 would be a major mistake. It flies in the face of a clear statement by Secretary of State Warren Christopher, who said:

> This is not a permanent commitment. This is approximately a 1-year commitment. If it can't be done in a year, perhaps it can't be done in a longer period of time.

Staying in Bosnia breaks faith with our American troops who are presently stationed in Bosnia, who expect to return to their families in 9 months. It also contradicts what the American people were told about the duration of the mission.

American forces are facing a difficult and challenging assignment in the NATO peacekeeping mission. The 1-year deployment was intended to provide an opportunity for peace, not a guarantee of it. The people of Bosnia must assume the responsibility of ensuring their own peace.

Second, American and NATO peacekeepers are being diverted from their original mission to the task of rebuilding Bosnia. This assignment shifts the focus of our military forces from peacekeeping to assisting in civil projects.

Third, and finally, by several accounts, a cornerstone of the Dayton agreement—the continuance of the Muslim-Croat federation—appears severely weakened. The U.S. and NATO could well be in a quandary if that alliance should crumble.

The push to keep United States and NATO forces in Bosnia, the expansion of mission assignments and the possible disintegration of the Muslim-Croat federation could compel us to extend our commitment in Bosnia. We are on a slippery slope toward a lengthy deployment of 5 or even 10 additional years.

Another issue that concerns me is the continued presence of Iranians in Bosnia who are training Bosnian Government soldiers. This is a clear violation of the Dayton peace agreement. Their presence also poses a threat to the safety of our troops, as some of these groups are opposed to our peacekeeping effort.

I commend Maj. Gen. William L. Nash, commander of the American sector of NATO forces in Bosnia, who stressed his determination to withdraw on schedule. He properly stated that the burden for peace is "on the shoulders of those folks that live here."

If the people of Bosnia truly want peace, 1 year is more than enough time to get it started.

Mr. Speaker, I urge the President to stick by the commitment and have our American troops home by Christmas.

Mr. Speaker, I ask to include a copy of my letter to the President in the RECORD at this point.

The letter referred to is as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 28, 1996.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The March 21 edition of the New York Times reported the U.S. and NATO are being urged to keep our forces in Bosnia after the end of the year. International civilian and military authorities are alleged to be pressing for continued NATO presence beyond our scheduled departure.

To keep American troops in Bosnia past the announced date of departure at the end of 1996 would be a major mistake. First, it flies in the face of a clear statement by Secretary of State Warren Christopher: "This is not a permanent commitment. This is approximately a one-year commitment. . . . If it can't be done in a year, perhaps it can't be done in a longer period of time." Second, it breaks faith with our American troops who are presently stationed in Bosnia, who expect to return to their families in nine months. Third, it contradicts what the American people were told abut the duration of the mission.

American forces are facing a difficult and challenging assignment in the NATO peacekeeping mission. The one-year deployment was intended to provide an opportunity for peace, not a guarantee of it. The people of Bosnia must assume the responsibility of ensuring their own peace.

Already, American and NATO peacekeepers are being diverted from their original mission to the task of rebuilding Bosnia. This assignment shifts the focus of our military forces from peacekeeping to assisting in civil projects.

Further, by several accounts, a cornerstone of the Dayton agreement—the continuance of the Muslim-Croat Federation—appears severely weakened. The U.S. and NATO could well be in a quandary if that alliance should crumble.

The push to keep U.S. and NATO forces in Bosnia, the expansion of mission assignments and the possible disintegration of the Muslin-Croat Federation could compel us to extend our commitment in Bosnia. We are on a slippery slope toward a lengthy deployment of five or even ten additional years.

I command Major General William L. Nash, Commander of the American sector of NATO forces in Bosnia, who stressed his determination to withdraw on schedule. He properly stated that the burden for peace is "on the shoulders of those folks that live here."

Mr. President, if the people of Bosnia truly want peace, one year is more than enough time to get it started.

Very truly yours,

IKE SKELTON,
Member of Congress.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE CHILDREN'S TELEVISION ACT RULEMAKING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. MARKEY] is recognized for 5 minutes.

Mr. MARKEY. Mr. Speaker, in 1990 we passed in this body the Children's Television Act. In that act we set as a requirement that the Federal Communications Commission had to go into a rulemaking on the question of what the responsibilities of local broadcasters would be to have served the educational and informational needs of the children who live within the broadcast area of every television station in the United States. During the Bush years there was no real activity on this rulemaking that had to be undertaken, and there was a delay of almost a year before Reed Hunt was in fact confirmed as the new Chairman of the FCC in 1993.

The FCC is in a rulemaking right now on this issue, and it is I think about as important a debate as we can have in this country because, while the V-chip which we passed on the floor and is now law, as signed by President Clinton, gives to the parents of the country the ability to block out excessively violent, sexually material on their screen, and that will be a technology available to parents within the next couple of years, it still does not in any way ensure that there will be quality positive children's television that will enhance the educational and informational needs of children across the country. That is what the Children's Television Act rulemaking at the Federal Communications Commission is all about.

It is my belief that the Commission has to take a very strong stand on this issue. We know that children watch, on average, 4 to 7 hours of television every day. Now, would that it was not so, but we have moved from the 1950's in the era of "Leave It To Beaver" to the 1990's in the era of "Beavis and Butthead."

Increasingly, the broadcast stations in our country have reduced dramatically the amount of children's television of educational content that they put on the air, and instead, substituted the Flintstones or the Jetsons, and argued that in fact those are programs of educational quality because the Flintstones teach children about the archaeological age and the Jetsons will teach children about the future. But parents know that they really do not serve any educationally nutritious role in the development of young people's minds.

So this debate at the FCC is quite important. I am of the opinion that the FCC has to put on the books a requirement that a minimum of 3 hours per week, even that is embarrassingly low, but 3 hours per week be the standard, and that every broadcaster have to meet that minimal standard.

Now, we know that the good broadcasters are going to do that anyway, and they will far exceed the 3-hour minimum. But we will capture those broadcasters who think of their broadcast license as nothing more than an opportunity to print money, just take in the advertising dollars and to use it for whatever purposes they want, excluding children as a constituency. So this is very important, and it is my hope that all Members who are concerned about this issue will in fact join in the effort to advance this children's television agenda at the Federal Communications Commission.

In addition, and I want all Members to be aware of this, as part of the communications bill we also ensure that each one of the 51 public utility commissions in the United States has to go into a rulemaking to ensure that every school in the United States has access to advanced digital technologies.

□ 1415

Now why is that important? Very simply, because as we pass GATT and NAFTA here on the floor of Congress, we are basically constructing a new compact with the people in our country. One, we are letting the low-end jobs go, and increasingly that is the case across this country. But secondly, we are also saying that we are going to try to tie it to high-end jobs, the high-technology jobs of the future so that they will be based here in the United States. Well, what kind of competitive people will we have if we have not thought through a strategy to ensure that every child in the country, not just the children of the upper and the upper-middle class in our country, but every child, including those in the bottom 40 percentile, have access to the skills they are going to need, have the skill sets that they are going to need in order to compete for these higher-end jobs?

That is why we have to give parents the weapon of blocking out the excessive violence and sexual material. That is why we have to have more positive children's programming on commercial stations. That is why we have to ensure that the public broadcasting budget is kept high so that the quality programming of Sesame Street to Barney, right through the day remains on the air, and that is why we have to ensure that every child has access to these computer technologies in every classroom from K through 12 from the day they begin school.

PRESERVING THE ENVIRONMENT AND OUR NATURAL RESOURCES

The SPEAKER pro tempore (Mr. GUTKNECHT). Under a previous order of the House, the gentleman from Indiana [Mr. BUYER] is recognized for 5 minutes.

Mr. BUYER. Mr. Speaker, what I would like to do today is to address the House, and the subject is the environment and you, the environment and me, and the environment and us. I am one that believes in the preservation of our natural resources, to do that in a managed way. I also believe in clean water, our water quality, and clean air.

I want my colleagues to know that I grew up on the Tippecanoe River in Indiana. When you grow up on the river, you do not belong to anybody but the river itself. My father taught me a lot of valuable lessons on the river, not only to myself but to my brother, the same lessons that his father taught him and I am now teaching to my son. Dad bought a small little farm there on the river. Dad is kind of a Johnny Appleseed. He planned everything, from 3 acres of strawberries to all these fruit trees and an acre of vegetable garden, and that is what we did. We managed all of that since I was 9 years old. So he taught us about being good stewards of the land, and how you have to take care of the land for the preservation so that you can make sure you have good yields year in and year out. So I know what it is like to be on my hands and knees and weed 3 acres of strawberries without the use of pesticides. It is a lot of work.

The reason I took the moment to share that with you is the two issues I would like to discuss on the environment are the Superfund issue and that of out of State waste. Let me start though with out-of-State waste. I bring that up because in the Fifth District of Indiana, we receive two-thirds, almost in excess of 1 million tons of out-of-State waste is dumped into my congressional district. My constituents are forced to handle the millions of tons of waste generated by States and other localities that do not dump within their borders; they dump within our borders. And almost every day when I am on the road I get to witness, not far from the Tippecanoe River along the plains in Indiana is a mountain. This mountain is the largest thing that you could ever see, and it is a mountain of trash. It does not bother me that the trash is there. What bothers me is that in Indiana and States like Indiana who are trying to act responsibly on the issues of solid waste, and we create our solid waste districts and we minimize the amount of landfills that we have so that we can do things correctly and move toward proper management, the preservation of our environment, there are States that are not acting responsibly; all they want to do is take it and shove it into other States that are acting responsibly.

So basically what we have is in America we have a nonsystem. When you have a nonsystem, it begins to penalize States that have a system, and that is what we have here. So I am very concerned on the issue of the interstate waste. The Supreme Court has already stepped forward and says it is the Congress that has to decide this issue. Now, it seems session in, session out, the issue has come up, and this Congress has not acted. Those in the States of New York and New Jersey have made their effort to move on the flow control issue in this House, and it failed. It failed because the issues of interstate waste and flow control must move together in this House.

And I encourage this Congress to finally move with sensibility, with ration and reason and good thought with regard to how we manage our environment, and move a bill together to address the issues of flow control and interstate waste together in this House; because if we do not, we are not acting responsibly, like I think we should.

Let me address the issue of the Superfund. The reason I want to discuss the Superfund is because we are also looking at reforming the issue. Fifteen years after the Superfund toxic waste cleanup program began, over $25 billion have been spent and only 12 percent of the toxic waste sites have been cleaned. I have a Superfund site in my congressional district. I have to take a particular interest in it. That is only an average of five sites, though, a year are being cleaned up. I believe that we have to stop, I think, let us stop the frivolous spending of taxpayer money on litigation. That is what is happening.

This is an issue between those of us that want to preserve and clean up the environment versus those who want to line the pockets of the trial lawyers and the lawyer lobbyists. I think this game has got to end. So let us find a good balance here with regard to moving Superfund reform this year so we can stop it.

I know the President is playing the environmental game, saying, "I am an environmentalist, I want to do some Superfund reform," at the same time the trial lawyers are backing his Presidential run. You cannot have it both ways. So let us act responsibly again on the issue of Superfund, and let us act in a way that moves with our passion for how we want a healthier environment in this country, how we want not only the beauty and the spirit of what makes this country good, but also what makes us well.

YESTERDAY'S RULE VOTE WAS NOT IN ANY WAY, SHAPE, OR FORM AN UP-OR-DOWN VOTE ON THE LINE-ITEM VETO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 5 minutes.

Mr. MOAKLEY. Mr. Speaker, first of all, I would like to thank you for your patience in allowing me to put my matters together. I rise today to correct what I believe has been a serious misunderstanding of yesterday's rules vote. Yesterday, a number of news organizations erroneously reported that a vote on the rule, House Resolution 391, was in fact a vote on the line-item veto. Mr. Speaker, this is not the case. The vote on the rule was an extremely complicated vote on a procedural matter. It was most certainly not a place in which Members believed that they were registering either support or opposition to the line-item veto. In fact, there was not one single occasion yesterday when this House had an up-or-down vote on the line-item veto.

Anybody interested in finding a clean up-and-down vote on the line-item veto, and I want you to pay strict attention, anybody interested in finding a clean up-or-down vote on the line-item veto should read the CONGRESSIONAL RECORD from February 6, 1995, or they should look at some of yesterday's other votes. For instance, the vote on the motion to recommit was a vote either for or against making the line-item veto effective immediately as opposed to waiting until January 1997, after the Presidential elections.

Mr. Speaker, the rules of the House are very complicated, and yesterday's rule was one of the most confusing that I have seen in a long while. In fact, even if the rule had failed, line-item veto could still have proceeded on to the President. But I believe we in the House have a responsibility to explain those rules to the people we serve, rather than simplifying them to the point that they no longer reflect the realities of the House. So let me state again, Mr. Speaker, so that I may make myself perfectly clear: Yesterday's rule vote was not in any way, shape, or form an up-or-down vote on the line-item veto.

CONTRIBUTION LIMIT TO SECTION 457 RETIREMENT PLANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, this Member rises to invite his colleagues to cosponsor legislation which he introduced this morning. The measure, similar to provisions in the Balanced Budget Act passed in December, raises the annual contribution limit that State and local government and nonprofit corporation employees may contribute to their section 457 retirement plans to equal that which their private-sector colleagues may contribute to their 401(k) plans and requires that these plans be held in trust.

Under the Tax Reform Act of 1986, State and local governments and nonprofit corporations were prohibited from offering 401(k) plans for their employees. Under the 1986 Act, section 457 plans were fixed or frozen at an annual contribution limit of $7,500 while the 401(k) limit was only $7,000 but was indexed for inflation. This indexing has increased the 401(k) limit to $9,240. This measure states that the limit for section 457 plans will mirror that of the 401(k).

Also, by placing the assets in trust the employees retirement funds will be protected against claims by general creditors. The financial woes of Orange County, CA, are a recent example of why this is prudent. Again, Mr. Speaker, this Member invites his colleagues to cosponsor this legislation.

GROWTH AND DEFICIT REDUCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, today I would like to speak on growth, deficit reduction, balancing the budget and getting incomes up to a livable level, all a pretty big order in a 5-minute period. Let me talk about deficit reduction for a moment. You want to balance the budget, you want to do deficit reduction, there are a couple things we have got to realize. First of all, let us make sure we take into account what has been done. Deficit reduction is on a definite, positive trend. The deficit has been cut by one-half in the last 3 years. As to the deficit today is at its lowest point since 1979. It is at one-half of where it was in relation to our overall economy just 3 years ago. It is the lowest now in the industrialized world. It is coming in this year at even lower than was projected last year. That does not mean you let up but it means something positive is occurring. Because of that, I think we also have to make sure that in balancing the Federal budget we do not unbalance a lot of family budgets. I happen to believe that future generations should not be burdened with debt but they should not be burdened with ignorance, either. There is nothing more grievous or no more debt that is heavier than that. That the expenditures that are made today in education, whether it is title I, assistance in mast and reading for elementary school students, whether it is student aid, Pell grant and Stafford, student loans, whether it is VA loans, whether it is assisting research in our universities, whether we invest in infrastructure, the roads, the bridges, the airports, the sewer systems, the water systems, those things that bring us growth and bring back more over time than what up pay out, those things are positive investments and ought to be on the positive side of the ledger. There is something else that we can do for growth in the Federal budget and that is to move this budget to the same kinds of budget that every business has and every family has, and that is to have a capital budget. That is to say that those things that we are investing in that pay out over time, we will show on the books that way. Sandy and I, my wife and I cannot afford to pay for a house in one year. We have a mortgage, like most everybody else in this country. We pay that out over 20 or 30 years. So let the Federal Government show the roads, the highways, the physical infrastructure the same way. Many people do not know but your Federal Government does not do it that way. That needs to change. Other things we need to do is to recognize the importance of wage growth. Henry Ford had it right. He said: "I got to pay adequate wages so that my people can afford to buy my cars." Well, we are going in the opposite direction unfortunately in this country when 60 percent of the American workers are seeing declining wages over the last 15 years, not increasing wages.

□ 1430

And so both at the private sector level and at the Government level we need to be encouraging that upward growth.

Let me tell you quite frankly, Mr. Speaker, the Republican party has it wrong and the White House, the Democrats in the White House, have it wrong. If you think that 2.5-percent growth is going to get us out of this, we can balance this budget in 7 years, we can have a 2.5-percent growth and we are going to have a deficit that is bigger than it is today.

We have got to focus on getting that 2.5-percent growth up to 3 or 3.5-percent growth, not an unrealistic level. But you cannot with a Federal Reserve that chokes back growth and insists to fight only the inflation war. You cannot do it with Government policies that do not stimulate the economy, that cause it to restrict. You cannot do it with a private sector afraid to make investments. And so we have to focus on growth.

Are you worried about Social Security? Social security improves as productivity and incomes improve. Do you want to focus on the family moving ahead? The family moves ahead as the family's income and opportunities improve.

The problem is that both parties, if you are focusing on 2.3- to 2.5-percent growth, are only going to put us down the road, not up the road. So that is the challenge that I believe is ahead of us in these many months to come. Declining incomes have to come up. The rising tide does lift all boats, but the tide has to start from the bottom, not from the top down.

I will return to visit this subject another day.

THE REST OF THE STORY; PAYING MORE AND GETTING LESS

The SPEAKER pro tempore (Mr. GUTKNECHT). Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Mr. Speaker and my colleagues, I saw the President was in New York earlier this week. He was talking about improving education. Unfortunately, he really did not tell the rest of the story, as Paul Harvey would say. The President really did not take time to tell the American people about the U.S. Department of Education and the fact that it has 5,000 Federal bureaucrats who justify their existence primarily by pumping out and churning out mindless regulations for our teachers and our States.

President Clinton really did not tell the rest of the story when he did not tell the people that of those nearly 5,000 people in the U.S. Department of Education that three-quarters of them, about 3,500, are right down the street in Washington, DC, making over twice what our average classroom teacher is making in my district.

President Clinton did not talk about ending welfare as we know it, welfare, really which has destroyed our family structure, any sense of values, self-discipline, and respect and really any hope for education. President Clinton really did not tell the rest of the story about his failed drug policy that has raised youth drug use to all-time levels and made juvenile crime epidemic in this country.

You know, the debate going on, the debate today about funding the country, and we have just been in the process of passing a resolution to continue for 4 more weeks, a lot of people say, "Why can you not decide this?"

There are some fundamental differences about how we spend money on education, the environment, and these other issues. Most people would not know this. But, in fact, the Republicans have proposed from the beginning in their budget a vast increase in spending in education, $25 billion more over the next 7 years.

But the real debate is over how those dollars are spent, again, whether we finance bureaucrats in Washington, whether we pay to continue to support programs where students cannot read their own diplomas, where students continue to score lower in their tests and we spend more money. My community college has entrants of which over 50 percent need remedial education. So the real question is how we spend our money.

I wanted to also cite for the House and the Speaker here a story from the Orlando Sentinel that cites a report on State education and job training programs. It says State and Federal Governments spend about a billion dollars in Florida on vocational education programs. What is the result? And this is from the report: The programs fail to produce graduates or workers who can earn a decent salary. In fact, only about 20 percent of those who enter these programs completed them, and then a small percentage, 19 percent, found a job after that, and then most of them got a low-paying job and were out of the job in a short period of time.

Lawmakers in Florida were astonished, this report says, when they heard the findings.

The report also indicated that money was wasted on duplicate programs. So this debate about education and environment is paying more and getting less, and that is what this is all about.

People have to understand, because this is important, it is not just how much money you throw at the program, it is how you spend it and do we improve these programs, do we provide a better education, do our students come out with a diploma they can read and then get a job where they can earn a decent living and be a productive and capable, independent citizen in this great Nation?

So that is what the debate is about, paying more and getting less.

Mr. Speaker and my colleagues, again, as Paul Harvey would say, that is the rest of the story.

APPOINTMENT AS MEMBERS OF THE BRITISH-AMERICAN INTER-PARLIAMENTARY GROUP

The SPEAKER pro tempore (Mr. GUTKNECHT). Without objection, and pursuant to the provisions of section 168(b) of Public Law 102–138, the Chair announces the Speaker's appointment of the following Members of the House to the British-American Interparliamentary Group: Mr. CLINGER, Pennsylvania, vice chair; Mr. BROWNBACK, Kansas; Mr. EMERSON, Missouri; Mr. LINDER, Georgia; Ms. MOLINARI, New York; Mr. PETRI, Wisconsin; and Ms. PRYCE, Ohio.

There was no objection.

THE MICHAEL NEW CASE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. TRAFICANT] is recognized for 5 minutes.

Mr. TRAFICANT. Mr. Speaker, it is an unusual thing for me to come over and do a 5-minute special order. I very seldom do that. Part of the reason that deals with the issue of Michael New, who was stripped of his position and discharged from the U.S. Army because as a military hero he was twice decorated, he refused to wear the blue beret and the shoulder patch of the United Nations. As some people say, Michael New should be thrown out. He was insubordinate, he did not listen. That is what the Army said in their court martial and their proceedings.

But I have a resolution in with the gentleman from Maryland [Mr. BARTLETT], a good friend of mine that says that the Congress of the United States should reinstate Michael New with his rank and back to the Army because he brings to the attention of the American people more than just this individual obstinacy. He said he took an oath to the U.S. Constitution, not to the charter of the United Nations. And, quite frankly, I agree with him, and I think we have taken this new world order business a little bit too far.

I think the Michael New case is more than about a soldier that has been thrown out of the Army. I think it is a microcosm of how we as a Nation have gone so far that we have our troops under foreign command wearing the uniforms of other identities. And, quite frankly, all the money we give the United Nations, I think they blow an awful lot of it. They should be doing more peacekeeping so we would not have to send in our troops in the first place.

I just wanted to come over here for the New family, because it was a special order that was put together by the gentleman from Maryland [Mr. BARTLETT], and I stand in support of Michael New and I oppose this new world order madness that has our troops under foreign command, wearing foreign uniforms, and I think Michael New is not an individual that has just gone off rebelliously. He is a twice-decorated veteran. He is a patriot, and I think he takes a stand that should become the subject of great debate here in the Congress of the United States.

So I thank you for belaboring that issue with me, and Mr. BARTLETT will give more information on the resolution itself because I just came over spontaneously and wanted to offer my support.

THE HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to speak to my colleagues about two items.

First, I wish to congratulate the House on the passage last evening of H.R. 3103, the Health Coverage Availability and Affordability Act. For the first time in this Congress we have passed legislation which will provide for 25 million Americans at least accessibility, affordability, and accountability in health insurance.

This legislation in its most pertinent parts provides portability. If you lose your job, you take the insurance with you. If you get a new job, you will take that insurance with you.

It also makes sure that no matter what preexisting medical condition you may have, you still qualify for health insurance.

It increases deductibility from 30 percent to 50 percent for the self-employed who provide health coverage for themselves and their employees. It will allow small businesses group coverage of insurance, will also provide medical savings accounts.

I am very hopeful the Senate will agree. This legislation is forward-thinking and positive.

TRIBUTE TO CHARLES REED

Mr. Speaker, I want to make a tribute to a fallen hero. U.S. FBI agent Charles Reed of my district was gunned down last Friday trying to do his job to win the war against drugs, and for 16 years served the people of the tristate area of Pennsylvania, Delaware, New Jersey, in making sure we eliminate the scourge of drugs in our country.

One of the most successful agents in the history of the country, he found leads where no one else could even tell there was evidence lurking, and he brought whole cartels of drug dealers down in his work, and he was dedicated. Every day he worked the longest hours, did the best job, and as Louis Freeh said, the FBI Director who came to his funeral in Montgomery County, PA, this week, he said this was a fallen hero, a man who is a role model for all FBI agents. He was the first FBI agent to be killed from the Philadelphia area in the history of the department. He is someone who is a great loss because he was a wonderful father, a loving husband, and a great community leader, and he epitomizes for me what is great about America.

The war against drugs will go on, and there will be awards named in his honor because as an American hero, I salute him, this Congress salutes him, and a grateful Nation says we will keep the fight up, we will prevail, because of the agents like Chuck Reed, who really make a difference and their lives have meant so much to so many. God bless you, Chuck Reed.

A TRIBUTE TO PFC. FLOYD E. BRIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to reach out today to Mr. and Mrs. Floyd Bright of my community in Houston, TX, and speak to them on behalf of this Nation and this Congress to acknowledge that along with the entire Houston community this Nation is saddened and diminished by the loss of one of our finest young citizens, Pfc. Floyd E. Bright, who lost his life in the service of his country on March 22, 1996, while on duty in Bosnia and Herzegovina.

In behalf of myself, my congressional colleagues, and fellow Houstonians, I would like to express our heartfelt condolences and sympathy for the family of Private Bright and to say to them that we share their loss.

Neither his country nor the community will ever forget Private Bright's sacrifice, and we hold his memory in the highest honor.

We also honor and hold in the same high esteem the supreme sacrifice that has been made by his family. We share their grief and feel deeply what it means to lose a child, a shining light gone out far too soon. Private Bright was a graduate of Lamar High School in Houston and attended San Jacinto Community College. All who knew him would acknowledge him as a person of extreme curiosity, friendliness, and a willingness to serve. How lucky we are as Americans that we have the kinds of young people that will go forth and serve their country.

It reminds us of the very special and solemn responsibility of this Government, this President, this U.S. Congress to ensure in all times that we stand for what is right in this world, that we respect the fact that we must respect and love our young men and women and acknowledge that anytime that we can assist them in staying away from harm's way, we should take up the charge.

To the family of Private Bright, let me again say we honor you and respect you and love you, and we shall remain forever proud of him and so shall his country which he served so very well.

The entire Houston community is saddened and diminished by the loss of one of our finest young citizens, Pfc. Floyd E. Bright, who lost his life in the service of his country on March 22, 1996 while on duty in Bosnia and Herzegovina. On behalf of myself, my congressional colleagues, and fellow Houstonians, I would like to express our heartfelt condolence and sympathy for the family of Private Bright and to say to them that we share their loss. Neither his country nor this community will ever forget Private Bright's sacrifice, and we hold his memory in the highest honor. We also honor and hold in the same high esteem the supreme sacrifice that has been made by his family. We share their grief and feel deeply what it means to lose a child, a shining light gone out far too soon.

Private Bright was a graduate of Lamar High School in Houston and attended San Jocinto Community College. We shall remain forever proud of him, and so shall his country, which he served well.

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THE MICHAEL NEW CASE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Maryland [Mr. BARTLETT] is recognized for 60 minutes as the designee of the majority leader.

Mr. BARTLETT of Maryland. Mr. Speaker, we want to spend a few minutes this afternoon looking at the very special case of Specialist Michael New. His name is out to a number of our people, but some may not be familiar with this case and the issues involved here.

Michael New is the son of missionary parents. He was home schooled. He volunteered for the military. He was stationed in Germany. The group he was with was being moved to Macedonia. As a part of that move, they were told that they had to wear the insignia of the United Nations.

Specialist New took the position that the oath he took when he entered the military was to defend and protect the Constitution of the United States; that he had not taken an oath to defend and protect the charter of the United Nations.

Now, in the helicopter accident over Iraq, when several of our military personnel were killed, the Vice President, AL GORE, went to their parents and told them they should be proud of their sons who died as U.N. soldiers. Specialist New had the conviction that if he were to wear the insignia of the United Nations, that he would become, as the Vice President indicated, he would become a U.N. soldier, and he thought that this was a violation of the oath he took to protect and defend the Constitution of the United States.

He would gladly have gone to Macedonia as a U.S. soldier assisting in a U.N. operation. Our military personnel did that by the thousands in Korea. We were there and lost many lives over a number of years, but not one of our soldiers there was a U.N. soldier. They were all U.S. soldiers.

What Specialist New was asked to do was something he felt was very different than this. He felt that he was being required to change his allegiance to the Constitution of the United States to the charter of the United Nations, and he was not willing to do this.

He was told in his training that he was not to obey an unlawful order. Let me read to you from the 1990 Army field manual. U.S. soldiers are instructed that, quoting from the manual,

> Moral courage is as important as physical courage. Do not ease the way for others to do wrong. Stand up for your beliefs and what you know is right. Do not compromise your professional ethics or your individual values and moral principles. If you believe you are right after sober and considered judgment hold your position.

This is precisely what Specialist New did. He had no problem in going to Macedonia. He would have willingly gone. As a matter of fact, he is a decorated soldier, once for saving the life of a comrade, and a second time for saving the eyesight of a comrade. So he was not trying to avoid a dangerous situation.

His concern was the concern of conscience, that he could not in good conscience transfer his allegiance from the Constitution of the United States to the charter of the United Nations. He was court-martialed for this, and it is now under review within the military, but he was court-martialed, and he is to be given a bad conduct discharge.

I have some charts here that will help us to understand how we got where we are. Let me put the first one up.

As you can see in this chart, this defines the relationship between the U.N. charter and the law that regulates or controls how we relate to the United Nations. This is the United Nations Participation Act of 1945.

In the U.N. charter, there are two chapters of relevance here. The first of those chapters is chapter 6. Chapter 6 relates to peace observations. It defines the role of the United Nations in peace observations. Chapter 7 defines the role of the United Nations in peace enforcement. There are significant differences between peace observation and peace enforcement.

Now, the United Nations Participation Act of 1995 is the law which determines how we as a country relate ourselves to these two chapters of the United Nations. Interestingly, the two sections of this law, the Participation Act, are section 6 and section 7. But as you can see from the chart here, section 6 relates to chapter 7, which is peace enforcement, and it clearly requires prior congressional approval.

Section 7 of the United Nations Participation Act, as you can see, relates to chapter 6, and this requires no congressional approval. But there are some limitations here. There cannot be more than 1,000 troops worldwide, and they have to be noncombatant troops.

Now, which was this operation? Macedonia is a part of the overall ex-Yugoslavia operation. There have been a number of U.N. resolutions relative to it. Which one was this?

This is a letter from the President, written by Bill Clinton to then Speaker of the House Thomas Foley, and this is justifying his order to deploy U.S. troops to Macedonia as a part of the overall effort in what used to be Yugoslavia, which, of course, includes Bosnia.

Here is the significant statement. The President said that this was under chapter 6 of the U.N. charter.

But let us look now at the position that the United Nations has taken relative to this. There have been 97 U.N. Security Council resolutions and 13 U.N. Secretary General reports that relate to the Yugoslavia situation and Bosnia and all of the missions, including Macedonia, which are associated with that. Of these 97 U.N. Security Council resolutions, 27 of these resolutions specifically refer to chapter 7. They say that it is a chapter 7 operation.

Interestingly, not one of them, not one of them refers to this operation as the chapter 6 that the President said it was. So we have now a major difference between what the President said it was and what 27 resolutions of the United Nations said this operation was.

Now, if it in fact was, and let me go back to the first chart here, if in fact it was a chapter 6 operation, then no congressional approval would be required. But the United Nations in their 27 resolutions said very clearly that it was a chapter 7, and if it was chapter 7, then it clearly requires prior congressional approval. There has been no congressional approval.

This next chart is from some of the specific resolutions, and this is language which makes it even clearer that they have not made an error in designating it a chapter 7, determined to ensure the security of UNPROFOR and its freedom of movement for all of its missions, and to these ends under chapter 7. So this is another clear indication from 1 of the 27 resolutions that I mentioned, a clear indication that the United Nations felt that this was clearly a chapter 7 activity.

We now go to several more of these. They used the kind of words that are consistent only with a militarized peace enforcement activity, or chapter 7. "Demilitarization, protect, interpose, prevent hostilities." These are not descriptions of an observation force. These are descriptions of an enforcement force. So it is very clear from all of these resolutions in the United Nations that the United Nations felt this was a chapter 7, not a chapter 6.

It is interesting that the administration has now admitted that it was a chapter 6, but they say, surprisingly, and let me go back to the first chart here, they say surprisingly it can be a chapter 6, but it can still relate to section 7 of this act. This, of course, is impossible. There is no way that you can construe section 6 of the United Nations Participation Act to be consistent with chapter 6 of the U.N. charter.

So here we have the basis of the problem, Specialist New taking the position that he should not have to wear the insignia of the United Nations, that that transfers his allegiance, and his problem with this order which has led to the larger question of whether or not this was a lawful order.

There are two levels of whether it is lawful. The first is even if it was a lawful mission, and it would appear that the President did not have the right to send the troops there because he had not had congressional approval and the United Nations said clearly it was a chapter 7, but even if he had the right to send the troops there, there is still the question of whether or not he could send our troops there as U.N. soldiers.

Now, this gets into a third area, which is a broader one and a very interesting one, and that is one which has needed resolution for quite a while now. The Congress tried to do this in the so-called War Powers Act.

There is in the Constitution the clear prescription of the responsibility of the Congress, and there is the clear prescription of the responsibility of the President. But between those two clearly defined areas there is a major gray area. I think that this has occurred because the Framers of our Constitution could not have anticipated the kind of world that we would be living in in 1996.

Let me read from the Constitution the responsibilities of the Congress, because I think it is well to go back to the original language. The responsibility of the Congress is to declare war. It is to raise and support armies. It is to provide and maintain a Navy. Then, very significantly, to make rules for the government and regulation of the land and naval forces. I am reading from article I, section 8 of the Constitution.

Now, if I go to the powers of the President, let me read the powers of the President relative to the military. They are taken from article 2, section 2. "The President shall be commander-in-chief of the Army and the Navy of the United States and the militia of the several states when called into actual service of the United States."

Now, there may be a grammarian's argument as to "when called into the actual service of the United States," what does that refer to? Does it refer to the Army and the Navy and militia, or is it restricted to the militia alone?

To determine what our forefathers had in mind, one needs to go back to put their statement in the context of the time. Remember when this was written, the fastest way one could travel on land was on horseback. Ordinarily armies marched. The fastest way to travel at sea was in a sailing boat. Clearly, nothing was going to happen very quickly in this kind of a world. I doubt that our forefathers ever envisioned that there would be a need to commit the troops before Congress had the opportunity to discharge its responsibilities.

Again, let me read the responsibilities of the Congress to discharge its responsibilities. Let me read the responsibilities of the Congress to declare war. Now, sending troops in harms's way, where a number of thousands of them, as happened in Korea, could be killed, I am sure, and were killed, I am sure our forefathers would have envisioned this as the equivalent of declaring war.

Now, to decide to send our troops to Macedonia in this operation there, I am sure they felt would come under either that declaration of war, or under to make rules for the government and regulation of the land and naval forces.

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So we have a problem today, and that problem is that our military today must act in a fashion that our forefathers could never have imagined that they would need to act. For example, if an enemy in Asia were to launch an intercontinental ballistic missile and we knew the moment they launched it, it would be here in half an hour, that is clearly not time for the Congress to be convened and to make a declaration of war. Clearly our President has to have the ability to respond to that threat.

Nobody wants to deny the President the opportunity to respond to that threat and others that may not be so severe and imminent but may not permit the Congress to convene and to go through the formal declaration of war.

But there are many activities that our troops have been engaged in in the past and are now being engaged in which fall in this gray area. Clearly, clearly it was no great urgency that we send our troops to Somalia, no great urgency that we send them to Haiti, no great urgency that would have precluded the Congress from meeting that we sent our troops to Macedonia or to Bosnia. Yet in each of these instances, the President felt as Commander in Chief that he had the authority to commit our troops there.

So this case of Specialist New has unearthed this much larger area, and that is what are the constitutional prerogatives of the Congress and what are the constitutional prerogatives of the President. This case is now going to foster a debate on this very important subject.

Mr. Speaker, there have been disagreements among Presidents and Congresses. When we had a Republican President and Democrat Congress, we had a disagreement. We have that same disagreement now that we have a Democrat President and a Republican Congress. So Specialist New unwittingly, I think, has opened up this larger venue, an issue that really needs to be addressed. The Congress has the responsibility of funding the military, to raise and support armies, to provide and maintain a Navy.

If the President can commit our troops to have expensive ventures, then it could be argued that he has wandered into the congressional area of responsibility because we cannot commit troops without committing the moneys that are necessary to support them. So these are some very important issues that need to be addressed.

Also there is another area of the Constitution that those who are pursuing legally the Specialist New case have mentioned. That is article I, section 9, which they think made the command that he got to put on the U.N. insignia not only a lawful command but a United States constitutional command.

Let me read that and my colleagues use their judgment as to what they think our forefathers meant by this. Let me read the whole paragraph. It is the last short paragraph in article I, section 9: No title of nobility shall be granted by the United States, and no person holding any office of profit or trust under them—that certainly includes the military—shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Specialist New made the argument, we will remember, that he felt that being required to put on the insignia of the United Nations and then fighting as a United Nations soldier and, as the Vice President has said, dying as a United Nations soldier if dying in that fight, that he transferred his allegiance from the oath he took to defend and protect the Constitution of the United States to the charter of the United Nations. He felt this to be an unlawful order. He felt that this was a violation, and those who are pursuing his case agreed, that this is a violation of article I, section 9 of the Constitution that prohibits this action without the consent of the Congress.

There has been no consent of the Congress.

Mr. Speaker, this case is now going through the military court process. It is going through the appeals there. It is now being reviewed by a senior officer who will indicate shortly whether or not he concurs with the decision that was made by the court-martial.

Let me mention, by the way, to make something very clear here that in this court-martial, the judge in the court-martial instructed the jury that it was beyond their pay grade to consider whether or not this was a lawful order. The word he used was that this had some political overtones and that this could not be decided in the military courts. So he instructed his jury that they had to consider that this was a lawful order.

Mr. Speaker, if we consider it was a lawful order, obviously he did not go by the order. So the court-martial was no great surprise once we have the prescription that the jury had to consider this a lawful order. But the judge has made the point, as I read earlier, that he is willing to hear this argument after it has gone through the military courts. It is not that he has rejected the argument of Specialist New. It is just that he does not think this is an appropriate time for this to be heard in the civilian courts, in the Federal court system.

As a matter of fact, in that last statement I read, he held the door open not just a little but he held the door open a great deal. He said, once the military proceedings are completed, and I would gather that he does not expect because of the position of the military that Sergeant New is going to get the kind of decision he wants, once the military proceedings are completed, Specialist New may either move to reopen this proceeding or file a new petition for a writ of habeas corpus.

He had earlier said in his conclusions, just the page before, that the court takes his allegations very seriously. The court has taken them seriously, he says.

So where we are now is that this case is proceeding through the military courts. It is now being reviewed by the senior officer. If that review, if he upholds the court-martial decision, then there is a formal appeals process and Specialist New's lawyers—who, by the way, are providing their services pro bono; they have recognized that this is a case that goes far beyond the heartfelt conviction of this young man—that this is a case that will be important in defining, helping to define the relationship between the President and the Congress and may go a long way to avoiding the kind of indiscriminate deployment of our troops around the country that many view are not necessarily in our vital national interest and would sap large amounts of money from the limited funds that we have to maintain a military that we desperately need to protect us against real enemies now and in the future.

I hope that in the military courts that Sergeant New gets satisfaction. If they continue to take the position that his order was lawful, then he will not get satisfaction there, and it will move in due time into the Federal courts. We need a dialog all across America. The great wisdom of the country is not the 545 people who are inside the Halls of the Congress here, inside the beltway. The great wisdom of the country is out all across America.

We need a dialog across America so that we have an input from our constituents in all of our districts across the country because we may need legislation in the Congress. We may need legislation here in the Congress to solve the problems that are brought out by Specialist New's courageous action. We would like our citizens to become very knowledgeable on this subject. We would like them to research the Constitution. We would like them to search their conscience, and we would like them to communicate with their legislators so that we have the advantage of an input from our constituents when we come to the point that we make a decision whether or not we are going to offer legislation and the kind of legislation that we are going to offer.

There is, apart from the legal arguments here, the recognition that here we have a brave young man, who has been twice decorated, once for saving the life of one of his fellows, and secondly for saving the eyesight of another. He is a medic, by the way. And he has now taken a position of conscience. In an America where increasingly anything goes and where we are more appalled each day by the kind of fare that we get over our radios and our televisions, we ought to stand up and applaud a young man who at great risk to his future takes a courageous position like this.

However this comes out, and I have to believe that not only is Specialist New going to be exonerated but that we are going to have the opportunity to enact some very important legislation that will define the roles of the Congress and the President so we do not have the kinds of misunderstandings that have come up not just during this administration but previous administrations as well, but whatever happens in this, I think that we need to remember that this is a brave young man who has taken a position of conscience.

Mr. Speaker, how many of us would have had the same kind of courage to risk a bright future by taking a position of conscience like this? He could have rationalized it: This is somebody else's problem. I am just a lowly specialist. I do not need to take, to dig my heels in and take this position.

He did not do that. He did what I hope more and more of us across the country do every day. That is to recognize that we have a responsibility.

Let me read again, let me read again from the Army field manual. I will close with this because I think this speaks the minds and the hearts of most of our people:

Moral courage is as important as physical courage. Do not ease the way for others to do wrong. Stand up for your beliefs and what you know is right.

America, we need more of this. Do not compromise your professional ethics or your individual values and moral principles. If you believe you are right after sober and considered judgment, hold your position.

Mr. Speaker, this was not only great advice for Specialist New and every other brave young person who has volunteered for our military, it is also great advice for all the rest of us. My hat is off to Specialist New and his position of courage.

I hope that everyone out there will become better informed about this and will convey to their Representatives what they would like them to do in solving the problems that have been brought up by this very special case of Specialist New.

THE GOLDEN EAGLE AND VULTURE AWARDS "COME SHOP WITH ME CAMPAIGN" UPDATE

The SPEAKER pro tempore (Mr. GUTKNECHT). Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 60 minutes as the designee of the minority leader.

Ms. KAPTUR. Mr. Speaker, a little over a year ago, our Jobs and Fair Trade Caucus brought together a small coalition of working women, consumer groups, and Members of Congress to launch what we have called the come shop with me campaign, a campaign to educate the American consumer about the link between the loss of U.S. jobs here at home, high prices, static wages, sweatshop working conditions in the developing world and even in some places here in this country and the record profits being made by certain multinational companies which keep U.S. prices high while relentlessly moving our jobs offshore.

We illustrated this link between loss of U.S. jobs and trade by targeting specific corporations, going to stores and checking prices, scouring annual reports and newspaper clippings, and most importantly, talking to consumers and workers, getting their side of the story.

Mr. Speaker, today we embark on a golden eagle campaign to recognize and reward fine U.S. companies that exemplify the best that is in us as a nation. Simultaneously, we will identify those companies and chief executive officers whose behavior is not exemplary and deserve to be labeled only as corporate vultures.

The corporate vulture label will be given to American corporations which are in need of vast improvement. These are the ones which exploit our marketplace yet have downsized their work forces, which have outsourced most of their production to foreign countries, which use sweatshop labor abroad and then import these transshipped goods back to the United States, keeping their prices high here at home and maintaining a shell company in our country, even while enjoying all of the benefits of being called an American company.

The vulture, a predator and a scavenger, is an appropriate symbol for identifying U.S. corporations that exploit foreign workers while getting fat on the backs of American consumers and giving back almost nothing in return.

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But let us begin on the positive side of the ledger with our first award, the Golden Eagle Award, and we will do one of these each month between now and the end of this fiscal year. This very prestigious Golden Eagle Award recognizes a U.S. firm and its chief executive officer who exemplified the best in business behavior. We are proud of them as citizens of this great country. The Golden Eagle Award will be presented to a U.S. firm that treats its workers with dignity while making decent profits, resists the tide of downsizing and outsourcing production, contributes to the strengthening of our communities, charges a reasonable price for its products, and remains and prospers in the United States of America.

I am very pleased to present the first Golden Eagle Award on behalf of our caucus, along with a new U.S. flag flown over our Capitol, to Malden Mills in Methuen, MA, and more specifically I would like to present the first Golden Eagle Award to Aaron Feuerstein, the 70-year-old owner of Malden Mills whom the local press there has hailed as the saint in New England.

On December 11 last year a major fire struck Malden Mills, the company Mr. Feuerstein's grandfather founded in 1906, burning down 3 of 9 buildings and idling 1,800 employees, three-quarters of the work force at that company. But instead of laying off his work force and pulling up stakes for Mexico, as so many other textile and apparel firms have done across this land, Mel Feuerstein promised he would pay the workers their wages and, even more incredibly, their health care benefits, for 30 days, and when it became obvious that more time was needed, he extended the period to 60 days and then to 90 days.

When asked why he did it, Mr. Feuerstein replied simply, "Because I consider the employees standing in front of me as the most valuable asset Malden Mills has. I don't consider them as just an expense which can be cut."

What makes Mr. Feuerstein's story all the more remarkable is that he stayed in Methuen, MA, even in the face of adversity while most of his much larger competitors, some of the names you will even recognize, Sara Lee, Fruit of the Loom, continue to close plants in this country and give pink slips to workers and move their production offshore.

Over the past 20 years 292,300 workers, mostly women, have lost their jobs in our Nation in the textile and apparel industries. Forty percent of that industry in our country is without a job. But Aaron Feuerstein, and he is not a multinational, has tried to hold out, treated his workers well and has continued to make a profit. He is a shining example of what it means to be a good corporate citizen in the United States and try to struggle uphill against the vultures of the mega corporations that would like to snuff him out of business.

Mr. Feuerstein truly deserves our praise as a patriotic citizen. Along with our first Golden Eagle Award, we will mail to him today this brand new flag flown in his honor and his firm's honor over this Capitol of the United States. Mr. Feuerstein, thank you, thank you for your decency and for your leadership as a corporate citizen of this Nation.

By contrast, we have chosen to designate the Nike Corp. as the first recipient of our corporate vulture label. Nike has shut down all of its production in this country. It does not even produce one athletic shoe in the United States of America, even while it earns billions in profits off this marketplace. In fact, their profits have quadrupled, gone up over 4 times over the past 5 years, by aggressively marketing, and I underline the word "marketing," many of their shoe products and marketing them to some of our most impressionable young people.

The company now commands over one-half, one-half of the men's athletic shoe market in this country. Not a bad racket if you are Nike, paying your women workers in Indonesia and China 12 cents an hour while charging our kids and our families $135 to $150 a pair for shoes, but not a good deal if you are a downsized American worker who used to make those shoes in Maine or in California, or a consumer who has to pay those high prices. Not a good deal for them. Or how about if you are an anonymous Chinese woman worker whose government makes its money off the sweat of your work? Not a good deal for you either.

Now Nike would like you to believe that they are a great American company. In fact, they have been spending $250 million a year out of the money they make off of you trying to convince you how good they really are. They bought so much advertising it is hard to turn on television without seeing it. Nike has virtually bought off the entire American sporting world to delude the American consumer about what is really going on here.

The truth of the matter is that all of Nike's 75,000 production workers, mostly poverty-stricken women and hungry girls, are in countries like Indonesia, Thailand, China, and South Korea, countries which are notorious for their sweat shop working conditions and bleeding all they can out of their people until they are finished with them. Then they throw them out the door, and there is another million people who are hungry, lined up to replace them to work for 10 cents an hour.

Now here at home Nike threatens to tear up our communities with their relentless marketing to our most vulnerable kids. You know what is happening. In some places in this country our children are killing one another for these shoes. As Phil Mushnick, a sports writer for the New York Post, courageously pointed out when he refused to endorse Nike shoes, he said, "I saw the prices going from $40 to $90 to $100 and then $150, and in full cognizance that people were dying for these shoes, inner city kids, too, the kids that Nike was targeting with their inner city role model marketing binge."

For this our caucus can think of no other company more deserving of the label "corporate vulture" than Nike Corp.

Now Mr. Philip Knight, the chairman of the board of that company and its chief executive officer, took home compensation of over $1.5 million last year, not including his stock bonuses and other benefits and perks. I often ask myself whether this type of individual has any conscience left or if he ever had any, to profit personally off the meager wages paid to Asian women and the U.S. workers he has sent to the unemployment lines. Mr. Knight and Nike, for you our caucus designates the "vulture" label.

Mr. Speaker, I also wanted to place in the RECORD this evening in our battle, continuing battle for job creation in this country to give our workers and our communities a fair shake in the international market, some information on a bill moving through this Congress that Members should know about. It concerns our patent laws, the very basis for our collective intelligence as a people, the foundation of our new products where the genius for America's future lies.

The U.S. patent system is under attack, and the United States, without question, has the largest body of intellectual property in the world, protected from the time of George Washington and created by the first Congress of the United States. If this system is weakened, and there are many who would like to see that it is, America's job creation capacity will be even more seriously eroded.

Today I rise to point out that one of the bills moving in this Congress is a grave threat to our traditional patent system; that bill number, H.R. 2533, with a very innocuous title, "The U.S. Intellectual Property Organization Act of 1995."

Why am I concerned about it? Because why should our Nation pass a law that puts us at a greater competitive disadvantage with our trade competitors around the world? H.R. 2533 is tantamount to selling off our national heritage bit by bit. H.R. 2533 would subject our patent examiners to undue pressure by special interests by removing their current civil service status.

You know, there ought to be some things in this town not for sale.

H.R. 2533 would undermine the Constitution of this country by removing the Patent Office as a core Federal function, and congressional oversight in that bill becomes almost nil.

I ask my colleagues to pay attention to this bill, oppose H.R. 2533, and support H.R. 359, which restores patent terms and gives our patent and inventors, the geniuses of our country who are inventing our future, the kind of protection and respect that the Government of the United States and the people of the United States owe them.

Let me say to my colleagues, do not be fooled by the wolves at the door, and let me say you might ask yourself the question, "Well, who would want to tamper with our patent system? In whose interests would it be to weaken the protections we give to our inventors?"

There is an article I am going to be placing in the RECORD called the National Security Report, lead article, "American Patent System Subject To Foreign Power Grab." There are plenty of powerful interests around the world that would like to own the competitive genius of this country, and they know the only way they can do that is by changing the laws.

In fact, the Constitution of the United States, and I quote from the article I am going to enter in the RECORD,

> In the war for global economic dominance, the fiercest battles today are over intellectual property. Where nations once fought for control of trade routes and raw materials, they now fight for exclusive rights to ideas, innovations and inventions.

The article referred to is as follows:

[From the ROA National Security Report, Sept. 1995]

AMERICAN PATENT SYSTEM SUBJECT TO FOREIGN POWER GRAB

(By Beverly Selby)

The recent book Patent Wars: The Battle To Own The World's Technology, best describes the reason for the current legislative struggle in the 104th Congress about intellectual property. It states, "In the war for global economic dominance, the fiercest battles today are over intellectual property. Where nations once fought for control of trade routes and raw materials, they now fight for exclusive rights to ideas, innovations and inventions."

In 1947, intellectual property comprised just under 10 percent of all U.S. exports; today, the estimate is that "intellectual property accounts for well over 50 percent of all American exports." The United States is a major player in the world community because it has the largest body of intellectual property in the world. Job creation opportunities are directly linked with the patent system which has been the secret of America's job creation and economic power for over 200 years.

Today, in the 104th Congress, the debate is about restoring the patent term, and other issues which will radically change the American patent system. Legislation has been introduced to restore the patent term, publish patent applications before a patent is issued, re-examine issued patents, and create a government Patent and Trademark Corporation.

On one side of the argument are multinational companies and foreign interests, and on the other are independent inventors, small businessmen, venture capitalists and universities. The major issue is the patent term. Several concerns have been raised about pending legislation and its effect on the American patent system.

Last year when Congress approved legislation implementing the General Agreement on Tariffs and Trade (GATT), a provision was included that dramatically changed the way the U.S. patents will be issued. Historically, patents have been awarded for a term of 17 years beginning when the Patent & Trademark Office (PTO) grants a patent to an applicant. However, beginning on 8 June of this year, the PTO will issue patents for a 20-year term beginning when the application was filed with the PTO.

The net effect of this change is to dramatically shorten the useful life of breakthrough patents held by emerging companies, which have led to the creation of entire industries. Patents of highly technical, cutting-edge discoveries take years to issue. Under current law, such a delay in inconsequential as the patent holder is assured a minimum patent term of 17 years because the time does not begin to tick until the patent is issued. Not so with the new 20 year standard, as it often takes the PTO eight to nine years or even longer to issue a patent, leaving the patent holder with only a few years of protection, if any.

Given the vast amount of capital needed to sustain many high growth companies, retaining exclusive use of the underlying intellectual property for a full 17 years is imperative if any emerging company is to recover its costs and provide a competitive rate of return to its venture investors.

Congressman Dana Rohrabacher (R-Calif.) has introduced legislation that would cure the problem of a shortened patent term. His bill, H.R. 359, would make U.S. patents valid for 17 years from date of issue, or 20 years from date of filing, whichever period is longer. During the course of the GATT debate last fall, United States Trade Representative Mickey Kantor agreed the Administration would not oppose legislation guaranteeing a minimum patent term of 17 years as it would not constitute a violation of the GATT agreement.

Many changes to the American patent laws were proposed in 1994. The patent term limitation was passed because it was piggybacked on the GATT-implementing legislation. This change in the patent term weakens the American patent system and penalizes the breakthrough patents. Also, these changes facilitate widespread copying of the more important inventions by foreign companies.

Three of these changes, when taken in combination, establish a disastrous scenario that clarifies the reason for the Japanese insistence that America adopt these changes. These three changes are (a) a patent term measured from the filing date (the GATT patent term), (b) publication in 18 months and (c) three party re-examination.

The scenario for important breakthrough (e.g. high-tech) patent applications is disturbing. The breakthrough patent application is filed and then it is published in 18 months. Because of its importance, large multinational companies rally to oppose the breakthrough patent by filing prior art, and most likely by filing arguments opposing the issuance of the breakthrough patent. Because of the significantly longer pendency for important patents, the breakthrough patent is far from issuing when the oppositions' are filed. The patent examiner, who is reluctant to issue a breakthrough patent having broad claims, enters new rejections based upon the prior art submitted by the opposition. This further increases the pendency time.

Currently, the patent officer permits the filing of multiple re-examinations in sequence. Therefore, to be consistent, the patent office will undoubtedly permit the filing of multiple oppositions in sequence, opposition after opposition, causing the examiner to enter new rejections as new art is cited, further delaying the issuance of the patent. Under the GATT patent term, the term of breakthrough patent applications is further reduced by the long pendency.

Because of the 18 month publication requirement, companies worldwide are able to copy and to develop the breakthrough technology while the patent application is still pending. As currently practiced in Japan, and as a direct result of the publication, competitive products begin to appear in the marketplace and large companies "flood" the PTO with multitudes of mundane improvement patents on the breakthrough technology. As in Japan, these mundane improvement patents are often issued before the breakthrough patent because of the prosecution delays inherent with such a breakthrough patent, and because delaying oppositions are not filed for mundane improvement patents.

When and if the breakthrough patent finally issues, much of the GATT patent term has expired, and its patent owner will be competing with mature products in the marketplace and "floods" of mundane improvement patents based upon the patent owner's originally published breakthrough technology. However, this is far from the end of the ordeal for the patent owner. Now the competitors file a sequence of re-examinations, one after another. A re-examination is a post-issuance opposition. The company behind the re-examination is kept secret, and an attorney is usually named as the re-examination requester. A re-examination can take more than five years. After a re-examination is completed, another, and another, and another, can be filed. A patent cannot be realistically enforced while a re-examination is in progress. Hence, a sequence of re-examinations further dissipates the effective term of the patent.

Now, new legislation is in progress to make re-examinations third party proceedings. Presently, a re-examination is conducted by the patent examiner. The requester can file initial papers but is not permitted to intervene in the re-examination. The new legislation permits the requester to participate in the re-examination. This will change a re-examination into a form of litigation with a team of opposing attorneys arguing issues, filing briefs, and performing many other complex litigation activities. The PTO has trouble hiring and training qualified patent examiners; now the PTO will have to train patent examiners to be litigation judges.

Even worse, many breakthrough inventions come from small companies and individual inventors with limited resources. Matching up such a patent owner against a team of attorneys from a large foreign company will usually end in devastation of the breakthrough patent. Even if the patent owner prevails, another re-examination will be requested by another large company citing a different stack of prior art references and the attack will start all over again.

In Japan the combination of conditions has resulted in important technologies being exposed and unprotected: a patent term measured from the filing date (the GATT patent term), publication after 18 months, and third party oppositions. This has resulted in Japan becoming a nation of copiers. Now, those seeking to copy American technology are demanding legislation to deprive America of its innovative talents. America must stand firm behind its inventors, small businesses, research universities, and entrepreneurs, and not permit its intellectual property to be copied with impunity.

Research universities also share a longstanding interest and an active involvement in intellectual property issues that affect higher education. Since the passage of Public Law 96-517 (The Bayh-Dole Act) in 1980, research universities have been actively engaged in establishing patent protection for university-developed technology and subsequently licensing their patents to industry and small business. Innovations resulting from university research are deemed largely responsible for the spectacular growth of the biotechnology industry, and of significant importance to the microelectronics, computer and health care industries. These innovations are culled from the fundamental scientific explorations of university faculty, students and research scientists and, as a result, tend to be at the cutting edge of scientific theory and practice. As a consequence, patent applications on university inventions have historically spent years in the PTO before ultimately issuing as patents.

University licensing programs are generally dependent upon patent protection to induce mature companies as well as small businesses and start-up company investors to take a financial risk on backing the further development of new, and often early-stage, technologies. Consequently, university technology transfer managers were indeed concerned to find that H.R. 5110, in implementing the GATT, had potentially shortened the long-established patent term of 17 years from date of patent issue, and had done so despite the fact that such action was not required by the GATT.

Our interests in enhancing the successful transfer of university technology, and in helping to keep the U.S. as a front-runner in commercially exploiting new technologies, are not well-served by potentially diminishing the useful life of our patents in an effort to reap an unquantified benefit from harmonization with potentially less innovative nations who stand to gain from shorter patent terms.

These are but a few of the concerns of the independent inventor, venture capitalists and universities who are relying on their patents for income and to create new industries. What must be remembered is the fact that the U.S. system is unique and was created by the founding fathers as a means of generating jobs and prosperity for the country. To date, the United States is leading the world in fundamental patents, which are most often cited in patent literature worldwide.

These patents are the way to chart the prosperity and future for a nation because the patent holder will derive income over a period of time. From those patents spring new industries. At stake in the legislation now before Congress is whether the patent system should be used to benefit the American taxpayer and voter, or the world at large. The choice of the future is ours.—NSR

NSR FOCUS

Experts warn that the current debate in Congress on patent regulations can have a serious impact on the national security of our nation. Critics of the new system, which resulted from GATT negotiations and a deal cut with Japan last year, contend that foreign firms will gain access to American inventions, ultimately weakening the international competitiveness of the United States.

Robert Rines, an inventor and prominent Boston lawyer, claims that the new system is going to wreak havoc with breakthrough inventions, which, historically, have come from individual inventors or small firms, not from large corporations.

The U.S. system awards patents to the original inventor, not the first to file, as in other countries. Under the new 20-month publication provision, key concepts of an invention become available to anyone before the inventor has a chance to refile and win protection. That is why Japan, the multinations and other big companies love it, and why, according to Rines, "the little guys are deathly afraid of it."

Beverly Selby's article is a fundamental document which clearly details the fear and concerns of the small businesses and American inventors, who, at the core of the U.S. innovative process, are faced with new patent provisions that fail to protect American technology and innovative small business—AACG

Ms. KAPTUR. I ask my colleagues again to support H.R. 359 and oppose H.R. 2533, and, Mr. Speaker, I would like to yield to the gentleman from New Jersey [Mr. PALLONE], who I understand has some remarks that he would like to make at this point.

☐ 1530

INDEPENDENCE FOR THE BELARUS REPUBLIC

Mr. PALLONE. Mr. Speaker, I appreciate the gentlewoman yielding me this time.

Mr. Speaker, I wanted to speak, if I could for a few minutes, on the issue of independence for the Belarus Republic.

Mr. Speaker, on March 22, 1996, Belarusan President, Aleksandr Lukashenka met with Russian President Boris Yeltsin to discuss a new union state. The following day, Lukashenka met with Russian Prime Minister Viktor Chernomyrdin to discuss the plan, which would politically, economically, and culturally tie Belarus with Russia.

The collapse of the Soviet Union humiliated and disgraced this former global superpower. The Russian Duma has recently voted to declare void the 1991 agreement dissolving the Soviet Union—a declaration which America must clearly not recognize as having any validity. Now, in an attempt to save face and regain some of the lost Soviet power, President Yeltsin and President Lukashenka are acting to reintegrate the independent Republic of Belarus with Russia. This new confederacy, open to all of the former Soviet Republics, would place Russia at its core. The two leaders discussed the possibility of one currency and a single constitution.

Belarus' geographical location puts it in a particularly vulnerable position for the reintegration plan. In addition, Belarusans were the last to leave the Soviet Union, while its government has been the most willing to rejoin forces with Russia.

According to Prime Minister Chernomyrdin, the new union with Belarus and Russia would "be built from two individual countries that would remain separate."

In response to this new plan, last Sunday 15,000 members of the Belarusan Popular Front marched in the Belarusan capital of Minsk in opposition to the threat of reintegration. These marchers fear that President Lukashenka will in fact relinquish Belarus' current democratic sovereignty.

As a supporter of the American-Belarusan community, and of those members of the Popular Front, I strongly believe that we must act to prevent this new union of Russia and Belarus. Accordingly, I am drafting a concurrent resolution that expresses the sense of Congress that we recognize March 24 as the anniversary of the proclamation of Belarusan independence, express our concern over the Belarusan Governments' infringement on freedom of the press in direct violation of the Helsinki accords and the constitution of the Republic of Belarus, and state our misgivings about the proposed association between Russia and Belarus.

Mr. Speaker, it is particularly important at this moment in history that we proclaim our strong support for the Republic of Belarus and the other Newly Independent States of the former Soviet Union. Events in both Moscow and in Minsk itself raise serious concerns about the long-term viability of an independent Belarus state and nation.

Last Sunday, I had the opportunity to attend a commemoration of the establishment of the anniversary of the Belarusan Republic, sponsored by the Belarusan American Association of New Jersey and held in New Brunswick, NJ. How ironic that the very day on which Belarusan-Americans were celebrating their heritage, Belarusans in Minsk were protesting the new union between Russia and Belarus.

On June 23, 1994, Belarus held its first multiparty Presidential elections since its independence, with a run-off election on July 10, 1994. The winner, Aleksandr Lukashanka, was a former Communist Party official and former head of the parliament's Anti-Corruption Committee. The Helsinki Commission, which observed the elections, proclaimed that the elections were conducted in conformance with international practices and that the results reflected the freely expressed will of the electorate. Unfortunately, those results have left the country with a President and government that has not shown the degree of commitment to democratic values, nor the independence from Moscow, that Belarusan-Americans and their friends had hoped for.

Last fall, Belarus suddenly made it to page 1 news when an American hot-air balloon was shot down in what seemed like an event out of the cold war. For an American public clearly not overly familiar with Belarus, this incident clearly put the county in a very bad light. Belarusan-Americans condemned this action, just as they have condemned the anti-democratic excesses of the new government in Minsk.

Clearly, Belarus is at an important crossroads. The unique language and culture of Belarus, which courageous Belarusans preserved during the years of Soviet domination, is now under attack—from no less a source than the Government of Belarus itself. While it is inevitable that the people of Belarus should feel some cultural affinity with their Russian neighbors, and seek to promote good relations in trade and other areas, the overly pro-Moscow tendencies of President Lukashanka should be questioned.

Meanwhile, the ongoing Russian military action in Chechnya raises serious questions about the possibility of imperialistic designs by Russia on former nations under its empire—whether Czarist or Soviet. President Yeltsin, whose control over the situation seems to be less than secure, has bowed to nationalist and militarist forces in Moscow on the Chechnya question. Furthermore, President Yeltsin, whose health and popularity are both failing, may well be replaced by the Communist/Russian nationalist forces who have made no secret of their desire to reunite the old Soviet Empire.

While the official status of Chechnya as a part of the Russian Federation is different from the other independent former Soviet Republics, such as Belarus, Russian actions there are creating a very troubling precedent indicative of a desire by Moscow to reassert control over what the Russians call the near-abroad.

Since the collapse of the Soviet Union, the United States has sought to provide economic assistance to the Newly Independent States. Amid the pressures that many of these states are now under because of structural economic problems, ethnic tensions and the threat of Russian imperialism, we must maintain a strong commitment to helping these emerging nations achieve a democratic political system and a market economy. For nearly half a century, we devoted considerable sums to containing the Soviet threat. Now that the Soviet Union has collapsed, we have the opportunity, with much more modest levels of spending, to invest in the long-term stability of these formerly captive nations.

Unfortunately, events are working against us. On the one hand, neo-isolationist forces in Congress are trying to diminish the American commitment to supporting freedom and economic reconstruction in the former Soviet Empire. The Foreign Operations Appropriations bill that finally became law earlier this year, after a long delay over an unrelated issue, shows an obvious lessening of the enthusiasm for American involvement in the former Soviet Union that seemed so intense just a few years ago. On the other hand, the trends in Russia, Belarus and elsewhere against reform and towards the election of former Communists is giving our isolationist forces here strong ammunition.

March 25 is the actual date that Belarusans throughout the world salute the sacrifices and bravery of the members of the Council of the Belarusan Democratic Republic, who in 1918 liberated their country from the harsh and oppressive Czarist and Soviet rule. Representatives of the United Councils of the First Belarusan Convention, meeting in the capital city of Miensk (Minsk), issued a proclamation of independence of the Belarusan National Republic, adopted a national flag with three horizontal stripes—white, red and white—and received widespread international recognition. For the first time since 1795, the Belarusan nation re-emerged as an independent state. Despite the hardships from the First World War and the revolutionary turmoil in neighboring Russia, the Belarusan language, culture and national identity flourished.

Unfortunately, the freedom and independence of the Belarusan nation did not last long. In 1921, Russia's Bolshevik regime invaded and conquered the newly independent state and renamed it the Byelorussian Soviet Socialist Republic. For the next 70 years, the Belarusan people endured a totalitarian Communists regime, denied the most basic civil and political rights. Millions of Belarusan nationals were exterminated. Although the Byelorussian SSR was officially considered a member of the United Nations since 1945, the country was in fact politically and militarily dominated by Moscow, with the Belarusans' aspirations for self-government and independence completed subverted.

The Belarusan Parliament initially declared its independence back in July of 1990. Following the attempted coup against Soviet President Gorbachev in August of 1991, the Speaker of the Belarusan Supreme council, Stanislav Shuskevich invited Russian President Boris Yeltsin and Ukrainian President Leonid Kravchuk to Belarus in December 1991 to finally bury the moribund Soviet Union. In its place was established the Commonwealth of Independent States [CIS] with Miensk as its administrative seat. Although the Belarusan Parliament, as with many other emerging East European democracies, was dominated by former Communists, protections for Belarusan culture, as well as basic human rights, were enacted.

Since my wife Sarah is part Belarusan, I have had the opportunity to become particularly familiar with this proud people. The Sixth Congressional District of New Jersey, which covers most of Middlesex County, is home to a significant Belarusan-American community. Since the fall of the Soviet Union, Americans in general have had the opportunity to learn more about this distinct land and its culture. In 1994 President Clinton visited the Belarusan capital, and a variety of United States public and private sector initiatives have been launched in Belarus. Let us resolve to continue to improve the economic, security and cultural ties between the great peoples of the United States and the Republic of Belarus.

Mr. SPEAKER, I include for the RECORD the concurrent resolution.

The concurrent resolution referred to is as follows:

Whereas, the seedlings of an independent and democratic Belarus, for which generations of Belarusan patriots had fought and died, are now in danger of being swept away as a result of the policies of Belarusan President Alaksandr Lukashenka and the efforts of Russian nationalist leaders to reunite the Newly Independent States of the former Soviet Union;

Whereas, March 25 is the date that Belarusans throughout the world salute the sacrifices and bravery of the members of the Council of the Belarusan Democratic Republic, who in 1918 liberated their country from the harsh and oppressive Czarist and Soviet rule. Representatives of the United Councils of the First Belarusan Convention, meeting in Miensk (Minsk), on March 25, 1918, issued a proclamation of independence of the Belarusan National Republic, adopted a national flag with three horizontal stripes of white, red and white, and subsequently received widespread international recognition

Whereas, the Russian Duma in March 1996 has voted to declare void the 1991 agreement dissolving the Soviet Union;

Whereas, the Government of President Lukashenka has monopolized the mass media, undermined the constitutional foundation for the separation of powers, suppressed the freedom of the press, defamed the national culture, narrowed the educational basis for patriotic upbringing of youth, maligned the Belarusan language, and undercut the ground for all-Belarusan unity.

Now, therefore be it

Resolved by the House of Representatives, That it is the Sense of the House of Representatives that, March 25 be recognized as the anniversary of the declaration of an Independent Belarusan State;

Be it further resolved, That the United States press the Government of President Lukashenka to abide by the provisions of the Helsinki Accords and the Constitution of the Republic of Belarus and guarantee freedom of the press, allow for the flowering of Belarusan culture and enforce the separation of powers;

Be it further resolved, That the Congress of the United States join with the people of Belarus and Belarusans throughout the world in the defending the statehood and democracy of Belarus, sustaining the country's Constitution and preventing the loss by Belarus of its hard-won nationhood and its opportunity to survive as an equal and full-fledged member-state among the sovereign nations of the world.

COMMEMORATING THE ACCESSION OF THE UNITED STATES OF AMERICA TO THE PROTOCOLS OF THE SOUTH PACIFIC NUCLEAR FREE ZONE TREATY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 60 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I have just returned to Washington form the South Pacific, where I was privileged to be part of the U.S. delegation to the signing ceremonies for the Treaty of Rarotonga. I want to take this opportunity to inform our colleagues in Congress and the people of our great Nation of the historic event that took place this past Monday, March 25, 1996, in Suva, Fiji.

Mr. Speaker, on Monday, the Government of the United States of America signed the protocols of the South Pacific Nuclear Free Zone [SPNFZ] Treaty, also known as the Rarotonga Treaty, formally evidencing America's unequivocal support for the nuclear free zone in the South Pacific.

Mr. Speaker, this action by our Government constitutes a great and momentous development in the history of relations between the United States and the nations of the Pacific region. At the Suva ceremonies, the Governments of France and Great Britain joined us in signing the protocols of the SPNFZ Treaty.

□ 1545

With this development, Mr. Speaker, all of the world's nuclear powers are now signatories to the South Pacific Nuclear Treaty.

I want to express my deepest heartfelt appreciation to the House Committee on International Relations chairman, the gentleman from New York [Mr. GILMAN] and the committee's ranking Democrat, the gentleman from Indiana [Mr. HAMILTON], for authorizing me to represent the Committee on International Relations and the U.S. Congress in this historic milestone achievement for the people of the Pacific. Coming from the Pacific, Mr. Speaker, I was deeply honored to have been extended this great privilege.

Mr. Speaker, for decades, the island nations have strived for U.S. accession to the SONFZ protocols, which symbolizes America's support of and respect for the South Pacific people's dream of a homeland free of nuclear weapons. To have played a small role in Washington over the past 8 years in bringing about the realization of these aspirations for the people of the Pacific has been a long and hard struggle, but indeed, a very worthy one.

At this time of celebration in the Pacific, I want to recognize and thank those who have contributed greatly over the years in a bipartisan spirit to this week's historic event. In particular, the following individuals must be recognized for their leadership, the former chairman of the House Foreign Affairs Subcommittee on Asian-Pacific Affairs, the gentleman from New York and former Congressman, the Honorable Stephen Solarz; former Congressman and revered champion of Pacific interests, the gentleman from California and my very good friend, the Honorable Robert Lagomarsino; and the greatly respected member of the Committee on International Relations, the gentleman from Iowa, currently chairman of the Committee on Banking and Financial Services, the Honorable JIM LEACH.

I also want to express appreciation to my colleagues and Members of this great institution—Congressmen BEN GILMAN, LEE HAMILTON, CHRIS SMITH, HOWARD BERMAN, Congresswoman CONNIE MORELLA, Congressmen GARY ACKERMAN, RON DELLUMS, DOUG BEREUTER, TOM LANTOS, PETE STARK, MATTHEW MARTINEZ, BOB UNDERWOOD, and the distinguished delegation from the State of Hawaii, Senators DANIEL INOUYE and DANIEL AKAKA, Congresswoman PATSY MINK, and my good friend, Congressman NEIL ABERCROMBIE—for supporting my efforts over the years for U.S. accession to the SPNFZ Treaty.

Mr. Speaker, I also want to recognize the tremendous leadership role that the Arms Control and Disarmament Agency [ACDA] has played in urging, since the Reagan administration, for U.S. support of the SPNFZ Treaty. ACDA has long been a crucial and vital part of several administrations' efforts to stop nuclear proliferation around the globe. While ACDA's mission is growing with greater importance—Start II implementation, chemical weapons convention ratification, and completion of the comprehensive test ban treaty negotiations and implementation—I find it an unfathomable tragedy that ACDA's funding is being butchered. Stopping proliferation of weapons of mass destruction must clearly be a top priority of our Government, and steps must be taken to ensure that ACDA will be given the resources necessary to accomplish this most urgent of missions.

Mr. Speaker, although we were not able to stop France from resuming their recent nuclear bomb detonations in the South Pacific, we should welcome the fact that Paris' irresponsible actions ignited worldwide protests and served as a catalyst for France to join the SPNFZ Treaty protocols.

Mr. Speaker, although we were not able to stop France from resuming their recent nuclear bomb detonations in the South Pacific, we should welcome the fact that Paris' irresponsible actions ignited worldwide protests and

served as a catalyst for France to join the SPNFZ Treaty protocols in an attempt to defuse international condemnation.

Mr. Speaker, the international community's strong and visceral opposition to French nuclear testing sent a strong message that we have entered into a new post-cold-war era where nuclear testing and nuclear weapons development are increasingly viewed around the world as an unnecessary evil for preserving peace, stability, and freedom. Perhaps this is a lesson we can all take to heart on the eve of the 21st century.

Mr. Speaker, it is about time that the three remaining nuclear powers have finally joined Russia and China, who ironically supported SPNFZ years ago, by acceding to the SPNFZ Treaty. The fact that all of the world's declared nuclear powers are now signatories to the treaty, establishing the South Pacific's vast nuclear-free zone, cannot but be perceived positively in Geneva, Switzerland, where the United Nations-sponsored Conference on Disarmament is under way. Joining the SPNFZ Treaty is proof of the nuclear powers' good faith commitment to progress on nuclear disarmament, that should bolster efforts to negotiate a genuine "zero-yield" Comprehensive Test Ban Treaty before the end of this year.

Mr. Speaker, a couple of observations, as I have followed the question of nuclear testing for the past 8 years and diligently pursued this issue with my colleagues while serving as a member of the House Committee on International Relations. We proved in World War II the devastating effect of nuclear weapons and their impact on human beings. The bomb the United States dropped on Hiroshima some 50 years ago killed and vaporized over 150,000 men, women, and children, and points to the stark reality of the devastation that nuclear weapons can wreak upon mankind.

Mr. Speaker, I am not one to quibble with the fact that we were at the height of a world war or that the axis powers were on the verge of oppressing all of the free people of the world and that our country was in the midst of this great war for democracy and freedom, but what basic lessons have we learned, Mr. Speaker, in perfecting how to destroy multitudes of fellow human beings by the creation of this great weapon, the atomic bomb? I wonder when we detonated what was known then in 1954 as the "Bravo Shot," where the United States was the first nation to explode a thermonuclear device, which was then known as the hydrogen bomb, what was gained for mankind while the people of the Marshall Islands suffered from these hydro tests in their homeland?

I also wonder, Mr. Speaker, at this point in time in our history whether nuclear weapons really provide security for the American people as well as the other nations of the world. I am concerned, Mr. Speaker, about the fact that we have perfected the use of nuclear weapons and their destructive powers, just as we have made, I am sure, earnest efforts to harness peaceful uses of nuclear energy to improve living conditions for mankind.

At the same time, Mr. Speaker, we are now capable of exploding a thermonuclear device 1,000 times more powerful than the atom bomb that we dropped on Hiroshima. What does that mean, Mr. Speaker? It means that we have perfected a device to hand down to generations to come so that we can kill other human beings by the destructive nature of the atom and hydrogen bomb.

I am concerned, Mr. Speaker, about the fact that the Western nuclear powers condemn China now for continuing its efforts to perfect its nuclear devices, while the United States, for example, allocates a tremendous amount of our military budget to maintain our distinct and unchallenged nuclear technology supremacy. I find this hypocritical, Mr. Speaker.

Mr. Speaker, while we harnessed nuclear energy for the benefit of our citizens to provide electricity for our homes, our Government also has to deal with the reality that it is going to take approximately $350 billion of the American taxpayers' money to clean up and store the spent nuclear waste that is in our own country. This is just in our own country. It does not even address the issue of other nations currently using nuclear energy for electrical production.

So we seem to be at a crossroad now, Mr. Speaker.

Mr. Speaker, where is it going to end, or when is it ever going to end? We need to bring the nuclear nightmare to an end and regain some sense of morality among nations of the world, so that peace can be attained in a constructive fashion. We cannot continue with this idea that we are going to win and they are going to lose if we press that nuclear button first.

Mr. Speaker, I submit whoever presses that nuclear button, it is going to be a lose/lose situation for all of the nations of the world. I sincerely hope that perhaps having nuclear-free-zones, like the South Pacific nuclear-free-zone, throughout the world will be a positive step for peace and stability in the world. We should all take a minute and say to ourselves, let us hold back, let us have a sense of better control of what we are doing, especially since we have already proven the destructive nature of nuclear weapons. We do not need to prove this again, as we did in World War II among the people that lived in Nagaskai and Hiroshima.

I pray, Mr. Speaker, that my colleagues will help in our efforts to see that perhaps the five nuclear nations and the other undetected nations who have the capability for nuclear destruction, will provide a very strong and binding commitment that we will not spread this evil cold danger to other nations of the world.

Mr. Speaker, I include the following material for the RECORD:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, May 27, 1993.

Hon. WARREN M. CHRISTOPHER,
Secretary of State, Department of State,
Washington, DC

DEAR MR. SECRETARY: We write to recommend an early review of U.S. policy toward signature of the Protocols of the South Pacific Nuclear Free Zone (SPNFZ) Treaty.

Such a review would appear to be appropriate not only in the context of non-proliferation policy but also because of the relevance of SPNFZ to U.S. relations with the South Pacific. SPNFZ is a significant non-proliferation measure and any support the U.S. can lend to it would strengthen the cause of non-proliferation in the region. It would also contribute to support for the extension of the Non-Proliferation Treaty in 1995. Given the importance of SPNFZ to South Pacific Forum members, U.S. accession to the Protocols would enhance U.S. influence and credibility in the South Pacific.

As we understand them, the provisions of the SPNFZ Treaty and its three Protocols do not appear to be inconsistent with U.S. national interests. The Treaty specifically respects states' rights under international law to freedom of the seas and leaves it up to individual signatories to decide whether to allow foreign ships and aircraft to visit or transit their territory.

We note that, at the hearing of the Foreign Affairs Committee on 18 May, you said the U.S. was not at odds with the basic thrust of SPNFZ. You did, however, express concern about the Treaty's possible impact on the U.S.'s operational flexibility and freedom in the South Pacific.

We would be interested in understanding the nature of the Administration's concerns about operational flexibility for U.S. forces in the South Pacific, and are interested in working with you in support of a policy regarding the SPNFZ Protocols that protects and promotes U.S. interests in the South Pacific and enhances U.S. non-proliferation objectives.

We are writing a similar letter to the Secretary of Defense.

With best regards,

Sincerely yours,
BENJAMIN A. GILMAN.
JIM LEACH.
LEE H. HAMILTON.
GARY L. ACKERMAN.
ENI F.H. FALEOMAVAEGA.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 24, 1995.

Ambassador RALPH EARLE II,
Head of Delegation, U.S. Delegation to the Nuclear Non-Proliferation Treaty Extension Conference,
New York City, NY.

DEAR AMBASSADOR EARLE: It is my understanding that, in conjunction with the Nuclear Non-Proliferation Treaty Extension Conference proceedings being held in New York, there shall be convened a working group focussing on nuclear-weapon-free zones.

As a member of the House International Relations Committee, I am writing to urge that the U.S. delegation take an active role in those discussions and strongly support the use of nuclear-weapon-free zones as a non-proliferation tool.

Treaty-based nuclear-weapon-free zones with adequate verification safeguards have already proven effective in preventing spread of nuclear weapons and serve to assist efforts "rolling back" existing proliferation.

As you know, the U.S. has supported establishment of nuclear-weapon-free zones around the world, including those in Antarctica, the seabed and outer space. We are also a signatory to the Treaty of Tlatelolco, which prohibits nuclear weapons in Latin America. The White House has recently lauded the Latin America Nuclear-Weapon-Free Zone as a critical building block of peace and stability throughout the Western Hemisphere which reinforces the worldwide non-proliferation regime.

I have long urged that our government should also join the South Pacific Nuclear-Free Zone created by our allies through the Treaty of Rarotonga. The protocols to the Rarotonga Treaty are substantially identical to our commitments under the Latin America Treaty. In the post-Cold War era, the Soviet nuclear threat in the Pacific no longer exists, overcoming past justification for not joining the Treaty of Rarotonga.

At a time when it is crucial that the U.S. utilize all resources to forge a majority for indefinite extension of the NPT, joining the South Pacific Nuclear-Free Zone Treaty would materially enhance U.S. credibility, gain international goodwill and act as visible proof of America's commitment to nuclear arms controls.

Ambassador Earle, I wish you the very best in your discussions regarding nuclear-weapon-free zones and the benefits of their formation around the world, in particular in the Middle East, Southeast Asia, Africa, and the South Asia Subcontinent. I further commend you and the delegation for your efforts leading to permanent establishment of the NPT, a mission of utmost urgency and importance to our nation and the world.

With best personal regards,

Sincerely,

ENI F.H. FALEOMAVAEGA,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, September 20, 1995.

Hon. WILLIAM J. CLINTON,
President of the United States,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We write to recommend that the long-pending review of U.S. policy toward the South Pacific Nuclear Free Zone (SPNFZ) Treaty be brought to a close, and would strongly urge that our nation sign the Protocols to the SPNFZ Treaty.

The review was appropriate due to our non-proliferation policy and the relevance of SPNFZ to U.S. relations with the South Pacific. We feel SPNFZ is a significant non-proliferation measure and any support the U.S. can lend to it would strengthen the cause of non-proliferation in the region.

The provisions of the SPNFZ Treaty and its three Protocols are not inconsistent with U.S. national interests or present security practices. The Treaty specifically respects states' rights under international law to freedom of the seas and leaves it up to individual signatories to decide whether to allow foreign ships and aircraft to visit or transit their territory.

While the U.S. has yet to act on the SPNFZ Protocols, ironically, both China and Russia are signatories. The U.S. is, however, a signatory to the Protocols of the Latin America Nuclear Free Zone Treaty, substantively the same as SPNFZ, which your administration has lauded as a critical building block for peace and stability in our backyard, the Western Hemisphere.

Given the importance of SPNFZ to South Pacific Forum nations, U.S. accession to the Protocols would enhance U.S. influence and credibility in the Pacific. Moreover, U.S. accession to SPNFZ would bolster progress on global non-proliferation measures, including the indefinite extension of the Non-Proliferation Treaty and negotiation of a zero-yield Comprehensive Test Ban Treaty. In light of France's decision to support a zero-yield CTBT, the time is particularly right for the U.S. to accede to SPNFZ.

We thank you for your consideration of this request and urge timely action.

Sincerely,

ENI F.H. FALEOMAVAEGA.
LEE H. HAMILTON.
JAMES A. LEACH.
CHRISTOPHER H. SMITH.
ROBERT A. UNDERWOOD.
Members of Congress.

THE WHITE HOUSE,
Washington, November 7, 1995.

Hon. ENI F.H. FALEOMAVAEGA,
House of Representatives,
Washington, DC.

DEAR ENI: Thank you for your letter regarding the South Pacific Nuclear Free Zone (SPNFZ) Treaty.

On October 20, 1995, the United States, France and the United Kingdom jointly announced our intention to sign the relevant protocols of the SPNFZ Treaty in the first half of 1996. This announcement reflects a number of positive developments that have occurred recently, such as the extension of the Nuclear Nonproliferation Treaty indefinitely and without condition and progress on a Comprehensive Test Ban Treaty.

I appreciate your efforts in support of SPNFZ and look forward to working with Congress to achieve ratification of the SPNFZ protocols.

Sincerely,

BILL.

U.S. ARMS CONTROL AND
DISARMAMENT AGENCY,
Washington, DC, December 8, 1995.

Hon. ENI F.H. FALEOMAVAEGA,
Committee on International Relations,
U.S. House of Representatives.

DEAR CONGRESSMAN FALEOMAVAEGA: I wanted to convey my admiration for and congratulations upon your tireless efforts to achieve formal U.S. adherence to the Protocols of the Treaty of Rarotonga. As you know, the U.S. was able to declare its intention on October 20, 1995 along with the United Kingdom and France, to sign the Protocols in the first half of 1996.

The United States has always respected the goals and the spirit of Rarotonga. As we stated in 1987, our activities in the region were not inconsistent with the Treaty. That is, however, a long way from assuming the legal obligations of the Protocols and thereby conferring the full legal and political support of the United States. Now, the U.S., U.K. and France will sign the Protocols together, and at a stroke bring all five nuclear weapon states in accord with the solemn commitments and obligations undertaken by the states of the region.

I am extremely gratified that the United States of America can formally adhere to this important regional denuclearization treaty, and am pleased that my Agency was able to play a crucial role in this decision. Your efforts have contributed greatly to this momentous decision, and I again offer my congratulations.

Sincerely,

JOHN D. HOLUM.

THE WHITE HOUSE,
Washington, March 24, 1996.

Hon. ENI F.H. FALEOMAVAEGA,
House of Representatives,
Washington, DC.

DEAR ENI: Last fall I promised to keep you informed of developments regarding the South Pacific Nuclear Free Zone (SPNFZ) Treaty. I am pleased to advise you that on March 25 the United States will join France and the United Kingdom in signing the relevant protocols to this Treaty at a tripartite ceremony in Fiji.

Last year's NPT Review and Extension Conference agreed that internationally recognized nuclear free zones, based on arrangements fully arrived at among the states of the region concerned, enhance international peace and security. The Conference also agreed that the cooperation of all the nuclear weapon states and their respect and support for the relevant protocols are necessary for the maximum effectiveness of such zones.

Our decision to sign the SPNFZ protocols demonstrates our clear support for a nuclear weapons-free zone in the South Pacific, our commitment to nuclear nonproliferation and our determination to achieve a Comprehensive Test Ban treaty mandating a permanent end to nuclear testing throughout the world.

I appreciate your strong support for the important step we will be taking on March 25.

Sincerely,

BILL.

HOUSE OF REPRESENTATIVES, COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, March 28, 1996.

Hon. ENI F.H. FALEOMAVAEGA,
Washington, DC.

DEAR ENI: I am writing to congratulate you for the superb work you have done over the years on behalf of the South Pacific Nuclear Free Zone Treaty—work whose culmination we witnessed earlier this week when the United States joined France and Great Britain in signing the three SPNFZ protocols.

It was only fitting that you should have been in Suva to participate in this ceremony.

You have been an eloquent and impassioned voice on this issue, and all of us are very much in your debt.

So please accept my hearty congratulations for a splendid job and a successful conclusion to your labors.

I look forward to your leadership on many other issues in the days ahead.

With best regards,

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

H. CON. RES. 111

Whereas the nations of the South Pacific, which share with the United States a strong interest in nuclear non-proliferation, have negotiated and signed the Treaty of Rarotonga, establishing a South Pacific Nuclear Free Zone;

Whereas the Treaty of Rarotonga came into force on December 11, 1986, and has been ratified by 11 nations;

Whereas the Treaty of Rarotonga prohibits the testing, manufacture, acquisition, and stationing of nuclear weapons in the territory of parties to the treaty and the dumping of radioactive wastes at sea;

Whereas the 3 protocols to that treaty, which are open for ratification by nuclear-weapon states, require that those nuclear weapon states that ratify those protocols abide by the treaty's provisions in their territories in the region, not contribute to violations of the treaty or threaten to use nuclear weapons against its parties, and refrain from testing nuclear devices in the zone;

Whereas the Treaty of Rarotonga does not prejudice or in any way affect the rights of all nations to freedom of the seas under international law and leaves to each party policy decisions on visits or passage through its territory by foreign ships and aircraft;

Whereas the establishment of verified nuclear-weapon-free zones can reinforce the international norm of nuclear nonproliferation and build consensus for long-term extension of the Nuclear Nonproliferation Treaty (NPT) when reviewed for extension by its members in 1995;

Whereas the United States leadership to extend the Nuclear Nonproliferation Treaty would be further enhanced if United States signature and ratification of the protocols were part of an overall nonproliferation policy that included negotiations on a comprehensive nuclear test ban;

Whereas Article VII of the Nuclear Nonproliferation Treaty affirms "the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories," and state parties to the Treaty of Rarotonga have implemented a safeguards agreement for the region with the International Atomic Energy Agency;

Whereas it has been the policy of the United States to favor the establishment of effective nuclear-weapon-free zones in regions of nonproliferation concern and where such zones would enhance international stability and security;

Whereas the United States has set forth 7 criteria whereby the effectiveness of proposed nuclear-weapon-free zones will be judged, as follows: (1) the initiative is from the nations in the region, (2) all nations whose participation is deemed important participate, (3) adequate verification of compliance is provided, (4) it does not disturb existing security arrangements to the detriment of regional and international security, (5) all parties are barred from developing or possessing any nuclear device for any purpose, (6) it imposes no restrictions on international legal maritime and serial navigation rights and freedoms, and (7) it does not affect the international legal rights of parties to grant or deny others transit privileges, including port calls and overflights;

Whereas the United States has signed and ratified the protocols to the Treaty for the Prohibition of Nuclear Weapons in Latin America (the Treaty of Tlatelolco), establishing a nuclear-weapon-free zone in Latin America, whereby the United States committed itself not to test, manufacture, acquire, or store nuclear weapons in its territories in the region (namely Puerto Rico and the United States Virgin Islands), not to contribute to any violation of the treaty, and not to threaten to use nuclear weapons against the parties;

Whereas the United States is also a party to the Antarctic Treaty, the Seabed Arms Control Treaty, the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, which preclude nuclear weapons from these regions;

Whereas support for these nuclear-weapon-free zones does not prejudge United States policy with respect to other proposed nuclear-weapon-free zones, each of which must be judged on its individual merits in accordance with United States national interests;

Whereas in order to maintain the security of United States military forces and their ability to contribute to nuclear deterrence, the United States must preserve the principle of neither confirming nor denying whether particular United States naval vessels or other military forces possess nuclear weapons;

Whereas the protocols to the Treaty of Rarotonga do not conflict with the United States policy of neither confirming nor denying the presence of nuclear weapons on United States vessels or aircraft and do not prohibit any current or anticipated activities in United States territories in the South Pacific or elsewhere in the region; and

Whereas past administrations have stated that while the United States could not, under circumstances prior to the cessation of the Cold War, sign the protocols to the Treaty of Rarotonga, United States practices and activities in the South Pacific Nuclear Free Zone region, then and now, are consistent with the treaty and its protocols: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) it is the sense of the Congress that—

(1) the Treaty of Rarotonga is consistent with United States security commitments in the South Pacific since it does not prohibit port calls by naval vessels which are nuclear powered or may be carrying nuclear weapons and does not create other impediments to United States military operations in support of the Security Treaty between Australia, New Zealand and the United States (ANZUS Treaty);

(2) the Treaty of Rarotonga satisfies the 7 criteria, set forth in the preamble of this resolution, which have been established by the United States Government for judging the effectiveness of proposed nuclear-weapon-free zones;

(3) signature and ratification of the protocols to that treaty would be in the national interest of the United States by contributing to a comprehensive United States nonproliferation policy that would enhance prospects for extending the Nuclear Nonproliferation Treaty in 1995, particularly if such a policy were to include negotiations on a comprehensive nuclear test ban agreement; and

(4) signature and ratification of the protocols would not prejudge United States policy with respect to proposals for nuclear-weapon-free zones in other regions, such as those in which the presence of an effective nuclear deterrent has contributed to United States national security by enhancing stability.

(b) Noting that the executive branch has indicated that United States practices and activities in the region are consistent with the Treaty of Rarotonga and its protocols, it is therefore the sense of the Congress that the United States should sign and ratify the protocols to that treaty.

[From the Christian Science Monitor, Jan. 11, 1994]

ENSURING STABILITY IN THE PACIFIC

(By Eni F.H. Faleomavaega)

In the afterglow of the recently concluded Asia-Pacific Economic Cooperation meetings and the North American Free Trade Agreement, a new era of increased trade and economic growth is dawning. But the vision of Pacific prosperity is impossible to realize unless a foundation of peace and stability can be ensured. For half a century, the United States has provided this crucial element of security in the Asia-Pacific region, directly aiding the dynamic growth of Asia's economies. The US should build on this legacy by supporting the security arrangements necessary for economic prosperity.

Nuclear proliferation is a major threat to Pacific and US security, as exemplified by the crisis over North Korea. The Clinton administration has urged the indefinite renewal of the Nuclear Non-Proliferation Treat and negotiation of a Comprehensive Test Ban Treaty. To bolster US nonproliferation policy, the president also should build support for nuclear-weapon-free zones and join the existing nuclear-free zone in the South Pacific.

Eleven Pacific island nations are members of the Rarotonga Treaty, establishing the South Pacific Nuclear-Free Zone (SPNFZ), which bans the testing, stationing, or use of nuclear weapons in the zone. The treaty, a symbol for the peoples of the South Pacific, expresses their trepidation over nuclear weapons and the possibility of a nuclear holocaust in the region. With France and the US having detonated more than 100 nuclear bombs in the South Pacific, the nations there have gained a firsthand appreciation of the hazards of nuclear weapons.

Since the treaty took effect, the island nations have eagerly sought US support for a nuclear-weapon-free South Pacific. By refusing to sign the treaty, the US is increasingly perceived as indifferent to the aspirations and concerns of its South Pacific allies—many of whom fought at our side during World War I, World War II, the Korean War, and the Vietnam War, and supported America in the cold war. Ironically, Russia and China have signed the treaty.

The treaty would advance US nonproliferation objectives without undermining US security policy in the South Pacific, as past administrations have conceded when testifying before Congress. It was carefully drafted to accommodate US interests, including our policy to neither confirm nor deny the presence of nuclear weapons on US warships or aircraft; and it protects free transit through the zone by US vessels and planes carrying nuclear weapons.

The US already supports nuclear-weapon-free zones around the world, and has signed treaties prohibiting nuclear weapons in Latin America, the Antarctic, the ocean floor, and outer space. Furthermore, the US supports creating nuclear-weapon-free zones in South Asia, the Middle East, and Africa. With the end of the cold war, justification for much of America's reluctance to join the SPNFZ has evaporated. The Soviet nuclear threat in the Pacific no longer exists. Instead, the US and Russia are committed to keep reductions in their nuclear arsenals, the US has removed tactical nuclear weapons from its surface fleet, and all nuclear-weapon states except China are observing a nuclear-testing moratorium.

If the US is serious about promoting nonproliferation and free trade, then it should make use of nuclear-weapon-free zones that enhance the security that makes economic prosperity possible. Signing the Rarotonga Treaty would be an important step toward realizing the promise of a secure and prosperous "New Pacific Community."

PROTECT OUR AMERICAN TROOPS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN. Let me adjust my gig line here for this prestigious well of the world's greatest legislature, straighten my First Armored Division pin, still thinking about bringing the men and women home from Bosnia, where European men and women should be doing the miserable ground duty while we do everything else, like air power, sea power, all the airlift, 99 percent of it, 99 percent of the ships at sea, most of the hospital supplies, the food, the fuel, most of the munitions, and of course 100 percent of the intelligence from our satellite architecture down to unmanned aerial vehicles like the fantastic predator program.

□ 1600

Why do American men and women have to be on the ground missing Easter with their families as they missed Christmas? So I guess we can free up European young people to work on the assembly line at places like Ferrari and Fiat, Jaguar, Rover, Rolls Royce, and the big-five in Germany, Mercedes, Audi, BMW, Volkswagen, and who am I forgetting? Porsche. We do not want to take people from those assembly lines, shipping products over here.

Let us just bankrupt the American people and pour our money into Haiti. The money we sent to Rwanda, they are back killing one another. Somalia, the fighting goes on without the BBC or the CNN cameras. And in Bosnia, 19 young people have died, two of them Americans, one from an accident, one a hero, Sergeant Donald Dugan of—his initials are D-A-D, dad. He left four sons behind. Donald A. Dugan. First Sergeant of the First Squadron of the First Battalion of the First Cavalry of the First Brigade of the First Armored Division, and he was an A troop to boot and was one of the first Bradleys. A picture of him in the turret crossing the Sava River right after Christmas.

Mr. Speaker, his last words—I learned this in Bosnia about a few weeks ago. His last words were to some children. He did not know whether they were Muslim heritage children, who are really Serbians who adopted the Islamic faith so that the Turkish Ottoman empire would not confiscate their property. He did not know if they were Serbs of the Muslim faith or Serbs of the Orthodox Christian faith, or Croatian children of the Roman Catholic faith. He did not know what they were. He just knew they were children. His nickname was MacGyver, after the television series hero Richard Dean Anderson who played the swashbuckling expert with munitions, that was his proud name in the First Division, MacGyver. And Don Dugan, his last words to these children, he motioned them back, and he said mino, probably his own ethnic universal word for mine, mine. He says mino, boom, boom, boom, and then indicates get back. And the next boom was a real one tearing part of his face off.

And he had told his friends, they told me over there because I did not like the way the Clinton administration was putting a spin on this, that he had dome something wrong so do not blame Bill Clinton. He had told his friends, our job here is to make this battlefield safe for children. We are going to get rid of these mines.

Now, that is not what he was sent there for, and he did not die in vain if all the other young men and women there take Donald Dugan's heroic death to heart and stay on the roads and stay out of the mine fields. He had marked this mine earlier, cut a trip wire from the mine set waist high in a tree to a barricade. There were cattle in this field. Kids are out. He cut that, marked the mine with a white flag. But then this thought kept coming back to his MacGyver nature, and he went back to the mine while his friend was around behind a building answering nature's call. And when his friends came back around, there was Don in the prenatal position bent over. The mine he tried to disarm, almost instantly killed by the blast.

Now, why in the name of heaven other than campaigning was Miss Hillary and their beautiful teenage daughter, Chelsea, what were they doing in a dangerous combat theater, graciously received by our troops, of course, as the President was graciously received and the men telling me, is he not here just to get reelected? Are these photo ops for him? Well, she was there. It is election year.

And we have not seen the end of Air Force One at tremendous expense to the American taxpayers, all the administration does this is a bipartisan, shameful way. I think that during the election year, there should be a hired campaign plane, as BOB DOLE, the majority leader, does, not use a congressional airplane. He uses a fully paid for campaign airplane. And when Mr. Clinton is going out on a fully paid campaign trip, it should be a hired, safe, four-engine, two-engine 757, 767, paid for by the millions of dollars flowing into the Clinton coffers by Republican businessmen saying, just in case you win, do not hurt us too much with your socialist liberal beliefs.

It is outrageous that all he pays, Clinton, is a first-class air ticket, and his purely campaign staff pays a first class air ticket, like 750 bucks from here to California. But all the rest of the people on this 747, and he has five others, six 747's at the disposal of the President.

Mr. Speaker, I told Mr. Bush when we flew from Chicago to here that it was excessive. He agreed. I said you ought to dump these 747's. You should have one or two E-4's, command and control birds, and one 747 for international trips only kept at Andrews and for domestic flying. You should have a Presidential 747, 757, not going to buy a French Airbus, and you should use Lear jets. Not Lear jets, the Gulfstream. And President Bush said, well, that is my favorite airplane. I like to fly on the C-20 Gulfstream because then I do not have the press on the airplane with me all over my back. Let them charter their own DC-10 as they do as backup, but selected press at a first-class air ticket paid for by the networks that are all money machines. They make so much money, they all get on the airplane in favored status.

I remember when I went at the 50th anniversary in Omaha Beach and the Normandy D-day landings and first we went down to Anzio to the Anzio cemetery. BOB DOLE spoke there the next day because that is where a lot of his friends were buried. And here at the airport at Naples were to 747's nose to nose, that beautiful Air Force One paint job on both, filled with prepubescent staffers who never served in the military, ditch the ceremony at the Anzio cemetery and went into Naples.

Then the same thing up in France. Half of the 700 people that went with the Presidential group to Normandy, half of them went into Paris and never made it to the 50th anniversary of D-day. Another one of those photo opportunities using our fine young men and women in uniform. And they say now that the Clinton campaign plan is to surround him with uniforms, school children in uniform, police, law enforcement people in uniform, and to use our U.S. military forces to get him around people in uniform and then maybe the triple draft dodging issue will never come up. Not as long as I am alive, have my health and have this well and various other media outlets around the country.

Now, Mr. Speaker, a friend of mine, Owen Frisbee, passed me in the hall and said, did you hear Paul Harvey in the last few days? He said, here is something that he said on his radio show recently that I think is worth a House resolution, a Senate resolution, a joint resolution to let the whole country know this before all the 50th anniversaries of the end of World War II are gone.

This is the year of the anniversary of Winston Churchill's great speech at a small college in Missouri named after Westminster, England, Westminster College. It was there on my dad's birthday in March 1946, 50 years ago this month, that Churchill created that memorable sentence. He said the Communists have drawn a line from Stetyn in the Baltic down to Trieste on the Adriatic, an Iron Curtain has fallen. And fall it did. And more people died under the heel of Stalin before, during and after World War II times multiple factors than died under the tyranny of Hitler's vicious demonic 12-year Reich. Fifty-five million died because of the warlords in Japan, Mussolini's facism, Hitler's Nazism, but there were a lot of Americans naive enough to believe that Uncle Joe Stalin was not the fourth tyrant, creating the bloodiest century in all of civilization's history.

Here is what Paul Harvey said, for perspective. Hitler's Nazis must not be forgotten for their slaughter of some 6 million Jews. Six million other people, including Protestant ministers like Dietrich Bonnhover or Catholic priests like St. Maximillian Colby. I was there at the Vatican when he was elevated to sainthood, standing next to the man he saved in Auschwitz. Said to the German guards he spoke 10 languages, in German. Let me go, this man is married and has 10 children. His children were there with him. His wife was still alive. The man is still alive.

They said to Colby, the Nazi Gestapo guard was so taken aback, or SS guard, he said: Fine, you die in his place. And they put him in a cell. I went to that room. There is a beautiful bas relief, marble relief on the wall. There were some votive lights burning, a few aging flowers. The very bunker cell where they locked up Maximillian Colby, Father Colby and 10 others, and they allowed them to just starve over 10 days to 2 weeks. There were so skinny, it did not take the usual 3 weeks of you starving. And they came in and Father Colby was the last one still alive. And they injected him with air into his veins and he expired, dying in Christ's footsteps that he would give his life, John 15:13, so that another man may live.

While I am holding Mother Teresa's hand, I looked at this man. What day was that? October 10, 1982. Priest, priests, ministers, not just 6 million Jews were killed, 6 million other nonJews. But the Jewish slaughter has this ring of the Holocaust because they were targeted for death only because of what God had made them, people of Hebrew heritage. Unbelievable.

So I digress. Let me come back to Paul Harvey and start at the top. For perspective: Hitler's Nazis must not be forgotten for their slaughter of some 6 million Jews. For perspective, let history not forget that Russia's Communists, since the Bolshevik revolution of 1917, have killed over 100 million people, 6 million European Jews slaughtered by Hitler, men, women, and tiny little babies, children, 100 million, including women and children and little babies slaughtered by Russia's Communists.

So an effort is underway in Washington, DC, a memorial honoring Communism's victims and a reminder of another evil which free people must ever oppose, still oppose. Today in Russian, today in Vietnam, as I testified this morning, not to put another nickel into the U.S. embassy in Hanoi. Not another dime into our diplomatic mission there until the Communists in Hanoi account for our missing in action.

They can solve hundreds of cases out of the 2,140, hundreds of cases, 3,400 at a minimum this very day. They could solve these cases and bring instant relief to these heroes' families who are heroes themselves, the missing in action families, Communist Cuba. You notice the Communist Cubans out of Hanoi withdrew their protest at the United Nations that those three American aircraft were in Cuban waters. Not. They were in international waters. We proved it with hard copy from radar images and they withdrew their complaint, which means that Fidel Castro, through his officer corps of Communist officers, sell-outs, Judases every one. He ordered American aircraft, licensed in America, built in America, flown by Americans of Cuban birth and heritage, ordered them murdered.

That is the style of Castro, first degree murderer. And that is what Paul Harvey is saying to the largest radio audience on the planet Earth, a reminder of another evil, Communism, which people must ever oppose. In Point du Hoc, North Korea and that part of the Korean peninsula that they still crush with human rights violations, the sad little islands of Cuba, those 11 million people who bathe in sunlight and no freedom. And an emerging Communist Party crawling out from under the bloody rocks of most of this century of death trying to rebuild itself in Russia, and in a few other countries in that area. And the Communism of Vietnam and the Communism of the world's largest nation.

The United States will soon pass 266 million people. China has 266 million plus a billion. Five times the size of the United States. Go to a store at Disneyland or Disney World. Pick up the expensive china. Made in China, where china comes from. Pick up the tiniest little refrigerator magnet, made in China.

□ 1615

Pick up a pencil curled in Mickey Mouse's ears, China, China, China, the most expensive toys, the cheapest toys, the stuffed animals, the expensive sweaters, shirts. China, China, China, where women work at slave labor wages exactly like the worst scandals in Dickens's England or the turn of this century and child labor as bad as any of the worst periods of this century or during the industrial revolution in Europe. Excellent, excellent commentary, Mr. Harvey.

Then not to be commenting upon tragic world-sweeping issues, Paul Harvey delivers the following short essay that is worthy of repeating in the well of the U.S. House of Representatives. Paul Harvey, again, the new protection racket, I want to mimic that inimitable great style of his that has become an institution, he says, Mr. Harvey, fear-mongering is unforgivable, whether by pessimistic politicians or unscrupulous booksellers or by scientists. Anybody who tries to come between you and your money by scaring you is a con man.

The winter of 1996, unprecedented blizzards marched across our Nation. Vast areas disappeared under a blanket of white, and airports became refugee centers and firefighters had to locate fire hydrants with metal detectors. It was so cold in Minnesota, somebody used a frozen banana to pound a spike into 5/8ths plywood thickness, yet undoubtedly, some scientists were insisting that our planet is threatened with global warming.

If Mr. Harvey will allow me, the inimitable Jay Leno, closet conservative, opened his show in New York one night in the middle of the blizzard, saying, by the way, an announcement New York's global warming conference is canceled until further notice. Big laugh, of course, from the audience. Mr. Harvey continues, anybody involved with government grants or private foundation money is constantly besieged by the fear-mongerers. They have learned that if they can frighten us enough we will pay whatever it costs for protection.

Mr. Patrick Michaels is an exception, Virginia State climatologist, Mr. Patrick Michaels has researched global climate for many years. He expects that there will never be an agreement among scientists on anthropogenic climate change. He notes a 1990 report about global warming in which scientists were utterly unable to agree on why our Earth had warmed one half a degree Celsius over the past 100 years. Quote, they still cannot agree, unquote.

I hope my classmate, AL GORE, who served in this House for 8 years, I hope he is listening tonight. Vice Presidents sometimes have afternoons to kill, and maybe out of sheer nostalgia he tunes in the House floor or the Senate that he went off to 1984.

Satellite records, Mr. Harvey continues, are our present best way to measure the Earth's temperature. They, in use since 1979, show that our world has in fact been cooling further. The Arctic, which, by the way, I sailed under the North Pole with the aforementioned AL GORE when he was a lowly Senator just the two of us, on codel DORNAN, went up there. I put him in the cockpit of a B–1 at Grand Forks, ND. He had never seen one. He was described on Meet the press as an expert in strategic areas. I took him down into a missile ICBM silo. This was in 1989. He had never seen an ICBM armed, armed, cocked, fired ready to go at some target on the other side of the Iron Curtain, and that I mentioned Churchill's description of what was behind the Evil Empire, and AL and I learned a lot on that Arctic trip.

So further, the Arctic, where scientists say most warming should be happening, has seen no warming whatsoever in the past 50 years. The polar ice caps are not, not is underlined for Harvey's emphasis, not melting.

Now, the disciples of global warming, unquote, to perpetuate their profitable false alarm, are trying to contend that this year's record cold and snow are actually the result of global warming. Now, how are they going to explain this? They say their computers show global warming causes blizzards and extreme cold. Well, Harvey says, any computer geek, expert or novice, knows that computers are programmed by people. They do what humans direct them to do, and because scientists are feeding their own measurements into the computers their predictions are no more accurate than their own fuzzy logic.

The science of global climate change is complex. We are still learning how parts of our atmosphere interact. Yet all human experience suggests that there would be fewer major snowstorms in a greenhouse world. Somewhere up the road ahead other scholars may decide that planet Earth is cooling instead, but presently they have far too much invested in global warming theories to let go. Fear begets money, money to fund hundreds of millions of dollars' worth of research work being done by universities, by environmental organizations, and Government Agencies with U.S. hard-working taxpayers' dollars. Their jobs depend on keeping you scared.

Al Capone's enforcers used fear to force shopkeepers to buy insurance. Should you, the taxpayer, refuse to pay, they might smash your knees with a baseball bat. Today, you pay protection money in research grants, organization dues, or taxes. You are threatened with an impending apocalypse.

Perhaps the most negative of the new protection rackets is the degree to which eventual public disillusion may discourage investment in more legitimate research. Excellent. Thank you, Mr. Frisbee, for giving me what I missed on Harvey's broadcast.

Ladies and gentlemen, if you saw Meet the Press last Sunday, you were stunned, as I was, the two main guests were our colleague here, JOHN KASICH of Ohio and Pat Buchanan. But at the end of it Tim Russert, who mercifully escaped the acid tongue of Don Imus, at the most peculiar banquet, roast or dinner ever held inside the Beltway. Somebody taped it for me. I can hardly wait to see it given some of the bloodthirsty descriptions of what New York City's longest-running talk show host did to everybody in both parties from the White House down to Tim Russert. He said Tim Russert's job, somebody told me when he worked for a Senator, it was to hide the booze bottle. House rules and good taste prevent me from repeating the name of my Senate friend in the other party, and they said his job for the former Governor of New York was to hide the bodies. He left no dignity, I guess, with Bill Clinton and NEWT GINGRICH sitting on one side. Imus, I understand, absolutely dumped a load of concrete all over the dais and the various Senators and media people in the audience. I understand he lectured one of the people on 60 Minutes that he was a newsman and not a pirate, so stop wearing an earring. I understand they laughed at that. But other than that they were pretty frozen by that point in the program. Anyway, he dumped on Russert more gently than others, I think. I think Tim Russert is probably one of the better hosts on Meet the Press that they have ever had. He is fair and a loyal Catholic, pro-life. I am a little prejudiced in his favor. At the end Mr. Russert says through an unidentified man, do we believe American values in some sense need reforming? He cuts to a very young Jerry Brown with a full head of dark hair, not the shaved head we see today in the prison denim shirt that is Jerry Brown's new image.

During the campaign for the Presidency, 4 years ago, it was white turtlenecks and a 900-number. Now it is a shaved head and a prison shirt, a bright guy, Jesuit-trained, just like yours truly. I must give you the date first: October 5, 1975, 20 years and 5 months ago. He says, I think American values need reassertion in terms of their fundamental roots. I think there has been an overemphasis on the ability of material comfort, on the ability of our economic machinery to provide human happiness. Sounds more like Pope John Paul or Billy Graham than the youngest Governor ever to serve in our biggest State, which had become the biggest State during the prior Governor, Ronald Reagan. Let us see, Jerry Brown was 36 when he got elected; he was in office 1 year. So he is 37 years old, he says, and I would not call it a reform in the sense it is something new, but it is a returning to a traditional view of human nature, that looks to fundamental principles, to right and wrong, to ethics, to morality, to a sense that human nature is constant. It, human nature, is weak. This is the reflection of our Jesuits in that period teaching us about original sin. It needs a type of government that recognizes that mankind is really brought down by its own instincts, and we ought to recognize that. Jerry Brown closes, "We are not going to create a new man or a new person in this country, and every civilization that has gone to a sensate, sensual culture has fallen." And I think that is a real possibility here, and to that extent I would like to see, here comes the rough Jerry Brown message, an austere, leaner commitment on the part of the people of this country. Yes, end of videotape. And Mr. Tim Russert, just a few days ago, comments, economic insecurity, fundamental values, sound familiar? The same issues raised two decades ago, and we hear them today. We will be right back.

Now, I am coming to the end of what I described in this well on February 7, 1995, the 40th anniversary of my getting that ring and my wings of silver in the Air Force 41 years ago. Now on February 7, 1995, I declared for the Republican nomination for President in this well. That is almost 14 months ago. That is a special date for me, February 7, because a quarter of a century ago, 26 years now, on the 15th anniversary of my getting my pilot wings, I pointed to this Montagnard, proper name, ethnic name is Hmong, Hmong people of the mountain people, the French called them, Montagnard is the French name, there long before the Vietnamese, the Lao, or the Yeo or any ethnic Chinese were there. I pointed to this bracelet on the very first Robert K. Dornan Show. I was 37 years of age, 36 years of age. I had just won two Emmys for a local show. My reward was 90 minutes live on Saturday night in the second biggest market on the planet, Los Angeles, and environs. I pointed to this bracelet and said I will wear this, to the first guest on my first show. I stayed on the air for 6 years straight, combining both shows. I said I will wear this for your heroes, for your missing-in-action, heroes, one Marine, three Air Force. They never did get back. They are heroes, those 4 wives and friends of mine who had just come back from a 5-week trip around the world, locked up in Moscow in an old hotel with no heat, 4 of us, including myself, became sick out of the 5. Bill Clinton was in Moscow that very week, January 1970, at a banquet called the Mir Banquet, same name of the Russian space satellite that is up in the sky right now, Mir means peace, a peace banquet. The guest of honor was a Senator who lasted 12 years, Eugene McCarthy, otherwise a loyal Catholic, there he is in the Evil Empire in the heart of it, in Moscow, in the shadow of the Kremlin, literally across the street from the Kremlin in the National Hotel.

□ 1630

Twenty-three year old Bill Clinton ditching class at Oxford, where he never went to school, never earned his degree, just demonstrated against his country in a foreign land. He is in town. Ross Perot is in Copenhagen with a plane full of medicine for our POW's, which he had just flown in from Vientiane, Laos, home of the Montagnard people. He was told he could fly into

Moscow if he would go into Copenhagen. Moscow keeps him on the ground, never does let him in.

I am under arrest with four wives, Pat Hardy, Pat Burns, Carol Hanson, now Carol Hanson Hickerson, and Connie Hessel, an African-American lady whose Colonel husband was head of academics at our gunnery school. Said he did not have to go. Did not have to go. Said it was his duty to go. Never heard from again. Direct hit from a SAM on his F–4 Phantom.

I am with these wives, locked in a hotel. Clinton is in town being wined and dined as one of the sympathetic students who had organized the fall offensive named by the Communists for sympathetic demonstrations in Finland, Stockholm, Oslo, Norway, Paris, Clinton ran the ones in London, New York, here in the District of Columbia, Los Angeles, San Francisco, and Chicago. All around the world, a huge pro-Communist outpouring of love and affection for the Communist killers in Hanoi who meant to conquer, and eventually did, the freedom-loving people in South Vietnam. What a week.

And I come home from that trip a month later, and God rewards me with the Robert K. Dornan Show, which led to me in the district that was the prime aerospace district in the country, represented then by the wealthiest man in the House, tough district, that show obviously gave me the name recognition to come to Congress 20 years ago.

So that date, February 7, the debut of the Robert K. Dornan Show, was special. So, of course, when it fell on a House day, in session, the 25th anniversary bracelet, 40th for my Air Force wings, I said "Today is the day I come to the well."

I do not live in the green room at "Meet the Press" like certain Senators. I did not have a nickel in the bank at that time. But I said, I think my words were, I am going to launch a mission that will be one of the great adventure of my life. And I am still a declared candidate. Buchanan, Jesuit educated Catholic, Keyes, the same, loyal Catholic, and DORNAN. And the winner, a hero of mine, BOB DOLE, always said he would win from day one. That is why I never raised much money. But I am still in.

It has been that great adventure I expected. I came in, announcing February 7, 1995, and then the formal announcement on Jefferson's birthday, April 13, at the Law Enforcement Memorial up here in Judiciary Square, to begin a trip up the east coast so that on Easter Sunday at the church where I was baptized, St. Patricks Cathedral, 7th biggest church on Earth, where my parents were married in 1929, I would renew my wedding vows, because it was my 40th anniversary, on my wife's birthday. I married her on her 21st birthday.

It was quite a day, ruined a little bit by Connie Chung and a weird show called "TV Nation," pretending they were the BBC, lying in my face, tracking us all day with cameras in our face, out to the Statue of Liberty, ruining a day with 9 grandchildren, now 10. And we went up to New Hampshire, went to the birthplace of the Republican Party, nine grandkids running all over, Sally and I in the glow of our 40th anniversary and Sally's birthday. It began the formal part of the campaign.

I announced at Jefferson's Memorial that I had a message for my country. It was very similar to Jerry Brown's message that man does not live by bread alone, we had a moral crisis in the White House, and that we had a moral crisis in our country. That we were heading toward financial bankruptcy, and that is what we have been debating here all day long and passed by voice vote, both sides are so exhausted and the White House is a little unsure of their polling numbers and their focus groups, by voice vote a few minutes ago, we continue the Government for another 2 or 3 weeks with a continuing resolution.

We still have half the Government unfunded by last year's authorization bill, and we are already into markup. I am the chairman of two subcommittees here, only two of us chair two subcommittees, because the two intelligence subcommittees do not count. That is the dark secret world. But I am the military personnel chairman, and I have had my hearings all jammed together and rushed in 6 weeks, and now I have to write, "markup" we call it, for next year's defense authorization.

Clinton signed this year's defense authorization on February 10. He took out three of the things that I worked on here for the last 20 years. He took out national missile defense, SDI is what Reagan called it, strategic defense initiative. Clinton took it out.

We are told by careful polling that 80 percent of the people who visit this Chamber, 80 percent of intelligent, educated, Americans across this country, do not know that if some radical state, a communist state like Cuba or Korea, or a terrorist state like Iraq or Iran, launched one, uno, O–N–E, one nuclear missile, we could track it from the time the heat appeared on the launch pad through its accelerating trajectory, its mid-course, and its final trajectory, to wiping out a total American city, a medium-sized city like Raleigh, Sacramento or Anaheim, or an entire megalopolis, like New York, this whole Beltway and all the surrounding suburbs and areas in Maryland and Virginia, or all of the whole Los Angeles area, with fallout killing people, depending on the winds, in Santa Barbara or San Diego. One missile, We can track it from launch to impact. And the death of more Americans than every earthquake, fire, down to a single home fire, every hurricane, every flood, every natural disaster, for the entire last 15,000 years, since Asia man came down the Alberta Channel between the glaciers and populated this whole hemisphere from the Bering Straits to Patagonia in Argentina. More deaths in one instant of a flash of radioactivity than every natural disaster in the history of this hemisphere, all put together, times 3 or 4. And we cannot stop that missile.

And Clinton and his Secretary of Defense, Dr. Perry, say it is too soon to defend ourselves. It is not ready yet. Let the next President do it after my second term.

Then he takes out the biggest applause standing-ovation trigger for any one of the 11 Republicans, when Wilson was hanging on and Forbes came in, they sort of replaced one another, we had 10 then, when we had 10 candidates, what I wrote for the Contract With America with JOHN DOOLITTLE of California, what was passed on this floor, what I helped put into the authorization bill, what Clinton vetoed, what we fought through two long arduous conference committees, and he finally demanded be taken out, was no U.S. troops under foreign command. When Governor Lamar Alexander said it, former governor, or Buchanan or Keyes, or Senate Leader BOB DOLE or me, it was an instant standing ovation from the crowd. No U.S. troops under U.N. or any foreign command.

Senator DOLE put it in on the other side, on the north end of this building. I put it in here. I used to sit there and somebody would whisper to me they are all taking credit for it, but you wrote it. I used to tell people, you know what Ronald Reagan had on his desk, a little sign that said if you do not care who gets credited, there is no end to what you can accomplish. But Clinton took that out, takes out defending our Nation.

By the way, we fought to get in theater missile defense. Now, what does that mean? That means that we are building a system to protect our men, now that we are putting women in combat, our women, in the field. And we also are going to protect our allies in the field as we send Patriot missiles to shoot down Scuds. You do not need to be told who is the good guys when the defense system is called Patriot and the evil system is called Scuds. But we gave that to Israel. We will protect, and Israel is working on a system we hope will work, called Arrow, a theater missile system, TMD, theater missile defense. He signed that. No, he is no fan of it, but he signed it. But he took out homeland defense.

So we defend allied foreign troops in the field, and we should, and our own troops, that is a moral obligation, but we do not defend their wives and their children or if it is a fighting mom, we do not defend Mr. Mom, who is taking care of the kids back home. Or their parents, or their grandparents, or everybody else's family. That is naked to attack. That comes out. And then we put people under foreign command. He says that is his prerogative and constitutionally it is not.

Then the third one he takes out, just as unseemly as the others, is Bosnia, Haiti, and Somalia, where 19 better men than he ever dreamed of being, died, two of them winning the Medal of Honor posthumously, dying to save Michael Durant, giving two lives for his one life. Another man was captured alive and beaten to death, their bodies torn apart, horrible story.

Clinton thinks he can do that without this House weighing in or the Senate. Clinton believes in his mind he can send us to Tibet tomorrow, and we have no role. He thinks he can send the 82d Airborne to bail out Tibet and recapture the big temple there and send the Dalai Lama home.

Now, it sounds absurd. He is not going to do it. He probably never thought about it. But constitutionally, he thinks he can send the 101st Airmobile, a former paratrooper unit, back to Rwanda. He has not sent them there, but he thinks he can send them there again. He thinks he can go back to Somalia in an election year if he feels like it, to get rid of that 19-man death and the 104 others wounded in his adventure there when Bush said we are through, we are finished, we fed 3,050,000, we are out of there. Operation Hope is closed down. And Clinton said let us help the U.N., let us avenge the 29 Pakistanis who were disemboweled. Let us go back and arrest Aideed.

Two weeks after our heroes were killed. They would not dare ask Army men to defend him. Aideed was ordered to be defended by U.S. Marines, but put on an armed C–12 Beachcraft and sent down to a seminar in Addis Ababa, the man whose people just murdered and cut the bodies apart of 19 of our heroes, the helicopter crew with the five dragged through television, desecrated before our eyes. The worst, mercifully not shown on American or some European channels, showed the full horror of it.

What is it that he thinks he can do this, because of one line in the Constitution? One line in this small Constitution of ours that says no, that the President's job is the commander-in-chief, period. That means when we declare war, when we decide what foreign operation will be undertaken, a smart war hero Senator actually said, Jefferson set the precedent. He sent a naval force and Marines over to the Barbary Coast. The Marines still sing about going to the shores of Tripoli. The truth is 180 degrees the opposite. Get educated, U.S. Senate.

Our Congress ordered our second President, John Adams, our third President, the aforementioned Thomas Jefferson, and the following father of our Constitution, 5-foot dynamite James Madison, we ordered them from this Chamber and the U.S. Senate 10 times with public law, go get the Barbary pirates. Jefferson is recorded, you can find it in his own handwriting in the archives or our Library of Congress, where he says as President, No. 3, as President, I cannot order our military to do anything but defend these 13 colonies if attacked, unless the Congress orders me to do something else. And now I came across a story refreshing my memory that the dean of Washington reporters, I believe it was Sarah McClendon, said to President Lyndon Baines Johnson, you do not have the constitutional right to have 400 young men die every week in Vietnam. The Tonkin Gulf thing was a resolution. It is 6 years old. You cannot continue this. That was 1964, he was out by 1968. She said it is 3 years old.

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You cannot continue this. He says, I have got the constitutional power. And that is what Clinton thinks. So he takes No. 3 out of the bill that he says that we infringed upon his constitutional power to demand that the U.S. Congress, under its constitutional authority, article I, section 8, says, we shall raise armies, build navies, and maintain them. Do you know that I am the chairman of the military personnel committee, Mr. Speaker? I know you know this. And Senator DAN COATES of Indiana, replaced Dan Quayle, is the military personnel chairman over there. Do you know we have the authority to change the color of the military uniforms, override the Joint Chiefs? We decide how much they will be paid, what their housing will be like, how big the units will be, how many ships will sail, whether we are going to buy the F–22, whether we are going to make more F–15's, 14's, 16's, 18's, what we are going to do with the Harrier, the AV–8B, the vertical takeoff aircraft we are rebuilding, 10 to 20 of them, for night radar capability, an amazing system that after three decades walks away with every air show. We decide what kind of basic allowance for quarters. I just raised it 5.2 percent, got the Senate to go along with it and it is law now.

I put into the last bill that people who have the AIDS virus, are infected with the AIDS virus, and will probably die, not before 10 years, we hope, that is what we have extended it to if they live a clean life, exercise, and eat nutritious food, there are 1,049 in the military. They are not deployable. The three surgeons general said they must be brought home from Bosnia or Haiti or other misadventures. They can never be assigned to Korea, to Japan, to Europe. They cannot be a marine guard in an Embassy in any of the 191 nations in the world, 185 in the United Nations, including us, 7 others, 192 nations, including us, our status of treaty says that not a single nation in the world, 191, including the 6 not in the United Nations, that is like Taiwan, Switzerland, Tonga, Nauru, no nation wants an HIV-infected American citizen in uniform in their countries. And they will never go in combat again.

If a person tests HIV positive in Bosnia, he is brought home. He is grounded from his helicopter or his aircraft; he will never fly again. All of the technical schools, the training, it is all flushed. It is gone. Then we put out of the military, or do not recruit someone out of high school new, and give him the job of somebody we have let go who did not get infected with the HIV virus. It is an unbelievable story.

I passed it in the House, in subcommittee, committee. They would not debate it on the floor. Nobody would try to challenge me. They thought they would do it in the other Chamber. It got through two hard-fought conferences. And when Clinton vetoed the bill, he griped about national defense, stopping him from these adventures like Somalia, Bosnia, and Haiti, and United States troops under foreign command. He said that is his constitutional right. It is not. Even somebody as smart and as excellent a leader as BOB DOLE slipped and said, I know it is his constitutional right to send the troops to Bosnia. It is not. He said, but I do not think they should go. We should arm the Moslems. But even he did not understand fully the history of this. So when Clinton finally signed the defense authorization with 10 things in it that I had worked on, no more abortions in military hospitals. I won that battle. The staff did not even want me to do it. Do not, it is too contentious. We will lose on the floor. We won on the floor, 7 times. We won. The Senate tried to take it out. We beat them in conference twice. And Clinton with his own pen, I wish he would send me that pen, undid one of his five culture-of-death Executive orders. He had to undo it because of this Congressman from southern California. One down, four to go of the culture of death. They did not gripe about that one.

But guess what? Clinton says, you took out defending the homeland, the heartland of America or its big cities. I get to put people under U.N. foreign command. I get to send people to Bosnia, Somalia, Tibet, or any cockamamie place I darn well feel like, but I feel bad about this HIV thing. This is mean-spirited, bigoted. Goes on and on and then says, you people out there who want to sue this, sue the Government, sue the military, do it. My Justice Department, Janet Reno, will not counter it. You can sue with impunity. Meanwhile, homosexuals in the military, Janet Reno's Justice Department people are supporting the military policy, as screwed up and contradictory as it is, thanks to Les Aspin, Lord rest his soul and this confused President on this moral, cultural issue.

He is not going to, he is going to support the military orders there in this dumb mixed up policy on homosexuals in the military, but go ahead and sue on HIV.

So guess what, 3 hours ago, the conference of Senators and House Committee on Appropriations members still cannot decide whether they are going to try without a hearing, try without a hearing, without a bill, without an amendment on the Senate side, without any voting over there, they are going to try and strip out the Dornan language and keep HIV-AIDS-infected people on active duty who are jerked out of all their jobs that have anything to do with combat, even combat support, and who cannot go anywhere in the world, not even Hawaii or Alaska, let alone possessions like Puerto Rico, Guam, Samoa, the Virgin Islands, stay in the American States.

The figures here, most are in California and Virginia, two States with the highest land values and the highest tourist budgets. Unbelievable that he would make an issue out of that, February 10. But that is the constitutional power of Congress under article I, section 8, to decide the total parameters of the size, pay and composition, and equipment of our military.

Clinton thinks they are his toys to be used for photo ops. I will make a charge on the floor right now, Mr. Speaker, that I have been studying for months. The entire intelligence process at the highest levels in Haiti has been politically debauched and compromised. The Aristide government, this man that the Vice President, Mr. Clinton tried to lionize, Aristide, this defrocked cleric, this man who publicly, I have heard it on tape, bragged about how the smell of burning flesh was exciting, telling people to put tires around people's necks and burn them alive with those tires, this defrocked cleric Aristide ordered through his Interior Ministry the death, the assassination of competitors in the recent Presidential election down there.

We found out about these assassination threats. And through a political destruction, and I cannot go any further than this, because of certain responsibilities I have here, because in the politicizing of our intelligence, people died. There are still reports bottled up on Somalia and Bosnia, 17 men dead, NATO Allies, 15, 2 of them our people, dozens injured, land mine accidents, bobby trap bombs in the buildings in Sarajevo, which I drove through a few weeks ago, thinking about my trip there in 1991 on the eve of the dissolution of the Communist cobbled together 8 provinces of the former Yugoslavia. I could hardly recognize this beautiful city of Sarajevo, the Olympic city of the same year that we had the Olympics in my Los Angeles, the Winter Olympics of 1984. Went by the beautiful stadium where Scott won the gold medal, I forget his last name. Now he is a narrator for skating events. That whole stadium collapsed, became a graveyard, the Olympic areas and fields mass graves, unbelievable what they did to themselves there. But 3 years before we used the air power, which I supported, to stop this sniping of women and children, killing mothers in front of their sons or vice versa.

I told George Bush, put a helicopter raid on those concentration camps. Look at this cover of Newsweek, Mr. President. What is this, Auschwitz all over again? What about the ringing words from the Holocaust, "never again." Put about 20 Blackhawks in there. Give them 20 Apaches or Cobra gunships to give them cover. Shoot up the gun towers. They will all run for the tall grass when they see 20 Apaches coming over the nape of the land and put all those prisoners whether they are Moslem-, Bosnian-, or mostly Serbian-held prisoners, put them in helicopters and take them to Strasbourg, France, dump them on the steps of the European Parliament. Not dump them, with great dignity and respect, after we fed them and clothed them, "present" them is the word I want for the European Parliament. And tell them, you vowed never again, these are European human beings. What are you doing? Good idea, BOB, good plan. Cannot get involved. Not our deal.

I said, what are you going to do, wait for the Europeans until the death toll is so bad that we will have to get involved. Then Clinton fritters away 3 years. Now we are in there when there are so many blood debts built up over the last 4 years and they are still killing one another, still burning homes in the suburbs, that I drove through, of Sarajevo. Unbelievable that we are involved also on the ground to relieve what I said when I opened up, European young men and women to work in their industries, to build Airbus aircraft at Air France in Toulouse, France so they can sell them to our big airlines here.

Let me close, Mr. Speaker, on a few notes on the greatest health tragedy to ever hit the United States of America.

Mr. Speaker, nobody has made as many speeches on the floor of the House or on the floor of the Senate about AIDS as I have. Not Mr. Dannemeyer, who is retired, 4 years ago, not Mr. WAXMAN, when he was chairman of the Health Committee and Subcommittee of Commerce, no one has made as many speeches as I have.

My speeches have been rooted in mercy and compassion, and I have voted for every AIDS money appropriation in my last 10 years that I have been here because this is young people dying in their prime, where cancer and cardiac problems hit people generally at the later end of their life. Here are the new figures that I got out of the Atlanta Centers for Disease Ccontrol.

Mr. Speaker, you are an historian. You know that depending on your encyclopedia, 295,000 people died in combat in World War II or 312,000 is the high number. AIDS deaths, as of New Year's Eve, 315,928. We have 513,486 infected with AIDS and over 1 million positive with the human immunodeficiency virus, 1 million infected, half a million with AIDS and 62.3 percent dead. Let me add to that, children, almost 4,000, 3,921, for a cumulative total of 319,849.

You can add to that Dr. Koop, the former surgeon general, told me 30 to 40,000 who died in 1981, 1982, 1983, 1984, where the doctors, mercifully to protect the family, only put down the proximate cause of death, heart, lungs, pneumonia, cancer, and did not say it was caused by a breakdown in their immune system.

So the figure is closer to 350,000, 50,000 more than died in the jungles, the deserts, the Arctic, the sea, the air, all over this planet in World War II, Americans. Now we are heading toward the Civil War figure. We have already passed Civil War combat deaths, but pneumonia, disease, and Andersonville, the Auschwitz of its time, we lost 618,000, another half a decade and we will pass the Civil War death toll. Never has a disease ever cut down so many young Americans, and it has always been handled as a public relations problem, never as a pandemic, that is a worldwide epidemic, a pandemic killing plague, because people's reputations are more important than saving those innocent victims, those 4,000 children.

My heart goes out to the 1,049 people in our military. I am going to find out who is an innocent victim. I will prevail over Mr. Clinton again. During this break I am going to become a walking encyclopedia with visits to Walter Reed, Bethesda, and maybe to San Antonio's Wilford Hall, Air Force. I will not be beaten on this by Senator KENNEDY who does not have a clue of what this is all about.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; and

H. Con. Res. 157. Concurrent resolution providing for an adjournment or recess of the two Houses.

The message also announced that pursuant to Public Law 103–432, upon the recommendation of the majority leader, Jo Anne B. Barnhart of Virginia, Martin H. Gerry of Kansas, Gerald H. Miller of Michigan; and upon the recommendation of the minority leader, Paul E. Barton of New Jersey are named to the Advisory Board on Welfare Indicators.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. UNDERWOOD (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. GOODLING (at the request of Mr. ARMEY), for today until 1 p.m., on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOODLATTE) to revise and extend their remarks and include extraneous material:)

Mr. BUYER, for 5 minutes, today.

Mrs. CUBIN, for 5 minutes, today.

Mr. NORWOOD, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

Mr. BEREUTER, for 5 minutes, today.

(The following Members (at the request of Mr. WISE) to revise and extend their remarks and include extraneous material:)

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. MOAKLEY, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. TRAFICANT, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. FOX of Pennsylvania, for 5 minutes, today.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3136. An act to provide for enactment of the Senior Citizen's Right to Work Act of 1996, the Line Item Veto Act, And the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit; and

H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

ADJOURNMENT

Mr. DORNAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. (Mr. BARTLETT of Maryland). Pursuant to the provisions of House Concurrent Resolution 157 of the 104th Congress, the House stands adjourned until 12:30 p.m. on Monday, April 15, 1996, for morning hour debates.

Thereupon (at 5 p.m.), pursuant to House Concurrent Resolution 157, the House adjourned until Monday, April 15, 1996, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2316. A letter from the Director, Test, Systems Engineering and Evaluations, Department of Defense, transmitting a letter notifying Congress of the intent to obligate funds for fiscal year 1996 Foreign Comparative Testing [FCT] Program, pursuant to 10 U.S.C. 2350a(g); to the Committee on National Security.

2317. A letter from the Assistant Secretary for Legislative Affairs and Public Liaison, Department of the Treasury, transmitting a copy of the 11th monthly report as required by the Mexican Debt Disclosure Act, pursuant to Public Law 104–6, section 404(a) (109 Stat. 90); to the Committee on Banking and Financial Services.

2318. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Turkey (Transmittal No. 16–96), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

2319. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–238, "Retirement Reform Temporary Amendment Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2320. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–233, "Insurance Demutualization Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2321. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–238, "Insurance Redomestication Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2322. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–237, "Safe Streets Anti-Prostitution Amendment Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2323. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–236, "Human Remains Decisions Amendment Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2324. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–232, "Anatomical Gift Amendment Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2325. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–231, "Learner's Permit Amendment Act 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2326. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–230, "Insurance Industry Material Transactions Disclosure Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2327. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–229, "Merit Personnel Early Out Retirement Revisions Amendment Act of 1996," pursuant to D.C. Code, Section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2328. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–228, "Insurance Confidentiality of Information Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2329. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–227, "Henry J. Daly Building Designation Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2330. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–235, "Insurance State of Entry Act of Act of 1996," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

2331. A letter from the Secretary of Veterans Affairs transmitting a report of activities under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2332. A letter from the Chairman, Federal Election Commission, transmitting proposed FEC form 5, the form to be used by persons other than political committees to report independent expenditures, pursuant to 2 U.S.C. 438(d); to the Committee on House Oversight.

2333. A letter from the Administrator, Federal Aviation Administration, transmitting a copy of the updated aviation system capital investment plan [CIP], pursuant to 49 U.S.C. app. 2203(b)(1); to the Committee on Transportation and Infrastructure.

2334. A letter from the Chairman, Federal Election Commission, transmitting the Commission's fiscal year 1997 budget request justification and its fiscal year 1996 supplemental appropriation request, pursuant to 2 U.S.C. 437d(d)(1); jointly, to the Committees on Appropriations and House Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. KASICH: Committee on the Budget. H.R. 842. A bill to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund; adversely (Rept. 104–499, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. McINNIS: Committee on Rules. House Resolution 395. Resolution providing for consideration of the joint resolution (H.J. Res.

159) proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes (Rept. 104–513). Referred to the House Calendar.

Mr. QUILLEN: Committee on Rules. House Resolution 396. Resolution providing for consideration of the bill (H.R. 842) to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund (Rept. 104–514). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2747. A bill to direct the Administrator of the Environmental Protection Agency to make grants to States for the purpose of financing the construction, rehabilitation, and improvement of water supply systems, and for other purposes; with an amendment (Rept. 104–515). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON BILLS INITIALLY REFERRED UNDER TIME LIMITATIONS

Under clause 5 of rule X, the following actions were taken by the Speaker:

H.R. 995. The Committee on Commerce discharged from further consideration. Referred to the Committee of the Whole House on the State of the Union.

H.R. 3070. The Committees on Ways and Means, the Judiciary, and Economic and Educational Opportunities discharged from further consideration. Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CALVERT:

H.R. 3198. A bill to reauthorize and amend the National Geologic Mapping Act of 1992, and for other purposes; to the Committee on Resources.

By Mr. BURR (for himself, Mr. GREENWOOD, Mr. RICHARDSON, Mr. BILIRAKIS, Mr. TOWNS, Mr. BARTON of Texas, Mr. HALL of Texas, Mr. KLUG, Ms. ESHOO, Mr. UPTON, Mr. GORDON, Mr. BILBRAY, Mr. BREWSTER, Mr. COBURN, Mr. DOOLEY, Mr. GANSKE, Mr. MCHALE, Mr. OXLEY, Mr. PAYNE of Virginia, Mr. FIELDS of Texas, Mr. ROSE, Mr. PAXON, Mr. HOLDEN, Mr. TAUZIN, Mr. SCHAEFER, Mr. FOX, Mr. FUNDERBURK, Mr. CAMPBELL, Mr. MCINTOSH, Mr. COX, Mr. DREIER, Mr. HEINEMAN, Mr. WELDON of Florida, Mr. SHAYS, Mr. HASTERT, Mr. NORWOOD, Mr. BURTON of Indiana, Mr. FRAZER, Mr. STEARNS, Mr. FRISA, Mr. RAMSTAD, Mr. MARTINI, and Ms. DUNN of Washington):

H.R. 3199. A bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to facilitate the development and approval of new drugs and biological products, and for other purposes; to the Committee on Commerce.

By Mr. KLUG (for himself, Mr. GREENWOOD, Mr. TOWNS, Mr. BILIRAKIS, Mr. RICHARDSON, Mr. BURR, Mr. HALL of Texas, Mr. BARTON of Texas, Mr. GORDON, Mr. UPTON, Mr. BREWSTER, Mr. BILBRAY, Mr. PAYNE of Virginia, Mr. COBURN, Mr. DOOLEY, Mr. GANSKE, Mr. MCHALE, Mr. OXLEY, Mr. HOLDEN, Mr. FIELDS of Texas, Mr. PAXON, Mr. WHITFIELD, Mr. SCHAEFER, Mr. TAUZIN, Mr. FOX, Mr. CAMPBELL, Mr. MCINTOSH, Mr. COX, Mr. DREIER, Mr. HEINEMAN, Mr. FUNDERBURK, Mr. WELDON of Florida, Mr. SHAYS, Mr. HASTERT, Mr. NORWOOD, Mr. FRAZER, Mr. STEARNS, Mr. FRISA, Mr. RAMSTAD, Mr. MARTINI, and Ms. DUNN of Washington):

H.R. 3200. A bill to amend the Federal Food, Drug, and Cosmetic Act to increase access to nutritional information about foods, to increase the availability of safe food products, and for other purposes; to the Committee on Commerce.

By Mr. BARTON of Texas (for himself, Mr. GREENWOOD, Mr. RICHARDSON, Mr. BILIRAKIS, Mr. HALL of Texas, Mr. GORDON, Mr. BURR, Ms. ESHOO, Mr. COBURN, Mr. BREWSTER, Mr. KLUG, Mr. DOOLEY, Mr. GANSKE, Mr. MCHALE, Mr. BILBRAY, Mr. PAYNE of Virginia, Mr. OXLEY, Mr. HOLDEN, Mr. FIELDS of Texas, Mr. PAXON, Mr. SCHAEFER, Mr. TAUZIN, Mr. FOX, Mr. UPTON, Mr. CAMPBELL, Mr. MCINTOSH, Mr. COX, Mr. DREIER, Mr. HEINEMAN, Mr. FUNDERBURK, Mr. WELDON of Florida, Mr. HOSTETTLER, Mr. SHAYS, Mr. HASTERT, Mr. NORWOOD, Mr. BURTON of Indiana, Mr. FRAZER, Mr. STEARNS, Mr. FRISA, Mr. RAMSTAD, Mr. MARTINI, and Ms. DUNN of Washington):

H.R. 3201. A bill to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development, clearance, and use of devices to maintain and improve the public health and quality of life of the citizens of the United States; to the Committee on Commerce.

By Mr. DEFAZIO:

H.R. 3202. A bill to decrease military spending to a sensible level by reducing force structure, major weapons system procurement, and other programs; to the Committee on National Security.

By Mr. BILBRAY (for himself and Ms. DUNN of Washington):

H.R. 3203. A bill to require the administrative agency responsible for adjudicating claims under the workers' compensation provisions of title 5, United States Code, to follow certain procedures in seeking medical opinions; to the Committee on Economic and Educational Opportunities.

H.R. 3204. A bill to require the administrative agency responsible for adjudicating claims under the workers' compensation provisions of title 5, United States Code, to select board certified physicians to provide second opinions; to the Committee on Economic and Educational Opportunities.

H.R. 3205. A bill to change the appeals process in the workers' compensation provisions of title 5, United States Code; to the Committee on Economic and Educational Opportunities.

By Mr. CHRISTENSEN (for himself, Mr. HAYES, Mr. NEUMANN, Mrs. MYRICK, and Mr. FOX):

H.R. 3206. A bill to amend title 18, United States Code, with respect to Federal prisoners, and for other purposes; to the Committee on the Judiciary.

By Mr. BAKER of California (for himself, Mr. BEREUTER, Mr. BROWN of California, Mr. CALVERT, Mrs. CLAYTON, Mr. COX, Mr. DICKS, Mr. DELLUMS, Mr. EHLERS, Ms. ESHOO, Mr. FARR, Mr. FUNDERBURK, Mr. GENE GREEN of Texas, Mr. HASTERT, Mr. JACOBS, Mr. PARKER, Mr. ROGERS, Mr. ROYCE, Mr. ROTH, Mr. TAYLOR of North Carolina, Mr. TOWNS, Mr. WELDON of Florida, Mr. WILSON, and Mr. WISE):

H.R. 3207. A bill to amend the Communications Act of 1934 to facilitate utilization of volunteer resources on behalf of the amateur radio service; to the Committee on Commerce.

By Mr. BASS:

H.R. 3208. A bill to amend the Federal Election Campaign Act of 1971 to strengthen certain provisions relating to independent expenditures, and for other purposes; to the Committee on House Oversight.

By Mr. BEREUTER:

H.R. 3209. A bill to amend the Internal Revenue Code of 1986 to increase the maximum amount deferrable under a 457 plan for any year to the amount deferrable for such year under a 401(k) plan, and to require that amounts in 457 plans be held in trust; to the Committee on Ways and Means.

By Mr. CAMPBELL:

H.R. 3210. A bill to amend the Bank Holding Company Act of 1956 to clarify that the Board of Governors of the Federal Reserve System has full discretion with regard to the type and amount of information required to be included in an application to become a bank holding company or to acquire a bank, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. FAWELL:

H.R. 3211. A bill to amend the National Labor Relations Act to protect employer rights; to the Committee on Economic and Educational Opportunities.

H.R. 3212. A bill to amend the Fair Labor Standards Act of 1938 to provide a limited overtime exemption for employees performing emergency medical services; to the Committee on Economic and Educational Opportunities.

By Mr. FORBES:

H.R. 3213. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 relating to the dumping of dredged material in Long Island Sound, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. FRANKS of Connecticut:

H.R. 3214. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to establish a brownfield cleanup loan program; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HAYWORTH:

H.R. 3215. A bill to amend title 18, United States Code, to repeal the provision relating to Federal employees contracting or trading with Indians; to the Committee on the Judiciary.

By Mrs. JOHNSON of Connecticut (for herself, Mr. SHAYS, Mr. FRANKS of New Jersey, and Mr. HORN):

H.R. 3216. A bill to amend the Occupational Safety and Health Act of 1970 to require that inspections of construction sites carried out under that act shall be conducted by inspectors who have been trained pursuant to standards established by the Secretary of Labor; to the Committee on Economic and Educational Opportunities.

By Mr. LATOURETTE (for himself, Mr. SAXTON, Ms. LOFGREN, Ms. RIVERS, Ms. KAPTUR, Mr. GILCHREST, Mr. STUPAK, Mr. QUINN, Mr. RAMSTAD, Mr. MILLER of California, Mr. OBERSTAR, Mr. MEEHAN, Mr. FRANKS of New Jersey, Mr. PETRI, Mr. HOKE, Mr. EHLERS, Mr. DINGELL, Mr. ENGLISH of Pennsylvania, and Mrs. MORELLA):

H.R. 3217. A bill to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LATOURETTE:

H.R. 3218. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate that a portion of their income tax refunds be retained by the United States for use for certain public purposes; to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, Commerce, and Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAZIO of New York (for himself, Mr. BEREUTER, Mr. HAYWORTH, and Mr. JOHNSON of South Dakota):

H.R. 3219. A bill to provide Federal assistance for Indian tribes in a manner that recognizes the right of tribal self-governance, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. SALMON (for himself and Mr. STEARNS):

H.R. 3220. A bill to provide for the opportunity for the families of murder victims to attend the execution of the murderers; to the Committee on the Judiciary.

By Mr. SANDERS:

H.R. 3221. A bill to amend the Electronic Fund Transfer Act to prohibit the imposition of certain additional fees on consumers in connection with any electronic fund transfer which is initiated by the consumer from an electronic terminal operated by a person other than the financial institution holding the consumer's account and which utilizes a national or regional communication network; to the Committee on Banking and Financial Services.

By Mr. SANDERS (for himself, Mr. STARK, Ms. MCKINNEY, Mr. DELLUMS, Mr. HILLIARD, and Mr. FRAZER):

H.R. 3222. A bill to prohibit gag rule clauses, improper incentive programs, and indemnification clauses in health care insurance contracts and health care employment contracts, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHIFF (for himself, Mr. MCCOLLUM, Mr. COBLE, Mr. SKEEN, Mr. FROST, Mrs. MYRICK, and Mr. LATOURETTE):

H.R. 3223. A bill to amend title 18, United States Code, to provide mandatory life imprisonment for persons convicted of a second serious violent felony or serious drug offense; to the Committee on the Judiciary.

By Mr. SCHIFF (for himself and Mr. SHAYS):

H.R. 3224. A bill to improve Federal efforts to combat fraud and abuse against health care programs, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Government Reform and Oversight, Ways and Means, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAYS (for himself, Mr. SCHIFF, and Mr. BARRETT of Wisconsin):

H.R. 3225. A bill to amend title XVIII of the Social Security Act to expedite payment adjustments for durable medical equipment under part B of the Medicare Program based upon inherent reasonableness; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOLOMON (for himself and Mr. MILLER of California):

H.R. 3226. A bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUPAK:

H.R. 3227. A bill to amend title 23, United States Code, relating to the statewide planning process to provide for greater participation by elected officials having jurisdiction over transportation in nonmetropolitan areas, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. VELÁZQUEZ (for herself, Mr. GUTIERREZ, Mrs. KENNELLY, Mr. KENNEDY of Massachusetts, Mr. SERRANO, Mr. MENENDEZ, Ms. ROYBAL-ALLARD, and Ms. ROS-LEHTINEN):

H.R. 3228. A bill to require the Secretary of the Treasury to mint coins in commemoration of all the brave and gallant Puerto Ricans in the 65th Infantry Regiment of the United States Army who fought in the Korean conflict; to the Committee on Banking and Financial Services.

By Mr. VENTO:

H.R. 3229. A bill to require that wages paid under a Federal contract are greater than the local poverty line, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. LIVINGSTON:

H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; to the Committee on Appropriations.

By Mr. LANTOS:

H.J. Res. 171. Joint resolution proposing an amendment to the Constitution to permit the Congress to limit contributions and expenditures in elections for Federal office; to the Committee on the Judiciary.

By Mr. ARMEY:

H. Con. Res. 157. Concurrent resolution providing for an adjournment or recess of the two Houses; considered and agreed to.

By Mr. BROWDER:

H. Con. Res. 158. Concurrent resolution instructing the Architect of the Capitol to recommend measures to recognize, through the National Statuary Hall, the ongoing contributions of all American citizens, including women; to the Committee on House Oversight.

By Ms. VELAZQUEZ (for herself, Mr. GUTIERREZ, Mrs. KENNELLY, Mr. KENNEDY of Massachusetts, Mr. SERRANO, Mr. MENENDEZ, Ms. ROYBAL-ALLARD, Ms. ROS-LEHTINEN, and Mr. UNDERWOOD):

H. Con. Res. 159. Concurrent resolution expressing the sense of the Congress that the heroism of the brave and gallant Puerto Ricans in the 65th Infantry Regiment of the United States Army who fought in the Korean conflict should be commemorated; to the Committee on Veterans' Affairs, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ARMEY:

H. Res. 397. Resolution electing Representative JAMES A. HAYES of Louisiana to the Committee on Ways and Means; considered and agreed to.

By Mr. ENGEL (for himself, Mr. GILMAN, Mr. NADLER, Mr. SAXTON, Mr. DEUTSCH, and Mr. MCNULTY):

H. Res. 398. Resolution condemning the construction of a shopping center within the internationally protected zone around the Auschwitz death camp in Poland; to the Committee on International Relations.

By Mr. PAYNE of New Jersey (for himself, Mr. CHABOT, Mrs. CLAYTON, Mr. CONYERS, Ms. MCKINNEY, Mr. BEREUTER, Mr. OWENS, and Mr. WYNN):

H. Res. 399. Resolution expressing the sense of the House of Representatives with respect to the promotion of democracy and civil society in Zaire; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 28: Mr. SCHAEFER.

H.R. 103: Mr. KLINK, Mr. DIAZ-BALART, and Mr. BRYANT of Texas.

H.R. 294: Mr. FATTAH and Ms. PELOSI.

H.R. 324: Mr. LUTHER and Mrs. CLAYTON.

H.R. 452: Mr. DIAZ-BALART and Mr. STUPAK.

H.R. 468: Mr. REGULA.

H.R. 500: Mr. DICKEY.

H.R. 528: Mr. TIAHRT.

H.R. 820: Mr. GOODLING and Mr. TRAFICANT.

H.R. 1023: Mr. DORNAN and Mr. LATHAM.

H.R. 1119: Mr. SANDERS.

H.R. 1171: Mr. MCCOLLUM and Mr. COX.

H.R. 1297: Mr. QUILLEN.

H.R. 1386: Mr. SCHAEFER, Mr. BONILLA, and Mr. BRYANT of Tennessee.

H.R. 1406: Mr. SPENCE.

H.R. 1492: Mr. WELDON of Florida.

H.R. 1514: Mr. BATEMAN, Mr. COSTELLO, Mr. SMITH of Texas, Mr. MCDADE, Mr. PORTER, Mr. BARRETT of Nebraska, Mr. LEWIS of Georgia, Mr. TORRES, and Mr. ALLARD.

H.R. 1552: Mr. FRELINGHUYSEN, Mr. BRYANT of Texas, Mrs. LOWEY, Ms. MCKINNEY, Ms. NORTON, Mr. CUNNINGHAM, and Ms. WOOLSEY.

H.R. 1661: Mr. HOSTETTLER, Mr. GORDON, Mr. ZELIFF, and Mr. WELDON of Pennsylvania.

H.R. 1662: Mrs. MEEK of Florida and Mr. CRAMER.

H.R. 1684: Mr. PARKER, Mr. GEPHARDT, and Mr. ENGLISH of Pennsylvania.

H.R. 1711: Mr. DOOLITTLE.

H.R. 1802: Mr. BEILENSON.

H.R. 1953: Mr. BATEMAN.

H.R. 1972: Mr. YOUNG of Florida and Mr. COSTELLO.

H.R. 2011: Mr. BROWN of Ohio.

H.R. 2019: Mr. HUTCHINSON.

H.R. 2026: Ms. PELOSI, Mr. BEILENSON, Mr. GINGRICH, Mr. MASCARA, and Mr. FALEOMAVAEGA.

H.R. 2086: Mr. BEREUTER.

H.R. 2087: Mrs. CUBIN.

H.R. 2143: Ms. ESHOO and Mr. BERMAN.

H.R. 2178: Mr. GEJDENSON.

H.R. 2192: Mr. COSTELLO.

H.R. 2193: Mr. PETE GEREN of Texas, Ms. MCKINNEY, Mr. FOX, Mr. FALEOMAVAEGA, Mr. BONILLA, and Mr. STENHOLM.

H.R. 2247: Mrs. CLAYTON, Mr. FRANK of Massachusetts. Mr. FRAZER, Ms. ROYBAL-ALLARD, and Mr. WILLIAMS.

H.R. 2250: Mr. RIGGS.

H.R. 2391: Mr. SOLOMON and Mr. SHADEGG.

H.R. 2400: Mr. SPENCE.

H.R. 2421: Mr. TORKILDSEN, Mr. FLAKE, Ms. MOLINARI, Mr. QUINN, Mr. LAFALCE, and Mr. RANGEL.

H.R. 2470: Mr. COBURN.

H.R. 2489: Mr. BEILENSON, Ms. BROWN of Florida, Mr. BURTON of Indiana, Mr. COBURN, Mr. FOX, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JOHNSON of Connecticut, Mrs. LOWEY, Mrs. MALONEY, Ms. MOLINARI, Mr. OBERSTAR, Mr. PETRI, Mr. SMITH of New Jersey, Mr. TAYLOR of North Carolina, Mr. THORNBERRY, Ms. WATERS, and Mr. WELLER.

H.R. 2548: Mr. PAYNE of New Jersey and Mr. BILBRAY.

H.R. 2579: Mr. SPENCE.

H.R. 2690: Mr. FOGLIETTA, Mr. BERMAN, Mr. FALEOMAVAEGA, Mr. WATT of North Carolina, Ms. WOOLSEY, Mr. WAXMAN, Mr. NADLER, Mr. OBERSTAR, Mr. DAVIS, Ms. LOFGREN, and Mr. LUTHER.

H.R. 2699: Mr. DICKS, Ms. JACKSON-LEE, Mr. FALEOMAVAEGA, Ms. NORTON, Mr. DOYLE, Mr. JEFFERSON, Mrs. CLAYTON, Mr. PAYNE of New Jersey, Mrs. MEEK of Florida, Mr. TOWNS, Mr. CLAY, Mr. THOMPSON, Mr. BISHOP, and Mr. CHABOT.

H.R. 2727: Mr. HOSTETTLER.

H.R. 2741: Mr. BURR, Mr. PACKARD, and Mr. MOORHEAD.

H.R. 2757: Mr. PAYNE of Virginia, Mr. THORNBERRY, Mr. METCALF, and Mrs. CLAYTON.

H.R. 2823: Mr. TRAFICANT, Mr. RIGGS, Mr. ACKERMAN, and Mr. ALLARD.

H.R. 2875: Mr. WELLER and Mr. RANGEL.

H.R. 2900: Mr. FIELDS of Texas, Mr. EVERETT, Mr. UPTON, Mrs. SMITH of Washington, Mr. BURTON of Indiana, Mr. RAHALL, and Mr. SCHIFF.

H.R. 2919: Mr. LIPINSKI.

H.R. 2922: Mrs. THURMAN.

H.R. 2959: Mr. QUINN.

H.R. 2986: Mr. VENTO, Mr. NEY, and Mr. HINCHEY.

H.R. 3004: Mr. THORNTON and Mrs. CLAYTON.

H.R. 3022: Mr. FRAZER, Ms. NORTON, Mr. HILLIARD, Mr. PAYNE of New Jersey, Mr. YATES, Ms. MCKINNEY, and Mr. PALLONE.

H.R. 3030: Ms. WOOLSEY, Ms. MCKINNEY, Mr. HILLIARD, Mr. WAXMAN, Mr. TORRES, Mr. MATSUI, Mr. MORAN, Mr. DELLUMS, and Ms. LOFGREN.

H.R. 3050: Mrs. CLAYTON.

H.R. 3052: Mrs. LOWEY, Ms. NORTON, Mr. HILLIARD, Mr. FALEOMAVAEGA, Mr. DELLUMS, Mr. FROST, Mr. QUINN, Mr. FOX, Ms. MCKINNEY, Mr. FRAZER, Mr. BORSKI, Mr. FAZIO of California, Ms. LOFGREN, Mr. FARR, Mr. THOMPSON, Mr. WILSON, Mr. TORRES, Mr. GEJDENSON, and Mr. EVANS.

H.R. 3067: Mr. DEFAZIO and Mr. WATTS of Oklahoma.

H.R. 3079: Mr. KLECZKA.

H.R. 3081: Mrs. CLAYTON, Mr. FARR, Mr. PAYNE of New Jersey, and Mr. FROST.

H.R. 3089: Mrs. MORELLA, Mr. PALLONE, Mr. MATSUI, Mr. MILLER of California, and Mr. KLINK.

H.R. 3104: Mr. ENSIGN and Mr. GENE GREEN of Texas.

H.R. 3119: Mr. EDWARDS.

H.R. 3130: Mr. EVANS and Mrs. CLAYTON.

H.R. 3149: Mr. RAMSTAD and Mr. HERGER.

H.R. 3152: Ms. WOOLSEY, Mr. RIGGS, Mr. FAZIO of California, and Mr. ROHRABACHER.

H.R. 3170: Mr. MARTINI and Ms. MOLINARI.

H.R. 3173: Mr. KILDEE, Ms. ROYBAL-ALLARD, and Mr. KLINK.

H.R. 3177: Mr. KLUG, Mr. ROTH, Mr. PETRI, Mr. OBERSTAR, Mr. MILLER of Florida, Mr. BARRETT of Wisconsin, and Mr. FRANK of Massachusetts.

H.R. 3195: Mr. GRAHAM and Mr. SPENCE.

H.J. Res. 70: Mr. FRAZER.

H. Con. Res. 47: Mr. DEFAZIO, Mr. MORAN, Mr. TOWNS, Mr. WELLER, and Mr. STOCKMAN.

H. Con. Res. 95: Mr. WATTS of Oklahoma, Ms. PELOSI, and Ms. NORTON.

H. Res. 30: Mr. PETERSON of Florida, Mr. BRYANT of Texas, Ms. WATERS, Mr. SCHIFF, Mr. SCHAEFER, Mr. KILDEE, and Mr. BECERRA.

H. Res. 359: Mr. BARRETT of Wisconsin, Mr. RANGEL, and Mr. DELLUMS.

H. Res. 374: Ms. DELAURO, Mr. GREENWOOD, Mrs. ROUKEMA, and Mr. MCCOLLUM.

H. Res. 378: Mr. MANTON and Mr. LIPINSKI.

H. Res. 385: Mr. BEREUTER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1834: Mrs. JOHNSON of Connecticut.

H.R. 1972: Mrs. MINK of Hawaii.

H.R. 2754: Mr. QUILLEN.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

[Omitted from the Record of March 22, 1996]

Petition 12 by Mrs. SMITH of Washington on House Resolution 373: Glen Browder.

[Submitted March 29, 1996]

Petition 12 by Mrs. SMITH of Washington on House Resolution 373: Patricia Schroeder, David Minge, Thomas M. Barrett, William P. Luther, Glenn Poshard, Jack Reed, Bob Inglis, Edward J. Markey, and James A. Leach.

EXTENSIONS OF REMARKS

TENTH ANNIVERSARY OF THE CHERNOBYL REACTOR EXPLOSION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. GILMAN. Mr. Speaker, at 1:23 a.m. on April 26, 1986, a test conducted on reactor No. 4 at the nuclear facility at Chernobyl, Ukraine resulted in catastrophe. An explosion in the reactor core destroyed a large part of the reactor building. Since the entire facility had been built without any containment dome, there was no way for the reactor personnel to prevent the release into the atmosphere—and into the wind—of huge amounts of radioactive materials. The total amount of radiation released in the course of this terrible incident is estimated by many to exceed that released by the atomic bomb blast at Hiroshima, Japan in 1945.

For 2 weeks after the explosion, reactor personnel and firefighters fought to extinguish the fire, which was fed by the exposure of the reactor core to the atmosphere. Official records from the former Soviet Communist regime regarding the Chernobyl explosion state that 31 individuals, mostly plant personnel and firefighters, died during or immediately after the explosion. It is very likely, however, that a greater number died at that point, with the Soviet regime choosing to cover up the extent of the damage and loss of life caused by the explosion.

Mr. Speaker, I must take a moment to mention that a group of high school students from my district were visiting Belarus at the time of the Chernobyl explosion. As the radiation from Chernobyl spread north toward Belarus, we were all concerned for the safety of these young people and, after they cut short their trip and returned to the United States, I asked the Brookhaven Laboratories to check to ensure that they had not been exposed to radiation. In fact they had been exposed, but the radiation was limited to their shoes.

Since that time, however, an effort has been mounted by those students from Ramapo High School and their faculty instructor, Mr. Don Cairns, to collect and distribute medical and other supplies for the children who are victims of radiation exposure in Belarus. To date, the Ramapo Children of Chernobyl Fund has collected over $12 million worth of medicines and other materials for those innocent young victims. In June 1994, President Clinton commended this group and those young American students for all they had done and were doing to help these children in Belarus. Today, I want to again voice my commendation for their continuing good work.

Mr. Speaker, we are now approaching the 10th anniversary of this catastrophe, and I would like to provide my colleagues with some estimates of the damage caused over the last 10 years in the countries of Ukraine, Belarus, and Russia by the catastrophe of April 26, 1986:

Up to 125,000 individuals may have died due to radiation exposure, including 6,000 people who participated in postexplosion, cleanup activities;

Millions of residents of the countries of Ukraine, Belarus, and Russia live on lands contaminated by radiation;

Thyroid cancers have risen dramatically among children of the surrounding region;

Radiation continues to work its way into the food chain, and the danger of the further spread of radiation from the site of the destroyed reactor is growing—even now, the concrete sarcophagus surrounding the destroyed reactor is believed to be in danger of collapse.

Meanwhile, energy-starved Ukraine continues to operate the remaining three reactors, dependent on their electrical output to make it through the difficult time of economic transformation through which that country is now going. The danger of Chernobyl continues, however. As recently as November of last year, a serious radiation leak occurred when a nuclear fuel rod split open during refueling of reactor No. 1.

Mr. Speaker, this is a grave situation, and one that requires the world's attention and concern. On April 8–9 of this year, the Children of Chernobyl Fund, Columbia University's Harriman Institute, and Yale University's Center for Russian and East European Studies, will cohost a 2-day conference on the long-term impact of the Chernobyl explosion.

Mr. Speaker, I recommend to my colleagues' attention an article announcing this very important conference, printed in the March 17 Ukrainian Weekly, and I include the article in my statement at this point.

[From the Ukrainian Weekly, Mar. 17, 1996]

CHORNOBYL CONFERENCE SLATED FOR COLUMBIA AND YALE

NEW YORK.—On April 8-9, the Harriman Institute at Columbia University and the Center for Russian and East European Studies at Yale will co-host a two-day conference to examine the long-term impact of the Chornobyl nuclear accident and to address the broad spectrum of environmental and medical crises that continue to plague Ukraine, Belarus and neighboring countries.

The conference will bring together some of the leading international experts on Chornobyl's aftermath. Among these will be Prof. David Marples of the University of Alberta, Dr. Alexander Sich of the European Bank for Reconstruction and Development (EBRD), and Dr. Murray Feshbach, author of the groundbreaking treatise titled "Ecocide in the USSR."

The opening panel will also include Alla Yaroshinska, the award-winning journalist who uncovered secret internal memos from the Soviet Politburo which proved that the government covered up the widespread incidence of acute radiation sickness among thousands of Chornobyl victims. The "secret protocols" were published in Izvestiya and provided conclusive evidence that then President Mikhail Gorbachev was fully informed of the scope of the accident and that he deliberately tried to mislead the public and the Western news media about the severity of the threat to public health and safety.

The first day of the conference, from 9 a.m. to 3:30 p.m., will be held at the Luce Center for International Studies at 32 Hillhouse Ave., on the Yale Campus in New Haven, Conn.

On April 9 the conference will reconvene at 9 a.m. at Altschul Auditorium at the School for International and Public Affairs, 420 W. 118th St. (ground floor) at Columbia University.

"We hope that this will be much more than a retrospective on the events of 1986," said Prof. Mark Von Hagen, director of the Harriman Institute and a leading scholar on Ukrainian affairs. "The legacy of Chornobyl continues, and this conference is planned as a constructive step in the quest for solutions to the many problems still affecting the contaminated regions."

Titled "Chornobyl Challenge '96" the conference is part of the nationwide campaign being mobilized under the same name to commemorate the 10th anniversary of the Chornobyl accident.

"Chornobyl is one of the most daunting challenges confronting the scientific community and global policy-makers," said Alex Kuzma, coordinator of the Chornobyl Challenge '96 coalition and director of development for the Children of Chornobyl Foundation.

"Beyond the immediate need for medical relief, the nations of Ukraine and Belarus are facing the massive task of cleaning up thousands of acres of contaminated land and irradiated equipment left over from the 1986 emergency. They also need to reduce their dependency on Soviet-built reactors, which everyone agrees are dangerously substandard, and to develop benign energy alternatives," he added.

A special workshop on Ukraine's energy policy will explore the potential for greater energy efficiency in the industrial sector, biomass and other promising technologies.

"We hope to offer useful insights and perspectives based on the successes of Western environmental programs, and the initiatives of other developing nations," said Susan Holmes, program director for the conference at Columbia University. "We also need to remain sensitive to the unique circumstances surrounding Chronobyl and the unprecedented nature of this accident."

Numerous government officials from Ukraine and the United States are also scheduled to address the conference. These include U.S. Sen. Joseph I. Lieberman (D-Conn.) and Rep. Benjamin Gilman (R-N.Y.), chairman of the House Committee on Foreign Affairs. Both have been outspoken advocates of greater U.S. assistance to the Chornobyl region.

Also featured will be Deputy Volodymyr Yavorivisky, a prominent member of the Ukranian Parliament and a former commissioner for Chornobyl relief efforts, and Vice-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Prime Minister Vasyl Durdynets, chairman of humanitarian affairs in the Ukranian government's Cabinet of Ministers.

Principal funding for the conference has been provided by Columbia University with a supporting grant from the Shevchenko Scientific Society. The cost of admission to the conference will be $35 per person for both days, or $20 per day. Admission will be free for students and faculty with valid Columbia or Yale University identification.

For more information, contact Susan Holmes at the Harriman Institute, (212) 854-8487; Ellis Mishulovich at the Yale Center for East European Studies, (203) 432-3423, or the Children of Chornobyl Foundation, (201) 376-5140.

IN HONOR OF THE CHILD ABUSE PREVENTION COUNCIL OF CONTRA COSTA COUNTY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. MILLER of California. Mr. Speaker, on April 18, 1996, the Child Abuse Prevention Council of Contra Costa County, Inc. [CAPC] will be celebrating its 20th year of providing critical services to children and families in my congressional district. I would like to take this opportunity to congratulate CAPC and its staff and volunteers for their dedication, perseverance and significant contribution to the community. They truly have helped to make a difference in the lives of children and their families.

Founded in 1976 as part of an umbrella organization and incorporated in 1984 as an independent nonprofit corporation, the council serves as the county's clearinghouse for child abuse prevention information and referral, public education, and advocacy services.

The Council's message to "Stop Child Abuse" reaches over 70,000 county residents each year. As the only agency in Contra Costa County solely dedicated to child abuse prevention, the council provides a number of programs and services designed to educate, inform, and involve the general public in preventing child abuse. Also, by connecting victims, abusers and those at-risk for abuse with much-needed services, the council serves a critical function in stopping the vicious cycle of child abuse in our society at large.

The council recruits, trains and maintains an active roster of over 30 volunteers who participate in our Partnership for Prevention Program. This program is designed to provide educational presentations to colleges, schools, daycare and Headstart centers, shelters, community groups, professionals serving children, service clubs, churches, community service agencies, firefighters, and corporate employees. Its trained volunteers provide over 100 presentations throughout the county to over 5,000 people annually.

The council coordinates public and private agencies involved in the prevention, intervention and treatment of child abuse in Contra Costa County. In 1982, by order of the Contra Costa Board of Supervisors, CAPC was designated as the coordinating agency of the Interagency Child Abuse Systems Review Committee, an ongoing committee which identifies problems in the county's service delivery system and makes recommendations to the board of supervisors. In 1988, the council was also named as the coordinating agency for the Contra Costa County Child Death Review Multidisciplinary Team, which reviews deaths of children under the age of 18 years.

In 1992, the Council established the countywide Multidisciplinary Interview Advisory Committee for the purpose of providing planning for a future Multidisciplinary Interview Center in Contra Costa County. This center would provide a one-stop interviewing for child sexual abuse victims, and streamline investigation, and prosecution processes for child sexual abuse cases.

In 1982, the CAPC special needs fund was established—with assistance from the Oakland Tribune—to provide small cash grants to help meet the special needs of families in which childen may be in jeopardy and/or need. Each year the council disburses approximately 15 grants to families in Contra Costa County.

In 1985, an interagency task force was convened by the council to develop a comprehensive resources directory of primary prevention and support services available to residents of Contra Costa County. The directory, "Surviving Parenthood," is now in its 5th edition and has been established as the leading resource for families in crisis.

More recently, CAPC developed a "Kids: Instruction for Care" campaign which includes the distribution of T-shirts and bookmarks designed to highlight basic parenting skills. The bookmarks are distributed in daycare facilities, schools, and libraries throughout the county, and the T-shirts and now in more than 25 States and 11 countries.

Next month, the council will celebrate its 20th anniversary, and I am pleased to see that the council has as much energy today as when it first began. The council is expanding its programs to meet the growing needs of the county. This year the child abuse prevention council will be opening a second office in Richmond, CA, to provide more accessible services to families and children in west Contra Costa County.

Again, Mr. Speaker, I salute CAPC on its 20th anniversary and hope that they not only continue their important efforts but can serve as a model for other communities in their efforts to combat the scourge of child abuse.

CITIZENSHIP USA

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. GUTIERREZ. Mr. Speaker, on Monday, March 18, 1996, the INS announced the Chicago kickoff of Citizenship USA, a major nationwide initiative designed to help eligible immigrants become U.S. citizens. The goal of this worthwhile initiative is to ensure that by September 30, 1996, eligible persons who apply for citizenship will become citizens within 6 months. In Chicago alone the INS is expected to conduct more than 850 interviews each day, 4 days a week. This historic announcement was made before a crowd of 1,100 new citizens, representing 71 nations, who took the citizenship oath at the Navy pier ceremony.

As a proud participant of the development of this very important initiative in Chicago I would like to include in the CONGRESSIONAL RECORD my remarks during the Chicago Citizenship USA kickoff.

CITIZENSHIP USA

(By Luis Gutierrez)

I want to thank everyone who has worked so hard to make this day possible and make it such a success, and for giving me the opportunity to be with all of you today. I want to say a particular word of thanks to Mayor Richard Daley. In a time when far too many elected officials across our nation have found that exploiting people's fears and ignorance about the immigrant community can be the road to a few extra votes, our Mayor has demonstrated a consistent commitment to immigrants to our great city.

Mayor Daley, I thank you for that commitment. And most importantly, I thank all of you who are here before us today, allowing us to share in this very special day of accomplishment for all of you. The elected and appointed officials who are on this podium today have the easy part of the program. We are fortunate enough to be able to congratulate you and share in your success.

All of you have done the hard part. You have left family and friends in your native country. Overcome barriers of language and culture and custom. Endured the frustrations of government bureaucracy and paperwork and frequent indifference. And weathered the words and policies and efforts of some of us here in America who still, after 220 years of our nation growing and thriving because of the contributions of immigrants, who still don't want you in our land.

And yet, here you are, about to make our country stronger and greater and better by becoming citizens of the United States of America. For your effort, and dedication, and commitment to reaching your dream, I thank you. And today, as you make your dream come true, you are doing more than just taking a big step forward for you and your family. You are sending a message to the people of Chicago, the people of Illinois, the people of America.

Two days from now, I will go to Washington. And in Washington this week, we are debating H.R. 2202. It's a bill about immigration and naturalization. And the people who wrote that bill are blind to all of you who are here today. They are blind to your hopes and dreams and contributions and efforts to build a better America. And that blindness is reflected in one of the most horribly anti-immigrant bills to be introduced into Congress in our lifetime.

So we will debate in Washington this week just how many of these types of ceremonies we should really have in our country. The people who wrote that bill say a lot less. I say we should have a lot more. Because when we debate the question, "what should our immigration policy be," we are really asking ourselves something much more important.

We are asking. "what king of nation should we be?" "What kind of America should we be?" Should we be the proud, and confident, and vibrant America that has welcomed immigrants from across our globe, and grown better and stronger because of their contributions? Or should we be a small, and fearful, and declining America that shuts our borders and closes our minds and turns our back on people who want nothing more than to help make America great?

That is the real choice of our immigration debate this week. To listen to the red-hot rhetoric about the dangers of immigration, and about immigrants who are making our streets dangerous and taking away jobs and looking for a free ride, you might think that immigrant-bashing is a new invention. But the mindless immigrant-bashing we hear today from the Pete Wilsons and Pat Buchanans of America is as old as the Mayflower.

Politicians have always been ready to turn real fears and legitimate concerns about crime and health care and jobs into the imaginary belief that it is all the fault of those people—those immigrants, those suspect people who are somehow different from the rest of us.

Let me read you a quote. You guess who it's about. "It is hopeless to think of civilizing these new immigrants, or keeping them in order, except by the arm of the law." Sounds a lot like the speeches I hear on the floor of the House of Representatives. Or the rhetoric any where Pat Buchanan happens to be campaigning. But the quote is a little less recent. It's from the New York Times. In 1875. And they were writing about Italians.

Well, the immigrant bashers were wrong about Italians in 1875. And they are wrong about the immigrants to America today. Unfortunately, today's immigrant bashers are so busy closing their minds that they close their eyes to the reality of immigration and the contributions of immigrants. They don't see you. They don't see this swearing in. They don't see 1,000 people ready to work and sweat and toil to make their lives better and their families lives better. You are the reality of immigration today.

I wish the bashers and politicians and fearmongerers would come to our city, and look at the reality of your faces. Maybe then, instead of closing their minds, they could open their hearts. When friends of mine who don't know Chicago come to town, Like to take them to one of the most vibrant, thriving, successful commercial strips in our city. Do I take them to State Street or Michigan Avenue? No, I take them to 26th Street, one of the most successful urban commercial strips in America.

An area rebuilt almost exclusively by immigrants from Mexico. Because of immigration, 26th Street is not another declining, nearly abandoned urban wasteland. It is an example of our city at its best. And look where we are today.

At Navy Pier, a historic reminder of a Chicago that has opened its streets and ports and neighborhoods to Swedes and Poles and Irish and Lithuanians and Italians and Germans and every person from every corner of the globe and because we opened our doors instead of closing our minds we live in the greatest city in the world. And now that great city has 1,000 more recruits who will open businesses and create jobs and build housing and work and sweat and contribute and stand on the shoulders of our immigrant brothers and sisters and lead Chicago into a new century.

I ask Mr. Buchanan and every person who wants to build a wall around our nation: Have you looked at the inner-cities being rebuilt by immigrants from Mexico? Have you visited the hospitals where doctors from Asia are healing our sick? Do you care about the new businesses and new jobs and new opportunities that are being created by newcomers to America from across the world?

In the past, America's answer has been: Yes we see, yes we care, yes we understand. And that must be our answer today. A recent study estimated that immigrants to our country are earning more than $240 billion per year. They are paying more than $90 billion in taxes. And they are collecting only five billion dollars in welfare benefits.

Almost 20 times more taxes paid than government benefits collected. Those are the facts of our immigrant community. I am honored and proud to serve a Congressional District that is filled with a diverse community of immigrants from throughout the world.

When I walk down Milwaukee Avenue, I still hear the languages of my neighbors from Mexico to Poland to Ukraine to Korea. Yet, no community is more American. More proud of our nation. This is the true story of the immigrant community.

I think the immigrant-bashing sweeping across our nation like a plague is a real threat to our future. Our country should remain strong and vibrant and confident. But we cannot do it if we turn our back on people who want to contribute.

What would Chicago look like today if we had closed our doors before the Irish arrived, or before the Germans arrived, before the Poles arrived? If we were to close our doors today, we will gain nothing, and lose something vital. We would become a broken city of missed opportunities. Of missed economic opportunities, the missed cultural opportunities, of missed opportunities to keep our city growing and thriving changing.

I see many faces here today that I have seen before. Your came to the workshops sponsored by the 4th Congressional District Citizenship Project. I'm very proud we were able to help you, yet I know that it was you who did the real work. You endured long lines and waits. You endured a backlog at the INS to have your application approved. Many of you studied hard for your test and worked to improve your English. I know it wasn't easy.

But the work of months will pay off today by beginning a lifetime of opportunity. Immigration is opportunity. All of you now have a greater opportunity for you to benefit from our nation. But America gets an even better deal. Our nation receives the opportunity to benefit from you.

As I speak on the floor of the House of Representatives this week, as people attack immigration and say we need fewer new American citizens, I will think of all of you today. And I will do my best to spread the word. The word of your dedication and commitment and what it means to our country. The word of how much our nation would lose if we stop having days just like today.

You've kept your end of the bargain by overcoming the obstacles and becoming citizens. I promise you, I'll do everything I can to make sure our government keeps their end of the deal.

Thank you again and congratulations to every one of you on your outstanding accomplishment.

CONGRATULATIONS TO LAWRENCEVILLE HIGH SCHOOL BASKETBALL TEAM

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. POSHARD. Mr. Speaker, I rise today to honor a special group of student-athletes from the 19th District of Illinois. The Lawrenceville High School basketball team recently completed their 1995–96 campaign by qualifying for the State tournament in Peoria. The Indians were knocked out in the elite eight, but even this loss could not tarnish such a stellar season. Highlighting their accomplishments is the fact that the team carries a 3.0-grade point average. I commend them on not only their title run, but their commitment to their studies and the excitement they brought to the community.

Lawrenceville is a senior dominated squad that has been together since middle school. As eight graders, this group won the Southern Illinois Class L State Tournament Championship with an undefeated mark of 24–0. Combined with an experienced crop of juniors and two underclassmen, it is easy to understand how the Indians competed with the best talent in the State. On the way to a 22–7 record, Lawrenceville won the Capital Classic and the North Egyptian Conference as well as regional, sectional, and super-sectional titles. Head coach Brian Stillwell and his assistants Lynn Gray, Jerry Scott, and David Hesher deserve praise for guiding this hard-working group through a long season. Significantly, Lawrenceville was the only high school in Illinois to have two sport teams qualify for their respective State tournaments, the wrestling team joining the cagers in this honor.

Mr. Speaker, high school sports teach our students many important lessons and are an excellent preparation for their future careers. In return, these fine players give back to their school and town with their uncompromising pursuit of success, both on the hardwood and in the classroom. They have done themselves proud, and I salute them. It is an honor to represent Lawrenceville in the U.S. Congress. The following are the team members: Curt Benson, Kevin Cochran, Mark Denison, Nate Ernst, Jason Goff, Ryan Gray, Stephen Muller, Matt Moorehead, Dusty Tredway, Gage Caudell, Matt Gardner, Jason Green, Josh Weger, Andy Denison, and Justin Wolfe. The managers are Josh Brown and Jared Smith.

HONORING THE LOWER MERION HIGH SCHOOL BOYS BASKETBALL TEAM

HON. JON D. FOX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to pay tribute to a group of student athletes who scaled the mountain of athletic success while keeping their feet firmly planted in the soil of educational excellence.

Recently, the boys basketball team from Lower Merion High School captured the class AAAA championship by beating a fine team from Erie Cathedral Prep 48 to 43. After streaking through a phenomenal season with a 31–3 record, the Aces captured their first State title since 1943.

This athletic achievement is a testament to their exceptional teamwork, commitment to excellence and their remarkable drive to achieve the finest in athletics. The hard work and dedication of Coach Gregg Downer, his staff and the fine young men paid off as they achieved the ultimate success for a high school basketball team in Pennsylvania.

These young men are shining examples of the best and brightest in America. Among the team members is Kobe Bryant whose 33 point average per game and stellar abilities have made him the No. 1 high school basketball player in the Nation.

But this high school and the outstanding Lower Merion School District of which it is a part represent more than excellence in athletics. Six of the district's nine schools have received the national Blue Ribbon designation from the U.S. Department of Education. Lower Merion has a record number of National Merit Scholars and its students have just won their fifth consecutive State championship in the Academic Decathlon.

The achievements of the students and athletes of Lower Merion represent all that is good about our public education system. The school district and the students educated there are a monument to what can happen when local officials and parents work together to craft an educational and athletic program which provides a well-rounded background as these young men and women prepare for their adult lives.

Mr. Speaker, as the Representative who has been given the honor of serving the people of Lower Merion and the entire 13th Congressional District, I offer my congratulations to the student athletes of the Lower Merion Boys Basketball Team, their coaches, and families on the occasion of this great State championship. And I offer best wishes for a future I know has been forged in the fires of hard work, strengthened by the dedication to excellence, brightened by the light of potential and nourished by a caring community and family.

IN HONOR OF MS. LIDIA GIL-RAMOS FOR DISTINGUISHED AND DEDICATED SERVICE TO THE SENIOR CITIZENS OF NORTH HUDSON COUNTY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Ms. Lidia Gil-Ramos, an outstanding individual who has distinguished herself by her selfless commitment to the senior citizens of Hudson County. Ms. Ramos will be honored at the 22d anniversary dinner of Tertulias de Antano, a senior citizen recreational program she founded.

Ms. Ramos emigrated from Cuba and arrived in Union City, NJ in 1965. She is a woman who seems to have been born for social work and community service. In Cuba, she taught primary school during the day and volunteered her nights teaching elderly farm workers who never had the opportunity to attend school. Upon receiving her master's degree from the University of Havana, she became director of a large nursing home in San Miguel de los Banos, Matanzas in central Cuba.

Once in the United States, she found employment as an income maintenance specialist for the Food Stamp Program in Jersey City and undertook further training in working with elderly citizens. Her service to seniors began in the Cuban refugee program of Union City. During her service, she witnessed the dejection and solitude that many Cuban seniors experienced in their new surroundings. Determined to address and to improve the social environment of the Cuban senior community, she founded the Tertulias de Antano recreational program on October 13, 1974.

Ms. Ramos devotes much of her time to coordinating the details of the program, which provides seniors with information on health care issues, English-language programs, and social events within the community. Today, not only do seniors in the Cuban-American community praise the program, but so do seniors from other Latin American countries now living in Hudson County. All this is due to the vision and enduring commitment of one woman dedicated to the overall happiness of the senior community.

Ms. Ramos' commitment to the senior citizens of Hudson County exemplifies the true meaning of compassion and community service. For her outstanding work and leadership, I ask my colleagues to join me in honoring this wonderful individual. I am proud to have such a remarkable woman living and working within my district.

RECOGNIZING AARON MICHAEL EINBOND, 5TH PLACE WINNER OF THE 55TH ANNUAL WESTINGHOUSE SCIENCE TALENT SEARCH

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. RANGEL. Mr. Speaker, I rise today to recognize an outstanding young man, Aaron Michael Einbond of New York, NY. Aaron, a senior attending Hunter College High School in Manhattan was chosen on Monday March 11, 1996, as the fifth place winner in the prestigious Westinghouse Science Awards.

Since 1942, the Westinghouse Science Talent Search has identified and encouraged high school seniors to pursue careers in science, mathematics, and engineering. The search is sponsored by Westinghouse Electronic Corp. through the Westinghouse Foundation in partnership with Science Service, a nonprofit organization.

Over the years, more than 113,000 students from all over the country have entered projects into this prestigious competition. This year, 735 high schools from all 50 States submitted entries to the Westinghouse Science Talent Search. Only 40 students may participate in the final round of judging and from that pool of 40 students, only 10 finalists are awarded scholarships.

Aaron's project explored a new protein domain through the use of protein sequence database searches. It resulted in the isolation of two human genes.

Aaron is not new to winning awards. He is a three time winner of the Manhattan Borough Science Fair competition and a multiple winner of various school science fairs. This talented young man is also an award winning composer and gifted musician who plays the clarinet. This fall, Aaron will enroll as a freshman at Harvard University where he will have the opportunity to pursue his two loves: music and science.

I congratulate Aaron on his accomplishment of being awarded a Westinghouse Science Award and I salute the Westinghouse Science Talent Search and all the winners for acknowledging the hard work of young people like Aaron.

DAY OF NATIONAL HUMILIATION, FASTING, AND PRAYER

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. BARRETT of Wisconsin. Mr. Speaker, today I would like to submit excerpts from President Lincoln's proclamation for a day of national humiliation, fasting, and prayer which was intended to promote a national day of healing and reflection after turbulent times. Mr. Vern Ihm, a constituent of mine, brought President Lincoln's proclamation to my attention and thought President Lincoln's message is still relevant today. In keeping with the spirit of reflection I would like to enter excepts of President Lincoln's proclamation into the RECORD.

> And whereas, it is the duty of nations, as well as of men, to own their dependence upon the overruling power of God, to confess their sins and transgressions, in humble sorrow, yet with assured hope that genuine repentence will lead to mercy and pardon; and to recognize the sublime truth, announced in the Holy Scriptures and proven by all history, that those nations only are blessed whose God is the Lord:
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> And, in so much as we know that, by His divine law, nations, like individuals, are subjected to punishments and chastisement in this world, may we not justly fear that the awful calamity of civil war, which now desolates the land, may be but a punishment inflicted upon us for our presumptuous sins, to the needful end of our rational reformation as a whole People? We have been the recipients of the choicest bounties of Heaven. We have been preserved these many years, in peace and prosperity. We have grown in numbers, wealth, and powers as no other nation has ever grown. But we have forgotten God. We have forgotten the gracious hand which preserved us in peace, and multiplied and enriched and strengthened us; and we have vainly imagined, in deceitfulness of our hearts, that all these blessings were produced by some superior wisdom and virtue of our own. Intoxicated with unbroken success, we have become too self-sufficient to feel the necessary of redeeming and preserving grace, too proud to pray to the God that made us! It behooves us, then, to humble ourselves before the offended Power, to confess our national sins, and to pray for clemency and forgiveness.
>
> Now, therefore, in compliance with the request, and fully concurring in the views of the Senate, I do, by this my proclamation, designate and set apart Tuesday, the 30th day of April, 1863, as a day of national humiliation, fasting, and prayer. And I do hereby

request all the People to abstain on the day from their ordinary secular pursuits, and to unite, it their several places of public worship and their respective homes, in keeping the day holy to the Lord, and devoted to the humble discharge of the religious duties proper onto that solemn occasion.

All this being done, in sincerity and truth, let us rest humbly in the hope authorized by the Divine teachings, that the united cry of the Nation will be heard on high, and answered with blessings, no less than the pardon of our national sins, and restoration of our now divided and suffering country, to its former happy condition of unity and peace.

TRIBUTE TO THE NEW JERSEY STATE POLICE UPON THEIR 75TH ANNIVERSARY

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. ANDREWS. Mr. Speaker, I rise today to congratulate the New Jersey State Police on their 75th anniversary. The service of the division of State Police is invaluable to the people of New Jersey.

On March 29, 1921, Gov. Edward I. Edwards signed legislation creating the New Jersey State Police, and appointed Col. H. Norman Schwartzkopf as the first Superintendent of the State Police on July 1, 1921. In December 1921, 81 troopers and officers left Trenton and took up their initial assignments as the first statewide police force in New Jersey.

In the 75 years since their creation, the New Jersey State Police has led the way in the field of criminal justice. Among the techniques that the State Police has pioneered include the Nation's first Underwater Recovery Unit, the Automated Fingerprint Identification System, and the DNA database and databank, which allows the inclusion of DNA records in the FBI's national identification index system. The police have shown their impressive skill in such historic events as the Lindebergh kidnapping, the Hindenburg zeppelin disaster, the Hall-Mills murder trial, and the Woodbridge train wreck.

Today 2,500 troopers valiantly serve New Jersey in many capacities. They patrol our roadways, including the New Jersey Turnpike, the Nation's busiest limited access nonstop toll road. They enforce the criminal, motor vehicle, marine, and alcoholic beverage control laws of New Jersey. They also maintain the State Police Museum and Learning Center as a tribute to the men and women who have served the State of New Jersey as State Police troopers and officers.

The people of New Jersey are indebted to the honor and dedication of the New Jersey State Police. Today I congratulate State Police Superintendent Maj. Carl A. Williams, Jr., and all of the ranks of the State Police on reaching this milestone, and look to many more years of continued service.

THE NATIONAL INVASIVE SPECIES ACT OF 1996

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. SAXTON. Mr. Speaker, Mr. LATOURETTE intends to introduce a bill that will curtail the spread of non-native aquatic species in our Nation's waters. As you know, I am from New Jersey and this issue is of particular importance to our State. Over 130 miles of coastline and with delicate estuary and river ecosystems, non-native aquatic species could destroy our environment. This is already happening in Mr. LATOURETTE's district on Ohio. New Jersey shares coast line with States that are already suffering the horrors of these forms of biological pollution.

In addition, these non-native species, such as the zebra mussel, tapeworms effecting trout in the Mississippi River, and the green clam which harms steamer clam production in the Gulf of Maine, cost us millions of dollars in lost revenue and increased costs to businesses.

This bill establishes national guidelines for the removal and cleansing of shipping ballast water to stop the accidental introduction of non-native aquatic species into ecosystems. This is important to my State which has extremely active ports in the Newark area as well as on the Delaware River, and since, by weight, 98 percent of all U.S. international commerce occurs by shipping, this is a problem about which every coastal and Great Lakes Member should be concerned.

This bill takes a pro-active approach to environmental legislation in its efforts to address potential environmental disasters before they begin. Pro-active solutions give us reasoned, scientifically sound, less expensive, more effective, and more efficient solutions than reactive measures. I urge your support for this important bill.

TRIBUTE TO THE EMPLOYEES OF MARE ISLAND

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. MILLER of California. Mr. Speaker, when the last workers leave Mare Island Naval Shipyard as it closes March 31, 1996, they will leave behind a facility rich with history and echoing with the voices of welders, painter, and engineers who built and serviced everything from copper-bottomed wooden ships to nuclear submarines. Hundreds of thousands of people have worked at or passed through the shipyard, from the first dozen shipwrights who arrived in 1892 to Mare Island's high point in World War II, when the shipyard population reached 46,000. These are the workers that made Mare Island the best naval shipyard in the country.

During its tenure as the Navy's oldest base on the west coast, Mare Island built 512 ships and repaired hundreds more. Those ships, both great and obscure, fought in every conflict since. Mare Island's first ship, the paddle-wheeled gunboat Saginaw, was launched before the Civil War, in 1859, and its last ship, the nuclear submarine U.S.S. *Drum*, was launched in 1970 when our country was divided over the Vietnam war. These vessels also included the small ferryboat *Pinafore*, which chugged between Mare Island and Vallejo for 30 years starting in the 1890's, and the battleship U.S.S. *California*, the only battleship built on the west coast.

It was during World War II that the shipyard quickly set a record that was never broken, building the destroyer U.S.S. *Ward*, in 17½ days. In addition to the *Ward*, Mare Island built 17 submarines, 4 subtenders, 31 destroyer escorts, 33 small craft, and more than 300 landing craft. In the 1960's the decision was made to build nuclear submarines at Mare Island. The U.S.S. *Sargo* was the first, with 16 more following, ending with the launch of the U.S.S. *Drum* in 1970.

To all of the workers over the generation that are a part of this proud history who have made so many significant contributions to the defense of the United States, I offer my thanks and that of this country.

A TRIBUTE TO DESIREE JONES

HON. WAYNE ALLARD

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. ALLARD. Mr. Speaker, all too often we hear speeches on this floor about our troubled youth and problems that teens face.

Today I want to share with my colleagues a positive example of a teenager in my district.

I want to commend Desiree Jones, a teenager from my district who acted selflessly and who helped save the life of another teenager, in fact, a complete stranger.

Last Friday, March 22, 14-year-old Janet Westover, an eighth-grader at Bill Reed Middle School in Loveland, was riding through town when she slumped over and her heart stopped. Her friend flagged down another car in which Desiree Jones was riding.

Desiree, a 15-year-old sophomore at Rocky Mountain High school in Fort Collins, stopped to help. She stayed with Janet and helped her until police and paramedics arrived.

This kind of action by Desiree Jones merits recognition from this body and gives us all hope.

A TRIBUTE TO EDWARD D. LEWIS

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. JACOBS. Mr. Speaker, when the opposition likes someone, you know he's a pretty good fellow. Ed Lewis was a strong Democrat, but he was so interesting, so nice, so friendly that very few Republicans in Indiana did less than like him too. He leaves an empty place in the Hoosier State.

[From the Indianapolis Star, Mar. 28, 1996]

EDWARD D. LEWIS WAS ATTORNEY WHO WIELDED POLITICAL CLOUT IN STATE

Edward D. Lewis, 73, Morgantown, an attorney known for his vast political influence in Indiana, died March 26.

He was the confidant and political mentor of Gov. Evan Bayh, was instrumental in appointments and recommendations for offices such as U.S. attorney and the Indiana Gaming Commission, and affected a myriad of other decisions on state business. His reputation included the title "godfather of judges."

Mr. Lewis, whose Downtown Indianapolis law office at 501 Indiana Ave. was dubbed the "Statehouse on the Canal," was an attorney for 40 years and a partner in the Lewis and Wagner law firm.

Bayh said in a statement: "Ed was much more than a friend to me; he was a trusted adviser, a man of great experience and wisdom and someone who I loved.

"His Hoosier roots were deep, his common sense was extraordinary and his loyalty and devotion to the people of our state was unmatched."

After losing races for Congress and a judgeship in the 1950s, Mr. Lewis confined his political career to being an insider, primarily in Democratic circles. He was closely aligned with former U.S. Sen. R. Vance Hartke, D-Ind.

He held no public or civic positions, and was described in a newspaper article as "probably the most influential person in state government about whom the least is known." And the Butler University journalism graduate did not talk to reporters.

Indiana Senate Finance Chairman Lawrence M. Borst, a Republican, said Mr. Lewis was "a special friend." We did a lot of traveling together and just had a good time.

"He was kind of like a hunk of glue. he had so many people he kept together. He liked people, he loved politics, he loved horses. We have one together now. He probably had as many friends as anybody I've ever known in my life."

Borst said Mr. Lewis dated to an era when political patronage was a young lawyer's key to survival. Mr. Lewis' first job, while in law school, was as a publicist for the Indiana Highway Department. Later, Borst said, law school friendships with people such as future Marion County Prosecutor Noble Pearcy and others got his legal and political career started.

One of Mr. Lewis' earliest political associations was with Hartke, of whom Borst said. "When Hartke wanted a new post office or other building in Indiana, he went through Ed Lewis." Borst said he and Mr. Lewis were on a western trip when Bayh ran for his first term as governor in 1988, "he would stop twice a day to call back."

Another close friend was former Indiana GOP Chairman Rex Early.

"We had common interests, not only in politics. He was a man's man, a veteran of the Second World War and a great storyteller," Early recalled. "His maturity, experience and good political instincts played an important role in a lot of administrations."

Mr. Lewis, Early said, "believed in his party and was respected by his party."

Mr. Lewis was a Navy veteran of World War II, a 1949 graduate of Butler and a 1956 graduate of Indiana University School of Law.

Memorial contributions may be made to Big Brothers & Big Sisters of Brown County, Nashville, or the Harmony School, Bloomington.

Memorial services: pending. Calling: none. G.H. Herrmann Madison Avenue Funeral Home is handling arrangements.

Survivors: wife Dorothy M. Pitt Lewis; children Lance L., Linda L., Lora Lynn Lewis; stepdaughter Paula Lawrence; brother Donald I. Lewis; five grandchildren.

A TRIBUTE TO SEDALIA MIDDLE SCHOOL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. SKELTON. Mr. Speaker, I rise today to pay tribute to an outstanding educational institution in my district. Sedalia Middle School has been chosen as one of 266 1994–96 Blue Ribbon Schools. After a rigorous and lengthy selection process Sedalia Middle School was selected as one of the most outstanding schools in the country. The award will be presented at a ceremony to be held in Washington, DC, in May. I ask my colleagues to join me in a salute to all of the teachers, parents, and students who worked so hard to achieve this extraordinary accomplishment.

RETIREMENT OF EMIL P. MOSCHELLA FROM THE FBI

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. DAVIS. Mr. Speaker, I would like to take this brief opportunity to recognize 28 years of dedicated Federal service by my constituent Mr. Emil P. Moschella from Vienna, VA. Today is Mr. Moschella's last day of work as a special agent in the Federal Bureau of Investigation [FBI]. He has dedicated a lifetime career to keeping America safe from crime and has done so in exemplary fashion. He will be dearly missed by his colleagues at the Bureau, and I commend him for a job well done.

Whether he was working the streets of Chicago, touring the country on the inspection and audits staff, working in the Bureau's congressional affairs office, representing the Federal Government in Leon, France, before a meeting of Interpol about freedom of information and law enforcement, or leading a team of lawyers in counseling the director of the FBI, Mr. Moschella has always performed his duties with dedication, loyalty, and integrity—the hallmarks of his outstanding career.

Mr. Moschella is a second generation Italian-American, who grew up in the Bronx in New York City. He was the first in his family to complete college and law school and he is a dedicated family man with four sons. He started his Federal service with the intention of doing something good for America—using his skill and talent to make his country a better place for all of us. He is the kind of civil servant of whom all Americans can be proud.

Mr. Speaker, on behalf of the House of Representatives and my constituents in the 11th Congressional District of Virginia, I want to thank Emil Moschella for his exceptional career of public service, congratulate him on this special occasion, and wish him all the best in retirement and all his future endeavors.

INTRODUCTION OF HOUSE JOINT RESOLUTION 171

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. LANTOS. Mr. Speaker, I have introduced in the House today House Joint Resolution 171 which proposes an amendment to the U.S. Constitution to permit the Congress to limit contributions and expenditures in elections for Federal office. This amendment—when it is approved by the requisite two-thirds majority of each house of the Congress and ratified by the legislatures of three-fourths of the States—clarifies that the Congress has the power to set limits on contributions and expenditures in support of, or in opposition to, any candidate for Federal office. This resolution is identical to one introduced earlier this year in the other body by the distinguished Senator from New Jersey [Mr. BRADLEY].

As a result of the U.S. Supreme Court ruling in 1976 in the case of Buckley versus Valeo, restrictions on wealthy individuals using their own money to—in effect—buy a political office have been held to be equivalent to restrictions on free speech. Efforts to restrict the independent expenditures of moneyed special interests for or against a particular candidate have likewise been held to be a restriction on free speech.

Mr. Speaker, my proposed amendment to the Constitution will reverse the ruling of the Supreme Court in Buckley versus Valeo. The effect of the Court's decision in that case was to equate money with free speech. The effect of this amendment is to make clear that money is not speech. In the very appropriate words of Senator BRADLEY, "A rich man's wallet does not merit the same protection as a poor man's soapbox."

The time has come, Mr. Speaker, for us to clarify through an amendment to the Constitution that simple possession of money does not mean you have the better argument. Possession of money does not mean you are the better candidate. The time has come for the Congress to have the authority to regulate political expenditures of millionaries—like Ross Perot or Steve Forbes or Michael Huffington in the political arena. In the case of these three men and others who have enjoyed the blessing of wealth, we applaud their ability to make money, we commend their business acumen, and we are delighted, in some cases, for their good fortune in having wealthy parents. At the same time, however, we do not think that any of those qualities entitles them to special access to the marketplace of ideas.

It is essential for the health and well-being of our democracy that the Congress have the ability to assure a level playing field in elections for Federal offices. The amendment to our Constitution that I am introducing today will assure that Congress can assure a level playing field.

One of the fundamental principles that is the basis of our democratic system of Government and our democratic Nation is the principle of freedom of speech.

The fundamental concept is that if all ideas and all points of view are subjected to the same critical scrutiny in the marketplace of ideas, those ideas which are correct and true and superior will win out over those ideas which are inferior and erroneous and false.

Our firm commitment to the principle of freedom of the press in our country flows from this commitment to freedom of speech and freedom of expression. Although, I think, all of us at one time or another have questioned the accuracy or the impartiality or the dispassion of the American news media, all of us are firmly committed to the principle that there must be a free, unfettered press. The multiplicity of free voices of expression is absolutely essential to the functioning of our democratic Government.

In our democratic system, this principle of freedom of expression is a vital component of our process of electing Government officials. Only if there is full and open airing of the ideas for and against and about individual candidates for public office can we know which women and men are best able to represent us as President, Vice President, or as a Member of the Senate or the House.

The fundamental requirement, Mr. Speaker, is that all ideas, that all speech, have reasonably fair and equal access to the market place of ideas—that good ideas and bad ideas and foolish ideas and brilliant ideas have equal access to the American people.

Unfortunately, Mr. Speaker, the greatest threat to the application of the principles of free speech in our electoral process is the distorting effect of money. Under our present laws and the current interpretation of the Constitution and our laws by our Supreme Court, if you have money, your ideas—regardless of how good or bad they may be—have unfair access to the market place of ideas. It is important that we break this link between money and speech—money does not entitle someone to special access. Money is in fact the element which distorts free speech, and by distorting free speech it distorts the full and fair and informed intelligent decisionmaking.

Mr. Speaker, this constitutional amendment does not make the ultimate decision about how campaign financing should be reformed, but it is the essential first step in establishing beyond any doubt that the Congress has the authority to regulate spending on campaigns. I urge my colleagues to join me in cosponsoring this constitutional amendment. This is the vital first step that we must take, and for the future of democracy in our country it is essential that we take it as quickly as possible.

I ask, Mr. Speaker, that the text of House Joint Resolution 171 be placed in the RECORD:

H.J. RES. 171

Proposing an amendment to the Constitution to permit the Congress to limit contributions and expenditures in elections for Federal office.

Resolved by the Senate and House of Representatives of the United States of American in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE—

"Section 1. The Congress shall have the power to set limits on expenditures made by, in support of, or in opposition to the nomination or election of any person to Federal office.

"Section 2. The Congress shall have the power to set limits on contributions by individuals or entities by, in support of, or in opposition to the nomination or election of any person to Federal office.

"Section 3. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.".

WOMEN'S HISTORY MONTH: CONTRIBUTIONS TO A STRONGER, MORE PROSPEROUS ECONOMY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today, as we celebrate Women's History Month, to honor the contributions of women to our economy as part of the labor force and as business owners around the country and especially in the State of New Jersey.

In some ways, the facts speak for themselves. The number of women in the paid work force has almost doubled in the last 20 years. Women in the work force grew from 36.2 million in 1974 to 60.2 million in 1994.

There are many talented women that are making enormous contributions to business and industry in the State of New Jersey. During a recent series of visits to companies located in the 11th district of New Jersey, I had the opportunity to meet and speak with many women who have risen or are climbing to the top positions and management in their respective companies.

In addition to those outstanding women in corporations, the State of New Jersey is ranked ninth in the Nation in the total number of women-owned businesses with a recent total of 164,798. I am especially encouraged because this number increased in my own State by 40 percent over a period of 5 years.

Nationally, women are starting businesses at twice the rate of men and the Small Business Administration anticipates that women will own 50 percent of all small businesses in America in the 21st century. These women-owned businesses employ more people than all Fortune 500 firms combined. Women employers are also bringing more than their economic achievements to the workplace; they influence and change the workplace for all employees by being more likely to offer flexible work arrangements, child care and heath care benefits.

As women continue to make their mark in the workplace as employers and employees they face many challenges—access to child care, pay equity, educational opportunities, and access to capital and investors. Mr. Speaker, I rise today to honor these achievements. As our economy continues to change and we face new challenges as we enter the 21st century, I believe we can count on these entrepreneurs and executives to help lead the way to a stronger and more prosperous America.

LIVABLE WAGE ACT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. VENTO. Mr. Speaker, today I am introducing legislation intended to take a major step forward toward a livable wage for working men and women in our country. Too often American workers are forced to take jobs that pay substandard wages and have few or no health benefits. At a time when U.S. corporations are making record profits and the economy is strong and stable, it seems unreasonable that working families must struggle and cannot make ends meet. It is unconscionable for corporations to sacrifice fair wages for their workers in pursuit of inflated profit margins, and it is doubly so when these businesses are performing work on behalf of the Federal Government—when the workers' taxes which pay for Federal services and products perpetuate such depressed compensation.

My legislation is straightforward, simple and just; if you are a Federal contractor or subcontractor you will be required to pay wages to your employees that exceed the official poverty line for a family of four. This would be fair and equitable compensation achieved by law. When a business works for the Federal Government and benefits from working families' taxpayer dollars, at the very least it should be required to pay its employees a livable wage.

As of March 4, 1996, the official poverty line for a family of four is $15,600. This is obviously not an exorbitant wage. Imagine a family of four trying to live on this amount or less. It may not seem possible, but it is done everyday in this country. There is a serious problem in our society when hard-working men and women, holding down full-time jobs, cannot earn enough to bring their families out of the poverty cycle, while company executives earn an average of 70 times that of their average employee.

My bill does not attempt to alleviate this disparity throughout the business sector, but it does require those corporate entities receiving taxpayer dollars to be accountable to their workers. This is a reasonable and practical bill. It allows companies to count any benefits, such as health care, which they provide for employees as part of their wage determination, and it provides an exemption for small businesses and bona fide job training or apprenticeship programs.

I urge my colleagues to join me in supporting this legislation to help ensure the American worker receives a fair day's pay for a fair day's work.

REMOVE FEDERAL BARRIERS TO INNOVATIVE HIGHWAY FINANCING

HON. DAVID MINGE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. MINGE. Mr. Speaker, as an original cosponsor of the coalition's balanced budget plan, I am committed to balancing the Federal budget as soon as possible. However, I understand that in working to balance the budget, we cannot simply cut, cut, cut and leave the Nation to deal with the repercussions of lower Government spending. We must simultaneously make prudent policy changes to help empower the Nation during this fiscally trying time. One of those changes could be to allow the private sector of the transportation industry to use innovative financing methods to maintain our Nation's highways. Currently, there are barriers in Federal law that preclude such activity. I believe that innovative highway financing by the private sector could prove to be an important tool for preserving our transportation infrastructure. For information on this important subject, I commend to your attention the recent testimony of Robert Zauner, chairman of the Minnesota Transportation Group before the Joint Economic Committee. Mr. Zauner's testimony lays out an excellent explanation for why the private sector should be able to utilize innovative financing for maintaining our highways. I am submitting a copy of that testimony for printing in the RECORD.

TESTIMONY OF ROBERT ZAUNER BEFORE THE CONGRESSIONAL JOINT ECONOMIC COMMITTEE

Mister Chairman, my name is Robert Zauner. I am a registered professional engineer, vice-president of Hughes Transportation Management Systems (HTMS) and the chairman of the Minnesota Transportation Group (MTG). I have been involved in the transportation industry for twenty-five years. During the past six years I have been involved in the development of privatized toll highways. I have served as a member of the Board of Directors and as Vice President of the Highway Division of the Associated General Contractors of Minnesota. I also chaired its bridge committee. I currently serve on the Boards of Directors of the Minnesota Transportation Alliance, a transportation advocacy group, and the Intelligent Transportation Society of Minnesota, as well as the Advisory Council of the University of Minnesota's Center for Transportation Studies.

The MTG is a team of technology, construction, engineering, and financial companies that personifies the private sector's capability, desire and interest in the privatization of highway infrastructure. For the past six years we have worked with state legislators, local officials, and state departments of transportation in the development of enabling legislation, privatization programs and privatized highways. Our team members have been involved in privatization efforts in California, Washington, Arizona, Virginia, South Carolina, and Minnesota where we recently submitted proposals to develop three highway projects totaling over $700 million.

In my testimony today I would like to share several issues I have encountered in my efforts to privatize highways. Some are institutional barriers others are perceptions or prejudices created by the present funding system that are as difficult to overcome as institutional barriers themselves. They include:

1. Reconstruction and improvements to the interstate system are exempt from tolling.

2. State and local government see little benefit to privatizing or implementing toll financing due to their perception that they are receiving no additional funding for doing so.

3. The disparity between taxable and tax exempt financing.

4. Privately financed highways are at a disadvantage when competing for investor dollars.

5. Tolling represents double taxation.

6. Unrealistic expectations for low cost roads: Roads are free; Roads are paid for; My road is the most dangerous road in the state it should be fixed now; Its not fair, I paid for everyone else's road they should pay for mine; Toll roads mean toll booths and having to carry a jar of quarters in my car; Toll roads create safety problems at toll plazas; and We have waited long enough its our turn.

The Interstate Highway System is a critical link in the nation's transportation network. It is truly one of the greatest and most expensive public works projects ever undertaken. While the interstate system includes only 2.5% of our highway lane-miles more than 22% of our travel is on it. It will also require nearly a third of our annual capital expenditures to improve it in the future. Yet reconstruction or capacity expansions on the interstate system cannot be toll financed. The privatization and tolling provisions of ISTEA an the NHS Act should be expanded to allow the use of tolls on the Interstate System if a road, bridge, or tunnel, is reconstructed, substantially improved, or its capacity is expanded. This will attract the investment and expertise of the private sector to complete needed, major reconstruction projects, improvements, and expansions to the system faster and at less cost. It will also relieve the large financial burdens these projects place on many State Departments of Transportation.

State and local governments have not yet accepted private equity as additional money to meet their transportation needs. I believe Congress could create a better environment for the private sector by requiring that alternative financing, including but not limited to tolls, congestion pricing, mileage pricing, and public-private partnerships, when the cost exceeds $10,000,000. Such a provision would make it more likely for government entities to pursue alternative financing.

The private sector is at a disadvantage to government in financing infrastructure due to the disparity in rates between taxable and tax exempt financing. The federal government also loses tax revenue when tax exempt bonds are used to finance improvements. eliminating this disparity would make taxable financing more competitive and the federal government would increase its tax revenues.

Unlike the power and telecommunications industries there is no clear track record of private involvement in the delivery of transportation infrastructure. As a result, the financing of such investments can be difficult to close. By making the unobligated balance in the Highway Trust Fund available as a guarantee for transportation infrastructure loans, financing would be more easily obtained and investment of private equity in transportation projects would increase. Regarding this provision the Office of Management and Budget has advised the Federal Highway Administration that portions of the unobligated balance in the trust fund actually committed as a debt reserve would be scored at ten cents on the dollar for budget purposes. Such use of the unobligated balance would have a minimal effect on the deficit.

The payment of tolls to finance specific projects does not constitute double taxation. the situation is similar to a homeowner who needs or desires to make repairs or improvements to his, or her, home. A homeowner's monthly mortgage payment allows him, or her, to live in a home while it is being paid for. Similarly, the gas tax is being used to maintain and make limited improvements to our existing road system. If a homeowner desires to make repairs or improvements additional funds outside his monthly payments are needed. Similar to the homeowner, if we want to make specific improvements to our road system we must find an additional source of funds. By using tolls, the revenue raised is targeted to a specific need. A need created by a specific demand and the investment made is tailored to meet that need. This is an efficient and equitable way of making investments. It introduces market forces into transportation infrastructure investments. The improvements made are also paid by those who benefit most from the improvement. This a fair and equitable means of paying for improvements.

The public's unrealistic expectation that traditional transportation funding can meet their needs is evidenced by the statements listed above. The current system is unable to meet those expectations due to major changes in automobiles and our travel patterns. Increased fuel efficiency and life-span of vehicles coupled with increases in the number of trips and trip length has contributed greatly to our current funding situation. Neither the gas tax nor license fees is increasing. Moving away from these funding mechanisms to charging for the space used on a road would help change these expectations. Charging for highway travel by the mile would make us more aware of the cost of travel and would assess costs to the largest users. This would result in more prudent use of highway capacity. Such a move would also permit the introduction of congestion pricing to highway travel. Most commodities are paid for in this fashion. Introducing it into highway travel would improve utilization of the existing system and lessen demand for additional capacity.

Drivers have not liked paying tolls because they do not like fumbling for quarters, stopping and paying the tolls. This is no longer necessary. My company, Hughes Transportation Management Systems, has adapted defense-related technology to collect tolls at freeway speeds on the open road without toll plazas. Eliminating toll booths and stopping to pay tolls eliminates most driver's objection to toll financing.

In closing, I would like to state that I am very positive on the opportunities and benefits of highway infrastructure privatization. This optimism is buoyed by continued bipartisan support of the Minnesota legislature, business, and labor. We are continuing our efforts despite the fact that we are charging a fee for a service that our competition, government, is giving away "free". We would like to participate more fully. Addressing the issues I have outlined today would improve the competitive disadvantage we now face. I would be happy to answer your questions.

PROMISES MADE

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. BAKER of California. Mr. Speaker, today I wish to submit for the RECORD a section of the public law which enumerates the statutory obligations the Department of Energy has toward its employees at defense nuclear facilities, concerning workforce restructuring.

The Department of Energy faces some tough budgetary and programmatic decisions in the coming weeks and months. Many of these decisions will no doubt be important to our Nation in safeguarding our nuclear stockpile, in ensuring our energy security in the future, in advancing the pace of energy sciences, and in stewarding our national resources. It is this stewardship role I speak of today, specifically the stewardship of the valuable, competent employees at DOE's nuclear facilities.

Mr. Speaker, these workers are truly national assets. They work on the cutting edge of science and engineering, bolstering our Nation's security status and it energy future. These men and women do yeoman's work for our country in areas of science you and I can barely comprehend. Though perhaps rarely appreciated or understood by the average American taxpayer, these people give their all at national laboratories like Sandia, Lawrence Livermore, and Los Alamos. Our Nation is the richer for their sacrifice and commitment to our collective good.

In light of recent statements by DOE officials indicating an intention to downsize workforces at some national laboratory sites in the coming months, it is essential that the bureaucracies that administer our Government's policies respect the value these workers add to Government service. While budgetary bottom lines may sometimes seem cold, a responsible government treats its workers as national assets to be valued and esteemed.

And it is to no less than this level of appreciation that the Department of Energy is legally obligated.

As we look toward the uncertain future, it is reasonable that we remind ourselves of our past commitments, of our promises made. In this context, I wish to submit for the record the very promise made by the Federal Government to DOE workers who do our Nation's work at the defense nuclear facilities across our Nation.

The reference is a law passed in the second session of the 102d Congress, Public Law 102–484, the DOD Authorization Act, Subtitle E, Section 3161:

Subtitle E—Defense Nuclear Workers

SEC. 3161. DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES WORK FORCE RESTRUCTURING PLAN.

(a) IN GENERAL.—Upon determination that a change in the workforce at a defense nuclear facility is necessary, the Secretary of Energy (hereinafter in this subtitle referred to as the "Secretary") shall develop a plan for restructuring the work force for the defense nuclear facility that takes into account—

(1) the reconfiguration of the defense nuclear facility; and

(2) the plan for the nuclear weapons stockpile that is the most recently prepared plan at the time of the development of the plan referred to in this subsection.

(b) CONSULTATION.—(1) In developing a plan referred to in subsection (a) and any updates of the plan under subsection (e), the Secretary shall consult with the Secretary of Labor, appropriate representatives of local and national collective-bargaining units of individuals employed at Department of Energy defense nuclear facilities, appropriate representatives of departments and agencies of State and local governments, appropriate representatives of State and local institutions of higher education, and appropriate representatives of community groups in communities affected by the restructuring plan.

(2) The Secretary shall determine appropriate representatives of the units, governments, institutions, and groups referred to in paragraph (1).

(c) OBJECTIVES.—In preparing the plan required under subsection (a), the Secretary shall be guided by the following objectives:

(1) Changes in the work force at a Department of Energy defense nuclear facility—

(A) Should be accomplished so as to minimize social and economic impacts;

(B) should be made only after the provision of notice of such changes not later than 120 days before the commencement of such changes to such employees and the communities in which such facilities are located; and

(C) should be accomplished, when possible, through the use of retraining, early retirement, attrition, and other options that minimize layoffs.

(2) Employees whose employment in positions at such facilities is terminated shall, to the extent practicable, receive preference in any hiring of the Department of Energy (consistent with applicable employment seniority plans or practices of the Department of Energy and with section 3152 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1682)).

(3) Employees shall to the extent practicable, be retrained for work in environmental restoration and waste management activities at such facilities or other facilities of the Department of Energy.

(4) The Department of Energy should provide relocation assistance to employees who are transferred to other Department of Energy facilities as a result of the plan.

(5) The Department of Energy should assist terminated employees in obtaining appropriate retraining, education, and reemployment assistance (including employment placement assistance).

(6) The Department of Energy should provide local impact assistance to communities that are affected by the restructuring plan and coordinate the provision of such assistance with—

(A) programs carried out by the Department of Labor pursuant to the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

(B) programs carried out pursuant to the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 (Part D of Public Law 101–510; 10 U.S.C. 2391 note); and

(C) programs carried out by the Department of Commerce pursuant to title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241 et seq.).

(d) IMPLEMENTATION.—The Secretary shall, subject to the availability of appropriations for such purpose, work on an ongoing basis with representatives of the Department of Labor, work force bargaining units, and States and local communities in carrying out a plan required under subsection (a).

(a) PLAN UPDATES.—Not later than one year after issuing a plan referred to in subsection (a) and on an annual basis thereafter, the Secretary shall issue an update of the plan. Each updated plan under this subsection shall—

(1) be guided by the objectives referred to in subsection (c), taking into account any changes in the function or mission of the Department of Energy defense nuclear facilities and any other changes in circumstances that the Secretary determines to be relevant;

(2) contain an evaluation by the Secretary of the implementation of the plan during the year preceding the report; and

(3) contain such other information and provide for such other matter as the Secretary determines to be relevant.

(f) SUBMITTAL TO CONGRESS.—(1) The Secretary shall submit to Congress a plan referred to in subsection (a) with respect to a defense nuclear facility within 90 days after the date on which a notice of changes described in subsection (c)(1)(B) is provided to employees of the facility, or 90 days after the date of the enactment of this Act, whichever is later.

(2) The Secretary shall submit to Congress any update of the plan under subsection (e) immediately upon completion of any such update.

TRIBUTE TO BENICIA MIDDLE SCHOOL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. MILLER of California. Mr. Speaker, I rise today to pay tribute to Benicia Middle School, in Benicia, CA, for receiving the National Blue Ribbon Award for excellence from the U.S. Department of Education. This is the highest honor that a public or private school can receive in recognition of academic excellence and attaining national educational goals. Benicia Middle School was chosen from among 500 nominations nationwide, and is only one of 87 middle schools honored with this prestigious award.

I would like to commend the hard work and dedication of the parents, teachers, and students of Benicia Middle School and the Benicia community for their efforts in attaining national, State, and local educational goals. Benicia Middle School started on the blue ribbon path in 1994 when the California Department of Education recognized them as a California distinguished school. This marked them as the top 2 percent of all middle schools and high schools in the State of California. In 1995, the California Department of Education nominated Benicia Middle School for the National Blue Ribbon School Award. The school underwent an intensive application and interview process before being selected for this honor.

Benicia Middle School can now proudly say that they are among the best in the Nation. They can attribute their success to team effort and a commitment to excellence that they have demonstrated in their academic program. They educate the students at Benicia Middle School as strong leaders in a safe, supportive, and drug-free environment. I am proud of the commitment of the Benicia community toward preparing our youth for the future.

I would like to share with my colleagues the attached article from the Solano Times, Thursday, February 22, 1996: "School Is a Blue Ribbon Winner."

[From the Solano Times, Feb. 22, 1996]

SCHOOL IS A BLUE RIBBON WINNER

(By Catherine D. Jacobson)

Benicia Middle School is one of the best schools in the nation.

Recently named a National Blue Ribbon School by the U.S. Department of Education, the school received the announcement 17 months after the initial application.

"We are honored and we are proud," said Carole Hiltman, Benicia Middle School principal. "To earn this kind of prestigious recognition from a national review is exciting and validates our hard work. These schools become models."

The blue ribbon status recognizes both public and private schools based on their effectiveness in meeting national education goals and standards of quality.

Each school's success in furthering intellectual, social, physical and moral growth of all students, including those with disabilities, is emphasized.

Through a 30-page application and a site visit, Benicia Middle School administrators presented evidence to Department of Education officials that students are developing a solid foundation of reading, writing and math, in addition to reasoning and problem-solving skills.

Hiltman said hundreds of hours were spent in researching, writing and assembling the application, submitted in September 1994.

"This has been a long effort, and it's nice to see the uplifting spirit," she said, noting the honor is especially rewarding given the disruption of the campus during major construction renovations.

Benicia Middle School will be rewarded with a bronzed plaque to be placed at the campus. It is one of 87 middle schools across the nation to receive the prestigious honor this year.

The road to the National Blue Ribbon award started in 1994, with Benicia Middle School being named a California Distinguished School. State officials then nominated the school for the national award.

Benicia Middle School was one of 27 middle schools and 17 high schools nominated in the state, representing the upper 2 percent of all junior and senior high schools in California.

Jim Krouscas, a physical education teacher and president of the site council at the middle school, attributed the blue ribbon award to the community and parental support, students, and, particularly, veteran teachers.

"This award started 20 years ago when these teachers decided Benicia Middle School would be a school of excellence and not mediocrity," said Krouscas.

Superintendent Annette O'Connor said, "Everyone contributed to making Benicia Middle School the fine institution of learning it has become.

"I am proud of the whole staff and pleased to show the community that we are recognized as exemplary wherever we are reviewed."

Mayrene Bates of the Solano County Office of Education said the blue ribbon selection is due to the people behind the scenes.

"Things like this don't just happen," she said.

Hiltman hopes the honor leads to an even stronger support for the school, through financial or technical assistance.

"We'd like to attract a large corporation to form a blue ribbon partnership to support the school," she said.

The entire middle school staff participated in the application, although principal writers were Hiltman, Linda Cole, district director of instructional services, and teachers Russell Ho, Sherry Knight, Kathy Maloney, Rami Muth, Greg Reed, and Kathy Wright.

CONGRATULATIONS TO THE LAWRENCEVILLE HIGH SCHOOL WRESTLING TEAM

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to the Lawrenceville High School wrestling team, which grappled its way to a stellar 22–3 record and the State finals. Despite not taking the title, the season was a remarkable success, as the wrestlers combined with the school's basketball team to be the only high school in Illinois to have two teams participate in their respective State tournaments. I would like to congratulate the wrestling squad on a job well done. They carried themselves with dignity and are outstanding representatives of their community.

Wrestling is a team sport that is comprised of numerous individual battles. The mental discipline required is monumental, for not only must the athlete concentrate on his opponent, but he must be aware of his team's standing in the meet. Combined with the rigors of having to make weight and the intense conditioning required to participate, these student-athletes are a truly dedicated unit. The Indians captured titles at the Lawrence County, Cumberland Holiday, Argenta Oreana, and Mattoon tournaments before claiming the North Egyptian conference and sectional crowns. Led by a strong corps of seniors, Lawrenceville returns four juniors as well as four sophomores, and should be primed to make another run at the State championship next season. Head coach Jim Dunn prepared his team expertly, and was ably assisted by coaches Terry Hoke and Keeley Meek.

Mr. Speaker, Lawrenceville has a fine athletic tradition that is embodied by its wrestling team. I am glad that these students have gotten to participate in such a first-rate program, and that they have worked hard to maintain these high standards and fulfill their potential. That is the true measure of success. I am proud to represent Lawrenceville in the U.S. Congress. The 1995–96 Lawrenceville High School wrestling team: Jeremy Harrington, Cory Jones, Chris Seed, Ryan Seitzinger, David Stanker, Alan Couch, Oliver Glenn, Cohn Cognat, Chris Gray, Nathan Hill, David Sechrest, Eric Seitzinger, and Sam Sanders. Statisticians are Jamie Dunn, Jodi Taylor, and Lisa Weyer.

HONORING CONTINENTAL NEWSPAPER FOR 13 YEARS OF SERVICE TO THE HISPANIC COMMUNITY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Continental newspaper on its 13th anniversary of dedicated service and commitment to the U.S. Hispanic community.

Under the direct influence of its main advisors, Mario Ciria Jr. and Ofelia Dones, the paper has emerged as one of the Nation's leading information sources for the Hispanic community. Ms. Dones is the only female publisher of a weekly Hispanic newspaper in the New York-New Jersey metropolitan area. Together, Mario, Ofelia, and their gifted staff have worked to produce a highly enlightening and entertaining source of information for members of the Hispanic community on a weekly basis.

Continental has established a strong and diverse base of support, and it serves a vast area that covers New York, New Jersey, Connecticut, Florida, and Pennsylvania. Continental's reporting efforts center around its main office in Union City, NJ. However, the paper is widely read in New York City and the paper's roots are a product of the city's interest.

Continental prides itself on its fair and accurate coverage of events and issues of interest to its readers. The newspaper's editorial section has frequently taken a bold stand against the brutal dictatorship now enslaving the island of Cuba. Many of its journalists have uncovered horrifying stories of human rights violations by the Castro tyranny and thus have incorporated a strong stand against the Castro regime.

Moreover, Continental has long been dedicated in its effort to convey essential information to members of the Hispanic community. It is because of this dedication and public service that I am proud to honor this very deserving news source.

NATIVE-AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise today to express my strong support for the Native American Housing and Self-Determination Act introduced by Housing Subcommittee Chairman LAZIO. I am an original cosponsor of this bill because I believe there is a pressing need to assess and reorganize native American housing programs in this country. Chairman LAZIO's bill is a strong step in the right direction. However, my primary concern in adding my name to this bill is to insure that the needs of native Americans in my State and across the country are given serious attention and consideration, and that Indian tribes have a leading role in the development of this lasting legislation.

There are nine federally recognized tribes in South Dakota, whose members collectively make up one of the largest native American populations in any State. At the same time, South Dakota has 3 of the 10 poorest counties in the Nation, all of which are within reservation boundaries. Unemployment on these extremely rural reservations averages about 50 percent. Yet economic depression on rural Indian reservations is not unique to my State. I believe strongly that housing is an integral and most basic component to economic development for Indian and non-Indian communities alike.

Federal expenditures for social programs continue to exceed investments for economic growth in Indian country. Tribal leaders in my State and elsewhere have struggled to break the cycle of dependence upon the Federal Government. In keeping with this Nation's special trust responsibility to sovereign Indian nations, I believe Federal programs must promote the self-determination and self-sufficiency of Indian communities. I support the premise of the Native American Housing Assistance and Self-Determination Act because Congress must prioritize programs which develop infrastructure on reservations and enhance economic growth for tribal communities. Additionally, the extreme health problems that many Indian communities face can be linked directly to inadequate housing, problems that can begin to be addressed through this Indian self-determination legislation.

I agree with Chairman LAZIO and the Native American Indian Housing Council that Indian housing should be divorced from public housing programs because of the unique needs of Indian country and the many economic challenges that must be overcome. I am particularly supportive of the funding initiative outlined in this legislation which is based on the section 108 loan guarantee for Community Development Block Grant funds. The flexibility in funding and in the administration of housing programs that this bill promotes is the key to tribal self-sufficiency and self-determination in housing management. Ultimately, this self-determination will result in increased access to safe, affordable housing for native American people nationwide.

The unique housing needs of Indian country warrant a continued Federal commitment to successful tribal housing programs. I look forward to working with Chairman LAZIO, my colleagues, and Indian tribes nationwide to make the Native American Housing and Self-Determination Act a reality, with the health and welfare of Indian tribes our foremost priority.

WOMEN'S HISTORY MONTH

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. HOYER. Mr. Speaker, I rise today to join my colleagues in recognition and celebration of the outstanding contributions of women to the history of this Nation and to society as a whole. I appreciate the opportunity to participate in this special order and to add my voice to the chorus of praise for those women who have contributed so much.

In primary and secondary schools across the country, young women and young girls are being exposed to the accomplishments of notable women of history. While they can appreciate the heroism and the ingenuity of these women, they may not yet fully understand that many of these accomplishments came at great individual sacrifice, were not fully appreciated at the time they occurred, and were often the result of long struggles to gain the opportunity to excel at their chosen pursuit.

Women's History Month also provides an important lesson to our young men and young boys in those same classes. They learn to recognize that their classmates, their sisters, their mothers, and all women have dreams similar to their own of careers and contributions. These boys can then better appreciate that women are equally valuable and equally capable of leading society in the next breakthrough in whatever field one chooses to pursue.

At the same time, we adults are reminded that while great progress has been made, particularly within our lifetimes, sufficient progress remains illusive. Too often our wives, daughters, and friends share with us the frustrations of obstacles to their careers rarely faced by males. These challenges come in the form of harassment, doubting of ability, and unfair choices placed on women concerning family objectives as opposed to career objectives that are not similarly placed upon men.

The children in our classrooms today need to enter a work force that is free of harassment, free of bias, and full of respect, full of opportunity and full of challenge. As our children enter and succeed in the workplace they need to look back at the contributions of the women who broke ground in their particular field. In so doing, they will appreciate not only the contributions of these women but also the barriers that have been removed to women as a result of their persistence.

There are no career fields in which we, as a Nation, can afford to restrict the contributions of talented, motivated workers. Our society cannot afford the disruptions caused by the lack of respect shown towards successful women in the work place.

Similarly, our society can not afford to minimize the contribution of women who choose to interrupt, delay, or forego their careers in order to tend to the needs of their families. Whether single or married, women today bear a disproportional share of the work involved in keeping our families strong and on a positive track. The struggles of mothers today, who seek to raise their children in a safe and moral environment, are unlikely to be the subject of the history lessons but are of historic proportions.

As we consider and honor the notable figures of the distant and recent past, we should also go home today and honor the historical women of the future and encourage their pursuits.

TRIBUTE TO JOHN W. TAYLOR

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. BORSKI. Mr. Speaker, today I join with the family and many friends of John W. Taylor to offer congratulations on his retirement as the Director of the United Auto Workers and good luck to a man of courage and vision who has devoted his life to helping the working people of America.

Throughout his four decade career with the labor movement, John has displayed unmatched leadership and integrity. His legacy is one of numerous, outstanding, and long-lasting contributions on behalf of the working people of America.

John established himself as a man of true courage in 1982 when he bucked the vested interests in the United Auto Workers as well as the machine of an incumbent Member of Congress to support the long-shot candidacy of an underdog challenger. John recognized that I would help give Philadelphia's working people a voice in Washington and he was willing to put his career on the line to be one of the first to give me the help I needed.

Despite strong pressure from the establishment, John stood his ground because he had the people's interests at heart. It was his strength, determination, and tenacity that brought me an endorsement from the United Auto Workers—a key factor in a tight election which I won by less than one percent of the vote.

A born-and-raised citizen of Philadelphia, John W. Taylor, worked hard to strengthen the aircraft unions in the Philadelphia metropolitan area. Originally a volunteer organizer for Piasecki Aircraft—now known as Boeing Helicopter Company—John was the first elected chief organizer by his fellow workers in May 1956. John was then elected to the union's first executive board and through the years served as the local union's editor and recording secretary before becoming president in 1967.

In 1967, John had become the president of the largest local union—the UAW's region 9—which consisted of 7,200 acting members. As president, he successfully administered such a large organization with five locations and supervised the construction of the union's $250,000 Walter P. Reuther Memorial Building in Eddystone. PA.

Soon after becoming president of UAW's region 9, John was assigned to the region 9 servicing staff, where his major duties included collective bargaining, arbitration, mediation and all forms of dispute settlements until 1980. Also in 1972, John was appointed to the staff of the international union, UAW, by then president, Leonard Woodcock, and regional director, Martin Gerber. He was selected to coordinate the activities in the UAW's Community Action Program [CAP].

In recognition of his loyalty and hard work, John was appointed to a transition team by then Governor-Elect Robert Casey in 1986. This important position led to a labor friendly Labor and Industry Department for the 8 years of the Casey administration. Finally, in 1987, Governor Casey selected John to represent labor and the UAW on the Pennsylvania State Job Coordinating Council [SJTCC] which was established under the Federal Job Training and Partnership Act [JTPA]. This position has been directly responsible for the securing of hundreds of thousands of dollars in job training funds into UAW programs and to UAW members. He continues to hold this position under Governor Tom Ridge.

Personally, this tribute is only a small token of my gratitude for John and his accomplishments over the years. His work with the UAW and the citizens of the Philadelphia region is greatly appreciated and will be missed by all. John's valued judgment has been an asset not only to me but to all people associated with him as well. I am proud to say that John W. Taylor has become a close personal friend of mine and I wish him well on a richly deserved retirement.

Mr. Speaker, I join John's wife Jean and his family and friends in congratulating him for a lifetime of service, dedication, and hard work on behalf of the United Auto Workers and the working people of America.

MAJ. GEN. (SEL) RONALD C. MARCOTTE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. SKELTON. Mr. Speaker, I rise today to pay tribute to a great American, an outstanding Air Force officer, and an exceptional individual: Maj. Gen. (sel) Ronald C. Marcotte. On March 26, 1996, Ron Marcotte handed over command of the 509th Bomber Wing at Whiteman Air Force Base after serving as its commander from the beginning of its operational status—April 1, 1993. Major General Marcotte will be the new director, strategic target plans (J–52) and deputy director, plans and policy (J–5), at U.S. Strategic Command, Offutt Air Force Base, NE.

During his command of the 509th, Major General Marcotte was responsible for the oversight and successful completion of the facility construction as well as the beddown of the B–2 fleet. His accomplishments, as expected, went far above and beyond his described duties. I ask my colleagues to join me in wishing Major General Marcotte a fond farewell from the 509th Bomber Wing at Whiteman Air Force Base. Missouri will truly miss him.

SALUTING PUBLIC BROADCASTING EXCELLENCE

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. FIELDS of Texas. Mr. Speaker, it was a privilege for me to recently address the Association of America's Public Television Stations' [APTS] annual meeting of member stations to discuss my proposal to privatize funding for public broadcasting. I am among those working to reduce Federal spending, without sacrificing the high quality of television programming available to all Americans from the Public Broadcasting System.

Public broadcasters have for many years provided Americans—particularly young Americans—with programming of exceptional educational value. My own 6-year-old daughter enjoys watching "Barney and Friends," "Sesame Street," and other children's shows produced by public broadcasters. And as a student of the Civil War, I believe that "The Civil War" may have been the finest television series ever aired on public, or commercial, television.

During the APTS annual meeting, two public broadcasters in Texas were recognized for excellence in their fields. Rodney Zent of KAMU–TV in College Station was named one of seven "Visionary Public Broadcasters" and was presented with the 21st Century Award for his outstanding contributions to the public television system. And Leon Collins of KUHT–TV in Houston was one of eight recipients nationwide to receive the Grassroots Advocacy Award, presented to those individuals and public broadcasting stations who work to garner support for public television in their communities.

I salute Mr. Zent and Mr. Collins for their past efforts to enhance the future of pubic television.

Mr. Zent has spearheaded Texas A&M University's efforts to impose its distance learning program. On April 3, KAMU, in partnership with GTE, will unveil the Center for Distance Learning Research, which will offer training in distance learning and cutting-edge telecommunications technology. Last year, KAMU coordinated 3,400 videoconferences on its TRANS–TEX Videoconferencing Network, which provides real-time, two-way video, data and Internet services to 44 locations throughout Texas.

Mr. Collins at KUHT has enlisted his staff, the University of Houston, and supportive volunteers on behalf of public television. Due to his efforts, the University of Houston's newsletter now features a column containing legislative news from Capitol Hill, and the station's legislative needs are a high priority on the university's agenda. It is precisely this type of local, community support, that will be key to public broadcasting's future, and I salute him for his efforts.

Mr. Speaker, as the chairman of the House Telecommunications and Finance Subcommittee, I want to reiterate my support for public broadcasting—and reiterate my desire that future generations of Americans benefit from the fine, educational programming it makes available to all our citizens.

Individual efforts by persons like Rodney Zent and Leon Collins—together with enhanced local support for outstanding public broadcasters like KAMU and KUHT—will ensure that this valuable public resource will remain with us for many years to come.

YOUTH ART MONTH

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. KENNEDY of Rhode Island. Mr. Speaker, this month we have celebrated Youth Art Month, a valuable advocacy program that cultivates and emphasizes the importance of art and of quality art education in the lives of today's children.

In today's world, filled with harsh realities and ambiguity, children often lose touch with themselves and their surrounding environment creating a damaging gap. Since art is not only a representation of life in its physically, emotionally, and spiritually, it provokes self introspection and, in turn, helps to bridge this gap. Youth Art Month reminds us that this importance should never be taken for granted, for art is one of the most integral components in the development of a child's imagination and cognitive mind. Art adds a new dimension to a child's personality—a dimension of imaginative thought, subjective interpretation, and perhaps most important—individuality.

My uncle, the Late Robert F. Kennedy extolled the importance of creativity in our children's lives. "Too often, the arts have been thought of as nice, but rather non-essential part of education. When we give our children the chance to explore and develop their own creativity, we encourage the sensitivity and ability for self-expression that is so crucial a part of the well-informed, well-educated person."

I commend the Council for Art Education for creating Youth Art Month and for its efforts to instill in America an appreciation for art and art education. I sincerely hope that our children and future generations will cherish and celebrate art and the enormous contribution its forms have made to this great Nation.

CONGRATULATIONS TO DAN WHITTLE ON THE SUCCESS OF WHITTLEMANIA

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. GORDON. Mr. Speaker, I rise today to recognize the tremendous contribution Dan Whittle has made to the success of Habitat for Humanity in Rutherford County.

In 1993, Dan and the community joined together to host a bean dinner to raise money for cancer patient Ben Webber's family. Ben Webber left a wife and child when he succumbed to cancer. His lifelong dream of owning a house was realized for his family through the money Dan and Habitat raised. The Webber dinner was the forerunner of what has come to be known as "Whittlemania."

This year, the Second Annual Whittlemania for Habitat was a tremendous success. Demos' and Toot's restaurants served over 1,000 meals and owners Jim and Doris Demos donated the $6 ticket price to Habitat. Whittlemania made more than $7,000, quadrupling last year's results.

The community pulled together, and the following businesses and individuals made Whittlemania happen: Demos' and Toot's restaurants, the Daily News Journal, Whittlemania chairman Darwin Colston, Garden Plaza Hotel, the Printing Department, city employees of Smyrna and Murfreesboro, Tennessee General Services Commissioner Larry Haynes, Fant Smith and Outdoor Communication, and Dan's wife, Pat.

Dan is a reporter and columnist for the Daily News Journal, a Murfreesboro newspaper. In his February 8th column on Whittlemania, he says, "It is mind-boggling and heartwarming personally to have a community-wide, charitable, fund-raising event named for you and for that, I am thankful. I love this community that cares so much for people."

Well, Dan, Rutherford County is thankful to you. Its people know how much you care. You have shared your personal story of homelessness with us, but more than that, you have reached out, time and time again, to help friends and strangers. It has been said that the success of a man can be gauged by how many lifes he's touched. Congratulations on your success and the success of Whittlemania.

BALANCE THE BUDGET

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. PACKARD. Mr. Speaker, President Clinton has proven time and time again that he is big Government's little buddy. He is a tax and spend liberal though his rhetoric would have the American people believe otherwise.

My Republican colleagues and I have a proven track record when it comes to our commitment to downsize Government and the Federal deficit. To date, the Appropriations Committee has cut $22 billion and terminated 175 wasteful programs and we continue to make real cuts that are necessary to put us on the Glidepath to a balanced budget.

The President keeps telling the American people that he wants a balanced budget too. He says the era of big Government is over. Well, we have seen no evidence of it. In fact, he is now asking Congress for an additional $8 billion in social spending without trying to find savings elsewhere to help offset their cost. Any family that has ever tried to balance their own budget knows it will not balance if you keep spending in every direction and not cutting somewhere.

Mr. Speaker, we have the opportunity to make a down payment on a balanced budget and the future of our children. We have the opportunity to make Government smaller and more cost effective we will do what is right for America's hard-working taxpayers. The President must do the same.

THE CARIBBEAN BASIN INITIATIVE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. RANGEL. Mr. Speaker, One of the legislative accomplishments of which I am most proud is my association with the passage of the Caribbean Basin Initiative [CBI] in 1982. The CBI was truly bipartisan legislation, introduced by President Ronald Reagan and embraced by the Democratic Congressional leadership led by former Chairman Dan Rostenkowski of the House Committee on Ways and Means.

The CBI has been truly a success story, a great example of what President Reagan called friends helping friends in the letter that he sent me after signing the legislation to provide our Caribbean neighbors with greater access to our market in the United States. I don't believe that we fully appreciated at that time how much mutual benefit there would be over the years in CBI. Now the Caribbean has become a significant purchaser of goods and services from the United States, helping to create jobs here at home.

The CBI has been responsible for a decade of unparalleled growth in trade between the United States and the Caribbean, acting as a catalyst for exports, investment and employment creation in the economies of the United States and the Caribbean. As the growth process in CBI economies has been strengthened by increased United States investment in increased purchases of United States goods and services. Each dollar spent by the Caribbean generates 60 cents per dollar of United States exports. Jamaica, for example, purchases more than 65 percent of its imports from the United States. Trinidad and Tobago purchases more than half of its imports from the United States.

In 1991, the last year prior to the embargo, Haiti purchased 61 percent of its imports from the United States. Restoring the economy of the new Haiti, therefore, is not a matter of charity or foreign assistance, it is a policy that is rooted in the realization that there is mutual self-interest for Haiti and the United States in making the Haitian economy viable. The Caribbean is a significant market for United States exports and these exports produce jobs in the United States.

Ambassador Bernal, in his editorial, addresses this reality and challenges us to keep the United States-Caribbean trade relationship vital by providing parity to access to the United States markets to that provided by our trading partners in NAFTA. As one of the original cosponsors of the Caribbean parity legislation which was reported out of the Ways and Means Committee Subcommittee on Trade last year, I am looking forward to working with Chairman CRANE and the administration to achieve its passage in the present Congress.

[From the Wall Street Journal, Mar. 22, 1996]

A JAMAICAN'S CASE FOR TRADE PARITY WITH NAFTA

(By Richard L. Bernal)

U.S.-Caribbean commercial links have generated American jobs at a rate of nearly 17,000 a year since the mid-1980s. U.S. overall exports to the Caribbean have expanded by more than 100%, and Caribbean exports to the U.S. have climbed by roughly 50%. By the end of 1994, combined U.S.-Caribbean trade stood at $24 billion.

The 24 nations of the Caribbean Basin—among them Jamaica, Trinidad, the Dominican Republic and all Central American countries—have enjoyed these strong economic and trade relations during the past dozen years largely through the mechanism of the Caribbean Basin Initiative (CBI). But recent changes in U.S. trade law have put the long-term viability of this relationship in jeopardy. Under the North American Free Trade Agreement, for example, Mexican exports now enjoy access to the U.S. market exceeding that accorded to Caribbean exports. The General Agreement on Tariffs and Trade implementing act has exacerbated these effects by phasing out a program that regulated the importation of textile and apparel products from all countries.

As a result, Caribbean countries are now forced to compete in their largest market at a substantial competitive disadvantage. In the two years that Nafta has been in effect, there has been a steady diversion of trade and investment away from the Caribbean Basin nations. In the textile and apparel sector alone, Mexico has displaced other Caribbean countries. It is now the single largest source of U.S. garment imports from this hemisphere. Such diversion has begun to erode U.S.-Caribbean trade relations, weakening the employment base of hundreds of thousands of Americans who depend upon strong U.S.-Caribbean trade links.

During a visit with Central American leaders last month, Secretary of State Warren Christopher announced that President Clinton will include in his fiscal year 1997 budget request a key proposal to strengthen U.S.-Caribbean Basin economic relations. Coming on the heels of Cuba shooting down two unarmed civilian planes. Mr. Christopher's announcement underscores the compelling U.S. national and security interests in maintaining strong economic links with the Caribbean region.

Secretary Christopher's announcement advances a bipartisan proposal currently before the Congress that will correct the unintended adverse effects of Nafta on the Caribbean Basin. The prospect of enhanced U.S.-Caribbean trade links enjoys wide-spread support, and has been endorsed by many Carribbean heads of government and countless business and community leaders, both in the U.S. and in the Caribbean.

As currently envisioned, the proposal will insure that Caribbean and Mexican exports enjoy equal access to the U.S. market during the next 10 years. During this transitional period of "Nafta parity," Caribbean countries will be required to take reciprocal steps to expand market access for U.S. products, strengthen investment guarantees, expand worker's rights, and improve intellectual property protection. By the end of the 10-year period, the U.S. will have strengthened its commercial relationship with the Caribbean region while the CBI countries will be in a better position to join a hemispheric-wide free Trade Area of the Americas.

The benefits of Nafta parity would be felt strongly over the next few years in both the Caribbean and in the U.S. Presently, the U.S.-Caribbean commercial relationship supports more than 260,000 jobs in the U.S. and countless more throughout the Caribbean. The Caribbean Basin is now the 10th-largest export market for the U.S. and one of the few regions in the world where U.S. exporters maintain trade surpluses. Nafta parity will build on this framework as elevated trade levels generate thousands of new jobs each year in the U.S. and the Caribbean.

The benefits to U.S. industry for this program are clear as well. Nafta parity will enhance international competitiveness of the U.S. textile and apparel industry by building on the productive relationship already enjoyed by U.S. and Caribbean firms. Since Caribbean garment exports rely upon U.S. components and labor for as much as 70% of their value-added, and expansion of the Caribbean garment industry directly benefits U.S. firms and workers. Many Caribbean governments already operate programs that successfully fight illegal textile transhipment from East and South Asian countries, so Nafta parity will strengthen a framework that protects the domestic industry from quota violations. Finally, as Caribbean governments take steps to strengthen intellectual property and investment protections—as Jamaica has already done—many other U.S. industries will gain.

This trading relationship means that overall economic growth and development in the Caribbean Basin can directly translate into expanded export opportunities for the U.S. Roughly 60 cents of each dollar the region earns from exports to the U.S. market is spent in the U.S. buying American-made consumer goods, food products, raw materials and capital equipment.

In this context, Nafta parity has emerged as a cost-effective economic and foreign policy instrument to promote regional development. Increased trade activity will provide many additional commercial opportunities, which are so crucial for healthy economic growth in cities and rural areas throughout the U.S. Stronger trade links will inevitably lead to better cooperation in other areas, such as narcotics interdiction, anticorruption activities, and efforts to fight terrorism and international crime. Moreover, as Caribbean economies prosper, they will become less dependent on U.S. foreign aid at a time when foreign assistance is getting close scrutiny. In many ways, therefore, Nafta parity represents a tangible "trade, not aid" approach, which has taken on new importance in light of the U.S. budget debate.

Numerous studies have shown that strong regional economic links are crucial not only in creating economic opportunities throughout the U.S. and the Caribbean Basin but also in supporting stable and mutually beneficial security relationships. Congress should advance U.S. national security interests in the region by moving quickly to enact Nafta parity.

SALUTE TO J. DOUGLAS BALCOMB AND HIS CONTRIBUTIONS TO RENEWABLE ENERGY

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. SCHAEFER. Mr. Speaker, this morning the Department of Energy awarded the John Ericcson Award in Renewable Energy to Dr. J. Douglas Balcomb of the National Renewable Energy Laboratory in Golden, CO.

A pioneer in the field of solar energy research for 17 years, Dr. Balcomb received his Ph.D. in nuclear engineering from the Massachusetts Institute of Technology in 1961. One of his earliest notable offerings was the solar load ratio technique for qualifying the energy performance of passive and active components and mixed systems. This accomplishment gave the solar energy design community a direct, verifiable method of evaluating solar features—a method that is now used worldwide and has led to the development of many passive-design tools. The American Society of Heating, Refrigeration, and Air Conditioning Engineer's design manual, Passive Solar Heating Analysis, is an outgrowth of the method.

Dr. Balcomb's involvement in design has led to a collaboration with the Passive Solar Industries Council and the National Association of Home Builders. The collaboration has produced Builderguide, a user-friendly computer-based spreadsheet that calculates locale-specific energy performance and comfort. Dr. Balcomb is now adjusting his basic methodology for residential design to small commercial buildings, thus making the technology widely available in the private sector.

Dr. Balcomb has published over 100 technical papers and lectured in 26 countries on effective passive design and is a past chairman of the American Solar Energy Society.

I congratulate Dr. J. Douglas Balcomb as he receives the prestigious John Ericcson Award in Renewable Energy today for his important work in helping to secure our country's energy future.

NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. LAZIO of New York. Mr. Speaker, I am very proud to come to this floor today to introduce the Native American Housing Assistance and Self-Determination Act of 1996.

This is the most important piece of legislation this body has ever considered with regard to Indian housing. This bill heralds a new era in the relations between Congress and Indian tribes, one marked by mutual respect, consensus, and accountability on all sides.

Indian communities suffer from some of the worst housing conditions in the country, a situation we will no longer tolerate. New partnerships between the Federal and tribal governments and the private sector will give local Indian communities the tools they need—and have been asking for—to build a better life for themselves and their members.

Indian housing programs began in the early 1960's as a result of memorandums between the Public Housing Administration, the predecessor to the Department of Housing and Urban Development, and the Department of Interior. Housing on Indian reservations was considered just a derivation of public housing, the same as you would find in Seattle, or Miami, or in the town of Islip, N.Y. Indian housing is not public housing. This bill recognizes that fact and creates a single, flexible block grant to tribes or their tribally designated housing entity to provide housing assistance.

Because of the unique government-to-government relationship between Indian tribes and the American Government, as well as the value of having local communities solve local problems. Indian housing authorities should have greater flexibility in providing assistance to their members.

Tribal governments and housing authorities should also have the ability and responsibility to strategically plan their own communities' development, focusing on the long-term health of the community and the results of their work, not over burdened by excessive regulation. Providing the maximum amount of flexibility in the use of housing dollars, within strict accountability standards, is not only a further affirmation of the self-determination of tribes, it allows for innovation and local problem-solving capabilities that are crucial to the success of any community-based strategy.

Involving private markets and private real estate entities must be a part of a successful strategy to improve economic conditions in Indian country. Simply put, we need more bang for our buck if we hope to address the needs of Indian communities in a meaningful way.

The formula-driven block grant allows us to implement a new affordable housing loan guarantee, based on the very successful section 108 loan guarantee for Community Development Block Grant funds. Under this new model, tribes can borrow capital from existing financial organizations and markets to expand the number of new units that can be constructed. This helps alleviate the serious need for new housing units in Indian country and at the same time lets private capital and investors take up the slack where Federal funding cannot, decreasing the dependence on direct subsidies.

While discussion and debate are underway on other legislative initiatives such as NAFSO, the Native American Financial Services Organization, we can take steps now to ensure public dollars going to tribes for housing can be used to leverage private dollars.

The bill also lengthens leases on trust-held land to 40 years. While it may not seem important, it is crucial to the secondary mortgage market to have lease terms long enough to support a 30-year mortgage. This kind of involvement by the private sector—supporting homeownership—is precisely the kind of efforts this Congress must support and it's one of the reasons this bill is so important to Indian country. Fannie Mae is just beginning to become involved in Indian country through the purchase of section 184 loans; Freddie Mac is poised tō do the same. I believe this provision will give them added incentive to increase their presence in Indian communities.

I would like to thank my colleagues, Mr. BEREUTER, the distinguished vice-chairman of the Housing Subcommittee, my good friend Mr. HAYWORTH, and our colleague from the other side of the aisle, Mr. JOHNSON of South Dakota. Their efforts are much appreciated and I look forward to their continued input on this bill.

Mr. Speaker, this is only the beginning. As the bill moves forward, we expect to receive even more input from people who benefit from and run housing programs and, most importantly, to consult with tribal leaders. I am confident that the administration and the other body will support this bill and I look forward to working with them to make sure we can have the best possible legislation.

HONORING FBI AGENT CHARLES L. REED

HON. JON D. FOX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to pay tribute to a hero in the war on drugs from my home district in Montgomery County, PA.

Recently, FBI special agent Charles L. Reed was laid to rest after giving his life to free our community from the yoke of drug abuse. Thousands of State troopers, police officers from throughout the region, park rangers, and transit police joined the friends, family, and colleagues to thank agent Reed, offer condolences from a grateful community to his family, and bid farewell to an exemplary public servant.

The outpouring of grief for this fallen hero was tremendous in a community which knew the benefit of the good work he did on behalf of the people. Hundreds of FBI agents, their badges draped in black, filled the parking lot of the church in tribute to their fallen comrade who was killed recently in a shootout with a drug dealer.

Six young pallbearers, all relatives of agent Reed, carried his body to its rest with the mournful wail of bagpipes in the background. That languished sound of the bagpipes reflected the mood of the entire Delaware Valley community over the death of this 45-year-old hero. The pain reflected on the faces of agent Reed's wife and three young sons was etched in the spirit of our entire community. For a great man died in defense of his community, locked in a mortal struggle against the specter of drugs which has ravaged this Nation for so long.

Agent Reed was not just a dedicated law enforcer, he was a devoted, loving, and proud husband, father, and friend who loved his community so much he was willing to risk his life in its service.

At the funeral, Gerald Loke who worked with agent Reed for 12 years at the FBI office in Lansdale, Montgomery County said: "The FBI gave Chuck the title of special agent. Today, I want to give him the title of special husband, special father, and special friend."

FBI Director Louis Freeh recounted a story agent Reed often told about a Vermont milkman he knew growing up. The milkman's hands were deformed by his work, but he continued the job he loved. Agent Reed often compared his passion for FBI work to the milkman's. He even named his youngest son, Kelley, 17, after the milkman.

Director Freeh told agent Reed's three sons, Joshua, 21, Todd, 18, and Kelley that they should remember their father as a hero. His wife, Susan, became a source of strength for his bereaved colleagues, knowing the impact this loss would have on them. Her courage matched his own.

Mr. Speaker, the tragic impact of drugs on this Nation is never made more clear than when a community loses one of its own. The children who become hooked and die with an overdose in their veins; the innocent bystanders who lose their lives as a result of the crime which follows this plague. These are the people agent Charles Reed died for. These are the tragedies he worked so hard to prevent. In the end, the war on drugs would claim another soldier. But despite his death, his message lives on in the dedication of his coworkers, in the love of his wife, in the future of his children, and in the appreciation of a community clothed in grief.

I rise today to honor agent Charles L. Reed—a hero to his community, a role model to his coworkers, and martyr in the war on drugs. May we never again lose such a man to this insidious tragedy. Thank you, Mr. Speaker.

CONGRATULATIONS TO BROCK SANDERS

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. GORDON. Mr. Speaker, I would like to take this opportunity to congratulate Mr. Brock Sanders of Murfreesboro, TN on his upcoming retirement as executive director of the United Way of Rutherford County. After 15 years of dedicated service, Brock will retire on April 15, 1996.

Brock has spent his entire life in positions of public service. After playing football at the University of Tennessee at Knoxville and graduating in 1956, Brock was commissioned a second lieutenant in the U.S. Air Force through the ROTC program. During the next 20 years, Brock held many positions which were instrumental in leading our country to victory in the cold war. From his service in Vietnam to his time as an instructor at the U.S. Air Force Academy, Brock was an invaluable officer in our Nation's service.

After retiring in 1980 as a colonel from the Air Force, Brock retired to his home to Murfreesboro, only to continue serving his community. As executive director of the United Way of Rutherford County, he saw a remarkable increase in pledges. During a time in which the national average for increase in United Way pledges was 105 percent, Brock Sanders oversaw an increase of 849 percent. The United Way of Rutherford County has been recognized numerous times for having one of the strongest bases of support in the nation. This success has been due in large part to the leadership of Brock Sanders.

I want to thank Brock for his many years of service, congratulate him on a job well done, and wish him the best in his retirement.

RUTHERFORD COUNTY AND
CANNON COUNTY CIRCUIT COURT,
Murfreesboro, TN, March 14, 1996.

Representative BART GORDON,
Murfreesboro, TN.

DEAR BART: Thank you for your help with the presentation of the resolution for Brock Sanders. Enclosed please find a biographical sketch regarding Brock and his accomplishments. If I can provide additional information, please contact me.

With kindest regards,

DON R. ASH,
Circuit Judge.

Enclosure.

James Brockman Sanders, Jr., was born in Rutherford County Hospital on December 23, 1933 and later taken to his childhood home at 107 2nd Avenue in Murfreesboro. Brock came home to two sisters, Jean Sanders (Beard) and Trudy Sanders (Guinee) and one dog, Buster. His dad was owner of Sanders Auto Service on the corner of Vine and Walnut. His mother was a household engineer.

In September of 1940, Brock entered first grade at Training School (Now Campus School). He completed eight years at Training School.

In September of 1948, Brock entered Central High School. He earned four letters in basketball and three in football under, according to Brock, "the greatest high school coach in the world", Mr. Lee Pate. Brock won mid-state and state honors in football and was a member of the 1950 state champion football team. He was a class officer each year, a member of SPO fraternity and served as president of the Key Club. Was also named "Most outstanding" Key Club member in the Tennessee-Kentucky district. For three years Brock dated the "sweetest and prettiest girl at Central", Fran Summar. He graduated from Central in 1952.

Brock entered the University of Tennessee on a football scholarship in September of 1952. During Brock's football career at U.T., he made sure the bench stayed warm. He was called "Midg" by General Robert Neyland because he stated that Brock was the "world's largest midget". Brock was a member of Sigma Chi fraternity and was an Air Force ROTC cadet Wing Commander.

In August of 1954 Brock married his high school sweetheart, Fran Summar at the First Baptist Church in Murfreesboro.

Brock graduated from the University of Tennessee in September of 1956. He was commissioned 2nd Lieutenant in Air Force through the ROTC. From 1956 to 1957, Brock coached football and basketball at Central High School under his high school coach, Lee Pate.

In March of 1957, James Brockman Sanders, III, was born in the Rutherford County Hospital. He is now the minister of First Methodist Church of Troy, Alabama. He has a lovely wife, son and daughter.

In May of 1957, Brock entered the Air Force at Navigator Training in Harlington, Texas. From 1958 to 1963, Brock was a C-124 Worldwide qualified Navigator and Flight Examiner in Dover, Delaware.

Stephanie Paulette Sanders was born in Dover, Delaware in July of 1959. She is now an educator and household engineer in Atlanta. She and husband Rob Corley have a brilliant son and daughter.

From 1963 to 1966, Brock was Section Commander at Air University, Squadron Officer School in Montgomery, Alabama. In 1966 and 1967, he was a student and graduate of Air Command and Staff College. From 1967 to 1971, Brock was Chief of Space Navigation Division at the U.S. Air Force Academy in Colorado. In 1971 and 1972, he served as a briefing officer in Saigon, Vietnam.

Brock was then Director of Student Operations at Air University, Squadron Officer School, in Montgomery, Alabama from 1972 to 1976. In 1977, he was a student and graduate of Air War College. From 1977 to 1980, Brock was a staff officer at Headquarters Air University in Montgomery, Alabama. In June of 1980, Brock Sanders retired as a Colonel of the U.S. Air Force.

Brock returned to Murfreesboro and in 1981 became the Executive Director of the United Way of Rutherford County. In the last fifteen years under his direction, the pledge for the United Way of Rutherford County has increased by 849% (other United Way chapters have increased by 105%). The United Way of Rutherford County has been recognized numerous times for having the highest percent increase in pledges in the nation.

After 15 years of dedicated service, Brock Sanders will retire on April 15, 1996. He looks forward to spending more time with his lovely wife and their family, as well as working on his golf game.

COMMENDATION FOR LINCOLN-WAY HIGH SCHOOL DISTRICT 210

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. WELLER. Mr. Speaker, today I'd like to honor the great achievement of Lincoln-Way High School District 210 and its outstanding recognition by Money magazine and Redbook magazine.

This national commendation demonstrates the excellence of Lincoln-Way High School—something in which this community prides itself. The parents, teachers, students and community all deserve a thanks for their hard work and dedication to providing a quality education and for producing young people who are mentally ready to meet their next challenge.

Redbook honors Lincoln-Way High School as part of its America's best schools project. And, in the category of excellence in parenting/community involvement, Lincoln-Way was the only school from Illinois chosen. This in itself is very impressive and I am very proud to represent a community where academic excellence is a high priority.

Nearly 400 schools were nominated for recognition in one of six categories and a panel of judges chose only 155 winners. Truly this is an honorable distinction for Lincoln-Way High School and those involved.

I would like to congratulate everyone associated with Lincoln-Way High School—this award is well deserved and should be shared by all. It is my great honor to represent a community that is so involved in the education of its children.

GEORGE DUTCHIE MINER HONORED

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I am proud to pay tribute today to my good friend and constituent, Mr. George Dutchie Miner on the occasion of his retirement, March 29, 1996, following 55 years of service to Northrop Grumman and its corporate predecessors—including among other company names Hamilton, Chance Vought, Ling Tempco Vought and Vought. Mr. Miner started with the company on March 7, 1941, making aircraft propellers for what was then a division of United Aircraft. He made propellers from scratch out of aluminum alloy. Throughout his career, Mr. Miner has made dies for all of the company's aircraft, for Boeing programs and for military subcontracts. Most recently, as a die finisher, he has prepared 17,000 pound dies for use in creating components for the B–2 Stealth bomber.

During World War II, Mr. Miner earned about 50 cents an hour as a tool and die maker, $28 dollars a week with overtime on the weekends. But he as able to provide for his family and put his two sons through college. He now enjoys the love and affection of three grandchildren. During a portion of his career, he served as the State vice president of his labor union. He also served as a Democratic precinct chairman for many years and a community leader extraordinaire.

Congratulations Dutchie, Northrup Grumman and the country are grateful for your many years of service. I salute you for a job well done.

LIMITED OVERTIME EXEMPTION

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. FAWELL. Mr. Speaker, today I am introducing legislation to provide a limited overtime exemption from section 7(k) of the Fair Labor Standards Act [FLSA] for public sector employees who provide emergency medical services [EMS]—the same FLSA exemption afforded to fire protection personnel. Without this change in law, there will continue to be circumstances in which EMS personnel are working the same tours of duty as either fire protection or law enforcement personnel, but most be paid overtime for any hours worked in excess of 40 hours during any workweek.

In some localities, such as Burke County, NC, EMS functions are entirely separate from fire protection and law enforcement activities, but their job duties are identical. There should be no difference in the treatment of EMS personnel under the FLSA simply because of the manner in which emergency services are provided by local communities. Furthermore, in many jurisdictions, the majority of emergency calls are medical emergencies. The current situation is very expensive for State and local governments and intrudes on their management of fire protection and law enforcement activities.

Section 7(k) of the FLSA provide a partial exemption from overtime for those employees engaged in fire protection and law enforcement activities. Employers are allowed to establish work periods of up to 28 days, and overtime compensation is not owed until fire protection employees have worked more than 212 hours and law enforcement personnel exceed 171 hours of work. There have been conflicting ruling by Federal courts of appeal on the issue of whether EMS personnel are covered by section 7(k). There also have been different interpretations by the courts of the regulations on this subject. This has led to confusion and large financial liability on the part of State and local governments. The bill I am introducing today revises section 7(k) so that these EMS personnel qualify for the same partial exemption from overtime as fire protection personnel.

Mr. Speaker, the FLSA, passed in 1938, mandates a rigid interpretation of the 40-hour workweek and its worker classification and compensation requirements are not reflective of the contemporary workplace. Contradictory court interpretations of the FLSA have provided windfall judgements for some employees. These costly judgments against public sector employers have a direct impact on budgets supported by taxpayer dollars and also affect public safety services. The existing liability for many States and localities is estimated to be in the millions of dollars, and the potential for future liability creates tremendous fiscal uncertainty. I urge my colleagues to support this legislation which promotes the mandate of public accountability and fiscal responsibility to which State and local governments must adhere.

LARRY LEIBOWITZ CELEBRATES 50TH BIRTHDAY

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. DUNCAN. Mr. Speaker, I would like to congratulate Mr. Lawrence Paul Leibowitz, a longtime resident of the Second Congressional District of Tennessee, on his 50th birthday. Larry Leibowitz celebrates this joyous occasion surrounded by his loving family and friends.

Mr. Leibowitz was born in 1946 in Knoxville, TN and has lived there his entire life. He earned his undergraduate degree from the University of Tennessee and is also a graduate of the University of Tennessee Law School. Larry proudly served in the U.S. Army Reserve for 7 years. He married Kay Shamitz, has three children, and is blessed with the addition of his first granddaughter, Rebecca Asher.

Larry has been a close personal friend of mine for over 20 years. The very first major jury trial that I tried as a young lawyer in criminal court in Knoxville was done with Larry as my cocounsel and mentor.

I tried other cases over the years with Larry, and he tried many important cases in my court after I became judge, including one very difficult death penalty murder case in which he saved a young man from the electric chair. I have learned very much over the years from Larry Leibowitz, and I think that he is one of the finest men I know.

Larry Leibowitz is also a leader in the Knoxville Jewish community and has served as the vice president and chairman of the board of Heska Amuna Synagogue. In addition, he has served as the vice president of the Knoxville Jewish Community Center. Larry is active in the American Israel Public Affairs Committee and the Jewish Federation of Knoxville.

Mr. Leibowitz is a member of the Master's Lodge 242 in Knoxville and is a 32d degree KCCH of Scottish Rite. He currently serves as counsel for the Knoxville Bar Association and is involved with the Knoxville Museum of Art and the East Tennessee Opera Guild. Politically active for many years, Larry chairs the 46th ward in Knoxville. Larry was recently appointed by Governor Sundquist to the Tennessee-Israel Friendship Subcommittee on Economic Development.

As you can see, Lawrence Paul Leibowitz leads an active life and contributes much of his time to his family and community. Mr. Speaker, today, it gives me great pleasure to honor my friend who has served his community so well. I wish him many more happy and healthy years to come. Happy birthday, Larry.

TRIBUTE TO STOKELY CARMICHAEL

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. CLAY. Mr. Speaker, I rise to pay tribute to a civil rights icon, Stokely Carmichael—also known as Kwame Ture. I had the pleasure of developing a close personal relationship with Stokely during the civil rights movement and have for years admired his strength and fortitude. He is a national hero who might have antagonized whites but rallied blacks when a large dose of both was badly needed. His powerful words unified blacks and helped to instill pride in our race.

Although Stokely is now battling cancer, he has not retired from the battle. He continues to be an active and forceful voice in the eternal struggle for civil rights and equality. I submit his story as recorded by columnist Lee Payne in a commentary entitled "Ready for the Revolution" in the March 21, 1996, edition of the St. Louis American. It is my hope that my colleagues will join me in wishing Stokely well.

READY FOR THE REVOLUTION

With the familiar flame burning in his dark eyes. Stokely Carmichael still holds forth in the mellifluous voice that once put dread in white America and high resolve in black youth.

His old comrades are trekking to a Harlem apartment more to console him than to reminisce. "Now that I have cancer, I get to see friends I haven't seen in years," he said Thursday with an impervious smile. Under the eyes of his doctor and his mother, he is coping with prostate cancer, gathering strength to head off next month to Cuba and then back home to Guinea, where years ago President Sekou Toure renamed him Kwame Ture.

As Stokely Carmichael, he was the most eloquent and incendiary of the street speakers of the civil rights movement. As chairman of the Student Nonviolent Coordinating Committee, he helped wage a dangerous struggle to get Negroes the vote in the Black Belt states of Alabama, Georgia and Mississippi. At the end of a speech in May 1966, he issued a clarion call for black liberation with a phrase explosive for the times: "Black power!"

These two simple words rocked the foundation of race relations in the republic. Carmichael didn't invent "black power" Richard Wright in 1954 had written a book by that title and Harlem's Rep. Adam Clayton Powell, with some justification, later claimed that he coined the expression a generation earlier.

Carmichael had polished the phrase among black focus groups before springing it on the media. "It's time we stand up and take over," Carmichael warned both older Negro leaders and the whites he decided as "honkies," "Move on over or we'll move on over you."

"Dr. (Martin Luther) King told me that he wouldn't use the term. He even tried to get me to use "black consciousness," which came out later in South Africa." But, adds Carmichael, "he never denounced it."

An unyielding J. Edgar Hoover unleashed the monstrous powers of the state against the proponents of black power, using the FBI's counter intelligence program, known as COINTELPRO.

Carmichael, along with H. Rap Brown and countless other civil rights participants, was jailed and beaten dozens of times. In one of his closer brushes with death, the sheriff of Liberty, Miss., held a pistol to Carmichael's head. "The enraged old man was shaking the gun, shaking, shaking. I was thinking that he might shoot me by accident, so I'd decided to go for the gun." But Carmichael hesitated, and the incident was defused without violence. "I've forgotten the sheriff's name," he said. "So many of them have whupped on my head that I can't remember their names."

After King's assassination in 1968, Carmichael, with Hoover's COINTELPRO working full-blast, moved to Guinea. There, Kwame Nkrumah, the deposed as president of Ghana, invited him to help organize the Pan-African movement.

Ture, who considers himself a "Pan-Africanist revolutionary," acknowledges that the civil rights struggle won the black vote in the South, which led to the proliferation of black elected officials. However, he admits to no fundamental change in American racism.

"Racism is a question of power," he said. "If I sit next to a white man on a bus and he doesn't like it, that's his problem. If he has the power to remove me, that's my problem. You have to have (state) power to impose racism. Since whites still have the power (and) we don't have the power, nothing has changed. There's some little cosmetic changes: 'Let them have a mayor here, a mayor there; let them have whatever (rank) in the army to confuse them.'"

"There are some changes in attitude, but racism is not a question of attitude. It's a question of power."

At the end of our chat, a hoarse Ture limped painfully to the door and uttered his patented greeting and salutation: "Ready for the revolution."

INCOME GAP IN AMERICA

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. SABO. Mr. Speaker, I have frequently urged my colleagues to address the widening income gap in America. Today, this House had an opportunity to do just that by increasing the minimum wage. Unfortunately, the majority continued its pattern of ignoring the plight of working American families by rejecting even a vote on such an increase, which would have raised the wages of over 12 million working Americans.

The facts in favor of raising the minimum wage are overwhelming. Over 4 million American workers earn at or below the minimum wage, which provides an annual income of only $8,840. This amount is well below the poverty line for a family of four, and it does not even support a family of two above the poverty line. In fact, the Center for Budget and Policy Priorities estimates that one in five minimum wage workers live in poverty. The buying power of the minimum wage has dropped by 27 percent since its average in the 1970's, and is now at its second lowest in four decades.

My Republican colleagues have paid a great deal of lip service to the value of work and to getting people off Government support. One might think that they would embrace efforts to help working Americans support themselves. A higher minimum wage enables workers, most of whom are adults, to support themselves without turning to Government. Today, however, the majority flatly rejected a higher minimum wage.

The Republican majority speaks often of putting more dollars in Americans' pockets. One might think that instead of advocating tax cuts that benefit our Nation's most affluent, they would support a higher minimum wage, which gives working Americans more money every month for groceries, health insurance, heating bills, bus fare, and rent. Today, however, they not only rejected an increased minimum wage, they blocked the House from even voting on the matter.

The majority would have us believe that an increased minimum wage would, without a doubt, increase unemployment. According to many studies, however, this is not true. In fact, over 100 leading economists, including three Nobel Prize winners, have urged an increase in the minimum wage.

If Congress truly cares about working Americans, it will raise the minimum wage. Doing so would raise standards of living for many Americans, and would also be a significant step toward closing the income gap that threatens to do great damage to American society. As part of my continuing efforts to understand and combat this income gap, I am hosting a forum on April 12 at the Minnesota State Capitol in St. Paul, MN. The forum is entitled "Renewing the Social Contract," and will address the questions of why working American families are struggling in today's economy. My special guest at this forum will be AFL–CIO president John Sweeney. Mr. Sweeney has been a tireless advocate on behalf of American workers, pushing for fair wages, good benefits, and honest labor-management cooperation.

The forum will explore what Government and business can do to ease economic anxiety, lessen income inequality, and increase job security. In addition to Mr. Sweeney, I will be welcoming representatives of business and academia, as well as workers who know what it is like to struggle for low wages and who have experienced the difficult search for livable-wage jobs.

I am hopeful that this event will shed additional light on the income gap, and will produce ideas for cooperation between Government, labor, and business that will enable all Americans to share in our growing economy.

A TRIBUTE TO CHAD THOMPSON

HON. WILLIAM M. "MAC" THORNBERRY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. THORNBERRY. Mr. Speaker, I rise today to pay tribute to Chad Thompson of Amarillo, TX who is the State winner of the Voice of Democracy broadcast script writing contest, administered by the Veterans of Foreign Wars of the United States. His essay is a reflection of our American heritage, to do what we can for our neighbors, community, and our Nation:

The great red sun peeked over the blue horizon. Just as dawn broke a young woman was strolling barefoot along the beach. She breathed in the cool morning air and felt the sand between her toes. The uniform stretch of beach was broken only by starfish washed in by the tide. There were thousands of them covering the beach.

Too bad, the young woman thought, that all of them would dry up and die before long. Starfish thrive in shallow water, but once they are beached there is no other option but death. She picked up one of the starfish, took a long look at it, and threw it far back into the ocean, giving it a second chance at life. Then she picked up another and hurled it back into the water too.

She had been doing this for a while when a casual jogger passed by and asked, "Are you crazy? Do you realize there are millions of starfish here? You can't make a difference." She looked up at him, propelled another starfish to safety and replied, "I made a difference to that one."

Behind this simple story lies the solution to answering America's call. I believe America's call is for its citizens to love their country, to cherish its traditions while making room for new ones, and to work for the betterment of their fellow countrymen. Each person can make a tremendous difference—whether to the nation as a whole, their state, their community, or in their own neighborhood. The time is now for Americans to respond. Every American should realize large problems can be surmounted—that for every Goliath of society, there is a David who, with the courage to act, can solve what seemed to be an impossible task. David was able to conquer the huge giant Goliath with just one stone, in the same way we can eradicate any problem in America with a positive attitude and willingness to work hard.

I believe that cherishing America is to show pride in its symbols. For example, last summer, as I stepped out of my house early on July 4th to jog, something seemed a little strange. It wasn't anything that could hinder me physically, but it wounded by sense of patriotism. The problem was that no one had the American flag displayed.

Before I ran to the end of the street, I turned around, walked back in to my home, found the fabric of our nation, and proudly put it in its place in our yard. Afterwards I continued my job, but when I returned a smile came across my face, for the neighborhood was now splashed with red, white, and blue.

You see, as everyone around the block saw the flag in our yard, they put theirs out as well. This incident shows how the power of one small act can cause a chain reaction that makes a big difference. Independence day in my neighborhood was a little brighter which in turn made me proud to be an American.

In April of 1995 tragedy ate at America's heart. When the Alfred Murrah Federal building in Oklahoma City was bombed, it created a black hole that pulled everyone to its center. Everyone pulled together in the terrible tragedy that took so many lives. There were no problems to race, religion or politics—just fellow humans who needed help and the people of the community responded. Soon offers of help poured in from all quarters of the country. Americans took off work across the country in hopes of helping the victims. Some were only able to offer teddy bears for the wounded children, while others could offer free intensive care; either way though, the lives of all Americans were altered in some form or fashion from that senseless act.

Captain Scott O'Grady knows what it takes to make a difference. His fighter plane was downed over Bosnian territory, and while the nation feared he was dead or captured, he lay hidden in bushes surviving on ants and rainwater. His life was saved because his fellow soldiers kept listening for him long after common sense told them to give up. The United States military was flawless in his rescue. His willingness to survive as an American played an extremely important role, but the unsung heroes were the men who answered America's call by serving in the Marines. Just by his will to live and to return home, Scott O'Grady made a difference by focusing America's attention on the honor, strength and determination held by our servicemen.

America's call can be answered by young and old, by a small act such as helping a child learn to read, the heroic deeds of a fireman saving a life or a soldier defending the nation in war. Anything positive counts. It is up to every American to take part in this government. Make a difference, and fill out that ballot. Remember it is your obligation to do something.

It is time now to answer America's call. Like the woman on the beach saving one starfish at a time, decide today to be that person who can make a difference.

FIFTH ANNIVERSARY OF PERSIAN GULF WAR

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. TAUZIN. Mr. Speaker, this year marks the fifth anniversary of the Persian Gulf war—a war fought over oil in foreign lands. Although the U.S. troops and our allies displayed remarkable sophistication and prowess in bringing Sadam to his knees, our national security concerns remain and our position has weakened. In 1991, America imported 45 percent of the U.S. demand for oil; 5 years later our dependence has grown. Today we import over half, 52 percent of our annual consumption. The time has come for the Nation to decide to give our young men and women the option to take U.S. jobs on U.S. soil or go to war to protect foreign oil on which we are so dependent.

Our first commitment should be made to the Strategic Petroleum Reserve and its mandated 1 billion barrel mark. The mere threat of drawing down these reserves calmed the oil and gas markets and stabilized the price during the Persian Gulf war crisis. Instead of preserving this stockpile we have reduced the minimum fill level, ceased the purchase of new oil, decided to sell 7 million barrels of oil, maybe as many as 100 million barrels, and lost the use of a 75 million barrel facility at Weeks Island which is in my district. It is time to move in the other direction.

We must create incentives to produce domestically and keep jobs at home instead of driving companies and employees abroad. I encourage Congress and the administration to move forward with the technical suggestions that the oil and gas caucus presented to President Clinton, as well as, sign in to law a commonsense regulatory reform bill, the royalty simplification and fairness bill, and the Coast Guard authorization bill which contains important language dealing with OPA '90's financial responsibility section.

In addition, we should reject the EPA's efforts to expand the toxic release inventory to include certain oil and gas wastes, speak out against efforts to increase taxes on oil and gas production and reject mandating an OCS moratorium.

I ask that you join me and many Members in both bodies to enact these legislative and regulatory changes. We must send the message that America's dependence on foreign oil comes at the price of U.S. lives and U.S. jobs.

STEPHEN GEPPI, THOMAS D'ALESANDRO, JR., GOOD CITIZEN AWARD WINNER

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Ms. PELOSI. Mr. Speaker, I rise to honor Stephen Geppi, the 1996 winner of the Thomas D'Alesandro, Jr., Good Citizenship Award. Named for the late, great Mayor Thomas D'Alesandro, this recognition is bestowed upon Mr. Geppi for his contributions to the Italian-American community.

Born in Baltimore, Mr. Geppi learned at an early age the importance of hard work when he had to leave school to support his mother. His first job, at age 9, was bundling comic books and magazines. He opted to take part of his wages in comics.

Even when, as an adult, he took a job with the U.S. Postal Service, his interest in comic books did not wane. He began asking customers on his mail route for old comic books to sell or trade, and soon earned more buying and selling comics than he did delivering the mail.

Mr. Geppi opened Geppi's Comic World in Baltimore in 1974, and soon expanded to four stores. By 1982, he moved into comic distribution, and in just over 10 years time he expanded his distribution business to over 28 cities across North America and Europe. In addition to distribution, he branched out to publishing, and 1 year ago opened Diamond International Galleries, devoted to comics, comic collectibles, and related art which draws visitors from all over the world.

Mr. Geppi's extraordinary professional success has not prevented him from active involvement in his community. In 1993, he was one of the consortium of local investors who brought the Baltimore Orioles back to local ownership. He has actively served on civic boards or committees with a number of local organizations, including the Maryland Science Center, the Baltimore Zoo, the Johns Hopkins Children's Center, the College of Notre Dame, the International Museum of Cartoon Art, and the Cystic Fibrosis Foundation.

This is not the first time Mr. Geppi has been honored for his many accomplishments. Most recently, he was named "Business Owner of the Year" by the Baltimore County Chamber of Commerce.

Mr. Speaker, I am pleased to salute Stephen Geppi for the honor he has brought to the Italian-American community by his many accomplishments and commitment to the community. He deserves this award for the contributions he has made in the spirit and tradition of its namesake, Thomas D'Alesandro.

A BILL TO AMEND THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise to introduce a bill, for myself, Representative SHAYS of Connecticut, Representative FRANKS of New Jersey and Representative HORN of California, to amend the Occupational Safety and Health Act of 1970 to require that OSHA inspections of commercial and residential construction sites be conducted by inspectors who have been specifically trained for such work by the Department of Labor.

My proposal will require that inspectors of commercial and residential construction meet certain experience and training requirements and be specifically certified to perform construction site inspections. Although many construction inspectors take courses offered by OSHA, they are not required to do so, allowing many to perform this important work with little or no formal training in the often complicated procedures used in the construction industry.

Construction site inspections comprise nearly half of all inspections done by OSHA. More seriously, the rate of accidents in the construction industry is significantly higher than in other industries. Based on 1994 Bureau of Labor Statistics data, the rate of nonfatal injuries per 100 full-time workers is 11.8 percent for the construction industry compared to 8.4 percent for all private industry. Total deaths from occupational accidents in 1994 were 6,588 or 5.3 per 100,000 employed, but there were 1,027 deaths or 14.8 per 100,000 in the construction industry. Therefore, I believe that it is not only prudent and sound public policy to make sure that those who do construction site inspections are well qualified, but that this reform is overdue.

Under current OSHA rules, OSHA inspectors can go from inspecting beauty salons to inspecting high-rise steel structures on a daily basis. Since most work-related deaths occur in the construction industry, I believe that my proposal will significantly improve the quality of OSHA inspections, the overall effectiveness of OSHA, and save lives.

I urge my colleagues to join in support of this important effort to improve the way OSHA construction inspections are performed.

CORTLAND ZONTA CLUB NAMES WOMAN OF THE YEAR

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. WALSH. Mr. Speaker, I ask that my colleagues join me today in congratulating Ute Gomez from Cortland, NY, who will be honored on Sunday, April 14 as the Zonta Club of Cortland Woman of Achievement for 1996.

My personal esteem for Mrs. Gomez is based upon her positive attitude in a dire situation. She turned a personal health scare into a learning experience for many other women. In 1992, she was diagnosed with breast cancer after a self-exam and mammography. Since then she has created a support group and counseled scores of women with breast cancer.

Three-and-a-half-years-later, after a lumpectomy, a modified radical mastectomy, chemotherapy, countless visits to homes and hospital rooms, Mrs. Gomez was quoted in the Cortland Standard about being named the Zonta Woman of Achievement:

"I am embarrassed by this," she said. "Not my breast cancer, but being honored. But if one woman can see this and do a self-exam, or get a mammogram done, or reach out for help, I feel I've accomplished something."

Ute Gomez is an outstanding civic leader who meets that definition by caring for others and putting that love to work. She is involved with the Breast Health Partnership Committee of Cortland County, a State and federally funded program. She has taken it upon herself to arrange mammograms, counsel, and otherwise assist women who need her help.

My mother died a victim of breast cancer. I have tried in my public and private life to help in eradicating the disease and bringing comfort to those who suffer with it. I pledge further help now, and look forward to continuing to work toward those goals with Mrs. Gomez and others who have given so selflessly of their time and spirit.

A TRIBUTE TO THE CITY OF COALINGA ON ITS 90TH ANNIVERSARY

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. DOOLEY. Mr. Speaker, I rise before my colleagues today to recognize the city of Coalinga. On April 6, 1996, the city will celebrate its 90th anniversary, and I would like to honor the people of Coalinga by recounting a few of the highlights of the city's history.

Coalinga came into existence as an oil and coal mining town in the late 1880s. At the base of the coastal mountain range on the west side of the San Joaquin Valley, the town started out as little more than a coaling station for the Southern Pacific Railroad line that connects Los Angeles and San Francisco. The name apparently derives from its designation as Coaling Station A.

The mining of coal, and later oil, caused an economic boom at the turn of the century. By 1910, 4 years after the city incorporated, the Coalinga oil field was the largest in California. Oil continues to be one of the city's economic mainstays, along with agriculture.

As a relatively isolated settlement, Coalinga survived the aftermath of the boom years by relying on a tight-knit community. This close cooperation among its citizens was used to establish a drinking water supply in an area beset by hard water, to establish city-operated natural gas utility in a rural community ignored by the corporate utilities, and to establish a school and a library. This little community also had a strong patriotic element—it was World War I veterans from Coalinga who started the push to establish the American Legion in California in 1919. Coalinga is the home to American Legion Post 2, designated as the "Mother Post" of the California American Legion.

This sense of community was put to the test in 1983, when Coalinga was devastated by a 6.7 earthquake that leveled a significant portion of the business district and caused over $31 million in damages. There was open speculation that Coalinga would not survive this disaster.

Instead of surrendering to this speculation, the citizens rolled up their sleeves and rebuilt. In fact, the earthquake served as a stimulator, with the town leaders using the rebuilding effort as an opportunity to develop a new revitalization plan. That plan has resulted in the placement of a State prison near Coalinga—a $36 million industry—the development of a 40-acre industrial park, and the building of an $8 million airport facility.

I am certain Coalinga will continue to persevere and to prosper into the future. It has 90 years of history to call on when facing the challenges of the years to come.

A TRIBUTE TO ROMAN MYCYK

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. GUTIERREZ. Mr. Speaker, I rise today to pay tribute to an individual who spent his life serving the people of the Ukraine and the people of Chicago. Roman Mycyk was one of the founders of the Self-reliance Ukrainian Federal Credit Union, which was chartered on July 2, 1951. He served as president of the Board of Directors, bringing leadership to the members of the Self-reliance FCU.

The Self-reliance FCU has 12,660 members and assets totaling more than 187 million dollars. Roman Mycyk's leadership touched the lives of all those who came in contact with him and brought unheralded success to the Self-reliance.

Mr. Mycyk was born in the Ukraine on April 10, 1909 and made his mark in his homeland as a scholar, achieving a Masters Degree in economics from the University of the Ukraine.

He was very active on behalf of Ukrainian independence from the Soviet Union. His belief in freedom for his people and his country led to his imprisonment for 7 long years.

Throughout his life, Roman Mycyk has worked with a number of Ukrainian community groups to enable immigrants to assimilate into American society. His work was proven invaluable in integrating thousands of Ukrainian immigrants into our Nation's political and economic life.

I take this time today, so that the memory of Roman Mycyk will be commemorated on March 31, 1996. I would also like to pay my respects to Mr. Mycyk's family, in particular his daughter Christine and son Roman Jr.

A TRIBUTE TO JOHN CLARK

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. QUILLEN. Mr. Speaker, I am honored to have this opportunity to pay tribute to one of my fellow Tennesseans, John Clark from Elizabethton, TN. I respectfully submit the article that appeared in the Elizabethton Star, reporting his prisoner of war experiences during World War II. Mr. Clark is truly a fine man and a great American.

As time elapses, we often forget the many sacrifices made by Americans who fought against tyranny and for our fundamental values of democracy during World War II. The hardships encountered by Mr. Clark as a prisoner of war in Germany are to be studied for lessons in faith, courage, honor, duty, and fortitude.

I encourage my colleagues to read the account of this brave man who endured so much for our freedom, yet kept his love of our country and his religious faith inviolate.

All Americans are grateful to Mr. Clark, and we salute him for his valor and for his service to his country, and his generosity in sharing this personal history with us and others.

AFTER 50 YEARS, FREEDOM STILL SPECIAL FOR EX-POW

(By John Thompson, Star Staff)

Friday the 13th was the luckiest day in the life of John Clark. One that day in April, 50 years ago, American soldiers liberated the young Carter Countian and a group of other prisoners of war from the small town of Horsinger, Germany.

He remembers the scene vividly. Armored vehicles approaching, the roaring noise of the motors, the American flag flying in the wind.

"That American flag was the most beautiful thing I ever saw," Clark recalls a half century later.

That flag was a sight Clark had longed to see. He had heard allied machine guns the day before but he was not sure he would live long enough to see the men who were firing the guns. When he went to bed on April 12, 1945, he did not know if he had the strength to live through the next day.

Clark and his fellow prisoners had been forced marched 600 miles since February, staying one step ahead of the advancing Russian Army. The prisoners marched as much as 32 kilometers a day with little or no food.

Hungry prisoners who stole an egg or a potato from a German farm risked being shot. Clark saw prisoners executed this way. Others, who had lost the strength to go on were also shot when they staggered out of the formation.

Clark had been in perfect health and weighed 198 pounds when he was captured. By the time he reached an American hospital three days after his rescue, Clark, who is 5 feet, 11 inches tall, weighed only 127 pounds.

In addition to his malnutrition, Clark was also facing another threat to his life. The month before, Russian POWs had stolen one of his boots. His best friend, Bill Furay, had the opposite boot stolen. Since Clark wore size 9½ and Furay wore size 9, Clark gave Furay his other boot.

Clark marched for days without shoes. He finally got a pair of old galoshes and stuffed them with rags.

Worse was to come. After marching for several days in the galoshes, the Germans gave him a pair of new shoes. He had to break them in by marching 25 kilometers that day and 27 kilometers each of the next two days.

"My feet were solid blisters," Clark remembers.

Each day the agony of his starvation diet and his mangled feet only seemed to get worse. He shared his agony with Furay, not only his best friend but a buddy he had been with since basic training. They had remained in the same unit for their entire service, and had even been captured together.

The two had marched side by side from France to the prison camps and now were together on this forced march.

"The day before I was liberated I told Bill that I just did not think I could make it another day." He knew the Germans would shoot him if he did not keep up.

That is why that American flag looked so wonderful to the haggard prisoner and why Friday the 13th will always be special to him. He remembers that shortly after the rescue, he stooped over and blacked out from his hunger and pain. If he had done that while still with the German guards it would have meant certain death.

Clark's hardship had begun when he was captured during the Battle of the Bulge. He was a squad leader in the 106th Infantry Division. It was a new division, thrown together from replacement and green troops during the past few months. The unit had only been able to train together for a month in England before being committed to the front lines.

The Germans knew the 106th was green, and, naturally, it was a prime target in Hitler's desperate last gamble to reverse the tide of war.

The Germans attacked at 5:30 a.m. on Dec. 16.

Clerk's unit got the word to fall back. His platoon was the lead element. As they were retreating, German artillery caught them in the open. His platoon was able to keep going while the rest were pinned down. They were soon captured.

It was part of the greatest mass surrender in American history.

Clark was not yet one of them. He struggled on with fragments of the shattered division until they reached the middle of the storm: Hill 576.

A perimeter was established. More men kept coming until they were 500 strong. They would come to be known as "The Lost 500."

But 500 men could not hold out for long against the massive German offensive. Clark and the other men were told to destroy their weapons and surrender on Dec. 21.

As their German captors marched them away, Clark said he saw more Tiger tanks lined up against them than he had ever seen. There was not way the 500 could have survived against such firepower.

At the time, Clark said the men felt they had made the right decision to surrender. "If we had known what was in the future, we would have stayed and fought to the death.

Clark's ordeal began with a three day march from St. Vith, Belgium to Prum, Germany. They were given no food during the march.

Finally, they reached a railhead, where they were loaded onto box cars, headed for POW camps. They had only been on the train for a part of the day before it had to stop because the American Air Force had bombed the trestles.

The boxcars were moved to a siding. Later, an American P-51 shot up the train, killing six and wounding 47. The soldier sitting on Clark's left and the one sitting on his right were both killed.

Clark said the prisoners then broke the doors down and laid in the snow, linking their bodies together to form the words "USPW."

"The plane came back and rolled its wings (in salute). This was the day before Christmas. We spent the night back in the rail cars. On Christmas, we got a half-loaf of bread and a spoon of jam. This was for two days."

After marching for three days, they were put on another train. Again, they were bombed by their own planes but finally reached the prison camps.

During inprocessing, a German officer took all of Clark's possessions, handing him a receipt for the few dollars and francs he carried. Clark managed to hide two things from the officer which would become crucial to him as times got tougher.

Inside the pocket of his field jacket, Clark hid a tiny note pad he had picked up at a USO canteen. He used this note pad to keep a diary of his captivity and record his thoughts during his ordeal.

He also managed to hide a small New Testament.

With the Russians advancing from the east, the Germans began to move their POWs westward. Clark's camp was evacuated on Feb. 14.

At the end of each day's march, Clark and his fellow prisoners might expect a cup of "grass" soup and some bread.

Clark and the other prisoners sometimes managed to steal an egg or some potatoes from a German farm. If they were caught, they would be shot, and some were.

Each night, Clark recorded how far they marched that day and the name of the town where they stopped. Clark was able to record the distances by remembering the mileage on the road signs.

Cark also recorded occasional comments. On March 3, he wrote, "Lined up to be shot because one of our group stole a chicken. They shot 3 prisoners the night before for stealing from a garden."

On March 21, he wrote, "Got out of line for water—dog turned loose on us."

Other than these short notes, Clark's focus on the world got narrower and narrower. Finally, all that was on his mind was survival and food.

"I blocked stuff out of my mind. When I was liberated, the only thing I thought of was food and I thought about Christ and dying," Clark remembered. "I could not get the thought of food out of my mind."

Indeed, his diary is filled with page after page devoted to fantasies about food. There are pages on exotic recipes, undoubtedly gathered from his fellow prisoners from all parts of the country. New England recipes, country recipes, seafood recipes.

One page is devoted to a lavish meal he planned to eat when he was liberated. It was filled with meats, vegetables, fruits, desserts, breads and salads.

Finally, on April 12, he wrote, "Germans told us President Roosevelt died—first true thing they told us." The next day he made another brief note: "Freedom at 10 a.m."

Freedom meant many things to Clark, but one thing it certainly meant was food.

He stuffed himself on five or six meals a day during his first weeks of freedom. Unfortunately, he was not able to gain weight because of a severe case of dysentery.

The medical stations served the former POWs Paregoric by the bottle. Clark took doses as often as he could. Finally, his feet and his body began to heal as he loaded onto a ship for a trip across the Atlantic and home.

Ironically, his mother did not learn he had been captured until after he was freed. The first notice she received was a telegram from the War Department on April 18, that Clark was a prisoner. She had received an earlier telegram on Jan. 12, informing her that he had been missing in action since Dec. 16.

Finally, on May 10, Mrs. Clark got the good news that her son had been liberated. Four days later, she received another telegram. It said "Back in States feeling fine furlough soon—LOVE—S/SGT John R. Clark."

Clark does not remember sending the last telegram. He thinks it may have been sent by the Army in his name. What he does clearly remember is a telephone call he made to his mother once he got back to the states. When they answered the phone, they mistook him for his brother. He learned that his brother had been severely wounded in the Pacific and was now in a hospital near him.

Clark had a reunion with his brother in the hospital. His brother never completely recovered from the wounds and lost an eye. He passed away a few years ago.

Sadly, Clark was never reunited with his old friend Bill Furay. He tried to look him up when he was in Colorado but learned he had died a few years before.

For over 30 years, Clark kept his memories to himself. He felt he had no one to talk to. Who in Carter County could understand what he had gone through? He simply blocked out his memories and tried to live like everyone else.

Then in 1976, a group of local ex-POWs came together to share their memories. For the first time, Clark had a chance to talk to others who could understand what he was saying. It took a long time to open up.

"I could not sit here and talk about it before I joined that group. I didn't need sympathy and I didn't need pity, and chances are no one would believe half the stuff we went through."

Nowadays, Clark shares his memories and experiences with those who are interested. He frequently talks to school children about what it would be like to lose their freedom. He hopes they come away with a renewed appreciation of their freedom.

He also remembers how important his old tattered New Testament was to him in his captivity. That memory has led him to an active career in the Gideons. He hopes that someone else in pain may have the same comfort he had.

Unlike most Americans, Clark's memories mean that he has never taken for granted his freedom or his faith in God.

SEIZED IRAQI OIL PROCEEDS SHOULD GO TO U.N. ESCROW ACCOUNT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. HAMILTON. Mr. Speaker, on September 8, 1995, I initiated an exchange of correspondence with the Department of State concerning proceeds from the sale of seized Iraqi oil. According to U.N. Resolution 778, all such proceeds are supposed to be turned over to the U.N. escrow account, which funds such activities in Iraq as humanitarian assistance, the U.N. Special Commission [UNSCOM] which carries out the destruction of Iraq's weapons programs, and the Compensation Fund, which was established to pay the claims of victims of Iraqi aggression.

According to this exchange of correspondence, Kuwait, the United Arab Emirates and Saudi Arabia have yet to transfer all such proceeds from the sale of Iraqi oil to the U.N. escrow account. Saudi Arabia, in particular, has not provided what may be large sums of money to that account.

Unless the governments most at risk from Iraqi aggression are committed to provide funds, in accordance with U.N. Resolutions, to support the U.N.'s important work in Iraq, other governments are unlikely to support U.N. efforts in Iraq, either. This is detrimental to the United States national interest in pressing for Iraq's full compliance with U.N. Security Council resolutions.

At a hearing of the International Relations Committee this morning, I asked United States Ambassador to the U.N. Madeleine Albright to keep me informed on this issue.

The text of my correspondence with the Department of State follows:

CONGRESS OF THE UNITED STATES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, September 8, 1995.

Hon. WARREN CHRISTOPHER,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: I write regarding the disposition of oil and of the proceeds of the sale of the oil from ships coming out of Persian Gulf ports with embargoed Iraqi oil.

It is my understanding that the United States has interdicted and impounded ships with Iraqi oil and has removed the oil cargo before releasing the ships and crews. I would like to know what we have done with the oil and with the proceeds from its sale and if all the funds obtained have gone into the compensation and escrow fund the United Nations administers pursuant to U.N. resolutions adopted at the conclusion of the Gulf War.

I appreciate your consideration of this matter and look forward to your reply.

With best regards,

Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

U.S. DEPARTMENT OF STATE,
Washington, DC, November 28, 1995.

Hon. LEE H. HAMILTON,
House of Representatives,
Washington, DC.

DEAR MR. HAMILTON: I am writing in response to your letter of September 8, 1995 regarding the disposition of diverted Iraqi oil and proceeds of the sale of oil from ships diverted by the Multinational Interception Force (MIF).

The United States is participating in MIF operations with the United Kingdom, Belgium, Canada, New Zealand, and Italy to enforce United Nations sanctions against Iraq authorized under U.N. Security Council Resolution 661. During the October 1994-November 1995 MIF operating period, ships of the MIF intercepted and diverted 27 vessels carrying illicit cargoes: 8 carrying Iraqi petroleum products and 19 carrying valuable Iraqi date cargoes. Under UN guidelines, non-oil shipments, such as dates, may be dumped, sold, or given away so as to deny the proceeds or benefits to Iraq.

The petroleum cargo vessels were turned over to the United Arab Emirates, Kuwait, and Saudi Arabia governments. The vessels carried approximately 30,000 metric tons of Iraqi gasoil cargo valued at about $6.00 million dollars. By accepting these vessels, the Gulf governments have assumed responsibility for carrying out sanctions enforcement measures. American responsibility concluded after the vessel interdiction and transfer to these states.

Regarding the disposition of oil and proceeds of the sale of the oil, UN Security Council resolution 778 invites Gulf government's to transfer the proceeds from the forfeiture and sales of Iraqi petroleum and petroleum products into an escrow account established by resolution 706, as provided for in resolution 778.

We understand that the UAE has sold approximately 20,000 metric tons of seized oil cargo and deposited the proceeds in a UAE special account awaiting further instructions from the UN Iraq sanctions committee. Kuwait has also sold approximately 5300 metric tons of seized oil cargoes and has deposited the proceeds locally pending transfer to the UN escrow account. Saudi Arabia is preparing to sell approximately 400 metric tons of seized oil.

We share your concern regarding the disposition of oil proceeds diverted by U.S. ships participating in the MIF. The UN sanctions committee continues to examine embargoed vessel seizures and oil proceed disposition. The UN Compensation Commission, which decides Gulf War compensation cases, is also helping to coordinate the receipt of the 30 percent share in sales revenue from the sale of the oil proceeds by Kuwait, Saudi Arabia, and the UAE.

If we can be of further assistance in this or any other matter please do not hesitate to contact us.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

CONGRESS OF THE UNITED STATES,
COMMITTEE ON INTERNATIONAL RELATIONS, WASHINGTON, DC,
DECEMBER 18, 1995.

Hon. WARREN CHRISTOPHER,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: I write to follow up your letter of November 28, 1995 in reply to my letter of September 8, 1995 regarding the disposition of proceeds of intercepted Iraqi oil.

Your letter indicates that the Governments of Saudi Arabia, the United Arab Emirates (UAE), and Kuwait have not yet transferred all proceeds from intercepted Iraqi oil to the U.N. escrow account. As I understand it, all States are obligated to transfer such proceeds as soon as possible to the U.N. escrow account, according to Security Council Resolutions 706 and 778. Paragraph 2 of Security Council Resolution 778 states:

". . . all States in which there are petroleum products owned by the Government of Iraq, or its State bodies, corporations, or agencies, shall take all feasible steps to purchase or arrange for the sale of such petroleum or petroleum products at fair market value, and thereupon to transfer the proceeds as soon as possible to the escrow account provided for in resolutions 706 (1991) and 712 (1991)."

I would appreciate your clarification as to why Saudi Arabia, the UAE and Kuwait have not transferred all proceeds to the U.N. escrow account.

You further indicate in your response that the U.N. Compensation Commission is "helping to coordinate the receipt of the 30 percent share in sales revenue from the sale of the oil proceeds by Kuwait, Saudi Arabia, and the UAE". I do not understand why the U.N. Compensation Commission is coordinating the receipt of a 30 percent amount, when the States are obligated to pay the full 100 percent of revenues to the U.N. escrow account. I would appreciate your clarification of this point as well.

Since my September 8 letter to you, I have received additional information which raises further concerns about this matter. I have been told that Iraqi oil intercepted by the United States and turned over to the Government of Saudi Arabia was sold by that Government in May, 1993 for almost $350 million, but that only $40 million of that sum was returned to the U.N. escrow account. I would like to know if this information is accurate and what is United States policy on the appropriate disposition of these funds.

In order to understand the full scope of activities related to the U.N. escrow account, I would appreciate answers to the following questions:

1. Since the inception of the Multinational Interception Force (M.I.F.), what is the total amount and estimated value of intercepted Iraqi oil that has been turned over to each of the Gulf States?

2. To your knowledge, how much of this oil has been sold by the Gulf States, by country, since the inception of the M.I.F.?

3. To your knowledge, how much of the proceeds from the sale of oil has been transferred to the U.N. escrow account, by country, since the inception of the M.I.F.?

4. Have you demarched Gulf States which have not transferred all proceeds to the U.N. escrow account? If so, what has been the response?

The integrity of the sanctions regime depends on cooperation between the M.I.F. and the Gulf States in transferring intercepted oil proceeds to the U.N. escrow account. If these funds are not in fact being transferred to the escrow account, it undermines the entire integrity of the sanctions regime, and calls into question the utility of the complex and costly M.I.F. effort.

I appreciate your consideration of these matters and look forward to your reply.

With best regards,

Sincerely yours,

LEE H. HAMILTON

Ranking Democratic Member.

U.S. DEPARTMENT OF STATE,
Washington, DC, March 28, 1996.

Hon. LEE H. HAMILTON,
House of Representatives,
Washington, DC.

DEAR MR. HAMILTON: I am writing in response to your letter regarding the disposition of Iraqi oil intercepted by ships of the Multinational Interception Force (MIF).

The MIF has been a highly successful operation by any standard. Iraq first attempted to export large amounts of oil from its Gulf ports in the fall of 1994 (after these ports were restored to working condition). The MIF intercepted the first and only two tankers which attempted to smuggle Iraqi oil from these ports. Since the interceptions and the penalties imposed on the vessels by the nations to which the vessels were diverted (Kuwait and the U.A.E.), Iraqi efforts to smuggle large cargoes of oil from the southern ports ceased. The MIF is not only responsible for stopping Iraqi exports. It also has successfully prevented the import into Iraq of non-humanitarian goods which smugglers attempted to bring to Iraq disguised as permitted humanitarian cargoes.

Vessels carrying Iraqi oil have been diverted to ports in the United Arab Emirates, Kuwait, and Saudi Arabia. Altogether, these smugglers carried approximately 30,000 tons of petroleum products with a value in excess of $6 million.

The U.A.E. sold approximately 20,000 tons of seized oil and deposited the proceeds in an escrow account in the U.A.E. while awaiting final instructions on disposition from the UN Iraq Sanctions Committee. Kuwait has sold approximately 5300 hundred tons of Iraqi oil and deposited the proceeds ($615,000) in the UN escrow account. Kuwait continues to hold the proceeds from a larger cargo seized from the tanker "al Mahrousa." The Kuwaiti government is still awaiting payment from the ship's owner, of expenses relating to the diversion. Saudi Arabia has sold approximately 4,000 tons of seized oil and is preparing to transfer the proceeds to the UN escrow account. (States are permitted to deduct expenses related to the disposal of the seized oil from the proceeds of their sale.)

In your letter, you question why the UN Compensation Commission is coordinating receipt of only thirty percent of these proceeds rather than the entire amount. Under U.N. resolutions, all of the proceeds from sale of these oil cargoes (less expenses) are to be deposited to a U.N. escrow account, with the U.N. Compensation Commission entitled to thirty percent of this sum. The remainder goes to fund U.N. operations regarding Iraq (the northern Iraq relief program, the U.N. Special Commission, etc.).

At the time sanctions were imposed against Iraq, there was a substantial amount of Iraqi oil in the Iraq-Saudi Arabia oil pipeline and in storage at the pipeline's outlet at the Saudi port of al-Mu'ajjiz. Saudi Arabia subsequently sold this oil. According to Saudi Arabia's interpretation of its obligations under the UN resolutions, it deposited $40 million from the sale into the UN escrow account. While we have requested the Saudi government to reopen its accounting of this sale with a view to increasing the contribution to UNSCOM, the Saudi position remains that the $40 million deposit fully satisfied the requirements of the UN resolutions. We will continue to press the Saudis on this important matter.

Please feel free to write us in the future if we may be of further assistance.

Sincerely,

BARBARA LARKIN,
Acting Assistant Secretary,
Legislative Affairs.

EFFECTS OF ALCOHOL

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. KENNEDY of Massachusetts. Mr. Speaker, the American Medical Association recently reported findings of a survey that should shake our complacency about alcohol problems among young people in this country. That survey dramatizes the extent of heavy, dangerous drinking by persons ages 18 to 30 years.

Some of these findings paint a disturbing picture of alcohol abuse among young adults: 15 percent said they drink six or more drinks a night, and nearly one in five is a frequent binge drinker—with males consuming five or more drinks and females four or more—and 7 percent say they drink this much every time they drink. As a result of these findings, the AMA has put us on notice that the most significant drug problem affecting young people is alcohol. Alcohol is the most widely used and abused drug by young and old alike.

Despite alcohol's crippling effect on young people, beer, wine, and liquor marketers position their products as if they are harmless, essential ingredients of a healthy, active lifestyle. Young people deserve a more responsible, balanced message about a drug that destroys so many young lives and careers.

For that reason, I rise today to salute John Soriano, a high school senior scholar-athlete from North Caldwell, NJ, for his contribution to balancing the messages that young people get about alcohol. John is the winner of a national writing contest, cosponsored by *Scholastic Choices Magazine* and Center for Science in the Public Interest. That contest asked teenagers to "Talk Back to Alcohol Advertisers." His poem "JoAnn," poignantly describes the disbelief, pain, and loss following a drinking-related car crash.

John Soriano's poem provides a message that most beer ads bury beneath endearing, animated animals or in their hype about how the brew will make you a man, help you win a girl, or make you a success in life. John's winning entry sends a message to advertisers that kids' lives are constantly threatened by alcohol, that the sanitized ads are misleading, and that more of the real story needs to be told.

We cannot continue to ignore how the promotion of drinking to young people—on television, on campus, in youth-oriented magazines, on billboards and transit signs, at rock concerts and sporting events, almost everywhere—helps disrupt futures and destroys young lives and robs our Nation of too many of its most important resources. We need to go beyond passing laws that criminalize young people for illegal possession of alcohol; we need to do more than support school-based education that has little chance of competing with over $1 billion of alcohol advertising that offers tantalizing personal rewards for drinking. We need to follow John Soriano's lead, and begin to "talk back to alcohol advertisers."

JOANN

Young and immune and I knew what was best.
I knew that I wouldn't end up like the rest.
JoAnn knew it too and she stayed by my side,
Through the times that we laughed and the times that we cried,
Social Distortion—we wouldn't give in,
This was never a battle that we couldn't win,
Future was bright, both of us knew,
We could handle it all, we thought this was true,
But a night and a dream that never would end
We decided to spend it with a drink and a friend,
A few bottles went by, to us it was fun,
We left for her home at a quarter to one.
Five years have gone by and I still feel the wheel,
But now I live on in a chair made of steel.

Thousands of times the pain has amassed,
When I think of my life and opportunities past,
I still see JoAnn about once a week,
And I usually end up in tears at her feet,
She talks to me softly but I don't hear a sound,
And the tears of my conscience fall hard to the ground,
As I lie on the grass moving up with my hands,
We talk about futures, our loves, and our plans,
I stay there and cry and talk for an hour,
When I'm ready to leave, I leave her a flower.
My soul is still trapped in the bottles that passed,
And the sorrow I carry is certain to last,
JoAnn says' she loves me and that should make me brave,
But I lose it each week when I visit her grave,
And the drinks and the dream and the one fateful night,
I love you JoAnn, I'm sorry; Goodnight.

A TRIBUTE TO ANGELA DENISE DILLARD

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. CONYERS. Mr. Speaker, I rise today in tribute to Dr. Angela Denise Dillard, assistant professor of history and Afro-American and African studies at the University of Minnesota. A native of Detroit, Dr. Dillard recently received her Ph.D. in American culture from the University of Michigan. I take particular pride in offering this tribute because Dr. Dillard's family and mine long have been active in the struggle for justice, jobs, and opportunity. Dr. Dillard's mother, Marilynn Dillard, and my father, the late John Conyers, Sr., were among the earliest members of the Trade Union Leadership Council, an organization formed in the 1950's to combat racism in management and unions. Marilynn Dillard served as secretary of TULC. Dr. Dillard's father, Paul Dillard, is a probation officer with the State of Michigan.

In the 1960's the Dillard household was a gathering place for activities. The heated political and social discussions there left a lasting impression on Dr. Dillard and on her older brother, the Rev. Paul Anthony Dillard, Jr., who worked in my Detroit office as a congressional aide in the 1980's. The Rev. Dillard's premature death last year at the age of 36 ended an outstanding career as an advocate for the disadvantaged and the oppressed. At the time of his death, he was dean of the Imani Temple Cathedral in Washington, DC.

Dr. Dillard recalls that the conversations she heard as a child whetted her curiosity and shaped her professional life. "I developed an early interest in the history of ideas, and how ideas influence political and social life, culture and race relations . . . people's day-to-day existence," she says. "My family and my family's friends talked about these issues constantly. Years later I started to remember all the old stories I had heard, and I decided, "Wow, that would make a wonderful project."

Her doctoral dissertation, "From the Reverend Charles A. Hill to the Reverend Albert B. Cleage, Jr.; Patterns of Change and Continuity in the Patterns of Civil Rights Mobilization in Detroit, 1935–1967," was a result of those discussions. The late Reverend Hill of Hartford Avenue Baptist Church was a community activist who formed broad-based religious and ethnic coalitions to bring about social change. The Reverend Cleage, of the Shrine of the Black Madonna, eventually discarded integrationist tendencies and turned to black nationalism and black theology in the 1960's.

Dr Dillard argues that Detroit underwent "two major phases in its civil rights mobilizations, sustained by two distinct communities of protest. The first phase (and community) was generated by migration, depression, and the logic of industrial unionism; the second was generated by the rise of the southern civil rights movement and by the social and economic environment of post-World War II Detroit." Dr. Dillard's study emphasizes the tension, discontinuities, false starts, and realignments among those constituting and often reconstituting the city's civil rights-oriented left.

A graduate of Immaculata High School, Dr. Dillard received her B.A. in 1988 from Michigan State University's James Madison College where she majored in justice, morality and constitutional democracy. In 1991, she received her M.A. in political science from the New School for Social Research; the next year she received an M.A. in American culture from the University of Michigan. In 1995, she received her Ph.D. in American culture from the University of Michigan.

Dr. Dillard became an assistant professor at the University of Minnesota in September 1995. She taught African-American Political Thought in 1994 at James Madison College and she taught Tradition and Resistance: National Narratives and American Values, in 1993 at the University of Michigan. In 1991, she taught Political Implications of the "Harlem Years." 1920–1935, at the New School for Social Research's Eugene Lang College.

Numerous organizations have recognized her outstanding ability by awarding her a variety of grants and fellowships. In 1996, the University of Minnesota awarded her the McKnight Summer Research Fellowship. In 1994–95, she received the Committee on Institutional Cooperation Dissertation Fellowship, and in 1994 the University of Michigan nominated her for the National endowment for the Humanities Dissertation Fellowship.

In addition to her dissertation, her papers and presentations include "Rumblings on the right: Black Conservative Thought and the Lincoln Review," which was delivered at the Graduate Student Conference held at the University of Michigan's Center for African and African-American Studies in February 1994, and "Sports, Race and African-American Autobiography," which was delivered at the Midwest Modern Language Association in November 1993. Her Master's thesis at the New School for Social Research was "The Negro Problem and the Problem with 'Negro': Name Changes in the Black/African-American Community.

Through her scholarship and her teaching, Dr. Angela Denise Dillard keeps alive her family tradition of activism by focusing attention on the gallant struggles African-Americans have made for jobs, justice, and opportunity.

UNION SALTS

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. FAWELL. Mr. Speaker, in two separate hearings last year, the Committee on Economic and Educational Opportunities heard from witnesses who shared their experiences with the union organizing tactic known as "salting." Their testimony included stories about union organizers and agents who sought or gained employment with a nonunion employer when, in fact, they had little if any intention of truly working for that company. In many cases, the organizers and agents were there simply to disrupt the employer's workplace or to increase the cost of doing business by forcing the employer to defend itself against frivolous charges filed with the National Labor Relations Board [NLRB]. For most of these companies—many of which were smaller businesses—the economic harm inflicted by the union's "salting" campaigns was devastating.

Equally troubling, Mr. Speaker, is the fact that union "salts" are often brazen in their efforts to inflict economic harm on non-union employers. Indeed, most union "salts" make clear when they apply for a job that their loyalties lie elsewhere and that they have little interest in working to promote the interests of the company.

Obviously, one might ask why any employer would hire an individual that he knows is there to hurt his company. The complicated answer to this question, Mr. Speaker, lies in broad interpretations of who is covered by provisions of the National Labor Relations Act [NLRA] that prohibit employers from discriminating against employees because of their union interests or activities. These interpretations have had the practical effect of presenting employers with a Hobson's choice: either hire the union "salt" who is sure to disrupt your workplace or file frivolous charges resulting in costly litigation; or, deny the "salt" employment and risk being sued for discrimination under the NLRA. Either way the employer is faced with a hiring decision that may threaten the very survival of his or her business.

To remedy this situation, I am pleased today to introduce the Truth in Employment Act of 1996. This legislation would amend section 8 of the National Labor Relations Act to make clear than an employer is not required to hire any person who seeks a job in order to promote interests unrelated to those of the employer. If enacted, the bill will help restore of the balance of rights that "salting" upsets and that is fundamental to our system of collective bargaining.

I want to make it clear, Mr. Speaker, that this bill is in no way intended to infringe upon any rights or protections otherwise accorded employees under the NLRA. Employees will continue to enjoy their right to organize or engage in other concerted activities protected under the Act. And, employers will still be prohibited from discriminating against employees on the basis of union membership or union activism. The bill merely seeks to alleviate the legal pressures imposed upon employers to hire individuals whose overriding purpose for seeking the job is to disrupt the employer's workplace or otherwise inflict economic harm designed to put the employer out of business.

Mr. Speaker, the aggressive "salting" campaigns being waged in today's workplace are relatively new and were not contemplated when the National Labor Relations Act was first enacted. Surely, Congress could not have intended the NLRA to be used as the legal shield that union "salts" now commonly invoke in defense of their abusive behavior. Moreover, common sense tells us that employers should be entitled to some measure of confidence when making hiring decisions that the job applicants they consider are motivated by their desire for work for that employer.

The Truth in Employment Act will help instill that confidence, Mr. Speaker, while at the same time protecting the rights of employees and their union representatives. I urge my colleagues to support its passage.

SPRING MULTICULTURAL FESTIVAL

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. VISCLOSKY. Mr. Speaker, it is my great honor to call attention to the School City of Hammond and the Parent Advisory Council of the bilingual education program for holding its Spring Multicultural Festival. This year's festival, entitled "Linking Worlds," will be held today, March 29, 1996 at the Dynasty Ballroom and Conference Center in Hammond, IN.

The School City of Hammond possesses a population that is rich in diversity of backgrounds and languages. This is reflected in the growth of families with a native language other than English. From 1970 to 1990, the number of students from non-English-speaking homes has grown from 977 to 2,306. To meet the needs of these students, the School City of Hammond proposed and received a grant from the U.S. Department of Education, which was implemented in September, 1991.

The mission of the School City of Hammond Bilingual Education Program is to provide a quality education for all students requiring language skill development. The program implements individualized instruction with an emphasis on reading and language arts in the English language. All skills are reinforced by computer. While the focus of the School City of Hammond is English instruction, the bilingual education program also provides the opportunity to learn up to 33 other languages.

I would like to recognize the following administrators and board members who make this incredible program possible. The Hammond School Board of Trustees includes: Mrs. Rebecca Ward, president; Mrs. Albertine M. Dent, vice-president; Mrs. Linda C. Lawson, secretary; Dr. David O. Dickson, superintendent; Mr. Gerald J. Mazur; and Mr. Jay K. Potesta.

The School City of Hammond Bilingual Education Program staff includes: Ms. Peggy Dellahoussaye-Kroc, director, Ms. Elena Rivera-Cruz; resource coordinator; Ms. Graciela Kamer, parent coordinator; Mr. Piedad Kerr, language assessor; and Ms. Nilsa Santiago, divisional secretary.

The Parent Advisory Council includes: Ms. Rosa Leyva, president; Ms. Teresa Turrubiates, secretary; Ms. Josefina Acosta, assistant secretary; Ms. Agustina Alcantar, treasury; Ms. Norma Solis and honorary members, Ms. Norma Solis, and Mr. Guadalupe Turrubiates.

The success rate of the bilingual program has been phenomenal. Within 3 years, the program has expanded from serving 2 schools to 13 schools. Moreover, the School City of Hammond now has the largest limited English proficient population in northwest Indiana, and the bilingual program has prompted an outpouring of support from the Hispanic community for student activities, including a small folklore dance group. Furthermore, the program has collaborated with businesses, including American Maize, and NBD and Calumet National Banks.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in a heartfelt message of congratulations to the School City of Hammond and the Parent Advisory Council for their celebrated success with the bilingual education program. This truly shows that a school system and parental group can work harmoniously together to produce a beneficial program for everyone in Indiana's First Congressional District. The members of this collaborative project should be proud of their efforts to successfully preserve all ethnic cultures.

REPEAL THE TRADING WITH INDIANS ACT

HON. J.D. HAYWORTH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 29, 1996

Mr. HAYWORTH. Mr. Speaker, today I am introducing legislation to repeal the Trading with Indians Act.

The Trading with Indians Act was originally enacted in 1834, and at that time it served an important purpose: to ensure that Federal employees did not improperly influence native Americans. However, today this law is unnecessary and unproductive. It establishes a prohibition against commercial trading with native Americans by employees of the Indian Health Service [IHS] and Bureau of Indian Affairs [BIA]. In-many cases, this prohibition also extends to transactions undertaken by the spouse of a Federal employee.

The penalties for violations include a fine of not more than $5,000, or imprisonment for not more than 6 months, or both. The act further provides that any employee who is found to be in violation should be terminated from Federal employment.

Enforcement of this outdated law has caused great difficulties for many native American families. It has also made it more difficult for IHS and BIA to retain quality Federal employees in certain facilities located on remote parts of reservations.

Both Health and Human Services Secretary Donna Shalala and Interior Assistant Secretary Ada Deer have expressed support for repealing the Trading with Indians Act. The Senate has already approved legislation identical to the bill I am introducing today.

Mr. Speaker, repeal of the Trading with Indians Act is long overdue. I hope that my colleagues will join me in supporting this commonsense legislation.